

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Baruah
26/9/17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

Case Sheet

1. Original Application No. 78/07
2. Misc Petition No. _____
3. Contempt Petition No. _____
4. Review Application No. _____

Applicant(s) Pantha Chakrabarty vs Union of India & Ors

Advocate for the Applicant(s) (Absentia)
R. Kalita for the Applicant.

Advocate for the Respondent(s) AMCA&C Ms. M. Das

Notes of the Registry	Date	Order of the Tribunal
File No. 286992866 Date 14.3.07	27.3.07.	Post the matter on 5.4.07.
1m	5.4.2007	Issue notice to the respondent Post on 21.5.2007.
bb		Post on 21.6.2007 for filing of reply statement.

Petitioners write
for issue notices one
received by post 21.5.2007
without envelope

1/bb/

Vice-Chairman

Notice & order sent to
D/Section for issuing to
R-1, 2 and 3 by regd. A/D
post and another for R-4
steps not taken
DINo 433 to 435

① Notice not issued to R. no 4
or want of steps.

② Service report awaited.

My
18.5.07.

21.6.07. Service Report awaited. Mrs. M. Das learned

Addl.C.G.S.C. for the respondents prays for four weeks time to file written statement. Let it be done. Post the matter on 23.7.07. Registry is directed to check up whether the service is completed or not.

① Service report awaited.

Vice-Chairman

② No. 103 has been im-
billed.

My
20.6.07.

23.7.07.

Written statement has not been filed.

Post the matter 23.8.07.

Vice-Chairman

21.6.07.
P.L. comply the direction
as the need be court/tribunal.

22.6.07

23.8.2007

Post the case on 25.9.2007 granting
four weeks time to Ms.M.Das, learned
Addl.C.G.S.C. for filing of reply statement.

Vice-Chairman

(a) postal A/D card not
yet received back
from resp. no. 1 to 3.

(b) Notice for R-4
could not sent
due to non receipt
of steps from
the applicant side.

/bb/

22/6/07.

16.7.07

A/D. Continue aspects of
Respondent No. 1 to 3 not yet
received. Notice for Resp. 4
could not be sent due to want
of steps from the applicant side.
W/S not yet received from
Respondent No. 1 to 3. on the other hand
the applicant submitted by
post his written arguments. The
matter is placed before the
Hon'ble Court for necessary order.

Journal
80(T) 16707

PAO
16/7/07

25.9.07

3
O.A.78/07

21.8.07

Written argument/Reply
by Post from the Applicant.

Order dt. 25/9/07
Sent to D/Section
for issuing to resp.
nos - 1 to 4 by post
and also applicant
copies of order
Sent to by post,
another copy sent
to received by hand
(Sl. No. 6).

(Das)
31/10/07

None appears for the
applicant nor the applicant is
present. Registry was directed to
issue Notice to the respondents vide
order dated 5.4.2007. By 21.5.07 no
reply has been filed. On 21.6.07
Mrs. M. Das learned Addl.C.G.S.C.
took four weeks time to file reply.
On 23.7.07, in absence of reply the
matter was adjourned to 23.8.07;
when the Addl.C.G.S.C. took four
weeks time to file reply, no reply
has yet been filed in this matter.
Last opportunity is given to the
respondents file reply in this
matter. Call this matter on 7.11.07
expecting reply from all the
Respondents.

Sent copies of this order to
the all the respondents, in the
address given in the O.A and
copies of this order be sent to the
applicant and also be furnished to
Mrs. M. Das, Addl.C.G.S.C. Call the
matter on 7.11.07


Vice-Chairman

lm

07.11.2007

None appears for the applicant.
Adjourned to 11.12.2007.


Member (A)

/bb/

W/Ls filed.


To: 12/07

1/1
O.A. No. 78/2007

11.12.2007

Mr. R. Hazarika and Mr. R. Kalita, learned counsels for the Applicant are present. In this case written statement has already been filed and the learned counsel for the Applicant states that no rejoinder is necessary in this case.

M.P. No. 33/2007 has been filed by the Applicant seeking expeditious hearing of the matter on merit.

In the aforesaid premises, this M.P. No.33/2007 is allowed.

Subject to legal pleas to be examined at the time of hearing, the O.A. No.78/2007 is admitted and set for hearing, on merit on 31.12.2007.

Respondents are called upon to cause production of the disciplinary proceedings file, from which impugned order was passed in this case. Appellate records and the revisional records should also be produced on the date of hearing.

Send copies of this order to the Respondents in the addresses given in the Original Application.

GR
(Gautam Ray)
Member (A)

MR
(M.R.Mohanty)
Vice-Chairman

Det. 11.12.07.

P1. Send Order copies to the Respondents
Received on *GR*
behalf of Add. C.G. Sec
Mrs. M. Das, Add. C.G. Sec
Deeta Singh

13/12/07 wks billet.
23/12/07.

order dated 11/12/07 sent to
D/Section for issuing to
Dasp. Nos. 1704 by post.

13/12/07 D/No-1767 to 1772
D/ 13/12/07.

PTD

31.12.2007 In this case, Respondents were called upon to produce disciplinary proceeding etc. files by our order dated 11.12.2007. A copy of the said order dated 11.12.2007 was also supplied to Mrs.M.Das, learned Addl. Standing counsel appearing for the Respondents. Today, learned Addl. Standing counsel seeks adjournment to cause production of the disciplinary proceeding records etc stated to be still lying in the office of the Director General of Posts, New Delhi.

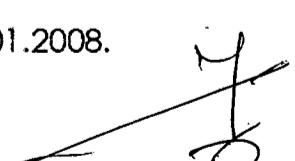
In the aforesaid premises, this matter stands adjourned till 25.01.2008; when learned Addl. Standing counsel should cause production of the disciplinary proceeding etc files.

Mr.R.Hazarika, learned counsel appearing for the Applicant files an application (M.P. No.138 of 2007) to bring on record certain documents for consideration. A copy of the said M.P. No.138 of 2007 has already been served on Mrs.M.Das, learned Addl. Standing counsel appearing for the Respondents.

Heard. M.P. No.138 of 2007 filed by the Applicant is, hereby, allowed. Documents filed with the M.P. No.138 of 2007 shall be taken into consideration for hearing.

Liberty is, hereby, granted to the Respondents to file their objection, if any, to the documents filed with the M.P. No.138 of 2007 well before the next date.

Call this matter on 25.01.2008.


(M.R.Mohanty)
Vice-Chairman

/bb/

25.01.2008

Call this matter on 12.02.2008.



(Khushiram)
Member(A)



(M.R. Mohanty)
Vice-Chairman

① WIS filed.

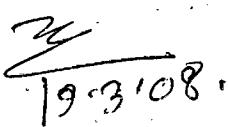
im

② Rejoinder not filed.

20.03.2008

Call this matter on 8th

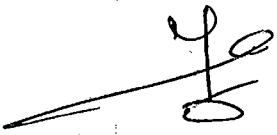
April, 2008.



19.3.08.



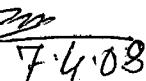
(Khushiram)
Member(A)



(M.R. Mohanty)
Vice-Chairman

im

Rejoinder not filed.



7.4.08.

08.04.2008 Heard Mr R. Hazarika, learned Counsel for the Applicant and Mrs M. Das, learned Addl. Standing Counsel for the Union of India. Hearing concluded. Orders reserved.

nkm



(Khushiram)
Member (A)



(M.R. Mohanty)
Vice-Chairman

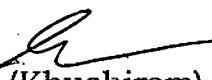
11.04.2008

Judgment pronounced in open Court, kept in separate sheets.

The Application is dismissed in terms of the order.

11.6.08
Order issued
wide of nos 1959
to 1964 DD 304/08
to the party

pg.



(Khushiram)
Member (A)



(M.R. Mohanty)
Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 78/2007

DATE OF DECISION : 11-04-2008

Shri Partha Chakraborty Applicant/s

By Advocate Shri R. Hazarika Advocate for the
..... Applicant/s

-Versus -

Union of India & Ors. Respondent/s

Mrs M. Das, Addl. C.G.S.C Advocate for the
..... Respondent/s

CORAM

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

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


Vice-Chairman/Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.78 of 2007.

Date of Order : This the 11th Day of April, 2008.

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

Shri Partha Chakraborty
(The then System Manager,
VSAT, Agartala Cum Officiating IPO (PG),
Office of the Director,
Postal Services, Agartala)
Now Postal Assistant,
Office of the Director,
Postal Services, Agartala.Applicant

By Advocate Shri R. Hazarika

Versus -

1. Union of India,
represented by the Secretary,
Ministry of Communications and I.T.,
Department of Posts,
Dak Bhawan, Sansad Marg,
New Delhi -110 001.
2. The Director General of Posts (Member-P)
Government of India,
New Delhi - 110013.
3. The Chief Postmaster General,
North Eastern Circle,
Department of Posts,
Government of India,
Shillong.
4. The Director,
Postal Services (HQ & MKTG),
North Eastern Circle,
Department of Posts,
Government of India,
Office of the Chief Postmaster General,
Shillong - 793001.Respondents

By Advocate Mrs M.Das, Addl.C.G.S.C



ORDERKHUSHIRAM, (MEMBER-A)

The Applicant, a Postal Assistant since 1990, while performing duties as System Manager, (VSAT) Cum IPO (PG) in the office of the Director of Postal Services at Agartala in West Tripura, was elected as Circle Secretary of N.E.Circle of the National Union of Class-III Postal Employees (a recognized Service Association since 28.07.1997) and in his capacity as Circle Secretary of the Association in question, he submitted representation to Shri Santosh Mohan Deb (the then Hon'ble Minister for Heavy Industries and Public Enterprises, Govt. of India, New Delhi) directly and the department, having considered the action of the Applicant to be a misconduct unbecoming of a Government Servant, charge sheeted him for having transgressed the limits prescribed for a Government servant for writing to the Minister for his personal gain violating CCS (Conduct) Rules 1964. The Applicant claimed that, as the Union representative, he had the right to correspond with any person in the interest of the Association as per the decision of the executive body of the Union. He was served with show cause notice on 14.07.2005. The said charge sheet under Rule 16 of the CCS (CCA) Rules 1965 (vide Memo dated 14.07.2005) contained on the following charges :-

(a) Sri Partha Chakraborty, System Manager VSAT Agartala H.O cum Offg. IPO (PG) O/O the Director Postal Services, Agartala while working as such during the period from 27.8.2001 onwards, submitted representation in the capacity of Circle Secretary, NUPE, Class-III, N.E.Circle, H/Q at Agartala, directly to Sri Santodh Mohan Deb, Hon'ble Minister



of Heavy Industries & Public Enterprises, New Delhi vide his letter No.(i) NUPE/Corr/04 dtd. 2.7.04, (ii) ENPO/Misc/04 dtd.27.11.04 & (iii) ENPO/Misc/04 dtd. 03.12.04.

(a) Further, said Sri Partha Chakraborty while working in the said office during the said period, submitted a representation, in the capacity of Circle Secretary, NUPE, Class-III, N.E.Circle, HQ at Agartala, directly to Sri Dayanidhi Maran, Hon'ble Minister of Communication & Information Technology, Electronic Niketan, Lodhi Road, New Delhi vide his letter No.NUPE/Corr/05 dtd. 11.1.05 without following prescribed procedure. This is to say the representation was not submitted through proper channel.

(b) By his aforesaid action, said Sri Partha Chakraborty is alleged to have violated the provisions of Rule 20 of CCS (Conduct) Rules, 1964 by canvassing of non-official, political or other outside influence to bear upon any superior authority.

(c) Again the said Sri Partha Chakraborty, in capacity of Circle Secretary, NUPE, Class-III, N.E.Circle, HQ at Agartala submitted all the aforesaid representations/ correspondences directly to the Hon'ble Union Ministers, in connection with the matters which were not of common interest of the members of the service Association. All the aforesaid representations were submitted directly and were addressed to the Hon'ble Union Ministers. The said action of the said Sri Chakraborty is in violation of the provisions of Rules 6(a) (b) (d) & (k) of C.C.S (Recognition of Service Associations) Rules, 1993.

2. Subsequently on 15.09.2005 punishment of withholding of one increment of the Applicant for a period of 3 years without cumulative effect was imposed by Disciplinary Authority.

3. The punishment, on appeal, was, however, reduced to withholding of one increment for a period of 2 years (instead of 3 years) without cumulative effect vide Appellate order dated 5.12.2005 and subsequently he made a petition to the Member (P) of Postal Services



Board; who upheld the decision of the Appellate authority vide order dated 24.01.2007.

4. Aggrieved by the aforesaid actions, the Applicant has approached this Tribunal with this Original Application filed under Section 19 of the Administrative Tribunals Act, 1985.

5. The order of the Disciplinary Authority was assailed, in appeal on the ground that the Respondents have violated the guidelines dated 22.05.1985 issued by the Government of India. In this regard the Applicant specifically invited attention to O.M. No. 11013/7/85-Estt. (A) dated 22.05.1985; which states that for the first time violation of CCS (Conduct) Rules 1964, a Government servant should be advised by the appropriate disciplinary authority to desist from approaching Members of Parliament or State Legislatures to further his interest in respect of matters pertaining to his/her service condition and a copy of this advice note need not, however, be placed in the C.R.dossier of the employee concerned. It is the stand of the Applicant that despite reference to the GOI/OM dated 22.05.1985 in the Appeal Memo, the appellate authority did not take any proper view of the matter. The Applicant has also claimed that he has not submitted any application/representation to any authority directly in any manner in contravention of CCS (Conduct) Rules 1964. He also claimed that while working as a Government servant, he also acted as Circle Secretary to the recognized Service Association; which was different from his official position. He has sought the following reliefs :-

"(i) Quashing and/or setting aside the Memo No. Staff/153-9/2004(18) dated 15.09.2005 issued by

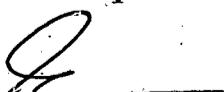


the Director, Postal Services (HQ & MKTG)), N.E.Circle, Shillong.

(ii) Quashing and/or setting aside the Memo No. Staff/153-9/2004(18) dated 05.12.2005 passed by the Chief Postmaster General, N.E.Circle, Shillong.

(iii) Quashing and/or setting aside the Order No.C-17015/05/2006-VP dated 24.01.2007 passed by the Member (P), Postal Services Board on the revision petition."

6. Respondents, having filed written statement, admitted that the Applicant submitted representations in the capacity of Circle Secretary of NUPE Class-III, N.E.Circle Headquarter at Agartala to Shri Santosh Mohan Dev, the then Honm'ble Minister for Heavy Industries and Public Enterprises, New Delhi (vide representations dated 02.07.04, 27.11.04 & 03.12.04) and one, on 11.01.05, to Shri Dayanidhi Maran, Hon'ble Minister of Communication and Information Technology, New Delhi; for which, after completion of necessary formalities, he was punished with a minor penalty of withholding one increment for a period of 3 years without cumulative effect vide order dated 15.09.2005 and that, on Appeal, the punishment was reduced to stoppage of one increment for 2 years without cumulative effect vide order dated 05.12.2005 and the further petition filed by the applicant (before the Member(P) of Postal Services Board) was rejected by reviewing authority vide order dated 24.01.2007 referring to rule 3 (1) (iii) of CCS (Conduct) Rules 1964 "every Government servant shall at all times, do nothing which is unbecoming of a Government servant. It has also been stated that as per provision of Rule 20 of CCS (Conduct) Rule 1964 no Government servant should bring or attempt to bring any political or other outside influence to bear upon any superior authority



to farther his interest in respect of matters pertaining to his service under Government. The Respondents have also alleged violation of Rule 6(a) (b) (d) and (k) of CCS (Recognition of Service Association) Rules 1993 which are reproduced below:-

"6(a); "the Service Association shall not send any representation or deputation except in connection with a matter which is of common interest to members of the Service Association."

(b) The Service Association shall not espouse or support the cause of individual Government servants relating to service matters.

(d) all representations by the Service Association shall be submitted through proper channel and shall be addressed to the Secretary to the Government/Head of the organization or Head of the Department or Office.

It has also been stated that the Applicant in his statement of defence admitted that he made representations to the then Hon'ble Minister for Heavy Industries and Public Enterprises and thus he violated the provisions of Rule 6(a) (b) (d) and (k) of CCS (Recognition of Service Association) Rules 1993 and thus he acted in a manner which is unbecoming of a Government servant and violated Rule 20 of CCS (Conduct) Rules 1964.

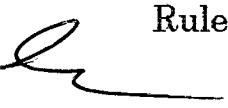
7. We have heard Mr R.Hazarika, learned counsel appearing for the Applicant and Mrs M. Das, learned Addl. Standing counsel appearing for the Respondents. The learned counsel for the Applicant stated that the applicant's action if it is considered as a misconduct, then it being his first act of misconduct he was only entitled to a warning; because of Government of India's decision dated 22.05.1985. The O.M. dated 22.05.1985 of Government of India spelt the course of action to be taken in these matters which should be followed by the



authorities. Relevant portion of Annexure-9 to the brief of this case is reproduced below :-

"(1) Procedure to be adopted for dealing with communications from public representatives/outside authorities relating to the service matters of Government employees. Rule 20 of the CCS(Conduct) Rules, 1964, provides that no Government servant shall bring or attempt to bring any political or other outside influence to bear upon any superior authority to further his/her interest in respect of matters pertaining to his/her service under the Government. The Government of India has, from time to time, emphasized that Government servants should not approach Members of Parliament or State Legislatures or other political/outside authority to sponsor their cases in respect of service matters. As per the existing instructions vide O.M. No. 11013/7/85-Estt. (A), dated 22.05.1985, the following action should be taken against Government servants approaching Members of Parliament or State Legislatures for sponsoring individual cases :-

- (i) A Government employee violating the aforesaid provisions of the Conduct Rules for the first time should be advised by the appropriate disciplinary authority, to desist from approaching Members of Parliament/Members of State Legislature to further his/her interest in respect of matters pertaining to his/her service conditions. A copy of this advice need not, however, be placed in the CR dossier of the employee concerned.
- (ii) If a Government employee is found guilty of violating the aforesaid provisions of the Conduct Rules a second time despite the issue of advice on the earlier occasion, a written warning should be issued to him/her by the appropriate disciplinary authority and a copy thereof should be placed in his/her CR dossier.
- (iii) If a Government employee is found guilty of violating the aforesaid provisions of the Conduct Rules, despite the issue of warning to him/her, disciplinary action should be initiated against him/her by the appropriate disciplinary authority under the provisions of CCS (CCA) Rules, 1965."



Relevant portion of the DOPT Memo of a later date (12.1.1995) is also reproduced below :-

"Indirect influence also attract the provisions of Rule 20 – As the Ministries/Departments are aware, bringing or attempting to bring any political or other outside influence by a Government servant to bear upon any superior authority to further his interest in respect of service matters pertaining to his service under the Government is prohibited under the provisions of the Conduct Rules. Detailed procedure for dealing with the Government servants attempting to further their service interests through non Governmental influence has been prescribed in GIO(1) above."

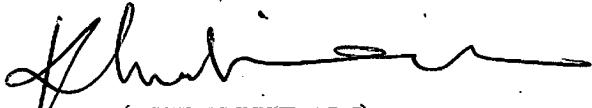
8. Learned counsel for the Respondents stated that the Applicant has admitted to have written all the four representations to the then Ministers and, in one of such representation dated 02.07.2004, the Applicant has raised the matter of his transfer before completion of the tenure. He should have ventilated his grievance before the head of the department. Similarly representation dated 22.04.04 also pertains to his personal transfer; though the same was written by describing himself as the representative of the Service Association. Thus the violation of the CCS (Conduct) Rules and Government instructions are clear and, therefore, the Original Application being devoid of any merit, the same should be dismissed.

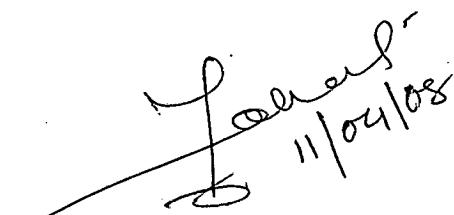
9. We have considered the rival contentions of learned counsel for both the parties and perused the materials placed before us. From the records and the admission of the Applicant, it makes the position very clear that Applicant misused his position as the representative of the Service Association by writing in that position to the Hon'ble Union Ministers of Government of India and has, thus, violated Conduct

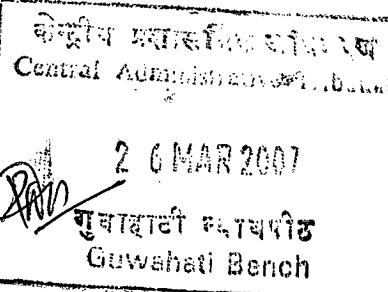


Rules and CCS (Recognition of Service Association) Rules 1993. The instructions contained in DOPT Memo dated 22.05.2005 advising the course of action to be taken by the departmental authorities in the case of such Government servant are restricted to the letters/memorandum written to the Hon'ble Members of Parliament and State Legislatures. These instructions do not include the Hon'ble Ministers of the Government of India and such other public representative who also hold the highest executive positions in the Government and are final arbitrators in matters relating to the Government servant and action against them as such these instructions do not cover the communications/representations made by the Applicant to the Hon'ble Ministers and the plea of the Applicant and his counsel that the department has taken exception to this misconduct is for the first time and therefore, he deserves further leniency (the Appellate Authority has already shown leniency) is not an acceptable plea; particularly in view of the fact that Applicant has admitted to have sent four representations to the Hon'ble Ministers of the Government of India directly. This Tribunal cannot interfere with the quantum of punishment.

10. The Original Application is accordingly dismissed, however, without any order as to costs.


 (KHUSHIRAM)
 ADMINISTRATIVE MEMBER


 11/04/08
 (MANORANJAN MOHANTY)
 VICE CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH,

GUWAHATI
C. A. NO. 78/07
Sri Partha Chakraborty

.....Applicant

AND

Union of India & others

.....Respondents

I N D E X

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03	List of Annexures :-	18 to 19
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Total 59 pages

FORM - I
(See Rule 4)

**Application under Section 19 of the Central Administrative Tribunals
Act, 1985**

(For use in Tribunal Office)

Date of filing

Or

Date of receipt by post

Registration Number

Signature

Registrar

Partha Chakraborty

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH,
GUWAHATI

Sri Partha Chakraborty,
(The then System Manager,
VSAT, Agartala Cum Officiating IPO (PG),
Office of the Director,
Postal Services, Agartala)
- now Postal Assistant,
Office of the Director,
Postal Services,
Agartala.....Applicant

AND

1. Union of India represented by the Secretary,
Ministry of Communications and I.T.,
Department of Posts,
Dak Bhawan, Samsad Marg,
New Delhi - 110 001.
2. The Director General of Posts (Member-P),
Government of India,
New Delhi - 110 013.
3. The Chief Postmaster General,
North-Eastern Circle,
Department of Posts,
Government of India,
Shillong.

4. The Director,

Postal Services (HQ & MKTG),

North-Eastern Circle,

Department of Posts,

Government of India,

Office of the Chief Postmaster General,

Shillong - 793 001

..... Respondents

DETAILS OF APPLICATION

(1). Particulars of applicant:-

(i). Name of the applicant:- Sri Partha Chakraborty.

(ii). Name of father :- Sri Joydeb Chakraborty.

(iii). Designation and office in

which employed:- Postal Assistant, Office of the
Director, Postal Services, Agartala.

(iv). Office address: - Office of the Director, Postal Services,
Agartala, Tripura - 799 001.

(v). Address for service of

all notices:- Sri Partha Chakraborty,
Postal Assistant, Office of the Director
Postal Services, Agartala,
Tripura-799001

(2). Office address of the Respondent:

(i). Name and/ or designation of the
Respondent:-

1. The Secretary (Posts),

Ministry of Communications and I.T.,

Department of Posts,

Dak Bhawan, Samsad Marg,

New Delhi - 110 001.

2. The Director General of Posts (Member-P),
Government of India,
New Delhi - 110 013.

3. The Chief Postmaster General,
North-Eastern Circle,
Department of Posts,
Government of India,
Shillong.

4. The Director,
Postal Services (HQ & MKTG),
North-Eastern Circle,
Department of Posts,
Government of India,
Office of the Chief Postmaster General,
Shillong - 793 001.

Address for service of all notices:-

(i). The Chief Postmaster General,
North-Eastern Circle,
Department of Posts,
Government of India,
Shillong - 793 001.

(ii). The Director General of Posts (Member-P),
Government of India,
New Delhi - 110 013.

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Post
Office
Shillong

(iii). Notices upon the Respondents No.3 & 4 to be served in the office of -
The Chief Postmaster General,
North-Eastern Circle,
Department of Posts,
Government of India,
Shillong - 793 001.

(3). Particulars of the order against which application is made:- The application is made against the following orders :

(i). Memo No. Staff/ 153-9/2004(18) dated 15.09.2005 issued by the Director, Postal Services (HQ & MKTG), N.E.Circle, Shillong.

(ii). Memo No. Staff/ 153-9/2004(18) dated 05.12.2005 passed by the Chief Postmaster General, N.E.Circle, Shillong.

(iii). Order No. C-17015/05/2006-VP dated 24.01.2007 passed by the Member (P), Postal Services Board on the revision petition.

(4). Jurisdiction of the Tribunal:-

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

Parcina Chumakovskij.

(5). Limitation:-

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

(6). Fact of the case:-

(i). That the Applicant is a citizen of India and a permanent resident of Agartala, Tripura State. He has joined the service under the Respondents in the year 1990 as Postal Assistant. He has been discharging his duties to the best of his abilities, most efficiently and to the satisfaction of the authorities. Since 27.08.2001 the Applicant has been performing his duties as System Manager, VSAT, Agartala Cum IPO (PG) in the office of the Director of Postal Services, Agartala, West Tripura. Due to his extraordinary and efficient services, the Director of Postal Services issued D.O. Letters in favour of the Applicant appreciating his performance.

Copies of the D.O. Letters are annexed herewith and marked as ANNEXURE - 1 Series.

(ii). That during the period of his service as System Manager, VSAT, Agartala Cum IPO (PG) in the office of the Director of Postal Services, Agartala, West Tripura, the Applicant was elected as Circle Secretary of the National Union of Postal Employees, Class-III, N.E. Circle which is a Recognized Service

DR
Copy of the letter
Recd on 10/07/2005
Ranjan

Association, duly recognized by the Respondents vide Letter No. 13-14/96-SR (Volume-III) dated 28.07.1997.

Copy of the Letter dated 28.07.1997 is annexed herewith and marked as ANNEXURE-2.

(iii). That being a Government servant, the Applicant is governed by the CCS(Conduct) Rules, 1964 and the Applicant, being well-aware of the said fact, always abide by the said Rules and never acted in contravention of the said Rules, 1964.

(iv). That the Recognized Service Association, in which the Applicant was elected as the Circle Secretary, is also governed by the CCS (Recognition Service Association) Rules, 1993. A bare reading of the said Rules as well as the CCS (Conduct) Rules, 1964 would make it clear that a Government servant for his performance of Government duties is governed by the CCS (Conduct) Rules, 1964 and a Recognized Service Association for its activities is governed by the CCS (Recognition Service Association) Rules, 1993 and it would be evident that both have separate legal entity, identity and capacities and which are regulated by separate Rules.

(v). That by a Memorandum No. Staff/ 153-9/ 2004(18) dated 14.07.2005 the Respondent No.3 issued a Charge Sheet against the Applicant alleging misconduct under Rule 16 of CCS CCA Rules, 1965 and asking the Applicant to submit his representation within 10 days from the date of receipt of the said Memorandum. In the said Charge Sheet in the statement of

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imputation of misconduct or misbehaviour it has been alleged that in the capacity of Circle Secretary of the said Recognized Service Association, the Applicant directly submitted representation to Shri Santosh Mohan Deb, Hon'ble Minister, Heavy Industries and Public Enterprises, New Delhi. It is also alleged that in the said capacity of Circle Secretary of the said Recognized Service Association the Applicant submitted representation directly to Shri Dayanidhi Maran, Hon'ble Minister for Communication and Information Technology, Electronic Niketan, Lodhi Road, New Delhi without following the prescribed procedure i.e. the said representations were not submitted through proper channel. In the said statement of imputation of misconduct or misbehaviour it is further alleged that thereby the Applicant has allegedly violated the provision of Rule 6(a) (b) (d) and (k) of CCS (Recognition of Service Associations) Rules, 1993 and also violated the provisions of Rule 20 and also Rule 3 (i) (iii) of CCS (Conduct) Rules, 1964 and thereby he has allegedly acted in a manner unbecoming of a Government servant. On receipt of the said Memo the Applicant submitted his representation on 08.08.2005 denying all the charges framed against him and the statement of imputation of alleged misconduct and misbehaviour. In the said representation the Applicant has stated that since there are separate identities of the capacity of a Circle Secretary and a Government servant, no question arises for violation of Rule 20 and Rule 3 (i) (iii) of the CCS (Conduct) Rules, 1964 since he has never submitted any representation to any Minister for his personal gain as a Government servant. In the said reply he has also stated that had

there any violation, the concerned Union is answerable and not a Govt. servant and the identity of a Govt. servant cannot be clubbed with the capacity of a Circle Secretary or Union Office Bearer and he has prayed for exoneration from the said charges. In the said representation the Applicant has specifically stated that as a Circle Secretary of a Recognized Service Association the Applicant can make correspondence with any person in the interest of the Union and as per the decision of the Executive Body of the Union, but not as a Govt. servant.

Copies of the said Memo dated 14.07.2005 and representation/reply dated 08.08.2005 is annexed herewith and marked as Annexure-3 and Annexure-4 respectively.

(vi). That without considering the representation, submitted by the Applicant, the Disciplinary Authority, by its order dated 15.09.2005, most illegally held that the Applicant has violated Rule 6 (a) (b) (d) and (k) of CCS (Recognition of Service Associations) Rules, 1993 and ordered withholding of one increment of the Applicant for a period of 3 years without cumulative effect.

(vii) That the Disciplinary Authority has failed to appreciate that the CCS (Recognition of Service Associations) Rules, 1993 applies only to the Service Association and this is specifically stated in Rule 3 of the said CCS (Recognition of Service Associations) Rules, 1993. Thus, it would be evident that the Respondent No.3 passed the order in utter violation of the relevant Rules.

Copy of the order dated 15.09.2005 passed by the Disciplinary Authority is annexed herewith and marked as Annexure-5 and the extract of Rule 3 of CCS (Recognition of Service Associations) Rules, 1993 is annexed herewith and marked as Annexure-6.

(viii). That being aggrieved the Applicant preferred an Appeal before the Appellate Authority, i.e. the Respondent No.2, stating inter alia all the grounds and he has also mentioned that he cannot be punished under the CCS (Recognition of Service Associations) Rules, 1993 and only the Service Association is answerable. He has also mentioned that he has not submitted any representation to any Hon'ble Minister in the capacity of a Govt. servant for his personal gain.

Copy of the Memo of Appeal dated 16.10.2005 is annexed herewith and marked as Annexure-7.

(ix). That by an order dated 05.12.2005 the Appellate Authority, without considering the submission of the Applicant, wrongly held that the Applicant has admitted the charge of violation of Rule 20 of the CCS (Conduct) Rules, 1964. For convenience, the Rule 20 of CCS (Conduct) Rules, 1964 is quoted hereunder:-

"20. Canvassing of non-official or other outside influence

No Government servant shall bring or attempt to bring any political or other outside influence to bear upon any superior

authority to further his interests in respect of matters pertaining to his service under Government."

A bare reading of the said Rule would make it clear that unless a Government servant brings or attempts to bring any political or other outside influence upon any superior authority for his interest in respect of his service matter, a Government servant cannot be prosecuted or punished. A bare reading of the Charge Sheet would make it clear that the Applicant never submitted any representation to any Hon'ble Minister for his personal gain. But the Ld. Appellate Authority most illegally and arbitrarily held that the Applicant allegedly admitted the charge of violation of Rule 20 of the CCS (Conduct) Rules, 1964 in spite of the fact that nowhere, either in his representation to the Charge Sheet or in his Memo of Appeal, the Applicant has ever admitted that he has submitted any representation for his personal gain. In the order the Ld. Appellate Authority mentioned that this is the first instance on the part of the Applicant, thereby he has taken a slightly lenient view in the instant case and ordered for withholding of one increment of the Applicant for 2 years without cumulative effect in stead of 3 years, as decided by the Disciplinary Authority. In fact, the Appellate Authority did not take any lenient view. Had the Appellate Authority taken any lenient view for the alleged violation of Rule 20 of the CCS (Conduct) Rules, 1964, the Appellate Authority ought to have followed the Government of India decision contained in O.M. No. 11013/7/84-Estt(A) dated 22.05.1985 which states that for the first time violation of Rule 20 of CCS (Conduct) Rules, 1964, a Government servant should be advised by the appropriate

Partha Chakraborty

Disciplinary Authority to desist from approaching Members of Parliament/ Members of State Legislature to further his interest in respect of matters pertaining to his/her service condition and a copy of this advise note need not, however, be placed in the C.R. dossier of the employee concerned. Thus, it would be evident that, in fact, the Appellate Authority has taken no lenient view at all.

Copies of the said order dated 05.12.2005 and O.M. dated 22.05.1985 are enclosed herewith and marked as Annexure-8 and Annexure-9 respectively.

(x). That being aggrieved and dissatisfied, the Applicant submitted a Revision Petition before the Revisional Authority, i.e. the Respondent No.1, stating all the facts and circumstances and prayed for quashing/cancelling and setting aside the punishment order passed by the Disciplinary Authority dated 15.09.2005 and the order of the Appellate Authority dated 05.12.2005. The Applicant submitted the said Revision Petition on 26.12.2005. Thereafter on 05.01.2006 he has submitted additional document in support of his averments made in the Revision Petition. The said document, issued by the successor Circle Secretary of the Applicant, states that whatever letters/representations are signed by the Circle Secretary are done after taking decision in the Executive Body of the Service Association and the said letter would also make it clear that the Applicant never submitted any representation to any political or outside influence for his personal gain. Thereby the Applicant has never violated Rule 20 of CCS (Conduct) Rules, 1964.

A copy of the representation dated 26.12.2005 is enclosed herewith and marked as Annexure-10 and the additional document dated 05.01.2006 is also annexed herewith and marked as Annexure-11.

(xi). That by the order dated 24.01.2007 the Respondent No. 1 rejected the Revision Petition of the Applicant holding that no new facts or material evidence having bearing on the factual position of the case has emerged. Thus, the finding of the Disciplinary and the Appellate Authorities are substantiated by evidence on record and thereby rejected the Revision Petition of the Applicant.

Copy of the order dated 24.01.2007 is annexed herewith and marked as Annexure-12.

(xii). That the Disciplinary Authority, the Appellate Authority as well as the Revisional Authority have utterly failed to appreciate that the Applicant, being a Government servant, is not governed by the CCS (Recognition of Service Associations) Rules, 1993. Thus, the violation of any Rule 6 of CCS (Recognition of Service Associations) Rules, 1993 does not arise at all. In addition to that while Rule 3 of the CCS (Recognition of Service Associations) Rules, 1993 specifies the application of the said Rules, 1993.

(xiii). That the Disciplinary Authority, the Appellate Authority as well as the Revisional Authority have failed to

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appreciate that the Applicant never submitted any application or representation to any authority directly or in any manner in contravention of Rule 20 of the CCS (Conduct) Rules, 1964. As such, the finding of the Disciplinary Authority, the Appellate Authority as well as the Revisional Authority is liable to be set aside.

(xiv). That the Disciplinary Authority, the Appellate Authority as well as the Revisional Authority have failed to appreciate that for violation of any of the provisions of the CCS (Recognition of Service Associations) Rules, 1993 there is prescribed procedure for proceedings under Rule 8 of the CCS (Recognition of Service Associations) Rules, 1993. But in spite of doing so, the Disciplinary Authority has most illegally, arbitrarily and without any authority of law imposed penalty upon the Applicant.

(xv). That the Disciplinary Authority, the Appellate Authority as well as the Revisional Authority have failed to appreciate that whatever letter has been signed by the Applicant as Circle Secretary are the communication of the decision of the Executive Body of the Recognized Service Association for the interest and welfare of the general employees of the Government Department and not for any personal gain of the Applicant and the Applicant has independent legal entity as a Government servant and the performance as a Government servant completely differs from the performance as a Circle Secretary of a Recognized Service

Union under different legal entity and in no way both can be clubbed together. It is an admitted fact that the Applicant never acted in any manner in the capacity of a Circle Secretary which would hamper his service as a Government servant. As such, the finding of the Disciplinary Authority, the Appellate Authority as well as the Revisional Authority is liable to be set aside and the increment which has been withheld by the impugned orders is required to be restored.

(xvi). That from the Charge Sheet it would be apparent that the Applicant never submitted any representation in his capacity as a Government servant. Thus, before passing any order imposing punishment, the Disciplinary Authority ought to have held an enquiry and to find out whether the alleged representations were presented as per the decision of the Recognized Service Association or not. As such, the findings of the Disciplinary Authority, the Appellate Authority as well as the Revisional Authority are liable to be set aside and the increment withheld by those impugned orders are required to be restored with consequential benefits, i.e. the withheld increment of the Applicant is required to be restored with retrospective effect.

(7). Reliefs(s) sought:-

In view of the facts mentioned in Para-6 above, the Applicant prays for the following reliefs:-

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- (i). Quashing and/or setting aside the Memo No. Staff/ 153-9/2004(18) dated 15.09.2005 issued by the Director, Postal Services (HQ & MKTG), N.E.Circle, Shillong.
- (ii). Quashing and/or setting aside the Memo No. Staff/ 153-9/2004(18) dated 05.12.2005 passed by the Chief Postmaster General, N.E.Circle, Shillong.
- (iii). Quashing and/or setting aside the Order No. C-17015/05/2006-VP dated 24.01.2007 passed by the Member (P), Postal Services Board on the revision petition.

(8). Interim order, if prayed for:-

No interim relief is prayed for since the authority, during the pendency of the Revision Petition, has implemented the order.

(9). Details of the remedies exhausted:-

The Applicant declares that he has availed of all the remedies available to him under the relevant Service Rules.

- (i). Against the order No. Staff/ 153-9/2004(18) dated 15.09.2005 passed by the Disciplinary Authority the Applicant preferred appeal before the Appellate Authority on 16.10.2005. The Appellate Authority reduced the punishment of stoppage of one increment of the Applicant for 2 years without cumulative effect in spite of 3 years as decided by the Disciplinary Authority.

Being aggrieved, he has preferred revision petition on 26.12.2005 before the Respondent No.1 and additional documents

in support of the revision petition was also submitted on 05.01.2006. The Revisional Application for Quashing and/or setting aside the order by order No. C-17015/05/2006-VP dated 24.01.2007 rejected the revision petition.

(10). Matter not pending with any Court:-

The Applicant further declares that the matter regarding which this application has been made is not pending before any Court of law or any other authority or in other Bench of the Tribunal.

(11). Particulars of Bank Draft/Postal Order in respect of the application fee:-

Deposited Indian Postal Order for Rs.50/- vide IPO No. 28G-992866 dated 14/3/07 in favour of the Registrar, Central Administrative Tribunals, payable at Guwahati GPO.

(12). Details of index:- List of Annexures.

VERIFICATION

I, Sri Partha Chakraborty, S/O. Sri Joydeb Chakraborty, working as Postal Assistant, Office of the Director Postal Services, Agartala - 799 001, resident of East Side of Government Press, Bordwali, P.O. Arundhutinagar, P.S. West Agartala, District - West Tripura, do hereby verify that the contents of the statements of Para-1 to 13 above are true to my personal knowledge and belief and I have not suppressed any material fact and in acknowledgement whereof I sign this verification to-day, this 14th day of March, 2007 at Agartala Court Complex, Agartala, West Tripura.

Partha Chakraborty

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH,
GUWAHATI

Sri Partha Chakraborty

.....Applicant

AND

Union of India & others

.....Respondents

LIST OF ENCLOSURES

1. Annexure-1 Series:- Contains D.O. Letters issued by the Director of Postal Services in favour of the Applicant appreciating his performance.
2. Annexure-2:- Contains copy of the Letter No. 13-14/96-9R (Volume-III) dated 28.07.1997 dated 28.07.1997 recognizing the Service Association of the Applicant.
3. Annexure-3:- Contains copy of the Memorandum No. Staff/ 153-9/2004(18) dated 14.07.2005 issued by the Respondent No.3 alleging misconduct under Rule 16 of CCS CCA Rules, 1965 against the Applicant
4. Annexure-4:- Contains representation/reply of the Applicant dated 08.08.2005 to the Memo. Dated 14.07.2005.
5. Annexure-5:- Contains Copy of the order dated 15.09.2005 passed by the Disciplinary Authority.
6. Annexure-6:- Contains the extract of Rule 3 of CCS (Recognition of Service Associations) Rules, 1993.

7. Annexure-7:- Contains Copy of the Memo of Appeal dated 16.10.2005.
8. Annexure-8:- Contains order dated 05.12.2005
9. Annexure-9:- Contains O.M. dated 22.05.1985
10. Annexure-10:- Contains representation dated 26.12.2005
11. Annexure-11:- Contains additional document submitted by the Applicant dated 05.01.2007
12. Annexure-12:- Contains Copy of the order dated 24.01.2007



Trishaljit Sethi

DEPARTMENT OF POSTAL SERVICES
AGARTALA HO.
MANAGEMENT - PERSONNEL
TELEPHONE ENGINEERS
MAIL TRUCK DRIVERS

D.O. No. PF/T.Sethi/2000

Dated, Agartala, the 30th June 2003

Dear

Partha Chakraborty

This is to put on record my appreciation for the good work you have put in during your tenure here as System Administrator, V-Sat Agartala HO. Your dedication, intelligence, sincerity and hard work make you an asset to any organisation you are associated with.

You have played a crucial role in getting the new system for satellite transmission of Money Orders activated and have made significant contribution to the automation of this work in the division, including transmission of all the MOs by satellite.

It was nice working with you and I hope that you will continue to work with the same enthusiasm and zeal, always.

I convey my best wishes to you and your family and wish you all the best in your life and career.

Trishaljit Sethi

Trishaljit
(Trishaljit Sethi)
Director Postal Services
Agartala - 799 001.

Sri Partha Chakraborty,
System Manager, V-SAT,
Agartala H.O.

DEPARTMENT OF POSTS, INDIA

OFFICE OF THE DIRECTOR POSTAL SERVICES, AGARTALA.

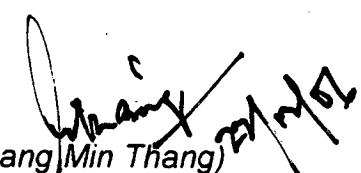
BUSINESS DEVELOPMENT CELL



To

Shri Partha Chakrabarty
Postal Asslt. O/O the DPS, Agartala.

1. I congratulate you on your appreciable performance in collecting UTI Wealth Builder Fund during 07-09-06 to 11-10-06 in spite of your routine works which were demanding.
2. I hope you will perform even better in the coming days with enviable dedication.
3. Your ACR appraisal will reflect this commendation.


(T. Mang Min Thang)
DIRECTOR POSTAL SERVICES
Agartala - 799001

(Typed Copy)

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Ltr. No. 13-14/96-SR (Vol. III), dated, 28-7-1997

Recognition of Service Associations in the Department of Post

I am directed to refer to this office Letter No. 13-14/96-SR (Vol. III), dated 19-12-1996 regarding re-verification of membership of Service Associations for the purpose of grant of recognition and to say that on the basis of results of re-verification through check-off-system, it has been decided to recognize the following Service Associations in the Department of Posts:-

Category	Name of Association
1. Group 'C' (Postal) (excluding Postmen)	1. All India Postal Employees' Union, Class III 2. National Union of Postal Employees. Class III
2. Group 'C' RMS including MMS	1. All India RMS & MMS Employees' Union, Class III 2. National Union of RMS & MMS Employees, Class III
3. Group 'D' (Postal) including Postmen	1. All India Postal Employees Union, Postmen, Class IV 2. National Union of Postal Employees, Postmen & Group 'D'
4. Group 'D' (RMS) including Mail Guards	1. All India RMS & MMS Employees' Union Mail Guards and Class IV. 2. National Union of RMS & MMS Employees Mail Guards and Class IV

(Page- 2)

5. Circle Office Administrative 1. All India Postal Administrative Staff (Groups 'C' & 'D') Offices Employees Union, Class III and Class IV

6. Postal Accounts Employees 1. All India Postal Accounts (Groups 'C' & 'D) including Employees' Association JAOs

7. SBCO (All Grades) 1. All India Savings Bank Control Employees' Union

2. The above Associations have obtained requisite percentage of membership in their respective categories. The recognition is being granted to these Associations for a period of 2 years with immediate effect subject to their carrying out necessary amendments in due course in their constitutions in accordance with the new recognition rules as already communicated to them.

3. With this recognition, Union facilities extended to all other Associations/Unions in respect of these categories of staff as continued *vide* this office letter No. 13-34/95-SR, dated 5-6-1995 will cease. However, as per the directions of the Hon'ble Delhi High Court, New Delhi in C.W.P. No. 1827/97 *status quo* to be maintained in case of All India Association of Postal Supervisors (General Line) till the case is finally decided by the Court.

Purna Chakraborty

Registered with A/D

DEPARTMENT OF POSTS: INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL N. E. CIRCLE: SHILLONG-793 001.

Memo No. Staff/153-9/2004 (18)

Dated at Shillong, the 14th July 2005.

Shri Partha Chakraborty, System Manager, VSAT, Agartala H.O. cum Offg. IPO (PG), O/O the DPS, Agartala is hereby informed that it is proposed to take action against him under rule-16 of CCS (CCA) Rules, 1965. A statement of the imputations of misconduct or misbehaviour on which action is proposed to be taken as mentioned above is enclosed.

2. Shri Partha Chakraborty is hereby given an opportunity to make such representation as he may wish to make against the proposal.
3. If Shri Partha Chakraborty fails to submit his representation within 10 (ten) days of the receipt of this Memorandum, it will be presumed that he has no representation to make and orders will be liable to be passed against him *ex parte*.
4. The receipt of this memorandum should be acknowledged by Shri Partha Chakraborty.

Enclosed:- As stated.

Rever
(Abhimav Walia)
Director Postal Services (HQ)
N. E. Circle, Shillong-793 001.

To

Shri Partha Chakraborty,
System Manager, VSAT, Agartala H.O.
Cum IPO (PG), O/O the DPS,
Agartala-799 001.

Statement of imputations of misconduct or misbehaviour on which action is proposed to be taken against Sri Partha Chakraborty, System Manager VSAT Agartala H.O. Cum offg. IPO (PG), O/O the Director Postal Services, Agartala, under Rule 16 of C.C.S. (CCA) Rules, 1965.

(a) Sri Partha Chakraborty, System Manager VSAT Agartala H.O. cum offg. IPO (PG) O/O the Director Postal Services, Agartala while working as such during the period from 27-8-2001 onwards, submitted representation in the capacity of Circle Secretary, NUPE, Class-III, N. E. Circle, HQ at Agartala, directly to Sri Santosh Mohan Deb, Hon'ble Minister of Heavy Industries & Public Enterprises, New Delhi, vide his letter No.(i) NUPE/Corr/04 dtd.2-7-04, (ii) FNPO/Misc/04 dtd.27-11-04 & (iii) FNPO/Misc/04 dtd.03-12-04.

(b) Further, said Sri Partha Chakraborty while working in the said office during the said period, submitted a representation, in the said capacity of Circle Secretary, NUPE, Class-III, N. E. Circle, HQ at Agartala, directly to Sri Dayanidhi Maran, Hon'ble Minister of Communication & information Technology, Electronic Niketan, Lodhi Road, New Delhi, vide his letter No.NUPE/Corr/05 dtd.11-1-05 without following prescribed procedure. This is to say the representation was not submitted through proper channel.

(c) By his aforesaid action, said Sri Partha Chakraborty is alleged to have violated the provisions of Rule 20 of CCS (Conduct) Rules, 1964 by canvassing of non-official, political or other outside influence to bear upon any superior authority.

(d) Again, ^{the} said Sri Partha Chakraborty, in capacity of Circle Secretary, NUPE, Class-III, N. E. Circle, HQ at Agartala, submitted all the aforesaid representations/ correspondences directly to the Hon'ble Union Ministers, in connection with the matters which were not of common interest of the members of the service Association. All the aforesaid representations were submitted directly and were addressed to the Hon'ble Union Ministers. The said action of the said Sri Chakraborty is in violation of the provisions of Rules 6 (a) (b) (d) & (k) of C.C.S. (Recognition of Service Associations) Rules, 1993.

(e) By his aforesaid actions, a) & b) above, said Sri Partha Chakraborty, System Manager, VSAT, Agartala H.O. cum offg. IPO (PG) O/O the Director Postal Service, Agartala, is alleged to have violated the provisions of Rule 20, Rules 6 (a) (b) (d) & (k) of C.C.S. (Recognition of Service Associations) Rules, 1993 & Rule 3 (1) (iii) of CCS (Conduct) Rules, 1964 as he acted in a manner unbecoming of a Govt. servant.

(Typed Copy)

To

The Director Postal Services (HQ)
O/O the Chief Postmaster General
N.E.Circle, Shillong-1.

Sub:- Regarding proposed action under rule- 16 of CCS(CCA)
Rules, 1965.

Ref:- Your memo No. Staff/ 153-9/ 2004 (18) dtd. 14/7/05.

Sir,

In response to your memo cited above, received by me on 03/08/05, I like to inform you that I categorically deny the charges brought against me vide your above cited memo as the allegations are not related to me being a govt. servant, hence the memo is defective, bad in law, motivated and liable to be dropped for the sake of justice. The grounds are appended below:-

- 1) That Sir, a govt. servant is governed by the CCS(Conduct) Rules, 1964 and a recognized service union is governed by the CCS(Recognition of service Associations) Rules, 1993. Both have a separate legal entity, capacity, and identity. A govt. servant is liable if he violates any rule of CCS(Conduct) Rules, 1964 in the capacity of a govt. servant and a recognized service union is answerable for violation of any rule of CCS(Recognition of service Associations) Rules, 1993. Because of their separate identities, the head of the circle, when holds meeting with the union, sends invitation to the circle secretary by addressing him as "sir" and not to any govt. official, although a govt. servant holds the port-folio of circle secretary. From the charge sheet, it is clear that I did not send any representation to any Hon'ble Minister in the capacity of a govt.

(Page- 2)

servant and hence question of violation of rule 20 and 3(1)(iii) of CCS(Conduct) Rules, 1964 by me does not arise. Being a govt. servant, I did never submit any representation to any Minister. Hence it is not fact that while working as system manager, vsat, Agartala H.O cum officiating IPO(PG), O/O the Director Postal Services, Agartala I submitted representation to the Hon'ble Ministers in the capacity of circle secretary, because one circle secretary can make correspondences in the capacity of the circle secretary only while working as the circle secretary of a union, for the interest of the union and as per decision of the executive body, but not while working as a govt. servant.

- 2) Sir, for violation of rules 6(a)(b)(d) and (k) of CCS(Recognition of service Associations) 1993, if there is any, the concerned union is answerable and not a govt. servant.
- 3) Sir, in the instant case, allegations are related to union matter but charge sheet has been issued to a govt. servant. This is not in order.
- 4) Sir, identity of a govt. servant can not be clubbed with that of a union office bearer – but in the entire charge sheet, both the identities have been clubbed and charge sheet has been issued to an innocent govt. servant.
- 5) Sir, from the above, it is crystal clear that the charges brought against me as a govt. servant are not at all related to me and

(Page- 3)

being a govt. servant, I am not also answerable for violation of any rule by any union.

Thus, being a govt. servant, I did never submit any representation to any Hon'ble Minister and hence I categorically deny the charges.

Under the above circumstances, it is clear that the memo is bad in law, and not related to the charge-sheeted govt. servant. Hence, I would pray to you kindly to consider the points raised above and to drop the charge for the sake of justice and oblige thereby.

Yours faithfully,

Sd/-

Partha Chakraborty
System Manager
VSAT, Agartala Cum
Offi: IPO (PG), O/O the
DPS, Agartala.

Partha Chakraborty

Dt. 8/8/05

DEPARTMENT OF POSTS: INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL N. E. CIRCLE: SHILLONG-793 001.

Memo No.Staff/153-9/2004 (18)

Dated at Shillong, the 15th September 2005.

It was proposed to take action under Rule-16 of CCS (CCA) Rules 1965 against Shri Partha Chakraborty, System Manager VSAT, Agartala HO cum IPO(PG), O/O the DPS, Agartala now posted as PA, Ranirbazar SO. In this connection, a charge-sheet under Rule-16 of CCS (CCA) Rules 1965 was issued vide this office Memo no.Staff/153-9/2004(18) dtd.14-7-05. A statement of imputation of misconduct or misbehaviour was also enclosed therein. The said memo was received by him on 3-8-05 and he submitted his written statement of defence duly signed by him on 8-8-05.

The statement of imputation of misconduct or misbehaviour was as follows:-

“(a) Sri Partha Chakraborty, System Manager VSAT Agartala H.O. cum offg. IPO (PG) O/O the Director Postal Services, Agartala while working as such during the period from 27-8-2001 onwards, submitted representation in the capacity of Circle Secretary, NUPE, Class-III, N. E. Circle, H/Q at Agartala, directly to Sri Santosh Mohan Deb, Hon’ble Minister of Heavy Industries & Public Enterprises, New Delhi, vide his letter No.(i) NUPE/Corr/04 dtd.2-7-04, (ii) FNPO/Misc/04 dtd.27-11-04 & (iii) FNPO/Misc/04 dtd.03-12-04.

(b) Further, said Sri Partha Chakraborty while working in the said office during the said period, submitted a representation, in the said capacity of Circle Secretary, NUPE, Class-III, N. E. Circle, HQ at Agartala, directly to Sri Dayanidhi Maran, Hon’ble Minister of Communication & information Technology, Electronic Niketan, Lodhi Road, New Delhi, vide his letter No.NUPE/Corr/05 dtd.11-1-05 without following prescribed procedure. This is to say the representation was not submitted through proper channel.

(c) By his aforesaid action, said Sri Partha Chakraborty is alleged to have violated the provisions of Rule 20 of CCS (Conduct) Rules, 1964 by canvassing of non official, political or other outside influence to bear upon any superior authority.

(d) Again, the said Sri Partha Chakraborty, in capacity of Circle Secretary, NUPE, Class-III, N. E. Circle, HQ at Agartala, submitted all the aforesaid representations/ correspondences directly to the Hon’ble Union Ministers, in connection with the matters which were not of common interest to the members of the service Association. All the aforesaid representations were submitted directly and were addressed to the Hon’ble Union Ministers. The said action of the said Sri Chakraborty is in violation of the provisions of Rules 6 (a) (b) (d) & (k) of C.C.S. (Recognition of Service Associations) Rules, 1993.

(e) By his aforesaid actions, a) & b) above, said Sri Partha Chakraborty, System Manager, VSAT, Agartala H.O. cum offg. IPO (PG) O/O the Director Postal Service,

Agartala, is alleged to have violated the provisions of Rule 20, Rules 6 (a) (b) (d) & (k) of C.C.S. (Recognition of Service Associations) Rules, 1993 & Rule 3 (1) (iii) of CCS (Conduct) Rules, 1964 as he acted in a manner unbecoming of a Govt. servant."

Sri Partha Chakraborty, in his representation in defence of the charges has categorically denied the charges. The statement of defence submitted by Sri Partha Chakraborty dtd.8-8-05 reads as follows.

"Sir,

In response to your memo cited above, received by me on 03/08/05, I like to inform you that I categorically deny the charges brought against me vide your above cited memo as the allegations are not related to me being a govt. servant, hence the memo is defective, bad in law, motivated and liable to be dropped for the sake of justice. The grounds are appended below:-

- 1) That Sir, a govt. servant is governed by the CCS(Conduct) Rules, 1964 and a recognized service union is governed by the CCS(Recognition of service Association) Rules, 1993. Both have a separate legal entity, capacity, and identity. A govt. servant is liable if he violates any rule of CCS(Conduct) Rules, 1964 in the capacity of a govt. servant and a recognized service union is answerable for violation of any rule of CCS (Recognition of service Association) Rules, 1993. Because of their separate identities, the head of the circle, when holds meeting with the union, sends invitation to the circle secretary by addressing him as "sir" and not to any govt. official, although a govt. servant holds the port-folio of circle secretary. From the charge sheet, it is clear that I did not send any representation to any Hon'ble Minister in the capacity of a govt. servant and hence question of violation of rule 20 and 3(1)(iii) of CCS(Conduct) Rules, 1964 by me does not arise. Being a govt. servant, I did never submit any representation to any Minister. Hence it is not fact that while working as system manager, VSAT, Agartala H.O cum officiating IPO(PG), O/O the Director Postal Services, Agartala, I submitted representations to the Hon'ble Ministers in the capacity of circle secretary, because one circle secretary can make correspondences in the capacity of the circle secretary only while working as the circle secretary of a union, for the interest of the union and as per decision of the executive body, but not while working as a govt. servant.
- 2) Sir, for violation of rules 6(a)(b)(d) and (k) of CCS (Recognition of service Associations) 1993, if there is any, the concerned union is answerable and not a govt. servant.
- 3) Sir, in the instant case, allegations are related to union matter but charge sheet has been issued to a govt. servant. This is not in order.
- 4) Sir, identity of a govt. servant can not be clubbed with that of a union office bearer – but in the entire charge sheet, both the identities have been clubbed and charge sheet has been issued to an innocent govt. servant.

5) Sir, from the above, it is crystal clear that the charges brought against me as a govt. servant are not at all related to me and being a govt. servant, I am not also answerable for violation of any rule by any union.

Thus, being a govt. servant, I did never submit any representation to any Hon'ble Minister and hence I categorically deny the charges.

Under the above circumstances, it is clear that the memo is bad in law, and not related to the charge-sheeted govt. servant. Hence, I would pray to you kindly to consider the points raised above and to drop the charge for the sake of justice and oblige thereby."

I have gone through the representation of Sri Partha Chakraborty, thoroughly from beginning to end. The argument of Sri Chakraborty against the charges is flimsy. His suggestion that at some point in time, he functions as a govt. servant and at other times as a union representative is ludicrous. The fact of the matter is that both the entities, to employ his parlance are intertwined.

Furthermore, he has violated the provision of Rule 6 (a), (b), (d) & (k) of CCS (Recognition of Service Associations) Rules, 1993, especially by not submitting representations through proper channel. Having acted in a manner unbecoming of a Govt. servant, he is liable for stringent action. Having regard to the circumstances stated above and in view of the representation made by Sri Partha Chakraborty, the following orders are issued.

ORDER

I, Abhinav Walia, Director Postal Services (HQ & Mktg), O/O the Chief PMG, N.E. Circle, Shillong award Sri Partha Chakraborty, System Manager VSAT, Agartala HO cum offtg. IPO (PG), O/O the DPS, Agartala now posted as PA, Ranirbazar SO with the punishment of withholding of one increment for a period of 3 (three) years without cumulative effect.



(Abhinav Walia)

Director Postal Services (HQ & Mktg)
N. E. Circle, Shillong.

Copy to:- 1) Shri Partha Chakraborty
PA, Ranirbazar S.O., Tripura (W).
2) The DPS, Agartala for n/a.
3) The Postmaster, Agartala HO for n/a.
4) O/C
5) Spare.

(Typed Copy)

ANNEXURE - 6

**G.I., Dept. of Per. & Trg., Notification
No. 2/10/80-JCA (Vol. IV), dated the 5th November, 1993**

In exercise of the powers conferred by the proviso to Article 309 and Clause (5) of Article 148 of the Constitution, after consultation with the Comptroller and Auditor-General in relation to persons serving in the Indian Audit and Accounts Department and in supersession of the Central Civil Services (Recognition) of Service Associations) Rules, 1959, except as respects things done or omitted to be done before such supersession, the President hereby makes the following rules, namely :-

1. Short title and commencement. - (1) These rules may be called the Central Civil Services (Recognition of Service Associations) Rules, 1993.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definition. - In these rules, unless the context otherwise requires, -

(a) "Government" means the Central Government.

(b) "Government servant" means any person to whom the Central Civil Services (Conduct) Rules, 1964, apply.

3. Application. - These rules shall apply to Service Associations of all Government servants including civilian Government servants in the Defence Services but shall not apply to industrial employees of the Ministry of Railways and workers employed in Defence

(Page- 2)

Installations of Ministry of Defence for whom separate Rules of Recognition exist.

4. Service Associations already recognized. - A Service Association or a Federation which has been recognized by the Government before the commencement of these rules and in respect of which the recognition is subsisting at such commencement, shall continue to be so recognized for a period of one year from such commencement or till the date on which the recognition is withdrawn, whichever is earlier.

5. Conditions for recognition of Service Associations. - A Service Association which fulfils the following conditions may be recognized by the Government, namely:-

- (a) An application for recognition of Service Association has been made to the Government containing Memorandum of Association, Constitution, Bye-laws of the Association, Names of Office-Bearers, total membership and any other information as may be required by the Government;
- (b) the Service Association has been formed primarily with the object of promoting the common service interest of its members;
- (c) membership of the Service Association has been restricted to a distinct category of Government servants having common interest, all such Government servants being eligible for membership of the Service Association;
- (d)(i) The Association represents minimum 35 per cent of total number of a category of employees provided that where there

(Page- 3)

is only one Association which commands more than 35 per cent membership, another Association with second highest membership, although less than 35 per cent may be recognized if it commands at least 15 per cent membership;

- (ii) The membership of the Government servant shall be automatically discontinued on his ceasing to belong to such category;
- (e) Government employees who are in service shall be members or office bearers of the Service Association;
- (f) the Service Association shall not be formed to represent the interests, or on the basis, of any caste, tribe or religious denomination or of any group within or section of such caste, tribe or religious denomination;
- (g) the Executive of the Service Association has been appointed from amongst the members only; and
- (h) the funds of the Service Association consist exclusively of subscriptions from members and grants, if any, made by the Government and are applied only for the furtherance of the objects of the Service Association.

6. Conditions subject to which recognition is continued. -

Every Service Association recognized under these Rules shall comply with the following conditions, namely:-

- (a) the Service Association shall not send any representation or deputation except in connection with a matter which is of common interest to members of the Service Association;

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- (b) the Service Association shall not espouse or support the cause of individual Government servants relating to service matters;
- (c) the Service Association shall not maintain any political fund or lend itself to the propagation of the views of any political party or a member of such party;
- (d) all representations by the Service Association shall be submitted through proper channel and shall be addressed to the Secretary to the Government/ Head of the Organization or Head of the Department or Office;
- (e) a list of members and office bearers and up-to-date copy of the rules and an audited statement of accounts of the Service Association shall be furnished to the Government annually through proper channel after the General Annual Meeting so as to reach the Government before the 1st day of July each year;
- (f) the Service Association shall abide by and comply with all the provisions of its Constitution/Bye-laws;
- (g) any amendment in the Constitution/Bye-laws of the Service Association, after its recognition under these Rules, shall be made only with the prior approval of the Government;
- (h) the Service Association shall not start or publish any periodical, magazine or bulletin without the previous approval of the Government;
- (i) the Service Association shall cease to publish any periodical, magazine or bulletin, if directed by the Government to do so, on the ground that the publication thereof is prejudicial to the

(Page- 5)

interests of the Central Government, the Government of any State or any Government authority or to good relations between Government servants and the Government or any Government authority, or to good relations between the Government of India and the Government of a foreign State;

- (j) the Service Association shall not address any communication to, or enter into correspondence with, a foreign authority except through the Government which shall have the right to withhold it;
- (k) the Service Association shall not do any act or assist in the doing of any act which, if done by a Government servant, would contravene any of the provisions of the Central Civil Services (Conduct) Rules, 1964; and
- (l) communications addressed by the Service Association or by any office-bearer on its behalf to the Government or a Government authority shall not contain any disrespectful or improper language.

7. Verification of Membership. - (1) The verification of membership for the purpose of recognition of a Service Association shall be done by the Check-Off-System in payrolls at such intervals and in such manner as the Government may by order prescribe.

(2) The Government may, at any time, order a special verification of membership if it is of the opinion, after an enquiry, that the Service Association does not have the membership required under sub-clause (i) of Clause (d) of Rule 5.

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8. Withdrawal of Recognition. - If, in the opinion of the Government, a Service Association recognized under these rules has failed to comply with any of the conditions set out in Rule 5 or Rule 6 or Rule 7, the Government may after giving an opportunity to the Service Association to present its case, withdraw the recognition accorded to such Association.

9. Relaxation. - The Government may dispense with or relax the requirements of any of these rules to such extent and subject to such conditions as it may deem fit in regard to any Service Association.

10. Interpretation. - If any question arises as to the interpretation of any of the provisions of these rules or if there is any dispute relating to fulfillment of conditions for recognition, it shall be referred to the Government, whose decision thereon shall be final.

Partha Chatterjee

(Typed Copy)

To
The Chief Postmaster General
N.E.Circle, Shillong-1.

(through the DPS (HQ & Mktg), Shillong-1)

Sub:- Appeal

Respected Sir,

With due respect I beg to draw your kind attention to the fact that the Director Postal Services (HQ), O/O the Chief Postmaster General, N.E.Circle, Shillong-1 vide his office memo No:- Staff/ 153-9/2004(18) dtd. 14/7/2005, initiated disciplinary proceeding against me i.e. Sri. Partha Chakraborty, System Manager VSAT Agartala cum offg. IPO(PG), O/O the Director Postal Services, Agartala under rule-16 of the CCS(CCA) Rules 1965, for making correspondences with the Hon'ble Ministers in the capacity of the Circle Secretary, class-III, NUPE, N.E.Circle, HQ-Agartala. The said memo was received by me on the 3rd August, 2005 & I submitted my representation on the 8th August, 2005. The order of punishment was issued by the DPS(HQ) vide his office memo No:- Staff/ 153-9/2004(18) dtd. 15th Sept, 2005 and it was received by me on 3rd Oct, 2005. The punishment of withholding of one (1) increment for 3 (three) years with out cumulative effect has been awarded to me. Copy of charge sheet, my representation and final order of punishment are enclosed h/w for you kind reference.

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Now being aggrieved with the order of punishment, issued by the DPS(HQ), shilling, vide his memo cited above, I like to submit this appeal before your honour for your kind consideration.

GROUND OF APPEAL:-

- 1) That Sir, in my representation dtd. 08/08/2005, it was stated that being a govt. servant I did never submit any representation to any Hon'ble Minister & hence question of violation of rule 20 of the CCS(Conduct) Rule, 1964 does not arise on my part as a govt. servant. But this legal point was totally overlooked while deciding the case against me.

- 2) That Sir, in my said representation it was mentioned that a govt. servant is governed by the CCS(Conduct) Rules 1964 & he should be held responsible for violation of any of the conduct rules if he commits in the capacity of a govt. servant only. From the charge sheet it was clear that I did not submit any representation to any Hon'ble Minister in the capacity of a govt. servant and hence I could not be held responsible for violation of any of the conduct rules as a govt. servant. But this legal point was also overlooked while deciding the case against me.

- 3) That Sir, in my said representation, it was stated that the entities, identities and capacities of one govt. servant and a union office bearer of a recognised service association were

(Page- 3)

separate and these things could not be clubbed with each other. But this vital point was also neglected while deciding the case against me.

- 4) That Sir, in my said representation dated 8-8-2005, it was stated that for violation of any of the CCS(RSA) Rule, 1993 by any union, the concerned union is answerable and not a govt. servant, because a govt. servant is not governed by the CCS(RSA)Rule 1993. This important legal aspect was totally ignored while deciding the case against me.
- 5) That Sir, the charge sheet was defective, bad in law, motivated and not applicable on me as a govt. servant and hence the allegations were categorically denied.
6. That Sir, the above legal points/legal arguments raised by me in my defence statement dtd. 08-08-05 were overlooked/ignored/neglected as there was no legal support to reject any of these.
- 7) That Sir, the fact is that being a govt. servant I did never submit any representation to any Hon'ble Minister and hence question of violation of rule 20 of the CCS(Conduct) Rules, 1964 by me does not arise at all. But the disciplinary authority brought allegation against me for violation of the said rule and charge sheeted me and this action was so motivated that the disciplinary authority did not follow the

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decision of the Govt. of India (No. 1) contained in memo O.M. No:- 11013/7/85-Estt. (A) dtd. 22-5-1985 read below the rule 20 of the CCS(Conduct) Rules 1964.

Under the above circumstances, I would pray to your honour kindly to:-

- 1) admit the appeal as it has been preferred within the prescribed time limit with sufficient valid grounds, and
- 2) set aside the order of the punishment awarded by the DPS(HQ) vide his memo No. Staff/ 153-9/2004(18) dtd. 15th Sept, 2005, -- otherwise I shall be deprived from the natural justice.

Yours faithfully,

Enclo:- as stated above.

Sd/-

Partha Chakraborty

PA

Ranirbazar S.O

16/ 10/05

Copy to:- The Director Postal Services
Agartala.

Partha Chakraborty

(Typed Copy)

DEPARTMENT OF POSTS :: INDIA
O/O THE CHIEF POSTMASTER GENERAL, N.E.CIRCLE, SHILLONG

Memo no-Staff/ 153-9/2004(18)

Dated at Shillong the 5th Dec'2005

Sri Partha Chakraborty, System Manager VSAT, Agartala HQ cum offg IPO(PG), O/O The DPS, Agartala, was awarded with the punishment of withholding of one increment for three (3) years vide this office memo of even no dated 15-9-05 by the DPS (HQ), N.E.Circle, Shillong. Said Shri Partha Chakraborty has submitted an appeal on 16-10-05 against the above mentioned punishment order. The said appeal has been forwarded by the DPS, Agartala along with his para-wise comments on the appeal.

In his appeal said Shri Partha Chakraborty has stated that as a Govt. servant he did not submit any representation to any Hon'ble Minister. Further that in his statement of defence dated 8-8-05 in response to the chargesheet issued against him, he has categorically stated that he submitted representations to the Hon'ble Ministers in the capacity of Circle Secretary of his union while working as Circle Secretary and not as a Govt. servant. This affirmation indicates that he has admitted the charge of violation of Rule 20 of CCS(Conduct Rules) 1964. Shri Chakraborty though acted as a Circle Secretary of the FNPO union, he is definitely under the restrictions of CCS(Recognition of Service Association) Rules, 1993.

The provision of Rule 20 of CCS(Conduct Rules) 1964 is that any grievance should be taken up with the appropriate authority through proper channel. Therefore, the official, writing directly to a Central

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Minister though in the name of a service union is not proper and violative of the said provision of the CCS(Conduct Rules). Therefore, I find no reason to interfere in this case.

However, as this is the first instance on the part of Shri Partha Chakraborty, I wish to take a slightly lenient view in the instant case and pass the order as follows:-

ORDER

I, Shri Lalhuna, Chief Postmaster General, N.E.Circle, Shillong hereby order for reducing the punishment of stoppage of one increment of Shri Partha Chakraborty for 2(two) years without cumulative effect instead of 3(three) years as decided by the disciplinary authority.

Sd/-

(LALHUNA)

Chief Postmaster General
N.E.Circle, Shillong

Copy to:- 1) Shri Partha Chakraborty, IPO(PG) cum System Manager, VSAT, Agartala HO.
2) Director of Postal Services, Agartala for necessary action.
3) Postmaster, Agartala HO for necessary action.
4) CR-file of the official with DPS, Agartala.
5) O/C.

Sd/- Illegible

5/12/05

For Chief Postmaster General, N.E.Circle, Shillong.

Partha Chakraborty

EXTRACT OF RELEVANT PAGE OF CCS (CONDUCT) RULES, 1964**20. Canvassing of non-official or other outside influence**

No Government servant shall bring or attempt to bring any political or other outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under Government.

GOVERNMENT OF INDIA'S DECISIONS

(1) Procedure to be adopted for dealing with communications from public representatives/outside authorities relating to the service matters of Government employees:- Rule 20 of the CCS (Conduct) Rules, 1964, provides that no Government servant shall bring or attempt to bring any political or other outside influence to bear upon any superior authority to further his/her interest in respect of matters pertaining to his/her service under the Government. The Government of India has, from time to time, emphasized that Government servants should not approach

Members of Parliament or State Legislatures or other political/outside authorities to sponsor their cases in respect of service matters. As per the existing instructions vide O.M. No.

11013/7/85-Estt. (A), dated 22-5-1985, the following action should be taken against Government servants approaching Members of Parliament or State Legislatures for sponsoring individual cases:-

- (i) A Government employee violating the aforesaid provisions of the Conduct Rules for the first time should be advised by

(Page- 2)

the appropriate disciplinary authority, to desist from approaching Members of Parliament/Members of State Legislature to further his/her interest in respect of matters pertaining to his/her service conditions. A copy of this advice need not, however, be placed in the CR dossier of the employee concerned.

- (ii) If a Government employee is found guilty of violating the aforesaid provisions of the Conduct Rules a second time despite the issue of advice on the earlier occasion, a written warning should be issued to him/her by the appropriate disciplinary authority and a copy thereof should be placed in his/her CR dossier.
- (iii) If a Government employee is found guilty of violating the aforesaid provisions of the Conduct Rules, despite the issue of warning to him/her, disciplinary action should be initiated against him/her by the appropriate disciplinary authority under the provisions of CCS (CCA) Rules, 1965.

2. In spite of these instructions, cases of individual Government servants continue to be sponsored by public representatives/outside authorities. After careful consideration of all aspects of the matter, it has been decided that the following procedure may be adopted for dealing with communications from public representatives/outside authorities relating to the service matters of Government employees-

- (a) Communications received from public representatives regarding problems of groups/categories of Government

(Page- 3)

functionaries must be entertained and dealt with on a time-bound basis. In all such cases, after due examination, appropriate replies would continue to be issued at the level of the Ministries concerned.

(b) All communications from public representatives relating to the grievances of the retired personnel should receive the same consideration and be dealt with in the same way as outlined in (a) above.

(c) In cases in which a public representative sponsors the cause of an individual Government servant (e.g., recruitment, appointment, promotion, posting to particular station, appointment to a specific position, complaints against supersession, expunction of adverse remarks, allotment of Government accommodation, etc.), a formal reply should continue to be sent from the minister acknowledging the receipt of the communication stating that the contents of the letter have been noted and where necessary, suggesting that the person whose case has been recommended, may be advised to represent his case through proper official channels. All such communications addressed to the Minister shall be replied to at his/her level. In all such cases, the formal reply given by the Minister shall be deemed to dispose of the communication unless there are further directions from the Minister in the matter.

3. All Ministries/ Departments/ Offices, etc., are requested to bring the above instructions to the notice of all concerned under

(Page- 4)

their control and take action against the Government servants who violate the provisions of the Conduct Rules as prescribed in Para. 1.

(G.I., Dept. of Per. & Trg., O.M. No. 11013/ 12/94-Estt. (A), dated the 12th January, 1995.)

(1-A) Indirect influence also attract the provisions of Rule 20.- As the Ministries/ Departments are aware, bringing or attempting to bring any political or other outside influence by a Government servant to bear upon any superior authority to further his interest in respect of service matters pertaining to his service under the Government is prohibited under the provisions of the Conduct Rules. Detailed procedure for dealing with the Government servants attempting to further their service interests through non-Governmental influence has been prescribed in GIO (1) above.

2. In spite of these instructions, it has come to the notice of this Department that certain Government servants are bringing to bear outside influence indirectly to further their service interests. It is clarified that bringing of indirect influence by Government servant would also attract the provisions of Rule 20 of the CCS (Conduct) Rules, 1964.

3. All Ministries/ Departments/ Offices, etc., are requested to bring the existing instructions/rules to the notice of all concerned under their control and to take effective action against the Government servants who bring or attempt to bring outside influence to further their service interests, as prescribed in the OM, dated 12-1-1995 - GIO (1) above.

(G.I. Dept. of Per. & Trg., O.M. No. 11013/ 11/97-Estt. (A), dated the 6th November, 1997.)

Partha Chakraborty.

(Page-1)

(Typed Copy)

To
The Director General of Posts (Member-P)
Department of Posts,
Govt. of India, New-Delhi-1.

(through proper channel).

Sub:- Revision Petition against penalty imposed under rule 11 of the CCS(CCA) Rules, 1965 by issuing charge sheet under rule 16 of the CCS(CCA) Rules, 1965.

Respected Sir,

With due honour, I beg to submit this appeal to your honour after exhausting my appeal to the Chief PMG, Shillong for your kind consideration and for getting natural justice. The fact of the case is that sir, the Director Postal Services (HQ), O/O the Chief PMG, N.E.Circle, Shillong vide his memo No. Staff/ 153-9/2004(18) dtd. 14/7/05 initiated disciplinary proceeding against me placing me in the position of the govt. servant under rule-16 of the CCS(CCA) Rules, 1965 for making correspondences in the capacity of the circle secretary, P-III, NUPE, N.E.Circle, with the Hon'ble Minister, alleging for violation of rule 20 of the CCS(Conduct) Rules, 1964 as well as for violation of rule 6 of the CCS(RSA) Rules, 1993. The said memo was received by me on 03/08/05 and I submitted my representation on 08-08-05. The order of punishment was issued by the DPS(HQ) vide his memo No. even dtd. 15th Sept, 2005 which was received by me on 3rd Oct, 2005 awarding me penalty of stoppage of one (1) increment for 3 (three) years without cumulative effects. Thereafter, I submitted appeal to the respected Chief PMG on 16/ 10/ 2005 which was disposed of on 5th December, 2005 by reducing the currency of

(Page-2)

penalty from 3 to 2 years which has been received by me on the 14th December, 2005.

Now sir, being an innocent govt. servant, I have been awarded punishment and hence being deprived from the natural justice, I like to prefer this appeal to you to save me from injustice. In this connection it is specially added that in the memo of punishment, issued by the DPS(HQ), copy was not endorsed to my CR file but while my appeal was disposed of, a copy has been endorsed to my CR file under signature of an officer below the rank of my appellate authority - which is not in order.

GROUNDS OF APPEAL:-

- 1) That Sir, the remark made in the 2nd para of the memo of the CPMG, Shillong bearing No. Staff/ 153-9/2004(18) dtd. 5th December, 2005, (by which my 1st appeal was disposed of) as to my admission that I had submitted representation to the Hon'ble Minister in my capacity as the Circle Secretary is totally incorrect. I did never make any submission in my representation dtd. 08-08-05 that I submitted representation to the Hon'ble Minister in my capacity as the Circle Secretary ---but I categorically stated that one Circle Secretary can make correspondences only while working as the circle secretary and not while working as a govt. servant and for the interest of the union and as per decision of the executive body of the union. This averment was left unexamined. While working as the Circle Secretary, I used to sign the letters as the circle secretary, facts of which were the decision of the executive body of the union, for interest of the union and not of my personal.

(Page-3)

- 2) That sir, my statement made in both of my representation dtd. 08-08-2005 and appeal dtd. 16-10-2005 that being a govt. servant I am governed by the CCS(Conduct) Rules, 1964 and I should be held liable for violation of these rules only if I commit in the capacity of a govt. servant only – was not taken into consideration while deciding the case against me. Rule 20 of the CCS(Conduct) Rules 1964 runs as "No govt. servant....." which proves my averment.
- 3) That sir, in both my representation and appeal I stated that being a govt. servant, I did never submit any representation to any Hon'ble Minister and hence question of violation of rule 20 of the CCS(Conduct) Rules 1964 does not arise at all on my part. This was not also considered.
- 4) That Sir, in my representation and appeal I stated that entity, identity and capacity of a govt. servant can not be clubbed to these of a union office bearer. This was not also considered.
- 5) That sir, in my representation and appeal I stated that being an individual govt. servant I am not governed by the CCS(RSA) Rules, 1993 and hence it is not applicable to me as a govt. servant – but to a recognised service union only (G.I., Dept. of per. & trg., OM No. 2/ 10/ 80-JCA dtd. 9-11-1993). Hence question of violation of any section of this rule by me as a govt. servant does not arise as the rule is not applicable to a govt. servant but charge sheet issued against me as a govt. servant. This point was not also considered.
- 6) That sir, in my representation, I mentioned that a govt. servant, while working as a govt. servant can not write in the capacity of a circle secretary unless he is elected for the said post by the union and a circle secretary writes by using his capacity as a circle secretary only

and as per decision of the executive body of the union & not by using his capacity as a govt. servant. Hence it is not correct that while working as a govt. servant I submitted representation in the capacity of a circle secretary and hence the charge framed against me is not in order. Whatever correspondences are made by the circle secretary is the decision of the executive body of the union and not of his personal. But this point was also not considered.

- 7) That sir, under the above facts it was found that the charge sheet was defective, bad in law and not related to me as a govt. servant and hence categorically denied and urged for dropping. But this averment was not also taken in to account.
- 8) That sir, recognition to a union is granted under certain terms and conditions as laid down in rule 6 of the CCS(RSA) Rules, 1993 and for violation of these rules, the concerned union may be asked to explain, but the CCA(RSA) Rules, 1993 in no way gives any scope to take action against an individual govt. servant.
- 9) That sir, union work is a team work and the circle secretary is to sign the letters facts of which are the decisions of the executive body and while doing so if any violation of rules of the CCA(RSA) 1993 takes place, the circle secretary can not be punished placing him in the position of a govt. servant.
- 10) That sir, if I had signed any such letters as mentioned in the charge sheet in the capacity of a circle secretary, it was done as per decision of the executive body of the union for which I am not liable as a govt. servant. The matter as to whether the Circle Secretary uses to sign only those letters facts of which are the decisions of the the executive body of the union, which I pointed out in my first representation also dtd. 08-08-2005, was not examined at all.

(Page-5)

11) That sir, where rule is very clear as to how to deal with the service union as per CCS(RSA) Rule 1993, taking disciplinary action against a particular union office bearer placing him in the position of a govt. servant is not in order. Moreover, whenever the circle secretary signs a letter it is implied that it is the decision of the union and not of his own. This matter was not examined.

Under the above circumstances, it is clear that I have been victimized from the natural justice and hence I would pray to your honour kindly to :-

- 1) admit my appeal as it has been preferred within the prescribed time limit, and with sufficient valid grounds, and
- 2) set aside completely the punishment order as awarded by the DPS(HQ) in his memo No. Staff/ 153-9/2004 (18) dtd. 15th Sept, 2005 – otherwise I shall be deprived from the natural justice and oblige thereby.

Yours faithfully

Sd/-

Partha Chakraborty

Enclo:- 1) Copy of the charge sheet.	C.I (offig.) 26/ 12/05
2) Copy of the representation	O/O the DPS, Agartala
3) Copy of the punishment order	
4) Copy of the 1 st appeal	
5) copy of order against 1 st appeal.	Partha Chakraborty

(Typed Copy)

To

The Director General of Posts (Member-P)
Department of Posts,
Govt. of India, New-Delhi-1.

(through proper channel)

Sub:- Submission of additional document.

Respected Sir,

In continuation of my review/revision petition dtd. 26/12/05 against punishment order imposed under rule-16 of the CCS(CCA) Rules, 1965, I am submitting an additional document i.e. a copy of the union letter bearing No: NUPE/MISC/2005 Dtd. 19-12-05, issued by the Circle Secretary, a/to the CPMG endorsing a copy to me, in support of my averment that whatever letters are signed by the circle Secretary are done as per decision of the executive body of the union and not of his personal. This document is submitted simply to prove my averment that whatever letters are signed by the Circle Secretary are done after taking decision of the executive body of the union. This document is not for any other purpose.

Yours faithfully

Sd/-

Partha Chakraborty

5/1/06

C.I (offig)

O/O the DPS, Agartala.

Partha Chakraborty

(Typed Copy)

No....NUPE/MISC/2005

Date....19-12-2005

Ref No.....

To

The Chief Postmaster General (Staff)
N.E.Circle, Shillong-1.

Sub:- Regarding vindictive actions against the members of
NUPE (FNPO).

Sir,

I on behalf of the union like to bring to your kind notice that the union has observed that the vindictive actions against the members of this union is still continuing by the postal administration which was started since 2004 January, under the leadership of the previous CPMG in consultation with the NFPE union.

The recent burning issue is that the previous Circle Secretary, P-III, of this union of the N.E.Circle, has been punished under rule 16 of the CCS(CCA) Rules 1965 considering him as the govt. servant for signing letters addressed to the Hon'ble Ministers. This is not only irregular but also a serious threat to our union members to continue their membership in our union. In this connection, it is clearly stated here that whatever letters are signed by the Circle Secretary are done after taking decision of the executive body of the union and for that, the Circle Secretary can never be held responsible personally. But the action of initiation of disciplinary action against the Circle Secretary taking him as the govt. servant for signing letters addressed to Hon'ble Ministers, has seriously damaged the image of this union. It is also clearly mentioned here

(Page- 2)

that the said member has not approached to this union personally to write this letter to you but this union writting this letter against vindictive actions of the administration towards the FNPO members in this or that way motivately. Further, by making the union a party in the charge sheet, the door has been opened to the union to take up the matter to the highest level through democratic way. It is our commitment to each and every member to stand beside them if they are victimised by the administration. It is also to mention here that since January, 2004, a planned attack was started on our union members by the Postal administration including irregular transfer, victimization, misbehaviour with lady member by the previous CPMG, and the favourism to the NFPE members. Along with these issues, this union started to raise objections in writing about nepotism, corruptions, harassment of ladies etc. committed by some NFPE members and SDIPOs. This union made correspondences with the Divisional level, Circle level, CHQ level and Directorate level. Out come was very slow but vindictive actions on our union members were increasing day by day. It was also observed that two(2) officials of Agartala Division who were transferred under Rule-37 from Agartala Division being found involved in physical assault case of a lady Director of Agartala Division, were again transferred back to Agartala by the previous CPMG in violation of the orders of the Hon'ble Courts. Under such circumstances, it was decided in the executive body of the union that the matter should be taken up with the Hon'ble Ministers also and accordingly it was done under the signature of the Circle Secretary for which he is not

(Page- 3)

liable personally. It is also to mention here that one case of nepotism i.e irregular appointment of ED staff in Matabari EDBO was sustained and subsequently terminated and action was also initiated against the officiating SDIPOs who was found guilty (member of NFPE). In r/o other allegations, no enquiry was held.

Under the above circumstances, it is requested :-

- 1) to stop such vindictive actions against this union members, and
- 2) to withdraw the punishment order imposed irregularly on the Circle Secretary.

Thanking you,

Yours faithfully

Sd/-
19/12/05
(A. Debnath)
Circle Secretary P-III.

Copy to:-

- 1) Sri Partha Chakraborty, Ex-Circle Secretary, Now Chief Advisor, P-III, Agartala. He is assured that the union is with him.
- 2) The General Secretary, P-III, NUPE(FNPO), New-Delhi-1.
- 3) The DG(P), New-Delhi-1.
- 4) The DPS, Agartala.
- 5) O/C.

Sd/- Asim Debnath
19/12/05
Circle Secretary, P-III
N.E.Circle, HQ-Agartala.

Partha Chakraborty

C-17015/05/2006-VP

Government of India
 Ministry of Communications & IT
 Department of Posts

Dak Bhawan, Sansad Marg
 New Delhi - 110 001
 Dated: 24.1.07

ORDER

Shri Partha Chakraborty, Officiating Complaints Inspector, Agartala has submitted a revision petition dated 26.12.05 against the modified penalty of withholding of one increment for a period of two years without cumulative effect decided on appeal by the Chief Postmaster General, N.E. Circle, Shillong vide his Memo No. Staff/153-9/2004(18) dated 5.12.2005. The Director of Postal Services, (HQ & Marketing) N.E. Circle, Shillong had imposed the penalty of withholding of one increment for a period of three years without cumulative effect vide his Memo No. Staff/153-9/2004(18) dated 15.9.2005.

2. Disciplinary proceedings under Rule 16 of the CCS (CCA) Rules 1965 were initiated against the petitioner by the Director of Postal Services, (HQ & Marketing) N.E. Circle, Shillong vide Memo No. Staff/153-9/2004(18) dated 14.7.2005 on the following allegations:

(a) Shri Partha Chakraborty, System Manager VSAT Agartala H.O. cum officiating IPO (PG) O/o the Director Postal Services Agartala while working as such during the period from 27.8.2001 onwards, submitted representation in the capacity of Circle Secretary, NUPE, Class III, N.E. Circle, H/Q at Agartala directly to Sri Santosh Mohan Deb, Hon'ble Minister of Heavy Industries & Public Enterprises, New Delhi, vide his letter No. :

- (i) NUPE/Corr/04 dated 2.7.04,
- (ii) FNPO/Misc/04 dated 27.11.04 &
- (iii) FNPO/Misc/04 dated 3.12.04.

(b) Further, Shri Partha Chakraborty while working in the said office during the said period submitted representation in the capacity of Circle Secretary, NUPE, Class III, N.E. Circle, H/Q at Agartala directly to Sri Dayanidhi Maran, Hon'ble Minister of Communications & Information



Technology, Electronic Niketan, Lodhi Road, New Delhi, vide his letter No. NUPE/Corr/05 dated 11.1.05 without following prescribed procedure. The representation submitted was not submitted through proper channel.

(c) By his aforesaid action, Shri Partha Chakraborty was alleged to have violated the provisions of Rule 20 of C.C.S. (Conduct) Rules, 1964 by canvassing of non official, political or other outside influence to bear upon any superior authority.

(d) Again the said Shri Partha Chakraborty in the capacity of Circle Secretary, NUPE, Class III, N.E. Circle, H/Q at Agartala submitted all the aforesaid representations/ correspondences directly to the Hon'ble Union Ministers, in connection with the matters which were not of common interest of the members of the service Association. All the aforesaid representations were submitted directly and were addressed to the Hon'ble Union Ministers. The above said action of Shri Partha Chakraborty, was in violation of the provisions of Rule 6(a) (b) 3(d) & (K) of C.C.S. (Recognition of Service Associations) Rules, 1993.

(e) By his aforesaid actions, a) & b) above, Shri Partha Chakraborty, System Manager VSAT Agartala H.O. cum officiating IPO (PG) O/o the Director Postal Services Agartala was alleged to have violated the provisions of Rule 20, Rules 6 (a), (b), 3(d) & (k) of C.C.S. (Recognition of Service Associations) Rules, 1993 & Rule 3(1) (iii) of C.C.S. (Conduct) Rules, 1964. Since he acted in a manner unbecoming of a Govt. servant.

3. In his petition, the petitioner has made the following submissions which are relevant to this case:

1) A Circle Secretary can make correspondences, and sign letters, facts of which are the decision of the executive body of the Union, for interest of the Union and not for his personal interest. Therefore, if any violation of rules of the C.C.A. (RSA) Rules, 1993 takes place, the Circle Secretary cannot be punished placing him in the position of being a Govt. servant.

2) Being a Govt. servant the petitioner is governed by C.C.S. (Conduct) Rules, 1964 and he should be held liable for violation of these rules only if he acts against them in the capacity of a Govt. servant. Since the petitioner never submitted any representation to any Hon'ble Minister in the capacity of a Govt. servant, he had not violated Rule 20 of the CCS (Conduct) Rules 1964.

3) The identity and capacity of a Govt. servant cannot be clubbed to those of a Union Office bearer.

The petitioner has prayed to set aside the penalty.

4. I have considered the petition carefully along with the relevant records of the case. A Government servant is bound by certain rules and regulations, which he must observe while discharging his official duties. Moreover, the petitioner should clearly understand that the Department has codified system of channel of communication for its employees and Union Office Bearers, which he ought to have followed. The petitioner has apparently violated the prescribed channel of communication and thus he has rightly been penalised.

5. No new facts or material evidence having bearing on the factual position of the case has emerged. The findings of the disciplinary and appellate authorities are substantiated by evidence on record. In view of the above discussion, I consider there is no merit in the petition and hence rejected.

(Harinder Singh)

Member (P)

Postal Services Board

Shri Partha Chakraborty,
Officiating Complaint Inspector,
Agartala.

(Through P.M.G. N.E circle)

File in Court on.....
Court Officer.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

In the matter of
In O.A. No. 78/07
Sri Partha Chakraborty
.....Applicant

-Vs-

Union of India and ors.
.....Respondents.
-AND-

In the matter of:-
Written statement on behalf of
the respondents.

Fixed by:-
The Respondents
Sampalika Bhattacharjee through
Asst. Director (P.S.)
O/o the Chief Postmaster General
Manjinder Das
N.E. Circle, Shillong-793061
Assist. C.O.S.C
C.A.T. - 7.11.07

(WRITTEN STATEMENT ON BEHALF OF THE RESPONDENTS)

I, Smti Sampalika Bhattacharjee w/o Shri Mihir Kanti Bhattacharjee presently working as Assistant Director of Postal Services (Vigilance), Office of the Chief PMG, N.E. Circle, Shillong do hereby solemnly state as follows:-

1. That I am the Assistant Director of Postal Services (Vigilance), Office of the Chief PMG, N.E. Circle, Shillong. The copies of the aforesaid application have been served upon the respondents. I have gone through the same and being the Assistant Director, I am conversant with the facts and circumstances of the case thereof. I have been authorized to file this written statement on behalf of all the respondents.
2. That I do not admit any of the averments except which are specifically admitted hereinafter and the same are deemed as denied.
3. That the applicant Sri Partha Chakraborty while he was working as System Manager, VSAT, Agartala, H.O. cum officiating IPO (PG) in the office of the Director of Postal Services during the period from 27-08-01 to September 2005 submitted representations in the capacity of the Circle Secretary, NUPE, Class-III, N.E. Circle, Head Quarter at Agartala directly to Sri Santosh Mohan Dev, Hon'ble Minister of Heavy Industries and Public Enterprises, New Delhi vide representation dated 02-07-04, 27-11-04 and 03-12-04. Further, he also submitted representations dated 11-01-05 to Sri

Copy received
by R. Kalita - Advocate
on 7/11/07

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गुरुवारी साप्तर्षी

Dayanidhi Maran, Hon'ble Minister of Communication and Information Technology, Electronic Niketan, New Delhi, directly.

The above representations are not made through proper channel and thus, thereby, violated the Rules of 3(2)(iii) of CCS (Conduct) Rules, 1964 as well as Rules 6(a)(b) (d) and (k) of CCS (Recognition of Service Association) Rules, 1993. Hence the disciplinary proceedings were initiated under Rule 16 of CCS (CCA) Rules, 1965

4. Thereafter, the applicant was charge sheeted for violation of the above mandatory provisions and he in his defense filed the statement of defense. The matter was examined and the authority has found that the applicant violated the provisions of Rule 6 (a) (b) (d) and (k) of CCS (RSA) Rules, 1993 as well as the Rule 20 of CCS (Conduct) Rules 1964 and hence he is accordingly liable for stringent action and consequently was inflicted a minor punishment of withholding of one increment for a period of 3 years without cumulative effect vide order dated 15.09.05.

5. That being aggrieved the applicant preferred an appeal before the Appellate Authority against the said punishment order dated 15.09.05. The Appellate Authority after considering the matters of the applicant and with the decision of the disciplinary authority reduced the punishment with stoppage of one increment for 2 years without cumulative effect vide order dated 05.12.05.

6. That, the applicant, thereafter, again made Revision Petition before the Director General of Post (Member P) against the punishment order and the same was rejected by the Reviewing Authority vide order dated 24.01.07.

7. Reply to the facts of the case:

7.1 That with regard to the statements made in paragraph 6(i) to 6(v) of the application, the humble answering respondent has nothing to

Sanjeev Kumar Bhattacharya
Asstt. Director (SAC)
O/o the Chief Postmaster General
N.E.C. 7/2005

केन्द्रीय लैटर एवं फोन अधिकारी Central Letter & Phone Tribunal
१२ अक्टूबर २००५
गुरुवारी २७ अक्टूबर Wednesday 27 October

S. Venkateshwar Bhattacharya
Asst. Director (Y.O.G)
General
O/o the Chief Postmaster General
N.E. Circle: S. No. 793061

make comment on it. He, however, does not admit any statements which are contrary to records.

7.2. That with regards to the statements made in paragraph 6 (vi) and 6(vii) of the application the humble answering respondent begs to state that on receipt of representation on defense of the applicant on the imputations of misconduct or misbehavior , the Disciplinary Authority after applying his mind to all facts and circumstances and the reasons urged in the representations imposed the minor penalty and passed an order dated 15.09.05 by withholding of one increment of the applicant for a period of 3 years without cumulative effect.

In this connection the humble answering respondent begs to state that the applicant while working as System Manager, VAST, Agartala, H.O. cum officiating IPO (PC) in the Office of the Director of Postal Services, submitted representation dated 02.07.04, 27.11.04 and 03.12.04 directly to Sri Santosh Mohan Dev, Hon'ble Minister of Heavy Industries and Public Enterprises, New Delhi. Further he also submitted representation dated 11.01.05 directly to Sri Dayanidhi Maran, Hon'ble Minister of Communication and Information Technology, New Delhi. All the above representations are in fact not made through proper channel.

As per provision of Rule 3(1) (iii) of CCS (conduct) Rules, 1964-

“Every Government servant shall at all times, do nothing which is unbecoming of a Government servant”.

As per provision of Rule 20 of CCS (Conduct) Rules, 1964-

“No Government servant shall bring or attempt to bring any political or other outside influence to bear upon any superior authority to farther his interest in respect of matters pertaining to his service under Government”.

Further Rules 6 (a) (b) (d) and (k) of CCS (Recognition of Service Association) Rules, 1993 says as follows-

6(a): “the Service Association shall not send any representation or deputation except in connection with a matter which is of common interest to members of the Service Association”.

Central Civil Services (Conduct) Rules
77/2005
TICKET No. 73492
General Section

Servants' Sharecharge
Asstt. Director (V.I.F)
S/o the Chief Postmaster General
N.E. Circle, Sihlong-793061

6(b): "the Service Association shall not espouse or support the cause of individual Government servants relating to service matters".

6(d): "all representations by the Service Association shall be submitted through proper channel and shall be addressed to the Secretary to the Government/ Head of the organization or Head of the Department or Office.

6(k): " the Service Association shall not do any act or assist in the doing of any act which, if done by a government servant, would contravene any of the provisions of the Central Civil Services (Conduct) Rules, 1964".

Thus, thereby the applicant violated all the provisions prescribed in the Service Rule of CCS(Conduct) Rules, 1964 and the CCS (RSA) Rules, 1993.

Further, the applicant inspite of being aware of the above provisions made the representation directly to the Hon'ble Minister for bringing the political influence by contravening the Rules 6(d) of CCS(RSA) Rules, 1993 where specifically provided that all representation by the Service Association shall be submitted through proper channel and shall be addressed to the Secretary to the Government/ Head of the organization or Head of the departments.

Hence, the impugned order dated 15.09.05 passed by the Disciplinary Authority is just, legal and in the conformity of the provisions of the Rule in force.

7.3. That with regards to the statements made in paragraph 6(viii) of the application, the humble answering respondent has nothing to make comment on it as they being are the matters of records of the case.

7.4. That with regards to the statements made in paragraphs 6(ix) of the application, humble answering respondent begs to state that the applicant in his statement of defense admitted that he made representation to the Hon'ble Minister.

Guwahati Branch
Guwahati Branch

Sanjukta Bhattacharya
Asstt. Director (Vig.)
O/o the Chief Postmaster General
N.E. Circle
M. F. No. 793051

In this connection it is stated that the applicant made the above representation to the Hon'ble Minister directly and not through proper channel which is in fact violative of Rules 6 (d) of CCS(RSA) Rules, 1993. Further being the Circle Secretary, NUPE, Class III, N.E Circle H.Q. Agartala he was very much aware of the rules in force.

Further, the Appellate Authority, after considering the submission of the applicant reduced the punishment with stoppage one increment for 2 years without cumulative effect instead of 3 years vide order dated 24.01.07.

7.5. That with regard to the statement made in paragraphs 6(x) and 6(xi) of the application, the humble answering respondent has nothing to make comment on it as they are being as they are being matters of records of the case. He, however, does not admit any statements which are contrary to records.

7.6. That with regard to the statement made in paragraphs 6(xii), (xiii),(xiv),(xv)and(xvi) of the application, the humble answering respondent begs to state that the Rules 3 of CCS (RSA) 1993 clearly indicate that,

“the CCS (RSA) Rules shall apply to Service Association of all Government servants

Further the said Rules CCS (RSA), 1993 was introduced in relation to person serving under the Central Government including Civilian Government servants in different services. The applicant here first of all being the Central Government servant and thereafter the Circle Secretary as elected. Hence, if any violation in the capacity of the Circle Secretary he is liable to be proceeded under the CCS (Conduct) Rules, 1964.

Further, it is to be stated here that the applicant made the above representation in connection with the matter which were in fact not of common interest of the members of the Service Association.

Further the humble answering respondent begs to state that after considering the submissions made by the applicant the Appellate Authority

विदेशी अधिकारी अधिकारी
Central Administrative Tribunal

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गवर्नर अधिकारी
Govt. of India

reduced the punishment. However, the revision petition made by the applicant is rejected vide order dated 24.01.07.

In this connection it is stated here that a Government servant is bound by certain Rules and regulations prescribed under the Service Rules and every Government servant shall have to follow the said rules. Moreover, the department also time to time issued some instruction, guideline for its employee and Union office bearer which the Government servant shall follow. Here the applicant acted in a manner unbecoming of Government servant and violated the Rule 20 and Rule 3 (i)(iii) of CCS (Conduct) Rules, 1964. Further, he also violated the Rule 6 (a)(b)(d) and (k) of CCS(RSA) Rules, 1993. In the event of a breach of these Rules and appropriate disciplinary action shall have to be taken. The Appellate Authority as well as review authority after keeping in view of the entity of the applicant both as a Government servant and as a Circle Secretary of the Union rightly passed the impugned order dated 05.12.05 and 24.01.07.

7.7. That the humble answering respondent begs to state that the instant Original Application has not been filed in proper form as no grounds for relief with legal provisions have been set forth and hence the application is liable to be dismissed.

7.8. That the application has no merit at all and is liable to be dismissed.

Sampanika Banerjee
Asst. Director (V&P)
O/o the Chief Postmaster General
N.E. Circle, Shillong- 793061

13 NOV 2007

प्राप्तिकारी प्रतिवाच
Claimant's Counter

VERIFICATION

I, Smti Saranya Bhattacharyee w/o Shri Nihar Kanti Bhattacharyee presently working as Assistant Director, Postal Services (Vigilance), Office of the Chief PMG, N.E. Circle, Shillong do hereby verify that the statements made in paragraphs 1, 2, 7.1, 7.7 and 7.8 are true to my knowledge; those made in paragraphs 3 to 6, 7.2 to 7.6 are being matters of records of the case derived therefrom which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

I have not suppressed any materials thereof.

And I sign this verification on 7th day of Nov 2007.

Saranya Bhattacharyee
DEPONENT

Asstt. Director (Vig)
O/o the Chief Postmaster General
N.E. Circle, Shillong 793001