

10

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 04.93/2007

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SECTION OFFICER (Judl.)

Debata
26/9/17

FORM NO. 4
(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

• O R D E R S H E E T .

1. Original Application No. 93 of 2007.....
2. Misc. Petition No.
3. Contempt Petition No.
4. Review Application No.

Applicant(s)..... Biplob Paul

Respondent(s) Union Of India & ors.

Advocate for the Applicant(s) .. Mr. M. Chanda, G/N. Ghakraborty, S. Nath and
Ms. U. Dutta.

Advocate for the Respondent(s) .. Mr. C. G. S. C. Ms. M. Das

Notes of the Registry | Date | Order of the Tribunal

26.4.2007

We have heard Mr. S. Nath learned
counsel for the applicant. We perused the
impugned order.

Application is admitted. A
disciplinary proceedings was initiated
against the applicant and after completion
of the inquiry the disciplinary authority
imposed the penalty for removal from
service with immediate effect. The
applicant has submitted appeal against
the removal order. The appellate authority
has decided the appeal and imposed the
penalty against the applicant on the
ground that he has committed a fraud. At
this stage we are not inclined to ~~admit~~
~~through the facts of the case.~~

~~Petitioner's copy
for issue notices are
received without
envelopes.~~

Contd/-

2
1
steps received
for issue notices
on 14/5/07.

~~(c)~~
14/5/07

Notice & order
sent to D/section
for issuing to
resp. nos. 1 and 5
by regd. A/D post
and ors resp. nos
2, 3 and 4 sent to
received by hand.

~~(c)~~
15/5/07. D/No-472 to
476.
DT= 21/5/07.

① Service report
awarded.

33
25.5.07.

26.4.07

Mrs. M. Das learned Addl. C. G. S.
C. for the respondents is present. Issue
notice on the respondents. Four weeks
time is granted to file written statement.

Post the matter on 28.5.07.

LS
Member (A)

Ghanshyam
Member (J)

lm

28.5.07

~~Mrs. M. Das learned C.G.S.C.
seeks time for filing reply
statement. The reply statement
be filed within four weeks.
The applicant is at liberty
to file rejoinder.~~

~~The case be posted
on 28.6.07.~~

~~Vice-Chairman~~

28.6.07

4 yrs

M.Das, learned Addl.

seek four weeks' time
for filing reply statement.

Let the case be posted

16.7.07.

Reply not filed.

3
13.7.07

✓

Vice-Chairman

17.7.2007

Four weeks time is granted to
Mrs. M. Das, learned Addl. C.G.S.C. for filing
of reply statement.

Post on 17.8.2007.

Wks not filed.

3
10.7.07

Vice-Chairman

/bb/

11.9.07.

At the request of learned counsel for the respondents
four weeks time is granted to file written statement.
Post the matter on 10.10.07.

3
9.10.07

Vice-Chairman

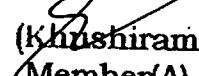
lm

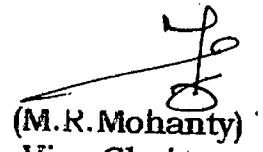
10.10.2007

Mrs Manjula Das, learned Addl.

Standing Counsel appearing for the Central Government, undertakes to file appearance memo in this case. She files written Statement in the Court today, after serving the copy of the written statement to the Counsel for the applicant, who seeks three weeks time to file rejoinder. Prayer is allowed.

Call this matter on 07.11.2007


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

Rejoinder not filed.

Im

07.11.2007

Mr.S.Nath, learned counsel for the Applicant prayed for another three weeks time to file rejoinder. Granted. No further time shall be granted. Otherwise, the case will be decided on the basis of the material available on record.

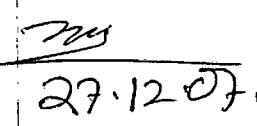
Post the case on 29.11.2007.


Member (A)

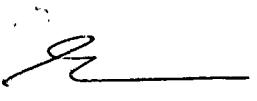
From 29.11.2007, Four weeks further time, as prayed by Mr.S.Nath, learned counsel for the Applicant, is granted for filing of rejoinder.

Call this matter on 31.12.2007.

Rejoinder not filed.


27.12.07.

/bb/


(Khushiram)
Member (A)

31.12.2007

In this case reply has already been filed by the Respondents. This case relates to removal of the Applicant from service.

Subject to legal pleas to be examined at the final hearing, this case is admitted.

Mrs.U.Dutta, learned counsel for the Applicant seeks two weeks time to file rejoinder. Prayer is allowed.

Call this matter on 15.01.2008 awaiting rejoinder from the Applicant.


(M.R.Mohanty)
Vice-Chairman

/bb/

15.01.2008

Despite four adjournments, no rejoinder has yet been filed in this case. In the aforesaid premises, call this matter for hearing on 19.02.2008.

Rejoinder if any, may be filed well before 12.02.2008.

Call this matter on 19.02.2008 for hearing.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

pg

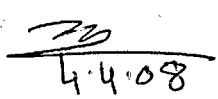
20.02.2008

Call this matter on 07.04.2008.


(Khushiram)
Member(A)

im

The case is ready
for hearing.

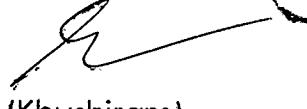

4.4.08

-6-

O.A. No.93/2007

07.04.2008

Call this matter on 29.05.2008.


(Khushiram)
Member (A)

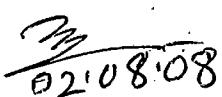

(M.R. Mohanty)
Vice-Chairman

/bb/

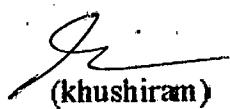
*The case is ready
for hearing.*

29.05.2008 None for the Applicant. Mr.M.Das,
learned Addl. Standing Counsel appearing for
the Respondents are present.

Call this matter on 03.07.2008.


02.08.08

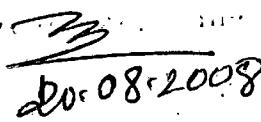
lm


(khushiram)
Member(A)

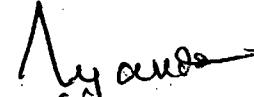
*The case is ready
for hearing.*

03.07.2008

None appears for the either parties.
Call this matter on 21.08.2008.


20.08.2008

lm

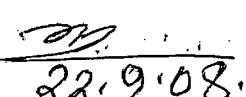

(R.C. Handa)
Member(A)


(M.R. Mohanty)
Vice-Chairman

*The case is ready
for hearing.*

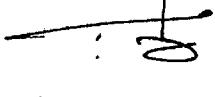
21.08.2008

On the prayer of Mrs. M.Das, learned
Addl. Standing counsel appearing for the
Respondents (made in presence of Mr.M.
Chanda, learned counsel for the Applicant),
this case stands adjourned to be taken up for
hearing on 23.09.2008.


22.9.08.

lm


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

O.A. 93 of 07

23.9.08

Pl. send copies of this order
to parties.

✓ 23.9.08

23.09.2008

In this case reply to the rejoinder is filed in Court to-day; after serving a copy thereof on the advocate for the Applicant. In the said premises, Mr. M. Chanda learned counsel appearing for the Applicant seeks an adjournment.

26.9.08

Reply to the Rejoinder
submitted by Respdt.
Nos. 2 & 3.

✓ 26.9.08

3.10.08

WJS filed by
The Respondents (No. 2 to 4).
Copy served.

lm

Call this matter on 24.11.2008 for hearing. Send copies to parties


(S.N. Shukla)
Member(A)


(M.R. Mohanty)
Vice-Chairman

The case is ready
for hearing.

21.11.08

24.11.2008

Call this matter on 9th January, 2009.

lm


(M.R. Mohanty)
Vice-Chairman

Copies of order
dated 23/9/08
handed over to
learned counsel
for both the parties.

21.11.08

Pl. send copies of this order
to parties.

✓ 18.11.08

09.01.2009

Mrs. U.Dutta, learned counsel appearing for the Applicant is present. Dr.J.L.Sarkar, learned Standing Counsel for the Railways is also present.

Call this matter on 18th February, 2009.

lm


(M.R. Mohanty)
Vice-Chairman

The case is ready
for hearing.

21.1.09

8
O.A. No. 93/07

The case is ready
for hearing.

18.02.2009

Call this matter on 08.04.2009.

33
17.2.09.

lm

Y
(M.R. Mohanty)
Vice-Chairman

08.04.2009 Call this matter on 28.05.2009 for
hearing.

Y
(M.R. Mohanty)
Vice-Chairman

lm

The case is ready
for hearing.

28.05.2009 On the prayer of learned counsel
for the parties call this matter on
21.07.2009.

33
6.3.09.

/bb/

Y
(N.D. Dayal)
Member (A)

Y
(M.R. Mohanty)
Vice-Chairman

21.07.2009 Call this matter on
27.08.2009 for hearing.

~~Call this matter on 27.08.2009 for hearing.~~

~~8005.11.09~~

Y
(M.K. Chaturvedi)
Member(A)

Y
(M.R. Mohanty)
Vice-Chairman

The case is ready /lm/
for hearing.

33
20.7.09.

27.08.2009 On the prayer of Mrs. U.Dutta,
learned counsel for the Applicant, call
this matter on 19.10.2009 for hearing.

The case is ready
for hearing.

33
26.8.09.

/lm/

Y
(M.K. Chaturvedi)
Member(A)

Y
(M.R. Mohanty)
Vice-Chairman

The case is ready
for hearing.

33
16.10.09

19.10.2009 Heard Mr. M. Chanda, learned Counsel for the Applicant and Mrs M. Das, learned Counsel for the Respondents.

Hearing concluded. Orders reserved.


(M.K. Chaturvedi)
Member (A)


(M.K. Gupta)
Member (J)

nkm

4/11/2009

29.10.2009

Judgment pronounced in open court.

The O.A. is dismissed in the terms of the order passed separately. No costs.


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

Copy of Judgment order
dated 29/10/09 has been
prepared and send to the
D/section for issuing
to the Applicant &
Respsls. by Regd. post.
1/bb/

Free copies of the
both side standing
Counsel by hand.


4/11/09

D/No. — 12569 to 12575
Dtd. — 12-11-2009

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.93 of 2007

Date of Order: This the 29th day of October 2009

The Hon'ble Shri Mukesh Kumar Gupta, Judicial Member

The Hon'ble Shri Madan Kumar Chaturvedi, Administrative Member

Shri Biplab Paul,
S/o Brisweswar Paul,
Vill.- Amsing Jorabat,
P.O. Amsing Gaon (Via Satgaon S.O.),
Guwahati-781027.

..... Applicant

By Advocate Mr M. Chanda.

- versus -

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Communication & IT, New Delhi.
2. The Chief Post Master General
Assam Circle,
Meghdoot Bhawan,
Guwahati-781001.
3. The Director of Postal Services
(HQ & Marketing),
Assam Circle,
Meghdoot Bhawan, Guwahati-781001.
4. The Sr. Superintendent of Post Offices
Guwahati Division,
Meghdoot Bhawan, Guwahati-781001.
5. The Sub Post Master
Satgaon Post Office,
Guwahati-781027.

..... Respondents

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

ORDER

MUKESH KUMAR GUPTA, JUDICIAL MEMBER

Biplab Paul, Gramin Dak Sevak Branch Post Master, Amsingaon Branch Post Office, in this O.A. filed under Section 19 of the Administrative Tribunals Act, 1985, challenges the validity of penalty order dated 08.05.2006 (Annexure-V), whereby he has been removed from service, as upheld by Appellate Order dated 10.02.2007 (Annexure-VIII). He also seeks reinstatement with all consequential benefits including costs.

2. Admitted facts are that, while working in aforesaid capacity during the period 21.07.2003 to 02.01.2004, it was alleged that he failed to credit a sum of Rs.12,759/- being Government money accepted by him in course of booking of eight money orders including commission, tendered by different customers on different dates. Charge memorandum dated 27.04.2004 (Annexure-II) was issued under Rule 10 of GDS (Conduct and Employment) Rules, 2001. Vide an order dated 14.05.2004 an Inquiry Officer was appointed to enquire into the charges framed against him. The preliminary enquiry proceedings were held on 25.06.2004 and vide statement of even date, a copy of which was placed on record by the respondents by filing reply to rejoinder, dated 23.09.2008, he admitted his guilt in the following manner:

"Sri Biplab Paul S/o Sri Brisweswar Paul of village Amsinggaon P.O. Amsinggaon Distt. Kamrup working as GDS/BPM, Amsinggaon BO in account with Satgaon for approx 5 years do hereby state that all the charges leveled against me vide Sr. Supdt of Post Offices, Guwahati Division Memorandum No.AX-81/EDA/Amsinggaon dt. 27.04.04 is fully accepted by me.

I have accepted value and commission from the Public but did not credited in account on the same day of receipt due to some my financial problem. However, I have credited the amount lately on 29.01.2004, which I committed a mistake. Now I request your honour kindly to consider my above said mistake for this time.

I further declare that the statement made above are true the best of my knowledge and belief."

(emphasis supplied)

3. Aforesaid statement had been witnessed by Abdul Matin, Presenting Officer of the aforesaid proceedings. Inquiry Officer submitted his report dated 21.01.2006 (Annexure-IV) holding that charges have been fully admitted by the Charged Official and there was no reason to proceed further and charges have been proved beyond doubt. Furthermore, it was observed that the Charged Official had credited the amount to Government Account on a later date. Copy of said enquiry report was made available to him vide memorandum dated 31.01.2006 and Sr. Superintendent of Post Offices, Guwahati Division vide order dated 08.05.2006 (Annexure-V) concluded that he has put the Department in an embarrassing position, damaging the age-old reputation of Postal Department and holding further that he deserves deterrent punishment, inflicted the penalty of removal. On a statutory appeal preferred on 29.05.2006, the Appellate Authority vide order dated 10.02.2007 (Annexure-VIII) rejected his appeal and confirmed aforesaid penalty rejecting his so called explanation that he was forced to misappropriate public money for treatment of mother.

4. The contention raised in support of the relief prayed has been to the following effect that:

- i) alleged offences were committed in the year 2003-04 while the penalty was imposed in 2006 i.e. after two years. Hence there was an abnormal delay, which is unjustified and

therefore, said penalty order cannot be sustained in the eyes of law.

ii) Vide enquiry report dated 25.06.2004, the case had been dropped and yet a penalty of removal was imposed, which is unfair and arbitrary.

iii) No regular enquiry was conducted as prescribed under the rules and the penalty order was passed in a mechanical manner.

iv) Strong emphasis was laid by the learned counsel to contend that penalty order was disproportionate to the charges levied as the amount involved was very meager i.e. 12,759/- and further, as he had explained the circumstances under which he was compelled to use the money i.e. illness of his mother, the authorities should have given sympathetic consideration and he ought to have been exonerated from the charges. In any event no loss was caused to the Department as the amount involved was deposited and he had no intention to cause any damage to the respondents.

v) His appeal has been rejected in a most mechanical manner.

vi) By imposing the penalty of removal, his only means of livelihood has been taken away and he has been put to a stage of starvation and therefore, the penalty needs to be interfered with.

5. Mr M. Chanda, learned counsel for the applicant, placed firm reliance on 2002 (2) SLR (Cal) 459, Shri Sukhendu Bikash Tikader Vs. The Chairman, Nadia Gramin Bank and others, to contend that the punishment imposed was disproportionate to charges and impugned penalty of dismissal in said case had been set aside by the learned Single Judge of Calcutta High Court. Further reliance was placed on 2002 (8) SLR (J&K) 500, Makhan Singh Vs. Union of India and others, where the penalty was quashed as the delinquent was not granted any opportunity to cross-examine the witness.

6. By filing detailed reply, the respondents contested the claim made stating that he misappropriated the amount, which act was against the spirit of absolute integrity and devotion to duty, as enjoined vide Rule 21 of the GDS (Conduct and Employment) Rules, 2001. He appeared before the Inquiry Officer and admitted the charges unequivocally and, based on his candid statement and clear cut finding of the Inquiry Officer, the Disciplinary Authority imposed the punishment of removal. His appeal was considered objectively and dispassionately by the Appellate Authority and by passing a speaking and reasoned order his plea of spending the Government money in connection with the treatment of his ailing mother was not accepted. He had credited this amount after a lapse of time that too after detection of misappropriation and it was not correct that charges were dropped, as projected. The Inquiry Authority thoroughly read out the charges and also translated it into vernacular language (Assamese) and explained its contents to applicant. It is only after understanding the effect of the charge memorandum, he admitted the same and submitted his written statement. Thus it was suggested that he had been afforded complete and effective opportunity of hearing.

Since he misappropriated the money not on one occasion, but on various occasions, no leniency should be shown, emphasized Mrs M. Das, learned Sr. C.G.S.C., appearing for the respondents. Merely depositing the amount would not exonerate him, also emphasized learned counsel. Reliance was placed on (2005) 10 SCC 84, Damoh Panna Sagar Rural Regional Bank and Another Vs. Munna Lal Jain, to contend that he was required to exercise higher standard of honesty and integrity. He was required to take all possible steps to protect the interest of the respondents and to discharge his duties with devotion, integrity and diligence. It is no defence to state that no loss or profit resulted in the case when the officer/employee acted without authority. The court should not go into the correctness of the choice made by the administrator open to him and the court should not substitute its decision for that of the administrator. The scope of judicial review is limited to the deficiency in decision-making process and not the decision. The court should not interfere with the administrator's decision unless it is illogical or suffers from procedural impropriety or is shocking to the conscience of the court, in the sense that it is in defiance of logic or moral standards. Reliance was also placed on 2008 (5) SCC 569, Chairman & Managing Director, V.S.P. and others Vs. Goparaju Shri Prabhakara Hari Babu, wherein it was held that a well reasoned order of departmental authority cannot be interfered with on the basis of sympathy or sentiments. Once it was found that all the procedural requirements have been complied with, the courts need not interfere with the quantum of punishment imposed upon a delinquent employee. Lastly, reliance was placed on (2008) 8 SCC 92, State Bank of India and others Vs. S.N. Goyal, wherein it was held that where enquiry was

found to be fair and proper, and finding of guilt in the enquiry in respect of a serious charge was found to be valid, in the absence of any other valid ground of challenge, the courts below ought to have held that the penalty of removal from service did not warrant any interference.

Thus, it was prayed that O.A. deserves dismissal.

7. We have heard the learned counsel for parties, perused the pleadings and other materials placed on record, besides various judicial pronouncements relied upon noticed hereinabove. The only question which requires determination is whether the impugned order of removal requires any judicial interference.

8. The law relating to scope of judicial review in disciplinary proceedings is well settled. The Disciplinary Authority and Appellate Authority have absolute powers to decide the quantum of punishment to be imposed. They are vested with the discretion to impose penalty according to the gravity of misconduct. The High Courts/Tribunals while exercising the power of judicial review cannot normally substitute its own decision for the Administrator. It is not in dispute that Applicant vide his own written statement dated 25.06.2004, in unambiguous terms admitted the charges levelled against him. He accepted the charge that he did not credit the amount on same day of receipt, due to some financial problem but had credited the amount at a later date. In view of unequivocal stand and admission of guilt, the Inquiry Officer was fully justified to hold that charges stood proved. In our considered opinion, in given facts and circumstances of the case, where a sum of Rs.12,759/- received by him as money order plus commission from different depositors had not been deposited on same

day, but had been deposited belatedly, which misconduct cannot be taken lightly, but has to be viewed as a grave misconduct particularly while he was holding the office of trust, he ought to have acted with utmost devotion and honesty. The punishment of removal, thus, in given circumstances, cannot be viewed either disproportionate or a punishment which shocks the conscience of the Tribunal. We find justification in the stand taken by the Disciplinary Authority that a deterrent punishment was required to be imposed to meet the ends of justice. On examination of Appellate Order, we noticed that it passed a detailed order after considering various contentions raised including that due to illness of his mother he had no other alternative but to utilize the amount. We find no justification in said contention because so called illness of his mother, did not provide him license to misappropriate public money, and instead of depositing with the Government he had no reasonable justification to use it for the alleged treatment of his ailing mother. We may note that vide his statement dated 25.06.2004, extracted hereinabove, he did not advance any such plea i.e. illness of his mother. The only ground put forth had been that he did not deposit the money due to some financial problem. If his mother was ill, he could have raised such plea when he made the candid statement on 25.06.2004. In any case the alleged illness would not justify misappropriation of public money. As far as the contention raised that there had been delay in imposing penalty is concerned, we find no justification in said contention. Incident in question occurred during 21.07.2003 to 02.01.2004, charge memorandum had been issued on 27.04.2004, Inquiry Officer was appointed and he made the statement on 25.06.2004. Inquiry Officer submitted his report on 21.01.2006 and penalty of removal was

inflicted on 08.05.2006. Thus, the entire action had been taken in about two years time, which under no circumstances could be termed either abnormal or having caused any serious prejudice to him. Furthermore, he has failed to establish as to how said delay, if any, caused prejudice to him.

9. Taking a cumulative view of the matter, we find no merit in the contention raised by the applicant. Judgments cited are totally irrelevant and inapplicable in given facts and circumstances. In Makhan Singh's case (supra), the order of dismissal was quashed as the delinquent was not granted any opportunity to cross-examine the witness. We may note that allegations therein had been that the petitioner used criminal force against the wife of a fellow soldier and he was tried under the Army Act. Similarly, in Sukhendu Bikash Tikader's case (supra). Hon'ble Court noticed various infirmities in the departmental proceedings, such are not facts in case at hand. Thus, said judgments are of no help to the Applicant. On the other hand the ratio of judgments cited by the respondents fully govern the field and has to be applied.

10. In view of discussion made hereinabove and finding no merits O.A. is dismissed. No costs.

Madan Kumar Chaturvedi
(MADAN KUMAR CHATURVEDI)
ADMINISTRATIVE MEMBER

Mukesh Kumar Gupta
(MUKESH KUMAR GUPTA)
JUDICIAL MEMBER

3 APR 2006

गुवाहाटी अधिकारी

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O. A. No. 93 /2007

Shri. Biplab Paul.

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

30.11.2000- Applicant was initially appointed as Extra-Departmental Branch Post Master and posted at Amsingaon Branch Post office under Satgaon SO as Gramin Dak Sebak Branch Post Master.
(Annexure-I)

27.04.2004- Memorandum of charge sheet was issued against the applicant alleging some financial irregularities during the period from 21.07.03 to 02.01.04.
(Annexure-II)

05.05.2004- Applicant submitted a representation to the SSPO's, Guwahati Division, Guwahati, stating that in the month of July' 03 his mother fell seriously ill and only due to that he had spent out the alleged amount in order to save life of his mother but immediately thereafter he deposited the amount in the Government Account.

25.06.2004- Applicant participated in the inquiry and fairly admitted his fault. In view of the admission of the applicant inquiry officer concluded the inquiry and held that the charge has been fully proved and dropped the inquiry.
(Annexure-III)

21.01.2006- Inquiry report was submitted by the inquiry officer and forwarded the copy to the applicant.
(Annexure-IV)

31.01.2006- Applicant submitted his representation, narrating the circumstances under which he had spent the alleged some of money and also prayed for exonerating him from the charges.

08.05.2006- Applicant received an order for removal from service with immediate effect.
(Annexure-V)

18.05.2006, 29.05.2006- Applicant submitted representation to the respondent No. 4 and also to the Asstt. Post Master General against the

Biplab Paul

order of penalty and also explaining his position and prayed to exonerate him from the charges. (Annexure-VI and VII)

10.02.2007- Applicant received the appellate order issued by the respondent No. 3, whereby the appeal of the applicant has been rejected most mechanically and the penalty of removal from service has been confirmed. (Annexure-VIII)

Hence this Original Application.

P R A Y E R S

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned order of penalty dated 08.05.2006 (annexure-V) and appellate order dated 10.02.2007 (Annexure-VIII).
2. That the Hon'ble Tribunal be pleased to direct the respondents to reinstate the applicant in service with all consequential service benefits.
3. Costs of the application.
4. Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for:

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

1. That the Hon'ble Tribunal be pleased to pass an interim order staying the operation of the order of penalty dated 08.05.2006 and appellate order dated 10.02.2007 and direct the respondents to allow the applicant to continue in his service till the final disposal of this application.

Brijesh Pw

2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

Title of the case : O.A. No. 93 /2007

Shri. Biplab Paul. : Applicant.

-Versus-

Union of India & Ors. : Respondents.

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Filed By:

Aditya
Advocate

Date: 2.04.07

Biplab Paul

1

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O.A. No. 9B /2007

BETWEEN:

Shri Biplab Paul.
S/O Bireswar Paul.
Vill- Amsing, Jorabat,
P.O.Amsing Caon, (Via satgaon S.O)
Guwahati-781027

Applicant.

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Communication & IT,
New Delhi.
2. The Chief Post Master General,
Assam Circle,
Meghdoot Bhawan,
Guwahati-781001.
3. The Director of Postal Services
(HQ & marketing),
Assam Circle,
Meghdoot Bhawan,
Guwahati-781001.
4. The Sr. Superintendent of Post offices,
Guwahati Division,

23

Filed by the applicant
through M. Dulla, Adv.
date on 2.04.07

Biplab Paul

Meghdoct Bhawan,
Guwahati-781001.

5. The Sub Post Master,
Satgaon Post office,
Guwahati-781027.

..... Respondents.

DETAILS OF THE APPLICATION

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

This application is made against the impugned order No. AX-81/EDA/Amsinggaon dated 08.05.2006 imposing the penalty of removal from service on the applicant and the appellate order issued under memo no. Staff/9-73/2005 dated 10.02.2007 whereby the appeal preferred by the applicant has been rejected and the penalty of removal aforesaid has been confirmed/upheld by the respondent no. 3.

2. Jurisdiction of the Tribunal:

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

3. Limitation:

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

4. Facts of the case:

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

Biplab Paul

4.2 That the applicant was initially appointed as Extra Departmental Branch Post Master (for short ED-BPM) w.e.f 10.09.1999 in the respondent department vide order dated 30.11.2000 and posted at Amsinggaon branch Post Office under Satgaon SO as Gramin Dak Sehak Branch Post Master (GDS BPM). His appointment was made following his selection through interview conducted by the respondent department for which his name was sponsored by the employment exchange.

(Copy of appointment order dated 30.11.2000 is annexed hereto as Annexure-I).

4.3 That while serving as GDS BPM at Amsing gaon Branch Post office aforesaid, the applicant received one memorandum No. AX-81/EDA/Amsinggaon dated 27.04.2004 alleging some charges of financial irregularities against the applicant, alleged to have been committed by the applicant during the period from 21.07.2003 to 02.01.2004, the applicant accepted money against issuance of some ascertained money orders amounting to a total of Rs. 12,759.00/- but he did not credit the amount on the respective dates and the received amounts were accounted for at a time after two or three months, whereby he has violated the provisions of Rule 104 (2) and (3) of Rules for Branch office and further failed to maintain absolute integrity as enjoined in Rule 21 of GDS (conduct and employment) Rules, 2001. The applicant was therefore directed to submit his representation if any, within 10 (ten) days of the receipt of the memorandum failing which the action would be taken ex-parte.

(Copy of memorandum of charges dated 27.04.2004 is enclosed herewith and marked as Annexure-II).

4.4 That thereafter, the applicant submitted his representation on 05.05.2004 to the SSPO s, Guwahati Division, Guwahati who is the disciplinary authority in the case. In his representation dated 05.05.2004, the applicant submitted that in the month of July, 2003 his mother fell seriously ill whose medical

Dipak
Jain

treatment had to be undertaken on emergent basis and further explained that being in a helpless situation all on a sudden, he had spent out the alleged amount in order to save the life of his mother, which he had deposited immediately thereafter in the Government accounts. He however admitted his unintentional fault in his representation and further gave assurance that such lapses would never occur in future.

4.5 That thereafter a disciplinary proceeding was initiated against the applicant under Rule 10 of GDS (Conduct and Employment) Rules, 2001 and an inquiry was instituted to prove the charges alleged in the memorandum of charges dated 27.04.2004 aforesaid. Accordingly, Shri Abdul Matin, CI, Divisional office, Guwahati was appointed as Presenting officer and Shri Pallav Hazarika, Inspector of Posts, Bijoynagar sub. Division as the Inquiry officer.

4.6 That the inquiry was held on 25.06.2004 and the applicant attended participated in the inquiry. The applicant explained before the inquiry officer as to under what circumstances he had spent out the alleged sum of money and fairly admitted his fault. In view of the admission made by the applicant, the inquiry officer concluded the inquiry and held that the case has been dropped as proved as stated in the proceedings of inquiry dated 25.06.2004. It is further stated that the inquiry officer without holding regularly inquiry as per rule most mechanically held that the charge labeled against the applicant has been proved and dropped the inquiry initiated against the applicant.

(Copy of proceedings dated 25.06.2004 is annexed and marked as Annexure-III).

4.7 That thereafter, there was no action whatsoever for more than one and half year. Eventually, the inquiry report was submitted by the Inquiry officer on 21.01.2006 holding that the charges against the applicant have

Minali Paul

been proved beyond doubt, a copy of which was forwarded to the applicant vide letter no. A-81/EDA/Amsinggaon dated 31.01.2006. In the said letter, the applicant was directed to submit representation if any, against the inquiry report within 15 days of the receipt of the letter.

(Copy of inquiry report dated 21.01.2006 along with forwarding letter dated 31.01.2006 are annexed hereto as Annexure-IV)

- 4.8 That the applicant after receiving the copy of the inquiry report, submitted his representation on 31.01.2006 wherein he had narrated the circumstances under which he had spent the alleged sum of money which was unintentional and under forced circumstances only and further prayed for exonerating him from the charges in consideration of his unblemished service for 6 (six) years.
- 4.9 That to his surprise, the applicant received all on a sudden an impugned order issued under memo no. AX-81/EDA/Amsinggaon dated 08.05.2006 whereby the penalty of removal from service has been inflicted upon the applicant with immediate effect.

(Copy of the impugned order dated 08.05.2006 is annexed hereto as Annexure-V).

- 4.10 That thereafter, the applicant submitted one representation dated 18.05.2006 to the respondent no. 4 who is the disciplinary authority and also submitted an appeal dated 29.05.2006 to the Asstt. Post Master General (appellate authority) against the order of penalty dated 08.05.2006 explaining his position and prayed for sympathetic consideration of his case and exonerating him from the charges. In his appeal dated 29.05.06 submitted before the Asstt. Postmaster General, the applicant most humbly stated that he is working since 1999 and he was never involved any unlawful activities in the office but he was compelled to use the Govt.

Biplab. Paul

money only on account of his mother's serious illness but ultimately refunded the entire money with the Govt. account. Therefore, the applicant prayed for sympathetic consideration of his case and prayed to exonerate him from the charges.

(Copy of representations dated 18.05.2006 and appeal dated 29.05.2006 are annexed hereto and marked as Annexure-VI and VII respectively).

4.11 That while the applicant was anxiously waiting for a compassionate consideration of his case and issuance of a favourable order, he has received the impugned appellate order issued by the respondent No. 3 under memo No. Staff/9-73/2005 dated 10.02.2007, whereby the appellate authority without considering the grounds taken by the applicant in his appeal has rejected the appeal and the penalty of removal from service inflicted upon the applicant has been confirmed.

(Copy of appellate order dated 10.02.2007 is annexed hereto and marked as Annexure-VIII).

4.12 That the applicant most respectfully begs to submit that the alleged offences were committed by the applicant during the period from 21.07.2003 to 02.01.2004. The inquiry was however held on 25.06.2004 but the penalty was imposed on 08.05.2006 i.e. after about 2 (two) years since the inquiry of such a major penalty after two years is against the procedure established by law and opposed to the principles of natural justice. Most surprisingly the respondents without conducting regular inquiry came to the conclusion that the charges framed against the applicant proved beyond doubt and passed the major penalty order of removal from service as such the action of the respondents is arbitrary, illegal, unfair, malafide and contrary to the settled position of law and on

Arpita Paul

that score alone the impugned order of penalty dated 08.05.2006 is liable to be set aside and quashed.

4.13 That the applicant fairly admitted his fault and vouched not to repeat the same in future. He further explained as to under what circumstances he was compelled to deviate from the rules and spent the alleged sum of money just for saving the life of his ailing mother, which was not at all intentional nor ill-motivated. The fact that he did not have any evil intent behind the act is clearly evident from the fact that he had deposited the alleged money in full in the Government account immediately thereafter.

It is relevant to mention here that the inquiry officer clearly mentioned in his inquiry proceedings dated 25.06.2004 (Annexure-III) that the case has been dropped but even thereafter a major penalty of such type has been imposed upon the applicant.

4.14 That the applicant most humbly and respectfully begs to submit that the total amount of money involved in the alleged charge is Rs. 12,759/- (Rupees Twelve thousand fifty nine) only but the penalty of removal from service has been imposed upon the applicant which is disproportionate to the offence alleged and is unconscionable and as such is liable to be set aside and quashed.

4.15 That the applicant most respectfully begs to submit that by removing the applicant from service, the respondents have taken away the only means of livelihood which the poor applicant had with him and he has been denied his right to live as enshrined in Article-21 of the constitution of India. As such, the order of penalty is liable to be set aside and quashed and the applicant be reinstated.

4.16 That due to removal of the applicant from service, the applicant has been facing starvation and extreme financial hardships. As such finding no other alternative, the applicant is now approaching this Hon'ble Tribunal

Arpilab Paul

for protection of his rights and interests and it is a fit case for the Hon'ble Tribunal to interfere with and to protect the interests of the applicant, setting aside the impugned order of penalty and the appellate order and directing the respondents to reinstate the applicant in service in consideration of his unblemished service since 1999.

4.17 That the applicant demanded justice before the respondent Authority but the same has been denied to him. Therefore, the applicant has no other alternative but to approach before this Hon'ble Tribunal to protect his right and interests by setting aside the disproportionate impugned order penalty dated 08.05.2006 (annexure-V) and appellate order dated 10.02.2007 (Annexure-VIII) and further be pleased to direct the respondents to reinstate the applicant in service.

4.18 That it is a fit case for the Hon'ble Tribunal to interfere with to protect the right and interest of the applicant by passing an appropriate order granting the adequate relief to the applicant.

4.19 That this application is made bona fide and for the cause of justice.

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

5.1 For that, the alleged offences were said to have been committed in 2003-04 but the penalty has been imposed in 2006 i.e. after about 2 (two) years is against the settled position of law and opposed to the principles of natural justice.

5.2 For that, the inquiry officer mentioned in the inquiry proceedings dated 25.06.2004 that the case has been dropped but even thereafter a penalty of removal from service has been imposed on the applicant, which is malafide, unfair and arbitrary.

Dipak

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- 5.3 For that no regular inquiry was conducted by the inquiry officer as required under the rule and most mechanically held that charges labeled against the applicant are fully proved.
- 5.4 For that, the penalty awarded, is disproportionate to the alleged offences and unconscionable and as such liable to be set aside and quashed. The amount of money involved in the alleged charge is Rs. 12,759/- only.
- 5.5 For that, the applicant fairly admitted his fault and explained as to under what circumstances he has compelled to spend the money. He also assumed not to repeat the same in future and prayed for sympathetic consideration and his exoneration from the alleged charges, has even thereafter the penalty of such a magnitude has been imposed on him which is violative of the principles of natural justice.
- 5.6 For that, the applicant deposited the alleged sum of money in the Government account ad they made up the Government losses which clearly indicates that the applicant did not have any evil intent behind his act but was forced by circumstances only.
- 5.7 For that, the applicant authority also rejected the appeal of the applicant without any application of mind and acting most mechanically, confirmed the penalty.
- 5.8 For that, by imposing the penalty of removal from service, the respondents have taken away the only means of livelihood which the poor applicant had with him and thus have denied the applicant his right to live as enshrined in Article-21 of the Constitution of India.
- 5.9 For that due to his removal from service, the applicant has been put to extreme financial hardships and a stage of starvation and as such the

Minalab Paul

order of penalty and the appellate order are liable to be set aside and quashed.

6. Details of remedies exhausted.

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

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

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

8. Relief (s) sought for:

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

- 8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned order of penalty dated 08.05.2006 (annexure-V) and appellate order dated 10.02.2007 (Annexure-VIII).
- 8.2 That the Hon'ble Tribunal be pleased direct the respondents to reinstate the applicant in service with all consequential service benefits.
- 8.3 Costs of the application.

Mripalab Paul

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

9. Interim order prayed for

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

9.1 That the Hon'ble Tribunal be pleased to observe that the pendency of the Original Application shall not be a bar to grant the relief (s) as prayed for by the applicant.

10.

11. Particulars of the I.P.O

i) I.P.O No.	: 34 G G 52675
ii) Date of issue	: 29.3.07
iii) Issued from	: G. P. O. Guwahati
iv) Payable at	: G. P. O. Guwahati

12. List of enclosures

As given in the index.

M. Bipul Deb Paul

VERIFICATION

I, Shri Biplob Paul, S/o- Bireswar Paul, aged about 31 years, resident of Vill. Amsing, Jorabat, P.O- Amsinggaon (via Satgaon S.O, Guwahati-781027), do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 31st day of March 2007.

A handwritten signature in black ink, appearing to read "Biplob Paul", is written over a curved line.

DEPARTMENT OF POSTS, INDIA
OFFICE OF THE SR. SUPT. OF POST OFFICES, GHWAHATI DIVN
GUWAHATI - 781001.

AX-81/EDB. AmSing Jorabat

ORDER OF APPOINTMENT 30-11-2000.

No. Biplab Paul Dated at Guwahati the.....

Birendswar Paul Son of
10-9-99 is hereby appointed as ED BPM with
effect from Biplab Paul forenoon/afternoon. He shall be
paid such allowances as are admissible from time to time.

2. Shri should clearly
understand that his employment as EDBPM shall be in the nature of
a contract liable to be terminated by him or by the undersigned
by notifying the other in writing and that his conduct and service
shall also be governed by the Posts and Telegraphs Extra-Depart-
mental Agents (Conduct and Service) Rules, 1964, as amended from
time to time.

3. If these conditions are acceptable to him, he should
communicate his acceptance in the enclosed pro forma

SD
Sr. Supt. S.P. 11/2000
Guwahati Division, Assam

To, Biplab Paul
S/o... Birendswar... Paul.
AmSing Jorabat
P.O. AmSing Jorabat
via - Salgon.

Contd. 2

Copy to —

The S.R. Postmaster, Guwahati PO
for information and necessary action.

Attested
S. K. Choudhury
Advocate

SD
S.P. 11/2000
Sr. Superintendent of Post Offices
Guwahati Division, Guwahati-781001

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

No : AX-81/ EDA / Amsinggaon

Dated at Guwahati the 27-04-2004

Memorandum of charge for imposing penalties under Rule-10 of (GDS Conduct and Employment) Rules '2001 .

Memorandum

1. Sri. Biplab Paul , GDS BPM , Amsinggaon BO in account with Salgaon SO is hereby informed that it is proposed to take action against him under Rule-10 of GDS (Conduct and Employment) Rules ' 2001 . A statement of imputations of misconduct on which action is proposed to be taken as mentioned above is enclosed .
2. Sri. Biplab Paul is hereby given an opportunity to such representation as he may wish to make against the proposal .
3. If Sri. Biplab Paul 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 Sri. Biplab Paul Ex-parte .
4. The receipt of the Memorandum should be acknowledged by Sri. Biplab Paul .

Regd A/D .

✓ To

Sri. Biplab Paul
 GDS BPM , Amsinggaon BO
 In a/c with Satgaon SO .

Mr. Biplab Paul
 Sri. Superintendent of Post Offices
 Guwahati Division , Guwahati - 781001
 Guwahati Division, Guwahati - 781001

*A. Neelakanta Choudhury
 Advocate
 Sarojit Choudhury
 Advocate*

50567

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

No : AX-81/ EDA / Amsinggaon

Dated at Guwahati the 14-05-2004

Order

Whereas an inquiry under Rule-10 of GDS Conduct and Employment Rule-2001 is being held against Sri. Biplab Paul , GDS BPM of Amsinggaon BO in account with Satgaon SO .

And therefore the undersigned considered that an inquiry officer should be appointed to inquire into the charges framed against the said Sri. Paul .

Now therefore the undersigned in exercise of powers conferred by Sub Rule(4) of the said Rule hereby appoints Sri. Abdul Matin , CI , Divisional Office , Guwahati as the presenting officer .

S. M. —

(Som Kamei)
Sr. Superintendent of Post Offices
Guwahati Division , Guwahati-781001

Copy to :

1. Md. Abdul Matin , CI , Divisional Office , Guwahati . A copy of the charge sheet under Rule-10 against the official is enclosed .
2. Sri. Biplab Paul , GDS BPM , Amsinggaon BO under Satgaon SO .
3. Sri. Pallab Hazarika , SDIPO's , Bijoynagar Sub Division , Bijoynagar .

(Som Kamei)

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

Statement of article of charge framed against Sri. Biplab Paul , GDS BPM , Amsinggagon BO in account with Satgaon SO under Rule-10 of GDS (Conduct and Employment) Rules'2001 .

Annexure-I

Article-I :- That Sri. Biplab Paul , GDS BPM , Amsinggaon BO in account with Satgaon SO while working as such during the period from 21-07-2003 to 02-01-2004 accepted Money Order from the remitter amounting to Rs. 12759/- (Rupees Twelve Thousand Seven Hundred and Fifty Nine) only on different dates but did not credit the amount in the Govt. account thus violating the provision of Rule -174 (2) of Branch Office Rule .

Annexure-II

Statement of imputation of misconduct in support of the article of charge framed against Sri. Biplab Paul , GDS BPM , Amsinggaon BO in account with Satgaon SO.

Article-I :- That Sri. Biplab Paul , GDS BPM , Amsinggaon BO in account with Satgaon SO while working as such during the period from 21-07-2003 to 02-01-2004 , SDIPO's , East Sub Division , Guwahati paid a visit to Amsinggaon BO on 12-02-2004 and carried on inspection on the spot , also he verified Branch Office Summary with that of MO Issue Receipt Book i. e. MS-87 (a) and found as under .

That Sri. Biplab Paul , GDS BPM , Amsinggaon BO while working as such during the period from 21-07-2003 to 02-01-2004 accepted the following amount on the dates shown against for issue of MO [as per MS-87 (a)] but he did not credit the amount on the respective dates and the received amount was accounted for at a time after two or three months later .

Date of MO Issue (As per MS-87 (a))	Amount Value	Amount Comm	MS-87(a) BO Receipt No.	Total	Date of credit to Govt. A/C.
21-07-2003	3000.00	150.00	08	3150.00	29-01-2004
24-10-2003	500.00	25.00	15	525.00	-do-
07-11-2003	25.00	2.00	16	27.00	-do-
07-11-2003	25.00	2.00	17	27.00	-do-
08-12-2003	5000.00	250.00	18	5250.00	-do-
18-12-2003	500.00	25.00	19	525.00	-do-
02-01-2004	600.00	30.00	20	630.00	-do-
02-01-2004	2500.00	125.00	21	2625.00	-do-
				12759.00	

Thus by the above mentioned acts , the said Sri. Biplab Paul has violated the provision of Rule-104(2) and (3) of Rules for Branch Office and thereby failed to maintain absolute integrity as enjoined in Rule-21 of GDS (Conduct and Employment) Rules'2001 .

Annexure-III

List of document by which the article of charge framed against Sri. Biplab Paul , GDS BPM , Amsinggaon BO are proposed to be sustained .

1. Branch Office Account for the period from January'2003 to 12-02-2004 .
2. Book of Receipts of MO Issue i.e MS-87(a) w. e. f. 06-06-2003 to 08-01-2004 .

Annexure-IV

List of witness by whom the article of charge framed against Sri. Biplab Paul , GDS BPM , Amsinggaon BO is proposed to be sustained .

1. Sri. Utpal Nath , SDIPO's , East Sub Division , Guwahati.

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

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Daily order sheet No. 1

Proceedings of Preliminary Inquiry under Rule 10 of CUS (Conduct and Employment)
Rules 2001 against Sri Biplab Paul, CDS, BPm, Amsinggona BO in account with
Satgaon S.O. vide Sr. Supdt. of Post Offices, Guwahati Division Memo No. AX-
81/EDA/Amsinggona dtd 14.5.04.

Date : 25.06.2004

Time : 1100 hrs

Venue : O/O the Inspector Posts, Guwahati East Sub Division
Meghdoat Bhawan 'O' floor, Guwahati-1

Members present :

- i) Sri Biplab Paul, Charged official
- ii) Md Abdul Matin, Presenting Officer.

Today's inquiry is held for Preliminary Inquiry. Sri Biplab Paul, the Charged Official and Md Abdul Matin, the Presenting Officer attended the inquiry. Sri Biplab Paul, the C.O. was asked whether he received the Memorandum sent by the Sr. Supdt. of Post Offices, Guwahati Division vide Memo No. AX-81/EDA/Amsinggona dtd 27.04.04. Sri Biplab Paul stated that he received the Memorandum. Accordingly Md Abdul Matin, the Presenting Officer asked Sri Biplab Paul whether he has understood the charges framed against him or not. Sri Biplab Paul stated that he has received the Memorandum and understood the charges framed against him. Even though Md Abdul Matin, the PO thoroughly readout the chargesheet and even translated into vernacular (Assamese) and explained the contents of the charges to Sri Biplab Paul. Then Sri Biplab Paul was asked to state categorically whether he pleads guilty to any of the articles of charges or not. After understanding all the contents of the chargesheet Sri Biplab Paul admitted all the charges in full and submitted his written statement to that effect of his admittance. He also stated that his admittance is not influenced by any other source. Now, I Sri Purna Hazarika, IO find that as the charges leveled against Sri Biplab Paul have been fully admitted by the CO himself and thus the case clearly proved there is no reason to proceed further. The case has been dropped as proved.

Biplab Paul
Biplab Paul 25.06.04
(Charged Official)

Md. Abdul Matin
Md. Abdul Matin
& C.I. Divisional Office

Purna Hazarika
Purna Hazarika
(Inquiry Officer)
& Inspector Posts
Bijoynagar Sub Division

Copy to :

- ✓ 1. Sri Biplab Paul, C.O.
2. Md Abdul Matin, P.O.

*Attested
Sugit Choudhury
Advocate*



- 19 -

25 JAN 2006

Q84

R2-2202
23/1/06

Inquiry report under Rule 10 of GDS (Conduct and Employment) Rules 2001 against Sri Biplab Paul, GDS/BPM, Amsinggaon BO in account with Satgaon SO.

Dated at Bijoynagar the 21.1.2006

I was appointed under Senior Superintendent of Post Offices, Guwahati Division, Guwahati 781 001 Memo No. AX-81/EDA/Amsinggaon dttd 14.5.2004 as Inquiry Officer to inquire into the charges framed against Sri Biplab Paul, GDS/BPM, Amsinggaon BO in account with Satgaon SO under Guwahati GPO. The inquiry since been completed.

2. The Preliminary hearing was held on 25.6.2004 at O/O the Inspector Posts, Guwahati East Sub Division, Meghdoott Bhawan, Guwahati -1 Sri Biplab Paul the Charged Official and Md Abdul Matin, Presenting Officer were attended the inquiry on 25.6.2004. In the hearing Sri Biplab Paul the Charged Official after understanding all the content of the charge sheet admitted all the charges levelled against him in full.

3. The following article of charges were framed against Sri Biplab Paul vide Senior Superintendent of Post Offices, Guwahati Division Memo No. AX-81/EDA/Amsinggaon dttd 27.4.2004.

Article - I

That Sri Biplab Paul, GDS/BPM, Amsinggaon BO in account with Satgaon SO while working as such during the period from 21.7.2003 to 02.01.2004 accepted Money Order from the remitter amounting to Rs. 12759.00 (Rupees twelve thousand seven hundred and fifty nine) only on different dates but did not credit the amount in the Govt. account thus violating the provision of Rule - 174(2) of Branch Office Rule.

4. Sri Biplab Paul, the charged official admitted all the charges levelled against him in full and as such oral inquiry was dropped.

5. Case of the disciplinary authority : The case of the disciplinary authority has been discussed with reference to the documentary evidence as shown in Annexure I and II vide Senior Superintendent of Post Offices, Guwahati Division Memo No. AX-81/EDA/Amsinggaon dttd 27.4.2004.

6. Case of the defendant : The Charged Official admitted all the charges framed against him in full and submitted his written statement to that effect of his admittance and as such there was no defence from his side. The Presenting Officer has submitted Brief to the Charged Official with a copy to me giving opportunity to Charged Official to submit his defence if any on 21.2.2005. The Charged Official did not submit any defence on the brief of the Presenting Officer.

7. Findings : The charges levelled against Sri Biplab Paul the Charged Official were non credit of Value and Commission of Money Orders on the day of receipt from the remitter. The Charged official has credited the amount to the Govt. account a later date. However, Sri Biplab Paul the Charged Official himself admitted all the charges levelled against him in full before me on the day of Preliminary hearing and submitted his written statement dttd 25.6.2004 to that effect. Thus the charges framed against Sri Biplab Paul, GDS/BPM, Amsinggaon BO in account with Satgaon SO vide Senior Superintendent of Post Offices, Guwahati Division Memo No. AX-81/EDA/Amsinggaon dttd 27.4.2004. have been proved beyond doubt.

Attested
S/o/Advocate



Sal

(P. Hazarika)
Inquiry Officer

And

Inspector Posts, Bijoynagar Sub Dn.

Bijoynagar 781122

No. SDI/Inquiry/Rule 10/ B. Paul/04

Dated at Bijoynagar

the 21.01.2006

Copy to :

✓ The Sr. Supdt. of Post Offices, Guwahati Division, Guwahati -1- for favour of kind necessary action.
2. Office copy.

Enclosures :

1. Order Sheet No. 1 dtd 25.6.2004
2. Written statement of the Charged Official dtd 25.6.2004
3. Written Brief of the Presenting Officer.

dmw
(P. Hazarika)
Inquiry Officer

And

Inspector Posts, Bijoynagar Sub Dn.

Bijoynagar 781122

Regd A/D

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

To
Sri Biplab Paul
GDS BPM, Amsingaon BO.
Via: Satgaon SO.

No:- AX-81//EDA/Amsingaon

Dated Guwahati, 31-1-2006.

Sub:-Inquiry report under Rule 10 of GDS (Conduct and Employment)Rules 2001 in r/o
the charges framed against GDS BPM, Amsingaon BO.

A copy of the IA report in above case is enclosed. You are requested to submit
representation if any against this IA report within 15 days from the date of receipt of this
letter. The disciplinary authority will take appropriate decision in the case after
considering the representation submitted by you.

Encl:- As above.


Sr. Superintendent of Post offices
Guwahati Division, Guwahati

*A. Seal. / Ch. Adv. /
Advocate
S. S. S. /*

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE SR. SUPERINTENDENT OF POST OFFICES
GUWAHATI DIVISION, GUWAHATI 781001

Memo No: AX-81 EDA Amsinggaon

dated at Guwahati the 08/05/2004

In this office memo of even number dated 14/05/2004, it was proposed to hold an inquiry against Sri Biplab Paul, GDS BPM, Amsinggaon BC under Rule 10 of GDS (Conduct and Employment) Rule 2001. The statement of article of charges with list of documents were furnished to him vide this office memo of even no 27/04/2004 and he was directed to submit his written statement of defence within 10 days of the receipt of the memorandum. The said memo was received by him on 05/05/2004. The charge framed against him is as under-

ARTICLE -I

That the said Sri Biplab Paul while functioning as GDS BPM, Amsinggaon BC during the period from 21/07/2003 to 02/01/2004 accepted money order from the remitter amounting to Rs 12759/- on different dates but did not credit the amount on the respective dates and thus misappropriated the entire public money amounting to Rs 12759/- violating the provisions of Rule 174 (2) of Branch Office Rule.

That Sri Biplab Paul while working as GDS BPM Amsinggaon BC during the period from 21/07/2003 to 02/01/2004 accepted the following amount on the dates shown against for issue of MO as per MS 87 (a) but did not credit the amount on the respective dates and the received amount was accounted for at a time after two of three months later.

Date of MO Issue	Amount		MS 87(a) No	Total	Date of credit to the Govt A/c
	Value	Commission			
21/07/2003	3000.00	150.00	08	3150.00	29/01/2004
24/10/2003	500.00	25.00	15	525.00	29/01/2004
07/11/2003	25.00	2.00	14	27.00	29/01/2004
07/11/2003	25.00	2.00	17	27.00	29/01/2004
08/12/2003	5000.00	250.00	18	5250.00	29/01/2004
18/12/2003	500.00	25.00	19	525.00	29/01/2004
02/01/2004	600.00	30.00	20	630.00	29/01/2004
02/01/2004	2500.00	125.00	21	2625.00	29/01/2004
TOTAL	12150.00	609.00		12759.00	

Thus by the above acts, the said Sri Biplab Paul has violated the provisions of Rule 104 (2) and (3) of Rules of Branch Office and thereby failed to maintain absolute integrity as enjoined in Rule 21 of GDS (Conduct and Employment Rules-2001)

*A. H. Patel
Govt. of Assam
Advocate*

On receipt of the memorandum dt 27/04/2004, Sri Biplab Paul submitted representation on 05/05/2004 which was received by this office on 11/05/2004. In his written statement he admitted the charges framed against him confessing that he expended the amount for his mother's illness. Further, he promised not to repeat such an act in future. Sri Falav Hazarika, SDI (P) Bijoynagar Sub Dn was appointed as IA to enquire into the charges framed against Sri Biplab Paul. Sri A Matin, IPO (PG) Guwahati functioned as Presenting Officer in the enquiry. The IA submitted his report on 21/01/2006, copy of which was supplied to the charged GDS for submitting his representation. The charged GDS submitted his representation on 31/01/2006.

FINDINGS

I have gone through the representation submitted by Sri Biplab Paul and relevant documents and article of charge framed against him carefully and observed that he could not put forward any defence against the charge and accepted the same in full. Whatever may be the circumstances, Sri Paul should have kept in mind that expending Public money for his own cause is a serious crime and no body can escape from such liability for long. Crediting the money in toto subsequently will not automatically exonerate him from the serious offence committed by him. By committing such malpractices, Sri Paul put the department in embarrassing position, damaging the age-old reputation of Postal Department.

In view of the above, the charge framed against Sri Paul vide this office memo of even no dated 27/04/2004 has been proved beyond doubt and he deserves deterrent punishment to meet the end of justice.

Following order is issued to meet the end of justice-

ORDER

I, Sri D N Sharma, Sr. Superintendent of Post Offices, Guwahati Division, Guwahati hereby order that Sri Biplab Paul, GDS BPM, Amsinggaon BO may be removed from service with immediate effect.

self

(D. N. Sharma
Sr. Superintendent of Post Offices
Guwahati Division Guwahati 781001)

Copy to *M. N.*

Rej. AP

- 1) Sri Biplab Paul, GDS BPM, Amsinggaon BO, under Satgaon SO for information
- 2) The Sr. Postmaster, Guwahati GPO for information and n/a.
- 3) The GM, Postal Accounts and Finance, West Bengal Postal Circle, Kolkata-12, through (The Sr. PM, Guwahati GPO)
- 4) The SDI (P), Guwahati East Sub Division, for information and n/a.
- 5) The SPM Satgaon, for information and n/a.
- 6-7) Office Copy and Spare

Through SDI (P) 4th

M. N.
(D. N. Sharma)
Sr. Superintendent of Post Offices
Guwahati Division, Guwahati 781001

ANNEXURE-VI

Memo No: AX-81 / EDA / Amsing gram

Respected Sir,

With deepest regards from the bottom of my heart, I most humbly submit that I have been asked to submit my resignation / reply to the charges levelled against me in memo No- 81 / EDA / Army dated 04.08.1956, Sir! my submission is that I have made good the discrepancies charged against me under Article I of The aforesaid memorandum as such there is no question of my conduct and breach of integrity so no disciplinary action lies against me however I had already promised to follow the rule in letter and spirit.

Sir! That the preliminary inquiry against me was conducted on 25.06.2004 and after that I was asked to put forward me wide memorandum no - AX-81, EDA / Amritsar given on 27.04.04. to which I had already submitted my reply within stipulated time period of 10 days. Since that almost two years time has elapsed and all of a sudden now (08.05.2006) disciplinary action is being intended against me which is unfair and unjust as the department has ample time in hand.

Sir! I am unaware of the circumstances which disciplinary action is being intended against me unless it has been applied/described to me as such. I would be furnish my Substitution/Objection to the charge which is levelled against me in a logical and proper manner.

Sir I. in view of the facts stated above I request
you kindness to please consider my plan.

I shall be ever ever obliged to you for this act
of kindness of yours.

With best of the regards.

Dated:-18.05.06.

Yours faithfully, Thanking you

BIPLAB PAUL
Ammy year.
mai Salayah.
Dist Kachin (Assam)
Community: 27

Attested
Sugait Chaudhury
Advocacy

To,

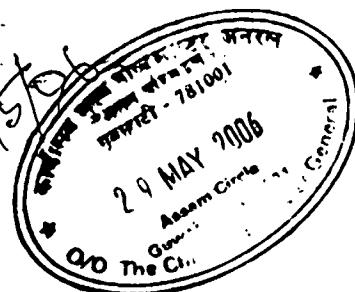
The Assistant Post Master General/Appellate Authority,
Office of the Chief Post Mater General.
Meghdoor Bhawan,
Guwahati-781001.

Sub:- An Appeal submitted by the applicant against the order of penalty of removal
dated 08.05.2006.

Respected Sir.

I like to draw your kind attention on the subject cited above and further beg to say that I have been appointed to the post of Gramin Dak Sevak (GDS) in the year 1999 after being found suitable in the interview/selection. After joining my service I have been discharging my duties with utmost sincerity and devotion without any complain from any corner. However in the month of July, 2003 my mother fell seriously ill and as a result of urgent medical treatment of my mother on emergent basis, I found no other alternative and used the Govt. money as indicated in the Article of charge no. 1. However, the same was refunded by me and deposited with the Govt. account. I have fairly admitted the guilt in my reply-dated 05.05.2004, which is available in the record of the proceeding.

It is relevant to mention here that in my reply dated 05.05.2004 submitted against the memorandum issued under letter no. AX-81/EDA/Ansinggaon dated 27.04.2004. However, an inquiry was conducted thereafter under Rule 10 of (GDS conduct and Employment) Rules, 2001. The enquiry was held on 25.06.2004, it is specifically indicated in the daily order sheet dated 25.06.2004 that the charged official has admitted the charges and on that ground it is held that the charge has been dropped as proved. In my reply dated 05.05.2004 I also expressed my regrets and further given an undertaking to the effect that such incidents will not repeated in future. Considering the reply and fair admission on the part of me as well as assurance given by me that I will not repeat the same in future, the inquiry officer was pleased to dropped the charge as proved. However even thereafter I was allowed to discharge my duties. In view of the fact that the charge has been dropped and the Department also remain silent for a very long time. However no communication was received by me from the Department and therefore I was under the impression that the charge has been dropped. But surprisingly,



*Attested
S/o/Advocated*

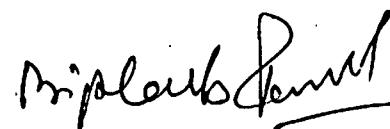
Senior Superintendent of Post Offices, Guwahati Division, Guwahati vide his letter bearing no. AX-81/EDA/Amsingaon dated 31.01.2006 forwarded the inquiry report to me and granted 15 days time to me for submission of my representation if any. In the inquiry report it has been stated that the charges has been proved since the charge official admitted the charges. However, after receipt of the inquiry report I have submitted a representation admitting the charges and also specifically stated under what circumstances I have utilized the Govt. money.

It is most humbly stated that I am working since 1999 and I was never involved any unlawful activities in the office but I have compelled to use the Govt. money only on account of my mother's serious illness but ultimately refunded the entire money with the Govt. account.

Therefore in the circumstances stated above your Honour be pleased to drop the charges and further be pleased to recall the charge of extreme order of penalty of removal dated 8.5.2006 from service.

And for this act of kindness the undersigned as in is duty bound shall ever pray.

Yours faithfully



Sri Biplab Paul.
(Charged official)
GDS BPM Amsingaon SO,
Via- Satgaon SO

Date:- 29.05.06.

ASSAM TRINITY 4552 771002
RL B 1100
Counter No.2/EP-Code:02
To:THE APMG,CS THE CPMG
DAY-1

Wt:20grams,
FS:22.00, , 29/05/2006, 10:48:35
Have a nice day



DEPARTMENT OF POSTS
Government of India, Ministry of Communication & I.T.
Office of the Chief Postmaster General, Assam Circle, Guwahati: 781001.

Memo No. Staff/9-73/2005
Dated the 10.2.2007.

APPELLATE ORDER

Shri Biplab Paul, GDS BPM, Amsinggaon BO in account with Satgaon SO was proceeded against under Rule -10 of GDS(Conduct and Employment) Rules, 2001 vide Memo No. AX-81/EDA/Amsinggaon dated 27.4.2004 of SSPOs Guwahati Division, Guwahati.

The Statement of article of charge framed against Shri Biplab Paul (herein after referred as appellant), statement of imputation of misconduct in support of the article of charge and list of documents by which and list of witnesses by whom the article of charge framed was proposed to be sustained were included as annexure to the Memo. The article of charge and statement of imputation of misconduct framed against the appellant are as follows:-

"Annexure - I

Article - I : That Sri Biplab Paul, GDS BPM, Amisinggaon BO in account with Satgaon SO while working as such during the period from 21.07.2003 to 02-01-2004 accepted Money Order from the remitter amounting to Rs.12759/- (Rupees Twelve Thousand Seven Hundred fifty nine) only on different dates but did not credit the amount in the Govt. account thus violating the provision of Rule-174(2) of Branch Office Rule.

Annexure - II

Statement of imputation of misconduct in support of the article of charge framed against Sri Biplab Paul, GDS BPM, Amsinggaon BO in account with Satgaon SO.

On 16/2/08
At/Sealed
Sugit Choudhury
Advocate

Article - I That Sri Biplab Paul, GDS BPM, Amsinggaon BO in account with Salgonon SO while working as such during the period from 21.07.2003 to 02.01.2004, SDIPOs, East Sub Division, Guwahati paid a visit to Amsinggaon BO on 12.02.2004 and carried on inspection on the spot, also he verified Branch Office Summary with that of MO issue Receipt Book i.e. MS-87(a) and found as under.

That Sri Biplab Paul, GDS BPM, Amsinggaon BO while working as such during the period from 21.07.2003 to 02.01.2004 accepted the following amount on the dates shown against for issue of MO (as per MS-87 (a) but he did not credit the amount on the respective dates and the received amount was accounted for a time after two or three months later.

Date of MO Issue (As per MS-87(a)	Amount Value	Amount Comm.	MS-87(a) BO Receipt No.	Total	Date of Credit to Govt. A/C
21.07.2003	3000.00	150.00	08	3150.00	29.01.2004
24.10.2003	500.00	25.00	15	525.00	-do-
07.11.2003	25.00	2.00	16	27.00	-do-
07.11.2003	25.00	2.00	17	27.00	-do-
08.11.2003	5000.00	250.00	18	5250.00	-do-
18.12.2003	500.00	25.00	19	525.00	-do-
02.01.2004	600.00	30.00	20	630.00	-do-
02.01.2004	2500.00	125.00	21	2625.00	-do-
Total=				12759.00	

Thus by the above mentioned acts, the said Sri Biplab Paul has violated the provision of Rule-104(2) and (3) of Rules for Branch Office and thereby failed to maintain absolute integrity as enjoined in Rule- 21 of GDS (Conduct and Employment) Rules '2001.'

In response to the Memo framing the article of charge, the appellant submitted representation on 5.5.04 to the SSPOs, Guwahati Divn.Guwahati, who is the Disciplinary authority in the case. In the representation, the appellant admitted that he had utilized the Govt. money due to illness of his mother as he had no other option.

After considering the representation, the disciplinary authority appointed Shri Pallav Hazarika SDIPOs Bijoynagar Sub Divn. as the Inquiring Authority(IA) and Shri A. Malin, IPOs(PG) Guwahati as Presenting Officer (PO). After completion of enquiry under Rule10 GDS(Conduct & Employment) Rules,2001, the IA submitted his report on 21.1.06, a copy of which was forwarded to the appellant with a direction to submit his representation, if any. The appellant submitted his representation on 31.1.06. After considering the report of Inquiring Authority and representation dtd.31.1.06 submitted by the appellant , the Disciplinary authority issued his order vide Memo No. AX-81/EDA/Amsinggaon dated 8.5.06 removing the appellant from service with immediate effect. This order imposing penalty was received by the appellant on 15.5.06 and the appeal against the order was submitted on 9.6.06.

In his appeal, the appellant states that he had been discharging his duties with utmost sincerity and devotion since his appointment in 1999. However, he had no other alternative but to use Govt. money due to urgent medical treatment of his mother. He also states that the amount was refunded by him and deposited in the Govt. account. The appellant argues that Inquiry under Rule ~ 10 of (GDS conduct and Employment) Rules 2001 was held on 25.6.2004, and it was specifically indicated in the daily order sheet dated 25.6.2004 that the chargeed official had admitted the charges and held that the charge has been dropped as proved. He argues that he had admitted his lapses and had given assurance that he will not repeat the same in future and Inquiring Officer was pleased to drop the charge as proved. As the enquiry was held on 25.6.04 and Department was silent for a long time, and he was the impression that the charge had been dropped and therefore, the Memo of SSPOs, Guwahati forwarding the Enquiry Report was a surprise for him. The appellant requests to drop the charges and set aside the penalty of removal from service considering that he had never involve himself in any unlawful activities but was compelled to utilise the Govt. money due to his mother's illness.

I have carefully considered the appeal submitted by the appellant dated 9.6.06 along with other records of the case. As admitted by the appellant and also revealed proved during the Inquiry under Rule-10 (GDS Conduct & Employment) Rules 2001, the charge that the appellant had misappropriated public money amounting to Rs.12,759/-, is proved beyond doubt. The appellant explains that he was forced to misappropriate public money due to illness of his mother and had remitted the money in Govt. Account at a later time. Whatever may the circumstances under which the appellant misappropriated public money, it remains a fact that he has exploited the trust bestowed on him by the Department as well as its customers. Money was recovered from the appellant into Govt Account only when misappropriation was detected by the IPOs. It is not true that the Inquiry authority had dropped the charge as proved but the Inquiring authority concluded that charge as proved and a copy of the enquiry report was also forwarded to the appellant.

Considering all these circumstances I do not find any reason to interfere with the order issued by the Disciplinary authority.

ORDER

I, Dr. N. Vinodkumar, Director of Postal Services (HQ& Marketing), Assam Circle, Guwahati 781001, in exercise of power conferred in Rule - 18 of DOP GDS (Conduct & Employment) Rules, 2001 do hereby reject the appeal and "CONFIRM" the penalty of removal from service awarded to Shri Biplab Paul, GDS BPM Amsinggaon BO (appellant) in this case by the Disciplinary Authority vide SSPOs, Guwahati Division, Guwahati memo No. AX-81/EDA/Amsinggaon.
Dated 08.5.2006.

V
1/11/07
—(Dr.N.Vinodkumar)
Director of Postal Services(HQ & Marketing)
Assam Circle,Guwahati:781001.

Copy to:

1. Shri Biplab Paul, GDS BPM, Amsinggaon BO
- 2-3) Shri D.N.Sharma, Sr. Supdt. of Post Offices, Guwahati DivisionGuwahati. A copy of the appellate order shall be delivered to the appellant under clear receipt and a copy of receipt should be sent to the APMG(Staff) Circle Office, Guwahati within a week positively for record.
- 4-5) StaffAppeal/Petition) Branch Circle Office, Guwahati.
- 6) PA to DPS(HQ), Guwahati.
- 7) Office copy.

V/V+4 *10/2-107*
(Dr.N.Vinodkumar)
Director of Postal Services(HQ & Marketing)
Assam Circle,Guwahati:781001.

File in Court on.....
 10/10/07
 Court Officer.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:
 GUWAHATI BENCH.

केंद्रीय प्रशासन बोर्ड
 Central Administrative T. B.

1007
 गुवाहाटी
 Guwahati

In the matter of:

In O.A.no.93/07

Sri Biplab Paul

...Applicant

-Vs-

Union of India and ors,

...Respondents.

-AND-

In the matter of:-

Written statement on behalf of the
 respondents.

Filed by:-
 The Respondents
 through
 Manjulika Deka
 Adel. e.G.S.C
 10/10/07

Written Statement
 Respondents
 Dated 10/10/07

(WRITTEN STATEMENT ON BEHALF OF THE RESPONDENTS).

I Sri Dipendra Nath Sharma s/o Pramidhar Sharma presently working as Senior Superintendent of Post Offices, Guwahati Division, Guwahati, do hereby solemnly state as follows:-

1. That I am the Senior Superintendent of Post Offices, Guwahati Division, Guwahati. I have been impleaded as party respondent no. 4 in the above application. The copies of the aforesaid application have been served upon the respondents including me. I have gone through the same and being the Senior Superintendent of Post 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 Biplab paul while serving as Gramin Dak Sevak, Branch Post Master at Amingoan Branch Post Office under Satgoan S.O. during the period from 21.07.03 to 02.01.04 he was involved in a case in which he failed to credit a sum of Rs.12,759/- being the Government money which he accepted in the course of booking money Orders tendered by different customers at different dates.

11 OCT 2004

-2-

गुवाहाटी न्यायालय
Guwahati Bench

4. That the applicant accepted eight Money Orders for a total value and commission amounting to Rs.12,759/- and instead of crediting the amount in Government Account on the date of booking as required under Rules 104(2) and (3) of Rules for Branch Offices, he misappropriated the entire amount. This act on the part of the applicant is against the spirit of absolute integrity and devotion to duty as enjoined in Rule 21 of GDS Conduct and Employment Rules, 2001.

5. That, thereafter, an inquiry was made in detail under Rule 10 of the GDS Conduct and Employment Rules 2001 by the Competent Authority appointed by the Disciplinary Authority on 27.04.04. The applicant appeared before the Inquiry Authority and admitted the charges unequivocally.

Thereafter the inquiry report dated 25.06.04 was prepared by the Inquiry Officer and the same was submitted before the Disciplinary Authority. On the basis of finding of the Inquiry Officer, The Disciplinary Authority arrived at a decision and imposed a penalty of removing Sri Biplab Paul from service with immediate effect.

6. That being aggrieved the applicant preferred an appeal before the Appellate Authority. The Appellate Authority after examining the facts and records of the case confirmed the punishment order.

7. Reply to the facts of the case:-

7.1 That with regard to the statements made in paragraphs 4.1 and 4.2 of the application, the humble answering respondent has nothing to make comment on it as they are being matters of records of the case.

7.2 That with regards to the statements made in paragraph 4.3 of the application, the humble answering respondent begs to state that while the applicant was working as Gramin Dak Sevak Branch Post Master, Amingoan Branch Office under Satgoan S.O. during the period from 21.07.03 to 02.01.04 he was involved in a case in which he failed to credit a

11 OCT 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

-3-

sum of Rs.12,759/- being the Government money which he accepted in the course of booking money Orders tendered by different customers at different dates.

Accordingly a memorandum of charge for imposing penalties under Rule 10 of (GDS Conduct and Employment) Rules, 2001 was issued to him vide order dated 27.04.04 by the humble answering respondent (annexure II to the Original Application)

7.3 That with regards to the statements made in paragraph 4.4 of the application, the humble answering respondent begs to state that as admitted by the applicant he has accepted the Government Money and the same was spent in connection of the treatment of his ailing mother. Thus, thereby he has violated the Rules of GDS Conduct Rules 104 (2 and 3) of Rules of Branch Offices. The rules envisaged that the Gramin Dak Sevak Branch Post Master was supposed to credit the amount of receipt of Government account on the very day of receipt and there is no provision for crediting any such amount at a later date. But, here, the applicant credited the said amount after the lapse of 2/3 months that too after detection of misappropriation. Thus, thereby, infringed the Conduct rules and accordingly was charge sheeted under Rule 10 of the Conduct and Employments Rules, 2001.

7.4 That with regards to the statements made in paragraph 4.5 of the application, the humble answering respondent begs to state that, thereafter an inquiry under Rule 10 of GDS Conduct and Employment Rules 2001 was conducted by Competent Authority appointed by the Disciplinary Authority on 27.04.04.

7.5 That with regards to the statements made in paragraph 4.6 of the application, the humble answering respondent begs to state that it is not correct that the inquiry was dropped, rather the inquiry was conducted at one staged where the applicant appeared before they Inquiry Authority and

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D
Disciplinary Authority
Guwahati Bench

11 OCT 2017

गुवाहाटी न्यायपीठ
Guwahati Bench

-4-

admitted the charges unequivocally. Further, it is stated that the applicant stated before the Inquiry Authority that he received the memorandum of charge. Further he was asked whether he has understood the charges framed against him or not, the applicant replied in positive. Even, the Inquiry Authority thoroughly read out the charge sheet and even translated into a vernacular (Assamese) and explained the contents of the charges to the applicant. After understanding all the contents of the charge sheet the applicant admitted all the charges in full and submitted his written statement to that effect of his admittance before the Inquiry Authority. He further stated that his admittance is not influenced by any other source. Thus, the case clearly proved. Hence, it is not correct that the Inquiry Authority most mechanically held the inquiry against the charges leveled.

7.6 That with regards to the statements made in paragraph 4.7 of the application, the humble answering respondent has nothing to make comment on it as they are being matters of records of the case.

7.7 That with regards to the statements made in paragraph 4.8 of the application, the humble answering respondent reiterates and reaffirms the statements made in paragraph 7.3 of this written statement.

7.8 That with regards to the statements made in paragraph 4.9 of the application, the humble answering respondent begs to state, that after proper inquiry and by giving due opportunities to the applicant, for his defense, the said impugned order dated 08.05.06 issued by inflicting the punishment for removal of applicant from service.

7.9 That with regards to the statements made in paragraph 4.10 of the application, the humble answering respondent begs to state that the applicant being the government servant has to abide by the Rules and Procedures as enforceable under the law. He has misappropriated the public money not in one occasion but in different occasions in different dates and

Sharmishtha
Nath
Dipendra
Q

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गुवाहाटी न्यायपाल
Guwahati Bench

-5-

the total government money amounting to Rs.12,759/- has been utilized by him for personal use. Thus, thereby, he committed a serious offence by violating the provisions of Rules 104 (2 and 3) of GDS Conduct and Employment Rules, 2001 of Branch Office and thereby failed to maintain absolute integrity and honesty.

Accordingly, the Disciplinary Authority initiated action against him and after proper inquiry and as proved the charges he was inflicted the punishment of removal of service. Thereafter the applicant made and appeal before the Appellate Authority.

7.10 That with regards to the statements made in paragraph 4.11, 4.12 and 4.13 of the application, the humble answering respondent begs to state that the Appellate Authority carefully considered the application dated 09.06.06 alongwith other records of the case and it is revealed that the applicant has misappropriated the public money in different dates amounting to Rs12,759/- which is proved beyond doubt. Whatever may be the circumstances under which the applicant misappropriated the public money, it remains the fact, that he has exploited the trust bestowed on him by the department as well as its customers. Money was recovered from the applicant into the Government account only when misappropriation was detected by the Inspector of Post Offices. The Inquiry Authority concluded the inquiry as charge proved. Considering all the circumstances the Appellate Authority did not find any reasons to interfere with the order issued by the Disciplinary Authority. Accordingly the Appellate Authority rejected the appeal and confirm the penalty of removal of service awarded to the applicant vide order dated 10.02.07.

8. Reply to the grounds of the case:

8.1 In response to the statements made in paragraph 5.1 of the application, the humble answering respondent begs to submit that a Departmental Inquiry was conducted on 25.06.04 by Competent Authority appointed by Disciplinary Authority providing adequate opportunity to the

2. Dipendra Nath Sharma

11 OCT 2006

गुवाहाटी न्यायपीठ
Guwahati Bench

-6-

charged official to state his point of view as per the principles of natural justice. During the inquiry the alleged applicant has admitted all the charges imposed on him. The inquiry report was submitted on 21.01.06 to the Disciplinary Authority and thereafter the order dated 08.05.06 was passed by inflicting punishment of removal from service.

8.2 In response to the statements made in paragraph 5.2 of the application, the humble answering respondent begs to submit that the case was not dropped, rather it was concluded at one stage after the alleged official had admitted his guilt both verbally and in writing. The impugned order dated 08.05.06 has been passed in accordance with the rules of the GDS Conduct and Employment prescribed under the law.

8.3 In response to the statements made in paragraph 5.3 of the application, the humble answering respondent begs to submit that a regular inquiry was conducted by the Inquiry Authority appointed by the Disciplinary Authority after giving the charged official an opportunity of being heard.

8.4 In response to the statements made in paragraph 5.4 of the application, the humble answering respondent begs to submit that by involving himself in the embezzlement of Government money, the charged official has committed grave crime and breach of trust to the Department as well as common innocent public. So, he deserves severe punishment and the penalty imposed on him is adequate.

8.5 In response to the statements made in paragraph 5.5 of the application, the humble answering respondent begs to submit that whatever may be the circumstances, use of Government money for personal purpose is a serious crime and the charged official can not get rid of the penalty by merely admitting his guilt.

11 OCT 2009

-7-

गुवाहाटी न्यायपाल
Guwahati Bench

8.6 In response to the statements made in paragraph 5.6 of the application, the humble answering respondent begs to submit that misappropriation of Government money is a serious crime and subsequent deposit of the same does not exonerate the charged official at once from the crime. Moreover, the said Sri Paul had deposited the money only after he was being caught red handed by the inspecting officer.

8.8 In response to the statements made in paragraph 5.7 of the application, the humble answering respondent begs to submit that the order of the Appellate Authority confirming the penalty order is also wholly justified and reasonable.

8.9 In response to the statements made in paragraphs 5.8 and 5.9 of the application, the humble answering respondent has nothing to make comment on it.

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

Swapan Kumar Naini Sharm

11 OCT 2007

गुवाहाटी न्यायपोठ
Guwahati Bench

VERIFICATION.

I, Sri Dipendra Nath Sharma S/O At... Phani Dhar Sharma, aged about 52 years presently working as Senior Superintendent of Post, Guwahati Division, Guwahati, do hereby verify that the statements made in paragraphs 1, 2, 4 and 7, 8..... are true to my knowledge ; those made in paragraphs 3, 5, 6, 7, 11 to 17 and 7, 8, 10 and 11 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 ...10.10...day of ..Oct...2007.

Dipendra Nath Sharma

SIGNATURE

परिषद अधिकारी, असम
गुवाहाटी पंचाल, गुवाहाटी - 781001
Sr. Supdt. of Post Offices
Guwahati Div., Guwahati-781001

21 FEB

गुवाहाटी न्यायालय

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

62
Filed by the applicant
through its. Q.M. advocate
on 20.02.08

In the matter of:-

O.A. No. 93/2007.

Shri Biplab Paul.

-Versus-

Union of India and others.

-And-

In the matter of:-

Rejoinder submitted by the applicant
against the written statements
submitted by the respondent.

The applicant above named most respectfully begs to state as follows:-

1. That with regard to the statements made in para 4, 5 and 6 of the written statements, the applicant begs to say that he has deposited the entire amount of Rs. 12,000/-. The amount which he has spent in a very compelling circumstances but the said amount was subsequently credited to the Govt. accounts. As such omission on part of the applicant to deposit the amount on due date cannot be termed as an deliberate or willful act of the applicant. The applicant humbly denies the allegation of violation of relevant provisions of CDS Conduct Rules, 2004. It would be evident from Ann-III of the O.A. daily order sheet dated 25.06.2004, that the case has not been dropped as proved. Thereafter, the respondents were silent and the applicant has been allowed to continue. However only on January, 2006, the Inquiry Officer after the preliminary inquiry submitted an inquiry report based on the said preliminary inquiry. It would be evident in the inquiry report that no inquiry after 25.06.2004 was held. It is also to

Received
R.P.
20/1/08

Biplab Paul

7/1/2011

गुवाहाटी न्यायपीठ
Gauhati Bench

be noted here at this stage that none of the listed documents has been examined nor any listed witnesses has been examined before the inquiry officer no summon was issued to the listed witnesses for examination or cross examination. However, it appears that the inquiry officer after a lapse of about 1 and ½ year submitted an inquiry report holding the charge as proved, only on the alleged ground that the applicant has admitted the alleged charges. Hence the article of charges brought under memo dated 27.04.2004 has been proved.

It would be evident from the inquiry report that there is no discussion of evidence or analysis of evidence as required under the rule. As such inquiry report is not sustainable in the eye of law.

The disciplinary authority also acted upon the said inquiry report and mechanically came to the findings that the charges have been proved and passed the penalty order of removal from service without considering the aspect whether inquiry officer followed the procedure of inquiry as required under the rule. Similarly the appellate authority also except discussion of the grounds raised by the applicants did not consider the other aspect of the matter such as whether procedure has been followed while imposing penalty of removal by the disciplinary authority vide order dated 08.05.2006. Even by the disciplinary authority has not been considered by the appellate authority in the manner it ought to have been considered.

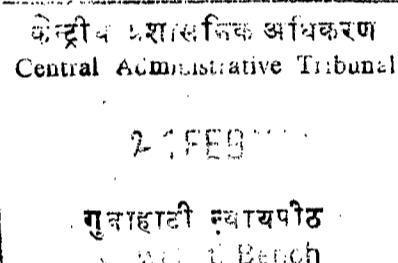
It is pertinent to mention here that the applicant is working in the establishment of the respondent since 2000, as such the penalty of removal from service on the alleged ground of charges, is highly disproportionate.

2. That with regard to the statements made in para 7.1 to 7.10 of the written statements, the applicant begs to say that, he denies the correctness of the statements, save and except which borne out of records.
3. That with regard to the statements made in para 8.1 to 8.8 and para 9 of the written statements, the applicant denies the correctness of the same and reiterates that the statements made in the original application. It is further submitted that it is mandatory on the part of the inquiry officer as

Arup Kumar

well as on the part of the disciplinary authority and also the appellate authority to follow the procedure on inquiry even in the event when the charged official admits his guilt. But in the instant case, the stand of the applicant that he has spent the money under the compelling circumstances that too for his mothers treatment. But there is no discussion on the part of the inquiry officer in his inquiry report that the grounds advanced by the applicant. The said aspect of discussion is also absent in the impugned penalty order dated 08.05.2006 as well as in the impugned appellate order dated 10.02.2007 and on that score alone the impugned penalty order dated 08.05.2006 as well as the appellate order dated 10.02.2007 is liable to be set aside and quashed.

In the facts and circumstances stated above, the impugned order of penalty dated 08.05.2006 and appellate order dated 10.02.2007 are liable to be set aside and quashed.

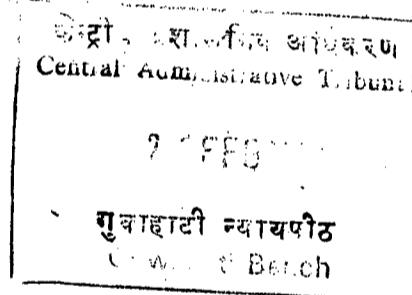


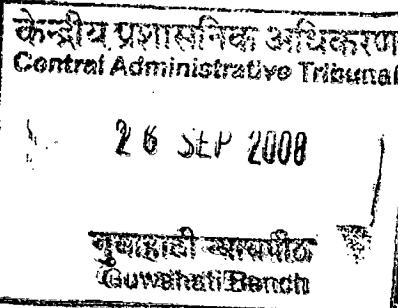
Arupab Paul

VERIFICATION

I Shri Biplab Paul S/o- Shri Bireswar Paul, aged about 32 years, resident of Vill. Amsing, Jorabat, P.O- Amsinggaon (via Satgaon S.O, Guwahati-781027), applicant of the Original Application do hereby verify that the statements made in Paragraph 1 to 3 of the rejoinder are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 17th day of February, 2008.





File in Court on... 23/9/08

Court Officer.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH

O.A. No 93/07

Sri Biplab Paul
...Applicant.

-Vs-

Union of India and ors.

...Respondents

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4.	2.	Written Statement of Defence filed by the Applicant to the charge framed against him.	6-7

Received
Manjula
23/9/08

Filed by:

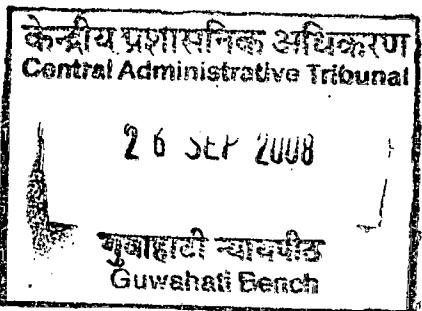
23/9/08

Mrs. Manjula Das,
Senior Panel Counsel,
CAT, Guwahati bench,
Guwahati.

File in Court on.....

Court Officer.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH.



In the matter of:-

O.A no. 93/07

Sri Biplab Paul

...Applicant

-Vs-

Union of India and ors.

...Respondents

-AND-

In the matter of:-

Reply statement on behalf of

Respondent Nos. 2, 3 and 5.

(REPLY TO THE REJOINDER ON BEHALF OF RESPONDENT Nos. 2, 3 AND 5.)

I, Sri. Dwipendra Narayan Sharma S/O late Phanindra Sharma presently working as Senior Superintendent of Post offices, Guwahati Division, Guwahati do hereby solemnly state as follows:

1. That I am the Senior Superintendent of Post Offices, Guwahati Division, Guwahati. I have been impleaded as a party respondent no. 4 in the above application. A copy of the aforesaid application has been served upon my Counsel. I have gone through the same and being the Senior Superintendent of Posts and I am conversant with the facts and circumstances of the case thereof. I have been authorized to file this Reply statement on behalf of Respondent Nos. 2, 3 and 5.
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 with regard to the statements made in paragraphs 1 of the rejoinder the humble answering respondent begs to state that the applicant, Sri Biplab Paul, misappropriated an amount in total Rs.12, 759/- against eight number Money Orders booked in his office on different dates as shown below :

Filed by:
The Respondent
Nos. 2, 3 and 5
through
Mangal Prasad
on 10.09.2008
CAT No. 23/9/08

Principals
of
Guwahati
Division
of
Assam

SL NO.	DATE Guwahati Branch	BO RECEIPT NO.	AMOUNT (RS.)
1	21/07/2003	08	3150.00
2	24/10/2003	15	525.00
3	07/11/2003	16	27.00
4	07/11/2003	17	27.00
5	08/12/2003	18	5250.00
6	18/12/2003	19	525.00
7	02/01/2004	20	630.00
8	02/01/2004	21	2625.00
		TOTAL	12759.00

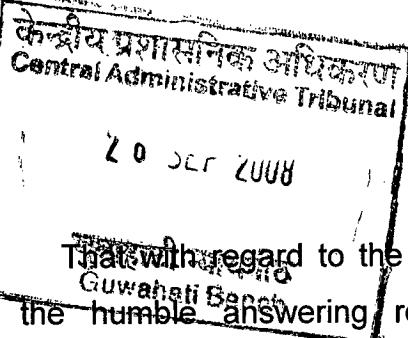
The above amount, however, was credited belatedly by the applicant to the Government account on 29.01.04. The public money misappropriated temporarily for about 6 (six) months on different dates cannot be treated as compelling circumstances but a willful act and gross violation of provision of Rule 104 (2) and (3) for Rules for Branch Offices, also Rule 21 of GDS Conduct and Employment Rule 2001

It is stated that the applicant admitted the charges framed against him in his Written Statement dated 25.06.04 and as per sub-rule 5 of Rule 14 of the Central Civil Services (Class, Control and Appeal) Rules, 1965 if the Government servant admits his charges in his Written Statement of defence no enquiry need to be conducted into article of charges as are admitted.

It is stated that the applicant has exploited the trust bestowed on him by the department as well as its customers. The amount was deposited by the applicant only when misappropriation was detected by the Inspector of Post Offices, Guwahati ~~East~~ Sub-Division.

Further it is not correct that the Enquiry Authority had dropped the charge as proved, but the Enquiry Authority concluded the charge as proved. As the applicant admitted the charge framed against him in his Written Statement dated 25.06.04, hence, there is no reason to proceed any further of the case as per CCS Rules.

Copies of the proceedings of preliminary enquiry dated 14.5.04 and written statement dated 25.06.04 submitted by the applicant are annexed herewith and marked as Annexure-1 and 2 respectively.



4. That with regard to the statements made in paragraphs 2 of the rejoinder the humble answering respondent reiterates and reaffirms the statements made in paragraph 7.2 to 7.10 of the Written Statement.

5. That with regard to the statements made in paragraphs 3 of the rejoinder the humble answering respondent reiterates and reaffirms the statement made in paragraph 8.1 of the Written Statement.

It is stated that the series of misappropriation of Government money by the applicant within six months as mentioned above infers the applicant's attitude, dishonesty, and exploitation of trust bestowed upon him by the Government. The applicant misappropriated the Government money not only once but on several occasion, hence this recurring practice of misappropriation cannot be taken lightly and in any point of view the said act cannot be said as in compelling circumstances. The Authority with due procedure of law passed the removable order dated 08.05.06 and order dated 10.02.07 whereby the order of the applicant was rejected by confirming the removal order dated 08.05.06.

6. That it is submitted that in view of the above the applicant is not entitled to get relief as prayed for and the application is liable to be dismissed.

File in Court on.....

Court Officer.

केन्द्रीय प्रशासनिक अधिकाराम
Central Administrative Tribunal

26 SEP 2008

गुवाहाटी न्यायालय
Guwahati Bench

VERIFICATION

I, Sri Dipendra Nath Sharma Late Phani Dhar Sharma.

Present by working

as... Sr. Supdt. of Post Offices, Guwahati, aged about 53...
years do hereby verify that the statements made in paragraphs
1, 2, 4 and 5.....are true to my knowledge and belief, those made in
paragraphs3.....being matters of records of the case are
true to my information derived therefrom which I believe to be true and the rests
are my humble submission before the Hon'ble Tribunal. I have not suppressed
any material fact before the Hon'ble Tribunal,

And I sign this verification on the 23rd day of September 2008 at
Guwahati.

Dipendra Nath Sharma

SIGNATURE

दिपेन्द्र नाथ शर्मा, डाकपत्र
गुवाहाटी डिभर, गुवाहाटी - 781001
Sr. Supdt. of Post Offices
Guwahati Div., Guwahati-781001

Central Administrative Tribunal

20 DEC 2008

গুৱাহাটী বিদ্যুত
Guwahati Bench

File in Court on.....

Court Officer.

Daily order sheet No.

Proceedings of Preliminary Inquiry under Rule 10 of GDS (Conduct and Employment)
Rules 2001 against Sri Biplab Paul, GDS, BPm, Amsinggaon BO in account with
Saiagon S.O. vide Sr. Supdt. of Post Offices, Guwahati Division Memo No. AX-
81/EDA/Amsinggaon dtd 14.5.04.

Date: 25.06.2004

Time: 11.00 h.s.

Venue: O/O the Inspector Posts, Guwahati East Sub Division
Meghnaoot Bhawan 'O' floor, Guwahati-1

Members present:

- i) Sri Biplab Paul, Charged official
- ii) Md Abdul Matin, Presenting Officer

Today's inquiry is held for Preliminary Inquiry. Sri Biplab Paul, the Charged Official and Md Abdul Matin, the Presenting Officer attended the inquiry. Sri Biplab Paul, the C.O. was asked whether he received the Memorandum sent by the Sr. Supdt. of Post Offices, Guwahati Division vide Memo No. AX-81/EDA/Amsinggaon dtd 27.04.04. Sri Biplab Paul stated that he received the Memorandum. Accordingly Md Abdul Matin, the Presenting Officer asked Sri Biplab Paul whether he has understood the charges framed against him or not. Sri Biplab Paul stated that he has received the Memorandum and understood the charges framed against him. Even though Md Abdul Matin, the PO thoroughly readout the chargesheet and even translated into vernacular (Assamese) and explained the contents of the charges to Sri Biplab Paul. Then Sri Biplab Paul was asked to state categorically whether he pleads guilty to any of the articles of charges or not. After understanding all the contents of the chargesheet Sri Biplab Paul admitted all the charges in full and submitted his written statement to that effect of his admittance. He also stated that his admittance is not influenced by any other source. Now, I, Sri Pallav Hazarika, IO find that as the charges leveled against Sri Biplab Paul have been fully admitted by the CO himself and thus the case clearly proved, there is no reason to proceed further. The case has been dropped as proved.

Biplab Paul
Biplab Paul 25.06.04.
(Charged Official)


25/6/04
Md. Abdul Matin
(Presenting Officer)
& C.I. Divisional Office


29/6/04
Pallav Hazarika
(Inquiry Officer)
& Inspector Posts
Bijoynagar Sub Division

Received
copy
Biplab
25.06.04

Copy to:

1. Sri Biplab Paul, C.O.
2. Md Abdul Matin, P.O.

Received copy
25/6/04

Recd. P.O.
29/5/04

Recd. P.O.
23/9/04
to be Tored

23/9/04
2003-2004 Session
Sr. Supdt. of Post Offices
Guwahati-781001
Guwahati Div. Guwahati-781001

I, Sri Biplob Paul, Govt. Serv. B.P.M. of Village: Aningejon P.O-
Aningejon Dist. Kamrup working as GDS/BPM, Aningejon P.O in
accord with Subpoena for approx 5 years do hereby state
that all the charges leveled against me in Subpoena of Post
Office, Guwahati Division Memorandum No AX-8/EPD/Aningejon
dt: 27.04.04 is fully accepted by me.

I have accepted value and compensation for the
Public but did not credited in account on the same day of
receipt due to some my financial problem. However I have
credited the amount lately on 29.01.2004 which I committed
a mistake. Now I request your honored kindly to consider
my above laid mistake for this time.

I further declare that the statement made above are
true to the best of my knowledge and belief.

A

File in Court on.....

Business

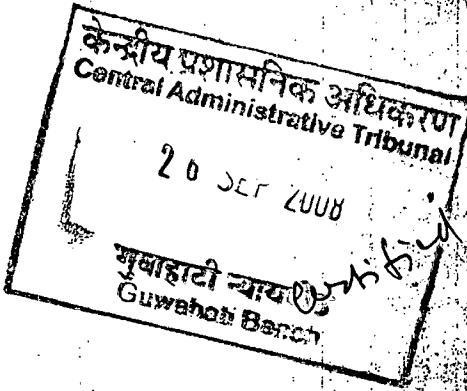
D) Ch 25/6/04

(Abdul Matin)

P.O. of the SSP's
Guwahati Dist.

Court Officer: (BIPLOB PAUL)

Submited by - B.P.M. Aningejon

Obtained
and attested
by25/6/04
10.2.2004 Subd
P.B.P.Accepted
29/5/04

23.9.04
23.9.04
23.9.04
St. Suptt. of Post Offices
Guwahati Dist., Guwahati-781001

File in Court on.....

Court Officer.

TYPED COPY

ANNEXURE-2

I, Sri Biplab Paul, S/O Sri Brisweswar Paul of village Amsinggaon, P.O- Amsinggaon, Dist- Kamrup working as GDS/BPM , Amsinggaon BO in account with Satgaon for approx. 5 years do hereby state that all the charges leveled against me vide Sr. Supdt. Of Post Offices, Guwahati Division Memorandum NO. AX-81/EDA/Amsinggaon dt. 27-04-04 is fully accepted by me.

I have accepted value and commission from the Public but did not credited in account on the same day of receipt due to some my financial problem. However, I have credited the amount lately on 29-01-2004 which I committed a mistake. Now I request your honour kindly to consider my aforesaid mistake for this time.

I further declare that the statement made above are true to the best of my knowledge and belief.

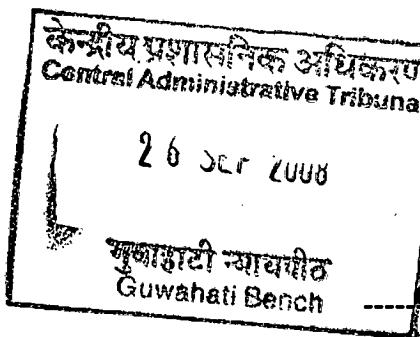
Witness:

1) Sd/-

(Abdul Matin)

P.O. O/O the SSPO'S

Guwahati Dvn.



Sd-

25.06.04

(BIPLAB PAUL)

-----, BPM Amsinggaon

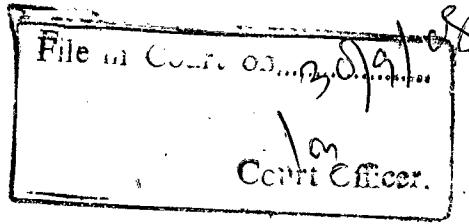
Obtained and attested

Sd/-

25-06-04

I.O. & Inspector

Posts, Bijoynagar Sub Dn.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH

O.A. No 93/07

Sri Dilip Kr. Haloi
...Applicant.

-Vs-

Union of India and ors.
...Respondents

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*Received copy
H.A.
30.9.08*

Advocate

Filed by

30/9/08

Mrs. Manjula Das,
Senior Panel Counsel,
Union of India
CAT, Guwahati bench,
Guwahati.

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

30 SEP 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH.

O. A. No. 103/08

In the matter of:-

O.A no.103/08

Sri Dilip Kr. Haloi

...Applicant

-Vs-

Union of India and ors.

...Respondents

-AND-

In the matter of:

Written statement on behalf of

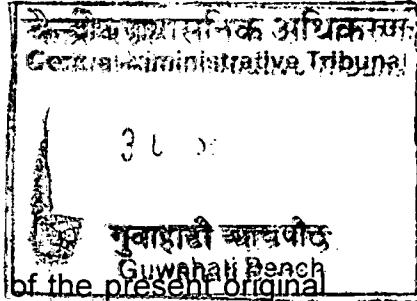
Respondent nos. 2 to 4

(WRITTEN STATEMENT ON BEHALF OF RESPONDENT NOS. 2 to 4)

I, Sri D.Dihingia, S/o Lok Dihingia ~~Deputy Commissioner~~ presently working as Superintendent of Post Offices, Nalbari Barpeta Division, Nalbari - 781335, do hereby solemnly affirm and state as follows:-

1. That I am the Superintendent of Post Offices, Nalbari-Barpeta Division, Nalbari-781335. I have been impleaded as party respondent no.3 in the above application. Accordingly a copy of the same has been served upon me. I have gone through the same and have understood the contents thereof. I am acquainted with the facts and circumstances of the case thereof. I have been authorized to file this written statement on behalf of respondent nos.2 and 4.
2. That, I do not admit any of the statements save and except which are specifically admitted hereinafter and the same are deemed as denied.

Filed by:-
Respondent nos. 2 to 4
Through
Maine Dihingia
C/o P. D. Dihingia
CFT
Date
23/09/08
Central Administrative Tribunal
Nalbari-781335
Dak Amanidhan, Nalbari-781335
Dak Bhawan, Nalbari-781335
SUPDT. OF POST OFFICES
NALBARI BARPETA DIVISION
NALBARI-781335



3. That before traversing various paragraphs of the present original application, the answering respondent would like to place the brief facts of the case.

Brief Facts:

(A) That, a post of Inspector of Post Offices, Nalbari Barpeta Division was fallen vacant on 14-02-08 due to the promotion of Sri R. K. Farid, Sub-Divisional Inspector (Posts), Nalbari (West) Sub-Division. To fill up the said post the answering respondent invited applications from eligible Postal Assistant vide its office letter dated 26-02-08. The Cut-off date for submitting the applications was on 15-03-08. In pursuance of the said letter, four candidates including the applicant submitted their applications for the said vacant post. Sri Malin Ch. Nath, one of the candidates, was selected for the said post and was consequently promoted to the post of Inspector of Post Offices, Nalbari (West) Sub-Division.

(B) That, Mr. Abdul Khaleque Ahmed, Sub-Post Master, Mayanbari Sub-Office (Respondent no. 5) submitted an application seeking any officiating post in Inspector Post Offices cadre. Further he also appeared in the examination for the post of Inspector of Post Offices conducted by the Department. Subsequently there is an order issued by the Joint Commissioner (P & V), Central Excise, Shillong vide letter No. 11(32) 2/ET.11/2081/4160-64 dated 05-03-08 whereby Sri Bipin Ch. Talukdar, a Non-Delivery Sub-Office surplus staff redeployed as Inspector Post Offices, Pathshala has been appointed and posted as Inspector of Central excise, Shillong and was directed vide CO's letter no. Staff/1-283/06/5508 to relieve Sri Bipin Ch. Talukdar, Inspector of Post Offices, Pathshala to take up his new assignment. For immediate relieve of Sri Bipin Ch. Talukdar an arrangement was made whereby Sri Abdul Khaleque Ahmed, Sub-Post Master, Mayanbari Sub-Office, (Respondent no. 5) was promoted on adhoc and temporary basis to the post of Sub-Divisional Inspector (Post), Pathshala sub-division vide its order dated 15-02-08.

In the said order it was specifically mentioned that the arrangement so made to the post of Inspector of Post Offices, Pathshala may be terminated at any time.

10
SUPDT. OF POST OFFICES
NALBARI BARPETA DIVISION
NALBARI, PARSI, 781335
टाक अधिकारी नामांकन नामांकन नामांकन
टाक अधिकारी नामांकन नामांकन 781335

20 SEP 2008

गुरुहाटी न्यायालय

(C) That, the Respondent no. 5, Sri Abdul Khaleque Ahmed, ~~Almed~~ ~~Almed~~ join in time and considering immediate relieve of Sri Bipin Ch. Talukdar the earlier order dated 15-05-08 challenged by the present applicant was modified vide order dated 23-05-08 under no. B/A-23/Ch-II issued by the answering respondent and Sri Kumar Ranjan Roy, IPO, Barpeta was ordered to take over the charge of Pathshala sub-division from Sri Bipin Ch. Talukdar.

(D) That, the impugned order dated 15-05-08 has since been modified vide order dated 23-05-08, the question of any grievance of the applicant against the Respondent no. 5 does not arise as the earlier order dated 15-05-08 was not materialized.

4. Reply to the facts of the case:-

4.1. That, with regard to the statements made in paragraphs 4.1 and 4.2 of the Original Application, the humble answering respondent has nothing to make comment on it. However, he does not admit any statements which are contrary to records.

4.2. That, with regard to the statements made in paragraph 4.3 of the Original Application, the humble answering respondent begs to state that the applicant entered in the cadre of Postal Assistant in the Department on 03-01-94 whereas the Respondent no. 5 entered in his service as Postal Assistant on 22-12-92. However, due to the transfer of the Respondent no. 5 from other division his position in the Gradation list is appeared against Sl. No. 122.

4.3. That, with regard to the statements made in paragraph 4.4 of the Original Application, the humble answering respondent begs to state that the order dated 21-01-08 issued by the humble answering respondent is a transfer order of 20 numbers of officials whereby they were transferred in the interest of public service. It is not understood as to why and in what circumstances the applicant is affected by virtue of the said transfer order which infact does not affect any interest of the applicant. Transfer is an incident of service and it is the authority to decide who and where the official will be transferred. The applicant has no occasion to narrate about the said transfer order where he was not infringed.

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ग. अधिकारण अधिकारण
उपर्युक्त अधिकारण
गुरुहाटी न्यायालय 781335
Supt. Of Post Offices
BARPETA, D. C.
ALDAR

4.4 That, with regard to the statements made in paragraphs 4.5, 4.6 and 4.7 of the Original Application, the humble answering respondent begs to state that the post of Inspector of Post Offices, Nalbari (West) Sub-Division

was fallen vacant on 14-02-08 and due to the promotion of Sri R. K. Farid. Thereafter for smooth functioning of the sub-division the authority decided to fill up the vacant post on officiating arrangement and accordingly invited applications from willing officials of Postal Assistant cadre vide letter dated 26-02-08. The Cut-off date for submitting the application was on 15-03-08. In pursuance of the said letter, four candidates including the applicant submitted their applications for the said vacant post. Sri Malin Ch. Nath, one of the candidates, was selected for the said post and was accordingly promoted to the post of Inspector of Post Offices, Nalbari (West) Sub-Division. Mr. Abdul Khaleque Ahmed (Respondent no. 5) Sub-Post Master, Mayanbari Sub-Office, submitted one application seeking any officiating post in Inspector Post Offices cadre. Further he also appeared in the examination for the post of Inspector of Post Offices conducted by the Department. Subsequently there is an order issued by the Joint Commissioner (P & V), Central Excise, Shillong vide letter No. 11(32) 2/ET.11/2081/4160-64 dated 05-03-08 whereby Sri Bipin Ch. Talukdar, a Non-Delivery Sub-Office surplus staff redeployed as Inspector Post Offices, Pathshala has been appointed and posted as Inspector of Central excise, Shillong and was directed vide CO's letter no. Staff/1-283/06/5508 to relieve Sri Bipin Ch. Talukdar, Inspector of Post Offices, Pathshala to take up his new assignment. For immediate relieve of Sri Bipin Ch. Talukdar an arrangement was made whereby Sri Abdul Khaleque Ahmed, Sub-Post Master, Mayanbari Sub-Office, (Respondent no. 5) was promoted on adhoc and temporary basis to the post of Sub-Divisional Inspector (Post), Pathshala sub-division vide its order dated 15-02-08. In the said order it was specifically mentioned that the arrangement so made to the post of Inspector of Post Offices, Pathshala may be terminated at any time.

4.5 That, with regard to the statements made in paragraph 4.8 of the Original Application, the humble answering respondent begs to state that the post of Sub-Divisional Inspector(Post), Pathshala sub-division was fallen vacant on 24-05-08 and for the said post no such applications were invited by the humble answering respondents. So far as the invitations for the vacant post of Inspector of Post Offices, Nalbari (West) Sub-division was concerned, that chapter has already been closed as promotion was already made after due

30 Dec.

selection of Sri Malin Ch. Nath. Further the applicant infact never appeared before the examination for the post of Inspector of Post Offices.

4.6 That, with regard to the statements made in paragraphs 4.9 and 4.10 of the Original Application, the humble answering respondent begs to state that although the Respondent no.5, Sri Abdul Khaleque Ahmed was allowed to officiate to the post of Inspector of Post Offices and posted as Sub-Divisional Inspector (Post), Pathsala sub-division to relieve Sri Bipin Ch. Talukdar, however, he could not join in time and for immediate relieve of Sri Bipin Ch. Talukda, Inspector of Post Offices, the said order dated 15-05-08 was modified vide order dated 23-05-08 and Sri Kumar Ranjan Roy, Inspector of Post Offices, Barpeta was ordered to take over the charge of Pathsala sub-division from Sri Bipin Ch. Talukdar. Sri Kumar Ranjan Roy, then, immediately joined as Inspector of Post Offices, Pathsala sub-division and he is continuing as such.

A copy of the order dated 23-05-08 is annexed herewith and marked as Annexure -A.

4.7 That, with regard to the statements made in paragraphs 4.11, 4.12 and 4.13 of the Original Application, the humble answering respondent begs to state that as the impugned order dated 15-05-08 was modified vide order dated 23-05-08, hence there is no question of any grievance of the applicant against the Respondent no. 5 as the earlier order dated 15-05-08 was not materialized.

4.8 That, it is submitted that in view of the above, the original application has no merit at all and hence it is liable to be dismissed.

कानूनी चायपीड
30 Dec.
उपर्युक्त नमस्त्री - 781333
उपर्युक्त नमस्त्री - 781333
SUB-Off. OF POST OFFICES
NALBARI BARPETA DIVISION
NALBARI-781333

10 SEP 2008

गुवाहाटी बायालीड
Guwahati Bench

VERIFICATION

I, Sri D.Dihingia, Slo Late. ~~Dimbeswar Dihingia~~ presently working as Superintendent of Post Offices, Nalbari Barpeta Division, Nalbari - 781335, aged about 59 years do hereby verify that the statements made in paragraphs 1, 2, 4.1, 4.3, 4.5 and 4.7 are true to my knowledge and belief, those made in paragraphs 3(A) & 3(D), 4.2, 4.4 and 4.6 being matters of records of the case are true to my information derived therefrom which I believe to be true and the rests are my humble submission before the Hon'ble Tribunal. I have not suppressed any material fact before the Hon'ble Tribunal,

And I sign this verification on the 29th day of September 2008 at Guwahati.

✓
SIGNATURE

दाक अधिकारी
दाक मंडल दाक अधिकारी नलवारी बायाली
SUPDT. दाक मंडल नलवारी - 781335
NALBARI BWD/DT. C/P POST OFFICES
NALBARI BARPETA DIVISION
NALBARI-781335

Attention to Sri. ~~Utpal Nath~~ ^{प्राप्ति विवरण के अधिकारी} ^{प्राप्ति विवरण के अधिकारी}
 Co, Guwahati ^{Guwahati Administrative Tribunal}

DEPARTMENT OF POSTS: INDIA
 Office of the Superintendent of Post Office, Nalbari Barpeta Division

No. B/A-23/Ch-II

Dated at Nalbari the 23-05-08

Sri Bipin Ch. Talukdar, a NSO Surplus staff redeployed as IPO, Pathsala (Assam) has been appointed and posted as Inspector of Central Excise, Shillong by the Joint Commissioner (P & V) Central Excise, Shillong vide Joint Commissioner(P&V), Central Excise, Shillong letter No. 11(32)2/ET.11/2081/4160-64 dated 5.3.2008 and CO/GH vide CO's letter No. Staff/1-283/06 dtd 05-05-08 has been directed to relieve Sri Bipin Ch. Talukdar, IPO, Pathsala to take up his new assignment. As such, the following arrangement is made to relieve Sri B. C. Talukdar, IPO, Pathsala with immediate effect.

Sri Kumar Ranjan Roy, IPO, Barpeta is ordered to take over the charge of Pathsala Sub Division from Sri Bipin Ch. Talukdar after observing all the formalities and will look after the works of the Sub Division in addition to his own duties until further order.

Sri Bipin Ch. Talukdar, IPO, Pathsala, on being relieved by Sri Kumar Ranjan Roy, IPO, Barpeta will join his new assignment as ordered by the Joint Commissioner (P & V) Central Excise, Shillong.

This is in partial modification of their written order dated 15.05.08.


 (D. Dhangia)
 Superintendent of Post Offices
 Nalbari Barpeta Division

Copy to:-

1. The Joint Commissioner (P & V) Central Excise, Shillong w.r.t. his letter No. 11(32)2/ET.11/2081/4160-64 dated 5.3.2008.
2. The Chief PMG, Assam Circle, Guwahati for information with reference to CO's Guwahati letter No. Staff/1-283/06 dtd 05-05-08.
3. Sri Bipin Ch. Talukdar, IPO, Pathsala who will hand over the charge of his Sub Division to Sri Kumar Ranjan Roy, IPO, Barpeta after observing all the formalities.
4. Sri Kumar Ranjan Roy, IPO, Barpeta who will take over the charge of Pathsala Sub Division from Sri Bipin Ch. Talukdar after observing all the formalities and report compliance.
- 5-6. The Postmaster, Nalbari/Barpeta HO for information and necessary action.
- 7-8. The SDI(P), Pathsala/Barpeta for information.
9. Sri Abdul Khaleque Ahmed, SPM, Mayanbari SO for information and n/a.
- 10-11. PFs.
12. OC.


 Superintendent of Post Offices
 Nalbari Barpeta Division
 Nalbari-781335

ठाकुर अधीकारी नलबारी बार्पेटा
 डाक मंडल नलबारी - 781335
 SUPDT. OF POST OFFICES
 NALBARI BARPETA DIVISION
 NALBARI BARPETA DIVISION

30/05/08