

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

OK

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 299/2007
R.A/C.P No.
E.P/M.A No.

1. Orders Sheet..... *OA*Pg. *1*to. *7*
MP 133/2008 orderPg. *1*to. *103.12.08*
2. Judgment/Order dtd. *04.09.2009*Pg. *1*to. *7. Allowed*
3. Judgment & Order dtd.Received from H.C/Supreme Court
High Court order dt 16.8.2010 WPC) 204569/2000 page-1 to 3
4. O.A.*299/2007*Pg. *1*to. *12/9*
5. E.P/M.P.*133/2008 petition not Journal in O.A file*Pg.to.
6. R.A/C.P.Pg.to.
- ✓ 7. W.S.Pg. *1*to. *28*
- ✓ 8. RejoinderPg. *1*to. *8*
9. ReplyPg.to.
10. Any other PapersPg.to.
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....
Office note with order sheet

SECTION OFFICER (Judl.)

Bahla
11.10.17

21.01.2008

Mr. M. Mahanta Advocate makes a

statement that ICAR has instructed Mrs.

CENTRAL

ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH:

R.S. Choudhury and associates to appear
for the contesting Respondents. He

1. Original Application NO. _____ undertakes to file 'Vakalatnama' for the

2. MIBs Petition No. _____ contesting Respondents, and also prays

3. Contempt Petition No. _____ for extension of time to file written
statement. The prayers are allowed.

4. Review Application No. _____ Call this matter on 18th February,
2008 awaiting written statement from the

Applicant(S) Dr. Sarveshwar Respondents VS Union of India & Crs

Advocate for the Applicants... M. Chanda, S. Nath, M. C. Dutta

..... (Khushiram) (M.R. Mohanty)
Member (A) Vice-Chairman

Advocate for the Respondant(S): K. R. Choudhury, Mrs. R. S. Choudhury, M. Mahanta
for Respondent Nos. 2 & 3.

Notes of the Registry

Date

Order of the Tribunal

04.12.2007

Heard Mr. M. Chanda learned
counsel for the Applicant and Mr. G.
Baishya, learned Sr. Standing Counsel
appearing for the Union of India.

Issue Notice on the Respondents.
Call this matter on 21.01.2008.

Registrar

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

Petition's Gms for
issue notices are
received with ~~and~~
(M.R. Mohanty)
envelopes saved

Di
3/12/07

Notice and order
Dt. 4/12/07 sent to
D/Section for issuing
to resp. nos. 1, 2 and
3 by regd. A/D post.

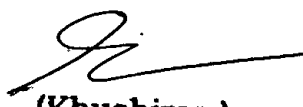
5/11/07. D/No-1718 to 1720
Dt. 5/12/07.

2-0.1.299/07
21.01.2008

Mr.M.Mahanta Advocate inako

statement that ICAR has instructed Mrs. R.S.Choudhury and associates to appear for the contesting Respondents. He undertakes to file 'Vakalatnama' for the contesting Respondents, and also prays for extension of time to file written statement. The prayers are allowed.

Call this matter on 18th February, 2008 awaiting written statement from the Respondents.



(Khushiram)
Member (A)


(M.R.Mohanty)
Vice-Chairman

18.02.2008

Mr.M.Mahanta, learned counsel appearing for Respondent No.2 & 3. is present. Mr.G.Baishya, learned Sr. Standing Counsel appearing for Respondent No.1 has prayed for three weeks time to file written statement. Prayer is allowed.

Call this matter on 5.3.2008.


(Khushiram)
Member(A)

in


05.03.2008

Mr.M.Chanda, learned counsel appearing for the Applicant is present. Ms.U.Das, learned Addl. Standing counsel appearing for the Respondents is not present in the Court due to some difficulty. In her place Mr.M.U. Ahmed, learned Addl. Standing Counsel requested for time to file written statement. Mr.M.Mahanta, counsel for the Respondents Nos. 2 & 3 is present.


Application is admitted.

Call this matter on 07.04.2008


① Service report
Awaited.


18.1.08.


W/s not filed.


15.2.08.

W/s not filed.


7.3.08.

W/s not filed.


4.4.08.

O.A. No. 299/2007

07.04.2008

Call this matter on 07.05.2008 awaiting
written statement from the Respondents.

(Khushiram)
Member (A)

(M.R.Mohanty)
Vice-Chairman

/bb/

07.05.2008

No written statement as yet filed by the Respondents in this case. Mr. M. Mahanta learned counsel appearing for the contesting Respondents undertakes to file written statement in course of the day. He should do so after serving a copy of the written statement to the learned counsel appearing for the Applicant. Mr. M. Chanda, learned counsel appearing for the Applicant seeks one month time to file rejoinder. Prayer is allowed.

Call this matter on 09.06.2008
awaiting rejoinder from the Applicants.

(Khushiram)
Member(A)

(M.R.Mohanty)
Vice-Chairman

9.6.2008

None appears for either of the parties. Written statement has already been filed in this case. No rejoinder has yet been filed in this case.

Call this matter on 25.6.2008 awaiting rejoinder.

[Khushiram]
Member[A]

[M.R.Mohanty]
Vice-Chairman

W/s not filed.

6.5.08.

9.5.08

W/s filed by
the Respondent Nos.
223 W/s served.

8/10.

Rejoinder not
filed.

16.06.08.

Rejoinder not
filed.

24.6.08

25.06.08 Despite several adjournments no
rejoinder has yet been filed in this case.
Call this matter on 23.07.2008.

(M.R.Mohanty)
Vice-Chairman

PG

O.A. 299 of 07
O.A. 98 of 2008 (M.P.82 of 08)

14.08.2008 Claims of the Applicants, to get family
23.07.2008 in this case reply has already been
filed. Rejoinder has yet to be filed by the
Applicant. Mrs. U. Dutta, learned counsel
appearing for the Applicant prays for more
time to file rejoinder.

Call this matter on 29th August, 2008,
awaiting rejoinder from the Applicant.

(Khushiram)
Member(A)

(M.R.Mohanty)
Vice-Chairman

lm

24.08.2008 in this case, rejoinder, undertaken

29.08.2008 In this case, rejoinder, undertakes to
file in course of the day. Copy of the same has
already been served on Mr. M. Mohanta,
learned counsel appearing for the
Respondent Nos. 2 & 3.

Call this matter for hearing on 3rd
October, 2008.

(Khushiram)
Member(A)

(M.R.Mohanty)
Vice-Chairman

lm

Rejoinder not
filed.

28.8.08

2.9.08

Rejoinder filed
by the Applicant.
Copy served.

Dis.

3.A.299/07

03.10.2008

On the prayer of Mr.M.Chanda, learned counsel appearing for the Applicant, call the matter on 3rd December, 2008 for hearing.

The case is ready for hearing.

2.12.08.

lm

(S.N.Shukla)
Member(A)

(M.R.Mohanty)
Vice-Chairman

03.12.2008

Registry is directed to issue notice to the newly added Respondent No.4 to file a reply by 29th January, 2009.

Copy of notice along with order dated 3/12/08 passed in MP MO-133/08 send to D/Sec. for issuing to newly added R-4 by regd. A/D post at the cost of applicant.

lm

(S.N.Shukla)
Member(A)

(M.R.Mohanty)
Vice-Chairman

29.01.2009

Mrs.U.Dutta, learned counsel appearing for the Applicant is present. Mr.M.Mahapatra Advocate undertakes to represent the newly added Respondent No.4. He undertakes to file a fresh vakalatnama from the Respondent No.4.

Call this matter on 31.03.2009 for hearing.

Written statement, if any, from the newly added Respondent No.4 may be filed before the next date.

Send copies of this order to the Respondent No.4 in the address given in the O.A.

(M.R.Mohanty)
Vice-Chairman

No reply filed by R.No-4.

28.1.09

Dt. 29.1.09

Pl. send copies of this order to the Respondent No.4 in the add. given in the O.A.

h381.

Copies of order dt 29.1.09 send to D/section for issuing to the Respondent by post.

/bb/

10.2.09

MP No
07.


Notice duly served on R-4


- 6 - 299/07

Case is ready
hearing.

31.03.2009

Call this matter on 22.05.2009 for hearing.


(M.R. Mohanty)
Vice-Chairman



30.3.09

/bb/

Case is ready
hearing.

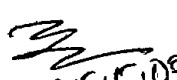
22.05.2009

Mr.M.Chanda, learned counsel
appearing for the Applicant is present.
Mr.M.Mahanta, learned counsel
representing the Respondents is also present.


21.5.09.

On the prayer of Mr.M.Mahanta, call this
matter on 26.05.2009.

Case is ready
hearing.


25.5.09.

(N.D. Dayal)
Member (A)

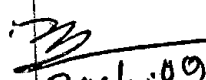

(M.R. Mohanty)
Vice-Chairman

/bb/

Case is ready
hearing.

26.05.2009

On the consent of the parties
call this matter on 01.07.2009.


30.6.09

(N.D. Dayal)
Member(A)

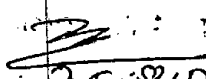

(M.R. Mohanty)
Vice-Chairman

pg

Case is ready
hearing.

01.07.2009

Call this Division Bench
matter for hearing on 26.08.2009.



25.8.09


(M.R. Mohanty)
Vice-Chairman

/lm/

26.08.2009 Heard Mr. S. Dutta, learned counsel appearing for the Applicant and Mrs. R. S. Choudhury, learned Counsel representing the Respondents.

Hearing concluded. Judgment reserved.


(M.K. Chaturvedi)
Member(A)


(M.R. Mohanty)
Vice-Chairman

/lm/

04.09.2009

Judgment pronounced in open court, kept in separate sheets.

09/09/09

The O.A. is allowed in terms of the

said order. No costs.


(M.K. Chaturvedi)
Member (A)


(M.R. Mohanty)
Vice-Chairman

Copy of judgment order dated 4/9/09 send to the D/section for issuing to the Applicant & Respds. by Regd. post. /bb/

Free copies of both side standing counsels. by hand.

D/No. 11449-11459 ^{Don} 9/9/09

Dtd. 23/9/09

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

O.A No. 299 of 2007

DATE OF DECISION: 04.09.2009

Dr.Sarveshwar Dayal

.....Applicant/s.

Mr.S.Dutta

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

- Versus -

U.O.I. & Ors

.....Respondent/s

Mrs. R.S.Choudhury, Standing counsel, ICAR

..... Advocate for the
Respondents

CORAM

**THE HON'BLE MR.MANORANJAN MOHANTY, VICE CHAIRMAN
THE HON'BLE MR.MADAN KUMAR CHATURVEDI, MEMBER (A)**

- | | | |
|----|---|--|
| 4. | Whether Reporters of local newspapers may be allowed to see the Judgment? | Yes/No <input checked="" type="checkbox"/> |
| 5. | Whether to be referred to the Reporter or not? | Yes/No <input checked="" type="checkbox"/> |
| 6. | Whether their Lordships wish to see the fair copy of the Judgment? | Yes/No <input checked="" type="checkbox"/> |

Judgment delivered by


Vice-Chairman/Member (A)

11

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 299 of 2007

Date of Order: This, the 04th Day of September, 2009

THE HON'BLE SHRI MANORANJAN MOHANTY, VICE CHAIRMAN

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

Dr.Sarveshwar Dayal
Central Potato Research Station
Peak View Road
Shillong, Meghalaya-793 009.

... Applicant.

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

- Versus -

1. The Union of India
represented by the Secretary
to the Government of India
Ministry of Agriculture
Krishi Bhavan, Dr.Rajendra Prasad Road
New Delhi - 110 001.
2. The President
Indian Council of Agricultural Research ;
Krishi Bhavan, Dr. Rajendra Prasad Road
New Delhi - 110 001.
3. The Director General
Indian Council of Agricultural Research
Krishi Bhavan, Dr. Rajendra Prasad Road
New Delhi - 110 001.
4. Indian Council of Agricultural Research
Represented by the Secretary
Krishi Bhavan, Dr. Rajendra Prasad Road
New Delhi - 110 001.

... Respondents.

By Mrs. R.S.Choudhury, Standing counsel, ICAR

ORDER
04/09/2009

M.K.CHATURVEDI, MEMBER (A):-

The Applicant is aggrieved against the imposition of ex-parte penalty order dated 05.11.2007 passed by the President of ICAR/New Delhi for the misconduct alleged to have been committed on 23.09.2003.



2. Mr.S.Dutta, Advocate appeared for the Applicant.

Mrs.R.S.Choudhury, Advocate appeared for the Respondents. We have heard the rival submissions in the light of the materials placed before us and the precedents relied upon.

3. The Applicant was initially appointed as Scientist in the year 1986 in ICAR (under Government of India/Ministry of Agriculture) and he was promoted as Scientist (Sr. Scale) and posted at Shillong in the month of June, 2004. While he was in the Central Potato Research Station at Shillong, penalty of compulsory retirement from service was imposed upon him vide the impugned ex-parte order dated 05.11.2007 by the President of ICAR/New Delhi for the alleged misconduct on 23.09.2003

3. At the outset, Mr.S.Dutta contended that the disciplinary proceeding (of the alleged misconduct, which had commenced with the issuance of the memorandum of charges dated 01.06.2004) had been conducted in complete violation of the procedure in as much as the Applicant had not been supplied with the requisite documents sought by him so as to put forward his defence in reply to the charge sheet and that the enquiry had been conducted ex-parte, thus leading to denial of opportunity to the Applicant to defend his case. Besides, it was argued that while passing the impugned order, the Disciplinary Authority did not take into account the fact of acquittal of the Applicant from the criminal prosecution launched on the self same set of charges/evidences. Our attention was invited to the letter dated 19.04.2005 appended as Annexure- 21 at page- 139 to the O.A.; wherein Applicant made request to access to the statement of witnesses in respect of Dr.Rameh Chand, Dr. Suneel Kumar, Dr. Robin Gogoi, Dr. Bhubnesh Vijay and Dr. Mahes

Chandra. It was pointed out to us that the Applicant, by his letter dated 05.08.2004, asked for the opportunity of being heard and asked for certain documents listed in the said letter and that, on the appointed day, when the hearing was fixed, the Applicant expressed his inability to attend the proceeding due to his illness (along with medical certificate from Dr. Kapoor of Kapoor Clinic, Ranjeet Nagar, Near Pusa Gate, New Delhi) which fact is also mentioned in the report of the Enquiry Officer. Relevant portion is reproduced here as under:-

"On 09.07.2007 at 2.30 PM, the Project Coordinator's office, CPRI, Shimla informed the undersigned that they have received one fax (Pages 46-47) and a telegram (Pages 48-49) from the CO expressing his inability to attend the proceedings due to ill health. Although, the fax was illegible, it appeared that a medical certificate was obtained from Dr. Kapoor of Kapoor Clinic, Ranjeet Nagar, Near Pusa Gate, New Delhi. The Doctor also appeared to have certified that he has advised rest for the period July 7-11, 2007. Thus, in response to proper notices issued for the regular hearings, the CO had again adopted dilatory and non-cooperative tactics. In past, several opportunities had been given to him and it was made clear in the proceedings held on April 17, 2007 that if he fails to present during the next hearing, the proceedings will be conducted ex-parte. Under these extra ordinary circumstances, the undersigned was compelled to hold ex-parte proceedings."

It was stated that action of the Enquiry Officer in not adjourning the matter caused prejudice to the Applicant in as much as he was denied the opportunity of being heard. Besides, he was not allowed to cross-examine the witnesses. It was further alleged that the Enquiry Officer did not correctly exercised the discretion while refusing to grant adjournment which was prayed on medical ground.

4. Reliance was placed on the decision of the Hon'ble Supreme Court rendered in the case of **State of U.P. vs. Shatrughan Lal and Another,**

Court rendered in the case of *State of U.P. vs. Shatrughan Lal and Another*

Reliance was placed on the decision of the Hon'ble Supreme

which was prayed on medical ground.

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Kapoor of Kapoor Clinic, Rajeev Nagar, Near Pusa Gate, New Delhi)
proceeding due to his illness (along with medical certificate from Dr.
the hearing was fixed, the Applicant expressed his inability to attend the
documents listed in the said letter and that, on the appointed date, when
08.08.2004, asked for the opportunity of being heard and asked for certain
Chapter. It was pointed out to us that the Applicant by his letter dated

reported in (1998) 6 SCC 651. In this case it was held that 'principles of natural justice require that the person against whom action is proposed to be taken has to be given an opportunity of hearing. This opportunity has to be an effective opportunity not a mere pretence. In departmental proceedings, where charge-sheet is issued and the documents which are proposed to be utilized against that person are indicated in the charge-sheet but copies thereof are not supplied to him in spite of his request, and he is, at the same time, called upon to submit his reply, it cannot be said that an effective opportunity to defend was provided to him'.

5. He further relied upon the case of **Union of India & Others vs. I.S.Singh**, reported in **1994 (2) SCC 518**. In the said case, there was an ex-parte enquiry and request for adjournment on medical grounds (allegedly accompanied by medical certificate) was rejected. Hon'ble Supreme Court held that rejection of said request violated the Rule 14(2) of CCS (CCA) Rules, 1965 as well as principles of natural justice.

6. Mrs.R.S.Choudhury invited our attention on the following gist of the preliminary hearing held on 16.07.2005:-

"The CO was again specifically asked to admit or deny the charges but again he maintained that he neither admits nor denies the charges. The PO informed that inspection of listed documents was carried out. The listed documents at Annexure-III were then taken on record from SE-1 to SE-11"

Mrs. Choudhury narrated the incident as projected in the enquiry report. It was stated that Dr.R.N.Verma, ex-Director of NRCM, was invited to visit the Centre on 23.09.2003 in the afternoon. Dr.Verma came to the Centre at 3.00 P.M. in the staff car and had discussions regarding the activities and progress of the NRCM with the Director, in his chamber



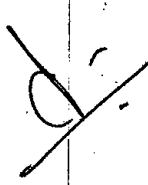
upto 4.00 P.M.. Thereafter he presided over the meeting. Dr.R.C.Upadhyay, Dr.B.Vijay, Dr.S.K.Singh, Dr.M.C.Yadav, and Shri Deep Kumar represented the meeting. At about 5 P.M. Dr. Verma went to the toilet. While returning to the meeting room, he met a Winter School Trainee, Dr. Robin Gogoi, (Scientist, Assam Agriculture University, Jorhat) in the corridor and started exchanging pleasantries with him. All of a sudden, Dr. Sarveshwar Dayal (Applicant) and Dr. (Mrs.) Yash Gupta waylaid Dr. Verma in the corridor and Applicant started beating him with his hands and Dr. (Mrs.) Yash Gupta provoked him further to beat and manhandle him further and said that "this is not enough and beat him more". Meanwhile, Dr. Gogoi (trainee from Assam) disengaged Dr. Dayal from Dr. Verma and Sr. Shwet Kamal (Research Associate) who was present nearby prevented Dr. Sarveshwar Dayal from further injury to Dr. Verma. Meanwhile Dr. Verma returned shivering with the shock to the meeting and ended the MSI meeting abruptly. Mrs. Choudhury took us through Annexure-B1 of the written statement dated 16.07.2005 which is in regard to proceedings of Preliminary hearing into the charges framed against Dr. Sarveshwar Dayal vide Memorandum F.No.3(2)/2004-Vig.(I) dated 01.06.2004. Paragraph 3 of the said Annexure-B1 reads as under:-

"3. Received a letter from the Presenting Officer intimating that the inspection of documents was carried out as per schedule. During the inspection, the charged officer requested that the last Para of page No.2 of document No.9 of Annexure-III may be provided to him as the same was not readable. The Presenting Officer agreed to procure a readable. The Presenting Officer agreed to procure a readable form of this document from the Council and supply a photocopy of the same to the charged officer."

Reliance was placed on the decision of Hon'ble Apex Court rendered in the case of **West Bokaro Colliery (Tisco Ltd.) vs. Ram Pravesh**

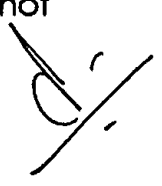
Singh, reported in **(2008) 3 SCC 729**. In this case question before the Hon'ble Court was whether it was proper for the Industrial Tribunal to re-appreciate evidence and arrive at findings different from domestic enquiry and what is the standard of proof in domestic enquiry? Hon'ble Apex Court held that where two views are possible on evidence on record, then the Industrial Tribunal should be very slow in coming to a conclusion other than the one arrived at by the domestic tribunal by substituting its opinion in place of the opinion of the domestic tribunal. Standard of proof in domestic enquiry is preponderance of probabilities and not proof beyond reasonable doubt. On facts it was held to be improper for the Tribunal to interfere with the findings on the grounds that there was no independent evidence apart from Management witnesses. It was further held that acquittal in criminal case would not operate as a bar for drawing up of a disciplinary proceeding against the delinquent. It is a well settled principle of law that yardstick and standard of proof in a criminal case is different from the one in disciplinary proceedings. While the standard of proof in a criminal case is proof beyond all reasonable doubt, the standard of proof in a departmental proceeding is preponderance of probabilities.

In the case of **Chairman and Managing Director, United Commercial Bank and Others vs. P.C.Kakkar** [reported in **(2003) 4 SCC 364**] the Hon'ble Supreme Court held that punishment imposed by the Disciplinary Authority unless shocking to the conscience of the Court is not subject to judicial review and where the Court finds the punishment to be shockingly disproportionate, it must record reasons for coming to such conclusion. Merely stating that punishment was shockingly disproportionate is not sufficient.



7. We have taken into consideration the entire conspectus of facts. It is an indispensable requirement of justice that party who has to decide shall hear both the sides, giving each an opportunity of hearing what is urged against him. The essential characteristic of what is often called "natural justice" is put by the Romans in two maxims: (1) NEMO JUDEX IN CAUSA SUA; and (2) AUDI ALTERAM PARTEM. The same may be put in two words: impartiality and fairness. Natural justice, therefore, requires not only that a person be heard but that he be given a hearing without any bias. 'AUDI ALTERAM PARTEM' is a highly effective rule devised by the courts to ensure that the statutory authority arrives at a just decision and it is calculated to act as a healthy check on the abuse and misuse of powers. Hence, decision reached should not be narrowed and its applicability circumscribed. The maxim 'AUDI ALTERAM PARTEM' has many facets. Two of them are: (a) notice of the case to be made; and (b) opportunity to explain. The aim of the rules of natural justice is to secure justice or to put it negatively to prevent miscarriage of justice. It intends to prevent the authority from acting arbitrarily affecting the rights of the concerned person. There is another maxim: QUI ALIQUID STATVERIT PARTE INAUDITA ALTERA AEQUUM LICET DIXERIT, HAUD AEQUUM FACERIT, which means: he should not determine any matter without hearing both sides, though he may have decided right, has not done justice. In other words, as it is now expressed "justice should not only be done but should manifestly be seen to be done". Thus, non-observance of natural justice itself is prejudice to any person.


8. Adverting to the facts of the present case, we find that the Applicant was not provided with all the materials which were used against him. His request for providing the statement of 5 witnesses was not



fully acceded to. On the date of hearing, despite furnishing of medical certificate, his prayer for adjournment was rejected without any cogent reason. It shows that the basic tenets of the natural justice were not followed while deciding the issue. The aim of both administrative enquiry as well as quasi-judicial enquiry is to arrive at a just decision. Doctrine of fairness or duty to act fairly and reasonably is a doctrine developed in the administrative law field to ensure the rules of law and to prevent failure of justice. Principles of natural justice demand that there should be fair determination of a cause. Arbitrariness will certainly not ensure fairness. An order made in violation of the rules of natural justice is not a proper order. Mere gathering of materials behind the back of the Applicant and not disclosing them to the Applicant affect the order if it forms the basis of the decision. We find there are good many missing links in the impugned order. Ends of justice requires that the matter must be thoroughly examined and due opportunity should be given to the Applicant of being heard. This was not done.

9. For the reasons mentioned above, the impugned order of penalty dated 05.11.2007 (Annexure-24) cannot be sustained, which is, hereby, set aside and quashed. The authorities may examine the issue afresh in conformity with the principles of natural justice.

10. We would, however like to observe that in the event any prayer is made by the Applicant to cross-examine the witnesses, Enquiry Officer may consider the same in accordance with law. We further direct the Respondents to provide all the required materials to the Applicant. Besides, adequate opportunity of being heard should also be provided to him.



11. In the result, the O.A. stands allowed to the extent indicated above. No costs.


(MADAN KUMAR CHATURVEDI)
ADMINISTRATIVE MEMBER

/BB/


(MANORANJAN MOHANTY)
VICE CHAIRMAN

8
Memo NO. 10,442 dated 3.9.10 received from the Deputy Registrar (T), Gauhati High Court; Gauhati may kindly be seen at flag 'A'.

Indian Council for Agricultural Research & ORS - vs Dr. Sakreshwar Dayal has filed W.P (C) 4569/2010 before the Hon'ble Gauhati High Court against the Judgment and order dated 4.9.2009. Passed in O.A - NO. 299/2007. The Hon'ble High Court has been pleased to stay of the operation of the impugned order till the next date fixed by its order 20.9.2010 passed in W.P (C) NO. 4569/2010.

This may be placed before the Hon'ble Member (J) and Hon'ble Member (A) for Their Lordships kind perusal.

Registrar

9/9.

Hon'ble Member (J)

10/9/2010

→ Hon'ble Member (A)

10/9/2010

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4

WP(C) No.4569/2010

BEFORE
HON'BLE THE CHIEF JUSTICE MR MADAN B LOKUR
HON'BLE MR JUSTICE HRISHIKESH ROY

16-08-2010
(Madan B Lokur, CJ)

The only ground taken by the Central Administrative Tribunal for deciding in favour of the petitioner is that on a particular date of hearing despite the charged officer having filed a medical certificate, his prayer for an adjournment was rejected without any cogent reason.

We find that this does not appear to be fully correct.

The proceedings with which we are concerned pertain to 17th April, 2007 and 9-11th July, 2007.

For the hearing on 17th April, 2007 the charged officer sent a medical certificate expressing his inability to attend the hearing. This was despite the fact that he knew fully well that witnesses were to be present in the hearing. The charged officer was asked to send a medical certificate from a govt/authosided medical attendant but he did not do so. On the contrary, it appears that despite not feeling well the charged officer sought to avail LTC facilities.

The enquiry was then adjourned to 9-11th July, 2007. On that day also, the charged officer did not enter appearance but it was only in the afternoon on 9th July, 20007 that he submitted a medical certificate apparently from a private doctor. Again this was despite knowing that witnesses were to be present for hearing.

FIXED - 20.9.10
URGENT
23

Noting by Officer or Asst. Secy.	Serial No.	Date	Office notes, reports, orders or proceedings with signature
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Central Administrative Tribunal
केन्द्रीय प्रशासनिक अति
732
- 8 SEP 2010
Guwahati Bench.
गुवाहाटी न्यायपीठ

On an overall consideration of the facts of the case as recorded in the order dated 10th July, 2007 the Enquiry Officer declined to adjourn the matter and he proceeded with the hearing.

Prima facie, it appears to us that the view taken by the Central Administrative Tribunal is not justified on facts or in law.

Issue notice to the respondents returnable on 20-9-2010.

In the meanwhile there will be a stay of the operation of the impugned order.

Sd/- Hrishikesh Roy
Judge

Sd/- Madan B. Lokur
Chief Justice

Memo No. 10,442 /WP(C) Dt. 3.9.10.
Copy forwarded for information and necessary action to :

Registrar,
Central Administrative Tribunal,
Gauhati Bench, Guwahati.

This has reference to order dtd. 4.9.2009 passed in
O.A.No. 299/2007.

By order-

[Signature]
27/8/10
Deputy Registrar(T)
Gauhati High Court, Guwahati.

[Signature]
27-8-10

IMMEDIATE

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal

3 DEC 2007

गुवाहाटी बेंच
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O. A. No. 299 /2007

Dr. Sarveshwar Dayal

-Vs-

Union of India and Others.

SYNOPSIS OF THE APPLICATION

Applicant while working as Scientist at National Research Centre for Mushroom (NRCM), Solan, Himachal Pradesh, he lodged complain of financial irregularity against the then Director, NRCM, Dr. R. N. Verma. On the basis of the said complaint and enquiry report Dr. R.N. Verma, was reverted from the post of Director to Principal Scientist. Since then Dr. R.N. Verma developed animosity against the applicant. The Administrative officer National Research Centre for Mushroom, ICAR, Chambaghat, Solan lodged an F.I.R on 23.09.03 in the Police Station, Solan City, Solan against the applicant and also against Dr. Mrs. Yash Gupta, alleging manhandling and beating Dr. R.N. Verma, Ex Director of NRCM on 23.09.03 afternoon. On the basis of the said FIR a criminal case No. 245/2 of 2003 was registered against the applicant before the learned C.J.M, Solan. During the pendency of the said Criminal proceeding the President, ICAR, through memorandum of charge sheet dated 01.06.04 instituted a disciplinary proceeding under Rule 14 of CCS (CCA) Rule 1965 against the applicant on the same set of fact/charge. Applicant was acquitted in the Criminal Case No. 245/2 of 2003 by the learned C.J.M, Solan vide judgment and order dated 22.06.07. Inquiry officer conducted his inquiry in a biased manner and submitted his inquiry report and also did not take into consideration the acquittal of the applicant in the Criminal case on the same set of fact/charge. The disciplinary authority in a most arbitrary manner, without proper application of mind, mechanically followed the findings of the inquiry officer without discussing the discrepancies, contradictions of the evidences recorded in the inquiry proceeding which was specifically pointed out by the applicant and also without considering the grounds raised by the applicant in his representation dated 27.09.2007 imposed penalty of compulsory retirement on the applicant by the impugned penalty order dated 05.11.2007.

- 3 DEC

गुवाहाटी न्यायपीठ
Guwahati Bench

Hence this Original Application challenging validity and legality of the impugned order of penalty dated 05.11.2007.

LIST OF DATES

- 03.02.2000- Applicant lodged complain of financial irregularity against the then Director, NRCM, Dr. R. N. Verma before the DC, Solan. (Annexure- 1)
- 29.04.2002- Dr. R.N. Verma was reverted from the post of Director, NRCM, Solan to CPRI, Shimla as a Principal Scientist. (Annexure- 2)
- 23.09.2003- Administrative officer NRCM, Solan lodged an F.I.R against the applicant and also against Dr. Mrs. Yash Gupta, alleging manhandling and beating Dr. R.N. Verma, Ex Director NRCM.
- 01.06.2004- President, ICAR, during pendency of the criminal case issued memorandum of charge sheet under Rule 14 of CCS (CCA) Rules against the applicant proposing to hold enquiry on the basis of same fact/charge in the criminal proceeding. (Annexure- 3, 4)
- 22.06.2007- Ld. C.J.M. Solan, Himachal Pradesh in the Criminal Case No. 245/2 of 2003 acquitted the applicant as the prosecution failed to prove it's case against the applicant beyond all reasonable doubts. (Annexure- 5)
- 05.08.04, 30.09.04, 30.10.04, 16.04.05- Applicant prayed for supply of at least 37 documents for defending his case adequately. But no step was taken from the end of the competent authority for supply of those documents. (Annexure- 6 Series)
- 07.10.2004/23.02.05- Prayer for supply of documents has been rejected. As a result, the applicant could not submit a proper reply to the memo of charge sheet and thereby the respondents have denied a reasonable opportunity to the applicant. (Annexure- 7, 8)
- 17.07.2005- Applicant prayed for 56 additional defence documents but to no result. (Annexure- 9)
- 31.08.2005- Applicant's prayer for engagement of legal practitioner as defence assistant rejected. (Annexure- 10)
- 14.11.2005- Disciplinary authority rejected prayer of the applicant for change of I.O. (Annexure- 11)
- 09.11.2006- Applicant prayed for change of Inquiry officer. (Annexure- 12)
- 16.10.06, 03.04.07- Applicant's prayer for change of I.O rejected. (Annexure- 13, 14)
- 12.07.2007- Dr. Yadav was in his deposition before the I.O stated that he is not an eye witness of the incident, but he had learned the incident from Dr. Verma. Dr. Shwet Kamal claiming him one of the eye witnesses

- 3 DEC 2007

गुवाहाटी न्यायपीठ

iii

26

admitted that he is closely related (nephew) to the complainant Dr. R.N. Verma, Ex-Director. (Annexure-15 series)

- 03.03.2007- Applicant forwarded judgment and order dated 22.06.07 of Ld. C.J.M, Solan, in Criminal Case No. 245/2 of 2003 to the disciplinary authority. (Annexure- 16)
- 14.08.2007- Applicant submitted defence brief addressed to the I.O. (Annexure- 17)
- 27.08.2007- Inquiry Officer's report dated 27.08.07 communicated to the applicant through letter dated 12.09.07. (Annexure- 18 and 19)
- 27.09.2007- Applicant submitted representation against the inquiry report highlighting the irregularity and also the biasness of the I.O in the proceeding. (Annexure- 20)
- 19.04.05, 01.06.07- Applicant submitted representation praying for additional documents and the change of biased I.O. (Annexure- 21 series)
- 13.04.2007- Applicant was directed to obtain second medical opinion regarding his illness which was not delivered to the applicant. (Annexure- 22)
- 16.07.2007- Applicant submitted representation praying for undelivered fax message dated 13.04.07. Accordingly fax message dated 13.04.07 was delivered to the applicant. (Annexure- 23)
- 05.11.2007- Penalty of compulsory retirement imposed upon the applicant vide impugned penalty order dated 05.11.07. (Annexure- 24)
Hence this Original Application.

PRAYERS

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned charge sheet dated 01.06.2004 bearing Ref. No. 15/SD/2004/407 dated 28.07.2004 (Annexure- 3 and 4) and the impugned order of penalty of "compulsory retirement" issued vide order bearing No. F. No. 3 (2)/2004-Vig (D) dated 05.11.2007 (Annexure- 24).
2. That the Hon'ble Tribunal further be pleased to direct the respondents to reinstate the applicant in service with all service benefits including monetary benefits.
3. Costs of the application.
4. Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

- 3 DEC

गुवाहाटी न्यायपीठ
Guwahati Bench

iv 2*

Interim order prayed for:

During pendency of the application, the applicant prays for the following interim relief: -

1. That the Hon'ble Tribunal be pleased to stay operation of the impugned order of penalty of "compulsory retirement" issued vide order bearing No. F. No. 3 (2)/2004-Vig (D) dated 05.11.2007 (Annexure- 24) till disposal of the Original Application.
2. That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar to the respondents for providing the relief as prayed for.

- 7 DEC 2007

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

गुवाहाटी न्यायपीठ
GUWAHATI BENCH: GUWAHATI

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

Title of the case : O.A. No. 299/2007

Dr. Sarveshwar Dayal : Applicant.

-Versus-

Union of India & Ors. : Respondents.

INDEX

Sl. No.	Annexure	Particulars	Page No.
1.	---	Application	1-39
2.	---	Verification	-40-
3.	1	Copy of letter dated 03.02.2000	- 41 -
4.	2	Copy of order dated 29.04.02	- 42 -
5.	3 and 4	Copy of the memo of charge sheet dated 01.06.2004 communicated through letter dated 28.07.04	43-52 53-54
6.	5	Copy of judgment and order dated 22.06.07	55-65
7.	6 (Series)	Copy of the representations dated 05.08.04, 30.09.04, 30.10.04, 16.04.05.	66 - 75
8.	7	Copy of memorandum dated 07.10.04	- 76 -
9.	8	Copy of memorandum dated 23.02.05.	- 77 -
10.	9	Copy of the list of 56 additional defence documents submitted by the applicant on 17.07.2005	78-81
11.	10	Copy of the memorandum dated 31.08.05.	- 82 -
12.	11	Copy of the memorandum dated 14.11.05,	- 83 -
13.	12	Copy of the representation dated 09.11.06.	84-85
14.	13	Copy of the letter dated 16.10.06	- 86 -
15.	14	Copy of the letter dated 03.04.07	- 87 -
16.	15 (Series)	Copy of the statement of Dr. M.C. Yadav and Dr. S. Kamal.	88-92
17.	16	Copy of the representation dated 03.07.07	93-94
18.	17	Copy of the defence brief addressed to the inquiry officer dated 14.08.2007.	95-110
19.	18 and 19	Copy of the inquiry report dated 27.08.07 communicated through letter dated 12.09.07.	111 - 124 - 125 -
20.	20	Copy of the representation dated 27.09.2007 against the inquiry report.	126-138
21.	21 (Series)	Copy of representation dated 19.04.05 and 01.06.07.	139-143
22.	22	Copy of the fax message dated 13.04.07.	- 144 -
23.	23	Copy of representation dated 16.07.07.	- 145 -
24.	24	Copy of the impugned penalty order dated 05.11.2007	146 - 149

Filed By:

Wutla
Advocate

Date: - 3.12.2007

Sarveshwar Dayal

1
29
Filed by Mr. applicant
Through Mr. Butta, advocate
on 3.12.07

3 DEC 2007

Central Administrative Tribunal

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH GUWAHATI
Guwahati Bench

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

O.A. No. 299 /2007

BETWEEN:

Dr. Sarveshwar Dayal,
Central Potato Research Station,
Peak View Road,
Shillong, Meghalaya - 793009.

—Applicant.

-AND-

1. The Union of India,
Represented by Secretary to the
Government of India,
Ministry of Agriculture,
Krishi Bhavan, Dr. Rajendra Prasad Road,
New Delhi - 110001.

2. The President
Indian Council of Agricultural Research
Krishi Bhavan, Dr. Rajendra Prasad Road,
New Delhi - 110001.

3. The Director General,
Indian Council of Agricultural Research
Krishi Bhavan, Dr. Rajendra Prasad Road,
New Delhi - 110001.

4. Indian Council of Agricultural Research
Represented by the Secretary
Krishi Bhavan, Dr. Rajendra Prasad Road
New Delhi - 110001

..... Respondents.

DETAILS OF THE APPLICATION

1. Particulars of the order (s) against which this application is made:

This application is made against the impugned charge dated 01.06.2004 communicated vide letter No. F. No. 15/SD/2004/407 dated 28.07.2004 (Annexure-3 and 4) as well as against the impugned order of penalty of "compulsory retirement" issued vide order bearing No. F. No. 3 (2)/2004-Vig (D) dated 05.11.2007 (Annexure- 24) by the President, ICAR, New Delhi and further praying for a direction upon the respondents to reinstate the applicant in service with all service benefits including monetary benefits.

2. Jurisdiction of the Tribunal:

Sarveshwar Dayal

- 3 DEC 2007

The applicant declares that the subject ~~matter~~ of this application is well within the jurisdiction of this Hon'ble Tribunal.

3. Limitation:

The applicant further declares that this application is filed within the limitation prescribed under Section- 21 of the Administrative Tribunals Act' 1985.

4. Facts of the case:

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

4.2 That the applicant was initially appointed as Scientist in the year 1986 in the Department of Indian Council of Agricultural Research, Govt. of India, Ministry of Agriculture. Thereafter, the applicant was promoted as Scientist Senior Scale and eventually he was posted at Shillong in the month of June 2004, while posted as Scientist Senior scale in the Central Potato Research Station at Shillong, penalty of compulsory retirement from service is imposed upon him vide impugned order dated 05.11.2007 by the President, ICAR, New Delhi.

4.3 That your applicant while working at National Research Centre for Mushroom (NRCM), Solan, Himachal Pradesh he lodged a complain against the then Director, NRCM, Dr. R. N. Verma regarding financial irregularities. On the basis of said complain an inquiry was conducted by the Addl. District Magistrate, Solan and thereafter all the relevant documents was forwarded to the Director General, ICAR, Krishi Bhavan, New Delhi vide office letter dated 18.01.2000 for taking necessary action. The said fact would be evident from the letter of the D.C. Solan bearing No. E.dst. No. Gr/1-7/99-(321)-176 dated 03.02.2000. On the basis of the said complaint and enquiry report Dr. R.N. Verma, ex-Director, NRCM, Solan was transferred to CPRI, Simla as Principal Scientist by the Council. In other words, on the basis of the complaint of the applicant, Dr. R.N. Verma in fact reverted from the post of Director to Principal Scientist. Since then Dr. R.N. Verma's gone

Suresh Kumar Dey

- 3 DEC 2000

many fold animosity up against the ~~Applicant~~ However, Dr. Verma in the meanwhile retired from service on superannuation. It would be evident that vide Office order No. F.No. 53-2/89-Per III (Pl. II) dated 29.04.2002. Dr. R.N. Verma was transferred from NRCM, Solan to CPRI, Shimla and allowed to work only as a Principal Scientist but reverted from the post of Director. However, Dr. R.N. Verma did not comply with the order of the transfer but in the meanwhile he retired from service on superannuation from Solan itself.

Copy of Deputy Commissioner's letter dated 03.02.2000 and the order dated 29.04.02 are enclosed as Annexure- 1 and 2 respectively.

4.4 That the applicant in the instant application challenging the impugned charge sheet dated 01.06.2004 communicated vide letter bearing Ref No. 15/SD/2004/407 dated 28.07.2004 as well as validity and legality of the impugned order of penalty of "compulsory retirement" issued vide order bearing No. F. No. 3 (2)/2004-Vig (D) dated 05.11.2007 by the President, ICAR.

4.5 That it is stated that the administrative officer National Research Centre for Mushroom, ICAR, Chambaghat, Solan lodged an F.I.R on 23.09.2003 with the in charge Police Station, Solan City, Solan, Himachal Pradesh against the applicant and also against Dr. Mrs. Yash Gupta, alleging manhandling and beating Dr. R.N. Verma, Ex Director of National Research Centre for mushroom on 23.09.2003 afternoon while said Dr. Verma visited the then Director, NRCM Dr. R.P. Tiwary on 23.09.03. It is alleged in the F.I.R that during the course of meeting at about 5 P.M while Dr. Verma was talking to a inter School trainee Dr. Robin Gogoi on his return from urinal, the applicant started beating Dr. R.N. Verma, Ex. Director of NRCM, by his hand while Dr. Mrs. Yash Gupta Sr. Scientist provoked the applicant to beat him further. However, thereafter Dr. Shwet Kamal, Dr. S.K. Singh, Dr. Robin Gogoi, Dr. B. Vijay, Dr. R.C. Upadhaya and Sri Deep Kumar intervened and disengaged them. On the basis of the said FIR lodged at Solan Police Station a criminal case No. 245/2 of 2003 was registered against the applicant before the learned C.J.M, Solan for trial. During the pendency of the said Criminal

Sarvesh Kumar Dayal

- 3 DEC 2004

proceeding a disciplinary proceeding under Rule 14 of CCS (CCA) Rule 1965 was instituted against the applicant on the same set of fact/charge by the President, ICAR, Krishi Bhavan, New Delhi-110001 through memorandum of charge sheet dated 01.06.2004 communicated vide letter No. F. No. 15/SD/2004/407 dated 28.07.04.

A copy of the memo of charge sheet dated 01.06.2004 communicated through letter dated 28.07.04 are enclosed as Annexure- 3 and 4 respectively.

- 4.6 That it is stated that during the pendency of the disciplinary proceeding which was initiated against the applicant vide memorandum of charge sheet dated 01.06.04, against the applicant who was facing a criminal case on the same set of charge and evidences before the learned C.J.M, Solan, Himachal Pradesh in the Criminal Case No. 245/2 of 2003 was acquitted by the learned C.J.M, Solan vide judgment and order dated 22.06.2007 as the prosecution failed to prove it's case against the applicant beyond all reasonable doubts.

Copy of judgment and order dated 22.06.07 is enclosed herewith and marked as Annexure- 5.

- 4.7 That it is stated that during the pendency of the criminal proceeding, a disciplinary proceeding was initiated against the applicant on the same set of facts and evidences vide memorandum bearing letter No. F.No. 3(2)/2004-Vig (D) dated 01.06.2004. In the said memo of charge sheet the same allegation of committing physical assault to Dr. R.N. Verma, Ex Director of NRCM on 23.09.2003 is brought against the applicant. It is also alleged that by such an act the applicant has created an embarrassing and intolerable situation by indulging himself in an act of gross indiscipline and violence by physically assaulting Dr. R.N. Verma.

In the statement of imputation, the Disciplinary authority has alleged the same incident of assaulting Dr. R.N. Verma Ex Director, NRCM by the applicant on 23.09.2003 at NRCM, Solan at about 5 PM in the afternoon, while Dr. Mrs. Yash Gupta alleged to have provoked the applicant at the time of incident. The proceeding was initiated under Rule 14

Suresh Kumar Dyal

- 3 DEC 2007

गुवाहाटी न्यायाधीश
Guwahati Bench

5
33

of the CCS (CCA) Rules, 1965. However, the following listed witnesses have been examined in the disciplinary proceeding namely;

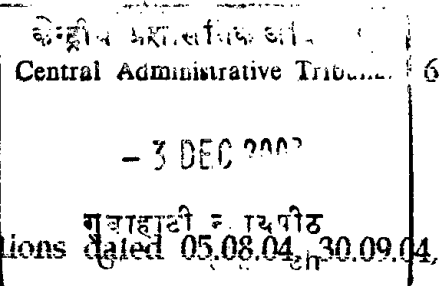
1. Dr. R.C. Upadhyay.
2. Dr. B. Vijay.
3. Dr. S.K. Singh.
4. Dr. M.C. Yadav.
5. Dr. Robin Gogoi.
6. Dr. Shwet Kamal.
7. Dr. R.N. Verma.

In the criminal proceedings the authority also relied upon the same set of witnesses (number in 4), in order to sustain the proposed criminal charges against the applicant except two additional witnesses.

- 4.8 That it is stated that the applicant after receipt of the memo of charge sheet dated 01.06.2004, requested the competent authority vide his letter dated 05.08.2004 demanding certain relevant documents for preparing his reply to the memo of charge sheet dated 01.06.2004. In the letter dated 05.08.2004 the applicant prayed for supply of at least 37 documents for defending his case adequately. But surprisingly no step was taken from the end of the competent authority for supply of those documents.

In such compelling circumstances, the applicant repeatedly approached the authorities for supply of the relevant documents by his reminder dated 30.09.2004 and lastly 30.10.2004 and 16.04.2005 to the authority. But surprisingly, no attempt is made by the respondents to supply the relevant documents as prayed by the applicant rather vide memorandum bearing No. F. No. 3 (2)/2004-Vig. (D) dated 07.10.2004 his prayer for supply of documents has been rejected stating that the relevant documents as listed in Annexure- III have been provided to the applicant along with the charge sheet. As a result, the applicant could not submit a proper reply to the memo of charge sheet and thereby the respondents have denied a reasonable opportunity to the applicant and as a result of non supply of those relevant documents the defence of the applicant is seriously prejudiced in defending his case before the Disciplinary Authority.

Suresh Kumar Dey



Copy of the representations dated 05.08.04, 30.09.04, 30.10.04, 16.04.05 and memorandum dated 07.10.04 and 23.02.05 are enclosed as Annexure- 6 (series), 7 and 8 respectively.

- 4.9 That it is stated that the Disciplinary Authority appointed Dr. P.S. Naik, Principal Scientist as Inquiry Officer to conduct the inquiry vide office order dated 03.05.2005 and Sri Charles Ekka appointed as Presenting officer by the Disciplinary Authority.
- 4.10 That it is stated that none of the documents prayed by the applicant for preparation of his reply of the article of charge communicated through memo dated 01.06.2004 was supplied. As a result, the applicant became handicapped and could not file his reply denying the charges, as because the applicant categorically stated in his representations indicated in the preceding paragraphs that he would file reply on receipt of the relevant documents as prayed by him. However, the applicant finding no response from the authority, on receipt of notices from the inquiry officer, the applicant attended the preliminary hearing on 15.07.2005 and also on 16.07.2005. That it is stated that the Under Secretary, Vigilance, ICAR, N. Delhi vide its memorandum bearing letter No. F. No. 3 (2)/2004-Vig (D) dated 12.09.2007 supplied the inquiry report dated 27.08.2007 of the inquiry officer with the instruction to the applicant that if he desired to submit any reply against the inquiry report, applicant may do so within 10 days from the date of receipt of the inquiry report.

On a careful reading of the inquiry report it would be evident that the applicant participated in the preliminary hearing on 15.07.2005 and 16.07.2005. The applicant prayed for engagement of a legal practitioner as Defence Assistant. However, the inquiry officer did not agree to such request on the ground that since the presenting officer is not a legal practitioner.

It would be evident from the record and daily order sheet of the inquiry proceeding held on 16.07.2005, that the applicant submitted a list of 56 additional documents before the inquiry officer demanding supply of those documents in order to defend his case adequately. However, the

Suresh Kumar Dey

inquiry authority agreed upon to supply only 4 documents out of those 56 documents. As per opinion of the Inquiry officer, other documents prayed by the applicant are not related to the present case, however due to non supply of relevant documents, the applicant was adversely affected in defending his case and as a result non supply of documents has caused serious prejudice to the applicant.

A copy of the list of 56 additional defence documents submitted by the applicant on 17.07.2005 is enclosed as Annexure- 9.

4.11 That it is stated that, on a mere perusal of the daily order sheet, it would be evident that no reason has been recorded for rejecting the prayer for supply of other 52 relevant documents. It was written that the charged official has agreed upon with the decision of the inquiry officer to supply only 4 relevant documents, the applicant never expressed his willingness or satisfaction over the rejection of his prayer for supply of other relevant documents rather the applicant wanted perusal of those other 52 additional relevant documents to prepare his defence adequately.

4.12 That it is stated that on 14.09.2005, regular hearing was held and the applicant participated in the said inquiry proceeding and the applicant prayed for a decision on his prayer for engagement of a legal practitioner as defence assistant. The applicant also made a request vide his representation dated 09.09.2006, 03.10.2006 and on 09.11. 2006 for change of Inquiry officer on the ground of biasness, but surprisingly the disciplinary authority without proper application of mind just in a very arbitrary manner, without assigning any valid reasons rejected the prayer of the applicant for engagement of a legal practitioner as defence counsel vide memorandum dated 31.08.2005. The disciplinary authority also arbitrarily rejected his prayer for change of inquiry officer vide memorandum dated 14.11.2005.

Copy of the memorandum dated 31.08.05 and 14.11.05, representation dated 09.11.06 and letters dated 16.10.06 and 03.04.07 are annexed herewith as Annexure- 10, 11, 12, 13, and 14 respectively.

Sarveshwar Dey

- 3 DFC 2007

4.13 That it is stated that the applicant was transferred and posted to Shillong from NRCM, Solan as a [punishment] on the basis of complaint before commencement of the hearing of the disciplinary proceeding which was initiated pursuant to the memo of charge sheet dated 01.06.2004, but the regular hearing of the inquiry proceeding held at Solan in the state of Himachal Pradesh, while the applicant was posted at Shillong. Therefore applicant required to attend the hearing of the inquiry proceeding after taking a long journey from Shillong. However the applicant co-operated all along with the inquiry authority but on two occasions he could not attend due to sickness which was duly intimated well in advance through fax, telegram etc. enclosing necessary medical certificate, but unfortunately inquiry officer proceeded with the inquiry ex parte and examined prosecution witnesses in the absence of the applicant and completed the inquiry with a ex parte decision and without giving a reasonable opportunity to the applicant. In the opinion of the inquiry officer, as it reveals from the inquiry report that the applicant deliberately remained absent in the inquiry proceeding on the pretext of sickness.

The inquiry officer arbitrarily held the ex-parte proceeding with the sole intention to somehow establish the charges brought against the applicant through memo of charge sheet dated 01.06.2004. The decision of ex-parte hearing taken by the inquiry officer is highly arbitrary, unfair and illegal and therefore the ex-parte inquiry proceeding is liable to be set aside and quashed.

4.14 That it is stated that the regular hearing of the inquiry proceeding was held by the inquiry officer from 16.04.2007 to 17.04.2007. However, the applicant had taken all preparation to attend the inquiry proceeding, but due to sudden sickness the applicant could not able to attend the hearing at Solan from Shillong, however on 12th April, 2007, the applicant sent a fax message to the inquiry authority enclosing a medical certificate for deferment of the date of hearing of the inquiry proceeding. The applicant again on 13.04.2007 as an abundant caution also sent a telegram intimating his sickness and for deferment of the date of inquiry.

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However, the next date of hearing was fixed from 09.07.2007 to 11.07.2007. the applicant after receipt of the intimation regarding date of hearing w.e.f 09.07.207 left for Solan, but unfortunately fell sick while reached at New Delhi finding no other way the applicant sent a fax as well as a telegram to the inquiry officer informing about his illness, but the respondent without making any inquiry regarding genuineness of his sickness started ex-parte proceeding even after receipt of the fax message as well as the as telegram. In the ex-parte inquiry proceeding they have examined the listed witnesses and the ex-parte inquiry conducted on 09.07.2007, 10.07.207 as well as 11.07.2007 and completed all formalities in total violation of principles of natural justice and as a result of conducting ex-parte inquiry proceeding the applicant did not get any reasonable opportunity to defend his case. On a mere reading of inquiry report, it would be evident that no attempt is made by the inquiry officer to ascertain correctness of his information regarding sickness. The ex-parte inquiry was conducted by the inquiry officer with an ulterior motive, to establish the alleged charges. It is relevant to mention here that only because the applicant on an earlier occasion i.e. in the month of April 2007 could not appear in the inquiry proceeding which was duly intimated, but on a mere reading of the inquiry report, it appears that on 10th July, 2007 that the inquiry officer duly received the intimation given by the applicant regarding his sickness from New Delhi, but in spite of receipt of such intimation the inquiry officer proceeded ex-parte and completed the inquiry proceeding by taking deposition from the prosecution witnesses without providing any opportunity for cross examination by fixing any other date. The inquiry officer also lost sight of the fact that the applicant is required to attend the inquiry proceeding from Shillong to Solan/Simla the state of Himachal Pradesh, which is a far off place from Shillong. Therefore action of the inquiry officer to proceed with the ex-parte hearing without providing any further opportunity to defend the case to the applicant is highly arbitrary, illegal, unfair and on that score alone the entire inquiry proceeding as well as the impugned order of penalty dated 05.11.2007 is liable to be set aside and quashed.

Sankar Kumar Dey

- 3 DEC 2007

गुवाहाटी न्यायाधीश
Guwahati

4.15 That it is stated that the criminal proceeding which was instituted at the instance of the respondents departments through criminal case No. 245/2 of 2003 before the Court of Chief Judicial Magistrate, Solan under Section 341, 323, 506, 34 IPC. The criminal proceeding before the learned Chief Judicial Magistrate was finally decided on 22.06.2007. In the said criminal proceeding in as many as 6 (six) prosecution witnesses out of seven were examined, the applicant also examined along with Mrs. Yash Gupta being accused person. The learned Chief Judicial Magistrate gave a detailed reasons for findings and ultimately came to the conclusion as follows:-

"Para 16. After going through the entire prosecution evidence, as discussed above, it has to be held that prosecution has failed to prove its case against the accused beyond all reasonable doubt. Hence, my findings on point No. 1 is in the negative and against the prosecution.

FINAL ORDER

17. In view of my findings on point No. 1 above, accused are given benefit of doubt and acquitted of the charges under section 341, 323, 506 read with section 34 IPC. File after completion be consigned to record room.

Announced in the open court of this 22nd of June, 2007 in the presence of Sh. Yashpal Singh APP for State and accused with Sh. D.K. Thakur, Adv."

It is quit clear from the judgment of the learned Chief Judicial Magistrate, Solan that the allegation of assaulting Dr. R.N. Verma, Ex-Director by the applicant has not been proved in the criminal trial and the said conclusion raised by the learned C.J.M after examining as many as 6 (six) witnesses of the prosecution side and learned CJM after being satisfied, the applicant was acquitted by the learned Trial Court on the same set of facts. On a careful reading of the paragraph 2 of the judgment as well as the memorandum of charge sheet dated 01.06.2004, it would be evident that although the applicant acquitted by the learned Trial Court against the same

Saravasthava Dey

- 3 DEC

set of identical charges, as such disciplinary authority has no jurisdiction to proceed with the disciplinary proceeding on the same set of charges.

4.16 That it is stated that the Under Secretary, Vigilance, ICAR, N. Delhi vide its memorandum bearing letter No. F. No. 3 (2)/2004-Vig (D) dated 12.09.2007 supplied the inquiry report dated 27.08.2007 of the inquiry officer with the instruction to the applicant that if he desired to submit any reply against the inquiry report, applicant may do so within 10 days from the date of receipt of the inquiry report.

On a careful reading of the inquiry report it would be evident that the applicant participated in the preliminary hearing on 15.07.2005 and subsequent hearing on 16.07.2005.

4.17 That it is stated that in the criminal proceeding, which was instituted on 16.10.2003, registered as Criminal Case No. 245/2 of 2003 before the Chief Judicial Magistrate, Solan in the State of Himachal Pradesh against the applicant as well as against Dr. Mrs. Yash Gupta, Senior Scientist of the NRCM, Solan the prosecution has examined as many as 6 (six) state witnesses. The following are the State witnesses who were examined by the prosecution side before the Trial Court.

1. Dr. S.K. Singh - PW 1. (Declared hostile)
2. Dr. B. Vijay - PW 2. (Declared hostile)
3. H.C Om Prakash - PW 3.
4. Dr. Robin Gogoi - PW 4. (Known person to complainant)
5. A.S.I Beeru Ahmed - PW 5.
6. Dr. R.N. Verma - PW 6.
7. M.C. Mohan Lal - PW 7.
8. Dr. R.C. Upadhaya - (withdrawn)

Out of the 7 (seven) prosecution witnesses following 6 (six) were examined in the disciplinary proceeding.

1. Dr. R.N. Verma. (Complainant)
2. Dr. S.K. Singh.
3. Dr. B. Vijay.
4. Dr. R.C. Upadhaya. (Withdrawn from Court)

Sarashwan Dayal

- 3 DEC 2007

गुवाहाटी न्यायपीठ

Guwahati Bench

5. Dr. Robin Gogoi
 6. Dr. M.C. Yadav
 7. Dr. Shwet Kamal
- Not in Court. (Additional witness)
- Not in Court. (Additional witness)

It is stated that out of the 7 (seven) state witnesses PW 1 and PW 2 Dr. S.K. Singh and Dr. B. Vijay were declared hostile and Dr. R.C Upadhaya was withdrawn. However, the 4 state witnesses namely Dr. Robin Gogoi, H.C. Om Prakash, Dr. R.N. Verma and Sri M.C. Mohanlal were examined before the learned Court as prosecution witness/State witnesses.

A charge memorandum dated 01.06.2004 served upon the applicant vide Central Potato Research Station Shillong (Meghalaya) 793009 Ref No. 15/SD/2004/407 dated 28.07.2004 initiating the proceedings under rule 14 of CCS (CCA) Rules 1965. In the departmental inquiry proceeding the following witnesses have been relied upon by the disciplinary authority and examined.

1. Dr. R.N. Verma.
2. Dr. Robin Gogoi.
3. Dr. R.C. Upadhya.
4. Dr. B. Vijay.
5. Dr. S.K. Singh.
6. Dr. M.C. Yadav (Additional witness)
7. Dr. Shwet Kamal (Additional witness)

Out of the 7 (seven) witnesses, Dr. M.C. Yadav and Dr. Shwet Kamal were the two additional witnesses who were examined in the departmental proceeding in addition to the witnesses examined in the trial Court. It is pertinent to mention here that the deposition made by Dr. M.C. Yadav before the inquiry proceeding on 12.07.2007. On a careful reading of his statement, it appears that Dr. Yadav was not an eye witness of the incident, but he has narrated the incident of manhandling which he had learned from Dr. R.N. Verma. The relevant portion of his statement is quoted below:-

".....meanwhile Dr. Verma came to us in the corridor. He was shivering with sadden face and narrated about the whole incident".

Sankar Kumar Dasgupta

- 3 DEC

The aforesaid statement is quoted from the daily order sheet dated 12.07.2007, when Dr. M.C. Yadav was examined and cross examined in connection with the inquiry proceeding initiated on the same set of charges against Dr. Mrs. Yash Gupta. On a cross examination Dr. M.C. Yadav categorically admitted and stated that he never saw the incident of assault as alleged. The relevant portion of cross examination is quoted below for perusal of the Hon'ble Court.

"Cross Examination:

CO: can you tell the time of MSI meeting.

Dr. M.C. Yadav: At about 4.30 P.M.

CO: After how much time Dr. Verma went for urinal?

Dr. M.C. Yadav: After about twenty minutes.

CO: Can you tell after how much time he returned from toilet?

Dr. M.C. Yadav: after about 7-10 minutes.

CO: Did you see Dr. Dayal and me assaulting Dr. R.N. Verma?

Dr M.C. Yadav: No, I did not see.

Re-Examination

PO: Do you think Dr. R.N.Verma was beaten by Dr. S.Dayal due to provocation and instigation by Dr. (Mrs.) Yash Gupta ?

Dr. M.C. Yadav: Can't say.

PO: Do you confirm and agree with the contents of the document P-6?

Dr. M.C. Yadav: Yes."

Therefore, it is quite clear from the statement of Dr. M.C. Yadav, that he was not an eye witness and therefore findings of the inquiry officer in the disciplinary proceedings cannot improved in any manner in view of examination of additional witness like Dr. M.C. Yadav. When the learned C.J.M after discussion of the evidences came to a clear finding that the prosecution has failed to prove its case against the accused beyond all reasonable doubts. It is also stated that Dr. R.C. Upadhaya is also not an eye witness.

Suresh Kumar Dayal

- 3 DEC 2003

गुवाहाटी न्यायाधीश

Guwahati Bench

It is pertinent to mention here that ~~one more~~ additional witness was examined in the inquiry proceeding i.e. Dr. Shwet Kamal who is an interested witness related to complainant Dr. R.N. Verma, Ex Director. It may be noted here at this stage that he gave his statement on 01.10.2003, when the alleged incident of assault was reported to be held on 23.09.2003. Moreover the statement given by Dr. Shwet Kamal on 01.10.2003, which was relied upon in the inquiry proceeding cannot be treated as a valid document because there is no diary number, and the same is without having any office seal and also not counter signed by the competent authority of NRCM, Solan. Therefore authenticity of the statement relied upon by the inquiry officer is doubtful. It is relevant to mention here that Dr. Shwet Kamal was also examined in the inquiry proceeding which was initiated by the same Disciplinary Authority in respect of Dr. Mrs Yash Gupta on the same alleged incidence of assault of Dr. R.N. Verma. In the said inquiry proceeding Dr. Shwet Kamal categorically admitted that he was a close relative of Dr. R.N. Verma. The relevant portion of Dr. Shwet Kamal is quoted hereunder:-

"CO: Are you related with Dr. R.N. Verma and what is your relationship with him?

Dr. Shwet Kamal: Yes, he is my maternal uncle.

CO: You said you were guiding a practical. Are you sure and can you tell what was the practical?

Dr. Shwet Kamal: I am sure that I was guiding a practical but at this moment I don't remember the topic of the practical.

CO: According to the time table of the Winter School Training Programme (D-1) the practical was of Genomic Isolation conducted by Dr. Yadav, Sh. Yogendra Tripathi and Sh. Sahil Mahfooz and the trainees have also endorsed to this effect. According to these documents you were not guiding the trainees? What you have to say about this?

Sanjiv Kumar Datta

- 3 DEC 2000

गुवाहाटी न्यायपीठ
Guwahati Bench

Dr. Shwet Kamal: Although my name was not here but in all the practicals the whole group of Dr. Singh, Dr. Yadav including myself were involved.

CO: You were guiding a practical and said that I went down-stairs. How is it possible to observe me going down from the laboratory?

Dr. Shwet Kamal: I have already stated that I came out in the corridor hearing the voice of Dr. Verma and Dr. Gogoi. In the meantime Dr. Yash Gupta went down stairs and the stairs were clearly visible where I was standing in the corridor.

CO: You said that Dr. Dayal came upstairs. Did he come alone?

Dr. Shwet Kamal: Dr. Dayal came first and Dr. (Mrs.) Yash Gupta was following Dr. Dayal.

CO: In your statement you have said that Dr. (Mrs.) Yash Gupta went down to fetch Dr. Dayal. Is it true?

Dr. Shwet Kamal: In view of whole incidence I presumed that Dr. (Mrs.) Yash Gupta had fetched Dr. Dayal.

CO: For how long Dr. R.N. Verma and Dr. Gogoi were talking before Dr. Dayal came up?

Dr. Shwet Kamal: It was about 5 to 7 minutes.

CO: How did Dr. Dayal embraced and slapped Dr. R.N. Verma and how long this incidence took place?

Dr. Shwet Kamal: Dr. Dayal came running towards Dr. Verma slapped him by his right hand and was trying to catch hold by both the hands to Dr. Verma. It was just one minute.

CO: Did you give your statement to the Police as stated in P-1?

Dr. Shwet Kamal: Yes.

CO: Did you know that a similar case on the same charges is underway in the court of CJM, Solan. Have you been called for deposition there?

Dr. Shwet Kamal: No, I don't have any idea.

Sarashwan Dayal

- 3 DEC 2004

CO: When you were disengaging Dr. Dayal from Dr. Verma what Mrs. Yash Gupta was doing?

Dr. Shwet Kamal: She was just behind me pulling me and saying 'Yeh to kuchh bhi nahi hai isko our padni chahiye'.

Re-Examination:

PO: Do you think this incidence took place only because Dr. Yash Gupta instigating Dr. Dayal?

Dr. Shwet Kamal: Yes, if she had not informed and provoked Dr. Dayal he might not have come up-stairs to hit Dr. Verma."

On a careful reading of the statement of Dr. Shwet Kamal, it appears that he has made his deposition in the inquiry proceeding as eye witness. Since Dr. Shwet Kamal has fairly admitted that he is close blood relative of the complainant Dr. R.N. Verma, therefore his statement should not have been relied upon since he is an interested witness closely related to the complainant Dr. R.N. Verma. Therefore it appears that out of two additional witnesses, who were examined in the inquiry proceeding initiated pursuant to the memo. of charge sheet dated 01.06.2004 in addition to the common witnesses examined in the criminal proceeding, as well as in the disciplinary proceeding in fact did not make any differences in the matter of standard of proof of the alleged charges of physical assault, brought against the applicant, as because Dr. M.C. Yadav fairly admitted during the cross examination that he is not a eye witness. On the other hand Dr. Shwet Kamal also admitted that he is closely related (nephew) to the complainant Dr. R.N. Verma, Ex-Director. Moreover, his statement is self contradictory as revealed from the cross examination.

In the circumstances explained above, the 2 (two) additional witnesses, who were examined in the inquiry proceeding could not bring any change in the standard of proof in view of the categorical finding of the learned C.J.M, that the prosecution has failed to prove its case beyond reasonable doubt. Therefore it can rightly be presumed that the same set of witnesses have been examined both in the trial court as well as in the

Sarabjit Dayal

Dr. Shwet Kamal

- 3 DEC 2007

गुवाहाटी न्यायाधीश

disciplinary proceeding. Hence the findings of the inquiry officer cannot stand on the face of the judgment and order dated 22.06.2007, where the applicant has been acquitted from same set of identical charges, and on that score alone the entire findings of the inquiry officer is liable to be set aside and quashed.

Copy of the statement of Dr. M.C. Yadav and Dr. Shwet Kamal is enclosed as Annexure- 15 (series).

4.18 That it is stated that by examining 2 (two) more additional witnesses in addition to the witnesses examined in the criminal proceeding before the learned CJM, Solan even then the statement of the two additional witness i.e. Dr. M.C. Yadav and Dr. Shwet Kamal could not able to prove the case of the disciplinary authority in the inquiry proceeding. By no stretch of imagination it can be said that the statement of Sri M.C. Yadav has improved the standard of prove of the case of the prosecution in the departmental inquiry since Dr. Yadav is not an eye witness of the alleged charges of physical assault as revealed from the statement of Sri. M. C. Yadav, while he was examined and cross examined in connection with the inquiry of Dr. Mrs. Yash Gupta, Senior Scientist in the identical charges, whereas Dr. S. Kamal is an "interested witness" who was not even produced before the learned CJM for examination. Therefore his statement cannot relied upon in the departmental inquiry. More so, Dr. Shwet Kamal specifically admitted that Dr. R.N. Verma is his "maternal uncle" on a specific quarry in the inquiry proceeding. Therefore deposition of 2 (two) additional witness cannot be relied upon in the inquiry proceeding for their alleged charge. However, 4 witnesses are common both in the criminal proceedings as well as departmental proceedings. Therefore when a competent court of law i.e. Learned C.J.M. Solan after examining all the witnesses and on close perusal of evidences came to the conclusion that the prosecution has failed to prove his case beyond all reasonable doubt. The findings of the inquiry officer holding the charges proved cannot be sustained in the eye of law and such consequential order of penalty of 'compulsory retirement' imposed vide order No. F. No. 3 (2)/2004-Vig (D) dated 5th November, 2007 is liable to be set aside and quashed.

Sunil Kumar Dey

- 3 DEC 2007

गुवाहाटी बेंच
Guwahati Bench

4.19 That it is stated that the departmental authority in the instant case initially lodged a F.I.R on 23.09.2003 and accordingly a criminal case was instituted against the same set of facts, charges, evidences and witnesses by registering a criminal case No. 245/2 of 2003 before the learned C.J.M, Solan. The learned C.J.M, Solan vide its judgment and order dated 22.06.2007 acquitted the applicant from the said offence by holding that the charges labeled by the State could not be proved beyond reasonable doubt and therefore it became final and conclusive. The fact of his acquittal is brought to the notice of the disciplinary authority by the applicant through his representation dated 03.07.2007. The applicant also brought the said fact of acquittal to the inquiry officer vide his defence brief dated 14.07.2007 and through his representation dated 27.09.2007 against the inquiry report addressed to the disciplinary authority but unfortunately neither the inquiry officer nor the disciplinary authority in spite of receipt of the intimation and copy of the judgment of acquittal of the applicant from the same set of charges, not considered seriously in anywhere in the inquiry report. Rather the inquiry officer in a most arbitrary manner made a mention in his inquiry report to the effect that he is not competent to comment on the findings of Hon'ble Criminal Court and rather made an allegation that he has not attached a copy of the Court order, whereas the copy of the judgment and order dated 22.06.2007 was supplied to the disciplinary authority on 03.07.2007. The disciplinary authority on the other hand while imposing the penalty, only, made a comment that the applicant has been acquitted due to benefit of doubt and not on merit and further stated that standard of proof in criminal case is different than the disciplinary proceeding and the disciplinary proceeding is required to be established on preponderance of probability in paragraph 6 of the impugned penalty order dated 05.11.2007. It is pertinent to mention here that the investigating officer and other departmental witnesses were examined in the trial court and thereafter learned C.J.M came to the conclusion that the prosecution could not prove the case beyond reasonable doubt, whereas disciplinary authority also relied upon the same set of witnesses, evidences except 2 (two) additional witnesses as indicated in the preceding paragraph, therefore the I.O cannot hold that the offence is proved on the face of the order of acquittal passed by the learned C.J.M,

- 3 DEC

Solan. The disciplinary authority is under the obligation to take into the note of the decision of learned CJM that the applicant is already acquitted on the same set of charges by the competent criminal court but the disciplinary authority unfortunately upheld the findings of the inquiry officer without proper application of mind and on that score alone the impugned order of penalty of compulsory retirement dated 05.11.2007 passed in an ex-parte proceeding is liable to be set aside and quashed.

Copy of the representation dated 03.07.07 is enclosed herewith and marked as Annexure- 16.

4.20 That it is stated that that even on a careful reading of the statement of the additional two witnesses i.e. Dr. M.C. Yadav as well as Dr. Shwet Kamal, it further appears that even the timing of the incidence of assault does not tally with each other statement. When Dr. M.C. Yadav in his cross examination has stated the alleged incidence has occurred at around 5 P.M, whereas Dr. Shwet Kamal in his statement stated that the incident of assault took place at around 4.45 P.M, therefore it further appears that there are contradictions about the commission of alleged offence about the timing of commission of alleged offence. Moreover the applicant in his defence brief pointed out lot of infirmities, discrepancies and contradictions in the evidence, more particularly in the deposition of the common witnesses, additional witnesses and the documents relied upon by the I.O in the inquiry proceeding, but surprisingly in spite of noticing those discrepancies in the evidences the I.O did not take into consideration, while recording his findings in the inquiry report against the applicant, and the disciplinary authority also mechanically followed the inquiry report, as such the decision making process of the disciplinary authority is vitiated, who acted in a most arbitrary manner deliberately ignoring the infirmities and also ignoring the points raised in the defence brief. It is also pertinent to mention here that in the defence brief the applicant pointed out the following objections and serious infirmities.

1. Raised serious preliminary objections regarding discrepancies and the irregularities in the documents relied upon by the disciplinary authority in the inquiry proceeding.

Samarth Kumar Dey

1 - 3 DEC 2007

गुवाहाटी न्यायापीठ
Guwahati Bench

2. Non supply of essential defence documents prayed by the applicants.
3. Denial of reasonable opportunity in the matter of engagement of Defence Assistant.
4. Deliberately withholding payment of salaries by the authority during the relevant period, when the inquiry proceeding held at Solan in the state of Himachal Pradesh, which is also one of the cause for not able to attend the inquiry proceeding in due time, as because applicant is required to attend inquiry proceeding at his own cost from Shillong on each occasion by traveling a distance around 3,500 KM, even the applicant could not take better medical treatment due to non release of salary during the relevant period of inquiry.
5. Salary has not been released since July, 2007 till filing of this application, deliberately causing harassment to the applicant. Even during the suspension there is a provision for grant of subsistence allowance but in the instant case the entire salary of the applicant is withheld.
6. Time of Misconduct: - It is evident from the record of the inquiry proceeding that there is a contradiction in the statement of the prosecution witnesses regarding timing of commission of the alleged offence of physical assault.
7. Contradictory statement of the witnesses.
8. Statement of Dr. Shwet Kamal, alleged eye witness relied upon by the inquiry officer is in fact contradictory and he is an interested witness, who is closely related to the complainant i.e. Dr. R.N. Verma. Moreover the statement of the witnesses of the inquiry proceeding departed from the depositions which was made on oath in the dock of Criminal Court and other contradiction like VENUE OF MISCONDUCT, OCCURANCE OF MISCONDUCT.

- 3 DEC

Guwahati Bench

But surprisingly grounds raised in the defence brief neither discussed nor considered by the inquiry officer while recording his findings in the inquiry report. But it appears that the inquiry officer with a pre-determined notion reached to the findings that the charges brought against the applicant in the memorandum of charge sheet dated 01.06.2004 is proved beyond all doubt. Such findings of the inquiry officer is contrary to the evidence recorded in the inquiry proceeding, rather it is a case of no evidence.

A copy of the defence brief addressed to the inquiry officer dated 14.08.2007 is enclosed as Annexure- 17.

4.21 That it is stated that the disciplinary authority served the inquiry report dated 27.08.2007 to the applicant through memorandum bearing letter No. F. No. 3 (2)/2004-Vig (D) dated 12.09.2007. On a mere perusal of the inquiry report it would be evident that the inquiry officer at the threshold made an attempt to justify the ex-parte inquiry proceeding by alleging that the applicant made an attempt to delay the inquiry proceeding either on the pretext of engaging defence assistant or on the pretext of sickness by willfully remaining absent in the inquiry proceeding but at the same time lost sight of the fact that the applicant is required to attend the inquiry proceeding on his own cost and leave, from Shillong to Solan/Simla, which is situated in Himachal Pradesh, a far off place, from Shillong and hardly on two occasion the applicant failed to attend the inquiry proceeding but then also he has intimated the inquiry officer well in advance about his sickness that too by enclosing medical certificate and such intimation was sent by fax and telegram, which is duly received by the inquiry officer, which is evident from the inquiry report itself.

On a careful reading of the inquiry report it appears that inquiry officer made a analysis of the evidences adduced during the inquiry but it would be evident that in fact he failed to make proper analysis of the evidences as required under the rule and in a most mechanical manner came to the conclusion that the charge of assaulting Dr. R.N. Verma, Ex-Director is proved beyond doubt, whereas there are lot of infirmities and contradictions in the inquiry report at the outset. The following table shows that how lot of

Sarabjit Singh

- 3 DEC 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

irregularities, infirmities, contradictions and discrepancies were there in the inquiry proceeding, which are quoted below:

In the inquiry report further contradiction is evident from the inquiry report itself, which are produced below for perusal of the Hon'ble Court.

- 1) Firstly, in page No. (iii) the inquiry officer observed as follows:-
"the CO wished to give list of defence witnesses after evidence of prosecution side is over".

But factually the inquiry officer did not provide any reasonable opportunity to examine defence witnesses therefore it can rightly be presumed that the inquiry officer is biased.

- 2) Secondly, in page (iv), of the inquiry report the inquiry officer observed as follows:-

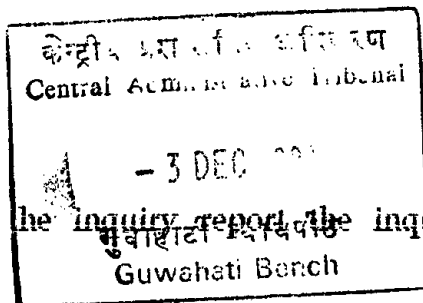
"The CO was informed vide faxed letter dated April 11, 2007 that the statements of witnesses were available in the Annexure-III of the charge sheet (pages 21-22)".

The aforesaid statement of the I.O is a blatant lie.

- 3) Thirdly, in page (ix) of the inquiry report, the inquiry officer observed as follows:-

"2. One of the objections raised by the C.O is document P-2 was not signed by Dr. RN Verma. This document was not signed by Dr. Verma because in his statement he has categorically maintained that he is not aware of this document and he has not lodged any complaint of his incidence with the police".

But surprisingly, the document P-2, which was relied upon by the disciplinary authority as well as by the inquiry officer, which is also treated as F.I.R in fact said document is an unsigned document and nowhere signature of the complainant is evident but surprisingly the said document also relied upon by the disciplinary authority as well as inquiry officer. Therefore it can rightly be said that complainant Dr. R.N. Verma did not lodge any complain.



- 4) Fourthly, in page (x) of the inquiry report, the inquiry officer observed as follows:-

"CO's plea that Dr. Verma visited NRC-M without any invitation is not true because the Director, NRC-M invited Dr. Verma (may be verbally) and sent office vehicle to bring him to the office."

It appears that the inquiry officer also not confirm whether Dr. Verma was an invitee in the meeting on 23.09.2003 but he has presumed that Dr. R.N. Verma, complainant might be an invitee whereas complainant himself says before the learned CJM, Solan on 12.01.2007 that he was not an invitee of the meeting. Therefore, it appears that the complain as well as the article of charge based on a well planned conspiracy of the some of the vested circle working against the interest of the applicant.

- 5) Fifthly, In page (x) it is observed by the inquiry officer, while critically analyzing the evidence adduced during the inquiry in the following manner;

"The assault was in the form of some slaps in the face of Dr. Verma".

Whereas Dr. Robin Gogoi one of the alleged eye witnesses says that applicant gave only one slap to Dr. R.N. Verma.

Whereas, in the criminal proceeding Dr. R. N. Verma, complainant in his deposition before the learned C.J.M, Solan on 12.01.2007 stated that the applicant gave him four to five slaps within a duration of 3 to 4 minutes whereas said complainant Dr. R.N. Verma in connection with his deposition made on 12.07.2007 before the LO in connection with the disciplinary proceeding of Dr. Yash Gupta it is specifically stated that Dr. Dayal (applicant) gave him only one slap, the relevant portion of his statement during cross-examination on 12.07.07 is quoted below:

"C.O: How Dr. Dayal assault you?

Suresh Kumar Dayal

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal

- 3 DEC 2007

Dr. R.N. Verma: He came rushing to me saying "Adab Aaraj hai R.N. Verma" held me and within moments slapped me before I could know anything.

C.O: How many slaps did he give?

Dr. R.N. Verma: As far as I remember he gave only one slap on my face and a few thrashes (Dhakka-Mukka) to my body".

On a close perusal of the statements of the complainant as well as observation/findings of I.O which was relied upon by the disciplinary authority are self contradictory and cannot be accepted such statements.

(6) Sixthly in page (xi) of the I.O's report the I.O himself has observed as follows:

"Such minor variation in time are expected after a lapse of about 4 years."

Therefore, it is quite clear that I.O himself admitted the variation whereas the complainant Dr. R.N. Verma, ex-Director, NRCM, Solan himself gave a contradictory statement both in the criminal proceeding and in disciplinary proceeding. As such the entire story of physical assault is concocted.

(7) The I.O further observed as follows:

"He has not attached copy of the court order with his brief. The undersigned is not competent to comment upon findings of the Hon'ble Criminal Court."

It is quite clear from the observation of the I.O that he is well aware of the judgment of the Learned C.J.M, Solan pronounced on 22.06.07. It is categorically stated that the applicant has duly brought to the notice of I.O the copy of the judgment but the I.O deliberately ignored the same. Moreover copy of the judgment was duly sent to disciplinary authority by the applicant himself. Therefore, I.O cannot express his ignorance about the judgment of the Learned CJM, Solan, acquitting the applicant against the charge brought therein.

(8) In page (xi) of the I.O's report the I.O further observed as follows:

Sarvendra Dayal

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal

"However, it appears that the time-table of training programmes might have changed as per convenience and requirement."

Guwahati Bench

It is quite clear from such observation of the LO that he has reached to the findings only on the basis of his presumption and with a bias and predetermined notion with the sole intention to establish the charge brought against the applicant.

(9) In page (xi) of the inquiry report, the LO further observed as follows:

"In practical classes it is also not necessary that the instructor should always be present. He describes and starts the practical and other junior persons in the laboratory (Technicians, Research Associates etc) take care of it."

From above observation of the I.O it is abundantly clear that his findings never based on fact but simply on the basis of presumption and assumption.

(10) Dr. R.C. Upadhyay, Dr. S.K. Singh, and Dr. M.C. Yadav in their deposition which referred and quoted by the I.O in his representation page No. (xii) where Dr. R.N. Verma was highly appreciated and an attempt is made as if the applicant is a man having without reputation working as Scientist Senior scale in the establishment of ICAR whereas said Dr. R.N. Verma complainant, Ex-Director in fact was implicated in a criminal proceeding on the basis of an inquiry conducted by the Additional District Magistrate, Solan on the basis of a complain of the applicant regarding financial irregularities to the extent of Rs. 5 lakh by Dr. R.N. Verma, Ex-Director, which is evident from the report of the Deputy Commissioner, Solan dated 03.02.2000 bearing No. E. dt.No.Cer/1-7/99-(521)-176 and as a result of such complain Dr. R.N. Verma was shifted from the charge of Directorship of NRCM, Solan vide office order No. F No. 53-2/89-per.III (pt III) dated 29.04.2002 and thereafter Dr Verma was transferred and demoted from the post of Director to Principal Scientist to CPRI, Simla. However, Dr. Verma

Suresh Kumar Dyal

- 3 DEC 2007

Guwahati Bench

could able to manage his transfer and get retired on superannuation from NRCM, Solan itself and in fact the animosity gone many fold up against the applicant from the said incident as because the applicant lodged a complain of financial irregularities against Dr. R.N. Verma.

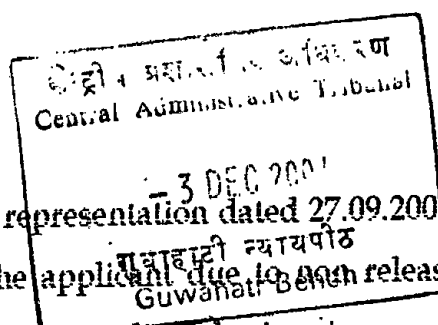
It would be evident that the inquiry officer failed to discuss the grounds raised by the applicant in his written brief although he had made a mentioned of the same in the inquiry report. The applicant in his defence brief very categorically raised an objection regarding non signing of document -2 by Dr. R.N. Verma, non supply of defence documents, non supply of statement of witnesses, no opportunity for engagement of defence assistant and denial of opportunity of production of defence witnesses. Non payment of salary and T.A, D.A, which also costs excessive financial burden to the applicant. It is relevant to mention here that the applicant prayed for T.A and D.A's for attending inquiry proceeding from Shillong to Solan/Simla but the authority did not pay any T.A , D.A and even the salary for the period from June' 2007 to till date was withheld. It is relevant to mention here that even when a Govt. employee is suspended for whatever reasons, he used to get subsistence allowance for survival but in the instant case the competent authority without specifying any reason withheld the salary of the applicant from June' 2007 to till filing of this application. The applicant even could not take medical treatment properly during his sick days due to shortage of money. The applicant also alleged that there are variation about the time of commission of alleged offence as per the witnesses appeared for and on behalf of the prosecution side. The applicant also specifically pointed out that Dr. Shwet Kamal is closely related to Dr. R.N. Verma but unfortunately there is no discussion made by the inquiry officer in his inquiry report, rather the inquiry officer very tactfully avoided that the important grounds raised by the applicant with a deliberate intention to established the alleged charges against the inquiry proceeding, except saying that Dr. Shwet Kamal is his nephew. Dr. Robin Gogoi was a common eye witness both in the criminal trial and on the departmental inquiry, therefore the justification of holding the charge proved on the basis

- 3 DEC -

of the statement given by Dr. Shwet Kamal against the applicant cannot be sustained. When Dr. M.C. Yadav the other additional witness himself admitted that he has heard the alleged assault from Dr. R.N. Verma but not seen the alleged assault. Therefore findings of the inquiry officer that the charge is proved beyond doubt on the basis of documentary deposition of the witness and written brief of P.O and C.O. is not sustainable in the eye of law.

A copy of the inquiry report dated 27.08.07 communicated through letter dated 12.09.07 are enclosed as Annexure- 18 and 19 respectively.

- 4.22 That it is stated that the applicant after receipt of the inquiry report dated 27.08.2007 communicated to the applicant vide memorandum No. F. No. 3 (2)/2004-Vig (D) dated 12th September, 2007, the applicant submitted a detailed representation pointing out the illegalities, irregularities, discrepancies, contradiction/differences in the statement/deposition of the prosecution witnesses both in the criminal proceeding as well as in the disciplinary proceedings of the common witnesses as well as the contradiction and irregularities in the deposition and statement made by the additional 2 prosecution witnesses in addition to the aforesaid infirmities. Applicant also pointed out the biasness of the inquiry officer in conducting the inquiry proceeding against the applicant. Apart from the other ground applicant specifically pointed out that Mr. Charles Ekka, presenting officer was also an interested person and biased against the applicant. The applicant also brought to the notice of the disciplinary authority through his representation dated 27.09.2007 that the complainant Dr. R.N Verma was never invited in the Solan, NRCM centre. The applicant also pointed out the irregularities in the document containing statement of Addl. Witnesses of Dr. M.C. Yadav and Dr. S. Kamal and other discrepancies in the documents relied upon by the inquiry officer and disciplinary authority, he has categorically pointed out that the so called Additional eye witness Dr. S. Kamal is closely related to Dr. R.N. Verma, Complainant. The applicant very categorically has shown the discrepancies among the statement of the prosecution witnesses.



The applicant also in his representation dated 27.09.2007 specifically stated about the suffering of the applicant due to non release of salaries which also caused obstruction in attending the inquiry proceeding from Shillong to Solan/Simla on the scheduled dates, traveling around 3,500 KM from the present place of posting. He also pointed out non payment of salary during the relevant period of inquiry and non payment of T.A advance despite repeated request to the local authorities at Shillong to enable him to attend inquiry which also caused harassment to the applicant further caused acute financial burden. Applicant specifically pointed out that the occurrence of misconduct has not been proved. Moreover, applicant categorically brought it to the notice of the disciplinary authority that the learned C.J.M in the criminal trial on the same set of fact and evidences came to the conclusion in his findings that the prosecution has failed to prove its case against the accused beyond all reasonable doubt and in the process brought the judgment and order of the Criminal Court to the notice of the disciplinary authority regarding his acquittal in the identical criminal charge. In addition to the aforesaid elaborate representation made by the applicant through his representation dated 27.09.2007, prayed for the dropping of charges and further prayed before the disciplinary authority for granting a personnel hearing before taking any adverse action. But surprisingly, the disciplinary authority neither discussed the irregularities, illegalities, infirmities, discrepancies, contradictions and the ground of non supply of documents raised by the applicant, while recording his findings in the impugned penalty order of compulsory retirement dated 05.11.2007. But mechanically imposed the penalty of compulsory retirement upon the applicant and no opportunity was provided to the applicant for personnel hearing against the ex-parte inquiry proceeding. Moreover, the disciplinary authority also did not take into consideration that the I.O failed to provide reasonable opportunity but proceeded with ex parte hearing ignoring the prayer of adjournment made by the applicant on medical ground.

A copy of the representation dated 27.09.2007 against the inquiry report is enclosed as Annexure- 20.

Sureshwar Dey

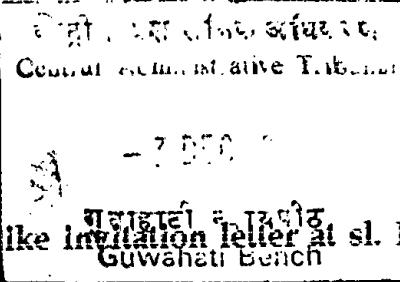
- 3 DEC 2007

4.23 That it is stated that the applicant repeatedly approached the authorities praying for supply of statements of witnesses before their examination, but surprisingly in spite of repeated approach those statements were not supplied to the applicant. In such compelling circumstances he made representation to the Desk Officer (Vig. D), ICAR, Krishi Bhavan, New Delhi on 01.06.07 addressed to the appellate authority. But even then no step was taken for supply of those statements, thereby applicant has been denied reasonable opportunity to defend his case for non-supply of statement of witnesses.

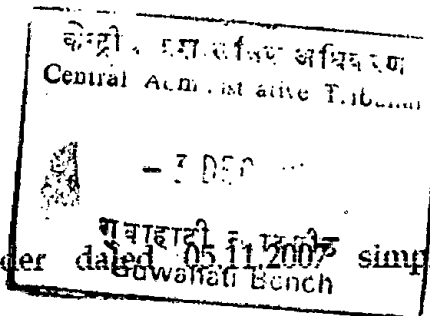
Copy of the representation dated 19.04.05 and 01.06.07 are enclosed herewith and marked as Annexure- 21 (Series).

4.24 That it is stated that on a careful reading of the order of penalty dated 05.11.2007, it appears that the disciplinary authority has not appreciated the representation dated 27.09.2007, as required under the rule but the disciplinary authority took a note of the representation of the applicant against the inquiry report in a very casual manner, and considered only a few points among the many other relevant and vital points raised by the applicant in his representation dated 27.09.2007, such as.

- 1) Non consideration of the decision of the Ld. C.J.M, Solan rendered in criminal case No. 245/2 of 2003, State -Vs- Sarveshwar Dayal and another which was decided on 22.06.2007 by the disciplinary authority, whereby the accused applicant was acquitted in the identical charge of alleged physical assault to Dr. R.N. Verma, Ex-Director on 23.09.2003, which was instituted at the instance of the present respondents, in spite of the fact that the copy of the judgment and order dated 22.06.2007 was duly forwarded to the disciplinary authority before passing the impugned penalty order dated 05.11.2007.
- 2) Denial of supply of defence documents submitted through representation dated 17.07.2005.
- 3) Non supply of statement of witnesses recorded at the time of fact finding inquiry before their examination in the proceeding.



- 4) Non supply of vital document like invitation letter at sl. No. 32, whereby Dr. R.N. Verma, Ex-Director was invited to the meeting in NRCM, Solan on 23.09.2003.
- 5) The categorical stand of the applicant that the complainant Dr. R.N. Verma, Ex-Director was never invited in meeting on 23.09.2003 at NRCM.
- 6) Non discussion of the grounds raised by the applicant in his representation dated 27.09.2007 regarding close relationship of alleged eye witness of Dr. S. Kamal additional witness of the prosecution side produced in the disciplinary proceeding in support of the complainant Dr. R.N. Verma, Ex-Director and whose contradictory statement was recorded by the authority on 01.10.2003 after a long lapse of commission of the alleged incidence of assault.
- 7) Non discussion of other evidences, depositions recorded in the inquiry proceeding by the disciplinary authority in the impugned order of penalty dated 05.11.2007 as required under the rule.
- 8) Non discussion of discrepancies and contradiction of the evidences and other irregularities pointed out by the applicant but admitted and examined by the inquiry officer, which are relied upon by the disciplinary authority in the inquiry proceeding.
- 9) Non consideration of the grounds raised by the applicant regarding non payment of salaries, TA, DA advance to the applicant during the relevant period of inquiry which caused difficulties in attending the inquires, from far off place from Shillong to Solan.
- 10) Non discussion and non consideration by the disciplinary authority of vital fact and ground raised by the applicant regarding holding of ex-parte inquiry proceeding due to failure on the part of the applicant to attend inquiry proceeding on two occasion, in the month of April, 2007 and July, 2007 on medical ground with due intimation to the inquiry officer, but even then reasonable opportunity is denied to the applicant to defend his case adequately in the inquiry proceeding.
- 11) Denial of reasonable opportunity to produce defence witnesses before the inquiry proceeding. Whereas, the disciplinary authority in



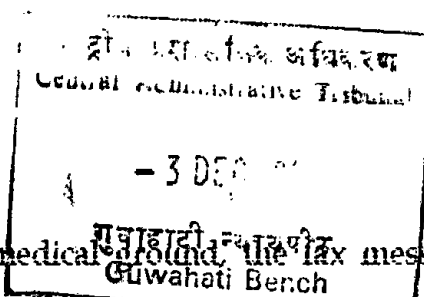
the impugned penalty order dated 05.11.2007 simply noted following points:-

- (i) Inquiry officer has acted in a biased manner as he has held the inquiry ex-parte.
- (ii) Inquiry officer conducted the inquiry when he (charged officer) was sick.
- (iii) Inquiry officer did not give him any opportunity to present his witnesses.
- (iv) Inquiry officer denied him the opportunity to engage a defence assistant.
- (v) Witnesses have been planted against him.
- (vi) The inquiry report is in contradiction to the findings of the criminal court of law.

The disciplinary authority has dealt with the above 6 grounds in a very casual and cryptic manner without making any effort to appreciate the grounds raised by the applicant in his representation dated 27.09.2007.

It appears that the disciplinary authority in a very casual manner upheld the allegation of adoption of dilatory tactics by the charged officer without considering the fact that the applicant could not able to attend the inquiry proceeding at Solan, in the first occasion in the month of April, 2007 that too on medical ground with due and advance intimation to the inquiry officer through fax and telegram enclosing necessary medical documents.

Again in the month of July, 2007 the applicant could not able to attend the inquiry proceeding which was started on 09.07.2007 and continued till 11.07.2007 due to sudden transit sickness of the applicant in New Delhi, on the way to Solan, but the applicant given due intimation through fax and telegram enclosing necessary medical certificate but in spite of receipt of those intimation, the inquiry officer deliberately decided to proceed with the ex-parte proceeding. As such the contention of the disciplinary authority that the applicant has taken the dilatory tactics is not sustainable in the eye of law. So far the allegation of non submission of second medical opinion as desired by the authority through their communication dated 12/13. 04.2007, through fax, but since the applicant



was absent in the office on medical ground, the fax message could not delivered to him, rather the applicant came to know about the communication vide letter No. 4908 dated 29.05.2007, which was finally communicated to the applicant on 16.07.2007 pursuant to the applicant's representation dated 16.07.2007.

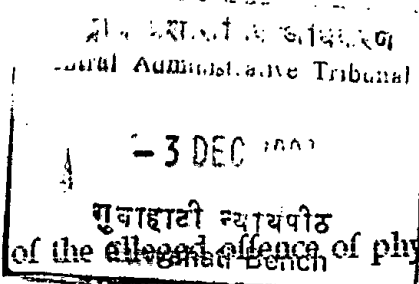
Copy of the fax message dated 13.04.07 and representation dated 16.07.07 are enclosed as Annexure- 22 and 23 respectively.

4.25 That it is stated that the allegation regarding engagement of defence assistant now brought by the disciplinary authority is categorically denied, the applicant rather denied reasonable opportunity in engaging defence assistant, as because the employees who were working at NRCM, Solan were in fact not agreed to act as defence assistant due to threat and fear of the local higher authorities. As such the applicant was finding difficulties in arranging defence assistant but the inquiry officer did not provide reasonable opportunity or time to engage a defence assistant. Discrepancies and contradiction in the deposition of the prosecution witnesses has been elaborately narrated by the applicant in his written brief as well as in his representation dated 27.09.2007.

The ground raised by the applicant regarding his acquittal in the same set of charges by the learned C.J.M, Solan in Criminal Case No. 245 (2)/03 has not been given due consideration and weightage where charges and most of the witnesses in both the proceedings are common. As such on that score the orders of penalty dated 05.11.2007 imposed on the applicant is liable to be set aside and quashed.

The argument of the disciplinary authority that the standard of proof both in criminal case and in disciplinary proceeding is not same and therefore contention of the disciplinary authority that the disciplinary proceeding is standing on a different footing in the instant case does not hold good in view of the fact that the charges are identical and witnesses examined in both proceedings are common except two additional witnesses who were examined in the disciplinary proceeding in addition to the common witnesses but those witnesses are not relevant as because Dr. M.C.

Suresh Kumar Singh



Yadav is not an eye witness of the alleged offence of physical assault and the other additional witness Dr. S. Kamal is closely related to the complainant Dr. R.N. Verma, Ex-Director, as such the disciplinary authority should not rely upon the deposition made by Dr. S. Kamal in the enquiry proceeding. In the circumstances stated above the findings of the disciplinary authority without considering the grounds raised by the applicant is not sustainable in the eye of law and on that score alone the decision of the disciplinary authority that the charged officer is guilty of the alleged offence of physical assault is contrary to the evidence recorded in the inquiry proceeding and on that score alone the order of penalty of compulsory retirement imposed upon the applicant is liable to be set aside and quashed.

A copy of the impugned penalty order dated 05.11.2007 is enclosed as Annexure- 24.

4.26 That it is stated that in the instant case of the applicant the inquiry officer deliberately ignoring the contentions of the applicant raised in the defence brief, came to the finding that the article of charge brought against the applicant through memorandum dated 01.06.2004 has been proved without due consideration of the discrepancies of evidences recorded in the ex parte inquiry proceeding denying the reasonable opportunity to the applicant to defend his case adequately. Such ex-parte and irregular finding of the inquiry officer is not sustainable in the eye of law. As such the findings of the ex parte inquiry proceeding which is contrary to the findings of the Ld. C.J.M, Solan on the same set of fact and charges is liable to be set aside and quashed.

4.27 That it is stated that the disciplinary authority in a most arbitrary manner without proper application of mind mechanically followed the findings of the inquiry officer without discussing the discrepancies, contradictions of the evidences recorded in the inquiry proceeding which was specifically pointed out by the applicant and also without considering the grounds raised by the applicant in his representation dated 27.09.2007, where the applicant categorically pointed out the series of infirmities, irregularities, inconsistencies and discrepancies in the evidences recorded in the ex parte

- 3 DEC 2007

गुवाहाटी बेंच
Guwahati Bench

inquiry proceeding as well as the documents exhibited in the ex parte inquiry proceeding apart from the other grounds raised by the applicant. Hence the decision of the disciplinary authority for imposition of penalty of compulsory retirement on the applicant by the impugned order dated 05.11.2007 on the face of the order of acquittal passed by the learned Trial Court is highly arbitrary, illegal and contrary to the record of the inquiry proceeding. Therefore the impugned order of penalty dated 05.11.2007 is liable to be set aside and quashed.

4.28 That it is a fit case for the Hon'ble Tribunal to interfere with the impugned order of penalty dated 05.11.2007 in order to protect the valuable and legal right acquired by the applicant by passing an appropriate order setting aside the impugned memorandum of charge sheet dated 01.06.2004 as well as order of penalty dated 05.11.2007.

4.29 That this application is made bonafide and for the cause of justice.

5. Grounds for relief (s) with legal provisions:

5.1 For that, imposition of penalty of compulsory retirement upon the applicant vide impugned order dated 05.11.2007, subsequently after his acquittal in the criminal proceeding on the identical charge, based on the same set of evidence and common witnesses in both the criminal and in the ex parte disciplinary proceeding is not sustainable in the eye of law and on that score alone the impugned order of penalty dated 05.11.2007 is liable to be set aside and quashed.

5.2 For that, findings of the inquiry officer as well as findings of the disciplinary authority in the ex parte inquiry proceeding conducted against the applicant pursuant to the memo of charge sheet dated 01.06.2004 on the same set of fact and charge based on the common witnesses is not sustainable in the eye of law, on the face of the order of acquittal passed by the Ld. C.J.M, Solan in criminal case No. 245/2 of 2003 and on that score, the consequential impugned order of penalty of compulsory retirement dated 05.11.2007 is liable to be set aside and quashed.

Suresh Kumar Dey

- 3 DEC 2007

- 5.3 For that, the inquiry officer proceeded with the ex-parte hearing proceeding deliberately in spite of receipt of intimation regarding sickness of the applicant communicated through fax, telegram enclosing medical certificate addressed to the inquiry officer, thereby reasonable opportunity has been denied to the applicant. On that score alone the entire enquiry proceeding as well as the impugned order of penalty dated 05.11.2007 is liable to be set aside and quashed.
- 5.4 For that, the disciplinary authority did not supply the relevant defence documents separately prayed by the applicant immediately after receipt of the impugned memorandum of charge sheet dated 01.06.04 and thereby the applicant has been denied reasonable opportunity to defend his case adequately.
- 5.5 For that, out of 56 documents only 4 documents have been supplied to the applicant and prayer for supply of 52 other documents have been rejected arbitrarily.
- 5.6 For that, none of the 37 documents initially prayed by the applicant was supplied to the applicant.
- 5.7 For that, the disciplinary authority did not supply the statements of the witnesses relied upon by the disciplinary authority in order to sustain the charges brought against the applicant in spite of repeated prayer.
- 5.8 For that, the applicant is denied reasonable time and opportunity to engage his defence assistant in order to defend his case adequately.
- 5.9 For that the applicant has not been paid salary, TA, DA advance to enable him to attend the hearings of the enquiry proceeding which was held at Solan/Simla in the State of Himachal Pradesh when the applicant is posted in a far off place at Shillong in the State of Meghalaya at a distance of about 3400-3500 K.M.
- 5.10 For that, the inquiry officer in spite of receipt of the intimation regarding fell in sickness of the applicant at New Delhi on the way to Solan for

Suresh Kumar Singh

- 3 DEC 2007

गुवाहाटी न्यायाधीश
Guwahati Bench

attending enquiry proceeding which was communicated through fax, telegram enclosing necessary medical certificate. But even then the inquiry officer proceeded with the ex parte hearing and examined the witnesses without providing for cross examination as well as for examination of defence witnesses. Therefore the ex parte inquiry proceeding is liable to be set aside and quashed.

- 5.11 For that, the inquiry officer did not take into consideration the number of grounds raised by the applicant in his defence brief while recorded findings in the inquiry report.
- 5.12 For that, the contradictions, discrepancies in the evidences and documents recorded and examined in the enquiry proceeding by the inquiry officer although pointed out by the applicant in his defence brief but the said irregularities, discrepancies have been deliberately overlooked by the I.O and came to the conclusion in a most mechanical and arbitrary manner that the article of charges brought against the applicant is "proved".
- 5.13 For that, the charge in the criminal proceeding as well as in the disciplinary proceeding is identical and based on common witnesses except two additional witnesses but not material witnesses, in the disciplinary proceedings, as such on the face of the judgment and order dated 22.06.07 passed by the learned C.J.M, Solan neither the findings of the inquiry officer nor decision of the disciplinary authority imposing penalty upon the applicant vide impugned order dated 05.11.2007 is sustainable in the eye of law.
- 5.14 For that, the additional witness Dr. M.C. Yadav fairly admitted in the cross examination that he is not an eye witness of the alleged incident of physical assault whereas other additional witness Dr. S. Kamal's statement is contradictory, moreover, Dr. S. Kamal fairly admitted that he is closely related to Dr. R.N. Verma. As such the standard of proof in the disciplinary proceeding has not been improved in any way or in other words there is no difference noticed in the enquiry proceeding in view of addition of the two additional witnesses, as such finding of the I.O as well as disciplinary

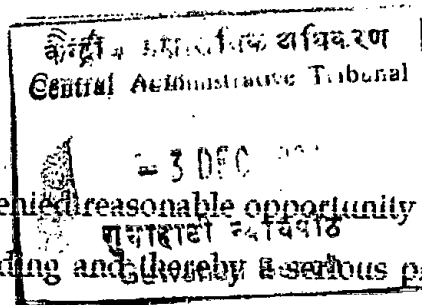
- 3 DEC 2007

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Guwahati Bench

authority are not sustainable on the identical charge. When the learned C.J.M, Solan acquitted the applicant from the criminal charge on the same set of fact.

- 5.15 For that, neither the I.O nor the disciplinary authority considered the material grounds raised by the applicant both in the defence brief as well as in the representation submitted by the applicant against the enquiry report. Moreover, none of the discrepancies, irregularities, contradictions pointed out by the applicant in his defence brief as well as in his representation against the enquiry report were considered while findings and conclusions reached by the I.O as well as the disciplinary authority in respect of the article of charge brought against the applicant.
- 5.16 For that, in any event the decision of the disciplinary authority for imposition of penalty of compulsory retirement issued vide impugned order dated 05.11.07 is highly disproportionate in the facts and circumstances of the instant case.
- 5.17 For that the I.O did not appreciate the fact that the applicant is required to attend the hearing proceeding from Shillong to Solan/Simla after traveling a long distance of 3400-3500 K.M that too without salary and TA, DA advance during the relevant period of enquiry.
- 5.18 For that, both the I.O as well as the disciplinary authority ignored the judgment and order dated 22.06.07 passed by the Ld. C.J.M, Solan whereby the charged officer was acquitted on the same set of charges and on that score alone the order of imposition of penalty is not sustainable in the eye of law.
- 5.19 For that, the applicant is highly prejudiced due to ex parte hearing proceeding conducted by the I.O deliberately ignoring the prayer for adjournment of the hearing of the inquiry proceeding held in the month of July 2007 that too on medical ground and on that score alone the entire inquiry proceeding as well as the order of penalty dated 05.11.07 is liable to be set aside and quashed.

Sarveshwar Dayal



5.20 For that, the applicant has been denied reasonable opportunity in each and every stage of the inquiry proceeding and thereby a serious prejudice has been caused to the applicant, more so due to non-supply of relevant defence documents and on that score alone the entire inquiry proceeding is vitiated, therefore the impugned order of penalty dated 05.11.07 is liable to be set aside and quashed.

5.21 For that, the penalty of compulsory retirement from service has been imposed upon the applicant in the instant case when there is no evidence available against the applicant. As such it is a case of no evidence but the disciplinary authority most arbitrarily imposed the penalty of compulsory retirement upon the applicant, therefore the impugned order of penalty dated 05.11.07 is liable to be set aside and quashed.

6. Details of remedies exhausted.

That the applicant declares that he has exhausted all the remedies available to and there is no other alternative remedy than to file this application.

7. Matters not previously filed or pending with any other Court.

The applicant had not previously filed any application, Writ Petition or Suit before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief (s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the entire records of the case and issue notice to the respondents to show cause as to why the relief (s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

3 DEC 2007

Guwahati Bench

8.1 That the Hon'ble Tribunal be pleased to ~~stay~~ ^{quash} the impugned charge sheet dated 01.06.2004 bearing Ref. No. 15/SD/2004/407 dated 28.07.2004 (Annexure- 3 and 4) and the impugned order of penalty of "compulsory retirement" issued vide order bearing No. F. No. 3 (2)/2004-Vig (D) dated 05.11.2007 (Annexure- 24).

8.2 That the Hon'ble Tribunal further be pleased to direct the respondents to reinstate the applicant in service with all service benefits including monetary benefits.

8.3 Costs of the application.

8.4 Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for

During pendency of the application, the applicant prays for the following interim relief: -

9.1 That the Hon'ble Tribunal be pleased to stay operation of the impugned order of penalty of "compulsory retirement" issued vide order bearing No. F. No. 3 (2)/2004-Vig (D) dated 05.11.2007 (Annexure- 24) till disposal of the Original Application.

9.2 That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar to the respondents for providing the relief as prayed for.

10.

11. Particulars of the L.P.O

i) L.P.O No. : 326 042581
ii) Date of issue : 17.9.2007
iii) Issued from : G.P.O. Guwahati
iv) Payable at : G.P.O. Guwahati

12. List of enclosures:

As given in the index.

Saranham Dey

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal

3 DEC 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

VERIFICATION

I, Dr. Sarveshwar Dayal, Son of Dr. R. D. Gupta, aged about 51 years, Central Potato Research Station, Peak View Road, Shillong, Meghalaya - 793009, applicant in the instant Original application, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 1st day of December 2007.

Sarveshwar Dayal

-41-

ANNEXURE-1

Office of the Deputy Commissioner,
Solan Distt., Solan (H.P.)

Dated Solan, the 3rd February, 2000

To

The Joint Secretary,
to the Hon'ble Chief Minister,
Himachal Pradesh, Shimla-2.

Subj; Rs. 0.5 lakh single slip by Sh.R.N. Verma from
MSI accounts.

Sir,

Please refer to your office letter No. Secy/CM-
DO311/98-DEP-2-26591 dated 1-12-99 and 103157 dated
10-1-2000 on the above noted subject.

The enquiry was got conducted by the Addl. District
Magistrate, Solan on the complaint of Sh. S. Dayal. It has been
reported by the Enquiry Officer that the allegations levelled
against Sh. R.N. Verma are of criminal nature and record to
be examined is with the ICAR. Hence the complete papers have
been sent to the Director General, I.C.A.R., Krishi Bhawan,
Dr. Rajinder Prasad Marg, New Delhi vide this office letter
of even number dated 18-1-2000 for taking necessary action
by the concerned department with whom the evidence is
available. This is for your kind information please. The
original representations received with your letters are
also returned herewith.

Yours faithfully,

for Deputy Commissioner
Solan Distt., Solan

Enclst. No. Gr./1-7/99-(321)-176

Dated : 3-2-2000

Copy forwarded to Sh. S. Dayal, Life Member,
Mushroom Society of India, Chambaghat-Solan for information

Attested 28/2/2000
for Deputy Commissioner
Solan (H.P.)

for Deputy Commissioner
Solan Distt., Solan

Attested
With
Advocate

Dayal Sh

-42- ANNEXURE - 2
ANNEXURE

BHARTIYA KRISHI ANUSANDHAN PARISHAD
(INDIAN COUNCIL OF AGRICULTURAL RESEARCH)
KRISHI BHAVAN NEW DELHI

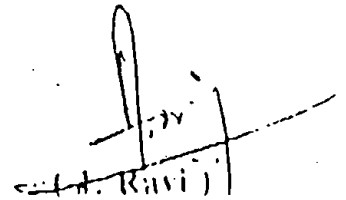
F.No.53-2/89-Per.III(PL.II)

Dated the 29 April, 2002

OFFICE ORDER

Consequent on transfer of Dr. R.N. Verma, Director, National Research Centre for Mushroom, Solan(H.P.) to CPRE Shimla as Principal Scientist, the Competent Authority in the Council is pleased to give the acting charge of Director, National Research Centre for Mushroom, Solan(H.P.) to Dr. S.R. Sharma, Principal Scientist, National Research Centre for Mushroom, Solan(H.P.) in addition to his own duties and without payment of any extra remuneration till the post is filled up on regular basis or until further orders from the Council whichever is earlier.

Dr. S.R. Sharma will also exercise all administrative and financial powers as delegated to the Directors of National Research Centres under ICAR by the Council from time to time.


A. Ravi
Deputy Director(P)

DISTRIBUTION:-

1. Dr. S.R. Sharma, Principal Scientist, National Research Centre for Mushroom, Solan(H.P.).
 2. Administrative Officer, National Research Centre for Mushroom Solan(H.P.).
 4. Finance & Accounts Officer, National Research Centre for Mushroom, Solan(H.P.).
 4. Deputy Director General(Hort.), ICAR.
 5. Under Secretary(Hort.), ICAR.
 6. Sr. P.P.S. to D.G. ICAR/Sr P.S. to Secretary ICAR.
 7. LV-V Section CD's Section Hort. Adm. Section Hort. Horticulture Section Hort. Hort. Computer Cell Hort. Hort. ICAR.
- Personal & General file: 5 copies (5)

Dr. Sharma

AO/AFAC/DO/obstace Board

Attended
Advocate

SR
13074/02

True copy of original document
Legal

Dy. Dir. Hort.

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ANNEXURE - 3

CONFIDENTIAL
REGISTERED

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAVAN, NEW DELHI

F.No. 3(2)/2004-Vig(D)

Dated the

16 Dec 2004

MEMORANDUM

The President, ICAR proposes to hold an inquiry against Dr. Sarveshwar Dayal, Scientist (SS), Central Potato Research Institute, Shimla under Rule 14 of CCS (CCA) Rules, 1965 as extended to ICAR employees. 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 article of charge (Annexure-I). A statement of the imputations of misconduct or misbehaviour in support of the article of charge is enclosed (Annexure II). A list of documents by which, and a list of witnesses by whom, the article of charge is proposed to be sustained are also enclosed (Annexure III & IV).

Dr. Sarveshwar Dayal is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defense and also to state whether he desires to be heard in person.

He is informed that an inquiry will be held only in respect of the article of charge as is not admitted. He should, therefore, specifically admit or deny the article of charge.

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

Attention of Dr. Sarveshwar Dayal is invited to Rule 20 of CCS (CCA) Rules, 1964 (as extended to ICAR employees) under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his services under the Government. 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 Dr. Sarveshwar Dayal 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 20 of the CCS (Conduct) Rules, 1964.

Attested
By
Secretary

Dr. Sarveshwar Dayal

- 44 -

✓

The receipt of this Memorandum may be acknowledged.

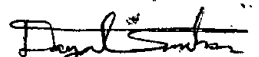

(S.K. Behera)

UNDER SECRETARY (Vig)
FOR AND ON BEHALF OF PRESIDENT ICAR

✓ Dr. Sarveshwar Dayal,
Scientist (SS)
Central Potato Research Institute,
Shimla (Himachal Pradesh).

Distribution :-

- 1) The Director, CPRI, Shimla. A copy of Memorandum containing the chargesheet alongwith other relevant documents meant for Dr. Sarveshwar Dayal, Scientist (SS) are also sent herewith which may be delivered to him after obtaining his dated signatures for records.
- 2) Director, CPRI, Shimla.
- 3) DS (P), ICAR, Krishi Bhavan.
- 4) Per. II Section, ICAR
- 5) Guard file



ANNEXURE - I

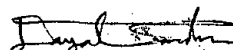
STATEMENT OF ARTICLE OF CHARGE FRAMED AGAINST DR. SARVESHWAR DAYAL, SCIENTIST (SS), CENTRAL POTATO RESEARCH INSTITUTE, SHIMLA (H.P.)

ARTILCE OF CHARGE - I

While working as Scientist (SS), National Research Centre for Mushroom, Solan, Dr. Sarvershwar Dayal created an embarrassing and intolerable situation by indulging himself in an act of gross indiscipline and violence by physically assaulting Dr. R.N. Verma, Ex-Director of NRCM on 23.9.2003 in the NRCM Office premises when Dr. Verma was on short visit there and was presiding over the meeting of Mushroom Society of India as its President.

By his above act, Dr. Sarvershwar Dayal has indulged in gross indiscipline and violent acts and behaved in a manner unbecoming of an ICAR employee and thereby contravened the provision of Rule 3(1) (iii) of CCS (Conduct) rules, 1964 as extended to Indian Council of Agricultural Research employees.






ANNEXURE - II

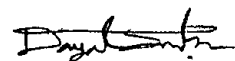
STATEMENT OF IMPUTATION OF MISCONDUCT OR MISBEHAVIOUR IN SUPPORT OF THE ARTICLE OF CHARGE FRAMED AGAINST DR. SARVESHWAR DAYAL, SCIENTIST (SS).

Dr. Sarveshwar Dayal, Scientist (SS) is presently posted at CPRI, Shimla. Prior to this he was working as Scientist at NRCM, Solan in TOT Section.

Dr. R.N. Verma, Ex-Director of NRCM, Solan while on a short visit to Solan was invited to visit the Centre on 23.9.2003 in the afternoon. Accordingly. Dr. R.N. Verma came to the Centre at 3.00 p.m. in the staff car and had discussions regarding the activities and progress of the NRCM with the Director, in his Chamber upto 4.00 p.m.. Thereafter Dr. R.C. Upadhyay, Secretary Mushroom Society of India, taking the benefit of his presence at the Centre, requested Dr. R.N. Verma (who is also the President of MSI) to preside over the meeting of MSI. Dr. Verma agreed readily to request for presiding over the meeting which was being held in the room of Dr. R.C. Upadhyay. Also present in the meeting were Dr. R.C. Upadhyay, Secretary, Dr. B. Vijay, Vice-President, Dr. S.K. Singh, Joint Secretary, Dr. M.C. Yadav, Treasurer and Shri Deep Kumar, dealing assistant, MSI. During the course of meeting at about 5.00 p.m., Dr. Verma went to the toilet. While returning to the meeting room he met a Winter School Trainee, Dr. Robin Gogoi, (Scientist, Assam Agricultural University, Jorhat) in the corridor and started exchanging pleasantries with him. All of sudden Dr. Sarveshwar Dayal and Dr. (Mrs.) Yash Gupta waylaid Dr. Verma in the corridor and Dr. Sarveshwar Dayal started beating him with his hands and Dr. (Mrs.) Yash Gupta provoked him further to beat and manhandle him further and said that "this is not enough and beat him more". Meanwhile, Dr. Gogoi (trainee from Assam) disengaged Dr. Dayal from Dr. Verma and Dr. Shwet Kamal (Research Associate) who was present nearby prevented Dr. Sarveshwar Dayal from further injury to Dr. Verma. Meanwhile Dr. Verma returned shivering with the shock to the meeting and ended the MSI meeting abruptly.

The above incident created by Dr. Sarveshwar Dayal and Dr.(Mrs.) Yash Gupta, Scientist (SS) not only disrupted the meeting of Mushroom Society of India in midway but also hampered the training of the Winter School and research work going on at the Centre. This also gave a bad impression to the trainees assembled at the Centre from all over the Country.





Dr. Sarveshwar Dayal, Scientist (SS) is in the habit of misbehaving with seniors in the past and disciplinary proceedings were issued vide OM. No. 3(11)/98-Vig.D dated 13.11.98 against him for his arrogant and indisciplined behaviour and a penalty of "withholding of one increment of pay for one year without cumulative effect" was imposed on him vide order No. 3-11/98 - Vig. (D) dated 14.6.2003. In spite of this, no improvement in his conduct has been noticed.

By this above act, Dr. Sarvershwar Dayal, Scientist (SS) has indulged himself in gross indiscipline and violent acts and behaved in a manner unbecoming of an ICAR employee and thereby contravened the provisions of the Rule 3 (1) (iii) and (iii) of CCS (Conduct) Rules, 1964 as extended to Indian Council of Agricultural Research employees.

Dr. Sarveshwar Dayal

Dr. Sarveshwar Dayal

ANNEXURE III

LIST OF DOCUMENTS BY WHICH THE ARTICLE OF CHARGE FRAMED AGAINST DR. SARVESHWAR DAYAL, SCIENTIST (SS) IS PROPOSED TO BE SUSTAINED.

1. Copy of incident reported by all the Members of Mushroom Society of India to the Director dated 23.9.2003.
2. Copy of letter No. PA/AO/2003 dated 23.9.2003 FIR lodged with the Police.
3. Statement note dated 23.9.2003 given to the Police about the incident by Dr. R.N. Verma, Ex-Director.
4. Copy of FIR No.252 dated 23.9.2003 from Police indicating that the Challan has been filed in the Court.
5. Copy of documents of resolution of condemnation incident held on 23.9.2003 by ARSS Forum, NRCM, Solan Unit.
6. Copy of resolution of condemnation incident held on 23.9.2003 by Institute Joint Staff Council of NRCM, Solan
7. Copy of the communication addressed to the Director, NRCM given by the trainees of Winter School informing about the shameful incident.
8. Statement of Dr Shwet Kamal, Research Associate, NRCM Solan about the incident.
9. Copy of letter dated 1.10.203 received from Dr. R.N. Verma informing about the incident to the DDG (H)
10. Copy of the earlier charge sheet issued vide Memorandum F.No 3(11)/98-Vig(D) dated 13th November, 1998.
11. Copy of the order F.No 3-11/98-Vig (D) dated 14.6.2001 penalty of "Withholding of one increment of pay for one year without cumulative effect" against Dr Sarveshwar Dayal.

T. B. L.

Dayal S. K.

ANNEXURE IV

LIST OF WITNESSES BY WHOM THE ARTICLES OF CHARGE FRAMED AGAINST DR. SARVESHWAR DAYAL, SCIENTIST (SS) ARE PROPOSED TO BE SUSTAINED.

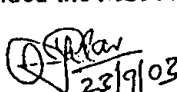
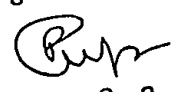
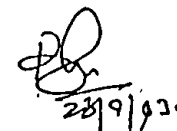
- 1) Members of MSI Office bearers-Dr. R.C. Upadhyay, Dr. B. Vijay, Dr. S.K. Singh and Dr. M.C. Yadav.
- 2) Winter School Trainee- Dr Robin Gogoi, Senior Scientist (Plant Pathology), Assam Agricultural University, Jorhat.
- 3) Dr. Shwet Kamal, Research Associate working at NRCM, Solan
- 4) Dr. R.N. Verma, Ex-Director, NRCM, Solan


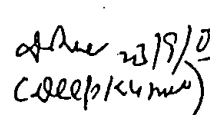
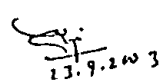


18
50- (5) ~~SECRET~~
DOCUMENT-I


Sub: Manhandling and beating of Dr. R.N. Verma, Ex-Director of NRCM in the office premises - information regarding.

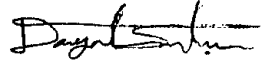
It is to inform you that Dr. R.N. Verma, Ex-Director of this Centre was invited by the present Director, Dr. R.P. Tewari to visit the Centre on dated 23.09.2003 afternoon by sending official vehicle to the temporary residence of his son Sh. Sushant Bharti residing near HTL (near Hanuman Mandir). Accordingly, Dr. R.N. Verma visited the Centre at 3.00 p.m. and had a meeting with the Director, Administrative Officer and Asstt. Finance & Account Officer upto 4.00 p.m. Since Dr. R.N. Verma is also the President of Mushroom Society of India and therefore taking the benefit of his presence at the Centre, the Secretary, Mushroom Society of India requested Dr. R.N. Verma to preside over the meeting of MSI. Agreeing to the request of the Secretary Dr. Verma was presiding over the MSI meeting in the room of Dr. R.C. Upadhyay, Secretary. In the meeting besides Dr. R.N. Verma, Dr. R.C. Upadhyay, Secretary, Dr. B. Vijay, Vice President, Dr. S.K. Singh, Joint Secretary, Dr. M.C. Yadav, Treasurer and Sh. Deep Kumar, Dealing Assistant, MSI were present in the meeting. During the course of meeting at about 5.00 p.m. Dr. Verma went to urinal. (Dr. Verma informed) that on his return he was talking to a Winter School trainee Dr. Robin Gogoi, Scientist, Assam Agricultural University, Jorhat. All of sudden Dr. S. Dayal and Dr. (Mrs.) Yash Gupta waylaid Dr. Verma and Dr. Dayal started beating him with his hands and Dr. Yash Yash Gupta provoked him to beat and manhandle him further and said that "this is not enough and beat him more". Dr. Verma was shivering and ended the MSI meeting.

 23/9/03
  23.9.03
  23/9/03.
 (Dr. M.C. Yadav) (Dr. R.C. Upadhyay) (Dr. B. Vijay)

 23/9/03
  23/9/03
  23.9.2003
 (S.K. Singh) (Sh. Deep Kumar) (Robin Gogoi)
 Trainee, Winter School

A.O. for man-pl & Put up D.F.A.


 23/9



-51-

(6)

DOCUMENT-II

राष्ट्रीय खुम्ब अनुसंधान केन्द्र

NATIONAL RESEARCH CENTRE FOR MUSHROOM

(भारतीय कृषि अनुसंधान परिषद)

(Indian Council of Agricultural Research)

चम्बाघाट, सोलन - 173 213, हिमाचल प्रदेश, भारत

Chambaghat, Solan - 173 213 Himachal Pradesh (INDIA)



Fax : (91) 01792-230451 Grams : "MUSHROOMSEARCH"
E.mail : nrcmushroom@rediffmail.com
tewari,rp@rediffmail.com

STD Code : 01792
Phone : Director (Office): 230451
(Resl.) : 230401
EPABX No. : 230767, 230541

No.F. PA/AO/2003/

Dated: 23rd Sept., 2003

To

The Incharge Police Station,
Solan City,
Solan.

Sub: Manhandling and beating of Dr. R.N. Verma, Ex-Director of NRCM in the office premises - FIR regarding.

Sir,

It is to inform you that Dr. R.N. Verma, Ex-Director of this Centre was invited by the present Director, Dr. R.P. Tewari to visit the Centre on dated 23.09.2003 afternoon by sending official vehicle to the temporary residence of his son Sh. Sushant Bharti residing near HTL (near Hanuman Mandir). Accordingly, Dr. R.N. Verma visited the Centre at 3.00 p.m. and had a meeting with the Director, Administrative Officer and Asstt. Finance & Account Officer upto 4.00 p.m. Since Dr. R.N. Verma is also the President of Mushroom Society of India and therefore taking the benefit of his presence at the Centre, the Secretary, Mushroom Society of India requested Dr. R.N. Verma to preside over the meeting of MSI. Agreeing to the request of the Secretary Dr. Verma was presiding over the MSI meeting in the room of Dr. R.C. Upadhyay, Secretary. In the meeting besides Dr. R.N. Verma, Dr. R.C. Upadhyay, Secretary, Dr. B. Vijay, Vice President, Dr. S.K. Singh, Joint Secretary, Dr. M.C. Yadav, Treasurer and Sh. Deep Kumar, Dealing Assistant, MSI were present in the meeting.

During the course of meeting at about 5.00 p.m. Dr. Verma went to urinal. On his return he was talking to a Winter School trainee Dr. Robin Gogoi, Scientist, Assam Agricultural University, Jorhat. All of sudden Dr. S. Dayal and Dr. (Mrs.) Yash Gupta waylaid Dr. Verma and Dr. Dayal started beating him with his hands and Dr. Yash Yash Gupta provoked him to beat and manhandle him further and said that "this is not enough and beat him more". Listening the shouts, Research Associate Dr. Shwet Kamal, Dr. Robin Gogoi, Dr. S.K. Singh, Dr. B. Vijay, Dr. R.C. Upadhyay and Sh. Deep Kumar intervened and disengaged Dr. Dayal from Dr. Verma and saved Dr. Verma from further severe injury that could have been inflicted on him as he is a retired elderly person and is hardly in a position to defend himself alone. At the same time, the Director of the Centre Dr. R.P. Tewari reached the spot and visited the meeting place and took stock of the situation. Then the Director immediately contacted the Deputy Director General (II), Indian Council of Agricultural Research, Krishi Anusandhan Bhavan-II, New Delhi and

Dayal

informed about the incident. Meanwhile, the police was informed for lodging of the FIR over Phone against Dr. Dayal and Dr. Yash Gupta. It is made clear that the above incident created by Dr. S. Dayal, Scientist and Dr. (Mrs.) Yash Gupta, Scientist of this Centre have not only disrupted the meeting of Mushroom Society of India in midway but also hampered the training of the Winter School and research work going on at the Centre in public interest.

Therefore, necessary FIR may be lodged against them and severe action against them may be taken immediately in public interest.

Yours faithfully,

H e

(Hari Singh)

Administrative Officer

23/9/03

Director may issue me for approval before issue.

Director

H e 23/9/03

Alhuvani
23/9/03

Ena

Pr. City

Selam
28/9/03

Dayal Singh

-53-

ANNEXURE - 4

61

Confidential

Central Potato Research Station
(Indian Council of Agricultural Research)
Shillong - 793 009

F.No. 15/SD/2004/407

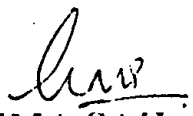
Date 28.7.2004

To,
Dr. Sarveshwar Dayal
Scientist (SS)
CPRS, Shillong

Sir,

With reference to letter no F.No. 42/SD/YG/04 dated July 19, 2004 received from Administrative Officer for Sr. Adm. Officer CPRI, Shimla, regarding disciplinary proceedings against Dr. Sarveshwar Dayal, Scientist (SS) and Dr. Yash Gupta, Scientist(SS).

You are therefore hereby requested to receive the following confidential documents.

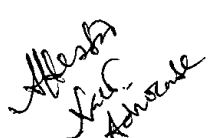

UMA SAH
For HEAD

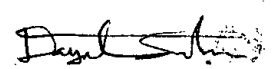
Received Registered Confidential letter F. No. 3(2)/2004- Vig (D) dated 1.6.2004 From Shri. S.K. Behera, Under Secretary(Vig), ICAR, New Delhi, including the four annexure(Page No 1 - 4), along with the following documents enclosed therewith:

Documents

- 1.Doc. I: Manhandling Information, regarding(Page No.5)
- 2.Doc.II: F. No. PA/ AO/2003/ dated 23 Sept. 2003 from NRC M(ICAR) Solan(Page no 6-7)
- 3.DOC.III: Bayan Dr. R. N. Verma (Page no. 8-9)
- 4.Doc. IV: First Information Report No. 0247149 FIR No. 252 dated 23/9/2003(Page no. 10- 11)
- 5.Doc.V: Minutes of ARSS forum meeting held on 24-09-2003 (Page no. 12-13)
6. Doc.VI: letter F.no. IJSC/NRCM/2003 of IJSC, NRCM, Solan (Page no. 14-15)
7. Doc. VII: letter of Dr. S.K. Singh to Director, NRCM, Solan (Page no. 16-17)

Cont.....page 2/-


A. K. Sharma
Advocate


Dr. Sarveshwar Dayal

8. Doc.VIII: Letter of Dr. Shwet Kamal , RA, NATP-II to Dr. S.K. Singh, Course Director, Winter School, NRCM, Solan (Page No 19)
9. Doc.IX: Confi. Letter dated 1-10-03 from Dr. R. N. Verma to Dr. G. Kalloo (Page No. 20-21)
10. Doc. No. X: Confidential letter F.No. 3(11)/ 98-Vig. (D) Dated 13-November 1998 (total pages 2)
11. Annexure I: Statement of articles of charge against Dr. Sarveshwar Dayal, Scientist (SS), NRCM, Solan (Total Pages 2)
12. Annexure II: Statement of Imputations of misconduct or misbehaviour NRCM, Solan(Total Pages 4)
13. Annexure III:List of documents by which the articles of chargeproposed to be sustained (Total Page 2)
14. Annexure IV: List of witnesses by whom the articles of charge framed..... proposed to be sustained (Total Page 1)
15. Doc. XI: Confidential letter F.No. 3-11/98- Vig. (D) dated 14-6-2001 from Shri. T.K. Murugan Deputy Secretary(Vigilance), ICAR, New Delhi (Total pages 4)

Signature : 

Name : Dr Sarveshwar Dayal

Designation : Scientist (SS)

Place : Shillong

Date : 28-7-04



IN THE COURT OF SH. J.K. SHARMA, CHIEF JUDICIAL MAGISTRATE
SOLAN

Criminal Case No. 245/2 of 2003

Date of Institution 16-10-2003

Date of Decision 22-6-2007

S T A T E

Vs.

1. Sareshwar Dayal son of Sh. R.D. Gupta
r/o Mahmood Lodge, near Mohan Park,
Solan
2. Yash Gupta wife of Sh. Sareshwar Dayal
r/p Mahmood Lodge, near Mohan Park,
Solan. Accused

Police challan u/s 341, 323,
506, 34 IPC of P.S. Solan vide
FIR No. 252/03.

....

For the State:- Shri. Y.P. Singh, APP.

For the Accused:- Shri D.K. Thakur, Advocate.

JUDGEMENT

The accused are standing trial
for their having allegedly committed the offence
u/s 341, 323, 506 read with Section 34 IPC.

2. In brief, the prosecution story is
that from 1994 to 2002 Ravinder Nath Verma
was posted as Director, National Research Centre,
Mashroom at Chambaghat. It is alleged that on
23-9-2003 PW6 Ravinder Nath Verma was present in
Research Centre where inspection team had come
from Mashroom Society of India and meeting was
held in the room of Dr. R.C. Upadhyay, PW1 Dr. S.K.
Singh, PW2 Dr. B. Vijay were also present. It is
further alleged that around 5 P.M. PW6 Ravinder Nath



सत्यापित

दि. 22/6/07

Dyal Singh

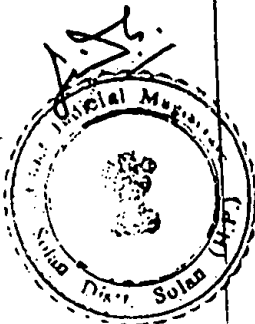
-56-

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-2-

went to bathroom and when he was returning, he met PW4 Robin Gurgie, Senior Scientist to whom PW6 Ravinder was talking. It is also alleged that then both accused ~~xxxxxxx~~ i.e. husband and wife came to the spot and addressed PW6 Ravinder Nath Verma and when he came to accused then both accused started assaulting the complainant. It is further averred that accused Sureshwar was assaulting the complainant and accused Yash Gupta was shouting and inciting the other accused to assault. It is alleged that then PW1 S.K.Singh, PW2 B.Vijay, Deep Kumar came out of the room to save the complainant and PW4 Robin Gorgie also saved the complainant from the accused. It is further averred that the meeting was to be suspended held thereafter and complainant went to the room of Director and police was intimated on which rapat Ext.PW7/A was entered by PW7 M.C. Mohan Lal of P.P.City Solan and the police party ~~was~~ went to the spot. It is also alleged that then, PW6 Ravinder Nath complainant made statement u/s 154 Cr.P.C. which is Ext.PW5/A on the basis of which formal FIR Ext.PW3/A came to be registered by PW5 H.C.Om Parkash. It is also alleged that during investigation, I.O. prepared the spot map Ext.PW5/B and recorded the statements of witnesses u/s 161 Cr.P.C. and statement of PW1 S.K.Singh, B.Vijay are Ext.PW5/C and Ext.PW5/D. After finding the sufficient evidence accused the accused, they were arrested by PW5 and admitted on bail and after investigation, SHO Gurdayal filed the challan against the accused.



सत्यापित

(Signature)

(Signature)

3. After taking cognizance, the presence of accused persons was procured. They were supplied with copies of challan and other relevant documents as required under Section 207 Cr.P.C.

4. The accused persons were charged for the offence u/s 341, 323 and 506 read with Section 34 IPC to which they pleaded not guilty and claimed trial.

5. The prosecution has examined as many as 7 witnesses in all and closed the same. Then accused persons were examined u/s 313 Cr.P.C. They have denied their involvement in present case and pleaded that they were arrested in a false case. No defence evidence has been led, by accused.

6. I have heard Ld. APP and Ld. defence counsel and perused the record.

7. The following points arise for determination:-

POINT NO. 1

Whether prosecution has proved beyond all reasonable doubt that on 23.9.2003 at 5:45 PM at National Research Centre, Chambayhat accused Sureshwar in furtherance of common intention of his co-accused Dr. Yash Gupta wrongfully restrained complainant K.N.Verma and caused voluntarily simple hurt to him and criminally intimidated him which injury as alleged?

FINAL ORDER

8. For the reasons to be recorded hereinafter, my findings on above points are as under:-

समाप्त

दि. 2/7/07

Dayal Kumar

FINDINGS

POINT NO.1

No.

FINAL ORDER

Accused is acquitted as per operative part of judgement.

REASONS FOR FINDINGS

9.

POINT No.1

9. In order to prove its case, prosecution has examined PW-1 Dr. S.K. Singh Senior Scientist National Research Centre of Mashroom, Chambaaghat. He was present in N.R.C.M. for attending the meeting with the complainant and other people. He has stated that complainant went out of the meeting room and went to the toilet and when he returned in the meeting room, it was told that accused N Sarveshwar Dayal had assaulted the complainant. Thereafter, all the people present in the meeting room went outside who found that accused Sarveshwar Dayal was not there. This witness was declared hostile and cross-examined by the State. But, nothing material has come in his cross-examination. He has denied that wife of accused was also there or that both of them assaulted the complainant. In his cross-examination by the accused, he has admitted that R.N.Verma was having enmity with the accused and during term of R.N.Verma, complainant, both the accused were suspended and enquiry was held, but they were reinstated.

10. PW-2 is Dr. B.Vijay, Principal Scientist at Chambaaghat NKCM. He has stated that when R.N.Verma returned from the bath room, then

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his mood was not good and on questioning, he told that he had been assaulted by the accused. Though, quarrel did not take place in the presence of this witness. He was also declared hostile by the State. He has denied that both the accused assaulted the complainant in his presence. He was cross-examined at length by the State, but nothing material has come in his cross-examination.

11. PN-4 is Robin Gargi, Senior Scientist, who was also present in the N.R.C.M. and came out of the practical class when he met complainant R.N.Verma who was talking to this witness. He has stated that all of a sudden accused Dr. Sarveshwar Dalay came there and caught hold of complainant and gave slap to the complainant. In his cross-examination by the accused, he has stated that he was having working relations with Dr. Verma. He has stated that Dr. ~~Verma~~ ^{Dayal} had only dealt one slap on Dr. Verma. He has, however, not stated that wife of accused i.e. co-accused Dr. Yam Gupta was also there. He has stated that they were standing by the side and talking to each other. He was confronted with his previous statement wherein it was alleged that they were walking when the alleged offence occurred. He could not tell as to why Dr. Dayal had assaulted Dr. Verma. He has stated that no noise was raised at the spot. He has not stated that other witnesses also came to the rescue to Dr. Verma or that he himself tried to intervene and save the complainant.

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Dayal

12. Then remains the statement of PW-6 R.N.Verma, complainant who has claimed that he had come to attend meeting, though, he had retired in the year 2002. It is further stated by him that he had gone to bath-room and when he returned then he met PW-4 Robin Gagoi and in the meantime accused Dr. Sarveshwar Dayal, Scientist came there alongwith his wife Dr. Yash Gupta. He has stated that thereafter, accused met him when he tried to reciprocate, then in the meantime, accused started slapping him. . He has further stated that wife of accused Dr. Yash Gupta, co-accused thereafter incited accused Sarveshwar Dayal to assault the complainant. He has stated that after hearing of the noise, people also came from the meeting room and came to his rescue including PW-4 Robin Gagoi. He has stated that Dr. Dayal and his wife criminally intimidated him. Thereafter, he was removed to meeting room, but the meeting ~~could not~~ could not be continued. Thereafter, he was taken to room of Director from where the police was called. He, then, made statement Ex.PW5/A before I.O. on which PW-5 H.C. Om Parkash registered FIR Ex-PW3/A. This witness was cross-examined at length on behalf of the accused. He has stated that he was not having any enmity with the accused. He never made any written complaint against the accused. Though, subsequently, he has admitted that he had written against the accused for disciplinary action. He has denied that in the year 1998, he had got accused suspended. He has admitted that after

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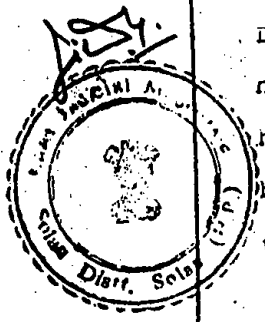
Dayal

enquiry suspension was also revoked. He had also issued show cause notice and called explanation of the accused. He has denied that he had told in the meeting that he was slapped. He has denied that due to enmity, he had prepared false case. He has denied that accused Yash Gupta was not there. He has denied that no threat was given to him. He has denied that no witness was present at the spot. He has admitted that at that time the office time was over. He has denied that incident did not occurred.

13. Then, PW-7 is M.C. Mohan Lal, but on receiving telephonic message from Mashroom Centre, Chambaghat he entered. rapat Ex. PW7/A for sending I.O. to the spot.

14. Then, remains the statement of I.O. A.S.I. Beeru Ahmed, who had recorded the statements of complainant under section 154 Cr.P.C. During investigation, he prepared spot map Ex. PW5/B and recorded statements of witnesses under section 161 Cr.P.C. and statement of S.K. Singh is Ex. PW5/C and statement of Dr. B. Vijay is Ex. PW5/D. He has arrested the accused and admitted them on bail. After investigation by him, SHO Burdial filed the challan. In his cross-examination, he could not tell as to in which capacity Dr. R.N. Verma had come to Chambaghat as he had now retired. He had not taken any document into his possession to prove that Dr. R.N. Verma had been called in the meeting or not. He has admitted that Dr. R.N. Verma and accused had old enmity.

--7/-



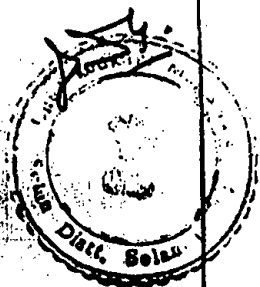
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2/7/77

David Suban

He could not tell as to who had chaired meeting. He has denied that he had recorded statements of witnesses of his ownx at the instance of Sn. R.N. Verma. He has denied that false case has been prepared against the accused. This is what the prosecution has alleged in evidence to prove its casex against the accused.

15. Complainant in this case claimed that he was out side meeting room when he was talking to PW-4 Robin Gagoi. He has also claimed that when he was assaulted then complainant raised hue and cry and people sitting the meeting room also came to his rescue. He was saved from both the accused. However, PW-1 Dr. S.K. Singh have turned hostile and have not ~~xx~~ supported prosecution case. They have stated that when the complainant returned then they were intimated in meeting room that he was assaulted. Though, they themselves seen the accused assaulting the complainant. Other witnesses namely PW-4 Robin Gagoi had claimed that when he was talking to the complainant then accused Dr. Dayal came there and caught hold of complainant and assaulted him by slapping or giving fist blow. However, PW-4 never named accused Dr. Yash Gupta to be present at the spot or that she was inciting her co-accused Dr. Sarveshwar Dyal to assault the complainant. Though, PW-6 complainant R.N. Verma has claimed that when he was assaulted by the accused Sarveshwar Dayal then his wife co-accused Dr. Yash Gupta also came there and she



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Dayal

- 63 -

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was inciting her co-accused to assault the complainant. Statement of complainant has thus been contradicted by PW-4 Robin Gagoi who has tried to corroborate the prosecution case and statement of complainant. whereas PW-4 has contradicted prosecution case and he has not proved the presence of co-accused Dr. Yash Gupta. Further more, complainant claimed that other scientist sitting in the meeting room also came out and saved him alongwith PW-4. Other scientist have turned hostile as mentioned earlier. Further PW-4 Robin Gagoi has stated that he himself tried to intervene and save the complainant. He also did not state that other scientist came out from the room to the rescue of the complainant. But, he has stated that accused only slapped once and gave fist blow. He thus, can not be said to be proved prosecution case beyond all reasonable doubt as story as narrated by the PW-4 is different from the statement alleged by the complainant. PW-4 Robin Gagoi has also not stated that accused criminally intimidated the complainant.

16. After going through the entire prosecution evidence, as discussed above, it has to be held that prosecution has failed to prove its case against the accused beyond all reasonable doubt. Hence, my findings on point No. 1 is in the negative and against the prosecution.

FINAL ORDER

17. In view of my findings on point No.1 above, accused are given benefit of doubt

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Dayal Singh



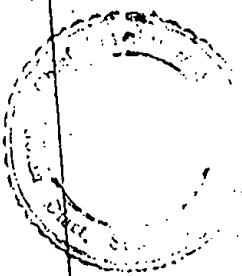
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and acquitted of the charge under section 341, 323,
506 read with section 34 IPC. File after completion
be consigned to record room.

Announced in the open court of this
22nd day of June, 2007 in the presence of Sh.
Yashpal Singn APP for State and accused with
Sh. D.K. Thakur, Adv.

K. Attri

(J.K. Sharma)
Chief Judicial Magistrate
Solan Dist. Solan (H.P.)



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दि. 27/6/07

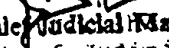
Dayal Kumar

List of witnesses

Sr. No.	Name of witness	Whether witness is of prosecution or defence.
PW-1	Dr. S.K. Singh	Prosecution witness.
PW-2	Dr. B.Vijay	-do-
PW-3	H.C. Om Prakash	-do-
PW-4	Dr. Robin Gargi	-do-
PW-5	ASI Beera Ahmed	-do-
PW-6	R.N. Verma	-do-

List of Exhibits

Exhibits	Date of Exhibits	Description of Exhibits
Ex. PW3/A	8.6.2005	FIR
Ex. PW5/A	23.8.2005	Statement of S.K. Singh
Ex. PW5/B	-do-	Spot map
Ex. PW5/C	-do-	Statement of S.K. Singh
Ex. PW5/D	-do-	Statement of Dr. B.Vijay
Ex. PW7/A	7.3.2007	Kojnancha


 Chief Judicial Magistrate,
 Solan District, Solan, H.P.

(1) जांच के प्रमाणों की संख्या 2825
 (2) जांच के प्रमाणों की तिथि 09/6/27
 (3) जांच के प्रमाणों की तिथि 2/7/27
 (4) जांच के प्रमाणों की तिथि 2/7/27
 (5) जांच के प्रमाणों की तिथि 2/7/27
 (6) जांच के प्रमाणों की तिथि 2/7/27
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 (9) जांच के प्रमाणों की तिथि 2/7/27
 (10) जांच के प्रमाणों की तिथि 2/7/27

प्रमाणित संस्थापित कार्य

नरिपक
 नरिपक नरिपक नरिपक-1872/7/07
 की धारा-76 में प्रविष्ट

सत्यापित

परीक्षक



Date
5th August, 2004

- 66 -

To
The President
ICAR, Krishi Bhawan
New Delhi 110 001

New Delhi, Krishi Bhawan ref. no F 3 (2)/2004 Vig(D) dated 1.6.2004
New Delhi, Krishi Bhawan ref. no. F 3(11)/98 Vig. (D) dated 13.11.98
Through Proper Channel
Subject: Rule 14 CCS CCA

Sir,

This has the reference of the above 2 memorandum. May I submit in this connection that a copy of following papers duly attested by a public notary or a gazetted officer may please be supplied. With your permission sir may I mention that all these documents are equally important and essentially required to furnish a reply to the memo dated 1-6-2004.

It is for your consideration regarding the aforesaid memorandum that "I desired to be heard in person."

Experiments, particulars, requirements, memorandum	Relevance
1 FIR present status: nrcm under the signatures of Dr.R.P.Tewari and A.O. filed in city police post on dated 23.9.0003.	
2 A list of documents pertaining to above enclosed reference dated 13-11-98 has been submitted and lying in the offices of krishi bhawan in ICAR since 1998. These documents are essentially required now. The access to all those documents prevented by IO because of the reasons best known to him only. The same IO is to write the AAR and likely to spoil 2 AAR of scientists therefore I request you to take the necessary steps to avoid executing of the biasness at 1 or all levels in both	Ravindra Nath Involved
3 Unreadable documents: Fax No., time etc of document no.9 on page 20 and 21 documents- 3 page 8 &9, document 1 page 1.	
4 Incomplete documents: copy of the fax matter dated 26.2.2002, fax number-telephone, name of person operated fax machine.	Charge-1
5 Missing documents: a portion of the document - vii on page 18	
6 A copy of the transfer order of ex-director Ravindra Nath from NRCM, Solan to CPRI, Shimla in the year 2002.	
7 An information or a copy of the letter that ex-director Ravindra Nath shall be there in CPRI and work there viz. Principal scientist wef Feb. 2002.	imputation Charge-1.
8 Write up of ex-director Ravindra Nath he delayed his joining to his new assignment in CPRI, Shimla.	Charge-1
9 Documents dealt with the transfer subject of ex-director Ravindra Nath avoided the service of relieving orders alongwith transfer order as Dr. Rajendera Prasad did in 1 envelope making it confidential in dispatch register by designing his own procedure and practice arbitrarily violating ICAR decision, policy and abusing office powers.	
10 Copy of the eye witnesses Dr. Shwet Kamal, NATP-II, he has stated that he has given to the police along with many others in the office chamber of director.	Charge-1
11 Documents of not allowing the joining of S. Dayal and Yash Gupta in Feb., 2002 at NRCM Solan by ex-director Ravinder Nath.	Charge-1

94

12. Intimation of an offence by an employee. 2
13. Fact finding enquiry – preliminary enquiry report where there can be *exparte* examination or investigation. Rule14
14. Complaint made by Director NRCM Solan to New Delhi office of ICAR. Rule-14
15. All the documents including letters –complaints-notings on the files etc. *In toto* to the transfer of two scientists: Charge-1
16. Intra Institutional transfer guidelines developed by the connivance of two directors viz. Drs. SMP Khurana and RP Tewari. Charge-1
17. A copy of decision of the authority to initiate Rule 14 disciplinary proceeding on the basis of investigations. Charge-1
18. A para from Dr. Rajendra Prasad he did not pass on the requested documents to me in response to his own ref.no.f. PA/AO/O3/ 5737 dated 25-9-2003 Charge-1
19. Essence of allegation setting out accusation the ICAR pleaded 2 charge memorandum / sheet (a) Ist was dated 23-9-03 (b) IInd was dated 1-6-2004 out of these 1 was to Chandigarh Bench of CAT and 1 was given to me. Please supply a text write up and comprehension of these 2. Charge-1
20. Document XI pages 26, 27, 28 & 29 were the out come of **shut up ,through you out ,I forgot planner, expecting interference, wife also serve in Rule14 NRCM, CAT has asked to extend the date, etc ,etc, etc, etc, pre conceived turmoil of IO SMP Khurana mentioned without the signature of disciplinary authority so a photocopy of full File is essentially required. I request your good self please grant the permission to examine him for disinterested person and unbiased IO.** Charge-1
21. Duly approval of competent authority to an allocation in ICAR building premises a space to the office of MSI working, functioning etc. Charge-1
22. Violation of rule 14(14) writes up of Dr. Khurana, IO posting 1 mushroom Scientist in MP and 1 in Meghalaya. Charge-1
23. Rule 14 (13) violation write up of IO Khurana for not posting these 2 mushroom scientist in M.P. Charge-1
24. Single write up of IO SMP Khurana for not creating the post of ARS mycologist and plant pathologist in M.P Rule 14(16). Charge-1
25. Research and experimental needs of station like Shillong for posting and keeping of 2 olericulturist / hort ARS by IO SMP Khurana. Charge-1 g. bicar Rule 38
26. IO SMP Khurana yet did not reimburse the voluminous of local transportation amount, traveling allowance, daily allowance, road mileage, expenditure, railway track entitlements, service charges etc despite repeated applications, requests, remainders etc. Charge-1
It may be reimbursed now alongwith the losses with in 8 days time as this limit given to me by IO SMP Khurana inferred as well on him.
27. Action taken by DG and DDG and repercussions on the letter no. nil. Dated nil document -VI of member Mrs Sailja Verma. Charge-1
28. Repercussions and action taken by Dr. Gautum on fax dated 1.10.03 from Ashirbad ,Morabadi ,Ranchi, Jharkhand, 834008 Charge-1
Phone 651-2547321 document no. IX
29. Statements recorded at or about the time for the purpose of corroboration: 1 S. Bhagat 2 M.D. Patil 3 N.L. Vyas 4 Robin Gogoi 5 Nirmala Bhatt 6 P.B. Wani 7 V K Yadav & others who did not put their signatures-1 lno. Charge-1
30. Text in an ink of Dir. CPRI/ IOSMP Khurana why he did not ordered the placement and posting of principal scientist Dr. R.N. Verma either at Gwalior or Shillong on his transfer to CPRI from NRCM Solan. Charge-1
31. Letter(s)/proceedings of the meetings with the Asstt. Fin. Acc. Officer, Administrative Officer, Dir. And the ex-director Ravindra Nath had in the premises of NRCM on dated 23.9.03. Charge-1

Dy. Secy

32. Invitation letter of dir. Rajendra Prasad issued to his elderly person ex- director Ravindra Nath

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Charge-1

33. A write up regarding why ex- director Ravindra Nath fixed RAC meeting in June 2004.

Charge-1
Charge-1

34. NRCM premises incoming entry and out going records of security post at the gate for the year 2003-2004.

35. A statement of withholding onward transaction of application for higher positions in or out side the ICAR system by dir. SMPKhurana who has been IO.

ICAR s.no.15
Charge-1

36. ARSS forum organized its meetings the 2 proceedings of the meetings held ASS, Chap14 before and 2 proceedings of the meetings held after the dated 24.9.2003.


Charge-1
Charge-1

37. Circular, agenda items to be discussed and attendance records of participants of MSI meeting on 23-9-2003.

May I request to the goodself of the president ICAR that these documents may please be supplied with in 8 days time.

Thanking you ,sir

Yours faithfully



S. Dayal

Scientist, CPRS-Shillong
793009 Meghalaya

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- 69 -

Annexure-15

To
The President
ICAR, Krishi Bhawan,
New Delhi - 110001

Registered Speed Post
Date
30 September 2004

New Delhi, ICAR Ref.no. 3(2) 2004-Vig.(D) dated 14-9-2004
New Delhi, ICAR Ref. no.3(2) 2004-Vig.(D) dated 1-6-2004
Shillong, C. Potato Res. Station ref. F. 15 /SD/ 2004/407 dated 28-7-2004
Rule 14 , Article 311
Through Proper Channel
Subject: Defense documents

Respectfully sheweth

May I bring in your kind notice that a request dated 5-8-2004 submitted to your goodself for obtaining a bunch of relevant documents of rule 14(23)1,2,3,4,&5 which were of exclusive importance view from the line and angle of defense. With your kind permission I add here sir that the following documents serial nos. 38, 39,40,41 &42 may also be taken in to consideration and may please be included and supplied alongwith the list of documents dated 5-8-2004:

Description of Documents/Subject	Relevance
38. an extract(s) of communication or/ an application/request/ statements made by secretary R C Upadhaya inside the office of dir. Rajendra & Parsad to which the exdirector Ravindra Nath readily agreed	Imputation charge-1
39. at least one acceptance indicating readily agreeing dir. Rajendra Parsad to the MSI secretaries' proposal of meeting of president.	Imputations
40. a way or method /procedure through 'or by' which secretary Upadhaya knew that ex director Ravindra Nath is there inside the chamber of dir. Rajendra Parsad for the purpose of progress of nrc-m and secretary Upadhaya rushed/arrived there with a magnificent and proficient proposal of MSI meeting .	charge-1
41. acceptance 'of who is also the 'president of MSI' to preside on the meeting of MSI.	charge-1
42. duly approved by dir /Dr. Rajendra Prasad the constitution of I J C of N RCM for the year 2004, 2003 and 2002.	charge-1

May I mention here for your kind consideration, sir that the line of relevancy listed there in the aforesaid request is solely from the point of view of defense so far whatever the bunch of documents requested are essentially required for the proof of this charge.

There is a time limit for completing the rule 14 proceedings out of which almost 65 days has consumed for a tiny request to pass on the defense documents so it is here by presumed that 'the documents supply is 'delayed means denied'.

Therefore may I request your goodself you please pass on a copy at the earliest the cogent and substantial reasons recorded in view of documents supply. The copy is essentially required to use a document of defense.

Accepted
Adm. Secy
Adm. Secy

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- 70 -

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Scope of rule 14 provide the fact that a delegate of disciplinary authority viz. IO Khurana S M P not to subject to his orders/ instructions or those of the superior authority to conduct inquiry however, time and again and again.....again it has been noticed and reported that the officer holding the enquiry took a role different than that of a person who is to adjudicate on the fabrications impartially, without bias, rather the officer inclined to some how prove the charges, tried and brought out himself over stepped to prove the charges preventing *in toto* to impart natural justicieable judgement without personal bias and prejudice fear or favour and with indepedece and impartiality. Accordingly a request was made on dated 5-8-2004 to your goodself to grant the permission to examine the IO Khurana S M P to document ,to analyze whether the charge proved or not. Therefore I hereby resubmit this request for your goodself you please grant the same permission at your earliest which may please be communicated from your good office /self to me in 8 days time.

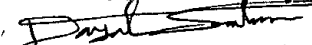
The aforesaid reference delivered to me by an ICAR authority very late accordingly with your permission sir may I hereby mention that the contents of reference dated 14-9-04 are misleading as it is wrong to suggest /write that no reply received from him. The information documented in a memorandum dated 14 instant jumping on to another future slab date 30-9-04 is null, void ,definitely base less, incorrect and futile. The signatory of above memorandum is requested to reimburse the expenditure cost ,service charges, reply expenses etc of this with in 8 days time i.e. on or before 8-10-2004 as this time limit given to me by S M P Khurana IO vis -a-vis applicable to all ICAR.

I request you sir that a copy of cogent and substantial reasons is a defense document may please be pass on to me by your goodself in a duration of 8 days time.

A line in confirmation requested ,sir.

Thanking you ,sir

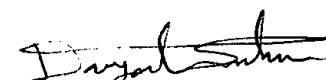
Yours faithfully



Sarveshwar Dayal

Scientist, C. Potato Station, Shillong 793009

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- 71 -

ANNEXURE - 6
Series

Annexur-15

To
The Appellate Authority
ICAR, Krishi Bhawan,
New Delhi - 110001

Registered Speed Post
Date

30 October, 2004

New Delhi, Krishi Bhawan ref. no. F 3(11)/98 Vig. (D) dated 13.11.98 New Delhi, ICAR Under Secy. Behera S.K. Ref. no. 3(2) 2004-Vig.(D) dated 1-8-2004
Shillong, C. Potato Res. Station ref. F. 15 / SD / 2004 / 407 dated 28 - 7 - 2004 New Delhi, ICAR Desk Officer Naniwadekar Y.D. Ref. no. 3(2) 2004-Vig.(D) dated 14-9-2004
New Delhi, Krishi Bhawan, ICAR Under Secy. Behera S.K. reference F.no. 3(2) 2004 -vig.(D) dated 7-10-2004

Subject : An appeal to supply ".....witnesses statements....." disciplinary proceedings documents.

Respected Sir

It has been in aforesaid references that President, ICAR proposed to hold an enquiry under rule 14 of CCS CCA extended to ICAR employee. With your permission sir may I reproduced the scheme -para / portions of certain implicit rules:

GOVERNMENT OF INDIA'S INSTRUCTIONS

- (1) 2however there is unresolved difference of opinion between Central Bureau of Investigation and the Administrative Authority concerned as to whether \longleftrightarrow prosecution in Court \leftrightarrow or departmental action should be resorted to in the first instance, \longleftrightarrow the matter should be referred to the Central Vigilance Commission for.....
- (2)action to finalize departmental action should be taken without delay in the first instance and thereafter the advisability of reporting the case to police for purposes of prosecution if thought necessary, may be.....

...revised instructions of the M H A

.....in case of difference of opinion it is not possible to reach a settlement on the point of difference after a local discussion either at a divisional office level or at circle level the question could be referred to the Directorate for discussion with the.....

May I mention for your consideration that the charge memorandum issued vide N E H Shillong Station Ref 15/ SD/ 2004/407/ dated 28-7-2004 contains many persons involved who are appearing as professional witnesses, state witnesses, prosecuting witnesses, eye witnesses, potential witnesses, corroboration witnesses, complainant & witnesses, regular fabricators & habitual complainants etc which are summarized carefully in annexure III & IV. The names of these persons are appearing repeatedly in the charge memorandum as they signed the papers \longleftrightarrow the pertinent documents, the number of pages they endorsed by their signatures, a glimpse of that is mentioned in table-1 however the supply of the statements of these witnesses is being delayed because of the reasons best known to these persons only. These individual complainants and witness are mentioned in a particular array in the statements of imputations of misconduct under annexure II in support of the article of charge however, the statements of witnesses already recorded during preliminary enquiry in a nature of a fact finding enquiry where can be *ex parte* examination, investigation, reports are yet to be pass on to the charged officer...? and as a measure to cut down delay in the disposal of disciplinary case, copies of statements of witnesses cited are supplied to the government servant along with the charge memorandum. Moreover, a look on the charge memorandum annexure II, III, & IV, documents I to XI specify non enclosure of the statements of these witnesses:

Attested
10/11/04
H. B. B. B.

99
D. S. S. S.

Serial no.	Name/designation/of person	Name appearing on/at/in	Page/(s) on which signature evident
1	Mr s Sailja Verma	vi	her own signature on page 15
2	Dr. Mahes Chandra	annexure II, IV, doc. 1, doc. 5	page-5 & page-13
3	Dr. Ramesh Chandra	annexure II, IV, V doc. 1, 3 & 5, page-11	page-5 & page-13
4	Dr. Bhuvnesh Vijay	annexure II, IV, doc. 1, 3 & 5, page-11	page-5 & page-13
5	Dr. S. K. Singh	annexure II, IV, doc. 1, 3, 5 & 7, page-11	page-5, 13 & 16
6	Shri Deep Kumar	annexure II, doc. 1 & 3, page-11	page-5
7	Dr. Robin Gogai	annexure II, IV, doc. 1 twice in doc. 3	page-5
8	Dr. Shewt Kamal	annexure II, III, IV, doc. 3, page-11	page-19
9	Dr. Behari Lal	document-5	page-13
10	Dr. Madan Pal	document-5	page-13
11	Dr. Satish Kumar	document-5	page-13
12	Er. Armungathan	document-5	page-13
13	Dr. Yogesh Gautam	document-5	page-13
14	Drs. Winter School	annexure III, doc. 7,	page-17
15	Shri Hari Singh	document-2 & 5	page-7 & 12
16	Dr. Rajendra Parsad	document-1 & 2, 2 sig. on doc. 5, 7	page-5, 7 & 12
17	Dr. Ravindra Nath	annexure II, III, doc. 3 & 9	page-21
18	FIR	annexure III	
19	ARSS	annexure IV	
20	IJSC	annexure III	
21	DDG(hortic)	annexure III	

As mentioned there in, the officer charge sheeted when full facts gathered, evaluated, controvertible inferences drawn that misconduct committed, sustained and proposed witnesses are cited in annexure III & IV moreover, aforesaid pattern of appearing the witnesses names, again, again andtime and again and enclosing the papers in their own hand writing, duly approved and signed by them there after countersigned by an authority specifically confirm that the statements of witnesses have been recorded at or about the fact and I request supply on priority for the following documents:

A:....comprehension of 2 charge memorandum dated 23-9-2003 & 1-6-2004

Essence of allegation setting out accusation the ICAR pleaded 2 charge memorandum/ sheet (a) Ist was dated 23-9-03 (b) IInd was dated 1-6-2004 out of these 1 was to Chandigarh Bench of CAT and 1 was given to me. Please supply a text write up comprehension of these 2.

[Signature]

B: Statements of witnesses

- i "..... of all the members of Mushroom Society of India....."
- ii "..... professional witness Dr. Ramesh Chandra"
- iii "..... complainant & witness Dr. Bhuvnesh Vijay....."
- iv "..... Dr S.K. Singh....."
- v "..... witness senior scientist Dr. Robin Gogoi....."
- vi "..... Dr. Mahes Chandra....."
- vii "..... of institute joint staff councils' all the members, secretary etc....."
- viii "..... person(s) who were part & parcel of discussions of ex director Ravindra Nath....."
- ix. "..... person(s) who were part & parcel of discussions of director Rajendra Prasad....."
- x "..... of staff car coterie....."
- xi "..... winter school trainee from all over India....."
- xii "..... state witness Dr. Madan Pal....."
- xiii "..... Dr. Satish Kumar....."
- xiv "..... Er. Armunganathan....."
- xv "..... prosecuting witness Dr. Behari Lal....."
- xvi "..... Dr. Yougesh Gautum....."
- xvii "..... Shri. Hari Singh....."
- xviii "..... dealing assistant Shri Deep Kumar....."
- xix "..... unnamed assistant accounts and finance officer....."

C. Unreadable, incomplete, missing documents please turn to serial no.3,4&5 request dated 5-8-2004...encl.annex.-1"

D. "..... diary, date, despatch number of challan, name and address of court in which filed....."

E. "..... preliminary enquiry time ,date/(s) report....."

F. "..... a detailed well reasoned self speaking document/(s) of transfer of principal scientist R.N.Verma to CPRI, Simla from NRC-M may please be supplied in an ink of director CPRI /IO Khurana SMP that why he/they did not order the posting at station viz. Gwalior-Shillong-Patna-Modipuram-Ooty-Jalandur-Kufri-Puna-Darjlleng- Muktsar....."

May I mention for your kind consideration that the appeal is for the witnesses statements, documents or reports / proceedings from line, angle, view and a essentiality for the preparation of defence statement of this charge memorandum . With your permission may I write here sir that the aforesaid documents 'A to F' are mentioned there in charge memorandum essentially required for the purpose of preparation of clear and unequivocal deny or accept written statements for which Shri Behera and Shri Naniwadekar are asking me in aforesaid references. So the charged officer hereby appeal to your good self that the aforesaid may please be supplied on top priority from your good offices.

A line in confirmation is requested .

Thanx

101
J. Naniwadekar

-75-

ANNEXURE - 6 series

103

To
Shri S.K.Behera
Vigilance Under Secretary
Krishi Bhawn, ICAR, New Delhi 110001

Registered Acknowledgement Due Post
Date
16 April 2005

Article 311 of the constitution, Government of India's instruction 2 (ii)
New Delhi, Krishi Bhawn, ICAR, vigilance under secretary Shri S.K.Behera reference f. no.3(2)/2004-vig.(D) dated 23-2-2005
Subject: Written defence without supplying witnesses statements.

Sir

You please refer your aforesaid letter delivered to me very late by an ICAR authority. Obtaining the copies of documents at a later date from Inquiry Officer is an interdict and unfounded moreover, in view of rule 14 scheme is such that there in, the officer charge sheeted when full facts gathered, setting out the allegation/(s), nature of accusation/(s) evaluated, controvertible inferences drawn that misconduct committed, accordingly government servant requested for a supply of copy of statements referred in support of sustained, proposed and able witnesses in annexure-iv who will substantiate the charge/(s) however, vigilance desk officer Shri V. D. Naniwadekar and learned vigilance under secretary Shri S.K.Behera supplied one statement of tenure basis employed research associate Dr. Shewt Kamal who is at serial no.3.

- i on the contrary, 5 regular employees' statements who are cited at serial no.1&2 in annexure -iv delayed till now despite these persons got their statements recorded, signed the papers the pertinent documents *in toto*, duly diarized / dispatched etc submitted their consents during the procedural compilation.
- ii moreover, to affect a quick supply of statements a precise text serial no. 43 thereafter a version in elaboration passed on to your good self on dated 30-10-2004 a copy of which is re enclosed as annexure -1&2.
- iii submission of written statement either admit or deny the charge in unequivocal terms without the supply of statements referred in annexure-iv of your charge memorandum reference no.f. 3 (2) / 2004-vig.(D) dated 1-6-2004 prejudiced my defence in criminal case no. 243 20 of 2003 which is pending for hearing on June 2005 in the court of Chief Judicial Magistrate in that judiciary limit and leads to prevention the natural justiciable judgment without personal bias.

Therefore, may I request your good self to supply the statement/(s) of persons mentioned in your annexure-iv (enclosed for your ready reference as annexure 3&4) serial no. 1&2 viz. Dr. Ramesh Chand, Dr. Bhuvnesh Vijay, Dr. Suneel Kumar, Dr. Mahes Chandra, Dr. Robin Gogai at your earliest to enable me to furnish admittance / denial in unequivocal terms.

Receipt of this may please be acknowledged.

Thanx

encl: reference f. no.3(2)/2004-vig.(D) dated
23-2-2005 in original to route
it through proper channel.

: annexure-1 pages-3
: annexure-2 -4
: annexure-3 -5

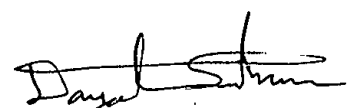
: annexure-4 with the signature of Shri S. K. Behera -1
: total pages enclosed -15

Yours faithfully



Sarveshwar Dayal
Scientist, Central Potato Research
Station, Peak View Road, Shillong-
793 009 Meghalaya

Accepted
By
Advocate



ANNEXURE - 7

- 76 -

CONFIDENTIAL
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A.D.

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAVAN: NEW DELHI-110001.

F.No.3(2)/2004-Vig.(D)

Dated: 07/10/04

MEMORANDUM

Attention of Dr Sarveshwar Dayal, Scientist(SS) , CPRS, Shillong is invited to his communication dated 18-9-2004 . He is informed that relevant documents as listed in Annexure III, have been provided to him along with the charge-sheet. As already indicated in para 3 of the charge sheet, the Charged officer has to either admit or deny the charges in specific terms. Accordingly, Dr.Sarveshwar Dayal is requested to either admit or deny the charges against him in clear and unequivocal terms. His reply should reach the council within 10 days of receipt of this communication, failing which it will be presumed that he has nothing to say in the matter and the case will be processed further as per rules.



(S.K.BEHERA)

UNDER SECRETARY (VIGILANCE)

Dr. Sarveshwar Dayal,
Scientist (SS)
Central Potato Research Station
Shillong - 793 009

*Attended
Mulla
Advocate*



- 77 -

ANNEXURE - 8

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105

**INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAVAN : NEW DELHI**

F.No 3(2)/2004-Vig(D)

Dated the 23 February, 2005

MEMORANDUM

Attention of Dr. Sarveshwar Dayal, Scientist (SS), CPRS, Shillong is invited to his letter dated 24.12.04. It is observed that despite two reminders, he has not admitted or denied the articles of charge against him in clear terms. As a final opportunity, he is once again advised to submit his defence statement by 7th March, 2005 failing which it will be presumed that he has nothing to say in the matter and the case will be processed further as per Rules. It is brought to his notice that all the listed documents have already been provided to him along with the charge sheet and for additional documents if any, he has to approach the Inquiry Officer as and when appointed. Dr Sarveshwar Dayal is also informed that as per CCS (CCA) Rules, disciplinary proceedings can be initiated while criminal proceedings are going on against him. There is no bar under the rules for both the proceedings being undertaken simultaneously.



(S.K. BEHERA)

UNDER SECRETARY(VIGILANCE)

Dr. Sarveshwar Dayal,
Scientist (SS),
Central Potato Research Station,
Shillong-793 009 (Meghalaya)

*Attested
by
Advocate*



A glimpse of document submitted to the defence of rule 14 proceedings on dated 17-7-2005.

Description of document, experiments, requirements, memorandum	Relevance
1 FIR present status: nrcm under the signatures of Dr.R.P.Tewari and A.O. filed in city police post on dated 23.9.0003.	charge-1
2 A list of documents pertaining to above enclosed reference dated 13-11-98 has been submitted and lying in the offices of krishi bhawan in ICAR since 1998. These documents are essentially required now. The access to all those documents prevented by IO because of the reasons best known to him only. The same IO is to write the AAR and likely to spoil 2 AAR of scientists therefore I request you to take the necessary steps to avoid executing of the biasness at 1 or all levels.	Ravindra Nath Involved in both
3 Unreadable documents: Fax No., time etc of document no.9 on page 20 and 21 documents- 3 page 8 &9, document 1 page 1.	
4 Incomplete documents: copy of the fax matter dated 26.2.2002, fax number-telephone, name of person operated fax machine.	
5 Missing documents: a portion of the document - vii on page 18	Charge-1
6 A copy of the transfer order of ex-director Ravindra Nath from NRCM, Solan to CPRI, Shimla in the year 2002.	imputation
7 An information or a copy of the letter that ex-director Ravindra Nath shall be there in CPRI and work there viz. Principal scientist wef Feb. 2002.	
8 Write up of ex-director Ravindra Nath he delayed his joining to his new assignment in CPRI, Shimla.	Charge-1
9 Documents dealt with the transfer subject of ex-director Ravindra Nath avoided the service of relieving orders alongwith transfer order as Dr. Rajendera Prasad did in 1 envelope making it confidential in dispatch register by designing his own procedure and practice arbitrarily violating ICAR decision, policy and abusing office powers.	Charge-1
10 Copy of the eye witnesses Dr. Shwet Kamal, NATP-II, he has stated that he has given to the police alongwith many others in the office chamber of director.	Charge-1
11 Documents of not allowing the joining of S. Dayal and Yash Gupta in Feb., 2002 at NRCM Solan by ex-director Ravinder Nath.	Charge-1
12 Intimation of an offence by an employee. (Letter of the director nrc-m informing council about the incident)	Rule 14
13 Fact finding enquiry - preliminary enquiry report where there can be exparte examination or investigation.	Rule-14
14 Complaint / (s) made by Director NRCM Solan to New Delhi office of ICAR.	Charge-1
15 All the documents including letters -complaints-notings on the files etc. In toto to the transfer of two scientists.	Charge-1
16 Intra Institutional transfer guidelines developed by the connivance of two directors viz. Drs. SMP Khurana and RP Tewari.	Charge-1
17 A copy of decision of the authority to initiate Rule 14 disciplinary proceeding on the basis of investigations.	Charge-1
18 A para from Dr. Rajendra Prasad he did not pass on the requested documents to me in response to his own ref. no. f. PA/AO/O3/5737 dated 25-9-2003	Charge-1
19 Essence of allegation setting out accusation the ICAR pleaded 2 charge	Charge-1

*Attended
Admitted
Advocate*

Dr. S. K. Singh

memorandum / sheet (a) Ist was dated 23-9-03 (b) IInd was dated 1-6-2004 out of these 1 was to Chandigarh Bench of CAT and 1 was given to me. Please supply a text write up and comprehension of these 2.

- 20 Document XI pages 26, 27, 28 & 29 were the out come of **shut up, through you out, I forgot planner, expecting interference, wife also serve in Rule 14 NRCM, CAT has asked to extend the date, etc, etc, etc, pre-conceived turmoil of IO SMP Khurana mentioned without the signature of disciplinary authority so a photocopy of full File is essentially required. I request your good self please grant the permission to examine him for disinterested person and unbiased IO.** Charge-1
- 21 Duly approval of competent authority to an allocation in ICAR building premises a space to the office of MSI working, functioning etc. Charge-1
- 22 Violation of rule 14(14) writes up of Dr. Khurana 22, IO posting 1 mushroom Scientist in MP and 1 in Meghalaya. Charge-1
- 23 Rule 14 (13) violation write up of IO Khurana for not posting these 2 mushroom scientist in M.P. Charge-1
- 24 Single write up of IO SMP Khurana for not creating the post of ARS mycologist and plant pathologist in M.P. Charge-1
Rule 14(16)
- 25 Research and experimental needs of station like Shillong for posting and keeping of 2 olericulturist / hort ARS by IO SMP Khurana. Charge-1 g. bicar
Rule 38
Charge-1
- 26 IO SMP Khurana yet did not reimburse the voluminous amount of local transportation, travelling allowance, daily allowance, road mileage expenditure, railway track entitlements, service charges etc despite repeated applications, requests, remainders etc. It may be reimbursed now along with the losses with in 8 days time as this limit given to me by IO SMP Khurana Inferred as well on him.
- 27 Action taken by DG and DDG and repercussions on the letter no. nil. dated nil document -VI of member Mrs Sailja Verma. Charge-1
- 28 Repercussions and action taken by Dr. Gautum on fax dated 1.10.03 from Ashirbad, Morabadi, Ranchi, Jharkhand, 834008 Phone 651-2547321 document no. IX charge-1
- 29 Statements recorded at or about the time for the purpose of corroboration: 1 S. Bhagat 2 M.D. Patil 3 N.L. Vyas 4 Robin Gogoi 5 Nirmala Bhatt 6 P.B. Wani 7 V K Yadav & others who did not put their signatures-1 lno. Charge-1
- 30 Text in an ink of Dir. CPRI/ IOSMP Khurana why he did not ordered the placement and posting of principal scientist Dr. R.N. Verma either at Gwalior or Shillong on his transfer to CPRI from NRCM Solan. Charge-1
- 31 Letter(s)/proceedings of the meetings with the Asstt. Fin. Acc. Officer, Administrative Officer, Dir. and the ex-director Ravindra Nath had in the premises of NRCM on dated 23.9.03. Charge-1
- 32 Invitation letter of dir. Rajendra Prasad issued to his elderly person ex- director Ravindra Nath Charge-1

107
Rajendra Prasad

- 33 A write up regarding why ex- director Ravindra Nath fixed RAC meeting in June 2004.
- 34 NRCM premises incoming entry and out going records of security post at the gate for the year 2003-2004.
- 35 A statement of withholding onward transaction of application for higher positions in or out side the ICAR system by dir. SMP Khurana who has been IO.
- 36 ARSS forum organized its meetings the 2 proceedings of the meetings held before and 2 proceedings of the meetings held after the dated 24.9.2003.
- 37 Circular, agenda items to be discussed and attendance records of participants of MSI meeting on 23-9-2003.
- 38 an extract(s) of communication or / an application / request / Imputation statements made by secretary R C Upadhaya inside the office of dir.Rajendra Parsad to which the exdirector Ravindra Nath readily agreed
- 39at least one acceptance indicating readily agreeing dir.Rajendra Parsad to the MSI secretaries' proposal of meeting of president ...
- 40 a way or method /procedure through 'or by' which secretary Upadhaya knew that ex director Ravindra Nath is there inside the chamber of dir.Rajendra Parsad for the purpose of progress of nrc-m and secretary Upadhaya rushed/arrived there with a magnificent and proficient proposal of MSI meeting .
- 41 acceptance 'of who is also the 'president of MSI' to preside on the meeting of MSI.
- 42 duly approved by dir /Dr. Rajendra Prasad the constitution of I J C of NRCM for the year 2004,2003 and 2002.
43. Apart from the preliminary enquiry report the memorandum speaks the charge sustainability on the witness "..... all the members of mushroom society of India.....staff council (please specify the names ,designation of all the members ,secretary etc) of nrc-mtrainees all over the country " AFACO,AO, AAO, staff coterie of R.N.Verma,security persons nrc-m, professional witness Ramesh Chandra,complainant Bhubnesh Vijay, Dr. Mahesh Chandra Yadav , Dr .S. K. Singh , Mr. Deep Kumar, Dr. Robin Gogai, Dr.Madan Pal ,Dr. Satish Kumar ,director Rajinder Prasad and othersso many who were the part and parcel in discussion etc etc etc but the statement of these witnesses are yet to be supplied .
- 44.Before ordering and issue the New Delhi, Krishi Bhawan, ICAR F.no.41(ss) I/ 93-Per II dated 24-10-2003 an approval on file by the transfer committee to consider the question of transfer according to pattern at the councils head quarters the photocopy of individual pages in all and file in toto is essentially required for the prepration written statements.
- 45 Photocopy of approval of committee along with file in full, complete and perfect in all sense ,for issuing a Simla ,CPRI, order no.F. 1/Estt./Misc./2001/dated 1-11-2003 is essentially required for preparation of written statements and for defence.
- 46.....in earlier year 1998 Dr. Raj Deo appeared as witness , eye witness, prosecuting witness,state witness, corroboration witness, presenting officer and now it is impressive that ex-director Ravindra Nath keeping him in isolation despite an integral fabricator.....why director Rajender Prasad did this,the obtained text may be pass on for defence .
- 47 FI Reports that IPC 341, 323,506 &34 accordingly charge memorandumn N E H dated 28-7-2004 did not enclosed the relevant statements of witnesses despite witnesses names, signatures etc appeared in annexure I, II, III, IV & documents.I - IX.

Charge-1

Charge-1

ICAR s.no.15
Charge-1
ARSS,Chap14
Charge-1
Charge-1

&
charge-1
imputation
& charge-1
charge-1

charge-1

charge-1

Charge-1
&

imputations

charge-1

charge-1

imputations

charge-1

Darshan Sahni

- | | |
|--|------------------------------|
| 48 Proceeding of Institute Joint Staff Council dated 24-9-2003 along with all the relevant documents.(Circular agenda item,time,telephones etc) | charge-1 |
| 49 A glimpse of dir. Rajendra Parsad discussions' and presentations' in the DPC on dated 10-11-2003 in selection committee meeting comprising of Dr. Girdhari Lal, Dr. Jag Mohan. | charge-1
&
imputations |
| 50 A photocopy of the cogent and substantial reasons recorded in writing in office of nrc-m dir.Rajendra Parsad for refusal to the access to a glimpse of dir. Rajendra Parsad discussions and presentations' in the DPC on dated 10-11-2003 in selection committee meeting comprising of Dr. Girdhari Lal, Dr. Jag Mohan. | charge-1 |
| 51 A copy of my communication dated 18-9-2004 vigilance under secretary Shri S.K.Behera wrote in memorandum f.no. 3(2)/2004 vig.(D) dated 7-10-2004 | charge-1 |
| 52 Complete photocopy of the annual confidential reports /AAR of the persons mentioned in charge memorandum for the relevant years. | imputations |
| 53....photocopy of the annual confidential reports/AAR of the years of these persons mentioned in charge memorandum wrote by Ravindra Nath | charge-1 |
| 53.Public notary attested copy of Ravindra Nath's complaint in nrc-m. This is indicated in Chambaghat ref..no. F5 (10) /PF/Estt.04/8682 dated 18-1-2005. | charge-1 |
| 54 Photocopies of Solan tours & Solan enroute tours,sanction,payment,application etc to senior administrative officer Shri Charles Ekka | Charge-1 |
| 55 Complete photocopy/(ies) of the confidential reports/AAR of the years wrote by Ravindra Nath of these persons mentioned in charge memorandum | charge-1 |
| 56 A proceeding of the meeting director Rajendra Parsad organized / headed in nrc-m on dated 23-9-2003 by calling certain officers from their residence. | Charge-1 |

Dnyal Sabin

- 82 -

ANNEXURE - 10

110

103
579

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INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAVAN, NEW DELHI

F.No. 3(2)/2004-Vig (D)

Dated the 31/8/05

MEMORANDUM

Attention of Dr.Sarveshwar Dayal, Scientist(SS), CPRS, Shillong, is invited to his representation dated 5-8-2005. He is hereby informed that his request to allow an advocate to function as his defence assistant has been considered in the Council. However, the same cannot be acceded to as this is not covered under the CCS (CCA) Rules and the Presenting Officer is not a legal practitioner. He is also informed that there is no bar to initiate disciplinary proceedings while criminal proceedings are already in progress, on the same charge. Accordingly, his request to stay the disciplinary proceedings against him cannot be acceded to. He is advised to cooperate with the Inquiry Officer for expeditious finalization of the case against (her.)

This issues with the approval of Secretary, ICAR/Chief Vigilance Officer.



(S.K. BEHERA)

Under Secretary (Vigilance)

*Dr. Sarveshwar Dayal
Scientist (SS)
CPRS
Shillong*
579

Dr.Sarveshwar Dayal.,
Scientist (SS),
CPRS
Shillong

Copy to :

The Director, CPRI, Shimla. A copy of Memo. meant for Dr.Sarveshwar Dayal., Scientist (SS) is also sent herewith which may be delivered to him after obtaining his dated signatures for records.



- 83 -

ANNEXURE- 11

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111

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAVAN, NEW DELHI

F.No. 3(2)/2004-Vlg.(D)

Dated the 14/11/05

MEMORANDUM

Attention of Dr. Sarveshwar Dayal, Scientist, CPRS, Shillong is invited to his representation dated 31-8-2005 for change of Inquiry Officer. His representation has been considered by the Disciplinary Authority i.e. the President, ICAR who is of the opinion that the points raised by Dr. Sarveshwar Dayal do not indicate any biasness by the Inquiry Officer. Accordingly his request for change of Inquiry Officer is hereby rejected. He is advised to cooperate with the Inquiry Officer for expeditious finalization of the case against him.


(S.K. BENERA)

Under Secretary (Vigilance)

✓ Dr. Sarveshwar Dayal,
Scientist
CPRS
Shillong

ms/
24/11

Attended
Advocate

Dayal Satish

To
The Appellate Authority
Indian Council of Agricultural Research
Krishi Bhavan, New Delhi 110 001

Registered India Post
Date
9 November 2006

Shillong, C. Potato Research Stn. Ref.no. F. 15/ SD/2004/ 407 dated 28-7-2004
New Delhi, Krishi Bhawan, ICAR, Vigilance Under Secy. Shri.S.K..Behera ref.no. 3 (2) / 2004 Vig.(D) dated 16-10-2006.
New Delhi, Krishi Bhawan, ICAR, Vigilance Under Secy. Shri.S.K..Behera ref.no. 3 (2) / 2004 Vig.(D) dated 1-6-2004.

Through : Proper Channel
Subject : Appeal to replace biased Inquiry Officer.

Sir

Kindly refer aforesaid references by which Dr. Prakash Shamrao appointed inquiry authority for judging the truth fullness of imputations. Regarding IO Dr. Prakash Shamrao a request submitted on dated 9-9-2006 and reminded on dated 3-10-2006. That request disposed off vide New Delhi, Krishi Bhavan, I C A R ref. no. 3 (2)2004 Vig.(D) dated 16-10-2006. In view of this position may I appeal on the rejection interprets to my disadvantage by bringing followings in your kind knowledge:

1. IO Dr. Prakash Shamrao ^{annexure-1} himself at his own level charging me with :
i. non cooperation of smooth conduct of inquiry ? ii. adopting dilatory tactics by not furnishing the defence assistant details! iii. neither accepted nor denied the charge/ (s) ?

These imputations surmounted by IO Dr. Prakash Shamrao on me with out any convincing reason / (s) setting aside the quickening, hastening, smoothening and full cooperation extended to enquiry in I Os Himachal court on my pockets' expenditure/(s).

2. The legally prescribed procedure / rule 14 (17) violated in disclosure of my defence by IO demanding/re demanded/ asked in writing by the 16:00 hrs the list of defence witnesses 'Daily Order Sheet dated 14. 9. 2005 serial point no. 12'.

3. Further quickening of enquiry attempted by requesting a sanction dated 7-4-2006 pertaining to arrange a defence assistant from NEH a copy of the same is enclosed for your ready reference ^{annexure-2 & 3}, however the IO Dr. Prakash Shamrao CPRI/competent authority did not respond for either sanction or rejection, payment, advance with drawl amounting a sum Rs.28000/- even keeping the same pending with him. This all amounts to the curtailment of my defence.

4. in the court of IO Dr. Prakash Shamrao at CPRI Simla on dated 16-7-2005 that the list of defence witnesses shall be submitted after the evidences of prosecution side are over, the PO agreed to it however, after a lapse of 59 days on dated 14-9-2005 the IO and PO in connivance re-revoked upon me the submission of the defence witnesses list latest by 14-9-2005 by 16:00. Lightly impression on photocopied documents (already enclosed with the request dated 9-9-2006) reveals this action with evidences confirming to the fact that the IO is getting my defence prejudiced by virtue of these the IO Dr. Prakash Shamrao hereby attracted the rule14 (17). Now therefore it is firmly spoken that Dr.Prakash Shamrao IO appointed by the council is biased.

5. in certain cases it may be permissible legally as per rule 14 (25)4, 5, 6 *inter alia* states all documents there in proposed for sustainability of the charges were to be supplied along with the charge memorandum as early as in June 2004 and as provision in rule(s) the charged officer in person insisted statement of witnesses viz.

- | | |
|--|---|
| 1. Dr.Ramesh Chand Upadhaya ^{annexure-iv} | 2. Dr.Bhubnesh Vijay ^{annexure-iv} |
| 3. Dr. Suneel Kumar Singh ^{annexure-iv} | 4. Mahes Chandra Yadav ^{annexure-iv} |
| 5. Dr.Robin Gogai ^{annexure-iv} | |

since the time of denial / admittance of the charge however, an statement of only 1 prosecuting witness viz. Dr. Shwet Kamal supplied as against the aforesaid 6 persons listed in ^{annexure -iv} of the charge memorandum a photocopy of the same is re enclosed for your ready reference. There after a duration of 12 month continued this particular state of non supply, later on a subsequent date 23-2-2005 vide ref. no. f. 3 (2) 2004-Vig. (D) Vigilance Under Secretary Shri S.K. Behera dissipated this *in toto* the '..... non supply.....' authorization in to enquiry officer Dr. Prakash Shamrao. Accordingly, as asked by him application in a format prescribed in person by IO submitted for the supply of witnesses statements i.e. the listed documents however, these documents were not supplied despite subsequent requests, reminders asking in person during 2 hearing spread over 3 days in July, September 2005 and non supply is continuing till today. These witnesses statements neither supplied along with charge memorandum nor there after and yet to be supplied because of which admittance or denial is still in wait...?. At that time, where as the enquiry became aggressive to produce the witnesses with out supplying their *seriatim*, the statement of individual witnesses 3 clear days before the examination of prosecuting witnesses, that too with out admittance or denial of the charge & imputation here by attract the CCS (CCA) rule14 (17). Now therefore it is firmly spoken that Dr. Prakash Shamrao IO appointed by the council is biased on the ground of non supply of the statement of witnesses even after the 2 hearings. Thus IO Dr. Prakash Shamrao depriving me the reasonable opportunities defending the rule 14 proceedings in connivance of Presenting Officer by violating the article 311(2).

6. With your permission may I mention here sir that the frequency of no payment/(s), delayed payment/(s) from quarter concern is high and it has gone further up irrespective since time limit reduced to 3 months. This fact is affirmed as many payments kept pending although grown older than 6.5 years. Moreover the salaries kept pending from a duration exceeding 4 years, perhaps you shall agree to an empirical facts attending enquiry in himachal court of IO Dr. Prakash Shamrao involve travel

*Directed
Adm. Secy
Krishi Bhavan*

Prakash Shamrao

over to a distance of 3000 km. This needs an expenditure in cash ranging to Rs.30320/- accordingly request/(s) for a sum Rs 27570/-an incurring expenditure made as early as on dated 20-6-2005 so far yet despite final tour program submission in a claim on dated 17-8-2005, 30-8-2005 reimbursement is yet to be made to me. May I add here sir that an equal moreover 20% hike amount (~Rs. 33600/-) is likely to be spent on the traceability of defence assistant that too again an excessive burden on my pocket. Former pendency is in force despite a lump sum cash with drawl causing acute burden on my pocket because of IO Dr. Prakah Shamrao. There is yet no payment for the 1st and 2nd hearings held on 15 and 16 July and 14 September 2005. Later on pursuing these payments using advance copies dated 30-8-2005 categorized unnecessary documents by IO (evidence shall be disclosed at appropriate time). This is an additional humiliation, biasness rule 14 (17); 29-A and hostility executed by enquiry on me. These are the well documented reasons to believe that IO Dr. Prakash Shamrao appointed by council is biased

7. As required by vigilance Under Secretary Shri S.K. Behera vide his New Delhi, Krishi Bhavan, ICAR ref. no.3 (2) 2004 vig.(D) dated 14-11-2005 all the times whole heartedly full cooperation extended to the IO & PO to conclude the enquiry at the earliest preferably in prescribed time limit of 6 months rule 29 (6) however, an unduly long duration (September 2003 - November 2006) of 39 months already consumed inside the practices procedures in councils & court of IO Dr. Prakash Shamrao. This is biasness while executing delaying tactics.

8. IO Dr. Prakash Shamrao executed mystical biasness(es) rule 14 (17) by ordering me '....bring approval of disciplinary authority in case you engage a legal practitioner' how he knew by his own means or any other assists that I want to presented before him by a legal practitioner ...?. This phenomenon IO did not pass on to me despite my request dated 20-6-2005 how he has drawn this conclusion / opinion / decided / wrote/ identified / guess etc.


9. As soon as the council appointed enquiry officer it was represented at the earliest that the appointment of Dr. Prakash Shamrao may please be replaced by an unbiased person, however on the contrary in forth coming hearing the IO imparted only the biasness as covered under rule 14 (17).

The aforesaid confirmed that the IO departed from the documents on which allegations proposed to be sustained, which are legally permissible in accordance with the principle of natural justice enabling to watch the demeanor of witness(es) during chief, cross, re-examination etc. The enquiry denied these documents adopting the dilatory tactics '..... thorough discussion.....' violating well set guide lines, procedures and assumed the function to bring out the admissions to the state of charge some how and to achieve the same the IO became vicious, satirical, an interested person. Therefore I request your good self you please review the orders/ (s) and replace this biased IO immediately by an ideal, responsible, reasonable dis interested fully aware of salutary principle of natural justice and prudent of first information reports, central administrative tribunal judgments, chief judicial magistrate case, prejudicial to my defence, non payments of advances/(s), no reimbursement /(s), acute burden on my pocket/(s).

I shall be grateful for this act of kindness.

Thanx

Yours faithfully



Sarveshwar Dayal

Scientist, C.P. Research Station,

Shillong 793 009 Meghalaya

encl: annexure-1 1page

: annexure-2 &3 4+1 page

: annexure-iv 1page

cc: Vigilance Desk Officer V.D. Nainawadekar

: Vigilance Under Secretary Shri S.K. Behera

To
The Appellate Authority
Indian Council of Agricultural Research

Registered Acknowledgement Due India Post

Date

14 March 2007





Indian Council of Agricultural Research
Krishi Bhawan, New Delhi

F.No.3(2)/2004-Vig.(D)

Dated the 16th October, 2006MEMORANDUM

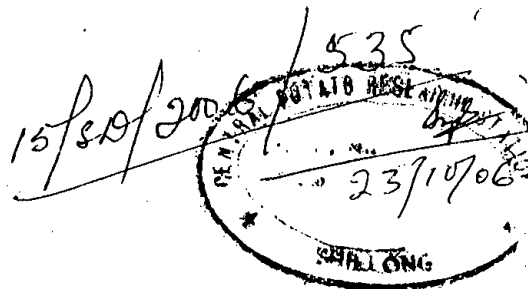
Attention of Dr. Sarveshwar Dayal, Scientist (SS), Central Potato Research Station, Peak View Road, Shillong is invited to his representations dated 9th September, 2006 & 3rd October, 2006 for change of Inquiry Officer. His representations have been considered by the Disciplinary Authority i.e. the President, ICAR and he is of the opinion that the points raised by Dr. Sarveshwar Dayal do not indicate any biasness by the Inquiry Officer. Accordingly, his request for change of Inquiry Officer is hereby rejected. Further, it is informed that as per the CCS (CCA) Rules the Charged Officer can take Defence Assistance from a fellow employee. There is no such provision for undertaking journey to engage a Defence Assistant from a place other than his Headquarter.

Dr. Sarveshwar Dayal, Scientist (SS) is also advised to cooperate with the inquiry proceedings and not to indulge in dilatory tactics.

S. K. Behera
(S. K. Behera)

Under Secretary (Vig.)

✓ Dr. Sarveshwar Dayal,
Scientist (SS),
Central Potato Research Station,
Peak View Road,
Shillong-793 009,
Meghalaya



Dr. Sarveshwar Dayal
Advocate

Dayal Sarveshwar

- 87 -

Confidential
Registered

Fax Message No. 3092/ICAR HQ.

Dated: 4/4/2007

Indian Council of Agricultural Research
Krishi Bhawan, New Delhi


F.No.3(2)/2004-Vig.(D)

Dated the 3rd April, 2007MEMORANDUM

Attention of Dr. Sarveshwar Dayal, Scientist (SS), Central Potato Research Station, Peak View Road, Shillong is invited to his representation dated 9th November, 2006 for change of Inquiry Officer. The Disciplinary Authority i.e. President, ICAR has already considered his representations against the Inquiry Officer twice in the past and on both occasions, the Disciplinary Authority was of the opinion that the points raised by Dr. Sarveshwar Dayal, Scientist (SS) did not indicate any bias on the part of the Inquiry Officer. In this representation, Dr. Sarveshwar Dayal, Scientist (SS) has again repeated the same issues as raised by him in his representation dated 9th September, 2006 which have already been considered by the Disciplinary Authority. The decision of the Disciplinary Authority has already been communicated to him vide Council Memo. dated 16.10.2006. In view of this, there is no merit in his representation dated 9th November, 2006.

Accordingly, Dr. Sarveshwar Dayal, Scientist (SS) is again advised to cooperate with the inquiry proceedings so that same could be completed without any further delay.

This issues with the approval of Chief Vigilance Officer.


(Rajiv Mangotra)
Under Secretary (Vig.)

Dr. Sarveshwar Dayal,
Scientist (SS),
Central Potato Research Station,
Peak View Road,
Shillong-793 009,
Meghalaya

Dr. Dayal pd
R1163
4/4/07

Attested
Advocate

15/SD/2007/15

4/4/2007



Statement of Dr. M.C. Yadav, Senior Scientist S/o Sh. Suraj Pal Singh; Aged: 39- years, R/O: Flat No.D-2, B Block, Sugandha Apartment, South Enclave, Saproon, Solan (H.P.) witness at Sr.No.1d of Annexure-IV in the charges framed against Dr.(Mrs.) Yash Gupta vide Memorandum F.No.3 (28)/2004-Vig. (D) dated 27.05.2004 held at NRC for Mushroom, Chambaghat, Solan(H.P.) on 12.07.2007.

Dated: July 12, 2007

Examination:

PO: Will you narrate the incident of manhandling Dr. R.N.Verma by Dr. Sarveshwar Dayal on 23.09.2003?

Dr. M.C. Yadav: I as a Treasurer of Mushroom Society of India was attending the meeting of MSI on 23.09.2003 and all the Executive Members of the Society were present including Dr. R.N. Verma who was presiding over the meeting. At about 5.00 P.M. Dr. R.N. Verma went to the toilet adjoining to the Crop Improvement Section. We heard some noise in the corridor and all the Members of MSI came out of the meeting room. Meanwhile Dr. Verma came to us in the corridor. He was shivering with sadden face and narrated about the whole incidence. While returning from the toilet he was discussing with one of the participants of Winter School namely Dr. Robin Gogoi. Dr. Sarveshwar Dayal came and manhandled Dr. R.N. Verma. While his wife Dr.(Mrs.) Yash Gupta was also present at the time of incidence and encouraging him to beat more. By that time Dr. Sarveshwar Dayal and his wife fled away from the incident spot. All the Executive Members of the Society after adjourning the meeting came to the Director's Chamber and subsequently the Police was called and the FIR was lodged about the incidence.

PO: How do you know that Dr.(Mrs.) Yash Gupta had provoked and instigated Dr. S. Dayal to beat Dr. R.N. Verma?

Dr. M.C. Yadav: I came to know about it from Dr. R.N. Verma.

PO: You are signatory to documents P-5 and P-6, do you verify these documents?

Dr. M.C. Yadav: Yes.

PO: You were Secretary, ARS Forum. Did you invite Dr.(Mrs.) Yash Gupta for ARS Forum meeting held on 24.09.2003? If invited, did she attend the meeting?

Dr. M.C. Yadav: She was not the Member of the ARS Forum and hence she was not invited to attend the meeting.

PO: Did you have any scientific interaction or otherwise with Dr.(Mrs.) Yash Gupta?

Dr. M.C. Yadav: No

PO: How did you find the attitude of Dr.(Mrs.) Yash Gupta towards Dr. R.N. Verma as Director?

*Attested
Mushroom
Advocate*

(Signature)
12/7/07

(Signature)

- 89 -

117

Dr.M.C. Yadav: I have not seen any bad behaviour or any quarrel between them.

Cross-examination:

CO: Can you tell the time of MSI meeting?

Dr. M.C. Yadav: At about 4.30 P.M.

CO: After how much time Dr. Verma went for urinal?

Dr. M.C. Yadav: After about twenty minutes.

CO: Can you tell after how much time he returned from toilet?

Dr. M.C. Yadav: After about 7-10 minutes.

CO: Did you see Dr. Dayal and me assaulting Dr. R.N. Verma?

Dr. M.C. Yadav: No, I did not see.

Re-Examination:

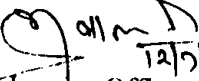
PO: Do you think Dr.R.N. Verma was beaten by Dr. S. Dayal due to provocation and instigation by Dr.(Mrs.) Yash Gupta?


Dr. M.C. Yadav: Can't say.

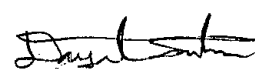
PO: Do you confirm and agree with the contents of the document P-6?

Dr. M.C. Yadav: Yes.

READ OVER AND ACCEPTED TO BE CORRECT


12/5/07
Inquiry Officer


12/7/07



- 90 -

110

Statement of Dr. Shwet Kamal S/o Dr. Nagendra Kumar; Aged: 37 years, RO: 7-B, Express View Apartment, Sector-93, Noida (U.P.) witness at Sr.No.3 of Annexure-IV in the charges framed against Dr.(Mrs) Yash Gupta vide Memorandum F.No.3 (28)/2004-Vig. (D) dated 27.05.2004 held at NRC for Mushroom, Chambaghat, Solan(H.P.) on 12.07.2007.

Dated: July 12, 2007

Examination:

PO: Will you please narrate the details of the manhandling incidence, which took place in your presence? What were you doing there? What exactly happened immediately when this happened to Dr. R.N. Verma?

Dr. Shwet Kamal: This unfortunate incidence happened on 23.09.2003 nearly at 4.45 P.M. I was guiding a practical to Winter School Trainees in the Crop Improvement Lab in which Dr.(Mrs.) Yash Gupta was also a trainee. I heard that Dr. R.N. Verma is talking to Dr. Gogoi just outside the lab and I just went out to talk to Dr. Verma. In the meantime Dr.(Mrs.) Gupta left practical and gone down-stairs. When Dr. Gogoi was talking to Dr. Verma, suddenly Dr. Dayal came up through the staircase and said 'Adab arj hain Doctor sahib'. I was in the view that Dr. Dayal wanted to greet Dr. Verma and suddenly he started embracing and slapped Dr. Verma on the left side of his face. I tried to disengage them but Dr. Yash Gupta pulling me from behind and telling 'Yeh to kuchh bhi nahi hai isko aur mar padni chhahiye'. Hearing the noise the trainees and the Executive Members of MSI came out and Dr. Dayal ran away from the spot. Then we went to Director's Office from there Police was called and FIR was lodged.

PO: You were signatory to this document (P-1) which has already been listed, would you please verify the correctness of this document?

Dr. Shwet Kamal: Yes, I verify the said documents

PO: From your above statement it appears that incident occurred in your presence. Is it true that Dr. Yash Gupta actually instigated and provoked Dr. S. Dayal to beat Dr. Verma?

Dr. Shwet Kamal: It is clear from the verdict 'Yeh to kuchh bhi nahi hai isko aur mar padni chhahiye'. It is an instigating statement.

PO: How much was the distance between the laboratory you were guiding the practical and site of incidence?

Dr. Shwet Kamal: The incidence took place just outside the Laboratory.

PO: Did you work with Dr. Yash Gupta?

Dr. Shwet Kamal: Yes, I worked in the same lab when I was a Ph.D student

PO: Who others were present at the site when the incidence took place?

Dr. Verma
11/10/07

Dr. Shwet Kamal

Attested
Dr. Shwet Kamal
Advocate
50

Dr. Shwet Kamal: Myself, Dr. Robin Gogoi, Dr. R.N. Verma, Dr. S. Dayal and Dr.(Mrs.) Yash Gupta were present.

PO: How did you rescue Dr. Verma from Dr. Dayal?

Dr. Shwet Kamal: I tried to separate them from each other.

PO: Can you tell why this might have happened?

Dr. Shwet Kamal: There might be some problem with Dr. Dayal. I didn't expect that.

Cross-examination:

CO: Are you related with Dr. R.N. Verma and what is your relationship with him?

Dr. Shwet Kamal: Yes, he is my maternal uncle.

CO: You said you were guiding a practical. Are you sure and can you tell what was the practical?

Dr. Shwet Kamal: I am sure that I was guiding a practical but at this moment I don't remember the topic of the practical.

CO: According to the time able of the Winter School Training Programme (D-1) the practical was of Genomic Isolation conducted by Dr. Yadav, Sh. Yogendra Tripathi and Sh. Sahil Mahfooz and the trainees have also endorsed to this effect. According to these documents you were not guiding the trainees? What you have to say about this?

Dr. Shwet Kamal: Although my name was not there but in all the practicals the whole group of Dr. Singh, Dr. Yadav including myself were involved.

CO: You were guiding a practical and said that I went down-stairs. How is it possible to observe me going down from the laboratory?

Dr. Shwet Kamal: I have already stated that I came out in the corridor hearing the voice of Dr. Verma and Dr. Gogoi. In the meantime Dr. Yash Gupta went down-stairs and the stairs were clearly visible where I was standing in the corridor.

CO: You said that Dr. Dayal came upstairs. Did he come alone?

Dr. Shwet Kamal: Dr. Dayal came first and Dr.(Mrs.) Yash Gupta was following Dr. Dayal

CO: In your statement you have said that Dr.(Mrs.) Yash Gupta went down to fetch Dr. Dayal. Is it true?

Dr. Shwet Kamal: In view of whole incidence I presumed that Dr.(Mrs.) Yash Gupta had fetched Dr. Dayal.

CO: For how long Dr. R.N. Verma and Dr. Gogoi were talking before Dr. Dayal came up?

Shwet Kamal
25/12/19

Dr. Shwet Kamal

51

Dr. Shwet Kamal: It was about 5 to 7 minutes.

CO: How did Dr. Dayal embraced and slapped Dr. R.N. Verma and how long this incidence took place?

Dr. Shwet Kamal: Dr. Dayal came running towards Dr. Verma slapped him by his right hand and was trying to catch hold by both the hands to Dr. Verma. It was just one minute.

CO: Did you give your statement to the Police as stated in P-1?

Dr. Shwet Kamal: Yes.

CO: Did you know that a similar case on the same charges is underway in the court of CJM, Solan. Have you been called for deposition there?

Dr. Shwet Kamal: No, I don't have any idea.

IO: When you were disengaging Dr. Dayal from Dr. Verma what Mrs. Yash Gupta was doing?

Dr. Shwet Kamal: She was just behind me pulling me and saying '*Yeh to kuchh bhi nahi hai isko aur mar padni chhahiye*'.

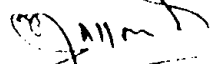
Re-examination:

PO: Do you think this incidence took place only because Dr. Yash Gupta instigating Dr. Dayal?

Dr. Shwet Kamal: Yes, if she had not informed and provoked Dr. Dayal he might not have come up-stairs to hit Dr. Verma.

Dr. Kamal
12/7/07

READ OVER AND ACCEPTED TO BE CORRECT


Inquiry Officer

To
The President
Indian Council of Agricultural Research
Krishi Bhavan, New Delhi 110 001

Registered India Post
as post mark
3-7-2007

Senior Div. Judicial, Solan ref. no. 3805 dated 2-7-2007

Through : Proper Channel

- : project coordinator Dr. Prakash Shamrao CPRI Simla -1.
- : dir. Rajendra Parsad nrc-mushroom, Chambaghat, Solan -13.
- : '.....elderly person of dir. Rajendra Parsad.....'

Subject: Charge memorandum withdrawl consequent upon it a decision of court ?

Sir

May I draw your personnel and kind attention to nrc-mushrooms administrative officer Shri Hari Singh Solan, Chambaghat office ref. no. f. PA/AO/2003 / nil dated 23.9.2003 vide which he lodged first information report in city police station, Solan. The second first information report no. 252 under section 154 Cr P G no. 0247149 comprising Indian Panel Codes 341, 323, 506 and 34 lodged in beat no. 4 4 km south from police station, Kotla Nallah of Solan. In addition to this dir. Rajendra Parsad addressed his SOS complaint to Director General Dr. Mangla Rai vide his office Solan Chambaghat nrc-mushroom ref. no. f. PA/AO/2003/5738-46 dated 24-9-2003 and continued fabricating/ synthesizing the evidences from his subordinate staff subsequently viz. Dr. Suneel Kumar Singh vide his Solan office ref. no. f. PA/ AO/ NRCM /03/6024 dated 1-10-2003. The statutory I J S C member Mrs. Sailja Verma involved in fabrication/(s) and later on forwarded to DG dir. Mangla Rai vide dir. Rajendra Parsad Solan office ref. no. f. /I J S C/ SOS/ 03/5575-5900 dated 27-9-2003. Another statutory forum named A R S S of Dr. Mahesh Chandra Yadav passed resolution under his signature comprising signature of 9 scientist to dir. nrc- mushroom dated 24-9-2003.

Aforesaid matter including PWs and other witnesses, complainant with oath has been dealt finally by the honourable senior division criminal court judge/(s) of particular jurisdiction limit a copy of which enclosed as annexure-1. As mentioned there in the fact/(s) - figure/(s) - decision and in view of the opinion/(s) expressed by the honourable criminal court of law I request you please withdraw the charge memorandum comprising following documents:

1. New Delhi, Krishi Bhawan, ICAR ref. no. f. 3-11/98 Vig.(D) dated 14-6-2001.
2. New Delhi, Krishi Bhawan, ICAR ref. no. f. 3-11/98 Vig.(D) dated 13-11-1998.
3. New Delhi, Krishi Bhawan, ICAR ref. no. f. 3-(2)/2004 Vig.(D) dated 1-6-2004.
4. Administrative officer Hari Singh ref. no. f. PA/AO/2003/no. nil dated 23-9-2003.
5. Statement of Ravindra Nath dated 23-9-2003
6. New Delhi, Krishi Bhawan, ICAR ref. no. f. 41(1) .93 per II dated 1-12-1997.
7. Solan, Chambaghat, nrc-m ref. no. f. 1(49) PF/ Estt./ 2003/ 6929 dated 1-11-2003.
8. Solan, Chambaghat, nrc-m ref. no. f. PA/ AAO/ 03/ 5792 dated 29-9-2003.
9. Simla, CPRI Sr. Admin. Officer Charles Ekka no. f. 1 Estt./ Misc./ 2001/ 19367 dated 22-11-2003.
10. New Delhi, Krishi Bhawan, ICAR ref. no. f. 41(SS)1/ 93 / Per II dated 24-10-2003.
11. DPC-Meeting dated 10-11-2003 where Dir. Rajendra Parsad wrote no such order received from council.

53
Attested
Advocate


Dayal Kumar

Apart from the above it is an established fact that enquiry is being conducted on my earned leave and pockets' expenditure by biased I O and appointed persenting officer is an interested person in the case.

A line in confirmation regarding withdrawl is requested at an early date. Reciept of it may please be acknowledged on enclosed stamped post card.

Tnanx

Yours faithfully


Sarveshwar Dayal
Scientist, CPRS, PVR
Shillong 793 009

encl:annexure-1

:advace copy to addressee to avoid delay in processing of through proper channel.
: advance copy to Shri.S.K.Behera and Shri Rajeev Mangotra Vigilance Under Secretaries,ICAR,Krishi Bhavan,New Delhi for their quick action and passing on me a decision of aforesaid addressee in 10 days i.e.on or before13-7-2007 as it is a hand ful time limit to extent full cooperation to enquiry as required by Shri. S.K.Behera vis a vis applicable without prejudice to all ICAR, thereafter it will be best to bother you the least for any reminder before the matter refered to court of law on the cost and expence of USs, Officer,DG,SAO,AO,AAO,Sec.IAS,RA etc.

-95-

ANNEXURE → 17

Registered Acknowledgement Due Post
Date

14 August 2007

To
Dr. Prakash Shamrao
Project Coordinator, All India Coordinated Research Project on Potato
Bemloe, Simla 171 001 H.P.
Tele: 0177 25846462, 2624398(O) 2624265
Fax: 0177 2624398, 2624400,
pcpotato@cpri.ernet.in naikps@yahoo.com

Rule 14, 14(8) 14(15) 2 sub rule (8)

1. Simla, Bemloe, CPRI, ref. no. f. 08/GPF/Bill and Cash/2006/14846 dated 5-10-2006.

2. Simla, Bemloe, CPRI ref. no. f. IO/Vig./SD/2007/Speed Post /Fax dated 28-7-2007.

3. Hon' Central Administrative Tribunal, Chandigarh Bench dispatch no. 1982 dated 15-3-2004

Subject: '.....defence from NEH in rule 14 proceedings.....' Through: proper channel

Sir

You please refer your speed post/ fax no nil. dated 28-7-2007 mentioning 15 days time limit to furnish you the reply in response to letter no. SAO/PO-SD/Inq-2005 dated 23-7-2007:

It is indicated by Senior Admin. Officer Charles Ekka, Persenting Officer that out of 2 copies of written brief 1 copy duly signed must be sent to IO.

Charge : *ibid*

.....
.....
.....

1. Why this charge: the reason of charge is demotion to principal scientist and transfer to CPRI ^{annex-1 and -2}. In addition to this there are many reasons viz. issue of defamatory memorandum ^{annex-3}, financial embezzlement ^{annex-4}, complainant Ravindra Nath nominated the enquiry officers and presenting officers ^{annexure-5}, sprayed fungicide in fungi (ex-periment-(s) on mushroom), stolen experimental results appeared in name of complainant, employing nephew of complainant Rav-

*Attested
Advocate*

Darsh

123

inder Nath in nrc-m 3 times as research fellow/ associate, performance of button mushroom cross in all India coordinated, ceased register etc. The evidences of the later shall be disclosed in appropriate court of law ?.

Aforesaid charge *in toto* looked by the 2 gradients separately i.e. departmental proceedings CCS CCA rules and Senior Judicial Division under section 207 Cr.P.C. and 313 Cr.P.C.

Gradient -I:

2. Preliminary Objections:

- i document SE -4 (P-2) is not signed by complainant Ravindra Nath ?.
- ii document SE -9 (P-3) FAX dated 1-10-2003 does not contain any where signature, diary, file, office seal or instruction for necessary action of addressee viz. Dr. Gautum Kalloo ?.
- iii defence from north eastern hill, statements of witnesses, defence assistant, defence witnesses, enquiry are bad in law ?
- iv trainees condo nation has no signature of course director ?.
- v document no. SE-8 (P-7) of Dr. Shwet Kamal submitted to course dir. Suneel Kumar, Chambaghat confidential ref.no.f.PA/AO/nrcm/03/6024 dated 1-10-2003 and fax made by complainant Ravindra Nath are of identical dates.
- vi Competent Authority Rajendra Parsad used C J S C of Mrs. Sailja Verma to fabricate the slogans but whole including *ex-parte* inquiry is devoid of Solan, Chambaghat, nrc-m ref. no. f. I J S C/SOS/2003/5575 -5900 dated 27-9-2003 ^{annex-6}
- vii IO Dr. Prakash Shamrao refused supply of serial no.20,22-25 and 30 documents despite the endorsement New Delhi, Krishi Bhavan, ICAR ref.no.3(11)98-Vig.(D) dated 13-11-98 and even no. Vig.(D) dated 14-6-2001 are integral parcel of charge memorandum delivered in NEH.

This departmental proceedings initiated on the complaint of nrc-m dir. Rajendra Parsad vide Chambaghat 173 213 Solan, ref. f. PA/AO/2003/5738-46 dated 24-9-2003 for his 'elderly person' not elderly person (2). NRC-M dir. issued a memorandum no.f.PA/AO/03/5792 dated 25-9-2003 at Chambaghat. This was followed by serving a charge memorandum upon the scientist in Meghalaya, Shillong, Peak View Road, Central Potato Research Station office ref.no.15/ SD/ 20 04/407 dated 28-7-2004.

3.Defence Documents: I immediately requested for certain documents which were essential for the preparation of defence statements often comprising admittance /denial for charge. This request to supply the documents considered in council but these documents are yet to be supplied ?.

Dayal Singh

The documents custodian appointed by council did not supply the statements of witnesses 3 clear days before their examination:

first hearing dated 15 and 16-7-2005

second hearing 14-9-2005

Specifically neither denial nor admittance could happen in absence of defence documents as evident in daily order sheet serial point no.1 dated 15.7.2005 and serial no.2 dated 16-7-2005. These are permissible in accordance with natural justice and as per the observations made by Supreme Court in certain cases these may be permissible legally as per rule 14(25) 4,5, 6 *inter alia* states all documents there in proposed for sustainability were to be supplied along with charge memorandum..... moreover, the document/(s) custodian possessed this authorization *in toto* as dissipated vide New Delhi, Krishi Bhavan, ICAR Vigilance Under Secretary Shri S.K. Behera ref. no. f. 3 (2)/ 2004-Vig. (D) dated 23-2-2005. Despite full authorization this supply prevented. Thus the charged officer deprived of the documents on which the allegation proposed to be sustained and sub rule(3) ii a & b; (6) iii; (9); (11) iii; (12) and (14) of rule 14 violated ?.

Therefore PO appointed to adjudicate on rules, procedures/ seized sworn testimony/(ies) of witnesses etc became enquiry lampoons, an interested person and could not act a true appointment /delegate of disciplinary authority as evident in annex-7.

4. Defence Assistant: On the denial by New Delhi, Krishi Bhavan ICAR to engage / hire a locally available advocate/(s) (who defended both the FIRs in Senior Judicial Division of himachal pradesh) the DO as he has been posted to his new assignment at a far off place. The DO submitted requests to his office through proper channel IO/ Director / competent authority/ and higher ups in

(i) application dated 7-4-2006 enquiry officer Dr. Prakash Shamrao for an advance sanction Rs 28000/- for a *to and fro* journey but nothing so far yet communicated by him/ IO.

(ii) application dated 10-4-2006 the DO requested director general dr. Mangla Rai there after reminded him on dated 6-9-2006, 28-10-2006, 28-11-2006 and 14-2-2007 for an advance sanction Rs28000/- for a *to and fro* journey but so far yet nothing communicated by him/ council.

council viz. Dr. Mangla Rai to allow CO a tour to hire an identical cases experienced defence assistant/ presenting officer but that too has been denied stating '.....charge officer can take any fellow employee. no ... provision to engage a defence assistant from a place other than his Head quarter....' in a New Delhi, Krishi Bhavan, ICAR Vig. U. Secy. F.no.3 (2)/ 2004- Vig.(D) dated 16-10-2006 despite the officer charge sheeted in Shillong 793 009, Meghalaya, Peak View Road in NEH central potato research station of CPRI. This is violation of article 311 '...given a reasonable opportunity of being heard.....' and CCS CCA rule 14 (14) ,14(15) sub rule (8) a and b of rule 14. It is so simple the charge officer is in NEH he has to manage/ arrange his defence from the place he is in posting viz. Shillong i. e. 3500 km away.

5.Excessive financial burden: As you are aware that the frequency of no payment/(s), delayed payment/(s) from quarter concern is high and it has gone further up irrespective since time limit reduced to 3 months for submitting the claim/(s). This fact is affirmed as many payments kept pending by CPRI although grown older than 7.5 years. Moreover the salaries kept pending from a duration exceeding 4.5 years, perhaps you shall agree to an empirical facts attending enquiry in himachal court of IO Dr. Prakash Shamrao involve travel over to a distance of 3500 km. This needs an expenditure in cash ranging to Rs. 30320/- accordingly request/(s) for a sum Rs27570/- an recurring expenditure made as early as on dated 20-6-2005 so far yet despite final tour program submission in a claim on dated 17-8-2005, 30-8-2005 reimbursement is yet to be made to me. Former pandancy is in force despite a lump sum cash with drawl causing acute burden on my pocket because of the reason it was spent in good faith to extend full cooperation to IO Dr. Prakah Shamrao. There is yet no payment for the 1st and 2nd hearings held on 15 and 16 July and 14 September 2005. This is an additional humiliation and hostility executed by enquiry on me. The other unpaid of CPRI are mind boggling Rs 166408 + losses + damages. NRC-mushroom Solan administrative officer Shri Hari Singh Chambaghat vide his office ref. no. f. PA/AO/ 2003 / nil dated 23.9.2003 lodged 2 FIRs. Accordingly the Solan station police post SHO Shri. Gurdayal filed *challan* in Senior Judicial Div. himachal court the hearings of same were continued for 4 years in 20 adjournments for which traveling single side 'distance over to 3500 km' involved a mean 13.35 leaves incurred an expenditure \approx Rs 405791+fee/(s) of junior senior advocate/(s) + service charge/(s) + harassments + *munshi* charge/(s) + photocopies + cyber café fee/ (s) + court copies fee/(s) + judicial form/(s) + stamps + document writer charge/(s) + India post charge/(s) etc. The CPRI is executing these financial burden for no fault of mine ?.

6.Time of misconduct: The prosecuting witnesses examined as per settled procedure of criminal court viz. no interaction, no discussion with another or next deposing witness, intermingling, disallowed to listen the state-speak-speech of either of the witness etc as per Witnesses Act in Senior Judicial Division. A qualified Ph. D. doctorate having wrist watch, phone, time bound laboratory practical etc PW Dr. Robin Gogai, Senior Scientist, Div. Mycology and Plant Pathology, IARI, New Delhi -12 while deposing with oath in court of law under the dock in presence of juror exhibited 3 - 4 p m ^{annex-8.} On witnesses and FIRs the honorable criminal court write no defence evidence has been led by accused.

These all examined in departmental proceedings subsequently. Scanning that indicated Dr. Robin Gogai who is known to Ravindra Nath form several years by way of N. E. Complex and met in seminar gave a time 4:30 pm and stick to 4:30 pm on dated 11-7-2007 and 12-7-2007 respectively. Why and which force and for whom he did this is best known to him only ? Dr. Shwet Kamal a blood relatives of complainant Ravindra Nath while deposited cite 4:45 pm on dated 11 and 12 .7.2007. Like wise Dir. Rajendra Parsad in his memo giving 5:00 pm and Solan, Chambaghat MSI ref.no./Exec./20

Darshil Singh

Table-1: Misconduct time depositions.

Serial no	Witnesses/circular/ Proceedings Memorandum/Dr.	With oath in the dock of criminal court (Time)	Ex parte Deptt./ ROAC (Time)	Deptt. ROAC (Time)	Remarks
1.	Circular no. f. MSI/ Exec./2003	-	5:00	-	Signature of serial no. 5 and 6 missing.
2.	Ramesh Chandra		4:45	4:45	On the resilience of 2 witnesses the prosecution withdrew this witness -
3.	Bhubnesh Vijay	nil	5:00	4:30	Declare hostile witness.
4.	Suneel Kumar	5:00	4:45		Ravindra Nath <i>bina batay meeting chorh kar bahar chala gay.....?</i>
5.	Mahesh Chandra	-	5:00	5:00, 4:30	Delivering his lecture no.17 in ATMA sponsored training for Hamirpur 23-29 Sept.2003
6.	Robin Gogai	3 - 4	4:30	4:30	Known to complainant Ravindra Nath by way of N.E. Complex.
7.	Shwet Kamal	-	4:45	4:45	A blood relative of complainant Ravindra Nath.
8.	Ravindra Nath	.....uaas samay office time khatam hua tha...	4:30 to 5:00	4:45 to 5:00 pm	Do not remember exact time ? He gave the time 5:00 pm as listed in document -III of charge memorandum statement note dated 23-9-2003 given to the police about the incident by complainant. This document is counter signed by IO, PO, signed twice by complainant Ravindra Nath on dated 23-9-2003 in Hindi and on dated 10-7-2007 in english.
9.	S. K. Behera	-	After noon, 3:00, 4:00 & 5:00	-	New Delhi, Krishi Bhavan, ICAR ref. no.3(2)/2004-Vig. (D) dated 1-6-2004
10.	Beeru Ahamad	17:45 18:10	-	-	First Information Report
11.	Trainees	-	-	-	4:55 pm in a condonation dated nil.
12.	Ajeet Kumar	-	-	-	No MSI meeting and complainant Ravindra Nath was not present in office of Dr. R. C. Upadhaya up to 5:00 PM till he returned the key to his Incharge ?
13.	Dir. Rajendra Parsad	-	-	-	5:00 pm in Solan, Chambaghat, nrc-m ref.no.f /PA/AO/03 /5792 dated 25-9-2005.

03 no. nil dated 23-9-2003 circular is giving its own time 5:00 PM ^{annex-9} covering 3 pm to 18:10 perhaps complainant Ravindra Nath's squandering totality in NRC-M premises ^{annexure-10}.

This long array timings **inferred** that every prosecuting **witness guessing his own time as all these time/(ings) fabricated after lodging the FIRs** to justify 1 time in which the **PO failed**. These many timings given supporting the complainant Ravindra Nath.

- i....it was between 4:30 – 5:00 pm but R N Verma do not remember exact.....during ROAC in deptt.
- ii..... uaas samay office time khatam hua tha.....court

6.

Time mentioned in MSI circular, thereafter transacted some business in MSI meeting inside the office of Dr. R. C. Upadhaya and complainant Ravindra Nath did not remember after how much time in meeting he left for urinal/ toilet/ nature-s call spoke the assault time much later than 5:00 pm however, *pre ponded* to 4:30 from 5:00 pm in *exparte*, 12-7-2007 deposition/(s) and in written briefs of PO reaffirmed it totally incorrect divulge the fact/(s) of fabrication..... as at what time the misconduct took place ? Cross examined witness Mr. Ajeet Kumar who has been asked by Dr. R. C. Upadhaya to arrange refreshment did not found any meeting in the office of Dr. R. C. Upadhaya till his departure time 5:00 pm. More so neither he could see complainant Ravindra Nath inside the office of Dr. R. C. Upadhaya nor heard any noise till handing over the key. No noise is supported by the statement of Pw Dr. Robin Gogai in dock with oath dated 22-8-2005 criminal court of law write '.....he confronted with his previous statement where in it was alleged that they were walking when the alleged offence occurred he has stated no noise was raised at the spot. He has not stated that other witnesses also came to the rescue to Dr. Verma or that he himself tried to intervene and save the complainant.' It is contradicting to the complainant version that listening the shouts Dr. S. K. Singh, Dr. B. Vijay, Dr. Mahesh Chandra Yadav etc came out

Dr. Mahesh Chandra Yadav gave 5:00 and 4:30 pm however he was busy in delivering his lecture-17 '...traits of white button mushroom strains available for cultivation in India...' as per schedule 4:00 -5:00 pm ^{annexure-10} on dated 23-9-2003 in auditorium/ class room for a training named ATMA, Hamirpur 23-29 September 2003 ^{annexure 11,12 and 13}. How he was simultaneously present in **lecture & in meeting of MSI as well is a big question ?** despite instructions conduct classes as per time table. More over he was in practical of winter school.

6. Prosecuting witnesses:

i. witness and complainant PW - Ravindra Nath deposits on dated 12-1-2007, 10-7-2007 and 12-7-2007

Charge memorandum annexure-II enclosing long listed documents including prolonged suspension penalty imposed repeatedly cites in big font under signature of vigilance under secretary Shri S.K. Behera that complainant Ravindra Nath was invited to visit the center on 23-9-2003 in the after noon. In addition to this numerous persons like treasurer, editor, chief editor, secretary, joint secretary, dealing assistant, vice president, honorary president, president, presiding officer, MSI office bearers, trainees, letter of condoners, arbitrariness, sympathizers, SOS complaints, I J S C Mrs. Sailja Verma, all juniors etc speak that complainant Ravindra Nath invited by director(name of director undisclosed) however despite the former while Pw Ravindra Nath himself in dock with oath in presence of juror in his cross examination stated to record '..... that neither he got any invitation nor any letter or card for coming to nrc-m or meeting of MSI ^{annexure-14} refer "B to B"

PW Ravindra Nath further deposited...

D. S. S.

refer 'C to C'

.....dr. S. K. Singh, Vijay, Robin, R.C. Upadhaya, Deep Kumar & Shwet Kamal came after intimidation. The total quantitative of slapping was 4-5.... that took 3-4 minute time.....duration.

.....in this neither his spectacles ~~or~~ fallen nor clothes torn.....

.....failed to tell/ name/ speak the threats on life of complaint Ravindra Nath.....

..accordingly Hon' Senior Judicial Division writes that he could not tell as to in which capacity Dr. R. N. Verma had come to.. as he had now retired. He had not taken any document into his possession to prove thathad called in the meeting or not...

No invitation to complainant Ravindra Nath is well supported while depositing with oath in dock. No invitation reaffirmed as I O denied to the document serial no. 32

'... invitation letter of dir. Rajendra Parsad to his elderly person....' as defence document, it was requested in a hearing inside the court of Dr. Prakash Shamrao on dated 17-7-2005 before the admittance / denial of the charge. No invitation is evident in SE-3 (P-1).

..... and being the relation ship of elderly person with dir. Rajendra Parsad the complainant Ravindra Nath himself came to nrc-m premises.....

..... again while on a later date 10-7-2007 ex-parte witness and witness on dated 12-7-2007 complainant PW - Ravindra Nath ROAC on dated 10-7-2007 recontradicted his own statementdir. nrc-m Solan invited.... to visit the center....?

There were 7 trainees and all have signed out of that group only 1 who was known to complainant Ravindra Nath for several years from N. E. Complex and met him in seminar selected as eye witness dropping the all senior most even leader who had prepared the draft for signing from other trainees:

Table-2 : Statement of Ravindra Nath Verma S/O Late P. N. Verma aged 65 years R/O "Ashirwad", Rabindra Nagar, Phasse -II Morabadi, University P.O. Ranchi -834 008 Jharkhand

With oath in the dock of criminal court on dated 12-1-2007	ex parte In deptt. proceedings on ROAC on dated 10-7-2007	In deptt. proceedings on dated 12-7-2007	Remark
..... is meeting mai aane ka koi patra na aaya thha.... .....na hi koi invitation aaya thha..... .....S.K.Singh, Vijay, Robin, R.C.Upadhaya, Deep Kumar, Shwet Kamal thappar marnae ki baad aaye... mujhae dosi nae 4-5 thappar mare...ismae 3-4 minute lag gaye.....	.....aft er noon dir. nrc- mushro om	he gave only 1 slap on my face and a few	complainant was in nrc-m without invitation..... it is not restricted

<p>.....mree na enak ' a' tooti aur na kapre fatae...</p> <p>....jaan se mar nae ki kaya dhamki de hai yah na bata sakta hoo...</p> <p>....uas samay baha par 10-15 aadmi thae...</p> <p>..... uas samay office time khatam hua thha...</p> <p>.....yah galat hai ki Robin mare paas rahe ho.....</p>	<p>invited</p> <p>..... to</p> <p>visit the</p> <p>center</p> <p>.....</p>	<p>thrashes</p> <p>(Dhakka</p> <p>-Mukka)</p> <p>to my</p> <p>body.....</p>	<p>to preponderance</p> <p>of probability and</p> <p>correct beyond</p> <p>doubt.... as</p> <p>affirmed on dated</p> <p>12-1-2007 in dock</p>
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While concluding on FIRs the honorable criminal court write 'the prosecution has examined as many as 7 witnesses in all and closed the same. Then accused person examined.... No defence evidence led by accused☺.

It is inferred from the witnesses depositions though *ex parte* that the statements recorded on dated 9-11 July 2007 to confine, comply and justify 2 FIRs lodged on dated 23-9-2003.

ii The Presenting Officer Shri Charles Ekka wrote that there are 2 eye witnesses :

ii (a) PW and 1st eye witness – Dr. Robin Gogai depositions on dated 22-8-2005, 11-7-2007 and 12-7-2007

The Vigilance Under Secretary Shri S. K. Behera incorporated in annexure -II the bath room/ natures' call/ urinal/ toilet of crop improvement section from fax dated 1-10-2003 SE -9 exhibit(P-3) of complainant Ravindra Nath which is many days after the loitering in NRC-M and modified thought over the materialization of fabrications. This fax is un attested by Police party ASI Mr. Beeru Ahamad enquiry officer deputed on receiving the telephonic massage and can not be said the version recorded at or about the incidence. More over a document comprising 2 pages SE-3 exhibit (P-1) which is signed by complainant Ravindra Nath in Hindi on dated 23-9-2003, resigned in english on dated 10-7-2007, counter signed by I O Dr. Prakash Shamrao on dated 10-7-2007, counter signed by PO dated nil and attested by ASI Mr. Beeru Ahamad of Police Post Solan station on dated 23-9-2003 spoke '....refer A to A' ^{annexure-15} that Ravindra Nath came out of Meeting Hall. This came out of meeting hall is also well supported with oath in court deposition/(s) dated 9-3-2005 by prosecuting witness Dr. S. K. Singh..... *bina batay meeting chhorh kar bahar chala gay* and returned from there ' his desired place...???' with what brewing in his mind the initiation of the same he had come without invitation or card or letter or MSI meeting...

ex parte Pw -4 Robin Gogai shown a good corroboration to his each other knowing for quite some time when..... serving in north eastern complex, met in seminar with his best known person complainant Ravindra Nath.

This vehemently speak that complainant who is elderly person of Dir. Rajendra parsad fabricated the story of bath room/ natures' call/ urinal / toilet of crop improvement etc on a later date viz. 1-10-2003 in his fax message SE-9 (P-3). This story is also supported by Dir. Rajendra Parsad in his subsequent fabrications. Scanning narrates that natures call, went out to the toilet, use of urinal are false feign as evident in SE-3 P1 exhibits signed in Hindi on dated 23-9-2003, signed

Table-3: Statement of Dr. Robin Gogai S/O Bhuban Chandra Gogai aged 43 years, Senior Scientist ,Mycology and Plant Pathology, Scientist Apartment, III-D, IARI, Pusa Campus, New Delhi 110012.

With oath in the dock of criminal court on dated 22-8-2005	exparte in deptt. Proceedings on ROAC on dated 11-7-2007	In departmental proceedings on dated 12-7-2007	Remark
<p>....mai Dr.Verma ko pahalae se jaanta thha....</p> <p>....mare Dr.Verma se working relation thai.....</p> <p>....mai Dr.Verma ko seminar mai mila thha..... tatha 5-6 barson se janta thha.....</p> <p>....meraa bayan police na likha thha..</p> <p>....yah galat hai ham chaltae chaltae baat kar rahae thhai.....</p> <p>....bahhan shor na hua thha.....</p> <p>....dr.Vijay ba S.K.Singh aapnae chamber mai busy thhe.....</p> <p>....bahar mujhe Dr.Robin Gogai malae aur hum baat karnae lagae...</p>	<p>...Yash Gupta joined him after coming out from class..</p> <p>...he was shocked and shivering too much...</p> <p>...we both tried to hold Dayal and prevented.....</p> <p>...police did not took my statement.....</p> <p>...</p>	<p>.....I gave statement in court</p> <p>.... was talking for about 2-3 min</p> <p>.....R. N. Verma known to me.....</p> <p>.... beating incident took place about 1 min.....</p> <p>....embracing and beating..</p> <p>....1 or 2 slap..</p> <p>....out side laboratory practical..</p> <p>....Verma did not get a chance to save...standing at site...</p> <p>....friction of the second ..</p> <p>....did not know the relation of Verma and Shwet Kamal...</p> <p>....no trainee was eye witness..</p> <p>....I donot under stand Hindi 100%...</p> <p>...CJM asked me to sign deposition...</p> <p>... YG and SD influenced you to make such statement...</p> <p>... I gave statements on CJM instruction....</p> <p>....not sure of provocation...</p>	<p>.....it is confirm ed that Dr. Robin Gogai was waiting for his acquaint ed person out side...</p>

in english on dated 10-7-2007 by complainant Ravindra Nath, signed by IO Dr. Prakash Shamrao on dated 10-7-2007, signed by PO Shri Charles Ekka dated nil and signed by Shri. Beeru Ahamad on dated 23-9-2003 in charge P. P. City Solan.

The former clarify these 2 (Pw Dr. Robin Gogai and complainant Ravindra Nath) insure improvement over their previous version recorded in court of law on dated 22-8-2005 and 12-1-2007 respectively with oath before the juror in the d-

ock, reader, listeners, advocates in Senior Judicial Divisions, Criminal Court of Law hall full of variegated public. Moreover Dr. Robin Gogai is said to be the only eye witness ?.

Aforesaid matter including PWs other witnesses, complainant with oath has been dealt finally by the honorable senior division criminal court judge/(s) of particular jurisdiction limit . As mentioned there in the fact/(s) – figure/(s) – decision and in view of the opinion/(s) expressed by the honorable criminal court of law wrote '... Pw Robin Gogai confronted his previous statement...'

ii(b) Pw and 2nd eye witness Dr. Shwet Kamal depositions on dated 11-7-2007 and 12-7-2007

This witness did not appear in document –I of charge memorandum dated 1-6-2004. This is a witness added out of 3 letters dated 1-10-2003 . The eye witness who is 2nd in number is not coupled with hon' Senior Judicial Division in criminal court case. His statement SE-8 (P-7) does not contain the signature of competent authority dir. Rajendra Parsad. His statement is devoid of diary, dispatch, file or nrc –mushroom- seal-number- counter signatures-authentications etc. Deposition of Dr. Shwet Kamal speaks that listening the noise trainees of winter school and executive member of MSI came out where as honorable criminal court wrote that '.... no noise was raised at the spot.' In his both statements the sequence of events did not coincide with the first eye witness Dr. Robin Goagi as fetch, neither pulled nor instigation etc are in court judgment ?.

iii Table-4: Statement of Dr. Shwet Kamal S/O Nagendra Kumar aged 37 years, Resident/O: 7-B, Express View Apartment, Sector-93, Noida (U.P.)

With oath in the dock of criminal court on dated	exparte in deptt. proceedings on ROAC on dated 11-7-2007	In departmental proceedings on dated 12-7-2007	Remark
O. O	<p>... Dayal manhandled ... Yash instigating.....</p> <p>... took place out side the laboratory..</p> <p>... both were working in same lab..</p> <p>... not any problem with Dayal..</p> <p>... listening to noise trainees and executives came out....</p> <p>... I pulled Dayal.....</p> <p>... donot know the similar case in CJM...</p> <p>... informed and provoked ..hit Ravindra</p>	<p>..yeh to kuchh bhi nahi hai isko aur mar padni chhahiya...</p> <p>..donot remember the topic of practical..</p> <p>.. although my name was not there ..all the practicals name was involved...</p> <p>...hearing the voice came out in corridor.. mean time Yash went down stairs..</p> <p>....Dayal came first..Yash following...</p> <p>..in view of whole incidence I presumed... fetched ...</p> <p>...talking 5 to 7 min...</p>	<p>Witness vehemently spoken the relation of nephew and maternal uncle</p>

132

Dr. Shwet Kamal

Nath.... Dayal running and slapped.....	
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This totally devoid of /natures call/urinal/ toilet/ bath room of crop improvement section?

iii Pw Dr. Suneel Kumar Singh deposited in dock with oath that complainant Ravindra Nath '..... *bina batay meeting chhorh kar bahar chala gay*

and came back all with what brewed out planning in his mind as the depositions confirm this Pw did not witness any instigation, slapping, thrashing etc. This witness got lateral entry in to ARS system in an interview complainant Ravindra Nath was an active member ?. His activity seems to be tactful as he is putting the trainees and Dr. Shwet Kamal forward in SE-4(P-4) document. He neither named nor specified the misbehaviors in scientific meetings ? so the concerned proceeding is to taken out for established fact/(s).

With oath in the dock of criminal court on dated 9-3-2005	exparte in deptt. Proceedings on ROAC on dated 11-7-2007	In departmental proceedings on dated 12-7-2007	Remark
<p>.. bina batay meeting chhorh kar bahar chala gay.....</p> <p>..yae glat hai ki jab R .Verma gallery mai Dr. Gogai se baat kar rahae thhe tau Dayal & wife came there..</p> <p>... yae mujhae pta na hai ki dosi garh nae R.Vrema ko Roka.....</p> <p>.....yae galat hai ki Dayal nae R.Verma ko thappar mare..</p> <p>yae galat hai ki dosi ganrh sae R. Verma ko maine, R.C.Upadhaya nae chhuraya, Robin nae ...</p>	<p>..suspension and vigilance charges may be reason..</p> <p>...successful director....</p> <p>....misbehaving in scientific meeting...</p> <p>..... no interaction whatsoever....</p>	<p>... attending MSI meeting....</p> <p>...it was 5:00 pm no employee was persent....</p> <p>....practical class was 2.30 to 4:30 pm..</p> <p>....as per the report submitted by trainees it is true....</p>	<p>.....witness departed from the depositions which was with oath in the dock of criminal court on dated 9-3-2005...</p>

When there was no president in the MSI meeting as affirmed by Mr. Ajeet Kumar the fun of attending the meeting is in obscure ?.

iv The total story narrated by Pw Dr. B. Vijay does not match the statements and depositions to either of the former witnesses. It is pointed out that during the director ship of complainant Ravindra Nath he has been an active person in the group of complainant and made many things against me and my wife Dr.(Mrs) Yash Gupta evidences shall be disclosed in court of law.

Table-6: Statement of Dr. Bhubnesh Vijay S/O Late Dr.R.S.Vijay aged 55 years R/O Type-IV-3 NRCM Residential Complex, Chambaghat Solan.

With oath in the dock of criminal court on dated 10-3-2005	exparte in deptt. Proceedings on ROAC on dated 11-7-2007	In departmental proceedings on dated 14-7-2007	Remark
<p>...jab Ravindra Nath office mai laut kar aae tau unka mood thora ukhra hua thha..</p> <p>...hamnae puccha kya hua...</p> <p>...unhonae kaha ki Dr. Dayal nae thappar mara</p> <p>...mare jannae mai koi maar peet na hui....</p> <p>...yae galat hai ki anidhikrit taur par rooka..</p> <p>...yae galat hai ki mare samnae Ravindra Nath ko thappar mare.....</p> <p>...yae bhi galat hai ki Yash Gupta Dayal ko ukha rahi thhi..</p> <p>yae galat hai ki mainae marpeet sae chhurah...</p> <p>....yae galat hai ki Ravinder ko jaan sae marnae ki dhamki the thhi..</p>	<p>..intimated the incident to the dir....</p> <p>... Dr. Dayal and Dr. Verma were not in good relation may be the reason..</p> <p>...I enjoyed normal relation with him...</p>	<p>.. I did not witness the incidence</p> <p>... office timing 9:30 -5:00 pm</p> <p>....secy called the meeting of MSI...</p> <p>.... The matter was reported to dir. Police was informed...</p>	<p>.... to make the coherence with other witness the time changed to 4:30 pm from 5:00..</p>

The secretary ARSS Forum Pw Dr. Mahesh Chandra Yadav passing on the minutes of ARSS forum meeting to dir. nrc-m pertaining to this document serial no.36 supply denied.

Table-7: Statement of Dr. Mahesh Chandra Yadav, Senior Scientist S/O Sh.. Suraj Pal Singh aged 39 years R/O Flat no. D-2,B Block, Sugandha Aparment, South Enclave Saproon Solan

With oath in the dock of criminal court on dated 10-3-2005	exparte in deptt. Proceedings on ROAC on dated 11-7-2007	In departmental proceedings on dated 12-7-2007	Remark
.... he was also not	... at about 5:00 pm Ravindra Nath went out....	..... meeting time 5:00 pm Ravindra went toilet.. by that time Dayal and his wife fled	His presence simultaneous!

Dayal Singh

considered as a witness in the court...	..on return Ravindra Nath narrated the story..... he is not a member of ARS Forum.... ...initial interaction for 1-2 year.... ...lacking knowledge and confused for correct method.. ...used to reply directly on office orders.. ..seen mixing freely with staff.. ..acclaimed best institution award... ... molecular genetics laboratory...	away.....instigation knew from R.N. Verma..... not the member of ARS forum.... ...no interaction with yash Gupta... ...I have not seen bad behaviour or quarrel..... 4:30 pm MSI meeting time... ... went urinal after 20 minute... ...return after 7-10 minute.. ..i did not see assault.... ...cannot say provocation..	y at 3 places viz. MSI meeting, ATMA training lecture and winter school practical shows that he is omni present...
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Pw Dr. Ramesh Chandra Upadhaya received the summon and present in senior judicial division Criminal Court of Law on specified time and date, but on the resilience of 2 witnesses followed by declaring them hostile this Pw was withdrew by the ICAR/ state/ nrc-m.

Table-8: Statement of Dr. R.C. Upadhaya S/O Late Chandra Kant Upadhaya aged 53 years R/O Type-v-I, nrc- m Residential Complex, Chambaghat Solan

With oath in the dock of criminal court on dated	<i>ex parte</i> in deptt. Proceedings on ROAC on dated 11-7-2007	In departmental proceedings on dated 14-7-2007	Remark
.... as the witnesses recoil from their statements this witness was withdrew by the .....	..meeting started time 4:45.. ... may be administrative differences.... ...can not say inter personnel relation with others.. ....did not attend ARS meeting	..meeting started time 4:45.. .. I donot know the reason.. I could not recognize noise... ... I do not remember the termination of services of contractual 4 persons...	

7.Venue of misconduct : Meeting hall of MSI or office is in ground floor in end of corner. Meeting progress was in an office of Dr. Ramesh Chandra. This is synthetic place for PW Dr. Shwet Kamal (maternal uncle and nephew relationship of Ravindra Nath), PW Dr. Robin Gogai (a known person to Ravindra Nath '...knowing each other for quite some time when ...serving in NE Complex). so much so a venue is carefully appropriated from out side Upadhays' room to out side lab. of crop improvement to suit the fabrication/(s) from blood relatives, known persons, subordinate staff ?.

i place for violations, manhandling, assaulting etc is toilet/ bath room/ urinal as mentioned there in at the time of natures' call but the complainant did not went there as evident in authenticated exhibit SE-3 (P-1).

Gradient-II

8.Occurance of misconduct: '..... before initiating criminal proceedings, advice on evidences obtained from attorney – general/ solicitor general on conduct of this grave criminal nature satisfaction in full, considerable application of mind with due caution for better appreciation of aforesaid **Time, Venue, Why, Who** the administrative officer Shri Hari Singh Solan, nrc-m Chambaghat office ref. no. f. PA/AO/ 2003 / nil dated 23.9.2003 lodged first information report in city police station, Solan. The second first information report no. 252 under section 154 Cr P G no. 0247149 comprising Indian Panel Codes 341,323, 506 and 34 lodged in beat no.4 4 km south from police station, Kotla Nallah of Solan. In addition to this dir. Rajendra Parsad personally addressed his SOS complaint to Director General Dr. Mangla Rai vide his office Solan Chambaghat nrc-mushroom ref. no. f. PA/AO/2003/ 5738-46 dated 24-9-2003 and continued fabricating/ synthesizing the evidences from his subordinate staff subsequently viz. Dr. Suneel Kumar Singh vide his Solan office ref.no. f. PA/ AO/ NRCM /03/6024 dated 1-10-2003.The I J S C member Mrs. Sailja Verma involved in fabrication/(s) and later on forwardal to Dir. Gen. Mangla Rai vide dir. Rajendra Parsad Solan office ref. no. f. /I J S C/ SOS/ 03/5575-5900 dated 27-9-2003. Another forum named A R S S of Dr. Mahesh Chandra Yadav passed resolution under his signature comprising signatures of 9 scientist to dir. nrc- mushroom dated 24-9-2003. Subsequently it has been held in Hon' Central Administrative Tribunal, Chandigarh Bench dispatch no. 1982 dated 15-3-2004 these all allowed by dir. Rajendra Parsad under his dated signature/(s). So as station police S H O Shri Gurdayal filed the challan under section 207 Cr P.C in Senior Judicial Division of Himachal Pradesh. Accordingly above matter including 7PWs, 1 Enquiry Officer, complainant/(s) etc examined with oath in dock under criminal court of law where it has been held :

'..prosecution has failed to prove its case against the accused beyond all reasonable doubt. Hence.....findings. ..is in negative and against the prosecution... '

Findings : no

Final order : accused acquitted.....

Sd/-

Chief Judicial Magistrate

Dayal Singh

as evident in Senior Judicial Division
Solan ref.no.3805 dated 2-7-2007

9. Who had committed misconduct: Complainant Ravindra Nath, present nrc- mushrooms director and witnesses listed across the charge memorandum were certain person/(s) - witnesses involving there in earlier charges. These persons helped, cooperated to him and extended their full support (names shall be disclosed in appropriate court of law) during director ship of Ravinder Nath by way of modifying the prescribed proforma of council, deducting salaries, objecting each and every document, eye witnesses of *dies non*, making numerous complaints against both of us and grown to professional witnesses but in court of law while on oath inside the dock in presence of juror- reader-listeners-advocates in hall of courts exhibited resilience and turn hostile in their cross examination. Surprisingly the other equally senior 4 scientist of nrc-mushrooms are not included in charge memorandum. The complainant Ravindra Nath write to these persons now on dated 12-7-2007 the 'mute spectators'. This revealed the followers, opportunist and where is science?. After retirement complainant Ravinder Nath was in Solan for month altogether that time have been best for assault but I had no ill will on the contrary what was brewing in his mind is well expressed now.

Seeking advices on evidences, lodging FIRs, fabricating evidences subsequently, consolators, condonations, well wishers, sympathizers, complaints later dates etc has been asked for non entertained, no reimbursements, no sanction and declared private dispute by quarter concern of CPRI/ competent authority ^{annexure-16} Simla, CPRI ref. no.f.09/Bill and Cash/TA/TTA/LTC/2006/13497 dated 16-9-2006.

10. Chief de mission: Complainant Ravindra Nath failed to deliver the order of the same.

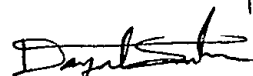
11. Cabbage : Complainant did not return the experiment of my non chilling cabbage.

12. Defence Witness Dr. S. R. Sharma had no problem from 2 COs and suddenly many matter viz. eye witnesses, assaults, suspension etc erupted out during the director ship of complainant Ravindra Nath.

13. Best institution award has contribution of former director and major portion of officiating director and complainant Ravindra Nath's contribution is little only which is equivalent to almost nil. On getting the factual position and the fraud played by complainant Ravindra Nath the quarter concern transferred to CPRI as principal scientist.

14. The presenting officer Shri Charle Ekka write 2 eye witnesses on page 5 para-3 of Coimbatore, SBI ref. SAO/PO-YG/Inq.-2005 dated 23-7-2007

- i. Dr. Shwet Kamal is a blood relative moreover Ph.D. under his maternal uncle complainant Ravindra Nath.
- ii Dr. Robin Gogai known to complainant Ravindra Nath from N.E. Complex met in seminar and an interested witness.

 127

summary

Analyzing the depositions 3-4 pm, 4:30pm, 4:45pm, 4:55pm, MSI meeting circular 5:00 pm, no noise raised on the spot. mree na enak ' a/ tooti aur na kapre fatae... no invitation, false feign of toilet, urinal, bath room, natures call with drawl and hostile Pws, demotion to principal scientist, transfer to CPRI annex-1 and -2 etc it is a case of no evidence. Presenting officer writes that the charge proves beyond doubt is oblivious against the principal of natural justice. CO could not dare to produce witnesses, documents to defend and present in enquiry and the exparte enquiry, passed without any material basis, application of mind and is arbitrarily mere on suspicion so it is null and void. It is submitted that the conclusion is without facts that no gentle man-plowmen- reasonable person can arrive at such conclusion. There was no hearing on dated 15-7-2007 as wrote by PO. The fabricated sequence of events justify it hypothetical. Sending the written briefs to CO did not met the ends of justice. Therefore these are enclosed in original unentertained.

Receipt of it may please be acknowledged.

Thanx

Yours faithfully

Saveshwar Dayal

Scientist, Peak View Road, C.P
Research Station, Shillong 793 009

encl. Tamil Nadu, Coimbatore-641 007, SBI, Registered A/D, Confidential SAO/PO -SD/ Inq-2005 dated 23-7-2007

-11 pages in original unentertained

REPORT OF THE INQUIRY OFFICER
Under Rule 14 (23 of the CCS-CCA rules 1965)

Subject: Disciplinary inquiry under Rule 14, the Central Civil Services (Classifications, Control and Appeal) Rules 1965 into the charges framed against Dr. Sarveshwar Dayal, Scientist (SS), Central Potato Research Station, Shillong-793 009 (Meghalaya).

(A) Introduction

The President, ICAR proposed to hold an inquiry against Dr. Sarveshwar Dayal, CPRS, Shillong under Rule 14 of CCS (CCA) Rule 1965 as extended to ICAR employees vide memorandum F.No.3 (2)/2004-Vig. (D) dated 01.06.2004.

The undersigned was appointed as Inquiry Officer vide ICAR Order F.No.3 (2)/2004-Vig. (D) dated 03.05.2005. The details of the hearings held in this case are given below:

- (i) Preliminary hearing on July 15-16, 2005 at the Central Potato Research Institute, Shimla-171 001 (HP).
- (ii) Regular hearing on 14.09.2005 at NRCM, Chambaghat, Solan-173 213 (HP).
- (iii) Regular hearing on April 16-17, 2007 at NRCM, Chambaghat, Solan-173 213 (HP).
- (iv) Regular hearing on July 9-11, 2007 at NRCM, Chambaghat.

(B). Article of charge

While working as Scientist (SS), National Research Centre for Mushroom, Solan, Dr. Sarveshwar Dayal created an embarrassing and intolerable situation by indulging himself in an act of gross indiscipline and violence by physically assaulting Dr. R.N. Verma, Ex-Director of NRCM on 23.9.2003 in the NRCM Office premises when Dr. Verma was on short visit there and was presiding over the meeting of Mushroom Society of India as its President.

By his above act, Dr. Sarveshwar Dayal has indulged in gross indiscipline and violent acts and behaved in a manner unbecoming of an ICAR employee and thereby contravened the provision of Rule 3(1) (iii) of CCS (Conduct) rules, 1964 as extended to Indian Council of Agricultural Research employees.

71
Attorney
Advocate

Dayal

(C) Statement of imputation of misconduct or misbehaviour in support of the article of charge

Dr. R.N. Verma, Ex-Director of NRCM, Solan while on a short visit to Solan was invited to visit the Centre on 23.9.2003 in the afternoon. Accordingly, Dr. R.N. Verma came to the Centre at 3.00 p.m. in the staff car and had discussions regarding the activities and progress of the NRCM with the Director, in his chamber upto 4.00 p.m. Thereafter Dr. R.C. Upadhyay, Secretary Mushroom Society of India (MSI), taking the benefit of his presence at the Centre, requested Dr. R.N. Verma (who is also the President of MSI) to preside over the meeting of MSI. Dr. Verma agreed readily to the request for presiding over the meeting, which was being held in the room of Dr. R.C. Upadhyay. Also present in the meeting were Dr. R.C. Upadhyay, Dr. B. Vijay, Dr. S.K. Singh, Dr. M.C. Yadav, and Shri Deep Kumar. During the course of meeting at about 5.00 p.m., Dr. Verma went to the toilet. While returning to the meeting room, he met a Winter School Trainee, Dr. Robin Gogoi, (Scientist, Assam Agricultural University, Jorhat) in the corridor and started exchanging pleasantries with him. All of sudden, Dr. Sarveshwar Dayal and Dr. (Mrs.) Yash Gupta waylaid Dr. Verma in the corridor and Dr. Sarveshwar Dayal started beating him with his hands and Dr. (Mrs.) Yash Gupta provoked him further to beat and manhandle him further and said that "this is not enough and beat him more". Meanwhile, Dr. Gogoi (trainee from Assam) disengaged Dr. Dayal from Dr. Verma and Dr. Shwet Kamal (Research Associate) who was present nearby prevented Dr. Sarveshwar Dayal from further injury to Dr. Verma. Meanwhile Dr. Verma returned shivering with the shock to the meeting and ended the MSI meeting abruptly.

The above incident created by Dr. Sarveshwar Dayal and Dr. (Mrs.) Yash Gupta, Scientist (SS) not only disrupted the meeting of Mushroom Society of India in midway but also hampered the training of the Winter School and research work going on at the Centre. This also gave a bad impression to the trainees assembled at the Centre from all over the country.

By this above act, Dr. Sarveshwar Dayal, Scientist (SS) has indulged himself in gross indiscipline and violent acts and behaved in a manner unbecoming of an ICAR employee and thereby contravened the provisions of the Rule 3 (1) (iii) and (iii) of CCS (Conduct) Rules, 1964 as extended to Indian Council of Agricultural Research employees.

[Signature]

(D) Charges which were admitted/dropped and charges that were actually enquired into

There was a single charge as given above (B) against the CO. The CO neither denied nor admitted this charge repeatedly. This charge was, therefore, enquired into.

(E) Chronology of events during the inquiry.

Preliminary hearing on July 15, 2005.

The CO informed that he has received the Charge Sheet and understood the charges. However, he neither admitted nor denied the charges leveled against him. The CO also showed full confidence in the Inquiry Officer. The CO desired to engage a legal practitioner as his Defense Assistant, which was not agreed to by the undersigned because the PO is not a legal practitioner. The CO was requested to inspect the listed documents, submit list of documents required for his defense and also give details of defense witnesses, if any.

Preliminary hearing on July 16, 2005.

The CO was again specifically asked to admit or deny the charges but again he maintained that he neither admits nor denies the charges. The PO informed that inspection of listed documents was carried out. The listed documents at Annexure-III were then taken on record from SE-1 to SE-11 (Attached with Daily Order Sheet). The CO submitted a list of 56 additional documents for his defense (Attached with Daily Order Sheet). Most of these documents were not related to the present case and after thorough discussion with the PO and CO, supply of four documents as detailed below was agreed upon:

- (i) Unreadable fax number, time, etc. of document No. 9 of Annexure-III.
- (ii) Letter of the Director, NRCM informing the Council about the incidence.
- (iii) Circular, agenda item and attendance record of participants of MSI meeting held on 23.09.2003.
- (iv) Proceedings of IJSC meeting dated 24.09.2003 along with circular, agenda items, etc.

The CO wished to give list of defense witnesses after evidence of prosecution side is over.

Regular hearing on 14.09.2005

Regular hearing on 14.09.2005 could not be held because the CO maintained that he has requested the Disciplinary Authority vide his letter dated 05.08.2005 (Page 1) to permit him to engage an advocate to defend his case and proceedings

[Signature]

should be stopped till decision regarding Defense Assistant is communicated by the Disciplinary Authority.

It came to the notice of the undersigned only in January, 2006 that the Disciplinary Authority did not accede to the request of CO for engaging an advocate as a Defense Assistant vide letter F.No.3 (2)/2004-Vig. (D) dated 31.08.2005 (Pages 2-3). The council sent copies of this letter to the CO and Director, Central Potato Research Institute, Shimla. In fact, Sh. Charles Ekka, Senior Administrative Officer and PO in present case forwarded copy of this decision to the CO (Pages 4-5). However, during the proceedings, both the CO and PO showed their ignorance to have received any such decision from the council.

Dilatory Tactics Adopted by the CO

On receipt of the decision regarding engaging an advocate as defense assistant from the council, the CO was asked to furnish the details of his Defense Assistant so as to enable the undersigned to fix next date for hearing vide letter dated March 20, 2006 (Page 6). In response to this request, the CO submitted his tour programme in search of Defense Assistant in Punjab. These tour programmes were addressed to Dr. Mangala Rai, DG, ICAR (Pages 7-10) and undersigned (Pages 11-13). Three more opportunities were given to the CO to give details of his Defense Assistant vide letters dated May 19, 2006 (Page 14), August 14, 2006 (Page 15) and October 20, 2006 (Page 16). In between, the CO represented for change of the Inquiry Officer on September 9, 2006, October 3, 2006 and November 9, 2006. But, the Disciplinary Authority turned down his above requests for undertaking journey to engage his Defense Assistant as well as change of Inquiry Officer vide the memoranda F.No.3 (2)/2004-Vig. (D) dated October 16, 2006 (Page 17) and April 3, 2007 (Page 18).

Regular hearing on April 16-17, 2007

After clearance of all issues, notice for regular hearings during April 16-17, 2007 was issued on February 9, 2007 (Page 19). In response to this notice, the CO vide his fax dated 07.04.2007 requested statements of the witnesses recorded during fact finding exercise (Page 20). The CO was informed vide faxed letter dated April 11, 2007 that the statements of witnesses were available in the Annexure-III of the charge sheet (Pages 21-22).

On April 12, 2007, the CO faxed an illegible medical certificate regarding his ill health (Page 23). On the same day, he was requested through fax to send clear fax through the Head, Central Potato Research Station, Shillong (Page 24). The medical certificate received through fax from the Head, CPRS, Shillong was also not legible (Page 25). On April 13, 2007, the undersigned received a telegram saying "EXTEND DATE. CAN NOT ATTEND INQUIRY. DOCTOR ADVISED

REST-DAYAL" (Page 26). In response to this telegram, the CO was immediately asked through fax to obtain second medical opinion from the government/Authorized Medical Attendant and send the same by fax latest by April 14, 2007. The CO was also informed that decision regarding postponement of the proceedings would be taken on receipt of second medical opinion (Pages 27-28). However, no response whatsoever was received from the CO. Upon inquiring from the Head, CPRS, Shillong, the Head informed that he tried to deliver both the faxes to the CO, but, in vain because the CO was neither available in the office nor at home (Page 29). On April 12-13, 2007, the Head, CPRS, Shillong also faxed his leave application for 6 days Earned Leave w.e.f. April 16, 2007 with April 14-15, 2007 as prefix. But as per page 29, the CO was neither present at home nor in the office during the period April 12-13, 2007. The ground of the leave was "NOT FEELING WELL". In the same application, the CO appears to have applied to avail Leave Travel Concessions for the block year 2006-2007 (Page 30). This shows that the CO had been adopting dilatory tactics using delicate weapon of illness. In view of above, it was decided in the proceedings dated April 17, 2007 that upholding principle of natural justice one more opportunity was given to the CO to appear during the next hearing, failing which, *ex parte* proceedings would be conducted in the case. Since, the proceedings were conducted in the absence of CO, signed copies of the daily order sheets were supplied to him vide letter dated May 22, 2007 (Page 31).

The dilatory tactics and non-cooperation of the CO is evident from the fact that he posted two registered letters dated April 19, 2007 (Pages 32-34) and May 1, 2007 (Page 35) from Solan. The stamps of Solan Post Office can be seen on the covers of these letters. It appears from these letters that although, the CO was present at Solan during this period, he did not attend the proceedings.

Regular hearings during July 9-11, 2007

Notice for regular hearing during July 9-11, 2007 was given to the CO vide letter dated May 25, 2007 through the Head, CPRS, Shillong (Page 36). The Head, CPRS, Shillong vide his faxed letter dated 13.06.2007 informed the undersigned that the CO proceeded on 6 days Earned Leave w.e.f. 16.04.2007 and has not joined his duties till date (Page 37). In response to this fax, the Head, CPRS, Shillong was requested on the same day to provide last known addresses to the CO (Page 38). The Head, CPRS, Shillong furnished three last known addresses of the CO through fax dated 13.06.2007 (Page 39). On receipt of these addresses, notices were sent to the CO on 14.06.2007 on these addresses (Pages 40-42).

09.07.2007

The proceedings were taken up at 09.30 AM as scheduled. The CO was not present for regular hearing. However, he vide his letter dated 27.06.2007 desired to engage Dr. Mangala Rai, Director General, ICAR as his Defense

Assistant (Pages 43-45). This request of the CO was not acceded to because in past he had been given ample opportunities to engage his Defense Assistant and he was also categorically informed in the letter dated October 20, 2006 (Page 16) that this is final opportunity given to him for furnishing details of his Defense Assistant within a period of one month, failing which, it would be presumed that the CO does not want to engage any Defense Assistant and the inquiry will proceed without Defense Assistant. Now, by naming a dignitary like Dr. Mangala Rai, DG, ICAR as his Defense Assistant that too without taking his written consent, the CO had adopted obstructive and dilatory tactics. Since, the receipt of proper notice for the present inquiry by the CO could not be ascertained. It was decided that a notice for ex-parte proceedings is to be given through newspapers.

July 10, 2007

On 09.07.2007 at 2.30 PM, the Project Coordinator's office, CPRI, Shimla informed the undersigned that they have received one fax (Pages 46-47) and a telegram (Pages 48-49) from the CO expressing his inability to attend the proceedings due to ill health. Although, the fax was illegible, it appeared that a medical certificate was obtained from Dr. Kapoor of Kapoor Clinic, Ranjeet Nagar, Near Pusa Gate, New Delhi. The Doctor also appeared to have certified that he has advised rest for the period July 7-11, 2007. Thus, in response to proper notices issued for the regular hearings, the CO had again adopted dilatory and non-cooperative tactics. In past, several opportunities had been given to him and it was made clear in the proceedings held on April 17, 2007 that if he fails to present during the next hearing, the proceedings will be conducted *ex-parte*. Under these extra ordinary circumstances, the undersigned was compelled to hold *ex-parte* proceedings.

The PO presented Dr. R.N. Verma, ex-Director, NRCM, Solan as the first witness from prosecution side for Examination-in-Chief. Dr. R.N. Verma was examined.

July 11, 2007

On July 11, 2007, the PO presented Dr. Robin Gogoi, Dr. R.C. Upadhyay, Dr. B. Vijay, Dr. S.K. Singh, Dr. M.C. Yadav, and Shri Shwet Kamal in sequence for Examination-in-Chief. These witnesses were examined. The statements of witnesses in order of their presentation are placed in a folder named STATEMENTS OF WITNESSES. During the presentation of witnesses, the PO took seven documents (P-1 to P-7) on record. These documents are placed in a folder named DOCUMENTS PRODUCED ON BEHALF OF THE DISCIPLINARY AUTHORITY.

With this, the regular hearing in the case was concluded on July 11, 2007. The PO was asked to serve a copy of the written brief on the CO before July 26,



2007. The written brief of the CO was to be submitted within 15 days from the date of receipt of the brief from the PO.

Since, the undersigned was compelled to conduct *ex-parte* inquiry, daily order sheets for July 9-11, 2007 (total 6 pages), statement of the witnesses examined during the inquiry on behalf of the prosecution (total 14 pages) and exhibits P-1 to P-7 produced on behalf of the Disciplinary Authority (total 12 pages) were sent to the CO vide letter dated July 16, 2007. The CO vide his letter dated July 21, 2007 returned all these documents including letter dated July 16, 2007 to the undersigned on the plea that documents are devoid of his defense, no cross examination either by the CO or his Defense Assistant, no reimbursement on account of previous hearings, etc. (Pages 50-84).

Daily Order Sheets of preliminary and regular hearings are placed in a folder named DAILY ORDER SHEETS.

(F) Submissions of briefs by the PO and CO

The PO vide his letter dated July 23, 2007 served copies of his written brief upon the CO. The CO received this brief on July 31, 2007 (Pages 85-86). CO submitted his brief along with a copy of the brief from PO to the undersigned vide Head, CPRS, Shillong letter dated August 16, 2007.

These briefs are placed in a folder named BRIEFS FROM PO AND CO.

(G) Brief version of the case of the Disciplinary Authority

The PO presented 7 witnesses and took on record 7 (P-1 to P-7) documents:

In his written brief, the PO writes:

1. Despite several opportunities given by the IO, the CO failed to furnish details of his defense assistant and defense witnesses. He also adopted obstructive and dilatory tactics by not attending proceedings.
2. From the state documentary and oral evidences presented during the hearings it is proved that Dr. RN Verma was presiding over the MSI meeting on September 23, 2003.
3. The incidence took place between 4.30 to 5.00 PM.
4. In between the meeting Dr. RN Verma went to toilet. While returning from the toilet and talking to Dr. Robin Gogoi in the corridor, Dr. S. Dayal slapped Dr. RN Verma. Dr. Dayal was provoked and instigated by his wife Dr. (Mrs.) Yash Gupta.
5. Drs. Robin Gogoi and Shwet Kamal disengaged Dr. Dayal from Dr. Verma and prevented further assault.

6. The meeting of MSI was immediately called off and matter was reported to the police by the office of NRC-M.
7. The incidence was condemned by the ARS Forum on September 24, 2007(P-6).
8. There is no lacuna and gap in the statements of the state witnesses and the contents of the state exhibits.
9. On the basis of the statements of state witnesses and prosecution documents the article of charge against CO is proved beyond doubt.

(H) Brief version of defense case

In his written brief, the CO writes:

1. This fabricated charge against him was in retaliation to demotion of Dr. RN Verma from the position of Director to Principal Scientist, financial embezzlement by Dr. RN Verma etc (Page 1 and 2 of the brief).
2. He has raised certain objections regarding non-signing of document P-2 by Dr. RN Verma, non-supply of defense documents, non-supply of statements of witnesses, no opportunity for Defense Assistant/Defense Witnesses etc. As a result the enquiry is bad in law (Page 2 of the brief).
3. He did not deny or admit the charge in the absence of defense documents (Pages 2-3 of the brief).
4. His requests to undertake journey in search of Defense Assistant were not entertained by the IO as well as DG, ICAR, New Delhi (Page 3 of the brief).
5. Due to non-payment or delayed payment of TA and salaries he was under excessive financial burden (Page 4 of the brief).
6. There were variations in the time of misconduct mentioned by the witnesses in criminal court and departmental enquiry. Even same witness has quoted different times (Pages 4-6 of the brief).
7. He has further given gist of depositions made by different witnesses in the criminal court. He has tried to prove that Dr. RN Verma visited NRC-M on September 23, 2003 without any invitation and neither his spectacles were broken nor cloths torn during the incidence. The two eye witnesses namely Drs. Robin Gogoi and Shwet Kamal were well known to Dr. RN Verma. Rather Dr. Verma is maternal uncle of Dr. Shwet Kamal. How Dr. MC Yadav is present at 3 places (ATMA Lecture, Winter School Practical and MSI Meeting) at the same time? etc. (Pages 6-13 of the brief).
8. Although Office of MSI is on ground floor, the venue of the MSI meeting in Dr. Upadhyaya's room was selected to suit fabrication of the incidence because Drs. Robin Gogoi and Shwet Kamal were working on this floor (Pages 13-14 of the brief).
9. In criminal court it has been held that the prosecution has failed to prove its case against the accused. The finding is in negative and against the prosecution (Page 14 of the brief).

10. The current *ex parte* enquiry was passed arbitrarily mere on suspicion, without any material evidence and it is null and void. He also mentioned that sending the written briefs to CO did not meet the ends of justice and are enclosed in original un-entertained (Page 16 of the brief).

(I) Points for determination arising out of above evidences

1. How and why Dr. RN Verma was at NRC-M, Chambaghat on September 23, 2003?
2. Did Dr. Sarveshwar Dayal physically assault Dr. RN Verma on that day?
3. If yes, at what time?
4. What may be the reasons for the incidence?
5. Did the incidence disrupt MSI meeting, hampered Winter School Training and gave bad impression to the trainees?

(J) Critical analysis of the evidence adduced during the enquiry from both sides and assessment of the same in respect of each point set out for determination and the finding thereon.

Some new issues raised by the CO in his brief.

In his brief, the CO has given 10 major points in his defense as listed at (H) above. Some of these points need to be treated before proceeding further for critical analysis of the evidence adduced during the enquiry. Points 1-5 are discussed below and the remaining points will be covered in critical analysis.

1. Allegation of the CO for fabrication of charges in retaliation to demotion, financial embezzlement etc. in his brief appears to be imaginary and hypothetical.
2. One of the objections raised by the CO is document P-2 was not signed by Dr. RN Verma. This document was not signed by Dr. Verma because in his statement he has categorically maintained that he is not aware of this document and he has not lodged any complaint of this incidence with the police.

Copies of relevant defense documents were supplied to the CO and the CO was given adequate opportunities to engage defense assistant as well as give details of defense witnesses.

3. Denial or admission of the charge is 1st step in the enquiry which is followed by admission of defense documents. Therefore, the CO can not claim that he neither admitted nor denied the charge in the absence of defense documents.
4. IO was not the sanctioning authority for tour programmes of CO. The CO was categorically asked to submit such cases to his controlling authority (Point No. 13 of Daily Order Sheet dated 14.09.2007).
5. There may be some administrative reasons for non-payment of TA and salary.

Critical analysis of the evidence adduced during the enquiry is given below.

How and why Dr. RN Verma was at NRC-M, Chambaghat on September 23, 2003?

Dr. RN Verma came to Solan on September 23, 2007 on a personal visit to his son Mr. Sushant Bharati. The Director, NRC-M, Chambaghat invited him to visit the center in the afternoon and sent office vehicle to bring Dr. Verma. Dr. Verma participated in discussions with the Director, AO and AFACO for about 45 minutes. The Director and Dr. Verma also visited some laboratories and had discussions on their functioning. Taking advantage of presence of Dr. Verma (who was also outgoing President of MSI) at the Center, the Secretary, MSI requested him to preside over MSI meeting (P-5).

CO's plea that Dr. Verma visited NRC-M without any invitation is not true because the Director, NRC-M invited Dr. Verma (may be verbally) and sent office vehicle to bring him to the office.

Did Dr. Sarveshwar Dayal physically assault Dr. RN Verma on September 23, 2003?

The documentary and oral evidences produced on behalf of the Disciplinary Authority indicate that in between the MSI meeting Dr. Verma went to toilet and while coming back and talking to Dr. Robin Gogoi, Dr. Sarveshwar Dayal indeed assaulted Dr. RN Verma on September 23, 2003 in the presence of Drs. Robin Gogoi and Shwet Kamal. These persons disengaged Dr. Dayal from Dr. Verma to prevent further assault. Dr. Yash Gupta wife of Dr. Dayal was provoking Dr. Dayal to beat him more and also preventing Dr. Shwet Kamal from disengaging Dr. Dayal by pulling him from back. The assault was in the form of some slaps on the face of Dr. Verma. As stated by various witnesses, Dr. Dayal and his wife fled away after the incidence. The incidence was further corroborated by the circumstantial statements of MSI Executives that Dr. Verma came back shivering and scared from the toilet. After knowing the incidence, the MSI meeting was called off and the matter was reported to the police by the office of NRC-M. The incidence shocked entire center and was condemned by trainees of the Winter School (P-4), MSI Executives (P-5) as well as ARS Forum (P-6).

The CO states that both Drs. Robin Gogoi and Shwet Kamal the two eye witnesses were known to Dr. Verma and Dr. Shwet Kamal is his nephew. This argument does not hold much water because Dr. Verma knows several people in National Agricultural Research System. As far as Dr. Shwet Kamal is concerned, it is a matter of appreciation that he acted with a balanced temperament when his uncle was being assaulted by Dr. Dayal. This is further proved by his statement dated July 11, 2007, in which he mentioned that he had been working with Dr. Dayal in the same laboratory but had no problems working with him.

In view of above, the charge of assaulting Dr. RN Verma and misbehaving with him by Dr. Sarveshwar Dayal is proved. By this act Dr. Sarveshwar Dayal created an embarrassing and intolerable situation and indulged himself in gross indiscipline and violent acts in a manner unbecoming of an ICAR employee. 149

Under points 7 of (H) above the CO has given gist of depositions made by different witnesses in the criminal court and under point 9 he has stated the finding of the court was against prosecution. He has not attached copy of the court order with his brief. The undersigned is not competent to comment upon findings of the Hon'ble Criminal Court.

If yes, at what time?

Although the CO has stated that he is returning brief of PO un-entertained. It appears from the brief of the CO that he has very carefully gone through *ex parte* proceedings sent by the undersigned as well as PO's brief and tried to bring out certain contradictions in the time of incidence. He has tried to compare the times mentioned in the criminal court and in the departmental proceedings. The undersigned has nothing to say about the court proceedings but in the present enquiry all the witnesses have stated that the whole incidence took place between 4.30-5.00 PM on September 23, 2003 with insignificant variations in time. Such minor variations in time are expected after a lapse of about 4 years.

The CO has also stated that as to how Dr. MC Yadav is present at 3 places between 4.00-5.00 PM on September 23, 2003 [Point 7 of (H)] and the meeting of MSI was scheduled at 5.00 PM (Annexure 9 of CO's brief). If the CO could have attended regular hearings, these issues could have been enquired into. However, it appears that the time table of training programmes might have changed as per convenience and requirement. The same is true with MSI meeting because all the executives were local and from NRC-M. In practical classes it is also not necessary that the instructor should always be present. He describes and starts the practical and other junior persons in the laboratory (Technicians, Research Associates etc) take care of it.

Regarding venue of the meeting in Dr. Upadhyay's room, the CO again appears to be imaginary and hypothetical that the meeting was fixed in Dr. Upadhyay's room to suit fabrication of the incidence [Point 8 of (H)]. Since the group was small it might have been convenient to hold the meeting in Secretary's room.

What may be the reasons for the incidence?

From the statement of Dr. Verma it appears that while following official procedures, general discipline as well as performing duties and work of the center, Dr. Dayal and possibly Dr. Yash Gupta mistook his actions wrongly due to



which they took law in their hands. He further stated that Dr. Dayal did not undertake a single research project at the Center, did not attend training programmes for which he was nominated as a trainee, flouted office orders etc. Dr. Verma tried to motivate and encourage him to indulge in scientific and developmental activities at the Center by giving both oral and written advises and suggestions but all in vain. The official differences between Dr. Verma and Dr. Dayal were confirmed by Drs. RC Upadhyay, B. Vijay and SK Singh in their statements. Dr. SK Singh stated that Dr. Dayal was suspended and Dr Yash Gupta was facing some vigilance charges when Dr. RN Verma was Director and perhaps due to these charges and revengeful attitude this unfortunate incidence took place.

When asked about working of Dr. RN Verma as a Director following depositions were made by witnesses.

Dr. RC Upadhyay: Dr. Verma was a kind and good Director. He was always concerned about the scientists and research work at the Center.

Dr. B. Vijay: He was a good Director and good person. He had a positive attitude and was concerned with the scientists and scientific achievements of NRC-M.

Dr. SK Singh: Dr. RN Verma by and large was a very successful Director and able administrator. Under his leadership NRC-M won Best Institution Award, scientists got externally funded projects and new laboratories were set up in frontier areas of science like Biotechnology etc.

Dr. MC Yadav: Dr. RN Verma was a well-mannered, soft spoken and able administrator. During Dr. Verma's tenure as Director.....Best Institution Award.....establishment and modernization of laboratories....facilities for DNA fingerprinting etc. were developed. I have not seen him uttering any words towards his fellow scientists and he has always motivated scientists to undertake good research.

To the questions on scientific aptitude, temperament and inter-personal relations of Dr. Dayal following information emerged from different witnesses.

Scientific aptitude: Drs. RC Upadhyay, B. Vijay and SK Singh were not associated with Dr. Dayal in any project and hence they could not comment. Dr. MC Yadav stated that he was lacking required knowledge of genetics and breeding. He also lacked initiatives and drive for undertaking scientific activities, which is evident from the fact that he did not submit any research project. In some of the scientific meetings he emphatically declared that he has not submitted any Annual Report in his entire scientific career.

Temperament: Dr. Dayal was little short tempered (Dr. Upadhyay); As a colleague I have seen him misbehaving in scientific meetings (Dr. SK Singh); He used to reply official letters on the body of these letters (Dr. MC Yadav).

Inter-personal relations: Personally I did not have any problem with Dr. Dayal (Dr. Upadhyay); I enjoyed normal relations with him (Dr. B. Vijay); As far as inter-personal relations with other staff are concerned I have nothing to appreciate (Dr. SK Singh); I have not seen him mixing freely with scientists or other staff of the Center (Dr. MC Yadav)

The above statements indicate towards a serious and additional charge of non-performance. However, the undersigned can not record his findings on this charge because (i) this is not an article of charge for this enquiry, (ii) the CO has not admitted the charge, and (iii) opportunity could not be given to the CO (due to his absence) to defend himself.

Thus, it appears that the differences between Dr. RN Verma and the CO went on accumulating in the course of discharge of duties by the former. Availability of enough time to ponder on these issues (due to negligible research engagements), habit of misbehaving and short temperament of the CO might have ultimately culminating into the unfortunate incidence of September 23, 2003.

Did the incidence disrupt MSI meeting, hampered Winter School Training and gave bad impression to the trainees?

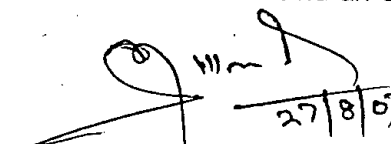
As stated by various MSI Executives in their statements the MSI meeting was called off immediately after the incidence. The trainees of Winter School have stated in document P-4 that their practical class was disturbed. In the same document, they have also condemned such shameful incidence in a reputed ICAR Center.

(K) Findings of the inquiry

On the basis of documentary evidence, depositions of the witnesses and written briefs of PO and CO, the article of charge as given below and framed against Dr. Sarveshwar Dayal, Scientist SS, CPRS, Shillong vide memorandum F. No. 3(2)/2004-Vid. (D) dated 01.06.2004 is proved beyond doubt.

"While working as Scientist (SS), National Research Centre for Mushroom, Solan, Dr. Sarveshwar Dayal created an embarrassing and intolerable situation by indulging himself in an act of gross indiscipline and violence by physically assaulting Dr. R.N. Verma, Ex-Director of NRCM on 23.9.2003 in the NRCM Office premises when Dr. Verma was on short visit there and was presiding over the meeting of Mushroom Society of India as its President.

By his above act, Dr. Sarveshwar Dayal has indulged in gross indiscipline and violent acts and behaved in a manner unbecoming of an ICAR employee and thereby contravened the provision of Rule 3(1) (iii) of CCS (Conduct) rules, 1964 as extended to Indian Council of Agricultural Research employees".


27/8/07
Signature of the Inquiring Authority

Prakash S Nalk, Ph.D.
Project Coordinator (Potato)
Central Potato Research Institute
Shimla-171 001, HP (India)

Confidential
Registered

भारतीय कृषि अनुसंधान परिषद
Indian Council of Agricultural Research
Krishi Bhawan, New Delhi

F.No.3 (2)/2004-Vig.(D)

Dated the 12th September, 2007M E M O R A N D U M

Disciplinary proceedings under Rule 14 of CCS (CCA) Rules, 1965 were initiated against Dr. Sarveshwar Dayal, Scientist (SS), CPRI Regional Station, Shillong vide Memorandum of even number dated 01.06.2004. Dr. P. S. Naik, Principal Scientist was appointed as Inquiry Officer to conduct the inquiry vide Office Order dated 03.05.2005. The Inquiry Officer has submitted the Inquiry Report dated 27.08.2007 to the Disciplinary Authority. The Inquiry Report has been considered by the Disciplinary Authority & the Disciplinary Authority has tentatively agreed with the findings of the Inquiry Officer. A copy of the Inquiry Report is enclosed. Shri Sarveshwar Dayal, Scientist (SS) may, if he so desires, furnish his submissions, if any on Inquiry Officer's findings within 10 days from the receipt of this memorandum. If no reply is received from him within the prescribed time, it will be assumed that he has nothing to say in the matter and the final decision in the case will be taken by the Competent Authority as per provision of CCS (CCA) Rules, 1965.

(Rajiv Mangotra)
Under Secretary (Vig.)

✓ Dr. Sarveshwar Dayal, Scientist (SS),
Central Potato Research Station,
Peak View Road,
Shillong-793 009,
MEGHALAYA

No F 3/Cons/2007/580
18.9.07.

Attended
Under
H. W. Chak

To
The Disciplinary Authority
Indian Council of Agricultural Research
Krishi Bhavan, New Delhi 110 001

Registered Acknowledgement Due India Post
Date
27 September 2007

Subject: Submission against enquiry report sent to me vide letter no.3(2)/2004 Vig. (D) dated 12-4-2007.
Through: Proper Channel

Sir

Most respectfully I submit herewith my differences with the enquiry report prepared on the charge memorandum New Delhi, Krishi Bhavan, ICAR ref. no.3(2)/2004 Vig.(D) dated 1-6-2004 which was served upon the applicant on dated 28-7-2004 in NEH Meghalaya Shillong – 793 009 Peak View Road, Central Potato Research Station office vide ref. no.15/ SD/ 20 04/407.

1. Biased Enquiry Officer Dr. Prakash Shamrao : From the very beginning IO Dr. Prakash Shamrao was acting in a very biased manner:

i. as soon as an appointment of IO and PO delivered to me in NEH I submitted applications that he can very well be biased ^{annexure-1} and the PO is an interested person. My repeated requests from 16-7-2005 to 1-6-2007 were not considered in my favour by disciplinary authority.

ii On the court judgment IO became furious in psychedelic in connivance of PO he has proceeded *ex parte* even when I was sick on way to attend the enquiry in the transit. I fell ill and was to under go treatment at Delhi where I was advised rest. I had intimated the IO immediately of my illness but IO proceeded for enquiry clearly shows his biasness. In April I was sick and advised rest for 10 days w e f 9-4-2007. On 19th April the letter so mention by I O were given by me to my wife Dr. Yash Gupta who went to Solan during said period. These letter posted by her from Solan as India Post at Nonglyer post office is not reliable and many times it take over a month for letters to reach himachal. While posting the letters were bearing Registered letter no. RL A 2656 ^{annexure-2} dated 18-4-2007 and B 414 ^{annexure-3} dated 1-5-2007. Hence there was no delaying tactics followed by me as alleged in the report. Conducting enquiry even when the charged officer was not well and advised rest speaks volumes about the biasness of IO.

On the identical matter nrc- mushroom lodged 2 FIRs accordingly charge officer has to appear in senior judicial division as it is in criminal law I had to be present there physically performing costly journey over to 3500 x 2 Km the CPRI competent authority declared a purely private dispute ^{annexure-4,5,6,7,8 & 9} so I have to avail LTC to report my presence during block/ year ending in 2007. During these hearings FIRs were disposed off and judgment pronounced in prescribed hon' open criminal court quorum in June 2007 on the contrary, the presence of both of us in criminal court the biased IO quoted it a delicate weapon. It is big abuse to truth "justice". This will be taken in appropriate court of law. kindly accord the permission of the same in 10 days there after it will be presumed the same has been granted.

iii Opportunity to present witnesses from defence side: On page iii of enquiry report, the IO has stated that the charged officer wished to give the list of witnesses after evidence of prosecution side is over. However immediately after closing evidences from prosecution side the IO closed the case from the defence side also without giving me any opportunity to present my witnesses thereby denying me *in toto* to defend my case. Thus IO and PO in connivance seriously hampered my defence and violated sub rule(3) ii a & b; (6) iii; (9); (11) iii; (12) and (14) of rule 14. Thus violation of CCS CCA rule 14 (14), 14(15) sub rule (8) a and b

Attested
by
Dr. Prakash Shamrao

Dr. Prakash Shamrao

of rule 14 and article 311 '... given a reasonable opportunity of being heard.....' clearly established.

iv **Denied me the opportunity to engage defence assistant:** This is my humble submission that on the basis of complainant/(s) I was transferred to a remote locality in NEH region while the case was taken up at Simla/ Solan. I tried my level best to hire defence assistant but that was hindered by the financial crises by virtue of non payment of salary ^{annexure-10 and 11}, ta, da, local transportation, track charges, reimbursement, rail reservation, heli -service etc.

It could not be possible for me to engage a defence assistant from Shillong when the inquiry was being held at Simla/ Solan. As such I had asked for a tour to north to engage a defence assistant ?. This was denied by the IO ^{annexure-12} and DG as well ^{annexure-13}. This is true for the reminders of defence assistant from behest of Dr. Mangla Rai ^{annexure-14, 15 and 16}. When the name of my defence assistant given to IO, he refused to comply with the procedures ^{annexure-17}. There is no rule where the IO can insist for written consent from defence assistant and by refusing to allow me to take the defence assistant of my choice the IO Prakash Shamrao prevented the natural justice.

For the purpose of defence the rule 14 proceeding the with drawl from GPF refused by the quarter concern of CPRI as evident in Simla, Bemloe, CPRI no. f. GPF/ B&C/2006/14846 dated 5-10-2006 ^{annexure-18}. v. **denied supplying me the documents listed by me on dated 17-7-2005** ^{annexure-19} **stating to be irrelevant while all document requested were related to charge memorandum and essentially required for defence.** Non supply of statement of witnesses recorded at the time of fact finding exercise 3 clear days before their examination. More over invitation letter defence document serial no. 32 to complainant Ravindra Nath who is elderly person of nrc-m dir. Rajendra Parsad denied by IO, PO and IO concealed the biasness by way of non supply of *funtus officio* serial no.20,22-25 and 30 documents ^{annexure-19} on dated 17-7-2005 in the court of Dr. Prakash Shamrao.

Dir. Rajendra Parsad immediately contacted DDG (Horticulture). It is mentioned in FIRs/ charge memorandum but he did not supply his telephonic ^{annexure-20} conversation. Reminders made to concerned for the supply of a glimpse of an online conversation ^{annexure-21} with DDG Hort. by Dir. Rajendra Parsad on dated 21-4-2006 but yet there is no response. Later on requested from Dr. Mangla Rai ^{annexure-22} but no response even a copy sent to him enclosing the receipt he did not bothered to acknowledge.

Dir. Rajendra Parsad did not supply the stock of situation he took personally on dated 23-9-2003. On repeated requests stock of situation non supply continued from Dir. Gen. Dr. Mangla Rai ^{annexure -22 and 23}.

vi. **The PO / custodian of the documents appointed by the council is silent for acquiring these statements from individual complainant/(s) or various class of witnesses however IO Dr. Prakash Shamrao dealt former matter of statement of witnesses personally / himself.** The IO indulged in circumlocutions instead supplying the witnesses statements he cited repeatedly the reference of annexure -iii of charge memorandum and took turn in to the correspondences. These are well documented subjects to speak the IO Dr. Prakash Shamrao appointed by the council deprived me article 311(2) opportunities extended to I C A R employee.

vii **IO categorically prevented from asking question to witnesses related to previous fabrications of complainant while IO has based his entire enquiry report on what witnesses had said in praise of complainant Ravindra Nath particularly during that period.** More over IO is definitely biased as evident in "... CO wanted to put certain questions related to her previous case in the year 1997(D-5). PO objected to this saying this is not relevant to deposition by the witness. IO sustained the objection..." ROAC document dated 12-7-2007 duly counter signed by IO Dr. Prakash Shamrao. The IO did this despite New Delhi, Krishi Bhavan, ICAR ref

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no.3 (11)98-Vig.(D) dated 13-11-98 and even no. Vig.(D) dated 14-6-2001 are integral part and parcel of charge memorandum delivered in NEH.

The biasness of IO has reaffirmed by the fact that he is repeatedly and wrongly justify the presence of witness Dr. Mahesh Chandra Yadav at three places viz. i in the theory lecture of ATMA training ii practical of winter school iii meeting of mushroom society of India in serial point no.7 and para -3 of page xi of inquiry report. The fact is that he was not named as witness in originally lodged complaint^{annexure-31} by complainant Ravindra Nath as evident in P-1. This document comprising 2 pages SE-3 exhibit (P-1) which is signed by complainant Ravindra Nath in Hindi on dated 23-9-2003, re signed in english on dated 10-7-2007, counter signed by I O Dr. Prakash Shamrao on dated 10-7-2007, counter signed by PO dated nil and attested by ASI Mr. Beneru Ahamad of Police Post Solan station on dated 23-9-2003. His witness has been added afterwards as an after thought. He was not-examined in the court because of this reason.

More over in lure of proving the charge the biased IO changing (pre ponding to 4:30 PM) time of MSI meeting merely on no ground to do so. The biased IO incorporated the extraneous material from his own knowledge as none of the witnesses spoken the time of meeting was changed.

viii IO deliberately fixed nrc-m as the venue for enquiry. IO deliberately eliminated various points like:

- Original documents- the incident took place out sides Upadhayas' room.
- enquiry- it took place out side laboratory 14 -15 feet away from Upadhayas' room.
- original- meeting held after 5:00 pm.
- enquiry - misconduct took place between 4:30- 5:00 pm during the course of meeting.
- during enquiry - nobody except complainant have stated that misconduct took place.
- IO has deliberately and completely ignored evidences that have come in my favor during enquiry.
- in his eagerness to prove the charge IO has gone to the extent to add salt and pepper to the statement of witnesses, and brought on record during enquiry an example of this is:

Complainant Ravindra Nath - one slap

Dr. Robin Gogaj - one slap

IO Prakash Shamrao - some slaps

During *exparte* enquiry - IO is seeking personal opinions of witnesses without any evidence brought on record and without giving me an opportunity to defend against those claims that too on the basis of word of mouth by these people who have drawn personal favors from complainant Ravindra Nath during his tenure and have acted as witness on all the enquires held against me and my wife (professional witness ?) trying to level another charge of non performance on me is sufficient evidence of IO Prakash Shamrao' biasness. His entire report is based on these statements.

The IO is so biased that he treated my plea of demotion, transfer, financial embezzlement etc of complainant Ravindra Nath imaginary despite ICAR order which is being re annexed as ^{annexure -42.}

Contents of enquiry report suggest that it has been prepared in a very biased manner taking in to consideration the points that were neither the part of charge memorandum nor any evidence collected during the course of *exparte* enquiry.

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IO is biased to such an extent that he has over ruled the findings of honorable criminal court of Senior Judicial Division who had conducted the trial in an unbiased manners where in the honorable judge write----- the prosecution examined as many as 7 witnesses in all and closed the same. Then accused person examined..... no defence evidence led by accused ☺.

ix IO has laid entire emphasis on the praises of complainant Ravindra Nath and no bearing on justice ?.
x IO Dr. Prakash Shamrao bound by rigidity of admissibility, failed to confine his attention, take prudent-responsible-reasonable actual- true view of complainant Ravindra Nath. Thereafter representation, setting aside natural justice, flagrant violations etc by IO are clearly established. Ultimately he snatched the right of my defence in mechanical manner. The violation/(s) of PO duly reported, there of requests and appeal has been made to your good self in the interest of justice ^{annexure-1}.

At the initiation of inquiry it was in notice of disciplinary and appellate authority that the essentially required documents for defence prevented by IO and PO. The aforesaid violations incertitude the enquiry officer and scruple the presenting officer. Thus thorough out investigation both remain totally undeserving ones in the field of justice.

2. Presenting officer is an interested person:

i PO Mr. Charles Ekka did not supply the documents of even essentially required statement of witnesses 3 days before their examination, adjudicated on the rule/(s), procedures, seized testimony of witnesses etc therefore he failed to act a true delegate of disciplinary authority. It is further affirmed by the fact that Presenting Officer Shri Charles Ekka did not object the presence of Mr. Rishi Ram inside enquiry chamber however disallowed my presence on dated 15-9-2005.
ii Statement of witnesses were not supplied by Vigilance Desk Officer, Vigilance Under Secretary, later on this authorization dissipated into IO and IO failed to supply these statements.

iii The Presenting Officer Shri Charles Ekka, biased IO and elderly person of nrc-m dir. Rajendra Parsad are getting fully sheltered in the resolutions passed by ARS forum, condo nations passed by the trainees', meetings by I J S C / C J S C of nrc- mushrooms as evident in the written briefs of Mr. Charles Ekka setting aside the depositions by the witnesses with oath in honorable criminal court of law etc.

3. Mute Spectators:

Leaving Dr. Raj Deo and Dr. Behari Lal ^{annexure-24} as stated in charge memorandum document/(s) certain persons viz. Dr. Ramesh Chandra, Dr. Suneel Kumar Singh, Dr. Mahesh Chandra Yadav, Dr. Bhubnesh Vijay and Mr. Deep Kumar took him to Director Rajendra Parsad office where he received sympathy, consolation, all staff assembled, arrival of police party in few minutes, recording statement of complainant Ravindra Nath which was signed by him in Hindi on dated 23-9-2003 and counter signed by police party ASI Mr. Beeru Ahamad and subsequently signed on dated 10-7-2007 by IO, PO, document P1 (SE-3), lodging first information reports etc. These persons helping, cooperated to him and extended their full support during director ship of Ravinder Nath by way of modifying the prescribed proforma of council, deducting our salaries, eye witnesses of *dies non*, nominated as PO & IO, making numerous complaints against both of us, dissolving projects of both of us, ceasing the experimental register ^{annexure-25}, disallowed joining of both of us in 2002 and bent upon objecting each & every document grown to professional witnesses but in court of law with oath inside the dock in presence of juror-reader-listeners-court hall full of advocates exhibited resilience and turn hostile in their cross examination/(s). These witnesses now given 'mute spectators' by complainant Ravindra Nath wh-

157
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ile depositing on dated 12-7-2007. This revealed the **followers, opportunist and where is science the moral of individual(s)** ? Surprisingly the other equally senior 4 scientist of nrc-mushrooms are not included in charge memorandum. After retirement complainant Ravindra Nath was in Solan for month altogether that time have been best for assault but what was brewing in his mind is well expressed now in his uninvited visit to nrc-m premises despite neither me nor my wife seen him on dated 23-9-2003.

4. No invitation to complainant Ravindra Nath:

Complainant Ravindra Nath ignored the hearing dates of 2 - 4 months gap in honorable senior judicial division. Elderly person of dir. Rajendra Parsad did continuous absence (>10 adjournments e g Mar.2005, June 2005, Aug. 2005, Sept. 2005, Nov.2005, Feb.2006, May 2006, June 2006, August 2006 and Dec.2006 in criminal court). This prolonging was supported by dir. Rajendra Parsad favoring his elderly person by not supplying his e-mail, mobile, telex, fax, address, land line telephone, ^{annexure-26 and 27} Ultimately honorable Senior Judicial Division criminal court of law set on arrest warrants for getting his depositions/ statement recording with oath in dock ?

iis affirmed on receiving the telephonic message from mushroom center rapat Ex. Pw 7 / A sending ASI Beeru Ahamad police party could not collect any evidence from nrc- mushroom that the complainant Ravindra Nath invited by authority/ scientist or technical or temporary staff or contractual labour or he was deputed by New Delhi councils' office.

ii '..... **is meeting mai aane ka koi patra na aaya thha.....na hi koi invitation thha....** refer 'A.... to.... A' ^{annexure-28} co-complainant Ravindra Nath with oath in the dock of Honorable Criminal Court, Senior Judicial Division deposited this on dated 12-1-2007.

accordingly honorable senior judicial division the judge of Criminal Court while delivering the judgments write that "... he could not tell as to in which capacity Dr. R. N. Verma had come to..... as he had now retired. He had not taken any document into his possession to prove thathad called in the meeting or not..."

iii To put the curtain on no invitation the biased IO Prakash Shamrao denied inside the dock of his office in hearing dated 17-7-2005 the defence document supply viz. invitation letter serial no.32 or any other document pertaining to invite the complainant Ravindra Nath in side the nrc-m premises.

So para 1 and 2 page x inquiry report of biased IO is totally false.

iv competent authority of CPRI Simla (undisclosed name) communicated that this is a purely private dispute ^{annexure-4,5,6,7,8 & 9}

The aforesaid fathom that complainant Ravindra Nath loitering in nrc- m premises for what brewing in his mind ?

5. Planted witnesses:

(a) Witness i. Dr. Mahesh Chandra Yadav does not appear in a document SE-3 (P-3) which signed 2ice by Complainant Ravindra Nath in Hindi on dated 23-9-2003 and english on dated 10-7-2007 and counter signed by police party dated 23-9-2003, IO and PO of ICAR system etc. More over Dr. Mahesh Chandra Yadav is missing in document SE-4 (P-2) which is signed by IO dated 10-7-2007 and PO dated nil.

(b) Witness ii Dr. Shwet Kamal does not appear in document -I of charge memorandum which is also a document SE (P-5) signed by the 6 persons on dated 23-9-2003. His statement SE-8(P7) does not contain signature of competent authority, devoid of diary, dispatch, file no. or nrc-m seal or counter signatures or any authentication etc so it is skeptical ? Later on dated 23-7-2007 while submitting his written briefs the presenting Officer Shri Charles Ekka write that nephew of complainant Ravindra Nath is an

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eye witness in this case ? His statement and the document related to it has been planted at later date/(s) to support imaginary story of complainant Ravindra Nath. These witnesses were planted many days after reporting the incidence/ lodging the FIRs/ fabricating the complaints/ addressing SOS to DG/ ARSSF resolution/ CJSC or IJSC sympathizers etc(evidences not to be disclosed at this stage).

6. Eye witnesses named by the complainant Ravindra Nath from permanent / regular staff of NRC-M Solan say that they were told about the incidence by complainant Ravindra Nath on his return to meeting room refer.. '.. B . to.. B' annexure-29

i. Description of incidence narrated by these witnesses and complainant Ravindra Nath do not match ?
ii Complainant Ravindra Nath named the eye witnesses viz. Dr. Suneel Kumar Singh, Dr. Bhuvnesh Vijay, Dr. Ramesh Chandra Upadhaya, Dr. Shwet Kamal, Dr. Robin Gogai and subsequently added Dr. Mahesh Chandra Yadav. Deposition of witnesses viz. Dr. Suneel Kumar, Dr. Bhuvnesh Vijay, Dr. Ramesh Chandra being subordinate of complainant Ravindra Nath that too in nrc - m under ICA R (have not seen assault) hold much water as biased IO write on para -4 of page x. IO Prakash Shamrao took their words in to the appreciation of complainant Ravindra Nath instead completely ignored the deposition on physical assault in view of claimed manhandling:

Complainant Ravindra Nath became insane of the court case and spoken to record on dated 10-7-2007 and 12-7-2007 that he is unaware of lodging the FIRs

.....vs.....

however a blood relative of Complainant Ravindra Nath's nephew deposited on dated 10 & 12-7-2007 they went to Director Office, police called..... FIRs lodged. More over lodging 2 FIRs reaffirmed in the statement of complainant Ravindra Nath counter signed by police man Beeru Ahamed.

Honorable Senior Judicial Division Criminal court of law write that complainant R. N. Verma has claimed that when he was assaulted by the accused Sarveshwar Dayal then his wife co accused Dr. Yash Gupta also came there and she was inciting her co-accused to assault the complainant. Statement of complainant has thus been contradicted by Dr. Robin Gogai who has tried to corroborate the prosecution case. Where as Dr. Robin Gogai contradicted prosecution case and he has not proved the presence of co accused Dr. Yash Gupta. Further more complainant claimed that other scientist sitting in the meeting room also came out and saved him along with Dr. Robin Gogai. Other scientist turned hostile as mentioned earlier. Further Dr. Robin Gogai has stated that he himself tried to intervene and save the complainant. He also did not state that other scientist came out from the room to the rescue of complainant..... He thus can not be said to be proved prosecution case beyond all reasonable doubt as story as narrated by Dr. Robin Gogai has also not stated that accused criminally intimidated the complainant.

iii. Depositions of complainant Ravindra Nath confirm that he is goffer and became totally garrulous before the eyes of honorable Judge of Criminal Court in Senior Judicial Division.

7. Out of 6 eye witnesses in document P1 (SE-3) and P2 (SE-4) 1 old acquainted witness and 1 nephew of complainant Ravindra Nath are trying to corroborate the hypothetical story of complainant Ravindra Nath. This contradicted that they have seen the manhandling:

159
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'.....the law recognizes that if former statement was made at or about the time when the fact took place and the person is called to give evidence about such fact in any proceedings, the previous statement can be used for purpose of corroboration...'
Dr. Shwet Kamal submitted his statement on dated 1-10-2003, it is after thought, unauthentic etc therefore hypothetical matter as narrated in para -4 of page x of inquiry report prepared by biased IO.

8.Venue and time ^{annexure-30} of misconduct changed 4 times:

- i as-meeting hall of MSI or office is in ground floor in a corner.
- ii meeting progress was in an office of Dr. Ramesh Chandra. This is synthetic place for PW Dr. Shwet Kamal (maternal uncle and nephew relationship of Ravindra Nath), PW Dr. Robin Gogai (a known person to Ravindra Nath '...knowing each other for quite some time when ...serving in NE Complex). so much so
- iii a venue is carefully appropriated from out side Upadhays' room to out side lab. of crop improvement to suit the fabrication/(s) from blood relatives, known persons, subordinate staff ?
- iv the venue of misconduct changed further from out side the Dr. R C Upadhaya Rooms' where Dr. Robin Gogai was standing and waiting for him ^{annexure-31} when he came out of meeting hall to the Crop improvement laboratory (where in Dr. Robin Gogai and Dr. Shwet Kamal were waiting for complainant Ravindra Nath) 15 feet away as his own person(RCU,BV,SKS) did not supported the claim of Complainant Ravindra Nath '...refer B... to.... B ^{annexure-29}.
- v Pw Dr. Suneel Kumar Singh deposited in dock with oath that complainant Ravindra Nath '..... *bina batay meeting chhorh kar bahar chala gay*' and came back all with what brewed out planning in his mind as the depositions confirm this Pw did not witness any instigation, slapping, thrashing, shivering etc drama/ actings' of complainant Ravindra Nath ?

All the previous meetings of the MSI executives including same number of members the record of which was requested by me in the list of documents submitted by me to the IO and disciplinary authority and the access to which was denied were held in the meeting hall. Why this particular meeting was kept in Upadhayas' room in second floor where my wife was under going training. The argument of IO being small group... is null and void and reaffirm his biased attitude. So para -4 at page-xi is totally false.

Circular of meeting spoke that time of meeting fixed at 5:00 pm ^{annexure-48}. Some business was transacted prior leaving the meeting by complainant Ravindra Nath however, as per the inquiry report man handling happen during the meeting between 4:30 to 5:00 pm while Dr. Robin Gogai in his signed statement in Criminal Court of Law of honorable Senior Judicial Division 'refer E... to... E' ^{annexure-32} had given the time 3-4 pm. This is the time complainant Ravindra Nath had come to nrc-m premises which clearly shows that they had preplanned the complaint and complainant Ravindra Nath visited (not on invitation) with the pre determined motive of making these criminal FIRs and complaints with the help of his nephew and acquainted person Dr. Robin Gogai.

The citations above in contest with the venue and timing of the MSI meeting ^{annexure-48} confirms that it is a fabricated case. These are not the minor variation of the timing as stated by the IO in his biasness specifically when the case erected for major penalties on these grounds.

Place for violations, manhandling, assaulting etc is toilet/ bath room/ urinal as mentioned there in at the time of nature's call but complainant Ravindra Nath 'refer F... to... F' ^{annexure-31} did not went there as evident in an authenticated exhibit SE-3 (P-1). The no official correspondence and court deposition *explicitly* shows that he was on private ^{annexure-4,5,6,7,8 & 9} visit that

160
Dy. J. Singh

too uninvitedly as proved in the Criminal Court of Law of honorable Senior Judicial Division.

9. Quantum and method of misconduct: Hindi statement of complainant Ravindra Nath dated 23-9-2003 ^{annexure-31} speak in singular '....thappar mara' while with oath in the dock of hon' senior judicial division the complainant Ravindra Nath depositing on dated 12-1-2007 '....4 - 5 thappar mare....' refer C.. to C... ^{annexure-28} that took '....a duration of 3-4 minutes...' however eye witness depositing 1 thappar only... There is a big variation encoded in '....caught hold....' however in deptt. ROAC sook hand, embraced,... dr. S. K. Singh, Vijay, Robin, R.C. Upadhaya, Deep Kumar & Shwet Kamal came after intimidationin this neither his spectacles fallen nor clothes torn..... 'refer D... to ... D' ^{annexure-28}failed to tell/ name/ speak the threats on life of complaint Ravi-ndra Nath.....etc

No witness deposit timings change and what ever given in MSI ^{annexure-48} circular is thereafter transacted some business in MSI meeting inside the office of Dr. R. C. Upadhaya and complainant Ravindra Nath did not remember after how much time in meeting he left for urinal/ toilet/ natures call spoke the assault time much later than 5:00 pm however, the departmental proceeding on ROAC pre ponded the assault time to 4:30 from 5:00 pm in *exparte*, 12-7-2007 deposition/(s) and in written briefs of PO reaffirmed it totally incorrect divulge the fact/(s) of fabrication..... as at what time the misconduct took place ? Cross examined witness Mr. Ajeet Kumar who has been asked by Dr. R. C. Upadhaya to arrange refreshment did not found any meeting in the office of Dr. R. C. Upadhaya till his departure time 5:00 pm. More so neither he could see complainant Ravindra Nath inside the office of Dr. R. C. Upadhaya nor heard any noise till handing over the key. No noise is supported by the statement of Pw Dr. Robin Gogai in dock ^{annexure-32} with oath dated 22-8-2005 criminal court of law write '.....he confronted with his previous statement where in it was alleged that they were walking when the alleged offence occurred he has stated no noise was raised at the spot. He has not stated that other witnesses also came to the rescue to Dr. Verma or that he himself tried to intervene and save the complainant.' It is contradicting to the complainant version that listening the shouts Dr. S. K. Singh, Dr. B. Vijay, Dr. Mahesh Chandra Yadav etc came out For details refer annexure-49.

10. Complainant Ravindra Nath write in his complaint delivered by fax dated 1-10-2003 the matter was immediately reported to police.... with in minutes police party arrive at the center..... an official FIR immediately lodged. For details refer annexure-50.

11. Complainant Ravindra Nath furnished numerous depositions on dated 23-9-2003, 1-10-2003 in his fax message addressed to DDG (Horticulture), in dock with oath on 12-1-2007, ROAC 10-7-2007, 12-7-2007. These depositions took up by the honorable Senior Judicial Division carefully finally disposed off under section 34 IPC 341-wrongfully restrained complainant Ravindra Nath, 323 voluntarily hurt complainant Ravindra Nath and 506 committed criminal intimidation by threatening to kill complainant Ravindra Nath ? The honorable judge declared these anfractuious.

Table:4 A glimpse of variegated depositions of complainant Ravindra Nath to justify the contents in FIRs.

Name of Person /Dr./Complainant	... with oath in the dock of criminal court on dated 12-1-2007	Statement dated 23-9-2003 signed twice by complainant Ravindra Nath, ASI Beeru Ahamad police man, IO, PO,	Fax message dated 1-10-2003	ROAC deposition on dated 12-7-2007	Dir. Office	Remark

913

161

D. Singh

Judge Senior Judicial Div.prosecution has failed to prove its case against the accused beyond all reasonable doubt Is meeting mai aane ka kol petra na aaya thha.....na hi kol invitation aaya thha..... annexure-26 refer 'A' to 'A' ba FIR draj ki.....	meeting hall sae bahar aaya ...mujhae Dr.Robin Gogai milae... aur hum bat cheet kar rahae rahae thae.....	...invited to visit.invite d	..FIR lodged by AO Hari Singh.....do not remem- ber the finer details..
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12.Complainant Ravinder Nath neither verbally nor in writing asked to submit the project. He closed our on going projects ? even than I submitted a project to DBT which was negated by AO Suresh Kumar Gajmoti as per directives of Complainant Ravindra Nath. The evidences of this are not to be disclosed at this stage.

13. All the AAR submitted in stipulated time.

14.All correspondence seems to be made in the peon book of Central Potato Research Station pertains to only 2 scientist. Even single letter got received twice.

15.Excessive financial crises:

As you are aware that the frequency of no payment/(s), delayed payment/(s) from quarter concern of CPRI Simla is high and it has gone further up irrespective since time limit reduced to 3 months for submitting the claim/(s). This fact is affirmed as many payments kept pending by CPRI- head quarter although grown older than 8 years ^{annexure-33}. Moreover the salaries ^{annexure-34 and 35} kept pending from a duration exceeding 4.5 years ^{annexure-36,37 and 38} perhaps you shall agree to an empirical facts attending enquiry in himachal court of IO Dr. Prakash Shamrao involve travel over to a distance of 3500 x 2 Kms. This needs an expenditure in cash ranging to Rs. 30320/- accordingly request/(s) for a sum Rs 27570/- an recurring expenditure made as early as on dated 20-6-2005 so far yet despite final tour program submission in a claim on dated 17-8-2005, 30-8-2005 reimbursement is yet to be made to me. Former pandancy is in force despite a lump sum cash with drawl causing acute burden on my pocket because of the reasons it was spent in good faith to extend full cooperation to IO Dr. Prakah Shamrao. There is yet no payment for the 1st and 2nd hearings held on 15 and 16 July and 14 September 2005. This is an additional humiliation and hostility executed by enquiry on me. The other unpaid of CPRI are mind boggling Rs 166408 + losses + interest+ damages. NRC-mushroom Solan ^{annexure-39} administrative officer Shri Hari Singh Chambaghat vide his office ref. n o. f. PA/ A O/ 2003 / nil dated 23.9.2003 lodged 2 FIRs. Accordingly the Solan station police post S HO Shri. Gurdayal filed challan in Senior Judicial Div. himachal court the hearings of same were continued for 4 years in 20 adjoumments + 1 argument date + judgment pronounced date ^{annexure-54} for which traveling single side 'distance over to 3500 km' involved a mean 13.35 leaves incurred an expenditure ₹ Rs 405791 +fee/(s) of junior senior advocate/(s) + service charge/(s) + harassments + munshi charge/(s) + photocopies + cy-

162
Dagat Sahu

ber café fee/ (s)+ court copies fee/(s) + judicial form/(s) + stamps + document writer charge/(s) + India post charge/(s) etc. The CPRI is executing these financial burden for no fault of mine ?. Further CPRI enhanced this crises by no with drawl from GPF ^{annexure-18}. Biased IO writing administrative reasons for every failure ^{annexure-51}. These will be taken up in appropriate court of law on the cost and expenses of CPRI.

16. Revengeful attitude of complainant Ravindra Nath:

Elderly person of Dir. Rajendra Parsad so much harassed my wife & me that he fabricated the proceedings of major penalties against both of us. My wifes' case decided in April 2003 after which my wife approached the women commission during August & September 2003 with the request to take action against complainant Ravindra Nath and others who had helped him in fabricating the proceedings against us that is the witnesses as in this case. Complainant Ravindra Nath knew this complaint (through his nephew) and specifically had come (on private visit) with a revengeful attitude with an intention to fabricate another case against us ?. Accordingly IO, PO, PWs etc did a lot to his favor. The favor of IO is well documented by incorporation of extraneous materials(not to be disclosed at this stage).

Complainant revengefulness is well expressed in defamatory memorandum ^{annexure-40}, financial embezzlement ^{annexure-41}, transfer as demotion to CPRI as principal scientist ^{annexure-42 and 43}, ceased register ^{annexure-25}, nominating PO and IO ^{annexure-55} of his own choice. In addition to this there are many reasons viz. non return of experimental research materials by complainant Ravindra Nath, sprayed fungicide in fungi (experiment /(s) on mushroom), stolen experimental results appeared in name of complainant, non return of cabbage experiment, employing nephew of complainant Ravinder Nath in nrc-m 3 times as research fellow/ associate, performance of identified button mushroom cross in all India coordinated, straw berry experiment, environment of new cropping room etc. The evidences of the later shall be disclosed in appropriate court of law ?.

17. Relationship:

It is evident in the FIRs lodged by administrative officer Shri Hari Singh, sos complaint of Dr. Rajendra Parsad and other documents there is relation ship of ' elderly person ' not olderly ones ®. This relation ship has really activation in lot to consolation, condonation, sentiments, sympathesizers, assemblage of nrc-m staff etc however could not produce fruitful results in **hon'ble court of law ?**.

18. Sequence of events:

23 September 2003 dir. Rajendra Parsads' filing FIRs.

↓ 1st

.....24 September 2003 Dir Rajendra Parsad wrote to DG this a misconduct .

↓ 2nd

.... 25 September 2003 Dir. Rajendra Parsad calls for my explanation ^{annexure-- 46}.

↓ 3rd

.....27 September 2003 Dir. Rajendra Parsad write the sentiment of staff to DG ^{annexure-47}.

↓ ↓ ↓ ↓ ↓ 4th

This is followed by my reply to addressee on 29-9-2003 to be by dir. Rajendra Parsad ^{annexure-52} letter to Dr. Suneel Kumar Singh on dated 1-10-2003, complainant Ravindra Nath SE-3(P1) and SE -9(P3) and undated letter of trainees even it is surprising none out of 7 persons put date it clarify the date intentionally avoided.

D. S. S. S.

Mushroom NRC -M Dir. Rajendra Parsad arbitrary prepared his own sequence viz. 1st lodged FIRs, 2nd complaint to DG, 3rd called my explanation, 4th asked subordinate staff to further his interest in support of FIRs. This confines that Dir. Rajendra Parsad keen for lodging the FIRs. **This sequence discerned by honorable Senior Judicial Division Criminal Court of law.**

In view of finding.....accused are acquitted of the charge under section 341, 323, 506 read with section 34 I P C. File after completion be consigned to record room.

This alone is a sufficient ground to doubt the credentials of complainant and witnesses.

19.Occurance of misconduct is not proved:

..... before initiating criminal proceedings, advice on evidences obtained from attorney - general/ solicitor general on conduct of this grave criminal nature satisfaction in full, considerable application of mind with due caution for better appreciation of aforesaid Time, Venue, Why, Who, When, where the administrative officer Shri Hari Singh Solan, nrc-m Chambaghat office ref. no. f. PA/AO/ 2003 / nil dated 23.9.2003 lodged first information report in city police station, Solan. The second first information report no. 252 under section 154 Cr P G no. 0247149 comprising Indian Panel Codes 341,323, 506 and 34 lodged in beat no.4 4 K m south from police station, Kotla Nallah of Solan. In addition to this dir. Rajendra Parsad personally addressed his SOS complaint to Director General Dr. Mangla Rai vide his office Solan Chambaghat nrc-mushroom ref. no. f. PA/AO/2003/ 5738-46 dated 24-9-2003 and continued fabricating/ synthesizing the evidences from his subordinate staff subsequently viz. Dr. Suneel Kumar Singh vide his Solan office ref. no. f. PA/ AO/ NRCM /03/6024 dated 1-10-2003. The I J S C^{annexure-47} member Mrs. Sailja Verma involved in fabrication/(s) and later on forwordal to Dir. Gen. Mangla Rai vide dir. Rajendra Parsad Solan office ref. no. f. /I J S C/ S OS/ 03 /5575-5900 dated 27-9-2003. Another forum named A R S S of Dr. Mahesh Chandra Yadav passed resolution under his signature comprising signatures of 9 scientist to dir. nrc- mushroom dated 24-9-2003. Subsequently it has been held in Hon' Central Administrative Tribunal, Chandigarh Bench dispatch no.1982 dated 15-3-2004 these all allowed by dir. Rajendra Parsad under his dated signature/(s). So as station police S H O Shri Gurdayal filed the challan under section 207 Cr P C in Senior Judicial Division of Himachal Pradesh. Accordingly above matter including 7 same witnesses with same evidences and same charge as in ICAR, 1 Enquiry Officer, complainant/(s), recoiled witnesses etc examined with oath in dock under criminal court of law where it has been held :

'.....prosecution has failed to prove its case against the accused beyond all reasonable doubt. Hence.....findings. ..is in negative and against the prosecution...'

Findings : no

Final order : accused acquitted.....

Sd/-

Chief Judicial Magistrate

evident in Senior Judicial Division Solan ref.no.3805 dated 2-7-2007.

The enquiry report is in contradiction to the findings of the Honorable Senior Judicial Division, Criminal Court of Law which clearly established the fact that enquiry has been conducted by biased IO.

164
Dayal Singh

20. Court judgment: Twelve inscription quoted from aforesaid court judgment to biased IO Prakash Shamrao which delivered to him prior the preparation of IOs report. The competent authority of ICAR being a complainant by lodging 2 FIRs might have got its own copy. Therefore the CO is not suppose to sent the copy for what IO write **court order**.

It has brought in the notice of Charged Officer that some where some times Dr. Mangla Rai Director General yell ^{annexure-53} to charge sheet the IO as court decision is out prior the conclusion of departmental proceedings.

Summary

Uninvited complainant Ravindra Nath vagabonding in nrc-m premises. Six eye witnesses named by complainant Ravindra Nath none said manhandled & rescued him, 4 stated to have been told by complainant about the incidence on his return to meeting room. The story told by complainant and remaining 2 witnesses is different as regards depositions of as many as 25 timings ^{annexure-30} starting 3 pm by 7 ROAC witnesses + 7 in dock with oath including MSI meeting circular 5:00 pm,no noise raised on the spot...,maree na enak 'tooti aur na kapre fatae... 'refer D... to... D' no invitation, false feign of toilet, urinal, bath room, natures' call, Pws with drew and declared hostile by ICAR, demotion and subsequent transfer as principal scientist to CPRI Simla, changing assault venue 4 times, relation ship of elderly person with nrc-m dir. Rajendra Parsad, acquainted and blood relative prosecuting witnesses later on named as eye witness, pre ponding assault time by presenting officer Shri. Chales Ekka to 4:30 pm etc gave the reason to believe it is a case of no evidence. It confirm that no physical assault took place. Complainant revengefulness is evidently expressed. The quaver fabrications made to justify the claims in 2 FIRs lodged to punish/ harass both of us affirmed this fact in honorable senior judicial division of criminal court judgment ref. no. 3805 dated 2-7-2007. Enquiry report of IO Prakash Shamrao as evident on page -III, iv and v, *exparte* proceedings page vi to xiii. and conclusion suggesting deterrents punishment is hypothetical. It is there fore requested that the charge may please be dropped in view of above deposition and the findings of honorable court under intimation to me.

End

If however, the disciplinary authority disagrees with my above submission it is requested that I may please be given a personnel hearing before taking any adverse action.

Thanx

Yours faithfully

P. J. Samrao

Sarveshwar Dayal
Scientist, C.P. Research Station,
Shillong 793 009 Meghalaya
telefax: 364 2560097, 2560885

List of enclosure: annexure-1 request made to change the biased enquiry officer.

- 2 witnesses statement 3 clear days before their examination dated 19-4-2007.
- 3 witnesses statement 3 clear days before their examination dated 1-5-2007.
- 4 not eligible for tour Simla CPRI ref.no.f.545/Acounts/2005/23950 dated 31-1-2005.
- 5 un necessary cross references Simla CPRI ref.no.f.545/Acounts/2005/ 711 dated 7-4-2005.
- 6 both are not eligible for tour Simla CPRI ref.no.f.545/Acounts/2005/ 5506 dated 10-6-2005.
- 7 personal dispute.... Simla CPRI ref.no.f.545/Acounts/2005/ 9437 dated 29-7-2005.
- 8 purely private dispute between..... Simla CPRI ref. no. f. 09 Bill & Cash/TA/TTA/LTC/2006/ 13497 dated 16-9-2006.
- 9 dispute pertains purely on private basis Simla CPRI ref. no. f. 09 Bill & Cash/TA/TTA/LTC/2006/ 13497 dated 16-9-2006.
- 10 un disbursed payments..... dated 13-8-2004.
- 11 un disbursed payments..... dated 20-7-2007.
- 12 managing defence in rule 14 proceeding to IO Prakash Shamrao from NEH.
- 13 managing defence in rule 14 proceeding to Dr. Mangla Rai from NEH.
- 14 ARS instructionsin remote and defence in rule 14 proceeding from NEH.
- 15 CAT and Director General Mangla Rai.
- 16 non decision of Director General Mangla Rai.
- 17 Director General Mangla Rai and defence assistant.
- 18 GPF non with drawl in financial crises.
- 19 a list of defence documents submitted to IO on dated 17-7-2005.
- 20 stock of situation from Dr. Rajendra Parsad.
- 21 reminder of stock of situation and telephonic conversation.
- 22 stock of situation and telephonic conversation from Dr. Mangla Rai.
- 23 reminder of stock of situation and telephonic conversation from Dr. Mangla Rai.
- 24 a fraud of Behari Lal Dhar.
- 25 a fraud of Behari Lal Dhar and complainat Ravindra Nath - 2 pages.
- 26 address of elderly person of Dir. Rajendra Parsad.
- 27 reminder of address of elderly person of Dir. Rajendra Parsad.
- 28 sworn testimony of complainant Ravindra Nath.
- 29 man handling and beating of complainant Ravindra Nath.
- 30 time depositions from witnesses, complainant, police, circular, proceedings etc.
- 31 statement of complainant Ravindra Nath dated 23-9-2003 signed on dated 10-7-2007 by Police, Com, IO,PO,
- 32 Court statement of Dr. Robin Gogai.

[Signature]

- 139 -

ANNEXURE-21

Series

Registered
Date

'as post mark'

To

Shri V.D.Naniwadekar

Desk Officer (vig.D), ICAR,

Krishi Bhawan, New Delhi -110001

New Delhi, Krishi Bhawan ref. no. F 3(11)/98 Vig. (D) dated 13.11.98.

New Delhi, ICAR Under Secy. Behera S.K. Ref. no.3(2) 2004-Vig.(D) dated 1-6-2004.

New Delhi, ICAR Desk Officer Naniwadekar V.D. Ref. no. 3(2) 2004-Vig.(D) dated 14-9-2004.

New Delhi, Krishi Bhawan, ICAR Under Secy. Behera S.K. reference F.no.3(2)2004 -vig.(D) dated 7-10-2004.

Simla, CPRI, no. F 576 / Accounts / 04 / 16946 dated 3-11-2005.

Simla, CPRI, no. F 545 / Accounts/20 05 / 23950 dated 31-1-2005.

Chambaghat, ARSS Forum, ref. no. nil dated 24-9-03.

Chambaghat, NRC-M, IJC / 2003 no. nil dated nil.

Chambaghat, NRC-M director Rajendra Parsad ref. no. f PA / AO/03/ 5737 dated 25-9-2003.

Chambaghat, NRC-M director Rajendra Parsad ref. no. f PA / AO/nrcm/ 03/6024 dated 1-10-2003.

Chambaghat, NRC-M administrative officer Shri. Hari Singh ref. no. 5 (10) /PF/ Estt./04/ 8682 dated 18-1-2005.

Meghalaya, Shillong, ref no.15/SD/2004/407 dated 28-7-2004.

Article 311 of the constitution, Government of India 2 (ii), CCS cca Rule 14 (23) 1-9.

Subject : ".....witnesses statements....." disciplinary

proceedings documents supply appeal thereof.

Sir

It is in aforesaid references the president, ICAR proposed to hold an enquiry under rule 14 of CCS cca extended to ICAR employee, accordingly applications, requests, reminders and appeals addressed to your office for the supply of '...witnesses statements.....'

Scheme of the rule 14 such as observation made by supreme court the statement of witnesses recorded during the preliminary inquiry conducted by the department and evidences so prepared should be supplied to the officer along with the charge memorandum or as soon as thereafter possible. May I request for your consideration that I should be permitted access to the statements of witnesses :

Name of witness	Rule 14 , Remark(s), Supply
Dr. Ramesh Chand	Vigilance under secretary Shri S.K. Behera by his own signatures mentioned in annexure-iv these persons envisages to give positive evidences to substantiate the allegations
Dr. Suneel Kumar	
Dr. Robin Gogai	
Dr. Bhubnesh Vijay	
Dr. Mahes Chandra	

Regarding supply of aforesaid witnesses statements it is for your consideration that particularly at this time the relevancy is thought to be not clear however for the preparation of unequivocal deny or accept written statements (as required by Desk Officer Shri V.D. Naniwadekar and Shri S.K. Behera) is substantial rather an integral portion of these statements of witnesses however ICAR Delhi office delaying the supply of statements of aforesaid proposed and sustained witnesses ? May I request your good self passing on to me the statements of

49
Attorney
Advocate

Dayal Santhosh

witnesses who are appearing in various capacities viz. professional, docile, state, prosecuting, eye, potential, corroborative, able, complainants, scheduled fabricators, regular visitors of residence/(s), office/(s) etc


Apart from the above it is to bring in your knowledge that dir. Rajendra Parsad lodged first information report no. 252 dated 23-9-2003 in chief judicial magistrate office the hearing of this in progress the next of which in June 2005 therefore it is vehemently spoken that my defence in the criminal case will be prejudiced.

Therefore I request public notary attested copies of all the *inter nos* witnesses statements cited on behalf of disciplinary authority (annexure -iv / charge memorandum) including former table may please be supplied as these are not enclosed with annexure -I, II, HI and IV, documents I to XI spread over 40 pages in ref. no. 407 dated 28-7-2004.

An early supply of aforesaid witnesses statements is requested.

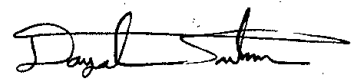
Thanx

Yours faithfully



Sarveshwar Dayal
Scientist, Central Potato Research
Station, Peak View Road, Shillong-
793 009 Meghalaya

100



To
The Appellate Authority
Indian Council Of Agril. Research
Krishi Bhavan, New Delhi 110001

Registered

Date

1 June 2007

13/01

1. New Delhi, Krishi Bhawan, I C A R Vig. Under Secretary S. K. Behera ref.no. f. 3(2)2004 no. nil dated 3-5-2005.
2. Simla, Bemloe, C P R I ref. no. IO/Vig./ SD/2005/no. nil dated 27-6-2005.
3. Simla, Bemloe, C P R I ref. no. IO/Vig./ SD/2005/11099 dated 18-8-2005.
4. Simla, Bemloe, C P R I ref. no. IO/Vig./ SD/2005/12320 dated 1-9-2005.
5. Simla, Bemloe, C P R I ref. no. IO/Vig./ SD/2006/no. nil dated 20-3-2006.
6. Simla, Bemloe C P R I ref. no. IO/Vig./ SD/2006/ 10776 dated 14-8-2006.
7. Simla, Bemloe C P R I ref. no. IO/Vig./ SD/2006/ 16061 dated 20-10-2006.
8. Simla, Bemloe C P R I ref. no. IO/Vig./ SD/2006/ 24300 dated 9-2-2007.
9. Simla, Bemloe C P R I ref. no. IO/Vig./ SD/2006/ 26552 dated 6-3-2007.
10. Simla, Bemloe C P R I ref. no. IO/Vig./ SD/2006/ no.nil dated 11-4-2007.

Subject : Replacement of biased enquiry officer on violation of natural justice.

Through: Proper Channel

: Dr. Prakash Shamrao, PC, C P R I, Simla 171 001

Respected Sir

The president, I C A R proposes to hold an enquiry under rule 14. According-ly on subsequent date an enquiry officer appointed ¹. Regarding the enquiry it has been held in the ministry of law that head of department / or a custodian of documents where 2 hearings held the presenting officer on behalf of disciplinary authority at first instance during the enquiry will produce the oral and documentary evidences on which the charge is propose to proved / sustained. This has been set aside by IO. On the contrary this enquiry became promptly aggressive to produce the prosecuting witnesses with out supplying their statements 3 clear days before their examinations. **May I appeal on the non supply of statements of witnesses which interprets to my disadvantages:**

1. The presenting officer is suppose to deal a matter of witnesses statements, moreover a custodian of the documents appointed by the council is slient for acquiring these statements from individual complainant/(s) or various class of witnesses rather the IO Dr. Prakash Shamrao dealing the aforesaid matter of statement of witnesses personally / himself. It is best known to IO why he himself took up this subject and became arbitrary with ulterior motives of solely his own interest by indulging in circumlocutions instead supplying the witnesses statements to charged officer. Thus IO is in use of unbridled powers, he is citing repeatedly the reference of annexure - iii¹⁰ taking grounds that documents already supplied / available in charge memorandum. Action like this confirm the IO is taking turn in to the correspondences as evident from afore said references. This he is doing to conceal the biasness he executed in 1. and many aspect of enquiry.

Dr. Prakash Shamrao elaborating a discussion of CO, PO and IO the details of which confine to 56 no. additional documents. A glimpse of additional documents encoded in daily order sheets dated 14-9-2005 and 16-7-2005. Both daily order sheets did not deal the statements of witnesses. More over supply of witnesses statements 3 clear days before their examination no where encoded in DOSs. Neither of DOS deals the listed documents.

A part from the former may I bring in your knowlwdge that IO Dr. Prakash Shamrao avoided the writing of names of witnesses viz. Ramesh Chand, Bhuvnesh Vijay, Mahesh Chandra etc in his fax message delivered to me vide Meghalaya, Shillong, PVR, CPR Station ref.no. 15/SD/2007/39 dated 11-4-2007 a copy of which is enclosed for your kind pursuation as annexure -1. Making this fax devoid of 3 PWs reconfirm the IO Dr. Prakash Shamrao is biased.

101
Attested
Dr. Prakash
Shamrao

Dr. Prakash Shamrao

These are well documented subjects to speak that IO Dr. Prakash Shamrao appointed by the council by way of his biasness depriving me the rule 14 and article 311 opportunities extended to the I C A R employee.

2. With your permission may I mention for your consideration that the charge memorandum issued vide N E H Meghlaya, Shillong, Peak View Road, C. P. Res. Station ref. no. 15/ SD/ 2004/407/ dated 28-7-2004 contains many persons involved who are appearing as professional witnesses, state witnesses, prosecuting witnesses, eye witnesses, potential witnesses, corroboration witnesses, complainant & witnesses, regular fabricators & habitual complainants etc which are summarized carefully in annexure III & IV. The names of these persons are appearing repeatedly in the charge memorandum as they signed the papers the pertinent documents, the number of pages they endorsed under their signatures, a glimpse of that is mentioned in table-1 however the supply of the statements of

Serial no.	Name/designation/of person	Name appearing on/at/in	Page/(s) on which signature evident
1	Dr. Mahes Chandra	annexure II, IV, doc. 1, doc. 5	page-5 & page-13
2	Dr. Ramesh Chandra	annexure II, IV, V doc. 1, 3 & 5, page-11	page-5 & page-13
3	Dr. Bhuvnesh Vijay	annexure II, IV, doc. 1, 3 & 5, page-11	page-5 & page-13
4	Dr. S. K. Singh	annexure II, IV, doc. 1, 3, 5 & 7, page-11	page-5, 13 & 16
5	Dr. Robin Gogai	annexure II, IV, doc. 1 twice in doc. 3	page-5

these witnesses is being delayed because of the reasons best known to IO/ PO/Delhi office of Council only. These individual complainants and witness are mentioned in a particular array in the statements of imputations of misconduct under annexure II in support of the article of charge however, the statements of witnesses already recorded during fact finding exercise where can be *ex parte* examination, investigation, statements are yet to be pass on to the either of the charged officer and as a measure to cut down delay in the disposal of disciplinary case, copies of statements of witnesses cited are supplied to the

- | | |
|---|---|
| 1. Dr. Ramesh Chand Upadhaya ^{annexure-iv} | 2. Dr. Bhuvnesh Vijay ^{annexure-iv} |
| 3. Dr. Suneel Kumar Singh ^{annexure-iv} | 4. Mahes Chandra Yadav ^{annexure-iv} |
| 5. Dr. Robin Gogai ^{annexure-iv} | |

government servant along with the charge memorandum. Moreover, a look on the charge memorandum annexure II, III, & IV, documents I to XI specify non enclosure of the statements of these witnesses. As mentioned there in, when intimation is received of an offence in councils Delhi office the officer charge

sheeted when full facts gathered, evaluated, controvertible inferences drawn that misconduct committed, sustained and proposed witnesses are cited in annexure III & IV moreover, aforesaid pattern of appearing the witnesses names, again, again andtime and again and enclosing the papers in their own hand writing, duly approved and signed by them there after countersigned by an authority specifically confirm that the statements of witnesses have been recorded at or about the fact. There is definitely no reason to prevent the supply expect biasness and I again request supply on priority for these statements of witnesses 3 clear days before their examinations.

3. in all cases it may be permissible legally as per rule 14 (25) 4, 5, 6 *inter alia* states all documents there in proposed for sustainability of the charges were to be supplied along with the charge memorandum as early as in June 2004 and as

Dyal Sarin

provision in rule/(s) the charged officer in person insisted statement of witnesses since the time of denial / admittance of the charge however, an statement of only 1 prosecuting witness viz. Dr. Shwet Kamal supplied as against the aforesaid 6 persons listed in ^{annexure -iv} of the charge memorandum a photocopy of the same is re enclosed for your ready reference. There after a duration of 12 month continued this particular state of non supply, later on a subsequent date 23-2-2005 vide ref. no. f. 3 (2)/ 2004-Vig. (D) Vigilance Under Secretary Shri S.K. Behera dissipated this in toto the '..... non supply.....' authorization in to enquiry officer Dr. Prakash Shamrao. Accordin-gly, as asked by him application in a format prescribed in person by IO submitted for the supply of witnesses statements i.e. the listed documents however, these documents were not supplied despite subsequent requests, reminders asking in person during 2 hearing spread over 3 days in July, September 2005 and non supply is continuing till today. These witnesses statements neither supplied along with charge memorandum nor there after and yet to be supplied because of which admittance or denial is still in wait...?. At that time, where as the enquiry became aggressive to produce the witnesses with out supplying their *seriatim*, the statement of individual witnesses 3 clear days before the examina- tion of prosecuting witnesses, that too with out admittance or denial of the charge & imputation here by attract the CCS (CCA) rule 14 (17). Now therefore it is firmly spoken that Dr. Prakash Shamrao IO appointed by the council is bias- ed on the ground of non supply of the statement of witnesses even after the 2 hearings. Thus IO Dr. Prakash Shamrao depriving me the reasonable opportun- ities defending the rule 14 proceedings in connivance of Presenting Officer by violating the article 311(2).

The aforesaid confirmed that the IO departed from the documents on which allegations proposed to be sustained, which are legally permissible in accordance with the principle of natural justice enabling to watch the demeanor of witness/(es) during chief, cross, re-examination etc. The enq- uiry denied these documents adopting the dilatory tactics '..... thorough discussion.....' violating well set guide lines, procedures and assumed the function to bring out the admissions to the state of charge some how and to achieve the same the IO became vicious, satirical, an interested person. Therefore I request your good self you please review the orders/ (s)

and replace this biased IO immediately by an ideal, responsible, reasonable disinterested fully aware of salutary principle of natural justice and prudent of first information reports, central administrative tribunal judgments, chief judicial magistrate case, prejudicial to my defence, non payments of advances/(s), no reimbursement /(s), acute burden on my pocket/(s).

I shall be grateful for this act of kindness.

Thanx

Yours faithfully

Sarveshwar Dayal
Scientist, C.P. Research Station,
Shillong 793 009 Meghalaya

encl: annexure-iv of charge sheet
fax of IO annexure-1
cc: Vigilance Desk Officer
: Vigilance Under Secretary

1 page

Dayal Sarveshwar



अखिल भारतीय समन्वित आलू अनुसंधान परियोजना
केन्द्रीय आलू अनुसंधान संस्थान -
(भारतीय कृषि अनुसंधान परिषद)
शिमला-171 001, हि.प्र. (भारत)

डा. प्रकाश एस. नाईक
परियोजना समन्वयक
Dr. Prakash S. Naik
Project Coordinator

All India Coordinated Research Project on Potato
Central Potato Research Institute
(Indian Council of Agricultural Research)
Shimla - 171 001, HP (India)

No.I.O./Vig./SD/2007/

FAX

April 13, 2007

Dr. Sarveshwar Dayal,
Scientist (SS),
Central Potato Research Station,
Peak View Road,
Shillong 793 009 (Meghalaya)

Subject: Departmental enquiry under Rule 14 of Central Civil Services (Classification, Control and Appeal) Rules 1965 into the charges framed against Dr. Sarveshwar Dayal

Sir,

This is with reference to your telegram dated April 12, 2007 received by me on April 13, 2007 requesting extension of date for hearings due to your illness at the nick of the time. You are advised to take second medical opinion from the Govt. Hospital/Authorized Medical Attendant and send the same by FAX latest by 14.4.2007 (FN). I shall either be in the office on 14.4.2007 or my FAX machine will be on. Decision regarding postponement will be taken on receipt of second medical opinion.

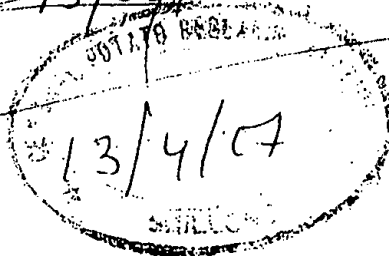
Yours faithfully,

[Signature]

Inquiring authority

Office
diver this letter
to Dr. Dayal immediately
RNB on
13/4/07.

3/Conf
HOF 15/5/07 7/46



He was not
available at home (Residential).
nor, Presented in office
Attested
Advocate

18/4/07

ANNEXURE- 23

(Typed true copy)

16 July 2007

To,
Dr. Suman Kumar Pandey,
Director, Central Potato Research
Institute, Bemloe, Simla- 171001.

Through: Proper channel
: Dr. R. R Burman, CPRS, Shillong.

Sir,

I request you please pass on me 2 undelivered fax message/(s) indicated by you could not be delivered because of absence at the station on 12 and 13-4-2007.

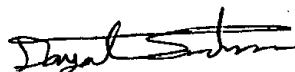
Please inform name of the station head missing in above memorandum and enclose a copy of HOS letter along with its rough version with reference to my leave application dated 13.4.2007. This is a requirement of CCA CCS rules.

This you please supply in 3 days time i.e. on or before 20.7.2007 as per rules of CCA CCS to enable me to furnish you the reply in stipulated time limit specified by you. Till then your memorandum is enclosed to you in original unentertained.

Receipt of this may please be acknowledged.

Thanx.

Yours faithfully



Sarveshwar Dayal
Scientist, CPRS,
Shillong- 743009.

Encl: Simla, Bamloe CPRI ref. no. 12.05/07/Estt./4908 dated 29.5.07.

*Attended
Dutta
Advocate*

Attended

ANNEXURE-24

13/11

Confidential
Registered

भारतीय कृषि अनुसंधान परिषद
Indian Council of Agricultural Research
Krishi Bhawan, New Delhi

F.No 3(2)/2004-Vig (D)

Dated the 5 November, 2007

O R D E R

WHEREAS an inquiry under Rule 14 of CCS (CCA) Rules, 1965 (as extended to ICAR employees) was initiated against Dr. Sarveshwar Dayal, Scientist (SS), Central Potato Research Institute, Shimla (now posted at CPRI, Shillong, Meghalaya) vide Council's Memorandum No. 3(2)/2004-Vig (D) dated 01.06.2004 containing the following articles of charge:-

Article of Charge

While working as Scientist (SS), National Research Centre for Mushroom, Solan, Dr. Sarveshwar Dayal created an embarrassing and intolerable situation by indulging himself in an act of gross indiscipline and violence by physically assaulting Dr. R. N. Verma, Ex-Director of NRCM on 23.09.2003 in the NRCM Office premises when Dr. Verma was on short visit there and was presiding over the meeting of Mushroom Society of India as its President.

By his above act, Dr. Sarveshwar Dayal has indulged in gross indiscipline and violent acts and behaved in a manner unbecoming of an ICAR employee and thereby contravened the provision of Rule 3 (1) (ii) of CCS (Conduct) Rules, 1964 as extended to Indian Council of Agricultural Research employees.

WHEREAS Dr. Sarveshwar Dayal, Scientist (SS) did not submit any reply to the charge sheet issued to him vide Memo. dated 01.06.2004. Subsequently, reminders dated 14.09.2004, 07.10.2004, 10.11.2004 and 23.02.2005 were also sent to the Charged Officer to submit his reply but even then he neither admitted nor denied the charge.

WHEREAS Dr. P. S. Naik, Principal Scientist, CPRI, Shimla was appointed as the Inquiry Officer vide Order dated 03.05.2005 to inquire into the charges framed against the Charged Officer.

Contd. 2/-

Attested
Advocate

[Signature]

[Signature]

- 147 -

::2::

WHEREAS the Inquiry Officer after holding the inquiry submitted his report dated 27.08.2007 to the Disciplinary Authority wherein he has held the charge against Dr. Sarveshwar Dayal, Scientist (SS) as proved.

WHEREAS after considering the inquiry report, the Disciplinary Authority observed that the inquiry has been held as per the prescribed procedure and he tentatively accepted the findings of the Inquiry Officer.

WHEREAS, a copy of the Inquiry Report was sent to Dr. Sarveshwar Dayal, Scientist (SS) vide Memo. dated 12.09.2007 giving him an opportunity of making his submissions, if any, with reference to the findings of the Inquiry Officer.

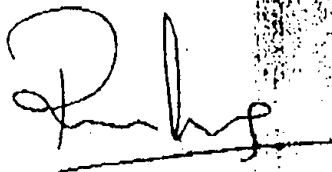
WHEREAS Dr. Sarveshwar Dayal, Scientist (SS) in his submissions dated 27.09.2007 in response to Inquiry Report has raised the points given hereunder (in brief):

- i) Inquiry Officer has acted in a biased manner as he has held the inquiry ex-parte.
- ii) Inquiry Officer conducted the inquiry when he (Charged Officer) was sick.
- iii) Inquiry Officer did not give him any opportunity to present his witnesses.
- iv) Inquiry Officer denied him the opportunity to engage a Defence Assistant.
- v) Witnesses have been planted against him.
- vi) The inquiry report is in contradiction to the findings of the Criminal Court of Law.

WHEREAS, the points raised by Dr. Sarveshwar Dayal, Scientist (SS) in his submissions have been examined with reference to relevant records of the case, as given below:

- i) Dilatory tactics adopted by the Charged Officer and his non-cooperation has led to the ex-parte inquiry against him in the disciplinary proceedings. The Charged Officer stalled the inquiry proceedings for almost two years on one pretext or the other. The representations of Dr. Sarveshwar Dayal, Scientist (SS) making allegations of bias against the Inquiry Officer were rejected twice by the Disciplinary Authority vide Memorandums dated 14.11.2005 & 16.10.2006 as there was no merit in the submissions of Dr. Sarveshwar Dayal against the Inquiry Officer.

Could...)



- 148 -

::-3-::

10) In April, 2007, when the Charged Officer sought the postponement of regular inquiry in the nick of the time of the Regular Hearing on the ground of ill health, the Inquiry Officer called for a Second Medical Opinion but the Charged Officer evaded the said notice. Under these circumstances, Inquiry Officer adjourned the regular hearing in order to provide adequate opportunity to the Charged Officer for defending his case. However, Charged Officer again exhibited his dilatory tactics on the eve of next hearing (09.07.2007 to 11.07.2007) by sending medical certificate from a Private Doctor and a telegram from New Delhi requesting therein to postpone the inquiry, having exercised the option of Second Medical Opinion at the time of Regular Hearing in April, 2007 and the reported non-cooperation of the Charged Officer by evading the same, the Inquiry Officer was left with no option but to conduct ex-parte proceedings during the period from 10.07.2007 to 11.07.2007 as the Charged Officer had been putting impediments in the holding of the proceedings for almost two years.

11) The Charged Officer on his own volition did not participate in the inquiry, therefore question of allowing or disallowing the defence witnesses by the Inquiry Officer does not arise. Thus, the submission of the Charged Officer is not based on facts of the case.

12) At least on 4 occasions, (vide letters dated 20.03.2006, 19.05.2006, 14.08.2006 and 20.10.2006) Inquiry Officer asked the Charged Officer to furnish the details of the Defence Assistant. But the Charged Officer was very casual in his approach as on one occasion he demanded traveling allowance to undertake journey in search of the Defence Assistant and on another occasion he named Dr. Mangala Rai, Director General, ICAR as his Defence Assistant. Thus, the contention of the Charged Officer is contrary to the facts of the case.

13) All the witnesses mentioned in Annexure-IV of charge sheet and who also subsequently deposed during the inquiry have been relevant to the case and were present in the NRCM Office premises on the day of incident i.e. 23.09.2003. Thus there is no truth in the contention of the Charged Officer.

14) In the criminal case, the Charged Officer has been acquitted by giving him benefit of doubt and not on merits. The standard of proof in a criminal case is different than in a departmental proceeding. Both are on a different footing. While in a criminal case, it is proof beyond doubt which is required to establish a case, in a departmental proceeding it is the 'preponderance of probability'. In this case, based on the statement of witnesses, the Inquiry Officer has rightly held the charge as 'proved'.

[Signature]

[Signature]

07 11:13

P.01

- 149 -

:-4:-

AND WHEREAS, the report of the inquiry and the submissions made by Dr. Sarveshwar Dayal, Scientist (SS) have been considered by the Disciplinary Authority (i.e. President, ICAR) along with the facts and records of the case and having regard to the findings of the Inquiry Officer and submissions made by Dr. Sarveshwar Dayal, Scientist (SS), the President, ICAR has decided to accept the findings of the Inquiry Officer.

NOW THEREFORE, after considering the records of the inquiry and the facts and circumstances of the case, the President, ICAR being the Disciplinary Authority in this case, is of the opinion that Dr. Sarveshwar Dayal, Scientist (SS) indulged himself in an act of gross indiscipline and violence by physically assaulting Dr. R. N. Verma, Ex-Director of NRCM on 23.09.2003 in the NRCM Office premises and ends of justice will be met imposing the penalty of "Compulsory Retirement" on him.

ACCORDINGLY, the penalty of "Compulsory Retirement" is hereby imposed on Dr. Sarveshwar Dayal, Scientist (SS) with immediate effect.

Dr. Sarveshwar Dayal, Scientist (SS),
Central Potato Research Station,
Farak, Vellore Road,
Shillong-793 009,
MEGHALAYA

Under Secretary (Vigilance)
For and on behalf of the President, ICAR

Copy to:

1. The Director, Central Potato Research Institute, Shimla.
2. Head CPRI, Shillong. A copy of Order meant for Dr. Sarveshwar Dayal, Scientist (SS), is also sent herewith which may be delivered to him after obtaining his dated signatures for records.
3. Deputy Secretary (Per.), ICAR, Krishi Bhawan, New Delhi.
4. Personnel-I Section, ICAR, Krishi Bhawan, New Delhi.
5. Guard file.

3/CONF/19007/720
6-11-2003

Dayal Sutar

2/5 in 2/0 R-223 - filed today by Sh. MA. Mahanta
Advocate. copy served on the other side.
To be posted on 7/6/08.

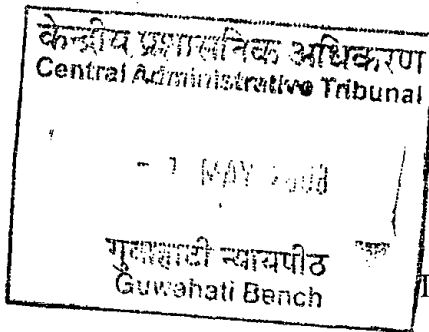
7/5/08 186

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH AT GUWAHATI

ORIGINAL APPLICATION No. 299 OF 2007

Dr Sarveswar Dayal



... Applicant

- Vs -

The Union of India & Others.

... Respondents

INDEX

1. Written Statement	1 to 10 .
2. Verification	11 .
3. Annexure A Series	12 to 14 .
4. Annexure B1	15 .
5. Annexure B2	16 .
6. Annexure C	17 to 20
7. Annexure D Series	21 to 24 .
8. Annexure E	25 to 28 .

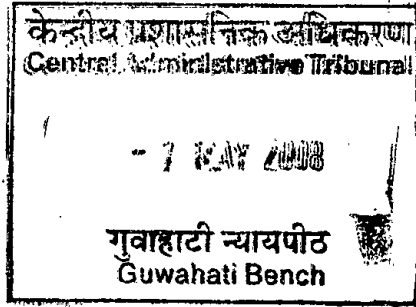
Filed by

MADHURYA MAHANTA
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH AT GUWAHATI

ORIGINAL APPLICATION No.299 Of 2007



IN THE MATTER OF

O.A. No.299/2007

Dr. Sarveswal Dayal

.....Applicant

V/s

The Union of India & Others.

.....Respondents

AND

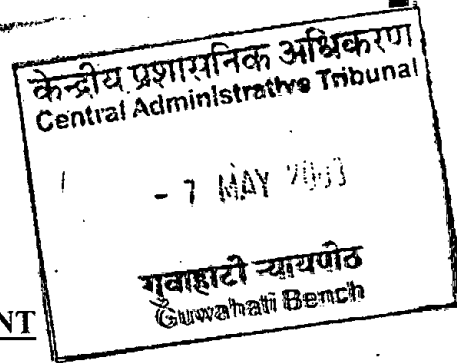
IN THE MATTER OF

A written statement filed on behalf of
the Secretary, Indian Council of
Agricultural Research in the aforesaid
Original Application.



127
Filed By -
Respondent No.s 213
Through - Madhurya Mahanta
Advocate
80/50/EO
07/05/08

132

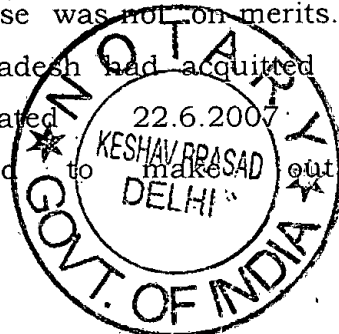
WRITTEN STATEMENT

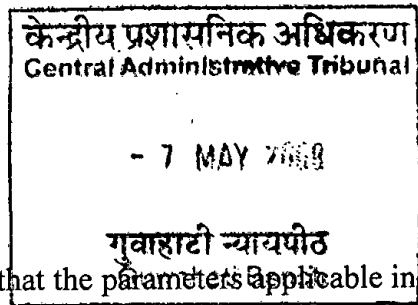
180

I, B.N.P. Pathak, son of Late Shri S.M. Pathak, aged about 59 years, presently working as Legal Adviser, Indian Council of Agricultural Research do hereby solemnly affirm and state as follows:

- A. That the Indian Council of Agricultural Research, Krishi Bhavan, New Delhi is a society registered under Societies Registration Act, 1860 having its own Rules/Bye-laws. As per Rule 23 (C) of Rules/Bye-Laws, ICAR can be through its Secretary. So impleadment of Secretary Ministry of Agriculture, President ICAR and D.G., ICAR as respondent no. 1 to 3 is not proper and all may be struck out as parties and Secretary, ICAR may be replaced as sole respondent.
- 1 That a copy of the Original Application filed by the Applicant has been served upon the Indian Council of Agricultural Research. I have gone through the same and understood the contents thereof. I am also fully acquainted and well conversant with the facts and circumstances of the case. Further I am duly authorised by the Secretary ICAR to swear this written statement on his behalf and accordingly I do the same.
 - 2 The save and except with has been specifically admitted in this written statement all other averments and submissions made in the Original Application, shall be deemed to have been denied by the answering respondent.
 - 3 That with regard to the statements made in paragraphs 1,2,3,4.1,4.2,4.3 and 4.4 of Original Application the deponent has no comments to offer.
 - 4 That the statements made in paragraph 4.5 of the instant Original Application being matters of records, the deponent has no comments to offer. The deponent, further, humbly begs to state that anything, which is not borne out of records of the case, is not admitted by the deponent therein.
 - 5 That with regard to the statements made in paragraphs 4.6 and 4.7 of the Original Application the deponent begs to state that the acquittal of the Applicant Dr. Sarveswar Dayal in the criminal case was not on merits. The Chief Judicial Magistrate, Solan, Himachal Pradesh had acquitted the Applicant vide judgement and Order dated 22.6.2007 on benefit of doubt, since the prosecution failed to make out

182





a case beyond reasonable doubt. Be it stated herein that the parameters applicable in a criminal trial cannot be equated to those in a departmental proceeding and the disciplinary authority can take its own decision on the issue of misconduct irrespective of the decision of the criminal case. The said tenet of law has been crystallized in a catena of decisions of the Hon'ble Apex Court.

6. That the deponent denies the correctness of the statements made in paragraph 4.8 of the Original application save and except those which are borne from the records of the instant case. In this regard the deponent most humbly begs to state that vide letters dated 07.10.2004, 10.11.2004 and 23.02.2005 it was duly informed to the Applicant that all relevant documents (listed in Annexure-III of the charge sheet dated 01.06.2004) have been provided to him along with the charge sheet and also advised him to either admit or deny the charges leveled against him.

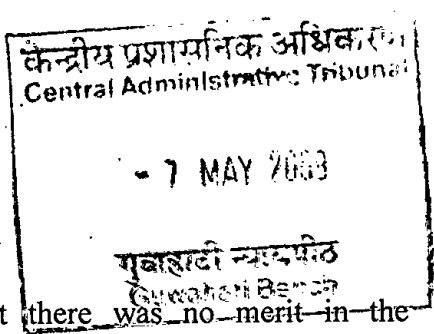
Copies of the letters dated 07.10.2004;
10.11.2004 and 23.02.2005 are annexed
herewith and marked as Annexure-A series.

7. That the statements made in paragraph 4.9 of the instant Original Application being matters of records, the deponent has no comments to offer.

8. That the deponent denies the statements made in paragraphs 4.10, 4.11 and 4.12 of the Original application to the extent they are contrary to the records of the instant case. The deponent begs to state that as the Presenting Officer was not a legal practitioner in the disciplinary proceeding conducted against the Applicant, therefore the Applicant was also not allowed to engage a Legal Practitioner as Defense Assistant as per **Rule 14 (8) (a) of CCS (CCA) Rules, 1965**. Further it is also stated herein that though the Applicant requested for 56 additional defense documents, which were not at all relevant, therefore, the Inquiry Officer after through discussion with the Charged Officer, agreed to supply four documents, with his due consent. The same is duly reflected in the Order Sheet dated 16.07.05 of the Inquiry Proceeding.

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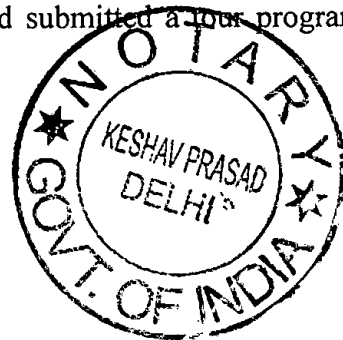


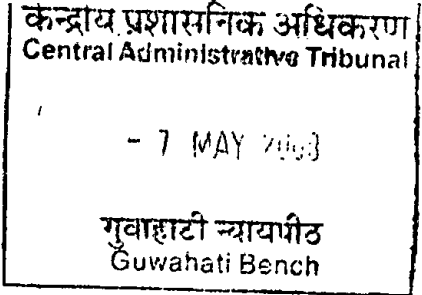
Similarly after due consideration, it was felt that there was no merit in the representation of Applicant for change of the Inquiry Officer and accordingly, the Disciplinary Authority i.e. President, ICAR therefore rejected his prayer for change of Inquiry Officer vide memorandum dated 14.11.2005.

A copy of the Order Sheet dated 16.07.05 and the said memorandum dated 14.11.2005 is annexed herewith and marked as **Annexure-B 1 and B 2 respectively.**

9. That the deponent denies the of the statements made in paragraphs 4.13 and 4.14 of the Original application in seriatim. The deponent begs to state that there was no malafide on the part of the Inquiry Officer in selecting NRCM, Solan as the place of Inquiry, since most of the witnesses were posted at the NRCM, Solan. The deponent further states that in April 2007, when the Applicant sought the postponement of regular hearing on the ground of ill health, the Inquiry Officer called for Second Medical Opinion but the Applicant evaded the said notice. Under these circumstances, the Inquiry Officer adjourned the regular hearing in order to provide adequate opportunity to the Applicant for defending his case and the hearing was fixed on 09.07.2007 to 11.07.2007. However the Applicant again on the eve of next date of hearing sent a medical certificate from a Private Doctor and also a telegram from New Delhi requested the postponement of the hearing. Having exercised the option of Second Medical Opinion at the time of regular hearing in April and the non- cooperation of the Applicant by evading the same the Inquiry Officer was left with no option but to conduct ex-parte proceeding during the period from 10.07.2007 to 11.07.2007 as the Applicant had been putting impediments in holding the proceedings for almost two years. It is pertinent to state herein that, earlier also the dilatory tactics on the part of the Applicant were evident when he made vague representations. On 10.04.2006 the Applicant had submitted a four programme and

BS





demanded TA/DA to undertake journey in search of Defense Assistant and on another occasion the Applicant had named Director General, ICAR as his Defense Assistant. Be it stated herein that the Inquiry Officer on 20.03.06, 19.05.06, 14.08.06 and 20.10.06 asked the Applicant to furnish the detail of Defense Assistant so that inquiry can be held without any further delay.

A Copy of the tour programme dated 10.04.06 and copies of the letters dated 20.03.2006; 19.05.2006, 14.08.2006 and 20.10.2006 are annexed herewith and marked as Annexure-C and D series respectively.

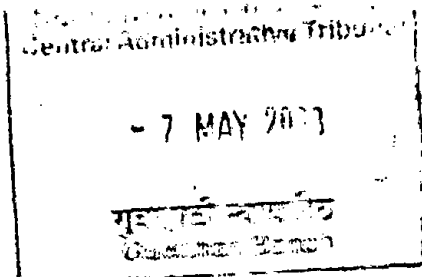
10. That with regard to the statements made in paragraph 4.15 of the Original Application the deponent begs to state that the Applicant has been acquitted in the criminal case on benefit of doubt and not on merits. The standard of proof in a criminal case is different than in a departmental proceeding. In a criminal proceeding, as stated hereinabove, the parameters are "proof beyond a reasonable doubt" which is required to establish a case, but in a departmental proceeding it is "preponderance of probabilities". Hence there is no merit in the contentions of the Applicant.

11. That the statements made in paragraph 4.16 of the Original Application being matters of records, the deponent has no comment to offer. The deponent however does not admit anything which are contrary to and inconsistent with the records of the case.

12. That the statements made in paragraphs 4.17, 4.18 and 4.19 of the Original Application being matters of records, the deponent does not admit anything which is contrary to and inconsistent with the records of the case. The deponent humbly begs to state that the Apex Court in a catena of decisions has held that acquittal in a criminal case would be no bar for drawing up a disciplinary proceeding against the delinquent officer and in a criminal case, it is essential to prove a charge

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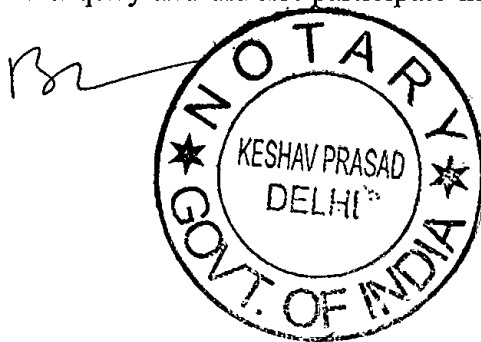




beyond all reasonable doubt whereas, in a departmental proceeding "preponderance of probability" would serve the purpose. It is further humbly stated that this Hon'ble Tribunal would confine itself to the decision making process and would refrain from entering into a roving and fishing inquiry. Such an action would be beyond the scope and ambit of the jurisdiction of the Hon'ble Tribunal.

13. That the deponent denies the statements made in paragraph 4.20 of the Original Application save and except those which are matters of record of this case. The deponent begs to state that the Applicant has pointed out that one of the Prosecution Witness has stated that the incident of manhandling occurred around 5.00 P.M., whereas the other Prosecution Witness has stated that the incident occurred around 4.45 P.M. so there is contradictions about the time of the alleged offence. In this regard the deponent begs to submit that there is a small variation of just 15 minutes and both of the Prosecution Witnesses have used the words about/around, therefore there is no contradiction regarding the time of the alleged offence. It is also stated herein that the Applicant never submitted TA/DA advance bill for the period 15-16 July, 2005, 14.09.2005 and 9-11 July, 2007. TA/DA advance for attending the hearing on 16-17 April 2007 was drawn by CPRI Shimla and sent to CPRS Shillong for payment. However, the Applicant did not attend the inquiry. Further, this advance amount was refunded in full by CPRS Shillong as payment could not be disbursed. The Applicant was absent from duty from 12.04.2007 to 12.07.2007, therefore, vide order dated 07.06.2007 instructions were issued to stop his salary for his unauthorized absence. Further, the contradictory stands of the Applicant (of illness/non-payment of T.A./D.A/salary etc) are evidence of the fragility of his claim.

14. That the deponent denies the statements made in paragraph 4.21 of the O.A. in seriatim. The statements made in the said paragraph are nothing but desperate attempts on the part of the Applicant to prove his innocence. It is reiterated that the Applicant had himself evaded the enquiry and did not participate in it and hence the



statements regarding denial of reasonable opportunity, have no legs to stand on and are categorically denied. The Applicant has made an attempt to discredit the statement of witnesses by pointing out the difference in the number of slaps he delivered to Dr. R.N. Verma, whereas the fact remains that each of the witnesses has confirmed that the fact that the Applicant did actually slap Dr. R.N. Verma on 23.09.2003. Having committed a grave misconduct against a senior official, it is now not open to the Applicant to turn back the clock.

Be it stated herein that the allegations made in the said paragraph against some financial irregularities committed by the said Dr. R.N. Verma, have no bearing in the instant case and hence the deponent refrains from commenting thereon.

15. That the deponent denies the statements made in paragraph 4.22 of the Original application to the extent they are contrary to the records of the instant case. The deponent begs to state that the Inquiry Officer has conducted the inquiry impartially as per the procedure laid down in the CCS (CCA) Rules, 1965. It is further evident from a bare perusal of the order of penalty dated 05.11.2007 that before imposing the penalty, Disciplinary Authority examined the submissions of the Applicant in detail with reference to the relevant records. It was only after having examined all the aspects of the matter that the Applicant's misconduct was found to be highly unbecoming of a Government Officer. The Disciplinary Authority observed that the applicant indulged himself in an act of gross indiscipline by assaulting Dr. R.N. Verma, Ex-Director, National Research Centre on Mushroom. All opportunities were provided to the Applicant before imposing the penalty of Compulsory Retirement on him.

A legible copy of the Order dated 05.11.2007
passed by the *President, ZSR* is annexed
herewith and marked as Annexure- E.

B2



M. M. K.
Adm.

- 7 MAY 2004

गुवाहाटी न्यायपीठ
Guwahati Bench

186

16. That the statements made in paragraph 4.23 of the Original application are denied by the deponent. The deponent begs to state that the copies of all listed documents were supplied to the Applicant along with the charge memorandum dated 01.06.2004. However, the Applicant indulged in dilatory tactics and tried to delay the matter by asking for irrelevant documents.

17. That the statements made in paragraphs 4.24, 4.25 and 4.26 of the Original Application are denied by the deponent except those which are matter of records. The deponent submits that as has already been pointed out hereinabove, that before imposing the order of penalty, Disciplinary Authority examined the submissions of the Applicant with reference to the relevant records. The Applicant's misconduct was found to be highly unbecoming of a Government Officer. The Disciplinary Authority observed that the applicant indulged himself in an act of gross indiscipline by assaulting Dr. R.N.Verma, Ex-Director, National Research Centre on Mushroom. All opportunities were provided to the Applicant before imposing the penalty of Compulsory Retirement on him.

18. That the deponent denies the correctness of the statements made in paragraph 4.27 of the Original application except those which are matters of record of the instant case. In this context the deponent begs to state that the Disciplinary Authority has imposed the penalty by a detailed speaking order dated 05.11.2007. It is evident from the order dated 05.11.2007 that before imposing the penalty, the Disciplinary Authority had duly examined the submissions of the Applicant with reference to relevant records. Further, the Disciplinary Authority did not grant personal hearing to the Applicant as neither, there is such provision at this stage nor facts of the case warranted such a personal hearing.

19. That the deponent denies the statements made in paragraphs 4.28 and 4.29 of the Original Application. The deponent begs to state that the penalty of Compulsory

Bz



- 7 MAY 2003

गुवाहाटी न्यायपीठ
Guwahati Bench

187

Retirement imposed upon the Applicant for his misconduct is appropriate and commensurate with the gravity of charge.

20. That the deponent humbly submits that the grounds so averred to in the O.A., are nothing but mere repetition of what has been narrated in the body of the Application itself. None of the grounds averred to are legally tenable in the eye of law and are not only misleading but are also baseless. It is reiterated that though in a criminal case the basis has to be proof beyond reasonable doubt, which is required to establish a case. Whereas in departmental proceedings it is preponderance of probabilities, which is the guiding, factor. In the departmental inquiry, as per imputation of a misconduct in the charge memo dated 01.06.2004, Dr. Robin Gogoi, Scientist, Assam Agricultural University (Prosecution Witness) and Dr. Shwet Kamal, Research Associates (Prosecution Witness) were eyewitnesses of the incident of manhandling of Dr. R.N. Verma. Both of these eyewitnesses have confirmed the misconduct of the Applicant. Subsequent developments on that day have been confirmed by other Prosecution Witnesses. Based on the statements of these witnesses, the charge has been held as proved in the departmental proceeding. It is a well-known tenet of law that parameters applicable in a criminal trial are different from those applied in disciplinary proceedings and that the disciplinary authority can take its own decision on the issue of misconduct irrespective of the decision of the criminal case. Hence, the contention of the Applicant that the Disciplinary Authority has mechanically imposed the penalty on him is contrary to the facts of the case which is evident from the penalty order dated 05.11.2007. The instant Original Application has been filed by suppressing material facts and fabricating a case of malafide. As such, in the facts and circumstances narrated herein above, it is humbly submitted that the Applicant has failed to make out a case for any relief and this Hon'ble Tribunal may be pleased to dismiss the Original Application.



21. That with regard to the statements made in paragraphs 6 and 7 of the Original Application the deponent has no comments to offer.

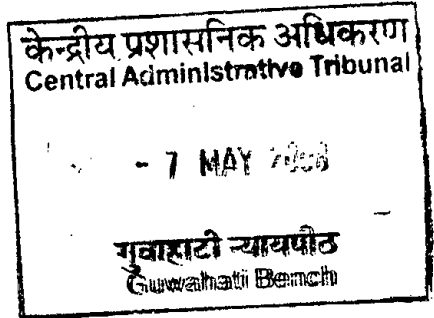
22. That with regard to the statements made in paragraphs 8 and 9 of the Original Application the deponent most respectfully begs to submit that the Applicant is not entitled to any of the relief/reliefs prayed for in the instant Original Application. The instant Original Application is devoid of any merit and deserves to be dismissed.

23. That with regard to the statements made in paragraphs 10, 11 and 12 of the Original Application the deponent has no comments to offer.

13/11/11

के.पी. प्रसाद पठार J.N.P. PATHAK
उप सचिव और विधि सलाहकार
Deputy Secretary & Legal Advisor
भारतीय कृषि VERIFICATION CAR
कृषि भवन, नई दिल्ली-110001
Krishi Bhavan, New Delhi-110001





VERIFICATION

I, Shri B.N.P. Pathak, son of Late Shri S.M. Pathak aged about 59 years serving as Legal Adviser, Indian Council of Agricultural Research, Krishi Bhavan, New Delhi do hereby state and verify that I am duly authorised and competent, I am fully conversant with the facts and circumstances of the case. Further I am duly authorised by the Secretary ICAR to sign this verification on 10, 11, 12, 13 (pt), 14, 15 (pt), 16 to 23 his behalf. The statements made in paragraphs A, 1 to 5, 6 (pt), 7, 8 (pt), 9 (pt) of the accompanying written statement are true to the best of my knowledge and those made in paragraphs 6 (pt), 8 (pt), 9 (pt), 13 (pt) & 15 (pt) above are true to my information derived from records and rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts.

M. M. M. Adh.

And I sign this verification on this the 25th day of March, 2008 at New Delhi.

DEPONENT

वैजनाथ प्रसाद प. ठाकुर/B.N.P. PATHAK
उप सचिव और विधि सलाहकार
Deputy Secretary & Legal Advisor
भारतीय कृषि अनुसंधान परिषद्/ICAR
कृषि भवन, नई दिल्ली-110001
Krishi Bhavan, New Delhi-110001



ATTESTED

NOTARY PUBLIC
DELHI

25 MAR 2008

Regn. No.-4506

Parliament Street Court
New Delhi

- 12 - ~~SECRET~~
~~ANNEXURE R-V~~

ANNEXURE - A Series

CONFIDENTIAL
REGISTERED

190

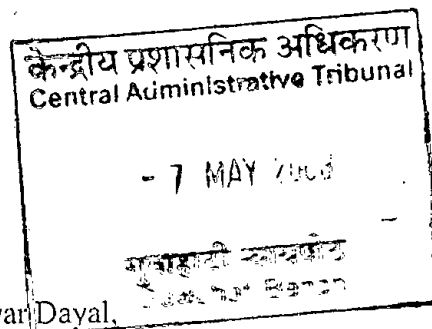
INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAVAN: NEW DELHI-110001.

F.No.3(2)/2004-Vig.(D)

Dated: 07/10/04

MEMORANDUM

Attention of Dr Sarveshwar Dayal, Scientist(SS), CPRS, Shillong is invited to his communication dated 18-9-2004. He is informed that relevant documents as listed in Annexure III, have been provided to him along with the charge-sheet. As already indicated in para 3 of the charge sheet, the Charged officer has to either admit or deny the charges in specific terms. Accordingly, Dr.Sarveshwar Dayal is requested to either admit or deny the charges against him in clear and unequivocal terms. His reply should reach the council within 10 days of receipt of this communication, failing which it will be presumed that he has nothing to say in the matter and the case will be processed further as per rules.



Dr. Sarveshwar Dayal,
Scientist (SS)
Central Potato Research Station
Shillong - 793 009

(S.K.BEHERA)
UNDER SECRETARY (VIGILANCE)

At issue with
1-50 (1-2)
V 104
5/18

shd

Issued
Dated
8/10/04

Attested
M. Mohanti
Advocate

-13-14(3)
~~ANNEXURE R-VI~~

CONFIDENTIAL
REGISTERED

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAVAN : NEW DELHI

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

- 7 MAY 1983

गुवाहाटी न्यायपीठ
Guwahati Bench

F.No 3(2)/2004-Vig(D)

Dated the

10.11.04

MEMORANDUM

Attention of Dr.Sarveshwar Dayal, Scientist (SS), CPRS, Shillong is invited to his communication dated nil. As already indicated the documents mentioned in the Annexure III of the charge sheet have already been provided to him. It is brought to the notice of Dr. Sarveshwar Dayal, Scientist (SS) that two opportunities have already been given to him. However, in order to provide him one more opportunity Dr.Sarveshwar Dayal is directed to either admit or deny the article of charge against him in clear terms, failing which it will be presumed that he has nothing to say in the matter and the case will be processed further as per rules.

(S.K.BEHERA)

UNDER SECRETARY(VIGILANCE)

Dr.Sarveshwar Dayal,
Scientist(SS),
CPRS,
Shillong

Issd
DdD
10/11/04

ANNEXURE VII
- 7 MAY 2004

গুৱাহাটী ন্যায্যপাঠ
Guwahati Bench

CONFIDENTIAL
REGISTERED

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAVAN : NEW DELHI

F.No 3(2)/2004-Vig(D)

Dated the 23 February, 2005

MEMORANDUM

Attention of Dr. Sarveshwar Dayal, Scientist (SS), CPRS, Shillong is invited to his letter dated 24.12.04. It is observed that despite two reminders, he has not admitted or denied the articles of charge against him in clear terms. As a final opportunity, he is once again advised to submit his defence statement by 7th March, 2005 failing which it will be presumed that he has nothing to say in the matter and the case will be processed further as per Rules. It is brought to his notice that all the listed documents have already been provided to him along with the charge sheet and for additional documents if any, he has to approach the Inquiry Officer as and when appointed. Dr Sarveshwar Dayal is also informed that as per CCS (CCA) Rules, disciplinary proceedings can be initiated while criminal proceedings are going on against him. There is no bar under the rules for both the proceedings being undertaken simultaneously.

[Signature]

(S.K. BEHERA)

UNDER SECRETARY(VIGILANCE)

Dr. Sarveshwar Dayal,
Scientist (SS),
Central Potato Research Station,
Shillong-793 009 (Meghalaya)

[Signature]

[Signature]

[Signature]
23/2/05

Proceedings of the Preliminary hearing into the charges framed against Dr Sarveshwar Dayal vide Memorandum F.No. 3(2)/2004-Vig. (D) dated 01.06.2004.

193

Date: 16.07.2005

Present: i) Mr. Charles Ekka, Presenting Officer
ii) Dr. Sarveshwar Dayal, Charged Officer

1. The proceedings were taken by me in my office at 14:00 hrs.
2. The charged officer was again asked to specifically admit or deny the charge but he again maintained that he neither admits nor denies the charge.
3. Received a letter from the Presenting Officer intimating that the inspection of documents was carried out as per schedule. During the inspection, the charged officer requested that the last Para of page No. 2 of document No. 9 of Annexure-III may be provided to him as the same was not readable. The Presenting Officer agreed to procure a readable form of this document from the Council and supply a photocopy of the same to the charged officer.
4. The listed documents at Annexure-III were taken on the record from SE-1 to SE-11.
5. The charged officer submitted a list of 56 (fifty six) additional documents. After thorough discussion it was agreed to supply documents listed at SNos. 03, 12, 37 and 48 (4 documents), if available at NRCM/ICAR.
6. As regards the list of defence witnesses the charged officer wished to give a list of defence witnesses after evidences of prosecution side are over. After discussions, the PO agreed to it.
7. It was suggested that recording of evidence in respect of state witnesses may be taken up without waiting for the arrival of the additional documents required by the charged officer. Accordingly, it was decided to commence the regular hearing on September 14, 2005 at 10:00 hours at NRCM, Chambaghat, Solan (HP). Presenting Officer has agreed to ensure the presence the state witnesses. Accordingly, no summonses are being issued.
8. No separate notice is being issued for the next hearing.

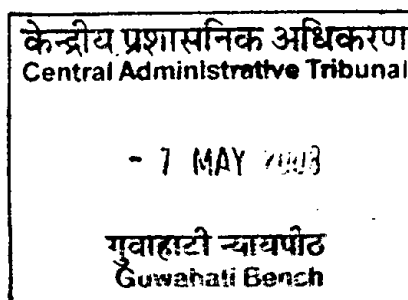
[Signature]
16-7-05
(Presenting Officer)

[Signature]
(Charged Officer)

[Signature]
16/7/05
(Inquiry Officer)

Received copy of the proceeding *[Signature]*
16-7-05

[Signature]
16-7-05



Attended
M. Mohanta
Advocate

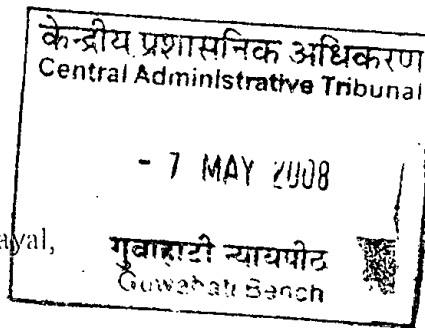
INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAVAN, NEW DELHI

F.No. 3(2)/2004-Vig (D)

Dated the 14/11/05

MEMORANDUM

Attention of Dr. Sarveshwar dayal, Scientist, CPRS, Shillong is invited to his representation dated 31.8.2005 for change of Inquiry Officer. His representation has been considered by the Disciplinary Authority i.e. the President, ICAR, who is of the opinion that the points raised by Dr. Sarveshwar Dayal do not indicate any biasness by the Inquiry Officer. Accordingly his request for change of Inquiry Officer is hereby rejected. He is advised to cooperate with the Inquiry Officer for expeditious finalization of the case against him.



Dr. Sarveshwar Dayal,
Scientist,
CPRS
Shillong

(S.K. BEHERA)
Under Secretary (Vigilance)

c/c
By

Distribution :

1. The Director, CPR, Shimla. A copy of Memo. meant for Dr Sarveshwar Dayal, Scientist is sent herewith which may be delivered to him after obtaining his dated signatures for records.
2. Guard file.

TJA
D
16/11

Attested
M. Mahanta
Advocate

To
 Dr. Mangla Rai
 Director General
 Indian Council of Agricultural Research,
 Krishi Bhawan, New Delhi 110 001

- 7 MAY 2006

Through Fax
 Date
 10 April 2006

गुवाहाटी न्यायपीठ
 Guwahati Bench

1. Simla, Bemloe, CPRI, AAO Shri J. N. Srivastava ref. no. F. 545/ accounts/2005/ 23950 dated 31-1-2005
2. Simla, Bemloe, CPRI, AAO Shri J. N. Srivastava ref. no. F. 545/ accounts/2005/ 711 dated 7-4-2005
3. Simla, Bemloe, CPRI, AAO Shri J. N. Srivastava ref. no. F. 545/ accounts/2005/ 5506 dated 10-6-2005
4. Simla, Bemloe, CPRI, AAO Shri J. N. Srivastava ref. no. F. 545/ accounts/2005/ 9437 dated 29-7-2005
5. Solan, Chambaghat nrc-m dir. Rajendra Parsad ref. no. F. PA /AO/2003/ 5738-46 dated 24-9-2003
6. Solan, Chambaghat nrc-m dir. Rajendra Parsad ref. no. F. PA /AO/2003/5732 dated 25-9-2003
7. Solan, Chambaghat nrc-mushrooms ad. Offi. Sri Hari Singh ref. no. F. PA /AO/2003/ nil dated 23-9-2003
8. Simla, Bemloe, CPRI, AICRPP ref. no. IO / Vig./SD/ 2006 / 23556 dated 20-3-2006
9. Chandigarh Bench, Central Administrative Tribunal dispatch no. 1982 dated 15-3-2004
10. Chambaghat, Solan, nrc-mushroom ref. no. F. 1 (49) PF/ Estt./ 2003/ 6929 dated 1-11-2003
11. New Delhi, Krishi Bhawan, ICAR, ref. no. 41(ss)1/93-Per. II 24-10-2003.

Through : Proper Channel

Project Coordinator Dr. Parkash Shamrao, C P R I, Simla -171 001.

dir. Rajendra Parsad, nrc-mushrooms, Chambaghat, Solan 173 213

Subject : Defence in rule 14 inquiry.

Sir

An initiative taken by nrc-mushroom dir. Rajendra Parsad ⁵⁸⁶ by filing first information report and identically ⁷ 2nd first information report in convenience by his elderly person, impromptu councils' action issued a charge memorandum thereafter *explicitly* appointed enquiry but the competent authority in the council disallowed engaging an advocate and rejection communicated by New Delhi, Krishi Bhawan, ICAR ref. no. 3 (2) 2004 Vig. (D) dated 31-8-2005 by virtue of that a requirement aroused out for a suitable defence in an alternate manner:

"accordingly an experienced person whom I want to engage my part and parcel of defence is employed in Punjab. I have to scan where he is posted / transferred at present. To come to arrive to his assured availability for the said purpose on specified date, time, venue etc I have to contact him at his office during working hours....." With your permission may I apply for enclosed tour programme for your sanctioning, withdrawing of advance, paying in cash to me etc.

I request your good self for an early payment as cash in hand for booking ticket/(s) well before the commencement of journey avails substantial *to & fro* concessions, accordingly the same may please be paid to me preferably in 10 days i.e. on or before 22.4.2006 as it is a too long time limit against 7 days given by dir. Rajendra Parsad and 3 days by his elderly person. This elderly person of dir. Rajendra Parsad is best known to you. This fact is affirmed in aforesaid references dated 24-10-2003 and 1-11-2003. This 10 days is a hand full time limit as required by vig. Under Secy. S. K. Behera to extend full cooperation to the enquiry for an expeditious finalization of privately disputed ^{1,2,3 & 4} case.

A request to materialize this *in toto* sent to the level of competent authority to an institute in particular ⁸ as customary ^{1 & 2} there from nothing so far yet communicated despite all time limits of competent authorities of ICAR system lapsed over.

May I mention for your consideration that defence is an integral part of inquiry and a provision to affect this type of sanction, payment etc is exit in reference -9 a copy of which is available in office of aforesaid addressee if you feel necessary for your personnel

Attested
 M. Mohan
 Advocate

satisfaction please refer the same. In the event of no communication preferably in stipulated time it will be best to bother you the least for any reminder or application before the matter taken to the court of law on the cost and expense of above addressee.

May I add here sir that the enclosed payment is essentially required to purchase the ticket(s) to affect this journey for arranging and managing the defence as my substantial payment is pending with you, would you please like to be again re-reminded after over the last date as annexure-1 and annexure-2.

Thank

Yours faithfully

[Signature]

Sarveshwar Dayal

Scientist, CPRS, Shillong 793 009

cc: Project Coordinator Dr. Prakash Shamrao, All India Coordinated Research Project on Potato, Central Potato Research Institute, Bemloe, Simla 171 001 in response to his letter dated 20-3-2006.
addressee enclosing a stamped self addressed post card to acknowledge the receipt in token of having received the same avoiding delay, in process of through proper channel.
encl: a copy of annexure-1 & 2 for your necessary action and payments.
a request for sanctioning, withdrawing, paying in cash etc in form of a tour programme -2pages.

Tour programme

Important: May I mention that following tour programme may get alteration in a manner of pre pond or post pond / scrapped out totally / cancelled for the want of cash / bank encashment-balance.

Name: Sarveshwar Dayal

Post held: Scientist

Pay: Rs 1100 - 1600

Last tour under taken: No

Date	Time	From	Date	Time	To	Mode of transport	Fare (Rs)	Distance Km	Purpos
7.6.06	05:00	Madan Laban	7.6.06	6:00	Police Bazar	Taxi	50	4	To
7.6.06	7:45	Police Bazar	7.6.06	8:00	heli pad, U. Shillong	Copters' service	50	10	scan
7.6.06	8:30	Heli pad Upp. Shillong	7.6.06	11:00	Guwhati Air Port	Mghla heli cop.	750	101	arrange
7.6.06	13:00	Guwhati AirPort	7.6.06	17:00	Air port New Delhi	Jet air ways	12500	2500	and
7.6.06	20:00	Air port New Delhi	7.6.06	22:00	I S B T Delhi	Taxi	250	50	managi
7.6.06	24:00	I S B T Delhi	8.6.06	6:30	Bus Stand Chandigarh	Bus	500	280	a
8.6.06	11:00	Bus Stand Chandigarh	8.6.06	14:00	Bus Stand Punjab	Bus	200	50	defenc
8.6.06	14:30	Bus Stand Punjab	8.6.06	18:00	Punjab	Auto	30	10	assista
9.6.06	20:00	Town in Puniab	9.6.06	20:30	Hotel in Town of Puniab	Auto	30	10	of
10.6.06	8:00	Hotel in Town of Punjab	10.6.06	12:00	Bus Stand Town in Pb.	Auto	30	10	identific
10.6.06	13:00	Bus Stand	10.6.06	14:00	Bus Stand	Bus	100	50	cases

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

- 7 MAY 2006

गुवाहाटी न्यायपीठ
Guwahati Bench

-19 - R KAH (H)

0	0	Town in Pb	6	0	Town in Pb.				
10.6.0	14:00	Town in Punjab	10.6.0	19:00	Town in Punjab	Auto	30	10	for
10.6.0	20:00	Hotel in Town of Punjab	10.6.0	21:30	Hotel in Town of Punjab	Auto	30	10	assured
10.6.0	22:30	Hotel in Town of Punjab	10.6.0	20:00	Hotel in town of Punjab	-	-	-	present
11.6.0	7:00	Hotel in town of Punjab	11.6.0	11:00	Town in Punjab	Auto	30	10	inside
11.6.0	13:00	Town in Punjab	11.6.0	19:00	Town in Punjab	Auto	30	10	the
11.6.0	20:00	Hotel in town of Punjab	12.6.0	7:00	Hotel in town of Punjab	-	-	-	person
12.6.0	8:00	Hotel in town of Punjab	12.6.0	17:00	Office / residence of DA	-	-	-	court
13.6.0	9:00	Office/Residence of D.A.	13.6.0	20:00	Office/residence of D.A.	Auto	30	10	of
14.6.0	9:00	Office/Residence of D.A.	14.6.0	20:00	Office/residence of D.A.	Auto	30	10	Dr.
15.6.0	9:00	Office/Residence of D.A.	15.6.0	20:00	Office/residence of D.A.	Auto	30	10	P.
16.6.0	9:00	Office/Residence of D.A.	16.6.0	18:00	Office/Residence of D.A.	Auto	30	10	S.
16.6.0	19:00	Hotel in town of Punjab	17.6.0	10:00	Hotel in town of Punjab	Auto	30	10	Naik
17.6.0	10:30	Bus stand Town in Pb.	17.6.0	18:00	Bus Stand Chandigarh	Bus	200	400	on
17.6.0	20:00	Bus Stand Chandigarh	18.6.0	3:00	ISBT, New Delhi	Delux Bus	500	280	specific
18.6.0	6:00	ISBT, New Delhi	18.6.0	9:30	Air port New Delhi	Taxi	250	50	date,
18.06	11:30	Air Port, Delhi	18.6.0	16:30	Air Port Guwahati	Jet air ways	12500	2500	time
18.6.0	16:30	Air Port Guwahati	18.6.0	19:00	Hotel in Pan Market	taxi	50	15	&
19.6.0	6:00	Hotel in Pan Market	19.6.0	8:00	Heli Pad Guwahati	taxi	50	15	venue
19.6.0	8:30	Heli pad Guwahati	19.6.0	10:30	heli pad UpperShillong	Heli cop.	750	101	fixed
19.6.0	11:00	Heli pad upper Shillong	19.6.0	12:00	Police Bazar	Taxi	50	10	by
19.6.0	13:30	Police Bazar	19.6.0	14:00	Maidan Laban	Taxi	50	4	IO

Dr. S. K. Singh

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

- 7 MAY 2000

गुवाहाटी न्यायपीठ
Guwahati Bench

DA for 6 transit days @ Rs 120 = Rs 720, DA for 7 days @ 150 = Rs 1050/- Advance required 90%.
Object of the journey : IO Dr. Naik P. S. asked me to give the name of defence assistant vide his Simla, C P R I, A I C R P P ref. no. IO / Vig. / SD / 2006 / 28556 dated 20-3-2006
Requirement of advance: Yes, immediately Rs. 28000/-
Recommendations of competent authority : The authority in question is not applicable as a speed post communication pertaining to an object of this journey addressed to me by Dr. Parkash Shamrao, avoiding through proper channel.

Signature *[Signature]*

Date 10-4-2006

Approval of Dr. Mangla Rai, Director General:

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
7 MAY 2008
गुवाहाटी न्यायपीठ
Guwahati Bench

प्रकाश एस. नाईक
परियोजना समन्वयक
Dr. Prakash S. Naik
Project Coordinator

- 21 -

All India Coordinated Research Project on Potato
Central Potato Research Institute
(Indian Council of Agricultural Research)
Shimla - 171 001, HP (India)

Speed Post/Confidential

Dated: March 20, 2006

No.I.O/Vig/SD/2006/ 28556-58

Dr. Sarveshwar Dayal
Scientist (SS)
Central Potato Research Station
Shillong-793 009 (Meghalaya)

Subject: Departmental Inquiry under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 in the charges framed against Dr Sarveshwar Dayal, Scientist (SS), CPRS, Shillong.

1. Your representation dated 05.08.2005 for engaging an advocate as your Defence Assistant was considered by the Indian Council of Agricultural Research. However, the Council vide letter F.No.3(2)/2004-Vig.(D) dated August 31, 2005 has informed that the same has not been acceded to as this is not covered under the CCS (CCA) rules and the Presenting Officer is not a legal practitioner.
2. In view of the above and point No. 7 of the proceedings dated 14.09.2005 you are requested to furnish the details including name, designation, address, telephone number etc. of any Govt. Servant as your Defence Assistant and also the address and telephone numbers of his controlling authority at the earliest so as to enable me to fix next date of hearing in the case.
3. Also please furnish the list of defence witnesses, if any.

Prakash S. Naik
Inquiry Officer

Copy to:

1. Dr. Shantanu Kumar, Head CPRS, Shillong (Meghalaya).
2. Shri Charles Ekka, Sr. Administrative Officer and Presenting Officer, CPRI Shimla for information and necessary action.

Prakash S. Naik
Inquiry Officer

Telephone: 91-177-2624398 (Office); 2674830, 2674265 (Home); Fax: 91-177-2624398, 2624460
E-mails: pcpotato@cpri.ernet.in, naikps@yahoo.com; Website: <http://cpri.ernet.in>

Attested
M. Mohanta
Advocate

डा. प्रकाश एस. नाईक
परियोजना समन्वयक
Dr. Prakash S. Naik
Project Coordinator

ऑइवेल भारतीय समन्वित आलु अनुसंधान परियोजना
केन्द्रीय आलु अनुसंधान संस्थान
(भारतीय कृषि अनुसंधान परिषद)
शिमला-171 001, हि.प्र. (भारत)

All India Coordinated Research Project on Potato
Central Potato Research Institute
(Indian Council of Agricultural Research)
Shimla - 171 001, HP (India)

SPEED POST/CONFIDENTIAL

No.I.O./Vig./SD/2006/ 3706-07

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

May 19, 2006

Dr. Sarveshwar Dayal,
Scientist (SS),
Central Potato Research Station,
Peak Road,
Shillong 793 009 (Meghalaya)

- 7 MAY

गुवाहाटी न्यायपीठ
Guwahati Bench

Subject: Departmental enquiry under Rule 14 of Central Civil Services (Classification, Control and Appeal) Rules 1965 in the charges framed against Dr. Sarveshwar Dayal, Scientist (SS).

Sir,

In response to my letter No. IO/Vig/SD/2006/28556 dated March 20, 2006 requesting details of your Defence Assistant you have written a letter dated April 7, 2006 containing your tour programme to Punjab in search of a Defence Assistant. This letter was forwarded by the Head, CPRS, Shillong vide endorsement F.No.15/SD/2006-07/86 dated April 21, 2006. In this regard, you are informed that:

1. Please furnish the details including name, designation, address, telephone number, etc. of your Defence Assistant and his/her controlling authority within one month from the receipt of this letter, failing which it will be presumed that you do not want to engage any Defence Assistant and the inquiry will proceed without Defence Assistant.
2. You have not been cooperating in smooth conduct of the inquiry as evidenced from your following acts:
 - (i) You neither accepted nor denied the charges.
 - (ii) Adopting delaying tactics by not furnishing the details of Defence Assistant.

You are requested to cooperate in the smooth conduct of inquiry by furnishing essential information regarding your Defence Assistant.

Yours faithfully,

Prakash S. Naik
Inquiry Officer

Copy to Mr. SK Behra, Under Secretary (Vigilance), Indian Council of Agricultural Research, Krishi Bhavan, New Delhi 110 001 for information please.

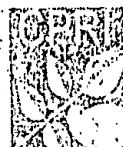
Prakash S. Naik

Telephone: 91-177-2624398 (Office); 2674265, 2674830 (Home); Fax: 91-177-2624393, 2624460

E-mails: pcpotato@cpri.ernet.in, naikps@excite.com, naikps@yahoo.com; Website: <http://cpri.ernet.in>

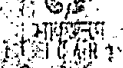
ADMINISTRATIVE R-XXV

- 23 -



अखिल भारतीय समन्वित आलू अनुसंधान परियोजना
केन्द्रीय आलू अनुसंधान संस्थान
(भारतीय कृषि अनुसंधान परिषद)
शिमला-171 001, हि.प्र. (भारत)

15
291



डा. प्रकाश एस. नाईक
परियोजना समन्वयक
Dr. Prakash S. Naik
Project Coordinator

All India Coordinated Research Project on Potato
Central Potato Research Institute
(Indian Council of Agricultural Research)
Shimla - 171 001, HP (India)

SPEED POST/CONFIDENTIAL

No.I.O./Vig./SD/2006/10715-76

केन्द्रीय प्रशासनिक अधिकरण August 14, 2006
Central Administrative Tribunal

Dr. Sarveshwar Dayal
Scientist (SS),
Central Potato Research Station,
Peak Road,
Shillong 793 009 (Meghalaya)

- 7 MAY 2006

गुवाहाटी न्यायपीठ
Guwahati Bench

Subject: Departmental enquiry under Rule 14 of Central Civil Services (Classification, Control and Appeal) Rules 1965 in the charges framed against Dr. Sarveshwar Dayal, Scientist (SS).

Sir,

In response to my letter No. IO/Vig/SD/2006/28556 dated March 20, 2006 requesting details of your Defence Assistant you have written a letter dated April 7, 2006 containing your tour programme to Punjab in search of a Defence Assistant. This letter was forwarded by the Head, CPRS, Shillong vide endorsement F.No.15/SD/2006-07/86 dated April 21, 2006. In this regard, you are informed that:

1. Please furnish the details including name, designation, address, telephone number, etc. of your Defence Assistant and his/her controlling authority within one month from the receipt of this letter, failing which it will be presumed that you do not want to engage any Defence Assistant and the inquiry will proceed without Defence Assistant.
2. You have not been cooperating in smooth conduct of the inquiry as evidenced from your following acts:
(i) You neither accepted nor denied the charges.
(ii) Adopting delaying tactics by not furnishing the details of Defence Assistant.

You are requested to cooperate in the smooth conduct of inquiry by furnishing essential information regarding your Defence Assistant.

Yours faithfully,

Prakash S. Naik
Inquiry Officer

Copy to Dr. Shantanu Kumar, Head, CPRS, Shillong 793009 with the request to please deliver enclosed letter to Dr. Sarveshwar Dayal, obtain dated receipt from him and send the same to the undersigned.

o/c

डा. प्रकाश एस. नाईक
परियोजना समन्वयक
Dr. Prakash S. Naik
Project Coordinator

No.I.O./Vig./SD/2006/16061-62 SPEED POST/CONFIDENTIAL

May-19, 2006

2006

Dr. Sarveshwar Dayal,
Scientist (SS),
Central Potato Research Station,
Peak View Road,
Shillong 793 009 (Meghalaya)

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

- 7 MAY 2008

गुवाहाटी न्यायपीठ

Subject: Departmental enquiry under Rule 14 of Central Civil Services (Classification, Control and Appeal) Rules 1965 in the charges framed against Dr. Sarveshwar Dayal, Scientist (SS):
Furnishing details of Defence Assistant- regarding

Sir,

This is with reference to your letter dated September 21, 2006 and a self explanatory Memorandum F. No. 3(2)/2004-Vig. (D) dated October 16, 2006 from the Under Secretary (Vigilance), ICAR, New Delhi on above subject.

Engaging a Defence Assistant is sole responsibility of the Charged Officer. Hence, you are once again requested to furnish the details including name, designation, address, telephone number, etc. of your Defence Assistant and his/her controlling authority within one month from the receipt of this letter, failing which it will be presumed that you do not want to engage any Defence Assistant and the inquiry will proceed without Defence Assistant. This is the final opportunity given to you for furnishing details of the Defence Assistant.

Yours faithfully,

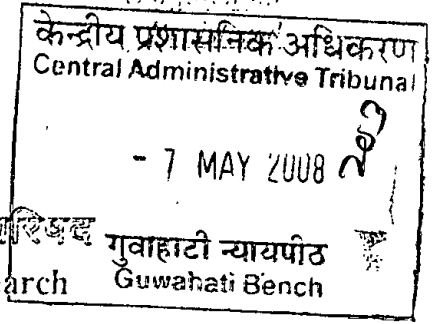
Prakash S. Naik
Inquiry Officer

Copy to the Head, Central Potato Research Station, Peak View Road, Shillong 793 009 (Meghalaya) with the request to please deliver enclosed letter to Dr. Sarveshwar Dayal, obtain dated receipt from him and send the same to the undersigned for records.

Prakash S. Naik
Inquiry Officer



भारतीय कृषि अनुसंधान परिषद
Indian Council of Agricultural Research
Krishi Bhawan, New Delhi



F.No 3(2)/2004-Vig (D)

Dated the 5th November, 2007

O R D E R

WHEREAS an inquiry under Rule 14 of CCS (CCA) Rules, 1965 (as extended to ICAR employees) was initiated against Dr. Sarveshwar Dayal, Scientist (SS), Central Potato Research Institute, Shimla (now posted at CPRS, Shillong, Meghalaya) vide Council's Memorandum No. 3(2)/2004-Vig.(D) dated 01.06.2004 containing the following articles of charge:-

Article of Charge

While working as Scientist (SS), National Research Centre for Mushroom, Solan, Dr. Sarveshwar Dayal created an embarrassing and intolerable situation by indulging himself in an act of gross indiscipline and violence by physically assaulting Dr. R. N. Verma, Ex-Director of NRCM on 23.09.2003 in the NRCM Office premises when Dr. Verma was on short visit there and was presiding over the meeting of Mushroom Society of India as its President.

By his above act, Dr. Sarveshwar Dayal has indulged in gross indiscipline and violent acts and behaved in a manner unbecoming of an ICAR employee and thereby contravened the provision of Rule 3 (1) (iii) of CCS (Conduct) Rules, 1964 as extended to Indian Council of Agricultural Research employees.

WHEREAS Dr. Sarveshwar Dayal, Scientist (SS) did not submit any reply to the charge sheet issued to him vide Memo. dated 01.06.2004. Subsequently, reminders dated 14.09.2004, 07.10.2004, 10.11.2004 and 23.02.2005 were also sent to the Charged Officer to submit his reply but even then he neither admitted nor denied the charge.

WHEREAS Dr. P. S. Naik, Principal Scientist, CPRI, Shimla was appointed as the Inquiry Officer vide Order dated 03.05.2005 to inquire into the charges framed against the Charged Officer.

Contd...2/-

Attested
M. Mohanta
Advocate

WHEREAS the Inquiry Officer after holding the inquiry submitted his report dated 27.08.2007 to the Disciplinary Authority wherein he has held the charge against Dr. Sarveshwar Dayal, Scientist (SS) as proved.

WHEREAS after considering the inquiry report, the Disciplinary Authority observed that the inquiry has been held as per the prescribed procedure and he tentatively accepted the findings of the Inquiry Officer.

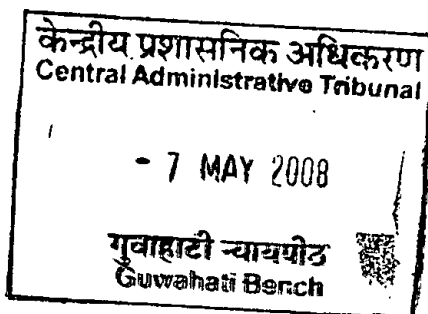
WHEREAS, a copy of the Inquiry Report was sent to Dr. Sarveshwar Dayal, Scientist (SS) vide Memo. dated 12.09.2007 giving him an opportunity of making his submissions, if any, with reference to the findings of the Inquiry Officer.

WHEREAS Dr. Sarveshwar Dayal, Scientist (SS) in his submissions dated 27.09.2007 in response to Inquiry Report has raised the points given hereunder (in brief):

- i) Inquiry Officer has acted in a biased manner as he has held the inquiry ex-parte.
- ii) Inquiry Officer conducted the inquiry when he (Charged Officer) was sick.
- iii) Inquiry Officer did not give him any opportunity to present his witnesses.
- iv) Inquiry Officer denied him the opportunity to engage a Defence Assistant.
- v) Witnesses have been planted against him.
- vi) The inquiry report is in contradiction to the findings of the Criminal Court of Law.

WHEREAS, the points raised by Dr. Sarveshwar Dayal, Scientist (SS) in his submissions have been examined with reference to relevant records of the case, as given below:

- i) Dilatory tactics adopted by the Charged Officer and his non-cooperation has led to the ex-parte inquiry against him in the disciplinary proceedings. The Charged Officer stalled the inquiry proceedings for almost two years on one pretext or the other. The representations of Dr. Sarveshwar Dayal, Scientist (SS) making allegations of bias against the Inquiry Officer were rejected twice by the Disciplinary Authority vide Memorandums dated 14.11.2005 & 16.10.2006 as there was no merit in the submissions of Dr. Sarveshwar Dayal against the Inquiry Officer.



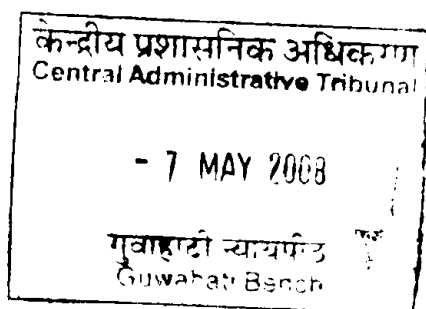
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205

- ii) In April, 2007, when the Charged Officer sought the postponement of regular inquiry in the nick of the time of the Regular Hearing on the ground of ill health, the Inquiry Officer called for a Second Medical Opinion but the Charged Officer evaded the said notice. Under these circumstances, Inquiry Officer adjourned the regular hearing in order to provide adequate opportunity to the Charged Officer for defending his case. However, Charged Officer again exhibited his dilatory tactics on the eve of next hearing (09.07.2007 to 11.07.2007) by sending medical certificate from a Private Doctor and a telegram from New Delhi requesting therein to postpone the inquiry. Having exercised the option of Second Medical Opinion at the time of Regular Hearing in April, 2007 and the reported non-cooperation of the Charged Officer by evading the same, the Inquiry Officer was left with no option but to conduct ex-parte proceedings during the period from 10.07.2007 to 11.07.2007 as the Charged Officer had been putting impediments in the holding of the proceedings for almost two years.
- iii) The Charged Officer on his own volition did not participate in the inquiry, therefore question of allowing or disallowing the defence witnesses by the Inquiry Officer does not arise. Thus, the submission of the Charged Officer is not based on facts of the case.
- iv) At least on 4 occasions, (vide letters dated 20.03.2006, 19.05.2006, 14.08.2006 and 20.10.2006) Inquiry Officer asked the Charged Officer to furnish the details of the Defence Assistant. But the Charged Officer was very casual in his approach as on one occasion he demanded traveling allowance to undertake journey in search of the Defence Assistant and on another occasion he named Dr. Mangala Rai, Director General, ICAR as his Defence Assistant. Thus, the contention of the Charged Officer is contrary to the facts of the case.
- v) All the witnesses mentioned in Annexure-IV of charge sheet and who also subsequently deposed during the inquiry have been relevant to the case and were present in the NRCM Office premises on the day of incident i.e. 23.09.2003. Thus there is no truth in the contention of the Charged Officer.
- vi) In the criminal case, the Charged Officer has been acquitted by giving him benefit of doubt and not on merits. The standard of proof in a criminal case is different than in a departmental proceeding. Both are on a different footing. While in a criminal case, it is proof beyond doubt which is required to establish a case, in a departmental proceeding it is the 'preponderance of probability'. In this case, based on the statement of witnesses, the Inquiry Officer has rightly held the charge as 'proved'.

Contd...4/-



R. L.

AND WHEREAS, the report of the inquiry and the submissions made by Dr. Sarveshwar Dayal, Scientist (SS) have been considered by the Disciplinary Authority (i.e. President, ICAR) along with the facts and records of the case and having regard to the findings of the Inquiry Officer and submissions made by Dr. Sarveshwar Dayal, Scientist (SS), the President, ICAR has decided to accept the findings of the Inquiry Officer.

NOW THEREFORE, after considering the records of the inquiry and the facts and circumstances of the case, the President, ICAR being the Disciplinary Authority in this case, is of the opinion that Dr. Sarveshwar Dayal, Scientist (SS) indulged himself in an act of gross indiscipline and violence by physically assaulting Dr. R. N. Verma, Ex-Director of NRCM on 23.09.2003 in the NRCM Office premises and ends of justice will be met imposing the penalty of "Compulsory Retirement" on him.

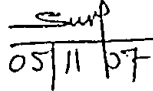
ACCORDINGLY, the penalty of "Compulsory Retirement" is hereby imposed on Dr. Sarveshwar Dayal, Scientist (SS) with immediate effect.


(Rajiv Mangotra)


Under Secretary (Vigilance)

For and on behalf of the President, ICAR

Dr. Sarveshwar Dayal, Scientist (SS),
Central Potato Research Station,
Peak View Road,
Shillong-793 009,
MEGHALAYA


05/11/07

07e


5/11/07

Copy to:-

1. The Director, Central Potato Research Institute, Shimla.
2. Head CPRS, Shillong. A copy of Order meant for Dr. Sarveshwar Dayal, Scientist (SS), is also sent herewith which may be delivered to him after obtaining his dated signatures for records.
3. Deputy Secretary (Per.), ICAR, Krishi Bhawan, New Delhi
4. Personnel-I Section, ICAR, Krishi Bhawan, New Delhi.
5. Guard file

File in Court on 29.8.08

Court Officer.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

In the matter of: -

O.A. No. 299 of 2007

Dr. Sarveswar Dayal

..... Applicant.

-Vs-

Union of India and Others.

..... Respondents.

-AND-

In the matter of: -

Rejoinder submitted by the applicant in
reply to the written statements
submitted by the Respondents.

The humble applicant above named most humbly and respectfully state as
under; -

1. That with regard to the statements made in paragraph A of the written statement, the applicant begs to state that Although Indian Council of Agricultural Research, Krishi Bhavan, registered under Societies Act, 1860 but it follows all the rules framed by the Government of India, therefore, respondents are properly ordered and need not be replaced. It is objectionable that reply no where signed by either of the respondent (s) and the applicant further object the written statement filed by the Legal Adviser of the CSIR as because the Legal Adviser cannot admit or deny the facts of the case on behalf of the official respondents.
2. That with regard to the statement made in para 3 and 4 of the written statement the applicant begs to submit that he lodged a complain against Dr. R.N. Verma, the then Director, NRCM, regarding financial irregularities and on the basis of the complain Dr. R.N. Verma was

Received
M. N. Verma
Advocate
27/08/08

Sarveswar Dayal

Filed by the applicant
Through U. Dutta, advocate
On 29.08.08

01 SEP

गुवाहाटी न्यायपीठ
Guwahati Bench

reverted from the post of Director to Principal Scientist after an inquiry conducted by the District Magistrate, Solan. As such Dr. R.N. Verma out of his animosity with the applicant made allegation of physical assault against the applicant and such wild allegation is the very foundation of the impugned memorandum charge sheet dated 01.06.2004. As such offering no comment to the paragraph 4.5 of the Original application, respondents have admitted the fact that the allegation of assault of Dr. R.N. Verma against the applicant is with the vindictive attitude based on the animosity of Dr. R.N. Verma with the applicant.

3. That with regard to the statements made in para 5 of the written statement the applicant begs to state that in the instant case of the applicant the departmental enquiry and criminal proceeding based on the same set of facts and charges, evidence and witnesses. The learned CJM, Solan, Himachal Pradesh in the Criminal Case No. 245/2 of 2003 acquitted the applicant vide judgment and order dated 22.06.2007 as the prosecution failed to prove its case against the applicant beyond all reasonable doubts. It is stated that in the departmental proceeding in addition to the witnesses examined in the trial court two additional witnesses, Dr. M.C. Yadav and Dr. Shwet Kamla were examined, however, Dr. M.C. Yadav was not an eye witness and Dr. Shwet Kamal is closely related to the complainant Dr. R.N. Verma. The Criminal Court on examination of the witnesses came to the conclusion that the prosecution failed to prove its case against the applicant beyond all reasonable doubts and acquitted the applicant by judicial pronouncement. The judicial pronouncement was made after a regular trial and hot contest. As such the facts and evidence in the departmental as well as criminal proceedings were the same without there being any iota of difference hence the charge sheet dated 01.06.2004 and penalty order dated 05.11.2007 are liable to be set aside and quashed.
4. That the applicant categorically denies the statements made in para 6 save and except which are borne out of record and further begs to state that the applicant vide his letter dated 05.08.2004, 30.09.2004, 30.10.2004 and

Sarabjit Dayal

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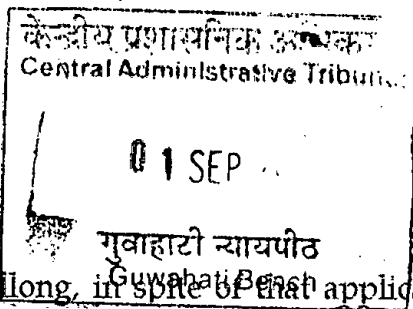
गुवाहाटी न्यायपीठ
Guwahati Bench

209

16.04.2005 requested for supply of 37 documents for defending his case adequately but those documents were not supplied to him without any valid reason. As such non-supply of documents to the applicant violated principal of natural justice and the applicant was seriously prejudiced in defending his case before the disciplinary authority. It is further stated that the sworn testimony of the listed witnesses (Annexure- IV of the charge sheet) neither supplied by vigilance under secretary S.K. Behera nor by Inquiring authority Dr. Pakash Shamrao and Presenting Officer Charles Ekka rather subsequently on a latter date 11.04.2007, the I.O continued prolonging this matter of supply of witnesses statements 3 days before the examination of witnesses despite applicant reminded the I.O dated 01.05.2007. Therefore the applicant deprived of the right of defending by way of preparation of defence statements of admission/denial to the charge.

5. That the applicant categorically denies the statements made in paragraph 8 of the written statement save and except which are borne out of record and further begs to state that after a thorough discussion it was alone the I.O who agreed to supply a fraction of documents viz. 4 only out of 56. The charged officer neither affirmed nor contended rather worried for his excessive defence curtailment to 4 documents. It is evident in deponents reply Annexure- B1 proceedings' of hearing dated 16.07.2005 serial no. 5 that with due consent no where written therein. Thus legal advisor forcefully incorporating his own knowledge by way of guessing it own self. It is further stated that the I.O on hearing dated 16.07.2005 did not that the remaining 52 documents are not relevant, now at a later stage legal advisor Pathak that too from his chamber located in Delhi arbitrarily incorporating not at all relevant at his own self.
6. That the applicant denies the statements made in para 9 of the written statement save and except which are borne out of record and begs to state that he was transferred from Solan to Shillong on the basis of complain of Director Rajendra Parsad in month of November as examination of kids were in progress. It was very difficult on the part of the applicant to attend

Sankar Kumar Dey



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disciplinary proceeding at Solan from Shillong, in spite of that applicant appeared in the inquiry proceeding at Solan and extended his best cooperation with the inquiry authority. But suddenly applicant fell sick and he was advised by the Doctor advised for rest. Applicant was on rest w.e.f 9th April 2007, all relevant medical papers faxed to Simla. After receiving the fax at Simla, the I.O Dr. Prakash Shamrao communicated for second medical opinion to NEH potato station of CPRI. The Upper Shillong potato authorities delivered the CPRS fax ref.no.15/SD/2007/46 dated 16.03.2007 to the applicant only when the applicant personally requested on 16.07.2007, as such it was not possible to submit second medical opinion before the next date of hearing scheduled from 09.07.2007 to 11.07.2007. As such the text contents and remark there in signify neither avoidance nor evasion to the orders therefore, it is false statement of legal advisor Shri Pathak that the applicant evaded the second medical opinion.

It is stated that the inquiry proceeding scheduled from 09.07.2007 to 11.07.2007 at Shimla, applicant started his journey from Shillong to attend the inquiry proceeding but unfortunately he fell sick at New Delhi during the rough and tough traveling/(s) of thousands of kilometers of journey from Shillong to Shimla due to the change of totally different environment and suddenly too many changes in components factors the climate made the applicant sick, applicant informed the inquiry officer the fact of his transit sickness. These facts received by IO well before the time i.e. 9th July, 2007. However, the I.O fully knowing that applicant fell sick at New Delhi proceeded with the inquiry proceeding ex parte in total violation of principle of natural justice, as such the allegation of dilatory tactics of the applicant as stated in the written statement is a false statement on the part of the respondents in the facts and circumstances as stated above rather the malafide intention of the respondent to proceed with exparte inquiry to impose penalty upon the applicant is evident from the facts as stated above. As such the impugned penalty order dated 05.11.2007 is liable to be set aside and quashed on the sole ground of violation of principle of natural justice.

It is further stated that neither advance paid nor reimbursed after making claims with pre receipt/(s) during the crises of money applicant

Sarabjit Dasg

01 SEP

गुवाहाटी न्यायपीठ

Guwahati Bench

applied for withdrawal of Rs 35,000/- from general provident fund to meet out the expenditures of journey to attend the inquiry proceeding from Shillong to Shimla. In spite of the costly travel expenses to attend inquiry from Shillong to Shimla at the short notices by I.O Dr. Prakash Shamrao, applicant extended his full cooperation to conclude enquiry at the earliest.

Applicant went Krishi Bhavan to meet DG accordingly waited there for long and gave his name as defence assistant but IO did not comply the prescribed procedure and impertinently asked from the applicant the written consent of defence assistant. Defence Assistant of the applicant was in Punjab being in government service he is likely to be posted any where. There is no need to search him by the applicant rather he had to trace him out as the applicant had to speak him the case in full. Applicant had to pass on him the documents related to defence his case and the Defence assistant had to go thorough of those voluminous documents to complete his preparations. Being government servant he has to obtain prior permission from his controlling authority so as to former on the contrary the legal advisor Pathak spoke for that activity a tour in searching the defence assistant is base less and futile.

7. That the applicant denies the statement made in paragraph 10 of the written statement the same save and except which are borne out of record and further begs to state that in the instant case of the applicant the departmental enquiry and criminal proceeding based on the same set of facts and charges, evidence and witnesses. The learned CJM, Solan, Himachal Pradesh in the Criminal Case No. 245/2 of 2003 acquitted the applicant vide judgment vide judgment and order dated 22.06.2007 as the prosecution failed to prove it's case against the applicant beyond all reasonable doubts. It is stated that in the departmental proceeding in addition to the witnesses examined in the trial court two additional witnesses, Dr. M.C. Yadav and Dr. Shwet Kamla were examined, however, Dr. M.C. Yadav was not an eye witness and Dr. Shwet Kamal is closely related to the complainant Dr. R.N. Verma. The Criminal Court on examination of the witnesses came to the conclusion that the prosecution failed to prove it's case against the applicant beyond all reasonable doubts

Sureshwar Dey

01 SEP 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

and acquitted the applicant by judicial pronouncement. The judicial pronouncement was made after a regular trial and hot contest. As such the facts and evidence in the departmental as well as criminal proceedings were the same without there being any iota of difference, the charge sheet dated 01.06.2004 and penalty order dated 05.11.2007 are liable to be set aside and quashed.

8. That with regard to the statement made in para 11, 12, 13 and 14 the applicant denies the same save and except which are borne out of record and begs to state that all the witness including appeared in learned C.J. M court of Himachal as per scheduled dates and their deposition were recorded and after full trial applicant was acquitted by the learned Court. Moreover, when the criminal proceeding and departmental proceeding based on the same set of facts and charges, evidence and witnesses acquittal of the applicant by a competent Court of law the departmental proceeding is also liable to be dropped.

It is further stated that improvement in the evidences by inclusion of 2 additional witnesses supported by I.O Prakash Shamrao in his enquiry report in fact these were the rejected witnesses out of the lot to be presented before the learned CJM, Solan. As evident therein 2 witnesses declared hostile thereafter immediately the 3rd one viz. Dr. Ramesh Chandra Upadhaya was withdrawn by the prosecution-ICAR. As such on the basis of hostile and withdrew witnesses the I.O concluded the charge as proved. Moreover, the learned Criminal Court delivered the judgment prior the conclusion of departmental proceedings but the I.O failed to take into account the judgment and order dated 22.06.2007 in his report.

In reply to para 13 applicant states contradictions in the deposition of witnesses about the time of alleged incidence reflects the infirmities, discrepancies and contradictions in the evidence in the proceeding.

It is further stated that neither CPRS nor CPRI write unauthorized absence to the applicant on the contrary this is the first time in the written statement it is used to write this an un authorized absence. No salary paid to the applicant w.e.f. 1 July 2007 despite the respondents admitted the fact that applicant was in CPRS wef 12 July 2007.

Sankar Dasgupta

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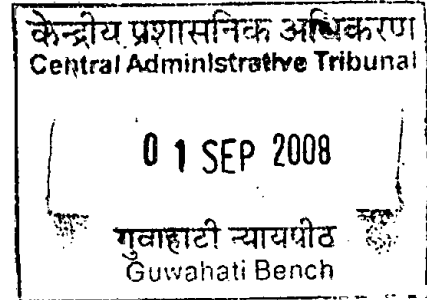
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Irregularities, Being

It is further stated that illegality, contradictions aroused and magnified by I.O in his report out of the depositions made before criminal court of law and in ex parte enquiry conducted, as such the report of the I.O is biased and penalty imposed upon the applicant on the basis of biased report is liable to be set aside and quashed.

9. That the applicant denies the statement made in paragraph 15, 16, 17, 18, 19, 20, 21 and 22 and further begs to state that from the inquiry report it is evident that the I.O at the threshold made an attempt to justify the ex parte inquiry proceeding ignoring the request of the applicant to adjourn the inquiry scheduled to be held from 09.07.07 to 11.07.07 on the ground of sickness. Moreover, the documents, statement of witnesses sought by the applicant were not supplied to the applicant to prepare his defence statement in total violation of principle of natural justice. As such the ex parte inquiry proceeding conducted in total violation of principle of natural justice, therefore the impugned charge sheet dated 01.06.2004 and penalty order dated 05.11.2007 are liable to be set aside and quashed.
10. That the applicant reiterates the submission made in the original application and under the facts and circumstances as stated above the original application deserves to be allowed with cost.

Sanjiv Kumar Dey



VERIFICATION

I, Dr. Sarveshwar Dayal, Son of Dr. R. D. Gupta, aged about 51 years, Central Potato Research Station, Peak View Road, Shillong, Meghalaya - 793009, applicant in the instant Original application, do hereby verify that the statements made in Paragraph 1 to 10 are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 24th day of August 2008.

Sarveshwar Dayal