

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

(1) M.P. 304/97 under para 1(2)
(2) M.P. 183/97 under para -1
(3) M.P. 46/96 under para 1(2)

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SECTION OFFICER (JUDI.)

Shahid
5.2.18

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLN. NO.	158	OF 1995
TRANSFER APPLN. NO.		OF 1995
CONT EMPT APPLN. NO.		OF 1995 (IN NO.)
REVIEW APPLN. NO.		OF 1995 (IN NO.)
MISC. PETITION NO.		OF 1995 (IN NO.)

Pranath Das APPLICANT(S)

-vs-
U.O.I. & Ors.

RESPONDENT(S)

For the Applicant(s) Mr. In person

Mr.

Mr.

Mr.

Mr. S. Ali, Sr. C.G.S.C.

For the Respondent(s)

OFFICE NOTE	DATE	ORDER
This application is in form and within time. C. F. R. No. 50/1 Contra side TRI. RD No. 5267/87 dated 31-7-95	6.9.95	From Agartala Received by post. Mr. S. Ali for respondents present. Question regarding adverse remarks. Prima facie case - O.A. admitted. 8 weeks for written statement. Adjourned to 15.11.95 for orders. Notice be issued to respondents 2 & 3 to show cause against interim relief if any - returnable on 21.9.95 - office objections if any to be removed within 4 weeks.
Requisition are ready		Inform applicant. List for interim relief on 21.9.95. List O.A. for orders on 15.11.95.
2. Com. no. 3985-87 28.11.95		<i>hsc</i> Vice-Chairman
Order issued to applicant v. no. 3988. 2.11.95	trd	
or 15.11.95 Pls. 29.11.95	29.11.95	Agreed to 10.1.96.
<i>Re</i> Show cause has not been filed.		

(contd. to Page No. 2)

OFFICE NOTE	DATE	ORDER
	10.1.96	Applicant absent. Mr S.Ali for the respondents. Four weeks last chance to file written statement. Adjourned for orders to 7.2.96.
<u>10.1.96</u> To be listed for hearing now	pg	<i>well</i> Vice-Chairman
	7-2-96	Mr. S. Ali, Sr.C.G.S.C. is present. None for the applicant. Adjourned to 8-3-96 for counter and further orders.
<u>16.1.96</u> Illustrated copy of original documents has been submitted by the applicant.	1m	<i>6</i> Member
	8-3-96	Written statement has not been submitted. List for counter and order on 19-4-96.
	19-4-96	Mr. S. Ali, Sr.C.G.S.C. is present for the respondents. None is present for the applicant as he has sought permission to dispense with his personal appearance. Written statement has not been submitted. Mr. S. Ali seeks one month time to file written statement.
<u>One d. 8-3-96 issued to the applicant via No. 590 d. 20/3/96</u>		List for hearing on 5.6.96. In the meantime the respondents may submit written statement with copy to the applicant.
<u>Dr 19/3/</u> <u>As likely has been submitted by the applicant which may be seen at page 54.</u>	1m	<i>6</i> Member

OFFICE NOTE	DATE	ORDER
1) Service reports are still awaited.	18-6-96	Mr. S. Ali, Sr.C.G.S.C. is present. Written statement has not been submitted. List for written statement and further order on 17-7-96.
2) Counter has not been filed.	1m	<i>6a</i> Member
1) w/statement has not been filed.	17.7.96	Mr S. Ali, Sr.C.G.S.C for the respondents present and seeks for further time to submit the written statement. List on 9.8.96 for written statement and further orders.
2) w/statement has not been filed.	pg	<i>6a</i> Member
1) Service reports are still awaited.	9.8.96	Mr S. Ali, learned Sr. C.G.S.C., for the respondents seeks time for written statement. List on 9.9.96 for written statement and further orders.
2) w/statement has not been filed.	nkm	<i>6a</i> Member
1) Service reports are still awaited.	9.9.96	None for the applicant. Mr. S. Ali, Sr. C.G.S.C. for the respondents seeks time for filing written statement. List for written statement and further orders on 4.10.96.
2) w/statement has not been filed.	pg	<i>6a</i> Member

OFFICE NOTE	DATE	ORDER
w/statement - has not been filed	4-10-96	Written statement has not been submitted. Mr. S. Ali Sr. C.G.S.C. seeks time to submit the same. List for written statement and further order on 17-10-96. 6 Member
16/10	1m M 7/10	
1) Service Reports are still awaited. 2) w/statement - has not been filed	17.10.96	Mr. S. Ali, Sr. C.G.S.C. for the respondents. Mr. Ali seeks time to written statement. Allowed. List for written statement and further order on 21.11.96. In the meantime the respondents may submit written statement. 6 Member
1) Service Reports are still awaited. 2) written statement has not been filed.	trd M 17/10	
12-12-96 w/s action by 1m R. acc 1, 2 & 3.	21.11.96	Mr. S. Ali, Sr. C.G.S.C. for the respondents. Mr. Ali prays for short adjournment to file written statement. Allowed. List for written statement and further order on 11.12.1996. 6 Member
	trd M 29/11	

11.12.96

Mr S.Ali, Sr.C.G.S.C for the respondents present and submitted written statement. A copy of the written statement may be served on the applicant in his given address. This ~~xx~~ case relates to Tripura. Case is ready for hearing.

12.12.96

List for hearing on 9.1.97. The applicant may submit rejoinder if considered necessary with copy to the counsel of the respondents.

Copy of order
dtd. 11.12.96
and service of
WTS issued to the
applicant 12.12.96

pg

6
Member*For WJD*

~~Rejoinder has not been filed~~ 9.1.97

Mr S.Ali, Sr.C.G.S.C for the respondents. Rejoinder ^{not} has ~~been~~ submitted by the applicant.

12-2-97

Rejoinder against the WTS submitted by the Respondent No-1, 2 & 3, at page - 63 to 69.

List for hearing before Circuit Bench at Agartala in the next ^{sitting} there. In the meantime the applicant may submit rejoinder.

6
Member

pg

MR 9/11

27.6.97

In view of the order passed in Misc. Petition No.183/97 this case be listed for hearing on 1.8.97.

*WTS and Rejoinder
has been filed.*

*SD
31/7*

nkm

*8/30/96**JB*
Vice-Chairman1.8.97 List on 4-8-97.*b.**By order*

4.8.97

4-9-97

On the prayer of Mr. S.Talapatra, learned counsel appearing on behalf of the applicant the case is adjourned till 4.9.1997.

List it on 7.11.1997 for hearing.


Vice-Chairman

1) Written statement & Rejoinder has been filed

2) Memo of appearance
Not yet filed.

trd


5/8

7-11-97

There is no representation. Application is dismissed.


Vice-Chairman

W/S, and Rejoinder has been filed.

lm


10/11/97

12-12-97

In view of the order passed in the Misc.Petition No.304/97 this Original Application is restored to file.

List it on 6-2-98 for hearing. No further adjournment will be granted.


Vice-Chairman

6-2-98

Adjourned to 27.2.98.

By order,

W/S and Rejoinder has been filed.


2/2

Please comply and do 27.2.98 to the counsel for the applicant.


213 2.3.98
Copy of order add. 27.2.98
Issued to Mr. Adrodeal
at Agartala. Date 2/3

27.2.98 It is reported that Mr S. Talapatra, learned counsel for the applicant is unable to attend court due to his personal difficulty. An application has also been filed before the Registrar of this Tribunal for adjournment. Accordingly the case is adjourned till 27.3.98.


Vice-Chairman

130/13

Note of the Registry	Date	Order of the Tribunal
WFS and Rejoinder b/s for filed.	27-3-98	There is no Single Bench to-day. Adjudged to 8-5-98. by arr.
WFS and Rejoinder has been filed.	5.6.98	None is present for the applicant. List on 19.6.98 for hearing.
WFS and Rejoinder has been filed.	pg 19.6.98	 Vice-Chairman
WFS and Rejoinder has been filed.	25 17-7-98	Left over. Adjudicated to 17.2.98 <u>by order</u>
7/9/98 Copies of the Judgment have been sent to the D/Sec. for issuing the same to the parties. Through Regd. no/15	1m 19/8	Heard counsel for both sides. Judgment delivered in open Court. Application is disposed of. No order as to costs.  Vice-Chairman
copy of the Judgment has been received & issued vide dovr. No. 2569 to 2572 dt. 10.9.98 retr. 21.9.		

Notes of the Registry	Date	Order of the Tribunal
8		

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

O.A.No. 158 of 1995

DATE OF DECISION..17-7-98.....

Shri Prananath Das

(PETITIONER(S))

Mr. S. Talapatra

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)

Mr. S. Ali, Sr.C.G.S.C.

ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE MR. JUSTICE D. N. BARUAH, VICE-CHAIRMAN

THE HON'BLE MR. C. L. N. KUMAR, MEMBER, SECRETARIAT

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

Judgment delivered by Hon'ble Vice-Chairman



CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.158 of 1995

Date of Order : This the 17th Day of July 1998.

HON'BLE MR.JUSTICE D.N.BARUAH, VICE-CHAIRMAN
HON'BLE MR.JUSTICE S.D.BARUAH, VICE-CHAIRMAN

1. Shri Prananath Das,
Son of late Ramdeb Das,
Town Pratapgarh Road No.1 : Agartala
P.S. East Agartala : Dist. - West Tripura
Place of employment :
Office of the Telecom District Manager,
Tripura Area, Agartala Applicant

By Advocate Mr.S.Talapatra

-Vs-

1. The Union of India -

(Service through the Secretary, Ministry of
Telecommunications : Sanchar Bhavan
New Delhi-110001.)

2. The Chief General Manager,
North-Eastern Telecommunication Circle,
Shillong-793001.

3. The Telecommunication District Manager,
Department of Telecommunications,
Tripura Area : Agartala-799001. Respondents.

By Advocate Mr.S.Ali, learned Sr.C.G.S.C.

O R D E R.

BARUAH (VC):

In this application the applicant is seeking certain
directions to the respondents. Facts are :-

The applicant at the material time was working as
Chief Telephones Supervisor. He was posted in office of
the Telecom District Manager, Tripura Area, Agartala.
As per his service he was to cross efficiency bar on
1-8-1994. Prior to that certain adverse remarks were
entered into the Confidential Report for the period from
1992-93 and from 1993-94. The adverse remarks had not been

contd/-



immediately communicated to the applicant. Those remarks were communicated to the applicant on 26-7-94. Immediately thereafter the applicant submitted his representations before the competent authority on 1-8-1994 as per the Rules. However, his representations were kept pending. The applicant ultimately retired from services on 31-12-97 without crossing the efficiency bar. The applicant feels that he was not allowed to cross the efficiency bar most unreasonably, arbitrary and unfairly. Hence this present petition :-

I have heard Mr. S. Talapatra, learned counsel appearing on behalf of the applicant and Mr. S. Ali learned Sr. C. G. S. C. Mr. Talapatra submits that under the relevant rules, the representations ought to have been disposed of as early as possible at any rate within a period of 3 months from the date of receipt of the representation. Mr. Talapatra also submits that refusal to allow the applicant to cross the efficiency bar on the ground of adverse remarks keeping the representation pending was not only arbitrary but also unreasonable and unfair. In this connection Mr. Talapatra has drawn my attention to *Swamy Establishment and Administration, Vol. I for Central Government offices, Chapter 52 (Confidential Report)* Clause 24 prescribes the manner in which the representation against adverse remarks should be disposed of. I quote clause 24 of O.M. "of the Government of India, Department of Personnel & Administrative Reforms, O.M. No. 21011/1/77-Estt, dated the 30th January, 1978.

"All representations against adverse remarks should be decided expeditiously by the competent authority and in any case within three months from the date of submission of the representation. Adverse remarks should not be deemed to be operative if any representation filed within the prescribed time-limit is pending. If no representation is made within the prescribed

time -limit is pending. If no representation is made within the prescribed time, or once this has been finally disposed of, there would be no further bar to take notice of the adverse remarks."

As per the said office memorandum, representation against the adverse remarks should be disposed of as early as possible at any rate within a period of 3 months from the date of submission of the representation. If the representation filed within the prescribed time is not disposed of such adverse remarks should be deemed to be inoperative. The records show that the applicant submitted his representation within 5 days from the date of receipt of the communication. However, the authority kept the representation pending till his date of superannuation. In my opinion this is wholly unfair and unreasonable. I also hold that the refusal to allow the applicant to cross the efficiency bar on the ground of adverse remarks is untenable in law.

Mr.S.Ali, learned Sr.C.G.S.C. on the otherhand supports the action taken by the respondents. He submits that the applicant was not entitled to cross the efficiency bar in view of the adverse remarks.

On hearing the counsel for the parties I am of the opinion that the action of the respondent was not only arbitrary but unfair and unreasonable. Accordingly, I allow the application and direct the respondents to treat the applicant that he had crossed the efficiency bar on the due date in view of the fact that the representation had not yet been disposed of. Mr.Talapatra submits that the applicant attained the age of superannuation on 31st December 1997. Therefore, the applicant is only entitled to get the pecuniary benefits and the fixation of pay.

2

contd/-

and therefore Respondent shall do that. With the above observations the application is disposed of. No order as to costs.

(GAIL BANGLY INE)
ALVING SECRETIVE MEMBER


(D.N. BARUAH)
VICE CHAIRMAN

LM

Chittagong Administrative Tribunal
চিটাগং প্রশাসনিক বিভাগ

23 AUG 1995

FORM - I. 142

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNAL ACT : 1985.

O.A. NO. 158 OF 1995.

Title of the Case : Shri Prananath DasApplicant
- Versus -

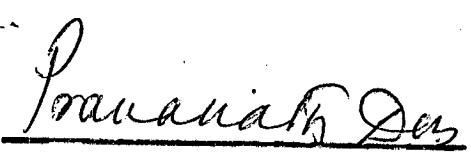
The Union of India & 2 ors.....Respondents.

I N D E X

Sl.No.	Description of documents relied upon :	Page Nos
1.	Application	1 to 16
2.	Annexure - 1 Series : Two letters dt. 18.7.94	17 to 18
3.	Annexure - 2 Representation dated 01/08/94	19 to 21
4.	Annexure - 3 -do- dated 3/10/94	22 to 26

The official is signed in my presence.


(S. N. BARUA)
Sub-Divisional Engineer, Cables
Agartala Telephones, Tripura.


Signature of the Applicant

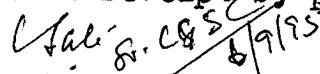
V

FOR USE IN TRIBUNAL'S OFFICE :

Date of filing :

OR

Date of receipt by post :


C.G.S. 6/9/95

Registration No. :

Signature
for REGISTRAR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Shri Prananath Das,
son of late Ramdeb Das,
Town Pratapgarh Road No.1 : Agartala :
P.S. East Agartala : Dist - West Tripura

Place of employment

OR last employed : Office of the Telecom District Manager,
Tripura Area : Agartala.

APPLICANT

- V E R S U S -

1. The Union of India -

(Service through the Secretary, Ministry of
Telecommunications : Sanchar Bhavan :
New Delhi - 110 001);

2. The Chief General Manager,
North-Eastern Telecommunication Circle,
Shillong - 793 001;

3. The Telecommunication District Manager,
Department of Telecommunications,
Tripura Area : Agartala - 799 001.

RESPONDENTS

DETAILS OF APPLICATION :

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

This application is directed against the Order of

cont.....p/2

Telecom District Manager : Tripura Area : Agartala - (Respd No.3) bearing Nos : (i) TDM/CON/CR/94-95/28-1, dated 18.7.1994 AND (ii) TDM/Con/CR/94-95/28-2, dated 18.7.1994 making some adverse entries in the ACRs of the Applicant for the years 1992-93 and 1993-94 respectively.

2. Jurisdiction of the Tribunal :

The Applicant declares that the subject matter of the Orders against which he wants redressal is within the Jurisdiction of this learned Tribunal as the impugned orders have been passed by the Telecom District Manager : Tripura Area : Agartala - the Respondent No.3 herein.

3. Limitation :

The Applicant further declares that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case :

4.1 Your humble Applicant is a citizen of India and presently employed as ^{Chief} Senior Telephone Supervisor at the Office of the Telecom District Manager, Tripura Area, Agartala under the Central Government Services and he has been serving to the best satisfaction of the authorities and without blemish whatsoever.

4.2 That, your humble applicant had been assisting as the Defence Assistant to the Charged-officials in the Departmental Enquiry No. TDM/Con/Suspen/^{PKB/3} EKP/5 and in similar other 2 cases. The said Departmental Enquiry was initiated against those Charged-officials for allegedly violating the operating instructions under Rule 3(I), (II) & (III) of CCS(Conduct)Rules, 1964 and allegedly causing loss of revenue of the Department and they were charged under Rule 14 of the CCS(CCA) Rules, 1965.

4.3 That, the Charged-officials in the above cases sought permission from the appropriate authority to appoint the Applicant as their Defence Counsel (Defence Assistant) as they considered fit to be the right person to defend them against the alleged charges.

4.4 That, the Applicant also agreed to work as their Defence Assistant in the said Proceedings and accordingly he gave his consent as required for such appointment pursuant to *Pravachik* that the Applicant was appointed as their Defence Assistant.

4.5 That, the then District Manager expressed his dissatisfaction expressly to the Applicant for his accepting the offer of Defence Assistant. But the Applicant did it proper to extend his limited knowledge and experience for defence of his fellow colleagues and also to help them to protect their valuable

right to defence. But he did never realised that, that may invite anger and retaliation from his controlling Officer i.e. the then District Manager who has been entrusted with making entries in the A.C.Rs of the Applicant.

4.6 That, there had been no occasion or incident or even a single official instruction which pointed out that the Petitioner is lacking in performance. An observation on loss of confidence as shown in the impugned Order dated 18.7.1994 has been adopted without any cogent or tenable reasons and it will be amply clear that the Respondent No.3 had made an obvious reference to the loss of alleged revenue which directly relate to the subject matter of the said Departmental Enquiry and his observation that the Applicant cannot be trusted for taking actions as regards to the stoppage of trunk revenue leakage is obviously made for his taking part as the Defence Assistant of those Charge-officials as aforesaid.

4.7 That, it also appears that the whole barrage of adverse entries are directed out of malice and retaliation. Those are not only untrue but tainted with subjectivism and no endeavour was made to assess the performance and devotion of the Applicant objectively during the period 1992-93 and 1993-94.

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4.8 That, it further appears that adverse entries as made in the ACRs of the Applicant for the years 1992-93 and 1993-94 are of so serious in nature that it is unbelievable that before making such entries any responsible Officer who is entrusted with making such entries would not advise the employee to hear the Applicant to improve his performance or to give his proper guidance for betterment in his service or without giving proper assistance to serve in the said capacity with improved efficiency by way of ~~the~~ correcting his faults and deficiencies. It is pertinent to mention here that the Applicant had no occasion to receive a piece of advice, guideline or assistance either from the reporting Officer and/or the controlling Officer. These facts indicate that the Applicant had been serving the Department most efficiently and his trustworthiness was never came under the cloud which warranted some official order or instruction warranting the Applicant.

4.9 That, the malice will be *ex facie* indicative from the entry in column No.6, where it is written : (ACR of 1993-94)

" Does the reporting officer agree with all that is reported under part-II ~~of~~ by the Officer ?
If not indicate points of disagreement with the reasons :

J. S. Biju
J. S. Biju

The entry is as under against the said column :

" No. The official has not given due importance to the interest of the department."

It clearly shows that to the Applicant the entries as made in the Part-II has never been placed for his opinion/information - that means, the Notice as required by Law before making some adverse entries was not served to the Applicant. The malafide intention of the Respondent No.3 is evident from his haste to thwart the procedure of Law. Not only this, without entering the points of difference he made an entry which is grossly vague irrelevant and remote to the subject matter. When it is required by the said column that the recording Officer shall mention the reasons for disagreement by the Officer against whom such entries were made, he simply states that the Officials has not given due importance to the interest of the Department. Such entry(s) is/are not only unintelligible but shows/show the degree of vendetta. Another glaring example of such malice would be shown from column 16 of Part-III of the ACR of 1993-94. The said column is for :

" Any special characteristics/outstanding achievement deserving, mention either in his present assignment or in the field of sports, athelates/art etc."

The entry is so inducive and flagrant that the officer recorded :

" No. The official is to be withdrawn from trunk exchange in the interest of the department."

Such remarks are not only remote but also prompted by malice and retaliation as for deaf handling of the said Departmental cases of the Charged-officials were discharged from the Charges and from the proceedings some inefficiency of the Controlling Officer i.e. the Respondent No.3 came to the fore.

4.10 That, the other entries in columns 10, 12, 13 and 14 are not only true, vague and mixed with malice and retaliation but also remote irrelevant to the subject matter and essentially untenable for lacking in objectivity. The Applicant likes to cite the entry made in column No.10 of the A.C.R. of 1993-94:

" Average ability or correctly applying relevant rules and regulations and has not applied his profound skills in the interest of the department."

This entry is self-contradictory, incoercive as while the Applicant is being appreciated for his profound skills and in the beginning he is termed as - "Average ability" and other are mere allegations without any basis and those are concocted with malafide intention.

4.11 That, the Applicant further points out that the entries as made in his A.C.R. of 1992-93 suffer from malice and motive of retaliation and subjectivity in so-called assessment has gone so wild that a reasonable man cannot find solace in the assessment of the Respondent No.3. Those entries in columns

Paravur S. A. M.

11 and 14 of the A.C.R. for the year 1992-93 are also vague, not specific, slip shod and tainted from subjective interest to harass the Applicant.

4.12 That all the entries as referred herein before as made in the A.C.R. of the Applicant for the years 1992-93 and 1993-94 are liable to be expunged forthwith and in no time.

4.13. That, the impugned Orders communicating the adverse entries in the A.C.Rs for the years 1992-93 and 1993-94 have been made on 18.7.1994.

Copies of the impugned Orders have been annexed hereto
ANNEX - 1 Srs. and marked ANNEXURE - 1 series.

4.14. That, as soon as the Applicant received the impugned Orders i.e. on 26.7.1994 he made representation on 1.8.1994 to the Respondent No.3 giving his views on such adverse remarks and prayed for exoneration from the liability of motivated adverse remarks.

A copy of the said representation dated 1.8.1994 is
ANNEX - 2. annexed hereto and marked ANNEXURE - 2.

4.15. That, the Respondent No.3 did not take any action of the said representation whatsoever and his such inaction

made the Applicant to submit a representation before the Chief General Manager Telecom, i.e. the Respondent No.2 on 3.10.1994. The Applicant elaborately dealt with the backgrounds and basis of making such adverse remarks in his A.C.Rs for the year 1992-93 and 1993-94.

For sake of brevity all the grounds taken therein is not extracted, but the Applicant craves leave of this Hon'ble Tribunal to deal with all those grounds at the time of hearing.

A copy of the said representation dated 3.10.1994 is annexed hereto and marked as ANNEXURE - 3.

ANNEX - 3.

4.15. That, the Applicant, in the representation dated 3.10.1994 prayed for expunging those adverse remarks.

4.16. That, in pursuance to the adverse entries as recorded in the A.C.Rs of the Applicant as aforesaid the increment of the Applicant as due on 1.7.1993 @ Rs.75/- was withheld and he is getting less from what he would have received as salary. This is also a clear violation of the relevant Rules of reduction of pay as the said withholding of increment is not preceded by any Notice.

Pravasankar Das

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Praannahari

4.17. That, the said adverse entries and with-holding of increment cannot stand and those are liable to be interfered into and set aside and quashed.

5. Grounds for relief with legal provisions :

(a). For that, the impugned Orders dated 18.7.1994 have been issued mala-fide and the adverse entries therein are tainted with malice, contour of subjectivity and without proper assessment of the performance, inefficiency and quality of the Applicant.

(b). For that, previous to that adverse entries there is no caution, warning, suggestions, advice etc which can justify such serious adverse entries and these are mere product of a meditation with intent to retaliation.

(c). For that, the entries are vague, remote and irrelevant to the subject matter and the contents as inserted in the entries stands to show that the recording Officer, i.e. the Respondent No.3 herein has not applied his mind judicially and objectively and while making such entries he flouted the principles of natural justice.

(d). For that, the recording Officer (Respdt No.3) had communicated such adverse entries to the Applicant After inordinate delay which vindicates that the making of such entries are not directed at improvement of performance of the Applicant but for placing a blockade in the career of the Applicant.

(e). For that, the adverse entries are not sustainable as those entries are not based on proper assessment or following the proper procedure to justify the bona fide of these entries.

(f). For that, no Notice was given to the Applicant when the proposal was made for making such entries.

(g). For that, a stiltiness has been exercised by the recording Officer which is unwarranted from such responsible officer.

(h). For that, the adverse entries are produce of vendetta and of ~~an~~ ulterior motive.

(i). For that, the adverse entries are ambiguous, indistinct and suffer from lack of clarity.

- : 12 : -

(j). For that, the inspection report dated 8.1.1992, is vide CGMT letter No. Eng-I-201/Insp-/AGT/91-92, speaks highly of the efficiency of the Applicant and the Section under his managerial control.

(k). For that the remarks about the trustworthiness of the Applicant has been arrived at without proper application of mind and without considering the consequences of gravity of such remarks. While passing such a highly damaging remarks the concerned official should exercise extra caution. The question of trustworthiness is absolutely baseless as there is no iota of evidence against the Applicant and these are mere handi-work of the malice as aforesaid.

(l). For that, his remarks are liable to be expunged as they are untenable and unsustainable.

(m). For that the Order of withholding the increment of the Applicant is also liable to be quashed and set aside.

(n). For that, the rest would be submitted from the content of the representations of the Applicant dated 1.8.1993 and 3.10.1994 (i.e. Annexures 2 and 3 respectively) to this petition at the time of hearing.

28

- : 13 : -

6. Details of remedies exhausted :

The Applicant has preferred an Appeal to the Respondent No.2 who is the authority on 3.10.1994 vide Annexure - 3, but even after expiry of ¹⁰/₆ months no reply or order has been communicated to the Applicant.

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

The Applicant further declares that he has not previously filed any application/writ application/Suit regarding the matter in respect of which this application has been made before any Court or any other authority or any other Bench of this Hon'ble Tribunal nor any such application/Writ application/Suit is pending before any of them.

8. Relief(s) sought :

In view of the facts mentioned in paragraph 4 above, the Applicant prays for the following relief(s) :

- (1). Order may kindly be passed directing the Respdts and each of them to expunge and/or quash the impugned Orders bearing No.TDM/Con/CR/94-95/28-1, and (2) No.TDM/Con/CR/94-95/28-2 - both dated 18.7.1994 (vide Annexures - 1 series), issued by the Telecom District Manager, Tripura Area, Agartala, Respondent No.3 - forthwith and in no

29

- : 14 : -

AND ALSO -

directing them to make proper assessment of the performance, efficiency and quality of the Applicant immediately for making fair and proper entries in the A.C.Rs against the impugned columns for the years 1992-93 and 1993-94 immediately;

A N D

(ii). pass such other or further order/orders as to Your Honour deem fit and proper having regard to the circumstances of the case.

9. Interim Order :

Pending final decision on the application, the applicant seeks the following ~~re~~ interim reliefs :

(i). The operation of the impugned orders of the Respondent No.3 both dated 18.7.1994 vide Annexure - 1 series be stayed and no action be allowed to be taken on the basis of those Orders;

(ii). The Respondents and each of them be directed to release the increments of the Applicant, now withheld by the Respondents, immediately.

10. In the event of application being sent by registered post, it may be stated whether the Applicant desires to have oral hearing at the admission stage and if so, he shall attach

Pawanwati Ds.

a self-addressed Post-card or Inland letter, at which intimation regarding the date of hearing could be sent to him :

Does not arise.

11. Particulars of Bank Draft/Postal Order filed in respect of the application :

Postal Order, issued by Agartala H.P.O. bearing No.06 526787, dated 31.7.1995 for Rs.50/- (Rupees fifty) only endorsed for encashment in favour of the Registrar, Central Administrative Tribunal, Guwahati Bench.

12. List of enclosures :

1. Original application with Annexures.
2. 3(three) extra copies of application with annexures.
3. 3(three) File-size envelopes with address of the Respondents.
4. Postal Order, issued by Agartala H.P.O. bearing No. 06 526787, dated 31.7.1995 for Rs.50/- (Rupees fifty) only endorsed in favour of Registrar, Central Administrative Tribunal, Guwahati Bench.

VERIFICATION

I, Shri Prananath Das, son of late Ramdeb Das, of Town Pratapgarh Road No.1 : Agartala, P.S. East Agartala, District - West Tripura, aged about 56 years, serving as the ~~Chief~~ Senior Telephone Supervisor in the Office of the Telecom District Manager, Tripura Area, Agartala, do hereby verify that the contents in paragraphs 1 to 4 (containing para Nos. 4.1 to 4.16 excluding para 4.17), 6 and 7 are true to my personal knowledge and those in paragraphs 4.17 and 5 are believed to be true and humble submission on legal advice, paragraphs 10 is my declaration and those in paragraphs 11 and 12 are the particulars of facts and the contents in paragraphs 8 and 9 are the humble prayer before the Hon'ble Tribunal.

Dated, Agartala,
the 14th August, 1995.

Prananath Das
Signature of Applicant.

.....

Confidential

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF TELECOM DISTRICT MANAGER:TRIPURA AREA:AGARTALA:799001

No. TDM/Con/CR/94-95/28-2 Dated at Agartala, the 18-7-1994.

To

Shri P. N. Das,
Chief Telephone Supervisor,
E-10B Exchange, Agartala.

Following adverse entries have been made in your ACR for the year 1993-94 and as such they are brought to your notice. It is hoped that you will improve your performance in the years to come.

One extra copy of this letter is also enclosed herewith. you are requested to acknowledge the receipt on the body of this enclosed letter and return the same by next post.

Part-III

6. Does the reporting officer agree with ~~xxxxxxxxxxxx~~ all that is reported under part-II : No. The official has by the Officer ? If not indicate not given due importance points of disagreement with to the interest of the reasons.

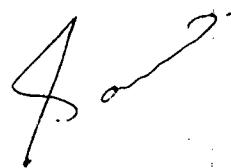
10. Quality of work : Average ability or correctly applying relevant rules and regulations and has not applied his profound skills in the interest of the department.

12. Control and management of staff ability to inspire confidence ~~xx~~ in and get the best out of the staff. : Inadequate.

13. Relation with fellow employees : Not satisfactory.

14. Observation on
v) Trustworthiness : He can not be trusted when departmental interest is involved.

16. Any special characteristics/ outstanding achievement deserving, mention either in his present assignment or in the field of sports, athletes art etc. : No. The official is to be withdrawn from trunk exchange in the interest of the department.


Telecom District Manager
Tripura Area : Agartala.

(d) 50

26/7/94

~~SECRET~~ Confidential 18 ~~SECRET~~

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF TELECOM DISTRICT MANAGER:TRIPURA AREA:AGARTALA:799001 33

No. TDM/Con/CR/94-95/28-1 Dated at Agartala, the 18th July, '94.

To

Shri P.N.Das,
Sr.Telephone Supervisor,
MAX-I, Agartala.

Following adverse entries have been made in your ACR for the year 1992-93 and as such they are brought to your notice. It is hoped that you will improve your performance in the years to come.

One extra copy of this letter is also enclosed herewith. You are requested to acknowledge the receipt on the body of this enclosed letter and return the same by next post.

Part-III

6. Does the reporting officer agree with all that is recorded under Part-II by the Officer ? If not, indicate points of disagreement with reasons.

11. Initiative and drive : I do not agree that the official has not taken leave since 1989 in the interest of the department.

14. Observation on :
v) Trustworthiness : He has not taken any initiative and drive to stop the leakage of trunk revenue.

He can not be trusted for taking actions as regards to the stoppage of trunk revenue leakage.

J. S.
Telecom District Manager
Tripura Area : Agartala.

Received
10/7/94
26/7/94

Confidential

18
33

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF TELECOM DISTRICT MANAGER:TRIPURA AREA:AGARTALA:799001
No. TDM/Con/CR/94-95/28-1 Dated at Agartala, the 18th July, '94.

To

Shri P.N.Das,
Sr.Telephone Supervisor,
MAX-I,Agartala.

Following adverse entries have been made in your ACR for the year 1992-93 and as such they are brought to your notice. It is hoped that you will improve your performance in the years to come.

One extra copy of this letter is also enclosed herewith. You are requested to acknowledge the receipt on the body of this enclosed letter and return the same by next post.

Part-III

6. Does the reporting officer agree with all that is recorded under Part-II by the Officer ? If not, indicate points of disagreement with reasons.

11. Initiative and drive

14. Observation on :

v) Trustworthiness

: I do not agree that the official has not taken leave since 1989 in the interest of the department.

: He has not taken any initiative and drive to stop the leakage of trunk revenue.

: He can not be trusted for taking actions as regards to the stoppage of trunk revenue leakage.


Telecom District Manager
Tripura Area : Agartala.

Received
18/7/94
26/7/94

To
The District Manager Telecom
Tripura Area, Agartala.

Ref :- Your No. TDM/Con/CR/94-95/28-1 dt. 18/7/94
and TDM/Con/CR/94-95/28-2 dt. 18/7/94

Sir,

I have received your above cited 2 (Two)
CR Mono on 26/7/94.

In this connection, I beg to inform you that
the adverse entries in part III during the period from
92-93 and 93-94 in above referred memo are baseless,
motivated and made with ulterior motive to take revenge
against me. I categorically deny all the entries made
against me each column itemwise.

Explanation for adverse entries during
92-93 of Part-III

Item No. 6

This adverse entry is immaterial
is not appropriate.

Item No. 11

This remark is untrue. Shiftwise
Supervisor has been provided. All
have introduced a system to assess
the performance of the staff as
06 - 1100 Total Call Eff. Inci
1100-1400 Booked
1400-1700
1700-2130

According to my capacity I have
much initiative to increase the
ency. There was no leakage of T
Revenue during my duty period.
If any leakage traced by the AE
he should to caution the concerned
(s) and also to intimate me.
did not take any step to stop the
Boing the Incharge of the Trunk
staying in a rent free quarter
the exchange complex totally to
perform his duty diligently. It
understood to believe that AE
has shifted his responsibility
shoulder.

Item No. 14

Regarding trust worthiness the
remark is serious and I shall
the remark vehemently. If I am
I can bring a criminal proceeding
against this remark. Is there
evidence to show that I have
any trust of Govt. Copy had to
Supplied.

20
95Part- III 1993 - 94.

Item No. 6

This remark is absolutely motivated. I have rendered much for the development of services such as introduction of daily testing, group testing, testing of right numbers in the evening at Test desk, easy procedure in maintaining Directory Enquiry, and also maintaining the day to day new connection, shifting, conversion etc. Also introduced sample statistics for Calcutta, Silchar, Guwahati calls, changing of position as and when there is necessary, this is in addition to normal duty.

Item No. 10

Thanks to AEP (Intnl) for his recognition as a man of profound skill but regarding advocacy he could not provide any specific data. Here I like to refer the inspection report of the CGMT on Item No. 11.1 to 11.2 vide letter No. Eng-1-201/INSP-AGT/91-92 dated 8/1/92 where my efficiency has sharply reflected. The CGMT has highly praised the efficiency of my sections on the other hand in entry No. 8.4 he made adverse comment against the performance of AEP (Intnl).

Item No. 12

The remark inadequacy is unfortunate in the context of service rendered by me. Due to my controlling and management capacity staff had to be attend duties during the period of heavy political crises following the promulgation of N.E. Emergency and general election and even Bandhs, called by the Political Parties. The services was never suspended like other Telecom Offices. This was due to my managerial capacity.

Item No. 13

Adverse remarks regarding behaviour with fellow staff is not true rather I can prove cordiality among the staff.

Item No. 14 V

As stated in the same item of 1992-93.

Item No. 16

This adverse remark is irrelevant, sad and uncalled for, which shows clear ill motivation of the AEP (Intnl).

Under the circumstances stated above, It is prayed that your honour would be graciously pleased to exonerate me from the liability of adverse

It is worthy to mention here that DPC is required to be held quarterly. But this DPC has held after a lapse of one year. My annual increment was due on 1.7.93 @ Rs. 75/- but you have given me usual increment of Rs. 60/- upto June '94. It is very much painful to say that a sum of Rs. 125/- has been recovered from my salary for the month of July '94 without any intimation. It is also to say that in the leave Memo of QD-13/58 dated 4.3.94 the basic pay as shown Rs. 2375/-. This is a clear contradiction.

However, I most fervently request your benign self kindly to allow me to cross E/B and thus oblige me thereby.

Yours faithfully,

 01/08/94

(P. N. Das)
Chief Telephone Supervisor
Telephone Exchange
Agartala

Dated at Agartala
The 1st Aug 1994

Submitted to The T.D.M.
 31/10/94 to Registered Post
 and by Registered Post on 31/10/94
 to C.G.M.T. (dit on 31/10/94
 in the Regd No. 5787
 in the Assembly P.O.)

To

Date :

The Chief General Manager Telecom,
 North Eastern Telecom Circle,
S H I L L O N G - 793 001

(Through the Telecom District Manager,
Iripura, Agartala).

Sub :- Representation against the adverse remarks
 recorded in C.R. for the year 1992-93 and 1993-94

Respected Sir,

With due regards, I have the honour to supplicate the following few grounds against the adverse remarks recorded in my C.R. in the year 1992-93 and 1993-94 for your kind consideration and judicious decision. All the remarks are motivated and baseless having no claim of truth and recorded with ulterior motive to damage the service career of ~~my~~ service and also take revenge against me. I have received the copies of the C.Rs' on 26-7-1994 and submitted a representation to the T.D.M., Agartala for expunge of the adverse remarks on 1-8-94 but the same fall flat. Hence, this representation is placed for your kind perusal and favourable order to expunge the said adverse remarks.

Ground :- 1. The adverse remarks were entered mala fide out of BIASED AND ULTERIOR MOTIVE.

The A.E.P. (Int) Shri T.K. Roy, grew inimical with me just after receipt the Inspection ^{report} of the them C.G.M.T. in the month January, 1992. The C.G.M.T. was acknowledged the efficiency of mine and the performance of the said A.E.P. (Int) was condemned. His jealousy is being developed day by day and polluted the atmosphere of the Exchange bringing division among the staff in the name of Caste and Creed as I belong to Scheduled Caste Community. The said A.E.P. (Int), out of biased and with a view to damage the career of mine had assessed the quality subjectively, not at all objectively. For which no fact on which the assessment is made has been noted.

2. The assessment is made in isolation of all the Departmental rules and guidelines :-

(i) It is worthy to mention that one of the vital instruction regarding the writing of Confidential Reports is that every reporting officer should realise the fact that it

is his duty not only to make objective assessment to subordinate's works, but also to see that he gives to his subordinate at all times, the necessary advice, guidance and assistance to enable them to correct their faults and deficiencies. In mentioning any fault or defect, the reporting officer should also give an indication of what efforts he has made by way of guidance to get the defects removed. In this instant case the reporting officer had utterly failed to comply this Mandatory Provision and thereby committed miscarriage of justice. Practically, he had nothing to mention as the assessment is made subjectively and he has got no opportunity to cast stigma, but the stealthify and subjective writing of the report with ulterior motive.

(ii) The integrity of an official will have a far reaching impact on his career prospect and as such correctness is to be judged objectively and not at all subjectively. Those who are privileged to judge others should do so not only fairly but also with reasonable character and charity. In this instant case the reporting officer had thrown away all the instructions prescribed in this regards with an ulterior motive to cause hardship to the applicant to satisfy his whim sical revenge and wills.

3. The remarks are vague and suffers from ambiguity.
The adverse remarks, as they were, are serious allegations to make against the applicant and suffers from ambiguity in as much as the particulars of incident non-giving of importance to the Department's interest have not been mentioned. Merely noting of the remarks does never proved the assessment as correctly apply, and objectively done. The remarks not interested, inadequate, not satisfactory, not trustworthy without supported by particular whatsoever are subjective assessment and bad in the eye of law. The remarks can find place only after details are furnished to the applicant and he is called upon to explain. But the reporting officer did not venture to report the course as no particulars or instance is available with him to support all these remarks.

4. Non-mentioning of particulars/Instance had handicapped in making effective encounter to the ADVERSE REMARKS.

Natural justice demands that the applicant should have been furnished with concrete instance, particulars and material based on which the allegations Casting a Slur on character and conduct are made so that he could counter the adverse remarks.

effectively and submit proper representation. But the reporting officer had failed to mention or to communicate the application any particulars instance whatsoever and thereby pose a serious impediment of the applicant in making proper representation.

5. The object of making and communicating of adverse remarks is lost :-

The whole object of making and communication of adverse remarks is to give to the official concerned an opportunity to improve his performances. The adverse remarks should not be understood in term of punishment but really it should be as an advice, so that he can act in accordance with the advice and improve his service career. The whole object of making adverse remarks would be lost if they are communicated to the official concerned after an inordinate delay. In this instant case it was exactly happened. The adverse remarks were communicate after a lapse of 16 months which can not be said even as ~~sub~~ substantial compliance.

6. In addition to the above mentioned ground the classification of position on remarkwise are furnished below :-

Explanation for adverse remarks during 1992-93 of Part-I

Item No.6 - This adverse entry is immaterial and is not appropriate.

Item No.11 - The remark is untrue. Shiftwise Supervisor has been provided. Also I have introduced a system to ascertain the periodical performance of the staff as thus -

0600 - 1100 hrs	Total	Total	Percentage.
1100 - 1400	Bkd.	effective.	
1400 - 1700			
1700 - 2100			

According to my capacity I have taken much initiative to keep vigilance on the activities of the staff and also to increase the efficiency. There was no leakage of Trk Revenue during my duty period (1000 - 1700 hrs.). If any leakage traced out by the A.E.P.(Int.) he should had to caution the concerned official and also to intimate me. But there was no such instance. Even he did not take any step to stop the leakage. Being the Incharge of the Trk Exchange staying in a Rent free Quarter within the Exchange Complex totally failed

- 4 -

to perform his duty diligently. It is understood to believe that AEP(Int) has shifted his responsibility on my shoulder.

Item No.14.(V) - Regarding trustworthiness the adverse remark is serious in nature. I vehemently protested such remark. The AEP(Int) had failed to show the evidence that I have misused any trust of Government.

Part-III

1993-94.

Item No.6

- This remark is absolutely motivated. I have rendered much for the development of services such as introduction of daily test, Grp testing, VVIP/VIP testing and testing of wedged numbers etc. Maintaining of Directory Enquiry by correcting converted Nos. from STD to non STD and vice versa and to make entry bulk of new connections. Proper attention on the works of the operators have also been given at Trk/Test Desk and Automannual. It is noteworthy to mention here that staff have been properly utilised within the above 3 sections according to the requirements shortage and capability.

Item No.10

- Thanks to AEP(Int) for his recognition as a man of profound skill but regarding adversity he could not make any specific remark. Here I would like to refer the Inspection of the then CGMT on Item No.11.1 to 11.4 vide letter No.Eng-I-201/Insp-AGT/91-92 dated 8-1-92 where my efficiency has sharply reflected. He has highly praise the efficiency of my sections, on the other hand in entry No.8.4 he made adverse comment against the performance of AEP(Int).

Item No.12

- The remark inadequate is unfortunate in the context of services rendered by me. Due to my controlling and managerial capacity staff had to attend duties during the period of heavy political disturbances following the Promulgation of State Emergency General Election and several bandhs called by the different political parties. The services of the Telephone was never suspended like other Telecom offices. This was due to my managerial capacity.

Item No.13

- This remark is ill motivated. The relationship with fellow employees is most cordial.

Item No.14(V)

- As stated in the same item of 1992-93.

Item No.16

- This remark is irrelevant, sad and uncalled for, which proves the ill motivation of the AEP(Int).

Further it is worthy to mention here that the DPC is required to be held quarterly but it was held after a lapse of one year. My increment was due on 1-7-93 & Rs.75/- but I had been given Rs.60/- upto June, 1994. It is very much painful to say that monthly a sum of Rs.125/- as granted increment plus DA has been deducted from my pay effecting from July, 1994. This is a clear violation of CCs Rules on reduction of pay.

Under the circumstances stated above I most fervently beg your honour to be graciously pleased to order expunge those adverse remarks to meet the end of justice.

Yours faithfully,

 31/07/94
(P. N. DAS)

CHIEF TELEPHONE SUPERVISOR,
TELEPHONE EXCHANGE,
AGARTALA,

An advance copy forwarded to :-

1. The Chief General Manager Telecom, North Eastern
Telecom Circle, Shilling-793001.

Ride Rogi. No. 5787 (Assembly
P. 21/1/1)

42

VAKALATNAMA

CENTRAL

IN THE GENERAL ADMINISTRATIVE TRIBUNAL GAUHATI BENCH: GUWAHATI

Original Application No: 158 of 1995

Shri Pran Nath Das , Applicant.

—VS—

Union of India & Ors.

Respondents:

I have entered appearance in the above case on behalf of the Union of India and other Respondents on this 7th day of Sept of 1995

Shaukat Ali

(MD. SHAUKAT ALI)

7/9/95

Sr. Central Govt. Standing Counsel

Central Administrative Tribunal

Gauhati Bench.

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Central Administrative Tribunal
संघीय प्राधिकारिक न्यायिक दल
85
16 JAN 1995
Decided Bench
प्रभागी न्यायिक दल

To
 The Deputy Registrar,
 Central Administrative Tribunal,
GUWAHATI.

Ref: Original application No. 158/95
 M.No. 3988 dated 11-9-95.

Sir,

*PT
12/1
SCC*
 With reference to the letter cited above,
 I beg to request your good-self to kindly accept
 the attested copies of the original documents
 enclosed herewith.

16/1/96
 (1) Copies of representation dated 1-8-94.
 (2) Copies of representation dated 3/10/94.
 (3) Copies of application dated 14-8-95.

Yours faithfully,

Prana Nath Das
 Town Pratapgarh, 01/01/96
 Read No. 1,
 AGARTALA-799001.
 (Tripura West)

Mr. Dutta
 9th file P2.

H. Bhattacharya
 16/1/96.

To

The District Manager Telecom
Tripura Area, Agartala.

Re: :- Your No. TD.I/Com/CR/94-95/28-1 dt. 18/7/94
and TD.I/Com/CR/94-95/28-2 dt. 18/7/94

Sir,

I have received your above cited 2 (Two)
CR Memo on 26/7/94.

In this connection, I beg to inform you that
the adverse entries in part A.I during the period from
92-93 and 93-94 in above referred memo are baseless,
motivated and made with ulterior motive to take revenge
against me. I categorically deny all the entry's made
against me each column otherwise.

Explanation for adverse entries during
92-93 of Part A.I

Item No. 6

This adverse entry is material and
is not appropriate.

Item No. 11

This remark is untrue. Shiftwise
supervisor has been provided. Also I
have introduced a system to ascertain
the performance of the staff in this :-
06 - 1100 | Total Call MRP. Trunk, Trunk
1100-1400 | Blocked
1400-1700
1700-2100 | According to my capacity I have taken
much initiative to increase the efficiency.
There was no leak in my branch
several times my duty portion (10-1700hr)
If any leakage traced by the ACP (Tutel)
he should be caution the concern offici-
al (s) and also to inform me, even he
did not take any step to stop the leak &
being the Incharge of the Trunk office
staying in a front five quarter within
the office complex totally failed to
perform his duty diligently. It is
understood to believe that ACP (Tutel)
has shifted his responsibility on my
shoulder.

Item No. 14

Re writing trust wordiness the adverse
remedy is serious and I challenging
the remark validly. If I am permitted
I can bring a criminal proceeding
against this remark. I, ~~am~~ ^{am} not
evid to show that I have misused
any kind of cont. Oppg had to be
Supplied.

Photo copy of the original
is attached

Chief Telephone Supervisor
Telephone Exchange,
Agartala-7990095

Counted..... 12,000

Part- III 1993/ 94.

Item No. 6

This remark is absolutely motivated. I have rendered much for the development of service such as introduction of daily testing, group testing, testing of eight numbers in the evening at Test desk, easy procedure in maintaining Directory Enquiry, and also testing, balancing the day to day new connection, shifting, conversion etc. Also introduced simple statistics for Calcutta, Silchar, Guwahati calls, changing of position etc and when there is necessary, this is in addition to normal duty.

Item No. 10

Thanks to AEP (Intal) for his recognition as a man of profound skill but regarding adversity he could not provide any specific data. Here I like to refer the inspection report of the CGTF on Item No. 11.3 to 11.4 vide Letter No. Eng-1-201/LNSP-AGT/31-92 dated 6/1/92 where my efficiency has clearly reflected. The CGTF has highly praised the efficiency of my sections on the other hand in entry No. 8.4 he made adverse comment against the performance of AEP (Intal)

Item No. 12

This remark is inadquate in the context of service rendered by me. Due to my controlling and management capacity I was forced to be attend duties during the period of heavy political crisis following the promulgation of the Emergency and general election and even bandhs, called by the Political Parties. The services was no or suspended like other Telecom Offices. This was due to my managerial capacity.

Item No. 13

Adverse remark regarding behaviour with fellow staff is not true rather I can prove cordiality among the staff

Item No. 14

As stated in the same item of 1992-93

Item No. 16

This adverse remark is irrelevant, baseless and uncalled for, which shows clear ill motivation of the AEP (Intal).

Under the circumstances stated above, it is prayed that your honour would be graciously pleased to exonerate me from the liability of motivated adverse remark.

Photo Copy of the
Original is attached

Contd. Page 3

It is worthy to mention here that DPC is required to be held quarterly. But this DPC was held after a lapse of one year. My usual increment was due on 1.7.93 @ Rs. 75/- But you have given me usual increment of Rs. 60/- upto June '93. It is very much painful to say that a sum of Rs. 125/- has been recovered from my salary for the month end of July '94 without any intimation. It is also to say that in the leave Note of QD-13/58 dated 4.3.94 the basic pay is shown as 2375/- This is a clear contradiction.

However, I most fervently request your benign self kindly to allow me to cross E/B and thus oblige me thereby.

Yours faithfully,

01/08/94

P. N. Das)

Chief Telephone Supervisor
Telephone Exchange
Agartala

Dated at Agartala
The 1st Aug 1994

Photo Copy of the
original is attested

Chief Telephone Supervisor
Telephone Exchange,
Agartala-799001.

Confidential

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF TELECOM DISTRICT MANAGER:TRIPURA AREA:AGARTALA:799001

No. TDM/Con/CR/94-95/28-1 Dated at Agartala, the 18th July, '94.

To

Shri P.N.Das,
Sr. Telephone Supervisor,
MAX-I, Agartala.

Following adverse entries have been made in your ACR for the year 1992-93 and as such they are brought to your notice. It is hoped that you will improve your performance in the years to come.

One extra copy of this letter is also enclosed herewith. You are requested to acknowledge the receipt on the body of this enclosed letter and return the same by next post.

Part-III

6. Does the reporting officer agree with all that is recorded under Part-II by the Officer ? If not, indicate points of disagreement with reasons.

: I do not agree that the official has not taken leave since 1989 in the interest of the department.

11. Initiative and drive

: He has not taken any initiative and drive to stop the leakage of trunk revenue.

14. Observation on :

v) Trustworthiness

: He can not be trusted for taking actions as regards to the stoppage of trunk revenue leakage.

Received

18/7/94

*Both copy blue
original*

AP/31/94

**Sub-Divisional Engineer, Cables
Agartala Telephones, Tripura**

40
Telecom District Manager
Tripura Area : Agartala.

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF TELECOM DISTRICT MANAGER:TRIPURA AREA:AGARTALA:799001
No. TDM/Con/CR/94-95/26-2 Dated at Agartala, the 18-7-1994.

To

Shri P. N. Das,
Chief Telephone Supervisor,
E-10B Exchange, Agartala.

Following adverse entries have been made in your ACR for the year 1993-94 and as such they are brought to your notice. It is hoped that you will improve your performance in the years to come.

One extra copy of this letter is also enclosed herewith. You are requested to acknowledge the receipt on the body of this enclosed letter and return the same by next post.

Part-III

6. Does the reporting officer agree with ~~all that is reported under part-II~~ by the Officer ? If not indicate points of disagreement with reasons. : No. The official has not given due importance to the interest of the department.

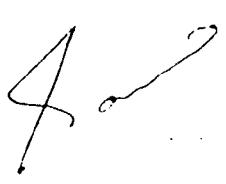
10. Quality of work : Average ability or correctly applying relevant rules and regulations and has not applied his profound skills in the interest of the department.

32. Control and management of staff ability to inspire confidence ~~in~~ in and get the best out of the staff. : Inadequate.

13. Relation with fellow employees : Not satisfactory.

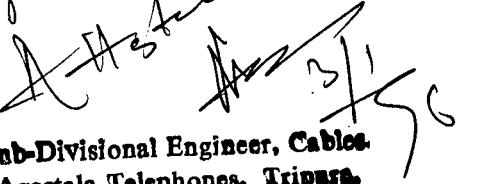
14. Observation on
v) Trustworthiness : He can not be trusted when departmental interest is involved.

16. Any special characteristics/ outstanding achievement deserving, mention either in his present assignment or in the field of sports, athletics art etc. : No. The official is to be withdrawn from trunk exchange in the interest of the department.


Telecom District Manager
Tripura Area : Agartala.

(C) 46
26/7/94

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original -----


Sub-Divisional Engineer, Cables
Agartala Telephones, Tripura.

To
The Chief General Manager Telecom,
North Eastern Telecom Circle,
S H I L L O N G - 793 001.

Date :

(Through the Telecom District Manager,
Tripraya, Agartala.),

Sub :- Representation against the adverse remarks
recorded in C.R. for the year 1992-93 and 1993-94.

Respected Sir,

With due regards, I have the honour to supplicate the following few grounds against the adverse remarks recorded in my C.R. in the year 1992-93 and 1993-94 for your kind consideration and judicious decision. All the remarks are motivated and baseless having no colm of truth and recorded with ulterior motive to damage the service career ~~of service~~ and also take revenge against me. I have received the copies of the C.Rs' on 26-7-1994 and submitted a representation to the T.D.M., Agartala for expunge of the adverse remarks on 1-8-94 but the same fall flat. Hence, this representation is placed for your kind perusal and favourable order to expunge the said adverse remarks.

Ground :- 1. The adverse remarks were entered malafidely out of BIASED AND ULTERIOR MOTIVE.

The A.E.P.(Int) Shri T.K. Roy, grew inimical with me just after receipt the Inspection of the them C.G.M.T. in the month January, 1992. The C.G.M.T. was acknowledged the efficiency of mine and the performance of the said A.E.P.(Int) was condemned. His jealousy is being developed day by day and polluted the atmosphere of the Exchange bringing division among the staff in the name of Caste and Creed as I belong to Scheduled Caste Community. The said A.E.P.(Int), out of biased and with a view to damage the career of mine had assessed the quality subjectively, not at all objectively. For which no fact on which the assessment is made has been noted.

2. The assessment is made in isolation of all the Departmental rules and guidelines :-

(i) It is worthy to mention that one of the vital instruction regarding the writting of Confidential Reports is that every reporting officer should realise the fact that it

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~~Not to be used~~

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31/5/

is his duty not only to make objective assessment to subordinate's works, but also to see that he gives to his subordinate at all times, the necessary advice, guidance and assistance to enable them to correct their faults and deficiencies. In mentioning any fault or defect, the reporting officer should also give an indication of what efforts he has made by way of guidance to get the defects removed. In this instant case the reporting officer had utterly failed to comply this Mandatory Provision and thereby committed miscarriage of justice. Practically, he had nothing to mention as the assessment is made subjectively and he has got no opportunity to cast stigma, but the stealthify and subjective writting of the report with ulterior motive.

(ii) The integrity of an official will have a far reaching impact on his career prospect and as such correctness is to be judged objectively and not at all subjectively. Those who are privileged to judge others should do so not only fairly but also with reasonable character and charity. In this instant case the reporting officer had thrown away all the instructions prescribed in this regards with an ulterior motive to cause hardship to the applicant to satisfy his whimsical revenge and wills.

3. The remarks are vague and suffers from ambiguity.

The adverse remarks, as they were, are serious allegations to make against the applicant and suffers from ambiguity in as much as the particulars of incident non-giving of importance to the Department's interest have not been mentioned. Merely noting of the remarks does never proved the assessment as correctly apply, and objectively done. The remarks not interested, inadequate, not satisfactory, not trustworthy without supported by particular whatsoever are subjective assessment and bad in the eye of law. The remarks can find place only after details are furnished to the applicant and he is called upon to explain. But the reporting officer did not venture to report the course as no particulars or instance is available with him to support all these remarks.

4. Non-mentioning of particulars/Instance had handicapped in making effective encounter to the ADVERSE REMARKS.

Natural justice demands that the applicant should have been furnished with concrete instance, particulars and material based on which the allegations Casting & Slur on character and conduct are made so that he could counter the adverse remarks

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effectively and submit proper representation. But the reporting officer had failed to mention or... to communicate the applicant any particulars instance whatsoever and thereby pose a serious impediment of the applicant in making proper representation.

5. The object of making and communicating of adverse remarks is lost :-

The whole object of making and communication of adverse remarks is to give to the official concerned an opportunity to improve his performances. The adverse remarks should not be understood in term of punishment but really it should be as an advice, so that he can act in accordance with the advice and improve his service career. The whole object of making adverse remarks would be lost if they are communicated to the official concerned after an inordinate delay. In this instant case it was exactly happened. The adverse remarks were communicate after a lapse of 16 months which can not be said even as ~~substantial~~ compliance.

6. In addition to the above mentioned ground the classification of position on remarkwise are furnished below :-

Explanation for adverse remarks during 1992-93 of Part-I

Item No.6 - This adverse entry is immaterial and is not appropriate.

Item No.11 - The remark is untrue. Shiftwise Supervisor has been provided. Also I have introduced a system to ascertain the periodical performance of the staff as thus -

0600 - 1100 hrs	Total Bkd.	Total effective.	Percentage.
1100 - 1400 "			
1400 - 1700 "			
1700 - 2100			

According to my capacity I have taken much initiative to keep vigilance on the activities of the staff and also to increase the efficiency. There was no leakage of Trk Revenue during my duty period (1000 - 1700 hrs.). If any leakage traced out by the A.E.P.(Int.) he should had to caution the concerned official and also to intimate me. But there was no such instance. Even he did not take any step to stop the leakage. Being the Incharge of the Trk Exchange staying in a Rent free Quarter within the Exchange Complex totally failed

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to perform his duty diligently. It is understood to believe that AEP(Int) has shifted his responsibility on my shoulder.

Item No.14.(V) - Regarding trustworthiness the adverse remark is serious in nature. I vehemently protested such remark. The AEP(Int) had failed to show the evidence that I have misused any trust of Government.

Part-III

1993-94

Item No.6

- This remark is absolutely motivated. I have rendered much for the development of services such as introduction of daily test, Grp testing, VVIP/VIP testing and testing of wedged numbers etc. Maintaining of Directory Enquiry by correcting converted Nos. from STD to non STD and vice versa and to make entry bulk of new connections. Proper attention on the works of the operators have also been given at Trk/Test Desk and Automannual. It is noteworthy to mention here that staff have been properly utilised within the abcve 3 sections according to the requirements shortage and capability.

Item No.10

- Thanks to AEP(Int) for his recognition as a man of profound skill but regarding adversity he could not make any specific remark. Here I would like to refer the Inspection of the then CGMT on Item No.11.1 to 11.4 vide letter No.Eng-L-201/Insp-AGT/91-92 dated 8-1-92 where my efficiency has sharply reflected. He has highly praise the efficiency of my sections, on the other hand in entry No.8.4 he made adverse comment against the performance of AEP(Int).

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Asst. 31/96

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37/9

Item No.12

- The remark inadequate is unfortunate in the context of services rendered by me. Due to my controlling and management capacity staff had to attend duties during the period of heavy political disturbances following the Promulgation of State Emergency General Election and several bandhs called by the different political Parties. The services of the Telephone was never suspended like other Telecom offices. This was due to my managerial capacity.

Item No.13

- This remark is ill motivated. The relationship with fellow employees is most cordial.

Item No.14(V)

- As stated in the same item of 1992-93.

Item No.16

- This remark is irrelevant, sad and uncalled for, which proves the ill motivation of the AEP(Int).

Further it is worthy to mention here that the DPC is required to be held quarterly but it was held after a lapse of one year. My increment was due on 1-7-93 @ Rs.75/- but I had been given @ Rs.60/- upto June, 1994. It is very much painful to say that monthly a sum of Rs.125/- as granted increment plus DA has been deducting from my pay effecting from July, 1994. This is a clear violation of CCs Rules on reduction of pay.

Under the circumstances stated above I most fervently beg your honour to be graciously pleased to order expunge those adverse remarks to meet the end of justice.

Yours faithfully,

31/10/94
(P. N. DAS)

P/C CHIEF TELEPHONE SUPERVISOR,
TELEPHONE EXCHANGE,
AGARTALA.

An advance copy forwarded to :-

1. The Chief General Manager Telecom, North Eastern Telecom Circle, Shillong-793001.

After
 31/10/96

FORM - I.APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNAL ACT : 1985.O.A. NO. OF 1995.

Title of the Case : Shri Prananath Das Applicant
 - Versus -

The Union of India & 2 ors..... Respondents.

I N D E X

Sl.No.	Description of documents relied upon :	Page Nos
1.	Application	
2.	Annexure - 1 Series : Two letters dt. 18.7.94	1 to 16
3.	Annexure - 2 Representation dated 01/08/94	17 to 18
4.	Annexure - 3 -do- dated 3/10/94	19 to 21
		22 to 26

The official is signed in my
presence.

Prananath Das
Sub-Divisional Engineer, Cables
Agraria Telephones, Tripura.

Prananath Das
Signature of the Applicant

FOR USE IN TRIBUNAL'S OFFICE :

Date of filing :

OR

Date of receipt by post :

Registration No. :

To Copy of the
original
8/10/95
8/10/95
Sub-Divisional Engineer, Cables
Agraria Telephones, Tripura.

Prananath Das
Signature
for REGISTRAR

395

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Shri Prananath Das,
son of late Ramdeb Das,
Town Pratapgarh Road No. 1 : Agartala :
P.S. East Agartala : Dist - West Tripura

Place of employment

OR last employed : Office of the Telecom District Manager
Tripura Area : Agartala.

APPLICANT

- V E R S U S -

1. The Union of India.

(Service through the Secretary, Ministry of
Telecommunications : Sanchay Bhawan :
New Delhi - 110 001);

2. The Chief General Manager,
North-Eastern Telecommunication Circle,
Shillong - 793 001;

3. The Telecommunication District Manager,
Department of Telecommunications,
Tripura Area : Agartala - 799 001.

RESPONDENTS

DETAILS OF APPLICATION :

*As copy of the
original*
1. Particulars of the Order against which the application
is made :

Attached
This application is directed against the Order of

cont.....p/2

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3/96*

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Telecom District Manager : Tripura Area : Agartala - (Respd No.3) bearing Nos : (i) TDM/COM/CR/94-95/28-1, dated 18.7.1994 AND (ii) TDM/Com/CR/94-95/28-2, dated 18.7.1994 making some adverse entries in the ACRs of the Applicant for the years 1992-93 and 1993-94 respectively.

2. Jurisdiction of the Tribunal :

The Applicant declares that the subject matter of the Orders against which he wants redressal is within the Jurisdiction of this learned Tribunal as the impugned orders have been passed by the Telecom District Manager : Tripura Area : Agartala - the Respondent No.3 herein.

3. Limitation :

The Applicant further declares that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case :

4.1 Your humble Applicant is a citizen of India and presently employed as ^{Chief} Senior Telephone Supervisor at the Office of the Telecom District Manager, Tripura Area, Agartala under the Central Government Services and he has been serving to the best satisfaction of the authorities and without blemish whatsoever.

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Affd.
A. S. J. G.
Sub-Divisional Engineer, Cables

right to defence. But he did never realised that, that may invite anger and retaliation from his controlling Officer i.e. the then District Manager who has been entrusted with making entries in the A.C.Rs of the Applicant.

4.6 That, there had been no occasion or incident or even a single official instruction which pointed out that the Petitioner is lacking in performance. An observation on loss of confidence as shown in the impugned Order dated 18.7.1994 has been adopted without any cogent or tenable reasons and it will be amply clear that the Respondent No.3 had made an obvious reference to the loss of alleged revenue which directly relate to the subject matter of the said Departmental Enquiry and his observation that the Applicant cannot be trusted for taking actions as regards to the stoppage of trunk revenue leakage is obviously made for his taking part as the Defence Assistant of those Charge-officials as aforesaid.

4.7 That, it also appears that the whole barrage of adverse entries are directed out of malice and retaliation. These are not only untrue but tainted with subjective version and no endeavour was made to assess the performance and devotion of the Applicant objectively during the period 1992-93 and 1993-94.

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Sub-Divisional Engineer, Cables
Agartala Telephones, Tripura

cont....p/5

- 5 -

4.8 That, it further appears that adverse entries as made in the ACRs of the Applicant for the years 1992-93 and 1993-94 are of so serious in nature that it is unbelievable that before making such entries any responsible Officer who is entrusted with making such entries would not advise the employee to hear the Applicant to improve his performance or to give his proper guidance for betterment in his service or without giving proper assistance to serve in the said capacity with improved efficiency by way of ~~the~~ correcting his faults and deficiencies. It is pertinent to mention here that the Applicant had no occasion to receive a piece of advice, guideline or assistance either from the reporting Officer and/or the controlling Officer. These facts indicate that the Applicant had been serving the Department most efficiently and his trustworthiness was never came under the cloud which warranted some official order or instruction warranting the Applicant.

4.9 That, the malice will be *ex facie* indicative from the entry in column No.6, where it is written : (ACR of 1993-94)

" Does the reporting officer agree with all that is reported under part-II ~~as~~ by the Officer ?
If not indicate points of disagreement with the reasons :

The entry is as under against the said column :

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of the original

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" No., The official has not given due importance to the interest of the department."

It clearly shows that to the Applicant the entries as made in the Part-II has never been placed for his opinion/information. That means, the Notice as required by Law before making some adverse entries was not served to the Applicant. The malafide intention of the Respondent No.3 is evident from his haste to thwart the procedure of Law. Not only this, without entering the points of difference he made an entry which is grossly vague, irrelevant and remote to the subject matter. When it is required by the said column that the recording Officer shall mention the reasons for disagreement by the Officer against whom such entries were made, he simply states that the Official has not given due importance to the interest of the Department. Such entry(s) is/are not only unintelligible but shows/show the degree of vendetta. Another glaring example of such malice would be shown from column 16 of Part-III of the ACR of 1993-94. The said column is for :

" Any special characteristics/outstanding achievement deserving, mention either in his present assignment or in the field of sports, athelates/art etc."

The entry is so inducive and flagrant that the officer recorded :

" No. The official is to be withdrawn from trunk exchange in the interest of the department."

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Such remarks are not only remote but also prompted by malice and retaliation as for deaf handling of the said Departmental cases of the Charged-officials were discharged from the Charges and from the proceedings some inefficiency of the Controlling Officer i.e. the Respondent No.3 came to the fore.

4.10 That, the other entries in columns 10, 12, 13 and 14 are not only true, vague and mixed with malice and retaliation but also remote irrelevant to the subject matter and essentially untenable for lacking in objectivity. The Applicant likes to cite the entry made in column No.10 of the A.C.R. of 1993-94:

"Average ability or correctly applying relevant rules and regulations and has not applied his profound skills in the interest of the department."

This entry is self-contradictory, incoercive as while the Applicant is being appreciated for his profound skills and in the beginning he is termed as - "Average ability" and other are mere allegations without any basis and those are concocted with malafide intention.

4.11 That, the Applicant further points out that the entries as made in his A.C.R. of 1992-93 suffer from malice and motive of retaliation and subjectivity in so-called assessment has gone so wild that a reasonable man cannot find solace in

Photo copy the assessment of the Respondent No.3. Those entries in columns
of the original

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As 31/1/96

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- 8 -

11 and 14 of the A.C.R. for the years 1992-93 are also vague, not specific, slip shod and tainted from subjective interest to harass the Applicant.

4.12 That all the entries as referred herein before as made in the A.C.R. of the Applicant for the years 1992-93 and 1993-94 are liable to be expunged forthwith and in no time.

4.13. That, the impugned Orders communicating the adverse entries in the A.C.Rs for the years 1992-93 and 1993-94 have been made on 18.7.1994.

Copies of the impugned Orders have been annexed hereto

ANNEX - 1 Srs. and marked ANNEXURE - 1 series.

4.14. That, as soon as the Applicant received the impugned Orders i.e. on 26.7.1994 he made representation on 1.8.1994 to the Respondent No.3 giving his views on such adverse remarks and prayed for exoneration from the liability of motivated adverse remarks.

A copy of the said representation dated 1.8.1994 is
ANNEX - 2. annexed hereto and marked ANNEXURE - 2.

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4.15. That, the Respondent No.3 did not take any action of the said representation whatsoever and his such inaction

Asst. Div. Engineer, Cables
Agartala Telephones, Tripura
31/1/96

Made the Applicant to submit a representation before the Chief General Manager Telecom, i.e. the Respondent No. 2 on 3.10.1994. The Applicant elaborately dealt with the backgrounds and basis of making such adverse remarks in his A.C.Rs for the year 1992-93 and 1993-94.

For sake of brevity all the grounds taken therein is not extracted, but the Applicant craves leave of this Hon'ble Tribunal to deal with all those grounds at the time of hearing.

ANNEX - 3.
A copy of the said representation dated 3.10.1994 is annexed hereto and marked as ANNEXURE - 3.

4. 18. That, the Applicant, in the representation dated 3.10.1994 prayed for expunging those adverse remarks.

That, in pursuance to the adverse entries as recorded in the A.C.Rs of the Applicant as aforesaid the increment of the Applicant as due on 1.7.1993 @ Rs.75/- was withheld and he is getting less from what he would have received as salary. This is also a clear violation of the relevant Rules of reduction of pay as the said withholding of increment is not preceded by any Notice.

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A. H. Patel

Sub-Divisional Engineer, Civils
A.T.C. - 3/1/96

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4.17. That, the said adverse entries and withholding of increment cannot stand and those are liable to be interfered into and set aside and quashed.

5. Grounds for relief with legal provisions

(a). For that, the impugned Orders dated 18.7.1994 have been issued mala-fide and the adverse entries therein are tainted with malice, contour of subjectivity and without proper assessment of the performance, inefficiency and quality of the Applicant.

(b). For that, previous to that adverse entries there is no caution, warning, suggestions, advice etc which can justify such serious adverse entries and these are mere product of a meditation with intent to retaliation

(c). For that, the entries are vague, remote and irrelevant to the subject matter and the contents as inserted in the entries stands to show that the recording Officer, i.e. the Respondent No.3 herein has not applied his mind judicially and objectively and while making such entries he flouted the principles of natural justice.

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Attn: Amrit Singh

Sub-Divisional Engineer, Cable
Agartala Telephones, Tripura

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(d). For that, the recording Officer (Respdt No.3) had communicated such adverse entries to the Applicant After inordinate delay which vindicates that the making of such entries are not directed at improvement of performance of the Applicant but for placing a blockade in the career of the Applicant.

(e). For that, the adverse entries are not sustainable as those entries are not based on proper assessment or following the proper procedure to justify the bona fide of these entries.

(f). For that, no Notice was given to the Applicant when the proposal was made for making such entries.

(g). For that, a stiltiness has been exercised by the recording Officer which is unwarranted from such responsible officer.

(h). For that, the adverse entries are produce of vendetta and of ~~an~~ ulterior motive.

(i). For that, the adverse entries are ambiguous, indistinct and suffer from lack of clarity.

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(j). For that, the inspection report dated 8.1.1992, vide CGMT letter No. Eng-I-201/Insp-/AGT/91-92, speaks highly of the efficiency of the Applicant and the Section under his managerial control.

(k). For that the remarks about the trustworthiness of the Applicant has been arrived at without proper application of mind and without considering the consequences of gravity of such remarks. While passing such a highly damaging remarks the concerned official should exercise extra caution. The question of trustworthiness is absolutely baseless as there is no iota of evidence against the Applicant and these are mere handi-work of the malice as aforesaid.

(l). For that, his remarks are liable to be expunged as those are untenable and unsustainable.

(m). For that the Order of withholding the increment of the Applicant is also liable to be quashed and set aside.

(n). For that, the rest would be submitted from the contents of the representations of the Applicant dated 1.8.1994 and 3.10.1994 (i.e. Annexures 2 and 3 respectively to this petition at the time of hearing.

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- 13 -

6. Details of remedies exhausted :

The Applicant has preferred an Appeal to the Respondent No.2 who is the authority on 3.10.1994 vide Annexure - 3, but even after expiry of 8 months no reply or order has been communicated to the Applicant.

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

The Applicant further declares that he has not previously filed any application/writ application/Suit regarding the matter in respect of which this application has been made before any Court or any other authority or any other Bench of this Hon'ble Tribunal nor any such application/writ application/Suit is pending before any of them.

8. Relief(s) sought :

In view of the facts mentioned in paragraph 4 above, the applicant prays for the following relief(s) :

(i). Order may kindly be passed directing the Respts and each of them to expunge and/or quash the impugned Orders bearing No. TDM/Con/CR/94-95/28-1, and (2) No. TDM/Con/CR/94-95/28-2 - both dated 18.7.1994 (vide Annexures - 1 series); issued by the Telecom District Manager, Tripura Area, Agartala, Respondent No.3 - forthwith and in no time -

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AND ALSO -

directing them to make proper assessment of the performance, efficiency and quality of the Applicant immediately for making fair and proper entries in the A.C.Rs against the impugned columns for the years 1992-93 and 1993-94 immediately;

A N D

(ii). pass such other or further order/orders as to Your Honour deem fit and proper having regard to the circumstances of the case.

9. Interim Order :

Pending final decision on the application, the applicant seeks the following ~~as~~ interim reliefs :

(i). The operation of the impugned orders of the Respondent No.3 both dated 18.7.1994 vide Annexure - 1 series be stayed and no action be allowed to be taken on the basis of those Orders;

(ii). The Respondents and each of them be directed to release the increments of the Applicant, now withheld by the Respondents, immediately.

10. In the event of application being sent by registered post, it may be stated whether the Applicant desires to have oral hearing at the admission stage and if so, he shall attach

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Attn: [Signature]

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a self-addressed Post-card or Inland letter, at which intimation regarding the date of hearing could be sent to him;

Does not arise.

11. Particulars of Bank Draft/Postal Order filed in respect of the application:

Postal Order, issued by Agartala H.P.O. bearing No. 06 523787, dated 31.7.1995 for Rs.50/- (Rupees fifty) only endorsed for encashment in favour of the Registrar, Central Administrative Tribunal, Guwahati Bench.

12. List of enclosures:

1. Original application with Annexures.
2. 3(three) extra copies of application with annexures.
3. 3(three) File-size envelopes with address of the Respondents.
4. Postal Order, issued by Agartala H.P.O. bearing No. 06 523787, dated 31.7.1995 for Rs.50/- (Rupees fifty) only endorsed in favour of Registrar, Central Administrative Tribunal, Guwahati Bench.

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VERIFICATION

I, Shri Pranab Das, son of late Ramdeb Das, of Town Pratapgarh Road No. 1, Agartala, P.S. East Agartala, District - West Tripura, aged about 53 years, serving as the Senior Telephone Supervisor in the Office of the Telecom District Manager, Tripura Area, Agartala, do hereby verify that the contents in paragraphs 1 to 4 (containing para Nos. 4.1 to 4.16 excluding para 4.17), 6 and 7 are true to my personal knowledge and those in paragraphs 4.17 and 8 are believed to be true and humble submission on legal advice, paragraph 10 is my declaration and those in paragraphs 11 and 12 are the particulars of facts and the contents in paragraphs 8 and 9 are the humble prayer before the Hon'ble Tribunal.

Dated, Agartala,
the 14th August, 1995.

Pranab Das
Signature of Applicant.

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Date 3/1/96
Dub-Divisional Engineer, Cables
Agartala Telephones, Tripura

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Central Administrative Tribunal संघ नियन्त्रण न्यायालय
196 7FCB1996
Guwahati Bench गुवाहाटी न्यायालय

Tp,
 The Registrar,
 Central Administrative Tribunal,
Guwahati Bench: Guwahati.

Sir,

This is to inform you that I may not be present in the Hon'ble CAT to present my case on 07-02-1996. In consideration of the aforesaid, I am sending synopsis of my submissions, in additions to my contentions in the application.

This is for your information and report to the Hon'ble V.C. and the Hon'ble Member.

RP
6/2
go (J)

Dated, Agartala,
The 4th February, 1996.

Yours faithfully,

(Pranab Chakraborty)

Mr. Dutta

7/2/96.

CENTRAL ADMINISTRATIVE TRIBUNAL
Guwahati Bench : Guwahati.

0. A. 158 of 1995.

Prananath Das Applicant.

VS

U.O.I. & Others Respondents.

Synopsis of submissions by the Applicant
in addition to the application.

1. The adverse entries under challenge made/entered in the ACR 1992-93 and 1993-94 malafide for the reasons that the applicant successfully defended the delinquent officials who were charged of trunk revenue leakage. Discharge of the said officials made the telecom District Manager angry with the applicant without just reason and cause. The adverse entries are outcome of anger, vendetta and subjective persuasions.
2. The adverse entries are all unbounded records maintained by the department will not support or help to arrive at such assessment. These are vague, unspecified and unsubstantiated baseless, tainted and subjective without relating to performance.

Case law may be relied :

S.C. Vaish V. Union of India and Others
1991(2) SL J 186 (CAT)

3. Observations on truthworthiness is without basis, subjective and malicious and no record can be available to substantiate such highly damaging remarks. Even subjectiveness went wild and it disbelieved the

Prananath Das

account of leave for making entries :

'I do not agree that the official has not taken leave since 1989 in the interest of department' and thus contradicted the report of the controlling officer without assigning any reason whatsoever.

4. It is pertinent to mention that even for the year 1992-93 the adverse entries sought to be entered alongwith the entries of the ACR 1993-94 by the same officer holding the post of Telecom District Manager. This is indicative of mechanisation to unjustly affect the service career of the applicant.

5. The applicant made representations contained in Annexure-2 and 3 against such assessment and observation and the adverse entries in the ACR 1992-93 and 1993-94. But the authorities failed to depose the representation as the entries were made without valid and tangible reasons. Disposal in a careful and logical manner is essential requisite, otherwise adverse inference has to be drawn against the authorities which entered in the ACR such adverse remarks.

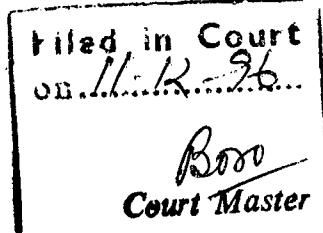
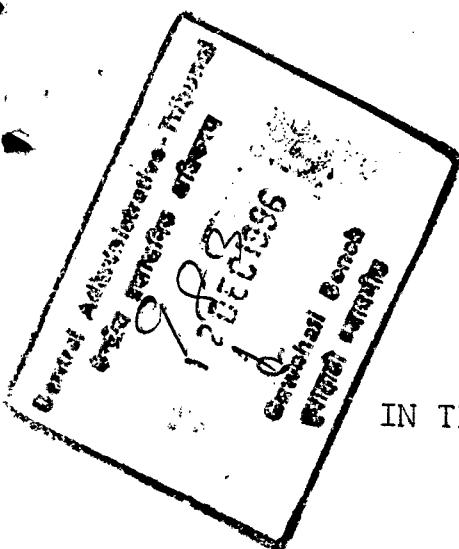
Case law :

E.G. Nambudri V.

Union of India and another,
1987(2) AT LT 363

6. Withholding of increment is minor punishment and as such without resorting to procedures laid down in Rule 16 of CCS (CCA) Rules, 1965 the Order of withholding of increments due to the applicant is bound to be illegal and is liable to be quashed.

Pranavath Das



16/09/96
Filed by
Shankar.

Central Govt. Standing Committee
Central Administrative Tribunal
Guwahati Bench, Guwahati.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

GUWAHATI BENCH AT GUWAHATI:

In the matter of :-

O.A. No. 158/95

Shri Prananath Das

-Versus-

Union of India and ors.

- And -

In the matter of :-

written statements submitted

by the Respondents No.1,2 and 3.

WRITTEN STATEMENTS ::

The humble Respondents submit their written statements as follows :-

1. That with regard to statements made in paragraphs 1,2 & 3 of the application, the Respondents have no comments.
2. That with regard to statements made in paragraph 4.1 of the application, the Respondents beg to state that it is not correct that the applicant has been serving to the best satisfaction of the authorities and without blemish.
3. That with regard to statements made in paragraphs 4.2, 4.3 and 4.4 of the application, the Respondents have no comments, the same being matters of record.

4. That with regard to statements made in paragraph 4.5 of the application, the Respondents beg to state that the same is wrong assumption of the applicant which is not correct. The Telecom District Manager, Agartala, never denied nor opposed the applicant's appointment as defence assistance.

5. That with regard to statements made in paragraph 4.6 of the application, the Respondents beg to state that involvement of the applicant is the loss of Trunk Revenue is no way connected with the taking part as Defence assistant. It is a wrong assumption of the applicant. The applicant has been charged as "cannot be trusted" to stop the leakage of revenue as because he is directly controlling those staff against whom disciplinary action was taken. He was maintaining the duty charts of all operators, in the truck exchange.

He was keeping few selected operators on particular shift constantly whereas there is standing instructions that the operator should be put on rotational duty until and unless barred by appropriate authority. He has not followed the instructions of controlling officer time to time for bringing staff on rotational duty. Since the matter was of confidential nature, the applicant was time to time cautioned orally by the controlling officer.

6. That with regard to statements made in paragraph 4.7 of the application, the Respondents beg to state that the same is not correct and hence denied. The Respondents further beg to state that the adverse entries are not at all directed out of malice and retaliation as because altogether disciplinary action was taken against 5(five) operators alleging

- Verification -

I, Shri S. CHELLAPPAN

Telecom District Manager, Tripura SSA, Agartala do hereby
solemnly declare that the statements made above are
true to my knowledge, belief and information.

And I sign the verification on this 31st day of JULY, 1996 at AGARTALA:

DECLARENT:

S. V. R.
31/7/96
 Telecom District Manager
Tripura, Agartala-783001

(63)

Central Administrative Tribunal

केन्द्रीय प्रशासनिक अधिदराय

223

12 FEB 1997

Guwahati Bench
গুৱাহাটী ব্যায়ামোৱ

12 FEB 1997

Guwahati Bench
গুৱাহাটী ব্যায়ামোৱ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH AT GUWAHATI

O.A. No. 158 / 1995 (1995)

In the matter of :-

Shri Prananath DasApplicant

- Versus -

Union of India and othersRespondents.

A N D

In the matter of :-

Rejoinder against the Written statement
submitted by the Respondents No.1, 2 and 3.

The humble rejoinder of the Applicant submits as
follows :

1. That, the Applicant has gone through the statements of the written statement submitted by the Respondents and understood the content and purport thereto.
2. That, since the Respondents have completely deviated from the procedure of making entries in the A.C.R as would be evident from their statements in the said written statement the Applicant has chosen file this rejoinder. As such the statement made in this rejoinder are required to be read with the statements made in the main application in the interest of administration of justice.

Received
Copy
See S.C.S.
12/2/97

4. That with regard to statements made in paragraph 4.5 of the application, the Respondents beg to state that the same is wrong assumption of the applicant which is not correct. The Telecom District Manager, Agattala, never denied nor opposed the applicant's appointment as defence assistance.

5. That with regard to statements made in paragraph 4.6 of the application, the Respondents beg to state that involvement of the applicant is the loss of Trunk Revenue is no way connected with the taking part as Defence assistant. It is a wrong assumption of the applicant. The applicant has been charged as "cannot be trusted" to stop the leakage of revenue as because he is directly controlling those staff against whom disciplinary action was taken. He was maintaining the duty charts of all operators, in the truck exchange. He was keeping few selected operators on particular shift constantly whereas there is standing instructions that the operator should be put on rotational duty until and unless barred by appropriate authority. He has not followed the instructions of controlling officer time to time for bringing staff on rotational duty. Since the matter was of confidential nature, the applicant was time to time cautioned orally by the controlling officer.

6. That with regard to statements made in paragraph 4.7 of the application, the Respondents beg to state that the same is not correct and hence denied. The Respondents further beg to state that the adverse entries are not at all directed out of malice and retaliation as because altogether disciplinary action was taken against 5(five) operators alleging

passing of free calls and leakage of revenue thereof. Those operators are under the direct control of the applicant. The huge loss of Govt. revenue could have definitely been avoided had there been proper supervision by the applicant. His performance has been assessed objectively.

7. That with regard to statements made in paragraph 4.8 of the application, the Respondents beg to state that the applicant was time to time cautioned by his controlling officer confidentially about the leakage of truck revenue but he did not take care and as a result of which the deptt. had to initiate 5(five) disciplinary cases as referred in paragraph 4.7. This is a clear negligence of duty on the part of applicant and has caused the loss of revenue to Govt.

8. That with regard to statements made in paragraph 4.9 of the application the Respondents beg to state that the adverse entry is quite appropriate against the applicant. It is the duty of every Govt. official to guard against the leakage of Govt. revenue. In this case the applicant did not follow the duty chart as per norms, because of which few officials were able to cause leakage of revenue by forming a group within themselves. The presence of such type official in the truck exchange where direct revenue is involved, is not desirable and hence the withdrawal from truck exchange was recommended by the controlling Officer.

9. That with regard to statements made in paragraph 4.10 of the application, the Respondents beg to state that here the actual entry should read as "Professional Skills" against ~~Professional skills~~ "profound skills". The official has not applied his professional skills in the interest of the Deptt., rather he has extended his hands towards loss of Govt. revenue.

10. That with regard to statements made in paragraph 4.11 of the application, the Respondents beg to state that the same is not correct and hence denied. In fact the entry is correct and appropriate and hence the allegations are denied. The entries are correct and conveys the proper meaning and there no vagueness in it.

11. That with regard to statements made in paragraphs 4.12 of the application, the Respondents beg to state that as the adverse entries have been made are correct and appropriate made on the basis of applicants performance of his duties, so none of the entries made is liable to be expunged.

12. ^{& 4.14} That with regard to statements made in paragraph 4.13 of the application, the Respondents beg to state that they have no comments on them.

13. That with regard to statements made in paragraph 4.14 of the application, the Respondents beg to state that no action is to be taken by respondent No.3 because it is an appeal against the adverse entry conveyed by respondent No.3 and decision is to be given ~~by~~ by his superior authority being the appellate authority.

Now no decision can be taken since the matter is subjudice.

14. That with regard to statement made in paragraph 4.16 of the application, the Respondents beg to state that the same has been due to non-crossing of efficiency bar which is based upon CR entries.

15. That with regard to statements made in paragraph 4.17 of the application, the Respondents beg to state that adverse entries and withholding of increment will stand unless it is quashed by the Hon'ble Tribunal.

16. That with regard to grounds stated in Para. 5 of the application, the Respondents beg to state that none of the grounds is maintainable in Law as well as in facts and as such the application is liable to be dismissed.

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

18. That with regard to statements made in paragraph 8, regarding reliefs sought for, the Respondents beg to state that the applicant is not entitled to any of the reliefs sought for and hence the application is liable to be dismissed.

19. That with regard to statements made in paras. 9 to 12 of the application, the Respondents have no comments on them.

20. That the Respondents ~~has~~ submits that the application has no merits and as such the same is liable to be dismissed.

- Verification -

I, Shri S.CHELLAPPAN

Telecom District Manager, Tripura SSA, Agartala do hereby
solemnly declare that the statements made above are
true to my knowledge, belief and information.

And I sign the verification on this 31st
day of JULY, 1996 at AGARTALA:

DECLARENT

SDR
31/7/96
Telecom District Manager
Tripura, Agartala-783001

(63)

Central Administrative Tribunal

केन्द्रीय प्रशासनिक अधिकार

223

12 FEB 1997 10A

Guwahati Bench

গুৱাহাটী ব্যারেণ্ড

12 FEB 1997

Guwahati Bench
গুৱাহাটী ব্যারেণ্ড

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH AT GUWAHATI

O.A. No. 158 / 1995 (1995)

In the matter of :-

Shri Prananath DasApplicant

- Versus -

Union of India and othersRespondents.

A N D

In the matter of :-

Rejoinder against the Written statement
submitted by the Respondents No.1, 2 and 3.

The humble rejoinder of the Applicatn submits as
follows :

1. That, the Applicant has gone through the statements
of the written statement submitted by the Respondents and
understood the content and purport thereto.
2. That, since the Respondents have completely deviated
from the procedure of making entries in the A.C.R as would
be evident from their statements in the said written statement
the Applicant has choosen file this rejoinder. As such the
statement made in this rejoinder are required to be read with
the statements made in the main application in the interest
of administration of justice.

Received
See Sir C.S.
12/2/97

- 8. 2 :-

3. With reference to paragraph 2 of the written statement the Respondents failed to cite a single instance of blemish in the career of the Applicant except the entries under challenge. Even then they have questioned the correctness of the statement of the Applicant to the effect that the Applicant has been serving to the best satisfaction of the authorities and without blemish.

4. With reference to paragraph 4 of the written statement it is submitted that it is no wrong assumption of the Applicant but it is a statement of fact and the said opposition by the Telecom District Manager, Agartala regarding Applicant's appointment as Defence Assistant has ultimately transformed to the impugned adverse entries. As such the Respondents' claim of wrong assumption is denied by the Applicant.

5. With reference to para 5 it is submitted by the Applicant that these statements are themselves pointers to the illegal and mala fide statements of the Respondents to punish the Applicant indirectly what they could not do directly. The purported Charges as brought against in this paragraph were beyond the knowledge of the Applicant till receipt of the Written statement for the first time by filing the written statements the Respondents have levelled such wild and malicious Charges against the Applicant. In this regard it is submi-

- 3 -

submitted by the Applicant that though the duty chart had been prepared by the Applicant in the relevant time, but the copy of the said Chart used to be sent and supplied to the Reporting Officer in advance. Such practice is still continuing. Rotation of duties was never ceased and the said practice is being followed without interruption since long. Assuming but denying, had there been any doubt or any revenue loss, observed by the Reporting Officer, action against the Applicant should have been taken directly by the Reporting Officer or the other Superior Officer providing the Applicant a reasonable opportunity as laid down in Law, as the Reporting Officer is the Disciplinary Authority of the Operators. In view of the aforesaid statement it is denied and disputed by the Applicant that he was keeping a few selected Operators on particular shift constantly whereas there is a standing instruction that the Operators should be put on rotational duty until and unless brought by the authority. It is further denied and disputed that the Applicant has not followed the instruction of the Controlling Officer time to time for bringing staff on rotational duty. It is also denied that since the matter is of confidential nature the Applicant was time to time cautioned orally by the Controlling Officer. In this regard it is stated that this allegations are outcome of afterthought after filing of the above application to shield their illegal and malicious action in

- : 4 :-

in making adverse entries and with holding increments due to him. Never any caution was given by the Controlling Officer to the Applicant nor the Applicant ever violated any standing instruction regarding rotational duty nor he kept few selected Operators on particular shift constantly. The Respdts be asked to furnish strict proof of such serious allegation against the Applicant.

6. With reference to para 6 of the written statement it is reiterated by the Applicant that the Adverse entries are all directed out of malice and retaliation and it is denied and disputed that huge loss of Government revenue could have been definitely avoided had there been supervision by the Applicant. It is further denied and disputed that the performance of the Applicant has been ~~ever~~ assessed objectively. It is further denied and disputed that the duties of the Operators are round the clock and there are 5 shifts and in every shift there is one supervisor on duty. The Reporting Officer is the sole authority of maintaining and observing automatic trunk enquiry observation installed at his room for his effective control. Had he observed the leakage of trunk revenue, on the following day the matter would have been informed to the Applicant by writing for official record as per direction of the Union of India. But in no point of time the Reporting Officer observed any leakage of trunk

- : 5 :-

revenue in the aforesaid manner nor he brought the same to the notice of the Telephone District Manager. The Reporting Officer would have taken Departmental action against the delinquent officer, but no such action was ever contemplated.

7. With reference to para 7 of the written statement it is denied and disputed by the Applicant that he was time to time cautioned by the Controlling Officer confidentially about the leakage of trunk revenue, but he did not take care and as a result of which the Department had to initiate 5 disciplinary cases as referred in paragraph 4.7 of the application. It is further denied and disputed that this is a clear negligence of duty on the part of the Applicant and has caused loss to the Government revenue. If it is a clear case of negligence of Duty as claimed by the Respondents it is denied by the Applicant or it is a case of loss of revenue caused by the Applicant then it is a matter to be acted as per C.C.S.(CCA) Rules, 1965 by pursuing a Departmental Proceeding so that proper and fair opportunity be afforded to the applicant in his defence not in a clandestine manner as has been sought to be done by the Respondents by way of making adverse entries against the Applicant where he cannot have any opportunity of elaborate defence. While making adverse entries the materials and information on the basis of which adverse entries are sought to be made, are not disclosed to

-: 6 :-

the concerned person. Only an opportunity of representation is given on the proposed entry. The statements made in para 7 is clear indication that the Respondents acted illegally and malafide and as such adverse entries are liable to be struck ~~out~~ out straightway.

8. With reference to paragraph 8 of the written statement it is stoutly denied by the Applicant that the adverse entries is quite ~~p~~ appropriate against the Applicant or that the applicant did not follow the duty chart as per norms, because of which few officials were able to cause leakage of revenue by ~~b~~ forming a group within themselves. Without proper assessment the statement of desirability was made and the withdrawal of trunk exchange was recommended by the Controlling Officer mala fide. Hence the said action cannot be said to be legal and in the interest of administration.

9. With reference to para 9 it is denied that the Applicant has not applied his professional skill in the interest of the Department. It is further denied that the Applicant has extended his hand towards loss of revenue. All these allegations are malicious, ~~g~~ mala fide and retaliatory in nature. The allegations made against the Respondents in paragraphs 4.11, 4.12 and 4.15 of the application are reiterated by the Applicant and it is denied that and disputed that

cont....p/7

-: 7 :-

the entries are correct and conveys a proper meaning and there is no vagueness in it or the entries are made on the basis of Applicant's performance of duties.

10. With reference to para 13 it is submitted by the Applicant that the contention in para 13 and the contention in para 15 are diametrically opposite and contradictory. This contradictions show a puncture the hollowness of the logic as advanced by the Respondents regarding adverse entries. Whereas in para 13 the Respondents say - no decision can be taken on an appeal since the matter is subjudiced. But in para 15 they do not falter to say that adverse entries and withholding of increment will stand unless it is quashed by the Hon'ble Tribunal. Hence it is transparently clear that the appeal has been virtually decided against the Applicant.

11. That, the Applicant says that the application is very much maintainable in Law and the Applicant is entitled to the reliefs as sought in the Application with costs to the Respdts.

Verification

I, Shri Prananath Das, the Applicant do hereby solemnly declare that the statements made above are true to my knowledge and belief and the rest are my humble submission and prayer before this learned Tribunal.

I sign this Verification on this 30th day of January, 1997 at Agartala.

Prananath Das
Applicant.