

30/600

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 154/95
R.A/C.P No.
E.P/M.A No.

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SECTION OFFICER (Judl.)

Kalish
5.2.18

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH
GUWAHATI

ORIGINAL APPLN.NO. 154 OF 1995
TRANSFER APPLN.NO. OF 1995
CONTEMPT APPLN.NO. OF 1995 (IN OA NO.)
REVIEW APPLN. NO. OF 1995 (IN OA NO.)
MISC. PETN. NO. OF 1995 (IN OA NO.)

.....*Rama Kumar*..... APPLICANT(S)

.....*A. C. I.*..... RESPONDENT(S)

FOR THE APPLICANT(S) ...MR. *N.J. Singh*
MR.
MR.
MR.

FOR THE RESPONDENTS ...MR. *S. Ali, Sr. C. G. S. C.*

OFFICE NOTE

DATE

ORDER

14.8.95

Mr N.J.Singh for the applicant
(mentioned for urgent admission).

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

The applicant has already filed
departmental appeal to the Director
General of Security, SSB, New Delhi on
16.3.95. It is stated that the said
appeal is still pending. In the circum-
stances applicant has to wait till the
period of 6 months has elapsed before
the O.A. can be entertained in view of
Section 20 of the A.T. Act and as it is
premature today.

Adjourned for admission to 18.9.95.
In the meanwhile it will be desirable
for the appellate authority to dispose
of the appeal.

Copy of this order be forwarded to
respondent No.2 immediately.

Copy to be supplied to the counsel
for the parties.

Member

Vice-Chairman

Order d. 14-8-95

*to R.M. 2 & Counsel
A. C. I. v. no. 3868-20*

d. 30-8-95

3878

OFFICE NOTE

Date

COURT'S ORDER

18.9.95

Mr. J. Singh for the applicant.

The appeal filed by the applicant departmentally is not yet decided. It is hoped that the said appeal will be decided by respondent No. 2 within a period of one month from the date of communication of this order and the applicant will be informed accordingly.

Adjourned to 30.10.95 for admission.

Copy be supplied to the applicant's Advocate.

Copy also be supplied to respondent No. 2.

order d. 18-9-95

v. no 4242 d. 22.9.95

[Signature]
Member

[Signature]
Vice-Chairman

trd

30.10.95

Adjourned to 2.11.1995

[Signature]
Vice-Chairman

pg

3.11.95

Learned Advocate for the applicant is not present.

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

Mr Ali states that the applicant has been reinstated. That being the only relief that is sought by the applicant, the application does not survive. Application is accordingly disposed of. No order as to costs.

Copy of this order may be furnished to Advocate of the parties.

10.1.96

copy of order dtd 3.11.95 issued to the counsel of the parties vide d/NO. 193-194 dtd, 18.1.96

[Signature]
Member

[Signature]
Vice-Chairman

5
Filed by: Rama Hmar
R. vengh:
Mr. Jofund &
19.8.95

District - Churanchandpur.

In the Central Administrative Tribunal, Guwahati

(Application under Section 19 of the Administrative
Tribunal Act, 1985)

d.C.No. 154 of 1995.

Between

Mr. Rama Hmar

.....Applicant.

- VS -

Union of India and Ors.

.....Respondents.

I N D E X

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Received copy
- Sr. C & SC
14/8/95

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-

Dated/Guwahati

The 14th August, 1995.

N. Jotendro Singh
(N.JOTENDRO SINGH)

Counsel for the petitioner.

Puadha

DISTRICT : ~~IMPHAL~~ CHURACHANDPUR
STATE : MANIPUR

IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL : GUWAHATI BRANCH :

{ Application under Section 19 of the
Administrative Tribunal Act 1985 }

BETWEEN

Shri Rama Hmar . . Applicant.
And
Union of India . . Respondent.

Details of Application

1. Particulars of the applicant :-

- (i) Name :- Rama Hmar
(ii) Father's name:- Rangai Hmar
(iii) Designation
and office in
which employed:- Driver (dismissed) who
had served under the
Divisional organiser,
S.S.B., Manipur and
Nagaland Division,
Manipur at Mantripukhri,
Imphal.
(iv) Office Address :- -do-
(v) Address for
service of all
notices :- Renkai Village, Chura-
chandpur, Churachand-
pur District, Manipur.

Contd. .2/-

Filed by: Rama Hmar
through: N. N. N. N.
Adv.
14.8.95

Churachandpur

11

2. Particulars of the Respondents :-

- (i) Name/designation of the respondents. : 1. Union of India, represented by Secretary, (Ministry of Home Affairs) Govt. of India, New Delhi.
2. The Director General of Security, S.S.B. NEW DELHI, R.K. PURAM, -Pin- 110066.
3. Divisional Organiser, S.S.B., Manipur and Nagaland Division at Mantripukhri, Imphal, Manipur.

(ii) Office address of the Respondents. : -do-

(iii) Address for service of all notices. : -do-

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

The application is made against the non-disposal of the appeal and representations against Dismissal order :-

- i) Order No. DE/RH/DVR/89/1587
- ii) Date : 11-02-1995
- iii) Passed by : Divisional Organiser, SSB., Manipur And Nagaland Division at, Mantripukhri, Imphal.

Contd. .3/-

Have not

iv) Subject in brief : Representation and appeal presented to the Respondents against the dismissal order No.DE/RH/DVR/89/1587 dated 11-02-1995 issued by the Respondent No.3 are not disposed of without assigning any reason till date.

And

Representation dated 15-03-1995 preferred by the petitioner to the Director General of Security SSB, New Delhi, ~~Imphal~~.

4. Jurisdiction of the Tribunal :-

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

5. Limitation :-

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

6. *Brief* Fact of the case :-

The facts of the case of the applicant/ petitioner are given below :-

Contd. . .4/-

i) That, your applicant is a law abiding citizen of India and a permanent resident of Renkai village, Churachandpur District, P.O. & P.S., Churachandpur, Manipur State and as such he is entitled to all the rights, privileges and protections as enshrined in the Constitution of India and other laws for the time being in force in the Country.

ii) That, under the ministry of Home Affairs, Government of India, an organisation called S.S.B., (Service, Sacrifice & Brotherhood) was established. The Head Quarter of the said Organisation is at New Delhi and there are various State units known as S.S.B. units. The ~~C~~entral Organisation is headed by a Director General of Security which is equivalent to the post of Inspector General of Police and the State units are headed by Divisional Organiser, S.S.B. which is equivalent to the post of Deputy Inspector General of Police.

iii) That, the Class III employees in the State units are appointed by the Head of the State units according to the exigencies and needs of the units.

Contd . . 5/-

iv) That, the post of driver is one of the Class III categories of post and the pay scale of the said post is Rs.1,150/- P.M. plus other allowances.

v) That, in the State of Manipur, there is a unit of the SSB and its office is located at Mantripukhri.

vi) That, coming to know that some posts of drivers are lying vacant in the State units of SSB and recruitment to the said post would be done by respondent No.3, your applicant offered his candidature and appeared before the D.P.C.duly constituted for the selection and after holding necessary tests for appointment as recommended by the said D.P.C, he was appointed as driver by the Respondent No.3 on 1-12-76 and as such he joined his service immediately.

A Xerox copy of the said appointment order dated 1-12-76 is enclosed herewith as Annexure 'A'.

vii) That, the petitioner being a dedicated and devoted employee had served his duties to the satisfaction of all higher authorities since he joined his service as driver. After serving more than 9 (nine) years in the same grade, his concerned higher authorities being satisfied with his service, converted the service of the petitioner to quasi-permanent with effect from 1-7-83 Vide a common order dated 5-9-85.

A true copy of the said common order for conversion to quasi-permanent dated 5-9-85 is enclosed herewith as Annexure 'B'.

The name of the petitioner is found at S.No.6 of the said Common order.

Contd.....6/-

Done by

viii) That, thereafter, your applicant served as driver in the SSB units with the best of his abilities and discharged his duties sincerely, diligently and no adverse remark was made against him.

ix) That, while he had been serving, his health became deteriorated from the month of December, 1992. In spite of his ill-health and sufferings he attended his office regularly and he had been driving the vehicles entrusted to him by the superior officers without fail. But since January, 1993 his health became more deteriorated day by day suffering from serious cologne problem and he was advised by the doctor to take rest at least 15 days. As the pain of cologne became serious, on 8.1.93 he verbally prayed to take leave to his concerned Sub-Area Organiser, Shri Sarawan Kumar, who was also the camp commander, to go to Imphal for immediate treatment and rest. Seeing his sufferings, the Camp Commander had kindly agreed to leave Chandel on 9.1.93 and since then the petitioner was under treatment till 15.1.93 and he also submitted his leave application along with his medical certificates for the said period i.e. from 9.1.93 to 15.1.93. Thereafter, he attended his office on 16.1.93 and performed his duties allotted to him. But due to ill-luck the petitioner got another attack from blood dysentery in the evening of 17-1-93 and he remained confined to bed the said whole night and remained suffering from unbearable pains in the Chandel Camp of S.S.B. unit. In the same night, i.e. 17.1.93 some colleagues of the petitioner immediately reported about his serious

Contd..7/-

condition to the said Camp Commander, Chandel, Shri Sarwan Kumar. Seeing his sufferings and pains the said Commander, Sarwan Kumar advised to get proper treatment and rest and the petitioner was allowed to leave Chandel on the next day for his treatment.

x) That, on the next day i.e. on 18.1.93 the petitioner left Chandel for Imphal and he was under treatment at Imphal till 1.2.93. As he failed to submit the leave application for the said days, he visited Chandel on 2.2.93 and submitted his leave application for the said period supported by medical certificates and again he left on 2.2.93 for Imphal and remained at Imphal till 7.2.93 for his further treatment at Imphal and for the said days the petitioner took permission verbally from the competent authority and as soon as he resumed his duty after his treatment he again submitted the leave application along with medical certificates for the period of absences.

xi) That, it is pertinent to mention here that the concerned authority never informed about the outcome of the leave applications submitted by the petitioner and he was allowed to draw his pay and allowances for the months of January and February, 1993 i.e. the period during which the petitioner took leave for his treatment. From the said facts and circumstances the petitioner presumed that his leave applications was duly allowed by the competent authority and he also attended his duty regularly.

Contd.8/-

But to the utmost shock and surprise of the petitioner, he was not allowed ^{to} draw his pay and allowances for the months of March and April, 1993 without disclosing any reason and also without issuing any order in this regard. Thereafter he enquired the Cashier of his department, Headquarters at Imphal of the reasons for withholding of his pay and allowances for the months of March and April and the said Cashier informed him that his pay was withheld because of his ~~unauthorised~~ absence in the months of January and February, 1993, but there was no instruction or orders for the said withholding of pay and allowances. Then the petitioner had approached the then Sub-Inspector (M.T.) Shri Priyokumar Singh to release his pay and allowances for the said period i.e. March and April 1993. and the said Sub-Inspector (M.T.) told him that his pay and allowances had been withholding for his unauthorised absence and also further directed not to make any complaint in that regard. Thereafter the poor and semi-illiterate petitioner presumed that the withholding of his pay and allowances was due to his absence (for which leave applications were submitted) in the said period and he made no further complaint in that regard.

xii) That, having no other alternative means, the petitioner deferred to make further complaint in connection with his withholding of pay and allowances and he discharged his official duties whichever allotted to him regularly without any break or absence. The petitioner also presumed that his higher authority also would not do anything against him because of his sincere, devotion and diligent long service.

And as such he made no complaint for withholding of his pay and thereafter as usual he attended his duties regularly till the month of February, 1993.

It is very pertinent to mention that ~~xxx~~ at the relevant time i.e. he was under treatment, though he was posted at the Divisional Office at Lamphelpat, by the order of the higher authorities he was attached to Chandel unit of the SSB and thus he attended his office and duties at SSB unit, Chandel.

xiii) That in the 2nd week of February, 1993 his attachment order was withdrawn verbally by his higher authorities and he was instructed to attend office at Divisional Office of the SSB at Lamphelpat. In compliance of the verbal order of the concerned authorities, he started to attend office and performed his duties by attending office at Lamphelpat SSB Office. About the middle of February, 1994, the receipt Clerk of the Divisional Office handed over the petitioner the notice bearing No. 4794-95 dated 7-4-94 issued in the form of notice by the E.O. directing the petitioner to present himself in person on 17.2.94 at 1000hrs in the office of the Divisional Organiser, SSB, Manipur and Nagaland Division in connection with Departmental enquiry. As per direction of the said E.O., the petitioner appeared himself alone before the E.O. on 17.2.94 at 1000 hrs. On the said day the said E.O. namely Shri Borgohain asked the petitioner certain questions in Hindi and he also recorded the answers alleged to be replied by the petitioner in English and thereafter the E.O. instructed him to put his signature on the alleged questions and answers recorded by the E.O. himself.

In this connection it is most humbly submitted that the petitioner is a semi illiterate person who left his studies just after passing Class VIII. As he was born and brought up in a far remote hill village of Manipur, it was

Contd. .10/-

Done

quite impossible for him to understand Hindi and English. In short, he has no workable knowledge of English, Hindi and Manipuri (Meiteilon). In other words, he properly understands only the Kuki, Hmar, Vaiphei and Paite ^{dialects} of the hill region. Actually to him, writing Hindi and English was never done in his service career as he was not connected or related with any official ^{ministerial} work. At the most, he used to write his signature as and when necessary. As such the semi-illettered humble applicant without understanding the alleged questions and answers (in short, statements put by the Enquiry Officer and answers thereto) was forced by the Enquiry Officer to obtain the signature of the applicant in the said alleged statements. The applicant strongly protested that he could not understand what are the questions written in English and alleged answers recorded in English but the Enquiry Officer threatened that he would be seriously punished by the authorities if the applicant disobeyed and refused to put his signature on the alleged recorded statement. Further, the Officer also told that copies of the recorded statement on 17.2.94 by the E.O. would be supplied to the applicant soon. Thus under threat and strong pressure by senior Officer namely Shri G. Borgohain (Enquiry Officer) obtained the signature of the applicant in the alleged recorded statement (questions and answers) recorded by E.O. on 17.2.94 but he failed to supply a copy of the same to the applicant on 17.2.94 on the pretext that the same would be typed out and supplied soon.

For easy reference a true copy of the notice asking the applicant to appear before the E.O. dated 1/2/94 bearing Memo.No.DE/RH/DVR/89/1253 is enclosed herewith as Annexure-1C

xiv) That it is also most important to mention that the alleged order bearing No.DE/RH/DVR/93/7735-37 dated 3.5.93 issued by the respondent No.3 as laid down in the alleged statement ~~by the respondent~~ recorded on 17.2.94 (being question No.4 of the Enquiry Officer) was never supplied to the applicant. The connected records would clearly show that the acknowledgement of receipt of the copy of the said order (Order No.DE/RH/DVR/93/7735-37 dated 3.5.93 passed by the

Contd...11/-

Divisional Organiser,SSB,Manipur and Nagaland Division) was never supplied to the applicant till date. Only from the receipt of the Notice issued by the Enquiry Officer (Notice bearing No.DE/RH/DVR/89/1253 dated 8.2.94), the applicant came to know that Shri Borgohain was appointed as an Enquiry Officer in connection with the alleged Departmental Enquiry and that a departmental enquiry was proposed to be conducted against him only on the date of receipt of the said notice referred above, in the month of February,'94.

From a simple perusal of the alleged statement/proceeding of the departmental enquiry dated 17.2.94 recorded by the Enquiry Officer, it is crystal clear that question No.4 which is laid down as below:-"Q.No.4" Have you received order No.DE/RH/DVR/93/7735-37 dated 3rd May'93 of Divisional Organiser Manipur & Nagaland Division appointing me to inquire into the charges levelled against you vide Memo No.DE/RH/DVR/89/8111 dated 18th May,'93 of Divisional Organiser Manipur & Nagaland Division".But as the respondents could not fill up the lacuna of non-supply of the said order, they could not even put fabricated answer to the alleged question.

A true copy of the said proceedings dated 17.2.94(Preliminary enquiry proceeding) is enclosed herewith and marked as Annexure 'D'.

Have never
xv) That, it is also very pertinent to submit and draw the attention of your Lordships that since the very beginning of the said Departmental Enquiry, the respondents never observed the statutory provisions of law in the proceedings of the ~~xxx~~ enquiry and they always took the undue advantage of the illiteracy of the applicant. Even the copy of the office Memorandum No.DE/RE/DVR/89/8111 dated 18.5.93 alleged to be the Office Memorandum issued by the respondents in connection with the departmental enquiry was never supplied to the applicant. It has been a well settled mandatory provision of law that if any Memorandum/order/notice for conducting a departmental enquiry against a Govt. servant (governed by the C.C.S.(C.C.A) Rules, the office Memorandum would show/ state the relevant provision of law under which the

departmental enquiry would be proceeded. As such the enquiry held against the applicant is totally illegal, malafide and arbitrary. It is also a well established law that if any Memorandum is issued for conducting a departmental enquiry against a govt. servant, the charged officer (the present applicant) is to be directed to submit within 10(ten) days of the supply of the Memorandum a written statement of his defence and also to state whether he desired to be heard in person. It is also an undisputed position of law that along with the memorandum (Memorandum connected with the departmental enquiry of the charged officer) the statement of imputations of misconduct or misbehaviour in respect of which the enquiry is proposed to be held is set out in the enclosed statement of Articles of charge (Annexure I), a statement of imputations of misconduct or misbehaviour in support of his article of charge is enclosed (Annexure II), a list of documents by which, and a lists of witnesses by whom, the articles of charges are proposed to be sustained are also to be enclosed as (Annexure III & IV). But in the case of the present applicant the respondent never supplied him any copy of the alleged office Memorandum (Office Memorandum No. DE/RH/DVR/89/8111, dated 18-5-93) with the necessary enclosures such as articles of charges, imputation of charges and lists of documents and witnesses by which the alleged misconduct or misbehaviour against the present applicant are to be supported and sustained.

In short without informing him the charges levelled against him and also without giving the applicant the chance of submitting his written statement of defence, the alleged departmental enquiry was proceeded against the applicant and the petitioner was deprived the right of his defence as provided under the provisions of law. As such from a simple perusal of the connected records of D.E. it would be seen that the proceedings are illegal, whimsical, malafide and

a glaring instance of the violation of statutory provisions of law. It was held in the case of Firestone Tyre and Rubber Co Ltd-VS-workman, 1967(II)LIJ 715 that "The enquiring officer has to answer that the person enquired against ~~him~~ is not held at a disadvantage. If it seems to have been held at a disadvantage or has objected to such a course, then the enquiry may be said to be vitiated".

xvi) That in the alleged proceedings of departmental enquiry held on 17-2-94 and alleged to be recorded on 17-2-94 as the questions and answers by the Enquiry Officer (in printed form) and question No.3 of the said recorded questions and answer, the same question No.3 which seems as follows. "Have you ever given any reply to the charges levelled against you ? " and the alleged answer to that question which was as under "No", the Enquiry Officer failed to record the real version/answer by the applicant that he had not received even the Memorandum along with Articles of Charges etc. before the Enquiry was held. In fact the applicant had replied that he had not received any document connected with his charges and imputation of charges and as such replied "No" answer to question No.2, For easy reference, proceedings of the first Departmental Enquiry against the applicant held on 17-2-94 is enclosed above as Annexure "D".

xvii) That without observing any formality provided in the connected Rules of law for proceeding departmental

enquiry and also even without asking the simple question whether the applicant desire to appoint defence Assistant for his defence, the Enquiry Officer taking the undue advantage of illitracy and also the humble/lowered grade/cost of the applicant, the applicant obtaining many signatures in the alleged statement of witnesses to be recorded during the course of departmental enquiry. The humble applicant even without understanding what were the recorded statements, under coercion and threat obtained the signatures of the applicant in the alleged recorded statements of witnesses.

Copies of the alleged statements bearing the signatures of the applicant are enclosed herewith and marked as Annexure-"E".

xviii) That it is very pertinent to submit that the alleged examination of witnesses recording of their statements was fabricated in the month of September, 1994 i.e. after the lapse of 6(six) ~~mx~~ months from the date of preliminary/primary/initial departmental ~~enq~~ enquiry proceeding conducted in the ~~mx~~ month of February, 1994. The connected records of the D.E. and also the acknowledgement of receipts by the applicant and also by ~~the~~ the alleged witnesses would clearly show that the enquiry was never proceeded under the provisions of law and fabricated documents were produced only to remove the

- 15 -

applicant by any means. It is also very important to submit to your Lordships that the departmental ~~enq~~ enquiry reports was never supplied to give the applicant the chance of defence. After fabricating all the documents in collusion with the corrected and connected authorities were posted in the State of Manipur. Enquiry officer Shri G. Borgohain produced a departmental enquiry report for remove the applicant at any cost. The said enquiry report alleged article of charges, alleged statements of facts and also alleged statement of P.W.s recorded ~~statement~~ in connection with the D.E, was supplied ~~for~~ to the petitioner in the last part of September, 1994 only to show that departmental enquiry was formally proceeded and all the necessary procedures/steps were taken by the Respondents for holding a departmental enquiry copies of the alleged departmental enquiry report with articles of charges and statement of facts along with supporting evidence of witnesses are enclosed heregith for easy reference and kind perusal as Annexure- "F".

xix) That as soon as the said articles of charges and fabricated statement of facts and evidence of witnesses were supplied along with Officer/ Memorandum., dt. 30-12-94 bearing No. IE/RH/DVR (Show cause notice) by the Respondents, the humble applicant submitted representation to his concerned higher authority for dropping the proposed penalty against him on the grounds that he denied the charge-

and the allegations ~~am~~ are totally false and concocted as well as those allegations could not be relied upon. From a simple perusal of the said representation which is marked as Annexure- "G"., and also the alleged articles of charges, report of departmental enquiry and evidence of alleged P.W.s which were collectively marked as Annexure- "F" above, it is crystal clear that there are so many irregularities, contradictions and want of relevancy with the charges levelled against the applicant and material evidences adduced against him. The alleged brief statement of facts and the case in respect of charges enquiry into by the said Enquiry Officer can not be linked by the respondents as all these documents were fabricated as a method of removing the petitioner from service and same shall be refer and rely upon at the time of the hearing, of the present case,

xx) That inspite of the submissions of the representations and show cause praying for dropping penal proceedings against the applicant the respondents without any consideration for the ~~ix~~ long service of the petitioner and also without properly examining the allegation and charges against the applicant the respondent No.3 (the Divisional Organiser) passed the dismissal order dt.11-2-95 removing the petitioner from his service and throwing him on the road without any job.

A true copy of the order dt. 11-2-95 (impugned order) is enclosed herewith and marked as Annexure-"H".

xxi) That the aforesaid order of dismissal was passed ^{the} by violating ~~a~~/principle of natural justice and, also depriving the applicant of his right to live. It has been reported in a catena of cases that if the right to livelihood is not treated as part of the constitutional right of life, the easiest way of depriving a person of his right to live would be to deprive him means of livelihood.

xxii) That, as the petitioner/humble applicant was very much aggrieved by the said impugned order (dismissal order) the humble applicant submitted representations/appeals to the concerned higher authorities to revoke/quash the impugned dismissal order and re-instate him to the post which he held earlier. The said representation is annexed hereto and marked as Annexure-"I".

xxiii) That the representation/appeal was filed within time. But inspite of the filing of the representation to the appellate authority, the appellate authority still fail to take any action and disposed of the representation.

xxiv) That the petitioner having no other alternative remedy and also very much aggrieved by the said arbitrary and illegal order dt. 11-2-95 at Annexure "H" begs to file this application for quashing the same (impugned order dt. 11-2-95), for the following amongst other reasons.

R E A S O N S

- a) For that, the impugned order dt. 11-2-95 at Annexure- "H" was passed in clear violation of the principle of natural justice.
- b) For that, benefits wants afforded can not be withdrawn without proper scrutiny and appropriate hearing and as such the benefits enjoyed by the petitioner by virtue of the said order dt. 1-12-76 and also order dt. 5-9-95 can not be withdrawn by the respondents without proper scrutiny of the charges levelled against the applicant.
- c) For that, the petitioner's right under Article 311(2) of the constitution of India has been denied by the impugned order dt. 11-2-95 at Annexure- "H".

d) For that ,the Hon'ble Supreme Court of India in Hidam Chand Shyamlal-VS- Union of India & Ors (A.I.R. 1976 S.C.709) held that this all the more necessary to observe this rule where power is of a drastic nature and its exercise in a mode other than the one provided will be violative of the fundamental principle of natural justice.

e) For that, the petitioner's right under Articles 14, and 16 of the constitution of India have been violated by the impugned order dt. 11-2-95 at Annexure- "H".
?

f) For that, the respondents had denied the constitutional rights to the applicant under the Directives Principles of State policy as enshrined in the constitution of India by passing the impugned order dt. 11-2-95 at Annexure- "H". arbitrarily and ~~was~~ whimsically.

g) For that, Hon'ble Supreme Court of India in Olga Tellis and Ors.-VS- the Bombay Municipal Corporation & Ors.A.I.R.1986 S.C.180 held that if right to livelihood is not treated

as a part of the constitutional right of life, the easiest way of depriving a person of his right to live would be depriving him to his means of livelihood to the point of abrogation and such deprivation would not only deny the life of its effective content and meaningless but it would make life impossible to live. The petitioner's only means to live is his service in the S.S.B and therefore deprivation of his service illegally and arbitrarily is nothing but deprivation of petitioner's right to live.

h) For that, ~~many~~ reasons given in the impugned order dt. 11-2-95 (Annexure- "H") are not valid reasons.

i) For that, the petitioner is a member of Scheduled Tribe who has no workable knowledge of English, Hindi and Manipuri.

j) For that, there are sufficient reasons for setting aside the impugned order dt. 11-2-95 at Annexure-"H"

xxv) The petitioner has no other speedy and effecacious remedy except one prayed for herein.

7. Reliefs Sought :

In view of the above facts mentioned above the applicant prays for the following reliefs:

i) direct the respondents to dispose of the appeal and representations submitted by the applicant to the respondents by a speaking ~~order~~ order within a stipulated period.

ii) reinstate/re-employ the petitioner to the post of Driver in the S.S.B.

-And-

iii) In the mean time pending disposal of the petition your Lordships be pleased to suspend the operation of the impugned order dt. 11-2-95 at Annexure- "H" for the ends of justice.

-And-

iv) pass such order/directions which your Lordships deem fit and proper under the facts and circumstances of the case.

-And-

v) Any other reliefs /cost.

8. Particulars of the Bank draft/
postal order in respect of the
application fee :-

i) Name of the Bank on which drawn :-

ii) Demand Draft NO :-

OR

~~xi~~i) Number of I.P.O(s):- 1 (one)

ii) Name of the issuing post office :- GUWAHATI

iii) Date of issue of postal order :- 10.8.95.

iv) Post office at which payable :- GUWAHATI.

9. Details of Index :-

An index in duplicate containing the
details of the documents to be relied
upon is enclosed in the front page.

contd..verification

VERIFICATION

I, Rama Hmar, S/O (L) Rangai Hmar,
a resident of Renkai Village, Churachandpur,
District, P.O. & P.S. Churachandpur, Manipur, State
do hereby verify that the contents from para No. 1 to
9 are true to my personal knowledge and belief. and
that I have not suppressed any material facts.

Place - GUWAHATI

Rama Hmar

Date - 14. 8. 75.

Signature of the Deponent.

No. 123/76/10304-70

Amman - 11

DIRECTORATE GENERAL OF SECURITY
OFFICE OF THE DIVISIONAL ORGANISER
V.V.P. MANIPUR : MANTRIPUKHRI
PIN - 795002

OFFICE ORDER NO 413 /1976.

~~Shri~~ Rama Hmar has been appointed, in a temporary capacity to the post of Driver in this office with effect from the forenoon/afternoon of 1-12-76 until further orders.

2. ~~Shri~~ Rama Hmar will be on probation for a period of 3 years, which may be extended or curtailed at the discretion of the competent authority.

3. He/She will be entitled to draw the following pay and allowances :-

i) Pay Rs. 286/- p.m. in the scale of

Rs. 286 to 326 EB- 355/-

ii) Special pay Rs.

iii) DA &CCA

As admissible to Govt. servants in ac. with the instructions by the Ministry of Finance from time to time.

-20-

DIVISIONAL ORGANISER
V.V.P. MANIPUR : MANTRIPUKHRI

The Deputy Director, Directorate General of Security, Office of the Director, SSB, New Delhi

The Director of Accts., Cabinet Secretariat, New Delhi - 110022.

~~Shri~~ Rama Hmar
The Sub Area Organiser/Circle Organiser

Accounts Section.

Guard File

Divisional Organiser

Lat

Rama Hmar

Manipur, Manipur

Directorate General of Security
Office of the Divisional Organiser, Manipur
Post Bag No. 2, Imphal-795001

No. 1145/P/S/25/384-97

Date : 5-8-85

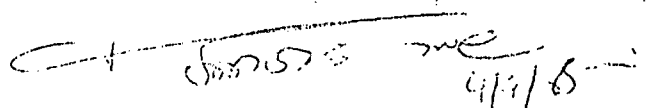
O R D E R

In terms of Rule 3 and 4 of Central Civil Service (Temporary Service) Rules, 1965, the following temporary employees are declared Quasi-permanent with effect from the date and in the grade/post indicated against their names :-

| Sl.No. | Name | Post/Grade in which to be declared Quasi-permanent | Date |
|--------|----------------------------|--|---------|
| 1. | Shri P. Raja Singh | Driver | 15.7.83 |
| 2. | Shri P. B. Sharma | Driver | 15.7.83 |
| 3. | Shri P. Bhocho Singh | Driver | 15.7.83 |
| 4. | Shri P. Bhyankishore Singh | Driver | 15.7.83 |
| 5. | Shri Ganesh Meitei | Driver | 15.7.83 |
| 6. | Shri Rana Hmar | Driver | 15.7.83 |
| 7. | Shri Akal Singh | Driver | 15.7.83 |
| 8. | Shri Sanghamit Zou | Driver | 15.7.83 |
| 9. | Shri P. Bhocho Singh | Driver | 15.7.83 |

Sd/- S.K. SHARMA)
DIVISIONAL ORGANISER

1. The Director of Accounts, Cabinet Secretariat, RR Purnam, Imphal-66.
2. The Director, SSB Office of the Director, SSB (RR Purnam), RR Purnam, Imphal-66.
3. The Director, RR Purnam.
4. The Director, RR Purnam.
5. The Director, RR Purnam.


DIVISIONAL ORGANISER

Amnuxure - 21

No. 4794-95
Directorate General of Security
Office of the Commandant
Group Centre, SSB, Imphal, Manipur.

IMPHAL - 795001
Dated the 7 Feb'94.

NOTICE

Whereas, the undersigned has been appointed as enquiry officer vide Order No. DE/RH/DVR/93/7735-37 dt. 3.5.93 of D.O., SSB Manipur & Nagaland Division to enquire into the charges levelled against you under Article of charges levelled vide Memo No. DE/RH/DVR/89/8111 dt. 18.5.93 of Divisional Organiser, SSB, Manipur & Nagaland Division.

The undersigned, therefore, has fixed 17.2.1994 at 1000 hrs. to conduct first hearing of the D.E. in the office of the Divisional Organiser, S.S.B. Manipur & Nagaland Division.

You are therefore directed to present yourself in person on the aforesaid place/, date and time fixed and report to the undersigned. In case you fail to report to the undersigned an ex-parte D.E. will be conducted.

Receipt of this Notice should be acknowledged.

(G.BORGOHAIN)
Enquiry Officer
(2 I/C)

To
Shri Rama Hmar, Driver
Village : Rengkai Village,
P.O. Churachandpur.
MANIPUR.

Copy to:-

1. The Divisional Organiser,
SSB Manipur & Nagaland Division
Post Bag No.2, Imphal - 795001
for information.

Sd/- G. Borgohain)
7/2/94
Enquiry Officer
(2 I/C)

Memo No. DE/RH/DVR/89/1253

Dated 8th Feb'94

Copy forwarded for information

and necessary action to Shri Rama Hmar, Driver
Div Hqrs., SSB, Manipur and Nagaland Division,
Imphal.

AREA ORGANISER (ADMN)

Extra copy

- 27 -

Annexure - D
32

Proceeding of departmental inquiry against
Shri Rama Hmar, Driver, Office of the Divisional Organiser SSB
Manipur & Nagaland Division into the charges levelled against
him vide Memo NO.DE/RH/DVR/89/8111 dated 18th May '93 of Divi-
sional Organiser Manipur & Nagaland Division.

Shri Rama Hmar, Driver, having been duly warned to
speak the truth. He replied to the questions of the inquiry
officer :-

Q.NO.1. Have you recieved the Memo NO.DE/RH/DVR/89/8111 of
Divisional Organiser SSB Manipur & Nagaland Division under which
5 (five) Articles of charges are levelled against you, if recieved
when do they recieved ?

Ans:- Yes, I recieved. I forgot the date when I recieved.

Q.NO.2. Do you know the contents of the charges levelled
against you ?

Ans:- Yes, I understand.

Q.NO.3. Have you ever given any reply to the charges levelled
against you ?

Ans:- NO.

Q.NO.4. Have you recieved order NO.DE/RH/DVR/93/7735-37
dated 3rd May '93 of Divisiona Organiser Manipur & Nagaland
Division appointing me to inquire into the charges levelled
against you vide Memo NO.D/RH/DVR/89/8111 dated 18th May '93
of Divisional Organiser Manipur & Nagaland Division.

Q.NO.5. Do you have any objection on my being appointed as
inquiry officer in your case ?

Ans:- No, I have no objection.

Q.NO.6. Do you plead guilty or not plead guilty to the Article
of Charge-I ?

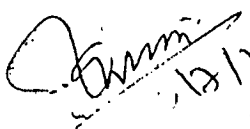
Ans:- I plead no guilty.


Shri Rama Hmar

Q.NO.7. Do you plead guilty or not plead guilty to the Article
of Charge-II ?

Ans:- I plead not guilty.


Shri Rama Hmar


17/4/94
1-0


Q.NO.8. Do you plead guilty or not plead guilty to the Article of Charge-III ?

Ans:- I plead not guilty.


Shri Rama Hmar

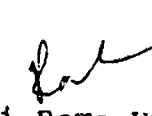
Q.NO.9. Do you plead guilty or not plead guilty to the Article of Charge-IV ?

Ans- I plead not guilty.


Shri Rama Hmar

Q.NO.10. Do you plead guilty or not plead guilty to the Article of Charge-V ?

Ans:- I plead guilty.

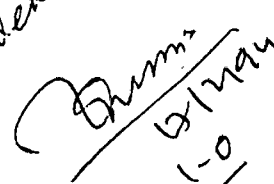

Shri Rama Hmar

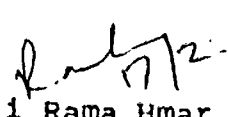
Q.NO.11. Do you wish to produce any witness for your defence ? If so, who are they ?

Ans:- NO.


Shri Rama Hmar

The above Questions & Answers have been read over to me in the language that I understand and admitted it correct and signed. A copy of it has also been recieved by me.

Recorded by me

17/2/94
1-0


Shri Rama Hmar.

(17.2.94)

Statement of ²⁹ Shri Ram Singh Chauhan, S.I. ^{Amroli - R.}
I.C. Imphal, SSB. in respect of D.E. 34
against Shri Rama Amar, serial, Kamrup
Division, vide memo no. DE / RII / DVR / 89 / 811
Dt. 13.5.93 of Divisional Organiser, SSB,
Kamrup and Nagaland Division.

Shri Ram Singh Chauhan, S.I. having
been duly warned to speak the truth -
states that :-

" I was deployed at Chandel VRF post
on 5.1.93. At that time Shri Sarween Kumar
was S.A.O. at Chandel VRF post. I was
doing as a 2 i/c of S.A.O. at Chand.
VRF post. As 2 i/c I had to look after
security and other administrative
work of VRF post. Shri Rama Amar
arrived at Chandel post on 5.1.93 evening
with Shri D.K. Borahani, C.O. Karbi. On
9.1.93 P.M. Shri Rama Amar left the
VRF post Chandel to Div. 1392. Imphal
after asking Shri P.B. Chetry D.G.O.(T).
Shri P.B. Chetry told me afterwards that
Shri Rama Amar went to Div. 1392
Imphal for collection of petrol for jeep
But Shri Rama Amar did not take
my permission and he did not
take any movement order to leave
the post. On 12.1.93 I sent a
WHT message (no. 12) to Div. 1392.
informing that Shri Rama Amar

6/9/94

Shri Ram Singh Chauhan

(Signature of Shri Ram Singh Chauhan)

Rama Amar

left Chandel post on 9.1.93 for collection of petrol. But he did not return to Chandel till date. I did not receive reply of the message. But Sri Rama Amar returned to Chandel Post on his own on 16.1.93. Sri Rama Amar did not bring petrol with him. I asked him where he was for so many days i.e. from 9.1.93 to 16.1.93. He replied that he went with the Divisional Officer, Manipal to Nagaland Div. to Sipikha for a special top secret mission. He did not disclose the mission. Again Sri Rama Amar absented himself from the post on 18.1.93 and remained absent till 20.1.93. However he came back to the post on 20.1.93 A.M. on his own. On asking where he had been from 18.1.93 to 20.1.93, he replied that he was at Chandel nearly the post. I confirmed the matter from the V.O. Sri. N.L. Angsum. The V.O. also told me that Sri Rama Amar was not in the post. On 21.1.93 Sri Rama Amar again absented and he returned on 22/1/93 P.M. On asking he told me that he was in N.I.P. camp, at Kamlathele.

Langin
6/9/94

Chandel
6.9.93
110

Chandel
6/9/94
(S. Rama Amar)

Rama Amar

On 23.1.93 I sent Sri Rama Amar
 driver to Div. HQ, Imphal for collection
 of petrol. He was issued with Movement
 order accordingly. On 27.1.93. Sri
 Sarwan Kumar, S.A.O. returned to post
 Chandel, after awaiting his leave.
 I informed the matter about Sri Rama
 Amar to S.A.O. Sri Sarwan Kumar.

On 2.2.93 Sri Rama Amar
 returned to Chandel V.V. post with
 petrol. The S.A.O. asked Sri Rama
 Amar about the movement order and
 petrol. Sri Rama Amar replied
 that he did not get petrol and
 he could furnish the movement order
 which was issued from Chandel.
 But afterwards Sri Rama Amar did

not deposit the said movement
 order. But he handed over some
 official docs. On 2.2.93 I alongwith
 S.A.O. left Chandel for success duty
 and returned to Chandel post on
 4.2.93. On arrival V.V. Sri
 Angam Anal reported S.A.O. that
 Sri Rama Amar again absent
 from the post from 3.2.93. He
 did not know where Rama Amar
 had gone.

Done by
 6/9/94

(Signature)
 10/9/94

(Signature)
 6/9/94
 (S. Ram Siff Chandel)

Sri Rama Amar

Examination by Inquiring Officer. ³⁸

Jyoti.

Cross examination by the C.G.O.

Jyoti.

The above statement has been read over to me, in presence of the C.G.O. Shri Rana Amar, and I sign it as correct.

Rana Amar
6/9/91

Pran
6-9-91.
(G. BORGOHAIN)
1.0

Pran
6/9/91
(Shri Rana Singh
Choudhary)

Rana Amar

-33-

Statement of Shri B.P. Gairola, S.A.O., Div. HQ2, SSB Manipur and Nagaland Division in respect of D.F. against Shri Rama Hmar (Driver), vide Memo. No. DE/RH/DVR/89/811 dated 18.5.93 of Divisional Organizer, SSB, Manipur and Nagaland Division

Shri B.P. Gairola, S.A.O., having been duly warned to speak the truth states that :-

" I was looking after H.T. Brand at Div. HQ2, SSB, Imphal w.e.f. Feb 1992 to October 1993. Driver Rama Hmar was detailed to drive vehicle No. HNG-1698 attached with S.A.O. Chandel. On 2.2.94, S.A.O. Chandel intimated by W.T. message that Driver Rama Hmar was sent to Divn. HQ2 on 23.1.93 for collection of petrol for vehicle and not reported back to Chandel till 2.2.93. I sent one volt. on 3/2/93 and one volt. on 4.2.93 to contact Driver Rama Hmar in his house within Super market Complex, Lamphelpet, Imphal. But he was not found there. On 4.2.93 I visited his house at about 0800 hours and found him there. I asked him to meet A.O. (HQ2.) in the office immediately and came to my office. But he did not come to Div. HQ2. Subsequently S.A.O. Chandel reported by W.T. message on 5/2/93 that Driver Rama Hmar has returned back to Chandel without movement order from Div. HQ2 on 2/2/93. P.W. It was

Sanam
3/4/94

Chandel
3.4.94

7/9/94
(B.P. GAIROLA)
S.A.O.

Rama Hmar

• further reported in the same with message that he had again absented from 3/1/93, 9. To the best of my knowledge he was not detailed for any special duty with the D.O. Manipur and Nagaland Division during January & February 1993.

Examination by The Inquiry Officer.

Q. No. 1 : Did you receive any absent report of Driver Rama Hmar from S.A.O. Chandel during January 1993.?

Answer : No.

Q. No. 2 : Did Driver Rama Hmar requested for any leave during January and February 1993.?

Answer : No.

Cross examination by the C.A.O.
Shri Rama Hmar (Driver)
Nil

The above statement has been read over to me in presence of the C.A.O. Shri Rama Hmar (Driver) and I sign it as correct.

Rama Hmar

Shri Rama Hmar
7-9-94
1-0

7/9/94

(B.P. GAHOLA)
SAO.

Rama Hmar
7/9/94

Statement of Shri Priyo Kumar Singh S.I. (H.T.) of Div. HQR, SSRB, Kamrup and Nagaland Division, in respect of D.F. against Shri Rama Hmar, Driver Kamrup Division, vide Memo No. DE/RH, DVR/89/8111 dated 18.5.93 of Divisional Officer, SSRB, Kamrup and Nagaland Division.

Shri Priyo Kumar Singh S.I. (H.T.) having been duly warned to speak the truth states that:-

" I have been looking after the duties of S.I. at Div. HQR, SSRB, Kamrup and Nagaland Division w.e.f. Feb 1989 till date. Shri Rama Hmar driver, was detailed to drive vehicle No. HNG 1698 of S.A.O. Chandel w.e.f. Sept 1992. During the month of January and February 1993 Shri Rama Hmar, driver remained attached with S.A.O. Chandel. On 4.1.93 and 25.1.93 he visited Div. HQR, Imphal for collection of petrol for vehicle No. HNG 1698 and collected 40 (forty) ltrs and 20 (twenty) ltrs respectively from Div. HQR. Rest of the days of Jan and Feb 1993, he was not seen at Div. HQR. He was not detailed for any other duty except his attachment with S.A.O. Chandel during Jan, Feb 1993."

Ram Kumar
29/94

Nagpur,
7/9/94
S.I. (H.T.)

Prinam
2.9.94

10

Examination by 10.

Rama Hmar

JHD.

Cross examination by the
C.G.O. Smt Rama Amar. (Deiver),

Nil

The above statement has been
read over to me in presence
of Smt Rama Amar and I sign
it as correct.

7/9/94

7/9/94

7/9/94
1.0

Ramabhar

Statement of Shri A.L. Angsung V.O. No. 99168

Chandel VVF Post, in respect of D.E. against Shri Rama Hmar, Driver, Manipur Division vide Memo. No. Df/R.11/DVR/89/8111 Dt. 13.5.93 of Divisional Organiser, SSRB, Manipur & Nagaland Division.

Shri N.L. Angsung, V.O. having been duly warned to speak the truth states that :-

I Shri N.L. Angsung is V.O. of Chandel VVF post. I have been doing V.O. since Oct. 1991. I know Shri Rama Hmar, Driver. I was on leave upto 15.1.93 and joined at VVF post Chandel on 16.1.93. On that day i.e. 16.1.93 Shri Rama Hmar Driver was at Chandel VVF post. On 22.1.93 Shri ~~Saamothman~~ Rami Singh Chanhom told me to check whether Shri Rama Hmar was present at camp or not. I checked at 2100 hours on 22/1/93 and Driver Rama Hmar was absent on that night. On 23/1/93

f.N Shri Rama Hmar came back to Chandel post. I asked Rama Hmar where he had been on 24/1/93 night. He replied that he was at N.I.B. camp near Palled. During Feb 1993 from 2 or 3.2.93 he was not at Chandel VVF post. I thought that Shri Rama Hmar Driver had been transferred from Chandel to Imphal Div. Hq. as he was not under my command and control.

have now

ML. Angsung
No. 99168 V.O.
24/9/94

24/9

24/9/94
1.0

After return of Sini Sawan Kumar
S.A.O from leave during last week of
January 1993 asked Sini Rama Hmar
Driver where he had been during
January first and second week. Rama
Hmar told S.A.O. that he was on
duty with Sini Sangliama D.O. He
visited Siphikon Siphonikane post with D.O.
for special duty. I heard this while
Sini Rama Hmar was telling S.A.O.
Cross Examination by C.B.O. - Nil

The above statement has been
read over to me in the language
I understand and I sign it as
correct.

R.O & A.C.
Raman
24/1/94
to

bat
24/1/94

24/1/94
No. 99168 V.O.
M. Ang Beng

Rama Hmar

Statement of Sheri Rama Hmar, Driver,
in respect of D.E. against him, vide Memo.
No. D.E/R.H/DVR/89/8111 dated 18.5.93 of ^{4th}
Divisional Organiser, SSRB, Khamrupur and Nagaland
Division.

Sheri Rama Hmar, Driver having been
duly warned to speak the truth states
that :-

I was posted at Chandel VRF post
during Sept 1992. On 8.1.93 I came
from Hach to Chandel post. On 9.1.93
I was at Chandel post. On 10.1.93 I left
Chandel post and reached Div. HQ. Imphal
I did not take permission or leave from
the competent authorities to leave the post.
On 16.1.93 I returned to Chandel post.
I remained in my quarter ~~from~~ w.e.f.
10.1.93 to 15.1.93. During this period
I visited Div. HQ and ask for petrol.
But petrol was not issued to me. I did
not perform any duty during this period
at Div. HQ. From 18.1.93 to 20.1.93
I was Chandel. But I stayed out of
the post. On 21.1.93 and on 22.1.93
I stayed at N.I.P. camp Kamalathalei.
I took permission also from S.A. Chandel
post to visit N.I.P. camp. On 23.1.93
I was sent by S.I. Ram Singh Chauhan
to Div. HQ. Imphal to collect petrol
I was issued with movement order also

Done at
15.1.93

Done at
15.1.93

Rama Hmar

I reached Div. Hq2. Imphal on 23/1/93 evening. I deposited movement order on 24.1.93 at Div. Hq2. Imphal and asked for petrol. On 25.1.93, no petrol was issued for vehicle no. MNA 1698. (Jeep). I stayed at Imphal upto 1.2.93 to receive my pay. But I did not take permission from the competent authority to stay upto 1.2.93. On 2.2.93 I reported back to Chandel VVF post, with petrol. Petrol was filled in the Jeep tank. I was not issued with movement order from Div. Hq2, Imphal for return journey to Chandel post. Hence I could not deposit the movement order. Keys of the Jeep and Log Book were there at Chandel VVF post. On 3.2.93 I again left Chandel post for Div. Hq2. Imphal without taking prior permission from the competent authority. After that I did not return to Chandel Post and I remained absent upto 28/2/93. I applied for leave for my absent period at Div. Hq2. Imphal, during March 1993. But my leave was not granted as requested by me.

Received at
25.1.93

Chandel
25/1/93
18

Rama Mohar

25/1/94
1.0

On 4.1.93 I drew 20 liter petrol for Jeep No. HNG 1693 and filled in the Jeep petrol tank and after that vehicle run to Imphal, to Chandel and Utangpotein etc. I told to S.I. Ram Singh Chawhan and Shri Sarwan Kumar of Chandel VRF that I visited Sipikucum with Shri Sangliana, D.O. which was not true. I told this due to my mistake which may be forgiven.

Q.1. Do you want to say anything more about ~~to~~ your case?

Answer: - I was absent as stated above and I told lie also. But it was not intentional. I may be excused for all these mistakes I committed and I will not repeat this kind of mistake.

The above statement has been read over to me in the language I understand and I sign it as correct.

D.O. for A.C.
Drum
 25/7/94
 100

Rana Kumar
 25.7.94

Rana Kumar

Departmental Enquiry Report in respect of Shri Rama Hmar,
Driver of Div. HQ, SSB Manipur and Nagaland Division, Imphal

1. I Shri G. Borgohain, 2 i/c of Group Centre SSB Imphal was appointed as Inquiry Officer to conduct the D.E. of Shri Rama Hmar, Driver of Div. HQ, SSB Manipur and Nagaland Division vide Order No. DE/RH/DVR/93/7735-37 dt. 3.5.93 of D.O., SSB Manipur & Nagaland Division.

2. The following charges were framed against Shri Rama Hmar, Driver vide Memo. No. DE/RH/DVR/89/8111 dt. 18.5.93.

Article of Charge-I:

That the said Shri Rama Hmar, Driver while working as Driver of Sub. Area Organiser, Chandel, left the Chandel VVF Post on 9.1.93 without taking permission and absented himself till 15.1.93. He has also absented himself from duty on the following period without taking any permission from any competent authority.

1. 18.1.93 to 20.1.93 (FN)
2. 21.1.93
3. 23.1.93 to 1.2.93
4. 3.2.93 to 7.2.93

That the said Shri Rama Hmar, Driver, by his above acts, willfully absented himself from duty without any permission. Thus he has exhibited indiscipline and lack of devotion to duty. Thereby, he has violated provision of Rule-3(1)(ii) of CCS (Conduct) Rules, 1964.

Article of Charge-II:

That the said Shri Rama Hmar, Driver while working as Driver at Sub Area Organiser, Chandel, left Chandel VVF post on 9.1.93 without permission and returned only on 16.1.93. When asked he stated that he was detailed by the Divisional Organiser to Sipuikawn in connection with to raid case which was a total lie.

That the said Shri Rama Hmar, Driver, by his above act misused the name of his superior thereby, he violated Rule 3(1)(iii) of CCS (Conduct) Rules, 1964.

Article of Charge-III:

That the said Shri Rama Hmar, Driver while working as Driver in the office of SAO, Chandel, was directed to collect POL from Divisional HQ on 23.1.93 by the SAO i/c. SI Sri Ram Singh. He collected the POL from Divisional HQ on 25.1.93 but did not return to Chandel and remained absent till 1.2.93.

That the said Shri Rama Hmar, Driver, by his above act has violated Rule 3(1)(ii) and 2(1) of CCS (Conduct) Rules, 1964.

Article of Charge-IV:

That the said Shri Rama Hmar, Driver, while working as Driver in the Office of SAO, Chandel after absenting himself without permission reported on 2.2.93. He was asked to deposit movement order and key of the Jeep but he refused to do so.

That the said Shri Rama Hmar, Driver, by his above act has disobeyed instruction of his superior. Thereby he violated Rule 3(1)(ii) of CCS (Conduct) Rules, 1964.

Article of Charge-V:

That the said Shri Rama Hmar, Driver while working as Driver, in the office of the SAO, Chandel, during the month from Jan '93 and Feb '93 has misused Vehicle No. MNG-1698 which was put in his charge. The vehicle ran 158 Kms. less which amounts to misappropriation of Govt. property for his personal gain.

That the said Shri Rama Hmar, Driver has misused Govt. vehicle and committed forgery. He thereby, has violated Rule 3(1)(i) of CCS (Conduct) Rules, 1964 has violated G. O. I. Instruction No. 3 i(c) read with G. I. M-HA O.M. No. 11012/2/79- Estt/(A) dt. 12.3.81.

3. The C.G.O., Shri Rama Hmar pleaded not guilty of the Articles of Charge I, II, III and IV and pleaded Guilty into Articles of Charge-V. However, all the charges framed against him were enquired into.

4. Brief Statement of Facts and the case in respect of charges enquired into:

Shri Rama Hmar, Driver was temporarily attached with SAO at Chandel VVF Post during Jan, 1993. On 9.1.93 (FN) Shri Rama Hmar left the VVF Post Chandel after verbally asking Shri P.B. Chhetry, DFO(T). At that time Shri Ram Singh Chauhan S.I. was in-charge of Chandel VVF Post, as Shri Sarwan Kumar, SAO was on leave. Afterwards Shri P.B. Chhetry, DFO(T) informed S.I. Ram Singh Chauhan that Shri Rama Hmar, Driver left the VVF Post, Chandel on 9.1.93 for collection of Petrol for Jeep from Div. HQ. He was not issued with movement order. On 12.1.93 ~~Shri Rama Hmar~~ Shri Ram Singh Chauhan, SI sent a W.T. message to Div. HQ, Imphal informing that Shri Rama Hmar Driver left Chandel post on 9.1.93 for collection of Petrol and did not return to Chandel post till date. On 16.1.93 Shri Rama Hmar returned to Chandel post on his own but he did not bring Petrol. On asking by Shri Ram Singh Chauhan, SI Shri Rama Hmar Driver told the S.I. that he had been with D.O. and went to Sipihkawn for a special top secret mission. Again, on 18.1.93 Shri Rama Hmar absented himself from the Chandel post and remained absent till 20.1.93. On 21.1.93 Shri Rama Hmar again absented from the post and returned on 22.1.93.

On asking Shri Rama Hmar told the S.I. that he was in NIP camp at Komlathabi. On 23.1.93 S.I. Ram Singh Chauhan sent Rama Hmar Driver, to collect Petrol for the Jeep. He was issued movement order accordingly. On 27.1.93 Shri Sarwan Kr. SAO, Chandel returned to Chandel VVF Post after his availing leave. On 2.2.93 Shri Rama Hmar returned to Chandel VVF Post without Petrol. He did not deposit any movement order also. On 3.2.93 Shri Rama Hmar again, Driver again left the Chandel Post. On 5.2.93 SAO, Chandel reported the matter by WT Signal that Rama Hmar, Driver reported the matter by WT Signal that Rama Hmar, Driver reported Chandel Post on 2.2.93 without movement order and again left the post on 3.2.93 on his own.

As stated by Shri B.P. Gairola, SAO(HQ) of Div. HQ, SSB Manipur & Nagaland Division Shri Ng. Priyo Kumar Singh SI(MT) of the Div. HQ, Shri Rama Hmar, Driver was not detailed with Shri H.T. Sangliana, DHO, for any duty during Jan/Feb, 1993. Shri Rama Hmar visited Div. HQ Imphal on 4.1.93 and 25.1.93 & for collection of Petrol for Vehicle No. MNG-1698 and collected 40 litres of Petrol and 20 litres of Petrol respectively from Div. HQ, Imphal. But he did not bring the Petrol to Chandel VVF Post.

5. Brief Statement of Defence:

The C.G.O. did not submit any Defence Statement. In the Preliminary hearing also, he did not mention any defence witnesses and documents.

6. Points for determination:

(a) Whether Shri Rama Hmar, Driver was absent during the following periods:

- i) 18.1.93 to 20.1.93 (FN)
- ii) 21.1.93
- iii) 23.1.93 to 1.2.93
- iv) 3.2.93 to 7.2.93

(b) Did Shri Rama Hmar perform duty with D.O., Manipur and Nagaland Division from 9.1.93 to 16.1.93. Whether he visited Sipihkawn with D.O. during the above period for any special duty..

(c) Did Shri Rama Hmar collect petrol from Div. HQ on 25.1.93 and bring the Petrol to Chandel post.

(d) Whether Shri Rama Hmar was on Govt. Duty from 23.1.93 to 1.2.93.

(e) Whether Shri Rama Hmar was issued with movement order and deposit the same at Chandel VVF Post on 2.2.93.

(f) Did Shri Rama Hmar misused Vehicle No. MNG-1698 during Jan/Feb, 1993. The Vehicle run 150 Kms less than the log book entry. Was Shri Rama Hmar ~~xxx~~ responsible for this less run of the Vehicle.

7. Assessment of Evidence in respect of points set out for determination and findings thereof:

The statement of the following Prosecution witnesses which are considered to be relevant for this D.E. have been recorded and examined thoroughly in presence of C.G.O., Shri Rama Hmar, Driver.

1. Shri Ram Singh Chauhan, S. I.
2. Shri Gairola, SAO
3. Shri Ng. Priyokumar Singh SI(MT)
4. Shri N. L. Angsung, V. O.

The C.G.O. Shri Rama Hmar, Driver has also been given full opportunity to cross examine the P.W.s. Copies of the statements of the P.W.s have been given to the C.G.O. In addition to the P.W.s statements, following relevant documents have also been examined and attested copies are submitted with the D.E. report.

Documents:

1. Abstract of Daily Attendance Register in respect of Div. HQ for the month of Jan and Feb, 1993 pertaining to Shri Rama Hmar, Driver.
2. Monthly Log Book Summary i.r.o. Vehicle No. MNG-1698 (Jeep) for the month of Jan, 1993

8. Brief Statement of the Witnesses:

P.W. 1, S. I. Ram Singh Chauhan

S. I. Ram Singh Chauhan in his statement stated that on 9.1.93 (FN) Shri Rama Hmar, Driver left the VVF Post, Chandel for the Div. HQ, SSB Manipur and Nagaland Division, Imphal after verbally asking Shri P. B. Chhetry, DFO(T) reportedly for the collection of Petrol for Jeep. But Shri Rama Hmar did not take permission from Shri Ram Singh Chauhan, S. I. who was at that time in-charge of VVF Post, Chandel in absence of Shri ~~Shri~~ Sarwan Kumar, SAO. Shri Rama Hmar did not take any movement order also for proceeding to Div. HQ Imphal. On 12.1.93 S. I. Ram Singh Chauhan sent a Signal to Div. HQ informing that Rama Hmar, Driver left Chandel on 9.1.93 for collection of Petrol. But he did not return to Chandel Post till date. Shri Rama ~~Driver~~ Hmar, Driver returned to Chandel Post on 16.1.93 and did not bring Petrol. On asking by S. I. Ram Singh Chauhan Shri Rama Hmar, Driver replied that he was on duty with Shri H. T. Sangliana, D. O. ~~xxx~~ and visited Sihpuikawn on top secret special duty during the period from 9.1.93 to 16.1.93. Again Shri Rama Hmar absented himself from Chandel post on 18.1.93 and remained absent till 20.1.93. He came back to the post on 20.1.93 (AN). On asking where he had been during the above said period, he replied that he was nearby the Chandel post. ~~xxx~~.

S. I. Ram Singh Chauhan confirmed the matter from V. O., Chandel Post who also told that Rama Hmar was not present in the campus. On 20.1.93 Shri Rama Hmar again absented himself and he returned on 22.1.93 (FN). On asking, he told that he was in NIP Camp at Komlathabi. On 23.1.93 S. I. Ram Singh Chauhan sent Shri Rama Hmar to the Div. HQ, Imphal for collection of Petrol. He was issued with movement order. On 2.2.93 Shri Rama Hmar, Driver returned to the Chandel VVF Post without Petrol. He also did not deposit movement Order. Shri Rama Hmar, Driver again absented himself from the Chandel Post.

P.W. :2- Shri B. P. Gairola, SAO

Shri B. P. Gairola, SAO, in his statement stated that Shri Rama Hmar, Driver was detailed to drive Vehicle No. MNG-1698 attached with SAO, Chandel. On 2.2.93, SAO Chandel intimated by W. T. Signal that Shri Rama Hmar, Driver was sent to Div. HQ on 23.1.93 for collection of Petrol for Jeep and not reported back to Chandel. Shri Gairola sent a volunteer and the volunteer on 3.2.93 and ~~another~~ another volunteer on 2.2.93 to contact Shri Rama Hmar in his house near Super market, Lamphelpat, Imphal. But Rama Hmar was not found there. On 5.2.93 Shri Gairola visited Rama Hmar's House and found him there. Shri Gairola instructed him to meet AO (HQ) in the office immediately. On 5.2.93 a WT Signal was received from SAO, Chandel that Rama Hmar, Driver returned to Chandel Post on 2.2.93 and again absented from 3.2.93. As per the best of office knowledge, Shri Gairola, SAO stated that Rama Hmar was not detailed for any special duty with Shri H. T. Sangliana, DO, SSB Manipur and Nagaland Division during January and February, 1993. On examination by the I. O., Shri Gairola, SAO stated that Rama Hmar, Driver, did not request for any kind of leave during Jan & Feb, 1993.

P.W. :3- Shri Ng. Priyokumar Singh, S. I. :

Shri Ng. Priyokumar Singh, SI (MT of Div. HQ) stated in his statement that Shri Rama Hmar, Driver was detailed to drive Vehicle No. MNG-1698 (JEEP) of SAO, Chandel w.e.f. Sept, 1992. During the month of Jan & Feb, 1993 Shri Rama Hmar, Driver remained attached with SAO, Chandel. On 4.1.93 and 25.1.93 Shri Rama Hmar, Driver visited Div. HQ, Imphal for collection of Petrol for Vehicle No. MNG-1698 (Jeep). He collected 40 litres of Petrol on 4.1.93 and 20 Litres of Petrol on 25.1.93 from Div. HQ. Rama Hmar did not detail for any other kind of duty except his attachment duty with SAO, Chandel during Jan/Feb, 1993.

P.W. :4- Shri N. L. Angsung, V. O. :

Shri N. L. Angsung, V. O. Chandel VVF Post in his statement stated that he was on leave up to 15.1.93 and joined duty on 16.1.93 at VVF Post, Chandel. On 16.1.93 Shri Rama Hmar, Driver, was seen at Chandel Post. On 22.1.93 ~~Shri Rama Hmar~~ Shri Ram Singh Chauhan, S. I. told the V. O. to check whether Rama Hmar was present at Chandel post or not. Accordingly, V. O. checked at 2100 hrs.

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on 22.1.93 and Driver Rama Hmar was found absent on that night. However, Rama Hmar came back to the Chandel post on 23.1.93. On asking Rama Hmar replied that he was at NIP camp on that night. V.O. stated that during Feb. 1993 w.e.f. 2nd or 3rd Feb, 1993 Rama Hmar was not at Chandel Post. V.O. thought that Shri Rama Hmar, Driver had been transferred from Chandel Post to Div. HQ, Imphal as the driver was not under the control of V.O. During the last week of Jan, 1993 Shri Sarwan Kumar, SAO Chandel joined Chandel Post from his leave. He asked Shri Rama Hmar Driver where he had been during 1st and 2nd Week of Jan, 1993. Shri Rama Hmar replied that he visited Sihpuikawn with Shri H. T. Sangliana, D.O. on special duty. Shri N. L. Angsung, VO heard the above mentioned conversation between Shri Sarwan Kumar, SAO and Shri Rama Hmar, Driver.

Statement of Shri Rama Hmar, Driver:

Shri Rama Hmar, Driver stated in his statement that he was posted at Chandel VVF Post during Sept, 1992. On 10.1.93 he left Chandel Post and reached Div. HQ, Imphal. He did not take permission or leave from the competent authority to leave the post. He returned to Chandel Post on 16.1.93. He remained in his quarter at Imphal from 10.1.93 to 15.1.93. During the period he visited the Div. HQ and asked for Petrol. But Petrol was not issued to him. He also stated that he did not perform any duty during the aforesaid period at Div. HQ. From 18.1.93 to 20.1.93 he was at Chandel Post but stayed out of the Post. On 21.1.93 and 22.1.93 he stayed at NIP Camp at Komlathabi. On 23.1.93 he was sent to the Div. HQ Imphal with movement order to collect Petrol. He deposited movement order at Div. HQ on 24.1.93 and asked for Petrol. On 25.1.93 he was issued 40 litres of Petrol for Vehicle No. MNG-1698 (Jeep). He stayed at Imphal till 1.2.93 to receive his pay but without taking permission from the competent authority. On 22.1.93 - On 2.2.93 he reported back to Chandel VVF Post with Petrol. He ~~could not~~ filled Petrol in to the Jeep Tank. He was not issued with movement order from Div. HQ Imphal for his return journey to Chandel VVF Post. He also stated that keys of the Jeep and Log Book were at Chandel VVF Post. On 3.2.93 he left Chandel Post for Div. HQ without taking prior permission from the competent authority. After that he did not return to Chandel Post and remained absent up to 28.2.93. He applied for leave for absence period at Div. HQ, Imphal during March, 1993 but his request was not granted. Shri Rama Hmar also stated that on 4.1.93 he drew 20 litres of Petrol for Veh. No. MNG.1698 which was filled in the vehicle Tank. He stated that he told S. I. Ram Singh Chauhan and Shri Sarwan Kumar SAO that he visited Sihpuikawn with Shri H. T. Sangliana, D.O. which was not true. He told this due to his mistake for which he may be forgiving. On examination he told that he was absent as stated in his statement and told lie also which was not intentional. At last he requested to excuse him for all his mistakes.

Done by

[Signature]
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9. FINDINGS OF THE ARTICLES OF CHARGE

Articles of Charge-I:

Shri Rama Hmar, Driver was deployed at Chandel VVF Post with SAO, Chandel during Jan and Feb, 1993. On 9.1.93 he left the post after asking verbally Shri P.B. Chhetry, DFO(T) although S. I. Ram Singh Chauhan who was the camp in-charge in the absence of SAO. He was not received any movement order to visit Div. HQ. Shri Rama Hmar also stated in his statement that he did not take permission or leave from the competent authority to leave the Chandel VVF Post. During his stay in his quarter at Imphal up to 15.1.93, he did not perform any Govt. duty at the Div. HQ Imphal also. This is corroborated with the statement of the CGO, Shri Rama Hmar, Driver, PW-3, SI(MT) Ng. Priyokumar Singh and the Daily attendance register of the Div. HQ. From 18.1.93 to 20.1.93 he was found absent in Chandel post. As per the statement of Shri Rama Hmar, C.G.O., he stayed at Chandel at outside the Post. This is corroborated by the statement of PW-1. On 21.1.93 to 22.2.93 he was absent from the Chandel VVF Post. As per the statement of the C.G.O., Shri Rama Hmar, he was at NIP Camp. But as a Driver he has no duty at NIP Camp. This is corroborated by the statement of PW-1 and PW-4. On 23.1.93 Shri Ram Singh Chauhan S. I., in-charge Chandel Post sent Shri Rama Hmar, Driver to the Div. HQ, SSB Manipur & Nagaland Division with movement order to collect petrol for Vehicle (JEEP) No. MNG-1698. Accordingly he left for the Div. HQ. He reported at Div. HQ Imphal on 25.1.93 and drawn Petrol. But Shri Rama Hmar, Driver did not return to the Chandel Post immediately after the completion of his duty at Div. HQ, Imphal. He stayed there without taking permission from the competent authority up to 1.2.93 to receive his monthly pay. As per statement of Shri Rama Hmar, C.G.O., he reported at the Chandel Post on 2.2.93. During ~~his stay~~ this period w.e.f 23.1.93 to 1.2.93 he did not perform any Govt. duty at Div. HQ, Imphal. In the attendance register of the Div. HQ, Imphal, he was marked as absent. Hence this period is not treated as on duty for him and should be treated as absent. This is corroborated by the statement of the C.G.O., PW-1, PW-3 and attendance register of the Div. HQ. Shri Rama Hmar again left the Chandel VVF Post on 3.2.93 and did not return to Chandel post after that. This is corroborated by the statement of the PW-1, PW-2, PW-4 and attendance register of the Div. HQ. - Exhibit - 1.

(Exhibit - 1)

Hence the Articles of Charge levelled against Shri Rama Hmar vide Div. HQ Memo. No. DE/RM/DVR/89/8881 dt. 18.5.93 is proved beyond doubt.

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Articles of Charge-II:

Shri Rama Hmar, Driver left Chandel Post on 9.1.93 and returned on 16.1.93. On asking by Shri Ram Singh Chauhan, S. I. Rama Hmar replied that during the period he performed duty with Shri H. T. Sangliana, D. O. and visited Sihpukawn for special duty which shows total lie. This is corroborated by the statement of PW-1, PW-2, PW-3 and PW-4 and the C. G. O. also.

-II

Hence the Articles of Charge levelled against Shri Rama Hmar, Driver vide Div. Organiser's Memo. No. DE/RH/DVR/89/8881 dt. 18.5.93 is proved beyond doubt. S/II

Articles of Charge-III:

Shri Rama Hmar, Driver was sent to Div. HQ, SSB Manipur & Nagaland Division by SAO in-charge, Chandel Post, Shri Ram Singh Chauhan, S. I. to collect Petrol from the Div. HQ on 23.1.93 with movement order. He collected Petrol for Jeep No. MNG-1698 from Div. HQ Imphal on 25.1.93. But he remained at his quarter at Imphal up to 1.2.93 on his own and reported back only on 2.2.93 at the Chandel Post. Thus he remained absent unauthorisedly up to 1.2.93. This is corroborated by the statement of PW-1, PW-2, and PW-3, and the C. G. O. and the attendance register of the Div. HQ. S/III

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Hence the Articles of Charge levelled against Shri Rama Hmar vide D. C. 's Memo. No. DE/RH/DVR/89/8881 dt. 18.5.93 is proved beyond doubt. S/III

Articles of Charge-IV:

Shri Rama Hmar, Driver was issued with Movement Order on 23.1.93 for Div. HQ, Imphal to collect Petrol. Accordingly, he collected Petrol for Jeep No. MNG-1698 on 25.1.93. After that he stayed at Imphal on his own without permission of competent authority and reported back at Chandel Post on 2.2.93. He did not deposit the Movement order as asked by SAO, Chandel. As per statement of the C. G. O., the movement order was deposited at the Div. HQ which was issued to him from Chandel post for proceeding to Div. HQ. For return journey to Chandel Post- he was not issued with movement order as he was stayed up to 1.2.93 at Imphal and reported back to Chandel on 2.2.93 without proper movement order. Hence he could not produce the return journey movement order which was due to his absence and mistake. As regards Key of the vehicle and the Log Book of the vehicle, they key and log book have been kept at Chandel post as per the statement of the C. G. O., Shri Rama Hmar. This is corroborated by the statement of the PW-1, PW-3 and the C. G. O.

Hence the Articles of Charge-IV levelled against Shri Rama Hmar vide D. C. 's Memo. No. DE/RH/DVR/89/8881 dt. 18.5.93 is proved beyond doubt. is partially proved.

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Articles of Charge-V:

In the Preliminary Hearing the C.G.O. Shri Rama Haar, Driver pleaded guilty to the Articles of Charge-V. In the final hearing also he admitted his mistake and guilty. He confessed his guilty and requested to excuse him.

Hence, the Articles of Charge-V levelled against Shri Rama Haar, Driver vide Div. Organiser's Memo. No. RE/RH/DVR/89/8881 dt. 18.5.93 is proved beyond doubt.

G. B. Borghain
21/5/94
(G. BORGOHAIN) 21/c
INQUIRY OFFICER

Rama Haar

To,

The Divisional Organiser
SSB, Manipur and Nagaland Division,
Imphal.

Subj:- Humble representation and prayer
for dropping the proposed penalty
against the undersigned applicant.

Sir,

In inviting a reference to the memorandum bearing No. DM/RH/DVR/82/16084-85 of the Directorate General of Security Office of the Divisional Organiser, SSB Manipur & Nagaland Division, Imphal-795001. Dated the 30-12-94 calling upon me to submit representation in writing to reach the Hon'ble Divisional Organiser, I have the honour to state as follows for your kind consideration and favourable orders.

1. That, as per the findings of the articles of charge as submitted by the enquiry officer, I deny the charges except those hereinafter admitted.
2. That, 9-1-93 and 10-1-93 are holidays being Second Saturday and Sunday and as such question of absence on the said holidays, does not arise. At the relevant time ie. on 9-1-93 the then Sub-Area Organiser Shri Sarwankumar was very much in-charge of VVF post, Chandel. The allegation that SI Ram Chouhan was Camp in-charge in the absence of SAO is totally false.

I left the Chandel VVF post on 9-1-93 with the permission and consent of the concerned SAO, Sarwankumar. The statement of SI Ram Chouhan is concocted and cannot be relied upon.

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3. That, as regards the findings of the enquiry officer in articles of charge I that Shri Rama Hmar of had not received any movement order to visit Divisional Head quarter. It is humbly submitted that movement order is rarely issued in rare occasions. During normal times leaving of post is allowed without any movement order. It is already submitted in the above para No.2 that I left the Chandel VVF post with the permission and ^{consent} of SAO.

4. That, I came to my quarter at Imphal on 9-1-93 and remained absent till 15-1-93 on account of my serious onlogue diseases and as such I did not take up my official duty during the said period. Thereafter on 16-1-93 I reported to the then SAO, Shri Sarwankumar and I frankly narrated him about my illness and reasons for my absence. He was pleased with my explanation and advised me to apply leave on the ground of illness for the subsequent days. As I am compelled by my ill health I could not stay longer at Chandel VVF post and returned to my quarter at Imphal on the same day. On 23-1-93 after a period of absence, I joined my posting at Chandel and I found all the Superior Officers such as SAO and his deputy were on leave. But Shri Ram Singh Chouhan was taking the charge of the Chandel post. I fact I attended my post at Chandel VVF post on 23-1-93 to report about my deteriorating health condition with further prayer for allowing me rest on medical ground. I narrated the then deteriorating health condition of myself to Shri Ram Singh Chouhan but ~~instead~~ of giving me releif, the said Chouhan sent me to Division Head Quarter SSB Manipur and Nagaland Division with

Rama Hmar

movement order to collect Petrol for vehicle (Jeep No. MNG-1698). As I have no alternative I left Chandel on the same day and came straight towards my quarter unable to draw any petrol. The next day i.e. on 24-1-93 also I remained bed ridden at my quarter and as such I could not report to the Division Head Quarter on the said day. On 25-1-93 I gathered all my strength and went by Rickshaw to the Division Head Quarter to collect petrol and there I collected the petrol but as I felt very sick and weak, I went to my quarter straight thinking that I would send the drawn petrol through somebody from my house. As I got no opportunity to send the said petrol to my VVF post at Chandel and also compelled me to stay bedridden at my quarter at Imphal, I could not join my posting till 2.2.1993.

On 2-2-93 I reported to my post at Chandel and frankly narrated and all my grievances arising out of my serious health condition and the then SAO Shri Sarwankumar consoled me that a sickman has no fault. He further advised me to take proper rest and also to submit leave application supported by medical certificates. It is pertinent to draw the kind attention of your goodself that I deposited the drawn petrol on 2-2-93 in presence of Superior Officers. I never misused or misappropriated the amount of drawn petrol.

5. That, in view of the then deteriorating health condition of myself I requested Shri Sarwankumar to allow me rest and timely treatment at Imphal. He felt sympathy on me and as such he advised me to get proper treatment

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Done by

immediately. Accordingly I left my post at Chandel on 3-2-93 to Imphal to get treatment at Imphal.

6. That, in regard to the alleged findings of Articles of charge No.II. I have already submitted in the above paras the grounds of my absence from my duty which are really beyond my control.

I totally deny that Shri Ram Singh Chouhan asked me any question about my absence and also that I reported that during the period of absence I had performed duties with Shri H.T. Sanghama, D.C. and visited Sihpuri Kawn for special duty. These are all concocted versions of the tainted witnesses P.W.1,2,3 and 4. There is no ^{an} tangible to support such statements. By merely mentioning that this is corroborated by statement of witnesses would not serve any purpose.

7. That, in regard to the alleged findings of Articles of charge III it is admitted that I as instructed by S.I. Ram Singh Chouhan left Chandel post to draw petrol for Jeep No.MNG-1698 from Division H.Q. Imphal with movement order. It is also true that I collected, the said petrol on 25-1-93. In regard to my absence and stay at my house on 24-1-93 and thereafter from 25-1-93 till 1-2-93 I have already submitted the compelling circumstances under which I remain bed ridden. For such absence I immediately reported to my SAC Shri Sarwankumar and my absence cannot be treated as unauthorised.

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8. That, as regards to the alleged findings of Articles of charge IV it is admitted that movement order was issued on 23-1-93 for Division Head Quarter to collect petrol. It is also admitted that I collected petrol for Jeep No. MNG 1698 on 25-1-1993.

As regards to my stay at Imphal from 25-1-93 till 1-2-93, I have already submitted the grounds for my stay at my quarter as a bedridden patient. The grounds submitted are to be considered kindly and such stay be not taken as without permission of Competent authority.

As regards the alleged finding that I did not deposite the movement order as asked by SAO Chandel, it is totally denied. I also respectfully submitted that after I had shown and deposited the same movement order to the SAO H.Q. Imphal the required petrol of Jeep No. MNG-1698 was allowed to be drawn by me.

I have submitted already in the above paras . that movement order is not always issued to me and also that such orders are issued rarely on rare occasions. As such I joined my post at Chandel without return journey movement order and ~~in~~ doing so there is no mistake at all.

9. That, as regards to the alleged findings in articles of charge V I totally denied that I have pleaded guilty to the articles of charge V. In this connection I humbly submit that I had only admitted the factum of my absence on the grounds of my serious illness and nothing more in connection with articles of charges.

Ranbir

It is very pertinent to extract/quote the same article of charge V in my instant representation.

The extract of Article of Charge V is given below:-

ARTICLE OF CHARGE -V

That the said Shri Rama Hmar, Driver while working as Driver, in the office of the SAO, Chandel., during the month from Jan. 1993 and Feb. 93 has misused Vehicle No. MNG-1698 which was put in his charge. The vehicle ran 158 Kms. less which amounts to misappropriation of Govt. property for his personal gain.

That the said Shri Rama Hmar, Driver has misused Govt. vehicle and committed forgery. He thereby, has violated ~~Government Rules~~ Rule 3(1) (1) of CCS(conduct) Rules, 1964 has violated G.O.I instruction No. 3 i(o) read with G.I. M-HA C.M. No. 11012/2/79-Estt/ (A) dt. 12.3.81.

In this connection I totally deny the charge and I also respectfully submit that the said charge/ allegation is without any iota of evidence. The official records and custodians would show beyond any doubt that I never misused vehicle No. MNG-1698 which was at the relevant time would in my charge. The running of 158 Kms. less is nothing to do with me. I never drive the said jeep without my officer throughout the whole of my service career. The connected records would clearly show that the said jeep had been/has been under the charge and direct control of an officer of the VVF. A mere driver cannot have its key in the absence of

un authorised officer. So, such charges are baseless.

10. That, I am a poor employee belonging to the schedule Tribe community of Manipur. I no intention to do anything wrong, or to commit anything unbecoming of a Government servant. Upon receiving your order under reference, I have just remaining absence for the said days in the articles of charge. I remained absent without any bias and malafide on my part as a poor subordinate Driver of the SSR and as such I beg a pardon of your officers.

I, therefore, humbly request you to kindly consider the above facts and circumstances, excuse me from awarding the penalty of dismissal from service and pass a favourable order to drop the proposed penalty, in the interest of public services.

For which act of your kindness, I Shall ever remain grateful to you.

Yours faithfully,

Dated/Imphal
The 16th Jan. '95.

(Shri Rama Hmar)
Driver SSR
Manipur and Nagaland Division
now posted at Head Quarter.

Received

No.DE/RH/DVR/89/1587
Directorate General of Security
Office of the Divisional Organiser
SSB Manipur and Nagaland Division
Imphal - 795001.

Dated, the

11/2/95

ORDER

WHEREAS, Shri Rama Hmar, Driver was informed of the proposed departmental enquiry against him under Rule 14 of the CCS(CCA) Rules, 1965 vide this office Memo. No.DE/RH/DVR/89/8111 dated 18.5.93 alongwith which a statement each of (I) Article of charge, (II) imputation of misconduct or misbehaviour in support of the charges, (III) and (IV) - A list, each of the documents by which and of witness by whom the article of charges were proposed to be sustained, were also forwarded to him.

2. AND WHEREAS, an enquiry against Shri Rama Hmar, Driver was conducted by Shri G.Borgohain, 21/c Group Centre, SSB, Imphal who was appointed specifically to enquire into the article of charges, vide this office order No.DE/RH/DVR/89/11047 dated 3.8.1993. He submitted his findings vide his report No. Nil dated 3.10.94, a copy of which is enclosed.

3. AND WHEREAS, on careful consideration of the report of the Inquiry Officer and other records in the case, the undersigned has agreed with the findings of the Inquiry Officer in respect of article of charges No. 1, 2, 3, 4 and 5.

4. NOW THEREFORE, after careful consideration of the record of inquiry, the facts and circumstances of the case of Shri Rama Hmar, Driver, the undersigned has come to the conclusion that Shri Rama Hmar, Driver was given enough opportunity to prove his innocence and conduct during the proceedings and even during preliminary Enquiry, but he failed to convince. Moreover, his track record has also not been good in the past.

Now & therefore, the representation for mercy by the individual is considered and rejected as it is devoid of any merits. Further it is considered that his continuation in service is not in the interest of the State as well as the Organisation and therefore the proposed penalty of dismissal from service is finally ordered.

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5. I, S.K. Sharma, Divisional Organiser, SSB, Manipur and Nagaland Division, hereby dismiss Shri Rama Hmar, Driver from service from the date of issue of this order under the provision of Rule 11(ix) of CCS(CCA) Rules.

6. A copy of this order may be added to Confidential service records of Shri Rama Hmar, Driver.

(S.K. SHARMA)

DIVISIONAL ORGANISER, SSB
MANIPUR AND NAGALAND DIVISION
IMPHAL.

To,

Shri Rama Hmar,
Driver.

Copy to :-

1. The Director of Accounts,
Cabinet Secretariat
Block-IX(East), Level-7
R.K.Puram, New Delhi-66.
2. The Assistant Director (EA)
O/O Director, SSB
R.K.Puram, New Delhi-66.
3. Sub-Area Organiser (MT)
4. Accounts Branch
5. Establishment-I
6. Personal File.

DIVISIONAL ORGANISER

Rama Hmar

To

The Director General of Security
SSB, New Delhi, India
C/o Director, SSB
R.K. Puram, New Delhi-66.

Ref:- Order No.DE/RH/DVR/89/1587 of the
Divisional Organizer, SSB, Manipur &
Nagaland Division, Imphal dt. 11-2-95
Dismissing the applicant from service
after serving for more than 18 years
as a regular employee of the Director
General.

Sub:- Prayer for reinstatement of the applicant
by quashing the dismissing order
mentioned above.

Most Respectfully Sheweth:

1. That, I am a citizen of India by birth and an Indian national. I belong to the shedule tribe community of Manipur.
2. That, I was initially appointed as a Driver of the Director General of Security in the office of the Divisional Organizer, VVP, Manipur, Mantri-phkhri against a substantive clear vacant post vide order bearing No. 1/23/76/10304-10 dated 1-12-76. I joined my service immediately. I was put on probation for a period of two years as per the terms indicated in the said appointment order. Thereafter, without any break I continued to serve till the passing of the dismissal order.

It is also humbly submitted that in recognition of my devoted and dedicated service, in the year 1985 the respectable Divisional Organizer issued his order bearing No.1/45/VVF/75/9384-97 dated 5-9-85 (a common order declaring my service as quashi permanent w.e.f. 1-7-1983. In short the said order retrospectively made me a quashi permanent employee.

-2-

True copies of the initial appointment order dated 1-12-76 and order for converting into quasi permanent are enclosed herewith.

3. That, I was serving since, 1976 till 11-2-1995 as Driver and during the tenure of my service I was posted at different places. During the long period of my service there is not even a single adverse remark in my service career and no adverse entry in all the connected records of my service.
4. That, in the beginning of the year 1993 I started suffering from serious cologne disease and I was repeatedly by the concerned doctors to take proper rest and undergo proper investigation. As my health became more deteriorated in the second week of January, 1993 I approached my concerned Higher Authority and frankly told him my suffering. To see my seriously deteriorating health condition he felt pity me and he also advised me to take rest and have proper medical treatment. My verbal request was agreed and with his permission (verbal) I left my station for my residential quarter at Imphal and I was under treatment, till 15-1-93. Just to request for allowing me to get bed rest and continue treatment I went to my office on 16-1-93 and as there was my concerned higher officer who had seen my ailing condition with his own eyes, I was verbally allowed to get further rest and treatment. Compelled by my health condition I left my place of posting on the same day and returned to my quarter at Imphal. I stayed at my house under treatment till 22-1-93 and on 23-1-93 I attended my office at Chandel but I found all my higher authorities on leave except a very junior officer namely Ram Singh Chauhan. I later

- (3) -

I reported him and requested him to allow me to enjoy leave for further period on account of my deteriorating health condition. Instead of granting leave, he was very angry with me for the best reasons known to him and he sent me to Divisional Head Quarter at Imphal to collect petrol for Vehicle (petrol for Jeep No. M3G 1698). As I have no alternative I left Chandel on the same day and came straight towards my quarter, unable to draw any petrol as I am very much ailing. The next day i.e. on 24-1-1993 also I remained bed-ridden at my quarter and as such I could not report to the Divisional Head Quarter on the said day. On 25-1-93 I gathered all my strength and went by Rickshaw to the Divisional Head Quarter to collect petrol and there I collected the petrol but as I felt very much and weak, I went to my quarter straight thinking that I would send the drawn petrol through somebody from my house. As I got opportunity to send the said petrol to my VVP post at Chandel and also compelled me to stay bed-ridden at my quarter at Imphal. I could not join my posting till 2-2-1993. On 2-2-93 I reported to my place of posting at Chandel and frankly narrated to my concerned higher officer all my grievances arisen out of my serious health condition and the then SAO Shri Sarwankumar advised me to take proper rest and also to submit leave application supported by medical certificates. It is very pertinent to mention that I deposited the drawn petrol to my office on 2-2-93 in presence of my superior officers. I never misused or misappropriated the amount of drawn petrol.

5. That, it is also most respectfully submitted that my pay and allowances for the month of March and April, 1993 have been withheld by my authorities on the ground of my unauthorised absence and the

Done here

and the same pay and allowances have not been paid till date.

6. That, it is also to draw the kind attention of your goodself that a departmental Enquiry was proceeded against me. From the simple perusal of the connected records of D.E. it will be quite clear that I was not given any chance of hearing and violating the principles of natural justice I was deprived of my service after serving for more than 18 years on regular basis. I am a semi-illiterate person who is incapable of properly defending myself in the course of the D.E. but I.O. without any consideration of my lower stating and illiteracy proceeded the D.E. violating the mandatory provisions of law for proceeding D.E.

7. That, before I was dismissed from my service I was not given any chance of protections and safeguards for my defence and I was forcibly deprived of my service which is the only means of living. To deprive me of my service means to deprive me the right to life without any pity and consideration.

8. That, I am a poor employee belonging to the schedule tribe community who got no land of any kind. In short, I am the only earning member in my family consisting of my wife and 5(five) children. The whole members of my family depend on my meagre income for their food, clothings and education. My children are also to face the pains of starvation if I am deprived of my service and they would never continue their studies.

9. That, under the above facts and circumstances my service may kindly be re-instated by quashing the dismissal order on the following grounds among others :-

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G R O U N D S :

- i) For that I was not given opportunities of defence;
- ii) For that I was dismissed while I was on duty;
- iii) For that I was punished twice by giving double punishment, first by withholding my pay and allowances and thereafter for the same alleged charge/offence, I was dismissed;
- iv) For that I was dismissed without reasonable cause;
- v) For that my dismissal was in violation of the Central Civil Services Rules (C.C.A.) Rules;
- vi) For that the dismissal was illegal and illogical;
- vii) For that the dismissal order puts stigma; such order putting stigma is highly deprecated by the Highest Court of this country.

It is, therefore, prayed that the Hon'ble Director General of Security may be pleased to quash the dismissal order and take up necessary action for re-instating my service in the interest of natural justice.

The undersigned as in duty bound shall ever duty.

Signature of the applicant.

Dated/Imphal
The 15th March, '95.

(Shri Rama Kumar)
Ex-Driver of
SSB in the Office of Divisional

Handwritten signature