

4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓
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R.A/C.P No.
E.P/M.A No. 43/2008 (OA 46/07)

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SECTION OFFICER (Judl.)

Balter
22/9/17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERSHEET

1. Original Application No. 46/07
2. Misc Petition No. _____
3. Contempt Petition No. _____
4. Review Application No. _____

Applicant(S) Tapan Sutradhar VS Union of India & Ors

Advocate for the Applicant(S) Adil Ahmed

Ms. S. Bhattachajee

Advocate for the Respondant(S) Case K. Tenzin, St. Counsel
Govt. A.P.

| Notes of the Registry | Date | Order of the Tribunal |
|-----------------------|------|-----------------------|
|-----------------------|------|-----------------------|

This application is in form
is filed/C.F. for Rs. 50/-
deposited with the JED
No. 346.650465
Dated 7.2.2007

Dy. Registrar

[Signature]

Copy of the petitions
for issuing notice along with
envelopes have been
submitted.

Notice & order sent to
D/Section for issuing
to R-1 to 4 by regd.
A/D post.

[Signature]
D/No - 284 to 287
6/3/07. DT: 8/3/07

15.2.07. The issue involved in this case is
that the applicant has been punished by
appellate authority by reducing the pay
scale of the applicant by one stage from
Rs.3800/- to Rs.3725/-. The case of the
applicant is that the Enquiry Officer and
the Charged Officer is the same rank.

I have heard Mr.A.Ahmed learned
counsel for the applicant and Mr. G.
Baishya, learned Sr. C.G.S.C. for the
respondents. When the matter came up
for hearing the learned counsel for the
respondents has submitted that he would
like to take instructions. Let it be done.

Issue notice on the respondents.
Post the matter on 29.3.07.

[Signature]
Vice-Chairman

29.3.2007

Further time of four weeks is granted to the Respondents to file reply statement.

Post on 1.5.2007.

① Service report awaited.

20
28.3.07.

Vice-Chairman

/bb/

① Service report 1.5.07. awaited.

② No W/s has been filed.

20
30.4.07.

At the request of learned counsel for the respondents four weeks time is granted to file written statement as a last chance. Post the matter on 4.6.07.

Vice-Chairman

lm

No W/s has been filed.

20
12.6.07

13.6.2007

Post on 16.07.2007 granting further time to file reply statement.

W/s not filed.

20
13.7.07.

/bb/

Vice-Chairman

W/s not filed.

20
17.9.07.

17.7.2007

Mr.G.Baishya, learned Sr.C.G.S.C. is granted further three weeks time to file reply statement.

Post the case on 13.8.2007.

Vice-Chairman

/bb/

~~W/s~~
not filed.

20
1.10.07.

18.9.2007

Mr.G.Baishya, learned Sr. C.G.S.C. requested for seven days time to file reply statement. Granted. Post the matter on 03.10.2007.

Vice-Chairman

/bb/

03.10.2007

Reply to the Original Application has been filed today, after serving a copy on the learned counsel for the Applicant; who seeks four weeks time to file rejoinder.

Call this matter on 08.11.2007 awaiting rejoinder from the Applicant. Mr. G. Balshya, learned Sr. Standing counsel for the Union of India should also produce the departmental proceeding file by the next date.

Copy of this order be handed over to Mr. G. Balshya, learned Sr. Standing counsel.

*Amul
G. Balshya
9.10.07
(Mr. G. Balshya)
Sr. C. S. C.*

Dt. 3.10.07.


Pl. hand over the order copy to Mr. G. Balshya S.C.

/bb/

h

Lm


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

4.10.07

W/s filed by ~~4.10.07~~ 08.11.07.
The Respondents. Copy served.


P.D.

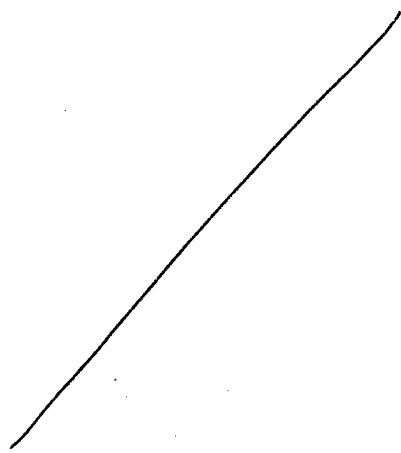
Lm

W/s filed.

7.11.07.

There is no ^{one to} represent ~~the~~ the applicant. Call this matter on 26.11.2007.


Member(A)




02 46/07 4-

26.11.2007

Nobody appears for the parties.

This matter is adjourned to be taken up on 12.12.2007.


(Khushiram)
Member (A)


/bb/

12.12.2007

In this case, reply has already been filed.

Subject to legal pleas to be examined at the time of hearing, this case is admitted and set for hearing on 16.01.2008. Liberty is granted to the Applicant to file rejoinder in the meantime.



(Gautam Ray)
Member (A)

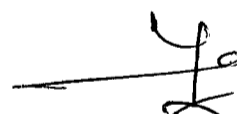

(M.R. Mohanty)
Vice-Chairman

/bb/

16.01.2008

This case stands adjourned to be taken up on 28.02.2008.



(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

/bb/


26.02.2008

In view of the order passed in M.P.No.43 of 08, this O.A. is disposed of on withdrawal.

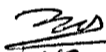

(Khushiram)
Member (A)

Lm

① Wks filed,
② Rejoinder not filed.


11.12.07.

Rejoinder not filed.


15.1.08.

10.3.08
Copy of the order
sent to the D/Secy
for issuing the
same to the parties
alongwith A/A/Adv
for the parties.

14 FEB 2007

গুৱাহাটী কেন্দ্ৰীয়

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

(An Application Under Section 19 of The Administrative
Tribunal Act 1985)

ORIGINAL APPLICATION NO. 46 OF 2007.

Shri Tapan Sutradhar

...Applicant

- Versus -

The Union of India & Others

...Respondents

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI.

An Application Under Section 19 of The Administrative
Tribunal Act 1985)

ORIGINAL APPLICATION NO. _____ OF 2007.

Shri Tapan Sarda

...Applicant

- Versus -

The Union of India & Others

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Date: 14-2-2007

Filed By:

Smita Bhattacharjee
Advocate

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

(An Application Under Section 19 of The Administrative
Tribunal Act 1985)

ORIGINAL APPLICATION NO. 46 OF 2007.

Shri Tapan Sutradhar

...Applicant

- Versus -

The Union of India & Others

...Respondents

LIST OF DATES / SYNOPSIS

- | | |
|------------|--|
| 24.10.1994 | Applicant joined in Subsidiary Information Bureau (SIB) posted at Guwahati. |
| 17.11.1994 | Applicant was posted at Silchar, SIB unit. |
| 21.10.1994 | Applicant was transferred from Silchar, SIB to Guwahati, SIB. |
| March 2000 | Applicant was transferred from Guwahati, SIB to Itanagar, SIB. |
| 03.03.2004 | Article of charge was brought against the Applicant under Rule 16 of CCS (CCA) Rules 1965. |
| 08.03.2004 | Applicant submitted a formal complaint before the Respondent No.4 against the Shri Viplav, SO/I. |
| 17.03.2004 | Applicant filed reply against the Memo dated 03.03.2004. |
| 25.03.2004 | Respondent No.4 initiated a regular inquiry against the applicant by appointing Inquiry Authority under Rule 16 of CCS (CCA) Rule 1965. |
| 01.04.2004 | Applicant was asked to appear in person for hearing on 12.04.2004. |
| 13.09.2004 | Inquiry Officer requested Shri Viplav, SO/I (Complainant) and applicant to attend hearing on 16.09.2004. |
| 22.09.2004 | Inquiry Officer informed Shri Viplav, SO/I and applicant that he could not present to attend the hearing on 16.09.2004 due to his physical indisposition and again he requested both of them to attend hearing 22.09.2004. |



- 17.12.2004 Respondent No.4 appointed Sri Rajkamal Sitaram, SO/G, SIB, Itanagar as new Inquiry Authority in place of Sri D.C.Mandal, SO/A who has been transferred to Kolkata.
- 24.12.2004 Applicant was transferred from Itanagar, SIB to Guwahati, SIB.
- 10.02.2005 Applicant was informed of the preliminary hearing of the departmental inquiry under Rule 16 (1) (b) of the CCS (CCA) Rules 1965 against him shall hold on 25.02.2004 at 11:45 A.M. at 'G' branch, SIB, Itanagar, Gohpur Tinali.
- 25.02.2005 Preliminary hearing was held and the applicant was asked some questions by the Inquiry Officer in presence of the Inquiry Officer and presence of the Inquiry Authority and Presenting Officer.
- 31.05.2005 Inquiry Officer Sri Rajkamal Sitaram, SO/G, SIB, Itanagar submitted the report and the applicant was asked if he wished to make any representation or submission against the inquiry report, he may do so in writing before the Disciplinary Authority within 15 days from the receipt of the said memo.
- 15.06.2005 Applicant had filed representation against the Inquiry Report before the Respondent No.4 through proper channel.
- 22.06.2005 Respondent No.4 i.e. the Disciplinary Authority stated that the Charged Officer had not been given any opportunity to cross examine the witness, therefore, the inquiry report remitted for further inquiry and report.
- 24.06.2005 Inquiry Authority directed the applicant to appear for hearing on 01.07.2005 at 11 AM. at 'G' Branch, SIB Itanagar, Gohpur Tinali.
- 01.07.2005 Departmental hearing against the applicant was held.
- 28.07.2005 Submitted written brief Presenting Officer to the applicant and he was asked to submit his written brief within 10 days before the Inquiry Authority.
- 08.08.2005 Applicant submitted representation against the written brief submitted by the Presenting Officer.
- 24.08.2005 Respondent No.4 submitted report of further inquiry to the applicant and also stated that he may take any representation or submission in writing before the Disciplinary Authority within 15 days from the date of receipt of the Memo.
- 08.09.2005 Applicant re-submitted representation before the Inquiry Officer.

- 14.09.2005 **The Disciplinary Authority by the impugned order imposed penalty to the applicant under Clause (III) of Rule 11 of CCS (CCA) Rules 1965.**
- 20.09.2005 **Applicant submitted representation before the Respondent No.4 i.e. the Disciplinary Authority requesting him to re-examine the imposition of penalty.**
- 17.11.2005 **Applicant submitted another representation /appeal before the Appellate Authority for re-examination of the case as he had inadvertently filed an appeal earlier before the Disciplinary Authority.**
- 23.02.2006 **The Appellate Authority rejected the appeal for re-consideration of penalty to the applicant.**
- 13.06.2006 **The Hon'ble Tribunal passed the Order in O.A.No.142 of 2006 for consideration of the Appeal of the Applicant afresh by the Respondent.**
- 18.09.2006 **The Appellate Authority modified the earlier order and reduced the pay scale of the Applicant one stage from Rs.3800/- to Rs.3725/- in time scale of pay of Rs.3050-75-3950-80-4590/- for a period of one year without cumulative effect.**

Hence this Original Application filed by the applicant before this Hon'ble Tribunal for seeking justice in this matter.

The Disciplinary Authority by the impugned order imposed penalty to the applicant under Clause (II) of Rule 11 of CCS (CCA) Rules 1962.

14.09.2002

Applicant submitted representation before the Respondent No 1 i.e. the Disciplinary Authority requesting him to re-examine the imposition of penalty.

20.09.2002

Applicant submitted another representation (appeal) before the Appellate Authority for re-examination of the case as he had inadvertently filed an appeal earlier before the Disciplinary Authority.

17.11.2002

The Appellate Authority rejected the appeal for re-consideration of penalty to the applicant.

23.02.2006

The Hon'ble Tribunal passed the Order in O.A.No.142 of 2006 for consideration of the Appeal of the Applicant filed by the Respondent.

13.06.2006

The Appellate Authority modified the earlier order and reduced the pay scale of the Applicant one stage from Rs.3800/- to Rs.3725/- in time scale of pay of Rs.3020-75-3920-80-4290/- for a period of one year without cumulative effect.

18.09.2006

Hence this Original Application filed by the applicant before this Hon'ble Tribunal for seeking justice in this matter.

matter.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI

FILED BY

Shri Tapan Sutradhar

... Applicant

Through - Smita Bhattacharjee
(Advocate)

2

(An Application Under Section 19 Of The Administrative Tribunals Act 1985)

ORIGINAL APPLICATION NO. 46 OF 2007.

BETWEEN

Shri Tapan Sutradhar
Lower Division Clerk
Subsidiary Intelligence Bureau (SIB)
Ministry of Home Affairs
Government of India
Beltola, Guwahati - 22.

... Applicant

- AND -

1. The Secretary to Government of India, Ministry of Home Affairs, North Block, New Delhi 110 001.
2. The Director, Intelligence Bureau, Ministry of Home Affairs, 35 SP Marg, New Delhi.
3. The Joint Director, Subsidiary Intelligence Bureau, Ministry of Home Affairs Government of India, Itanagar, Arunachal Pradesh.
4. The Assistant Director (E) Subsidiary Intelligence Bureau Ministry of Home Affairs Government of India Itanagar, Arunachal Pradesh.

.... Respondents.

DETAILS OF THE APPLICATION

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

This application is directed against impugned Order No. 33/E/2004(2)-6851 dated 18.09.2006 wherein the Respondent No.3 the Appellate Authority reduced the pay scale of the Applicant by one stage

from Rs.3800/- to Rs.3725/- in time scale of pay of Rs.3050-75-3950-80-4590/- for a period of one year without cumulative effect.

2. **JURISDICTION OF THE TRIBUNAL :**

The Applicant declares that the subject matter of the instant application is within the jurisdiction of the Hon'ble Tribunal.

3. **LIMITATION:**

The Applicant further declares that the subject matter of the instant application is within the limitation period prescribed under Section 21 of the Administrative Tribunal Act 1985.

4. **FACTS OF THE CASE:**

Facts of the case in brief are given below:

4.1 That your humble Applicant is a citizen of India and as such he is entitled to all rights and privileges guaranteed under the Constitution of India. He belongs to very poor economically backward Schedule Caste Community.

4.2 That your Applicant begs to state that he was selected and appointed as Lower Division Clerk through Staff Selection Commission (NER). He was posted as Lower Division Clerk in Intelligence Bureau (IB) at Itanagar, Arunachal Pradesh. He joined in Subsidiary Intelligence Bureau (SIB) on 24.10.1994 and posted at Guwahati. Thereafter, he was immediately posted at Silchar Unit, SIB on 17.11.1994, which is under administrative control of SIB Guwahati. He was transferred to Guwahati from Silchar on 21.10.1996. Again he was transferred to Itanagar in March 2000. Lastly he was transferred to SIB Guwahati from Itanagar vide Reference No. IB Order No. 4/TP/CV/2005(9)-18478-555 dated 24.12.2004, but he was released from SIB Itanagar on 15.02.2006 vide Office Order No. 92/2006. Now, he is working as LDC at SIB Guwahati.

4.3 That your applicant begs to state that a vague, fabricated, malafide, false and misconceived Article of charges were framed against him by the

Respondent No. 4 vide his Office Memorandum No. 33/E/2004(2)-1631 dated 03.03.2004. The action against him was under Rule 16 of CCS (CCA) Rules 1965. The Article of charges as framed against him as under: -

“Article I:

That the said Shri T. Sutradhar, LDC on 27.02.2004 i.e. on the day of disbursement of salary, at around 1 p.m. was found sitting unauthorisedly in cash branch of the SIB, Itanagar. As it was causing interruption in the smooth distribution of cash, he was asked by Sri Viplav, SO/A to leave the branch. He refused to obey the lawful direction of the SO/A and challenged his authority. The Respondents stated that the applicant threatened the SO/A of physical assault and dire consequences. However, with the intervention of other officials he was taken away from the spot.

Shri Sutrdhar by his above said action obstructed the smooth functioning of the government, disobeyed the lawful order of the competent authority and misbehaved with the official superior. This is unbecoming of a government servant and is violative of Rule-3 of the CCS (Conduct) Rules, 1964”.

A copy of the Memorandum dated 03.03.2004 is annexed herewith and marked as ANNEXURE – A.

4.4 It is to be stated that your applicant submitted a formal complaint before the Respondent No. 4 against one Sri Viplav, SO/I on 08.03.2004. In the said complaint it was stated that on 27.02.2004 when the applicant came to the Accounts Branch, Itanagar to make an inquiry regarding his TA bill, then one Sri Viplav, SO/I has insulted and misbehaved him with offensive language.

A copy of the complaint dated 08.03.2004 is annexed herewith and marked as ANNEXURE – B.

4.5 That your applicant begs to state that on 17.03.2004, the applicant filed a reply against Memo No. 33/E/2004(2) – 1631 dated 03.03.2004. In

his reply, he denied all the charges framed on him by the Respondents and he also prayed that if any mistake has been done might be excused.

A copy of the reply dated 17.03.2004 filed by the applicant is annexed herewith and marked as **ANNEXURE – C.**

4.6 That your applicant begs to state that the Respondent No.4 initiated a regular inquiry against him by appointing Inquiring Authority vide his Order No.33/E/2004(2)-256-2159 dated 25.03.2004 under Rule-16 of the Central Civil Services (Classification, Control and Appeal) Rules 1965 and also by exercising of the power conferred by the Sub-Rule-1(B) of Rule-16 of CCS (CCA) Rules 1965 appointed one Sri D. C. Mandal, SO, SIB, Itanagar as Enquiry Authority to enquire in to the charge framed against the applicant.

A copy of the Order No.33/E/2004(2)-256-2159 dated 25.03.2004 issued by the Respondent No.4 is annexed herewith and marked as **ANNEXURE – D.**

4.7 That your applicant begs to state that the Inquiry Officer Sri D. C. Mandal vide his Memorandum No. I/SO (A)2004-05 (1)-2363 dated 1st April 2004 informed the applicant that he has to appear in person for hearing on 12.04.2004 at 11:00 hours and also to submit his defence on the charges brought against him.

A copy of the Memorandum No.I/SO (A)2004-05 (1)-2363 dated 1st April 2004 is annexed herewith and marked as **ANNEXURE – E.**

4.8 That your applicant begs to state that vide Office Memorandum No. 1/SO(A)/2004-05(1)-6633 dated 13.09.2004 the Inquiry Officer requested the Sri Viplav, SO and Sri T. Sutradhar, LDC to attend for hearing on 16.09.2004 at 1100 hours and to submit documentary proof and written witness in support of official allegation brought.

A copy of the Memorandum dated 13.09.2004 is annexed herewith and marked as ANNEXURE - F.

4.9 That your applicant begs to state that vide Office Memorandum No.1/SO(A)/2004-05(1)-6899 dated 22.09.2004 the Enquiry Officer informed the Applicant and Sri Viplav, SO that the Inquiry Officer could not present to attend for hearing on 16.09.2004 due to his physical indisposition and again he requested Sri Viplav, So and the applicant to attend for hearing on 24.09.2004.

A copy of the Memorandum dated 22.09.2006 is annexed herewith and ANNEXURE - G.

4.10 That your applicant begs to state that the Respondent No.4 vide his Order No. 33/E/2004(2) - 8823 dated 17.12.2004 under Ref. No. 33/E/2004(20-256 - 2159 dated 25.03.2004 appointed Sri Rajkamal Sitaram, SO/G, SIB, Itanagar as Inquiring Authority to enquire into the charges framed against the applicant since earlier Inquiring Authority Sri D.C. Mandal, SO/A has been released on transfer to SIB, Kolkata.

A copy of the order dated 17.12.2004 is annexed herewith and marked as ANNEXURE - H.

4.11 That your applicant begs to state that the new Inquiry Authority vide letter No. I/SO(G)-INQUIRY/2004-143-1370-120 dated 10.02.2005 informed the applicant that the preliminary hearing of the departmental inquiry under Rule 16(1)(b) of the CCS(CC&A) Rules 1965 against the applicant shall hold on 25.02.2005 at 11.45 a.m. at 'G' Branch, SIB, Itanagar, Gohpur Tinali. The applicant was requested to attend the hearing either alone or with his defence assistant. The applicant was also directed to submit list of additional documents/witnesses as required for his defence during the preliminary hearing. Further, it was mentioned in the said letter that if the applicant fail to appear in the preliminary hearing on the date, time and venue the hearing shall be held ex parte.

A copy of the letter dated 10.02.2005 is annexed herewith and marked as ANNEXURE - I.

4.12 That your applicant begs to state that in pursuance of the letter dated 10.02.2005 the preliminary hearing was held on 25.02.2005 and the applicant was asked some questions by the Inquiry Officer in presence of the Inquiry Authority and Presenting Officer. The applicant in his reply stated he obeyed the instruction of Sri Viplav, SO/A and he never threatened him with physical assault or dire consequences. Further, it was also admitted by the applicant that he had come to collect his pay, but he was not called officially.

A copy of the preliminary hearing dated 25.02.2005 is annexed herewith and marked as ANNEXURE - J.

4.13 That your applicant begs to state that the Respondent No. 4 vide his Memorandum No. 33/E/2004(2)-3871 dated 31.05.2005 enclosed the inquiry report dated 12.05.2005 which was submitted by the Inquiry Officer Sri Rajkamal Sitaram, SO/G, SIB Itanagar and the applicant was also asked if he wished to make any representation or submission against the inquiry report, he may do so in writing before the Disciplinary Authority within 15 days from the date of receipt of the said memo.

A copy of the said memorandum dated 31.05.2005 alongwith inquiry report dated 12.05.2005 is annexed herewith and marked as ANNEXURE - K.

4.14 That your applicant begs to state that the finding of Inquiry Officer is reproduced below for kind perusal of this Hon'ble Tribunal.

"FINDINGS

As per the charges framed against Sh. Tapan Sutradhar, LDC, two main points had to be proved/disproved -

1. Whether the C.O. had disobeyed the lawful order of his official superior.

2. Whether the C.O. had been disrespectful towards his official superior.

1. Though the C.O. has denied disobeying his official superior in the preliminary hearing however it has been proved beyond doubt that the C.O. had done so, as per the statement given by the witnesses i.e. Sri Ramakanta Bhattacharjee, LDC/Cashier and Shri C. Chetry, JIO-I/G.

2. The C.O. has also denied being disrespectful towards his official superior but the statement of the witnesses proves otherwise. However, the witnesses couldn't remember (being more than one year ago) whether the C.O. had actually threatened SO/A of physical assault and of dire consequences.

Therefore, the charges that the C.O. had disobeyed the lawful order and had been disrespectful towards his official superior, stand proved against Shri Tapan Sutradhar, LDC".

It is stated that a careful reading of the reasoning advanced by the Inquiry Officer for arriving at such a conclusion is incorrect, misconceived, vexatious and a product of concoction of material facts and evidence. The vagueness / material irregularities and illegalities, contradictions and inconsistencies in the report is crystal clear on the face of the record in as much as in paragraph 2 against Article I he has pointed out that the witness could not remember (being more than one year ago) whether CO has actually threatened SO /A of physical assault and of dire consequences.

Such pragmatic observation is, therefore, obviously vague, incorrect, capricious, misleading, unfounded, made surreptitiously with a malafide intention and had a motive not based on any Materials, documents or witness whatsoever, but merely based on mere surmise and conjecture not sustainable in law under the facts and circumstances of the case.

Under such circumstances, when the admitted position is that being the matter was more than one year ago the

witnesses could not remember the incident, there is no logical ground to frame the charge against Sri Tapan Sutradhar, LDC. From these factual positions, it is proved beyond all reasonable doubt that your applicant did not commit any misconduct. The principle of law and rules of natural justice cast upon the disciplinary authority a responsibility to give him reasoning for arriving at a decision, discussing quite elaborately, exhaustively. Hence, the Inquiry Report is apparently incorrect, misconceived, ambiguous, fabricated and a product of concoction of materials facts in view of the position that the charge frame was is a total violation of Rules of the Central Civil Services (Classification, Control and Appeal) Rules, 1965.

4.15 That your applicant begs to state that he filed representation against the inquiry report before the Respondent No. 4 through proper channel on 15.06.2005. In the said representation, he refuted all the allegations made in the inquiry report submitted by the Inquiry Officer.

A copy of the representation dated 15.06.2005 is annexed herewith and marked as ANNEXURE – L.

4.16 That your applicant begs to state that the Respondent No. 4, i.e. the Disciplinary Authority vide Memorandum No. 33/E/2004(2)-519-4343 dated 22.06.2005 stated that since the Charged Officer had not been given any opportunity to cross examine the witnesses, therefore, the inquiry report remitted for further inquiry and report.

A copy of the Memorandum dated 22.06.2005 is annexed herewith and marked as ANNEXURE – M.

4.17 That your applicant begs to state that vide letter dated 24.06.2005, the Inquiring Authority directed the applicant to appear for hearing on 01.07.2005 at 11 a.m. at 'G' Branch, SIB Itanagar, Gohpur Tinali.

A copy of the letter dated 24.06.2005 is annexed herewith and marked as ANNEXURE – N.

4.18 That your applicant begs to state that in pursuance of the letter dated 24.06.2005, the hearing of Departmental Enquiry against him was held on 01.07.05. In the hearing, Inquiry Officer, Presenting Officer, Charged Officer, Complainant and witnesses were present. When the Charged Officer asked the complaint that whether the permission is required to enter into the Accounts Branch, the Complainant Viplav cited the IB Security Manual, 2000 (Ps. 6/7) in that regard. The complainant has also stated that on 27.02.2004 he was informed that there was some trouble in the cash branch, he immediately rushed to the Cash Branch and he informed the representative of F.U. Nlg. was not satisfied with the system of disbursement of salary to the representatives of F.U.s and had entered an argument with Cashier. However, the Cashier tactfully shorted out the problem. Further he stated that he found several employees were sitting/standing in the cash branch without being called (here it may be clarified that the Cashier call members of staff of each branch separately so that over crowding could be avoided). Obviously that was undesirable. Therefore, he asked everybody including Sri Sutradhar to leave the Branch. When the Charged Officer asked the Complainant whether the DDO has full power to manage the affairs of cash, then the Complainant said that it is the fundamental duty of the Cashier and the DDO to ensure that the Government money is protected and the cash is to be disbursed in a trouble free manner. When the Charged Officer asked the Complainant that cordial relation should exist among the Government servants and he has been falsely implicated and deliberately the complainant has also insulted by saying "Get Out", then the Complainant replied that he said "pleased leave the room"

The statements of two witnesses were also recorded by the Inquiry Officer. The Cashier R. Bhattacharjee, the witnesses No. 1 has stated that on 27.02.2004 at around 2.30 P.M. when he was distributing pay to the staff, being pay day there was a lot of crowd in the cash branch and among them 2/3 of the staff were making a lot of noise which was quite disturbing. Hearing this SO/A Sri Viplav came to the Branch and inquired whether all the people present in the Branch have been officially call for not and SO/A asked all those who were not officially called to leave the room. But Sri Sutradhar did not leave and Sri Viplav again asked him to

leave. In the meantime, this attitude annoyed Sri Viplav, SO/A and told Sri Sutradhar "get out". The Witness No. 2 Sri C. Chhetri, JIO-I/G has also agreed completely with the statement made by the Witness No. 1 and he did not add anything more. Sri R. Bhattacharjee, the Witness No. 1 stated further that on that day i.e. 27.02.2004 later on Sri Sutrasar (Charged Officer) collected his pay alongwith others members of the 'Estt.' Branch, who were called officially.

A copy of the departmental hearing dated 01.07.2005 against Sri Tapan Sutradhar, LDC is annexed herewith and marked as ANNEXURE - O.

4.19 That your applicant begs to state that the Inquiry Authority vide his letter No. 1/SO(G)-Inquiry/2004-5285 dated 28.07.2005 submitted written brief of Presenting Officer to the applicant and he was asked to submit his written brief within 10 days before the Inquiry Authority.

A copy of the written brief dated 28.07.2005 is annexed herewith and marked as ANNEXURE - P.

4.20 That your applicant begs to state that he has submitted his representation on 08.08.2005 against the written brief submitted by the Presenting Officer. The applicant denied the all charges imputed against him.

A copy of the representation-dated 08.08.2005 is annexed herewith and marked as ANNEXURE - Q.

4.21 That your applicant begs to state that the Respondent No. 4 vide his Memorandum No. 33/E/2004(2)-5742 dated 24.08.2005 submitted report of further inquiry to the applicant and also stated that he may make any representation or submission in writing before the Disciplinary Authority within 15 days from the date of receipt of the Memo.

A copy of the Inquiry Report dated 24.08.2005 is annexed herewith and marked as ANNEXURE - R.

4.22 That your applicant begs to state that he has submitted representation on 08.09.2005 against the Inquiry Report re-submitted by the Inquiry Officer on 09.08.2005.

A copy of the representation dated 08.09.2005 is annexed herewith and marked as ANNEXURE – S.

4.23 That your applicant begs to state that the Disciplinary Authority vide order No. 33/E/2004(2)-6269 dated 14.09.2005 imposed penalty to the applicant under Clause (III) of Rule 11 of CCS (CCA) Rules 1965 and ordered that pay of the applicant will be reduced by two stage from Rs. 3800/- to Rs. 3650/- in the scale of pay Rs. 3050-75-3950-80-4590/- for a period of two years with effect from the date of issue of the order. It is also further directed that the applicant will earn increment of pay during the period of reduction and on expiry of the period, the reduction will not have the effect of postponing his future increment of pay.

A copy of the impugned order dated 14.09.2005 is annexed herewith and marked as ANNEXURE – T.

4.24 That your applicant begs to state that he submitted representation before the Respondent No. 4, the Disciplinary Authority on 20.09.2005 requesting him to re-examine imposition of penalty. It is worth to mention here that due to inadvertent he has wrongly submitted appeal/representation before the Disciplinary Authority for re-consideration of his penalty. As such, on 17.11.2005, he filed another representation/appeal before the Appellate Authority for re-examination of the case.

Copies of the representations dated 20.09.2005 and 17.11.2005 submitted by the applicant are annexed herewith and marked as ANNEXURES – U & V respectively.

4.25 That your applicant begs to state that the Appellate Authority vide their Memorandum No. 33/E/2004(2)-974 dated 23.02.2006 rejected his

appeal for re-consideration of his penalty. The said Memorandum was issued in a very cryptic manner. No ground has been stated by the Appellate Authority for rejection of the appeal of the applicant. The Appellate Authority has only stated that the appeal of the applicant could not be considered as it was submitted after the expiry of stipulated period and there were no fresh grounds of facts not already considered.

A copy of the Memorandum dated 23.02.2006 is annexed herewith and marked as ANNEXURE – W.

4.26 That your Applicant begs to state that being aggrieved by the action of the Respondents he filed an Original Application No.142 of 2006 before the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati. The Hon'ble Tribunal by its Order dated 13th June 2006 disposed the said Original Application at Admission stage by directing the Appellate Authority to consider the appeal of the Applicant afresh notwithstanding the fact that it has been filed after the expiry of the limitation period and consider the same with due application of mind and pass a speaking order on merit and communicate the same to the Applicant within a time frame of three months from the date of receipt of the order.

Photocopy of the Order dated 13.06.2006 passed in O.A. No.142 of 2006 is annexed herewith and marked as ANNEXURE – X.

4.27 That your applicant begs to state that the Respondent No.3 i.e. the Appellate Authority vide its Order No.33/E/2004 (2)-6851 dated 18th September 2006 modified the earlier penalty order dated 14.09.2005 passed by the Disciplinary Authority and the Appellate Authority vide its Order dated 18.09.2006 reduced the pay scale of the Applicant one stage from Rs.3800/- to Rs.3725/- in time scale of pay of Rs.3050-75-3950-80-4590/- for a period of one year without cumulative effect. The Appellate Authority has passed the aforesaid Order in a very cryptic and in a mechanical, whimsical and arbitrary manner also without application of proper mind. Hence, finding no other alternative your Applicant is

compelled to approach this Hon'ble Tribunal for seeking justice in this matter.

Photocopy of the Order No.35/E/2004 (2)-6851 dated 18.09.2006 is annexed herewith and marked as **ANNEXURE - Y.**

4.27 That your Applicant begs to state and submit that the aforesaid inquiry was not conducted in proper way of fairness and also in impartial manner. There was total violation of natural justice in the said inquiry process in regard to appointment of Inquiry Officer. The Inquiry Officer was holding the post of S.O. and the complainant in the said case Shri Viplab was also holding the same status of post of S.O. at the relevant time of inquiry.

4.28 That your applicant begs to state and submit that there is no hard and fast rule to call each and every employee officially by the Accounts Section to collect the salary. Apart from the applicant also, there were other persons from other section were present at the Cash Branch. Hence, IB Security Manual 2000, did not apply in this case as stated by the Complainant in the cross-examination.

4.29 That your applicant begs to state and submit that there were no independent witnesses' statement recorded in the cross-examination. The witnesses' statement which was recorded by the Inquiry Authority were directly sub ordinate to the complainant The Inquiry Authority did not apply their mind while recording the statement of those witnesses. The Inquiry Authority should insist recording of other independent witnesses, who were present at that time. From the statements of the above two witnesses it is crystal clear that there are many persons from SIB office and Field Unit of Naharlung. However, the Inquiry Authority did not consider to take any statements from other persons who were also present at the time of so call incident except those two witnesses, who are directly sub ordinate to the complainant. These two witnesses may be termed as a interested witnesses. The complainant in his cross examination on 01.07.2005 has stated before the Inquiry Authority that he was informed, there was some trouble in cash branch, he immediately rushed to the cash

branch and found that F. U. of Nlg. was not satisfied with the system of disbursement of salary to their representatives and entered argument with cashier. The complainant was also found several employee of SIB Itanagar were standing/sitting in cash branch without being called. The complainant has also asked every body to leave the room, but as per statement recorded one of the witnesses R. Bhattachrjee, Cashier has stated in his statement that complainant told Sri Sutradhar to 'get out'. Moreover, the Cashier, the witness No. 1 was not sure at what time the incident took place. He made a contradictory statement that on 27.02.2004 at around 2.30 P.M. when he was disbursing pay to the staff, the incident took place. But when he was cross-examined, he has stated it may be 1 P.M. to 1.15 P.M or it may be around the lunch time. The Inquiry Authority intentionally did not recorded other independent witnesses, i.e. Field Unit of Naharlung or other staff members who were present in the incident. The witnesses who were examined by the Inquiry Authority are directly under the complainant. As such, credibility of the witnesses is doubtful. The statement of witness No. 2 Sri C. Chhetry, JIO-1/G is also not specific to the allegations brought against the applicant. The witness No. 2 has simply stated the he agreed completely with the statements made by Sri R. Bhattacharjee, LDC/Cashier and he has nothing more to add. From this it appears that there was a conspiracy on the part of Accounts Section to malign the image of the applicant and also to harass him. The Inquiry Authority did not conduct the inquiry in a impartial manner, they did not care to call other witnesses apart from Accounts Section (as there are so many staff from other sections and field unit workers from Naharlung) at the time of the incident. From the evidence on record, there was disturbance in the Cash Branch created by some other staffs and field unit of Naharlung, but those staffs were spared in the inquiry proceedings or no charges were framed against them. The witnesses, who were deposed before the Inquiry Authority may be termed as a interested witnesses as they are directly under the control of complainant who was Section Officer of the Accounts Branch.

4.30 That your applicant begs to state and submit that the impugned order passed by the Disciplinary Authority is much cryptic and does not disclose his mind how and on consideration of what materials and

evidence on record he could arrived erroneous conclusion. The impugned order, therefore, exposed his negligence on a staggering scale inasmuch as for non application of mind, but to the contrary, consideration of some extraneous grounds not based on proper appreciation of evidence and materials on record and hence, caused a miscarriage of justice. It is abundantly clear that the Disciplinary Authority passed the impugned order in colourable exercise of powers and without proper application of mind. The order so passed gives a definite indication that it is a product of his biased attitude not sustainable in law. As such, violative of the principle of natural justice and administrative fair play. The service rules and jurisprudence cast upon the Disciplinary Authority a responsibility to discuss categorically and exhaustively the materials and documents relied upon to arrive at a definite conclusion.

4.31 That your applicant begs to state and submit that whatever evidence is produced in the inquiry proceeding did not establish charge level against the applicant and Inquiry Authority as well as Disciplinary Authority and Appellate Authority come to the conclusion mechanically against the charge brought against the applicant.

4.32 That applicant begs to state that submit that from the facts and circumstances stated above it is amply evident that he has been made scapegoat of the circumstances. The Disciplinary Authority and Appellate Authority avoided most of the grounds of infirmities in the proceedings raised by the applicant only view of intention to established the charge without appreciating the evidence on record and also without further discussing the evidence on record.

4.33 That your applicant begs to state and submit that the Disciplinary Authority and Appellate Authority has no cogent reasons or grounds to say anything in support of the charge brought against the applicant.

4.34 That your applicant begs to state and submit that the entire disciplinary proceeding and penalty of reduction of pay by one stage from Rs.3800/- to Rs. 3725/- in time scale of pay of Rs.3050-75-3950-80-4590/- for a period of one year with effect from the date of issue of the

impugned order is devoid of any merits. Further, it is also submitted that the applicant will suffer irreparable loss and inquiry if this Hon'ble Tribunal does not interfere with the matter. The balance of convenience is strongly in favour of the applicant. It is, therefore, pre-eminently a fit case to interfere with the matter.

4.35 That your Applicant submits that he has got reason to believe that the Respondents are resorting the colorable exercise of power.

4.36 That your Applicant submits that the action of the Respondents is in violation of the fundamental rights guaranteed under the constitution of India and also in violation of principles of natural justice.

4.37 That your Applicant submits that the action of the Respondents by which the Applicant has been deprived of his legitimate Rights, is arbitrary. It is further stated that the Respondents have acted with a malafide intention only to deprive the Applicant from his legitimate right.

4.38 That your Applicant submit that the Respondents have deliberately done serious injustice and put him into great mental trouble and financial hardship to him and as such the impugned orders are liable to be set aside and quashed.

4.39 That in the facts and circumstances stated above, it is fit Case for the Hon'ble Tribunal to interfere with to protect the rights and interests of the Applicant by passing an Appropriate Interim Order staying the operation of the impugned order 18.09.2006.

4.40 That your Applicant demands justice and the same has been denied.

4.41 That this application is filed bonafide and for the interest of justice.

5) GROUND FOR RELIEF WITH LEGAL PROVISIONS:

5.1 For that, due to the above reasons narrated in detail the action of the Respondents is in prima facie illegal, malafide, arbitrary and without

jurisdiction. Hence, the impugned orders dated 18.09.2006 is liable to be set aside and quashed.

5.2 For that, the Respondents have not able to prove the so-called allegations leveled against the applicant. Hence, the impugned orders dated 18.09.2006 is liable to be set aside and quashed.

5.3 For that the Inquiry Officer and Complainant ~~at the time~~ of the said case were holding same status of post and as such ~~the~~ inquiry was not conducted in proper, fair and impartial way. Hence the impugned orders dated 18.09.2006 is liable to be set aside and quashed.

5.4 For that the only two sole witnesses, who were also interested witnesses, have also stated that as the incident is more than one year, they are unable to remember the actual facts of the incident. Therefore, the allegation is totally false and concocted. Hence, the impugned order dated 18.09.2006 is liable to be set aside and quashed.

5.5 For that, the Disciplinary Authority has not conducted in the proper way and manner. They conducted two inquiries against the applicant for same charges. The respondent No. 4 in his memorandum dated 22.06.2005 has admitted that the Charged Officer has not been given any opportunity to cross examine the witnesses. Accordingly, the inquiry report was remitted for further inquiry and report. Hence, the whole inquiry conducted by the Disciplinary Authority is not in proper form, casual, malafide, whimsical and colourable exercise of power by the Disciplinary Authority. Hence, the impugned orders dated 18.09.2006 is liable to be set aside and quashed.

5.6 For that it is admitted fact that apart from the applicant other persons of the staff were also present in the incident and they were also making disturbance and noise in the cash branch, but they were spared by the respondents the reasons best know to them. Hence, the impugned order dated 18.09.2006 is liable to be set aside and quashed.

5.7 For that it is not mandatory to call each and every employee of the department to collect their salary from cash branch. The IB Security Manual 2000 does not apply in this case. Hence, the impugned orders dated 18.09.2006 is liable to be set aside and quashed.

5.8 For that, the Disciplinary Authority intentionally did not take the evidence or statement from other persons, who were present in the incident. However, the Disciplinary Authority interested to take evidence from the two witnesses, who were directly sub ordinate to the complainant. Hence, the impugned orders dated 18.09.2006 is liable to be set aside and quashed.

5.9 For that the two witnesses are also unable to recall the physical assault to the complainant by the applicant, which is evident from their statement in the cross-examination. However, the witnesses has also stated that the complainant used the word 'get out' to the applicant, which is not accepted from a responsible government officer. Hence, the impugned order dated 18.09.2006 is liable to be set aside and quashed.

5.10 For that the whole incident is fabricated by some interest and vested circle only to cast malign to the applicant in his service carrier. Hence, the impugned orders dated 18.09.2006 is liable to be set aside and quashed.

5.11 For that the observation made by the Inquiry Officer in the report is not based on evidence and record but on conjuncture and surmise which is not permitted in law. Hence, the impugned orders dated 18.09.2006 is liable to be set aside and quashed.

5.12 For that the impugned orders of penalty suffer from virus of non application of mind and consideration of extraneous grounds not based on materials and evidence and as such not sustainable in law. Hence, the impugned orders dated 18.09.2006 is liable to be set aside and quashed.

5.13 For that the impugned orders of penalty as imposed not being according to the prescribed norms and procedure is not sustainable in law and the rule framed thereunder. Hence, the impugned orders dated 18.09.2006 is liable to be set aside and quashed.

5.14 For that mere perusal of the appellate order it is clear that the findings recorded therein are totally perverted and not sustainable in law.

5.15 For that the Appellate Authority have tactfully avoided the grounds raised by the applicant, therefore, the appellate order is non speaking, mechanical and on that score alone the same is liable to be set aside and quashed.

5.16 For that in view of the matter the impugned appellate order is not sustainable and the same are liable to be set aside and quashed.

The applicant craves leave of this Hon'ble Tribunal advance further grounds at the time of hearing of this instant application.

6. DETAILS OF REMEDIES EXHAUSTED:

That there is no other alternative and efficacious and remedy available to the applicant except the invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

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

That the applicant further declares that he has not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other court, authority, nor any such application, writ petition of suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicant most respectfully prayed that Your Lordships may be pleased to admit this

application, call for the records of the case, issue notices to the Respondents as to why the relief and relieves sought for by the applicant shall not be granted and after hearing the parties, Your Lordships may be pleased to direct the Respondents to give the following reliefs.

8.1 That the Hon'ble Tribunal may be pleased to direct the Respondents to set aside and quash the impugned Order No. 33/E/2004(2)-6851 dated 18.09.2006 issued by the Respondent No. 3.

8.2 To pass any other appropriate order or orders to which the applicant may be entitled and as may be deem fit and proper in the facts and circumstances of the case.

8.3 To pay the cost of the application.

9. INTERIM ORDER PRAYED FOR :

Pending disposal of the application, the applicant prays before this Hon'ble Tribunal for an interim order directing the respondents to stay the operation of the impugned order No. 33/E/2004(2)-6851 dated 18.09.2006.

10. Application is filed through Advocate.

11. Particulars of I.P.O.:

I.P.O. No. : 34 G 650465
 Date of Issue : 7-2-2007
 Issued from : Auwahati GPO
 Payable at : Auwahati GPO.

12. LIST OF ENCLOSURES:

As stated in the index.

Verification

VERIFICATION

I, Shri Tapan Sutradhar, Son of Shri Bhanu Kumar Sutrdhar, aged about 40 years, working as Lower Division Clerk in the Office of the Joint Director, Subsidiary Intelligence Bureau (SIB), Ministry of Home Affairs, Beltola, Guwahati-28, do hereby solemnly verify that the statements made in paragraph Nos. 4.1 and 4.2 are true to my knowledge, those made in paragraph Nos. 4.3 to 4.26 are being matters of record are true to my information derived therefrom which I believe to be true and those made in paragraph 5 Are true to my legal advice and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this 14th day of February, 2007 at Guwahati.

Tapan Sutradhar

No. 33/E/2004(2)-
Subsidiary Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
Itanagar.

1631
03 MAR 2004

Dated, the -

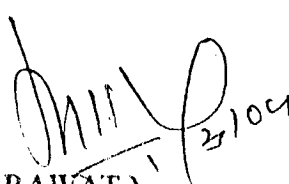
MEMORANDUM

Shri Tapan Sutradhar, LDC, SIB, Itanagar is hereby informed that it is proposed to take action against him under Rule 16 of CCS (CCA) Rules, 1965. A statement of the imputation of misconduct or misbehaviour on which action is proposed to be taken as mentioned above is enclosed.

2. Shri Tapan Sutradhar, LDC, SIB, Itanagar is hereby given an opportunity to make such representation as he may wish to make against the proposal.

3. If Shri Tapan Sutradhar, LDC, SIB, Itanagar fails to submit his representation within 10 days of receipt of this memorandum, it will be presumed that he has no representation to make and orders will be liable to be passed against Shri Tapan Sutradhar, LDC ex-parte.

4. The receipt of this memorandum should be acknowledged by Shri Tapan Sutradhar, LDC, SIB, Itanagar.


(J.S.RAWAT)
Assistant Director/E
Disciplinary Authority
SIB, Itanagar.

To

✓ Shri Tapan Sutradhar, LDC
SIB, Itanagar.

ATTESTED


ADVOCATE

Statement of imputation of misconduct or misbehaviour in respect of charge framed
against Shri T. Sutradhar, LDC.

Article-I

That the said Shri T. Sutradhar, LDC on 27.02.2004 i.e., on the day of disbursement of salary, at around 1 p.m. was found sitting unauthorisedly in the Cash Branch of the SIB, Itanagar. As it was causing interruption in the smooth distribution of cash, he was asked by Shri Viplav, SO/A to leave the branch. He refused to obey the lawful direction of the SO/A and challenged his authority. He threatened SO/A of physical assault and of dire consequences. However with the intervention of other officials, he was taken away from the spot.

Shri Sutradhar by his above said action obstructed the smooth functioning of the government, disobeyed the lawful order of the competent authority and misbehaved with his official superior. This is unbecoming of a government servant and is violative of Rule-3 of the CCS(Conduct) Rules, 1964.

ATTESTED

S. Shatta

ADVOCATE

ANNEXURE-- B

To,
The Assistant Director/E,
SIB, Itanagar.

Sir,

With due respect I beg to inform you that I was insulted badly twice by Shir Viplob, SO/I at office hours, once at I/Br. some days earlier when I went to know from him about my 8 Tour T.A. claims pending to Acctts Br. i.e. to SO/A. On reply he said to me strongly "Get-out", in this way he insulted me and I came-out without any protest. Another insident was occured on pay day (27.02.04) at lunch time when I was sitting inside the cash Br. and cashier disburshing cash at that time some staff disturbing cashier on knowing this SO/A i.e. Shri Viplob charged me and missbehaved me with same language at when, I was also suffering from mental anguish due to some domestic problem and hence, I could not be silent and protest against those languages. ^{Silent}

Whatever may be, I informed to AD/E, SIB, ITA. ~~we~~verbally in this regard on the same day i.e. on 27.02.04, due to short of time and my tension I could not complain on ~~xxxxxx~~ writing against him i.e. Shri Viplob, SO/I.

This is for your information and necessary action as deemed fet please.

Thanking you.

Yours faithfully,

27-03-04
(T. Sutradhar)
LDC, E/Br.
SIB, Itanagar.

ATTESTED

Bhatte
ADVOCATE

To

The Assistant Director/E
SIB, Itanagar.

(Through Proper Channel)

Sub : Acknowledgement cum prayer for action against false allegation of misconduct/misbehaviour.

Ref.: Your Memo No. 33/E/2004(2) - 1631 dated 03.03.2004.

Sir,

With due respect, I beg to inform you that I have been charged against a false allegation. In this connection, I had already informed you verbally on 27.2.04 and in writing on 8.3.04, copy of which is enclosed.

That Sir, following are the reply with best of my knowledge and belief.

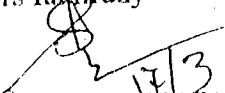
- i. "Unauthorisedly sitting in the Cash Br. of SIB, Itanagar" I cannot understand the actual meaning of the language, whether any authority is required for sitting inside the Cash Br. at lunch time, if so, who will issue this authority letter/Memo./Certificate, it is not known to me.
- ii. Regarding smooth distribution of cash you may please ask the Cashier about me, whether I would disturbed him or not.
- iii. When asked by Shri Viplav, SO/A to leave the Cash Br. at lunch time, as soon as I left the Br. without any argument.
- iv. Regarding threatened to SO/A of physical assault and of dire consequences, it is completely false.

Whatever may be, I pray to you a proper action may please be taken against Shri Viplav, SO/I.

I may, please be excused, if any mistake has been done by me.

Thanking you.

Yours faithfully


(TAPAN SUTRADHAR)
LDC, 'E' Br.
SIB, Itanagar.

Dated, the - 17/03/04

ATTESTED

ADVOCATE

No. 33/E/2004(2) - 256 - 2159
Subsidiary Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
Itanagar.

25 MAR 2004

Dated, the -

ORDER

Whereas an Inquiry under Rule-16 of the Central Civil Services (Classification, Control and Appeal) Rules-1965 is being held against Shri Tapan Sutradhar, LDC.

2. And whereas, the undersigned considers that an Inquiring Authority should be appointed to inquire into the charges framed against the said Shri Tapan Sutradhar, LDC.

3. Now, therefore, the undersigned in exercise of the powers conferred by Sub-Rule 1(b) of Rule-16 of the CCS(CCA) Rules-1965 hereby appoints Shri D.C. Mandal, SO, SIB, Itanagar as Inquiring Authority to enquire into the charges framed against the said Shri Tapan Sutradhar, LDC, SIB, Itanagar.

(J.S. RAWAT)
Assistant Director/E
Disciplinary Authority,
SIB, Itanagar.

Copy to:-

1. Shri D.C. Mandal, SO/A, SIB, Itanagar- alongwith a copy of the Charge-sheet.
2. Shri P.K. Dey, UDC, SIB, Itanagar - for information.
3. Shri Tapan Sutradhar, LDC, SIB, Itanagar.
4. The Assistant Director/E, IB Hqrs., New Delhi - for information.

ATTESTED

Bhatta
ADVOCATE

[Signature]
24/3/04
Assistant Director/E
Disciplinary Authority,
SIB, Itanagar.

2363

No. 1/SO(A)/2004-05 (1)-
Subsidiary Intelligence Bureau,
(MHA), Govt. of India,
Itanagar

01 APR 2004

Dated the,

MEMORANDUM

In connection with the charge framed against Shri Tapan Sutradhar, LDC, he is informed to appear before the undersigned in person for hearing on 12/4/2004 at 1100 hrs. and also submitting his defence on the charge brought.

In case of failure in appearing for hearing, it will be presumed that there is nothing to defend on his part for the charge.

D. C. Mandal

(D. C. MANDAL, S.O)
Inquiry Officer

To
Shri Tapan Sutradhar, LDC,
SIB, Itanagar

- Copy to :
1. The Assistant Director/E, SIB, Itanagar (for information)
 2. The Section Officer/E, SIB, Itanagar (for information)
 3. Shri P.K. Dey, UDC, SIB, Itanagar (for necessary action)

(D. C. MANDAL, S.O)
Inquiry Officer

ATTESTED

Bhatta
ADVOCATE

66 B3

No.1/SO(A)/2004-05(1)-
Subsidiary Intelligence Bureau,
(Ministry of Home Affairs),
Government of India,
Itanagar,

Dated: 13 SEP 2004

MEMORANDUM

In connection with the charge framed against Shri Tapan Sutradhar, LDC by Shri Viplav, SO to the extend that he (Sri Sutradhar) refused to obey the lawful direction of SO/A (Viplav) the then Shri Viplav, SO and Shri T. Sutradhar, LDC are requested to attend for hearing on 16/09/2004 at 1100hrs. to the undersigned, the Inquiry Officer and to submit documentary proof or Written witness in support office allegation brought.

D. Mandal
13/9/04
(D.C. MANDAL,
SO,
INQUIRY OFFICER

To

- 1) Shri Viplav, SO.
SIB, Itanagar.
- ✓ 2) Shri Tapan Sutradhar, LDC.
SIB, Itanagar.

Copy to :

- 1) The A.D, SIB, Itanagar for information please.
- 2) The S.O/E, SIB, Itanagar.
- 3) Shri P.K. Dey, UDC, SIB, Itanagar.

/
(D.C. MANDAL,
SO,
INQUIRY OFFICER.

ATTESTED

Bhatte

ADVOCATE

No.1/SO(A)/2004-05(1)- 6899
Subsidiary Intelligence Bureau,
(Ministry of Home Affairs),
Government of India,
Itanagar,

Dated: 22 SEP 2004

MEMORANDUM

As I was in physical indisposition I could not be present to attend for hearing on 16/09/2004. Hence Shri Viplav, SO and Shri T. Sutradhar, LDC are requested to attend for hearing on 24/09/2004 at 1200hrs. to the undersigned, the Inquiry Officer and to submit documentary proof or Written witness in support office allegation brought.

Handwritten signature

(D.C. MANDAL,)
SO,
INQUIRY OFFICER

- To
- 1) Shri Viplav, SO.
SIB, Itanagar.
 - 2) Shri Tapan Sutradhar, LDC.
SIB, Itanagar.

Copy to :
1) The A.D, SIB, Itanagar for information please.

(D.C. MANDAL,)
SO,
INQUIRY OFFICER.

ATTESTED
Signature
ADVOCATE

No. 33/E/2004(2) - 8823
Subsidiary Intelligence Bureau,
(MHA), Government of India,
Itanagar.

Dated, the -

17 DEC 2004

ORDER

Ref.: No. 33/E/2004(2) - 256 - 2159 dated 25.03.2004.

Whereas an Inquiry under Rule-16 of the Central Civil Services (Classification, Control and Appeal) Rules-1965 is being held against Shri Tapan Sutradhar, LDC.

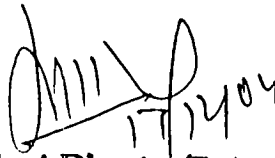
2. And whereas, the undersigned considers that an Inquiring Authority should be appointed to inquire into the charges framed against the said Shri Tapan Sutradhar, LDC.

3. Now, therefore, the undersigned in exercise of the powers conferred by Sub-Rule 1(b) of Rule-16 of the CCS(CCA) Rules-1965 hereby appoints Shri Rajkamal Sitaram, SO/G, SIB, Itanagar as Inquiring Authority to enquire into the charges framed against the said Shri Tapan Sutradhar, LDC, SIB, Itanagar.


(J.S. RAWAT)
Assistant Director/E
Disciplinary Authority,
SIB, Itanagar.

Copy to :-

1. Shri Rajkamal Sitaram, SO/G, SIB, Itanagar- alongwith a copy of the Charge-sheet and a defence statement.
2. Shri P.K. Dey, UDC, SIB, Itanagar - for information.
3. Shri D.C. Mandal, SO/A, SIB, Itanagar - for information.
4. Shri Tapan Sutradhar, LDC, SIB, Itanagar.
5. The Assistant Director/E, IB Hqrs., New Delhi - A new Inquiring Authority is required for enquiry of the matter since Shri D.C. Mandal, SO/A has been released on transfer to SIB, Kolkata.


Assistant Director/E
Disciplinary Authority,
SIB, Itanagar.

ATTESTED


ADVOCATE

NO. I/SO(G)-INQUIRY/2004 - 143 - 1370 - 120
SUBSIDIARY INTELLIGENCE BUREAU
MINISTRY OF HOME AFFAIRS
GOVERNMENT OF INDIA
ITANAGAR

DATED - 10.02.05

TO,

SHRI TAPAN SUTRADHAR,
LDC,
SIB, ITANAGAR,
ARUNACHAL PRADESH.

10 FEB 2005

160)(8) By

SUBJECT - DEPARTMENTAL ENQUIRY UNDER RULE 14 OF THE CCS (CC&A) RULES, 1965 AGAINST SHRI TAPAN SUTRADHAR, LDC

SIR,

I have been appointed Inquiring Authority vide Order No. 33/E/2004(2)-8823 dated 17.12.04 to enquire into the charges framed against you vide Memo No. 33/E/2004(2)-1631 dated 03.03.04

1. I shall hold the preliminary hearing in the matter on 25.02.05, 11.45 a.m. at 'G' Branch, SIB Itanagar, Gohpur Tinali. You are requested to attend the hearing either alone or with your defence assistant. Your defence assistant should be a government servant or retired government servant and should not be a legal practitioner. Particulars of the defence assistant may be furnished well in advance so that necessary correspondence from the competent authority of your defence assistant could be made. You can also submit list of additional documents/witnesses required for your defence during the preliminary hearing.
2. If you fail to appear in the preliminary hearing on the aforesaid date, time and venue, the hearing shall be held ex parte.

Yours Sincerely

(Signature) 10/2/05

(RAJKAMAL SHARMA)
SECTION OFFICER/G
AND
INQUIRING AUTHORITY

VS
10.2.05

ATTESTED

(Signature)
ADVOCATE

SKT-S
Acc H.

COPY TO :-

1. SO/A, SIB ITANAGAR
2. ASSISTANT DIRECTOR/E, SIB, ITANAGAR - FOR INFORMATION
3. ASSISTANT DIRECTOR/E, IB, HEADQUARTERS, NEW DELHI - FOR INFORMATION.
4. SHRI P.K.DEY, UDC, SIB, ITANAGAR AND THE PRESENTING OFFICER.

Ray
10/2/05

INQUIRING AUTHORITY

ATTESTED

Bhatte
ADVOCATE

Preliminary hearing in respect of Shri Tapan Sutradhar, LDC on 25.02.2005 at 1145 hrs. in the presence of Inquiry Authority and Presenting Officer.

.....


- Inquiry Officer - Do you accept or deny the charges levied against you ?
- Charged Officer - I accept that I was sitting without permission in the Cash Br. but I deny disobeying the order of Shri Viplav, SO/A, challenging his authority and threatening him of dire consequences.
- Inquiry Officer - Why were you present there or were you called officially ?
- Charged Officer - I had come to collect my pay but I was not called officially.
- Inquiry Officer - What had happened prior to the entrance of Shri Viplav, SO/A ?
- Charged Officer - The pay was being disbursed by the Cashier when 2/3 local employees of this organisation entered the Cash Br. and started disturbing the Cashier.
- Inquiry Officer - Then what happened ?
- Charged Officer - At that time Shri Viplav, SO/A entered into the Cash Br. and asked me why I was sitting there and did I take proper permission and told me to get out.
- Inquiry Officer - Then what happened ?
- Charged Officer - I immediately left the room without saying a word.
- Inquiry Officer - But Shri Viplav, SO/A has accused that you did not obey him and threatened him of physical assault and dire consequences. What have you say in this regard ?
- Charged Officer - It is all false, I did not say a word and left the room immediately on being told by Shri Viplav, SO/A.

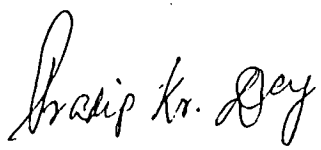
ATTESTED

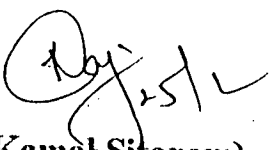
Shatta
ADVOCATE


Contd..2/-

- Inquiry Officer - At the time of this incident who all were present in the Cash Br. ?
- Charged Officer - Except S/Shri Ramakanta Bhattacharjee, Cashier and C. Chetty, JIO-I/G, I do not remember anyone else. The three local employees disturbing the Cashier were most probably from the BIPs who had come to collect their pay and were not familiar to me.
- Inquiry Officer - You are once again asked to recall whether you had at all Spoken to Shri Viplav, SO/A at that particular time i.e. before leaving the Cash Br. ?
- Charged Officer - No, I did not say anything to Shri Viplav, SO/A.
- Inquiry Officer - Do you have anything else to add to your above given statements ?
- Charged Officer - No.


(Tapan Sutradhar)
LDC/ Charged Officer


(P.K. Dey)
UDC/ Presenting Officer


(Raj Kamal Sitaram)
Section Officer/G, Inquiry Officer

ATTESTED

Attestor

No. 33/E/2004(2)- 3871
Subsidiary Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
Itanagar.

Dated, the - 31 MAY 2005

MEMORANDUM

Please refer to the Disciplinary Authority, SIB, Itanagar O.M. No. 33/E/2004(2)-1631 dated 03.03.2004 and O.M. No. 33/E/2004(2)-8823 dated 17.12.2004 regarding appointment of Shri Rajkamal Sitaram, SO/G, SIB, Itanagar as Inquiry officer to inquire into the charge framed against Shri Tapan Sutradhar, LDC, Charged officer.

2. A copy of the report of the Inquiry officer, Shri Rajkamal Sitaram, SO/G, SIB, Itanagar is enclosed. The Disciplinary Authority will take a suitable decision after considering the report. If Shri Tapan Sutradhar, LDC, Charged officer wishes to make any representation or submission, he may wish to do so, in writing to the Disciplinary Authority within 15 days of receipt of this Memo.
3. The receipt of this Memo may please be acknowledged.


Assistant Director/E

✓ To

Shri Tapan Sutradhar, LDC
SIB, Itanagar.

Encl : As stated.

ATTESTED

ADVOCATE

SUBJECT: ENQUIRY REPORT IN RESPECT OF CHARGES
FRAMED AGAINST SHRI TAPAN SUTRADHAR, LDC
VIDE MEMO NO. 33/E/2004(2)-1631 DATED 03.03.2004

The undersigned was appointed as the Inquiry Authority, vide order No. 33/E/2004(2)-8823, dated 17.12.04 (but received on 01.02.05) to inquire into the following charges framed against Shri Tapan Sutradhar, LDC.

Ruli / 16

ARTICLE - I

According to the statement of Shri Viplav, Section Officer/Accounts Branch, on 27.02.04, the day of disbursement of salary for the month of February, 2004 at around 1 pm Shri Tapan Sutradhar, LDC was found sitting unauthorisedly in the Cash Branch. As at was causing interruption in the smooth distribution of Cash, Sri Sutradhar, LDC was asked by Sri Viplav, SO/A to leave the Branch. Sri Sutradhar refused to obey to lawful direction of the SO/A and challenged his authority. He threatened SO/A of physical assault and of dire consequences. However, with the intervention of other officials, Shri Sutradhar was taken away from the spot. Shri Sutradhar by his above said action obstructed the smooth functioning of the government, disobeyed the lawful order of the Competent Authority and misbehaved with his official superior. This is unbecoming of a government servant and is violation of Rule - 3 of the CCS (Conduct) Rules, 1964.

FINDINGS

As per the charges framed against Sh. Tapan Sutradhar, LDC, two main points had to be proved/disproved -

1. Whether the C.O. had disobeyed the lawful order of his official superior.
2. Whether the C.O. had been disrespectful towards his official superior.

1. Thought the C.O. has denied disobeying his official superior in the preliminary hearing however it has been proved beyond doubt that the C.O. had done so, as per the statement given by the witnesses i.e. Sri Ramakanta Bhattacharjee, LDC/Cashier and Shri C. Chetry, JIO-I/G.

2. The C.O. has also denied being disrespectful towards his official superior but the statement of the witnesses proves otherwise. However, the witnesses couldn't remember (being more than one year ago) whether the C.O. had actually threatened SO/A of physical assault and of dire consequences.

Therefore, the charges that the C.O. had disobeyed the lawful order and had been disrespectful towards his official superior, stand proved against Shri Tapan Sutradhar, LDC.

Note - The impartiality of the witnesses can be proved by the fact that they were pointed out as witnesses by the C.O. himself and not by SO/A.

Sc/- 24.05.5

ATTESTED
Bhatta
ADVOCATE

ENQUIRY REPORT IN RESPECT OF CHARGES
FRAMED AGAINST SHRI TAPAN SUTRADHAR,
LDC VIDE MEMO NO. 33/E/2004(2)-1631 DATED
03.03.04

The undersigned was appointed as the Inquiring Authority, vide order no. 33/E/2004(2)-8823, dated 17.12.04 (but received on 01.02.05), to inquire into the following charges framed against Shri Tapan Sutradhar, LDC.

ARTICLE - 1

According to the statement of Shri Viplav, Section Officer/Accounts Branch, on 27.02.04, the day of disbursement of salary for the month of February, 2004 at around 1 pm Shri Tapan Sutradhar, LDC was found sitting unauthoritatively in the Cash Branch. As it was causing interruption in the smooth distribution of Cash, Shri Sutradhar, LDC was asked by Shri Viplav, SO/A to leave the Branch. Shri Sutradhar refused to obey to lawful direction of the SO/A and challenged his authority. He threatened SO/A of physical assault and of dire consequences. However with the intervention of other officials, Shri Sutradhar was taken away from the spot. Shri Sutradhar by his above said action obstructed the smooth functioning of the government, disobeyed the lawful order of the Competent Authority and misbehaved with his official superior. This is unbecoming of a government servant and is violation of Rule-3 of the CCS (Conduct) Rules, 1964.

FINDINGS

As per the charges framed against Sh. Tapan Sutradhar, LDC, two main points had to be proved/disproved -

- 1. Whether the C.O. had disobeyed the lawful order of his official superior.
- 2. Whether the C.O. had been disrespectful towards his official superior.

1. Though the C.O. has denied disobeying his official superior in the preliminary hearing however it has been proved beyond doubt that the C.O. had done so, as per the statement given by the witnesses i.e. Shri Ramakanta Bhattacharjee, LDC/Cashier, and Shri C. Chetry, JHO-IG. The C.O. has also denied being disrespectful towards his official superior but the statement of the witnesses proves otherwise. However the witnesses couldn't remember (being more than one year ago) whether the C.O. had actually threatened SO/A of physical assault and of dire consequences.

Therefore the charges that the C.O. had disobeyed the lawful order and had been disrespectful towards his official superior, stand proved against Shri Tapan Sutradhar, LDC.

Note: The impartiality of the witnesses can be proved by the fact that they were pointed out as witnesses by the C.O. himself and not by SO/A.

ATTESTED

S. Bhatta
ADVOCATE

[Handwritten Signature]

(S. Bhatta, S.)
C.O. Secy/C
[Illegible]

STATEMENTS OF SHRI RAMAKANTA BHATTACHARJEE, LDC/CASHIER (WITNESS 1) SHRI C. CHETRY, JHO (G) (WITNESS 2) OF CASH BRANCH CALLED AS WITNESS ON 12.05.05 IN CONNECTION WITH DEPARTMENTAL ENQUIRIES AGAINST SHRI TAPAN SUTRADHAR, LDC ON THE INCIDENT ON 27.02.04.

INQUIRING OFFICER - Tell us about the incident that occurred in Cash branch on 27.02.04 ?

WITNESS 1 On 27.02.04 at around 2.30 pm I was distributing pay to the staff. Being payday there was a lot of crowd in the Cash Branch and among them two/three of our local staff were making a lot of noise which was quite disturbing. Hearing the commotion, SO/A, Shri Viplav came into the branch and asked the Cashier whether all the people present in the branch had been officially called or not. When the cashier replied in the negative, SO/A asked all those who had not been called to leave the room till called. Shri Sutradhar, who was also present there and who had not been called officially did not leave. Shri Viplav again asked him to leave but the person did not leave. This attitude annoyed Shri Viplav, SO/A and he told Sh. Sutradhar to get out. At this time Sh. Sutradhar became abusive and used disrespectful language against Sh. Viplav. Sh. Viplav then left the room and went to fetch SO/E, as Sh. Sutradhar was at that time posted in Establishment Branch. Sh. Viplav returned with Sh. Jitendra Singh (SO/E) who tried to reason with Sh. Sutradhar but he did not listen and continued to shout and create a scene just outside the Cash Branch.

INQUIRING OFFICER TO WITNESS 2- Do you agree with what has been stated by Witness 1 or do you have anything to add to it?

WITNESS 2- I agree completely with what has been stated by Sh. Ramakanta Bhattacharyee, LDC/Cashier and have nothing additional to add to it.

INQUIRING OFFICER - So you both agree that Sh. Tapan Sutradhar, LDC disobeyed the orders of Sh. Viplav, SO/A and used abusive and disrespectful language against him.

WITNESS 1 - YES
WITNESS 2 - YES

Sd/- illegible
(Ramakant
Bhattacharjee)
LDC/Cashier
(Witness 1)

Sd/- illegible
(C. Chetry)
JHO-I
/G
(Witness 2)

Sd/illegible
(P. K. Dey)
UDC
Presenting Officer

Sd/- illegible
(Rajkumar Sharma)
Section Officer/G.

Inquiring Authority

ATTESTED

S. Shetty

Bias Refused?

STATEMENTS OF SHRI RAMAKANTA BHATTACHARJEE, LDC/CASHIER (WITNESS 1) AND SHRI C. CHETRY, JIO-J(G) (WITNESS 2) OF CASH BRANCH CALLED AS WITNESSES ON 12.05.05 IN CONNECTION WITH DEPARTMENTAL ENQUIRIES AGAINST SHRI TAPAN SUTRADHAR, LDC ON THE INCIDENT OF 27.02.04

INQUIRING OFFICER - Tell us about the incident that occurred in Cash Branch on 27.02.04

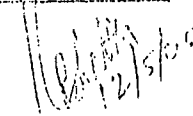
WITNESS 1 - On 27.02.04 at around 2.30 pm I was distributing pay to the staff. Being pay day there was a lot of crowd in the Cash Branch and among them two/three of our local staff were making a lot of noise which was quite disturbing. Hearing the commotion, SO/A, Shri Viplav came into the branch and asked the Cashier whether all the people present in the branch had been officially called or not. When the cashier replied in the negative, SO/A asked all those who had not been called to leave the room till called. Shri Sutradhar, who was also present there and who had not been called officially did not leave. Shri Viplav again asked him to leave & the person did not leave. This attitude annoyed Sh. Viplav, SO/A and he told Sh. Sutradhar to get out. At this time Sh. Sutradhar became abusive and used disrespectful language against Sh. Viplav. Sh. Viplav then left the room and went to fetch SO/E, as Sh. Sutradhar was at that time posted in Establishment Branch. Sh. Viplav returned with Sb. Jitendra Singh (SO/E) who tried to reason with Sh. Sutradhar but he did not listen and continued to shout and create a scene just outside the Cash Branch.

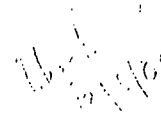
INQUIRING OFFICER TO WITNESS 2 - Do you agree with what has been stated by Witness 1 or do you have anything to add to it?

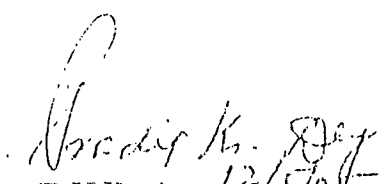
WITNESS 2 - I agree completely with what has been stated by Sh. Ramakanta Bhattacharjee, LDC/Cashier and have nothing additional to add to it.


INQUIRING OFFICER - So you both agree that Sh. Tapan Sutradhar, LDC disobeyed the orders of Sh. Viplav, SO/A and used abusive and disrespectful language against him.

WITNESS 1 - YES
WITNESS 2 - YES



(Ramakanta Bhattacharjee)
LDC/Cashier
(Witness 1)


(C. Chetry)
JIO-J(G)
(Witness 2)


(P.K. Dey) 12/5/05
UDC
Presenting Officer


Section Officer,
...

ATTESTED


ADVOCATE

To,
The Assistant Director/E,
Disciplinary Authority,
SIB, Itanagar.

(Through Proper Channel)

Ref. :- Your O.M. No.33/E/2004(2)-3871 dt.31.05.05 (date of received on 03.06.05).

Sub :- Prayer for submission of representation against false allegation and undue enquiry report of dt.24.05.05.

Sir,

With due respect and humble submission I beg to inform you again that I was insulted badly twice by Sh. Viplav, SO, in this regard I had submitted a written complaint against him on 08.03.04, but instead of taking action a charge was framed against me on 01.03.04 vide O.M. No.33/E/2004(2)-1631 dt.03.03.04 (date of receipt on 08.03.04 since I was on leave) in this regard a request representation was submitted by me on 17.03.04.

2. That Sir, charge was framed on the basis of his false statement to save him and to harass/punish/trap me since myself belong to S/C community. I feel strange that caste-distinction is there at the office too.

3. That Sir, in this regard an inquiring authority was appointed vide O. M. No. 33/E/2004(2)-256-2159 dt.25.03.04, accordingly two hearings were held vide O.M. No.1/SO(A)/2004-05(1)-2363 dt.01.04.04 and O. M. No.1/SO(A)/2004-05(1)-6899 dt.22.09.04 date of hearing were held on 12.04.04 at 11.00 Hrs. and on 24.09.04 at 12.00 Hrs. respectively at SIB, Itanagar, but report of hearings are still pending with the administration. It is therefore, requested that each copy of those hearing reports may kindly be issued to me as an early date.

4. That Sir, on keeping pending those reports another inquiring authority was appointed on 17.12.04 vide O.M. No.33E/2004(2)-8823 dt. 17.12.04 and hearing was held on 25.02.05 at 11.45 Hrs. at SIB, Itanagar vide letter No.1/SO(G)-INQUIRY/2004-142-1370 dt.10.02.05 and a copy of which was issued to me vide D/No.178 dt.01.03.05.

5. That Sir, the undue enquiry report submitted by Sh. Rajkamal Sitaram, SO/G, IO to you on 24.05.05 has been disowned by me for the following reasons :-

- (1) It was one-sided judgment.
- (2) The two persons mentioned by me to be present during the said incident, do not mean that they are my witnesses.
- (3) Witnesses are working under Sh. Viplav, SO and all belong to general category.
- (4) The intention of the IO is to trap me only.

ATTESTED

S. Shetty
ADVOCATE

(continued page-1)

From the statement of witnesses it is cleared that

- (a) Sh. Viplav, Section Officer, who ordered me strongly to get out from the office "Passing an unparliamentary word".
- (b) Two/three of local staff was making a lot of noise which was quite disturbing but was unduly charged to me and no action was taken against the other erring staff members.

On combined study between the statements of SO(I/A) and witnesses the real picture has come out that

The time of the incidence i.e. I was insulted at lunch time on 27.02.04 between 13.10 Hrs. to 13.15 Hrs. but neither at 1 P.M. nor at 2.30 P.M. stated by Sh. Viplav, SO and witnesses respectively, there was a considerable difference between the stated times by them and hence it is impossible to correct both the times but possible to wrong both the times. Therefore, it is logically proved that the statements were fabricated to trap me. accordingly the enquiry report submitted by LO on 24.05.05 may please be taken as wrong.

Whatever may be, I pray to you a proper action may please be taken against Sh. Viplav, SO.

Thanking you.

Yours faithfully

Dated - June 15, 2005.

Tapan Sutradhar
LDC, B/Br., SIB, Itanagar
A member of S/C community.

ATTESTED

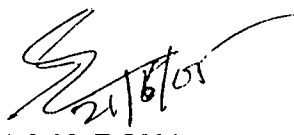
S. Bhatta

ADVOCATE

Dated, the - 12 2 JUN 2005

MEMORANDUM

On going through the enquiry report it has been found that the Charged Officer (C.O.) had not been given any opportunity to cross-examine the witnesses. Accordingly the enquiry report is remitted for further enquiry and report.



(A.K. ROY)
Assistant Director/E
Disciplinary Authority,
SIB, Itanagar.

To

1. Shri Raj Kamal Sitaram, S.O, Enquiry Officer,
SIB, Itanagar-- for necessary action
- ✓ 2. Shri Tapan Sutradhar, LDC
SIB, Itanagar.

16/

ATTESTED


ADVOGATE

NO. 1/50(G)-INQUIRY/2004 - 543 - 4404
SUBSIDIARY INTELLIGENCE BUREAU
MINISTRY OF HOME AFFAIRS
GOVERNMENT OF INDIA
ITANAGAR

ANNEXURE - N

24 JUN 2005

DATED - 24.06.05

TO,

✓ SHRI TAPAN SUJTRADHAR
LDC,
SIB, ITANAGAR,
ARUNACHAL PRADESH.

SUBJECT - DEPARTMENTAL ENQUIRY UNDER RULE 16 OF THE CCS
(CC&A) RULES, 1965 AGAINST SHRI TAPAN SUJTRADHAR,
LDC.

REFERENCE - MEMO NO. 33/E/2004(2)-519-4343 DATED - 22.06.05

SIR,

With reference to the above mentioned memorandum, you are directed to
appear for hearing on Friday i.e. 01.07.05 at 11 a.m. in 'G' Branch, SIB Itanagar,
Golpur Tinali.

If you fail to turn up, the hearing would be held ex parte.

Yours Sincerely

(Signature)
24/6/05

(RAJKAMAL SHARMA)
SECTION OFFICER/G
AND
INQUIRING AUTHORITY

COPY TO :-

1. ASSISTANT DIRECTOR/E, SIB ITANAGAR FOR INFORMATION.
2. SHRI P.K.DEY, UDC, SIB, ITANAGAR AND THE PRESENTING OFFICER.

INQUIRING AUTHORITY

ATTESTED

(Signature)
ADVOCATE

Peon book 2005
27/7/05

Hearing dated 1-7-05 in the Departmental enquiry against Shri Tapan Sutradhar, LDC.

- Present :
1. Shri Raj Kamal Sitaram, SO/G, Inquiry Officer
 2. Shri P.K. Dey, UDC, Presenting Officer
 3. Shri Tapan Sutradhar, LDC, Charged Officer
 4. Shri Viplav, SO/A, Complainant
 5. Shri Ramakanta Bhattacharjee, LDC/Cashier (D. Witness-I)
 6. Shri C. Chhetri, JIO-I/G (D. Witness-II)

First statement of Shri Viplav, SO was recorded.

Statement dated 01.07.05 of Shri Viplav, SO -

Shri Sutradhar, LDC on 27.02.2004, i.e. on the day of disbursement of salary, at around 1 p.m. was found sitting unauthorisedly in the Cash Branch of the SIB Itanagar. I asked him to leave the branch. He refused to obey the lawful direction and challenged my authority. He threatened me of physical assault and of dire consequences. However, with the intervention of other officials, he was taken away from the spot.

CROSS EXAMINATION OF SHRI VIPLAV, SO BY SHRI T. SUTRADHAR, LDC ON

01.07.05.

Charged Officer : I was no idea about cross examination.

Charged Officer : Whether the permission is required from SO/A for entering into Accounts Br/ Cash Br. ? Whether the permission is required from SO/A for receiving pay at launch time also if so, who will issue the official permission? Whether Cashier can disburse the pay during launch hours? Whether I was disturbing Cashier?

Viplav/DDO : IB Security Manual, 2000 (Ps - 6/7) very clearly says, " (vii) the Section Officers will be responsible for ensuring access to their Sections/ Units to only authorized persons who have legitimate business in their Sections/Units.

(x) An employee not working in a Branch should not be allowed to enter the Branch unless he/she produces a written permission from his/her superior officer detailing him/her for duty which should be specified and the Branch sought to be visited indicated therein. In exceptional cases of emergency, the S.O./ senior most officer present may grant entry to such an employee on a specific request, after duly satisfying himself of the purpose.

(xi) The SOs/DCIOs/ATOs incharge of the Branches handling classified documents should, at all times, ensure that no unauthorised person, even if he /she is working in the same building, enters their Branches without due authority".

On 27.02.04, I was informed that there was some trouble in the Cash Branch. I immediately rushed to the Cash Br. I was informed that the representative of F.U, Nlg. was not satisfied with the system of disbursement of salary to the representatives of F.U.s and had entered into an argument with Cashier. However, the Cashier had tactfully sorted out the problem.

I also found several employees were sitting/ standing in the Cash Branch without being called. (Here it may be clarified that the Cashier calls members of staff of each branch separately so that overcrowding could be avoided). Obviously that was undesirable. Therefore, I asked everybody including Shri Sutradhar to leave the Branch.

ATTESTED

Shetty
ADVOCATE

Charged Officer : Whether the DDO has full power to manage the affairs of cash? Whether he can also postpone/ release the pay at normal condition ?

Viplav/DDO : It is the fundamental duty of the Cashier and the DDO to ensure that the Govt. money is protected and the cash is disbursed in a trouble free manner. I acted accordingly."

Charged Officer : DDO does not have full power. He is a Govt. servant and I am also a Govt. servant. and hence Cordial relation should exist among the Govt. servants. I am being implicated falsely and deliberately. He (SO/A) had also insulted me by saying "Get Out".

Viplav/DDO : I had said (to everybody who were not required to sit in the Branch), "Please leave the room". Though he was misbehaving with me yet I had been maintaining my composure and at no point of time insulted him.

Charged Officer : Since I belong to SC community I was targeted by the DDO which is proved by the fact that I was told to get out.

Viplav/DDO : It is completely irrelevant allegation with a view to shifting the focus from main issue.

The Charged Officer then said that he did not have any other question and Shri Viplav, SO was allowed to leave.

Thereafter, S/Shri R. Bhattacharjee, LDC and C. Chhetri, JIO-I/G deposed before the I.O.

Thereafter statement of S/Shri R. Bhattacharjee, LDC/ Cashier and C. Chhetri, JIO-I/G was recorded.

STATEMENT OF SHRI R. BHATTACHARJEE, LDC(CASHIER)

On 27-2-04 at around 2.30 pm I was distributing pay to the staff. Being pay day there was a lot of crowd in the cash branch and among them two/three of our local staff were making a lot of noise which was quite disturbing. Hearing the commotion, SO/A Shri Viplav came into the branch and asked the cashier whether all the people present in the branch had been officially called or not. When the cashier replied in the negative, SO/A asked all those who had not been called to leave the room till called. Shri Sutradhar, who was also present there and who had not been called officially did not leave. Shri Viplav again asked him to leave but the person did not move. This attitude annoyed Shri Viplav, S.O/A and he told Sh. Sutradhar to get out. At this time Shri Sutradhar became abusive and used disrespectful language against Shri Viplav. Shri Viplav then left the room and went to fetch SO/E, as Sh. Sutradhar was at that time posted in Establishment br. Shri Viplav returned with Sh. Jitendra Singh(SO/E) who tried to reason with Shri Sutradhar but he did not listen and continued to shout and create a scene just outside the Cash br.

INQUIRY OFFICER TO WITNESS 2 – Do you agree with what has been stated by Witness 1 or do you have anything to add to it ?

Contd. 36

ATTESTED

Bhattacharjee

ADDITIONAL

STATEMENT OF SHRI C. CHHETRI, JIO-I/G

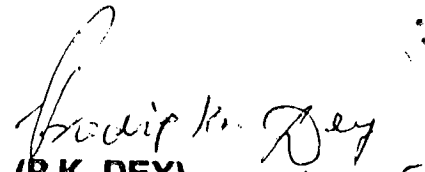
I agree completely with what has been stated by Shri R. Bhattacharjee, LDC/ Cashier and have nothing more to add.


CHARGED OFFICER : Whether the disbursement time was 2:30 p.m. or 1:00 p.m. to 1:15 p.m.

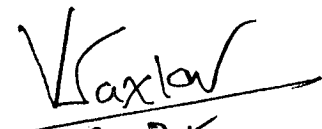
CASHIER (SH. R. BHATTACHARJEE) : I am not sure about the time as I did not look at my watch but it was around lunch time and it may be 1:00 p.m. to 1:15 p.m.

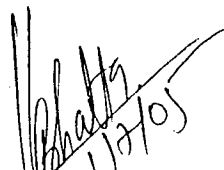
On being asked by Inquiry Officer, Shri Sutradhar said that he had not been called officially to the Cash Br. Shri R. Bhattacharjee, Cashier said that as per the instruction of DDO he used to call the staff on phone to come and collect their pay. He added that on that day i.e 27.02.04 later on Sh. Sutradhar collected his pay alongwith the other members of 'Estt' Br. who were called officially.

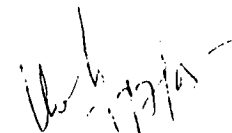

(Tapan Sutradhar)
LDC/ Charged Officer


(P.K. DEY)
UDC/ Presenting Officer


(Raj Kamal Sitaram)
Section Officer/G, Inquiry Officer


(Vipav)
Section Officer/A
Complainant


(Ramakanta Bhattacharjee)
LDC/ Cashier
D. Witness-I


(C. Chhetri)
JIO-I/G
D. Witness-II

copy to:- Shri Tapan Sutradhar, LDC, B Br.
8703, Manager.

ATTESTED

ADVOCATE

- 48 -
NO. I/SO(G)-INQUIRY/2004 - 5285
SUBSIDIARY INTELLIGENCE BUREAU
MINISTRY OF HOME AFFAIRS
GOVERNMENT OF INDIA
ITANAGAR

ANNEXURE - P SA

DATED - 28.07.05

TO,

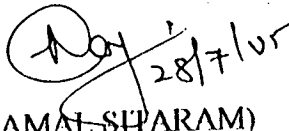
✓ SHRI, TAPAN SUTRADHAR,
LDC,
SIB, ITANAGAR,
ARUNACHAL PRADESH.

SUBJECT - DEPARTMENTAL ENQUIRY UNDER RULE 16 OF THE CCS
(CC&A) RULES, 1965 AGAINST SHRI TAPAN SUTRADHAR,
LDC.

SIR,

Please find the enclosed written brief submitted by the Presenting Officer.
You are asked to submit your written brief as per rules to the undersigned within
ten days.

Yours Sincerely


(RAJKAMAL SIPARAM)
SECTION OFFICER/G
AND
INQUIRING AUTHORITY

COPY TO -

1. SHRI P.K.DEY, UDC, SIB ITANAGAR AND THE
PRESENTING OFFICER.

INQUIRING AUTHORITY

ATTESTED


ADVOCATE

PRESENTING OFFICER'S BRIEF

Shri P.K.Dey, UDC, Presenting Officer :

Sub : Inquiry into the charges framed against Shri Tapan Sutradhar, LDC Vide O.M. No.33/E/2004(2)-1631 dated 03.03.2004.

I have received the order No.33/E/2004(2)-254-2163 dated 25.03.2004 from the Assistant Director/E (Disciplinary Authority, SIB, Itanagar) appointing me as Presenting Officer for the charge framed against Shri Tapan Sutradhar, LDC under Rule 16 of CCS(CCA) Rules 1965 for violation of Rule 3 of CCS(Conduct) Rules 1964.

The Charge under Article I - That the said Shri Sutradhar, LDC on 27.02.2004 i.e. on the day of disbursement of salary at around 1 P.M. was found sitting unauthorisedly in the Cash Branch of the SIB, Itanagar. As it was causing interruption in the smooth distribution of cash, he was asked by Shri Viplav, SO/A to leave the branch. He refused to obey the lawful direction of the SO/A and challenged his authority. He threatened SO/A of physical assault and of dire consequences. However, with the intervention of other officials, he was taken away from the spot.

Shri Sutradhar by his above said action obstructed the smooth functioning of the government, disobeyed the lawful order of the competent authority and misbehaved with his official superior. This is unbecoming of a government servant and is violative of Rule 3 of the CCS(Conduct) Rules 1964.

In reply of the charge, Shri Sutradhar, LDC (C.O.) completely denied the charge.

The Disciplinary Authority, SIB, Itanagar in this circumstances feel to hold an enquiry and appointed an Inquiry Officer(I.O.) and Presenting Officer (P.O.) to enquire the charge.

The Disciplinary Authority appointed Shri Raj Kamal Sitaram, S.O(G) as Inquiring Authority vide order No.33/E/2004(2)-8823 dated 17.12.2004

During the hearing, the prosecution has presented 2 State witnesses in support of the charges.

The C.O. has not produce any defence witness or defence documents in support of his defence.

ATTESTED

Bhatte
ADVOCATE

Contd. 124

On the next hearing, the C.O. given the statement in presence of the I.O. and was under :

- Inquiry Officer - Do you accept or deny the charges levied against you ?
- Charged Officer - I accept that I was sitting without permission in the Cash Br. but I deny disobeying the order of Shri Viplav, SO/A, challenging his authority and threatening him of dire consequences.
- Inquiry Officer - Why were you present there or were you called officially ?
- Charged Officer - I had come to collect my pay but I was not called officially.
- Inquiry Officer - What had happened prior to the entrance of Shri Viplav SO/A ?
- Charged Officer - The pay was being disbursed by the Cashier when 2/3 local employees of this organisation entered the Cash Br and started disturbing the Cashier.
- Inquiry Officer - Then what happened ?
- Charged Officer - At that time Shri Viplav, SO/A entered into the Cash Br. and asked me why I was sitting there and did I take proper permission and told me to get out.
- Inquiry Officer - Then what happened ?
- Charged Officer - I immediately left the room without saying a word.
- Inquiry Officer - But Shri Viplav, SO/A has accused that you did not obey him and threatened him of physical assault and dire consequences. What have you say in this regard ?
- Charged Officer - It is all false, I did not say a word and left the room immediately on being told by Shri Viplav, SO/A.
- Inquiry Officer - At the time of this incident who all were present in the Cash Br. ?
- Charged Officer - Except S/Shri Ramakanta Bhattacharjee, Cashier and C Chetty, JIO-I/G, I do not remember anyone else. The three local employees disturbing the Cashier were most probably from the BIPs who had come to collect their pay and were not familiar to me.

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ATTESTED

J. Bhatte
ADVOCATE

- Inquiry Officer - You are once again asked to recall whether you had at all Spoken to Shri Viplav, SO/A at that particular time i.e. before leaving the Cash Br. ?
- Charged Officer - No, I did not say anything to Shri Viplav, SO/A.
- Inquiry Officer - Do you have anything else to add to your above given statements ?
- Charged Officer - No.

In considering the statement of the C.O. and the State Witness (Complainant), the I.O. given another opportunity to the Charged Officer to cross examine the Complainant and the cross examination recorded as under :

Statement dated 01.07.05 of Shri Viplav, SO -

Shri Sutradhar, LDC on 27.02.2004, i.e. on the day of disbursement of salary, at around 1 p.m. was found sitting unauthorisedly in the Cash Branch of the SIB, Itanagar. I asked him to leave the branch. He refused to obey the lawful direction and challenged my authority. He threatened me of physical assault and of dire consequences. However, with the intervention of other officials, he was taken away from the spot.

CROSS EXAMINATION OF SHRI VIPLAV, SO BY SHRI T. SUTRADHAR, LDC ON

01.07.05.

Charged Officer : I was no idea about cross examination.
 Charged Officer : Whether the permission is required from SO/A for entering into Accounts Br/ Cash Br. ? Whether the permission is required from SO/A for receiving pay at launch time also if so, who will issue the official permission ? Whether Cashier can disburse the pay during launch hours ? Whether I was disturbing Cashier ?

Viplav/DDO : IB Security Manual, 2000 (Ps - 6/7) very clearly says, " (vii) the Section Officers will be responsible for ensuring access to their Sections/ Units to only authorized persons who have legitimate business in their Sections/Units.

(x) An employee not working in a Branch should not be allowed to enter the Branch unless he/she produces a written permission from his/her superior officer detailing him/her for duty which should be specified and the Branch sought to be visited indicated therein. In exceptional cases of emergency, the S.O./ senior most officer present may grant entry to such an employee on a specific request, after duly satisfying himself of the purpose.

(xi) The SOs/DCIOs/ATOs incharge of the Branches handling classified documents should, at all times, ensure that no unauthorised person, even if he /she is working in the same building, enters their Branches without due authority

On 27.02.04, I was informed that there was some trouble in the Cash Branch. I immediately rushed to the Cash Br. I was informed that the representative of F.U, Nlg was not satisfied with the system of disbursement of salary to the representatives of F.U.s and had entered into an argument with Cashier. However, the Cashier had tactfully sorted out the problem.

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S Shatta
ADVOCATE

I also found several employees were sitting/ standing in the Cash Branch without being called. (Here it may be clarified that the Cashier calls members of staff of each branch separately so that overcrowding could be avoided). Obviously that was undesirable. Therefore, I asked everybody including Shri Sutradhar to leave the Branch.

Charged Officer : Whether the DDO has full power to manage the affairs of cash? Whether he can also postpone/ release the pay at normal condition ?

Viplav/DDO : It is the fundamental duty of the Cashier and the DDO to ensure that the Govt. money is protected and the cash is disbursed in a trouble free manner. I acted accordingly.

Charged Officer : DDO does not have full power. He is a Govt. servant and I am also a Govt. servant. ^{and hence} Cordial relation should exist among the Govt. servants. I am being implicated falsely and deliberately. He (SO/A) had also insulted me by saying "Get Out".

Viplav/DDO : I had said (to everybody who were not required to sit in the Branch). "Please leave the room". Though he was misbehaving with me yet I had been maintaining my composure and at no point of time insulted him.

Charged Officer : Since I belong to SC community I was targeted by the DDO which is proved by the fact that I was told to get out.

Viplav/DDO : It is completely irrelevant allegation with a view to shifting the focus from main issue.

The Charged Officer then said that he did not have any other question and Shri Viplav, SO was allowed to leave.

In the hearing, the state witness given their statement in presence of the I.O./ P.O. and C.O. as under :

STATEMENT OF SHRI R. BHATTACHARJEE, LDC(CASHIER)

On 27-2-04 at around 2.30 pm I was distributing pay to the staff. Being pay day there was a lot of crowd in the cash branch and among them two/three of our local staff were making a lot of noise which was quite disturbing. Hearing the commotion, SO/A Shri Viplav came into the branch and asked the cashier whether all the people present in the branch had been officially called or not. When the cashier replied in the negative, SO/A asked all those who had not been called to leave the room till called. Shri Sutradhar, who was also present there and who had not been called officially did not leave. Shri Viplav again asked him to leave but the person did not move. This attitude annoyed Shri Viplav, S.O/A and he told Sh., Sutradhar to get out. At this time Shri Sutradhar became abusive and used disrespectful language against Shri Viplav. Shri Viplav then left the room and went to fetch SO/E, as Sh. Sutradhar was at that time posted in Establishment br. Shri Viplav returned with Sh. Jitendra Singh(SO/E) who tried to reason with Shri Sutradhar but he did not listen and continued to shout and create a scene just outside the Cash br.

ATTESTED

R. Bhatte
ADVOCATE

INQUIRY OFFICER TO WITNESS 2 – Do you agree with what has been stated by Witness 1 or do you have anything to add to it ?

STATEMENT OF SHRI C. CHHETRI, JIO-I/G

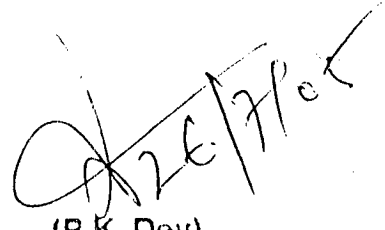
I agree completely with what has been stated by Shri R. Bhattacharjee, LDC/ Cashier and have nothing more to add.

CHARGED OFFICER : Whether the disbursement time was 2:30 p.m. or 1:00 p.m. to 1:15 p.m.

CASHIER (SH. R. BHATTACHARJEE) : I am not sure about the time as I did not look at my watch but it was around lunch time and it may be 1:00 p.m. to 1:15 p.m.

On being asked by Inquiry Officer, Shri Sutradhar said that he had not been called officially to the Cash Br. Shri R. Bhattacharjee, Cashier said that as per the instruction of DDO he used to call the staff on phone to come and collect their pay. He added that on that day i.e 27.02.04 later on Sh. Sutradhar collected his pay alongwith the other members of 'Estt' Br. who were called officially.

It is revealed in the enquiry that, Shri Sutradhar, LDC has accepted that he was present in the Cash Branch on the day of incident. Though, he has denied disobeying order of his Superior officer, however, as per statement of Shri R. Bhattacharjee, LDC/Cashier and Shri C. Chetri, JIO-I/G during the hearing, it is proved that Shri Sutradhar, LDC disobeyed the order of his Superior Officer and misbehaved with him in presence of the above witness and therefore, charges leveled against Shri Sutradhar is proved.



(P.K. Dey)

UDC/ Presenting Officer

ATTESTED

Bhatte
ADVOCATE

To,
The Section Officer/G,
Inquiring Authority,
SIB, Itanagar.

(Through Proper Channel)

Ref :- Your letter No.1/SO(G)-INQUIRY/2004-5285 dated 28.07.05.

Sub :- Submission of representation against false allegation and undue brief submitted by the Presenting Officer on 26.07.05.

Dear Sir,

With due respect I beg to inform you that the Presenting Officer's brief which was communicated to me is nothing but the collection of the Article-I of the charges, reply of the charges by me, hearing report of dt. 25.02.05 and hearing/Cross examination report of dt. 01.07.05.

That Sir, except cross examination almost all the reply have been submitted by me moreover. I beg to add some important points with earlier reply, those are as under :-

- (a) General circular has not been issued before the said incident that nobody can enter into the Cash/Br. to collect pay on Payday without permission, though I was there at lunch time.
- (b) Pay should not be disbursed at lunch time. Since, lunch time is allowed for all officials to take lunch & rest to refresh for the work of next half/afternoon i.e. from 13.30 Hrs. to 17.30 Hrs.
- (c) Complainant and witnesses are working in the same branch and also belong to same category (General) and hence, such type of related witnesses has been disowned by me.
- (d) There is no welfare for me in this organization since, I belong to S/C community and hence, whole the administration are trying to harass/punish/trap me, as a result, I am always here with dread from the cruel administration.

FROM THE STUDY OF THE CHARGE SHEET/SHOW CAUSE NOTICE
DATED 30/03/2005 AND HEARING/CROSS EXAMINATION REPORT DATED
01/07/05 BY THE

ATTESTED

J. Bhatte
ADVOCATE

-2-

- (i) I have not submitted my joining report after return from leave and also memo has been issued to me on 17.02.05 in this regard but, I had submitted the joining report on 27.12.04 (F/N) alongwith formal leave application so, there is no question to issue memo actually, memo has not been issued to me on 17.02.05 by the authority.
- (ii) I have allotted the work pertaining to bill of A.L.C, P P S S, and Misc, actually, in addition to these work I was allotted the work pertaining to bills - Long Term Adv., O.A.E., Minor Work, Major Work, Wages, R.R.T., Motor Vehicle, Grant in Aid, A/C bill and D/C bill also.
- (iii) The Diary No. 5631 dt.27.11.04 was pending with me but, the said Diary No. was the Scooter Adv. Bill/Order/Claim in r/o. Sh. B.K. Sahoo. LDC posted at Accnts/Br. has been done by me vide Bill No.459/04-05 dt.16.09.04.

2. On cross examination Sh. Viplav, SO/I said that he has full power on Cash & Accnts/Br. And also said that his verbal order has full value in office. Actually, he has no full power and also verbal order has no value in office. Since, there is no existence of verbal order.

3. From the study of the above mention reality it is clear that Sh. Viplav, SO/I is a liar and hence, the charge which was framed on 01.03.04 vide O.M. No. 33/E/2004(2)-1631 dt. 03.03.04 on the basis of the false statement of Sh. Viplav, SO/I (Proved as a liar above) has no value at all.

4. On logical pressure the witnesses changed their statement on time. Therefore, it is clear that their statement was not completely correct.

5. That Sir, the undue written brief submitted by Shri P.K. Dey, UDC, P/O to you on 26.07.05 has been disowned by me for the above mentioned reasons.

6. Therefore, it is requested to you to arrange for taking an executive action against Sh. Viplav, SO/I on the basis of my various complaints/representations/replies dated 08.03.04, 17.03.04, 15.06.05 and also this one, for the harassment on different angle upon an S/C Govt. employee, for mishchave (Like master and servant relation instead of cordial relation) upon subordinate staff like me and also for keeping pending my Cash-compensation till today which has been claimed by me before 14.02.2005 (For this act of his viciousness I may also write to the Labour Commission too in future if necessary since, my claim was genuine).

Thanking you.

ATTESTED

S. Shatta
ADVOCATE

(continued page-3)

3.

Yours faithfully

Dated - 08/08/2005.

Tapan Sutradhar
LDC, B/Br., SIB, Itanagar
A member of S/C community.

Copy to :-

1. The Joint Director, SIB, Itanagar for information and kind necessary action please.
2. Shri Viplav, SO/I, SIB, Itanagar for information please.
3. Shri P.K. Dey, UDC, P/O, E/Br., SIB, Itanagar for information please.

Tapan Sutradshar
LDC, B/Br., SIB, Itanagar,
A member of S/C community.

ATTESTED

Bhatte

ADVOCATE

No. 33/E/2004(2)- 5742
Subsidiary Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
Itanagar.

Dated, the - 24 AUG 2005

MEMORANDUM

Please refer to the Disciplinary Authority, SIB, Itanagar O.M. No. 33/E/2004(2)-519-4343 dated 22.06.2005 regarding cross examination of witnesses for further enquiry of the charges, framed against Shri Tapan Sutradhar, LDC, Charged officer.

2. A copy of the report of further Inquiry submitted by Inquiry Officer, Shri Rajkamal Sitaram, SO/G, SIB, Itanagar is enclosed. The Disciplinary Authority will take a suitable decision after considering the report. If Shri Tapan Sutradhar, LDC, Charged officer wishes to make any representation or submission, he may wish to do so, in writing to the Disciplinary Authority within 15 days of receipt of this Memo.

3. The receipt of this Memo may please be acknowledged.


Assistant Director/E

✓ To

Shri Tapan Sutradhar, LDC
SIB, Itanagar.

Encl : As stated.

ATTESTED


ADVOCATE

ENQUIRY REPORT

SUBJECT : ENQUIRY REPORT IN RESPECT OF CHARGES
FRAMED AGAINST SHRI TAPAN SUTRADHAR,
LDC VIDE MEMO NO. 33/E/2004(2) 1631 DATED
03.05.04

Please refer to the memo no. 33/E/2004(2)-519-4343 dated 22.06.05 in which the Inquiry Report was returned by the Disciplinary Authority with the instructions to give an opportunity to the CO to cross-examine the witnesses. In this regard the two witnesses namely, Shri Ramakanta Bhattacharjee, Cashier and Shri C. Chetty, JCO alongwith the Complainant Shri Viplav, SO/A were called for cross examination by the CO on 01.07.05 at 11 a.m. vide letter no. I/SO(G)-Inquiry/2004 dated 1.06.05. All the persons including the Presenting Officer, Shri P.K. Dey, attended the hearing on the scheduled date and the minutes recorded and signed by all present. In the cross examination except for the timings of the incident under consideration which was given by the witnesses as around 2:30 p.m. and which was rectified to around 1 pm. nothing new came up. So the report previously submitted is resubmitted below for further action.

The undersigned was appointed as the Inquiring Authority, vide order no. 33/E/2004(2)-8823 dated 17.12.04 (but received on 01.02.05), to inquire into the following charges framed against Shri Tapan Sutradhar, LDC.

ARTICLE 1

According to the statement of Shri Viplav, Section Officer/Accounts Branch, on 27.02.04, the day of disbursement of salary for the month of February, 2004 at around 1 pm Shri Tapan Sutradhar, LDC was found sitting unauthorizedly in the Cash Branch. As it was causing interruption in the smooth distribution of Cash, Shri Sutradhar, LDC was asked by Shri Viplav, SO/A to leave the Branch. Shri Sutradhar refused to obey the lawful direction of the SO/A and challenged his authority. He threatened SO/A of physical assault and of dire consequences. However with the intervention of other officials, Shri Sutradhar was taken away from the spot. Shri Sutradhar by his above said action obstructed the smooth functioning of the government, disobeyed the lawful order of the Competent Authority and misbehaved with his official superior. This is unbecoming of a government servant and is violation of Rule-3 of the CCS (Conduct) Rules, 1954.

FINDINGS

As per the charges framed against Sh. Tapan Sutradhar, LDC, two main points had to be proved/disproved -

1. Whether the C.O. had disobeyed the lawful order of his official superior.
2. Whether the C.O. had been disrespectful towards his official superior.

ATTESTED
Shetty
ADVOCATE

1. Though the C.O. has denied disobeying his official superior in the preliminary hearing however it has been proved beyond doubt that the C.O. had done so, as per the statement given by the witnesses i.e. Shri. Ramakanta Bhattacharjee, LDC/Cashier, and Shri C. Chetry (IC) LDC.
2. The C.O. has also denied being disrespectful towards his official superior but the statement of the witnesses proves otherwise. However the witnesses couldn't remember (being more than one year ago) whether the C.O. had actually threatened SO/A of physical assault and of dire consequences.

Therefore the charges that the C.O. had disobeyed the lawful order and had been disrespectful towards his official superior, stand proved against Shri Tapan Sutradhar, LDC.

[Handwritten Signature]
21/8/05

(Regularly)
Section Officer/G
*
Inquiring Officer

ATTESTED
Bhattacharya
ADVOCATE

To,
The Assistant Director/E,
Disciplinary Authority,
SIB, Itanagar.

(Through Proper Channel)

Ref :- Your O.M. No.33/E/2004(2)-5742 dated 24/08/2005.

Sub :- Submission of representation against false allegation and undue enquiry report resubmitted by the Inquiring Officer (IO) on 09/08/2005.

Dear Sir,

With due respect I beg to inform you that the enquiry report re-submitted by the IO on 09/08/2005 is nothing but the same enquiry report of dated 24/05/2005 which was communicated to me vide your O.M. No.33/E/2004(2)-3871 dated 31/05/2005 and the reply/representation of dated 15/06/2005 which has been submitted by me against enquiry report of dated 24/05/2005, accordingly, it would be the same reply/representation of enquiry report of dated 09/08/2005. Therefore, it may please be taken as the reply/representation of inquiry report dated 09/08/2005.

2. Therefore, it is requested that my various complaints/representations/replies of dated 08/03/04, 17/03/04, 15/06/05 and 08/08/05 may please be examined closely for finding out the mistake committed by Sh. Viplav, SO(I/A) and also for taking executive action against him.

3. It is to bring to your kind notice that in case of failing to carry out my request, I shall be bound to disclose the whole matter to the National Commission for S/C and S/T, New Delhi and also to the Committee of Parliament on the welfare of SCs/STs, Parliament House, New Delhi for taking executive action against him.

Thanking you.

Yours faithfully

Dated - 08/09/2005.

(Tapan Sutradhar)
LDC, B/Br. SIB, Itanagar,
A member of S/C Community.

ATTESTED

Bhatter
ADVOCATE

- 61 -

No. 33/E/2004(2)- 6269
 Subsidiary Intelligence Bureau,
 (MHA), Government of India,
Itanagar.

Dated, the - 1 4 SEP 2005

ORDER

Whereas Shri Tapan Sutradhar, LDC while posted at SIB, Itanagar was issued Memo No. 33/E/2004(2)-1631 dated 3.3.2004 by the Competent Authority under Rule-16 of CCS(CCA) Rules -1965 on the following charges :-

ARTICLE - "That the said Shri Tapan Sutradhar, LDC on 27.02.2004 i.e., on the day of disbursement of salary at around 1 P.M. was found sitting unauthorisedly in the Cash Branch of the SIB, Itanagar. As it was causing interruption in the smooth distribution of cash, he was asked by Shri Viplav, SO/A to leave the branch. He refused to obey the lawful direction of the SO/A and challenged his authority. He threatened SO/A of physical assault and of dire consequences. However with the intervention of other officials, he was taken away from the spot.

Thus, Shri Sutradhar by his above said action obstructed the smooth functioning of the government, disobeyed the lawful order of the Competent Authority and misbehaved with his official superior. This is unbecoming of a government servant and is violation of Rule-3 of the CCS (Conduct) Rules, 1964.

2. Whereas, Shri T. Sutradhar, LDC submitted his representation on 17/03/05 and denied the charges. Hence, the Inquiry Officer (I.O.) and Presenting Officer (P.O.) were appointed on 25.03.2004 to enquire into the charges, framed against him. The I.O. Shri D.C. Mandal, SO/A submitted his enquiry report on 28.06.04. The Competent Authority pointed out some discrepancies in the enquiry report Hence further enquiry was ordered, which could not be held due to ill health of Inquiry Officer, Sh. D.C.Mondal, SO. Finally, he was relieved for SIB, Kolkata on his transfer w.e.f. 10.12.2004 on that ground and till that time he could not complete the enquiry.

3. Whereas, in view of above mentioned facts, the new I.O., Shri R.K. Sitaram, SO/G was appointed on 17.12.04 and he submitted his enquiry report on 26.05.05. The enquiry report was forwarded to Shri T. Sutradhar, LDC to make any representation or submission. Sh. T. Sutradhar submitted his written reply on 18.06.05. In his representation, he denied the charge. Again, the Competent Authority observed that the C.O. had not been given due opportunity to cross-examine the witnesses. Accordingly, the enquiry report was remitted for further enquiry. The I.O., Sh. R.K. Sitaram, SO/G submitted his enquiry report on 09.08.05. The I.O. in his enquiry report pointed out that the C.O. disobeyed the lawful order of his official superior to him and he had been disrespectful towards his superior official as per the statement given by the witnesses i.e. Sh. R. Bhattacharjee, LDC/Cashier and Shri C. Chetry, JIO-VG, SIB, Itanagar.

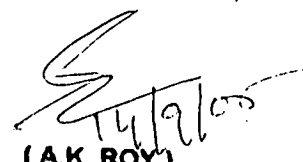
4. Whereas, I being the Disciplinary Authority have carefully gone through the enquiry reports submitted by the I.O. on 26.05.05 and 09.08.05 and the written replies submitted by Sh. T. Sutradhar, LDC dated 18.06.05 and 08.09.05 and other relevant documents/papers on record, agree with the findings of the Inquiry officer, according to which the charges that the C.O., Shri T. Sutradhar, LDC had disobeyed the lawful order and had been disrespectful towards his superior official, stand proved beyond doubt.

✓ THE UNDERSIGNED, THEREFORE, IMPOSES PENALTIES ON SHRI T. SUTRADHAR, LDC UNDER CLAUSE (III) OF RULE 11 OF CCS(CCA) RULES-1965 AND ORDERS THAT THE PAY OF SHRI T. SUTRADHAR, LDC WILL BE REDUCED BY TWO STAGES FROM RS. 3800/- TO RS. 3650/- IN TIME SCALE OF PAY OF RS. 3050-75-3650-80-4590/- FOR A PERIOD OF TWO YEARS WITH EFFECT FROM THE DATE OF ISSUE OF THE ORDER.

ATTESTED

Bhatta
 ADVOCATE

IT IS FURTHER DIRECTED THAT HE WILL EARN INCREMENT OF PAY DURING THE PERIOD OF REDUCTION AND THAT ON EXPIRY OF THIS PERIOD, THE REDUCTION WILL NOT HAVE THE EFFECT OF POSTPONING HIS FUTURE INCREMENT OF PAY.



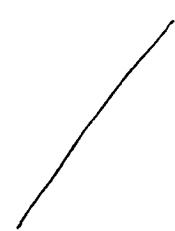
(A.K. ROY)
Assistant Director/E
Disciplinary Authority,
SIB, Itanagar.

✓ To

Shri Tapan Sutradhar, LDC
SIB, Itanagar.

Copy to :-

1. The Assistant Director/E, IB Hqrs., New Delhi.
2. The Section Officer/A, SIB, Itanagar.
3. The SB Cell/ ACR Cell, SIB, Itanagar.
4. The PS/NGO, SIB, Itanagar.
5. PF of. Shri Tapan Sutradhar, LDC, SIB Itanagar.



Assistant Director/E
Disciplinary Authority
SIB, Itanagar.

ATTESTED

J. Shetty
ADVOCATE

To,
The Assistant Director/E,
Disciplinary Authority,
SIB, Itanagar.

EXTREME SYMPATHETICAL

(Through Proper Channel)

Sub :- Request for re-examine for releasing the imposed penalties.

Ref :- Your O.O. No.33/E/2004(2)-6269 dated 14.09.2005.

Dear Sir,

With due respect and humble submission I made this representation to bring to your kind notice on the subject cited above in respect of reference above.

2. That Sir, a charge was framed against me on 01.03.2004 vide O.M. No.33/E/2004(2)-1631 dated 03.03.2004. After several correspondence the case was finalized with penalties imposed on me, that the Pay would be reduced by two stages from Rs.3800/- to Rs.3650/- for a period of two years w.e.f. 14.09.2005, though, I am an innocent Govt. servant.

It is, therefore, prayed before your kind authority & personal gracious self to kindly re-examine the case as to pass necessary order for finalizing the case without penalty as Your Honour would deem fit and proper for the ends of justice.

Thanking you.

Yours faithfully

Dated - 20.09.2005.

(Tapan Sutradhar)
LDC, B/Br, SIB, Itanagar.

ATTESTED

Abhatte

ADVOCATE

To,
The Hon'ble Joint Director,
Appellate Authority,
SIB, Itanagar.

EXTREME SYMPATHETICAL

(Through Proper Channel)

Sub :- Prayer for revision of the decision of the Assistant Director/E, Disciplinary Authority, SIB, Itanagar.

Ref :- SIB, Itanagar O.O. No.33/E/2004(2)-6269 dated 14.09.2005.

Respected Sir,

With due respect and humble submission I made this representation to bring to your kind notice on the subject cited above in respect of reference above.

2. That Sir, a charge was framed against me on 01.03.2004 vide O.M. No.33/E/2004(2)-1631 dated 03.03.2004. After several correspondence the case was finalized with penalties imposed on me, that the Pay would be reduced by two stages from Rs.3800/- to Rs.3650/- for a period of two years w.e.f. 14.09.2005, though, I am an innocent Govt. servant.

It is, therefore, prayed before your kind authority & personal gracious self to kindly re-examine the case as to pass necessary order for finalizing the case without penalty as Your Honour would deem fit and proper for the ends of justice.

Thanking you Sir.

Yours faithfully

Dated - 17.11.2005.

(Tapan Sutradhar)
LDC, B/Br, SIB, Itanagar.

ATTESTED

Bhatte
ADVOCATE

ANNEXURE-- W 76

No. 33/E/2004(2)- 974
Subsidiary Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
Itanagar.

Dated, the - 23 FEB 2006

MEMORANDUM

Please refer to your appeal dated 17.11.05 regarding re-consideration of Penalty order No. 33/E/2004(2)- 6269 dated 14.09.2005.

It is hereby informed that the appeal of Shri Sutradhar, LDC has been considered by the Appellate Authority sympathetically but could not be considered as it was submitted after the expiry of stipulated period for submission and there was no fresh grounds or fact not already considered.


23/2/06
Joint Director

✓
To

Shri Tapan Sutradhar, LDC
-Through AD/A, SIB, Guwahati.

ATTESTED


ADVOCATE

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ANNEXURE--X

Original Application No. 142 of 2006.

Date of Order: This the 13th day of June 2006.

The Hon'ble Sri K. V. Sachidanandan, Vice-Chairman.

Sri Tapan Sutradhar
Lower Division Clerk
Subsidiary Intelligence Bureau (SIB)
Ministry of Home Affairs
Government of India
Beltola, Guwahati - 22.

... Applicant

By Advocates Mr Adil Ahmed and Ms. Smita Bhattacharjee, Advocates

- Versus -

1. The Secretary to the Government of India,
Ministry of Home Affairs,
North Block, New Delhi - 110 001.
2. The Director, Intelligence Bureau,
Ministry of Home Affairs
35 SP Marg, New Delhi.
3. The Joint Director,
Subsidiary Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
Itanagar, Arunachal Pradesh.
4. The Assistant Director (E)
Subsidiary Intelligence Bureau
Ministry of Home Affairs
Government of India
Itanagar, Arunachal Pradesh.

... Respondents.

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

.....
ORDER (ORAL)

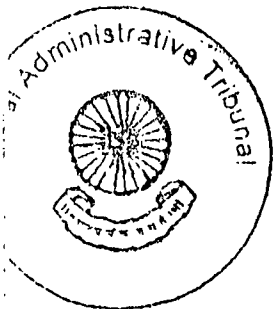
K.V. SACHIDANANDAN (V.C.)

The applicant is working in the Subsidiary Intelligence Bureau (SIB for short), Ministry of Home Affairs. While the applicant was working at Itanagar, he was charge sheeted under Rule 16 of the

ATTESTED

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ADVOCATE

CCS (CCA) Rules 1965. He submitted written statement. The Respondent No. 4 initiated regular inquiry by appointing Inquiry Officer and he was asked to appear before the Inquiry Officer on 12.04.2004. After the inquiry, the Inquiry Officer found the applicant guilty and imposed minor penalty vide order dated 14.09.2005 reducing pay by two stages from Rs. 3800/- to Rs. 3650/- in the time scale of pay of Rs. 3050-75-80-4590/- for a period of two years with effect from the date of issue of the order. The applicant filed appeal dated 20.09.2005 before the Respondent No. 4 requesting for re-examination of the penalty imposed. The applicant filed another appeal dated 17.11.2005 before the Appellate Authority for revision of the decision of the Disciplinary Authority. The Appellate Authority vide order dated 23.02.2006 rejected the appeal on the ground that the appeal was submitted after the expiry of the stipulated period of submission. Aggrieved by the said action of the respondents, the applicant has filed this application seeking the following reliefs: -



"B.1 That the Hon'ble Tribunal may be pleased to direct the Respondents to set aside and quash the impugned order No. 33/E/2004(2)-6269 dated 14.09.2005 and also the Appellate Office memorandum No. 33/E/2004(2)-974 dated 23.02.2006 issued by the Respondent No. 3.

B.2 To pass any other appropriate order or orders to which the applicant may be entitled and as may be deem fit and proper in the facts and circumstances of the case."

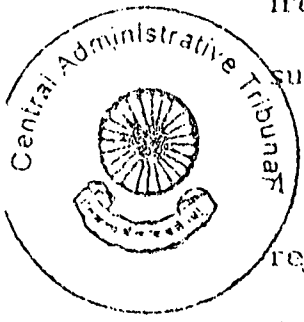
2. Heard Mr A. Ahmed, learned counsel for the applicant and Ms U. Das, learned Addl. C.G.S.C. for the respondents.

3. Learned counsel for the applicant submitted that the Appellate Authority vide annexure - W dated 23.02.2006 disposed of the appeal of the applicant only for the reason that it cannot be

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Shatta
ADVOCATE

considered as it was submitted after the expiry of the stipulated period. Learned counsel for the respondents submitted that from the impugned order dated 23.02.2006 it reveals that "there was no fresh grounds or fact not already considered". Therefore, it is on merit as well. Learned counsel for the applicant also submitted that he will be satisfied if a direction is given to the Appellate Authority to consider appeal dated -17.11.2005 afresh and dispose of the same notwithstanding the fact that it was filed at a belated date and pass a fresh order. Learned counsel for the respondent submitted that it will suffice ends of justice and she has no objection.



Considering the cryptic order of the appellate authority rejecting the appeal on the ground that the appeal filed by the applicant was time barred, I am of the view that fresh opportunity is to be given to the applicant. Therefore, I direct the Appellate Authority to consider the appeal of the applicant afresh notwithstanding the fact that it has been filed after the expiry of the limitation period and consider the same with due application of mind and pass a speaking order ^{✓ on merit ✓} and communicate the same to the applicant within a time frame of three months from the date of receipt of this order.

The O.A. is disposed of at the admission stage itself. No order as to costs.

TRUE COPY

प्रतिप्रिफि
 21.6.06

अनुमान अधिकारी
 Section Officer (Judl)
 Central Administrative Tribunal
 नया दिल्ली 110055
 21/6/06

Sd/ VICE CHAIRMAN

ATTESTED
Shalita
ADVOCATE

Dated, the - 18 SEP 2006

ORDER

Whereas Shri T. Sutradhar, LDC was issued Memo No. 33/E/2004(2)- 1631 dated 3/3/04 under Rule 16 of the CCS(CCA) Rules, 1965 on the following charge:

ARTICLE

"That the said Shri Tapan Sutradhar, LDC on 27.02.2004 i.e., on the day of disbursement of salary, at around 1 P.M. was found sitting unauthorisedly in the Cash Branch of the SIB, Itanagar. As it was causing interruption in the smooth distribution of cash, he was asked by Shri Viplav, SO/A to leave the branch. He refused to obey the lawful direction of the SO/A and challenged his authority. He threatened SO/A of physical assault and of dire consequences. However with the intervention of other officials, he was taken away from the spot.

Thus, Shri Sutradhar by his above said action obstructed the smooth functioning of the government, disobeyed the lawful order of the Competent Authority and misbehaved with his official superior. This is unbecoming of a government servant and is violative of Rule-3 of the CCS (Conduct) Rules, 1964."

And whereas Sh. T. Sutradhar, LDC submitted his defence statement dt. 17/3/04 denying the charge against him. Therefore, Sh. D.C. Mandal, SO was appointed Inquiring Authority vide Order No.33/E/2004(2)-258-2159 dt. 25/3/04 to enquire into the charges framed against Sh. T. Sutradhar. The Inquiry Officer (I.O) submitted his report dt. 23/6/04. The Disciplinary Authority on examining the report observed that the complainant Sh. Viplav, SO had not been called in the enquiry, as a result Sh. T. Sutradhar could not get an opportunity to cross-examine him (Sh. Viplav) and thus defend himself. Therefore, the Disciplinary Authority remitted the matter to the Inquiring Authority for further enquiry and report.

And whereas Sh. D.C. Mandal, SO got relieved from SIB, Itanagar on 10/12/04 on transfer to SIB, Kolkata without completing the enquiry. Therefore, Sh. R.K. Sitaram, SO was appointed the new I.O. vide Order No. 33/E/2004(2)-8823 dt. 17/12/04. The I.O. started the enquiry afresh and called Sh. Sutradhar, LDC on 25/2/05 for hearing. During the hearing, Sh. Sutradhar, LDC accepted that on that day (27/2/04), he was not called officially for collecting the pay and that he was sitting in the Cash Br. without permission. He further said that when cash was being disbursed 2/3 employees started disturbing the Cashier. At that time, Sh. Viplav, SO/A entered into the Cash Br. and asked him (Sh. Sutradhar) why he was sitting there and whether he had taken any permission for that. He (Sh. Viplav) directed him to leave the room which he did without saying anything. He also said that except S/Sh. R. Bhattacharjee, LDC/Cashier and C. Chetry, JIO-I/G (another officer working in the Cash Br.),

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ATTESTED

Shetty
ADVOCATE

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he could not recall name of any other employee sitting in the Cash Br. As Sh. Sutradhar, LDC had cited the names of S/Sh. Bhattacharjee, LDC/Cashier and C.Chetry, JIO-I/G, they were called by the I.O. as witnesses on 12/05/05. Both the witnesses said that on 27/02/04, Sh. Sutradhar had been sitting in the Cash Branch unauthorisedly and when Sh. Viplav, SO/A asked him to leave the Branch he disobeyed his order and used abusive and disrespectful language against him. The I.O. submitted his report dt. 24/5/05 proving the charge against Sh. Sutradhar.

And whereas the Disciplinary Authority on going through the report observed that the I.O. had not given Sh. Sutradhar, LDC an opportunity to cross-examine the witnesses (S/Sh. R.Bhattacharjee, LDC & C. Chetry, JIO-I/G) during the hearing dt. 12/5/05. Therefore, the enquiry report was remitted to the I.O. for further enquiry and report vide Memo No. 33/E/2004(2)-519 dt. 22/6/05. The I.O. called S/Sh. Viplav, SO, Sutradhar, LDC, R. Bhattacharjee, LDC/Cashier and C.Chetry, JIO-I/G on 1/7/05. The I.O. gave Sh. Sutradhar, LDC an opportunity to cross-examine Sh. Viplav, SO. Sh. Sutradhar asked Sh. Viplav, SO whether any permission was required for entering into the Acctt. Br. Sh. Viplav, SO replied in affirmative and added that according to IB Security Manual, 2000, the Section Officers are responsible for ensuring access to their Sections/ Units to only authorized persons who have legitimate business in their Sections/Units. An employee not working in a Branch should not be allowed to enter the Branch unless he/she produces a written permission from his/her superior officer detailing him/her for duty which should be specified and the Branch sought to be visited indicated therein.

On being asked by Sh. Sutradhar, whether the DDO had full power to manage the affairs of the Cash, Sh. Viplav, SO replied that the fundamental duty of Cashier and the DDO is to ensure that the Govt. money is protected and the cash is disbursed in a trouble free manner and he had acted accordingly. Thereafter, S/Sh. R. Bhattacharjee, LDC/Cashier and C.Chetry, JIO-I/G were examined. Both the witnesses said that on 27/2/04 at around 2.30 pm, Sh. R. Bhattacharjee, LDC/Cashier was distributing pay to the staff. Being pay day there was a lot of crowd in the cash branch and among them two/three of local staff were making a lot of noise which was quite disturbing. Hearing the commotion, SO/A Shri Viplav came into the branch and asked the cashier whether all the people present in the branch had been officially called or not. When the cashier replied in the negative, SO/A asked all those who had not been called to leave the room till called. Shri Sutradhar, who was also present there and had not been called officially, did not leave. Shri Viplav again asked him to leave but the person did not move. This attitude annoyed Shri Viplav, SO/A and he told Sh. Sutradhar to get out. At this time Shri Sutradhar became abusive and used disrespectful language against Shri Viplav. Shri Viplav then left the room and went to fetch SO/E, as Sh. Sutradhar was at that time posted in Establishment Branch. Shri Viplav returned with Sh. Jitendra Singh(SO/E) who tried to reason with Shri Sutradhar but he did not listen and continued to shout and create a scene just outside the Cash Br. When Sh. Sutradhar asked Sh. R. Bhattacharjee whether the disbursement time was 2:30 p.m. or 1:00 p.m. to 1:15 p.m. Sh. R. Bhattacharjee, LDC/Cashier said he was not sure about the time as he did not look at his watch but it was around lunch time and it may be 1:00 p.m. to 1:15 p.m. On being asked by Inquiry Officer, Shri Sutradhar said that he had not been called officially to the Cash Br. Shri R. Bhattacharjee, Cashier said that as per the instruction of DDO he used to call the staff

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ADVOCATE

on phone to come and collect their pay. He added that on that day i.e 27.02.04 later on Sh. Sutradhar collected his pay alongwith the other members of 'Estt' Br. who were called officially. Thereafter, the I.O. submitted his enquiry report dt. 9/8/05 proving the charge against Sh. T. Sutradhar on the basis of the facts admitted by Sh. Sutradhar and the statements of the witnesses.

And whereas the Disciplinary Authority agreeing with the findings of the I.O. forwarded the report of the enquiry to Sh. Sutradhar for making representation/ submission thereon vide Memo No. 33/E/2004(2)-5742 dt. 24/8/05.

And whereas Sh. T. Sutradhar submitted his representation dt. 8/9/05. In his representation he denied the charges and said that the findings of the I.O. were based on extraneous factors.

And whereas the Competent Disciplinary authority on the basis of records of the enquiry came to the conclusion that the charge against Sh. Sutradhar stood proved and awarded him the following minor penalty vide Order No. 33/E/2004(2)-6269 dt. 14/9/05: **THE PAY OF SH. T. SUTRADHAR BE REDUCED BY TWO STAGES FROM RS. 3800/- TO RS. 3650/- IN TIME SCALE OF PAY OF RS. 3050-75-3950-80-4590/- FOR A PERIOD OF TWO YEARS WITH EFFECT FROM THE DATE OF ISSUE OF THE ORDER.**

FURTHER, HE WOULD EARN INCREMENTS OF PAY DURING THE PERIOD OF REDUCTION AND THAT ON EXPIRY OF THAT PERIOD, THE REDUCTION WOULD NOT HAVE THE EFFECT OF POSTPONING HIS FUTURE INCREMENT OF PAY.

And whereas Sh. Sutradhar submitted an appeal dt. 17/11/05 to the Appellate Authority for setting aside the penalty imposed vide Order No. 33/E/2004(2)-6269 dt. 14/9/05.

And whereas the Appellate Authority vide Memo No. 33/E/2004(2)-974 dt. 23/2/06 rejected the appeal of Sh. Sutradhar as it was submitted after the expiry of stipulated period for submission and there was no fresh grounds or fact not already considered.

And whereas Sh. Sutradhar aggrieved with the order of Appellate Authority filed an Original Application No. 142 of 2006 in the CAT, Guwahati Bench seeking following relief:

"8.1 That the Hon'ble Tribunal may be pleased to direct the Respondents to set aside and quash the impugned order No. 33/E/2004(2)-6269 dt. 14/9/05 and also the Appellate Office Memorandum No. 33/E/2004(2)-974 dt. 23/2/06 issued by the Respondent No.3.

8.2 To pass any other appropriate order or orders to which the applicant may be entitled and as may be deemed fit and proper in the facts and circumstances of the case."

And whereas the Hon'ble CAT Guwahati Bench, vide order dt. 13/6/06 has directed the Appellate Authority to consider the appeal of the applicant afresh notwithstanding the fact that it has been filed after the expiry of limitation period and pass a speaking order on merit and communicate the same to the applicant within a time frame of three months from the date of receipt of this order (the order has been received in SIB, Itanagar on 26/6/06).

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ATTESTED

Shatta
ADVOCATE

Now, therefore, the undersigned on carefully going through all the documents on record observes that during the hearing dt. 25/2/05 Sh. Sutradhar had admitted that he was sitting in the Cash Br. unauthorisedly and that he was asked by the SO/A to leave the Branch. The officers of the Cash Br. (Viz. R. Bhattacharjee and C.Chetry) who were cited by Sh. T. Sutradhar (during the hearing dt. 25/2/05) also corroborated the entire incident (of 27/2/05) during the hearing dt. 1/7/05. Thus, the undersigned is of the opinion that the charge against Sh. Sutradhar stands proved. Further, the enquiry against Sh. Sutradhar was conducted strictly as per the procedure laid down under CCS(CC&A) Rules, 1965 and Sh. Sutradhar was given fair opportunity to defend himself. The findings of the Disciplinary Authority are warranted by evidence on record and there is no miscarriage of justice. However, in view of length of service rendered by Sh. Sutradhar, the undersigned is inclined to take a lenient view and therefore modifies the penalty awarded by the Disciplinary Authority vide Order dt. 14/9/05 as follows: **THE PAY OF SH. T. SUTRADHAR, LDC BE REDUCED BY ONE STAGE FROM RS. 3800/- TO RS. 3725/- IN TIME SCALE OF PAY OF RS. 3050-75-3950-80-4590/- FOR A PERIOD OF ONE YEAR WITHOUT CUMULATIVE EFFECT.**

[Signature]
 18/9/06
 (Dr. Anand Kumar)
 Joint Director
 Appellate Authority
 SIB, Itanagar.

To
 Shri T. Sutradhar, LDC
 SIB, Guwahati.
 (Through AD/A, SIB, Guwahati).

Copy to :-
 1. The Section Officer (Judl.), CAT, Guwahati Bench, Guwahati – W.r.t. Despatch No. CAT/GHY/JUDL/626/ Dt. 20/6/06 in OA No. 14/2/06.

Joint Director
 Appellate Authority
 SIB, Itanagar.

So
Copy
for

ATTESTED
[Signature]
 ADVOCATE

File in Court on 3.10.07
D/No. 9
Court Officer.

Filed by
The respondents
Monogh, Gantam Bin Singh
S. 10.07.
S. Chak

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

O.A. No. 46 of 2007

Sri Tapan Sutradhar

.... Applicant.

-VS-

Union of India & Ors.

..... Respondents.

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

WRITTEN STATEMENT FILED ON BEHALF OF THE RESPONDENT

MOST RESPECTFULLY SHEWETH:

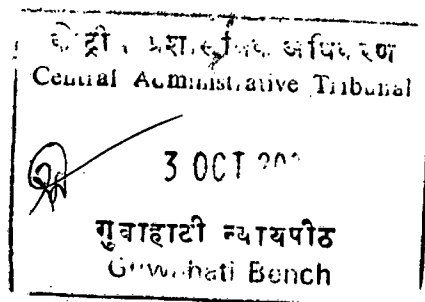
1. That with regards to the statement made in paragraph-1 of the instant application the Respondents beg to state that there are matter of records and the Respondents do not admit anything which are not borne out of records.

2. That with regard to the statement made in paragraphs 2 & 3 of the instant application the Respondents beg to comment.

3. That with regard to the statement made in paragraph 4.1 of the instant application the Respondents have no comment.

Assistant Director
Subsidiary Interference Branch
(MHA) GOVT OF INDIA
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4. That with regard to the statement made in paragraph 4.2 of the instant application the Respondents beg to state that being a Central Government employee having all India transfer liability, Shri Sutradhar, LDC is bound to serve anywhere in India like other official of Central Government. He was posted at Guwahati and Silchar (Under SIB, Guwahati) and Itanagar which is a bordering state of Assam. Whereas, some other staff are posted to far flung area in India.

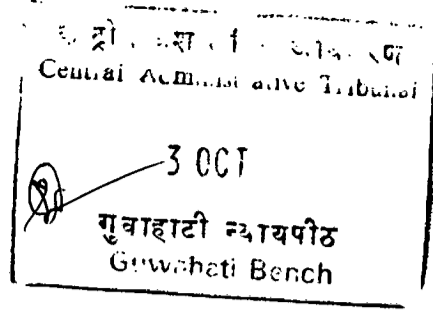
5. That with regard to the statement made in paragraph 4.3 of the instant application the Respondents beg to state that these are matter of records and the Respondents do not admit any claim which are no borne out of record. The Respondents further beg to state that the applicant was charged for violation of the provision of Rule 3 of CCS (Conduct) Rules 1964. He disobeyed the lawful order of his superior and threatened him of physical assault and dire consequences.

6. That with regard to the statement made in paragraph 4.4 of the instant application the Respondents beg to state that these are incorrect, false and concocted hence denied. The applicant did not visit Account Branch, Itanagar on 27/2/2004, and as such no interaction took place between Shri Viplav, SO(I) and Shri Tapan Sutradhar, LDC.

7. That with regard to the statement made in paragraph 4.5 of the instant application the Respondents beg to offer no comment.


Assistant Director (B)
Subsidiary Intelligence Bureau
MHA, GOVT OF INDIA
ITANAGAR

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8. That with regards to the statement made in paragraphs- 4.6 to 4.11 of the instant application the Respondents beg to state that those are matter of records and the Respondents do not admit anything which is not borne out of records.

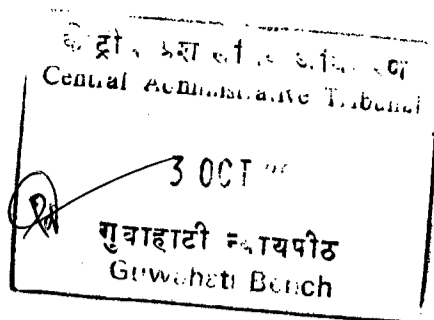
9. That with regard to the statement made in paragraph 4.12 of the instant application the Respondents beg to state that incorrect statement given to Inquiring Authority. Infact, he disobeyed the order of his superior official and threatened him of dire consequences in presence of the state witnesses on 27/2/2004 in the Cash Branch. Also, he had himself admitted that he was present at the Cash Branch unauthorisedly on 27/02/2004.

10. That with regards to the statement made in paragraph-4.13 of the instant application the Respondents beg to state that those are matter of records and the Respondents do not admit anything which are not borne out of records.

11. That with regard to the statement made in paragraph 4.14 of the instant application the Respondents beg to state that the applicant Shri Sutradhar, LDC alongwith others was sitting in the Cash Branch unauthorisedly on 27/2/2004 (Pay day). The noise of the unauthorised persons in the Branch was causing disturbance. Then he alongwith others was asked to leave the Cash Branch by Supervising Officer. He refused to carry out the order of his Superior and threatened him of dire consequences and physical assault which is quite indis-

Assistant Director/B
Subsidiary Intelligence Bureau
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ciplined behaviour and gross violation of Rule 3 of CCS, (Conduct) Rule 1964. As per statements of the state witnesses during inquiry, disobedience and disrespectful of Shri Sutradhar to his official superior were proved.

12. That with regards to the statement made in paragraphs-4.15 to 4.17 of the instant application the Respondents beg to state that those are matter of records and the Respondents do not admit anything which are not borne out of records.

13. That with regard to the statement made in paragraphs 4.18 of the instant application the Respondents have already stated in 4.14 of the instant application.

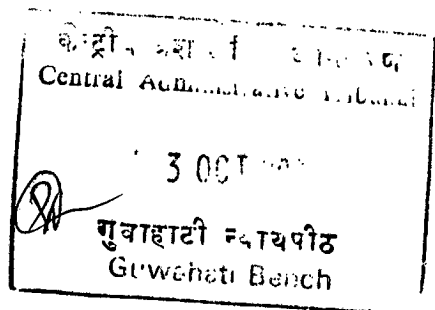
14. That with regards to the statement made in paragraph-4.19 of the instant application the Respondents beg to state that those are matter of records and the Respondents do not admit anything which are not borne out of records.

15. That with regards to the statement made in paragraph-4.20 of the instant application the respondents beg to state that the Charged Officer had outrightly denied the charges without producing any evidence/witness.

16. That with regards to the statement made in paragraph-4.21 of the instant application the respondents beg to state that the applicant was given proper and reasonable opportunity to defend his case as he did not

Assistant Director 'B'
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submit any evidence/witness in defence against the charges during the course of inquiry.

17. That with regards to the statements made in paragraphs 4.22 and 4.23 of the instant application the Respondents beg to state that these are matter of records and the Respondents do not admit anything which are not borne out of records.

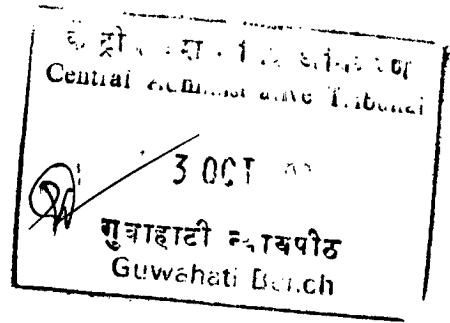
18. That with regards to the statements made in paragraph 4.24 of the instant application the Respondents beg to state that the applicant had not made the appeal to the appropriate authority i.e. Appellate Authority. The Disciplinary Authority has no authority to review his order. The appeal should be self contained and addressed to the Appellate Authority.

19. That with regards to the statements made in paragraph 4.25 of the instant application the Respondents beg to state that the period of limitation for appeal is forty five days from the date of receipt of order issued by the Disciplinary Authority Shri Sutradhar LDC made his appeal to the Appellate Authority on 17/11/2005 against the Disciplinary Authority's order issued under endorsement No. 33/E/2004(2)-6269 dated 14/09/2005 i.e. after expiry of the stipulated period of 45 days;

20. That with regards to the statements made in paragraph 4.26 of the instant application the Respondents beg to state that those are matter of record and the Respondents do not admit anything which are not borne out of record.

Assistant Director/E
Subsidiary Branch, Buxar
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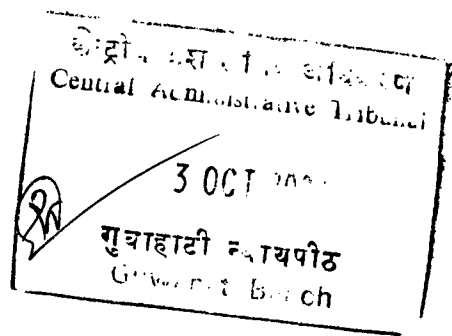
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21. That with regards to the statements made in paragraph 4.27 of the instant application the Respondents beg to state that the statement made in this paragraph is false, untrue, incorrect. The Respondents further beg to state that the inquiry was conducted in impartial manner. In respect of the selection of Inquiry Officer, the Disciplinary Authority pays due regard to the seriousness of the alleged offence and also status of the accused officer. The status of the Inquiry Officer is not, however lower than that of the Charged Officer i.e. the Inquiry is only conducted by the Gazetted Officer who is obviously senior to the charged officer. In this instant case, the Inquiry Officer was also senior to the Charged Officer and working as Section Officer (G Branch). Whereas, the Charged Officer and the complainant were working in the E-Branch and Accounts Branch respectively in SIB, Itanagar during the course of inquiry. Thus the respondents followed the necessary rules, guidelines and standing Government instructions during conducting the injury.

22. That with regards to the statement made in paragraph 4.28 of the instant application the Respondents beg to state that the statement made in this paragraph is false, incorrect and untrue. The Respondent further beg to state that on 27/2/2004 (Morning), the Cashier alongwith the attached staff went to Bank. They had returned to Cash Branch after collecting money from the bank and the Cashier was busy in checking the amount to be disbursed which is normally time consuming. In order to avoid any nuisance in disbursement of payments to the

Assistant Director (B)
Subsidiary Intelligence Bureau
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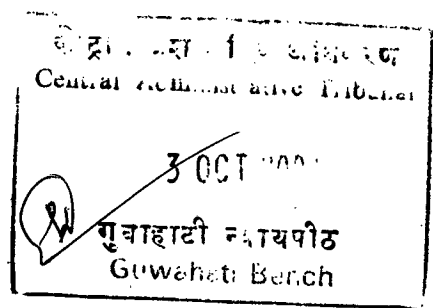
employees on the pay day (27/2/2004), the Cashier had fixed a time slot as per direction of Shri Viplav, SO(A) to distribute the pay amongst the staff for maintaining Security of the cash. So, he was calling a few employees at a time for receiving disbursing their pay.

23. That with regards to the statement made in paragraph 4.29 of the instant application the Respondents beg to state that the Charged Officer, the applicant, LDC, was given ample opportunity to cross examine the state witnesses and during the hearing he was asked to produce his witness, if any and additional documents if required. But, he did not submit any witness in support of his defence. The Inquiry Officer had recorded the statement of the state witnesses and only then it was proved that the Charged Officer had entered the Cash Branch unauthorisedly on 27/02/2004. On being asked to leave the branch, he refused the order of his superior officer and threatened him of dire consequences and showed disrespect to him. The state Witness-I-Shri R.K. Bhattacharjee, was working as Cashier in Cash Branch and State Witness-II Shri C. Chetry was also present there during the incident.

24. That with regards to the statement made in paragraph 4.30 of the instant application the Respondents beg to state that the Disciplinary Authority means on authority competent under the CCS (CCA) Rule 1965 to impose on a Government servant any of the penalties specified under Rule 11 thereof for violation Rule 3 of CCS (Conduct) Rules, 1964. The Inquiry Officer in the findings of his report had proved the charges levelled


Assistant Director (E)
Subsidiary Intelligence Bureau
(MHA) GOVT OF INDIA
MUMBAI

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against Shri Sutradhar LDC and accordingly, the Disciplinary Authority had awarded the penalty.

25. That with regards to the statement made in paragraph 4.31 of the instant application the Respondents beg to state that the statement made in the paragraph is untrue, false and incorrect. The statements of the witnesses were produced as evidence and their cross examination by the Charged Officer during the inquiry had proved the charges against Shri Sutradhar, LDC.

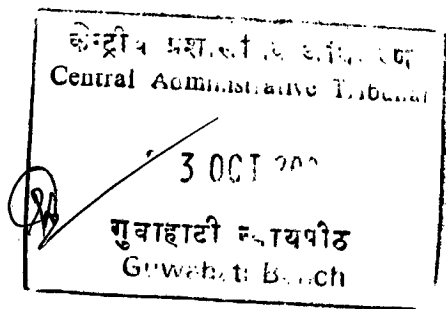
26. That with regards to the statement made in paragraph 4.32 of the instant application the respondents beg to state that the statement made by the applicant is incorrect, false and untrue. The Respondents further beg to state that the Charge Officer was given full opportunity to defend his case and produce evidence/witness during the course of inquiry, but he himself failed to do so.

27. That with regards to the statement made in paragraph 4.33 of the instant application the respondents beg to state that the findings of the Inquiry report submitted on the Inquiry officer is the sole basis for awarding penalty to the Charged Officer.

28. That with regards to the statement made in paragraph 4.34 of the instant application the respondents beg to state that on considering the appeal of Shri Sutradhar, LDC the Appellate Authority had awarded penalty of reduction of his pay by one stage instead of two stages as earlier penalty awarded by the Disciplinary

Assistant Director
Subsidiary Intelligence Bureau
MHA) GOVT OF INDIA
ITANAGAR

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nary Authority.

29. That with regards to the statement made in paragraph 4.35 of the instant application the respondents beg to state that the statement is made in this paragraph by the application is untrue, false, baseless and incorrect and have denied.

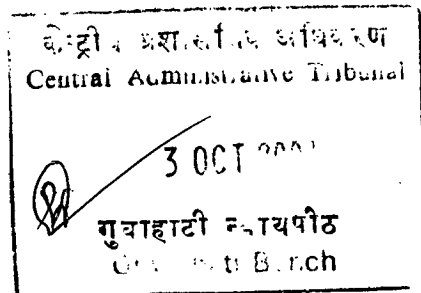
30. That with regards to the statement made in paragraph 4.36 of the instant application the respondents beg to state that the action of respondent at on time have been violation of Fundamental Rights and principles of natural justice. The applicant was given many opportunities to defend his case, but he failed and summarily the charges were proved.

31. That with regards to the statement made in paragraph 4.37 of the instant application the respondent beg to state that all Govt. servants have to maintain discipline and decorum in the office and violation of the discipline invites disciplinary action against the erring official. In the instant case, his legitimate right have never been infringed by the respondents.

32. That with regards to the statement made in paragraph 4.38 of the instant application the respondents beg to state that the statement made in the paragraph is untrue, false and concocted and baseless. The respondents further beg to state that sometime the charges levelled against the applicant have been proved during the course of inquiry and only then the penalty had been awarded.

Assistant Director 'B'
Subsidiary Intelligence Bureau
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33. That with regards to the statement made in paragraph 4.39 of the instant application the respondents beg to state that if had already been proved that, the applicant, LDC had violated the provision of Rule 3 of CCS (Conduct) Rules 1964 and the penalty was awarded to him under the Rule 11 of CCS (CCA) Rules 1965 to maintain the decorum of and discipline in the office.

34. That with regards to the statement made in paragraph 4.40 of the instant application the respondents beg to state that the statement made in this paragraph is untrue, false and baseless hence denied.

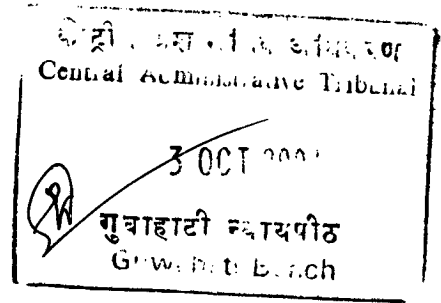
35. That with regards to the statement made in paragraph 4.41 of the instant application the respondents have no comment.

36. That with regards to the statement made in paragraph 5.1 of the instant application the respondents beg to state that the CCS (CCA) Rules 1965 is applicable to all Central Government servants in general and specify the jurisdiction of the Rule. The Disciplinary Authority and the Appellate Authority have the authority to award penalty to the Charged Officer for violation of the CCS (Conduct) Rule 1964.

37. That with regards to the statement made in paragraph 5.2 of the instant application the respondents beg to state that the charges made against him were proved as per findings of the report of the Inquiry Officer.

Assistant Director 'B'
Subsidiary Intelligence Bureau
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"TANAGA"

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38. That with regards to the statement made in paragraph 5.3 of the instant application the respondents already stated above paras.

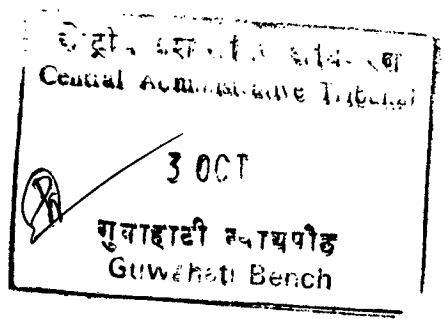
39. That with regards to the statement made in paragraph 5.4 of the instant application the respondents beg to state that the averments made in this paragraph is untrue, false and baseless. The respondents further beg to that the state witnesses had given their statement in the presence of the Charged Officer and the C.O. had himself cross examined the SW-I and SW-II.

40. That with regards to the statement made in paragraph 5.5. of the instant application the respondents beg to state that the averments made in this paragraph is baseless, untrue and false. The respondents further beg to state that all the formalities were observed during the proceedings. Charged Officer was given full opportunity to defend his case but he failed to do so.

41. That with regards to the statement made in paragraph 5.6 of the instant application the respondents beg to state that the averments made in this paragraph is untrue, false and baseless. The respondents further beg to state that the allegations are unfounded. The Charged Officer had not mentioned the name of the persons other than SWs-I and II who were present in the Cash Branch, during hearing. He could have produced either of them as witnesses at any stage, but, he did not.

Assistant Director
Subsidiary Intelligence Bureau
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42. That with regards to the statement made in paragraph 5.7 of the instant application the respondents have already stated in above parars.

43. That with regards to the statement made in paragraph 5.8 of the instant application the respondents beg to state that the Charge Officer had not mentioned the names of the other persons who were present in the cash branch at the time during the hearing. The complainant was working as Section Officer (Gazetted) and all the official present there were subordinate to him.

44. That with regards to the statement made in paragraph 5.9 of the instant application the respondents beg to state that the averments made in this paragraph is baseless, untrue and false. The respondents further beg to state that the SWs had given given their statements during the hearing which were cross examined by the Charged Officer and it was proved that, the C.O. along-with others were present in the Cash Branch and disturbing the Cashier in performing his duties. On being asked, all other staff members left the Cash Branch, but the C.O. did not obey the order of his superior.

45. That with regards to the statement made in paragraph 5.10 to 5.16 of the instant application the respondents beg to state that these are false, untrue and baseless hence denied. That the reponsesnts further beg to state that the grounds set in the instant application by the applicant are not good grounds and

Assistant Director
Subsidiary Intelligence Bureau
(MHA) GOVT OF INDIA
GUWAHATI

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3 OCT 2007
गुवाहाटी न्यायपीठ
Guwahati Bench

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also not tenable in law as well as, on facts and as such the instant application is liable to be dismissed.

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

47. That with regards to the statement made in paragraph 9 of the instant application the respondents beg to state that the claim of the applicants is illegal and illfounded and therefore the applicant is not entitled to get any interim relief.

48. The the respondents beg to submit that in view of the above discussion the instant application has no merit and as such the instant application is liable to be dismissed.



Assistant Director
Auxiliary Intelligence Bureau
MHA COURT OF INQUIRY
GUWAHATI

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केन्द्रीय प्रशासनिक अपील बोर्ड
Central Administrative Tribunal
3 OCT 2007
गुवाहाटी न्यायपीठ
Guwahati Bench

AFFIDAVIT

I, MURARI LAZ S/O Sh. GOBIND RAM

aged about 46 years, R/o SMB OFFICE COMPLEX
CHIMPU

District 1 TANJAVUR and competent officer of the answering
(PAPUMPARSE)

respondents, do hereby verify that the statement made in
paras..... are true to my knowledge and those made
in parasbeing matters of record are true to
my information derived therefrom which I believe to be true and the
rests are my humble submissions before this Hon'ble Tribunal and I
have not suppressed any facts before this Tribunal.
Sd/-

And I sign this verification on this 6 th day of Sept, 2007,
at TANJAVUR

Deponent

Assistant Director/D
Subsidiary Intelligence Bureau
GOVT. OF INDIA
TANJAVUR