

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 11/2007

R.A/C.P No.

E.P/M.A No.

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SECTION OFFICER (Judl.)

Vali
20/09/17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

1. Original Application No. 11 4/07

2. Mise Petition No. _____

3. Contempt Petition No. _____

4. Review Application No. _____

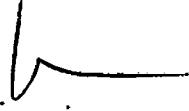
Applicant(s) Asish Naing vs Union of India & Ors

Advocate for the Applicant(s) Asish Naing Mr. S. Saikia
Ms. B. Devi, H. K. Das

Advocate for the Respondent(s) Cafe

Notes of the Registry	Date	Order of the Tribunal
I. Application is in term. is I.D.C. F. for Rs. 30/- deposited vide I.P. /BD No. 286980539 Dated.....8.1.07..... Dy. Registrar 	11.1.2007	Ms. B. Devi, learned counsel for the Applicant would like to file a petition for condoning the delay. At the same time she submits that the cause of action still remains. However, liberty is given to file the condonation petition.

Post on 25.01.2007


Vice-Chairman

/bb/

25.1.2007 The Applicant was initiated with departmental proceeding for not obtaining proper signature of the identifier in Money Order coupon. The Respondents had taken Rs. 15,000/- from the Applicant as security on the allegation of financial irregularities. He

Contd. P/2

04.11.2007

Contd.
25.1.2007

was found guilty in the disciplinary proceeding and was removed from service, but, this Court, vide order dated 29.5.2003 passed in O.A. No.188/2002 set aside the order of removal and directed the Respondents to reinstate the Applicant in service without any backwages. In the meantime the Applicant was initiated with criminal proceeding also which was ended with acquittal. But the amount i.e. Rs.15,000/- taken as security has not been released by the Respondents at the pretext of backwages. Being aggrieved, The Applicant has filed this O.A.

Heard Mr. S. Sarma, learned counsel for the Applicant.

Considering the larger issue involved in this case I am of the view that the O.A. has to be admitted. Admit. Six weeks time is granted to the Respondents for filing of written statement.

Post the matter on 12.03.2007.

Vice-Chairman

/bb/

12.3.07.

Counsel for the respondents prays for time to file written statement. Four weeks time is granted to file written statement. Post the matter on 13.4.07.

⑧

Member

Vice-Chairman

1m

01/11/07 - 2

15.5.2007 Counsel for the respondents sought time to file written statement. Four weeks time granted.

Post the matter on 14.6.07.

No Wts has been filed.

Vice-Chairman

13.6.07.

/pg/

14.6.2007

No reply filed. Further two weeks' time is allowed to the Respondents to file reply.

Post the case on 18.7.2007.

17.7.07
No AD's filed
1a.

Vice-Chairman

/bb/

18.7.2007

Further four weeks time is allowed to Mr.G.Baishya, learned Sr.C.G.S.C. for filing of reply statement.

Post on 20.8.2007.

Wts not filed.

17.8.07

/bb/

Vice-Chairman

23.8.07

Wts filed by
the Respondents.
page 1 to 11. Copy
served.

Pat

20.8.2007

Mr.G.Baishya, learned Sr.C.G.S.C. submits that reply statement has been filed. Copy of the same is furnished to Mr.H.K.Das, learned counsel for the Applicant. As requested, three weeks time is granted to the Applicant to file rejoinder.

Post the matter on 11.9.2007.

Rejoinder not
filed.

24
10.9.07

/bb/

Vice-Chairman

11.9.07.1.

Rejoinder not filed

26/9/07.

lm

At the request of learned counsel for the applicant further two weeks time is granted to file Rejoinder. Post the matter on 27.9.07.

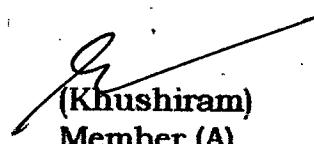

Vice-Chairman

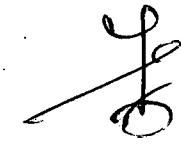
Rejoinder not filed.

27/9/07.

27.9.2007

On the prayer of Mr. H.K.Das, learned counsel for the Applicant call this matter on 03.10.2007 for final hearing.

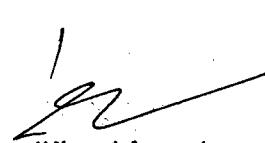

(Khushiram)
Member (A)

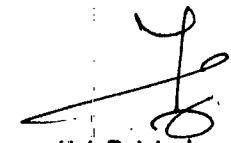

(M.R. Mohanty)
Vice-Chairman

/bb/

03.10.2007

On the request made by both sides, call this matter on 04.10.2007.


(Khushiram)
Member (A)

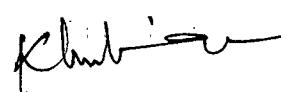

(M.R. Mohanty)
Vice-Chairman

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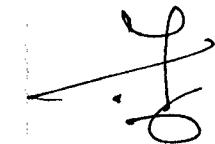
04.10.2007

Heard learned counsel for the parties. Hearing concluded.

For the reasons recorded separately the Original Application is dismissed. No costs.


(Khushiram)

Member (A)


(M.R. Mohanty)
Vice-Chairman

/bb/

17.10.07

Copy of the
Notice has been
sent her/ben
and to the Office
for filing the time
to the applicant as
well as to the Regd.
No 3, and a copy to
the Dr. S. G. S. C. by
hand.

21.11.07

Notice sent
vide of NO. 1151
on 1152 on 6.11.07

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

O.A. No.11 of 2007

&

M.P. No.11 of 2007

DATE OF DECISION: 03.10.2007

Shri Ashis Naug

.....Applicant/s

Mr.H.K.Das

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

- Versus -

U.O.I. & Ors

.....Respondent/s

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

.....Advocate for the
Respondents

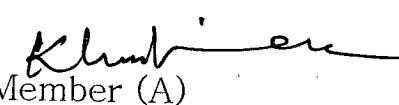
CORAM

THE HON'BLE MR. MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

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

Judgment delivered by

Vice-Chairman/Member (A) 

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 11 of 2007

&

Misc. Application No. 11 of 2007

Date of Order: This, the 3rd Day of October, 2007

THE HON'BLE SHRI MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE SHRI KHUSHIRAM, ADMINISTRATIVE MEMBER

Shri Ashis Naug
Son of Late Ramesh Ch. Naug
Resident of Vill. & P.O: Kanchanpur
Via Vivekananda Road
Silchar – 788 007
Dist: Cachar, Assam.

..... Applicant.

By Advocates Mr. S. Sarma, Ms. B. Devi & Mr. H. K. Das

- Versus -

1. The Union of India, represented by the Secretary to the Government of India Ministry of Communication Dak Bhawan, New Delhi.
2. The Director, Postal Services Dibrugarh Region, Dibrugarh Office of the PMG, Dibrugarh.
3. The Senior Superintendent of Post Offices Cachar Division Silchar – 788 001.

..... Respondents

By Mr. G. Baishya, Sr. Standing counsel for the Union of India.

ORDER (ORAL)

KHUSHIRAM, [MEMBER (A)]

While the Applicant was working as Extra Departmental Branch Post Master (EDBPM in short) in Kanchanpur Extra Departmental Branch



Office (EDBO in short), he was prosecuted in Criminal Court and also departmentally proceeded with/charge sheeted by the Senior Superintendent of Post Offices vide Office Memorandum No.F1-11/96-97/K.Pur/DA dated 20.04.1999 (Annexure-1) for making false payment to the tune of Rs.91,800/- against Money Orders purported to have been issued from Army Post Offices. After an enquiry conducted against him, he was removed from service by the Disciplinary Authority vide order dated 30.11.2000. Applicant preferred an appeal on 05.01.2001 against the said order of removal and the Appellate Authority rejected the appeal vide its order dated 10.12.2001. Being aggrieved by the said orders, Applicant filed Original Application No.188/2002; which was decided by this Tribunal on 29.05.2003 by setting aside the order of removal dated 30.11.2000 and also the order dated 10.12.2001 passed by the Appellate Authority. By the said order the Respondents were directed to reinstate the Applicant with "all the service benefits like seniority etc., except the back wages". The Applicant preferred a Writ Petition before the Hon'ble High Court challenging the part of the said order of this Tribunal so far it restricts the payment of back wages. However, the said Writ Petition was dismissed by the High Court while upholding the order of this Tribunal. Pursuant thereto, the Respondents reinstated the Applicant in service on 18.09.2003. According to the Applicant, he was directed to deposit an amount of Rs.15,000/- on the allegation of financial irregularities and that, accordingly, he deposited the said amount on 10.07.1996. After joining his duty on reinstatement, the Applicant submitted a representation on 17.11.2003 before the Respondents for taking refund of the amount of Rs.15,000/-; which was deposited by him. His said representation was rejected by the Respondents vide order dated 04.12.2003. The Applicant, on 13.05.2003, served a legal notice upon the



Respondents to refund him the aforesaid amount along with interest. The Applicant further claims that (having regard to the setting aside of the orders of removal from service) the Respondents ought to have reinstated him w.e.f. 29.05.2003 instead of 18.09.2003. In this Original Application filed under Section 19 of the Administrative Tribunals Act, 1985 the Applicant has prayed (a) for setting aside of the impugned order dated 04.12.2003 and (b) to direct the Respondents to refund the amount of Rs.15,000/- and (c) to pay the arrear salary from 29.05.2003 to 18.09.2003 with interest.

2. The Applicant has also filed Misc. Application No.11/2007 praying for condonation of delay in filing the O.A. No.11/2007 in view of the victimization at the hands of the Respondents. Therefore, he has prayed for condonation of delay.

3. The Respondents have filed a detailed written statement denying and disputing the claim of the Applicant. The Respondents in their written statement stated that Deptt. of Posts of Govt. of India had sustained a loss to the tune of Rs.91,800/- for payment of bogus Money Orders purported to have been issued and paid at the Kanchanpur Branch Office on various dates during October, 1995 to June, 1996 and that the Applicant voluntarily deposited the amount of Rs.15,000/- and that the question of refunding the said amount to the Applicant at this distant point of time does not arise at all. It has been stated by the Respondents that the representation of the Applicant for refund was rejected by the Respondents vide order dated 04.12.2003. Thereafter, the Applicant remained silent for more than three (3) years; that no representation for payment of arrear salary from 29.05.2003 to 18.03.2005 was filed by the Applicant; that therefore the claims raised in this Original Application is hopelessly barred by



limitation. The Respondents have clarified that Applicant could not be reinstated in service immediately after the order dated 29.05.2003 of this Tribunal, because during the absence of the Applicant, Smt. Archana Seal (who was working in his place as GDSBPM for more than 6 years and 5 months) had filed an Original Application No.153/2003 before this Tribunal and was not handing over the charge to the Applicant. The Respondents had to take up the matter with the Superintendent of Police, Cachar/Silchar and somehow could manage to hand over the charge of the GDSBPM, Kanchanpur Branch Office to the Applicant on 18.09.2003 with the help of police.

4. We have heard Mr.H.K.Das, learned counsel appearing for the Applicant and Mr.G.Baishya, learned Senior Standing counsel for the Central Government.
5. Mr.H.K.Das, learned counsel for the Applicant submitted that as directed by the Respondents, the amount of Rs.15,000/- was deposited by the Applicant in connection with the charge from which he was exonerated both in the departmental proceeding as well from Criminal Court. The Applicant was given a receipt for depositing the said amount which proves the fact that he was asked by the Department to deposit the said money. However, Mr. Das, failed to produce any document in support of his assertion.
6. Mr.G.Baishya, learned Senior Standing counsel for the Central Government, argued that the Applicant had filed representation for refund of the amount of Rs.15,000/- (which he had deposited on 10.07.1996) after a lapse of six years i.e., in the year 2003. The failure of the Applicant to

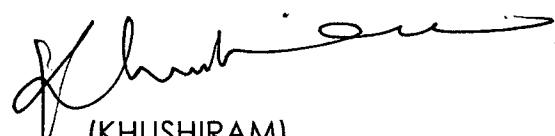


produce any document directing him to deposit the said amount is stated to be a proof of the fact that he had voluntarily deposited the amount against partial recoupment of monetary loss of Rs.91,800/- to the Department. The claim for refund of the said amount is grossly barred by limitation. In support of his contention, learned Senior Standing counsel for the Respondent relied on a decision of this Tribunal rendered in the case of **Shri Subhash Chandra Bhattacharjee vs. Union of India & Others, reported in 1995 (I) GLT (CAT) 83**; wherein it was held that, "where the first representation has been rejected, mere filing of repeated representations will not save limitation." Learned Sr. Standing counsel argued that the Misc. Application filed in this Original Application No.11/2007 has no basis and the Applicant has not accounted for the inordinate delay in agitating the issue before this Tribunal and the Applicant has to suffer for the latches and glitches on his part. As regards the payment of back wages, this Tribunal vide its order dated 29.05.2003 passed in O.A.188/2002 filed by the Applicant, had already held that Applicant will not be entitled to any back wages. The Writ Petition preferred by the Applicant against the restriction on payment of back wages before the Hon'ble High Court was also dismissed. Therefore, orders of this Tribunal and the orders of Hon'ble Gauhati High Court, having not been challenged in highest forum, have attained finality against the Applicant.

7. In view of the forgoing discussions and points raised, it is clear that the Department has not issued any order for depositing the amount of Rs.15,000/- to the Applicant. Since he did not agitate this matter since 1996, therefore, the claim for refund of that amount is hopelessly barred by limitation. The inordinate delay in filing the Original Application has also not

Khurana

been explained satisfactorily by the Applicant and the mere fact that Rs.15,000/- is a big amount for him is not sufficient cause to condone the delay. Similarly, the claim for back wages had already been rejected by this Tribunal in its earlier proceeding which was also upheld by the Hon'ble Gauhati High Court and, those orders, having not been challenged in highest forum, have become final against the Applicant. This Original Application (as well as the Misc. Application No.11/2007) therefore, deserves to be dismissed. Accordingly, both the Original Application and the Misc. Application are dismissed. There shall, however, be no order as to costs.

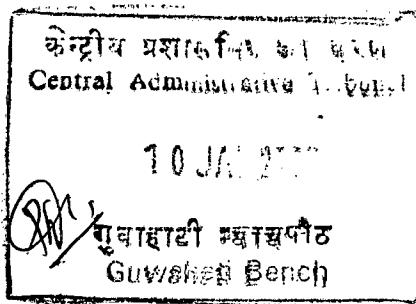


(KHUSHIRAM)
ADMINISTRATIVE MEMBER



(MANORANJAN MOHANTY)
VICE CHAIRMAN

/BB/



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case : O.A. No. 11 of 2007.

BETWEEN

Shri Ashis Naug Applicant.

AND

Union of India & ors. Respondents.

SYNOPSIS

The applicant while was working as Extra Departmental Branch Post Master, (in short EDBPM), was asked by the Sr. Superintendent of Post Offices, Cachar Divn. to deposit an amount of Rs 15000.00 (fifteen thousand) only, on the allegation of financial irregularities. The respondents initiated both criminal as well as departmental proceeding against the applicant on the same set of charge and as result of that the applicant was removed from service. Both the proceeding failed after the intervention of the Hon'ble Court and the applicant was reinstated. However, the respondents inspite of repeated requests have not yet released the amount of Rs. 15000.00

along with the arrears salary w.e.f. 29.5.03 to 18.9.03 as the respondents were directed to reinstate him w.e.f. 29.5.03. The applicant ventilating his grievances made several representations but same yielded no result in positive. Having failed to get any positive reply from the respondents the applicant now has come under the protective hands of the Hon'ble Tribunal praying for an appropriate direction towards the respondents to release the amount of Rs 15000.00 that has been taken from him as the amount treating to be embalanced by him and also the arrears salary w.e.f. 29.5.03 to 18.9.03.

Hence this application seeking redressal of his greivances.

29/2/2004

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case : O.A. No. 10.....of 2007.

BETWEEN

Shri Ashis Naug Applicant.

AND

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

I N D E X

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Filed by : Miss. B.Devi, Advocate. Regn.No. :

File : WS7\ASHISI Date :

16
9.1.07
Hridip Kr. Das
Advocate

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

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

O.A.No. 1011 of 2007

BETWEEN

Shri Ashis Naug
S/o Late Ramesh Ch.Naug
R/o Vill & P.O.: Kanchanpur
Via Vivekananda Road,
Silchar-788007.
Dist. Cachar, Assam.

..... Applicant.

VERSUS

1. Union of India,
Represented by the Secretary to the Govt.of India,
Ministry of Communication,
Dak Bhawan, New Delhi.
2. The Director, Postal Services
Dibrugarh Region, Dibrugarh
Office of the PMG, Dibrugarh.
3. The Senior Supdt.of Post Offices
Cachar Division,
Silchar-788001.

..... Respondents.

PARTICULARS OF THE APPLICATION

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

This application is not directed against any particular order but has been directed against the inaction on the part of the respondents in not refunding the amount already deposited by him in connection with the alleged financial irregularities and also against the non-delivery and non payment of the arrears salary w.e.f. 29.05.03 to 18.09.2003.

Abhay

2. LIMITATION:

The applicant declares that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act.1985. That the applicant has preferred representations from time to time which was followed by the legal notice but same yielded not result in positive. The cause of action as ventilated by the applicant is a continuous one and same is a recurring cause of action.

3. JURISDICTION:

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

4. FACTS OF THE CASE:

4.1. That the applicant while was working as Extra Departmental Branch Post Master, (in short EDBPM), was asked by the Sr. Superintendent of Post Offices, Cachar Divn. to deposit an amount of Rs 15000.00 (fifteen thousand) only, on the allegation of financial irregularities. The respondents initiated both criminal as well as departmental proceeding against the applicant on the same set of charge and as result of that the applicant was removed from service. Both the proceeding failed after the intervention of the Hon'ble Court and the applicant was reinstated. However, the respondents inspite of repeated requests have not yet released the amount of Rs. 15000.00

along with the arrears salary w.e.f. 29.5.03 to 18.9.03 as the respondents were directed to reinstate him w.e.f. 29.5.03. The applicant ventilating his grievances made several representations but same yielded no result in positive. Having failed to get any positive reply from the respondents the applicant now has come under the protective hands of the Hon'ble Tribunal praying for an appropriate direction towards the respondents to release the amount of Rs 15000.00 that has been taken from him as the amount treating to be embalanced by him and also the arrears salary w.e.f. 29.5.03 to 18.9.03.

This is crux of the matter for which the applicant has come under the protective hands of the Hon'ble Tribunal.

4.2. That the applicant is a citizen of India and as such he is entitled to all the rights, privileges and protection as guaranteed by the Constitution of India and laws framed thereunder.

4.3. That in the year 1980 applicant got his appointment as Extra Departmental Branch Post Master (EDBPM). He was transferred in the year 1996 to the Kanchanpur Extra Departmental Branch Office (EDBO) in same capacity as EDBPM. During his service tenure at Kanchanpur, the Senior Supdt of Post Offices issued an OM bearing No. F1-11/96-97/K.Pur/DA dated 20.4.99 by which it was proposed to hold an enquiry against the applicant under Rule 8 of P&T ED Agent (Conduct and Service) Rules 1964. In the said Memorandum an Article of Charge as Annexure-I and the statement of imputation of misconduct and misbehaviour in

support of the Article of charge has also been enclosed as Annexure-II along with a list of document and witness by whom the said Article of Charge is proposed to be sustained.

A copy of the aforesaid OM dated 20.4.99 is annexed herewith and marked as Annexure-1.

4.4. That the allegations leveled against the applicant in the above charge sheet was also the subject matter of the Criminal case registered under section 420 of IPC pursuant to the FIR dated 5.7.96, lodged by the Sr. Supdt. of Post Offices. The alleged incidents are pertaining to the year 1996.

A copy of the FIR dated 5.7.96 is annexed herewith and marked as ANNEXURE-2.

4.5. That the applicant was not a named accused nor he was suspected as indicated by the respondents in the aforesaid FIR, but without informing the applicant about his involvement, the respondents asked the applicant to deposit an amount of Rs 15000.00 against the aforesaid charges as indicated in the FIR. The respondents however, have not issued any order to that effect. The applicant as per the direction of the respondents by observing the formalities have deposited the said amount by obtaining a proper receipt.

A copy of the said receipt is annexed herewith and marked as ANNEXURE-3.

4.6. That the respondents initiated a departmental proceeding and the applicant participated in the same pointing out the procedural irregularities. The Sr. Supdt. Of Post Offices being the disciplinary authority imposed the punishment of removal from service by issuing an order dated 30.11.2000. The applicant being aggrieved and dis-satisfied with the said order of dismissal from service dated 30.11.2000, preferred an appeal dated 05.01.2001 and the appellate authority i,e, the Director of Postal Services vide order dated 10.12.2001, rejected the appeal filed by the applicant confirming the removal order.

4.7. That the applicant being aggrieved by the said orders, instituted the proceeding before this Hon'ble Tribunal which was registered and numbered as O.A No 188/2002. The Hon'ble Tribunal after hearing the parties to the proceeding vide judgment and order dated 29.05.2003, was pleased to set aside both the orders dated 30.11.2000 and 10.12.2001, directing reinstatement of the applicant, however, without back wages.

A copy of the said judgment and order dated 29.05.2003, is annexed herewith and marked as ANNEXURE- 4.

4.8. That since the facts as stated above are not in dispute, the applicant begs to state that the orders as referred to above are all annexed in the O.A No 188/2002 and he craves leave of the Hon'ble Tribunal to call for the records and to allow him to rely and refer upon the same at the time of hearing of the case.

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4.9. That the applicant preferred a Writ Petition before the Hon'ble High Court challenging the part of the said judgment so far it restricts the payment of back wages. The Hon'ble High Court refused to entertain the said Writ Petition and dismissed the same upholding the judgment of the Hon'ble Tribunal. The respondents did not prefer any writ petition before the Hon'ble High Court against the judgment dated 29.05.2003.

4.10. That the applicant after the judgment and order dated 29.05.2003, passed by the Hon'ble Tribunal prayed for his reinstatement but without any cogent ground same was delayed and after repeated persuasion the respondents reinstated the applicant only w.e.f. 18.09.2003. The applicant immediately took over the charge by the charge memo dated 18.09.2003 i.e after about 4 months, (112 days) Approx. The respondents having regard to the setting aside of the orders of removal, ought to have reinstated him w.e.f. 29.05.2003, instead of 18.09.2003.

A copy of the charge memo dated 18.09.2003 is annexed herewith and marked as ANNEXURE- 5.

4.11. That the applicant immediately after joining his duty on reinstatement submitted representation dated 17.11.2003, before the concerned authority for release of the amount of Rs 15000.00 that was deposited by him. In reply to the said representation dated 17.11.2003, the respondents issued an order dated 4.12.2003, which he received on 10.12.2003, rejecting his prayer. It is

pertinent to mention here that the Criminal proceeding initiated pursuant to the aforesaid charge sheet was also closed without requiring the attendance of the applicant.

Copies of the representation dated 17.11.2003 and the order dated 4.12.2003 are annexed herewith and marked as ANNEXURE - 6 and 7.

4.12. That the applicant kept on pursuing the authority concerned for release of the amount of Rs 15000.00 as well as the arrears salary w.e.f. 29.05.2003 to 18.09.2003, but same yielded no result in positive. Situated thus the applicant served a legal notice dated 13.05.2005. On 18.05.2005 the respondent No 3 received the same.

A copy of the said legal notice dated 13.05.2005 is annexed herewith and marked as ANNEXURE - 8.

4.13. That the applicant begs to state that the respondents have acted contrary to the judgment and order passed by the Hon'ble Tribunal. The respondents have misread the judgment of the Hon'ble Tribunal and construed the said amount of Rs 15000.00 as the back wages. In fact the said amount of Rs 15000.00 was deposited by the applicant in connection with the charge from which he was departmentally as well as criminally exonerated, and same can not be treated as back wages. On the other hand the respondents immediately after setting aside of the orders of removal was duty bound to reinstate him w.e.f. 29.05.2003, i.e, the date on which the Hon'ble Tribunal passed the judgment instead of

18.09.03, after about 4 months keeping the applicant without pay.

4.14. That the respondents have totally failed to understand the meaning of back wages and passed the impugned order dated 4.12.03 and refused to treat the applicant as on duty w.e.f. 29.05.2003 and to pay his salary and to refund the amount taken from him. The respondents have passed the impugned order without applying their mind and as such same is liable to be set aside and quashed.

4.15. That the applicant ventilating his grievances made several requests to the respondents for release of his due salary w.e.f. 29.05.2003 to 18.09.2003 and the deposited amount of Rs 15000.00, and the respondents virtually rejected his prayer illegal treating the same to be the back wages.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action/inaction on the part of the respondents in not releasing of his due salary w.e.f. 29.05.2003 to 18.09.2003 and the deposited amount of Rs. 15000.00 is per se illegal, arbitrary and same are violative of Article 14 and 16 of the Constitution of India and laws framed thereunder.

5.2. For that the respondents in treating the claim

made by the applicant for his salary for the period w.e.f. 29.05.2003 to 18.09.2003 and the deposited amount of Rs 15000.00, as back-wages while mis-reading the wording of the judgment passed by the Hon'ble Tribunal, has committed illegalities and as such same is not at all sustainable and liable to be set aside.

5.3. For that the respondents have violated the judgment passed by the Hon'ble Tribunal in issuing the impugned order dated 4.12.03 and as such same is not at all sustainable and liable to be set aside and quashed.

5.4. For that the respondents have failed to apply their mind while passing the impugned order and committed serious injury to the applicant harassing him financially.

5.5. For that in any view of the matter the action/inaction of the respondents are not sustainable in the eye of law and liable to set aside and quashed.

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

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the remedies available to them and there is no alternative remedy available to him.

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

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

8. RELIEF SOUGHT FOR:

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

8.1. To set aside and quash the impugned order dated 4.12.2003 and to direct the respondents to release the 10

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amount of Rs 15000.00 and to pay him the arrears salary w.e.f. 29.5.2003 to 18.09.2003.

8.2. To direct the respondents to pay the interest @ 21 % p.a. on both the arrears amounts.

8.2. Cost of the application.

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

9. INTERIM ORDER PRAYED FOR:

Considering the facts and circumstances of the case, the applicant does not pray for any interim order at this stage.

10.

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

1. I.P.O. No. : 28 G 980539
2. Date : 8.1.07
3. Payable at : Guwahati.

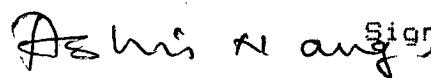
12. LIST OF ENCLOSURES:

As stated in the Index.

VERIFICATION

I, Shri Ashis Naug, son of Late Ramesh Ch.Naug, aged about 52 years, resident of Village and P.O. Kanchanpur, vis Bibekananda Road, Silchar, Dist-Cachar, Silchar-78007, do hereby solemnly affirm and verify that the statements made in paragraphs are true to my knowledge and those made in paragraphs 4.1-4.15 are also true to my legal advice and the rests are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 9th day of Jan. of 2007.

 Signature.

ANNEXURE - 1

GOVT. OF INDIA
MINISTRY OF COMMUNICATIONS
DEPARTMENT OF POSTS
OFFICE OF THE SR. SUPDT. OF POST OFFICES: CACHAR DN:
SILCHAR-788001

M E M O R A N D U M

No. F1-11/96-97/K.Pur/DA Dated Silchar the 20-4-1999

The undersigned proposed to hold an enquiry against Sri Ashis Nag, EDBPM Kanchanpur EDBO (now put off duty) under rule 8 of P&T ED Agents (conduct and Service) Rules, 1964. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charges (Annexure-I). The statement of imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which and list of witnesses by whom the articles of charges are proposed to be sustained are also enclosed (Annexure-III & IV).

2. Shri Ashis Nag EDBPM Kanchanpur EDBO (now put off duty) is directed to submit within 10 (ten) 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, specifically admit or deny each articles of charge.

4. Shri Ashis Nag EDBPM Kanchanpur EDBO (now put off duty) is further informed that if he/she 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 inquiring Authority or otherwise fails or refuses to comply with the provisions/rule-8 of the aforesaid rules, 1964 or the orders/directions issued in pursuance of the said rule, the inquiry authority may hold the inquiry against him ex parte.

5. Attention of Shri Ashis Nag EDBPM Kanchanpur EDBO (now put off duty) is invited to rule 25 of the P&T ED Agents (conduct and service) Rule, 1964 under which No ED Agent shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his services under the Govt. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Shri Ashis Nag EDBPM Kanchanpur (now put off duty) is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 25 ibid.

6. The receipt of the memorandum may be acknowledged.

S.D/—
Sr. Supdt. of Post Offices,
Cachar Dn: Silchar- 788001.

REGD/AD. Shri Ashis Nag EDBPM Kanchanpur EDBO (now put off duty)
PO & Vill Kanchanpur via V.N. Road S.O. Dt. Cachar.

Copy to:-

1. In file P/F of the official
2. In Vigilance file.
3. ASPO (HQ)
4. Spare.

S.D/—
Sr. Supdt. of Post Offices,
Cachar Dn: Silchar- 788001.

Attested

Advocate.

S.D/—
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ANNEXURE I

Statement of articles of charges framed against Sri Ashish Nag
EDBPM Kanchanpur EDBO (now put off duty)

Article-I

on Shri Ashis Nag, while functioning as EDBPM Kanchanpur EDBO during the period from 13-1-96 to 18-1-96 received one FPO 608 M.O. No. 1350 dated 4/1/96 for Rs. 2000/- payable to Sri Mahesh Singh C/O Sudhir Singh, DBC P.O. Kanchanpur (Chincoorie) Silchar Dt- Cachar on the 13-1-96 and effected payment of the said M.O. on 18-1-96 taking LTI of the above person alongwith the signature of the person who had taken the LTI of the payee but without signature and permanent address of the witness/identifier even though the payee's address was not within the delivery jurisdiction of Kanchanpur EDBO.

Sri Ashis Nag, EDBPM Kanchanpur EDBO (now put off duty) is therefore considered to have violated the rules 7, Rule 34 (with Note I below) and Rule 109 (1) (2) (4) of the "Rules for Branch offices" as well as Rule 17 of the "P&T ED Agents (Conduct and Service) Rules, 1964".

Article ::-II

on Shri Ashis Nag, while functioning as EDBPM Kanchanpur EDBO during the period from 3-2-96 to 8-2-96 received one FPO 989 M.O. No. 1513 dt. 15-1-96 for Rs. 2000/- payable to Sri Subal Chasa C/o Dham Bricks CO. PO Kanchanpur Silchar-7 (Chincoorie) Dt- Cachar on the 3-2-96 and effected payment of the said MO on 8-2-96 with dated signature (With date as 7-2-96) of one Sri Subal Chasa with signature of one M. Singh (Full name not eligible) as witness/identifier but without the full name and complete permanent address even though the payee's address was not within the delivery jurisdiction of the Kanchanpur EDBO.

Sri Ashis Nag, EDBPM Kanchanpur EDBO (now put off duty) is therefore considered to have violated the provisions of Rule 7, Rule 34 (with Note I below) and Rule 109 (1) (2) (4) of the "Rules for Branch offices" as well as Rule 17 of the "P&T ED Agents (Conduct and Service Rules, 1964".

Article:: III

on Shri Ashis Nag while functioning as EDBPM Kanchanpur EDBO during the period from 14-2-96 to 16-2-96 received one FPO 1989 M.O. No. 1690 dated 18-1-96 for Rs. 2000/- payable to Vijoy Singh C/O Mahesh Singh C/O Indra Bricks CO. PO Kanchanpur Silchar-7 Vill Kanchanpur (Chincoorie) on the 14-2-96. On the same day viz and 14-2-96 said Shri Ashis Nag also received another FPO 1989 MO No. 1694 dated 18-1-96 for Rs. 1500/- payable to one Sri Subal Singh C/O Surojit Singh C/O Indra Bricks CO PO Kanchanpur Silchar-7 Vill Kanchanpur (Chincoorie) Dt- Cachar. Both the above MOs were appears to have been paid on 15-2-96 and charged on 16-2-96 in the BO A/c book even though the payee's address of both of the delivery jurisdiction of Kanchanpur EDBO. In the both cases permanent address of the witnesses /identifiers were not taken by said Shri Ashis Nag.

Sri Ashis Nag, EDBPM Kanchanpur EDBO (now put off duty) is therefore considered to have violated the Rule 7, Rule 34 (with Note I below) and Rule 109 (1) (2) (4) of the "Rules for Branch Offices" as well as Rule 17 of the "P&T ED Agents (Conduct & Service) Rules, 1964".

Article-IV

Shri Ashis Nag while functioning as EDBPM Kanchanpur EDBO during the period from 14-2-96 to 17-2-96 received the following 2 MOs on 14-2-96:-

i) FPO M- 1989 MO No. 1691 dated 18-1-96 for Rs. 2000/- payable to Sri Nijoya Singh C/O Sri Mahesh Singh C/O Indra Bricks CO. PO Kanchanpur Silchar-7 Vill Kanchanpur (Chincoorie) Dt- Cachar.

FPO 1989 M.O. No. 1693 dated 18-1-96 for Rs. 1000/- payable to Sri Subota Singh C/o Surajit Singh C/O Indra Bricks CO. PO Kanchanpur, Silchar-7 vill. Kanchanpur (Chincoorie) Dt-Cachar.

Both the above MOs were paid on 16-2-96 and charged as paid on 17-2-96 by said Sri Ashis Nag. The address of both the payees are not within the delivery jurisdiction of Kanchanpur EDBO. In both the cases permanent address of the respective witnesses/identifiers were not obtained by said Sri Ashis Nag.

Sri Ashis Nag EDBPM Kanchanpur EDBO (now put off duty) is therefore considered to have violated the Rule 7, Rule 34 (with Note 1 below) and Rule 109(1)(2)(4) of the "Rules for Branch Offices" as well as Rule 17 of the "P&T ED Agents (conduct and Service) Rules, 1964.

Article : V

Shri Ashis Nag EDBPM of Kanchanpur EDBO (on put off duty) while working as such on 21-8-93 received a sum of Rs. 50/- from the depositor of Kanchanpur EDBO SB A/c No. 9701159 and SB pass book for depositing the amount in SB account. He entered the said amount of Rs. 50/- in the pass book under his signature and authenticated by the office date stamp impression. But did not credit the amount in the Govt. Accounts of the office, and thereby considered to have acted in a manner violating the provision of Rule 131(3) of the Rules for Branch offices and Rule 17 of the P&T ED Agents (Conduct & services) Rules, 1964.

ANNEXURE : II

Statement of imputation of misconduct or misbehaviour in support of each article of charge framed against Sri Ashis Nag, EDBPM Kanchanpur EDBO (now put off duty).

Article - I

Shri Ashis Nag, while functioning as EDBPM Kanchanpur EDBO during the period from 13-1-96 to 18-1-96 received one FPO-608 M.O. No. 1350 dated 4-1-96 for Rs. 2000/- payable to Sri Mahesh Singh C/O Sudhir Singh, DBC PO Kanchanpur (Chincoorie) Silchar Dt-Cachar on the 13-1-96 and entered in the same in the BO journal of the office on 13-1-96. On the 18-1-96 the above MO was paid to one Mahesh Singh obtaining LTI on the MO paid voucher (MO-8) wherein one Sri Sudhir Singh signed as witness/Identifier but the attestations of LTI by a resident witness was not obtained by said Sri Nag. The MO in question was paid by said Sri Nag even though the address of the payee was not within the delivery area of Kanchanpur EDBO.

By his above acts said Sri Ashis Nag, EDBPM Kanchanpur EDBO (now put off duty) is considered to have acted in a manner violating the provisions of Rule 7, Rule 34 (with Note 1 below) and Rule 109(1)(2)(4) of the "Rules for Branch offices" and thereby also considered to have failed to maintain absolute integrity and devotion to duty as required under Rule 17 of the P&T ED Agents (conduct and service) Rules, 1964.

Article : II

Shri Ashis Nag while functioning as EDBPM Kanchanpur EDBO during the period from 3-2-96 to 8-2-96 received one FPO 989 MO No. 1513 dated 15-1-96 for Rs. 2000/- payable to Sri Subal Chasa C/O Dharam Bricks Co. PO Kanchanpur Silchar-7 (Chincoorie) Dt-Cachar on 3-2-96 and entered the same in the "BO Journal" of the office. Dated initial of the paying official on the above MO indicates that payment was made on the 7-2-96 but charged in the accounts of the said office on the 8-2-96 though none of the payees or care party's address fall within the delivery area of Kanchanpur EDBO.

Payment of the M.O. in question was also made without obtaining permanent address of the payee as well as of the witness/identifier.

By his above acts said Sri Ashis Nag EDBPM Kanchanpur EDBO (now put off duty) is therefore considered to have acted in a manner violating the provisions of Rule 7, Rule 34 (with Note 1 below) and Rule 109(1)(2)(4) of the Rules for Branch offices" and thereby also considered to have failed to maintain absolute integrity and devotion to duty as required under Rule 17 of the "P&T ED Agents (Conduct and Service) Rules, 1964.

Article: III

Shri Ashis Nag, while functioning as EDBPM Kanchanpur EDBO during the period from 14/2/96 to 16-2-96 received the following 2 MOs on 14-2-96:-

- (i) FPO 1989 MO No. 1690 dated 18-1-96 for Rs. 2000/- payable to Vijay Singh C/o Mahesh Singh C/o Indra Bricks Co. PO Kanchanpur Silchar-7 Vill Kanchanpur (Chincoorie).
- (ii) FPO 1989 MO No. 1694 dated 18-1-96 for Rs. 1500/- payable to Sri Subal Singh C/o Surajit Singh C/o Indra Bricks Co. PO. Kanchanpur Silchar-7 Vill Kanchanpur (Chincoorie) dt- Cachar.

Said Sri Nag has entered both the above MOs in the "BO Journal" of the office from the dated initial of the paying official on MO paid vouchers of these MOs both of these MOs were paid on 15-2-96 but charged as paid in the accounts of the said Kanchanpur EDBO the on the 16-2-96 even though none of the payee's or care party's address fall within the delivery area of Kanchanpur EDBO.

Payment of the MO in question were also made without obtaining signature of any resident witness/Identifier and noting permanent address in the M.O. paid voucher.

By his above acts said Sri Ashis Nag, EDBPM Kanchanpur EDBO (now put off duty) is therefore, considered to have acted in a manner violating the provisions of Rule 7, Rule 34 (with Note 1 below) and Rule 109(1)(2)(4) of the "Rules for Branch offices" and thereby also considered to have failed to maintain absolute integrity and devotion to duty as required under Rule 17 of the P&T ED Agents (conduct and Service) Rules, 1964.

Article IV

Shri Ashis Nag while functioning as EDBPM Kanchanpur EDBO during the period from 14-2-96 to 17-2-96 received the following 2 MOs on the 14-2-96:-

- i) FPO 1989 MO No. 1691 dated 18-1-96 for Rs. 2000/- payable to Sri Nijoya Singh C/o Mahesh Singh C/o Indra Bricks Co. PO Kanchanpur Silchar-7 Vill Kanchanpur (Chincoorie) dt- Cachar.
- iii) FPO 1989 MO No. 1693 dt. 18-1-96 for Rs. 1000/- payable to Sri Subata Singh C/o Surajit Singh C/o Indra Bricks Co. PO Kanchanpur Silchar-7 Vill Kanchanpur (Chincoorie) Dt- Cachar.

Said Sri Nag has entered both the above MOs in the "BO Journal" of the office. From the dated initial of the paying official on the MO paid vouchers of these 2 MOs both of these MOs were paid on 16-2-96 but charged as paid in the accounts of Kanchanpur EDBO on 17-2-96 even though none of the payee's or the care party's address fall within the delivery area of Kanchanpur EDBO.

Payment of these MOs in question were also made without obtaining signature of any resident witness/Identifier and noting permanent address in the M.O. paid voucher.

ASSAM

PT NO. 2708 - SILCHAR P.S. Case no. 1

INDIA COPY STAMPS				
प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फॉलोज का अपार्क्षत रास्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपार्क्षत स्टाम्प और फॉलोज देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
1-11-97	7-11-97	11-11-97	13-11-97	13-11-97

In the Court of the Chief Judicial Magistrate, Cachar, Silchar.

G.R. Case No. 1560 of 1996

Silchar P.S. Case No. 646/96

State - - - - - vs. Dilip Singh and others

U/S 420 I.P.C.

FIRST INFORMATION REPORT
(Under Section 154 Cr.P.C)

1. Dist. Cachar. P.S. Silchar. Year 1996. FIR No. 646 Date 5-7-96

2. i) Act:..... Sections: 420 I.P.C.
ii) Act:..... Sections:....
iii) Act:..... Sections:...
iv) Other Acts & Sections:..3. a) General Diary Reference: Entry No. x..... Time... x
b) Occurrence of Offence: Day ... x ... Date ... - - - Time ...
c) Information received Date 5-7-96 Time 3-30 P.M. GS No. 185
at the Police station.

4. Type of information: Written/Oral FIR of complt.

5. Place of occurrence: a) Direction and Distance from P.S. G.C. College Post Office 2 K.M. West.
b) Address: G.C. College Post Office P.S. Silchar, Beat No. G.C. College Post Office.
c) In case outside limit of this police station, then the name of P.S. District....

6. Complainant/Informant:-

- Name- Shri Birendra Ranjan Das Gupta
- Father's/Husband's Name:- Lt. Gagan Chandra Das Gupta
- Date / Year of Birth 1-6-45
- Nationality- Indian
- Passport No. Date of issue.... Place of issue....
- Occupation- Asstt. Supt. of Post Office's, Silchar North Sub-Divn. Slc.
- Address:- Office of the Sr. Supt. of Post Office's, Cachar Silchar, Silchar-783001 P.S. Silchar Dist. Cachar, Phone-20035/20242

Attested

Advocate.

ASSAM



-2-

7. Details of known/suspected/unknown accused with full particulars :-

Accd:- 4. Dilip Singha, Sirba Hirok Mike house, G.C. College
(ii) Deb Charan Rabidas, Santi Engineering P.O. G.C. College

8. Reasons for delay in reporting by the complainant/Informant
FIR received through Compl. of the P. S. timely.

9. Particulars of properties stolen/involved (attach separate sheet, if reqd). As per FIR

10. Total value of properties stolen/involved: Rs. 91,800/-

11. Inquest report/ U.D. case No. if any:-

12. F.I.R. contents (Attach separate sheets, if reqd). The original FIR of complt. is enclosed herewith,

13. Action taken: Since the above report reveals a commission of offence (s) u/s as mentioned at Item No.2, registered the case and took up the investigation/ directed S.I.F.R. Sen of Silchar P.S. to take up the investigation/transferred to P.S. on point of jurisdiction.

F.I.R. read over to the Complainant/Informant admitted to be correctly recorded and a copy given to the Complainant/ Informant free of cost.

Signature of the officer-in-charge
Police station with

Name- Sd/- Ramendra Dutta Roy
Rank:- Insp. Officer-in-charge
Police station, Silchar

Sd/- Ramendra Ranjan
Das Gupta

Signature/ Thumb impression
of the Complainant/Informant

5-7-96

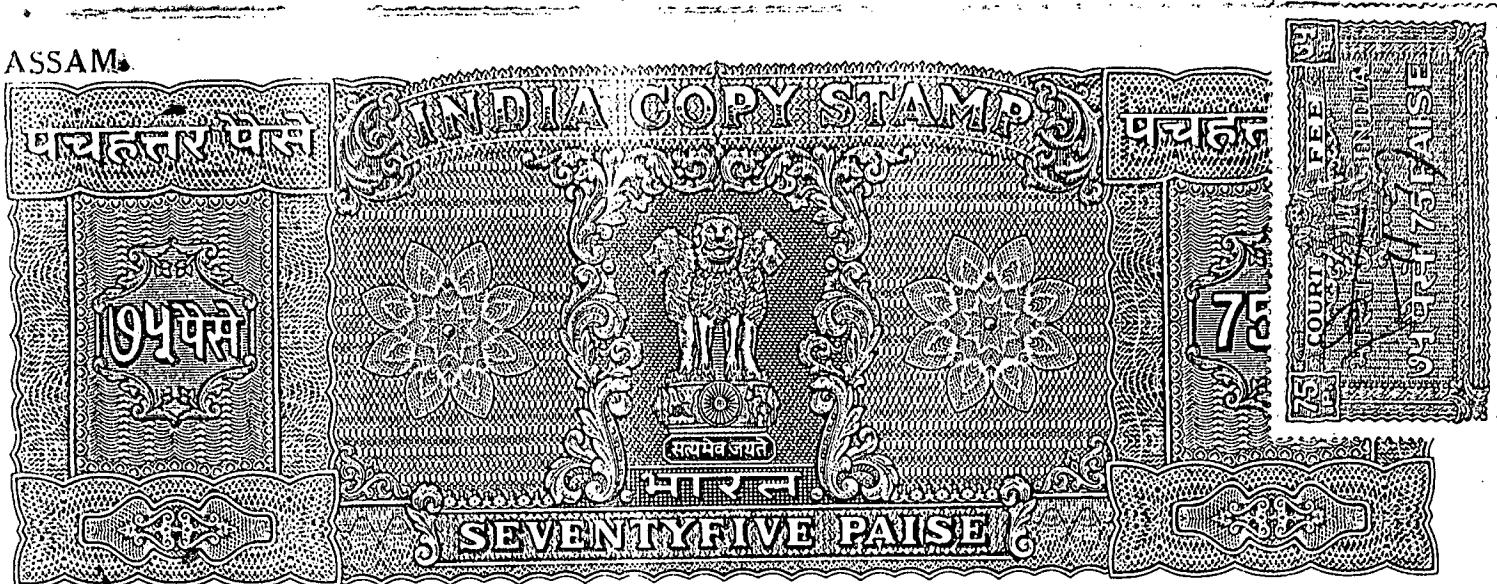
Received & Registered Silchar P.S. case No. 646/96 d.t. 5-7-96
u/s 420 I.P.C.

Sd/- (Illegible)

Insp. Officer-in-charge
Police station, Silchar.

5-7-96

ASSAM



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलिओ की अपेक्षित राश्या राखित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलिओ देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

- 3 -

GOVT. OF INDIA
MINISTRY OF COMMUNICATION
DEPARTMENT OF POST
OFFICE OF THE SR-SUPDT. OF POST OFFICES: : CACHAR DH:
SILCHAR - 788001

To

The Officer-in-Charge
Silchar Police Station
Silchar - 788001

No. F1/Misc-5/96-97 Dated Silchar the 5-7-1996

Sub:- Issue of bogus Money orders.

Sir,

The following money orders issued from different field Post Offices mentioned below suspected to be fraudulently issued bogus and paid through G.C. College Post Office to the following payees. Kindly take necessary action for booking of the culprits of the racket. It is suspected that such bogus money orders might have been issued and paid to different suspected payees.

Particulars of Bogue money orders so far paid.

Office of Issue	M.O. No.	Date of issue	Amount	Date of payment	Name/address of the payees
1. FPO 784	1816	18-4-96	Rs.2000/-	14.5.96	Dilip Singh /Sinha Hirok Mike House G.C. College
2. FPO 784	1817	18-4-96	Rs.2000/-	14.5.96	do
3. FPO 784	1815 (1815)	18-4-	Rs.2000/-	14.5.96	do
4. do-787	1813	15-5-96	Rs.2000/-	21.5.96	do
5. do-787	1812	18.5.96	Rs.2000/-	21.5.96	do



ASSAM

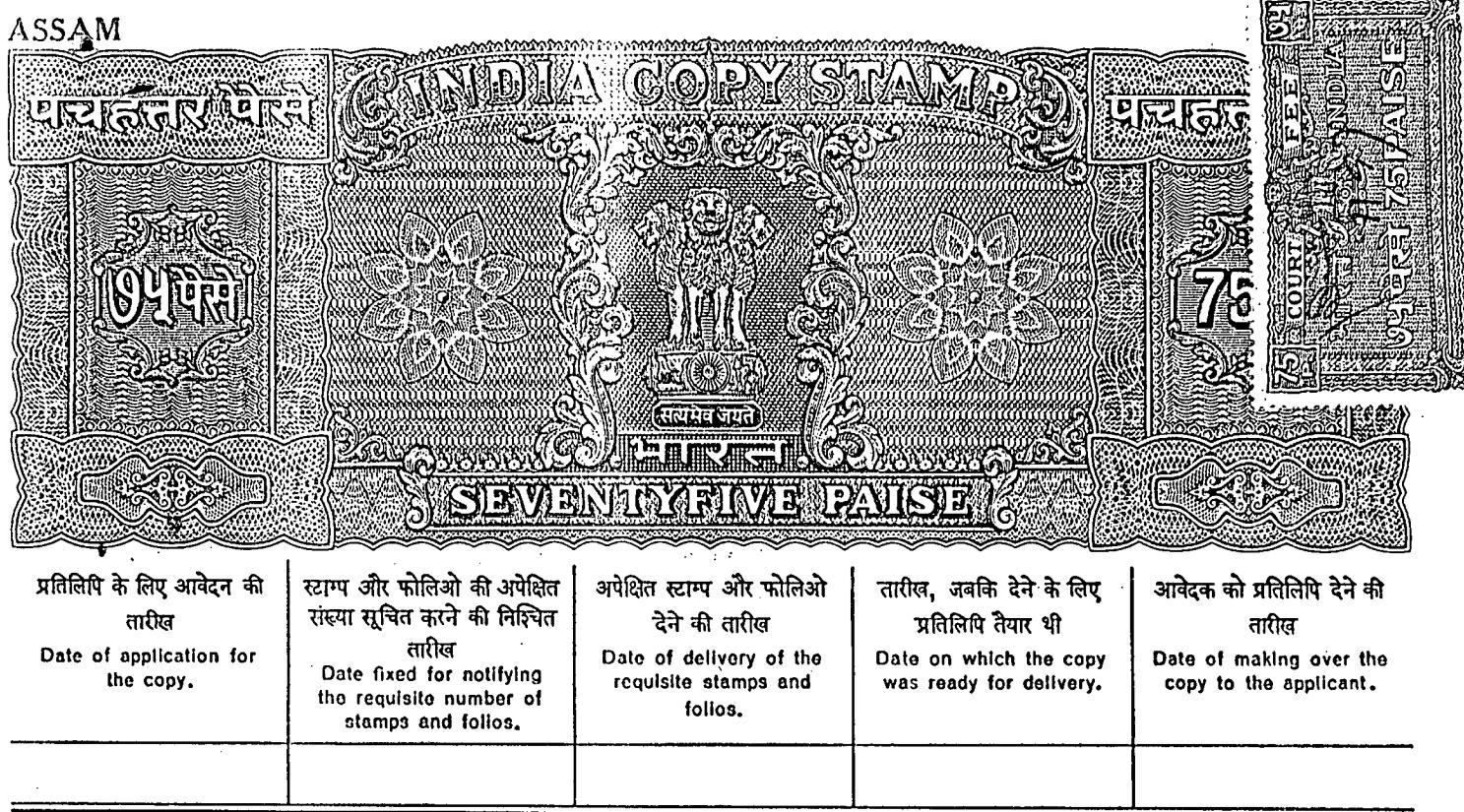


प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलिओ की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलिओ देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.



5. DFO 787	1611	15-5-96	Rs.2000/-	21-5-96	-da
6. " 787	3754	5-6-96	Rs.2000/-	14-6-96	-da
8. " 787	3755	5-6-96	Rs.2000/-	14-6-96	-da
9. " 787	3753	5-6-96	Rs.2000/-	14-6-96	-da
10. " 787	3752	5-6-96	Rs.2000/-	14-6-96	-da
11. " 608	414	21-12-95	Rs.2000/-	5-1-96	-da
12. " 608	412	21-12-95	Rs.2000/-	5-1-96	-da
13. " 608	413	21-12-95	Rs.2000/-	5-1-96	-da
14. " 609	1220	11-1-96	Rs.2000/-	20-1-96	-da
15. " 609	1219	11-1-96	Rs.2000/-	20-1-96	-da
16. " 609	1221	11-1-96	Rs.1800/-	20-1-96	-da
17. " 987	1117	27-1-96	Rs.2000/-	6/8-2-96	-da
18. " 987	1116	27-1-96	Rs.2000/-	8-2-96	-da
19. " 987	1118	27-1-96	Rs.2000/-	8-2-96	-da
20. " 987	2115	3-2-96	Rs.2000/-	16-2-96	-da
21. " 987	2114	3-2-96	Rs.2000/-	16-2-96	-da
22. " 987	2113	3-2-96	Rs.2000/-	16-2-96	-da
23. " 1981	1219	16-2-96	Rs.2000/-	28-2-96	-da
24. " 1981	1221	16-2-96	Rs.2000/-	28-2-96	-da
25. " 1981	1220	16-2-96	Rs.2000/-	28-2-96	-da
26. " 1981	2461	24-2-96	Rs.2000/-	16-3-96	-da
27. " 1981	2462	24-2-96	Rs.2000/-	15-3-96	-da
28. " 1980	2467	22-2-96	Rs.2000/-	15-3-96	-da

ASSAM



- 5 -

Sl. No.	Office of issue	M.O. No.	Date of issue	Date of amount	Date of payment	Name and Address of Payee
37.	FPD 798	4149	28.3.96	Rs. 2000/-	12.4.96	Dip Singh/ Sinha, Hirok Mike House G. C. College P.O.
38.	" 798	4150	28.3.96	Rs. 2000/-	12.4.96	-do-
39.	" 784	747	23.4.96	Rs. 2000/-	4.5.96	-do-
40.	" 784	748	23.4.96	Rs. 2000/-	4.5.96	-do-
41.	" 784	749	23.4.96	Rs. 2000/-	4.5.96	-do-
42.	" 608	392	2.12.95	Rs. 2000/-	19.12.95	-do-
43.	" 608	393	2.12.95	Rs. 2000/-	19.12.95	-do-
44.	" 608	394	2.12.95	Rs. 2000/-	19.4.95	-do-



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

-6-

45. FPO 179	280	12-10-95	Rs. 200/-	25-10-95	-6-
46. " 179	279	12-10-95	Rs. 150/-	25-10-95	-da-
47. " 791	540	11-9-95	Rs. 1000/-	6-10-95	-da-
48. " 791	539	11-9-95	Rs. 2000/-	6-10-95	-da-
49. " 791	1342	5-8-95	Rs. 2000/-	15-9-95	-da-
50. " 791	1343	5-8-95	Rs. 2000/-	15-9-95	-da-

Total Rs. 9180/-

Yours faithfully,

sd/- (Illegible)

(B.R. DASGUPTA)
Asstt. Supdt. of Post Offices,
Silchar North Sub-Div. Silchar
788001.

Copy to:-

The Superintendent of Police, Cachar, Silchar for
kind information and necessary action.

O/C

sd/- (Illegible)
Asstt. Supdt. of Post Offices,
Silchar North Sub-Div. Silchar
788001.

Typed by *Chakravarty* compared by
T. p. t. Copyist *Prabir* 13/11/97
U.D. Asstt.

IDENTIFIED TO BE A TRUE COPY

Md. Rooyab Nodan Barhing

Read, S.S.I. Seal.
SILCHAR.

13/11/97

Authorised Under Section
78 Act. 1 of 1872

23-

Date 3

प्रस्ती (जो-51)
A.C.G.-67

Original

भारतीय डाक विभाग
DEPARTMENT OF POSTS INDIA.

डाक-तार विभाग अंक 1 के नियम 8, 154, 159 और
160 पाठ डाक-तार विभाग अंक 33 अंग 11
द्वितीय संस्करण के नियम 100 दंड 1 वाले तंत्रज्ञ
(प्रमुख प्रिस)

[See Rules 8, 154, 159 and 160 of Posts and Telegraphs Financial Handbook, Volume 1, Second Edition and Rule 100 of P. & T. Financial Handbook, Vol. III (Part 1), First Edition (Reprints)]

प्रमुख प्रिस 54
Book No. 54543 Date No.

Received from... A. Shah N.A.G. (E) B.P. Box
501 Rs. 150.00/- Date /10/92. From /10/92

on account of... Payment of 100-प्रमुख प्रिस
M. T. Postage Fees Received by दस्तावेज

Place Received by 52 अंग 11 वाले दस्तावेज
Signature
Designation

क्रमांक 12 दस्तावेज No. 38/Post Sd. 2-4-92
रु. 30,000/- B.P.E.

Attested
Dr.
Advocate

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 188 of 2002.

Date of Order : This the 29th day of May, 2003.

The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

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

Shri Ashis Naug,
S/o Late Ramesh Ch. Naug,
Vill & P.O. Kanchanpur,
Via Bibekananda Road,
Silchar-788007,
Dist. Cachar, Assam.

...Applicant

By Advocate Sri S. Sarma.

- Versus -

1. Union of India,
represented by the Secretary to the Govt. of India,
Ministry of Communication,
Dak Bhawan, New Delhi.

2. The Director, Postal Services,
Dibrugarh Region, Dibrugarh,
Office of the PMG, Dibrugarh.

3. The Senior Superintendent of Post Offices,
Cachar Division,
Silchar-788001.

...Respondents

By Sri A.K. Choudhury, Addl.C.G.S.C.

ORDER (ORAL)

CHOWDHURY J. (V.C)

The controversy pertains to the validity and legality of the removal of the applicant as Extra Departmental Branch Postmaster (EDBPM) in the following circumstances.

2. The applicant was working under the respondents as

1980 → EDBPM since 1980. In course of time he was transferred in the year 1986 to the Kanchanpur Branch Post Office. While he was serving as such a disciplinary proceeding was initiated against the applicant under Rule 8 of the P&P ED Agents (Conduct and Service) Rules, 1964. A statement of article of charges alongwith the proceeding was initiated vide order dated 20.4.99. The applicant was charged with the following article of charges :

Attested
Signature
Advocate.

Article-I : Shri Ashis Nag, while functioning as EDBPM Kanchanpur EDBO during the period from 13.1.96 to 18.1.96 received one FPO 608 M.O.No. 1350 dated 4.1.96 for Rs. 2000/- payable to Sri Mahesh Singh C/O Sudhir Singh, DBC P.O. Kanchanpur (Chincoorie) Silchar Dt-Cachar on the 13-1-96 and effected payment of the said M.O. on 18.1.96 taking LTI of the above person alongwith the signature of the person who had taken the LTI of the payee but without signature and permanent address of the witness/identifier even though the payee's address was not within the delivery jurisdiction of Kanchanpur EDBO.

Sri Ashis Nag, EDBPM Kanchanpur EDBO (now put off duty) is therefore considered to have violated the rules 7, Rule 34 (with note I below) and Rule 109(1) (2) (4) of the Rules for Branch offices as well as Rule 17 of the "P&T ED Agents (Conduct and Service) Rules, 1964.

Article : II - Shri Ashis Nag while functioning as EDBPM Kanchanpur EDBO during the period from 3-2-96 to 8-2-96 received one FPO 989 M.O. No. 1513 dt. 15-1-96 for Rs. 2000/- payable to Sri Subal Chasa, C/o Dharam Bricks Co., P.O. Kanchanpur, Silchar-7 (Chincoorie) Dt-Cachar on the 3.2.96 and effected payment of the said MO on 8.2.96 with dated signature (with dated as 7.2.96) on one Sri Subal Chasa with signature of one M. Singh (Full name not eligible) as witness/identifier but without the full name and complete permanent address even though the payee's address was not within the delivery jurisdiction of the Kanchanpur EDBO.

Shri Ashis Nag, EDBPM Kanchanpur EDBO (now put off duty) is therefore considered to have violated the provisions of Rule 7, Rule 34 (with Note I below) and Rule 109 (1)(2) (4) of the "Rules for Branch Offices" as well as Rule 17 of the "P&T ED Agents (Conduct and Service Rules, 1964."

Article III : Shri Ashis Nag while functioning as EDBPM Kanchanpur EDBO during the period from 14-2-96 to 16-2-96 received one FPO 1989 M.O.No. 1690 dated 18-1-96 for Rs.2000/- payable to Vijay Singh, C/o Mahesh Singh C/O Indra Bricks Co. P.O. Kanchanpur, Silchar-7, Vill. Kanchanpur (Chincoorie) on the 14-2-96. On the same day viz 14-2-96 said Shri Ashis Nag also received another FPO 1989 MO No. 1694 dated 18-1-96 for Rs.1500/- payable to one Sri Subal Singh C/O Surojit Singh C/o Indra Bricks Co. PO Kanchanpur, Silchar-7 vill. Kanchanpur (Chincoorie) Dt-Cachar. Both the above MOs were appears to have been paid on 15.2.96 and charged on 16.2.96 in the BO A/c Book even though the payee's address of both of above not the delivery jurisdiction of Kanchanpur EDBO. In the both cases permanent address of the witnesses/identifiers were not taken by said Shri Ashis nag.

Shri Ashis Nag, EDBPM Kanchanpur EDBO (now put off duty) is therefore considered to have violated the Rule 7, Rule 34 (with Note 1 below) and Rule 109 (1)(2) (4) of the "Rules for Branch Offices" as well as Rule 17 of the "P&T ED Agents (Conduct & Services) Rules, 1964.

Article-IV: Shri Ashis Nag while functioning as EDBPM Kanchanpur EDBO during the period from 14.2.96 to 17.2.96 received the following 2 MOs on 14.2.96:-

1) FPO - 1989 MO No. 1691 dated 18-1-96 for Rs.2000/- payable to Sri Nijoya Singh C/o Sri Mahesh Singh C/O Indra Bricks Co. PO Kanchanpur, Silchar-7 Vill Kanchanpur (Chincoorie) Dt-Cachar.

FPO 1989 M.O No.1693 dated 18-1-96 for Rs.1000/- payable to Sri Subota Singh C/o Surajit Singh C/o Indra Bricks Co. PO Kanchanpur, Silchar-7 Vill Kanchanpur (Chincoorie) Dt-Cachar.

Both the above MOs were paid on 16-2-96 and charged as paid on 17.2.96 by said Sri Ashis Nag though the address of both the payees are not within the delivery jurisdiction of Kanchanpur EDBO. In both the cases permanent address of the respective witnesses/identifiers were not obtained by said Sri Ashis Nag.

Shri Ashis Nag EDBPM Kanchanpur EDBO (on put off duty) while working as such on 21.8.93 received a sum of Rs. 50/- from the depositor of Kanchanpur EDBO SB A/c No. 9701159 and SB pass book for depositing the amount in SB account. He entered the said amount of Rs.50/- in the pass book under his signature and authenticated by the office date stamp impression. But did not credit the amount in the Govt. Accounts of the office, and thereby considered to have acted in a manner violating the provisions of Rule 131(3) of the Rules for Branch offices and Rule 17 of the P&T ED Agents (Conduct & Services) Rules, 1964."

The enquiry officer submitted his report dated 13.10.2000 holding the applicant guilty of the charges. The full text of the enquiry report is also reproduced herein below:

I was appointed as P.O. by the SSPO's Cachar Dn Silchar to present the case as stated in the subject.

I am submitting herewith a written brief as P.O. on the above occasion is as follows:

The hearing of the case were held on 28.9.99, 12.11.99, 31.02.00, 18.07.00, 29.08.2000 & 22.09.00. I attended in the court in all dates except on 28.9.99 i.e. the day of preliminary hearing when Sri B.K.Das SDI as had given proxy in my place. On that very day Sri Ashis Nag, the charged official admitted the charge voluntarily in black and

white brought against him, the article No.V under Annexure I & II of the DO's File No.F1-11/96-97/K.Pur/DA dated 20.4.99 reproduced in annexure-A.

In the regular hearing on 18.7.00 Shri B.R.Haldar ASPO's (North) Silchar as witness of the case stated that the addresses of the payees in all the money orders paid as stated in article I to IV under Annexure-I in DOs file was No.F1-11/96-97/K.pur/Da dated 20.4.99 reproduced in Annex-B was not within the delivery jurisdiction of Kanchanpur EDBO.

In the conclusion I can say firm that all the charges levelled against Sri Ashis Nag are fully justified and proved beyond doubt."

On receipt of the enquiry report the applicant submitted his representation in writing. by the impugned order dated 30.11.2000 the disciplinary authority on the basis of the enquiry report and considering the materials on record imposed the penalty of removal. The applicant preferred an appeal before the appellate authority and the appellate authority by its order dated 10.12.2001 rejected the appeal.

Hence this application assailing the legitimacy of the order of removal.

We have heard the learned counsel for the parties and perused the materials on record. The misconduct alleged against the applicant for Article I to IV are of similar in nature. The gravamen of these charges /that the applicant while functioning as EDBPM Kanchanpur during the relevant time received money orders and effected payment but without signature and address of the witness/identifier even though the payees address was not within the delivery jurisdiction of Kanchanpur EDBO. The applicant was charged for violation of rule 7, 34 read with the note 1 below, Rule 109 (1)(2) (4) of the Rules for Branch Offices as well as Rule 17 of the P&T ED Agents (Conduct and Service) Rules, 1964. As per Rule 109 the payment of money order at the window of the post office is to be made only on satisfactory proof of the identity of the claimant with the person named in the money order. The relevant extract of Rule 109 is reproduced below :

In ordinary cases of this kind, payment must not be made unless the claimant is identified at the post office by some trustworthy person known to the branch postmaster or the claimant produces other evidence to establish his identity to the satisfaction of the branch postmaster. It must be understood that the statements of the identifying person are not to be accepted without full enquiry as to his actual knowledge of the claimant. He should always be asked to explain how he became acquainted with the claimant, and how long he has known him. The information obtained from the person, who identifies the claimant, must be such as will enable the post office readily to find the payee again, should any mistake or fraud have occurred, and with this object the permanent address of the payee, as vouched for by the person who identifies him, must be noted on the money order by the identifier who should add his own address below his signature under the "identifier's certificate" printed on the money order form. If he refuses to comply with this request, the branch postmaster should exercise greater care in accepting the identification as genuine. It should not be considered evidence of the right of the claimant of a money order that the money has been remitted in response to a telegram sent by him.

In special cases, the branch postmaster may exercise his discretion as to making payment without insisting on strict compliance with the procedure described in the preceding paragraph, provided that he is satisfied by such other evidence as the claimant may be able to produce regarding the latter's identity with the payee."

According to the respondents when the payee's address was not within the jurisdiction of the branch office in that event he could disburse only on the basis of the signature and permanent address of the identifier. To that extent the department also relied upon the evidence of Mr B.R.Haldar. From the material evidence it appears that before the enquiry officer the enquiry authority admitted that the Rule 7 was not in vague. Mr Haldar however, stated that the payee of the money orders were outside the delivery jurisdiction of the branch office. There is no whisper in the charge memo that ✓

the payments were not made to the genuine persons. The only allegation was that applicant ought to have obtained the signature and permanent address of the witness identifier. As per the requirement of the rule 109 the postmaster is to be satisfied about the identity of the payee and he was asked to take necessary steps to that extent. There is no allegation that this was not paid to the genuine person. None of the person named in the article of charges I to IV were also examined. Rule 34 of the rules for the branch post office provides that whenever registered or insured articles are delivered to illiterate person or in which money is paid to such person on account of money orders, savings bank withdrawals pay, wages, contingent charges or for any other purpose the addressee's or payee's thumb impression, seal or other mark should whenever practicable be taken on the proper document (receipt, acknowledgement money order, application for withdrawal etc. There is also no allegation that the payee's thumb impression or signatures were not taken. the applicant was only charged for making payment without permanent address of the witness/identifier. The materials on record did not indicate that there was any contravention of the rules as alleged as regards rule 34. Evidence on record also did not clearly indicate as to the contravention of the rule 17 of the rules in regard to charge I to IV. As regards charge V the authority acted on the purported admission said to have been made by the applicant before the authority at the preliminary hearing. It seems that in the preliminary hearing the applicant stated in writing that he did not admit charges I, II, III and IV and thus therefore pleaded not guilty. In respect of Charge V he wrote that he admitted the charge and sought for condonation. Nonetheless when the matter was posted for hearing the applicant asked for the presence of Sri Sanjay Das of Kanchanpur to show and establish that he did not receive a sum of Rs. 50/- from Sri Sanjay

Das for depositing him money in the S.B A/c of Sri Das. As per allegation it was charged that the applicant entered the amount of Rs.50/- in the pass book but did not credit the same. The enquiry officer in his report did not make any comment on that issue on the score that the applicant admitted the same before the preliminary hearing. At the hearing stage as will appear from the enquiry officer's note dated 22.9.2000 that on the hearing date of 29.8.2000 the applicant desired to produce the witness No.2 in the article of charge No.V but he turned down the same since the article was admitted on the date of preliminary hearing on 28.9.99 and his request therefore could not be considered. The enquiry officer was not justified in refusing the applicant to produce his witness and establish view of his stand in the his innocence more so of in written statement against the charge No.V. In the written statement referred earlier the applicant did not admit the fact but he gave his own explanation that could not have been taken as admission. The written statement of the admission was not however taken note of by any of these authorities. The disciplinary authority did not record his findings ✓ each charge. The disciplinary authority on the other hand held that although money orders were not payable from Kanchanpur EDBO as the payees resided beyond the delivery jurisdiction he held that as per procedure these ought to have been returned to the Accounts office but instead doing so he irregularly paying these money orders violating the rules. It appears that those findings of the disciplinary authority goes counter to the allegation levelled against the applicant. As regards charge V he only relied with the purported admission of the applicant made on 28.9.99 that taking into consideration the written statement as alluded earlier. The

: 8 :

appellate authority also committed the same mistake. The appellate authority on the other hand gave its findings on matters which applicant was not even charged for. The appellate authority came to the finding that applicant made irregular payment of money orders amounting to Rs.10,500/- to the payees residing outside delivery jurisdiction of EBDO without obtaining proper witness and identification as required under rule 7, 34 and 109 of the rules from Branch officers and caused loss of the aforesaid amount. The applicant was not charged for that. There is no finding given by the appellate authority as regards charge No.V and accepted the finding of the disciplinary authority. The appellate authority was duty bound under the statute to examine the merits of the case and give his own finding and was also taken into consideration as to whether procedural safeguards were granted and punishment made was commensurate with the gravity of the alleged misconduct.

On consideration of all the materials we are of the opinion that the impugned order of removal cannot be sustained and accordingly the impugned order of removal dated 30.11.2000 is set aside and consequently the appellate order dated 10.12.2001 is also set aside and quashed. The applicant shall be reinstated in service but he shall not be entitled to any backwages. The applicant shall however will be entitled to all other service benefits like seniority etc., except the backwages.

The application is allowed to the extent indicated. There shall, however, be no order as to costs.

sd/ VICE-CHAIRMAN

sd/ MEMBER (A)

TRUE COPY

✓

16/6/C
Re: [unclear]

C.A.T. (C) 11/11/2001
Guadha 15/8/05

16/6/C

४० धी० जी०-६१ /A.C.G.-६१

भारतीय डाक विभाग

DEPARTMENT OF POSTS, INDIA

(देल्ही नियम २६७, डाक-तार विभाग पुस्तकाका का छान्त १, विशेष संस्करण)
(See Rule 267, Posts and Telegraphs Financial Handbook, Volume I,
Second Edition)

प्रार्थना की वदली पर चार्ज रिपोर्ट और डाकोती और डिक्रेट की रसीद
Charge Report and Receipt for cash and stamps on transfer of charge

क्रमांक १८३
Date 18/9/03
North Sub-Divisional Postmaster नियमित डिप्टी डाक अधिकारी है कि

क्रमांक १८३
Certified that the charge of the office of O.D.S B.P.M
was made over by (name) Ashis Banerjee

(नाम) को
to (name)

स्थान
at (place)

तारीख: का तारीख में
गणराज्य

on the (date) 18/9/03
before noon in accordance with
after

No ०८७/०८८ १/९/०३

सं.

तारीख

Dated

के अनुसार दे दिया।
from

Relieved Officer
Relieving Officer

18/9/03
[No. ०८७/०८८ १/९/०३]

Attested

Advocate.

To

The Senior Superintendent of Post Offices,
Cachar Division,
Silchar-799001.

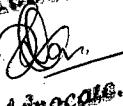
Sub:- Refund of Rs. 15000/- with upto date interest
realised from me unduly vide receipt No. 54 of
Book No. WB 14543 dtd. 10.7.96 allegedly on
account of payment of Bogue M.O. from FPOS.

Sir,

I have the honour to state that the Hon'ble
Central Administrative Tribunal, Guwahati Bench vide
its order dtd. 29.5.2003 in Original Application No.
188 of 2002 has nullified all the earlier actions
taken against me and held as such:-

..... "We are of the opinion that the impugned
order of removal cannot be sustained and accordingly
the impugned order of removal dtd. 30.11.2000 is
Set aside and consequently the appellate order dtd.
10.12.2001 is also set aside and quashed. The
appellant shall be reinstated in service but he shall
not be entitled to any backwages. The appellant
shall however will be entitled to all other service
benefits like seniority etc, except back wages".

That from a close scrutiny of the said order of
the CAT it is becoming clear that the CAT has not
only set aside the actions of the department taken
against me but also "QUASHED" the proceedings. It

Attested

Advocate.

Contd...2

- 2 -

means I was not at all guilty of the charges.

That Rs. 15000/- was illegally realised from me on 10.8.96 vide receipt No. 54 of Book No. WB 14543 of the Silchar H.P.O. tagging me falsely with the allegation of payment of Dugua M.O. from FPOs. I am holding that receipt till now. Had that money been in the form of certificates etc. it would have almost redoubled by this time.

By this letter I beg to pray to you to refund the said amount with upto date interest as if the said amount is lying in fixed deposit with you within a period of one month from the date of receipt of this letter and oblige.

Yours faithfully,

Ashis Naug

Date :- 18.11.2003. (Ashis Naug)

18/11/2003 S/O Late Ramesh Ch. Naug.
Vill. & P.O. Kanchanpur,
Silchar- 788007. Cachar.

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

Registered/AD

To,

Shri Ashis Naug,
S/O late Ramesh Ch. Naug
PO & Vill Kanchanpur
Via V.N. Road, Dt-Cachar.

No. 111-11/96-97/CAT'

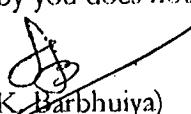
Dated Silchar the 4.12.2003

Ref:- Your letter dated 17-11-03 regarding refund of Rs. 15000/- credited by you voluntarily on 10-7-96.

It appears from the records of this office that the aforesaid amount of Rs. 15,000/- (Rs. fifteen thousand) only was credited by you voluntarily at Silchar H.O. on 10-7-96 being the value of the Bogus Money orders paid at Kanchanpur B.O.

Moreover, the order dated 29-5-03 in OA No. 188/2002 is quite clear. As per said order you are to be re-instated in service without any backwage. There appears nothing more than that.

Hence, the question of refund of the amount credited voluntarily by you does not arise at all.


(J. K. Barhuiya)
Sr. Supdt. of Post Offices,
Cachar Division Silchar-788 001

Attested
Advocate

Sri Siddhartha Sarma
Advocate
Assam High Court, Guwahati.

M. A. Road, Rehabari,
Guwahati-781008
(0361-2622996)

Ref. No.

Date, ~~20/05/03~~
13/5/03
13/5/03

SR. SUPDT. OF POST OFFICES

18 MAY 2003

Cachar Division, Assam

To
The Senior Superintendent of Post Offices
Cachar Division,
Cachar.

Sub: Legal Notice

Sir,

Upon authority and as per instruction of my client Sri Ashish Naug, GDS.BPM, Kanchanpur, Silchar, Dist-Cachar, I give you this legal notice as follows:-

That my client aforesaid in the year 1980 got his appointment as EDPM in the Kanchanpur PO and as such is continuing in the said capacity. Surprisingly enough on 10.7.96 pursuant to some false allegation an amount of Rs.15,000/- was recovered from my client vide receipt No.54 of Book No. WB14543 of Silchar Head Post Office. My client aforesaid having no other alternative paid the amount.

That my client aforesaid at the time of making recovery of the said amount was never allowed to place his say in the matter. Surprisingly enough on the same subject of such so-called misappropriation a 'charge-sheet' was issued invoking Rule 8 of P&T ED Agents (Conduct and Service Rule 1964). A departmental proceeding was initiated vide order dated 20.4.99 wherein on 13.10.2000 the Enquiry Officer submitted its report proving the charges, beyond doubt. Basing on the said report the Disciplinary Authority vide the Disciplinary Authority vide its order dated 30.11.2000 removed my client from his service. My client aforesaid preferred an appeal before the Appellate Authority, however same was rejected vide an order dated 10.12.2001.

My client aforesaid praying for setting aside of the proceeding as well as the orders dated 30.11.2000 and 10.12.2001 preferred OA No.108/02 before the Central Administrative Tribunal, Guwahati bench, Guwahati. The Hon'ble Central Administrative Tribunal, Guwahati bench vide its judgment and order dated 29.5.2003 allowed the OA setting aside the proceeding as well as the orders while reinstating my client in his service. Pursuant to the aforesaid judgment my client got his reinstatement and he took over his charge of GDSBPM of Kanchanpur B.O.

Excess

Process

Artha Sarma
High Court, Guwahati.

37-

M. A. Road, Rehabarl,
Guwahati-781008
(J) : 0361 - 2522996

Date: ~~02/08/04~~
13/5/03

That my client aforesaid on 17.11.2003 preferred a representation for refund of aforesaid amount, but same is yet to be acted upon. Since the proceeding as well as the impugned orders have been declared null and void the amount deducted from him cannot be said to be a legal one. Since the matter has been tested before the appropriate forum of law and since it attained its finality, such realisation is not at all sustainable and my client is entitled to refund of the said amount along with the interest at the rate of 21% p.a. with effect from 10.7.96.

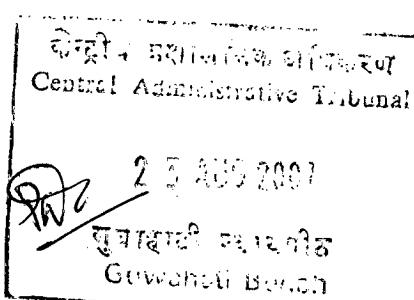
In that view of the matter I give you this legal notice making a demand that my client be paid/refunded the amount of Rs. 15,000/- along with an interest of at the rate of 21% p.a. w.e.f. 10.7.96 failing which instruction of my client is to take appropriate legal proceeding as per law.

I hope and trust that there would be no such occasion for any further litigation unnecessarily dragging you into the same.

Thanking you,

Sincerely yours,

Buddhhartha Sarma
Advocate



BEFORE THE CENTRAL ADMINISTRATION TRIBUNAL
KAMRUP AT GUWAHATI

O.A No.11 of 2007

Friday

Sri Ashis Naug.

..... Applicants.

-VS-

Union of India & Ors.

..... Respondents.

The written statement filed on behalf
of the respondents above named.

WRITTEN STATEMENT OF THE RESPONDENTS

1. That with regards to the statement made in paragraph 1 of the instant application the respondents beg to state that the Deptt of Posts, India Viz. Govt. of India had sustained loss to the extent of Rs. 91,800/- for payment of 50/- numbers of Bogus Money Orders, purported to have been issued from various filed post offices (Army Post Offices) and paid at the Kanchanpur BO on various dates during the months from October 1995 to June 1996. The applicant could realize his irregular payment and deposited a sum of Rs. 15,000/- only in partial recoupment of the loss of Govt money. Percentage of his responsibility of Sri Ashis Naug for the said loss may vary in the eyes of the Department Inquiry and in the eyes of CAT, Gauhati Bench, Guwahati but loss of the Govt money is an established fact and it is also an established fact that said Sri Ashis Naug had

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voluntarily fact and it is also an this being the actual fact the question of refund of the said amount of Rs. 15,000/- does not at arise at all.

1.a) The other for non-payment of his arrear allowance from 29/05/2003 (i.e. date of delivery of order in OA No. 188/2002) to 18/09/2003 (i.e. up to the date of his remaining out of rejoining in the post of GDSBOM, Kanchanpur BO rejoined on the 18/09/2003:-

In this respect the following points may be considered by Your Lordships for non-payment of his allowances from 29/05/2003 to 18/09/2003.

i. There was no specific order in OA No. 188/02 as to date on or before which Sri Ashis Naug is to be reinstated in the post of GDSBPM Kanchanpur BO.

ii. Certified free copy of the order dated 29/05/2003 was signed by the Section Officer (J), CAT, Guwahati on 06/06/2003 and the same was received by this office on 25/6/2003 and the orders for his rejoining in the Post of GDSBPM, Kanchanpur BO was issued on 02/07/2003 after cancellation of the "removal" order dated 30/11/2000 on the 25/06/2003 itself.

iii. But Sri Ashis Naug not be placed in the said Post of GDSBPM Kanchanpur BO on the ground that the person who had been working as GDSBPM, Kanchanpur BO (after putting Sri Ashis Naug off duty on 13/08/96) with effect from 05/02/1997 (F/N) and by

Presently K. Naik
Post: GDSBPM, Kanchanpur BO
Date: 18/09/2003

that time had completed more than 6 years and 5 months service could not be relieved then and there. She had also filed an OA before the CAT, Guwahati Bench on that ground vides OA No. 153/2003. This OA -153/03 was finalized on 21/09/2004 with the order that since Smt. Archana Seal had worked against the said post for a period of about seven years she is to be given a alternative appointment in another nearby office after observing the Deptt procedures.

iv. Since there was no stay order in OA No. 153/03 and since Smt. Seal was not handing over the charge to Sri Naug the Deptt had to take up the matter with the Supdt of Police, Cachar, Silchar and somehow could managed to handover the charge of the GDSBPM, Kanchanpur BO to Sri Ashis Naug on 18/09/03 (A/N) by force, taking Police help.

In view of the aforesaid fact as stated in sub-paras (i) to (iv) above it is submitted that the same is sufficient to support the contention that his reinstatement in the post of GDSBPM, Kanchanpur BO w.e.f 29/05/2003 was next to impossible (copy of the said order was received on 25/06/2003). Denial of the GDSBPM to hand over the charge, filing of OA-153/03 with CAT, Guwahati Bench even then this Deptt. had to take Police help and managed to handover charge of the office to Sri Ashis Naug forcefully in the A/N of 18/09/2003 and as such there was no scope for this Deptt to handover the charge of the office to Sri Naug prior to 18-09-2003 (A/N). Moreover there is no scope to the payment of duty

allowances to the 2 GD SEVAKS (Smt. Seal and Sri Naug) against a sanctioned one such post and the same will be contrary to the legal provisions, rules and standing Government instructions.

2. That with regard to the statement made in paragraph 2 of the instant application the respondents beg to state that Sri Ashis Naug had applied for refund of the sum of rs.15,000/- on the 17/11/2003 and the same was rejected on 01/12/2003 (received by Sri Ashis Naug on 04/12/2003) i.e. he remained silent for 3 years 1 1/2 months. Further Sri Naug had joined in the post of GDSBPM, Kanchanpur BO on 18/09/2003 (A/N) and getting his allowance from 19/09/2003 at the close of each calendar month from Sept. 03 onwards, i.e. during the long 3 years 4 months time, Sri Naug did not submit any application/representation to the payment of the allowances from 29/05/2003 to 18/09/2003 to this Department and a such his prayer in this respect filed before fagend of January 2007 is a clear incident of violation of "Limitation".

3. That with regards to the sattement made in paragraph 3 of the instant application the respondents have no comment.

4. That with regards to the statement made in paragraph 4.1 of the instant application. That with regards to the statement made in paragraph 4.1 of the instant applciation the respondent beg to state that the contention made in this paragraph are not correct hence denied was asked by the Sr. Supdt of Post Offices, Cachar

Division, Silchar to deposit any amount, which is evident from the copy receipt No.54 of Book No.WB14543 that he himself had deposited Rs.15,000/- at Silchar HO on 10/07/1996 (Vide Paras 8 to 10 of Brief History) in partial recoupment of the loss of this Deptt. In respect of the other allegation the respondent begs to reiterate the statements made in Paras 1 (a) & 2 above.

5. That with regards to the statement made in paragraph 4.2 of the instant application the respondents have no comment.

6. That with regards to the statement made in paragraph 4.4 of the instant application the respondent beg to state that there appears no conflict in between Deptt action and Police Investigation since this Deptt is required to take suitable action only for violation of the Deptt rules and procedures and Police is required to investigate as to whether there is any criminal aspects against the suspect under different sections of Cr.PC/IPC etc and both the proceeding can be proceeded inhe simultaneously.

7. That with regards to the statement made in paragraph 4.5 of the instant application the respondent beg to state that the FIR submitted to the Police Authority this Deptt had mentioned the facts of the case only and it is within the domain and it is the duty of the Investigating Officer of police to find out names of the culprits and/on to submit Charge sheet or FR to the Court of law. As regards deposits of Rs.15000/- by the applicant his allegation is untrue and baseless because

of the fact that he has no proff in support of his allegation rather the records available with the Deptt of Posts, India are more than sufficient to substantiate that the deposits made by him at Silchar HO on 10/07/1996.

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

9. That with regards to the statement made in paragraph 4.7 of the instant application the respondent beg to state that those are matter of records and the respondents do not admit anything which are not borne out of record.

10. That with regards to the statement made in paragraph 4.8 of the instant application the respondent beg to state that there was no dispute to the reinstatement of Sri Ashis Naug in the post of GDSBPM, Kanchanpur BO but it is the actual fact that there was no time limit fixed by the Hon'ble CAT, Guwahati Bench on or before which date he was to be reinstated. Though necessary action was started immediately on receipt of the certified copy of teh order dated 29/05/2003 in OA No.188/02 yet the reasons, which were beyond control of the Deptt of Posts, India, for the unavoidable delay has been elaborately stated in sub-para (i) to (iv) of Para 1(a) above. This is considered to be more than sufficient to prove that the despite sincere and honest attempts made it was not possible to re-instate Sri Naug in the post

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of GDSBPM, Kanchanpur BO on an earlier date than 18-09-2003 (A/N).

11. That with regard to the statement made in paragraph 4.9 of the instant application the respondents beg to state that the respondents have great respect to this Hon'ble Tribunal and had decided to honour the Judgement of the CAT, Guwahati Bench in OA No.188/02 and had started action for that purpose (vde 4.8 above) the question of filing any writ petition to Guwahati High Court did not arised at all.

12. That with regards to the statement made in paragraph 4.10 of the instant application the respondent beg to state that the reasons for such unavoidable delay in the reinstatement of the applicant in the Post of GDSBPM, Kanchanpur BO have been explained in details in Paras 1(a) with sub Paras thereof, in "Brief History" and in other foregoing paras the delay was unavoidable despite sincere and honest attempts made.

13. That with regards to the statement made in paragraph 4.II of teh instant application the respondent beg to state that on 17/11/2003 the applicant submitted an application to Sr. Supdtt. of post office, Cachar Devision Silchar, for refund of the sum of Rs.15,000/- which was allowed to had been illegally realize from him and credited at Silchar, No.on 10/7/96 with interest of certificates. After scrutiny of Silchar, HO revealed that sum of Rs.15,000/- only was credited by the applicant, EXBPM, Kanchanpur BO voluntarily the value of Bogus MOs paid at Kanchanpur, B.O. and not at all as 'Scruti-

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ny'. That the respondents further begs to state that the facts and circumstances of the instant case it is crystal clear that the allegation of realization of the said sum of Rs. 15,000/- does not stand at all. Rather the said sum of Rs. 15,000/- was voluntarily credited by him in partial recoupment of the loss of the department of posts, India caused due to irregular payment of sum bogus money orders.

The photocopy of the certificate of credit dated 20/11/2003 issued by the Sr. Postmaster, Silchar, HO is annexed herewith and marked as ANNEXURE-1.

14. That with regards to the statement made in paragraph-4.12 of the instant application the respondents beg to state that the procedures for disposal of notices from Advocates in force on the date of receipt of the 13/5/2005 did not allow the Department of Posts, India to give any reply thereto. Moreover Sri Naug was found not entitled to any of his claims.

15. That with regards to the statement made in paragraph-4.13 of the instant application the Respondent beg to state that the allegation made by the applicant is not at all correct that the order dated 29/5/2003 in OA No. 188/02 was misread by the Respondents. The applicant was ordered to the reinstatement in service without back wage (without ordering/fixing target date for his reinstatement in service) and he was reinstated in service as ordered by the CAT, Guwahati.

16. That with regards to the statement made in paragraphs-4.14 and 4.15 of the instant application of the instant application the respondents begs to state that the contention are made in this paragraphs are not correct. The Respondents further beg to state that the applicant is not entitled to get any claim put by the instant application.

17. That with regards to the statement made in paragraphs 5.1 to 5.8 of the instant application the respondents beg to state that the grounds setforth in the instant application by the applicant are not good ground and also not tenable in the eye of law and as such the instant application is liable to be dismissed.

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

19. That with regards to the statement made in paragraph 9 of the instant application the Respondents beg to state that the claim of the applicant is illegal and ill founded therefore the instant application is liable to be dismissed.

20. That the Respondents submit that the instant application has no merit and as such the application is liable to be dismissed.

VERIFICATION

I, Shri B. K. Maral

being authorised to hereby verify and declare that the statement made in this reply of contempt petition in para 16, 17, 18, 19 are true in my knowledge, these made in para 13 being matter of records are true to my information and believe and I have not suppressed any material fact.

And I sign this verification on this 16th day of August, 2009.

B
DEponent: B. K. Maral
24, Durgi Street
Ganpatipule, Post Office
Alore, Distt. - 560009
Karnataka, India
Mobile: 98452 50001

23/1

CERTIFICATE OF CREDIT

Date: 20.11.03 Post Office: Silchar H.O

The SS. DEPT. of Post Office
Cash Dr. Silchar - 788001

I certify that a sum of Rs. 15,000/-
(Rupees Fifteen Thousand only)
only on account of the articles detailed
below has been credited to the Govt. in the
Cash Account of the Silchar H.O.
Post Office on 10-07-1996.

mpd.
Senior
Postmaster,
Silchar H.O.

Details of Credit:

Rupees. Fifteen Thousand only (Rs. 15,000/-)
Credited by Arshish Nag G.P.M.
Kanchanpur P.O. credited voluntary
The value of Rogers M.O. paid at
Kanchanpur P.O. vide ACG-67 No. 5th Ad.
10-07-96
Reference to the invoice of

Letter No.: FA-11/96-97/CAT

Dated: 19-11-03

Name of the officer from whom the amount
was recovered:

Rs. 15,000/-

mpd.
S. S. DEPT.
Postmaster
Senior Postmaster
Silchar HPO 788001

*Temporary
Postmaster*