

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./TA/ NO. 105/2007 2015
R.A./CP/NO..... 2015
E.P./M.P./NO 28/ 2015 2007

1. Order Sheets..... 5..... pg..... 1..... to..... 10.....
MA
2. Judgment/ order dtd. 06.11.2009 pg..... 1..... to..... 4.....
3. Judgment & Order dtd..... received from H.C. / Supreme Court.
4. O.A. 105/2007 page..... 1..... to..... 59.....
5. E.P/M.P. 28/2010 page..... 1..... to..... 11.....
6. R.A./C.P..... page..... to.....
7. W.S. 2 files Page..... 1..... to..... 10.....
8. Rejoinder..... 2 files page..... 1..... to..... 5.....
9. Reply page..... to.....
10. Any other papers page..... to.....

SECTION OFFICER (JUDL.)

DEPARTMENT OF PERSONNEL & REVENUE
COMPLAINT SECTION

ORDER SHEET

1. Original Application No. 105/07

2. Misc Petition No. _____

3. Contempt Petition No. _____

4. Review Application No. _____

Applicant(s) Kakhiyal Devi vs. Union of India & Ors

Advocate for the Applicant(s) S. Savita, B. Devi

H.K. Das.....

G. Baishya & C.A.C.

Advocate for the Respondent(s) None.....

Notes of the Registry Date

Order of the Tribunal

This application is in form
is filed/C. P. for Rs. 50/-
deposited via IPO/PA
No. SSE 207434-35

Dated 8.3.07.....

Ms. B. Devi
Dy. Registrar

8.5.2007

Post the case on 10.05.2007.

✓
Vice-Chairman

/bb/

10.5.2007

Heard Ms. B. Devi, learned
counsel for the Applicant. Mr. G. Baishya,
learned Sr. C.G.S.C. represented the
Respondents.

Retention copies
for issue notices
are not received.

P.D.
7.5.07

While the Applicant was working
as Sub-Postmaster at Indrapur Post
Office during the period 19.03.2001 to
28.02.2005 certain financial
irregularities were detected and the
Applicant was put under suspension on
30.12.2005. He was charge sheeted and
according to him, in the ex-parte
departmental proceeding so conducted,

Contd.
10.5.2007

order dt. 10/5/07
and notice sent
to D/Section
for issuing to
R-1 by regd.
A/D post and
others R-2,3 and
4 sent to received
by hand.

(Ans) D/No - 477 to 480
17/5/07. Dl = 21/5/07

Service report
submitted.

22
11.6.07.

which concluded after his retirement, he was found guilty. The Applicant retired from service on 28.02.2005. Applicant averred that though he could not appear before the enquiry proceeding due to his old age ailments he denied the charges. Moreover, Police also could not get through its investigation and police case is still pending.

Hence this O.A. praying for setting aside of the impugned departmental proceeding and also for payment of all retirement benefits including provisional pension as well as regular pension. It appears that no appeal has been filed by the Applicant before the Appellate Authority.

Considering the issue involved, I direct the Registry to issue notice to the Respondents, returnable within four weeks.

Post the case on 12.06.2007.

Vice-Chairman

/bb/

12.6.07. At the request of learned counsel for the respondents further four weeks time is granted to file written statement. Post the matter on 27.7.07.

① Service report awaited.
② W/s not filed.

26.7.07.

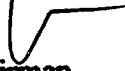

Vice-Chairman

27.7.07. Heard learned counsel for the parties. Application is admitted. Four weeks time is granted to the respondents to file written statement. Post the matter on 28.8.07.

W/s not filed.

lm

27.8.07.


Vice-Chairman

28.8.07

W/s not filed.

Three weeks further time is allowed to file written statement as a last chance.

Post on 19.9.07 for order

18.9.07.


Vice-Chairman

pg

W/s not filed.

10.10.07.

19.9.2007

Written statement has not been filed. Three weeks further time allowed for filing written statement. List it on 11.10.07.


Vice-Chairman

nk

4

11.10.2007

Mr.K.K.Biswas, learned counsel for the Railways states that he has received a copy of the rejoinder and undertakes to obtain instruction on it. He may do so.

Call this matter on 23.11.2007 for final hearing.

*strongly typed
please*

(Khushiram)
Member (A)

(M.R.Mohanty)
Vice-Chairman

11.10.2007

Mr.G.Baishya, learned Sr. Standing counsel for the Union of India undertakes to file his appearance memo in favour of the Respondents and seeks more time to file written statement.

Call this matter on 30.11.2007 awaiting written statement from the Respondents.

29.11.07

(Khushiram)
Member (A)

(M.R.Mohanty)
Vice-Chairman

/bb/

30.11.2007

Mr.H.K.Das, learned counsel for the Applicant is present. Mr.G.Baishya, learned Sr.C.G.S.C. for the Respondents, undertakes to file written statement by 04.12.2007.

Call this matter on 04.12.2007.

/bb/

30.11.07
(Khushiram)
Member (A)

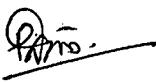
04.12.2007

Mr. G. Baishya, learned Sr.

Standing Counsel appearing for the Union of India undertakes to file Written Statement in course of the day, after serving copy of the same to the learned counsel for the applicant; who seeks time to file rejoinder. Prayer is allowed.

Call this matter on 07.01.2008.

6. 12.07
W/S submitted
by the Respondents.
Copy served.



lm

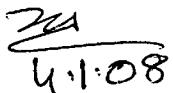

(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

Rejoinder not
filed.

07.01.2007

Despite opportunity, no rejoinder has yet been filed in this case.


Rejoinder filed
on behalf of the
applicant.

Call this matter on 22.01.2008; by which time learned Sr. Standing counsel for the Union of India, should cause production of the departmental proceeding file pertaining to this case.

Rejoinder, if any, may be filed ~~by~~ by that time.


Khushiram
Member(A)


(M.R. Mohanty)
Vice-Chairman

/bb/

22.01.2008 In this case written statement and rejoinder have already been filed. This case is set for hearing.

Call this matter on 03.03.2008 for hearing; when the Respondents should cause production of the departmental proceeding file to be referred to at the hearing.

6
O.A. 105/07

102/07
415.2003

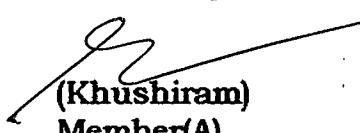
Mr. G. Baishya, learned Sr. Standing Counsel appearing for the Union of India
of this matter
Statement in course of the day, after
service copy of the same to the learned
counsel for the applicant, who seeks time
to file rejoinder. Hearing is adjourned.
Call this matter on 03.03.2008.

(M.R.Mohanty)
Vice-Chairman

(Khushiram)
Member(A)

22.01.2008

Send copies of this order to the Respondents and free copies of the order be handed over to counsel appearing for both the parties.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

22.1.08
Pl. send copies of the order to the respondents.
Free copies of the order be handed over to counsel of both the parties.

pg

03.03.2008

None present for the applicant Mr G.Baishya, learned Sr.C.G.S.C is present for the Respondents.

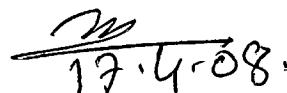
Call this matter on 21.04.2008 for hearing before the Division Bench.


(Khushiram)
Member(A)

Order dt. 22/01/08
Sent to D/Section
for issuing to R-1 to
by post and two
copies of this order pg
issuing to counsel
for both the parties.

28/1/08 D/No-302-307
Dt- 29/01/08-

The case is ready
for hearing.

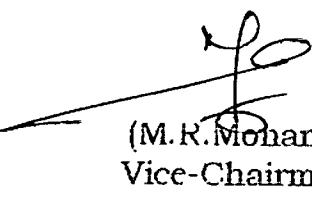

17.4.08

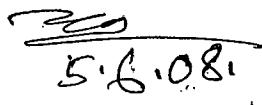
0.4.105/07 3-

21.04.2008

Call this matter on 06.06.2008.

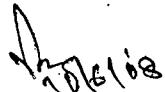
The case is ready
for hearing.


(M.R. Mohanty)
Vice-Chairman


5.6.08

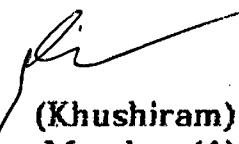
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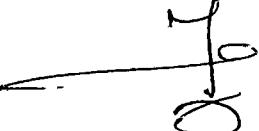
Dt. 6.6.'08
Pl. send a copy of this
order to the Applicant.


Khushiram

06.06.2008 None appears for the Applicant nor
the Applicant is present. In order to give
one more chance to the Applicant to
prosecute his case, the matter is adjourned
to 23.07.2008.

Send a copy of this order to the
Applicant who should come ready for
hearing.


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

nkm

12/6/08: 3/10/27/81
12/6/08. 3/13/6/08.

23.08.2008 None appears for the Applicant nor
the Applicant is present. Mr G. Baishya,
learned Sr. Standing Counsel for the Union
of India, is also absent.

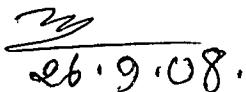
Call this matter on 26.08.2008.


(Khushiram)
Member (A)

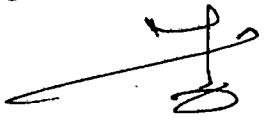

(M.R. Mohanty)
Vice-Chairman

nkm

25.08.2008
The case is ready
for hearing.


26.08.08 Mr H. Das, learned counsel is
present for the Applicant and Mr
G. Baishya, learned Sr. Standing
counsel for the Respondents is also
present. On the prayer of the counsel
for both the parties call this matter on
29.09.2008 for hearing.


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

O.A.105 of 2007

29.09.2008

(i) ~~Memorandum~~
(ii) ~~Order~~

None appears for the Applicant nor the Applicant is present. However, Mr.G.Baishya, learned Sr. Standing counsel appearing for the Union of India, is present.

The case is ready
for hearing.

BB
1.12.08.

/bb/

In order to give one more chance to the Applicant, call this matter on 02.12.2008.

SN
(S.N.Shukla)
Member (A)

MRM
(M.R.Mohanty)
Vice-Chairman

02.12.2008 Call this matter on 03.02.2009 for hearing.

The case is ready
for hearing.

ZH
2.2.09

03.02.2009 Call this matter on 24.03.2009 for hearing
before the Division Bench.

/bb/

MRM
(M.R.Mohanty)
Vice-Chairman

24.03.2009 Court work suspended due to sad demise of Hon'ble Justice Guman Mal Lodha (former Chief Justice of Gauhati High Court) and, accordingly, call this matter on 26.03.2009 for hearing.

*Reopen after
11/12/09*

By Order

DM
Court Officer

/pb/

10
10
O.A. 105 of 07

27.08.2009

Call this matter for hearing on

21.10.2009.

The case is ready
for hearing.

(M.K. Chaturvedi)
Member(A)

(M.R. Mohanty)
Vice-Chairman

/lm/

20.10.09

21.10.2009

On the request of Mrs. Manjula Das,
learned Sr. C.G.S.C., the matter is
adjourned to 06.11.2009.

The case is ready
for hearing.

(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

22
5.11.09

/bb/

06.11.2009 For the reasons recorded
separately this O.A. stands disposed of.

Received copy.

Han
13.11.09

(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

30-11-2007

/pg/

on 8 & judgment dated

6th Nov. 2009 sent
to the J/Section for
issuing the Respondents
and applicant by

Post,
Vide NO 12695 to
12699

dated — 30.11.09

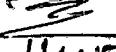
26.03.2009 Mr H.K.Das has some personal difficulty and he is not able to argue the matter.

Call this matter on 15.05.2009 for hearing.

The case is ready for hearing.


(Khushiram)
Member (A)


(A.K. Gaur)
Judicial Member


14.5.09

pg

15.05.2009 On consent of the parties, call this matter 26.05.09 for hearing.

The case is ready for hearing.


26.5.09

pg


(M.R. Mohanty)
Vice-Chairman

26.05.2009 Call this matter on 3rd July, 2009.

The case is ready for hearing.


27.5.09

pb


(N.D. Dayal)
Member(A)


(M.R. Mohanty)
Vice-Chairman

The case is ready for hearing.


26.8.09

/bb/

03.07.2009 Call this matter on 27.08.2009 for hearing.


(M.R. Mohanty)
Vice-Chairman

FORM NO. 4
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:
ORDER SHEET

1. ORIGINAL APPLICATION No : -----/ 2010
2. Transfer Application No : -----/2010 in O.A. No.-----
3. Misc. Petition No : 28 /2010 in O.A. No. 105/07
4. Contempt Petition No : -----/2010 in O.A. No.-----
5. Review Application No : -----/2010 in O.A. No.-----
6. Execution Petition No : -----/2010 in O.A. No.-----

Applicant (S) : Union of India & Ors.

Respondent (S) : Shri Lakshidhar Das

Advocate for the : Ms. M. Das, Sr. CGSC.
(Applicant (S))

Advocate for the : Adv. H.K. Das
(Respondent (S))

Notes of the Registry	Date	Order of the Tribunal
	03.03.2010	<p>Present M.P. has been filed by Respondents seeking extension of three months time to implement the directions contained vide order dated 06.11.2007 in O.A. No. 105 of 2007, whereby Respondents were required to conclude the departmental proceeding initiated against the applicant vide order dated 22nd July 2004. He had attained the age of superannuation on 28th February 2005, and disciplinary proceedings remained inconclusive even as on date despite three months time limit prescribed by aforesaid order.</p> <p>Respondents have filed present application in view of the request by UPSC seeking extension of time to render appropriate advice. Upon hearing parties and on examination of the matter, we extend the time upto 30th April 2010 to conclude the said proceedings by passing a final order, failing which said departmental proceeding shall stand <u>abeyant abode.</u></p> <p>M.P. is disposed of.</p>

14

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

.....

O.A. No. 105 of 2007

DATE OF DECISION: 06-11-2009.

Sri Lakhidhar Das

.....**Applicant/s**

Mr H.K. Das

.....**Advocates for the
Applicant/s**

-Versus -

Union of India & Ors.

.....**Respondent/s**

Mrs. M. Das, Sr. C.G.S.C

.....**Advocate for the
Respondent/s**

CORAM

THE HON'BLE MR MUKESH KUMAR GUPTA, MEMBER (J)

THE HON'BLE MR MADAN KUMAR CHATURVEDI, MEMBER (A)

1. Whether reporters of local newspapers may be allowed to see the judgment ? Yes/No
2. Whether to be referred to the Reporter or not ? Yes/No
3. Whether their Lordships wish to see the fair copy of the judgment ? Yes/No



Member (J)/Member(A)

15

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI :**

O.A. Nos.105 of 2007

DATE OF DECISION : THIS IS THE 6th DAY OF NOVEMBER, 2009.

**THE HON'BLE MR MUKESH KUMAR GUPTA, MEMBER (J)
THE HON'BLE MR MADAN KUMAR CHATURVEDI, MEMBER (A)**

Sri Lakhidhar Das
S/o Late Thanuram Das
R/o Vill : Amingaon, Madhyam
P.O. Amingaon, Guwahati - 31
Dist - Kamrup, (Assam).

...Applicant

By Advocate : Shri H.K. Das

-Versus-

1. Union of India
Represented by the Secretary
Department of Post, India
New Delhi.
2. Chief Post Master General
(I&B) Assam Circle, Meghdoot Bhawan
Guwahati - 1.
3. Assistant Post Master General
Assam Circle, Meghdoot Bhawan
Guwahati - 1.
4. Senior Superintendent of Post Offices
Assam Circle, Meghdoot Bhawan
Guwahati - 1.

...Respondents

By Advocate : Mrs M. Das, Sr.C.G.S.C

ORDER (ORAL)

MR MUKESH KUMAR GUPTA, MEMBER (J)

Shri Lakhidhar Das, Sub Postmaster, Indrapur Post Office,
PA Khanapara SO in this application filed under Section 19 of the
Administrative Tribunals Act 1985 seeks the following reliefs :-

- i) To set aside and quash the impugned order of ex parte departmental proceeding as well as the enquiry dated 03.08.2005.
- ii) To direct the respondents to release the provisional as well as regular pension, G.P.F, Gratuity and Leave Salary due to your applicant and the other retirement benefits, as entitled by your applicant.
- iii) To direct the respondents to close the proceedings as your applicant is no longer an employee of the department and set aside the ex-party enquiry report dated 03.08.32005.
- iv) To direct the respondent to release all the retirement benefits entitled to by the applicant as a retired person and pass such any other relief(s) as this Hon'ble Tribunal deem fit and proper.

2. Admitted facts are that vide order dated 30.12.2003, on contemplation of disciplinary proceeding, he was placed under suspension. Memorandum dated 22.7.2004 under Rule 14 of the CCS (CCA) Rules 1965 had been issued, alleging certain misconduct namely that he accepted money tendered by the depositors of SB account on different dates but he did not credit the amount to the Government account on the respective dates. He attained the age of superannuation on 28.2.2005. Departmental enquiry had been concluded on 3.8.2005 holding him guilty of aforesaid charges. Applicant had been afforded many opportunities of hearing but he did not participated therein on the ground that he was ill and therefore unable to attend said enquiry. Aforesaid departmental proceeding remains inconclusive as on date. Though he has been sanctioned provisional pension, gratuity and leave encashment etc. other retrial benefits have not yet been released. He raised such grievance in present proceeding.

3. Mr H.K.Das, learned counsel appearing for the applicant contends that he has placed on record before this Tribunal various

medical certificates as evidence, that therefore, there he justified his absence from the departmental proceeding conducted against him.

4. By filing reply it has been stated by the Respondents that applicant was guilty of misappropriation of huge SB deposits. Retiral benefits would be paid on conclusion of aforesaid departmental proceeding, which has been conducted into proceedingsdone under the provision of Rule 9 of CCS(Pension) Rules 1972. The suspension order had not been revoked. He attained the age of superannuation while under suspension. Earned leave for 60 days with effect from 23.9.03 to 22.11.03 was granted to him, and after that no leave application was received by the respondents. Provisional pension at the rate of Rs.2460/p.m. plus dearness relief with effect from 1.3.2005 has been sanctioned till finalization of the departmental proceeding initiated against him vide order dated 9.3.2007. Because of applicant's willful absence ex parte departmental proceeding were conducted. Applicant had not co-operated with the enquiry officer, and he was solely responsible for aforesaid deed, emphasized Mrs M.Das, learned Sr.C.G.S.C for the respondents.

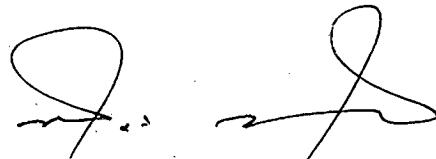
5. We have heard learned counsel for the parties, perused the pleadings and other materials placed on record. It is undeniable fact that enquiry report has been made available to the applicant, but he has not preferred any representation against it. It is further undisputed that no final order has been passed till date in aforesaid disciplinary proceeding.

In the circumstances we are of the considered opinion that present O.A needs to be disposed of affording an opportunity to applicant to make representation before the respondents seeking finalization of the disciplinary proceeding highlighting whatever defence he has in support of his case, including against the findings of enquiry officer, within a period of one month from today and if such representation is made within the time prescribed, the respondents shall consider the same and pass a final order in the aforesaid disciplinary proceeding within a period of 3 months thereafter. In case he applicant does not submit any representation, as directed hereinabove, even then the respondents shall conclude the said departmental proceeding by passing a speaking order within the time prescribed. On conclusion of said proceeding, the respondents are directed to regulate his retrial benefits strictly in terms of rules and law on the subject. In case the applicant is still aggrieved by action to be taken by the respondents, he will be at liberty to approach appropriate forum in accordance with rules and law on the subject.

Order accordingly.

O.A is disposed of. No costs.


(MADAN KUMAR CHATURVEDI)
ADMINISTRATIVE MEMBER


(MUKESH KUMAR GUPTA)
JUDICIAL MEMBER

Filed By: Advocate 19
 The Applicant
 Through
 Bipin K. Das
 Advocate
 S. 11. 02

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI

OA No. 105 of 2007

Sri Lakhidhar Das - Vs - Union of India & Ors.

LIST OF DATES WITH BRIEF FACTS

19.03.01 The applicant was posted at Indrapur Post Office, Guwahati as Sub- Post Master.

30.12.03 Order placing the applicant under suspension with immediate effect. **[ANNEXURE- A] {Page- 12A}**

22.07.04 The Charge sheet was issued by the respondents framing 1 (one) article of charge. **[ANNEXURE- B] {Page- 14}**

08.09.04 Communication issued by the Inquiry Officer fixing the date of preliminary hearing as 15.09.04. **[ANNEXURE- C] {Page- 18}**

15.09.04 The date of preliminary hearing was fixed but the applicant could not attend the same due to his sickness and ongoing medical treatment at MMC Hospital, Guwahati. **[ANNEXURE- D series] {Page- 19}**

15.09.04 Appeal submitted by the applicant praying for dropping of the inquiry initiated against him as no subsistence allowance was granted to him and also intimating the respondents about his sickness. **[ANNEXURE- I series] {Page- 45}**

Nil The applicant requested the respondent authority to hold 2nd medical board for seeking medical opinion regarding his health. **[ANNEXURE- E] {Page- 23}**

08.10.04 Copy of the letter of the along with his medical documents for his prolonged illness. [ANNEXURE- F series] [Page- 27]

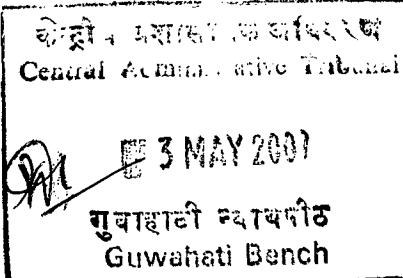
28.02.05 Retirement notice issued to the applicant. [ANNEXURE- G] [Page- 30]

03.08.05 Completion of ex-parte departmental inquiry and copy of the inquiry report forwarded to the applicant. [ANNEXURE- H] [Page- 31]

10.11.06 Appeal submitted by the applicant praying for dropping of the inquiry and reconsideration of the inquiry report. [ANNEXURE- I series] [Page- 51]

25.09.06 Letter written by the applicant to the respondents to release his retirement benefits. [ANNEXURE- J] [Page- 58]

Filed by
Hridip K. Das
5.11.09
(H.K.Das)
Advocate



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

(An application under Section 19 of the Administrative
Tribunals Act, 1985)

O.A. No. 105/2007

BETWEEN

Sri Lakhidhar Das,
S/o Late Thanuram Das
R/o Vill: Amingaon, Madhyam
P.O. Amingaon, Guwahati-31
Dist. Kamrup (Assam)

..... Applicant

- AND -

1. Union of India
Represented by the Secretary,
Department of Post, India
New Delhi.
2. Chief Post Master General,
(I&B) Assam Circle, Meghdoot Bhawan,
Guwahati - 1
3. Assistant Post Master General,
Assam Circle, Meghdoot Bhawan,
Guwahati - 1
4. Senior Superintendent of Post Offices,
Guwahati Division, Meghdoot Bhawan,
Guwahati-1

.... Respondents

SYNOPSIS OF THE CASE

That your applicant was working as Sub-Postmaster at Indrapur Post Office during the period 19.03.2001 to 28.02.2005. While working as Sub-Postmaster in the said Post Office certain irregularities were detected in respect of certain Small Savings Accounts during the period

22

from 19.03.2001 to 23.09.2003 and as a result he was placed under suspension w.e.f. 30.12.2003. Thereafter your applicant was Charge sheeted for the said irregularities. Subsequently on 28.02.2005 he was retired from his service and an ex-parte departmental proceeding was also conducted against him. He was found to be guilty by the Enquiry Officer in the said ex-parte departmental proceedings, which was concluded after his retirement. Your applicant could not appear in any departmental proceedings due to his old age ailments. He also pleaded that he is not at all responsible for the irregularities in the Small Savings Accounts as his co-employees are involved in such scam. Moreover, the Police also could not get through its investigation, as they did not find any materials against him. Till date the Police has not been able to submit any charge sheet or investigation report in the matter.

The respondent authority till date has not released the leave salary, GPF and provisional pension to your applicant, which is entitled to your applicant. Hence, this application.

Filed By –


(Anjan Kumar Nath)
Advocate



LIST OF DATES

Sl. No.	Date	Particulars	Annexure	Page No.
01	19.03.2001	The applicant was posted at Indrapur Post Office, Guwahati as Sub-Post Master	--	
02	30.12.2003	Suspension order was issued to the applicant.	'A'	13
03	22.07.2004	The applicant was Charge sheeted by the respondent authority.	'B'	14-17
04	08.09.2004	The Enquiry Officer issued letter informing the date of preliminary hearing to the applicant.	'C'	18
05	15.09.2004	Date of preliminary hearing was fixed but the applicant could not attend the same due to his sickness and ongoing medical treatment at MMC Hospital, Guwahati.	'D'	19-22
06	--	The applicant requested the respondent authority to hold 2 nd Medical Board for seeking medical opinion regarding his health.	'E'	23-26
07	08.10.2004	Copy of the letter of the applicant along with Medical documents for his prolonged illness.	'F'	27-29
08	28.02.2005	Retirement notice issued to the applicant.	'G'	30
09	03.08.2005	Completion of Ex-parte Departmental Enquiry and the copy of the enquiry report were forwarded to the applicant.	'H'	31-44
10	15.09.2004 & 10.11.2006	Appeal by the applicant to the respondent authority for dropping of the enquiry and/or reconsideration of the enquiry report.	I	45-57
11	25.09.2006	Letter written by the applicant to the respondent authority to release his retirement benefits.	J	58-59

Filed By –



(Anjan Kumar Nath)
Advocate



24

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under Section 19 of the Administrative
Tribunals Act, 1985)

Title of the Case : O.A. No. 105/2007

Sri Lakhi Dhar Das : Applicant.

- Vs -

Union of India & Ors. : Respondents.

I N D E X

Sl. No.	Particulars	Annexure	Page No.
1	Application	--	1-11
2	Verification	--	12
3	Copy of the Suspension Order.	'A'	124 - 13
4	Copy of the Charge Sheet, dated 22.07.2004.	'B'	14 - 17
5	Copy of the letter of the Enquiry Officer dated 08.09.2004.	'C'	18
6	Copy of the documents of the medical treatment of the applicant.	'D'	19 - 22
7	Copy of the letter written by the applicant for holding the 2 nd Medical Board.	'E'	23 - 26
8	Copy of the applicant's letter dated 08.10.2004 along with medical documents.	'F'	27 - 29
9	Copy of the Retirement Notice issued by the respondent authority.	'G'	30
10	Copy of the Ex-parte Enquiry Report dated 03.08.2005.	'H'	31 - 44
11	Copy of the appeal of the applicant before the Appellate Authority, dated 15.09.2004 & dated 10.11.2006.	'I'	45 - 57
12	Copy of the letter of the Senior Superintendent of P.O., Guwahati dated 25.09.2006.	'J'	58 - 59

Date: 27-4-07

Filed by



Advocate



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under Section 19 of the Administrative
Tribunals Act, 1985)

O.A. No. 105 /2007

BETWEEN
Sri Lakhidhar Das,
S/o Late Thanuram Das
R/o Vill: Amingaon, Madhyam
P.O. Amingaon, Guwahati-31
Dist. Kamrup (Assam)

..... Applicant

- AND -

1. Union of India
Represented by the Secretary,
Department of Post, India
New Delhi.
2. Chief Post Master General,
(I&B) Assam Circle, Meghdoot Bhawan,
Guwahati - 1
3. Assistant Post Master General,
Assam Circle, Meghdoot Bhawan,
Guwahati - 1
4. Senior Superintendent of Post Offices,
Guwahati Division, Meghdoot Bhawan,
Guwahati-1

.... Respondents

DETAILS OF APPLICATION

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

This application has been made against the impugned ex-parte
departmental proceedings conducted under C.C.S. Rule against the

25
Shri Lakhidhar Das
Filed by:-
The Applican
Birendra K. Das
27.4.07
Admire

applicant where he was held to be guilty on 03.08.2005 after his retirement as well as non-release of GPF, Provisional Pension and Leave Salary and other retirement benefits due to your applicant by the authority.

2. **JURISDICTION OF THE TRIBUNAL.**

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

3. **LIMITATION.**

The applicant further declares that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunals Act, 1985.

4. **FACTS OF THE CASE.**

- 4.1 That the applicant is a citizen of India and as such he is entitled to the rights and privileges guaranteed under the Constitution of India and the Rules framed thereunder.
- 4.2 That your applicant is a ~~retired postal~~ servant and he was retired from service on 28.02.2005.
- 4.3 That your applicant joined the Postal Department as a Postman and subsequently he was promoted to the post of Sub-Post Master and he retired from service as the Sub-Post Master.
- 4.4. That during the period of his service your applicant served the Postal Department as a Sub-Post Master in various Post Offices and lastly he was posted as Sub-Post Master of the Indrapur Post Office at Guwahati on 19.03.2001.
- 4.5. That while your applicant was working as Sub-Post Master in the said Indrapur Post Office, certain irregularities were detected in respect of Small Savings Accounts and your applicant was placed under suspension w.e.f. 30.12.2003.

A copy of the said suspension order is enclosed herewith as Annexure-'A'.

- 4.6 That subsequent to the said suspension of your applicant, charge sheet was issued to him under Rule 14 of the CCS (Classification,

- 3 -

Control and Appeal) Rule, 1965 for imputation of misconduct.

The charge sheet against your applicant was as follows:

“That Shri Lakhidhar Das, while working as SPM Indrapur during the period from 19/03/2001 to 23/09/2003 accepted money tendered by the depositors of SB Account Nos. 1701330, 1701907, 1701871, 1701229, 1702418 and 1700724 on various dates for depositing in their said SB Accounts. He entered the said deposits in the SB Pass books on respective dates and authenticated the entries by his initial and date and stamp of the Post Office. But he did not enter the deposits in his office long book and list of transactions and also did not credit the amount in S.O. Account of those days.

By the above acts the said Shri Lakhidhar Das violated Rule 31(2) (ii) of PO SB Manual Vol.I.”

The copy of the charge sheet dated
22.07.2004 is enclosed herewith as
 Annexure ‘B’.

4.7 That the respondent authority after issuance of the aforesaid charge sheet appointed the Enquiry Officer to conduct the enquiry as per charge sheet dated 22.07.2004. The Enquiry Officer on 08.09.2004 issued a letter to your applicant informing that preliminary hearing of the case was fixed on 03.09.2004 wherein your applicant could not attend and the next date for the same was fixed on 15.09.2004.

A copy of the aforesaid letter dated
 08.09.2004 is enclosed herewith as
 Annexure ‘C’.

4.8 That your applicant begs to submit that he could not attend the enquiry again on the next date fixed i.e. on 15.09.2004 due to his sickness, since he was not keeping well for his old age ailments

Cont'd. .. 4

D.M

and your applicant remained sick for a period of one month, for which the respondent authority wanted to examine the health condition of your writ applicant through a Medical Board while he was in hospital at Mohendra Mohan Choudhury Hospital, Guwahati.

Copy of the relevant documents of medical treatment is enclosed herewith as Annexure 'D'.

4.9 That your applicant begs to state that on the particular date he could not come before the Medical Board due to his prolonged treatment in M.M.C. Hospital, Guwahati as indoor patient. Therefore, your applicant further submitted an application for holding a 2nd Medical Board for the medical opinion about his illness.

A copy of the said letter written by your applicant is enclosed herewith as Annexure 'E'.

4.10 That your applicant begs to submit that due to his prolonged illness he could not be able to appear before the Enquiry Officer as the department on the basis of his application has written to the Director of Health Services, Govt. of Assam with a request to examine your applicant and submit a report thereon.

A copy of the letter dated 08.10.2004 is enclosed herewith along with relevant medical documents as Annexure 'F' series.

4.11 That your applicant begs to submit that in spite of the aforesaid facts and circumstances, the respondent authority proceeded with the Departmental Proceedings against your applicant and recorded the statements of the witness without any intimation to your applicant and without issuing any notice to your applicant. In the

meantime your applicant was retired from service on 28.02.2005 and subsequently the notice of retirement has been sent to your applicant. But the respondent authority continued with the Departmental Proceedings against your applicant after his retirement.

Copy of the retirement notice is enclosed
herewith as Annexure 'G'.

4.12. That the respondent authority has revoked the suspension order of your applicant on being he retired from service and continued with the Departmental Proceeding behind the back of your applicant without issuing any notice to him. Further, it is significant to mention that the department has completed the Departmental Proceedings on 03.08.2005 after six months of his retirement and on 03.08.2005 the respondent authority forwarded a copy of the ex-part Expiry Report to your applicant wherein he was found guilty of the said charge and he was asked to be represented against the said charge.

Copy of the ex-part Expiry Report is
enclosed herewith as Annexure 'H'.

4.13 That your applicant begs to submit that though the authority has conducted the Departmental Enquiry in ex-part, but the required procedure of the ex-part enquiry has not been followed, such as recording of reasons, steps taken by the Enquiry Officer in the proceedings to take part and recording and of details including the recording of witness which are ought to be supplied to your applicant by the department for justifying the genuineness of conducting the ex-part Departmental Proceedings.

Your applicant has highlighted this sort of aspect before the appellate authority in details in his appeal dated 10.11.2006. But so far there is no response from the respondent authority on the

disposal of appeal. Prior to this appeal dated 10.11.2006, your applicant had filed another appeal on 15.09.2004 before the authority, but till date your applicant failed to get any response from the respondent authority.

Copy of the appeal dated 15.09.2004 &
dated 10.11.2006 are enclosed herewith
as Annexure 'I'.

4.14 That your applicant begs to submit that though he was retired from service on 28.02.2005, but his leave salary as well as salary from the month of October 2003 to December 2003 has not been released by the department till date. The pension papers, Group Insurance and General Provident Fund has not been finalized till date though it was almost more than 3 years of his retirement. However, on efforts from your applicant the Senior Superintendent of Post Office, Guwahati on 25.09.2006 informed your applicant that his case would be settled by concerning Officer.

A copy of the said letter dated
25.09.2006 is enclosed herewith as
Annexure 'J'.

4.15 That your applicant further begs to submit that the respondent authority though lodged an F.I.R. before the Dispur Police Station and the Dispur Police Station registered a case being Dispur P.S. Case No. 1290/2003 U/S 420/409 I.P.C. But so far the Police failed to make out any case against your applicant. It is submitted that other colleagues of your applicant are involved in the aforesaid scam and your applicant being honest and innocent have faced the situation. After the lapsation of so many years no headway could be achieved in investigation in the aforesaid Police case and ex-parte enquiry was conducted behind the back of your applicant leaving other employees of the said Sub-Post Office.

5. GROUND FOR RELIEF(S) WITH LEGAL PROVISION.
- 5.1 For that it is *prima facie* established that the ex-part^e departmental enquiry was conducted behind the back of your applicant and that too after his retirement. Your applicant was retired from service on 03.02.2005 and the ex-part^e departmental proceeding was completed on 03.08.2005 and copy of the ex-part^e departmental proceedings was forwarded to your applicant on 03.08.2005.
- 5.2 For that the charges of the enquiry report and details show that the Enquiry Authority has recorded all the statements of the witnesses behind the back of your applicant and all the relevant documents which have been relied upon by the Enquiry authority against your applicant has not been supplied to your applicant by the authority, which caused great prejudice to your applicant.
- 5.3 For that while conducting the ex-part^e departmental proceedings the departmental authority has not followed the departmental rule as well as CCS Conduct Rules and the Enquiry authority failed to forward the day to day proceedings of the enquiry which was conducted ex-part^e to your applicant nor any statement of the witness has been forwarded to your applicant which are ought to have been forwarded by the authority under the departmental proceeding rules in conducting the ex-part^e departmental enquiry.
- 5.4 For that the Enquiry authority has conducted the departmental enquiry in ex-part^e but the procedures required for conducting the ex-part^e departmental enquiry has not been followed such as recording of reasons for carrying out the departmental proceedings in ex-part^e, recording of reasons for such suspects and detailed recording of the witness(es) which are ought to have been supplied to your applicant by the department for justifying the genuineness of the ex-part^e departmental proceedings.
- 5.5 For that the authority failed to evoke in respect of the reply filed by your applicant on 10.11.2006 and appeal dated 15.09.2004 wherein

your applicant highlighted the aforesaid facts before the authority.

5.6 For that your applicant retired from service on 28.02.2005 and the departmental proceedings has been completed on 03.08.2005, which has undoubtedly been completed after the retirement of your applicant.

5.7 For that the whole enquiry proceedings are illegal as because the same was conducted ex-parte after the retirement of your applicant and as such on being retired the enquiry against your applicant cannot be completed for the reasons that he is not governed under the CCS Rules. Therefore, the enquiry is bad and illegal as it was completed after his retirement.

5.8 For that the charges of the ex-parte Enquiry Report shows that the Enquiry Authority has recorded all the statements of the witness behind his back and all the relevant documents have been attached as evidence against him without supplying the same to him. The enquiry was continued for a long period but your applicant was not given any chance or opportunity of hearing and the cases are taken up ex-parte, which is against the principles of natural justice.

5.9 For that your applicant was retired from service on 28.02.2005 and the ex-parte enquiry was completed on 03.08.2005, but he was not granted any provisional pension, leave salary as well as provident fund benefit, though he had submitted all the papers before the concerning authority and till date no action has been taken. Apart from the above, the respondent authority unnecessarily is withholding provisional pension payable to your applicant, including the Leave Salary.

5.10 For that the ex-parte enquiry is illegal because it was not in conformity to the Departmental Rule as well as Central Civil Services Rule. The Enquiry Authority has not forwarded the day-to-day proceedings of the enquiry recorded by the Enquiry Officer

while conducting the ex-parte proceedings and your applicant was not given the copy of the statements made by the witness before the Enquiry Authority and as such the ex-parte enquiry is baseless and illegal

- 5.11 For that the whole Enquiry Proceedings are illegal as because it was conducted ex-parte and after the retirement of the person against whom the said enquiry was conducted and such enquiry cannot be continued for the reasons that he is no longer governed under the C.C.S. Rules on his retirement as he ceased to be covered under the rules. Therefore, the Enquiry is bad and illegal, as it was continued after his retirement.
- 5.12 For that no just decision has been taken by the respondent authority to release all the service benefits due to your applicant after three years of his retirement nor any decision has been taken in respect of the Departmental Proceedings, as his provisional pension has also been withheld without any reason.
- 5.13 For that your applicant is facing acute financial crunch due to non-payment of provisional pension after lapsation of more than three years time and each and every day he is awaiting for the response from the authority in respect of his pension and nothing positive has been done by the respondents in this regard.

6. **DETAILS OF REMEDIES EXHAUSTED:**

The applicant further declares that he has no other alternative remedy than to come under the protective hands of this Hon'ble Tribunal.

7. **MATTER NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT:**

The applicant further declares that he has not filed any application, writ petition or suit in respect of the subject matter of this

application before any other Court, Authority or any other Bench of this Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEF(S) SOUGHT FOR:

Under the facts and circumstances stated above, it is most respectfully prayed that the Hon'ble Tribunal may be pleased to admit this Application, call for the records of the case and upon hearing the parties on the cause or causes that may be shown and on perusal of the records be pleased to grant the following relief(s):

8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned order of ex-parte departmental proceeding as well as the enquiry dated 03.08.2005.

8.2 That the Hon'ble Tribunal be pleased to direct the respondents to release the provisional as well as regular pension, G.P.F., Gratuity and Leave Salary due to your applicant and the other retirement benefits, as entitled by your applicant.

8.3 That the Hon'ble Tribunal be pleased to direct the respondents to close the proceedings as your applicant is no longer an employee of the department and set aside the ex-party enquiry report dated 03.08.2005.

8.4 That the Hon'ble Tribunal be further pleased to direct the respondent to release all the retirement benefits entitled to by the applicant as a retired person and pass such any other relief(s) as this Hon'ble Tribunal deem fit and proper.

9. INTERIM ORDER PRAYED FOR:

During the pendency of this application, your applicant prays for the following relief(s):

9.1 That the Hon'ble Tribunal be pleased to stay the operation of the impugned Enquiry Report dated 03.08.2005.

9.2 That the Hon'ble Tribunal be pleased to direct the respondents to release the provisional pension, leave salary, G.P.F., etc. as entitled to by your applicant.

10. This application is filed through Advocate(s).

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

- i) I.P.O. No. : SSF 207434, SSF 207435, 43C 654319, 43C 654318
- ii) Date of Issue : 6. 3. 2007
- iii) Issued from : GUWAHATI
- iv) Payable at : GUWAHATI

12. LIST OF ENCLOSURES:

As given in the index.

VERIFICATION

I, Sri Lakhidhar Das, S/o Late Thanuram Das, aged about 62 years, resident of Vill: Amingaon, Madhyam, P.O. Amingaon, Guwahati-31, Dist. Kamrup (Assam) do hereby verify that the statements made in Paragraphs 4.5 - 4.14 and _____ are ~~matter of~~ records and those made in Paragraphs 4.1-4.4, 4.15 are true to my knowledge and I have ^{not} suppressed any material fact.

And I sign this verification on this 26th day of April, 2007.

Date : 27.4.07

Plate : GUWAHATI

Shri Lakhidhar Das.

Signature of the applicant



ANNEXURE 'A'

(COPY)

DEPARTMENT OF POSTS, INDIA
OFFICE OF THE SR. SUPDT OF POST OFFICES
GUWAHATI DIVISION :: GUWAHATI-781 001

NO. : F4-1/03-04

Dated, Ghy the 30th Dec, 2003

O R D E R

Whereas a disciplinary proceeding against Shri Lakhidhar Das, the then SPM Indrapur now PA, Khanapara S.O. is contemplating.

Now, therefore, the undersigned in exercise of the powers conferred by Sub-rule (1) of Rule 10 of the Central Civil Services (Classification, control and Appeal) Rules, 1965, hereby places the said Shri Lakhidhar Das under suspension with immediate effect.

It is further ordered that during the period that this order shall remain in force, the headquarters of Shri Lakhidhar Das should be Guwahati and the said Shri Lakhidhar Das shall not leave the headquarters without obtaining the previous permission of the undersigned.

Sd/-

SOM KAMEI, IPS
SR. SUPDT OF POST OFFICES
GUWAHATI POSTAL DN

Copy to:

By Regd. Post:

1. Shri Lakhidhar Das, PA Khanapara
2. The Sr. PM, Guwahati GPO for necessary action.
3. The Chief Postmaster General (INV), Assam Circle, Guwahati w.r.to CO's case mark no.Inv/SB- 24/03
4. Staff Branch, D.O. Guwahati
5. The SPM, Khanapara, S.O for necessary action.
6. Office copy

Sd/-

SOM KAMEI, IPS
SR. SUPDT OF POST OFFICES
GUWAHATI POSTAL DN

DEPARTMENT OF POSTS, INDIA
OFFICE OF THE SR. SUPDT OF POST OFFICES
GUWAHATI DIVISION: GUWAHATI-781 001

Received on 5/3/04
from Sr. Supdt POS.
1st Division
L.H.-I

Dg 3/04

NO.: F4-1/03-04

Dated Ghy the 30th Dec, 2003

ORDER

Whereas a disciplinary proceeding against Shri Lakhidhar Das, the then SPM Indrapur now PA, Khanapara S.O is contemplating.

Now, therefore, the undersigned in exercise of the powers conferred by Sub-rule (1) of Rule 10 of the Central Civil Services (Classification, control and Appeal) Rules, 1965, hereby places the said Shri Lakhidhar Das under suspension with immediate effect.

It is further ordered that during the period that this order shall remain in force, the headquarters of Shri Lakhidhar Das should be Guwahati and the said Shri Lakhidhar Das shall not leave the headquarters without obtaining the previous permission of the undersigned.

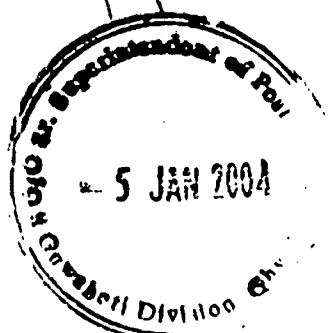
Sd/-

SOM KAMEI, IPS
SR. SUPDT OF POST OFFICES
GUWAHATI POSTAL DN

Copy to :

By Regd. Post, 1 ✓ : Shri Lakhidhar Das, PA Khanapara
7 : The Sr. PM, Guwahati GPO for necessary action.
8 : The Chief Postmaster General (INV), Assam Circle, Guwahati
w.r.to CO's case mark no. Inv/SB-24/03
9 : Staff Branch, D.O. Guwahati
10 : The SPM, Khanapara S.O for necessary action.
11 : Office copy.

SOM KAMEI, IPS
SR. SUPDT OF POST OFFICES
GUWAHATI POSTAL DN



Certified to be true Copy

Advocate

GOVT. OF INDIA
MINISTRY OF INFORMATION & BROADCASTING

54-1/03-04 /0/ <sup>dated 22/07/2004
Sr. Supdt. of Post Offices
Guwahati Div., Guwahati-781001</sup> the 22/07/2004

MEMORANDUM

The undersigned proposed to hold an Inquiry against Shri Lakhidhar Das under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules 1965. 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 charge (Annexure I). A statement of imputations of misconduct or misbehaviour in support a list of documents in which and a list of witness by whom the articles charge are proposed to be sustained are also enclosed (Annexure III).

2. Shri Lakhidhar Das is directed to submit within 10 days of the receipt of this memorandum a written statement of his defence and also to state whether he desires to be heard in person.

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

4. Shri Lakhidhar Das is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 14 of the CCS(CCA) Rules 1965 or the order/directions issued in pursuance of the said Rule, the inquiring authority may hold the inquiry against him ex parte.

5. Attention of Shri Lakhidhar Das is invited to Rule 20 of the Central Civil Services(Conduct) Rules 1964 under which no. Govt. servant shall bring or attempt to bring any political or undue influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Govt. if any representation is received on his behalf from another person presumed that Shri L. das aware of such a representation and that it has been made at his instance and action will be taken against him for violation of the CCS(Conduct) Rules, 1964.

~~Recd~~ The receipt of the Memorandum may be acknowledged.

~~Enclo: Statement as cited above~~

Shri Lakhidhar Das,
the then SPM, Indrapuri
S.O (u/s)

Sr. Supdt. of Post Offices
Guwahati ~~Assam, India~~ Guwahati,
Assam, India - 781001
Sr. Supdt. of Post Offices
Guwahati Div., Guwahati-781001

Amingaon Machiyam
P.O. AMINGAON

Guwahati-781031.

Certified to be true COPY

Advocate

ANNEXURE - I

Statement of articles of charges against Shri Lakhidhar Das, SPM, Indrapur S.O (under suspension)

That Shri Lakhidhar Das, while working as SPM Indrapur during the period from 19/03/2001 to 23/09/2003 accepted money tendered by the depositors of SB account nos. 1701330, 1701907, 1701871, 1701229, 1702418 and 1700724 on various dates for depositing in their said SB accounts. He entered the said deposits in the SB Pass books on respective dates and authenticated the entries by his initial and date stamp of the Post Office. But he did not enter the deposits in his office long book and list of transactions and also did not credit the amount in S.O Account of those days.

By the above acts the said Shri Lakhidhar Das violated Rule 31(2)(ii) of PO SB Manual Vol.I.

ANNEXURE-II

Statement of imputation of misconduct or misbehaviour framed against Shri Lakhidhar Das, SPM, Indrapur S.O(under suspension).

That Shri Lakhidhar Das, while working as SPM, Indrapur S.O during the period from 19/3/2001 to 23/09/2003 accepted money for deposits tendered by the depositors of the SB account particularized below on the dates shown against each and entered in the respective SB Passbooks with his dated signature and impression of his office date stamp but did not credit to Govt. account on the respective dates or on any subsequent dates.

Sl.no.	SB Account no.	Name of the depositor	Date of receipt	Amount
01	1701330	Mr. Dasarath Kalita, S/O Late Jiban Kalita, GMCH, Indrapur, Ghy-32	21/4/2003 22/7/2003 27/8/2003	Rs. 14000/- Rs. 10000/- Rs. 8000/- <u>Rs32,000/-</u>
02.	1701907	Mrs. Aruna Saikia Thakuria (SIN) Guwahati Medical college Hosp. Ghy-32	25/7/2003	Rs. 10,000/- <u>Rs10,000/-</u>
03.	1701871	Sri Satya Nath Kumar, S/O Sri Mahendra Kumar, near Hostel no. 1, GMCH Indrapur, Ghy-32	2/7/2002 25/6/2002 26/12/2002 9/6/2003 31/7/2003	Rs. 8000/- Rs. 5500/- Rs. 5500/- Rs. 6000/- <u>Rs. 3000/-</u> <u>Rs. 28000/-</u>

04.	1701229	Mr. Pradip Deka, S/O Late Rajen Deka, C/o. G. Deka, GMCH Canteen, Ghy-32	22/9/2003	Rs. 17000/- Rs. 17000/-
05.	1702418	Mr. Dilip Sarma, S/O Late Chandra Kt. Sarma, Miliijuli Path, Rupnagar, Ghy-32	3/5/2003 7/6/2003 21/6/2003 1/9/2003	Rs. 1800/- Rs. 12,000/- Rs. 1000/- Rs. 500/- Rs 15,300/-
06.	1700724	Sri Bharat Ch Saikia, S/O L.R. Saikia, Medical college Department, Ghy-32	4/4/2003	Rs. 18,000/- Rs 18,000/-

Thus, Shri Lakhidhar Das failed to credit SB deposit to the tune of Rs. 1,20,300/- to the Govt. account. By the said acts Shri Lakhidhar Das violated rule 31(2)(ii) of PO SB Manual Vol-I and thereby displayed lack of integrity and devotion to duty in contravention of Rule 3.1(i) and 3 1(ii) of CCS(Conduct) Rules, 1964.

ANNEXURE - III

List of documents by which the article of charges framed against Shri Lakhidhar Das, SPM Indrapur S.O. (Under Suspension) is proposed to be sustained.

5. SB Passbook no. 1701330, 1701907, 1701871, 1701229, 1702418 & 1700724 = 6 (Six) passbooks.
6. Indrapur S.O SB long book from 22/5/02 to 18/9/02, 19/9/02 to 23/1/03, 24/1/03 to 26/6/03, 27/6/03 to 27/9/03 (4 books).
7. S.O Account book of Indrapur from 1/03 to 26/6/03 and 27/6/03 to 27/9/03 (2 books).
4. Indrapur S.O. list of transactions dated 21/4/03, 22/7/03, 27/8/03, 25/7/03, 2/7/02, 25/10/02, 26/12/02, 9/6/03, 31/7/03, 22/9/03, 3/5/03, 7/6/03, 21/6/03, 1/9/03 and 4/4/03 (15 list of transactions)
5. Written statement of Shri Dasarath Kalita dated 12.4.2004, depositor of SB A/c no. 1701330
Mrs. Aruna Saikia Thakuria dated 30/3/2004. -do- SB A/c no. 1701907
Sri Satya Nath Kumar dated 13.2.2004 -do- SB A/c no. 1701871
Sri Pradip Deka dated 17.02.2004, -do- SB A/c no. 1701229
Mr Dilip Sarma dated 6.4.2004 -do- SB A/c no. 1702418
Shri Bharat Ch Saikia dated 25.02.2004. -do- SB A/c no. 1700724
5. Written Statement of Shri Lakhidhar Das dated 13.10.2003.

ANNEXURE - IV

List of witnessess by whom the article of charges framed against Shri Lakhidhar Das, SPM, Indrapur, (Under suspension) is proposed to be proved.

9. Md. A. Matin, C.I. Divisional Office, Guwahati-1
10. Sri Utpal Nath, SDI(E), Guwahati-1
11. Sri Dasarath Kalita, Depositor,
12. Smti. Aruna Saikia Thakuria, Depositor,
13. Sri Satya Nath Kumar, Depositor
14. Sri Pradip Deka, Depositor
15. Sri Dilip Sarma, Depositor
16. Sri Bharat Ch Saikia, Depositor

Department of Posts, India
Office of the Sr. Supdt. Of Post Offices, Guwahati Division,
Guwahati.

No. A1/Rule 14/L Das.

Dated, Guwahati, 8.9.04

To

✓ Shri Lakhidhar Das. (Ex-SPM Indrapur S.O. u/s)
Amingaon Madhyam.
P.O. Amingaon, Guwahati-781031

Sub:

Departmental enquiry under Rule 14 of the
CCS(CCA) Rules 1965 against Shri Lakhidhar Das.

Sir:

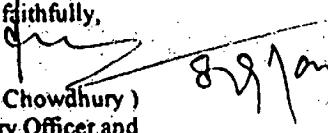
Under his order No. F4-1/2003-04/Discy dtd. 11th Aug/04 a copy of which has been endorsed to you also, the Senior Supdt. Of Post Offices, Guwahati Division, Guwahati, has appointed me as the Inquiring Authority to enquire into the charges framed against you vide his memo No. F4-1/2003-04/Discy dtd. 11.8.04.

The preliminary hearing in the case was fixed on 3.9.04 (Friday) at 11.00 am at Amingaon S.O. But due to your illness you could not attend the preliminary hearing and requested to fix another date. Accordingly the next date is fixed on 15th Sept./04 (Wednesday) at O/O the Sr. Supdt. Of Post Offices, Guwahati Division, Guwahati at 11.00 hrs. You are therefore, requested to attend the proceedings either alone or accompanied by your Defence Assistant on the appointed date, time and place failing which the proceedings shall be held ex parte.

Instructions for getting your Defence Assistant relieved will be issued if his particulars and willingness to work as such along with the particulars of his controlling authority are received by me

While nominating a serving Govt. servant as Defence Assistant the instructions on the subject should be kept in view.

Yours faithfully,


(T.K. Chowdhury)
Inquiry Officer and
ASPOs(HQ), O/O the SSP/
Guwahati-781001

Copy to :-

- 1) Shri S.B. Bhattacherjee, ASP (DN), O/O the SSPOs, /GH He is required to attend the preliminary hearing along with all the listed documents and copies of the statements of listed witnesses, if any recorded during preliminary investigation as per programme given above.
- 2) The Sr. Supdt. Of Post Offices, Gd. Dn, Guwahati-781001. He is requested to relieve the Presenting officer for attending the hearings in the case.

INQUIRY OFFICER

Certified to be true Copy

Advocate

Ph: 0361-2680727

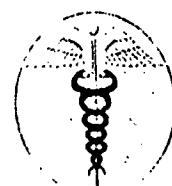
K. Bhagawati

MD(A) D.A.C.U

MCC/23331

Medical Practitioner & Acupuncturist

Member of Rural Health Society-KOI



For

Antakshari Dasi
60 yrs/ M

Ref... OPD

Date. 26/5/04

1. Acute appendicitis

Lower abd. Painful
Nausea.

Rx

Tab. Novocain (1)
3000 I/M Stat.

Tab. Paracet (10)

Qn. 1/2 cap. empty Stomach

8/10 Tab. Brisket (10)

8/10 Tab. B.P.D.

Vit. C 1/2

RL - Ofin 1/2

Slow I.V. drip

6/3

Adv.

Indoor management
M.M.C. Hospital for

needful to
DR. Dilip Deka

Consult DR. Dilip Deka

Certified to be true Copy

[Signature]

Advocet

I.N.B. : Do not substitute medicine. Do not repeat previous medicine without consultation. Always take medicine according to advise.

Please bring this prescription on your next visit.

পুনর আহোতে কার্ডখন লগত লৈ আহিব।

NORTH EAST X - RAY & CLINICAL LABORATORY

EXAMINATION OF BLOOD WITH S.E.A.C. CH - 100
MILES COMPUTERIZED PHOTO ANALYZER

SONARAM MARKET
Maligaon Chariali
Guwahati - 781 011

Lab No.: 24

Name Sri Lakshmidhar Das Age 55 year Sex M
Referred by dr. Munin Malakar Date 14. 11. 03

ROUTINE URINE EXAMINATION		ROUTINE STOOL EXAMINATION
Physical Examination		Physical Examination
Quantity	40ml	Colour
Colour	Pale yellow	Consistency
Appearance	Clear	Mucus
Deposit	Nil	Blood
Sp. Gr.	1012	Parasite
Chemical Examination		Chemical Examination
Reaction	Acidic	Reaction
Protein	Nil	Occult Blood
Sugar	Nil	Microscopic Examination
Phosphate	Nil	R.B.C.
Bile-Salt	Absent	Pus cell
Bilepigment	Absent	Starch unding
Urobilinogen	Not done	Fat
Ketone bodies	Not done	Vegetable cell
Microscopical Examination		Protozoa
Pus cells	0-1 /HPF	E. Histolytica
R.B.C.	Nil /HPF	Cyst. form
Epithelial, Cells	2-3 /HPF	Giardia lamia
Triple Phosphate	Nil	Conc. Method Ova
Amorphous Phosphate	Nil	Others
Casts	Nil	
Urine for Pregnancy Test		
Others		

DR M. SHARMA MBBS MRCPI
PATHOLOGIST

Time : 8 A.M. to 7 P.M. on days excluding Sunday after 2 P.M.

Munik Nager
y Bus Stop
Road, Guwahati - 5

MEDICAL CERTIFICATE

(To whom it may concern)

Certified that Mr./M/s..... K. Lal Chandra Deka.....
..... Yrs. of age 'Vill..... D. M. S. O. D.
..... is/Was under the treatment of Hajo P.H.C.
as an Outdoor/Indoor patient from..... 1. 1. 03.....
to..... 24/10/03.....

He/She is/was suffering from.....
He/She is advised to take rest for a period of.....
Days/Weeks/Months w. e. f. 24/10/03.....

Now he/she is fit/unfit to resume his/her duties.

w. e. f. 24/10/03

Date..... 24/10/03

Signature of Medical Officer
Seal
Medical Officer
Hajo P.H.C.
Kamrup (East)

एप्र-95
ईस्ट-95

46746

Sri Lakshmi Dasi

आवेदक के हस्ताक्षर

Signature of Applicant

अराजपत्रित कर्मचारीयों के छुट्टी देने अथवा छुट्टी बढ़ाने अथवा छुट्टी परिवर्तन करने
संबंधी सिफारिश करने डाक्टरी प्रमाण-पत्र

Medical Certificate for non-gazetted officer recommended for leave or extension or
Commutation of leave

(भारत सरकार, वित्त विभाग संख्या 173-एस.आर गारीब 16 मार्च, 1931)
(Govt. of India Finance Deptt. No. 173-S.R. dated 16th March, 1931)

मैं व्यक्तिगत रूप से सावधानी पूर्वक इस मामले को जान्न
करने के बाद वह प्रमाणित करता हूँ कि जिस कर्मचारी से हस्ताक्षर ऊपर दिए गए हैं, वह नामक
रुग्ण से ग्रस्त है और मैं समझता हूँ कि स्वास्थ ताप के लिए तारिख से दिनों
को अवधि तक डॉटी पर त्रु जनाउनके लिए निरान्त आवश्यक है।

Sri Lakshmi Dasi after careful examination of the case hereby certify that
whose signature is given above is suffering from *Hepatitis* and I consider it
that a period of absence from duty of with effect from *24/10/13* to *24/10/13* is absolutely necessary
for the restoration of his health.

तारिख 24/10/13
Dated

सरकारी चिकित्सक 10/13
अथवा अन्य पंजीकृत व्यवसायिक चिकित्सक
Govt. Medical Attendant
or
Registered Practitioner

ANNEXURE 'E'

(COPY)

To
Sr. Supdt. of Post Offices,
Guwahati Divisional,
Guwahati-1.

Subject: Application for issue 2nd date of Medical Examination against
Second Medical opinion. Case -B-1659/5/12.2003.

Hon'ble Sir,

I have the honour to inform you that I could not attend in the dated 17.11.2003 for Medical Examination against Second Medical opinion Case of Post Offices due to Assam Bandh and my illness. So I fervently request you kindly to issue me a 2nd date for Medical Examination.

I shall remain again grateful to you.

Yours sincerely,

Sd/-
Shri Lakshidhar Das

Certified to be true copy

Advocate

ANNEXURE 'E'

(COPY)

To
The Director of Health Services, Assam
Hengrabari,
Guwahati-36

Subject: Application for issue 2nd date of Medical Examination against
Second Medical opinion. Case Ref B-1659 dated 15.10.2003.

Hon'ble Sir,

I have the honour to inform you that I could not attend in the dated 17.11.2003 for medical examination against Second Medical Opinion Case of Post Offices due to Assam Bandh and illness. So I fervently request you kindly to issue me a 2nd date for medical examination.

I shall remain again grateful to you.

Yours sincerely,

Sd/-

Shri Lakshidhar Das

(5)

St. Louis 100s.
Call 81-singly numbered 1

Sub: Application for Issue 2nd date
of Medical Examination against Curwad
Medical opinion. Case - B. 1659/5/12/2003

Hon'ble Sir,

Dit 120/2

I have the honour to inform
you that I could not attend in the
dt. 17/11/13 for Medical Examination against
Second Medical opinion Case of Post-offices
due to Reserve Board & my illness.

So I fervently request you kindly to
leave me a 2nd date for medical examination.

I shall remain again grate full
to you.

Yours sincerely
Lakshminarayana

E

To The Director of Health Services
Assam Legislative Assembly - 36

Sub:- application for issue 2nd date D-
medical Examination against Second Medical
opinion Case Ref B- 1659 / 15-10-2023

2nd date

Hon'ble Sir,

I have the honour to inform you
that I could not attend in the
dated 17.11.03 for medical examination
against Second Medical opinion
Case of Post offices due to Assam
Bands & illness. So I fervently ^{request} you
kindly - to issue me a 2nd date
for Medical examination.

I shall remain again greatfull
to you

(yours) Sincerely
Shri Dakeshwar D.

TO

The Senior Superintendent of Post Offices,
Guwahati Postal Division, Guwahati.

Sub : Appearing before the Board of Inquiry.

Ref. : F4-1/2003-2004/Disy.dt. 30-9-2004.

SIR,

With reference on the subject cited above I would like to inform you that due to severe illness of Gastritis I have to be hospitalised immediately and treatment is going on at Mohendra Mohan Hospital at Guwahati as indoor patient staying at Surgical ward.

Therefore, I am unable to attend the inquiry board today accordingly.

Yours faithfully,

Lakhi Dhar Das
⁰⁸⁻¹⁰⁻⁰⁴
(Lakshidhar Das)

SPM.(Under Suspension)
Indrapur Post Office,
Guwahati.

Copy to :-

1. Sri T.K. Chowdhury,

Inquiry Officer and ASPOs (H.O.) o/o the
SSP, Guwahati for information.



GUWAHATI GPO (781601)
RL-AD 7142

PA : PCH
To : THE SR SUPDT OF PO'S, GHY DN
GHY 1, PIN:

Wt:15grams
PS:10.00, Amt:25.00, Dd/10/2004, 14:02:28
HAPPY NEW YEAR 2004

भारतीय पोस्ट

INDIA POST

GUWAHATI GPO (781601)
RL-AD 7143
PA : PCH
To : SRI T K CHOWDHURY,
GHY 1, PIN:

Wt:15grams
PS:10.00, Amt:25.00, Dd/10/2004, 14:02:41
HAPPY NEW YEAR 2004

Lakhi Dhar Das
⁰⁸⁻¹⁰⁻⁰⁴
(Lakshidhar Das)

SPM(Under Suspension)
Indrapur Post Office,
Guwahati.

Certified to be true Copy



Advoc.

in town diagnostic centre

SAH ROAD, PANBAZAR, Ph. (0361) 2540563 / 2547770
dutta2@sancharnet.in

93

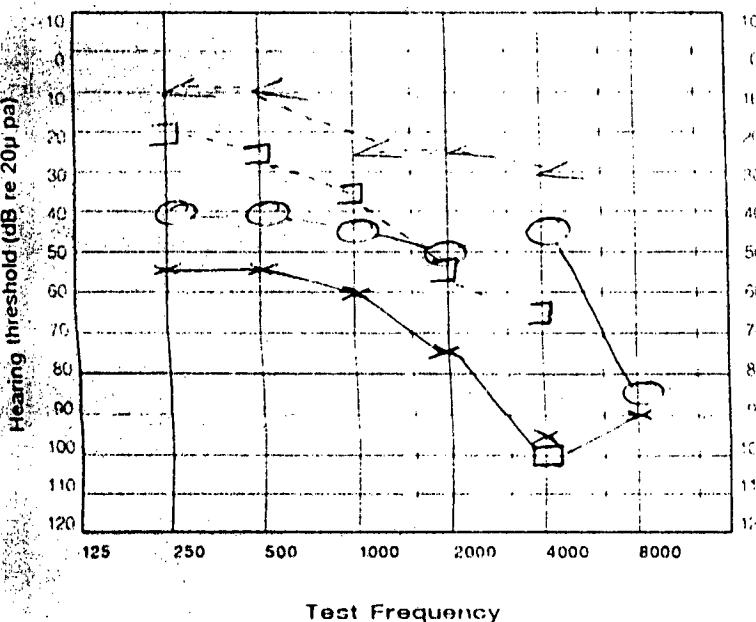
DEPARTMENT OF AUDIOLOGY, NEUROOTOLOGY & SPEECH PATHOLOGY

Name of the Pt. Ma. Karkharkhars. Class Refd. by Dr. R. S. Phukan

Address OPD No. (1)

IPD No.

AUDIOGRAM REPORT



RIGHT	A.C.	LEFT
C	UNMASKED	X
C	MASKED	□
C	NO RESPONSE	
S	UNMASKED	X
S	MASKED	□
S	B. C.	
□	UNMASKED	>
□	MASKED	□
□	NO RESPONSE	
□	UNMASKED	>
□	MASKED	□
UNAIDED	SOUNDFIELD	
AIDED	S	
NO RESPONSE	A	

✓ Masking used / not used:

Right : Mild mixed loss at 85 dB
skip at 8K AC.

Recruitment:

Left : Severe S. N. loss at
high frequencies otherwise
moderately severe mixed loss
at low frequencies.

Tone decay:

SISI:

Audiologist

10/10/04
S. S. D.

Audiometrist

GD/07/2002

DISCHARGE CERTIFICATE

M.M.C. Hospital, Panbazar, Ghy-1.

of Admission REG-9-04

Date of Disch 9.10.04

Bed No. 20 Regd. No. 447104

Name of patient Lakhi Das

H/Town Amrapur P.O. - 20 C/O Reanti Das

Investigation V.S Scan - BEP

Diagnosis, Treatment, Pain abdomen with BEP

Cause of Discharge.

Convalescence

Advice on Discharge

Signature of Doctor.

DEPARTMENT OF POSTS: INDIA
OFFICE OF THE SR. SUPERINTENDENT OF POST OFFICES, GUWAHATI DIVN.
MEGHDOOT BHAWAN 3RD FLOOR, GUWAHATI - 781001

To Sri / Smt. Lakhidhar Das SPM, Indrapur
(Under Suspension)

No. C2/799/L.Das Dated at Guwahati-1 the 23-2-05
You are permitted to retire on superannuation on 28/02/2005 (A/R).

Wish you a happy long life.

16.2.2005
Sr. Superintendent of Post Offices,
Guwahati Division, Guwahati - 781001

Copy to :

1. The Sr. Postmaster Guwahati GPO / Postmaster Guwahati University HO for information and necessary action.
2. SPM
3. Staff-B of the Divisional Office.
4. O/C.

Sel
Sr. Superintendent of Post Offices,
Guwahati Division, Guwahati - 781001

Certified to be true Copy

[Signature]
Advocate

DEPARTMENT OF POSTS:INDIA
OFFICE OF THE SR SUPDT OF POST OFFICES
GUWAHATI DIVISION, GUWAHATI-781001

3

NO: F4-1/2003-04/Discy

Dated at Guwahati the 2-8-05

To,
✓ Sri Lakhidhar Das,
(Ex SPM, Indrapur),
Amingaon Madhyam,
PO-Amingaon,
Guwahati-781031.

Sub:-Disciplinary action under Rule -14 of CCS (CCA), Rules, 1965 against Sri Lakhidhar Das, Ex-SPM, Indrapur.

Vide this office memo of even no dtd 11-8-04 Sri T K Choudhury, ASPOs(HQ), Guwahati was appointed as the Inquiry Authority to inquire into the charges framed and served to the charged official, Sri Lakhidhar Das, Ex SPM, Indrapur under memo of even no dtd 22-7-04.

The IO has concluded the inquiry and submitted the Inquiry Report on 28-5-05 with findings that the charges are proved. The undersigned has accepted the report and findings of the IO tentatively. A copy of the Inquiry Report is sent herewith.

Now the said Sri Lakhidhar Das is hereby directed to submit representation if any against the report and findings of the IO within 10 days of receipt of this communication. If no reply is received from the said Sri Das by the stipulated period, it will be presumed that he has nothing to represent against the IO's report and findings and the case will be decided accordingly on merit.

Enclo: As above

Top
Sr Supdt of Post Offices
Guwahati Division, Guwahati-781001

Certified to be true Copy

[Signature]

Advocate

(COPY)

INQUIRY REPORT

I was appointed as Inquiry Authority vide SSP/GH No. F4-1/2003-04/Discy dated 11.8.04 to inquire into the charges framed against Shri Lakhidhar Das, SPM, Indrapur SO (u/s) now retired, under Rule-14 of CCS (CCA) Rules, 1965.

2. The charges framed against the said Shri Lakhidhar Das in brief are as under: -

“That Shri Lakhidhar Das, while working as SPM, Indrapur SO did not credit the amount of deposit he accepted from the depositor of S/B a/c No. 1701330, 1701907, 1701871, 1701229, 1702418 and 1700724 on different dates amounting to Rs. 1,20,300/- in all. It is alleged that by the said acts Shri Das violated Rule 31(2)(ii) of POSB Manual Volume I and thereby displayed lack of absolute integrity and devotion to duty in contravention of Rule 3(1)(i) and 3(1)(ii) of CCS (Conduct) Rules, 1964.”

3. The undersigned issued notification for preliminary/regular hearing/inquiry into the case on 3.9.04, 15.9.04, 27.9.04, 12.10.04, 13.10.04, 2.12.04, 30.12.04, 31.12.04, 18.1.05, 16.2.05, 17.2.05, 28.2.05, 11.3.05 and 18.4.05.

4. The proceeding recorded on the day of hearing mentioned above are recorded as under: -

- (a) The preliminary hearing was held on 3.9.04 at Amingaon SO. The CO did not attend the enquiry. An application from the CO was received through his wife Smt. Rebati Das requesting for fixing another date for enquiry due to his illness. The request was granted.
- (b) The next regular hearing was held on 15.9.04 in the Divisional office, Guwahati. The CO did not attend nor he intimated the reason for his non-attendance. However, an appeal addressed to SSPOs/GH & copy to the undersigned was submitted by the CO stating that he was not paid of subsistence allowance. The disciplinary authority was requested to do needful. The SSP/GH vide letter No. F4-1/03-04 dated 16.9.04 informed that the subsistence allowance for the period from 30.12.03 to 30.4.04 was drawn and disbursed. On the other hand the subsistence allowance for May/04 onwards duly drawn was not taken payment by the CO. As such the appeal of the CO was not sustainable.

- 2 -

(c) In view of the above position, the hearing was resumed on 27.9.04 after due notification to CO. The CO did not attend the enquiry and it was ordered that further enquiry would be held Ex-parte, if the CO fail to attend the enquiry on the notified dates. Subsequently, on 28.9.04 an application from Smt. Rebati Das w/o the CO was received stating her husband was admitted at MMC Hospital due to illness.

(d) The next enquiry was fixed on the 7th & 8th Oct/04 but due to unavoidable circumstances, the enquiry was deferred to 12/13.10.04 vide notification dated 4.10.04. Accordingly, the enquiry was held on 12.10.04 at Divisional Office, Guwahati. The CO did not attend. Subsequently, an application from the CO was received on 15.10.04 stating that he was seriously ill and could not attend the enquiry but without any medical certificate as proof of his illness.

(e) The next hearing was held on 2.12.04 at Amingaon P.O. as notified on 19.11.04. The CO did not attend the enquiry nor informed reason for non-attendance. Subsequently on 6.12.04, an application from Smt. Rebati Das w/o the CO was received stating that her husband was ill and requested to adjourn the hearing but no proof of his illness was furnished.

(f) The next hearing was held on 30.12.04 & 31.12.04 as notified on 20.12.04. The CO did not attend the enquiry in both days. However, an application of Smt. Rebati Das w/o the CO (30.12.04) was received on 31.12.04 informing that her husband was away from home for medical treatment, therefore requested to adjourn the hearing. Considering the above, the hearing was adjourned to provide opportunity to CO.

(g) The next hearing was held on 18.1.05 at Divisional office, Guwahati as per notification dated 11.1.05 which was received by Smt. Rebati Das on behalf of her husband on 12.1.05. The CO did not attend nor submitted any information regarding his inability to attend enquiry. As stipulated in the notification it was decided to hold the enquiry Ex-parte and accordingly the PO was asked to produce the listed documents before the enquiry board. The documents produced by the PO were examined and marked with exhibit Nos. Subsequently an application dated NIL

was received on 19.1.05 from Smt. Rebati Das w/o the CO requesting to adjourn the hearing on 18th Jan/05 due to illness of her husband but no proof of illness was furnished.

(h) Summons were issued to the prosecution witnesses on 8.2.05 to attend enquiry fixed on 16/17.2.05 to give evidence. Accordingly the next enquiry was held on 16.2.05 and 17.2.05 and two prosecution witnesses were examined on 16.2.05 and three witnesses were examined on 17.2.05 and their deposition were recorded in absence of the CO as decided to hold enquiry Ex-parte on account of failure to appear before the enquiry board by the CO.

(i) The next hearing was held on 28.2.05 at Indrapur SO notified on 21.2.05. The CO did not attend the enquiry though the notification was duly received by his wife who was duly authorized to receive all communications in the matter of this enquiry. Two more witnesses were examined on behalf of the prosecution side.

(j) The next hearing was held on 11.3.05 at Indrapur P.O. to examine the remaining prosecution witness. The prosecution witness summoned vide notice dtd. 3.3.05 attended the enquiry and her deposition was recorded.

(k) The last hearing was held on 18.4.05 as notified on 6.4.05 with direction to C.O. to submit his defence or intimate his willingness to be examined himself on his defence in the circumstances appearing against him. The C.O. did not attend the enquiry though the notice was received on 11.4.05 by his wife Smt. Rebati Das who was authorized to receive the communication. Further no any information was received from the C.O. about his failure to attend the enquiry. Since prosecution side completed and the presentation of the case and the C.O. did not submit his defence inspite of repeated notices issued, it was decided to close the oral hearing. Accordingly the P.O. was directed to submit written brief by 26th April/05 with endorsing copy of his brief direct to the CO. The P.O. submitted a copy of the brief on 26.4.05 vide his No. A1/Rule 14/L. Das/PO under intimation to the undersigned. The said communication of PO was received by Smt. Rebati Das w/o the CO on 3.5.05.)

As the written brief of the CO was not forthcoming within the stipulated period as mentioned in order sheet dated 18.4.05, the CO was again asked to submit his brioef to the

undersigned within 5 days from the date of receipt of the communication dated 19.5.05 issued in this regard. The communication dated 19.5.05 in which the CO was asked to submit his brief was received by Smt. Rebati Das w/o the CO on 21.5.05 but he has failed to submit his brief within the stipulated extended period. In view of this the undersigned has decided to submit the enquiry report ex parte on the basis of the evidence/materials placed before the enquiry board.

5. The prosecution side produced the following documents to sustain the charges framed against the charge official. The documents so produced were marked with exhibition marks as noted below: -

- (a) SB Pass Book No. 1701330 = S-1 (A)
1701907 = S-1 (B)
1701871 = S-1 (C)
1701229 = S-1 (D)
1702418 = S-1 (E)
1700724 = S-1 (F)
- (b) Indrapur SO SB long book from 22.5.02 to 18.9.02=S-2 (A)
19.9.02 to 23.1.03=S-2 (B)
24.1.03 to 26.6.03=S-2 (C)
27.6.03 to 27.9.03=S-2 (D)
- (c) SO a/c book of Indrapur SO from 1/03 to 26.6.03=S-3 (A)
27.6.03 to 29.9.03=S-3 (B)
- (c) Indrapur PO SO list of transaction: -
 - 21.4.03 = S-4 (A)
 - 22.7.03 = S-4 (B)
 - 27.8.03 = S-4 (C)
 - 25.7.03 = S-4 (D)
 - 2.7.02 = S-4 (E)
 - 25.10.02 = S-4 (F)
 - 26.12.02 = S-4 (G)
 - 9.6.03 = S-4 (H)
 - 31.7.03 = S-4 (I)
 - 22.9.03 = S-4 (J)
 - 3.5.03 = S-4 (K)
 - 7.6.03 = S-4 (L)
 - 21.6.03 = S-4 (M)
 - 1.9.03 = S-4 (N)
 - 4.4.03 = S-4 (O)

- 5 -

(d) Written statement of Shri Dasarath Kalita SB a/c No. 1701330=S-5 (A)
Mrs. Aruna Saikia Thakuria SB a/c No. 1701970=S-5 (B)
Sri Satya Nath Kumar SB a/c No. 1701821=S-5(C)
Sri Pradip Deka SB a/c No. 1701229=S-5 (D)
Mr. Dilip Sarma SB a/c No. 1702418=S-5 (E)
Shri Bharat Ch. Saikia SB a/c No. 1700724=S-5 (F)

(d) Written statement of Shri Lakhidhar Das dated 13.10.2003 =S-6

The following witnesses were summoned to give evidence on behalf of the prosecution side.

1. A Matin, CI, DO/GH (PW-1)
2. U. Nath, SDI/GH (PW-2)
3. Dasarath Kalita (PW-3)
4. Smt Aruna Saikia Thakuria (PW-4)
5. Sri Satya Nath Kumar (PW-5)
6. Pradip Kr. Deka (PW-6)
7. Dilip Sarma (PW-7)
8. Bharat Ch. Saikia (PW-8)

Other than PW1 & 2, all the rest witness named above are depositor of the SB accounts mentioned in the charge sheet.

The charge official Shri Lakhidhar Das did not participate of the enquiry from the very beginning on the plea that he was ill. But no proof of his illness was furnished by the CO except on two occasions related to hearing fixed on 3.9.04 and 27.9.04. All communications from the undersigned were received by Smt Rebati Das w/o the CO, who has been authorized to receive any letter issued by the undersigned on his behalf vide an authority letter dated 11.10.04. Since than she was receiving the letters issued by the undersigned and she replied on behalf of the CO regarding adjourning of hearings on the plea of husband illness but without any proof of illness.

In view of these it was assumed that the CO was avoiding to participate in the enquiry for the reasons best known to him. Further all the copies of the proceedings were furnished to the C.O. with direction to participate in the enquiry. This enquiry report is therefore submitted to avoid delay in the case.

Analysis of the evidences

(a)(i) The passbook of SB A/c No. 1701330 {S-1 (A)} standing in the name of Shri Dasarath Kalita was opened on 17.3.99 at Indrapur S.O. A fresh pass book was issued on 20.7.2001 while CO was SPM of the said office. Deposit of Rs. 14,000/-, 10,000/- and 8000/- appears to have been entered in the said pass book on 21.4.03, 22.7.03 and 27.8.03 respectively but these deposits do not appear to have been entered in the SB long book

- 6 -

as well as SB list of transaction of the respective date as revealed from Exhibit S-2(C) and (D) and as S-4 (A)(B)(C). Further, the said amount of deposit does not appear to have been credited in the SO a/c book of Indrapur SO on these dates as revealed from Exhibit S-3 (A) & (B).

(ii) The pass book of SB a/c No. 1701907 standing in the name of Mrs. Aruna Saikia Thakuria S-1 (B) was opened on 26.11.97 at Indrapur SO. It appears from the said pass book that an amount of Rs. 10,000/- was entered as deposit on 25.7.03 but it was not accounted for in the SB long book, SB list of transaction, SO a/c book of Indrapur SO on that date as per Exhibit S-1 (B), S-2 (D) and S-3 (B).

(iii) The pass book of SB a/c No. 1701871 standing in the name of Satya Nath Kumar S-1(C) was opened on 14.8.97 at Indrapur SO. A sum of Rs. 8,000/- 5500/-, 5500/-, 6000/- and 3000/- was entered as deposit in the said pass book on 2.7.02, 25.10.02, 26.12.02, 9.6.03 and 31.7.03 respectively. But these amount of deposits were not entered in the SB long book, SB list of transaction and SO account book of Indrapur SO on those dates as per Exhibit of S-1 (C), S-2 (A)(B)(C)(D) and S-3 (A)(B). However, it is observed that the date of deposit shown as 25.6.02 has been wrongly shown in the charge sheet. This should have been 25.12.02 as discussed above. Secondly no SO a/c book pertaining to the date 2.7.02, 25.10.02 and 26.12.02 was produced as list of documents. Nevertheless the other exhibit viz SO long book & list of transaction clearly shown that those deposits were not accounted for with Govt. records.

(iv) A fresh pass book SB a/c/ No. 1701229 (S-1 (D) standing in the name of Pradip Deka was opened on 25.6.99 at Indrapur SPO. A sum of Rs. 17,000/- appears to have been entered as deposit in the said pass book on 22.9.03 but this amount of deposit does not appear to have been entered in the SO long book, SB list of transaction and SO a/c/ book as per Exhibit S-1(D), S-2(D) and S-3(B).

(v) The pass book SB a/c/ No. 1702418 {S-1 (E)} standing in the name of Shri Dilip Sarma was opened on 6.1.00 at Indrapur SO. An amount of Rs. 1,800/-, 12,000, 1,000/- and 500/- appear to have been entered in the said pass book on 3.5.03, 7.6.03, 21.6.03 and 1.9.03 respectively. But these deposits do not appear to have been entered and accounted for in SB long book. SB list of transaction and SO a/c/ book of Indrapur SO of the respective dates as per Exhibit S-1 (E), S-2(C) (D) and S-3 (A) (B).

(vi) A fresh pass book SB a/c No. 1700724 {S-1 (F)} in the name of Shri Bharat Ch. Saikia was opened on 3.4.03 at Indrapur SO while the CO was SPM of the office. A sum of Rs. 18,000/- appears to have been

entered as deposit on 4.4.03 in the said pass book but this does not appear to have been entered and accounted for in the SB long book. SB list of transaction and SO a/c of Indrapur SO as per Exhibit S-1 (F), S-2(C) and S-3 (A).

(b) In the deposition of the prosecution witness recorded on 17.2.05, 28.2.05 and 11.3.05, the depositor of SB a/c No. 1701330, 1701907, 1701871, 1701229, 1702418 and 1700724 exhibited as prosecution documents (S-1 series) have been confirmed their written statements earlier recorded in c/w enquiry into non-credit of deposited amount in those pass books. In their written statements marked as Exhibit No. S-5 (A), S-5B), S-5(C), S-5 (D), S-5 (E), S-5 (S). They had deposed and that the deposits made on the dates as shown in the statements as entered in the pass book (S-1 series) were genuine.

(c) Perusal of the SB long book of Indrapur SO {S-2 (A) to (D)} reveals that those transaction of deposits entered in the pass book (S-1 series) on the dates mentioned in the charge sheet do not appear, therein.

(d) Perusal of the SO a/c book of Indrapur SO {S-3 (A)} also reveal that the amount of those deposits as shown in the pass book were not accounted for in the respective dates of deposit.

(d) Perusal of Indrapur SO list of transaction Exhibit S-4 (A) to (O) reveals that these were prepared by Indrapur SO. The amount of deposits as mentioned in the charge sheet and entered in the pass book (S-1 series) were not entered therein.

Findings

In view of the above analysis, I find that the amount of deposits as shown in the charge sheet were entered in the pass book (S-11 series) but these were not entered in the SO long book and SO list of SB transaction of Indrapur SO of respective dates nor these were accounted for on the SO a/c book of Indrapur SO on the dates of deposit mentioned in the charge sheet. Therefore I find the allegation made against Shri Lakhidhar Das, SPM, Indrapur SO now retired to be sustainable and submit this report with finding and the charge brought against the CO are proved beyond doubt.

Place : Nalbari

Sd/- Illegible

Date : 28/5/05

(T.K. Chowdhury)
IA & SPOs Nalbari

Inquiry Report

I was appointed as Inquiry Authority vide SSP/GH No F4-1/2003-04/Discy dated 11.8.04 to inquire into the charges framed against Shri Lakhidhar Das, SPM, Indrapur SO (w/s) now retired under Rule-14 of CCS(CCA) Rules, 1965.

The charges framed against the said Shri Lakhidhar Das in brief are as under :-

That Shri Lakhidhar Das, while working as SPM, Indrapur SO did not credit the amount of deposit he accepted from the depositor of SB a/c No 1701330, 1701907, 1701871, 1701229, 1702418 and 1700724 on different dates amounting to Rs 1,20,300/- in all. It is alleged that by the said acts Shri Das violated Rule 31(2)(ii) of POSB Manual Volume I and thereby displayed lack of absolute integrity and devotion to duty in contravention of Rule 3(1)(i) and 3(1)(ii) of CCS(Conduct) Rules, 1964."

The undersigned issued notification for preliminary/regular hearing/inquiry into the case on 3.9.04, 15.9.04, 27.9.04, 12.10.04, 13.10.04, 2.12.04, 30.12.04, 31.12.04, 18.1.05, 16.2.05, 17.2.05, 28.2.05, 11.3.05 and 18.4.05.

The proceeding recorded on the day of hearing mentioned above are recorded as under :-

- (a) The preliminary hearing was held on 3.9.04 at Amingaon SO. The CO did not attend the enquiry. An application from the CO was received through his wife Smt Rehati Das requesting for fixing another date for enquiry due to his illness. The request was granted.
- (b) The next regular hearing was held on 15.9.04 in the Divisional office. ~~CO did not attend as he intimated the reason for his non-attendance.~~ However, an appeal addressed to SSP/GH & copy to the undersigned was submitted by the CO stating that he was not paid of subsistence allowance. The disciplinary authority was requested to do needful. The SSP/GH vide letter No F4-1/03-04 dated 16.9.04 informed that the subsistence allowance for the period from 30.12.03 to 30.4.04 was drawn and disbursed. On the other hand the subsistence allowance for May/04 onwards duly drawn was not taken payment by the CO. As such the appeal of the CO was not sustainable.
- (c) In view of the above position, the hearing was resumed on 27.9.04 after due notification to CO. The CO did not attend the enquiry and it was ordered that further enquiry would be held Ex-parte, if the CO fail to attend the enquiry on the notified dates. Subsequently, on 28.9.04 an application from Smt Rehati Das w/o the CO was received stating her husband was admitted at MMC Hospital due to illness.
- (d) The next enquiry was fixed on the 7th & 8th Oct/04 but due to unavoidable circumstances, the enquiry was deferred to 12/13.10.04 vide notification dated 4.10.04. Accordingly, the enquiry was held on 12.10.04 at Divisional office Guwahati. The CO did not attend. Subsequently, an application from the CO ~~was~~ received on 15.10.04 stating that he was seriously

ill and could not attend the enquiry but without any medical certificate as proof of his illness.

- (e) The next hearing was held on 2.12.04 at Amingaon P.O. as notified on 19.11.04. The CO did not attend the enquiry nor informed reason for non-attendance. Subsequently on 6.12.04, an application from Smt Rebati Das w/o the CO was received stating that her husband was ill and requested to adjourn the hearing but no proof of his illness was furnished.
- (f) The next hearing was held on 30.12.04 & 31.12.04 as notified on 20.12.04. The CO did not attend the enquiry in both days. However, an application of Smt Rebati Das w/o the CO(30.12.04) was received on 31.12.04 informing that her husband was away from home for medical treatment, therefore requested to adjourn the hearing. Considering the above, the hearing was adjourned to provide opportunity to CO.
- (g) The next hearing was held on 18.1.05 at Divisional office, Guwahati as per notification dated 11.1.05 which was received by Smt Rebati Das on behalf of her husband on 12.1.05. The CO did not attend nor submitted any information regarding his inability to attend enquiry. As stipulated in the notification it was decided to hold the enquiry ex-parte and accordingly the PO was asked to produce the listed documents before the enquiry board. The documents produced by the PO were examined and marked with exhibit Nos . Subsequently an application dated N.I. was received on 19.1.05 from Smt Rebati Das w/o the CO requesting to adjourn the hearing on 18th Jan/05 due to illness of her husband but no proof of illness was furnished.
- (h) Summons were issued to the prosecution witnesses on 8.2.05 to attend enquiry fixed on 16/17.2.05 to give evidence . Accordingly the next enquiry was held on 16.2.05 and 17.2.05 and two prosecution witnesses were examined on 16.2.05 and three witnesses were examined on 17.2.05 and their deposition were recorded in absence of the CO as decided to hold enquiry Ex-parte on account of failure to appear before the enquiry board by the CO.
- (i) The next hearing was held on 28.2.05 at Indrapur SO as notified on 21.2.05. The CO did not attend the enquiry though the notification was duly received by his wife who was duly authorised to receive all communications in the matter of this enquiry. Two more witnesses were examined on behalf of the prosecution side.
- (j) The next hearing was held on 11.3.05 at Indrapur P.O. to examine the remaining prosecution witness. The prosecution witness summoned vide notice dtd. 3.3.05 attended the enquiry and her deposition was recorded.
- (k) The last hearing was held on 18.4.05 as notified on 6.4.05 with direction to C.O. to submit his defence or intimate his willingness to be examined himself on his defence in the circumstances appearing against him. The C.O. did not attend the enquiry though the notice was received on 11.4.05 by his wife Smt. Rebati Das who was authorised to receive the

communication. Further no any information was received from the C.O. about his failure to attend the enquiry. Since prosecution side completed and the presentation of the case and the C.O. did not submit his defence inspite of repeated notices issued, it was decided to close the oral hearing. Accordingly the P.O was directed to submit written brief by 26th April/05 with endorsing copy of his brief direct to the CO. The PO submitted a copy of the brief on 26.4.05 vide his No A1/Rule 14/L. Das/PO under intimation to the undersigned. The said communication of PO was received by Smt Rebatu Das w/o the CO on 3.5.05.

As the written brief of the CO was not forthcoming within the stipulated period as mentioned in order sheet dated 18.4.05, the CO was again asked to submit his brief to the undersigned within 5 days from the date of receipt of the communication dated 19.5.05 issued in this regard. The communication dated 19.5.05 in which the CO was asked to submit his brief was received by Smt Rebatu Das w/o the CO on 21.5.05 but he has failed to submit his brief within the stipulated extended period. In view of this, the undersigned has decided to submit the enquiry report ex parte on the evidence/materials placed before the enquiry board.

~ the basis

The prosecution side produced the following documents to sustain the charges examined against the charge official. The documents so produced were marked with exhibition marks as noted below :-

- (a) SB Pass Book No 1701330 = S-1(A)
1701907 = S-1(B)
1701871 = S-1(C)
1701229 = S-1(D)
1702418 = S-1(E)
1700724 = S-1(F)
- (b) Indrapur SO SB long book from 22.5.02 to 18.9.02=S-2(A)
19.9.02 to 23.1.03=S-2(B)
24.1.03 to 26.6.03=S-2(C)
27.6.03 to 27.9.03=S-2(D)
- (c) SO a/c book of Indrapur SO from 1/03 to 26.6.03 S-3(A)
27.6.03 to 29.9.03 S-3(B)
- (c) Indrapur PO SO list of transaction :-
 - 21.4.03=S-4(A)
 - 22.7.03=S-4(B)
 - 27.8.03=S-4(C)
 - 25.7.03=S-4(D)
 - 27.7.02=S-4(E)
 - 25.10.02=S-4(F)
 - 26.12.02=S-4(G)
 - 9.6.03=S-4(H)
 - 31.7.03=S-4(I)
 - 22.9.03=S-4(J)
 - 3.5.03=S-4(K)

7.6.03=S-4(L)
21.6.03=S-4(M)
1.9.03=S-4(N)
4.4.03=S-4(O)

(d) Written statement of Shri Dasarath Kalita SB a/c No 1701330=S-5(A)
Mrs Aruna Saikia Thakuria SB a/c No 1701970=S-5(B)
Sri Satya Nath Kumar SB a/c No 1701821=S-5(C)
Sri Pradip Deka SB a/c No 1701229=S-5(D)
Mr Dilip Sarma SB a/c No 1702418=S-5(E)
Shri Bharat Ch. Saikia SB a/c No 1700724=S-5(F)

(d) Written statement of Sri Lakhidhar Das dated 13.10.2003 = S-6

The following witnesses were summoned to give evidence on behalf of the prosecution side.

1. A. Matin, CI, DO/GH (PW-1)
2. U. Nath, SDI/GH (PW-2)
3. Dasarath Kalita (PW-3)
4. Smt Aruna Saikia Thakuria (PW-4)
5. Sri Satya Nath Kumar (PW-5)
6. Pradip Kr. Deka (PW-6)
7. Dilip Sarma (PW-7)
8. Bharat Ch. Saikia (PW-8)

named above

Other than PW1 & 2, all the rest witnesses are depositor of the SB accounts mentioned in the charge sheet

The charge official Shri Lakhidhar Das did not participate of the enquiry from the very beginning on the plea that he was ill. But no proof of his illness was furnished by the CO except on two occasions related to hearing fixed on 3.9.04 and 27.9.04. All communications from the undersigned were received by Smt Rebati Das w/o the CO, who has been authorised to receive any letter issued by the undersigned on his behalf vide an authority letter dated 11.10.04. Since then she was receiving the letters issued by the undersigned and she replied on behalf of the CO regarding adjourning of hearings on the plea of husband illness but without any proof of illness.

In view of these it was assumed that the CO was avoiding to participate in the enquiry for the reasons best known to him. Further all the copies of the proceeding were furnished to the CO with direction to participate in the enquiry. This enquiry report is therefore submitted to avoid delay in the case.

Analysis of the evidences

(a) The passbook of SB A/c No. 1701330 { S-1(A) } standing in the name of Shri Dasarath Kalita was opened on 17.3.99 at Indrapur S.O. A fresh pass book was issued on 20.7.2001 while the CO was SPM of the said office. Deposit of Rs 14,000/-, 10,000/- and 8000/- appears to have been entered in the said pass book on 21.4.03, 22.7.03 and 27.8.03 respectively but these deposits do not appear to have been entered in the SB long book as well as SB list of transaction of the respective date as revealed from Exhibit S-2(C) and (D) and as S-4(A)(B)(C).

Further, the said amount of deposit does not appear to have been credited in the SO a/c book of Indrapur SO on these dates as revealed from Exhibit S-3(A) & (B).

(ii) The pass book of SB a/c No 1701907 standing in the name of Mrs Aruna Saikia Thakuria S-1(B) was opened on 26.11.97 at Indrapur SO. It appears from the said pass book that an amount of Rs 10,000/- was entered as deposit on 25.7.03 but it was not accounted for in the SB long book, SB list of transaction, SO a/c book of Indrapur SO on that date as per Exhibit S-1(B), S-2(D) and S-3(B).

(iii) The pass book of SB a/c No 1701871 standing in the name of Satya Nath Kumar S-1(C) was opened on 14.8.97 at Indrapur SO. A sum of Rs 8,000/-, 5500/-, 5500/-, 6000/- and 3000/- was entered as deposit in the said pass book on 2.7.02, 25.10.02, 26.12.02, 9.6.03 and 31.7.03 respectively. But these amount of deposits were not entered in the SB long book, SB list of transaction and SO account book of Indrapur SO on those dates as per Exhibit of S-1(C), S-2(A)(B)(C)(D) and S-3(A)(B). However, it is observed that the date of deposit shown as 25.6.02 has been wrongly shown in the charge sheet. This should have been 25.10.02 as discussed above. Secondly no SO a/c book pertaining to the date 2.7.02, 25.10.02 and 26.12.02 was produced as list of documents. Nevertheless the other exhibit viz. SO long book & list of transaction clearly shown that those deposits were not accounted for with Govt records.

(iv) A fresh pass book SB a/c No 1701229(S-1(D)) standing in the name of Pradip Deka was opened on 25.6.99 at Indrapur SO. A sum of Rs 17,000/- appears to have been entered as deposit in the said pass book on 22.9.03 but this amount of deposit does not appear to have been entered in the SO long book, SB list of transaction and SO a/c book as per Exhibit S-1(D), S-2(D) and S-3(B).

(v) The pass book SB a/c No 1702418{S-1(E)} standing in the name of Shri Dilip Sarma was opened on 6.11.00 at Indrapur SO. An amount of Rs 1,800/-, 12,000/-, 1,000/- and 500/- appear to have been entered in the said pass book on 3.5.03, 7.6.03, 21.6.03 and 1.9.03 respectively. But these deposits do not appear to have been entered and accounted for in SB long book, SB list of transaction and SO a/c book of Indrapur SO of the respective dates as per Exhibit S-1(E), S-2(C) (D) and S-3(A) (B).

(vi) A fresh pass book SB a/c No 1700724 {S-1(F)} in the name of Shri Bharat Ch. Saikia was opened on 3.4.03 at Indrapur SO while the CO was SPMI of the office. A sum of Rs 18,000/- appears to have been entered as deposit on 4.4.03 in the said pass book but this does not appear to have been entered and accounted for in the SB long book, SB list of transaction and SO a/c book of Indrapur SO as per Exhibit S-1(F), S-2(C) and S-3(A).

(b) In the deposition of the prosecution witness recorded on 17.2.05, 28.2.05 and 11.3.05, the depositor of SB a/c No 1701330, 1701907, 1701871, 1701229, 1702418 and 1700724 exhibited as prosecution documents(S-1 series) have confirmed their written statements earlier recorded in c/w enquiry into non-credit of deposited amount in those pass books. In their written statements marked as Exhibit No S-5(A), S-5(B), S-5(C), S-5(D), S-5(E), S-5(F). They had deposed, and that the deposits made on the dates as shown in the statements as entered in the pass book(S-1 series) were genuine.

(c) Perusal of the SB long book of Indrapur SO {S-2(A) to (D)} reveals that those transaction of deposits entered in the pass book(S-1 series) on the dates mentioned in the charge sheet do not appear, therein.

(d) Perusal of the SO a/c book of Indrapur SO (S-3(A) (B)) also reveal that the amount of those deposits as shown in the pass book were not accounted for in the respective dates of deposit.

(e) Perusal of Indrapur SO list of transaction Exhibit S-4(A) to (G) reveals that these were prepared by Indrapur SO. The amount of deposits as mentioned in the charge sheet and entered in the pass book (S-1 series) were not entered therein.

Findings

In view of the above analysis, I find that the amount of deposits as shown in the charge sheet were entered in the pass book (S-1 series) but these were not entered in the SO long book and SO list of SB transaction of Indrapur SO of respective dates nor these were accounted for on the SO a/c book of Indrapur SO on the dates of deposit mentioned in the charge sheet. Therefore I find the allegation made against Shri Lakhidhar Das, SPM, Indrapur SO now retired to be sustainable and submit this report with finding and the charge brought against the CO are proved beyond doubt.

Place: Nalbari
Date: 28/5/05


(T.K. Chowdhury)
IA & SPOs Nalbari

(COPY)

To

The Senior Superintendent of Post Offices,
Guwahati Postal Division,
Guwahati-1.

Sub: An Appeal praying for dropping of the inquiry
as initiated against me.

Ref: 1. Order under Memo No. F4-1/03-04 dated 30.12.2003 issued
towards placing me under suspension.

2. Communications under Memo No. F4-1/2003-04 dated 11.8.2004
issued towards appointment of Inquiring authority and Presenting
officer.

3. Communication bearing Memo No. A1/Rkule-14/L. Das dated
8.9.2004 issued by the Inquiring authority fixing 15.9.2004 as the
date for preliminary hearing in the purported inquiry initiated against
me.

Sir,

In inviting your kind attention to the above referred matter, I beg to
lay the following few lines or your honour's kind consideration and
sympathetic action:

i) That I was vide order dated 30.12.2003 (reference No.1) placed
under suspension, pending drawl of departmental proceedings. After
being placed under suspension, I am not being paid my subsistence
allowance and the same has made it impossible for me to maintain myself
and my family members. The subsistence allowance as paid to me during
the early stages of my suspension were later on however withheld and no
reason has been communicated to me for the same.

ii) That after being placed under suspension, I was never served with
any charge sheet and poised thus I was shocked and surprised to receive
the communications dated 11.8.2004 (reference No.2), whereby the
decision as arrived at to hold an inquiry against me and the appointment
of the inquiring authority and presenting officer for conduct of the
inquiry was conveyed to me. The said communications were followed by
a communication dated 23.8.2004 issued by the inquiring authority fixing
3.9.2003 as the date of preliminary hearing in the inquiry initiated against
me. It may be pointed out that the steps as taken in the case for holding of
an inquiry against me was so done without serving upon me a copy of the
charges that may have been framed against me and affording to me an
opportunity for filing my written statement against the same.

iii) That due to ill health I was not in a position to take steps on receipt of the said communications. Now in continuation of the deprivations as have been meted out to me, further communication dated 8.9.2004 has been issued to me by the inquiring authority fixing 15.9.2004 as the date for preliminary hearing in the inquiry initiated against me. I am being required to answer to charges without however there being any disclosure of the same to me.

iv) That the decision to institute an inquiry against me, as is evident from the communications referred to above, could not have been arrived at, without serving upon me a copy of the Articles of Charges and the other required particulars and documents as mandated under the provisions of Rule 14 (3) and Rule 14 (4) of the CCS (CCA) Rules, 1965.

v) That the non-compliance of the provisions of the said Rules and the decision arrived at to institute an inquiry against me in clear violation of the procedure prescribed under the said Rules of 1965, has caused great prejudice to me. I am being required to defend myself of allegations which have not been disclosed to me. The illegalities as existing in the said inquiry as initiated against me vitiates the same and the same is void ab-initio and liable to be dropped. On dropping of the inquiry as initiated against me, consequential orders towards reinstating me in my service are required to be passed by revoking the order of suspension. It may be mentioned that in my service career I have all along discharged the duties and responsibilities as entrusted to me to the best of my ability and never had an occasion arisen in the past for passing of any adverse remark as regards the discharge of my duties.

vi) That as stated earlier, I am yet to be communicated with the charges that may have been framed against me. As per the procedure prescribed, the decision as to whether an inquiry is required to be initiated or not is to be arrived at only after the delinquent has been served with a copy of the charge sheet with all relevant particulars as mandated under the provisions of Rule 14 (3) and 14 (4) of the said Rules of 1965 and on consideration of the reply that may be filed by the delinquent to the charges that may be levelled against him. In the case on hand the said safe guard has been given a go bye and without even informing me of the charges that I am required to meet, an inquiry has been initiated against me, which is per-se illegal.

vii) That under the facts and circumstances of the case, in the event I am required to participate in the said inquiry as initiated against me, the same will prejudicially effect my interests and I would be put to a disadvantageous position. Further, the inquiry as initiated against me being in clear violation of the provisions of the said Rules of 1965, the same is ab-initio void and liable to be dropped.

viii) That non payment of my subsistence allowance has caused great financial hard ships to me and in addition to being not in a position to provide for even the basic minimum needs of my family, I am finding it difficult to provide for myself required medical attention for the ailments being suffered by me.

In view of the facts and circumstances stated above, it is most respectfully prayed that Your Honour would be pleased to consider the contentions as made herein above and be pleased to drop the proceedings as initiated against me, on the face of the illegalities as existing therein and which is apparent on the face of it. Further, be pleased to reinstate me in my service by revoking the order of my suspension dated 30.12.2003.

Thanking you,

Yours faithfully,

Sd/- Illegible

(Lakhi Dhar Das)
PA (Under suspension)

Copy to:-

Shri T.K. Chowdhury, ASPO (HQ) – Inquiry Officer – He is requested not to proceed with the enquiry pending disposal of the appeal.

Sd/- Illegible

(Lakhi Dhar Das)
PA (Under suspension)

OK

To

The Senior Superintendent of Post Offices,
Guwahati Postal Division,
Guwahati-1.

Sub : An Appeal praying for dropping of the inquiry
as initiated against me.

Ref : 1. Order under Memo No. F4-1/03-04 dated
30.12.2003 issued towards placing me under
suspension.

2. Communications under Memo No. F4-1/2003-04
dated 11.8.2004 issued towards appointment of
Inquiring authority and Presenting officer.

3. Communication bearing Memo No. A1/Rule-
14/L.Das dated 8.9.2004 issued by the
Inquiring authority fixing 15.9.2004 as the
date for preliminary hearing in the purported
inquiry initiated against me.

Sir,

In inviting your kind attention to the above referred matter, I beg to lay the following few lines for your honour's kind consideration and sympathetic action :

i) That I was vide order dated 30.12.2003 (reference no.1) placed under suspension, pending drawl of departmental proceedings. After being placed under suspension, I am not being paid my subsistence allowance and the same has made it impossible for me to maintain myself and my family members. The subsistence allowance as paid to me during the early stages of my suspension were later on however withheld and no reason has been communicated to me for the same.

ii) That after being placed under suspension, I was never served with any charge sheet and poised thus I was shocked and surprised to receive the communications dated 11.8.2004 (reference no.2), whereby the decision as arrived at to hold an inquiry against me and the appointment of the inquiring authority and presenting officer for conduct of the inquiry was conveyed to me. The said communications were followed by a communication dated 23.8.2004 issued by the inquiring authority fixing 3.9.2003 as the date of preliminary hearing in the inquiry initiated against me. It may be pointed out that the steps as taken in the case for holding of an inquiry against me was so done without serving upon me a copy

Shri Lakhi Dass

Certified to be true Copy

Recd. Copy on 11.50 hr
at 15.9.04
Advocate

of the charges that may have been framed against me and affording to me an opportunity for filing my written statement against the same.

iii) That due to ill health I was not in a position to take steps on receipt of the said communications. Now in continuation of the deprivations as have been meted out to me, further communication dated 8.9.2004 has been issued to me by the inquiring authority fixing 15.9.2004 as the dated for preliminary hearing in the inquiry initiated against me. I am being required to answer to charges without however there being any disclosure of the same to me.

iv) That the decision to institute an inquiry against me, as is evident from the communications referred to above, could not have been arrived at, without serving upon me a copy of the Articles of Charges and the other required particulars and documents as mandated under the provisions of Rule 14(3) and Rule 14(4) of the CCS(CCA) Rules, 1965.

v) That the non-compliance of the provisions of the said Rules and the decision arrived at to institute an inquiry against me in clear violation of the procedure prescribed under the said Rules of 1965, has caused great prejudice to me. I am being required to defend myself of allegations which have not been disclosed to me. The illegalities as existing in the said inquiry as initiated against me vitiates the same and the same is void ab-initio and liable to be dropped. On dropping of the inquiry as initiated against me, consequential orders towards reinstating me in my service are required to be passed by revoking the order of suspension. It may be mentioned that in my service career I have all along discharged the duties and responsibilities as entrusted to me to the best of my ability and never had an occasion arisen in the past for passing of any adverse remark as regards the discharge of my duties.

vi) That as stated earlier, I am yet to be communicated with the charges that may have been framed against me. As per the procedure prescribed, the decision as to whether an inquiry is required to be initiated or not is to be arrived at only after the delinquent has been served with a copy of the charge sheet with all relevant particulars as mandated under the provisions of Rule 14(3) and 14(4) of the said Rules of 1965 and on consideration of the reply that may be filed by the delinquent to the charges that may be levelled against him. In the case on hand the said safe guard has been given a go bye and without even informing me of the charges that I am required to meet, an inquiry has been initiated against me, which is per-se illegal.

vii) That under the facts and circumstances of the case, in the event I am required to participate in the said inquiry as initiated against me, the same will

Shri Lalkh. Dhan, Dr

prejudicially effect my interests and I would be put to a disadvantageous position. Further, the inquiry as initiated against me being in clear violation of the provisions of the said Rules of 1965, the same is *ab initio* void and liable to be dropped.

viii) That non payment of my subsistence allowance has caused great financial hard ships to me and in addition to being not in a position to provide for even the basic minimum needs of my family, I am finding it difficult to provide for myself required medical attention for the ailments being suffered by me.

In view of the facts and circumstances stated above, it is most respectfully prayed that Your Honour would be pleased to consider the contentions as made herein above and be pleased to drop the proceedings as initiated against me, on the face of the illegalities as existing therein and which is apparent on the face of it. Further, be pleased to reinstate me in my service by revoking the order of my suspension dated 30.12.2003.

Thanking you,

Yours faithfully

Shri Lakhidhar Das

(Lakhidhar Das)
PA (Under suspension).

Copy to:-

Shri T.K.Chowdhury, ASPO(HQ) - Inquiry officer- He is requested not to proceed with the enquiry pending disposal of the appeal.

Shri Lakhidhar Das

(Lakhidhar Das)
PA (Under suspension).

To
The Chief Post Master General,
(I&B) Assam Circle,
Meghdoot Bhawan, Guwahati-1.

Date: 10-11-2006

Sub: An appeal against the inquiry report dated 28.5.2005
submitted by Inquiry Officer and reconsideration of
the same by holding De-novo proceeding.

Sir,

Most humbly and respectfully I beg to submit before your authority with reference to the aforesaid inquiry conducted by you and your authority on certain charges which were given vide chargesheet dated 22.7.2004

That Sir, I am working as a S.P.M. in Indrapur Post Office and during the course of my working I was placed under suspension vide order dated 30.12.2003 and after continuous suspension chargesheet was also issued to me leveling only one charge which is reproduced below:

“That Shri Lakhidhar Das, while working as SPM Indrapur during the period from 19/03/2001 to 23/09/2003 accepted money tendered by the depositors of S.B. Account Nos. 1701330, 1701907, 1701871, 1701229, 1702418 and 1700724 on various dates for depositing in their said S.B. Accounts. He entered the said deposits in the S.B. PASS books on respective dates and authenticated the entries by his initial and date stamp of the Post Office. But he did not enter the deposits in his office long book and list of transactions and also did not credit the amount in S.O. Account of those days.

By the above acts the said Shri Lakhidhar Das violated Rule 31 (2)(ii) of PO SB Manual Vol.I.”

Against the aforesaid charge I have filed a representation dated 27.9.2004. In the aforesaid reply I have categorically denied the aforesaid charges and I have categorically stated that there are certain irregularities and those irregularities are existing there before my joining in service in the aforesaid branch. At that time while I joined in Indrapur Post Office there was no evident irregularities or those irregularities were being

hidden at that particular point of time and I was not aware of the same and under compelling circumstances and threatening from the senior officers I have to deposit an amount of Rs.50,000/- (Rupees fifty thousand) only which eventually made them believe that I have misappropriated the amount. But it is true and fact that since my joining in Postal Department till the last period of my service which is at the fag end of retirement, I have not committed any offence and I sincerely discharged my duties and liability. Apart from above I would like to highlight before your authority that the officers of your department have also taken some of my signatures in some documents and I put these signatures as per their dictation. I am a 60 years old person and the allegations made against me are totally false and I do believe that some vested interested persons and higher officers of your department are behind this and it is a conspiracy of those vested interested persons and higher officers of your department putting the blame on me at the fag end of my retirement. It may be mentioned herein that I have retired from service on 28.02.2005.

Apart from the above I would like to submit that after the issuance of chargesheet, I have not received any provisional pension till date but the disciplinary authority has taken disciplinary action against me under Rule 14 of C.C.S. (C.C.A.), 1965 without supplying me any relevant materials though I have applied for the same.

It is submitted that I was retired on 28.02.2005 and the ex-parte enquiry was completed by the authority behind my back on 03.08.2005. I was not supplied any relevant material which were used in the course of enquiry as evidence against me.

It is submitted that the disciplinary authority which initiating the disciplinary action against me under the aforesaid rules the inquiry officer, the then S.P.O., Head Quarter issued notice to me that he was appointed as Inquiry Officer of the aforesaid case and accordingly I was

- 3 -

asked to appear before the Inquiry Officer vide letter dated 08.09.2004, but I could not appear in the aforesaid case and accordingly I have filed an application showing my inability in respect of my sickness and thereafter the inquiry was held on different dates but I have not received any of the aforesaid notices.

Apart from the above I beg to submit that I was under continuous medical treatment therefore, I could not appear before the inquiry authority but on the other hand I beg to submit that the department though issued my superannuation notice on 28.03.2005 my leave salary for 3 (three) months has not been released to me nor my provisional pension was given to me. I was fallen ill for several months as I suffered from chronic diseases which relates to my old-age condition and suddenly I came to know that they have held the inquiry ex-parte which I have received on 28.06.2005 but on receiving the aforesaid notice of ex-parte proceeding I could not contact the authority but subsequently I contacted the authority in the year 2006 by submitting letter to release my leave salary as well as monthly salary, G.P.F. amount, provisional pension but so far I have not received any notice from the authority rather the authority put me in troubles by holding the inquiry ex-parte. The proceeding though conducted ex-parte I was not given any notice that ex-parte inquiry will be conducted against me. In the ex-parte inquiry they have not recorded the proceeding in details. The provision of C.C.S. Rules for conducting the ex-parte inquiry did not comply with. I was not remained absent nor did I avoid the inquiry. I could not appear before the authority due to my ill health which I have already explained.

It is further submitted that as per P&T Manual, Volume-III in ex-parte proceedings copy of the various pieces of evidence oral or documentary evidence lit in during the course of inquiry should be supplied to me which is a fundamental principle of the departmental proceedings.

- 4 -

Apart from the above the above the recording of the evidences of the witnesses and other relevant documents were not supplied to me. Therefore, great prejudice has been caused to me by the authority and I was debarred and deprived from being cross-examined nor I am able to take part in the aforesaid proceeding. Therefore, the aforesaid report of the inquiry is bad and illegal due to non-compliance of C.C.S. Rules as well as principle of natural justice.

There is no fair play on the part of the authority while conducting the aforesaid inquiry and I was not given any chances to put forth my explanation and reply before the authority. I was in complete dark about the proceeding whatever they have recorded and even the signatures they have taken from me has been used as evidence against me writing some allegations in the said paper.

The authority failed to observe the principle of the inquiry and fair proceeding and they have never considered my application of my illness for which I could not appear before them to defend myself. Therefore, the ex-parte inquiry conducted against me is done with a malafide intention and as such bad in law and liable to be set aside and quashed. I request the authority to consider my case sympathetically and pass such any other order as the authority deems fit and proper.

Yours faithfully,

(LAKHIDHAR DAS)

Copy to:-

(1) APM.G (Vigilance)
Meghdoot Bhawan, Guwahati.

(2) Sr. Supdt. Of Post Ofice,
Meghdoot Bhawan, Guwahati.

To,
The Chief Post Master General,
(I & B) Assam Circle,
Meghidoor Bhawan, Guwahati - 1.

Date : 10-11-2006

Sub. : An appeal against the inquiry report dated 28.5.2005
submitted by Inquiry Officer and reconsideration of the
same by holding De-novo proceeding.

Sir,

Most humbly and respectfully I beg to submit before your authority with reference to the aforesaid inquiry conducted by you and your authority on certain charges which were given vide chargesheet dated 22.7.2004.

That Sir: I am working as a S.P.M. in Indrapur Post Office and during the course of my working I was placed under suspension vide order dated 30.12.2003 and after continuous suspension chargesheet was also issued to me levelling only one charge which is reproduced below:

"That Shri Lakhidhar Das, while working as SPM Indrapur during the period from 19/03/2001 to 23/09/2003 accepted money tendered by the depositors of S.B. Account Nos. 1701330, 1701907, 1701871, 1701229, 1702418 and 1700724 on various dates for depositing in their said S.B. Accounts. He entered the said deposits in the S.B. Pass Books on respective dates and authenticated the entries by his initial and date stamp of the Post Office. But he did not enter the deposits in his office long book and list of transactions and also did not credit the amount in S.O. Account of those days.

By the above acts the said Shri Lakhidhar Das violated Rule 31 (2) (ii) of PO SB Manual Vol. I."

Against the aforesaid charge I have filed a representation dated 27.9.2004. In the aforesaid reply I have categorically denied the aforesaid charges and I have categorically stated that there are certain irregularities and those irregularities are existing there before my joining in se. vice in the aforesaid branch. At that time while I joined in Indrapur Post Office there was no evident irregularities or those irregularities were being hidden at that particular point of time and I was not aware of the same and under compelling circumstances and threatening from the senior officers I have to deposit an amount of Rs. 50,000/- (Rupees fifty thousand) only which eventually made them believe that I have misappropriated the amount. But it is true and fact that since my joining in Postal Department till the last period of my service which is at the fag end of retirement, I have not committed any offence and I sincerely discharged my duties and liability. Apart from above I would like to

highlight before your authority that the officers of your department have also taken some of my signatures in some documents and I put these signatures as per their dictation. I am a 60 years old person and the allegations made against me are totally false and I do believe that some vested interested persons and higher officers of your department are behind this and it is a conspiracy of those vested interested persons and higher officers of your department putting the blame on me at the fag end of my retirement. It may be mentioned herein that I have retired from service on 28.02.2005.

Apart from the above I would like to submit that after the issuance of chargesheet, I have not received any provisional pension till date but the disciplinary authority has taken disciplinary action against me under Rule 14 of C.C.S. (C.C.A.), 1965 without supplying me any relevant materials though I have applied for the same.

It is submitted that I was retired on 28.02.2005 and the ex-parte enquiry was completed by the authority behind my back on 03.08.2005. I was not supplied any relevant material which were used in the course of enquiry as evidence against me.

It is submitted that the disciplinary authority which initiating the disciplinary action against me under the aforesaid rules the inquiry officer, the then S.P.O., Head Quarter issued notice to me that he was appointed as Inquiry Officer of the aforesaid case and accordingly I was asked to appear before the Inquiry Officer, vide letter dated, 08.09.2004, but I could not appear in the aforesaid case and accordingly I have filed an application showing my inability in respect of my sickness and thereafter the inquiry was held on different dates but I have not received any of the aforesaid notices.

Apart from the above I beg to submit that I was under continuous medical treatment therefore, I could not appear before the inquiry authority but on the other hand I beg to submit that the department though issued my superannuation notice on 28.03.2005 my leave salary for 3 (three) months has not been released to me nor my provisional pension was given to me. I was fallen ill for several months as I suffered from chronic diseases which relates to my old-age condition and suddenly I came to know that they have held the inquiry ex-parte which I have received on 28.06.2005 but on receiving the aforesaid notice of ex-parte proceeding I could not contact the authority but subsequently I contacted the authority in the year 2006 by submitting letter to release my leave salary as well as monthly salary, G.P.E. amount, provisional pension but so far I have not received any notice from the authority rather the authority put me in troubles by holding the inquiry ex-parte.

Subj: Re: ...
Sd: ...

Cont'd. ...

The proceeding though conducted ex-parte I was not given any notice that ex-parte inquiry will be conducted against me. In the ex-parte inquiry they have not recorded the proceeding in details. The provision of C.C.S. Rules for conducting the ex-parte inquiry did not comply with. I was not remained absent nor did I avoid the inquiry. I could not appear before the authority due to my ill health which I have already explained.

It is further submitted that as per P&T Manual, Volume-III in ex-parte proceedings copy of the various pieces of evidence oral or documentary evidence lit in during the course of inquiry should be supplied to me which is a fundamental principle of the departmental proceedings.

Apart from the above the recording of the evidences of the witnesses and other relevant documents were not supplied to me. Therefore, great prejudice has been caused to me by the authority and I was debarred and deprived from being cross-examined nor I am able to take part in the aforesaid proceeding. Therefore, the aforesaid report of the inquiry is bad and illegal due to non-compliance of C.C.S. Rule as well as Principle of natural justice.

There is no fair play on the part of the authority while conducting the aforesaid inquiry and I was not given any chances to put forth my explanation and reply before the authority. I was in complete dark about the proceeding whatever they have recorded and even the signatures they have taken from me has been used as evidence against me writing some allegations in the said paper.

The authority failed to observe the principle of the inquiry and fair proceeding and they have never considered my application of my illness for which I could not appear before them to defend myself. Therefore, the ex-parte inquiry conducted against me is done with a malafide intention and as such bad in law and liable to be set aside and quashed. I request the authority to consider my case sympathetically and pass such any other order as the authority deems fit and proper.

Yours faithfully,

(LAKHIDHAR DAS)

Copy to :-

(1) APM .G (Vigilance)
Meghdoott Bhawan , Guwahati .

(2) Sr. Supdt. of Post Office
Meghdoott Bhawan , Guwahati .

20/10/5
21/10/5
21/10/5

— 58 —

(COPY)

DEPARTMENT OF POSTS :: INDIA
OFFICE OF THE SR. SUPERINTENDENT OF POST OFFICES,
GUWAHATI DIVISION
MEGHDOOT BHAWAN, 3RD FLOOR, GUWAHATI-781001

To

Shri Lakhidhar Das, Ex-SPM, Indrapur SO
Amingaon Madhyam, Guwahati-31

No:- C2/799/L.Das

Dated at Guwahati, the 25.9.2006

Sub:- Non payment of monthly salary wef Oct 2003 to Dec 2003 and
GPF, CGEGIS Provisional Pension regarding.

Ref:- Your letter No. Nil dtd. 12.9.2006

With reference to your representation No. Nil dtd. 12.9.2006 it is
intimated that this office has communicated to the CO/Ghy and Sr.
Postmaster, Guwahati GPO regarding settlement of your case (Copy
enclosed).

Enclosed:- As above.

Sd/- Illegible

Sr. Superintendent of Post Offices
Guwahati Division, Guwahati-1

Received 6/10/06
Date 10/10/06
Time 1:30 pm

-59- ~~59~~

ANNEXURE J

84

DEPARTMENT OF POSTS:INDIA

OFFICE OF THE SR. SUPERINTENDENT OF POST OFFICES, GUWAHATI DIVISION
MEGHDOOT BHAWAN, 3RD FLOOR, GUWAHATI-781001

Shri Lakhidhar Das, Ex- SPM, Indrapur SO.
Amingaon Madhyam, Guwahati-31.

To :- C2/799/L.Das.

Dated at Guwahati, the 25-9-2006.

Sub :- Non payment of monthly salary wef Oct'2003 to Dec 2003 and GPO UGEGIS
Provisional Pension regarding.

Ref :- Your letter No. Nil dtd. 12/9/2006.

With reference to your representation No. Nil dtd. 12/9/2006 it is intimated that
this office has communicated to the CO / Ghy and Sr Postmaster, Guwahati GPO
regarding settlement of your case (Copy enclosed).

Enclosed :- As above.


Sr. Superintendent of Post Offices
Guwahati Division, Guwahati-1

Certified to be true Copy



File in Court on 12.3.2007

Court Officer.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH AT GUWAHATI

O.A. NO. 105 OF 2007

Sri Lakshidhar Das

Applicant

-Versus-

Union of India & Ors.

Respondents

The written statement on behalf of

the Respondents above named-

WRITTEN STATEMENT OF THE RESPONDENTS

MOST RESPECTFULLY SHEWETH:

1. That with regard to the statement made in paragraph 1 of the instant application the Respondents beg to state that the contention are made in the paragraph is not correct. The Ex-parte decision taken against the applicant has been sanctioned by the SSPO s/ Guwahati on 9.3.2007. Other retirement benefits as mentioned in the para will be kept pending till finalisation of the Rule 9 case against him.

2. That with regard to the statement made in paragraph 2 & 3 of the instant application the Respondents have no comment.

Contd... P/-

Dipendra Nath Sharma

Post Officer, अधीक्षक, प्राक्तन
गुवाहाटी मेल, गुवाहाटी - 781001
Sr. Supdt. of Post Offices
Guwahati Dist., Guwahati - 781001
Guwahati Bar
04/12/07 S.C.C.S.C.

16 DEC 2004

গুৱাহাটী নথিয়ন্ত্ৰণ
Guwahati Bench

[2]

Dwipendra Nath Sharma

3. That with regards to the statement made in paragraph 4.1 to 4.4 of the instant application the respondents begs to state that those are matters of record and respondents does not admit anything which is contrary to records.

4. That with regards to the statement made in paragraph 4.5 of the instant application the respondents beg to state that the applicant was placed under suspension when it was established in course of inquiry that the applicant had misappropriated huge quantity of SB deposits made by the depositors.

5. That with regards to the statement made in paragraph 4.6 of the instant application the respondents have no comment.

6. That with regards to the statement made in paragraph 4.7 of the instant application the respondents beg to state that as per record the Enquiry officer issued letter to the applicant on 23/8/2004 (not on 8/9/04 as mentioned by the applicant) in which the applicant was intimated that the preliminary hearing was fixed on 3/9/04. The letter was received by the applicant on 25/8/04. The applicant did not attend the hearing on 3/9/04. As per request of the applicant the next date of hearing was fixed on 15/9/04.

7. That with regards to the statement made in paragraph 4.8 of the instant application the respondents beg to state that the IO's letter dated 8/9/04 requesting the applicant to attend the next hearing dated 15/9/04

Contd.... P/

চৰিত্ৰ অধীক্ষক, ডাকঠান
গুৱাহাটী মণ্ডল, গুৱাহাটী-৭৮১০০১
Sr. Supdt. of Post Offices
Guwahati Div., Guwahati-781001

Central Bureau of Investigation
6 DEC
গুৱাহাটী নথিপত্ৰ
Guwahati Bench

[3]

was received by Smti Rebati Das, wife of the applicant on 11/9/04. The applicant did neither attend the hearing nor he intimated the reason of his non-attendance on the date of hearing.

8. That with regards to the statement made in paragraph 4.9 & 4.10 of the instant application the respondents beg to state that the applicant could not appear the Medical Board owing to his illness might be true but
he should have intimated to the IO the reason of his
non-ability to attend the hearing on 15/9/04 on or
before 15/9/04 but he did not.

9. That with regards to the statement made in the paragraph 4.11 of the instant application the respondents begs to state that upto 18/4/2005 several hearing
were held as mentioned by the IO in his Inquiry report.
The allegation of the applicant that departmental proceeding was conducted without issuing any NOTICE to the applicant by the IO regrading the dates of hearing is devoid of any truth, completely baseless, because before each and every hearing notice was issued by the IO to the applicant well as in advance.

10. That with regards to the statement made in the paragraph 4.12 of the instant application the respondent beg to state that the Disciplinary Authority did not
revoke the order of suspension in respect of the applic-
ant. The applicant retired while he was under suspen-
sion.

6 DEC

গুৱাহাটী ন্যায়পুর
Guwahati Bench

[4]

11. That with regards to the statement made in the paragraph 4.13 of the instant application the respondents beg to state that the Disciplinary proceeding was concluded ex-parte because of the fact that in any of the 14 hearings held, the applicant was not present although notice was duly issued by the IO to the applicant well in advance and with instruction in each notice that failing to attend the hearing will attract ex-parte decision into the case. It is obvious that the applicant had willfully avoided the hearings. All required procedures were followed in the case.

Parawise comments on the appeal dated 10/11/06 preferred by the applicant has been sent to the Chief PMG (Vig), Assam Circle, Guwahati vide this office letter No. FA-1/2003-04/Discy/L.Das/Loose dated 15/2/07.

Parawise comments on the appeal dated Nil (the date of 15/9/04 was not mentioned in his appeal) preferred by the applicant was sent direct to the applicant vide this office letter No. F4-1/03-04 dated 16/9/04 with copy to the IO since the appeal was made by the applicant for dropping the Rule-14 inquiry against him.

12. That with regards to the statement made in the paragraph 4.14 of the instant applications the respondents beg to state that as per this office records E/L for 60 days w.e.f. 23/9/03 to 22/11/03 was granted to the applicant vide this office memo no. B-1659 dated 27/7/04. After that no leave application (SR-1) was received here from the applicant.

Contd....P/

6 DEC

গুৱাহাটী বৰ্ষায়ৰিক
Guwahati Bench

[5]

Provisional pension to the applicant has been sanctioned @ Rs. 2640/- per month plus DR w.e.f. 1/3/05 till finalization of the departmental case against him vide SSP/GH No. C2/799/L.Das dated 9/3/07 (Payable from G.U.H.O.).

Action for sanction of Group Insurance money could have been taken had he applied for the same. The case regarding payment of GPF amount to the applicant will be decided on finalization of the Rule-9 case against pending him.

13. That with regards to the statement made in the paragraph 4.15 of the instant application the respondents beg to state that the applicant is the principal offender in the case and as such police case was registered against him. No other official of the Sub Post Office was found involved in the case.

14. That with regards to the statement made in the paragraph 5.1 of the instant application the respondents beg to state that the ex-parte departmental proceeding was completed after the applicant retired from service on 28/2/2005 (not on 3/2/05 as mentioned by him) and copy of the ex-parte departmental proceeding was sent to the applicant on 3/8/2005.

15. That with regards to the statement made in the paragraph 5.2 of the instant application the respondents beg to state that in the Rule-14 case the applicant did not produce his defence witness. From this it is obvious that the applicant had nothing to say in his defence. It was open to the applicant to examine the documents on

Contd....P/

6 DEC

गुवाहाटी = प्रथमोठ

Guwahati = Prathamot

the dates of hearings as desired by him but the applicant avoided himself to appear in all the 14 hearings in the case.

16. That with regards to the statement made in the paragraph 5.3 of the instant application the respondents beg to state that the Inquiring Authority acted as per departmental rules. The applicant is found not to have co-operated with the IO since he did not attend any of the hearings willfully.

17. That with regards to the statement made in paragraphs 5.4 of the instant application the respondents have already stated above paragraphs.

18. That with regards to the statement made in the paragraph 5.5 of the instant application the respondents beg to state that the complaince report with respect to the appeal filed by the applicant 10/11/06 and 15/9/04 was made which has already been mentioned at Para No. 11 above.

19. That with regards to the statement made in the paragraph 5.6 of the instant application the respondents beg to state that the delay in completion of the Rule-14 inquiry was actually due to non-attendance of the applicant in the hearings. To facilitate the applicant to attends the hearings the IO had to fix several dates of hearing but yet applicant did not attend the same willfully.

Contd....P/

6 DEC

গুৱাহাটী মেট্রোপলিটন
Guwahati Bench

[7]

20. That with regards to the statement made in the paragraph 5.7 of the instant application the respondents beg to state that all efforts were made by the I.O. to complete the inquiry before his retirement. The delay was made solely due to the applicant's willful absence in any of the hearings. As such the inquiry was not illegal at all.

21. That with regards to the statement made in the paragraph 5.8 of the instant application the respondents beg to state that this is utterly false that he not given any chance to attend the hearings. It has already been mentioned that notice was issued by the I.O. to the applicant well in advance before the dates of hearing which were received either by the applicant or by his wife Smt. Rebatu Das who was authorised by the applicant to receive the communications on his behalf.

22. That with regards to the statement made in the paragraph 5.9 of the instant application the respondents already stated above paragraph.

23. That with regards to the statement made in the paragraph 5.10 of the instant application the respondents beg to state that the allegation of the applicant that the I.O. did not forwarded the day-to-day proceedings of the inquiry to him including copy of statements made in the prosecution witness is found baseless since the applicant did not submit his defence stt. on the report of the I.O. sent to him on 3/2/8-05.

6 DEC

গুৱাহাটী বেণুগুণ
Guwahati Bench

[8]

24. That with regards to the statement made in the paragraph 5.11 of the instant application the respondents beg to state that the Inquiry proceedings are not illegal at all since it was conducted in consonance, confirmity to the CCS (CCA) Rules, 1965.

A copy of the Inquiry report of the I.O. was sent to the applicant vide this office letter no. F4-1/2003-04/Discy dated 3/2-8-05 stating that if no reply is received from the applicant against the I.O's report within 10 days of receipt of the same by the applicant it will be presumed that he was nothing to represent against the I.O's report and findings and the case will be decided accordingly on merit. But no reply (defence representation) has been received from the applicant till date, although the aforesaid letter dated 3/2-8-05 was received by the wife of the applicant Smt. Rebati Das on 6/8/05 who was authorised to receive the same on his behalf. Had the applicant got anything to say on the contrary the applicant would have definitely send his defence representation to his office. On completion of the inquiry the charge brought against him were proved beyond doubt and therefore the action of the applicant in challenging the said inquiry is bad as the same is barred by waiver, acquiescence and estoppel.

25. That with regards to the statement made in the paragraph 5.12 of the instant application the respondents beg to state that the provisional pension has been sanctioned to the applicant on 9/3/07.

26. That with regards to the statement made in the paragraph 5.13 of the instant application the respondents beg to state that the details regarding sanction of provisional pension etc. has been mentioned at para no

Contd....P/

6 DEC

গুৱাহাটী ব্যায়পীঠ
Guwahati Bench

[9]

12 above. The respondents further beg to state that the grounds set forth by the applicant are not good grounds and also not tenable in the law as well as on facts and as such the instant application is liable to be dismissed.

27. That with regards to the statement made in the paragraph 6 of the instant application the respondents beg to state that this not a fit case to approach the Hon'ble Tribunal since the misappropriation of SB amount by him at Indrapur SO has been established and the applicant has credited a part of the misappropriated amount voluntarily.

28. That with regards to the statement made in the paragraph 7 of the instant application the respondents beg to state that the applicant has already filed a case under W.P.(C) No. 695/07 in the Hon'ble Gauhati High Court on 14/2/2007 which stood closed on withdrawal by a judgment of the Hon'ble Gauhati High Court on 30/2/2007.

29. That with regards to the statement made in the paragraph 8 to 8.4 of the instant application the respondents have no comment.

30. That with regards to the statement made in the paragraph 9.1 to 9.2 of the instant application the respondents beg to state that the claim of the application is ill founded and illegal and as such the applicant is not entitled to get any interim relief.

31. That the respondents submit that the instant application has no merit and for that it is liable to be dismissed.

Contd....P/

-10-

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94

গুৱাহাটী পোষ্ট পোস্ট
Guwahati - 781001

VERIFICATION

I, Shri. Dwipendra Nath Sharma, ^{late} Phanidhar Sharma

aged about 52 years, R/o. Dabalbari, Guwahati - 34

District ~~Kamrup~~ and competent officer of the
answering respondents, do hereby verify that the state-
ment made in paras 1 to 31 are true
to my knowledge and those made in paras - x -
being matters of record are true to my information
derived therefrom which I believe to be true and the
rests are my humble submission before this Hon'ble
Tribunal.

And I sign this verification on this 26th day
of November 2007 at Guwahati.

Dwipendra Nath Sharma.

Signature
মুক্তিপ্রাপ্ত, দাকব্রান্ত
গুৱাহাটী পোস্ট, গুৱাহাটী - 781001
Sr. Supdt. of Post Offices
Guwahati Div., Guwahati - 781001

Rejoinder (2 copies) filed today by
Advocate Sh. M. Das — to be posted on
21.10.08. copy served on the other
side.

2 Received 18/11/08

Filed by:
The Applicant
through
Hindoo K. Doss.
Attala Co.
\$ 1.00

केन्द्रीय प्रशासनिक विवाद नियन्त्रण बोर्ड
Central Administrative Tribunal

18 JAN 2001

गुवाहाटी न्यायपीठ
Guwahati Bench

AT GUWAHATI

O.A. No.105/2007

Shri Lakhidhar Das

.... Applicant

- VS -

Union of India & Ors.

.... Respondents

The Rejoinder filed on behalf of the applicant above-named.

Rejoinder of the applicant

MOST RESPECTFULLY SHEWETH:

1. That, I have received the copy of the written statement filed by the respondent and have gone through the same and understood the contents thereof and accordingly file this rejoinder before this Hon'ble Tribunal.
2. That, the applicant begs to submit that your applicant was suspended on 30.12.2003 under the provision of sub-rule 1 of Rule 10 of the Central Civil Services (Classification/Control & Appeal) Rules, 1965 and following the suspension the departmental proceedings has been commenced by issuing memorandum of charges on 22.07.2004. Accordingly, the departmental proceeding has been started by appointing an Enquiry Officer w.e.f. 08.09.2004. However, in the aforesaid departmental proceeding your applicant could not appear in the proceeding due to various reasons mainly due to his illness for which he has submitted medical certificate and the respondent also has referred the matter for his sickness before the medical board. It is submitted that during the period of suspension your applicant was retired from service on 28.02.2005 and the departmental proceeding has been completed on 03.08.2005 i.e. after his retirement.

Shri Lakhi dhar Das.

3. That, it is submitted that a copy of the enquiry report was communicated to your applicant in respect of ex-parte departmental proceeding concluded against him, wherein your applicant was asked to submit representation against the finding of the Enquiry Officer.
4. That, accordingly your applicant submitted his appeal dated 15.09.2004 and appeal dated 10.11.2006 against the aforesaid ex-parte departmental proceeding, but till this date appeal of your applicant has not been disposed off.
5. That, your applicant prefer this O.A. before this Hon'ble Tribunal challenging the ex-parte departmental proceeding as per the grounds set forth in the O.A. and on being receipt of the W.S. your applicant begs to prefer this rejoinder in view of the averment made in the written statement.
6. That, with regard to the averment made in Paragraph 12 of the W.S. the leave salary due to the applicant has not been released till date by the respondent except provisional pension sanctioned by the department. Though the respondent vide their letter dated 21.09.2006 has informed to your applicant to release the provisional pension, D.C.R.G. and leave salary and G.I.S./G.P.F. but till date your applicant has not received any amount and accordingly the contention averred by the respondent in the written statement are misleading to the Court.

A copy of the letter dated 21.09.2006 is enclosed herewith as Annexure 'A'.

7. That, with regard to the averment made in Paragraph 13 of the written statement, your applicant submitted that in respect of the Police case which was registered against your applicant and neither any further proceeding has been initiated nor the Police could file any charge sheet against your applicant.

Shri Lakhbir Singh Dass.

8. That, with regard to the averment made in Paragraph Nos. 14, 15, 16, 17 & 18 of the written statement, it is submitted that the ex-partes departmental proceeding has been concluded after retirement of the applicant and the enquiry report, etc. has been communicated and forwarded to your applicant on 03.08.2005 and after long lapsation of more than 2 years no concrete conclusive decision has been taken against your applicant nor any further step has been taken by the respondent in respect of the ex-partes departmental proceeding and the proposed punishment and no final order has been issued till this date. However, the provisional pension has been released to your applicant w.e.f. 01.03.2005 and till date more than 3 years has been completed.
9. That, the contention of the respondents that he has not co-operate with the Enquiry Officer and the enquiry authority is baseless and misleading. The notice of the Enquiry Officer has been handed over to the wife of the applicant and your applicant has time and again informed the authority regarding his inability to attend the departmental proceeding due to his age-old chronic disease and the department also has responded to the same. Hence, the contention of the respondent that your applicant did not co-operate with the departmental proceeding at his own volition is false. He has tried his best to co-operate with the departmental proceeding but could not attend due to his illness.
10. That, with regard to the averment made in Paragraph No. 19, 20, 21, 22, 23 & 24, your applicant begs to submit that the enquiry proceeding has been concluded after the retirement of the applicant and as soon as he received the retirement notice, your applicant ceased to be a Government servant and most of the vital aspect of the proceeding has been taken place after 28.02.2005 i.e., after superannuation of your applicant. Hence the ex-partes departmental proceeding which has been concluded against your

Shri Larkhi Dhan Dasi.

applicant cannot stand and the respondent cannot impose or issue any final order or punishment on the basis of the said enquiry report, which has been concluded after retirement of your applicant.

11. That, your applicant begs to submit that the statements made in Paragraph Nos. _____ are true to the best of his knowledge and belief.

Shri hakhi dhar Das

VERIFICATION

I, Shri Lakhidhar Das, son of Late Thanuram Das, aged about 62 years, resident of Village Amingaon, Madhyam, P.O. Amingaon, Guwahati-31, district Kamrup (Assam) do hereby verify that the statements made in Paragraphs 3, 5, 7, 9, and 10 are true to my knowledge and those made in Paragraphs 2, 4, 6, 8, being matters of records are true to my information derived there from which I believe to be true and the rests are my humble submission before this Hon'ble Tribunal.

And I sign this verification on this 8th day of January 2008 at Guwahati.

Shri Lakhidhar Das.

Signature

DEPARTMENT OF POSTS-INDIA
OFFICE OF THE SR. SUPERINTENDENT OF POST OFFICES, GUWAHATI DIVISION
MEGHDOOT BHAWAN, 3RD FLOOR, GUWAHATI-781001

To,

The Chief Postmaster General (Staff)
Assam Circle, Guwahati-781001

No.: C2/798/L.Das

Dated at Guwahati, the 21-9-2006.

Sub:- Request for releasing monthly salary for the month of (A) Oct'2003 to Dec'2003
(B) Provident Fund Account (C) Insurance Money and leave salary etc case of Shri Lakhidhar Das, Ex- SPM, Indrapur SO who retired on 28-9-2005.

Kindly refer to the representation dtd. 12-9-2006 addressed to this office and copy endorsed to you (Copy enclosed) submitted by Shri Lakhidhar Das, Ex- SPM, Indrapur SO who retired on 28-2-2005 while under suspension regarding the subject cited above.

The Senior Postmaster, Guwahati GPO asked to submit report regarding non payment leave salary for the period from Oct'2003 to Dec'2003 as well as submit the Final LPC / MRC etc vide the office letter of even No. dtd. 8.12.2005, 12.1.2006 and 25.4.2006 but no reply has so far been received by this office yet.

It is also intimated that the pension case of the said Ex- Official had nor been forwarded to the DA (P), Guwahati-3 because Shri Das, claimant did not co-operate with this office in time despite of several attempts were made to contact him at his home address also did not comply with this office letter of even No. dtd. 20-10-2004, 1-2-2005, 4-3-2005, 6-6-2005, 17-7-2005, 28-7-2005, 7-9-2005 and 18-10-2005. Further the Service Book of the Ex- Official was sent to the CO / Ghy along with other documents for Rule-9 case vide this office letter No. F4-1 / 200304 / Discy / L.Das / Loose dtd. 10-2-2006. The CO / Ghy is requested kindly return the same for further course of action at this end.

Necessary instruction regarding payment of Provisional Pension, DCRG, Cash Equivalent to Leave Salary and GIS / GPF Final payment etc. may kindly be issued to this office for communication to the claimant.

Copy to,

Sr. Superintendent of Post Offices
Guwahati Division, Guwahati-1

1. The Sr. Postmaster, Guwahati GPO, Guwahati-1. He is asked to submit report regarding Para 2 of the above (enclosed representation) by next post positively.

Sr. Superintendent of Post Offices
Guwahati Division, Guwahati-1