

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (JUDL.)

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

1. ORIGINAL APPLICATION No : ----- 174 / 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) : ----- Bhogelu Koite -----

Respondent (S) : ----- U. O. I & Ors -----

Advocate for the : Mr. S. C. Biswas, Dilip Hazumdar, S. Saikia
{Applicant (S)} R. Sarma

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

Notes of the Registry	Date	Order of the Tribunal
<p>The application is in totl. is filed/C. F. F. Rs. 50/- deposited w/c. P. BD No. <u>896409953</u> Dated <u>20.8.09</u></p> <p>Dy. Registrar</p> <p>Petitions copy for issue notices are received along with envelopes. Copy served.</p> <p><u>Ho</u> <u>31/9/09</u></p> <p>Sign in B sheet.</p>	<p>07.09.2009</p>	<p>Heard Mr.S.Saikia, Advocate representing the Applicant. We have also heard Mr.M.U.Ahmed, learned Addl. Standing counsel for the Govt. of India to whom a copy of this O.A. has already been supplied. Also perused the materials placed on record.</p> <p>Admit. Issue notice to the Respondents requiring them to file their written statement. Call this matter on 05.11.2009.</p> <p>(M.K.Chaturvedi) Member (A)</p> <p>(M.R.Mohanty) Vice-Chairman</p>

/bb/

Copies of notices along with order dated 7/9/2009 send to D/Sec. for issuing to the respondents by regd. A/D post.

Com D/No- 9/9/09. Dh

9.9.09

Mr. M.U. Ahmed, add. C95C has filed Memo of Appearance on behalf of Respondents at class A.

Notices for R-4,5 received back as unserved.

23/10/09

No W/s filed.

4.11.09

No W/s filed.

7.12.09

No W/s filed.

5.1.2010

No W/s filed.

8.1.2010

05.11.2009

Enabling the Respondents to file reply within four weeks, case is adjourned to 08.12.2009.

/bb/

08.12.2009

Time is extended to file reply as prayed for.

List on 6.1.2010.

6.1.2010

Further four days time is extended to file reply as prayed by Mr.M.U.Ahmed, learned counsel for the Respondents.

List the matter on 11.1.2010.

11.1.2010.

It is stated by learned counsel for the Respondents that reply will be filed during the course of the day and the same be also supplied to the learned counsel for the Applicant. Rejoinder, if any, may be filed by the Applicant before the next date of hearing. Since the matter was admitted vide order dated 7.9.2009,

List the matter on 12.2.2010.

/Am/

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)





(Mukesh Kr. Gupta)
Member (J)

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)




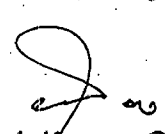
(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

Notes of the Registry	Date	Order of the Tribunal
<p>11.1.2010</p> <p>N/S has been filed by the Respondent in the Court. Copy served. vs.</p> <p>No rejoinder filed.</p> <p><u>11.2.2010</u></p>	<p>12.02.2010</p> <p>/pk/</p>	<p>List the matter on 08.03.2010.</p> <p> (Madan Kumar Chaturvedi) Member (A)</p>
<p>No rejoinder filed.</p> <p><u>11.2.2010</u></p>	<p>08.03.2010</p> <p>/pg/</p>	<p>This being a Division Bench matter. List before Division Bench on 31.3.2010.</p> <p> (Mukesh Kr. Gupta) Member (J)</p>
<p>Rejoinder not filed.</p> <p><u>26.4.2010</u></p>	<p>31.03.2010</p> <p>/bb/</p>	<p>On the request of Mr.S.Saikia, learned counsel for applicant, who states that Mr.D.Mazumdar, learned counsel who is to argue for applicant, has got some personal difficulty, matter is adjourned to 27.04.2010.</p>
<p>Rejoinder not filed.</p> <p><u>5.5.2010</u></p>	<p>27.04.2010</p> <p>/bb/</p>	<p>On the request of both sides, adjourned to 06.05.2010.</p> <p>  (Madan Kumar Chaturvedi) Member (A)  (Mukesh Kumar Gupta) Member (J) </p>

-4-

O.A.NO. 174/2009

Notes of the Registry	Date	Order of the Tribunal
	06.05.2010	<p>In disciplinary proceeding initiated vide memorandum dated 22.06.2005 a penalty of removal was imposed upon the applicant vide order dated 29.09.2005. His appeal has also been rejected vide order dated 01.05.2009. He has basically raised three basic questions:</p> <ol style="list-style-type: none"> 1) He had not admitted guilt in respect of charge No.1 as observed by the Inquiry Officer. 2) He has submitted medical certificate in support of his absence. 3) Findings of the Inquiry Officer was not supplied to him before inflicting said penalty. <p>In the circumstances, respondents are directed to produce the original related complete records. This shall be done by 01.06.2010.</p> <p>List on 01.6.2010.</p> <div style="display: flex; justify-content: space-between;"> <div style="text-align: center;">  (Madan Kumar Chaturvedi) Member (A) </div> <div style="text-align: center;">  (Mukesh Kumar Gupta) Member (J) </div> </div> <p style="text-align: center;">nkrm</p>
	01.06.2010	<p>Mr. R. Sarma, learned counsel appearing for Applicant, prays for adjournment only for a day.</p> <p>List the matter to-morrow i.e. 2-6-2010.</p> <div style="display: flex; justify-content: space-between;"> <div style="text-align: center;">  (Madan Kumar Chaturvedi) Member (A) </div> <div style="text-align: center;">  (Mukesh Kumar Gupta) Member (J) </div> </div> <p style="text-align: center;">/Lm</p>

Resinder not filed

31.5.2010

Received back
the following
files/documents
in original

- (i) Dis proceeding
original copy.
- (ii) Dis proceeding
erox copy

pg

02.6.2010

For the reasons recorded separately, this

O.A. is allowed. No costs.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member(J)

Raj
(Raj Kumar)
Sergeant
Legal Asst
Air Force Barracks, Ghy
10/6/10

Received no copy of
Judgement

Raj
10/6
(Raj Kumar)

Received full copy
of judgement
Raj
10/6/10.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI:

O.A. No.174 of 2009

Date of Decision : 02.06. 2010

Shri Bhogelu Koiri
.....

Applicant/s

Mr. D.Mazumdar
.....

Advocates for the
Applicant/s

- Versus -

Union of India & Ors.
.....

Respondent/s

Mr.M.U.Ahmed, Addl.C.G.S.C.
.....

Advocate for the
Respondents

CORAM :

HON'BLE MR.MUKESH KUMAR GUPTA, MEMBER (J)
HON'BLE MR.MADAN KUMAR CHATURVEDI, MEMBER (A)


1. Whether reporters of local newspapers may be allowed
to see the Judgment ?
2. Whether to be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy
of the Judgment ?

Yes/No

Yes/No

Yes/No

Judgment delivered by


MEMBER (J)

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.174 of 2009

Date of Order: This the 2nd Day of June 2010

HON'BLE MR.MUKESH KUMAR GUPTA, JUDICIAL MEMBER
HON'BLE MR.MADAN KUMAR CHATURVEDI, ADMINISTRATIVE MEMBER

Shri Bhogelu Koiri
S/O Late Krishna Koiri,
R/O Borjalenga,
P.O. Silchar, Cachar, Assam

Applicant

By Advocate Mr.D.Mazumdar

-Versus-

1. Union of India
Represented by its Secretary,
Ministry of Defence, 101, South Block
New Delhi
2. The Chief of Air Staff,
Air Headquarters,
VayuBhawan, Rafi Marg,
New Delhi-110106
3. The Senior Officer-in-Charge Administration (SOA),
HQ Eastern Air Command
Indian Air Force,
P.O.-Nonglyer, Shillong,
Pin Code-793009
4. The Group Captain,
Station Commander, 825 Signal Unit,
C/O HQ Eastern Air Command
Indian Air Force,
P.O.-Nonglyer, Shillong,
Pin Code-793009
5. Enquiry Officer
Sri S.K.Pandey, Flt.Lt.
C/O HQ Eastern Air Command
Indian Air Force,
P.O.-Nonglyer, Shillong
Pin Code-793009

Respondents

By Advocate Mr.M.U.Ahmed, Addl.C.G.S.C.

ORDER (ORAL)**MUKESH KUMAR GUPTA, MEMBER(J)**

Bhogelu Koiri, Washer Up, 825 Signal Unit, Air Force in this O.A filed under Section 19 of the Administrative Tribunals Act, 1985 challenges impugned penalty order dated 29.9.2005, whereby the penalty of removal has been inflicted, as upheld vide appellate authority's order dated 1.5.2009. He also challenges the vires of enquiry report dated 10.8.2005.

2. Admitted facts are memorandum dated 22.6.2005 under Rule 14 of the CCS (CCA) Rules 1965 was issued which contained two article of charges. Enquiry Officer had been appointed vide order dated 14.7.2005. As per the enquiry report produced before us the first date of hearing had been fixed as on 25.7.2005. Applicant did not appear on said date, but appeared on 28.7.2005 and made a request for extension of time for hearing and also permission to engage defence assistant. The enquiry was adjourned to 2.8.2005. Applicant did not appear on said date. Ultimately, Enquiry Officer submitted his report dated 10.8.2005 holding him guilty of both the charges. Based thereupon, punishment order dated 29.9.2005 was issued, as upheld by appellate authority on 1.5.2009.

3. Numerous contentions have been raised in support of the prayer made, namely:-



i) Enquiry officer's report had not been supplied before inflicting penalty.

ii) He has submitted medical certificate in support of his absence, which had not been taken into consideration.

iii) He had not admitted guilt in respect of both article of charges but had accepted only first article of charge. Therefore, there was no justification and reasons to record the findings as submitted by the Enquiry Officer, which in turn had been accepted without application of mind. Not only the principle of natural justice were violated, even the enquiry officer had stretched the findings, which is perverse and based on no material, emphasized learned counsel for the applicant.


(iv) Orders passed by the disciplinary authority as well as appellate order are based on non-application of mind and non-est. There had been gross violation of well settled mandatory procedure, which had led to miscarriage of justice.

4. By filing reply, the claim was contested stating that he absented himself from duty without leave for a total number of 157 days on numerous occasions between 10.7.2003 to 15.3.2005 and also that he failed to comply with the orders of the superiors. Adequate opportunities had been afforded to the applicant to present his defence. He did not submit medical certificate for all instances of his absence from duty. The charge leveled against him had been proved by the Enquiry Officer. Agreeing with said findings,



disciplinary authority imposed the impugned penalty. The provisions of CCS (CCA) Rules were strictly followed during the course of enquiry. In the absence of any satisfactory explanation from the applicant, enquiry officer confirmed that his absence from duty was culpable. The delinquent not only failed to bring the defence assistant but also absented himself. As such there was no illegality committed by the respondents while passing the impugned orders. Learned counsel further emphasised that technicality should not be followed and what has to be seen is the substance of the order namely, that he absented himself on numerous occasions without leave or prior permission.

5. We have heard learned counsel for the parties and perused the pleadings. We have summoned the original record of enquiry which directions had been complied with. On examination of the records maintained by the respondents, particularly with regard to the disciplinary action initiated against him, we noticed the startling fact that Enquiry report is dated 10.8.2005 and daily order sheet appended thereto is also dated 10.8.2005. It also contained a document titled as "brief of Presenting Officer" dated 9.8.2005. If the daily order sheet is dated 10.8.2005, how can the brief of the Presenting Officer could be submitted prior to concluding the enquiry. Furthermore, the so called daily order sheets in specific indicated that applicant had not admitted his guilt under charge article No.2. Three witnesses were listed vide charge



memorandum dated 22.6.2005, namely, OIC Civil Administration, SWO and WO i/c Catering, all from 825 SU, AF. None of said witnesses were examined. If the daily order sheet was prepared on 10.8.2005, then why the applicant's signature was not obtained, had not been explained. No daily order dated 25.7.2005 and 28.7.2005 were produced. When the applicant denied the charge No.2, how the said charge could be taken as proved particularly in the absence of any evidence led by the respondents and how the Enquiry Officer came to the conclusion of holding him guilty ?, has not been explained at all. There is yet another aspect namely vide Article II it was alleged that he "failed to comply with the order of his superior Officer". Vide Statement of Misconduct it was stated that his "reply is not satisfactory and fabricated." No documents referred vide said charge were produced. Furthermore, the Enquiry Officer's report dated 10.8.2005 was required to be served upon the applicant vide memorandum dated 30.9.2005 which had been acknowledged by the applicant only on 3.10.2005. The complete contents of the said order dated 30.9.2005 reads as thus:

"MEMORANDUM

1. The undersigned is directed to forward herewith an order of even number dated 29 September 2005, passed by the Competent Disciplinary imposing a major penalty on Shri Bhogelu Koiri, W/Up, Pass No.825SU/D/41, and also a copy of the Inquiry report which includes findings of the Inquiring Authority on each articles of charge.



2. Pass No. 825SU/D/41 Shri Bhogelu Koiri, W/Up should acknowledge the receipt of this memorandum.

Enclo : As stated


Sd/-
(GR Dadewal)
Wg Cdr
OIC Civil Admin
For Stn Cdr"
(emphasis supplied)

Perusal of the aforesaid do not indicate that the disciplinary authority decided and wished to impose penalty rather it says order passed by competent authority imposing a penalty is appended which ex-facie means that the order of penalty in fact had been passed without informing him about the findings of enquiry officer. Specific contention raised by the applicant that enquiry report was not served upon him prior to imposing the penalty thus stand accepted by the respondents as the same was served on him along with the penalty order. Applicant comes from a lower strata of the society. The law is well settled that one should be given a reasonable opportunity of being heard. Whether in the given circumstances as noted hereinabove, would it constitute a real and effective opportunity of defence? In our considered view, the answer has to be negative. The enquiry as a whole appears to be sham. Furthermore, we may note that it is the own case of the respondents that the applicant did not submit medical certificate for his absence on "different occasions", which on the face of it supports the contention that he indeed submitted some medical



certificate. If he had submitted certain medical certificate, how the period has been regularized has also not been clarified. In fact the records reveal that when show cause dated 18.5.2005 was issued seeking his explanation for absence from 8.2.2005 to 15.3.2005, he submitted his reply dated 28.3.2005 along with medical certificate dated 7.3.2005 from Medical & Health Officer, Rangapara PHC, but there is nothing to suggest that the same was considered by any of the authorities i.e. EO, DA or AA. We may also note that perusal of daily order sheet dated 10.8.2005 reveal that without examining any witness in support of charge leveled, the applicant had been examined in detail by the Inquiry Officer and thus he acted as a prosecutor and not as an independent and quasi judicial authority. All these leads to an inevitable conclusion that action has been taken in undue haste, which cannot be countenanced by the judicial forum.

Taking a cumulative view of the matter and holding respondents action is based on non application of mind besides glaring irregularities committed by the respondents, which has led to miscarriage of justice, impugned penalty order dated 29.9.2005, finding of the enquiry officer dated 10.8.2005, as upheld by appellate authority order dated 1.5.2009 are quashed and set aside. The matter is remitted back to the department for holding a "fresh enquiry", after affording him a real and effective opportunity of hearing. He should be reinstated forthwith. The interregnum period is



liable to be decided as per rules on the conclusion of disciplinary proceedings conducted, if any.

The O.A is allowed. No costs.



(MADAN KUMAR CHATURVEDI)
MEMBER(A)



(MUKESH KUMAR GUPTA)
MEMBER(J)

7.9.09

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

O.A. NO. ¹⁷⁴/2009

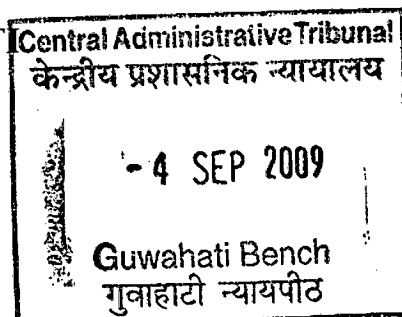
Shri Bhogelu Koiri

.....Applicant.

-Vs-

Union of India & Ors

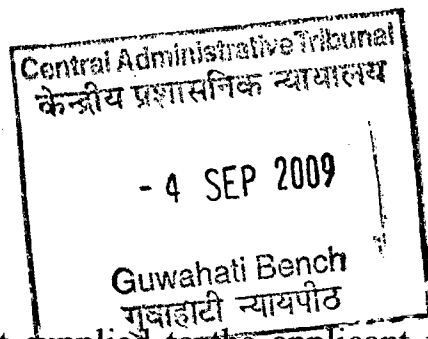
..... Respondents.



SYNOPSIS OF THE CASE

The applicant was working was a Washer - up under Indian Air Force. This application is directed against a major punishment of removal from service and subsequent rejection of the statutory appeal filed by the applicant.

A disciplinary proceeding was drawn up against the applicant under rule 14 of C.C.S. (C.C.A.) Rules, 1965(herein after referred as 'the Rules' only) leveling two charges of unauthorized absences from duty and failed to comply the order of his superior officer. The applicant contested the proceeding by filing his written statement of defence. However due to some reason the applicant could not appear in the hearing of the proceeding before the enquiry officer on 2 Aug 05. The enquiry officer thereafter submitted the enquiry report holding that both the charges are proved. But the whole basis of such finding is the alleged contempt of disciplinary authority for non-compliance with the direction to appear in the hearing before the enquiry officer.



Unfortunately the inquiry report is not supplied to the applicant for which he could not point out that the basis for holding the charges as proved was extraneous and therefore not tenable. However the disciplinary authority imposed the punishment of removal from service. The applicant preferred an appeal before the statutory appellate authority but the same was also rejected. Hence this appeal

Filed by

Somena Barla

Advocate

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

O.A. NO. ¹⁷⁴/2009

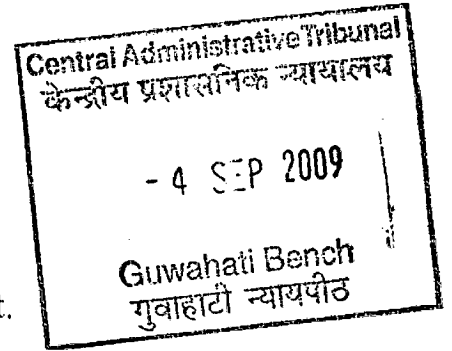
Shri Bhogelu Koiri

.....Applicant.

-Vs-

Union of India & Ors.

..... Respondents.



LIST OF DATES

1-5-1996	The applicant was appointed as Washer -up under the Indian Air Force(Pass No.825SU/D/41).
22-6-2005	A disciplinary proceeding was initiated under rule 14 of C.C.S. (C.C.A.) Rules, 1965 against the applicant vide Memorandum No. 825SU/1573/4/PC and two charges were framed against him.
5-7-2005	The applicant submitted his written statement of defence denying the charges.
27-7-2005	The applicant prayed for another date for filing name of Defence Assistant.
28-7-2005	Inquiry held.
10-8-2005	The Inquiry Officer submitted his report holding that both the charges are proved.
	The applicant was not furnished with a copy of enquiry report and no opportunity to file representation was given.
29-9-2005	Disciplinary authority agreed with the

	findings of the Enquiry Officer and imposed the penalty of removal from service.
30-9-2005	The above order of punishment was furnished to the applicant along with the enquiry report.
5-2-2008	The applicant filed an appeal under rule 25 of the CCS (CCA) Rules, 1965 against the impugned order of punishment dated 29-9-2005 before the Appellate Authority.
20-11-2008	The above appeal having not been filed before appropriate competent authority, the same memorandum of appeal was again filed before the appropriate appellate authority.
1-5-2009	The appellate authority by its order confirmed the order passed by the Disciplinary Authority.

Filed by

Somenwar Borkin

Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

O.A. NO. ¹⁷⁴/2009

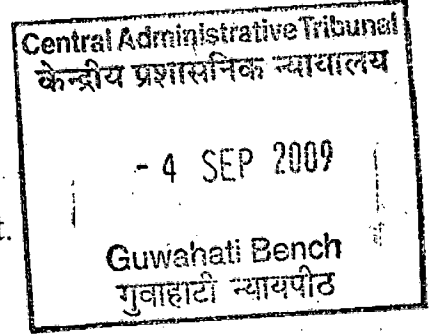
Shri Bhagelu Koiri

.....Applicant.

-Vs-

Union of India & Ors.

..... Respondents.



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Filed by

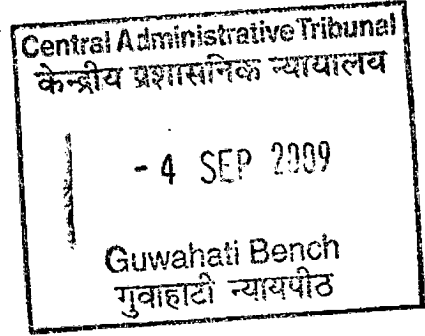
Sauwra Borkin
Advocate

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

(An application under section 19 of the
Administrative Tribunal Act, 1985)

O.A. NO. 174 /2009

Shri Bhogelu Koiri,
S/o Late Krishna Koiri,
R/o Borjalenga,
P.O. Schar, Cachar,
Assam.



..... Applicant.

-AND-

1. Union of India,
Represented by its Secretary,
Ministry of Defence, 101, South Block,
New Delhi.
2. The Chief of Air Staff,
Air Headquarters,
Vayu Bhawan, Rafi Marg,
New Delhi- 110106.
3. The Senior Officer -in-Charge Administration(SOA),
HQ Eastern Air Command, Indian Air Force,
P.O.- Nonglyer, Shillong,
Pin Code-793009.
4. The Group Captain,
Station Commander, 825 Signal Unit,
C/o HQ Eastern Air Command, Indian Air Force,
P.O.- Nonglyer, Shillong,
Pin Code-793009.

Filed by the applicant

Bhogelu Koiri

through Sarwan Sarkar Advocate
2/9/09

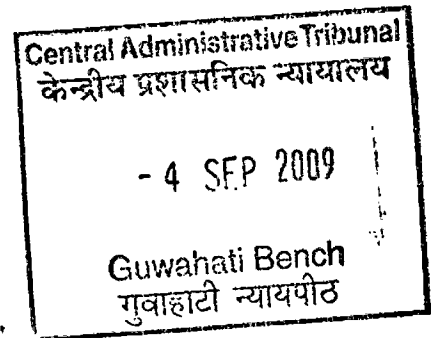
5. Enquiry Officer

Sri S.K. Pandey, Flt. Lt.,

C/o HQ Eastern Air Command, Indian Air Force,

P.O.- Nonglyer, Shillong,

Pin Code-793009. ✓



..... Respondents.

DETAILS OF THE APPLICATION:1. **PRTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE:**

Order dated 1-5-2009 passed by the Senior Officer-in-Charge Administration, Eastern Air Command, IAF disposing an appeal filed by the applicant confirming the order dated 29-9-2005 passed by Disciplinary Authority imposing the major penalty of removal from service.

2. **JURISDICTION OF THE TRIBUNAL:**

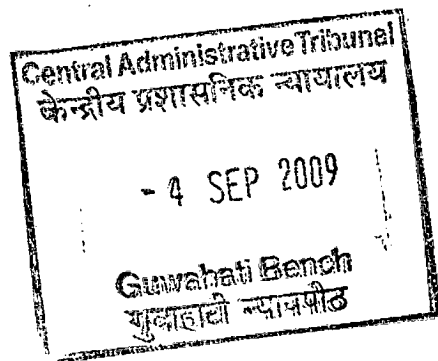
The applicant hereby declares that the cause of action for the present original application has arisen within the jurisdiction of this Tribunal.

3. **LIMITATION**

The applicant declares that this application is filed within the period of limitation prescribed u/s 21 of the Administrative Tribunal Act, 1985.

4. **FACTS OF THE CASE:**

- (a) That the applicant was appointed as Washer - up on 1-5-1996 under Indian Air Force(Pass No.825SU/D/41). while he was working at 825 Signal Unit, Air Force, C/O 99 APO a disciplinary proceeding was initiated under rule 14 of C.C.S. (C.C.A.) Rules, 1965 against him vide Memorandum No. 825SU/1573/4/PC dated 22-6-2005. The



following are the two articles of charges that were framed against him:-

ARTICLE NO. I

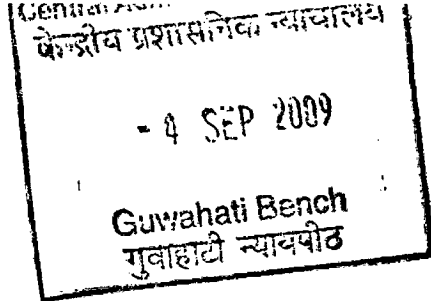
Shri Bhogelu Koiri Washer Up (Pass No.825SU/D/41) while functioning at 825 Signal Unit, Air Force, C/O 99 APO, absented himself without leave of the sanctioning authority w.e.f. 10-7-03 to 13-7-03, 16-7-03 to 19-7-03, 2-8-03 to 13-8-03, 20-8-03 to 21-8-03, 24-8-03 to 26-8-03, 1-9-03 to 21-9-03, 3-10-03 to 4-10-03, 17-10-03, 1-12-03 to 3-12-03, 9-1-04 to 13-1-04, 16-1-04 to 18-1-04, 19-2-04 to 22-2-04, 5-4-04, 28-3-04, 14-5-04 to 18-6-04, 2-7-04, 1-12-04 to 19-12-04, 8-2-05 to 15-3-05 (Total – 157 days) and 8-6-05 to till date . Thus he violated Rule 3 (1)(iii) of the CCS (Conduct) Rules, 1964.

ARTICLE NO. II

Sri Bhogelu Koiri, Washer up (Pass No. 825 SU/D/41) while functioning at 825 Signal Unit, Air Force, C/O 99 APO, failed to comply the order of his superior officer in contravention of Rule 3 (i) (ii) of the CCS (Conduct) Rules, 1964.

A copy of the charge sheet is annexed as annexure 'A' to the application.

- (b) That the applicant immediately submitted his written statement of defence on 5-7-2005 denying both the charges. In reply to charges No.1 the applicant stated that due to indifferent health he could not

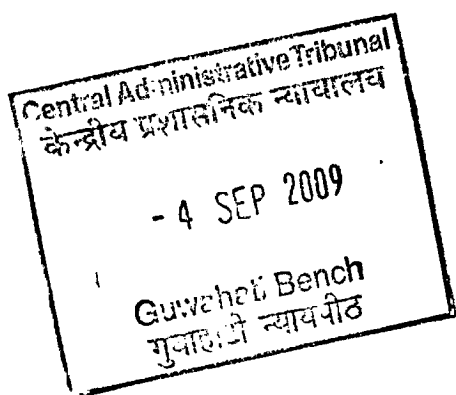


Shogel Kumar

attend his duty on some occasions but the applicant stated that his absence was neither deliberate nor intentional and the applicant stated that he was recovering from ill health and assured that he would attend his duties. With regard to the charge No.2 the applicant denied the charge and stated that he did not remember any such offence consciously and he never disobeyed his superior officers and prayed to absolve him from the charges. The applicant also stated that he desired to be heard in person if so directed.

A copy of the written statement of defence dated 5-7-2005 is annexed as annexure B to this application.

- (c) That the applicant state that thereafter one S. K Pandey, Flt. Lt. was appointed as enquiry officer to enquire into the charges leveled against him. He decided to contest the departmental proceeding by engaging a defence assistant on behalf of him. The applicant appeared on 28th July, 05 and requested the authority to give him some more time to contest the proceeding with the help of a defence assistant. The authority fixed the next date for hearing on 2nd August, 2005. The applicant failed to appear on 2 Aug 05. On 10 the August, 2005 the Inquiry Officer passed the order and opined that despite several and sufficient chances given, he did not appear and disobeyed his orders which is a case of contempt of competent disciplinary authority. Therefore, the charges framed against him are found to be correct. On the basis of the documentary and oral evidence adduced in the case before him the enquiry officer held that applicant was guilty of both the charges.



A copy of the inquiry report dated 10-8-2005 is annexed as annexure C to this application.

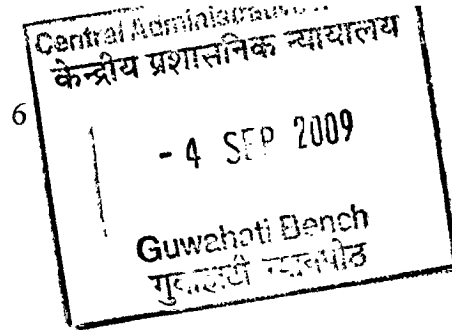
Kaini
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- (d) That the applicant states that on receipt of the inquiry report the disciplinary authority vide order 29-9-2005 held that the inquiry report was care fully examined and satisfied that the charged officer was given reasonable opportunity to defend himself and it agreed with the findings of the enquiry officer and imposed the major penalty of removal from service which shall not be a disqualification for future employment under the Government.

It may be stated that the copy of the enquiry report was not furnished to the applicant and he was not given the opportunity to file any representation against the enquiry report and the proposed punishment

A copy of the order 29-9-2005 passed the disciplinary authority is annexed as annexure D to this application.

- (e) That the applicant states that the non- supply of the copy of the inquiry report prejudice the applicant because the inquiry officer held the charges to be correct on the basis of his finding that he felt that the applicant disobeyed his order which is contempt of competent disciplinary authority. No other materials available on record were discussed while arriving at the finding that the charges are proved. In other words the inquiry officer held that the charges are proved only because according to him the applicant disobeyed his order to appear on 2-8-2005 i.e. the date fixed for hearing of the disciplinary proceeding. Had the applicant had supplied with a copy of inquiry report he could have pointed out this infirmity in illegality of the enquiry report. However on 30-9-2005 the above order of



punishment was furnished to the applicant along with the enquiry report.

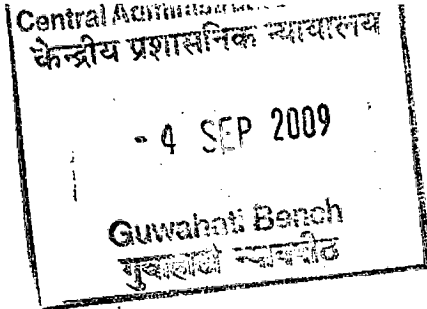
A copy of the order dated 30-9-2005 is annexed as annexure E to this petition.

- f) That the applicant states that being aggrieved filed an appeal on 5-2-2008 under rule 25 of the CCS (CCA) Rules, 1965 against the impugned order of punishment dated 29-9-2005 before the Assistant Chief Air staff against the order of removal from his service.

A copy of the appeal memo before the appellate authority is annexed as annexure F to this petition.

- g) That the appeal having being filed before an improper authority the authorities by their letters dated 5-5-2008, 22-8-2008 directed the applicant to file his appeal before the appropriate authority i.e. the SOA, HQ Eastern Air Command, IAF. The applicant then filed the appeal before the SOA, HQ Eastern Air Command, IAF on 20-11-2008. However the appellate authority by its order dated 1-5-2009 confirmed the order passed by the disciplinary authority rejected the appeal.

Copies of the letters dated 5-5-2008, 22-8-2008 and order dated 1-5-2009 passed the appellate authority are annexed as annexure G, H and I to this application.

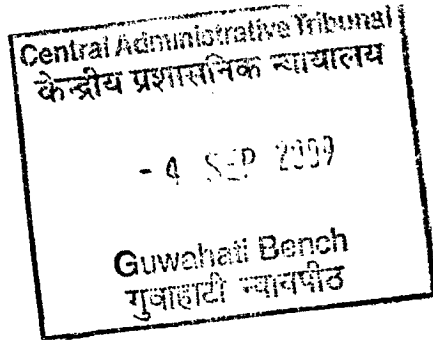


Bhagabandhu

h) That the applicant states that while filing the statutory appeal before the appellate authority all the possible grounds to assail the impugned punishment order could not be raised because of ignorance of the person who drafted the appeal. However due to financial hardship and physical ailment the applicant could not take the assistance of an expert hand.

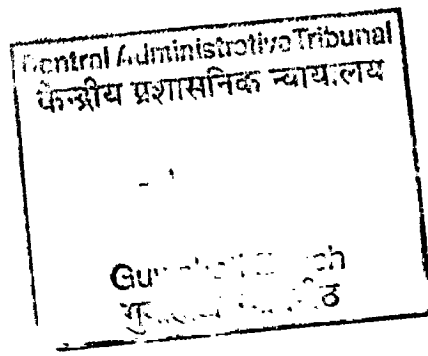
5. GROUNDS:

- I) For that the impugned order dated 1-5-2009 imposing the major punishment of removing the applicant from the service is bad in law as well as on facts and as such the same is liable to be set aside and quashed.
- II) For that the impugned order of punishment of removal from service inflicted upon the applicant is unfair, unreasonable and violative of the principles of natural justice in as much as the enquiry was conducted in a most perfunctory manner and without following any of the procedural safeguards laid down in the CCS (Conduct) Rules, 1964 and it being a settled law that a defective enquiry stands on the same footing as no enquiry, the punishment imposed on the applicant on the basis of such enquiry is not tenable in law. As such the impugned order of punishment is liable to be set aside and quashed.
- III) For that the applicant has now raised the question of prejudice arising from non-supply of the enquiry report because due to ignorance of the person who prepared the memorandum of appeal filed before the statutory appellate authority, the said vital point could not be raised therein however the applicant being unaware of the legal infirmity has now raised the ground before this Hon'ble Tribunal.



Pragadekar

- IV) For that in the instant case the enquiry report and the findings arrived at by the enquiry officer are based on the alleged non-compliance with the direction to appear in the hearing which is evident from the remarks of the enquiry officer as "I extremely feel that the charged officer disobeyed my order which is case of contempt of competent enquiry officer. Therefore, the charges framed against him are found to be true" are not tenable in law because the said findings are based on considerations which are extraneous to the charges leveled against the applicant and therefore beyond the scope of enquiry by the enquiry officer.
- V) For that the charges leveled against the applicant are vague, vexatious and frivolous. The disciplinary authority did not deliver the statement of imputations of misconduct or misbehavior as required under rule 14(4) of the 1965 Rules and the allegation brought in the charges do not come within the purview of any of the definitions of misconduct mentioned in rule 3 of the CCS (Conduct) Rules 1964.
- VI) For that the punishment of removal from service imposed upon the applicant is highly disproportionate considering the guilt alleged against him and such punishment shocks the judicial conscience. As such the said punishment is liable to be interfered with considering the nature of punishment.
- VII) For that the applicant has now raised the question of prejudice arising from non-supply of the inquiry report because due to ignorance of the person who prepared the memorandum of appeal filed before the statutory appellate authority, the said vital point could not be raised therein however the applicant being unaware of



Bhagelu kair

the said legal infirmity has now raise the grounds before thus Hon'ble Tribunal.

VIII) For that in any view of the matter and on any other ground the impugned order of punishment and appellate order dated 29-9-2005 are bad in law and as such the same are liable to be set aside and quashed.

6. **Detail of remedies exhausted:**

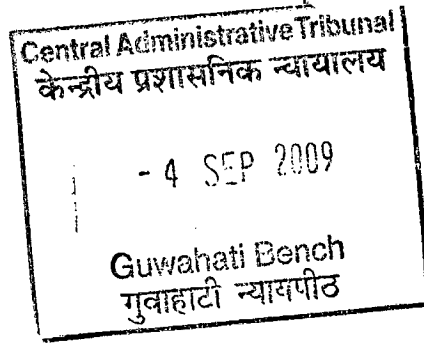
The appellate authority without considering the grounds of the appeal memo rejected the claims of the applicant.

7. **Matter not previously filed or pending with any other court:**

The applicant further declare has not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before the Court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. **Relieves sought:**

- (a) The impugned order of punishment dated 29-9-2005 vide No. 825 SU/ 1571/5/ PC passed by Disciplinary Authority imposing the penalty of removal of the applicant from the service may be set aside and quashed (Annexure- D) .
- (b) The appellate order dated 1-5-2009 passed by the Senior Officer-in-Charge Administration, Eastern Air Command IAF may be set aside and quashed (Annexure - I).
- (c) The enquiry report dated 10-8-2005 submitted by S. K Pandey, Flt. Lt. may be set aside and quashed (Annexure - C).
- (d) Any other relief the applicant is entitled to.

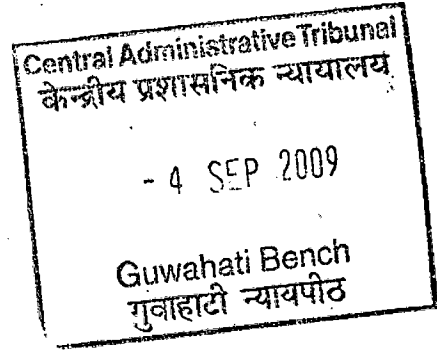


9. **Interim Order**: The operation of the impugned orders dated 29-9-2005 and order dated 1-5-2009 passed by the appellate authority may be suspended and the applicant may be allowed to resume his duties till the disposal of the appeal.

10. **Particulars of Bank Draft/ Postal Order**. IPO No. 33 G 409953.
₹ 50/-

11. **List of documents**

1. Memorandum charges under memo No. 825SU/1573/4/PC dated 22-6-2005.
2. Written statement of defence dated 15-7-2005 of the charged official.
3. Findings of the Inquiry Officer dated 10 the August ,2005.
4. Order dated 29-9-2005 passed by the disciplinary authority.
5. Communication dated 30-9-2005 by the authority.
6. Appeal Memo filed by the charged official before the authority.
7. Copies of the letters dated 5-5-2008, 22-8-2008.
8. Order dated 1-5-2009 passed by the appellate authority.



VERIFICATION

I, Shri Bhogelu Koiri S/o Late Krishna Koiri aged about 50 years R/o Borjalenga, P.O. Sichar in the district of Cachar, Assam do hereby verify that the contents in paragraphs 1, 2, 3, 4(a), are true to my personal knowledge and those in paragraphs 4(b), 4(c), 4(d), 4(e), 4(f) & 4(g), believed to be true on legal advice and that I have not suppressed any material fact.

And I sign this verification on this 28th day of August' 2009 at
Guwahati

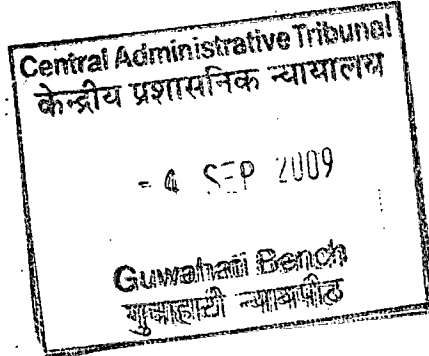
Date: 28-8-09

Place: Guwahati

Bhogelu Koiri
Signature of the applicant.

CHARGE SHEET FOR MAJOR PENALTIES
(Rule 14 of CCS (CCA) Rules 1965)

Ministry/Department :



No. 825SU/1573/4/PC

Government of India
Ministry of Defence
825 Signal Unit, Air Force
C/O 99 APO

Date : 22 June 2005

MEMORANDUM

1. The undersigned proposes to hold an inquiry against Shri Bhogelu Koiri, Washer up (Pass No. 825SU/D/41) under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehavior in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputations of misconduct or misbehavior in support of each article of charge is enclosed (Annexure-II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure III and IV).
2. Shri Bhogelu Koiri, Washer up (Pass No. 825SU/D/41) is directed to submit within ten days of the 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 Bhogelu Koiri, Washer up (Pass No. 825SU/D/41) is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 14 of the CCS (CCA) Rules, 1965, or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him ex parte.

Contd....P/02..

certified
to be true
Shri
Assoc.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

- 8 SEP 2007

Guruchari Bench
गुरुचरी न्यायपीठ

-: 02 :-

5. Attention of Shri Bhogelu Koiri, Washer up (Pass No. 825SU/D/41) is invited to Rule 20 of the Central Civil Services (Conduct) Rules, 1964, under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his 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 Bhogelu Koiri, Washer up (Pass No. 825SU/D/41) is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS (Conduct) rules, 1964.

6. The receipt of the Memorandum may be acknowledged.

(G Karthikeyan)

Gp Capt

Gtn Cdr

825 SU, AB

Name and designation of
Competent Authority

To,

Shri Bhogelu Koiri, W/Up

Pass No. 825SU/D/41

S/O- Late Kishan Koiri

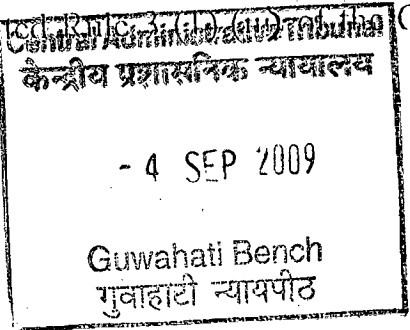
Vill+PO- Barjellanga

P.S. - Barjellanga

Disst - Cachar (Assam)

Annexure-ISTATEMENT OF ARTICLES OF CHARGE FRAMED AGAINST
SHRI BHOGELU KOIRI, WASHER UP (PASS NO.825SU/D/41)Article-I

Shri Bhogelu Koiri, Washer up (Pass No.825SU/D/41) while functioning at 825 Signal Unit, Air Force, C/O 99 APO, absented himself without leave of the leave sanctioning authority w.e.f. 10-7-03 to 13-7-03, 16-7-03 to 19-7-03, 02-8-03 to 13-8-03, 20-8-03 to 21-8-03, 24-8-03 to 26-8-03, 01-9-03 to 21-9-03, 03-10-03 to 04-10-03, 17-10-03, 01-12-03 to 03-12-03, 09-1-04 to 13-1-04, 16-1-04 to 18-1-04, 19-2-04 to 22-2-04, 05-4-04, 28-3-04, 14-5-04 to 18-6-04, 02-7-04, 01-12-04 to 19-12-04, 08-2-05 to 15-3-05 (Total-157 days) and 08-6-05 to till date. Thus he violated Rule 3 (i) (ii) of the CCS (Conduct) Rules, 1964.

Article-II

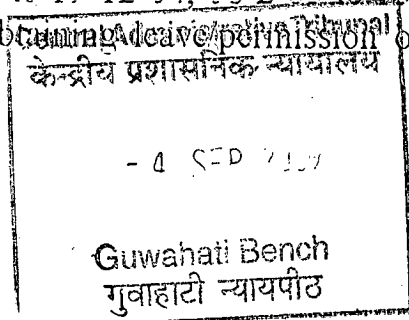
Shri Bhogelu Koiri, Washer up (Pass No.825SU/D/41) while functioning at 825 Signal Unit, Air Force, C/O 99 APO, failed to comply the order of his superior officer in contravention of Rule 3 (i) (ii) of the CCS (Conduct) Rules, 1964.

(G Karthikeyan)
Gp Capt
Stn Cdr
825 SU, AF

Annexure – II

STATEMENT OF IMPUTATION OF MISCONDUCT OR MISBEHAVIOUR IN
SUPPORT OF ARTICLE OF CHARGES FRAMED AGAINST SHRI BHOGELU
KOIRI, WASHER UP (PASS NO. 825SU/D/41) OF 825 SU, C/O 99 APC

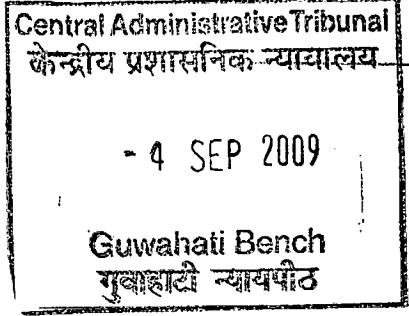
That the said Shri Bhogelu Koiri, Washer up (Pass No.825SU/D/41) while functioning at 825 SU, AF, C/O 99 APO as Washer up in Stn Catering Section, absented himself from duty from w.e.f.10-7-03 to 13-7-03,16-7-03 to 19-7-03,02-8-03 to 13-8-03,20-8-03 to 21-8-03,24-8-03 to 26-8-03, 01-9-03 to 21-9-03, 03-10-03 to 04-10-03, 17-10-03, 01-12-03 to 03-12-03, 09-1-04 to 13-1-04,16-1-04 to 18-1-04, 19-2-04 to 22-2-04,05-4-04, 28-3-04, 14-5-04 to 18-6-04, 02-7-04, 01-12-04 to 19-12-04, 08-2-05 to 15-3-05 (Total-157 days) and 08-6-05 to till date without obtaining leave permission of Competent Leave sanctioning authority.



Article – II

That the said Shri Bhogelu Koiri, Washer up (Pass No. 825 SU/D/41) while functioning at 825 Signal Unit, Air Force as washer up in Stn Catering Section, submitted his reply to show cause notice which was issued to him vide 825SU/1573/4/PC dated 18 Mar 05. His reply is not satisfactory and fabricated. Such deliberate and habitual misconduct in absenting shows his carelessness towards services. He failed to submit the actual explanation for his unauthorised absence from 10-7-03 to 13-7-03,16-7-03 to 19-7-03,02-8-03 to 13-8-03,20-8-03 to 21-8-03,24-8-03 to 26-8-03, 01-9-03 to 21-9-03, 03-10-03 to 04-10-03, 17-10-03, 01-12-03 to 03-12-03, 09-1-04 to 13-1-04,16-1-04 to 18-1-04, 19-2-04 to 22-2-04,05-4-04, 28-3-04, 14-5-04 to 18-6-04, 02-7-04, 01-12-04 to 19-12-04, 08-2-05 to 15-3-05 (Total-157 days) and 08-6-05 when he was asked by OIC Civil Admin of 825 SU, AF. Thus, he violated rule 3(1)(ii) of the CCS (Conduct) Rules, 1964.


(G Karthikeyan)
Gp Capt
Stn Cdr
825 SU, AF



Annexure-III

List of documents by which the articles of charge framed against Shri Bhogelu Koiri, Washer up (Pass No. 825 SU/D/41) of 825 Signal Unit, Air Force are proposed to be sustained :-

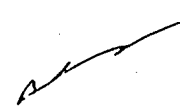
- (a) Stn Catering Section's service note No. 825SU/2300/1/Cat dated 10 Jul 03.
- (b) Stn Catering Section's service note No. 825SU/2300/1/Cat dated 17 Jul 03.
- (c) Stn Catering Section's service note No. 825SU/2300/1/Cat dated 04 Sep 03.
- (d) Stn Catering Section's service note No. 825SU/2300/1/Cat dated 04 Sep 03.
- (e) Stn Catering Section's service note No. 825SU/2300/1/Cat dated 03 Oct 03.
- (f) Stn Catering Section's service note No. 825SU/2300/1/Cat dated 20 Oct 03.
- (g) SWO's service note No. 825SU/2407/3/SWO dated 05 Dec 03.
- (h) SWO's service note No. 825SU/2407/3/SWO dated 12 Jan 04.
- (i) SWO's service note No. 825SU/2407/3/SWO dated 16 Jan 04.
- (j) SWO's service note No. 825SU/2407/3/SWO dated 23 Feb 04.
- (k) SWO's service note No. 825SU/2407/3/SWO dated 04 Mar 04.
- (l) Stn Catering Section's service note No. 825SU/2300/1/Cat dated 17 May 04.
- (m) Stn Catering Section's service note No. 825SU/2300/1/Cat dated 05 Jul 04.
- (n) Stn Catering Section's service note No. 825SU/2300/1/Cat dated 01 Dec 04.
- (o) Stn Catering Section's service note No. 825SU/2300/1/Cat dated 08 Feb 05.
- (p) Stn Catering Section's service note No. 825SU/2300/1/Cat dated 09 Jun 05.


(G Karthikeyan)
Gp Capt
Stn Cdr
825 SU, AF

Annexure - IV

List of witnesses by whom the articles of charge framed against Shri Bhogelu Koiri, Washer up (Pass Non 825SU/D/41) of 825 Signal Unit, Air Force, C/O 99 APO are proposed to be sustained :-

- (a) OIC Civil Admin - 825 SU, AF
- (b) SWO - 825 SU, AF
- (c) WO i/c Catering - 825 SU, AF


(G Karthikeyan)
Gp Capt
Stn Cdr
825 SU, AF

Dated 5th July, 2005-18

ANNEXURE- B

Before : The Group Captain,
Station Commandar,
825 Signal Unit, Air Force,
C/O 99 APO.

Subject : Reply to Article of Charges.

Reference : Memorandum issued under No 825 SU/1573/4/PO
Dated 22 June, 2005.

Respected Sir,

1. I beg to acknowledge receipt of the memorandum cited above on 25 June, 2005.

2. That Sir, as regards the imputations of misconduct or misbehaviour in the statement of Article of charge (Annexure-I) enclosed thereto, I beg humbly to submit ~~xxxx~~ my written statement of defence as under :-

Article I. That Sir, as already stated in my reply to the first show cause notice I beg to admit my abstaining from duty on the days covering the periods shown in the article of charge.

Be it brought to the notice of authority that I had been maintaining quite indifferent health for sometime past and casually fell sick, as a result of which I had to remain absent from my duties occasionally under compelling circumstances, but to the best of my belief such absence was neither deliberate nor habitual, and as such, I beg most humbly the authority to be gracious enough to pardon me for my absence from duties ^{during} the periods involved without leave of the leave sanctioning authority and to absolve me from the charges.

Sir, here I beg most humbly to submit that by this time I have steady improvement in my health, and I beg to assure that I shall attend to my duties regularly in future without absence if the benign authority be graciously pleased to pardon me and to reinstate me in the job. Myself and my family members shall have to die of starvation if in case I am thrown out of employment in these extremely hard days.

Article II. That Sir, as regards the imputation that while functioning at 825 Signal Unit, Air Force C/O 99 APO, I failed to comply the order of my superior officer in contravention of Rule 3(1)(ii) of the CCS (Conduct) Rules, 1964, I beg humbly to submit that I do not remember to have committed any such offence consciously. If, however, any instance of non-compliance occurred without my conscious knowledge, I beg most fervently to seek.

National Administrative Tribunal
দ্বিতীয় প্রশাসনিক ন্যায়ালয়

- 4 SEP 2009

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

certified to be
true copy
of the original
document

my profound apology therefor, and I earnestly hope to be excused for such inadvertant lapses, if any.

3. That Sir, in case the authority decides to hold an inquiry as proposed, I beg humbly to submit that I desire to be heard in person if so directed.

Yours faithfully,

Bhogelu Koiri

(Sri Bhogelu Koiri, W/Up)
Pass No 825 SU/D/41.

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

(Typed copy)

INQUIRY REPORTPass No.825SU/D/41 Shri Bhogelu Koiri , W/Up

1. Under sub-rule (2) of Rule 14 of CCS (CC&A) Rules, I was appointed by the Gp Captain Karthikeyan , Str. Cdr. Ap as inquiry Authority to inquire into the charges framed against Shri Bhogelu Koiri , W/Up (Pass No.825SU/D/41)) vide his letter No. 825 SU/ 1573/4 PC dated 14 July 05. I have completed the inquiry on the basis of the documentary and oral evidence before me as required. The report prepared produced is in as follows:

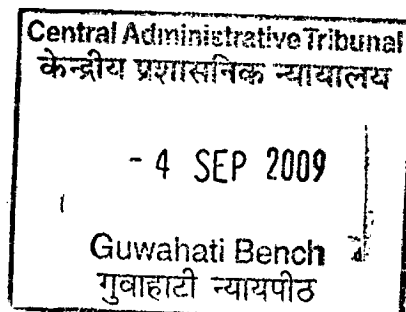
2. Participation by the Charged Officer in the Inquiry

The charged officer failed to appear participate in hearing on 25 Jul 05. He has reported to me on 28 Jul 05 with a request for extension of date and also requested to permit him for a defence assistant in his defence.

I accepted his request and permitted him to appear on 2 Aug 05 for further inquiry either himself or with Defence Asstt . An intimation already served to the charged officer to appear in the hearing on 25 Jul 05 either alone or represented by Defence Assistant on the appointed date, time and place vide 825 SU/ 1573/4 PC 14 July 05 and the same was received by the charged officer acknowledgment was obtained.

3. Article of charge and substance of imputation of Misconduct or misbehavior.

The following two articles of charge have been framed against the charged officer



certified to be
true copy
Shri Koiri
20/09/09

ARTICLE - I

Shri Bhogelu Koiri Washer Up (Pass No.825SU/D/41) while functioning at 825 Signal Unit, Air Force, C/O 99 APO, absented himself without leave of the sanctioning authority w.e.f. 10-7-03 to 13-7-03, 16-7-03 to 19-7-03, 2-8-03 to 13-8-03, 20-8-03 to 21-8-03, 24-8-03 to 26-8-03, 1-9-03 to 21-9-03, 3-10-03 to 4-10-03, 17-10-03, 1-12-03 to 3-12-03, 9-1-04 to 13-1-04, 16-1-04 to 18-1-04, 19-2-04 to 22-2-04, 5-4-04, 28-3-04, 14-5-04 to 18-6-04, 2-7-04, 1-12-04 to 19-12-04, 8-2-05 to 15-3-05 (Total - 157 days) and 8-6-05 to till date without leave sanctioned by the competent sanctioning authorities.

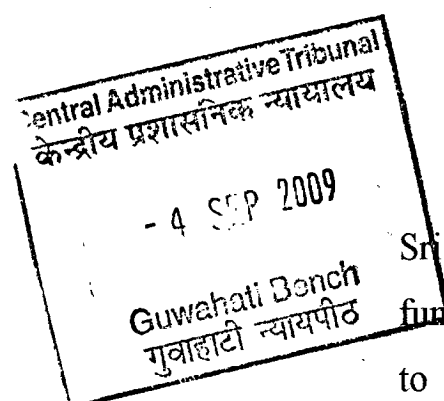
ARTICLE - II

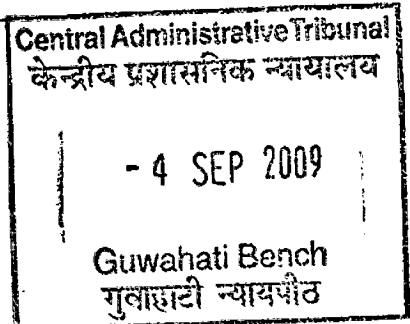
Sri Bhogelu Koiri, Washer up (Pass No. 825 SU/D/41) while functioning at 825 Signal Unit, Air Force, C/O 99 APO, failed to comply the order of his superior officer in contravention of Rule 3 (i) (ii) of the CCS (Conduct) Rules, 1964.

4. According to the statement of imputation of misconduct or misbehavior the charged official absented himself from his duties without prior approved /intimidation of his leave by competent leave sanctioning authority. The charged officer has to explain about his lapses and asked for some time for the same. He has been permitted to report on 02 Aug alone or with his defence assistant to explain to reason of unauthorized absence from duty.

5. Case of the Disciplinary Authority

The contention of the Disciplinary Authority was that the charged officer is a regular absentee AWOL service notes from his respective section is under:-





- (a) Stn Catering's Section service note No. 825SU/2300/1/Cat Dated 10 Jul 03.
- (b) Stn Catering's Section service note No. 825SU/2300/1/Cat dated 10 Jul 03.
- (c) Stn Catering's Section service note No. 825SU/2300/1/Cat dated 17 Jul 03.
- (d) Stn Catering's Section service note No. 825SU/2300/1/Cat dated 4 Sep 03.
- (e) Stn Catering's Section service note No. 825SU/2300/1/Cat dated 3 Oct 03.
- (f) Stn Catering's Section service note No. 825SU/2300/1/Cat dated 20 Oct 03.
- (g) SWO's service note No. 825SU /2407/3/SWO dated 5 Dec 03.
- (h) SWO's service note No. 825SU /2407/3/SWO dated 12 Jan 04.
- (i) SWO's service note No. 825SU /2407/3/SWO dated 16 Jan 04.
- (j) SWO's service note No. 825SU /2407/3/SWO dated 23 Feb 03.
- (k) SWO's service note No. 825SU /2407/3/SWO dated 4 Mar 04.
- (l) Stn Catering's Section service note No. 825SU/2300/1/Cat dated 17 May 04.
- (m) Stn Catering's Section service note No. 825SU/2300/1/Cat dated 5 Jul 04.
- (n) Stn Catering's Section service note No. 825SU/2300/1/Cat dated 1 Dec 04
- (o) Stn Catering's Section service note No. 825SU/2300/1/Cat dated 8 Feb 05.
- (p) Stn Catering's Section service note No. 825SU/2300/1/Cat dated 9 Jun 05.

The charged officer is in the habit of proceeding on leave without putting up an application. He does not wait for its approval. The charged officer returns as per his will and wish. He submitted the leave

application accompanied by Medical certificates which is not in order/ from authorized medical officer. Even though the charged officer has been warned many times by the Section Commander to improve again but he failed to improve himself.

6. The charged officer was issued with letters asking for an explanation for his illegal absence vide letter No. 825 SU/ 1573/4 PC dated 18 Mar 05 and Memorandum dated 22 Jun 05. The charged officer submitted his replies to competent Disciplinary Authority but his replies are not satisfactory and found to be fabricated.

7. Case of the Defendant

The charged officer in a habitual absentee and sometimes he put up leave application along with Medical Certificate stating that he remained sick for regularization of his AWOL period.

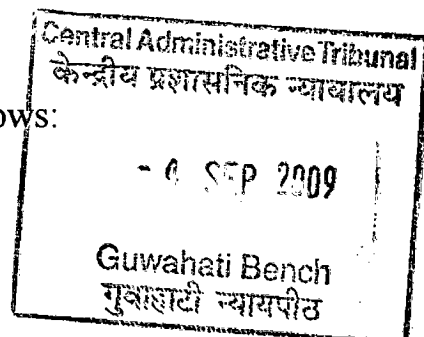
8. The defendant pleaded guilty for the charge as stated in Article -I.

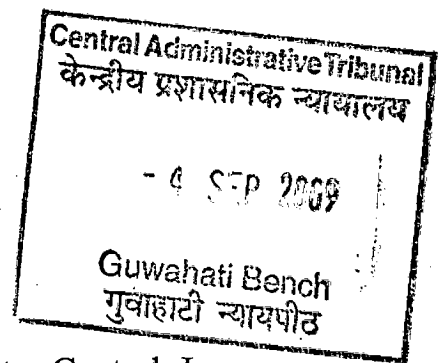
9. Analysis and Assessment of Evidence.

The charges leveled against the charged officer as follows:

ARTICLE I

Shri Bhogelu Koiri Washer Up (Pass No.825SU/D/41) while functioning at 825 Signal Unit, Air Force, C/O 99 APO, absented himself without leave of the sanctioning authority w.e.f. 10-7-03 to 13-7-03, 16-7-03 to 19-7-03, 2-8-03 to 13-8-03, 20-8-03 to 21-8-03, 24-8-03 to 26-8-03, 1-9-03 to 21-9-03, 3-10-03 to 4-10-03, 17-10-03, 1-12-03 to 3-12-03, 9-1-04 to 13-1-04, 16-1-04 to 18-1-04, 19-2-04 to 22-2-04, 5-4-04, 28-3-04, 14-5-04 to 18-6-04, 2-7-04, 1-12-04 to 19-12-04, 8-2-05 to 15-3-05 (Total – 157 days) and 8-6-05 to till date without obtaining leave permission from the Competent Leave





Sanctioning authority which is in contravention to Central Leave Rules.

ARTICLE II

- (b) Failed to comply the order issued by his superior officer in contravention of Rule 3 (i) (ii) of the CCS (Conduct) Rules, 1964.

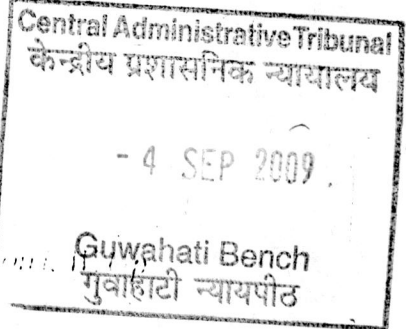
10. Findings

The charged officer failed to appear on 2 Aug 05 for hearing despite of several and sufficient chances given to him. I extremely feel that the charged officer disobeyed my order which is a case of contempt of competent Disciplinary Authority. Therefore, the charges framed against him are found to be correct. On the basis of documentary and oral evidence adduced in the case before me and in view of the reasons given above, I hold both charges against Sri Bhogelu Koiri, W/ up (Pass No. 825 SU/D/41) hold good and he is guilty for both the charges leveled against him in Article-I and Article-II.

Date: 10 Aug05

Sd/-
(Sri S.K. Pandey)

Flt. Lt.
Inquiry Officer



INQUIRY REPORT

Shri Bhogelu Koiri, W/Updress No. 8255U/15/344PC

Guwahati Bench
गुवाहाटी न्यायपीठ

1. Under sub-rule (2) of Rule 11 of the C.A.T. Rules, I was appointed by the C.A.T. Bench at Northkeayan, Shri Cdr. 8255U/15/344PC as a member authority to inquire into the charges framed against Shri Bhogelu Koiri, W/Updress No. 8255U/15/344PC. His letter No. 8255U/15/344PC dated 11 Jul 05, I have completed the inquiry on the basis of the documentary and oral evidence before me is required. The report prepared produced are is as follows:-

2. Participation by the Charged Officer in the Inquiry

The charged officer failed to appear personally in hearing fixed on 25 Jul 05. He has reported to me on 28 Jul 05 with a request for extension of hearing date and also requested to permit him to a defence assistant in his defence.

I accepted his request and permitted him to appear on 02 Aug 05 for further inquiry either with Defence Assistant. An intimation already served to the charged officer to appear on 25 Jul 05 either alone or represented by Defence Assistant on the appointed date, time and place vide 8255U/15/344PC dated 11 Jul 05. The same was received by the charged officer. Acknowledgement was obtained.

3. Article of charge and substance of charges of misconduct or misbehaviour

The following two articles of charges have been framed against Pass No. 8255U/15/344PC Shri Bhogelu Koiri, W/Up.

Article-1

Shri Bhogelu Koiri, W/Updress No. 8255U/15/344PC while functioning at 825 Signal Unit, A Force, C/O 99 APO, absented himself from his duty without sanction authority by competent authority from 10-7-03 to 13-7-03, 16-7-03 to 19-7-03, 22-7-03 to 24-7-03, 27-7-03 to 29-7-03, 31-7-03 to 03-8-03, 06-8-03 to 08-8-03, 11-8-03 to 13-8-03, 16-8-03 to 18-8-03, 21-8-03 to 23-8-03, 26-8-03 to 28-8-03, 31-8-03 to 03-9-03, 06-9-03 to 08-9-03, 11-9-03 to 13-9-03, 16-9-03 to 18-9-03, 21-9-03 to 23-9-03, 26-9-03 to 28-9-03, 31-9-03 to 03-10-03, 06-10-03 to 08-10-03, 11-10-03 to 13-10-03, 16-10-03 to 18-10-03, 21-10-03 to 23-10-03, 26-10-03 to 28-10-03, 31-10-03 to 03-11-03, 06-11-03 to 08-11-03, 11-11-03 to 13-11-03, 16-11-03 to 18-11-03, 21-11-03 to 23-11-03, 26-11-03 to 28-11-03, 31-11-03 to 03-12-03, 06-12-03 to 08-12-03, 11-12-03 to 13-12-03, 16-12-03 to 18-12-03, 21-12-03 to 23-12-03, 26-12-03 to 28-12-03, 31-12-03 to 03-01-04, 06-01-04 to 08-01-04, 11-01-04 to 13-01-04, 16-01-04 to 18-01-04, 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to 08-05-10, 11-05-10 to 13-05-10, 16-05-10 to 18-05-10, 21-05-10 to 23-05-10, 26-05-10 to 28-05-10, 31-05-10 to 03-06-10, 06-06-10 to 08-06-10, 11-06-10 to 13-06-10, 16-06-10 to 18-06-10, 21-06-10 to 23-06-10, 26-06-10 to 28-06-10, 31-06-10 to 03-07-10, 06-07-10 to 08-07-10, 11-07-10 to 13-07-10, 16-07-10 to 18-07-10, 21-07-10 to 23-07-10, 26-07-10 to 28-07-10, 31-07-10 to 03-08-10, 06-08-10 to 08-08-10, 11-08-10 to 13-08-10, 16-08-10 to 18-08-10, 21-08-10 to 23-08-10, 26-08-10 to 28-08-10, 31-08-10 to 03-09-10, 06-09-10 to 08-09-10, 11-09-10 to 13-09-10, 16-09-10 to 18-09-10, 21-09-10 to 23-09-10, 26-09-10 to 28-09-10, 31-09-10 to 03-10-10, 06-10-10 to 08-10-10, 11-10-10 to 13-10-10, 16-10-10 to 18-10-10, 21-10-10 to 23-10-10, 26-10-10 to 28-10-10, 31-10-10 to 03-11-10, 06-11-10 to 08-11-10, 11-11-10 to 13-11-10, 16-11-10 to 18-11-10, 21-11-10 to 23-11-10, 26-11-10 to 28-11-10, 31-11-10 to 03-12-10, 06-12-10 to 08-12-10, 11-12-10 to 13-12-10, 16-12-10 to 18-12-10, 21-12-10 to 23-12-10, 26-12-10 to 28-12-10, 31-12-10 to 03-01-11, 06-01-11 to 08-01-11, 11-01-11 to 13-01-11, 16-01-11 to 18-01-11, 21-01-11 to 23-01-11, 26-01-11 to 28-01-11, 31-01-11 to 03-02-11, 06-02-11 to 08-02-11, 11-02-11 to 13-02-11, 16-02-11 to 18-02-11, 21-02-11 to 23-02-11, 26-02-11 to 28-02-11, 31-02-11 to 03-03-11, 06-03-11 to 08-03-11, 11-03-11 to 13-03-11, 16-03-11 to 18-03-11, 21-03-11 to 23-03-11, 26-03-11 to 28-03-11, 31-03-11 to 03-04-11, 06-04-11 to 08-04-11, 11-04-11 to 13-04-11, 16-04-11 to 18-04-11, 21-04-11 to 23-04-11, 26-04-11 to 28-04-11, 31-04-11 to 03-05-11, 06-05-11 to 08-05-11, 11-05-11 to 13-05-11, 16-05-11 to 18-05-11, 21-05-11 to 23-05-11, 26-05-11 to 28-05-11, 31-05-11 to 03-06-11, 06

Case of the Disciplinary Authority

The contention of the Disciplinary Authority was that the charged officer is a regular absentee & AWOL service notes from his respective sections are as under:-

- (a) Stn Catering Section's service note No.8255U/2300/1/Cat dated 10 Jul 03.
- (b) Stn Catering Section's service note No.8255U/2300/1/Cat dated 17 Jul 03.
- (c) Stn Catering Section's service note No.8255U/2300/1/Cat dated 04 Sep 03.
- (d) Stn Catering Section's service note No.8255U/2300/1/Cat dated 01 Sep 03.
- (e) Stn Catering Section's service note No.8255U/2300/1/Cat dated 03 Oct 03.
- (f) Stn Catering Section's service note No.8255U/2300/1/Cat dated 20 Oct 03.
- (g) SWO's service note No.8255U/2300/1/Cat dated 03 Dec 03.
- (h) SWO's service note No.8255U/2300/1/Cat dated 12 Jan 04.
- (i) SWO's service note No.8255U/2300/1/Cat dated 16 Jan 04.
- (j) SWO's service note No.8255U/2300/1/Cat dated 23 Feb 04.
- (k) SWO's service note No.8255U/2300/1/Cat dated 04 Mar 04.
- (l) Stn Catering Section's service note No.8255U/2300/1/Cat dated 17 May 04.
- (m) Stn Catering Section's service note No.8255U/2300/1/Cat dated 05 Jul 04.
- (n) Stn Catering Section's service note No.8255U/2300/1/Cat dated 01 Dec 04.
- (o) Stn Catering Section's service note No.8255U/2300/1/Cat dated 03 Feb 05.
- (p) Stn Catering Section's service note No.8255U/2300/1/Cat dated 09 Jun 05.

The charged officer is in the habit of going on leave without putting up an application. He does not wait for its approval. The charged officer returns as per his will & wish. He submits the leave application accompanied by medical certificate which is not in order from authorised medical officer. Even though the charged officer has been warned many times by the Section commander to improve again but he failed to improve himself.

The charged officer was asked to submit an explanation for his illegal absence and letter No.8255U/15734/1/Cat dated 12 Mar 04. Memorandum dated 22 Jun 05. The charged officer submitted his replies to competent authority but his replies are not satisfactory and found to be fabricated.

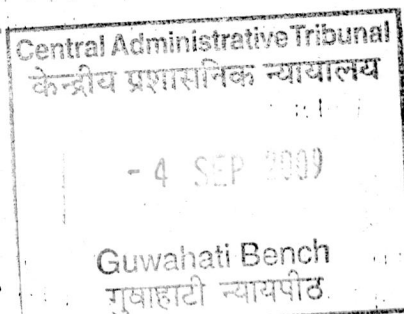
Case of the Defendant

The charged officer is a regular absentee and sometimes he put up leave application along with medical certificate stating absence from duty for a certain period of his AWOL period.

8. The Defendant pleads guilty to the charges mentioned in Article 1.

9. Analysis and Award of Punishment

The charges leveled are:-



(a) Absence from duty from 03-03-03 to 21-03-03, 02-03-03 to 03-12-03, 09-1-04 to 21-1-04, 02-7-04, 01-1-05 to 18-6-05, 02-7-05, 01-1-06 to 18-6-06, 02-7-06, 01-1-07 to 18-6-07, 02-7-07, 01-1-08 to 18-6-08, 02-7-08, 01-1-09 to 18-6-09, 02-7-09, 01-1-10 to 18-6-10, 02-7-10, 01-1-11 to 18-6-11, 02-7-11, 01-1-12 to 18-6-12, 02-7-12, 01-1-13 to 18-6-13, 02-7-13, 01-1-14 to 18-6-14, 02-7-14, 01-1-15 to 18-6-15, 02-7-15, 01-1-16 to 18-6-16, 02-7-16, 01-1-17 to 18-6-17, 02-7-17, 01-1-18 to 18-6-18, 02-7-18, 01-1-19 to 18-6-19, 02-7-19, 01-1-20 to 18-6-20, 02-7-20, 01-1-21 to 18-6-21, 02-7-21, 01-1-22 to 18-6-22, 02-7-22, 01-1-23 to 18-6-23, 02-7-23, 01-1-24 to 18-6-24, 02-7-24, 01-1-25 to 18-6-25, 02-7-25, 01-1-26 to 18-6-26, 02-7-26, 01-1-27 to 18-6-27, 02-7-27, 01-1-28 to 18-6-28, 02-7-28, 01-1-29 to 18-6-29, 02-7-29, 01-1-30 to 18-6-30, 02-7-30, 01-1-31 to 18-6-31, 02-7-31, 01-1-32 to 18-6-32, 02-7-32, 01-1-33 to 18-6-33, 02-7-33, 01-1-34 to 18-6-34, 02-7-34, 01-1-35 to 18-6-35, 02-7-35, 01-1-36 to 18-6-36, 02-7-36, 01-1-37 to 18-6-37, 02-7-37, 01-1-38 to 18-6-38, 02-7-38, 01-1-39 to 18-6-39, 02-7-39, 01-1-40 to 18-6-40, 02-7-40, 01-1-41 to 18-6-41, 02-7-41, 01-1-42 to 18-6-42, 02-7-42, 01-1-43 to 18-6-43, 02-7-43, 01-1-44 to 18-6-44, 02-7-44, 01-1-45 to 18-6-45, 02-7-45, 01-1-46 to 18-6-46, 02-7-46, 01-1-47 to 18-6-47, 02-7-47, 01-1-48 to 18-6-48, 02-7-48, 01-1-49 to 18-6-49, 02-7-49, 01-1-50 to 18-6-50, 02-7-50, 01-1-51 to 18-6-51, 02-7-51, 01-1-52 to 18-6-52, 02-7-52, 01-1-53 to 18-6-53, 02-7-53, 01-1-54 to 18-6-54, 02-7-54, 01-1-55 to 18-6-55, 02-7-55, 01-1-56 to 18-6-56, 02-7-56, 01-1-57 to 18-6-57, 02-7-57, 01-1-58 to 18-6-58, 02-7-58, 01-1-59 to 18-6-59, 02-7-59, 01-1-60 to 18-6-60, 02-7-60, 01-1-61 to 18-6-61, 02-7-61, 01-1-62 to 18-6-62, 02-7-62, 01-1-63 to 18-6-63, 02-7-63, 01-1-64 to 18-6-64, 02-7-64, 01-1-65 to 18-6-65, 02-7-65, 01-1-66 to 18-6-66, 02-7-66, 01-1-67 to 18-6-67, 02-7-67, 01-1-68 to 18-6-68, 02-7-68, 01-1-69 to 18-6-69, 02-7-69, 01-1-70 to 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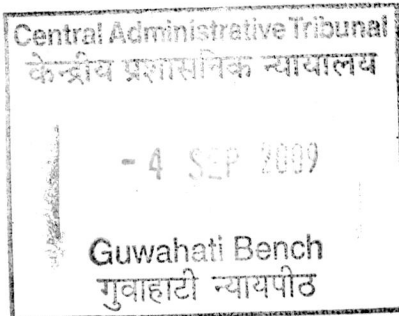
Article-II

(b) Failed to comply the order issued by his superior officer in contravention of Rule 3 (1) (ii) of CCS (Conduct) Rules, 1954.

10. Findings

The charged officer failed to appear on 07 Aug 05 for hearing despite of several and sufficient chances given to him. I extremely feel that the charged officer disobeyed my orders which is a case of contempt of competent Disciplinary Authority. Therefore, the charges framed against him are found to be correct. On the basis of documentary and oral evidence adduced in the case before me and in view of the reasons given above, I hold that both charges against Shri Bhogela Koiti, W/Up (Para No.825SU/D/4.1) hold good and he is guilty to both the charges leveled against him in Article-I and Article-II.

Date : 10 Aug 05



(SR. Pandey)
FRI
Inquiry Officer

(Typed copy)

No. 825SU/1571/ 5/PC
Government of India
Ministry of Defence
Indian Air Force,
825 SU.AF
C/O 99 APO

29 September 2005

ORDER

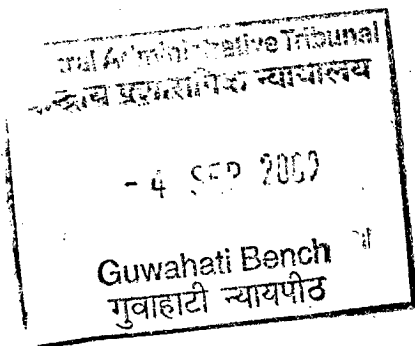
WHEREAS Shri Bhogelu Koiri Washer up Pass No.825SU/D/41 has been convicted on the charges under of Rule 3 (1) (ii) & (iii) of the Central Civil Services (Conduct) Rules, 1964.

AND WHEREAS it is contended that the gravity of charges against Shri Bhogelu Koiri, Washer up is such as to warrant the imposition of major penalty.

AND WHEREAS Shri Bhogelu Koiri Washer up was given an opportunity to offer his written explanation.

AND WHEREAS the inquiry report which has been duly considered by the undersigned.

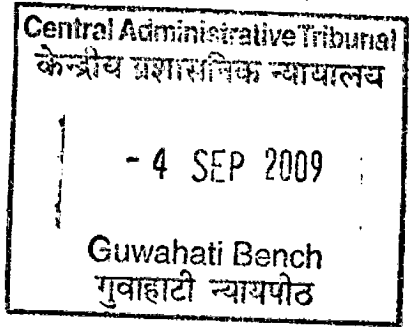
NOW, THEREFORE in exercise of the power conferred by Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 the undersigned hereby impose the penalty of removal from service which shall not be a disqualification for future employment under the Government to the said Pass No.825SU/D/41 Shri Bhogelu Koiri, Washer up.



Sd/
(G. Karthikeyan)
Group Captain
Station Commander
825 S U, AF

certified to be
true copy
for
Dm

-29-



SPEAKING ORDER

The report of the Inquiry has been carefully examined and I am satisfied that pass No.825SU/D/41 Shri Bhogelu Koiri Washer up was given reasonable opportunity to defend himself.

The following are articles of charges framed against pass No.825SU/D/41 Shri Bhogelu Koiri Washer up have been proved.

(a) Article-I :- Shri Bhogelu Koiri Washer Up (Pass No.825SU/D/41) while functioning at 825 Signal Unit, Air Force, C/O 99 APO, absented himself without leave of the sanctioning authority w.e.f. 10-7-03 to 13-7-03, 16-7-03 to 19-7-03, 2-8-03 to 13-8-03, 20-8-03 to 21-8-03, 24-8-03 to 26-8-03, 1-9-03 to 21-9-03, 3-10-03 to 4-10-03, 17-10-03, 1-12-03 to 3-12-03, 9-1-04 to 13-1-04, 16-1-04 to 18-1-04, 19-2-04 to 22-2-04, 5-4-04, 28-3-04, 14-5-04 to 18-6-04, 2-7-04, 1-12-04 to 19-12-04, 8-2-05 to 15-3-05 (Total – 157 days) and 8-6-05 to till date . Thus he violated Rule 3 (1) (iii) of the CCS (Conduct) Rules, 1964.

(b) Article-II :- Sri Bhogelu Koiri, Washer up (Pass No. 825 SU/D/41) while functioning at 825 Signal Unit, Air Force, C/O 99 APO, failed to comply the order of his superior officer in contravention of Rule 3 (I) (ii) of the CCS (Conduct) Rules, 1964.

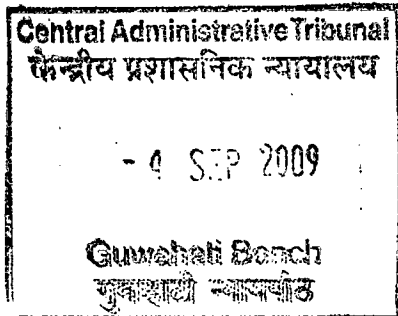
Hence no further enquiry in this regard is considered necessary.

Therefore the penalty of removal from service which shall not be a disqualification for future employment under the Government to the said Pass No.825SU/D/41 Shri Bhogelu Koiri Washer up.

Sd/
(G. Karthikeyan)
Group Captain
Station Commander
825 S U, AF

Date. 29 Sep 05

-30-



No. 825SU/1571/5/PC
Government of India
Ministry of Defence
Indian Air Force,
825 SU, AF
C/O 99 APO

27 September 2005

ORDER


WHEREAS Shri Bhogelu Koiri, Washer up, Pass No. 825SULD/41 has been convicted on the charges under Rules 3 (i) (ii) & (iii) of Central Civil Services (Conduct) Rules, 1964

AND WHEREAS it is considered that the gravity of the charges against Shri Bhogelu Koiri, Washer up is such as to warrant the imposition of a major penalty.

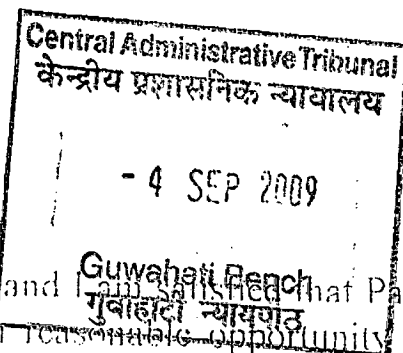
AND WHEREAS Shri Bhogelu Koiri, Washer up was given an opportunity to offer his written explanation;

AND WHEREAS the inquiry report which has been duly considered by the undersigned.

NOW, THEREFORE, in exercise of the powers conferred by Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, the undersigned hereby impose the penalty of removal from service which shall not be a disqualification for future employment under the Government to the said Pass No. 825SU/D/41 Shri Bhogelu Koiri, Washer up.


(G Karthikeyan)
Group Captain
Station Commander
825 SU, AF

SPEAKING ORDER



The report of the Inquiry has been carefully examined and it is satisfied that Pass No. 825SU/D/41 Shri Bhogelu Koiri, Washer up was given reasonable opportunity to defend himself.


The following articles of charges framed against Pass No. 825SU/D/41 Shri Bhogelu Koiri, Washer up have been proved.

(a) Article-1 - Shri Bhogelu Koiri, Washer up (Pass No. 825SU/D/41) while functioning at 825 Signal Unit, Air Force, C/O 99 APO, absented himself without leave of the leave sanctioning authority on 10-7-03 to 13-7-03, 16-7-03 to 19-7-03, 02-8-03 to 13-8-03, 20-8-03 to 21-8-03, 24-8-03 to 26-8-03, 01-9-03 to 21-9-03, 03-10-03 to 04-10-03, 17-10-03, 01-12-03 to 03-12-03, 09-1-04 to 13-1-04, 16-1-04 to 18-1-04, 19-2-04 to 22-2-04, 05-4-04, 28-3-04, 1-4-5-04 to 18-6-04, 02-7-04, 01-12-04 to 19-12-04, 08-2-05 to 15-3-05 (Total-157 days) and 08-6-05 to till date. Thus he violated Rule 3 (1) (iii) of the CCS (Conduct) Rules, 1964.

(b) Article - 11 - Shri Bhogelu Koiri, Washer up (Pass No. 825SU/D/41) while functioning at 825 Signal Unit, Air Force, C/O 99 APO, failed to comply the order of his superior officer in contravention of Rule 3 (1) (ii) of the CCS (Conduct) Rules, 1964.

Hence, no further enquiry in this regard is considered necessary.

Therefore, the penalty of removal from service which shall not be disqualification for future employment under the Government is imposed on Pass No. 825SU/D/41 Shri Bhogelu Koiri, Washer up.


(G Karthikeyan)
Group Captain
Station Commander
825 SU, AF

Date: 29 Sep 05

- 32 -

ANNEXURE- E

Telephone : 253507/302

825 SU, AF
C/O 99 APO

825SU/1571/5/PC

03 Sep 05

Shri Bhogelu Koiri, W/Up
Pass No. 825SU/D/41
Vill + PO = Barjellanga
Dist : Cachar (Assam)

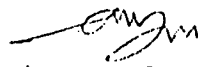
Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

- 4 SEP 2005

Guwahati Bench
गुवाहाटी न्यायपीठ

MEMORANDUM

1. The undersigned is directed to forward herewith an order of even number dated 29 September 2005, passed by the Competent Disciplinary Authority imposing a major penalty on Shri Bhogelu Koiri, W/Up, Pass No. 825SU/D/41, and also a copy of the Inquiry report which includes findings of the Inquiring Authority on each articles of charge.
2. Pass No. 825SU/D/41 Shri Bhogelu Koiri, W/Up should acknowledge the receipt of this memorandum.


(GR Dadewal)
Wg Cdr
OIC Civil Admin
For Stn Cdr

Encls : As stated

*certified to be
true copy
for Govt
secret*

ANNEXURE F

From : Sri Bhogelu Koiri
 Pass No: 825 SU/D/41
 S/O Late Krishna Koiri
 Vill : Borjalenga. P.S. Silchar
 Dist: Cachar (Assam)

Central Administrative Tribunal केन्द्रीय प्रशासनिक न्यायालय
- 4 SEP 2008
Guwahati Bench गुवाहाटी न्यायपीठ

Dated : 05 Feb 2008

To

The Assistant Chief of Air Staff (Pers & Civ)
 Air Headquarters . New Delhi
 (Appellate Authority)

Subject : APPEAL AGAINST THE ORDER OF IMPOSING PENALTY
OF REMOVAL FROM SERVICE :

Respected Sir,

Most humbly and respectfully I hereby beg to prefer my appeal under Rule 25 of CCS(CA) Rule 1965 against the order of imposing penalty of removal from service against me vide: Government of India, Ministry of Defence, Indian Air Force, 825 SU AF C/o: 99 APO Order No. 825 SU/1571/5/PC dated 29 Sept 2005 (Copy enclosed alongwith Speaking Order & Inquiry Report and marked as Appending - 'A') on the following grounds for your kind consideration and favourable order please.

1. Discrepancies in the Charge Sheet : The Charge Sheet for Major Penalties served on me vide Govt. of India, Ministry of Defence, 825 Signal Unit, Air Force, C/o: 99 APO No. 825 SU/1573/4/PC dt. 22 June 2005 (Copy enclosed and marked as Appendix 'B') bears the discrepancies as under :

a) The witnesses by whom the article of charges framed against me in Annexure-IV of the Charge Sheet (Memorandum) has been shown as per their official positions holding in the Unit and not by their names which is mandatory as per rule and hence makes the Charge Sheet automatically null & void .

*certified to
have been
sent
per*

Bhogelu Koiri

b) List of documents by which article of Charge framed under Annexure III of the Memorandum do not reflect the correct report as no note as regard to the alleged charge of absent for the dates 2.8.2003 to 13.8.2003, 20.8.2003 to 21.8.2003, 24.8.2003 to 26.8.2003, 5.4.2004 and 26.8.2003 against Article I of Annexure I has been placed in support of the charge.

c) In the Annexure II (Article -II) the statement of Articles of Charges framed against me for violating Rule 3 (1)(ii) of the CCS (Conduct) Rules-1954 is a non existing Rule.

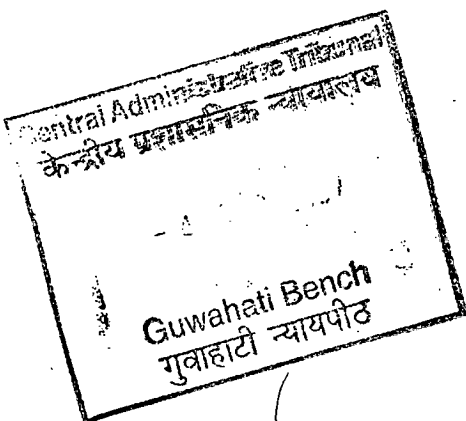
2) Discrepancies in the Inquiry :

a) That sir, I never pleaded guilty for the charge constituted under Article-I of Charge Sheet as shown in the para-8 of Inquiry Report dt. 10 Aug'05 (Ans. to Question No-1 reflected in Daily Order Sheet), rather I submitted that Article I is correct in the light that I absented from duty under unavoidable circumstances and could not submit Medical Certificate in all the cases. In this connection I beg to refer to my reply dt. 5th July 2005 to Article of Charges (Copy enclosed and marked as Appendix 'C').

b) Documents in support of the charges framed were not allowed for inspection by me during the Inquiry but in para-2 of Daily Order Sheet dated 10 Aug'05 it has been shown that I inspected the documents and admitted the documents mentioned as authentic.

.....P/3

Bhogen Kaur



c) The Article II of Annexure -I of the Charge Sheet states that " I failed to comply the order of my superior officer in contravention of Rule 3(1)(ii) of the CCS(Conduct) Rules 1964, but no instance or evidence in support of the charge was placed before the Inquiry Officer but in Para 9(b) of the Inquiry Report dated 10 Aug '05 shows that the charge is established.

d) Further more, during the proceedings of Inquiry on dated 28 Jul '05, as reflected in the Daily Order Sheet dated 10 Aug '05 (Para 1) inspite of the presence of I/C Civ. Adm who is one amongst three witnesses as per Annexure-IV of the Charge Sheet was not examined and two other witnesses i.e. SMO and WO I/C Catering of 825 SU AF never appeared before the Inquiry for examination/cross examination.

3) Observation on findings: The finding of the Inquiry is based on defective documentary/oral evidence adduced during the Inquiry.

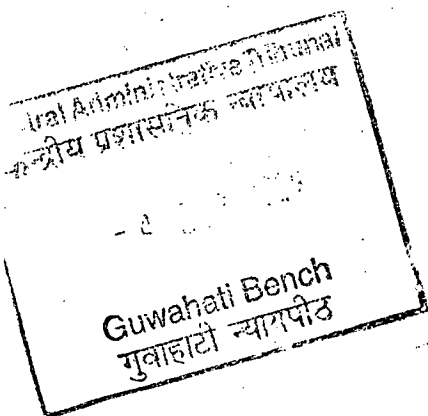
The contention of the Inquiry Officer in the finding of Inquiry Report dated 10 Aug '05 which states as " I extremely feel that the Charged Officer disobeyed my orders which is a case of contempt of competent Disciplinary Authority. Therefore, the charges framed against him are found to be correct", is guided by personal sentiment and against the spirit of natural justice and bad in law

Submission :

Sir, the the facts submitted above, I beg to request your goodself to consider my appeal under Rule 27 of CCS(CA) Rules-1965 as :

.....P/4

Bhogen Lai



- a) The procedure laid down in the Rules has not been complied with in the course of Inquiry amounting to failure of justice ;
- b) the findings of the disciplinary authority are not warranted by the evidence on records; and
- c) the penalty imposed on me is severe.

Thanking with anticipation,

Yours Sincerely

Bhogelu Keiri

(Sri Bhogelu Keiri)

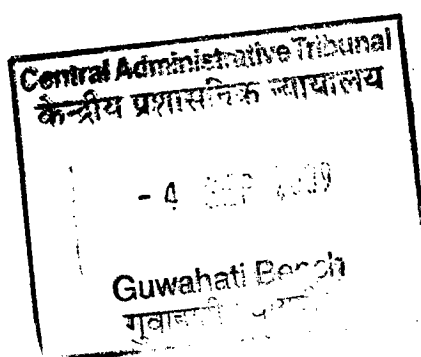
E Enclos :

1. Appendix 'A' 7 pages
2. Appendix 'B' 6 pages
3. Appendix 'C' 2 pages

Copy to :

Station Commander
825 SU AF
C/O: 99 APO
(Disciplinary Authority)

1 Please find herewith two
1 copies of the petition of
1 Appeal dated 05 Feb'88
1 alongwith enclosures for
forwarding to the Appellate
Authority.



Bhogelu Keiri

(Sri Bhogelu Keiri)

-37-

ANNEXURE-6

Tele : 23010231 Extn 6157

Air HQ/23037/DISC/MISC/PC 6

Regd

Air Headquarters
Vayu Bhawan
Rafi Marg
New Delhi-110106
5 May 08

Sh Bhogelu Koiri
S/o Late Sh Krishna Koiri
Village Borjalenga, P.S. Silchar
Distt : Silchar (Assam)

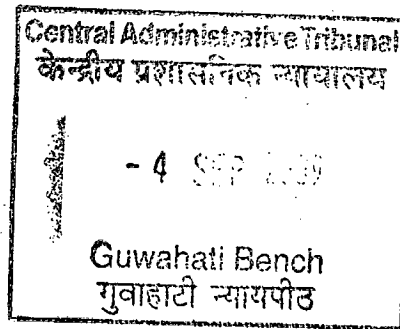
APPEAL AGAINST THE ORDER OF PENALTY OF REMOVAL FROM SERVICE :
SH BHOGELU KOIRI, EX- WASHERUP, 825 SU

1. Reference your letter dated 05 Feb 08.
2. You have submitted your appeal to ACAS(PA&C) of this HQ, whereas the appropriate Appellate Authority in your case is SOA, HQ Eastern Air Command, IAF. You are, therefore, advised that in case of any grievance, you may approach the appropriate authority. Your letter dated 05 Feb 08, in original, is, therefore, returned herewith.

Encl: As stated

Copy to :-

HQ EAC, IAF – For information.



(Signature)
(AK Ghoshal)
Jt Director
for Air Officer i/c Pers

*certified to be
true copy
for file
please*

ANNEXURE - H

Tele : 2551464/2415

HQ EAC IAF
C/O 99 APO

EAC/C 1630/2/PC

22 Aug 08

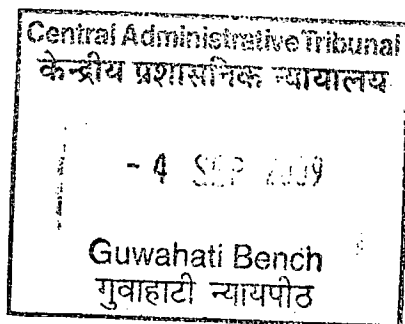
Shri Bhodee Kohri
C/O Shri Shola Sah
VIII, Old Missamari
P.O. Missamari
Dist. Sonitpur (Assam)
Pin : 784506

REQUEST FOR CORRESPONDENCE ON BELOW ADDRESS

1. Reference to your representation dated 04 Aug 2008.

2. It is to intimate that your appeal letter dated 24 Jul 2008 has not been received at this HQ. However, this HQ is in receipt of a copy of your appeal letter dated 05 Feb 2008 addressed to ACAS(PA&C), Air HQ(VB), New Delhi, which was returned to you vide Air HQ letter No Air HQ/23037/Disc/Misc/PC-6 dated 05 May 06. The same is reforwarded to you.

3. The Appellate Authority in your case is SOA. Therefore, as advised by Air HQ, you may re-submit your grievances, if any, to the Appropriate Authority. However, it may be noted that as per Rule 25 of CC(CG&A) Rules, 1962, an appeal has to be preferred within 45 days from the date of order. In the instant case, you have submitted an appeal after a lapse of 03 years, even without mentioning any reasons for such late submission.



Annex : As above

(PS Lyngdoh)
CGO (A)
OIC PC
For S O A

cert. to be
true copy
Shri
M. J. J. J.

39 -
ANNEXURE-I

22/5/09
Tele: 2560880/2401

HQ EAC, IAF
C/o 99 APO

EAC/1630/2/PC

01 May 09

ORDER

1. **WHEREAS**, Shri Bhogelu Koiri, civilian Washer Up, Pass No 825SU/D/41 was appointed under indigent circumstances against the post of Washer Up at 825 SU AF wef 01 May 1996.

2. **AND WHEREAS**, on 22 June 2005, an Inquiry under Rule 14 of the CCS (CC&A) Rules, 1965 was instituted by Gp Capt G Karthikeyan, Stn Cdr, 825 SU AF, the Disciplinary Authority, to enquire into the circumstance under which Shri Bhogelu Koiri absented himself from duty without leave for a total number of 157 days on numerous occasions between the period 10 July 2003 to 15 March 2005 and for failing to comply with the order of his superior officer.

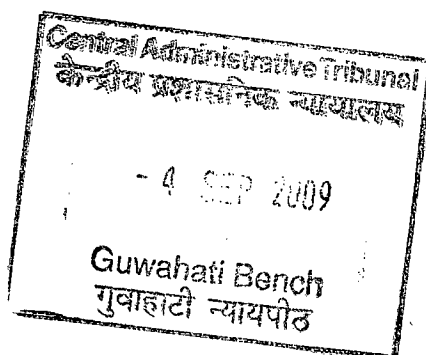
3. **AND WHEREAS**, on conclusion of the inquiry proceedings, Gp Capt G Karthikeyan, Stn Cdr, 825 SU AF, the Disciplinary Authority, on 29 September 2005, imposed a major penalty of "removal from service which shall not be a disqualification for future employment under the Government" in terms of Rule 11 (viii) of the CCS (CC&A) Rules, 1965, against said Shri Bhogelu Koiri.

4. **AND WHEREAS**, the Memorandum dated 30 September 2005, vide which the order by the disciplinary authority imposing the above said major penalty and the copy of the Inquiry report were forwarded to Shri Bhogelu Koiri, was received by Shri Bhogelu Koiri on 03 October 2005.

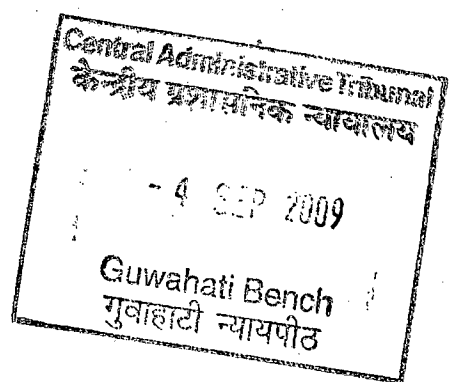
5. **AND WHEREAS**, aggrieved by the above order of Removal from service, Shri Bhogelu Koiri, has preferred an appeal vide his representation dated 20 November 2008 after the lapse of more than three years. The petitioner in his appeal, inter-alia has raised following contentions:

(a) Discrepancies in the Charge Sheet

(i) The witnesses by whom articles of charges framed against him in Annexure IV of the Charges Sheet (Memorandum) has been shown as per their official positions holding in the unit and not by their names which is mandatory as per rule and hence makes the charge sheet automatically null & void.



certific to be
true copy
Shri
Advocate



(ii) List of documents by which articles of charge framed under Annexure III of the memorandum do not reflect the correct report as no note as regard to the alleged charge of absent for the dated 02 Aug 03 to 13 Aug 03, 20 Aug 03 to 21 Aug 03, 25 Aug 03 to 25 Aug 03, 05 Apr 04 and 28 Aug 03 against Article I of Annexure I has been placed in support of the charge.

(iii) In the Annexure I (Articles – II) the statement of Articles of Charges framed against him for violating Rule 3(i), (ii) of the CCS (Conduct) Rules 1904 is a non existing Rule.

(b) Discrepancies in the Inquiry

(i) That, he never pleaded guilty for the charge constitute under Article-I of Charge Sheet as shown in Para 8 of the Inquiry Report dated 10 Aug 05 (Answer to Question No 1 reflected in Daily Order sheet) rather he submitted that Article-I is correct in the light that he absented from duty under unavoidable circumstances and not submitted medical certificate in all the cases.

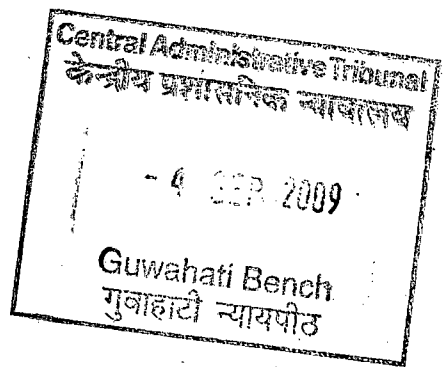
(ii) Document in support of the charges framed were not allowed for inspection during the inquiry but in Para 2 of daily order sheet dated 10 Aug 05, it has been shown that he had inspected the documents and admitted the documents mentioned as authentic.

(iii) The Article II of Annexure I of the Charge Sheet states "he failed to comply the order of superior officer in contravention of Rule (i), (ii) of evidence in support of the charge was placed before the Inquiry Officer but in Para 9(b) of the Inquiry Report dated 10 Aug 05 shows that the charge is established.

(iv) During the proceedings of Inquiry on 28 Jul 05, as reflected in the Daily Order Sheet dated 10 Aug 05 (Para 1) in spite of the presence of I/C Civil Admin who is one amongst three witness as per Annexure IV of the Charge Sheet was not examined and two other witness ie. SWO and WO IC Catering of 825 SU never appeared before the Inquiry for examination/cross examination.

(c) Observation in Findings The finding of the Inquiry is based on defective documentary/oral evidence adduced during the Inquiry. The contention of the Inquiry Officer in the finding of the Inquiry report dated 10 Aug 05 which states as "he extremely feel that the Charge Officer disobeyed the order which as case of contempt of Competent Disciplinary Authority, therefore, the charges framed against him are found to be correct" is guided by personal sentiment and against the spirit of natural justice.

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6. **AND WHEREAS**, as per the Rule 25 of CCS(CC&A) Rules, 1965, "No appeal preferred under this part shall be entertained unless such appeal is preferred within a period of forty-five days from the date on which a copy of the order appealed against is delivered to the appellant. Provided that the Appellate Authority may entertain the appeal after the expiry of the said period, if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time."

7. **AND WHEREAS**, in his appeal dated 20 November 2008, Shri Bhogelu Koiri has not brought out any supporting documents to justify the delay in filing the instant appeal after a period of three years. Notwithstanding the same, the appeal has been considered and comments were asked from 825 SU AF.

8. **AND WHEREAS**, on perusal of the documents forwarded by 825 SU, AF, the following facts have emerged:-

(a) That, the Memorandum dated 22 June 2005 raised by Stn Cdr 825 SU, AF in the case of Shri Bhogelu Koiri has been correctly raised by the Unit Authorities.

(b) That, adequate opportunities were given to Shri Bhogelu Koiri for his defence and to present his case before the Inquiry Officer.

(c) That, in reply to the Memorandum dated 22 June 2005, Shri Bhogelu Koiri agreed to the fact that he absented himself without leave from duty for the periods mentioned in the Article of charge without obtaining leave/permission of competent leave sanctioning authority.

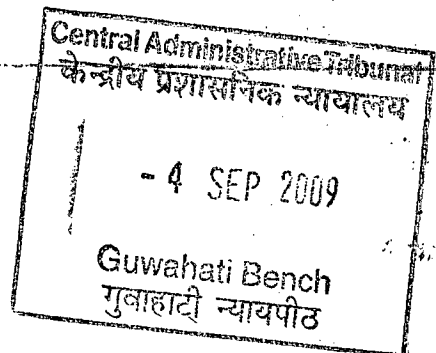
(d) That Shri Bhogelu Koiri accepted before the Inquiry Officer that he absented himself from duty without prior approval as stated in the Article of charge. He also accepted that he did not submit medical certificates for all his absentee.

(e) The Board of Inquiry proceedings are in order.

9. **AND WHEREAS**, after having given careful consideration to the appeal submitted by the Appellant, the comments received from 825 SU AF, the inquiry proceedings and all the related documents, I being the appellate authority have observed that the grounds of Appeal by Shri Bhogelu Koiri as stated in his appeal dated 20 November 2008, against the order dated 29 September 2005 passed by Gp Capt G Karthikeyan, Stn Cdr, 825 SU AF, the Disciplinary Authority, imposing the major penalty of "removal from service which shall not be a disqualification for future employment under the Government" in terms of Rule 11 (viii) of the CCS (CC&A) Rules, 1965, are without any merit.

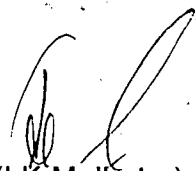
10. **AND WHEREAS**, considering the entire facts and circumstances of the case, I being the appellate authority have observed that the major penalty of "removal from service which shall not be a disqualification for future employment under the

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Government", imposed by Gp Capt G Karthikeyan, Stn Cdr, 825 SU AF, the Disciplinary Authority, on 29 September 2005, in terms of Rule 11 (viii) of the CCS (CC&A) Rules, 1965, against said Shri Bhogelu Koiri is just and fair.

11. **NOW, THEREFORE**, I, the Senior Officer In-Charge Administration, Eastern Air Command, IAF, being the appellate authority, in exercise of the powers vested in me vide Rule 27 of CCS (CC&A) Rules, 1965, reject the instant appeal dated 20 November 2008 filed by Shri Bhogelu Koiri.

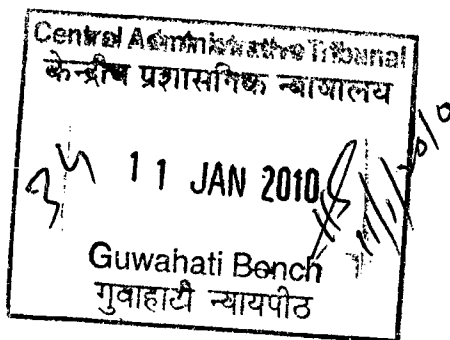

(J.K. Malhotra)
AVM
SOA

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File in Court. on 11/1/10

Court Officer.

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



IN THE MATTER OF

Original Application No.174/2009.

Shri Bhogelu Koiri

.....Applicant

- Versus -

Union of India & Ors.

.....Respondents

IN THE MATTER OF

Written statement filed by the Respondents No.

WRITTEN STATEMENT

The humble answering respondents
submit their written statement as
follows :

1.(a) That I Air Cnde Alok Kumar
Air officer Commanding, 19 wing, Air Force
and Respondents No. _____ in the above case and I have gone through
a copy of the application served on me and have understood the contents
thereof. Save and except whatever is specifically admitted in the written
statement, the contentions and statements made in the application may
be deemed to have been denied. I am competent and authorized to file
the statement on behalf of all the respondents.

(b) The application is filed unjust and unsustainable both on
facts and in law.

-Throat. M.U. Ahmed, Clerk
8/1/10

(Alok Kumar)
Air Commodore
Air Officer Commanding
19 Wing, Air Force

Recd
Shri
11-1-10

11 JAN 2010

Guwahati Bench
गुवाहाटी न्यायपीठ

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(c) That the application is also hit by the principles of waiver estoppel and acquiescence and liable to be dismissed.

(d) That any action taken by the respondents was not stigmatic and some were for the sake of public interest and it cannot be said that the decision taken by the Respondents, against the applicant had suffered from vice of illegality.

2. Brief History of the Case :

(a) Shri Bhogelu Koiri, Civilian Washer Up Pass No.825SU/D/41 was appointed under indigent circumstances against the post of washer Up at 825 SU AF, w.e.f. 1st May 1996.

On 22nd June 2005, an inquiry under Rule 14 of the CCS (CC&A) Rules, 1965 was instituted by Gp Capt G Karthikeyan, Stn Cdr, 825 SU AF, the disciplinary authority to enquire into the circumstances under which Shri Bhogelu Koiri absented himself from duty without leave for a total number of 157 days on numerous occasions between the period 10th July 2003 to 15th March 2005 and for failing to comply with the order of his superior officer.

On conclusion of the inquiry proceeding, Gp Capt G Karthikeyan, Stn Cdr 825 SU AF, the disciplinary authority on 29th September, 2005, imposed a major penalty of removal from service which shall not be a disqualification for future employment under the Government in terms of Rule 11(viii) of the CCS (CC&A) Rules 1965, against said Shri Bhogelu Koiri. [Amx-'C", Penalty order, Page = 20, 21]

The memorandum dated 30th September 2005 vide which the order by the disciplinary authority imposing the above said major

(Alok Kumar)
Air Commodore
Air Officer Commanding
19 Wing, Air Force

penalty and the copy of the Inquiry report which were forwarded to Shri Bhogelu Koiri was received by Shri Koiri on 3rd October 2005.

Aggrieved by the above order of removal from service, Shri Bhogelu Koiri has preferred an appeal vide his representation dated 20th November 2008 after the lapse of more than three years. The petitioner in his appeal inter-alia has raised following contention.

Discrepancies in the charge sheet


The witnesses by whom articles of charges framed against him in Annexure IV of the Charge Sheet (Memorandum) has been shown as per their official positions holding in the unit and not by their names which is mandatory as per rule and hence makes the charge sheet automatically null and void.

List of document by which articles of charges framed under Annexure III of the Memorandum do not reflect the correct report as no note as regard to the alleged charge of absence from duty for the dated 2nd August 2003 to 13th August 2003, 20th August 2003 to 21st August 2003, 25th August 2003 to 25th August 2003, 5th April 2004 and 28th August 2003 against Article I of Annexure I has been placed in support of the charge.

In the Annexure I (Article-II) the statement of Articles of Charges framed against him for violating Rule 3(i), (ii) of the CCS (Conduct) Rules 1964 are non existent Rule. [Amx = 'A', Charge-Sheet, Pru = 11]

Discrepancies in the Inquiry :

That he never pleaded guilty for the charge constituted under Article I of the Charge sheet as shown in para 8 of the inquiry report dated 10th August 2005 (Answer to Question No.1 reflected in


 (Alok Kumar)
 Air Commodore
 Air Officer Commanding
 19 Wing, Air Force

Eastern Air Command Tribunal
 केन्द्रीय प्रशासनिक न्यायालय
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 गुवाहाटी न्यायपीठ

daily order sheet) rather he submitted that Article I is correct in the light that he absented himself from duty under unavoidable circumstances and not submitted medical certificate in all the cases.

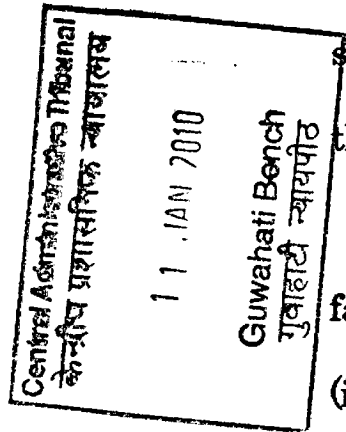
Documents in support of the charges framed were not allowed for inspection during the inquiry but in para 2 of daily order sheet dated 10th August, 2005 it has been shown that he had inspected the documents and admitted the documents mentioned as authentic.

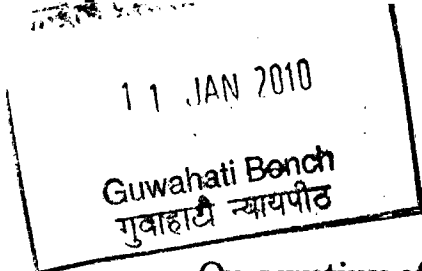
The Article II of Annexure I of the Charge Sheet states he failed to comply the order of superior officer in contravention to Rule (i), (ii) of evidence in support of the charge was placed before the Inquiry Officer but in para 9(b) of the Inquiry report dated 10th August 2005 shown that the charge is established.

During the proceeding of Inquiry on 28th July 2005, as reflected in the Daily Order Sheet dated 10th August (Para 1), in spite of presence of I/C Civil Admin who is one amongst three witness as per Annexure IV of the Charge Sheet, he was not examined and two other witness i.e. SWO and WO IC Catering of 825 SU, AF never appeared before the Inquiry for examination/cross examination.

Observation in findings :- The finding of the Inquiry is based on defective documentary/oral evidence educed during the Inquiry. The contention of the Inquiry Officer in the finding of the Inquiry report dated 10th August 2005 which states as "he extremely feel that the Charged Officer disobeyed the order which is a case of contempt of Competent Disciplinary Authority, therefore, the charges framed against him are found to be correct" is guided by personal sentiment and against the spirit of natural justice.

(Alok Kumar)
Air Commodore
Air Officer Commanding
19 Wing, Air Force





On scrutiny of Shri Bogelu Koiri's representation dated 20th November 2008, the following were revealed :

As per Rule 25 of CCS (CCA) Rules 1965, "No appeal preferred under this part shall be entertained unless such appeal is preferred within a period of forty five days from the date on which a copy of the order appealed against is delivered to the appellant. Provided, that the Appellate Authority may entertain the appeal after the expiry of the said period, if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time."

In his appeal dated 20th November 2008, Shri Bhogelu Koiri has not brought out any supporting documents to justify the delay in filing instant appeal after a period of three years.

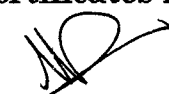
That the memorandum dated 22nd June 2005 raised by Stn Cdr 825 SU AF in the case of Shri Bhogelu Koiri has been correctly raised by the Unit authorities.

That adequate opportunities were given to Shri Bhogelu Koiri for his defence and to present his case before the Inquiry Officer.

That, in reply to the memorandum dated 22nd June 2005, Shri Bhogelu Koiri agreed to the fact that he absented himself without leave from duty for the periods mentioned in the Article of charge without obtaining leave/permission of competent leave sanctioning authority.

Shri Bhogelu Koiri accepted before the Inquiry Officer that he absented himself from duty without prior approval as stated in the Article of charge. He also accepted that he did not submit medical certificates for all instances of his absence from duty. [Annex "B" = Inquiry Report

Page = 15]


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19 Wing, Air Force

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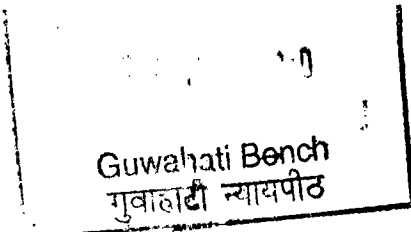
Considering the entire facts and circumstance of the case, the Appellate Authority also has observed that the major penalty of "removal from service which shall not be a disqualification for future employment under the Government" imposed by Gp Capt G Karthikeyan, Stn Cdr. 825 SU AF, the disciplinary authority on 29th September, 2005, in term of Rule 11 (viii) of the CCS (CC&A) Rules, 1965, against said Shri Bhogelu Koiri is just and fair [Amx-D', Appellate order/ Para-22]

3. That with regard to the statements made in paragraphs 1, 4(a) and 4(g) of the application the answering respondents beg to state that they do not admit anything which is inconsistent with and contrary to the record and based on legal foundation and as such the applicant is put to strictest proof thereof.

4. That with regard to the statements made in para 2, 3, 4(h), 5(i), 5(ii), 5(viii) of the application the answering respondents beg to offer no comments. However, it may be noted that CCS (CCA) Rules 1965 were strictly followed during the course of the inquiry.

5. That with regard to the statements made in para 4(b) of the application the answering respondents beg to state that it is true that the individual has submitted his written statement of defence on 5th July 2005 denying both the charges. But, during inquiry, the accused has agreed to the fact that he intentionally and willfully absented himself from duty and also admitted that he could not submit any medical certificate in all the cases. In the absence of any satisfactory explanation by the accused, Inquiry Officer confirmed that the absence of accused from duty was culpable.


(Ajit Kumar)
Air Commodore
Air Officer Commanding
19 Wing, Air Force




6. That with regard to the statements made in para 4(c) of the application the answering respondents beg to state that the Shri Bhogelu Koiri was given an opportunity to bring his Defence Assistant on 2nd August 2005. But the individual has not only failed to bring a Defence Assistant, but has willfully absented himself thereafter.

7. That with regard to the statements made in paras 4(d) of the application the answering respondents beg to state that the same is denied. The memorandum dated 30th September 2005 vide which the order by the disciplinary authority imposing the above said major penalty and the copy of the Inquiry report which were forwarded to Shri Bhogelu Koiri was received him on 3rd October 2005.

8. That with regard to the statements made in paras 4(e) of the application the answering respondents beg to state that the same is denied. On 25th July 2005 the delinquent officer was absent from hearing and has reported on 28th July 2005 with a request for extension of hearing date so as to enable him to bring a Defence Assistant. It was on the request of Delinquent Official that the date of hearing was changed from 25th July 2005 to 2nd August 2005 so that he could bring a Defence Assistant. However, the Delinquent Official not only failed to bring a Defence Assistant but also absented himself thereafter.

9. That with regard to the statements made in para 4(f) of the application the answering respondents beg to state that the same is true. However, it is reiterated that the representation by the accused dated 5th February 2008 was returned to him as the appellate authority in his case was not ACAS (PA&C) but SOA, EAC, IAF as already


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Air Commodore
Air Officer Commanding
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mentioned in Air HQ (VB) letter Air HQ/23037/DISC/MISC/PC6 dated 5th May 2008 (copy enclosed).

10. That with regard to the statements made in paras 5(iii) & 5(v) of the application the answering respondents beg to state that the same is denied. The memorandum dated 30th September 2005 vide which the order by the disciplinary authority imposing the above said major penalty and the copy of the Inquiry report which were forwarded to Shri Bhogelu Koiri was received him on 3rd October 2005. On receipt of the inquiry report along with the order of Disciplinary Authority, the Delinquent Official had still 45 days to prefer appeal but has failed to do so.

11. That with regard to the statements made in para 5(vi) of the application the answering respondents beg to state that the individual has been absenting from duty every now and then and was warned time and again. In Defence Forces, no individual has a right to go against the prescribed rules and regulations. Even the Appellate Authority has considered his appeal and has given the opinion that the Inquiry conducted was just and fair.

12. That with regard to the statements made in para 5(vii) of the application the answering respondents beg to state that the same is denied. The memorandum dated 30th September 2005 vide which the order by the disciplinary authority imposing the above said major penalty and the copy of the Inquiry report which were forwarded to Shri Bhogelu Koiri was received him on 3rd October 2005. On receipt of the inquiry report along with the order of Disciplinary Authority, the


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Delinquent Official had still 45 days to prefer appeal but has failed to do so.

13. That with regard to the statements made in para 6 of the application the answering respondents beg to state that the same is denied. The Appellate Authority, i.e. SOA, EAC, IAF has considered entire facts and circumstances of the case and then rejected the appeal dated 20th November 2008 in exercise of the powers vested in him vide Rule 27 of CCS (CC&A) Rules 1965.


14. That with regard to the statements made in para 7 of the application the answering respondents beg to state that on receipt of the order of removal from service and the Inquiry Report the Delinquent Official had ample opportunity to appeal against the order in accordance with Rule 25 of CCS (CC&A) Rules 1965.

15. In view of the above facts, the appeal does not find any place in a court of law. Further, it is submitted that the appeal is time barred as per rule 25 of CCS (CC&A) Rule 1965.

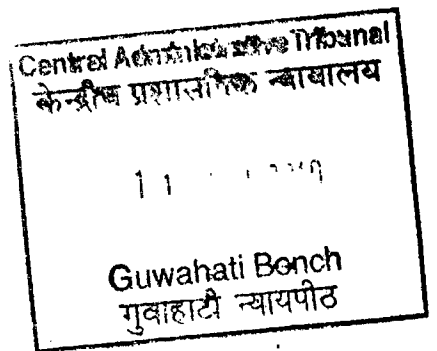
16. That the application is devoid of any merit and deserved to be dismissed.

13. That this reply has been made bona fide and for the ends of justice and equity.

It is therefore humbly prayed before
this Hon'ble Tribunal that the present
application filed by the applicant may be
dismissed with cost.


(Alok Kumar)
Air Commodore
Air Officer Commanding
19 Wing, Air Force

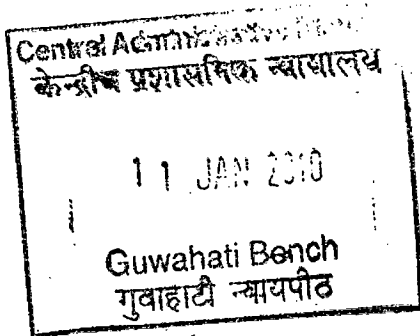
VERIFICATION



I, Air Cnde Alok Kumar
 Son of Late Sh Bikram Pal Singh aged about 50
 years, resident of Wing House, Mountain Shadow, Azara (Guwahati)
 working as Air Officer Commanding
 duly authorized and competent officer of the answering respondents
 to sign this verification, do hereby solemnly affirm and verify that the
 statements made in Paras 1, 2, 4 & 10 are true to my knowledge,
 belief and information and those made in Para — being
 matters of record are true to my knowledge as per the legal advice
 and I have not suppressed any material facts.

And I sign this verification on this 8th day of January
2009 at Guwahati


 (Alok Kumar)
 Air Commodore
 Air Officer Commanding
 19 Wing, Air Force



Annexure-I

**STATEMENT OF ARTICLES OF CHARGE FRAMED AGAINST
SHRI BHOGELU KOIRI, WASHER UP (PASS NO.825SU/D/41)**

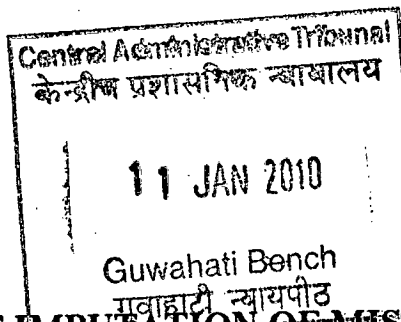
Article-I

Shri Bhogelu Koiri, Washer-up (Pass No.825SU/D/41) while functioning at 825 Signal Unit, Air Force, C/O 99 APO, absented himself without leave of the leave sanctioning authority w.e.f 10-7-03 to 13-7-03, 16-7-03 to 19-7-03, 02-8-03 to 13-8-03, 20-8-03 to 21-8-03, 24-8-03 to 26-8-03, 01-9-03 to 21-9-03, 03-10-03 to 04-10-03, 17-10-03, 01-12-03 to 03-12-03, 09-1-04 to 13-1-04, 16-1-04 to 18-1-04, 19-2-04 to 22-2-04, 05-4-04, 28-3-04, 14-5-04 to 18-6-04, 02-7-04, 01-12-04 to 19-12-04, 08-2-05 to 15-3-05 **(Total-157 days)** and 08-6-05 to till date. Thus he violated Rule 3 (1) (iii) of the CCS (Conduct) Rules, 1964.

Article-II

Shri Bhogelu Koiri, Washer up (Pass No.825SU/D/41) while functioning at 825 Signal Unit, Air Force, C/O 99 APO, failed to comply the order of his superior officer in contravention of Rule 3 (i) (ii) of the CCS (Conduct) Rules, 1964.

(G Karthikeyan)
Gp Capt.
Stn Cdr
825 SU, AF




Annexure - II

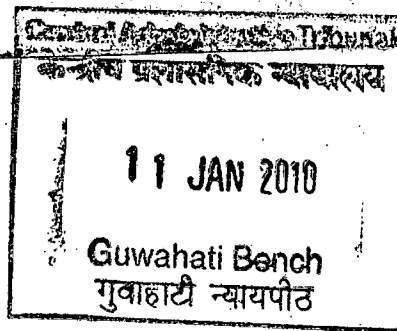
**STATEMENT OF IMPUTATION OF MISCONDUCT OR MISBEHAVIOUR IN
SUPPORT OF ARTICLE OF CHARGES FRAMED AGAINST SHRI BHOGELU
KOIRI, WASHER UP (PASS NO. 825SU/D/41) OF 825 SU, C/O 99 APO**

That the said Shri Bhogelu Koiri, Washer up (Pass No.825SU/D/41) while functioning at 825 SU, AF, C/O 99 APO as Washer up in Stn Catering Section, absented himself from duty from w.e.f.10-7-03 to 13-7-03,16-7-03 to 19-7-03,02-8-03 to 13-8-03,20-8-03 to 21-8-03,24-8-03 to 26-8-03, 01-9-03 to 21-9-03, 03-10-03 to 04-10-03, 17-10-03, 01-12-03 to 03-12-03, 09-1-04 to 13-1-04,16-1-04 to 18-1-04, 19-2-04 to 22-2-04,05-4-04, 28-3-04, 14-5-04 to 18-6-04, 02-7-04, 01-12-04 to 19-12-04, 08-2-05 to 15-3-05 (Total-157 days) and 08-6-05 to till date without obtaining leave/permission of Competent Leave sanctioning authority.

Article - II

That the said Shri Bhogelu Koiri, Washer up (Pass No. 825 SU/D/41) while functioning at 825 Signal Unit, Air Force as washer up in Stn Catering Section, submitted his reply to show cause notice which was issued to him vide 825SU/1573/4/PC dated 18 Mar 05. His reply is not satisfactory and fabricated. Such deliberate and habitual misconduct in absenting shows his carelessness towards services. He failed to submit the actual explanation for his unauthorised absence from 10-7-03 to 13-7-03,16-7-03 to 19-7-03,02-8-03 to 13-8-03,20-8-03 to 21-8-03,24-8-03 to 26-8-03, 01-9-03 to 21-9-03, 03-10-03 to 04-10-03, 17-10-03, 01-12-03 to 03-12-03, 09-1-04 to 13-1-04,16-1-04 to 18-1-04, 19-2-04 to 22-2-04,05-4-04, 28-3-04, 14-5-04 to 18-6-04, 02-7-04, 01-12-04 to 19-12-04, 08-2-05 to 15-3-05 (Total-157 days) and 08-6-05 when he was asked by OIC Civil Admin of 825 SU, AF. Thus, he violated rule 3(1)(ii) of the CCS (Conduct) Rules, 1964.

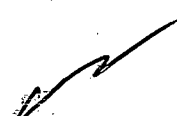

(G. Karthikayan)
Gp Capt
Stn Cdr
825 SU, AF



Annexure-III

List of documents by which the articles of charge framed against Shri Bhogelu Koiri, Washer up (Pass No. 825 SU/D/41) of 825 Signal Unit, Air Force are proposed to be sustained :-

- (a) Stn Catering Section's service note No. 825SU/2300/1/Cat dated 10 Jul 03.
- (b) Stn Catering Section's service note No. 825SU/2300/1/Cat dated 17 Jul 03.
- (c) Stn Catering Section's service note No. 825SU/2300/1/Cat dated 04 Sep 03.
- (d) Stn Catering Section's service note No. 825SU/2300/1/Cat dated 04 Sep 03.
- (e) Stn Catering Section's service note No. 825SU/2300/1/Cat dated 03 Oct 03.
- (f) Stn Catering Section's service note No. 825SU/2300/1/Cat dated 20 Oct 03.
- (g) SWO's service note No. 825SU/2407/3/SWO dated 05 Dec 03.
- (h) SWO's service note No. 825SU/2407/3/SWO dated 12 Jan 04.
- (i) SWO's service note No. 825SU/2407/3/SWO dated 16 Jan 04.
- (j) SWO's service note No. 825SU/2407/3/SWO dated 23 Feb 04.
- (k) SWO's service note No. 825SU/2407/3/SWO dated 04 Mar 04.
- (l) Stn Catering Section's service note No. 825SU/2300/1/Cat dated 17 May 04.
- (m) Stn Catering Section's service note No. 825SU/2300/1/Cat dated 05 Jul 04.
- (n) Stn Catering Section's service note No. 825SU/2300/1/Cat dated 01 Dec 04.
- (o) Stn Catering Section's service note No. 825SU/2300/1/Cat dated 08 Feb 05.
- (p) Stn Catering Section's service note No. 825SU/2300/1/Cat dated 09 Jun 05.


(G Karthikeyan)
Gp Capt
Stn Cdr
825 SU, AF

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Annexure IV

List of witnesses by whom the articles of charge framed against Shri Bhogchu Koiri, Washer up (Pass Non 825SU/D/41) of 825 Signal Unit, Air Force, CO 99 AFO are proposed to be sustained :-

- (a) OIC Civil Admin - 825 SU, AF
- (b) SWO - 825 SU, AF
- (c) WO i/c Catering - 825 SU, AF

(G Karthikeyan)
Gp Capt
Stn Cdr
825 SU, AF

File Copy

Central Assam Police
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(15)

ANNEXURE
(B)

INQUIRY REPORT

Pass No.825SU/D/41 Shri Bhogelu Koiri, W/Up

1. Under sub-rule (2) of Rule 14 of CCS (CC&A) Rules, I was appointed by the Gp Captain Karthikeyan, Str. Cdr. Ap as inquiry Authority to inquire into the charges framed against Shri Bhogelu Koiri, W/Up (Pass No.825SU/D/41) vide his letter No. 825 SU/ 1573/4 PC dated 14 July 05. I have completed the inquiry on the basis of the documentary and oral evidence before me as required. The report prepared produced is in as follows:

2. Participation by the Charged Officer in the Inquiry

The charged officer failed to appear participate in hearing on 25 Jul 05. He has reported to me on 28 Jul 05 with a request for extension of date and also requested to permit him for a defence assistant in his defence.

I accepted his request and permitted him to appear on 2 Aug 05 for further inquiry either himself or with Defence Asstt. An intimation already served to the charged officer to appear in the hearing on 25 Jul 05 either alone or represented by Defence Assistant on the appointed date, time and place vide 825 SU/ 1573/4 PC 14 July 05 and the same was received by the charged officer acknowledgment was obtained.

3. Article of charge and substance of imputation of Misconduct or misbehavior.

The following two articles of charge have been framed against the charged officer.

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ARTICLE - I

Sri Bhogelu Koiri Washer Up (Pass No 825SU/D/41) while functioning at 825 Signal Unit, Air Force, C/O 99 APO, absented himself without leave of the sanctioning authority w.e.f. 10-7-03 to 13-7-03, 16-7-03 to 19-7-03, 2-8-03 to 13-8-03, 20-8-03 to 21-8-03, 24-8-03 to 26-8-03, 1-9-03 to 21-9-03, 3-10-03 to 4-10-03, 17-10-03, 1-12-03 to 3-12-03, 9-1-04 to 13-1-04, 16-1-04 to 18-1-04, 19-2-04 to 22-2-04, 5-4-04, 28-3-04, 14-5-04 to 18-6-04, 2-7-04, 1-12-04 to 19-12-04, 8-2-05 to 15-3-05 (Total - 157 days) and 8-6-05 to till date without leave sanctioned by the competent sanctioning authorities.

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ARTICLE - II

Sri Bhogelu Koiri, Washer up (Pass No. 825 SU/D/41) while functioning at 825 Signal Unit, Air Force, C/O 99 APO, failed to comply the order of his superior officer in contravention of Rule 3 (i) (ii) of the CCS (Conduct) Rules, 1964.

4. According to the statement of imputation of misconduct or misbehavior the charged official absented himself from his duties without prior approved /intimidation of his leave by competent leave sanctioning authority. The charged officer has to explain about his lapses and asked for some time for the same. He has been permitted to report on 02 Aug alone or with his defence assistant to explain to reason of unauthorized absence from duty.

5. Case of the Disciplinary Authority

The contention of the Disciplinary Authority was that the charged officer is a regular absentee AWOL service notes from his respective section is under

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(a) Stn Catering's Section service note No. 825SU/2300/1/Cat Dated 10 Jul 03.

(b) Stn Catering's Section service note No. 825SU/2300/1/Cat dated 10 Jul 03.

(c) Stn Catering's Section service note No. 825SU/2300/1/Cat dated 17 Jul 03.

(d) Stn Catering's Section service note No. 825SU/2300/1/Cat dated 4 Sep 03.

(e) Stn Catering's Section service note No. 825SU/2300/1/Cat dated 3 Oct 03.

(f) Stn Catering's Section service note No. 825SU/2300/1/Cat dated 20 Oct 03.

(g) SWO's service note No. 825SU /2407/3/SWO dated 5 Dec 03.

(h) SWO's service note No. 825SU /2407/3/SWO dated 12 Jan 04.

(i) SWO's service note No. 825SU /2407/3/SWO dated 16 Jan 04.

(j) SWO's service note No. 825SU /2407/3/SWO dated 23 Feb 03.

(k) SWO's service note No. 825SU /2407/3/SWO dated 4 Mar 04.

(l) Stn Catering's Section service note No. 825SU/2300/1/Cat dated 17 May 04.

(m) Stn Catering's Section service note No. 825SU/2300/1/Cat dated 5 Jul 04.

(n) Stn Catering's Section service note No. 825SU/2300/1/Cat dated 1 Dec 04.

(o) Stn Catering's Section service note No. 825SU/2300/1/Cat dated 8 Feb 05.

(p) Stn Catering's Section service note No. 825SU/2300/1/Cat dated 9 Jun 05.

The charged officer is in the habit of proceeding on leave without putting up an application. He does not wait for its approval. The charged officer returns as per his will and wish. He submitted the leave

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application accompanied by Medical certificates which is not in order/ from authorized medical officer. Even though the charged officer has been warned many times by the Section Commander to improve again but he failed to improve himself.

6. The charged officer was issued with letters asking for an explanation for his illegal absence vide letter No. 825 SU/ 1573/4 PC dated 18 Mar 05 and Memorandum dated 22 Jun 05. The charged officer submitted his replies to competent Disciplinary Authority but his replies are not satisfactory and found to be fabricated.

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Case of the Defendant

The charged officer in a habitual absentee and sometimes he put up leave application along with Medical Certificate stating that he remained sick for regularization of his AWOL period.

8. The defendant pleaded guilty for the charge as stated in Article -I.
9. Analysis and Assessment of Evidence.

The charges leveled against the charged officer as follows.

ARTICLE I

Industry Officer

Shri Bhogelu Koiri Washer Up (Pass No.825SU/D/41) while functioning at 825 Signal Unit, Air Force, C/O 99 APO, absented himself without leave of the sanctioning authority w.e.f. 10-7-03 to 13-7-03, 16-7-03 to 19-7-03, 2-8-03 to 13-8-03, 20-8-03 to 21-8-03, 24-8-03 to 26-8-03, 1-9-03 to 21-9-03, 3-10-03 to 4-10-03, 17-10-03, 1-12-03 to 3-12-03, 9-1-04 to 13-1-04, 16-1-04 to 18-1-04, 19-2-04 to 22-2-04, 5-4-04, 28-3-04, 14-5-04 to 18-6-04, 2-7-04, 1-12-04 to 19-12-04, 8-2-05 to 15-3-05 (Total: 157 days) and 18-6-05 to till date without obtaining leave permission from the Competent Leave

Sanctioning authority which is in contravention to Central Leave Rules.

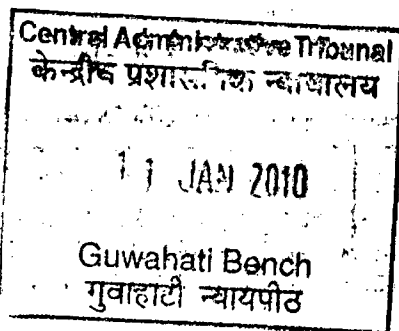
ARTICLE II

(b) Failed to comply the order issued by his superior officer in contravention of Rule 3 (i) (ii) of the CCS (Conduct) Rules, 1964.

10. Findings

The charged officer failed to appear on 2 Aug 05 for hearing despite of several and sufficient chances given to him. I extremely feel that the charged officer disobeyed my order which is a case of contempt of competent Disciplinary Authority. Therefore, the charges framed against him are found to be correct. On the basis of documentary and oral evidence adduced in the case before me and in view of the reasons given above, I hold both charges against Sri Bhogelu Koiri, W/ up (Pass No. 825 SU/D/41) hold good and he is guilty for both the charges leveled against him in Article-I and Article-II.

Date: 10 Aug 05



Sd/-
(Sri S.K. Pandey)

Flt. Lt.

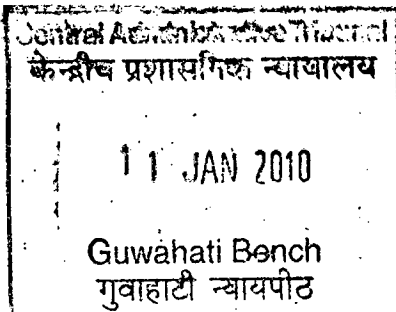
Inquiry Officer

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No. 825SU/1571/5/PC
Government of India
Ministry of Defence
Indian Air Force,
825 SU, AF
C/O 99 APO



29 September 2005

ORDER

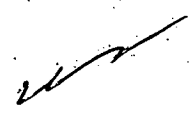
WHEREAS Shri Bhogelu Koiri, Washer up, Pass No. 825SU/D/41 has been convicted on the charges under Rules 3 (1) (ii) & (iii) of Central Civil Services (Conduct) Rules, 1964.

AND WHEREAS it is considered that the gravity of the charges against Shri Bhogelu Koiri, Washer up is such as to warrant the imposition of a major penalty.

AND WHEREAS Shri Bhogelu Koiri, Washer up was given an opportunity to offer his written explanation;

AND WHEREAS the inquiry report which has been duly considered by the undersigned.

NOW, THEREFORE, in exercise of the powers conferred by Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, the undersigned hereby impose the penalty of removal from service which shall not be a disqualification for future employment under the Government to the said Pass No. 825SU/D/41 Shri Bhogelu Koiri, Washer up.


(G Karthikyan)
Group Captain
Station Commander
825 SU, AF

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SPEAKING ORDER

The report of the Inquiry has been carefully examined and I am satisfied that pass No 825SU/D/41 Shri Bhogelu Koiri Washer up was given reasonable opportunity to defend himself.

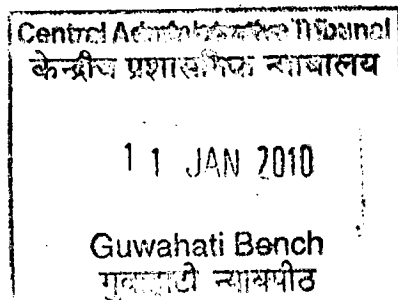
The following are articles of charges framed against pass No.825SU/D/41 Shri Bhogelu Koiri Washer up have been proved.

(a) Article-I :- Shri Bhogelu Koiri Washer Up (Pass No.825SU/D/41) while functioning at 825 Signal Unit, Air Force, C/O 99 APO, absented himself without leave of the sanctioning authority w.e.f. 10-7-03 to 13-7-03, 16-7-03 to 19-7-03, 2-8-03 to 13-8-03, 20-8-03 to 21-8-03, 24-8-03 to 26-8-03, 1-9-03 to 21-9-03, 3-10-03 to 4-10-03, 17-10-03, 1-12-03 to 3-12-03, 9-1-04 to 13-1-04, 16-1-04 to 18-1-04, 19-2-04 to 22-2-04, 5-4-04, 28-3-04, 14-5-04 to 18-6-04, 2-7-04, 1-12-04 to 19-12-04, 8-2-05 to 15-3-05 (Total - 157 days) and 8-6-05 to till date. Thus he violated Rule 3 (1) (iii) of the CCS (Conduct) Rules, 1964.

(b) Article-II :- Sri Bhogelu Koiri, Washer up (Pass No 825 SU/D/41) while functioning at 825 Signal Unit, Air Force, C/O 99 APO, failed to comply the order of his superior officer in contravention of Rule 3 (1) (ii) of the CCS (Conduct) Rules, 1964.

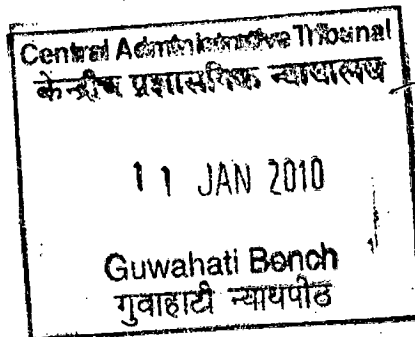
Hence no further enquiry in this regard is considered necessary.

Therefore the penalty of removal from service which shall not be a disqualification for future employment under the Government to the said Pass No.825SU/D/41 Shri Bhogelu Koiri Washer up.



Date: 29 Sep 08

Sd/
(G. Karthikeyan)
Group Captain
Station Commander
825 S U, AF



Tele: 2560880/2401

EAC/1630/2/PC

ORDER

1. WHEREAS, Shri Bhogelu Koiri, civilian Washer Up, Pass No 825SU/D/41 was appointed under indigent circumstances against the post of Washer Up at 825 SU AF wef 01 May 1996.
2. AND WHEREAS, on 22 June 2005, an Inquiry under Rule 14 of the CCS (CC&A) Rules, 1965 was instituted by Gp Capt G Karthikeyan, Stn Cdr, 825 SU AF, the Disciplinary Authority, to enquire into the circumstance under which Shri Bhogelu Koiri absented himself from duty without leave for a total number of 157 days on numerous occasions between the period 10 July 2003 to 15 March 2005 and for failing to comply with the order of his superior officer.
3. AND WHEREAS, on conclusion of the inquiry proceedings, Gp Capt G Karthikeyan, Stn Cdr, 825 SU AF, the Disciplinary Authority, on 29 September 2005, imposed a major penalty of "removal from service which shall not be a disqualification for future employment under the Government" in terms of Rule 11 (viii) of the CCS (CC&A) Rules, 1965, against said Shri Bhogelu Koiri.
4. AND WHEREAS, the Memorandum dated 30 September 2005, vide which the order by the disciplinary authority imposing the above said major penalty and the copy of the Inquiry report were forwarded to Shri Bhogelu Koiri, was received by Shri Bhogelu Koiri on 03 October 2005.
5. AND WHEREAS, aggrieved by the above order of Removal from service, Shri Bhogelu Koiri, has preferred an appeal vide his representation dated 20 November 2008 after the lapse of more than three years. The petitioner in his appeal, inter-alia has raised following contentions:

(a) Discrepancies in the Charge Sheet

- (i) The witnesses by whom articles of charges framed against him in Annexure IV of the Charges Sheet (Memorandum) has been shown as per their official positions holding in the unit and not by their names which is mandatory as per rule and hence makes the charge sheet automatically null & void.

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(ii) List of documents by which articles of charge framed under Annexure III of the memorandum do not reflect the correct report as no note as regard to the alleged charge of absent for the dated 02 Aug 03 to 13 Aug 03, 20 Aug 03 to 21 Aug 03, 25 Aug 03 to 25 Aug 03, 05 Apr 04 and 28 Aug 03 against Article I of Annexure I has been placed in support of the charge.

(iii) In the Annexure I (Articles - II) the statement of Articles of Charges framed against him for violating Rule 3(i), (ii) of the CCS (Conduct) Rules 1904 is a non existing Rule.

(b) Discrepancies in the Inquiry

(i) That, he never pleaded guilty for the charge constitute under Article-I of Charge Sheet as shown in Para 8 of the Inquiry Report dated 10 Aug 05 (Answer to Question No 1 reflected in Daily Order sheet) rather he submitted that Article-I is correct in the light that he absented from duty under unavoidable circumstances and not submitted medical certificate in all the cases.

(ii) Document in support of the charges framed were not allowed for inspection during the inquiry but in Para 2 of daily order sheet dated 10 Aug 05, it has been shown that he had inspected the documents and admitted the documents mentioned as authentic.

(iii) The Article II of Annexure I of the Charge Sheet states "he failed to comply the order of superior officer in contravention of Rule (i), (ii) of evidence in support of the charge was placed before the Inquiry Officer but in Para 9(b) of the Inquiry Report dated 10 Aug 05 shows that the charge is established.

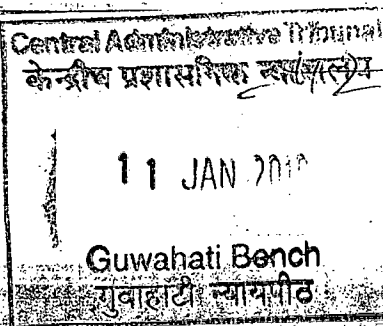
(iv) During the proceedings of Inquiry on 28 Jul 05, as reflected in the Daily Order Sheet dated 10 Aug 05 (Para 1) in spite of the presence of I/C Civil Admin who is one amongst three witness as per Annexure IV of the Charge Sheet was not examined and two other witnesses W/O and WO IC Catering of 825 SU never appeared before the Inquiry for examination/cross examination.

(c) Observation in Findings The finding of the Inquiry is based on defective documentary/oral evidence adduced during the Inquiry. The contention of the Inquiry Officer in the finding of the Inquiry report dated 10 Aug 05 which states as "he extremely feel that the Charge Officer disobeyed the order which as case of contempt of Competent Disciplinary Authority, therefore, the charges framed against him are found to be correct" is guided by personal sentiment and against the spirit of natural justice.

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6. AND WHEREAS, as per the Rule 25 of CCS(CC&A) Rules, 1965, "No appeal preferred under this part shall be entertained unless such appeal is preferred within a period of forty-five days from the date on which a copy of the order appealed against is delivered to the appellant. Provided that the Appellate Authority may entertain the appeal after the expiry of the said period, if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time."

7. AND WHEREAS, in his appeal dated 20 November 2008, Shri Bhogelu Koiri has not brought out any supporting documents to justify the delay in filing the instant appeal after a period of three years. Notwithstanding the same, the appeal has been considered and comments were asked from 825 SU AF.

8. AND WHEREAS, on perusal of the documents forwarded by 825 SU, AF, the following facts have emerged:-

(a) That, the Memorandum dated 22 June 2005 raised by Stn Cdr 825 SU, AF in the case of Shri Bhogelu Koiri has been correctly raised by the Unit Authorities.

(b) That, adequate opportunities were given to Shri Bhogelu Koiri for his defence and to present his case before the Inquiry Officer.

(c) That, in reply to the Memorandum dated 22 June 2005, Shri Bhogelu Koiri agreed to the fact that he absented himself without leave from duty for the periods mentioned in the Article of charge without obtaining leave/permission of competent leave sanctioning authority.

(d) That Shri Bhogelu Koiri accepted before the Inquiry Officer that he absented himself from duty without prior approval as stated in the Article of charge. He also accepted that he did not submit medical certificates for all his absentee.

(e) The Board of Inquiry proceedings are in order.

9. AND WHEREAS, after having given careful consideration to the appeal submitted by the Appellant, the comments received from 825 SU AF, the inquiry proceedings and all the related documents, I being the appellate authority have observed that the grounds of Appeal by Shri Bhogelu Koiri as stated in his appeal dated 20 November 2008, against the order dated 29 September 2005 passed by Gp Capt G Karthikeyan, Stn Cdr, 825 SU AF, the Disciplinary Authority, imposing the major penalty of "removal from service which shall not be a disqualification for future employment under the Government" in terms of Rule 11 (viii) of the CCS (CC&A) Rules, 1965, are without any merit.

10. AND WHEREAS, considering the entire facts and circumstances of the case, I being the appellate authority have observed that the major penalty of "removal from service, which shall not be a disqualification for future employment under the

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Government imposed by Cp. Capt. G. Karthikeyan, Sr. Cdr. 825 SU/AF, the
Disciplinary Authority, on 29 September 2005, in terms of Rule 14 (vii) of the CCS
(CC&A) Rules, 1965, against said Shri Bhogelu Koiri is just and fair.

11. NOW, THEREFORE, I, the Senior Officer in Charge Administration, Eastern
Air Command, IAF, being the appellate authority, in exercise of the powers vested in
me vide Rule 27 of CCS (CC&A) Rules, 1965, reject the instant appeal dated 20
November 2008 filed by Shri Bhogelu Koiri.

(L.K. Malhotra)
AVM
SOA