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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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R.A./CP/NO.....2015

E.P./M.P./NO.....2019

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Filed by H. Banishya.

02/07/2015
SECTION OFFICER (JUDL.)

02.7.2015

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

1. ORIGINAL APPLICATION No : ----- 252 / 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) : ----- Binoy Kr. Mishra -----

Respondent (S) : ----- M.O.I Gork -----

Advocate for the : ----- In person -----
{Applicant (S)}

Advocate for the : ----- CGSC -----
{Respondent (S)} -govt. adv. Assam

Notes of the Registry	Date	Order of the Tribunal
<p>1. ORIGINAL APPLICATION No. 252/2009 B. No. 11/2009 C. No. 11/2009 No. 296/4423.62 Dated 26.11.09</p> <p>Dy. Registrar</p> <p>Steps taken along with envelops. copy served.</p> <p><u>27.11.09</u></p> <p><u>80 (1)</u></p> <p>Copy of notices along with order dt. 1/12/09 send to D/Sec. for issuing to the R-4 by regd. A/D post. D/No - 12824 12/09. Dt = 7/12/09.</p>	<p>01.12.2009</p>	<p>None appears for Applicant despite second call. In such circumstances, we have perused the O.A. and find that grievance of Applicant is despite reminders the Respondents have not been regularized his alleged absence. We have noticed vide communication dated 15.03.2009, office of the Accountant General (A&E), Assam required the State Government to modify certain orders which has not yet been communicated.</p> <p>Issue notice to Respondent No.4. alone as Mrs. M.Das accepts notice for Respondent No.1, while Mr. M. K. Boro, learned Addl. Standing Counsel accepts notice on behalf of Respondents No. 2 & 3</p> <p>List on 05.01.2010.</p>

O.A..252of 09

① Service report awaited.

4.01.2010

5.1.2010

List the matter along with O.A.No.208 of 2009 on 13.1.2010. Rejoinder, if any, may be filed by the Applicant before the next date.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/lm/

5.1.2010

List the matter along with O.A.No.208 of 2009 on 13.1.2010. Reply may be filed by the Respondents before the next date.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/lm/

No. W/s filed.

12.1.2010

13.01.2010

On the written request of applicant that he will be proceeding on leave from 15.2.2010 to 4.3.2010 the case is adjourned to 10.3.2010.

(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

/pg/

No W/s filed.

10.3.2010

11.03.2010

List along with O.A. No. 208 of 2009 on 31.03.2010.

(Mukesh Kumar Gupta)
Member (J)

/pb/

30.3.10

no W/s filed.

31.03.2010

For the reasons recorded separately, this O.A. is allowed. No costs.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/bb/

27-4-2010

Judgment/Final order dated 31-3-2010 before and sent to the D/Sdorm for issuing the respondents' applicant and issued to Advocate for the both sides.

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application Nos. 208 & 252 of 2009

Date of Decision: This, the 31st day of March 2010.

HON'BLE SHRI MUKESH KUMAR GUPTA, JUDICIAL MEMBER

HON'BLE SHRI MADAN KUMAR CHATURVEDI, ADMINISTRATIVE MEMBER

Shri Binay Kumar Mishra
S/O Shri Jagdish Mishra
Director Prosecution, Assam
Near CID Office,
Ulubari, Guwahati – 7.

...Applicant in both O.A.s

By Advocate: In person

-Versus-

1. The Union of India
represented by the Joint Secretary (Police)
Ministry of Home Affairs
Govt. of India, New Delhi.
2. The Govt. of Assam
represented by the Chief Secretary
to the Govt. of Assam
Dispur, Guwahati – 6.
3. The Principal Secretary
to the Govt. of Assam
Home Deptt.
Dispur, Guwahati – 6.

...Respondents in O.A. 208 of 2009

By Advocate: Mr.M.K.Boro, Addl.C.G.S.C. for Respondent No.1 &
Mrs.M.Das for Respondent Nos.2 & 3

1. The Union of India
represented by the Joint Secretary (Police)
Ministry of Home Affairs
Govt. of India, New Delhi.
2. The Govt. of Assam
represented by the Chief Secretary
to the Govt. of Assam
Dispur, Guwahati – 6.
3. The Principal Secretary
to the Govt. of Assam
Home Deptt., Dispur,
Guwahati – 6.

4. The Accountant General
Assam, Maidamgaon
Guwahati – 19.

...Respondents in O.A. 252 of 2009

By Advocate: Mr.M.K.Boro, Addl.C.G.S.C. for Respondent No.1 & 4
Mrs.M.Das for Respondent Nos.2 & 3

ORDER (ORAL)

MUKESH KUMAR GUPTA, MEMBER (J):

Vide O.A. No.208/2009, applicant challenges validity of memorandum dated 11.02.2009 issued under Rule 8 of all India (Discipline & Appeal) Rules, 1969 with all consequential benefits. He also seeks regularization of certain period which is not connected with aforesaid memorandum. Vide O.A. No. 252/2009, he seeks direction to respondent nos.2 and 3 to regularize the period between 21.07.2005 to 21.09.2005 and 07.12.2005 to 06.02.2006. He also seeks direction to respondent no.4 to issue pay slip for aforesaid period and release annual increment due besides costs.

2. Admitted facts are Sri B.K.Mishra, applicant in these two O.A.s is a member of Indian Police Services. While posted as Commandant, 5th AP Battalion, Sontilla, Haflong, he was unfortunately embroiled in family dispute with his wife (Smt Rashmi Mishra). While on central deputation at Delhi, his ⁹strange wife allegedly entered the flat occupied by him and some scene was created. He proceeded on 7 days casual leave in anticipation of being sanctioned. He informed this aspect vide letter sent by fax on 20.05.2005. He assumed the duties on 02.06.2005. On assumption of duties he learnt that his prayer for grant of 7 days casual leave had been turned down without assigning any reason. He was also placed under suspension w.e.f. 21.07.2005 i.e., the date of detention in connection with

case No.4721/2001 and C.R. No.2184 of 2002, vide order issued on 11.08.2005. Said suspension was revoked on 19.09.2005. Aforesaid crime cases filed by his ⁹strange wife were later dismissed by the learned Court of Additional Chief Judicial Magistrate, Kamrup, Guwahati on 16.12.2006 and 22.02.2007 respectively. He was once again placed under suspension on 07.12.2005 in contemplation of departmental proceedings. Said suspension was revoked ¹⁰on 07.02.2006 and thereafter vide order dated 13.04.2006 he was posted as Commandant of 16th AP (I/R) Bn, Bormonipur, Morigaon.

3. Vide order dated 20.12.2008 he was promoted to the rank of Deputy Inspector General of Police (DIG in short) with retrospective effect i.e. from the date his junior Sri M. Agarwal was promoted. Vide another order of even date he was further promoted to the rank of Inspector General of Police (IGP in short) in the pay scale of Rs.18400-22400/-. Thereafter memorandum dated 05.02.2009 was issued under Rule 8 of aforesaid rules, which contained 5 articles of charges. In supercession of aforesaid memorandum, another memorandum dated 11.02.2009 was issued which contained the identical charges. Vide first article of charges it was alleged that he left the headquarter i.e., Sontilla on 19.05.2005 without obtaining prior permission. Second article of charges alleges that he absented himself from duties and stayed at Assam House, New Delhi from 23.05.2005 to 28.05.2005 with one lady of doubtful character, other than his wife. Vide articles III and IV it was alleged that he appointed one cook (Grade IV) against 16th APBn w.e.f. 20.05.2006 and Sri Tufan Singha an outsider as Daftry in General Branch despite ban on appointment respectively. Article V alleges that he misappropriated Govt. money amounting to Rs.7 lacs. 9 documents and 6 witnesses were listed to support

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aforesaid allegations. Detailed written statement of defence had been submitted on 29.03.2001 whereby aforesaid allegations were denied stating that there was inordinate delay in initiating the departmental proceedings. Furthermore, vide orders dated 20.12.2008 he had been promoted twice, namely, to the post DIG and IGP from an earlier date, and therefore, misconduct, if any, stood condoned. Even on merits it was pointed out that his ^estrange wife along with Sri P.V.Sumant, the then Director General of Police (DGP in short) joined hands together and did everything possible to cause irreparable damage to his career and reputation. The then DGP because of his vindictive attitude towards him posted him as Commandant of 5th APBn where other officials had refused to join due to existing insurgency situation. Vide letter dated 12.05.005, said official in a communication addressed to the Chief Secretary made sarcastic and derogatory remarks against him. On 19.05.2005 he had informed to DIG (AP) Mr.A.K.S.Cassyap who in turn asked him to inform IGP Mr.K.Saikia, as ADG was out of station, and therefore, he contacted Mr.K. Saikia and informed him seriousness of the matter and urgency to proceed on leave immediately. Thereafter he had applied for 7 days of casual leave after intimating all concerned. Attention of the authority was drawn to W.T. Message addressed to IGP concerned. His leave was rejected without assigning any reason. In fact he never absented as alleged. He was staying with Smti. Maya Sinha, who is his second wife as first ^estrange wife had already been divorced. Regarding Articles III & IV, it was pointed out that a ban on filling up the Grade-IV posts had been withdrawn vide order dated 02.05.2005, copy of which had been endorsed by IGP (Admn) to Commandant, 5th APBn on 21.02.2005. It was reiterated that appointments were made after following all formalities and there was no iota of evidence

that any violation of rules and law had been committed. Regarding Article of charge V, it was pointed out that a FIR was lodged by him on 20.12.2005 for misappropriation of Govt. Money and after investigation criminal case in the police station of Haflong being case No.108 U/S 408 was registered against Sri Phanibhusan Acharjee, Inspector I/C of 5th APBn, Sontilla. Criminal proceeding is still pending against him. The said official was also proceeded with departmental proceedings. During internal audit, it was noticed that misappropriation was to the tune of Rs.5,23,000/- and not Rs.7 lacs. Vide order dated 20.04.2007, the then DGP, Assam inflicted a penalty of compulsory retirement upon Sri S.P.Acharjee, though it has been established that the delinquent had not refunded Rs.5,23,000/- misappropriated by him, and therefore, a loss was caused to the Govt., yet no recovery was made from said delinquent official.

In the backdrop of aforesaid aspects, he had prayed that the charge memorandum dated 11.02.2009 be dropped as the proceedings were initiated with sole intention to defame him, causing agony and harassment as well as humiliating him in public life.

4. Applicant appearing in person strongly canvassed that there remains no justification in initiating departmental proceedings against him. Charges leveled are baseless, unjustified, concocted and un-called for. It was further contended that annual increment due has not been released; pay slips for the periods: July to September, 2005 as well as December, 2005 to February, 2006 had not been issued which is causing him serious financial difficulties. The action taken by the respondents is malicious and only to cause harm his career and reputation. Even otherwise, memorandum dated 11.02.2009 did not include aforesaid period, namely, 21.07.2005 to

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21.09.2005 and 07.12.2005 to 06.02.2006. Applicant also canvassed that because of strained relationship between the then DGP and applicant, he was posted to a non-cadre post (SP, FRRO), Barpeta. Strong reliance was placed on **AIR 1967 MP 284, Laj Audhraj Singh vs. State of Madhya Pradesh through Secretary to Forest Department** to contend that master cannot impose any punishment on a servant for a misconduct which he has condoned and if the lapse or misconduct is one which is known to the authority before the person is promoted and not one which comes to light subsequent to the promotion and if the authority concerned knowing of this lapse or misconduct promotes the Civil Servant without any reservations, then it must be taken that the lapse or misconduct has been condoned, and therefore, the servant cannot be punished for his lapse or misconduct. Reliance was also placed on **AIR 1925 Calcutta 87, L.W.Middleton vs. Harry Playfair** to contend that if a master on discovering that his servant has been guilty of misconduct which would justify a dismissal, yet elects to continue in service, he cannot subsequently dismiss him on account of that when he had waived or condoned. To contend that there had been inordinate delay in initiating departmental proceedings, reliance was placed on **2010(1)AISLJ (CAT) 147, R.V.Bansal vs. The Commissioner, MCD**, whereby reliance was placed on Hon'ble Supreme Court judgment in the case of **State of A.P. v. N.Radhakrishnan, 1993 (3) SLJ 162 (SC) = JT 1998(3) SC 123**. It was emphasized that delay remained unexplained causes prejudice to delinquent official if it is not he who has to be blamed for the delay. It has been further urged by the applicant that neither Enquiry Officer has been appointed nor any proceeding has been conducted till date except issuance of charge memorandum dated 11.02.2009, which would establish the seriousness on

the part of respondents. Thus, there is no necessity either for issuing belated proceeding or keeping said proceeding pending.

5. At the outset we may note that no reply has been filed in O.A. No.252/2009. Sri M.K.Boro, learned Addl. Standing counsel appears for respondent Nos. 1 & 4 in said O.A. while he appears for respondent No.1 in O.A. 208/2009. He had brought to our notice that respondent no.4 has no objection to regularize the leave period from 20.05.2005 to 01.06.2007 and suspension period from 21.07.2005 to 21.09.2005 and 07.12.2005 to 06.02.2006. Said respondent also requested the respondent no.3 i.e., Govt. of Assam, Home Department to sanction the leave and regularize suspension period, but till date nothing has been heard from said respondent.

Vide reply filed in O.A. 208/2009, it has been stated that his written statement of defence dated 29.03.2009 was received by the department on 30.03.2009 and thereafter on consideration of the matter it was decided to obtain views of the DGP, Assam and vide letter dated 31.03.2009 DGP, Assam was requested to offer his view. Though he was placed under suspension on 07.12.2005, it was revoked and he was reinstated on 07.02.2006. Said period could not be regularized as the departmental proceedings were drawn on 11.02.2009.

On merits of the allegations, no comments were offered except to state that O.A. has no merits.

6. We have heard applicant in person; Mrs.M.Das, learned counsel for the State of Assam and Mr.M.K.Boro, learned Addl. C.G.S.C.

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appearing for respondent no.1 in O.A. 208/2009 and respondent nos.1 & 4 in O.A. 252/2009.

7. As already noticed hereinabove, there is no explanation offered for the belated charge sheet. Furthermore, no explanation had been offered as to why no step has been taken in finalizing aforesaid departmental proceedings. It is well settled law that "prosecution" should not become "persecution". Right of speedy trial available to a delinquent is applicable in departmental proceedings too. It is further not in dispute that allegations made against applicant vide memorandum dated 11.02.2009 were for the year 2005-2006, yet he has been promoted to the post of DIG as well as IGP vide order dated 20.12.2008 respectively. We may note that at no stage, respondents were restrained from proceeding in aforesaid departmental proceedings against the applicant. Even if there was delay in initiating the departmental proceedings, the delay in concluding said proceedings has not been explained. Hon'ble Supreme Court in **N.Radhakrishnan (supra)** has clearly observed that if delay in unexplained prejudice to the delinquent employee is writ large on the face of it, such initiation of proceeding cannot be accepted. Furthermore, we find substance in the contention raised by the applicant that his promotion vide orders dated 20.12.2008 misconduct, if any, stood condoned as he was promoted without any reservation. Law laid down in **Laj Audhraj Singh (supra)** is clearly attracted in the given facts and circumstances. Furthermore, the period, namely, 21.07.2005 to 21.09.2005 and 07.12.2005 and 06.02.2006 have not been regularized. As per communication of Accountant General (A&E), Assam dated 15.03.2009, said period requires to be regularized.

8. Taking a cumulative view of the matter, we find no justification in the contention raised by the respondents that O.A.s are meritless. Consequently, for the reasons discussed hereinabove, O.A.s are allowed. Charge memorandum dated 11.02.2009 is quashed and set aside with all consequential benefits. Respondents are also required to regularize the period, namely, 21.07.2005 to 21.09.2005 and 07.12.2005 to 06.02.2006. He will also be entitled to annual increment. Aforesaid exercise shall be undertaken within a period of two months from the date of receipt of this order.

9. O.A.s are allowed accordingly. No costs.

Sd/- M.K. Gupta
Member (J)
Sd/- M.K. Chaturvedi
Member (A)

13/1/10

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**OFFICE OF THE ACCOUNTANT GENERAL (A&E), ASSAM,
MAIDAMGAON : BELTOLA : GUWAHATI-781029**

No.GE-Cell/IPS/B.K.M./

Dated: 29-12-2009

To

Shri Mrinal Kumar Boro, Advocate
Addl. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench,
Guwahati.

Sub: Parawise comment against O.A. No.252/2009.

Sir,

With reference to your letter dated 11/12/09, I am ^{to} enclose herewith
2(two) copies of Written Statement along with its enclosure in respect of O.A.
No.252/2009.

You are requested to file Counter Affidavit of the same ^{on} ~~Before~~ 5th of
January, 2010.

Enclo: As stated above.

Yours faithfully,


Sr. Accounts Officer

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

In the matter of OA No.252/2009

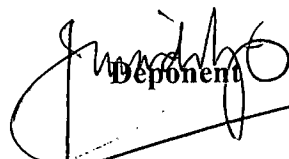
Shri Binay Kr. Mishra.....Applicant

Vs.

The Union of India and OthersRespondent

Parawise Comment for and on behalf of the Respondent No.4

1. That the answering Respondent has no comments to the statements made in paragraphs Sl. Nos. 1,2,3, and para 4.1 to 4.6 of the application.
2. That with regards to the statement made in para 4.7 of the application. the answering Respondent states that the applicant applied for leave for the period from 20-05-05 to 01-06-05 and was on suspension from 21-07-05 to 21-09-05 and 07-12-05 to 06-02-06. The Respondent No. 4 requested to the Govt. of Assam, Home Department (Respondent No.3) to sanction leave and regularise of suspension period but till date nothing has been heard from the Respondent No.3 and hence Respondent No.4 could not authorise the salary for the above period alongwith due Increment.
3. That wit regard to the statements made in para 4.8 and Sl. No.5 of the application the answering Respondent has no comments.


Deponent

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

1. ORIGINAL APPLICATION No : ----- 252 / 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) : ----- Binoy Kr. Mishra

Respondent (S) : ----- Union of India & Ors

Advocate for the : ----- In person
{Applicant (S)}

Advocate for the : ----- CGSC
{Respondent (S)} Govt. advocate Assam,

Notes of the Registry	Date	Order of the Tribunal
	01.12.2009	<p>None appears for Applicant despite second call. In such circumstances, we have perused the O.A. and find that grievance of Applicant is despite reminders the Respondents have not been regularized his alleged absence. We have noticed vide communication dated 15.03.2009, office of the Accountant General (A&E), Assam required the State Government to modify certain orders which has not yet been communicated.</p> <p>Issue notice to Respondent No.4. alone as Mrs. M.Das accepts notice for Respondent No.1, while Mr. M. K. Boro, learned Addl. Standing Counsel accepts notice on behalf of Respondents No. 2 & 3</p> <p>List on 05.01.2010.</p>

TRUE COPY
प्रतिलिपि
अनुभाग अधिकारी
Section Officer (Judl)
Central Administrative Tribunal
गुवाहाटी न्यायपीठ
Guwahati Bench
गुवाहाटी/Guwahati-5

Sd/- M.K.Gupta
Member (J)
Sd/-M.K.Chaturvedi
Member (A)

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH ::: GUWAHATI.

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

ORIGINAL APPLICATION NO. 252 OF 2009

Shri Binay Kumar Mishra

....**APPLICANT.**

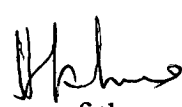
- VERSUS -

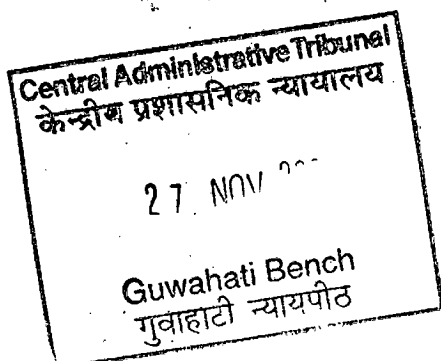
The Union of India & Ors.

....**RESPONDENTS.**

SYNOPSIS

The applicant is an IPS officer of 1988 batch from Assam cadre and joined 5th Assam Police Battalion, Sontilla(Haflong) in Feb/2005 and continued till Dec/2005 but his past period of service w.e.f. 20.5.05 to 1.6.05, w.e.f. 21.7.05 to 21.9.05 and again w.e.f. 7.12.05 to 6.2.06 have not been regularised till date despite several reminders. Taking this as a plea, the Accountant General of Assam has not issued pay slip for this period and also refused to give annual increment as due. The Govt. of Assam by an order dtd. 11.2.2009 has drawn up a departmental proceeding against the applicant and a petition has been submitted before Hon'ble Tribunal vide O.A. No. 208/2009 which was admitted on 13.10.09. In the charge sheet issued on 11.2.09 only the first period w.e.f. 20.5.05 to 1.6.05 is included as charge No.1. The remaining two periods are yet to be regularised despite several correspondence with the respondents affecting his career adversely and causing great mental harassment besides financial hardship to the applicant. In O.A. No. 208/2009 a prayer was made before Hon'ble Tribunal for issuing direction to respondents in this regard. But now a separate petition is being filed as ordered on 13.10.09 in course of hearing. Being aggrieved, the applicant has approached the Hon'ble Tribunal for issuing directions for early regularisation of his service in the past to facilitate the A.G. Assam in issuing his pay slip for the said period besides releasing his annual increment.


Signature of the applicant



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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH ::: GUWAHATI.

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

ORIGINAL APPLICATION NO. 252—OF 2009

Shri Binay Kumar Mishra

....**APPLICANT.**

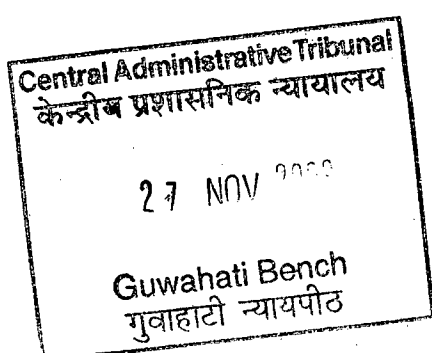
- **VERSUS** -

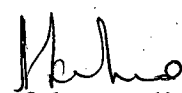
The Union of India & Ors.

.....**RESPONDENTS.**

LIST OF DATES.

<u>Date</u>	<u>Particulars</u>
24.02.2005	Applicant joined as Commandant 5th A.P. Bn. Sontilla (Haflong)
20.05.2005	Applicant forwarded a petition seeking seven days casual leave and in anticipation of same being granted, proceeded on leave.
02.06.2005	Applicant resumed his duty in the same capacity.
11.8.2005	Applicant was placed under deemed suspension by Govt. of Assam.
22.09.2005	Applicant joined as Commandant 5th A.P. Bn. on revocation of his suspension
07.12.2005	Applicant was placed under suspension by Govt. of Assam
07.02.2006	Applicant was reinstated to service and he reported his joining at A.P. HQR. Ulubari.




Signature of the applicant

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH ::: GUWAHATI.

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

ORIGINAL APPLICATION NO. 252 OF 2009

Shri Binay Kumar Mishra

....**APPLICANT.**

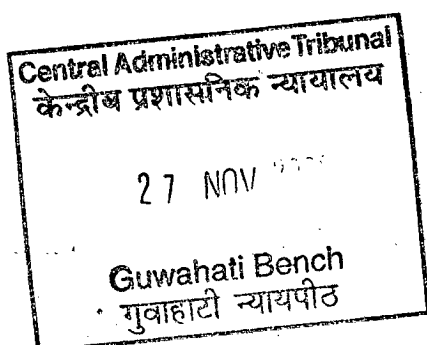
- **VERSUS** -

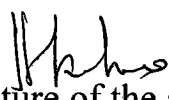
The Union of India & Ors.

.....**RESPONDENTS.**

I N D E X.

<u>Sl.No. Particulars of Documents</u>	<u>Annexure No.</u>
1. Original application	
2. Verification	
3. The copy of Govt. of Assam's order dt. 11.08.2005 placing applicant under deemed suspension.	A - 1
4. The copy of Govt. of Assam's order dt. 19.09.2005 revoking suspension	A - 2
5. The copy of order issued by the Court of Addl. C.J.M. , Guwahati on 16.12.06	A - 3
6. The copy of order issued by the Court of Addl. C.J.M., Guwahati on 22.2.07	A - 4
7. The copy of Govt. of Assam order dtd. 07.12.2005 placing applicant under suspension.	A - 5
8. The copy of Govt. of Assam order dtd. 13.04.2006 posting applicant on revocation of his suspension as Commandant 16th A.P. (IR) Bn.	A - 6
9. The copy of the letter written by respondent No. 4 addressed to respondent No. 3 dtd. 15.3.2009	A - 7




Signature of the applicant.

For use in the Tribunal's office
Date of filing :-
Registration No.

194
Mishra

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH ::: GUWAHATI.

(APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNALS ACT, 1985)

ORIGINAL APPLICATION NO. 252 OF 2009

Shri Binay Kumar Mishra

S/O Shri Jagdish Mishra

Director Prosecution, Assam

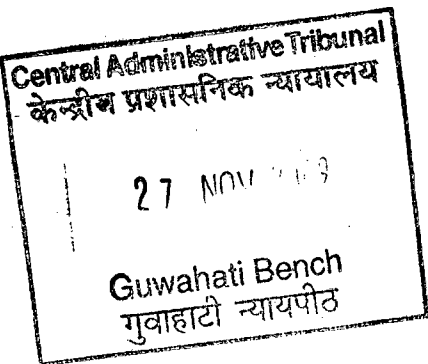
Near CID office, Ulubari, Guwahati - 7

..... APPLICANT

- VERSUS -

1. The Union of India, represented by the Joint Secretary (Police)
Ministry of Home Affairs, Govt. of India, New Delhi.
2. The Govt. of Assam, represented by the Chief Secretary to the Govt.
of Assam, Dispur, Guwahati - 6
3. The Principal Secretary to the Govt. of Assam, Home Deptt.
Dispur, Guwahati - 6
4. The Accountant General, Assam, Maidamgaon, Guwahati-19

..... RESPONDENTS.



DETAILS OF APPLICATION :

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

The applicant is aggrieved by the orders issued by the Govt. of Assam placing him under suspension vide orders issued on 11.8.2005 and 7.12.2005 respectively and the refusal of the State Government to regularise the past period of service on this ground.

2. Jurisdiction of the Tribunal :

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

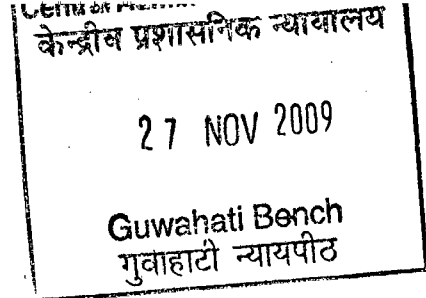
3. Limitation :

The applicant further declares that the application is within the limitation period prescribed under Sec. 21 of Administrative Tribunals Act. 1985.

4. Facts of the case :

4.1 That the applicant is a citizen of India and a resident of Police Housing Colony, Ulubari, Guwahati under dist. of Kamrup, Assam. He belongs to Indian Police Service and serving in Assam since 1988. During this period he served in different capacities including as the Supdt. of Polce in districts like Dhemaji, Barpeta, Nalbari, Kamrup etc. In recognition of his services he was awarded Police Special Duty Medal, DGP Commendation Medal and so on by the authorities. Presently he is serving as the Director Prosecution, Assam in the rank of IGP

4.2 That applicant while being posted as Commandant 5th A.P. Bn. Sontilla (Haflong) was unfortunately embroiled in family depute with his wife (now divorced) on 18.5.2005 he received an intimation to the effect that Smt. Rashmi Mishra, his ex wife along with some miscreants had entered the flat in Delhi taken on rental basis by the applicant while being on Central deputation. They had mercilessly beaten his servant brought from Patna who was thrown out of house. The applicant after duly informing his higher authorities in the department as well as then Home Commissioner Mr. V.B. Pyarelal proceeded on seven days casual leave in anticipation of same being sanctioned. From Delhi he again informed his higher authority through a letter sent through fax on 25.5.05 about serious developments over there. Finally on 2.6.05 applicant resumed his duties and he was shocked to learn that his prayer for granting seven days casual leave was turned down without citing any reason. **The Govt. of Assams in its order dtd. 11.2.2009 has listed this as No. 1 charge and the matter is now under consideration of the Hon'ble Tribunal.**



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4.3 That the applicant was placed under deemed suspension w.e.f. 21.7.2005 i.e. date of detention in connection with G.R. case No. 4721/01 and C.R. case No. 2184/02 by an order issued by the Govt. of Assam on 11.8.2005. Copy of the Govt. order is annexed hereto and marked as A -1. Again on 19.9.2005 the applicant was reinstated in the service by another Govt. order. The copy of the Govt. Notification is annexed here to and marked as A- 2. It may be aded here that no charge sheet was served upon the applicant in this connection.

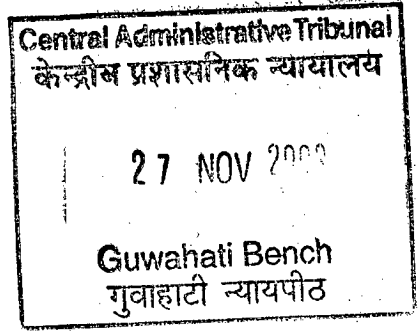
4.4 That both the cases were filed by ex-wife of the applicant and were later dismissed by the Court of Addl. CJM, Kamrup, Guwahati. The copies of Court's Orders are annexed hereto and marked as A-3 & A-4.

4.5 That then D.G.P. Assam Mr. P.V. Sumant was holding grouse against the applicant as his misdeeds of keeping a grade -IV employee (cook) from 5th A.P. Bn. in Chennai at the house of his son- in- law for nearly five years was exposed. In retaliation, he got the applicant transfered as S.P. (F.R.R.O.)Barpeta, a non cadre post within a short period of six months of his joining the unit and applicant submitted a representation before the respondents requesting to cancel his order of transfer. However, the Govt. of Assam placed applicant under suspension on 7.12.2005 without citing any ground . A copy of the Govt. order is annexed hereto and marked as A-5.

4.6 That applicant submitted a petition before this hon'ble Tribunal in December 2005 which issued directions to the respondents to consider the representation submitted by applicant afresh and pass a speaking order. On 7.2.2006 respondents revoked suspension of the applicant without giving him a posting. Again no chargesheet was served upon the applicant in this connection. Later on 13.4.2006 applicant was given a posting as Commandant 16th A.P. (IR) Bn. and a copy of the order is annexed here to and marked as A-6.

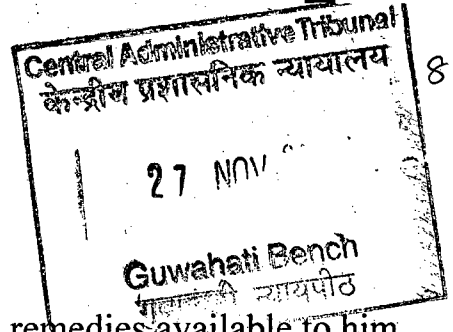
4.7 That several correspondence were made with respondent No. 3 but concrete steps were taken to regularise the said period causing tremendous mental harrasment and agony. **Consequently, the respondent No. 4 refused to issue pay slip for the above period and also didnt give the annual increament which was due to the applicant thereby causing financial hardship.** On 15.3.2009 respondent No 4 wrote a letter to the respondent No 3 requesting for regularisation of service but till date no action was taken in this regard. A copy of the said letter is annexed hereto and marked as A-7.

4.8. That respondent No. 2 & 3 are only interested in delaying and dragging the matter endlessly without taking a decision. The period w.e.f. 21.7.05 to 21.9.05 and again 7.12.05 to 6.2.06 are in no way connected with the disciplinary proceedings drawn up by the Govt. of Assam through its order dtd. 11.2.2009. It is a source of great demoralisation thereby causing mental harrasment and torture to the applicant.



5. Grounds of challenge with legal provisions :

That the action of the respondent is illegal and unjust. Since no charge sheet was served in either case, there was no justification for unusual delay in regularisation of the service period mentioned therein. The action of respondent is "malicious" aimed only to cause harm to the career and reputation of the applicant. The action of respondent is a clear case of discrimination and thus violating Article 14 & 16 of the Constitution of India.



6. Details of the remedies exhausted :-

The applicant declares that he has availed of all the remedies available to him under the relevant service rules. He submitted several representations to the respondents without eliciting any response so far.

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

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. Reliefs sought :

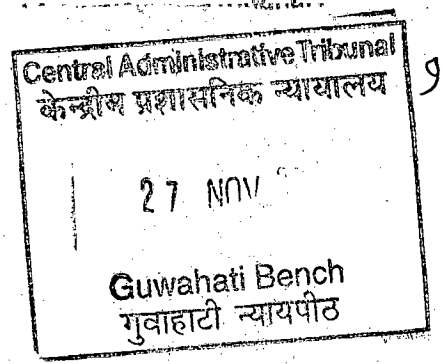
In the premises aforesaid, it is most respectfully prayed that your Lordships may be graciously pleased to admit this application, issue necessary notices, call for the records of the case and after hearing the cause / causes being shown and upon perusal of the records, Your Lordships may consider the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

- (1) To direct the respondent No. 2 & 3 to regularise the past period of service of the applicant mentioned therein without causing further delay.
- (2) To direct the respondent No. 4 to issue pay slip for the aforesaid period and release the annual increment as and when due.
- (3) To direct respondents No. 2 & 3 to bear the cost in filing this petition and seeking legal aid etc.

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

9. Interim order, if any prayed for :

Nill



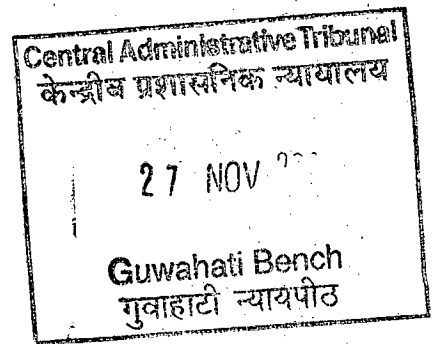
10. Particulars of Bank Draft/Postal Order filed in respect of the application fee.

**I.P.O. No. 39G 442362 Rs. 50.00 Dated 27.11.2009
Payable at Guwahati.**

11. List of enclosures :

As stated in the index.

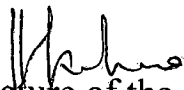
Heh



V E R I F I C A T I O N

I, Binay Kumar Mishra, S/ O Shri Jagdish Mishra aged about 46 years
hereby declare :

- (1) That para No. 1,2,3,6,7& 10 are true to the best of my knowledge.
- (2) That para No. 4 containing 13 sub paras and para 5 having 3 sub paras are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts.


Signature of the applicant.

GOVERNMENT OF ASSAM
HOME (A) DEPARTMENT

NO. HMA(IPS) 145/Pt.IV/37

Dated Dispur, the 11th August, 2005

ORDER

Pending drawal of Departmental Proceedings, Shri B.K. Mishra, IPS, Commandant, 5th A.P. Battalion, Sontilla is placed under deemed suspension with effect from 21.7.2005 i.e. date of detention in connection with G.R. Case No. 4721/01 and C.R. Case No. 2184/02. His suspension will continue till further orders.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

27 NOV 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

By order and in the name of the Governor of Assam,

Sd/- V.B. Pyarelal,
Commissioner & Secretary to the Govt. of Assam,
Home (A) Department.

Memo. No. HMA(IPS) 145/Pt.IV/37-A, Dated Dispur, the 11th August, 2005.
Copy to :-

1. The Director General & Inspector General of Police, Assam, Ulubari, Guwahati-7.
2. The Accountant General, Assam, Maidamgaon, Beltola, Guwahati-29.
3. The Under Secretary to the Government of India, Ministry of Home Affairs, New Delhi.
4. The Under Secretary to the Government of Meghalaya, Home (P) Department, Shillong.
5. Shri B.K. Mishra, IPS, Commandant, 5th APBn., Sontilla (U/S).

By order etc.,

Joint Secretary to the Govt. of Assam,
Home (A) Department

Memo No. FA/XXII/746/349-A, Dated Guwahati, the 16th Aug/2005.
As directed copy forwarded to :-

1. The Commissioner & Secy. to the Govt. of Assam, Home & Political Deptt. Dispur, Guwahati-6 with a request to allow S.P. N.C. Hills to look after the works of the Comdt. 5th A.P.BN. until a regular incumbents posted.
2. Shri B. Misra, IPS(U/S) Comdt. 5th A.P.BN. Sontilla for information and necessary action.
3. I/C Proceeding Cell, Assam Police Headquarter for information and necessary action.

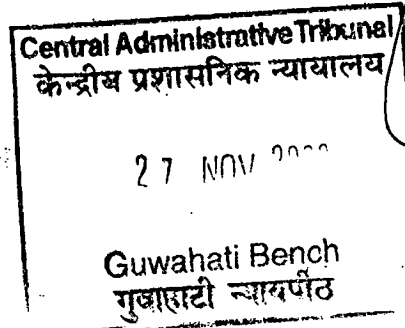
Inspector General of Police, (A),
Assam : : : : : Guwahati.

Inspector General of Police,
Assam, Guwahati

GOVERNMENT OF ASSAM
HOME (A) DEPARTMENT

ORDERS BY THE GOVERNOR

NOTIFICATION



Dated Dispur, the 19th Sept, 2005.

NO. HMA(IPS) 145/Pt.VI/2 : The Suspension order issued against Shri B.K.Mishra, IPS vide Govt. Notification No. HMA (IPS)145/Pt.VI/37 dtd. 11.8.2005 is revoked and Shri B.K.Mishra, IPS is reinstated in service with immediate effect.

Sd/- V.B. Pyarelal,
Commissioner & Secretary to the Govt. of Assam,
Home (A) Department.

Memo No. HMA. (IPS) 145/Pt.VI/2

Dated Dispur, the 19th Sept, 2005

Copy to

1. The Accountant General, Assam, Beltola, Guwahati -29.
2. The Director General & Inspector General of Police, Assam, Guwahati-7
3. The Under Secy. to the Govt. of India, Ministry of Home Affairs, New Delhi.
4. The Under Secy. to the Govt. Meghalaya Home (P) Department, Shillong.
5. Shri B.K.Mishra, IPS,
C/O, Director General of Police, Assam, Guwahati

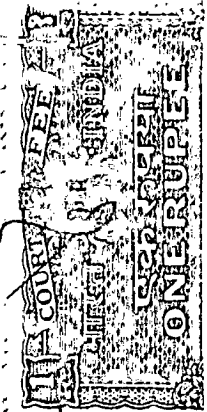
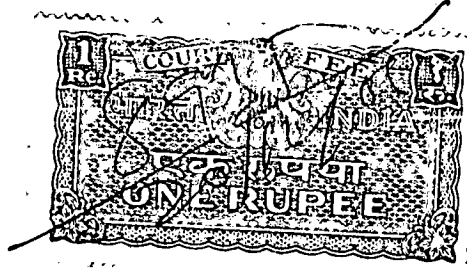
By order etc.

Under Secretary to the Govt. of Assam,
Home (A) Department.

SIT AKAK

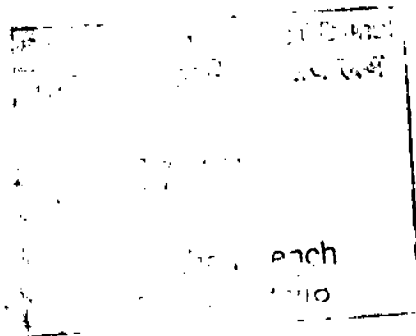
certified to be true copy

Inspector General of Police (Prosecution)
Assam, Guwahati.



Date of application for to C.S.	Date fixed for notifying the requisite number of witnesses and folios	Date of delivery of the requisite stamps and folios.	Date on which the copy was ready for delivery.	Date of making over copy to C. complainant.
16-12-06	19-12-06	19-12-06	20-12-06	22-12-06

for the Court of the Addl. C.T. MCK) Bhowahati.



Case No. 2184/02.

Ms. Rashmi Mishra — Complt.

vs.

Sri Binoy Kumar Mishra — Accd.
NLS-498(A) D.P.C.

Order

Date

16-12-06 → The accused person is absent. Seen the petition filed on his behalf shows cause of his absence in the Court today and praying to dismiss the case. Heard the ld. defence counsel.

The complainant is absent without steps. It appears from the record the the complainant was absent without step on earlier dates also. Hence finding the complainant not interested to proceed with the case. Further the case is dismissed on default.



Sd/- Illegible

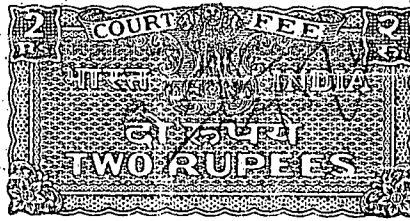
Addl. C.T. MCK) Bhowahati

20/12/06
C. S. M. Office
Bhowahati, Garwahati.
Date: 20/12/06.

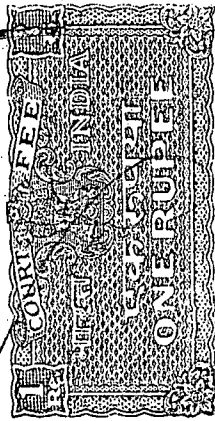
20/12/06
C. S. M. Office
Bhowahati, Garwahati.
Date: 20/12/06.

20/12/06
C. S. M. Office
Bhowahati, Garwahati.
Date: 20/12/06.

certified to be true
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Case No.	1815/07	1815/07	22/5/07	23-57
Date of filing	18/5/07	18/5/07	22/5/07	23-57
Amount of fine				
Amount of costs				
Amount of fees				

In the court of the Addl. chief Judicial Magistrate : Kamrup Guwahati.

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

Present : Mrs. J. Sarma, A. J. S.
Addl. chief Judicial Magistrate,
Kamrup, Guwahati.

Case no - G.R. 4721/01.

The State

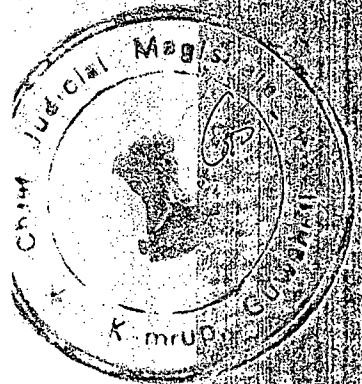
Sri. Biraj Mishra vs 323/506 of J.P.C.

Date of offence explained : 2-8-05
Date of hearing : 16-12-0
Date of argument : 22-2-0
Date of judgment : 22-2-0

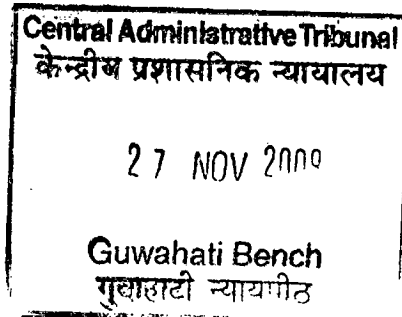
Appearance : Md. J. Ahmed, A.P.P. for
the State, Mr. P. Talukder
advocate for the accused

Judgment

The prosecution case in brief
is that, the complainant Smt. Rasmi
Mishra, w/o Sri. B.K. Mishra, 98am
Path, Uzan Bazar, Guwahati lodged an
ejahan before the All Women Police
Station, Guwahati stating that she was
married to Sri. B.K. Mishra in the



Certified to be true copy
Inspector General of Police (Prosecution)
Assam, Guwahati

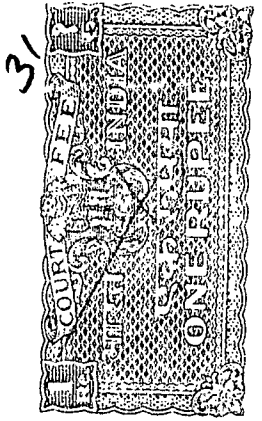
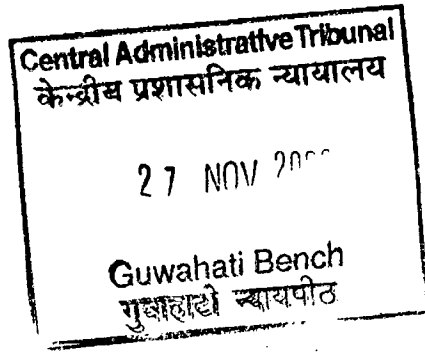


(2)
year 1990 and after few years of their marriage, their relation started deteriorating because of his inhuman nature and thereafter they were staying separately. On 4-12-01, at Mr. G.M. Shrivastava's place in D.L.P. complex, the accused husband started shouting and abusing her and force-fully started to take her to the police post house where he was staying and wanted to lock in the room. She was dragging and beating mercilessly by her husband and when she fell down on the ground, the accused person started pulling her by holding on her hair and he also threatened her to kill.

Accordingly, a case was registered. On the strength of which police started investigation and after completion of usual investigation, police submitted the final report against the accused person namely Binoy K. Mishra stating that though the case was registered u/s. 354/323/506 of I.P.C., but found insufficient evidence against him. But the learned chief judicial magistrate did not accept the final report submitted by the investigating officer and



certified to be true



The cognizance ⁽³⁾ was taken u/s. 323/506 of G.P.C. against the accused person namely Binoy Kr. Mishra. Hence, this case.

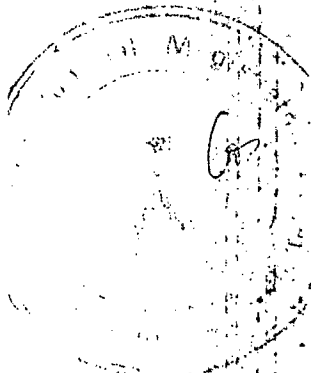
The accused person appeared before the court to face the trial. After furnishing relevant documents next as per provision of Section 173 of Cr.P.C., the substance of accusation u/s. 323/506 of G.P.C. was explained to the accused person to which he pleaded not guilty and claimed to be tried.

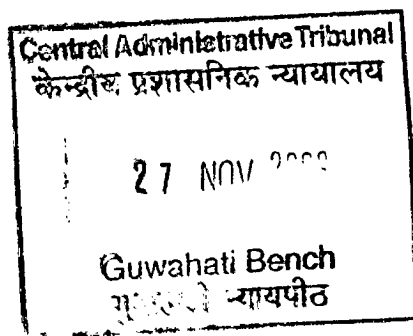
Point for determination:-

In this case, the main points for determination are -

- (1) Whether on 4-12-01, the accused person voluntarily caused simple hurt to the complainant Smt. Rashmi Mishra as alleged.?
- (2) Whether on the same day and at the same place, the accused person threatened the complainant with dire consequence as alleged.?

In order to prove its case, the prosecution was able to examine only one witness, though several opportunities have been given to the prosecution, the statement of the accused





(4)

Person was not recorded u/s-313 of Cr.P.C. as there was no incriminating materials against him.

I have heard the argument of both sides.

Decision & Reasons there of.

I have carefully gone through the evidence available on record and find nothing incriminating materials against the accused person involving him in the alleged occurrence.

P.W. 1 Sri. Sharmeswar Shymon deposed that he did not know about the occurrence.

The complainant could not be examined though several opportunities have been given to the prosecution.

The cardinal rule of criminal jurisprudence is that it is the burden of the prosecution to prove the allegation against the accused person to the hilt and beyond all reasonable doubt and suspicion, however, strong it may be, cannot take the place of proof and no person can be convicted on criminal charge on mere probabilities.

It is a settled law that in order



27 NOV 2009
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⑤
 to secure a conviction the Prosecution
 version must be true. It is also sel
 led law that there is a long distor
 between 'may' and 'must' and the pros
 ention must traverse this distance
 cogent and reliable evidence and
 circumstances. In this respect, the
 prosecution has miserably failed.

In view of what have been obser
 ved, above, I have no difficulty in com
 ing to the conclusion that the prosecution ha
 miserably failed to bring home the gui
 of the accused person beyond all reaso
 able doubt. I, therefore, hold that the
 accused person is not guilty of the
 offences u/s-323/506 of I.P.C. He is
 accordingly acquitted from the said
 offence, discharged from his bail bond
 and set at liberty.

Given under my hand and seal of
 this court on this 22nd day of February
 2007.

Sd/- J. Sarma
 Addl. Chief Judicial Magi

Dictated & connected by me.

Sd/- J. Sarma
 Addl. C. J. M (K) Gtly.

22/5/07

Comparing Assistant
 Office of the

Chief Judicial Magistrate
 Kamrup, Guwahati.

Date

Certified to be the copy
 23/5/07
 C. J. M. Office
 Kamrup, Guwahati

22/5/07

- 19 -

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GOVERNMENT OF ASSAM
HOME (A) DEPARTMENT

ORDERS BY THE GOVERNOR OF ASSAM

NOTIFICATION

Dated Dispur, the 7th December, 2005

No.HMA.167/94/Pt.VII/21 : Pending drawal of departmental proceedings Shri B.K. Mishra, IPS, Commandant, 5th APBn, Sontilla is placed under suspension with immediate effect.

Sd/- V.B.Pyarelal
Commissioner & Secretary to the Govt. of Assam,
Home (A) Department

Memo No.HMA.167.94/Pt.VII/21-A,Dated Dispur, the 7th December, 2005

Copy to:

1. Commissioner & Secretary to Chief Minister, Assam, Dispur.
2. PPS to Chief Minister, Assam, Dispur.
3. PS to Minister of State, Home & Political, Assam, Dispur.
4. SO to Chief Secretary, Assam, Dispur.
5. PS to Addl. Chief Secretary, Home & Political, Dispur.
6. The Accountant General, Assam, Maidamgaon, Beltola, Guwahati-29.
7. The Under secretary to the Govt. of India, Ministry of Home Affairs, New Delhi-110001.
8. The Under secretary to the Govt. of Meghalaya, Home (P) Department, Shillong.
9. The Director General & Inspector General of Police, Assam, Ulubari, Guwahati-7 for information and necessary action.
10. Shri J.K. Doley, APS, is directed to take over the charge of Commandant, 5th APBn., Sontilla, immediately.
11. Shri B.K. Mishra, IPS, (under suspension), C/O D.G.P., Assam, Ulubari, Guwahati-7.

By order etc.

(P. Barua)

Deputy Secretary to the Govt. of Assam,
Home (A) Department.

Memo No.FA/XXII/746

Dt. Guwahati, the 8th Dec '05

Copy to :

1. Shri B.K. Mishra, IPS (U/S) Commandant, 5th APBn., Sontilla for information and necessary action.
2. Shri J.K. Doley, APS, Commandant (Designate), 5th APBn., Sontilla for information and necessary action.
3. I/C Proceedings Cell, AP HQrs. for information.
4. The Asstt. Inspector General of Police, (Arg), Assam, Guwahati for information.

Inspector General Of Police, (Admn),
Assam :: Guwahati

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
27 NOV 2005
Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

certified to be true copy
Inspector General of Police (Prosecution)
Assam, Guwahati

GOVERNMENT OF ASSAM
HOME (A) DEPARTMENT
ORDERS BY THE GOVERNOR

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

27 NOV

Guwahati Bench
गुवाहाटी न्यायपीठ

NOTIFICATION

Dated Dispur, the 13th April, 2006.

NO. HMA38/2006/15: On revocation of suspension order, and in the interest of public service, Shri B. K. Mishra, IPS is posted as Commandant 16th A.P (I/R) Bn. Bormonipur, Morigaon, with effect from the date of taking over charge, against the vacant post occurred due to deputation of Shri K.C. Deka, APS to ONGC, Nazira vide No. HMA. 38/2006/14 dtd. 13-4-2006.

Sd/- M. Kalita,
Joint Secretary to the Govt. of Assam,
Home & Political Department.

Memo. No. HMA 38/2006/15-A.

Dated Dispur, the 13th April 2006.

Copy to :-

1. The P.S to Chief Minister, Assam, Dispur, Guwahati-6.
2. The P.S to Chief Minister, Assam, Dispur, Guwahati-6.
3. The P.S to Minister of State Home, Assam, Dispur, Guwahati-6.
4. The Accountant General, Assam, Maidamgaon, Beltola, Guwahati-29
5. The Under Secy. to the Govt. of India, Ministry of Home Affairs, New Delhi.
6. The Under Secy. to the Govt. of Meghalaya, Home (P) Department, Shillong.
7. The Director General & Inspector General of Police, Assam, Ulubari, Guwahati-7.
8. The Addl. Director General of Police, Assam, -----
9. The Inspector General of Police/ Deputy Inspector General of Police-----
10. The Superintendent of Police/ Commandant -----
11. The P.S to Chief Secretary, Assam, Dispur, Guwahati-6.
12. The P.S Addl. Chief Secretary, Assam, Dispur, Guwahati-6.
13. The P.S to Commissioner & Secy. to Chief Minister, Assam, Dispur, Guwahati-6.
14. The P.S to Commissioner & Secy. Home & Political Deptt. Assam, Dispur, Guwahati-6.
15. The P.S. to Chief Electoral Officer, Assam, Dispur, Guwahati -6.
16. The P.S to Secy. Home Deptt. Assam, Dispur, Guwahati-6.
17. The P.A. to Joint Secretary, Home & Political Department, Dispur, Guwahati-6
18. The Supdt. Assam Govt. Press, Bamunimaidam, Ghy-21 for publication of the above Notification.
19. Officer concerned Sri K. C. Deka APS, Commandt. 16th AP (IR) Bn. Morigaon.

By order etc.

Deputy Secretary to the Govt. of Assam,
Home (A) Department.

certified to be true copy
Inspector General of Police (Prosecution)
Assam, Guwahati.

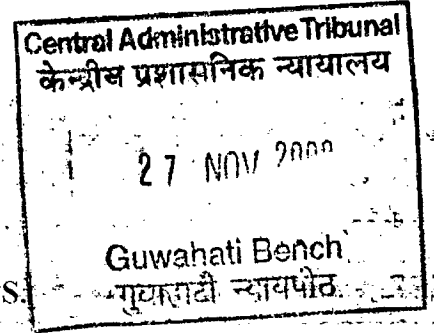
OFFICE OF THE ACCOUNTANT GENERAL (A&E), ASSAM
MAIDAMGAON : BELTOLA : GUWAHATI - 29

No. GE-CELL/IPS/BKM/545

Dated : 15-03-2009

To,

The Principal Secretary to the Government of Assam,
Home (A) Department,
Assam Secretariat,
Dispur, Guwahati - 6.



Sub: Regularization of Service in respect of Sri B. K. Misra, IPS.

Sir,

I am to invite a reference on the subject mentioned above and to state as follows :

Sri B. K. Misra, IPS was placed under suspension w.e.f. 21-07-2005 vide Government Notification No. HMA(IPS)145/pt.IV/37 dated 11-08-2005 and subsequently the suspension was revoked and the officer was reinstated in service with immediate effect vide Government Notification No. HMA(IPS)145/pt.VI/2 dated 19-09-2005.

Pending drawal of departmental proceeding, Sri Misra, IPS was again placed under suspension vide Government Notification No. HMA/167/94/pt.VII/21 dated 07-12-2005. Though, the officer was reinstated in service vide Government Notification No. HMA.576/2005/50 dated 07-02-2006, but Government has not yet been communicated the treatment of the suspension period commencing from 21-07-2005 to 21-09-2005 and from 07-12-2005 to 06-02-2006^{to 6} regularization of Pay and other benefits.

Further, Sri B. K. Misra, IPS was promoted to the rank of Deputy Inspector General of Police in the scale of pay of Rs. 16,000 -450-20,000 (pre revised) with retrospective effect from 13-06-2003 vide Government Notification No. HMA/175/87/pt.II/45 dated 20-12-2008. The officer, however, was on deputation during the said period and therefore, requires modification of the promotional

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order to the extent of allowing the officer ' Performa Promotion' in terms of the provision contained in FR & SR.

Sri B K Misra, IPS had also availed leave w.e.f. 20-05-05 to 01-06-05, the sanction of which is still awaited from the Government of Assam, for regularizing Pay and allowances of the officer concerned.

Government is requested to take necessary action on the observation made above for doing needful at this end.

Yours faithfully,

Yours faithfully,

(J M Aditya)
Sr. Accounts Officer

✓ Memo No. GE-CELL/IPS/BKM/546

Dated 15-03-2009

Copy forwarded for information to :
Sri B. K. Misra, IPS
Inspector General of Police,
Home Guard and Civil Defence,
Beltola, Guwahati - 29.


Asstt. Accounts Officer