

(See Rule 42)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :  
ORDERSHEET

306

1. ORIGINAL APPLICATION No : -----/ 2009
2. Transfer Application No : -----/2009 in O.A. No.-----
3. Misc. Petition No : -----/2009 in O.A. No.-----
- ✓ 4. Contempt Petition No : 2 2010 149/2006  
: -----/2009 in O.A. No.-----
5. Review Application No : -----/2009 in O.A. No.-----
6. Execution Petition No : -----/2009 in O.A. No.-----
- Applicant (S) : Shri Bihari Singh
- Respondent (S) : Shri Pradeep Kumar & 4 others
- Advocate for the : Mr. M. Chandra  
{Applicant (S)} Mr. S. Nath & Ms. U. Dutta
- Advocate for the : Ms. M. Das, Jr, ChSC Mr CS Hazarika,  
{Respondent (S)} Mr S.N. Tazuli, Ms. N. Vashwan, Ms. P.K. Ramat.

Notes of the Registry	Date	Order of the Tribunal
<p><u>11.1.2010</u></p> <p>This Contempt Petition has been filed by the Applicant through his Advocate with a prayer to initiate Contempt Proceedings against the alleged contemnors for willful non-compliance of the order dated 27.3.2009 passed in O.A.No.149/2006. Laid before the Hon'ble Court for favour of orders.</p> <p><u>Section Officer (J).</u> <u>11/1/2010.</u></p> <p>Copy of order dated 12/01/2010 along with notice send to D/Sec. for issuing to the respondent no-3 by regd. A/D post.</p> <p><u>18/1/2010.</u> <u>D/- 19.1.2010</u></p>	<p>12.01.2010</p>	<p>Vide order dated 27<sup>th</sup> March, 2009 in O.A. 149 of 2006, appellate order passed by Major General, Electrical Mechanical Engineering (MGEME) had been quashed and set aside and the matter was remitted back to said authority for passing a reasoned and speaking order on appeal. It is contended that said order and directions have not been comply with willfully deliberately. Three month was granted to them but more than nine month have been passed since then, but no steps have been taken to obey said directions.</p> <p>Issue notice to Respondent No.3.</p> <p>As far as the rest of the officials impleaded are concerned, they are not necessary party and therefore no notice be issued to them. Notice returnable on 24<sup>th</sup> February, 2010. Personnel appearance is dispensed with for the time being.</p> <p><u>(Madan Kumar Chaturvedi)</u> <u>(Mukesh Kumar Gupta)</u> Member (A) Member (J)</p>

[PE]

① Service report  
awaited.

23  
23.2.2010

C.P. 02/2010 (O.A.149/2006)

24.02.2010

O.A.s 134 & 149 of 2006 were decided vide order dated 27.03.2009 by passing separate orders though on identical lines. The Appellate Orders dated 08.05.2006 had been quashed and the matter was remitted to the Appellate Authority to re-consider Applicant's appeal by passing reasoned and speaking order. Alleging willful disobedience of the said directions, present C.P. was preferred.

Respondents have filed their reply and placed on record identical orders dated 06.02.2010 whereby Major General, Headquarters, Eastern Command (EME Branch), Fort William, Kolkata has passed detailed speaking order rejecting the appeal. Thus, it is contended by the Respondents that direction of this Tribunal stands complied with.

On examination of the matter, we find justification in the said contention as the orders are detailed and speaking.

Accordingly, C.P.s are closed with liberty to Applicants to take appropriate steps, if any as per rules and law on the said subject.

(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

/bb/

Received for Mrs. M. Das,  
Sr. C (I.S.C.),  
Minshim Vashum  
(Adv.)  
26/2/10

Received  
on  
26/02/10

10-3-2010

Recd orders dated  
24/2/2010 prepared and  
sent to the D/Section for  
issuing the all the respondents  
by post and issued advocate  
for both sides vide No-534 to 538 dated - 10-3-2010

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

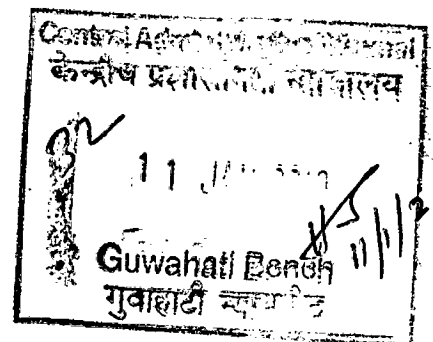
(An application under Section 17 of the Administrative Tribunal Act, 1985)

CONTEMPT PETITION No. 2 /2010

In O.A No. 149/2006

Shri Bihari Singha.

-Versus-  
Union of India & Ors.



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Filed By:

*Deeta*

Advocate.

Date: 11.01.10



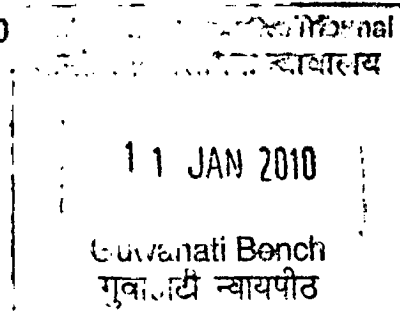
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*Filed by the applicant  
through U. Dutta, advocate  
on 11.01.10*

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI**

(An application under Section 17 of the Administrative Tribunal Act, 1985)

CONTEMPT PETITION No. 2 /2010  
In O.A No. 149/2006



In the matter of:

Shri Bihari Singha.

... Petitioner.

-Versus-

Union of India & Ors.

-And-

In the matter of:

An application under Section 17 of the Central Administrative Tribunals Act, 1985, praying for initiation of a Contempt proceeding against the alleged contemnors for non-compliance of the judgment and order dated 27.03.2009 passed in O.A. No. 149/2006.

-And-

In the matter of:

Shri Bihari Singha,  
Son of Late Kunjeswar Singha,  
Qtr. No. MES 93/2,  
Deodgenline  
Shillong Cantt. Shillong  
Shillong (Meghalaya).

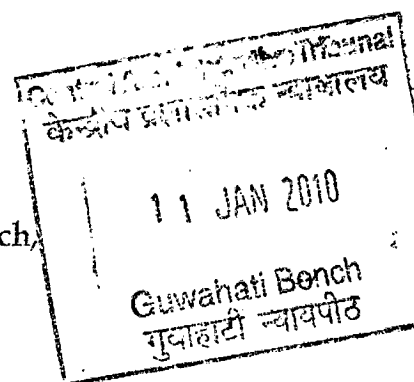
.... Petitioner.

-Versus-

1. Shri Pradeep Kumar, IAS  
Secretary to the  
Government of India,  
Ministry of Defence, South Block,  
New Delhi- 110001.

*Bidari Singha.*

2. Lt. General A.K.S Chandela  
Directorate General of EME (Civ),  
Master General of Ordnance Branch,  
Army Headquarters,  
DHQ Post, New Delhi- 110011.
3. Shri S.C Jain  
Major General  
Electrical Mechanical Engineering (MGEME),  
HQ Eastern Command (EME Branch),  
Fort William, Kolkata- 21.
4. Brig. Har Vijay Singh  
Station Commander,  
Station Headquarters, EME,  
Shillong.
5. Co. G.S. Cheema,  
Officer Commanding,  
306 Station Workshop  
EME, C/o 99 APO.



... Alleged contemnor/  
Respondent.

The humble petitioner above named

Most respectfully sheweth:-

1. That your petitioner had approached this Hon'ble Tribunal through O. A. No. 149/2006 praying for setting aside of the impugned memorandum of charge sheet dated 11.07.2001, order of penalty bearing letter No. 10401/172/Civ dated 15.04.2005, issued by the disciplinary authority as well as against the impugned appellate order dated 08.05.2006 and further praying for a direction upon the respondents to reinstate the applicant in service at least from the date of dismissal of service.
2. That this Hon'ble Tribunal after hearing contention of the parties was pleased to dispose of the O.A. No. 149 of 2006 on 27.03.2009, directing the respondents as follows: -

"3. We have given our anxious thought to the arguments advanced by the counsel for the parties. In view of the aforesaid decisions, we are fully satisfied that the appellate authority had not at all considered the grounds taken in the appeal dated

*Bidari Singh*

11 JAN 2010

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06.12.2005, the appellate order has been passed in a most casual and perfunctory manner without application of mind. Accordingly, we quash and set aside the appellate order dated 08.05.2006 and remit back the matter to the appellate authority to reconsider the appeal of the Applicant by passing a reasoned and speaking order in accordance with the provisions of rules, within a period of three months from the date of receipt of copy of this order.

With the above observations and direction, the O.A. is disposed of as above."

(A Copy of the judgment and order dated 27.03.2009 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- I).

3. That the petitioner begs to state that immediate after receipt of the judgment and order dated 27.03.09 he submitted a representation on 01.04.2009 addressed to the respondent/alleged contemner No. 3 enclosing there a copy of the judgment and order dated 27.03.09 passed in O.A. No. 149/2006 praying for compliance of the judgment and order dated 27.03.2009. However, finding no response from the respondents/alleged contemnors regarding compliance of the judgment and order dated 27.03.2009, the petitioner submitted another reminder representation on 30.10.2009 addressed to the respondent/alleged contemner No. 3 for compliance of the judgment and order dated 27.03.2009 passed in OA No. 149/2006. But to no result.

(Copy of the representation dated 01.04.2009 and 30.10.09 are enclosed herewith and marked as Annexure- II and III.)

4. That petitioner begs to state that the Hon'ble Tribunal in judgment and order dated 27.03.2009 pleased to set aside the impugned appellate order dated 08.05.2006 and directed the appellate authority to reconsider the appeal of the applicant by passing a reasoned and speaking order in accordance with law within a period of three months from the date of receipt of the copy of the order. Accordingly, the petitioner submitted a representation on 01.04.2009 enclosing therewith a copy of the judgment

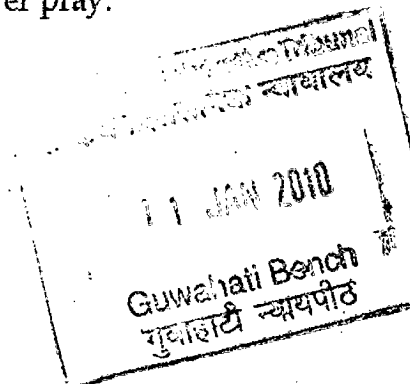
*Bedani Singh*

and order dated 27.03.2009 passed in OA No. 149/2006 for compliance of the judgment of this Hon'ble Tribunal. However, after elapse of more than 9 (nine) months time the respondents have not implemented the judgment and order dated 27.03.2009 passed in OA No. 149/2006 till date.

5. That it is stated that the respondents/alleged contemnors deliberately and willfully did not initiate any action for implementation of the order dated 27.03.2009 passed in OA No. 149/2006, which amounts to Contempt of Court. Therefore, the Hon'ble Tribunal be pleased to initiate a Contempt proceeding against the alleged contemnors for willful violation of the order dated 27.03.2009 passed in OA No. 149/2006 of this Hon'ble Tribunal and further be pleased to impose punishment upon the alleged contemnors in accordance with law.
6. That this application is made bonafide and for the cause of justice.

Under the facts and circumstances stated above, the Hon'ble Tribunal be pleased to initiate Contempt proceeding against the alleged contemnors for willful non-compliance of the order dated 27.03.2009 passed in OA No. 149/2006 and be pleased to impose punishment upon the alleged contemnors in accordance with law and further be pleased to pass any other order or orders as deemed fit and proper by the Hon'ble Court.

And for this act of kindness, the petitioner as in duty bound, shall ever pray.



*Bidari Singh*

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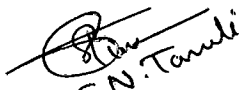
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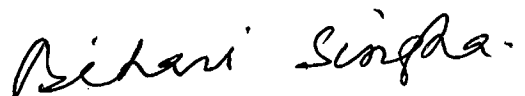
I, Shri Bihari Singha, S/o- Late Kunjeswar Singha, aged about 50 years, resident of the quarter No. MES 93/2 in Deodgenline, Shillong Cantt., Shillong, do hereby solemnly declare as follows: -

1. That I am the petitioner in the above contempt petition and as such I am well acquainted with the facts and circumstances of the case and also competent to sign this affidavit.
2. That the statements made in paragraph 1 to 5 are true to my knowledge and belief and I have not suppressed any material fact.
3. That this Affidavit is made for the purpose of filing contempt petition before this Hon'ble Tribunal, Guwahati Bench, Guwahati for non-compliance of the Hon'ble Tribunal's order dated 27.03.2009 passed in OA No. 149/2006.

And I sign this Affidavit on this 10<sup>th</sup> day of January 2010.

Identified by

  
S.N. Tanti  
Advocate.



Deponent

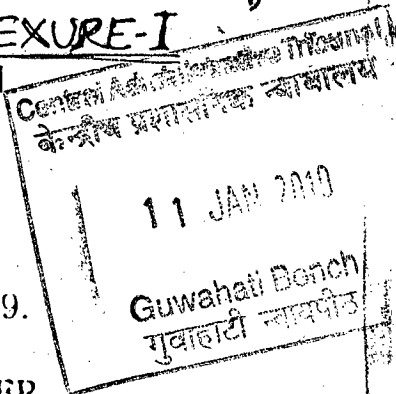
DRAFT CHARGE

Laid down before the Hon'ble Central Administrative Tribunal, Guwahati Bench for initiating a contempt proceeding against the contemnors for willful disobedience and deliberate non-compliance of the judgment and order dated 27.03.2009 of the Hon'ble Tribunal passed in OA No. 149/2006 and further to impose punishment upon the alleged contemnors for willful disobedience and deliberate non-compliance of the Hon'ble Tribunal's judgment and order dated 27.03.2009 passed in OA No. 149/2006.

*Bikari Singha.*

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

ANNEXURE-I



Original Application No.149 of 2006.

Date of Order : This, the 27<sup>th</sup> day of March, 2009.

THE HON'BLE MR. A.K.GAUR, JUDICIAL MEMBER

THE HON'BLE MR. KHUSHIRAM, ADMINISTRATIVE MEMBER

Shri Bihari Singha  
S/o Late Kunjeswar Singha  
Qtr. No.MES 93/2  
Deodgenline  
Shillong Cantt.  
Shillong

...Applicant.

By Advocates: Mr.M.Chanda, Mr.S.Nath & Mr.G.N.Chakraborty

- Versus -

1. The Union of India represented by the  
Secretary to the Govt. of India  
Ministry of Defence, South Block  
New Delhi - 110 001.

The Director General (Civ)  
Master General of Ordnance Branch  
Army Headquarters, DHQ Post  
New Delhi - 110 011.

3. Major General  
Electrical Mechanical Engineering (MGEME)  
HQ Eastern Command (EME Branch)  
Fort William  
Kolkata-21.

4. Station Commander  
Station Headquarters, EME  
Shillong.

5. Officer Commanding  
306 Station Workshop  
EME, C/o 99 APO..

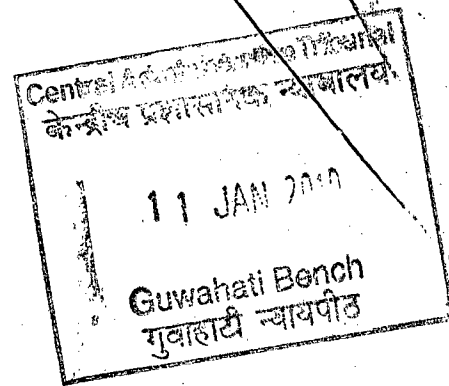
6. Asstt. Executive Engineer (AEE)  
306 Station Workshop EME  
C/o 99 APO.



Attested  
Dutta  
Adv

7. Lt. Col JS Bains  
Officer Commanding  
306 Station Workshop EME  
C/o 99 APO.

8. Shri R.C.Nath  
Subedar  
JC-750768X  
306 Station Workshop EME  
C/o 99 APO.



By Mr. M.U.Ahmed, Addl. C.G.S.C.

... Respondents.

ORDER (ORAL)

A.K.GAUR, MEMBER (J) :

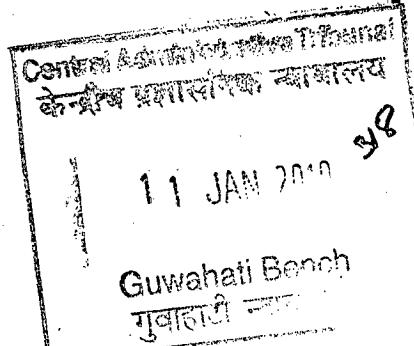
We have heard M.Chanda, learned counsel for the Applicant and Mr. M.U.Ahmed, learned Addl. Standing counsel for the Government of India.

It has been argued by the learned counsel for the Applicant that the order passed by the appellate authority is not a reasoned and speaking one and the appellate authority has passed the said order dated 08.05.2006 in a most casual and perfunctory manner without application of mind without considering all the grounds taken in the appeal dated 06.12.2005. To support his contention, learned counsel for the Applicant has placed reliance on the following Supreme Court decisions in order to buttress the contention that it is the bounden duty of the appellate authority to consider each and every ground raised in the memorandum of appeal:-

- (i) 2006 SCC L&S 840 (Narinder Mohan Arya. vs. United India Insurance Co. Ltd & Others);
- (ii) AIR 1986 SC 1173 (Ram Chander vs. Union of India & Others)
- (iii) (2005) 7 SCC 597 (National Fertilizers Ltd. and Another vs. P.K.Khanna; and lastly
- (iv) 2006 (11) SCC 147 (Director of Indian Oil Corporation vs. Santosh Kumar)







3. We have given our anxious thought to the arguments advanced by the counsel for the parties. In view of the aforesaid decisions, we are fully satisfied that the appellate authority had not at all considered the grounds taken in the appeal dated 06.12.2005, the appellate order has been passed in a most casual and perfunctory manner without application of mind. Accordingly, we quash and set aside the appellate order dated 08.05.2006 and remit back the matter to the appellate authority to reconsider the appeal of the Applicant by passing a reasoned and speaking order in accordance with the provisions of rules, within a period of three months from the date of receipt of a copy of this order.

4. With the above observations and direction, the O.A. is disposed of as above.

TRUE COPY

प्रतिलिपि.

अनुभाग अधिकारी  
Section Officer (Jud)

Central Administrative Tribunal

गुवाहाटी बेंच

Guwahati Bench

301- Member (J)

502 Member (A)

DATED : SHILLONG.

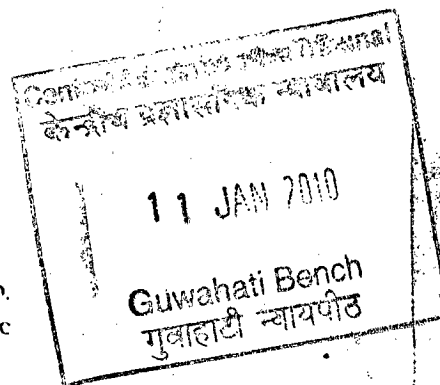
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ANNEXURE-II

3A

To.

The Major General  
Electrical Mechanical Engineering (MEEME)  
(Appellate Authority)  
Fort William, Kolkata- 21.



Sub: - Intimation regarding judgment and order dated 27.03.2009 in O.A No. 149/2006 (Shri Bihari Singh - Vs- U.O.I & Ors.) passed by the Hon'ble CAT, Guwahati Bench; compliance of

Sir,

Most humbly I beg to state that being aggrieved with the memorandum of charge sheet dated 11.07.2001, order of penalty bearing letter No. 10401/172/Civ dated 15.04.2005, issued by the disciplinary authority as well as against the impugned appellate order dated 08.05.2006, I had approached the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati through O.A No. 149/2006. In the said Original Application I also prayed for a direction upon the authority to reinstate me in service at least from the date of dismissal of service. However, the Hon'ble Tribunal vide judgment and order dated 27.03.2009 pleased set aside the Appellate order bearing No. 332229/2/EME Civ 09.05.2008 and further directed to consider appeal of the undersigned with the provisions of law. Hence this appeal before Your Honour with the prayer to consider the following facts and to drop the penalty order dated 15.04.2005 and to reinstate me in service at least from the date of dismissal of service.

1. That Sir, while I was working as Civilian Electrician (Motor Vehicle), in the 306 Station Workshop EME, C/o 99 APC, I was holding the post of General Secretary of the Station Workshop, Civilian Workers Union, Shillong.
2. That Sir, during tea break on 01.06.2001 in the Civilian Recreation Room in between 1030 hrs to 1045 hrs, wherein the undersigned (General Secretary) and Shri Prabhat Chandar Das (Vice President), were busy with the most important works of the Union, mainly on the issue of long standing medical re-imbursement claims of the members of the Union, which was initiated by Asstt. Labour Commissioner (Central), Guwahati. In the nick of time all of a sudden, the Officer Commanding (Lt. Col. JS Bains) along with Nb Sub RC Nath and the staff car driver Nk. Puran Singh rushed into the said Civilian Recreational Room (at around 1045 hrs) compelling all other Defence

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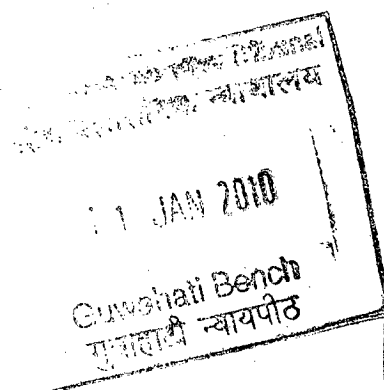
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Civilians, present therein, instantly to scuttle away from the said room out of fear except the undersigned and Shri P.C. Das. Having seen both of us in such an un-staggered position there, the Officer Commanding (Lt. Col. JS Bains) seemed to have lost his temper beyond his control, for reasons best known to him only. However, both I and Shri P.C. Das, while wishing Officer Commanding Lt. Col. Shri JS Bains, politely informed him about the aforesaid burning issues of the Union and at the same time, tried to show him a letter received from the ALC (Central), Guwahati out of the Union file in this regard. But ironically, instead of reciprocating it, the said Officer Commanding started behaving like a person not commensurate with his official status and that was evident from his unparliamentary and un-ethical words, like, "Go to Hell your Union", "Abhi tum log ko suspend karta hoan" etc. and in no time he threw away the said Union file and practically he did what he uttered i.e. both the undersigned and Shri P.C. Das, the Vice-President were instantly placed under suspension on this very day of 1<sup>st</sup> June 2001. Only God knows, how things could so happen and that too, so quickly, if there was no preponderance.

3. That Sir, thereafter memorandum of charge sheet bearing No. 21208/172/EST-IND/LC dated 11.07.2001 was served upon me. In the said memorandum of charge sheet in as much as 5 allegations is brought against me as follows:

"1. On 01 Jun 2001, JC-750768X Nb Sub RC Nath of 306 Stn Wksp EME went to civilian rest room at 0830h and requested the workers to come to the shop floor for work. T. No. 172 Shri Bihari Singha and T. No. 169 Shri PC Das informed that they will not come out as they wanted to discuss about the picketing by Khasi Student Union on 02 Jun 2001. JC-750768X Nb Sub RC Nath returned back and waited for them for about one hour but 6 of workers did not come to shop floor. JC-750768X Nb Sub RC Nath again went to the civilian rest room along with Nk Puran Singh, Nk SC Singh, Hav J Kushwaha and Hav Lalan Sah at 0930h on 01 Jun 2001. On reaching the rest room of civilian, all other workers except T. No. 172 Shri Bihari Singha and T. No. 169 Shri PC Das left for the work. They were going through some



siles. Shri PC Das shouted at Nab Sub RC Nath and said "Hamara Koi Claim Pass Nahi Hota, Yahan Par Sab Gandu Offr Aur JCO, Hal, Hum Bharat Varash Ke Employee Hain Yahan Par Dil Karega Bathengi. Shri PC Das again raised his hands to hit Nb Sub RC Nath and said "AAP Chor Ho, FIP Ka Paisa Khaya Hai". He made a gesture to hit Nb Sub RC Nath with both hands but Nb Sub RC Nath ducked and saved himself."

Central Board of Secondary Education  
11 JAN 2010  
Guwahati Bench  
গুৱাহাটী ন্যায়পীঠ

On a mere reading of the article of charge it appears that the Officer Commanding Lt. Col. JS Bains has issued the memorandum of charge sheet with whom the allege incident has taken place on 01.06.2001 since Lt. Col. JS Bains, Officer Commanding is involved in the instant alleged incident on 1<sup>st</sup> June 2001 as such Lt. Col. JS Bains should not have issued the memorandum of charge sheet since he is an interested party and at his instance the applicant was placed under suspension and further departmental proceeding has been initiated. In the statement of imputation of misconduct the said disciplinary authority tactfully alleged that the incident has taken place in between the applicant and Nab Sub RC Nath without referring his name and his presence at the time of alleged incidence on 1<sup>st</sup> June 2001. In fact the alleged incident was created by Shri JS Bains himself but in order to impose major penalty in a well planned manner Shri JS Bains tactfully did not show his presence at the place of incidence rather terror was created by Shri Bains alone and on that score alone the memorandum of charge sheet bearing letter No. 21208/169/EST-IND/LC dated 11.07.2001 is liable to be dropped.

4. That Sir, I beg to say that on a mere reading of the Article of charge, more particularly the charge alleged in Sl. No. 4 and 5 of the article of charge that the I was continuously and willfully neglecting my duty from 1<sup>st</sup> February 2001 to 1<sup>st</sup> June 2001 on all working days and continuously and willfully disobedience of order for refusing to proceed to place of work from 1<sup>st</sup> Feb' 2001 to 1<sup>st</sup> June 2001 on all working days. Therefore, it appears that the concerned sectional in-charge deliberately did not take any action against me from 1<sup>st</sup> Feb' 2001 to 1<sup>st</sup> June 2001 and the allegation of non-performing of duties has not reported to the higher authorities by the Section In-Charge

and assuming but not admitting that the undersigned has refused to perform the assigned duties than a duty cast on the Section In-Charge to report the matter immediately to the higher authority and in the instant case higher authority is Officer Commanding i.e. Lt. Col. J S Bains and the disciplinary authority ought to have taken action against me on the alleged ground of non-performing his duties for such a long period i.e. about 5 months, whereas no memo or show cause was issued at any point of time since February 2001 to 1st June 2001, rather I was paid full salary since February 2001 to 1st June 2001. As such, it can rightly be presumed that all the charges labeled against me are false, concocted and baseless not based on any record as because the entire allegation or charges were based on only two lists of documents.

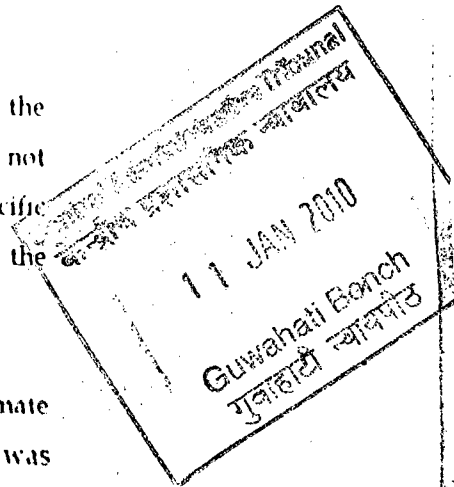
Control Room  
11 JAN 2010  
Guwahati Bench  
গুৱাহাটী ন্যায়ালয়

5. That Sir, the disciplinary authority by the impugned letter bearing No. 10401/172/Civ/INQ/2005 dated 15.04.2005, forwarded the impugned penalty order to me. The disciplinary authority by the order dated 15.04.05 imposed the extreme penalty of dismissal from service w.e.f. 15.04.05, interestingly in the penalty order the disciplinary did not consider any of the grounds raised by me in my representation dated 29.11.03 but mechanically followed the inquiry report submitted by the inquiry officer.
6. That Sir, the contention of the disciplinary authority to the effect that the charged official neither opted to cross-examine any witness nor submitted any defence thereof is categorically denied; rather the charged official has been denied reasonable opportunity to advance his defence in the inquiry proceeding in the following manner:
  - (i) Firstly, the applicant was not intimated regarding appointment of the inquiry officer as well as appointment of presenting officer by the disciplinary authority as required under the rule; however the same was intimated to the applicant by the disciplinary authority much after the commencement of the proceeding.
  - (ii) Listed documents relied upon by the disciplinary authority to substantiate the charges contained in the memorandum of charge

sheet has not been supplied to the applicant along with the memorandum of charge sheet even those listed documents also not supplied at any stage of the inquiry proceeding in spite of specific request and thereby reasonable opportunity has been denied to the applicant to take adequate defence to the charges.

- (iii) That the inquiry authority deliberately and willfully did not intimate the date of hearing on many occasion when ex parte proceeding was held and in some occasion the inquiry officer deliberately send the intimation of hearing after the expiry of the schedule dates of hearing. The details of delayed communication of hearing dates as well as non-communication of hearing dates are quoted below for perusal since the inquiry proceeding conducted ex parte.

Schedule date of hearing	Date on which intimation of hearing received	Non receipt of intimation regarding hearing.
20.09.2001	26.09.2001	
08.10.2001	21.11.2001	
20.10.2001	21.11.2001	
15.11.2001	21.11.2001	
16.01.2002	13.02.2002	Since letter dated 22.02.02 received by me on 04.03.02, wherein it is directed to the applicant to appear inquiry on every alternative day.
05.02.2002	13.02.2002	
11.03.2002	04.03.2002	I appeared.
13.03.2002		I appeared in the proceeding.
15.03.2002		I appeared in the proceeding.
20.03.2002		I appeared in the proceeding.
26.03.2002	No intimation to the applicant.	As per direction contained in the letter dated 22.02.02 it was directed to me to appear on every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.
08.04.2002	No intimation to the applicant.	As per direction contained in the letter dated 22.02.02 it was directed to me to appear on



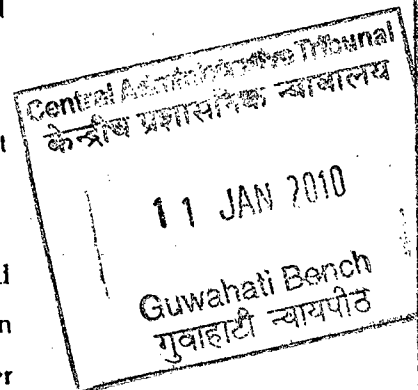
		every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.
22.04.2002	No intimation to the applicant.	As per direction contained in the letter dated 22.02.02 it was directed to me to appear on every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.
10.05.2002	No intimation to the applicant.	As per direction contained in the letter dated 22.02.02 it was directed to me to appear on every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.
07.06.2002	No intimation to the applicant.	As per direction contained in the letter dated 22.02.02 it was directed to me to appear on every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.

11 JAN 2010  
Guwahati Bench  
গুৱাহাটী ন্যায়পীঠ

- (iv) It is categorically submitted that the intimation regarding date of hearing on 20.09.01 has been intimated to the applicant at a later stage after the inquiry was over on the schedule date. Moreover, in terms of the letter dated 22.02.2002 received by the applicant on 01.03.2002 wherein it has been instructed that the proceeding will be held on every alternate day. The applicant thereafter as per instruction appeared on 14.03.02, 18.03.02 and participated in the inquiry proceeding in spite of inhuman torture and humiliation as indicated in preceeding paragraph. Again he went to attend inquiry on 20.03.02 but it was informed by the security personal at the gate that there was no sitting of the inquiry proceeding whereas as per order dated

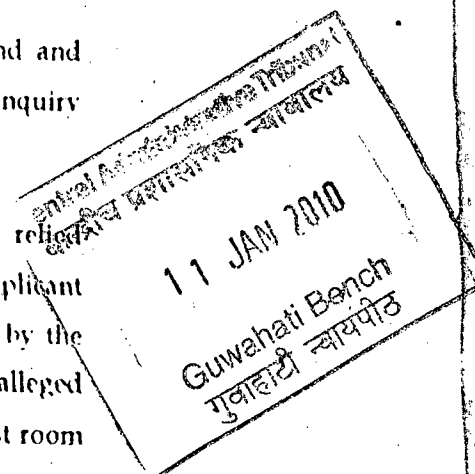
22.02.02 hearing is supposed to take place on every alternative date but it appears that hearing has been conducted on 21.03.02, 30.03.02, 23.04.02, 03.06.02 in violation of the instructions contained in the letter dated 22.02.02 that too without any intimation to the applicant and thereby denied reasonable opportunity to the applicant.

- (v) That the documents relied upon by the disciplinary authority has not been examined as required under the rule.
- (vi) Out of 9 listed witnesses only stereotype deposition of 5 interested state witnesses has been recorded more or less on the similar fashion on the dictation of the inquiry authority as well as of the higher authority. But the remaining 4 state witnesses have not been examined for the reasons best known to the authority.
- (vii) That the statement of deposition of the interested witnesses has been prepared and got signed by them through Nb Sub Shri RC Nath.
- (viii) That the charge of contumacious and willful disobedience of the order of supervisory staff and non-performing of duties w.e.f. 01.02.01 to 01.06.01 has held to be proved by the inquiry officer without examining any evidence on record and also without examining the listed documents but on the basis of deposition of the interested witnesses which was confirmed by the disciplinary authority without any discussion of evidence in his impugned order of penalty dated 15.04.05.
- (ix) That the inquiry officer failed to give any specific finding as to whether charge is proved or not in his inquiry report dated 07.07.03 which was forwarded to the applicant vide letter dated 21.11.03 that is after lapse of about more than 4 months.
- (x) That the disciplinary authority did not consider any of the grounds raised by me in my representation dated 29.11.03 and surprisingly the disciplinary authority did not discuss a single evidence in the impugned order of penalty dated 15.04.05 whereby major penalty





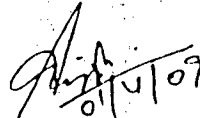
- have been imposed mechanically without application of mind and also without taking into consideration the record of the inquiry proceeding.
- (xi) That the complain lodged by Nb R.C Nath. listed document (a) relied upon by the disciplinary authority neither supplied to the applicant nor examined in ex parte inquiry proceeding but relied upon by the inquiry officer and the D.A. passed the order of penalty on the alleged ground of creating a riotous and disorderly situation in the rest room on 1<sup>st</sup> June, 2001.
- (xii) Listed document no. (b) whereby allegation of continual and willful absence from work place w.e.f. 01.02.01 to 01.06.01 neither supplied to me nor examined in ex parte inquiry proceeding which is heavily relied upon by the disciplinary authority.
- (xiii) Findings of the I.O and P.O without considering the listed documents relied upon by the D.A is not sustainable in the eye of law.
- (xiv) No show cause notice or warning or memo given to the applicant for alleged continuous willful absence from the place of work w.e.f. 01.02.01 to 01.06.01 by the supervisory officer as alleged even in the list of document (b) which is relied upon by the disciplinary authority as an evidence for alleged absence not even supplied to the applicant in spite of repeated request nor it was examined in the inquiry proceeding.
- (xv) Listed documents relied upon by the D.A not supplied to the applicant in spite of his specific request.
- (xvi) I.O failed to give any specific findings as to whether charge is proved or not in his inquiry report dated 07.07.03.
- (xvii) Col. J.S. Bains, disciplinary authority personally involved in the alleged incident on 01.06.01 who attacked the charged official on 01.06.01 along with Nb Sub R.C. Nath and other Jawans and created riotous and disorderly situation in the recreation room.



Under the facts and circumstances as stated above I earnestly request you to consider the infirmities and irregularities committed by the disciplinary authority in passing the penalty order dated 15.04.2005 and further be pleased to cancel the penalty order dated 15.04.2005 and to reinstate the undersigned in service with effect from the date of dismissal.

A copy of the judgment and order dated 27.03.2009 passed in O.A. No. 149/2006 is enclosed herewith for your kind perusal and implementation.

Yours faithfully



Shri Bihari Singha.

S/o- Late Kurnjeswar Singha,

Qtr. No. MES 93/2

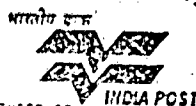
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Shillong Cantt., Shillong.

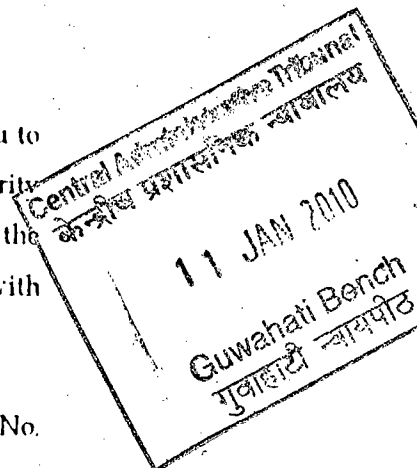
Date: SHILLONG

01/4/2009

SHILLONG DIST. OFFICE  
BLK. NO. 23/1  
COUNTY ROAD, SHILLONG  
TELEPHONE: 254111, 254112, 254113  
FAX: 254114, 254115, 254116  
E-MAIL: shillong@nic.nic.in



Notarized  
25/03/09, 01/04/09, 11/04/09  
(10)



Cent. 328  
11 JAN 2010  
Guwahati Bench  
30. Oct. 2009.

To

The Major General  
Electrical Mechanical Engineering (MGEME)  
(Appellate Authority)  
Fort William, Kolkata - 21.

ANNEXURE-NI

Dated : Shillong.

30. Oct. 2009.

Sub :- Intimation regarding judgment and order dated 27/3/2009  
in O.A No. 149/2006 (Shri Bihari Singha-Vs- U.O.I & Ors.)  
passed by the Hon'ble CAT, Guwahati Bench; compliance of

Sir,

I have the honour to invite a reference to my earlier  
application dated 01/4/2009 on the subject indicated above and  
to state as hereunder :-

1.

That Sir, it needs to be reiterated that being aggrieved  
with the memorandum of charge sheet dated 11/7/2001, order of  
penalty bearing letter No. 10401/172/Civ dated 15/4/2005 issued  
by the Disciplinary Authority as well as against the impugned  
Appellate order dated 08/5/2006, I had approached the Hon'ble  
Central Administrative Tribunal, Guwahati Bench, Guwahati  
through O.A No. 149/2006. In the said Original Application  
I also prayed for a direction upon the authority to reinstate  
me in service at least from the date of dismissal of service.  
However, the Hon'ble Tribunal vide judgment and order dated  
27/3/2009 pleased set aside the Appellate order bearing No.  
332229/2/LME Civ dated 09/5/2006 and further directed to  
consider appeal of the undersigned with the provision of law,  
within a period of three months from the date of receipt of  
a copy of this order.

2.

That Sir, it is a matter of great surprise and agony that  
the Appellate Authority has not taken any action till to  
date. As a consequence, I am subjected to suffer from  
immense hardship both financial and mental.

-: 2 :-

3. That sir, the Appeal pending before the Appellate Authority has not been disposed of even after the expiry of the period from the date of the receive of the copy dtd 14/4/2009 and in the meanwhile no Appeal has also been preferred by the respondents and as such the related order dtd 27/3/2009 is a final one for both the parties.
4. That sir, I presume that the Appellate Authority has no ground to reject my Appeal and as such I am entitled otherwise eligible to reinstate in service.
5. That sir, I do not like to go for any further litigation unless forced.

In view of the facts stated hereinabove, I would once again request you to kindly reinstate the Appellant / Petitioner in service at an early date with all consequential benefits i.e. Arrears dues and promotion dues etc. For this act of your kindness, I shall ever remain grateful to you.

Your's faithfully.

SHILLONG CANTT 77/3001  
BLN 13646  
Counter No: 1. CP-Code: HK  
To: THE DE ETE. HO. EC FORT WILLIAM  
KOLKATA. PIN: 71



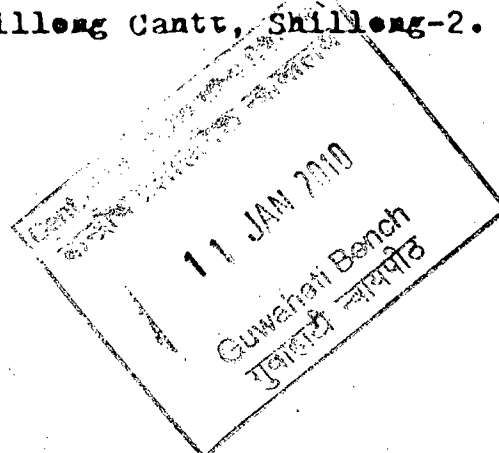
Wt: 10 grams.  
Amt: 22.00 . 03/11/2009 . 11:27  
<Have a nice day>

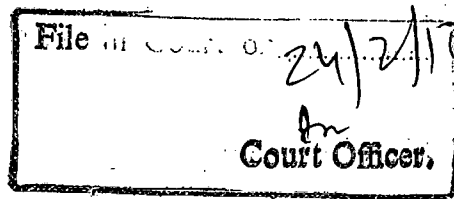
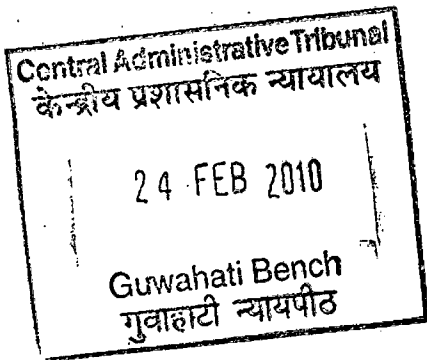
(Bihari Singha)

T/No. 172/Elect(Mr) U/S  
Qtr No. MBS 93/2

Deodganliae

Shillong Cantt, Shillong-2.





Filed by Respondent No 4  
through S.N. Tamuli  
Advocate 24/2/2010, 330

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH**

**IN THE MATTER OF:**

C.P NO.02/2010

In O.A. No. 149/06

-AND-

**IN THE MATTER OF :**

Sri Bihari Singha  
Son of Late Kunjeswar Singha  
Qtr. MES 93/2,  
Deodgenline  
Shillong Cantt,  
Shillong (Meghalaya)

... **Petitioner**

-Vs-

1. Shri Pradeep Kumar, IAS  
Secretary to the Government of India  
Ministry of Defence, South Block  
New Delhi- 110001.

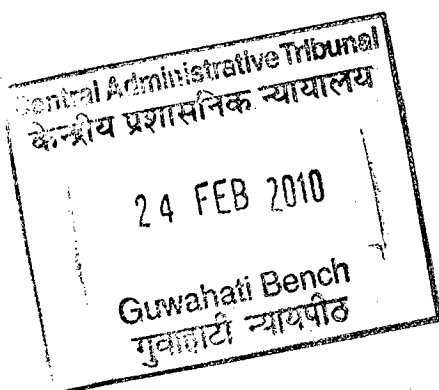
2. Lt Gen A.K.S. Chandela  
Director General of EME (DGEME)  
Master General of Ordnance Branch  
Army Headquarters  
DHQ Post New Delhi- 110011

3. Maj Gen S.C. Jain, Major General  
Electrical and Mechanical Engineering (MGEME)  
HQ Eastern Command (EME Branch)  
Fort William, Kolkata-21

4. Brig Harvijay Singh  
Station Commander  
Station Headquarters, Shillong

*Sanjay*

5 Col G.S. Cheema  
Officer Commanding,  
306 Station Workshop  
EME, C/O 99 APO



... **Alleged Contemnors/ Respondents**

-AND-

**IN THE MATTER OF :**

An Affidavit/compliance report on behalf  
of the alleged Contemnor/Respondent No. 4  
to the C/P. No. 02/2010

I, Brig. Harvijay Singh, S/o S Jagdishwan Singh  
aged about 47 years presently working as Station Commander,  
Station Headquarters, Shillong Military Station do hereby  
solemnly affirm and state as follows :-

1. That I am the Station Commander, Station Headquarters, Shillong Military Station. In the above contempt petition, I have been impleaded as Party Respondent / Contemnor no. 4. The said contempt petition was moved in this the Hon'ble Tribunal, *inter alia*, praying for issuing show cause notice to the respondent contemnors and taking appropriate action for willful and intentional violation of the order dated 27.03.09 passed by this Hon'ble Tribunal in O.A. No. 149/06.

2. That the humble deponent begs to state that this Hon'ble Tribunal vide order dated 12.01.2010 was pleased to issue notice to the Respondent. The copy of the

notice was served upon the humble deponent. I have gone through the copy of the contempt petition and have understood the contents thereof.

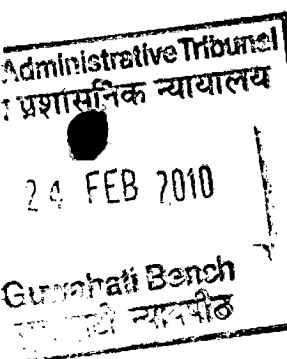
3. That I do not admit any of the statements save and except which are specifically admitted hereinafter and the same are deemed as denied.

4. That with regard to the statements made in paragraphs 1 & 2 of the contempt petition; the humble deponent begs to offer no comment. However he does not admit any statements which are contrary to record.

5. That with regard to the statements made in paragraph 3 & 4 of the contempt petition, the humble deponent begs to state that immediately on receipt of the judgment and order dated 27.03.09 along with the representation dated 01.04.09 made by the petitioner the humble deponent prepared the para-wise comment to the representation dated 01.04.09 submitted by the petitioner and forwarded the same to the H.Q. Eastern Command (EME), Kolkata vide office letter no 20201/Civ/EME dated 18.05.09 for approval of the competent authority as the local head office at Shillong is not competent to pass any order as per the direction of the Hon'ble Tribunal without prior approval of the aforesaid H.Q, through departmental procedure. It is humbly submitted that as the matter was forwarded to the HQ for due approval there was some unavoidable and unintentional delay in complying with the aforesaid order dated 27.03.09 of the Hon'ble Tribunal.

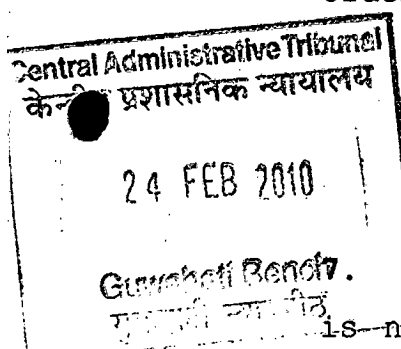
Copy of the letter dated 18.05.09 is annexed herewith and marked as **ANNEXURE-1**

6. That with regard to the statements made in paragraph 5 of the contempt petition, the humble deponent begs state that vide Order No 332230/2/SBS/EME Civ. dated 06.02.2010 the Major General, Electrical and Mechanical



A handwritten signature in black ink, appearing to be 'Dhananjay' or similar, written in a cursive style.

Engineering (MCEME), HQ Eastern Command (EME Branch), Fort William, Kolkata-21 passed an speaking order as per the direction of the Hon'ble Tribunal, rejecting the appeal of the petitioner. Humble deponent most respectfully begs to state that Respondents/alleged Contemnors started the process of implementation of the aforesaid order of the Hon'ble Tribunal immediately on receipt of the order and representation dated 01.04.09 as stated in para 5 above and as such there is no intentional, willful and deliberate violation of the order dated 27.03.09 passed by this Hon'ble Tribunal.



Copy of the order dated 6.02.2010 is annexed herewith and marked as **ANNEXURE-2**

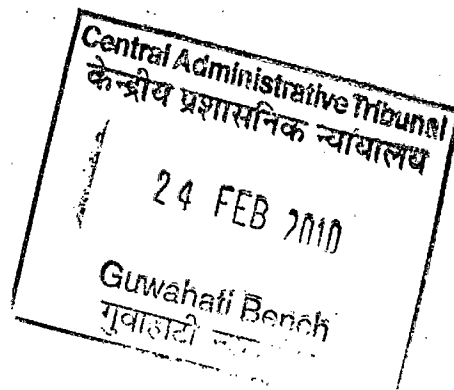
That the humble deponent begs to state that there is no lapse or negligence on the part of the respondent authorities to comply with the Hon'ble Tribunal's order.

8. That the humble deponent respectfully begs to pray that in view of the above facts and circumstances, this contempt petition may be closed.

9. That the humble deponent begs to tendered unconditional apology for delay in complying with the Hon'ble Tribunals order dated 27.03.09.

*[Handwritten signature]*  
x



AFFIDAVIT

I, Brig. Har Vijay Singh, S/o.....S Jagdishwan Singh  
 aged about 47.. years presently working as Station  
 Commander, Station Head Quarters, Electrical and  
 Mechanical Engineering, Shillong. do hereby solemnly  
 affirm and state as follows :-

1. That I have been impleaded as the alleged  
 contemnor no. 4 in the instant case and fully conversant  
 with the facts and circumstances of the case.

2. That the statements made in this affidavit and in  
 paragraphs 3, 4 and 7.....are true to my  
 knowledge and those made in paragraphs  
1, 2, 5 and 6..... being matters of records of  
 the case derived therefrom which I believe to be true and  
 the rest are my humble submissions before this Hon'ble  
 Court.

And I sign this affidavit on this the 24<sup>th</sup> day of  
Feb, 2010 at Guwahati.

Identified by:-

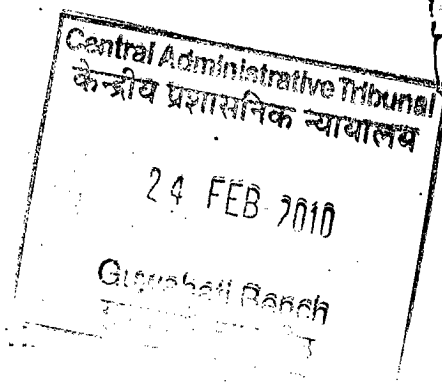
Advocate.

*[Signature]*  
 X  
 DEPONENT

6147

20201/CIV/EME(I)

HQ Eastern Comd (EME)  
 Pln -908542  
 C/O 99 APO



Mukhalaya-101-Area  
 HQ 101 Area (EME)  
 Pln -908101  
 C/O 99 APO

18 May 2009

**INTIMATION REGARDING JUDGMENT AND ORDER DATED 27 MAR 2009 IN O.A NO 149/2006 (SHRI BIHARI SINGHA VS - U.O.I & ORS) PASSED BY THE HON'BLE CAT, GUWAHATI BENCH. COMPLIANCE OF**

1. Please refer your HQ letter No 332229/2/EME Civ (I) dated 17 Apr 2009.
2. Parawise comments on appeal submitted by Shri Bihari Singha received from Stn Wksp EME, Shillong ; as asked vide your HQ letter referred above are fwd herewith alongwith following documents :-

- (a) Brief of the court case - One folder
- (b) Draft Appellate Order - One folder

Encl : As above

Copy to :-

Stn Wksp EME, Shillong -

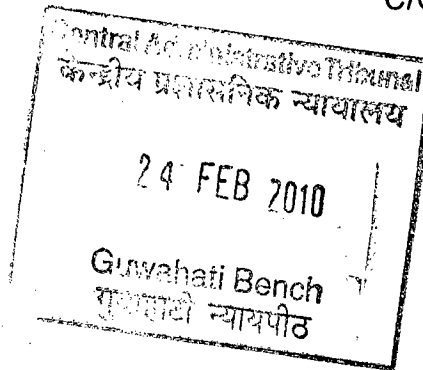
Attested  
 (Advocate)

(MK Bhardwa)  
 Col  
 Col EME

for info wrt your letter No 10401/134/PCD dt 15 May 2009.  
 you are requested to fwd one more copy  
 of the above for our record.

10401/134/PCD

HQ 101 Area (EME)  
PIN-908101  
C/O 99 APO



5 May 2009

**INTIMATION REGARDING JUDGMENT AND ORDER DATED 27 MAR 2009 IN OA NO 149/2006 (SHRI BIHARI SINGHA VS – UOI & ORS) PASSED BY THE HON'BLE CAT GUWAHATI BENCH, COMPLIANCE OF**

1. Please refer to

(a) Your HQ letter No 20201/Civ/EME (i) dated 23 Apr 2009.

(b) Copy of appeal submitted by T/No 172 Civ Shri Bihari Singha dated 01 Apr 2009.

2. Para wise comments on the appeal submitted by T/No 172 Civ/Elect Shri Bihari Singha are appended below :-

**Para No – 01 :** No comments.

**Para No – 02 :** The contention of the appellant that Lt Col JS Bains, Officer Commanding had gone to the Civilian Recreation Room is wrong. The actual fact is that on 01 Jun 2001, JC-750768X Nb Sub (Now Sub) RC Nath of Station Workshop EME went to civilian rest room at 0830h and requested to the workers to come to the shop floor for work. T/No 172 Shri Bihari Singha and T/No 169 Civ PC Das informed that they will not come out as they wanted to discuss about the picketing by Khasi Student Union on 02 Jun 2001. JC-750768X Nb Sub (Now Sub) RC Nath returned back and waited for them for one hour but 6 of workers did not come to shop floor. JC-750768X Nb Sub (Now Sub) RC Nath again went to the civilian rest room along with Nk Puran Singh, Nk SC Singh, Hav J Kushwaha and Hav Lalan Sah at 0930h on 01 Jun 2001. On reaching the rest room of civilian, all other workers except T/No 172 Shri Bihari Singha and T/No 169 Civ Shri PC Das left for the work. They were going through some files. Shri PC Das shouted at Nb Sub RC Nath and said "Hamara Koi Claim Pass Nahi Hota, Yahan Par Sab Gandu Offr Aur JCO Hai, Hum Bharat Varash Ke Emppoyee Hain Yahan Par Dil Karega Bathenge". Shri PC Das again raised his hands to hit Nb Sub RC Nath and said "AAP Chor Ho, Aur FIP Ka Paise Khaya Hai". He made a gesture to hit Nb Sub RC Nath with hand but Nb Sub RC Nath ducked and saved himself. It is pertinent to bring out that Lt Col JS Bains, OC 306 Stn Wksp, EME never went to the recreation room. The accusation is thus false and a blatant lie. Inquiry report had amply clarified the same

**Para – 3:** The statement made by the appellant that Lt Col JS Bains was present at the place of incident is false and intended to divert the focus of authorities. The incident was informed by JC-750768X Nb Sub (Now Sub) RC Nath vide letter dated 01 Jun 2001 (Annexed as Annexure – I) to Officer Commanding, Lt Col JS Bains on 01 Jun 2001. Lt Col JS Bains, being disciplinary authority served a charge sheet vide Office Memorandum No 21208/169/Est-Ind/LC dated 11 Jul 2001 for violations of Rule 3 and 7 of CCS (Conduct) Rules and directed for inquiry to be held under Rule 14 of CCS (CCA) Rules 1965 (Annexed as Annexure II).

**Para - 4:** The statement made by appellant is wrong. T/No 172 Civ Shri Bihari Singha was willfully showing disobedience of order by refusing to proceed to place of works from 01 Feb 2001 to 01 Jun 2001. In this regards Section IC Nb Sub Md C Ahmed has intimated to Officer Commanding through letters dated 01 Mar 01, 01 Apr 01, 01 May 01, 31 May 01 (Annexed as Annexure - III, IV, V, VI) regarding disobedience of orders and no output in respect of T/No 172 Civ/Elect Shri Bihari Singha.

**Para - 5 :** The evidence on behalf of Disciplinary Authority has been closed and the same has been intimated to the applicant vide letter No 10401/172/Civ/Inq dated 12 Jun 2002. (Annexed as Annexure -VII). Departmental Inquiry reports are self explanatory (Annexed as Annexure - VIII).

**Para - 6 :** The contention of the appellant that defence was denied to him is wrong. The inquiry had been ordered as per Rule 14 of CCS (CCA) Rules 1965. The charge sheets had been given to the applicant as per Rule 14 of CCS (CCA) Rule 1965 for violations of Rule 3 and 7 of CCS (Conduct) Rules by the applicant. The applicant was served charge sheet vide Office memorandum No 21208/172/Est-Ind/LC dt 11 Jul 2001. The applicant had taken up this contention in OA 150/2003 when appealing against the dismissal order in the Hon'ble CAT, Guwahati. The Hon'ble CAT had dismissed OA No 150/2003 of the applicant and up held the procedure followed by the department. (Copy Hon'ble Court Order is Annexed as Annexure - IX).

**Para - 6 (i) :** Inquiry was ordered as per CCS (CCA) Rules, 1965 against the applicant. Shri Bidyot Panging, AEE of this Workshop was appointed as Inquiry Officer vide order dated 30 Aug 2001 (Annexed as Annexure - X). Shri Amar Singh the Presenting Officer vide 10401/172/Civ dated 30 Aug 2001 (Annexed as Annexure - XI). The letters had been dispatched duly registered but those letters were not accepted by the applicant and returned back by postal authorities on 15 Sep 2001 with the remarks "Refused". (Annexed as Annexure - XII).

**Para - 6 (ii) :** The charge sheet had been given to the applicant as per Rule 14 of CCS (CCA) Rule 1965 for violations of Rule 3 and 7 of CCS (Conduct) Rules by the applicant. The applicant was asked to see the Statements of State Witnesses recorded so far during the proceedings of the Inquiry in the earlier hearings during hearing on 11 Mar 2001. However, the applicant "Refused" to see the document/statements of the witnesses without defence assistance.

Ser No	Date of hearing	Remarks
(a)	20 Sep 2001	The charged official had been directed to appear for preliminary hearing on 08 Oct 2001
(b)	08 Oct 2001	The applicant was directed appear for hearing on 08 Oct 2001 vide Registered letter No 10401/Civ/172/Inq dt 20 Sep 2001 ( <u>Annexed as Annexure-XIII</u> ). The inquiry proceedings could not proceed, as T/No 172 Civ/Elect Shri Bihari Singha the charged official was absent.
(c)	20 Oct 2001	The applicant was directed to appear for hearing on 20 Oct 2001 vide Registered letter No 10401/Civ/172/Inq dt 03 Oct 2001. Inquiry was adjourned because the charged official was absent.

Guwahati Bench  
मुकहाटी न्यायपीठ  
24 FEB 2010

(d)	15 Nov 2001	Hearing date was intimated vide Registered letter No 10401/172/Civ/Inq dt 23 Oct 2001 and the same letter was returned undelivered by the postal authorities as the applicant "Refused" to accept the letter. Due to willful absence of the Charged official inquiry commenced ex-parte. Statement of state witness No 1 – JC-750768X Nb Sub (Now Sub) RC Nath has been taken.
(e)	16 Jan 2002	Hearing date was intimated vide Registered letter No 10401/172/Civ/Inq dt 21 Dec 2001, but the letter was returned undelivered because the applicant had refused to accept the registered letter as per remarks endorsed on the letter by the postal authority.
(f)	05 Feb 2002	The applicant was directed to report for inquiry on 05 Feb 2002 vide Registered letter No 10401/172//Civ/Inq dated 24 Jan 2002 ( <u>Annexed as Annexure – XIV</u> ). Since the Charged official was absent Statement of No 14624820Y NK D Palani, State Witness (SW-2) has been recorded.
(g)	11 Mar 2002	T/No 172 Civ/Elect Shri Bihari Singha, charged official came for the first time for hearing with an application for reconsidering the appointment of Defence Assistance from outside Shillong. The application has been considered by the Inquiry Officer and has been rejected. Charged official has been advised to engage a defence assistance from Shillong. He was also told to attend the hearing regularly since ex-parte inquiry has already been started. The statement of State witnesses recorded so far in the earlier hearings were shown to the charged official. However, he refused to see the statements without defence assistance.
(h)	13 Mar 2002	Again the charged official came with an application seeking permission for engaging a defence assistance from outside Shillong. This request had already been rejected by the Inquiry Officer. The charged official was again asked to see the proceedings and statements of State Witnesses recorded in early hearings. However, he was not willing to see these documents without having the defence Assistance. Statements No 14577561N NK Puran Singh, SW-4 has been recorded in front of the charged official.
(j)	15 Mar 2002	Hearing started at 1100 h and JC-753913P Nb Sub Jayaprakashan K was produced by the Presenting Officer as State Witness No 5 (SW-5). Statement of (SW-5) had been recorded, charged official was asked to cross examine, the witness. However, the Charged Official was not willing to speak anything.

(k)	20 Mar 2002	Charged official left the place of hearing just before the commencement of hearing saying 'I will not attend the inquiry proceedings'. Statement of 14591478F NK S C Singh, (SW-6) had been recorded. Cross examination by Defence Assistance/charged official was not done. Question/answer session was postponed by the Inquiry Officer to give fair chance to the applicant till the next hearing.
(l)	26 Mar 2002	Charge Official was absent. No 14591478F NK SC Singh (SW-6) was again produced by the presenting officer for questioning by the Inquiry Officer.
(m)	08 Apr 2002	Presenting officer came with No 14581821L Hav J Kushwaha, as State Witness No 7 (SW-7) and his statement was recorded. Questioning by inquiry officer was postponed to next hearing. Charged official was absent on that day.
(n)	22 Apr 2002	No 14581821L Hav J Kushwaha, State Witness No 7(SW-7) was questioned by Inquiry Officer and his deposition was completed. Charged official was again absent.
(o)	10 May 2002	JC-754018W Nb Sub UP Mishra was produced by presenting officer as State Witness-3 (SW-3) and his statement has been recorded. Questioning by Inquiry Officer has been postponed to the next hearing. Charged official was absent.
(p)	07 Jun 2002	Questioning by inquiry officer on statement of SW-3 has been completed. Charged Official was absent. Evidence on behalf of the Disciplinary Authority has been closed as Presenting officer declared that he had produced sufficient witnesses to prove the charges against the charged official and remaining listed State Witnesses need not to be produced for inquiry.
(q)	26 Jun 2002	Charged official had not submitted his written statement of defence inspite of intimation given by the inquiry officer vide registered letter No 10401/172/Civ/Inq dated 12 Jul 2002 for submission of his written statement on next hearing scheduled to be on 16 Jul 2002.
(r)	16 Jul 2002	Charged official was given one more opportunity for submission of written statement of defence on 03 Aug 2002. He was also informed that if he did not submit his statement by due date the evidence on behalf of Charged Official will be treated as closed.
(s)	03 Aug 2002	As charged official had not submitted any written statement of defence. He failed to attend the hearing. The case was declared as closed by the inquiry officer. Presenting officer had been directed to submit his written brief by 31 Aug 2002 with a copy to the charged official. After receiving the brief of the Presenting Officer, charged official had to submit his written brief by 28 Sep 2002.

Para – 6 (iv): The contention of the appellant is wrong. Protracted corres regarding intimation of the proceeding in the form of registered this conduct of the is on record. It was intimated in person also that proceedings will be held on every alternative day except Sunday and Holiday and if the date of inquiry is falls on Sunday & Holiday these will be held on next working day at same time and place. Accordingly the inquiry proceeding were also conducted. Photo-copies of Inquiry Report against the applicant are att as Annexure – XV.

Para – 6 (v) : The inquiry proceeding had been conducted as per CCS (CCA) Rules 1965 . All the documents were produced in the inquiry proceedings but the applicant refused to see the Statements without defence assistance from outside Shillong which was rejected by the disciplinary authority.

Para – 6 (vi) : Recorded Statements of the five State Witnesses proved the accusations made were absolutely correct. Since the accused neither cooperated nor made himself available for the Inquiry the proceedings were closed. Copies of Departmental Inquiry are annexed as Annexure – VIII.

Para – 6 (vii): This statement is false and misconstrued.

Para – 6 (viii) : The statement is false. On 11 Mar 2002 the applicant came for the first time for hearing and was asked to see the statements of State Witnesses recorded so far in the earlier hearings. However "Refused" to see the statements without defence assistance.

Para – 6 (ix) : The statement is false. Inquiry Officer had brought out holdings all charges very explicitly against T/No 172 Civ Shri Bihari Singha in the Findings of the Inquiry Report. Copies of Findings of Inquiry is annexed as Annexure - XV.

Para – 6 (x) : The statement is false. Application dt 29 Nov 2003 of the appellant was perused in detail by the disciplinary authority.

Para – 6 (xi): The statement is false .The applicant had come for the first time on 11 Mar 2001 for hearing the inquiry proceeding. The statements of State Witnesses recorded so far in the earlier hearings were shown to the applicant but he 'Refused' to see the statements without defence assistance.

Para – 6 (xii): The charged official was asked to see all the statements of State Witnesses recorded during the ex-parte inquiry proceedings. However, he refused to see the statements.

Para – 6 (xiii) : The statement is false and illogical.

Para – 6 (xiv) : The applicant was continuously & willfully absenting himself from the place of work wef 01 Feb 2001 to 01 Jun 2001. Attendance Register of Sec is self explanatory and letters dated 01 Mar 01, 01 Apr 01, 01 May 01, 31 May 01 from Section IC Nq Sub Md C Ahmed regarding disobedience of orders and no output has intimated to the Officer Commanding.

Para – 6 (xv): The charged official was given a fair chance to see the documents produced by witnesses on earlier hearings. However, he showed total non-cooperation and 'Refused' to see any document.

Para - 6 (xvi) : The statement is false. Inquiry Officer enquired into the incident and the proceedings conducted during 20 Sep 2001 to 03 Aug 2002 which has been duly recorded in detail consisting of statement of witnesses, exhibits, correspondence details, details appeals and its disposal thereof. The findings arrived at by the inquiry found the charged official guilty of all the five charges by the inquiry officer.

Para - (xvii) : It is false statement. Lt Col JS Bains, disciplinary authority was informed the incident by JC-750768X Nb Sub (Now Sub) RC Nath vide letter dated 01 Jun 2001.

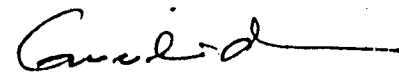
3. It is submitted that on perusal of service records of T/No 172 Civ/Elect Shri Bihari Singha that the indl was found to be continuously absenting himself from his place of work. His performance was found unsatisfactory on more than one occasions. He has been disrespectful towards his seniors for which protracted correspondence exists in the unit records are as follows:-

- (a) Absent report of T/No 172 Civ/Elect Shri Bihari Singha dt 25 Jun 88 by Nb/Sub Kehar Singh Incharge Elect Sec (Copy att as Annexure - XVI).
- (b) Show Cause Notice to T/No 172 Civ/Elect Shri Bihari Singha dt 28 Jun 88 issued by Maj SK Mitra, Officer Commanding regarding insolent behaviour and insubordination towards Nb Sub Kehar Singh (Copy att as Annexure - XVII).
- (c) Show Cause Notice to T/No 172 Civ/Elect Shri Bihari Singha dt 30 Jun 88 issued by Maj SK Mitra, Officer Commanding for absenting without sanction of leave- a violation of the existing orders when investigation of a case against T/No 172 Civ/Elect Shri Bihari Singha was in progress (Copy att as Annexure - XVIII).
- (d) Application by T/No 172 Civ/Elect Shri Bihari Singha dt 02 Jul 88 with regards to acceptance of mistakes and seeking excuse (Copy att as Annexure - XIX).
- (e) On 29 Jun 88 at 0900h T/No 172 Civ/Elect Shri Bihari Singha manhandled Gate NCO No 7098052 Hav GC Pawa (Annexed as Annexure - XX) and went out of wksp premises without permission. An FIR was lodged with Shillong Police Stn (Annexed as Annexure - XXI). Stn HQ was intimated and C of I ordered.
- (f) Detailed report on the C of I blaming T/No 172 Civ/Elect Shri Bihari Singha for taking law in his own hands and hitting wksp Gate NCO (Copy att as Annexure - XXII).
- (g) Show Cause Notice to T/No 172 dt 24 Jun 89, issued by Capt JP Singh, Officer Commanding to T/No 172 Civ/Elect Shri Bihari Singha for being absent from place of wk (Copy att as Annexure - XXIII).
- (h) Warning letters, issued to T/No 172 Civ/Elect Shri Bihari Singha by Capt JP Singh, OC, on 05 Aug 89 for organizing TEER business and gambling during working hour in workshop premises (Copy att as Annexure - XXIV).
- (i) Proceedings of Court Case No 88/U/S325/5061PC dated 19 May 89 in the Court of Shri A Mawlong magistrate Mawlong assault and affray on No 7098052L Hav GC Pawa, workshop gate NCO against T/No 172 Civ/Elect Shri Bihari Singha and compromise arrived by both parties dt 19 May 1989 by both parties. (Copy att as Annexure - XXV).



(k) Final report of Assault and Affray case submitted by Stn HQ, Shillong vide letter No 435/3/A dt 27 Oct 89 to AHQ, AGs Br (DV Dte) and HQ EC A Br ) (Copy attached as Annexure – XXVI).

Encl : As above



(GS Cheema)

Col

Officer Commanding

From,

JC-750768XNb Sub RC Nath

306 Stn Wksp EME

C/O 99 APO

To,

Officer Commanding

306 Stn Wksp EME

C/O 99 APO

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Annexure - I

Complaint :- Mis-Conduct and Mis-behaviour by T No. 172 Electrician Shri Bihari Singha and T.No 169 Veh Mech Shri PC Das

Sir,

Respectfully I beg to state the following few lines for your consideration and taking necessary action.

On 01 Jun 2001, I was performing the duties of Wksp JCO and R&I JCO of 306 Station Workshop. In the morning I used to distribute the duties to all Comb and Civilian Mechanics. No civilian mech reported at the shop floors till 0830h and were sitting in the recreation/rest room. I went to the recreation/rest room where Shri Bihari Singha, Shri PC Das, Shri PK Das, Shri SN Das, Shri SR Borah and Shri SD Lakhar were sitting and reading newspaper. I told them to report to shop floor for work as it was already 0830h. They told me that since there is picketing tomorrow, we will come after some time. I went back and waited for them for one hour. Again I went to recreation room and advised them to come to the shop floor. They kept quiet and kept sitting and ignored me. I again told them to come to the shop floor but no body came.

I, then again went to recreation room alongwith 2-3 more men so that no untoward incident takes place. I took Nk Puran Singh, Nk SC Singh, Hav J Khushwaha and Hav Lalan Shah with me and went to recreation room again. At that time Shri Bihari Singh (Electrician), Veh Mech Shri PC Das, Veh Mech Shri PK Das and Shri SR Borah and Armr Shri SD Lakhar were all sitting there. All other pers except Shri Bihari Singha and Shri PD Das left the recreation room. I advised Shri Bihari Singha and Shri PC Das to move to the shop floor but they refused. Shri Bihari Singha got up and picked up a file and told me that you are telling us to do work but I have to do lot of Union work and our welfare is not being looked after. He took out a file where a letter signed by Lt Col Nk Tiwari Ex OC Wksp was there. He said "Yo Col. Tiwari Gandu Officer Tha, Jisne Is Letter Ko Sign Kiya Hai, Humare Medical Claim Pura Nahi Hote" and the words to that effect. Shri PC Das also repeated that "Humara Koi Claim Pura Nahi Hote Raha Hai, Hum Kam Nahi Karenga, Yaha Par Sab Gandu Officer Aur JCO Hai, Hum Bharat Varash Ke Employee Hai, Yahan Par Dil Karega Bethenge". Shri PC Das again raised his hand to hit me and said that "AAP Chur Ho, Apne Bahut Chori Ki Hai, Aur FIP Ka Paise Khaya Hai". He made a gesture to hit me but I ducked and went back. Meanwhile Shri Bihari Singha made a violent gesture with both hands to hit me and then hit the table with both hands repeatedly to show anger and violent

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Annexure - V

STANDARD FORM FOR CHARGE SHEET FOR MAJOR PENALTIES  
(UNDER RULE 14 OF CCS (CC & A) RULES, 1965)

344  
BY REGD POST  
306 Sri Wksp EME  
C/O 99 APO

21208/172/EST-IND/LC

11 Jul 2001

MEMORANDUM

1. The undersigned proposes to hold an Inquiry against T.No 172 Trade Electrician Name Shri Bihari Singha under Rule 14 of the Central Civil Services (Classification and Appeal) Rules, 1965. The substance of the imputations of mis-conduct, or mis-behaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of charge (Annexure I). A statement of the imputations of mis-conduct or mis-behaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which and list of witnesses by whom, the article of charges are proposed to be sustained are also enclosed (Annexure III & IV).
2. Shri Bihari Singha is directed to submit within 10 days of the receipt of this memorandum, a written statement of his defence and also to state whether he desires to be heard in person.
3. He is informed that an Inquiry will be held only in respect of those article of charge as are not admitted. He should therefore specifically admit or deny each article of charge.
4. Shri Bihari Singha is further informed that if he does not admit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the Inquiring authority or otherwise fails or refuses to comply the provisions of Rule 14 of the CCS (CC & A) Rules, 1965 or the orders/directions issued in pursuance of the said Rule, the Inquiring Authority may hold the Inquiry against him ex-parte.
5. Attention of Shri Bihari Singha is invited to Rule 20 of the Central Civil Services (Conduct) Rules, 1964, under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt in these proceedings, it will be presumed that Shri Bihari Singha is aware of such representation so that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS (Conduct) Rules, 1964.
6. The receipt of the Memorandum may be acknowledged.



Encls :- Annexure I to IV

T.No 172 Trade Electrician  
Shri Bihari Singha  
Q/R No MES-93/2, Dudgeon Lines, Shillong

(S Bains)  
Lt Col  
Officer Commanding  
(Disciplinary Authority)

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Annexure I

STATEMENT OF ARTICLE OF CHARGE FRAMED AGAINST T.NO 172 TRADE  
ELECTRICIAN NAME SHRI BIHARI SINGHA OF 396 STATION WKSP EMB. C/O 92 APO

ARTICLE CHARGE - I

That the said T.No 172 Shri Bihari Singha while functioning as Civilian Electrician in 396 Station Workshop during the period Feb 2001 to Jun 2001 committed the following offences :-

"Gross misconduct" i.e

(i) On 01 Jun 2001, at about 0935h created a riotous situation in the rest room while being instructed to go to the shop floor by JC-750768X Nb Sub RC Nath.

(ii) Assaulting JC-750768X Nb Sub RC Nath on 01 Jun 2001 at 0935h approximately.

(iii) An act subversive of discipline in that using abusive and filthy language against JC-750768X Nb Sub RC Nath on 01 Jun 2001 at 0935h approximately.


(iv) Incited the industrial workers by inflammatory speech to join in a mass absence without leave or outpass on 28 May 2001 from 0930h to 1600h after marking their presence in the workshop. Thus 11 civilian workers left their place of work on being incited by him.

(v) Continual and willful neglect of duty and absence from 01 Feb 2001 to 01 Jun 2001 from place of work on all working days, refusing to accept any work and do any work.

(vi) Continual and willful disobedience of orders by supervisory staff to proceed to place of work from 01 Feb 2001 to 01 Jun 2001 on all working days.

Thus he exhibited acts as unbecoming of a Government servant and committed offences violating the provision of Rules 3, 7 of CCS (Conduct) Rules 1964.

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.....Contd....2/-

STATEMENT OF IMPUTATION OF MISCONDUCT OF MISBEHAVIOUR IN SUPPORT  
OF THE ARTICLE OF CHARGES FAMED AGAINST T.No 172 TRADE ELECTRICIAN  
NAMR SHRI BIHARI SINGHA

ARTICLE OF CHARGE I

1. On 01 Jun 2001, JC-750768X Nb Sub RC Nath of this wksp went to civilian rest room at 0830h and requested the workers to come to the shop floor for work. There were few workers sitting there but T.No 172 Shri Bihari Singha and T.No 169 Shri PC Das informed that they will not come out as they wanted to discuss about the picketing by KSU on 02 Jun 2001. JC-750768X Nb Sub RC Nath returned back and waited for them for one hour but 6 of them did not come to shop floor. JC-750768X Nb Sub RC Nath again went to the civilian rest room alongwith Nk Puran Singh, Nk SC Singh, Hav J Kushwaha and Hav Lalon Sah at 0930h on 01 Jun 2001. On reaching the rest room of civilian, all other workers except T.No 172 Shri Bihari Singha and T.No 169 Shri PC Das left for the work.
2. On being asked by JC-750768X Nb Sub RC Nath, T.No 172 Shri Bihari Singha refused to go to the shop floor and started shouting at Nb Sub RC Nath while reading a letter and said "Yeh Col Tiwari Candu Offr Tha, Jisne Is letter ko Sign Kiya Hai, Hamara Kol claim Nahin pass hota". During discussion Shri Bihari Singha got wild and violent and started abusing. He raised both his hands in a violent gesture and assaulted Nb Sub RC Nath who saved himself by ducking. Shri Bihari Singha then thumped the table with both hands and showed his anger and violent behaviour and thus created a riotous and disorderly situation which could have further created an unruly and tense situation in the workshop.
3. Khasi Student Union had given a call for Meghalaya Bandh on 25 May 2001 and had announced picketing of offices from 28 May 2001 to 05 Jun 2001. Accordingly civilian workers of this wksp absented themselves on 25 May 2001. As there was disruption of transport a special casual leave was granted on 25 May 2001. On 28 May 2001, majority of the civilian workers of this wksp and other civilian establishments reported for duty. To get another day off T.No 172 Shri Bihari Singha incited 11 workers to go out of the wksp at 0930h saying that they are afraid of KSU and will not perform their duties. T.No 172 Shri Bihari Singha delivered a speech in front of main office and incited 11 workers to leave their place of duty and forced their way out of main gate at 0930h on 28 May 2001 after marking their presence.
4. T.No 172 Shri Bihari Singha had been coming to the workshop on working days from 01 Feb. 2001 to 01 Jun 2001 but has not reported at the place of work on any working day and has absented himself continuously from place of work. Thus he remained absent from place of work for 21 days in Feb, 25 days in Mar, 20 days in Apr and 24 days in May 2001.

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T.No 172 Shri Bihari Singha did not obey the orders of I/C's shop floors to go to the shop floor for work from 01 Feb 2001 to 01 Jun 2001 and remained sitting in rest room or moving around aimlessly in the wkup without accepting or performing any duty. Thus he disobeyed his I/C shop floors on all working days from 01 Feb 2001 to 01 Jun 2001.

6. Thus he, violated the provision of Rules 3 and 7 of CCS (Conduct) Rules 1964 and committed offences as under :-

- (i) Created a riotous situation in the rest room of civilian worker on 01 Jun 2001 at about 0935h by refusing to obey the orders of JC-750768XNB Sub RC Nath to go to work.
- (ii) Assaulting JC-750768XNB Sub RC Nath on 01 Jun 2001 at 0935h while trying to hit him with both hands who saved himself by ducking. He then thumped the table with both hands to show his anger and violent behaviour.
- (iii) Committed an act subversive of discipline in that he used abusive and filthy language against a Junior Commissioned Officer being his superior Officer.
- (iv) Inciting the industrial workers by delivering an inflammatory speech to join in a mass absence from duty without leave or outpass on 28 May 2001 from 0930h to 1600h.
- (v) Continual absence from place of work on all working days from 01 Feb 2001 to 01 Jun 2001.
- (vi) Continual disobedience of orders of superior off to proceed to place of work from 01 Feb 2001 to 01 Jun 2001 on all working days.

  
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Annexure III

1. List of documents by which the articles of charge framed against T.No 172 Trade Electrician Nume Sri Bihari Singha are proposed to be sustained.

- (a) Complaint given by JC-750768X Nb Sub RC Nath dt 01 Jun 2001
- (b) Absent report submitted by Nk Rajan J, Gate NCO 306 Sth Wksp EME on 28 May 2001.
- (c) Reports of disobedience and no output given by see incharges..
- (d) Report of inciting of workers given by Nb Sub MDC Ahmed, I/C shop floor.


Annexure IV

1. List of witnesses by whom the article of charges framed against T.No 172 Electrician Sri Bihari Singha are proposed to be sustained.

- (a) No 14377561N Nk Purn Singh
- (b) JC-750768X Nb Sub RC Nath
- (c) 14391478F Nk SC Singh
- (d) 14581821L Hav J Khatwaha
- (e) 14558493W Hav Lalan Sah
- (f) 14624820Y Nk D Palani
- (g) JC-753913P Nb Sub Jal Prakashan
- (h) JC-750236Y Nb Sub (Now Sub) MDC Ahmed
- (k) JC-754018W Nb Sub UP Mlabra

Station : C/O 99 APO

Dated : 11 Jul 2001

  
(JS Bains)  
Lt Col  
Officer Commanding  
(Disciplinary Authority)

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Tr

Officer Commanding  
306 Sth Wksp EME  
C/O 99 APO

**DISOBEDIENCE OF ORDERS AND NO OUTPUT**

Sir,

It is for your info that the following individual have not obeyed the orders to proceed to shop floor for work and have not carried out any work on the days shown against each :-

S.No	Ticket No	Trade	Name	Month	No of working days
1	172	Elec	Poihari Singha	Feb 2001	2/

Dated : 1.3.2001

1/10/01  
N6/Swb  
I/C Section

N6/Swb U.P. MISHRA



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Annexure-IV

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To,

Officer Commanding  
306 Stn Wksp EME  
C/O 99 APO

**DISOBEDIENCE OF ORDERS AND NO OUTPUT**

Sir,

It is for your info that the following individual have not obeyed the orders to proceed to shop floor for work and have not carried out any work on the days shown against each :-

S.No	Ticket No	Trade	Name	Month	No of working days
------	-----------	-------	------	-------	--------------------

1	172	Elec	Pankaj Singh	Mar 2001	25
---	-----	------	--------------	----------	----

Dated : 1.4.2001

*[Signature]*  
VC Section

NB/Sub U.P. MISHRA

To, \*

Officer Commanding  
306 Stu Wksp EME  
C/O 99 APO

DISOBEDIENCE OF ORDERS AND NO OUTPUT

Sir,

It is for your info that the following individual have not obeyed the orders to proceed to shop floor for work and have not carried out any work on the days shown against each :-

S.No	Ticket No	Trade	Name	Month	No of working days
------	-----------	-------	------	-------	--------------------

1	172	Elec	Dorhan Singh	Apr 2001	20
---	-----	------	--------------	----------	----

Dated : 1.5.2001

L. G. B. / 100  
N. B. / 5. N. B.  
VC Section  
N. B. / 5. N. B. V. P. M. B. H. R. A.

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Annexure-VI 352

Officer Commanding  
306 Sth Wksp EME  
C/O 99 APO

### DISOBEDIENCE OF ORDERS AND NO OUTPUT

Sir,

It is for your info that the following individual have not obeyed the orders to proceed to shop floor for work and have not carried out any work on the days shown against each :-

S.No	Ticket No	Trade	Name	Month	No of working days
1.	172	B-Singha	May	24	

Dated : 31 May 2001

  
I/C Section  
N/S M.C. Singh

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Annexure-VII

Regd by Post

Tele: 6177

306 Stn Wksp EME

C/O 99 APO

10401/172/Civ/INQ

12 Jun 2002

T/No 172 Civ Elect (MV)

Shri Bihari Singha

C. No. MES 93/2

Line

Shri Cantt

DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED AGAINST T/NO 172  
CIV ELECT (MV) SHRI BIHARI SINGHA UNDER RULE 14 OF CCS (CCA) RULES

1965

1. The following Daily Order Sheets alongwith deposition of the state witness are forwarded herewith for your information and necessary action :-

- (a) Daily Order Sheet No 10401/Civ/172/Inq dated 16 Jan 2002. ✓
- (b) Daily Order Sheet No 10401/Civ/172/Inq dated 05 Feb 2002. ✓
- (c) Daily Order Sheet No 10401/Civ/172/Inq dated 15 Mar 2002. ✓
- (d) Daily Order Sheet No 10401/Civ/172/Inq dated 20 Mar 2002. ✓
- (e) Daily Order Sheet No 10401/Civ/172/Inq dated 26 Mar 2002. ✓
- (f) Daily Order Sheet No 10401/Civ/172/Inq dated 08 Apr 2002. ✓
- (g) Daily Order Sheet No 10401/Civ/172/Inq dated 22 Apr 2002. ✓ (Not forwarded)
- (h) Daily Order Sheet No 10401/Civ/172/Inq dated 10 May 2002. ✓ (enclosed)
- (i) Daily Order Sheet No 10401/Civ/172/Inq dated 07 Jun 2002. ✓

2. The next date of hearing has been fixed on 26 Jun 2002 at 1100h in my office. The evidence on behalf of Disciplinary Authority has been closed. The proceedings resumed on 26 Jun 2002 for hearing defence evidence after the submission of written statement of defence by the charged official. Therefore you are hereby advised to present your self on the above date alongwith list of defence witness, if any.

B.P. —  
( Bidyot Panging )  
AEE  
Inquiry Officer

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Received on  
14/6/2002  
at 1100h

INQUIRY REPORTONTHE DEPARTMENTAL ENQUIRY HELD AGAINSTT/NO 172 CIV ELECT(MV) SHRI BIHARI SINGHAOF306 STATION WORKSHOP EME

Submitted by

Inquiry officer

Vide letter No 10401/Civ/172/Inq

Dated : - 10 Jul 2003

LIST OF EXHIBITED DOCUMENTS

S - 1 Daily attendance and output register of electrical section of 306 Station Workshop EME.

LIST OF WITNESSES

SW-1	JC-750768X Nb Sub (Now Sub) R C Nath
SW-2	14624820Y NK D Palani
SW-3	JC-754018W Nb Sub U P Mishra
SW-4	14577561N NK Puran Singh
SW-5	JC-753913P Nb Sub Jayaprakashan K
SW-6	14591478F NK S C Singh
SW-7	14581821L Hav J Kushwah

B.P.

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## INQUIRY REPORT

In the case against  
T/No 172 Civ Elect(MV) Shri Bihari Singha  
of 306 Station Workshop EME

### 1. Introduction

(a) Under sub-rule 2 of 14 of CCS (CC&A) Rules 1965, I was appointed by the Officer Commanding, 306 Station Workshop EME, C/O 99 APO as Inquiry Authority to inquire into the charges framed against T/No 172 Civ Elect(MV) Shri Bihari Singha vide his Memo No 21208/172/Est-Ind/LC dated 11 Jul 2001. I have since completed the inquiry and on the basis of documentary and oral evidences adduced before me prepared my Inquiry Report as under: -

(i) A copy of appointment of Presenting Officer under Sub Rule 5 (c) of Rule 14 of CCS Rule 1965 was sent to JC-722950F Nb SKT(MT) Amar Singh of 306 Station Workshop EME, T/No 172 Civ/Elect Shri Bihar Singh, charged official and the undersigned vide 306 Station Workshop EME letter No 10401/172/Civ dated 30 Aug 2001

(ii) Order for change of Presenting Officer JC-722950F Nb SKT(MT) Amar Singh due to retirement was issued vide 10401/172/Civ dated 03 Apr 2002 and copies of the same were sent to JC-755107F Nb Sub SKT R K Kanwar of 306 Station Workshop EME and T/No 172 Civ/Elect Shri Bihar Singh through registered letter.

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(iii) Date of hearing are as under:-

S.No	Date	Remarks
(i)	20 Sep 2001	The charged official has been directed to appear for preliminary hearing on 08 Oct 2001.
(ii)	08 Oct 2001	The inquiry proceedings could not proceed, as T/No 172 Civ/Elect Shri Bihari Singha, charged official was absent.
(iii)	20 Oct 2001	Adjourned because the charged official was absent
(iv)	15 Nov 2001	Charged official was absent, inquiry started ex-parte. Statement of State Witness No 1 - JC-750768X Nb Sub (now Sub) R C Nath has been taken.
(v)	16 Jan 2002	Adjourned, since the charged official was absent and no witnesses has been produced.
(vi)	05 Feb 2002	Statement of No 14624820Y NK D Palani, State Witness (SW-2) has been recorded. Charged official is still absent.
(vii)	11 Mar 2002	T/No 172 Civ/Elect Shri Bihari Singha, charged official came for the first time for hearing with an application for reconsidering the appointment of Defence Assistance from outside Shillong. The application has been considered by the inquiry officer and has been rejected. Charged official has been advised to engage a defence assistance from Shillong and told him to attend the hearing regularly since ex-parte inquiry has already been started. The statement of State Witnesses recorded so far in the earlier hearings were shown to the charged official but he refused to see the statements without defence assistance.
(viii)	13 Mar 2002	Again the charged official came with an application for permission for engaging defence assistance from outside Shillong which was already rejected by the inquiry officer. The charged official was again asked to see the proceedings and statements of State Witnesses recorded in earlier hearings, but is not willing to see these documents without having the defence assistance. Statement

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		No 14577561N NK Puran Singh, Sw-4 has been recorded in front of the charged official.
(ix)	15 Mar 2002	Hearing started at 1100 h and JC-753913P Nb Sub Jayaprakashan K was produced by the Presenting Officer as State Witness No 5 (SW-5). Statement of SW-5 has been recorded and charged official was asked for cross examination of SW-5, but the charged official was not willing to speak anything.
(x)	20 Mar 2002	Charged Official left the place of hearing just before its start saying "I will not attend the inquiry proceedings". Statement of 14591478F NK S C Singh, SW-6 has been recorded. Cross examination by Defence Assistance/Charged Official was not done and questions by the inquiry officer was postponed to the next hearing.
(xi)	26 Mar 2002	Charged official was absent and No 14591478F NK S C Singh (SW-6) was again produced by the presenting officer for questioning by the inquiry officer.
(xii)	08 Apr 2002	Presenting officer came with No 14581821L Hav J Kushwah as State Witness No 7 and his statement was recorded. Questioning by inquiry officer was postponed to next hearing. Charged official was absent on that day.
(xiii)	22 Apr 2002	No 14581821L Hav J Kushwah, State Witness No 7 was questioned by inquiry officer and his deposition was completed. Charged official was again absent.
(xiv)	10 May 2002	JC-754018W Nb Sub U P Mishra was produced by presenting officer as SW-3 and his statement has been recorded. Cross-examination was not done and questioning by inquiry officer has been postponed to the next hearing. Charged official was absent.
(xv)	07 Jun 2002	Questioning by inquiry officer on statement of SW-3 has been completed. Charged official was absent. Evidence on behalf of the Disciplinary Authority has been closed as Presenting Officer declared that he had produced sufficient witness to prove the charges and remaining listed state witnesses



		need not to be produced for inquiry.
(xvi)	26 Jun 2002	Charged official has not submitted his written statement of defence, inspite of intimation given by the inquiry officer vide registered letter No 10401/172/Civ/Inq dated 12 Jul 2002 for submission of his written statement of defence by 26 Jun 2002. Charged official has been given one more opportunity for submission of written statement on next hearing scheduled to be on 16 Jul 2002.
(xvii)	16 Jul 2002	Charged official was given one more opportunity for submission of written statement of defence on 03 Aug 2002. He was also informed that if he did to do so evidence on behalf of charged official will be treated as closed.
(xviii)	03 Aug 2002	As charged official had not submitted an written statement of defences failed to attend the hearing, the case is declared closed by the inquiry officer. Presenting officer has been directed to submit his written brief by 31 Aug 2002 with a copy to the charged official. After receiving the brief of presenting officer charged official have to submit his written brief by 28 Sep 2002.

(iv) 30 Aug 2002 : - T/No 172 Civ Elect(MV) Shri Bihari Singha filed appeal dated 30 Aug 2002 to the Directorate General of EME for review against the Order No 10401/172/C dt.03 Aug 2002 and No 10401/172/Civ dt 08 Aug 2002 issued by the Officer Commanding , 306 Stn Wks EME C/O 99 APO, rejecting his representation dt 01 Apr 2002, dt 20 Jun 2002, dt 16 Jul 2002 and 25 Jul 2002, against the appointment of Inquiry Officer on the grounds of bias and pray for fresh appointment of another person as Inquiry Officer.

(v) 26 Nov 2002 : - Presenting Officer submitted his written brief and copy of the same has been forwarded to T/No 172 Civ Elect(MV) Shri Bihari Singha by the undersigned vide registered letter no 10401/172/Civ/INQ dated 11 Jul 2003. Vide this letter the charged official was also

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directed to submit his written brief so as to reach on or before 31 Jan 2003.

(vi) 07 Feb 2003 : - The charged official was directed by the Army HQ to approach MG EME, HQ Eastern Command, who is the Appellate Authority in this case.

(vii) 25 Jun 2003 : - The appeal dated 30 Aug 2002 filed by T/No 172 Civ Elect(MV) Shri Bihari Singha was rejected by Maj Gen UK Jha, MG EME, HQ Eastern Command and ordered to proceed with the inquiry.

2. Charges that were framed - As per memorandum No 21208/172/Est-Ind/LC dated 11 Jul 2001, T/No 172 Civ/Elect Shri Bihari Singha while functioning as Civilian Electrician in 306 Station Workshop EME during the period 01 Feb 2001 to 01 Jun 2001 committed the following offences :-

(a) On 01 Jun 2001 at about 0935 h created a riotous situation in the rest room while being instructed to go to the shop floor by JC-750768X Nb Sub (now Sub) R C Nath

(b) Assaulting JC-750768X Nb Sub (now Sub) R C Nath on 01 Jun 2001 at 0935 h approximately.

(c) An act, subversive of discipline in that using abusive and filthy language against JC-750768X Nb Sub (now Sub) R C Nath on 01 Jun 2001 at 0935 h approximately.

(d) Incited the industrial workers by inflammatory speech to join in a mass absence without leave or out pass on 28 May 2001 from 0930 h to 1600 h after marking their presence in the workshop. Thus, 11 civilian workers left their place of work on being incited by him.

(e) Continual and wilful neglect of duty and absence from 01 Feb 2001 to 01 Jun 2001 from place of work on all working days, refusing to accept any work and do any work.

(f) Continual and wilful disobedience of orders given by supervisory staff to proceed to place of work from 01 Feb 2001 to 01 Jun 2001 on all working days.

"Thus he exhibited acts as unbecoming of Government Servant and committed offences violating the provisions of Rule 3, 7 of CCS (Conduct Rule 1964."

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3. Charges that were admitted or dropped or not pressed :-

- (a) Charged official did not admit any charge vide his letter No Nil dated 28 Jul 2001.
- (b) No charges have been dropped.
- (c) All charges mentioned in charge sheet have been pressed.

4. Charges actually inquired into – All the charges mentioned in Para 2 (a) to 2 (f) above have been inquired into.

5. Brief statement of the case of disciplinary authority in respect of the charges inquired into :-

(a) Disciplinary authority through Presenting Officer has produced the following witnesses on the dates shown against each :-

(i)	JC-750768X Nb Sub (Now Sub) R C Nath	15 Nov 2001	SW-1
(ii)	14624820Y NK D Palani	05 Feb 2002	SW-2
(iii)	JC-754018W Nb Sub U P Mishra	10 May 2002	SW-3
(iv)	14577561N NK Puran Singh	13 Mar 2002	SW-4
(v)	JC-753913P Nb Sub Jayaprakashan K	15 Mar 2002	SW-5
(vi)	14591478F NK S C Singh	20 Mar 2002 & 26 Mar 2002	SW-6
(vii)	14581821L Hav J Kushwah	08 Apr 2002 & 22 Apr 2002	SW-7

(b) The presenting Officer through SW-1, SW-4, SW-7 has brought out the T/No 172 Civ/Elect Shri Bihari Singha on 01 Jun 2001 at about 0930 refused to obey the orders of JC-750768X Nb Sub (Now Sub) R C Nath. T/No 172 Civ/Elect Shri Bihari Singha became violent and used abusive and filthy language against JC-750768X Nb Sub (Now Sub) R C Nath. Had the JCO not pacified the accompanying Jawans, there would have been a very serious problem due to violent behaviors of T/No 172 Civ/Elect Shri Bihari Singha.

(c) Witness No SW-1, SW-4 and SW-7 through their statements and cross examination have brought out that T/No 172 Civ/Elect Shri Bihari Singha used abusive language and assaulted JC-750768X Nb Sub (Now Sub) R C Nath. T/No 172 Civ/Elect Shri Bihari Singha raised both his hands and made gesture to hit JC-750768X Nb Sub (Now Sub) R C Nath. T/No 172 Civ/Elect Shri Bihari Singha hit the table violently and repeatedly to show his anger and violent behavior. JC-750768X Nb Sub (Now Sub) R C Nath saved himself by ducking being a soldier otherwise he would have been hit. T/No 172 Civ/Elect Shri Bihari Singha also said "Yahan par sabhi gandu officer and JCO hain".

(d) SW-2 and SW-6 produced by the Presenting Officer have brought out that T/No 172 Civ/Elect Shri Bihari Singha incited the industrial workers of 306 Station Workshop EME by an inflammatory speech to join in a mass absence without leave on 28 May 2001 at about 0930 h. About 11 civilian workers of 306 Station Workshop EME absented themselves without leave from their place of work at 306 Station Workshop EME from 0930 h to 1600 h on 28 May 2001.

(e) T/No 172 Civ/Elect Shri Bihari Singha had been willfully neglecting duty, absented from place of work and disobedient of orders from 01 Feb 2001 to 01 Jun 2001. SW-1, SW-3, SW-5 and SW-7 have brought out the continual wilful neglect of duty and absence from place of work and disobedience of orders. T/No 172 Civ/Elect Shri Bihari Singha had been reporting to 306 Station Workshop EME, marked his presence but did not report to place of work and kept sitting and roamed in the workshop from 01 Feb 2001 to 01 Jun 2001.

6. Brief Statement of facts and documents admitted - The brief statement of facts and documents submitted by PO (Presenting Officer) are as under :-

(a) T/No 172 Civ/Elect Shri Bihari Singha of 306 Station Workshop EME was served with a memorandum by Officer Commanding, 306 Station Workshop EME vide memorandum No 21208/172/Est-Ind/LC dated 11 Jul 2001 under Rule 14 (2) of CCS (Classification, Control and Appeal) Rule 1965. He was charged with the following offences i.e. Gross misconduct :-

(i) On 01 Jun 2001 at about 0935 h created a riotous situation in the rest room while being instructed to go to the shop floor by JC-750768X Nb Sub (now Sub) R C Nath

(ii) Assaulting JC-750768X Nb Sub (now Sub) R C Nath on 01 Jun 2001 at 0935 h approximately.

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(iii) An act, subversive of discipline in that using abusive and filthy language against JC-750768X Nb Sub (now Sub) R C Nath on 01 Jun 2001 at 0935 h approximately.

(iv) Incited the industrial workers by inflammatory speech to join in a mass absence without leave or out pass on 28 May 2001 from 0930 h to 1600 h after marking their presence in the workshop. Thus, 11 civilian workers of this wksp left their place of work on being incited by him.

(v) Continual and wilful neglect of duty and absence from 01 Feb 2001 from place of work on all working days, refusing to accept any work and do any work.

(vi) Continual and wilful disobedience of orders given by supervisory staff to proceed to place of work from 01 Feb 2001 to 01 Jun 2001 on all working days.

"Thus he exhibited acts as unbecoming of Government Servant and committed offences violating the provisions of Rule 3, 7 of CCS (Conduct) Rule 1964"

(b) The list of documents by which the articles of charges framed against T/No 172 Qiv/Elect Shri Bihari Singha where to be sustained were as under :-

(i) Complaint given by JC-750768X Nb Sub (Now Sub) R C Nath dated 01 Jun 2001.

(ii) Absent report submitted by NK Rajan J, Gate NCO of 306 Station Workshop EME on 28 May 2001.

(iii) Report of disobedience and no output given by section in-charges.

(iv) Report of inciting of workers given by Nb Sub (Now Sub) MDC Ahmed, I/C Shop floor.

(c) That the list of witnesses by whom the article of charges were proposed to be sustained were as under :-

(i) No 14577561N NK Puran Singh

(ii) JQ-750768X Nb Sub (now Sub) R C Nath

- (iii) No 14591478F NK S C Singh
- (iv) No 14558493W Hav Lalan Sah
- (v) No 14581821L Hav J Kushwaha
- (vi) No 14624820Y NK D Palani
- (vii) JC-753913P Nb Sub Jayaprakasan K
- (viii) JC-750236Y Nb Sub (Now Sub) MDC Ahmed
- (ix) JC-754018W Nb Sub U P Mishra

7. Points for determination and issues to be decided - The following issues needs to be decided:-

- (a) Whether T/No 172 Civ/Elect Shri Bihari Singha created a riotous like situation in rest room of civilians on 01 Jun 2001 at 0930 h when being instructed by JC-750768X Nb Sub (Now Sub) R C Nath ?
- (b) Did T/No 172 Civ/Elect Shri Bihari Singha assaulted JC-750768X Nb Sub (Now Sub) R C Nath on 01 Jun 2001 at 0930 h approximately ?
- (c) Whether T/No 172 Civ/Elect Shri Bihari Singha used abusive and filthy language against JC-750768X Nb Sub (Now Sub) R C Nath ?
- (d) Did T/No 172 Civ/Elect Shri Bihari Singha incited the industrial workers of 306 Station Workshop EME on 28 May 2001 by delivering an inflammatory speech at about 0930 h ?
- (e) Was T/No 172 Civ/Elect Shri Bihari Singha continually neglecting duty, absence from place of work from 01 Feb 2001 to 01 Jun 2001 ?
- (f) The issue of disobedience of orders from 01 Feb 2001 to 01 Jun 2001 given by supervisory staff from 01 Feb 2001 to 01 Jun 2001.

8. Brief statement of case of Govt Servant :-

- (a) T/No 172 Civ/Elect Shri Bihari Singha was presented with a memorandum by Officer Commanding, 306 Station Workshop EME vide their registered letter No 21208/172/Est-Ind/LC dated 11 Jul 2001.
- (b) Inquiry Officer and Presenting Officer were appointed vide 306 Station Workshop EME registered letter No 10401/172/Civ dated 30 Aug 2001 and of even No dated 30 Aug 2001 respectively.

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(c) T/No 172 Civ/Elect Shri Bihari Singha was intimated by me vide registered letter No 10401/172/Inq dated 20 Sep 2001. (registered No 4450 dated 21 Sep 2001) for preliminary hearing on 08 Oct 2001 at 1100 h in Office of Workshop Officer at 306 Station Workshop EME. He was also intimated to give particulars of defence assistance by 01 Oct 2001.

(d) T/No 172 Civ/Elect Shri Bihari Singha vide his letter No Nil dated 27 Sep 2001 intimated that he is unable to manage defence assistance within a short span and asked for 30 days more time to arrange for defence assistance.

(e) T/No 172 Civ/Elect Shri Bihari Singha was given fresh date of preliminary hearing on 20 Oct 2001 at 1100 h at the Office of Workshop Officer of 306 Station Workshop EME. He was also intimated to give particulars of defence assistance if any. Registered letter No 10401/Civ/172/Inq dated 03 Oct 2001 refers.

(f) T/No 172 Civ/Elect Shri Bihari Singha vide his letter No Nil dated 13 Oct 2001 requested for common proceedings with T/No 169 Civ/VM P C Das and requested for engaging a civil lawyer.

(g) Officer Commanding, 306 Station Workshop EME, the Disciplinary Authority, vide registered letter No 10401/Civ/172 dated 19 Oct 2001 (registered No 156 dated 20 Oct 2001) rejected the plea of common proceedings as all the charges were not common. He also rejected the plea of Charged Official for employ a lawyer as defence assistance since the Presenting Officer was not a legally qualified officer.

(h) T/No 172 Civ/Elect Shri Bihari Singha was advised by the undersigned to attend the inquiry and resist from delaying tactics vide registered letter No 10401/Civ/172 dated 20 Oct 2001 (Registered No 175 dated 23 Oct 2001). He was also informed that if he continues to use delaying tactics, the inquiry will start ex-parte.

(j) Next date of hearing was fixed on 15 Nov 2001 at 1100 in 306 Station Workshop EME and T/No 172 Civ/Elect Shri Bihari Singha was intimated vide registered letter No 10401/Civ/172/Inq dated 23 Oct 2001 sent through registered post No 244 dated 25 Oct 2001. The charged official was also intimated that if he fails to appear in person on 15 Nov 2001, ex-parte inquiry would be started.

(c) T/No 172 Civ/Elect Shri Bihari Singha was intimated by me vide registered letter No 10401/172/Inq dated 20 Sep 2001 (registered No 4450 dated 21 Sep 2001) for preliminary hearing on 08 Oct 2001 at 1100 h in Office of Workshop Officer at 306 Station Workshop EME. He was also intimated to give particulars of defence assistance by 01 Oct 2001.

(d) T/No 172 Civ/Elect Shri Bihari Singha vide his letter No Nil dated 27 Sep 2001 intimated that he is unable to manage defence assistance within a short span and asked for 30 days more time to arrange for defence assistance.

(e) T/No 172 Civ/Elect Shri Bihari Singha was given fresh date of preliminary hearing on 20 Oct 2001 at 1100 h at the Office of Workshop Officer of 306 Station Workshop EME. He was also intimated to give particulars of defence assistance if any. Registered letter No 10401/Civ/172/Inq dated 03 Oct 2001 refers.

(f) T/No 172 Civ/Elect Shri Bihari Singha vide his letter No Nil dated 13 Oct 2001 requested for common proceedings with T/No 169 Civ/VM P C Das and requested for engaging a civil lawyer.

(g) Officer Commanding, 306 Station Workshop EME, the Disciplinary Authority, vide registered letter No 10401/Civ/172 dated 19 Oct 2001 (registered No 156 dated 20 Oct 2001) rejected the plea of common proceedings as all the charges were not common. He also rejected the plea of Charged Official for employ a lawyer as defence assistance since the Presenting Officer was not a legally qualified officer.

(h) T/No 172 Civ/Elect Shri Bihari Singha was advised by the undersigned to attend the inquiry and resist from delaying tactics vide registered letter No 10401/Civ/172 dated 20 Oct 2001 (Registered No 175 dated 23 Oct 2001). He was also informed that if he continues to use delaying tactics, the inquiry will start ex-parte.

(j) Next date of hearing was fixed on 15 Nov 2001 at 1100 in 306 Station Workshop EME and T/No 172 Civ/Elect Shri Bihari Singha was intimated vide registered letter No 10401/Civ/172/Inq dated 23 Oct 2001 sent through registered post No 244 dated 25 Oct 2001. The charged official was also intimated that if he fails to appear in person on 15 Nov 2001, ex-parte inquiry would be started.



(k) Since the charged official was remained absent on 15 Nov 2001, ex-parte inquiry were started and statement of state witness no 1 was recorded.

(l) T/No 172 Civ/Elect Shri Bihari Singha requested for 15 days more time to engage a defence assistance vide his letter dated 23 Nov 2001.

(m) Next date of hearing was fixed on 16 Jan 2002 at 1100 in the Office of 306 Station Workshop EME vide registered letter No 10401/Civ/172/Inq dated 21 Dec 2001 (Registered No 5667 dated 22 Dec 2001). Charged Official was also intimated that since ex-parte inquiry has been started from 15 Nov 2001, charged official was once again advised to attend inquiry which will be held on every alternative day except Sundays and Holidays with effect from 16 Jan 2002

(n) T/No 172 Civ/Elect Shri Bihari Singha continued delaying tactics by engaging in infructuous correspondence. His letters dated 07 Dec 2001 and 24 Dec 2001 refers.

(o) T/No 172 Civ/Elect Shri Bihari Singha returned back registered letter No 10401/Civ/172/Inq dated 21 Dec 2001 did not accept the letter and letter was returned back undelivered by Postal Authority with the remark "Refused to Accept". The letter was for fixing next date of hearing on 16 Jan 2002.

(p) T/No 172 Civ/Elect Shri Bihari Singha gave the name of UDC, Shri M P Singha of 222 ABOD at Guwahati for engaging the defence assistance vide his letter No Nil dated 21 Jan 2002.

(q) T/No 172 Civ/Elect Shri Bihari Singha was intimated vide registered letter No 10401/Civ/ 72/Inq dated 08 Feb 2002 that all his letters have been replied. He was also intimated that he has not forwarded the consent of Shri M P Singha, UDC of 222 ABOD at Guwahati, whom he wanted to engage as defence assistance. He was also intimated vide registered letter No 10401/Civ/172/Inq dated 08 Feb 2002 (registered No 930 dated 09 Feb 2002) that he was again trying to delay the proceedings as he has not attached the consent of UDC, Shri M P Singha of 222 ABOD at Guwahati, which is at a distance of more than 100 Kms. His request for engaging a defence assistance from outside station was not agreed to due to long distance between place of inquiry and place of posting of the defence assistance. He was advised to engage a defence assistance from one of the local unit as sufficient time has already been given to him and ex-parte proceedings have been started.

- (r) T/No 172 Civ/Elect Shri Bihari Singha in connivance with Postal Authorities received the registered letters written by Inquiry Officer after one month at a distance of 1 Kilometer and tried to project that delay has been due to late receipt of letters.
- (s) A registered letter No 10401/Susp/Civ dated 13 Feb 2002 (registered No 1071 dated 14 Feb 2002) was written to T/No 172 Civ/Elect Shri Bihari Singha by Disciplinary Authority that he has been delaying the inquiry by delaying tactics and not receiving the registers letters in time or not accepting these letters. He was again advised to attend the inquiry.
- (t) T/No 172 Civ/Elect Shri Bihari Singha was intimated vide letter No 10401/Civ/172/Inq dated 22 Feb 2002 (registered No 2574 dated 22 Feb 2002) that he has been given five opportunities on 08 Oct 2001, 20 Oct 2001, 15 Nov 2001, 16 Jan 2002 and 05 Feb 2002. He was given one more chance to report to Inquiry Officer on 11 Mar 2002 at 1100 h in office of 306 Station Workshop EME.
- (u) T/No 172 Civ/Elect Shri Bihari Singha vide his letter dated 09 Mar 2002 stated that no suitable Central Govt worker is available in Shillong for defence Assistance and he be permitted to engage Shri M P Singha, UDC of 222 ABOD at Guwahati.
- (v) T/No 172 Civ/Elect Shri Bihari Singha vide his letter dated 12 Mar 2002 and 14 Mar 2002 addressed to appointing authority requested to permit engage a defence assistance from outside Shillong.
- (w) Disciplinary authority of 306 Station Workshop EME vide letter No 10401/Civ/172 dated 03 Apr 2002 (registered No 3558 dated 05 Apr 2002) rejected the appeal of charged official for engaging a defence assistance from outside station due to long distance. The charged official was also intimated in detail the delaying tactics adopted by him since starting of inquiry. He was advised to engage a defence assistance from about 1000 Central Govt Workers located at Shillong. The disciplinary authority upheld the decision of Inquiring Authority for rejecting the defence assistance from outside Shillong.
- (x) T/No 172 Civ/Elect Shri Bihari Singha continued making infructuous correspondence for not receiving the registered letters and appointment of Inquiry Officer. He had returned the registered letter No 10401/Civ/172 dated 03 Apr 2002.

(y) T/No 172 Civ/Elect Shri Bihari Singha after a lapse of 9 months after receiving the memorandum again wrote to Disciplinary Authority for some documents of appointment of inquiring authority, Presenting Officer. He further asked the inquiring authority for security check at the gate. His letter dated 21 Mar 2002 refers.

(z) Similar letters were again written on 23 Mar 2002 and 26 Mar 2002.

(aa) Disciplinary authority vide letter No 10401/172/Civ dated 18 Apr 2002 (registered No 3955 dated 19 Apr 2002) intimated the charged official that copies of the appointment of inquiry officer and presenting officers were sent to the charge official by Registered AD post and the same was returned by the postal authority with a remarked that "Refused to accept". As per Govt of India instruction to Rule 30 of CCS (CCA) Rules 1965, documents sent by Registered AD Post, if not accepted by the addressee and is returned by the post office to the sender, further, action may be taken as if the documents has been served. He had been corresponding with inquiring authority from the very beginning and was fully aware of who is the inquiring authority. He had also attended the inquiry on 11 Mar 2002, 13 Mar 2002 and 15 Mar 2002 as is evident from the gate passes. However, zerox copies of detailment of Inquiry Officer, Presenting Officer were again sent to him.

(ab) T/No 172 Civ/Elect Shri Bihari Singha vide his letter dated 29 Apr 2002 again raised the following issue just to delay the procedures:

(i) That he does not know the detailment of Inquiry Officer and Presenting Officer.

(ii) That he received the letters of appointment of Inquiry Officer on 27 Apr 2002 after a lapse of 8 months.

(iii) That Inquiry Officer is connected with all matters and is subordinate to disciplinary authority, he can not be inquiry officer.

(ac) T/No 172 Civ/Elect Shri Bihari Singha again raised the same issues vide letter dated 20 Jun 2002.

(ad) Officer Commanding, 306 Station Workshop EME vide registered letter No 10401/172/Civ dated 03 Aug 2002 (registered No 3132 dated 05 Aug 2002) replied and the gist is as under: -

(i) That charged official was supplied with the copies of Appointment of Inquiry Officer and Presenting Officer vide letter No

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140101/172/Civ dated 30 Aug 2001 through registered letter. Charged Official was also mentioned that he had been corresponding with inquiry officer and have actually attended the inquiry on 11 Mar 2002, 13 Mar 2002 and 18 Mar 2002.

(ii) As that charged official was told that he has no authority to reject inquiry officer and no bias has been mentioned by him. The inquiry officer was not even present on 01 Jun 2001 in the workshop as he was on temporary duty at 311 Stn Wksp EME wef 07 May to 09 Sep 2001.

(iii) The appeal of the charged official for bias against the inquiry officer was also rejected vide para 3 of the aforesaid letter.

(iv) That JC-722950F Nb Sub SKT (MT) Amar Singh was replaced as Presenting Officer by JC-755107F Nb Sub SKT RK Kanwar due to retirement of JC-722950F Nb Sub SKT (MT) Amar Singh.

(v) Charged official was also intimated to collect his subsistence allowances which he has not been collecting.

(vi) He was also advised to appoint a defence assistance.

(ae) T/No 172 Civ/Elect Shri Bihari Singha again wrote a letter on 16 Jul 2002 with the same old allegations and delaying tactics.

(af) T/No 172 Civ/Elect Shri Bihari Singha wrote another letter on 25 Jul 2002. The gist is as under :-

(i) That he has rejected the inquiry officer.

(ii) That inquiry is to be stayed when application is made against inquiry officer.

(iii) That JC-755107F Nb Sub SKT RK Kanwar has been found as Presenting Officer in place of JC-722950F Nb Sub SKT (MT) Amar Singh.

(iv) That he wants to be heard in person.

(ag) T/No 172 Civ/Elect Shri Bihari Singha vide registered letter No 10401/172/Civ dated 08 Aug 2002 (registered No 3293) was intimated the following by Officer Commanding, 306 Station Workshop EME :-

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(i) That plea of charged official has already been rejected as no bias has been mentioned. Moreover, the inquiry officer was not even present in the unit on 01 Jun 2001 as he was on temp duty at 311 Stn Wksp EME wef 07 May 2001 to 09 Sep 2001. The plea of staying the inquiry was also rejected.

(ii) That the change of appointment of presenting officer has already been intimated to charged official vide 10401/Civ/172 dated 03 Aug 2002 and of even No dated 03 Aug 2002.

(iii) That charged official was told to engage a defence assistance from about 1000 Central Govt Workers located at Shillong.

(iv) That charged official was also intimated that he had been attending the inquiry on 11 Mar 2002, 13 Mar 2002, 15 Mar 2002 and 20 Mar 2002 and has been absenting after 20 Mar 2002.

(ah) That Daily Order Sheets were regularly sent to charged official vide registered letter Nos :-

(i) 10401/172/Civ/Inq dated 23 Oct 2001.

(ii) 10401/172/Civ/Inq dated 04 Jan 2001.

(iii) 10401/172/Civ/Inq dated 12 Jun 2001.

(iv) Daily Order Sheets dated 11 Mar 2001 and 13 Mar 2001 was received by the charged official by hand after the proceedings.

(v) Daily Order Sheet No 10401/172/Civ/Inq dated 26 Jun 2002 was forwarded to the charged official vide registered post receipt No 5454 dated 08 Jul 2002.

(vi) Daily Order Sheet No 10401/172/Civ/Inq dated 16 Jul 2002 was forwarded to the charged official vide registered post receipt No 5683 dated 17 Jul 2002.

(vii) Daily Order Sheet No 10401/172/Civ/Inq dated 03 Aug 2002 was forwarded to the charged official vide registered post receipt No 3132 dated 05 Aug 2002.

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(aj) That Charged Official continued making representation to inquiry office, Disciplinary Authority and DGEME, Army Headquarters, New Delhi. The main gist has been rejection of inquiry officer.

(ak) T/No 172 Civ/Elect Shri Bihari Singha was intimated to submit his written brief by 31 Jan 2003 vide letter No 10401/172/Civ/Inq dated 11 Jan 2003. The copy of brief of presenting officer was also sent to him.

(al) That no reply regarding written brief has been recd.

(am) That T/No 172 Civ/Elect Shri Bihari Singha sent a copy of appeal addsd to DGEME dated 30 Aug 2002. The gist of appeal was 'Bias against inquiry officer'.

(an) That Army Headquarters vide letter No 21892/24/EME Civ-3 dated 07 Feb 2003 intimated the charged official to send the appeal to MGEME East Command, Kolkata.

(ao) Charged Official did not send the appeal to MG EME, Eastern Command, the appellate authority.

(ap) The appeal of bias against the inquiry officer was rejected by Brig SK Kakar, offg MG EME, East Comd vide order no 332230/2/SBS/EME Civ dated 23 May 2003.

(aq) The order was however cancelled vide HQ East Comd letter No 332230/2/SSB/EME Civ dated 09 Jun 2003.

(ar) Maj Gen UK Jha, MG EME, East Comd, the appellate authority rejected the appeal of charged official vide order no 332230/2/SBS/EME Civ dated 23 Jun 2003.

9. Assessment of Evidence In respect of each point - Assessment of evidence in respect of each point is discussed below in respect of T/No 172 Civ/Elect Shri Bihari Singha :-

(a) T/No 172 Civ/Elect Shri Bihari Singha was charged for "Gross Misconduct" as per sub clause (i) of Article (I) ie "On 01 Jun 2001, at about 0935 h created a riotous situation in the rest room while being instructed to go to shop floor by JC-750768X Nb Sub (now Sub) R C Nath". The main point of the charge is creating a riotous situation in the rest room. The meaning of word 'riot' as given in the dictionary is disorder, uproar, disturbance of peace & noisy festivity. Presenting Officer through SW-1,

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SW-4, SW-6, SW-7 has amply proved disorderly and riotous situation in the workshop on 01 Jun 2001 at about 0935 h. T/No 172 Civ/Elect Shri Bihari Singha refused to obey the orders of JC-750768X Nb Sub (Now Sub) R C Nath and became violent and used abusive language against the JCO. The violent behavior of T/No 172 Civ/Elect Shri Bihari Singha would have created more serious situation had the JCO not pacified the accompanying jawans. T/No 172 Civ/Elect Shri Bihari Singha had become so violent as he even started abusing the previous OC and used words like "Yeh Col Tiwari Gandu Officer tha". The above has been brought out by all the above witnesses. T/No 172 Civ/Elect Shri Bihari Singha did not attend the inquiry on one pretext or the other except attending it on 11 Mar 2002, 13 Mar 2002, 15 Mar 2002 & 20 Mar 2002. He signed the proceedings on 11, 13 Mar 2002 but refused to sign on 15 Mar 2002 & 20 Mar 2002. Charged official did not cross examine any witnesses.

(b) The next charge against T/No 172 Civ/Elect Shri Bihari Singha was assaulting JC-750768X Nb Sub (Now Sub) R C Nath on 01 Jun 2001 at about 0935 h approximately. The dictionary meaning of word assault is hostile attack, a rush against, to make a violent attack. The presenting officer through SW-1, SW-4, SW-6 & SW-7 has brought out that T/No 172 Civ/Elect Shri Bihari Singha made a gesture to hit JC-750768X Nb Sub (Now Sub) R C Nath by raising both his hands and then hit the table violently and repeatedly to show anger. The JCO saved himself by ducking being a soldier; otherwise, he would have been hit. The charge of assault on JC-750768X Nb Sub (Now Sub) R C Nath has been sufficiently proved by above witnesses. T/No 172 Civ/Elect Shri Bihari Singha did not offer any defence and absented himself from the inquiry proceedings except attending the inquiry on 11 Mar 2002, 13 Mar 2002, 17 Mar 2002 & 20 Mar 2002. He refused to cross examine any witnesses.

(c) The next charge on T/No 172 Civ/Elect Shri Bihari Singha is "an act subversive of discipline in that using abusive and filthy language against JC-750768X Nb Sub (Now Sub) R C Nath. Presenting Officer through witness No SW-1, SW-4, SW-6 & SW-7 has brought out that T/No 172 Civ/Elect Shri Bihari Singha used abusive language against the JCO and used words like "Aap Chor hain aur FIP ka paisa khaya hai", "Yahan par sabhi gandu officer aur JCO hain". The use of such filthy language by T/No 172 Civ/Elect Shri Bihari Singha has been proved by above witnesses. T/No 172 Civ/Elect Shri Bihari Singha did not offer any defence and did not attend the inquiry except on 11 Mar 2002, 13 Mar 2002, 17 Mar 2002 & 20 Mar 2002 but refused to cross-examine any witnesses.

CONFIDENTIAL

(d) The next charge on T/No 172 Civ/Elect Shri Bihari Singha was "inciting the industrial workers by inflammatory speech to join in a mass absence without leave or out pass on 28 May 2001 from 0930 h to 1600 h. Mass absence by 11 workers has been proved by SW-2 and SW-6. T/No 172 Civ/Elect Shri Bihari Singha delivered an inflammatory speech in front of the main office of 306 Station Workshop EME at about 0930 h on 28 May 2001 and incited the industrial workers to leave the workshop without any leave or gate pass in support of Bandh Call given by Khasi Student Union a student body in Shillong. He made the speech "Aaj Ham Kam Nahi Kareng, hum log abhi Ghar jayenge". 11 industrial workers alongwith him absented from the workshop from 0930h to 1600h on 28 May 2001 without any leave or gate pass after marking their presence. Charged official did not offer any defence and did not attend the inquiry except on 11 Mar 2002, 13 Mar 2002, 17 Mar 2002 & 20 Mar 2002. Mass absenting without permission amounts to strike and absenteeism took place because of speech of the charged official.

(e) Continual and wilful neglect of duty and absence from place of work from 01 Feb 2001 to 01 Jun 2001 has been amply proved by the statements of SW-1, SW-3, Sw-4, SW-5 & SW-7. JC-754018W Nb Sub U P Mishra, SW-3 has brought out that T/No 172 Civ/Elect Shri Bihari Singha had been absent from place of work from 01 Feb 2001 to 01 Jun 2001 after marking his presence. The charged official has been roaming around in the workshop or sitting in rest room all this time. The same is also clear from the attendance register produced by JC-754018W Nb Sub U P Mishra, who was the I/C Section of Electrical shop. As the charged official has been absenting from place of work on all working days from 01 Feb 2001 to 01 Jun 2001, his out put has been shown nil in the register. The register has been marked as an Exhibit. The presenting officer has thus amply proved by above witnesses the continual and wilful neglect of duty and absence from 01 Feb 2001 to 01 Jun 2001 on all working days.

(f) Continual wilful disobedience of orders given by supervisory staff to proceed to place of work from 01 Feb 2001 to 01 Jun 2001 has also been proved by SW-1, SW-3, SW-4, SW-5 & Sw-7. JC-754018W Nb Sub U P Mishra has been continually ordering the charged official to proceed to place of work but he always refused making excuses. The JCO has been maintaining a register of output of all workers working under him. The charged official did not attend the inquiry even after giving him sufficient time except attending 11 Mar 2002, 13 Mar 2002, 17 Mar 2002 & 20 Mar 2002. The register has been attached as Exhibit S-1.



FINDING OF EACH CHARGES

10. In view of the assessment of evidence on each point, statement of witnesses, cross examination of each witness and brief submitted by the Presenting Officer, the findings on each charge are record as under :-

(a) T/No 172 Civ/Elect Shri Bihari Singha of 306 Station Workshop EME is found guilty of "Gross Misconduct" i.e

(i) Creating a riotous situation in the rest room of civilian workers of 306 Station Workshop EME on 01 Jun 2001 at about 0935 h when ordered to go to shop floor by JC-750768X Nb Sub (Now Sub) R C Nath of the same workshop.

(ii) Assaulting JC-750768X Nb Sub (Now Sub) R C Nath of 306 Station Workshop EME on 01 Jun 2001 at about 0935 h in civilian rest room of 306 Station Workshop EME.

(iii) An act subversive to discipline, in that using abusive and filthy language against JC-750768X Nb Sub (Now Sub) R C Nath of 306 Station Workshop EME.

(iv) Inciting the industrial workers by delivering an inflammatory speech on 28 May 2001 at about 0930 h to join in a Bandh called by Khasi Student Union of Shillong. 11 Industrial workers of 306 Station Workshop EME left the workshop premises after marking their presence and without leave or out pass.

(v) Continual wilful neglect of duty and absence from place of work on all working days wef 01 Feb 2001 to 01 Jun 2001.

(vi) Continual and wilful disobedience of orders of supervisory staff to proceed to place of work on all working days from 01 Feb 2001 to 01 Jun 2001.

On the basis of documentary and oral evidence adduced in the case before me and in view of the reasons given above, I hold that all the six charges against T/No 172 Civ Elect (MV) Shri Bihari Singha.

B.P.  
(Bidyot Pangling)  
Inquiry Officer

## CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 150 of 2003.

Date of Order : This the 20th Day of November, 2003.

The Hon'ble Mrs. Lakshmi Swaminathan, Vice-Chairman.

The Hon'ble Mr S.K. Naik, Administrative Member.

1. Sri Bihari Singha,  
son of Late Kunjeswar Singha,  
Qtr. No. MPS - 93/2 Deodgenline,  
Shillong Cantt.,  
Shillong, Meghalaya.

2. Sri Prabhat Ch. Das,  
son of late Gopal Chandra Das,  
resident of Qtr. No. DF 18/1&2,  
Burma Line, Shillong Cantt.,  
Shillong, Meghalaya.

...Applicants

By Advocate S/Sri S. Dasgupta, S. Chakraborty.

- Versus -

1. Union of India,  
represented by the Secretary to the  
Govt. of India, Ministry of Defence,  
New Delhi.

2. Director General FME,  
Master General of Ordinance Branch,  
Army Head Quarters,  
WHQ, P.O. New Delhi-110011.

3. MG FME (Major General Electrical  
Mechanical Engineering),  
Head Quarters,  
Eastern Command (FME Branch),  
Fort William, Kolkata-21.

Officer Commanding,  
306 Station Workshop FME,  
C/o 99 APO.

5. A E E,  
306 Station Workshop FME,  
C/o 99 APO,  
(Inquiry Officer).

...Respondents

By Shri A. Deb Roy, Sr.C.G.S.C.

ORDER (ORAL)MRS LAKSHMI SWAMINATHAN (V.C)

In this application the applicants have prayed for  
the following main reliefs :

i) Set aside and quash the exparte enquiry proceeding  
held against the applicants.

ii) Set aside and quash the appointment of Inquiry  
Officer.

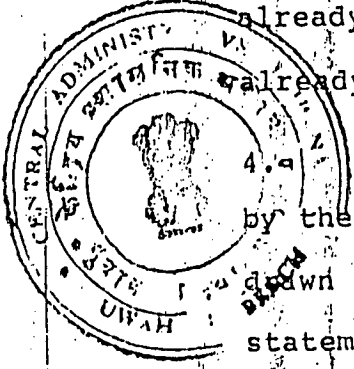
iii) Direct the respondents to conduct a fresh enquiry by appointing a new Inquiry Officer.

iv) Direct the respondents to pay the due subsistence allowance to the applicants alongwith the arrears.

2. During the hearing, learned counsel for the applicants has submitted that he does not press prayer in clause (iv). He has submitted that in pursuance of Tribunal's order dated 25.7.2003, the applicants have since received the due subsistence allowance from the respondents. We have heard Mr S. Chakrabarty, learned counsel for the applicants. It is also relevant to note that the submissions of Mr A. Deb Roy, learned Sr. G.C.S.C. for the respondents that the amount due to the applicants as subsistence allowance was not paid to the applicants earlier, not due to the fault of the respondents but the applicants did not accept the same. However, we note the submissions of both the learned counsel that this part of the prayer no longer survives.

3. With regard to the main claims of the applicants, two main grounds have been taken by the learned counsel for the applicants, namely, (i) that the appointment of the Enquiry Officer, Sri Bidyut Panging, had never been informed to the applicants. They have also submitted that as he is the officer in charge of maintaining the Daily Register of Attendance and was the Supervisory Officer of the applicants, he is biased and therefore, unfit to be appointed as the Enquiry Officer. In this regard, learned counsel for applicants has submitted that the applicants had submitted a number of representations to the respondents to change the Enquiry Officer and has submitted that the applicants have no objection if the proceedings are continued by any other

officer. The second ground taken by the learned counsel for the applicants is that they have been unfailry denied the assistance of one Sri M.P. Singha, UDA, who is admittedly working in 222 ABOD, Narengi, Guwahati. The learned counsel has submitted that it was only for the first time on 8.2.2002 that the respondents had informed the applicants that their request for availing of the service of Sri M.P. Singha, as Defence Assistant had been turned down on the ground that the officer's consent had not been attached with the letter and there was a long distance from the place of enquiry i.e., Shillong and the place of posting of the Defence Assistant at Guwahati. He was, therefore, advised to engage one of the officers at Shillong as Defence Assistant on the ground that sufficient time had already been granted to him and ex parte proceeding had already been started.



The respondents have controverted the averment made by the applicants. Sri A. Deb Roy, learned Sr. C.G.S.C. has drawn our attention to the averments made in the written statement and in particular, Paragraphs 10, 11 and 13. He has submitted that the contentions of the applicants that they were not informed about the commencement of the enquiry proceeding is not at all correct. He has submitted that they were intimated by registered letters at their residential addresses on 31.8.2001 about the same but these letters were returned undelivered by the postal authorities with the remarks "Refused". They have also annexed the copies of the letters sent by registered post to the applicants, including Annexures Q-1 and Q-2. He has also relied on the relevant instructions issued by the Government of India under Rule 38 of the CCS (CCA) Rules 1965.

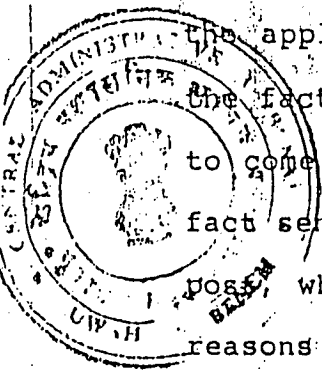
According to the respondents, the enquiry proceeding was started by the enquiry officer on 29.1.2001 and applicant No. 1 had attended the enquiry on 11.3.02, 13.3.02, 15.3.02 and 20.3.02. Applicant No. 2 had attended the enquiry proceeding on 14.3.02 and 18.3.02. Learned counsel for the applicants has not denied these facts but has submitted that applicant No. 1 has attended the enquiry proceedings on various dates in March 2002, only on receipt of the information to attend the enquiry proceedings from the Enquiry Officer but has repeatedly contended that at that time, they had not received the letter from the disciplinary authority informing them of the appointment of the Enquiry Officer and Presenting Officer dated 30.8.2001. Learned counsel for the respondents has also stressed on the fact that the Enquiry Officer, Sri Bidyut Panging, does not maintain the Attendance Register which is kept at the main gate and maintained by the Gate NCO, who is the Supervisory-in-charge. In the circumstances, the learned counsel has submitted that there is no infirmity either in the appointment of the enquiry officer or proceeding held ex parte against the applicants after they stopped attending the enquiry. According to the respondents, the applicants were deliberately trying to delay the proceedings which fact has been denied by the learned counsel for the applicants in the oral reply, though no written rejoinder has been filed.

5. We have carefully considered the pleadings, the submissions made by the learned counsel for the parties as well as the relevant documents on record.

6. It is noted from the submissions made by the learned counsel for the applicants that they do not deny receipt of the letter from the disciplinary authority dated 18.4.2002

Contd...5

(though the date does not appear in Annexure - E) which was repeatedly referred to by learned counsel for the applicants. In this letter, the respondents have clearly stated that Sri Bidyut Panging was appointed as Enquiry Officer vide order dated 30.8.2001. They have also submitted that the copies of the appointment of the Enquiry Officer and Presenting Officer were sent to the applicants vide registered post. It is also relevant to note that the applicants have admitted that on subsequent dates in March 2003, they have appeared before the Enquiry Officer, which according to them is on the intimation received from that Officer. The respondents have, on the other hand, clearly stated that they have sent the necessary communications to the applicant by registered post, which has been refused by the applicants as indicated by the postal authorities. In the facts and circumstances of the case, we have no reasons to come to the conclusion that the respondents have not in fact sent the communications to the applicants by registered post, which were not <sup>refused</sup> to be accepted by the applicants, for reasons best known to them. These facts have further been clarified in the aforesaid letters of respondents i.e., disciplinary authority, in which he has clearly stated in para 4 that "however, a xerox copy of appointment of EO and PO dated 30.8.2001 are again forwarded for information." He has also referred to the facts that the applicants had attended the enquiry proceedings <sup>13</sup> on various dates in March 2002 and these facts are not denied by the applicants. It is further relevant to note from the copies of letters received by the applicants and annexed by themselves in O.A. show that time and again, the respondents have advised the applicants to co-operate with the enquiry officer for early finalisation of the enquiry proceedings initiated on



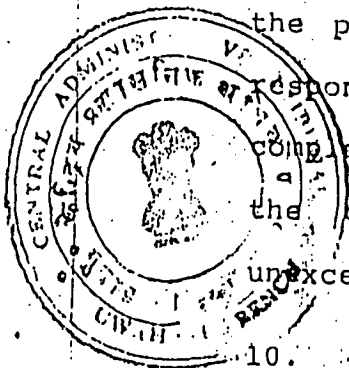
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11.7.2001 against them. In the circumstances of the case, the contention of the learned counsel for the applicants that they were not intimated about the appointment of the enquiry officer is baseless and contentions to the contrary are accordingly rejected.

7. In the circumstances of the case, we are also unable to agree with the contentions of the learned counsel for the applicants that the explanation given by the respondents that as the enquiry officer is not the person who is to make the entries in the Daily Attendance Register he should be replaced by another Enquiry Officer. The reasons given by the respondents for rejecting the request of the applicants for change of enquiry officer cannot be held to be either unreasonable or arbitrary to justify any interference in the matter at this stage. In the circumstances of the case this contention of the applicants is rejected.

8. With regard to the appointment of the defence assistant to assist the applicants in the enquiry proceeding, we also find the reasons given by the respondents neither arbitrary nor illegal to set aside that decision. They have stated, inter alia, that the applicants should nominate any other defence assistant from the same Station where the applicants are posted, i.e., Shillong. We do not find any merit in the submission of the learned counsel for the applicants that merely because there is only a distance of 100 Kms between Shillong and Guwahati, the stand taken by the respondents is any way unjustified in the circumstances of the case. Besides no prejudice has been shown to be caused to the applicants.

9. According to the learned counsel for applicants, against the order passed by the disciplinary authority rejecting their request for appointment of another enquiry officer in place of Sri Bidyut Panging, A.E., the applicants had submitted an appeal before the appellate authority, which was also rejected by the order dated 23.5.2003. Admittedly, the applicants did not file any appeal against the rejection by the disciplinary authority of their request for appointment of M.P. Singha as defence assistant. Apparently, they have also not made any further request for appointing any other officer from the same Station to assist them in the pending enquiry proceedings inspite of reminders from the respondents that they ought not to delay the pending proceedings. We find the stand taken by the respondents that the pending enquiry proceedings should be completed, in accordance with rules expeditiously, in which the co-operation of the applicants have been sought unexceptionable.



10. From the documents on record we are unable to come to the conclusion whether after the rejection of the applicants' request for appointment of a defence assistant in the enquiry proceedings from what date the ex parte proceedings were continued. It is seen from the letter issued by the respondents dated 8.2.2002 that they had again advised the applicants to engage a defence assistant from one of the local units to avoid further delay in the enquiry proceedings. It is further relevant to note that this O.A. itself was filed in the Tribunal on 26.6.2003 i.e. more than one year after the rejection letter issued by the respondents on 8.2.2002. It is also relevant to note that the applicants have not filed any appeal before the higher authority with regard to replacement of the defence assistant



in place of Sri M.P. Singha. Therefore, in the circumstances of the case, it appears that the applicants even after being informed that their request to engage Sri M.P. Singha as defence assistant was rejected did not take any further steps in the matter in accordance with the rules. In this view of the matter the further ex parte proceedings, if any, held by the respondents cannot be held to be arbitrary or against the relevant rules as sufficient opportunity of hearing had been afforded to the applicants which they chose not to avail. In the facts and circumstances of the case, we are unable to come to the conclusion that there has been any violation of the principles of natural justice or the relevant rules to warrant any interference in the matter on this ground also. Therefore, this ground also fails and is rejected.

11. In the facts and circumstances of the case, it is needless to add that the aforesaid pending disciplinary proceedings against the applicants should be completed in accordance with law, rules and instructions as expeditiously as possible and the applicants should also co-operate in the same.

12. In the result, for the reasons given above, we find no merit in the application. The O.A. accordingly fails and is dismissed. No order as to costs.

Sd/ VICE-CHAIRMAN  
Sd/ MEMBER (A)

Certified to be true Copy  
प्रमाणित प्रतिलिपि

22/12/03  
Section Officer (J)  
C.A.T. GUWAHATI BANCH  
Guwahati-781005

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ANNEX

STANDARD FORM OF ORDER RELATING TO APPOINTMENT OF  
INQUIRY OFFICER UNDER RULE 14 (2) OF CCS (CC&A) RULES 1965

Regd by Post  
306 Sln Wksp EME  
C/O 99 APO

10401/172/Civ

30 Aug 2001

ORDER

1. Refer to this Workshop memorandum of Charge sheet bearing No 21208/172/Est IND/LC dt 11 Jul 2001.

2. WHEREAS an inquiry under rule 14 of Central Civil Services (Classification, Control & Appeal) Rule 1965 is being held against T.No 172 Civ/Elect Shri Bihari Singha.

3. AND WHEREAS the undersigned considers that an inquiry Officer should be appointed to inquire into the charges framed against him.

4. Now therefore, the undersigned in exercise of the powers conferred by Sub Rule (2) of the said rule, hereby appoints Shri Bidyot Panging, AEE as Inquiry Officer to inquire into the charges framed against the said T.No 172 Civ/Elect Shri Bihari Singha.

  
(S Bains)

Lt Col

Officer Commanding  
Disciplinary Authority

Copy to :-

T.No 172 Civ/Elect  
Shri Bihari Singha  
Qtr No MES 93/2  
Dudgeon/Lines  
Shillong Cantt

Shillong Cantt

NOO

Shri Bidyot Panging  
306 Sln Wksp EME  
C/O 99 APO

for information and action alongwith a copy of  
charge sheet mentioned above.

CONFIDENTIAL

6177

Regd By Post  
106 Stn Wksp EME  
7/C 99 APO

10401/172/Civ

30 Aug 2001

APPOINTMENT OF PRESENTING OFFICER

1. Where an Inquiry under rule 14 of Central Civil Services (Classification, Control and Appeal) Rule 1965 is being held against T.No 172 Civ/Elect Shri Bihari Singha.
2. And whereas the undersigned considers that a Presenting Officer should be appointed to present on behalf of the undersigned.
3. Now therefore, the undersigned, in exercise of the powers conferred by Sub Rule 5 (c) of Rule 14 of the said rules, hereby appoints JC. 722950PNb Sub/SKT(MT) Amar Singh as the Presenting Officer.

(JS Bains)

Lt Col

Officer Commanding  
Disciplinary Authority

Copy to :-

JC-722950PNb Sub/SKT(MT) -  
Amar Singh  
306 Stn Wksp EME

for info alongwith the following docs :-

- (a) Copy of memorandum
- (b) Copy of written statement of defence.
- A Copy of statement of witnesses.

Shri Bihari Singha  
T.No 172 Civ/Elect  
Qtr No MES 93/2  
Dudgeon Lines,  
Shillong Cantt.

for info.

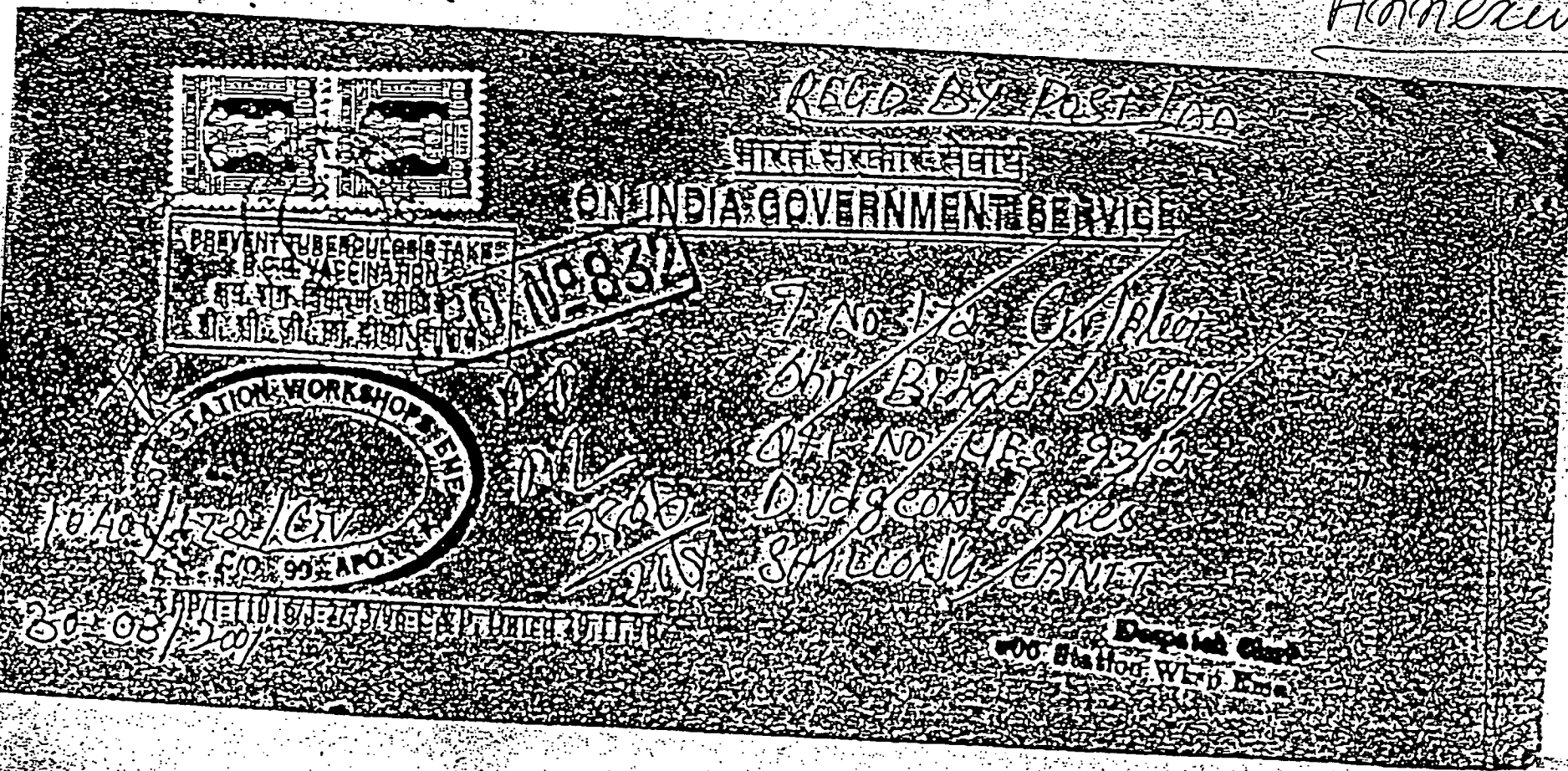
Shri AEE Bidyot Panging  
Inquiry Officer  
306 Stn Wksp EME  
C/O 99 APO

for info.

585  
96

Annex 2-1

Annexure-XII



Annexure-XIII

Annexure-VI

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REGD POST

306 Stn Wksp EME

C/O 99 APO

T. No 172

10401/Civ/172/DNQ

20 Sep 2001

Received on 26 Sep 2001

T.No 172 Electrician  
Shri Bihari Singha  
Qtr No MES 93/2  
Dudgeon Lines  
Shillong

DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED  
AGAINST SHRI T.NO 172 ELECTRICIAN BIHARI SINGHA  
UNDER RULE 14 OF CCS (CCA) RULES 1965

1. I have been appointed as Inquiring authority to conduct inquiry in the case above cited, vide Order No 10401/172/Civ dt 30 Aug 2001 issued by Lt Col JS Bains, OC of this unit, a copy of which has been endorsed to you.
2. Accordingly, a preliminary hearing of the case will be held by me on 08 Oct 2001 at 1100 in Office of Workshop Officer 306 Stn Wksp EME, C/O 99 APO. You should present yourself alongwith your defence assistant, if you so desire, in time to attend the preliminary hearing and wait until further directions. In case, you fail to appear at the appointed date and time, proceeding will be taken ex-parte.
3. Instructions for getting your Defence Assistance relieved will be issued if his particulars and willingness to work as such alongwith the particulars of his controlling authority are received by me before 01 Oct 2001.
4. While nominating a Government servant as Defence Assistance the instructions on the subject should be kept in view.
5. Receipt of this notice may please be acknowledged.

B.P.  
(Bidyot Panging).  
AEE  
Inquiring Authority

Copy to :-

JC-722950F Nb Sub/SKT(MT) Amar Singh -  
Presenting Officer  
306 Stn Wksp EME  
C/O 99 APO

He is also requested to attend the preliminary hearing at appointed date and time alongwith all listed documents in Original.

B.P.  
(Bidyot Panging)  
AEE  
Inquiring Authority

Received on  
26/9/2001

Received on 27/9/2001  
13/10/2001  
27/12/2001

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59

Registered Post

306 Stn Wksp EME  
C/O 99 APO

24 Jan 2002

48

Tele 6177

10401/172/Civ/Inq

T/No 172 Civ Elect (MV)  
Shri Bihari Singha  
Qtr No MES 93/2  
Deodgen Line  
Shillong Cantt

Annexure - XIV

DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED AGAINST T/NO 172  
ELECT (MV) SHRI BIHARI SINGHA UNDER RULE 14 OF CCS (CCA) RULES 1965

1. Refer to :-

(a) My letter No 10401/172/Civ/Inq dated 23 Oct 2001.  
L registered

(b) Your letter No Nil dated 23 Nov 2001, recd on 29 Nov 2001.

(c) My Registered letter No 10401/172/Civ/Inq dated 21 Dec 2001. (Returned back  
unaccepted on 16 Jan 2002).

2. On your request vide letter at Para 1 (b) above, you have been given sufficient time to  
search for a defence assistance and date of hearing was fixed on 16 Jan 2002 which was  
intimated to you vide our Registered letter No 10401/172/Civ/Inq dt 21 Dec 2001. But this letter  
was returned undelivered because you had refused to accept the registered letter on 11 Jan  
2002, as per remarks endorsed on the letter by the postal authority.

3. It seems that you are trying to delay the inquiry. However, it is for your information that  
exparte inquiry has already been started on 15 Nov 2001 (which was intimated to you vide our  
letter ref at Para 1 (c) above). You are hereby given one more chance to report for inquiry on  
05 Feb 2002 at 1100 h in my Office.

to  
is  
er  
2,

at  
if  
16

I

B.P.  
(B Panging)  
AEE  
Inquiring Authority

Copy to :-

Officer Commanding  
306 Station Wksp EME  
C/O 99 APO

JC-722950F-Nb Sub SKT (MT)  
Amar Singh  
306 Station Wksp EME  
C/O 99 APO

For Info.

CONFIDENTIAL

60 CONFIDENTIAL

REGISTERED BY POST

306 Station Workshop EME  
C/O 99 APO

21 Nov 2003

389  
Amearke-XV

Tele : 6177

10401/Sus/Civ (i)

T/No 172 Civ Elect (MV)  
Shri Bihari Singha  
Qtr No MES 93/2  
Deodgen Line  
Shillong Cantt

**FORWARDING OF INQUIRY REPORT : DISCIPLINARY PROCEEDINGS**  
**UNDER RULE 14 OF CCS (CC & A) RULE 1965 AGAINST**  
**T/NO 172 CIV ELECT SHRI BIHARI SINGHA**

1. Refer to :-

(a) Memorandum of Charge Sheet bearing No 21208/172/Est/Ind/LC dated 11 Jul 01.

(b) Our letter No 10401/172/Civ dated 30 Aug 01.

(c) Rule 15 (2) of CCS (CC&A) Rule 1965.

2. A copy of inquiry report submitted by the Inquiry Officer is forwarded herewith for your information. You are hereby directed to submit your representation, if any within 15 days of receipt of inquiry report.

  
(J S Bains)

Lt Col

Officer Commanding

Encls : 20 Pages

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FINDINGS OF DISCIPLINARY AUTHORITY ON THE DEPARTMENTAL  
INQUIRY HELD AGAINST T/NO 172 CIV (ELECT) SHRI BIHARI SINGHA  
OF 306 STATION WORKSHOP EME

1. Having gone through the Inquiry Officer's report, record of the Inquiry and representation received from the charged official, the findings of the disciplinary authority on each article of charge are as under :-

(a) T/No 172 Civ/Elect Shri Bihari Singha was charged for "Gross Misconduct" as per sub clause (i) of Article (i) i.e "On 01 Jun 2001, at about 0935h created a riotous situation in the rest room while being instructed to go to shop floor by JC- 750768X Nb Sub (Now Sub) RC Nath". Inquiry Officer through the statements of SW-4, SW-6, SW-7 has come to the conclusion that T/No 172 Civ/Elect Shri Bihari Singha refused to obey the orders of JC-750768X Nb Sub (Now Sub) RC Nath and became violent and used abusive language against the JCO. From the records of the Inquiry report, it reveals that situation would have become serious, had the JCO not pacified the accompanied jawans. Charged Official through his representation dated 29 Dec 03 has not brought out any defence for disobeying the order of a Junior Commission Officer and creating a riotous like situation. In view of all above T/No 172 Civ/Elect Shri Bihari Singha is thus found guilty of the said charge. He has also not opted to cross examine witness No SW-4, SW-6 and SW-7.

(b) The next charge against the Charged Official was "Assaulting JC-750768X Nb Sub (Now Sub) RC Nath of 306 Station Workshop on 01 Jun 2001 at about 0935 h in civilian rest room of 306 Station Workshop EME . The Inquiry Officer on the basis of statements of SW-1, SW-4, SW-6 and SW-7 has come to the conclusion that Charged Official made a gesture to hit JC-750768X Nb Sub (Now Sub) RC Nath by raising both his hands and then hit the table violently and repeatedly to show anger. The Charged Official did not offer any defence during the Inquiry as well as in his representation dated 29 Nov 03. He has also not cross examined witness No SW-1, SW-4, SW-6 and SW-7. T/No 172 Civ/Elect Shri Bihari Singha is therefore found guilty of the said charge.

(c) The next charge against T/No 172 Civ/Elect Shri Bihari Singha was "An act subversive of discipline in that using abusive and filthy language against JC-750768X Nb Sub (Now Sub) RC Nath of 306 Station Workshop". The Inquiry Officer has found the Charged Official guilty on the basis of statements of SW-4, SW-5, SW-6 and SW-7. The Charged Official did not brought out any point in his defence in the representation dated 29 Nov 2003 and has also not cross examined witnesses. Therefore T/No 172 Civ/Elect Shri Bihari Singha is found guilty of the said charge.

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(d) The next charge against the Charged Official was inciting the Industrial Workers by delivering an inflammatory speech on 28 May 01 at about 0930h in 306 Station Workshop EME to join in a mass absence. As per statements of SW-2 and SW-6, 11 civilian workers left the wksp at about 0930h upto 1600h on 28 May 2001 due to the inflammatory speech delivered by T/No 172 Civ/Elect Shri Bihari Singha. The Charged Official has not brought out any defence in his representation dated 29 Nov 03 and cross examination. T/No 172 Civ/Elect Shri Bihari Singha is therefore found guilty of the said charge.

(e) The next charge against the individual was continual and willful absence from place of work on all working days wef 01 Feb 2001 to 01 Jun 2001. The Inquiry Officer has relied upon the statements of SW-1, SW-3, SW-4, SW-5 and SW-7. JC-754018W Nb Sub UP Mishra has been maintaining the records where the Charged Official has been found absent on all working days from place of work even though he has been reporting to the workshop but kept roaming around or kept sitting in the rest room. The Charged Official has not brought any defence in this regard and has not cross examined any witnesses. T/No 172 Civ/Elect Shri Bihari Singha is therefore found guilty of the said charge.

(f) The next charge against the Charged Official was continual and willful disobedience of orders given by supervisory staff. The Inquiry Officer has found the Charged Official guilty of the charge and Charged Official has also not brought any defence in this regard in his representation. In view of all above T/No 172 Civ/Elect Shri Bihari Singha is found guilty of the said charge.

2. Further in addition to forwarding representation on above charges the Charged Official has raised other points which are being disposed off by the undersigned as follows :-

(a) The Charged Official has been given ample opportunity as per the CCS (CCA) Rules but from the inquiry report and other documents it reveals that he has been using dilatory tactics. He has been seen returning the registered letters which have been returned back by Postal Authorities with the remarks "Refused to Accept". Charged Official attended the Inquiry on 11 Mar 2002, 13 Mar 2002, 17 Mar 2002 and 20 Mar 2002 but inspite of giving fair opportunity to cross examine the witness did not opt to do the same. As per records held, he has refused to co-operate with the Inquiry Officer and kept insisting that he has not received the registered letters. Returning the registered letter by Postal Authorities with the remarks "Refused to accept" proves his intentions of not co-operating with the Inquiry Officer.

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CONFIDENTIAL

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(b) The Inquiry has been ordered as per CCS (CCA) Rules 1965. The Charged Official was given ample opportunity to defend himself as per the CCS (CCA) Rules but his aim has been not to co-operate with the Inquiry Officer. During the progress of inquiry the charged official was found forwarding repeated representation with a view to delaying it. However the disciplinary authority decided the same on merit by giving due weightage to his points

(c) The presenting officer has been changed due to the retirement of JC-722950F Nb Sub/SKT(MT) Amar Singh and charged official has been intimated through a registered letter about the change.

(d) The Charged Official represented against Inquiry Officer after 8 months and his appeal was rejected first by Disciplinary Authority and then by Reviewing Authority as no bias was found.

(e) The Inquiry Officer has given his findings based on the statements of witnesses presented by Presenting Officer. It was upto the Presenting Officer to present his witnesses as were sufficient to prove charge. Accordingly the other witness who were not required by Presenting Officer were not required to be heard. However the charged officer had all the liberty to call any of such witness for his defence side which actually he has not produced before the Inquiring Officer.

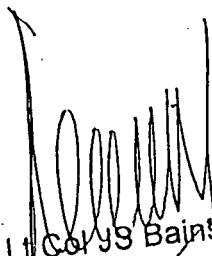
(f) The Inquiry was conducted exparte after giving sufficient time to the Charged Official and as per CCS(CCA) Rules, 1965.

(g) The record shows that the dates were fixed by Inquiry Officer who had given adequate and sufficient time to the charged official to attend the Inquiry. All the letters were sent through registered posts.

(h) The proceedings of the Inquiry have been forwarded to Charged Official by the Inquiry Officer through registered letter No 10401/Sus/Civ(i) dated 21Nov 2003 and all daily order statements have been found forwarded by the Inquiry Officer.

Station : C/O 99 APO

Dated : 27 Dec 2003

  
Lt Col JS Bains  
Officer Commanding  
Disciplinary Authority

CONFIDENTIAL

JC-160751

N/Sub. Kehar Singh

06 SLK WK SP

C1099APO

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(1)

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Annexure-XVI

(Through proper Channel)

सेवा में

श्री गान कमान आफिसर 20 द रेशन वकी शाप  
(डीएम) महोदय निवेदन है कि दिनांक 28.6.88 को सवेरे  
7-30 मिनट पर हवलदार गुरनाम सिंह ने इलेक्ट्रिकल सेक्शन  
से सिविलियन इलेक्ट्रिशियन से मेरे पास उसका Absent-  
report दिया, कि वह अपने ITON Sec में उपस्थित नहीं है।

फिर इसके बाद मैंने खुद उसको हॉल ले 2 वजकर 8 मिनट  
पर सिविलियन इलेक्ट्रिशियन B. Singha, Carpenter Shop  
में Hvy G C power से बात करता हुआ मिला।

मैंने Singha से पूछा कि आप अपने सेक्शन में क्यों नहीं  
आते और इतने समय तक कहाँ ले ले उसने मुझको  
महज जवाब दिया कि आपको मेरे बारे में कोई शक है, तुम  
मुझे पूछने वाले कौन हो तो मैंने कहा कि पहले तुम

अपनी सेक्शन में जाओ फिर मैं बताऊंगा कि मैं कौन हूँ।  
जब मैं फिर उस Sec में गया तो मुझे कहने लगा कि दर-दरकार क्या देख रहे  
हो।

महोदय मेरी आपसे महज निवेदन है कि वीर

Electrician B. Singha को महज बताने की कृपा करें कि मैं  
इसको पूछने वाला कौन होता हूँ।

Sir,  
fwd for investigation  
and suitable action.  
Please.

आपका आभारकारी  
25/6/88

CONFIDENTIAL

Telephone : Mil 248

306 Station Workshop EME  
C/O 99 APO

21202/PC/CIV

28 Jun 88

T/No 172 Electd (IV)  
Shri B Singha  
306 Station Workshop EME  
C/O 99 APODISCIPLINE : CIVILIANS

1. Your performance in carrying out repair to electrical components on vehicles is not at all satisfactory as reported by No 7104775 Hav Gurnam Singh, IC Electrical Shop. The same has also been reported by No 7110881 Hav TK Paul of the same section. You are, as reported by them, in habit of remaining absent from the section and place of work too. They have also complaint about your arrogant and insolent behaviour to-wards them. The above facts were clarified by the undersigned in his office on 28 Jun 88 in front of MAJ Sub Maj Prem Singh, Senior JCO, Nb Sub Kehar Singh, Workshop Officer, Hav Maj NS Bisht, Adm CHM, Hav Gurnam Singh, Hav TK Paul and yourself.
2. On 25 Jun 88 you had also insulted Nb Sub Kehar Singh, Workshop Officer, when he was enquiring about your absence from Electrical Section/Place of work. You have replied him arrogantly by saying "TUM MUJHE PUCHANE WALE KUN HOTA HAI" and "GHOOR GHOOR SE KIYA DEKH REHE HO" or words to that effect.
3. Nb Sub Kehar Singh, Workshop Officer, has now complaint against you in writing.
4. You are also in habit of absenting yourself from duty without prior sanction of leave/without any intimation. When investigation was in progress regarding the case as mentioned in para 2 above, you had absented yourself on 27 Jun 88 inspite of my telling you in presence of Senior JCO and others to be present on that day.
5. From the above, it is evident that you are in habit of entangling yourself with insubordinate activities and not carrying out your duties.
6. You are directed to shaw cause as to why disciplinary action should not be initiated against you regarding insolent behaviour and insubordinate attitude towards Nb Sub Kehar Singh, Workshop Officer, on 25 Jun 88. Your reply should reach this office by 01 Jul 88 failing which necessary disciplinary action will be initiated against you.

(SK Mitra)  
Major  
Officer Commanding

28/6/88

CONFIDENTIAL

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66 Annexure - XVIII  
CONFIDENTIAL

Telephone : Mil 248

806 Station Workshop EME  
C/O 99 APO

21202/PG/OIV

30 Jun 88

T/No 172 Elect (MV)  
Shri B Singha  
806 Station Workshop EME  
C/O 99 APO

ABSENT WITHOUT LEAVE

1. Refer to para 4 of this unit letter No 21202/PG/OIV dated 26 Jun 88.
2. You are in habit of absenting yourself from duty without sanction of leave which is in violation of existing unit orders. In the present case when investigation of a case against you was in progress, you had absented yourself from duty on 27 June 88 inspite of my telling you personally to be present on 27 June 88 in presence of Senior JCO and others on 25 Jun 88.
3. You are directed to show cause as to why disciplinary action should be initiated against you for the above lapse. Your reply should reach this office by 04 Jul 88 failing which necessary disciplinary action will be initiated against you.

2.1  
[Signature]  
(Sx Mitral)  
Major  
Officer Commanding

7-8  
29/6/88

CONFIDENTIAL

From

P. No. 172

Civ. E. Unit

B. Singh

306 Stn. HKSP. EME

C/O 99 A.P.O.

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(10)

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Annexure - XIX

To,

The Officer Commanding

306 Stn. HKSP. EME

C/O 99 A.P.O.

(Through proper channel)

Respected Sir,

With due respect and  
humble submission I beg to state  
that the mistakes which I have commi-  
ted on 25/6/88, 28/6/88 and 29/6/88  
are due to my nervous and  
upset of my mind. In fact, during  
those period I faced some domestic  
and personal problems. All these  
problem makes my mind upset, thereby  
all these mistakes are done by me.  
In future this type of mistake will  
not be repeated.

Hence it is requested that  
I may please be <sup>excused</sup> ~~considered~~ for  
the said mistakes. I am assured  
this type of mistake will not  
happen in future and obliged.

Yours faithfully

Heard & found  
kind consideration  
assured action

ORINDO'S

AK Singh

Personnel

10/7/88  
10/7/88  
10/7/88

02/7/88

P/B

14/8/88

(B. SINGHA)  
P. No. 172  
Civ. E. Unit

7098052 हवालदार

ज्ञान चन्द पाहवा

306 स्टेशन वकशाप

थक परीपर चनल

कम्पनी ईरम ई

फायर ऑफिस 99 MP

24-6-88

(1)

सेवा में

श्रीमान जी

प्रम निवेदन यह है कि,

मैं हवालदार ज्ञान चन्द पाहवा 24-6-88 राट रजन सी  
आजी डियुटी पर था 8 बजकर 50 मिनट पर गेट में बैठा  
इजाजत से गेट से बाहर चला गया तथा ईलजरी काल में  
चौकीदार तथा गेट रजन सी आजी न मुद्दा तथा  
मैं जाहा कि आफि लूया सुन्यव जोगी का कार्टवार  
इवज में उसने जाहा आफि चागा में नहीं आता मेरी  
अवसन्त जगा दो। उस समय मैं सेवलीयों में बात कर रहा  
था बुजारा फिर मैंने उस में जाहा कि अन्यर आजाहा  
ता मेरी इस को पकड़ कर मेरे पैर में मुक्का मारा तथा  
चुका दिया। ये सब मैजर रजनी रजस बरार साहब गेट  
में अन्यर में परवर रह थे। तब मैं अपनी इजाजत को बचाव  
में लिए अपने अफसर वज्रान्दीग को मेरी बारी वही।  
इसने मेरी इस लूया तथा सन्तर गुर्क मन्ट की खोजती थी।  
और अफसर मुजा इस में खतरा हो गया था मैं मुक्त नहीं  
मैं प्रार सजता हूँ।

महोदय मेरी आफिस अतुराध है कि इसको उपर दखल कीत करके  
अचीत कारवाई की जाए ताकि मैं अपनी डियुटी ठीक कर  
सकू सदा

आफका आज्ञाकारी 7098052 MP  
ज्ञान चन्द पाहवा

Ttle M11 248

BY HAND

306 Station Workshop ME  
C/O 99 APO

21202/PG/BS/CIV

29 June 88

Officer-in-charge  
Police Station  
ShillongFORWARDING OF A CASE

Sir,

T/No 172 Electrician (MV) Shri Bihari Singha, a civilian employee, has been posted to this workshop on 12 Feb 88 from 512 Army Base Workshop Kirkee, Pune. From the date of his posting he has been indulging with indiscipline attitude with his co-workers and superior officers.

2. On 29 Jun 88 at 0350 hrs, the said Shri Bihari Singha, went out of Main Gate of this Workshop without permission of I/C Gate Office or any superior officer. No 7098052 Hav GC Pawa, I/C Gate Office asked him as to why he went out of Main Gate, Shri Bihari Singha assaulted Hav GC Pawa and also threatened him (Hav GC Pawa) that he would see him later.

3. This may please be taken as FIR and a case may kindly be registered against Shri Bihari Singha in this connection as Hav GC Pawa is feeling unsafe as stated in his written application dated 29 June 88 a copy of which is attached.

4. Local address of Shri Bihar Singha is given below:-

Vill:- LAMBUBAWH  
PO :- UPPER SHILLONG  
SHILLONG - 793005

5. This letter may please be acknowledged.

Yours faithfully,

(SK Mitra)  
Major  
Officer Commanding



IN LIEU OF LAFD-231

Proceedings of a : Court of Inquiry  
 assembled at : 306 Station Workshop EME  
 on the : 01 July 58  
 by order of : CO 306 Station Workshop EME vide Daily Order  
 Part I Ser No 280 dated 29 Jun 58.  
 For the purpose of : Investigating the circumstances under which  
 T/No 172 Civ Elect Shri Bihari Singha assaulted  
 Gate NCO No 70980522 Hav CO Pawa at 0850 hrs  
 on 29 Jun 58 and forcefully went out of the  
 Workshop through Workshop Main Gate without  
 any permission.

Presiding Officer : IC-52491P Major SK Mitra  
 Members : 1. JC-50190H Sub Maj Prem Singh  
 2. 14511611M Hav LG Nora

The Board having assembled pursuant to order to proceed to examine the witnesses.

No 70980522 Hav CO Pawa states :-

I was performing the duties of Gate NCO of 306 Station Workshop EME on 29 Jun 58. At about 0850 hrs on 29 Jun 58, Civ Elect Bihari Singha went out from the Workshop through Main Gate without any written or verbal permission from Gate NCO/Civ Chowkidar. I then told him to get in the Workshop. He (Civ/Elect Bihari Singha) replied me that "I will not come, mark me absent". At that time, he was talking with two civilian boys in front of Main Gate. Again I told him to come inside the Gate. He then caught my hands and gave a punch on my stomach. The incidence was also seen by Major ASS Brar, OC 537 Rec Coy EME. I then intimated to CO, what are the things happening in the Main Gate with Civ Elect Shri Bihari Singha and put up an application against him, in this regard to my CO.

Q No 1. Did Civ Elect Bihari Singha obtained your permission to go outside the Gate and talk to his guest ?

Ans No 1. No

Q No 2. There are two entrances at the Main Gate. One is bigger gate and other is smaller. Which gate is used by the Civ personnel and other ranks while they come for duty and going out of the Wksp ?

Ans 2. The smaller gate is used by the Civ pers and other ranks while they come for duty and going out of the Workshop.

Q No 3. How was your relation with Civ Elect B Singha ?

Ans 3. Nothing special, it was normal.

Q No 4. Did you ever quarrel or fight with him ?

Ans 4. No

Q No 5. Did you permit Civ Elect Shri B Singha to go out of the gate area and talk to his guest?

Ans 5. No

Q No 6. Who ~~was~~ all were present at the gate, at the time of your insistence to Civ Elect Shri B Singha to go inside the Workshop?

Ans 6. Major ABS Brar, CG 887 Rec Coy and Civ Chowkidar DS Tamang, Gate Chowkidar were present at the time of insistence.

Q No 7. Was your CG Major SK Mitra, present at that time at the gate?

Ans 7. No

Q No 8. Where was he?

Ans 8. He was in office.

Q No 9. Did Major SK Mitra ordered you to close the gate and when did he ordered that?

Ans 9. No

Q No 10. Did Civ Elect Shri B Singha leave any message regarding his place of destination after the incidence?

Ans 10. He (Civ/Elect Shri B Singha) informed me 'I am going to Area HQ'.

Q No 11. Where was Civ Chowkidar Shri DS Tamang was standing when you were conversing with Shri Bihari Singha outside the Gate?

Ans 11. He (Shri DS Tamang) was present at the Main Gate.

Q No 12. Where was Major ABS Brar standing at the time of incidence?

Ans 12. Major ABS Brar was present inside the Workshop, just 10 to 15 feet distance of Main Gate.

Q No 13. What was the approximate distance from you?

Ans 13. It was about 20 to 22 feet distance from me.

Q No 14. Were you told by your CG Major SK Mitra not to allow Shri Bihari Singha, to come to the Workshop on 29 Jun 88 ie day of incidence?

Ans 14. No.

Q No 15. Did you get any injury due to the punch received from Shri Bihari Singha?

Ans 15. There was no superfluous injury but there was a pain on my abdomen and leftside of my stomach.

Q No 16. Did you under go any medical test?

Ans 16. Yes, in Civil Hospital, Shillong.

Q No 17. What was the diagnosis by the doctor, were you given any medicine ?

Ans 17. I don't know about the diagnosis as the diagnosis slip is with Civil Police. Doctor's ~~prescription~~ prescribed some medicine which I had taken. I am submitting herewith, the prescription slip in original (The prescription slip is hereby marked by the Court as Material exhibit No 1).

The above statement has been read over to me in the language I understand and I sign it as correct.

50/- ~~XXXXXXXXXX~~  
(No 7008052L Hav GO Pama)

Statement of No 7104775 Hav Eleot Gurnam Singh

Having been duly warned states :-

1. No 7104775 Hav Eleot Gurnam Singh, was performing the duties of I/O Eleot Sec of 509 Station Workshop EME. On 29 Jun 88 at about 0810 hrs, Civ Eleot D Singha came to the Section after changing his dress. When I came back to the section from My Shop after a few minutes, Civ Eleot D Singha asked me that I was called to the Main Gate. I, then allowed him to go and come back, it was the time of 0840 hrs (AM). After that, he changed his Civ dress and went to the Main Gate and did not reported to the Section till 1800 hrs on 29 Jun 88.

Question by the Court :-

Q No 1. Are you performing the duties of I/O Eleot Sec on 29 Jun 88 ?

Ans 1. Yes

Q No 2. At what time Civ Eleot Shri D Singha come to the section ?

Ans 2. He came at about 0810 hrs on 29 Jun 88.

Q No 3. Did he took any permission to come to Main Gate ?

Ans 3. Yes

Q No 4. Why he wanted to come to Main Gate ?

Ans 4. I do not know.

Q No 5. Did you asked why he wanted to come to the main gate ?

Ans 5. Yes

Q No 6. What he replied ?

Ans 6. He replied that, I was called to Main Gate.

Q No 7. Why he came on civil dress to the Main gate during working hours ?

Ans 7. I do not know.

Q No 8. After that did he came back from the Main Gate ?

Ans 8. He did not reported to the Section till 1800 hrs on 29 Jun 68.

The above statement has been read out to the individual in language he understands and signs it as correct.

56/- XXXXXXXXXXXXXXXXXXXX  
(No 7104775 Hav Gurnam Singh)

Statement of No 145117481 Civ Chowkidar Shri BB Tamang

Having been duly warned states :-

I was carrying out my duty as Chowkidar at the Workshop Main Gate on 29 Jun 68. At about 0800 hrs on 29 Jun 68 two boys came in a Motor Cycle BA No MLX III D (YAMAHA). They asked me that they wanted to meet T/No 172 Civ Elect B Singha. I informed accordingly to Civ VM AK Singha. Shri AK Singha then talk to both boys at the Main Gate. He then went back and sent Civ Elect B Singha to the gate. At that time one Jeep was also about to enter the Wksp. I opened the Main Gate. Suddenly I found Civ Elect B Singha going out of the workshop through the Main Gate. Civ & Combatant personnel used smaller gate while coming in or going out of the Workshop. But as the smaller gate was closed at that time, Civ Elect B Singha went out through the Main Gate which is not in order. I was about to asked him (Shri B Singha) as to why and how he went outside the gate but in the meantime the Gate NCO No 7098052L Hav GD Pawa came there and asked him as to how he had came out of the gate without proper gate pass. I thereafter, did not listen their conversation. Major ABB Brar was standing near the Gate at the time of incidence. Hav GD Pawa then returned at the gate.

Q No 1. Who informed to Civ Elect B Singha regarding arrival of his guest at the Main Gate of Workshop ?

Ans 1. I informed to Civ VM AK Singha regarding arrival of the guest of Civ Elect B Singha. Civ VM AK Singha in turn informed to Civ Elect B Singha.

Q No 2. Who all were present at the gate when Hav GD Pawa was insisting Civ Elect Shri Bihari Singha to go inside the Workshop ?

Ans 2. The following persons were present :-

- (a) Myself
- (b) Two guest of Shri Bihari Singha
- (c) Shri Bihari Singha
- (d) Hav GD Pawa
- (e) Major ABB Brar was inside the gate and was witnessing the incidence.

Q No 3. At what distance Major ABB Brar was standing and witnessing the incidence ?

Ans 3. It was approximately 5 metres.

Q No 4. Was Major SK Mitra present at the Gate, at the time of incidence ?

Ans 4. No

- 5 -

Q No 5. When did Major SK Mitra came to the Gate ?

Ans 5. Major SK Mitra arrived at the gate <sup>much</sup> later after the matter has been reported by Hav GG Pawa to him.

Q No 6. Did Shri Bihari Singha ask permission either from you or from Hav GG Pawa before he went out of the Workshop ?

Ans 6. No

Q No 7. Did Shri Bihari Singha talk to you immediately after the incidence and before the lunch break at 1330 hrs ?

Ans 7. No

Q No 8. Did Shri Bihari Singha ask you to allow him to come inside the Workshop ?

Ans 8. No, he did not say anything like that.

Q No 9. Did Shri Bihari Singha hit or punch Hav GG Pawa ?

Ans 9. I did not seen.

Q No 10. Where were you standing when conversation between Shri Bihari Singha and Hav GG Pawa was going on just outside the Main Gate ?

Ans 10. I was at the Gate.

Q No 11. What will be approximate distance between you and them ?

Ans 11. I will be approximately 4 metres.

Q No 12. You said, the distance is approximately 4 metres and this is very much within the listening distance ? How can you then say that you had not heard or seen anything ?

Ans 12. They used joked among ~~themselves~~ themselves. So I did not pay any attention on their conversation.

Q No 13. Are you short of hearing ?

Ans 13. No

Q No 14. There are two entrances at the Main Gate, one is bigger gate and other is smaller. Which gate is used by the Civ personnel and other ranks while they came for duty and going out of the Workshop ?

Ans 14. They used smaller gate.

The above statement has been read over to me in the language I understand and I sign it as correct.

Sd/- XXXXXXXXXXXXXXXXXXXXXXX  
(No 14117481 Chow Shri DE Tanning)

Contd .....6/-



No 7090858H Adm CHM NS Right of 506 Station Workshop EME having been duly warned states :-

I, No 7090858H CHM NS Right was performing the duties of Adm CHM on 29 Jun 88. At about 0900 hrs, when I was in the Inspection Section, Office Runner No 14586407 Ctn/OTRP Haripal Singh came to me and told that there was some untowards incidence at the Main Gate of Workshop. I immediately went there and saw that No 7090858L Hav GO Pawa was standing outside the Main Gate and Civ Chowkidar Shri DB Tamang standing near the Sentry post, on the Main Gate. I asked Hav GO Pawa as to what all happened. He told me that Civ Elect Shri Bihari Singha went out of the gate without any permission to meet his guest. On insisting, Shri Bihari Singha to go inside the Workshop, he told, Hav GO Pawa, that he could show him absent. On further insistence by Hav GO Pawa to Shri Bihari Singha to go inside the Wksp, Shri Bihari Singha gave a punch in his stomach and also threatened that he would see Hav GO Pawa later on. No 7090858L Hav GO Pawa also told me that, Shri Bihari Singha and his two guests went towards Area HQ Office. In the mean time, I found Shri Bihari Singha along with his two guest came near the main gate, all riding on the Motor Cycle. I stopped Shri Bihari Singha for interrogation and told him to park the Motor Cycle near the Main Gate. I then reported the matter to Major SK Mitra, CO 506 Stn Wksp EME. A written complain from No 7090858L Hav GO Pawa was also sent to the Officer Commanding. FIR was lodged on the same date reporting incidence to Shillong Police Station vide this office letter No 21202/PC/88/CIV dated 29 Jun 88. Under the instructions of CO, Shri Bihari Singha and his two guests were interrogated by Liaison Unit and were left thereafter.

On 30 Jun 88, One Sub Inspector, by name Shri MM Singha came to Workshop for interrogation. On 04 Jul 88, Shri Bihari Singha was sent to Police Station for his statement as was required by Sub Inspector Shri MM Singha vide Police Station, Cantonment Bant Bousae, Shillong letter No Nil dated 02 Jul 88.

On 4 Jul 88, Shri Bihari Singha was arrested and released on bail. A case was registered by Shillong Police Station vide their case No 484/88 under sec 325/304 IPC as was told by Prosecuting Inspector, Shillong Court on 05 Jul 88.

Question by the Court :-

- Q No 1. Who all were present at the gate, when you reached there ?
- Ans 1. Gate HGO Hav GO Pawa and Civ Chowkidar Shri DB Tamang.
- Q No 2. Where was Major SK Mitra at that time ?
- Ans 2. At that time he was in his office.
- Q No 3. Where was Major ABJ Brar at that time ?
- Ans 3. Major ABJ Brar was sitting in the office of Major SK Mitra.
- Q No 4. Was Hav GO Pawa sent for medical check up ?
- Ans 4. Yes, he was sent for medical check up to Civil Hospital Shillong. Doctor prescribed some medicine for his pain.
- Q No 5. Is it mandatory always to take written permission to go outside the Wksp ?
- Ans 5. Yes, one has to take written permission to go outside the Workshop during working hours.

Q No 6. Through which gate Civilian/Combatant persons are required to go out and come inside the Workshop. ?

Ans 6. Through smaller gate only.

The above statement has been read over to me in the language I understand and sign it as correct.

Sd/- XXXXXXXXXXXXXXXX  
(No 7098055H CHM NS Right)

IC-30805M Major ABS Brar, CO 537 Rec Coy EME having been duly warned states :-

I, IC-30805M Major ABS Brar was performing the duties of CO 537 Rec Coy EME on 29 Jun 88. At about 0845 hrs, I left my office and was coming towards the office of the CO, 308 Station Workshop, Major SK Mitra. As I neared the Main Gate, T/No 172 Civ Elect Shri Bihari Singha came from behind and passed me. He wished me which I acknowledged. He then went straight out of the gate which was partially opened by Chowkidar No 14117481 Civ Chowkidar DB Tamang. I noticed that he went straight to two civilians who had come to meet him. Just then No 7098052L Hav GO Pawa, the Gate NCO on duty followed him and asked him to return back inside as he had left workshop premises without permission, which is not permitted. T/No 172 Civ Elect Bihari Singha insolently told No 7098052L Hav GO Pawa to go back inside and mind his business. No 7098052L Hav GO Pawa, however, insisted that he return back. At this T/No 172 Civ Elect Bihari Singha caught No 7098052L Hav GO Pawa by the belt and punched him in the stomach and threatened that 'he would see him later on'. No 7098052L Hav GO Pawa, thereafter asked him not to manhandle him. He then left the scene and went to report the matter to Major SK Mitra. I also went and reported the incidence to Major SK Mitra in his office.

The above statement read over to me and I sign it as correct.

Sd/- XXXXXXXXXXXXXXXX  
(IC-30805M Major ABS Brar)

Contd ....S/-

Ticket No 172 Civ/Elect Shri Bihari Singha states :-

On 29 Jun 88, at about 8000 hrs, when I was Elect Shop, Civ/Labourer Shri P Ghosh informed me that two persons had come at the workshop gate to meet me. I took permission from No 7194775 Hav/Elect Gurnam Singh, incharge Elect Shop to go to the workshop Main gate, to meet my guest. While I was going to the gate Civ/WM Shri AK Singha also told me that, two guest of mine were awaiting at the Main gate. I also took permission from No/Sab Kehar Singh, Workshop Offr to go to the gate to meet my guest. After reaching at the gate, I told No 7006552L Hav G G Pawa, gate NCO, that I wanted to talk to my guest who were awaiting just outside the gate. Hav G G Pawa agreed. When the Main gate was opened by No 145117481 Civ/Chowkidar Shri D B Tamang for passing some vehicle, I went-out the gate. These two persons who came to meet me were unknown. When I was enquiring about them and they were also finding who were I, Hav G G Pawa from inside the gate asked me, "Aap Kiye kehkar gaya" ? I then told him, not to joke with me. I further told him I had come to talk my guest. Hav G G Pawa then came out of the gate and told me "Aap andar aya". I felt humiliated infront of my guest. My guest asked me what was happening. I told them that "He (Hav G G Pawa) was jocking with me. Hav G G Pawa started shouting and kept on insisting & me to come inside the gate. After that Maj S K Mitra CG 386 Station Workshop came near the gate and ordered to close the gate. Maj SK Mitra then went to his office, I requested Civ/Chowkidar Shri D B Tamang and Hav G G Pawa to allow me to come inside the workshop. Shri D B Tamang then told me that he, could not open the gate violating the order of CG Wksp. Hav G G Pawa also refused to open the gate. I was helpless and informed the gate NCO, Hav G G Pawa that I was going to higher authority for appeal. I went to HQ 1st Area and met Lt Col Narayanan, I narrated him the fact, he, interned advised me to go to Col Gupta, of 'A' Br. Lt Col Narayanan also told me that Col Gupta was in a conference and as such I could meet him later. I came back to the Wksp gate and saw a GMP pers who enquired about my name, No and address. He also enquired the particulars of my guest. By that time personnel from Liaison unit also came at the Wksp gate and they took me and both my guest to their office in a govt vehicle. We were asked to give our particulars and statement which took place at the Wksp gate and my previous history leading to the case. We gave our written statement and particulars. The Liaison personnel then brought me at the Wksp Main gate and left there, it was already time for lunch break. I and my guest went back. At about 1330 hrs, I came inside the Wksp and narrated the whole incidents to all the members of Labour Welfare Committee, who intern approach CG 386 Stn Wksp for concemrise. The CG told members of Welfare Committee that Shri Bihari Singha could continue his duties. When the Labour Welfare Committee members came out of his office, he again told, he could not attend and the duty now but could continue the duty tomorrow. I then left the Wksp.

Chowkidar  
Shri D B Tamang  
Then closed  
The Gate.

Question by the Court :-

- Q1. Did you take permission from No/Sab Kehar Singh Wksp Offr, to go out-side the gate and talk to your guest ?
- Ans 1. I had taken permission to talk to them only and not for going outside the gate.
- Q2. Did you take any out pass or any written permission to go out-side the gate at 8000 hrs on 29 Jun 88 ?
- Ans 2. 'No'



- Q3. Do you aware that a written permission is reqd in the form of Out Pass/Short leave to leave the Wksp premises during working hours ?
- Ans3. I am aware of that. But in this instant case as my guest were waiting just one feet away from the main gate. I did not feel necessity to take written permission. I took gate NCO's verbal permission to go out which I felt sufficient.
- Q4. There are two ~~entrances~~ at the Main gate. One gate is bigger than the other. Which gate did you use to go outside ?
- Ans4. I used the bigger gate.
- Q5. Are you aware that the bigger gate is always use for vehicular traffic and for officers and JCOs and the remaining smaller gate is used for other ranks and Civ employees ?
- Ans5. 'No'
- Q6. Which gate do you use normally while coming to wksp for duty and going out ?
- Ans6. I used both the gates depending upon the opening of the gate by Chevkidar/gate NCO.
- Q7. Did Chevkidar Shri D A Tamang open the gate for you to go out ?
- Ans7. 'No'
- Q8. If not, how could you go out of the gate ?
- Ans8. The bigger gate was already open for passing of a veh and I went out.
- Q9. How was your relation with Hav G S Pawa ?
- Ans 9. I had a very friendly relation with him. I used to go to his house to give tuition to his children. We had dinner together in his home occasionally.
- Q10. Did you ever quarrell or fight with him ?
- Ans10. 'No'
- Q11. You had said that Hav G S Pawa permitted to go out of the gate/you and talk to your guests. How could then he, shout on you and insisted you to go inside the Wksp immediately your coming out of the Wksp ?
- Ans 11. I cannot say. But it was astonishing to me for his act.
- Q12. Did you mention Hav G S Pawa on 23 Jan 83 at about 0000 hrs ?
- Ans12. 'No' But I related my self and asked him not to insist me to go inside the Wksp. I told him to allow me to talk to my guest.

Q13. What were your conversation with your guests with your guests ?

Ans 13. I was not knowing them and never saw them before. So, I was enquiring about them. They also started enquiring about me. Hav G G Pawa in between came there and started insisting me to go inside the Wksp.

Q14. Why did your guests come to meet you ?

Ans 14. They came to inform me that my mother was sick. They got this news from a gentleman who was stranded in Shillong-Badarpur Road due to landslide. / whose name I don't know and

Q15. You were in Dangsris. Why and with whose permission you change into Civ dress before going to meet your guest at the gate ?

Ans 15. I wanted to meet my guests in Civil dress. While I was serving in 512 Army Base Wksp I noticed that anybody going to meet their guest go in Civil dress.

Q16. You said that, you had gone to HQ 101 Area to brief the incidence, you had also met Lt Col KSA Narayanan AQ. Why did you go higher HQ without informing your immediate Superior Officer ?

Ans 16. I told gate NCO that I was going to the higher authority. As the gate was closed and not allowed to go inside the Wksp, I could not take permission from my CO before going to higher authority.

Q17. Who all were present at the gate, when you came to meet your guest and subsequent conduct at the gate with Hav G G Pawa on 29 Jun 88 ?

Ans 17. There were five persons and as under :-

- (a) My Self
- (b) Two guest
- (c) Gate Keeper, Hav G G Pawa
- (d) Chowkidar D B Tamang

Q18. Was Major BBS Brar, OC 337 Rec Coy present at the Main gate ?

Ans 18. No.

Q19. Did you wish Major BBS Brar at the gate at about 0900 hrs on 29 Jun 88 ?

Ans 19. I wished him at about 0900 hrs while he was standing in front of his office baranda, which is adjacent to the Main gate.

The above statement has been read over to me in the language I understand and I sign it as correct.

SA /a x x x x x x x x

(T/No 172 Shri Bihari Singh)

Contd --- 1/-

- 11 -      - 80 -      409

FINDINGS OF THE COURT

1. T/No 172 Shri Bihari Singha, a civilian employee of 308 Station Workshop EME was on duty on 29 Jun 88.
2. At about 0850 hrs, he on 29 Jun 88, went through Main Gate of the Workshop without any permission to meet his two guest, awaiting outside the gate and thereby violated the order of taking written permission to leave the Workshop, during working hours.
3. He went out in a fraction of a second when the Main Gate was opened for trespassing a Vehicle.
4. No 7098052L Hav GC Pawa was on duty as Gate NCO, insisted Shri Bihari Singha to go inside the Workshop as he did not possess any written permission to come out of the Main Gate. Shri Bihari Singha refused to go inside and told Hav GC Pawa to mark him absent.
5. On further insistence by Hav GC Pawa to Shri Bihari Singha to go inside the Workshop, Shri Bihari Singha gave a punch to Hav GC Pawa and threatened that he would see him later.
6. The incidence was witnessed by Major AB Brar, Co 537 Rec Coy EME.
7. FIR was lodged to Shillong Police Station vide 308 Station Workshop EME letter No 21202/PG/BS/OIV dated 29 Jun 88.
8. On 04 Jul 88, Shri Bihari Singha was arrested by Shillong Police Station after investigation and subsequently released him on bail on the same day.
9. The incidence was reported by signal to Sdn HQ Shillong, 'A' Br & EME Br, HQ 101 Area as per SAO 15/S/80, followed by a detailed report forwarded vide letter No 21202/PG/BS/OIV dated 29/30 Jun 88.
10. No 7098052L Hav GC Pawa was sent for medical check up in Civil Hospital, Shillong and medicine was given by the Doctor for the pain. The prescription by the Doctor is attached as material exhibit I.
11. T/No 172 Shri Bihari Singha used the bigger gate and not the smaller one which he was supposed to use as the existing order. 2 pa

OPINION OF THE COURT

The Court opined that :-

T/No 172 Shri Bihari Singha is blamed for taking law in his hand, in that he not only went out of Workshop without any permission but also hit gate NCO No 7098052L Hav GC Pawa on duty and threatened him that he would see him later on. Exemplary disciplinary action should be taken against T/No 172 Shri Bihari Singha for assaulting the Gate NCO on duty.

Presiding Officer :

Sd/- XXXXXXXXXXXXXXX

(IC-32491P Major SK MITRA)

Members 1.

Sd/- XXXXXXXXXXXXXXX

(JC-30190H Sub Maj Pransingh)

2.

Sd/- XXXXXXXXXXXXXXX

- 81- Annexure-XXIII (32) 410  
CONFIDENTIAL

Tele : 248

396 Station Workshop EME  
C/O 99 APO

21201/PO/BS

24 Jun 89

Shri B Singha  
Civ Elect (MV)  
396 Station Workshop EME  
C/O 99 APO

DISCIPLINE : CIVILIANS

1. As per standing order tea break timing of this workshop is from 1000 hrs to 1015 hrs. I have noticed that you were not at place of work at 1045 hrs, and your where about were not known to anyone.
2. You are directed to show cause as to why disciplinary action should not be initiated against you regarding absent from your place of duty from 1015 hrs to 1045 hrs on 23 Jun 89. Your reply should reach this office by 26 Jun 89 by 0800 hrs failing which necessary disciplinary action will be initiated against you.

Recd the ltr  
from m/o on  
24 Jun 89 at 10  
B Singh  
Civ. Engg.  
24/6/89  
Sajit

(J P Singh)  
Capt  
Officer Commanding

CONFIDENTIAL

~~CONFIDENTIAL~~

Tale : 248

308 Station Workshop EME  
C/O 99 APO

05 Aug 89

21201/75/88

Shri Bihari Singh  
308 Station Workshop EME  
C/O 99 APO

DISCIPLINE - CIVILIAN EMPLOYEES

1. It is seen that you have been organising gambling and TEER business in the Workshop during working hours. It is known that TEER is legal business in the Meghalaya state but it is illegal to be organised in Workshop during working hours. Since you are indulging Civilians as well as combat in playing gambling and TEER business in the Workshop, you are hereby warned not to do so in future otherwise severe disciplinary action will be initiated against you.

*Amir*  
*04/8/89*

*[Signature]*  
(J P Singh)  
Capt  
Officer Commanding  
*04/8/89*

~~CONFIDENTIAL~~

In The Court of Shri. A. Mawlong, Magistrate  
1st Class at Shillong

G.R. 535(A)88

W.S. 325/506 P.C.

S T A T E

- Vs. -

Bihari Singh - - - Accused.

19.5.89.

ORDER

The case is disposed off  
on compromise by both  
the complainant and accused  
and the same is dropped.

The declaration to  
compromise was taken  
on oath.





Tele Mil : 517

435/3/A

Army Headquarters  
AG's Br(D V Dte)  
New Delhi

HQ Eastern Command (A)  
Fort William, Calcutta - 21

HQ 101 Area (A)

Station Mukhyalaya  
Station Headquarters  
Shillong

27 Oct 89

FINAL REPORT : ASSAULT AND AFFRAY

1. Ref this HQ detailed report fwd vide our letter of even No dated 29 Jul 89.
2. Shri Bihari Singha, a civilian employee of 306 Stn Wksp, EME at about 0900 h on 29 Jul 88 went out through the main gate without informing the gate NCO. When the gate NCO No 7098052 Hav G C Pawa of 306 Stn Wksp, EME asked Shri Bihari Singha to go back in case he did not have auth to go out, Shri Bihari Singha shouted at the gate NCO No 7098052 Hav G C Pawa by saying 'you better go back and report me absent'. On further insistence of Hav G C Pawa gate NCO to go back to wksp, Shri Bihari Singha hit the gate NCO Hav G C Pawa of 306 Stn Wksp. The whole incident was witnessed by Major ABS Brar, ex OC 306 Stn Wksp, EME. The unit referred the case to civil police and civil police arrested Shri Bihari Singha on 4 Jul 88 and afterwards the indl was released on bail by the Court.
3. During the progress of case in the civil court both parties have reached a compromise. The court too has accepted the compromise between the two indls. HQ 101 Area has been approached to accept the compromise and to confirm that the subject case can be closed. HQ 101 Area vide their letter No telegram No 62802/38/A1 dated 19 Aug 89 has confirmed to close the case.
4. In view of the above, the subject case may please be treated as closed.

(S R Sharma)  
Col  
Adm Comdt  
for Stn Cdr

Copy to :-

306 Stn Wksp, EME

-85-  
414

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.149 of 2006.

Date of Order : This, the 27<sup>th</sup> day of March, 2009.

THE HON'BLE MR. A.K.GAUR, JUDICIAL MEMBER

THE HON'BLE MR. KHUSHIRAM, ADMINISTRATIVE MEMBER

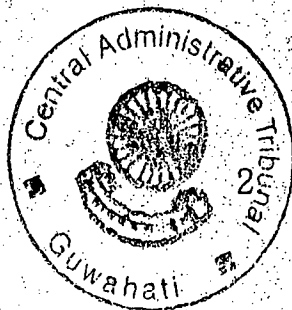
Shri Bihari Singha  
S/o Late Kunjeswar Singha  
Qtr. No.MES 93/2  
Deodgenline  
Shillong Cantt.  
Shillong

...Applicant.

By Advocates: Mr.M.Chanda. Mr.S.Nath & Mr.G.N.Chakraborty

- Versus -

1. The Union of India represented by the  
Secretary to the Govt. of India  
Ministry of Defence, South Block  
New Delhi - 110 001.



The Director General (Civ)  
Master General of Ordnance Branch  
Army Headquarters, DHQ Post  
New Delhi - 110 011.

3. Major General  
Electrical Mechanical Engineering (MGEME)  
HQ Eastern Command (EME Branch)  
Fort William  
Kolkata-21.
4. Station Commander  
Station Headquarters, EME  
Shillong.
5. Officer Commanding  
306 Station Workshop  
EME, C/o 99 APO..
6. Asstt. Executive Engineer (AEE)  
306 Station Workshop EME  
C/o 99 APO.



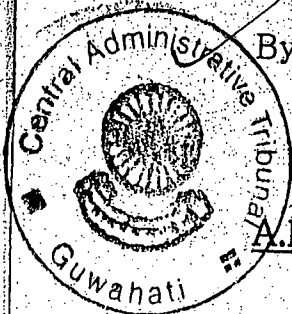
7. Lt. Col JS Bains  
Officer Commanding  
306 Station Workshop EME  
C/o 99 APO.

8. Shri R.C.Nath  
Subedar  
JC-750768X  
306 Station Workshop EME  
C/o 99 APO.

415

... Respondents.

By Mr. M.U.Ahmed, Addl. C.G.S.C.



### ORDER (ORAL)

A.K.GAUR, MEMBER (J) :

We have heard M.Chanda, learned counsel for the Applicant and Mr. M.U.Ahmed, learned Addl. Standing counsel for the Government of India.

2. It has been argued by the learned counsel for the Applicant that the order passed by the appellate authority is not a reasoned and speaking one and the appellate authority has passed the said order dated 08.05.2006 in a most casual and perfunctory manner without application of mind without considering all the grounds taken in the appeal dated 06.12.2005. To support his contention, learned counsel for the Applicant has placed reliance on the following Supreme Court decisions in order to buttress the contention that it is the bounden duty of the appellate authority to consider each and every ground raised in the memorandum of appeal:-

- (i) 2006 SCC L&S 840 (Narinder Mohan Arya. vs. United India Insurance Co. Ltd & Others);
- (ii) AIR 1986 SC 1173 (Ram Chander vs. Union of India & Others)
- (iii) (2005) 7 SCC 597 (National Fertilizers Ltd. and Another vs. P.K.Khanna; and lastly
- (iv) 2006 (11) SCC 147 (Director of Indian Oil Corporation vs. Santosh Kumar)

✓

3. We have given our anxious thought to the arguments advanced by the counsel for the parties. In view of the aforesaid decisions, we are fully satisfied that the appellate authority had not at all considered the grounds taken in the appeal dated 06.12.2005, the appellate order has been passed in a most casual and perfunctory manner without application of mind. Accordingly, we quash and set aside the appellate order dated 08.05.2006 and remit back the matter to the appellate authority to reconsider the appeal of the Applicant by passing a reasoned and speaking order in accordance with the provisions of rules, within a period of three months from the date of receipt of a copy of this order.

4. With the above observations and direction, the O.A. is disposed of as above.

38) Member (J)

39) Member (A)



TRUE COPY  
प्रतिलिपि  
अनुभाग अधिकारी  
Section Officer (Judl)  
Central Administrative Tribunal  
गुवाहाटी न्यायपीठ  
Guwahati Bench  
गुवाहाटी/Guwahati-5

31/3/07

3. We have given our anxious thought to the arguments advanced by the counsel for the parties. In view of the aforesaid decisions, we are fully satisfied that the appellate authority had not at all considered the grounds taken in the appeal dated 06.12.2005, the appellate order has been passed in a most casual and perfunctory manner without application of mind. Accordingly, we quash and set aside the appellate order dated 08.05.2006 and remit back the matter to the appellate authority to reconsider the appeal of the Applicant by passing a reasoned and speaking order in accordance with the provisions of rules, within a period of three months from the date of receipt of a copy of this order.

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38) - Member (J)

39) Member (A)



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प्रतिलिपि  
अनुभागे अधिकारी  
Section Officer (Judl)  
Central Administrative Tribunal  
गुवाहाटी न्यायपीठ  
Guwahati Bench  
गुवाहाटी/Guwahati-6  
31/3/07

To: Civilian's present the  
The Major General  
Electrical Mechanical Engineering (MCEME)  
(Appellate Authority)  
Bart William, Kolkata-21.

known to him.

89  
Sub: Intimation regarding judgment and order dated 27.03.2009 in O.A No. 149/2006 (Shri Bihari Singh - Vs - U.O.I & Ors.) passed by the Hon'ble CAT, Guwahati Bench compliance of

Sir, Most humbly I beg to state that being aggrieved with the memorandum of charge sheet dated 11.07.2001, order of penalty bearing letter No. 10401/172/Civ dated 15.04.2005, issued by the disciplinary authority as well as against the impugned appellate order dated 08.05.2006, I had approached the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati through O.A No. 149/2006. In the said Original Application I also prayed for a direction upon the authority to reinstate me in service at least from the date of dismissal of service. However, the Hon'ble Tribunal vide judgment and order dated 27.03.2009 pleased set aside the Appellate order bearing No. 332229/2/EME Civ 09.05.2008 and further directed to consider appeal of the undersigned with the provisions of law. Hence this appeal before Your Honour with the prayer to consider the following facts and to drop the penalty order dated 15.04.2005 and to reinstate me in service at least from the date of dismissal of service. memorandum of charge sheet dated 11.07.2001 was served upon me in the said memorandum of charge sheet to which no allegations is brought against me as follows:

That Sir, while I was working as Civilian Electrician (Motor Vehicle), in the 306 Station Workshop EME, C/o 99<sup>th</sup> APO, I was holding the post of General Secretary of the Station Workshop, Civilian Workers Union, Shillong.

That Sir, during tea break on 01.06.2001 in the Civilian Recreation Room between 1030 hrs to 1045 hrs wherein the undersigned (General Secretary) and Shri Prabhat Chandra Das (Vice President) were busy with the most important works of the Union, mainly on the issue of long standing medical reimbursement claims of the members of the Union which was initiated by Asstt. Labour Commissioner (Central), Guwahati. In the nick of time all of a sudden the Officer Commanding (Lt. Col. JS Bains) along with Nb Sub RC Nath and the staff car driver Nk. Purnan Singh, rushed into the said Civilian Recreational Room (at around 1045 hrs) compelling all other Defence

Civilians, present therein, instantly to scuttle away from the said room out of fear except the undersigned and Shri P.C. Das. Having seen both of us in such an un-staggered position there, the Officer Commanding (Lt. Col. JS Bains) seemed to have lost his temper beyond his control, for reasons best known to him only. However, both I and Shri P.C. Das, while wishing Officer Commanding Lt. Col. Shri JS Bains, politely informed him about the aforesaid burning issues of the Union and at the same time, tried to show him a letter received from the ALC (Central), Guwahati out of the Union file in this regard. But ironically, instead of reciprocating it, the said Officer Commanding started behaving like a person not commensurate with his official status and that was evident from his unparliamentary and un-ethical words, like, "Go to Hell your Union", "Abhi tum log ko suspend karta hoan" etc. and in no time he threw away the said Union file and practically he did what he uttered i.e. both the undersigned and Shri P.C. Das, the Vice-President were instantly placed under suspension on this very day of 1<sup>st</sup> June 2001. Only God knows, how things could so happen and that too, so quickly, if there was no preponderance.

3. That, ~~Sir~~ thereafter memorandum of charge sheet bearing No. 21208/172/EST-IND/LC dated 11.07.2001 was served upon me. In the said memorandum of charge sheet in as much as 5 allegations is brought against me as follows:

1. On 01 Jun 2001, JC-750768X Nb Sub RC Nath of 306 Stn Wksp EME went to civilian rest room at 0830h and requested the workers to come to the shop floor for work. T. No. 172 Shri Bihari Singha and T. No. 169 Shri PC Das informed that they will not come out as they wanted to discuss about the picketing by Khasi Student Union on 02 Jun 2001. JC-750768X Nb Sub RC Nath returned back and waited for them for about one hour but 6 of workers did not come to shop floor. JC-750768X Nb Sub RC Nath again went to the civilian rest room along with Nk Puran Singh, Nk SC Singh, Hav J Kushwaha and Hav Lalan Sah at 0930h on 01 Jun 2001. On reaching the rest room of civilian, all other workers except T. No. 172 Shri Bihari Singha and T. No. 169 Shri PC Das left for the work. They were going through some



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3  
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and Shri PC Das shouted at Nab Sub RC Nath and said "Hamara Koi  
the Claim Pass Nahi Hota, Yahan Par Sab Gandu Offr Aur JCO Hai, Hum  
nation Bharat Varash Ke Employee Hain Yahan Par Dil Karega Bathengi".  
author Shri PC Das again raised his hands to hit Nb Sub RC Nath and said  
"AAP Chor Ho, FIP Ka Paisa Khaya Hai". He made a gesture to hit  
Nb Sub RC Nath with both hands but Nb Sub RC Nath ducked and  
saved himself."

On a mere reading of the article of charge it appears that the Officer  
Commanding Lt. Col. JS Bains has issued the memorandum of charge sheet  
with whom the alleged incident has taken place on 01.06.2001 since Lt. Col. JS  
Bains, Officer Commanding is involved in the instant alleged incident on 1<sup>st</sup>  
June 2001 as such Lt. Col. JS Bains should not have issued the memorandum  
of charge sheet since he is an interested party and at his instance the  
applicant was placed under suspension and further departmental  
proceeding has been initiated. In the statement of imputation of misconduct  
the said disciplinary authority tactfully alleged that the incident has taken  
place in between the applicant and Nab Sub RC Nath without referring his  
name and his presence at the time of alleged incidence on 1<sup>st</sup> June 2001. In  
fact the alleged incident was created by Shri JS Bains himself but in order to  
impose major penalty in a well planned manner Shri JS Bains tactfully did  
not show his presence at the place of incidence rather terror was created by  
Shri Bains alone and on that score alone the memorandum of charge sheet  
bearing letter No. 21208/169/EST-IND/LC dated 11.07.2001 is liable to be  
dropped.

That Sir, I beg to say that on a mere reading of the Article of charge, more  
particularly the charge alleged in SL No. 4 and 5 of the article of charge that  
the I was continuously and willfully neglecting my duty from 1<sup>st</sup> February  
2001 to 1<sup>st</sup> June 2001 on all working days and continuously and willfully  
disobedience of order for refusing to proceed to place of work from 1<sup>st</sup> Feb'  
2001 to 1<sup>st</sup> June 2001 on all working days. Therefore, it appears that the  
concerned sectional in-charge deliberately did not take any action against me  
from 1<sup>st</sup> Feb' 2001 to 1<sup>st</sup> June 2001 and the allegation of non-performing of  
duties has not reported to the higher authorities by the Section In-Charge

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and assuming but not admitting that the undersigned has refused to perform the assigned duties than a duty cast on the Section In-Charge to report the matter immediately to the higher authority and in the instant case higher authority is Officer Commanding i.e. Lt. Col. J S Bains and the disciplinary authority ought to have taken action against me on the alleged ground of non-performing his duties for such a long period i.e. about 5 months, whereas no memo or show cause was issued at any point of time since February 2001 to 1st June 2001 rather I was paid full salary since February 2001 to 1st June 2001. As such, it can rightly be presumed that all the charges labeled against me are false, concocted and baseless not based on any record as because the entire allegation or charges were based on only two lists of documents.

5. That Sir, the disciplinary authority by the impugned letter bearing No. 10401/172/Civ/INQ/2005 dated 15.04.2005, forwarded the impugned penalty order to me. The disciplinary authority by the order dated 15.04.05 imposed the extreme penalty of dismissal from service w.e.f. 15.04.05, interestingly in the penalty order the disciplinary did not consider any of the grounds raised by me in my representation dated 29.11.03 but mechanically followed the inquiry report submitted by the inquiry officer.

6. That Sir, the contention of the disciplinary authority to the effect that the charged official neither opted to cross-examine any witness nor submitted any defence thereof is categorically denied; rather the charged official has been denied reasonable opportunity to advance his defence in the inquiry proceeding in the following manner:

(i) Firstly, the applicant was not intimated regarding appointment of the inquiry officer as well as appointment of presenting officer by the disciplinary authority as required under the rule, however the same was intimated to the applicant by the disciplinary authority much after the commencement of the proceeding.

(ii) Listed documents relied upon by the disciplinary authority to substantiate the charges contained in the memorandum of charge

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sheet has not been supplied to the applicant along with the memorandum of charge sheet even those listed documents also not supplied at any stage of the inquiry proceeding in spite of specific request and thereby reasonable opportunity has been denied to the applicant to take adequate defence to the charges.

- (iii) That the inquiry authority deliberately and willfully did not intimate the date of hearing on many occasion when ex parte proceeding was held and in some occasion the inquiry officer deliberately send the intimation of hearing after the expiry of the schedule dates of hearing. The details of delayed communication of hearing dates as well as non-communication of hearing dates are quoted below for perusal since the inquiry proceeding conducted ex parte.

Schedule date of hearing	Date on which intimation of hearing received	Non-receipt of intimation regarding hearing.
20.09.2001	26.09.2001	
08.10.2001	21.11.2001	
20.10.2001	21.11.2001	
15.11.2001 16.01.2002	21.11.2001 13.02.2002	Since letter dated 22.02.02 received by me on 04.03.02, wherein it is directed to the applicant to appear inquiry on every alternative day.
05.02.2002	13.02.2002	
11.03.2002	04.03.2002	I appeared.
13.03.2002		I appeared in the proceeding.
15.03.2002		I appeared in the proceeding.
20.03.2002		I appeared in the proceeding.
26.03.2002	No intimation to the applicant.	As per direction contained in the letter dated 22.02.02 it was directed to me to appear on every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.
08.04.2002	No intimation to the applicant.	As per direction contained in the letter dated 22.02.02 it was directed to me to appear on



		every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.
22.04.2002	No intimation to the applicant.	As per direction contained in the letter dated 22.02.02 it was directed to me to appear on every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.
10.05.2002	No intimation to the applicant.	As per direction contained in the letter dated 22.02.02 it was directed to me to appear on every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.
07.06.2002	No intimation to the applicant.	As per direction contained in the letter dated 22.02.02 it was directed to me to appear on every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.

- (iv) It is categorically submitted that the intimation regarding date of hearing on 20.09.01 has been intimated to the applicant at a later stage after the inquiry was over on the schedule date. Moreover, in terms of the letter dated 22.02.2002 received by the applicant on 04.03.2002, wherein it has been instructed that the proceeding will be held on every alternate day. The applicant thereafter as per instruction appeared on 14.03.02, 18.03.02 and participated in the inquiry proceeding in spite of inhuman torture and humiliation as indicated in preceeding paragraph. Again he went to attend inquiry on 20.03.02 but it was informed by the security personal at the gate that there was no sitting of the inquiry proceeding whereas as per order dated

95 424  
7  
22.02.02 hearing is supposed to take place on every alternative date but it appears that hearing has been conducted on 21.03.02, 30.03.02, 23.04.02, 03.06.02 in violation of the instructions contained in the letter dated 22.02.02 that too without any intimation to the applicant and thereby denied reasonable opportunity to the applicant.

(v) That the documents relied upon by the disciplinary authority has not been examined as required under the rule.

(vi) Out of 9 listed witnesses only stereotype deposition of 5 interested state witnesses has been recorded more or less on the similar fashion on the dictation of the inquiry authority as well as of the higher authority. But the remaining 4 state witnesses have not been examined for the reasons best known to the authority.

(vii) That the statement of deposition of the interested witnesses has been prepared and got signed by them through Nb Sub Shri RC Nath.

(viii) That the charge of continual and willful disobedience of the order of supervisory staff and non-performing of duties w.e.f. 01.02.01 to 01.06.01 has held to be proved by the inquiry officer without examining any evidence on record and also without examining the listed documents but on the basis of deposition of the interested witnesses which was confirmed by the disciplinary authority without any discussion of evidence in his impugned order of penalty dated 15.04.05.

(ix) That the inquiry officer failed to give any specific finding as to whether charge is proved or not in his inquiry report dated 07.07.03 which was forwarded to the applicant vide letter dated 21.11.03 that is after lapse of about more than 4 months.

(x) That the disciplinary authority did not consider any of the grounds raised by me in my representation dated 29.11.03 and surprisingly the disciplinary authority did not discuss a single evidence in the impugned order of penalty dated 15.04.05 whereby major penalty

have been imposed mechanically without application of mind and also without taking into consideration the record of the inquiry proceeding.

consider the full facts of the case. (xi) That the complain lodged by Nb R.C. Nath listed document (a) relied upon by the disciplinary authority neither supplied to the applicant nor examined in ex parte inquiry proceeding but relied upon by the inquiry officer and the D.A. passed the order of penalty on the alleged ground of creating a riotous and disorderly situation in the rest room on 1<sup>st</sup> June, 2001.

(xii) Listed document no. (b) whereby allegation of continual and willful absence from work place w.e.f. 01.02.01 to 01.06.01 neither supplied to me nor examined in ex parte inquiry proceeding which is heavily relied upon by the disciplinary authority.

(xiii) Findings of the I.O and P.O without considering the listed documents relied upon by the D.A is not sustainable in the eye of law.

(xiv) No show cause notice or warning or memo given to the applicant for alleged continuous willful absence from the place of work w.e.f. 01.02.01 to 01.06.01 by the supervisory officer as alleged even in the list of document (b) which is relied upon by the disciplinary authority as an evidence for alleged absence not even supplied to the applicant in spite of repeated request nor it was examined in the inquiry proceeding.

(xv) Listed documents relied upon by the D.A not supplied to the applicant in spite of his specific request.

(xvi) IO failed to give any specific findings as to whether charge is proved or not in his inquiry report dated 07.07.03.

(xvii) Col. J.S. Bains, disciplinary authority personally involved in the alleged incident on 01.06.01 who attacked the charged official on 01.06.01 along with Nb Sub R.C. Nath and other Jawans and created riotous and disorderly situation in the recreation room.

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Under the facts and circumstances as stated above I earnestly request you to consider the infirmities and irregularities committed by the disciplinary authority in passing the penalty order dated 15.04.2005 and further be pleased to cancel the penalty order dated 15.04.2005 and to reinstate the undersigned in service with effect from the date of dismissal.

A copy of the judgment and order dated 27.03.2009 passed in O.A. No. 149/2006 is enclosed herewith for your kind perusal and implementation.

Yours faithfully

*[Signature]*  
01/4/09

Shri Bihari Singha,  
S/o- Late Kunjeswar Singha,  
Qtr. No. MES 93/2  
Deodgenline,  
Shillong Cantt., Shillong.

Date: SHILLONG  
01/4/09



By  
New  
Station  
Shillong  
Officer

98 - 101  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 149 of 2006.

Date of Order : This, the 27<sup>th</sup> day of March, 2009.

THE HON'BLE JUDGE A.K. GAUR, JUDICIAL MEMBER  
THE HON'BLE MR. K. KUSHIRAM, ADMINISTRATIVE MEMBER

Shri Bihari Singha  
S/o Late Kunjeswar Singha  
Qtr. No. MES 93/2  
Deodgenline  
Shillong Cantt.  
Shillong

Applicant.

By Advocates: Mr. M. Chanda, Mr. S. Nath & Mr. G. N. Chakraborty

- Versus -

1. The Union of India represented by the  
Secretary to the Govt. of India  
Ministry of Defence, South Block  
New Delhi - 110 001.
2. The Director General (C & V)  
Master General of Ordnance Branch  
Army Headquarters, Dh. Post  
New Delhi - 110 011.
3. Major General  
Electrical Mechanical Engineering (MGEME)  
HQ Eastern Command (EME Branch)  
Fort William  
Kolkata-21.
4. Station Commander  
Station Headquarters, El  
Shillong.
5. Officer Commanding  
306 Station Workshop  
EME, C/o 99 APO.
6. Asstt. Executive Engineer (AEE)  
306 Station Workshop EME  
C/o 99 APO.



Attested  
(Signature)  
(Advocate)



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CONFIDENTIAL

Annexure 2

ORDERS BY THE APPELLATE AUTHORITY IN RESPECT OF APPEAL  
FILED BY T/NO 172/CIV/ELECT SHRI BIHARI SINGHA

Tele Mil : 2790

Headquarters  
Eastern Command (EME Branch)  
Fort William, Kolkata-21

332230/2/SBS/EME Civ

06 Feb 10

ORDER

1. I have examined the appeal dated 01 Apr 2009 filed by T/No 172 Civ/Elect Shri Bihari Singha of Stn Wksp EME, Shillong against the order passed by the disciplinary Authority for dismissing the services of T/o 172 Civ/Elect Shri Bihari Singha and his prayer for setting aside the dismissal order No 10401/172/Civ/Inq/05 date 15 Apr 2005 and for re-instating T/No 172 Civ/Elect Shri Bihari Singha with effect from the date of dismissal.
2. I have also examined the order (Oral) dt 27<sup>th</sup> March 2009 of the Hon'ble Mr AK Gaur, Judicial Member and the Hon'ble Mr Khoshiraw, Administrative Member Central Administrative Tribunal, Guwahati Bench for reconsidering the appeal of T/No 172 Shri Bihari Singha for passing a reasoned speaking order in accordance with the provisions of rule within three months from the date of receipt of the copy of this order.
3. The appellant has prayed for the following redressals :-
  - (a) To set aside and quash the order of disciplinary auth issued vide case No 10401/172/Civ/Inq/05 dt 15 Apr 2005 being illegal and arbitrary and to re-instate the appellant/petitioner with consequent benefit.
  - (b) To review the case and pass suitable orders.
4. A perusal of letter No 10401/172/Civ/Inq/05 dated 15 Apr 05 shows that said disciplinary authority had examined all the issues involved therein at great length and disposed off all issues deliberately in detail. I have examined the contentions of the appellant against the order of the disciplinary authority in the light of connected records of the case and I find it being devoid of merit and warrants no interference at this count as the impugned order dated 15 Apr 05 is comprehensive and entail no illegality. The procedure was followed in accordance with the provisions of law affording all the applicable privileges and rights to the appellant. The order was preceded by a detail inquiry, recommendation of inquiry officer, application of mind on the part of disciplinary authority and consideration of commensurating punishment under the provisions of Rule 11 (5) of CCS (CCA) 1965 in shape of major penalty of dismissal from the service.
5. Further the contention of the appellant that Lt Col JS Bains, Officer Commanding, Stn Wksp EME, Shillong and disciplinary authority was involved in the instant incident on 01 Jun 2001 is second thought a blatant lie and primarily aimed at misleading the proceedings. The memorandum of charge sheet bearing letter No 21208/172/Est-IND/LC dt 11 Jul 2001 is just fair and does not warrant any re-consideration.

CONFIDENTIAL

Attested  
(Signature)  
(Advocate)

6. I have perused the records of the case and am of the considered opinion that the process of disciplinary case against T/No 172 Civ/Elect Shri Bihari Singha has been carried out in fairness and by adopting correct procedures as per provisions of CCS (CCA) Rules 1965 and thus the representation is found to be unjustified, devoid of merit and does not warrant any consideration.

7. I have also perused the service record of T/No 172 Civ/Elect Shri Bihari Singha from the date of his enrolment in 1982. He has been continuously absenting himself from his place of work. His performance had been found unsatisfactory on more than one occasions. He has been habitually disrespectful towards his seniors for which protracted correspondence exists in the unit records as follows:-

(a) **Absent Report** T/No-172 Civ/Elect Shri Bihari Singha deliberately absented himself from his place of work on 25 Jun 88. Absent Report was submitted in writing by Nb/Sub Kehar Singh Incharge Elect Sec (Photo copy).

(b) **Show Cause Notice by Officer Commanding** : Show Cause Notice to T/No 172 Civ/Elect Shri Bihari Singha dt 28 Jun 88 issued by Maj SK Mitra, Officer Commanding regarding insolent behaviour and insubordination towards Nb Sub Kehar Singh (Copy encl).

(c) **Second Show Cause Notice**. Second Show Cause Notice to T/No 172 Civ/Elect Shri Bihari Singha dt 30 Jun 88 issued by Maj SK Mitra, Officer Commanding for absenting himself without sanction of leave, a violation of the existing orders when investigation of a case against T/No 172 Civ/Elect Shri Bihari Singha was in progress (Copy encl).

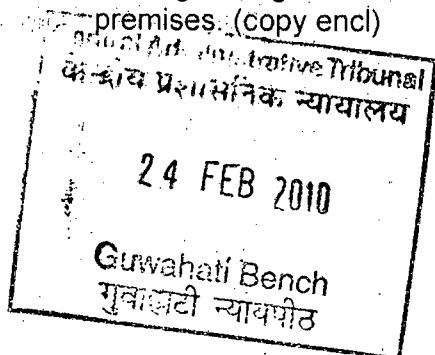
(d) **Application by Charged Official seeking excuse** Application by T/No 172 Civ/Elect Shri Bihari Singha dt 02 Jul 88 with regards to acceptance of mistakes and seeking excuse (Copy encl).

(e) **Civil Offence by T/No 172 Civ/Elect Shri Bihari Singha**. On 29 Jun 88 at 0900h T/No 172 Civ/Elect Shri Bihari Singha manhandled Gate NCO No 7098052 Hav GC Pawa and went out of wksp premises without permission. An FIR was lodged with Shillong Police Stn. Stn HQ was intimated and C of I ordered. (Copies of relevant letters encls).

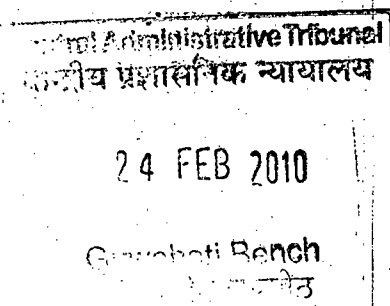
(f) Detailed report on the C of I blaming T/No 172 Civ/Elect Shri Bihari Singha for taking law in his own hands and hitting wksp Gate NCO. (copy encl)

(g) **Show Cause Notice for being Absent**. Show Cause Notice to T/No 172 dt 24 Jun 89, issued by Capt JP Singh, Officer Commanding to T/No 172 Civ/Elect Shri Bihari Singha for being absent from place of wk (copy encl).

(h) **Issue of warning letter for organising gambling in Wksp**. Warning letter, issued to T/No 172 Civ/Elect Shri Bihari Singha by Capt JP Singh, OC, on 05 Aug 89 for organizing TEER business and gambling during working hour in workshop premises. (copy encl)



CONFIDENTIAL



CONFIDENTIAL

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(i) Compromise in Civil Court in Assault and Affray case Proceedings of Court Case No 88/U/S325/5061PC dated 19 May 89 in the Court of Shri A Mawlong magistrate Mawlong assault and affray on No 7098052L Hav GC Pawa Workshop gate NCO against T/No 172 Civ/Elect Shri Bihari Singha and compromise arrived by both parties dt 19 May 1989 (copy encl)

(k) Submission of Report Assault and Affray case Final report of Assault and Affray case submitted by Stn HQ, Shillong vide letter No 435/3/A dt 27 Oct 89 to AHQ, AGs Br (DV Dte) and HQ EC A Br ) (Copy encl).

8. The contention of the appellant that consideration has not been given to his representation dated 29 Nov 2003 is wrong and baseless. On the contrary, adequate evidence exists on record to show that he is a habitual offender. Offender takes law in his own hands and has been showing disobedience to the supervisory staff throughout his service career.

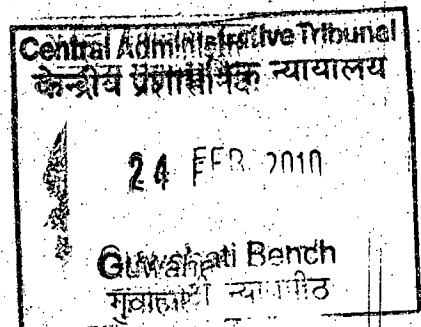
9. I have perused the inquiry officers report, record of the inquiry and representation received from the charged official and the evaluation of the disciplinary authority on each article of charge and the subsequent order issued vide letter no 10401/172/Civ/Inq/05 dt 15 Apr 05 and I am of the opinion that the process of disciplinary case against T/No 172 Civ/Elect Shri Bihari Singha has correctly been followed as per provisions of CCS(CCA) Rules 1965 and the findings of guilty are consistent to the evidence and are thus just and legal and the representation being devoid of merit does not warrant any consideration. Hence the appeal is rejected in the interest of Govt service.

  
(S C Jain)  
Maj Gen  
MGEME  
Appellate Authority

Copy to :-

T.No 172 Civ Elect  
Shri Bihari Singha  
Qtr No 93/2  
Dudgeon Lines  
Shillong Cantt

*A Hester*  
*(Advocate)*

CONFIDENTIAL



File in Court on..... 24/2/10  
Court Officer.

Filed by the Respondent No 5  
through S.N. Tomuli  
Advocate 24/2/2010

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH**

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय  
24 FEB 2010  
Guwahati Bench  
गुवाहाटी न्यायपीठ

**IN THE MATTER OF:**

C.P NO.02/2010

In O.A. No. 149/06

-AND-

**IN THE MATTER OF :**

Sri Bihari Singha  
Son of Late Kunjeswar Singha  
Qtr. MES 93/2,  
Deodgenline  
Shillong Cantt,  
Shillong (Meghalaya)

... Petitioner

-Vs-

1. Shri Pradeep Kumar, IAS  
Secretary to the Government of India  
Ministry of Defence, South Block  
New Delhi- 110001.

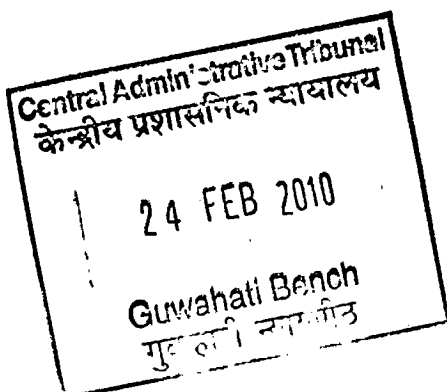
2. Lt Gen A.K.S. Chandela  
Director General of EME (DGEME)  
Master General of Ordnance Branch  
Army Headquarters  
DHQ Post New Delhi- 110011

3. Maj Gen S.C. Jain, Major General  
Electrical and Mechanical Engineering (MGEME)  
HQ Eastern Command (EME Branch)  
Fort William, Kolkata-21

4. Brig Harvijay Singh  
Station Commander  
Station Headquarters, Shillong

*Guider*

5 Col. G.S. Cheema  
Officer Commanding,  
306 Station Workshop  
EME, C/O 99 APO.



... Alleged Contemnors/ Respondents

-AND-

**IN THE MATTER OF:**

An Affidavit/compliance report on  
behalf of the alleged  
Contemnor/Respondent No. 5 to the C.P.  
No. 02/2010

**(AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 5)**

I, Col. G.S. Cheema, S/o. (late) Col. I. S. Cheema  
aged about 50 years presently working Officer Commanding,  
306 Station Workshop, EME, C/O 99 APO, do hereby solemnly  
affirm and state as follows :-

1. That I am the Officer Commanding, 306 Station Workshop, EME, C/O 99 APO. In the above contempt petition, I have been impleaded as Party Respondent /Contemnor no. 5. The said contempt petition was moved in this the Hon'ble Tribunal, *inter alia*, praying for issuing show cause notice to the respondent contemnors and taking appropriate action for willful and intentional violation of the order dated 27.03.09 passed by this Hon'ble Tribunal in O.A. No. 149/06.

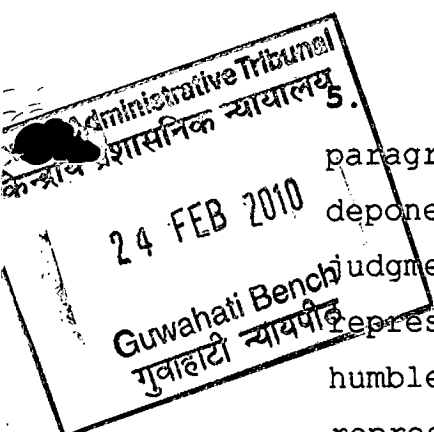
2. That the humble deponent begs to state that this Hon'ble Tribunal vide order dated 12.01.2010 was pleased to issue notice to the Respondent. The copy of the notice was served upon the humble deponent. I have gone

*G.S. Cheema*

through the copy of the contempt petition and have understood the contents thereof.

3. That I do not admit any of the statements save and except which are specifically admitted hereinafter and the same are deemed as denied.

4. That with regard to the statements made in paragraphs 1 & 2 of the contempt petition; the humble deponent begs to offer no comment. However he does not admit any statements which are contrary to record.



5. That with regard to the statements made in paragraph 3 & 4 of the contempt petition, the humble deponent begs to state that immediately on receipt of the judgment and order dated 27.03.09 along with the representation dated 01.04.09 made by the petitioner the humble deponent prepared the para-wise comment to the representation dated 01.04.09 submitted by the petitioner and forwarded the same to the H.Q. Eastern Command (EME), Kolkata vide office letter no 20201/Civ/EME dated 18.05.09 for approval of the competent authority as the local head office at Shillong is not competent to pass any order as per the direction of the Hon'ble Tribunal without prior approval of the aforesaid H.Q, through departmental procedure. It is humbly submitted that as the matter was forwarded to the HQ for due approval there was some unavoidable and unintentional delay in complying with the aforesaid order dated 27.03.09 of the Hon'ble Tribunal.

Copy of the letter dated 18.05.09 is annexed herewith and marked as **ANNEXURE-1**

6. That with regard to the statements made in paragraph 5 of the contempt petition, the humble deponent begs state that vide Order No 332230/2/SBS/EME Civ. dated 06.02.2010 the Major General, Electrical and Mechanical Engineering (MCEME), HQ Eastern Command (EME Branch),

*Guwahati*

24 FEB 2010

Guwahati Bench

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Fort William, Kolkata-21 passed an speaking order as per the direction of the Hon'ble Tribunal, rejecting the appeal of the petitioner. Humble deponent most respectfully begs to state that Respondents/alleged Contemnors started the process of implementation of the aforesaid order of the Hon'ble Tribunal immediately on receipt of the order and representation dated 01.04.09 as stated in para 5 above and as such there is no intentional, willful and deliberate violation of the order dated 27.03.09 passed by this Hon'ble Tribunal.

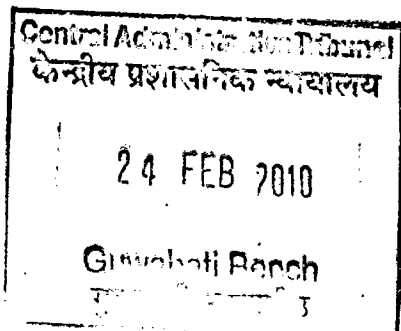
Copy of the order dated 6.02.2010 is annexed herewith and marked as **ANNEXURE-2**

7. That the humble deponent begs to state that there is no lapse or negligence on the part of the respondent authorities to comply with the Hon'ble Tribunal's order.

8. That the humble deponent respectfully begs to pray that in view of the above facts and circumstances, this contempt petition may be closed.

9. That the humble deponent begs to tendered unconditional apology for delay in complying with the Hon'ble Tribunals order dated 27.03.09.

*Gurinder*

**AFFIDAVIT**

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I, Col. G.S. Cheema, S/o. (Late) Col. I.S. Cheema aged about 50 years presently working Officer Commanding, 306 Station Workshop, EME, C/O 99 APO, do hereby solemnly affirm and state as follows :-

1. That I have been impleaded as the alleged contemnor no. 5 in the instant case and fully conversant with the facts and circumstances of the case.

2. That the statements made in this affidavit and in paragraphs 3, 4, and 7 are true to my knowledge and those made in paragraphs 1, 2, 5, and 6 being matters of records of the case derived therefrom which I believe to be true and the rest are my humble submissions before this Hon'ble Court.

February, And I sign this affidavit on this the 19<sup>th</sup> day of 2010 at Guwahati.

Identified by:-

P. K. Zannat

Advocate.

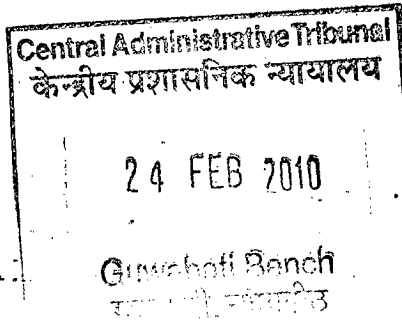
Gurinder

DEPONENT

6147

20201/CIV/EME(I)

HQ Eastern Comd (EME)  
Pin -908542  
C/O 99 APO



Mukhalaya-101-Area  
HQ 101 Area (EME)  
Pin-908101  
C/O 99 APO

18 May 2009

**INTIMATION REGARDING JUDGMENT AND ORDER DATED 27 MAR 2009 IN O.A NO 149/2006 (SHRI BIHARI SINGHA VS - U.O.I & ORS) PASSED BY THE HON'BLE CAT, GUWAHATI BENCH. COMPLIANCE OF**

1. Please refer your HQ letter No 332229/2/EME Civ (I) dated 17 Apr 2009.
2. Parawise comments on appeal submitted by Shri Bihari Singha received from Stn Wksp EME, Shillong ; as asked vide your HQ letter referred above are fwd herewith alongwith following documents :-

- (a) Brief of the court case - One folder
- (b) Draft Appellate Order - One folder

Encl : As above

Copy to :-

Stn Wksp EME, Shillong

for info wrt your letter No 10401/134/PCD dt 15 May 2009.

You are requested to fwd one more copy of the above for our record.

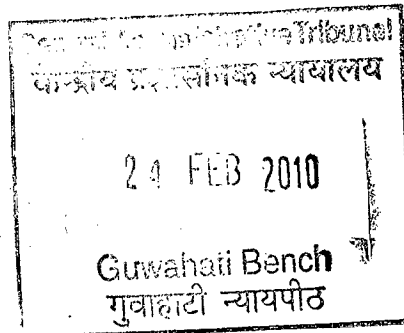
Attested  
(Advocate)

(MK Bhardwa)  
Col  
Col EME

10401/134/PCD

15 May 2009

HQ 101 Area (EME)  
PIN-908101  
C/O 99 APO



**INTIMATION REGARDING JUDGMENT AND ORDER DATED 27 MAR 2009 IN OA NO 149/2006 (SHRI BIHARI SINGHA VS – UOI & ORS) PASSED BY THE HON'BLE CAT GUWAHATI BENCH, COMPLIANCE OF**

1. Please refer to
  - (a) Your HQ letter No 20201/Civ/EME (i) dated 23 Apr 2009.
  - (b) Copy of appeal submitted by T/No 172 Civ Shri Bihari Singha dated 01 Apr 2009.
2. Para wise comments on the appeal submitted by T/No 172 Civ/Elect Shri Bihari Singha are appended below :-

**Para No – 01 :** No comments.

**Para No – 02 :** The contention of the appellant that Lt Col JS Bains, Officer Commanding had gone to the Civilian Recreation Room is wrong. The actual fact is that on 01 Jun 2001, JC-750768X Nb Sub (Now Sub) RC Nath of Station Workshop EME went to civilian rest room at 0830h and requested to the workers to come to the shop floor for work. T/No 172 Shri Bihari Singha and T/No 169 Civ PC Das informed that they will not come out as they wanted to discuss about the picketing by Khasi Student Union on 02 Jun 2001. JC-750768X Nb Sub (Now Sub) RC Nath returned back and waited for them for one hour but 6 of workers did not come to shop floor. JC-750768X Nb Sub (Now Sub) RC Nath again went to the civilian rest room along with Nk Puran Singh, Nk SC Singh, Hav J Kushwaha and Hav Lalan Sah at 0930h on 01 Jun 2001. On reaching the rest room of civilian, all other workers except T/No 172 Shri Bihari Singha and T/No 169 Civ Shri PC Das left for the work. They were going through some files. Shri PC Das shouted at Nb Sub RC Nath and said "Hamara Koi Claim Pass Nahi Hota, Yahan Par Sab Gandu Offr Aur JCO Hai, Hum Bharat Varash Ke Emppoyee Hain Yahan Par Dil Karega Bathenge". Shri PC Das again raised his hands to hit Nb Sub RC Nath and said "AAP Chor Ho, Aur FIP Ka Paise Khaya Hai". He made a gesture to hit Nb Sub RC Nath with hand but Nb Sub RC Nath ducked and saved himself. It is pertinent to bring out that Lt Col JS Bains, OC 306 Stn Wksp, EME never went to the recreation room. The accusation is thus false and a blatant lie. Inquiry report had amply clarified the same

**Para – 3:** The statement made by the appellant that Lt Col JS Bains was present at the place of incident is false and intended to divert the focus of authorities. The incident was informed by JC-750768X Nb Sub (Now Sub) RC Nath vide letter dated 01 Jun 2001 (Annexed as Annexure – I) to Officer Commanding, Lt Col JS Bains on 01 Jun 2001. Lt Col JS Bains, being disciplinary authority served a charge sheet vide Office Memorandum No 21208/169/Est-Ind/LC dated 11 Jul 2001 for violations of Rule 3 and 7 of CCS (Conduct) Rules and directed for inquiry to be held under Rule 14 of CCS (Conduct) Rules 1965 (Annexed as Annexure II).

**Para - 4:** The statement made by appellant is wrong. T/No 172 Civ Shri Bihari Singha was willfully showing disobedience of order by refusing to proceed to place of works from 01 Feb 2001 to 01 Jun 2001. In this regards Section IC Nb Sub Md C Ahmed has intimated to Officer Commanding through letters dated 01 Mar 01, 01 Apr 01, 01 May 01, 31 May 01 (Annexed as Annexure - III, IV, V, VI) regarding disobedience of orders and no output in respect of T/No 172 Civ/Elect Shri Bihari Singha.

**Para - 5:** The evidence on behalf of Disciplinary Authority has been closed and the same has been intimated to the applicant vide letter No 10401/172/Civ/Inq dated 12 Jun 2002, (Annexed as Annexure - VII). Departmental Inquiry reports are self explanatory (Annexed as Annexure - VIII).

**Para - 6:** The contention of the appellant that defence was denied to him is wrong. The inquiry had been ordered as per Rule 14 of CCS (CCA) Rules 1965. The charge sheets had been given to the applicant as per Rule 14 of CCS (CCA) Rule 1965 for violations of Rule 3 and 7 of CCS (Conduct) Rules by the applicant. The applicant was served charge sheet vide Office memorandum No 21208/172/Est-Ind/LC dt 11 Jul 2001. The applicant had taken up this contention in OA 150/2003 when appealing against the dismissal order in the Hon'ble CAT, Guwahati. The Hon'ble CAT had dismissed OA No 150/2003 of the applicant and up held the procedure followed by the department. (Copy Hon'ble Court Order is Annexed as Annexure - IX).

**Para - 6 (i):** Inquiry was ordered as per CCS (CCA) Rules, 1965 against the applicant. Shri Bidyot Panging, AEE of this Workshop was appointed as Inquiry Officer vide order dated 30 Aug 2001 (Annexed as Annexure - X). Shri Amar Singh the Presenting Officer vide 10401/172/Civ dated 30 Aug 2001 (Annexed as Annexure - XI). The letters had been dispatched duly registered but these letters were not accepted by the applicant and returned back by postal authorities on 15 Sep 2001 with the remarks "Refused". (Annexed as Annexure - XII).

**Para - 6 (ii):** The charge sheet had been given to the applicant as per Rule 14 of CCS (CCA) Rule 1965 for violations of Rule 3 and 7 of CCS (Conduct) Rules by the applicant. The applicant was asked to see the Statements of State Witnesses recorded so far during the proceedings of the Inquiry in the earlier hearings during hearing on 11 Mar 2001. However, the applicant "Refused" to see the document/statements of the witnesses without defence assistance.

Ser No	Date of hearing	Remarks
(a)	20 Sep 2001	The charged official had been directed to appear for preliminary hearing on 08 Oct 2001
(b)	08 Oct 2001	The applicant was directed appear for hearing on 08 Oct 2001 vide Registered letter No 10401/Civ/172/Inq dt 20 Sep 2001 ( <u>Annexed as Annexure-XIII</u> ). The inquiry proceedings could not proceed, as T/No 172 Civ/Elect Shri Bihari Singha the charged official was absent.
(c)	20 Oct 2001	The applicant was directed to appear for hearing on 20 Oct 2001 vide Registered letter No 10401/Civ/172/Inq dt 03 Oct 2001. Inquiry was adjourned because the charged official was absent.



(d)	15 Nov 2001	Hearing date was intimated vide Registered letter No 10401/172/Civ/Inq dt 23 Oct 2001 and the same letter was returned undelivered by the postal authorities as the applicant "Refused" to accept the letter. Due to willful absence of the Charged official inquiry commenced ex-parte. Statement of state witness No 1 – JC-750768X Nb Sub (Now Sub) RC Nath has been taken.
(e)	16 Jan 2002	Hearing date was intimated vide Registered letter No 10401/172/Civ/Inq dt 21 Dec 2001, but the letter was returned undelivered because the applicant had refused to accept the registered letter as per remarks endorsed on the letter by the postal authority.
(f)	05 Feb 2002	The applicant was directed to report for inquiry on 05 Feb 2002 vide Registered letter No 10401/172//Civ/Inq dated 24 Jan 2002 ( <u>Annexed as Annexuro – XIV</u> ). Since the Charged official was absent Statement of No 14624820Y NK D Palani, State Witness (SW-2) has been recorded.
(g)	11 Mar 2002	T/No 172 Civ/Elect Shri Bihari Singha, charged official came for the first time for hearing with an application for reconsidering the appointment of Defence Assistance from outside Shillong. The application has been considered by the Inquiry Officer and has been rejected. Charged official has been advised to engage a defence assistance from Shillong. He was also told to attend the hearing regularly since ex-parte inquiry has already been started. The statement of State witnesses recorded so far in the earlier hearings were shown to the charged official. However, he refused to see the statements without defence assistance.
(h)	13 Mar 2002	Again the charged official came with an application seeking permission for engaging a defence assistance from outside Shillong. This request had already been rejected by the Inquiry Officer. The charged official was again asked to see the proceedings and statements of State Witnesses recorded in early hearings. However, he was not willing to see these documents without having the defence Assistance. Statements No 14577561N NK Puran Singh, SW-4 has been recorded in front of the charged official.
(i)	15 Mar 2002	Hearing started at 1100 h and JC-753913P Nb Sub Jayaprakashan K was produced by the Presenting Officer as State Witness No 5 (SW-5). Statement of (SW-5) had been recorded, charged official was asked to cross examine, the witness. However, the Charged Official was not willing to speak anything.

(k)	20 Mar 2002	Charged official left the place of hearing just before the commencement of hearing saying 'I will not attend the inquiry proceedings'. Statement of 14591478F NK S C Singh, (SW-6) had been recorded Cross examination by Defence Assistance/charged official was not done . Question/answer session was postponed by the Inquiry Officer to give fair chance to the applicant till the next hearing.
(l)	26 Mar 2002	Charge Official was absent . No 14591478F NK SC Singh (SW-6) was again produced by the presenting officer for questioning by the Inquiry Officer.
(m)	08 Apr 2002	Presenting officer came with No 14581821L Hav J Kushwaha, as State Witness No 7 (SW-7) and his statement was recorded. Questioning by inquiry officer was postponed to next hearing. Charged official was absent on that day.
(n)	22 Apr 2002	No 14581821L Hav J Kushwaha, State Witness No 7(SW-7) was questioned by Inquiry Officer and his deposition was completed. Charged official was again absent.
(o)	10 May 2002	JC-754018W Nb Sub UP Mishra was produced by presenting officer as State Witness-3 (SW-3) and his statement has been recorded .Questioning by Inquiry Officer has been postponed to the next hearing. Charged official was absent.
(p)	07 Jun 2002	Questioning by inquiry officer on statement of SW-3 has been completed. Charged Official was absent. Evidence on behalf of the Disciplinary Authority has been closed as Presenting officer declared that he had produced sufficient witnesses to prove the charges against the charged official and remaining listed State Witnesses need not to be produced for inquiry.
(q)	26 Jun 2002	Charged official had not submitted his written statement of defence inspite of intimation given by the inquiry officer vide registered letter No 10401/172/Civ/Inq dated 12 Jul 2002 for submission of his written statement on next hearing scheduled to be on 16 Jul 2002.
(r)	16 Jul 2002	Charged official was given one more opportunity for submission of written statement of defence on 03 Aug 2002.He was also informed that if he did not submit his statement by due date the evidence on behalf of Charged Official will be treated as closed.
(s)	03 Aug 2002	As charged official had not submitted any written statement of defence. He failed to attend the hearing. The case was declared as closed by the inquiry officer. Presenting officer had been directed to submit his written brief by 31 Aug 2002 with a copy to the charged official. After receiving the brief of the Presenting Officer, charged official had to submit his written brief by 28 Sep 2002.

Para – 6 (iv): The contention of the appellant is wrong. Protracted corres regarding intimation of the proceeding in the form of registered this conduct of the is on record. It was intimated in person also that proceedings will be held on every alternative day except Sunday and Holiday and if the date of inquiry is falls on Sunday & Holiday these will be held on next working day at same time and place. Accordingly the inquiry proceeding were also conducted. Photo-copies of Inquiry Report against the applicant are all as Annexure – XV.

Para – 6 (v) : The inquiry proceeding had been conducted as per CCS (CCA) Rules 1965 . All the documents were produced in the inquiry proceedings but the applicant refused to see the Statements without defence assistance from outside Shillong which was rejected by the disciplinary authority.

Para – 6 (vi) : Recorded Statements of the five State Witnesses proved the accusations made were absolutely correct. Since the accused neither cooperated nor made himself available for the Inquiry the proceedings were closed. Copies of Departmental Inquiry are annexed as Annexure – VIII.

Para – 6 (vii): This statement is false and misconstrued.

Para – 6 (viii) : The statement is false. On 11 Mar 2002 the applicant came for the first time for hearing and was asked to see the statements of State Witnesses recorded so far in the earlier hearings. However "Refused" to see the statements without defence assistance.

Para – 6 (ix) : The statement is false. Inquiry Officer had brought out holdings all charges very explicitly against T/No 172 Civ Shri Bihari Singha in the Findings of the Inquiry Report. Copies of Findings of Inquiry is annexed as Annexure - XV.

Para – 6 (x) : The statement is false. Application dt 29 Nov 2003 of the appellant was perused in detail by the disciplinary authority.

Para – 6 (xi): The statement is false .The applicant had come for the first time on 11 Mar 2001 for hearing the inquiry proceeding. The statements of State Witnesses recorded so far in the earlier hearings were shown to the applicant but he 'Refused' to see the statements without defence assistance.

Para – 6 (xii): The charged official was asked to see all the statements of State Witnesses recorded during the ex-parte inquiry proceedings. However, he refused to see the statements.

Para – 6 (xiii) : The statement is false and illogical.

Para – 6 (xiv) : The applicant was continuously & willfully absenting himself from the place of work wef 01 Feb 2001 to 01 Jun 2001. Attendance Register of Sec is self explanatory and letters dated 01 Mar 01, 01 Apr 01, 01 May 01, 31 May 01 from Section IC Nq Sub Md C Ahmed regarding disobedience of orders and no output has intimated to the Officer Commanding.

Para – 6 (xv): The charged official was given a fair chance to see the documents produced by witnesses on earlier hearings. However, he showed total non-cooperation and 'Refused' to see any document.

**Para – 6 (xvi) :** The statement is false. Inquiry Officer enquired into the incident and the proceedings conducted during 20 Sep 2001 to 03 Aug 2002 which has been duly recorded in detail consisting of statement of witnesses, exhibits, correspondence details, details appeals and its disposal thereof. The findings arrived at by the inquiry found the charged official guilty of all the five charges by the inquiry officer.

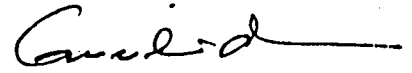
**Para – (xvii) :** It is a false statement. Lt Col JS Bains, disciplinary authority was informed the incident by JC-750768X Nb Sub (Now Sub) RC Nath vide letter dated 01 Jun 2001.

3. It is submitted that on perusal of service records of T/No 172 Civ/Elect Shri Bihari Singha that the indl was found to be continuously absenting himself from his place of work. His performance was found unsatisfactory on more than one occasions. He has been disrespectful towards his seniors for which protracted correspondence exists in the unit records are as follows:-

- (a) Absent report of T/No 172 Civ/Elect Shri Bihari Singha dt 25 Jun 88 by Nb/Sub Kehar Singh Incharge Elect Sec (Copy att as Annexure - XVI).
- (b) Show Cause Notice to T/No 172 Civ/Elect Shri Bihari Singha dt 28 Jun 88 issued by Maj SK Mitra, Officer Commanding regarding insolent behaviour and insubordination towards Nb Sub Kehar Singh ((Copy att as Annexure - XVII)).
- (c) Show Cause Notice to T/No 172 Civ/Elect Shri Bihari Singha dt 30 Jun 88 issued by Maj SK Mitra, Officer Commanding for absenting without sanction of leave- a violation of the existing orders when investigation of a case against T/No 172 Civ/Elect Shri Bihari Singha was in progress ((Copy att as Annexure - XVIII)).
- (d) Application by T/No 172 Civ/Elect Shri Bihari Singha dt 02 Jul 88 with regards to acceptance of mistakes and seeking excuse (Copy att as Annexure - XIX).
- (e) On 29 Jun 88 at 0900h T/No 172 Civ/Elect Shri Bihari Singha manhandled Gate NCO No 7098052 Hav GC Pawa (Annexed as Annexure – XX) and went out of wksp premises without permission. An FIR was lodged with Shillong Police Stn (Annexed as Annexure - XXI). Stn HQ was intimated and C of I ordered.
- (f) Detailed report on the C of I blaming T/No 172 Civ/Elect Shri Bihari Singha for taking law in his own hands and hitting wksp Gate NCO (Copy att as Annexure - XXII).
- (g) Show Cause Notice to T/No 172 dt 24 Jun 89, issued by Capt JP Singh, Officer Commanding to T/No 172 Civ/Elect Shri Bihari Singha for being absent from place of wk (Copy att as Annexure - XXIII).
- (h) Warning letters, issued to T/No 172 Civ/Elect Shri Bihari Singha by Capt JP Singh, OC, on 05 Aug 89 for organizing TEER business and gambling during working hour in workshop premises (Copy att as Annexure – XXIV).
- (i) Proceedings of Court Case No 88/U/S325/5061PC dated 19 May 89 in the Court of Shri A Mawlong magistrate Mawlong assault and affray on No 7098052L Hav GC Pawa, workshop gate NCO against T/No 172 Civ/Elect Shri Bihari Singha and compromise arrived by both parties dt 19 May 1989 by both parties. (Copy att as Annexure - XXV).

(k) Final report of Assault and Affray case submitted by Stn HQ, Shillong via letter No 435/3/A dt 27 Oct 89 to AHQ, AGs Br (DV Dte) and HQ EC A Br ) (Copy as Annexure - XXVI).

Encl : As above



(GS Cheema)

Col

Officer Commanding

From,

JC-750768X Nb Sub RC Nath  
306 Stn Wksp EME  
C/O 99 APO

To,

Officer Commanding  
306 Stn Wksp EME  
C/O 99 APO

Complaint :- Mis-Conduct and Mis-behaviour by T No. 172 Electrician Shri Bihari Singha and T.No 169 Veh Mech Shri PC Das

Sir,

Respectfully I beg to state the following few lines for your consideration and taking necessary action.

On 01 Jun 2001, I was performing the duties of Wksp JCO and R&I JCO of 306 Station Workshop. In the morning I used to distribute the duties to all Comb and Civilian Mechanics. No civilian mech reported at the shop floors till 0830h and were sitting in the recreation/rest room. I went to the recreation/rest room where Shri Bihari Singha, Shri PC Das, Shri PK Das, Shri SN Das, Shri SR Borah and Shri SD Lakhar were sitting and reading newspaper. I told them to report to shop floor for work as it was already 0830h. They told me that since there is picketing tomorrow, we will come after some time. I went back and waited for them for one hour. Again I went to recreation room and advised them to come to the shop floor. They kept quiet and kept sitting and ignored me. I again told them to come to the shop floor but no body came.

I, then again went to recreation room alongwith 2-3 more men so that no untoward incident takes place. I took Nk Puran Singh, Nk SC Singh, Hav J Khushwaha and Hav Lalan Shah with me and went to recreation room again. At that time Shri Bihari Singh (Electrician), Veh Mech Shri PC Das, Veh Mech Shri PK Das and Shri SR Borah and Armr Shri SD Lakhar were all sitting there. All other pers except Shri Bihari Singha and Shri PD Das left the recreation room. I advised Shri Bihari Singha and Shri PC Das to move to the shop floor but they refused. Shri Bihari Singha got up and picked up a file and told me that you are telling us to do work but I have to do lot of Union work and our welfare is not being looked after. He took out a file where a letter signed by Lt Col Nk Tiwari Ex OC Wksp was there. He said "Ye Col Tiwari Gandu Officer Tha, Jisne Is Letter Ko Sign Kiya Hai, Hamare Medical Claim Pass Nahi Hote" and the words to that effect. Shri PC Das also repeated that "Hamara Koi Claim Pass Nahi Hote Raha Hai, Hum Kam Nahi Karenga, Yaha Par Sab Gandu Officer Aur JCO Hai, Hum Bharat Varash Ke Employee Hai, Yahan Par Dil Karega Bethenge". Shri PC Das again raised his hand to hit me and said that "AAP Chor Ho, Apne Bahut Chori Ki Hai, Aur FIP Ka Paise Khaya Hai". He made a gesture to hit me but I ducked and went back. Meanwhile Shri Bihari Singha made a violent gesture with both hands to hit me and then hit the table with both hands repeatedly to show anger and violent

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STANDARD FORM FOR CHARGE SHEET FOR MAJOR PENALTIES  
(UNDER RULE 14 OF CCS (CC & A) RULES, 1965)

BY REGD POST  
306 Sth Wksp EME  
C/O 99 APO

21208/172/EST-IND/LC

11 Jul 2001

MEMORANDUM

1. The undersigned proposes to hold an Inquiry against T.No 172 Trade Electrician Name Shri Bihari Singha under Rule 14 of the Central Civil Services (Classification and Appeal) Rules, 1965. The substance of the imputations of mis-conduct, or mis-behaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of charge. (Annexure I). A statement of the imputations of mis-conduct or mis-behaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which and list of witnesses by whom, the article of charges are proposed to be sustained are also enclosed (Annexure III & IV).
2. Shri Bihari Singha is directed to submit within 10 days of the receipt of this memorandum, a written statement of his defence and also to state whether he desires to be heard in person.
3. He is informed that an Inquiry will be held only in respect of those article of charge as are not admitted. He should therefore specifically admit or deny each article of charge.
4. Shri Bihari Singha is further informed that if he does not admit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the Inquiring authority or otherwise fails or refuses to comply the provisions of Rule 14 of the CCS (CC & A) Rules, 1965 or the orders/directions issued in pursuance of the said Rule, the Inquiring Authority may hold the Inquiry against him ex-parte.
5. Attention of Shri Bihari Singha is invited to Rule 20 of the Central Civil Services (Conduct) Rules, 1964, under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt in these proceedings, it will be presumed that Shri Bihari Singha is aware of such representation so that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS (Conduct) Rules, 1964.
6. The receipt of the Memorandum may be acknowledged.



Encls :- Annexure I to IV

T.No 172 Trade Electrician  
Shri Bihari Singha  
Q/R No MES-93/2, Dudgeon Lines, Shillong

*(Signature)*  
(S Bains)  
Lt Col  
Officer Commanding  
(Disciplinary Authority)

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Annexure I

STATEMENT OF ARTICLE OF CHARGE FRAMED AGAINST T.NO 172 TRADE  
ELECTRICIAN NAME SHRI BIHARI SINGHA OF 306 STATION WKSP ENR. C/O 99 APO

ARTICLE CHARGE - I

That the said T.No 172 Shri Bihari Singha while functioning as Civilian Electrician in 306 Station Workshop during the period Feb 2001 to Jun 2001 committed the following offences :-

"Gross misconduct" i.e

- (i) On 01 Jun 2001, at about 0935h created a riotous situation in the rest room while being instructed to go to the shop floor by JC-750768X Nb Sub RC Nath.
- (ii) Assaulting JC-750768X Nb Sub RC Nath on 01 Jun 2001 at 0935h approximately.
- (iii) An act subversive of discipline in that using abusive and filthy language against JC-750768X Nb Sub RC Nath on 01 Jun 2001 at 0935h approximately.
- (iv) Incited the industrial workers by inflammatory speech to join in a mass absence without leave or outpass on 28 May 2001 from 0930h to 1600h after marking their presence in the workshop. Thus 11 civilian workers left their place of work on being incited by him.
- (v) Continual and willful neglect of duty and absence from 01 Feb 2001 to 01 Jun 2001 from place of work on all working days, refusing to accept any work and do any work.
- (vi) Continual and willful disobedience of orders by supervisory staff to proceed to place of work from 01 Feb 2001 to 01 Jun 2001 on all working days.

Thus he exhibited acts as unbecoming of a Government servant and committed offences violating the provision of Rules 3, 7 of CCS (Conduct) Rules 1964.

*[Signature]*  
.....Contd....2/-

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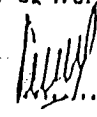
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ANNEXURE IISTATEMENT OF IMPUTATION OF MISCONDUCT OF MISBEHAVIOUR IN SUPPORT  
OF THE ARTICLE OF CHARGES FAMED AGAINST T.NO 172 TRADE ELECTRICIAN  
NAME SHRI BIHARI SINGHAARTICLE OF CHARGE I

1. On 01 Jun 2001, JC-750768X Nb Sub RC Nath of this wksp went to civilian rest room at 0830h and requested the workers to come to the shop floor for work. There were few workers sitting there but T.No 172 Shri Bihari Singha and T.No 169 Shri PC Das informed that they will not come out as they wanted to discuss about the picketing by KSU on 02 Jun 2001. JC-750768X Nb Sub RC Nath returned back and waited for them for one hour but 6 of them did not come to shop floor. JC-750768X Nb Sub RC Nath again went to the civilian rest room alongwith Nk Puran Singh, Nk SC Singh, Hav J Kushwaha and Hav Lalun Sah at 0930h on 01 Jun 2001. On reaching the rest room of civilian, all other workers except T.No 172 Shri Bihari Singha and T.No 169 Shri PC Das left for the work.
2. On being asked by JC-750768X Nb Sub RC Nath, T.No 172 Shri Bihari Singha refused to go to the shop floor and started shouting at Nb Sub RC Nath while reading a letter and said "Yeh Col Tiwari Gandu Offr Tha, Jisne Is letter ko Sign Kiya Hai, Hamara Kol claim Nahin pass hota". During discussion Shri Bihari Singha got wild and violent and started abusing. He raised both his hands in a violent gesture and assaulted Nb Sub RC Nath who saved himself by ducking. Shri Bihari Singha then thumped the table with both hands and showed his anger and violent behaviour and thus created a riotous and disorderly situation which could have further created an unruly and tense situation in the workshop.
3. Khushi Student Union had given a call for Meghalaya Bandh on 25 May 2001 and had announced picketing of offices from 28 May 2001 to 05 Jun 2001. Accordingly civilian workers of this wksp absented themselves on 25 May 2001. As there was disruption of transport a special casual leave was granted on 25 May 2001. On 28 May 2001, majority of the civilian workers of this wksp and other civilian establishments reported for duty. To get another day off T.No 172 Shri Bihari Singha incited 11 workers to go out of the wksp at 0930h saying that they are afraid of KSU and will not perform their duties. T.No 172 Shri Bihari Singha delivered a speech in front of main office and incited 11 workers to leave their place of duty and forced their way out of main gate at 0930h on 28 May 2001 after marking their presence.
4. T.No 172 Shri Bihari Singha had been coming to the workshop on working days from 01 Feb. 2001 to 01 Jun 2001 but has not reported at the place of work on any working day and has absented himself continuously from place of work. Thus he remained absent from place of work for 21 days in Feb, 25 days in Mar, 20 days in Apr and 24 days in May 2001.


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T.No 172 Shri Bihari Singha did not obey the orders of I/Cs shop floors to go to the shop floor for work from 01 Feb 2001 to 01 Jun 2001 and remained sitting in rest room or moving around aimlessly in the workshop without accepting or performing any duty. Thus he disobeyed his I/C shop floors on all working days from 01 Feb 2001 to 01 Jun 2001.

6. Thus he, violated the provision of Rules 3 and 7 of CCS (Conduct) Rules 1964 and committed offences as under :-

- (i) Created a riotous situation in the rest room of civilian worker on 01 Jun 2001 at about 0935h by refusing to obey the orders of JC-750768XNB Sub RC Nath to go to work.
- (ii) Assaulting JC-750768XNB Sub RC Nath on 01 Jun 2001 at 0935h while trying to hit him with both hands who saved himself by ducking. He then thumped the table with both hands to show his anger and violent behaviour.
- (iii) Committed an act subversive of discipline in that he used abusive and filthy language against a Junior Commissioned Officer being his superior Officer.
- (iv) Inciting the industrial workers by delivering an inflammatory speech to join in a mass absence from duty without leave or outpass on 28 May 2001 from 0930h to 1600h.
- (v) Continual absence from place of work on all working days from 01 Feb 2001 to 01 Jun 2001.
- (vi) Continual disobedience of orders of superior off to proceed to place of work from 01 Feb 2001 to 01 Jun 2001 on all working days.

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Annexure III

1. List of documents by which the articles of charge framed against T.No 172 Trade Electrician Name Shri Bihari Singha are proposed to be sustained.

- (a) Complaint given by JC-750768X Nb Sub RC Nath dt 01 Jun 2001
- (b) Absent report submitted by Nk Rajan J, Gate NCO 306 Stn Wksp EME on 28 May 2001.
- (c) Reports of disobedience and no output given by see incharges..
- (d) Report of inciting of workers given by Nb Sub MDC Ahmed, I/C shop floor.

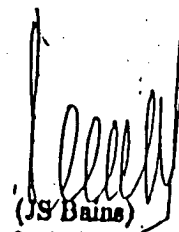
Annexure IV

1. List of witnesses by whom the article of charges framed against T.No 172 Electrician Shri Bihari Singha are proposed to be sustained.

- (a) No 14577561N Nk Purn Singh
- (b) JC-750768X Nb Sub RC Nath
- (c) 14591478F Nk SC Singh
- (d) 14581821L Hav J Kshwaha
- (e) 14558493W Hav Lalan Sah
- (f) 14624820Y Nk D Palaul
- (g) JC-753913P Nb Sub Jal Prakashan
- (h) JC-750236Y Nb Sub (Now Sub) MDC Ahmed
- (k) JC-754018W Nb Sub UP Mishra

Station : C/O 99 APO

Dated : 11 Jul 2001



(JS Bains)  
Lt Col  
Officer Commanding  
(Disciplinary Authority)

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Ammeawee - III  
450

Officer Commanding  
306 Sth Wksp EMB  
C/O 99 APO

**DISOBEDIENCE OF ORDERS AND NO OUTPUT**

Sir,

It is for your info that the following individual have not obeyed the orders to proceed to shop floor for work and have not carried out any work on the days shown against each :-

S.No	Ticket No	Trade	Name	Month	No of working days
1	172	Elec	Poihari Singha	Feb 2001	2/

Dated : 1.3.2001

VC Section  
VC Section  
N b / Sub V. P. MISHRA

To,

Officer Commanding  
306 Sth Wksp EME  
C/O 99 APO

**DISOBEDIENCE OF ORDERS AND NO OUTPUT**

Sir,

It is for your info that the following individual have not obeyed the orders to proceed to shop floor for work and have not carried out any work on the days shown against each :-

S.No	Ticket No	Trade	Name	Month	No of working days
------	-----------	-------	------	-------	--------------------

1	172	Elec	Banari Singh	Mar 2001	25
---	-----	------	--------------	----------	----

Dated : 1.4.2001

*[Signature]*  
VC Section

NB/Sub U.P. MISHRA

To,

Officer Commanding  
306 Stu Wksp EME  
C/O 99 APO

DISOBEDIENCE OF ORDERS AND NO OUTPUT

Sir,

It is for your info that the following individual have not obeyed the orders to proceed to shop floor for work and have not carried out any work on the days shown against each :-

S.No	Ticket No	Trade	Name	Month	No of working days
------	-----------	-------	------	-------	--------------------

1	172	Elec	Ponkai Singh	Apr 2001	20
---	-----	------	--------------	----------	----

Dated : 1.5.2001

L. Subbaraj  
N6/5nb  
VC Section  
N6/5nb V.P.M.B.M.R.A.

Officer Commanding  
306 Stn Wksp EME  
C/O 99 APO

**DISOBEDIENCE OF ORDERS AND NO OUTPUT**

Sir,

It is for your info that the following individual have not obeyed the orders to proceed to shop floor for work and have not carried out any work on the days shown against each :-

S.No	Ticket No	Trade	Name	Month	No of working days
1	1st 172	B-Smgha	May	24	

Dated : 31 May 2001

  
I/C Section  
d/c Md C. Muep

<sup>24</sup>  
Annexure - VII

Regd by Post

Tele : 6177

306 Stn Wksp EME  
C/O 99 APO

10401/172/Civ/INQ

12 Jun 2002

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T/No 172 Civ Elect (MV)  
Shri Bihari Singha  
C/O MES 93/2  
Line  
Shri Cantt

DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED AGAINST T/NO 172  
CIV ELECT (MV) SHRI BIHARI SINGHA UNDER RULE 14 OF CCS (CCA) RULES

1965

1. The following Daily Order Sheets alongwith deposition of the state witness are forwarded herewith for your information and necessary action :-

- (a) Daily Order Sheet No 10401/Civ/172/Inq dated 16 Jan 2002. ✓
- (b) Daily Order Sheet No 10401/Civ/172/Inq dated 05 Feb 2002. ✓
- (c) Daily Order Sheet No 10401/Civ/172/Inq dated 15 Mar 2002. ✓
- (d) Daily Order Sheet No 10401/Civ/172/Inq dated 20 Mar 2002. ✓
- (e) Daily Order Sheet No 10401/Civ/172/Inq dated 26 Mar 2002. ✓
- (f) Daily Order Sheet No 10401/Civ/172/Inq dated 08 Apr 2002. ✓
- (g) Daily Order Sheet No 10401/Civ/172/Inq dated 22 Apr 2002. ✓ (Not forward enclosed)
- (h) Daily Order Sheet No 10401/Civ/172/Inq dated 10 May 2002. ✓
- (i) Daily Order Sheet No 10401/Civ/172/Inq dated 07 Jun 2002. ✓

2. The next date of hearing has been fixed on 26 Jun 2002 at 1100h in my office. The evidence on behalf of Disciplinary Authority has been closed. The proceedings resumed on 26 Jun 2002 for hearing defence evidence after the submission of statement of defence by the charged official. Therefore you are hereby advised to present your self on the above date alongwith list of defence witness, if any.

B.P.

( Bidyot Panging )  
AEE  
Inquiry Officer

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*Received on 16/6/2002 at 1100h*



**INQUIRY REPORT**  
**ON**  
**THE DEPARTMENTAL ENQUIRY HELD AGAINST**  
**T/NO 172 CIV ELECT(MV) SHRI BHIARI SINGHA**  
**OF**  
**306 STATION WORKSHOP EME**

Submitted by  
Inquiry officer  
Vide letter No 10401/Civ/172/Inq  
Dated : - 10 Jul 2003

**LIST OF EXHIBITED DOCUMENTS**

S - 1 Daily attendance and output register of electrical section of 306 Station Workshop EME.

**LIST OF WITNESSES**

SW-1	JC-750768X Nb Sub (Now Sub) R C Nath
SW-2	14624820Y NK D Palani
SW-3	JC-754018W Nb Sub U P Mishra
SW-4	14577561N NK Puran Singh
SW-5	JC-753913P Nb Sub Jayaprakashan K
SW-6	14591478F NK S C Singh
SW-7	14581821L Hav J Kushwah

B.P.

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## INQUIRY REPORT

In the case against  
T/No 172 Civ Elect(MV) Shri Bihari Singha  
of 306 Station Workshop EME

### 1. Introduction

(a) Under sub-rule 2 of 14 of CCS (CC&A) Rules 1965, I was appointed as the Officer Commanding, 306 Station Workshop EME, C/O 99 APO and Inquiry Authority to inquire into the charges framed against T/No 172 Civ Elect(MV) Shri Bihari Singha vide his Memo No 21208/172/Est-Ind/L dated 11 Jul 2001. I have since completed the inquiry and on the basis of documentary and oral evidences adduced before me prepared my Inquiry Report as under: -

(i) A copy of appointment of Presenting Officer under Sub Rule 5 (c) of Rule 14 of CCS Rule 1965 was sent to JC-722950F Nb SKT(MT) Amar Singh of 306 Station Workshop EME, T/No 172 Civ/Elect Shri Bihari Singha, charged official and the undersigned vide 306 Station Workshop EME letter No 10401/172/Civ dated 30 Aug 2001

(ii) Order for change of Presenting Officer JC-722950F Nb SKT(MT) Amar Singh due to retirement was issued vide 10401/172/Civ dated 03 Apr 2001 and copies of the same were sent to JC-755107F Nb Sub SKT R I Kanwar of 306 Station Workshop EME and T/No 172 Civ/Elect Shri Bihari Singha through registered letter.

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(iii) Date of hearing are as under:-

S.No	Date	Remarks
(i)	20 Sep 2001	The charged official has been directed to appear for preliminary hearing on 08 Oct 2001.
(ii)	08 Oct 2001	The inquiry proceedings could not proceed, as T/No 172 Civ/Elect Shri Bihari Singha, charged official was absent.
(iii)	20 Oct 2001	Adjourned because the charged official was absent
(iv)	15 Nov 2001	Charged official was absent, inquiry started ex-parte. Statement of State Witness No 1 - JC-750768X Nb Sub (now Sub) R C Nath has been taken.
(v)	16 Jan 2002	Adjourned, since the charged official was absent and no witnesses has been produced.
(vi)	05 Feb 2002	Statement of No 14624820Y NK D Palani, State Witness (SW-2) has been recorded. Charged official is still absent.
(vii)	11 Mar 2002	T/No 172 Civ/Elect Shri Bihari Singha, charged official came for the first time for hearing with an application for reconsidering the appointment of Defence Assistance from outside Shillong. The application has been considered by the inquiry officer and has been rejected. Charged official has been advised to engage a defence assistance from Shillong and told him to attend the hearing regularly since ex-parte inquiry has already been started. The statement of State Witness recorded so far in the earlier hearings were shown to the charged official but he refused to see the statements without defence assistance.
(viii)	13 Mar 2002	Again the charged official came with an application for permission for engaging defence assistance from outside Shillong which was already rejected by the inquiry officer. The charged official was again asked to see the proceedings and statements of State Witnesses recorded in earlier hearings, but is not willing to see these documents without having the defence assistance. Statement

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		No 14577561N NK Puran Singh, Sw-4 has been recorded in front of the charged official.
(ix)	15 Mar 2002	Hearing started at 1100 h and JC-753913P Nb Sub Jayaprakashan K was produced by the Presenting Officer as State Witness No 5 (SW-5). Statement of SW-5 has been recorded and charged official was asked for cross examination of SW-5, but the charged official was not willing to speak anything.
(x)	20 Mar 2002	Charged Official left the place of hearing just before its start saying "I will not attend the inquiry proceedings". Statement of 14591478F NK S C Singh, SW-6 has been recorded. Cross examination by Defence Assistance/Charged Official was not done and questions by the inquiry officer was postponed to the next hearing.
(xi)	26 Mar 2002	Charged official was absent and No 14591478F NK S C Singh (SW-6) was again produced by the presenting officer for questioning by the inquiry officer.
(xii)	08 Apr 2002	Presenting officer came with No 14581821L Hav J Kushwah as State Witness No 7 and his statement was recorded. Questioning by inquiry officer was postponed to next hearing. Charged official was absent on that day.
(xiii)	22 Apr 2002	No 14581821L Hav J Kushwah, State Witness No 7 was questioned by inquiry officer and his deposition was completed. Charged official was again absent.
(xiv)	10 May 2002	JC-754018W Nb Sub U P Mishra was produced by presenting officer as SW-3 and his statement has been recorded. Cross-examination was not done and questioning by inquiry officer has been postponed to the next hearing. Charged official was absent.
(xv)	07 Jun 2002	Questioning by inquiry officer on statement of SW-3 has been completed. Charged official was absent. Evidence on behalf of the Disciplinary Authority has been closed as Presenting Officer declared that he had produced sufficient witness to prove the charges and remaining listed state witnesses

		need not to be produced for inquiry.
(xvi)	26 Jun 2002	Charged official has not submitted his written statement of defence, inspite of intimation given by the inquiry officer vide registered letter No 10401/172/Civ/Inq dated 12 Jul 2002 for submission of his written statement of defence by 26 Jun 2002. Charged official has been given one more opportunity for submission of written statement on next hearing scheduled to be on 16 Jul 2002.
(xvii)	16 Jul 2002	Charged official was given one more opportunity for submission of written statement of defence on 03 Aug 2002. He was also informed that if he did to do so evidence on behalf of charged official will be treated as closed.
(xviii)	03 Aug 2002	As charged official had not submitted an written statement of defences failed to attend the hearing, the case is declared closed by the inquiry officer. Presenting officer has been directed to submit his written brief by 31 Aug 2002 with a copy to the charged official. After receiving the brief of presenting officer, charged official have to submit his written brief by 28 Sep 2002.

(iv) 30 Aug 2002 : - T/No 172 Civ Elect(MV) Shri Bihari Singha filed appeal dated 30 Aug 2002 to the Directorate General of EME for review against the Order No 10401/172/C dt.03 Aug 2002 and No 10401/172/Civ dt 08 Aug 2002 issued by the Officer Commanding , 306 Stn Wks EME C/O 99 APO, rejecting his representation dt 2 Apr 2002, dt 20 Jun 2002, dt 16 Jul 2002 and 25 Jul 2002, against the appointment of Inquiry Officer on the grounds of bias and pray for fresh appointment of another person as Inquiry Officer.

(v) 26 Nov 2002 : - Presenting Officer submitted his written brief and copy of the same has been forwarded to T/No 172 Civ Elect(MV) Shri Bihari Singha by the undersigned vide registered letter no 10401/172/Civ/INQ dated 11 Jul 2003. Vide this letter the charged official was allowed to submit his written statement by 28 Sep 2002.

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directed to submit his written brief so as to reach on or before 31 Jan 2003.

(vi) 07 Feb 2003 : - The charged official was directed by the Army HQ to approach MG EME, HQ Eastern Command, who is the Appellate Authority in this case.

(vii) 25 Jun 2003 : - The appeal dated 30 Aug 2002 filed by T/No 172 Civ Elect(MV) Shri Bihari Singha was rejected by Maj Gen UK Jha, MG EME, HQ Eastern Command and ordered to proceed with the inquiry.

2. Charges that were framed - As per memorandum No 21208/172/Est-Ind/LC dated 11 Jul 2001, T/No 172 Civ/Elect Shri Bihari Singha while functioning as Civilian Electrician in 306 Station Workshop EME during the period 01 Feb 2001 to 01 Jun 2001 committed the following offences :-

(a) On 01 Jun 2001 at about 0935 h created a riotous situation in the rest room while being instructed to go to the shop floor by JC-750768X Nb Sub (now Sub) R C Nath

(b) Assaulting JC-750768X Nb Sub (now Sub) R C Nath on 01 Jun 2001 at 0935 h approximately.

(c) An act, subversive of discipline in that using abusive and filthy language against JC-750768X Nb Sub (now Sub) R C Nath on 01 Jun 2001 at 0935 h approximately.

(d) Incited the industrial workers by inflammatory speech to join in a mass absence without leave or out pass on 28 May 2001 from 0930 h to 1600 h after marking their presence in the workshop. Thus, 11 civilian workers left their place of work on being incited by him.

(e) Continual and wilful neglect of duty and absence from 01 Feb 2001 to 01 Jun 2001 from place of work on all working days, refusing to accept any work and do any work.

(f) Continual and wilful disobedience of orders given by supervisory staff to proceed to place of work from 01 Feb 2001 to 01 Jun 2001 on all working days.

"Thus he exhibited acts as unbecoming of Government Servant and committed offences violating the provisions of Rule 3, 7 of CCS (Conduct) Rule 1964."

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3. Charges that were admitted or dropped or not pressed :-

- (a) Charged official did not admit any charge vide his letter No Nil dated 28 Jul 2001.
- (b) No charges have been dropped.
- (c) All charges mentioned in charge sheet have been pressed.

4. Charges actually Inquired Into – All the charges mentioned in Para 2 (a) to 2 (f) above have been inquired into.

5. Brief statement of the case of disciplinary authority in respect of the charges inquired into :-

- (a) Disciplinary authority through Presenting Officer has produced the following witnesses on the dates shown against each :-

(i)	JC-750768X Nb Sub (Now Sub) R C Nath	15 Nov 2001	SW-
(ii)	14624820Y NK D Palani	05 Feb 2002	SW-
(iii)	JC-754018W Nb Sub U P. Mishra	10 May 2002	SW-
(iv)	14577561N NK Puran Singh	13 Mar 2002	SW-
(v)	JC-753913P Nb Sub Jayaprakashan K	15 Mar 2002	SW-
(vi)	14591478F NK S C Singh	20 Mar 2002	SW-
		& 26 Mar 2002	
		08 Apr 2002	SW-
(vii)	14581821L Hav J Kushwah	& 22 Apr 2002	

- (b) The presenting Officer through SW-1, SW-4, SW-7 has brought out the T/No 172 Civ/Elect Shri Bihari Singha on 01 Jun 2001 at about 0930 refused to obey the orders of JC-750768X Nb Sub (Now Sub) R C Nath. T/No 172 Civ/Elect Shri Bihari Singha became violent and used abusive & filthy language against JC-750768X Nb Sub (Now Sub) R C Nath. Had JCO not pacified the accompanying Jawans, there would have been a serious problem due to violent behaviors of T/No 172 Civ/Elect Shri Bihari Singha.

(c) Witness No Sw-1, SW-4 and SW-7 through their statements and cross examination have brought out that T/No 172 Civ/Elect Shri Bihari Singha used abusive language and assaulted JC-750768X Nb Sub (Now Sub) R C Nath. T/No 172 Civ/Elect Shri Bihari Singha raised both his hands and made gesture to hit JC-750768X Nb Sub (Now Sub) R C Nath. T/No 172 Civ/Elect Shri Bihari Singha hit the table violently and repeatedly to show his anger and violent behavior. JC-750768X Nb Sub (Now Sub) R C Nath saved himself by ducking being a soldier otherwise he would have been hit. T/No 172 Civ/Elect Shri Bihari Singha also said "Yahan par sabhi gandu officer and JCO hain".

(d) SW-2 and SW-6 produced by the Presenting Officer have brought out that T/No 172 Civ/Elect Shri Bihari Singha incited the industrial workers of 306 Station Workshop EME by an inflammatory speech to join in a mass absence without leave on 28 May 2001 at about 0930 h. About 11 civilian workers of 306 Station Workshop EME absented themselves without leave from their place of work at 306 Station Workshop EME from 0930 h to 1600 h on 28 May 2001.

(e) T/No 172 Civ/Elect Shri Bihari Singha had been willfully neglecting duty, absented from place of work and disobedient of orders from 01 Feb 2001 to 01 Jun 2001. SW-1, SW-3, SW-5 and SW-7 have brought out the continual wilful neglect of duty and absence from place of work and disobedience of orders. T/No 172 Civ/Elect Shri Bihari Singha had been reporting to 306 Station Workshop EME, marked his presence but did not report to place of work and kept sitting and roamed in the workshop from 01 Feb 2001 to 01 Jun 2001.

6. Brief Statement of facts and documents admitted - The brief statement of facts and documents submitted by PO (Presenting Officer) are as under:-

(a) T/No 172 Civ/Elect Shri Bihari Singha of 306 Station Workshop EME was served with a memorandum by Officer Commanding, 306 Station Workshop EME vide memorandum No 21208/172/Est-Ind/LC dated 11 Jul 2001 under Rule 14 (2) of CCS (Classification, Control and Appeal) Rule 1965. He was charged with the following offences i.e. Gross misconduct :-

(i) On 01 Jun 2001 at about 0935 h created a riotous situation in the rest room while being instructed to go to the shop floor by JC-750768X Nb Sub (now Sub) R C Nath

(ii) Assaulting JC-750768X Nb Sub (now Sub) R C Nath on 01 Jun 2001 at 0935 h approximately.

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(iii) An act, subversive of discipline in that using abusive and filthy language against JC-750768X Nb Sub (now Sub) R C Nath on 01 Jun 2001 at 0935 h approximately.

(iv) Incited the industrial workers by inflammatory speech to join in a mass absence without leave or out pass on 28 May 2001 from 0930 h to 1600 h after marking their presence in the workshop. Thus, 11 civilian workers of this wksp left their place of work on being incited by him.

(v) Continual and wilful neglect of duty and absence from 01 Feb 2001 from place of work on all working days, refusing to accept any work and do any work.

(vi) Continual and wilful disobedience of orders given by supervisory staff to proceed to place of work from 01 Feb 2001 to 01 Jun 2001 on all working days.

"Thus he exhibited acts as unbecoming of Government Servant and committed offences violating the provisions of Rule 3, 7 of CCS (Conduct) Rule 1964"

(b) The list of documents by which the articles of charges framed against T/No 172 Oiv/Elect Shri Bihari Singha where to be sustained were as under :-

(i) Complaint given by JC-750768X Nb Sub (Now Sub) R C Nath dated 01 Jun 2001.

(ii) Absent report submitted by NK Rajan J, Gate NCO of 306 Station Workshop EME on 28 May 2001.

(iii) Report of disobedience and no output given by section in-charges.

(iv) Report of inciting of workers given by Nb Sub (Now Sub) MDC Ahmed, I/C Shop floor.

(c) That the list of witnesses by whom the article of charges were proposed to be sustained were as under :-

(i) No 14577561N NK Puran Singh

(ii) JQ-750768X Nb Sub (now Sub) R C Nath

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- (iii) No 14591478F NK S C Singh
  - (iv) No 14558493W Hav Lalan Sah
  - (v) No 14581821L Hav J Kushwaha
  - (vi) No 14624820Y NK D Palani
  - (vii) JC-753913P Nb Sub Jayaprakasan K
  - (viii) JC-750236Y Nb Sub (Now Sub) MDC Ahmed
  - (ix) JC-754018W Nb Sub U P Mishra

7. Points for determination and Issues to be decided - The following issues needs to be decided:-

- (a) Whether T/No 172 Civ/Elect Shri Bihari Singha created a riotous like situation in rest room of civilians on 01 Jun 2001 at 0930 h when being instructed by JC-750768X Nb Sub (Now Sub) R C Nath ?
- (b) Did T/No 172 Civ/Elect Shri Bihari Singha assaulted JC-750768X Nb Sub (Now Sub) R C Nath on 01 Jun 2001 at 0930 h approximately ?
- (c) Whether T/No 172 Civ/Elect Shri Bihari Singha used abusive and filthy language against JC-750768X Nb Sub (Now Sub) R C Nath ?
- (d) Did T/No 172 Civ/Elect Shri Bihari Singha incited the industrial workers of 306 Station Workshop EME on 28 May 2001 by delivering an inflammatory speech at about 0930 h ?
- (e) Was T/No 172 Civ/Elect Shri Bihari Singha continually neglecting duty, absence from place of work from 01 Feb 2001 to 01 Jun 2001 ?
- (f) The issue of disobedience of orders from 01 Feb 2001 to 01 Jun 2001 given by supervisory staff from 01 Feb 2001 to 01 Jun 2001.

8. Brief statement of case of Govt Servant :-

- (a) T/No 172 Civ/Elect Shri Bihari Singha was presented with a memorandum by Officer Commanding, 306 Station Workshop EME vide their registered letter No 21208/172/Est-Ind/LC dated 11 Jul 2001.
- (b) Inquiry Officer and Presenting Officer were appointed vide 306 Station Workshop EME registered letter No 10401/172/Civ dated 30 Aug 2001 and of even No dated 30 Aug 2001 respectively.

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(c) T/No 172 Civ/Elect Shri Bihari Singha was intimated by me vide registered letter No 10401/172/Inq dated 20 Sep 2001. (registered No 4450 dated 21 Sep 2001) for preliminary hearing on 08 Oct 2001 at 1100 h in Office of Workshop Officer at 306 Station Workshop EME. He was also intimated to give particulars of defence assistance by 01 Oct 2001.

(d) T/No 172 Civ/Elect Shri Bihari Singha vide his letter No Nil dated 27 Sep 2001 intimated that he is unable to manage defence assistance within a short span and asked for 30 days more time to arrange for defence assistance.

(e) T/No 172 Civ/Elect Shri Bihari Singha was given fresh date of preliminary hearing on 20 Oct 2001 at 1100 h at the Office of Workshop Officer of 306 Station Workshop EME. He was also intimated to give particulars of defence assistance if any. Registered letter No 10401/Civ/172/Inq dated 03 Oct 2001 refers.

(f) T/No 172 Civ/Elect Shri Bihari Singha vide his letter No Nil dated 13 Oct 2001 requested for common proceedings with T/No 169 Civ/VM P C Das and requested for engaging a civil lawyer.

(g) Officer Commanding, 306 Station Workshop EME, the Disciplinary Authority, vide registered letter No 10401/Civ/172 dated 19 Oct 2001 (registered No 156 dated 20 Oct 2001) rejected the plea of common proceedings as all the charges were not common. He also rejected the plea of Charged Official for employ a lawyer as defence assistance since the Presenting Officer was not a legally qualified officer.

(h) T/No 172 Civ/Elect Shri Bihari Singha was advised by the undersigned to attend the inquiry and resist from delaying tactics vide registered letter No 10401/Civ/172 dated 20 Oct 2001 (Registered No 175 dated 23 Oct 2001). He was also informed that if he continues to use delaying tactics, the inquiry will start ex-parte.

(j) Next date of hearing was fixed on 15 Nov 2001 at 1100 in 306 Station Workshop EME and T/No 172 Civ/Elect Shri Bihari Singha was intimated vide registered letter No 10401/Civ/172/Inq dated 23 Oct 2001 sent through registered post No 244 dated 25 Oct 2001. The charged official was also intimated that if he fails to appear in person on 15 Nov 2001, ex-parte inquiry would be started.

(c) T/No 172 Civ/Elect Shri Bihari Singha was intimated by me vide registered letter No 10401/172/Inq dated 20 Sep 2001 (registered No 4450 dated 21 Sep 2001) for preliminary hearing on 08 Oct 2001 at 1100 h in Office of Workshop Officer at 306 Station Workshop EME. He was also intimated to give particulars of defence assistance by 01 Oct 2001.

(d) T/No 172 Civ/Elect Shri Bihari Singha vide his letter No Nil dated 27 Sep 2001 intimated that he is unable to manage defence assistance within a short span and asked for 30 days more time to arrange for defence assistance.

(e) T/No 172 Civ/Elect Shri Bihari Singha was given fresh date of preliminary hearing on 20 Oct 2001 at 1100 h at the Office of Workshop Officer of 306 Station Workshop EME. He was also intimated to give particulars of defence assistance if any. Registered letter No 10401/Civ/172/Inq dated 03 Oct 2001 refers.

(f) T/No 172 Civ/Elect Shri Bihari Singha vide his letter No Nil dated 13 Oct 2001 requested for common proceedings with T/No 169 Civ/VM P C Das and requested for engaging a civil lawyer.

(g) Officer Commanding, 306 Station Workshop EME, the Disciplinary Authority, vide registered letter No 10401/Civ/172 dated 19 Oct 2001 (registered No 156 dated 20 Oct 2001) rejected the plea of common proceedings as all the charges were not common. He also rejected the plea of Charged Official for employ a lawyer as defence assistance since the Presenting Officer was not a legally qualified officer.

(h) T/No 172 Civ/Elect Shri Bihari Singha was advised by the undersigned to attend the inquiry and resist from delaying tactics vide registered letter No 10401/Civ/172 dated 20 Oct 2001 (Registered No 175 dated 23 Oct 2001). He was also informed that if he continues to use delaying tactics, the inquiry will start ex-parte.

(j) Next date of hearing was fixed on 15 Nov 2001 at 1100 in 306 Station Workshop EME and T/No 172 Civ/Elect Shri Bihari Singha was intimated vide registered letter No 10401/Civ/172/Inq dated 23 Oct 2001 sent through registered post No 244 dated 25 Oct 2001. The charged official was also intimated that if he fails to appear in person on 15 Nov 2001, ex-parte inquiry would be started.

(k) Since the charged official was remained absent on 15 Nov 2001, ex-parte inquiry were started and statement of state witness no 1 was recorded.

(l) T/No 172 Civ/Elect Shri Bihari Singha requested for 15 days more time to engage a defence assistance vide his letter dated 23 Nov 2001.

(m) Next date of hearing was fixed on 16 Jan 2002 at 1100 in the Office of 306 Station Workshop EME vide registered letter No 10401/Civ/172/Inq dated 21 Dec 2001 (Registered No 5667 dated 22 Dec 2001). Charged Official was also intimated that since ex-parte inquiry has been started from 15 Nov 2001, charged official was once again advised to attend inquiry which will be held on every alternative day except Sundays and Holidays with effect from 16 Jan 2002

(n) T/No 172 Civ/Elect Shri Bihari Singha continued delaying tactics by engaging in infructuous correspondence. His letters dated 07 Dec 2001 and 24 Dec 2001 refers.

(o) T/No 172 Civ/Elect Shri Bihari Singha returned back registered letter No 10401/Civ/172/Inq dated 21 Dec 2001 did not accept the letter and letter was returned back undelivered by Postal Authority with the remark "Refused to Accept". The letter was for fixing next date of hearing on 16 Jan 2002.

(p) T/No 172 Civ/Elect Shri Bihari Singha gave the name of UDC, Shri M P Singha of 222 ABOD at Guwahati for engaging the defence assistance vide his letter No Nil dated 21 Jan 2002.

(q) T/No 172 Civ/Elect Shri Bihari Singha was intimated vide registered letter No 10401/Civ/ 72/Inq dated 08 Feb 2002 that all his letters have been replied. He was also intimated that he has not forwarded the consent of Shri M P Singha, UDC of 222 ABOD at Guwahati, whom he wanted to engage as defence assistance. He was also intimated vide registered letter No 10401/Civ/172/Inq dated 08 Feb 2002 (registered No 930 dated 09 Feb 2002) that he was again trying to delay the proceedings as he has not attached the consent of UDC, Shri M P Singha of 222 ABOD at Guwahati, which is at a distance of more than 100 Kms. His request for engaging a defence assistance from outside station was not agreed to due to long distance between place of inquiry and place of posting of the defence assistance. He was advised to engage a defence assistance from one of the local unit as sufficient time has already been given to him and ex-parte proceedings have been started.

(r) T/No 172 Civ/Elect Shri Bihari Singha in connivance with Postal Authorities received the registered letters written by Inquiry Officer after one month at a distance of 1 Kilometer and tried to project that delay has been due to late receipt of letters.

(s) A registered letter No 10401/Susp/Civ dated 13 Feb 2002 (registered No 1071 dated 14 Feb 2002) was written to T/No 172 Civ/Elect Shri Bihari Singha by Disciplinary Authority that he has been delaying the inquiry by delaying tactics and not receiving the registers letters in time or not accepting these letters. He was again advised to attend the inquiry.

(t) T/No 172 Civ/Elect Shri Bihari Singha was intimated vide letter No 10401/Civ/172/Inq dated 22 Feb 2002 (registered No 2574 dated 22 Feb 2002) that he has been given five opportunities on 08 Oct 2001, 20 Oct 2001, 15 Nov 2001, 16 Jan 2002 and 05 Feb 2002. He was given one more chance to report to Inquiry Officer on 11 Mar 2002 at 1100 h in office of 306 Station Workshop EME.

(u) T/No 172 Civ/Elect Shri Bihari Singha vide his letter dated 09 Mar 2002 stated that no suitable Central Govt worker is available in Shillong for defence Assistance and he be permitted to engage Shri M P Singha, UDC of 222 ABOD at Guwahati.

(v) T/No 172 Civ/Elect Shri Bihari Singha vide his letter dated 12 Mar 2002 and 14 Mar 2002 addressed to appointing authority requested to permit engage a defence assistance from outside Shillong.

(w) Disciplinary authority of 306 Station Workshop EME vide letter No 10401/Civ/172 dated 03 Apr 2002 (registered No 3558 dated 05 Apr 2002) rejected the appeal of charged official for engaging a defence assistance from outside station due to long distance. The charged official was also intimated in detail the delaying tactics adopted by him since starting of inquiry. He was advised to engage a defence assistance from about 1000 Central Govt Workers located at Shillong. The disciplinary authority upheld the decision of Inquiring Authority for rejecting the defence assistance from outside Shillong.

(x) T/No 172 Civ/Elect Shri Bihari Singha continued making infructuous correspondence for not receiving the registered letters and appointment of Inquiry Officer. He had returned the registered letter No 10401/Civ/172 dated 03 Apr 2002.

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(y) T/No 172 Civ/Elect Shri Bihari Singha after a lapse of 9 months after receiving the memorandum again wrote to Disciplinary Authority for some documents of appointment of inquiring authority, Presenting Officer. He further asked the inquiring authority for security check at the gate. His letter dated 21 Mar 2002 refers.

(z) Similar letters were again written on 23 Mar 2002 and 26 Mar 2002.

(aa) Disciplinary authority vide letter No 10401/172/Civ dated 18 Apr 2002 (registered No 3955 dated 19 Apr 2002) intimated the charged official that copies of the appointment of inquiry officer and presenting officers were sent to the charge official by Registered AD post and the same was returned by the postal authority with a remarked that "Refused to accept". As per Govt of India instruction to Rule 30 of CCS (CCA) Rules 1965, documents sent by Registered AD Post, if not accepted by the addressee and is returned by the post office to the sender, further, action may be taken as if the documents has been served. He had been corresponding with inquiring authority from the very beginning and was fully aware of who is the inquiring authority. He had also attended the inquiry on 11 Mar 2002, 13 Mar 2002 and 15 Mar 2002 as is evident from the gate passes. However, zerox copies of detailment of Inquiry Officer, Presenting Officer were again sent to him.

(ab) T/No 172 Civ/Elect Shri Bihari Singha vide his letter dated 29 Apr 2002 again raised the following issue just to delay the procedures:

(i) That he does not know the detailment of Inquiry Officer and Presenting Officer.

(ii) That he received the letters of appointment of Inquiry Officer on 27 Apr 2002 after a lapse of 8 months.

(iii) That Inquiry Officer is connected with all matters and is subordinate to disciplinary authority, he can not be inquiry officer.

(ac) T/No 172 Civ/Elect Shri Bihari Singha again raised the same issues vide letter dated 20 Jun 2002.

(ad) Officer Commanding, 306 Station Workshop EME vide registered letter No 10401/172/Civ dated 03 Aug 2002 (registered No 3132 dated 05 Aug 2002) replied and the gist is as under: -

(i) That charged official was supplied with the copies of Appointment of Inquiry Officer and Presenting Officer vide letter No

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140101/172/Civ dated 30 Aug 2001 through registered letter. Charged Official was also mentioned that he had been corresponding with inquiry officer and have actually attended the inquiry on 11 Mar 2002, 13 Mar 2002 and 18 Mar 2002.

(ii) As that charged official was told that he has no authority to reject inquiry officer and no bias has been mentioned by him. The inquiry officer was not even present on 01 Jun 2001 in the workshop as he was on temporary duty at 311 Sln Wksp EME wef 07 May to 09 Sep 2001.

(iii) The appeal of the charged official for bias against the inquiry officer was also rejected vide para 3 of the aforesaid letter.

(iv) That JC-722950F Nb Sub SKT (MT) Amar Singh was replaced as Presenting Officer by JC-755107F Nb Sub SKT RK Kanwar due to retirement of JC-722950F Nb Sub SKT (MT) Amar Singh.

(v) Charged official was also intimated to collect his subsistence allowances which he has not been collecting.

(vi) He was also advised to appoint a defence assistance.

(ae) T/No 172 Civ/Elect Shri Bihari Singha again wrote a letter on 16 Jul 2002 with the same old allegations and delaying tactics.

(af) T/No 172 Civ/Elect Shri Bihari Singha wrote another letter on 25 Jul 2002. The gist is as under :-

(i) That he has rejected the inquiry officer.

(ii) That inquiry is to be stayed when application is made against inquiry officer.

(iii) That JC-755107F Nb Sub SKT RK Kanwar has been found as Presenting Officer in place of JC-722950F Nb Sub SKT (MT) Amar Singh.

(iv) That he wants to be heard in person.

(ag) T/No 172 Civ/Elect Shri Bihari Singha vide registered letter No 10401/172/Civ dated 08 Aug 2002 (registered No 3293) was intimated the following by Officer Commanding, 306 Station Workshop EME :-



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(i) That plea of charged official has already been rejected as no bias has been mentioned. Moreover, the inquiry officer was not even present in the unit on 01 Jun 2001 as he was on temp duty at 311 Stn Wksp EME wef 07 May 2001 to 09 Sep 2001. The plea of staying the inquiry was also rejected.

(ii) That the change of appointment of presenting officer has already been intimated to charged official vide 10401/Civ/172 dated 03 Aug 2002 and of even No dated 03 Aug 2002.

(iii) That charged official was told to engage a defence assistance from about 1000 Central Govt Workers located at Shillong.

(iv) That charged official was also intimated that he had been attending the inquiry on 11 Mar 2002, 13 Mar 2002, 15 Mar 2002 and 20 Mar 2002 and has been absenting after 20 Mar 2002.

(ah) That Daily Order Sheets were regularly sent to charged official vide registered letter Nos :-

(i) 10401/172/Civ/Inq dated 23 Oct 2001.

(ii) 10401/172/Civ/Inq dated 04 Jan 2001.

(iii) 10401/172/Civ/Inq dated 12 Jun 2001.

(iv) Daily Order Sheets dated 11 Mar 2001 and 13 Mar 2001 was received by the charged official by hand after the proceedings.

(v) Daily Order Sheet No 10401/172/Civ/Inq dated 26 Jun 2002 was forwarded to the charged official vide registered post receipt No 5454 dated 08 Jul 2002.

(vi) Daily Order Sheet No 10401/172/Civ/Inq dated 16 Jul 2002 was forwarded to the charged official vide registered post receipt No 5683 dated 17 Jul 2002.

(vii) Daily Order Sheet No 10401/172/Civ/Inq dated 03 Aug 2002 was forwarded to the charged official vide registered post receipt No 3132 dated 05 Aug 2002.

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(aj) That Charged Official continued making representation to inquiry office, Disciplinary Authority and DGEME, Army Headquarters, New Delhi. The main gist has been rejection of inquiry officer.

(ak) T/No 172 Civ/Elect Shri Bihari Singha was intimated to submit his written brief by 31 Jan 2003 vide letter No 10401/172/Civ/Inq dated 11 Jan 2003. The copy of brief of presenting officer was also sent to him.

(al) That no reply regarding written brief has been recd.

(am) That T/No 172 Civ/Elect Shri Bihari Singha sent a copy of appeal addsd to DGEME dated 30 Aug 2002. The gist of appeal was 'Bias against inquiry officer'.

(an) That Army Headquarters vide letter No 21892/24/EME Civ-3 dated 07 Feb 2003 intimated the charged official to send the appeal to MGEME East Command, Kolkata.

(ao) Charged Official did not send the appeal to MG EME, Eastern Command, the appellate authority.

(ap) The appeal of bias against the inquiry officer was rejected by Brig SK Kakar, offg MG EME, East Comd vide order no 332230/2/SBS/EME Civ dated 23 May 2003.

(aq) The order was however cancelled vide HQ East Comd letter No 332230/2/SSB/EME Civ dated 09 Jun 2003.

(ar) Maj Gen UK Jha, MG EME, East Comd, the appellate authority rejected the appeal of charged official vide order no 332230/2/SBS/EME Civ dated 23 Jun 2003.

9. Assessment of Evidence in respect of each point - Assessment of evidence in respect of each point is discussed below in respect of T/No 172 Civ/Elect Shri Bihari Singha :-

(a) T/No 172 Civ/Elect Shri Bihari Singha was charged for "Gross Misconduct" as per sub clause (i) of Article (i) ie "On 01 Jun 2001, at about 0935 h created a riotous situation in the rest room while being instructed to go to shop floor by JC-750768X Nb Sub. (now Sub) R C Nath". The main point of the charge is creating a riotous situation in the rest room. The meaning of word 'riot' as given in the dictionary is disorder, uproar, disturbance of peace & noisy festivity. Presenting Officer through SW-1,

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SW-4, SW-6, SW-7 has amply proved disorderly and riotous situation in the workshop on 01 Jun 2001 at about 0935 h. T/No 172 Civ/Elect Shri Bihari Singha refused to obey the orders of JC-750768X Nb Sub (Now Sub) R C Nath and became violent and used abusive language against the JCO. The violent behavior of T/No 172 Civ/Elect Shri Bihari Singha would have created more serious situation had the JCO not pacified the accompanying jawans. T/No 172 Civ/Elect Shri Bihari Singha had become so violent as he even started abusing the previous OC and used words like "Yeh Col Tiwari Gandu Officer tha". The above has been brought out by all the above witnesses. T/No 172 Civ/Elect Shri Bihari Singha did not attend the inquiry on one pretext or the other except attending it on 11 Mar 2002, 13 Mar 2002, 15 Mar 2002 & 20 Mar 2002. He signed the proceedings on 11, 13 Mar 2002 but refused to sign on 15 Mar 2002 & 20 Mar 2002. Charged official did not cross examine any witnesses.


(b) The next charge against T/No 172 Civ/Elect Shri Bihari Singha was assaulting JC-750768X Nb Sub (Now Sub) R C Nath on 01 Jun 2001 at about 0935 h approximately. The dictionary meaning of word assault is hostile attack, a rush against, to make a violent attack. The presenting officer through SW-1, SW-4, SW-6 & SW-7 has brought out that T/No 172 Civ/Elect Shri Bihari Singha made a gesture to hit JC-750768X Nb Sub (Now Sub) R C Nath by raising both his hands and then hit the table violently and repeatedly to show anger. The JCO saved himself by ducking being a soldier; otherwise, he would have been hit. The charge of assault on JC-750768X Nb Sub (Now Sub) R C Nath has been sufficiently proved by above witnesses. T/No 172 Civ/Elect Shri Bihari Singha did not offer any defence and absented himself from the inquiry proceedings except attending the inquiry on 11 Mar 2002, 13 Mar 2002, 17 Mar 2002 & 20 Mar 2002. He refused to cross examine any witnesses.

(c) The next charge on T/No 172 Civ/Elect Shri Bihari Singha is "an act subversive of discipline in that using abusive and filthy language against JC-750768X Nb Sub (Now Sub) R C Nath. Presenting Officer through witness No SW-1, SW-4, SW-6 & SW-7 has brought out that T/No 172 Civ/Elect Shri Bihari Singha used abusive language against the JCO and used words like "Aap Chor hain aur FIP ka paisa khaya hai", "Yahan par sabhi gandu officer aur JCO hain". The use of such filthy language by /No 172 Civ/Elect Shri Bihari Singha has been proved by above witnesses. T/No 172 Civ/Elect Shri Bihari Singha did not offer any defence and did not attend the inquiry except on 11 Mar 2002, 13 Mar 2002, 17 Mar 2002 & 20 Mar 2002 but refused to cross-examine any witnesses.

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(d) The next charge on T/No 172 Civ/Elect Shri Bihari Singha was "inciting the industrial workers by inflammatory speech to join in a mass absence without leave or out pass on 28 May 2001 from 0930 h to 1600 h. Mass absence by 11 workers has been proved by SW-2 and SW-6. T/No 172 Civ/Elect Shri Bihari Singha delivered an inflammatory speech in front of the main office of 306 Station Workshop EME at about 0930 h on 28 May 2001 and incited the industrial workers to leave the workshop without any leave or gate pass in support of Bandh Call given by Khasi Student Union a student body in Shillong. He made the speech "Aaj Ham Kam Nahi Karenge, hum log abhi Ghar jayenge". 11 industrial workers alongwith him absented from the workshop from 0930h to 1600h on 28 May 2001 without

any leave or gate pass after marking their presence. Charged official did not offer any defence and did not attend the inquiry except on 11 Mar 2002, 13 Mar 2002, 17 Mar 2002 & 20 Mar 2002. Mass absenting without permission amounts to strike and absenteeism took place because of speech of the charged official.



(e) Continual and wilful neglect of duty and absence from place of work from 01 Feb 2001 to 01 Jun 2001 has been amply proved by the statements of SW-1, SW-3, SW-4, SW-5 & SW-7. JC-754018W Nb Sub U P Mishra, SW-3 has brought out that T/No 172 Civ/Elect Shri Bihari Singha had been absent from place of work from 01 Feb 2001 to 01 Jun 2001 after marking his presence. The charged official has been roaming around in the workshop or sitting in rest room all this time. The same is also clear from the attendance register produced by JC-754018W Nb Sub U P Mishra, who was the I/C Section of Electrical shop. As the charged official has been absenting from place of work on all working days from 01 Feb 2001 to 01 Jun 2001, his out put has been shown nil in the register. The register has been marked as an Exhibit. The presenting officer has thus amply proved by above witnesses the continual and wilful neglect of duty and absence from 01 Feb 2001 to 01 Jun 2001 on all working days.

(f) Continual wilful disobedience of orders given by supervisory staff to proceed to place of work from 01 Feb 2001 to 01 Jun 2001 has also been proved by SW-1, SW-3, SW-4, SW-5 & SW-7. JC-754018W Nb Sub U P Mishra has been continually ordering the charged official to proceed to place of work but he always refused making excuses. The JCO has been maintaining a register of output of all workers working under him. The charged official did not attend the inquiry even after giving him sufficient time except attending 11 Mar 2002, 13 Mar 2002, 17 Mar 2002 & 20 Mar 2002. The register has been attached as Exhibit S-1.

FINDING OF EACH CHARGES

10. In view of the assessment of evidence on each point, statement of witnesses, cross examination of each witness and brief submitted by the Presenting Officer, the findings on each charge are record as under :-

(a) T/No 172 Civ/Elect Shri Bihari Singha of 306 Station Workshop EME is found guilty of "Gross Misconduct" i.e

(i) Creating a riotous situation in the rest room of civilian workers of 306 Station Workshop EME on 01 Jun 2001 at about 0935 h when ordered to go to shop floor by JC-750768X Nb Sub (Now Sub) R C Nath of the same workshop.

(ii) Assaulting JC-750768X Nb Sub (Now Sub) R C Nath of 306 Station Workshop EME on 01 Jun 2001 at about 0935 h in civilian rest room of 306 Station Workshop EME.

(iii) An act subversive to discipline, in that using abusive and filthy language against JC-750768X Nb Sub (Now Sub) R C Nath of 306 Station Workshop EME.

(iv) Inciting the industrial workers by delivering an inflammatory speech on 28 May 2001 at about 0930 h to join in a Bandh called by Khasi Student Union of Shillong. 11 Industrial workers of 306 Station Workshop EME left the workshop premises after marking their presence and without leave or out pass.

(v) Continual wilful neglect of duty and absence from place of work on all working days wef 01 Feb 2001 to 01 Jun 2001.

(vi) Continual and wilful disobedience of orders of supervisory staff to proceed to place of work on all working days from 01 Feb 2001 to 01 Jun 2001.

On the basis of documentary and oral evidence adduced in the case before me and in view of the reasons given above, I hold that all the six charges against T/No 172 Civ Elect (MV) Shri Bihari Singha.

B.P.  
(Bidyot Pangting)  
Inquiry Officer

## CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 150 of 2003.

Date of Order : This the 20th Day of November, 2003.

The Hon'ble Mrs. Lakshmi Swaminathan, Vice-Chairman.

The Hon'ble Mr S.K. Naik, Administrative Member.

1. Sri Bihari Singha,  
son of Late Kunjeswar Singha,  
Qtr. No. MFS - 93/2 Deodgenline,  
Shillong Cantt.,  
Shillong, Meghalaya.

2. Sri Prabhat Ch. Das,  
son of late Gopal Chandra Das,  
resident of Qtr. No. DF 18/1&2,  
Burma Line, Shillong Cantt.,  
Shillong, Meghalaya.

...Applicants

By Advocate S/Sri S. Dasgupta, S. Chakraborty.

- Versus -

1. Union of India,  
represented by the Secretary to the  
Govt. of India, Ministry of Defence,  
New Delhi.

2. Director General FME,  
Master General of Ordinance Branch,  
Army Head Quarters,  
HQ, P.O. New Delhi-110011.

3. MGEMF (Major General Electrical  
Mechanical Engineering),  
Head Quarters,  
Eastern Command (FME Branch),  
Fort William, Kolkata-21.

4. Officer Commanding,  
306 Station Workshop FME,  
C/o 99 APO.

5. A E E,  
306 Station Workshop FME,  
C/o 99 APO,  
(Inquiry Officer).

...Respondents

By Shri A. Deb Roy, Sr. C.G.S.C.

O R D E R (ORAL)MRS LAKSHMI SWAMINATHAN (V.C)

In this application the applicants have prayed for  
the following main reliefs :

i) Set aside and quash the exparte enquiry proceeding  
held against the applicants.

ii) Set aside and quash the appointment of Inquiry  
Officer.

iii) Direct the respondents to conduct a fresh enquiry by appointing a new Inquiry Officer.

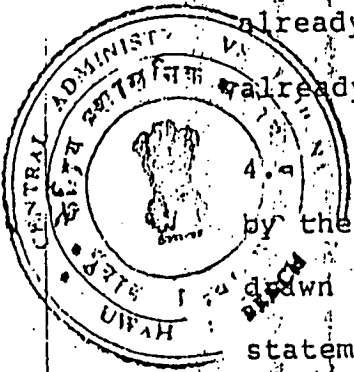
iv) Direct the respondents to pay the due subsistence allowance to the applicants alongwith the arrears.

2. During the hearing, learned counsel for the applicants has submitted that he does not press prayer in clause (iv). He has submitted that in pursuance of Tribunal's order dated 25.7.2003, the applicants have since received the due subsistence allowance from the respondents. We have heard Mr S. Chakrabarty, learned counsel for the applicants. It is also relevant to note that the submissions of Mr A. Deb Roy, learned Sr. G.C.S.C. for the respondents that the amount due to the applicants as subsistence allowance was not paid to the applicants earlier, not due to the fault of the respondents but the applicants did not accept the same. However, we note the submissions of both the learned counsel that this part of the prayer no longer survives.

3. With regard to the main claims of the applicants, two main grounds have been taken by the learned counsel for the applicants, namely, (i) that the appointment of the Enquiry Officer, Sri Bidyut Panging, had never been informed to the applicants. They have also submitted that as he is the officer in charge of maintaining the Daily Register of Attendance and was the Supervisory Officer of the applicants, he is biased and therefore, unfit to be appointed as the Enquiry Officer. In this regard, learned counsel for applicants has submitted that the applicants had submitted a number of representations to the respondents to change the Enquiry Officer and has submitted that the applicants have no objection if the proceedings are continued by any other

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officer. The second ground taken by the learned counsel for the applicants is that they have been unfailly denied the assistance of one Sri M.P. Singha, UDA, who is admittedly working in 222 ABOD, Narengi, Guwahati. The learned counsel has submitted that it was only for the first time on 8.2.2002 that the respondents had informed the applicants that their request for availing of the service of Sri M.P. Singha, as Defence Assistant had been turned down on the ground that the officer's consent had not been attached with the letter and there was a long distance from the place of enquiry i.e., Shillong and the place of posting of the Defence Assistant at Guwahati. He was, therefore, advised to engage one of the officers at Shillong as Defence Assistant on the ground that sufficient time had already been granted to him and ex parte proceeding had already been started.



The respondents have controverted the averment made by the applicants. Sri A. Deb Roy, learned Sr. C.G.S.C. has drawn our attention to the averments made in the written statement and in particular, Paragraphs 10, 11 and 13. He has submitted that the contentions of the applicants that they were not informed about the commencement of the enquiry proceeding is not at all correct. He has submitted that they were intimated by registered letters at their residential addresses on 31.8.2001 about the same but these letters were returned undelivered by the postal authorities with the remarks "Refused". They have also annexed the copies of the letters sent by registered post to the applicants, including Annexures Q-1 and Q-2. He has also relied on the relevant instructions issued by the Government of India under Rule 38 of the CCS (CCA) Rules 1965.

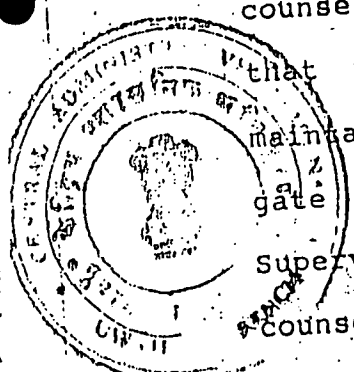


According to the respondents, the enquiry proceeding was started by the enquiry officer on 29.1.2001 and applicant No. 1 had attended the enquiry on 11.3.02, 13.3.02, 15.3.02 and 20.3.02. Applicant No. 2 had attended the enquiry proceeding on 14.3.02 and 18.3.02. Learned counsel for the applicants has not denied these facts but has submitted that applicant No. 1 has attended the enquiry proceedings on various dates in March 2002, only on receipt of the information to attend the enquiry proceedings from the Enquiry Officer but has repeatedly contended that at that time, they had not received the letter from the disciplinary authority informing them of the appointment of the Enquiry Officer and Presenting Officer dated 30.8.2001. Learned counsel for the respondents has also stressed on the fact that the Enquiry Officer, Sri Bidyut Panging, does not maintain the Attendance Register which is kept at the main gate and maintained by the Gate NCO, who is the Supervisory-in-charge. In the circumstances, the learned counsel has submitted that there is no infirmity either in the appointment of the enquiry officer or proceeding held ex parte against the applicants after they stopped attending the enquiry. According to the respondents, the applicants were deliberately trying to delay the proceedings which fact has been denied by the learned counsel for the applicants in the oral reply, though no written rejoinder has been filed.

5. We have carefully considered the pleadings, the submissions made by the learned counsel for the parties as well as the relevant documents on record.

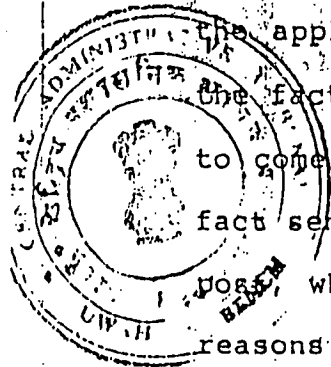
6. It is noted from the submissions made by the learned counsel for the applicants that they do not deny receipt of the letter from the disciplinary authority dated 18.4.2002

Contd...5



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(though the date does not appear in Annexure - E) which was repeatedly referred to by learned counsel for the applicants. In this letter, the respondents have clearly stated that Sri Bidyut Panging was appointed as Enquiry Officer vide order dated 30.8.2001. They have also submitted that the copies of the appointment of the Enquiry Officer and Presenting Officer were sent to the applicants vide registered post. It is also relevant to note that the applicants have admitted that on subsequent dates in March 2003, they have appeared before the Enquiry Officer, which according to them is on the intimation received from that Officer. The respondents have, on the other hand, clearly stated that they have sent the necessary communications to the applicant by registered post, which has been refused by the applicants as indicated by the postal authorities. In the facts and circumstances of the case, we have no reasons to come to the conclusion that the respondents have not in fact sent the communications to the applicants by registered post, which were not <sup>refused</sup> to be accepted by the applicants, for reasons best known to them. These facts have further been clarified in the aforesaid letters of respondents i.e., disciplinary authority, in which he has clearly stated in para 4 that "however, a xerox copy of appointment of EO and PO dated 30.8.2001 are again forwarded for information." He has also referred to the facts that the applicants had attended the enquiry proceedings on various dates in March 2002 and these facts are not denied by the applicants. It is further relevant to note from the copies of letters received by the applicants and annexed by themselves in O.A. show that time and again, the respondents have advised the applicants to co-operate with the enquiry officer for early finalisation of the enquiry proceedings initiated on

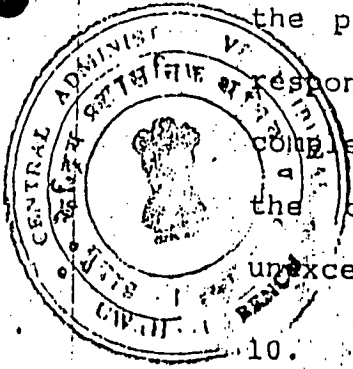


11.7.2001 against them. In the circumstances of the case, the contention of the learned counsel for the applicants that they were not intimated about the appointment of the enquiry officer is baseless and contentions to the contrary are accordingly rejected.

7. In the circumstances of the case, we are also unable to agree with the contentions of the learned counsel for the applicants that the explanation given by the respondents that as the enquiry officer is not the person who is to make the entries in the Daily Attendance Register he should be replaced by another Enquiry Officer. The reasons given by the respondents for rejecting the request of the applicants for change of enquiry officer cannot be held to be either unreasonable or arbitrary to justify any interference in the matter at this stage. In the circumstances of the case this contention of the applicants is rejected.

8. With regard to the appointment of the defence assistant to assist the applicants in the enquiry proceeding, we also find the reasons given by the respondents neither arbitrary nor illegal to set aside that decision. They have stated, inter alia, that the applicants should nominate any other defence assistant from the same Station where the applicants are posted, i.e., Shillong. We do not find any merit in the submission of the learned counsel for the applicants that merely because there is only a distance of 100 Kms between Shillong and Guwahati, the stand taken by the respondents is any way unjustified in the circumstances of the case. Besides no prejudice has been shown to be caused to the applicants.

9. According to the learned counsel for applicants, against the order passed by the disciplinary authority rejecting their request for appointment of another enquiry officer in place of Sri Bidyut Panging, A.E., the applicants had submitted an appeal before the appellate authority, which was also rejected by the order dated 23.5.2003. Admittedly, the applicants did not file any appeal against the rejection by the disciplinary authority of their request for appointment of M.P. Singha as defence assistant. Apparently, they have also not made any further request for appointing any other officer from the same Station to assist them in the pending enquiry proceedings inspite of reminders from the respondents that they ought not to delay the pending proceedings. We find the stand taken by the respondents that the pending enquiry proceedings should be completed, in accordance with rules expeditiously, in which the co-operation of the applicants have been sought unexceptionable.



10. From the documents on record we are unable to come to the conclusion whether after the rejection of the applicants' request for appointment of a defence assistant in the enquiry proceedings from what date the ex parte proceedings were continued. It is seen from the letter issued by the respondents dated 8.2.2002 that they had again advised the applicants to engage a defence assistant from one of the local units to avoid further delay in the enquiry proceedings. It is further relevant to note that this O.A. itself was filed in the Tribunal on 26.6.2003 i.e. more than one year after the rejection letter issued by the respondents on 8.2.2002. It is also relevant to note that the applicants have not filed any appeal before the higher authority with regard to replacement of the defence assistant

in place of Sri M.P. Singha. Therefore, in the circumstances of the case, it appears that the applicants even after being informed that their request to engage Sri M.P. Singha as defence assistant was rejected did not take any further steps in the matter in accordance with the rules. In this view of the matter the further ex parte proceedings, if any, held by the respondents cannot be held to be arbitrary or against the relevant rules as sufficient opportunity of hearing had been afforded to the applicants which they chose not to avail. In the facts and circumstances of the case, we are unable to come to the conclusion that there has been any violation of the principles of natural justice or the relevant rules to warrant any interference in the matter on this ground also. Therefore, this ground also fails and is rejected.



11. In the facts and circumstances of the case, it is needless to add that the aforesaid pending disciplinary proceedings against the applicants should be completed in accordance with law, rules and instructions as expeditiously as possible and the applicants should also co-operate in the same.

12. In the result, for the reasons given above, we find no merit in the application. The O.A. accordingly fails and is dismissed. No order as to costs.

Sd/ VICE-CHAIRMAN  
Sd/ MEMBER (A)

Notified to be true Copy  
प्रमाणित प्रतिलिपि

*[Signature]*  
22/12/03

Officer (J)  
C.A.T. GUWAHATI BRANCH  
Guwahati-781005

CONFIDENTIAL

A. 1155

STANDARD FORM OF ORDER RELATING TO APPOINTMENT OF  
INQUIRY OFFICER UNDER RULE 14 (2) OF CCS (CC&A) RULES 1965

Regd by Post  
306 Stn Wksp EME  
C/O 99 APO

10401/172/Civ

30 Aug 2001

ORDER

1. Refer to this Workshop memorandum of Charge sheet bearing No 21208/172/Est IND/LC dt 11 Jul 2001.

2. WHEREAS an inquiry under rule 14 of Central Civil Services (Classification, Control & Appeal) Rule 1965 is being held against T.No 172 Civ/Elect Shri Bihari Singha.

3. AND WHEREAS the undersigned considers that an inquiry Officer should be appointed to inquire into the charges framed against him.

4. Now therefore, the undersigned in exercise of the powers conferred by Sub Rule (2) of the said rule, hereby appoints Shri Bidyot Panging, AEE as Inquiry Officer to inquire into the charges framed against the said T.No 172 Civ/Elect Shri Bihari Singha.

(S Bains)

Lt Col

Officer Commanding  
Disciplinary Authority

Copy to :-

T.No T73 Civ/Elect  
Shri Bihari Singha  
Qtr No MES 93/2  
Dudgcon Lines  
Shillong Cantt

Shillong Cantt

NOO

Shri Bidyot Panging  
306 Stn Wksp EME  
C/O 99 APO

for information and action along with a copy of  
charge sheet mentioned above.

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Annexure XI

6177

Regd By Post  
306 Stn Wksp EME  
C/O 99 APO

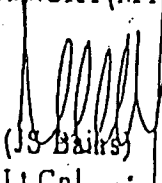
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10401/172/Civ

30 Aug 2001

APPOINTMENT OF PRESENTING OFFICER

1. Where an Inquiry under rule 14 of Central Civil Services (Classification, Control and Appeal) Rule 1965 is being held against T.No 172 Civ/Elect Shri Bihari Singha.
2. And whereas the undersigned considers that a Presenting Officer should be appointed to present on behalf of the undersigned.
3. Now therefore, the undersigned, in exercise of the powers conferred by Sub Rule 5 (c) of Rule 14 of the said rules, hereby appoints JC- 722950PNb Sub/SKT(MT) Amar Singh as the Presenting Officer.

  
 (JS Bairs)  
 Lt Col  
 Officer Commanding  
 Disciplinary Authority
Copy to :-
 JC-722950PNb Sub/SKT(MT) -  
 Amar Singh  
 306 Stn Wksp EME

for info alongwith the following docs :-

- (a) Copy of memorandum
- (b) Copy of written statement of defence
- A Copy of statement of witnesses.

 Shri Bihari Singha  
 T.No 172 Civ/Elect  
 Qtr No MES 93/2  
 Dudgeon Lines,  
 Shillong Cantt.

for info.

 Shri AEE Bidyot Punging  
 Inquiry Officer  
 306 Stn Wksp EME  
 C/O 99 APO

for info.

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Annex - XI

Annexure - XII



PREVENT TUBERCULOSIS TAKE  
B.C.G. VACCINATION  
आतु टुबर्कुलोसिस  
प्रीवेंट टुबर्कुलोसिस

NO 834



REC'D BY POST L.A.  
HINDUSTAN  
ON INDIA GOVERNMENT SERVICE

7/10/72 C. N. R. /  
Shri B. C. B. /  
C. N. R. /  
Dudgaon /  
Shri C. N. R. /

30-08/201

Depot Class  
400 Station, West India



Annexure-XIII Annexure-VI

58

986

REGD POST

306 Stn Wksp EME

C/O 99 APO

20 Sep 2001

Received on 26 Sep 2001

T. No. 61.

10401/Civ/172/LNQ

T.No 172 Electrician  
Shri Bihari Singha  
Qtr No MES 93/2  
Dudgeon Lines  
Shillong

DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED  
AGAINST SHRI T.NO 172 ELECTRICIAN BIHARI SINGHA  
UNDER RULE 14 OF CCS (CCA) RULES 1965

1. I have been appointed as Inquiring authority to conduct inquiry in the case above cited, vide Order No 10401/172/Civ dt 30 Aug 2001 issued by Lt Col JS Bains, OC of this unit, a copy of which has been endorsed to you.
2. Accordingly, a preliminary hearing of the case will be held by me on 08 Oct 2001 at 1100h at Office of Workshop Officer 306 Stn Wksp EME, C/O 99 APO. You should present yourself alongwith your defence assistant, if you so desire, in time to attend the preliminary hearing and wait until further directions. In case, you fail to appear at the appointed date and the proceeding will be taken ex-parte.
3. Instructions for getting your Defence Assistance relieved will be issued if his particulars and willingness to work as such alongwith the particulars of his controlling authority are received by me before 01 Oct 2001.
4. While nominating a Government servant as Defence Assistance the instructions on the subject should be kept in view.
5. Receipt of this notice may please be acknowledged.

B.P.  
(Bidyot Panging).

AEE

Inquiring Authority

Copy to :-

JC-72950F Nb Sub/SKT(MT) Amar Singh -  
Presenting Officer  
306 Stn Wksp EME  
C/O 99 APO

He is also requested to attend the preliminary hearing at appointed date and time alongwith all listed documents in Original.

B.P.  
(Bidyot Panging)

AEE

Inquiring Authority

Received on  
26/9/2001

27/9/2001  
13/10/2001  
27/12/2001

59  
CONFIDENTIAL

Registered Post  
306 Stn Wksp EME  
C/O 99 APO

24 Jan 2002

(48)

487

Tele 6177

10401/172/Civ/Inq

T/No 172 Civ Elect (MV)  
Shri Bihari Singha  
Qtr No MES 93/2  
Deodgen Line  
Shillong Cantt

Annexure XIV

DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED AGAINST T/NO 172  
ELECT (MV) SHRI BIHARI SINGHA UNDER RULE 14 OF CCS (CCA) RULES 1965

1. Refer to :-
  - (a) My letter No 10401/172/Civ/Inq dated 23 Oct 2001.  
*Registered*
  - (b) Your letter No Nil dated 23 Nov 2001, recd on 29 Nov 2001.
  - (c) My Registered letter No 10401/172/Civ/Inq dated 21 Dec 2001. (Returned back unaccepted on 16 Jan 2002).
2. On your request vide letter at Para 1 (b) above, you have been given sufficient time to search for a defence assistance and date of hearing was fixed on 16 Jan 2002 which was intimated to you vide our Registered letter No 10401/172/Civ/Inq dt 21 Dec 2001. But this letter was returned undelivered because you had refused to accept the registered letter on 11 Jan 2002, as per remarks endorsed on the letter by the postal authority.
3. It seems that you are trying to delay the inquiry. However, it is for your information that exparte inquiry has already been started on 15 Nov 2001 (which was intimated to you vide our letter ref at Para 1 (c) above). You are hereby given one more chance to report for inquiry on 05 Feb 2002 at 1100 h in my Office.

to  
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at  
jr  
16

I

B.P.  
(B Panging)  
AEE  
Inquiring Authority

Copy to :-

Officer Commanding  
306 Station Wksp EME  
C/O 99 APO

JC-722950F Nb Sub SKT (MT)  
Amar Singh  
306 Station Wksp EME  
C/O 99 APO

For Info.

CONFIDENTIAL

CONFIDENTIAL

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REGISTERED BY POST

306 Station Workshop EME  
C/O 99 APO

21 Nov 2003

488  
Ammeawke-XV

Tele : 6177

10401/Sus/Civ (i)

T/No 172 Civ Elect (MV)  
Shri Bihari Singha  
Qtr No MES 93/2  
Deodgen Line  
Shillong Cantt

**FORWARDING OF INQUIRY REPORT : DISCIPLINARY PROCEEDINGS**  
**UNDER RULE 14 OF CCS (CC & A) RULE 1965 AGAINST**  
**T/NO 172 CIV ELECT SHRI BIHARI SINGHA**

1. Refer to :-

(a) Memorandum of Charge Sheet bearing No 21208/172/Est/Ind/LC dated 11 Jul 01.

(b) Our letter No 10401/172/Civ dated 30 Aug 01.

(c) Rule 15 (2) of CCS (CC&A) Rule 1965.

2. A copy of inquiry report submitted by the Inquiry Officer is forwarded herewith for your information. You are hereby directed to submit your representation, if any within 15 days of receipt of inquiry report.

  
(J S Bains)

Lt Col

Officer Commanding

Encls : 20 Pages

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FINDINGS OF DISCIPLINARY AUTHORITY ON THE DEPARTMENTAL  
INQUIRY HELD AGAINST T/NO 172 CIV (ELECT) SHRI BIHARI SINGHA  
OF 306 STATION WORKSHOP EME

1. Having gone through the Inquiry Officer's report, record of the Inquiry and representation received from the charged official, the findings of the disciplinary authority on each article of charge are as under :-

(a) T/No 172 Civ/Elect Shri Bihari Singha was charged for "Gross Misconduct" as per sub clause (i) of Article (i) i.e "On 01 Jun 2001, at about 0935h created a riotous situation in the rest room while being instructed to go to shop floor by JC- 750768X Nb Sub (Now Sub) RC Nath". Inquiry Officer through the statements of SW-4, SW-6, SW-7 has come to the conclusion that T/No 172 Civ/Elect Shri Bihari Singha refused to obey the orders of JC-750768X Nb Sub (Now Sub) RC Nath and became violent and used abusive language against the JCO. From the records of the inquiry report, it reveals that situation would have become serious, had the JCO not pacified the accompanied jawans. Charged Official through his representation dated 29 Dec 03 has not brought out any defence for disobeying the order of a Junior Commission Officer and creating a riotous like situation. In view of all above T/No 172 Civ/Elect Shri Bihari Singha is thus found guilty of the said charge. He has also not opted to cross examine witness No SW-4, SW-6 and SW-7.

(b) The next charge against the Charged Official was "Assaulting JC-750768X Nb Sub (Now Sub) RC Nath of 306 Station Workshop on 01 Jun 2001 at about 0935 h in civilian rest room of 306 Station Workshop EME . The Inquiry Officer on the basis of statements of SW-1, SW-4, SW-6 and SW-7 has come to the conclusion that Charged Official made a gesture to hit JC-750768X Nb Sub (Now Sub) RC Nath by raising both his hands and then hit the table violently and repeatedly to show anger. The Charged Official did not offer any defence during the Inquiry as well as in his representation dated 29 Nov 03. He has also not cross examined witness No SW-1, SW-4, SW-6 and SW-7. T/No 172 Civ/Elect Shri Bihari Singha is therefore found guilty of the said charge.

(c) The next charge against T/No 172 Civ/Elect Shri Bihari Singha was "An act subversive of discipline in that using abusive and filthy language against JC-750768X Nb Sub (Now Sub) RC Nath of 306 Station Workshop". The Inquiry Officer has found the Charged Official guilty on the basis of statements of SW-4, SW-5, SW-6 and SW-7. The Charged Official did not brought out any point in his defence in the representation dated 29 Nov 2003 and has also not cross examined witnesses. Therefore T/No 172 Civ/Elect Shri Bihari Singha is found guilty of the said charge.

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(d) The next charge against the Charged Official was inciting the Industrial Workers by delivering an inflammatory speech on 28 May 01 at about 0930h in 306 Station Workshop EME to join in a mass absence. As per statements of SW-2 and SW-6, 11 civilian workers left the wksp at about 0930h upto 1600h on 28 May 2001 due to the inflammatory speech delivered by T/No 172 Civ/Elect Shri Bihari Singha. The Charged Official has not brought out any defence in his representation dated 29 Nov 03 and cross examination. T/No 172 Civ/Elect Shri Bihari Singha is therefore found guilty of the said charge.

(e) The next charge against the individual was continual and willful absence from place of work on all working days wef 01 Feb 2001 to 01 Jun 2001. The Inquiry Officer has relied upon the statements of SW-1, SW-3, SW-4, SW-5 and SW-7. JC-754018W Nb Sub UP Mishra has been maintaining the records where the Charged Official has been found absent on all working days from place of work even though he has been reporting to the workshop but kept roaming around or kept sitting in the rest room. The Charged Official has not brought any defence in this regard and has not cross examined any witnesses. T/No 172 Civ/Elect Shri Bihari Singha is therefore found guilty of the said charge.

(f) The next charge against the Charged Official was continual and willful disobedience of orders given by supervisory staff. The Inquiry Officer has found the Charged Official guilty of the charge and Charged Official has also not brought any defence in this regard in his representation. In view of all above T/No 172 Civ/Elect Shri Bihari Singha is found guilty of the said charge.

2. Further in addition to forwarding representation on above charges the Charged Official has raised other points which are being disposed off by the undersigned as follows :-

(a) The Charged Official has been given ample opportunity as per the CCS (CCA) Rules but from the inquiry report and other documents it reveals that he has been using dilatory tactics. He has been seen returning the registered letters which have been returned back by Postal Authorities with the remarks "Refused to Accept". Charged Official attended the Inquiry on 11 Mar 2002, 13 Mar 2002, 17 Mar 2002 and 20 Mar 2002 but in spite of giving fair opportunity to cross examine the witness did not opt to do the same. As per records held, he has refused to co-operate with the Inquiry Officer and kept insisting that he has not received the registered letters. Returning the registered letter by Postal Authorities with the remarks "Refused to accept" proves his intentions of not co-operating with the Inquiry Officer.

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CONFIDENTIAL

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(b) The Inquiry has been ordered as per CCS (CCA) Rules 1965. The Charged Official was given ample opportunity to defend himself as per the CCS (CCA) Rules but his aim has been not to co-operate with the Inquiry Officer. During the progress of inquiry the charged official was found forwarding repeated representation with a view to delaying it. However the disciplinary authority decided the same on merit by giving due weightage to his points

(c) The presenting officer has been changed due to the retirement of JC-722950F Nb Sub/SKT(MT) Amar Singh and charged official has been intimated through a registered letter about the change.

(d) The Charged Official represented against Inquiry Officer after 8 months and his appeal was rejected first by Disciplinary Authority and then by Reviewing Authority as no bias was found.

(e) The Inquiry Officer has given his findings based on the statements of witnesses presented by Presenting Officer. It was upto the Presenting Officer to present his witnesses as were sufficient to prove charge. Accordingly the other witness who were not required by Presenting Officer were not required to be heard. However the charged officer had all the liberty to call any of such witness for his defence side which actually he has not produced before the Inquiring Officer.

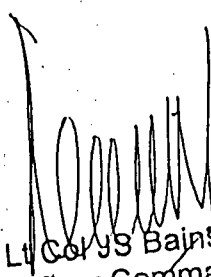
(f) The Inquiry was conducted exparte after giving sufficient time to the Charged Official and as per CCS(CCA) Rules, 1965.

(g) The record shows that the dates were fixed by Inquiry Officer who had given adequate and sufficient time to the charged official to attend the Inquiry. All the letters were sent through registered posts.

(h) The proceedings of the Inquiry have been forwarded to Charged Official by the Inquiry Officer through registered letter No 10401/Sus/Civ(i) dated 21Nov 2003 and all daily order statements have been found forwarded by the Inquiry Officer.

Station : C/O 99 APO

Dated : 27 Dec 2003

  
Lt Col JS Bains  
Officer Commanding  
Disciplinary Authority

CONFIDENTIAL

JC-160751

N/Sub. Kehar Singh

06 SLK WK SP

C1099APO

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पप ✓

Annexure-XVI

(Through proper Channel)

सेवा में

श्री गान कमान आफिसर 20 व स्टेशन वकील  
(डी.एन.डी.) महोदय निवेदन है कि दिनांक 28.6.88 को सुबह  
7.30 बजे पर हवलदार गुरनाम सिंह ने इलेक्ट्रिकल सेक्शन  
में सिविलियन इलेक्ट्रिशियन से मेरे पास उसका Absent-  
report दिया, कि वह अपने 170N Sec में उपस्थित नहीं है।  
फिर इसके बाद मैंने खुद उसको हॉल में 2 वजकर 8.45 बजे  
पर सिविलियन इलेक्ट्रिशियन B. Singha, Carpenter Shop  
में 170N G C पावर से बात करता हुआ मिला।

मैंने Singha से पूछा कि आप अपने सेक्शन में क्यों नहीं  
आया है और इतने समय तक कहाँ थे तो उसने गुस्से  
में जवाब दिया कि आपको मेरे बारे में कोई शक है, तुम  
मुझे पूछने वाले क्यों हो तो मैंने कहा कि पहले तुम

अपनी सेक्शन में जाओ फिर मैं बताऊंगा कि मैं कौन हूँ।  
जब मैं फिर उस Sec में गया तो मुझे कहने लगा कि घर-घर पर क्या देख रहे  
हो।

महोदय मेरी आपसे यह निवेदन है कि वीर

Electrician B. Singha को यह बताने की कृपा करें कि मैं  
इसको पूछने वाला कौन होता हूँ।

Sir,  
For Investigation  
and Suitable Action  
Please.

आपका आज्ञाकारी  
25/6/88

25/6/88

(65)

Annexure - XVII

(3) 19)

CONFIDENTIAL

Telephone : Mil. 248

306 Station Workshop EME  
C/O 99 APO

21202/PG/CIV

28 Jun 88

T/No 172 Elect. (MV)  
Shri B Singha  
306 Station Workshop EME  
C/O 99 APODISCIPLINE : CIVILIANS

1. Your performance in carrying out repair to electrical components on vehicles is not at all satisfactory as reported by No 7104775 Hav Gurnam Singh, IC Electrical Shop. The same has also been reported by No 7110881 Hav TK Paul of the same section. You are, as reported by them, in habit of remaining absent from the section and place of work too. They have also complaint about your arrogant and insolent behaviour towards them. The above facts were clarified by the undersigned in his office on 28 Jun 88 in front of MAJ Sub Maj Prem Singh, Senior JCO, Nb Sub Kehar Singh, Workshop Officer, Hav Maj NS Bisht, Adm CHM, Hav Gurnam Singh, Hav TK Paul and yourself.
2. On 25 Jun 88 you had also insulted Nb Sub Kehar Singh, Workshop Officer, when he was enquiring about your absence from Electrical Section/Place of work. You have replied him arrogantly by saying "TUM MUJHE PUCHANE WALE KUN HOTA HAI" and "GHOOR GHOOR SE KIYA DEKH REHE HO" or words to that effect.
3. Nb Sub Kehar Singh, Workshop Officer, has now complaint against you in writing.
4. You are also in habit of absenting yourself from duty without prior sanction of leave/without any intimation. When investigation was in progress regarding the case as mentioned in para 2 above, you had absented yourself on 27 Jun 88 inspite of my telling you in presence of Senior JCO and others to be present on that day.
5. From the above, it is evident that you are in habit of entangling yourself with insubordinate activities and not carrying out your duties.
6. You are directed to show cause as to why disciplinary action should not be initiated against you regarding insolent behaviour and insubordinate attitude towards Nb Sub Kehar Singh, Workshop Officer, on 25 Jun 88. Your reply should reach this office by 01 Jul 88 failing which necessary disciplinary action will be initiated against you.

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CONFIDENTIAL

(SK Mitra)  
Major  
Officer Commanding

28/6/88



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Annexure - XVIII

(5)

CONFIDENTIAL

Telephone : Mil 248

806 Station Workshop EME  
C/O 99 APO

494

30 Jun 88

21202/PG/CIV

T/No 172 Elect (MV)  
Shri B Singha  
806 Station Workshop EME  
C/O 99 APOABSENT WITHOUT LEAVE

1. Refer to para 4 of this unit letter No. 21202/PG/CIV dated 28 Jun 88.
2. You are in habit of absenting yourself from duty without sanction of leave which is in violation of existing unit orders. In the present case when investigation of a case against you was in progress, you had absented yourself from duty on 27 June 88 inspite of my telling you personally to be present on 27 June 88 in presence of Senior JCO and others on 25 Jun 88.
3. You are directed to show cause as to why disciplinary action should be initiated against you for the above lapse. Your reply should reach this office by 04 Jul 88 failing which necessary disciplinary action will be initiated against you.

(SG Mitral)

Major

Officer Commanding

29/6/88

CONFIDENTIAL

From

P. No. 172

Civ. E. let.

B. Singh

306 Stn. HKSP. EME

C/O 99 A.P.O.

67

(10)

445

Annexure - XIX

To,

The Officer Commanding

306 Stn. HKSP. EME

C/O 99 A.P.O.

(Through proper channel)

Respected Sir,

With due respect and humble submission I beg to state that the mistakes which I have committed on 25/6/88, 28/6/88 and 29/6/88 are due to my nervous and upset of my mind. In fact, during those period I faced some domestic and personal problems. All these problem makes my mind upset, thereby all these mistakes are done by me. In future this type of mistake will not be repeated.

Hence it is requested that I may please be <sup>excused</sup> considered for said mistakes. I am ensured this type of mistake will not happen in future and obliged.

Yours faithfully

Yr. Hence forwarded for  
consideration  
and suitable action

ORINDRO B. Singh  
Atk Singh  
Person's Ltr

2/7/88  
J. S. SINGHA  
(P. No. 172)

02/7/88

P	B
14	8, 3

(B. SINGHA)  
P. No. 172  
Civ. E. let.

7098052 हवालदार

ज्ञान चन्द पाहवा

306 स्टेशन वकशाप

धर्म परीपर चनल

306 स्टेशन वकशाप

कमपनी ईरमई

कैप्टर ऑफिस 44AP0

24-6-88

(1)

446

सेवा में

श्रीमान जी

प्रम निवेदन यह है कि,

मैं हवालदार ज्ञान चन्द पाहवा 24-6-88 राट रजन सी  
 आ की डिप्टी पुर था 8 बजकर 50 मिनट पर गेट से बैठा  
 इजाजत से गेट से बाहर चला गया तथा इलज्जती काल में  
 चलीया तथा गेट रजन सी आ की न मुद्दा तथा  
 मन जाहा कि आफि कृत्या सुन्यव जीग का करटवार  
 इवण में उसने जाहा आफि सागा में चही आता मेरी  
 अवसर लजाया। उस समय मैं सेवलीयो में बात कर रहा  
 था बुझा। फिर मैंने उस में जाहा कि अन्यर आजाहा  
 तो मेरी इस का पकड़ कर मेरे पेट में मुक्का मारा तथा  
 चूका दिया। ये सब मेजर रज्जी रजस बरार साहब गेट  
 में अन्यर में परवर रह थे। तब मैं अपनी इज्जत को बचाव  
 के लिए अपने अफसर वज्रान्दीग को मेरी कीवें वही।  
 कि इसने मेरी इस लाया तथा मेन्टर गेट मन्ट की बैजती की।  
 और ~~अफसर~~ मुन्ना इस से खतवा हो गया कि मैं मुन्ना को ही  
 में प्रार सवता है।

महोदय मेरी आफिसे अनुरोध है कि इसका उपर दया कीत करके  
 उचित कारवाई की जाये ताकि मैं अपनी डिप्टी ग्रीज्य कर  
 सलू सखा

आफि का आह्वानकारी 7098052 में 44  
 ज्ञान चन्द पाहवा

T/L M11 248

BY HAND

306 Station Workshop EME  
C/O 99 APO③  
497

21202/PC/BS/CIV

29 June 88

Officer-in-charge  
Police Station  
ShillongFORWARDING OF A CASE

Sir,

T/No 172 Electrician (MV) Shri Bihari Singha, a civilian employee, has been posted to this workshop on 12 Feb 88 from 512 Army Base Workshop Kirkee, Pune. From the date of his posting he has been entangling with indiscipline attitude with his co-workers and superior officers.

2. On 29 Jun 88 at 0850 hrs, the said Shri Bihari Singha, went out of Main Gate of this Workshop without permission of I/C Gate Office or any superior officer. No 7093052 Hav GC Pawa, I/C Gate Office asked him as to why he went out of Main Gate, Shri Bihari Singha assaulted Hav GC Pawa and also threatened him (Hav GC Pawa) that he would see him later.

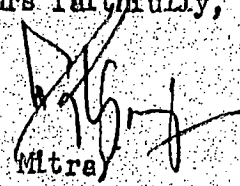
3. This may please be taken as FIR and a case may kindly be registered against Shri Bihari Singha in this connection as Hav GC Pawa is feeling unsafe as stated in his written application dated 29 June 88 a copy of which is attached.

4. Local address of Shri Bihar Singha is given below:-

Vill:- LANBUBAWH  
PO :- UPPER SHILLONG  
SHILLONG - 793005

5. This letter may please be acknowledged.

Yours faithfully,

  
(SK Mitra)  
Major  
Officer Commanding

IN LIEU OF LAYD-251

Proceedings of a : Court of Inquiry  
 assembled at : 806 Station Workshop EME  
 on the : 01 July 58  
 by order of : CO 806 Station Workshop EME vide Daily Order  
 Part I Ser No 260 dated 29 Jun 58.  
 For the purpose of : Investigating the circumstances under which  
 T/No 172 Civ Elect Shri Bihari Singha assaulted  
 Gate NCO No 70980522 Hav CG Pawa at 0850 hrs  
 on 29 Jun 58 and forcefully went out of the  
 Workshop through Workshop Main Gate without  
 any permission.

Presiding Officer : IG-32491P Major SK Mitra  
 Members : 1. JG-80190H Sub Maj Prem Singh  
 2. 14511311M Hav LG Nora

The Board having assembled pursuant to order to proceed to examine the witnesses.

No 70980522 Hav CG Pawa states :-

I was performing the duties of Gate NCO of 806 Station Workshop EME on 29 Jun 58. At about 0850 hrs on 29 Jun 58, Civ Elect Bihari Singha went out from the Workshop, through Main Gate without any written or verbal permission from Gate NCO/Civ Chowkidar. I then told him to get in the Workshop. He (Civ/Elect Bihari Singha) replied me that "I will not come, mark me absent". At that time, he was talking with two civilian boys in front of Main Gate. Again I told him to come inside the Gate. He then caught my hands and gave a punch on my stomach. The incidence was also seen by Major ABS Brar, OC 337 Rec Coy EME. I then intimated to CO, what are the things happening in the Main Gate with Civ Elect Shri Bihari Singha and put up an application against him, in this regard to my CO.

Q No 1. Did Civ Elect Bihari Singha obtained your permission to go outside the Gate and talk to his guest ?

Ans No 1. No

Q No 2. There are two entrances at the Main Gate. One is bigger gate and other is smaller. Which gate is used by the Civ personnel and other ranks while they come for duty and going out of the Wksp ?

Ans 2. The smaller gate is used by the Civ pers and other ranks while they come for duty and going out of the Workshop.

Q No 3. How was your relation with Civ Elect B Singha ?

Ans 3. Nothing special, it was normal.

Q No 4. Did you ever quarrel or fight with him ?

Ans 4. No

Q No 5. Did you permit Civ Elect Shri B Singha to go out of the gate area and talk to his guest ?

Ans 5. No

Q No 6. Who ~~was~~ all were present at the gate, at the time of your insistance to Civ Elect Shri B Singha to go inside the Workshop ?

Ans 6. Major ABS Brar, CO 537 Rec Coy and Civ Chowkidar DB Tamang, Gate Chowkidar were present at the time of insistance.

Q No 7. Was your CO Major SK Mitra, present at that time at the gate ?

Ans 7. No

Q No 8. Where was he ?

Ans 8. He was in office.

Q No 9. Did Major SK Mitra ordered you to close the gate and when did he ordered that ?

Ans 9. No

Q No 10. Did Civ Elect Shri B Singha leave any message regarding his place of destination after the incidence ?

Ans 10. He (Civ/Elect Shri B Singha) informed me 'I am going to Area HQ'.

Q No 11. Where was Civ Chowkidar Shri DB Tamang was standing when you were conversing with Shri Bihari Singha outside the Gate ?

Ans 11. He (Shri DB Tamang) was present at the Main Gate.

Q No 12. Where was Major ABS Brar standing at the time of incidence ?

Ans 12. Major ABS Brar was present inside the Workshop, just 10 to 15 feet distance of Main Gate.

Q No 13. What was the approximate distance from you ?

Ans 13. It was about 20 to 22 feet distance from me.

Q No 14. Were you told by your CO Major SK Mitra not to allow Shri Bihari Singha, to come to the Workshop on 29 Jun 58 ie day of incidence ?

Ans 14. No.

Q No 15. Did you get any injury due to the punch received from Shri Bihari Singha ?

Ans 15. There was no superfluous injury but there was a pain on my abdomen and leftside of my stomach.

Q No 16. Did you under go any medical test ?

Ans 16. Yes, in Civil Hospital, Shillong.

Q No 17. What was the diagnosis by the doctor, were you given any medicine ?

Ans 17. I don't know about the diagnosis as the diagnosis slip is with Civil Police. Doctor's prescription prescribed some medicine which I had taken. I am submitting herewith, the prescription slip in original (The prescription slip is hereby marked by the Court as Material exhibit No 1).

The above statement has been read over to me in the language I understand and I sign it as correct.

50/- XXXXXXXXXXXX  
(No 7098052L Hav GO Pawa)

Statement of No 7104775 Hav Elcet Gurnam Singh

Having been duly warned states :-

1. No 7104775 Hav Elcet Gurnam Singh, was performing the duties of I/O Elcet Sec of 509 Station Workshop RMD. On 29 Jun 88 at about 0810 hrs, Civ Elcet B Singha came to the Section after changing his dress. When I came back to the section from My Shop after a few minutes, Civ Elcet B Singha asked me that I was called to the Main Gate. I, then allowed him to go and come back, it was the time of 0840 hrs (AM). After that, he changed his Civ dress and went to the Main Gate and did not reported to the Section till 1600 hrs on 29 Jun 88.

Question by the Court :-

Q No 1. Are you performing the duties of I/O Elcet Sec on 29 Jun 88 ?

Ans 1. Yes

Q No 2. At what time Civ Elcet Shri B Singha come to the section ?

Ans 2. He came at about 0810 hrs on 29 Jun 88.

Q No 3. Did he took any permission to come to Main Gate ?

Ans 3. Yes

Q No 4. Why he wanted to come to Main Gate ?

Ans 4. I do not know.

Q No 5. Did you asked why he wanted to come to the main gate ?

Ans 5. Yes

Q No 6. What he replied ?

Ans 6. He replied that, I was called to Main Gate.

Q No 7. Why he came on civil dress to the Main gate during working hours ?

Ans 7. I do not know.

Contd .....4/-



Q No 3. After that did he came back from the Main Gate ?

Ans 3. He did not reported to the Section till 1600 hrs on 29 Jun 88.

The above statement has been read out to the individual in language he understands and signs it as correct.

SA/- XXXXXXXXXXXXXXXXXXXX  
(No 7104775 Hav Gurnam Singh)

Statement of No 145117481 Civ Chowkidar Shri DB Tamang

Having been duly warned states :-

I was carrying out my duty as Chowkidar at the Workshop Main Gate on 29 Jun 88. At about 0800 hrs on 29 Jun 88 two boys came in a Motor Cycle BA No MX III D (YAMAHA). They asked me that they wanted to meet T/No 172 Civ Elect B Singha. I informed accordingly to Civ VM AK Singha. Shri AK Singha then talk to both boys at the Main Gate. He then went back and sent Civ Elect B Singha to the gate. At that time one Jeep was also about to enter the Wkep. I opened the Main Gate. Suddenly I found Civ Elect B Singha going out of the workshop through the Main Gate. Civ & Combatant personnel used smaller gate while coming in or going out of the Workshop. But as the smaller gate was closed at that time, Civ Elect B Singha went out through the Main Gate which is not in order. I was about to asked him (Shri B Singha) as to why and how he went outside the gate but in the meantime the Gate NCC No 7093052L Hav GO Pawa came there and asked him as to how he had came out of the gate without proper gate pass. I thereafter, did not listen their conversation. Major ABS Brar was standing near the Gate at the time of incidence. Hav GO Pawa then returned at the gate.

Q No 1. Who informed to Civ Elect B Singha regarding arrival of his guest at the Main Gate of Workshop ?

Ans 1. I informed to Civ VM AK Singha regarding arrival of the guest of Civ Elect B Singha. Civ VM AK Singha in turn informed to Civ Elect B Singha.

Q No 2. Who all were present at the gate when Hav GO Pawa was insisting Civ Elect Shri Bihari Singha to go inside the Workshop ?

Ans 2. The following persons were present :-

- (a) Myself
- (b) Two guest of Shri Bihari Singha
- (c) Shri Bihari Singha
- (d) Hav GO Pawa
- (e) Major ABS Brar was inside the gate and was witnessing the incidence.

Q No 3. At what distance Major ABS Brar was standing and witnessing the incidence ?

Ans 3. It was approximately 5 metres.

Q No 4. Was Major SK Mitra present at the Gate, at the time of incidence ?

Ans 4. No



Q No 5. When did Major SK Mitra came to the Gate ?

Ans 5. Major SK Mitra arrived at the gate <sup>much</sup> later after the matter has been reported by Hav GC Pawa to him.

Q No 6. Did Shri Bihari Singha ask permission either from you or from Hav GC Pawa before he went out of the Workshop ?

Ans 6. No

Q No 7. Did Shri Bihari Singha talk to you immediately after the incidence and before the lunch break at 1330 hrs ?

Ans 7. No

Q No 8. Did Shri Bihari Singha ask you to allow him to come inside the Workshop ?

Ans 8. No, he did not say anything like that.

Q No 9. Did Shri Bihari Singha hit or punch Hav GC Pawa ?

Ans 9. I did not seen.

Q No 10. Where were you standing when conversation between Shri Bihari Singha and Hav GC Pawa was going on just outside the Main Gate ?

Ans 10. I was at the Gate.

Q No 11. What will be approximate distance between you and them ?

Ans 11. I will be approximately 4 metres.

Q No 12. You said, the distance is approximately 4 metres and this is very much within the listening distance ? How can you then say that you had not heard or seen anything ?

Ans 12. They used joked among ~~themselves~~ themselves. So I did not pay any attention on their conversation.

Q No 13. Are you short of hearing ?

Ans 13. No

Q No 14. There are two entrances at the Main Gate, one is bigger gate and other is smaller. Which gate is used by the CIV personnel and other ranks while they came for duty and going out of the Workshop ?

Ans 14. They used smaller gate.

The above statement has been read over to me in the language I understand and I sign it as correct.

Sd/- ~~XXXXXXXXXXXXXXXXXXXX~~  
(No 14117481 Chow Shri DE Tamang)

Contd .....6/..

No 7090538H Adm CHM NS Night of 306 Station Workshop EME having been duly warned states :-

I, No 7090538H CHM NS Night was performing the duties of Adm CHM on 29 Jun 88. At about 0900 hrs, when I was in the Inspection Section, Office Runner No 14586407 Cfn/OTRP Haripal Singh came to me and told that there was some untowards incidence at the Main Gate of Workshop. I immediately went there and saw that No 7090532L Hav GO Pawa was standing outside the Main Gate and Civ Chowkidar Shri DB Tamang standing near the Sentry post, on the Main Gate. I asked Hav GO Pawa as to what all happened. He told me that Civ Elect Shri Bihari Singha went out of the gate without any permission to meet his guest. On insisting, Shri Bihari Singha to go inside the Workshop, he told, Hav GO Pawa, that he could show him absent. On further insistence by Hav GO Pawa to Shri Bihari Singha to go inside the Wksp, Shri Bihari Singha gave a punch in his stomach and also threatened that he would see Hav GO Pawa later on. No 7090532L Hav GO Pawa also told me that, Shri Bihari Singha and his two guests went towards Area HQ Office. In the mean time, I found Shri Bihari Singha along with his two guest came near the main gate, all riding on the Motor Cycle. I stopped Shri Bihari Singha for interrogation and told him to park the Motor Cycle near the Main Gate. I then reported the matter to Major SK Mitra, CO 306 Stn Wksp EME. A written complain from No 7090532L Hav GO Pawa was also sent to the Officer Commanding. FIR was lodged on the same date reporting incidence to Shillong Police Station vide this office letter No 21202/PC/NS/CIV dated 29 Jun 88. Under the instructions of CO, Shri Bihari Singha and his two guests were interrogated by Liaison Unit and were left thereafter.

On 30 Jun 88, One Sub Inspector, by name Shri MM Singha came to Workshop for interrogation. On 04 Jul 88, Shri Bihari Singha was sent to Police Station for his statement as was required by Sub Inspector Shri MM Singha vide Police Station, Cantonment Bent House, Shillong letter No Nil dated 02 Jul 88.

On 4 Jul 88, Shri Bihari Singha was arrested and released on bail. A case was registered by Shillong Police Station vide their case No 484/88 under sec 325/306 IPC as was told by Prosecuting Inspector, Shillong Court on 05 Jul 88.

Question by the Court :-

- Q No 1. Who all were present at the gate, when you reached there ?
- Ans 1. Gate HCO Hav GO Pawa and Civ Chowkidar Shri DB Tamang.
- Q No 2. Where was Major SK Mitra at that time ?
- Ans 2. At that time he was in his office.
- Q No 3. Where was Major ABE Braz at that time ?
- Ans 3. Major ABE Braz was sitting in the office of Major SK Mitra.
- Q No 4. Was Hav GO Pawa sent for medical check up ?
- Ans 4. Yes, he was sent for medical check up to Civil Hospital Shillong. Doctor prescribed some medicine for his pain.
- Q No 5. Is it mandatory always to take written permission to go outside the Wksp ?
- Ans 5. Yes, one has to take written permission to go outside the Workshop during working hours.

Q No 6. Through which gate Civilian/Combatant persons are required to go out and come inside the Workshop. ?

Ans 6. Through smaller gate only.

The above statement has been read over to me in the language I understand and sign it as correct.

Sd/- XXXXXXXXXXXXXXXX  
(No 7098055H GHM NS Elent)

IC-30805M Major ABS Brar, CO 537 Rec Coy EME having been duly warned states :-

I, IC-30805M Major ABS Brar was performing the duties of CO 537 Rec Coy EME on 29 Jun 88. At about 0845 hrs, I left my office and was coming towards the office of the CO, 308 Station Workshop, Major SK Mitra. As I neared the Main Gate, T/No 172 Civ Elect Surti Bihari Singha came from behind and passed me. He wished me which I acknowledged. He then went straight out of the gate which was partially opened by Chowkidar No 14117481 Civ Chowkidar DB Tamang. I noticed that he went straight to two civilians who had come to meet him. Just then No 7098052L Hav GC Pawa, the Gate NCO on duty followed him and asked him to return back inside as he had left workshop premises without permission, which is not permitted. T/No 172 Civ Elect Bihari Singha insolently told No 7098052L Hav GC Pawa to go back inside and mind his business. No 7098052L Hav GC Pawa, however, insisted that he return back. At this T/No 172 Civ Elect Bihari Singha caught No 7098052L Hav GC Pawa by the belt and punched him in the stomach and threatened that 'he would see him later on'. No 7098052L Hav GC Pawa, thereafter asked him not to manhandle him. He then left the scene and went to report the matter to Major SK Mitra. I also went and reported the incidence to Major SK Mitra in his office.

The above statement read over to me and I sign it as correct.

Sd/- XXXXXXXXXXXXXXXX  
(IC-30805M Major ABS Brar)

Contd ....8/-

Ticket No 172 Civ/Elect Shri Bihari Singha states :-

On 29 Jun 88, at about 0900 hrs, when I was Elect Shop, Civ/Labourer Shri P Ghosh informed me that two persons had come at the workshop gate to meet me. I took permission from No 7104775 Hav/Elect Gurnam Singh, incharge Elect Shop to go to the workshop Main gate, to meet my guest. While I was going to the gate Civ/WM Shri AK Singha also told me that, two guest of mine were waiting at the Main gate. I also took permission from No/Sab Kahar Singh, Workshop Offr to go to the gate to meet my guest. After reaching at the gate, I told No 7000552L Hav G G Pawa, gate NCO, that I wanted to talk to my guest who were waiting just outside the gate. Hav G G Pawa agreed. When the Main gate was opened by No 145117401 Civ/Chowkidar Shri D B Tamang for passing some vehicle, I went-out the gate. These two persons who came to meet me were unknown. When I was enquiring about them and they were also finding who were I, Hav G G Pawa from inside the gate asked me, "Aap Kiye kahar giya" ? I then told him, not to joke with me. I further told him I had come to talk my guest. Hav G G Pawa then came out of the gate and told me "Aap andar aya". I felt humiliated infront of my guest. My guest asked me what was happening. I told them that "He (Hav G G Pawa) was jocking with me. Hav G G Pawa started shouting and kept on insisting & me to come inside the gate. After that Maj S K Mitra 00 300 Station Workshop came near the gate and ordered to close the gate. Maj SK Mitra then went to his office. I requested Civ/Chowkidar Shri D B Tamang and Hav G G Pawa to allow me to come inside the workshop. Shri D B Tamang then told me that he, could not open the gate violating the order of 00 Wksp. Hav G G Pawa also refused to open the gate. I was helpless and informed the gate NCO, Hav G G Pawa that I was going to higher authority for appeal. I went to HQ 101 Area and met Lt Col Narayanan, I narrated him the fact, he, interned advised me to go to Col Gupta, of 'A' Br. Lt Col Narayanan also told me that Col Gupta was in a conference and as such I could meet him later. I came back to the wksp gate and saw a GMP pers who enquired about my name, No and address. He also enquired the particulars of my guest. By that time personnel from Liaison unit also came at the Wksp gate and they took me and both my guest to their office in a govt vehicle. We were asked to give our particulars and statement which took place at the Wksp gate and my previous history leading to the case. We gave our written statement and particulars. The Liaison personnel then brought me at the Wksp. Main gate and left there, it was already time for lunch break. I and my guest went back. At about 1330 hrs, I came inside the wksp and narrated the whole incidents to all the members of Labour Welfare Committee, who intern approach 00 300 Stn Wksp for compromise. The 00 told members of Welfare Committee that Shri Bihari Singha could continue his duties. When the Labour Welfare Committee members came out of his office, he again told, he could not attend his duty now but could continue the duty tomorrow. I then left the Wksp.

Civ Chowkidar  
Shri D B Tamang  
in closed  
The Gate.

Question by the Court :-

Q1. Did you take permission from No/Sab Kahar Singh Wksp Offr, to go out-side the gate and talk to your guest ?

Ans 1. I had taken permission to talk to them only and not for going outside the gate.

Q2. Did you take any out pass or any written permission to go out-side the gate at 0900 hrs on 29 Jun 88 ?

Ans 2. 'No'

Q3. Do you aware that a written permission is reqd in the form of Out Pass/Short leave to leave the Wksp premises during working hours ?

Ans3. I am aware of that. But in this instant case as my guest were awaiting just one foot away from the main gate. I did not feel necessity to take written permission. I took gate NOB's verbal permission to go out which I felt sufficient.

entrances:

Q4. There are two ~~entrances~~ at the Main gate. One gate is bigger than the other. Which gate did you use to go outside ?

Ans4. I used the bigger gate.

Q5. Are you aware that the bigger gate is always use for vehicular traffic and for officers and JCOs and the remaining smaller gate is used for other ranks and Civ employees ?

Ans5. 'No'

Q6. Which gate do you use normally while coming to Wksp for duty and going out ?

Ans6. I used both the gates depending upon the opening of the gate by Chowkidar/gate NOB.

Q7. Did Chowkidar Shri D B Tamang open the gate for you to go out ?

Ans7. 'No'

Q8. If not, how could you go out of the gate ?

Ans8. The bigger gate was already open for passing of a veh and I went out.

Q9. How was your relation with Hav G G Pawa ?

Ans 9. I had a very friendly relation with him. I used to go to his house to give tuition to his children. We had dinner together in his home occasionally.

Q10. Did you ever quarrell or fight with him ?

Ans10. 'No'

Q11. You had said that Hav G G Pawa permitted to go out of the gate/you and talk to your guests. How could then he, shout on you and insisted you to go inside the Wksp immediately your coming out of the Wksp ?

Ans 11. I cannot say. But it was ashtenishing to me for his act.

Q12. Did you mention Hav G G Pawa on 29 Jun 88 at about once hrs ?

Ans12. 'No' But I resisted my self and asked him not to insist me to go inside the Wksp. I told him to allow me to talk to my guest.



Q13. What were your conversation with your guests with your guests ?

Ans 13. I was not knowing them and never saw them before. So, I was enquiring about them. They also started enquiring about me. Hav G C Pawa in between came there and started insisting me to go inside the Wksp.

Q14. Why did your guests come to meet you ?

Ans 14. They came to inform me that my mother was sick. They got this news from a gentleman who was stranded in Shillong-Badarpur Road due to landslide. Whose name I don't know and

Q15. You were in Dargis. Why and with whose permission you change into Civ dress before going to meet your guest at the gate ?

Ans 15. I wanted to meet my guests in Civil dress. While I was serving in 512 Army Base Wksp I noticed that anybody going to meet their guest go in Civil dress.

Q16. You said that, you had gone to HQ 101 Area to brief the incidences, you had also met Lt Col KSA Narayanan AQ. Why did you go higher HQ without informing your immediate Superior Officer ?

Ans 16. I told gate NOO that I was going to the higher authority. As the gate was closed and not allowed to go inside the Wksp, I could not take permission from my OC before going to higher authority.

Q17. Who all were present at the gate, when you came to meet your guest and subsequent conduct at the gate with Hav G C Pawa on 29 Jun 88 ?

Ans 17. There were five persons and an under :-

- (a) My Self
- (b) Two guest
- (c) Gate Keeper, Hav G C Pawa
- (d) Giewkidar D B Tamang

Q18. Was Major BBS Brar, OC 237 Rec Coy present at the Main gate ?

Ans 18. 'No'

Q19. Did you wish Major BBS Brar at the gate at about 0900 hrs on 29 Jun 88 ?

Ans 19. I wished him at about 0900 hrs while he was standing in front of his office bungalow, which is adjacent to the Main gate.

The above statement has been read over to me in the language I understand and I sign it as correct.

Sd /s/ x x x x x x x x

(T/No 172 Shri Bihari Singh)

Contd --- 11 -

FINDINGS OF THE COURT

1. T/No 172 Shri Bihari Singha, a civilian employee of 308 Station Workshop EME was on duty on 29 Jun 88.
2. At about 0850 hrs, he on 29 Jun 88, went through Main Gate of the Workshop without any permission to meet his two guest, awaiting outside the gate and thereby violated the order of taking written permission to leave the Workshop, during working hours.
3. He went out in a fraction of a second when the Main Gate was opened for trespassing a Vehicle.
4. No 7098052L Hav GO Pawa was on duty as Gate NCO, insisted Shri Bihari Singha to go inside the Workshop as he did not possess any written permission to come out of the Main Gate. Shri Bihari Singha refused to go inside and told Hav GO Pawa to mark him absent.
5. On further insistence by Hav GO Pawa to Shri Bihari Singha to go inside the Workshop, Shri Bihari Singha gave a punch to Hav GO Pawa and threatened that he would see him later.
6. The incidence was witnessed by Major AMB Brar, Co 337 Rec Coy EME.
7. FIR was lodged to Shillong Police Station vide 308 Station Workshop EME letter No 21202/PG/MS/CIV dated 29 Jun 88.
8. On 04 Jul 88, Shri Bihari Singha was arrested by Shillong Police Station after investigation and subsequently released him on bail on the same day.
9. The incidence was reported by signal to Sdn HQ Shillong, 'A' Br & EME Br, HQ 101 Area as per SMO 15/S/80, followed by a detailed report forwarded vide letter No 21202/PG/MS/CIV dated 29/30 Jun 88.
10. No 7098052L Hav GO Pawa was sent for medical check up in Civil Hospital, Shillong and medicine was given by the Doctor for the pain. The prescription by the Doctor is attached as material exhibit I.
11. T/No 172 Shri Bihari Singha used the bigger gate and not the smaller one which he was supposed to use as the existing order. *L pa*

OPINION OF THE COURT

The Court opined that :-

T/No 172 Shri Bihari Singha is blamed for taking law in his hand, in that he not only went out of Workshop without any permission but also hit gate NCO No 7098052L Hav GO Pawa on duty and threatened him that he would see him later on. Exemplary disciplinary action should be taken against T/No 172 Shri Bihari Singha for assaulting the Gate NCO on duty.

Presiding Officer : *Sd/-* XXXXXXXXXXXXXXXX  
(IC-32491P Major BN MITRA)

Members 1. *Sd/-* XXXXXXXXXXXXXXXX  
(JC-80190H Sub Maj Prensingh)

2. *Sd/-* XXXXXXXXXXXXXXXX

CONFIDENTIAL

Tele : 248

306 Station Workshop EME  
C/O 99 APO

21201/PO/BS

24 Jun 89

Shri B Singha  
Civ Elect (MV)  
306 Station Workshop EME  
C/O 99 APODISCIPLINE : CIVILIANS

1. As per standing order tea break timing of this workshop is from 1000 hrs to 1015 hrs. I have noticed that you were not at place of work at 1045 hrs, and your where about were not known to anyone.
2. You are directed to show cause as to why disciplinary action should not be initiated against you regarding absent from your place of duty from 1015 hrs to 1045 hrs on 23 Jun 89. Your reply should reach this office by 25 Jun 89 by 0800 hrs failing which necessary disciplinary action will be initiated against you.

Recd the ltr  
from m/o on  
24 Jun 89 at 10  
B. Singh  
Civ. 24/6/89  
Sajit

(J P Singh)  
Capt  
Officer Commanding

CONFIDENTIAL



~~CONFIDENTIAL~~

Tel: 248

308 Station Workshop EME  
C/O 99 APO

05 Aug 89

21201/FG/NS

Shri Bihari Singh  
308 Station Workshop EME  
C/O 99 APO**DISCIPLINE - CIVILIAN EMPLOYEES**

1. It is seen that you have been organising gambling and TEER business in the Workshop during working hours. It is known that TEER is legal business in the Meghalaya state but it is illegal to be organised in Workshop during working hours. Since you are indulging Civilian as well as combs in playing gambling and TEER business in the Workshop, you are hereby warned not to do so in future otherwise severe disciplinary action will be initiated against you.

*Amir*  
*04/8/89*

*J P Singh*  
Capt  
Officer Commanding  
*04/8*

~~CONFIDENTIAL~~

In the Court of Shri. A. Mawlong, Magistrate  
1st Class at Shillong

G.P. 535(A)88  
u/s. 325/506 P.P.C.

S T A T E

- Vs. -

Bihari Singh - - - Accused.

19.5.89.

ORDER

The case is disposed off  
on compromise by both  
the complainant and accused  
and the same is dropped.

The declaration to  
compromise was taken  
on oath.

Magistrate First Class  
Shillong.

Tele Mil : 517

Station Mukhyalaya  
Station Headquarters  
Shillong

435/3/A

27 Oct 89

Army Headquarters  
AG's Br (D V Dte)  
New DelhiHQ Eastern Command (A)  
Fort William, Calcutta - 21

HQ 101 Area (A)

FINAL REPORT : ASSAULT AND AFFRAY

1. Ref this HQ detailed report fwd vide our letter of even No dated 29 Jul 89.
2. Shri Bihari Singha, a civilian employee of 306 Stn Wksp, EME at about 0900 h on 29 Jul 88 went out through the main gate without informing the gate NCO. When the gate NCO No 7098052 Hav G C Pawa of 306 Stn Wksp, EME asked Shri Bihari Singha to go back in case he did not have auth to go out, Shri Bihari Singha shouted at the gate NCO No 7098052 Hav G C Pawa by saying 'you better go back and report me absent'. On further insistence of Hav G C Pawa gate NCO to go back to wksp, Shri Bihari Singha hit the gate NCO Hav G C Pawa of 306 Stn Wksp. The whole incident was witnessed by Major ABS Brar, ex OC 306 Stn Wksp, EME. The unit referred the case to civil police and civil police arrested Shri Bihari Singha on 4 Jul 88 and afterwards the indl was released on bail by the Court.
3. During the progress of case in the civil court both parties have reached a compromise. The court too has accepted the compromise between the two indls. HQ 101 Area has been approached to accept the compromise and to confirm that the subject case can be closed. HQ 101 Area vide their letter No telegram No 62802/38/A1 dated 19 Aug 89 has confirmed to close the case.
4. In view of the above, the subject case may please be treated as closed.

(S R Sharma)  
Col  
Adm Comdt  
for Stn Cdr

Copy to :-

306 Stn Wksp, EME

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.149 of 2006.

Date of Order : This, the 27<sup>th</sup> day of March, 2009.

THE HON'BLE MR. A.K.GAUR, JUDICIAL MEMBER

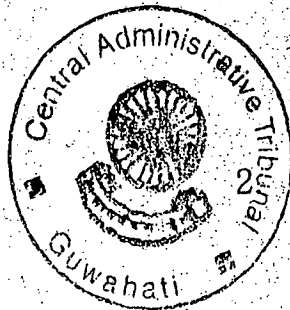
THE HON'BLE MR. KHUSHIRAM, ADMINISTRATIVE MEMBER

Shri Bihari Singha  
S/o Late Kunjeswar Singha  
Qtr. No.MES 93/2  
Deodgenline  
Shillong Cantt.  
Shillong

...Applicant.

By Advocates: Mr.M.Chanda. Mr.S.Nath & Mr.G.N.Chakraborty

- Versus -



1. The Union of India represented by the  
Secretary to the Govt. of India  
Ministry of Defence, South Block  
New Delhi - 110 001.

The Director General (Civ)  
Master General of Ordnance Branch  
Army Headquarters, DHQ Post  
New Delhi - 110 011.

3. Major General  
Electrical Mechanical Engineering (MGEME)  
HQ Eastern Command (EME Branch)  
Fort William  
Kolkata-21.

4. Station Commander  
Station Headquarters, EME  
Shillong.

5. Officer Commanding  
306 Station Workshop  
EME, C/o 99 APO..

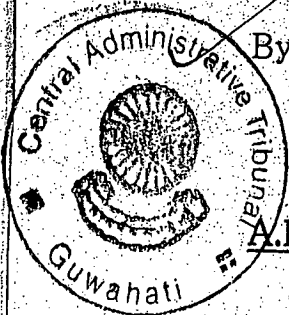
6. Asstt. Executive Engineer (AEE)  
306 Station Workshop EME  
C/o 99 APO.

86  
7. Lt. Col JS Bains  
Officer Commanding  
306 Station Workshop EME  
C/o 99 APO.

513  
8. Shri R.C.Nath  
Subedar  
JC-750768X  
306 Station Workshop EME  
C/o 99 APO.

By Mr. M.U.Ahmed, Addl. C.G.S.C.

... Respondents.



ORDER (ORAL)

A.K.GAUR, MEMBER (J) :

We have heard M.Chanda, learned counsel for the Applicant and Mr. M.U.Ahmed, learned Addl. Standing counsel for the Government of India.

2. It has been argued by the learned counsel for the Applicant that the order passed by the appellate authority is not a reasoned and speaking one and the appellate authority has passed the said order dated 08.05.2006 in a most casual and perfunctory manner without application of mind without considering all the grounds taken in the appeal dated 06.12.2005. To support his contention, learned counsel for the Applicant has placed reliance on the following Supreme Court decisions in order to buttress the contention that it is the bounden duty of the appellate authority to consider each and every ground raised in the memorandum of appeal:-

- (i) 2006 SCC L&S 840 (Narinder Mohan Arya. vs. United India Insurance Co. Ltd & Others);
  - (ii) AIR 1986 SC 1173 (Ram Chander vs. Union of India & Others)
  - (iii) (2005) 7 SCC 597 (National Fertilizers Ltd. and Another vs. P.K.Khanna; and lastly
  - (iv) 2006 (11) SCC 147 (Director of Indian Oil Corporation vs. Santosh Kumar)
- ✓

3. We have given our anxious thought to the arguments advanced by the counsel for the parties. In view of the aforesaid decisions, we are fully satisfied that the appellate authority had not at all considered the grounds taken in the appeal dated 06.12.2005, the appellate order has been passed in a most casual and perfunctory manner without application of mind. Accordingly, we quash and set aside the appellate order dated 08.05.2006 and remit back the matter to the appellate authority to reconsider the appeal of the Applicant by passing a reasoned and speaking order in accordance with the provisions of rules, within a period of three months from the date of receipt of a copy of this order.

4. With the above observations and direction, the O.A. is disposed of as above.



38) - Member (J)

39) - Member (A)

TRUE COPY  
प्रतिलिपि  
अनुभागी अधिकारी  
Section Officer (Judl)  
Central Administrative Tribunal  
गुवाहाटी न्यायपेठ  
Guwahati Bench  
गुवाहाटी/Guwahati-5  
31/3/07



## ORDERS SHEET

1. Original Application No. \_\_\_\_\_

2. Misc Petition No. \_\_\_\_\_

52/07 in O.A 149/06

3. Contempt Petition No. \_\_\_\_\_

4. Review Application No. \_\_\_\_\_

Applicant(s) Bihari Singha vs. Union of India & OrsAdvocate for the Applicant(s) M. ChandaAdvocate for the Respondent A. Case

Notes of the Proceedings \_\_\_\_\_

25.6.07.

The Misc. Petition has been filed by the petitioner challenging the order dated 14.6.07 (Annexure D) wherein the direction was given by the respondents to vacate the quarter within 30 days of the date of publication of this order. It appears that in Annexure D order dated 14.6.07 is different cause of action and the consequential relief cannot be granted in which the applicant has been relief sought challenging the O.A.

M.P. is dismissed/disposed of accordingly. However, liberty is given to the applicant to approach this Tribunal with appropriate forum.



9/06.

Memo. No. 699

for information and necessary action on

- 1) Mr. M. Chanda, Advocate, Gauhati High Court.
- 2) Mr. M. U. Ahmed, Add. C.G. Secy, C.A.T. Guwahati Bench.

Sd/- VICE CHAIRMAN

Section Officer (S),  
11/17

To, Civilians present the  
 The Major General  
 Electrical Mechanical Engineering (MCEME),  
 (Appellate Authority)  
 Fort William, Kolkata- 21.

known to him.  
 O/Sub: Intimation regarding judgment and order dated 27.03.2009 in O.A No.  
 149/2006 (Shri Bilhari Singh -Vs- U.O.I & Ors.) passed by the Hon'ble  
 CAT, Guwahati Bench, compliance of

Sir, Most humbly I beg to state that being aggrieved with the memorandum of  
 charge sheet dated 11.07/2001, order of penalty bearing letter No. 10401/172/Civ  
 dated 15.04.2005, issued by the disciplinary authority as well as against the  
 impugned appellate order dated 08.05.2006, I had approached the Hon'ble Central  
 Administrative Tribunal, Guwahati Bench, Guwahati through O.A No. 149/2006. In  
 the said Original Application I also prayed for a direction upon the authority to  
 reinstate me in service at least from the date of dismissal of service. However, the  
 Hon'ble Tribunal vide judgment and order dated 27.03.2009 pleased set aside the  
 Appellate order bearing No. 332229/2/EME Civ 09.05.2008 and further directed to  
 consider appeal of the undersigned with the provisions of law. Hence this appeal  
 before Your Honour with the prayer to consider the following facts and to drop the  
 penalty order dated 15.04.2005 and to reinstate me in service at least from the date  
 of dismissal of service.  
 as follows:

1	FR	BR
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That Sir, while I was working as Civilian Electrician (Motor Vehicle), in the  
 306 Station Workshop EME, C/o 99 APO, I was holding the post of General  
 Secretary of the Station Workshop, Civilian Workers Union, Shillong.

That Sir, during tea break on 01.06.2001 in the Civilian Recreation Room in  
 between 1030 hrs to 1045 hrs wherein the undersigned (General Secretary)  
 and Shri Prabhat Chandar Das (Vice President) were busy with the most  
 important works of the Union, mainly on the issue of long standing medical  
 re-imbursement claims of the members of the Union, which was initiated by  
 Asstt. Labour Commissioner (Central), Guwahati. In the nick of time all of a  
 sudden the Officer Commanding (Lt. Col. JS Bains) along with Nb Sub RC  
 Nath and the staff car driver Nk. Purnan Singh rushed into the said Civilian  
 Recreational Room (at around 1045 hrs) compelling all other Defence



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Civilians, present therein, instantly to scuttle away from the said room out of fear except the undersigned and Shri P.C. Das. Having seen both of us in such an un-staggered position there, the Officer Commanding (Lt. Col. JS Bains) seemed to have lost his temper beyond his control, for reasons best known to him only. However, both I and Shri P.C. Das, while wishing Officer Commanding Lt. Col. Shri JS Bains, politely informed him about the aforesaid burning issues of the Union and at the same time, tried to show him a letter received from the ALC (Central), Guwahati out of the Union file in this regard. But ironically, instead of reciprocating it, the said Officer Commanding started behaving like a person not commensurate with his official status and that was evident from his unparliamentary and un-ethical words, like, "Go to Hell your Union", "Abhi tum log ko suspend karta hoan" etc. and in no time he threw away the said Union file and practically he did what he uttered i.e. both the undersigned and Shri P.C. Das, the Vice-President were instantly placed under suspension on this very day of 1<sup>st</sup> June 2001. Only God knows, how things could so happen and that too, so quickly, if there was no preponderance.

3. That Sir, thereafter memorandum of charge sheet bearing No. 21208/172/EST-IND/LC dated 11.07.2001 was served upon me. In the said memorandum of charge sheet in as much as 5 allegations is brought against me as follows:

1. On 01 Jun 2001, JC-750768X Nb Sub RC Nath of 306 Stn Wksp EME went to civilian rest room at 0830h and requested the workers to come to the shop floor for work. T. No. 172 Shri Bihari Singha and T. No. 169 Shri PC Das informed that they will not come out as they wanted to discuss about the picketing by Khasi Student Union on 02 Jun 2001. JC-750768X Nb Sub RC Nath returned back and waited for them for about one hour but 6 of workers did not come to shop floor. JC-750768X Nb Sub RC Nath again went to the civilian rest room along with Nk Puran Singh, Nk SC Singh, Hav J Kushwaha and Hav Lalan Sah at 0930h on 01 Jun 2001. On reaching the rest room of civilian, all other workers except T. No. 172 Shri Bihari Singha and T. No. 169 Shri PC Das left for the work. They were going through some

and... Shri PC Das shouted at Nab Sub RG Nath and said, 'Hamara Koi  
the... Claim Pass Nahi Hota, Yahan Par Sab Gandu Offr Aur JCO Hai, Hum  
... Bharat Varash Ke Employee Hain Yahan Par Dil Karega Bathengi'.  
... Shri PC Das again raised his hands to hit Nb Sub RC Nath and said  
... "AAP Chor Ho, FIP Ka Paisa Khaya Hai". He made a gesture to hit  
Nb Sub RC Nath with both hands but Nb Sub RC Nath ducked and  
saved himself."

On a mere reading of the article of charge it appears that the Officer  
Commanding Lt. Col. JS Bains has issued the memorandum of charge sheet  
with whom the alleged incident has taken place on 01.06.2001 since Lt. Col. JS  
Bains, Officer Commanding is involved in the instant alleged incident on 1<sup>st</sup>  
June 2001 as such Lt. Col. JS Bains should not have issued the memorandum  
of charge sheet since he is an interested party and at his instance the  
applicant was placed under suspension and further departmental  
proceeding has been initiated. In the statement of imputation of misconduct  
the said disciplinary authority tactfully alleged that the incident has taken  
place in between the applicant and Nab Sub RC Nath without referring his  
name and his presence at the time of alleged incidence on 1<sup>st</sup> June 2001. In  
fact the alleged incident was created by Shri JS Bains himself but in order to  
impose major penalty in a well planned manner Shri JS Bains tactfully did  
not show his presence at the place of incidence rather terror was created by  
Shri Bains alone and on that score alone the memorandum of charge sheet  
bearing letter No. 21208/169/EST-IND/LC dated 11.07.2001 is liable to be  
dropped.

4. That Sir, I beg to say that on a mere reading of the Article of charge, more  
particularly the charge alleged in SL No. 4 and 5 of the article of charge that  
the I was continuously and willfully neglecting my duty from 1<sup>st</sup> February  
2001 to 1<sup>st</sup> June 2001 on all working days and continuously and willfully  
disobedience of order for refusing to proceed to place of work from 1<sup>st</sup> Feb'  
2001 to 1<sup>st</sup> June 2001 on all working days. Therefore, it appears that the  
concerned sectional in-charge deliberately did not take any action against me  
from 1<sup>st</sup> Feb' 2001 to 1<sup>st</sup> June 2001 and the allegation of non-performing of  
duties has not reported to the higher authorities by the Section In-Charge

and assuming but not admitting that the undersigned has refused to perform the assigned duties than a duty cast on the Section In-Charge to report the matter immediately to the higher authority and in the instant case higher authority is Officer Commanding i.e. Lt. Col. J S Bains and the disciplinary authority ought to have taken action against me on the alleged ground of non-performing his duties for such a long period i.e. about 5 months, whereas no memo or show cause was issued at any point of time since February 2001 to 1st June 2001 rather I was paid full salary since February 2001 to 1st June 2001. As such, it can rightly be presumed that all the charges labeled against me are false, concocted and baseless not based on any record as because the entire allegation or charges were based on only two lists of documents.

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5. That Sir, the disciplinary authority by the impugned letter bearing No. 10401/172/Civ/INQ/2005 dated 15.04.2005, forwarded the impugned penalty order to me. The disciplinary authority by the order dated 15.04.05 imposed the extreme penalty of dismissal from service w.e.f. 15.04.05, interestingly in the penalty order the disciplinary did not consider any of the grounds raised by me in my representation dated 29.11.03 but mechanically followed the inquiry report submitted by the inquiry officer.

6. That Sir, the contention of the disciplinary authority to the effect that the charged official neither opted to cross-examine any witness nor submitted any defence thereof is categorically denied, rather the charged official has been denied reasonable opportunity to advance his defence in the inquiry proceeding in the following manner:

(i) Firstly, the applicant was not intimated regarding appointment of the inquiry officer as well as appointment of presenting officer by the disciplinary authority as required under the rule, however the same was intimated to the applicant by the disciplinary authority much after the commencement of the proceeding.

(ii) Listed documents relied upon by the disciplinary authority to substantiate the charges contained in the memorandum of charge

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sheet has not been supplied to the applicant along with the memorandum of charge sheet even those listed documents also not supplied at any stage of the inquiry proceeding in spite of specific request and thereby reasonable opportunity has been denied to the applicant to take adequate defence to the charges.

- (iii) That the inquiry authority deliberately and willfully did not intimate the date of hearing on many occasion when ex parte proceeding was held and in some occasion the inquiry officer deliberately send the intimation of hearing after the expiry of the schedule dates of hearing. The details of delayed communication of hearing dates as well as non-communication of hearing dates are quoted below for perusal since the inquiry proceeding conducted ex parte.

Schedule date of hearing	Date on which intimation of hearing received	Non-receipt of intimation regarding hearing.
20.09.2001	26.09.2001	
08.10.2001	21.11.2001	
20.10.2001	21.11.2001	
15.11.2001 16.01.2002	21.11.2001 13.02.2002	Since letter dated 22.02.02 received by me on 04.03.02, wherein it is directed to the applicant to appear inquiry on every alternative day.
05.02.2002	13.02.2002	
11.03.2002	04.03.2002	I appeared.
13.03.2002		I appeared in the proceeding.
15.03.2002		I appeared in the proceeding.
20.03.2002		I appeared in the proceeding.
26.03.2002	No intimation to the applicant.	As per direction contained in the letter dated 22.02.02 it was directed to me to appear on every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.
08.04.2002	No intimation to the applicant.	As per direction contained in the letter dated 22.02.02 it was directed to me to appear on



		every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.
22.04.2002	No intimation to the applicant.	As per direction contained in the letter dated 22.02.02 it was directed to me to appear on every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.
10.05.2002	No intimation to the applicant.	As per direction contained in the letter dated 22.02.02 it was directed to me to appear on every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.
07.06.2002	No intimation to the applicant.	As per direction contained in the letter dated 22.02.02 it was directed to me to appear on every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.

- (iv) It is categorically submitted that the intimation regarding date of hearing on 20.09.01 has been intimated to the applicant at a later stage after the inquiry was over on the schedule date. Moreover, in terms of the letter dated 22.02.2002 received by the applicant on 04.03.2002, wherein it has been instructed that the proceeding will be held on every alternate day. The applicant thereafter as per instruction appeared on 14.03.02, 18.03.02 and participated in the inquiry proceeding in spite of inhuman torture and humiliation as indicated in preceding paragraph. Again he went to attend inquiry on 20.03.02 but it was informed by the security personal at the gate that there was no sitting of the inquiry proceeding whereas as per order dated

22.02.02 hearing is supposed to take place on every alternative date but it appears that hearing has been conducted on 21.03.02, 30.03.02, 23.04.02, 03.06.02 in violation of the instructions contained in the letter dated 22.02.02 that too without any intimation to the applicant and thereby denied reasonable opportunity to the applicant.

- (v) That the documents relied upon by the disciplinary authority has not been examined as required under the rule.
- (vi) Out of 9 listed witnesses only stereotype deposition of 5 interested state witnesses has been recorded more or less on the similar fashion on the dictation of the inquiry authority as well as of the higher authority. But the remaining 4 state witnesses have not been examined for the reasons best known to the authority.
- (vii) That the statement of deposition of the interested witnesses has been prepared and got signed by them through Nb Sub Shri RC Nath.
- (viii) That the charge of continual and willful disobedience of the order of supervisory staff and non-performing of duties w.e.f. 01.02.01 to 01.06.01 has held to be proved by the inquiry officer without examining any evidence on record and also without examining the listed documents but on the basis of deposition of the interested witnesses which was confirmed by the disciplinary authority without any discussion of evidence in his impugned order of penalty dated 15.04.05.
- (ix) That the inquiry officer failed to give any specific finding as to whether charge is proved or not in his inquiry report dated 07.07.03 which was forwarded to the applicant vide letter dated 21.11.03 that is after lapse of about more than 4 months.
- (x) That the disciplinary authority did not consider any of the grounds raised by me in my representation dated 29.11.03 and surprisingly the disciplinary authority did not discuss a single evidence in the impugned order of penalty dated 15.04.05 whereby major penalty

have been imposed mechanically without application of mind and also without taking into consideration the record of the inquiry proceeding.

consider the file in case (xi) That the complain lodged by Nb R.C Nath listed document (a) relied upon by the disciplinary authority neither supplied to the applicant nor examined in ex parte inquiry proceeding but relied upon by the inquiry officer and the D.A. passed the order of penalty on the alleged ground of creating a riotous and disorderly situation in the rest room on 1<sup>st</sup> June, 2001.

(xii) Listed document no. (b) whereby allegation of continual and willful absence from work place w.e.f. 01.02.01 to 01.06.01 neither supplied to me nor examined in ex parte inquiry proceeding which is heavily relied upon by the disciplinary authority.

(xiii) Findings of the I.O and P.O without considering the listed documents relied upon by the D.A is not sustainable in the eye of law.

(xiv) No show cause notice or warning or memo given to the applicant for alleged continuous willful absence from the place of work w.e.f. 01.02.01 to 01.06.01 by the supervisory officer as alleged even in the list of document (b) which is relied upon by the disciplinary authority as an evidence for alleged absence not even supplied to the applicant in spite of repeated request nor it was examined in the inquiry proceeding.

(xv) Listed documents relied upon by the D.A not supplied to the applicant in spite of his specific request.

(xvi) IO failed to give any specific findings as to whether charge is proved or not in his inquiry report dated 07.07.03.

(xvii) Col. J.S. Bains, disciplinary authority personally involved in the alleged incident on 01.06.01 who attacked the charged official on 01.06.01 along with Nb Sub R.C. Nath and other Jawans and created riotous and disorderly situation in the recreation room.

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Under the facts and circumstances as stated above I earnestly request you to consider the infirmities and irregularities committed by the disciplinary authority in passing the penalty order dated 15.04.2005 and further be pleased to cancel the penalty order dated 15.04.2005 and to reinstate the undersigned in service with effect from the date of dismissal.

A copy of the judgment and order dated 27.03.2009 passed in O.A. No. 149/2006 is enclosed herewith for your kind perusal and implementation.

Yours faithfully

Shri Bihari Singha,  
S/o- Late Kurjeswar Singha,  
Qtr. No. MES 93/2  
Deodgenline,  
Shillong Cantt. Shillong.

Date: SHILLONG  
01/4/09





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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.149 of 2006.

Date of Order : This, the 27<sup>th</sup> day of March, 2009.

THE HON'BLE MR. A.K. GAUR, JUDICIAL MEMBER  
THE HON'BLE MR. K. USHIRAM, ADMINISTRATIVE MEMBER

Shri Bihari Singha  
S/o Late Kunjeswar Singha  
Qtr. No. MES 93/2  
Deodgenline  
Shillong Cantt.  
Shillong

Applicant.

By Advocates: Mr. M. Chanda, Mr. S. Nath & Mr. G. N. Chakraborty

- Versus -

1. The Union of India represented by the  
Secretary to the Govt. of India  
Ministry of Defence, South Block  
New Delhi - 110 001.
2. The Director General (C)  
Master General of Ordnance Branch  
Army Headquarters, Dh. Post  
New Delhi - 110 011.
3. Major General  
Electrical Mechanical Engineering (MGEME)  
HQ Eastern Command (EME Branch)  
Fort William  
Kolkata-21.
4. Station Commander  
Station Headquarters, El  
Shillong.
5. Officer Commanding  
306 Station Workshop  
EME, C/o 99 APO..
6. Asstt. Executive Engineer (AEE)  
306 Station Workshop EME  
C/o 99 APO.



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ORDERS BY THE APPELLATE AUTHORITY IN RESPECT OF APPEAL  
FILED BY T/NO 172/CIV/ELECT SHRI BIHARI SINGHA

Tele Mil : 2790

Headquarters  
Eastern Command (EME Branch)  
Fort William, Kolkata-21

332230/2/SBS/EME Civ

06 Feb 10

ORDER

1. I have examined the appeal dated 01 Apr 2009 filed by T/No 172 Civ/Elect Shri Bihari Singha of Stn Wksp EME, Shillong against the order passed by the disciplinary Authority for dismissing the services of T/o 172 Civ/Elect Shri Bihari Singha and his prayer for setting aside the dismissal order No 10401/172/Civ/Inq/05 date 15 Apr 2005 and for re-instating T/No 172 Civ/Elect Shri Bihari Singha with effect from the date of dismissal.

2. I have also examined the order (Oral) dt 27<sup>th</sup> March 2009 of the Hon'ble Mr AK Gaur, Judicial Member and the Hon'ble Mr Khoshiraw, Administrative Member Central Administrative Tribunal, Guwahati Bench for reconsidering the appeal of T/No 172 Shri Bihari Singha for passing a reasoned speaking order in accordance with the provisions of rule within three months from the date of receipt of the copy of this order.

3. The appellant has prayed for the following redressals :-

(a) To set aside and quash the order of disciplinary auth issued vide case No 10401/172/Civ/Inq/05 dt 15 Apr 2005 being illegal and arbitrary and to re-instate the appellant/petitioner with consequent benefit.

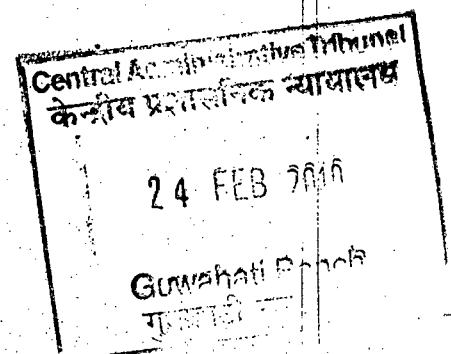
(b) To review the case and pass suitable orders.

4. A perusal of letter No 10401/172/Civ/Inq/05 dated 15 Apr 05 shows that said disciplinary authority had examined all the issues involved therein at great length and disposed off all issues deliberately in detail. I have examined the contentions of the appellant against the order of the disciplinary authority in the light of connected records of the case and I find it being devoid of merit and warrants no interference at this count as the impugned order dated 15 Apr 05 is comprehensive and entail no illegality. The procedure was followed in accordance with the provisions of law affording all the applicable privileges and rights to the appellant. The order was preceded by a detail inquiry, recommendation of inquiry officer, application of mind on the part of disciplinary authority and consideration of commensurating punishment under the provisions of Rule 11 (5) of CCS (CCA) 1965 in shape of major penalty of dismissal from the service.

5. Further the contention of the appellant that Lt Col JS Bains, Officer Commanding, Stn Wksp EME, Shillong and disciplinary authority was involved in the instant incident on 01 Jun 2001 is second thought a blatant lie and primarily aimed at misleading the proceedings. The memorandum of charge sheet bearing letter No 21208/172/Est-IND/LC dt 11 Jul 2001 is just fair and does not warrant any re-consideration.

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A Heshel  
Advocate



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6. I have perused the records of the case and am of the considered opinion that the process of disciplinary case against T/No 172 Civ/Elect Shri Bihari Singha has been carried out in fairness and by adopting correct procedures as per provisions of CCS (CCA) Rules 1965 and thus the representation is found to be unjustified, devoid of merit and does not warrant any consideration.

7. I have also perused the service record of T/No 172 Civ/Elect Shri Bihari Singha from the date of his enrolment in 1982. He has been continuously absenting himself from his place of work. His performance had been found unsatisfactory on more than one occasions. He has been habitually disrespectful towards his seniors for which protracted correspondence exists in the unit records as follows:-

(a) **Absent Report** T/No 172 Civ/Elect Shri Bihari Singha deliberately absented himself from his place of work on 25 Jun 88. Absent Report was submitted in writing by Nb/Sub Kehar Singh Incharge Elect Sec (Photo copy).

(b) **Show Cause Notice by Officer Commanding** Show Cause Notice to T/No 172 Civ/Elect Shri Bihari Singha dt 28 Jun 88 issued by Maj SK Mitra, Officer Commanding regarding insolent behaviour and insubordination towards Nb Sub Kehar Singh (Copy encl).

(c) **Second Show Cause Notice** Second Show Cause Notice to T/No 172 Civ/Elect Shri Bihari Singha dt 30 Jun 88 issued by Maj SK Mitra, Officer Commanding for absenting himself without sanction of leave, a violation of the existing orders when investigation of a case against T/No 172 Civ/Elect Shri Bihari Singha was in progress (Copy encl).

(d) **Application by Charged Official seeking excuse** Application by T/No 172 Civ/Elect Shri Bihari Singha dt 02 Jul 88 with regards to acceptance of mistakes and seeking excuse (Copy encl).

(e) **Civil Offence by T/No 172 Civ/Elect Shri Bihari Singha** On 29 Jun 88 at 0900h T/No 172 Civ/Elect Shri Bihari Singha manhandled Gate NCO No 7098052 Hav GC Pawa and went out of wksp premises without permission. An FIR was lodged with Shillong Police Stn. Stn HQ was intimated and C of I ordered. (Copies of relevant letters encls).

(f) Detailed report on the C of I blaming T/No 172 Civ/Elect Shri Bihari Singha for taking law in his own hands and hitting wksp Gate NCO (copy encl)

(g) **Show Cause Notice for being Absent** Show Cause Notice to T/No 172 dt 24 Jun 89, issued by Capt JP Singh, Officer Commanding to T/No 172 Civ/Elect Shri Bihari Singha for being absent from place of wk (copy encl).

(h) **Issue of warning letter for organising gambling in Wksp** Warning letter, issued to T/No 172 Civ/Elect Shri Bihari Singha by Capt JP Singh, OC, on 05 Aug 89 for organizing TEER business and gambling during working hour in workshop premises. (copy encl)

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Affected  
(Advocate)

24 FEB 2010  
Guwahati Bench  
গুৱাহাটী ন্যায়পীঠ

CONFIDENTIAL

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(i) **Compromise in Civil Court in Assault and Affray case** Proceedings of Court Case No 88/U/S325/5061PC dated 19 May 89 in the Court of Shri A Mawlong magistrate Mawlong assault and affray on No 7098052L Hav GC Pawa, Workshop gate NCO against T/No 172 Civ/Elect Shri Bihari Singha and compromise arrived by both parties dt 19 May 1989 (copy encl)

(k) **Submission of Report Assault and Affray case** Final report of Assault and Affray case submitted by Stn HQ, Shillong vide letter No 435/3/A dt 27 Oct 89 to AHQ, AGs Br (DV Dte) and HQ EC A Br (Copy encl).

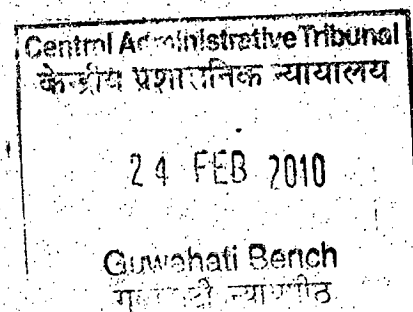
8. The contention of the appellant that consideration has not been given to his representation dated 29 Nov 2003 is wrong and baseless. On the contrary, adequate evidence exists on record to show that he is a habitual offender. Offender takes law in his own hands and has been showing disobedience to the supervisory staff throughout his service career.

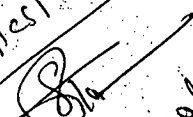
9. I have perused the inquiry officers report, record of the inquiry and representation received from the charged official and the evaluation of the disciplinary authority on each article of charge and the subsequent order issued vide letter no 10401/172/Civ/Inq/05 dt 15 Apr 05 and I am of the opinion that the process of disciplinary case against T/No 172 Civ/Elect Shri Bihari Singha has correctly been followed as per provisions of CCS(CCA) Rules 1965 and the findings of guilty are consistent to the evidence and are thus just and legal and the representation being devoid of merit does not warrant any consideration. Hence the appeal is rejected in the interest of Govt service.

  
(S C Jain)  
Maj Gen  
MGEME  
Appellate Authority

Copy to :-

T.No 172 Civ Elect  
Shri Bihari Singha  
Qtr No 93/2  
Dudgeon Lines  
Shillong Cantt



*Attested*  
  
(Advocate)

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