

6

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI - 5

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

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SECTION OFFICER (JUDL.)

GENERAL ADMINISTRATIVE TRIBUNAL  
GOURAVINI HALL

ORDER SHEET

1. Original Application No. 101/07

2. Misc Petition No. \_\_\_\_\_

3. Contempt Petition No. \_\_\_\_\_

4. Review Application No. \_\_\_\_\_

Applicant(s) Lilabati Das vs Union of India & Ors

Advocate for the Applicant(s) S. Sarma, B. Dei,

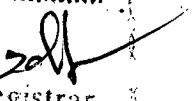
H. K. Das.....

Advocate for the Respondent(s) Sr. C. S. G. Basu

Notes of the Registry Date Order of the Tribunal

Application is in form  
is filed C. P. for Rs. 50/-  
and was filed P.C./BD  
No. 283989986

4.5.07. The applicant has approached this Tribunal by filing O.A.No.232 of 06. This Tribunal has directed the respondents to dispose of the appeal dated 2/3/2005 by passing a reasoned order within a period of three months. The charge against the applicant is that while he was working as GDS/BPM he had misappropriated certain amounts. According to applicant the amounts has already recovered. The grievance of the applicant is that the applicant has received a communication dated 12.1.07 by which the appeal preferred by the applicant against the order of removal dated 24.1.2005 which has been rejected by the respondents. The O.A. has challenged both the orders.

  
Dy. Registrar

Contd/-

OA-101/07

-2-

4.5.07

I have heard Mr. B. Devi learned counsel for the applicant and Mr. G. Baishya, learned Sr.C.G.S.C. for the respondents.

Considering the facts and circumstances I am of the view that the application has to be admitted. Application is admitted. Issue notice on the respondents. Post the matter on 15.6.07. Respondents are at liberty to file written statement if any.

Vice-Chairman

order dt-4/5/07  
issuing to learned  
advocates for both  
the parties.

4/5/07

Notice & order sent  
to D/Section for  
issuing to R-1,4  
by regd. A/P post  
and others R-2,3  
sent to received  
by hand.

~~11/5/07.~~ D/No-467 to  
① D= 470  
② D= 15/5/07

lm

18.6.07.

Counsel for the respondents  
wanted time to file written statement.  
Let it be done. Post the matter on  
27.7.07.

Vice-Chairman

① Service report awaited.  
② No Wks hrs been billed.

20.7.2007

Further four weeks time is granted to  
the Respondents to file reply statement.  
Post the matter on 21.8.2007.

Wks not billed.

/bb/

21.7.07.

Wks not billed.

20.7.07.

Wks not billed.

/bb/

Post the matter on 14.9.2007 granting  
further time to file reply statement.

Vice-Chairman

14.9.07.

At the request of learned counsel for the respondents three weeks further time is granted to file written statement. Post the matter on 11.10.07.

W/Ls not biloc.

23  
10.10.07.

Vice-Chairman

lm

11.10.2007 No written statement has been filed as yet. Mr.G.Baishya, learned Sr. Standing counsel for the Central Government undertakes to file his appearance memo for the Respondents in this case.

W/Ls not biloc.

23  
26.11.07.

Call this matter on 27.11.2007; awaiting written statement from the Respondents.

Khushiram  
(Khushiram)  
Member (A)

M.R.Mohanty  
(M.R.Mohanty)  
Vice-Chairman

/bb/

27.11.2007 Mr.H.K.Das, learned counsel for the Applicant is present. As a last chance, Respondents are directed to file written statement in this case, failing which, case will be decided on the materials based on record after hearing learned counsel for the parties.

Call this matter on 31.12.2007.

W/Ls biloc.

23  
27.12.07.

/bb/

Khushiram  
(Khushiram)  
Member (A)

Written Statement filed on 31.12.2007. In this case written statement has already been filed. A rejoinder has been filed since 28.11.2007. Despite that no rejoinder has yet been filed by the Applicant as of 18.1.2008.

Call this matter on 21.01.2008 awaiting rejoinder from the Applicant.

*Rejoinder not filed.*

*33*  
18.1.08.

/bb/

*✓*  
(M.R.Mohanty)  
Vice-Chairman

On 21.01.2008 Mr. G. Baishya, learned Sr. Standing Counsel appearing for the Respondents undertakes to file Index to the Written Statement which has already been filed. Mr. H. K. Das, learned counsel appearing for the Applicant prays for some more time to file rejoinder. Prayer is allowed.

Call this matter on 20.2.2008 awaiting rejoinder from the Applicant.

*✓*  
(Khushiram)  
Member(A)

*✓*  
(M.R.Mohanty)  
Vice-Chairman

On 20.02.2008 Mr. H. K. Das, learned counsel appearing for the Applicant and Mr. G. Baishya, learned Sr. Standing counsel appearing for the Respondents are present.

Counsel for the Applicant prays for two weeks time to file rejoinder. Prayer is allowed.

Call this matter on 10.3.2008.

*33*  
7.3.08.

*✓*  
(Khushiram)  
Member (A)

10.03.2008 None appears for the Applicant, nor the Applicant is present. In this case, written statement has already been filed and, despite opportunities, given the Applicant has not filed any rejoinder.

Call this matter on 28.03.2008, for hearing.

  
(M.R. Mohanty)  
Vice-Chairman

lm

20.03.2008 Call this matter on 9.5.2008.

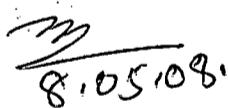
  
(Khushiram)  
Member(A)

  
(M.R. Mohanty)  
Vice-Chairman

lm

27.03.2008 Call this matter on 09.05.2008.

Rejoinder not filed.

  
8.05.08

lm

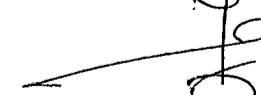
  
(M.R. Mohanty)  
Vice-Chairman

09.05.2008 Heard Mr H.K. Das, learned Counsel appearing for the Applicant and Mr G. Baishya, learned Sr. Standing Counsel for the Union of India, and perused the materials placed on record.

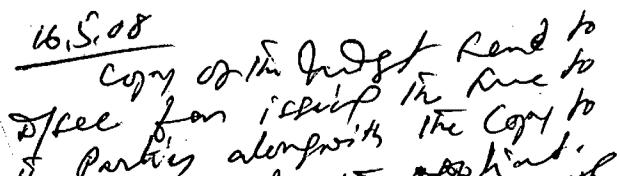
Copy of the order  
recd 9.5.08 received on  
behalf of Mr G. Baishya  
(S. C. G. SC)  
Bipasha Das.  
Advocate  
15.5.08.

For the reasons recorded separately,  
this O.A. is dismissed. No costs.

  
(Khushiram)  
Member (A)

  
(M.R. Mohanty)  
Vice-Chairman

nk

  
16.5.08  
Copy of the Order Recd to  
S/fee for issue in the case to  
the parties alongwith the copy to  
the Adv. for the applicant.

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. No.101 of 2007

DATE OF DECISION:09.05.2008

Smt Lilabati Das

.....Applicant/s

Mr.H.K.Das

.....Advocate for the  
Applicant/s.

- Versus -

U.O.I. & Ors

.....Respondent/s

Mr. G.Baishya, Sr. C.G.S.C.

.....Advocate for the  
Respondents

CORAM

THE HON'BLE MR. MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR.KHUSHIRAM, ADMINISTRATIVE MEMBER

4. Whether reporters of local newspapers may be allowed to see the Judgment? Yes/No
5. Whether to be referred to the Reporter or not? Yes/No
6. Whether to be forwarded for including in the Digest Being compiled at Jodhpur Bench & other Benches ? Yes/No
7. Whether their Lordships wish to see the fair copy of the Judgment? Yes/No

  
Vice-Chairman/Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 101 of 2007

Date of Order: This, the 9th Day of May, 2008

THE HON'BLE SHRI MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE SHRI KHUSHIRAM, ADMINISTRATIVE MEMBER

Smt. Lilabati Das  
Ex GDSBPM, Salchapara BO  
P.O: & Vill: Salchapara via Kalinagar  
Dist: Hailakandi.

..... Applicant.

By Advocates S/Shri S. Sarma, B.Devi & H.K.Das

- Versus -

1. The Union of India  
Represented by the Secretary to the  
Government of India  
Ministry of Communication  
Dept. of Posts  
Dak Bhawan, New Delhi.
2. The Chief Post Master General  
Dept. of Post, Assam Circle  
Meghdoot Bhawan  
Guwahati-1.
3. The Director  
Postal Training Centre  
Meghdoot Bhawan  
Guwahati-1.
4. The Senior Superintendent of Post Offices  
Cachar Division  
Silchar - 788 001.

..... Respondents.

Mr. G. Baishya, Sr. C.G.S.C.

\*\*\*\*\*



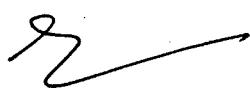
**O R D E R (ORAL)**  
**09.05.2008**

**KHUSHIRAM, MEMBER (A) :**

The Applicant, while continuing as Branch Post Master, (in Salchapara, Branch Post Office) in Gramin Dak Seva Organization of Postal Department of Govt. of India, was placed under "put off duty" and, after a departmental proceeding, the impugned order dated 24.01.2005 (removing the Applicant from her service) was passed. Applicant preferred an Appeal against the said order and, while the appeal was not being disposed of by the Respondents, the Applicant approached this Tribunal by way of filing O.A.232/2006. The said case was disposed of by this Tribunal (on 13.09.2006) with direction to the Respondents to dispose of the pending Appeal of the Applicant. Pursuant to the order of this Tribunal, the Respondents disposed of the Appeal (by rejecting the same) on 12.01.2007. Hence this Original Application under Section 19 of the Administrative Tribunals Act, 1985 seeking the following main relief:-

"8.1 To set aside and quash the impugned removal orders dated 24.01.05 and 12.1.2007 removing the applicant w.e.f. 24.1.05 and to reinstate her in her service with full back wages along with other consequential service benefits."

2. From the records it is apparent that the Branch Post Office (of which the Applicant was the Branch Post Master) was visited by Inspector of Posts on 13.11.2001.



On verification of cash and stamp balances of the Post Office with the accounts of the date, an amount of Rs.7,527.25 was found short which was charged under head of account "Unclassified Payment" on the same day. An amount of Rs.20,528.25 was deposited by the Applicant in Govt. account for frauds in SB/RD accounts. Applicant was called upon to explain the matter and she submitted her explanation (a copy of which is at Annexure-2 of the written statement filed by the Respondent Department) wherein she stated as under:-

*"I had narrated the circumstances under which the mistake took place. I had no intention to misappropriate the public money at all. I am low paid GDS employee and have no financial capacity to bear the accidental extra expenditure of medical treatment of my family member. I also expressed my extreme regret for the circumstantial mistake in my representation submitted in C/W the defence statement and deposited the entire amount as asked for."*

2. In view of her above admission and proved charges (in departmental proceedings) her service was terminated by the impugned order dated 24.01.2005. This order was upheld in Appellate Order dated 12.01.2007.

3. Heard Mr. H. K. Das, learned counsel appearing for the Applicant, and Mr. G. Baishya, learned Sr. Standing counsel of the Union of India, appearing for the Respondent Department. Learned counsel appearing



for the Applicant argued that the misappropriation of fund on the ground of expenditure in medical treatment of members of applicant's family has been refunded and that, therefore punishment is harsh/highly disproportionate. In support of his contention, he cited the judgment rendered by the Hon'ble Supreme Court of India in the case of **High Court of Judicature at Bombay through Registrar vs. Shashikant S. Patil and Another** (reported in (2000) 1 SCC 416) wherein it was held that the findings of the Enquiry Officer are not binding on the Disciplinary Authority/punishing authority who can come to its own conclusions, bearing in mind the views expressed by the enquiry officer. It was further held that judicial interference is permissible if there is violation of natural justice or statutory regulations. Learned counsel for the Respondents argued that the decision relied upon by the learned counsel appearing for the Applicant is not applicable in the present case since the applicant herself admitted her guilt and charges have been proved in the departmental proceedings, and therefore, there is no scope for interference by the Tribunal.

4. Having gone through the records placed before us and considering the rival contentions made by learned counsels for both the parties, we are of the view that admission of the Applicant of her guilt and the proved



charges (in departmental enquiry) followed by speaking orders by the Disciplinary Authority are in conformity with the procedure laid down. The Appellate Authority has also passed a speaking order upholding the order of Disciplinary Authority which cannot be faulted with. Since misappropriation of public funds is a serious matter - which cannot be taken lightly; therefore, the punishment of removal from service is absolutely justified.

5. In view of the forgoing discussions, the present Original Application is bereft of any merit and is, accordingly, dismissed. No costs.

Khushiram  
9.5.2008

(KHUSHIRAM)  
MEMBER (A)

Manoranj  
9.5.2008

(MANORANJAN MOHANTY)  
VICE-CHAIRMAN

/bb/

30 APR 2007

लिलाबाती दास  
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL::

GUWAHATI BENCH::

O.A. No. 101.....of 2007

Lilabati Das

..... Applicant.

AND

Union of India & ors.

..... Respondents.

SYNOPSIS

The applicant while was working as Gramin Dak Sewak, Branch Post Master (GDS BPM in short), in the Salchapara, B.O. received a communication issued by the Senior Supdt. of Post Offices, placing her on "put off duty. Against the said communication the applicant preferred representation. The respondents pursuant to a departmental proceeding initiated against the applicant issued the impugned order dated 24.1.05 removing her from service. The applicant preferred appeal against the said order of removal but same yielded no result in positive. The representation has been disposed of vide appellate order dtd. 12/1/2007 which is also cloaked with several infirmities. Therefore the applicant had left with no option than to approach this Hon'ble Tribunal seeking redressal of her grievances.

Hence this application.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Title of the case : O.A. No. 101 of 2007

BETWEEN

Lilabati Das..... Applicant.

AND

Union of India & ors..... Respondents.

I N D E X

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\*\*\*\*\*

Filed by : Das.

Regn. No. :

File : d:\private\lilabati

Date : 1. 5. 02

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:::  
GUWAHATI BENCH::

(An application under section 19 of the Central  
Administrative Tribunal Act.1985)

Filed by:-  
The Applicant  
through  
Hridip Kr. Das.  
Advocate

16  
15.07

O.A.No. 101 of 2007.

BETWEEN

Smt. Lilabati Das,  
Ex GDSEPM, Salchapara BO.  
PO & Vill- Salchapara via Kalinagar,  
Dist. Hailakandi.

..... Applicant.

- AND -

1. The Union of India.  
Represented by Secretary to the  
Govt. of India,  
Ministry of Communication  
Dept. of Post,  
Dak Bhawan, New Delhi.
2. The Chief Post Master General  
Dept. of Post, Assam Circle,  
Meghdoct Bhawan,  
Guwahati-1.
3. The Director, Postal Training Centre,  
Meghdoct Bhawan,  
Guwahati-1.
4. The Senior, Superintendent of Post Offices,  
Cachar Division, Silchar-788001.

..... Respondents.

PARTICULARS OF THE APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION  
IS MADE:

This application is directed against the order under memo no. Staff/2/25-1/06/RP dtd. 12/1/07 by which the appeal dtd. 2/3/2005 preferred by the applicant against the order of removal dtd. 24/1/2005 has been rejected.

Das.

2. LIMITATION:

The applicant declares that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act, 1985.

3. JURISDICTION:

The applicant further declares that the subject matter of the case is within the jurisdiction of the Central Administrative Tribunal.

4. FACTS OF THE CASE:

4.1. That the applicant is a citizen of India and as such she is entitled to all the rights, privileges and protections as guaranteed under the Constitution of India and laws framed thereunder.

4.2. That the applicant while was working as Gramin Dak Sewak, Branch Post Master (GDS BPM in short), in the Salchapara, B.O. received a communication issued by the Senior Supdt. of Post Offices, placing her on "put off duty." It is noteworthy to mention here that the terminology "put off duty" is same and similar to suspension under CCS (CCA) Rule 1965.

4.3. That the applicant made correspondences to the respondents authority, to know the reason of placing her on "put of duty" and she could come to know that pursuant to an

LDas

preliminary enquiry a departmental proceeding is contemplated against her. However, for a long period of time no charge sheet was issued to her. Subsequently, the Sr. Supdt. of Post Offices issued a memorandum of charges dated 25.2.03, indicating five charges, list of documents and list of witnesses.

A copy of the said memorandum is annexed herewith and marked as Annexure-1.

4.4. That the applicant immediately on receipt of the said memorandum, submitted a reply to the said memorandum. The applicant in her said reply dated 21.4.03 also indicated the fact leading to delay in depositing the said amount. It is stated that the deposited amount was kept in the safe custody of the EO for the particular day with the intention to update the account on subsequent day. It has also been mentioned that an amount of Rs.20,528.25 has been recovered from her.

A copy of the said reply dated 21.4.03 is annexed herewith and marked as Annexure-2.

4.5. That having regard to the aforesaid Annexure-2 reply dated 21.4.03, the respondents took a decision to proceed with the departmental proceeding. The respondents appointed Enquiry Officer and Presenting Officer to proceed with the enquiry proceeding. The regular proceeding started but the applicant was not allowed the reasonable opportunity to put her defence in the proceeding. The respondents being the higher authority of the applicant has put tremendous

*Das.*

pressure on her to admit the guilt and she was forced to sign number of blank papers during the course of the said proceeding. The respondents without indicating anything, all on a sudden closed the proceeding without intimating the applicant about the same. Even most of the valid witnesses were not examined and in the midway closed the said proceeding and the P.O submitted the written Brief. The Enquiry Officer without discussing the evidence on record as well as the recordings of the witnesses prepared the enquiry report and furnished the same to the applicant. The E.O took into consideration the facts not incorporated in the charge sheet and held the same to be proved without affording any opportunity. It is noteworthy to mention here that the respondents have indicated the fact that the applicant has admitted her guilt but at the same time they have resorted to the departmental proceeding, meaning thereby the respondents have not taken the admission as a piece of evidence. That apart, even after any admission the procedural requirement is to allow the charged official to confront with the available materials which are going against her case. In the instant case though the applicant prayed for such examination but same has been denied to her and same caused serious prejudice to her defence.

A copy of the said enquiry report  
dated 9.10.04 is annexed herewith  
and marked as Annexure-3.

4.6. That the applicant due to her various unavoidable circumstances could not submit the representation against the enquiry report. Accordingly she submitted an application dated 21.

time to submit representation. The Enquiry Officer vide his letter dated 3.01.05 allowed her prayer. The applicant on 18.1.05 submitted her representation against the enquiry report.

The applicant has misplaced the representation filed by her and could not recollect the contentions made therein and as such she craves leave of the Hon'ble Tribunal for a direction to the respondents to place the records of the said departmental proceeding at the time of hearing of the case.

4.7. That the respondents however, without taking into consideration any of the correspondences, representations, as well as oral submission, issued the impugned order dated 24.1.05, removing her from her service. The aforesaid impugned order has been passed by the Sr. Supdt of Post Offices, Cachar Division, in the capacity of the Disciplinary Authority but in reality, he has got no authority to issue such order.

A copy of the order dated 24.1.05 is annexed herewith and marked as Annexure-4.

4.8. That the applicant immediately on receipt of the said impugned order dated 24.1.05 preferred an appeal dated 2.3.05 before the authority concerned but same yielded no result in positive. The applicant thereafter once again remind the authority vide letter dated 30.1.06 praying for taking a sympathetic view in the matter.

A copy of the said appeal is annexed herewith and marked as ANNEXURE-5.

4.9. That the applicant begs to state that respondents have not replied to her appeal dtd. 2/3/2005. Situated thus the applicant had to approach the Hon'ble Tribunal by filing O.A No. 232/06 seeking redressal of her grievances. The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to dispose of the OA vide judgment and order dtd. 13/9/06 directing the respondents to dispose of the said appeal dtd. 2/3/2005 by passing a reasoned order within a period of three months.

A copy of the said judgment and order dtd. 13/9/06 is annexed herewith and marked as Annexure-6.

4.10. That the applicant begs to state that the respondents vide order under memo no. Staff/2/25-1/06/RP dtd. 12.1.07 have rejected the appeal dtd. 2.3.2005 preferred by the applicant upholding the punishment order issued by the Disciplinary Authority vide memo no. F1-6/01/02/DA dtd. 24/1/05. It is pertinent to mention here that the aforesaid appellate order dtd. 12/1/07 has been communicated to the applicant vide communication dtd. 18/1/07.

A copy of the appellate order dtd. 12/1/2007 is annexed herewith and marked as Annexure-7.

4.11. That the applicant begs to state that in her aforesaid appeal she has highlighted the fact that the respondents putting undue pressure recovered an amount of

*LDas.*

Rs. 20,528.00 during the aforesaid departmental proceeding without any notice and reason. As the amount has already been recovered from the applicant, the respondents ought not to have proceeded with the matter further. The aforesaid action on the part of the respondents amount to double jeopardy and as such the entire proceeding is liable to be set aside and quashed.

4.12. That the applicant begs to state that the proceeding in question initiated by the respondents pursuant to the charge sheet dtd. 25/2/2003 is violative of the rules holding the field. Same is also violative of the principles of natural justices. It is stated that the applicant was not allowed to go through the records nor she was allowed to examine the witnesses. Most of the valid witnesses were not examined and the enquiry officer all on a sudden closed the proceeding without intimating her about the same. The enquiry officer in the enquiry report did not discuss the aforesaid infirmities occurred in the said proceeding though it was pointed out by the applicant, rather on the presumption, without any basis gave his finding. The Enquiry officer took into consideration the irrelevant facts, not included in the proceeding and without affording any reasonable opportunity has finalized the proceeding. The applicant was not given the opportunity to confront with the materials going against her and same has caused serious prejudice to her defence. The enquiry officer proceeded with the premise that the applicant has admitted the guilt. Had there been such material, the Enquiry Officer would not have initiated the proceeding, instead they have decided to proceed in the matter and took the admission as a piece of evidence without confirming the same by the applicant during

Das.

the proceeding, which is a mandatory requirement of the rules holding the field.

4.13. That both the Disciplinary authority as well as the Appellate authority without discussing any of the materials on records, as well as the defence placed by the applicant passed the impugned order dated 24.1.05 and 12/1/2007 without any Jurisdiction. The said impugned orders clearly indicates the fact that same has been passed without there being any application of mind whatsoever. Apart from that even after noticing the infirmities as well as the fact of refund of huge amount, the disciplinary authority as well as appellate authority failed to appreciate the correct factual aspect of the matter and passed the impugned orders which are not sustainable in the eye of law and required to be set aside and quashed.

4.14. That the applicant taking into consideration the Sr. Superintendent of Post Offices as Disciplinary Authority, preferred her appeal which has been disposed of by a non speaking order. It is noteworthy to mention here that the appellate authority has failed to discuss the material available before him and passed the impugned order. Apart from that the said authority has taken into consideration the materials " Past Work Verification" which was not the charge while passing the impugned order, virtually by which she has been denied of her defence. The appellate authority could have directed the concerned authority to initiate fresh proceeding against the applicant regarding the allegation noticed as "Past Work Verification" but instead of doing so the said authority took a short cut in

irrelevant materials together to bring home the charge leveled against the applicant.

It is stated that the basic allegation against which the proceeding in question has been initiated has lost its force when during the course of the proceeding she was forced to deposit huge amount without there being any order to that effect. It was her bonafide expectation that after such recovery there would be an end to the proceeding but same continued and the aforesaid fact was never been allowed to form a part of the proceeding inspite of her repeated persuasion. This shows that the proceeding has been initiated without taking into consideration the basic issue involved in the case and as such entire proceeding as well as the impugned order therein is liable to be set aside and quashed. Even assuming but not admitting the charge leveled against the applicant is proved, the punishment imposed upon her is shockingly disproportionate and as such same is required to be interfered with, having regard to the attending facts and circumstances as narrated above.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action/inaction on the part of the Respondents in removing the applicant from her service is per-se illegal, and as such the impugned order is liable to be set aside and quashed.

5.2. For that the respondents have acted contrary to the settled proposition of law in not providing her reasonable opportunity of hearing and as such the impugned order is liable to be set aside and quashed.

5.3. For that the Respondents having recovered the amount in question from the applicant in the midst of the proceeding ,waived their right to proceed further with the disciplinary proceeding and as such the said proceeding as well the impugned order of removal are liable to be set aside and quashed.

5.4. For that the proceeding in question initiated by the respondents pursuant to the charge sheet dtd. 25.02.03 is violative of the rules holding the field. Same is also violative of the principles of natural justices. It is stated that the applicant was not allowed to go through the records nor she was allowed to examine the witnesses. Most of the valid witnesses were not examined and the enquiry Officer all on a sudden closed the proceeding without intimating her about the same. The enquiry officer in the enquiry report did not discuss the aforesaid infirmities occurred in the said proceeding, rather on the presumption, without any basis gave his finding, and as such the said proceeding as well the impugned order of removal are liable to be set aside and quashed.

5.5. For that the appellate order dtd. 12/1/2007 is not sustainable in the eye of law and hence is liable to be set aside and quashed.

5.6. For that in any view of the matter the impugned action of the respondents is not sustainable in the eye of law and liable to be set aside and quashed.

The applicant craves leave of the Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that she has exhausted all the remedies available to her and there is no alternative remedy available to her.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:

The applicant further declares that she has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicant:-

8.1. To set aside and quash the impugned removal orders dated 24.01.05 and 12.1.2007 removing the applicant w.e.f. 24.1.05 and to reinstate her in her service with full back wages along with other consequential service benefits.

8.2. Cost of the application.

8.3. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case as deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

During the pendency of this application the applicant prays for an interim order directing the Respondents to reinstate the applicant in her present place of posting and to allow her to draw regular pay and allowances.

10.

11. PARTICULARS OF THE I.P.O.:

1. I.P.O. No. :
2. Date :
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES: As stated in the Index.

VERIFICATION

I, Smt. Lilabati Das, aged about ..... years, ex GDSBPM, Salchapara BO PO & Vill- Salchapara via Kalinagar, Dist. Hailakandi, Assam, do hereby solemnly affirm and verify that the statements made in paragraphs 4.1, 4.2, 4.11, 4.13, 4.14 ..... are true to my knowledge and those made in paragraphs 4.3-4.5, 4.6, 4.7, 4.8-4.10, 4.12 are matter of records and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 1<sup>st</sup> day of May, 2007.

*Lila Bati Das.*

Signature.

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ANNEXURE-1  
29

DEPARTMENT OF POSTS: INDIA  
OFFICE OF THE SENIOR SUPDT OF POST OFFICES  
CACHAR DIVISION SILCHAR-788001

Memo No. F1-6/01-02/DA

Dated Silchar the 25-02-03

MEMORANDUM

The undersigned proposed to hold an enquiry against Smt Lilabati Das, GDSBPM, Salchapra BO (now put off duty) under Rule 10 of GDS (Conduct and Employment) Rules 2001. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of Articles of Charges (Annexure-I). The statement of imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which and list of witnesses by whom the articles of charges are proposed to be sustained are also enclosed (Annexure-III & IV).

2. Smt Lilabati Das, GDSBPM, Salchapra BO (now put off duty) is directed to submit within 10 (ten) days of the receipt of this memorandum /completion of inspection of listed documents, a written statement of her defence and also to state whether she desires to be heard in person.

3. She is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. She should, therefore, specifically admit or deny each article of charge.

4. Smt Lilabati Das, GDSBPM, Salchapra BO (now put off duty) is further informed that if she does not submit her written statement of defence on or before the date specified in para 2 above, or does not appear in person before Inquiring Authority or otherwise fails or refuses to comply with the provisions/rules 10 of the aforesaid Rules, 2001 or the orders/directions issued in pursuance of the said rule, the Inquiring authority may hold the inquiry against her ex-parte.

5. Attention of Smt Lilabati Das, GDSBPM, Salchapra BO (now put off duty) is invited to rule 29 of the above Rules under which no GD Sevak shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further her interest in respect of matters pertaining to her service under the Govt. If any representation is received on her behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Smt Lilabati Das, GDSBPM, Salchapra BO (now put off duty) is aware of such a representation and that it has been made at her instance and action will be taken against her for violation of Rule 29 ibid.

6. The receipt of the memorandum may be acknowledged.

(J.K. Barhuiya)  
Sr. Supdt of Post Offices  
Cachar Dn. Silchar-788001  
o/s

Copy to :-

Regd A/D:- 1. Smt Lilabati Das, GDSBPM, Salchapra BO (now put off duty) Via - Kalinagar SO, Dist - Hailakandi  
2. In file P/F of the official.  
3. In Vigilance file.

Sr Supdt of Post Offices  
Cachar Dn. Silchar-788001  
o/s

F1-6/01-02/DA Dated 25-02-03

NOT INSURED

लगाये गये डाक टिकटों का मूल्य **₹ 0.00** **50/02/03**

Amount of Stamps affixed **Rs. 0.00** **50/02/03**

एक रुपयारुपयोगी **50/02/03**

Received a Registered **50/02/03** **50/02/03**

पात्रवाले का नाम **50/02/03**

Addressed to **50/02/03** **50/02/03**

13 P.M. Salchapra 138

Signature of Receiving Officer **50/02/03**

Attested

  
Advocate.

ANNEXURE : I

**STATEMENT OF ARTICLES OF CHARGES FRAMED AGAINST  
SMT LILABATI DAS , GDSBPM , SALCHAPRA BO (NOW PUT  
OFF DUTY)**

ARTICLE I

On 13-11-2001 the Salchapra BO was visited by Sri P K Roy , Inspector of Posts , (PG) , Silchar and on verification of cash & stamp balances of the office with the accounts of the date a sum of Rs.7,527.25 was found short , which was charged under head of account "Unclassified Payment" on the same day.

Smt Lilabati Das , the then GDSBPM Salchapra BO (now under Put off duty) is therefore considered to have violated the provisions of Note below Rule 11 of the Rules for Branch Offices and Rule 21 of the DOPGDS (Conduct & Employment) Rules 2001.

ARTICLE II

On 7-09-2001 the depositor of Salchapra SB A/c no.5904256 handed over the Passbook of the said SB A/c and a sum of Rs.300.00 for depositing the said sum in the said SB A/c. Smt Lilabati Das while working as GDSBPM Salchapra BO (now put off duty) on 7-09-01 on receipt of the money and Passbook entered the said deposit in the passbook, casted balance , put her initial in the Passbook and impression of Date Stamp of the office but did neither entered the said deposit in BOSB Journal nor credited the amount in the BO Accounts on 7-09-01.

Smt Lilabati Das , GDSBPM Salchapra BO (now under Put off duty) is therefore considered to have violated the provisions of Rule 131 (3) of the Rules for Branch Offices and Rule 21 of the DOPGDS (Conduct & Employment) Rules 2001

### ARTICLE III

Smt Lilabati Das , GDSBPM , Salchapra BO (now put off duty) while working as such on 11-10-01 received a sum of Rs.500/- and the Passbook of Salchapra SB A/c no.5905829 for depositing the said amount in the said SB A/c She entered the said amount as deposit in the said passbook , casted balance and returned the passbook to the depositor with her initial and impression of date stamp of the office but did neither entered the deposit in the BOSB Journal nor credited the amount in the BO Account on that date.

Smt Lilabati Das , GDSBPM Salchapra BO (now under Put off duty) is therefore considered to have violated the provisions of Rule 131 (3) of the Rules for Branch Offices and Rule 21 of the DOPGDS (Conduct & Employment) Rules 2001.

### ARTICLE IV

Smt Lilabati Das , GDSBPM , Salchapra BO (now put off duty) while working as such on 29-09-01 received a sum of Rs.200/- and the passbook of Salchapra RD A/c no.137061 for depositing the said amount in the said RD A/c being the monthly premium for September'01. Smt Das entered the said deposit in the said RD Passbook with her initial and impression of Date stamp of the office but did neither entered the said deposit in the BO RD Journal nor credited the amount in the BO Account Book on 29-09-01.

Smt Lilabati Das , GDSBPM Salchapra BO (now under Put off duty) is therefore considered to have violated the provisions of Rule 144 r/w Rule 143 of the Rules for Branch Offices and Rule 21 of the DOPGDS (Conduct & Employment) Rules 2001.

### ARTICLE V

Smt Lilabati Das , GDSBPM , Salchapra BO (now put off duty) while working as such on 30-10-01 received a sum of Rs.300/- and the Passbook

Salchapra RD A/c no.135367 for depositing the said amount in the said BO A/c being the monthly premium for October'01. Smt Das entered the said deposit in the said Passbook with her initial and impression of Date Stamp of the office but did neither entered the said deposit in the BO RD Journal nor credited the amount in the BO Account on 30-10-01.

Smt Lilabati Das , GDSBPM Salchapra BO (now under Put off duty) is therefore considered to have violated the provisions of Rule 144 r/w Rule 143 of the Rules for Branch Offices and Rule 21 of the DOPGDS (Conduct & Employment) Rules 2001

### ANNEXURE II

### **STATEMENT OF IMPUTATION OF MISCONDUCT OR MISBEHAVIOUR IN SUPPORT OF EACH ARTICLE OF CHARGE FRAMED AGAINST SMT LILABATI DAS , GDSBPM , SALCHAPRA BO (NOW PUT OFF DUTY)**

#### ARTICLE I

Sri P K Roy , Inspector of Posts (PG) , Silchar paid a surprise visit to the Salchapra BO on 13-11-01 and requested Smt Lilabati Das , GDSBPM , Salchapra BO (now put off duty) to produce the BO Account Book and cash & stamps balances for verification. Smt Das produced the BO Account Book according to which the OB dt 13-11-01 were as follows :-

Cash	=	Rs.7,674.25
Postage Stamps	=	Rs.299.00
Revenue Stamps	=	NIL
<hr style="border-top: 1px dashed black;"/>		
Total		Rs.7,973..25

On physical counting of the cash and stamp balances produced by said Smt Lilabati Das these were found as follows :-

Cash	=	Rs.70.00
Postage Stamps	=	Rs.221.00
Revenue Stamps	=	Rs.155.00
<hr/>		
Total		Rs.446.00

There was as such shortage of (Rs.7,973.25 - Rs.446.00 = ) Rs.7,527.25 in the opening balance of the office on the 13-11-01 which was charged as UC Payment in the a/c of the said BO on 13-11-01.

Being questioned by the IPOS (PG) Silchar said Smt Das stated that she had spent the amount of shortage viz. Rs.7,527.25 for her personal purposes.

Smt Lilabati Das, GDSBPM, Salchapra BO (now under put off duty) while working as such on 13-11-01 is therefore considered to have acted in a manner violating the provisions of Note below Rule 11 of the Rules for Branch Offices. By her above action she is also considered to have failed to maintain absolute integrity and devotion to duty as required under Rule 21 of the DOPGDS (Conduct & Employment) Rules 2001

## ARTICLE II

Smt Lilabati Das, GDSBPM, Salchapra BO (now put off duty) while working as such on the 7-09-01 received a sum of Rs.300.00 and the Passbook of Salchapra BO SB A/c no.5904256 for depositing the said amount of Rs.300.00 in the said SB A/c no.5904256. Smt Lilabati Das being satisfied entered the said deposit of Rs.300/- in the Passbook of the said SB A/c, casted balance after this deposit and authenticated the entries with her initial and impression of Date Stamp of the office. But said Smt Lilabati Das did neither entered the said SB deposit of Rs.300/- in the BO SB Journal nor she credited the said amount in the BO Account of the Salchapra BO on 7-09-01.

with her initial and impression of date stamp of the office. But said Smt Lilabati Das did neither entered the said deposit of Rs. 200/- in the BO Journal nor she credited the said amount in the BO Account of Salchapra BO on 29-09-01.

Smt Lilabati Das , GDSBPM , Salchapra BO (now under put off duty) while working as such on 29-09-01 is therefore considered to have acted in a manner violating the provisions of Rule 144 r/w ~~Rule 143~~ of the Rules for Branch Offices. By her above acts said Smt Lilabati Das is also considered to have failed to maintain absolute integrity and devotion to duty as required under Rule 21 of the DOPGDS (Conduct & Employment) Rules 2001.

### ARTICLE V

Smt Lilabati Das , GDSBPM , Salchapra BO (now put off duty) while working as such on the 30-10-01 received a sum of Rs.300/- and the passbook of Salchapra BO RD A/c no.135367 for depositing the said sum of Rs.300/- in the said RD A/c being the monthly premium for the month of Oct'01. Said Smt Lilabati Das being satisfied entered the said deposit of Rs.300/- in the Passbook of the said RD A/c no.135367 against the month of Oct'01 , casted balance after the said deposit and authenticated the entries with her initial and impression of the Date Stamp of the office. But said Smt Lilabati Das did not entered the said deposit of Rs.300/- in the BO RD Journal and also did not credited the said amount in the BO Account of Salchapra BO on 30-10-01.

Smt Lilabati Das , GDSBPM , Salchapra BO (now under put off duty) while working as such on 30-10-01 is therefore considered to have acted in a manner violating the provisions of Rule 144 r/w Rule 143 of the Rules for Branch Offices. By her above acts said Smt Lilabati Das is also considered to have failed to maintain absolute integrity and devotion to duty as required under Rule 21 of the DOPGDS (Conduct & Employment) Rules 2001.

### ANNEXURE III

Smt Lilabati Das , GDSBPM , Salchapra BO (now under put off duty) while working as such on 7-09-01 is therefore considered to have acted in a manner violating the provisions of Rule131(3) of the Rules for Branch Offices. By her above acts said Smt Lilabati Das is also considered to have failed to maintain absolute integrity and devotion to duty as required under Rule 21 of the DOPGDS (Conduct & Employment) Rules 2001.

### ARTICLE III

Smt Lilabati Das , GDSBPM , Salchapra BO (now put off duty) while working as such on the 11-10-01 received a sum of Rs.500/- and the Passbook of Salchapra BO SB A/c No.5905829 for depositing the said amount of Rs.500/- in the said SB account no.5905829. Said Smt Lilabati Das being satisfied entered the said deposit of Rs.500/- in the Passbook of the said SB A/c , casted balance after this deposit , authenticated the entries with her initial and impression of Date Stamp of the office. But said Smt Lilabati Das did neither entered the said SB deposit of Rs.500/- in the BO SB Journal nor she credited the said amount in the BO Account of Salchapra BO on 11-10-01.

Smt Lilabati Das , GDSBPM , Salchapra BO (now under put off duty) while working as such on 11-10-01 is therefore considered to have acted in a manner violating the provisions of Rule131(3) of the Rules for Branch Offices. By her above acts said Smt Lilabati Das is also considered to have failed to maintain absolute integrity and devotion to duty as required under Rule 21 of the DOPGDS (Conduct & Employment) Rules 2001.

### ARTICLE IV

Smt Lilabati Das , GDSBPM , Salchapra BO (now put off duty) while working as such on 29-09-01 received a sum of Rs.200/- and the passbook of Salchapra RD A/c no.137061 for depositing the said amount of Rs.200/- in the said RD A/c being the monthly premium for the month of September'01. Said Smt Lilabati Das was being satisfied entered the said deposit of Rs.200/- against the month of September'01 in the passbook of the said RD A/c , casted balance after this deposit and authenticated the

LIST OF DOCUMENTS BY WHICH THE ARTICLES OF CHARGES FRAMED AGAINST SMT LILABATI DAS , GDSBPM , SALCHAPRA BO (NOW PUT OFF DUTY) ARE PROPOSED TO BE SUSTAINED :-

- 1) Inventory of cash & stamp balances of Salchapra BO dated 13-11-01 signed by Smt Lilabati Das , GDSBPM witnessed by Sri Mintu Kumar Das , EDDA , Salchapra & Sri Birendra Ch Deb , Office Peon , Salchapra Dev Block and countersigned by Sri P K Roy , IPOs (PG)
- 2) Written statement dated 13-11-01 of Smt Lilabati Das , BPM , Salchapra obtained by Sri P K Roy , IPOs (PG)
- 3) Passbook in respect of Salchapra SB A/c no.5904256 depositor Pinku Nath , C/o Prafulla Kr Nath , Nathpara , Salchapra
- 4) Passbook in respect of Salchapra SB A/c no.5905829 depositor Md Faizul Haque Barbhuiya , PO & Vill – Salchapra
- 5) Passbook in respect of Salchapra RD A/c no.137061 depositor Md Moklush Uddin Laskar , S/o late Abdul Bari Laskar , Ghagrapar Pt I , PO - Salchapra
- 6) Passbook in respect of Salchapra RD A/c no.135367 depositor Nizam Uddin Ahmed , C/o Hasmat Ali , PO – Salchapra
- 7) SB Journal of Salchapra BO from 9-09-97 to 9-08-02
- 8) RD Journal of Salchapra BO from 8-10-99 to 2-11-01
- 9) BO Account Book of Salchapra BO from 1-04-01 to 1-11-01
- 10) BO Account Book of Salchapra BO from 2-11-01 to 13-11-01

ANNEXURE - IV

LIST OF WITNESSES BY WHOM THE ARTICLES OF CHARGES  
FRAMED AGAINST SMT LILABATI DAS, GDSBPM,  
SALCHAPRA BO (NOW PUT OFF DUTY) ARE PROPOSED TO  
BE SUSTAINED :-

- 1) Sri P K Roy, Inspector of Posts, (PG), Silchar
- 2) Sri P K Dey, Inspector of Posts, Silchar West Sub-Divn
- 3) Sri Mintu Kr Das, EDDA, Salchapra BO
- 4) Sri Birendra Ch Deb, Office Peon, Salchapra Dev Block, Salchapra
- 5) Sri Pinku Nath, C/o Prafulla Kr Nath, Nathpara, Salchapra
- 6) Md Faizul Haque Barbhuiya, PO & Vill - Salchapra
- 7) Md Mokdush Uddin Laskar, S/o late Abdul Bari Laskar, Ghagrapar Pt I, Salchapra
- 8) Md Nizam Uddin Ahmed, C/o Hasmat Ali, PO - Salchapra

(A)

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ANNEXURE - 2

To,

The Sr. Superintendent of Post Offices,  
Cachar Division, Silchar.

Division Silchar

Sub :- Divn. Office Memo No. CI-6/01-02/DA  
Dt. 25-2-03.

Sir,

In reply to the memo referred to above, I beg to state that, during the period of September, 02 I was very much disturbed mentally because of the illness of my family members. The circumstances compelled me to bear the huge expenditure of medical expenses and frequent running to hospital. Consequent on this, I could not work properly. The omission and commission as referred to in the articles of charges are not intentional at all. I did not defraud the amount.

Sir, the charge has been framed for shortage of Rs. 7527.25. But an amount of Rs. 20528.25 has been recovered from me, and the reason is not understood. The statement as referred to in Article-I of Annexure II is the dictation of the visiting IPO'S. I have not been given sufficient scope to tell the reason and convince him.

So, I beg to pray you kindly to consider sympathetically and squash me from the charges and oblige.

Dated

21-4-03

Yours faithfully,

Lal. Bati Das

BPM Silchar

Post office.

Silchar

Attested

Mr.

Advocate.

To  
The Disciplinary Authority  
and

Sr. Supdt, of Post Cachar Division Silchar  
No. 10/INQ/1 dated 9.10.04.

Sub: Inquiry under Rule 10 against Smti  
Lilabati Das GDSEPM Salchapara GDS BO now  
under put off duty.

#### PART A

##### INTRODUCTION

Authority of inquiry: SSPDS Cachar Division vide F1-6/01-  
0/DA dated 6.5.03.

Presenting Officer: Shri Tapash Choudhury, SDI PDS  
Karimganj Sub Division.

Defence Asstt.: Shri Shyam Sunder Sarma, P.A.  
Silchar.

Date of Enquiry: 26.8.03 preliminary hearing

Date of regular hearing: 16.10.03, 12.12.03, 29.12.03,  
25.3.04, 20.5.04, 24.6.04, 12.7.04  
and 19.8.04.

#### PART B DISCUSSION

Sir,

A Rule 10 proceeding was drawn against Smti Lilabati  
Das GDSEPM Salchapara now put off duty vide your memo No.F1-  
6/01-04 DA dated 6.5.03 and accordingly the enquiry was  
initiated as per order cited above from 26.8.03 to 19.8.04  
in between.

2. The charge official was particular in the enquiry  
as per aforesaid dates with her defences Asstt. The article  
of charges vis-a-vis their findings are as follows:

**Attested**



**Advocate.**

### Article-I

On 13.11.2001 the Salchapara GDSBPM was visited by Sri P.K.Roy IPO(PG) Silchar and on verification of cash and stamp balances of the office with the accounts on the date a sum of Rs.7527.25 was found short which was charged as under Head unclassified payment on the same day.

In this respect the undersigned finds after enquiry and examining Shri P.K.Roy IPO(PG) by the P.O. and cross examination by D.A. the article of charges against Smt. Lilabati Das is proved beyond doubt.

### Article II

On 7.9.2001 the depotion of Salchapara SB A/c No.5004256 handed over the P/B after said a/c and a sum of Rs.300.00 for depositing money in the said a/c. Smt. Lilabati Das while working as GDS BPM Bo on 7.9.2001 on recruit after money and P.Book entered the said deposit in the passbook casted balance, put her initial in the P/book and impression of dates stamp of the office but did neither entered the said deposit in the books SB journal nor credited the amount in the Bo account on 7.9.01.

After examining Shri P.K.Dey Inspector Post West Sub division witness No.2 the under signed finds after enquiry the article of charges II has been proved beyond doubt.

### Article III

Smt. Lilabati Das GDSBPM Salchapara BO now put off

duty while working as such on the 11.10.01 received a sum of Rs.500.00 and the P/B of BO a/c No.5905829 for depositing the said amount of Rs.500.00 in the said PB a/c No.5905829. Smt. Lilabati Das BPM Salchapara now put off duty being satisfied & entered the said deposit of Rs.500.00 in the PB & casted balance after the deposit & authenticated the entries with her initial and impression of date Stamp of the office. But Smt. Das did neither entered the said deposit of Rs.500.00 in the BO SB journal & nor credited the said amount in the BO account of Salchapara BO on 11.10.01.

In this regards the above mentioned charges Shri P.K.Dey SDI West was examined and after examination the article III of the charges initiate against Smt. Lilabati Das is proved beyond doubt.

#### Article IV

Smt. Lilabati Das while working as GDS BPM Salchapara BO on 29.9.01, received a sum of Rs.200.00 and the P/B of Salchapara RD a/c No.137061 for depositing the said amount in the said RD P/B with her initial and impression of date stamp of the office but did neither entered the said amount in the BO RD journal nor credited the amount in the BO a/c on 29.9.01.

In the above mentioned charges Shri P.K.Dey SDI West subdivision was examined and after examination the charge framed against Smt. Lilabati Das is proved beyond doubt.

#### Article V

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Smti Lilabati Das BPM Salchapara (Now put off duty) while working as such on 30.10.01 received a sum of Rs.300.00 and the P/B RD a/c No.135367 for depositing the said a/c being the monthly premium for Oct'01. Smt. Das entered the said deposit in the said P/B with her initial and impression of date stamp after office but did neither entered the said deposit in the BO RD SB journal nor credited the amount in the BO a/c on 30.10.01.

After examining Shri P.K.Dey SDI West the charge labeled against Smt. Lilabati Das is proved beyond doubt.

In view of the above said findings after enquiry the under signed after threadbare discussion of the relevant charges and the defence with relevant witness & records, I am of the opinion that article of charges I to V is proved against Smt. Lilabati Das beyond doubt.

Enclosed:

1. Memo No.F1-6101-021DA dated 6.5.03.
2. All the listed documents as .... letter dated 6.5.03.
3. Written brief the P.O.

NB. Written argument brief not submitted by the defence Asstt.

R.K.DAS  
I.O. and  
Inspector Posts  
Patharkandi Sub-Division  
patharkandi-788724.

DEPARTMENT OF POSTS:INDIA  
OFFICE OF THE SENIOR SUPERINTENDENT OF POST OFFICES  
CACHAR DIVISION:SILCHAR-788001

Memo No.F1-6/81-82/DA Dated at Silchar the 24.1.85

Dated at Silchar the 24.1.65

In this office memo of even no dt. 25.2.03 Smt. Lilabati Das, GDSBPM, Salchapra BO (now under put off duty) was informed that it was proposed to hold an inquiry against her under Rule 10 of the DOPGDS (Conduct & Employment ) Rules 2001 on the basis of the Articles of Charges and Statement of Imputation of Misconduct or Misbehaviour etc enclosed thereto as Annexure I & II photocopies of which are enclosed herewith as Annexures A & B . Documents by which and witnesses by whom the articles of charges are proposed to be sustained were also sent therewith as Annexure III & IV respectively photocopies of which are enclosed herewith as Annexure C & D respectively.

In the aforesaid memo dt 25.2.03 Smt. Lilabati Das, GDSBPM, Salchapra BO (now under put off duty) was directed to submit within 10 (ten) days of receipt of the said memo dt 25.2.03 or inspection of listed documents a written statement of her defence wherein she should specifically admit or deny each article of charges.

Attested

*[Signature]*

## *Advocate*

In her written statement of defence dt 21.4.03 Smt Lilabati das, GDSEPM, Salchapra BO (now under put off duty) denied the charges brought against her. A photocopy of the said defence dt 21.4.03 is enclosed herewith as Annexure E.

It was, therefore, decided to hold an inquiry against her, as per rule cited above and accordingly Sri R K Das, IPOs, Patherkandi Sub-Divn, Patherkandi was appointed as Inquiring Authority to enquire into the charges framed against said Lilabati Das, GDSEPM, Salchapra BO (now under put off duty) under this office memo of even No dt 6.5.03. Sri D Khanikar, IPOs, Haflong was appointed to present the case on behalf of the Disciplinary Authority in support of the articles of charges. However as the rail link between Haflong & Cachar/hailakandi Dist. got disrupted and remained out of order for some time Sri T. Choudhury, IPOs, Karimganj was appointed as Presenting Officer in place of Sri D Khanikar, IPOs, Haflong under this office memo of even no. dated 21.7.03.

On completion of enquiry, the appointed IO submitted his inquiry report under his letter No. IO/INQ/1 dated 9.10.04 a copy of which is enclosed herewith as Annexure-E. In the said report the IO completed the same with his findings as follows:

"In view of the above said findings after enquiry, the undersigned after threadbare discussion of the relevant charges and the defence with relevant witnesses & records I am of the opinion that article of charges I to V is proved against Smt. Lilabati Das beyond doubt."

A photocopy of the aforesaid inquiry report was sent to said Smt. Lilabati Das, GDSBPM, BO (now under put off duty) with this office letter of even no dated 14.10.04 to submit her representation/submission against the IO's report, if any within 15 (fifteen) days of receipt of the same, which was received by Smt. Lilabati Das, GDSBPM, Salchapara BO (now under put off duty) on 19.10.04.

Since no representation was received from said Smt. Lilabati Das, GDSBPM, Salchapara BO (now under put off duty), she was reminded on 4.11.04 for submission of the same within 10 (ten) days of receipt of the reminder. Though the above letter dated 4.11.04 was received by Smt. Lilabati Das, GDSBPM, Salchapara BO (now under put off duty) on 13.11.04 yet no representation or submission was received upto 2.12.04 and as such she was again reminded under even no dated 2.12.04 wherein she was again given another 10(ten) days time for submission of her representation/submission failing which the case would be decided ex-parte which was received by her on 6.12.04. In her application dated 21.12.04 Smt. Lilabati Das, GDSBPM, Salchapara BO (now under put off duty) prayed to allow her another 10(ten) days time for submission of her representation etc. since she could not submit the same due to her illness. Her prayer was granted under this office letter of even no.3.1.05.

Smt. Lilabati Das, GDSBPM, Salchapara BO (now under put off duty) however, submitted her representation under her letter dated 18.1.05 a photocopy of which is enclosed herewith as Annexure-G.

In her above representation date 18.01.05 she admitted that Govt. money was spent by herself personal purposes, which was in violation of the rules of the Department, as mentioned in the articles of charges (vide Annexure A) framed against her.

I have gone through the articles of charges framed against Smt. Lilabati Das, GDSBPM, Salchapara BO (now under put off duty) along with all the listed documents, report of the IO and the final representation of said Smt. Lilabati Das, GDSBPM, Salchapara BO (now under put off duty) very carefully and come to the conclusion that there is no scope to disagree with the findings of the IO communicated in his report dated 9.10.04. Smt. Lilabati Das, GDSBPM, Salchapara BO (now under put off duty) also in her final representation on the IO's report admitted that Govt. money had been spent by herself for her personal purposes due to illness of her family members. Such submission of charges by the charges GD Sevak in her final representation dated 18.1.05 is considered to be more than sufficient to prove that all the charges brought against her under this office memo of even no dated 25.2.03 stands proved without any shadow of doubt. The following orders are therefore issued:-

ORDER

I, Sri J.K. Barbhuya, Senior Supdt. of Post Offices, Cachar Division, Silcahr do not find any reason to retain Smt. Lilabati Das, GDSBPM, Salchapara BO (now under put off duty) in service and therefore remove Smt. Lilabati

Das, GDSBPM, Salchapara BO (now under put off duty) from GDS service with effect from the date of issue of this memo.

J.K.Barbhuya  
Senior Supdt. of Post Offices  
Cachar Division, Silchar-781001

Copy to:

1. Smt. Lilabati Das, ex GDSBPM, Salchapara BO PO & Vill.- Salchapara via Kalinagar Dist. Hailakandi.
2. The Postmaster, Hailakandi HO for information and necessary action.
3. The GM (PA & F), Kolkata (through Postmaster, Hailakandi HO)
4. The IPOs, Silchar West Sub-Divn, Silchar
5. P/F of the GD Sevak (Estt. Br).
6. Main Fraud File (F1-6/01-02)
7. Vig file
8. The ASP (HQ) (Punishment File)
- 9-10. Spare.

Senior Supdt. of Post Offices  
Cachar Division, Silchar-781001

Annexure- 5

Date: 2.3.2005

To  
The Director Postal Services  
Meghdoot Bhawan, Guwahati-1.

Sub:- Appeal against the order issued vide memo no.F1-6/01-02/DA dated 24.1.05.

Sir,

With due deference and profound submission I beg to lay the following few lines for your kind consideration and necessary action thereof.

That, while working as Gramin Dak Sevak BPM at Salchapara BO, the Senior Superintendent of Post offices Kachar Division Silchar issued an order dated 19.11.01 placing me under put of duty w.e.f. 13.11.01 invoking rule 12 of the GDS (Conduct and Employment Rules 2001). The aforesaid order dated 19.11.01 was issued pursuant to an order dated 13.11.01 issued by the SDIEO's Silchar West Sub-Division. After the issuance of the aforesaid order dated 19.11.01 I continued to remain under put of duty.

That after a lapse of around 2 years the SSPO Cachar Division Silchar issued memorandum of charges dated 25.2.03 enclosing 5 articles of charges in respect of certain amounts stated to be not credited in the BO accounts and same stated to be in violation of the Rule-ii of the Rules for Branch Offices and Rule 21 of DOP GDS (Conduct and Employment Rules 2001). In the article of charges allegation have also been made regarding violation of Rule 131(3), Rule 144 read with Rule 143 of the Rules of Branch Offices in respect of crediting the amounts in dispute. In the said memorandum of charges, list of documents including inventory cash and stamp balance register, my written statement dated 13.11.01, connected pass books, SB journals, RD journal and BO account books from 1.4.01 to 13.11.01 were also included. In support of the said charges a list of 8 witnesses as Annexure-4 was included. By the said memorandum of charges I was allowed 10 days time to file representation within 10 days.

In response to the said memorandum of charges dated 25.2.03 while controverting the charges dated 25.2.03 while controverting the charge for shortage of Rs.7527.25, I highlighted the fact of recovery from me amounting to Rs.20,528.25 without any notice and reason. Apart from that I controverted also the article of charges to be as per dictation of the visiting IPOs for which no scope was provided to me to place my say in the matter. However the authority concerned without considering my representation took decision to proceed with the aforesaid disciplinary proceeding. The entire proceeding concluded only on the basis of the statement made by one Sri P.K.Roy, Inspector of Posts, Silchar and one Sri P.K.Dey, Inspector of Posts, Silchar West Sub-Division. The enquiry officer did not discuss anything on the merit of the case and relied solely

Attested

  
33

Advocate.

on the inspection reports which were never been produced in the proceeding.

Finally after conclusion of the proceeding and after submission of the enquiry report, the disciplinary authority without discussing any material on facts passed the order dated 24.1.85 removing me from my service.

That in my representation dated 18.1.85 I made a prayer before the disciplinary authority to reconsider the matter taking into consideration the witnesses and the materials on record but same was not done and the said authority removed me from my service.

That Sir, presently due to the issuance of the removal order it has become impossible for me to service and under these compelling circumstances I am submitting this appeal praying for reconsideration of the matter and to exonerate me from the charges. I hope and trust that your honour would be graciously be pleased to consider my case very sympathetically and to pass an order reinstating me in my service.

Thanking you,

Sincerely yours

Sd/-  
Lilavati Das

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 232 of 2006.

Date of Order: This the 13<sup>th</sup> Day of September, 2006

HON'BLE MR.K.V.SACHIDANANDAN, VICE-CHAIRMAN

1. Smt. Lilabati Das  
Ex-GDSBPM, Salchapara Bo  
P.O. & Vill:- Salchapara Via Kalinagar,  
Dist.Hailakandi.

By Advocate Mr.S.Sarma, Ms. B.Devi ....Applicant.  
Mersing.

1. The Union of India.  
represented by Secretary to the  
Govt. of India,  
Ministry of communication  
Dak Bhawan, New Delhi.
2. The Chief Post Master General,  
Department of Post, Assam Circle,  
Meghdoott Bhawan,  
Guwahati-1.
3. The Director, Postal Service  
Meghdoott Bhawan,  
Guwahati-1.
4. The Senior Superintendent of post offices,  
Cachar Division, Silchar-788001.

.....Respondents  
By Advocate Ms.U.Das, Addl.C.G.S.C.

ORDER (ORAL)

SACHIDANANDAN(V.C.)

The applicant, while working as Gramin Dak Sewak, Branch Post Master (GDS BPM in short) in the Salchapara, B.O., the Senior Supdt. Of Post offices, placing her on "put off duty" has issued an order dated 24.1.05 by invoking Rule 10 of GDS (Conduct and

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Attested



Advocate.

Employment) Rule 2001 and he stated that a sum of Rs.7527.25 was found short. The respondents have initiated departmental proceedings against the applicant. According to the applicant the shortage amount of Rs.20,528.00 was recovered from him.

2. I have heard Mr.S.Sarma learned counsel for the applicant and Ms.U.Das learned Addl.C.G.S.C. for the respondents. Mr.S.Sarma learned counsel for the applicant has submitted that the applicant has preferred an appeal dated 2.3.2005 against the disciplinary proceedings but the respondents have not yet dispose of the said appeal. The counsel also submitted that he will be satisfied if direction is given to the respondents to dispose of the appeal. In the interest of justice I direct the respondents to dispose of the appeal within three months from the date of receipt of this order. The applicant will also send the copy of the order to the competent authority.

The O.A. is accordingly disposed of. There will be no order as to costs.

Sd/ VICE CHAIRMAN

of Application : ..... 22/2/07

on which the order is made : 22/2/07

date of disposal : 22/2/07

date of final disposal : 22/2/07

5 Form 22/2/07

Section 13(1)(d)

C. A. T. C., Jhati Banch

Guwahati

108 22/2/07

DEPARTMENT OF POSTS : INDIA  
OFFICE OF THE POSTMASTER GENERAL, DIBRUGARH REGION,  
DIBRUGARH-786001

COURT MATTER

URGENT

No:- Staff / 2 / 25- 1 / 06 / RP

Dated Dibrugarh 18-01-2007

To

1. The Asstt. Director General ( Vig )  
O/o the Director General  
Ministry of Communication  
DAK BHAWAN , NEW DELHI
2. The Registrar ( Regd Post )  
Central Administrative Tribunal  
Rajgarh Road, Guwahati-781005
3. Smti Usha Das , Addl CGSC  
Central Administrative Tribunal  
Rajgarh Raod, Guwahati-781005
4. The Sr. Supdt of Post Offices  
Cachar Division, Silchar-788001
2. The APMG ( vig ) ( Regd )  
O/o the Chief PMG  
Assam Circle, Guwahati-01
3. Smti Lilabati Das ( Regd )  
Ex- GDSBPM, Salchapara BO  
Vill & PO Salchapara  
Via :- Kalinagar, Dist - Hailakandi  
( Regd Post )

Sub:- Compliance of Judgement dated 13-09-2006 passed by Hon'ble CAT in OA No. 232 / 02 filed by Smti Lilawati Das and appeal thereof.

This is regarding the CAT Case OA No. 232 / 06 filed by Smti Lilabati Das, Ex GDSBPM, Salchapara BO and Hon'ble CAT's Judgement dated 13-09-2006.

Honouring the CAT's judgement dated 13-09-2006 the appeal case has been disposed by the Appellate Authority on 12-01-2007. The copy of the Appellate Order No. Staff / 2 / 25-1 / 06 / RP is forwarded herewith for taking further necessary action.

Encl : As above

  
( D. Dehingia )  
Asst Director ( Staff )  
O/o the Postmaster General  
Dibrugarh Region, Dibrugarh-01

Attested

  
Advocate

DEPARTMENT OF POSTS  
OFFICE OF THE DIRECTOR POSTAL TRAINING CENTRE  
GUWAHATI - 781001

Memo No. Staff/2/25-1/06/RP

Dated 12<sup>th</sup> Jan '07

APPELATE ORDER

A charge sheet under Rule 10 of GDS (Conduct & Employment) Rules, 2001 was issued to Smt. Lilabati Das, GDSBPM, Salchapara BO under Kalinagar SO (hereinafter referred as Appellant) vide Disciplinary Authority Memo No.F1-6/01-02/DA dated 25-02-03.

The statement of imputation of misconduct and misbehaviour on the basis of which the action was proposed to be taken was also furnished to the appellant. The appellant was given an opportunity to submit representation if any within 10 days against the proposed action.

2. The statement of imputation of misconduct and misbehaviour was furnished in Annexure I and II under articles I to V, which are reproduced in brief as under:-

Article I

On 13-11-2001 the Salchapara BO was visited by Siri P.K. Roy, Inspector of Posts (PG), Silchar and on verification of cash & stamp balances of the office with the accounts of the date a sum of Rs. 7527.25 was found short, which was charged under head of account "Unclassified Payment" on the same day.

Smt. Lilabati Das, the then GDSBPM Salchapara BO (now under put off duty) is therefore considered to have violated the provisions of Note below Rule 11 of the Rules for Branch Offices and Rule 21 of the DOPGDS (Conduct & Employment) Rules 2001.

Article II

On 7-09-2001 the depositor of Salchapara SB A/c No.5904256 handed over the pass book of the said SB A/c and a sum of Rs.300.00 for depositing the said sum in the said SB A/c. Smt.Lilabati Das while working as GDSBPM Salchapara BO (now put off duty) on 7-09-01 on receipt of the money and pass book entered the said deposit in the pass book, casted balance, put her initial in the pass book and impression of Date Stamp of the office but did neither entered the said deposit in BOSB journal nor credited the amount in the BO Accounts on 7-09-01.

Smt. Lilabati Das, GDSBPM Salchapra BO (now under put off duty) is therefore considered to have violated the provisions of Rule 131 (3) of the Rules for Branch Offices and Rule 21 of the DOPGDS (Conduct & Employment) Rules 2001.

### Article III

Smt. Lilabati Das, GDSBPM, Salchapra BO (now put off duty) while working as such on 11-10-01 received a sum of Rs.500/- and the pass book of Salchapra SB A/c no.5905829 for depositing the said amount in the said SB A/c. She entered the said amount as deposit in the said pass book, casted balance and returned the pass book to the depositor with her initial and impression of date stamp of the office but did neither entered the deposit in the BOSB journal nor credited the amount in the BO Account on that date.

Smt. Lilabati Das, GDSBPM Salchapra BO (now under put off duty) is therefore considered to have violated the provisions of rule 131 (3) of the Rules for Branch Offices and Rule 21 of the DOP GDS (Conduct & Employment) Rules 2001.

### Article IV

Smt. Lilabati Das, GDSBPM, Salchapra BO (now put off duty) while working as such on 29-09-01 received a sum of Rs.200/- and the pass book of Salchapra RD A/c No.137061 for depositing the said amount in the said RD A/c being the monthly premium for September'01. Smt. Das entered the said deposit in the said RD pass book with her initial and impression of Date stamp of the office but did neither entered the said deposit in the BO RD Journal nor credited the amount in the BO Account Book on 29-09-01.

Smt. Lilabati Das, GDSBPM Salchapra BO (now under put off duty), therefore considered to have violated the provisions of Rule 144 r/w Rule 143 of the Rules for Branch Offices and Rule 21 of the DOP GDS (Conduct & Employment) Rules 2001.

### Article V

Smt. Lilabati Das, GDSBPM, Salchapra BO (now put off duty) while working as such on 30-10-01 received a sum of Rs.300/- and the pass book Salchapra RD A/c No.135367 for depositing the said amount in the said RD A/c being the monthly premium for Oct'01. Smt. Das entered the said deposit in the said pass book with her initial and impression of Date Stamp of the office but did neither entered the said deposit in the BO RD journal nor credited the amount in the BO Account on 30-10-01.

Smt. Lilabati Das, GDSBPM, Salchapara BO (now under put off duty) is therefore considered to have violated the provisions of Rule 144 r/w Rule 143 of the Rules for Branch Offices and Rule 21 of the DOPGDS (Conduct & Employment) Rules 2001.

3. Smt. Lilabati Das BPM, Salchapara BO submitted her representation on 21-04-03 to the Disciplinary Authority. Then the Disciplinary Authority decided to hold an inquiry against the charged official. Accordingly Inquiry Officer and Presenting Officer were appointed vide Disciplinary Authority Memo No.F1-6/01-02/DA dated 06-05-03.

4. The Inquiry Officer's report was received by the Disciplinary Authority on 12-10-2004 and a copy of the aforesaid inquiry report was sent to said Smt. Lilabati Das, GDSBPM, Salchapara BO vide Disciplinary Authority's letter No.F1-6/01-02/DA dated 14-10-04 to submit her representation against the I.O's report within 15 (fifteen) days after the receipt of the report, which was received by said Smt. Lilabati Das on 19-10-04.

Since no representation was received from the said Smt. Lilabati Das, the GDSBPM, Salchapara BO, the Disciplinary Authority allowed another 10 (ten) days time by reminding her vide letter of even No. dated 04-11-04 which was received by the said Smt. Lilabati Das on 13-11-04 but no representation was received upto 02-12-04 and as such she was again reminded by the Disciplinary Authority on 02-12-04 allowing another 10 days time for submission of defence, stating that on deviation, exparte decision would be taken. The Disciplinary Authority's letter dated 02-12-04 was received by her on 06-12-04 and she submitted one application dated 21-12-04 praying for allowing another 10 (ten) days time for submission of her representation stating that she could not submit the same due to her illness. The Disciplinary Authority granted her prayer and communicated vide letter dated 03-01-05, granting another 10 (ten) days time.

5. Finally Smt. Lilabati Das submitted her representation on 18-01-05. After going through the article of charges framed against Smt. Lilabati Das, GDSBPM, Salchapara BO along with the listed documents, I.O's report and the final statement of defence by said Smt. Lilabati Das dated 18-01-05, the Disciplinary Authority imposed penalty of removal from service with immediate effect vide Memo No.F1-6/01-02/DA dated 24-01-05.

6. Smt. Lilabati Das submitted an appeal dated 2-3-2005 to Director, Postal Services, Meghdoot Bhawan, Guwahati-1, against the punishment order issued by Disciplinary Authority; who is not the appropriate Appellate Authority in her case.

7. A fresh copy of the appeal addressed to the Director, Postal Training Centre, Guwahati was obtained from Smt. Lilabati Das, by the O/O Postmaster General, Dibrugarh Region, Dibrugarh on 13 Dec. 2006, and processed further for onward submission to the O/O Director Postal Training Centre, Guwahati.

8. The undersigned, being the competent Appellate Authority for Dibrugarh Region has considered this appeal. The appellant has assailed the punishment order on the following grounds:-

- a) That after a lapse of around 2 years, the SSPO's, Cachar Division, Silchar issued memorandum of charges dated 25-02-03, enclosing 5 articles of charges in respect of certain amounts stated to be not credited in the BO account.
- b) Vide aforesaid article of charges only shortage of Rs.7527.25 was brought up, while recovery was made from her Rs.20528.25 without any notice and reason.
- c) That the Inquiry Officer did not discuss anything on the merit of the case and relied solely of the Inspection Reports which were never been produced in the proceedings.
- d) That, after conclusion of the proceedings and on the basis and on the basis of the Inquiry report, the Disciplinary Authority without discussing any material on facts passed the order dated 24-01-05 removing her from service.
- e) That, vide her representation dated 18-01-05, she prayed the Disciplinary Authority to reconsider the matter taking into account consideration of the witnesses and materials on records but same was not done.

9. I have carefully gone through the appeal, Disciplinary case file and other connected records of the case, with due application of mind together with facts contained therein.

The Appellant alleged in her appeal, that the charges of only shortage of cash amount of Rs.7527.25 was brought up to her notice. But, vide article I, shortage of cash amount to the tune of Rs.7527.25 was brought up and vide Article II, III, IV & V, fraud amount of Rs.1300/- in four SB/RD accounts were also brought up to her notice. During course of Past Work Verification; frauds in 8 SB and 12 RD accounts to the tune of Rs.21968.15 came to light. This whole amount was credited voluntarily by the appellant, to government account. Though the remaining amount was not shown in the charges brought against her, in her own statement in exhibit No.II, she had admitted that she utilised the shortage of cash for her personal use and she credited the whole amount in 7 installments, she had misappropriated, in govt. account, and no recovery was made as stated by her.

10. The question of inspection reports as mentioned by the appellant was not enlisted documents and this was not demanded to be produced during inquiry either by the appellant or her Defence Assistant. All the listed documents and list of witnesses were perused and signed by appellant and her Defence Assistant during the course of proceedings.

Further while, replying to I.O's report, she had admitted in her representation dated 18-01-2005, that she had no intention to misappropriate the public money at all, but she has no financial capacity to bear the accidental extra expenditure of medical treatment of family members.

11. This submission that she had spent the Govt. money for family's medical treatment, was more than sufficient to prove that she had committed serious offence by non crediting govt. money in BO account and used it for personal use during September 2001 to November 2001. By doing so she violated rules Rule 11; Rule 131 (3), Rule 143 & Rule 144 of the Rules of Branch Post Offices.

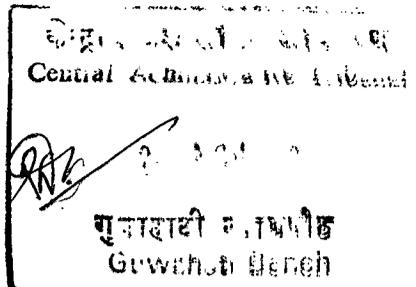
By this action, she failed to maintain absolute integrity and devotion to duty as required under Rule 21 of DOP GDS (Conduct & Employment) Rules 2001.

11. Shortage of cash in Salchapara BO on 13-11-2001 and non credit of SB/RD deposits received from public, in BO account are serious lapses on the part of GDSBPM. The Disciplinary Authority removed the appellant from service who is having fraudulent nature without integrity to government service and no devotion to duty. Hence, as Appellate Authority, I uphold the punishment order issued by Disciplinary Authority vide Memo No.F1-6/01-02/DA dated 24-01-05 and confirm the punishment.

Shobha Madhale  
(Shobha Madhale)  
Director  
Postal Training Centre  
Guwahati-781001

Copy to:-

1. Smt. Lilabati Das, Ex-GDSBPM, Salchapara BO
2. The Sr. Supdt of POs, Cachar Division, Silchar, to deliver a copy of Appellate Order to the appellant under clear receipt and receipt should be sent to the AD (Staff), RO, Dibrugarh within a week positively.
3. PA to Director, PTC, Guwahati.
4. Office Copy/Spare copy.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI  
BENCH, GUWAHATI

O.A. No. 101 of 2007

Smt Lilabati Das

.....Applicant.

-VS-

Union of India & Ors.

.....Respondents.

The written statement on behalf of the  
Respondents abovenamed :

WRITTEN STATEMENT OF THE RESPECTFULLY

MOST RESPECTFULLY SHEWETH

1. That with regard to the statement made in paragraph 1 of the instant application the respondents have no comment.
2. That with regard to the statements made in paragraph 2 & 3 of the instant application the respondents have no comment.
3. That with regard to the statement made in paragraph 4.1 of the instant application the respondents have no comment.

Contd....P/

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Superintendent of Post Offices  
Cachar Division  
Silchar-788001

Through Branch Office  
28.11.07 S. No. 165  
class 1

26 NOV 2003

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গুৱাহাটী বিভাগীয়  
Guwahati Bench

ৰোপণ  
BOPAL

Superintendent of Post Offices  
Cachar Division  
Silchar-788001

4. That with regard to the statements made in paragraph 4.2 of the instant application the respondents beg to state that it may kindly be seen from the Brief History of the case sent herewith that there was shortage in the Govt cash/stamps balances to the extent of Rs. 7527.25 on the 13/11/2001, which resulted in placing her "Put off duty" under Rule-12 of DOPGDS (Conduct & Employment) Rules, 2001"

The fact of shortage in the Govt cash balances in her custody on the 15/11/2001 was known to herself, she also admitted the said shortage in writing but it appears that she has intentionally and willfully concealed this fact in her instant application to mislead the Court.

5. That with regard to the statements made in paragraph 4.3 of the instant application the respondents beg to state that due to the fact of shortage of Govt cash in her custody her integrity was doubtful for which she was "Put off from duty" for detailed enquiries and verification of her past work as GDSBPM Salchapra BO to unearth as to whether there are any further instance/s of financial irregularities committed by her during her past service period. There was nothing wrong in furnishing the information to Smt. Lilabati Das in reply to her query. On completion of enquiries including verification of past works a formal charge sheet was issued under memo No.F-6/01-02/DA dated 25/2/2003 under Rule-10 of DOPGDS (Conduct & Employment) Rule, 2001 granting her 10(Ten) times for submission of the written statement of

2 NOV 2007

गुवाहाटी न्यायालय  
Govt. Bldg. Bench

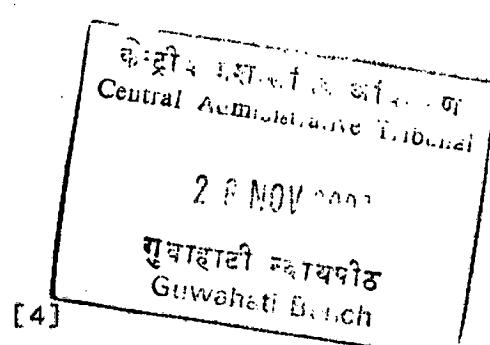
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BOOK  
COPY

Superintendent of Post Offices  
Cachar Division  
Silchar-788001

the applicant in her defence in respect of all the article of charge brought against her. In this context your respondents beg to rely on Annexure 1 of the OA may kindly be perused in this respect.

6. That with regard to the statements made in paragraph 4.4 of the instant application the respondents beg to state that in her said representation dated 21/04/2003 the applicant admitted shortage of Govt cash. The reasons for shortage of, as stated in her above representation are considered to be after thought. Whatever be the reasons, the fact of shortage of Govt cash on 13/11/2001 was an established fact which had confirmed that she was lacking in maintaining absolute Integrity and devotion to duty, as required under Rule-21 of DOPGDS (Conduct & Employment) Rule-2001. It is very hard to believe that " the deposited amount was kept in the safe custody of the BO for the particular day". Since she had failed to produce the shortage money before the Inspector of Posts (PG) on that day even though reasonable time was allowed to her. The statement of recovery of Rs.20,528.25 from Smt. Das does not arise at all. It may be seen that she was under put off duty from 13/11/2001 (A/N) onwards and there was no scope for recovery of any amount from her. Further, she known the fact that besides the instances of cash shortage there were several other instances of non-credits of SB and RD deposits to the Govt accounts, vide articles II, III, IV, & V to the Annexure -1 of this OA,. she had therefore credited those amounts voluntarily along with interest, delay fine, penal interest etc. etc.



TOP SECRET  
Superintendent of Post Offices  
Cachar Division  
Silchar-786031  
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7. That with regard to the statements made in paragraph 4.5 of the instant application the respondents beg to state that warrants no comments as to the Inquiry under Rule-10 ibid an appointment of IO and PO.

The IO in his first letter addressed to Smt. Das requested her to attend the hearing with her defence assistants, as per existing rules. In all the dates of regular hearings the charged GD Sevak (Viz Smt. Lilabati Das) attended with her defence assistant and as such her plea of not allowing reasonable opportunity doesn't arises at all. During inquiry conducted by the appointed IO the charged GD Sevak Smt. Lilabati Das has admitted her fault, and put her signature on the "Daily Order Sheets". Her defence assistant too put his dated signature on those "Daily Sheet" written by the IO. In view of the above available documents the statement of the applicant in this para/sub-para appears to be quite untrue and result of afterthought. It may not perhaps be out of place to mention here that in her written statement of defence dated 21/4/2003 (Vide Annexure-2 to this OA) the charged GD Sevak had admitted her fault, which was her voluntary statement of defence and none of the Deptt of Posts, India had in any way influenced her submission of such a statement. On the strength of admittance of her guilt it was considered to be not necessary for examining the listed documents and witnesses by the IO and further hearing was stopped with written consent of the charged GD Sevak and her defence assistant.

28 NOV 2007

## गुवाहाटी नायदीठ Gauhati Naidi

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Moreover, a copy of the Inquiry report submitted by the appointed IO was sent to the applicant on 14/10/2004 for submission of her representation within 15 days. That letter was delivered to the applicant on 19/10/2004 but she had failed to give any reply till 21/12/2004. On receipt of 2nd reminder dated 4/11/2004 and 2/12/2004, with a prayer to allow her another 10 days time for submission of her defence, which was also granted under this office letter dated 3/01/2005. She submitted the written representation on 18/01/2005 admitting her guilt and prayed to save her from the punishment. Copy of her above representation has not been annexed to her OA with some motive behind.

8. That with regard to the statements made in paragraph 4.6 of the instant application the respondents beg to state that it is sufficient enough to prove that she had failed to submit any representation prior to 18/01/2005. Though the Disciplinary Authority could have taken final decision ex-parte on expiry of 15 days time with effect from 19/10/2004 yet 3 subsequent reminders were issued for her representation on IO's report for justice sake.

9. That with regard to the statements made in paragraph 4.7 of the instant application the respondents beg to state that the applicant had been working as GDSBPM Salchapra BO and as such she was the custodian of cash and stamps and all other valuable property of the Department of Posts. In such capacity she was also required to credit the amounts of SB and RD deposits made by the members of the public in their respective

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Superintendent of Post Offices  
Cachar Division  
Silchar-788031

গুৱাহাটী পোতোলা  
Guwahati Bench

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Cachar Division  
Sylchar-781001

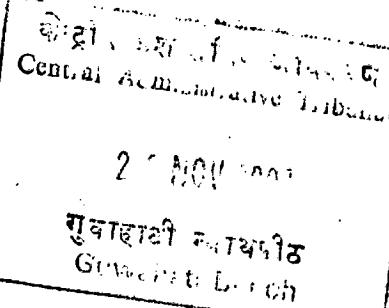
SB/RD accounts in the Govt accounts through "BO Account Book" of Salchapra BO on the same day of receipt of the deposited amounts from the members of Public. But she had utterly failed to do her prescribed duty/duties as a representative of the Union of India at Salchapra and thereby involved in breach of trust both with the Union of India and the members of the Public (Viz depositors of SB/RD accounts of Salchapra BO).

In consideration of the gravity of the offences committed by the applicant as a local agent of the Union of India (as GDSBPM Salchapra BO) there was no scope for the disciplinary Authority to show any special consideration and to retain her in that post with same duties and thereby to give her further chance to repeat such financial irregularity and also to embolden such other GDSBPMs to commit such offences at their respective BO's.

10. That with regard to the statements made in paragraph 4.8 of the instant application the respondents beg to state that the appeal preferred by the applicant was forwarded to the Appellate Authority with all records and exhibits.

11. That with regard to the statements made in paragraph 4.9 of the instant application the respondents have no comment.

12. That with regard to the statements made in paragraph 4.10 of the instant application the respondents beg to state that order dated 12/01/2007 of the Ap-



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Superintendent of Post Offices  
Cachar Division  
Silchar-783001

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pellate Authority is considered to be self sufficient/explanatory as to the circumstances under which the said appeal preferred by Smt. Das was rejected upholding the punishment order issued by the Disciplinary Authority.

13. That with regard to the statements made in paragraph 4.11 of the instant application the respondents beg to state that Smt. Lilabati Das was under "Put off duty" on detection of shortage of Govt cash/stamps on 13/11/2001 and as such there was no scope for the respondents to recover any amount from her. Further in her written statement dated 11/08/2002 she admitted that she spent Govt money for her own purposes out of which she had already deposited Rs.13,000/- and today (Viz 19/08/2002) decided to deposit another sum of Rs. 7528.25 and requested the Authority to accept the said amount. In her said statement dated 19/08/2001 she further stated that according to her belief by depositing the above amount she might had deposited the entire amount spent for her personal purpose and if any further instances of any such misuse detected she would refund those amount. Above statement of Smt. Lilabati Das is considered to be more than sufficient to prove that she had voluntarily deposited the Govt money miss-utilized and spend for her personal purpose. Misutilization of Govt cash for personal purpose by the custodian is considered to be a serious criminal offence to be judged in the Court of Law and as such the respondent have no authority to withdraw any case simply because of the fact that the offender has refunded such amount to the Govt. The Deptt authority can only frame charges for

28 NOV 2005

गुवाहाटी ब्राञ्च  
Guwahati Branch

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Cachar Division  
Silchar-783001  
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violation of deptt rules and regulations and can decided the same as per procedure prescribed by the Vigilance Authority, Govt of India.

A photocopy of the Written Statement made by the applicant dated 19/08/02 is annexed herewith and marked as ANNEXURE-I.

14. That with regard to the statements made in paragraph 4.12 of the instant application the respondents beg to state that during holding the Inquiry of the charges by the appointed Inquiring authority the charged GSSevak the applicant attended enquiries on the fixed dates along with her defence assistant. In this respect/comments the respondents reiterates the paragraph 7 of this written statement. Disciplinary action had to be initiated against a Govt. Servant/GD Sevak under proper rules, as prescribed by the Central Vigilance Commission as and when any instance of Irregularity comes to notice of the proper authority for taking such actions. All the procedures prescribed by the CVC were fulfilled in deciding the case by the Authority.

15. That with regards to the statement made in paragraph 4.13 of the instant application the respondents beg to state that the disciplinary authority had given 4 chances to the applicant for submission of her representation against the findings of the IO. At last in her representation dated 18/01/2005 she had admitted "Spending Govt. money for her personal purposes", which was in

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गुवाहाटी न्यायपीठ  
Guwahati Bench

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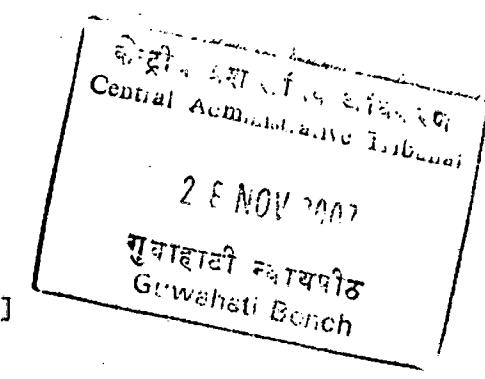
violation of the rules of the Deptt and also stated that she had "deposited the entire amount as asked for". Copy of her admittance of guilt, has not been annexed to her OA, which might be with the intention to suppress the same before the Hon'ble CAT that the admission of refund of Govt. money is sufficient to prove that it was done away by the person breaking the rules and procedures prescribed by the Govt.

In such circumstances the order dated 24/01/2005 and 12/01/2007 cannot be termed as "without jurisdiction".

Moreover, the applicant of this OA admitted herself in this para that she had refund the Govt. money to the authority.

The question of refund of Govt. money be somebody is to treated as an established statement/fact that the said person had misutilised and spent the Govt. money violating the rules framed by the Govt. In such circumstances how the question of appreciation for refund of the Govt. money arise. Such bad instances of appreciation will embolden other Govt. servants/GD Sevaks to utilize Govt money for their personal purposes and refund the same after detection of the instances. And ultimately will inspire and indulge in breaking the rules by a large section of Govt servants/GD Sevaks. It may perhaps be out of place to mention here that refund of the misutilised money cannot be termed as punishment for that offence.

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Superintendent of Post Offices  
Cachar Division  
Silchar-783001

A copy of the said representation dated 18/01/05 is annexed herewith and marked as ANNEXURE-II.

16. That with regard to the statements made in paragraph 4.14 of the instant application the respondents beg to reiterate the statement already mentioned in the forgoing para/subparas, specially the statement of paragraph 15 above and it is clear that all the charges framed against the applicant were of same nature viz non-credit of Govt money to Govt accounts through books and records of Salchapra BO as well as no-production of Govt cash for physical verification as and when required by the authority. There is no bar to the framing of separate articles of charges, as was done in this case, in a single proceedings, as prescribed by the Central Vigilance Commission. The Appellate Authority cannot therefore issue any such direction to the Disciplinary Authority.

In view of what has been mentioned in the forgoing paras particularly in Para 13 supported by Annexure-I, para 15 supported by Annexure-II, the question of recovery of the misutilised amount does not arise at all. In consideration of the seriousness of the offences done by the applicant there was no scope to award any lesser punishment on her and allow her to continue in service, the reasons for which have been detailed in para 15 above, where it was an established instances of misutilisation of Govt. money for personal purposes, which is considered to be a serious offence by the applicant.

Central Administrative Tribunal  
Guwahati Bench  
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জাহাজী নথিয়োৰ  
Guwahati Bench

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Silchar-783001

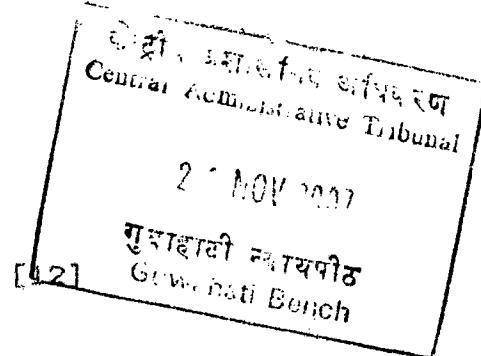
In consideration of the facts of the issue, as stated above the application put forward by Smt. Lilabati Das, Ex-GDSBPM, Salchapra BO is liable to be rejected on the ground of breach of trust as a custodian of Govt. money.

17. That with regard to the statements made in paragraph 5.1 of the instant application the respondents beg to state that there is no scope to set aside the punishment awarded on the her in consideration of the above facts and her clear admittance of guilt in every stage.

18. That with regard to the statements made in paragraph 5.2 of the instant application the respondents beg to state that the facts stated above will prove that more than sufficient opportunity was given to the applicant in presence of her defence assistant. Even at the latest stage of Rule-10 inquiry she was given more than  $2\frac{1}{2}$  months time for submission of her written representation against IO's report, when as per rule only 15 days time was due to be allowed to her.

19. That with regards to the statement made in paragraph 5.3 to 5.6 of the instant application the respondent beg to state that the grounds set forth by the applicant are not good grounds and also not tenable in law, as well as, on facts and as such the instant application is liable to be dismissed.

20. That regards to the statement made in paragraph 6,7 and 8 of the instant application the respondents have no comment.



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 Cachar Division  
 Silchar-788001

21. That with regards to the statement made in paragraph 9 of the instant application the respondent beg to state that the claim of the applicant is illegal and ill founded and therefore she is not entitled to get any interim relief.

22. That the respondents beg to submit that the instant application has no merit and as such is liable to be dismissed.

VERIFICATION

I, Sri. Gopal Bora, Suptdt. of P.O, Cachar Dist = Silchar being authorised to hereby verify and declare that the statement made in this reply of contempt petition in para 1 to 12, 14, 16 to 6 are true in my knowledge, these made in para ....13, 15..... being matter of records are true to my information and believe and I have not suppressed any material fact.

And I sign this verification on this ...16th. day of ....November, 2007.

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 Superintendent of Post Offices  
 Cachar Division  
 Silchar-788001

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Alleged

19/8/02  
 Civil Inspector of Post Office  
 Balchandra PM under pur. of duty  
 Bishar, West Sub Dist  
 Bishar

19.8.02

# ANNEEXURE - II

-14- 20

(103)

To

The Senior Superintendent of Post Offices,  
Cachar Dvn. Silchar.

Sub :- Representation.

Ref :- Dvn. Office No. F1-6/01-02/DA Dt.3-1-05.

Sir,

With due respect and humble submission, I beg to state the following in reply to the findings of the I.O. for your kind perusal and sympathetic consideration.

That Sir, during the entire proceedings the authority failed to produce any witness to prove the charges. In my first statement, I had narrated the circumstances under which the mistake took place. I had no intention to misappropriate the public money at all. I am a low paid GDS employee and have no financial capacity to bear the accidental extra expenditure of medical treatment of my family member. I also expressed my extreme regret for the circumstantial mistake in my representation submitted in C/W the defence statement and deposited the entire amount as asked for.

Now Sir, I feel, due consideration has not been given on my defence statement and also to prove the charges without the support of any witness in perhaps against proper justice.

So, I pray you kindly to consider my case sympathetically, and save me from the punishment and thereby save the family of a very poor GDS employee and oblige.

Date : 18. 1. 05

Yours faithfully,

Lila Bali Dass  
Now per-Off Duty  
P.O. Salempur  
Deshi - Cachar  
Assam