

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

(1)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.5

O.A.No: 91/95

Misc.Petn.

C.P. No:

R.Appl:

.....Upper Barrister.....APPLICANT'S
frs.

.....V.OI....9.00..... RESPONDENT'S

Mr. B.K. Sharma.....FOR THE APPLICANTS

Mr. B.K. Talukdar....

.....
Mr. S. Ali, Sr. C.G.S.C. FOR THE RESPONDENTS

OFFICE NOTE DATE ORDER

1.5.95 Mr B.K.Sharma for the applicant.

Mr S.Ali, Sr.C.G.S.C for the respondents
on notice.

Issue notice of admission to the
respondents. The respondents are directed
to produce the ACRs of the applicant for
perusal of this Tribunal pertaining to the
period preceding 5 years to 1993-94 and
also the ACR for the year 1993-94 including
the impugned ACR. These should be produced
at the next hearing for admission.

Returnable and adjourned to 5.6.1995.

60
Member

700
Vice-Chairman

Notice issued from
on 89/95 as it
is a common matter
& records with Ad.
on

pg

89/95

Notice duly served
on L.W. 3 & 4.

89/95

O.A. 91/95

5.6.95

Mr B.K.Sharma for the applicant.

Mr S.Ali, Sr.C.G.S.C for the respondents.

The respondents have not so far complied with the direction dated 1.5.95 for producing the ACRs. Mr Ali states that respondent No.3 has informed him that ~~in all O.A.s except in 89/92~~ copies of the application in companion O.A.s have not been received by him. We have seen the said letter. ~~the copy of the instant O.A. has been received by the said respondent. We fail to understand as to what prevented the said respondent from producing the ACRs as that order was passed in the instant O.A. and has been served upon him.~~ However, in the circumstances we request Mr B.K.Sharma to see whether copies in the companion O.A.s were sent to the respondents or not and to do the needful in the matter with the office if necessary immediately. It is possible that the ACRs are with respondents 5 and 6. Service report of the notice on them is still awaited. It is hoped that the said respondents will comply with the direction given on 1.5.95. Under the circumstances adjourned to 6.7.1995.

6.7.95Adjourned to 11.7.95By order60
Memberhsc
Vice-Chairman

pg

R.W.786

3
O.A.No.91/95

OFFICE NOTE	DATE	COURT'S ORDER
Notice def. heard on R. no. 1, B&4. K877	11.7.95	Mr B.K. Sharma for the applicant. Mr S. Ali, Sr. C.G.S.C. for the respondents. The respondents produce the record as directed on 1.5.95. Since the applicant is seeking relief in respect of entries in the Annual Confidential Record made otherwise than at as a measure of penalty the matter is entertainable by a Single Bench under the Notification dated 18.12.1991. Hence to be placed for admission before the Single Bench on 19.7.95.
	19.7.95	As Mr S. Ali, Sr. C.G.S.C has not been present adjourned to 26.7.1995.
	PG	

COURT'S ORDER

OFFICE NOTE

DATE

26.7.95

Mr. B.K.Sharma for the applicant.
Mr. S. Ali, Sr. C.G.S.C. for the respondent Nos. 1,2,4 and 6.

The matter is similar to O.A. No. 89/95 except that in this case there ^{was} is an order of suspension which has been revoked by Annexure-4. For the reasons stated in O.A. 89/95 the following order is passed :

The application is admitted. Issue notice to the respondents. Written statement within 10 weeks. Requisites to be filed within one week. Adjourned to 18.10.95. Liberty to ~~XXX~~ apply for early hearing after the respondents are served. Since notice has already been served on respondents 1,3,4,5 and 6 and Mr. Ali appears for them no fresh notice is required for them. The respondents may however be informed ^{said} ~~later~~ ^{by letter} that the application has been admitted and they may file their written statement within 10 weeks and further that the next date is fixed as 18.10.95. Fresh notice may however be issued to the respondents No. 2 & 7.

Mr. Sharma applies for Interim order ;

The respondents are directed not to act upon the impugned adverse connotations while considering the case of the applicant for promotion if such occasion arises during the pendency of this application. Liberty to respondents to seek variation of this order if so advised.

The ACRs be kept in safe custody of the Court Officer.

[Signature]
Vice-Chairman

trd

Notice served on
R.No. 7 15.11.95
2014 Adjudicated
29.11.95

For 27/7/95
18.10.95
Ran

Notice for the Plaintiff
Adjudicated for hearing
on 15.11.95

QA/TA/CP/PA/MD No. 91 of 1995

OFFICE NOTE

DATE

ORDER

w/statement hrs not
billed

8/10
2/1129.11.95

Advised to
3.1.96 /

By order

w/statement hrs not
billed

8/10
4/1

QA/TA/CP/RA/MP No. 19 of 19

OFFICE NOTE

DATE

ORDER

3-1-96

By consent adjourned to 28-2-96 as
reply is still to be filed.

W.M.
Vice-Chairman

1m

19.1.96

W/S. submitted
by the Respondents No.1 to 7.

20.3.96

Mr S.Ali, Sr.C.G.S.C for the
respondents.

List for hearing on 2.4.96.

b6
Member

29.1.96

pg

for leaveing
on 28.2.96

2.4.96

Leave note of Mr S.Ali, Sr.C.G.S.C.
Hearing adjourned to 9.4.96.
Mr P.K.Tiwari has no objection.

b6
Member

28.2.96

pg

for leaveing

on 29.3.96

9.4.96

Mr P.K.Tiwari prays for adjournment to
12.4.96. Mr S.Ali, Sr.C.G.S.C has no objection.
Adjourned to 12.4.96.

b6
Member

pg

12.4.96

Mr.B.K.Sharma for the applicant.
Mr.S.Ali, Sr.C.G.S.C. for the respon-
dents. By consent hearing adjourned to
23.4.96.

b6
Member

pg

25.4.96

25.4.96

Mr S. Sarma is present for Mr B.K. Sharma, learned counsel for the applicant.

Mr S. Ali, learned Sr. C.G.S.C., is present for the respondents.

By consent adjourned to 7.5.96 for hearing.

6
Member

nkm

7-5-96

C.C. 8.15

Learned counsel Mr. B.K. Sharma and Mr. P.K. Tiwari for the applicant. Learned Sr. C.G.S.C. Mr. S. Ali for the respondents. Submission of counsel of both sides concluded.

Heard the counsel, Judgment reserved.

6
Member

lm

24.5.96

Mr P.K. Tiwari for the applicant. Mr S. Ali, Sr. C.G.S.C for the respondents.

Judgment pronounced. Application is disposed of in terms of the direction in the judgment/order. No order as to costs.

Office is to return the ACR File of the applicant containing 39 pages under sealed cover to the counsel of the respondents by obtaining receipt from him.

6
Member

30.7.96
Copy of final
order issued to
the parties w.e.e
D. No. 2381 to 2388
d, 6.8.96

shy
392

pg

80.6.96

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

O.A. NO. 91 of 1995
T.A. NO.

DATE OF DECISION 24.5.96

Shri Upen Basumatary

(PETITIONER(S))

Shri B.K. Sharma and Shri P.K. Tiwari

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India and others

RESPONDENT (S)

Shri S. Ali, Sr. C.G.S.C.

ADVOCATE FOR THE
RESPONDENT (S)

THE HON'BLE SHRI G.L. SANGLYINE, MEMBER (A)

THE HON'BLE

1. Whether Reporters of local papers may be allowed to yes.
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 ?

NO.

Judgment delivered by Hon'ble Member (A)

Sanglyine
24.5.96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.91 of 1995

Date of decision: This the 24th day of May 1996

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

Shri Upen Basumatary,
Sub-Divisional Inspector of Post Offices,
Churachandpur, Manipur.

.....Applicant

By Advocate Shri B.K. Sharma and
Shri P.K. Tiwari.

- versus -

1. Union of India,
Represented by the Secretary,
Department of Posts,
New Delhi.
2. The Director General of Posts,
New Delhi.
3. The Chief Post Master General,
North Eastern Circle,
Shillong, Meghalaya.
4. The Post Master General,
North Eastern Circle, Shillong.
5. The Director of Postal Services,
Manipur Division, Imphal.
6. The Superintendent of Post Offices,
Manipur Division, Imphal.
7. Shri K. Ramachandirann.
Ex-Director of Postal Services,
Manipur, Imphal.

At present Director of Accounts(Postal),
Tamilnadu Circle, Madras.

.....Respondents

By Advocate Shri S. Ali, Sr. C.G.S.C.

.....
O R D E R

G.L. SANGLYINE, MEMBER(A)

The respondent No.6, the Superintendent of Post Offices, Manipur Division, Imphal, had communicated by his letter dated 25.7.1994 the adverse remarks recorded by Shri K. Ramachandirann, the then Director of Postal Services, Imphal, in the Annual Confidential Report (ACR for short) of the applicant for the period from 1.4.1993 to 26.9.1993. The adverse remarks

24.5.96

are as follows:

<u>Col.No.</u>	<u>Particulars</u>	<u>Remarks</u>
14(v)	Trustworthiness	: Not trustworthy
17.	Has the officer been reprimanded for indifferent work or for other causes during the period under report? If so, please give brief particulars.	: The official was kept under suspension in connection with S.B. withdrawal case. There is a report from the CBI, Silchar about his personal involvement in this case.
19.	Integrity	: Doubtful."

2. The applicant submitted a representation dated 16.8.1994 before the Chief Postmaster General, N.E. Circle, Shillong, Meghalaya, respondent No.3. This representation was, however, disposed of by the Postmaster General N.E. Circle, Shillong, respondent No.4, on ^{30.} ~~12.~~ 1.1995 confirming the adverse remarks and rejecting the representation of the applicant on the ground that the remarks of the DPS being direct controlling officer are just and fair.

3. The applicant has submitted this application under Section 19 of the Administrative Tribunals Act, 1985, in which he has challenged the rejection of his representation and confirmation of the adverse remarks as well as the recording of the adverse remarks themselves. According to the applicant the respondent No.4 has no authority to dispose of the representation of the applicant which was addressed to respondent No.3. It was only the respondent No.3 who was competent to dispose of the representation. The respondent No.4 had, however, arbitrarily, mechanically and without any application of mind disposed of the representation. It is also the contention of the applicant that as a Reviewing Officer, respondent No.4 was to give his independent view on the entries made in the ACR of the applicant, but in this case the respondent No.4 had not done so. The applicant also alleges that the ACR was written without following the rules and procedures prescribed for writing ACRs. He challenges the competency of respondent No.7 to write the ACR of the applicant for the period from 1.4.1993 to 26.9.1993 because this period was less than six months as respondent No.7 had left Imphal on 20.8.1993. The ACR was not written within the prescribed period of one month from the date of transfer as revealed by the fact that they were communicated only in July

25,
19, 1994. The procedure for recording remarks against Col.19, Integrity, had not also been followed. The entry against Col.17 was also not in conformity with the requirements stated in the column. The applicant further submitted that he was never warned or given guidance before the adverse remarks were written. These adverse remarks were made simply on conjectures and surmises with malafide intentions of respondent No.7 who had borne grudge against the applicant and in order to spoil the service career of the applicant. In support of such alleged malafide action on the part of respondent No.7, the applicant has pointed out that respondent No.7 had placed the applicant under suspension, which was, however, revoked by the Director of Postal Services, N.E. Circle, Shillong, on 1.9.1993 and also to the fact that the applicant had submitted a joint representation to the higher authority against respondent No.7. The learned counsel for the applicant has submitted that the respondent No.7 has not refuted the allegations of malafide against him. According to him the prayer of the applicant for setting aside and quashing the order dated 30.1.1995 by which the representation was rejected and for quashing and expunging the adverse remarks are justified and deserve to be allowed. In support of his contention he has placed reliance on a number of decisions, namely, (1) 1987(4) SLJ (CAT) 527, (2) 1996(1) GLT CAT 1, (3) 1994(3) SLJ 95 and (4) AIR 1986 SC 875. He has also referred to and relied on Swamy's Compilation on Confidential Reports of Central Government Employees (corrected upto 1.4.1993) in support of the various allegations of violation of rules and procedures prescribed for writing ACR by respondent No.7 and respondent No.4.

4. The respondents have contested this application by filing written statement. Mr S. Ali, learned Sr. C.G.S.C., has made submission in support of the contentions of the respondents. Mr Ali has submitted that both respondent No.7 and respondent No.4 have acted within their powers in this matter. According to Rule 174(3) of the Postal Manual Vol.III only three months time for overseeing the work of the officer reported upon is required for the Reporting Officer to enable him to write ACR when the Reporting Officer was transferred during the year. In this case respondent

No.7 had three months time to watch the works of the applicant and had written the ACR on the basis of his knowledge and based on the records such as fortnightly diaries and T.A. bills of the officer reported upon. He further submitted that under Rule 174(13)(ii) of the same manual the Postmaster General, N.F. Circle, Shillong, was competent to dispose of the representation of the applicant.

5. The applicant has challenged the competency and authority of respondent No.4 in disposing of his representation. According to the Postal Manual Vol.III representation against adverse remarks will lie to the authority immediately superior to the reporting officer when there is no countersigning officer and if the immediate superior authority has not already reviewed the confidential report in question and has not also expressed his view either agreeing or disagreeing with the adverse remarks recorded. A perusal of the form of annual confidential report relevant to the applicant shows that there are four parts. Part III is for the reporting officer and Part IV is for the reviewing officer. There is no part provided for the countersigning officer. It is also seen that the adverse remarks were communicated to the applicant by the Superintendent of Post Offices, Manipur Division, Imphal, of the office of the Director Postal Services, Manipur, Imphal. This shows that the reviewing officer had not communicated adverse remarks but they were communicated by the office of the reporting officer. The above will further show that there was no countersigning authority in respect of the ACR of the applicant. The reporting officer in respect of the impugned ACR is the Director Postal Services, Imphal. Thus the Post Master General, N.E. Circle, Shillong is the authority immediately superior to the reporting officer. A perusal of the relevant ACR of the applicant further shows that the reviewing officer has not already reviewed the confidential report of the applicant and had not expressed his view either to agree or to disagree with the remarks recorded by the reporting officer in the ACR before the date of communication of the adverse remark as nothing was recorded in Part IV of the Form of the ACR. In view of the facts of the case the respondent No.4 had therefore acted within his power in disposing of the representation of the applicant.

6. The applicant has also challenged the competency and authority of respondent No.7, who was transferred from Imphal in the month of August 1993 to write his annual confidential report for the period from 1.4.1993 to 26.9.1993 as this period was less than six months. This contention of the applicant is unacceptable as according to Note 1 below Rule 174(4) of the Postal Manual Vol.III on his transfer the reporting officer can write a report if he had watched the work and conduct of the officer reported upon for a period of more than 3 months. According to the applicant respondent No.7 left Imphal on 20.8.1993. Therefore the reporting officer was within his power to write the ACR of the applicant for the period from 1.4.1993 to 26.9.1993^{to the date of his relief.}

7. The respondents have submitted that this application is liable to be dismissed as the applicant did not avail all the departmental remedies. Technically they are correct because after rejection of the representation against the adverse remarks the affected officer concerned is entitled to submit an appeal within a period of six months. The applicant had not availed of this remedy within the prescribed period but instead came before this Tribunal before the expiry of the period. I am not however inclined to dismiss the application on this ground because of the confusion apparently faced by the applicant in this matter of his ACR. It may not be hazardous to guess that the applicant might have a notion that the adverse remarks were communicated to him by the Superintendent of Post Offices, Manipur Division only after the remarks were reviewed and accepted by the Reviewing Officer. Therefore, he had submitted the representation to an authority next superior to the Reviewing Officer. When this representation was disposed of by the Reviewing Officer instead of by the next superior officer the applicant became confused and did not accept the legality of the disposal of his representation by respondent No.4.

8. Now it is to be seen whether the applicant is correct in his contention that respondent No.4 had mechanically and without application of mind disposed of his representation rejecting the same and thereby confirming the adverse remarks recorded by the reporting officer. Respondent No.4 had obtained the comments of the reporting officer on the representation

of the applicant. He had perused those comments together with the representation and he came to the conclusion that he was not inclined to intervene to expunge the adverse remarks recorded against the applicant as the reporting officer was the direct controlling officer of the applicant and held that the adverse remarks are just and fair. Respondent No.4 has not disclosed in his order dated 30.1.1995 what are the contents of the comments of respondent No.7 and he has not also placed them before this Tribunal for perusal. In his order he has not dealt with any point raised by the applicant in his representation. He has not also disclosed before this Tribunal the reasons and facts that might have led him to rejection of the representation. His failure to do so would lend support to the contentions of the applicant that his representation was whimsically and arbitrarily rejected. It may be true that the respondent No.4 was not a direct controlling officer of the applicant in the relevant period but it was his duty as a reviewing officer to know about the applicant and his work. If respondent No.4 had applied his mind to the adverse remarks and the facts of the case of the applicant, it must have crossed his mind that the entries against Col.14 and Col.19 could have been prompted by the entries made in Col.17. If so, whether it could not be considered by him that the alleged basis was no longer in existence since the suspension order itself was revoked on 1.9.1993 before the date of order of rejection of his representation, i.e. 30.1.1995, or when the suspension order was revoked whether the recordings are to be retained against Col.17 in the manner in which they were recorded. It may be noted here that there is no information whether any proceeding had been initiated or continued after the revocation of the suspension order. The entry against 'Integrity' has been recorded as 'doubtful'. The respondent No.4 had not apparently looked into the instructions under G.I.MHA O.M. No.51/4/64-Est(A) dated 21.6.1965 as reproduced in the aforesaid Swamy's Compilation when the integrity of the applicant was allegedly in doubt. The above instances show that respondent No.4 had not applied his mind to the facts of the case of the applicant while disposing of his representation by the impugned order dated 30.1.1995. This order itself is not a speaking order. The documents on the basis of which the adverse remarks were

confirmed.....

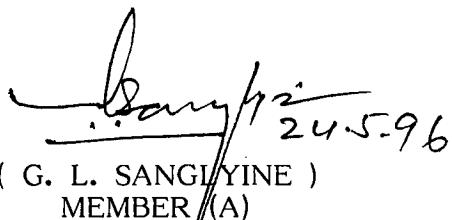
24.5.96

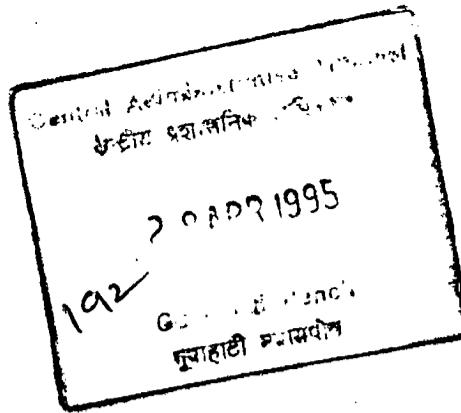
confirmed have not also been submitted by the respondents before this Tribunal.

9. In view of the facts and circumstances discussed in the preceding paragraph, I have come to the conclusion that the impugned order dated 30.1.1995 is not sustainable and is liable to be set aside. At this stage I consider that it is not necessary to go into the merit of the action of respondent No.7 but would rather leave it to the respondent No.4 to reconsider the matter. I therefore, hereby set aside the impugned order dated 30.1.1995 and I direct respondent No.4 to consider the representation dated 16.8.1994 of the applicant afresh on merit and in accordance with the relevant rules and communicate his decision to the applicant. This shall be completed by him within one month from the date of his receipt of a copy of this order. If the applicant is aggrieved with the fresh order of respondent No.4, he shall, if he desires, submit a representation to the next higher authority within one month from the date of his receipt of the copy of the order of respondent No.4. The next higher authority shall dispose of the representation of the applicant within one month from the date of his receipt of the representation from the applicant. If he is still aggrieved, the applicant is at liberty to approach this Tribunal.

10. The respondents are directed that they shall not act upon the aforesaid adverse remarks while considering the service career prospects of the applicant during the pendency of their consideration of his representation dated 16.8.1994.

11. The original application is disposed of as indicated above. No order as to costs.


(G. L. SANGUINE)
MEMBER (A)



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:GUWAHATI BENCH
AT GUWAHATI

Case No. O.A. 91 of 1995.

An application under Section 19 of the Central Administrative Tribunal Act, 1985.

Shri Upen Basumatary ... Applicant.

vs.

Union of India & Ors. ... Respondents.

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For the use in Tribunal's Office.

Date of Filing :

...

18
Bikram
B. K. Sankar
Adarsh
26-4-95

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

An application Under Section 19 of the Central Adminis-
trative Tribunal's Act, 1985.

O. A. No. of 1995.

Shri Upen Basumatary,
Sub-Divisional Inspector of Post
Offices, Churachandpur, Manipur.

... APPLICANT.

- VERSUS -

1. Union of India,
Represented by the Secretary,
Department of Posts, New Delhi,
2. The Director General of Posts,
New Delhi.
3. The Chief Post Master General,
North Eastern Circle, Shillong,
Meghalaya.
4. The Post Master General,
North Eastern Circle, Shillong.
5. The Director of Postal Services,
Manipur Division, Imphal.
6. The Superintendent of Post Offices,
Manipur Division, Imphal.
7. Shri ...

7. Shri K. Ramachandiraun,

Ex-Director of Postal Services,

Manipur, Imphal.

At present Director of Accounts (Postal),

Tamulnadu Circle, Madras.

... RESPONDENTS.

DETAILS OF APPLICATION

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

The application is directed against the illegal rejection order passed by the Post Master General, N.E.Circle, Shillong on the representation submitted by the applicant to the Chief Post Master General, N.E.Circle, Shillong, communicated under Memo No. Staff/8-103/94, dated at Shillong, the 30.1.95 (Annexure-1) and to expunge the malicious adverse remarks recorded in the Applicant's Annual Confidential Report for the year 1993-94 of the Respondent No.7 communicated to the applicant under No.CR/93-94 dated at Imphal 25.7.94 by the Superintendent of Post Offices, Manipur Division, Imphal (Annexure-2).

2. Jurisdiction of the Tribunal :

The applicant declares that the subject matter of the order against which he wants redressal is with

is within the jurisdiction of the Hon'ble Tribunal.

3. Limitation :

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

4. Facts of the case :

(i) That the applicant is a citizen of India and as such he is entitled to all the rights and protections as guaranteed by the Constitution of India.

(ii) That the applicant entered into the services in the Postal Department in the year 1970 as Postal Clerk and thereafter he was selected to work in the tenure post of Wireless License Inspector from 12.4.78 to 1.9.92. He was promoted to the post of Inspector of Post Offices with effect from 16.7.94.

Ever since his entry into services, he has been working with due diligence and to the full satisfaction of the authority. At present, he has been working as Sub-Divisional Inspector of Post Offices, Charachandpur, Manipur.

(iii) That the Respondent No.6 by his letter No.CP/93-94 dated at Imphal 25.7.94 brought to the

applicant's ...

applicant's notice about the adverse remarks recorded in the applicant's Annual Confidential Report for the year 1993-94 (recorded by the then DPS/Imphal, Shri K. Ramachandiraun for the period from 1.4.93 to 26.9.93). The applicant was shocked to see the vindictive, biased, motivated and vague remarks recorded by the then DPS/Imphal, Sri K. Ramachandiraun against the applicant in clear violation of the office order and Rules. On perusal of the adverse remarks, it is crystal clear that the impugned remarks are not at all objective but subjective and the then DPS, Shri K. Ramachandiraun has intentionally, deliberately and with bad motive recorded those remarks in order to fulfil his previous grudge borne by him against the applicant and to spoil the service career of the applicant for future prospect and promotion without any consideration of the applicant's excellant past services. It is apparent on the face of the record that against Col. No. 17, the remarks recorded are not relevant as the same were not furnished in compliance of the requirements of Col. 17. Office order was not followed at all in recording remarks against Col. 19.

(iv) That Shri Ramachandiraun, the then DPS left Imphal on 20.8.94 with bag and baggages for good and he never returned to Imphal. As per office order vide DG, PAF, letter No. 27-3/79-Disc. 1, dated the 11th September, 1981, the reporting period should be

at least 6 months time and as such Shri Ramchandiraun did not write the Character Rolls in prescribed time and left Imphal. It is strange to note that how could he write the Annual Confidential Reports in the month of July, 1994 sitting in Madras covering the period from 20.8.93 to 26.9.93 during which period, he was not the DPS/Manipur, Imphal.

(v) That the then DPS, Sri K. Ramchandiraun by his Order vide Memo No.74-2/80-81 dated at Imphal 16.6.93 placed the applicant under suspension with immediate effect which also reflected in the impugned adverse remarks.

A copy of the order dated 16.6.93 is annexed hereto as Annexure-3.

(vi) That the Director of Postal Services, N.E. Circle, Shillong by his order vide Memo No. Inv/X/3B-4/80-81 dated at Shillong the 01 Sept. '93 revoked the aforesaid suspension order dated 16.6.93 passed by Shri K. Ramchandiraun, the then DPS, Imphal.

A copy of the Order dated 01 Sept. '93 is annexed hereto as Annexure-4.

(vii) That the then DPS, Imphal, Shri K. Ramchandiraun not only gave intention harassment and discriminatory treatment to the applicant but also to some

other ...

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-6-

other Inspectors of Post Offices of the Manipur Divn. and as such, they submitted a joint representation to the Post Master General, N.E.Circle, Shillong bringing allegations against Sri Ramachandiraun, the then DPS/Imphal.

A copy of the said representation dated 21.7.93 is annexed hereto and marked as Annexure-5.

(vii) That never before he was communicated any adverse remarks and he did not do anything so as to warrant such adverse remarks except the displeasure he attracted by making the allegations of personal bias against the respondent No.7.

(ix) That thereafter, the Superintendent of Post Offices, Manipur Division, Imphal by his Memo No. CR/93-94 dated at Imphal the 23.7.94 communicated the adverse remarks recorded by Shri K. Ramachandiraun, the then DPS/Imphal for the period from 1.4.93 to 26.9.93 to the applicant.

A copy of Memo No. CR/93-94 dated 25.7.94 is annexed hereto as Annexure-2.

(x) That the applicant submitted a representation to Shri L. Zadeng, the Chief Post Master General,

N.E.Circle, Shillong through proper channel on 16.8.94 praying for expunging the adverse remarks from his Character Roll communicated to him by the Superintendent of Post Offices, Imphal by his No.CR/93-94 dated 25.7.94.

A copy of the said representation dated 16.8.94 is annexed hereto and marked as Annexure-6.

(xi) That the aforesaid representation of the applicant was rejected by Shri G.S.Misra, Post Master General, N.E.Circle, Shillong and not by Shri L.Zadeng, the Chief Post Master General, N.E.Circle, Shillong and by Memo No.Sraff/8-103/3/94 dated at Shillong the 30.1.95, the result of the applicant's representation was informed to him.

A copy of Memo No.Staff/8-103/3/94 dated 30.1.95 is annexed hereto as Annexure-1.

5. Grounds for relief with legalprovisions:

(a) For that the impugned orders are *prima facie* illegal and not maintainable under the law.

(b) For that the impugned adverse remarks which are conjectures and surmises, having been recorded in clear violation ~~an~~ of D.G., P&T letter No.27-3/79, Disc.1, dated 11th September, 1981, the same is bad in law and liable to be expunged.

(c) For ...

(c) For that the respondent No.4 being Reviewing Authority in respect of the entries recorded in the Annual Character Roll of the applicant, the Respondent No.4 has no authority to dispose of the representation of the applicant addressed to the Respondent No.3 arbitrarily and without application of mind at all.

(d) For that the malicious intention of the Respondent No.7 is writ large from the facts borne by the Respondent No.7 against the loyal and sincere officer like the applicant and out of sheer malice the Respondent No.7 recorded the impugned adverse remarks in the character Roll of the applicant though he is not authorised to record the same. The Respondent No.4 should not have sent the representation of the applicant to the Respondent No.7 for parawise comments before disposal of the same and as such, the respondent No.4 disposed of the representation of the applicant only mechanically.

(e) For that the Respondent No.4 cannot assume power himself which is not vested on him and as such, the Respondent No.4 is not competent to dispose of the representation of the applicant.

(f) For that the Respondent No.4 has got no power to take away the legal and fundamental rights of the applicant by violating the principles of natural justice.

(g) For ...

(g) For that the Respondent No.4 cannot transgress his authority being a Review Authority and sit over his superior authority and as such, the respondent No.4 is not competent to dispose of the representation of the applicant.

(h) For that the respondent No.4 and 7 have no authority to violate the Standing Order and Rule in filling up column relating to integrity of the applicant.

(i) For that the column No.17 having not been filled up in conformity with the requirements, the same is liable to be quashed and expunged. Further the basis itself having been dropped, there was no occasion for recording such adverse remarks.

(j) For that the respondent No.4 is bound to act as Reviewing Officer in respect of the applicant's annual confidential remarks in his Character Roll and to give his own independent opinion in the matter.

(k) For that before recording the ACR, the applicant was never warned and/or given guidance which mandatorily required. Thus the adverse remarks recorded in the manner is not sustainable, malafide is writ large on the face of it.

(l) For ...

(l) For that the general principles which are required to be observed by the reporting officers for inviting writing annual reports, were not followed.:

(m) For that the Respondent No.7 is not competent to write the ACR in violation of rule, as the period does not cover at least 6 months time.

(n) For that procedure provided in the Rules, was not followed in dealing with the representation.

(o) For that in any view of the matter, the impugned adverse remarks are liable to be quashed and expunged.

6. Details of remedies exhausted :

That the applicant declares that he has exhausted the departmental remedies available to him and there is no other alternative and efficacious remedy open to the applicant.

7. Matter not previously filed or pending with any other Court.

The applicant further declares that the matter regarding which the application has been made, is not pending before any other Court of law or any other authority or any other Bench of the Hon'ble Tribunal.

8. Relief Sought :

Under the facts and circumstances above, the applicant prays that this application be admitted and the records of the case called for and after hearing the parties on the cause or causes that may be shown and on perusal of the records, be pleased to grant the following reliefs :

- (i) To set aside and quash the impugned order dated 25.7.94(Annexure-2) and dated 30.1.95 (Annexure-1) and to allow all consequential benefits.
- (ii) To expunge the adverse remarks recorded by the Respondent No.7 in the Annual Confidential Remarks on the Character Roll of the applicant for the period from 1.4.93 to 26.9.93.
- (iii) Cost of the application.
- (iv) Any other relief or reliefs to which the applicant is entitled to as this Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for :

Pending disposal of the case, the applicant prays that the impugned orders dated 25.7.94 (Annexure-2) and 30.1.95(Annexure-1) may kindly be stayed since the balance of convenience lies in favour of the applicant and otherwise he will suffer ...

suffer irreparable loss and injury in as much as otherwise the promotional prospect of the applicant will be seriously affected.

10. Application filed through Advocate.

11. Particulars of the I.P.O.

(i) I.P.O. No. 03884092

(ii) Date - 17.4.95.

(iii) Payable at Guwahati.

12. List of enclosures :

As stated in the index.

Verification ...

VERIFICATION

I, Shri Upen Basumatary, son of Late S. Basumatary, presently working as Sub-Divisional Inspector of Post Offices, Churachandpur, Manipur, aged about 45 years, do hereby solemnly affirm and verify that the statements made in paragraphs 1 to 4 and 6 to 9, 11 and 12 are true to my knowledge and those made in paragraphs 5 are true to my legal advice and I have not suppressed any material facts.

And I sign this verification on this the 22th day of April, 1995.

Upen Basumatary
Signature.

DEPARTMENT OF POSTS : INDIA
 OFFICE OF THE CHIEF POSTMASTER GENERAL, N.E. CIRCLE: SHILLONG.
 Memo No. Staff/8-103/94, Dtd. at Shillong, the 30.1.95.

This relates to Shri U. Basumatary, SDI, Churachandpur Sub-Division in Manipur Postal Division. Shri K. Ramachandiran, the then DPS made adverse entries in Basumatary's annual Confidential Reports for the year 1993-94. The remarks are given below :-

Col/No.	Particulars	Remarks
14. (v)	Trustworthiness	: Not trustworthy. 14-93
17.	Has the officer been reprimanded for indifferent work of for other causes during the period under report ? If so, please give brief particulars.	The official was kept under suspension in connection with S.B. withdrawal case. There is a report from the CBI, Silchar about his personal involvement in this case.
19.	Integrity	Doubtful.

Shri U. Basumatary preferred an appeal against those remarks to Shri L. Zadeng, Chief P.M.G., N.E. Circle, Shillong on 16th Aug' 94.

The representation was sent to Shri K. Ramachandiran presently working as Director of Accounts (Postal), Tamilnadu Circle, Madras for his comments. On 26.10.94 Shri K. Ramachandiran offered his parawise comments.

I went through the Annual Confidential Reports for the period in question and other relevant documents. I studied the representation of the official Shri Basumatary. I examined the parawise comments of the then DPS Shri K. Ramachandiran.

Neeru
 After having considered all the relevant records thoroughly I come to the conclusion that I did not intervene in expunging the adverse remarks recorded against the official by the then DPS for the period 1993-94. The remarks of DPS being direct controlling officer are just and fair.

I CONFIRM the adverse remarks recorded against the official by the then DPS Shri K. Ramachandiran for the period 1993-94.

The representation of the official Shri U. Basumatary stands rejected.

sd/-

(C.S. MISHRA)
 Postmaster General,
 N.E. Circle, Shillong-793001.

Copy to:-

1. Shri U. Basumatary, SDIPOs, Churachandpur Sub-Divn., Manipur Division.
 2. The Supdt. of Post Offices, Manipur Divn., Imphal.
 3. The Chief P.M.G., N.E. Circle, (Vig. Sec), Shillong.
 4. The Staff Br., C.O., Shillong.
 5. Spare.

C.S. Mishra
 Postmaster General,
 N.E. Circle, Shillong-793 001.

DEPARTMENT OF POSTS, INDIA
OFFICE OF THE DIRECTOR POSTAL SERVICES: MANIPUR: IMPHAL - 795 001.

REGD./AD.

No. CR/93-94

Dated at Imphal 25-7-94.

To

REGISTERED

Shri/Smt. U. Basumatary

SDIPOS. Churachandpur.

While your performance as a whole has been satisfactory the following adverse remarks have been made in your annual Confidential Report for the year 1993-94. They are brought to your notice in order that you may be conscious of your lapses. You should make special efforts during the current year and in the following years to overcome these shortcomings. It is hoped that your work in future will be such a character so as to remove the effect of these adverse entries.

Please acknowledge and return the enclosed copy of this letter duly signed and dated by you to the undersigned.

(Recorded by Shri K. Ramachandiran, DPS/Imphal for the period from 1-4-93 to 26-9-93).

Col. No.	Particulars.	Remarks.
14.(v)	Trustworthiness,	: Not trustworthy.
17.	Has the officer been reprimanded for indifferent work or for other causes during the period under report? If so, please give brief particulars.	: The official was kept under suspension in connection with S.B. withdrawal case. There is a report from the CBI, Silchar about his personal involvement in this case.
19.	Integrity.	: Doubtful.

Signature of the official.
Date.

19-7-94

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DEPARTMENT OF POSTS: INDIA
OFFICE OF THE DIRECTOR OF POSTAL SERVICES
MANIPUR DIVISION: IMPHAL
795001

Memo No. F4-2/80-81

Dated at Imphal 16-6-93

O R D E R

WHEREAS a disciplinary proceeding against Shri Upen Basumatary, Sub-Divisional Inspector of Post Offices, 3rd Sub-Division, Imphal is contemplated:

NOW, THEREFORE, the undersigned in exercise of the powers conferred by Sub-rule- (1) of Rule - 10 of the C.C.S. (CCA) Rules, 1965, hereby places the said Shri Upen Basumatary, Sub-Divisional Inspector of Post Offices, 3rd Sub-Dn, Imphal under suspension with immediate effect.

It is further ordered that during the period that this order shall remain in force the Headquarters of Shri Upen Basumatary, SDIPOS 3rd Sub-Dn, Imphal should be IMPHAL and the said Shri Upen Basumatary shall not leave the headquarter without obtaining the previous permission of the undersigned.

It is also ordered that during the period that this order shall remain in force, the said Shri Upen Basumatary, SDIPOS 3rd Sub-Dn, Imphal shall be entitled to draw a subsistence allowance at an amount equal to the leave salary which the said Shri Upen Basumatary would have drawn, if he had been on leave on half average pay or on half pay and in addition, dearness allowance, if admissible on the basis of such leave salary.

Sd/-
(K.RAMACHANDIRANN)
DIRECTOR POSTAL SERVICES
MANIPUR DN. IMPHAL

- Copy to:-

1. The Shri Upen Basumatary, SDIPOS 3rd Sub-Dn. Imphal-795001.
2. The Postmaster Imphal HO-795001 for information and necessary action.
3. Shri C.S.Mishra, Postmaster General, N.E.Circle, Shillong-793001.
4. Vigilance statement file, Inv. Section O/o DPS Imphal.
- 5-6) Spare.

(K.RAMACHANDIRANN)
DIRECTOR POSTAL SERVICES
MANIPUR DN. IMPHAL

DEPARTMENT OF POSTS, INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL N.E. CIRCLE SHILLONG.

Memo No. Inv/X/SH-4/80-81 Dated at Shillong the 01 Sept'93.

Whereas an order placing Shri Upen Basumatary, Sub Divisional Inspector of PO's, 3rd Sub Division Imphal, under suspension was made by the Director of Postal Services, Manipur Division, Imphal vide his memo No. F4-2/80-81 dt'd. 16.6.93.

Now, therefore, the undersigned in exercise of the powers conferred by Clause (C) of the Sub-Rule 5 of Rule 10 of the Central Civil Services (Classification, control and appeal) Rules 1965, hereby revokes the said order of suspension with immediate effect.

On revocation Shri U. Basumatary is posted as SDI to Churachandpur Sub Division in Manipur Postal Division against vacant post.

(A.M.C.)
(A.M.C. KACHARI)

Director of Postal Services
N.E. Circle, Shillong-1.

Copy to:-

1. The A.P.M.C. (Staff), C.O., Shillong for information and necessary action. The order of P.M.C. is appended below for favour of taking immediate action.
He may revoke his suspension order and post him in Churachandpur as SDI. Local arrangement may be made with suitable candidate.
2. The Director of Postal Services, Imphal-795001 for information and necessary action. He will make local arrangement in the vacancy created due to above until further orders.
3. The Postmaster Imphal.
4. Shri U. Basumatary, SDI 3rd Sub Division Imphal (Now under suspension) for information.
5. The Vig. Section, C.O. Shillong.
6. Spare.

(A.M.C. KACHARI)
Director of Postal Services,
N.E. Circle, Shillong-1.

E.C.B./

AK

To

Shri G.S. Mishra
PMG N.E. Circle
Shillong.

Subject:- Intentional harassment and discriminatory treatment by Shri K. Ramachandirann, DPO Imphal to the IPOS in Manipur Division and causing serious deterioration in efficiency of Postal Services thereof.

Respected Sir,

With due respect and humble submission, we the IPOS working in Manipur Division beg your kind permission to submit this joint humble application to your goodness for favour of your kind perusal and taking follow up action as may deem fit and proper.

The circumstances under which we are compelled to seek your kind intervention will be clear from the facts and materials mentioned the preceding para of this application.

We once more request you to kindly excuse us for submitting this joint application.

1. That Sir, during your last 3 visits, you might have been observed that the functioning of Manipur Postal Division is not satisfactory and deteriorating day by day. The major reason behind this may be attributed to the Lack of liaison between the DPS and the General Staff, the DPS and the IPOS working in Manipur. It would not be out of way to mentioned that after joining of Shri K. Ramachandirann as DPO, this division has faced ugly gesture of filing cases in the Court of Law as well as Central Administrative Tribunals (CAT). Perhaps this is the first time in the postal history of Manipur when the aggrieved staff had to seek intervention and shelter of the Court of Law against the biased, prejudiced and malefide action of the DPS Shri ... Ramachandirann.

Contd..2..

2. That Sir, perhaps you will agree with us that our postal work is a team work and we have to work together like members of the same family for achievement of efficiency harmonious relationship and brotherhood. But it is paradoxical enough to mention that after his joining as D.P., Shri K. Ramachandiran had for no reason adopted the element of hatridity towards his subordinate particularly to the IPOs Cadre and he started victimising the members one after another, either directly or indirectly. After his joining we found him to have not bothered a little to know our personal and administrative difficulties, and problems. Rather he abruptly closed down the door of discussion with any of us either personally or in any monthly meeting. The system of holding Divisional Level meetings with IPOs vanished for ever during the time of Shri K. Ramachandiran.

3. That Sir, we are extremely sorry to mention that even during your August visits to Manipur, we are not officially informed and our approach to your goodness was completely restricted by the DPS Shri K. Ramachandiran. The restriction was imposed in such a manner that neither the general staff nor any members of the IPOs Cadre except Shri P.A. Melai IPOs Utkhrul subdivision and Shri Radmanovan P.A. (typist) could reach up to you to ventilate their grievances.

4. That Sir, we are extremely sorry to mention that we are subjected to direct victim of favouritism of Shri K. Ramachandiran who is exercising his right and power basing on caste, colour and creed. Perhaps it is known to you or not that two IPOs of Manipur Division Shri D.K. Dora as well as Shri K.K. Ias were subjected by Shri K. Ramachandiran to extreme harassment and unspeakable hardship by imposing recovery of their entire amount of salary for months together in the name of damage charges on the allegation of unauthorised retention of Quarter following

their change of Head Quarters from one station to another. But in case of Shri N.A. Malai whose Head Quarter is at Ukhru and is keeping a Quarter with in the same premises with the above two IPOS, damage charges is not being recovered for retention of the Quarter neither any objection is raised against him. This sort of naked favouritism and discrimination has seriously hurt our sentiments.

It will be proper to add here that retention of Quarter by Shri D... Bora and Shri R... Das for the bona fide use of their family members were treated by the IPOS as unauthorised and recovery of damages charges was imposed instantl.. But neither damage charges are recovered nor any other action is taken against Shri N.A. Malai & Shri Padmanavan who are keeping unauthorised persons in their Quarter on regular basis.

5. That Sir, another heinous way adopted by Shri K. Ramakandirann for harassing and victimising the member of this cadre is that he whimsically withheld sanction of four T.A. bills for months together and keep the bills in his personal custody so that the Accountant concerned may not get chance to put up them for sanction. For example tour T.A. bill of Shri D.K. Bora for Sept 1991, March 1992, June 1992 are pending with the I.P. that of Shri R.K. as for the month of June 1992 to June 1993 pending with I.P.; that of Mu. utubuddin from July 1992 to Nov. 1992 were passed in Feb. 1993, that of Mr. U. Basumatary from Jan. 1992 to Dec. 1992 were passed in June 1993. But T.A. Bills of Shri N.A. Malai SD, Ukhru and Shri V.T. Dessen SD, Kangokpi are passed with out any delay.

6. That Sir, you will agree with us that the wheel of administration goes running at the cost of sincere and selfless collective efforts of all the manpower. Any amount of negligence or wrongful handling of the manpower is found to lead the administrative machinery to the end of disaster. IPOS *

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Cadre has been recognised by one and all to be the backbone of the Department. But ironically the DPS Shri K. Ramachendiran instead of coming forward to generate collective efforts with the IPOs and to strengthening administrative machinery, he in a very dictatorial and vindictive manner trying restlessly to kick down and condemn the cadre by hook or by crook. One of the most evil design plotted by Shri K. Ramachendiran is to refuse leave to the members of this cadre.

For example leave availed by Shri D.K. Bora from 5.10.91 to 20.11.91 was refused and ordered as "Dies-non". Again leave for the period from 23.2.93 to 15.4.93 refused by the DPS was subsequently sanctioned due to your kind intervention during your last visit to Manipur. Similarly leave availed by Shri R.K. Das for the period from 4.11.91 to 30.11.91, was outrightly refused by the DPS could be set sanctioned only after your kind intervention during your 1st visit to Manipur in the month of Dec. 1992. Another spell of leave from 21.5.93 to 4.6.93 are not yet sanctioned inspite of series of requests made to the DPS. Similar type of harassment and discrimination are meted out to Shri L.R. Chhana and Md. Cutubuddin in sanctioning their leave. But any kind of leave for any duration availed by Shri M.A. Malai and Shri V.T. Hassan without even submitting formal leave application before going leave are found sanctioned very frequently without any objection of formal querry. This type of discriminatory attitude and behaviour on the part of an officer not only poisoned the working atmosphere of an individual but also damages the spirit and vigour, peace of mind etc.

7. That Sir, after adopting every possible ways and means and making them instrumental in one way or other when the DPS feels himself that his actions were not of much effect, he rejuvenate his evil design to completely destroy and damage the service carrier of the members of this cadre. In his new evil design

Contd...5..

he started visiting branch offices for obtaining contradictory statements from the L.D.B.P.P.M on the tone of threatening against the visit/inspection made by the members of this cadre during 1991-92. And after collecting such contradictory statements will fully and vindictively, the L.P.S now started issuing charge sheet under rule 14 making the said self collected statement as an weapon. Thus the L.P.S is restlessly plotting to ruin not only the services of the members of this cadre but also planning to bring disaster to the family members of the concerned official. Such charge sheet under Rule 14 has already been served to Shri R.K. Das SDI C.C. Gur, now, ASP 1st subdivision, Md. Qutubuddin SDI 2nd Subdivision and Shri D.K. Bora SDI Askching subdivision. The DPS had also abruptly issued an irregular suspension order to another member Shri U. Basumatary SDI 3rd by re-opening an age old case which was subjudiced in the court of Law in 1986. But your goodness will be surprised to know that no action, nothing of the sort being evoked in respect of Shri M.A. Malai who has made his head quarter at Imphal instead of his place of posting at Ukhrul and Chitchatting every day and night with the D.P.L. Similarly no action nothing of the sort is being evoked in respect of Shri T.T. Bassan who remains 20 days a month out of his subdivision to Nagaland as well as to his native home despite the fact is very well known to the DPS himself. It may also be quite proper to mention here that in order to extent undue privileges and facilities towards Shri M.A. Malai and to keep close contract, the D.S is entrusting all the enquiry cases to Shri M.A. Malai who is fixing the venue for all such cases at Imphal, leaving behind the works of his own subdivision at Ukhrul.

8. That Sir, in various otherways we feel ourselves quite disturbed and humiliated in the hands of L.P.S who is constantly calling us for explanation for no sufficient and good reason. We are being

Contd...6..

forced to divert our time and energy for replying to his unnecessary explanations and querries instead of devoting to our scheduled works and programme peacefully. Thus we feel quite unprotected in the hands of the DPO who is determined to harm, harass and humiliate us either rightly or wrongfully without bothering for efficiency of service and harmony in the administration.

Under the above, prevailing circumstances when we find ourselves to be the direct victim of favouritism, castism and highhandedness of the DPO, we humbly pray for your kind intervention and to have a thorough probe to unvail the entire unpalatable environments prevailing in Manipur, so as to have a complete check of the ugly instances explain above and we can fully devote our full vigour and enthusiasm for the improvement of postal services.

With sincere regards,

Yours faithfully,

SD —

1. (Shri D.K. Dora)
M.I. Kakching

SD —

2. (Shri R.K. Das)
LSP 1st Subdivision,
Imphal

SD —

3. Md. Kutubuddin)
M.I 2nd Sub-Division,
Imphal.

SD —

4. (Shri S. Basumatary)
M.I 3rd Sub-Division,
Imphal

Contd...7..

Xelaaar 21/7/93
5. (Shri L.R. Chhana)
IPO P.M.I. Imphal

Copy to:-

1. Shri L. Ladeng CPMG N.E. Circle Shillong for information and remedial action.
2. Shri N. Das Circle Secretary AIA of IPOS/ASPOS N.E. Circle Branch Shillong for information and pursue the matter with the Authorities.
3. Shri J.P. Raini General Secretary All India Association of IPOS/ASPOS 833/10 ROOP Nagar Colony Op. Cau Karan Park Rohtak-124001 (Haryana) for information and taking up the matter with the authority concerned.

Ans 21/7/93.
1. (Shri D.K. Bora)
SDI Kakching Sub-division

Ans 21/7/93
2. (Shri K.K. Das)
ASPOS 1st Sub-division,
Imphal.

Ans 21/7/93
3. (Md. Qutubuddin)
SDI 2nd Sub-division
Imphal.

Ans 21/7/93
4. (Shri U. Easumatory)
SDI 3rd Sub-division
Imphal

X 5. (Shri L. R. Chhana) 21/7/93
IPO P.M.I. Imphal

Ans 21/7/93
Dated/Imphal
the 21st July 1993.

To, Shri L.Zadeng
The Chief Post Master General
North Eastern Circle, Shillong

(Through proper channel)

Sub :- (i) In the matter of irregular and arbitrary remarks in my C.R recorded by the Director Postal Services, Imphal

(ii) In the matter of humble appeal to remove the arbitrary and un-justful, adverse remarks from C.R

(iii) In the matter of humble prayer for kind intervention and to inquire the purposeful remarks and to take action as deem proper.

Respected Sir,

The appellant is your humble and poor subordinate working now as Inspector of Post Offices Churachandpur Sub Division with the head quarter at Churachandpur. I most humbly and respectfully beg to lay the following few lines for your kind consideration and justice so that the hiding aspect behind the screen in awarding me with adverse remarks in my C.R without any justification is un-veiled and I may be saved from the malafide and pre-judice action of the Director Postal Services Manipur Division Imphal.

1. That Sir, I entered in the service in this department in the year 1970 and there after I worked in different capacities in P.A cadre and got regular promotion to the cadre of Inspector of Post Offices with effect from 16-7-1984.

2. That Sir, during my entire service career neither I faced any departmental inquiry nor I was punished ever with an order of Warning, Censure etc. The whole service career is free from any sort of spot and stigma.

3. That Sir, to my surprise I received one registered cover containing letter No CR/93-94 dated 25-7-94 communicating me the adverse remarks recorded by Shri K.Ramachandiran the then Director Postal Services Imphal for the period from 1-4-93 to 26-9-93 forwarded by Shri S.P Singh the Supdt. Post Offices Imphal (Photostate copy is enclosed for your reference)

Contd. at p/2

4. That Sir, the said adverse remarks in my C.R are made not based on any fact or finding as my very inception of service career has clear evidence to proof the truth.

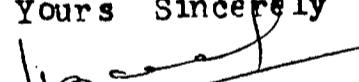
5. That Sir, during my entire service career and till now my trustworthiness as recorded in the Col. No. 14(v) were never questionable. I was on no occasion called for any explanation for any lapse in my duty.

6. That Sir, the remarks made in col. No. 17 is totally based on conjecture and services having no material fact or truth and clearly indicates vindictiveness.

7. That Sir, regarding my integrity as recorded in Col. No. 19, there is not a single happening or event as to doubt my integrity. The remarks seems to be recorded in abnormal and excitement with a purpose to spoil the future career of my service.

It is therefore Sir, being aggrieved now I put forward my grievances to your benign authority kindly to look into the matter with sympathy and consider so as to remove the adverse remarks from my C.R which otherwise will spoil my entire devotion to service, demoralise me effecting badly of my future career of service for my no fault and for your act of kindness I shall remain ever grateful to you.

Dated at CCP
16th August '94

Yours Sincerely

 (Shri N. Basumatary)
 Inspector of Post Offices
 Churachandpur Sub Division
 Churachandpur - 795128

Case No. 18 IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Guwahati Bench at Guwahati

18 JAN 1996

Guwahati Bench
1996-97

IN THE MATTER OF :-

O. A. NO. 91/95

Shri Upen Basumatary

- Vs -

Union of India and others.

-AND-

IN THE MATTER OF :-

Written statements submitted
by the Respondents No. 1 to 7.

WRITTEN STATEMENTS :

The humble Respondents submit
their written statements as follows :-

1. That the applicant did not avail all the departmental remedies and as such the application is liable to be dismissed.
- 1(A) That with regard to statements made in paragraphs 1 to 3 of the application , the Respondents have no comments on them.
2. That with regard to statements made in paragraph 4 (i) of the application , the Respondents have no comments on them, the same being matters of records.
3. That with regard to statements made in paragraph 4 (ii) of the application , the Respondents beg to state that the official has been working as I. P.Os since 16.7.84 and not 16.7.94. This inadvertant

*Tried by
C. K. Chakrabarty
19/1/96
Standing Counsel
Central Administrative Tribunal
Guwahati Bench, Guwahati*

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Case No. 22/1

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wrong dating leads to a wrong conclusion of being less than three months of bbservation by me.

4. That with regard to statements made in paragraph 4(iii) of the application, the Respondents beg to state that remarks were non-biased and based upon records such as Fortnightly diaries, T.A. bills of the official and the report of CBI, Silchar involving the official in SB fraud case leading to his suspension. Hence the remarks were not vague, vindictive and motivated. While making entry against the column 'Integrity' the instructions contained in Letter No.C-30013/1/71-LC/50(P)dt. 15.2.1971 of the Department of Revenue and Insurance, Ministry of Finance were kept in mind, for which the suspension of the official in this case precedes the issue of article of charges etc.

5. That with regard to statements made in paragraph 4(iv) of the application, the Respondents beg to state that the spirit of the first sentence is full of distaste devoid of any deconum as in the Govt. service, one and the same officer is not expected to be stationed in one and the same position and post throughout his service.

As per Rule 174(4) of Postal Manual Volume III (corrected upto 1.7.1986 published by the Department of posts), "the reporting officer should have atleast three months experience of the work and conduct of the Officer reported upon before writing or attempting to write an assessment of the work of an officer". As

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Note 1 below Rule 174(4) of Postal Manual Volume III (corrected upto 1.7.1986) reads "on the transfer of the Reporting Officer of the officer to be reported upon, the Reporting Officer should write a report, provided he had an opportunity to watch the work and conduct of the officer for a period of more than three months (Postal Manual Volume III corrected upto 1.7.1986). Besides compulsory writing of Annual Confidential Report, during the middle of the reporting year, when the Reporting Officer has the opportunity to watch the work and conduct of the officer for not less than three months, he has to write the Confidential Report covering the period upto the date of his relief.

6. That with regard to statements made in paragraph 4(v) of the application, the Respondents beg to state that though suspension itself is not a punishment in strict sense, it is a happening in the official's career and suspension is normally resorted to when "a prima-facie case is made out justifying his prosecution (in this case report by C.B.I. or Disciplinary Proceedings which are likely to end in his dismissal, removal or compulsory retirement." (O.M. No. 43/56/64-AVD dt. 22.10.64 and Govt. of India, Department of Personnel & Training O.M. No. 11012/15/85-EST(A) dt. 3.12.1985). Hence this finds place in his confidential Report.

7. That with regard to statements made in paragraph 4(vi) of the application, the Respondents have no comments on them, the same being matters of record.

8. That with regard to statements made in paragraph 4(vii) of the application, the Respondents beg to state that a joint representation is not permissible under Departmental Rules. Being the officers of executive wing having control over the officials of Group 'D', Postmen, etc, they are expected to know that such joint representation is not permissible. This itself shows that they are not fit to hold supervisory posts like Inspector of Post Offices/ Asstt. Supdt. of Post Offices, not to speak of Gazetted posts like SPOs/SSPOs.

9. That with regard to statements made in paragraphs 4(viii) to 4(ix) of the application, the Respondents have no comments on them, the same being matters of record.

10. That with regard to statements made in paragraph 4(xi) of the application, the Respondents beg to state that as ~~to~~ the Postmaster General, North Eastern Circle, Shillong was the immediate superior to the Reporting Officer, he disposed the appeal vide Rule 174 (130 (ii) of Postal Manual Volume III corrected upto 1.7.1986.

11. That with regard to statements made in paragraph 5 of the application, regarding Grounds for relief with legal provisions, the Respondents beg to state that none of the Grounds is maintainable in law as well as in facts and as such the application is liable to be dismissed.

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12. That with regard to statements made in paragraphs 6 & 7 of the application, the Respondents have no comments on them.

13. That with regard to statements made in paragraph 8 of the application, regarding Relief sought for, the Respondents beg to state that the applicant is not entitled ~~to~~ to any of the Reliefs sought for and as such the application is liable to be dismissed.

14. That with regard to statements made in paragraphs 9, regarding Interim Order prayed for, the Respondents beg to state that in view of the facts and circumstances narrated the the Interim order is liable to be dismissed.

15. That with regard to statements made in paragraphs 10 to 12 of the application, the Respondents have no comments on them.

16. That the Respondents submit that the application is devoid of merit and as such the application is liable to be dismissed.

-Verification-

I, Shri P.K. Nandi Majumdar, Asstt. Postmaster, General (S), N.E. Circle, Shillong being authorised do hereby solemnly declare that the statements made above are true to my knowledge, belief and information.

And I sign this verification on this 14 th day of November, 1995 at Guwahati.

P.K. Nandi Majumdar
DECLARENT: