

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./TA/ NO. 251 2005-~~2008~~  
R.A./CP/NO.....2015  
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17.7.2015  
SECTION OFFICER (JUDL.)

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

1. ORIGINAL APPLICATION No : 251 / 2009
2. Transfer Application No : ----- / 2009 in O.A. No. -----
3. Misc. Petition No : ----- / 2009 in O.A. No. -----
4. Contempt Petition No : ----- / 2009 in O.A. No. -----
5. Review Application No : ----- / 2009 in O.A. No. -----
6. Execution Petition No : ----- / 2009 in O.A. No. -----

Applicant (S) : Shri Biswajit Bhuyan

Respondent (S) : Union of India & ops.

Advocate for the : Mr. A. Sarmah  
{Applicant (S)} Mr. J.P. Chauhan

Advocate for the : -----  
{Respondent (S)} C.G.S.C.

Notes of the Registry

Date

Order of the Tribunal

This application is in form  
is filed/C.F. No. Rs. 50/-  
deposited vide P/B  
No. 395 442342  
Dated 26.11.09

02.12.2009

For the absence on 12<sup>th</sup> of  
September 2009 the Respondents have  
passed an order dated 8<sup>th</sup> October, 2009,  
treating as 'Dies Non'. It is contended  
that 12<sup>th</sup> September 2009 was Saturday  
(holiday).

Admit. Issue notice to the  
Respondents. Mr.K.Das, learned Addl.  
Standing Counsel accepts notice on behalf  
of Respondents, who are required to file  
reply within a week with complete details.  
They are also directed to produce the  
records on the next date of hearing.

List on 14.12.2009.

(Mdan. Kr. Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

/lm/

27.11.09

Two copies of  
application with  
envelopes received  
for issue notices to  
the Respondent No 1 & 2.  
Copy served.

27/11/09

Order copy along with  
notice received by  
me  
3-12-09  
K-DAS, Addl. C.S.C.

10.12.09

NO 475 f.e.w.

O.A.251 of 09

14.12.09

A memorandum  
has been filed by  
the respondents  
through Mr. K.K. Das  
Add. ES SC. C-4  
Served.  
H.S. 14/12/09.

14.12.2009

Last and final opportunity is granted to  
the Respondents to file reply as prayed for.

List the matter on 4.01.2010.

(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

Im/

04.01.2010

It is stated that reply will be filed  
during course of the day, and copy of  
which has already been supplied.  
Rejoinder, if any be filed before next  
hearing.

List the matter on 13<sup>th</sup> January, 2010.

(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

/PB/

No w/s filed.

31.12.09

No w/s filed.

12.1.2010

1/2/2010

Final order dated 19-1-2010  
prepared and sent to the  
J/Section for issuing the order  
and all the respondents by post  
vide No 331 to 333

dated 8-2-2010

Received  
Chm

25.02.10

13.01.10

Reply has not been filed. We may note  
that vide order dated 14.12.09 last and final  
opportunity granted but no steps has been  
taken to file reply. Yet the case was adjourned  
to 04.01.2010.

In the circumstances list on 19.01.2010.

(Madan Kr. Chaturvedi)  
Member (A)

(Mukesh Kr. Gupta)  
Member (J)

/pg/

19.01.2010

Heard counsel for the parties.  
Hearing concluded.

For the reasons recorded separately  
the O.A is allowed.

(Madan Kr. Chaturvedi)  
Member (A)

(Mukesh Kr. Gupta)  
Member (J)

/pg/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

.....

O.A. No. 251 of 2009.

DATE OF DECISION: 19 -01-2010.

Shri Biswajit Bhuyan

.....Applicant/s

Mr A. Sarma & Mr J.P.Chauhan

.....Advocates for the  
Applicant/s

-Versus -

Union of India & Ors.

.....Respondent/s

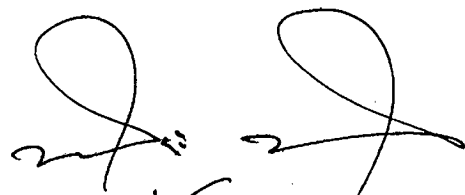
Mr Kankan Das, Addl. C.G.S.C

.....Advocate for the  
Respondent/s

CORAM

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

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



Member (J)/Member(A)

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI :**

O.A. No.251 of 2009

DATE OF DECISION : THIS, THE 19<sup>TH</sup> DAY OF JANUARY, 2010.

**THE HON'BLE MR MUKESH KUMAR GUPTA, MEMBER (J)**

**THE HON'BLE MR MADAN KUMAR CHATURVEDI, MEMBER (A)**

Shri Biswajit Bhuyan  
Son of Sri A.C. Bhuyan  
Canteen Manager  
Departmental Canteen (Wet Canteen)  
North Eastern Police Academy  
Umsaw – 793125, Barapani  
Shillong, Meghalaya.

... Applicant

By Advocates: Mr. A. Sarma & Mr. J.P. Chauhan

-versus-

1. The Union of India  
represented by the Secretary  
to the Government of India  
Ministry of Home Affairs  
North Block, New Delhi – 110001.

2. The Director  
North Eastern Police Academy  
Umiam, Barapani  
Meghalaya, Umsaw.

... Respondents

By Advocate: Mr. Kankan Das, Addl. CGSC.


**ORDER (ORAL)**

**MUKESH KUMAR GUPTA, JUDICIAL MEMBER:**

Sri Biswajit Bhuyan, Canteen Manager, North Eastern Police Academy, Shillong in this O.A challenges order dated 8.10.09 (Annexure-M) as well as direction to respondent to give him all benefits so accrued including costs.

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2. Fact in nutshell are that he was appointed as Canteen Manager in the Canteen of aforesaid office vide order dated 1.8.1990 in the pay scale of Rs.950-1500/-. He has served almost for two decades. His grievance is that vide aforesaid impugned order his two days absence i.e. on 11.9.09 as well as 13.9.09 though has been regularized on compensatory ground but at the same time, his alleged absence on 12.9.09 is treated as "dies-non". The order further recited that the said days will not be construed as break in service. His contention is that 12.9.09 was a second Saturday and 13.9.09 was a Sunday. He had already informed that on said days he would be observing off day. As per orders of the respondent No.2 dated 16.3.09, the departmental canteen and library of NEPA were required to remain open on every Sundays from 1100 Hrs to 1600 Hrs to facilitate the employees, trainees staff and families living in the NEPA campus. It further provided that the staff of departmental canteen and library may avail one day weekly off mutually one by one. The contention raised by the applicant precisely vide representation dated 15.9.09 (Annexure-L), which was in response to seeking his explanation, had been that he had clearly informed his intention to take 12<sup>th</sup> and 13<sup>th</sup> September as off, and as such vide aforesaid order, his alleged absence cannot be construed as unauthorized absence. Moreover, further contention raised by him is that as per circular dated 4.5.09, 2<sup>nd</sup> Saturday is a closed holiday. In the above circumstances it was vehemently contended that the respondents were not justified to pass impugned order.



The aforesaid contention has been contested vehemently by the respondents by filing a written statement stating that applicant knew that he had been working on 2<sup>nd</sup> Saturday on earlier occasions too after issue of order dated 4.5.09, and he himself marked his attendance in the month of July and August on second Saturdays, and further he had a motive behind his absence, which cannot be condoned. Furthermore, as required vide circular dated 16.3.09 (Annexure-E appended to the reply) the departmental canteen had to remain open even on Sunday, thus his absence either on Saturday or Sunday cannot be taken lightly. In the above circumstances learned counsel contended with vehemence that applicant is not entitled to any relief, as prayed for.

3. We have heard learned counsel for the parties, perused the pleadings and other materials placed on record. We may note that issue raised hereinabove namely, whether the respondents action in passing an order treating it to be unauthorized absence as well dies non and yet stating that it will not be construed as break in service, has been considered at length by this Bench in O.A.74/09, Shri Sanglapam Nodiachand Sharma vs. Union of India & Ors. decided on 30.11.2009. For the sake of brevity, we reproduce relevant excerpts of said judgment here as under :-

"We have heard Mr H.K. Das, learned counsel for the applicant and Mrs. M. Das, learned Sr. C.G.S.C. appearing for the respondents, perused the pleadings and other material placed on record. Question which arises for consideration is whether respondents were justified in rejecting applicant's request for sanctioning leave for 15 days, either compensatory or earned leave. At the outset we may note that impugned order on the one hand treated said period as unauthorized absence as well as dies-non and on the other hand it



recites that same will not constitute break in service. We may note that on reference made by Ministry of Finance, Comptroller and Auditor General of India vide their advice dated 12.09.1958 has dealt with this aspect as to how to treat wilful absence from duty. Government decision No.1 under F.R. 17, published by Swamy's Compilation on FRSR Part I, 2003 Edition, on page 36, reads as follows:

"(1) Treatment of wilful absence from duty not regularized. – Wilful absence from duty, even though not covered by grant of leave does not entail loss of lien. The period of absence not covered by grant of leave shall have to be treated as "dies non" for all purposes, viz., increment, leave and pension. Such absence without leave where it stands singly and not in continuation of any authorized leave of absence will constitute an interruption of service for the purpose of pension and unless the pension sanctioning authority exercises its power under Article 421, Civil Service Regulations [now Rule 27 of the CCS (Pension) Rules] to treat the period as leave without allowances, the entire past service will stand forfeited."

(emphasis supplied)

Perusal of above decision of Government in specific reveals that period of absence not covered by grant of leave has to be treated as dies non for all purposes, viz. increment, leave and pension and such absence will constitute as interruption of service for the purpose of pension unless the pension sanctioning authority exercises its power under Article 421 of Civil Service Regulations [now Rule 27 of the CCS (Pension) Rules], entire past service will also stand forfeited. Such being the legal understanding of the Government, how its officials and State functionaries flouted that order and treat the period of absence in a different manner is a question of grave concern. In our considered view, impugned order dated 15.01.2009 passed by respondent No.2 is contrary to the mandate of Government of India decision and therefore, same cannot be sustained in law.

We may also note a disturbing feature in present case namely, that applicant vide para 4.5, in specific, raised the contention and pleadings that he had submitted another leave application dated 17.12.2008 for enabling him to attend to some urgent domestic work. Said contention has not been refuted or controverted. Rather in reply to said para as well as reply in para 3.4 it was stated that he remained absent "without any information in writing". When respondents have not disputed receipt of his application dated 17.12.2008, how they could state that he remained absent "without any information in writing". This is nothing but an attempt to mislead this Tribunal and we take serious note of this particular aspect when reply has been verified by Rajiva Ranjan Verma, Director, North Eastern Police Academy, Meghalaya. On the face of it attempt of Respondent No.2 is not only misleading, but amounts to making false and baseless statement,



which expressly constitute perjury and offence under the provisions of IPC and Cr.PC. Taking serious note of the matter, normally we would have initiated action against said officer, but without precipitating the matter, we record our serious displeasure on the conduct of a senior officer.

Furthermore, applicant vide his explanation dated 10.01.2009, which if not received earlier, had been enclosed vide representation dated 28.01.2009 in specific requested respondent No.2 to consider it to be earned leave, but no decision had been taken on said request. Communication dated 28.01.2009 was placed on record as Annexure-8 vide para 4.9 of O.A. In reply to said para, respondents have not disputed receipt of at least representation dated 28.01.2009. Rather it was stated that: "there is no question of considering his alleged reply dated 10.01.2009". It is not in dispute that there had been sufficient leave to his credit and there was no justification not to accept such a bonafide and just request that in case such period cannot be treated as compensatory leave, it be treated as earned leave. No fairness has been shown by respondent No.2 while examining applicant's request.

Recently Hon'ble Supreme Court in **Urban Improvement Trust, Bikaner vs. Mohan Lal** decided on 30.10.2009 made strong observations to the effect that: "Vexatious and unnecessary litigation have been clogging the wheels of justice, for too long making it difficult for courts and Tribunals to provide easy and speedy access to justice to bona fide and needy litigants."

It further opined that:

"It is a matter of concern that such frivolous and unjust litigation by governments and statutory authorities are on the increase. Statutory Authorities exist to discharge statutory functions in public interest. They should be responsible litigants. They cannot raise frivolous and unjust objections, nor act in a callous and highhanded manner. They cannot behave like some private litigants with profiteering motives. Nor can they resort to unjust enrichment. They are expected to show remorse or regret when their officers act negligently or in an overbearing manner. When glaring wrong acts by their officers is brought to their notice, for which there is no explanation or excuse, the least that is expected is restitution/restoration to the extent possible with appropriate compensation."


The aforesaid judgment had also noticed the concern made by the court on earlier occasions vide **Dilbagh Rai Jarry vs. Union of India** (1973) 3 SCC 554; **Madras Port Trust vs. Hymanshu International** by its Proprietor v. Venkatadri (Dead) by L.Rs. (1979) 4 SCC 176; and **Bhag Singh & Others vs. Union Territory of Chandigarh** through LAC, Chandigarh (1985) 3 SCC 737. Aforesaid observation and concern shown by the Hon'ble Supreme Court is squarely applicable in the present case. After receipt of applicant's representation dated 28.1.2009

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the least which was expected is to restitute/restore the position which existed prior to passing of impugned order dated 15.01.2009, which has not been done for no germane reasons & plausible explanation. We may further note that though very meager amount of Rs.3273/- was involved in the entire action, the respondents, we are confident would have spent much more than the said amount including its attention which has been diverted from the pressing issues pending consideration before it. The respondent no.2 ought to have acted in more responsible manner and should have made genuine efforts to eliminate unnecessary unhealthy environment caused due to such avoidable incident.

Taking a cumulative view of the matter and finding no justification on respondents' action, order dated 15.01.2009 (Annexure-7) is set aside and quashed. Respondent No.2 is directed to consider applicant's request for sanctioning leave from 18.12.2008 to 01.01.2009 as earned leave in terms of request dated 10.01.2009 and thereafter regulate his prayer to refund of a sum of Rs.3273/-. Aforesaid exercise shall be undertaken as expeditiously as possible and not later than thirty days from date of receipt of this order by passing reasoned and speaking order."

4. Perusal of above particularly para 5 & 6 would reveal that the period of absence not covered by grant of leave has to be treated as dies non, which certainly would be construed as break in service under the Civil Service Regulation under the CCS (Pension) Rules. When such is the clear and unequivocal understanding of the Government, as noticed from the quotation portion noted herein, how its functionaries could take a view and decision, totally contrary to the rules and common understanding of the Government on the subject. We may also note that specific contention had been raised vide representation dated 11.9.09 particularly vide para 2, for his alleged unauthorized absence, which remains totally overlooked by the respondents while passing impugned order. Ignored for what reasons ? which we are not able to discern & comprehend. Specific averment was made by him that he had informed the canteen clerk about his off days being Saturday & Sunday, which can be availed by the employee in terms of the



communication dated 16.3.09. The impugned order passed on 8.10.09 makes no reference to aforesaid explanation submitted by the applicant. Generally an order could be termed as legal order passed when it is issued after due application of mind, makes a reference to the grievance, notice, explanation offered and then decide the matter in one way or the other. But, in present case, new method has been evolved by recording decision straight away without making reference to any aspects including grievance, the precise issue or explanation offered. In such circumstances it can't be construed as an order passed on merits, rather such order suffers from total non application of mind, which is not sustainable in law.

5. Following the judgment in the aforesaid case Shri Sanglapam Nodiachand Sharma (supra), we have no other option but to take a similar view particularly when no plausible explanation has been offered to take a different & contrary view on the subject, decided by passing a detailed order. Though learned Addl. Standing counsel for the respondents made very strenuous effort to contend that facts of present case is totally distinguishable, we on consideration of the matter in entire perspective, do not find any justification in said contention of the respondents.

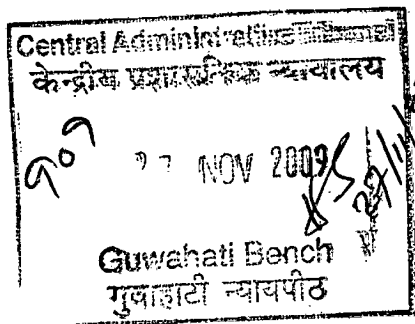
In the circumstances order dated 8.1.2009 is quashed and set aside. O.A is allowed. No costs.

  
(MADAN KUMAR CHATURVEDI)  
ADMINISTRATIVE MEMBER

  
(MUKESH KUMAR GUPTA)  
JUDICIAL MEMBER

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

**Original Application No. 251/ Of 2009**



Shri Biswajit Bhuyan

..... Applicant.

-VERSUS-

The Union of India & Ors.

..... Respondents.

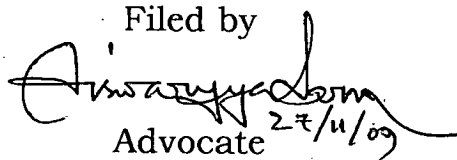
**SYNOPSIS**

This original application is filed against the impugned order dated 08/10/09 whereby, North Eastern Police Academy (NEPA) Umsaw has brought "Dies Non" for the period of 1 (one) day which was a day of holiday as per the circular 04/05/09 given by the Respondent No. 2.

The applicant is a Canteen Manager of Wet Canteen at North Eastern Police Academy (NEPA) area at Umsaw.

The applicant assails the above order dated 8/10/09 on the ground that the penalty is inflicted upon him without any disciplinary proceedings to that effect and in gross violation of Article 14 of the Constitution of India and principles of natural justice and administrative fair play.

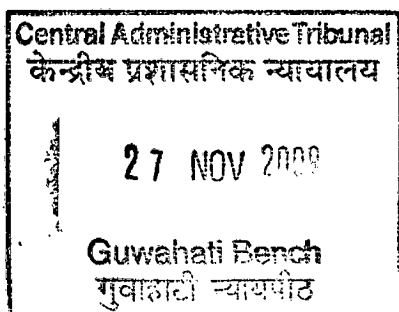
Hence this original application.

Filed by  
  
Advocate 27/11/09

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

(Application Under Section 19 of the Administrative Tribunal Act,  
1983)

**Original Application No. 251.. Of 2009**



Shri Biswajit Bhuyan

**..... Applicant.**

-VERSUS-

The Union of India & Ors.

**..... Respondents.**

**LISTS OF DATES**

**DATE**

**PARTICULARS**

1/08/1990

Applicant appointed in the NEPA as Canteen Manager, Annexure-A, Page No.

25/03/2009

Applicant was appointed as 1<sup>st</sup> Polling Officer in connection with the conduct of General Election to the Lok Sabha, 2009. Annexure-B, Page-

21/04/2009

Applicant had fallen ill and the departmental Doctor referred him to Civil Hospital, Shillong. Annexure-C, Page-

21/04/09

Applicant was advised rest for recovery. Annexure-D, Page-

05/05/2009

Show cause notice given to the applicant by the Director. Annexure-E, Page-

07/05/09

Applicant has filed reply of the show cause dated 05/05/2002. Annexure-F, Page-

08/05/2009

Earlier impugned orders given to the applicant. Annexure-G, Page-

9/05/09

Fitness certificate of the applicant to resume in duty. Annexure-H, Page-  
Order of the Hon'ble Tribunal.

29/06/09

Annexure-I, Page-

04/05/09

Copy of the circular dated 04/05/09.

Annexure-J, Page-

14/09/09

Copy of the show cause.

Annexure-K, Page-

15/09/09

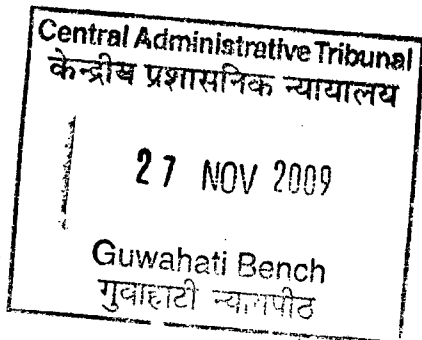
Reply filed by the petitioner.

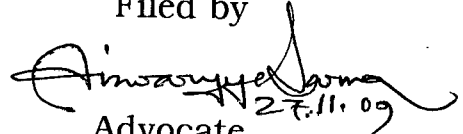
Annexure-L, Page-

8/10/09

Impugned order.

Annexure-M, Page-

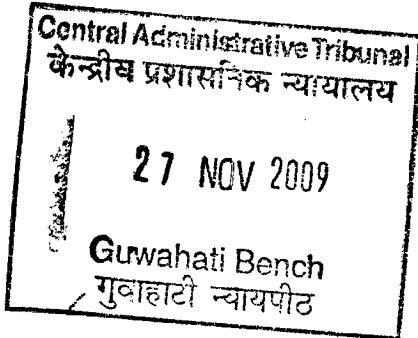


Filed by  
  
Advocate 27.11.09

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

Original Application No. 251 Of 2009



Shri Biswajit Bhuyan

..... Applicant.

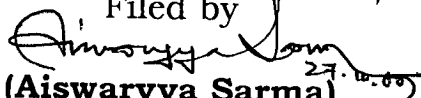
-VERSUS-

The Union of India & Ors.

..... Respondents.

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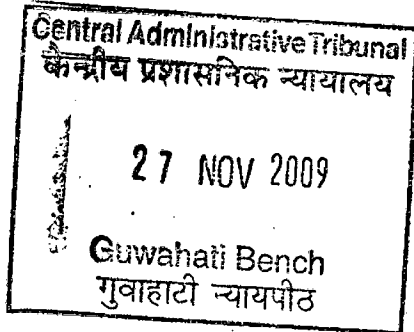
<u>Sl. No.</u>	<u>PARTICULARS</u>	<u>PAGE NO.</u>
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Filed by  
  
(Aiswaryya Sarma)  
Advocate

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

(Application Under Section 19 of the Administrative Tribunal Act, 1983)

**Original Application No. 251 Of 2009**



Shri Biswajit Bhuyan  
Son of Sri A.C. Bhuyan  
Canteen Manager  
Departmental Canteen (Wet Canteen)  
North Eastern Police Academy  
Umsaw-793125, Barapani , Shillong  
Meghalaya.

**..... Applicant.**

-VERSUS-

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Home Affairs, North Block, New Delhi-110001.
2. The Director,  
North Eastern Police Academy, Umium,  
Barapani, Meghalaya, Umsaw

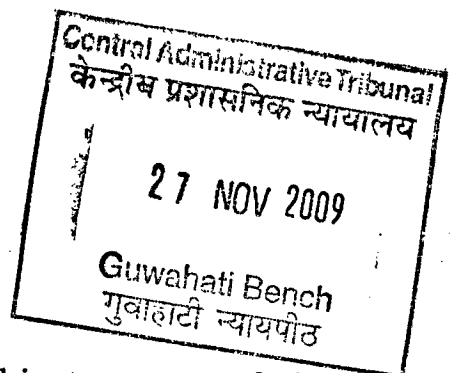
**..... Respondents.**

**DETAILS OF APPLICATION :**

1. Particulars of the order against which the application is made ; This Original Application is directed against the order No. NEPA/PF(C)/2/90/V.II/5979-81 dated 8/10/09 whereby the applicant was imposed penalty of 'Dies non' for the alleged period of absence on 12/09/09.

Filed by -  
Shri Biswajit Bhuyan  
Through - Biswajit Bhuyan  
Shillong 27/11/09





*Shri Biswajit Bhuyan*

## 2. Jurisdiction of the Tribunal :

The appellant declares that the subject matter of the order against which he wants redress is within the jurisdiction of the Tribunal.

## 3. Limitation :

The applicant further declares that the application is within the Limitation period prescribed in section 21 of the Administrative Tribunals Act, 1985.

## 4. FACTS OF THE CASE

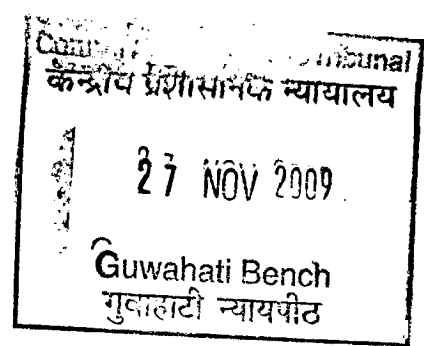
4.1 That the applicant is a citizen of India and the resident of Umsaw, Barapani, Shillong, Meghalaya and as such he is entitled for all the rights and privileges guaranteed by the Constitution of India and the laws framed thereunder.

4.2. That the applicant was appointed as Canteen Manager in the Departmental Canteen (Wet Canteen) in the North Eastern Police Academy, Barapani vide order issued under No. 11012/86-Estt.6989-93 dated 01/08/90 in the scale of the pay of Rs. 950-20-1150-EG-25-1500 p.m. plus other allowances as admissible from time to time with effect from the forenoon of 1<sup>st</sup> August'90 until further order.

A copy of the order dated 1/08/09 is filed hereto and marked as

### ANNEXURE-A.

4.3. That the applicant has an unblemished and spotless service career of more than 18 years and has received the appreciation of his superior authorities for his sincere and dutiful nature. Till date he has worked with attentively and nothing against him was reported before his superior authorities derogatory to his ability and the fashion of work.



*Shri Biswajit Bhargava*

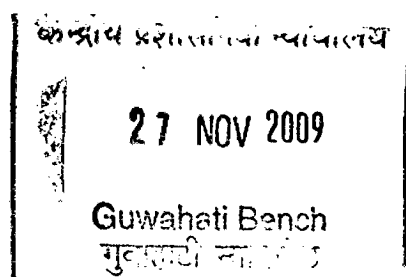
4.4. That the applicant begs to state that in course of his service tenure whenever General Election came election duty used to be mounted on him by his superior authority and to abide that he has to carry out the directives of his authority in toto. During the General Election of 2009 he was given duty as First Polling Officer from 30th March'09 to 16/04/09 vide Memo No. DCRB/EL-22/2009 dated 25<sup>th</sup> March/2009. Accordingly in compliance of the order of his authority he went for election duty and after completion of the duty he rejoined on 20/4/09.

A copy of the order dated 25/3/2009 is filed hereto and marked as **ANNEXURE-B.**

4.5 That the applicant begs to state that after the general elections duty, due to the hazard involved in that he fallen ill on 21/4/09. As the ailment become severe he went to see the departmental Doctor who referred him to Civil Hospital, Shillong. The applicant was suffering from sudden block out with head injury and consequent to which the attending doctor advised him to take rest from 21/4/09 to 30/04/09 and then against from 01/05/09 to 10/05/09. The applicant however had given information about his sickness to the Respondent along with medical report.

A copy of the referral order and a copy of the medical report is filed hereto and marked as **ANNEXURE-C (Series).**

4.6. That in the meantime the Respondent No. 2 had issued a letter under Memo No. NEPA/DIRECTOR/2009/A dated 05/05/2009. The applicant was served with a show cause notice contending inter alia as follows :



1. On 04/05/09, I wanted to discuss some official matters with you, but I was told that, you were not in the canteen, when I checked the Attendance Register of the Canteen, you are absent from 21/04/09.

2. Earlier also, I have inspected the Departmental canteen at 14:30 hrs. on 10/4/09 and you absent. When I checked the Attendance Register, I found that you have not signed on 08/04/09. As per the Attendance Register, you have signed for 10th April, 2009 FN and AN; and 11th April, 2009 FN on 10/04/09 itself vide letter No. NEPA/Director/2009/262-64 dated 10/4/09. You were asked to explain the reasons for not taking disciplinary action against you, to which you have not replied till date.

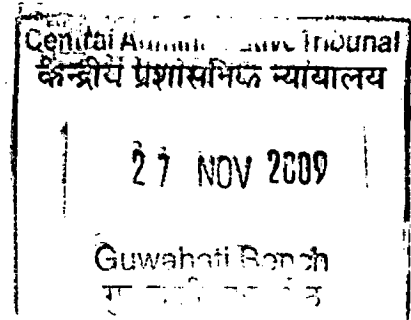
3. Today, I called for your personal file and on security you are absenting from duty without authority /permission. I have also observed in the file that he is regularly committing some acts or the others, which are prejudicial to the work atmosphere in the canteen as well as in the Academy.

4. In the above back drop you are hereby asked to explain the reasons for not placing you under suspension, pending disciplinary action, for sending an application of illness, without supporting documents and absenting willfully without authority or permission, your reply should be undersigned by 07/05/09 positively.

A copy of the show cause notice dated 05/05/2009 is filed hereto and marked as **ANNEXURE-D.**

4.7 That the applicant begs to state that after receipt of the aforesaid letter dated 05/05/09 the applicant filed a reply explaining his position on 07/05/09 to the effect that he was not present in the canteen as he was suffering from sudden block out

*Shri Biswajit Bhuyan*



with head injury and the attending doctor has advised to take rest from 21/04/09 to 30/04/09 and then again 1/05/2009 to 10/05/2009, regarding which he had informed the department along with the copy of medical report. Further he humbly states that he had never committed any negligence of duty and the question of placing him under suspension pending disciplinary action does not arise at all and hence, he may be exonerated from all the alleged charges so levelled against him.

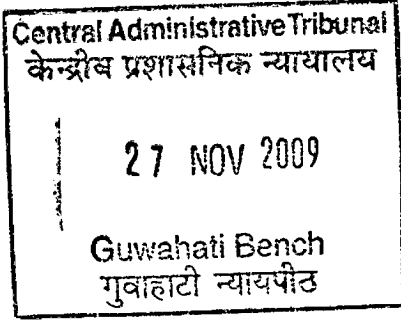
A copy of the reply dated 7/05/09 is filed hereto and marked as **ANNEXURE-E.**

4.8 That the applicant begs to state that after filing of the show cause dated 7/05/09 the application was served with the order issued under No. NEPA/PF/(c)/2/90/Vol.II/1156-58 dated 08/05/09 by the Respondent No. 2 contending inter alia that on the CCS (Classification, Conduct and Appeal) Rules 1965, it read with 6, unauthorised absence from duty for 11 days, i.e. from 21/04/09 to 01/05/09 in respect of the applicant is hereby treated as "Dies-Non".

A copy of the order dated 8/05/09 is filed hereto and marked as **ANNEXURE-F.**

4.9 That the applicant begs to state that he was served with another letter issued under No. NEPA/PF(c)/2/90/Vol.II/1159-61 dated 8/5/09, by the Respondent No. 2 containing that the pay and allowances in respect of the applicant would be held up from 03/05/2009 until further order.

*Shri Divyjit Bhuyan*



A copy of the order dated 8/05/2009 filed herewith and marked as **ANNEXURE-G**

4.10 That the applicant begs to state that he has rendered more than 18 years of services without any blemish and so after receiving the order dated 8/5/90 he was shocked and surprised as in view of the facts and circumstances under which he could not made himself available on duty was beyond his control as he was ailing with sudden Block out and head injury and the attending Doctor has advised him to take rest for the period for which "Dies-Non" was brought into effect.

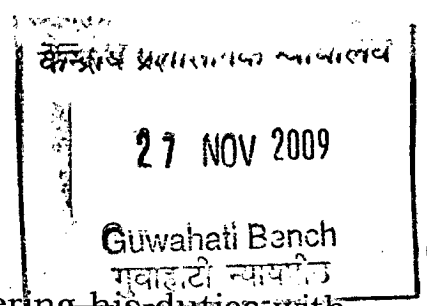
4.11 That the applicant begs to state that he after gaining recovery and duty fit certificate from the Doctor concerned resumed his duties w.e.f. 10/05/09.

A copy of the duty fit certificate dated 9/05/09 is filed hereto and marked as **ANNEXURE-H.**

4.12 That, the applicant setting thus filed an Original Application before this Hon'ble Tribunal being O.A. No. 101 /09 assailing the order dated 8/05/09 whereby the pay and allowances in respect of the applicant was withheld from 03/05/09 until further order. The said original application was disposed of by the Hon'ble Tribunal vide order dated 29/06/09 in the backdrop of the order No. NEPA PF(C)/2/90/Vol-II/2927-B2 dated 19/06/09 of Director of NEPA, Meghalaya. The order reads as follows :-

Copy of the order dated 29-06-2009 filed hereto and marked **ANNEXURE-I.**

*Shri Biswajit Bhunia*



Shri Biswajit Bhuyan

4.13. That thereafter the petitioner was rendering his duties with utmost sincerely and devotion. The petitioner begs to state that on 4/05/09 a circular was issued from NEPA contending inter-alia that the working hour of Administrative office of the Director. NEPA would be 9:30 A.M. to 5 P.M. with a lunch break for half an hour from 139 P.M. to 2 P.M. with second Saturday as a holiday with immediate effect.

A copy of the order dated 04-05-09 is filed hereto and marked as **ANNEXURE-J.**

4.14. That all of a sudden on 14/09/09 the applicant was served with a show cause notice asking that he was absent from duties with effect from 11<sup>th</sup> (AN) to 13<sup>th</sup> September (AN) 2009 without prior permission and was asked to submit explanation as to why a disciplinary action should not be taken against him.

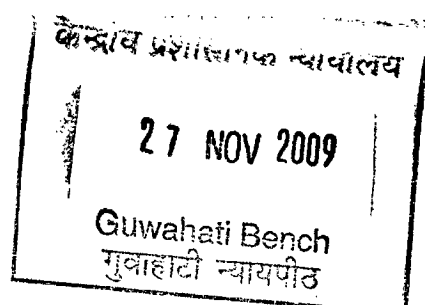
Copy of the show cause notice dated 14/9/09 is annexed herewith and marked as **ANNEXURE-K**

4.15 That, after receiving the letter dated 14/09/09 the applicant submitted his reply vide letter dated 15/09/09 which is quoted as below.

A copy of the reply dated 15/09/09 is filed hereto and marked as **ANNEXURE-L**

4.16 That the applicant begs to state that after receiving of his letter dated 15/09/09, the order dated 8/10/09 was served on him contending inter alia as follows :-

“Under the provision of Rule 11, para 6 of CC3 (Classification, Conduct & Appeal) Rules 1965, the absence from duty is not justified for 12/9/2009 and hence it is unauthorized absent from duty in respect of Sh. Biswajit Bhuyan, Canteen Manager which is



treated as "Dies Non" and two days absence i.e. on 11/09/09 & 13/09/09 is regularized on compensatory ground".

Copy of the order dated 8/10/09 is filed hereto and marked as **ANNEXURE-M**

4.17. That the applicant begs to state that he 12/09/09 was a second Saturday and holiday and the authority by circular dated 04/05/09 himself declared that every second Saturday shall be a holiday. In that view of the matter the impugned order dated 8/10/09 is not sustainable and liable to be set aside and quashed.

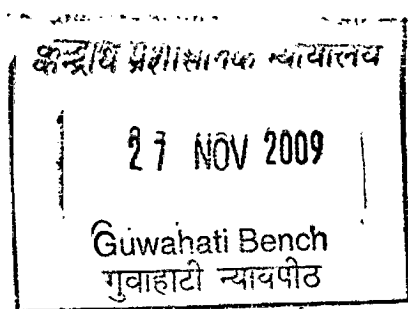
4.18 That, the applicant begs to state that the terminology "Dies Non" is not applicable in this case as the petitioner as per his representation dated 15/09/09 explained his position that he was not unauthorizedly absent. Moreover, the term 'Dies Non' comes into play where an employee remains unauthorizedly absent for more than 5 years. Hence, the order dated 8/10/09 is liable to be set aside and quashed.

4.19. That, the applicant begs to state that keeping away this aside no disciplinary proceeding has been commenced against the applicant by the Respondent before imposing the penalty of 'Dies Non'. In view of the matter the order dated 8/10/2009 liable to be set aside and quashed. Hence, this original application.

### **GROUND S**

5.1 For that the order dated 8/10/09 has been passed without affording any reasonable opportunity to the applicant to defend and hence liable to be set aside and quashed.

*Shri Biswajit Bhuyan*



*Shri Biswajit Bhuyan.*

5.2 For that the impugned orders run counter to the concept of Article 14 of the Constitution of India and also runs a front to the principles of natural justices and administrative fair play.

5.3 For that the term 'Dies Non' is not applicable in the case of the applicant and the penalty of 'Dies Non' has been wrongly inflicted upon the applicant. Moreover, the 12/09/09 was a second Saturday and a holiday as per circular dated 04/05/09 and hence, the order dated 8/10/09 is not tenable in the eye of law and liable to be set aside and quashed.

5.4. For that that impugned orders are violative of the principles of value, reasonableness and power in as much as violative of the principles of equity, equitable remedy and administrative fair play

5.5 For that the impugned orders are violative of the two cardinal principles of natural justices viz.

5.6 For that the impugned penalty was imposed without holding any disciplinary proceeding against the petitioner and hence the order dated 8/10/09 is liable to be set aside and quashed.

5.7 For that, the impugned order is violative of the principles of natural and administrative justice and fair play. And hence liable to be set aside and quashed.

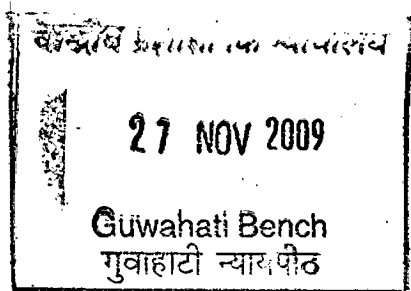
5.8 For that in any view of the matter the impugned order dated 08/10/09 is liable to be set aside and quashed.

#### **6. Details of the remedies exhausted :-**

The applicant declares that he has availed of all the remedies available to him under the relevant services rules.

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





*Shri Biswajit Bhunia*

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

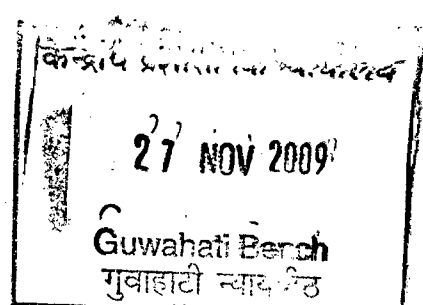
**8. Relief sought :-**

In the premises aforesaid, it is most respectfully prayed that Your Lordships may graciously pleased to admit this application issue necessary notices, call for the records of the case and after hearing the cause/causes being shown and upon perusal of the records Yours Lordships may-

- i) Set aside and quash the impugned order dated 8/10/09 (Annexure M)
- ii) direct the Respondents to give all the benefits so accrued to the petitioner till date w.e.f. his service to the department.
- iii) Cost of the application.
- iv) grant any other relief to which the applicant is entitled under the facts and circumstances of the case.

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

**9. Interim order, if any prayed for :-**



Pending disposal of the application the applicant prays for the following interim relief.

The Respondent may be directed to regularized his service staying the impugned order dated 8/10/09.

✓  
10. Particulars of Bank Draft/Postal Order.

- i) IPO No. - 39G 442347
- ii) Date of issue - 26-11-2009
- iii) Issued From - G.P.O. Guwahati
- iv) Payable at - Guwahati

11. List of enclosure : As stated in the index/list of dates.

**VERIFICATION**

I, Shri Biswajit Bhuyan, Son of Sri A.C. Bhuyan, Canteen Manager, Departmental Canteen (Wet Canteen), aged about 41.. years, resident of North Eastern Police Academy, Umsaw-793125, Barapani, Shillong, Meghalaya, do hereby verify that the contents of paragraphs 4.1 to 4.19..... are true to my knowledge and paragraphs 1, 2 and 3..... believed to be true on legal advice and that I have not suppressed any material fact.

Date : 26-11-09

Place : Guwahati

*Shri Biswajit Bhuyan*  
Signature of the Applicant

Government of India  
North Eastern Police Academy  
Umsaw : Barapani  
Shillong - 793 125

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

27 NOV 2009

Guwahati Bench  
गुवाहाटी न्यायपीठ

No. B. 11012/1886-Estt.

dt. \_\_\_\_\_ '90.

O R D E R

Shri Biswajit Bhuyan son of Shri A.C. Bhuyan is hereby temporarily appointed as Canteen Manager in the Departmental Canteen (Wet Canteen) in the North Eastern Police Academy, Barapani, in the Scale of pay of Rs. 950-20-1150-EG- 25-1500/-P.M. plus other allowances as admissible from time to time with effect from the forenoon of 1st Aug'90 until further order.

The above appointment is purely temporary and his services may be terminated any time, without giving any notice.

Sd/-  
G.C. Raiger  
Director

No.B. 11012/1/86-Estt. 6989-93

Dt. 1/8/90 '90.

Copy to :-

- 1) The MPAO (IB), Shillong - 3.
- 2) The Canteen - In-Charge, NEPA, Barapani.
- 3) The Accounts Section ( Local).
- 4) ☒ Shri Biswajit Bhuyan, Canteen Manager (Wet Canteen), NEPA, Barapani.
- 5) Personal file.

Certified to be  
true Copy  
*Shama*  
Advocate  
27.11.09

*(N. Senmajunder)*  
Administrative Officer,  
UMSAW . Barapani  
NEPA

GOVERNMENT OF MEGHALAYA  
OFFICE OF THE DEPUTY COMMISSIONER (EL)  
RI BHOI DISTRICT:: NONGPOH.

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

27 NOV 2009

Dated Nongpoh, the 25<sup>th</sup> March 2009  
गुवाहाटी न्यायपीठ

General Election to the Lok Sabha-2009  
Preliminary Appointment Order for 1<sup>ST</sup> Polling Officer.

[Under Sub-Section (1) of Section 26 of the Representation of People Act. 1963 (43 of 1951) the following Officers & Staffs are hereby appointed as 1<sup>ST</sup> POLLING OFFICERS in connection with the conduct of General Election to the Lok Sabha 2009.

## GROUP - I

Sl No	Name of Officer/ Staff	Designation	Name of Office
1	SHRI. MRIDUL KALITA	PHARMACIST	NEPA, UMSAW
2	SHRI. TIKARAM TINSINA	UDC	NEPA, UMSAW
3 ✓	SHRI. B. BHUYAN	CANTEEN MANAGER	NEPA, UMSAW

mo. NO.DCRB / EL-22/2009/

py to: -

Deputy Commissioner,  
Ri Bhoi District, Nongpoh.

Dated Nongpoh, the 25<sup>th</sup> March 2009.

- Officer/ Staff concerned for information. He/She is directed to report on 31.3.2009 at Science Hall from 10:00 AM onwards. He/She is directed to bring along the Electoral Photo Identity Card (EPIC) on the day of reporting.

Deputy Commissioner,  
Ri Bhoi District, Nongpoh.

e:

- No request for exemption will be entertained except in extremely exceptional cases.
- Final Appointment Order reflecting the Polling Station to which the Presiding/1<sup>st</sup> Polling Officers/2<sup>nd</sup> & 3<sup>rd</sup> Polling Officers is appointed, will be issued on the last day of Training.
- This Appointment is purely provisional and subject to the final list generated through the Randomization Software and approved by the Election Observers. Thus, any Presiding Officer (so provisionally appointed) may finally be appointed as 1<sup>st</sup> Polling Officer or vice-versa same case with the 2<sup>nd</sup> & 3<sup>rd</sup> Polling Officers.
- The Officer/Staff appointed for election duty will attend to their normal duties in their own Office on days when they are not engaged in Election Duty.

Certified to be  
true copy -

Adama  
Adhok  
27.11.09

N.E.P.A. DISPENSARY

Annexure - C (Series)

O.P.D. TICKET

Regd No. 204 Date 20/11/09  
 Name Sri B. Bhuyan Rank C-Manager  
 Age 41 years Sex M  
 CIC M/O sudden blackout with  
 head-injury on 16/11/09 (afternoon)

Date	Treatment
------	-----------

1) 17 inj. Tetanus zoned, 1 amp  
 1 M atal  
 2) Cap. LAA — (10)  
 inj. — 16 OPC X 5 days  
 3) Tab-Lacopal 500 — (6)  
 inj. — 16 OPC X 3 days  
 4) Tab-Zinetac 150 — (6)  
 inj. — 16 OPC X 3 days  
 5) viadine ant — (99)  
 inj. — 20 v/A each injuries 3 days  
 6) bano-glycine locally each lesion  
 in tongue 3 days X 3 days  
 Adv - to attend CMG for review &  
 needful.

Central Administrative Tribunal  
 केन्द्रीय प्रशासनिक न्यायालय  
 27 NOV 2009  
 Guwahati Bench  
 गुवाहाटी न्यायपीठ

At conscious  
 milder  
 pulse-96/min  
 BP-110/80 mm Hg  
 sweating  
 chest  
 CVS  
 PA  
 CNS  
 tenderness  
 over lower  
 back &  
 tender  
 swelling  
 around  
 the hand  
 abrasion over  
 nt. forehead  
 & face &  
 tongue-lute

Certified to be  
 true copy  
 Same  
 Advocate  
 27.11.09

MEDICAL CERTIFICATE FOR LEAVE EXTENSION OF LEAVE OF  
COMMUTATION OF LEAVE

Signature of the Government servant .....

I, Dr. J. R. Das

after careful personal

examination of the case hereby certify that Shri/Shrimati/Kumari B. B. Bhuyan

C. Bhattacharya whose signature is given above, is  
suffering from Organic Halls & Wernicke and I consider that a

period of absence from duty of ..... w.e.f. 21/4/09

to 10/5/09 is absolutely necessary for the restoration  
of his/her health.

Das  
9/5/09  
Authorised Medical Attendant

Civil Hospital/Dispensary

Or other Registered Medical Practitioner.

Dated: .....

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

27 NOV 2009

Guwahati Bench  
गुवाहाटी न्यायपीठ

North Eastern Police Academy  
Govt of India  
Ministry of Home Affairs  
P O Umsaw, Meghalaya

No. NEPA/DIRECTOR/2009/ A

Dated, Umsaw, the 25/11/2009.

To

Shri B Bhuyan  
Departmental Wet Canteen Manager  
NEPA, Umsaw

1) On 04/05/09, I wanted to discuss some official matters with you; but I was told that, you were not in the Canteen. When I checked the Attendance Register of the Canteen, you are absent from 21/04/09.

2) Earlier also, I have inspected the Depttl Canteen at 1430 hrs on 10/04/09 and you absent. When I checked the Attendance Register, I found that you have not signed on 08/04/09. As per the Attendance Register, you have signed for 10<sup>th</sup> April 2009 FN and AN; and 11<sup>th</sup> April 2009 FN, on 10/04/09 itself. Vide letter No. NEPA/Director/2009/262-64 Dated 10/4/09, you were asked to explain the reasons for not taking disciplinary action against you, to which you have not replied, till date.

3) Today, I called for your Personal File and on scrutiny, you are absenting from duty without authority / permission. I have also observed in the file that he is regularly committing some acts or the other, which are prejudicial to the work atmosphere in the Canteen as well as in the Academy.

4) In the above back-drop, you are hereby asked to explain the reasons for not placing you under suspension, pending disciplinary action, for sending an application of illness, without supporting documents, and absenting wilfully without authority or permission. Your reply should the undersigned by 07/05/09 positively.

*R R Verma*  
(R R Verma)  
Director

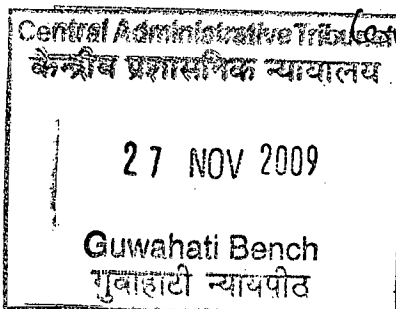
Copy to :

Mr Ramesh Chandra  
Officer Incharge  
Depttl Wet Canteen, NEPA

- He is directed to submit his comments for not informing the authority about the absence of W/C Manager.

Office Supdt

*R R Verma*  
(R R Verma)  
Director

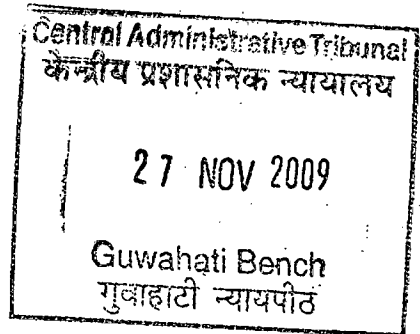


attached to be  
true copy  
@ Same  
Adocate  
27.11.09

17 -  
Annexure - E

To,

The Director,  
North Eastern Police Academy,  
Umsaw, Ri Bhoi District, Meghalaya.  
( Through Proper Channel )



Sub:- Reply on the Explanation.

Ref :- Your letter No. NEPA /Director/2009/A, dated, Umsaw the 5/05/09

Sir,

With reference to the subject cited above, I have the honour to place you before you the following few lines for your kind consideration and favourable order please :-

1. That with regard to para No.1 of your abovesaid Letter, I would like to submit that I was not present in the Canteen as I was suffering from sudden blackout with head injury and the attending doctor had advised me to take rest from 21/04/09 to 30/04/09 and then again from 1-5-09 to 10.5.09. Moreover, I had also given information about my sickness to the Department alongwith the Medical Report. ( Copy of Medical Report is enclosed herewith for your kind perusal ).
2. That, Sir, with regard to para No.2 of your abovementioned letter, I would like to state that the question of absent does not arise at all, as I was advised by the doctor to take rest for 10 (ten) days with effect from 01/05/09. Moreover, on dated 11/04/2009, I was in Election Duty . ( Copy of Election Duty is enclosed herewith for your kind perusal ).
3. That Sir, with regard to para No.3 of your letter, I would like to state and say that the allegations are the matters of the past and I don't exactly remember as to what happened at that relevant time. Further, I fully remember that there had been very cordial atmosphere in the canteen as well as in the Academy.

In view of the above, I have never committed any negligence of duty and the question of placing me under suspension pending disciplinary action does not arise at all. All relevant documents pertaining to your allegations are enclosed herewith for your kind perusal.

Submitted for favour of your kind information and dropping of all allegation legelled against me.

Dated at NEPA, Umsaw  
the 7/05/09.

Yours faithfully  
*[Signature]* 3/5/09  
( Biswajit Bhuyan  
C/Manager  
N.E.P.A. )

Confirmed to be  
true copy  
*[Signature]*  
27.11.09



-18-

Annexure - F

North Eastern police Academy  
Ministry of Home Affairs  
Government of India  
Umsaw, 793 123, Umiam

Central Administrative Tribunal केन्द्रीय प्रशासनिक न्यायालय
27 NOV 2009
Guwahati Bench गुवाहाटी न्यायपीठ

NO.NEPA/PF/C/2/90/Vol.II

Dtd, Umsaw the \_\_th May'2009

**ORDER**

Under CCS ( Classification, Conduct & Appeal ) Rules 1965, 11 read with 6, unauthorized absence from duty for 11 days i.e. from 21/4/2009 to 1/5/2009 in respect of Sh Biswajit Bhuyan, C/Manager is hereby treated as "Dies-Non".

These days does not construe break in service, but only the days treated as "Dies-non" are not counted as duty.

Sd/-

( R. R. Verma, IPS )

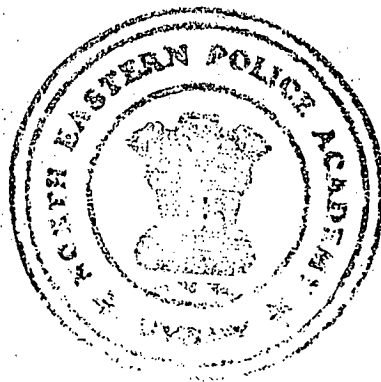
Director

Dtd, Umsaw the 8th May'2009  
8

NO. NEPA/PF/C/2/90/Vol.II / 1156-58

Copy to :

- ✓ 1 The individual concerned.
- 2 Officer In-charge Wet Canteen, for information.
- 3 The Account Section, NEPA, Umsaw.



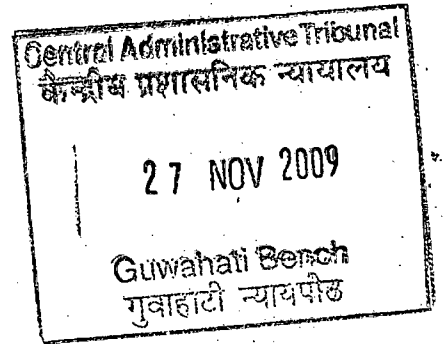
( P R S Vijay Raj )  
Jt. Director

Certified to be  
true copy  
Advocate  
27-11-09

Filed by

Advocate

Government of India  
Ministry of Home Affairs  
North Eastern Police Academy  
Umsaw, 793 123, Umiam, Meghalaya



No. NEPA/PF (C)/2/90/Vol.II/

Dt. Umsaw, the \_\_\_ May '09.

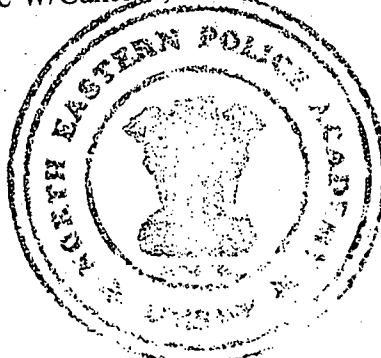
ORDER

Pay & Allowances in respect of Shri Biswajit Bhuyan, C/Manager NEPA  
is held up from 3/5/2009 until further order.

No. NEPA/PF (C)/2/90/Vol.II/ 1159-61

Copy to :

1. Accounts Branch, NEPA for strict compliance.
2. Shri. Biswajit Bhuyan, C/Manager, NEPA
3. Officer Incharge W/Canteen, for information.



&&&

Sd/-  
( R. R. Verma, IPS )  
Director

Dt. Umsaw, the 4 May '09.

( P R S Vijay Raj )  
Jt. Director

Confirmed to be  
true Copy -  
Sama  
Associate  
27.11.09

Filed by

Advocate

MEDICAL CERTIFICATE OF FITNESS TO RETURN TO DUTY

Signature of the Government servant

I, D. J. Rao

do hereby certify that

I have carefully examined Shri/Shrimati/Kumari

B. B. Layan

E. Manager

whose signature is given below,

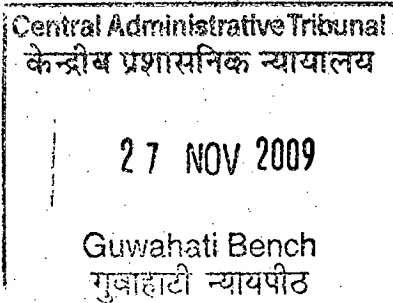
and find that he/she has recovered from his/her illness and is now fit to resume duties in Government service. I also certify that before arriving at this decision, I have examined the original medical certificate(s) and statement(s) of the case (or certified copies thereof) on which leave was granted or extended and have taken these into consideration in arriving at my decision.

Dal  
9/10/9

Authorised Medical Attendant

Dated: .....

.....  
Hospital/Dispensary  
Or other Registered Medical Practitioner.



Certified to be  
true copy  
Advocate  
28.11.09

Filed by

Advocate

## CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.101 of 2009  
Date of Order: This the 29<sup>th</sup> Day of June 2009.

HON'BLE MR.MANORANJAN MOHANTY, VICE-CHAIRMAN

Shri Biswajit Bhuyan,  
Son of Sri A.C. Bhuyan,  
Canteen Manager,  
Departmental Canteen (Wet Canteen),  
North Eastern Police Academy,  
Umsaw-793125, Barapani,  
Shillong. Meghalaya

Applicant

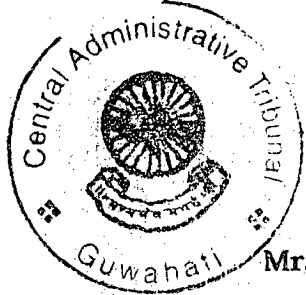
By Advocate Mr.A.Sarma, Mr.J.P.Chouhan

-Versus-

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Home Affairs, North Block, New Delhi-110001.
2. The Director  
North Eastern Police Academy,  
Umiam, Barapani,  
Meghalaya,  
Umsaw-793125

By Advocate Mr.K.K.Das,  
Addl.Standing Counsel

Respondents

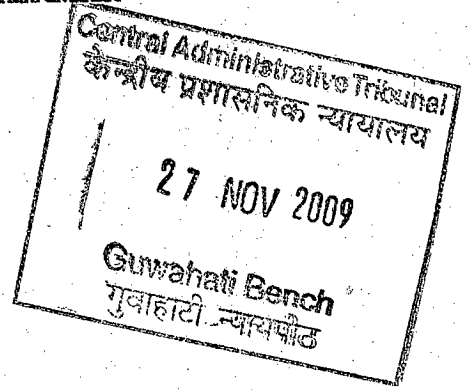


O.A.101 of 2009  
ORDER(ORAL)  
29.06.2009

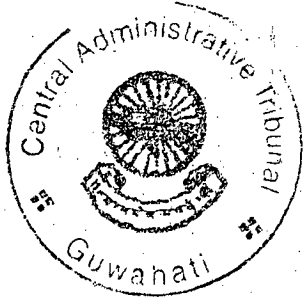
Mr. A. Sarma, and Mr.J.P.Chouhan learned counsels appearing for the Applicant are present. Mr.K.K.Das, learned Addl. Standing Counsel representing the Government of India is also present. He produces a copy of the order No.NEPA/PFC/2/90/Vol-II/2927-32 dated 19<sup>th</sup> June 2009 of Director of NEPA/Meghalaya. The text of which reads as under:-

"Considering the previous bad records and absent without permission and intimation, pay~~ee~~ of Shri B.Bhuyan, from 21/4/2009 to 1/5/2009 was held up."

*Confirmed to be true copy*  
*Advocate*  
*27.11.09*



Consequently, the period of unauthorized absence from duty for above mentioned date(s) was treated as Dies-Non; because he did not performed any duty in this period. However, pursuant upon the direction of the Hon'ble CAT, Guwahati Bench, Guwahati; the whole period has been examined afresh. Taking a generous view, the period of unauthorized absence from 21.4.2009 to 1.5.2009 (Dies-Non) and from 3.5.2009 to 10.5.2009 (pay held up) has been regularised by granting 11 days E/L from 21.4.2009 to 1.5.2009 and granted 1(one) day E/L for 3.5.2009, rest 7 days i.e. from 4.5.2009 to 10.5.2009 has been regularized by granting E.O.L. on M/C, as he has no other leave to his credit upto June 2009.



Sh. B.Bhuyan is hereby also warned that he should inform about his sickness and apply for leave in time and should not absent without prior permission of the competent authority, henceforth, else shall be dealt with strictly according to rules."

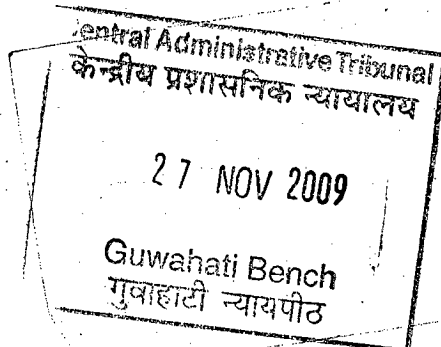
2. In the above premises, with instructions from his client, Mr.A.Sarma, learned counsel appearing for the Applicant has filed a memorandum not to press the present Original Application/this case, in view of the relief granted in the order dated 19.06.2009 of the Director of NEPA.

3. Having heard the learned counsel for both the parties, this case is hereby disposed of in terms of the prayer of the learned counsel for the Applicant.

4. Send copies of this order (by Registered Post) to the Applicant and to all the Respondents in the address given in the O.A.

5. Free copies of this order be also supplied to the learned counsel appearing for both the parties.

Sd/-  
M.R. MOHANTY  
VICE CHAIRMAN



TRUE COPY  
प्रतिलिपि  
*(Signature)*  
अनुभाग अधिकारी 17.09  
Section Officer (Adm.)  
Central Administrative Tribunal  
गुवाहाटी न्यायपीठ  
Guwahati Bench  
गुवाहाटी-6

Government of India  
Ministry of Home Affairs  
**North Eastern Police Academy**  
Umsaw, Umam 793 123, Meghalaya

Annexure-J

No. NEPA/Misc office cir/1/2000  
2009

1938-41

Dated 04/5/09

**CIRCULAR**

It is decided that the working hours of administrative office of the Director, North Eastern Police Academy will be from 09:30 A.M. to 05:00 P.M. with a lunch break for half an hour from 01:30 P.M. to 02:00 PM, with 2<sup>nd</sup> Saturday as a closed holiday, with immediate effect.

All the employees working in administrative office are directed to be in seat and to start work at the prescribed opening hour. Ten minutes grace time may be allowed in respect of the arrival time to cover any unforeseen contingencies. Such late coming (within the grace time) may be condoned unless it becomes a matter of frequent recurrence.

This circular supersede previous circular issued regarding office timing, if any.

*R.R. Verma*  
04/5/09  
(R.R. Verma, IPS)  
Director

Memo No. NEPA/Misc office cir/1/2000  
2009

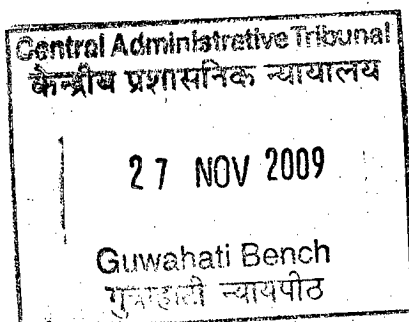
1938-41

Dated 04/5/09

Copy to:-

1. Office Superintendent, NEPA.
2. All branch In-Charge, NEPA.
3. Notice Board.
4. Office order file.

*R.R. Verma*  
04/5/09  
(R.R. Verma, IPS)  
Director



certified to be  
true copy  
28.11.09

Govt. of India  
Ministry of Home Affairs  
North Eastern Police Academy  
Umsaw : 793 123 : Umiam  
Meghalaya

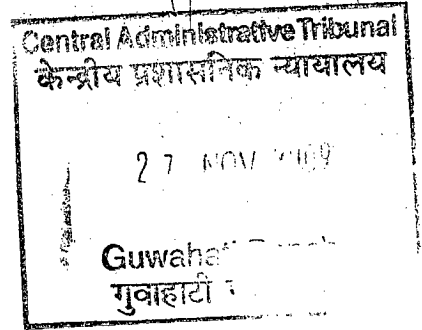
No.NEPA/JD-4/2009 5164-65

Dtd.....14/9/2009

To

Sh. B. Bhuyan  
Canteen Manager  
Wet Canteen, NEPA

Sub :- Explanation



It has found that you were absent from duty w.e.f. 11<sup>th</sup> (AN) to 13<sup>th</sup> Sept.(AN) 2009, without prior permission. Neither you have given any information about your absence.

You are hereby directed to submit explanation why disciplinary action should not be taken against you. Your reply should reach to the undersign by 15<sup>th</sup> Sept.09

(PRSVijay Raj)  
Jt. Director

Copy to -

1. PA - for information of Director



Certified to be  
true copy

Shona  
Associate

27.11.09

6/9

8/08

To

The

Joint Director.

N.E.P.A.

UMSAC.

Central Administrative Tribunal

केन्द्रीय प्रशासनिक न्यायालय

Mexure-L

27 NOV 2009

Guwahati Bench  
गुवाहाटी न्यायपीठ

Sub: Ref to your explanation letter No NEP.A/JO-4  
/2009-5/64-65 dtd 14/9/09.

Sir, Most respectfully I am to state

- 1) That Sir on 11th/9/09 (AN) I was present with your honour at Drill shed during arrival of His excellency Governor of Meghalaya upto 8.30 pm. Here I couldn't find the reason that how come I was marked absent since I along with your honour were talking together at the same drill shed.
- 2) That Sir on 12/9/09 & for 13/9/09 (2nd Saturday & Sunday) I already informed the Counter Clerk that I am having day off. More so ever already an order was passed by Director N.E.P.A regarding taking mutually day off. I took day off of 30/8/09 (Sunday) & 6/9/09 (Sunday) on 12/9/09 & 13/9/09 togetherly as for some circumstances I couldn't avail the same at time.
- 3) That Sir Surprise to perceive the matter that how come I was marked absent on Sunday by your honour since your honour himself was not present in the office. Here it seems that I was marked absent on Monday that is 14/9/09 where on my arrival was astonished to see my absent mark which was done too off late.

Here I request your honour to perceive & to Judge the matter & not to treat my period of day off as absent please.

Yours faithfully,

*[Signature]*  
15/09/09

B. Bhuyan.

Manager.

N.E.P.A.

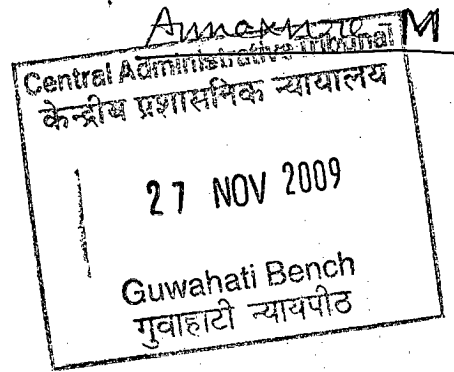
Certified to be  
true copy

*[Signature]*  
27.11.09

27.11.09



North Eastern police Academy  
Ministry of Home Affairs  
Government of India  
Umsaw, 793 123, Umi



NO.NEPA/PF©/2/90/V.II/ 5979-81

Dtd, Umsaw the 8th Oct'2009

**ORDER**

Under the provision of Rule 11, para 6 of CCS (Classification, Conduct & Appeal) Rules 1965, the absence from duty is not justified for 12/9/2009 and hence, it is unauthorized absent from duty in respect of Sh. Biswajit Bhuyan, Canteen Manager which is treated as 'Dies Non' and two days absence i.e on 11/9/09 & 13/9/09 is regularized on compensatory ground.

These day does not construe break in service, but only the day treated as "Dies-non" is not counted as duty.

*[Signature]*  
07/10/09

( R. R. Verma, IPS )

Director

NO.NEPA/PF©/2/90/V.II/

Dtd, Umsaw the 8th Oct'2009

Copy to :

- ✓ 1 The individual concerned.
- 2 The Account Section, NEPA, Umsaw.
- 3 Personal File.

*[Signature]*  
07/10/09  
( R R Verma, IPS )

Director



*certified to be true copy*  
*[Signature]*  
27.10.09

14 DEC 2009

Guwahati Bench  
গুৱাহাটী ন্যায়পীঠ

-2- -28-



GOVERNMENT OF INDIA  
*Ministry Of Home Affairs*  
NORTH EASTERN POLICE ACADEMY  
UMSAW: UMIAM – 793 123,  
MEGHALAYA.

No. NEPA/PF(C)/2/90/Court Case/ 8377.

Date: 11/12/09.

To,

Shri K K Das,  
Addl. CGSC,  
CAT, Guwahati Bench,  
Guwahati.

Sir,

It is humbly submitted that a reference should be made to this Office Order No. NEPA/Director/2009/5117-20 dt. 16/03/09(Annexure – I), wherein, an order was issued that, for the benefit of trainees and employees, on Sundays, the library would be kept open and to facilitate the employees, trainees and the library staff, the Canteen would be opened during the same hours. But, it was found that a negligible no. of trainees have availed this facility of Library as well as Departmental Canteen. Therefore, it was decided that the timings of the NEPA Library and the Deptt. Canteen will be open at 0930 hrs to 1800 hrs everyday. Also directed that the Library and Deptt. Canteen will remain open on 2<sup>nd</sup> Saturdays/Sundays and holidays vide this office order No. NEPA/JD-3/2009/199-03 dt. 8/4/2009(Annexure-II). For this training institution, NEPA, unlike other govt. of India offices, only 2<sup>nd</sup> Saturday is a holiday. All staff of the canteen observe these rules which can be clearly discerned from their entry in the Attendance Register.

Sh. B. Bhuyan, the petitioner knew this, and had been working on 2<sup>nd</sup> Saturdays after the issue of the orders, earlier also. As the Attendance Register bears out, in the months of July and August on 11/07/09 and 08/08/09, he worked, which were 2<sup>nd</sup> Saturdays respectively.

The order dated 16/03/09 and dt. 8/4/2009 also suggests that, while working on holidays(Saturdays & Sunday), the employees concerned could take a day off, on any of the week days. As such, the working requirement on 12<sup>th</sup> September (2<sup>nd</sup> Saturday) was under the previous orders, which is also substantiated, by the Petitioner, earlier working on 2<sup>nd</sup> Saturdays in the previous two months as per the Attendance Register (Annexure – III).

The petitioner has taken a day off in lieu of working on these days on earlier occasions, as would bear out from the Attendance Register.

In his explanation dated 15/9/09, (Annexure – IV), Sh. B. Bhuyan showed that he took a day off on 06/09/09 (Sunday), but in the Attendance Register, he has marked himself present. Similarly, on 30/08/09, he had stated that he had taken a day off, but he had marked himself present.

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home copy  
14-12-09

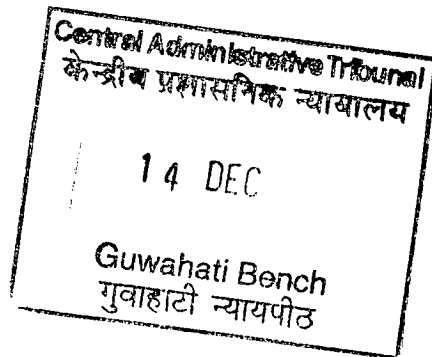
Since Sh. Bhuyan, the petitioner has the Attendance Register under his custody, he keeps manipulating things in his favour, and also altering the attendance by putting whitener, which can be seen in the original copy of the Attendance Register, which will be produced whenever the Hon'ble Tribunal orders so.

So much so, earlier for marking his presence in advance, a departmental enquiry is already underway. Sh. B. Bhuyan, the petitioner, has a habit of marking his presence and vanishing for the whole day, and consuming alcoholic drinks, for which many times he has been caught and warned.

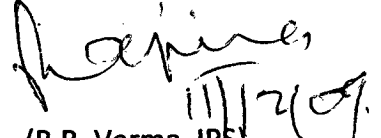
Seeing the petitioner's conduct was not improving, a senior officer was placed in-charge of the Canteen to control his drinking habit and errant behaviour, which can be seen at Annexure V.

Therefore, most humbly it is prayed that since the petitioner, Sh. Bhuyan wilfully absented himself on 12<sup>th</sup> September, '09, neither having been granted a week off for that day, nor had obtained permission to avail the holiday, his absence was treated as unauthorised absence from duty.

Hence, to warn him and observing the principle of, "No Work – No Pay", the day was treated as **dies non**. It is prayed therefore, that, the Hon'ble Tribunal may kindly uphold this respondent's order No. NEPA/PF(C)/2/90/Vol-II/5979-81 dt. 8<sup>th</sup> Oct, 2009 (Annexure-VI), in the interest of discipline and equity.



Yours faithfully,

  
(R.R. Verma, IPS)  
Director.

certified to be  
true copy  
14-12-09

-30-

-4-

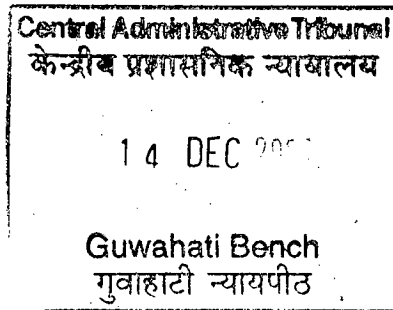
Annexure - I

North Eastern Police Academy  
Govt of India  
Ministry of Home Affairs  
P O Umsaw, Meghalaya

No. NEPA/DIRECTOR/2009/ 5117-20 Dated, Umsaw, the 16/03/ 2009.

ORDER

The Deptt. Canteen and Library of NEPA will remain open on every Sunday from 1100 hrs. to 1600 hrs. for the trainees, staff and families living in the NEPA Campus. The staff of Deptt. Canteen and Library may avail one day weekly off mutually one by one. This order will effect from the date of issue of this order.



*[Signature]*  
16/3/09  
(R R Varma, IPS)  
Director

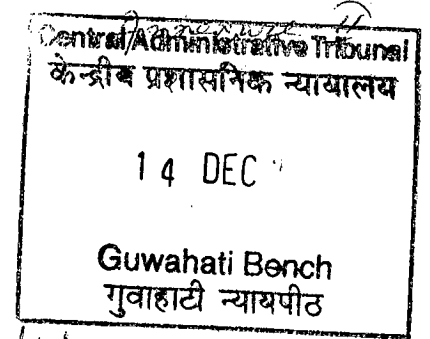
Copy to-

1. Sh. P R S Vijay Raj, Jt. Director for information
2. Sh. S N Sharma, Librarian & Staff - for information and necessary action
3. ✓ Sh. B. Bhuyan, Canteen Manager & Staff - for information and necessary action
4. Esstt. Section, NEPA
5. Notice Board

*[Signature]*  
16/3/09  
(R R Varma, IPS)  
Director

*certified to be true*  
*copy*  
*14-12-09*

- 31 - - 5 -  
Govt. of India  
Ministry of Home Affairs  
North Eastern Police Academy  
Umsaw : 793 123 : Umiam  
Meghalaya



No.NEPA/JD-3/2009/ 199-03

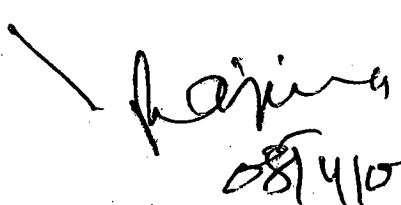
Dtd. 08/12/2009

**ORDER**

While referring to the Order No. NEPA/ Director / 2009 / 5434-38 dtd 23/03/09, it was decided to open the NEPA Library and The Deptt. Canteen till 7.30 p.m. to facilitate the trainees. But, it was found that a negligible no. of trainees have availed this facility of Library as well as Departmental Canteen.

Therefore, it is decided that, the above mentioned order is cancelled and directed that the NEPA Library and the Deptt. Canteen will open at 0930 hrs till 1800 hrs. everyday.

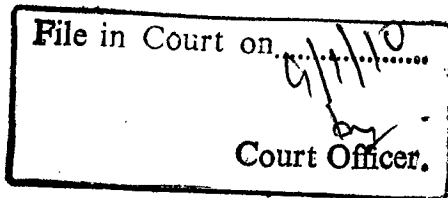
However, the Library and Deptt. Canteen will remain open on 2<sup>nd</sup> Saturdays / Sundays and holidays as ordered earlier.

  
(R.R. Verma, IPS)  
Director

Copy to -

1. Sh.PRS Vijay Raj, Jt. Director for information.
- ✓ 2. Sh. P K Bhattacharya, O/Supdt
3. Sh. S N Sharma, Librarian
4. Sh. B. Bhuyan, C/ Manager, NEPA Deptt. Canteen
5. Notice Boards

*Constituted to be  
fore copy  
14-12-09*



-1-

-32-

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH, GUWAHATI

OA NO. 251/2009

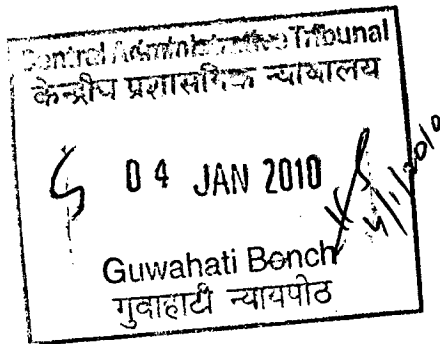
Shri Biswajit Bhuyan

....APPLICANT

-VERSUS-

UNION OF INDIA & others

.....RESPONDENTS



Filed by the respondent  
Rajiva Ranjan Verma  
through  
Kamran Saeed  
Addl C.A.S. in CAT Bench  
on 4-1-2010  
Director  
North Eastern Police Academy  
Umsaw : Umiam

WRITTEN STATEMENT:

The humble answering respondents submitted their written statement as follows:

- 1(a) That I am Rajiva Ranjan Verma.....and respondents No. 2.... in the above case. I have gone through a copy of the application served on me and have understood the contents thereof. Save and except whatever is specifically admitted in this written statements, the contentions and statements made in the application and authorized to file the written statement on behalf of all the respondents.
- (b) The application is filed unjust and unsustainable both facts and law.
- © That the application is also hit by the principles of waiver estoppels and acquiescence and liable to be dismissed.

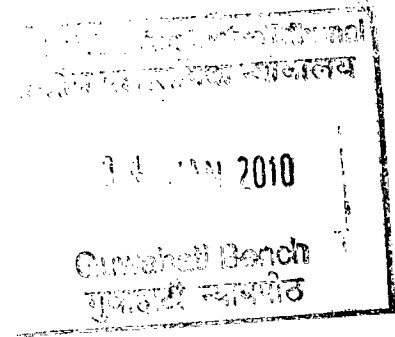
- 2) That the respondents before giving the parawise reply would like give the Brief History of the case, which may be treated as part of the Written Statement.

BRIEF HISTORY

This institution (NEPA), is located twenty kms away from the nearest city, Shillong, Hence, an order No. NEPA/Director/2009/5117-20 dt. 16/3/09, for the benefit of trainees and employees, that on Sundays, the library would be kept open from 1100 hrs to 1600 hrs, and to facilitate the

Copy  
Received.  
by -  
A. Samra  
Associate.  
04/01/10.

33



-2-

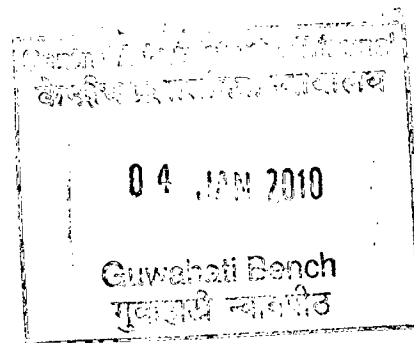
employees, trainees and the library staff, the canteen too would be opened during the same hours. But, it was found that a negligible no. of trainees had availed this facility of library as well as Departmental Canteen. Therefore, it was decided that the timings of the NEPA library and the Depttl. Canteen will be open at 0930 hrs to 1800 hrs every day. Also directed that the Library and Depttl. Canteen will remain open on 2<sup>nd</sup> Saturdays/Sundays and holidays vide this office Order No. NEPA/JD-3/2009/199-03 dt. 8/4/2009. They were authorized to avail holiday on any week day in lieu of working on a holiday. For this training institution, (NEPA), unlike other Govt. of India offices, only 2<sup>nd</sup> Saturday is a holiday. All staff of the canteen observe these rules which can be clearly discerned from their entry in the Attendance Register.

Director  
North Eastern Police Academy  
Umsaw : Imphal

Shri Biswajit Bhuyan, the applicant knew this and had been working on 2<sup>nd</sup> Saturdays after the issue of the orders, earlier also. As the Attendance Register bears out, in the month of July and August on 11/07/09 and 8/8/09, he worked, which were 2<sup>nd</sup> Saturdays respectively.

The order dtd. 16/3/09 and 8/4/09 also suggests that, while working on holidays(Saturdays & Sundays), the employees concerned could take a day off, on any of the week days. As such, the working requirement on 12<sup>th</sup> September (2<sup>nd</sup> Saturday) was under the previous orders, which is substantiated, by the petitioner, earlier working on 2<sup>nd</sup> Saturday in the previous two months as per the Attendance Register. This arrangement is provided in the rule 22.

The petitioner has taken a day off in lieu of working on these days on earlier occasions, as would be apparent from the Attendance Register.



**PARAWISE REPLY**

3) That with regard to statement made in paragraphs 4.1 and 4.2 of the OA, the answering respondents beg to offer no comments.

4) That with regard to the statement made in paragraph 4.3 of the OA, the respondents beg to state that the statement is not agreed to. The applicant was involved in so many criminal acts, as it is evident that on 4/10/2001 he had assaulted (L) Bishan Lal, Syce severely at his residence and stabbed him with a knife. A complaint was received against him from the wife of late Bishanlal on 6/10/01, stating that the quarrel took place for not paying the amount of milk supplied to the Depttl. Canteen, NEPA. A report was lodged in the Umiam P.S. on 6/10/01 in this regard and the applicant was arrested by the Police on 8/10/01 at 10.30 p.m. from his quarter and kept under judicial custody from 8/10/01 to 30/10/01, as per the report given by the Officer-in-charge, Umiam Police Station.

Copy of the report arrested by O.C. Umiam, P.S. is hereby annexed as Annexure-'A'.

Accordingly, the applicant was under suspension from the date of his arrest i.e. 8/10/01 vide Order No. NEPA/PF©/2/90/3639-43 dt. 17/10/01 for three months.

Copy of the suspension order dt. 17/10/01 is annexed herewith as Annexure 'B'.

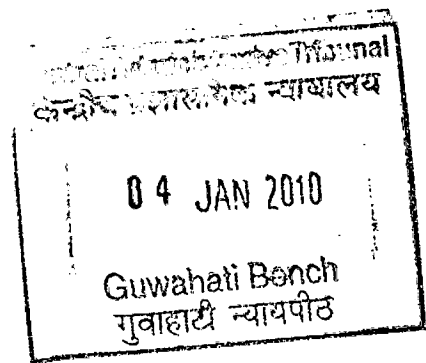
Another instance is that due to his misappropriation of Govt. money and non-maintenance of Cash Book and other related documents of NEPA Depttl. Canteen from 27/8/04 to 31/1/2005 he was punished by reducing his increment by (two) stages from Rs. 4300/- to Rs. 4100/- vide order No. NEPA/PF©/2/90/Inquiry/7075-78 dt. 27/2/06.

Copy of the order dt. 27/2/06 is annexed herewith as Annexure 'C'.

Also an inquiry was ordered for disturbing peace and tranquility in NEPA campus by picking up a quarrel with Sh R K Ghosh, Halwai, NEPA, wherein local police intervened for which the applicant had admitted his guilt and compromised with the complaint dt.9/6/08.

Director  
North Eastern Police Academy  
Umsaw : Umiam





Compromise agreement dt. 9/6/08 is annexed herewith as Annexure 'D'.

Therefore, the statement raised by the Applicant is completely baseless and is far away from the truth.

5) That with regard to the statement made in paragraphs 4.4 and 4.5 of the OA, the respondents beg to offer no comment.

6) That with regard to the statement made in paragraphs 4.6. to 4.12 of the OA, the respondents reiterate the statements made in paragraph 4 above and beg to submit that the applicant was found absent on 10/04/2009 when the Attendance Register checked by the Director, NEPA on 10/04/2009 it was found that he had not signed on 8/4/2009 and signed for 10/4/2009 FN and AN and signed in advance for 11/4/2009 (FN).

An explanation was served to the applicant on 10/4/09 asking the reason that why disciplinary action should not be taken against him for his suspicious conduct and forgery with a direction to give reply by 17/04/2009. But, the delinquent refused to take the explanation letter saying that he was on election duty. For which a Departmental Enquiry is instituted vide orders No. (1) NEPA/PF©/2/90/Vol-II/3036 dt. 23/6/2009 & (2) NEPA/PF©/2/80/Inquiry/6745-47 dt. 3/11/2009.

On 4/5/2009, when the Director, NEPA called him to discuss some official matters, he was found absent from 21/4/2009 and when the personal file was checked it was found that he was absenting himself from duty without authority/permission and also observed that he is regularly committing some acts or the other, which are prejudicial to the work atmosphere in the Canteen as well as the Academy. Therefore, he was asked to explain against suspension, pending disciplinary action, for sending an application his illness, without supporting documents and absenting willfully without authority or permission, with a direction to submit the reply by 7/5/2009.

Director  
North Eastern Police Academy  
Imphal

On 7/5/09, the applicant submitted his explanation which was not convincing, and did not answer the charges satisfactorily. Moreover, as per prescriptions attached, he was advised 10 days rest from 23/4/2009, whereas he was absent from duty from 3/5/2009. Therefore, the absence period from 21/4/2009 to 1/5/2009 for 11 days in respect of the Petitioner was treated as 'Dies-non'.

However, pursuant upon the direction of Hon'ble CAT, Guwahati Bench, the whole period had been examined afresh. Taking a generous view, the period of unauthorized absence from 21/4/2009 to 1/5/2009 (Dies-non) and from 3/5/09 to 10/5/2009 (pay held up) had been regularized by granting 11 days E/L from 21/4/09 to 1/5/09 and granted 1 (one) day E/L/ for 3/5/2009, rest 7 days from 4/5/09 to 10/5/09 had been regularized by granting EOL on M/C as he had no other leave to his credit upto June, 2009.

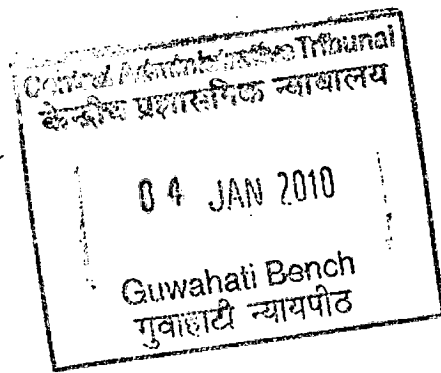
7) That with regard to the statement made in paragraph 4.13 of the OA, the respondents beg to submit that the statement is not correct. The applicant tried to mislead the Hon'ble CAT, as the Circular dtd. 4/5/2009 was issued for the office staff only, not for Canteen staff. For Canteen staff there were two separate orders (1) NEPA/Director/2009/5117-20 dt. 16/3/2009 and (2) NEPA/JD-3/2009/199-03 dt. 8/4/2009, where it is mentioned that the Library and Depttl. Canteen will remain open on 2<sup>nd</sup> Saturdays/Sundays and holidays.

The applicant, knew this and had been working on 2<sup>nd</sup> Saturdays after the issue of the orders, earlier also. As the Attendance Register bears out, in the month of July and August on 11/07/09 and 8/8/09, worked, which were 2<sup>nd</sup> Saturdays respectively.

Copies of the Orders dt. 16/3/2009 and 8/4/2009 are annexed herewith as Annexure "E & F".

8) The order dtd. 16/3/09 and 8/4/09 also suggests that, while working on holidays(Saturdays & Sundays), the employees concerned could take a day off, on any of the week days. As such, the working requirement on 12<sup>th</sup> September (2<sup>nd</sup> Saturday) was under the

34-  
2010  
Guwahati Bench  
11/07/09  
Director  
North Eastern Police Academy  
Guwahati



-6-

previous orders, which is substantiated, by the petitioner, earlier working on 2<sup>nd</sup> Saturdays in the previous two months as per the Attendance Register.

The applicant has taken a day off in lieu of working on these days on earlier occasions, as would bear out from the Attendance Register.

9) That with regard to the statement made in paragraph 4.16 of the OA, the respondents beg to state that in his explanation dtd. 15/9/09, the applicant showed that he took a day off on 6/9/09 (Sunday), but in the Attendance Register, he has marked himself present. Similarly, on 30/08/09, he had stated that he had taken a day off, but he had marked himself present.

Since, the applicant has the Attendance Register under his custody, he keeps manipulating things in his favour, and also altering the attendance by putting whitener, which can be seen in the original copy of the Attendance Register.

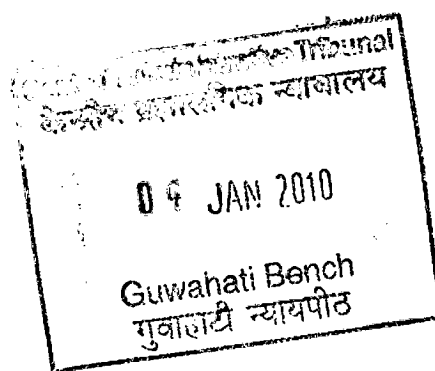
Therefore, most humbly it is prayed that since the petitioner, willfully absented himself on 12<sup>th</sup> Sept, 2009, neither having been granted a weekday off for that day nor had obtained permission to avail the holiday, his absence was treated as unauthorized absence from duty. Hence, under the provision of F.R 17 (1), the day was treated as dies non vide this office order dt. 8/10/2009.

Copy of the Order dt. 8/10/2009  
is annexed herewith as Annexure  
'G'.

10) That with regard to the statement made in paragraph 4.17 of the OA, the respondents beg to reiterate and reaffirm the statement made in paragraph 7 above.

11) That with regard to the statement made in paragraph 4.18 of the OA, the respondents beg to reiterate and reaffirm the statement made in paragraph 9 above.

Director  
North Eastern Police Academy  
Umsay, Itanagar

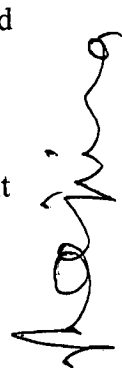


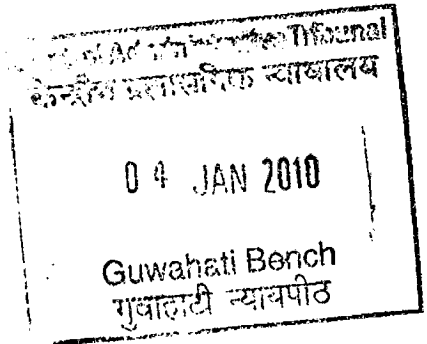
12) Since, the applicant was absent from duty willfully, therefore, the order dt. 8/10/2009 of this Academy is not liable to be set aside. Rather, the Hon'ble Tribunal may kindly uphold this Respondent's order dt. 8/10/09, in the interest of discipline and equity.

13) That with regard to the paragraphs 5.1 to 5.8 of the OA, the respondents beg to submit that in view of the facts narrated above all the grounds are not sustainable in the eye of law, hence the present original application is liable to be dismissed with costs.

14) That with regard to the statement made in paragraph 8 (i to iv) of the OA, the respondents beg to submit that in view of the submissions made above the applicant is not entitled to any relief(s) as sought in the instant OA, hence OA is liable to be dismissed with costs.

15) That in view of the reasons and circumstances stated above, the answering respondents most humbly pray, that the Hon'ble Tribunal may kindly be pleased to dismissed the instant Original Application with costs.

  
Director  
North Eastern Police Academy  
Umsaw : Umiam



VERIFICATION

I Rajiva Ranjan Verma aged about

53 years at present working as Director, NEPA who is one the

respondents and taking steps in this case, being duly authorized and competent to sign this

verification for all respondents, do hereby solemnly affirm and state that the statement made

in paragraph 1 to 6, 8, 10 to 15 Are true to my knowledge and belief,

those made in paragraph 4, 7, 9 being matter of records, are

true to my information derived there from and the rest are my humble submission before this

Humble Tribunal. I have not suppressed any material fact.

And I sign this verification this 01/01/ day of 2010 at NEPA

DEPONENT

Director  
North Eastern Police Academy  
Umsaw : Umiam

04 JAN 2010

Annexure - A

(App 10/11)

The District Guwahati Bench  
of North East Police Academy, Umsaw  
Ri Bhoi Street.

Subj: Information regarding the arrest of  
Shri Biswajit Bhuyan.

Ref: Umiyam P.S Case No. 29(10)2001  
u/s 326 IPC.

With reference to the above I have the  
honour to inform you that Shri Biswajit  
Bhuyan s/o Shri A.C. Bhuyan of NEPA Umsaw  
was arrested and forwarded to judicial cus  
as he is involved in connection with the abo  
referred case. Investigation is in progress.

Submitted for favour of your kind in  
formation and necessary action.

Date of Arrest - 8-10-01 @ 10.30 pm.

Date of forwarding ~~custody~~ to judicial custody - 8-10  
@ 12.30 pm.

Yours Faithfully

Unh'bid to be  
true copy  
4-1-0 2010

3983

Officer-in-Charge  
Police Station, Umiyam.

Government of India  
Ministry of Home Affairs  
North Eastern Police Academy  
Umsaw, 795 123, Umiam, Meghalaya

No. NEPA/PF(C)/2/90/3629-43 Dtd. Umsaw, the 17 Oct. 01.

O R D E R

Whereas a case against Shri Biswajit Bhuyan, Canteen Manager, NEPA Departmental Canteen in respect of a criminal offence is under investigation/inquiry for being arrested on 08/10/2001 at 10.30 P.M. by I/C Police Station, Umiam (Ri-bhoi District) Meghalaya under Section 326 IPC in Case No. 29(10) of 2001.

Now, therefore, the undersigned in exercise of the powers conferred by Rule 10(1) read with sub-rule (2) of Rule 10 of the Central Civil Services (Classifications, Control and Appeal) Rules, 1955, under suspension with effect from 08/10/2001 i.e. the date of his arrest.

It is further ordered that during the period that this order shall remain in force the Headquarters of Shri Biswajit Bhuyan, Canteen Manager, NEPA Departmental Canteen, should be at NEPA, Umsaw, Umiam, Meghalaya on his release from judicial custody and the said Shri Biswajit Bhuyan, Canteen Manager, NEPA Departmental Canteen, shall not leave his Headquarters without obtaining the prior permission of the competent authority.

(H K Mazumdar)  
Deputy Director (A)

Dtd. Umsaw, the 17 Oct. 01.

Memo No. NEPA/PF(C)/2/90/

Copy to :-

1. Shri Biswajit Bhuyan, Canteen Manager, NEPA Departmental Canteen, Umsaw, Meghalaya, C/O I/C Umiam Police Station (Ri-bhoi District), order regarding subsistence allowance admissible to him during the period of his suspension will be issued separately.
2. The I/C, Umiam Police Station (Ri-bhoi Distt.) Meghalaya to handover the copy of this order endorsed to Shri Biswajit Bhuyan, Canteen Manager, NEPA Departmental Canteen, Umsaw, Umiam, Meghalaya.
3. P A to Director for Director's info. please.
4. The A/cs Section, NEPA, Umsaw, Meghalaya.
5. The I/C, NEPA Deptt. Canteen, Umsaw, Meghalaya.



(H K Mazumdar)  
Deputy Director (A)

Original  
2010  
Bench  
copy  
2010

- 11 -  
Government of India  
Ministry of DONER  
North Eastern Police Academy  
Umsaw, 793 123, Umiam, Meghalaya

Annexure C"

(App'D' vi) 59

No. NEPA/PFC/ 2/90/Inquiry/

Dt. Umsaw, the \_\_\_ Feb. 06.

ORDER

Shri Biswajit Bhuyan, Canteen Manager, NEPA Departmental Canteen was charge sheeted vide this office Memorandum No. NEPA/PFC/2/90/Inquiry/5034 dt. 30/11/2005 supported by statement of Article of charges regarding misappropriation of Govt. money and non-maintenance of Cash Book and other related documents of NEPA Departmental Canteen from 27/8/04 to 31/1/2005.

Shri Biswajit Bhuyan, Canteen Manager, NEPA has accepted both the charges and offered unconditional apology.

The undersigned has carefully examined the pros-and-cons of the issue. Irregularities and negligence in discharging of duties with dishonest motive amounts to gross misconduct deserving major penalties. However, the undersigned keeping in view the unqualified and unconditional apology offered realizing his guilt and having regard to his deplorable economic status and future of his children and on the strength of his assurance given for better conduct, the undersigned takes a lenient view.

Under the provision of Central Civil Services (Classification, Control and Appeal) Rules, 1965, it is ordered that the pay of Shri Biswajit Bhuyan, Canteen Manager, Depttl. Canteen be reduced by 2(two) stages from Rs. 4300/- to Rs. 4100/- in the time scale of pay of Rs. 4000-100-6000/-p.m. for a period of 2(two) years with effect from 1/3/06 to 28/2/08. It is further decided that Shri Biswajit Bhuyan, Canteen Manager, Depttl. Canteen will not earn increments of pay during the period of reduction and that on the expiry of this period the reduction will have the effect of postponing his future increments of pay. Thus Shri Biswajit Bhuyan, Canteen Manager will draw his pay from 1/3/08 to 31/7/08 @ Rs. 4300/-p.m.(Basic pay) with DNI on 1/8/08.

sd/-  
(T Pachau, IPS)  
Director

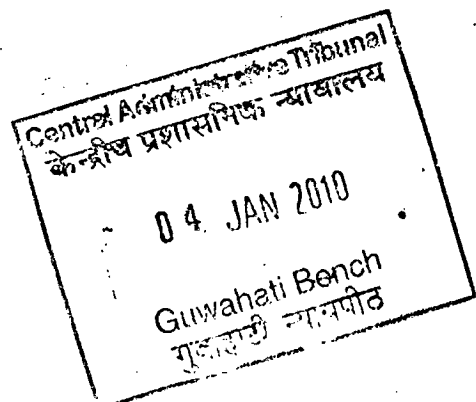
Memo No. NEPA/PFC/ 2/90/Inquiry/  
Copy to :

7075-78.

Dt. Umsaw, the 27 Feb. 06.

1. Shri Biswajit Bhuyan, Canteen Manager, Departmental Canteen, NEPA, Umsaw, Umiam, Meghalaya.
2. The Sr. Accounts Officer, RPAO(IB), Shillong.
3. Accounts Section, NEPA, Umsaw, Meghalaya.
4. Service Book.
5. Office Order File.

(T Pachau, IPS)  
Director



Certified to be  
be true copy  
4-1-2010



- 12 -  
- 43 -

Annexure "2"  
(App "0" xij) (6.1)


## AGREEMENT

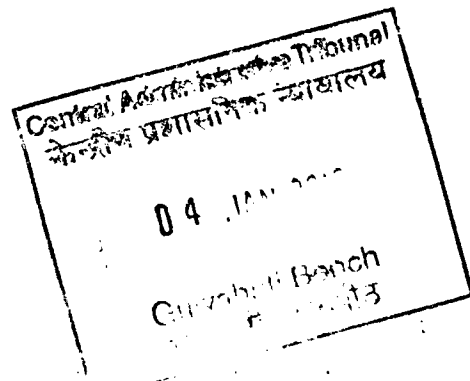
I, Shri Biswajit Bhuyan, S/o Sh. A C Bhuyan, Canteen Manager, Deptt. Wet Canteen of North Eastern Police Academy, Umsaw, do hereby apologise before the O/C Umiam Police Station for my guilt against the F.I.R. lodged against me for disturbing peace and tranquility by complainant Shri Ramesh Chandra, Hindi Officer as directed by the Director, NEPA for the incident which took place on 7/6/08 around 7.30 p.m. within the campus.

It is to be noted that there was a quarrel between Mr. R K Ghosh (Halwai) on 5/6/08 at around 7.30 P.M. The quarrel happened regarding leakage of Gas in the Canteen, due to negligency of Sh. R.K. Ghosh and in this regard I have already informed the authority on 28/4/08.

Due to reporting the above noted matter Shri R K Ghosh and his son Shri Rajat Ghosh, Constable NEPA charged me. It is a fact that we argued with each other but 3<sup>rd</sup> person son of my colleague who is not at all an employee of the Canteen and who belongs to separate branch interfered in between and shouted at me without knowing anything which is unbecoming of 2 separate govt, employees.

However, I admit my guilt and humbly request to the O/C Umiam P.S. not to register a regular case against me as I am giving my agreement and promised not to repeat such activities in future.

  
(Biswajit Bhuyan)  
Canteen Manager  
Deptt. Wet Canteen, NEPA  
Umsaw, Meghalaya



Certified to be  
true copy  
@  
4-1-2010

Annexure "E"

North Eastern Police Academy  
Govt of India  
Ministry of Home Affairs  
P O Umsaw, Meghalaya

No. NEPA/DIRECTOR/2009/ 5117-20 Dated, Umsaw, the 16/03/2009.

ORDER

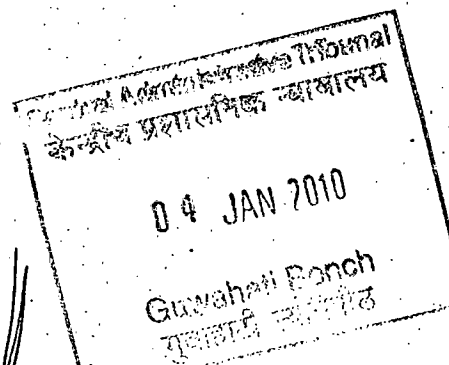
The Deptt. Canteen and Library of NEPA will remain open on every Sunday from 1100 hrs. to 1600 hrs. for the trainees staff and families living in the NEPA Campus. The staff of Deptt. Canteen and Library may avail one day weekly off mutually one by one. This order will effect from the date of issue of this order.

(R R Varma, IPS)  
Director

Copy to-

1. Sh. P R S Vijay Raj, Jr. Director for information
2. Sh. S N Sharma, Librarian & Staff - for information and necessary action
3. Sh. B. Bhuyan, Canteen Manager & Staff - for information and necessary action
4. Esstt. Section, NEPA
5. Notice Board

(R R Varma, IPS)  
Director



Certified to be  
true copy  
4-1-2010

-14-  
Govt. of India  
Ministry of Home Affairs  
North Eastern Police Academy  
Umsaw : 793 123 : Umiam  
Meghalaya

Annexure "F"

No.NEPA/JD-3/2009/ 199-03

Dtd..08/4/....2009

**ORDER**

While referring to the Order No. NEPA/ Director / 2009 / 5434-38 dtd 23/03/09, it was decided to open the NEPA Library and The Deptt. Canteen till 7.30 p.m. to facilitate the trainees. But, it was found that a negligible no. of trainees have availed this facility of Library as well as Departmental Canteen.

Therefore, it is decided that, the above mentioned order is cancelled and directed that the NEPA Library and the Deptt. Canteen will open at 0930 hrs till 1800 hrs. everyday.

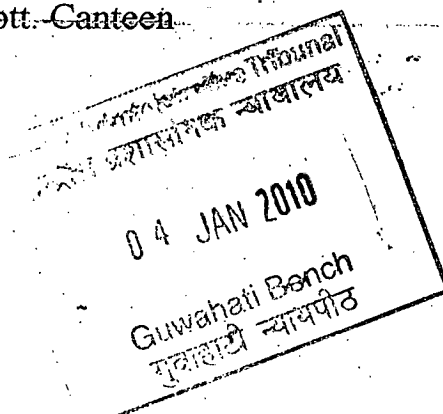
However, the Library and Deptt. Canteen will remain open on 2<sup>nd</sup> Saturdays / Sundays and holidays as ordered earlier.

(R.R. Verma,IPS)  
Director

Copy to -

1. Sh.PRS Vijay Raj, Jt. Director for information.
2. Sh. P K Bhattacharya, O/Supdt
3. Sh. S N Sharma, Librarian
4. Sh. B. Bhuyan, C/ Manager, NEPA Deptt. Canteen
5. Notice Boards

w/n



-15-

Annexure - 11

Annexure G

4b-

North Eastern police Academy  
Ministry of Home Affairs  
Government of India  
Umsaw, 793 123, Umi

NO.NEPA/PF©/2/90/V.II/ 5979-81

Dtd, Umsaw the 8th Oct'2009

**ORDER**

Under the provision of Rule 11, para 6 of CCS (Classification, Conduct & Appeal) Rules 1965, the absence from duty is not justified for 12/9/2009 and hence, it is unauthorized absent from duty in respect of Sh. Biswajit Bhuyan, Canteen Manager which is treated as 'Dies Non' and two days absence i.e on 11/9/09 & 13/9/09 is regularized on compensatory ground.

These day does not construe break in service, but only the day treated as "Dies-non" is not counted as duty.

*(Signature)*  
07/10/09

( R. R. Verma, IPS )

Director

Dtd, Umsaw the 8th Oct'2009

NO.NEPA/PF©/2/90/V.II/

Copy to :

- 1 The individual concerned.
- 2 The Account Section, NEPA, Umsaw.
- 3 Personal File.

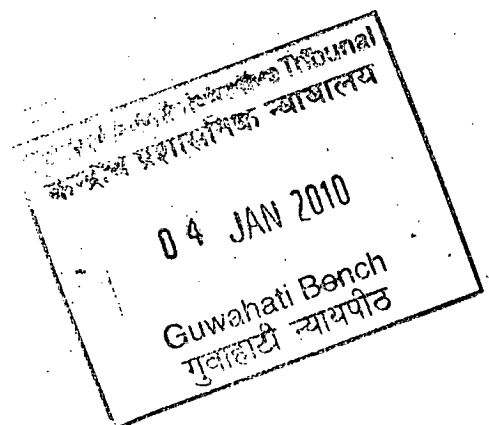
*(Signature)*  
07/10/09

( R R Verma, IPS )

Director



*(Handwritten initials)*



NORTH EASTERN POLICE ACADEMY  
Government of India  
Ministry of Home Affairs  
Umsaw, Umiam - 793 123 (Meghalaya)

No. B.11012/1/86/Estt/ 5904-05

Dt. Umsaw, the 07-October'09

To,

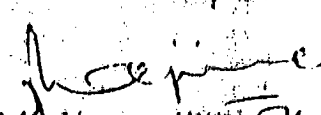
Shri J.K. Dwivedi,  
A.D (Law),  
Officer In-charge of Departmental Canteen,  
NEPA.

Sub: Attendance of Departmental Canteen staff.

It is noticed that staff of Departmental Canteen, specially Canteen Manager are not attending their duty properly. They are found roaming outside the campus, during duty hours.

As Departmental Canteen In-charge your supervision is not upto the mark. Henceforth, attendance for Departmental Canteen staff will be maintained by you 3 times daily and attendance register will be in your custody. You are also, directed to put up the attendance register every Monday for perusal of the undersigned.

Further, if any staff is working on Sunday or any other holiday, the compensatory holiday in lieu of working on Sunday will be fixed by yourself and not by Canteen Manager.

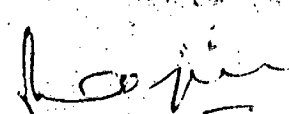
  
(R.R. Verma, IPS)  
Director

Memo No. B.11012/1/86/Estt/

Dt. Umsaw, the 07-October'09

Copy to:

✓ Canteen Manager for information and strict compliance.

  
(R.R. Verma, IPS)  
Director



Government of India  
Ministry of Home Affairs  
North Eastern Police Academy  
Umsaw, 793 123, Umiam, Meghalaya

No. NEPA/PFO/2/90/Vol-II/ 8615

Dt. Umsaw the 18 Dec, 09.

To,

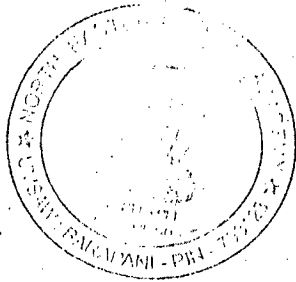
Shri Biswajit Bhuyan,  
Canteen manager,  
(Departmental Canteen),  
NEPA, Umsaw, Meghalaya.

Sub :- Summon.

To day on 18/12/2009, you were found absent from duty without prior permission/sanction of leave.

During the meeting it was ordered that you should take responsibility to prepare of 300 food packets, including puri, sabji and sweet to be served in P.O.P. function on 19/12/2009 in the early morning, but without any responsibility you have absented yourself from duty, which is gross negligence and misconduct as per CCS Conduct Rule.

However, you are directed to come on duty immediately i.e. on 18/12/2009 (2<sup>nd</sup> half) so that the preparation of said items could be completed in time for serving to the guest in the eve of P.O.P.



( R R Verma IPS )  
Director 18/12/09

Government of India  
Ministry of Home Affairs  
North Eastern Police Academy  
Umsaw, 793 123, Umiam, Meghalaya


No. NEPA/PFC/2/90/Vol-II/ 8657-59

Dt. Umsaw, the 21 Dec, 09.

ORDER

During the meeting i.e. on 16/12/2009, responsibilities were given to Shri Biswajit Bhuyan, Canteen Manager, (Depttl. Manager), NEPA to prepare of 300 food packets to be served in P.O.P. function on 19/12/2009 in the early morning, but without any responsibility he is absent from duty on 18/12/2009, without prior permission/sanction of the competent authority.

Therefore, Pay and Allowances in respect of above individual is hereby held-up from 18/12/2009, i.e. from the date of his unauthorised absence from duty, until further order.

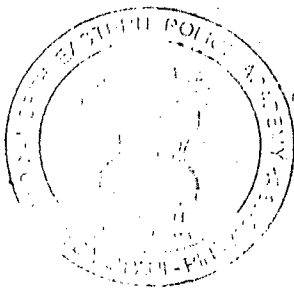
  
(R R Verma, IPS)  
Director

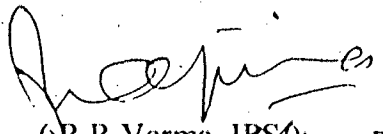
Memo No. NEPA/PFC/2/90/Vol-II/

Dt. Umsaw, the 21 Dec, 09.

Copy to :

1. The Individual concerned.
2. The Account Section, NEPA, Umsaw, Meghalaya
3. Office Order file.



  
(R R Verma, IPS)  
Director

Government of India  
Ministry of Home Affairs  
North Eastern Police Academy  
Umsaw, 793 123, Umiam, Meghalaya

No. NEPA/PF©/2/90/Vol-II/ 2717-

Dt. Umsaw the 22 Dec, 09.

To,

Shri Biswajit Bhuyan,  
Canteen manager,  
(Departmental Canteen),  
NEPA, Umsaw, Meghalaya.

Sub :- Summon.

Your application dt. 21/12/2009 applied for 2 days compensatory leave in lieu of 2 (two) Sundays i.e. on 13<sup>th</sup> and 20<sup>th</sup>, Dec, 2009 has been disallowed on account of your unauthorized absence from before, and also absenting from an important job of responsibility, on the date of P.O.P., and you are hereby directed to join on duty immediately without fail. You may avail your compensatory leave after joining your duty and applying for it lawfully.



*R R Verma*  
( R R Verma IPS ) 24/12/09  
Director



Government of India  
Ministry of Home Affairs  
North Eastern Police Academy  
Umsaw, 793 123, Umiam, Meghalaya

No. NEPA/PF©/2/90/Vol-II/ A

Dt. 31<sup>st</sup>, Dec, 09.

To,

✓ Shri Biswajit Bhuyan,  
Depttl. Canteen Manager,  
NEPA.

Sub :- Explanation

On 31/12/09, at about 1100 hrs, the undersigned called you in the faculty room and asked to show the documents like cash book, ledger etc. of the Departmental Canteen in presence of Dr. S. Gogoi, MO, Smti G Chanambam, AD (Lec), SI L M Rai and other staff members. After awaiting upto 1130 hrs, SI D C Biswas was sent to call you, who came back at 1135hrs and informed that you had left the premise and were un traceable.

This act of disobedience, in-discipline, dereliction of duty, non production of important documents and in-subordination are gross misconducts. Kindly explain as to, why you should not be placed under suspension with immediate effect, and departmental inquiry should be started, against you.

Your reply of explanation must reach the undersigned within 3 days time from date of receipt of this letter by you.



*R R Verma*  
( R R Verma, IPS ) 31/12/09  
Director

North Eastern Police Academy  
Government of India  
Ministry of Home Affairs  
Umsaw Umiam – 793 123, Meghalaya

No. NEPA/PF (C)/2/90/Vol-II/ 9004

dated. 01.1.01/2010

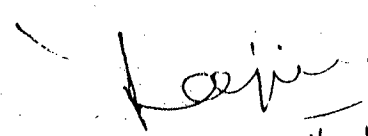
To, ✓  
Biswajit Bhuyan  
Canteen Manager  
Departmental Canteen  
NEPA

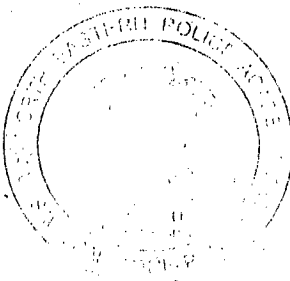
Sub: Explanation.

On 31/12/2009 you have left your work place at about 1130 hrs without any permission from the competent authority.

Explain the reason, why the unauthorized absence from duty should not be treated as **LEAVE WITHOUT PAY.**

Your reply must be submitted within 2 days time for further necessary action.

  
(R.R. Verma, IPS)  
Director 01/01/10



Government of India  
Ministry of Home Affairs  
North Eastern Police Academy  
Umsaw, 793 123, Umiam, Meghalaya

No. NEPA/PFC/2/90/Inquiry/ 9013- TC

Dt. Umsaw, the 02 Jan, 10.

ORDER

Whereas an inquiry under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, is being held against Shri Biswajit Bhuyan, Canteen Manager, NEPA.

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

Now, therefore, the undersigned in exercise of the powers conferred by sub-rule (5) © of Rule 14 of the said rules, hereby appoints Shri J K Dwivedi, Asstt. Director (Law) as the Presenting Officer.

*gdl*  
( R R Verma, IPS )  
Director

No. NEPA/PFC/2/90/Inquiry/

Dt. Umsaw, the 02 Jan, 10.

Copy to :

1. Shri J K Dwivedi, Asstt. Director (Law), NEPA, Umsaw, Meghalaya.
2. Smti G Chanambam, Asstt. Director (Lec), NEPA, Umsaw, Meghalaya.
- ✓ 3. Shri Biswajit Bhuyan, Canteen Manager NEPA, Umsaw, Meghalaya.
4. Office Order File.



*R R Verma*  
( R R Verma, IPS ) *01/01/10*  
Director

## PRESIDENT'S DECISION

In the case of Government servant, governed by the Revised Leave Rules, 1934, who remains absent after the end of his leave the period of such over-stayal of leave should, unless the leave is extended by the competent authority, be treated as follows:

- (a) If the officer is in superior service—
  - (i) as leave on private affairs to the extent such leave is due, unless the over-stayal is supported by a medical certificate;
  - (ii) as leave on medical certificate to the extent such leave is due, if the over-stayal is supported by medical certificate;
  - (iii) as extraordinary leave to the extent the period of leave due on private affairs and/or on medical certificate falls short of the period of over-stayal;
- (b) if the officer is in inferior service—as in (a) (ii) and (iii) above *mutatis mutandis*.

The Government servant is not entitled to leave salary during such over-stayal of leave not covered by an extension of leave by the competent authority.

[The Government of Assam have adopted the above decision in the case of their officer subject to the Revised Leave Rules, 1934.]

## NOTES

F. R. 73. The President's decision in this rule was substituted *vide* Correction Slip No. 53, and clause (a) (iii) was added *vide* Correction Slip No. 54.

## COMMENTS

## SYNOPSIS

- |                                   |     |   |     |
|-----------------------------------|-----|---|-----|
| 1. Absence without leave. . . . . | 132 | 2. Absence for continuous period of five years. . . . . | 133 |
|-----------------------------------|-----|---|-----|

1. **Absence without leave.**—For availing leave usually prior sanction is necessary. This is of course exception to casual leave and medical leave. Otherwise a Government servant must get his leave sanctioned in the first instance and then proceed. Even with regard to extension of leave, the Government servant must apply fairly in advance before the expiry of the leave originally granted. Absence without leave is also misconduct on the part of the employee for which action can be taken against him.

But where extraordinary leave is granted for a period of unauthorised absence it must be held that the employee's intentional absence has been regularised and no disciplinary action can be taken against him. *G. Papaul v. Asst. Director*, AIR 1976 AP 75.

Where an employee was granted leave initially and when further extensions of leave were refused the employee still stayed away on grounds of ill health, it was held that he had no right to remain away without necessary orders of the competent authority. The rules of natural justice cannot be relied upon to sustain such a right. Thus an employee cannot stay away from duty as of right without the sanction of the competent authority. *State of Punjab v. Krishna Murarilal Sehgal*, 1966 Cr Lj 968.

It has however been held that where an employee did not rejoin duty and submitted a letter praying extension of leave, he cannot be said to have abandoned his employment. *State of Haryana v. Phula Rani*, 1973 (1) SLR 237 (P&H). Where however Government employee after the leave as he was not allowed to join the post to which he was entitled, it was held

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that for the period of his overstay he is entitled to salary. *K. M. Subramaniam v. State of Madras*, AIR 1971 Mad 202.

Absence from duty without leave does not necessarily mean break in service or Government employee whose leave has been refused. *Bodhray v. State of Haryana*, 1972 SLR 475 (P & H) and *Sukumar v. State of West Bengal*, (1977) 1 SLR 775 (Cal). A person was removed from service on the ground of unauthorised absence from duty without leave. Subsequently, his absence was regularised by granting leave to him. He contended that as the leave has been granted to him subsequent to his removal it must be held that he was not absent unauthorisedly and therefore his removal was bad. The court rejected his argument and held that the subsequent act of the Government in granting leave to him was only intended to regularise the period of absence for some other purpose and cannot be understood to mean that his absence without leave was condoned. *State of M. P. v. Hari Hara Gopal*, 1969 SLR 274 (SC).

2. Absence for continuous period of five years.—In *Jai Shankar v. State of Rajasthan*, AIR 1966 SC 492, the Supreme Court has held that absence for a period exceeding five years is a fault on the part of the employee which may entitle Government in a suitable case to dismiss or remove him from service. Where the Government intends to proceed against the Government servant and dismiss him from service for his absence for a continuous period of five years or more, it is necessary to follow the procedure indicated in the C. C. A. Rules. The same view was reiterated by the Supreme Court in *Drohanandan Prasad v. State of Bihar*, AIR 1971 SC 1409. In cases where the Government servant absents himself from duty wilfully without any grant of leave, such absence can be treated as 'dies non' under F. R. 18, apart from taking disciplinary action under the C. C. A. Rules, if the Government so think fit. For purposes of F. R. 18, the absences should be wilful whereas continued absence due to physical or mental disability cannot be dealt with under this rule.

#### GOVERNMENT OF INDIA INSTRUCTIONS

(For guidance only)

I. Over-stayal of extraordinary leave—Action can be taken.—Doubts were raised in certain quarters as to how the cases in which an official overstays the prescribed quantum of extraordinary leave, should be dealt with. The matter has been considered in consultation with the Department of Personnel and the Ministry of Finance, Department of Expenditure. It has been clarified that the amendments does not take away the power of the disciplinary authority to take appropriate disciplinary action for any misconduct and impose one of the penalties under C. C. S. (C. C. A.) Rules, 1965. Action can, therefore, be taken under these rules for unauthorised absence from duty or over-stayal of leave even for one day, treating it as misconduct, if the facts and circumstances of the case warrant such an action.

II. Wilful absence from duty—its treatment.—Wilful absence from duty, even though not covered by grant of leave does not entail loss of lien. The period of absence not covered by grant of leave shall have to be treated as "dies non" for all purposes, viz., increment, leave and pension. Such absence without leave where it stands singly and not in continuation of any authorised leave of absence will constitute an interruption of service for the purpose of pension and unless the pension sanctioning authority exercise its powers under Article 421, Civil Service Regulations [now Rule 27 of The Central Civil Services (Pension) Rules] to treat the period as leave without allowance, the entire past service will stand forfeited.

III. Unauthorised absence from duty or over-stayal of leave—Action could be taken.—The following decision have been taken in consultation with the Department of Personnel and the Ministry of Finance—

1. D. G. P. & T's. Letter No. 6/28/70-Disc. I, Dt. 10-2-1972

2. C & A. G., U. O. No. 1947-A/438-58, Dt. 12-9-1958, in G. L. M. F., File No. 11-(52) L. 1/58.

3. D. G. P. & T's. Letter No. 6/28/70-Disc. I (SPB-I), Dt. 5-10-1972

- (i) When a temporary Government servant asks for leave in excess of the limits prescribed under Rule 14(b) of the Revised Leave Rules, 1933 [now Rule 32 of the Central Civil Services (Leave) Rules, 1972] and if the circumstances are exceptional, decision could be taken by the leave sanctioning authority to grant further leave in excess of the limits in consultation with the Ministry of Finance. Such cases should be referred to the Directorate.
- (ii) When a Temporary Government servant applies for leave beyond the prescribed limit of extraordinary leave and the leave sanctioning authority is not satisfied with the genuineness of the grounds on which further leave has been asked for, nor does it consider the grounds as exceptional, the leave cannot be granted. In such a case the Government servant should be asked to rejoin duty within a specified date failing which he would render himself liable for disciplinary action. Disobedience of orders to rejoin duty within the specified period would afford good and sufficient reasons for initiating disciplinary action under C.C.S. (C.C.A.) Rules, 1965. If he rejoins duty by the stipulated date, he may be taken back to service and the period of absence not covered by leave be treated as over-stayal of leave and dealt with in accordance with the orders regarding regularisation of overstayal of leave.

If the Government servant does not join duty by the stipulated date it would be open to the disciplinary authority to institute disciplinary proceedings against him. If during the course of disciplinary proceedings he comes for rejoining duty, he should be allowed to do so without prejudice to the disciplinary action already initiated against him (unless he is placed under suspension) and the disciplinary action concluded as quickly as possible. The question of regularisation of the period of overstayal of leave be left over for consideration till the finalisation of the disciplinary proceedings.

- (iii) If a Government servant absents himself abruptly or applies for leave which is refused in the exigencies of service and still he happens to absent himself from duty, he should be told of the consequences, viz., that the entire period of absence would be treated as unauthorised entailing loss of pay for the period in question under proviso to Fundamental Rule 17, thereby resulting in break in service. If, however, he reports for duty before or after initiation of disciplinary proceedings, he may be taken back for duty because he has not been placed under suspension. The disciplinary action may be concluded and the period of absence treated as unauthorised resulting in loss in pay and allowances for the period of absence under proviso to F. R. 17(1) and thus a break in service. The question whether the break should be condoned or not and treated as *dies non* should be considered only after conclusion of the disciplinary proceedings and that too after the Government servant represents in this regard.

2. It is made clear that a Government servant who remains absent unauthorisedly without proper permission should be proceeded against immediately and this should not be put off till the absence exceeds the limit prescribed in rule 32 (2) (a) of the C. C. S. (Leave) Rules, 1972. However, the disciplinary authority should consider the grounds adduced by the Government servant for his unauthorised absence before initiating disciplinary proceedings. If the disciplinary authority is satisfied that the grounds adduced for unauthorised absence are justified, the leave of the kind applied for and due and admissible may be granted to him.

F.R. 74. Subject to any direction which may be given by the Auditor-General of India in order to secure efficiency and uniformity of audit, the

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State Government may make rules prescribing the procedure to be followed in and out of India—

- (i) in making application for leave and for permission to return from leave ;
- (ii) in granting leave ;
- (iii) in the payment of leave-salary ; and
- (iv) in the maintenance of record of service.

**Note.** Appendices 13 and 14 contain respectively the rules made (1) by the Auditor-General of India ; and (2) by the President prescribing the procedure to be followed elsewhere than in India.

The latter rules have also been adopted by the State Government as applicable to persons serving in connection with the affairs of the State.

#### *Leave accounts*

**S. R. 70.** The leave account required by F. R. 76 shall be maintained in such form as the Auditor-General of India may prescribe.

**Note.** The form prescribed by the Auditor-General of India for leave account of Government servant under the ordinary leave rules in Assam Fundamental Rules, Form No. 1.

**S. R. 71.** The leave account of a gazetted Government servant shall be maintained by, or under the direction of, the Accountant General, Assam.

**S. R. 72.** The leave account of a non-gazetted Government servant shall be maintained by the head of the office in which he is employed.

**Exception.** No leave account need be maintained for the members of the Collie Corps establishment in the Sadia and Balipara Frontier Tracts.

#### *Application for leave*

**S. R. 73.** Except as provided in sub-rule 74 and 75 an application for leave or for an extension of leave shall be made to the authority competent to grant such leave or extension through the immediately superior, if any. Applications for leave should be submitted in Assam fundamental rules, form No. 2.

**S. R. 74.** Where the authority competent to grant the leave is the Government, the application for leave shall be forwarded through the ordinary channel to the Commissioner of Divisions or the head of the Department, who after recording his own recommendation will forward the application to the Comptroller for submission to Government with the report required under sub-rule 62.

**S. R. 75.** An application by a commissioned Medical Officer in permanent or temporary civil employ for leave exceeding four months, other than leave on medical certificate, or for an extension of such leave, must be submitted to the local administrative Medical Officer by whom it will be forwarded to the Director General Indian Medical Service. The Director General will countersign the application if the state of the public service admits of the grant of the leave : otherwise he will abstain from countersigning it. In either case he will forward the application for disposal of the authority competent to grant the leave.