

7

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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13/07/2015
SECTION OFFICER (JUDL.)

13/7/15

FORM NO. 4
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :
ORDERSHEET

1. ORIGINAL APPLICATION No : 117 / 2009
2. Transfer Application No : -----/2009 in O.A. No.-----
3. Misc. Petition No : -----/2009 in O.A. No.-----
4. Contempt Petition No : -----/2009 in O.A. No.-----
5. Review Application No : -----/2009 in O.A. No.-----
6. Execution Petition No : -----/2009 in O.A. No.-----

Applicant (S) : Sp. Bijan Kp. Chakraborty

Respondent (S) : Union of India & ors.

Advocate for the : Mr. S. Chakraborty
{Applicant (S)} Mr. B. Deb & Mr. A. Dutta

Advocate for the : -----
{Respondent (S)}

Mr. D. C. Chakraborty } for Respondents No. 2 to 8.
Advocate

Notes of the Registry .

Date

Order of the Tribunal

30.06.2009

Issue notice to the Respondents requiring them to file their written statement by 18.08.2009.

Call this matter on 18.08.2009.

(M.R.Mohanty)
Vice-Chairman

This application is in form is filed/C.F. for Rs. 50/- deposited vide IPO/PD No. 396/409752
Dated: 19.6.09

Dy. Registrar

/bb/

22.6.09

18.08.2009

8 copies Application with envelopes received for issue notices to the Respondents No 1 to 8. Copy served. Extra charges for excess respondents No 6 to 8 vide Receipt No. 2928.

22/6/09

K. Das

Send copies of this order to the Respondents in the address given in O.A.

19/8/09

/bb/

Mr.B.Deb, learned counsel for the Applicant is present. Mr.D.C.Chakraborty, Advocate files vakalatnama on behalf of the Respondent Nos. 2 to 8 and prays for adjournment to file written statement. Prayer is allowed.

Call on 18.09.2009 awaiting written statement from the Respondents.

Send copies of this order to the Respondents in the address given in the O.A.

(M.K.Chaturvedi)
Member (A)

(M.R.Mohanty)
Vice-Chairman

3.2.09

order dt. 30.6.09

18.09.2009

In this case written statement has already been filed by the Respondents. None appears for the Applicant.

Call this matter on 05.11.2009.

in O.A. 117/09 send to D/S for issue along with petitions to the Respondents. note no.

(M.K. Chaturvedi)
Member (A)

/lm

05.11.2009

Shri D.C. Chakraborty, learned counsel for Respondents states that Applicant has expired on 11.10.2009. Granting opportunity to Applicant to take steps for substitution, case is adjourned to 08.12.2009.

① Service report filed.

17.8.09

/bb/

08.12.2009

Mr. B. Dev, learned counsel appearing for the applicant states that the applicant has reportedly expired on 11th October, 2009.

Learned counsel seeks time to prefer appropriate application to bring ER's on record.

Adjourned to 07th January, 2010.

(Mukesh Kumar Gupta)
Member (J)

/pb/

7.1.2010

List the matter 16.2.2010 for Admission.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/lm/

Copies of order dated 18/8/09 send to D/Sec. for issuing to resp. by post.

D/No-9210-9217

21/8/09 D/- 24.8.09

21.8.09

Mr. D.C. Chakraborty C.G.C. has filed Memo of Appearance on behalf Respondents No. 2 to 8 at fls

A.

21/8/09

15.9.09

W/S filed by the Respondents through their Advocate Mr. D.C. Chakraborty, Central Bank Counsel. Copy received.

15/9/09

W/S filed. W/S filed.

17.9.09

6.1.2010

W/S filed.

4.11.09

W/S filed.

15.2.2010

16.2.2010

List the matter on 26.2.2010.

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

/lm/

26.02.2010

Learned counsel for the Respondents seeks and allowed further 10 days time to produce relevant documents to show that legal heirs sought to be impleaded are the wards of the deceased employee or not.

Accordingly, list on 10.03.2010.

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

/bb/

10.03.2010

Service record of the deceased employee has been produced wherein while making nomination for the benefits under the Central Government Group Insurance Scheme 1980, on 30.05.1994, he nominated his mother as a nominee. Thereafter on 27th August 2003 for the purpose of medical claim, he narrated and disclosed three persons as dependent upon him namely Smti. Sunity Chakraborty, Smti. Mira Chakraborty, and Smti. Gopa Chakraborty (mother and sisters) respectively. In between, on 12th September 2002 he nominated Smti. Joan Pariat as nominee for the purpose of provident fund and her relation was described as "wife". There is no documents produced on record to show that the deceased has married with said person, at any point of time. The question which arises in this case are of larger interest & grave consequences.

Contd/-

Contd/-

O.A. No. 117 of 2009

10.03.2010

Vide communication dated 28th December 1990, he had furnished the list of dependent family members which included mother, two sisters and two brothers. Since applicant's counsel is not present, we defer decisions on question raised in present O.A. and require Respondents to produce the said records on the next date of hearing also.

List on 01.04.2010.

(Mukesh Kumar Gupta)
Member (J)

/pb/

01.04.2010

Learned counsel for Respondents seeks time to place necessary documents on record.

List on 23rd April 2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/pb/

23.04.2010

O.A. to be listed on 29.04.2010 along with M.A.163/2009.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/bb/

29.04.2010

Vide order dated 23rd April 2010, we directed the registry to inform learned counsel for Applicant Mr. S. Chakraborty about the order passed on said date. Copy of said order could not be served upon him due to non availability of proper address. Sri D.C. Chackraborty, appearing for Respondent Nos.2-8 states that Mr. B. Deb also appears as learned counsel for Applicant, and has furnished his (B.Deb) Mobile Number. Registry, is accordingly, directed to send copy of this order along with the copy of order dated 23rd April 2010 to Mr. B. Deb, learned counsel for Applicant requiring him to take appropriate steps failing which, necessary inference will be drawn.

W/s filed,
6.5.2010

List on 07.05.2010.

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

07.05.2010

Mr. B. Deb, learned counsel for Applicant is present. He seeks and allowed two weeks time to bring on record the manner in which the deceased had married the concerned legal heir and how this factum was informed to the department as both of them were government servants, on the solemnization of marriage. Under rules concerned, as they were required to inform about this aspect to the Department.

W/s filed,
1.6.2010

List the matter on 2nd June 2010.

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

02.06.2010

None appears for Applicant despite second call. Applicant has not placed on record certain documents, as directed vide order dated 07.05.2010.

List the matter on 11.06.2010 granting one more opportunity to do the needful, failing which matter will be decided ex parte based on documents available on record.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

11.06.2010

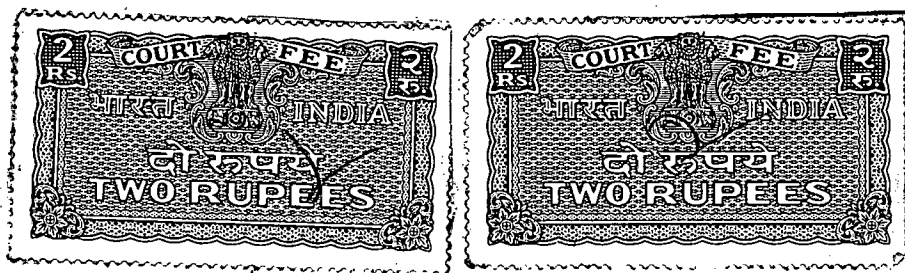
None for the applicant despite second call. Mr D.C.Chakraborty, learned counsel is present for respondents 2-8. Even on last date of hearing none appeared for the applicant as noticed by the order dated 2.6.2010. Earlier order sheet, except 7.5.2010 also noticed continuous absence of the applicant as well as his counsel. In the circumstances O.A is dismissed for default.

(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

Handwritten: Copy directed over to advocate for the both

Handwritten: Sd/- 21-6-2010



AFFIDAVIT

I, Shri Bipradeep Deb, aged about 34 years, son of late Beni Bhushan Deb, resident of "Chayanika Residency", Flat No.A1 & A2, 1st Floor, Kamakhya Nagar, via-Dinesh Ojha Path, Post Office-Dispur, Police Station Bhangagarh, Guwahati-781005, district Kamrup, Assam, do hereby solemnly affirm and say as follows:-

1. That I am the legal counsel for the petitioner in the above case and as such I am acquainted with the facts and circumstances of the case.
2. That the contents of this affidavit and the statements made in paragraphs 1,2,3,4,5,6,7,8 and 9 of the above petition are true on advice of the petitioner and to my knowledge and the rests are my humble prayers and submissions before this Hon'ble Tribunal which I also believe to be true and that I have not suppressed or concealed any material facts, thereon.

And I sign this affidavit this 21st day of December, 2009 in Guwahati.

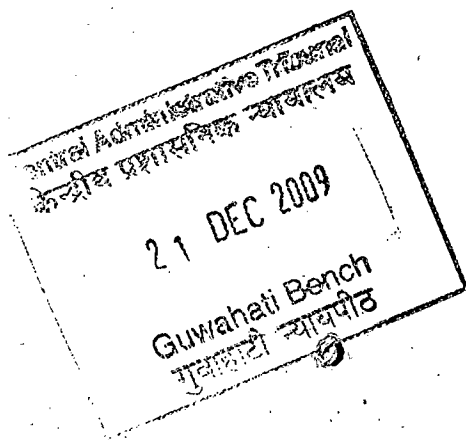
Identified by:-

Kankan Das
21-12-09

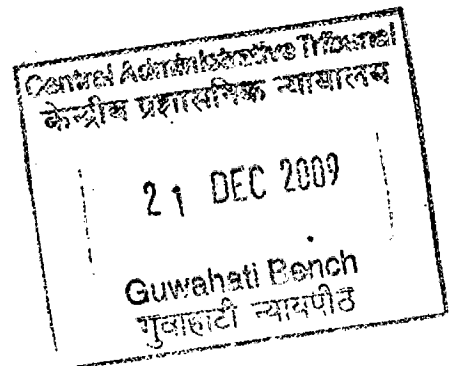
Advocate.

DEPONENT.

Solemnly affirmed and sworn in before me by the deponent, who is identified by Kankan Das, Advocate, on this 21st day of December, 2009 in Guwahati.



Dated-21/12/09
Guwahati



To

Shri D.C. Chakraborty,
C.G.S.C.,

Sub: Application under Rule 19 of CAT (Procedure) Rules, 1987 in OA.No.117 of 2009.

Sir,

I, hereby, submit an application under Rule 19 of the Central Administrative Tribunal (Procedure) Rules, 1987, before the Hon'ble CAT, at Guwahati, in OA.No.117 of 2009, on behalf of the applicant.

That this is for your information and a copy of the same had been enclosed herewith for your necessary action.

Please acknowledge a receipt for the same.

Thanking you,

Received by:-

Yours'

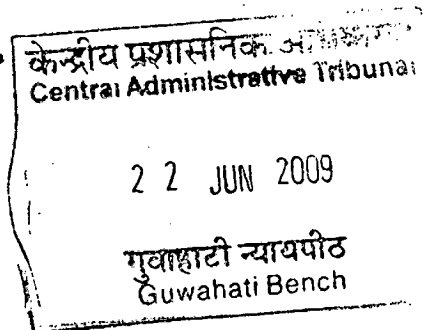
(BIPRADEEP DEB)
Advocate
Phone-9864150757.

(D.C. Chakraborty)
C.G.S.C.,
N.E.C., Shillong.

I undertake to serve a copy to the opposite parties Counsel as soon as I meet him.

21/12/09

District:- East Khasi Hills.



Filed by the Applicant
through Bipradeep Sel
's Adv.
22/6/09

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI**

(An application Under Section 19 of the Central administrative Tribunal Act, 1985)

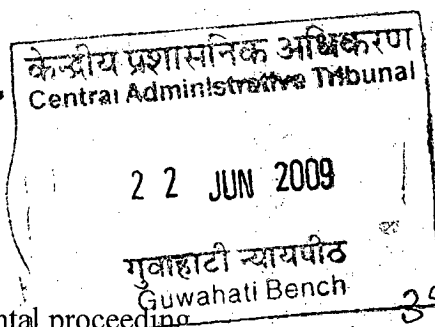
Original Application. No. 117 of 2009

Shri Bijan Kumar Chakraborty	-----	Applicant
-Versus-		
Union of India and others	-----	Respondents.

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LIST OF DATES

Sl. No.	Dates	Detail of particulars
1.	16.11.2006	Referral order issued by the Director Health Services, Shillong, Meghalaya, for treatment of the applicant at Apollo Hospital, Chennai, Tamil Nadu. (Annexure-A1; Page-17; Paragraph No.-43)
2.	20.3.2008	Judgment of the Hon'ble Gauhati High Court, Shillong Bench, Shillong, Meghalaya, in W.P.(C) No.424(SH) of 2005. (Annexure-A2; Page-18; Paragraph No.4.3(a))
3.	22.5.2008	The Articles of Charges issued by the respondent No.3 against the applicant. (Annexure-A3; Page-23; Paragraph No. 4.5)
4.	12.6.2008	Defence statement submitted by the applicant in defying the charges against him in Articles of Charges (Annexure-A4; Page-27; Paragraph- 4.6)
5.	13.10.2008	A letter issued by the respondent No.7 to the applicant informing him to be present at his chamber after office hour i.e. 5 p.m. on the same day (Annexure-A5, Page-29; Paragraph No.- 4.8)
6.	21.10.2008 4.8.2008 20.8.2008	Office memorandum along with Provisionary Inquiry Report and Final Inquiry Report issued by the respondent No.4 (Annexure - A6 series, Page-30; Paragraph No.4.12)
7.	5.11.2008 6.11.2008	A prayer of the applicant requesting for grant of some time for filing his representation and the order rejecting his prayer issued by the respondent No.4 (Annexure-A7series; Page-38; Paragraph No.4.13)
8.	11.11.2008	Order issued by the respondent No.4 demoting the applicant from the post of Stenographer Grade-II to Stenographer Grade-III of entry grade (Annexure-A8; Page-39; Paragraph No. 4.14)
9.	24.11.2008	Order issued by the respondent No.4 fixing the applicant's pay at the minimum stage of pay band i.e. P.B.-1 (Rs.5200-20200) + Grade Pay of Rs.2400/=. (Annexure-A9; Page-45; Paragraph No. 4.15)
10.	7.1.2009	Representation submitted by the applicant to the respondent No.2 for reviewing the major penalty imposed on him (Annexure-A10; Page-46; Paragraph No. 4.16)
11.	8.5.2009	Representation sent to the respondent No.2 by the applicant has been rejected by the respondent No.4 (Annexure-A11; Page-56; Paragraph No. 4.17)

Filed by:
B. Deb
Adv.
22/6/09

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

22 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Synopsis

That the applicant, Shri Bijan Kumar Chakraborty was appointed to the post of the Stenographer-III in the year 1983 and in due course of time he was promoted to Stenographer-II in the year 1989 for his seer ability and hard work.

The applicant, thereafter, all of sudden fell ill in the year 2004, since then he has been suffering from puestow on the pancreas and then he was referred to Apollo Hospital, Chennai, Tamil Nadu, for further treatment. After abiding and following all rules and procedure as required by the office and, accordingly he left for his treatment to Chennai. He had to revisit Chennai for further treatment as advised and he did so.

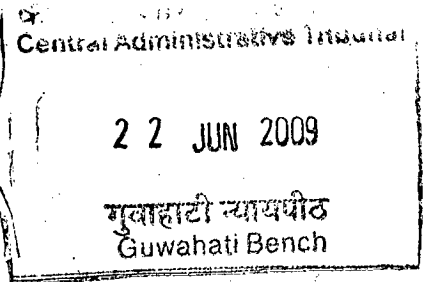
Thereafter, the applicant had done his treatment after following all the procedural rules and had also applied for some medical advances as per law for his treatment for which he is entitled.

After returning from his treatment, the department officials asked for the refund of the advance amount. Being aggrieved, the applicant filed a W.P.(C) No.424(SH) of 2005 before the Hon'ble Gauhati High Court, Shillong Bench, Shillong, and the Hon'ble High Court was pleased to admit and pass an order in favour of the applicant vide order dated 20.3.2008 (Annexure-A2).

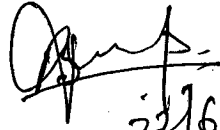
In the meantime, the respondent officials intentionally started harassing the applicant with an revengeful attitude for filing a petition before the Hon'ble High Court, and had started a predetermined Disciplinary Inquiry and punished the applicant vide impugned order No.NEC/ADM/9/2008 dated 11.11.2008 and order No.NEC/ADM/9/2008 dated 24.11.2008 issued by the Respondent No.4 imposing a major penalty on the applicant and demoting the applicant from Stenographer Grade-II to Stenographer Grade-III at the minimum wage with effect from 12.11.2008, without even giving an opportunity to the applicant to defend himself.

Bijan Kumar Chakraborty

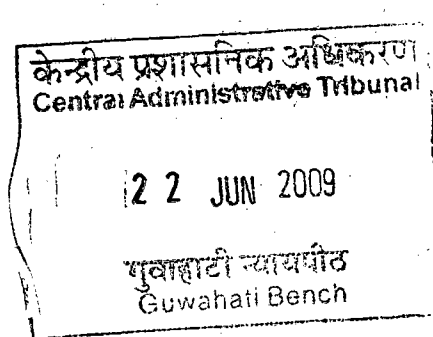
B.K



The applicant being aggrieved by the respondents' office activities, hence, this application before this Hon'ble Tribunal for consideration of his application for setting aside the impugned orders No.NEC/ADM/9/2008 dated 11.11.2008 (**Annexure-8**) and order No.NEC/ADM/9/2008 dated 24.11.2008 (**Annexure-9**) issued by the Respondent No.4, and reinstating the applicant to his rightful grade and position.


22/6/09
(B. Deb)
Adv

Bijn Kumar Chakraborty



Filed by :- 23
Bipradeep Deb
23/6/09

District:- East Khasi Hills.

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI**

(An application Under Section 19 of the Central administrative Tribunal Act,1985)

Original Application. No. 117 of 2009

Shri Bijan Kumar Chakraborty ----- Applicant

-Versus-

Union of India and others ----- Respondents

Particulars of the applicant :-

Shri Bijan Kumar Chakraborty,
Son of Late B. Chakraborty,
NEC Quarter No.III-25,
Motinagar, Post Office Nongthymmai,
Police Station Nongthymmai,
Shillong, District East Khasi Hills,
Meghalaya, Pin:-793014.

Particulars of the Respondents:-

1. Union of India,
(Represented by the Secretary to the Govt. of
India, Ministry of Development of North Eastern
Region, New Delhi-11.)
2. The Secretary,
The North Eastern Council,
O/o. The North Eastern Council Secretariat,
Nongrim Hills, Shillong-793003, Meghalaya.
3. The Deputy Secretary,
O/o. The North Eastern Council Secretariat,
Nongrim Hills, Shillong-793003, Meghalaya.
4. The Director (Adm. & Plg.),
O/o. The North Eastern Council Secretariat,
Nongrim Hills, Shillong-793003, Meghalaya.
5. The Financial Adviser,
O/o. The North Eastern Council Secretariat,
Nongrim Hills, Shillong-793003, Meghalaya.
6. The Controlling Officer (Administration
Section),
O/o. The North Eastern Council Secretariat,
Nongrim Hills, Shillong-793003, Meghalaya.
7. Executive Engineer (T & C),
O/o. The North Eastern Council Secretariat,
Nongrim Hills, Shillong-793003, Meghalaya.
8. Section Officer (Adm.),
O/o. The North Eastern Council Secretariat,
Nongrim Hills, Shillong-793003, Meghalaya.

22 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench**Details of application:****1. Particulars of the order against which this application is made :-**

This application is made against the impugned order No.NEC/ADM/9/2008 dated 11.11.2008 (Annexure-A8) and order No.NEC/ADM/9/2008 dated 24.11.2008 (Annexure-A9) issued by the Respondent No.4 imposing a major penalty on the applicant and demoting the applicant from Stenographer Grade-II to Stenographer Grade-III at the minimum wage with effect from 12.11.2008.

2. Jurisdiction:-

The applicant further declares that the cause of action for the present application arose within the jurisdiction of this Hon'ble tribunal.

3. Limitation:-

The applicant declares that the application is made within the prescribed period of limitation.

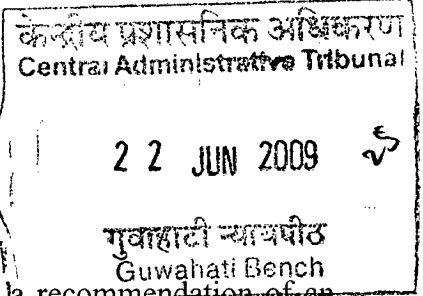
4. FACTS OF THE CASE :-

4.1. That the petitioners is a citizen of India and permanent resident of East Khasi Hills district in the state of Meghalaya and as such he is entitled to all the rights and privileges guaranteed to a citizen of India under the Constitution of India and other laws of the land.

4.2. That the applicant was appointed as Stenographer Grade-III in the year 1983. Since, then, he has been performing his duties honestly and diligently to the best of satisfaction of his superiors without any adverse finding and in due course of time he was promoted to Stenographer Grade-II in the year 1989. The applicant is a responsible person and has to look after his family members, who are dependent on him, as he is the only earning member of the family.

4.3. That the applicant was suffering seriously from Puestow on the pancreas and had to undergo for operation of the same as referred by Director Health Services,

Rajan Kumar Chakrabarty



Shillong, Meghalaya, at Apollo Hospital, Chennai, and with a recommendation of an outward journey by Air alongwith two escorts vide office order No.HSM/(T)/C/3/2006/17876 dated 16.11.2006, which was in continuation to the Office Order No.HSM/T/C/4/2005/4049, dated 14.3.2006.

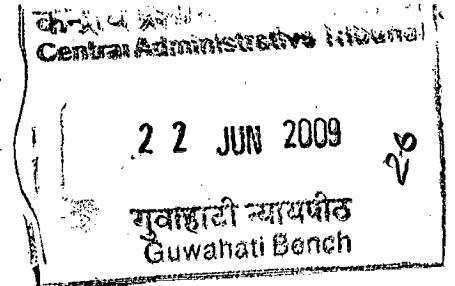
A copy of the aforesaid order dated 16.11.2006 is annexed hereto as **Annexure-A1** of this application.

4.3(a) That the applicant was granted medical treatment on two occasions vide sanction Order No.NEC/ACCTTS/6/92/P.II dated 20th July, 2004 and Order No.NEC/ACCTTS/47/2005 dated 16th December, 2005, but the department claimed back for certain amount sanctioned to him. Being aggrieved, the applicant filed a W.P(C) No. 424(SH) of 2005, before the Hon'ble Gauhati High Court, Shillong Bench, and the Hon'ble High Court was pleased to allow the writ petition by minutely observing all the prevailing rules and regulations and directed the said department to reimburse the full amount incurred by the petitioner during his treatment in the hospital vide order dated 20.3.2008.

A copy of the aforesaid order of the Hon'ble Gauhati High Court dated 20.3.2008 is annexed hereto as **Annexure- A2** of this application.

4.4. That, after filing the writ petition before the Hon'ble Gauhati High Court, Shillong Bench, all of sudden the department's officers with a pre-determined plan started treating the applicant step-brotherly and inflicting mental tension in various forms, such as, he was not allowed to put his signature on the attendance register and his leave application was also not accepted by the respondent No.6 and when he complained to the superior, i.e. respondent No.3, instead of finding the reasons for not allowing the applicant to put his signature on his attendance register and for not accepting his leave application by the respondent No.6, rather accused the applicant of negligence of duties and started departmental inquiry against him.

Prigam Kumar Chakraborty



4.5. That on 2.6.2008, the applicant was served with the office memorandum No.NEC/ADM/9/2008, dated 22.5.2008, under the signature of the respondent No.3, enclosing therewith the “**Articles of Charges**” and the imputations in support of those charges, and the applicant was informed that it was being proposed to hold an enquiry against him under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, i.e. in short CCS(CCA)Rules, 1965, and the applicant was to submit his written statement of defence within a period of 15 days from the date of receipt of that Memorandum.

A copy of the aforesaid office memorandum dated 22.5.2008 is annexed hereto as **Annexure-A3** series of this application.

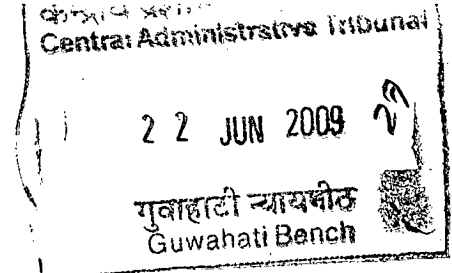
4.6. That the applicant in response to the said office memorandum dated 22.5.2008 duly submitted his written statement of defence dated 12.6.2008 addressed to the respondent No.3, whereby all the allegations made therein, particularly all the heads of charges in the said “Articles of Charges” as well as the imputations purportedly framed in support were vehemently denied and also provided a detailed explanations with respect to the said allegations, charges and imputations framed by the department.

A copy of the aforesaid written statement of defence dated 12.6.2008 is annexed hereto as **Annexure-A4** of this application.

4.7. That, thereafter, the applicant did not receive any communication from any of his authority of the North Eastern Council Secretariat for about 4 months.

4.8. That, subsequently, the applicant received a letter addressed to him bearing No.NEC/T/MISC/2008, dated 13.10.2008, issued by Shri K. Haridoss, Executive Engineer (T&C), i.e. respondent No.7, who also addressed himself as an Inquiry Officer. The letter mentioned the subject “Submission of Inquiry Report of Shri Bijan Kumar Chakraborty, Steno-II”, and thereby the applicant was informed to appear for verbal inquiry needed to be conducted before submitting the final report to the Administration and as such the applicant was asked to be present in the Chamber of the

Bijan Kumar Chakraborty



said Inquiry Officer, i.e. respondent No.7, at 5 p.m. on that same day itself, i.e. 13.10.2008.

A copy of the aforesaid letter dated 13.10.2008 from respondent No.7 is annexed hereto as **Annexure- A5** of this application.

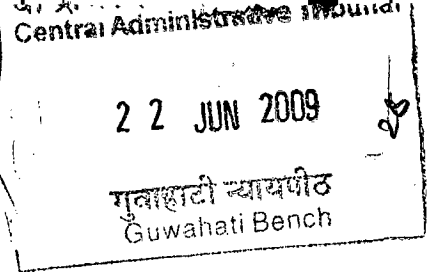
4.9. That, thereafter, the applicant accordingly appeared before the respondent No.7 at his office chamber on 13.10.2008 at 5 p.m., where he was confined for long hours after the office hours, and found that apart from respondent No.7 and himself, Shri S.L. Baidya, Section Officer (Admn.), North Eastern Council Secretariat, Shillong, i.e. respondent No.8, was also present and thereafter the applicant was informed that respondent No.8 was the Presenting Officer in the inquiry being held against the applicant in connection with the Departmental Proceeding arising out of the, aforesaid, office memorandum dated 22.5.2008 (**Annexure-A3** of this application).

4.10. That, thereafter, the respondent No.8, also informed the applicant that he had substantially concluded the conduct of the inquiry and would complete the same by making some verbal inquiries from the applicant at that same evening.

4.11. That the respondent No.8, then, asked a few questions to the applicant and the applicant duly replied by reiterating the position taken by him in his written statement of defence (**Annexure-A4** of this application). Thereafter, the applicant also fervently requested that he was helpless without a suitable Defence Assistant to take up his case and that he was never been given any opportunity of appointing such Defence Assistant.

4.12. That, thereafter, the applicant received the office memorandum No.NEC/ADM/9/2008, dated 21.10.2008, issued by the respondent No.4, informing the applicant that two reports, the first being "Provisionary Inquiry Report" dated 4.8.2008 and "Final Inquiry Report" dated 20.10.2008 had been submitted by the Inquiry officer, i.e. respondent No.7, and if the applicant wished to make any representation against the same, should do so in 15 days time.

Ripin Kumar Chakrabarty



Copies of the aforesaid office memorandum dated 21.10.2008, along with "the Provisional Inquiry Report" dated 4.8.2008 and "the Final Inquiry Report" dated 20.10.2008 is annexed hereto as **Annexure-A6(i)**, **Annexure-A6(ii)** and **Annexure-A6(iii)** respectively, of this application.

4.13. That subsequently on 5.11.2008, the applicant submitted a written request for granting him some time for filing his representation, but by the office memorandum No.NEC/ADM/9/2008 dated 6.11.2008 issued by the respondent No.4 informed the applicant that no such extension of time could be given to him and it was deemed that the applicant had nothing to submit with regard to the said Inquiry Reports.

A copy of the request by the applicant dated 5.11.2008 and the said office memorandum No.NEC/ADM/9/2008 dated 6.11.2008 is being annexed hereto as **Annexure-A7(i)** and **Annexure-A7(ii)**, respectively, of this application.

4.14. That then, thereafter, the applicant was served with the office order No.NEC/ADM/9/2008 dated 11.11.2008 issued by the respondent No.4 informing the applicant that the final order was passed in the Departmental Proceedings against the applicant arising out of the said office memorandum No.NEC/ADM./9/2008 dated 22.5.2008 (**Annexure-A3** series of this application) inflicting a major penalty under Rule 11(VI) of the CCS(CCA) Rules, 1965, of reduction in rank to the entry grade pay scale of Stenographer Grade-III at the initial entry stage as would be applicable to a fresh direct recruit in Stenographer- Grade-III in the North Eastern Council Secretariat joining on 12.11.2008 with consequential effects as stated therein.

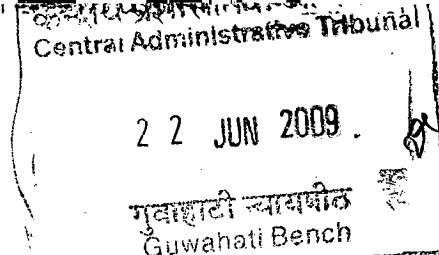
A copy of the said office order dated 11.11.2008 is annexed hereto as **Annexure-A8** of this application.

4.15. That thereafter, subsequently, by the office order No.NEC/ADM/9/2008 dated 24.11.2008 issued by the respondent No.4, the applicant's pay has been fixed at the minimum stage of the Pay Band i.e. PB-1 (Rs.5200-20200) + Grade Pay Rs.2400/=, w.e.f. 12.11.2008.

A copy of the said office order dated 24.11.2008 is annexed hereto as **Annexure-A9** of this application.

4.16. That then, thereafter, being highly aggrieved by the said office orders No.NEC/ADM/9/2008 dated 11.11.2008 (**Annexure-A8** of this application) and 24.11.2008 (**Annexure-A9** of this application), the applicant filed an appeal/representation dated 7.1.2009 to the respondent No.2 under the provisions of Rule 23 read with Rule 26 of the CCS (CCA) Rules, 1965.

Rajen Kumar Chakrabarty



A copy of the said appeal/representation dated ~~7.1.2009~~ is annexed hereto as **Annexure-A10** of this application.

4.17. That the afore-mentioned appeal/representation dated 7.1.2009 filed by the applicant to the respondent No.2 was thereafter subsequently rejected/disallowed under U.O. No.NEC/ADM/9/2008, dated 8.5.2009 by the respondent No.4.

A copy of the said office order rejecting/disallowing the applicant's appeal/representation by the respondent No.4 is hereby annexed and marked as **Annexure-A11** of this application.

5 The above reliefs are prayed on the following grounds:-

A) For that in the instant case the impugned order dated 11.11.2008 (**Annexure-A8**), order dated 24.11.2008 (**Annexure-A9**) and order dated 8.5.2009 (**Annexure-A11**) passed by the Respondent No.4 whimsically without providing an opportunity to the applicant to defend himself for the interest of justice in the case is arbitrary, unreasonable, violative of the principles of natural justice and as such unsustainable in law.

B) For that in the instant case the authority concerned has passed the impugned order dated 11.11.2008(**Annexure-A8**), order dated 24.11.2008 (**Annexure-A9**) and order dated 8.5.2009 (**Annexure-A11**) without taking consideration of the relevant procedure and in gross violation of various essential requisites of procedure enumerated in the Rule 14 of the CCS (CCA) Rules, 1965, amounting to total denial of any reasonable opportunity of hearing being given to the applicant and thereby absolutely infringing the applicant's valuable Constitutional Rights guaranteed under the Article 311 of the Constitution of India and as such the said impugned orders are totally erroneous in both, law and facts, and is liable to be fully set-aside and quashed;

C) For that in the instant case the authority concerned has passed the impugned order dated 11.11.2008 (**Annexure-A8**) order dated 24.11.2008 (**Annexure-A9**) and order dated 8.5.2009 (**Annexure-A11**) on the basis of a purported inquiry on the Articles of Charges and allied imputations against the applicant that was held in gross

Rajan Kumar Chakraborty

22 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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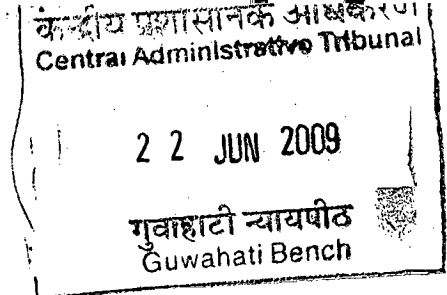
violation of various essential requisites of procedure enumerated in the Rule 14 of the CCS (CCA) Rules, 1965, which is in force and that has resulted in to the failures of justice.

D) For that in the instant case the authority concerned has passed the impugned order dated 11.11.2008 (Annexure-A8), order dated 24.11.2008 (Annexure-A9) and order dated 8.5.2009 (Annexure-A11) on the purported inquiry on the Articles of Charges (Annexure-A3) and the imputations of fact in support, thereof, annexed to the said first office memorandum dated 22.5.2008, on which basis the Departmental Proceeding against the applicant were held, did not disclose any grave or serious misconduct by the applicant that could entail any major penalty under the CCS (CCA) Rules, 1965, but the said Departmental Proceedings were held under the Rule 14 of the said Rules, causing a grave miscarriage of justice and as such the said impugned orders are bad both in law and facts, and is liable to be forthwith set-aside and quashed;

E) For that in the instant case the authority concerned has passed the impugned order dated 11.11.2008 (Annexure-A8) order dated 24.11.2008 (Annexure-A9) and order dated 8.5.2009 (Annexure-A11) on the basis of purported Departmental Proceedings were held under Rule 14 of the CCS (CCA) Rules, 1965, although the Articles of Charges (Annexure-A3) and imputations in support thereof never disclosed any grave or serious misconduct which could entail any major penalty, that in turn goes on to unambiguously indicate that the Dicipinary Authority was predetermined to impose a major penalty on the applicant irrespective of the results of the inquiry, and as such the impugned orders are bad in law and fact, and resulted in the failure of justice;

F) For the reason that the applicant was never informed about the appointment of Shri K. Haridoss, i.e. respondent No.7, as the Inquiry Officer, thereby, totally depriving the applicant of any opportunity in the said inquiry and as such the impugned orders

Rajin Kumar Chakraborty



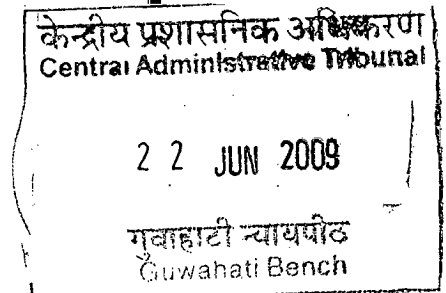
made on the basis on such enquiry are absolutely bald in law and facts, and is liable to be set-aside and quashed, forthwith;

G) For the reason that the said Inquiry Officer, i.e. respondent No.7, had already submitted his interim Inquiry Report entitled "Provisionary Inquiry Report" dated 4.8.2008 (**Annexure-A6(ii)**), even before the Final Report, whereby, he gave a clear findings on the Articles of Charges (**Annexure-A3**) against the applicant indicating that he had fully applied his mind and arrived at a definite conclusion on the same but the same was done even without issuing a bare notice of Inquiry on the applicant or affording any opportunity of hearing or giving the applicant a chance to defend. Hence, the whole inquiry is done to vindicate and harass the applicant for filing a petition before the Hon'ble Gauhati High Court, Shillong Bench, and in gross violation of all the norms of Natural Justice as well as the specific procedural requirements of Rule 14 of the CCS (CCA) Rules, 1965, and as such the impugned orders made on the basis of vindicated inquiry is bad in law and fact, and are absolutely liable to be set-aside and quashed;

Bijon Kumar Chakrabarty

H) For the reason that the inquiry was held without appreciation of any evidence being lawfully adduced by the Presenting Officer, i.e. respondent No.8, neither any list of witnesses being furnished to the applicant, nor any scope of cross-examining the witnesses is being given to the applicant and the same has resulted in gross violation of Rule 14(4) and Rule 14(14) of the CCS (CCA) Rules, 1965, as well as other provisions of settled law. Hence, the said inquiry was done so to intentionally harass the applicant, which is absolutely bad in law and facts, and is liable to be rightly set-aside and quashed;

I) For the reason the applicant was never given any opportunity of appointing any Defending Officer or Defence Assistant in accordance with the provisions of Rule 14 of the CCS (CCA) Rules, 1965, and as such the whole Disciplinary Proceedings, including



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the inquiry against the applicant, are grossly unjust, arbitrary, illegal and violative of the basic requirements of Natural Justice, and thus, rendering the said impugned orders made on the basis of such inquiry and proceedings are in gross violation of settled law and facts, and are liable to be set-aside and quashed;

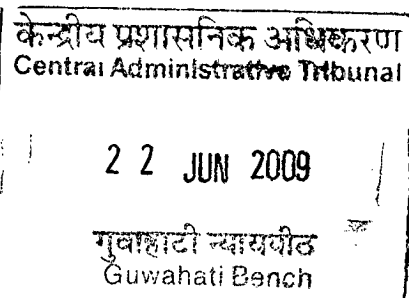
J) For the reason that the whole inquiry was concluded without affording any opportunity to the applicant for taking any defence or adducing evidences for defence as the said inquiry was predetermined and already concluded before the applicant's knowledge and upon conclusion of the production of evidences by the Presenting Officer, i.e. respondent No.8, rendering the whole Inquiry Proceedings in gross violation of Rule 14(16) and Rule (17) of the CCS (CCA) Rules, 1965, as well as the essential tenets of Natural Justice, and as such the impugned orders are made on the basis of such an illegal inquiry, also the Disciplinary Proceedings, are bad in law and facts, and are liable to be rightly set-aside and quashed, forthwith;

K) For the reason that the Inquiry Officer never afforded any opportunity of providing any explanation to the applicant by asking questions to the applicant as per the provisions of Rule 14(18) of CCS(CCA) Rules, 1965, and as such the impugned orders made on the basis of such as an illegal inquiry, are absolutely bad in law and facts, and is liable to be set-aside and quashed, forthwith;

L) For the reason that the findings in the said inquiry were predetermined and decided without hearing any arguments for the prosecution and the defence as per the provisions of the Rule (19) of the CCS (CCA) Rules, 1965, and as such the said impugned orders made on the basis of such an illegal inquiry are bad in law and facts, and are liable to be forthwith set-aside and quashed;

M) For the reason that the Disciplinary Authority, namely, the Director (Adm.), i.e. respondent No.4, by his said letter vide office memorandum dated 21.10.2008

Rajin Kumar Chakrabarty



(Annexure-A6(i)) provided the applicant with copies of the said two inquiry reports i.e. Annexure-A6(ii) and Annexure-A6(iii), respectively, requiring the applicant to submit a representations on those inquiry reports. Although, in the applicable procedural law enumerated in the CCS (CCA) Rules, 1965, there is no provisions requiring the Disciplinary Authority to do so prior to making the final orders on the basis of such Inquiry Reports, hence it is eventually manifested that the Disciplinary Authority failed to judiciously apply its mind to the findings of the Inquiry Officer and as such the said impugned orders of the Disciplinary Authority are absolutely bad in law and facts, and are liable to be set-aside and quashed, forthwith;

N) For the reason that in any view of the matter, the said impugned orders are made without applying the judicious mind but with pre-determined and revengeful attitude, without considering the judicial procedure and intentionally to harass the applicant for filing a writ petition before the Hon'ble Guwahati High Court, Shillong Bench, Shillong, which is bad in the eye of law and are liable to be set-aside and quashed, forthwith;

6. Details of the remedy exhausted:-

The remedy exhausted in the case has been detailed above as per list of dates and there is no other remedy left other the instant application before this Hon'ble Tribunal.

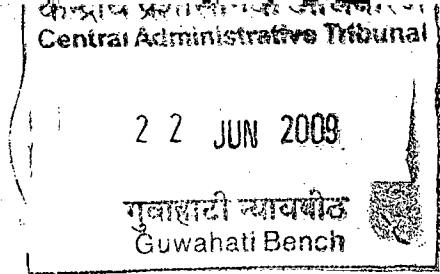
7. Matter not pending in any other court/ tribunal:-

The applicant declares that the matter is not pending in any other court tribunal at present.

8. Reliefs sought for in the application:-

Under the facts and circumstances stated above the applicant prays for the following reliefs: -

Prison Kumar Chakraborty



- A) To pass an order in setting aside and quashing the impugned order dated 11.11.2008 (Annexure-A8), order dated 24.11.2008 (Annexure-A9) and order dated 8.5.2009 (Annexure-A11) passed by the Respondent No. 4 and/or,
- B) To pass an order directing the authorities to reconsider the applicant's case and restore him to his grade i.e. Stenographer Grade-II, providing his salaries as per the said grade in accordance with the rules and his seniority; and/or,
- C) To pass an order directing the authorities for engaging the applicant and not to ouster him during the pendency of this application before this Hon'ble Tribunal.
- D) To pass such further and other orders as your Lordships may deem fit and proper under the facts and circumstances of the case in the interest of justice.

9. Interim order:-

Pending final disposal/decision on the application Your Lordships may be pleased to allow the applicant to work at the post of Stenographer Grade-II at the pay drawn by him before the alleged proceedings against him.

10. Details of Postal orders:-

Postal Order No. :- 39G 409752

Date of Issue:- 19.6.2009

Issued from:- S.P.O., Dispur.

Payable at:- Guwahati

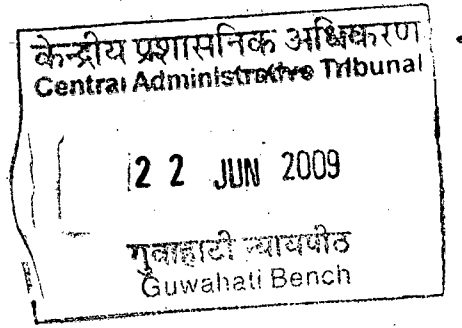
11. Details of Index:-

An index showing the particulars of documents is enclosed.

12. List of Enclosures:-

As per index.

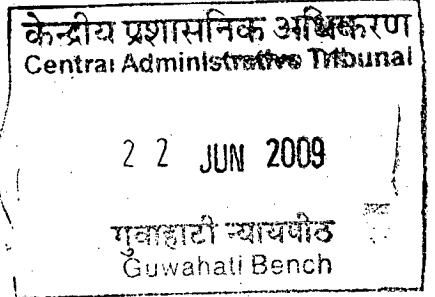
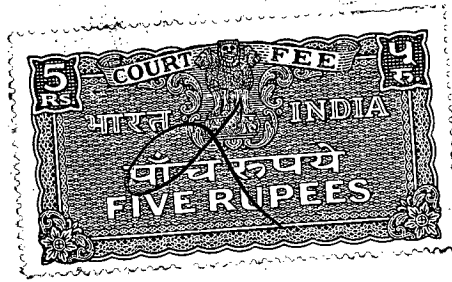
24
Bijan Kumar Chakrabarty



VERIFICATION

I, Shri Bijan Kumar Chakraborty, the applicant in this case, aged about 49 years, son of Late B. Chakraborty, working as a Stenographer in the office of the North Eastern Council Secretariat, Nongrim Hills, Shillong-793003, Meghalaya, do hereby verify that the statements made in this application are true to my knowledge and belief and I have not suppressed any material facts of the case. I sign this verification on this 22nd day of June, 2009, in Guwahati.

Bijan Kumar Chakraborty
Signature of the Applicant.



AFFIDAVIT

I, Shri Bjan Kumar Chakraborty, son of L. B. Chakrawarty, aged about 48 years, resident of NEC Quarter No. III-25, Motinagar, Post Office Nongthymmai, Police Station Nongthymmai, Shillong-793014, District East Khasi Hills, Meghalaya, years do hereby solemnly affirm and may as follows:-

1. That I am the petitioner in the above case and as such I am acquainted with the facts and circumstances of the case.
2. That the contents of this affidavit and the statements made in paragraphs 1,2,3,4,5,6,7,8,9,10,11 and 12 of the above petition are true on legal advice and to my knowledge and the rests are my prayers and submissions before this Hon'ble court which I also believe to be true and that I have not suppressed or concealed any material facts, thereon.

And I sign this affidavit this 22nd day of June, 2009 in Guwahati.

Bjan Kumar Chakraborty
DEPONENT.

Identified by:-

[Signature]
Advocate.

Solemnly affirmed and sworn in before me by the deponent, who is identified by Shri Bipradeep Deb, Advocate, on this 22nd day of June, 2009 in Guwahati.

ORDERS OF THE DIRECTOR OF HEALTH SERVICES: MEGHALAYA: SHILLONG.

No.HSM/(T)/C/3/2006/17876,

Dated Shillong, the 16.11.2006.

In continuation to this Office Order No.HSM/T/C/4/2005/4049, dt.14/03/2006 Shri. B. K. Chakraborty, Steno-II, North Eastern Council Secretariat, Shillong is hereby allowed to undergo Medical Check up at Apollo Hospital, Chennai for a modified Puestow operation on the Pancreas as advised by the Hospital Authority.

Two escorts are allowed.

Sd/-Dr.K.H.Lakiang,
Director of Health Services (MII)
Meghalaya, Shillong.

Memo.No.HSM/(T)/C/3/2006/17877-79,

Dated Shillong, the 16.11.2006.

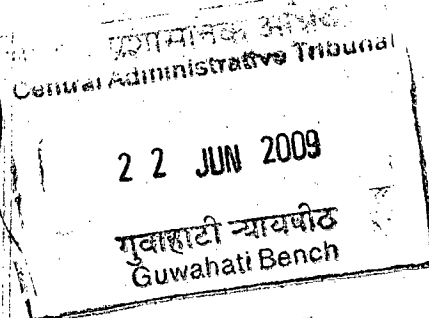
Copy forwarded for information and necessary action to: -

1. The Medical Superintendent, Apollo Hospital, Chennai.
2. The Secretary, North Eastern Council Secretariat, Shillong.

In view of the health condition of the patient an outward journey by Air alongwith two escorts is recommended

3. Shri. B. K. Chakraborty, Steno-II, North Eastern Council Secretariat, Shillong. With a request that while submitting the application for check up a copy of the following documents should be enclosed.

- I. Approval Orders issued by this Directorate.
- II. Discharge Summary Report/ Advised Slip.
- III. ~~Medical Bills (in Original) & Essential Certificate duly countersigned by Hospital authority.~~



Director of Health Services (MII)
St Meghalaya, Shillong.

Certified to be true copy of the Original

(Bigunweep Deb) Advocate

Date of application for the copy	Date fixed for notifying the requisite number of stamps and folios.	Date of delivery of the requisite stamp and folios.	Date on which the copy was ready for delivery	Date of making of the copy to the applicant
31/3/08	31/3/08	1/3/08	1.3.08	1/3/08

**THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM:NAGALAND:MEGHALAYA:
MANIPUR:MIZORAM:TRIPURA & ARUNACHAL PRADESH)**

SHILLONG BENCH

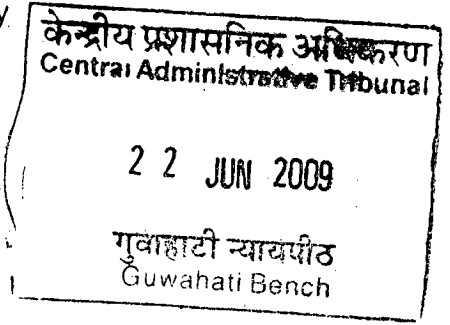
WP(C) NO.424(SH)2005

Shri Bijan Kumar Chakraborty
Stenographer, Grade-II
North Eastern Council Secretariat
Nongrim Hills, Shillong.

Petitioner

- Versus -

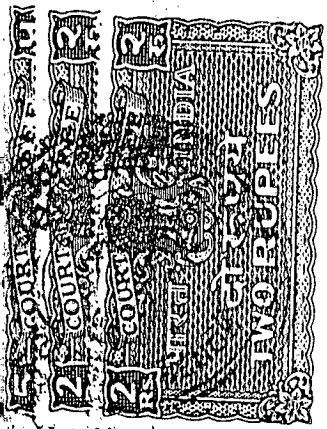
1. The Union of India, Through the Secretary
Ministry of Development of North Eastern
Region, New Delhi.
2. The North Eastern Council
C/o the North Eastern Council Secretariat
Nongrim Hills, Shillong.
3. The Secretary
North Eastern Council
North Eastern Council Secretariat
Nongrim Hills, Shillong.
4. The Assistant Secretary
North Eastern Council Secretariat
Nongrim Hills, Shillong.
5. The Deputy Secretary
North Eastern Council Secretariat
Nongrim Hills, Shillong.



Respondents

6. The Director of Health Services (MI)
Government of Meghalaya
Lower Lachaumiere, Shillong.

Proforma
Respondent



**BEFORE
THE HON'BLE MR JUSTICE K MERUNO**

For the Petitioner : Mr S Chakravarty, Advocate

For the Respondents : Mr P Dey, CGC

Date of Hearing : 20.3.2008

Date of Judgment and Order : 20.3.2008

22 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

JUDGMENT AND ORDER

Heard Mr S Chakravarty, learned counsel for the petitioner as well as Mr P Dey, the learned CGC for the respondents.

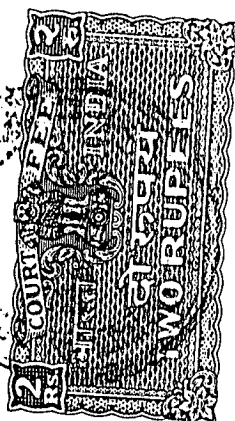
2. Without going into the long narration of the background of the facts of the case, since the same are admitted facts and not disputed between the parties as to the sickness of the petitioner, treatment of the petitioner in the hospital approved by the respondents and also the fact about the sanction of money for the treatment, the only dispute between the parties is the quantum of amount that is to be reimbursed to the petitioner in full or not.

3. Counter on behalf of the respondents have also been filed in detail. The stand of the respondents is that, the claim regarding the medical treatment in hospitals has been regulated as per approved rates for items of expenditure mentioned in the bill (Government of India's Decisions under Rule 2 and Rule 6 issued vide Government of India, Ministry of Health OMS 14025/7/2000-MS dated 28th March 2000 of CS (MA) Rules 1944). As per the chart shown below is the sanction, amount claimed, amount to be reimbursed, amount deposited and balance to be deposited by the petitioner has been shown. This is the figure of the first advance for treatment.

*Advance Taken(Rs)	Amount Claimed (Rs)	Amount Reimbursed (Rs)	Unspent Amount Deposited in Cash(Rs)	Balance to be deposited (Rs)
4,50,000.00	1,69,156.00	1,15,150.00	2,14,200.00	1,20,850.00*

The second chart is with regards to the second treatment :-

*Advance Taken(Rs)	Amount Claimed (Rs)	Amount Reimbursed (Rs)	Unspent Amount Deposited in Cash(Rs)	Balance to be deposited (Rs)
2,00,000.00	1,79,654.00	88,084.00	0.00	1,13,916.00*

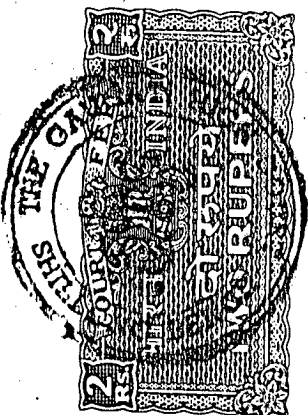


22 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Therefore, a balance amount of Rs.1,20,650.00 from the first sanction and a sum of Rs.1,13,916.00 from the second sanction is the balance remaining for the petitioner to be deposited on account of the advance for his treatment. The respondents further state that, as per Rule 2 and 6 of the Government of India (Decision 2 and 6 respectively), the petitioner is not entitled to get full reimbursement of medical expenditure. The respondents further state, that the provisions of Rules CS (MA) Rules 1994 have been followed in letter and spirit for disposal of Medical reimbursement claims in respect of NEC Employees and their family members for the treatment received in recognized Private Hospitals/Government Hospitals. The case of the Writ Petitioner, Steno (Grade II) was also dealt with in the same manner. The settlement of hospital bills is to be regulated as per CGHS approved rates in force and it has also been clearly indicated in the sanction Order No.NEC/ACCTTS/6/92/P.II dated 20th July, 2004 and No.NEC/ACCTTS/47/2005 dated 16th December, 2005 while granting advance to the Writ Petitioner, Steno (Grade II) NEC Secretariat, Shillong.

4. The learned counsel for the petitioner Mr S Chakravarty has submitted, that the claim of the petitioner is based upon the relevant Rules and Orders relied upon by the respondents. He further submits that in view of the specific terms of the relevant rules of the Central Services (Medical Attendance) Rules, 1944 which has been extensively referred by the respondents, sub-rule (6) and (2) stipulate that any amount paid by him on account of such treatment shall be reimbursed to him by the Central Government. Mr S Chakravarty submits, that in the explicit



22 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

terms and words as contained in the said Rule, full reimbursement has to be made.

5. After hearing the counsel for the respective parties at length, and upon perusal of the pleadings and documents relied upon by the respective parties, since the only dispute is whether the reimbursement has to be made in full or not as per the stand of the respondents, I have minutely perused the relevant provision in this regard, i.e. the Central Services (Medical Attendance) Rules, 1944, the relevant portion of Rule 6 is reproduced below for proper application in the matter and to come to a conclusive decision in this regard.

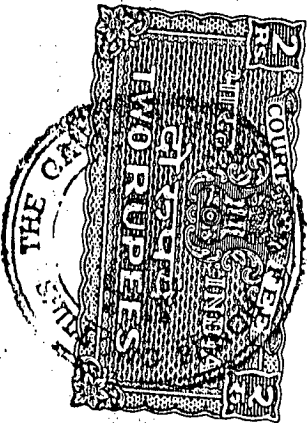
"6. Medical Treatment.- (1) A Government servant shall be entitled, free of charge to entrustment –

- (a) in such Government hospital or near the place where he falls ill as can in the opinion of the authorized medical attendant provide the necessary and suitable treatment; or
- (b) if there is no such hospital as is referred to in sub-clause (a) in such hospital other than a Government hospital as or near the place as can in the opinion of the authorized medical attendant, provide the necessary and suitable treatment.

(2) Where a Government servant is entitled under sub-rule (1) free of charge, to treatment in hospital, any amount paid by him on account of such treatment shall, on production of a certificate in writing by the authorized medical attendant in this behalf, be reimbursed to him by the Central Government :

Provided that the controlling officer shall reject any claim if he is not satisfied with its genuineness on the facts and circumstances of each case after giving an opportunity to the claimant of being heard in the matter. While doing so, the controlling officer shall communicate to the claimant the reason, in brief, for rejecting the claim and the claimant may submit an appeal to the Central Government within a period of forty-five days of the date of receipt of the order rejecting the claim."

Upon perusal of the same as envisaged under sub-rule (2) of Rule 6 of the said Rules, 1944, "where a Government servant is entitled under sub-rule (1) free of charge, to treatment in hospital, any amount paid by him on account of such treatment shall, in production of a certificate in writing by the authorized medical attendant in this behalf, be reimbursed to him by the Central



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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

22 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Government." From the minute reading of sub-rule (2) stipulates any amount which would only mean full payment/reimbursement of the amount paid by the petitioner shall be reimbursed by the Central Government. The case of the petitioner is also not covered under the proviso in Rule 6. As such, after considering all aspects of the entire matter in its proper perspective, I am of the considered opinion that the petitioner is entitled to full payment/reimbursement of any amount paid by him on account of his treatment in the hospital on the two occasions wherein he underwent treatment.

6. Considering the facts and circumstances as stated above, the respondents are directed to reimburse to the petitioner the full amount incurred by the petitioner during his treatment in the hospital.

7. With the above directions, this writ petition is allowed to the extent as indicated above. No order as to cost.

Sd/ K. Merumo
Judge

Typed By
Read By
Compared By
S. Pradeep Deb

Shree
17/6/08
Joint High Court
Guwahati Bench

Certified to be true copy of the Original

(Signature)
(Bipradeep Deb) Advocate

- 23 -

Annexure A3
Central Administrative Tribunal

GOVERNMENT OF INDIA
MINISTRY OF DEVELOPMENT OF NER
NORTH EASTERN COUNCIL SECRETARIAT
SHILLONG-793003.

22 JUN 2009

गुवाहाटी न्यायपीठ
May 2008 Bench

No.NEC/ADM/9/2008.

Dated Shillong the 22nd May 2008.

MEMORANDUM

The undersigned proposes to hold an inquiry against Shri Bijan Kumar Chakraborty, Stenographer Gr. II, North Eastern Council Secretariat, Shillong under Rule 14 of the CCS (CCA) Rules, 1965. The substance of the imputations of negligence or neglect of work or duty amounting to misconduct in respect of which the enquiry is proposed to be held is set out in the enclosed statement 'Article of charge' (Annexure-I). A statement of the imputations of negligence of duty in support of each Article of charge is enclosed at Annexure-II.

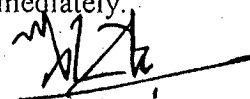
2. Shri Bijan Kumar Chakraborty, Stenographer Gr.II is directed to submit, within 15 days of receipt of this Memorandum, a written statement of his defence and also to state whether he desires to be heard in person.

3. He is informed that an inquiry will be held only in respect of those articles of charges as are not admitted. He should therefore specifically admit or deny each article of charge.

4. Shri Bijan Kumar Chakraborty, Stenographer Gr.II, is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the Inquiry Authority appointed by the undersigned as and when the Inquiry Authority requires him to do so or otherwise fails or refuses to comply with the provisions of Rule 14 of the CCS (CCA) Rules, 1965 or the orders/directions issued in pursuance of the said Rule, the Inquiry Authority may hold the inquiry against him ex-parte.

5. Attention of Shri Bijan Kumar Chakraborty is invited to Rule 20 of the Central Civil Services (Conduct) Rule, 1964 under which no Govt. servant shall bring or attempt to bring any political or outside influence to bear upon any superior Authority to further his interest in respect of matters pertaining to his service under the government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Shri Bijan Kumar Chakraborty is aware of such representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS (Conduct) Rules, 1964.

6. The receipt of this Memorandum may be acknowledged immediately.

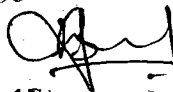

(S. Mitra)
Deputy Secretary.

To

Shri Bijan Kumar Chakraborty,
Stenographer Gr.II,
NEC.

Received
on 2.6.08

Certified to be true copy of the Original


(Bipradeep Deb) Advocate

STATEMENT OF ARTICLE OF CHARGE FRAMED AGAINST SHRI BIJAN KUMAR CHAKRABORTY, STENOGRAPHER GR.II, NEC SECRETARIAT, SHILLONG.

Article-I

That the said Shri Bijan Kumar Chakraborty, Stenographer Gr.II, NEC, while functioning as PA to i/c Financial Adviser and Financial Adviser during the period 2006-07 and 2007-08, has absented himself from duty in an unauthorized manner w.e.f. 28.11.2006 to 14.12.2006, w.e.f. 01.05.2007 to 18.05.2007 and w.e.f. 15.11.2007 to 16.11.2007.

Article-II

That during two of the aforementioned periods of absence from duty and while functioning in the aforementioned office, the said Shri Bijan Kumar Chakraborty, left Hqrs without obtaining proper Station Leave Permission and without mentioning the destination.

Article-III

That while functioning in the aforementioned office, the said Shri Bijan Kumar Chakraborty, Stenographer Gr.II has shown habitual negligence or neglect of duty and even dereliction of duty.

Article-IV

That during a considerable portion of the aforementioned period and while functioning in the aforementioned office, the said Shri Bijan Kumar Chakraborty, did not sign in the attendance register.

Article-V

That while functioning in the aforementioned office, the said Bijan Kumar Chakraborty, has, at least one occasion, has shown lack of integrity by denying the existence of a letter which he himself wrote to the Dy Secretary (Admn.), NEC.

Article-VI

That while functioning in the aforementioned office, the said Shri Bijan Kumar Chakraborty, has suppressed facts and information intentionally to subvert the process of collection of information by this Secretariat.

22 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Annexure-II

Statement of imputation of misconduct or misbehaviour in support of the articles of charge framed against Shri Bijan Kumar Chakraborty, Stenographer Gr.II, North Eastern Council Secretariat.

Article-I & II

- A. Shri B. K. Chakraborty, Steno Gr.II vide his application dt. 30.4.2007 had informed this office that his controlling officer was not accepting his leave application, submitted on 24.04.2007. Without recommendation of his controlling officer, the Administration Section is not in a position to accept or take action on the same. Furthermore, in the said leave application that was not accepted by his Controlling Officer, there was no mention of any specific ground on which he was asking for leave. He only referred to an omnibus 'Personal Ground'
- B. Shri B.K. Chakraborty, Steno Gr.II, when his leave application was not duly recommended through proper channel, he left for an his destination on 01.05.07 after simply submitting a C.L. application on the 30th April, 2007, for 3 days C.L. (i.e. on 1st, 3rd and 4th May, 2007) to the Deputy Secretary, NEC without the knowledge of his controlling officer. Even in his C.L. application, he did not mention about any ground. Later, he sent an e-mail communication to the Deputy Secretary praying for an extension as well as conversion of his leave [without the knowledge of his Controlling officer] saying that he was already in Bangalore and he wanted to extend his leave, in connection with the higher studies of his daughter. He did not mention any such reason in his earlier leave applications. He joined back only on 21.05.2007. Any leave application should mention the address while on leave if the Govt. servant wants to leave Hqrs. That was not so in the case of Shri Bijan Kumar Chakraborty, Stenographer Gr.II. Furthermore, tried to mislead the office by submitting a C.L. application whereas he knew beforehand that he would apply for E.L. But, he submitted C.L. application so that he was not to wait for the decision of the office on his E.L. application. In the C.L. application, he did not even mention his destination. By this he tried to subvert the decision making process which is unbecoming of a Government servant and violative of Rule 3 of the CCS (Conduct) Rules.
- C. He showed a willful disregard for authority by submitting an application to DS (Admn) when he was to leave only the next day and he did not give even a reasonable time to his employer for due consideration of the same, thus violating the basic tenets of the master-servant relationship between the employer and the employed and, in the process, he again violated Rule 3 of the CCS (Conduct) Rules.

Article-III.

- A. Shri Bijan K.r. Chakraborty, Steno Gr.II was attached to Financial Adviser, NEC vide order No. NEC/ADM/21/92 (Pt.) dt. 12.12.2005. There is no order of his withdrawal from Finance Sector. The Deputy Financial Adviser, NEC vide his Memorandum No. NEC(FIN)/13-76/2005-06 Vol. II. Dt. 18.4.2007 has informed the Deputy Secretary that Shri B.K. Chakraborty, Steno Gr.II has never reported to the Financial Adviser, NEC and he is not under the strength of Finance Wing. In this connection, it is mentioned here that Dy. Financial Adviser was holding the charge of FA from 26.4.2006 to 24.01.2007. Thus the said Shri Bijan Kumar Chakraborty, Stenographer Gr.II violated Rule 3(1)(ii) of the CCS (Conduct) Rules, as per the communication received from his Controlling Officer.

22 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Article-IV.

A. It also came to the knowledge of the Head of Office that he is not putting his initials in attendance register, which is mandatory for a non-Gazetted staff of the Central Government attending office. This, too, violates Rule 3 of the CCS(Conduct) Rules.

B. Again vide O.M. No. NEC/ADM/89/83 Vol. II dt. 31.10.2007, Shri Chakraborty was asked to furnish documents like copies of relevant pages of attendance registers where he is putting his signatures duly authenticated by the Controlling Officer as proof of the fact that he is reporting to him for duty. But, Sri Chakraborty failed to do so.

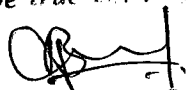
Article-V.

A. Shri Chakraborty, again on 16.11.2007, had submitted a C.L. application directly to the Deputy Secretary, NEC without recommendation and knowledge of his Controlling Officer (i.e. F.A.). A Memorandum was issued to him vide No. NEC/ADM/89/83 Vol. II dt. 3.12.2007 asking him to explain the reasons for not submitting the same to his Controlling Officer and why disciplinary action should not be taken against him for violation of the provisions of CCS (Conduct) Rules in this regard. In his reply dated 10.12.2007, he simply denied the existence of any application. He clearly lied and made a false statement which is unbecoming of a Government servant. This again violates Rule 3 of the CCS (Conduct) Rules.

Article-VI.

A. In inviting a reference to para 3 of this Council Secretariat O.M. No. NEC/ADM/89/83 Vol. II dt. 17th September, 2007, he was asked to provide proofs in support of his journey to Bangalore (i.e. submit the photocopies of Air tickets etc.). Instead, Shri Chakraborty has submitted only the boarding pass of his return journey, whereas the office required the copies of the tickets. He has not submitted his tickets and not made any effort either for procuring copies of the same from the concerned airlines/agency. This shows he wanted to suppress facts with an ulterior motive. This is unbecoming of a Government servant and violates Rules 3 of the CCS (Conduct) Rules.

Certified to be true copy of the Original


(Bipradeep Deb) Advocate

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

To,

The Deputy Secretary,
NEC Secretariat,
Shillong-3.

22 JUN 2008

Date: - 12-06-2008.

गुवाहाटी न्यायपीठ
Guwahati Bench

Subject: - Humble written statement of defence of Shri. B.K. Chakraborty in reply to the Article of Charges framed against him.

Reference: - Your Office Letter No.NEC/ADM/9/2008, dated 22-05-2008, addressed to me and received by me on 02-05-2008.

Respected Sir,

In inviting your kind attention to the subject matter cited above, I Shri. B.K. Chakraborty, am hereby submitting my written statement in reply to your letter under reference.


1. That with regard to the Article of Charges numbered I and II, I vehemently deny the charges made against me and in reply thereto I state that I have duly submitted my E.L. application dated 22-11-2006 from 28-11-2006 to 13-12-2006, wherein I have mentioned that my reason of absence was due to medical check-up. I had to go to the Apollo Hospital, Chennai, and in this regard the Director of Health Services, Meghalaya, by his letter No.HSM/(T)/C/3/2006/17876, dated 16-11-2006 has allowed me to undergo a modified Puestow Operation at the said hospital at Chennai. A copy of the same has also been intimated to the Secretary, NEC, Shillong.

That with regard to my leave application dated 30-04-2007 I state that I have submitted my C.L. application for the 1st, 3rd and 4th day of May, 2007 and subsequently on account of my daughter's prolonged higher education admission procedure, I had to extend my leave application till 18-05-2007 which I had duly communicated to the Deputy Secretary, NEC Secretariat, vide my e-mail dated 08-05-2007. In reference to the aforesaid, I have duly submitted my explanation dated 16th November 2007, in para 1, as sought for by your Office Memo No.NEC/ADM/89/83 Vol II, dated 31-10-2007. After returning from my said leave I have duly submitted my joining report which was not accepted and in this regard I have duly submitted my application dated 19-12-2007 wherein I have, in my understanding, tried to explain the reasons for non-acceptance of my joining report and requested your good office to kindly accept the said joining report. It is also pertinent to mention here that in all these occasions as mentioned above in respect of my leave above I have duly submitted my leave application to the proper authority and that I was on leave for bonafide reasons and purposes and not merely for any whim or fancy on my part.

2. That with regard to the Article of Charges numbered III, I vehemently deny the charges framed against me and in reply I state that all these allegations are false and malicious and in this regard I have already intimated your good office by my explanation dated 06-06-2007 wherein I have categorically stated that I was attached to the Financial Adviser, NEC, and have duly reported and joined in that post w.e.f. 19-12-2005

Contd...2/-

Certified to be true copy of the Original


(Bipradeep Deb) Advocate

22 JUN 2009

গুৱাহাটী ন্যায়ালয়
Guwahati Bench

and after joining the said post I was rendering my services dutifully and as such I was not in any manner whatsoever neglectful of my duties and the question of violating Rule 3(1)(ii) of The CCS (Conduct) Rules, does not arise at all.

3. That with regard to the charges framed in the Article of Charges numbered IV, I vehemently deny the said charges and in reply thereto state that in my application dated 16-11-2007, at para 4, I had duly explained in detail the reasons for not putting my initials in the attendance register. In this regard the said explanation may kindly be perused by your good office.
4. That I vehemently deny the charges framed in the Article of Charges numbered V, and in reply thereto I say that I have already replied to the said allegations to the Deputy Secretary, NEC Secretariat, vide my letter dated 10-12-2007 wherein I have informed that I have never submitted my C.L. application on 16-11-2007 but it was submitted by me on 30-04-2007 which was duly received by the P.A. of the Deputy Secretary, NEC Secretariat, on that very day itself, so the statement made by me is not false and the copy of the said C.L. application dated 30-04-2007 shall be brought into record as and when needed by your esteemed office.
5. That I vehemently deny the charges framed in the Article of Charges numbered VI, and in reply thereto I categorically state that in my explanation dated 27-09-2007 I have submitted my boarding pass while answering to the queries of your good office as to my whereabouts and I strongly affirm and assert that I was actually in Bangalore in connection with the higher studies of my daughter. In this regard I have already submitted my boarding pass as because the air tickets were misplaced by me on the bonafide belief that they would no longer be required. It is also pertinent to mention that the boarding pass which was duly submitted by me is itself concrete proof to show that I was actually in Bangalore at the relevant point of time and I am not suppressing any fact and information as such.

In the light of the aforesaid statements, I beg to submit that all the charges which have been framed against me by your good office are baseless and repetitive as I have already submitted my explanations, as sought for by your esteemed office every now and then, to your satisfaction. I therefore humbly pray before your esteemed office to kindly drop all the allegations and charges framed against me.

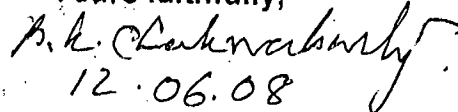
Thanking you.

Certified to be true copy of the Original



(Bipin Deb) Advocate

Yours faithfully,



12.06.08

(Shri. B.K. Chakraborty)
Stenographer Gr.II,
NEC.

CONFIDENTIAL

GOVERNMENT OF INDIA
NORTH EASTERN COUNCIL SECRETARIAT
NONGRIM HILLS, SHILLONG

NO. NEC/T/MISC/2008

Dated:- 13th October, 2008.

To

Shri Bijon Kumar Chakraborty,
Steno - II,
North Eastern Council Secretariat,
Nongrim Hills, Shillong.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

22 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Sub:- Submission of Inquiry Report of Shri Bijon Kumar Chakraborty,
Steno-II.

Refer the subject mentioned above a verbal inquiry need to be conducted before submitting the final report to the Administration. You are requested to be present today the 13th Oct, 2008 at 5.00 P.M in the chamber of the undersigned for conducting the verbal inquiry.

This is for information and necessary action.

(K. Haridoss) 13/10/08
Executive Engineer (T&C)
& Inquiry Officer

Certified to be true copy of the Original

(Bipradeep Deb) Advocate

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Annexure - A6

GOVERNMENT OF INDIA
NORTH EASTERN COUNCIL SECRETARIAT
SHILLONG.

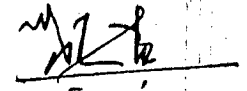
22 JUN 2009

গুৱাহাটী ন্যায্যপীঠ
Guwahati Bench

It is a requirement under the CCS (CCA) Rules to furnish a copy of the inquiry report to the accused Govt. servant in any disciplinary proceeding before passing any order in case the Disciplinary Authority and the Inquiry Officer are not the same authority. In the ongoing disciplinary proceedings against Shri B. K. Chakraborty, Steno Gr. II, the Inquiry Officer has submitted one provisional report and another report after holding personal hearing of the accused Govt. servant in the presence of the Presenting Officer.

The said reports of the Inquiry Officer are enclosed. The Disciplinary Authority will take a suitable decision after considering the report. If the accused Govt. servant wishes to make any representation or submission, he may do so in writing to the Disciplinary Authority within 15 days of receipt of this letter.

Encl: As stated



(S. Mitra)
Director (Admn)

U.O No.NEC/ADM/9/2008
Dated 21st October, 2008.

✓ Shri B.K. Chakraborty,
Steno Gr. II
NEC Secretariat,
Shillong.

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(Bipadeep Deb) Advocate

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CONFIDENTIAL

GOVERNMENT OF INDIA
NORTH EASTERN COUNCIL SECRETARIAT
NONGRIM HILLS, SHILLONG

NO. NEC/T/MISC/2008

Dated: 4th August 2008
Central Administrative Tribunal
22 JUN 2009
গুৱাহাটী ন্যায়ালয়
Guwahati Bench

To

The Deputy Secretary,
North Eastern Council Secretariat,
Nongrim Hills, Shillong.

Sub:-

Provisionary
Submission of Inquiry Report of Shri Bijon Kumar Chakraborty,
Steno-II.

Sir,

I was deputed as an inquiry officer on 16th July, 2008 to look into the case of Shri Bijon Kumar Chakraborty, Steno-II. I have examined the case as per the papers submitted by the Administration and the following provisional findings are made. Six points were initiated against him vide Article I to VI, which are enclosed herewith. It is learnt that Mr. Bijan Chakraborty has availed Earned Leave and is yet to join. On his joining the Inquiry with the person concerned will be initiated and the final report will be submitted accordingly.

Yours faithfully

(Signature)
(K. K. Prasad)
Executive Engineer (I & C)
& Inquiry Officer

Examine and p. u.
19/8
04-08-08

Certified to be true copy of the Original
(Signature)
(Bipradeep Deb) Advocate

22 JUN 2009

1308

Article - I

गुवाहाटी न्यायपीठ
Guwahati Bench

That the said Shri Bijan Kumar Chakraborty, Stenographer Gr. II, NEC, while functioning as PA to i/c Financial Adviser and Financial Adviser during the period 2006-07 and 2007-08 has absented himself from duty in an unauthorized manner w.e.f. 28.11.2006 to 14.12.2006, w.e.f. 01.05.2007 to 18.05.2007 and w.e.f. 15.11.2007 to 16.11.2007.

Observation: -

i) **Earned Leave from 28.11.2006 to 14.12.2006 :-** The E.L. application forwarded on 9.11.2006 was not recommended by the Controlling Officer. He has submitted the E.L. application directly to the Deputy Secretary. In turn the Deputy Secretary has informed that the E.L. application was not recommended by the Controlling officer.

In spite of this communication, without the sanction of the E.L. from the competent authority, Mr. Bijan Chakraborty has left the office which is in violation of the CCS Leave Rules.

Joining Report :- A non-acceptance of Joining Report application was submitted to the Deputy Secretary dated 19.12.2006 in which a copy of Joining Report dated 15.12.2006 was enclosed, neither has it been submitted to the Controlling Officer nor to the Deputy Secretary, it seems the Joining Report dated 15.12.2006 has been attached at a later stage.

It has been stated in the application that on 15.12.2006, after availing leave, he wanted to join duties on 15.12.2006, the same was also directed by the S.O.(Admn.) to submit the joining report through F.A. who is the controlling officer, but the joining report was not submitted through the controlling officer.

ii) **Earned Leave from 01.05.2007 to 18.05.2007 :-** The E.L. application was submitted on 24.04.2007 was not again forwarded through the controlling officer. The reason stated was that the application was not accepted by F.A. and D.F.A. It seems that the E.L. application was not submitted to FA or DFA for recommendation. However a copy of the E.L. application dated 24.4.2007 has been enclosed without the signature of the controlling officer, as such the statement made by Shri Bijan Chakraborty does not have any proof that his application was neither accepted nor turned down.

However on 30.4.2007, a C.L. application was submitted directly to Deputy Secretary without the information to the controlling officer requesting for C.L. and Station Leave permission on 1st, 3rd and 4th May, 2007 without mentioning the destination. It cannot be accepted that after completion of more than 25 years of service Shri Bijan Kumar Chakraborty does not know the rule that a person has to declare the place of visit and reason for the visit. Neither of the above was mentioned in the application.

Contd...P.2/-

22 JUN 2009

(131)

-: 2 :-

गुवाहाटी न्यायपीठ
Guwahati Bench

An e-mail dated 8th May, 2007 was submitted to the Deputy Secretary mentioning that the reason of extension of leave was required in connection with the higher education of his daughter; however neither any reason nor the place was mentioned in the C.L. application which was submitted on 30.04.2007.

On 21.5.2007, a joining report along-with E.L. application for leave from 1st May to 18th May, 2007 was submitted directly to the Deputy Secretary without recommendation of the Controlling officer. The ground in which leave was requested for was on personal ground not on educational ground of his daughter, as it was mentioned in the e-Mail.

Whereas the joining report was submitted on 21.5.2007, however the E.L. application was submitted only on 21.6.2007 after a period of one month's gap that too without the recommendation of the controlling officer.

Article - II

That during two of the aforementioned periods of absence from duty and while functioning in the aforementioned office, the said Shri Bijan Kumar Chakraborty, left Hqrs. without obtaining proper Station Leave Permission and without mentioning the destination.

Observation :- As stated above.

Article - III

That while functioning in the aforementioned office, the said Shri Bijan Kumar Chakraborty, Stenographer Gr. II has shown habitual negligence or neglect of duty and even dereliction of duty.

Observation :- Shri Bijan Kumar Chakraborty's habitual negligence or neglect of duty and even dereliction of duty is established through the fact that whenever he is posted to any of the Sector, the Controlling Officer has shown unwillingness to accept him for duties. Even the FA and DFA through their Memorandum had clearly reflected the same vide their office Memorandum No.NEC(FIN)/13-76/2005-06 Vol.II dated 18.4.2007. They stated that Shri Bijan Kumar Chakraborty is not in the strength of Finance Wing.

Unless and until the negligence of duty and dereliction of duty is noticed, the controlling officer would not have ever mentioned such statement, despite of the fact that Shri Bijan Kumar Chakraborty was attached to Finance Wing.

This has the evidence of the Administration through their Memorandum No.NEC/ADM/89/83 Vol.II dated 25th May, 2007 in which negligence and neglect of duty under Rule 3 of the CCS (Conduct) Rule, 1964 was issued.

Contd...P.3/-

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-: 3 :-

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal

22 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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Article - IV

That during a considerable portion of the aforementioned period and while functioning in the aforementioned office, the said Shri Bijan Kumar Chakraborty, did not sign in the attendance register.

Observation :- Shri Bijan Kumar Chakraborty having completed more than 25 years of service cannot deny the fact that to show the presence in the office a non-gazetted officer has to sign in the Attendance Register to show his presence in the office for duties on his arrival in the office and before leaving the office.

Shri Bijan Kumar Chakraborty has accepted the fact vide his explanation dated 6th June, 2007, that he was performing duty with FA, NEC w.e.f. 19.12.2005. If it is so, the question arises as to why he has failed to sign in the Attendance Register of the Finance Wing. This shows the contradiction to the explanation submitted by Shri Bijan Kumar Chakraborty.

Article - V

That while functioning in the aforementioned office, the said Shri Bijan Kumar Chakraborty, has, at least on one occasion shown lack of integrity by denying the existence of a letter which he himself wrote to the Dy. Secretary(Admn.), NEC.

Observation :- Shri Bijan Chakraborty has submitted a C.L. application dated 16.11.2007 requesting for C.L. on 15th and 16th November, 2007 to the Dy. Secretary directly not forwarding through the controlling officer.

Here also the Administration issued a Memorandum to Shri Bijon Chakraborty on 3rd December, 2007 asking for explanation for not submitting the application through his Controlling officer.

Whereas in reply to the letter Shri Bijon Kumar Chakraborty has outrightly denied the fact that no such CL application was submitted on 16.11.2007 which is totally wrong and misleading, as a copy of the same is available in records. Hence it is established that he has shown lack of integrity by denying the existence of a letter which he himself wrote to the Dy. Secretary(Admn.).

Contd...P.4/-

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-: 4 :-

Article - VI

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal

22 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench


(133)

That while functioning in the aforementioned office, the said Shri Bijan Kumar Chakraborty, has suppressed facts and information intentionally to subvert the process of collection of information by this Secretariat.

Observation :- Shri Bijan Chakraborty has deliberately not mentioned the place and purpose of visit for intention known best to him. Otherwise more than 25 years of experienced service holder cannot suppress the basic information required for availing CL or EL.

The CL application dated 30.04.2007 did not mention the place and purpose of visit. In the e-mail dated 8th May, 2007 sent to the Deputy Secretary, the reason was mentioned as daughter's education, whereas in the E.L. application submitted on 21.6.2007, the reason stated was that EL was availed on personal ground, which is contradictory to his own statement.

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(Bipradeep Deb) Advocate

CONFIDENTIAL

GOVERNMENT OF INDIA
NORTH EASTERN COUNCIL SECRETARIAT
NONGRIM HILLS, SHILLONG

NO. NEC/T/MISC/2008

Dated:- 20th October, 2008

To

The Deputy Secretary,
North Eastern Council Secretariat,
Nongrim Hills, Shillong.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

22 JUN 2009

Sub:-

Submission of Final Inquiry Report of Shri Bijon Kumar Chakraborty, Steno-II.

गुवाहाटी बेंच
Guwahati Bench

Sir,

In continuation of the letter of even number dated 4th August, 2008 as required by the Administration, Mr. Bijon Kumar Chakraborty, Steno-II was verbally inquired with, on 13th October, 2008. The charges made against were discussed in person point by point and the following clarifications were given by him. Shri S.L. Baidya, Section Officer(Admn.) was present during the verbal inquiry as a Presenting Officer.

1. Mr. Bijon Kumar Chakraborty was asked that the Administration had framed certain charges against him and what were the clarifications that he would give in this regard.

Initially he has stated that he does not remember the charges made against him, as such he is unable to give the answers immediately and some time may be given so that he can reply accordingly.

On the second instant he has expressed his views that he needs a Pleader to advocate his case to the Inquiry Committee.

Finally the undersigned has clarified that the charges framed against him was replied by him and only the personal clarification is required, as such the explanation given by the undersigned was convinced and accordingly the following remarks and clarifications were received from him.

- (a) Shri Bijon Kumar Chakraborty was not submitting the E.L./C.L. through the Controlling Officer when he was posted in the Finance Wing.

Whenever the application was submitted to the Controlling Officer, it was neither accepted nor forwarded and therefore it was submitted to the Deputy Secretary. When it was enquired as to why the Controlling Officer refused to sign E.L./ C.L. application, he stated that the reason is not known to him.

- (b) Why Shri Bijon Kumar Chakraborty failed to attend the office in time and during his posting in Finance Wing, he had not signed in the Attendance Register as he is aware that a non-gazetted official has to sign the Attendance Register without fail to show his presence in the office.

A satisfactory reply could not be furnished. However he stated that he was attending the office regularly.

22 JUN 2009

- (c) Similarly when he was posted in the Health Sector, same irregularities were found. In the Attendance Register due to his absence in time, the 'X' marks were made by the Sectoral Head. However at a later stage signatures were made over the 'X' mark which is against the rules.

In his clarification, he stated that due to health problem he could not attend office in time and accepted the fact that signatures were made over the 'X' marks.

- (d) In a particular case he had submitted C.L. application on 16.11.2007 requesting for C.L. for 15th & 16th November, 2007 to the Dy. Secretary directly not forwarding through the Controlling officer.

Shri Bijon Kumar Chakraborty denied that he had submitted any application, which is contradictory to the evidence available in the office records. He has stated that he does not remember any such case.

- (e) Shri Bijon Kumar Chakraborty has not mentioned the place of visit in his C.L. application. As per the rule when a person avails leave with Station leave permission, he is required to mention the purpose and place of visit with proper address. In his case, why the same is not mentioned? A person having completed more than 25 years of service is not expected to do such careless act.

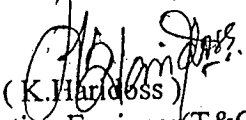
Shri Bijon Kumar Chakraborty stated that due to urgency and oversight he forgot to mention the place and destination. However, he has submitted an e-mail on 8th May, 2007 stating the reason and place of visit.

- (f) A general question was asked since May, 2007 till February, 2008, six nos. of Memorandums and Show Cause were issued against him. Whether he accepted any of the charges made against him.

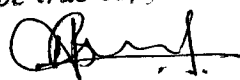
Shri Bijon Kumar Chakraborty stated that these charges are baseless allegations against him and added that it was a deliberate harassment against him by the Administration and he has also stated that if the E.L. and C.L. availed by him is irregular how his salary was not stopped. As such the E.L. and C.L. availed by him is regular and according to him, the leave availed by him are regular.

Findings: - After hearing the statement and explanation given by Shri Bijon Kumar Chakraborty, not accepting any fact and mistakes made by him, the clarification/reason given in case of non submission of application through proper channel is not justified. During the posting in the Finance Wing, he has never signed in the Attendance Register. Whereas he has agreed to the fact that he is working under the strength of Finance Wing which reflects his irresponsibility towards duty. Similarly not attending the office in time and putting his signatures over the 'X' mark on a regular basis amounts to tampering of official records and there is ample evidence to show that he is negligent in his duties.

Yours faithfully


(K. Haridoss)
Executive Engineer(T&C)
& Inquiry Officer

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(Bipradas Deb) Advocate

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Annexure - A
Central Administrative Tribunal

GOVERNMENT OF INDIA
NORTH EASTERN COUNCIL SECRETARIAT
NONGRIM HILLS: SHILLONG

22 JUN 2009

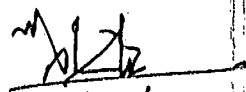
No. NEC/ADM/9/2008

November 06, 2008.

গুৱাহাটী আদালত
Guwahati Bench

MEMORANDUM

A prayer dated 05-11-2008 has been received from Shri Bijan Kr. Chakraborty, Steno Gr. II "for extension of submission of representation against the inquiry report dated 21st October,, 2008", it is to inform him that there is no such provision in the CCS (CCA) Rules, 1965, for any such extension to be given to the charged official in any disciplinary proceedings. Furthermore, the reason for the prayer is also not very convincing since this should have been prayed for long back. Hence, it is deemed that Shri Bijan Kr, Chakraborty, Steno Gr. II, had nothing to submit on the inquiry report forwarded to him.



(S. Mitra)
Director (Adm)

Shri Bijan Kr. Chakraborty,
Steno Gr. II, NEC Sectt.,
Shillong.

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(Bipradeep Deb) Advocate

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Annexure - A8

Central Administrative Tribunal

22 JUN 2009

গুৱাহাটী ন্যায়বীঠ
Guwahati Bench

GOVERNMENT OF INDIA
NORTH EASTERN COUNCIL SECRETARIAT
NONGRIM HILLS: SHILLONG 793003

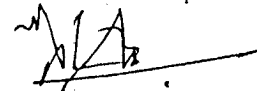
No. NEC/ADM/9/2008

Dated Shillong, the 11th November, 2008.

ORDER

The undersigned, in his capacity as the Head of Office in the NEC Secretariat is the authority competent to impose all major and minor penalties (as defined in Rule 11 of the CCS (CCA) Rules, 1965) on all Group 'C' and Group 'D' employees of the NEC Secretariat since this Secretariat is a non Secretariat organization as communicated by the Ministry of DoNER vide their letter No. 4/33/2002-NEC dated 21/2/06.

2. As per Govt. of India instructions No. 134/1/81-AVD I dated the 13th July, 1981 and No.134/12/85-AVD I dated the 5th November, 1985 and in pursuance of Rules 15 of the CCS (CCA) Rules, 1965, a self-contained, speaking and reasoned order is to be passed by the prescribed Disciplinary Authority in any disciplinary proceedings.
3. In the instant case, an order is being passed on conclusion of disciplinary proceedings instituted against Shri Bijan Kumar Chakraborty, Steno Gr. II of this Secretariat in pursuance of the provisions of the CCS (CCA) Rules and various Government of India orders issued under these Rules from time to time.
4. Initially, the issue on the basis of which the first memo was issued to Shri Bijan Kumar Chakraborty, Steno Gr. II, was his request for earned leave which was not duly recommended by his controlling authority. In fact, his controlling authority pointed out that he (the charged official) was not under his control and it was found out that the charged official was not signing the relevant attendance register since long back. Then, gradually, it was found out from records that, that even in the past, he used to absent himself quite

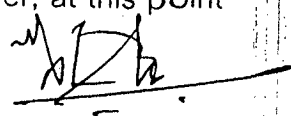


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गुवाहाटी न्यायपीठ
Guwahati Bench

frequently without due permission from office. All the records pertaining to these incidences of absence were gone through and a series of memos were issued to Shri Bijan Kumar Chakraborty, Steno Gr. II, to ascertain the facts about the said period of absence and facts mentioned in his replies to various memos. A prima-facie case was established against him necessitating further inquiry to ascertain the facts and circumstances of some of the incidents of unauthorized absence of Shri Chakraborty. Subsequently, Shri Bijan Kumar Chakraborty, Steno Gr. II had been suspended vide Order No. NEC/ADM/9/08 dated 26/2/08. The suspension was withdrawn on 21/5/08. He had been placed under suspension since the charge-sheet was being framed by this office against him.

5. On the basis of the facts gathered till then, Memorandum No. NEC/ADM/9/2008 dated 22nd May, 2008, was issued to Shri Bijan Kumar Chakraborty, Steno Gr. II, wherein he was informed that the undersigned was proposing to hold an inquiry against him under Rule 14 of the CCS (CCA) Rules, 1965. The instances of misconduct in respect of which the inquiry was proposed to be held were duly set out in the statement containing "articles of charge" which was enclosed therewith. Also, a statement of the imputations of negligence of duty in support of each article of charge was enclosed along with the same. On the basis of his reply to the same wherein he did not admit any of the charges, it was decided that the office should institute an inquiry against him. To ensure that the inquiry is conducted independently, the undersigned appointed another Group 'A' officer as an Inquiry Officer. The Inquiry Officer is in no way connected with Administration. S.O. (Adm) was appointed as the Presenting Officer. The Inquiry Officer submitted his provisional report on the 4th August, 2008 on the basis of all the relevant documents provided to him by this office. The Inquiry Officer could not hold the personal hearing immediately afterwards since Shri Chakraborty had prayed for leave citing urgent family business and that was granted on obtaining views of the Inquiry Officer who opined that he would first examine all the documents. But, while on leave, he fell ill and was on a prolonged spell of leave in continuation of the leave prayed for earlier. However, at this point



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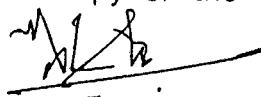
22 JUN 2009

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Guwahati Bench

of time, it was found from the attendance register of the concerned section that Shri Bijan Kumar Chakraborty, Steno Gr. II, was on leave for few days in the months of May and June, 2008. On inquiry, it was found that no CL or EL applications were received by the Administration Section for those days of absence. Accordingly, a confidential U.O. was issued to his controlling officer requesting him to clarify whether he was in receipt of or possession of any such applications. Again, on further investigation, it was revealed that Shri Bijan Kumar Chakraborty, Steno Gr. II, had been marked absent on the 28th and 29th May but, later, he overwrote on the cross marks and signed his attendance. Hence, a Memorandum had to be issued to him on this issue as well. At the same time, the Inquiry Officer was asked to look into these allegations as well.

6. As already mentioned, he was on a prolonged spell of leave on medical grounds. Considering the condition of his health, the undersigned waited for a sufficient time period and then again wrote to the appointed Inquiry Officer on 29/9/08 to conduct the personal hearing of Shri Bijan Kumar Chakraborty, Steno Gr. II, immediately and that was done duly on 13/9/08. Again none of the charges was admitted by him except the one relating to his act of putting his signature on the cross marks on the attendance register. However, as per the report of the Inquiry Officer, all the charges have been substantiated. Only in case of one particular charge as regards willful suppression of facts, the instances cited in the statement of imputations of misconduct could not be verified. But the Inquiry Officer has substantiated even that article of charge on the basis of other facts which incidentally substantiate another article of charge against him.

7. The undersigned agrees with the findings of the Inquiry Authority in their entirety. It is to be mentioned here that Shri Bijan Kumar Chakraborty has not submitted any written reply to the charge of overwriting on cross marks in the attendance register. In this context, it is to be mentioned here that, in pursuance of directions contained in the Govt. of India orders in this regard, Shri Bijan Kumar Chakraborty was provided with a copy of the



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22 JUN 2009

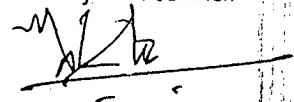
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गुवाहाटी न्यायाधीश
Guwahati Bench

findings of the Inquiry Authority and was asked to comment on the same within 15 days. He did not offer any comments within the prescribed time and asked for an extension of time ascribing the delay to his ill health without any proof/substantiation how that has resulted in his inability to provide his comments. The prayer has not been granted since (i) there is no such provision in the CCS (CCA) Rules, 1965, for grant of any such extension and (ii) the reason cited is also not very convincing. Hence, it was deemed that the charged official had nothing to submit on the inquiry report forwarded to him.

8. The duly substantiated articles of charge prove beyond doubt that Shri Bijan Kumar Chakraborty, Steno Gr. II, can be accused of gross misconduct. It has been brought out clearly in the investigation that the act of conduct of the employee is such that the master cannot rely on faithfulness of the employee, that he is insubordinate to such a degree as to be incompatible with the continuance of the relation of master and servant, that he is habitually negligent in respect of all the duties for which he is engaged. It is further proven that he is guilty of willful subordination or disobedience to lawful and reasonable orders, that he is a habitual late comer and that he has shown habitual negligence or neglect of work and, finally, he has been habitually absent without permission and is in the habit of over-staying leave. He has, in all these cases of absence and marking his attendance later, shown scant regard for Government rules and regulations. It went to such an extent that, for a long stretch of his service, he has not even signed in the relevant attendance registers.

9. Under such circumstances, especially since in an organization such behaviour on one's part has a negative demonstration effect on others and since he has refused to mend his ways even at the time of inquiry (as may be seen from the fact that he was overwriting on cross marks and tampering with official records) and since he has not expressed any remorse whatsoever, there is no other way but to impose a major penalty on Shri Bijan Kumar



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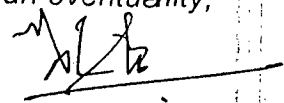
केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal

22 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Chakraborty, Steno Gr. II within the scope of the meaning the expression 'major penalty' as defined in Rule 11 of the CCS (CCA) Rules.

10. The penalty : That the charged official is guilty of grave and gross misconduct has been proven beyond doubt and, on that count, he deserves nothing less than the penalty of dismissal from service as per Rule 11 (ix) of the CCS (CCA) Rules, 1965. However, any order in disciplinary proceedings is a quasi-judicial pronouncement and that binds the undersigned down to the requirement of a judicious weighing of humanitarian considerations against the gravity of misconduct. Shri Bijan Kumar Chakraborty deserves some sympathy because of his ill health and because of his child who is still pursuing higher studies. The penalty should not be so harsh as to force his family into starvation or to render him totally helpless in fighting his ill health. Hence, the penalty imposed upon him is hereby moderated to the one mentioned in Rule 11(vi) of the CCS (CCA) Rules, 1965, i.e. that of reduction to the entry grade pay scale of Stenographers (Stenographers' Grade -III in the PB -1 Rs.5200-20200 + Grade Pay Rs 2400) at the initial/entry stage as would be applicable to a fresh direct recruit in Stenographers ' Grade-III in this Secretariat joining on 12.11.2008. His inter se seniority in his cadre will be determined as such and, hence, he will get his promotion to next higher grade as per the conditions laid down in the Recruitment Rules as applicable to a fresh recruit joining on 12.11.2008 (Forenoon). As far as the applicability of ACP provisions to him is concerned, that, too, would be applicable as in the case of a fresh recruit joining on 12.11.2008 in Stenographers' Grade-III. However, as regards pensionary benefits, his pension on his retirement will be governed by rules as applicable for fresh recruits joining before 01.01.2004, as amended from time to time, with the proviso that whenever he retires or, in case, he dies in harness, qualifying service for pension (only in number of years) will be deemed to be 20 years so that he gets full pensionary benefits as per his basic pay at the time of the retirement. However, in case he is again charged with any grave misconduct, the past proven misconducts will be taken into account at the time of any future disciplinary proceedings against him. And, in the case of such an eventuality,



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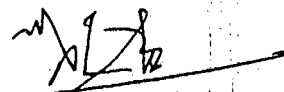
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if he is awarded any of the major penalties mentioned in Rule 11 (vii), (viii) and (ix) of the CCS (CCA) Rules, 1965, the order at the end of such disciplinary proceedings may review these decisions as regards his promotion to higher grades as well as pensionary benefits.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

22 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench



(S. Mitra)

Director (Adm. & Plg.)

✓ To

Shri Bijan Kumar Chakraborty,
Steno Gr. II, NEC.

Memo No. NEC/ADM/9/2008.

Dated Shillong the

November, 2008.

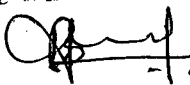
Copy to:

1. PS to Secretary, NEC for kind information of Secretary.
2. PS to Planning Adviser, NEC for kind information of Planning Adviser.
3. PS to Financial Adviser, NEC for kind information of Financial Adviser.
4. The Deputy Financial Adviser, NEC, with regard to his communication dated 18.4.2007.
5. I/c Adviser (Health), NEC, for information.
6. Deputy Controller of Accounts, RPAO (IB), Shillong, for information and necessary action.
7. Assistant Secretary, NEC for necessary action.
8. Section Officer (NAZ), NEC for necessary action.
9. Personal file of Shri B.K. Chakraborty, Stenographer Gr. II, NEC.
10. Guard File.
11. Personal File.

(S. Mitra)

Director (Admn. & Plg.)

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(Bipradeep Deb) Advocate

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Annexure - A9

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

22 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

GOVERNMENT OF INDIA
NORTH EASTERN COUNCIL SECRETARIAT
NONGRIM HILLS, SHILLONG - 793 003

No.NEC/ADM/9/2008

Dated 24th November.2008

OFFICE ORDER

On his reversion to the post of Stenographer Grade III, vide order No. NEC/ADM/9/2008 dtd. 11.11.2008 at Para 10, the pay of Shri B.K. Chakraborty is hereby fixed at the minimum stage of the Pay-Band PB-1 (Rs. 5200-20200) + Grade Pay Rs. 2400 w.e.f. 12.11.2008.


(S. Mitra)

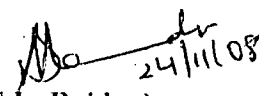
Director (Admn. & Plg.)

Memo No.NEC/ADM/9/2008

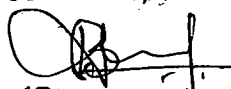
Dated Shillong the, 24th November, 2008.

Copy to:

1. Assistant Secretary, NEC Sectt., Shillong, for drawing his salary for the month of November, 2008, onwards accordingly.
2. Accounts officer, RPAO (IB), Laitumkhrah, Shillong for information.
3. Shri B.K. Chakraborty, Steno Grade III.
4. Accounts Section, NEC Sectt., Shillong for information and necessary action.
5. Guard file.
6. Office copy.


(S.L. Baidya)
Section Officer (Adm.)

Certified to be true copy of the Original


(Bipradeep Deb) Advocate

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

22 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

To

The Secretary,
North Eastern Council Secretariat,
Nongrim Hills,
Shillong-79 3003,
Meghalaya.

Sub : Humble Appeal under the provisions of Rule 23 read with Rule 26 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, against the Order No. NEC/ADM/9/2008 dated 11.11.2008 and the Order No. NEC/ADM/9/2008 dated 24.11.2008 made by the Director (Administration and Planning), North Eastern Council Secretariat, Shillong, imposing a major penalty under the said Rules on the appellant.

Dated, Shillong, the 7th January 2009

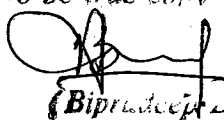
Honourable Sir,

With due respects I beg to take this opportunity to humbly submit as follows :-

1. That I have been employed as a Stenographer in the North Eastern Council Secretariat since 1983 and by the year 2008 I was holding the rank of Stenographer Grade- II upon having been duly promoted to that rank some years earlier.
2. That on 02.06.2008 I was served with the office Memorandum No. NEC/ADM/9/2008, dated 22.05.2008, under the signature of the then Deputy Secretary, North Eastern Council Secretariat, Shillong enclosing therewith at Annexure- I the " Articles of Charges," and at Annexure- II the imputations in support of those charges, and thereby I was informed that it was being proposed to hold an enquiry against me under Rule 14 of the Central Civil Services (Classification

contd..2..

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(Bipradip, Advocate)

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गुवाहाटी न्यायपीठ
Guwahati Bench

- 2 -

(Classification, Control and Appeal) Rules, 1965
(in short CCS (CCA) Rules, 1965), and that I was
to submit my written statement of defence within a
period of 15 days from the date of receipt of that
Memorandum.

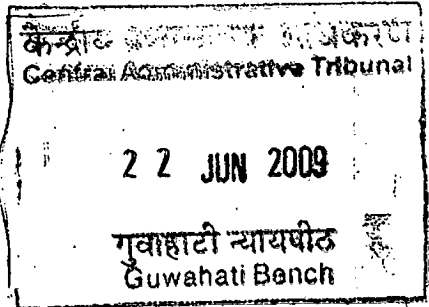
(A copy of the said Memorandum dated
22.05.2008, together with the annexures
is annexed herewith and marked as Annexure-A).

3. That in response to the said office Memorandum dated
22.05.2008 (Annexure- 'A'), I duly submitted my written
statement of defence dated 12.06.2008 addressed to the
Deputy Secretary, N E C Secretariat, Shillong wherety
I denied all the allegations made therein, particularly
all the heads of charges in the said Articles of charges
as well as the imputations purportedly in support thereof,
and I also provided detailed explanations with respect
to the said allegations, charges and imputations.

(A copy of my said written statement of defence
dated 12.06.2008 is annexed herewith and marked
as the Annexure- B).

4. That thereafter I did not receive any communication
from any authority of the NEC Secretariat for about
four months.
5. That subsequently I received a letter addressed to me
bearing the number No. NEC/I/MISC/2008 dated next 13th
October, 2008 signed by Shri K. Haridoss, Executive
Engineer (T & C) who was also stated to be the
Inquiry Officer. That letter mentioned the subject as
" Submission of " Inquiry Report of Shri Bijon Kumar
Chakraborty Steno- II," and thereby I was informed that

contd..3..



- 3 -

that a verbal inquiry needed to be conducted before submitting the final report to the Administration and as such I was requested to be present in the Chamber of the said Mr. K. Haridoss at 5.00 P.M. on that same day itself namely the 13th of October, 2008.

(A copy of the said letter dated 13.10.2008 from Shri K. Haridoss is annexed herewith and marked as the Annexure- C).

6. That accordingly on 13.10.2008 at 5.00 P.M. I appeared before the said Mr. K. Haridoss at his office Chamber in the NEC Secretariat and found that apart from himself and myself, Shri S. L. Baidya, Section Officer (Adm.), NEC Secretariat, was also present. I was told that Shri K. Haridoss was the Inquiry Officer and Shri S. L. Baidya was the Presenting Officer in the inquiry being held against me in connection with the Departmental Proceeding arising out of the aforestated Office Memorandum dated 22.05.2008 (Annexure- A) and that the Inquiry Officer had already substantially concluded the conduct of the inquiry and would complete the same by making some verbal inquiries from me that same evening. Thereafter the said Shri K. Haridoss asked a few questions to me and I duly replied by reiterating the position taken by me in my said written statement of defence (Annexure- B). I also specifically pleaded that I was helpless without a suitable Defence Assistant to take up my case and that I had never been given any opportunity of appointing such an Assistant.

7. That subsequently I received the NEC Secretariat Office Memorandum UC No. NEC/ADM/9/2008 dated 21st October, 2008

contd..4..

22 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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under the signature of Shri S. Mitra, Director (Adm.), addressed to me whereby I was informed that two reports the first being provisional, had been received from the Inquiry Officer and copies thereof were being furnished to me and that if I wished to make any representation against the same, it would have to be made within 15 days time. Alongwith the same were enclosed one " " Provisionary Inquiry Report" dated 4th August, 2008 and another " Final Inquiry Report " dated 20th October, 2008, both of which had been submitted by the said Inquiry Officer Shri K. Haridoss, Executive Engineer (T & C), NEC Secretariat.

(Copies of the said Office Memorandum dated 21.10.2008, the " Provisionary Inquiry Report" dated 04.08.2008 and " The Final Inquiry Report" dated 20.10.2008 are annexed herewith and respectively marked as the Annexures - D, E and F).

8. That subsequently on 05.11.2008, I submitted/written request for some more time for filing my representation against the said Inquiry Reports, but by the Office Memorandum No. NEC/ADM/9/2008 dated 06.11.2008 under the hand of Shri S. Mitra, Director (Adm), NEC Secretariat, I was informed that no such extension of time was being given to me and it was deemed that I had nothing to submit with regard to the said Inquiry Reports.

(A copy of the said Office Memorandum No. NEC/ADM/9/2008 dated 06.11.2008 is being annexed herewith and marked as the Annexure- G).

contd..5..

22 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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9. That thereafter I was served with the office Order No. NEC/ADM/9/2008 dated 11th November, 2008 under the hand of Shri S. Mitra, Director (Administration and Planning) whereby the final Order was passed in the Departmental Proceedings against me arising out of the said office Memorandum No. NEC/ADM/9/2008 dated 22.5.08 inflicting upon me a major penalty under Rule 11 (VI) of the CCS (CCA) Rules, 1965 of reduction in rank to the entry grade Pay Scale of Stenographer Grade-III at the initial entry stage as would be applicable to a fresh direct recruit in stenographers Grade-III in the NEC Secretariat joining on 12.11.2008 with consequential effects as stated therein.

(A copy of the said Office Order dated 11.11.08 is annexed herewith and marked as Annexure- H).

10. That subsequently by the Office Order No. NEC/ADM/ 9/ 2008 dated 24.11.2008 under the hand of Shri S. Mitra, Director (Adm & Plg), my pay has been fixed at the minimum stage of the Pay Band PB-1 (Rs.5200-20200) + Grade Pay Rs.2400 w.e.f. 12.11.2008.

(A copy of the said Office Order dated 24.11.2008 is annexed herewith and marked as the Annexure- I).

11. That now being highly aggrieved by the said office Orders Numbered NEC/ADM/9/2008 dated 11.11.2008 and 24.11.2008, I am filing this instant appeal under the provisions of Rule 23 read with Rule 26 of the CCS (CCA) Rules, 1965, on the following, among other;

contd..6..

G R O U N D S

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

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- (1) For the reason that the said impugned order were made on the basis of a purported inquiry on the Articles of Charges and allied imputations against me that was held in gross violation of various essential requisites of procedure enumerated in the Rule 14 of the CCS (CCA) Rules, 1965 amounting to a total denial of any reasonable opportunity of hearing being given to me and thereby absolutely infringing my valuable Constitutional Rights guaranteed under the Article 311 of The Constitution of India and as such the said impugned Orders are totally erroneous in both law and facts, liable to be fully set aside and quashed;
- (ii) For the reason that the Articles of Charges and the imputations of fact in support thereof annexed to the said first Office Memorandum dated 22.05.2008, on which basis the Departmental proceeding against me were held, did not disclose any grave or serious misconduct by me that could entail any major penalty under the CCS(CCA) Rules, 1965 but the said Departmental Proceedings were held under the Rule 14 of the said Rules, causing a grave miscarriage of justice and as such the said impugned orders are bad both in law and facts, liable to be forthwith set aside and quashed;
- (iii) For the reason that the said Departmental Proceedings were held under Rule 14 of the CCS (CCA) Rules, 1965 although the Articles of Charges and imputations in support thereof never disclosed any grave or serious misconduct

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misconduct which could entail any major penalty, that in turn goes on to unambiguously indicate that the Disciplinary Authority was predetermined to impose a major penalty on me irrespective of the results of the inquiry, and as such the impugned orders are bad in law and facts liable to be forthwith set aside and quashed;

(iv) For the reason that I was never informed about the appointment of Shri K. Haridoss as the Inquiry Officer thereby totally depriving me of any opportunity to be well prepared in advance for participating in the said inquiry and as such the said impugned orders made on the basis on such enquiry are absolutely bad in law and facts liable to be forthwith set aside and quashed;

(v) For the reason that the said Inquiry Officer Shri K. Haridoss submitted his interim Inquiry Report entitled "Provisionary Inquiry Report" dated 20.10.2008 (Annexure- E hereto) whereby he gave clear findings on the Articles of Charges against me indicating that he had fully applied his mind and arrived at definite conclusion on the same but all that was done without issuing even a bare notice of Inquiry on me or affording any opportunity of hearing or defending myself to me, hence the whole inquiry is grossly violative of all norms of Natural Justice as well as the specific procedural requirements of Rule 14 of the CCS (CCA) Rules, 1965 and the impugned orders made on the basis of such inquiry

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Inquiry are absolutely bad in law and facts, liable to be forthwith set aside and quashed;

- (vi) For the reason that the Inquiry was held without any evidences being lawfully adduced by the Presenting Officer, and without any list of witnesses being furnished to me or any scope of cross - examining witnesses being given to me in gross violation of Rule 14 (4) and Rule 14 (14) of the CCS (CCA) Rules, 1965, as well as other provisions of law, and as such the impugned orders made on the basis of such an Inquiry are absolutely bad in law and facts liable to be forthwith set aside and quashed;
- (vii) For the reason that I was never given any opportunity of appointing any Defending Officer or Defence Assistant in accordance with the Provisions of the said Rule 14 of the CCS (CCA) Rules, 1965, and as such the whole Disciplinary proceedings including the said Inquiry against me were grossly unjust, illegal and violative of the basic requirements of Natural Justice, thus rendering the said impugned orders made on the basis of such Inquiry and Proceedings as being grossly bad in law and facts liable to be forthwith set aside and quashed;
- (viii) For the reason that the whole Inquiry was concluded without affording any opportunity to me of taking my defence or adducing evidences for my defence upon conclusion of the production of evidences by the Presenting Officer, rendering the whole Inquiry

contd..9..

22 JUN 2009

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Inquiry Proceedings grossly violative of Rule 14 (16) and Rule 14 (17) of the CCS (CCA) Rules, 1965 as well as the essential tenets of Natural Justice, and as such the impugned orders made on the basis of such an illegal inquiry as well as Disciplinary Proceedings, are bad in law and facts, liable to be forthwith set aside and quashed;

- (ix) For the reason that the Inquiry Officer never afforded any opportunity of providing any explanation to me by asking questions to me as per the provisions of Rule 14 (18) of the CCS (CCA) Rules, 1965 and as such the said impugned orders made on the basis of such an illegal inquiry, are absolutely bad in law and facts, liable to be forthwith set aside and quashed;
- (x) For the reason that the findings in the said inquiry were given without hearing any arguments for the prosecution and the defence as per the provisions of the Rule 14 (19) of the CCS (CCA) Rules, 1965 and as such the said impugned orders made on the basis of such an illegal inquiry are bad in law and facts, liable to be forthwith set aside and quashed;
- (xi) For the reason that the Disciplinary Authority, namely the Director (ADM), NEC Secretariat, by his said letter Officer Memorandum dated 21.10.2008 (Annexure D hereto) provided me with copies of the said two Inquiry Reports (i.e. Annexures - E and F hereto) requiring me to submit my representations on those Inquiry Reports,
- contd.. 10..

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Central Administrative Tribunal
22 JUN 2009
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although in the applicable procedural law enumerated in the CCS (CCA) Rules, 1965 there is no provisions requiring the Disciplinary Authority to do so prior to making the final orders on the basis of such inquiry reports, hence it is evidently manifest that the Disciplinary Authority failed to judiciously apply his mind to the findings of the Inquiry Officer and as such the said impugned orders of the Disciplinary Authority are absolutely bad in law and facts, liable to be forthwith set aside and quashed;

(xii) For the reason that in any view of the matter, the said impugned orders are bad in law and facts and liable to be forthwith set aside and quashed;

12. That now I very respectfully submit that Your Honourable self may kindly peruse all the relevant records and make necessary orders to set aside and quashed the said two impugned orders or make such other appropriate order/ orders as may be deemed fit and proper.

Therefore, I m very humbly pray that Your Honourable self may be graciously pleased to set aside and quash the said two impugned orders numbered NEC/ADM/9/2008 dated 11/11/2008 and 24/11/2008 made by the Director (Administration & Planning), NEC Secretariat, Shillong, and/or be pleased to make such other order/ orders as may be deemed fit and proper, and I shall remain ever grateful for your Acts of Kindness.

Thanking you


Dated, Shillong,
The 07.01. 2009.

Yours faithfully

B.K. Chakraborty
(Shri Bijan Chakraborty)
Stenographer, NEC Secretariat,
Shillong.

Copy to the Director, (Administration & Planning) NEC Secretariat, Shillong.

Certified to be true copy of the Original


(Bipradas Deb) Advocate

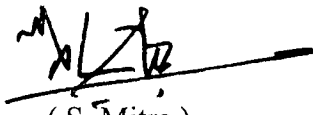
GOVERNMENT OF INDIA
NORTH EASTERN COUNCIL SECRETARIAT
SHILLONG:793003

Sub: Appeal under the provisions of Rule 23 read with Rule 26 of the Central Civil Services (Classification, Control and Appeal) Rule, 1965, against the order No. NEC/ADM/9/2008 dtd. 11.11.2008 and the order No. NEC/ADM/9/2008 dtd. 24.11.2008 made by the Director (Administration and Planning), North Eastern Council Secretariat, Shillong, imposing a major penalty under the said Rules on the appellant - Decision of the Appellate Authority, Reg.

The Appellate Authority (Secretary, NEC) has gone through the appeal filed by Shri B.K. Chakraborty and the facts and circumstances as well as procedural angles of the disciplinary proceedings conducted against the appellant. On perusing through all relevant documents, etc., he has arrived at the following conclusions.

1. Procedures and formalities were followed while framing charges and during the conduct of the inquiry.
2. Due opportunity was given to Shri B.K. Chakraborty to defend his case.
3. The charges of absence without authorization and neglect of official duty were adequately proven and Shri Chakraborty was unable to explain his absence without authorization.
4. The punishment is adequate and just.

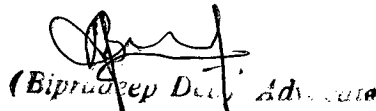
Therefore, the appeal has been disallowed by him.



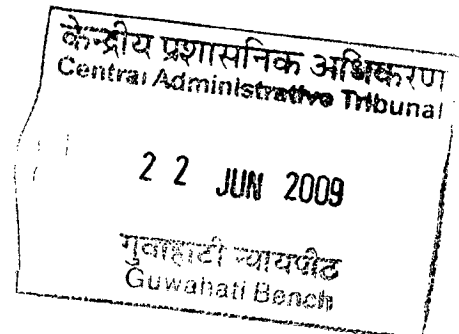
(S. Mitra)
Director (Admn.& Plg.)

✓ Shri B.K. Chakraborty,
Stenographer Gr.III, NEC.
U.O. No.NEC/ADM/9/2008. Dt.08.05.2009.

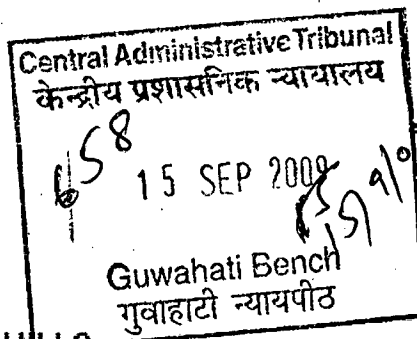
Certified to be true copy of the Original



(Bipradas Debbarma)



(57)



Filed by -
D.C. Chakraborty
Central Govt. Counsel,
Gauhati High Court,
GUWAHATI-1

Sanjiv - Mitra 14.9.2009

DISTRICT - EAST KHASI HILLS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI

Original Application No.117/2009

Shri Bijan Kumar Chakraborty

—APPLICANT

-VERSUS-

The Union of India and others

—RESPONDENTS

Written Statement filed on behalf of Respondents

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15 SEP 2009

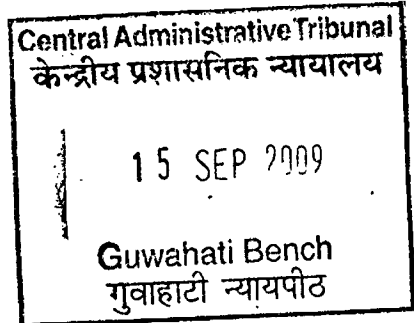
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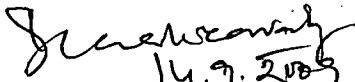
Central Administrative Tribunal
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Guwahati Bench
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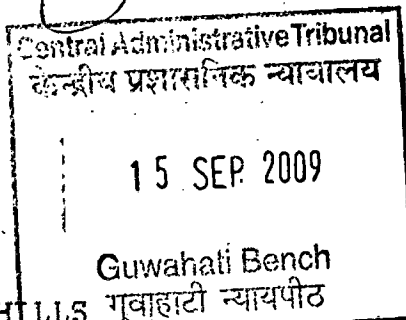
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Filed by,


 14.9.2009
 (D.C Chakravarty)
 Central Govt. Counsel
 (D.C. Chakravarty)
 Central Govt. Counsel,
 Gauhati High Court,
 GUWAHATI-1



Shri Bijan Kumar Chakraborty
(D.C. Chakravarty)
Central Govt. Counsel,
Gauhati High Court,
GUWAHATI-1
14.9.2009 82

DISTRICT. - EAST KHASI HILLS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI

IN THE MATTER OF

Original Application No.117/2009

Shri Bijan Kumar Chakraborty

---APPLICANT

- V E R S U S -

The Union of India and others

---RESPONDENTS

AND

IN THE MATTER OF

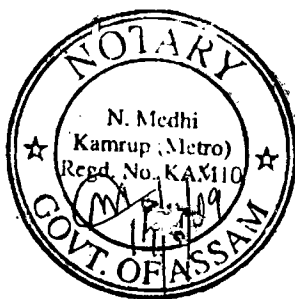
Written Statement filed on behalf
of the respondents.

WRITTEN STATEMENT ON BEHALF OF RESPONDENTS

The humble respondents above named beg to state as follows : -

1. That a copy of the application filed on behalf of the applicant in the present case before this Hon'ble Tribunal has been served on the respondents. The respondents have gone through the same and understood the contents thereof.

2. That save and except what has been specifically admitted herein, the rest of the statements made in the instant application may be deemed to have been denied and



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Central Administrative Tribunal केन्द्रीय प्रशासनिक न्यायालय
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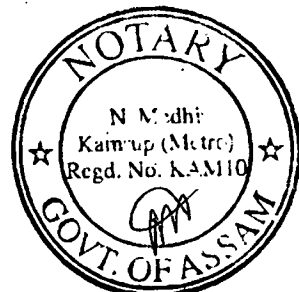
repudiated by the respondents. The respondents beg to state further that they do not admit anything which is not borne out by records and / or contrary to the same.

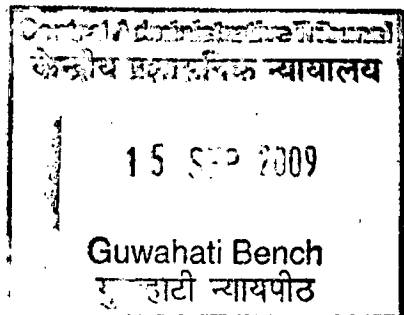
3. That the humble respondents have no comments to offer with regard to the statements made in paragraphs 1, 2, 3, 4.1, 6 and 7 of the application.

4. That with regard to the statements made in paragraph 4.2 of the application, the humble respondents beg to state that the applicant was appointed as Stenographer Grade-III in the NEC Secretariat, Shillong in 1983 and he was promoted to the post of Stenographer Grade-II in 1989. However, the applicant has failed to discharge his duties to the satisfaction of his superior officers during the relevant period as would appear from records and in fact a number of complaints had been made against him by his superior officers from time to time.

5. That with regard to the statements made in paragraph 4.3 of the application, the humble respondents beg to state that, as stated by him in the present application, the applicant has approached the Hon'ble Gauhati High Court, Shillong Bench, Shillong by filing a writ petition, namely WP(C) No. 424(SH)/2005, challenging the rejection of his claim for reimbursement of medical expenses in full without approaching the Hon'ble Central Administrative Tribunal at the first instance, as required

Mitra
Santana





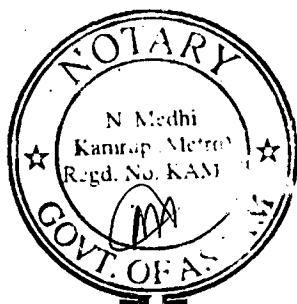
under the law, and the Hon'ble High Court has been pleased to allow the same, vide judgment and order dated 20.03.2008. However, on an appeal being filed by the respondents, namely W.A No. 23(SH)/2008, the Hon'ble High Court has been pleased to set aside the said judgment and order dated 20.03.2008 and to dismiss the said writ petition as not maintainable, vide judgment and order dated 28.07.2009.

Mitra
Santanu

The humble respondents beg to state that the applicant has referred to this case with the intention to misguide the Hon'ble Tribunal, solely with a motive of drawing undue sympathy from the Hon'ble Tribunal and of showing a nexus between the two cases / issues, which does not exist at all.

A copy of the aforesaid judgment and order dated 28.07.2009 is enclosed herewith as ANNEXURE - A.

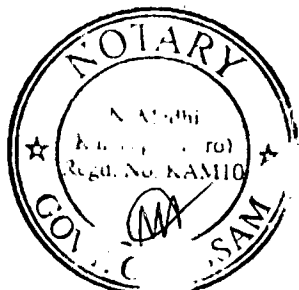
6. That the allegations made by the applicant against the respondents in paragraph 4.4 of the application are totally false and baseless and the same are denied by the respondents. In this connection, the humble respondents beg to state further that there was no pre-determined plan to treat the applicant in a step-brotherly manner, as alleged by him. In fact, the applicant was suffering

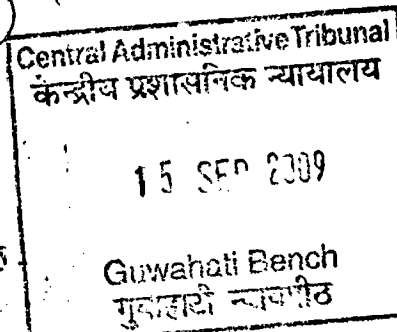


from certain illness since 2004 and he was duly allowed to undergo necessary medical treatment at Apollo Hospital, Chennai from 25.07.2004 to 12.08.2004 and again from 31.12.2005 to 16.01.2006, as advised by the competent medical authority and as approved by the Competent Authority of the North Eastern Council Secretariat, Shillong. It may also be mentioned here that the applicant was attached to the Financial Advisor, NEC, Shillong with immediate effect, vide order dated 12.12.2005. However, he never reported for duty to the Financial Advisor, NEC as would appear from the Memo dated 18.04.2007 sent by the Deputy Financial Advisor, NEC. He even did not put his signatures on the Attendance Register, as required. The humble respondents beg to state further that it was because of the gross misconduct committed by the applicant that the present disciplinary proceedings had been initiated against him in due course.

It may be mentioned here that the applicant was extremely irregular in his attendance and hardly performed his duties. It is not true that his Controlling Officer did not allow him to put his signatures on the attendance register as alleged by him; rather, he himself was not signing in the attendance register.

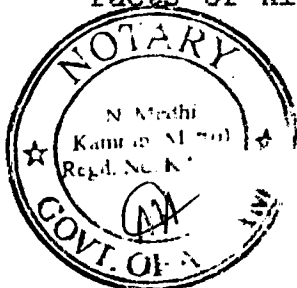
Copies of the aforesaid order dated 12.12.2005 and letter dated 18.04.2007

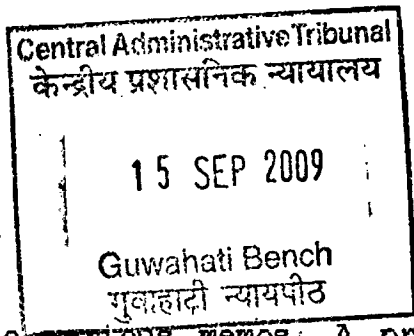




are enclosed herewith as ANNEXURES - B and C, respectively.

7. That the humble respondents beg to state further that initially, the issue on the basis of which the first memo dated 25.05.2007 was issued to the applicant, was his request for earned leave which was not duly recommended by his controlling authority. In this connection, it may be mentioned here that, it is with the sole purpose of misleading the Hon'ble Tribunal that the applicant has mentioned the Controlling Officer (Administration Section) as respondent No.6 in the present application. He was not under the control of any such Controlling Officer at the relevant time when the disciplinary proceedings was instituted against him; rather, he was attached to Financial Advisor, NEC, Shillong during the said period, who was his Controlling Officer at the relevant time. His Controlling authority pointed out that the applicant was not under his control and it was found out that the applicant was not signing the relevant attendance register since long back. Then, gradually, it was found out from records that, even in the past, the applicant used to remain absent from duties quite frequently without obtaining due permission from his Controlling Authority. All the records pertaining to these incidents of absence from duty were gone through and a series of memos were issued to the applicant in order to ascertain the true facts of his absence from duty during the said periods and





facts mentioned in his replied to various memos. A prima facie case was established against him necessitating further enquiry to ascertain the facts and circumstances of some of the incidents of unauthorised absence of the applicant. Subsequently, the applicant had been suspended, vide Order No. NEC/ADM/9/08 dated 26.02.2008. The order of suspension was however withdrawn on 21.05.2008. It may be mentioned here that the applicant had been placed under suspension since the charge-sheet was being issued against him. That the applicant wants to mislead the Hon'ble Tribunal would be amply clear from the fact that he has referred to a fictitious authority, whom he has designated as the Controlling Authority (Administration Section). His leave application was not accepted by the Head of Office as proper since it had not been recommended by the Financial Advisor, NEC, who is the Controlling Officer. There is no separate officer in Administration Section named as Controlling Officer, as alleged by him. Further, he simply informed the Head of Office about the Controlling Officer not recommending his leave and proceeded on leave without ascertaining the fate of the leave application so submitted by him. Further, a series of Memos were also issued to him and the departmental inquiry was instituted only when a prima facie case was found to be established against him.

8. That with regard to the statements made in paragraph 4.5 of the application, the humble respondents beg to state that on the basis of the allegations made



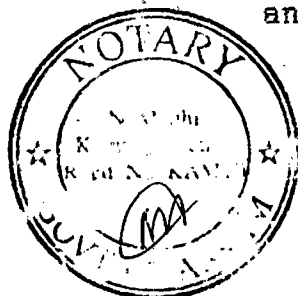
15 SEP 2009

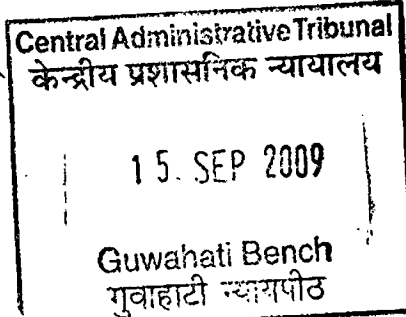
Guwahati Bench
गुवाहाटी न्यायापीठ

-7-

against him as per the statement of imputation of misconduct enclosed as Annexure - II thereto, an articles of charge as per Annexure - I thereof, was served on the applicant in terms of Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (herein after referred to as the Rules) vide Memo dated 22.05.2008. Along with the same, a list of documents by which the said articles of charge were proposed to be substantiated had also been enclosed as Annexure-III thereto. The humble respondents beg to state further that by the said Memo dated 22.05.2008, the applicant was specifically directed to submit a written statement of defence within 15 (fifteen) days of receipt thereof. The applicant was also directed to state whether he desires to be heard in person. It may also be mentioned here that all the documents which were mentioned in Annexure-III to the Memo dated 22.05.2008, had been either submitted by the applicant to the concerned authorities of the NEC or issued to the applicant by the NEC Secretariat from time to time and had been duly received by him and that no other document had been either taken into consideration or relied on by the respondents during the course of the present disciplinary proceedings instituted against him.

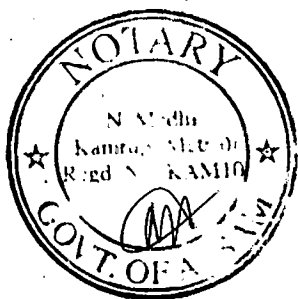
A copy of the aforesaid Memo dated 22.05.2008 along with its enclosures are enclosed herewith as Annexure - D and copies of all the documents



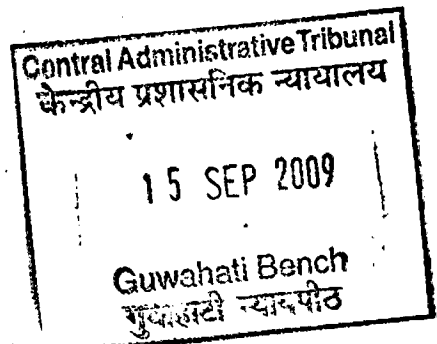


mentioned in Annexure -III to the
aforesaid Memo dated 22.05.2008 are
enclosed herewith as Annexures - E-1
to E-24.

9. That with regard to the statements made in paragraph 4.6 of the application, the humble respondents beg to state that in his written statement dated 12.06.2008, which was in fact received by the concerned authorities only on 23.06.2008, the applicant has simply tried to cover up his misconduct by relying on certain documents as mentioned in the list of documents enclosed as Annexure-III to the aforesaid Memo dated 22.05.2008 and has contended that all the charges framed against him are baseless and repetitive and that he has already submitted his explanations in this regard from time to time. The applicant has, therefore, prayed that all the allegations and charges brought against him may kindly be dropped. However, it is significant to note here that in the said written statement the applicant has not stated that he desires to be heard in person during the course of inquiry or that he requires the assistance of any other Government servant to present the case on his behalf before the learned Inquiry Officer. However, as regards the issue of allowing the applicant to take the help of a Defence Assistant, it may be mentioned herein that the applicant had never made any written request in this regard that he wanted to take the assistance of any other Govt. Servant to



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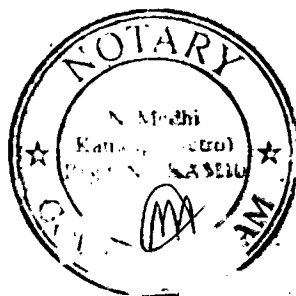
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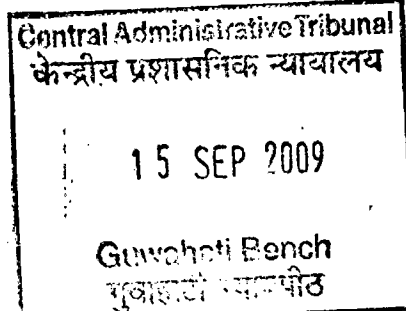
present the case on his behalf, and that as provided in Rule 14 of the aforesaid Rules, no permission is needed by a Government servant to secure the assistance of any other Government servant (as Defence Assistant) and that he may be allowed to engage a legal practitioner with the permission of the disciplinary authority in special circumstances and / or when the Presenting Officer appointed by the disciplinary authority is a legal practitioner.

It may also be mentioned here that the applicant himself has also referred to and relied on the very same documents which have been mentioned in the said list of documents enclosed as Annexure-III to the Memo dated 22.05.2008, referred to above.

A copy of the said written statement dated 12.06.2008 is enclosed herewith as Annexure - F.

10. That with regard to the statements made in paragraph 4.7 of the application, the humble respondents beg to state that the allegations made therein are all false and baseless. In fact, on receipt of his written statement dated 12.06.2008 by the authorities on 23.06.2008, the matter was duly examined and thereafter by order dated 16.07.2008, Shri K. Haridoss, Executive Engineer (C), NEC, Shillong was duly appointed as the

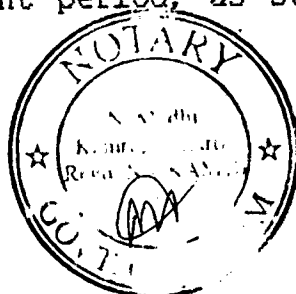




Inquiry Officer to inquire into the charges framed against the applicant, while by a separate order dated 16.07.2008, Sri S.L Baidya, Section Officer (Admn.), NEC, Shillong was appointed as the Presenting Officer. It may be stated here that copies of both the orders dated 16.07.2008 were given to the applicant and were received by him in due course.

Copies of the aforesaid orders dated 16.07.2008 are enclosed herewith as Annexures - G and H, respectively.

11. That in this connection, the humble respondents beg to state further that the applicant prayed for Earned Leave from 02.08.2008 to 17.08.2008 to visit his ailing brother in Bangalore, vide application dated 15.07.2008, and as such, the learned Inquiry Officer could not complete the inquiry by providing personal hearing to him, as required. The learned Inquiry Officer however, submitted a provisional inquiry report on the basis of the documents furnished to him, vide his letter dated 04.08.2008 wherein he has specifically stated that the final inquiry report will be submitted later on, after examination of the applicant when he rejoins his duty on expiry of leave, as prayed for by him. In the above circumstances, the humble respondents beg to state that the disciplinary proceedings could not be held in time by the learned Inquiry Officer because of the absence of the applicant himself during the relevant period, as stated above and the medical leave as



applied for and availed of by him thereafter, as mentioned in the subsequent paragraphs.

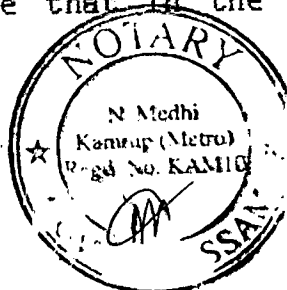
Copies of the aforesaid Earned Leave application dated 15.07.2008 and the letter dated 04.08.2008 are enclosed herewith as Annexures - I and J, respectively.

Mitra
Santana

12. That the humble respondents beg to state further that from the materials on record it would appear that the applicant was admitted into the Nazareth Hospital, Laitumkhrah, Shillong for treatment, on 11.08.2008 and he was discharged therefrom on 30.08.2008 and that he was advised rest for 30 days, vide Medical Certificate dated 30.08.2008 issued by the Medical Officer of the said Hospital. Thereafter, by his application dated 08.09.2008, the applicant has informed the authorities about the same and prayed for extension of his leave.

Copies of the aforesaid application dated 08.09.2008 along with medical certificate dated 30.08.2008 is enclosed herewith as Annexure - K.

13. That with regard to the statements made in paragraph 4.8 of the application, the humble respondents beg to state that in the above circumstances it was not



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केन्द्रीय प्रशासनिक न्यायालय
15 SEP 2009
Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

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possible for the learned Inquiry Officer to hold the inquiry till September 2008 and then by letter dated 13.10.2008, the applicant was requested to be present for personal hearing on 13.10.2008 at 5.00 P.M. It may be mentioned here that the applicant was hospitalised w.e.f. 11.08.2008 to 30.08.2008 and after his discharge from hospital, he was on leave till 30.09.2008.

Santanu Mitra

A copy of the said letter dated 13.10.2008 is enclosed herewith as Annexure - L.

14. That with regard to the statements made in paragraphs 4.9, 4.10 and 4.11 of the application, the humble respondents beg to state that the inquiry was duly conducted by the learned Inquiry Officer in accordance with the provisions of the relevant Rules and the applicant was also provided with ample opportunity to present his case before him as per law. However, the applicant has never requested for permission to take the assistance of any other Government servant during the course of the said disciplinary proceedings. It may also be mentioned here that the applicant was given personal hearing for long hours by the learned Inquiry Officer on 13.10.2008 and all the documents in original produced and relied on by the Presenting Officer before the learned Inquiry Officer in support of the articles of charges brought against the applicant have been allowed to be duly inspected by him and

NOTARY
N. Medhi
Kamrup (Metro)
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15 SEP 2009

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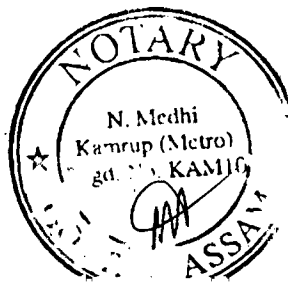
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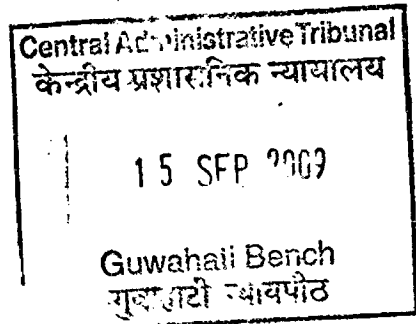
the applicant was also allowed to make oral statements / submissions before the learned Inquiry Officer in support of his case, which were duly taken into consideration by the learned Inquiry Officer while making his final report dated 20.10.2008.

However, as regards the issue of allowing the applicant to take the help of a Defence Assistant, it may be mentioned here that there was never any written request from him in this regard and that as provided in Rule 16 of the aforesaid Rules, no permission is needed by a Government servant to secure the assistance of any other Government servant (as Defence Assistant) and that he may be allowed to engage a legal practitioner only in special circumstances and / or when the Presenting Officer appointed by the Disciplinary Authority is a legal practitioner.

A copy of the said final report dated 20.10.2008 is enclosed herewith as Annexure - M.

15. That with regard to the statements made in paragraph 4.12 of the application, the humble respondents beg to state that by letter dated 21.10.2008, copies of both the Inquiry reports dated 04.08.2008 and 20.10.2008 had been duly supplied to the applicant with an observation that the applicant may make a representation against the





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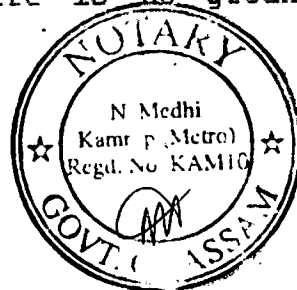
same within a period of 15 (fifteen) days from the date of receipt thereof, if he so desires.

A copy of the said letter dated 21.10.2008 is enclosed herewith as Annexure - N.

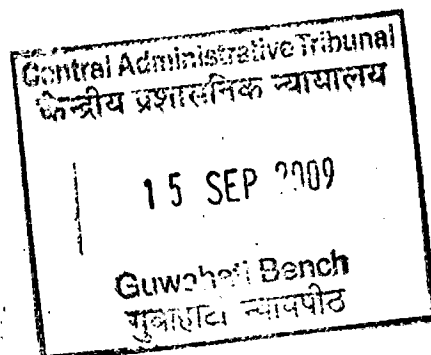
16. That with regard to the statements made in paragraph 4.13 of the application, the humble respondents beg to state that the applicant has not submitted any representation against the said Inquiry reports within the specified period as per letter dated 21.10.2008 referred to above and there was no valid ground for granting further time to the applicant for the said purpose as per his application dated 05.11.2008 and he was informed accordingly, vide letter dated 06.11.2008.

Copies of the aforesaid letters dated 05.11.2008 and 06.11.2008 are enclosed herewith as Annexures - O and P, respectively.

17. That the humble respondents have no comments to offer with regard to the statements made in paragraph 4.14 of the application except to state that the said orders dated 11.11.2008, 24.11.2008 and 08.05.2009 have been duly passed by the concerned authorities strictly in accordance with law and that there is no ground for this Hon'ble



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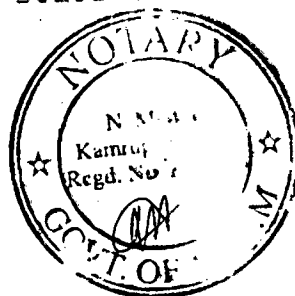
- 15 -

Tribunal to interfere with the same in exercise of its powers under the relevant provisions of the Administrative Tribunals Act, 1985.

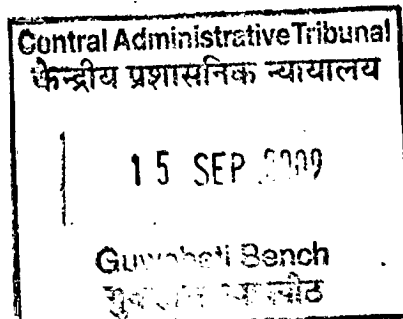
18. That with regard to the grounds taken in sub-paragraphs (A), (B), (C), (D) and (E) of paragraph 5 of the application, the humble respondents beg to state that the impugned orders have been passed by the concerned respondents on the basis of the disciplinary proceedings held against the applicant in accordance with law and that there was no violation of the principles of natural justice and / or any provisions of law in this regard as alleged by the applicant and as such, there is no question of setting aside the same by this Hon'ble Tribunal as prayed for by him.

19. That with regard to the statements made in sub-paragraph (F) of paragraph 5 of the application, the humble respondents beg to state that as mentioned in paragraph 10 above, Shri K. Haridoss, Executive Engineer (T&C), NEC, Shillong was duly appointed as Inquiry Officer, vide order dated 16.07.2008, a copy of which was also given to the applicant in due course and, as such, there is no truth in the allegations made by the applicant in this regard.

20. That with regard to the statements made in sub-paragraph (G) of paragraph 5 of the application, the humble respondents beg to state that the learned Inquiry Officer



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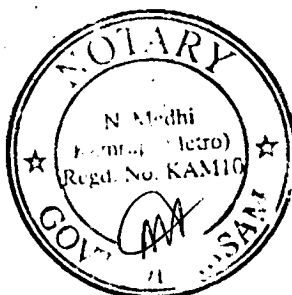
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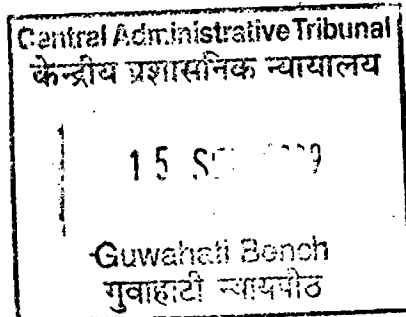
has duly considered the materials / documents placed on record during the course of the disciplinary proceedings and has duly submitted his reports dated 04.08.2008 and 20.10.2008 to the Disciplinary Authority in accordance with law. The humble respondents beg to state further that there is no truth in the allegations made by the applicant that it was only because of filing of the writ petition before the Hon'ble High Court by him that he was being harassed by the respondents. Further, the image he is projecting about himself as a duty-bound government official obedient to the orders of his superiors is not true and / or based on facts. As a matter of fact, there were various allegations of misconduct made against him by his superior officers from time to time and the present disciplinary proceedings were initiated against him on the basis of the allegations made against him, as would appear from the documents referred to in the statement of misconduct enclosed with the Memo dated 22.05.2008. In this connection the humble respondents beg to state further that even after initiation of the present disciplinary proceedings, allegations against him have been received from his superior officers and he has also been surrendered by his superior officer in one occasion as would appear from the letters / Notes dated 12.08.2008, 03.03.2009 and 12.05.2009 sent by the i/c Advisor (Health) and Advisor (Banking, Industries and Tourism), NEC Secretariat, Shillong.

Mitra
Santana

Copies of the aforesaid letters :/

Notes dated 12.08.2008, 03.03.2009 and

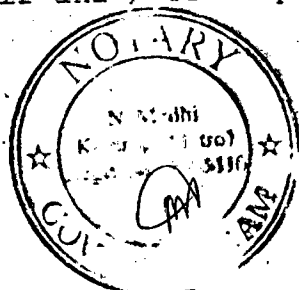




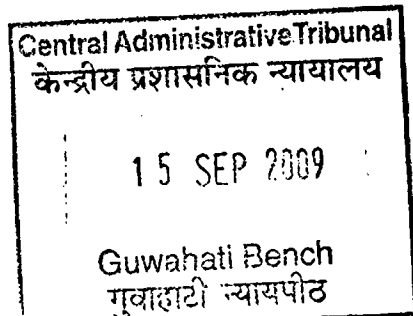
12.05.2009 are enclosed herewith as Annexures - Q, R and S, respectively.

21. That with regard to the statements made in sub-paragraph (H) of paragraph 5 of the application, the humble respondents beg to state that the instant disciplinary proceedings was conducted on the basis of the documents referred to in the list of documents enclosed as Annexure-III to the Memo dated 22.05.2008, which included the office orders / communications sent to the applicant by the concerned authorities of the NEC as well as the replies / applications submitted by the applicant to the concerned authorities of the NEC in this regard from time to time and, as such, no other witness, except the Presenting Officer and the applicant himself, has been produced and / or examined before the learned Inquiry Officer during the course of the enquiry. It may also be stated here that the learned Inquiry Officer has submitted his reports on the basis of the documents produced and relied on by the Presenting Officer as well as the statements and submissions made by the applicant before him during the course of the enquiry.

22. That with regard to the statements made in sub-paragraphs (I), (J), (K), (L), (M) and (N) of paragraph 5 of the application, the humble respondents beg to state that the applicant was provided with ample opportunity to defend himself and / or to present his case properly before



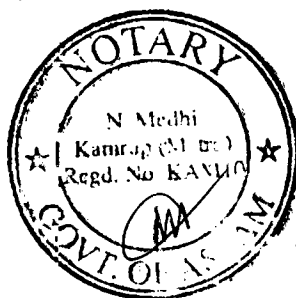
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the learned Inquiry Officer during the course of the inquiry and that the applicant was at liberty to take the assistance of any other Government servant to present the case on his behalf, if he so desired, for which no permission of the disciplinary authority was needed, as per the provision of Sub-Rule (8) of Rule 14 of the aforesaid Rules. However, for engaging a legal practitioner for the said purpose, necessary permission of the disciplinary authority is a must, for which the applicant was required to make proper application before him at the relevant time. However, no such application was ever made by the applicant in this regard. The humble respondents beg to state further that all other statements / allegations made in the application against the respondents are denied by the respondents and the applicant is required to prove the same before the Hon'ble Tribunal in accordance with law. The humble respondents beg to state further that there is no merit in the grounds taken in the present application and, as such, the same is liable to be dismissed by this Hon'ble Tribunal.

23. That in the facts and circumstances mentioned above, the humble respondents beg to state that no case is made out by the applicant for grant of reliefs as sought for in the present application and as such the same is liable to be dismissed by this Hon'ble Tribunal.



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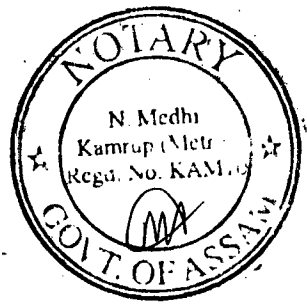
Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
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गुवाहाटी न्यायालय

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In the premises aforesaid, it is most respectfully prayed that Your Lordships may be graciously pleased to consider the case on merits and after hearing the parties, be pleased to dismiss the application with costs and / or to pass such further orders as Your Lordships may deem fit and proper in the facts and circumstances of the case.

Mitra
Santanu

And for this act of kindness, the humble respondents as in duty bound, shall ever pray.



..... Verification

(81)

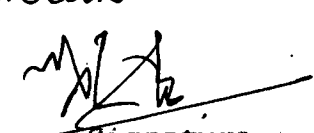
Central Administrative Tribunal
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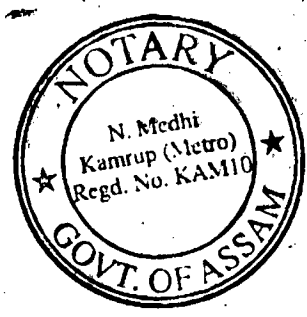
VERIFICATION

I, Shri Santanu Mitra, son of Shri Binay Gopal Mitra, aged about 41 years, at present working as Director (Administration and Planning), North Eastern Council Secretariat, Nongrim Hills, Shillong, Meghalaya (respondent No.4 herein), so hereby verify that the contents of paragraphs 1, 2 and 3 are true to my personal knowledge, and paragraphs 4 to 16, 18, 19, 20 and 21 are true to my information derived from records and paragraphs to believed to be true on legal advice and that I have not suppressed any material fact.

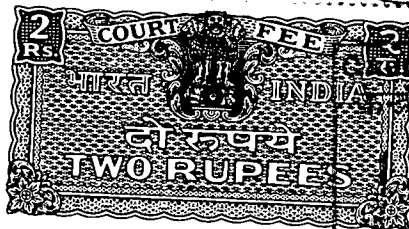
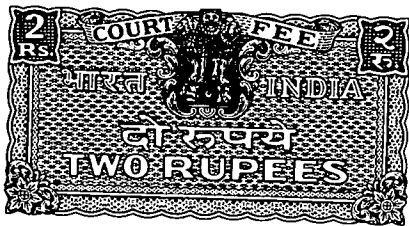
Date: 14.9.2009
Place : Guwahati

Santanu Mitra

Signature

Director,
(Administration & Planning)
NEC Sect., Govt. of India
Shillong.



Subscribed before me
N. Medhi
14/9/09
NIMEDHI
Advocate / Notary



Central Administrative Tribunal
प्रशासनिक न्यायालय

15 SEP 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

A F F I D A V I T

I, Shri Santanu Mitra, son of Shri Binay Gopal Mitra, aged about 41 years, by profession - Service, resident of NEC residential Complex, Motinagar, Shillong, Meghalaya, do hereby solemnly affirm and state as follows :

1. That I am at present working as Director (Administration and Planning), North Eastern Council Secretariat, Nongrim Hills, Shillong, Meghalaya, and I have been arrayed as Respondent No.4 in the present application. I have been duly instructed to look after the case on behalf of all the respondents before this Hon'ble Tribunal and as such, I am well acquainted with the facts and circumstances thereof. I have been duly authorised to swear and file this affidavit on behalf of all the respondents before this Hon'ble Tribunal and I am competent to do so.

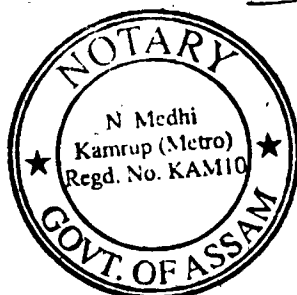
2. That the statements made in this affidavit and in paragraphs 1, 2 and 3 of the written statement are true to my knowledge, those made in paragraphs 4 to 16, 18, 19, 20 and 21 being matters of record of the case are true to my information derived therefrom, which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this affidavit on this the 14th day of September, 2009 at Guwahati.

Identified by

Debash Chandra Chakravarty
Advocate's clerk

14.9.2009



Santanu Mitra

DEPONENT

Director,
(Administration & Planning)
NEC Secy., Govt. of India,
Shillong.

Subscribed and sworn before me

N. Medhi
14/9/09
N MEDHI
Advocate / Notary

Date of application for the copy.	Date fixed for notifying the requisite number of stamps and folios	Date of delivery of the requisite stamp and folios	Date on which the copy was ready for delivery	Date of making over the copy to the applicant.
12-8-09	12-8-09	12-8-09	12-8-09	12-8-09

IN THE GAUHATI HIGH COURT
 (THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA, MIZORAM AND ARUNACHAL PRADESH)

SHILLONG BENCH

WA No. 23(SH) of 2008

1. The Union of India,
 Through the Secretary,
 Ministry of Development of North
 Eastern Region, New Delhi.

2. The North Eastern Council,
 C/o North Eastern Council Secretariat,
 Nongrim Hills, Shillong,
 Meghalaya.

3. The Secretary
 North Eastern Council,
 North Eastern Council Secretariat,
 Nongrim Hills, Shillong,
 Meghalaya.

4. The Asstt. Secretary,
 North Eastern Council Secretariat,
 Nongrim Hills, Shillong,
 Meghalaya.

5. The Deputy Secretary,
 North Eastern Council Secretariat,
 Nongrim Hills, Shillong,
 Meghalaya.

-Vs-

1. Shri Bijan Kumar Chakraborty,
 Stenographer Grade-II,
 North Eastern Council Secretariat,
 Residing at Motinagar,
 NEC Qtr No. 25,
 Shillong-14,
 Meghalaya.

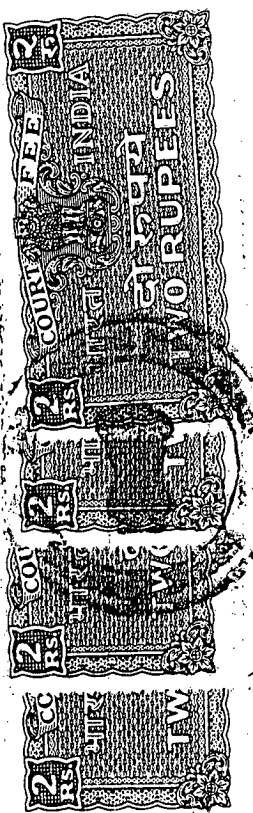
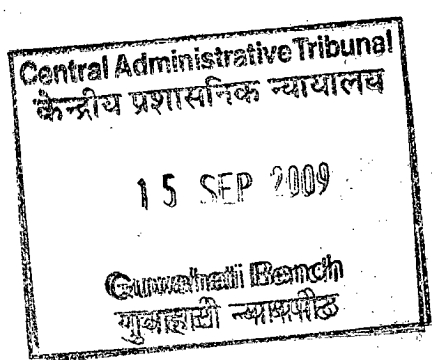
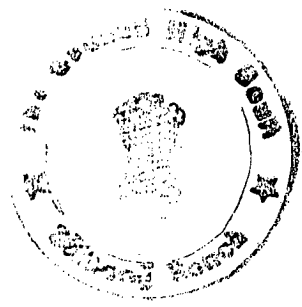
2. The Director of Health
 Services (MI), Govt. of Meghalaya,
 Lower Lachumiere,
 Shillong-793001,
 Meghalaya.

... Appellants

..... Respondent

..... Proforma Respondent

certified to be true copy
[Signature]
Advocate



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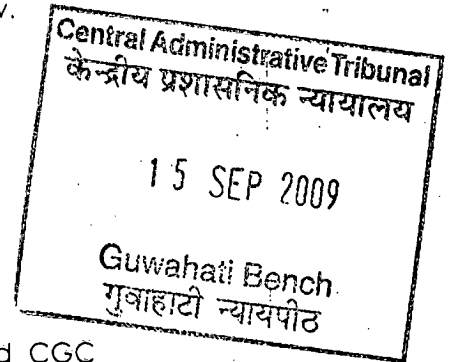
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BEFORE
THE HON'BLE MR.JUSTICE T VAIPHEI
THE HON'BLE MR JUSTICE BD AGARWAL

For the Appellants : Sri DC Chackraborty, CGC.
For the Respondent : Sri S Chackraborty, Adv.
Date of hearing : 28.07.2009.
Date of Judgment and order : 28.07.2009

JUDGMENT AND ORDER(ORAL)

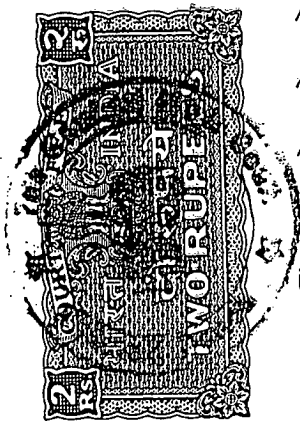
T Vaiphei, J.



We have heard Mr DC Chackraborty, the learned CGC appearing for the writ appellant and Mr S Chackraborty, the learned counsel for the respondent/writ petitioner.

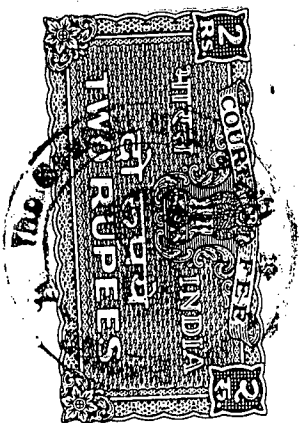
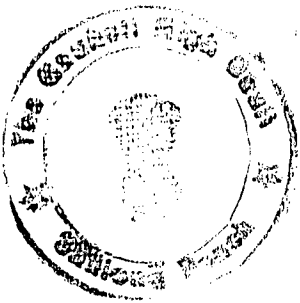
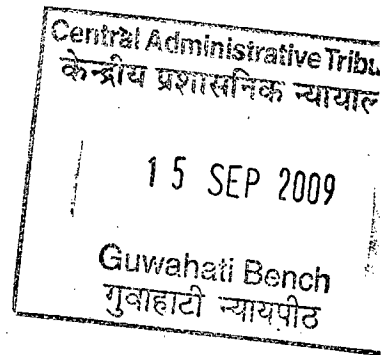
2. This appeal is directed against the judgment and order dated 20.03.2008 passed by the learned single Judge of this Court in WP(C) No. 424(SH) 2005 allowing the writ petition directing the writ appellant to reimburse all the medical expenses of the respondent.

3. At the outset, Mr DC Chackraborty, the learned CGC drawing our attention to Section 14 of the Administrative Tribunal Act, 1985 and the decision of the constitution bench of the Apex Court in *L Chandra Kumar vs. Union of India and Others*, AIR 1997 SC 1125, contends that the learned single Judge exceeded his jurisdiction in entertaining the writ petition and the impugned judgment and order passed by the leaned single Judge contrary to Section 14 of the Administrative of Tribunal Act 1985 and the law laid down by the Apex Court in *L Chandra*



Kumar case (supra) is inoperative and null and void. He therefore, prays that the impugned judgment and order be set aside. In L Chandra Kumar case (supra), the Apex Court held :

"Before moving on to other aspects, we may summarise our conclusions of the jurisdictional powers of these Tribunals. The Tribunals are competent to hear matters where the vires of statutory provisions are questioned. However, in discharging this duty, they cannot act as substitutes for the High Court and the Supreme Court which have, under our constitutional setup, been specifically entrusted with such an obligation. Their function in this respect is only supplementary and all such decisions of the Tribunals will be subject to scrutiny before a Division Bench of the respective High courts. The Tribunals will consequently also have the power to test the vires of subordinate legislations and rules. However, this power of the Tribunals will be subject to alone important exception. The Tribunals shall not entertain any question regarding the vires of their parent statutes following the settled principle that a Tribunal which is a creature of an Act cannot declare that very act to be unconstitutional. In such cases alone, the concerned High Court may be approached directly. All other decisions of these Tribunals, rendered in cases that they are specifically empowered to adjudicate upon by virtue of their parent statutes, will also be subject to scrutiny before a Division Bench of their respective High Court. We may add that the Tribunals will, however, continue to act as the only Courts of first instance in respect of the areas of law for which they have been constituted. By this, we mean that it will not be open for litigants to directly approach the High courts even in cases where they question the vires of



statutory legislations (except, as mentioned, where the legislation which creates the particular Tribunal is challenged) by overlooking the jurisdiction of the concerned Tribunal."

4. In our opinion, the law laid down by the Apex Court does not leave any room for doubt of this score. The learned single Judge did not have the jurisdiction to entertain the writ petition and he ought to have directed the respondent to approach the Central Administrative Tribunal, Guwahati for appropriate relief while dismissing the writ petition. Confronted with this situation, the learned counsel for the respondent frankly concedes that he has no point to agitate before this Court and prays that the respondent may be permitted to withdraw the writ petition with liberty to file a fresh case before the Central Administrative Tribunal, Guwahati to ventilate his grievances.

5. In view of the concession made by the learned counsel for the respondent, the writ appeal is allowed. The impugned judgment and order dated 24.03.2008 is hereby set aside. It shall be open to the respondent to approach the Central Administrative Tribunal, Guwahati for appropriate relief. If and when the Central Administrative Tribunal, Guwahati is approached by the respondent, the Tribunal may consider the case of the petitioner afresh in accordance with law.

Sd/- B.D. Agarwal.
JUDGE

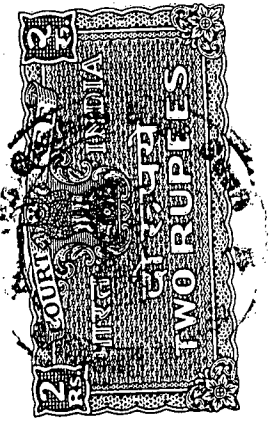
Sd/- T. Vaiphei
JUDGE

dev

By *[Signature]*
By *B.*

Certified To Be True Copy
[Signature]
Superintendent (Judicial)
Gauhati High Court
Chillong Bench.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
15 SEP 2009
Guwahati Bench
गुवाहाटी न्यायपीठ



26 *Amrune - B.* *87* *8* *102*

NORTH EASTERN COUNCIL SECRETARIAT
MINISTRY OF DEVELOPMENT OF NORTH EASTERN REGION
GOVERNMENT OF INDIA
NEW N.E.C. COMPLEX, NONGRIM HILLS
SHILLONG - 793 003.

No.NEC/ADM/21/92 Pt.

Dated the 12th December, 2005

ORDER

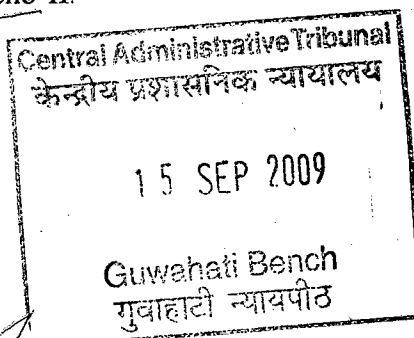
Shri B.K.Chakraborty, Steno-II is hereby directed to report to Financial Adviser
with immediate effect till joining of Smti Joan Pariat, P.S.

Sd/-
(R. Mathur)
Deputy Secretary.

Memo No.NEC/ADM/21/92 Pt.
Copy to :-

Dated the 12th December, 2005

1. Financial Adviser, NEC Secretariat, Shillong.
2. Shri B.K.Chakraborty, Steno-II.
3. Guard file.
4. Office copy.



N. Khongjee
(N. Khongjee)
Section Officer(Admn)

Certified to be true copy
Green
Advocate

12/12/05

ISSUED

27 Amended - C. 88 108

GOVERNMENT OF INDIA
NORTHEASTERN COUNCIL SECRETARIAT
NONGRIM HILLS; SHILLONG-3

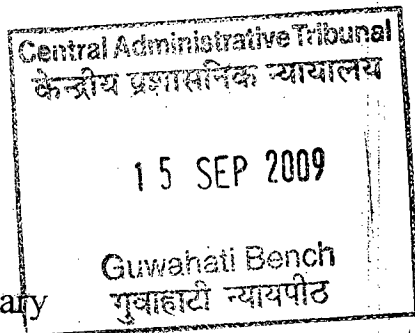
NO.NEC(FIN)/13-76/2005-06 Vol.II

Dated: April 18, 2007.

MEMORANDUM

Shri B.K.Chakraborty, Steno -II has never reported to the Financial Adviser, NEC and he is not under the strength of Finance Wing.

This is for information and necessary action.



Deputy Secretary
NEC.

(T.K.Hangzo) 8/4/07
Deputy Financial Adviser

To the Stenographer - (Sec II) concerned with direction to report to Administration.

Received
on

27.4.07

Advised to a law cost
Sant
Advocate

28 *Annexure-D* 69
GOVERNMENT OF INDIA
MINISTRY OF DEVELOPMENT OF NER
NORTH EASTERN COUNCIL SECRETARIAT
SHILLONG-793003.

No.NEC/ADM/9/2008.

Dated Shillong the 22nd May, 2008.

MEMORANDUM

The undersigned proposes to hold an inquiry against Shri Bijan Kumar Chakraborty, Stenographer Gr. II, North Eastern Council Secretariat, Shillong under Rule 14 of the CCS (CCA) Rules, 1965. The substance of the imputations of negligence or neglect of work or duty amounting to misconduct in respect of which the enquiry is proposed to be held is set out in the enclosed statement 'Article of charge' (Annexure-I). A statement of the imputations of negligence of duty in support of each Article of charge is enclosed at Annexure-II.

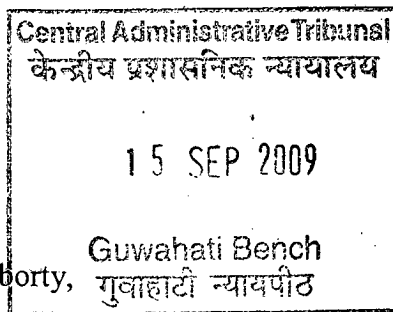
2. Shri Bijan Kumar Chakraborty, Stenographer Gr.II is directed to submit, within 15 days of receipt of this Memorandum, a written statement of his defence and also to state whether he desires to be heard in person.

3. He is informed that an inquiry will be held only in respect of those articles of charges as are not admitted. He should therefore specifically admit or deny each article of charge.

4. Shri Bijan Kumar Chakraborty, Stenographer Gr.II, is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the Inquiry Authority appointed by the undersigned as and when the Inquiry Authority requires him to do so or otherwise fails or refuses to comply with the provisions of Rule 14 of the CCS (CCA) Rules, 1965 or the orders/directions issued in pursuance of the said Rule, the Inquiry Authority may hold the inquiry against him ex-parte.

5. Attention of Shri Bijan Kumar Chakraborty is invited to Rule 20 of the Central Civil Services (Conduct) Rule, 1964 under which no Govt. servant shall bring or attempt to bring any political or outside influence to bear upon any superior Authority to further his interest in respect of matters pertaining to his service under the government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Shri Bijan Kumar Chakraborty is aware of such representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS (Conduct) Rules, 1964.

6. The receipt of this Memorandum may be acknowledged immediately.



S. Mitra
(S. Mitra)
Deputy Secretary.

To

Shri Bijan Kumar Chakraborty,
Stenographer Gr.II,
NEC.

Ray
24/5/08
ISSUED

Certified to be true copy
Seal
Admission

29

(96)

67 110

Annexure-I

STATEMENT OF ARTICLE OF CHARGE FRAMED AGAINST SHRI BIJAN KUMAR CHAKRABORTY, STENOGRAPHER GR.II, NEC SECRETARIAT, SHILLONG.

Article-I

That the said Shri Bijan Kumar Chakraborty, Stenographer Gr.II, NEC, while functioning as PA to i/c Financial Adviser and Financial Adviser during the period 2006-07 and 2007-08, has absented himself from duty in an unauthorized manner w.e.f. 28.11.2006 to 14.12.2006, w.e.f. 01.05.2007 to 18.05.2007 and w.e.f. 15.11.2007 to 16.11.2007.

Article-II

That during two of the aforementioned periods of absence from duty and while functioning in the aforementioned office, the said Shri Bijan Kumar Chakraborty, left Hqrs without obtaining proper Station Leave Permission and without mentioning the destination.

Article-III

That while functioning in the aforementioned office, the said Shri Bijan Kumar Chakraborty, Stenographer Gr.II has shown habitual negligence or neglect of duty and even dereliction of duty.

Article-IV

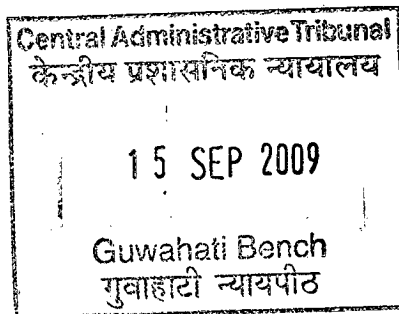
That during a considerable portion of the aforementioned period and while functioning in the aforementioned office, the said Shri Bijan Kumar Chakraborty, did not sign in the attendance register.

Article-V

That while functioning in the aforementioned office, the said Bijan Kumar Chakraborty, has, at least one occasion, has shown lack of integrity by denying the existence of a letter which he himself wrote to the Dy Secretary (Admn.), NEC.

Article-VI

That while functioning in the aforementioned office, the said Shri Bijan Kumar Chakraborty, has suppressed facts and information intentionally to subvert the process of collection of information by this Secretariat.



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(91)

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Annexure-II

Statement of imputation of misconduct or misbehaviour in support of the articles of charge framed against Shri Bijan Kumar Chakraborty, Stenographer Gr.II, North Eastern Council Secretariat.

Article-I & II

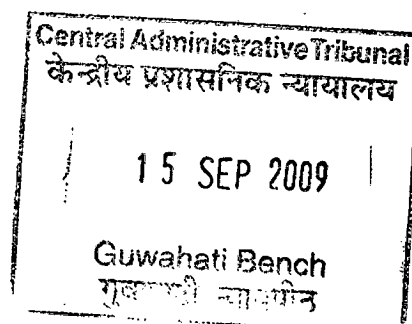
A. Shri B. K. Chakraborty, Steno Gr.II vide his application dt. 30.4.2007 had informed this office that his controlling officer was not accepting his leave application, submitted on 24.04.2007. Without recommendation of his controlling officer, the Administration Section is not in a position to accept or take action on the same. Furthermore, in the said leave application that was not accepted by his Controlling Officer, there was no mention of any specific ground on which he was asking for leave. He only referred to an omnibus 'Personal Ground'

B. Shri B.K. Chakraborty, Steno Gr.II, when his leave application was not duly recommended through proper channel, he left for his destination on 01.05.07 after simply submitting a C.L. application on the 30th April, 2007, for 3 days C.L. (i.e. on 1st, 3rd and 4th May, 2007) to the Deputy Secretary, NEC without the knowledge of his controlling officer. Even in his C.L. application, he did not mention about any ground. Later, he sent an e-mail communication to the Deputy Secretary praying for an extension as well as conversion of his leave [without the knowledge of his Controlling officer] saying that he was already in Bangalore and he wanted to extend his leave, in connection with the higher studies of his daughter. He did not mention any such reason in his earlier leave applications. He joined back only on 21.05.2007. Any leave application should mention the address while on leave if the Govt. servant wants to leave Hqrs. That was not so in the case of Shri Bijan Kumar Chakraborty, Stenographer Gr.II. Furthermore, tried to mislead the office by submitting a C.L. application whereas he knew beforehand that he would apply for E.L. But, he submitted C.L. application so that he was not to wait for the decision of the office on his E.L. application. In the C.L. application, he did not even mention his destination. By this he tried to subvert the decision making process which is unbecoming of a Government servant and violative of Rule 3 of the CCS (Conduct) Rules.

C. He showed a willful disregard for authority by submitting an application to DS (Admn) when he was to leave only the next day and he did not give even a reasonable time to his employer for due consideration of the same, thus violating the basic tenets of the master-servant relationship between the employer and the employed and, in the process, he again violated Rule 3 of the CCS (Conduct) Rules.

Article-III.

A. Shri Bijan K.r. Chakraborty, Steno Gr.II was attached to Financial Adviser, NEC vide order No. NEC/ADM/21/92 (Pt.) dt. 12.12.2005. There is no order of his withdrawal from Finance Sector. The Deputy Financial Adviser, NEC vide his Memorandum No. NEC(FIN)/13-76/2005-06 Vol. II. Dt. 18.4.2007 has informed the Deputy Secretary that Shri B.K. Chakraborty, Steno Gr.II has never reported to the Financial Adviser, NEC and he is not under the strength of Finance Wing. In this connection, it is mentioned here that Dy. Financial Adviser was holding the charge of FA from 26.4.2006 to 24.01.2007. Thus the said Shri Bijan Kumar Chakraborty, Stenographer Gr.II violated Rule 3(1)(ii) of the CCS (Conduct) Rules, as per the communication received from his Controlling Officer.



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Article-IV.

A. It also came to the knowledge of the Head of Office that he is not putting his initials in attendance register, which is mandatory for a non-Gazetted staff of the Central Government attending office. This, too, violates Rule 3 of the CCS(Conduct) Rules.

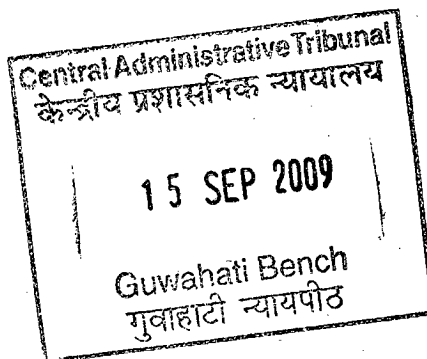
B. Again vide O.M. No. NEC/ADM/89/83 Vol. II dt. 31.10.2007, Shri Chakraborty was asked to furnish documents like copies of relevant pages of attendance registers where he is putting his signatures duly authenticated by the Controlling Officer as proof of the fact that he is reporting to him for duty. But, Sri Chakraborty failed to do so.

Article-V.

A. Shri Chakraborty, again on 16.11.2007, had submitted a C.L. application directly to the Deputy Secretary, NEC without recommendation and knowledge of his Controlling Officer (i.e. F.A.). A Memorandum was issued to him vide No. NEC/ADM/89/83 Vol. II dt. 3.12.2007 asking him to explain the reasons for not submitting the same to his Controlling Officer and why disciplinary action should not be taken against him for violation of the provisions of CCS (Conduct) Rules in this regard. In his reply dated 10.12.2007, he simply denied the existence of any application. He clearly lied and made a false statement which is unbecoming of a Government servant. This again violates Rule 3 of the CCS (Conduct) Rules.

Article-VI.

A. In inviting a reference to para 3 of this Council Secretariat O.M. No. NEC/ADM/89/83 Vol. II dt. 17th September, 2007, he was asked to provide proofs in support of his journey to Bangalore (i.e submit the photocopies of Air tickets etc.). Instead, Shri Chakraborty has submitted only the boarding pass of his return journey, whereas the office required the copies of the tickets. He has not submitted his tickets and not made any effort either for procuring copies of the same from the concerned airlines/agency. This shows he wanted to suppress facts with an ulterior motive. This is unbecoming of a Government servant and violates Rules 3 of the CCS (Conduct) Rules.



93/32

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Annexure-III

LIST OF DOCUMENTS TO SUBSTANTIATE THE ARTICLES OF CHARGES.

1, 1A	Application for E.L. from 28.11.06 to 13.12.2006 (dated 9.11.2006 and 22.11.2006)
2.	Application for non-acceptance of Joining Report. Dt. 19.12.2006
3.	Joining Report dt. 15.12.2006
4.	Application for non-acceptance of Leave application dt. 30.4.2007.
5.	Earned Leave application dt. 24.4.2007 from 1.5.07-11.5.07.
6.	C.L. Application dt. 30.04.2007.
7.	Joining report dt. 21.05.2007.
8.	Application for leave extension dt. 08.05.2007(E-mail)
9.	E.L. Application dt. 21.6.07 from Shri B.K. Chakraborty.
10.	Memorandum dt. 25.5.2007 to Sri B.K. Chakraborty, Steno.Gr.II.
11	Reply of the Memorandum dt. 25.5.2007.(dated 6.6.2007)
12	Memorandum dt. 27.7.2007 to Sri B.K. Chakraborty, Steno Gr.II.
13, 13A	Reply of the Memorandum dt. 27.07.2007(30.7.2007 and 3.9.2009)
14.	Memorandum dt. 28.8.2007 to Shri B.K. Chakraborty, Steno Gr.II.
15.	Office Memorandum dt. 17.9.2007.
16.	Reply of Office Memorandum dt. 17.9.2007 (dated 27.9.2007)
17.	Copy of Boarding Pass dt.16.5.2007
18.	Office Memorandum dt. 31.10.2007.
19.	Reply of Office Memorandum dt. 31.10.2007(dated 16.11.2007)
20.	C.L. application dt. 16.11.2007.
21	Memorandum dt. 3.12.2007
22.	Reply of Memorandum dt. 3.12.2007(dated 10.12.2007)

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
15 SEP 2009
Guwahati Bench
गुवाहाटी न्यायपीठ

33

FORM OF APPLICATION OF LEAVE

(94)

1. Name of the applicant

: BITAN KR CHAKRABARTY

2. Leave rule applicable

: As per rules

3. Post held

: Steno - II

4. Department, Office and Section

: DONER, NEC sectt,

5. Pay

: 6800/-

6. House rent allowance, conveyance allowance or other compensatory allowances drawn at present post

7. Nature and period of leave applied for and the date from which required

: E-L. from 28.11.06 to 12.12.06

8. Saturday and Sunday and Holidays if any proposed to be prefixed/suffixed to the leave

9. Ground on which leave is applied for

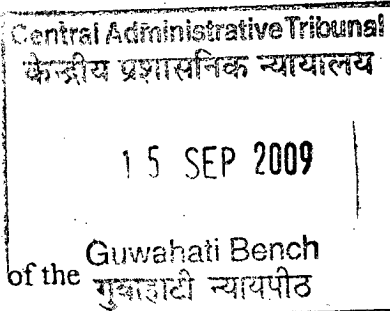
: Medical treatment and check up in Apollo Hospital Chennai.

10. Date of return from last leave and the nature and period of that leave

11. I ~~proposed~~ do not proposed to avail myself of leave travel concession on the following Block year during ensuing year.

Date : 9.11.06

Address during leave



Remarks/recommendations of the Controlling officer

Guwahati Bench
गुवाहाटी न्यायपीठ

B.K. Chakrabarty
Steno. II
Signature of the applicant
9.11.06

Signature
Designation

Date :

Shri B.K. Chakrabarty
It should be recommended
by the controlling officer.
12/11
09-11-06

Certified to be true copy
Dy. Secy
Admn. Secy

70

24
The Deputy Secretary
NEC Secretariat
Shillong - 3

REC Secy. Shillong.
Administration Section.
No. 1290. Dt. 28/11/06.

Dated Shillong, 22nd Nov 2006.

Sub: Request for E.L. from 28.11.06 to 13.12.06
for check up etc. at Apollo Hospitals, Chennai.

Sir, I want to state that, although I
am attached with I/C F.A., but perhaps
already due to the presence of 2 (two) stenos
attached to him, may be, he does not
require my assistance, and hence, he has
utilized me. I was attached with the
then F.A. Mr. U.N. Mazhi and rendered my
service to him.

That sir, due to ongoing treatment
in the above named hospital, D.H.S. Shikha
has allowed me to go for check up. Then
I, most respectfully request you sir
to grant me E.L. mentioned above for
the same.

Thanking you,

Encl: 1/ copy of leave application
dated 09.11.06

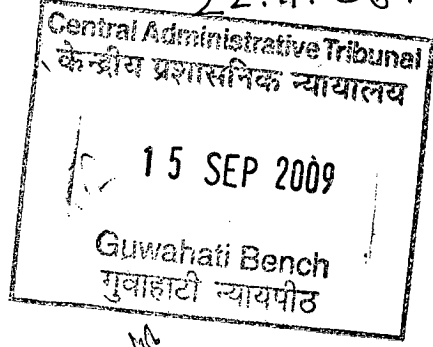
2/ original letter of

(A) We cannot grant D.H.S., Shillong
leave unless it is dated 16.11.06,
recommended by the
controlling officer

22-11-06

Thapa P. inform
Mr. Chakrabarty

yours faithfully
B. K. Chakrabarty
Steno - 11
22.11.06.



Certified to be true copy
Sd/-
Advocate

No.HSM/(T)/C/3/2006/17876,

Dated Shillong, the 16.11.2006.

In continuation to this Office Order No.HSM/T/C/4/2005/4049, dt.14/03/2006 Shri. B. K. Chakraborty, Steno-II, North Eastern Council Secretariat, Shillong is hereby allowed to undergo Medical Check up at Apollo Hospital, Chennai for a modified Puestow operation on the Pancreas as advised by the Hospital Authority.

Two escorts are allowed.

Sd/-Dr.K.H.Lakiang,
Director of Health Services (MII)
Meghalaya, Shillong.

Memo.No.HSM/(T)/C/3/2006/17877-79,

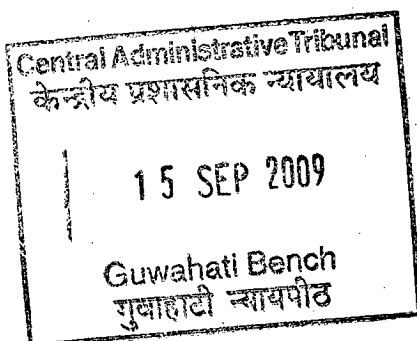
Dated Shillong, the 16.11.2006.

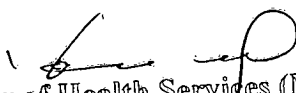
Copy forwarded for information and necessary action to: -

1. The Medical Superintendent, Apollo Hospital, Chennai.
2. The Secretary, North Eastern Council Secretariat, Shillong.

In view of the health condition of the patient an outward journey by Air alongwith two escorts is recommended

3. Shri. B. K. Chakraborty, Steno-II, North Eastern Council Secretariat, Shillong. With a request that while submitting the application for check up a copy of the following documents should be enclosed.
 - I. Approval Orders issued by this Directorate.
 - II. Discharge Summary Report/ Advised Slip.
 - III. ~~Medical Bills (in Original) & Essential Certificate duly countersigned by Hospital authority.~~




Director of Health Services (MII)
Sd Meghalaya, Shillong.

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36 1

(Sd/H)

Annexure E-3

The Deputy Secretary,
NEC Secretariat,
Shillong - 3

NEC Secretariat

Administration

No. 1472 Dt. 29/12/06

19.12.06

Sub: Non acceptance of joining report.

Sir,

With due respect, I would like to state that on 28.11.06, I took leave on medical ground to go to Apollo Hospitals, Chennai for further treatment and check up and returned back on 14th Dec 06. On 15th Dec '06 I wanted to join in my present sector (i.e. with F.A.), unfortunately, or may be due to administrative confusion, I was directed by S.O. (Adm) to submit joining report to i/c F.A. which was turned down by the present P.A. of F.A., stating, F.A. is reluctant to accept my joining report, for reasons not known to me. Here, I would also like to bring the ~~in~~ similar incident, when I came back from leave in last June '06 from treatment in Chennai, i/c F.A. specifically instructed S.O. (Admin) to rephase me to some other place, may be due to presence of already existing 2 No of P.A's. attached to him.

That Sir, considering the above, circumstances, my leave/joining report may kindly be accepted, and I further request your kindness to arrange a suitable relocation please.

1906

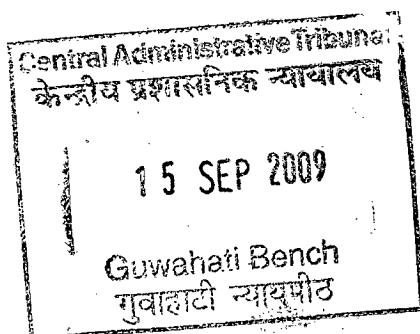
22/12

Sd. Thapa

22/12

P.T.O.

L.O. P.T.



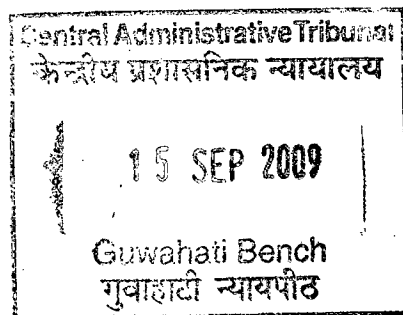
Certified to be true copy
Sd/ Advocate

with that act of your kindness, I will remain grateful to you.

Thanking you,

Yours faithfully,
B.K. Chakrabarty,
Steno - II
19.12.06.

- Enclosed :
- 1) Joining Report, dtd. 15.12.06.
 - 2) D.H.S. copy for treatment, dated 16.11.06.,
 - 3) D.H.S. copy for treatment, dated 14.03.06.
 - 4) N.E.C. Secretariat order dated 12th Dec. 05 for to work with F.A.



38 / Annexure - E-4

(99)

176

To
The Deputy Secretary
NCC Secretariat
Shillong - 3

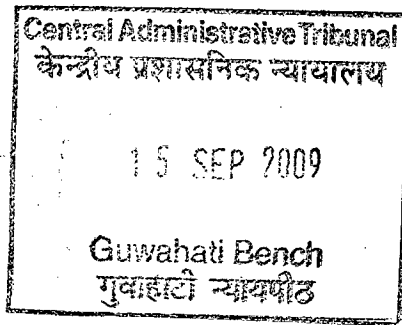
15.12.06

Sub: Joining Report

Sir,
I have the honour to
state that I am joining
my duty after availing
E.L. (On medical ground)
from 28.11.06 to 14.12.06.

Thanking you,

yours faithfully
B.K. Chakrabarty
Steno - 110
15.12.06



Certified to be true copy
[Signature]
Advocate

39 ~~Annexure~~ - E-5

(100)

no

%

The Deputy Secretary
NEC Secretariat
Nongrim Hills, Shillong-3

Dated 30th April 07

Sub: Non acceptance of leave application.

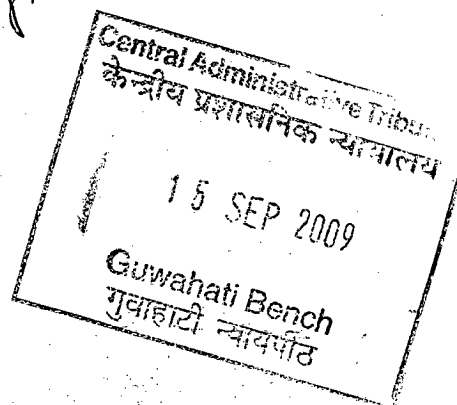
Sir,
I have the honour to state that I have applied for leave on 24.04.07 but, as mentioned on the subject above, the leave application was turned down probably by citing the Memo No NEC(FIN)/13-76/2005-06 Vol. II dated 18.4.07 issued by DFA which was served upon me only on 27.4.07.

However, considering on the immediacy of my E.L. I respect-fully submit before your good-self for needful please.

Copy of letter dtd 18.4.07 of DFA and my unrecommended E.L. application for m.

yours faithfully
P. K. Chakra
Steno-II

Certified to be true copy
Jyoti
Adusale



NEC Secretariat
By Secy's Cell.
Dy No
Date 30/4/07

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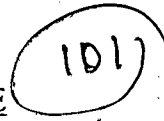
180

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180

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41

Annexure - E-7

(102)

487

122

To
The Deputy Secretary
NEE Secretariat
Shillong - 3

30.09.07

Sir,

I have the honour to
state that C.L. on ~~2~~ 1st
may and 3rd and 4th May 07
may please be granted.
Permission to leave the sta-
tion also may be granted.

Thanking you,

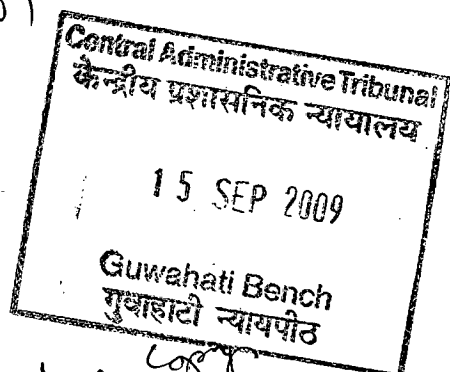
Yours faithfully
A. K. Chakrabarty
Steno-II
30.9.07

NEE Secretariat
Shillong

Date 30/9/07

A. Lyfan
SO (Fin)

(SOA)
30-04-07



certified to be true

Seal
Advocate

42 Annexure - C-8

(103)

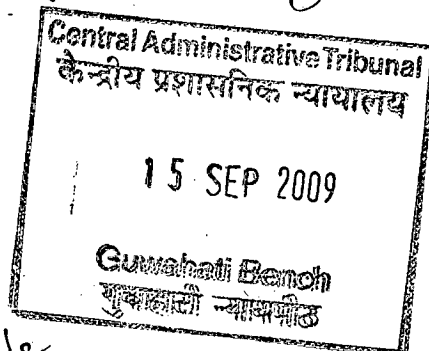
123

To
The Deputy Secretary
N.E.C. Secretariat
Nongrim Hill, Shillong.

21.05.07, Shillong.

Sub: Joining Report

Sir,
With due respect, I would
like to state that after arriving
leave on personal ground, I
am submitting my joining
report for the regularising the
leave period.



Thanking you,

P.u. on file

Yours faithfully
B. K. Chakraborty
Steno - II
21.05.07

NEC Secretariat
Dy. Secy's Cell.

By No
Date 22/05/07

(S/A)

(M 23-05-07)

Certified to be true copy.

Seal

Admstr

to! Mail - mohitosh_shillong@yahoo.co.in

Subject: Bijon Chakrabarty's application for Leave Extension

Date: Tue, 8 May 2007 13:30:14 +0530

From: bandana.chakrabarty@wipro.com Add to Address Book

To: mohitosh_shillong@yahoo.co.in

To,
The Deputy Secretary,
NEC Sectt.,
Nongrin Hills
Shillong - 793003

Ref: Application for leave extension.

Sir,

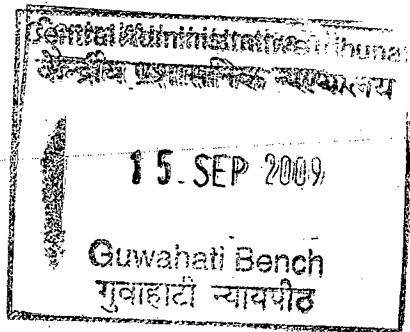
My CL application dated 30.04.07 may please be treated as EL from 01.05.07 to 18.05.07.

As I had mentioned in my application, the purpose of my taking CL with station leave permission is for the higher education of my daughter. Due to indefinite nature of the admission procedure, I would like to further extend my leave upto 18.05.07 for which I will remain obliged.

Thanking you:

Your's faithfully,
B.K. Chakrabarty
Steno - II

Dated: 08.05.07



Forwarded to Dy Secy
10/5/07

SO(A)

14-05-07

NEC Secretariat
Dy. Secy's Cell.

Dy No 1267

Date 14/5/07

for Thapa

14/5

http://in.f86.mail.yahoo.com/ym/ShowLetter?MsgId=5455_4204698_22859_2177_1385_... 5/10/200

Certified to be true copy
Secy
Advocate

44
FORM OF APPLICATION OF LEAVE

(105)

Wm. E-IC

1. Name of the applicant

BITAN KUMAR CHAKRABARTY

2. Leave rule applicable

as applicable

3. Post held

steno - II

4. Department, Office and Section

NEC Secretariat, Shillong

5. Pay

Rs. 6950/- Basic

6. House rent allowance, conveyance allowance or other compensatory allowances drawn at present post

As admissible

7. Nature and period of leave applied for and the date from which required

E.L. on personal ground up to 18th May 07.

8. Saturday and Sunday and Holidays if any proposed to be prefixed/suffixed to the leave

suffixed Saturday and Sunday.

9. Ground on which leave is applied for

E.L. on personal ground

10. Date of return from last leave and the nature and period of that leave

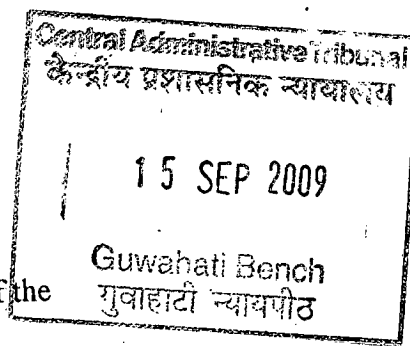
11. I proposed/do not proposed to avail myself of leave travel concession on the following Block year during ensuing year.

Date: 21.6.07.

Address during leave

Remarks/recommendations of the Controlling officer

Date:



B.K. Chakrabarty
Steno-II
Signature of the applicant

Signature
Designation

Certified to be true copy
J. J. J.
Advocate

1 45 ~~CONFIDENTIAL~~ 83 126
1061

GOVERNMENT OF INDIA
MINISTRY OF DEVELOPMENT OF NER
NORTH EASTERN COUNCIL SECRETARIAT
NONGRIM HILLS, SHILLONG-793003.

No. NEC/ADM/ 89/83Vol.II..

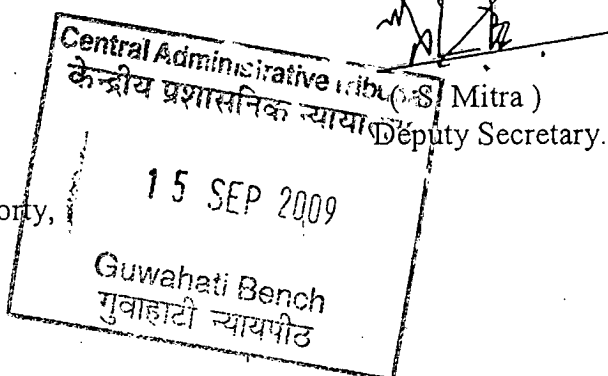
Dated Shillong the 25th May, 2007.

MEMORANDUM

Shri Bijan Kumar Chakraborty, Stenographer Gr.II, NEC had been attached to the Financial Adviser, NEC vide order No.NEC/ADM/21/92 Pt. dt. 19.12.2005. There is no order of his withdrawal from Finance Sector. The Deputy Financial Adviser, NEC vide Memorandum No.NEC(FIN)/13-76/200506 Vol. II dt. 18.4.2007 has informed the undersigned that Shri B.K. Chakraborty has never reported to the Financial Adviser, NEC for duty and he is not on the strength of Finance Wing.

Shri B.K. Chakraborty is hereby directed to explain the reason why action should not be taken against him for negligence or neglect of duty which is amounting to misconduct in terms of Rule 3 of the CCS (Conduct) Rule, 1964, as defined vide the O.M. No.47/3/59-Ests. (A), dated 20.10.1959. His reply must reach the undersigned within 7 (seven) days from the date of issue of this Memorandum.

Shri Bijan Kumar Chakraborty,
Stenographer Gr.II, NEC,
Shillong.



Copy to :

Deputy Financial Adviser, NEC, in response to his Memorandum No.NEC(FIN)/13-76/2005-06 Vol. II Dt. 18.4.2007.

25/5/07
ISSUED

certified to be true copy
Deputy
Advocate

To,

The Deputy Secretary,
North Eastern Council Secretariat,
Nongrim Hills, Shillong.

Sub: Explanation as sought for.

Ref: Your Office Memorandum No.NEC/ADM/89/8 Vol - II dated 25/05/2007

Sir,

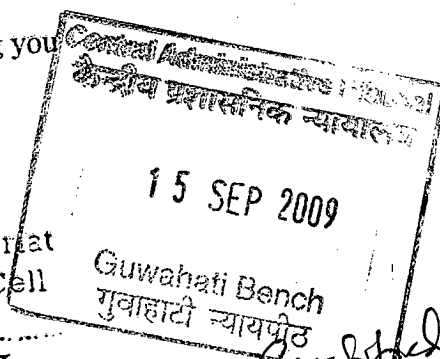
In reply to your office memorandum reference, I am hereby submitting my explanation as sought for in the following few lines:-

1. That your said office memorandum order reference bears the date 25/05/2007, which was a Friday and thereby I was directed to provide my explanation as sought for, within seven days from the date of issue thereof, which itself is a little surprising because usually the time granted for replies counted from the date of receipt of the memorandum asking for such explanation. The said memorandum was given to me on 30/05/2007 implying that I was actually given only two days time to provide my explanation, against all cannons of the basic principles of natural justice. However counting seven days from 25/05/2007 I had the time to file this instant letter of explanation on or before 02/06/2007. However, 02/06/2007 and 03/06/2007 being Saturday and Sunday respectively and the office being closed, I actually had the time to file this letter upto Monday, 04/06/2007. As it happen on Monday, 04/06/2007 and Tuesday, 05/06/2007, the office did not function due to the office picketing called by the Khasi Student Union (KSU). Thus I am filing this instant letter of explanation on this day and the same is within the time that had been allotted to me.
2. That, it is a fact that I have been attached to the Financial Adviser, NEC with effect from 19/12/2005. On being so attached I duly reported and joined in that post with effect from 19.12.2005 immediately.
3. That since having joined the said post, I am regularly serving in that post and the question of I not being on the strength of the Finance Wing does not arise at all.
4. That I have never committed any negligence or neglect of duty and therefore the question of I having committed any act or of having refrained from doing my duties, so much so that the same can be taken to be a misconduct in terms of Rule of the CCS (conduct), Rules, 1964, does not arise at all.
5. That I do not admit any of the allegations contained in your said office memorandum under reference.
6. That in the given circumstances I humbly submit that the explanation provided herein above may kindly be accepted and no further action in this regard may be initiated against me.

Thanking you

Yours faithfully,

A.K. Chakrabarty
06.06.07
B.K. Chakrabarty
Steno - II



NEC Secretariat
Dy. Secy's Cell

By No.

Date

6/6/07

Confirmed to be true copy
Seal
Advocate

47/1 Annexure E-13

CONFIDENTIAL

108

GOVERNMENT OF INDIA
MINISTRY OF DEVELOPMENT OF NER
NORTH EASTERN COUNCIL SECRETARIAT
SHILLONG-793003

No. NEC/ADM/89/83 Vol. II

Dated Shillong the 27th July, 2007.

MEMORANDUM

This is with reference to para 2 and para 3 of your explanation dtd. June 06, 2007, in response to our communication No.NEC/ADM/89/83 Vol. II dt. 25th May, 2007. Since you are attached with the Financial Adviser, NEC and he is your controlling officer, you are to explain the reason as to why action should not be taken against you for proceeding on leave without proper leave sanction order and without station leave permission, especially when the same was not recommended by your controlling officer? You may further explain why break in service will not be considered for your wilful absence from duty, as provided in CCS (Conduct) Rules.


Your reply must reach the undersigned within 3 (three) days from the date of receipt of this communication by you.



(S. Mitra)

Deputy Secretary.

Shri Bijan Kumar Chakraborty,
Stenographer Gr.II, NEC,
Shillong.

 27/7/07
RECEIVED



Certified to be true copy
Jenif
Advocate

48 ~~Amurine~~ - E-14 ~~129~~

NEC Sectt. Shillong.

Administrative Section

No. 981 Dt 6/8/07

To

The Deputy Secretary
North Eastern Council Secretariat,
Shillong.

Reference: Your Office Memo No.NEC/ADM/89/83 Vol.II dated 27.07.2007

Dated Shillong
The 30th July 2007

Respected Sir,

I was served with your Office Memorandum dated 27.07.2007, referred to hereinabove, on Friday the 27th July, 2007 itself. By that Office Memorandum I have been asked to provide certain explanations. However I was given only 3 (three) days time counting from the date of receipt thereof to file my reply through no reason was cited for requiring me to file my reply so urgently.

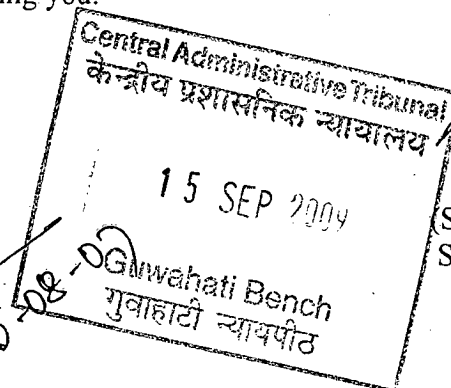
It may kindly be appreciated that I can be expected to provide the said explanations, whatsoever be the same actually, only if I am given a reasonable time period to do so and just three days time being given to me for so doing cannot be taken to be reasonable by any stretch of imagination.

Therefore I now request your good self to provide me atleast 15 days time to submit my explanations as required by the said office memorandum.

Thanking you.

Yours faithfully,

B.K. Chakraborty
30.07.07
(Shri B.K. Chakraborty)
Stenographer Gr.II, NEC.



(Sof)
P.u. on file.
15/8/07

NEC Secretariat
Dy. Secy's Cell

By No 166
Date 30/7/07

Certified to be true copy
Dr. [Signature]
Adviser

To,

The Deputy Secretary,
North Eastern Council Secretariat,
Mongrim Hills, Shillong.

Dated, Shillong,
The 3rd Sept/07.

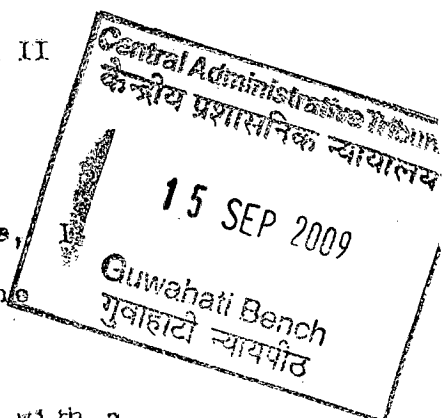
Subject : Explanation as sought for.

Reference: Your Office Memorandum No. NEC/ADM/89/9 Vol II
dated 27/07/2007.

Sir,

In reply to your office memorandum reference,
I am hereby submitting my explanation as sought for in the
following few lines :-

1. That on the 30th of May, 2007, I was served with a copy of your office Memorandum No. NEC/ADM/89/83 Vol II dated 25.5.2007 wherein it was stated that I have been attached to the Financial Adviser, and that I had never reported to the Financial Adviser for duty. I was also directed to explain the reason why action should not be taken against me for negligence or neglect of duty amounting to misconduct in terms of Rule # 3 of the CCS (Conduct) Rule, 1964.
2. That on the 6th of June, 2007, I duly submitted my reply to the said office Memorandum dated 25.5.2007 vide my letter dated 06.06.2007.
3. That by your office Memorandum No. NEC/ADM/89/83 Vol II dated 27.7.2007 referred to hereinabove, reference has been made to para 2 and para 3 of my aforesaid explanation letter dated 06.06.2007, wherein three days time have been given to me to provide my reply.
4. That with regard to the aforesaid memorandum, I have requested your good office to kindly grant me at least 15 days time to submit my explanation to your queries as required by the said office Memorandum dated 27.7.2007.



49
NEC Secy Shillong.
Administrative Section.
No 1131 Dt 3/9/07

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Su Thapa
2/9/07

3/9/07 - (SOLK)
P.U. on file
directly P.
on 13/9/07
contd..2..

Certified to be true copy.
J. S. S.
Advocate

5. That after submitting my letter dated 30.07.2007 asking for 15 days time, no communication has been made by your good office as to whether my said application was accepted or not, and since so many days has passed without receiving any confirmation from your office, I have not submitted my replies although the said 15 days period has already lapsed.

6. That on the 28th of August, 2007, I was served with your office letter No. NEC/ADM/89/83 Pt. dated the 28th of August, 2007 where I was given another seven day time to furnish my explanation as had been sought for by your said office Memorandum dated 27.7.2007.

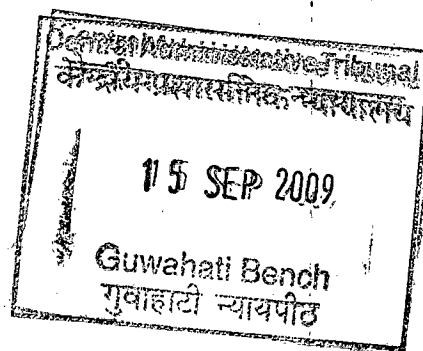
7. That now I may submit my humble explanation to the queries sought by your good office vide your aforesaid office Memorandum as follows :

(i) That vide your office Order No. NEC/ADM/21/92/Pt. dated 12.12.2007 I was directed to report to the Financial Adviser which I accordingly did and joined in that post with effect from 19.12.2005.

(ii) That on account of the urgency and suddenness of my daughter's higher education admission procedure, which required my presence with her, I took casual leave on the 1st May, 3rd May and 4th May, 2007, which was duly communicated by my application dated 30.04.2007 to your office. Subsequently I have extended my leave to 18.05.2007 by my E. Mail dated 8.5.2007 where I have stated that my C L application dated 30.4.2007 may be treated as E L from 01.05.2007 to 18.05.2007 alongwith my reasons for doing so.

(iii) That after returning from my said leave I have duly submitted my joining report vide my letter dated 21.05.2007.

contd..3..



57 (112) 89 132
(203)

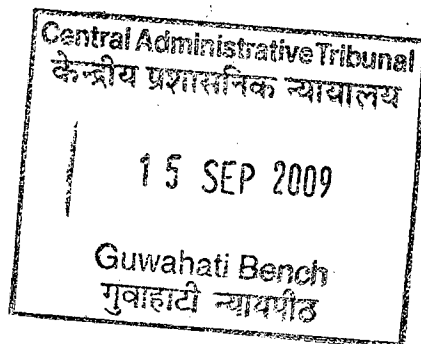
- 3 -

Therefore in the light of my aforesaid explanations I may state that I have valid and genuine reasons for taking leave, and considering the nature of the circumstances, and the situation in which I was placed into my extended leave was very much justified. As such my conduct does not come within the purview of Rule 3 of CCS (Conduct) Rules 1964 Hence I am relying upon the mercy of your kind consideration and sagacity, to kindly appreciate and accept my aforesaid explanation and no further action in this regard may be unjustly initiated against me.

Thanking you

Yours faithfully

B. K. Chakraborty
steno-TT
(B. K. Chakraborty)



52 *Amr...* E-16⁹⁰ (113) (200) 133

GOVERNMENT OF INDIA
NORTH EASTERN COUNCIL SECRETARIAT
MINISTRY OF DEVELOPMENT OF N.E.R.
NONGRIM HILLS, SHILLONG-793003

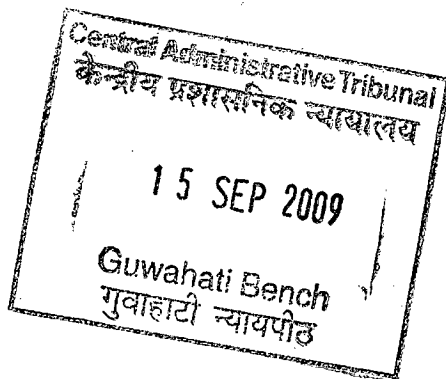
NO. NEC/ADM/89/83 Pt.

Dated the 28th Aug. 2007

You have, vide your letter dated 30.07.2007 in response to the O.M. dated 27.07.07, sought for 15 days' time to submit your reply allegedly because the time given for filing your reply was not 'reasonable by any stretch of imagination'.

It is surprising that you have judged the reasonableness of the time given to you unilaterally and without considering the issues involved- reasonableness of time is to be judged against the issues involved and, in this case in hand, time allowed was not insufficient for framing a suitable reply.

However, in view of your prayer and in view of the fact that you have already got more than 3 weeks' time to ponder over the issues, you are again given a time of 7 days from the date of receipt of this communication. In case you fail to furnish a reply to the O.M. of even no. dated 27.07.2007 by the time as stipulated in this O.M., necessary action would be taken against you for violation of provisions of CCS (Conduct) Rules as mentioned in the O.M. of even no. dated 27.07.2007. No further communication would be issued from this office asking for any further explanation from you.



(Signature)
(S. Mitra)
Deputy Secretary.

Shri B.K. Chakraborty,
Stenographer Grade-II.

(Signature)

28th August 07.

ISSUED

*Certified to be
true copy
Dated
Advocate*

No.NEC/ADM/89/83 Vol. II.

Dated Shillong the 17th Sept., 2007.

OFFICE MEMORANDUM

In inviting a reference to your explanation dt. 3.9.2007 in response to this Council Secretariat's O.M.s No.NEC/ADM/89/83 Pt. dt. 27.07.07 and 28.8.2007, the undersigned is to state that your explanations are neither adequate nor satisfactory for a decision to be taken as regards your unauthorised absence. You are to furnish your comments on the following points at the earliest.

1. Vide para 7(i) of your letter, you have mentioned that as per Office Order No. NEC/ADM/21/92/pt. dt. 12.12.2007, you had reported to the Financial Adviser. Since as per your own judgement and assertion, you are working with your controlling officers to their satisfaction, why has the Deputy Financial Adviser returned your Earned Leave application dt. 24.4.2007 without positive recommendation? Furthermore, you may furnish a copy of the order dtd. 12.12.2007 as mentioned in para 7(i).

2. It is seen from your E.L. application dated 24.04.07 that you have not mentioned any specific ground on which you were asking for leave - you only referred to an omnibus 'Personal Ground'. Then, when your application was not duly recommended through proper channel, you left for an undisclosed destination on 01.05.07 after simply submitting a C.L. application for 3 days (i.e. on 1st, 3rd and 4th May, 2007) to the Deputy Secretary, NEC without the knowledge of the controlling officer. Even in your C.L. application, you did not mention any ground and the place where you wanted to go with the station leave permission. You must be aware that no station leave permission can be granted by any Govt. of India office without information on these two aspects of leave.

3. Later, you sent an e-mail communication to the undersigned praying for an extension as well as conversion of your leave [without the knowledge of your Controlling Officer] saying that you were already in Bangalore and you wanted to extend your leave, in the connection with higher studies of your daughter. You did not mention any such reason in your earlier leave applications. E-mail messages can be sent from anywhere. In the absence of any proof that you had actually gone to Bangalore for the said reason, your action may be construed as a willful disregard for authority. It looks as if you absented yourself from office simply because your leave was not recommended and you wanted to prove that you were capable of disregarding the Govt. of India rules in this regard with impunity. So, you are requested to provide proofs in support of your journey to Bangalore and the reasons referred to. You may please submit the photocopies of your tickets etc.

4. There was no specific leave address mentioned in your CL/EL applications. This is mandatory. Why wasn't this done?

Certified to be true copy
[Signature]
Advocate
15 SEP 2009
Guwahati Bench
गुवाहाटी न्यायपीठ
Guwahati Administrative Tribunal
গুৱাহাটী প্রশাসনিক ন্যায়ালয়

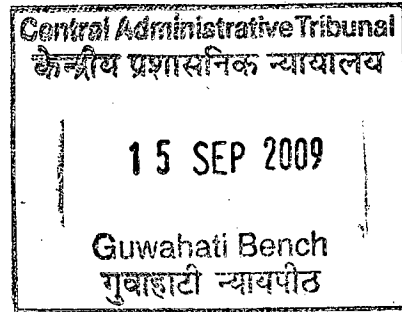
5. It also came to the knowledge of the undersigned that you are not putting your initials in attendance register, which is mandatory for a non-Gazetted staff attending office. You are to furnish documents like copies of relevant pages of attendance registers where you are putting your signatures duly authenticated by the Controlling Officer as proof.

6. You are to furnish explanations/documents as asked for in the paras 1-5 ante within 10 days from the date of receipt of the O.M, failing which action will be taken against you in terms of the provisions contained in the CCS (Conduct) Rules, 1964.

(S. Mitra)
Deputy Secretary

Shri Bijan Kumar Chakraborty,
Stenographer Gr.II, NEC,
Shillong.

Shri Bijan
ISSUED



To

The Deputy Secretary,
 North Eastern Council Secretariat,
 Nongrim Hills, Shillong.

Dated, Shillong,
 The 27th Sept/07.

Sub :- Explanation as sought for.

Ref :- Your Office Memorandum No. NEC/ADM/89/83 Vol. II
 dated 17th September, 2007.

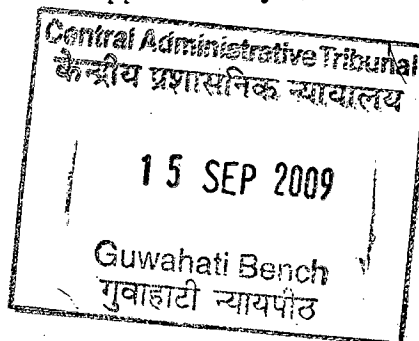
Sir,

In reply to Your Office Memorandum referred to above,
 I am hereby submitting my explanation as sought for in the
 following few lines :-

1. That with regard to paragraph 1 of your Office Memorandum referred to above, I am submitting herewith a copy of the said Office Order No. NEC/ADM/21/92 Pt. dated 12.12.2005 and not 12.12.2007 as has been erroneously reflected in my earlier representation dated 3.9.2007 on account of typographical mistake.
2. That with regard to paragraph 2 of the abovementioned Office Memorandum, I might apprise your good office that you have some how erroneously stated that I have submitted my E L dated 24.4.2007 before applying my C L. In this regard I might mention here that I had duly submitted my C L application dated 30.4.2007 requesting for leave on the 1st, 3rd and 4th May, 2007 with permission to leave station. Subsequently I extended my said leave till 18.05.2007 by my E. Mail dated 8.5.2007 wherein the same may be treated as E L and I have also explained my genuine reason for taking such leave.
3. That with regard to the contents of paragraph 3, of your said Office Memorandum, I am hereby enclosing the Photocopies of

(Sd/-)
Only the Bangalore
Guwahati ticket
has been provided
for the purpose
27/9/07

Sd/-
Su. Thapra
27/9



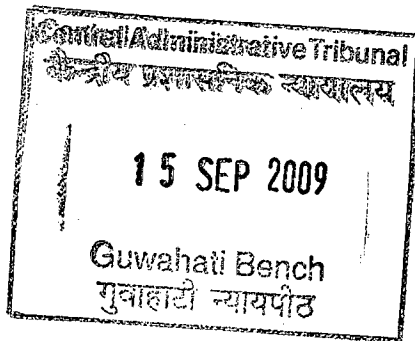
contd...2..

Copy kept
Sd/-
Advocate

4. That with regard to the contents of paragraph No. 4, I might apprise your good office that at the time of departing for Bangalore, I did not have any specific address there, however my youngest brother who is serving therein Bangalore requested me to share the same accomodation with him (if needed the matter may kindly be communicated for authentication)

5. That with regard to the contents of paragraph No. 5, I strongly assert that I have duly reported to the Administration as per the direction of your Office Memo No. NEC(FIN) 13-76/2005 -06 Vol.II dated April, 18 April, 2007. I am also submitting herewith a copy of the said office Memo. After I duly joined the said(Administration Section) the Administration Section Officer has not advised me anything of concrete nature.

Thanking you



Yours faithfully

B. K. Chakrabarty
Steno-II

(Shri B. K. Chakrabarty)
Steno- II, N.E.C.

27/1 Annure. E-19
(118)

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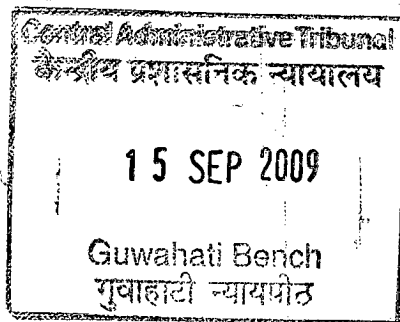
Boarding/Pass		Baggage Details	
PNR	2689892	Sl. No.	117/59
Name	MR BIJAN CHAKRABARTY	Status	Group
Sl. No.	117/59	No. of	2
Flight No.	686	Baggage	Count 0
Date	16/05/2007	Baggage	(Kg) 0
Boarding Time	05:25AM	Perm	0
From	BANGALORE To GUWAHATI	Express	Wt(Kg)
Gate		Charg	(Rs)

Frisking of person and checking of hand baggage is mandatory.
Passengers are requested to co-operate with the security staff.

For reservations visit www.airdeccan.net
or call 080 3900 8888

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Simplify

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Assigned to be done copy
Jany
Advocate

58
CONFIDENTIAL
GOVERNMENT OF INDIA
MINISTRY OF DEVELOPMENT OF NER
NORTH EASTERN COUNCIL SECRETARIAT
NONGRIM HILLS, SHILLONG-793003.

No.NEC/ADM/89/83 Vol. II.

Dated Shillong the 31st October, 2007.

OFFICE MEMORANDUM

In inviting a reference to your reply dated 27.9.2007 in response to this Council Secretariat's O.M.s No.NEC/ADM/89/83 Pt. dt. 17.09.07, the undersigned is to state that your explanations contained in the said reply are neither adequate nor satisfactory for a decision to be taken as regards your unauthorised absence.

1. As regards para 2 of your reply, the statement made by this office is not erroneous and this the office has been absolutely factually correct in mentioning that you have submitted your E.L. application dated 24.04.07 and that you did not mention any specific ground on which you were asking for leave - you only referred to an omnibus 'Personal Ground'. Then, when your application was not duly recommended through proper channel, you left for an undisclosed destination on 01.05.07 after simply submitting a C.L. application for 3 days (i.e. on 1st, 3rd and 4th May, 2007) to the Deputy Secretary, NEC without the knowledge of the controlling officer. Even in your C.L. application, you did not mention any ground and the place where you wanted to visit with the station leave permission requested by you. You must be aware that no station leave permission can be granted by any Govt. of India office without information on these two aspects of leave. You should have framed your reply as per queries.

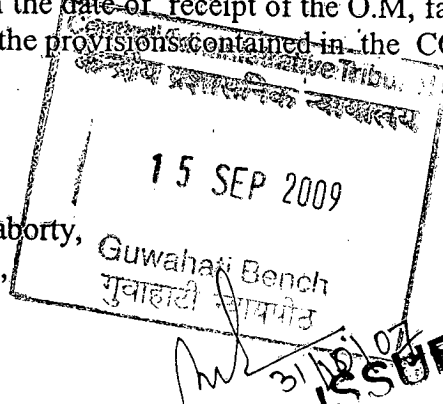
2. As regards para 3, proofs submitted by you are not sufficient. You may please submit the photocopies of your tickets for both to and fro journeys. You have submitted only the boarding pass of your return journey. The office requires the copies of the tickets.

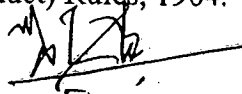
3. As regards para 4, even if you did not have any specific address to mention in the applications, you should have informed us about your place of stay/address immediately on reaching your place of visit.

4. As regards para 5, your clarification is, to say the least, insufficient. You have not been withdrawn from the cell of the Financial Adviser. You are to furnish documents like copies of relevant pages of attendance registers where you are putting your signatures duly authenticated by the Controlling Officer as proof of the fact that you are reporting to him for duty.

5. You are to furnish explanations/documents as asked for in the paras 1-4 ante within 10 days from the date of receipt of the O.M, failing which action will be taken against you in terms of the provisions contained in the CCS (Conduct) Rules, 1964.

Shri Bijan Kumar Chakraborty,
Stenographer Gr.II, NEC,
Shillong.




(S. Mitra)
Deputy Secretary.

Copy to be done copy
Seal
Adm. Secy

To,
The Deputy Secretary,
NEC Secretariat,
Shillong.

Subject: - Explanations as sought for.

Reference: - Your Office Memo No.NEC/ADM/89/83 Vol-II dated 31-10-2007.

Dated, Shillong.
The November, 2007.

Sir,

In reply to your said office memo referred to hereinabove I beg to submit my explanation as sought for and state as follows: -

1. With regard to the contents of the paragraph numbered 1 of your said Office Memorandum dated 31-10-2007 I state first that I myself have no record of my E.L. application dated 24-04-2007 which is why I was of the bonafide belief that there was no such E.L. application filed by me. However, the fact remains that there was no communication from the office to me stating that my E.L. application was not duly recommended. Second, I state that my said C.L. application dated 01-05-2007 was duly submitted to the proper authority and as such I myself do not admit that the same was not in the knowledge of my Controlling Officer. Third, I say that I submitted my said C.L. application dated 30-04-2007 bonafide without any ill motive, as the great urgency of the given situation demanded and subsequently I had made the further communications by sending an E-mail from Bangalore on 08-05-2007 whereby I prayed that the whole period of my absence from 01-05-2007 to 18-05-2007 be treated as earned leave; whereupon it duly came to the knowledge of the office as to the ground of taking leave and the place which I had to visit, namely Bangalore with my said station leave permission. In view of the whole sequence of events as disclosed in the explanations provided by me as sought for till date, I very respectfully submit that all my actions and inactions have been duly explained so much so that there can be no imputation against me about any willful wrong action or any ill motive in all my actions or inactions.
2. With regard to the contents of the paragraph numbered 2 of your said Office Memorandum I state that unfortunately I have misplaced the tickets of my journey whereupon the boarding pass provided by me may kindly be accepted as adequate proof of my travel to Bangalore.

Sir: Thap
NEC
Dy
16/11/07
Date 16/11/07

Examine and put
up. Sent this a
delayed reply?

Central Administrative Tribunal
15 SEP 2009
Guwahati Bench

Certified to be
true copy
Secy
Advocate

- 60 (121) (214) 98 (1)
3. With regard to the contents of the paragraph numbered 3 of your said Office Memorandum I state that I had no ill motive in not having informed my place of stay/address immediately on reaching Bangalore. Moreover my address for communication was duly provided when I sent my said E-mail dated 08-05-2007.
4. With regard to the paragraph numbered 4 of your said Office Memorandum I state that on 19-12-2006, I had duly written a representation to your Honourable Office explaining the circumstances under which my joining report to the then I/C FA was not being accepted and that the FA specifically instructed SO (Admn) to replace me to some other place. However thereafter I never received any order of replacement and continued to report to the Finance Wing but no provision was made for me to sign in the attendance registration. However, it may kindly be appreciated that I had been regularly making myself available for duty at the Finance Wing, irrespective of whether I was allowed to sign in the attendance register or not, without being absent unauthorisedly at any time, which is the reason why I had duly sought for leave when I had to go out to Bangalore on the 1st of May 2007.

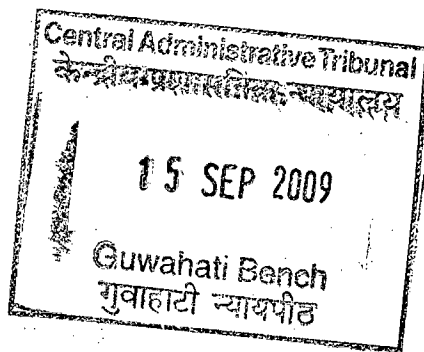
(A copy of my said letter dated 19-12-2006 being enclosed herewith for your kind information).

Therefore I humbly request your goodself to kindly appreciate that my whole conduct has not been at all unbecoming of a government servant nor violative of any particular rule or regulation, but rather has been bonafide prompted by the exigencies of the circumstances, whereupon there is no reason whatsoever as to why any proceedings have to be drawn up against me for taking any action in terms of the provisions of CCS (Conduct) Rules, 1964.

Thanking you.

Yours faithfully,

B. K. Chakraborty
16/1/07
(Bijan Kr. Chakraborty)
Stenographer, Grade-II.



61 Annex. E-22

122
NEC Secy's Cell
Administration
No. 1571 Dt. 16/11/07

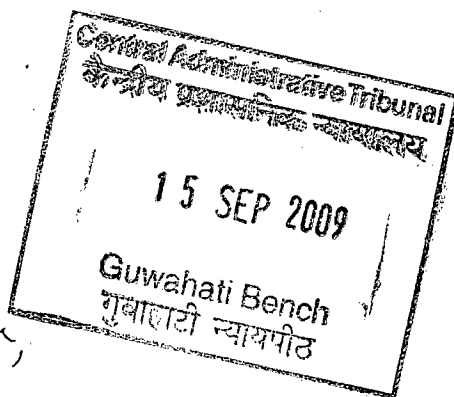
70

The Deputy Secretary
NEC Secretariat
Shillong - 3.

Dated 16.11.07

Sir,

C.L. on 15.11.07 and 16.11.07 may
please be granted, as I am
not keeping well.



Thanking you,

NEC Secretariat
Dy. Secy's Cell
Dy. No. _____
Date 16/11/07

Issue another memo to
Sum. Why will be
submitting his application
to his controlling officer.
yours faithfully
B.K. Chakravarty
16.11.07

Thapa. 16-11-07

Certified to be true copy.
[Signature]
Advocate

62
- E-23
CONFIDENTIAL
(123)
443

**GOVERNMENT OF INDIA
NORTH EASTERN COUNCIL SECRETARIAT
MINISTRY OF DEVELOPMENT OF NORTH EASTERN REGION
NONGRIM HILLS :: SHILLONG - 793 003.**

No.NEC/ADM/89/83 Vol.II

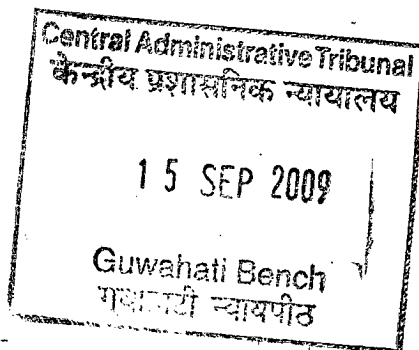
Dated: Shillong, the 3rd Dec/2007.

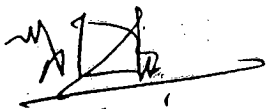
MEMORANDUM

With reference to your C.L. application Dtd. 16.11.07 addressed to the undersigned, you are hereby directed to explain the reason for not submitting the same to your controlling officer. You may further explain why disciplinary action should not be taken against you for violation of the provision of CCS (Conduct) Rules.

Your reply should reach the undersigned within 7 (seven) days from the date of issue of this memorandum.

Shri B. K. Chakraborty,
Steno Grade II. NEC




(S.Mitra)
Deputy Secretary.

ISSUED

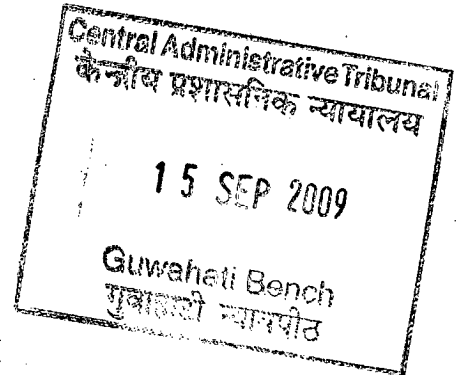
Certified to be true copy
Jant
Advocate

63 *Ammu*. E 24 *124*

NEC Secy Shillong.
Admin Section.
By No 1635 Dt 11/12/07

To,

The Deputy Secretary,
NEC Secretariat,
Shillong-3.



Subject:- Explanation as sought for

Reference:- Your Memo No. NEC/ADM/89/83 Vol-II
Dated 3rd Dec/2007

Dated 10/12/2007

Sir,

With reference to the subject cited above, I beg to inform your goodself that I have never submitted my C.L. application on 16/11/2007. Moreover it was submitted far back on 30/04/2007 addressing to the ~~Secretary~~ The Deputy Secretary, NEC Secretariat, Shillong-3, through his P.A. and was duly received on that very day (i.e. on 30/04/2007)

So in the light of the above circumstances I request your goodself to kindly drop the instant matter forthwith.

Thanking you

Yours faithfully,

B.K. Chakraborty
Steno-II
(B.K. Chakraborty)
Steno -II

Sofa
10-12-07
NEC Secretariat
17/12/07

Certified to be true copy
17/12/07
Aswade

64

Annexure - F

(125)

145

To,

The Deputy Secretary,
NEC Secretariat,
Shillong-3.

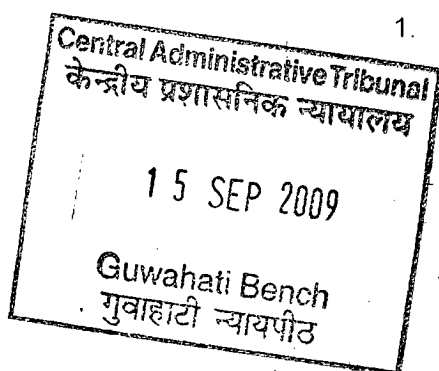
Date: - 12-06-2008.

Subject: - Humble written statement of defence of Shri. B.K. Chakraborty in reply to the Article of Charges framed against him.

Reference: - Your Office Letter No.NEC/ADM/9/2008, dated 22-05-2008, addressed to me and received by me on 02-05-2008.

Respected Sir,

In inviting your kind attention to the subject matter cited above, I Shri. B.K. Chakraborty, am hereby submitting my written statement in reply to your letter under reference.



1. That with regard to the Article of Charges numbered I and II, I vehemently deny the charges made against me and in reply thereto I state that I have duly submitted my E.L. application dated 22-11-2006 from 28-11-2006 to 13-12-2006, wherein I have mentioned that my reason of absence was due to medical check-up. I had to go to the Apollo Hospital, Chennai, and in this regard the Director of Health Services, Meghalaya, by his letter No.HSM/(T)/C/3/2006/17876, dated 16-11-2006 has allowed me to undergo a modified Puestow Operation at the said hospital at Chennai. A copy of the same has also been intimated to the Secretary, NEC, Shillong.

That with regard to my leave application dated 30-04-2007 I state that I have submitted my C.L. application for the 1st, 3rd and 4th day of May, 2007 and subsequently on account of my daughter's prolonged higher education admission procedure, I had to extend my leave application till 18-05-2007 which I had duly communicated to the Deputy Secretary, NEC Secretariat, vide my e-mail dated 08-05-2007. In reference to the aforesaid, I have duly submitted my explanation dated 16th November 2007, in para 1, as sought for by your Office Memo No.NEC/ADM/89/83 Vol II, dated 31-10-2007. After returning from my said leave I have duly submitted my joining report which was not accepted and in this regard I have duly submitted my application dated 19-12-2007 wherein I have, in my understanding, tried to explain the reasons for non-acceptance of my joining report and requested your good office to kindly accept the said joining report. It is also pertinent to mention here that in all these occasions as mentioned above in respect of my leave above I have duly submitted my leave application to the proper authority and that I was on leave for bonafide reasons and purposes and not merely for any whim or fancy on my part.

2. That with regard to the Article of Charges numbered III, I vehemently deny the charges framed against me and in reply I state that all these allegations are false and malicious and in this regard I have already intimated your good office by my explanation dated 06-06-2007 wherein I have categorically stated that I was attached to the Financial Adviser, NEC, and have duly reported and joined in that post w.e.f. 19-12-2005

Contd...2/-

Certified to be true copy
J. J. J.
Advocate

Received today
the 23rd June '08
23/6/08

NEC Secretariat
Dy. Secy's Cell.

Dy. No

Date 23/6/08

(Sd/-)
23-06-08

65 -2-

(126)

(118)

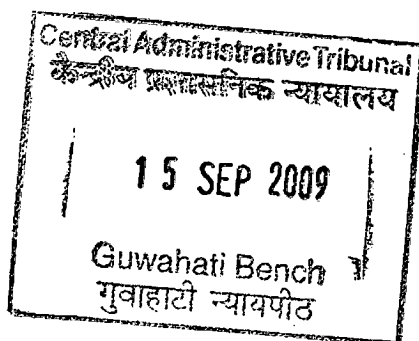
146

and after joining the said post I was rendering my services dutifully and as such I was not in any manner whatsoever neglectful of my duties and the question of violating Rule 3(1)(ii) of The CCS (Conduct) Rules, does not arise at all.

3. That with regard to the charges framed in the Article of Charges numbered IV, I vehemently deny the said charges and in reply thereto state that in my application dated 16-11-2007, at para 4, I had duly explained in detail the reasons for not putting my initials in the attendance register. In this regard the said explanation may kindly be perused by your good office.
4. That I vehemently deny the charges framed in the Article of Charges numbered V, and in reply thereto I say that I have already replied to the said allegations to the Deputy Secretary, NEC Secretariat, vide my letter dated 10-12-2007 wherein I have informed that I have never submitted my C.L. application on 16-11-2007 but it was submitted by me on 30-04-2007 which was duly received by the P.A. of the Deputy Secretary, NEC Secretariat, on that very day itself, so the statement made by me is not false and the copy of the said C.L. application dated 30-04-2007 shall be brought into record as and when needed by your esteemed office.
5. That I vehemently deny the charges framed in the Article of Charges numbered VI, and in reply thereto I categorically state that in my explanation dated 27-09-2007 I have submitted my boarding pass while answering to the queries of your good office as to my whereabouts and I strongly affirm and assert that I was actually in Bangalore in connection with the higher studies of my daughter. In this regard I have already submitted my boarding pass as because the air tickets were misplaced by me on the bonafide belief that they would no longer be required. It is also pertinent to mention that the boarding pass which was duly submitted by me is itself concrete proof to show that I was actually in Bangalore at the relevant point of time and I am not suppressing any fact and information as such.

In the light of the aforesaid statements, I beg to submit that all the charges which have been framed against me by your good office are baseless and repetitive as I have already submitted my explanations, as sought for by your esteemed office every now and then, to your satisfaction. I therefore humbly pray before your esteemed office to kindly drop all the allegations and charges framed against me.

Thanking you.



Yours faithfully,
B.K. Chakraborty
12.06.08
(Shri. B.K. Chakraborty)
Stenographer Gr.II,
NEC.

66 Annexure - G (129) 148

GOVERNMENT OF INDIA
MINISTRY OF DEVELOPMENT OF NORTH EASTERN REGION
NORTH EASTERN COUNCIL SECRETARIAT
NONGRIM HILLS, SHILLONG-793003.

No.NEC/ADM/9/2008.

Dated Shillong the 16th July, 2008.

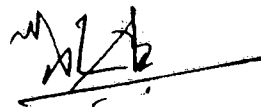
ORDER

WHEREAS an inquiry under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, is being held against Shri Bijan Kumar Chakraborty, Stenographer Gr.II, North Eastern Council Secretariat, Shillong.

AND WHEREAS the undersigned considers that an Inquiry Officer should be appointed to inquire into the charges framed against the said Shri Bijan Kumar Chakraborty, Stenographer Gr.II, North Eastern Council Secretariat, Shillong.

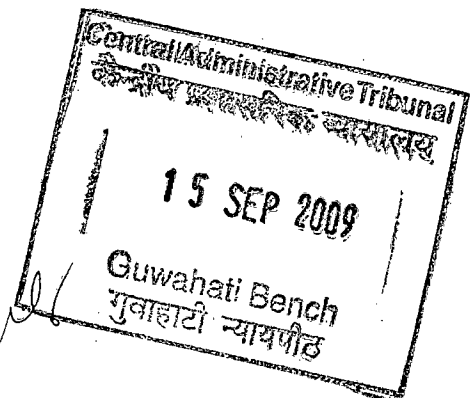
NOW, THEREFORE, the undersigned, in exercise of the powers conferred by sub-rule (2) of the said rule, hereby appoints Shri K. Haridoss, Executive Engineer (C), as the Inquiring Officer to inquire into the charges framed against the said Shri Bijan Kumar Chakraborty, Stenographer Gr.II, NEC.

This issues with the approval of Secretary, NEC.


(S. Mitra)
Deputy Secretary.

Copy to :

1. Shri Bijan Kumar Chakraborty, Stenographer Gr.II, NEC, Shillong.
2. Shri K. Haridoss, Executive Engineer (C), NEC.



Certified to be true copy
J. J. J.
Advocate

67 Armenia - H 128 148

GOVERNMENT OF INDIA
MINISTRY OF DEVELOPMENT OF NORTH EASTERN REGION
NORTH EASTERN COUNCIL SECRETARIAT
NONGRIM HILLS, SHILLONG-793003.

No.NEC/ADM/9/2008.

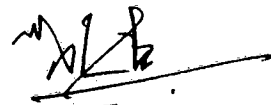
Dated Shillong the 16th July, 2008.

ORDER

WHEREAS an inquiry under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, is being held against Shri Bijan Kumar Chakraborty, Stenographer Gr.II, North Eastern Council Secretariat, Shillong.

AND WHEREAS the undersigned considers that a Presenting Officer should be appointed to present on behalf of the undersigned the case in support of the articles of charge.

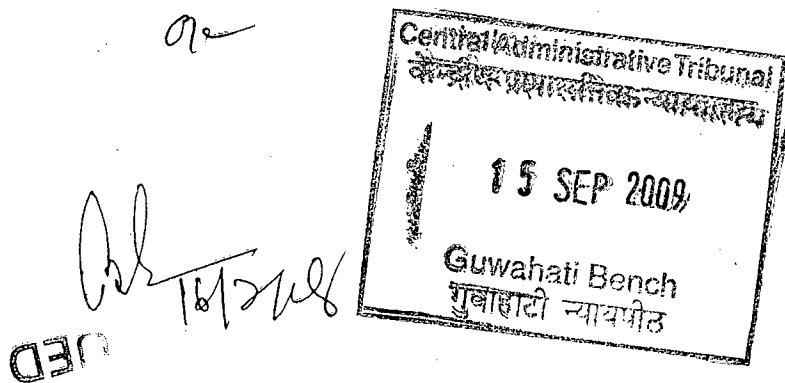
NOW, THEREFORE, the undersigned, in exercise of the powers conferred by sub-rule (5)(c) of the rule 14 of the said rules, hereby appoints Shri S.L. Baidya, Section Officer (Admn.) as the Presenting Officer.



(S. Mitra)
Deputy Secretary

Copy to :

1. Shri K. Haridoss, Executive Engineer (C), NEC.
2. Shri S.L. Baidya, Section Officer (Admn), NEC.
3. Shri Bijan Kumar Chakraborty, Stenographer Gr.II, NEC, Shillong.



Certified to be true copy
Jed
Advocate

68

FORM OF APPLICATION OF LEAVE

B.K. Chakrabarty

(129)

1. Name of the applicant : B.K. Chakrabarty
2. Leave rule applicable : As admissible
3. Post held : Steno - II
4. Department, Office and Section : NEC Secretariat, Shillong.
5. Pay : 7100/=
6. House rent allowance, conveyance allowance or other compensatory allowances drawn at present post : As admissible
7. Nature and period of leave applied for and the date from which required : 4.8.08 to 14.8.08 E-L.
8. Saturday and Sunday and Holidays if any proposed to be prefixed/suffixed to the leave : 2nd and 3rd Aug 08 - being Saturday and Sunday. prefixing 15th, 16th and 17th being
9. Ground on which leave is applied for : E.L. national holiday plus Saturday & Sunday -
10. Date of return from last leave and the nature and period of that leave : To visit my ailing brother in Bangalore.
11. I proposed/do not proposed to avail myself of leave travel concession on the following Block year during ensuing year. 2008-09.

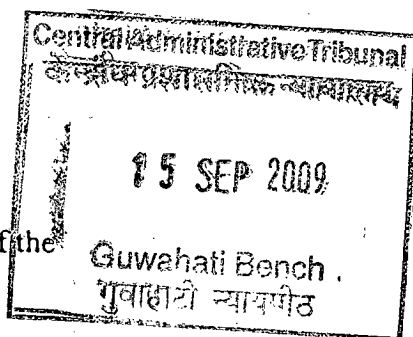
Date : 15.7.08.

Address during leave .

Remarks/recommendations of the Controlling officer

Date :

15/7/08

B.K. Chakrabarty
Steno - II
Signature of the applicant

Signature

Designation

J. Adviser (A)

S. M. Thompson

16/7/08

Certified to be true copy
J. Adviser (A)
Advocate

69
Annexure - 2

130

129

CONFIDENTIAL

GOVERNMENT OF INDIA
NORTH EASTERN COUNCIL SECRETARIAT
NONGRIM HILLS, SHILLONG

NO. NEC/T/MISC/2008

Dated:- 4th August, 2008.

To

The Deputy Secretary,
North Eastern Council Secretariat,
Nongrim Hills, Shillong.

Sub:-

Provisionary
Submission of Inquiry Report of Shri Bijon Kumar Chakraborty,
Steno-II.

Sir,

I was deputed as an inquiry officer on 16th July, 2008 to look into the case of Shri Bijon Kumar Chakraborty, Steno-II. I have examined the case as per the papers submitted by the Administration and the following provisional findings are made. Six points were initiated against him vide Article I to VI, which are enclosed herewith. It is learnt that Mr. Bijan Chakraborty has availed Earned Leave and is yet to join. On his joining the Inquiry with the person concerned will be initiated and the final report will be submitted accordingly.

Yours faithfully

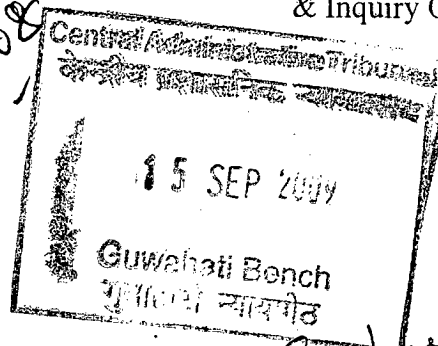
(K. Handloss)

Executive Engineer (I & C)
& Inquiry Officer

Examine and p. u.

15/8/08

04-08-08



Certified to be true copy
Deep
Advocate

70 (131) (130)

Article - I

That the said Shri Bijan Kumar Chakraborty, Stenographer Gr.II, NEC, while functioning as PA to i/c Financial Adviser and Financial Adviser during the period 2006-07 and 2007-08 has absented himself from duty in an unauthorized manner w.e.f. 28.11.2006 to 14.12.2006, w.e.f. 01.05.2007 to 18.05.2007 and w.e.f. 15.11.2007 to 16.11.2007.

Observation: -

i) **Earned Leave from 28.11.2006 to 14.12.2006 :-** The E.L. application forwarded on 9.11.2006 was not recommended by the Controlling Officer. He has submitted the E.L. application directly to the Deputy Secretary. In turn the Deputy Secretary has informed that the E.L. application was not recommended by the Controlling officer.

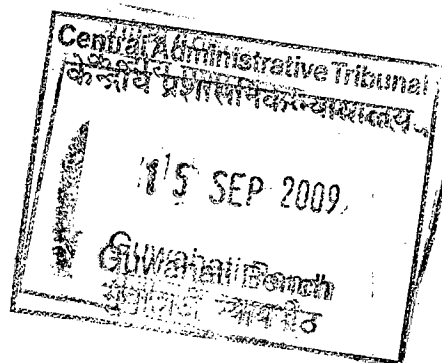
In spite of this communication, without the sanction of the E.L. from the competent authority, Mr. Bijan Chakraborty has left the office which is in violation of the CCS Leave Rules.

Joining Report :- A non-acceptance of Joining Report application was submitted to the Deputy Secretary dated 19.12.2006 in which a copy of Joining Report dated 15.12.2006 was enclosed, neither has it been submitted to the Controlling Officer nor to the Deputy Secretary, it seems the Joining Report dated 15.12.2006 has been attached at a later stage.

It has been stated in the application that on 15.12.2006, after availing leave, he wanted to join duties on 15.12.2006, the same was also directed by the S.O.(Admn.) to submit the joining report through F.A. who is the controlling officer, but the joining report was not submitted through the controlling officer.

ii) **Earned Leave from 01.05.2007 to 18.05.2007 :-** The E.L. application was submitted on 24.04.2007 was not again forwarded through the controlling officer. The reason stated was that the application was not accepted by F.A. and DFA. It seems that the E.L. application was not submitted to FA or DFA for recommendation. However a copy of the E.L. application dated 24.4.2007 has been enclosed without the signature of the controlling officer, as such the statement made by Shri Bijan Chakraborty does not have any proof that his application was neither accepted nor turned down.

However on 30.4.2007, a C.L. application was submitted directly to Deputy Secretary without the information to the controlling officer requesting for C.L. and Station Leave permission on 1st, 3rd and 4th May, 2007 without mentioning the destination. It cannot be accepted that after completion of more than 25 years of service Shri Bijan Kumar Chakraborty does not know the rule that a person has to declare the place of visit and reason for the visit. Neither of the above was mentioned in the application.



Contd...P.2/-

An e-mail dated 8th May, 2007 was submitted to the Deputy Secretary mentioning that the reason of extension of leave was required in connection with the higher education of his daughter; however neither any reason nor the place was mentioned in the C.L. application which was submitted on 30.04.2007.

On 21.5.2007, a joining report along-with E.L. application for leave from 1st May to 18th May, 2007 was submitted directly to the Deputy Secretary without recommendation of the Controlling officer. The ground in which leave was requested for was on personal ground not on educational ground of his daughter, as it was mentioned in the e-Mail.

Whereas the joining report was submitted on 21.5.2007, however the E.L. application was submitted only on 21.6.2007 after a period of one month's gap that too without the recommendation of the controlling officer.

Article – II

That during two of the aforementioned periods of absence from duty and while functioning in the aforementioned office, the said Shri Bijan Kumar Chakraborty, left Hqrs. without obtaining proper Station Leave Permission and without mentioning the destination.

Observation :- As stated above.

Article – III

That while functioning in the aforementioned office, the said Shri Bijan Kumar Chakraborty, Stenographer Gr. II has shown habitual-negligence or neglect of duty and even dereliction of duty.

Observation :- Shri Bijan Kumar Chakraborty's habitual negligence of or neglect of duty and even dereliction of duty is established through the fact that whenever he is posted to any of the Sector, the Controlling Officer has shown unwillingness to accept him for duties. Even the FA and DFA through their Memorandum had clearly reflected the same vide their office Memorandum No.NEC(FIN)/13-76/2005-06 Vol.II dated 18.4.2007. They stated that Shri Bijan Kumar Chakraborty is not in the strength of Finance Wing.

Unless and until the negligence of duty and dereliction of duty is noticed, the controlling officer would not have ever mentioned such statement, despite of the fact that Shri Bijan Kumar Chakraborty was attached to Finance Wing.

This has the evidence of the Administration through their Memorandum No.NEC/ADM/89/83 Vol.II dated 25th May, 2007 in which negligence and neglect of duty under Rule 3 of the CCS (Conduct) Rule, 1964 was issued.

Contd...P.3/-

Article - IV

That during a considerable portion of the aforementioned period and while functioning in the aforementioned office, the said Shri Bijan Kumar Chakraborty, did not sign in the attendance register.

Observation :- Shri Bijan Kumar Chakraborty having completed more than 25 years of service cannot deny the fact that to show the presence in the office a non-gazetted officer has to sign in the Attendance Register to show his presence in the office for duties on his arrival in the office and before leaving the office.

Shri Bijan Kumar Chakraborty has accepted the fact vide his explanation dated 6th June, 2007, that he was performing duty with FA, NEC w.e.f. 19.12.2005. If it is so, the question arises as to why he has failed to sign in the Attendance Register of the Finance Wing. This shows the contradiction to the explanation submitted by Shri Bijan Kumar Chakraborty.

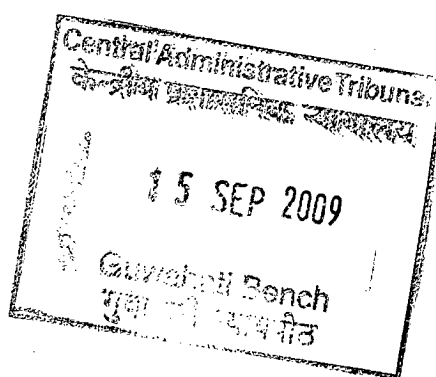
Article - V

That while functioning in the aforementioned office, the said Shri Bijan Kumar Chakraborty, has, at least on one occasion shown lack of integrity by denying the existence of a letter which he himself wrote to the Dy. Secretary(Admn.), NEC.

Observation :- Shri Bijan Chakraborty has submitted a C.L. application dated 16.11.2007 requesting for C.L. on 15th and 16th November, 2007 to the Dy. Secretary directly not forwarding through the controlling officer.

Here also the Administration issued a Memorandum to Shri Bijon Chakraborty on 3rd December, 2007 asking for explanation for not submitting the application through his Controlling officer.

Whereas in reply to the letter Shri Bijon Kumar Chakraborty has out rightly denied the fact that no such CL application was submitted on 16.11.2007 which is totally wrong and misleading, as a copy of the same is available in records. Hence it is established that he has shown lack of integrity by denying the existence of a letter which he himself wrote to the Dy. Secretary(Admn.).



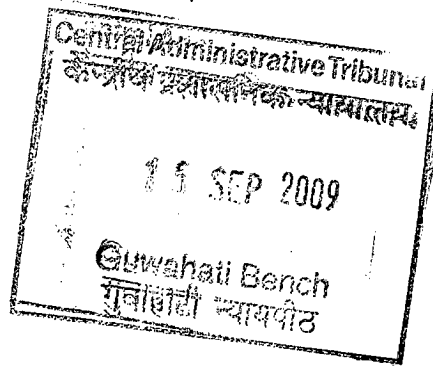
Contd...P.4/-

Article – VI

That while functioning in the aforementioned office, the said Shri Bijan Kumar Chakraborty, has suppressed facts and information intentionally to subvert the process of collection of information by this Secretariat.

Observation :- Shri Bijan Chakraborty has deliberately not mentioned the place and purpose of visit for intention known best to him. Otherwise more than 25 years of experienced service holder cannot suppress the basic information required for availing CL or EL.

The CL application dated 30.04.2007 did not mention the place and purpose of visit. In the e-mail dated 8th May, 2007 sent to the Deputy Secretary, the reason was mentioned as daughter's education, whereas in the E.L. application submitted on 21.6.2007, the reason stated was that EL was availed on personal ground, which is contradictory to his own statement.



74 Annexure-X

SEC Secy, Shillong.
Administration Section.

No 1028 Dt 16-9-08

The Deputy Secretary
NEC Secretariat
Shillong - 3.

(135)

(16)

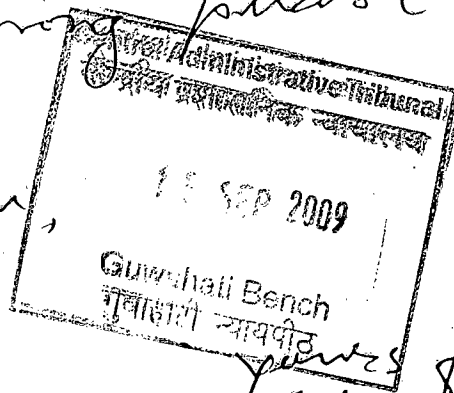
Dated 8.9.08.

(Through Adviser Health)

Sir,

Due to non availability of reliable source, I could not submit my (also personal sickness) leave extension application in time, which may kindly be condoned please. I am attaching hereby the emergency certificate and medical sickness certificate which are self explanatory. The detail if any left may be supplied at the time of joining phase.

Thanking you,



Yours faithfully,
B.K. Chakrabarty

Steno to Adviser Health
NEC Secretariat
Shillong.
08.9.08.

Forwarded for us.

15/9/08

Sri Thapa

15/9/08

So. (Adm)

Certified to be true copy
Jant
Adviser

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M. Muty
15/9

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NAZARETH HOSPITAL
LAITUMKHRAH, SHILLONG - 793 003
MEGHALAYA

EMERGENCY MEDICAL CERTIFICATE

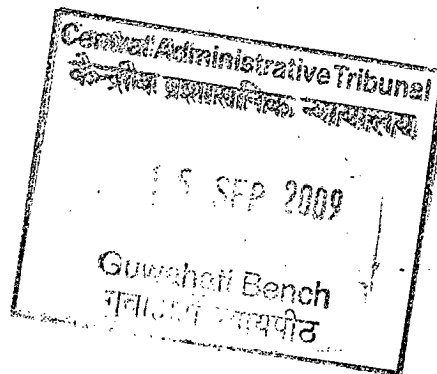
This is to certify that Bijan K. Chakravarty
was admitted to this Hospital on 11.8.08 at 8 PM
as an emergency case suffering from ALD & hypothyroidism & DM
He/She was treated and discharged on 30.8.08

Immediate hospitalization was essential in order to prevent further deterioration in the condition of the patient.

Adv. 30 (thirty) days rest after discharge

Date 30/8/08

[Signature]
Medical Officer



Nazareth Hospital, Shillong

MEDICAL SICKNESS CERTIFICATE

Date 29/8/08
Hospital No. 97/5828

This is to certify that Sri/Smt. Bijan K. Chakravarty
was admitted to Nazareth Hospital on 11.8.2008 was
treated for ALD & HYPOTHYROIDISM & DM and was discharged
on 30/8/08 He/She is advised rest for 30 (thirty)
days following discharge.



[Signature]
Medical Officer

Designation: Medical Officer
Nazareth Hospital
Shillong

Annexure - 2

76

CONFIDENTIAL

GOVERNMENT OF INDIA
NORTH EASTERN COUNCIL SECRETARIAT
NONGRIM HILLS, SHILLONG

(137)

NO. NEC/T/MISC/2008

Dated:- 13th October, 2008.

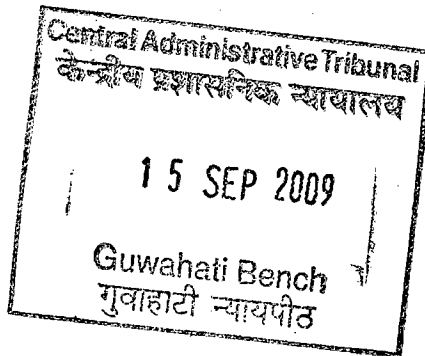
To

Shri Bijon Kumar Chakraborty,
Steno - II,
North Eastern Council Secretariat,
Nongrim Hills, Shillong.

Sub:- Submission of Inquiry Report of Shri Bijon Kumar Chakraborty,
Steno-II.

Refer the subject mentioned above a verbal inquiry need to be conducted before submitting the final report to the Administration. You are requested to be present today the 13th Oct, 2008 at 5.00 P.M in the chamber of the undersigned for conducting the verbal inquiry.

This is for information and necessary action.



(K. H. Riddhass) 13/10/08
Executive Engineer (T & C)
& Inquiry Officer

Certified to be true copy
Jant
Advocate

Annexure - M (77) 158

(138) CONFIDENTIAL (16)

SO(A)
For immediate 1-9
21-10-88

**GOVERNMENT OF INDIA
NORTH EASTERN COUNCIL SECRETARIAT
NONGRIM HILLS, SHILLONG**

NO. NEC/T/MISC/2008

Dated:- 20th October, 2008

To

The Deputy Secretary,
North Eastern Council Secretariat,
Nongrim Hills, Shillong.

Sub:- Submission of Final Inquiry Report of Shri Bijon Kumar Chakraborty, Steno-II.

Sir,

In continuation of the letter of even number dated 4th August, 2008 as required by the Administration, Mr. Bijon Kumar Chakraborty, Steno-II was verbally inquired with, on 13th October, 2008. The charges made against were discussed in person point by point and the following clarifications were given by him. Shri S.L. Baidya, Section Officer(Admn.) was present during the verbal inquiry as a Presenting Officer.

1. Mr. Bijon Kumar Chakraborty was asked that the Administration had framed certain charges against him and what were the clarifications that he would give in this regard.

Initially he has stated that he does not remember the charges made against him, as such he is unable to give the answers immediately and some time may be given so that he can reply accordingly.

On the second instant he has expressed his views that he needs a Pleader to advocate his case to the Inquiry Committee.

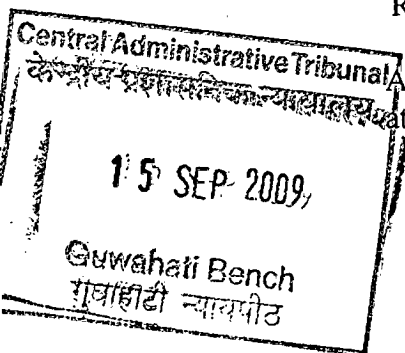
Finally the undersigned has clarified that the charges framed against him was replied by him and only the personal clarification is required, as such the explanation given by the undersigned was convinced and accordingly the following remarks and clarifications were received from him.

- (a) Shri Bijon Kumar Chakraborty was not submitting the E.L./C.L. through the Controlling Officer when he was posted in the Finance Wing.

Whenever the application was submitted to the Controlling Officer, it was neither accepted nor forwarded and therefore it was submitted to the Deputy Secretary. When it was enquired as to why the Controlling Officer refused to sign E.L./ C.L. application, he stated that the reason is not known to him.

- (b) Why Shri Bijon Kumar Chakraborty failed to attend the office in time and during his posting in Finance Wing, he had not signed in the Attendance Register as he is aware that a non-gazetted official has to sign the Attendance Register without fail to show his presence in the office.

A satisfactory reply could not be furnished. However he stated that he was attending the office regularly.



Certified to be true copy
[Signature]
Advocate

- (c) Similarly when he was posted in the Health Sector, same irregularities were found. In the Attendance Register due to his absence in time, the 'X' marks were made by the Sectoral Head. However at a later stage signatures were made over the 'X' mark which is against the rules.

In his clarification, he stated that due to health problem he could not attend office in time and accepted the fact that signatures were made over the 'X' marks.

- (d) In a particular case he had submitted C.L. application on 16.11.2007 requesting for C.L. for 15th & 16th November, 2007 to the Dy. Secretary directly not forwarding through the Controlling officer.

Shri Bijon Kumar Chakraborty denied that he had submitted any application, which is contradictory to the evidence available in the office records. He has stated that he does not remember any such case.

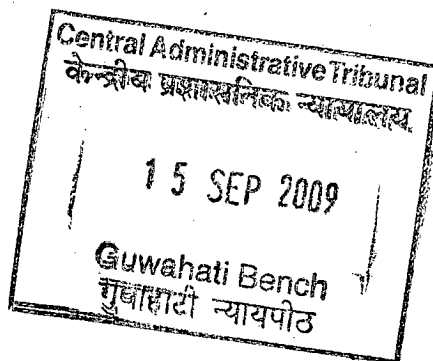
- (e) Shri Bijon Kumar Chakraborty has not mentioned the place of visit in his C.L. application. As per the rule when a person avails leave with Station leave permission, he is required to mention the purpose and place of visit with proper address. In his case, why the same is not mentioned? A person having completed more than 25 years of service is not expected to do such careless act.

Shri Bijon Kumar Chakraborty stated that due to urgency and oversight he forgot to mention the place and destination. However, he has submitted an e-mail on 8th May, 2007 stating the reason and place of visit.


- (f) A general question was asked since May, 2007 till February, 2008, six nos. of Memorandums and Show Cause were issued against him. Whether he accepted any of the charges made against him.

Shri Bijon Kumar Chakraborty stated that these charges are baseless allegations against him and added that it was a deliberate harassment against him by the Administration and he has also stated that if the E.L. and C.L. availed by him is irregular how his salary was not stopped. As such the E.L. and C.L. availed by him is regular and according to him, the leave availed by him are regular.

Findings: - After hearing the statement and explanation given by Shri Bijon Kumar Chakraborty, not accepting any fact and mistakes made by him, the clarification/reason given in case of non submission of application through proper channel is not justified. During the posting in the Finance Wing, he has never signed in the Attendance Register. Whereas he has agreed to the fact that he is working under the strength of Finance Wing which reflects his irresponsibility towards duty. Similarly not attending the office in time and putting his signatures over the 'X' mark on a regular basis amounts to tampering of official records and there is ample evidence to show that he is negligent in his duties.



Yours faithfully


(K. Haridoss)
Executive Engineer (T&C)
& Inquiry Officer

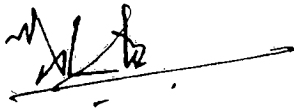
79 Annexure - N 140) CONFIDENTIAL 165 180

GOVERNMENT OF INDIA
NORTH EASTERN COUNCIL SECRETARIAT
SHILLONG.

It is a requirement under the CCS (CCA) Rules to furnish a copy of the inquiry report to the accused Govt. servant in any disciplinary proceeding before passing any order in case the Disciplinary Authority and the Inquiry Officer are not the same authority. In the ongoing disciplinary proceedings against Shri B. K. Chakraborty, Steno Gr. II, the Inquiry Officer has submitted one provisional report and another report after holding personal hearing of the accused Govt. servant in the presence of the Presenting Officer.

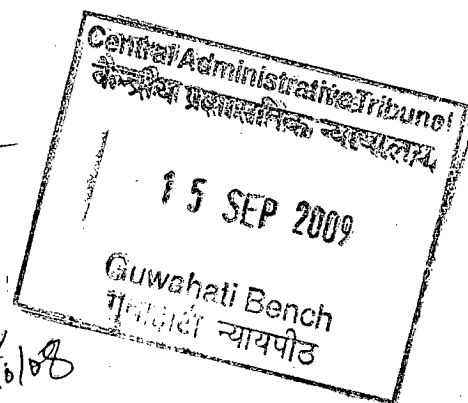
The said reports of the Inquiry Officer are enclosed. The Disciplinary Authority will take a suitable decision after considering the report. If the accused Govt. servant wishes to make any representation or submission, he may do so in writing to the Disciplinary Authority within 15 days of receipt of this letter.

Encl: As stated


(S. Mitra)
Director (Admn)

U.O No.NEC/ADM/9/2008
Dated 21st October, 2008.

Shri B.K. Chakraborty,
Steno Gr. II
NEC Secretariat,
Shillong.



ISSUED

Enclosures attached
21/10/08
① No NEC/T/MISC/2008
dt. 06.8.08
P. 129-133
② No NEC/T/MISC/2008
dt. 20.8.08
P. 163-164
Enclosed

Certified to be true copy
Samp
Advocate

Annexure - 0

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(141)

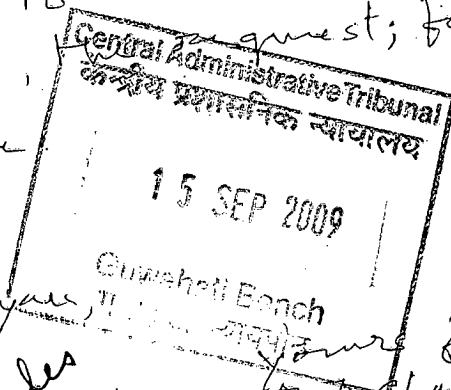
To
The Director (Admin)
NEC Secretariat
Shillong - 3

Sub: Prayer for extension of submission of
representation against the inquiry
report etc. dated 21st Oct, '08.

Dated 05.11.08

Sir,

As quoted above, I, most respect-
fully submit before your goodness
kindly to allow another Ten (10) ^{more} days time
to submit my written representation
in respect to the charges (which-wise). As
I, in the process of preparing the same;
the delay in submission of the same is
majorly due to intermitted long suff-
ering. Hence,
of time please



Thanking you,

Yours faithfully,
B. K. Chakraborty,
Steno - II
05.11.08.

NEC Secretariat
Dy. Secy's Cell.

Dy. No. _____
Date 6/11/08

No provision
in the CCS (CCA) Rules
of any such extension.
P.u. on file. Send a Memo
to him.

1/11/08

06-11-08

Certified to be true Copy.

Jenif
Advocate

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Annexure - P (142)


GOVERNMENT OF INDIA
NORTH EASTERN COUNCIL SECRETARIAT
NONGRIM HILLS: SHILLONG

No. NEC/ADM/9/2008

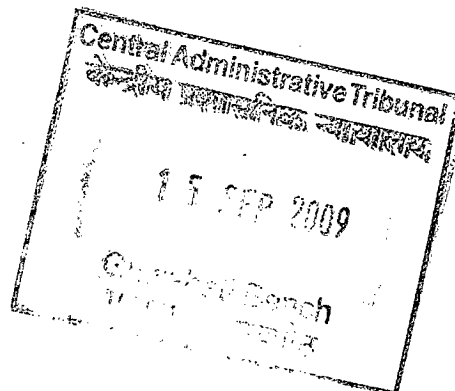
November 06, 2008.

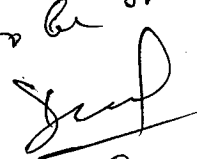
MEMORANDUM

A prayer dated 05-11-2008 has been received from Shri Bijan Kr. Chakraborty, Steno Gr. II "for extension of submission of representation against the inquiry report dated 21st October,, 2008", it is to inform him that there is no such provision in the CCS (CCA) Rules, 1965, for any such extension to be given to the charged official in any disciplinary proceedings. Furthermore, the reason for the prayer is also not very convincing since this should have been prayed for long back. Hence, it is deemed that Shri Bijan Kr, Chakraborty, Steno Gr. II, had nothing to submit on the inquiry report forwarded to him.


(S. Mitra)
Director (Adm)

Shri Bijan Kr. Chakraborty,
Steno Gr. II, NEC Sectt.,
Shillong.



Certified to be true copy.

Advocate

Annexure 8. 82
(138) 153

GOVERNMENT OF INDIA
MINISTRY OF DEVELOPMENT OF NORTH EASTERN REGION
NORTH EASTERN COUNCIL SECRETARIAT
NONGRIM HILLS, SHILLONG 793003

No. NEC /MED /MISC/36/2001

Dated August 12, 2008.

Sub : Leave application of Shri B.K. Chakraborty, Stenographer Grade-II, NEC.

Ref : U.O. No. NEC/ADM/9/2008 dated 8th August, 2008.

With reference to the above, it is to state that Shri B.K. Chakraborty, Stenographer Grade-II has not applied for any Earned Leave/Casual Leave for 23rd, 28th, 29th and 30th May, 2008 and for 2nd, 3rd and 4th June, 2008, except for 17th June 2008 as Casual Leave, as per records maintained in the Sector. A photocopy of the Casual Leave records maintained for the officers and staff in the Sector is enclosed herewith for your kind information.

Encl : as above

Sharma

(N.J. Sharma)
I/c Adviser (Health)

Deputy Secretary

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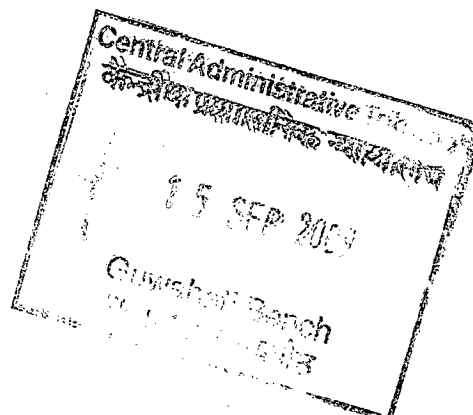
12/8

12-08-08

NEC Secretariat
Dy. Secy's Cell.

Dy No

Date 12/8/08



Certified to be true copy
Jeenu
Advocate

**STATEMENT OF AVAILING CASUAL LEAVE AND RESTRICTED HOLIDAYS
MEDICAL AND HEALTH SECTOR**

Calendar Year - 2008

Name & Designation	CASUAL LEAVE								RESTRICTED HOLIDAY	
	Day 1	Day 2	Day 3	Day 4	Day 5	Day 6	Day 7	Day 8	Day 1	Day 2
Mr. S.K. Das, Pvt. Secy	11/04/08 (27)	21/04/08 (28)								
Mr. N. Khongjee, Section Officer	18/02/08 (21)	19/02/08 (21)								
Ms M. Marbaniang, P.A.	29/01/08 (19)	10/03/08 (22)	12/03/08 (23)	13/03/08 (23)	21/04/08 (30)					
Mr. R. Kharmnuid, U.D.C.	08/04/08 (26)									
Mr. H. Lyngdoh, Peon	01/01/08 (28)	17/03/08 (24)	18/03/08 (24)	19/03/08 (24)	25/03/08 (25)	26/03/08 (25)	21/04/08 (29)			
Sh. Bijonk. Chak- rabarty, Steno. & i.i	22.05.08 (31) 26.5.08 (31)	26.5.08 (31) 27.05.08 (32)	27.05.08 (32) 17.6.08 (32)	17.06.08 (32)						

Note: Figures within () are indicating the page serial nos. of applications maintained in the C.L. Folder.

83 (140) (144)

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Attendance Regi

Attendance Register

for the month of _____

			ATTEN																				
Sl. No.	N A M E	Designation	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
1	M.S. K. Raghavang P.H.		M	M			M	M	M	M	M			M	M	M	M	M			M		M
2	R/S. R. Khandanand U.D.C.		R	R			R	R	R	R	R			R	R	R	R	R			R		R
3	M. H. Pappabala R.O.		H	H			H	H	H	H	H			H	H	H	H	H			H		H
4	Sd. Bigon m. Chakraborty Steno Gr. II.		B	B			B	B	B	B	B			B	B	B	B	B			B		B

DANCE											Actual number of days worked
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30/05/08 at 05.30 hrs.
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May '08

1

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Attendance Register

Sl. No.	NAME	Designation	ATTEN																			
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
1.	MS. M. K. Barua		M	M			M	M	M	M				M	M	M	M				M	
	P.A.		M	M			M	M	M	M				M	M	M	M				M	
2.	Mr R. Khanna		R	R			R	R	R	R				R	R	R	R				R	
	U.D.C.		R	R			R	R	R	R				R	R	R	R				R	
3.	Mr H. Singh		H	H			H	H	H	H				H	H	H	H				H	
	Reon		H	H			H	H	H	H				H	H	H	H				H	
4.	Sh. Bijon K. Chakraborty																					
	Steno G. II.																					

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
25.05.2008
Guwahati Bench
গুৱাহাটী বেঞ্চ

162

~~10/10/10~~

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
1999
Guwahati Bench
गुवाहाटी न्यायपीठ

Please do not sign
Over 'X' by Red Ink

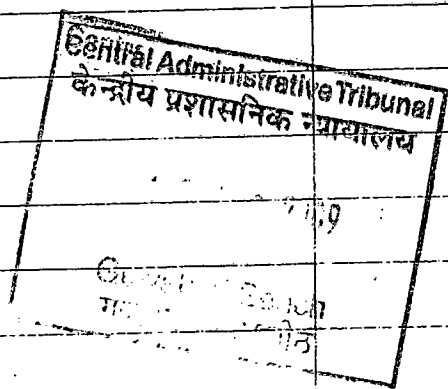
June '08

148

Attendance Register

ATTEN

Sl. No.	NAME	Designation	ATTEN																				
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
1.	Sh. Bigon kr. Chakrabarty Steno G. II		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
2.	Shri R. Kharmnuid, U.D.C.		R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
3.	Shri H. Lyngdoh, Peon.		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X



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[Signature]

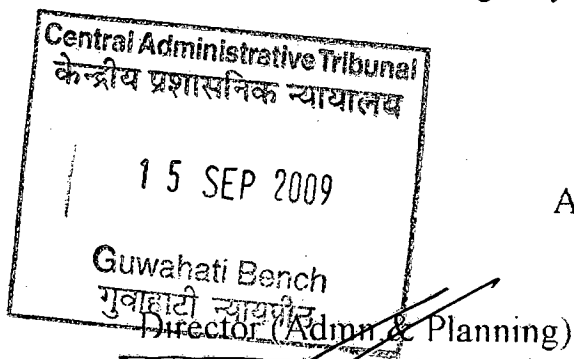
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(149)

GOVERNMENT OF INDIA
MINISTRY OF DEVELOPMENT OF N. E. REGION
NORTH EASTERN COUNCIL SECRETARIAT
NONGRIM HILLS, SHILLONG : 793 003

No. NEC/TND/10-90(Vol.III)

Dated: 03/03/2009

This has reference to your letter No.NEC/ADM/21/92/(Pt.II) dated 6th February, 2009. The undersigned would like to inform you that till today Shri B.K. Chakraborty, Steno Grd.III who has been directed to perform stenographic duties has not yet reported. He is found unauthorized absent from his duty on 27th February, 2009 to 3rd March, 2009. Due to heavy work load in the sector it is requested to provide a substitute urgently.



03/03/09

(M. Saikia Bhuyan)
Adviser (Banking, Industries & Tourism)

NEC Secretariat
Dy. Secy's Cell.
Dy. No
Dt: 3/3/09

4/3/09

4/3/09
Administration Section.
No 435... DI W-3-09,

Certified to be true copy

Advocate

Amunne-S

230 Secd, Shillong.

Administration Section

No. 938 Dt 12-5-09

Confidential

150

GOVERNMENT OF INDIA
NORTH EASTERN COUNCIL SECRETARIAT
SHILLONG - 793003

No. NEC/BIT/CONF/01/2009

Dated, 12th May 2009.

Shri B.K. Chakraborty, Steno Grade-III attached to the undersigned appears to be not sincere in his duties and found very irregular in his attendance. Shri Chakraborty has not been found in the office today from 02.20 PM onwards. Since he also does not have any knowledge in the day to day office works in computer, it is very difficult for the undersigned to cope up with the high workload of the twin sector of Banking, Industries and Tourism.

It is, therefore, requested that Shri B.K. Chakraborty, Steno-III may kindly be replaced, if possible, by Shri S. Dutta Chaudhuri, Steno-II who has been presently working with the undersigned as a stop-gap arrangement and necessary action may perhaps be initiated by the Administration Wing against Shri B.K. Chakraborty on the points mentioned above.

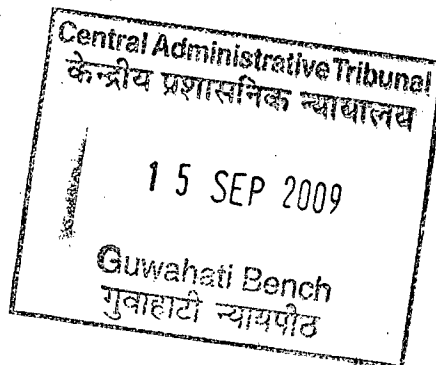
(M)
(M)
12/05/09

(M.S. Bhuyan)

Adviser (Banking, Industries & Tourism)

Director (Admn. & Plg.)

CA & DIR (A)
Keep a copy and
forward to CO (A), with all
confidentiality



SO (A) ✓

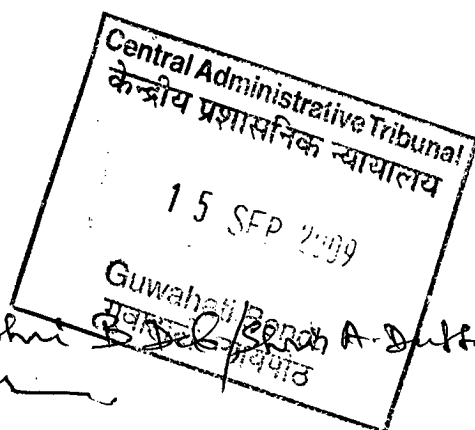
R
12/5/09

Certified to be true copy
(Signature)
Advocate

From : Shri D.C. Chakravarty,
Advocate,
Gauhati High Court,
Guwahati.

To,

Shri/Smt. S. Chakravarty/Shri B. S. Chakravarty
Advocate for the Petitioner
Gauhati High Court,
Guwahati.



Sub : WP(C)/W.A/Misc. Case No. 117 /2009

Shri B.K. Chakravarty

.. Petitioner
Appellant

- Versus -

Union of India & Ors.

.. Respondents
Opp. parties

Sir,

Please take Notice that an written statement
in the above-mentioned OA No. 117/2009 is being
filed on behalf of the Respondents before the
Hon'ble Central Admin Tribunal, Guwahati, a copy of which is
enclosed herewith for your use, the receipt of which may
kindly be acknowledged.

Yours faithfully,

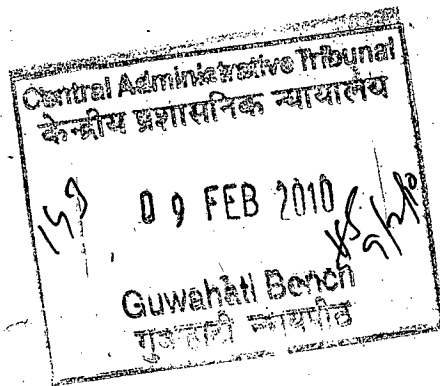
D.C. Chakravarty
(D.C. Chakravarty)
Advocate,
Gauhati High Court,
Guwahati.

Received copy -
Bismadeep Deb
15/9/09

Advocate for the Petitioner
Gauhati High Court, Guwahati.

(D.C. Chakravarty)
Central Govt. Counsel,
Gauhati High Court,
GUWAHATI-1

-1514
District:- East Khasi Hills.



**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:: GUWAHATI**

*Filed by the
applicant through
Shri Bipradeep Deb
Advocate
9/2/2010*

(An application Under Rule 18 of the Central administrative Tribunal (Procedure) Rules, 1987)

Original Application. No.117 of 2009

Shri Bijan Kumar Chakraborty ----- Applicant

-Versus-

Union of India and others ----- Respondents.

IN THE MATTER OF :-

An application for substitution of legal heirs of the deceased applicant in the above Original Application.

-AND-

IN THE MATTER OF :-

On the death of late Bijan Kumar Chakraborty,

His legal heirs:-

Smti. Joan Pariat,

Wife of late Bijan Kumar Chakraborty,

----- Applicant.

-Versus-

Union of India & others

----- Respondents.

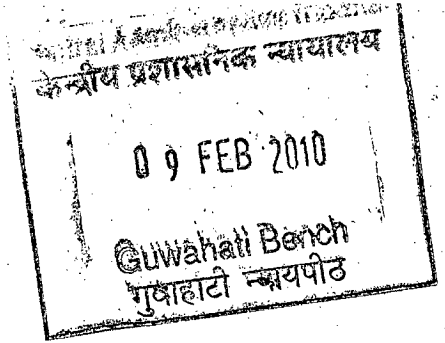
The humble application on behalf of the petitioner,
above named, by his legal heir,

Cont.....p/2.

J. Pariat

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MOST RESPECTFULLY SHEWTH:-

1. That the above Original Application No.117 of 2009 was filed before this Hon'ble Tribunal against the impugned orders dated 11.11.2008 (**Annexure-A8**) and order dated 24.11.2008 (**Annexure-A9**) passed by the Respondent No.4 whimsically without providing an opportunity to the applicant to defend himself for the interest of justice in the case is arbitrary, unreasonable, violative of the principles of natural justice and as such unsustainable in law.

2. That during pendency of the above Original Application No.117 of 2004 before this Hon'ble Tribunal, the applicant in the above case, namely, late Bijan Kumar Chakraborty, died on 11.10.2009 at his residence leaving behind his following legal heirs, namely, :-

- (a). Smti. Joan Pariat,
Wife of late Bijan Kumar Chakraborty,
- (b). Smti. Manini Pariat,
Daughter of late Bijan Kumar Chakraborty.

A copy of the death certificate is annexed herewith as Annexure-1 of this petition.

3. That the rights to sue survive to the above legal heirs of the deceased applicant in the above original application, namely, late Bijan Kumar Chakraborty, and the present application for substitution of the legal heirs of the said deceased applicant in the above case.

4. That the applicant, Smt. Joan Pariat, submit that her late husband, Bijan Kumar Chakraborty, was the sole applicant and, thereby, after his death the right to sue survives and as his legal heir she is entitled to proceed with the above Original Application No.117 of 2009.

Cont.....p/3.

J. Parat

---3---

5. That the present applicant begs to state that there is no willful delay in filing the application and the same had been filed within a time as provided by this Hon'ble Court, and if an opportunity is not provided the applicant will be put to serious and irreparable loss and hardship.

6. That the wife of the deceased applicant, Smt. Joan Pariat, therefore, humbly prays before Your Lordships may be pleased to admit this application and permit Smt. Joan Pariat to come and record herself as the legal representatives of the deceased sole applicant in the above Original Application No.117 of 2009 and to come on record as the applicant for proper adjudication otherwise she will suffer irreparable loss and hardships.

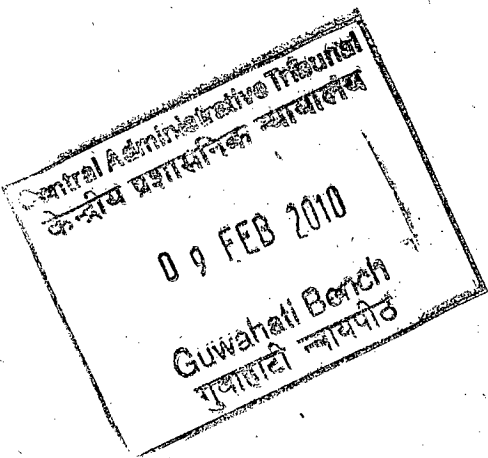
7. That under the facts and circumstances stated above Your Lordships may be pleased to admit this application for substitution of the above legal heir of the deceased applicant, in place of the sole deceased applicant, in the above Original Application No.117 of 2009 pending disposal before this Hon'ble Tribunal, otherwise the petitioners will suffer irreparable loss and injuries.

Under the facts and circumstances stated above your Lordships may be pleased to admit this instant application and pass necessary order for substitution of the above mentioned legal heir of the deceased applicant, in place of the deceased applicant, in the above Original Application No.117 of 2009 pending disposal before this Hon'ble Tribunal,

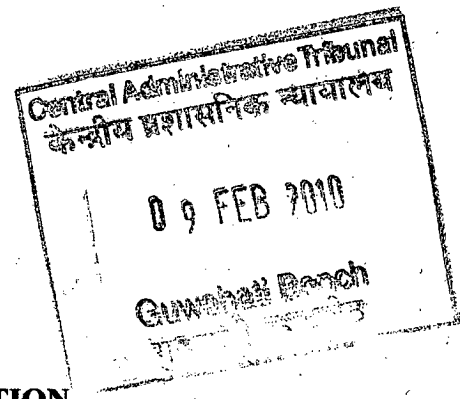
And/ or pass

Such further or other orders as your Lordships may deem fit and proper under the facts and circumstances of the case in the interest of justice.

And for this act of kindness your petitioners, as in duty bound, shall ever pray.



T. Parua

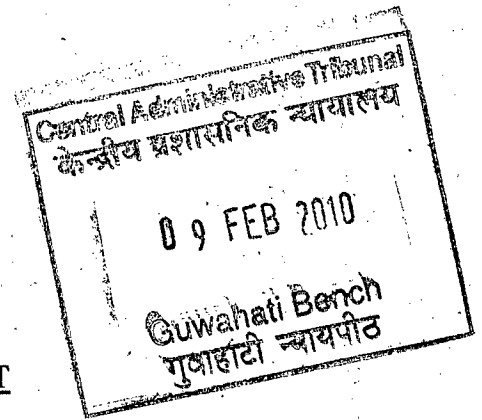


VERIFICATION

I, Smt. Joan Pairat, the applicant in this case, aged about 61 years wife of late Bijan Kumar Chakraborty, retired as a Private Secretary in the office of the North Eastern Council Secretariat, Nongrim Hills, Shillong-793003, Meghalaya, do hereby verify that the statements made in this application are true to my knowledge and belief and I have not suppressed any material facts of the case. I sign this verification on this 9th day of February, 2010, in Guwahati.

J. Pairat

Signature of the applicant.



AFFIDAVIT

I, Smt. Joan Pariat, aged about 61 years, wife of late Bijan Kumar Chakraborty, resident of "Bradwill Cottage", and post office & Police Station Mawlai, Mawlai Nonglum, Trai Sigi, Shillong-793008, district East Khasi Hills, Meghalaya, do hereby solemnly affirm and say as follows:-

1. That I am the wife of the deceased applicant in the above case and as such I am acquainted with the facts and circumstances of the case.
2. That I, hereby, intend to represent/substitute myself as applicant in this instant original application in place of my late husband, Bijan Kumar Chakraborty.
3. That the contents of this affidavit and the statements made in paragraphs 1,2,3,4 and 5 of the above petition are true to my knowledge and the rests are my humble prayers and submissions before this Hon'ble Tribunal which I also believe to be true and that I have not suppressed or concealed any material facts, thereon.

And I sign this affidavit this 9th day of February, 2010 in Guwahati.

Identified by:-

Bipradeep Deb
Advocate.

J. Pariat
DEPONENT.

Solemnly affirmed and sworn in before me by the deponent, who is identified by Shri Bipradeep Deb, Advocate, on this 9th day of February, 2010 in Guwahati.

FORM No. 6

(See Rule 8)

DEATH CERTIFICATE

(Issued under Section 12/17)

This is to certify that the following information has been taken from the original record of death which is the register for (Local Areas) Rynjah State Dispensary

of Tahsil Shillong of District East Khasi Hills

of State Meghalaya

Name Bijan Kumar Chakrabarty

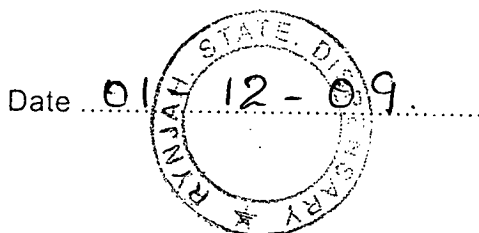
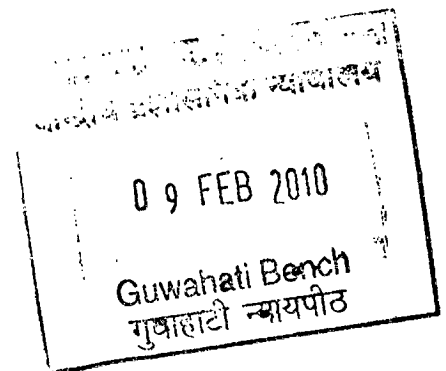
Sex Male

Date of Death 11-10-2009

Place of Death Motnagar, Shillong

Registration No 262/09

Date of Registration 01-12-2009



Signature of issuing authority
[Signature]
Senior Medical Health Officer
Cum
Sub-Registrar Of Birth & Death
I/C Rynjah State Dispensary
E.K.H. Shillong

No disclosure shall be made of particulars regarding the cause of death as entered in the Register. See proviso to Section 17 (1).

District: East Khasi Hills

In the Central Administrative Tribunal,
Guwahati Bench !!! Guwahati,

O.A. No. 117 of 2009

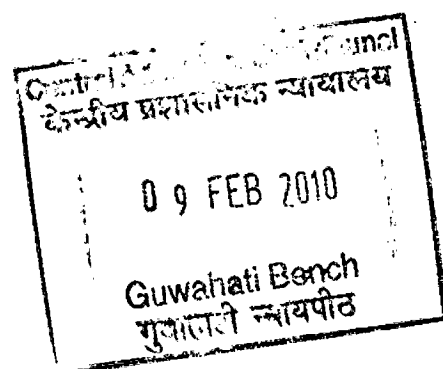
Shri Bijan Chakraborty - - - Applicant

- vs -

Union of India & ors - - - Respondents

To

Shri D.C. Chakraborty,
Standing Counsel,
North Eastern Council,
Shillong.



Sub: Notice:

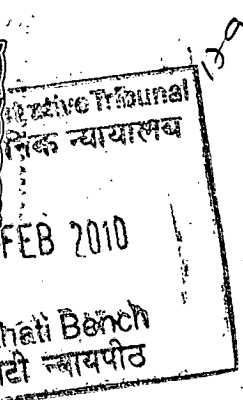
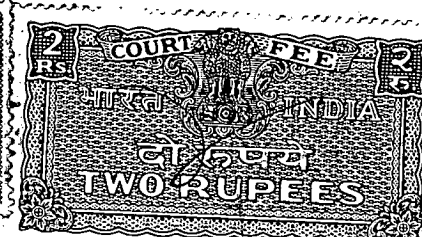
Sir, Please find herewith a copy of the substitution petition being enclosed for your information and necessary action.

Yours faithfully,

9/2/2010
(BIPRADEEP DEB)

I, hereby, undertake to serve a copy to the above mentioned Counsel, at the earliest.

9/2/2010



FORM No.12.

(See Rule 67)

Form of the Vakalatnama

THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,
GUWAHATI

O.A. No. 117 of 2009

Smt. Joan Pariat

/Applicant(s)

J. Pariat

-VERSUS-

Union of India & ors

/Respondent(s)

I, Smt. Joan Pariat, Applicant in the above application/petition do hereby appoint Shri Subhasish Chakraborty, Bipradeep Deb, Arijit Dutta, Ms. Junu Kalita, Advocates, to appear, plead and act for me/us in the above application/petition and to conduct and prosecute all proceedings that may be taken in respect thereof including Contempt of Court petitions and Review applications arising therefrom and applications for return of documents, enter into compromise and to draw any moneys payable to me/us in the said proceeding.

Place: Guwahati

Date: 9.2.2010

J. Pariat
9/2/10

Signature of the Party
"Accepted"

Executed in my presence.

* Signature with date.
(Name and Designation)

1) S. Chakraborty
2) Bipradeep Deb

Signature with date
(Name of the Advocate(s))

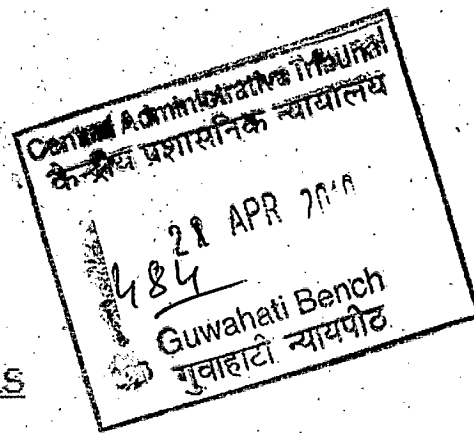
Name of address of the Advocate for service.

* The following Certification to be given when the party is unacquainted with the language of the Vakalatnama or is blind or illiterate:

The contents of the Vakalatnama were truly and audibly read over/translated into _____ language to the party executing the Vakalatnama and he seems to have understood the same.

Signature with date
(Name and designation)

- 157 -



Filed by
D.C. Chakravarty
Central Govt. Counsel,
Gauhati High Court,
GUWAHATI-1
180

DISTRICT: EAST KHASI HILLS

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI

Secretary
Nitra
(ADMINISTRATOR & PLANNING)
NEC Sectt., Govt. of India
Shillong

Misc. Application No. / 2010

In Original Application No. 117/2009

Sri Bijan Kumar Chakraborty

..... Applicant

-Versus-

The Union of India & others

..... Respondents

Written statement filed on behalf of the
respondents :

The humble respondents above named, most respectfully, begs to
state as follows :

1. That a copy of the application filed by the present
applicant praying for substitution of the legal heirs in place of the
deceased applicant in O.A No. 117/2009, namely Shri Bijan Kumar
Chakraborty, has been duly served on the respondents through the
learned counsel appearing on their behalf.

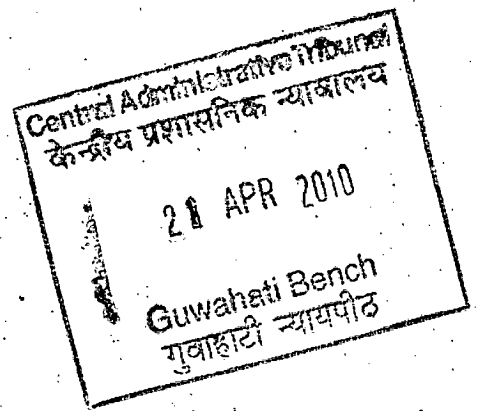
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21/4/2010

Adv. for applicant.

-158-

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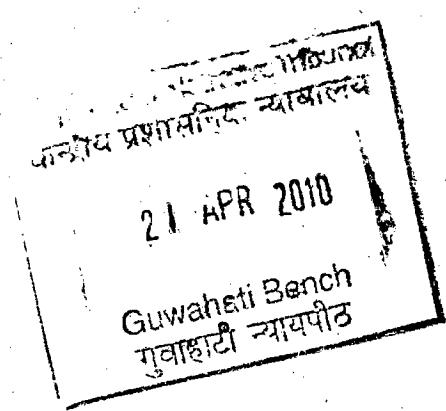
2. That with regard to the statements made in paragraph 1 of the instant Misc. application, your humble respondents beg to state that the impugned orders dated 11.11.2008 and 24.11.2008 have been duly passed by the respondent No.4 in accordance with law and that the same was not done whimsically and / or arbitrarily by him, as alleged by the present applicant. Your humble respondents beg to state further that there is no good ground for this Hon'ble Tribunal to interfere with the impugned orders, as prayed by the applicant.

3. That your humble respondents have no comments to offer with regard to the statements made in paragraph 2 of the instant Misc. application. However, in this connection, your humble respondents beg to state further that it appears that a marriage between the applicant in O.A No. 117/2009, namely, Shri Bijon Kumar Chakraborty and the present applicant, namely Smt. Joan Parit, was duly solemnized on 14.9.2001 in the presence of the Marriage Officer, East Khasi Hills District, Meghalaya, Shillong and three witnesses under the Special Marriage Act, 1954, as per certificate dated 14.9.2001 issued by the said Marriage Officer. A copy of the said Marriage certificate dated 14.9.2001 had also been duly submitted by the applicants to the respondent No.3, namely, the Deputy Secretary, North Eastern Council Secretariat, Shillong, vide application dated 24.9.2001.

Santana
DIRECTOR
(ADMINISTRATION & PLANNING)
NEC Sectt., Govt. of India

159

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Copies of the aforesaid marriage certificate dated 14.9.2001 and the application dated 24.9.2001 are enclosed herewith as Annexures - R-1 and R-2, respectively.

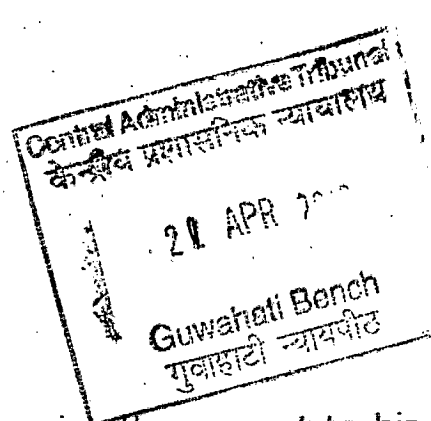
Santanu Mitra
DIRECTOR
ADMINISTRATION

4. That your humble respondents beg to state further that it appears that a daughter was also born to them on 1.3.1989, who was earlier named as Smt. Maniny Pariat. However, it appears that later on her name has been changed to Smt. Maniny P. Chakraborty and an affidavit to this effect had also been sworn in by the applicant in O.A No. 117/2009 on 21.8.2006 before the Magistrate, First Class, Shillong, a copy of which had been submitted by the said applicant to the authorities concerned in due course.

A copy of the said affidavit dated 21.08.2006 is enclosed herewith as Annexure - R-3.

5. That your humble respondents beg to state further that the applicant in O.A No. 117/2009 had also submitted a nomination form to the authorities concerned on 12.09.2002, nominating his wife, Smt. J. Pariat (aged 54 years), who is stated to be a member of his family as per Rule 2 of the General Provident

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Fund (Central Services) Rules, 1960, to receive the amount to his credit in the said Fund in the event of his death before the said amount has become payable but has not been paid to him. It may also be mentioned here that by the said nomination dated 12.9.2002, the said applicant had declared his daughter, Kumari M. Pariat (aged 13 years) as the person to whom the right of the said nominee would pass (i.e. as the second nominee) in the event of death of the said nominee at the relevant time.

Santapa Mitra
DIRECTOR
(ADMINISTRATION & PLANNING)
NEC Sectt., Govt. of Assam
Shillong

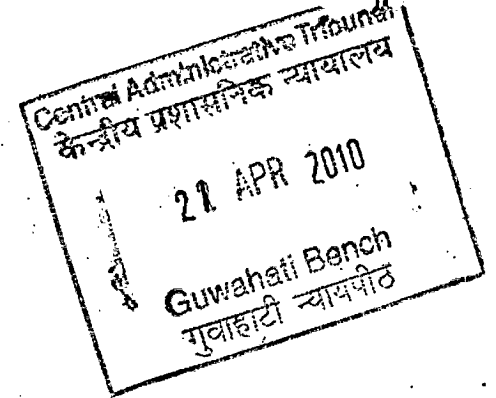
A copy of the said nomination dated 12.9.2002 is enclosed herewith as Annexure - R-4.

6. That your humble respondents beg to state further that the applicant in the present Misc. Application, namely, Smt. Jaon Pariat, who is the widow of the deceased applicant in O.A No. 117/2009, has also served as Private Secretary in the North Eastern Council Secretariat, Shillong and she had been allowed to retire from service voluntarily with effect from 1.6.2006, vide Notification dated 11.3.2006.

A copy of the said notification dated 11.3.2006 is enclosed herewith as Annexure - R-5.

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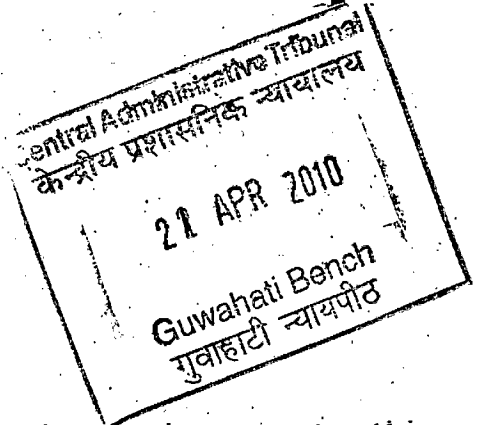
7. That your humble respondents have no comments to offer with regard to the statements made in paragraphs 3 to 7 of the present Misc. Application, except to state that both Smt. Joan Pariat and Smt. Maniny P. Chakraborty are the heirs and legal representatives of the deceased applicant in O.A No. 117/2009, namely, Sri Bijon Kumar Chakraborty, being his wife and daughter, respectively and, as such, both of them are required to be substituted in his place as applicants in the said O.A No. 117/2009 as per the provisions of Rule 18 of the Central Administrative Tribunal (Procedure) Rules, 1987.

Santanu Mitra
DIRECTOR
(ADMINISTRATION & PLANNING)
NEC, Govt. of Assam

8. That in the above circumstances, your humble respondents beg to submit that the respondents have no objection if both the aforesaid two legal heirs of the deceased applicant in O.A No. 117/2009, namely, (1) Smt. Joan Pariat and (2) Smt. Maniny P. Chakraborty, are substituted in his place as applicants in the said case by this Hon'ble Tribunal as per law.

It is therefore, prayed that Your Lordships may be pleased to pass necessary orders allowing substitution of the aforesaid two legal heirs of the deceased applicant in O.A No. 117/2009 as applicants in the said case as per law and / or to

162



6

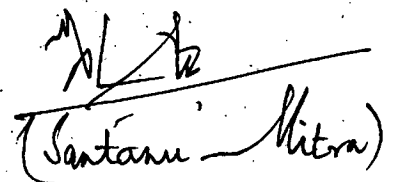
pass such further or other orders as to this Hon'ble Tribunal may deem fit and proper.

And for this act of kindness, the humble respondents, as in duty bound, shall ever pray.

Santanu Mitra
DIRECTOR
(ADMINISTRATION & PLANNING)
NEC Sectt, Govt of India
Shillong

VERIFICATION

I, Shri Santanu Mitra, at present serving as Director (Administration & Planning), North Eastern Council Secretariat, Shillong, Meghalaya (Respondent No.4 herein) do hereby solemnly declare that the contents of paragraphs 1, 2 and 7 of this written statement are true to my knowledge and that the contents of paragraphs 3 to 6 and 8 are true to the best of my information and belief and I sign this affidavit on this the 20th day of April, 2010. at Shillong.


(Santanu Mitra)
DIRECTOR
(ADMINISTRATION & PLANNING)
Signature
NEC Sectt, Govt of India
Shillong.

OFFICE OF THE MARRIAGE OFFICER, EAST KHASI HILLS, SHILLONG
MEGHALAYA

CERTIFICATE OF MARRIAGE UNDER THE SPECIAL
MARRIAGE ACT 43 OF 1954

I, Smti. R.C. Sonkhlet Marriage Officer, Shillong hereby certify that
on the 14th day of September, 2001 Shri. Bijan Kumar Chakrabarty
and Srimati Joan Pariat appeared before me and that each
of them, in my presence and in the presence of three witnesses, who have signed
hereunder, made the declaration required by Section II and that a marriage under
the Special Marriage Act 43 of 1954 was solemnized between them, in my presence

(Signature of the Marriage Officer).....

Marriage Officer under Act 43 of 1954
for the District of East Khasi Hills
Meghalaya, Shillong.



(Signature of Bridegroom).....

(Signature of Bride).....

Signature of three witnesses.

1.

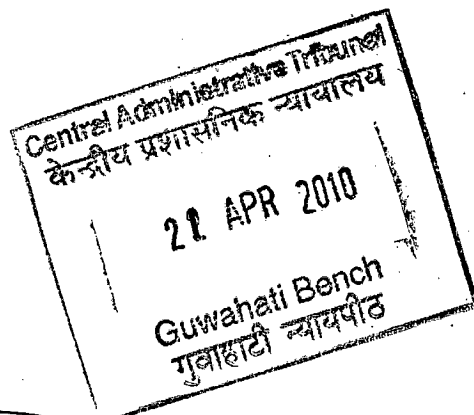
2.

3.

Mr. D.C. Jha, Advocate

(A. Kallang)

Smt. C.B. Shitri



Dated the 14th day of September, 2001.

Assigned to be done copy
Secy
Advocate

2

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Annexure-R-2

24.3.2000

8

12

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NEC Secy, Shillong,
Administration Section.

By. No. 1710 Dt. 24/9/20

To

The Dy. Secretary,
NEC Secretariat,
Shillong.

Sub:- Information of Marriage - Reg.

Sir,

On 14th September, 2001 we have solemnised our marriage (hoto copy attached). Hence, from now onwards we, Smt. Joan Pariat and Shri B.K. Chakrabarty be communicated and necessary monetary deductions like HRA, etc. and for all other purposes be valid with the strength of this Civil Marriage.

Submitted for necessary action and information.

Control Administration Division
28 APR 2000
Guwahati Bench
Tribunal

Yours faithfully,

B.K. Chakrabarty
(B.K. Chakrabarty)
Steno-II

for

(J. Pariat)
SPA

Dated, Shillong,
the 24th Sept. 2001.

unw.
24/9

Smt. S. Das
24/9

SO(A)

Copy to a true copy
Advocate



BEFORE THE MAGISTRATE FIRST CLASS AT SHILLONG

AFFIDAVIT

I SHRI. BIJAN CHAKRABORTY, son of Late B.K. Chakraborty, aged about 46 years, by caste Hindu, by occupation Govt. Servant, resident of N.E.C. Quarter Motinagar, Shillong - 14, District East Khasi Hills, Meghalaya do hereby solemnly affirm and declare as follows:-

1. That I am the bonafide citizen of India and permanent resident of Shillong.
2. That I got married to Smti. Joan Pariat and out of that wedlock, I have blessed with one daughter namely Miss. Maniny P. Chakraborty on 1st March, 1985.
3. That through bonafide mistake I had given my daughter's surname as Maniny Pariat instead of Maniny P. Chakraborty in the Indian Certificate of Secondary Education.
4. That being a legal and natural father I intend to change my daughter's surname in the School Certificate as Maniny P. Chakraborty instead of Maniny Pariat by submitting this Affidavit before the School Authorities, hence this Affidavit.
5. That this Affidavit is being sworn in for the purpose of declaration that I want to change my daughter's surname from Maniny Pariat to Miss. Maniny P. Chakraborty in the Indian Certificate of Secondary Education and for all future purposes and intent.
6. That the statements made above are true to the best of my knowledge, belief and information.

B.K. Chakraborty
DEPONENT

Solemnly affirmed and declared before me by the Deponent named above who is identified by Smti. Gauri Purkayastha, Advocate, Shillong on this the 21st day of August, 2006 at Shillong.

Identified by:

Gauri Purkayastha
21/8/06
(Advocate, Shillong)

Attested
21/8/06
Private Secretary,
Govt of India,
North Eastern Council,
Shillong

MAGISTRATE FIRST CLASS
SHILLONG.

Certified to be
true copy

Deputy
Advocate

166
Form of Nomination

when the subscriber has a family and wishes to nominate one member thereof.

I hereby nominate the person mentioned below who is a member of my family as defined in rule 2 of the general Provident Fund (Central Services) Rules, 1960 to receive the amount that may stand to my credit in the fund, in the event of my death before that amount has become payable, or having become payable has not been paid:-

27
 10
 169
 21 APR 2010
 Guwahati Bench
 न्यायाधीश न्यायपीठ

Name and Address of nominee.	Relationship with Subscriber	Age	Contingencies on the happening of which the nomination shall become invalid.	Name, address and relationship of the person/ persons, if any to whom the right of the nominee shall pass in the event of his predeceasing the Subscriber.
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1. Smt. J. Paruat	- Wife	- 54 yrs	Lunacy Divorce Death	Km. M. Paruat (13 yrs) (Daughter) (2nd. Nominee)
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Dated the 12th day of Sept 2002
 at _____

Two witnesses to signature

1. [Signature] 12/9/02
 (L. DEB)
 2. [Signature]
 (P. DEB)

B. K. Chakrabarty
 Signature of subscriber.

Confirmed to be true copy
[Signature]
 Adverse

-167- 11/ Annexure R-5 190

NORTH EASTERN COUNCIL SECRETARIAT
MINISTRY OF DEVELOPMENT OF NORTH EASTERN REGION
GOVERNMENT OF INDIA
NEW N.E.C. COMPLEX, NONGRIM HILLS
SHILLONG - 793 003.


No.NEC/ADM/106/73-Vol.II

Dated the 11th March, 2006.

NOTIFICATION

Smti Joan Pariat, P.S. has submitted a request for her voluntary retirement after completion of more than 33 years qualifying service under Rule 48 A of CCS (Pension) Rule, 1972. Having satisfied that she has completed more than 20 years qualifying service, the request of voluntary retirement of Smti Joan Pariat is hereby accepted and she is permitted to retire w.e.f. 1st June, 2006 (FN).


This issue with the approval of Secretary.



(S. Mitra)
Deputy Secretary.

Memo No.NEC/ADM/106/73-Vol.II
Copy to :-

Dated the 11th March, 2006.

1. The Director(NEC), Government of India, Ministry of Development of North Eastern Region, Vigyan Bhavan Annexe, Maulana Azad Road, New Delhi with a request to publish the above notification in the official gazette.
 2. The Deputy Controller of Accounts, Regional Pay & Accounts Office (IB), Shillong.
 3. Smti Joan Pariat, P.S, NEC Secretariat, Shillong alongwith pension forms.
 4. The Section Officer(Accounts), NEC Sectt., Shillong.
 5. The I/c Nazarat Section, NEC Secretariat, Shillong.
 6. The I/c Librarian, NEC Secretariat, Shillong.
 7. Confidential Assistant, NEC Secretariat, Shillong.
 8. Pension file of person concerned.
 9. Guard file.
 10. Office copy.
- To issue No Demand Certificate and send to Administration immediately.


(S.L. Baidya)
Accountant
for Section Officer(Admn)

1
Certified to be true Copy

Advocate

