

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 200/95.....

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ORIGINAL APPLN.NO. 200 OF 1995  
 TRANSFER APPLN.NO. OF 1995  
 CONTEMPT APPLN.NO. OF 1995 (IN NO.)  
 REVIEW APPLN.NO. OF 1995 (IN NO.)  
 MISC.PETITION NO. OF 1995 (IN NO.)

J.P. Yadav, 1FS ..... APPLICANT(S)

-vs-  
 N.O. I. For ..... RESPONDENT(S)

For the Applicant(s)

... Mr. B.K. Sharma  
 Mr. P.K. Tiwari  
 Mr. S. Sarma  
 Mr.

For the Respondent(s)

Mr. G. Sarma, Add. C.A.R.

OFFICE NOTE

DATE

ORDER

This application is in  
 form and within time  
 C. F. of Rs. 100/-  
 deposited  
 IPOED No. 327308  
 Dated 7.8.95

21.9.95

Mr B.K. Sharma, learned counsel  
 for the applicant is not available.

Adjourned to 16.10.95 for  
 admission.

*[Signature]*  
 Vice-Chairman

*[Signature]*  
 Member

nkm

17.10.95

Adjourned to 30.10.1995.

*[Signature]*  
 Member

*[Signature]*  
 Vice-Chairman

Pg

OFFICE NOTE

DATE

ORDER

30.10;95

Mr S.Sarma for the applicant.

Mr G.Sarma, Addl.C.G.S.C for the respondents.

Adjourned to 16.11.1995.

16.11.95

Passed over for  
the day

By order

*[Signature]*

Vice-Chairman

pg

17.11.95

Mr B.K.Sharma for the applicant.

Heard Mr Sharma. Issue notice to the respondents to show cause as to why the O.A be not admitted. Returnable on 8.1.96.

Mr G.Sarma, Addl.C.G.S.C seeks to appear for respondents 1 and 4. He shall file the memo of appearance.

Requisites are  
sum on 29.11.95  
& sum v. no. 5172-76  
of 5.12-95.

*[Signature]*

Member

*[Signature]*

Vice-Chairman

pg

8-1-96

Adjourned to 17-1-96.

Server Repairs are still  
awaited.

*[Signature]*

Member

*[Signature]*

Vice-Chairman

lm

16/11

17-1-96

Mr.B.K.Sharma for the applicant.  
Mr.G.Sharma Addl.C.G.S.C. for the respondents 1 & 4. None of the respondents have filed show cause reply. on the face of it the impugned orders appeared to be contrary to the law. The case will have to be remanded. Long pendency of the case will not be desirable. The service report is still awaited. Hence adjourned to 5-2-96.

  
Member

  
Vice-Chairman

lm

5.2.96

Adjourned to  
14.2.96!

14.2.96

Hearing concluded. Judgement delivered in the open court. The application is disposed of. A detailed order contained in separate sheets. No order as to costs.

  
Member

  
Vice-Chairman
13.2.96

trd

w/s on behalf of  
Rspdt. No.1 At page  
No. 63-64.



Service Reports are still  
awaited.


10/7/96

Copy of final order  
issued by to the parties  
vide D. No-2057 to  
2062 dt. 11.7.96

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH ::: GUWAHATI-5.

O.A. NO. 200 of 1995  
T.A. NO.

DATE OF DECISION 14.2.96

Shri Jagadish Prasad Yadav

(PETITIONER(S))

Mr. B.K. Sharma

ADVOCATE FOR THE  
PETITIONER (S)

VERSUS

Union of India & Ors.

RESPONDENT (S)

Mr. G.Sarma, Addl. C.G.S.C. for respondents ADVOCATE FOR THE  
1 & 4. RESPONDENT (S)

Respondents 2,3 & 5 served.

THE HON'BLE Justice Shri M.G.Chaudhari, Vice-Chairman.

THE HON'BLE Shri G.L.Sanglyine, Member (A).

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble *M.G. Chaudhari* Vice-Chairman.

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 200 of 1995.

Date of Order : This the 14th day of February, 1996.

Sri Jagadish Prasad Yadav

Vs.

Union of India & Ors.

The Hon'ble Justice Shri M.G.Chaudhari, Vice-Chairman.

The Hon'ble Shri G.L.Sanglyine, Member (A).

For the Applicant : Mr. B.K.Sharma.

For the Respondents 1 & 4 : Mr. G.Sarma, Addl. C.G.S.C.

Respondents 2,3 & 5 served.

ORDER

Notice before admission was issued on 17.11.95. The notice was despatched by registered post on 5.12.95. Although the acknowledgement has not been received back the packet has also not been received undelivered. Save and except the respondent No. 1 none of the other respondents have appeared or filed show cause reply. Mr.Sharma submits that since more than one month has passed from the date of issue of the notice by registered post the respondents 2,3 and 5 may be presumed to have been served on the principle contained in order 5 Rule 19A(2) (proviso) of the Code of Civil Procedure. We are inclined to accept this submission.

The respondent No. 1 i.e. Union of India through the Ministry of Environment and Forests have submitted in their reply that as the subject matter entirely relates to the Government of Tripura the respondent No. 1 is only a proforma party and has not dealt with the merits of the case. As we are satisfied that it is not desirable to leave the matter remain pending and it can be disposed of at this

.... stage

*huk*

stage without prejudice to the respondents 2,3 and 5 we proceed to dispose it of. The O.A. is admitted and taken up for final hearing.

3. By the order dated 7.4.94 the Governor of State of Tripura has imposed the minor penalty of withholding increment of pay for a period of three years without cumulative effect upon the applicant who is an officer of Indian Forests Service, Manipur-Tripura cadre. The order is passed in the disciplinary proceeding under Rule 10 of All India Services (Discipline & Appeal) Rules 1969. The appeal against the said order was rejected by the Government of Tripura by order dated 30.8.94. These are impugned orders in this O.A.

4. Mr. B.K.Sharma the learned counsel for the applicant submits that the impugned orders do not comply with the requirements of Rule 10 and in particular with clause (d) of Sub rule 1 of Rule 10 and therefore these are vitiated. The learned counsel also seeks to urge submissions on merits. We however think that breach of Rule 10 alone is sufficient to set aside the impugned order and it is not necessary to deal with other contentions raised on merits.

5. Rule 10 of the AIS (D&A) Rules 1969 provides that no order imposing on a member of the service any of the penalties specified in clauses (i) to (v) of Rule 6 shall be made except after amongst other things recording a finding on each imputation of misconduct or misbehaviour and consulting the Commission. Clause (d) reads as follows

"recording a finding on each imputation of misconduct or misbehaviour;" and

clause (e) reads as follows :

"consulting the commission."

... These

*hull*

These two clauses have to be read together by reason of the connecting word 'and' but each constitutes a separate requirement. In other words even after consultation with the Commission the ~~enquiry officer~~ <sup>disciplinary authority</sup> has to record a finding on each imputation of misconduct or misbehaviour as his own finding. Sub Rule (2) makes it further clear that the findings have to be recorded after taking into account the records of proceedings including the representation of the delinquent. Clause (vi) and (vii) of Sub Rule (2) indicate that the findings on each imputation or misconduct or misbehaviour; and the orders on the case together with the reasons therefor ~~from~~ <sup>form</sup> part of the record of proceedings. It is thus abundantly clear that the order has to be supported by reasons of the ~~enquiry officer~~ <sup>disciplinary authority</sup> thus arrived at on the basis of evidence and representation of the delinquent in which process the advice of the Commission has also to be taken into account. Thus advice of the Commission is one of the species of the total record and cannot by itself amount to the findings recorded by the enquiry officer <sup>disciplinary authority</sup> after ~~after~~ <sup>after</sup> consideration of the entire material. The ~~enquiry officer~~ <sup>disciplinary authority</sup> has therefore to record clear finding on each imputation of misconduct or mis-behaviour after consideration of the entire material produced at the enquiry and cannot pass an order in terms of advice of the Commission alone. Doing so would be breach of requirement of Rule 10 and would be illegal. Such illegality has precisely been committed in the instant case.

6. The order passed by the disciplinary authority dated 7.4.94 after reciting the disciplinary proceeding under Rule 10 and the different stages and after stating that the Union Public Service Commission had been consulted in the matter and have advised that the ends of justice would be met, if the penalty of withholding of increments of pay for



a period of 3 years without cumulative effect is imposed upon the applicant proceeds to state as follows :

"NOW THEREFORE, the Governor, after careful consideration of all aspects of the case, is pleased to impose a minor penalty of withholding increments of pay for a period of 3 (three) years without cumulative effect, upon the said Shri Yadav, IFS;".


Thus no findings have been recorded on merits as regard the imputations of misconduct levelled against the applicant and the advice of the UPSC has been literally adopted without application of mind to the other evidence on record and in terms thereof the order imposing the penalty has been passed. The appellate order also suffers from the said defect. It states that

"the said representation has been rejected in view of the extremely detailed analysis made by the Union Public Service Commission, their findings of the charges and the considered advice of the Commission regarding the penalty to be imposed."

It is however stated that there is no merit whatsoever in the representation seeking reconsideration of the matter. It is <sup>further</sup> ~~however~~ stated that copy of the finding of the UPSC has already been sent to him.

7. Clearly both the authorities have acted illegally in failing to apply their mind to the evidence on record and arrive at their own independent findings on the basis of total evidence produced at the enquiry after duly considering the representation of the applicant although in that process the advice of the UPSC could be taken in account. The authorities have abdicated their jurisdiction by relegating their function to the UPSC and have not acted in accordance with Rule 10. This patent illegality in passing the impugned orders render them liable to be set aside. We are however not inclined to exonerate the

..... applicant

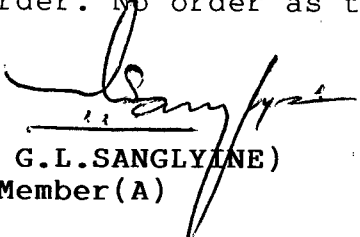



applicant altogether at this stage. We would therefore direct the disciplinary authority to pass a fresh order after observing the provisions of Rule 10 and in accordance with the law.

In the result the order passed by the Government of Tripura dated 7.4.94 under Rule 10 of the AIS (D&A) Rules 1969 imposing the minor penalty on the applicant and the appellate order passed by the Government of Tripura dated 30.8.94 rejecting the representation of the applicant are hereby set aside and the matter is remitted back to the Disciplinary Authority to pass a fresh order in accordance with the provisions of Rule 10 of All India Services (D&A) Rules 1969 and in accordance with law. The Disciplinary Authority is directed to pass the order as expeditiously as possible.

We may record that Mr. B.K.Sharma submits that since the charge related to something that happened in the year 1986 the Disciplinary Authority may be directed to consider whether it would be worthwhile to proceed with the enquiry or drop the same. Mr. <sup>G.</sup> <sup>for the respondents however</sup> Sarma submits that such a direction would be contrary to the order of remand. We are inclined to accept the submission of Mr. G. Sarma and only add that it will be open to the applicant to make such a submission before the Disciplinary authority as part of the enquiry and the Disciplinary Authority may take such view of the same as he is advised.

The O.A. is disposed of in terms of the aforesaid order. No order as to costs.

  
( G.L.SANGLYANE )  
Member (A)

  
(M.G.CHAUDHARI)  
Vice-Chairman

BEFORE THE CENTRAL ADMINISTRATIVE  
GUWAHATI BENCH

30 AUG 1995

Guwahati Bench

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

TITLE OF THE CASE : O.A.No. 200 of 1995

Shri J.P. Yadav, IFS : Applicant

-versus-

Union of India and others : Respondents

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FOR USE IN TRIBUNAL'S OFFICE

Registration No. OA-200/95

Date of filing 30.8.95

Signature

DATE:

RD GPM  
Y. Sarma  
201/CHSC  
30-8-95

Filed by Mr. [unclear]  
apparent [unclear]  
[unclear] 30.8.95

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

O.A. No. 200 of 1995

BETWEEN

Shri Jagdish Prasad Yadav, I.F.S.  
(Manipur & Tripura Cadre),  
presently on study leave to  
United Kingdom for Ph.D.  
and doing research in the  
University of Edinburg,  
College of Agriculture Building,  
West ~~Main~~<sup>Main</sup> Road,  
Edinburg EH9  
3 JG, United Kingdom.

... Applicant

AND

1. The Union of India  
through the Secretary,  
Ministry of Environment, & Forests,  
Paryabharan Bhavan,  
New Delhi.
2. The State of Tripura,  
through the Secretary,  
Department of Forest,  
Government of Tripura,  
Agartala.
3. The Chief Secretary,  
Government of Tripura,  
Agartala.
4. The Union Public Service Commission,  
represented by the Secretary,  
Union Public Service Commission,  
Dholpur House, New Delhi.
5. The State of Manipur,  
through the Secretary, Forests,  
Government of Manipur,  
Imphal.

... Respondents

DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH  
THE APPLICATION IS MADE :

This application under Section 19 of the

Administrative Tribunals Act, 1985 is directed against the following orders :

- (a) Order No. F. 11(33)-ARD/88/1176-82 dated Agartala the 7th April 1994 passed by the Chief Secretary to the Govt. of Tripura, Administrative Reforms Department by order and in the name of the Governor imposing minor penalty of withholding increment of pay for a period of three years without cumulative effect.
- (b) letter dated 30th August 1994 vide No.F.11(33)-ARD/88/ issued on behalf of the Chief Secretary Government of Tripura by the Deputy Secretary Government of Tripura intimating the applicant that his representation/appeal dated 9.7.94 against the order of imposition of penalty has been rejected in view of the analysis made by the U.P.S.C.

2. JURISDICTION OF THE TRIBUNAL :

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

3. LIMITATION :

As the instant application is being made within one year from the date i.e. 30st August 1994 on which the final order of rejection/dismissal of the applicant's appeal was passed, it is stated that this application is within the prescribed period of limitation as laid down Under Section 21 read with Section 20 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :

4.1 That the applicant is a citizen of India. He is an M.Sc. (1st Class) in Botany and belongs to 1983 batch of Indian Forest Service (hereinafter alluded to as IFS). The applicant was allotted to Manipur and

Tripura Cadre and he was posted in Tripura under the Government of Tripura.

4.2 That during September 1986 to May 1988, the applicant held the post of Divisional Forest Officer, Southern Division, Bagafa, Tripura. Thereafter the applicant worked as Divisional Forest Officer, Research Division, Agartala. In August 1990, the applicant was sent on deputation by the Government of Tripura to the Govt. of India. While on deputation, the applicant worked in the Forest Research Institute, Dehradun in the rank of Deputy Conservator of Forests, Department of Social Forestry. Applicant remained there for 3 years i.e. from August 1990 to September 1993. Subsequently, the applicant got the Commonwealth Scholarship and on his study leave being sanctioned by the Ministry of Environment and Forests with the concurrence of the Government of Tripura, left for University at Edinburg, United Kingdom where at present he is doing research on the topic "Participatory Forest Resource Management". It is stated that the period of applicant's study leave is from 1st October 1993 to the 30th September 1996. Till the completion of this period, the applicant would remain in United Kingdom. At present the applicant is in United Kingdom and ~~xxx~~ he is busy in the completion of his research on "Participatory Forest Resource Management".

4.3 That after holding the post of the Divisional Forest Officer, Southern Division, Bagafa, Tripura from September 1986 to May 1988 when the applicant was appointed as Divisional Forest Officer, Research

Division, Agartala then it was at this point of time that the Memo No.F.11(33)-ARD/88 dated Agartala the 28.9.89 was served upon him. In the aforesaid Memo the applicant was intimated that it is proposed to take action against him under Rule 10(1)(a) of the All India Service (Discipline & Appeal) Rules, 1960. Memorandum also enclosed the statement of imputation of misconduct and misbehaviour on which action was proposed to be taken. The memorandum also gave the applicant an opportunity to make such representation as he may wish to make against the proposal. The charges of misconduct or misbehaviour were made against the applicant in regard to discharge of his official duty during the period when he was the Divisional Forest Officer, Southern Division, Bagafa during the period September 1986 to May 1988.

In the memorandum dated 28.9.89, all total five allegations were made against the applicant viz.;

- (a) That a self-cheque bearing No. 118493 of Book No. 001185 dated 26.12.86 for an amount of Rs.15,000/- was issued by the applicant and the amount realised thereof was temporarily defaultated by one Shri Sailen Kr. Das, Cashier of the office of the Divisional Forest Officer, Bagafa and that while issuing the said cheque, the prescribed standing instructions were not followed. It was thus stated that the applicant being a drawing and disbursing officer, therefore, failed to take all possible steps to ensure integrity of Shri Sailen Kr. Das, L.D.C. for the time being under

his control and authority as required under Sub-Rule 2 of Rule 3 of the All India Services (Conduct) Rules, 1968 and this exhibits lack of integrity and devotion to duty.

- (b) That during applicant's tenure as Divisional Forest Officer, Bagafa, the applicant sold timber from departmental depot to his father-in-law Shri O.P. Yadav and in that transaction the rates of Mahogany timbers were knowingly unassessed. By implication the charge was that the applicant intentionally classified the valuable Mahogany timbers as 'other miscellaneous timber' thus causing a loss of revenue to the Government.
- (c) That the applicant <sup>obtained</sup> ~~showed~~ permission from Principal Chief Conservator of Forests, Tripura for transportation of the timbers to Gurgaon (Haryana) on behalf of his father~~in~~ in-law - O.P. Yadav vide office letter dated 7.4.89 but without waiting for the formal order of the Principal Chief Conservator of Forests, Tripura for the purpose of transportation of timber outside the State, he converted ~~to~~ the timber logs so purchased into sawn timbers and transported them to Gurgaon by road through Transport Agency viz. Postal Roadways in the Truck No. TRL-3089. It was thus stated that the applicant had failed to maintain absolute integrity as required under Rule 3, Sub-Rule (i) of All India Services (Conduct) Rules, 1968.



- (d) That when the above truck No. TRL-3089 carrying the sawn timbers was detained on the way at Bagapassa drop gate due to indistinct markings noticed on two sawn pieces of timbers the charged officer had despatched Shri R.R.Nandi, Forester to Bagapassa for arranging release of the truck.

Again when the truck was detained at Charaibari Forest Office, Assam Government, for want of permission from Divisional Forest Officer, Karimganj for entry and transport of timber from Tripura to Assam, applicant had sent Shri Brajen Kumar Chakraborty, SFR (new A.C.F.) to Karimganj to arrange release of the truck. When the said truck was again detained at Guwahati for the same reason, the charged officer had again sent Shri Brajendra Chakraborty to Guwahati to arrange release of the truck. For the above purpose Shri Chakraborty had taken earned leave and had accompanied the said truck upto Gurgaon.

Thus the charged officer utilised the services of Government employees for his personal interest and thus acted in a manner unbecoming of a member of the All India Service in violation of the Rule 3(1) of the All India Services (Conduct) Rules, 1968.

- (e) That the applicant had acted very irresponsibly by issuing permit dated 24.9.87 in favour of Shri Pranab Kumar Ghosh of Jamjuri. From depot at Hrishyamuka Shri Pranab Kumar Ghosh in his application dated 24.9.87 wanted permit for certain specific logs (24 logs of Tarai, 15 numbers of Mahogany species and 27 logs of Jam) lying in the depot.

Whereas applicant in his ~~own~~ own hand-writing on the reverse of the said application allowed 117 logs of Tarai, 142 logs of ordinary species and two Jam ~~logs~~ logs i.e. total 261 logs as against the total 41 logs applied for by the said Shri Pranab Kumar Ghosh who ~~took~~ <sup>took</sup> the opportunity to extract not only those fell and marked logs lying on the site but started felling unmarked standing trees in the coupe area and outside.

Thus applicant exhibited lack of devotion to duty and had violated Rule 3 (i) of the All India Service (Conduct) Rules, 1968.

Copy of the Memorandum dated 28.9.88 containing the statements of imputation of misconduct is annexed hereto and marked as ANNEXURE-1.

4.4 That in reply to the Annexure-1 Memorandum containing statements of allegations, the applicant submitted a representation dated 24.10.89 to the Chief Secretary, Government of Tripura. In his representation, the applicant elaborately <sup>gave replies to</sup> ~~stated that~~ the charges made against him and showed <sup>that</sup> the charges contained have no merit at all, and they are not based upon facts. The gist of the applicant's reply to each of the charges against him is being given hereinbelow for the sake of convenience :

(a) In reply to the first charge, it was stated by the applicant that Audit Party inspected his office from 24.8.87 to 8.9.87 and <sup>not</sup> in April 1987 as is claimed in the allegations and that the temporary

defaultation by the cashier was discovered by the applicant himself in April 1987 and the amount of Rs.15,000/- was duly refunded by the cashier because of the single handed efforts of the charged officer. It was also stated by the applicant that the cheque was issued by him in good faith. In this regard applicant also quoted in his reply the para (B) of page 3 of the enquiry report dated 21.10.87 submitted by Shri R.N. Chakraborty, Conservator of Forests to the Principal Chief Conservator of Forests, Tripura :

"(B) It was a self-cheque which was endorsed by the Divisional Forest Officer to Shri Sailen Kumar Das Cashier for encashment and Shri Sailen Kumar Das encashed it and received payment from UBI after due signature in the relevant documents. If the D.F.O. had any malafide intention, he could himself encashed the cheque and received payment without endorsing the cheque to the cashier for receiving the payment. It shows that the D.F.O. had no malafide intention."

Relying upon the aforesaid observation of Chief Conservator of Forests, it was stated by the applicant that the temporary defaultation was done by the cashier and that the applicant had no malafide intention in the said case <sup>of</sup> ~~and~~ temporary defaultation. The applicant also clarified his position regarding the charge of exhibition of lack of integrity and devotion to duty in performing his duties of drawing and disbursing officer in the capacity of Divisional Forest Officer, Bagafa.

- (b) Applicant also refuted the second charge and stated in his reply that he neither classified the Mahogany timber under the category 'other miscellaneous timber' nor he had any malafide intention in selling Mahogany to Shri O.P.Yadav at cheaper rate. It was stated by the applicant that the office of the Chief Conservator of Forests, Government of Tripura vide its Memo dated 27.12.86 has prescribed the rates of various kinds of timber available in Tripura. In the above memorandum of Conservator of Forests, the rates of Mahogany species have not been specifically mentioned while on the other hand, the rates of other available timbers like teak, sal, have been separately stated. In addition even the lesser important species like Kajikara, Nuer, Marai, Kailladi, Kharacini, Behera etc. have also been specifically mentioned in the said memorandum. It was stated by the applicant that the very fact that all the valuable timbers species available in Tripura and the various species of lesser importance have been specifically mentioned and that the name of Mahogany species does not figure in the rate list only implies that the Mahogany species have been classified under the category 'other miscellaneous timber'. It was further stated by the applicant that the decision not to prescribe separate rates for the Mahogany timber as has been done for other available timber species of the lesser importance and thus to include the Mahogany under the category of 'other miscellaneous timber' must have been taken after

much deliberation and consideration by the forest officials. Applicant stated that there must have been certain reason for arriving at such decision and thereafter in his reply, he quoted a part of the para (iii) of Page (B) of the enquiry report dated 21.10.87 of Shri R.N. Chakraborty -

"It is a fact that in the schedule of ex-depot rate fixed for different kind of timber there is no specific mention of the rate for Mahogany timber. This is because we do not fell and sell any Mahogany timber here which is very rare and scarce in this State. So it did not figure in the schedule of ex-depot rate."

Hence it was stated by the applicant that he committed no error in showing the Mahogany timber as 'other miscellaneous timber' and paying the rates for the same.

- (c) That the applicant refuted the third charge as wholly untenable and stated that at the time of the said transaction of timber, there were no departmental instruction or Government orders regulating the movement of timbers from Tripura to other States. The applicant, therefore, stated that he was not required to seek permission from the Principal Chief Conservator of Forests for allowing the transportation of the timbers outside the State of Tripura. It was also stated that the order dated 1.8.87 of Forest Department, Government of Tripura regulating the transit of timber to outside the State of Tripura came at a much later date after the transaction in

issuance was over. Applicant went on to state that he had even written a letter to the Principal Chief Conservator of Forests informing him that the said quantity of timbers shall be transported outside the State of Tripura by him on behalf of his father-in-law. Applicant stated that if he had any malafide intention he could have kept the Principal Chief Conservator of Forests totally in dark and could have completed the transaction clandestinely.

- (d) That the applicant refuted the charge that he utilised the services of his subordinate staff to ensure safe transport of timber to Gurgaon. It was stated by him that his staff assisted him during the period when they were availing leave. It was further stated by him that the staff assisted him purely in their private capacity and extended their assistance voluntarily without being in compulsion or duress. Their leave were duly sanctioned and <sup>not</sup> their services were/ utilised during the course of performance of their official duties. It was further stated that the concerned officials assisted the applicant voluntarily and without any gratification during the period of their sanctioned leave and thus the charge that the services of the Government employees were utilised for his personal interest was totally untenable and without any subsistence.
- (e) That the applicant refuted the charge in regard to his issuing the permit in favour of Shri Pranab Kumar Ghosh of Jamjuri which resulted in felling of

various unmarked trees. Quoting extensively from the enquiry report, the applicant showed as to how there was no illegality in his action and that he acted in good faith ~~xx~~ in issuing permit to Shri Pranab Kumar Ghosh.

In his reply, it was stated by the applicant that the charges of misbehaviour and misconduct as brought out against him were factually incorrect and in fact the matter has been <sup>exaggerated</sup> ~~exaggerated~~ and highlighted without going deep into the matter and without examining the matter in a totality. It was categorically denied by the applicant that he committed any act exhibiting lack of integrity and devotion of duty required under All India Services (Conduct) Rules, 1968 and that he maintained all the time absolutely integrity and devotion to duty and did nothing which is unbecoming of the members of the All India Service.

A copy of the applicant's representation dated 24.10.89 is annexed hereto and marked as ANNEXURE-2.

4.5 That after submitting the representation dated 24.10.89, for nearly 5 years the applicant heard nothing from the competent authority. It was felt as if the whole matter died its own death. However, when the applicant left for U.K. and was doing his research work at the University of Edinburg, it was at that point of time that the order No.F.11(33)-ARD/88/1176-82 dated 7.4.94 was passed in the name of the Governor. In the aforesaid order, it was stated that on examination of the

defence statement furnished by the applicant, the State Government decided to impose the penalty of stoppage of two increments without cumulative effect ; but whereas the U.P.S.C. which was consulted in the matter and had advised that the ends of justice would be made if the penalty of withholding of increments of pay for a period of three years without cumulative effect is imposed upon the applicant. Therefore, on careful consideration of all aspects, it is decided to impose a minor penalty of withholding increments of pay for a period of three years without cumulative effect.

Copy of the impugned order of disciplinary authority dated 7.4.94 imposing a minor penalty upon the applicant is annexed hereto and marked as ANNEXURE-3.

4.6 That prior to the order of the disciplinary authority imposing a minor penalty of withholding increments of pay for a period of three years without cumulative effect upon the applicant, no copy of the U.P.S.C. finding was furnished to the applicant. Since the copy containing the finding of the U.P.S.C. was not furnished to the applicant prior to the passing of the order of the disciplinary authority, the applicant was deprived of the opportunity to give clarification against the finding of the U.P.S.C. It is thus stated that the disciplinary authority passed the impugned order of imposing minor penalty upon the applicant on one sided view of the matter because it did not have before it the explanation of the applicant against the finding of the U.P.S.C. It is



stated that in view of the fact that copy of the U.P.S.C.'s finding was not furnished to the applicant by the competent authority prior to passing of the order of imposing minor penalty by the disciplinary authority, therefore, the order of the disciplinary authority dated 7.4.94 is vitiated and is not tenable in the eye of law.

4.7 That a copy of the findings of the U.P.S.C. was furnished to the applicant alongwith the order of imposition of minor penalty dated 7.4.94 and the same was received by the applicant alongwith the aforesaid order of imposing minor penalty.

Copy of the findings of the U.P.S.C. is annexed hereto and marked as ANNEXURE-4.

4.8 That subsequently, the applicant filed a representation dated July 9, 1994 before the Chief Secretary Government of Tripura against the order of the disciplinary authority imposing a minor penalty upon him. In his aforesaid representation, applicant elaborately discussed the grounds which were not considered by the disciplinary authority while passing the order of imposition of minor penalty upon him. In his representation, applicant made an appeal that the matter may be looked into and justice be done to him.

Copy of the representation dated 9.7.94 is annexed hereto and marked as ANNEXURE-5.

4.9 That thereafter applicant received a letter No.F. 11(33)-ARD/88 dated 30.8.94 written by the Deputy

Secretary, Government of Tripura, wherein the applicant was intimated that his representation dated 9.7.94 on the subject of imposition of minor penalty upon him was examined carefully and sympathetically ; but the said representation was rejected in view of the analysis made by the U.P.S.C. and their finding on the charges and the considered advice of the Commission regarding the penalty to be imposed. It was stated in the letter that there is no merit whatsoever in the representation seeking reconsideration of the matter.

Copy of the letter dated 30.8.94 is annexed hereto and marked as ANNEXURE-6.

4.10 That the applicant is highly aggrieved by the letter dated 30.8.94 because it shows ~~xxx~~ total non-application of mind by the competent authority on the representation of the applicant dated 9.7.94. The aforesaid letter is a non-speaking one. It does not contain any reason nor does it give any explanation. From the contents of the letter it is almost impossible to understand that whether the points urged by the applicant in his representation dated 9.7.94 were at all considered by the competent authority. Moreover, in view of the fact that that even the order of the disciplinary authority is non-speaking order and as it does not reflect the consideration of the competent authority on the detailed explanation given by the applicant in his elaborate defence statement, therefore, the interest of the applicant is severely prejudiced both by the order of the

disciplinary authority and by the letter dated 30.8.94 intimating the applicant about the rejection of his representation dated 9.7.94.

4.11 That thus being aggrieved by the impugned order of the disciplinary authority dated 7.4.94 and the letter dated 30.8.94 reacting the applicant's representation dated 9.7.94, the applicant has come before this Hon'ble Tribunal for the ends of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 That the failure of the disciplinary authority to furnish the copy of the findings of the U.P.S.C. to the applicant prior to the passing of the order of imposition of minor penalty upon the applicant severely prejudiced the interest of the applicant and vitiated the order of the disciplinary authority. The order of the disciplinary authority is, therefore, liable to be set aside and quashed on this count alone.

5.2 That the failure on the part of the disciplinary authority to furnish the copy of the findings of the U.P.S.C. to the applicant deprived the applicant of the opportunity to give replies against the same which could ~~not~~ have been considered by the disciplinary authority in passing the imposition of minor penalty upon the the applicant but as the same was not done, the interest of the applicant was severely prejudiced and as such, the order of the disciplinary authority is not tenable in the eye of law.

5.3 That the order of the disciplinary authority is a non-speaking one as it does not contain reasons for imposing minor penalty. ~~upon him~~. The impugned order relies heavily upon the findings of the U.P.S.C. the copy of which was not even furnished to the applicant prior to imposition of minor penalty upon the applicant. As the order of the disciplinary authority is a non-speaking one, it is not sustainable in law.

5.4 That the letter dated 30.8.94 which intimated the applicant about the rejection of his representation dated 9.7.94 also does not contain any reason. The aforesaid letter is silent upon the material facts and it does not reveal as to what aspects were considered by the competent authority in <sup>rejecting</sup> ~~rejecting~~ the representation of the applicant.

5.5 That in view of the fact that in the instant case no full-fledged disciplinary enquiry was carried out and the decision was taken by the competent authority by solely relying upon the defence statement submitted by the applicant and the findings of the U.P.S.C. Therefore, the failure on the part of the competent authority to furnish the copy of the findings of the U.P.S.C. to the applicant ~~to the applicant~~ prior to the passing of the order of the disciplinary authority, assumes great significance. It is submitted that the furnishing of the copy of the U.P.S.C.'s. finding to the applicant alongwith the order of the disciplinary authority has not cured the defect of not furnishing it prior to the passing of the order.

5.6 That the decision of imposing minor penalty upon the applicant is perverse and the same is not ~~based~~ based upon any evidence at all. No reasonable person after reading the defence statement submitted by the applicant could have come to the finding that the applicant has committed any act of misconduct or that there has been any lack in integrity on his part.

5.7 That the order of the disciplinary authority of imposing minor penalty upon the applicant has been passed in gross violation of the principles of natural justice and in contravention to the established principles of service jurisprudence.

5.8 That there are no good, just and sufficient reason in the instant case for the competent authority to arrive at a finding of applicant being guilty of misconduct.

5.9 That the order of the disciplinary authority of imposing minor penalty upon the applicant was passed in violation of Rule 9(iii) of All India Service ~~(Conduct)~~ (Discipline & Appeal) Rules, 1969 inasmuch as the disciplinary authority in its order of imposing minor penalty upon the applicant, <sup>did</sup> ~~do~~ not <sup>record</sup> ~~reach~~ its finding on Articles of Charges. It acted mechanically and passed a non-speaking order. On this count alone, the order of the disciplinary authority is liable to be set aside and quashed.

5.10 That the punishment inflicted upon the applicant

is arbitrary, unreasonable and is in violation of the principles of service jurisprudence.

5.11 That the competent authority committed a grave error of law in not furnishing the applicant, the copy of the order dismissing the representation of the applicant dated 9.7.94. Because it is only the order which would record the reason for the dismissal of applicant's representation. Instead of furnishing applicant copy of the said order, he was only intimated vide letter dated 30.8.94 that his representation dated 9.7.94 was examined but was rejected in view of the advice tendered by the U.P.S.C. The non-furnishing of the copy of the aforesaid order to the applicant is a serious violation of the applicant's right and on this count alone, the punishment inflicted upon the applicant is liable to be set aside and quashed.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant declares that he has exhausted all the remedies available to him under the relevant service rules and there is no alternative remedy available to him any more.

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

The applicant further declares that he has not filed any application, writ petition or suit before any other Court/<sup>or any other Bench of the Hon'ble Tribunal</sup> in respect of which the instant application is filed nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT :

On the facts and circumstances stated above, the applicant prays for the following reliefs :

- 8.1 Quash/set aside the order No.F.11(33)-ARD/88/1176-82 dated 7.4.94 (Annexure-3) ;
- 8.2 Quash/set aside the letter dated 30.8.94 intimating the applicant the rejection of his representation dated 9.7.94.
- 8.3 Pass any other order or orders/<sup>and/or</sup>~~or~~ direction or directions as may be deemed fit and proper ~~by~~ under the facts and circumstances of the case.
- 8.4 ~~xxx~~ Award cost of the application to the applicant.

9. INTERIM ORDER PRAYED FOR :

In the facts and circumstances stated above, the applicant does not pray for any interim order at this stage but he prays for an expeditious disposal of the instant application.

10. ....

The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O. :

- (i) No. of I.P.O. : 8.09.326720
- (ii) Date :
- (iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

Verification.....

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

I, Shri Jagdish Prasad Yadav, son of Late Mohan Singh Yadav, aged about 36 years, presently doing research work in the University of Edinburg, United Kingdom, do hereby solemnly verify and state that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice and I have not suppressed any material facts.

And I sign this verification on this the 30<sup>th</sup> day of Aug. ~~30~~ 1995.

Jagdish Prasad Yadav  
JmJ



NO. F.11(33)-ARD/88  
GOVERNMENT OF TRIPURA  
AD MINISTRATIVE REFORMS DEPARTMENT

Dated Agartala the 28th Sept., 1989.

M E M O R A N D U M

Shri J.P.Yadav, I.F.S. the then D.F.O. Southern Division, Bagafa (now posted as Divisional Forest Officer, Research, P.O. Agartala College, Agartala) is hereby informed that it is proposed to take an action against him under Rule 10(1)(a) of All India Services (Discipline and Appeal) Rules, 1969, a statement of the imputations of misconduct or misbehaviour on which action is proposed to be taken as mentioned above is enclosed.

2. Shri J.P. Yadav, the then D.F.O. Southern Division, Bagafa (now posted as Divisional Forest Officer, Research P.O. Agartala College, Agartala) is hereby given an opportunity to take such representation as he may wish to make against the proposal.

3. If Shri Yadav, I.F.S. the then D.F.O. Southern Division, Bagafa (now posted as Divisional Forest Officer, Research, P.O. Agartala College, Agartala) fails to submit his representation within 10 days of the receipt of this memorandum, it will be presumed that he has no representation to make and orders will be liable to be passed against Shri J.P.Yadav, I.F.S. the then D.F.O. Southern Division, Bagafa (now posted as Divisional Forest Officer, Research, P.O. Agartala College, Agartala) exparte.

4. The receipt of this Memorandum should be acknowledged by Shri J.P. Yadav, I.F.S., the then D.F.O. Southern Division, Bagafa (now posted as Divisional Forest Officer, Research, P.O. Agartala College, Agartala).

By order and in the name  
of the Governor

Sd/-

To  
Shri J.P.Yadav, I.F.S.  
Divisional Forest Officer,  
Research, P.O. Agartala College,  
Agartala.

(I.P. Gupta),  
Chief Secretary to the  
Govt. of Tripura.

Copy to : The Secretary, Forest Department.

Contd...

STATEMENT OF IMPUTATION OF MISCONDUCT OR MISBEHAVIOUR ON WHICH ACTION IS PROPOSED AGAINST SHRI J.P. YADAV I.F.S. THE THEN D.F.O. SOUTHERN DIVISION BAGAFI UNDER RULE 10(1)(a) OF ALL INDIA SERVICES (DISCIPLINE AND APPEAL) RULES 1969.

That the said Shri J.P. Yadav, I.F.S. while functioning as Divisional Forest Officer, Southern Division, Bagafi issued a self cheque bearing number 118493 of book No. 001185 dated 26.12.86 for Rs.15,000/- on Belonia Sub-Treasury for receiving payment from the U.B.I. Belonia Branch. But that cheque was neither entered in the cheque register nor in the cash book of the office of the D.F.O. Bagafi though encashed on 26.12.86 through Shri Sailen Kumar Das, L.D.C. (Cashier) of the said office. During audit by the Audit party of A.G.'s. office in April 1987, it was detected that though the said cheque for Rs.15,000/- was encashed by the cashier Shri Sailen Kumar Das, L.D.C. (now U.D.C. posted in Teliamura Division) on 26.12.86 yet no entry of the amount in the cash book was made on that date i.e. 26.12.86 and till March, 87. The monthly accounts of Southern Division, were submitted to the A.G. without including the said amount of Rs.15,000/-. When this was detected in April 1987 by the Audit Party the said amount of Rs.15,000/- was shown in the cash book by way of making back dated entry in the cash book under Dr. item No. 32(A) dated 20.4.87 as the cash recovery from the said Shri Sailen Kumar Das, L.D.C. (Cashier) and then an entry was also made in the cash book under Cr. item No. 41(A) dated 30.4.87 being the payment of arrear pay and allowances to Shri Brajendra Chakraborty, Forest Ranger with effect from 1.8.78 to 28.2.80. Thereafter a revised monthly cash account for the month of April '87 was sent to the A.G. on 15.6.87 vide D.F.O's. No.F-1-19/SDB-86/3641-43 dated 15.6.87 under the signature of the said Shri J.P. Yadav, D.F.O. Bagafi though the original monthly

account for the month of April '87 was previously submitted as usual to the A.G. vide D.F.Os. No.F-1-19/SDB-87/3553-55 dated 11.5.87 by the said Shri J.P. Yadav, D.F.O. South, Bagafa. Thus, it is clear that the said amount of Rs.15,000/- was taken into revised monthly account only when temporary defalcation of the said amount of Rs.15,000/- was detected by the audit party. This sort of temporary defalcation ~~of~~ by the said said Shri Sailen Kumar Das, L.D.C. could not have been possible had Shri J.P. Yadav, the then D.F.O./being the <sup>South</sup> Drawing and Disbursing Officer been vigilant in issuing the self cheque and followed the standing instruction issued vide Forest Department's Memo No. F.1-1/For/Misc./Acctt./54859-76 dated 21.12.83 (copy enclosed). The said Shri J.P. Yadav, therefore failed to take all possible steps to ensure integrity of a Govt. Servant for the time being under his control and authority as required under Sub-Rule (2) of Rule 3 of All India Services Conduct Rules 1968.

Thus the said Shri J.P. Yadav, has exhibited lack of integrity and devotion to duty in performing the duties of drawing and disbursement officer in the capacity of Divisional Forest Officer, South.

That the said Shri J.P. Yadav, issued two permits for collection of following timbers from the Departmental Depot in the name of Shri O.P. Jadav of Gurgaon (Hariyana) who is his father-in-law as noted against each permit.

Species	Quantity permitted for sale as per permit from depot.	Permit No. and date.
1	2	3
Sal	4 Cu. m.	No.F.12-1/D/SDB-87/56-59 dated 1.4.87
Karai	4 cu. m.	No. F. 12-1/D/SDB-87/60-63 dated 1.4.87
Teak	4 cu. m.	
Chamal	2 cu. m.	
Sundhi	2 cu. m.	
Mehagoni	1 cu. m.	

Attended  
by  
Palmit

On the strength of the aforesaid two permits the following quantity of timbers were sold to the permit holder, Shri O.P.Jadav on realisation of royalties at the prescribed depot rates but royalty for the Mehagoni logs was realised at rate applicable for 'other ~~to~~ misc.timber' without ascertaining the rate actually chargeable for such a valuable timber like Mehagoni.

Species	The quantity permitted for sale as per permit from the depot.	The quantity of timber actually sold from the depot.	The rate at which the timber were sold and revenue realised.
Teak	4 cu. m.	2.565 cum(round)	Rs. 2565 per cu.m. Rs. 2500 " " Rs. 2000 " "
Sal	4 cu. m.	3.298 cum(round)	Rs. 1800 per cu.m. Rs. 1600 " "
Chamal	2 cu. m.	1.377 cum(round)	Rs. 800 " "
Karai	4 cu. m.	2.289 cum(round)	Rs. 1100 " "
		0.140 cum( <del>round</del> sawn)	Rs. 900 " "
Gamar		0.240 cum(round)	Rs. 1200 " "
		0.345 cum(round)	Rs. 1200 " "
Mehagoni	1 cum m.	0.908 cum(round)	Rs. 550 " "

The said Shri J.P. Jadav is very well aware that Mehagoni is extremely valuable species and the royalty of such species would be much higher than the royalty chargeable for all other timbers mentioned above. The royalty for the Mehagoni timber was realised at the rate of Rs.550/- per cu. m. by classifying it under the category of 'other misc. timbers'. The said Shri Jadav should have known that an extremely valuable timber like Mehagoni can not fall under the classification 'Other Misc. timbers', before realising the cost of the timber as indicated in the aforesaid table the said Shri Jadav should have ascertained the depot rate of Mehagoni timber by referring the matter to the Higher Authority and indicated it in the permit.

Apart from the above the said Shri J.P. Jadav D.F.O. Southern Division Bagafa sought permission of the P.C.C.F.(T) for transportation of the aforesaid timbers to Gurgaon (Haryana) on behalf of his father-in-law, Shri O.P. Jadav vide his office letter No.F.12-1(A)/SDB-67/327-26 dated 7.4.87 but without waiting for the formal order from the P.C.C.F. (T) as required for the purpose of transportation of timber outside the State, the said Shri J.P.Yadav converted the timber logs to purchased into sawn timbers and transported them to Gurgaon (Haryana) by road through a road transport. Agency viz. Costal Roadways being covered by transit pass No. 32745 dated 27.4.87 and 32747 dated 27.4.87 respectively of Book No. 653 of Bagafa Soil Conservation Range office. The truck No.TRL-3089 carried the said sawn timbers to Gurgaon (Haryana). Thus it is clear from the aforesaid acts of Shri Jadav that he has failed to maintain absolute integrity as required under Rule 3(1) of the All India Services (conduct) Rules, 1968.

That besides the above, the said Shri J.P.Jadav despatched Shri R.R.Nandi, Forester to Bagpassa when the said truck was detained on the way at Bagpassa drop gate due to indistinct markings noticed on two sawn pieces of timbers. The said Shri <sup>N</sup>andi went to Bagpassa taking two days casual leave and arranged release of the truck by the Incharge of drop gate at Bagpassa.

Against the said truck was detained at Choraibari Forest Office of Assam Government for want of permission from D.F.O. Karimganj for entry and transport, of timbers from Tripura through Assam. Thereafter Shri Brajendra Ch. Chakraborty SFR (now ACF) attached to the office of D.F.O.

Southern Division, Bagafa was sent by Shri Jadav to Karimganj to arrange release of the truck. Shri Chakraborty took E.L. from 6.5.87 to 12.5.87 and went to Karimganj and took the timber to Gauhati and then returned to his Headquarters. The said truck No. TRL-3089 was again detained at Gauhati for the same reason as aforesaid and on getting information from the roadways agency Shri B.C. Chakraborty, SFR (now ACF) was again sent to Gauhati. Shri Chakraborty again took earned leave for 22 days w.e.f. 3.6.87 to 24.6.87 and went to Gauhati and cleared the timbers for transportation to Gurgaon (Haryana) and accompanied the said truck upto Gurgaon (Haryana).

Thus Shri J.P. Jadav, D.F.O. Southern Division, Bagafa utilised the services of Govt. employees for his personal interest. Both Shri R.R.Nandi Fr. and Shri Brajendra Ch. Chakraborty, S.F.R.(now A.C.F.) ~~and~~ did not have any personal interest in the matter. ~~and~~ Shri Jadav has thus acted in a manner which is unbecoming of a member of the service in violative of Rule 3(1) of the All India Services(Conduct) Rules, 1968.

Further it appears from the report No.F.7-14/CFIC/Estt/For-86-87/602 dated 12.2.88 of the Conservator of Forests Southern Circle, Udaipur, that he said Shri J.P. Jadav, D.F.O. Southern Division, Bagafa acted very irresponsibly by issuing permit No.F.12-1(B)/SDB-87/10360-62 dated 24.9.87 in favour of Shri Pranab Kr. Ghosh of Jamjuri from the depot at Hrishyamuk, Shri Pranab Kr. Ghosh in his application dated 24.9.87 wanted permit for specified logs bearing number 26, ox27, ox28, ox30, ox35, ox36, ox39, ox40, ox47, ox48, ox51, ox54, ox56, ox57, ox58, ox50, ox64, ox575, ox80, ox81,

ox91, ox92, ox95, ox141 (24 Nos.) of Karai and ox4, ox12, ox17, ox20, ox21, ox26, ox35, ox45, ox46, ox52, ox55, ox98, ox99, ox144, ox145 (15 nos.) of ordinary species and ox18, ox19 (2 nos.) of Jam lying in the Depot whereas the said Shri J.P. Jadav in his own hand writing on the reverse of the said application allowed 117 logs (from ox 26 to ox142/86-87), 142 logs of ordinary species (ox4 to ox145) and 2 Jam logs (from ox26 to ~~ox142~~ ox19) total 261 logs as against 26 nos. of Karai logs, 15 Nos. of ordinary logs and 2 nos. of Jam logs as applied for by the said Shri Pranab Kr. Ghosh in his application dated 24.9.87 as stated above. Thus the permit issued by the said Shri J.P. Yadav D.F.O. Southern included even many unmarked standing trees ~~and marked logs~~ and Shri Pranab Kr. Ghosh took the opportunity to extract not only those felled and marked logs lying at the site but started felling unmarked standing trees in the coupe area ~~and~~ outside. The matter was inquired into by CF(SC) on 27.11.87 but Shri J.P. Jadav, the then D.F.O. could not give any reason for issuing such nature of permit resulting into felling of trees at random when marking list as required for disposal of trees from coupe was not maintained at all. In fact issue of permit of such nature gave rise to serious complication mostly due to lack of foresight on the part of the said Shri J.P. Jadav, D.F.O. Southern Division, Bagafa.

The said Shri J.P. Jadav by his above acts has displayed lack of integrity and devotion to duty although he was required under Rule 3(1) of the All India Services (Conduct) Rules, 1968 to maintain at all times absolute integrity and devotion to duty and do nothing which is unbecoming of a member of the service.

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No.F.4-3/FRD-09/2025

GOVERNMENT OF TRIPURA  
OFFICE OF THE DIVISIONAL FOREST OFFICER  
RESEARCH DIVISION  
AGARTALA

Dated, Agartala

The 24.10./89

To,  
The Chief Secretary,  
Government of Tripura,  
AGARTALA.

Sub:- Representation on the imputation of Misconduct of Misbehaviour on which action is proposed against J.P. Jaidav, I.F.3, the then Divisional Forest Officer, Southern Division, Bagafa under Rule 10 of A.I.S. (Discipline and Appeal Rule) 1969.

Ref:- No.F.11 (33)-ARD/88 dated 28.9.89, Government of Tripura Administrative Reforms Department.

Sir,

With reference to your memorandum above my representation charge-wise is submitted herewith. In this connection apart from other facts I would also like to bring the following facts to your notice.

1. After completion of my probation I took over the charge of Southern Division, Bagafa ~~is one of the most problematic Forest Division in the state. As reported from time to time it would be clear that during~~ is one of the most w.e.f. 20.9.86.
2. The Southern Division, Bagafa is one of the most problematic Forest Division in the state. As reported from time to time it would be clear that during the relevant period due to the stressful, overloaded and disturbed environment of the Division, it was very difficult to work with peace and free of tension.
3. In my past service I have worked with utmost sincerity, devotion of duty and full diligence in the interest of the government works.

*Handwritten signature/initials*



My representation charge-wise is as below:-

1. i) The first charge is that a self cheque bearing No.118493 of Book No. 001186 d t. 26.12.86 for an amount of Rs 15000/- was issued by me and the amount released hereof. was temporarily defalcated by Shri Sailen Kumar Das, Cashier of the office of the Divisional Forest Officer, Bagafa and that while issuing of the said cheque, the prescribed standing instructions were not followed.
- ii) Firstly, it is pointed out that the Audit party of the Accountant General's office inspected the office of the D.F.O., Bagfa during the period from 24.8.87 to 8.9.87 and not in the month of April 1987 as is made out in the charge. After detection of the temporary defalcation of the said amount, the full amount was recovered from the Cashier entirely due to the single-handed-efforts made by me. The cheque was issued in good faith, I had no malafide intention while issuing the cheque. In this regard I quote here below the para (b) of page -3 of Enquiry Report dt. 21.10.87 submitted by Shri R.N. Chakraborty, Chief Conservator of Forests, to the Principal Chief Conservator of Forests, Tripura.

\*(b) It was a self cheque which was endorsed by D.F.O. to Shri Sailen Das, cashier, for encashment and Shri Sailen Das encashed it and received payment from U.B.I. after due signature in the relevant documents. If the D.F.O. had any malafide intention, he could himself encash the cheque and receive payment without endorsing the cheque to the cashier for receiving the payment. It shows that the D.F.O. had no malafide intention."

The observation of Chief Conservator of Forests make it amply

-3-

Cashier. It is also made clear by the Chief Conservator of Forests that I had no malafide intention in the said case of temporary defalcation.

iii) Regarding exhibition of lack of integrity and devotion to duty in performing the duties of Drawing and Disbursing Officer in the capacity of D.F.O. Bagafa, it is stated that the prescribed standing instructions for issuing of Cheque were scrupulously followed in letter and spirit during my entire tenure of posting as D.F.O. Bagafa. The number and frequency of cheques issued by me as D.F.O. Bagafa were very high (Approx. 250 number of cheques were issued by me in a year. Some of the cheques issued were even of quite large amount). There is no single instance other than the above referred cheque were not followed by me. This shows that I had remained vigilant and exhibited the desired level of integrity and devotion to my duties in performing the duties of Drawing and Disbursing Officer as D.F.O., Bagafa. The single isolated case referred above (mischievous by the cashier) in which the prescribed instructions could not be followed should not lead one to conclude that I had not exercised sufficient vigilance and exhibited lack of integrity and devotion to my duty.

iv) The Southern Division, Bagafa consisting of 10 ranges is considered by all the forest officers as the most problematic forest division in this state. Not only the D.F.O. is required to handle tremendous work load in the office but also is required to undertake extensive touring of the Division to monitor the timber felling and the plantation works. At the

same time, the D.F.O. is to withstand the constant public pressure for issue of various kinds of permits. In fact, the public pressure is so much excessive that D.F.O. perpetually finds it difficult to have any peaceful atmosphere in the office making it extremely difficult for him to apply himself singlemindedly to any issue. In this connection, I quote here some paras from my personal Diaries submitted from time to time which would reflect the haples situation in which the D.F.O., Bagafa had to work.

" 10.1.87- Holiday. Did office works. It was decided to enter all the pending vouchers in the cash book and the work started. The cashier was specifically asked to come to office and do the urgent works as both the Accountant have been transferred from this office, so the accounts upto December, 1986 have to be submitted. To my surprise and utter disappointment, the cashier left office when the works was in full swing and went to his home without consulting and seeking permission from the undersigned leaving behind all the vouchers and related important paper scattered and for the undersigned to take care of arrange them. The whole aim became failed. If the intention of some staff is not work the aim of running the office like-goes smoothly can never be fulfilled and the

*Handwritten signatures and initials:*  
A. K. S.  
A. K. S.

-5-

pending list goes on increasing. The make the situation worse, the pressure is to release the staff who has been transferred without any substitute joining. In an earlier occasion also some staff has been withdrawn from this office without giving a substitute. There is no stenographer, The work load of Bagafa division is very high and the staff strength is very poor. Moreover, some mischievous staff have been posted here who vitiate the atmosphere of office. The working culture is gone. The poor D.F.O. has to bear the grunt of the problem. He works day and night for the office. The field work also remain unchecked most of time. It has become very difficult to go in the field easily. This may lead to some mischief in the field by some unscrupulous staff. There is every chance of wrong things in the field. The work load in the office has hampered the movement of D.F.O. in the field.

No respite, it is a maddening situation. How long can it go on? Something should be done seriously. It is for those who are at the helm of affairs to think and

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take positive and constructive steps.

27.1.87. Did office works. The only work done today was issuing of permits to the constructors. It was a crowded campus. There was lot of ~~diffie~~ disturbance in the office. It was very difficult to convince the public to be patient and do not create disturbance by gathering on the gates ~~recems~~. They created Chaotic situation. It created headache. In agitated mind called the police only to be retaliated back by the public on the plea that they felt offended. What an uncommon situation? One cannot think of working and keeping a watch on the other routine office works where the staff is also not punctual to keep the work upto date

10.2.87. Went to Hrishyamukh and Belonia and checked some bridges for illegal use of timber but found right. The information received was proved wrong. Did some office works sitting at Hrishyamukh rest house as it has become difficult in the disturbed environment of the D.F.O.'s office.

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2.3.87. Did office works. Virtually today the office was like a market. About fifty contractors came to office and started asking for the permits. Most of the applications were not correct or some essential information lacking in the verification report. That was the main reason that their permits could not be given. Most important point was about the jote and allocated land permits. The contractors say that the applications without identification mark and measurements of trees in the verification report of Range officer should be attended and permit be given this year at disregard. ing the rules framed for such verification. It was virtually chaotic situation in the office. Some persons talking very loudly. In such disturbed conditions, the very immediate and important works during the ending months of March could not be attended. This becomes more serious and critical due to very little staff in the office."

*Attended to the work*

Apart from the above mentioned observation the superior officers were also informed from time to time about the difficult

situation in Bagafa division without any solution or help coming forward. In a nutshell, the D.F.O. Bagafa was constantly under pressure and worked under extremely stressful conditions. I do not exactly recall the compelling circumstances under which the above mentioned cheque was issued without observing the prescribed instructions, but the same could have escaped to stress and pressure under which I was performing my duties. I had earlier passed orders on the note sheet for issue of a cheque of a similar amount of Rs. 15,000/- in favour of Range Officer, Sabreem on 17.12.86. It is very likely that the cashier took the opportunity at the moment of busy hour to obtain my signature on the said cheque.

v) I would also like to state that in a heavily loaded Southern Division, Bagafa, it is not humanly possible to personally look into each and every minute detail of work. In fact, the memo No. F.1-1/1/For-78/Misc/Actt/54859-76 dated 21.12.83 which was issued much before my joining on 20.9.86, was never brought to my notice by the accountant or Head Clerk or Superior officers and it could not be possible on my part to look for it because of the extreme business and uneasy situation at that time in the divisional officer. It is, this, not unnatural for anybody to seek minimum support from the administrative staff. The cashier and the two accountants in Southern Division, Bagafa were thus expected to bring to my notice any discrepancy which might have escaped to bring to my notice any discrepancy which might have escaped my mind. In fact, it is the duty of the Accountant to ensure that all the prescribed

formalities pertaining to accounts matter are observed fully. However, inspite of their failure to discharge their duties, it was due to my vigilance and watchfulness that on detection of the temporary defalcation the government money was recovered from the cashier. Therefore, I fully refute the charge that the prescribed instructions for issuing of cheques were not followed by me and that I exhibited lack of integrity and devotion to duty in performing the duties of Drawing and Disbursing officer in the capacity of the D.F.O. Bagafa.

2(i) The second charge is that during my tenure as D.F.O., Bagafa I sold timber from department's deposit to my father-in-law Shri O.P. Yadav and in that transaction the rates of Mahogany timber were knowingly under assessed, by implicating, the charge is that I intentionally classified the valuable Mahogany timber as "other miscellaneous timber" thus causing a loss of revenue to the Government. I refute this charge as baseless and without any substance. It is categorically stated that neither I classified the Mahogany timber under the category of "Other miscellaneous timber" nor I had any malafide intention in selling mahogany timber to Shri O.P. Yadav at a cheaper rates.

*Planned*  
*Wants*  
(i) (a) The office of the Chief Conservator of Forests, Govt. of Tripura vide their Memo No. F. 7(94)/For/F.P-86/50770-785 dated 27.12.86 prescribed the ex-dept rates of various kinds of timber available in Tripura. A copy of the said memorandum is placed at Annexure 'A'. It must be noted that the rates of various kinds of timber available in Tripura were arrived at by Chief Conservator of Forests after careful consideration in his meeting with the Conservators of



his meeting with the Conservator of Forests, Northern Forest Circle/Western Forest Circle/Southern Forest Circle who all happen to be very senior officers having long years of experience in the field of Forestry. I cannot presume nor I can believe that the said august body of experienced forest officers was either not aware that the mahogany timber is available in Tripura or that they were unaware of mahogany timber being as valuable as teak. Any such presumption would only cast serious aspersions on the capabilities of that august body of forest officers. But I have got full faith and belief in their knowledge and the vast experience they have in the field of forestry. In the above said memorandum of Chief Conservator of Forests, the rates of mahogany species have <sup>not</sup> ~~also~~ been specifically mentioned while on the other hand, the rates of other valuable timbers like teak, sal, etc., have been separately stated. In addition, even the lesser important species like Kagikara, Neur, Marai, Kailladi, Kharchani, Behera, Hargaza, Kumira etc. have also been specifically mentioned in the said memorandum. The very fact that all the valuable timber species available in Tripura and the various species of lesser importance have been specifically mentioned and that the name of mahogany species does not figure in the rate list only implies that the mahogany species has been classified under the category "other miscellaneous timber." The decision not to prescribe separate rates for the mahogany timber, as has been done for other valuable timber species and the lesser important species and thus including the mahogany timber under the category of "other miscellaneous timber" must have been taken after such deliberation and consideration by the august body of forest officers. They must have had certain reasons

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in arriving at such decisions. Though the committee of forest officers arriving at this rate list have not spelt out such reasons but the same is not difficult to discern either. Shri R.N. Chakraborty, Chief Conservator of Forests under whose signature the said rate list has been issued, has, however,, spelt out the reasons in his enquiry report dt. 21.10.87 submitted to the Principal Chief Conservator of Forests. In this regard, I quote here below a part of para (iii) of page 8 of the said report:-

" It is a fact that in the schedule of ex-depot rates fixed for different kinds of timber, there is no specific mention of the rate for Mahogany timber. This was because we do not fell and sell any mahogany timber herewhich is very rare and scarce in this state. So it did not figure there in this schedule of ex-depot rates."

(i) (b) It is, thus, very clear that the committee of Forest Officers have impliedly classified mahogany timber under the category of ' other miscellaneous timber'. Therefore, the charge that I have classified the mahogany timber under the category 'Other miscellaneous timber' is without any substance. Even after the submission of Enquiry Report dt. 21.10.87 by Chief Conservator of Forests, till today the department has not issued any specific instructions in regard to felling/not felling and ex-depot prices for mahogany and only confirm that mahogany can only be classified under the category " other miscellaneous species."

(i) (c) It is also stated here that it is in the Forest Range Office that after receiving the timber allotment order from the D.F.O., the revenue is realised at the prescribed rates. In this instant case also, an receipt of timber allotment order, the total value of the timber allotted was computed in the Range Office by the Range Officer was duly paid by me on behalf of Shri O.P. Yadav. At no stage, I was approached for clarification regarding the rate to be realised for mahogany timber nor I was consulted in this regard. Therefore, I had no reason to seek any clarification from the Chief Conservator of Forests regarding the rates applicable for Mahogany timber. As D.F.O., I issued the permits as per procedure. The permits were in order and without ambiguity and irregularity. The timber was allowed at the existing depot rates. Copies of the permits were also given to the Range Officer, Bagafa Soil Conservation Range, Range Assistant, Bagafa Range and the Incharge, Divisional Forest Protection Party. Thus many officers were informed about the permits to guide to check and to Central. I had no intention to allow Mahogany timber at cheaper rate to Shri O.P. Yadav.

(i) (d) It is further stated here that the total timber stock in the depot at the time of allotment of timber to Shri O.P. Yadav was more than 1500 Cu.mtrs. which included 1.5.83 Cu.Mtrs of mahogany timber. The item was lying in the depot for a considerable period but I was greatly concerned to dispose off the timber as early as possible to prevent its deterioration and to save the valuable revenue of the Govt. It is categorically

stated here that mahogany timber was not specifically felled for the purpose of allotment to Shri O.P. Yadav. If it is to be as, then more quantity of timber than the meagre 1.583 cu.mts could have been felled. On the contrary, the timber was lying in the depot after departmental operation of a tree which was precariously standing on the road constructed by the P.W.D. and to prevent any damage being caused to the nearby houses in case of its natural fall. The said quantity of timber was brought to the depot and no contractor/buyer approached me for its sale which only goes to prove that there is no demand for mahogany timber in Tripura. From this quantity of 1.583 cu.mtr. of mahogany timber in Tripura. From this quantity of 1.583 cu.mtrs. of mahogany timber, only 1 cu.mts was allotted to Shri O.P. Yadav. If my intention was to favour my father-in-law by selling the valuable timber at a cheaper rate. I could not have felt restrained to allot the entire quantity of 1.583 cu.mtr. That I did not do so only goes to confirm that there was no malafide intention on my part in allotting mahogany timber to Shri O.P. Yadav. (Though the timber allotted was 1 cu.mtr. only 0.968 cu.mtr was ultimately sold to Shri O.P. Yadav.).

2 (ii) The additional charge in this case is that I permitted the timber sold to Shri O.P. Yadav to be transported out of State of Tripura to Gurgaon, Haryana and did not seek the permission in this regard from the Principal Chief Conservator of Forests. This charge is wholly untenable because at the time of said transaction of timber, there were no departmental instructions. of Govt. orders regulating the movement of timber from Tripura to other states. Therefore, I was not required to seek permission from the Principal Chief Conservator

of Forests for allowing the transportation of timber outside the State of Tripura. In fact the Order No. F 7 ( 106)/For/T.P-86/24638-25102 dated 1.8.87 of Forest Dept Govt of Tripura regualrising the transit of timber to outside the state of Tripura came at a much later date after the transaction in issue was over. I had no malafide intentionnte to und-uly favour my relative Shri O.P. Yadav and I had brought the entire transaction to the notice of Principal Chief Conservator of Forests on his guidance informing him that the said quantity of timber shall be transported outside the state of Tripura by me on behalf of my father-in-law shri O.P. Yadav. If I had any malafide intention, I could have kept the Principal Chief Conservator of Forests totally in dark and could have completed the transaction clandestinely. The very fact that the Principal Chief Conservator of Forests ~~totally-in-da~~ neither refused nor raised any objection against the transportation of timber outside the state of Tripura was required at the time of transportation undertaken by me. It may a lso be pointed out here that the Principal Chief Conservator of Forests hhd, in fact, granted his verbal permission allowing me to complete the transaction and transport the timber outside the state of Tripura. It is, thus, categorically refuted that I committed any act of emission or breach of trust or misconduct and that I failed to maintain absolute integrity as req uired under the AIS (Conduct) Rules, 1969.

2(iii) The third charge is that I utilised the services of my subordinate staff to ensure safe transportation of timber to Gurgaon. It is a fact that Shri R.R. Mandi,

Forester and B.C. Chakraborty, S.F.R. ( now A.C.F.) helped me to ensure safe transportation of timber to Gurgaon and Shri Chakraborty even accompanied the truck carrying timber from Charaibari to Gurgaon. It is however, stated that they helped me during the period when they were availing leave. They assisted me purely in their private capacity and extended their assistance voluntarily without being under any compulsion or duress. Their leave was duly sanctioned and their services were not utilised during the courses of performance of their official duties. The concerned officials assisted me voluntarily and without any gratification during the period of their sanctioned leave. Therefore, the charge that the services of the Govt. employee were utilised for my personal interest is totally untenable and without any substance and that I have not committed any act unbecoming of a Member of the Service in violation of the AIS (Conduct) Rules 1968.

3 (i) The third charge is based on the report No. F.7-14/CFSC/Estt/86-87/602 dt.12.2.88 of the Chief Conservator of Forests, Southern Circle, Udaipur that I acted irresponsibly by issuing permit No. F12-1 (B)/SDB-87/10360-62 dated 24.9.87 in favour of Shri Pranab Kr . Ghosh of Kamguri which resulted in felling of various unmarked standing trees.

(ii) It is pointed out that the said report of the Conservator of Forests lacks objectivity and is loaded with subjective considerations. The actual position and my viewpoint are not clearly presented because the matter was enquired into by the Conservator of Forests, Southern Circle on 27.11.87 during my absence from the State from 31.10.87

ATM  
13/11/87

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to 4.1.88. On the one hand the Conservator of Forests has categorically exonerated me while on the other hand he has ~~categorically-ex~~ questioned my ability to foresee the consequences of my act. In this regard I quote here para-4 and para-5 of the said report.

" The allegation that the D.F.O., Bagafa issued irregular permits for hundred of trees in the name of departmental collection to Shri P.K. Ghosh of Udaipur is, therefore, not correct. In fact, the permit enclosed with this report is the only one issued in the name of Shri P.K. Ghosh during 1984-85, 1985-86, 1986-87 1987-88 The other permits have mostly been issued in the name of traders from Belonia.

I do not think that any malafide involved in the entire incident. The problem that have arisen was mostly due to lack of foresight by an officer of limited experience. As the matter has been resolved I do not think any fresh action is called for."

*Attn to Mr. B. K. Singh*  
The relevant permit No.F.12-1(D)/DV-87/10360-62 dated 24.9.87 is reproduced below:-

"Allowed logs karal from 0 x 26 to 0 x 142/86-87 and Ordinary 0 x 4 to 0 x 115 and Jam 0 x 18 to 0 x 19 from the depot

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rate plus sale Tax, care should be taken that all the timber in the depot irrespective of the quality of timber be given to this applicant and royalty to realised at a time only. Only the good logs should not be given.

Time upto 15th Octover ,1987

3d/- 24.6.89

Divisonal Forest Offocer.

From this permit it is very clear that there was no mention of felling of standing trees in my order. The words " trees" and felling" are conspicuously absent in the permit. Secondly from the permit it is very clear that the permission granted was specifically for " logs from the depot" at Hrishyamukh. There is also no mention in the permit that the contractor was allowed to collect any " unmarked log or tree" from the ~~exer~~ forest area. It is therefore amazing and baffling that extraneous interpre tation has been given to the above mentioned permit whose wordings are absolutely crystal clear. By no stretch of imagination the word " log" can be construed as " tree ". Perusal of this permit would make it clear over a layman that the permission was for removal of specific numbered logs from the depot at Hrishyamukh and not for felling of a tree whether marked or unmarked.

iii) Shri Pranab Ghosh vide his application sought permission for specific logs. The Beat Officer Hrishyamukh recommended the following logs on the application :-



Karai :- 0 x 26, 0 x 27, 0 x 28, 0 x 30,  
0 x 35  
0 x 36, 0 x 39, 0 x 40, 0 x 47, 0 x 48  
0 x 51, 0 x 54, 0 x 56, 0 x 57, 0 x 58  
0 x 59, 0 x 64, 0 x 75 0 x 80, 0 x 81  
0 x 91, 0 x 92, 0 x 95 and 0 x 142.

Ordinary :- 0 x 4, 0 x 12, 0 x 17 0 x 20, 0 x 21  
0 x 22, 0 x 41, 0 x 44 0 x 44, 0 x 52  
~~0 x 59, 0 x 64, 0 x 75, 0 x 80, 0 x 81~~  
~~0 x 91, 0 x 92, 0 x 95 and 0 x 142.~~  
~~0 x 91, 0 x 92, 0 x 95 and 0 x 142.~~  
0 x 55, 0 x 98, 0 x 99, 0 x 144 and  
0 x 145.

Jam :- 0 x 18, 0 x 19.

On the first instance he was refused to permit for taking only selected logs, as recommended by the Beat Officer. On discussion and negotiation in the interest of the Government he agreed to take all the logs lying in the depot at Hrishyamukh irrespective of good and bad quality logs. Accordingly the permission was given for removal of logs coming between 0 x 26 to 0 x 142/86-87 of Karai, between 0 x 4 to 0 x 145 of ordinary and 0 x 18 and 0 x 19 of Jam. It is firstly mentioned here that in the forest depots. no two logs bear the same number. It is a well know convention among all the forest officers as well as the forest contractors and traders that in the forest depots no two logs whether of the same species or not can have the same log number. Therefore, the inference that permission for total of 261 Nos. logs as against 24 Nos.

*Attended  
to  
Minister*

of Karai logs 15 Nos. of ordinary logs and 2 nos of Jam logs was granted is totally unfounded and baseless. The wordings of the permit as reproduced above make it amply clear that permission for removal of Karai logs, ordinary logs and Jam logs was granted from a given lot of logs bearing number 0 x 4 to 0 x 145. Thus the permission was for maximum of only for 141 logs and not for 261 logs as is alleged in the charge.

9v) The permission for 141 logs of Karai, Jam and Ordinary species as against 41 logs recommended by the beat officer, Hrishyamukh, was granted in the best interest of the Government. During 1986 and 1987 huge quantity of timber departmentally operated from the departmental coupes as well as well as from the coupes of T.F.D.P.C. Ltd had accumulated in depots in Bagafa Division. As has been mentioned in para -2 of page-7 of the Enquiry Report dated 21.10.87 of Chief Conservator of Forests, that more than 1500 cum of timber was lying in the depots as on 1.4.87. I quote here para -3 of the said report.

" (a) There was quite a big accumulation of timber which needed early disposal to avoid decay and the resultant loss in revenue occurring therefrom."

Therefore, as incharge of Bagafa Division my prime concern was to dispose off the timber at the earliest in the best interests of the government and to see that the timber do not remain in depot for unduly long period. Traders coming required only the good and the class I logs. It was my duty to ensure

*Alvin*  
*Alvin*

my duty to ensure that not only the good logs were disposed off but that the poor quality logs were also sold in time. If this objective was to be achieved I could not have afforded to allow any contractor to take logs recommended by the beat officer was given to Shri Pranab Ghosh. It was made absolutely clear in the permit that "all the timber lying in the depot irrespective of the quality of timber be given to the applicant." It may also be mentioned here that there was no restriction as regards the maximum number of logs which could be allotted to any contractor. Therefore, there was nothing objectionable or wrong in allotting 141 logs as against 41 logs as requested by the applicant Shri Pranab Ghosh.

In a nutshell it stated that the permit was given after much deliberation and thought keeping the best interests of government in mind. I gave the permit was couched specifically to include all the timbers of different species and quality lying currently in the depot. The permit was properly worded and there was no ambiguity. Therefore, the allegation or ~~act~~ acting irresponsibly and lacking foresight while issuing the said permit is completely baseless and unfounded. That Shri Pranab Ghosh indulged in illicit felling of standing trees is not as a result of issuing of above said permit but due to his mischievous mind and collusion between the beat officer, Hrishyamukh and Shri P. Ghosh. If there was any ambiguity in the permit issued by me which needed any clarification the Beat Officer was duly bound to consult the D.F.O. or the concerned Range Officer. The very fact that the

....22/-

Beat Officer allowed Shri Pranab Ghosh to fell standing trees under the garb of allegedly ambiguous permit, the ambiguity which was never there in the permit, only confirms that illicit felling by Pranab Ghosh took place with the full knowledge of the Beat Officer.

stated

In the light of the facts/above it would be seen that the charges of misbehaviour and misconduct as brought against me are factually incorrect. The matter has been exaggerated and highlighted without going deep into the matter and examining the issues in perspective and totality. I have been sincerely discharging my duties to the best traditions of an officer of ALL India Service. In view of facts and circumstances explained above I completely refute all the charges levelled against me in your Memorandum under reference. I also categorically deny that I committed any act exhibiting lack of integrity and devotion to duty required under All India Services (Conduct) Rules, 1968. It is also stressed that I maintained all the times absolute integrity and devotion to duty and did nothing which is unbecoming a member of the service.

*Attn  
to  
Bharat*

Yours faithfully,

24.10.89.

(J.P. Yadav)

Divisional Forest Officer,

GOVERNMENT OF TRIPURA  
OFFICE OF THE CHIEF CONSERVATOR OF FORESTS  
TRIPURA : AGARTALA

(25)

Dated, Agartala, the 27 December, 1986.

M E M O R A N D U M

In view of the changed market condition and the cost of production including the hike in wage rate, it was considered to review the upset price. For the sake of convenience and better control, it was also considered necessary to formulate a uniform upset price all over the State without going for details of location and other variables in the perspective of the fact that much of price variation no longer continues to exist as it was earlier. After careful consideration in the meeting with the Conservators of Forests, Northern Forest Circle/Western Forest Circle/Southern Forest Circle, it has been decided that the following should be the upset price for different species and kinds of timbers and for firewood.

The ex-dept upset price as indicated below is to be enforced with immediate effect.

1. Teak timber logs (in round logs over bark)

Specification Girth Class	Rate per cubic metre.
30 Cm. to less than 45 Cm.	- Rs. 990/-
45 Cm. to less than 60 Cm.	- Rs. 1265/-
60 Cm. to less than 90 Cm.	- Rs. 2000/-
90 Cm. to less than 120 Cm.	- Rs. 2565/-
120 Cm. to less than 150 Cm.	- Rs. 3335/-
150 Cm. to less than 180 Cm.	- Rs. 4340/-
180 Cm. and above	- Rs. 5610/-

2. Sal timber logs (in round logs over bark)

- (i) a). Sal logs of length 14ft. to 17ft. with mid girth of 4ft. and above (1'219 metre & above) - Rs. 1800/-
- b). Sal logs of length 22ft (6'7 metre) with mid girth of 4ft. and above (1'219 metre & above) - Rs. 2000/-
- c). Sal logs of length less than 14ft. (4'267 metre) with mid girth of 4ft. and above (1'219 metre and above) - Rs. 1600/-
- d). Sal logs with defects of any length with mid girth of 3ft. to 4ft. (0'618 metre to 1'219 metre) - Rs. 1400/-
- e). Logs with major defects of length less than 7ft. (2'133 metre) with mid girth of 4ft. (1'219 metre) and above and logs.

*Attended to*

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(ii) Sal bridge piles(girth measured at mid point under bark)

- a). 48 Cm. to less than 64 Cm. girth  
(6" to less than 8" dia)- Rs. 65/- per running metre.
- b). 64 Cm. to less than 80 Cm. girth  
(8" to less than 10" dia)-Rs. 100/- per running metre.
- c). 80 Cm. to less than 96 Cm. girth  
(10" to less than 12" dia)-Rs. 120/- per running metre.
- d). 96 Cm. to less than 112 Cm. girth  
(12" to less than 14" dia)-Rs. 140/- per running metre.

(iii) Sal bally(measured over bark at mid point)

- a). Below 31 Cm. girth - Rs. 8/- each.
- b). 31 Cm. to less than 47 Cm. girth - Rs. 6/- per running metre.
- c). Sal house posts(31 Cm. to 45 Cm) dressed - Rs. 8/- per running metre.

3. Gamar timber logs(in round logs over bark)

- a). 60 Cm. to less than 100 Cm. girth - Rs. 900/- per cubic metre.
- b). 100 Cm. to less than 150 Cm. girth - Rs. 1200/- per cubic metre.
- c). 150 Cm. girth and above. - Rs. 1400/- per cubic metre

4. Kerai timber logs(in round logs over bark)

- a). 60 Cm. to less than 90 Cm. girth - Rs. 475/- per Cum.
- b). 90 Cm. to less than 120 Cm. girth - Rs. 750/- per Cum.
- c). 120 Cm. to less than 150 Cm. girth - Rs. 900/- per Cum.
- d). Above 150 Cm. girth - Rs. 1100/- per Cum.

5. Rate/Kagikra/Nour/Misrai/Kailadi/Kharachani/Lanera/Hargaza/Kumaira & other misc.timbers (in round logs over bark).

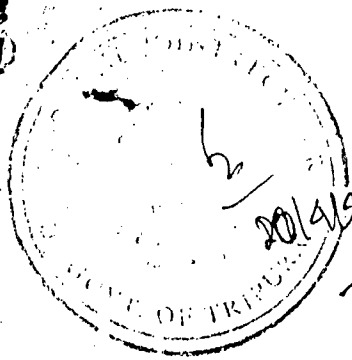
- a). Below 120 Cm. girth - Rs. 550/- per Cum.
- b). Above 120 Cm. girth - Rs. 450/- per Cum.

The small timbers for sal, tank and gamar whose specification in regard to dimensions have not been indicated hereinabove, are to be disposed by sealed tenders subject to the approval of the tendered rate by the Conservator of Forests of the State having jurisdiction above the area.

Sd/-  
(R.A.Chakraborty)  
Chief Conservator of Forests  
Tripura.

*Atulya Kumar*

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No.F.11(33)-ARD/88 / 1176-82  
GOVERNMENT OF TRIPURA  
ADMINISTRATIVE REFORMS DEPARTMENT  
\*\*\*\*\*

Dated, Agartala,  
The 7th April/94.

## O R D E R

WHEREAS, a disciplinary proceeding under Rule 10 of All India Service (Discipline and Appeal) Rules, 1969 was drawn vide A.R. Department Memo.No.F.11(33)-ARD/88 dated 28/09/1989 against Shri J.P. Yadav, IFS, the then Divisional Forest Officer, South-east Division, now posted as Deputy Conservator of Forests, Social Forestry Division, Forest Research Institute and College Dehradun, Uttar Pradesh;

AND WHEREAS, on examination of the defence statement furnished by Shri J.P. Yadav in-reply to the aforesaid charge-sheet, the State Government decided to impose the penalty of stoppage of two increments without cumulative effect on the said Shri Yadav;

AND WHEREAS, the Union Public Service Commission (UPSC) has been consulted in the matter and U.P.S.C. have advised that the ends of justice would be met, if the penalty of withholding of increments of pay for a period of 3 (three) years without cumulative effect is imposed upon the said Shri Yadav, IFS, (copy of UPSC letter No.F.3/37/91-SI dated 31/01/1994 enclosed);

NOW THEREFORE, the Governor, after careful consideration of all aspects of the case, is pleased to impose a minor penalty of withholding increments of pay for a period of 3 (three) years without cumulative effect, upon the said Shri Yadav, IFS;

This order takes effect from the date of issue.

By order and in the name  
of the Governor

( S.K. Roy )  
Joint Secretary to the  
Government of Tripura

U.C. No. 832/32/ARD/94

22-4-94

To  
Shri J.P. Yadav, IFS,  
Dy. Conservator of Forests,  
Social Forestry Division,  
Forest Research Institute and Colleges,  
Po. New Forest, Dehradun-248 006,  
Uttar Pradesh.

C/O Director,  
Social Forestry Division,  
Forest Research Institute & Colleges,  
Po. New Forest, Dehradun-248 006,  
Uttar Pradesh.

Encls:- As stated.

Copy to:-

1. The Secretary to the Govt. of Tripura, Forest Department, Agartala.
2. The Principal Chief Conservator of Forests, Agartala, Tripura.
3. The Director of Social Forestry Division, Forest Research Institute & Colleges, Dehradun, Uttar Pradesh.
4. The Under Secretary, Union Public Service Commission, New Delhi, with reference to his letter No. F3/37/91-SI dated 31/01/1994.
5. The Accountant General, Tripura, Agartala.
6. The Deputy Secretary, Ministry of Environment and Forests, Paryavaran Bhavan, New Delhi.

( S.K. Roy )  
Joint Secretary to the  
Government of Tripura

\*\*\*\*\*

*Attended  
18/1/94  
M. K. S.*



31-1-1974

The Chief Secretary to the Govt. of Tripura,  
Administrative Reforms Department,  
AGARTALA.

(ATTENTION : Shri B.K.Sharma, Joint Secretary)

SUBJECT : Shri J.P.Jadav, I.P.S. - Disciplinary proceedings  
against.

.....

Sir,

I am directed to refer to your letter No.11(33)-ARD/88 dated 17-5-93 on the subject mentioned above and to convey the advice of the Union Public Service Commission as follows.

2. In Memo. dated 28-9-89 issued by the Administrative Reforms Department of the Govt. of Tripura, Shri J.P.Jadav, IFS, was called upon under Rule 10 of the All India Services (D&A) Rules, 1969, to answer the following allegations :-

ALLEGATION (1)

Shri J.P.Jadav, IFS, while functioning as Divisional Forest Officer, Southern Division, Bagosa issued a self cheque on 26-12-86 for Rs.15,000/- on Balonia Sub-Treasury for receiving payment from U.B.I. Balonia Branch. But that cheque was neither entered in the cheque register nor in the cash book of the office of the DFO, Bagosa though encashed on 26-12-86 through Shri Sallen Kumar Das, LDO (Cashier) of the said Office. The above irregularity was detected only in April, 87 by the Audit Party and the said amount of Rs.15000/- was shown in the cash book by way of back dated entry under Dr.item No. 32(A) dated 20-4-87. Thereafter a revised monthly cash account for the month of April, 87 was sent to the A.C. on 15-6-87 under the signatures of Shri J.P.Jadav.

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38/AR/91

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Thus the said amount of Rs.15,000/- was taken into revised monthly account only when the temporary defalcation of the said amount of Rs-15,000/- was detected by the audit party. Shri J.P.Jadav being the Drawing & Disbursing Officer, therefore, failed to take all possible steps to ensure integrity of Shri Sailen Kumar Das, LDC, for the time being under his control and authority as required under sub-rule (2) of Rule 3 of the All India Services (Conduct) Rules, 1968 and thus exhibited lack of integrity and devotion to duty.

ALLEGATION (2)

Shri J.P.Jadav issued two permits for collection of certain species of timber from the Departmental Depot in the name of Shri O.P.Jadav of Gurgaon (Haryana), who is his father-in-law. On the strength of these two permits several quantities of timbers were sold to the permit holder, Shri O.P.Jadav on realisation of royalties at the prescribed depot rates when the royalty for the Mahogany log was realised at the rate of Rs.550/- per cubic meter by classifying it under the category of 'other miscellaneous timbers' without ascertaining the rates actually chargeable for such a valuable timber like Mahogany. Shri J.P.Jadav, who is well aware that Mahogany is extremely valuable species should have known that this could not call under the classification 'other miscellaneous timbers'. Therefore, before realising the cost of timber, Shri J.P.Jadav should have ascertained the Depot rates of Mahogany timber by referring the matter to the higher authorities and indicated it in the permit.

ALLEGATION (3)

Shri J.P.Jadav sought permission of P.C.C.F.(T) for transportation of the timbers to Gurgaon (Haryana) on behalf of his father-in-law, Shri O.P.Jadav vide office letter dated 7-4-87 but without waiting for the formal order of P.C.C.F.(T) as required for the purpose of transportation of timber out side the State, he converted the timber logs so purchased into sawn timbers and transported them to Gurgaon by road through a Road Transport Agency viz., Postal Roadways in the Truck No. TRL - 3089.

Thus, Shri J.P.Jadav had failed to maintain absolute integrity as required under Rule 3(1) of All India Services (Conduct) Rules, 1968.

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*Shri*

ALLEGATION (4)

When the above Truck No. TRL-3089 carrying the sawn timbers was detained on the way at Bagapassa, Drop Gate due to indistinct markings noticed on two sawn pieces of timbers, the Charged Officer had despatched Shri R.R.Nandy, Forester to Bagapassa for arranging release of the Truck.

Again when the said Truck was detained at Choraibari Forest Office, Assam Govt. for want of permission from DFO, Karimganj for entry and transport of timbers from Tripura to Assam, Shri Jadav had sent Shri Brajendra Chakraborty, SFR (now ACF) to Karimganj to arrange release of the Truck. When the said Truck was again detailed at Gauhati for the same reason, the Charged Officer had again sent Shri B.C. Chakraborty to Gauhati to arrange release of the Truck. For the above purposes Shri Chakraborty had taken earned leave from 6-5-87 to 12-5-87 on the first occasion and from 3-6-87 to 24-6-87 and had accompanied the said Truck up to Gurgaon.

Thus, the Charged Officer has utilized the services of Government employees for his personal interest and had thus acted in a manner unbecoming of a member of this service in violation of Rule 3(1) of the All India Services (Conduct) Rules, 1968.

ALLEGATION (5)

Shri J.P.Jadav had acted very irresponsibly by issuing permit dated 24-9-87 in favour of Shri Pranab Kumar Ghosh of Jamjuri from the Depot at Hrishyamuka. Shri Pranab Kumar Ghosh in his application dated 24-9-87 wanted permit for certain specified logs (24 logs of tarai, 15 nos. of ordinary species and 27 logs of jam) lying in the depot. Whereas Shri J.P.Jadav in his own hand writing on the reverse of the said application allowed 117 logs of tarai, 142 logs of ordinary species and 2 jam logs i.e., total 261 logs as against the total 41 logs applied for by the said Shri Pranab Kumar Ghosh, who took the opportunity to extract not only those felled and marked logs lying on the site but started felling un-marked standing trees in the coupe area and outside.

Thus, Shri Jadav had exhibited lack of devotion to duty and had violated Rule 3(1) of the All India Services (Conduct) Rules, 1968.

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Attn  
to  
Nandy

The above allegations were contained in the statement of imputations of misconduct or misbehaviour forwarded with the Memo. ibid. The Charged Officer submitted his reply to the charge-sheet on 24-10-87. The Disciplinary Authority after considering the reply of the Charged Officer has provisionally decided to impose a penalty on the Charged Officer. The case records were forwarded to the Commission for their advice in the matter.

3. The case records have been examined by the Commission and their observations are contained in the following paragraphs separately for each allegation.

#### ALLEGATION (1)

3.1 The Commission observe that a 'self' cheque dated 26-12-86 for Rs. 15,000/- on Balonia Sub Treasury for receiving payment from the U.B.I. Balonia Branch was signed by the Charged Officer as DDO and the cheque was encashed on 26-12-86 by Shri Sailen Kumar Das, LDC (Cashier) working under the Charged Officer. However, this cheque remained unreflected in official records till an Audit Party visited the Charged Officer's office in April '87 and brought to light the temporary defalcation of the amount. This defalcation by the cashier took place only because the Charged Officer did not take necessary steps to ensure the integrity of a Government servant working under him. The Charged Officer's defence is that Audit Party inspected his office from 24-8-87 to 8-9-87 and not in April '87 as is claimed in the allegation and that the temporary defalcation by the cashier was discovered by the Charged Officer himself in April '87 and the amount of Rs. 15,000/- was duly refunded by the cashier because of the single handed efforts of the Charged Officer. From the evidence on record, the Commission notice that the temporary defalcation was actually discovered on 11-5-87 (and not April '87 as claimed in the allegation). However, the fact remains that once this defalcation was discovered, the Charged Officer without fixing responsibility or reporting the matter to higher authorities, recovered the amount from the cashier, showing a back dated entry and submitted revised accounts for the month of April '87 on 15-6-87 (The original accounts for April, '87 had been submitted by the Charged Officer on 11-5-87). The amount of the back dated entry was shown as payment of arrears of allowances to a Forest Ranger. In these circumstances, the responsibility of the Charged Officer as DDO resulting in the temporary defalcation of Rs. 15,000/- by the cashier, stands proved.

In view of the position analysed above the Commission hold allegation (1) as established against the Charged Officer.

#### ALLEGATION (2)

3.2 The Commission feel that the Charged Officer should have realised that "Mahogany" is a very valuable species of timber and that it cannot be classified under "other miscellaneous timbers". Even though no prescribed rates for "Mahogany" were available on the schedule of rates, the Charged Officer should have ascertained the applicabel rates by referring the matter to higher authorities. The Charged Officer's defence is that a number of major and minor species

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of timber and the rates applicable to them, are mentioned specifically in the schedule of rates and since rates applicable to "Mahogany" are nowhere mentioned, it could be classified only under "other miscellaneous timbers". The Charged Officer has further argued that the rates for the timber supplied to his father-in-law were charged by the Range Officer and that only 1 cubic meter of "Mahogany" wood was allotted by him to his father-in-law. The Commission feel that not to mention an officer of Indian Forest Service, even an ordinary educated person would know that "Mahogany" is a very valuable species of wood. The Commission notes that reason as to why the rate applicable to "Mahogany" is not mentioned in the schedule is that this type of timber is rare in Tripura and is seldom cut, the schedule of rates, while not mentioning the rate applicable to "Mahogany", does mention that this timber has a special status and by no stretch of imagination, this timber could have been classified under "other miscellaneous timbers". As regards the argument of the Charged Officer that only 1 cubic meter of Mahogany wood was allotted by the Charged Officer to his father-in-law, it is on record that the total amount of Mahogany logs available in the stock were 1.583 cubic meters and out of this 0.908 cubic meters which were logs of good quality were allotted by the Charged Officer to his father-in-law, leaving behind the logs of inferior quality.

In view of the above analysis, the Commission hold allegation (2) as proved against the Charged Officer.

### ALLEGATION (3)

3.3 The Commission are of the view that after applying to PCCF (T) for permission on behalf of his father-in-law, to transport the timber to Gurgaon, the Charged Officer should have waited for the necessary permission to be granted rather than converting the logs into sawn timber and transporting the same to Gurgaon. The Charged Officer has argued that the orders requiring permission to take timber outside the State of Tripura were issued only after the transaction in question i.e. on 1-8-87. The facts as available from the record are that the Charged Officer had orally sought permission of PCCF (T) to transport the timber in question outside Tripura. The Charged Officer was asked to apply for this permission in writing, which he did. The Charged Officer was asked in a communication dated 20-4-87 to give certain clarifications regarding the permission applied for. Instead of giving the clarifications asked for, the Charged Officer transported the timber from Tripura to Haryana by a truck on 27-4-87. The clarifications asked for were sent by the Charged Officer to the PCCF (T) only in September '87, i.e. long after the timber had been transported from Tripura to Haryana.

In view of the above analysis, the Commission hold allegation (3) as proved against the Charged Officer.

### ALLEGATION (4)

3.4 The Commission notice that when the truck carrying the timber belonging to the father-in-law of the Charged Officer was detained on the way from Tripura to Haryana at a number of places, the Charged Officer utilised the services of his subordinates to get the truck released and one of his subordinates took earned leave for 22 days to accompany the truck and to ensure its safe arrival in Gurgaon (Haryana). The Charged Officer's defence is that the two officials who helped him to transport the timber to Gurgaon did so purely on voluntary basis and in their private capacity. It is on record that these two officials took leave for the period during which

F.3/37/91-S.I

they helped the Charged Officer. The Commission find no evidence of any compulsion or duress exercised on these two officials by the Charged Officer. In these circumstances the Commission do not hold allegation No. 4 as proved against the Charged Officer.

ALLEGATION (5)

3.5 The Commission observe that with regard to the Allegation (5) the defence of the Charged Officer is that Shri Pranab Kumar Ghosh vide his application dated 24-9-87, sought permission for 41 specified logs and he was initially refused permit for taking only selected logs as recommended by the Beat Officer. The Charged Officer contends that on discussion and negotiation in the interest of Government, he had agreed to dispose of all the logs lying in the depot at Hrishyamukh irrespective of good and bad quality logs. Therefore, permission for removal of karai logs, ordinary logs and jam logs was granted from a given lot of logs bearing No. 0 x 4 to 0 x 145. Thus, the permission was given for maximum of only 141 logs and not for 261 logs as alleged in the charge-sheet. The Charged Officer has argued that it was his duty to dispose of the timber at the earliest, to avoid decay and resultant loss in revenue occurring therefrom; and that he was also to ensure that not only the good logs, were disposed of but the poor quality logs were also sold in time. It was due to these considerations that permission for 141 logs, as against 41 logs recommended by the Beat Officer, was given to Shree Pranab Kumar Ghosh. The Charged Officer has also invited attention to the permit dated 24-9-87 wherein there was no mention of felling of standing trees in his order and the permit made it very clear that the permission granted was specifically for logs from the depot at Hrishyamukh. There was no mention in the permit that the contractor was allowed to collect any un-marked log or tree from the forest area. The Charged Officer has also invited attention to the fact that the above allegation has already been gone into by the Conservator of Forest (Southern Circle) and that he has already been exonerated. On the basis of report of the Conservator of Forest, the Commission agree with the Charged Officer's defence and hold Allegation (5) as not proved against the Charged Officer.

3.6 To sum up, the Commission observe that whereas Allegations (1), (2) and (3) have been proved against Shri J.P.Jadav, Allegations (4) and (5) have not been proved against him.

4. In the light of their findings as discussed above and after taking into account all other aspects relevant to the case the Commission consider that the ends of justice would be met in this case if the penalty of withholding of increments of pay for a period of three years without cumulative effect is imposed upon Shri J.P.Jadav. They advise accordingly.

5. The case records as per the list attached are returned herewith. Their receipt may kindly be acknowledged.

Yours faithfully,

(B.D.SHARMA)

UNDER SECRETARY

UNION PUBLIC SERVICE COMMISSION

TELE : 385033

- Encls: 1) Case records as per list attached.  
11) Three spare copies of this letter.

*Alur*

Annexure : 5  
-60-

(15) 40

From : Jagdish Prasad Yadav  
Room 335  
College of Agriculture Building  
The University of Edinburgh  
West Mains Road,  
Edinburgh EH9 3JG  
United Kingdom

July 9, 1994

To,  
The Chief Secretary  
Government of Tripura,  
Agartala, Tripura

(Through Proper Channel)

**Subject :** Representation on the imputation of Misconduct or Misbehaviour on which action is proposed against J.P. Yadav, IFS, the then Divisional Forest Officer, Southern Division, Bagafa under Rule 10 of AIS (Discipline and Appeal) Rules, 1969 - Decision thereof.

**Ref. :** No. F.11(33)-ARD/88 dated 28.09.89 from the Chief Secretary, Government of Tripura and No. F.11(33)- ARD/88/1176-82 dated 07.04.94 from the Joint Secretary to the Government of Tripura, Administrative Reforms Department.

Sir,

I. Vide your letter No.F.11(33)-ARD-88 dated 28th September 1989, I was given a charge sheet along with a statement of allegations, to take an action against me under Rule 10(1) of the All India Services (Disciplinary and Appeal) Rules, 1969. In response to the charge sheet, I submitted my representation on 24.10.89.

Now vide letter No.F.11(33)-ARD/88/1176-82 dated 7th April, 94, which have been received by me on 30th of June 1994, I have been informed that I am punished by withholding increments of pay for a period of 3 (three) years without cumulative effect. The order takes effect from the date of issue.

The order imposing penalty on me has come as a shock to me. I have been made victim of circumstances. I feel my representation in response to the charges was not examined in depth and in right perspective.

II. I would like to reiterate my position in brief :

(1) Temporary defalcation of Rs. 15,000.00. - The first charge was that I exhibited lack of integrity and devotion to duty in performing the duties of drawing and disbursing officer in the capacity of Divisional Forest Officer, Bagafa. I reiterate that I followed the rules and regulations fully and did not exhibit lack of integrity and devotion to duty. I had no malafide intention in the temporary defalcation of money. The cashier did the mischief and temporarily defalcated the money. The matter needs to be looked into in totality and in view of the situation mentioned in my

*Atm*  
*15/7/94*

representation. A broader view of the situation will give an insight into the whole prevailing scenerio. My sincerety and devotion to duty cannot be doubted.

2(i) The second charge is that I intentionally classified the Mahogany timber as "other miscellaneous timber" and thus caused loss of revenue to the Government. I reiterate my position that neither I classified the said timber under the category of "other miscellaneous timber" nor I had any malafide intention in selling mahogany to Shri O.P. Yadav at a cheaper rate. The facts are in the records about the rate of timbers and the procedure of realising the royalty of timbers. There was no violation of the procedure.

2(ii) The additional charge in this regard is that I permitted the timber to Shri O.P. Yadav to be transported out of the State of Tripura to Gurgaon, Haryana without seeking permission from the Principal Chief Conservator of Forests. I reiterate that I did not commit any act of omission or breach of trust or misconduct. I maintained absolute integrity as required under rules. The charge is false against me.

2(iii) Further, additional charge is that I utilised the services of my-subordinate staff to ensure safe transportation of timber from Bagafa to Gurgaon. The charge is untenable and without any substance. I did not force the Government employees for my personal interest.

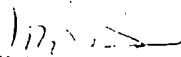
3. The third charge, based on a report from the Conservator of Forests, is that I acted irresponsibly by issuing a permit in favour of Shri Pranab Kr. Ghosh of Jamjuri which resulted in felling of various unmarked standing trees and, thus, lacked foresight on my part. The charge is completely baseless and unfounded.

III. Penalising me on the basis of untenable, unfounded and imaginary charges is a great injustice to me. My hardwork, sincerety and devotion to duty have been zeroed. In view of the facts, I would request you to reconsider my representation in right perspective and in overall context of the whole situation.

The result of reconsideration and the subsequent decision may please be communicated to me as soon as possible.

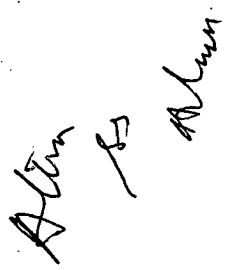
IV. From the order of the letter No. F.11(33)-ARD/88/1176-82 dated 7th April, 1994 from the Joint Secretary to the Government of Tripura, Administrative Reforms Department, it is seen that I have not been given an opportunity to mitigate my grievances as a result of the decision. Please look into this issue and do justice to me. I understand an opportunity is to be given to the aggrieved person to enable him to take appropriate assistance as per law. Please convey the decision in this regard too.

Yours Faithfully,



(Jagdish P. Yadav)

Copy to :- The Secretary, Forest Department, Government of Tripura, Agartala for favour of information.





- 62 - (6) Annexure: 6 (42)

NO.F.11(33)-ARD/88  
GOVERNMENT OF TRIPURA  
ADMINISTRATIVE REFORMS DEPARTMENT.  
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Dated, Agartala, the 30th August, 1994.

TO  
Shri Jagadish Prasad Yadav, IFS  
Room 335,  
College of Agriculture Building  
The University of Edinburgh,  
West Mains Road,  
Edinburgh EH9 3JG,  
United Kingdom.

Subject:- Representation dated 2-7-94 of  
J.P. Yadav, IFS, the then Divisional  
Forest Officer, Southern Division,  
Bagafa in respect of Administrative  
Reforms Department order NO.F.11(33)-  
ARD/88/1178-82 dated 7-4-94.

Sir,

I am directed to refer to your representation dated 9-7-94 on the above subject and to inform you that the matter has been examined very carefully and sympathically but the <sup>A note</sup> representation has been rejected in view of the extremely detailed analysis made by the Union Public Service Commission, their findings of the charges and the considered advice of the Commission regarding the penalty to be imposed.

There is no merit whatsoever in the representation seeking reconsideration of the matter. A copy of the Union Public Service Commission finding has already been furnished to you.

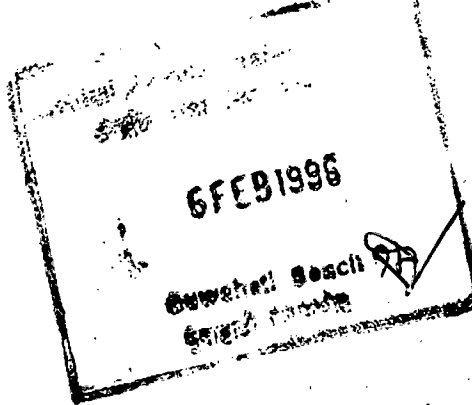
This is for your information.

Yours faithfully,

31/8/94  
( N. G. Bhattacharjee )  
Deputy Secretary,  
Government of Tripura,

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Pr  
Mr



63

Additional Central  
Adm. Tribunal  
Guvahati Bench  
S-2-96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH -

In the matter of

O.A.No.200/95

Jagdish Prasad Yadav ...Applicant.

-Versus-

Union of India & Ors.

... Respondents.

-AND-

In the matter of :

Written Statement on behalf

of the Respondent No.1.

I, Shri R.Sanehwal, Under Secretary to the  
Government of India, Ministry of Environment & Forests,  
Paryavaran Bhawan, C.G.O. Complex, Lodi Road, New Delhi  
do hereby solemnly affirm and declare as follows :-

1. That a copy of application alongwith an  
order passed by this Hon'ble Tribunal have been served  
upon the Respondent No.1 and myself being authorised to  
represent.....

*CS Anand*

represent the Respondent No.1, do hereby file the Written Statement as follows.

2. That the subject matter in the above noted case relates to withholding of increment of the applicant for a period of three years. As the subject matter entirely relates to the Government of Tripura, the Respondent No.1 is only a proforma party and as such burden of refuting the allegations lies upon the State Govt. of Tripura.
3. That this Written Statement is filed bonafide and on legal ground.

VERIFICATION

I, Shri R. Sanhwal, Under Secretary to the Govt. of India, Ministry of Environment & Forests, Paryavaran Bhawan, GCO Complex, Lodhi Road, New Delhi, do hereby solemnly affirm and declare that the contents made in paragraph-1 of this Written Statement are true to my knowledge, the contents made in paragraph-2 are derived from records, which I believe to be true and those made in paragraph-3 are humble submission before this Hon'ble Tribunal.

I sign this Verification on this 31<sup>st</sup> day of January, 1996 at New Delhi.

  
DEPONENT.