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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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20/07/2015
SECTION OFFICER (JUDL.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:ORDERSHEET1. Original Application No: 90/20092. Misc Petition No 13. Contempt Petition No 14. Review Application No 1Applicant(s) Prem Ranjan DebnathRespondent(s) U.O.I. Mops.Advocate for the Applicant(s): Mr. A. DasguptaMr. Kumar Manoranjan HaloiAdvocate for the Respondent(s): CGSC

Notes of the Registry	Date	Order of the Tribunal
This application is in form..... is filed/C. F. for Rs. 50/- deposited v/s. IPO/BD No. 399 406321 Dated..... 28.4.2009	20.05.2009	Heard Mr. A. Dasgupta, learned Counsel appearing for the Applicant and Mr. G. Baishya, learned Sr. Standing Counsel for the Union of India. Hearing concluded.
<i>N. D. Dayal</i> Dy. Registrar 15.5.09 <i>15.5.09</i>		For the reasons recorded separately, the O.A. stands disposed of.
<u>15.5.2009</u> 5 (Five) copies application with envelope received for issue directed to the Respondents. Copy served.	<i>NKM</i>	(N.D. Dayal) Member(A)
<i>15.5.09</i>		<i>M.R. Mohanty</i> Vice-Chairman
Received by G. Baishya Sr. C.A. P. K. Mitra Advocate 27.5.09		

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 90 of 2009

DATE OF DECISION: 20.05.2009

Sri Prem Ranjan Debnath

....APPLICANT(S)

Mr A. Dasgupta and
Mr Kumar Manoranjan Haloi

ADVOCATES FOR THE
APPLICANT(S)

- versus -

Union of India & Ors.

....RESPONDENT(S)

Mr G. Baishya, Sr. C.G.S.C.

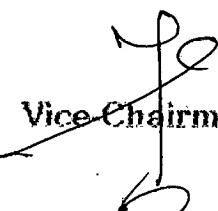
ADVOCATE(S) FOR THE
RESPONDENT(S)

CORAM:

The Hon'ble Mr. M.R. Mohanty, Vice-Chairman

The Hon'ble Shri N.D. Dayal, Administrative Member

1. Whether reporters of local newspapers may be allowed to see the Judgment? Yes/No
2. Whether to be referred to the Reporter or not? Yes/No
3. Whether to be forwarded for including in the Digest Being compiled at Jodhpur Bench and other Benches? Yes/No
4. Whether their Lordships wish to see the fair copy of the Judgment? Yes/No


Vice-Chairman

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No.90 of 2009

Date of Order: This the 20th day of May 2009

The Hon'ble Shri M.R. Mohanty, Vice-Chairman

The Hon'ble Shri N.D. Dayal, Administrative Member

Sri Prem Ranjan Debnath,
Son of Sri Pramod Ranjan Debnath,
Resident of East Radhapur,
Via Rajabari, Dharmanagar,
District- North Tripura, Tripura.

..... Applicant

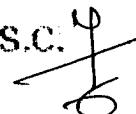
By Advocates Mr A. Dasgupta and
Mr Kumar Manoranjan Haloi.

- versus -

1. Union of India, Ministry of Communication,
(Represented by the Secretary to the
Government of India),
Department of Post, New Delhi-1.
2. Director of Postal Services (H.Q.)
North East Circle, Shillong-1.
3. Superintendent of Post Offices
Dharmanagar Division,
Dharmanagar - 799250,
4. Chief Post Master General
North East Circle, Shillong-1.
5. Director of Postal Services
Nagaland, Kohima,
Pin-797001.

..... Respondents

By Advocate Mr Gautam Baishya, Sr. C.G.S.C.



.....

ORDER (ORAL)

M.R. MOHANTY, VICE-CHAIRMAN

In a Departmental Proceeding under Rule 16 of the CCS (CCA) Rules, 1965, the Applicant was imposed with a Penalty (of "withholding one increment for a period of three years without cumulative effect") on 31.01.2008. As against the said penalty, the Applicant has preferred an Appeal on 04.03.2008. The said Appeal is stated to be still pending undisposed. It is also stated that the Appellate Authority called for records and the Service Book of the Applicant is still in the custody of the Appellate Authority; as a result of which, it has been alleged, the Applicant is not getting full salary since August 2008 and the benefits of Pay Revision, TA and Leave etc. In this background, the Applicant has approached this Tribunal with the present Original Application filed under Section 19 of the Administrative Tribunals Act, 1985; wherein he has prayed as under:-

- i) to set aside and quash the impugned order dated 31.01.2008, and
- ii) to release the current and arrear salary of the applicant in full which is irregular since August 2008.

2. The Applicant has, in this Original Application, also made the following interim prayers:

- i) to keep the impugned order dated 31.01.2008 under suspension, and
- ii) to direct the Respondent No.5 to release the arrear salary and current salary of the applicant.

3. Following grounds have been set forth by the Applicant in this Original Application:-

- "A) For that the impugned order dated 31.01.08 was passed without any departmental enquiry and the respondent authority held the allegations to be proved. The charges leveled against the applicant are question of facts which can only be established in a full fledged departmental enquiry and not on the basis of records. Thus the decision making process of the respondent authority suffers from non application of mind and hence the impugned order of punishment dated 31.01.08 is liable to be set aside.
- B) For that while passing the impugned order dated 31.01.08 the Superintendent of Posts had taken into account the written deposition of some persons, but those written depositions were not made known to applicant ever. Nothing is mentioned about these written depositions in the statements of imputation of misconduct nor were those annexed in the list of documents. Existence of these written depositions and the fact that those would be used against the applicant was never informed to the applicant. The applicant was totally in dark about these written depositions. Thus the entire action of the respondents is vitiated for noncompliance of the Principles of Natural Justice as the applicant was deprived of a reasonable opportunity to defend himself.
- C) For that prerecorded statements of persons can be relied in any proceeding only when the delinquent is given the opportunity to cross examine the person whose statement is sought to relied in the enquiry. In the instant case the applicant was not only deprived from a copy of such prerecorded statements but also an opportunity to cross-examine those persons. Thus the impugned action of imposing penalty is vitiated for violating the procedure established by law.
- D) For that the respondent authority while passing the impugned order dated 31.01.08 did not consider the plea of the applicant and did not assign any reason for not considering his plea. The applicant pleaded that the deletion of SB accounts were done with prior permission from superior authority and he kept record of deletion in the error book which was countersigned by the Postmaster. The respondent failed to consider this relevant plea of the applicant and did not assign any reason for non consideration of this aspect of the case. Thus the action of the respondent is vitiated for non consideration of relevant facts and hence the impugned order is liable to be set aside.
- E) For that it is settled law that a list of the documents to be relied by the disciplinary proceeding is to be furnished to the delinquent with opportunity to him to inspect such

documents and if required furnish copies of such documents. In the instant case the applicant was not furnished any list of the documents relied by the respondent authority while passing the impugned order. The applicant was kept in dark and was not informed about the documents to be relied by the disciplinary authority. The respondents have thus deprived the applicant from an opportunity of fair hearing. The action of the respondents being violative of the principles of natural justice and the procedure established by law is liable to be quashed.

F) For that the respondents have passed the impugned order arbitrary & whimsically without following the procedure established by law and hence there action is violative of Article 14 & 16 of the Constitution of India.

4. We have heard Mr A. Dasgupta, learned Counsel appearing for the Applicant and Mr G. Baishya, learned Sr. Standing Counsel for Government of India (to whom a copy of this O.A. has already been supplied) and also perused the materials placed on record.

5. It has been argued on behalf of the Applicant that, under Annexure-A to the O.A., a proceeding under Rule 16 of CCS (CCA) Rules, 1965 was initiated against the Applicant asking him to submit his representation (as against the proposed action) within 10 days and, on receipt of the said communication (dated 22.11.2007) on 30.11.2007, the Applicant submitted his representation on 22.11.2007; wherein, apart from putting up his explanations to the allegations leveled against him (under Annexure-4 dated 22.11.2007), the Applicant prayed (to the Disciplinary Authority) to cause an enquiry in to all the facts and circumstances of the case. It has been argued that no enquiry having been caused on the allegations and explanations, there has not only been gross violation of the principles of natural justice but violation of Rule 16(1)(b) of CCS (CCA) Rules.

1965. In course of arguments, learned counsel for the Applicant also reiterated the grounds set forth in the Original Application.

6. On the other hand, Mr G. Baishya, learned Sr. Standing Counsel for the Government of India, argued that this case is a premature one; for the Appeal is stated to be still pending with the Appellate Authority. He also stated that all the grounds set forth by the Applicant (in this O.A. and in the arguments of the learned Counsel for the Applicant) can be taken care of by the Appellate Authority, while passing final order in the Appeal. He has taken us through the provisions of Rule 29 (2) of CCS (CCA) Rules, 1965, which reads as under:-

"27. Consideration of appeal

(2) In the case of an appeal against an order imposing any of the penalties specified in Rule 11 or enhancing any penalty imposed under the said rules, the Appellate Authority shall consider -

- (a) whether the procedure laid down in these rules has been complied with and if not, whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice;
- (b) whether the findings of the Disciplinary Authority are warranted by the evidence on the record; and
- (c) whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe;

and pass orders-

- (i) confirming, enhancing, reducing, or setting aside the penalty;
OR
- (ii) remitting the case to the authority which imposed or enhanced the penalty or to any other authority with such direction as it may deem fit in the circumstances of these cases;" *4* *5*

7. Since it is the positive case of the Applicant that his Appeal, dated 04.03.2008 is still pending with the Appellate Authority, who has, as stated, already called for the records and who has got full powers to examine all aspects of the matter this case is, without any waste of time, disposed of and remitted to the Respondents/Appellate Authority with direction to take up the Appeal of the Applicant; examine the entire matter in exercise of his powers under Rule 27(2)(a)(b) and (c) of CCS (CCA) Rules 1965 and pass orders in terms of his powers under Rule 27(2) (i) (ii) of the said Rules of 1965 expeditiously (unless the same has been disposed of in the meantime) and, while considering the matter (in Appeal) the Appellate Authority should also take into consideration the grounds set forth (by the Applicant) in the present Original Application (noted in para 3 above) and the arguments advanced before us (noted in para 5 above) by the learned Counsel for the Applicant. Entire exercise need be completed by the Appellate Authority within 120 days from the date of receipt of a copy of this order.

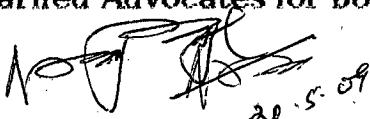
8. While parting with this case, we grant liberty to the Applicant to make an interim prayer (by way of filing a petition within 31.05.2009) before the Appellate Authority to keep the penalty order dated 31.01.2008 under suspension till disposal of his Appeal; which should also be taken into consideration (orders need be passed thereon) by the Appellate Authority. Until then, the operation of order dated 31.01.2008 (imposing penalty) shall remain stayed; unless the same has been worked out in the meantime.

9. The Service Book of the Applicant, which may not be necessary for disposal of the Appeal, need expeditiously be

transmitted (by the Respondents) to appropriate authority; so that expeditious steps can be taken to grant him (Applicant) benefits under new pay scale following the 6th CPC; in terms of letter No.B-623 dated 07.10.2008 of the Director of Postal Services (Nagaland) Kohima addressed to Superintendent of Post Offices of Dharmanagar Division.

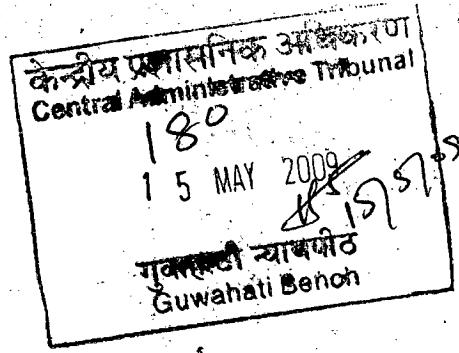
10. Subject to above observations and directions, this case is disposed of.

11. Send copies of this order to the Applicant and to all the Respondents (alongwith the copies of this Original Application) by Registered Post and free copies of this order be supplied to the learned Advocates for both parties.


20.5.09
(N. D. DAYAL)
ADMINISTRATIVE MEMBER


20.5.09
(M. R. MOHANTY)
VICE-CHAIRMAN

nkm



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH,

GUWAHATI

Original Application No. 90 /2009

Sri Prem Ranjan Debnath

.....Applicant

-Versus-

Union of India & Ors.

.....Respondents

SYNOPSIS

The applicant is an employee in the Postal Department. Initially he was appointed as Postal Assistant at Dharmanagar Head office in Tripura. Since 13.03.2001 to 19.01.2007 he had been serving at Dharmanagar. During the course of time the Government of India by a policy decision computerized numbers of Post Offices countrywide. After computerisation of post offices, some Postal Assistant having knowledge of computer was entrusted with additional duties of handling the computer networking. These employees are called the System Administrator. The information Technology Security Guidelines inserted in schedule II of the Information Technology (Certifying Authority) Rules, 2000 provides for System Administrator. Applicant was also entrusted with the additional duties of System Administrator at Dharmanagar Head Office. Till 19.01.2007 he had been serving as System Administrator. On 19.01.2007 applicant was transferred from Dharmanagar Head office to Kailashahar MDG in Tripura as Postal Assistant-Cum-System Administrator. On 27.03.2008 he was transferred to Zunheleoto MDG and in the month of July, 2008 he was again transferred to Dimapur MDG. When the applicant was serving as System Administrator at Dharmanagar he detected some fictitious savings accounts. He informed his superior authority about those fictitious accounts. His superior authority asked him to delete those accounts. Accordingly, he deleted those accounts keeping records in the Error Book.

On 22.11.2007 when the applicant was serving at Kailashahar MDG, a charge memo was issued against him by the Superintendent of Post, Dharmanagar Division under Rule 16 of the CCS(CCA) Rules, 1965. In the said charge memo three charges were brought against him. First one is that he deleted some fictitious accounts unauthorisedly when he was serving at Kailashahar MDG, Second one is that he took

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bribe from the bonafide customers of Western Union Money Transfer (WUMT) system assuring prompt and better service and he misappropriated the amount meant for refreshment of the valued customers of WUMT. The third charge is that when he was serving as System Administrator at Dharmanagar he took away some computer accessories from the office and kept those as his own. The applicant submitted his written statement against the charges. After submission of the written statement, no formal departmental enquiry was held regarding the charges brought against him. A unilateral proceeding was conducted by the Superintendent of Post, Dharmanagar Division and on 30.01.2008 penalty of withholding one increment of the applicant for a period of three years was imposed upon the applicant. The applicant preferred an appeal before the Director of Postal Services (Head Quarter), North East Circle, Shillong on 4.03.2008- against the penalty dated 31.01.2008. But the said appeal is yet pending. As a result the applicant is suffering. The appellate authority has called for the records and the service book of the applicant is now in custody of the appellate authority. As the Service Book of the applicant is not received by the Nagaland Head Office, he is not getting his full salary since August, 2008 till today. The Director of Postal Services, Nagaland has duly communicated this fact to the Superintendent of post Offices, Dharmanagar Division, Tripura vide his letter No. B-623 dated 07.10.2008 at Kohima. But nothing has been come out till to-day.

Filed by

Kumar Manoranjan Haloi

Advocate

15 MAY 2009

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Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH,
GUWAHATI

Original Application No. 90/2009

Sri Prem Ranjan Debnath Applicant

-Versus-
Union of India & Ors.

..... Respondents

LIST OF DATES

<u>DATE</u>	<u>PARTICULARS</u>
13.03.2001	Applicant joined at Dharmanagar Head Office in Tripura as Postal Assistant. After computerization of Dharmanagar Head Office he was entrusted with the additional duties of System Administrator.
19.01.2007	Applicant was transferred from Dharmanagar Head Office to Kailashahar MDG in Tripura as Postal Assistant-Cum-System Administrator.
22.11.2007	A charge Memo was issued by the Superintendent of Post, Dharmanagar Division under Rule 16 of the CCS(CCA) Rules, 1965 against the applicant consisting three charges regarding his service misconduct.
30.11.2007	Applicant received the charge memo dated 22.11.2007.
08.12.2007	Applicant submitted representation against the charge memo.
31.01.2008	Penalty was imposed upon the applicant by a unilateral proceeding withholding his one increment for a period of three years with effect from the date of his next increment due.
04.03.2008	Applicant preferred an appeal before the Director of Postal Services (Head Quarter), North East Circle, Shillong praying for setting aside the order of punishment dated 31.01.2008.
27.03.2008	Applicant was transferred from Kailashahar MDG to Zunheleoto MDG in Nagaland.
04.02.2009	Applicant was posted at Dimapur MDG in Nagaland as Postal Assistant-Cum-System Administrator.

Filed by

Kumar Manoranjan Haloi

Advocate

15 MAY 2009

गुवाहाटी न्यायालय
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH,

GUWAHATI

Original Application No. 90 /2009

Sri Prem Ranjan Debnath

.....Applicant

-Versus-

Union of India & Ors.

.....Respondents

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Filed by

Kumar Narayan Habi

Advocate

15 MAY 2009

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Guwahati BenchIN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATIOriginal Application No. 90/2009Filed by the applicant
through
Kumar Manoranjan Haloi
Advocate

Prem Ranjan Debnath

13.5.2009 15

Particulars of the Applicant: -

Sri Prem Ranjan Debnath,
 Son of Sri Pramod Ranjan Debnath,
 Resident of East Radhapur,
 Via Rajabari, Dharmanagar,
 District: - North Tripura, Tripura,

Particulars of the Respondents: -

1. Union of India, Ministry of Communication
 (Represented by the Secretary to the Govt. of India),
 Department of Post, New Delhi - 1
2. Director of Postal services (H.Q)
 North East Circle, Shillong:-1.
3. Superintendent of Post Offices
 Dharmanagar Division,
 Dharmanagar: - 799250.
4. Chief Post Master General,
 North East Circle, Shillong:-1.
5. Director of Postal Services,
 Nagaland, Kohima.
 PIN - 797001

1. Particulars of the order against which the application is made: -

An order dated 31.01.2008 passed by the Superintendent of Posts,
 Dharmanagar Division.

2. Jurisdiction of the Tribunal: -

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

15 MAY 2009

गुवाहाटी न्यायालय
Guwahati Bench3. LIMITATION: -

The applicant further declares that the present application is within the limitation prescribed in Section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE: -

4.1. That the applicant is a citizen of India and as such he is entitled to all the rights and privileges guaranteed to the citizens of India under the constitution of India and other settled laws derived therefrom.

4.2. That the applicant is an employee of the Postal Department. Initially, he was appointed as Postal Assistant at Dharmanagar Head office in Tripura. Since 13.03.2001 to 19.01.2007 he had been serving at Dharmanagar. During the course of time the Government by a policy decision computerized numbers of Post offices countrywide. Accordingly Dharmanagar Head office was also computerized. After computerization of post offices some Postal Assistants having skill of computer were entrusted with additional duties of handling the computer networking system. Those Postal Assistants with additional duties of computer administration are called System Administrator. In schedule II of the Information Technology (Certifying Authorities) Rules, 2000, the Information Technology (IT) Security Guidelines have been inserted. The said guideline has provided for System Administrator. It is provided in the said guideline that to ensure the protective security measures of the system there shall be one properly trained System Administrator. The System Administrator shall have the responsibility to create, classify, retrieve, modify, delete or archive information. System Administrator is also entrusted with the responsibilities to maintain secrecy of the system. After computerization of Dharmanagar Head office the present applicant was entrusted with the additional duties of System Administrator. Till 19.01.2007 he had been serving as System Administrator.

4.3. That on 19.01.2007 applicant was transferred from Dharmanagar Head office to Kailashahar MDG in Tripura as Postal Assistant-Cum-System Administrator. This transfer was tenure transfer. On 27.03.2008 he was transferred from Kailashahar to Zunheboto MDG Nagaland. In the month of July, 2008 he was again transferred to Dimapur MDG from Zunheboto MDG. At present he is working as Postal Assistant-Cum-System Administrator at Dimapur MDG as per order No. 124 dated 04.02.2009.

4.4. That when the applicant was serving as System Administrator at Dharmanagar Head office he detected some fictitious savings accounts, which were opened long back before computerization. He informed his immediate superior authority about these fictitious savings accounts. The superior authority then asked the applicant to delete those fictitious

Prem Lonyon Debnath

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Guwahati Bench

accounts. Accordingly, he deleted those accounts keeping its record in the error book. The error book was duly signed by the Post Master of Dharmanagar Head office.

Copies of ~~the~~ Error book are annexed as Annexure:-A1

4.5. That as per the notification of the Ministry of Information Technology, New Delhi dated 17.10.2000 there should be one System Administrator in every organization. But the Superintendent of Post, Dharmanagar Division in violation of this notification engaged 3 persons - namely Rupesh Das, Parthasarathi Dutta and the applicant and they were assigned with the duties of System Administrator. This created some problems to work. Therefore the applicant several times approached the authority to release him from the additional duties of System Administrator. But the same was not considered by the authority.

4.6. That on 22.11.2007 when the applicant was serving as postal assistant at Khailashahar MDG, a Charge Memo was issued against him by the Superintendent of Post, Dharmanagar Division under Rule 16 of the CCS (CCA) Rules, 1965. In the said Charge Memo three charges were brought against him relating to his service as System Administrator at Dharmanagar Head office.

The first charge brought against him is that during the period of his service as System Administrator at Dharmanagar Head office he detected the existence of some fictitious SB account in the data base opened long back before the inception of computerization of Dharmanagar Head Office and without bringing the matter to the notice of his immediate superior authority or the competent authority he unauthorizedly deleted the same from the data base suppressing such a serious irregularity and fraudulent activity.

The second charge brought against the applicant is that while he was working as System Administrator and operator of Western Union Money Transfer (WUMT) system at Dharmanagar Head Office during the period from 13.03.2001 to 19.01.2007 he took bribe from the bona fide customers of WUMT ensuring prompt and better service. It has also been alleged that the applicant misappropriated the amount meant for the refreshment of the valued customers of WUMT.

The third charge brought against the applicant is that while functioning as System Administrator at Dharmanagar Head office he took away some computer accessories from the office to his residence with an assurance to return those at the time of his leaving from Dharmanagar Head office to Kailashahar MDG, but he did not return those accessories and kept in his custody.

A copy of the charge sheet dated 22.11.2007 is annexed herewith and marked as Annexure:-A

Jhunayon Debbarma

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Guwahati Bench

4.7. That the applicant received the charge memo on 30.11.2007. In the said Charge Memo he was called upon to submit representation against the charges brought against him within 10 days of receipt of the charge memo. Accordingly, he submitted his representation on 08.12.2007 denying all charges brought against him. He also prayed in the said representation to make him free from the charges.

Regarding Charge No.1, the applicant stated in his representation that after detection of the fictitious SB accounts which might have existed erroneously, he after consultation with the other two System Administrators deleted those provisionally so as to prevent loss of public money. He deleted those accounts from the database after taking backup copy which was immediately handed over to Postmaster, Dharmanagar as an immediate precautionary measure. He also duly kept the record of the existence and deletion of those wrongful accounts in the Error Book and sent it to the Postmaster which was countersigned by the later.

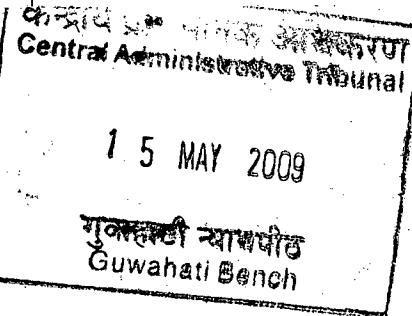
Regarding Charge No. II, the applicant submitted in his representation that the entire WUMT service was exclusive duty of the Postmaster, Dharmanagar Head office. The entire WUMT business transactions were used to be done in the chamber of the Postmaster in the computer meant for the purpose installed in his chamber. The payments to WUMT subscribers were being directly done by Treasurer, Dharmanagar Head office after the Postmaster himself satisfies with the MTCN and identity card of the customers in the computer in his chamber. Thus, no where the System Administrator is connected with the transaction except maintenance of computers etc. as and when required. He denied the allegation of taking bribe from bonafide customers of WUMT and misappropriation of the amounts meant for refreshments of the valued customers.

Regarding charge No. III, the applicant stated in his representation that at the time of his handing over of charge at the time of his transfer from Dharmanagar Head office to Kailashahar MDG, he handed over all the computer accessories to Sri Rupesh Das, another System Administrator, receipt of which was duly acknowledged by the later. Hence he denied taking away the computer accessories.

A copy of the representation of the applicant dated 08.12.2007 and the acknowledgement letter of Sri Rupesh Das are annexed herewith and marked as Annexure B & C respectively.

4.8. That after submission of written statement by the applicant no formal departmental enquiry was conducted regarding the charges brought against him. An unilateral proceeding was conducted by the Superintendent

Prem Ranjan Debnath



Prem Ranjan Debbarma

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of Posts, Dharmanagar division keeping the applicant totally in dark and imposed penalty on 31.01.2008 of withholding one increment of the applicant for a period of three years with effect from the date of his next increment is due without cumulative effect.

A copy of the order dated 31.01.2008 imposing punishment on the applicant is annexed herewith and marked as Annexure:-D.

4.9. That the applicant preferred an appeal before the Director of Postal Services (Head Quarter), North East Circle, Shillong on 04.03.2008 against the order of penalty dated 31.01.08 praying for setting aside the order of punishment. But the said appeal is pending before the appellate authority.

The applicant preferred the said appeal on the grounds that the Superintendent of Posts, Dharmanagar Division has passed the impugned order imposing punishment on him arbitrarily without considering the material facts on record. There were three System Administrators including the applicant, which is evident from record. All the three system administrators shared the passwords and security systems of the networking system. But the Superintendent of Posts, Dharmanagar Division overlooked this fact and held the applicant guilty.

It was also stated in the appeal that although the applicant deleted the fictitious accounts in question with prior permission from the superior authority which is evident from the Error Book duly countersigned by the Post Master, the Superintendent of Posts, Dharmanagar Division overlooked the same and held the applicant guilty for unauthorized deletion of the said accounts. The Superintendent of Posts, Dharmanagar Division held the applicant guilty of charge No. II, although the transaction of WUMT was done exclusively by the Post Master in his chamber.

It was also contended in the appeal that the Disciplinary Authority has ignored the plea taken by the applicant that he handed over the computer accessories to Sri Rupesh Das, another System Administrator who had acknowledged the receipt and held the applicant guilty of charge No. III upon verbal deposition of Sri Rupesh Das and Parthasarathi Dutta. The Disciplinary Authority also did not follow the rules and procedures of departmental proceeding. No formal enquiry was held and the applicant was not given the opportunity to examine the witness if any and be examined himself.

A copy of the appeal dated 04.03.2008 is annexed herewith and marked as Annexure:- E.

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4.10. That the appellate authority has called for the records and the service book of the applicant is now in custody of the appellate authority. As the Service Book of the applicant is not received by the Nagaland Head office, he is not getting his full salary since August, 2008 till to-day. The Director of Postal Services, Nagaland has duly communicated this fact to the Superintendent of Post offices, Dharmanagar Division, Tripura vide his letter No. B-623 dated 7.10.2008 at Kohima.

A copy of the letter dated 7.10.2008 issued by the Director of Postal Services, Nagaland is annexed herewith and marked as Annexure: - F.

5. GROUND FOR WITH LEGAL PROVISION: -

Being highly aggrieved by the action of the respondents the applicant preferred this application on the following amongst other grounds: -

-G R O U N D S -

- A) For that the impugned order dated 31.01.08 was passed without any departmental enquiry and the respondent authority held the allegations to be proved. The charges levelled against the applicant are question of facts which can only be established in a full-fledged departmental enquiry and not on the basis of records. Thus the decision making process of the respondent authority suffers from non application of mind and hence the impugned order of punishment dated 31.01.08 is liable to be set aside.
- B) For that while passing the impugned order dated 31.01.08 the Superintendent of Posts had taken into account the written deposition of some persons, but those written depositions were not made known to applicant ever. Nothing is mentioned about these written depositions in the statements of imputation of misconduct nor were those annexed in the list of documents. Existence of these written depositions and the fact that those would be used against the applicant was never informed to the applicant. The applicant was totally in dark about these written depositions. Thus the entire action of the respondents is vitiated for noncompliance of the Principles of Natural Justice as the applicant was deprived of a reasonable opportunity to defend himself.
- C) For that prerecorded statements of persons can be relied in any proceeding only when the delinquent is given the opportunity to cross examine the person whose statement is sought to be relied in the enquiry. In the instant case the applicant was not only

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deprived from a copy of such prerecorded statements but also an opportunity to cross-examine those persons. Thus the impugned action of imposing penalty is vitiated for violating the procedure established by law.

D) For that the respondent authority while passing the impugned order dated 31.01.08 did not consider the plea of the applicant and did not assign any reason for not considering his plea. The applicant pleaded that the deletion of SB accounts were done with prior permission from superior authority and he kept record of deletion in the error book which was countersigned by the Postmaster. The respondent failed to consider this relevant plea of the applicant and did not assign any reason for non consideration of this aspect of the case. Thus the action of the respondent is vitiated for non consideration of relevant facts and hence the impugned order is liable to be set aside.

E) For that it is settled law that a list of the documents to be relied by the disciplinary proceeding is to be furnished to the delinquent with opportunity to him to inspect such documents and if required furnish copies of such documents. In the instant case the applicant was not furnished any list of the documents relied by the respondent authority while passing the impugned order. The applicant was kept in dark and was not informed about the documents to be relied by the disciplinary authority. The respondents have thus deprived the applicant from an opportunity of fair hearing. The action of the respondents being violative of the principles of natural justice and the procedure established by law is liable to be quashed.

F) For that the respondents have passed the impugned order arbitrarily & whimsically without following the procedure established by law and hence there action is violative of Article 14 & 16 of the Constitution of India.

6. DETAILS OF THE REMEDIES EXHAUSTED: -

The applicant has filed an appeal before the Director of Postal Services (Head Quarter), North East Circle, Shillong on 04.03.2008 praying for setting aside the impugned order dated 31.01.2008 passed by the Superintendent of Posts, Dharmanagar Division imposing penalty on the applicant. But the same has not been disposed of yet.

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2.2

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

The applicant declares that the subject matter of this application is not pending before any court of law or any other branch of this Hon'ble Tribunal.

8. RELIEF SOUGHT:-

That in the premises aforesaid the applicant prays that Your Lordships may be pleased to call for the records, issue notices upon the respondents to show cause as to why (i) the impugned order dated 31.01.2008 issued by the Superintendent of Posts, Dharmanagar Division imposing penalty on the applicant (Annexure:-C) shall not be set aside and quashed and upon hearing the cause or causes to be shown by the parties your Lordships may be pleased to set aside and quash the impugned order dated 31.01.08; and (ii) to release the current and arrear salary of the applicant in full which is irregular since August, 2008.

9. INTERIM ORDER IF ANY PRAYED FOR:-

The applicant prays that pending disposal of this original application, Your Lordships would be pleased to keep the impugned order dated 31.01.2008 passed by the Superintendent of Posts, Dharmanagar Division imposing penalty on the applicant, under suspension and be pleased to direct the respondent No.5 to release the arrear salary and current salary of the applicant regularly which is irregular since August, 2008 till to-day in the interest of justice.

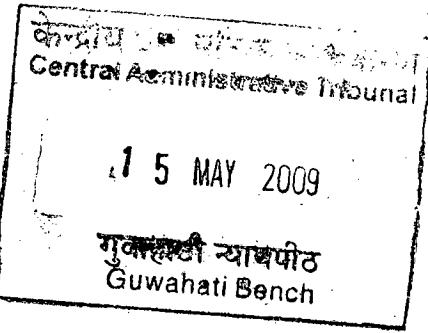
10. PARTICULARS OF POSTAL ORDER:-

I. P.O. No.	39 G 406321
Name of issuing post office	GPO, Guwahati
Date of issue	28.4.2009
Payable at	GPO, Guwahati.

11. LIST OF ENCLOSURES:-

As indicated in the index.

Prem Laxman Debbarma



VERIFICATION

I, Sri, Prem ranjan Debnath, son of Sri Pramod ranjan Debnath, aged about 40 years, an employee of Department of Post, working as Postal Assistant-Cum-System Administrator of Dimapur MDG, presently residing at Railway Colony, Dimapur, P.O:- Dimapur, P.S:- Dimapur, Nagaland do hereby state that I am the applicant of this case and am well acquainted with the facts and circumstances of this case. The statements made in paragraphs ...4.1, 4.2, 4.3, 4.5, 4.6, 4.7 and 4.9 are true to my knowledge and belief and those made in paragraphs ...4.4, 4.8 and 4.10.....are true to my information derived from records which I believe to be true and rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 2nd day of April, 2009 at Guwahati. *Guwahati* *21/04/09*

Prem ranjan Debnath

Signature

P-3

Enquiry no - 50

MS. A/c no. 103885 : R. 1045
Date 6/12/03. in Enquiry Entry
so the Amnt of Rs. 1045 Debit

Rs. - 41

SA in deposit H

6/12/03

10/12/03

SB-A/c - 266651 was comd
but amt 1045. O. S. 1. Kirby
Check and enter the amt. on the
ledger & pass book

Dr.

5/12/03

Enq - 42

10/12/03

MS. A/c no. 101662 was opened in
the Name of minor Thurna Deb with
operator Ajit Kr. Deb (Halter) - Data entry
made in the name of Thurna Deb as
correction of operator name
as Ajit Kr. Deb Father is require
to be noted & nomination form
made to be cancelled

Dr.

10/12/03

Entry made

ccr's

B

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Printed by
on line
26/12/03
System Administrator
Dharamnagar H. B.
799250

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सेवा संसदीय प्रशासनिक अधिकारण
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Note No. 3K
25-6-04

To

Performance

Note
2

It is observed on different dates during May/June also on 18/6/04 & today on 25-6-04 that the checking of SB/RD vouchers relating to deposit/withdrawal or RD lot can not be checked. The fact was reported to S.A. who replied that in absence of another Supervisor the system cannot be made fast & otherwise kindly take action so that checking works by Supervisor can be done normally. Any irregularity in counter writing (SB/RD) happen without checking by Supervisor who may be refrain from share work &

Supervisor

S.A.

S.B.

25/6/04

Please see the note submitted by my predecessor & take action necessarily if possible. Otherwise the matter should be reported to SP/DNA & DMS/SP/DR.

D/25/6/04

Post: 3/HSE/1

Dharmendra 734238

This matter already reported to SP/DNA vide letter no. DI/computer/DNA-1 dated on 24/6/04 & discussed with SP/DNA dated on May-June-04. It is also requested to you kindly consider with SP/DNA to solve the problem. Actually another info is required as for poor performance. However

the Supervisor can execute the form with the help of Sif form that was discussed with DPM & vendor to prevent any irregularity.

Thank you

Babulal 25/6/04
System Administrator
Dharmendra S. D
999250केन्द्रीय प्रापालिका न्यायालय
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17.1.2022 6.30

Note 68 - 13. AJC 701/1977 (SA) - the name of the holder is written in English but data entry made in Assamese

Correcting Part 1 and Part 2. Name of the holder is written in English but data entry made in Assamese

Signature of DPM Secretary - Adit

13/5

Note - 69

14.8.01

AJC 701/1977 (SA) - the name of the holder is written in English but data entry made in Assamese

Civil - Neli Barua (SA) is fragmented to correct

the name

13/5/01

Note 70 - for ref. 36/1/1977 (SA) - the name of the holder is written in English but data entry made in Assamese

14/5/01 - of Pranabendu Nata - the name of the holder is written in English but data entry made in Assamese

SA is fragmented to correct the name

S
14/5/01Note - 71
14.8.01

AJC 701/1977 (SA) - the name of the holder is written in English but data entry made in Assamese

entry made in English Nata - SA is fragmented to correct the name

S
14/5/01Note - 72
14.8.01

AJC 701/1977 (SA) - the name of the holder is written in English but data entry made in Assamese

data entry made in English Nata - SA is fragmented to correct the name

S
14/5/01

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Note 74 : SP ac (No 27305) in the name of
 20/9/04 Subir Kr das; The name of depositor
 is subir das which may please be
 corrected
 S/P Please arrange

Corracted
 Depur 20/9/04
 Dharmanagar 791250

1/9/04
 Corracted

Note 95

21/9/04 : RDI Ac No. 367761A SP 13/9/04
 Re-deposited Rs 125/- (crossed) on 10/9
 Pass book & Statement card issued
 by my computer last entered in
 computer

S/P Please arrange

Corracted

DY-Post 24/9/04 MSG-11
 Dharmanagar 791250

Note 96

21/9/04 : SP Ac (No 272754) in the name
 of Sita Ram Bhownik but computer
 date entry Sita Bhownik
 S/P Please correct
 The name Sita Ram Bhownik
 Bhownik instead of Sita Ram
 Bhownik

Corracted (is not
 possible without
 S/P's signature)

SP 21/9/04

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21/10/05

In RD A/c No. 48915, the computer shows one month's deposit in advance, ~~but~~ whereas in Pass Book, it appears that there is no advance deposit made. So, it is necessary to verify this and to delete one month's excess deposit from computer memory.

SG, SA Please correct it.

Reetby

246

21/10/05

MTS A/c No. 103422 is a joint A/c by the name of Anima SenGupta & Chandan SenGupta. But ~~the~~ the computer shows different names.

SA, Please correct the name of said A/c.

The name of the co-holder
Changed, But One factor.

why it was not rectify by
3 yrs. So, Please inform
from whom rectification
done for One year on the
marked date.

Reetby

247

21/10/05

The calendar timeline of SITI
not function from October-05
till now for 08 serv - case
CWL of order dt 03/10/05.

EE
4/10/05

Reetby
Report to SA

PM-
26/12/05

15
The Sooner room was broken in on 11/12/2005 but
the Sooner and it's other pedophiles was not
shifted to another safe place. Now the
Sooner of Seminole and Methodist is still
working at the unsafe place. It is
requested to you to do you kindly
arranged to shifting the Sooner to any
secured place immediately. Otherwise any
kind of damage/loss may be occur in the
Sooner or Sooner database.
Very faithfully,

Yours faithfully,

From London Debrett

System Administrators of ERP manager: HPO

SA
23/11/05 1415 0/ciro - 105258 on 5th Depositor
Hypopoda: Brachychaete expected. P.E. make it single
APC. in this name is Brachychaete. Death certificate
enclosed. ~~5/11/05~~ ~~QJ/2017~~
Dy. Postmaster
Dharmangar, H.O.
No. 11 Tltpura - 799250

Deak
Dy. Postmaster
Dharmanagar, H. O.
Narhi Tripura-799250

Ref of 43772, 43871 at DMS (40-1111)
Submitting for upf correction in to PBI's
for comments. 11/16/68

~~Costed~~ ~~Costed~~

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केन्द्रीय प्रशासनिक अधिकारी Central Administrative Officers

- 15 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

~~6:00~~ 4 TO 16 PM. 2ND FLOOR

28/6/1981 The Services of Somayajapath & Meghadoot
Meghadoot suddenly disconnected from
Net work. The lab. also disconnected.
When the financial part works are
going on. The Total Net work are
very critical & consequently Conduits
(2) this situation ^{for} _{should} be repaired
the problem. I think a new net
work is necessary.

Höller's report pt. 6e, ~~from Royal Observatory~~
report to the ~~Geodetic~~ System Administration
sections by 1, 3 p.m. ~~Wednesday~~
C.P.M.G. for early restoration
the present

29/6/65
POSTMASTER HSGJ
DHARMANAGAR HO. 793280

RECEIVED 10.11.1921 P.M / 8 NOV 1921
In regard to Es 6000 No 487 28/6/1921 I understand that
some negotiations for the Man, Corner & Neighbourhood
are open in position in Ground floor. The
Secretary of the former may break it down
down any moment. The Secretary of the latter
negotiations may be reopened.
Some other persons of the office &
Admiralty are very interested in the
matter. I am anxious for the moment
Knott suggested me about the secret
problems with which my party break down

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Guwahati Bench

-19-

SB AFC NJ 274919 etc 279107s. Deposite
15 16071 - incoorctly: The letter was deleted and bldy
of 1 more correctivly, the SB AFC
or 274912 Deposite 1607 - etc 279107s.

~~Conc. 5
11/11/01
10~~ 1/1 Postmaster

Sir,
I have received a CD containing
Meghdoot Me ver 6:3 with Co Bridge 2
BCE on 11/11/06 at enway. I have
test the software & find some
files were corrupted in this CD &
this is not original CD which
was to supply from Bridgeon igne.
However I have contact with Co.
for supplying another original CD to
Meghdoot Me ver 6:3 so kindly
let me receive the corrupted &
duplicator CD of Meghdoot
Me ver 6:3.

Your
faithfully
Prem Sagar Deval
S. 486 in Adarsh Ashram

RD Account no. 51681. A definitely older name
is Pravati & now instead of Bijati xmas
2 Corrections

o/a ac n# 4193 lot for same
Patron Dr. Roy (Roy) balance \$15000

But at the time of F/C the amount
shown balance Rs 14,50/- on 11/12/01
and 9/1/02 after writing off

SA PL: source entry the old
11/12/01 and 7/1/02.

Concluded
July 30/01

Form 28

89/0403

Re AFC v 26429, the 5th Cir.

House Tip a Cloudy Balance

Rs 3600/- but at the time of

7/14 Computer Shows Balance KRS 35700
dtd 28/7/98 R 357 - Wording

SA PL entry dated 28/10/02 for
R. & B. 300/-

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Guwahati Bench

Annexure - 12 A

SB NO 102532, 102533, 102534
Bul. Bandy Kumar, 102533
Solicitor - on 25-3-2009.

SA/

Please convert B to Computer A/C
in the name of Parijat Pratap and holders

26
27/3/09

26

27/3/09

Note

27/3/09, 4151/ deposit made
on 25-3-09, 26-4-09, no adv. but computer
entry was not made. - entry not done, sufficient
deposit made. SA : may say it deposit is
there, data entry except 26/3/09 to be
made.

Corrected

27/3/09

NIC - 90

27/3/09, SB ref. 2727491 not done
as Miss Chakrabarty, but data
entry name Miss Chakrabarty.
SA : Please correct / 27/3/09
Chakrabarty instead of 27/3/09
Chakrabarty

Corrected

31

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Guwahati Bench

Annexure 12B

Mr. A/C No. 104447 has been given
byopal Ch. Pat. Date. 21.3.80/-
concerning the computer
and the entry -

Q/4
Ans. I have checked

note 104447 A/C No. 264912 25.2.70. P. 270526
Ans. Q/4 is 322 BLW for correction & Removal
S/o is requested to do the needful

Ans. Q/4 I have checked the entry
of above Q/4 P. 264912 270526 P. 264912
will be updated by the respective of
the concerned authority. Ans. Q/4
Ans. Q/4 is 322 BLW for correction & Removal
S/o is requested to do the needful

Ans. 104447

Ans. A/C No. 104447 has been given
byopal Ch. Pat. Date. 21.3.80/-
concerning the computer
and the entry -

Ans. I have checked

Annexure 12C

152 para A/c No. 18.5467. N. 2001 of 30.5.2005
whereat 20/5/2005. 2009. 2009.

Please arrange it in proper

Please arrange it in proper

153 para A/c No. 240343. N. 2001 of 30.5.2005
whereat 20/5/2005. 2009. 2009.

Please arrange it in proper

152 para A/c No. 37785. N. 2001 of 30.5.2005
whereat 20/5/2005. 2009. 2009.

Please arrange it in proper

153 para A/c No. 10618. N. 2001 of 30.5.2005
whereat 20/5/2005. 2009. 2009.

Please correct the name of witness

Corrected

Radha

154 para A/c No. 269619. N. 2001 of 30.5.2005
whereat 20/5/2005. 2009. 2009.

Please correct the name of witness

Please arrange it in proper

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केन्द्रीय नियन्त्रण बोर्ड - COT
Central Administrative Tribunal

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Guwahati Bench

Annex 120

196 31/5/05 A/c Dear application on Enr. No. 1005
Ver. No. 1005. No. RD A/c 120
4,6013. # 98848 - convert to No. 1 RD

PRSS. L/T

SAC. Please arrange it

197

31/5/05 RD A/c No. 32733. Name: So. Bulekha
NAME: NAME: ID: Balance: 0.00
SAC. Please arrange it

198 31/5/05

31/5/05 RD A/c No. 260323 2,69737 2,638
35961. # 84886. 13. Cheque issued at 2,610.00.
The sum of Rs. 1000/- short. The amount written
in words is Rs. 1000/-

84886

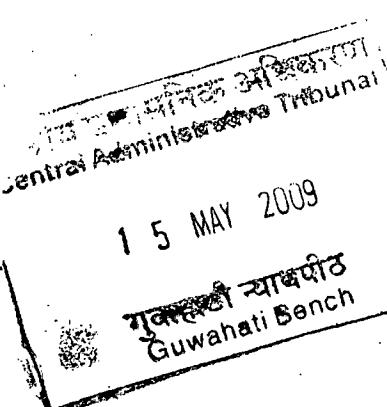
199 31/5/05 RD A/c No. 260385 is created

199 31/5/05 RD A/c No. 260385 is created
199 31/5/05 RD A/c No. 260385 is created
199 31/5/05 RD A/c No. 260385 is created

200 31/5/05 Total SD PA for FC & 65. RD RD for PT
76.00 is pending. Since 30/5/05. Resulting on
is disturbing for their FC/PT cases due
to nonposting in L/C I.

P. M. is requested to defnd
the staff to estimate avoid the public complai

200
CHARMINA
139259



SB 17 No 23003 name of Kona
was not in the computer. Now the
same will be entered
to form B as per application of
the defendant

A file make info. ~~Corrected~~
~~Print~~

20/1/09 No 39763 name of Anjan
Akash S. M. Computer not in Anjan
Anjan S. M. Computer not in

~~Corrected~~
~~Print~~

Statement No 29405, 269422, 269431, ~~incorrect~~
incorrect for defendant, as revised sanction
Date 16/5/09 ~~Computer~~ ~~Print~~
Date 16/5/09 ~~Print~~

The Computer machine is not working properly
this afternoon kindly arrange to rectify the defect
for smooth running of LS Center on 20/5/09

16/5/09 ~~Print~~ ~~Print~~
16/5/09 ~~Print~~ ~~Print~~

25/1/09 No 107444, 107446 name
of Banmali Choudhury & Mallam
and son. (M. A. Choudhury Joint 115)

27/1/09 ~~Print~~ ~~Print~~
it is known that Banmali Choudhury
is more today so the search
will be done after the Singralee
market

28/1/09 ~~Print~~ ~~Print~~
Completed but that
work is not done
for ~~Print~~ ~~Print~~

29/1/09 ~~Print~~ ~~Print~~
The computer of SB center is not working properly.

At the time of 9.00 AM, the machine working very
slowly and it is not able to handle work of customer

12.30 center is not working properly
due to ~~Print~~ ~~Print~~

1.30 PM ~~Print~~ ~~Print~~

2.30 PM ~~Print~~ ~~Print~~

3.30 PM ~~Print~~ ~~Print~~

4.30 PM ~~Print~~ ~~Print~~

5.30 PM ~~Print~~ ~~Print~~

6.30 PM ~~Print~~ ~~Print~~

7.30 PM ~~Print~~ ~~Print~~

8.30 PM ~~Print~~ ~~Print~~

9.30 PM ~~Print~~ ~~Print~~

16 PM ANR HO

00000-5

cc The Online operation was going on as very temporary basis since Dec 05. The Server was working in a very risk factor environment from 8(80%) month. Several correspondence were done previously.

Now the existing Network were hang up for doing financial MRP3 work. From 27/6/06 at 4:30 P.M. Very important matter is that the Tape drive of server was not working from yesterday due full of dust. So the back up media also fail in the condition of the server. So as out of order, no data will be recovered. The server rack is not prepared till now in the office. So kindly arrange to shifting the server to a spacious server room very early & a fresh Networking is done every with proper server of servers & some nodes.

This matter were discussed with A.B. Dutta, Supdt of POS at 27/6, 28/6, 29/6 & 30/6/06 on telephone & it was decided that the rectifi restoration of online operation will be done at any cost. It was not decided how much cost will be necessary. However we start the restoration work as per above necessity/ requirement.

copy of
memorandum
to
and
X
X
X
X
X

15 MAY 2009
High Court of Assam
Administrative Tribunal
Court of Session
Guwahati Bench

15 MAY 2009

For 6
dt 13/7/06

Annexus 14 page-2

5

To 16 Postmaster ANR HO

Sir,

I am directed even by your Order No 141 dated 10/7/06 pursue by Supdt of Post office. D.Y.A. Letter No - T-1/MOD/DRR dated at Dharmanagar 10/7/06 for Competing to rebuilding the whole local area Network immediately in Dharmanagar HO otherwise written statements may be obtained.

So we have completed the Client/Host connectivity with RJ45 socket but when we installed the server & net switch was not mentioned. So I therefore requested you kindly inform the appropriate place to connect the Client server back network system with Server.

Moreover a small short height wooden table for coupling the switches.
see attached for the
your faith fully
S. S. Chakraborty
System Administrator

WHS 109109. The letter in Smt. Khan by
Bharti exceed his maximum limit. Hence R.T.O. is
Concluded. The damage caused by him and
Concluded

~~Concluded~~
Concluded

Asstt. Smt. 51
DHARI 12250

W-26 3NDSRD A/C 3556 57558 R.S. 7/10/09
20/7/09 K.P. by Agent Jawad Ali Shattuck
to K. Accts. assy. awaiting but computer
book a/c and opened
SA PI solve the problem

Concluded
19 x 31

SA

Bank

26/7/09 A/c in 267200 - need of data entry
Final closed

Reported to 267200 for the time
rest of the 5-60 and 14-21

16/7/09 Economy Smt. 6 year So. whether
data entry of 267200

Asstt.
DHARI

26/7/09

It goes without saying that I am not in the
position of that to be able to find any page of the file of
which I closed on 14/7/09 (File No. 267200
267200 267200 224165 224165) in the
time between 16/7/09 to 17/7/09 but it may be
possible that there is a certain portion of the file
which I closed on 16/7/09 which is not in the
position of being closed in my absent kindly look into
the matter.

your faithfully

Sub Inspector 267200

Guwahati Sub Inspector

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Administrative Tribunal
Guwahati Bench

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Guwahati Bench

16/7/09 to 17/7/09
16/7/09 to 17/7/09

16/7/09 to 17/7/09
16/7/09 to 17/7/09

16/7/09 to 17/7/09
16/7/09 to 17/7/09

Abstract of the record

16/7/09 to 17/7/09

Set
Solved
26/7/09
Asstt. Smt. 51
DHARI 12250

26/7/09 Service charge has been deducted from 267200
271391 in file 9-271391. Please correct-accord-
ingly by making the transaction on file no. 271391
to 16/7/09 to 17/7/09 from 010 510 271391

Concluded
26/7/09

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE SUPERINTENDENT OF POST OFFICES, DHARMANAGAR DIVISION
DHARMANAGAR, TRIPURA (N) - 799250.

Memo No. SB-I/Misc/Corr

Dated at Dharmanagar the 22nd November, 2007.

Shri Prem Ranjan Debnath, PA Kailashahar MDG is hereby informed that it is proposed to take action against him under Rule - 16 of CCS (CCA) Rules, 1965. A statement of the imputations of misconduct or misbehaviour on which action is proposed to be taken as mentioned above is enclosed.

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

B.R. Halder
(B.R. Halder)
Superintendent Posts,
Dharmanagar Division, 799250.

Copy to:

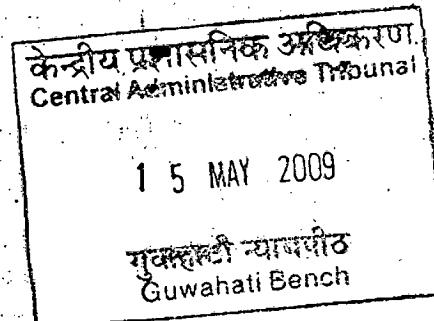
REGD.A/D 1). Shri Prem Ranjan Debnath, PA, Kailashahar MDG.

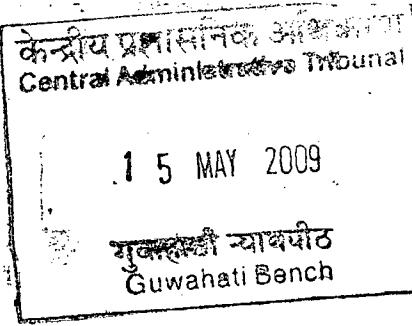
2-4). The CR file / Vig. File / Personal File of Divisional Office,
Dharmanagar.

5. O/C

Muj
Superintendent Posts,
Dharmanagar Division, 799250.

Certified to be true copy
Advocate





Statement of the imputations of misconduct or misbehaviour on which action is proposed to be taken against Shri Prem Ranjan Debnath, former System Administrator, Dharmanagar HO and now PA Kailashahar MDG.

Article-I

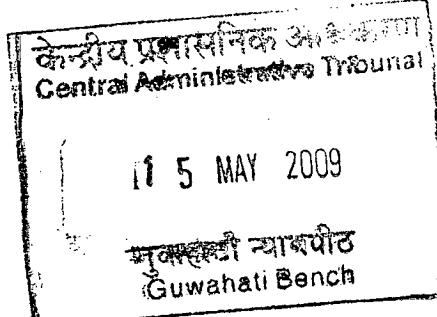
That Shri Prem Ranjan Debnath while functioning as System Administrator Dharmanagar HO during the period from 13-03-2001 to 19-01-2007 detected the existence of some fictitious SB accounts in the data base numbering as 273090, 273575, 273250, 272772 and so on, opened long back before the inception of computerization of Dharmanagar HO. The said Shri Prem Ranjan Debnath without bringing the matter to the notice of his immediate superior or the competent authority deleted them from the data base all by himself unauthorisedly suppressing such a serious irregularity and fraudulent activity for months and years together till his transfer from Dharmanagar HO in early 2007. He first brought the fact of existence of two such fictitious SB accounts bearing Nos 272673 and 274160 in the data base of Dharmanagar HO while visiting Dharmanagar HO on 26-05-2007 in connection with attending the monthly meeting of union and that too through Shri Bibhankur Nath PA Rajbari SO. By doing so Shri Prem Ranjan Debnath failed to maintain absolute integrity, devotion to duty and acted in a manner which is unbecoming of a Govt. servant as enjoined in Rules 3(1)(i), 3(1)(ii) and 3(1)(iii) of the CCS (Conduct) Rules, 1964.

Article-II

Shri Prem Ranjan Debnath while working as System Administrator and operator of WUMT at Dharmanagar HO during the period from 13-03-2001 to 19-01-2007 took bribe from the bona fide customers of WUMT ensuring prompt and better service. Apart from this he misappropriated the amounts meant for the refreshments of the valued customers of WUMT.

By his above acts the said Shri Prem Ranjan Debnath failed to maintain absolute integrity, devotion to duty and acted in a manner which is unbecoming of a Govt. servant in terms of Rules 3(1)(i), 3(1)(ii) and 3(1)(iii) of CCS (Conduct) Rules, 1964.

Contd....P/2.



Page-2.

Article-III

Shri Prem Ranjan Debnath while functioning as S.A Dharmanagar HO during the aforesaid period took away some computer accessories like SCSI card, One Scanner, one SCSI HDD, CD writer and one Sound System of Kailashahar MDG from the office to his residence with an assurance to return those before his departure to Kailashahar for assuming his duty there as PA Kailashahar MDG on transfer, but did not return those accessories and kept in his personal custody.

Thus the said Shri Prem Ranjan Debnath failed to maintain absolute integrity and acted in a manner which is unbecoming of a Govt. servant violating the provisions of Rules 3(1)(i) and 3(1)(iii) of the CCS (Conduct) Rules, 1964.

15 MAY 2009

গুৱাহাটী আৰ্পণা
Guwahati Bench

ANNEXURE :-B.

To

The Superintendent of Post offices
Dharmanagar Division
Dharmanagar - 799250
North Tripura

(Through the Postmaster Kailashahar MGD)

Ref: SB-I/Misc/Corr Dated at Dharmanagar the 22nd November, 2007.

Sir

In response to your aforesaid Memo No. SB-I/Misc/Corr Dated at Dharmanagar the 22nd November 2007, I beg to inform you that I received the same on 30/11/2007. I am submitting my representation for favour of kind information please.

That I was appointed as System Administrator, vide letter No. J1/SBLAN/DNR dated at Dharmanagar the 13/03/2001 issued by your predecessor and since my joining as System Administrator I have been doing my entrusted duties sincerely, honestly and diligently while I was working as System Administrator vide SPosts. Dharmanagar Division reference No. J-1/MOD/DNR Dated at Dharmanagar 10/07/06 the then Sposts. Dharmanagar Division instructs Postmaster, Dharmanagar H.O to engage three System Administrator namely myself, Sri Rupesh Das of Dharmanagar HO and Sri Parthasarathi Datta of Division office to complete the networking although as per order of the Hon'ble Sr DDG (CPT) vide his reference No. D.O. No. 40-34/2000-Tech Dated 26th February 2001 where in there was clear instruction that only one System Administrator should be appointed for the Sanchay Post application and ironically after few days I have been put under so many allegation for the reason not known to me.

As regard article of charges no-1 that Sir, Since my working as System Administrator, Dharmanagar H.O. 13-3-2001 to 19-01-07, after my assumption to the charge of System Administrator, Dharmanagar H.O. on Sept/Oct 2006 from All India Conference of our union at Jawalaji, Himachal Pradesh on Sept 2006. I detected incorporation of few fictitious SB accounts into SB accounts standing open in Dharmanagar H.O. (in the data base/SB software in use in Dharmanagar H.O.) viz, 273090, 273575, 273250, 272772, 272673, & 274160 which existed in the Dharmanagar H.O. earlier either erroneously during data entry or hoaxly by one of the remaining Two System Administrator of Dharmanagar Division, Shri Rupesh Das, Asst. System Administrator and Shri Parthasarathi Datta, PA, Divisional office, who are equally responsible for safty and security of computer system and computer accessories as they shared all passwords & software and other responsibilities of System Administrator vide Spots letter No J-1/MOD/DNR Dated at Dharmanagar 10/07/2006 (in contravention of Sr. DDG (Posts) complaints letter No. D.O. No. 40-34/2000-Tech Dated 26th February 2001. Thus, on 16/10/07, after consulting other System Administrator (though not mandatory) so as to

Certified to be true copy.

John B. Stetson
Advocate

15. MAY 2009.

गुवाहाटी न्यायालय
Guwahati Bench

prevent loss of Govt. money, like automatic credit of Interest or withdrawals and for interest of the public, I provisionally deleted those said wrong / incorrect SB accounts from the database after taking backup copy which was immediately handed over to Postmaster, Dharmanagar H.O. (retaining the same in the separate location in the server for n/a by higher authority, if required) duly noting in the Error Book with due information to the Postmaster, Dharmanagar (mandatory) as a immediate precautionary measures, as per the office procedure of System Administrator and also right conferred to the System Administrator vide SPosts, Dharmanagar Letter No. J-1/Security Guidelines/computer dated at Dharmanagar the 29.09.2004 in pursuance of CPMG, Shillong letter No. MOD/Security/ comp dated 13.08.2004 as per Dte's Lr No. 46-5/2004-Tech Dated 21.07.2004/ 02.08.2004 to follow orders issued time to time by Government of India Ministry of Information Technology.

"Government of India, Ministry of Information Technology, New Delhi, the 17th October, 2000 NOTIFICATION G.S.R 789 (E) In exercise of the powers conferred by section 87 of the Information Technology Act, 2000 (21 of 2000).

- Where in under security guidelines (schedule II) Rule 5 clause 3 & 4 specifically sated that.....
- (3) The responsibility to create, classify, retrieve, modify, delete or archive information must rest only with the System Administrator.
- (4) Any password used for the system administration and operation of trusted services must not be written down (in paper or electronic form) or shared with any one."

Sir, it is pertinent mention here that it is not possible on the part of any System Administrator to Sought for permission from higher authorities for deleting /editing etc of all incorrect / wrong SB /RD accounts opened during, data postings or computerization of SB works in any office or settlement /modifying of any wrong accounts. Sir, it is very petty that I submitted my application dated 27/10/06 enlighting some irregularities in securities of Server & software of Dharmanagar HO and thus seeking exemption from the charge of System Administrator, Dharmanagar H.O. through proper channel as because of violation of orders of DDG(Posts) and orders issued by Information and technology time and again but surprisingly neither the Post Master, Dharmanagar H.O. Shri Nirmal Suklabaidya nor SPosts, Dharmanagar Division felt not necessary to asked me either in writing or in personal the reasons for sudden exemption from such responsible posts in the mid term when I was as System administrator, Dharmanagar H.O since my joining the department. That with reference to your letter No B-1 / Rotation /DNR. Pt. II /2 Dated Dharmanagar the 11/01/2007 I was transferred at Kailashahar MDG as PA/ System Administrator and at the time of hand-over the charges of System Administrator, I informed all the happening to the relieving System Administrator, Sri Rupesh Das, that various irregularities like wrong account number, wrong name, wrong balance etc may be till remaining in the computer database which was communicated to you vide reference No D1/Computer/DNR Dated Dharmanagar the 19/01/07 through Postmaster Dharmanagar HO.

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Guwahati Bench

However, on 26/5/07 during my visit to Dharmanagar H.O In c/w attending monthly meeting of union, suddenly Shri. ParthaSarathi Datta, System Administrator, Dharmanagar H.O charged me to return 3(three) Nos computer accessories, I was shocked and as I have not taken any computer accessories. By the way I for greater interest of Department beg to bring to your kind notice one such instance of opening of incorrect SB accounts in Dharmanagar H.O. through Shri. Bibhankur Nath, PA, Rajbari S.O. if re-opened and bring notice the illegalities of System Administrator, Dharmanagar H.O. Thus, I affirm your good-self to ponder over the charges leveled against me under article-I of the memo dated 22/11/07 and set me free of the charges as because no way I am responsible for any illegalities & violation of any rules regulation.

Regarding the charges in article No-II of your memo I beg to inform you that the entire WUMT Service was exclusive duty of the Post Master, Dharmanagar H.O. not my as System Administrator Dharmanagar H.O during 13-3-2001 to 19-01-2007. The entire WUMT business transactions used to be done in the chamber of the Post Master, Dharmanagar H.O. in the computer meant for the purpose installed in his chamber. The payments to WUMT subscribers were being directly done by treasurer, Dharmanagar H.O. after the Post Master himself satisfies with the MTCN & identity card of the customers in the computer in his chamber. Thus, no where in the above activities the System Administrator is connected with the transaction except maintenance of computers etc as and when required. Thus, question of taking bribe from bonafide customers of WUMT and misappropriation of the amounts meant for refreshments of the valued customers is not correct. The above allegations against me has been brought to the kind notice of SPosts just to remove me from the dual charge of System Administrator and Secretary NFPE which could be done only by stationed at Dharmanagar H.O. (Avoidance of rotational transfer of PAs as three System Administrator stationed at the same place and duty is not permissible as per Dte's order). This allegation made against me after elapsed of 10(ten) months when I am not in that chair or office.

Regarding charges in article III, that before my transfer from Dharmanagar H.O to Kailashahar MDG, Shri Rupesh Das, Asst. System Administrator, and Shri. Parthasarathi Datta, PA, Divisional office, who were equally responsible for computer accessories and other responsibilities of System administrator vide SPosts letter No J-1/MOD/DNR Dated at Dharmanagar 10/07/2006. It is kind reference is invited to your letter No B:- 552 Dated at Dharmanagar the 29.05.2007 in which I was specifically asked to return 4(four) numbers of computer accessories viz-1) one SCSI Card, 2) one Scanner, 3) one SCSI HDD, 4) one set Sound system. But in the articles III, I have been charged of taking away to my residence 5(five) Nos of computer accessories viz-1) one SCSI Card, 2) one Scanner, 3) one SCSI HDD, 4) one set Sound system and 5) CD writer. Sir, in my representation dated 02-06-2007 where in I categorically stated that all the computer peripherals were handed over to Sri Rupesh Das under receipt (though not mandatory) at the time of my handing over the charges of System Administrator. And ever since then Shri Rupesh Das, System Administrator, Dharmanagar H.O. did not either enquired for any missing computer peripherals/ accessories but after five months from the date my relieve Shri Parthasarathi Datta,

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Guwahati Bench

System Administrator, Dharmanagar H.O. who took over the charge from Shri. Rupesh Das, System Administrator, Dharmanagar H.O charged me to return 3(three) Nos computer accessories viz-1) one SCSI card, 2) one Scanner, 3) one set Sound system on 26/05/07.

I beg to submit some of the events for your kind perusal.

Shri. Parthasarathi Datta, System Administrator, Dharmanagar H.O. former PA, Divisional office, Stock branch received the new version of Software package from circle office time to time for supply to System Administrator of head office but he used to corrupt some files in the software CD/CDs before supply it to the head office so as to unable me to use the packages for departmental purposes. The original copy of the software package used to be kept in his custody (which is in contravention of orders from IT Act.) to shows monopoly over the matter of the technical work than actual System Administrator. As he later on installed the sub office modules of Meghdoot ver 6.2 package in 2006, Meghdoot package ver 6.3 in 2007 at Kailashahar MDG with out receiving or collecting the software from me or Postmaster so it is clear that the original software CDs were kept in his custody.

I requested to Amir Kharkongar, System Administrator, Circle office, Shillong through telephone for supply of the software directly to the head office but he deny. The entire matter described above was also noted in the ERROR BOOK duly signed by Post Master, Dharmanagar.

That as per order of the Hon able DDG(CPT) vide his reference No D.O. No. 40-34/2000-Tech dated 26/02/2001 where in there was clear instruction that the System Administrator should be asked in writing not to give the password of SQL Server to any other person but keep it to himself.

That as per order of the Hon able DDG(Technology) vide his reference No D.O. No. 40-44/98-CPT New Delhi Dated Dated 16/08/99 where in there was clear instructed that it must be ensure that the System Administrator password is not known to any body else in the office.

But vide SPosts, Dharmanagar Division reference No J-1/SBLAN/DNR dated at Dharmanagar 31/10/2006 your predecessor instructed me to handover all administrative passwords (window 2003 Server, SQL Server & Sanchay Post) to Postmaster, Kailashahar MDG. I acted likewise.

It is pertinent to mentioned here that the notification of the Ministry of information Technology, New Delhi Dated 17 October 2000, the information certifying Authority rules (IT act 2000) published with reference to Section 87 of the Information Technology Act, 2000(21 of 2000) where in security guide lines (Schedule-II) Rules 5 clause 1 & 2 specifically stated that

"(1) Each organization shall designate a properly trained "System Administrator" who will ensure that the protective security measures of the system are functional and who will maintain its security posture. Depending upon the complexity and security needs of a system or application, the System Administrator may have a designated System Security Administrator who will assume security responsibilities and provide physical, logical and procedural safeguards for information.

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गुवाहाटी न्यायालय
Guwahati Bench

(2) Organisations shall ensure that only a properly trained System Security Administrator is assigned the system security responsibilities."

In view of above circumstances sharing of the passwords, securities & responsibilities in the connection of computer system in Dharmanagar Division I felt cause break-down total system and consequent easy fraud in future and thus I submitted my exemption from the charge of System administrator.

Whatever done and caused to be done for benefit of the department from which I am earning my livelihood for my family and myself and unfortunately I became the victim of the circumstances.

I beg to submit to enquire about all the facts, circumstances so that the truth may be brought to book and to find out if I actually responsible for any illegalities. My fault is that I disclosed something, which cause problem to some one and I have been put in some false allegation for which I became the victim.

I have not done any illegalities during the period mentioned above as unbecoming of a System Administrator under the provision of rule 3(1)(i), 3(1)(ii) and 3(1)(iii) of the CCS(Conduct) Rules, 1964.

Now, I Therefore deny entire charges and prayed to your kind honour that you would be kind enough to pass an order for absolve me from the alleged charges and obliged thereby.

Dated :- 08/12/2007
Place: - Kailashahar

Yours faithfully,
Sd/- Prem ranjan Debnath
Dt:- 8/12/07
(PREM RANJAN DEBNATH)
Former System Administrator
and now PA. Kailashahar
MDG.

ANNEXURE:- C

केन्द्रीय प्रशासनिक अधिकार
Central Administrative Tribunal

15 MAY 2009

गुवाहाटी साधारण
Guwahati Bench

To
The Superintendent of Post offices
Dharmanagar Division
North Tripura 799250

(Through the Postmaster Dharmanagar HO)

No: D1/Computer/DNR

Dated Dharmanagar the 19-01-2007

Sub: Hand over the Administrator password to the System Administrator Dnr HO with all the secure password like SQL server & ,Sanchayapost package(All,Data-entry & others secure Password) & hand over the all responsibilities of systems & databases to the System Administrator Dnr HO

Ref: Your Letter No B-1/Rotation/DNR.Pt.II/2 Dated Dharmanagar the 11-01-2007

Respected Sir,

As per your transfer order I Sri *Rupesh Ch Das* PA/Asst have been received the all Administrator passwords on 19-01-2007 at 1000 hrs With all responsibilities in the connection of Computer, Computer peripherals, Computer networking, computer data base or computer's Data that was functioning from the beginning of the computerization. The SBCO ledger agreement of SB, MIS, TD, RD etc are not tally with computer's data. So Various irregularities like wrong account holder name, wrong balance, wrong account number,etc may be still remaining in the current or old database or database back-up copy.

1) So I have declared that I shall correct / solved the above said irregularities before any final payment or payment or transfer of those accounts and the relieved System Administrator are not liable for those transaction.

2) I also declared that the security passwords are correct and successfully changed by me.

3) Backup of databases as on 19-01-2007. Meghdoot & Sanchay Post were also received.

Branch C.O. Seal for kept in safe custody

Prom. Rupesh Ch Das

(P.R. Debnath)
Relieved System Administrator
DNR HO

Rupesh Ch Das
(Rupesh Das)
Relieving System Administrator
DNR HO

Copy to

1) Postmaster, Dharmanagar HO
✓ 2) Sri.....*Prom. Rupesh Ch Das*
3) Sri.....
4) spare

of 3
Mr. Rupesh Ch Das
POSTMASTER
DHARMANAGAR H. O.
NORTH TRIPURA-799250

Certified to be true copy

Advocate

15 MAY 2009

गुवाहाटी आधारपीठ
Guwahati Bench

ANNEXURE:-D

DEPARTMENT OF POSTS, INDIA
OFFICE OF THE SUPERINTENDENT POSTS, DHARMANAGAR DIVISION,
DHARMANAGAR, NORTH TRIPURA: 799250.

Memo No. SB-I/Misc/Corr

Dated at Dharmanagar the 31-01-2008.

Sri Prem Ranjan Debnath, former System Administrator, Dharmanagar HO and now PA, Kailashahar MDG was proceeded against under Rule-16 of the CCS (CCA) Rules 1965 vide this office memo of even no. dated 22-11-2007. The statement of imputations of misconduct or misbehaviour on which action was proposed to be taken against Sri Prem Ranjan Debnath is as follows:-

Article-I

That Shri Prem Ranjan Debnath while functioning as System Administrator Dharmanagar HO during the period from 13-03-2001 to 19-01-2007 detected the existence of some fictitious SB accounts in the data base numbering as 273090, 273575, 273250, 272772 and so on, opened long back before the inception of computerization of Dharmanagar HO. The said Shri Prem Ranjan Debnath without bringing the matter to the notice of his immediate superior or the competent authority deleted them from the data base all by himself unauthorisedly suppressing such a serious irregularity and fraudulent activity for months and years together till his transfer from Dharmanagar HO in early 2007. He first brought the fact of existence of two such fictitious SB accounts bearing Nos 272673 and 274160 in the data base of Dharmanagar HO while visiting Dharmanagar HO on 26-05-2007 in connection with attending the monthly meeting of union and that too through Shri Bibhankur Nath PA Rajbari SO. By doing so Shri Prem Ranjan Debnath failed to maintain absolute integrity, devotion to duty and acted in a manner which is unbecoming of a Govt. servant as enjoyed in Rules 3(1)(i), 3(1)(ii) and 3(1)(iii) of the CCS (Conduct) Rules, 1964.

Article -II

Shri Prem Ranjan Debnath while working as System Administrator and operator of WUMT at Dharmanagar HO during the period from 13-03-2001 to 19-01-2007 took bribe from the bona fide customers of WUMT ensuring prompt and better service. Apart from this he misappropriated the amounts meant for the refreshments of the valued customers of WUMT.

By this above acts and said Shri Prem Ranjan Debnath failed to maintain absolute integrity, devotion to duty and acted in a manner which is unbecoming of a Govt. servant in terms of Rules 3(1)(i), 3(1)(ii) and 3(1)(iii) of CCS (Conduct) Rules, 1964.

Article - III

Shri Prem Ranjan Debnath while functioning as S.A Dharmanagar HO during the aforesaid period took away some computer accessories like SCSI card, One Scanner, one SCSI HDD, CD writer and one Sound System of Kailashahar MDG from the office to

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Advocate

his residence with an assurance to return those before his departure to Kailashahar for assuming his duty there as PA Kailashahar MDG on transfer, but did not return those accessories and kept in his personal custody.

Thus the said Shri Prem Ranjan Debnath failed to maintain absolute integrity and acted in a manner which is unbecoming of a Govt. servant violating the provisions of Rules 3(1)(i) and 3(1)(iii) of the CCS (Conduct) Rules, 1964."

2. In this said memo. Sri Prem Ranjan Debnath was given an opportunity to make such representation as he may wish to make against the proposal within 10 days of receipt of the memorandum. The above memo was received by Sri Prem Ranjan Debnath on 30-11-2007. He then submitted his written representation vide his letter No. nil dated 08-12-07, the text of which is read as under:

"Sir,

In response to your aforesaid Memo. No.SB-I/Misc/Corr Dated at Dharmanagar the 22nd November 2007, I beg to inform you that I received the same on 30/11/2007. I am submitting my representation for favour of your kind information please.

That I was appointed as System Administrator, vide letter No. JI/SBLAN/DNR dated at Dharmanagar the 13/03/2001 issued by your predecessor and since my joining as System Administrator I have been doing my entrusted duties sincerely, honestly and diligently while I was working as System Administrator vide SPosts. Dharmanagar Division reference No. J-I/MOD/DNR Dated at Dharmanagar 10/07/06 the then SPosts. Dharmanagar Division instructs Postmaster, Dharmanagar H.O to engage three System Administrator namely myself, Sri Rupesh Das of Dharmanagar HO and Sri Parthasarathi Datta of Division office to complete the networking although as per order of the Hon'ble Sr.DDG(CPT) vide his reference No. D.O. No. 40-34/2000-Tech Dated 26th February, 2001 where in there was clear instruction that only one System Administrator should be appointed for the Sanchay Post application and ironically after few days I have been put under so many allegation for the reason not known to me.

As regards article of charges no-1 that Sir, Since my working as System Administrator, Dharmanagar H.O. 13-3-2001 to 19-01-07, after my assumption to the charge of System Administrator, Dharmanagar H.O. on Sep/Oct 2006 from All India Conference of our Union at Jawalaji, Himachal Pradesh on Sept 2006. I detected incorporation of few fictitious SB accounts into SB accounts standing open in Dharmanagar H.O.(In the data base/ SB software in use in Dharmanagar H.O.) viz, 273090,273575,273250,272772, 272673 & 274160 which existed in the Dharmanagar H.O. earlier either erroneously during data entry or hoaxly by one of the remaining Two System Administrator of Dharmanagar Division, Shri Rupesh Das, Asstt. System Administrator and Shri Parthasarathi Datta, PA, Divisional office who are equally responsible for safety and security of computer system and computer accessories as they shared all passwords & software and other responsibilities of System Administrator vide SPosts letter No. J-I/MOD/DNR dated at Dharmanagar 10/07/2006 (in contravention of Sr. DDG(posts) complaints letter No. D.O. No. 40-34/2000-Tech Dated 26th February 2001. Thus, on

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Guwahati Bench

16/10/06, after consulting other System Administrator (though not mandatory) so as to prevent loss of Govt. money like automatic credit of Interest or withdrawals and for interest of the public, I provisionally deleted those said wrong/incorrect SB accounts from the data base after taking backup copy which was immediately handed over to Postmaster, Dharmanagar H.O. (retaining the same in the separate location in the server for n/a by higher authority, if required) duly noting in the Error Book with due information to the Postmaster, Dharmanagar (mandatory) as a immediate precautionary measures, as per the office procedure of System Administrator and also right conferred to the System Administrator vide Sposts. Dharmanagar letter No. J-I/Security Guidelines/computer Dated at Dharmanagar the 29.09.2004 in pursuance of CPMG, Shillong letter No. MOD/Security/comp dated 13.08.2004 as per Dte's Lr No. 46-5/2004-Tech Dated 21.07.2004/02.08.2004 to follow orders issued time to time by Government of India, Ministry of Information Technology.

"Government of India, Ministry of Information technology, New Delhi, the 17th October, 2000 NOTIFICATION G.S.R 789 (E) In exercise of the powers conferred by section 87 of the Information Technology Act, 2000 (21 of 2000).- Where in under security guidelines (schedule II) Rule 5 clause 3 &4- specifically sated that....

(3) The responsibility to create, classify, retrieve, modify, delete or archive information must rest only with the System Administrator.

(4) Any password used for the system administrator and operation of trusted services must not be written down (in paper or electronic form) or shared with any one"

Sir, it is pertinent to mention here that it is not possible on the part of any System Administrator to Sought for permission from higher authorities for deleting/editing etc of all incorrect/ wrong SB/RD accounts opened during, data postings or computerization of SB works in any office or settlement/modifying of any wrong accounts. Sir, it is very petty that I submitted my application dated 27.10.06 enlightening some irregularities in securities of Server & software of Dharmanagar HO and thus seeking exemption from the charge of System Administrator, Dharmanagar H.O. through proper channel as because of violation of orders of DDG(Posts) and orders issued by Information and technology time and again but surprisingly neither the Postmaster, Dharmanagar H.O. Shri Nirmal Suklabaidya nor SPosts, Dharmanagar Division felt not necessary to ask me either in writing or in personal the reasons for sudden exemption from such responsible posts in the mid term when I was as System administrator, Dharmanagar H.O since my joining the department. That with reference to your letter No. B-I/Rotation/ DNR. Pt. II/2 Dated Dharmanagar the 11/01/2007 I was transferred at Kailashahar MDG as PA/ System Administrator and at the time of hand-over the charges of System Administrator, I informed all the happening to the relieving System administrator, Sri Rupesh Das, that various irregularities like wrong account number, wrong name, wrong balance etc may be till remaining in the computer data base which was communicated to you vide reference

No. DI/Computer/DNR Dated Dharmanagar the 19/01/07 through Postmaster Dharmanagar HO.

However, on 26/05/07 during my visit to Dharmanagar H.O in c/w attending monthly meeting of union, suddenly Shri ParthaSarathi Datta , System Administrator , Dharmanagar H.O charged me to return 3 (three) Nos computer accessories, I was shocked and as I have not taken any computer accessories. By the way I for greater interest of Department beg to bring to your kind notice one such instance of opening of incorrect SB accounts in Dharmanagar H.O through Shri Bibhankur Nath, PA, Rajbari S.O. if re-opened and bring notice the illegalities of System Administrator, Dharmanagar H.O. Thus, I affirm your good- self to ponder over the charges leveled against me under article- I of the memo dated 22/11/2007 and set me free of the charges as because no way I am responsible for any illegalities & violation of any rules regulation.

Regarding the charges in article No-II of your memo I beg to inform you that the entire WUMT Service was exclusive duty of the Postmaster, Dharmanagar H.O. not my as System Administrator Dharmanagar H.O. during 13.3.2001 to 19.01.2007. The entire WUMT business transactions used to be done in the chamber of the Postmaster, Dharmanagar H.O in the computer meant for the purpose installed in his chamber. The payments to WUMT subscribers were being directly done by treasure, Dharmanagar H.O. after the Postmaster himself satisfies with the MTCN & identity card of the customers in the computer in his chamber.

Thus, no where in the above activities the System Administrator is connected with the transaction except maintenance of computers etc as when required. Thus, question of taking bribe from bonafide customers of WUMT and misappropriation of the amounts meant for refreshments of the valued customers is not correct. The above allegations against me has been brought to the kind notice of SPosts just to remove me from any dual charge of System Administrator and Secretary NFPE, which could be done only by stationed at Dharmanagar H.O (Avoidance of rotational transfer of Pas as three System Administrator stationed at the same place and duty is not permissible as per Dte's order). This allegation made against me after elapsed of 10(ten) months when I am not in the chair or office.

Regarding charges in article III, that before my transfer from Dharmanagar H.O. To Kailashahar MDG, Shri Rupesh Das, Asst. System Administrator and Shri Parthasarathi Datta, PA, Divisional office, who were equally responsible for computer accessories and other responsibilities of System Administrator vide SPosts letter No. J-I/MOD/DNR Dated at Dharmanagar 10.07.2006. it is kind reference is invited to your letter No. B-1552 Dated at Dharmanagar the 29.05.2007 in which I was specifically asked to return 4 (four) numbers of computer accessories viz.-1) one SCSI Card, 2) one Scanner, 3) one SCSI HDD, 4) one set Sound system. But in the articles-III, I have been charged of taking away to my residence 5(five) Nos of computer accessories viz-1) one SCSI Card, 2) one Scanner, 3) one SCSI HDD, 4) one set Sound system and 5) CD writer. Sir, in my representation dated 02-06-2007 where in I categorically stated that all the

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computer peripherals were handed over to Sri Rupesh Das under receipt (though not mandatory) at the time of my handing over the charges of System Administrator. And ever since then Shri Rupesh Das, System Administrator, Dharmanagar H.O. did not either enquired for any missing computer peripherals/accessories but after five months from the date of my relieve Shri Parthasarathi Datta, System Administrator, Dharmanagar H.O. who took over the charge from Shri Rupesh Das, System Administrator, Dharmanagar H.O. charged me to return 3(three) Nos computer accessories viz-1) one SCSI card, 2) one Scanner, 3) one set Sound System on 26/05/07.

I beg to submit some of the events for your kind perusal.

Shri Parthasarathi Datta, System Administrator, Dharmanagar H.O. former PA, Divisional office. Stock branch received the new version of software package from circle office time to time for supply to System Administrator of head office but he used to corrupt some files in the software CD/CDs before supply it to the hand office so as to unable me to use the packages for departmental purposes. The original copy of the software package used to be kept in his custody (which is in contravention of orders from IT Act.) to shows monopoly over the matter of the technical work than actual System Administrator.

As he later on installed the sub office modules of Meghdoot ver 6.2 package in 2006, Meghdoot package ver 6.3 in 2007 at Kailashahar MDG without receiving or collecting the software from me or Postmaster so it is clear that the original software CDs were kept in his custody.

I request to Amir Kharkongar, System Administrator, Circle office, Shillong through telephone for supply of the software directly to the head office but he deny. The entire matter described above was also noted in the ERROR BOOK duly signed by Post Master, Dharmanagar.

That as per order of the Hon'ble DDG(CPT) vide his reference No. D.O. No. 40-34/2000-Tech dated 26/02/2001 where in there was clear instruction that the System Administrator should be asked in writing not to give the password of SQL Server to any other person but keep it to himself.

That as per order of the Hon'ble DDG(Technology) vide his reference No. D.O. No. 40-44/98-CPT New Delhi Dated 16/8/99 where in there was clear instructed that it must be ensure that the System Administrator password is not known to any body else in the office.

But vide SPosts, Dharmanagar Division reference No. J-I/SB LAN/DNR dated at Dharmanagar the 31/10/2006 your predecessor instructed me to hand over all administrative passwords (window 2003 Server, SQL Server & Sanchay Post) to Postmaster, Kailashahar MDG. I acted likewise.

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It is pertinent to mention here that the notification of the Ministry of Information Technology, New Delhi Dated 17 October 2000, the information certifying Authority rules (IT Act 2000) published with reference to Section 87 of the Information Technology Act, 2000(21 of 2000) where in security guide lines (Schedule-II) Rules 5 clause 1 & 2 specifically stated that

"(1) Each organization shall designate a properly trained "System Administrator" who will ensure that the protective security measures of the system are functional and who will maintain its security posture. Depending upon the complexity and security needs of a system or application, the System Administrator may have a designated System Security Administrator who will assume security responsibilities and provide physical, logical and procedural safeguards for information".

(2) Organizations shall ensure that only a properly trained System Security Administrator is assigned the system security responsibilities."

In view of above circumstances sharing of the passwords, securities & responsibilities in the connection of computer system in Dharmanagar Division I felt cause break-down total system and consequent easy fraud in future and thus I submitted my exemption from the charge of System administrator.

Whatever done and caused to be done for benefit of the department from which I am earning my livelihood for my family and myself and unfortunately I became the victim of the circumstances.

I beg to submit to enquire about all the facts, circumstances so that the truth may be brought to book and to find out if I actually responsible for any illegalities. My fault is that I disclosed something, which cause problem to some one and I have been put in some false allegation for which I became the victim.

I have not done any illegalities during the period mentioned above as unbecoming of a System Administrator under the provision of rule 3(1) (i), 3(1)(ii) 3(1)(iii) of the CCS(Conduct) Rules, 1964.

Now, I therefore deny entire charges and prayed to your kind honour that you would be kind enough to pass an order for absolve me from the alleged charges and obliged thereby."

3. OBSERVATION :-

I have gone through the articles of charges, the written representation of the charged official and other related records, documents and rulings thoroughly and carefully. Shri Prem Ranjan Debnath, charged official was entrusted with the duties of System Administrator of SBLAN newly termed as Sanchay Post of Dharmanagar HO vide SP.DNR memo. No. J-I/SBLAN/DNR dated 13.03.2001. Subsequently, an instruction was issued to the Postmaster Dharmanagar HO vide Divl. Office memo. No.

J-I/MOD/DNR dated 10.07.2006 to get the networking of Dharmanagar HO done by three System Administrators viz. Shri P.R. Debnath, Shri Rupesh Das and Shri Parthasarathi Datta. The term System Administrator was used as all of them were trained as System Administrator by the Department. The letter was addressed to the Postmaster, Dharmanagar and not to Shri P.R. Debnath. Apart from this there was no instruction of either handing over or sharing the Passwords of System Administration of Sanchay Post and Meghdoot with Shri Rupesh Das or Shri Parthasarathi Datta. There was no documentary evidence of handing over or sharing the passwords of System Administration of Sanchay Post and Meghdoot with Shri Rupesh Das and Shri Parthasarathi Datta. Shri P.R. Debnath was the only and sole System Administrator of Sanchoy Post & Meghdoot. Shri Rupesh Das was there in Dharmanagar HO to assist Shri P.R. Debnath in addition to his assigned duties. Virtually there was no documentary evidence to the effect that the passwords of System Administration were ever shared by Shri P.R. Debnath and Shri Rupesh Das before release of Shri P.R. Debnath from Dharmanagar HO on 19-01-2007. Shri P.S. Datta was P.A. Divl. Office and in addition he was looking after computer System of Divl. Office as System Administrator of Divisional Office. Evidently enough that there had been no deviation to the instructions issued by the Sr. DDG (Posts) vide his DO letter No. 40-34/2000-Tech dated 26-02-2001.

There is no option in any version of Sanchay Post Software so far released by Datanet Corp. either to detect or delete any account number, transaction by the System Administrator i.e. Superuser. The duties of the Superuser in Sanchay Post has been to create user, modify user disable user i.e. user management. Deletion / modification of account number, transaction etc. are done by the concerned Supervisor through Dataentry module, not by Superuser i.e. System Administrator. So it is clear that the whole process of deletion in the instant case was done directly by accessing the database using Administrator Password. Unless one does not have Administrator Password one cannot access the database directly. But there was no record or documentary proof of usage of Administrator Password for deletion of so called fictitious accounts. Obviously this is clear violation of Clause 5.1. (4) of Schedule II of Information Technology Act 2000 (21 of 2000). Moreover, the responsibility of detection of any account opened in contravention of rule, any transaction made in contravention of rule is assigned to Savings Bank Control Organisation of the concerned HO. So, if any unusual occurrence is observed by any user of Savings Bank in respect of any account, transaction, it is incumbent on his part to bring it to the notice of the SBCO. The SBCO on its part is to compile the irregularities noticed and put up before the management for decision. If any deletion is to be done, this is to be done by the concerned Supervisor i.e. DPM for HO and APM SOSB for SOs. Thus the deletion of so called fictitious accounts by the said Shri Prem Ranjan Debnath as S.A. without permission of the management was clear violation of rule.

It is evidently enough from the written deposition of Shri Subhas Sen of Kalibari Road, Dharmanagar dtd. 28-06-07 and the letter of complaint dated 13-02-06 of Md. Abdul Malik of Kalaganger par (Kadamtala) both customers of Western Union Money Transfer as well as from the written statements of number of staff members of

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Dharmanagar like Sri Abhijit Bhattacharjee, Smt. Sukla Ghosh, Sri Bimalendu Dey Kanongoe, Sri Samir Bhattacharjee and others that the said P.R. Debnath took bribes from the WUMT customers when he was entrusted with the job of operation of the System on behalf of the Postmaster and visible in the relevant records like TRM forms, register and vouchers in ACG-67 prepared in his own hand writing. It is also apparently clear from the written deposition of the charged official dtd 16-06-07 that there was no allegation against him when Rs.50/- per transaction of WUMT were being charged as entertainment cost since 2002. But the problem cropped up as soon as Sri N. Suklabaidya took over the charge of the office of Postmaster Dharmanagar HO as the said Sri Suklabaidya wanted to have the lion share of the surplus amount saved after meeting the nominal expenditure actually incurred for offering tea, biscuits etc. Thus it is but an admitted fact that prior to joining of Sri N. Suklabaidya as Postmaster Sri P.R. Debnath himself enjoyed the whole surplus amount. Hence the article II of the charge sheet has been empty established.

Similarly the fact of taking away some computer accessories like SCSI Card, one Scanner, One SCSI HDD, CD writer and one Sound System of Kailashahar MDG from the office to his residence by the said Sri P.R. Debnath is reasonably proved from the written depositions of Sri Rupesh Das PA/SA Divl. Office dtd. 13-06-07, Sri Partha sarathi Datta PA/SA Dharmanagar HO dtd. 19-06-07 and other reliable sources. The plea of the official that he handed over the accessories to Sri Rupesh Das under receipt is quite significant as he suppressed the fact of taking away those accessories with verbal assurance in presence of number of staff members to return those after few days. Shri Rupesh Das enquired about those accessories over phone on several occasions, but those were not returned and ultimately denied to have taken them. From the manner of handing over the accessories under receipt though not mandatory as stated by Shri Debnath appears to be a preplanned action with some ulterior motive.

From the above discussion it is clear like anything that the articles of charges leveled against the said Sri Prem Ranjan Debnath have been established both by records/documents as well as circumstances and the offence committed by him is very grave in nature involving doubtful integrity leaving no scope of show leniency in disposing the case. However, the undersigned decides the case with order as under:

ORDER

4. I Shri B.R. Halder, Supdt. of Posts, Dharmanagar Division, Dharmanagar and the disciplinary authority in the case do hereby impose the penalty of withholding of one increment of Sri Prem Ranjan Debnath P.A. Kailashahar MDG for a period of 3(three) years with effect from the date his next increment is due without cumulative effect.

Sd/- illegible
(B.R. Halder),
Superintendent Posts,
Dharmanagar Division, 799250.

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Guwahati Bench

Copy to:-

REGD. AD

1. Shri Prem Ranjan Debnath, PA, Kailashahar MDG.
2. The Postmaster, Dharmanagar HO for information and necessary action.
3. DA (P), Shillong (through the Postmaster, Dharmanagar HO).
4. The Chief PMG (Inv), N E Circle, Shillong-1 (through monthly statement)
- 5-7. C-R file/Personal file of Official / Vig file, Divnl. Office, Dharmanagar.
- 8-9. O/C and Spare.

Sd:- illegible
Superintendent Posts,
Dharmanagar Division, 799250.

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ANNEXURE :-E.

BEFORE THE

DIRECTOR OF POSTAL SERVICES (HEAD QUARTER)
N.E. CIRCLE, SHILLONG.THROUGH PROPER CHANELLIN THE MATTER OF

The Memo of Appeal against the order dated 31-01-2008 passed in c/w Memo No. SB-1/Misc/Corr by Sri B.R. Halder Superintendent of Post, Dharmanagar Division and the disciplinary authority imposing the penalty of withholding of one increment of Sri Prem Ranjan Debnath P.A. Kailashahar MDG for a period of 3 years w.e.f. the date his next increment is due without cumulative effect.

AND

IN THE MATTER OF

Sri Prem Ranjan Debnath.
P.A. Kailashahar.MDG.

C.O/ APPELLANT

The Appellant (Charge Officer) Most
Respectfully State as Follows:-

1. That, the appellant is an employee under your kind control and supervision and now is performing his duty under the capacity of P.A. Kailashahar MDG. Since his joining serving he has been doing his entrusted duties honestly, sincerely and diligently.
2. That Sir, while he was working as P.A. Kasilashahar he has been issued a Memo No. SB-1/Misc/Corr dated 22nd November 2007 where in he has been informed that, an action against him under Rule 16 of CCS (CCA) Rule 1965 was proposed to be taken for imputation of misconduct or misbehavior enclosing copy of charge being Article-I, Article -II, Article-III and asked him to submit his representation within 10 days.

The Article of Charge as follows:-

Statement of the imputation of misconduct or misbehavior on which action is proposed to be taken against Sri. Prem Ranjan Debnath, former System Administration, Dharmanagar HO and now PA Kailashahar MDG.

Article-I

That Sri Prem Ranjan Debnath while functioning as System Administrator Dharmanagar HO during the period 13-03-2001 to 19-01-2007 detected the existence of some fictitious SB accounts in the date base numbering 273090, 273575, 273250, 272772 and so on, opened long back before the inception of computerization of Dharmanagar HO. The said Sri Prem Ranjan Debnath without bring the matter to the notice of his immediate

Certified to be true copy
[Signature]
Advocate

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Sundari Balavat

superior or the competent authority deleted them from the data base all by himself unauthorisedly suppressing such a serious irregularity and fraudulent activity for months and years together till his transfer from Dharmanagar HO in early 2007. He first brought the fact of existence of two such fictitious SB accounts bearing Nos 272673 and 274160 in the data base of Dharmanagar HO while visiting Dharmanagar HO on 26-05-2007 in connection with attending the monthly meeting of union and that too through Shri Bibhankur Nath PA Rajbari SO. By doing so Shri Prem Ranjan Debnath failed to maintain absolute integrity, devotion to duty and acted in a manner which is unbecoming of a Govt. servant as enjoined in Rules 3(1)(i), 3(1)(ii), and 3(1)(iii) of the CCS (Conduct) Rules 1964.

Article-II

Shri Prem Ranjan Debnath while working as System Administrator and operator of WUMT at Dharmanagar HO during the period from 13-03-2001 to 19-01-2007 took bribe from the bona fide customers of WUMT ensuring prompt and better service. Apart from this he misappropriated the amounts meant for the refreshment of the valued Customers of WUMT.

By his above acts the said Shri Prem Ranjan Debnath failed to maintain absolute integrity, devotion to duty and acted in a manner which is unbecoming of a Govt. servant in terms of Rules 3(1)(i), 3(1)(ii), and 3(1)(iii) of the CCS (Conduct) Rules 1964.

Article-III

Shri Prem Ranjan Debnath while functioning as S.A. Dharmanagar HO during the aforesaid period took away some computer accessories like SCSI card, One Scanner, One SCSI HDD, CD writer and one Sound System of Kailashahar MDG from the office to his residence with an assurance to return those before his departure to Kasilashahar for assuming his duty there as PA Kailashahar MDG on transfer, but did not return those accessories and kept in his personal custody.

Thus the said Prem Ranjan Debnath failed to maintain absolute integrity and acted in a manner which is unbecoming of a Govt. servant violating the provisions of Rules 3(1)(i), and 3(1)(iii) of the CCS (Conduct) Rules 1964.

3. That Sir, being the recipient of the said charges the appellant submitted his representation denying all allegations as follows:-

To

The Superintendent of Post Office
Dharmānagar Division
Dharmanagar 799250
North Tripura

(Through the Postmaster Kailashahar MGD)

Ref:- SB-1/Misc/Corr

Dated at Dharmanagar the 22nd November 2007

Sir,

In response to your aforesaid Memo No. SB-1/Misc/Corr dated at Dharmanagar the 22nd November 2007, I beg to inform you that I received the same on 30-11-2007. I am submitting my representation for favour of kind information please.

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That, I was appointed as System Administrator, vide letter No. JI/SBLAN/DNR dated at Dharmanagar the 13-03-2001 issued by your predecessor and since my joining as System Administrator I have been doing my entrusted duties sincerely, honestly and diligently while I was working as System Administrator vide S. Post. Dharmanagar, reference No. J-1/MOD/DNR dated Dharmanagar 10-07-2006 the then S.Posts. Dharmanagar Division instructs Postmaster, Dharmanagar HO to engage three system Administrator namely myself, Sri Rupesh Das of Dharmanagar HO Sri Parthasarathi Datta of Division office to complete the networking although as per order of the Hon'ble Sr. DDG(CPT) vide his reference No. D.O. No. 40-34/2000-Tech dated 26th February 2001 where in there was clear instruction that only one System Administrator should be appointed for the Sanchay Post application and chronically after few days I have been put under so many allegation for the reason not known to me.

As regard article of charge no-I that Sir, Since my working as System Administrator, Dharmanagar HO 13-03-2001 to 19-01-2007, after my assumption to the charge of System Administrator, Dharmanagar HO on Sep/Oct 2006 from All India Conference of our union at Jawalaji, Himachal Pradesh on Sept 2006, I detected incorporation of few fictitious SB accounts into SB accounts standing open in Dharmanagar HO (in the data base/SB software in use in Dharmanagar HO) viz, 273090, 273575, 273250, 272772, 272673 & 274160 which existed in the Dharmanagar HO earlier either erroneously during data entry or hoaxly by one of the remaining Two System Administrator of Dharmanagar Division, Shri Rupesh Das, Asst. System Administrator and Shri Parthasarathi Datta, PA, Division Office, who are equally responsible for safty and security of computer system and computer accessories as they shared all passwords & software and other responsibilities of System Administrator vide S.Posts letter No. J-1/MOD/DNR dated at Dharmanagar 10-07-2006(in contravention of Sr. DDG (Posts) complaints letter No.D.O. No. 40-34/2000-Tech dated 26th February 2001. Thus on 16-10-2006 after consulting other System Administrator (through not mandatory) so as to prevent loss of Govt. money, like automatic credit of Interest or withdrawals and for interest of the public, I provisionally deleted those said wrong /incorrect SB accounts from the data base after taking backup copy which was immediately handed over to Postmaster, Dharmanagar HO(retaining the same in the separate location in the server for n/a by higher authority, if required) duly noting in the Error Book with due information to the postmaster, Dharmanagar(mandatory) as a immediate precautionary measures, as per of the Office procedure of System Administrator and also right conferred to the System administrator vide S. Posts, Dharmanagar letter No. J-1/Secrutary Guidelines/ computer dated at Dharmanagar the 29-09-2004 in pursuance of CPMG, Shillong letter No. MOD/Security/comp. dated 13-08-2004 as per Dte's Lr No. 46-5/2004-Tech Dated 21-07-2004/02-08-2004 to follow orders issued time to time by Government of India, Ministry of Information Technology.

"Government of Indian, Ministry of Information Technology, New Delhi, the 17th October 2000 NOTIFICATION G.S.R. 789 (E) In exercise of the powers conferred by section 87 of the Information technology Act 2000. (21 of 2000).- Where in under security guidelines(schedule II) Rule 5 clause 3&4-specifically stated that.....

(3) The responsibility to create, classify, retrieve, modify, delete or archive information must rest only with the System Administrator.

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(4) Any password used for the system administration and operation of trusted services must not be written down (in paper or electronic form) or shared with any one."

Sir, it is pertinent to mention here that it is not possible on the part of any System Administrator to Sought for permission for higher authorities for deleting /editing etc of all incorrect/wrong SB/RD accounts opened during, data posting or computerization of SB works in any office of settlement/modifying of any wrong accounts. Sir, it is very petty that I submitted my application dated 27-10-2006 enlightening some irregularities in securities of Server & software of Dharmanagar HO and thus seeking exemption from the charge of System Administrator, Dharmanagar HO through proper channel as because of violation of orders of DDG (post) and orders issued by information and technology time and again but surprisingly neither the Postmaster, Dharmanagar HO Shri Nirmal Suklabaidya nor S.Posts, Dharmanagar Divison felt necessary to ask me either in writing or in personal the reasons for sudden exemption from such responsible posts in the mid term when I was as System Administrator, Dharmanagar HO since my joining the department. That with reference to your letter No.B-1/Rotation/DNR.Pt.II/2 Dated Dharmanagar the 11-01-2007 I was transferred at Kailashahar MDG as PA/System Administrator and at the time of hand-over the charges of System Administrator, I informed all the happening to the relieving System Administrator, Sri Rupesh Das, that various irregularities like wrong account number, wrong name, wrong balance etc may be till remaining in the computer database which was communication to you vide reference No. DI/Computer/DNR dated Dharmanagar the 19-01-2007 through Postmaster Dharmanagar HO. However on 26-05-2007 during my visit to Dharmanagar HO in c/w attending monthly meeting of union, suddenly, Sri Parthasarathi Datta System Administrator, Dharmanagar HO charged me to return 3(three) Nos. computer accessories, I was shocked and as I have not taken any computer accessories. By the way I for greater interest of Department beg to bring to your kind notice one such instance of opening of incorrect SB accounts in Dharmanagar HO through Sri Bibhakur Nath, PA, Rajbari S.O. if re-opened and bring notice the illegalities of System Administrator, Dharmanagar HO. Thus I affirm your good self to ponder over the charges leveled against me under article - I of the memo dated 22-11-2007 and set me free of the charges as because no way I am responsible for any illegalities & violation of any rules regulation.

Regarding the charge in article -II of your memo I beg to inform you that the entire WUMT Service was exclusive duty of the Post Master, Dharmanagar HO not my as System Administrator Dharmanagar HO during 13-03-2001 to 19-01-2007. The entire WUMT business transaction used to be done in the chamber of the Post Master, Dharmanagar HO in the computer meant for the purpose installed in his chamber. The payment to WUMT subscribers were being directly done by treasurer, Dharmanagar HO after the Post Master himself satisfies with the MTCN & identity card of the customers in the computer in his chamber. Thus nowhere in the above activities the System Administrator is connected with the transaction except maintenance of computers etc as and when required. Thus question of taking bribe from bonofide customers of WUMT and misappropriation of the amounts meant for refreshments of the valued customers is not correct. The above allegation against me has been brought to the kind notice of S. Posts just to remove me from the dual charge of System Administrator and Secretary NFPE which could be done only by stationed at Dharmanagar HO (Ad voidance of rotational transfer of PAs as three System Administrator stationed at the same place and duty is not permissible as per Dte's order). This allegation made against me after clasped 10(ten) months when I am not in that chair of office.

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Regarding charge in Article-III, that before my transfer from Dharmanagar HO to Kailashahar MDG, Sri Rupesh Das, Asstt. System Administrator and Sri Parthasarathi Datta, PA, Divisional Office, who were equally responsible for computer accessories and other responsibilities of System Administrator vide S. Posts letter No.J-1/MOD/DNR dated at Dharmanagar 10-07-2006. It is kind reference is invited to your letter No. B-552 dated at Dharmanagar the 29-05-2007 in which I was specifically asked to return 4(four) numbers of computer accessories viz-1) one SCSI Card-2) one Scanner, 3) one SCSI HDD, 4) one set Sound System. But in the articles-III, I have been charged of taking away to my residence 5(five) Nos. of computer accessories viz-1) one SCSI Card, 2) one Scanner, 3) one SCSI HDD, 4) one set Sound System and 5) CD writer. Sir, in my representation dated 02-06-2007 where in I categorically stated that all the computer peripherals were handed over to Sri Rupesh Das under receipt (though not mandatory) at the time of my handing over the charges of System Administrator. And ever since then Sri Rupesh Das, System Administrator, Dharmanagar HO did not either enquired for any missing computer peripherals /accessories but after five months from the date of my relieve Sri Parthasarathi Datta, System Administrator Dharmanagar HO who took over the charge from Sri Rupesh Das, System Administrator, Dharmanagar HO charged me to return 3(three) Nos. computer accessories viz-1) one SCSI card, 2) one Scsanner, 3) one set Sound system on 26-05-2007.

I beg to submit some of the events for your kind perusal.

Sri Parthasarathi Datta, System Administrator, Dharmanagar HO former PA, Division Office, Stock branch received the new version of Software package from circle office time to time for supply to System Administrator of head office but he used to corrupt some files in the software CD/CDs before supply it to the head office so as to unable me to use the packages for departmental purposes. The original copy of the Software package used to be kept in his custody (which is in contravention of orders from IT Act.) to show monopoly over the matter of the technical work then actual System Administrator. As he later on installed the sub office modules of Meghdoot ver 6.2 package in 2006, Meghdoot package ver 6.3 in 2007 at Kailashahar MDG without receiving or collecting the software from me or Postmaster so it is clear that the original software CDs were kept in his custody.

I request to Amir Kharkongar, System Administrator, Circle Office, Shillong through telephone for supply of the software directly to the head office but he deny. The entire matter described above was also noted in the ERROR BOOK duly signed by Post Master Dharmanagar.

That, as per order of the Hon'ble DDG(CPT) vide his reference No. D.O. No. 40-34/2000-Tech dated 26-2-2001 where in there was clear instruction that the System Administrator should be asked in writing not to give the password of SQL Sever to any other person but keep it to himself.

That, as per order of the Hon'ble DDG (Technology) vide his reference No. D.O.No. 40-44/98-CPT New Delhi dated 16-08-1999 where in there was clear instructed that it must be ensure that System Administrator password is not known to any body else in the office.

But vide S. Posts, Dharmanagar Division reference No. J-1/SBLAN/DNR dated at Dharmanagar 31-10-2006 your predecessor instructed me to handover all administrative password (window 2003 Server, SQL Server & Sanchay Post) to Postmaster, Kailashahar MGD. I acted likewise.

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It is pertinent to mention here that the notification of the Ministry of information Technology, New Delhi dated 17th October 2000, the information certifying Authority rules (IT act 2000) published with reference to Section 87 of the Information Technology Act. 2000 (21 of 2000) where in security guide lines (Schedule-II) Rules 5 clause 1&2 specifically stated that.....

"(1) Each organization shall designate a properly trained "System Administrator" who will ensure that the protective security measures of the system are functional and who will maintain its security posture. Depending upon the complexity and security need of a system or application, the System Administrator may have a designated System Security Administrator who will assume security responsibilities and provide physical, logical and procedural safeguards for information.

(2) Organization shall ensure that a properly trained System Security Administrator is assigned the system security responsibilities."

In view of above circumstances sharing of the passwords, securities, & responsibilities in the connection of computer system in Dharmanagar Division I felt cause break-down total system and consequent easy fraud in future and thus I submitted my exemption from the charge of System Administrator.

Whatever done and caused to be done for benefit of the department from which I am earning my livelihood for my family and myself and unfortunately I became the victim of the circumstances.

I beg to submit to enquire about all the facts, circumstances so that the truth may be brought to book and to find out if I actually responsible for any illegalities. My fault is that I disclosed something, which cause problem to some one and I have been put in some false allegation for which I became the victim.

I have not done any illegalities during the period mentioned above as unbecoming of a System Administrator under the provision of rule 3(1)(i), 3(1)(ii) and 3(1)(iii) of the CCS (Conduct) Rules 1964.

Now, I therefore deny entire charges and prayed to your kind honour that you would be kind enough to pass an order for absolve me from the alleged charges and oblige thereby.

Dated:- 08-12-2007

Place :- Kailashahar.

Yours faithfully

Sd:- Illegible

(PREM RANJAN DEBNATH)

Former System Administrator

and now PA. Kailashahar MDG.

4. That, receiving the representation the Ld. Superintendent of Post was pleased enough to pass order to "... impose the penalty of withholding of one increment of Sri Prem Ranjan Debnath PA. Kailashahar MDG for a period of 3(three) years with effect from the date his next increment is due without cumulative effect" vide his order dated 31-01-2008.

Being aggrieved with and dissatisfied by the aforesaid order dated 31-01-2008 passed by Ld. Superintendent of Post Dharmanagar Division the appellant begs to prefer these Memo of Appeal on the following grounds.

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G-R-O-U-N-D-S

i. For that, the order passed by Ld. Superintendent of Post Dharmanagar Division being disciplinary Authority imposing of the C.O without considering the actual facts, evidence and records of Dharmanagar Post Office and order has been passed most arbitrarily. He observes in para 3 of his order "there was no documentary evidence of handing over of sharing the passwords of System Administrator of Sanchay Post and Meghdoot with Sri Rupesh Das and Sri Parthasarathi Datta. Sri P.R. Debnath was the only and sole System Administrator of Sanchoy Post and Meghdoot. Sri Rupesh Das was there is in Dharmanagar HO to assist Shri P.R. Debnath....."

In this regard it is submitted that vide letter No. J-1/MOD/DNR dated at Dharmanagar 10-07-2006 issued by Superintendent of Post Office Dharmanagar addressed to the Post Master Dharmanagar HO following order has been passed.

"engage 3(three System Administrator namely Sri Prem Ranjan Debnath, Sri Rupesh Das of Dharmanagar HO and Sri Parthasarathi Datta of Division Office to complete the NETWORKING of Dharmanagar HO immediately....."

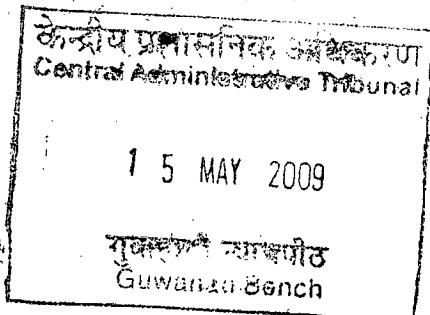
Vide letter No. J-1/MPCM/DNR-111 dated 22-11-2003 the superintendent of Post Office* asked the Post Master to

"arrange to sand the Windows 2000 Server with Service Pack, Sanchay Postto Sri P.S. Datta....."

From the aforesaid letter/orders it is very much clear that the CO was not only the System Administrator. Moreover it is pertinent to mention here that it is not the CO but the other System Administrator namely Sri Rupesh Das and Sri Parthasarathi Datta has been send for training for that purpose. On the other hand the CO is not trained for System Administrator or Meghdoot software but he was asked to work for this in addition to his own duties.

ii. For that the Ld. Superintendent of Post Dharmanagar most arbitrarily beyond the evidence and records hold that the password of System Administrator were not shared by the CO with Sri Rupesh Das before 19-01-2007 and Parthasarathi Datta was only looking after computer system of Divisional Office as System Administrator and there was no deviation to the instruction issued by Sr. DDG(Post) dated 26-02-2001. But as a matter of fact it is very much clear that the CO is not the only System Administrator but he had to work with two System Administrator as such it was very necessary to share the password with others for NETWORKING. Moreover in time of any leave he had to provide password for interest of public service. The letter of CO dated 10-07-2006 is very much explicit for that matter.

iii. For that, the Ld. Superintendent of Post most arbitrarily and without applying judicial mind make the CO responsible for deletion and modification of account nos. including factious account without permission of the management leading to violation of Rule as because the deletion of fictitious account was made with the permission of the authority and it would be very much from the error books lying with the Post Office where in Post Master, Deputy Post Master duly put their respective signature but the Superintendent of Post Office without going through the records which is lying in his kind custody has most illegally



made the CO responsible for the reason not known to the CO and the CO has been made the victim of circumstances. It is pertinent to mention here that the CO vide his letter dated 26-12-2007 made prayer for copy of the error books and backup CD to the authority but the authority with vested interest have not supplied the same and if it is taken into consideration the matter would be otherwise.

iv. For that, the Ld. Superintendent of Post most mechanically hold that, Article-II of the charge has merely been established on the written deposition of one Subash Sen and others without being heard of the CO and mysteriously in the charge no statement of any of the witnesses has been enclosed so that the CO could have no the actual allegation and to defend him properly and the charge has been decided against the CO on the basis surmise and untenable evidence in law where in the Superintendent of Post decided the Article of charge observing that, it is clear from the written deposition on the charge official dated 16-06-2007 and most arbitrarily observes that, the CO "himself enjoyed the whole surplus amount".

v. For that, regarding the allegation of taking away some computer accessories like SCSI card, one Scanner, One SCSI HDD, CD writer and some sound system the Ld. Superintendent of Post i.e. the disciplinary authority most mechanically hold that it has proved from the deposition of Sri Rupesh Das, Sri Parthasarathi Datta and other reliable sources ignoring the plea of the CO that, he handed over the accessories to Sri Rupesh Das with observation that, said CO suppressed the fact of taking over accessories with verbal assurances. It is submitted that the Ld. Superintendent of Post most illegally observes that, as handing over the accessories under receipt is not mandatory and as such it was a pre-planned- action, which is beyond of law.

vi. For that, the Ld. Superintendent of Post i.e. disciplinary authority conducted the inquiry and imposes the penalty violating the mandatory provision of CCS (CCA) Rules 1965 without providing opportunity of being heard of the CO.

vii. For that, the disciplinary authority conducts that enquiry violating Rules of natural justice. At the time of giving Article of Charge the statement of witness on which the authority is relied has not been given to the CO and he was in dark so that he cannot get the scope of rebuttal of allegations. Moreover the disciplinary authority only gave much weight to the witnesses with whom the CO has some allegations.

viii. For that, the CO has to done all works with other System Administrator appointed by the disciplinary authority (Superintendent of Post) and password had to handed over as per direction of the Superintendent of Posts, disciplinary authority and Post Master and as such enquiry has been conducted without proper evidence on records. The CO begs to refer some of the relevant correspondence and order for your kind perusal.

<u>SL. No.</u>	<u>SENDER</u>	<u>ADDRESSESED To</u>	<u>DATE</u>
a)	P.R Debnath	Post Master DNR HO	10-06-03
b)	Supdt. Of Post Offices	- Do -	22-11-03
c)	P.R. Debnath	Supdt. DNR HO	13-06-05
d)	Narayan Chakraborty.P.M	Mani Choudhury P.M	30-06-05

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e)	Supdt. Of Post Offices	(handing over Charge)	
		P.M. DNR engagement of Rupesh Das, P.Datta as System Administrators	10-07-07
f)	P.R. Debnath	Supdt. Of Post Offices (prayer for relief)	27-10-06
g)	Supdt. Of Post Offices	P.R. Debnath(for handing over password)	31-10-06
e)	P.R. Debnath	Supdt. Of Post Offices (narrating problems of sharing passwords with R. Das & P. Datta)	30-08-06
f)	-Do-	-Do-(for handing over PW)	09-11-06
g)	-Do-	P.M DNR for supply of copy of error book and data base backup CD	26-12-07

It is submitted that the CO have been become the victim of circumstances and the enquiry was conducted with malafide intention and official bias without observing mandatory provision of law and as such it is liable to set-aside. The CO begs to submit the actual truth may be revealed.

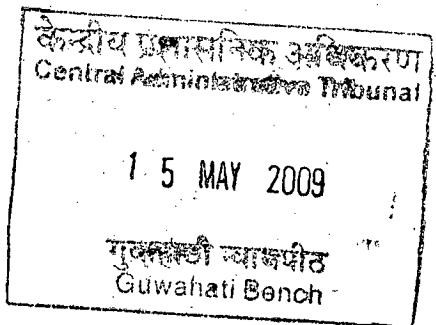
The CO has not violated any provision of law as alleged in the Articles of Charges and no way responsible for my misconduct misappropriation of money, taking of accessories for which charges has been lablled against him any enquiry has been conducted with oblique motive just to impose penalty of the CO for which the CO has been compelled to file this Memo of Appeal for setting aside of imposing penalty without any fault misconduct, misappropriation on behalf of the CO.

viii. For that the CO appellant received the order dated 31-01-2008 on 04-02-2008 and as such the appeal is being filed within time.

ix) For that, the rest will be submitted at the time of hearing.

It is therefore prayed that your honour may be kind enough to admit the appeal, call the records, relevant papers, documents which is lying under the custody of the Superintendent of Post, Dharmanagar and others to find out the actual truth and on hearing be pleased to set aside the order dated 31-01-2008 passed by Superintendent of Post Office, Dharmanagar Division(The Disciplinary Authority) in c/w Memo Mo. SB-1/Misc/Corr dated Dharmanagar the 31-01-2008 imposing the penalty of with holding of one increment of Sri Prem Ranjan Debnath PA Kailashahar MDG for a period of 3(three) years w.e.f. the date his next increment is due without cumulative effect or pass such other order / orders as your honour may deem fit and proper.

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VERIFICATION

I Sri Prem ranjan Dabnath appellant of the instant Memo of Appeal do hereby declare that the statement made in this Memo of Appeal in para 1 to 4 are true to my best of my knowledge and rest are my humble submission before this Honour and I sign this 4th day of March 2008 at Kailashahr.

ANNEXURE - F

DEPARTMENT OF POSTS: INDIA
OFFICE OF THE DIRECTOR POSTAL SERVICES
NAGALAND: KOHIMA - 797 001

No.B-623

Dated at Kohima 07/10/2008.

Central Administration, India

To

Superintendent of Post Offices
Dharmanagar Division
Dharmanagar - 799250

15 MAY 2008

গুৱাহাটী ন্যায়পাঠ
Guwahati Bench

*Sub: Non receipt of Service Book of Shri Prem Ranjan Debnath,
PA Dimapur MDG, & the then System manager
Dharmanagar.*

Shri Prem Ranjan Debnath has been transferred to Nagaland Division under Rule-37, vide CPMG N.E Circle memo No. Staff/155-1/2008 dated at Shillong 27/03/2008, but till today the Service Book of the above mentioned official is not received by Kohima H.O.

The official is pressing hard for non-payment of 6th CPC arrear, TA bill, maintaining of leave record etc, but due to non-availability of Service Book, this office is facing difficulty in considering the matter.

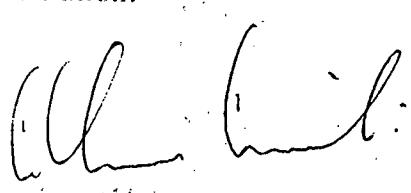
You are therefore requested to do the needful at the earliest.

Sd/-

(Kekhrievor Kevichiisa)
Director Postal Services
Nagaland : Kohima 797 001

Copy to :

1. Shri Prem Ranjan Debnath P/A Dimapur MDG 797 112, w.r.t his letter No Nil dated 29/09/2008 for information.


(Kekhrievor Kevichiisa)
Director Postal Services
Nagaland : Kohima 797 001

*Certified to be true copy
H. B. D.
Advocate*