

50/600

9

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 260/96
R.A./C.P No.
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SECTION OFFICER (Judl.)

Balls
31.1.98

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

OA No. 2601/96

Sri. P. S. Gosh. Applicant(s)
-Versus-

I.C.A.R. & ors. Union & ors. Respondent(s)

Mr. B.A. Sharma, M.K. Choudhury, Advocates for Applicant(s)
P.C. Kalita,

Mr. S. Ali, Sr. C.G.S.C. Advocates for Respondent(s)

Office Notes 8 Date Courts' Orders

18.11.96

None present.

List for consideration of admission on 20.11.1996.

This application is in form and within time

C. F. of Rs. 50/-

deposited vide

IPO No. 3942/96

Dated 14.11.96

Member

D.P. Registrar, 14/11/96 trd

16/11

20.11.96

Mr. M.K.Choudhury for the applicant.

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

Issue notice on the respondents

i. Why application should not be admitted;

ii. Why the interim relief prayed for should not be granted;

List for consideration of admission on 5.12.1996.

Member

trd

20/11

11.12

Notice issued to the concerned parties vide D.No. 3942 to 3946 Dt- 3.12.96

See 11.12.96

Service Reports are still awaited

5.12.96

Mr. M.K.Choudhury for the applicants.

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

Service reports are awaited and Mr. Ali submits that he has no instructions. Mr. Choudhury prays for interim relief order.

ADjoined for consideration of admission 17.12.96. The respondents are directed to maintain status quo as on today till the next date, namely, 17.12.1996.

*Service report
are still awaited.*

*M/
16/12*

*Notice duly served on
Rzspt. No - 4.*

trd

*M/
6/12*

Member

17-12-96

Learned Sr.C.G.S.C. Mr.S.Ali for the respondents. Notice has been issued by the Registry on 6-12-96 in compliance to order dated 20-11-96. None for the applicant. Service Report awaited.

List for consideration of Admission 31-12-96.

Member

31-12-96

Learned counsel Mr.M.K.Choudhury for the applicant. Mr.S.Ali, Sr.C.G.S.C. for the respondents.

Show cause has not been submitted. The matter cannot be kept pending indefinitely.

Heard Mr.Choudhury for Admission perused the contents of the application relief sought. Application is admitted, notice on the respondent by registered. List for written statement and further on 10-2-96.

Heard counsel of the parties on interim relief prayer. According to the order dated 25-7-1996 the proceedings be completed within a period of three months from the date of issue of the order. Respondents are directed to keep in abeyance

cont

1-1-97

*Copy of order dtd
31.12.96 issued
to the concerned
parties vide
No. 83-85 dt. 3.1.97.*

Buz

O.A.No.260/96

31-12-96 operation of the order F.No.28(2)/92-Vig. dated 25-7-96 if the proceedings had not been completed as on to-day till disposal of the application.

6-2-97

1) Notice duly served on R-4.

2) R-1-3 are still awaited,

lm

3) No written statement has been filed,

10.2.97

1) Memo of appearance not filed,

m/6/2

Mr. S.Ali, Sr. C.G.S.C. prays for two weeks time to file written statement. Prayer allowed.

List on 21.2.1997 for written statement and further orders.

Member

Member

Vice-Chairman

17.2.97

17/5 filed by m^{trd}

Respd on 1, 2, 3 & 4. 21.2.97

Written statement has been filed by the respondents. Let the case be listed for hearing on 3.4.97.

20.2.97

1) No rejoinder has been filed.

2) No memo of appearance filed,

m/20/2

pg

m/10/3

~~Vice-Chairman~~

Member

~~Member~~

Vice-Chairman

3-4-97

Learned counsel Mr. B.K. Sharma for the applicant and Mr. S. Ali, Sr. C.G.S.C. for the respondents are present.

List for hearing on 19-5-96.

10.4.97

Vakalatnama filed by Mr. S.Ali, Sr. C.G.S.C.

Member

Vice-Chairman

17-6-97

Rejoinder filed on behalf of the applicant,

lm

m/21/4

Y2H

26.6.97

Learned counsel for both the parties submit that the case is ready for hearing.

List on 22.8.97 for hearing.

Member

Vice-Chairman

trd

22-8-97 Leftover List on 24-11-97.
By Mr.

18-9-97

Case is ready for hearing.

Let this case be listed for hearing on 16-12-97.

Member

Vice-Chairman

lm
29/9

24.11.97

On the prayer of the counsel for the parties list for hearing on 3.2.98.

Member

Vice-Chairman

pg
25/11

3.2.98

The case is otherwise ready for hearing. List it for hearing on 8.5.98.

Member

Vice-Chairman

nkm

25/12

8.5.98

14

Advised to 22-7-98

By Mr.

W/s and Kujainder
sum b/w

21/8

W/s and Kujainder
sum b/w

6/5

W/s & Kujainder
sum b/w

22/7

Notes of the Registry

Date

Order of the Tribunal

W/S and Rejoinder
has been filed.

26/8

23.7.98

On the prayer of the learned counsel for the parties let this case be listed on 27.8.98.

Member

Vice-Chairman

nkm

25/7

W/S and Rejoinder
has been filed.

26/10

27.8.98

Leftover. Adj and to 20-10-98.
By order.

20.10.98

Case is adjourned till 26.10.98 to enable Mr. S. Ali, learned Sr. C.G.S.C to produce the records. In our opinion records are necessary for proper adjudication of the case.

List on 26.10.98.

Member

Vice-Chairman

trd

26.10.98

On the prayer of Mr. S. Ali, learned Sr. C.G.S.C. the case is adjourned till 28.10.1998.

Fix on 28.10.98.

Member

Vice-Chairman

trd

28.10.98

On the prayer of Mr B.K. Sharma, learned counsel for the applicant the case is adjourned till 16.11.98.

Member

Vice-Chairman

nkm

W/S and Rejoinder
has been filed.

26/11

The case is ready
for hearing as
regard service.

26/10

04 260/96

Notes of the Registry	Date	Order of the Tribunal
	16.11.98	Division Bench is not available. Case is adjourned to 14.12.98.
	lm	By Order <i>lm</i>
<u>22.1.99</u> Case is ready for hearing.	14.12.98	Adjourned to 25.1.99. By order. <i>lm</i>
<u>Bon</u>	25.1.99	Division Bench is not available. The case is adjourned to 28.1.99 for hearing.
	pg	<i>Sh</i> Vice-Chairman
<u>4-2-99</u> The case is ready for hearing.	28.1.99	Adjourned to 5-2-99. By order. <i>lm</i>
<u>4/4/99</u> <u>8-2-99</u> The case is ready for hearing.	5.2.99	Heard in part. List on 9.2.99 on the top of the list for hearing.
	pg	<i>lm</i> Member
<u>8-2-99</u> Memo of Appearance for <i>lm</i> by Mr. K.N. Chaudhary, Mr. P. Bhewank & Mr. B.C. Joshi. Advrs (For R. Nos 1, 2, 3 & 4)	9.2.99	Part heard. Fix it for further hearing on 16.2.99.
	nkm	<i>lm</i> Member
<u>15-2-99</u> The case is ready for hearing.	15/2/99	<i>Sh</i> Vice-Chairman

Notes of the Registry

Date

Order of the Tribunal

16.2.99

Records have not yet been produced.
Fix it on 24.2.99. All records shall be
produced on that day.


Member


Vice-Chairman

nkm

24-2-99

On the prayer of Mr.K.N.Choudhury
learned counsel appearing on behalf of
the respondent case is adjourned to
4-3-99 for hearing. On that day record
shall be produced.


Member


Vice-Chairman

lm

4.3.99

Mr K.N.Choudhury, learned counsel
for respondents No.2 and 3 prays for a
short adjournment as he is expecting
certain records. Mr B.K.Sharma, learned
counsel for the applicant has no objec-
tion.

Accordingly the case is adjourned
to 9.3.99 for hearing.


Member


Vice-Chairman

pg

9.3.99

There was a reference.
Advised to 9.3.99.

By order.


19.3.99


Adjourned to 23.3.99.

B/order

BW

23.3.99

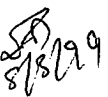
Adjourned to 25.3.99.

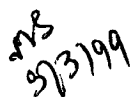
By order.



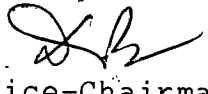


1-3-99
The case is ready
for hearing.


17/3/99

8-3-99
The case is ready
for hearing.


8/3/99


9/3/99

Notes of the Registry	Date	Order of the Tribunal
	25.3.99 nkm	<p>Heard the learned counsel for the parties. Hearing concluded. Judgment reserved.</p> <p> Member</p> <p> Vice-Chairman</p>
	8-6-99 lm	<p>Judgment and order delivered in open Court. Kept in separate sheets. Application is allowed as indicated above. No order as to costs.</p> <p> Member</p> <p> Vice-Chairman</p>

28.6.99

Copies of the Judgment have been sent to the D/Sec for issuing the same to the parties through Regd. with App. & vide Dispatch No. 2995 to 2999 dated 5-7-99.

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.No. 260

of 1996

DATE OF DECISION. 8.6.1999.....

Shri Parimal Ghosh

(PETITIONER(S))

Mr B.K. Sharma

ADVOCATE FOR THE
PETITIONER(S)

-VERSUS-

Union of India and others

RESPONDENT(S)

Mr A. Deb Roy, Sr. C.G.S.C.,

Mr K.N. Choudhury, Mr P. Bhowmik and Mr B.C. Das

ADVOCATE FOR THE
RESPONDENTS.

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

THE HON'BLE MR G.L. SANGLYINE, ADMINISTRATIVE MEMBER

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

[Handwritten Signature]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.260 of 1996

Date of decision: This the 8th day of June 1999

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

The Hon'ble Mr G.L. Sanglyine, Administrative Member

Shri Parimal Ghosh,
Assistant (C.O.),
Indian Council of Agricultural Research,
Barapani, Meghalaya.

.....Applicant

By Advocate Mr B.K. Sharma

-versus-

1. The Union of India, represented by the
Secretary,
Indian Council of Agricultural Research,
New Delhi.
2. The Director General,
Indian Council of Agricultural Research,
New Delhi.
3. The Director,
Indian Council of Agricultural Research,
N.E.H. Region, Rs
Barapani, Meghalaya.
4. Dr N.D. Verma,
Project Director,
National Research Centre (Mithun),
Jharnapani, Nagaland.

.....Respondents

By Advocates Mr A. Deb Roy, Sr. C.G.S.C.,
Mr K.N. Choudhury, Mr P. Bhowmik and
Mr B.C. Das.

.....

O R D E R

BARUAH.J. (V.C.)

The applicant is an Assistant in the Indian Council of Agricultural Research (ICAR for short). He entered into service in the year 1981. Thereafter, he was promoted to the post of Sr. Clerk in April 1986. In September 1991 he was promoted to the post of Assistant. In 1984 he was placed in charge of Stores and he discharged his duty as such. In February 1994, because of a departmental loss an order was passed towards recovery of an amount of Rs.73,262.58 from

RB

the salary of the applicant at a monthly rate of Rs.500/-. The authority also decided to hold a departmental enquiry against the applicant. According to the applicant the order of recovery was passed by the authority without holding any enquiry and giving any opportunity of hearing to the applicant. The applicant approached this Tribunal by filing original application No.41 of 1994. By Annexure 2 order dated 1.6.1994 this Tribunal disposed of the said application setting aside the order passed by the authority for recovery of the amount mentioned above. However, the Tribunal further ordered that the disciplinary proceeding against the applicant would continue.

2. By Annexure 3 order dated 15.7.1994 Dr U.C. Sharma, Sr. Scientist, ICAR, was appointed Enquiry Officer to enquire into the charges levelled against the applicant alongwith one Dr B.P.S. Yadav. By Annexure 4 order dated 15.7.1994, the Director, ICAR appointed Shri M. Sarania, Inspector, C.B.I./A.C.B., Shillong as Presenting Officer. Both the orders were passed in exercise of the powers conferred under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 as applicable to ICAR. However, on 26.10.1994 the Administrative Officer, ICAR intimated the Enquiry Officer not to conduct the enquiry against Dr B.P.S. Yadav. Therefore, the enquiry was to be conducted only against the applicant. The enquiry was conducted thereafter by the Enquiry Officer and on conclusion of the enquiry the Enquiry Officer submitted the enquiry report. On 24.6.1995 the Disciplinary Authority sent the enquiry report to the applicant. On 24.8.1995 the applicant submitted Annexure 10 representation. Thereafter, by Annexure 11 order dated 25.8.1995 the Disciplinary Authority imposed penalty of censure on the applicant. On 25.7.1996 by Annexure 1 order the Director General, ICAR in
purported.....



purported exercise of power under Rule 29(i)(iv) of the CCS(CCA) Rules, 1965 set aside the order of censure and remitted the case to the Disciplinary Authority with direction to hold further enquiry on the issue whether balance stationery items had been received till 24.4.1992 or not. The applicant being aggrieved by the said order of the Director General submitted Annexure 12 representation dated 21.8.1996 for review of the decision of the Director General. The applicant has also alleged malafide of the order dated 13.9.1995 passed by the 4th respondent- Dr N.D. Verma, the subsequent Director, ICAR. According to the applicant the decision of the Disciplinary Authority was revised by setting aside the order of censure and remitting the matter for further enquiry within thirteen days from the date of joining of the 4th respondent as Director, ICAR. According to the applicant the impugned Annexure 1 order dated 25.7.1996 setting aside the original order of penalty of censure and remitting the matter for further investigation was passed with malafide intention which would be evident from the facts and circumstances of the case. Hence the present application.

3. The contention of the applicant is that the impugned action of the respondents was illegal and without jurisdiction and it was passed with malafide intention. The applicant has further contended that the impugned Annexure 1 order dated 25.7.1996 was passed in purported exercise of the revisional power by the authority without having any jurisdiction and therefore, it is liable to be set aside. The applicant has, therefore, prayed for quashing the Annexure 1 order dated 25.7.1996.

4. In due course the respondent Nos.1 to 4 have entered appearance and filed written statement.

D2

5. We have heard both sides. Mr B.K. Sharma, learned counsel for the applicant submitted before us that once the applicant having been punished by way of censure, the Director General, ICAR had no authority or jurisdiction to exercise power under Rule 29(i)(iv) of the CCS(CCA) Rules, 1965 to set aside the penalty of censure imposed by Annexure 11 order dated 25.8.1996 and remit the case back to the Disciplinary Authority, i.e. Director, ICAR to hold further enquiry on the issue whether balance stationery items had been received till 24.4.1992 or not. Mr Sharma also submitted before us that the earlier order was passed by the then Director, ICAR awarding penalty of censure. After his transfer when the 4th respondent took charge, immediately within thirteen days of his joining he made the recommendation and only at his instance the revisional order was passed by the Director General for taking up the matter by the 4th respondent. According to Mr Sharma the facts and circumstance of the case would amply show that the decision was taken with malafide intention of the Director, ICAR. The applicant has made allegation of malafide against the 4th respondent- Dr N.D. Verma, Project Director, National Research Centre (Mithun), Nagaland. Notices were served on the 4th respondent. However, he chose not to file any written statement. In this regard, Mr Sharma submitted that as per the decision of the Apex Court if an allegation of malafide is made then counter to the said allegation should be filed by the officer against whom the allegation is made.

6. Mr K.N. Choudhury, learned Standing Counsel, ICAR strenuously argued before us in support of the action of the respondents. According to Mr Choudhury the authority, i.e. the Director General, ICAR had jurisdiction to pass such order in furtherance of justice. According to him the applicant was involved in such a serious crime that mere

censure.....

B

censure would not meet the ends of justice. Therefore, it was necessary for the administration to reconsider the whole matter by making proper investigation. Mr Choudhury further submitted that the records revealed that some other matters had been left out of consideration. According to Mr Choudhury there was nothing wrong on the part of the Director General in asking the subordinate authority to make further enquiry. Mr Choudhury also submitted before us that the allegation of malafide was not at all proved and in the absence of proof the Tribunal cannot come to the conclusion regarding malafide.

7. On the rival contention of the learned counsel for the parties, the following questions fall for consideration:

(I) Whether the authority had the jurisdiction to invoke the revisional power under Rule 29(iv) of the CCS(CCA) Rules, 1965.

(II) Whether the facts and circumstances of the case indicate malafide intention of the respondent No.4.

Point No.I:

Rule 29 of the CCS(CCA) Rules, 1965 prescribes the procedure for revision under various circumstances. Rule 29 (iv) relates to the revisional power of the Head of the Department directly under the Central Government. As per Rule 29(iv), 'Notwithstanding anything contained in these rules- the Head of a Department directly under the Central Government, in the case of a Government servant serving in a department or office (not being the Secretariat or the Posts and Telegraphs Board), under the control of such Head of a Department, may at any time, either on his or its own motion or otherwise call for the

B

the records of any inquiry and revise any order made under the CCS (CCA) Rules, 1965, from which an appeal is allowed, but from which no appeal has been preferred or from which no appeal is allowed, after consultation with the Commission where such consultation is necessary and may revise the order as mentioned in the said rule. However, as per the second proviso of the said rule such revisional power by the Head of the Department shall not be exercised by the Head of the Department unless the authority to which an appeal would lie, where no appeal has been preferred, is subordinate to him. In other words revisional power can be exercised by the Head of a Department only when the Head of the Department is superior to the Appellate Authority. In the present case it is admitted by both sides that the Director General is the Head of the Department (Institution) and also the Appellate Authority. Therefore, as per the second proviso mentioned above the Director General who is the Appellate Authority cannot exercise the revisional power. Again under Rule 29(v) the Appellate Authority can also revise an order, but in such case power can be exercised by the Appellate Authority within six months from the date of the order proposed to be revised. Even assuming the Director General, being the Appellate Authority, has exercised the power under Rule 29(v) then the order ought to have been passed within six months. But in the present case the Director General exercised the power after almost eleven months. Therefore, on both the counts the Director General had no jurisdiction to exercise the jurisdictional power. In this connection Mr Sharma has drawn our attention to a decision of the Madras High Court in P. Sabesan -vs- State of Tamil Nadu and another, reported in (1985) Lab. I.C. 1545. This decision was rendered by the Madras High Court on

B2

the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, R. 15A and proviso of the said rules which is similar to the second proviso to Rule 29 of the CCS(CCA) Rules. The High Court observed thus:

".....The power to review under the above rules can be exercised by four authorities (1) The State Government, (2) the Head of the departments, (3) the appellate authority and (4) any other authority specified in this behalf by the State Government by a general or special order. But the power of review given to the Head of the department is, however, subject to a restriction under the proviso to the rule. The proviso says that no power of review shall be exercised by the Head of the department unless the appellate authority, which had passed the appellate order of the authority to which an appeal would be preferred against the original order is subordinate to him....."

In view of that the power exercised was struck down by the Madras High Court.

In another decision, namely Kailash Prasad Sinha -vs- Union of India and another, reported in 1985(1) SLR 24, the Delhi High Court had occasion to consider the second proviso to Rule 29 of the CCS(CCA) Rules, 1965. In the said decision the Delhi High Court observed thus:

".....Second proviso to Rule 29 clearly says that no power of review shall be exercised by the head of the department unless the authority to which an appeal would lie where no appeal is preferred is subordinate to him (vide sub-clause (ii)). Thus merely being a head of the department is not sufficient by itself to exercise a power of review The object of 2nd proviso to Rule 29 is to provide that though the head of department can exercise the power of review, it is only in those cases where the appellate authority is subordinate to the former. But as in the present case the appellate authority and the reviewing authority are the same person i.e. Director C.B.I., the condition precedent in 2nd proviso to Rule 29 is not satisfied..... In that view it has to be held that the Director C.B.I. being the appellate authority could not exercise the power of reviewing authority under Rule 29, and the impugned notice thus issued by him was not warranted in law."

B

The decisions cited above squarely cover the point at issue. Therefore, we have no hesitation to come to the conclusion that the Director General being the Appellate Authority had no jurisdiction to exercise the revisional power.

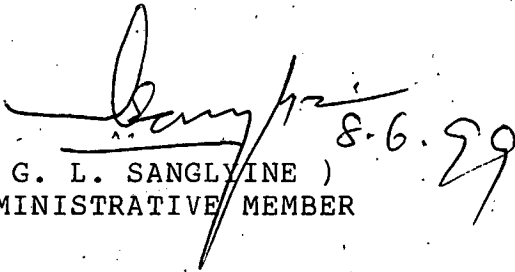
POINT NO.II:


The applicant has alleged malafide in the present case on the ground that Shri S. Laskar, the then Director, ICAR, Research Complex for N.E. Hill Region, passed the Annexure 11 order dated 25.8.1995 imposing penalty of "Censure". After Shri Laskar was transferred the respondent No.4- Dr N.D. Verma, Project Director, National Research Centre (Mithun) took over charge and within a short time the respondent No.4 sent a recommendation for revision of the order. According to the applicant this was done with an ulterior motive to harass the applicant. The applicant has also urged that once the Director had imposed the penalty of "Censure", the respondent No.4 ought not to have recommended for revision of the order. Except that nothing has been shown by the applicant. It is an established principle of law that without sufficient proof of malafide intention the Court or Tribunal cannot come to a conclusion that the action was vitiated by a malafide intention. The malafide action is not only to be pleaded, but it also has to be proved with reasonable certainty. In the present case, in our opinion, the applicant has not been able to satisfy the test. On perusal of the records we do not find that the action was taken with a malafide intention. Therefore, this action cannot be said to be taken by the authority with malafide intention. Therefore, we find no force in the contention of the applicant in this point.



8. In view of our decision in Point No.I we find that the impugned Annexure 1 order dated 25.7.1996 issued by the Director General exercising revisional power cannot be sustained in law. Accordingly we set aside the same.

9. The application is accordingly disposed of. No order as to costs.


(G. L. SANGLYINE)
ADMINISTRATIVE MEMBER


(D. N. BARUAH)
VICE-CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH

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

Title of the case : O.A. No. 260 of 1996

Shri Parimal Ghosh ... Applicant.

- Versus -

I.C.A.R. & Others ... Respondents

I N D E X

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For use in Tribunal's Office

Date of filing : 12-11-96
Registration No. : OA 260/96

REGISTRAR

Mr. Abdul Haq
13-11-96

S. Ali, Secy.

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 That the applicant is presently working as Assistant in the I.C.A.R. Research Complex for NEH Region, Barapani (hereinafter called as 'ICAR NEHR').

4.2 That he started his service in the I.C.A.R. NEHR in the year 1981 as Junior Clerk (Class-III) in which post he was confirmed on 26.10.1993.

4.3 That the applicant by dint of his sincere and devoted service, rose in the ladder of promotion and was made :

A Senior Clerk from 12th November 1986

An Assistant from September 1991.

4.4 That while working as Junior Clerk in the ICAR NEHR the applicant was placed in the Stores Section in August 1983 to assist the then Store Keeper (Late) Shri S.O. Thangkhiew. In January 1984 Late Thangkhiew was shifted from the stationery Store and the applicant gradually drifted into the position of the Store Keeper, just as a matter of course for that matter, without any formal order and formal taking over after verification of the existing stock.

4.5 That since thus placed in charge of the Stores sometime in 1984, your applicant had been holding the charge of the stores to the satisfaction of the authorities without any blemish for over 9 years till he formally handed over

003

O.A. No. 260 of 1996

BETWEEN

Shri Parimal Ghosh,
son of Late P.C. Ghosh,
Assistant (C.O.),
I.C.A.R. Research Complex,
Barapani, Meghalaya

... Applicant

AND

Union of India represented by

1. The Indian Council of Agricultural Research
Represented by the Secretary, I.C.A.R.
Krishi Bhavan, New Delhi-110 001.
2. The Director General, I.C.A.R.
Krishi Bhavan, Dr. Rajendra Prasad Road,
New Delhi-110 001.
3. The Director,
I.C.A.R. Research Complex,
N.E.H. Region, Barapani, Meghalaya.
4. Dr. N.D. Verma,
Project Director,
National Research Centre (Mithun),
Jharnapani, Nagaland.

... Respondents

DETAILS OF APPLICATION

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

The application is made against Revision Order
vide F.No. 28(2)/92-Vig. dated 25.7.96 from Director
General, I.C.A.R. (Annexure-1).

2. JURISDICTION OF THE TRIBUNAL :

The applicant declares that the subject matter of
the order against which he wants redressal is within the
jurisdiction of this Hon'ble Tribunal.

charge to his successor Shri R. Subbha After verification of stock and collecting the same with the stock register/ records and no discrepancies were found in the course of his handing over charge of the store.

4.6 That from the third week of April 1992, the applicant's wife, who was in advance stage of pregnancy and in her first labour was showing signs of critically and the applicant had to be at Shillong where his house is situated at short notice and his wife had to be hospitalised in the Nazareth Hospital, Shillong on the 24th April 1992 and released after 4 days on 28th April 1992.

4.7 That an order for supply of stationery valued at Rs.2,84,732.85 was placed with M/s. Pabitra Paul an approved supplier of the I.C.A.R. On 9.3.92 with stipulation to complete the supply by 31st March 1992.

4.8 That M/s. Pabitra Paul could not complete the supply of all the items within the stipulated period due to hold up of the truck carrying the stationeries due to road blockade but gave an undertaking that the supply of the balance materials would be completed within 10 days.

4.9 That accordingly on the basis of the undertaking and to avoid any lapse of fund due to year ending the cheque for the amount was drawn but not handed over till the supply was complete according to the established procedure laid down in the file No. RC(S) 1/89, which inspite of request from the applicant was not made available to the I.O.

Contd....P/4.

Ref:

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4.10 That due to certain acute personal difficulties, the applicant was on leave from 1st to 3rd April 1992 and M/s. Pabitra Paul completed the supply on 2.4.92 and took his cheque the next day, without any knowledge of the applicant.

4.11 That on 24.4.92 at 3 P.M. a team of CBI officers arrived in the store office without any officer of the I.C.A.R. ~~NEHR~~ NEHR and made a surprise check.

4.12 That the CBI officials after some preliminary inquiry lasting for about an hour left the store office by 4 P.M. that day leaving a memo after obtaining signature from your applicant.

4.13 That due to indifferent health condition of ~~the~~ his wife the applicant had to be on casual leave on 25.4.92 the next day 26.4.92 was a Sunday and on the next opening day i.e. 27.4.92 the applicant in the very first opportunity in the first hour reported the matter to the Local Head of Department of the CBI surprise check etc. and following that the Local Head of Department, i.e. the Respondent No. 3 constituted a five member Committee to verify the stock.

4.14 That the Committee in consultation with the Respondent No. 3 sealed the godown on 28.4.92. Your applicant was also ordered on 3.6.92 to hand over the charge of the Store to Shri R. Subba Sr. Clerk and your applicant did the same after proper verification of stock and preparation of memo of verification.

Contd.....P/5.

Reg.

4.15 That however on the verification made by the five member Committee aforesaid and later by another Committee on pointing out discrepancies in the report of the first above mentioned Committee and without affording any opportunity to represent, recovery amounting to Rs.73,262.58 from his salary at the rate of Rs.500/- per month was ordered summarily vide order No.RC(G) 16/92 dated 10.2.94.

4.16 That it was only after the applicant represented against such summary recovery order, that the authorities decided to issue a formal charge vide No.RC(G) 16/92 dated 17.2.94.

4.17 That in the circumstances the applicant was compelled to seek protection of this Hon'ble Tribunal by a petition registered as O.A. 41/94 which was disposed of by order dated 1.6.94, quashing the order No.RC(G) 16/92 dated 10.2.94, allowing however the disciplinary proceeding under Memorandum No. RC(G) 16/92 dated 17.2.94 to proceed according to rules. The applicant craves leave of this Hon'ble Tribunal to call for records in O.A. 41/94 of this Hon'ble Tribunal, if the Hon'ble Tribunal needs to refer to or production of the same.

A copy of the order dated 1.6.94 of the Hon'ble Tribunal is however, enclosed as ANNEXURE-2.

4.18 That as the Hon'ble Tribunal did not intervene in the matter of inquiry proceedings, so it continued. Order dated 15.7.94 was passed by the Director, I.C.A.R. NEHR Respondent No.3 in the instant application bearing No.RC(G) 16/92 whereby Dr. V.C. Sharma, Jt. Director (HQ), I.C.A.R.

Research Complex for NEH Region was appointed the Inquiry Officer in the case against (1) Dr. B.P.S. Yadav, Scientist I/C Store and (2) Shri P. Ghosh, Asstt. (Store). By another order of even No. and date Shri M. Sarania, Inspector, CBI/ACB Shillong was appointed as Presenting Officer.

Copy of the aforesaid orders are annexed hereto as ANNEXURES-3 and 4 respectively.

4.19 That however, vide his letter No.RC(G) 16/92 dated 26.10.94, the Administrative Officer, I.C.A.R. Research Complex, Barapani intimated to the Inquiry Officer that the inquiry against Dr. B.P.S. Yadav need not be conducted.

4.20 That the inquiry proceedings continued against the applicant alone, though if there had been really a misconduct both the Scientist I/S, Stores and had even more responsibility. As however, the applicant was clear in his conscience that there had been no misconduct on the part of either, he did not raise any objection to not conducting the inquiry against Dr. Yadav, Scientist alongside.

4.21 That evidences were recorded on 14.12.94 and 22.12.94.

Photocopies of the proceedings of the above mentioned dates are annexed hereto as ANNEXURES-5 and 6 respectively.

4.22 That on the conclusion of the inquiry, the Presenting Officer submitted his written brief on 29.12.94 and the same was followed by defence brief on 6.1.95.

Contd....P/7.

Copies of these two briefs are annexed hereto as ANNEXURES-7 and 8 respectively.

4.23 That the I.O. submitted his inquiry report to the Disciplinary Authority Respondent No. 3 on 24.6.95 and the same was forwarded to the applicant vide letter No RC(G) 16/92 dated 21.8.95 from the Disciplinary Authority asking the applicant (the charged officer) to explain as to why disciplinary action should not be taken against him.

Copy of the letter mentioned above together with Inquiry report is enclosed as ANNEXURE-9.

4.24 That the applicant (the charged officer) submitted his written explanation on 24.8.95 showing as to how ~~xx~~ he stands exonerated from the charges and he prayed for orders exonerating him from the charges.

Copy~~ies~~ of his explanation dated 24.8.95 is annexed hereto as ANNEXURE-10.

4.25 That the Disciplinary Authority after careful consideration of the Inquiry report and records of inquiry and discussing the extent the charge has been proved, was satisfied that "Good and sufficient reasons exist for imposing on Shri Parimal Ghosh, Asstt. I.C.A.R. Research Complex, for NEH Region, Barapani the penalty of 'Censure' and accordingly imposed the penalty of 'censure' on the applicant vide No.RC(G) 16/92 dated 25.8.95.

A copy of the order of the Disciplinary Authority mentioned above is enclosed as ANNEXURE-11.

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4.26 That vide order F.No. 28(2)/92-Vig. dated 25.4.96 Annexure-1, the D.G. I.C.A.R. in exercise of power conferred under Rule 29(1)(IV) of CCS(CCA) Rules, 1965 set aside the penalty of 'censure' as imposed vide order dated 25.8.95 Annexure-II ibid and remitted the case to the Disciplinary Authority i.e. Director, I.C.A.R. Research Complex with direction to hold a further inquiry on the issue that "whether balance stationery items had been received till 24.4.92 or not".

4.27 That on receipt of the said order from D.G., I.C.A.R. vide Annexure-1, the applicant was shocked and dismayed. He was already for three years under pressure of a disciplinary proceeding, while the other officer, being an officer of the I.C.A.R. was allowed to go scot free from any responsibility. Notwithstanding, the applicant submitted a review petition dated 21.8.96 against the order at Annexure-1 to save him from further harassment in this matter and interalia adduced the following grounds as to why it could not and should proceed with :

(i) That the case was not re-opened suo-moto by the Revisional authority i.e. Director General, I.C.A.R. but it was re-opened on a recommendation dated 13.9.95 of the successor in office of the Disciplinary authority i.e. the Director, I.C.A.R. Research Complex, NEH Region and suffers from two apparent vices :

(a) It infringes the legal principle established that 'once a decision is arrived at honestly by a competent authority, its successor in office after the decision

Contd....P/9.

has been acted upon and is in effective operation cannot reconsider the matter so as to take a totally different decision" (para 3(i) of the Revision petition and

(b) that the recommendation was made within 20 days of the order imposing punishment and was violative of clause (2) of Rule 29 CCS(CCA) Rules, 1965 (para 3 (ii) of the Revision Petition).

(ii) the order contained in Annexure- 1 was sufficiently indicated and tutored that any further inquiry will go in a particular channel leaving the prospective inquiry officer no scope to arrive at an impartial findings (para 4 of the Review Petition).

(iii) that there was no falling/infirmity in the previous inquiry and there was not sufficient ground to renew the inquiry even on a specific issue (para 5 of the Review petition).

(iv) that the questions suggested in the revisional order (impugned order Annexure-1) is a leading question for obtaining a particular answer from the new/old witnesses brought before the renewed inquiry, (para 8 of the Review Petition).

(v) that the statement said to have been made by the applicant on 13.7.92 was not a piece of evidence (para 7 of the Review petition).

(vi) that notwithstanding the independence of rule 29 ~~vis-a-vis~~ vis-a-vis other rules in CCS(CCA) Rules, 1965, the same cannot be outside the purview of the provisions of S.115 C

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and proviso thereunder and as discussed in the Review Petition Annexure-12 hereof there is no room for the revision as directed and the line of action indicated in the impugned order at Annexure-1.

A copy of the review petition is annexed hereto as ANNEXURE-12.

4.28 That the applicant begs to state that the respondent No. 4 Dr. N.D. Verma, the subsequent Director made the recommendation dated 13.9.95 to be Revising Authority against the penalty of censure absolutely for reasons other than bonafide. Malafide is the foundation of the recommendation made by Dr. Verma. The applicant is the Joint Secretary of I.C.A.R. Employees' Association which is a registered Association affiliated to INTUC. After the joining of Mr. Verma in ICAR, issue was raised by the employees against appointment as Director contending the same to be irregular. The applicant, being a Secretary to the Association took leading part in placing the demand of the employees which attracted the wrath of the respondent No. 4. The Association demanded extension of service of the earlier Director, and Press release were issued in which the applicant was a signatory. In view of the demand of the employees, Dr. Verma has since been sent back by the Council to his old post of Project Director, National Research Centre (Mithun Nagaland on 17.10.95. Be that as it may, because of the agitational programme Dr. Verma bore a grudge against the applicant and amidst his busy schedule, within 13 days of his joining Dr. Verma picked up the case of the applicant out of sheer malafide and gave the recommendation as stated above. As such, the said recommendation cannot stand the

Contd....P/11.

of judicial scrutiny and the action pursuant to such malafide recommendation also cannot stand in the eye of law.

4.29 That the applicant states that the impugned order dated 25.7.96 is illegal per se and the same is violative of the principles of service jurisprudence. Accordingly, the same is required to be quashed.

4.30 That Dr. N.D. Verma, who took over as the Director I.C.A.R. Research Complex, NEH Region on 31.8.95 and left the office on 17.10.95 was in direct confrontation with the employees in the Research Complex and it was with a vindictive attitude and also to cow-down the employees' genuine programme of association activities he picked up the applicant and recommended action against the applicant, being a leading association member inspite of provisions of rules and legal principle discussed in para 4(27) above.

4.31 That the applicant was singled out inasmuch as while inquiry proceedings started against (i) Dr. B.P.S. Yadav, Scientist I/C, Stores and (ii) the applicant vide paragraph 4.18, inquiry against Dr. Yadav was dropped vide paragraph 4.19 and it was arbitrary, discriminatory at the very start and it was because of reasons given in para 4.20 that the applicant did not raise any hue and cry in this respect, though as it comes before the legal forum this violation of Article 14 and Art 16 of the Constitution of India cannot be over looked.

4.32 That in a spell of nearly five years the applicant had to go through strenuous effort and difficult

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situation and was inflicted with the punishment twice-once while the recovery of Rs.73,262.58 was ordered from the pay of the applicant, since nullified under orders of this Hon'ble Tribunal dated 1.6.94- Annexure-2 and later through the inquiry proceedings held by the I.O. Dr. U.C. Sharma, Jt. Director (HQ) and it is no denying the fact on those occasions too, the applicant had proceed through all the hazards inherent with such proceedings and his sufferings in those fateful years can be better be realised than explained.

4.33 That the applicant states that the impugned action on the part of the respondent being vindictive, malafide and being for collateral purposes, is required to be set aside and quashed.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that the action of the respondents are contrary to the provisions of CCS(CCA) Rules and therefore, cannot stand in the eye of law.

5.2 For that the recommendation made by the respondent No. 4 is violative of clause (2) of Rule 29 of CCS(CCA) Rules, 1965.

if
5.3 For that ~~the~~ impugned action is allowed to stand there would be no end of a disciplinary proceeding and there cannot be any ~~final~~ finality of such a proceeding.

5.4 For that the renewed inquiry has been ordered for collateral purposes and not on merit of the case.

Contd.....P/3.

5.5 For that the inquiry report of Dr. U.C. Sharma Joint Director (HQ) not being superseded, rescinded, fresh enquiry could not be sustained under the law.

*Not fresh -
Sufficient*

5.6 For that recalling the witnesses who had already adduced evidence and those witnesses who were earlier called but were not asked to adduce evidence cannot tender evidence on a new line, except clarification of some statements already made, if some discrepancies had arisen due to cross examination, but that too is barred after the case is finally closed with submission of findings and decisions of the competent authority.

5.7 For that prima facie the issue ordered to be inquired afresh is not a charge under the CCS(CCA) Rules, 1965 and only a fact relevant or otherwise to the charge and since the charge itself, stands disposed of, renewed inquiry on a particular fact in issue or not cannot be sustained.

5.8 For that in ~~any~~ view of the matter, the renewed inquiry on a particular issue the charge itself has been disposed of is uncalled for, unwarranted and not sustainable under the facts and law.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant declares that he has availed of all the remedies available to him under the relevant service rules. Although the applicant has preferred review petition

Contd....P/14.

dated 21.8.96 - Annexure-12, the order having come from the highest authority of the I.C.A.R. there is not further scope to get relief from any other quarter and on the contrary the review petition not having been acknowledged and no direction having been sent, the disciplinary authority is left with no option but to proceed with the renewed inquiry as ordered vide impugned order - Annexure-1.

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

As stated ibid, a case was filed earlier in this Hon'ble Tribunal as O.A. No. 41/94 which was finally disposed of on 1.6.94, copy enclosed as Annexure-2. However, the subject matter is not the same and the applicant has come on a different cause of action.

8. RELIEFS SOUGHT :

In view of the facts mentioned in para 4 above the applicant prays for the following reliefs :

- (1)• That the impugned order F.No. 28(2)/92-Vig. dated 25.7.96 - Annexure-1 be quashed.
- (2) Cost of the suit be awarded.

9. INTERIM ORDER? IF ANY PRAYED FOR :

Pending final decision on the application, the applicant seeks the following interim order :

The impugned order dated 25.7.96 (Annexure-1) be suspended and the Director, I.C.A.R. Research Complex, NEH Region, Barapani be restrained from proceeding with

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the further inquiry on the issue that whether balance stationery items had been received till 24.4.92 or no

10.

The application is filed through Advocate.

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

(i) I.P.O. No. : 8-09-349020
(ii) Date : 9-11-96
(iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

Verification.....

See

VERIFICATION

I, Shri Parimal Ghosh, son of Late P.C. Ghosh, aged about 37 years, working as Assistant, in the office of the Director, Indian Council Agricultural Research, Research Complex, NEH Region Barapani resident of Shillong do hereby verify that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge ; those made in paragraph 5 are true to my legal advice and that I have not suppressed any material facts.

And I sign this ^{verification} ~~affidavit~~ on this the 10th day of November 1996 at Guwahati.

Parimal Ghosh.
(PARIMAL GHOSH)

Re,



TELEPHONE OFF. : 3388993/3388994

3388995 EXTN./.....

TELEGRAM

AGRISEC

TELEX

031-62249 ICAR IN

भारतीय कृषि अनुसंधान परिषद्

कृषि भवन, डा० राजेन्द्र प्रसाद मार्ग, नई दिल्ली-110001

INDIAN COUNCIL OF AGRICULTURAL RESEARCH,

KRISHI BHAWAN, Dr. RAJENDRA PRASAD ROAD, NEW DELHI-110 001

Confidential

Registered A/D

F.No. 28(2)/92-Vig.

Dated the 25 July, 1996.

O R D E R

WHEREAS an inquiry under Rule 14 of CCS (CCA) Rules, 1965, as applicable to ICAR employees was held against Shri Parimal Ghosh, Asstt, ICAR Res. Complex for NEH Region, Shillong by Director, NEH Region, the disciplinary authority in his case, in r/o the following article of charge framed against him & communicated to him vide order No. RC (G) 16/92 dated 17.2.94;

"While Sh. Parimal Ghosh Posted & functioning as store Asstt. in the stationery stores of ICAR, NEH Region, Barapani, Shillong during 1992 failed to maintain absolute integrity & devotion to duty as much as he certified the bills of the party to the tune of Rs. 2,84,732.00 to the effect that, he received the stationery articles required to be supplied vide supply order dated 9.3.92 by M/S Pabitra Paul, Shillong without receiving the stationery articles & apart from that he also failed to maintain store records in a proper manner.

WHEREAS the Director, NEH Region, on conclusion of the inquiry against Sh. Ghosh, imposed the penalty of Censure on Sh. Ghosh vide Order No. RC (G) 16/92 dated 25.8.95;

WHEREAS subsequent Director of the Institute, viz Dr. N.D.Verma made a recommendation dated 13.9.95 to the Revising Authority against the penalty of Censure as imposed on Sh. Ghosh on the ground that this penalty was not commensurate with the gravity of the charge, as the main part of the article of charge framed against Sh. Ghosh stood proved, besides other reasons including even the undertaking dated 30.3.92 being suspect;

WHEREAS the Revising Authority i.e. Director General ICAR on careful consideration of the inquiry report and the records of the inquiry finds that:

(i) In the statement of imputation it was alleged that on 24.4.92 a surprise check was conducted in the Stationery Stores by Officials of CBI, when it was found that stationery

Attested.

Kalita, 8.11.96
Advocate.

Recd. 3/8/96

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items which had been certified by Sh. Ghosh, Asstt as having been received on 30.3.92 from M/S Pabitra Paul, were physically not available in the store. Sh. Ghosh also admitted about the non-receipt of the said stores.

The finding of I.O. in this regard was that in the absence of physical verification of store items on 24.4.92 one cannot say categorically that the balance supply of the material was not made good before issuing cheque for Rs. 2.84 Lakhs to Ms. Pabitra Paul on 3.4.92.

The above finding is based on deposition at cross examination stage of Shri K.C. Choudhary, Inspector who was one of CBI, the officials who conducted the surprise check, as well as contention of Shri Ghosh about his being under mental pressure on 24.4.92 due to illness of his wife.

It is however seen that in addition to Sh. Chaudhary, Inspector CBI, there were two other Inspectors of CBI who were listed as prosecution Witnesses (P.W.), but were apparently not examined during the inquiry. No reason for this has been recorded in the report, whereas they are key witnesses, since the Memo dated 24.4.92 prepared after the surprise check which is signed by all the three Inspectors (as well as Sh. Ghosh) clearly mentions of non-receipt of remaining stationery items till that date. Even Sh. Chaudhary was not pointedly asked by P.O. or I.O. that how it was stated in the Memo dated 24.4.92 that most of the items were found not supplied. In fact the circumstances in which Sh. Chaudhary has stated that there was no physical verification may simply mean that in view of Sh. Ghosh having admitted to non-receipt of certain items (whose number is also specifically indicated in the Memo) ^{above} there was hardly any need to physically count the entire stock in the stores. Similarly, Sh. Ghosh was also not asked how even in his subsequent statement recorded before CBI on 13.7.92 he had again admitted that material had not been supplied till 24.4.92. Therefore I.O. had obviously ignored the statement of Sh. Ghosh dated 13.7.92 as well as that of Dr. B.P.S. Yadav dated 10.7.92 even though both of them are listed documents. He has also convoluted the facts recorded in the Memo of CBI dated 24.4.92 when he says on page 27 (para 4) of the report that Sh. Ghosh has admitted vide this memo that material had not been received till 30.3.92 only, whereas on mere reading of the memo it is clear that material had not been received even till 24.4.92.

AS SUCH the Revising Authority is of the view that the inquiry in this case has not been properly conducted, and the finding as such on this issue is pre-mature;

Attested.

Kalita, 8.11.96
Advocate.

NOW THEREFORE the Director Genl. ICAR in exercise of power conferred under Rule 29(1) (IV) of CCS(CCA) Rule, 1965 hereby sets aside the penalty of Censure as imposed vide order dated 25.8.95, and remits back the case to the Disciplinary Authority i.e the Director, ICAR Res. Complex with the direction to hold a further inquiry on the issue that whether balance stationery items had been received till 24.4.92 or not.

R. K. Marwaha
(Capt. R.K. Marwaha)
Director (Vigilance)
for & on behalf of
Dir Genl. ICAR.

DISTRIBUTION:

1. Dr. R.P. Awasthi,
Director, ICAR Res.
Complex for NEH Region,
Barapani, Shillong,
793103.
with an additional copy meant
for Sh. P. Ghosh, Asstt., it may
be got delivered to him after
obtaining his dated signatures
which may be forwarded to Council
for record. Further, the inquiry
as above may be completed within
a period of three months of issue
of this order, and the report
with all the records forwarded
to DG, ICAR.
- ✓ 2. Sh. Parimal Ghosh, Asstt, ICAR, Res Complex for NEH
Region, Shillong.

Attested.

K. H. 8.11.96
Advocate.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI - 5

O.A. 41/94

Shri Parimal Ghosh ... Petitioner

-VS-

Union of India & Ors. ... Respondents

P R E S E N T

THE HON'BLE JUSTICE SHRI S. HAQUE, VICE CHAIRMAN,
THE HON'BLE SHRI G. L. SANGLYINE, MEMBER (ADMN.).

For the Petitioner ... Mr. J.L. Sarkar,
Mr. M. Chanda,
Mr. A. Rachid.

For the Respondents ... Mr. S. Ali, Sr.CGSC.

1.6.94

Heard learned counsel Mr J.L. Sarkar for the applicant, Shri Parimal Ghosh. Perused the statement of grievances and reliefs sought for in this application. Also heard learned Sr. C.G.S.C. Mr S. Ali. We propose to dispose of this application at the admission stage.



Attested.

kalita 8.4.96
Advocate.

OFFICE NOTE

DATE

COURT'S ORDER

1.6.94

The applicant is an Assistant in ICAR Research Complex for NEH Region, Barapani. The authority has decided to recover an amount of Rs.73,262.58 P from his salary by 146 instalments vide order No.RC(G)16/92 dated 10.2.1994 (Annexure-7). Subsequently vide office memorandum No.RC(G)16/92 dated 17.2.1994 (Annexure-9), the respondents have initiated disciplinary proceeding against the applicant with specific charges for the incident in which the amount of Rs.73,262.58 P was involved. We find that the recovery order under Annexure-7 was summarily made without enquiry and decision as to the guilt of the accused. As specific disciplinary proceeding has now been initiated for the said incident, we find no justification to keep the order under Annexure-7 alive, which according to us is liable to be quashed.

Accordingly the order No.RC(G)/16/92 dated 10.2.1994 (Annexure-7) deciding to recover Rs.73,262.58 P from the applicant is hereby quashed. The disciplinary proceeding under memorandum No.RC(G)16/92 dated 17.2.1994 (Annexure-9) with specific charges will proceed according to Rules.

This application is accordingly disposed of with the above order.

Inform all concerned. / -

Sd/- S. HAQUE
VICE CHAIRMAN

Sd/- G.L.SANGLYINE
MEMBER (ADVN)

Registered with A/D

Memo No. : 2607

Date : 15/6/94

Copy for information & necessary action to :

- (1) Shri Parimal Ghosh, Asstt., I.C.A.R. Research Complex, for NEH Region, Barapani, Meghalaya.
- (2) The Secretary, Govt. of India, Ministry of Agriculture, New Delhi.
- (3) The Director, Indian Council of Agricultural Research, I.C.A.R. Research Complex for N.E.H. Region, Umroi Road, Barapani, Meghalaya.
- (4) Mr. M. Chanda, Advocate, Gauhati High Court, Guwahati.
- (5) Mr. S. Ali, Sr.C.G.S.C., C.A.T., Guwahati Bench, Guwahati.

Attested.

Kalita 8.11.96
Advocate.

SECTION OFFICER (J)

14/6/94



**INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H. REGION
UMROI ROAD, BARAPANI, MEGHALAYA**

No.RC(G)16/92

Dated Barapani, the 15th July, '94

O R D E R

WHEREAS an inquiry under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, as applicable to ICAR employees is being held against Dr. B. P. S. Yadav, Scientist and Shri Parimal Ghosh, Asstt. (Stores) in regard to the irregularities of Central Stores of ICAR Research Complex for NEH Region, Barapani.

AND WHEREAS the undersigned considers that an Inquiry Officer should be appointed to inquire into the charges framed against Dr. B. P. S. Yadav and Shri Parimal Ghosh.

NOW, THEREFORE, the undersigned, in exercise of the powers conferred by sub-rule hereby appoints Dr. U. C. Sharma, Sr. Scientist, ICAR Research Complex for NEH Region, Barapani as the Inquiry Officer to inquire into the charges framed against Dr. B. P. S. Yadav and Shri Parimal Ghosh.

one
(S. Laskar)
Director.

To

Dr. U. C. Sharma,
Inquiry Officer,
ICAR Research Complex for NEH Region,
Barapani.

Copy to :-

1. Shri M. Sarania, Exec Presenting Officer, C.B.I., A.C.B., Oakland Road, Shillong - 793 001.
2. Dr. B. P. S. Yadav, Scientist, ICAR Research Complex for NEH Region, Barapani.
3. ✓ Shri Parimal Ghosh, Asstt. (Stores), ICAR Research Complex for NEH Region, Barapani.
4. The Under Secretary (Vig.), Indian Council of Agril. Research, Krishi Bhavan, New Delhi. This has a reference to his letter F.No.28(2)/92-Vig. dated 17.5.94.

Attested.

Kalita
Advocate.

8.11.96

CONFIDENTIAL

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H. REGION
UMROI ROAD, BARAPANI, MEGHALAYA

No. RC(G) 16/92

Dated Barapani, the 15th July, '94

ORDER

WHEREAS, an enquiry under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 as applicable to ICAR employees is being held against Dr. B. P. S. Yadav, Sr. Scientist (A.N.) in regard to anomalies/irregularities of Central Store, ICAR Research Complex, Barapani.

AND WHEREAS, the undersigned considers that a Presenting Officer should be appointed to present the case on behalf of the undersigned in support of the articles of charges.

NOW, THEREFORE, the undersigned in exercise of the powers conferred by sub-rule (5)(u) of Rules XX 14 of the said rules by appointing Shri M. Sarania, Inspector, C.B.I./A.C.B., Shillong as a Presenting Officer.

(S. Leekar)
Director.

To

Shri M. Sarania, Inspector, C.B.I., A.C.B., Oakland Road, Shillong - 793 001.

Copy to :-

1. Dr. B. P. S. Yadav, Sr. Scientist, ICAR Research Complex for NEH Region, Barapani.
2. ✓ Shri Parimal Ghosh, Asstt. (Store), ICAR Research Complex for NEH Region, Barapani.
3. The Under Secretary, Indian Council of Agril. Research, Krishi Bhavan, New Delhi - 110 001. This has a reference to his letter No. F.28-2/92-Vig. dated 13.6.94.

Attested.

Kalita 8.11.96
Advocate.

Proceedings of the regular hearing in the case against Shri Parimal Ghosh, Assistant, held on 14.12.1994 at the Meeting Hall, ICAR Research Complex, Barapani.

The inquiry started at 11.15 A.M. today, the 14th of December, 1994. Dr. Chandan Rajkhowa, Sr. Scientist, ICAR Research Complex and Shri Pranab Medhi, Assistant, Admin. Section, ICAR Research Complex, Barapani appeared before me as Prosecution Witnesses and Smti Anita Das, Jr. Clerk and Shri D.K. Chetia both of ICAR Research Complex, Barapani appeared as Defence Witnesses.

It was stated by Dr. Chandan Rajkhowa that he was a member of the committee which conducted physical verification of the stores from 28.4.1992 and that the report was submitted on 12.5.1994. He deposed that the store godown was sealed on 28.4.1992 itself for physical verification of the total stocks as per orders of the competent authority. He further told that a list of short materials and their approximate cost was prepared. Shri Parimal Ghosh cross-examined Dr. Rajkhowa and pointed out that initially, Dr. K.M. Bajarbaruah and Dr. K.K. Satpathy were in the committee, but later on, how Shri Satish Chandra, Sr. Scientist (Plant Pathology) and Dr. V.A. Panthasarathy, Sr. Scientist (Horticulture) were included in the physical verification committee without a formal order from the competent authority. Dr. Rajkhowa replied that he did not know how these persons were included and that he did not get a copy of the letter. Shri Parimal Ghosh then told that the constitution of the committee was not valid. Shri Parimal Ghosh then asked Dr. Rajkhowa as to why all the items in the Store were not physically verified as per order of the competent authority and only stationery was checked. Dr. Rajkhowa deposed that only stationery was checked.

The approximate shortage of stationery was to the tune of Rs. 85,000/- as per the statement of Dr. Chandan Rajkhowa. The Inquiry Officer asked Dr. Chandan Rajkhowa to give the statement in writing but he told that he had already given.

Shri Pranab Medhi also deposed before me. Shri M. Sarania, Presenting Officer, asked Shri Pranab Medhi whether he recognised the bills submitted by M/s Patitra Paul. Shri Medhi said 'Yes'. Shri Medhi told that he processed the bills only after verification of these by the Store Clerk and Store Officer.

The bills were submitted by the above firm on 18.3.1992 and were passed on 31.3.1992 and cheque issued in the name M/s Pabitra Paul who received it on 3.4.1992.

Attested.

Kavita S.N.96
Advocate.

Contd'... 2

The Presenting Officer asked Shri Parimal Ghosh how he (Mr. Ghosh) made the entries without receiving all the materials and payment was also made. Mr. Ghosh replied that though the bills were received on 18.3.1992, he processed them only after an undertaking was taken from the firm which was received through Store Officer.

The Presenting Officer inquired from Shri P. Ghosh that who makes the entries in the register. Shri P. Ghosh informed that a Jr. Clerk attached to him used to make entries. On this, the Presenting Officer showed him the stock register where entries were made by Shri P. Ghosh only. The Presenting Officer pointed out that all entries were made by Shri P. Ghosh, despite an order from the Director that entries will be made by another Clerk.

The Presenting Officer asked Mr. Ghosh that whether he had given the certificate for the receipt of the materials even without receiving the same. Mr. Ghosh admitted the charge.

In the afternoon, two Defence Witnesses, namely Mrs. Anita Das and Shri D.K. Chetia deposed before me. They (Defence Witnesses) told that they do not know about the case. However, Shri P. Ghosh showed some letters to them for their receipt in the office. Both of them (Defence Witnesses) told that they had received these letters as receipt Clerks, and forwarded to the concerned authorities.

It was decided to fix the next date of hearing on 22nd of December, 1994.

M. Sarania
14/11/94
(Shri M. Sarania)
Presenting Officer

Shri Parimal Ghosh
(Shri Parimal Ghosh)
Charged Officer

U.C. Sharma
(U.C. Sharma) 14/11/94
Inquiry Officer

Received a copy of the above proceeding :

(Shri M. Sarania)
Presenting Officer

(Shri Parimal Ghosh)
Charged Officer

Attested.

Kavita 8.11.96
Advocate.

Proceedings of the inquiry in the case of Shri Parimal Ghosh, Assistant, ICAR Research Complex, Barapani held on 22.12.1994 in the Meeting Room of ICAR Research Complex for N.E.H. Region, Barapani.

Two witnesses, namely Dr. B.P.S. Yadav, Senior Scientist of ICAR Research Complex, Barapani and Shri K.C. Choudhury, C.B.I. Inspector, Guwahati deposed before me. Dr. B.P.S. Yadav stated that cheque was issued to M/s Pabitra Paul after full supply of the material. Mr M. Sarania, Presenting Officer showed the earlier recorded statement of Dr. B.P.S. Yadav to him (Dr. Yadav) and inquired whether he wanted to add or delete something from the statement. Dr. Yadav told that he stands by the statement. Dr. Yadav told that he put the signature on the bill only after receipt of the material in the store. In reply to a question from Presenting Officer, Dr. Yadav stated that he did not check the material physically but he saw a jeep bringing the material and unloading of the material was being done. Regarding the letter from the firm, received on 30-3-1992, to the effect that the firm was unable to supply some of the material, Dr. Yadav deposed that the letter was placed in the Dak Pad of the Store Section.

At this stage, the Inquiry Officer inquired about the page Nos. of the bill and the letter received from the firm. No page numbering had been done, in case of the letter from the firm. Dr. Yadav told that the letter was given in the morning and the bill was submitted to him for processing in the evening. Dr. Yadav also stated that the letter was not given to him by Shri Parimal Ghosh but it was in the Dak Pad. Parimal Ghosh deposed that he put up the bill of the firm when Dr. Yadav asked him to do so. Dr. Yadav told that he did not tell that Shri Parimal Ghosh deposed that the material was received on 2-4-1992 and he also duly informed Dr. Yadav that the roof of the Store was blown off. Dr. Yadav stated that he saw this.

Next, Shri K.C. Choudhury deposed before me. Shri P. Ghosh asked him whether he (Mr. Choudhury) physically verified the stores on 24-4-1992. Shri Choudhury stated that no physical counting of the material was done. Again Mr. Ghosh inquired from Mr. Choudhury that it was mentioned in the imputation statement that he (Mr. Ghosh) could not maintain the record properly as noticed during the surprise check by Shri K.C. Choudhury and that how it was possible to write this in absence of proper checking of the stores. Shri K.C. Choudhury deposed that he did not check the stores physically and no counting was done.

Attested.

Kalita S. N. 96
Advocate.

The Inquiry Officer asked from Mr. Ghosh that how he signed the letter of Shri K.C. Choudhury after siezing of the record on 24-4-1992. Mr. Ghosh deposed that he was nervous as his wife was very sick and he showed her admission (24-4-1992) and discharge slip (28-4-1992) from Nazareth hospital.

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showed the satellite to him. He made it clear that he was not to mix (Dr. Yedev) and involved another person. He also stated that the firm was subsequently closed. The firm stands by the statement. (U.C. Sharma) is the only officer in the bill. (Shri M. Sarania) is the Presenting Officer. (Shri Parimal Ghosh) is the Charged Officer. The bill was received on 20-3-1977. The bill was received to signify some of the material. The letter was passed in the house of the Government.

Received a copy of the above proceedings

Received a copy of the above proceedings. At this stage, the Inquiry Officer mentioned about the page Nos. of the bill and the letter number. From the time, PG page numbering has been done, it was not the letter from the field. Dr. Vadev told that the letter was given to the (Shri M. Sarania) it was submitted (Shri Parimal Ghosh) the In Presenting Officer. Vadev also stated 'Charged Officer' was not given to him by Shri Parimal Ghosh but it was in the PG No. 1. Parimal Ghosh deposed that he put up the bill of the field which Dr. Vadev asked him to do. Dr. Vadev told that he did not tell anything original. He deposed that the material

Kahita 8/24/96

Dr. Green asked him whether he (Dr. Green) physically verified the stores on 12-4-1942. And Dr. Green said that no physical counting of the stores was done. Again Dr. Green inquired from Dr. Lushbery that it was mentioned in the information statement that he (Dr. Green) sent the article to the record properly as directed by the committee then, by Dr. C.C. Lushbery not that he at the time decided to write this in a sense of proper direction of the stores. And Dr. Lushbery deplored that he did not check the stores physically and no counting was done.

The Liquidation Commission interviewed Dr. Cheek that now he signed the letter of Dr. H. J. Connelley after a study of the records on 24-4-1932. Dr. Cheek reports that he was nervous as his wife was very sick and he showed her pictures (24-4-1943) and discharge slip (24-4-1943) from Haverhill Hospital.

Written Brief of Presenting Officer: BY HAND of Presenting Officer
 Shri Parimal Ghosh, Asstt. ICAR (RC), Barapani.

No. 2/3(A)/92-SHQ/_____

Govt. of India
 Central Bureau of Investigation
 Anti-Corruption Branch
 O/O the Supdt. of Police
 Oakland : Shillong.

Dated _____/94.

To,

Dr. U.C. Sharma (I.O)
 Jt. Director, I.C.A.R. (RC)
 Barapani.

Sub:- Departmental proceedings against Sh. Parimal Ghosh,
 Asstt. under Rule 14 CCS (CCA) Rules 1965, Submission
 of written brief-regarding.

....

Sir,

I have the honour to submit my written brief in connection with the above cited subject.

As, the P.O., I had completed leading the evidence on behalf of the Disciplinary Authority and the defence has no more evidence, either documentary or oral to be produced before the Inquiring Authority.

It is prayed that the written brief may be treated as the last and final representation of the P.O. in this departmental enquiry.

Yours faithfully,

Attested.

Advocate.

Kalita S.N. 96

(M. SARANIA)
 (P.O) Inspector of Police
 CBI/ACB:Shillong.

Encl. No. 2/3(A)/92-SHQ/7936-38

Dated 29/12/94

Copy to :-

1. Shri Parimal Ghosh, Asstt. ICAR (RC), Barapani for necessary action for defence.
2. The Director, ICAR (RC), Barapani for favour of information.
3. The Supdt. of Police, CBI, Shillong.

(M. SARANIA)
 Inspr. of Police, CBI
 ACB:Shillong.

Written Brief of Presenting Officer in Departmental Enquiry against Sh. Parimal Ghosh, Asstt. ICAR (RC), Barapani.

.....

I. Witnesses examined :

- PW.1 Sri Chandan Hajkhowa, Sr. Scientist, ICAR(RC), Barapani.
PW.2 Sri Pranab Medhi, Asstt. Admn. Section, ICAR, (RC) Barapani.
PW.3 Sri K.C. Choudhury, Inspr. CBI, Gauhati Unit.

II. Documents exhibited :

- Sl.No.1. Bill No.9 dt.18.3.92 for Rs. 74,132.35 P.
Sl.No.2 Bill No.10 dt.18.3.92 for Rs.2,10,600.00 P.
both of M/S Pabitra Paul, Umpling Bazar, Shillong.
Sl.No.3 Challan No.15,16 & 17 dt. 20.3.92, 28.3.92 & 31.3.92
in respect of supply of Stationeries to ICAR, Barapani.
Sl.No.4 Undertaking dt. 20.3.92 of M/S Pabitra Paul of Umpling
Bazar Shillong addressed to the Store Officer, ICAR
NEH Region, regarding non-supply of all the items as
per their bills.
Sl.No.5 Sanctioned order No.RC(S)/10/91/145 dt. 31.3.92
for Rs.2,84,732.35 P. for supply of Stationery of
Directorate, ICAR (RC) Barapani.
Sl.No.6 Money receipt in original dt. 3.4.92 of M/S Pabitra
Paul umpling Bazar regarding receipt of Cheque No.
0250868656 dt.31.3.92 for Rs.2,84,732.00 P.
Sl.No.7 File No.RC(S)/10/91 of Store Section regarding
procurement of Stationeries for ICAR Region, Barapani.
Sl.No.8 Stock Register No.VI and VII of Stores Sec.ICAR (RC),
Barapani.
Sl.No.9 Memorandum dt. 24.4.92 in respect of conducting
surprise check at the Store of ICAR (RC) Barapani.
Sl.No.10 Circular No.RC(4)/32/97 Vol.I dt. 25.4.92 of Director
regarding constitution of standing committee for
verification of stores materials.
Sl.No.11 Circular No.RC(0)/32/97 Vol.I dt. 27 of Director,
ICAR (RC) Barapani asking the standing committee for
immediate verification of stores.
Sl.No.12 Report dt. 12.5.92 of Dr.D.S.Chandra, Principal
Scientist, Agro, Forest Division, alongwith stock
verification report of ICAR, Store dt. 12.5.92.

Attested.
Kahita 8.11.96
Advocate.

III. Enquiry Officer :- Dr.U.C.Sharma, Jt. Director, ICAR(RC),
Barapani;

IV. Presenting Officer:- Sri M.Saranja, Inspr.CBI, ACB,
Shillong.

V. Charge against Sh. Parimal Ghosh, Asstt. ICAR, Barapani.

That Sri Parimal Ghosh, while posted and functioning as Store Asstt. in the Stationery Stores of ICAR, NEH Region, Barapani during 1992 failed to maintain absolute integrity and devotion to duty as much as he certified the bills of the party to the tune of Rs. 2,84,732.00 to the effect that he remind the stationery article required to be supplied vide supply order dt. 9.3.92 by M/S Pabitra Paul, Shillong without receiving the Stationery articles and apart from that he also failed to maintained the store records in proper manner and thereby, by the above acts Shri Parimal Ghosh contravened the provisions of Rule 3(1)(i) of CCS (Conduct) Rules 1964.

VI. Facts as emerged during the Departmental proceedings :-

During the entire course of enquiry proceedings a total of 3 witnesses were examined on behalf of the D.A. (Disciplinary Authority) and 12 Nos. of documents exhibited. The Charge Official also produced 3 witnesses for his defence and exhibited a number of documents, but neither the depositions of these defence witnesses nor the contents of the defence documents have any relevance to the charges framed against the C.O.

At the very outset, it has to be borne in mind that Sh. Parimal Ghosh was charged for 'Lack of absolute integrity and devotion to duty in as much as (1) he certified in the bills of the party that he received the stationery articles to be supplied as per supply order dt. 9.3.92 without actually receiving the materials and (2) he failed to maintain Store records in proper manner.

The deposition of Dr. Chandan Rajkhowa does not relate to the specific charge against the C.O. and as such need not be taken into consideration. Though Sri K.C. Choudhury, Inspr. CBI admitted that on the date of physical verification on 24.4.92 no physical counting of material was done and the verification Memorandum was prepared on the basis of Registers and other records.

However, Sri Parimal Ghosh (the C.O.) himself admitted that, at the time of giving the certificate on the bills of the supplier that 'the materials are received as per the bills', the full supply was not yet received. This is also

Attested.

Kalita 8.11.96
Advocate.

supported by the fact that the Party had given an understanding dt. 30.3.92 wherein assurance was given to the effect that supply of remaining stationery materials will be completed within 10 days. Here, it may be mentioned that the genuineness of the understanding itself is a suspect. Even if the same is the product of an after thought (i.e. fabricated after the day of GBI physical verification on 24.4.92) it gives more credence to the fact that the supplier as well as the C.O. were very much aware of the incomplete supply of the materials. And in order to cover up their misdeeds the C.O. & supplier had fabricated the undertaking on back date.

Much ~~ex~~ emphasis need not be given to the documents exhibited by the C.O. and the witnesses produced by him as these documents and depositions of defence witnesses do not have any connection with the charges. The ~~ex~~ fact remains that though the were never received in full, Sri P.Ghosh certified on the two bills of the suppliers as so received. And due to this certification only the said bills were processed by Sri Pranab Moehi which ultimately led to the passing and payment of the bill amounts on 31.3.92.

As regards charge No.2 the very acts of Sri P.Ghosh in ~~wks~~ giving the above discussed certification as well as making entries in the relevant stock Register even before receiving the materials in full, already established the said charge. It was an act of commission on the part of Shri P.Ghosh i.e. he did what he was not supposed to do, and from this commission of his it is also easy to presume that he would have certainly committed acts of omission, i.e. not doing what he was supposed to do, like making updated entries in Stock Registers etc.

In view of the facts and circumstances as discussed in the foregoing paras, the charges against Sh. Parimal Ghosh stands clearly established.

Submitted.

Attested.

Kabita S.M. 96
Advocate.

M. Sarania
(M. SARANIA)
Inspector of Police, CBI
ACBI:Shillong.

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CONFIDENTIAL

To

Dr. U.C. Sharma, (I.O.),
Joint Director (H.Q.),
ICAR Res. Complex,
Barapani


Sub.:— Departmental Proceedings against Shri Parimal
Ghosh, Asstt. Under Rule 14 CCS(CCA) Rules 1965.
Submission of Defence brief.

Ref.:— Proceedings of the inquiry in the afore mentioned
disciplinary case - held on 22.12.94.

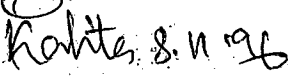
Sir,

With reference to the last para of the said
proceedings, I have the honour to state that I received
the written brief of the Presenting Officer on 2.1.95
and I am now submitting herewith the defence brief,
as directed.

Yours faithfully,

 1/1/95
(Parimal Ghosh)
Assistant

Attested.


Advocate.

Defence brief of Shri Parimal Ghosh, charged officer vide charge sheet No. RC(G)16/92 dt. 17.2.94.

1. This written brief may kindly be read in conjunction with my written statement dt. 25th Feb.'94 along with addendum vide dated 5th March'94.

2. The P.O.s written brief on material point is based on suspicion and that too a wrong suspicion and on presumption, which is never attracted unless the law prescribes for such a presumption and invariably not where presumption are bad in law and not maintainable. Even in worst case also the Hon'ble Supreme Court had held in state of Madras Vs. A.R. Srinivasan, A.I.R. 1966 SC 1827 "that mere suspicion can never take the place of proof or evidence. Before any punishment can be imposed, the charge(s) framed against a Govt. servant must be held to be proved".

3. That the suspicion that has been referred to arises on undertaking dt. 30.3.92 given by Shri Pabitra Paul, the supplier in question. The Presenting Officer placed his case in 4th Sub-para under para VI stating "Here, it may be mentioned that the genuineness of the Undertaking itself is a suspect. Even if the same is the product of an after thought (i.e. fabricated after the day of CBI physical verification on 24.4.92) And in order to cover up their misdeeds the C.O. and supplier had fabricated the undertaking on back date".

Kindly see the Exhibit 9 memorandum dt. 24.4.92 in respect of conducting surprise check at the store of I.C.A.R.(R.C.), Barapani. The third para of the memo begins "The firm vide letter dt.30.3.92.....". It dispels that this was a product of after thought, that the same was fabricated after the day of C.B.I. physical verification on 24.4.92 in order to cover up misdeed. If therefore as it reveals this is not cover up and this is genuine much force in CBI's arguments vanish in thin air. Not only that the P.O. here also mentioned "fabricated after the day of CBI's physical verification". In the cross examination Shri K.C. Choudhury placed as a witness from amongst the C.B.I. Inspector stated on 22.12.1994 "No physical counting of the materials was done" but the Presenting Officer went on with these hypothesis without caring to look into the document and deposition.

Attested.

Karita
Advocate. 8.11.96

3 About the presumption, apart from legal restraint in this behalf as discussed *ibid*, there were three distinct point of allegation to prove the charge No. 2. But this aspect that the C.O.'s certifying the Bill and entering in the stock register, was never alleged against the 2nd charge and the same cannot lend any support towards proving the 2nd charge at all.

4. The Presenting Officer has given a long list of documents produced but avoided the list of documents sought by the Charged Officer and reasons as to why the same could not have been made available.

In memorandum No. RC(G)16/92 dt. 22nd Feb.'94 (Defence Exhibit No. 8.), the Director I.C.A.R. Research Complex for N.E.H. Region informed the C.O. that "Item No. 214,523,538,542,543,545 and 546 matter will be examined and Shri Parimal Ghosh will be given the opportunity, if necessary, to ascertain the facts in case of any variation in due course as and when the stock registers are received back from C.B.I. authorities".

In addition, further documents as listed below were asked for and those were in the custody of the I.C.A.R.;

1. Notes and orders in file No. RC(S)1/89, wherein order/comments/instructions of A.A.O.(ST.) are available regarding - maintenance of stores and stock registers.

But this very important documentary evidence in the custody of the Disciplinary Authority was not produced or allowed to be inspected inspite of C.O.'s stating in clear terms the relevance of those documents in the Inquiry. In view of these, the C.O. was seriously handicapped and that amount to deprivation of Natural Justice. (Kindly see G.I.MHA O.M.No.F.30/5/61-AVD dated 25.8.91 at page 250-253 of Swamy's Mannual on Disciplinary Proceedings for Central Govt. Servant - 1989 Edition).

5. Now coming to the charges. I agree with the summation of the Presenting Officer about the nature and extent of the charges mentioned by him in sub-para 2 of paragraph VI of his written brief and accordingly my defence brief is furnished charge wise as here under;

I. CHARGE NO.1 :- Lack of absolute integrity and devotion to duty in as much as he certified in the bills of the party that he received the stationery articles to be supplied as per supply order dt. 9.3.92 without actually receiving the materials.

Attested.

Kalita
Advocate.

At the outset it may be made clear that there has been no question of any short supply. The points that come up are as below :-

(1) Whether the certificate that the materials were received was recorded in the bills before the receipt of all the materials and if so, under what circumstances ?

(11) When the short supply was made up whether in between the period of C.B.I.'s memorandum on 24.4.92 and sealing of the Go-down on 28.4.92.

(111) Whether the remaining materials were supplied before the delivery of the cheque on 3.4.92.

1.2 As for (1) above, it was admitted that the certificate was recorded before all the materials were received. The supply of stationery articles by M/S Pabitra Paul was covered by three challans dated 20.3.92, 28.3.92 and 31.3.92. As the supply of materials did not tally with the challans this was brought to the notice of M/S P. Paul, who then sent the communication and undertaking dated 30.3.92. This communication dated 30.3.92 from the supplier - M/S Pabitra Paul was addressed to the Store Officer and received by me on endorsement from him. Dr. B.P.S. Yadav the Store Officer while making the statement before the Inspector CBI on 10.7.92. defence Exh.No.22 wanted to shirk his responsibilities and stated that "Now I have seen an undertaking dated 30.3.92 of M/S Pabitra Paul and state that the said undertaking was put up to me on the morning of 30.3.92 in my office by Shri Parimal Ghosh". However, when accosted by me in course of Examination and cross examination on 22.12.94, he told the Inquiry Officer that "the letter was not given to him by Shri Parimal Ghosh but it was in the Dak Pad". The clear endorsement on that letter Exh.4 leaves no doubt that the earlier statement before the CBI on 10.7.92 by Dr. B.P.S. Yadav was not correct.

Attested.

Kalita
Advocate.

1.3 The reasons for certificate before all the materials were received were already explained in my written statement and I reiterate the same "that the alleged communication and undertaking dated 30.3.92 from M/S Pabitra Paul was addressed to the Store Officer and it came to me only by way of an endorsement from him. More than I, he (the store officer) knew the position better about incomplete supply, requirement of drawal of cheque before the deadline on the basis of the firm commitment of quick completion of supply as per order, withholding the cheque, as it

52 happens to be the normal practise with a view to beat the dead line. I accept that the store officer countersigned the bills bonafied having full knowledge of the state of affaris and so do I, besides myself having acted under direction".

The Store Officer for reasons best known to him wanted to make me a scape-goat though that was not necessary. But his attempts in this direction were inconsistent and incoherent and could be easily detected.

For example, while he made the statement before the C.B.I. inspector on 10.7.92 he stated as below:-

"Now I have seen an undertaking dated 30.3.92 of Shri Pabitra Paul and state, that the said undertaking was put up to me on the morning of 30.3.92 in my office by Shri Parimal Ghosh". However, when accosted by me in course of examination and cross examination before the I.O. on 22.12.94 Dr. Yadav told that "the letter was not given to him by Shri Parimal Ghosh but it was in the Dak Pad". The clear endorsement on the letter Exh.4 read with his statement before the I.O. leaves no doubt that the earlier statement before the C.B.I. inspector on 10.7.92 was incorrect. And again before the CBI Inspector Dr. B.P.S. Yadav stated;

"Now I have seen an undertaking dated 30.3.92 of Shri Pabitra Paul and state that the said undertaking was put up to me on the morning of 30.3.92 in my office by Shri Parimal Ghosh (already proved incorrect) and he also informed me that the firm as per our supply order dated 9.3.92 had not supplied all the materials but they will supply the same within the date specified in the Undertaking. Then he requested me to pass the bills of the said firm but on enquiry I learnt from Shri Ghosh that the firm has not supplied stationeries worth Rs.20,000/-. However, I refused to pass the bills and instructed Shri Ghosh to put up the bills only after receiving all the items. Then in the evening of the same day (30.3.92)

Attested.

Kalita S. N.

Advocate.

Shri Parimal Ghosh informed me that the party had supplied all the items as per supply order (Exh.22 from my side). It is not true that I told him that "the party had supplied all the items as per supply order". I had all along admitted that the certificate was recorded without the full supply for reasons already adduced and I would have no reason to deviate from my consistent stand.

What was then his reasons for believing that the materials had already arrived. Continuing in that statement Dr. Yadav stated "I also saw some stationeries were brought by Shri Ghosh in a jeep of the I.C.A.R. and was unloading the same and keeping in the store. I did not physically verified the items to ascertain whether the said items were as per the supply order placed to M/S Pabitra Paul. Therefore, I in goodfaith, thinking that all the items were supplied by the firm asked Shri Ghosh to put up the bills".

Now while accosted by me before the I.O. on 22.12.94 he stated in reply to a question from Presenting Officer "Dr. Yadav stated that he did not check the materials physically but he saw a jeep bringing the materials and unloading of the materials was being done". Omission this time of the name of Shri Parimal Ghosh is significant and was also brought to the attention of the I.O..

Continuing in that statement before the I.O. "Parimal Ghosh deposed that he put up the bill of the firm when Dr. Yadav asked him to do so. Dr. Yadav told that he did not tell that". But that is a clear contradiction from what he said before the CBI inspector on 10.7.92 (Defence Exh.22) Mr. Yadav had no doubt complicated the simple matter which had earlier precedents here and elsewhere to draw the full bills and withholding the payment to serve double purpose of completing the supply/works, without allowing a lapse of grants. As far as I was concerned my conscience was clear and that was in the interest of the organisation with full knowledge of my superiors. Subject to above the first question (1) is answered in the affirmative.

1.4. As regards item (ii) I was practically on the run, because my wife in the course of her first delivery had been showing a lot of complications and in fact she had to be admitted in the Nazareth Hospital, Shillong on the 24th April '92 itself. Thereafter in between 24th and 28th April '92 when the godowns were sealed it was intervened by Sunday and myself being on Casual leave" as already stated in my written statement at para 5 and the question of making up the supply between 24.4.92 to 28.4.92 did not arise.

Attested.
Kahla 8.11.96
Advocate.

1.5 As regard item (iii) above in the said para of my written statement I stated "But because I was out of touch during early part of April '92 under some acute unforeseen personal problem and later due to serious illness of my wife, I was not aware till a later stage that the balance supply was made good on 2.4.92 and the cheque that was held up was made over to M/S Pabitra Paul after delivery of store materials in accordance with the supply order".

In course of his statement before the I.O. "Dr. B.P.S. Yadav stated that cheque was issued to M/S Pabitra Paul after full supply of the materials". And the question is now settled as below:-

That the certificates were recorded on the bills in view of the firm undertaking given by the supplier to complete the supply and agreeing by him that he would take the payment only after completing the supply and he got the cheque after the supply was made.

1.6. A question however, cropped up in the course of investigation whether I could produce some records about the procedure in regard to passing of bills in March end and precedents to support such events, I cited file No.RC(S)1/89, which if would have been produced would have thrown enough light but unfortunately inspite of my requisition and request the same could not be made available by the P.O. But otherwise such certificate is not exceptional but is being practised as far as known, in many other Govt. departments.

1.7. A question still requires to be replied is as to why I could not clarify the position to the CBI Inspector when they conducted the surprise check on 24.4.92 I would draw I.O.'s attention to last two paras at page 3 of my written statement wherein I had explained in detail. The same are reproduced below:-

"As for the CBI's surprise check that was done in the most casual manner in as much as no senior officer of the I.C.A.R. nor even the Store Officer who jointly signed the receipt certificate along with me was brought in the picture. Admittedly they were in the stationery (Central) stores only for one hour from 3P.M. to 4P.M. on 24.4.92 and they did not undertake any physical verification of articles in the store"

Attested.

Kartha S. M. G.
Advocate.

As stated ibid I was under severe mental strain that day because of my wife's serious illness and had the store officer atleast been present in the scene he would definitely had explained things better as the letter dt. 30.3.92 by M/S P. Paul was addressed to him and things would have been solved on the spot".

In the course of proceedings held on 22.12.94 Shri K.C. Choudhury C.B.I. Inspector stated as below:-

"Shri P. Ghosh asked him whether he (Mr. Choudhury)

physically verified the stores on 24.4.92 Shri Choudhury stated that no physical counting of the materials was done". And on inquiry from the I.O. as to how I could sign the letter of Shri K.C. Choudhury after seizing the record on 24.4.92 "Mr. Ghosh deposed that he was nervous as his wife was very sick and he showed her admission (24.4.92) and discharge slip (28.4.92) from Nazareth Hospital.

1.8. It may be mentioned that the Presenting Officer in 2nd para page 3 of the written brief had stated that "much emphasis need not be given to the documents exhibited by the C.O. and the witnesses produced by him as these documents and deposition of defence witness do not have any connection with the charges. But in case of the prosecution he brought in as many as three witnesses but he did not even cite a single sentence from their deposition and on the top of that he had himself discarded the evidence of Dr. Chandan Rajkhowa one of his witness not being relevant. Nothing perhaps could have shown the hollowness of his case than this treatment he had given to his own witness.

II. In regard to the charge No.2. He failed to maintain the records in proper manner, the ingredients in the statement of allegations were as follows:-

1. It is alleged that during surprise check it was also observed that Shri Parimal Ghosh was not maintaining the store records properly and the said were found in haphazard manner.

2. It is alleged that after surprise check the Director, I.C.A.R., N.E.H. Region, Barapani, Shillong constituted a committee consisting of five senior officers of I.C.A.R. to physically verify the stock of the store and accordingly during the period from 29.4.92 to 12.5.92 store was verified and total shortage of stationery articles worth Rs.80,000/- (approx.).

Attested.

Karita S.M.
Advocate.

3. It is alleged that after the surprise check on 24.4.92 and before the stock verification by the committee M/S Pabitra Paul supplied the stationery articles to the I.C.A.R.

II.1 As to the first ingredient it is submitted that this allegation was not at all mentioned in the memo dated 24.4.92 made by the C.B.I.

60 II.2 In regard to the 2nd ingredient it may be stated that only Shri Chandan Rajkhwa, Sr. Scientist was placed as a witness on behalf of the committee constituted by the Director I.C.A.R. but his piece of evidence was later discarded by the Presenting Officer in his written brief stating "that the deposition of Dr. Chandan Rajkhwa does not relate to the specific charges against the C.O. and as such need not be taken into consideration". I would have much to say in regard to the 2nd ingredient but that is redundant in view of what the P.O. himself had said.

II.3 The third ingredient concern the supply in the instant supply order and the position has been discussed in all its facet and if any thing there had been nothing in the matter of maintaining records.

II.4 The Presenting Officer drew the conclusion that the said charge was proved because the entries for supply against order dt.9.3.92 were ^{made} before the materials were received but he seemed to have completely missed the point that irrespective of whether materials were received or not those were passed for payment after recording receipt on the bills under the circumstances already discussed at length. Viewed from this angle it is not correct to say that records were not properly maintained on the contrary it proves the other way round that records were properly maintained. As for his presumption the same was not tenable under the law as already discussed para 2 of this defence brief.

6. I have been in the service of the I.C.A.R. and working in the store section for over 8 years in full confidence of my superiors and except for this technical lapse, if at all this is considered as a lapse, that occurred due to no ulterior and malafide intention but only to safeguard the interest of the I.C.A.R., I have an unblemish service.

7. In the conclusion I would submit that the proposition contained in charge No.1 and 2 of "lack of absolute integrity and devotion to duty" is not substantiated and I may kindly be exonerated from the charges in view of discussion contained ibid.

Attested.

Kalita, 8.11.96
Advocate.

Am 2/11/96
(Primal Guest)
Assistant.



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भारतीय कृषि अनुसंधान परिषद्
उत्तर पूर्वी पर्वतीय कृषि अनुसंधान संस्थान
उमरोई रोड, बड़ा पानी
मेघालय
ICAR Research Complex for N. E. H. Region
Umroi Road, Bara Pani 793103
Meghalaya-

Gram : Agricomplex
Phone :
Telex : 237-214
Annexure-96

Ref. No. RC(G)16/92

Dated August 21, 1995

CONFIDENTIAL

I am enclosing a copy of the Inquiry Report submitted by the Inquiry Officer.

You are hereby requested to explain why disciplinary action should not be taken against you.

Your reply should reach the undersigned within 3(three) days on receipt of this letter.

(S. Laskar)
Director

To

Shri Parimal Ghosh
Assistant
ICAR Research Complex for NEH Region
Barapani.

Recd. 07
22.8.95
Ghosh

Attested.

Kalita
Advocate. 8-11-96

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INQUIRY REPORT

(Case No. PE 3(A)/92 - SMG)

IN THE MATTER OF SHRI PARIMAL GHOSH, ASSISTANT
(STORES), ICAR RESEARCH COMPLEX FOR N.E.H. REGION
BARAPANJ, MEGHALAYA

Attested.

Kalita 8.4.96
Advocate.

In the matter of Shri Parimal Ghosh, the then Assistant (Stores), ICAR Research Complex for NEH Region, Barapani, Meghalaya (Charged Officer) - Case No. PE 3(A)/92-SHG.

I was appointed as Inquiry Officer by the Disciplinary Authority and Director, ICAR Research Complex, Barapani (Meghalaya) under sub-rule(2) of Rule 14 C.C.S. (C.C.A. Rules, 1965) vide his order No. RC(G)16/92 dated 15th July 1994 (Ann. I) in order to conduct inquiry against Dr. B.P.S. Yadav, Sr. Scientist (Animal Nutrition), ICAR Research Complex for NEH Region, Barapani (also working as Stores Officer during the period to which the present inquiry pertains) and Shri Parimal Ghosh, Assistant, ICAR Research Complex (then Assistant, Stores), Barapani. However, vide his letter No. RC(G)16/92 dated 26.10.1994 (Ann. II), the Administrative Officer, ICAR Research Complex, Barapani intimated that inquiry against Dr. B.P.S. Yadav need not be conducted. This was in response to Council's Memo F.No. 28(2)/92-Vig. dated 4.5.1994 as mentioned by the Administrative Officer. The article of charge framed against Shri Parimal Ghosh, the then Assistant (Stores), ICAR Research Complex for NEH Region, Barapani (Ann. III) and the statement of imputation of misconduct or misbehaviour in support of the article of charge (Ann. IV) framed against Shri Ghosh were communicated to me vide Administrative Officer's letter No. RC(G)16/92 dated 7.10.1994. I requested the Disciplinary Authority to supply the necessary documents related to inquiry vide my letter No. RC/Inq/S/94/1 dated 28.07.1994 and letter No. RC/Inq/S/94/2 dated 16.8.1994 (Ann. VI and VIA). The letter for preliminary inquiry was issued by me vide No. RC/Inq/S/93/3 dated 8.11.1994 (Ann. V). Shri Parimal Ghosh (Charged Officer) informed me through his letter

Attested.

Kalita S.H. 96
Advocate.

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69 NO. Nil dated 19.11.94 (Ann. VI1) that ne (Charged Officer) would like to defend/represent his case by Mr. B.N. Dutta, Advocate, Laitumkhran, Shillong-3 and letter NO. Nil dated 21.11.1994 (Ann. VII1) requesting for additional documents for defence. Preliminary inquiry was held on 21.11.1994 in which Shri M. Sarania, CBI Inspector (Presenting Officer), Shri T. Thangzalian, CBI Inspector, Shillong and Shri Parimal Ghosh (Charged Officer) were present. The copy of proceedings has been attached as Annexure IX. The regular inquiry was held on 14.12.1994 (Ann. LI) and 22.12.1994 (Ann. LV11).

Article of Charge

The charge framed against Shri Parimal Ghosh, Assistant is :

Whereas, it is alledged that while Shri Parimal Ghosh was posted and functioning as Store Assistant in the Stationery Stores of ICAR, NEH Region, Barapani, Shillong during 1992 failed to maintain absolute integrity and devotion to duty as much as he certified the bills of the party to the tune of Rs. 2,84,732.00 to the effect that, he ^{received} ~~remind~~ the Stationery article^s required to be supplied vide supply order dated 9.3.92 by M/S Pabitra Paul, Shillong without receiving the stationery articles and apart from that he also failed to maintain the Stores records in proper manner and thereby, by the above acts, Shri Parimal Ghosh contravened the provisions of Rule 3(1) (1) of CCS (Conduct Rules, 1964).

The statement of imputations for failing ^{to} ~~the~~ maintain absolute integrity and devotion to duty and misconduct or misbehaviour in respect of the article of charge framed against Shri Parimal Ghosh (Charged Officer) ^s ~~have~~ been given in Annexure IV. However, the gist of the statement relating to the charges is mentioned briefly as under :

Attested.

Karib 8.11.96
Advocate.

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It is alleged that Shri Parimal Ghosh, Assistant (Stores) on 30.3.1992 duly certified the bills of M/s Pabitra Paul, showing receipt of all the articles as per the bills although no such articles were received by him. Earlier, M/s Pabitra Paul of Umpling Bazar, Shillong submitted the Bills No. 9 and 10 dated 18.3.92 for Rs. 74,132.35P and Rs. 2,10,600/-, respectively for supplying stationery articles through Challan No. 15 dated 20.3.1992, Challan No. 16 dated 28.3.1992 and Challan No. 17 dated 31.3.1992. M/s Pabitra Paul did not supply some of the stationery articles as shown in the challans, but Shri P. Ghosh (Charged Officer) on 30.3.1992 duly certified the bills showing receipt of all the articles as per the bills. The above mentioned bills were processed in the Store Section and sanction of Rs. 2,84,132.35P was obtained from the Director, and the D.D.O. and F.A.O. passed the bills on the basis of the ^certificate given by Shri P. Ghosh and countersigned by Dr. B.P.S. Yadav, Store Officer. Payment was received by M/s Pabitra Paul on 3.4.1992 through Cheque No. 02/56, 868656 dated 31.3.1992.

It is alleged that on 24.4.1992, during a surprise check conducted by the C.B.I. officers in the Store of ICAR Research Complex, it was found that the stationery articles purported to be supplied by M/s Pabitra Paul and certified by Shri P. Ghosh, were physically not available in the Store. It was also alleged that Shri P. Ghosh was not maintaining the Stores records properly.

The documents by which the article of charges were framed against the Charged Officer are given from Annexure XXXIX to L and the list of witnesses by whom the article of charge against the Charged Officer is proposed to be sustained is given in Annexure X and XVI.

Attested.

Kalita
Advocate.

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The preliminary hearing was fixed on 21.11.1994 at 12.00 noon at ICAR Research Complex Headquarters at Barapani (Meghalaya) and Shri Parimal Ghosh, Charged Officer and Shri M. Sarania, Presenting Officer were informed through letter No. RC/Inq/S/1994/3 dated 8.11.1994 (Ann. V/). The proceedings of the preliminary inquiry were attended by the Charged Officer, Presenting Officer and Shri T. Thangzalian (Inspector, CBI, Shillong). The respective article of charge against the Charged Officer as mentioned in the imputation of misconduct and mentioned in this report, was read out to the Charged Officer. He categorically denied the article of charge framed against him. So, the charge against the Charged Officer, namely Shri Parimal Ghosh was admitted and pressed for inquiry.

The Charged Officer requested for inspection of the documents as given in the proceedings of the preliminary inquiry (Ann. IX, 2 pages). The Charged Officer was asked to produce the certificate to the effect that Defence Assistant, if any, has not more than two pending cases in hand. The Presenting Officer, Shri M. Sarania (Inspector, CBI) appeared before me with all the listed documents. The Charged Officer inspected the list of documents. The Charged Officer was also directed to submit the list of Defence Witnesses proposed to be examined on his behalf so as to reach the inquiry officer by 30th November, 1994. The Presenting Officer was also asked to submit the list of Prosecution Witnesses by the above date (30.11.1994). A copy of the letter dated 21.11.1994 from the Charged Officer was handed over to Presenting Officer wherein the Charged Officer had listed the documents to be inspected (Ann. VIII). The copies of statements of the Prosecution Witnesses were given to the Charged Officer by the Presenting Officer. After the inspection of

Attested.

Karita 8.11.96
Advocate

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the listed documents, it was decided to take up the case for regular hearing from 14th December, 1994 at the same venue i.e. ICAR Research Complex for NEH Region, Barapani (Committee Room). Both the Charged Officer and Presenting Officer took copies of the proceedings of the preliminary inquiry.

Charge Inquired

The admitted charge as given in Annexure III was pressed for inquiry and regular hearing in the case was held on 15.12.1994 and 22.12.1994.

Brief Statements of Facts

The requisition for procurement of stationery articles was submitted by Shri Parimal Ghosh (Charged Officer), Assistant Stores, ICAR Research Complex for NEH Region, Barapani on 22.2.1992. The total value of the stationery articles was about Rs. 5,14,630/- (Rupees five lakhs fourteen thousand six hundred thirty) as evident from the note sheet (Ann. XL). Out of this, an order (No. RC(S)10/91/100 dated 09.03.1992 for Rs. 2,84,732/- (Rupees two lakhs eighty four thousand seven hundred thirty two) for procurement of stationery articles was placed with M/s Pabitra Paul of Umpling Bazar, Shillong-6. This is evident from the fully vouched contingent bill for this amount (Ann. XLVII). The firm submitted two bills viz. No. 9 (Ann. XLV) for Rs. 74,132.35P (Rupees seventy four thousand one hundred thirty two and Paise thirty five) and No. 10 (Ann. XLVI) for Rs. 2,10,600/- (Rupees two lakhs ten thousand six hundred). The total stationery material was shown to have been supplied through Chailan No. 15 dated 20.3.1992 (Ann. XLII), Chailan No. 16 dated 28.3.1992 (Ann. XLIII) and Chailan No. 17 dated 31.3.1992 (Ann. XLIV). The consolidated requisition for stationery was stated to be based on the requirements of various Divisions (Disciplines of the ICAR Research Complex).

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Attested.

Kalita 8.11.96
Advocate.

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The supply order for stationery articles was placed with M/s Pabitra Paul, Umpling Bazar, Shillong through order No. PC(S)/10/91/100 dated 9.3.1992. The Challan Nos. 15, 16 and 17 through which the stationery articles were supplied, do not bear the signature of the receiver of articles. M/s Pabitra Paul submitted two bills viz. No. 9 dated 18.3.1992 for Rs. 74,132.35F and No. 10 dated 18.3.1992 for Rs. 2,10,600/-. The sizes of envelopes have not been indicated in the challans. M/s Pabitra Paul could not supply all the stationery items by 30.03.1992 and informed the Store Officer through their letter of 30.3.1992 (Ann. XLI) that they (M/s Pabitra Paul) cannot supply some of the stationery materials such as carbon paper, envelopes, note sheets, torch and file envelopes due to blockade of road transport at Sri Rampur Checkgate (Assam) and that they undertake to supply the above articles within 10 days from 30.03.1992. However, these articles have been shown to ^{be} ~~have been~~ supplied to Store Officer, ICAR Research Complex on 31.03.1992 through Challan No. 17 (Ann. XLIV).

A fully vouched contingent bill No. ^{RC(E)Contd/906/99} (RC(S) 10/91/145 dated 31.3.1992) was prepared (Ann. XLVII). The cheque for Rs. 2,84,732/- (Rupees two lakhs eighty four thousand seven hundred thirty two) only bearing No. 02/56, 868656 dated 31.03.1992 from ICAR Research Complex was received by M/s Pabitra Paul on 03.04.1992 as payment against their bills No. 9 and 10 of 18.3.1992 (An. XLVII).

An inquiry was initiated with the appointment of Dr. S. Laskar, Director, ICAR Research Complex for NEH Region, Barapani, Meghalaya as Disciplinary Authority by ICAR, Krishi Bhawan, New Delhi.

Attested.

Kahita, 8.4.96
Advocate.

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List of Documents Admitted and Witnesses

A Prosecution side

1. Witnesses examined :

1. Dr. Chandan Rajkhowa, Sr. Scientist, ICAR Research Complex, Barapani
2. Sri Pranab Medhi, Asstt. Admin. Section, ICAR Research Complex, Barapani
3. Sri K.C. Choudhury, Inspector, CBI, Guwahati

B Documents exhibited :

1. Bill No. 9 dated 18.3.92 for Rs. 74,132.35P.
2. Bill No. 10 dated 18.3.92 for Rs. 2,10,600.00.
(M/s Pabitra Paul, Umpling Bazar, Shillong)
3. Chalan No. 15, 16 & 17 dated 20.3.92, 28.3.92 & 31.3.92 in respect of supply of stationery articles to ICAR, Barapani.
4. Undertaking dated 20.3.92 of M/s Pabitra Paul, Umpling Bazar, Shillong to Store Officer, ICAR Research Complex, Barapani regarding non-supply of all the items as per their bills.
5. Sanctioned order No. RC(S)/10/91/145 dated 31.3.92 for Rs. 2,84,732.35P for supply of stationery to Director, ICAR Research Complex, Barapani.
6. Noney receipt in original dated 3.4.92 of M/s Pabitra Paul, Umpling Bazar, Shillong regarding receipt of Cheque No. 0250 868656 dated 31.3.92 for Rs. 2,84,732.00 P.
7. File No. RC(S)/10/91 of Store Section regarding procurement of stationeries for ICAR Research Complex, Barapani.
8. Stock Register No. VI and VII of Store Section, ICAR Research Complex, Barapani.
9. Memorandum dated 24.4.92 in respect of conducting surprise check to Stores of ICAR Research Complex, Barapani.
10. Circular No. RC(4)/32/97 Vol.I dated 25.4.92 of Director regarding constitution of standing committee for verification of stores materials.

Attested.

Kabita 8.11.96
Advocate.

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11. Circular No. RC(G)32/97 Vol.1 dated 27.4.92 of Director, ICAR Research Complex, Barapani asking the standing committee for immediate verification of stores.
12. Report dated 12.5.92 of Dr. D.S. Chauhan, Principal Scientist, Agro-forestry Division, alongwith stock verification report of ICAR, Store dated 12.5.92

~~13.~~

B Defence Side

1. Witnesses examined :

1. Smti Diana Dknar, the then Supdt. (Stores) (Did not appear)
2. Smti Anita Roy, Jr. Clerk (Stores)
3. Shri Dilip Chetia, Despatch Rider (doing the work of Receipt Clerk in March 1992)

11 Documents exhibited

1. Statement of Dr. C. Rajkhowa, Sr. Scientist recorded by C.B.I. on 10.7.92.
2. Circular No. RC(G)32/87 Vol.1 dated 25.4.92 regarding constitution of physical verification committee.
3. Order no. RC(G)16/92 dated 10.2.94.
4. Handing over and taking over report dated 3.6.92.
5. Order No. RC(S)49/80 dated 17.6.91 regarding allotment of work in the Stores Section.
6. No. RC(G)16/92 dated 17.2.94 (Charge Sheet).
7. Copy of committee's report regarding non-verification of materials stored in the godown no. 3 and removal of roof of that godown.
8. No. RC(G)16/92 dated 22.2.94 regarding additional documents i.e. its relevance with the case.
9. Statement of Shri P. Medni, the then Asstt. (Stores) regarding countersignature of the bill by Store Officer.

Attested.

Kalita 8.11.96
Advocate

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10. Memo dated 24.4.92 issued by C.B.I. (i.e. surprise check).
11. Statement of Shri A.K. Chakravarty, Inspector, CBI dated 14.8.92.
12. Copy of report dated 28.3.92.
13. Copy of report dated 2.5.92.
14. Copy of report dated 6.3.92.
15. Copy of report dated 28.7.90
16. Copy of report dated 24.3.92.
17. Copy of statement dated 3.1.91.
18. Copy of statement dated 16.1.91
19. Copy of statement dated 3.8.90.
20. Copy of statement dated 27.4.92 (intimation to the Director regarding surprise check of CBI).
- * 21. Copy of Note Sheet No. 22 of file No. RC(S) 10/91.
22. Statement of Dr. B.P.S. Yadav, the then Store Officer dated 10.7.92 recorded by CBI.

Brief Version of the Case in Respect of Charges

Letters to the Charged Officer, Presenting Officer and Defence Witnesses were issued on 12.12.1994 (Ann. XIII, XIV and XII, respectively) for appearing before me on 14.12.1994 for inquiry. During the inquiry, it was stated by Dr. Chandan Rajkhowa, Sr. Scientist, ICAR Research Complex and Prosecution Witness (statement at Ann. XVII) that he was a member of the committee (Ann. XVII) which conducted physical verification of the stores (in which stationery was kept) from 28.4.1992 and that the report was submitted on 28.4.1992. He deposed before me that the stores godown was sealed on 28.4.1992 itself for physical verification of the total stocks as per orders of the Director. He further deposed that a list was prepared of the articles which were short and their appropriate cost.

Attested.

Kalite 8.11.96
Advocate.

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was calculated. Shri Parimal Ghosh, the Charged Officer, cross examined Dr. Rajkhowa and wanted to know from him that, how Shri Satish Chandra, Sr. Scientist (PL. Pathology) and Dr. V.A. Parthasarathy (Sr. Scientist, Hort.) were included in the committee in place of Dr. K.M. Bujarbaruah and Dr. K.K. Satpathy (both Senior Scientist of ICAR Research Complex, Barapani and initially members of the committee as given in Ann. XVII) without a formal order from the competent Authority. Dr. Rajkhowa told that he did not know about this change in the committee members as he did not get the copy of the order, if any. Shri P. Ghosh insisted that the new committee cannot be regarded as valid since no formal order was issued. He inquired from Dr. Rajkhowa that why all the items in the Store were not physically verified as per order of the Director and only stationery was checked. Dr. Rajkhowa told that only stationery items were checked. Dr. Rajkhowa deposed that the approximate shortage of stationery was to the tune of Rs. 85,000/-. When asked by the Inquiry Officer to give his statement in writing, Dr. C. Rajkhowa informed that he has already done so (Ann. XVII, 2 pages).

Shri Pranab Medhi, Assistant, ICAR Research Complex, Barapani and Prosecution Witness in this case, also deposed before me. Shri M. Sarania (CBI Inspector), Presenting Officer asked Shri Medhi that whether he recognized the bills submitted by M/s Pabitra Paul. Shri Medhi said 'Yes'. Shri P. Medhi submitted that he processed the bills only after verification of these by the Store Clerk and the Store Officer. The bills were submitted by M/s Pabitra Paul on 18.3.1992 and were passed on 31.3.1992, and cheque issued in the name of M/s Pabitra Paul, who received it on 3rd of April, 1992 (Ann. XLVIII). Shri P. Medhi's written statement is attached as Annexure XXVI.

Attested.

K. V. S. S. S.
Advocate.

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The Presenting Officer inquired from Shri P. Ghosh, the Charged Officer that how he (Shri P. Ghosh) made the entries of stationery articles in the Store Register without receiving these articles. Shri Ghosh replied that though the bills were received on 18.3.1992, he processed them only after an undertaking was given by the firm and which was received through the Store Officer. The Presenting Officer then asked from Shri P. Ghosh (Charged Officer) that who makes entries in the Store Register. Shri P. Ghosh informed him that a Jr. Clerk attached to him used to make entries. On this, the Presenting Officer showed him the Stock Register where entries were made by Shri P. Ghosh only. The Presenting Officer further asked from the Charged Officer that whether the latter had given the certificate for the receipt of the materials even without receiving the same. Shri P. Ghosh admitted the charge and told that since M/s Pabitra Paul gave an undertaking on 30.03.1992 to supply the short materials within 10 days, he certified the bills.

Two Defence Witnesses, Mrs Anita ^{Roy} and Shri D.K. Chetia deposed before me. They informed that they do not know about the case. Shri P. Ghosh showed some letters to them for their receipt in the office. Both of them (Defence Witnesses) told that they had received these letters as receipt Clerks and forwarded the same to the concerned authorities. However, the Defence Witnesses did not throw any light on the present case. A copy of the proceedings has been attached as Annexure LI(2 pages).

The next date of regular hearing was fixed on 22.12.1994 and proceedings are given as Ann. LVII, (2 pages). Letters for appearing before me on 22.12.1994 for deposition were issued to Shri J.K. Guha

Attested.

Rabindra S. N. 96
Advocate.

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(Ex-FAU), Dr. B.P.S. Yadav, Sr. Scientist and Working as Store Officer at ICAR Research Complex and Shri K.C. Choudhury, Inspector CBI, Guwahati (Ann. LII, LIII and LIV, respectively). Shri Guha received the letter (Ann. LV) but did not appear before me. Two Prosecution Witnesses, namely Shri K.C. Chaudhury, Inspector CBI, Guwahati and Dr. B.P.S. Yadav (Store Officer during March, 1992) Sr. Scientist, ICAR Research Complex deposed before me on this day. In reply to a question from the Inquiry Officer, Dr. B.P.S. Yadav stated that the cheque was issued to M/s Pabitra Paul after full supply of the stationery was made. The Presenting Officer showed Dr. Yadav the earlier recorded statement (Ann. XXXVIII, pp 8) made by him and inquired whether he (Dr. Yadav) wanted to add or delete something from the statement. Dr. Yadav told that he stands by his earlier recorded statement. He further stated that he put his signatures on the bill submitted by M/s Pabitra Paul only after receipt of the material in the Store. In reply to a query from the Presenting Officer, Dr. Yadav stated that he did not check the stationery articles physically but he saw a Jeep bringing the stationery which was then unloaded. When the attention of Dr. Yadav was drawn to a letter from M/s Pabitra Paul, received on 30th March, 1992, to the effect that the firm was unable to supply some of the stationery articles owing to blockade at Sri Rampur Check-gate, where his consignment was struck up, Dr. Yadav told that the letter was placed in the Dak Pad of the Store Section. here, Dr. Yadav deviated from his written statement where he had stated above letter was handed over that the ~~Charge Officer in the present case~~ to him by Shri P. Ghosh, the Charged Officer in the present case. At this stage, I inquired from Dr. Yadav about the letter of undertaking from M/s Pabitra Paul and that, why, the letter was not given a page number in the file.

Attested.

Kalita S.N.G.
Advocate

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Dr. Yadav informed that the letter was submitted to him in the morning and the bill in the evening of 30.03.1992. No specific reply was given about the reason for not giving page number on the above letter.

In reply to a query from me, Shri P. Ghosh replied that he put ^{up} the bills of the firm (M/s Pabitra Paul) when Dr. Yadav (Store Officer) asked him to do so. Dr. Yadav told that he did not tell that. Shri P. Ghosh deposed that the material was received during his leave period. Dr. Yadav also stated that Shri P. Ghosh duly informed him about the roof of the store being blown off by the strong wind and that there were chances of spoilage of the stationery material.

Shri K.C. Choudhury, Inspector CBI (Guwahati) and Prosecution Witness in the present case also deposed before me. During cross examination by Shri Parimal Ghosh, Shri Choudhury stated that no physical counting of the store materials was done. Shri Ghosh (Charged Officer) inquired from Shri K.C. Choudhury that it was mentioned in the imputation statement that he (Shri Ghosh) could not maintain the record properly as noticed during the surprise check by him (Shri Choudhury) and how it was possible to write this in absence of proper checking of the stores. Shri K.C. Choudhury deposed that he did not check the stores physically and no counting of the material was done. I inquired from Shri P. Ghosh (Charged Officer) that how he signed the statement letter (Ann. XXXIX) of Shri K.C. Choudhury, CBI, Inspector who siezed the records on 24.04.1992. Mr. P. Ghosh stated that since his wife was very sick during that period, he was very nervous. He showed her admission (24.04.1992) and discharge slip (28.04.1992) from Nazareth Hospitals Shillong (Ann. LVI).

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Attested.

Kalita 8-11-96
Advocate.

76 I inquired from Shri M. Sarania (Presenting Officer) and Shri Parimal Ghosh (Charged Officer) whether they have anything to say further. They said 'No'. I told the Presenting Officer to submit a written brief, if he so desired, within ten days from the day of inquiry with a copy to the Charged Officer. The Charged Officer was directed to submit his defence brief within five days of receiving the Presenting Officer's written brief.

It may be mentioned here that the letter (Ann. LII) was issued to Shri J.K. Guha (Finance and Accounts Officer, ICAR Research Complex during March, 1992) to appear before me as his name was given by the Presenting Officer as Prosecution Witness. He acknowledged the letter (Ann. LV) but did not appear before me. The Presenting Officer submitted in his written brief that as Presenting Officer, he had completed leading the evidence on behalf of Disciplinary Authority and had no more evidences, either documentary or oral, to be produced before the Inquiry Officer.

In his written brief (Ann. LIX, pages 4), Shri M. Sarania, the Presenting Officer has stated that neither the deposition of Defence Witness nor the contents of defence documents have any relevance to the charges framed against the Charged Officer. The Presenting Officer goes on to mention about the charge against the Charged Officer and his certification of the bills even in absence of actual supply of the stationery articles and also that he (Charged Officer) could not maintain the records properly.

Attested.

Kalita 8.11.96
Advocate.

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The Charged Officer has signed a statement of shortage of materials in the Store in presence of Shri K.C. Choudhury, Inspector, CBI, Guwanati. Shri A.B. Gupta, CBI, Inspector Guwanati and Shri A.K. Chakraborti, CBI, Inspector, Itanagar (Ann. XXXIX). Shri A.K. Chakraborti, CBI, Inspector, Itanagar also mentioned about the shortage of stationery articles in the Store (Ann. XXVIII).

Brief Version of the Defence Case

The Charged Officer, Shri Parimal Ghosh wanted to produce before the inquiry officer three Defence witnesses, but only two of them namely Smti Anita Roy, Jr. Clerk (Store) and Shri Dilip Chetia, the Despatch Rider (working as receipt Clerk) deposed before me. They did not throw direct light on the present case. Shri Parimal Ghosh (Charged Officer) showed them some papers which they (Defence witnesses) admitted to have handed over to the concerned. The Charged Officer exhibited twenty ^{one} ~~two~~ documents (Ann. XVIII to ^{XXXVIII} ~~XXXX~~).

Shri P. Ghosh admitted in his statement (Ann. XLIX) recorded by Shri K.C. Choudhury, Inspector CBI, Guwahati that the stock register (No. VI) which was maintained by an Assistant was not up-to-date and was kept pending for more than eight months. The Charged Officer then opened a new stock register (No. VII) in February, 1992 wherein the bills relating to supply order placed to different firms from January, 1992 onwards were entered. He stated that the requisition for stationery was submitted by him on the basis of requisition from different Head of Divisions of ICAR Research Complex, NEH Region, Barapani. The approximate cost was about Rs. 5.36 lakhs, as mentioned by him (Charged Officer).

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Attested.

Kabir S.N. 96
Advocate.

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The Charged Officer had certified the bills (NO. 9 & 10) from M/s Pabitra Paul and entered the articles in the stock register which was duly countersigned by the Store Officer. He has admitted in his statement that he recorded the certificate in the bills even though some of the items, as per the bills (NO. 9 & 10 of M/s Pabitra Paul) were not received in the store with a view to facilitate passing of the above bills before closing of the financial year 1991-92 on 31.03.1992. He further deposed that the certificate of having received the articles in the stores was recorded in consultation with the Store Officer, who also countersigned the bills. Shri P. Ghosh also admitted that on 24.04.1992, when CBI officers conducted a surprise check in the Store of ICAR Research Complex, in his presence, some of the items as per bill Nos. 9 and 10 from M/s Pabitra Paul, were not received by him in the Store. He, however, stated that subsequently M/s Pabitra Paul supplied all the articles as per their bills (Nos. 9 and 10).

The Charged Officer stated that since the stock register was not up-to-date with regard to issue of some items, the committee constituted by the Director, ICAR Research Complex vide his No. RC(G)32/87 Vol.I dated 25.04.1992 showed the material as short in their report submitted to the Director of the Institute (Ann. XV). He (Charged Officer) stated that the shortage shown in the report of the committee was not correct. His (Charged Officer's) signature was also not taken on the copy of the report.

Attested.

Karita 8.11.96
Advocate.

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Through the documents exhibited by Shri Parimal Ghosh (total exhibits 22, Ann. XVIII to ~~XXXIX~~ ^{XXXVIII}), the Charged Officer mainly wanted to state in his defence that the godown in which store material was kept, was not safe considering from the security point of view (Ann. XXIX) exhibit 12) as the ceiling of the same was more or less open. He also conveyed through letters and notes dated 06.03.1992 (Ann. XXX), dated 02.05.1992 (Ann. XXXI), dated 28.07.1990 (Ann. XXXII), dated 24.03.1992 (Ann. XXXIII), dated 03.01.1991 (Ann. XXXIV), dated 16.01.1991 (Ann. XXXV) and dated 03.08.1990 (Ann. XXXVI) regarding the leakage in the roof of the godown and spoilage of the store materials.

In response to the written brief of the Presenting Officer, the Charged Officer (Shri P. Ghosh) submitted a detailed reply (Ann. LX, pp 8). In his reply, the Charged Officer states that genuineness of the undertaking of 30.03.1992 from M/s Pabitra Paul, has been doubted by the Presenting Officer but its mention in the report submitted after surprise check on 24.04.1992 should dispel these doubts of the Presenting Officer. The Charged Officer has stated that during inquiry, Shri K.C. Choudhury, Inspector CBI (who conducted the surprise check on 24.04.1992 in the stores), has admitted that no counting of the material was done during the surprise check. In his defence brief, the Charged Officer stated that there was no question of short supply of stationery material and only thing was that, he certified the bills before full materials was supplied by the firm. Mr. P. Ghosh (Charged Officer) has pleaded through his defence brief (Ann. LX) that the stationery material was fully supplied by the firm.

Attested.

Kalita 8.11.96
Advocate.

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Points of Determination

- 80
1. Shri Parimal Ghosh, while posted and functioning as Store Assistant in the stationery stores of ICAR Research Complex for NEH Region, Barapani (Shillong) during 1992 failed to maintain absolute integrity and devotion to duty as much as he certified the bills of the party to the tune of Rs. 2,84,732/- (Rupees two lakhs eighty four thousand seven hundred thirty two) only to the effect that he received the stationery articles required to be supplied vide supply order dated 09.03.1992 by M/s Pabitra Paul, Umpling Bazar, Shillong without receiving the same.
 2. Shri Parimal Ghosh, Assistant (Stores) failed to maintain the store records properly.

Assessment ~~the~~ ~~of~~ ~~the~~ ~~of~~ evidences in respect of First Point of Determination

1. Store verification report of the committee headed by Dr. D.S. Chauhan (Ann. XV, page 4) in which shortage of stationery articles in the store was pointed out. The stationery articles worth Rs. 81,140.36p (Rupees eighty one thousand one hundred forty and paise thirty six) only has been shown as short.
2. State ment of Dr. Chandan Rajkhwa (Ann. XVIII, pages 2), a member of the committee constituted vide No. RC(G) 32/8/ Vol.I dated 25.04.1992 ^{by} ~~the~~ Director, ICAR Research Complex for physical verification of the stores mentioned a shortage of Rs. 83,000/- (Rupees eighty three thousand only) worth of stationery articles. He deposed that physical verification of the store was made on the basis of the stock in hand in the stock register. He however, mentioned that signature of Shri Parimal Ghosh was not obtained on the statement prepared by the committee.

Attested.

Kalite S. N. 96
Advocate

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3. Order No. RC(G)16/92 dated 10.2.1994 (Ann. XX) mentioned about the shortage of stationery articles in the stores as indicated by the committee constituted vide officer's order No. RC(G)32/87 Vol.I dated 25.4.92 and subsequently order No. RC(G)16/92 dated 06.04.1993. The shortage indicated by the committees was worth Rs. 80,000/- (eighty thousand) and Rs. 73,262.58P (seventy three thousand two hundred sixty two and Paise fifty eight), respectively.
4. Office memorandum No. RC(G)16/92 dated 17.02.1994 wherein the Director, ICAR Research Complex proposed to hold an inquiry against Shri Parimal Ghosh, Assistant (Stores) under Rule 14 of C.C.S. (C.C.A.) Rules, 1965 (Ann. XXIII).
5. Memorandum No. RC(G)16/92 dated 22.02.1994 (Ann. XXV) with a store verification report of the second committee. A shortage of store material worth Rs. 73,262/- (Rupees seventy three thousand two hundred sixty two), approx. has been indicated.
6. Shri Pranab Medhi, Assistant, Admn. Section deposed that (Ann. XXVI, pages 5) a requisition was submitted by Shri Parimal Ghosh, Store Assistant for procurement of stationery for the year 1992-93. In the said requisition, Shri P. Ghosh (Charged Officer) intimated that requirements were assessed on the basis of requirements of various Divisions of ICAR, but requisition^s of the Heads of Divisions^{were} not submitted by him. The said requisition was put up by Shri Medhi to Dr. Yadav in a file as per orders of the latter. He could recognize the signatures of both Shri P. Ghosh and Dr. B.P.S. Yadav on the requisition. The total amount involved for procuring stationery was Rs 5.30 lakhs approximately. Shri Medhi has

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Attested.

Rohita 8.4.96
Advocate.

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further stated that both Shri P. Ghosh and Dr. B.P.S. Yadav certified the bills from M/s Pabitra Paul of Umping Bazar, Shillong which he (Mr. Medhi) put up to the Store Officer for

82 getting sanction of the Director. Shri P. Medhi stated that the party (M/s Pabitra Paul) had received payment of the bills in the first week of April, 1992 without supply of all the materials as per their bills.

1. Statement recorded by Shri K.C. Choudhury, Inspector CBI, Guwahati on 29.4.1992 (Ann. XXVII) in the presence of other CBI Inspectors namely, Shri A.B. Gupta of Guwahati and Shri A.K. Chakraborty of Itanagar, and the Charged Officer, Shri Parimal Ghosh, Assistant (Store), stating that during a surprise check conducted in the stationery store of ICAR Research for NEH Region, Barapani all the items mentioned in Challan No. 15 dated 20.3.1992 were found not supplied by the firm, M/s Pabitra Paul. Against Sl. No. 16 and 18 of Challan No. 16 (copy enclosed) dated 28.3.1992 only 1000 envelopes against 8000 pieces and 6 numbers torches against 16 nos. were received from the said firm. The firm vide letter dated 30.3.92 (Ann. XLI) confirmed non-supply of the same and undertook to supply the material within 10 days ^{ie} (up to 9.4.1992) but nothing was supplied against the aforesaid challan. It is mentioned in the above statement that entries of the said items not received are shown in the stock ledger except D.F.C. paper but payment was released vide Cheque No. 868656 dated 31.3.92 for Rs. 2,84,732/- (Rupees two lakhs eighty four thousand seven hundred thirty two) only. Shri Parimal Ghosh (Charged Officer) has signed the statement.

Attested.

Kalita 8.11.96
Advocate

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8. Statement of Shri A.K. Chakraborty, Inspector CBI, Itanagar Unit (Ann. XXVIII) wherein he stated that on 24.04.1992, he along with Shri K.C. Choudhury, and Shri A.B. Gupta, Inspector CBI, Guwanati Unit, conducted a surprise check in stationery store of ICAR, NEH Region, Barapani in the presence of Shri Parimal Ghosh (Charged Officer). He stated that during surprise check, it was found that all the items mentioned in Challan No. 15 dated 20.03.1992 were not supplied by the firm, M/s Pabitra Paul. In Challan No. 16 dated 28.03.1992, the said firm supplied only 1000 pcs against 8000 pec of envelopes and 6 against 16 Nos. of torch lights to the ICAR Research Complex. But in stock ledger, all the items have been shown as received.
9. Letter from M/s Pabitra Paul of 30.3.1992 (Ann. XL1) stating that remaining supply, i.e. carbon paper, envelopes, note sheet, torch, file envelop will be supplied within 10 days. They requested for release of payment after completion of full supply.
10. Statement of Shri P. Ghosh himself (Ann. XVI) recorded by Shri K.C. Chaudhury, Inspector CBI, Guwanati which reads "Here I (Shri P. Ghosh) am to state that I (Shri P. Ghosh) had issued the certificates in the bills although most of the items as per the bills were not received in the store with a view to facilitate passing of said bills before the closing of the financial year 1991-92 on 31.3.1992. The certificates were issued by me after consultation with the Store Officer, who also countersigned the bills". Shri P. Ghosh (Charged Officer) however stated that subsequently M/s Pabitra Paul supplied all the articles as per the bills. Shri P. Ghosh (Charged Officer) admitted that he had certified the bills No. 9 and 10 from M/s Pabitra Paul without receiving all the items.

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Rajeev S. N. 26
Advocate.

11. Statement of Dr. B.P.S. Yadav, Sr. Scientist & Head, Anim. Nutrition Division working as Store Officer during the period of the present case (Ann. XXXVIII, pp 8) wherein he has stated that he learnt from Shri P. Ghosh on 30.03.1992 that stationery worth Rs. 20,000/- (Rupees twenty thousand) has not been supplied by the firm. However, Dr. Yadav deposed that the short items ^{were} ~~was~~ received before he (Dr. Yadav) counter-signed the bills.

12. Proceedings of the regular inquiry on 14.12.1994 (Ann. LI). On being asked by the Presenting Officer, Shri P. Ghosh admitted that he had given the certificate for receiving the stationery material on the body of the bill even without receiving the same.

Both the Defence Witnesses, Viz. Mrs. Anita Roy and Shri D.K. Cnetia stated that they do not know about the case.

Assessment ~~of~~ ~~the~~ ~~evidences~~ of evidences in respect of Second Point of Determination

1. The statement of Dr. Chandan Rajkhowa (Ann. XVIII, 2 pages), wherein he has deposed that physically verification of the store was made on the basis of the stock in hand shown in the stock register. He further deposed that there was a shortage of approximately Rs. 83,000/- (Rupees eighty three thousand).

Attested.

Kalita, 8.11.96
Advocate.

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2. Office order No. RC(G) 16/92 dated 10.02.1994 (Ann. XX) issued by the Director, ICAR Research Complex, Barapani indicating a shortfall of stationery articles worth Rs. 80,000 (approx.) (Rupees eighty thousand) as investigated by a committee constituted vide office order No. RC(G) 32/87 (Vol. I) dated 24.04.1992. The second committee constituted vide office order No. RC(G) 16/92 dated 06.04.1993 indicated a shortfall of Rs. 73,262.58P (Rupees seventy three thousand two hundred sixty two and paise fifty eight) in their report. The items were entered in the Store Register even without receiving the same physically in the store, as alleged.
3. Statement of Shri Pranab Medhi (Ann. XXVI) that the bills were received in the Store Section duly certified by the Store Officer and Store Assistant on the reverse of the bill as regards receipt of materials in the store as per the bills.
4. Report of Shri K.C. Choudhury, Inspector CBI, Guwahati (Ann. XXVII) mentioning that entries of some items not received are shown received in the Stock Ledger.
5. Letter dated 30.3.1992 from M/s Pabitra Paul, Umpling Bazar, Shillong (Ann. XLI) regarding his being not in a position to supply some of the stationery articles due to blockade on road transport in the Checkgate at Sri Rampur. He undertook to supply these stationery articles within 10 days from the date of the letter i.e. up to 9.04.1992. The stationery articles were entered in the stock register even though these were not supposed to be supplied as per letter/undertakeinf. of the firm.

Attested.

Kalita B. N. 196
Advocate.

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6. Statement of Shri P. Ghosh (Ann. XLIX, pages 4) wherein he admitted his fault of certifying the bills NO. 9 and 10 of M/s Pabitra Paul even without receiving all the items, though the material was subsequently supplied as stated by him.
7. Proceeding of the regular inquiry conducted on 14.12.1994 (Ann. LI, pp.2) and 22.12.1994 (Ann. LVII, pp 2). The Presenting Officer asked Shri P. Ghosh (Charged Officer) that how he made the entries in the store register without receiving all the materials. Mr. Ghosh replied that though the bills were received on 18.03.1992, he processed them only after an undertaking was received from the firm through the Store Officer. However, File NO. RC(G)32/87 Vol.I, RC(S)1/89 and RC(S)18/86 could not be produced before the Inquiry Officer (Ann. LVIII, LXI, LXII).
8. Handing over of charge report (Ann. XXI pp 20) - Shri P. Ghosh handed over the charge of store keeper to Shri Robin Subba (Sr. Clerk) on 03.06.1992. Nowhere, shortage of stationery has been indicated as per stock register.
9. Shri K.C. Chaudhury, Inspector CBI, Guwahati, who conducted the surprise check in the stores on 24.04.1992, deposed that no physical verification of the store items was done during the check.

Attested.

Karlita 8.11.96
Advocate.

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Findings on the Article of ChargeFirst point of determination

1. It is clearly evident from the points of assessment of evidences given above and supported by the enclosed documents that the case for sanction of stationery articles was processed by Store Officer on 30.03.1992 and FAO put up the case to the Director, ICAR Research Complex and formal sanction was accorded on 30.03.1992 itself (Ann. XL). This included the bills of M/s Pabitra Paul of Umpling Bazar, Shillong amounting to Rs. 2,84,732/- (Rupees two lakhs eighty four thousand seven hundred thirty two) only. It would be appropriate to mention in brief the facts about the charge of certification of the bills No. 9 and 10 of M/s Pabitra Paul by Shri Parimal Ghosh (Charged Officer) even without receiving some of the stationery articles included in the bills :

The requisition of stationery articles was submitted on 22.02.1992 by Shri Parimal Ghosh (Charged Officer) which was said to be based on the requirements of various Divisions and Regional Centres of ICAR Research Complex for NEH Region. The order was placed with M/s Pabitra Paul vide Store order No. RC(S) 10/91/100 dated 09.03.1992 to supply the stationery articles within 10 days i.e. up to 19.03.1992. M/s Pabitra Paul submitted two bills i.e. No. 9 dated 18.03.1992 for Rs. 74,132.35P (Rupees seventy four thousand one hundred thirty two and paise thirty five only) and No. 10 dated 18.03.1992 for Rs. 2,10,600 /- (Rupees two lakhs ten thousand six hundred only) (Ann. XLV and XLVI, respectively). The stock register entry has been recorded by Shri P. Ghosh on the back side of the bills and countersigned

Attested.

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Pabitra S. N. G.
Advocate.

by Dr. B.P.S. Yadav, Sr. Scientist, then holding the charge of Store Officer. None of them has given the date on the bills.

88 The stationery materials from M/s Pabitra Paul has been shown in three challans viz. No. 15 dated 20.03.1992 (Ann. XLII), No. 16 dated 28.03.1992 (Ann. XLIII) and No. 17 dated 31.03.92 (Ann. XLIV). No body from the Stores Section has put the signature as receiver. Fully vouched contingent bill No. RC(E) Contg./906/92 (RC(S) 10/91/145) (Ann. XLV) was prepared on 31.03.1992 for Rs. 2,84,732/- (Rupees two lakhs eighty four thousand seven hundred thirty two only). The party i.e. M/s Pabitra Paul of Umpling Bazar, Shillong received payment on 03.04.1992 through Cheque No. 02/56-868656 dated 31.03.1992.

2. Preliminary inquiry in the case was conducted on 21.11.1994 and regular inquiry on 14.12.1994 and 22.12.1994. The proceedings of regular inquiry conducted on 14.12.1994 and 22.12.94 as well as the statements of Prosecution Witnesses; statements recorded by Shri K.C. Choudhury, Inspector CBI, Guwahati on 24.04.1992 in presence of Shri A.B. Gupta, Inspector CBI, Guwahati and Shri A.K. Chakraborty, Inspector CBI, Itanagar; letter dated 30.03.1992 from M/s Pabitra Paul to the effect that the firm was unable to supply some of the items of stationery immediately due to blockade of transport in the checkgate at Sri Rampur (Assam) and assessment of documentary evidences in support of the charge, proved that some of the items of stationery were not supplied at the time of certification of the bills by Shri P. Ghosh (Charge Officer) and Dr. B.P.S. Yadav, the Store Officer.

Attested.

Kalita 8.11.96
Advocate

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It was, perhaps impossible for M/s Pabitra Paul to supply the stationery items on 30.03.92 itself when he had informed in writing on the same day of his inability to supply the remaining items of stationery which were held up near Sri Rampur (Assam-Bengal border). Sri Rampur is about 400 kms (approx.) from Shillong and it was rather impossible for the truck with stationery to cover that distance till evening of 30.03.1992, unloading of the materials, release and then supply to Store Section of ICAR Research Complex at Barapani on the same day. Had M/s Pabitra Paul thought of purchasing the remaining material from local market for supply, they would not have given the letter of undertaking dated 30.03.1992 to supply the stationery items within 10 days from the date of the letter.

3. The deposition statements of Dr. Chandan Rajkhowa, Senior Scientist, ICAR Research Complex, Barapani and Shri A.K. Chakraborty, Inspector CBI points out the shortage of stationery articles in the Store.
4. In his deposition before Shri K.C. Choudhury, Inspector CBI on 24.04.1992, the Charged Officer, Shri Parimal Ghosh himself admitted about the shortage of stationery articles in the Store as on 30.03.1992. But in reply to the written brief of Presenting, Officer, he stated that between 24.04.1992 to 28.04.1992, his wife was admitted in Nazareth Hospital, Shillong and due to his personal problems, he was not aware till a later stage that the balance supply of stationery was made good on 02.04.1992 and the cheque for

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Attested.

K. H. 8.11.96
Advocate.

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Rs. 2,84,732/- (Rupees two lakhs eighty four thousand seven, hundred thirty two) only was handed over to M/s Pabitra Paul after delivery of the short material.

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Considering all the documents produced and the deposition of witnesses during the course of inquiry, there appears to be sufficient ground to prove that ^S on 30.03.1992, some of the stationery items were not supplied by M/s Pabitra Paul and the Charged Officer (Shri Parimal Ghosh) certified the bills of the firm even in absence of the total supply as ordered in the supply order No. RC(S) 10/91/100 dated 09.03.1992. Hence the first point of determination i.e. 'Shri Parimal Ghosh (Charged Officer) certified the bills of M/s Pabitra Paul even without receiving full supply of stationery articles' stands proved.

Second point of determination

1. Shri M. Sarania, Inspector CBI, ACB, Oakland, Shillong (Presenting Officer) stated in his written brief that the deposition of Dr. C. Rajkhowa (Prosecution Witness) does not relate to the specific charge against the Charged Officer and should not be considered. Much credence cannot be given to the report ~~(which is)~~ ^{is} of the committee constituted by the Director, ICAR Research Complex, Barapani vide his order No. RC(G) 32/87 Vol. I dated 25.04.1992 ^(Ann. XVII) and the report of the second committee submitted on 19.2.1994 (Ann. XXV) as evaluation of the 'short stationery articles' by the two committees varied considerably.

Attested.

Karite S. U. 96
Advocate.

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Secondly, the first committee pointed out the removal of the roof-top (G.I. sheets) of the sealed godown for repair, where physical verification of the stationery articles was done, thereby giving indirect indication that the loss of stationery cannot be ruled out under such circumstances. The second committee based their findings on the office records and no physical verification was done. Further, the number of different stationery items as shown by the two committees and those ordered for from M/s Pabitra Paul do not tally.

2. Dr. B.P.S. Yadav, Stores Officer, deposed that on 30.03.1992 some stationery was brought by Shri Ghosh in a Jeep (ICAR vehicle), unloaded the same and kept in the Store. However, Dr. Yadav did not verify the stationery items whether those were from M/s Pabitra Paul or somebody else. But Dr. Yadav, working as Stores Officer during the period stated that M/s Pabitra Paul supplied all the stationery items as shown in the bills No. 9 and 10 of the above firm.
3. The written brief submitted by the Presenting Officer is only a part of what had transpired during the inquiry proceedings and reflects his (Presenting Officer) views in the matter. In his written brief, the Presenting Officer has shown doubts about the genuineness of the undertaking of M/s Pabitra Paul dated 30.03.1992 saying it to be fabricated after 24.04.1992, the date of CBI verification. But its mention in the report submitted by Shri K.C. Choudhury, Inspector CBI, Guwahati of 24.04.1992 (Ann. XI) must dispel the doubts of Presenting Officer.

Attested.

Kalita 8.11.96
Advocate.

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4. During the inquiry conducted on 22.12.1994, Shri K.C. Chaudhury, Inspector CBI, Guwanati who conducted the surprise check on 24.04.1992, deposed that no physical verification/counting of the stores was done. This has also been mentioned in the written brief submitted by the Presenting Officer. So in absence of physical verification of the store items on 24.04.1992, it is not only difficult to point out that the store records were not maintained in a proper manner but also, one cannot say categorically that balance supply of the material (stationery articles) was not made good before issuing the cheque for Rs. 2,84,732/- (Rupees two lakhs eighty four thousand seven hundred thirty two) only to M/s Pabitra Paul on 03.04.1992. Again, as per Office Order No. RC(S)49/80 dated 17.06.1991 (Ann. XXI), the duty of maintenance of store register was of somebody else also and Mr. P. Ghosh was not only responsible for maintenance of stock registers.

So the second point of determination that 'Shri P. Ghosh (Charged Officer) failed to maintain the store records in a proper manner' could not be substantiated and hence could not be proved considering the statements of the Prosecution Witnesses and the documentary records produced before me.

Looking into the depositions/statements of various witnesses as well as the documentary records, the charge against Shri Parimal Ghosh (Charged Officer) is only partly proved.

Attested.

Kalite 8.11.96
Advocate.

Contd'... 31

It would be in the fitness of things and for natural justice that some clarification is made hereunder :

There appears to be a general tendency in official purchase that most of the items/materials of requirement are purchased during the fag end of the financial year. This is perhaps done, after looking into the budgetary position. These last minute purchases, affected after hurriedly taken decisions, are invariably not need-based and do not reflect the priorities of the Institute/organization. Sometimes, this is done only for the sake of spending the left-over money from the budget provisions. This may breed corruption and serve interests of some interested persons/parties. In the present case, the decision to purchase stationery items worth 5.36 lakhs was taken at the fag end of the financial year 1991-92 and the order was placed on 09.03.1992. The firm could not supply all the stationery items up to 30.03.1992. Thinking that money will lapse, the amount was drawn from the bank by the office and kept for payment to the firm after completion of the supply. Shri P. Ghosh (Charged officer) certified the bills No. 9 and 10 of M/s Pabitra Paul even in absence of supply of some items of stationery up to 30.03.1992 for passing of the said bills before end of financial year. Shri Ghosh's admittance of the charge during inquiry appears to show that this procedure was probably prevalent in the office. Many such instances, perhaps may come to light if the past records are scanned. This was probably done, some times to avoid lapsing of the institute's grants and there might not be any malafied intention/motive behind this. As such, a particular person cannot be singled out for the whole episode. For stationery worth Rs. 5.36 lakhs, which must be quite bulky also, some of the .

Attested.

Kalita 8.11.96
Advocate.

Contd' ... 32

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persons in the channel, right from Store Keeper to sanctioning authority, could have ascertained about the supply in full and whether or not such a huge purchase was within the competence of the sanctioning authority in a single go. Such happenings, need to be avoided in future.

Dated : 24th June, 1995
Barapani

U.C. Sharma
(U.C. Sharma)
Inquiry Officer

Attested.

Kalita S. N. 96
Advocate.

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CONFIDENTIAL

95

To

The Director,
ICAR Res. Complex for NEH Region,
Umroi Road,
Barapani.

Sub : Inquiry report on Disciplinary proceeding.

Ref : Your letter No. RC(G)16/92 dt. 21.8.95.

Respected Sir,

I beg to submit as here under on the Inquiry report enclosed with the letter under reference :-

- 1) That the inquiry report will have to view in its entirety and not piece-meal.
- 2) That it is stated paragraph 1, page 2 that I wanted to defended/ represented in my case by Mr. B.N. Dutta, Advocate, Laitumkhrah, Shillong vide my letter dt. 19.11.94. That Sri M. Sarania, C.B.I. Inspector was appointed as Presenting Officer. In view of that matter I would invite your kind attention to G.O.I.M.H.A.D.P. and A.R.O.M. No.11012/7/83-Estt.(A) dt. 23.7.84 which reads as under :
" Rule 14(8)(a) of CCS(CCA) Rules 1965 provides, inter alia, that a delinquent Government servant against whom disciplinary proceedings have been instituted as for imposition of a major penalty may not engage a legal practitioner to present the case on his behalf before the Inquiring Authority, unless the presenting officer appointed by the Disciplinary Authority is a legal practitioner, or the Disciplinary Authority, having regard to the circumstances of the case, so permits. It is clarified that, when on behalf of the Disciplinary Authority, the case is being presented by a Prosecuting Officer of the Central Bureau of Investigation or a Government Law Officer (such as legal Adviser, Junior Legal Adviser), there are evidently good and sufficient circumstances for the Disciplinary Authority to exercise his discretion in favour of the delinquent officer and allow him to be represented by a legal practitioner. Any exercise of discretion to the contrary in such cases is likely to be held by the Court as arbitrary and prejudicial to the defence of the delinquent Government Servant". This is selfexplanatory.
- 3) That handicapped as I have been in the face of such expert Presenting Officer assisted by another Presenting Officer of the same rank from the C.B.I. and witness by another C.B.I. Inspector alongwith high officials the scale were heavily bardened against me, yet I feel that the inquiry officer has practically exonerated me from the charges.

Attested.

Contd....2/-

Kalita S. U. 96

Advocate.

To bring forth the point to your kind attention, I would like to submit on the latter of the two charges and the discussions and findings of the Respected inquiry officer.

The inquiry officer himself expressed the view that the 2nd point of determination that Shri P. Ghosh (charges officer) failed to maintain store records in a proper manner could not be substantiated and hence could not be proved considering the statements of the prosecution witness and the documentary records produced before me.

- 5) That this has a bearing on the entire proceedings in as much as if the charges that store records were not maintained properly was not proved and the facts stands that when I handed over the charge of the store to my successor Shri R. Subba on 3.6.92 no where shortage of stationery has been indicated as per stock register.
- 6) That the statement in the proceeding paragraphs made on the basis of the inquiry report demolishes the charge No. 1 and leaves no doubt that there had been no shortage in the store articles. The charge No. 1 can then be short listed to a single point that I recorded a certificate on 30.3.92 showing the received of the articles as per bill No. 9 and 10 dt. 18.3.92 for Rs.73,132.35 and Rs.2,10,000.00 respectively. That it has been explained without any ambiguity that stationery articles were supplied, the challan No. 15 dt. 20.3.92, challan No. 16 dt. 28.3.92 and challan No. 17 dt. 31.3.92 none of those aforementioned challans were received by me in view of the short supply detected and that compelled the supplier to come forward with a clear letter of undertaking dt. 30.3.92 that the goods were intra and were handed at a certain point and he would complete the supply with 9.4.92. I have already admitted that it was only with a view to avoid laps of grant and further complications I recorded my certificate on the bills subject, of course to the letter dt. 30.3.92 of the supplier and in the full knowledge of the store officer. I am extremely grateful to the inquiry officer he had kindly taken note of the position and in the last two pages of his report in the fitness of things and for natural justice he had thrown light on the state of affairs that prevailed in the Research Complex in regard to such purchase in the last moment of the financial year. I may kindly be permitted to state that this is not only applicable in our I.C.A.R. Res. Complex but perhaps equally applied to all Govt. Deptt. and Public sector undertaking in India.
- 7) That without dilating much to the high principle it is admitted that the C.B.I. officers who are highly equipped to handle such matter did not go for spot verification of the store on 24.4.92. As to my own difficulties mentally and otherwise because of my wife's serious illness during that period and the hospitalisation on 24.4.92 I could not personally taken much initiative in the matter and signed some paper in my hurry and mental agony which if a stock verification would have been done then and there the communication gap that occurred in between and my lack of knowledge that the short articles have been already received would have been rectified. I have already stated that the store articles must have reached in the Complex before the supplier could take the cheque. This position has been vouched by the respected store officer in course of

Attested.

Kalita 8.11.96
Advocate.

Contd...3/-

his deposition which has been recorded in the inquiry report. That the store officer had been telling the truth about the state of affairs is clearly evident from the fact that while at the initial stage the inquiry officer was called upon to conduct inquiry against both the store officer as also myself it was letter No. RC(G)16/92 dt. 26.10.94 from the Administrative Officer, ICAR Research Complex, Barapani that no inquiry against Dr. B.P.S. Yadav, the respected store officer need be conducted. It is an established principle of law that a statement made by a witness have to be accepted in full or discarded in full. There is no via-media of accepting the evidence adduced by an witness as partly true and partly false. In the circumstances of the case the evidence adduced by Dr. B.P.S. Yadav that he was satisfied about the receipt of the store articles billed for must have to be accepted as true. The confusion to an extent I must admit was due to my lack of knowledge because of the communication gap as stated *ibid* and also because when the C.B.I. Inspector came to visit the store on 24.4.92 afternoon they did not care to take the store officer or summon him in the spot to verify the correct position. I am sure that had the store officer been present at that particular point of time there would have been no confusion left in the matter of receipt of store articles mentioned in the bill aforesaid. I had stated earlier that due to certain exigencies concerning my ownself I could not attend the office and the store on 1st April to 3rd April, 1992 and in fact I was out of touch that the store supply side undertaking dt. 30.3.92 by the supplier was made up in between.

Lastly, in this matter I must submit that I was not completely unaware that I have been giving a certificate pre-dated for a post dated supply but this having been an established practise by past precedent which unfortunately I could not show because the relevant file in spite of my asking of the same was not produced as stated in list of documents requested by me vide para-2 page 2 and as observed by the inquiry officer at para 7 at page 24 of his report.

- 8) That it is an admitted fact that I recorded a certificate about the full supply of ordered materials on 30.3.92 before receiving of all the materials in view of the undertaking given by the supplier M/S P. Paul and in consideration of drawal of cheque to avoid lapse of grant. But this was done bonafide in the interest of the Research Complex according to my best judgement following the precedent of the earlier years and which was authenticated under order contained in the relevant file production of which would have established my sincerity and innocence in the matter beyond any shade of doubt. I may kindly be permitted to submit that notwithstanding any un-intentional technical failure, there had been no lack of maintaining absolute integrity and devotion to duty.

Attested.

Kalita 8.11.96
Advocate.

Contd...4/-

- 9) That I have been serving in this Research Complex for last 14 years to the utmost sincerity and devotion and to the entire satisfaction of my superior and there is sufficient extenuating circumstances as to why the particular happenings of certifying a bill before received of the full supply of article ordered for.

In the circumstances, I humbly pray that I may kindly be exonerated from the ~~this~~ charge and for this act of your kindness as in duty bound I shall every pray.

Yours faithfully,

Primal Ghosh
(Primal Ghosh)
Esatt.

Attested.

Kalita 8.11.96
Advocate.

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C1

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H. REGION
UMROI ROAD, BARAPANI, MEGHALAYA

NO. RC(G)16/92

Dated Barapani, the 25th August, 95

ORDER

WHEREAS on inquiry under rule 14 of the CCS(CCA) Rules, 1965, as extended to ICAR employees was initiated against Shri Parimal Ghosh, Asstt., ICAR Research Complex for NEH Region, Barapani was held in respect of the following articles of charge framed against him and communicated to him vide Memo No. RC(G)16/92 dt. 17.2.94 :-


"While Shri Parimal Ghosh was posted and functioning as Store Asstt. in the stationary stores of ICAR Res. Complex for NEH Region, Barapani, Shillong during 1992 failed to maintain absolute integrity and devotion to duty as much as he certified the bills of the party to the tune of Rs. 2,84,732.00 to the effect that, he remind the stationary articles required to be supplied vide supply order dt. 9.3.92 by M/S Pabitra Paul, Shillong without receiving the stationary articles and apart from that he also failed to maintained the store records in proper manner and thereby by the above acts Shri Parimal Ghosh contravened the provision of Rule 3(1)(i) of CCS(Conduct) Rules, 1964".

WHEREAS the inquiry officer in his report has held him guilty to the extent of giving stock certificate of bills of M/S P. Paul prior to the actual receipt of all the materials.

WHEREAS the undersigned on a careful consideration of the inquiry report (copy enclosed) and the records of the inquiry agrees with the findings of the inquiry officer and holds that Shri Parimal Ghosh, Asstt. is guilty to the extent of giving stock certificate of bills prior to the actual receipt of all the materials.

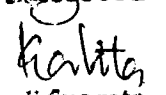
NOW, THEREFORE, having regards to the findings of the inquiry officer as stated above and taking into consideration other facts/ records and circumstances of the case, the undersigned is satisfied that good and sufficient reasons exist for imposing on Shri Parimal Ghosh, Asstt. ICAR Research Complex for NEH Region, Barapani the penalty of "Censure".

Accordingly, the penalty of "Censure" is imposed on Shri Parimal Ghosh, Asstt., ICAR Research Complex for NEH Region, Barapani.


(S. Laskar)
Director

✓ Shri Parimal Ghosh,
Asstt.
ICAR Res. Complex for NEH Region,
Barapani.

Attested.


Advocate.

REVIEW PETITION

Confidential

100

To

The Director General,
I.C.A.R.,
Krishi Bhavan, Dr. Rajendra Prasad Road,
NEW DELHI - 110 001.

(Through proper channel)

Sub:- Revision order - reopening of the Disciplinary Proceedings closed vide order No. RC(6)16/92 dated 25.8.1995 of the Director, ICAR(R.C.) for NEH Region, Barapani - Review Petition thereon.

Sir,

I have the honour to state that the order under reference has come to me as a great shock and dismay. I suffered for a long period of three years from 1992-95 and only because of that I did not go for any appeal inspite of the fact that my own feeling was that in the circumstances even a punishment of 'Censure' was not merited. However since I did not submit the appeal, the order became operative.

2. That had the case been re-opened suo-moto by your august authority, things would have been different but from the order it is clear that the proceedings were re-opened on a recommendation dated 13.9.95 of the Successor in Office of the Director, I.C.A.R. (R.C.) for NEH Region, Barapani, who imposed the punishment.

3. That this recommendation of the hon'ble Successor in office came in immediate clash with the legal principles established and laid down as pointed out below :-

(i) " Once a decision is arrived at honestly by a Competent authority, its successor in office after the decision has been acted upon and is in effective operation cannot reconsider the matter so as to take a totally different decision."

and

(ii) Under clause (2) of Rule 29 CCS(CCA) Rules No proceeding for revision shall be commenced until after

(i) the expiry of the period of limitation for an appeal;

or

(ii) the disposal of the appeal, where any such appeal has been preferred.

Appd.
22/8/96.

Attested.

Kalita, 8.11.96
Advocate.

Under rule 25 of the aforesaid Rules and appeal should have to be preferred within a period of 45 days from the date on which a copy of the order appealed against is delivered to the appellant. Since no appeal was preferred, the Successor Disciplinary Authority was bound by the Rules to wait for 45 days from the date the order was delivered on 25.8.95 but the successor Disciplinary Authority mooted the proposal and sent the recommendation on 13.9.95 i.e. within 20 days of the order, with ulterior motive to curb some trade union activities by the employees by creating a fear psychosis.

4. That the order contained F.No.28(2)/92-vig dated 25th April, 1996 is so much indicative and further witnesses suggested to be brought into has been so much so tutored by decisive views expressed from higher plane that practically, the course of further proceedings has been channelised and conclusion dictated as to leave no option for the prospective Inquiry Officer, whoever he might be, to come to a pre-determined finding and thereby putting the "Review petitioner" to tremendous harassment and hazards.

5. That in Annexure IV to O.M. NO.RC(G)16/92 dated 17.2.94, proposing inquiry, a list of ten witnesses was given by the Disciplinary Authority and the P.O. was free to adduce evidence of one and each of such witnesses cited and neither the I.O. nor the C.O. put forth any impediment towards adducing evidence by the remaining two Inspectors CBI Shri. A.B. Gupta, Inspector CBI Ghy. and Shri. A.K. Chakraborty, Inspector, CBI, Itanagar. This was probably because all the CBI Inspectors contributing to the same facts and Shri. K.C. Choudhury perhaps being the Senior amongst them, corroborate the same fact by the same set of employees was not considered necessary and might be out of fear that contradiction might crop in the course of cross examination, if more than one witnesses adduce to same facts. Be that as it may once the witnesses were not summoned even after naming them and the case finally closed by the I.O. and report submitted and the Disciplinary Authority announced his final orders on the basis of records of the case including the deposition sheets, those witnesses cannot be summoned under law to adduce evidence in a Revision case and this equally apply to other non CBI witness where only two out of seven adduced evidence and it would be a mockery of trial if all of them have to be brought back again.

6. That the reasonings advanced in the penultimate paragraph at page 2 of the order under reference read as under :

Attested.

Kahts 8.11.96
Advocate.

Page.3/...

Even Shri. Choudhury was not pointedly asked by P.O. or I.O. that how it was stated in the memo dated 24.4.92 that most of the items were found not supplied. In-fact the circumstances in which Sh. Chowdhury has stated that there was no physical verification may simple mean that in view of Sh. Ghosh having admitted to non-receipt of certain items (whose number is also specifically indicated in the above memo) there was hardly any need to physically count the entire stock in the stores."

Does it not mean that in the review inquiry a question of the sort stated in that paragraph vide quoted above would be asked and a reply as indicated obtained to prove the case which remained disproved by evidence including cross examination tendered then ?

7. That about the reported statement dt. 13.7.92 by Shri. P. Ghosh before the CBI I state that this statement was prepared by the CBI without any acceptance by me and those have no evidential value and only meant for the purpose of refreshing the memory and for cross examination and is otherwise not an admissible document. Immediately after the CBI's surprise visit in the stores office I submitted a letter dated 27.4.92 addressed to the Director I.C.A.R.(R.C.) for NEH Region, Berapani (copy encl. for ready reference) and a perusal there of would conclusively prove that what was said to have been recorded by the CBI on 13.7.92 as my statement was concoct-ed, false and fabricated.

8. That although rule 29 of the CCS(CCA) Rules stand independently of all provisions in the said Rules, it cannot be outside the purview of the legal principles laid down in S. 115 of the Civil Procedure Code. In other words whatever may be the degree of independence of Rule 29 vis a vis other rules of CCS(CCA) Rules, it cannot but be circumscribed by S.115 of C.P.C. and any over stepping S. 115 CPC is bound to be hit by legal provision in this behalf.

9. That in sub-section (1) of S. 115 of CPC it is laid down

" The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies there-
-to and if such subordinate Court appears -

- (a) to have exercised a jurisdiction not vested in it by law, or
- (b) to have failed to exercise a jurisdiction so vested; or
- (c) to have acted in the exercise of its jurisdiction illegally or with material irregularity,

Attested.

Kalita 8.11.96
Advocate.

The High Court may make such order in the case as it thinks fit."

103 It is clear that none of these infirmities exist in conducting Inquiry Proceedings in my case by Dr. U.C. Sharma, I.O., Joint Director(HQ.) ICAR (R.C.) for NEH Region, Barapani and in imposing punishment by the Director NEH Region Barapani the Disciplinary Authority.

10. That further under provision to section 115 the High Court shall not, under this section, vary or reverse any order made or any order deciding an issue, in course of suit or other proceeding, except where -

(b)

(b) the order if allowed to stand, would occasion a failure of justice or cause irreparable injury to the party against whom it was made.

The scope of revision as indicated in this as also preceding paragraph is doubtless very limited and there seems no ground what-so-ever that the punishment order imposed by the Director, ICAR(R.C.) for NEH Region, Barapani can be set aside in exercise of the power of Revision contained in Rule 29 of CCS (CCA) Rules.

In the premises this Review petition is humbly submitted with the prayer that the order under reference may be reviewed by your gracious self and withdrawn so however that the humble Review petitioner is not exposed to a renewed harassment and hazard.

I remain Sir,

Dated Barapani the
21st Aug. '96.

Yours faithfully,

(Parimal Ghosh)
Asstt. (C.O.)

ICAR Research Complex, Barapani.

Attested.

Kalita 8-11-96
Advocate.

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The Director,
ICAR, Barapani.

(Through the Store Officer I/c, ICAR Res. Complex, Barapani)

Sub.:— Surprise check by C.B.I. Inspectors.

Respected Sir,

In enclosing herewith a copy of memo dt. 24.4.92 from the C.B.I. Inspectors, I have the honour to state that this followed the usual pattern of beating a dead line of 31st March, and to avoid lapse of grant.

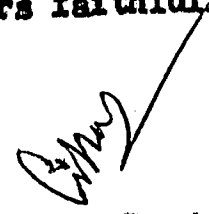
As however, I was on leave from 1.4.92 to 3.4.92 (C.L.) and was under great mental strain due to serious illness of my wife, who had to be hospitalised on 24.4.92 evening itself, I had not had much touch with the store and supply position and I did not know that the balance materials against challan No. 15 and against serial 17 and 18 against challan No. 16 were already delivered by the supplier on 2.4.92. This revelation came to me only after the receipt of memo and my discussion with the seniors.

I also understand that although the cheque in question was drawn on 31.3.92 in view of the above, the same was handed over to the concerned supplier on 3.4.92 after the delivery of the articles have been completed by them.

This is for your kind information.

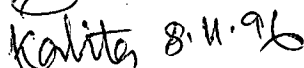
Dated Barapani the
27th April '92.

Yours faithfully,


(Parimal Ghosh)
Asstt.

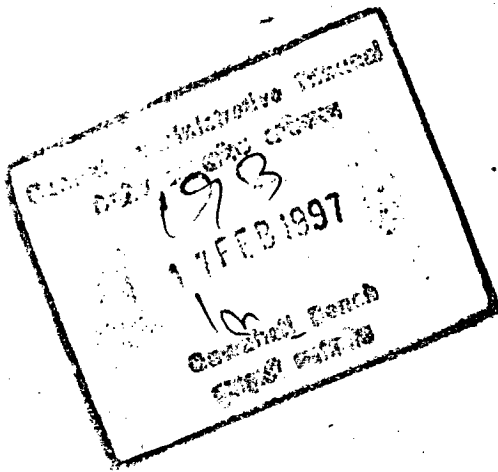
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Attested.


Advocate.

(85)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BRANCH: GUWAHATI.



D. A. NO. 260 OF 1996.

Sri Parimal Ghosh

- Versus -

The Union of India and others.

- AND -

IN THE MATTER OF:

Written Statements submitted by the
Respondents No. 1, 2, 3 & 4 .

(WRITTEN STATEMENTS)

The humble Respondents beg to
submit their Written Statements
as follows :-

- 1) That with regard to the statements made in paragraphs 1, 2, & 3 of the application the Respondents have no comments.
- 2) That with regard to the statements made in paragraphs 4.1, 4.2, 4.3, 4.4, 4.5, 4.6 & 4.7 of the application the Respondents have no comments the same being matters of record.
- 3) That with regard to the statements made in paragraph 4.8 of the application the Respondents beg to state that the facts stated by the applicant are correct vide Annexure- I.

(Contd.)

Filed by:

(MD. SHAUKAT ALI) 11/2/97 105
Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Branch, Guwahati

R
Advocate
11.2.97

4) That with regard to the statements made in paragraph 4.8 of the application the Respondents beg to state that the facts stated by the applicant are true to the extent that the supplier could not supply all the items within the stipulated period vide Annexure - II

5) That, with regard to the statements made in paragraph 4.9 of the application the Respondents beg to state that the statements made by the petitioner is partially correct. It was a fact that the cheque was prepared and kept ready on the basis of the certificate given by the petitioner (Store Keeper) on the body of the bill after obtaining an undertaking from the supplier that the payment will be made on completion of supply in full.

6) That with regard to the statements made in paragraph 4.10 of the application the Respondents beg to state that, the same is true to the extent that the applicant was on leave from 1st April to 3rd April, 1992.

7) That with regard to the statements made in paragraphs 4.11 & 4.12 of the application the Respondents have no comments the same being matters of record.

8) That with regard to the statements made in paragraph 4.13 of the application the Respondents beg to state that, the same are true to the extent that a 5 (Five) member committee was constituted to verify the stock in relevance to the surprise
(Contd.)

check by C. B. I. officials.

9) That with regard to the statements made in

paragraph 4.14 of the application the Respondents

have no comments, the same being matters of record.

10) That with regard to the statements made

in paragraph 4.15 of the application the Respondents

beg to state that, the facts stated by the applicant

are true to the extent that an order was issued for

recovery of Rs. 73,262.58 from his salary @ Rs. 500/-p.m.

vide order No. RC(G)16/92 dated 10-2-94 (Annexure-III).

11) That with regard to the statements made in

paragraph 4.16 of the application the Respondents

have no comments.

12)

That with regard to the statements made

in paragraph 4.17 of the application the Respondents

beg to state that, it is a fact that the Hon'ble

Tribunal has issued the quash order dated 1-6-94

against the recovery order issued by the competent

authority vide order No. RC(G)16/92 dated 10-2-94.

13)

That with regard to the statements made in

paragraphs 4.18, 4.19, 4.20 & 4.21 of the application

the Respondents have no comments.

14)

That with regard to the statements made in

paragraph 4.22 of the application the Respondents

beg to state that, it is a fact that the Presenting

Officer has submitted his brief on 29-12-94 vide

(Contd.)

Annexure-IV and the applicant has submitted his defence statement to the Inquiry Officer vide Annexure - V respectively.

15) That with regard to the statements made in paragraphs 4.23, 4.24, 4.25 & 4.26 of the

application the Respondents have no comments the same being matters of record. The records are submitted as Annexures No. VI, VII, VIII and IX along with this written statement.

16) That with regard to the statements made in paragraphs 4.27 & 4.28 the Respondents have no comments but regarding the paragraphs 4.27(i),

(ii), (iii), (iv), (v) & (vi) the Respondents beg to state that : - (i) the statements made by the applicant is true to the extent that the case was reopened by the Revisional Authority as applicable under rules in force.

a) As stated under para (i) above.

b) The statement made by the applicant is not

correct. The punishment was imposed to the applicant vide order dated 25.8.95 (Annexure-X) but the case was reopened by the Revising Authority vide order dated 25.7.96 (Annexure-XI) .

ii) The role of Inquiry Officer in course of disciplinary inquiry being a quasi-judicial

Magistrate has no scope to become unbiased and as such the statement made by the applicant has no

relevancy in facts.

(Contd.)

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iii) The statement made by the applicant is not partially correct as the question of renewal of any inquiry against the Govt. servant lies/vested with the power of the competent authority .

iv) The statement made by the petitioner is not correct. The Revisional Authority has every right as well as empowered for obtaining a particular answer from the new/old witnesses to be brought before the renewed inquiry.

v) The Respondent does not have any scope to comment in regard to the statement made by the petitioner before the C.B.I. officials dated 13-7-92 .

vi) The statement made by the petitioner is not partially correct since the power lies with the Revising Authority for renewal/revision of any disciplinary inquiry in course of further examination as applicable under rules in force.

17) That with regard to the statements made in paragraph 4.28 of the application the Respondents beg to state that they have no scope to comment on the statement made by the petitioner since the Revising Authority has decided to re-open the case and remitted the case to the Disciplinary Authority and acted in accordance with the same.

(Contd.)

18) That with regard to the statements made in paragraphs 4.29, 4.30 of the application the same are adequately replied against paragraphs 27(i)(b)(vi).

19) That with regard to the statements made in paragraph 4.31 of the application the Respondents beg to state that, the statement made by the petitioner is not partially correct since the inquiry was conducted after the investigation/findings of the C.B.I. officials in course of their surprise check in the instant case.

20) That with regard to the statements made in paragraph 4.32 of the application the respondents have no comments.

21) That with regard to the statements made in paragraphs 4.33 of the application the Respondents beg to state that the same is not correct and hence denied.

22) That with regard to the statements made in paragraph 5 of the application regarding the grounds for reliefs with legal provisions the Respondents beg to state that none of the grounds is maintainable in law as well as in facts and ~~the~~ hence the application is liable to be dismissed .

(Contd.)

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

24) That with regard to the statements made in paragraph 8 of the application that the reliefs sought for the Respondents beg to state that the applicant is not entitle to get the reliefs sought and the application is liable to be dismissed.

25) That with regard to the statements made in paragraphs 9, 10, 11 & 12 of the application the Respondents have no comments.

26) That the Respondents beg to state that the application has no merit and as such the same is liable to be dismissed .

.... Verification.

74)

(92)

112

VERIFICATION

I, Dr. R. P. Awasthi, son of Late Kishore Awasthi, Director, ICAR Research Complex for NEH Region, Barapani residing at Barapani, Meghalaya, P.S. Umiam, District Ri-Bhoi, do hereby, verify that the contents made above are true to the best of my personal knowledge and belief and I have not suppressed any material facts.

Place : Barapani

Dated :

15.1.47
(R. P. AWASTHI)
DIRECTOR

Q

338

Annexure - I

9 LHR, Barapara

March

5-6-4.

Continued over

Ann. XLVII

Number of Sub-voucher **114**

Description of charges and number and date of authority for all charges requiring special sanction

18/94 (15)

2,84,732 = 00

Two days eighty four

Thousand Seven hundred

Twenty

Total Rupees

(1) I certify that the expenditure included in this bill could not, with due regard to the interest of the public service, be avoided. I certify that to the best of my knowledge and belief, the payments entered in this bill except items noted below, have been duly made to the parties entitled to receive them and relevant vouchers for sums above Rs. 100 are attached to this bill. Credit bills (above Rs. 100) relating to the said exceptions which exceed the balance of the permanent advance are attached and relevant stamped receipts will be forwarded as soon as the amounts are paid on receipt of the amount drawn on this bill. I have, as far as possible, obtained vouchers for sums less than Rs. 100 which are listed in GAR 23 and am responsible that they have been so defaced or mutilated that they cannot be used again. All work bills are annexed.

I also certify that the amounts on account of pay and allowances of the Class IV Government servants drawn 1 month/2 months/3 months previous to this date with the exceptions of those detailed below of which the total amount has been refunded by deduction from this bill have been disbursed to the Government Servants concerned and their retention.

(2)* Certified that all the articles detailed in the vouchers attached to the bill and in those retained in my office have been accounted for in the Stock Register.

(3) Certified that the purchases billed for have been received in good order, that their quantities are correct and their quality good and according to specifications, that the rates paid are not in excess of the accepted and the market rates and that suitable notes of payment have been recorded against the indents and invoices concerned to prevent double payments.

(4) Certified that—

(a) The expenditure on conveyance hire included in this bill was actually incurred, was unavoidable and is within the scheduled scale of charges for the conveyance used, and

(b) The Government servant concerned is not entitled to draw travelling allowance under the ordinary rules for the journey, and is not granted any compensatory leave and does not and will not receive any special remuneration for the performance of the duty which necessitated the journey.

(5) Certified that the monetary or quantitative limits prescribed by the Government in respect of items of Contingencies included in the bill have not been exceeded.

*This certificate is required when proper store accounts of materials and stores purchase are required to be maintained.

Appropriation for the current year.....

Expenditure including this bill.....

Amount of work bill annexed.....

Balance available.....

Received payment

Signature of the Drawing Officer

Passed for payment of Rs..... (Rupees

Payment by

Cheque No.....

Pay and Accounts Officer
Cheque drawing B.B.O.

Date.....

For use in Pay and Accounts Office
(Post-check)

Admitted for Rs.....

Objected to Rs.....

Reason of objection.....

Jr./Sr. Accountant

Jr. A.O.

Pay and Accounts Officer



9

(340)

Annex no - 2

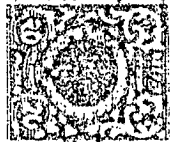
(94)

Contd

115

M/S PABITRA PAULGovt. Order Supplier, Contractor & Commission Agent
UMPLING, SHILLONG - 793006

Cheque

No. 02.21686.5684/31/3K2 Date 31/4/1972Received with thanks from Director J.E.D. Research
Complex. for N.E.H. Region under Road Borepinthe sum of Rupees Two Lakhs Eighty Four Thousand Seven Hundred
only being the Part/Full Payment of our Bill No 2, and isDt 18/3/72

M/s. PABITRA PAUL

24, 1st Floor

for P. Pabitra

Rs 2,84,732.00

Ann: XLVIII

W/R. d. 2000
C. m. m. 60 m.
S. m. v. 16, 0.07

CHALLAN No-15

Govt. Order Suppliers, Contractors & Commission Agents

Unmanned Aerial Vehicle O.C-793003

0. New Stone Paper & P. Paper
computer for V.E.H. K. in under
No. - 1. Paper, Paper, Paper

Order No. PC(8) 15/91/100459/3192 Date 25/3/92

Received the following articles as per specification and in good conditions.

PARTICULARS	QTY.
① D.P. Paper (45425)	100 pbs
② D.P. Paper (Paper) (545)	10 pbs
③ Raylin No. 6, 10, 16, 20	5 D3 E
④ Stone Paper (ES-300)	40 gms
⑤ Paper correction, plain, white and red	100 bottles
⑥ Envelope	26,000 Nos
⑦ F.V. Envelope (500 + 5000)	5000 Nos
⑧ Paper	112 pbs
⑨ Battery Paper	10 pbs
⑩ Battery cell	49 D3
⑪ Torch light	3 D3
⑫ Dyeing solution	50 pbs
⑬ Paper Roll (100)	100 pbs
⑭ BT-1000	2 D3
⑮ Paper	10 D3
⑯ Paper	100 pbs
⑰ Paper	100 pbs
⑱ Paper	100 pbs

Recd. Sign.

Your authority

118

18/94 (3)
C. B. Shinn 3/8/94

13

Ann. XLIV (302)
Annex one - 2 Contd. (98)

CHALLAN No- 17

PABITRA PAUL

Govt. Order Suppliers, Contractor & Commission Agent

Umpling Bazar, SHILLONG-793006

The Store Officer, S.C.A.R. Research Center
in N.E.H. Region, Umpling Road.

Borepore, Meghalaya

Ref No. DC(S) 16/91/100 dt 9/3/92

Date 31/3/92

★ Received the following articles as per specification and in good conditions. ★

PARTICULARS	QTY.
① Carbon paper	400 Pkts
② Envelope	16,000 Nos
③ File Envelope	12,000 Nos
④ Toner (3 cals)	68 Nos
⑤ Duplicating ink	6 Tins
⑥ Note sheet	200 fad

Receiver Signature

Date

Your faithfully
G. John Paul

for PABITRA PAUL

PABITRA PAUL
 GOVT ORDER SUPPLIERS, CONTRACTORS & COMMISSION AGENT
 UMPLING BAZAR, SHILLONG-793006

KH (C.S.T.) No. 3/84

To: The Station Officer, D.C.A.R. Research Complex for NEH Region, Umroi Road, Barapani, Meghalaya

Sl. No.	Particulars	Rate	Quantity	Rs.	P.
①	Carbon Paper (Kores Serrillo)	69.30	500 PKT	34650	00
②	Stencil Paper (Gel-E S 300) 25 pk	157.41	50 quire	7870	50
③	correcting fluid (Kores Eras Er)	133.00	200 bottle	2660	00
④	Duplicating Ink (Gel-E)	41.82	200 tube	8364	00
⑤	Telex Roll (2 ply Kores)	38.70	200 Roll	7740	00
	As per company price list			3144	50
	7% discount across			4120	15
⑥	D.F.C. Paper (Ruled)	165.41	20 quire	3308	00
⑦	Registered No. 6	0.85	20 quire	124	00
	Registered No. 10	0.85	20 quire	2040	00
	Registered No. 16	0.85	20 quire	3264	00
	Registered No. 20	0.85	20 quire	4080	00
⑧	Alphaline (Kores)	31.00	50 PKT	1550	00
	TOTAL			74132	35

BR NO. 293/Bar
 18/3/92

Rupees: Seventy four thousand one hundred thirty two paise only
 Bill No. 18/3/92 Date 18/3/92
 Order No. RC (S) 10/2/92 Date 18/3/92
 Challan No. 18/3/92 Date 18/3/92
 For: Pabitra Paul
 Proprietor/Manager

(100)

122

18 PIA (15)
A Shrub

Received the above and cert.
and entered in Consumable
Non Consumable, etc.

Stock Book No. 501
21.4.28 (7)

100

1209

[illegible]

affected.
Sale Fr. C S S C
14/2/97

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR Research Complex for N. E. H. Region.
Umroi Road: Barapani: Meghalaya.

NO. RC(G) 16/92

Dated Barapani, the 10th Feb. 94ORDER

Consequent upon the physical verification of the Store materials by a Committee constituted vide this Office Order No. RC(G) 32/87 (Vol. I) dated 23.4.92, the Committee submitted its report showing the total shortfall of stationery articles worth of Rs. 80,000/- (Approx)

Consequent upon the Memo vide this Office Memo No. RC(G) 16/92 dated 1.6.92, Shri Parimal Ghosh represented for further verification as the same was not acceptable to him.

Subsequently, the Committee constituted under this Office Order No. RC(G) 16/92 dated 6.4.93 has verified and reported showing total shortfall of Rs. 73,966.73 - Rs. 704.15 (against issued vouchers) and the total shortfall of stationery articles is worked out to the tune of Rs. 73,262.58 (Rupees seventy three thousand two hundred sixty two and paise fifty eight) only.

It is therefore decided to recover Rs. 73,262.58 in 146 instalments @ Rs. 500/- p.m. and the remaining last instalment ~~Rs.~~ will be @ Rs. 262.58 from the salary of Shri Parimal Ghosh, Assistant, the then Store Asstt. from the month of February/94.

(R.N. Prasad) ✓
Director

To:

Shri Parimal Ghosh, Assistant,
ICAR Research Complex, Barapani.

Memo No. RC(G) 16/92 Dated Barapani, the 10th February/94

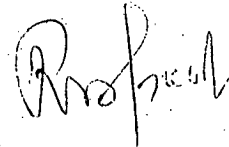
Copy to:

1. The Director (Vig.), ICAR Krishi Bhavan, New Delhi. This has a reference to our discussion held on 1st January, 94 in his Office Chamber

.... 2/-

: 2 :

2. Asstt. Administrative Officer (Estt.), ICAR Research Complex for NEH Region, Barapani for necessary action.
3. Finance & Accounts Officer, ICAR Research Complex for N.E.H. Region, Barapani.



(R.N. PRASAD) ✓

DIRECTOR.

18

BY HAND

Annexure - IV

102

No.2/3(A)/92-SHQ/

Govt. of India
Central Bureau of Investigation
Anti-Corruption Branch
O/O the Supdt. of Police
Oakland : Shillong.

Dated /94.

To,

Dr. U.C.Sharma (I.O)
Jt. Director, I.C.A.R. (RC)
Barapani.

Sub:- Departmental proceedings against Sh.Parimal Ghosh,
Asstt. under Rule 14 CCS (CCA) Rules 1965, Submission
of written brief-regarding.

....

Sir,

I have the honour to submit my written brief in
connection with the above cited subject.

As, the P.O., I had completed leading the evidence
on behalf of the Disciplinary Authority and the defence has
no more evidence, either documentary or oral to be produced
before the Inquiring Authority.

It is prayed that the written brief may be treated
as the last and final representation of the P.O. in this
departmental enquiry.

Yours faithfully,

Offcd.
Lab. Sr. CSSC
14/2/97

(M.SARANIA)
(P.O) Inspector of Police
CBI:ACB:Shillong.

Enst. No.2/3(A)/92-SHQ/7936-38

Dated 29/12/94

Copy to :-

1. Shri Parimal Ghosh, Asstt. ICAR (RC), Barapani for
necessary action for defence.
2. The Director, ICAR (RC), Barapani for favour of
information.
3. The Supdt. of Police, CBI, Shillong.

29/12/94
(M.SARANIA)
Inspr. of Police, CBI
ACB:Shillong.

deposition.

6 Annexure - IV Contd.

Written Brief of Presenting Officer in Departmental Enquiry
against Sh. Parimal Ghosh, Asstt. ICAR (RC), Barapani.

.....

I. Witnesses examined :

- PW.1 Sri Chandan Hajkhowa, Sr. Scientist, ICAR (RC), Barapani.
PW.2 Sri Pranab Mochi, Asstt. Admn. Section, ICAR, (RC) Barapani.
PW.3 Sri K.C. Choudhury, Insp. CBI, Gauhati Unit.

II. Documents exhibited :

- Sl.No.1. Bill No.9 dt.18.3.92 for Rs. 74,132.35 P.
Sl.No.2 Bill No.10 dt.18.3.92 for Rs.2,10,600.00 P.
both of M/S Pabitra Paul, Umpling Bazar, Shillong.
Sl.No.3 Challan No.15,16 & 17 dt. 20.3.92, 28.3.92 & 31.3.92
in respect of suply of Stationeries to ICAR, Barapani.
Sl.No.4 Undertaking dt. 20.3.92 of M/S Pabitra Paul of Umpling
Bazar Shillong addressed to the Store Officer, ICAR
NEH Region, regarding non-supply of all the items as
per their bills.
Sl.No.5 Sanctioned order No.RC(S)/10/91/145 dt. 31.3.92
for Rs.2,84,732.35 P. for supply of Stationery of
Directorate, ICAR (RC) Barapani.
Sl.No.6 Money receipt in original dt. 3.4.92 of M/S Pabitra
Paul umpling Bazar regarding receipt of Cheque No.
0250868656 dt.31.3.92 for Rs.2,84,732.00 P.
Sl.No.7 File No.RC(S)/10/91 of Store Section regarding
procurement of Stationeries for ICAR Region, Barapani.
Sl.No.8 Stock Register No.VI and VII of Stores Sec.ICAR (RC),
Barapani.
Sl.No.9 Memorandum dt. 24.4.92 in respect of conducting
surprise check at the Store of ICAR (RC) Barapani.
Sl.No.10 Circular No.RC(4)/32/97 Vol.I dt. 25.4.92 of Director
regarding constitution of standing committee for
verification of stores materials.
Sl.No.11 Circular No.RC(4)/32/97 Vol.I dt. 27 of Director,
ICAR (RC) Barapani asking the standing committee for
immediate verification of stores.
Sl.No.12 Report dt. 12.5.92 of Dr.D.S.Chandra, Principal
Scientist, Agro, Forest Division, alongwith stock
verification report of ICAR, Store dt. 12.5.92.

III. Enquiry Officer :- Dr.U.C.Sharma, Jt. Director, ICAR (RC),
Barapani;

IV. Presenting Officer:- Sri M.Saxania, Insp. CBI, ACB,
Shillong.

Contd.....2/-

V. Charge against Sh. Parimal Ghosh, Asstt. ICAR, Barapani

128 That Sri Parimal Ghosh, while posted and functioning as Store Asstt. in the Stationery Stores of ICAR, NEH Region, Barapani during 1992 failed to maintain absolute integrity and devotion to duty as much as he certified the bills of the party to the tune of Rs. 2,84,732.00 to the effect that he remind the stationery article required to be supplied vide supply order dt. 9.3.92 by M/S Pabitra Paul, Shillong without receiving the Stationery articles and apart from that he also failed to maintained the store records in proper manner and thereby, by the above acts Shri Parimal Ghosh contravened the provisions of Rule 3(1)(i) of CCS (Conduct) Rules 1964.

VI. Facts as emerged during the Departmental proceedings

During the entire course of enquiry proceedings a total of 3 witnesses were examined on behalf of the D.A. (Disciplinary Authority) and 12 Nos. of documents exhibited. The Charge Official also produced 3 witnesses for his defence and exhibited a number of documents, but neither the depositions of these defence witnesses nor the contents of the defence documents have any relevance to the charges framed against the C.O.

At the very outset, it has to be borne in mind that Sh. Parimal Ghosh was charged for 'Lack of absolute integrity and devotion to duty in as much as (1) he certified in the bills of the party that he received the stationery articles to be supplied as per supply order dt. 9.3.92 without actually receiving the materials and (2) he failed to maintain Store records in proper manner.

The deposition of Dr. Chandan Rajkhowa does not relate to the specific charge against the C.O. and as such need not be taken into consideration. Though Sri K.C. Choudhury, Inspr. CBI admitted that on the date of physical verification on 24.4.92 no physical counting of material was done and the verification Memorandum was prepared on the basis of Registers and other records.

However, Sri Parimal Ghosh (the C.O.) himself admitted that, at the time of giving the certificate on the bills of the supplier that 'the materials are received as per the bills', the full supply was not yet received. This is also

Contd....3

supported by the fact that the Party had given an understanding at. 30.3.92 wherein assurance was given to the effect that supply of remaining stationery materials will be completed within 15 days. Here, it may be mentioned that the genuineness of the understanding itself is a suspect. Even if the same is the product of an after thought (i.e. fabricated after the day of CBI physical verification on 24.4.92) it gives more credence to the fact that the supplier as well as the C.O. were very much aware of the incomplete supply of the materials. And in order to cover up their misdeeds the C.O. & supplier had fabricated the undertaking on back date.

Much ~~an~~ emphasis need not be given to the documents exhibited by the C.O. and the witnesses produced by him as these documents and depositions of defence witnesses do not have any connection with the charges. The ~~an~~ fact remains that though the were never received in full, Sri P. Ghosh certified on the two bills of the suppliers as so received. And due to this certification only the said bills were processed by Sri Pranab Meheri which ultimately led to the passing and payment of the bill amounts on 31.3.92.

As regards charge No.2 the very acts of Sri P. Ghosh in ~~was~~ giving the above discussed certification as well as making entries in the relevant stock Register even before receiving the materials in full, already established the said charge. It was an act of ~~commission~~ on the part of Shri P. Ghosh i.e. he did what he was not supposed to do, and from this commission of his it is also easy to presume that he would have certainly committed acts of omission, i.e. not doing what he was supposed to do, like making updated entries in Stock Registers etc.

In view of the facts and circumstances as discussed in the foregoing paras, the charges against Sh. Parimal Ghosh stands clearly established.

Submitted.

Checked.

*See Sr. CSS C
14/2/97*

M. Sarania
(M. SARANIA)
Inspector of Police, CBI
ACBI: Shillong.

.....

To

Dr. U.C. Sharma, (I.O.),
Joint Director (H.Q.),
ICAR Res. Complex,
Barapani

Sub.:— Departmental Proceedings against Shri Parimal
Ghosh, Asstt. Under Rule 14 CCS(CCS) Rules 1965.
Submission of Defence brief.

Ref.:— Proceedings of the inquiry in the afore mentioned
disciplinary case - held on 22.12.94.

Sir,

With reference to the last para of the said
proceedings, I have the honour to state that I received
the written brief of the Presenting Officer on 2.1.95
and I am now submitting herewith the defence brief,
as directed.

Yours faithfully,

(Parimal Ghosh)

Assistant

Offical.

Recd
Sd/-
14/2/97

Defence brief of Shri Parimal Ghosh, charged officer vide charge sheet No. RC(G)16/92 dt. 17.2.94.

(107)
31

1. This written brief may kindly be read in conjunction with my written statement dt. 25th Feb.'94 along with addendum vide dated 5th March'94.

2. The P.O.s written brief on material point is based on suspicion and that too a wrong suspicion and on presumption, which is never attracted unless the law prescribes for such a presumption and invariably not where presumption are bad in law and not maintainable. Even in worst case also the Hon'ble Supreme Court had held in state of Madras Vs. A.R. Srinivasan, A.I.R. 1966 SC 1827 "that mere suspicion can never take the place of proof or evidence. Before any punishment can be imposed, the charge(s) framed against a Govt. servant must be held to be proved".

3. That the suspicion that has been referred to arises on undertaking dt. 30.3.92 given by Shri Pabitra Paul, the supplier in question. The Presenting Officer placed his case in 4th Sub-para under para VI stating "Here, it may be mentioned that the genuineness of the Undertaking itself is a suspect. Even if the same is the product of an after thought (i.e. fabricated after the day of CBI physical verification on 24.4.92) And in order to cover up their misdeeds the C.O. and supplier had fabricated the undertaking on back date".

Kindly see the Exhibit 9 memorandum dt. 24.4.92 in respect of conducting surprise check at the store of I.C.A.R.(R.C.), Barapani. The third para of the memo begins "The firm vide letter dt.30.3.92.....". It dispels that this was a product of after thought, that the same was fabricated after the day of C.B.I. physical verification on 24.4.92 in order to cover up misdeed. If therefore as it reveals this is not cover up and this is genuine much force in CBI's arguments vanish in thin air. Not only that the P.O. here also mentioned "fabricated after the day of CBI's physical verification". In the cross examination Shri K.C. Choudhury placed as a witness from amongst the C.B.I. Inspector stated on 22.12.1994 "No physical counting of the materials was done" but the Presenting Officer went on with these hypothesis without caring to look into the document and deposition.

About the presumption, apart from legal restraint in this behalf as discussed *ibid*, there were three distinct point of allegation to prove the charge No. 2. But this aspect that the C.O.'s certifying the Bill and entering in the stock register, was never alleged against the 2nd charge and the same cannot lend any support towards proving the 2nd charge at all.

4. The Presenting Officer has given a long list of documents produced but avoided the list of documents sought by the Charged Officer and reasons as to why the same could not have been made available.

In memorandum No. RC(G)16/92 dt. 22nd Feb.'94 (Defence Exhibit No. 8.), the Director I.C.A.R. Research Complex for N.E.H. Region informed the C.O. that "Item No. 214,523,538,542,543,545 and 546 matter will be examined and Shri Parimal Ghosh will be given the opportunity, if necessary, to ascertain the facts in case of any variation in due course as and when the stock registers are received back from C.B.I. authorities".

In addition, further documents as listed below were asked for and those were in the custody of the I.C.A.R.;

1. Notes and orders in file No. RC(S)1/89, wherein order/comments/instructions of A.A.O.(ST.) are available regarding - maintenance of stores and stock registers.

But this very important documentary evidence in the custody of the Disciplinary Authority was not produced or allowed to be inspected inspite of C.O.'s stating in clear terms the relevance of those documents in the Inquiry. In view of these, the C.O. was seriously handicapped and that amount to deprivation of Natural Justice. (Kindly see G.I.MHA O.M.No.F.30/5/61-AVD dated 25.8.91 at page 250-253 of Swamy's Mannual on Disciplinary Proceedings for Central Govt. Servant - 1989 Edition).

5. Now coming to the charges. I agree with the summation of the Presenting Officer about the nature and extent of the charges mentioned by him in sub-para 2 of paragraph VI of his written brief and accordingly my defence brief is furnished charge wise as here under;

I. CHARGE NO.1 :- Lack of absolute integrity and devotion to duty in as much as he certified in the bills of the party that he received the stationery articles to be supplied as per order dt. 9.3.92 without actually receiving the materials.

At the outset it may be made clear that there has been no question of any short supply. The points that come up are as below :-

(1) Whether the certificate that the materials were received was recorded in the bills before the receipt of all the materials and if so, under what circumstances ?

(11) When the short supply was made up whether in between the period of C.B.I.'s memorandum on 24.4.92 and sealing of the Go-down on 28.4.92.

(111) Whether the remaining materials were supplied before the delivery of the cheque on 3.4.92.

1.2 As for (1) above, it was admitted that the certificate was recorded before all the materials were received. The supply of stationery articles by M/S Pabitra Paul was covered by three challans dated 20.3.92, 28.3.92 and 31.3.92. As the supply of materials did not tally with the challans this was brought to the notice of M/S P. Paul, who then sent the communication and undertaking dated 30.3.92. This communication dated 30.3.92 from the supplier - M/S Pabitra Paul was addressed to the Store Officer and received by me on endorsement from him. Dr. B.P.S. Yadav the Store Officer while making the statement before the Inspector CBI on 10.7.92. defence Exh.No.22 wanted to shirk his responsibilities and stated that "Now I have seen an undertaking dated 30.3.92 of M/S Pabitra Paul and state that the said undertaking was put up to me on the morning of 30.3.92 in my office by Shri Parimal Ghosh". However, when accosted by me in course of Examination and cross examination on 22.12.94, he told the Inquiry Officer that "the letter was not given to him by Shri Parimal Ghosh but it was in the Dak Pad". The clear endorsement on that letter Exh.4 leaves no doubt that the earlier statement before the CBI on 10.7.92 by Dr. B.P.S. Yadav was not correct.

1.3 The reasons for certificate before all the materials were received were already explained in my written statement and I reiterate the same "that the alleged communication and undertaking dated 30.3.92 from M/S Pabitra Paul was addressed to the Store Officer and it came to me only by way of an endorsement from him. More than I, he (the store officer) knew the position better about incomplete supply, requirement of drawal of cheque before the deadline on the basis of the firm commitment of quick completion of supply as per order, withholding the cheque, as it

134 happens to be the normal practise with a view to beat the line. I accept that the store officer countersigned the bills bonafied having full knowledge of the state of affaris and so do I, besides myself having acted under direction".

The Store Officer for reasons best known to him wanted to make me a scape-goat though that was not necessary. But his attempts in this direction were inconsistent and incoherent and could be easily detected.

For example, while he made the statement before the C.B.I. inspector on 10.7.92 he stated as below:-

"Now I have seen an undertaking dated 30.3.92 of Shri Pabitra Paul and state, that the said undertaking was put up to me on the morning of 30.3.92 in my office by Shri Parimal Ghosh". However, when accosted by me in course of examination and cross examination before the I.O. on 22.12.94 Dr. Yadav told that "the letter was not given to him by Shri Parimal Ghosh but it was in the Dak Pad". The clear endorsement on the letter Exh.4 read with his statement before the I.O. leaves no doubt that the earlier statement before the C.B.I. inspector on 10.7.92 was incorrect. And again before the CBI Inspector Dr. B.P.S. Yadav stated;

"Now I have seen an undertaking dated 30.3.92 of Shri Pabitra Paul and state that the said undertaking was put up to me on the morning of 30.3.92 in my office by Shri Parimal Ghosh (already proved incorrect) and he also informed me that the firm as per our supply order dated 9.3.92 had not supplied all the materials but they will supply the same within the date specified in the Undertaking. Then he requested me to pass the bills of the said firm but on enquiry I learnt from Shri Ghosh that the firm has not supplied stationeries worth Rs.20,000/-. However, I refused to pass the bills and instructed Shri Ghosh to put up the bills only after receiving all the items. Then in the evening of the same day (30.3.92) Shri Parimal Ghosh informed me that the party had supplied all the items as per supply order (Exh.22 from my side). It is not true that I told him that "the party had supplied all the items as per supply order". I had all along admitted that the certificate was recorded without the full supply for reasons already adduced and I would have no reason to deviate from my consistent stand.

What was then his reasons for believing that the materials had already arrived. Continuing in that statement Dr. Yadav stated "I also saw some stationeries were brought by Shri Ghosh in a jeep of the I.C.A.R. and was unloading the same and keeping in the store. I did not physically verified the items to ascertain whether the said items were as per the supply order placed to M/S Pabitra Paul. Therefore, I in goodfaith, thinking that all the items were supplied by the firm asked Shri Ghosh to put up the bills".

Now while accosted by me before the I.O. on 22.12.94 he stated in reply to a question from Presenting Officer "Dr. Yadav stated that he did not check the materials physically but he saw a jeep bringing the materials and unloading of the materials was being done" Omission this time of the name of Shri Parimal Ghosh is significant and was also brought to the attention of the I.O..

Continuing in that statement before the I.O. "Parimal Ghosh deposed that he put up the bill of the firm when Dr. Yadav asked him to do so. Dr. Yadav told that he did not tell that". But that is a clear contradiction from what he said before the CBI inspector on 10.7.92 (Defence Exh.22) Mr. Yadav had no doubt complicated the simple matter which had earlier precedents here and elsewhere to draw the full bills and withholding the payment to serve double purpose of completing the supply/works, without allowing a lapse of grants. As far as I was concerned my conscience was clear and that was in the interest of the organisation with full knowledge of my superiors. Subject to above the first question (1) is answered in the affirmative.

1.4 As regards item (ii) I was practically on the run, because my wife in the course of her first delivery had been showing a lot of complications and in fact she had to be admitted in the Nazareth Hospital, Shillong on the 24th April '92 itself. Thereafter in between 24th and 28th April '92 when the godowns were sealed it was intervened by Sunday and myself being on Casual leave" as already stated in my written statement at para 5 and the question of making up the supply between 24.4.92 to 28.4.92 did not arise.

1.5 As regard item (iii) above in the said para of my written statement I stated "But because I was out of touch during early part of April '92 under some acute unforeseen personal problem and later due to serious illness of my wife, I was not aware till a later stage that the balance supply was made good on 2.4.92 and the cheque that was held up was made over to M/S Pabitra Paul after delivery of store materials in accordance with the supply order".

136 In course of his statement before the
"Dr. B.P.S. Yadav stated that cheque was issued
M/S Pabitra Paul after full supply of the materials". And the
question is now settled as below:-

That the certificates were recorded on the bills in view of the firm undertaking given by the supplier to complete the supply and agreeing by him that he would take the payment only after completing the supply and he got the cheque after the supply was made.

1.6. A question however, cropped up in the course of investigation whether I could produce some records about the procedure in regard to passing of bills in March end and precedents to support such events, I cited file No.RC(S)1/89, which if would have been produced would have thrown enough light but unfortunately inspite of my requisition and request the same could not be made available by the P.O. But otherwise such certificate is not exceptional but is being practised as far as known, in many other Govt. departments.

1.7. A question still requires to be replied is as to why I could not clarify the position to the CBI Inspector when they conducted the surprise check on 24.4.92 I would draw I.O.'s attention to last two paras at page 3 of my written statement wherein I had explained in detail. The same are reproduced below:-

"As for the CBI's surprise check that was done in the most casual manner in as much as no senior officer of the I.C.A.R. nor even the Store Officer who jointly signed the receipt certificate along with me was brought in the picture. Admittedly they were in the stationery (Central) stores only for one hour from 3P.M. to 4P.M. on 24.4.92 and they did not undertake any physical verification of articles in the store"

As stated ibid I was under severe mental strain that day because of my wife's serious illness and had the store officer atleast been present in the scene he would definitely had explained things better as the letter dt. 30.3.92 by M/S P. Paul was addressed to him and things would have been solved on the spot".

In the course of proceedings held on 22.12.94 Shri K.C. Choudhury C.B.I. Inspector stated as below:-

"Shri P. Ghosh asked him whether he (Mr. Choudhury)

physically verified the stores on 24.4.92 Shri Choudhury stated that no physical counting of the materials was done". And on inquiry from the I.O. as to how I could sign the letter of Shri K.C. Choudhury after seizing the record on 24.4.92 "Mr. Ghosh deposed that he was nervous as his wife was very sick and he showed her admission (24.4.92) and discharge slip (28.4.92) from Nazareth Hospital.

1.8. It may be mentioned that the Presenting Officer in 2nd para page 3 of the written brief had stated that "much emphasis need not be given to the documents exhibited by the C.O. and the witnesses produced by him as these documents and deposition of defence witness do not have any connection with the charges. But in case of the prosecution he brought in as many as three witnesses but he did not even cite a single sentence from their deposition and on the top of that he had himself discarded the evidence of Dr. Chandan Rajkhowa one of his witness not being relevant. Nothing perhaps could have shown the hollowness of his case than this treatment he had given to his own witness.

II. In regard to the charge No.2. He failed to maintain the records in proper manner, the ingredients in the statement of allegations were as follows:-

1. It is alleged that during surprise check it was also observed that Shri Parimal Ghosh was not maintaining the store records properly and the said were found in haphazard manner.

2. It is alleged that after surprise check the Director, I.C.A.R., N.E.H. Region, Barapani, Shillong constituted a committee consisting of five senior officers of I.C.A.R. to physically verify the stock of the store and accordingly during the period from 29.4.92 to 12.5.92 store was verified and total shortage of stationery articles worth Rs.80,000/- (approx.).

3. It is alleged that after the surprise check on 24.4.92 and before the stock verification by the committee M/S Pabitra Paul supplied the stationery articles to the I.C.A.R.

II.1 As to the first ingredient it is submitted that this allegation was not at all mentioned in the memo dated 24.4.92 made by the C.B.I.

38 II.2 In regard to the 2nd ingredient it may be stated that only Shri Chandan Rajkhowa, Sr. Scientist was placed as a witness on behalf of the committee constituted by the Director I.C.A.R. but his piece of evidence was later discarded by the Presenting Officer in his written brief stating "that the deposition of Dr. Chandan Rajkhowa does not relate to the specific charges against the C.O. and as such need not be taken into consideration". I would have much to say in regard to the 2nd ingredient but that is redundant in view of what the P.O. himself had said.

II.3 The third ingredient concern the supply in the instant supply order and the position has been discussed in all its facet and if any thing there had been nothing in the matter of maintaining records.

II.4 The Presenting Officer drew the conclusion that the said charge was proved because the entries for supply against order dt.9.3.92 were ^{made} before the materials were received but he seemed to have completely missed the point that irrespective of whether materials were received or not those were passed for payment after recording receipt on the bills under the circumstances already discussed at length. Viewed from this angle it is not correct to say that records were not properly maintained on the contrary it proves the other way round that records were properly maintained. As for his presumption the same was not tenable under the law as already discussed para 2 of this defence brief.

6. I have been in the service of the I.C.A.R. and working in the store section for over 8 years in full confidence of my superiors and except for this technical lapse, if at all this is considered as a lapse, that occurred due to no ulterior and malafide intention but only to safeguard the interest of the I.C.A.R., I have an unblemish service.

7. In the conclusion I would submit that the proposition contained in charge No.1 and 2 of "lack of absolute integrity and devotion to duty" is not substantiated and I may kindly be exonerated from the charges in view of discussion contained ibid.

6/1/95
(Original Signed)
N. S. S. S.



भारतीय कृषि अनुसन्धान परिषद् 26
उत्तर पूर्वी पर्वतीय कृषि अनुसन्धान संस्थान
उमरोई रोड, बड़ा पानी
मेघालय
ICAR Research Complex for N. E. H. Region
Umroi Road, Bara Pani 793103
Meghalaya-

Gram : Agricomplex

Phone :

Telex : 237-214

Annexure - 9

Annexure - 7

Ref. No. RC(G)16/92

Dated August 21, 1995

CONFIDENTIAL

I am enclosing a copy of the Inquiry Report submitted by the Inquiry Officer.

You are hereby requested to explain why disciplinary action should not be taken against you.

Your reply should reach the undersigned within 3(three) days on receipt of this letter.

(S. Laskar)
Director

To

Shri Parimal Ghosh
Assistant
ICAR Research Complex for NEH Region
Barapani.

Attended -
C. S. S. C.
14/2/97

Recd. On
22.8.95
Ghosh

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INQUIRY REPORT

(Case No. PE 3(A)/92 - SMG)

IN THE MATTER OF SHRI PARIMAL GHOSH, ASSISTANT
(STORES), ICAR RESEARCH COMPLEX FOR N.E.H. REGION
BARAPANI, MEGHALAYA

In the matter of Shri Parimal Ghosh, the then Assistant (Stores), ICAR Research Complex for NEH Region, Barapani, Meghalaya (Charged Officer) - Case No. PE 3(A)/92-SHG.

I was appointed as Inquiry Officer by the Disciplinary Authority and Director, ICAR Research Complex, Barapani (Meghalaya) under sub-rule(2) of Rule 14 C.C.S. (C.C.A. Rules, 1965) vide his order No. RC(G)16/92 dated 15th July 1994 (Ann. I) in order to conduct inquiry against Dr. B.P.S. Yadav, Sr. Scientist (Animal Nutrition), ICAR Research Complex for NEH Region, Barapani (also working as Stores Officer during the period to which the present inquiry pertains) and Shri Parimal Ghosh, Assistant, ICAR Research Complex (then Assistant, Stores), Barapani. However, vide his letter No. RC(G)16/92 dated 26.10.1994 (Ann. II), the Administrative Officer, ICAR Research Complex, Barapani intimated that inquiry against Dr. B.P.S. Yadav need not be conducted. This was in response to Council's Memo F.No. 28(2)/92-Vig. dated 4.5.1994 as mentioned by the Administrative Officer. The article of charge framed against Shri Parimal Ghosh, the then Assistant (Stores), ICAR Research Complex for NEH Region, Barapani (Ann. III) and the statement of imputation of misconduct or misbehaviour in support of the article of charge (Ann. IV) framed against Shri Ghosh were communicated to me vide Administrative Officer's letter No. RC(G)16/92 dated 7.10.1994. I requested the Disciplinary Authority to supply the necessary documents related to inquiry vide my letter No. RC/Inq/S/94/1 dated 28.07.1994 and letter No. RC/Inq/S/94/2 dated 16.8.1994 (Ann. VI and VIA). The letter for preliminary inquiry was issued by me vide No. RC/Inq/S/93/3 dated 8.11.1994 (Ann. V). Shri Parimal Ghosh (Charged Officer) informed me through his letter

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NO. Nil dated 19.11.94 (Ann. VII) that he (Charged Officer) would like to defend/represent his case by Mr. B.N. Dutta, Advocate, Daitumkhran, Shillong-3 and letter NO. Nil dated 21.11.1994 (Ann. VIII) requesting for additional documents for defence. Preliminary inquiry was held on 21.11.1994 in which Shri M. Sarania, CBI Inspector (Presenting Officer), Shri T. Thangzalian, CBI Inspector, Shillong and Shri Parimal Ghosh (Charged Officer) were present. The copy of proceedings has been attached as Annexure IX. The regular inquiry was held on 14.12.1994 (Ann. LI) and 22.12.1994 (Ann. LVII).

Article of Charge

The charge framed against Shri Parimal Ghosh, Assistant is :

Whereas, it is alledged that while Shri Parimal Ghosh was posted and functioning as Store Assistant in the Stationery Stores of ICAR, NEH Region, Barapani, Shillong during 1992 failed to maintain absolute integrity and devotion to duty as much as he certified the bills of the party to the tune of Rs. 2,84,732.00 to the effect that, he ^{received} ~~remind~~ the Stationery article^s required to be supplied vide supply order dated 9.3.92 by M/S Pabitra Paul, Shillong without receiving the stationery articles and apart from that he also failed to maintain the Stores records in proper manner and thereby, by the above acts, Shri Parimal Ghosh contravened the provisions of Rule 3(1) (i) of CCS (Conduct Rules, 1964).

The statement of imputations for failing ^{to} ~~the~~ maintain absolute integrity and devotion to duty and misconduct or misbehaviour in respect of the article of charge framed against Shri Parimal Ghosh (Charged Officer) ^s have been given in Annexure IV. However, the gist of the statement relating to the charges is mentioned briefly as under :

It is alleged that Shri Parimal Ghosh, Assistant (Stores) on 30.3.1992 duly certified the bills of M/s Pabitra Paul, showing receipt of all the articles as per the bills although no such articles were received by him. Earlier, M/s Pabitra Paul of Umpling Bazar, Shillong submitted the Bills No. 9 and 10 dated 18.3.92 for Rs. 74,132.35P and Rs. 2,10,600/-, respectively for supplying stationery articles through Challan No. 15 dated 20.3.1992, Challan No. 16 dated 28.3.1992 and Challan No. 17 dated 31.3.1992. M/s Pabitra Paul did not supply some of the stationery articles as shown in the challans, but Shri P. Ghosh (Charged Officer) on 30.3.1992 duly certified the bills showing receipt of all the articles as per the bills. The above mentioned bills were processed in the Store Section and sanction of Rs. 2,84,132.35P was obtained from the Director, and the D.D.O. and F.A.O. passed the bills on the basis of the ^certificate given by Shri P. Ghosh and countersigned by Dr. E.P.S. Yadav, Store Officer. Payment was received by M/s Pabitra Paul on 3.4.1992 through Cheque No. CZ/56, 868656 dated 31.3.1992.

It is alleged that on 24.4.1992, during a surprise check conducted by the C.B.I. officers in the Store of ICAR Research Complex, it was found that the stationery articles purported to be supplied by M/s Pabitra Paul and certified by Shri P. Ghosh, were physically not available in the Store. It was also alleged that Shri P. Ghosh was not maintaining the Stores records properly.

The documents by which the article of charges were framed against the Charged Officer are given from Annexure XXXIX to L and the list of witnesses by whom the article of charge against the Charged Officer is proposed to be sustained is given in Annexure X and XVI.

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The preliminary hearing was fixed on 21.11.1994 at 12.00 noon at ICAR Research Complex Headquarters at Barapani (Meghalaya) and Shri Parimal Ghosh, Charged Officer and Shri M. Sarania, Presenting Officer were informed through letter No. RC/Inq/S/1994/3 dated

144 8.11.1994 (Ann. VI). The proceedings of the preliminary inquiry were attended by the Charged Officer, Presenting Officer and Shri T. Thangzaiian (Inspector, CBI, Shillong). The respective article of charge against the Charged Officer as mentioned in the imputation of misconduct and mentioned in this report, was read out to the Charged Officer. He categorically denied the article of charge framed against him. So, the charge against the Charged Officer, namely Shri Parimal Ghosh was admitted and pressed for inquiry.

The Charged Officer requested for inspection of the documents as given in the proceedings of the preliminary inquiry (Ann. IX, 2 pages). The Charged Officer was asked to produce the certificate to the effect that Defence Assistant, if any, has not more than two pending cases in hand. The Presenting Officer, Shri M. Sarania (Inspector, CBI) appeared before me with all the listed documents. The Charged Officer inspected the list of documents. The Charged Officer was also directed to submit the list of Defence Witnesses proposed to be examined on his behalf so as to reach the inquiry officer by 30th November, 1994. The Presenting Officer was also asked to submit the list of Prosecution Witnesses by the above date (30.11.1994). A copy of the letter dated 21.11.1994 from the Charged Officer was handed over to Presenting Officer wherein the Charged Officer had listed the documents to be inspected (Ann. VIII). The copies of statements of the Prosecution Witnesses were given to the Charged Officer by the Presenting Officer. After the inspection of

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Wm
6/1/95
(Parimal Ghosh)
Assistant

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Annexure - VI
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the listed documents, it was decided to take up the case for regular hearing from 14th December, 1994 at the same venue i.e. ICAR Research Complex for NEH Region, Barapani (Committee Room). Both the Charged Officer and Presenting Officer took copies of the proceedings of the preliminary inquiry.

Charge Inquired

The admitted charge as given in Annexure III was pressed for inquiry and regular hearing in the case was held on 15.12.1994 and 22.12.1994.

Brief Statements of Facts

The requisition for procurement of stationery articles was submitted by Shri Parimal Ghosh (Charged Officer), Assistant Stores, ICAR Research Complex for NEH Region, Barapani on 22.2.1992. The total value of the stationery articles was about Rs. 5,14,630/- (Rupees five lakhs fourteen thousand six hundred thirty) as evident from the note sheet (Ann. XL). Out of this, an order (No. RC(S)10/91/100 dated 09.03.1992 for Rs. 2,84,732/- (Rupees two lakhs eighty four thousand seven hundred thirty two) for procurement of stationery articles was placed with M/s Pabitra Paul of Umpling Bazar, Shillong-6. This is evident from the fully vouched contingent bill for this amount (Ann. XLVII). The firm submitted two bills viz. no. 9 (Ann. XLV) for Rs. 74,132.35P (Rupees seventy four thousand one hundred thirty two and paise thirty five) and No. 10 (Ann. XLVI) for Rs. 2,10,600/- (Rupees two lakhs ten thousand six hundred). The total stationery material was shown to have been supplied through Challan No. 15 dated 20.3.1992 (Ann. XLI1), Challan No. 16 dated 28.3.1992 (Ann. XLI11) and Challan No. 17 dated 31.3.1992 (Ann. XLIV). The consolidated requisition for stationery was stated to be based on the requirements of various Divisions (Disciplines of the ICAR Research Complex).

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The supply order for stationery articles was placed with M/s Pabitra Paul, Umpling Bazar, Shillong through order No. RC(S)/10/91/100 dated 9.3.1992. The Challan Nos. 15, 16 and 17 through which the stationery articles were supplied, do not bear the signature of the receiver of articles. M/s Pabitra Paul submitted two bills viz. No. 9 dated 18.3.1992 for Rs. 74,132.35F and No. 10 dated 18.3.1992 for Rs. 2,10,600/. The sizes of envelopes have not been indicated in the challans. M/s Pabitra Paul could not supply all the stationery items by 30.03.1992 and informed the Store Officer through their letter of 30.3.1992 (Ann. XLI) that they (M/s Pabitra Paul) cannot supply some of the stationery materials such as carbon paper, envelopes, note sheets, torch and file envelopes due to blockade of road transport at Sri Rampur Checkgate (Assam) and that they undertake to supply the above articles within 10 days from 30.03.1992. However, these articles have been shown to ^{be} ~~have been~~ supplied to Store Officer, ICAR Research Complex on 31.03.1992 through Challan No. 17 (Ann. XLIV).

A fully vouched contingent bill No. ^{RC(E)Contd/906/99} (RC(S) 10/91/145 dated 31.3.1992) was prepared (Ann. XLVII). The cheque for Rs. 2,84,732/- (Rupees two lakhs eighty four thousand seven hundred thirty two) only bearing No. 04/56, 868656 dated 31.03.1992 from ICAR Research Complex was received by M/s Pabitra Paul on 03.04.1992 as payment against their bills No. 9 and 10 of 18.3.1992 (An. XLVII).

An inquiry was initiated with the appointment of Dr. S. Laskar, Director, ICAR Research Complex for NEH Region, Barapani, Meghalaya as Disciplinary Authority by ICAR, Krishi Bhawan, New Delhi.

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6/1/95
(Principal Guest)
Assistant

List of Documents Admitted and WitnessesA. Prosecution side1. Witnesses examined :

1. Dr. Chandan Rajkhwa, Sr. Scientist, ICAR Research Complex, Barapani
2. Sri Pranab Medhi, Asstt. Admin. Section, ICAR Research Complex, Barapani
3. Sri K.C. Choudhury, Inspector, CBI, Guwahati

B. Documents exhibited :

1. Bill No. 9 dated 18.3.92 for Rs. 74,132.35P.
2. Bill No. 10 dated 18.3.92 for Rs. 2,10,600.00.
(M/s Pabitra Paul, Umpling Bazar, Shillong)
3. Challan No. 15, 16 & 17 dated 20.3.92, 28.3.92 & 31.3.92 in respect of supply of stationery articles to ICAR, Barapani.
4. Undertaking dated 20.3.92 of M/s Pabitra Paul, Umpling Bazar, Shillong to Store Officer, ICAR Research Complex, Barapani regarding non-supply of all the items as per their bills.
5. Sanctioned order No. RC(S)/10/91/145 dated 31.3.92 for Rs. 2,84,732.35P for supply of stationery to Director, ICAR Research Complex, Barapani.
6. Noney receipt in original dated 3.4.92 of M/s Pabitra Paul, Umpling Bazar, Shillong regarding receipt of Cheque NO. 0250 868656 dated 31.3.92 for Rs. 2,84,732.00 P.
7. File No. RC(S)/10/91 of Store Section regarding procurement of stationeries for ICAR Research Complex, Barapani.
8. Stock Register No. VI and VII of Store Section, ICAR Research Complex, Barapani.
9. Memorandum dated 24.4.92 in respect of conducting surprise check to Stores of ICAR Research Complex, Barapani.
10. Circular No. RC(4)/32/97 Vol.I dated 25.4.92 of Director regarding constitution of standing committee for verification of stores materials.

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11. Circular No. RC(G)32/97 Vol.1 dated 27.4.92 of Director, ICAR Research Complex, Barapani asking the standing committee for immediate verification of stores.
12. Report dated 12.5.92 of Dr. D.S. Chauhan, Principal Scientist, Agro-forestry Division, alongwith stock verification report of ICAR, Store dated 12.5.92

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B Defence Side

1. Witnesses examined :

1. Smti Diana Dkhar, the then Supdt. (Stores) (Did not appear)
2. Smti Anita Roy, Jr. Clerk (Stores)
3. Shri Dilip Chetia, Despatch Rider (doing the work of Receipt Clerk in March 1992)

II Documents exhibited

1. Statement of Dr. C. Rajkhowa, Sr. Scientist recorded by C.B.I. on 10.7.92.
2. Circular No. RC(G)32/87 Vol.1 dated 25.4.92 regarding constitution of physical verification committee.
3. Order No. RC(G)16/92 dated 10.2.94.
4. Handing over and taking over report dated 3.6.92.
5. Order No. RC(S)49/80 dated 17.6.91 regarding allotment of work in the Stores Section.
6. No. RC(G)16/92 dated 17.2.94 (Charge Sheet).
7. Copy of committee's report regarding non-verification of materials stored in the godown No. 3 and removal of roof of that godown.
8. No. RC(G)16/92 dated 22.2.94 regarding additional documents i.e. its relevance with the case.
9. Statement of Shri P. Medni, the then Asstt. (Stores) regarding countersignature of the bill by Store Officer.

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8/1/95
(Darimal Ghosh)
Assistant.

10. Memo dated 24.4.92 issued by C.B.I. (i.e. surprise check).
11. Statement of Shri A.K. Chakravarty, Inspector, CBI dated 14.8.92.
12. Copy of report dated 28.3.92.
13. Copy of report dated 2.5.92.
14. Copy of report dated 6.3.92.
15. Copy of report dated 28.7.90
16. Copy of report dated 24.3.92.
17. Copy of statement dated 3.1.91.
18. Copy of statement dated 16.1.91
19. Copy of statement dated 3.8.90.
20. Copy of statement dated 27.4.92 (intimation to the Director regarding surprise check of CBI).
- * 21. Copy of Note Sheet No. 22 of file No. RC(S) 10/91.
22. Statement of Dr. B.P.S. Yadav, the then Store Officer dated 10.7.92 recorded by CBI.

Brief Version of the Case in Respect of Charges

Letters to the Charged Officer, Presenting Officer and Defence Witnesses were issued on 12.12.1994 (Ann. XI, XII and XIII, respectively) for appearing before me on 14.12.1994 for inquiry. During the inquiry, it was stated by Dr. Chandan Rajkhowa, Sr. Scientist, ICAR Research Complex and Prosecution Witness (statement at Ann. XIV) that he was a member of the committee (Ann. XV) which conducted physical verification of the stores (in which stationery was kept) from 28.4.1992 and that the report was submitted on 28.4.1992. He deposed before me that the stores godown was sealed on 28.4.1992 itself for physical verification of the total stocks as per orders of the Director. He further deposed that a list was prepared of the articles which were short and their ^{appropriate} ~~approximate~~ cost.

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150 was calculated. Shri Parimal Ghosh, the Charged Officer, cross examined Dr. Rajkhowa and wanted to know from him that, how Shri Satish Chandra, Sr. Scientist (PL. Pathology) and Dr. V.A. Parthasarathy (Sr. Scientist, Hort.) were included in the committee in place of Dr. K.M. Bujarbaruah and Dr. K.K. Satpathy (both Senior Scientist of ICAR Research Complex, Barapani and initially members of the committee as given in Ann. XVII) without a formal order from the competent Authority. Dr. Rajkhowa told that he did not know about this change in the committee members as he did not get the copy of the order, if any. Shri P. Ghosh insisted that the new committee cannot be regarded as valid since no formal order was issued. He inquired from Dr. Rajkhowa that why all the items in the Store were not physically verified as per order of the Director and only stationery was checked. Dr. Rajkhowa told that only stationery items were checked. Dr. Rajkhowa deposed that the approximate shortage of stationery was to the tune of Rs. 85,000/-. When asked by the inquiry officer to give his statement in writing, Dr. C. Rajkhowa informed that he has already done so (Ann. XVIII, 2 pages).

Shri Pranab Medhi, Assistant, ICAR Research Complex, Barapani and Prosecution Witness in this case, also deposed before me. Shri M. Sarania (CBI Inspector), Presenting Officer asked Shri Medhi that whether he recognized the bills submitted by M/s Pabitra Paul. Shri Medhi said 'Yes'. Shri P. Medhi submitted that he processed the bills only after verification of these by the Store Clerk and the Store Officer. The bills were submitted by M/s Pabitra Paul on 18.3.1992 and were passed on 31.3.1992, and cheque issued in the name of M/s Pabitra Paul, who received it on 3rd of April, 1992 (Ann. XLVIII). Shri P. Medhi's written statement is attached as Annexure XXVI.

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6/1/72
(Parimal Ghosh)
Assistant.

The Presenting Officer inquired from Shri P. Ghosh, the Charged Officer that how he (Shri P. Ghosh) made the entries of stationery articles in the Store Register without receiving these articles.

Shri Ghosh replied that though the bills were received on 18.3.1992, he processed them only after an undertaking was given by the firm and which was received through the Store Officer. The Presenting Officer then asked from Shri P. Ghosh (Charged Officer) that who makes entries in the Store Register. Shri P. Ghosh informed him that a Jr. Clerk attached to him used to make entries. On this, the Presenting Officer showed him the Stock Register where entries were made by Shri P. Ghosh only. The Presenting Officer further asked from the Charged Officer that whether the latter had given the certificate for the receipt of the materials even without receiving the same. Shri P. Ghosh admitted the charge and told that since M/s Pabitra Paul gave an undertaking on 30.03.1992 to supply the short materials within 10 days, he certified the bills.

Two Defence Witnesses, Mrs Anita ^{Roy} ~~Das~~ and Shri D.K. Chetia deposed before me. They informed that they do not know about the case. Shri P. Ghosh showed some letters to them for their receipt in the office. Both of them (Defence Witnesses) told that they had received these letters as receipt Clerks and forwarded the same to the concerned authorities. However, the Defence Witnesses did not throw any light on the present case. A copy of the proceedings has been attached as Annexure LI (2 pages).

The next date of regular hearing was fixed on 22.12.1994 and proceedings are given as Ann. LVII, (2 pages). Letters for appearing before me on 22.12.1994 for deposition were issued to Shri J.K. Guha

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1.

(Ex-FAU), Dr. B.P.S. Yadav, Sr. Scientist and Working as Store Officer at ICAR Research Complex and Shri K.C. Choudhury, Inspector CBI, Guwahati (Ann. LII, LIII and LIV, respectively). Shri Guha received the letter (Ann. LV) but did not appear before me. Two Prosecution Witnesses, namely Shri K.C. Chaudhury, Inspector CBI, Guwahati and Dr. B.P.S. Yadav (Store Officer during March, 1992) Sr. Scientist, ICAR Research Complex deposed before me on this day. In reply to a question from the Inquiry Officer, Dr. B.P.S. Yadav stated that the cheque was issued to M/s Pabitra Paul after full supply of the stationery was made. The Presenting Officer showed Dr. Yadav the earlier recorded statement (Ann. XXXVIII, pp 8) made by him and inquired whether he (Dr. Yadav) wanted to add or delete something from the statement. Dr. Yadav told that he stands by his earlier recorded statement. He further stated that he put his signatures on the bill submitted by M/s Pabitra Paul only after receipt of the material in the Store. In reply to a query from the Presenting Officer, Dr. Yadav stated that he did not check the stationery articles physically but he saw a Jeep bringing the stationery which was then unloaded. When the attention of Dr. Yadav was drawn to a letter from M/s Pabitra Paul, received on 30th March, 1992, to the effect that the firm was unable to supply some of the stationery articles owing to blockade at Sri Rampur Check-gate, where his consignment was struck up, Dr. Yadav told that the letter was placed in the Dak Pad of the Store Section. here, Dr. Yadav deviated from his written statement where he had stated, above letter was handed over that the ~~Charged Officer in the present case~~ to him by Shri P. Ghosh, the Charged Officer in the present case. At this stage, I inquired from Dr. Yadav about the letter of undertaking from M/s Pabitra Paul and that, why, the letter was not given a page number in the file.

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11/1/95
(Principal Guest)
Assistant

Dr. Yadav informed that the letter was submitted to him in the morning and the bill in the evening of 30.03.1992. No specific reply was given about the reason for not giving page number on the above letter.

In reply to a query from me, Shri P. Ghosh replied that he put ^{up} the bills of the firm (M/s Prabitra Paul) when Dr. Yadav (Store Officer) asked him to do so. Dr. Yadav told that he did not tell that. Shri P. Ghosh deposed that the material was received during his leave period. Dr. Yadav also stated that Shri P. Ghosh duly informed him about the roof of the store being blown off by the strong wind and that there were chances of spoilage of the stationery material.

Shri K.C. Choudhury, Inspector CBI (Guwahati) and Prosecution Witness in the present case also deposed before me. During cross examination by Shri Parimal Ghosh, Shri Choudhury stated that no physical counting of the store materials was done. Shri Ghosh (Charged Officer) inquired from Shri K.C. Choudhury that it was mentioned in the imputation statement that he (Shri Ghosh) could not maintain the record properly as noticed during the surprise check by him (Shri Choudhury) and how it was possible to write this in absence of proper checking of the stores. Shri K.C. Choudhury deposed that he did not check the stores physically and no counting of the material was done. I inquired from Shri P. Ghosh (Charged Officer) that how he signed the statement letter (Ann. XXXIX) of Shri K.C. Choudhury, CBI, Inspector who siezed the records on 24.04.1992. Mr. P. Ghosh stated that since his wife was very sick during that period, he was very nervous. He showed her admission (24.04.1992) and discharge slip (28.04.1992) from Nazareth Hospital, Shillong (Ann. LVI).

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I inquired from Shri M. Sarania (Presenting Officer) and Shri Parimal Ghosh (Charged Officer) whether they have anything to say further. They said 'No'. I told the Presenting Officer to submit a written brief, if he so desired, within ten days from the day of inquiry with a copy to the Charged Officer. The Charged Officer was directed to submit his defence brief within five days of receiving the Presenting Officer's written brief.

It may be mentioned here that the letter (Ann. LII) was issued to Shri J.K. Guha (Finance and Accounts Officer, ICAR Research Complex during March, 1992) to appear before me as his name was given by the Presenting Officer as Prosecution Witness. He acknowledged the letter (Ann. LV) but did not appear before me. The Presenting Officer submitted in his written brief that as Presenting officer, he had completed leading the evidence on behalf of Disciplinary Authority and had no more evidences, either documentary or oral, to be produced before the Inquiry Officer.

In his written brief (Ann. LIX, pages 4), Shri M. Sarania, the Presenting Officer has stated that neither the deposition of Defence Witness nor the contents of defence documents have any relevance to the charges framed against the Charged Officer. The Presenting Officer goes on to mention about the charge against the Charged Officer and his certification of the bills even in absence of actual supply of the stationery articles and also, that he (Charged Officer) could not maintain the records properly.

Contd'..15

Wm 8/1/95.
(Parimal Ghosh)
Assistant.

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35-7

Annexure - VI Contd.

The Charged Officer has signed a statement of shortage of materials in the Store in presence of Shri K.C. Choudhury, Inspector, CBI, Guwanati. Shri A.B. Gupta, CBI, Inspector Guwanati and Shri A.K. Chakraborti, CBI, Inspector, Itanagar (Ann. XXXIX). Shri A.K. Chakraborti, CBI, Inspector, Itanagar also mentioned about the shortage of stationery articles in the Store (Ann. XXVIII).

Brief Version of the Defence Case

The Charged Officer, Shri Parimal Ghosh wanted to produce before the inquiry officer three Defence Witnesses, but only two of them namely Smti Anita Roy, Jr. Clerk (Store) and Shri Dilip Chetia, the Despatch Rider (working as receipt Clerk) deposed before me. They did not throw direct light on the present case. Shri Parimal Ghosh (Charged Officer) showed them some papers which they (Defence Witnesses) admitted to have handed over to the concerned. The Charged Officer exhibited twenty ^{one} ~~two~~ documents (Ann. XVIII to ~~XXXX~~ ^{XXXVIII}).

Shri P. Ghosh admitted in his statement (Ann. XLIX) recorded by Shri K.C. Choudhury, Inspector CBI, Guwahati that the stock register (No. VI) which was maintained by an Assistant was not up-to-date and was kept pending for more than eight months. The Charged Officer then opened a new stock register (No. VII) in February, 1992 wherein the bills relating to supply order placed to different firms from January, 1992 onwards were entered. He stated that the requisition for stationery was submitted by him on the basis of requisition from different Head of Divisions of ICAR Research Complex, NEM Region, Barapani. The approximate cost was about Rs. 5.36 lakhs, as mentioned by him (Charged Officer).

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The Charged Officer had certified the bills (No. 9 & 10) from M/s Pabitra Paul and entered the articles in the stock register which was duly countersigned by the Store Officer. He has admitted in his statement that he recorded the certificate in the bills even though some of the items, as per the bills (No. 9 & 10 of M/s Pabitra Paul) were not received in the store with a view to facilitate passing of the above bills before closing of the financial year 1991-92 on 31.03.1992. He further deposed that the certificate of having received the articles in the stores was recorded in consultation with the Store Officer, who also countersigned the bills. Shri P. Ghosh also admitted that on 24.04.1992, when CBI officers conducted a surprise check in the Store of ICAR Research Complex, in his presence, some of the items as per bill Nos. 9 and 10 from M/s Pabitra Paul, were not received by him in the Store. He, however, stated that subsequently M/s Pabitra Paul supplied all the articles as per their bills (Nos. 9 and 10).

The Charged Officer stated that since the stock register was not up-to-date with regard to issue of some items, the committee constituted by the Director, ICAR Research Complex vide his No. RC(G)32/81 Vol.I dated 25.04.1992 showed the material as short in their report submitted to the Director of the Institute (Ann. XV). He (Charged Officer) stated that the shortage shown in the report of the committee was not correct. His (Charged Officer's) signature was also not taken on the copy of the report.

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Wm. 6/1/95
(Radimal Ghosh)
Assistant

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Through the documents exhibited by Shri Parimal Ghosh (total exhibits 22, Ann. XVIII to ~~XXXI~~ ^{XXXVIII}), the Charged Officer mainly wanted to state in his defence that the godown in which store material was kept, was not safe considering from the security point of view (Ann. XXIX) exhibit 12) as the ceiling of the same was more or less open. He also conveyed through letters and notes dated 06.03.1992 (Ann. XXX), dated 02.05.1992 (Ann. XXXI), dated 28.07.1990 (Ann. XXXII), dated 24.03.1992 (Ann. XXXIII), dated 03.01.1991 (Ann. XXXIV), dated 16.01.1991 (Ann. XXXV) and dated 03.08.1990 (Ann. XXXVI) regarding the leakage in the roof of the godown and spoilage of the store materials.

In response to the written brief of the Presenting Officer, the Charged Officer (Shri P. Ghosh) submitted a detailed reply (Ann. LX, pp 8). In his reply, the Charged Officer states that genuineness of the undertaking of 30.03.1992 from M/s Pabitra Paul, has been doubted by the Presenting Officer but its mention in the report submitted after surprise check on 24.04.1992 should dispel these doubts of the Presenting Officer. The Charged Officer has stated that during inquiry, Shri K.C. Choudhury, Inspector CBI (who conducted the surprise check on 24.04.1992 in the stores), has admitted that no counting of the material was done during the surprise check. In his defence brief, the Charged Officer stated that there was no question of short supply of stationery material and only thing was that, he certified the bills before full materials was supplied by the firm. Mr. P. Ghosh (Charged Officer) has pleaded through his defence brief (Ann. LX) that the stationery material was fully supplied by the firm.

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Points of Determination

1. Shri Parimal Ghosh, while posted and functioning as Store Assistant in the stationery stores of ICAR Research Complex for NEH Region, Barapani (Shillong) during 1992 failed to maintain absolute integrity and devotion to duty as much as he certified the bills of the party to the tune of Rs. 2,84,732/- (Rupees two lakhs eighty four thousand seven hundred thirty two) only to the effect that he received the stationery articles required to be supplied vide supply order dated 09.03.1992 by M/s Pabitra Paul, Umpling Bazar, Shillong without receiving the same.
2. Shri Parimal Ghosh, Assistant (Stores) failed to maintain the store records properly.

Assessment ~~has been~~ of evidences in respect of First Point of Determination

1. Store verification report of the committee headed by Dr. D.S. Chauhan (Ann. XV, page 4) in which shortage of stationery articles in the store was pointed out. The stationery articles worth Rs. 81,140.36P (Rupees eighty one thousand one hundred forty and paise thirty six) only has been shown as short.
2. State ment of Dr. Chandan Rajkhowa (Ann. XVIII, pages 2), a member of the committee constituted vide No. RC(G) 32/8/ Vol.I dated 25.04.1992, ^{by} ~~the~~ Director, ICAR Research Complex for physical verification of the stores mentioned a shortage of Rs. 83,000/- (Rupees eighty three thousand only) worth of stationery articles. He deposed that physical verification of the store was made on the basis of the stock in hand in the stock register. He however, mentioned that signature of Shri Parimal Ghosh was not obtained on the statement prepared by the committee.

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8/1/95.
(Parimal Ghosh)
Assistant.

Annexure - VI
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3. Order No. RC(G) 16/92 dated 10.2.1994 (Ann. XX) mentioned about the shortage of stationery articles in the stores as indicated by the committee constituted vide office order No. RC(G) 32/87 Vol. I dated 25.4.92 and subsequently order No. RC(G) 16/92 dated 06.04.1993. The shortage indicated by the committees was worth Rs. 80,000/- (eighty thousand) and Rs. 73,262.58P (seventy three thousand two hundred sixty two and Paise fifty eight), respectively.
4. Office memorandum No. RC(G) 16/92 dated 17.02.1994 wherein the Director, ICAR Research Complex proposed to hold an inquiry against Shri Parimal Ghosh, Assistant (Stores) under Rule 14 of C.C.S. (C.C.A.) Rules, 1965 (Ann. XXIII).
5. Memorandum No. RC(G) 16/92 dated 22.02.1994 (Ann. XXV) with a store verification report of the second committee. A shortage of store material worth Rs. 73,262/- (Rupees seventy three thousand two hundred sixty two), approx. has been indicated.
6. Shri Pranab Medhi, Assistant, Admn. Section deposed that (Ann. XXVI, pages 5) a requisition was submitted by Shri Parimal Ghosh, Store Assistant for procurement of stationery for the year 1992-93. In the said requisition, Shri P. Ghosh (Charged Officer) intimated that requirements were assessed on the basis of requirements of various Divisions of ICAR, but requisition^s of the Heads of Divisions^{were} ~~were~~ not submitted by him. The said requisition was put up by Shri Medhi to Dr. Yadav in a file as per orders of the latter. He could recognize the signatures of both Shri P. Ghosh and Dr. B.P.S. Yadav on the requisition. The total amount involved for procuring stationery was Rs. 5.30 lakhs approximately. Shri Medhi has

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166 further stated that both Shri P. Ghosh and Dr. B.P.S. Yadav certified the bills from M/s Pabitra Paul of Umpling Bazar, Shillong which he (Mr. Medhi) put up to the Store Officer for getting sanction of the Director. Shri P. Medhi stated that the party (M/s Pabitra Paul) had received payment of the bills in the first week of April, 1992 without supply of all the materials as per their bills.

7. Statement recorded by Shri K.C. Choudhury, Inspector CBI, Guwahati on 29.4.1992 (Ann. XXVII) in the presence of other CBI Inspectors namely, Shri A.B. Gupta of Guwahati and Shri A.K. Chakraborty of Itanagar, and the Charged Officer, Shri Parimal Ghosh, Assistant (Store), stating that during a surprise check conducted in the stationery store of ICAR Research for NEH Region, Barapani all the items mentioned in Challan No. 15 dated 20.3.1992, were found not supplied by the firm, M/s Pabitra Paul. Against Sl. No. 16 and 18 of Challan No. 16 (copy enclosed) dated 28.3.1992 only 1000 envelopes against 8000 pieces and 6 numbers torches against 16 nos. were received from the said firm. The firm vide letter dated 30.3.92 (Ann. XLI) confirmed non-supply of the same and undertook to supply the material within 10 days ^{ie.} (up to 9.4.1992) but nothing was supplied against the aforesaid challan. It is mentioned in the above statement that entries of the said items not received are shown in the stock ledger except D.F.C. paper but payment was released vide Cheque No. 868656 dated 31.3.92 for Rs. 2,84,732/- (Rupees two lakhs eighty four thousand seven hundred thirty two) only. Shri Parimal Ghosh (Charged Officer) has signed the statement.

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Wm 8/1/95
(Parimal Ghosh)
Assistant

tion to

8. Statement of Shri A.K. Chakraborty, Inspector CBI, Itanagar Unit (Ann. XXVIII) wherein he stated that on 24.04.1992, he along with Shri K.C. Choudhury, and Shri A.B. Gupta, Inspector CBI, Guwanati Unit, conducted a surprise check in stationery store of ICAR, NEH Region, Barapani in the presence of Shri Parimal Ghosh (Charged Officer). He stated that during surprise check, it was found that all the items mentioned in Challan No. 15 dated 20.03.1992 were not supplied by the firm, M/s Pabitra Paul. In Challan No. 16 dated 28.03.1992, the said firm supplied only 1000 pcs against 8000 pec of envelopes and 6 against 16 Nos. of torch lights to the ICAR Research Complex. But in stock ledger, all the items have been shown as received.
9. Letter from M/s Pabitra Paul of 30.3.1992 (Ann. XLI) stating that remaining supply, i.e. carbon paper, envelopes, note sheet, torch, file envelop will be supplied within 10 days. They requested for release of payment after completion of full supply.
10. Statement of Shri P. Ghosh himself (Ann. XVI) recorded by Shri K.C. Chaudhury, Inspector CBI, Guwanati which reads "Here I (Shri P. Ghosh) am to state that I (Shri P. Ghosh) had issued the certificates in the bills although most of the items as per the bills were not received in the store with a view to facilitate passing of said bills before the closing of the financial year 1991-92 on 31.3.1992. The certificates were issued by me after consultation with the Store Officer, who also countersigned the bills". Shri P. Ghosh (Charged Officer) however stated that subsequently M/s Pabitra Paul supplied all the articles as per the bills. Shri P. Ghosh (Charged Officer) admitted that he had certified the bills No. 9 and 10, from M/s Pabitra Paul without receiving all the items.

11. Statement of Dr. B.P.S. Yadav, Sr. Scientist & Head, Anim. Nutrition Division working as Store Officer during the period of the present case (Ann. XXXVIII, pp 8) wherein he has stated that he learnt from Shri P. Ghosh on 30.03.1992 that stationery worth Rs. 20,000/- (Rupees twenty thousand) has not been supplied by the firm. However, Dr. Yadav deposed that the short items ^{were} ~~was~~ received before he (Dr. Yadav) counter-signed the bills.

12. Proceedings of the regular inquiry on 14.12.1994 (Ann. LI). On being asked by the Presenting Officer, Shri P. Ghosh admitted that he had given the certificate for receiving the stationery material on the body of the bill even without receiving the same.

Both the Defence Witnesses, Viz. Mrs. Anita Roy and Shri D.K. Cnetia stated that they do not know about the case.

Assessment ~~and~~ ~~status~~ of evidences in respect of Second Point of Determination

1. The statement of Dr. Chandan Rajkhowa (Ann. XVIII, 2 pages), wherein he has deposed that physical verification of the store was made on the basis of the stock in hand shown in the stock register. He further deposed that there was a shortage of approximately Rs. 83,000/- (Rupees eighty three thousand).

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6/1/95.
(Primal Witness)
Assistant.

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2. Office Order No. RC(G) 16/92 dated 10.02.1994 (Ann. XX) issued by the Director, ICAR Research Complex, Barapani indicating a shortfall of stationery articles worth Rs. 80,000 (approx.) (Rupees eighty thousand) as investigated by a committee constituted vide office order No. RC(G) 32/87 (Vol. I) dated 24.04.1992. The second committee constituted vide office order No. RC(G) 16/92 dated 06.04.1993 indicated a shortfall of Rs. 73,262.58P (Rupees seventy three thousand two hundred sixty two and paise fifty eight) in their report. The items were entered in the Store Register even without receiving the same physically in the store, as alleged.
3. Statement of Shri Pranab Medhi (Ann. XXVI) that the bills were received in the Store Section duly certified by the Store Officer and Store Assistant on the reverse of the bill as regards receipt of materials in the store as per the bills.
4. Report of Shri K.C. Choudhury, Inspector CBI, Guwahati (Ann. XXVII) mentioning that entries of some items not received are shown received in the Stock Ledger.
5. Letter dated 30.3.1992 from M/s Pabitra Paul, Umpling Dazar, Shillong (Ann. XLI) regarding his being not in a position to supply some of the stationery articles due to blockade on road transport in the Checkgate at Sri Rampur. He undertook to supply these stationery articles within 10 days from the date of the letter i.e. up to 9.04.1992. The stationery articles were entered in the stock register even though these were not supposed to be supplied as per letter/undertaking of the firm.

6. Statement of Shri P. Ghosh (Ann. XLIX, pages 4) wherein he admitted his fault of certifying the bills No. 9 and 10 of M/s Pabitra Paul even without receiving all the items, though the material was subsequently supplied as stated by him.
7. Proceeding of the regular inquiry conducted on 14.12.1994 (Ann. LI, pp 2) and 22.12.1994 (Ann. LVII, pp 2). The Presenting Officer asked Shri P. Ghosh (Charged Officer) that how he made the entries in the store register without receiving all the materials. Mr. Ghosh replied that though the bills were received on 18.03.1992, he processed them only after an undertaking was received from the firm through the Store Officer. However, File NO. RC(G) 32/87 Vol. I, RC(S) 1/89 and RC(S) 18/86 could not be produced before the Inquiry Officer (Ann. LVIII, LXI, LXII).
8. Handing over of charge report (Ann. XXI pp 20) - Shri P. Ghosh handed over the charge of store keeper to Shri Robin Subba (Sr. Clerk) on 03.06.1992. Nowhere, shortage of stationery has been indicated as per stock register.
9. Shri K. C. Chaudhury, Inspector CBI, Guwahati, who conducted the surprise check in the stores on 24.04.1992, deposed that no physical verification of the store items was done during the check.

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100/6/1/95
(Radimal Ghosh)

Findings on the Article of Charge

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Annexure - VI Contd.

First point of determination

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It is clearly evident from the points of assessment of evidences given above and supported by the enclosed documents that the case for sanction of stationery articles was processed by Store Officer on 30.03.1992 and FAO put up the case to the Director, ICAR Research Complex and formal sanction was accorded on 30.03.1992 itself (Ann. XL). This included the bills of M/s Pabitra Paul of Umpling Bazar, Shillong amounting to Rs. 2,84,732/- (Rupees two lakhs eighty four thousand seven hundred thirty two) only. It would be appropriate to mention in brief the facts about the charge of certification of the bills No. 9 and 10 of M/s Pabitra Paul by Shri Parimal Ghosh (Charged Officer) even without receiving some of the stationery articles included in the bills :

The requisition of stationery articles was submitted on 22.02.1992 by Shri Parimal Ghosh (Charged Officer) which was said to be based on the requirements of various Divisions and Regional Centres of ICAR Research Complex for NEH Region. The order was placed with M/s Pabitra Paul vide Store order No. RC(S) 10/91/100 dated 09.03.1992 to supply the stationery articles within 10 days i.e. up to 19.03.1992. M/s Pabitra Paul submitted two bills i.e. No. 9 dated 18.03.1992 for Rs. 74,132.35P (Rupees seventy four thousand one hundred thirty two and paise thirty five only) and No. 10 dated 18.03.1992 for Rs. 2,10,600 /- (Rupees two lakhs ten thousand six hundred only) (Ann. XLV and XLVI, respectively). The stock register entry has been recorded by Shri P. Ghosh on the back side of the bills and countersigned

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by Dr. B.P.S. Yadav, Sr. Scientist, then holding the charge of Store Officer. None of them has given the date on the bills. The stationery materials from M/s Pabitra Paul has been shown in three challans viz. NO. 15 dated 20.03.1992 (Ann. XLII); No. 16 dated 28.03.1992 (Ann. XLIII) and No. 17 dated 31.03.92

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(Ann. XLIV). No body from the Stores Section has put the signature as receiver. Fully vouched contingent bill No. RC(E)contg./906/92 (RC(S) 10/91/145) (Ann. XLVII) was prepared on 31.03.1992 for Rs. 2,84,732/- (Rupees two lakhs eighty four thousand seven hundred thirty two only). The party i.e. M/s Pabitra Paul of Umpling Bazar, Shillong received payment on 03.04.1992 through Cheque No. OZ/56-868656 dated 31.03.1992.

2. Preliminary inquiry in the case was conducted on 21.11.1994 and regular inquiry on 14.12.1994 and 22.12.1994. The proceedings of regular inquiry conducted on 14.12.1994 and 22.12.94 as well as the statements of Prosecution Witnesses; statements recorded by Shri K.C. Choudhury, Inspector CBI, Guwahati on 24.04.1992 in presence of Shri A.B. Gupta, Inspector CBI, Guwahati and Shri A.K. Chakraborty, Inspector CBI, Itanagar; letter dated 30.03.1992 from M/s Pabitra Paul to the effect that the firm was unable to supply some of the items of stationery immediately due to blockade of transport in the checkgate at Sri Rampur (Assam) and assessment of documentary evidences in support of the charge, proved that some of the items of stationery were not supplied at the time of certification of the bills by Shri P. Gnosh (Charge Officer) and Dr. B.P.S. Yadav, the Store Officer.

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6/1/95
(Oswal Gohri)
President

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It was, perhaps impossible for M/s Pabitra Paul to supply the stationery items on 30.03.92 itself when he had informed in writing on the same day of his inability to supply the remaining items of stationery which were held up near Sri Rampur (Assam-Bengal border). Sri Rampur is about 400 kms (approx.) from Shillong and it was rather impossible for the truck with stationery to cover that distance till evening of 30.03.1992, unloading of the materials, release and then supply to Store Section of ICAR Research Complex at Barapani on the same day. Had M/s Pabitra Paul thought of purchasing the remaining material from local market for supply, they would not have given the letter of undertaking dated 30.03.1992 to supply the stationery items within 10 days from the date of the letter.

3. The deposition statements of Dr. Chandan Rajkhowa, Senior Scientist, ICAR Research Complex, Barapani and Shri A.K. Chakraborty, Inspector CBI points out the shortage of stationery articles in the Store.
4. In his deposition before Shri K.C. Choudhury, Inspector CBI on 24.04.1992, the Charged Officer, Shri Parimal Ghosh himself admitted about the shortage of stationery articles in the Store as on 30.03.1992. But in reply to the written brief of Presenting Officer, he stated that between 24.04.1992 to 28.04.1992, his wife was admitted in Nazareth Hospital, Shillong and due to his personal problems, he was not aware till a later stage that the balance supply of stationery was made good on 02.04.1992 and the cheque for

Rs. 2,84,732/- (Rupees two lakhs eighty four thousand seven hundred thirty two) only was handed over to M/s Pabitra Paul after delivery of the short material.

168 Considering all the documents produced and the deposition of witnesses during the course of inquiry, there appears to be sufficient ground to prove that ^s on 30.03.1992, some of the stationery items were not supplied by M/s Pabitra Paul and the Charged Officer (Shri Parimal Ghosh) certified the bills of the firm even in absence of the total supply as ordered in the supply order No. RC(S) 10/91/100 dated 09.03.1992. Hence the first point of determination i.e. 'Shri Parimal Ghosh (Charged Officer) certified the bills of M/s Pabitra Paul even without receiving full supply of stationery articles' stands proved.

Second point of determination

1. Shri M. Sarania, Inspector CBI, ACB, Oakland, Shillong (Presenting Officer) stated in his written brief that the deposition of Dr. C. Rajkhowa (Prosecution Witness) does not relate to the specific charge against the Charged Officer and should not be considered. Much credence cannot be given to the report ~~of the committee constituted by the Director, ICAR Research Complex, Barapani~~ ^{vide} his order No. RC(G) 32/87 Vol. I dated 25.04.1992 ^(Ann. XVII) and the report of the second committee submitted on 19.2.1994 (Ann. XXV) as evaluation of the 'short stationery articles' by the two committees varied considerably.

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6/1/95
(Parimal Ghosh)
Assistant.

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Secondly, the first committee pointed out the removal of the roof-top (G.I. sheets) of the sealed godown for repair, where physical verification of the stationery articles was done, thereby giving indirect indication that the loss of stationery cannot be ruled out under such circumstances. The second committee based their findings on the office records and no physical verification was done. Further, the number of different stationery items as shown by the two committees and those ordered for from M/s Pabitra Paul do not tally.

2. Dr. B.P.S. Yadav, Stores Officer, deposed that on 30.03.1992 some stationery was brought by Shri Ghosh in a Jeep (ICAR vehicle), unloaded the same and kept in the Store. However, Dr. Yadav did not verify the stationery items whether those were from M/s Pabitra Paul or somebody else. But Dr. Yadav, working as Stores Officer during the period stated that M/s Pabitra Paul supplied all the stationery items as shown in the bills No. 9 and 10 of the above firm.
3. The written brief submitted by the Presenting Officer is only a part of what had transpired during the inquiry proceedings and reflects his (Presenting Officer) views in the matter. In his written brief, the Presenting Officer has shown doubts about the genuineness of the undertaking of M/s Pabitra Paul dated 30.03.1992 saying it to be fabricated after 24.04.1992, the date of CBI verification. But its mention in the report submitted by Shri K.C. Choudhury, Inspector CBI, Guwanati of 24.04.1992 (Ann. XI) must dispel the doubts of Presenting Officer.

Contd... 30

4. During the inquiry conducted on 22.12.1994, Shri K.C. Chaudhury, Inspector CBI, Guwanati who conducted the surprise check on 24.04.1992, deposed that no physical verification/counting of the stores was done. This has also been mentioned in the written brief submitted by the Presenting Officer. So in absence of physical verification of the store items on 24.04.1992, it is not only difficult to point out that the store records were not maintained in a proper manner but also, one cannot say categorically that balance supply of the material (stationery articles) was not made good before issuing the cheque for Rs. 2,84,732/- (Rupees two lakhs eighty four thousand seven hundred thirty two) only to M/s Pabitra Paul on 03.04.1992. Again, as per office order No. RC(S)49/80 dated 17.06.1991 (Ann. XXII), the duty of maintenance of store register was of somebody else also and Mr. P. Ghosh was not only responsible for maintenance of stock registers.

So the second point of determination that 'Shri P. Ghosh (Charged Officer) failed to maintain the store records in a proper manner' could not be substantiated and hence could not be proved considering the statements of the Prosecution Witnesses and the documentary records produced before me.

✓ Locking into the depositions/statements of various witnesses as well as the documentary records, the charge against Shri Parimal Ghosh (Charged Officer) is only partly proved.

Contd'... 31

11/11/95

1/11/95

7 43

Proxime-ut into

It would be in the fitness of things and for natural justice that some clarification is made hereunder :

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There appears to be a general tendency in official purchase that most of the items/materials of requirement are purchased during the fag end of the financial year. This is perhaps done, after looking into the budgetary position. These last minute purchases, affected after hurriedly taken decisions, are invariably not need-based and do not reflect the priorities of the Institute/organization. Sometimes, this is done only for the sake of spending the left-over money from the budget provisions. This may breed corruption and serve interests of some interested persons/parties. In the present case, the decision to purchase stationery items worth 5.36 lakhs was taken at the fag end of the financial year 1991-92 and the order was placed on 09.03.1992. The firm could not supply all the stationery items up to 30.03.1992. Thinking that money will lapse, the amount was drawn from the bank by the office and kept for payment to the firm after completion of the supply. Shri P. Ghosh (Charged Officer) certified the bills No. 9 and 10 of M/s Pabitra Paul even in absence of supply of some items of stationery up to 30.03.1992 for passing of the said bills before end of financial year. Shri Ghosh's admittance of the charge during inquiry appears to show that this procedure was probably prevalent in the office. Many such instances, perhaps may come to light if the past records are scanned. This was probably done, some times to avoid lapsing of the institute's grants and there might not be any malafied intention/motive behind this. As such, a particular person cannot be singled out for the whole episode. For stationery worth Rs. 5.36 lakhs, which must be quite bulky also, some of the

affected -
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Lab.
Sr. CGS c
14/2/97

Contd' ... 32

persons in the channel, right from Store Keeper to sanctioning authority, could have ascertained about the supply in full and whether or not such a huge purchase was within the competence of the sanctioning authority in a single go. Such happenings, need to be avoided in future.

132
Dated : 24th June, 1995
Barapani

U.C. Sharma
(U.C. Sharma)
Inquiry Officer

11
8/7/95
U.C. Sharma
9/7/95

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CONFIDENTIAL 193
Annexure VII
124

To

The Director,
ICAR Res. Complex for NEH Region,
Umroi Road,
Barapani.

Sub : Inquiry report on Disciplinary proceeding.

Ref : Your letter No.RC(G)16/92 dt. 21.8.95.

Respected Sir,

I beg to submit as here under on the Inquiry report enclosed with the letter under reference :-

- 1) That the inquiry report will have to view in its entirety and not piece-meal.
- 2) That it is stated paragraph 1, page 2 that I wanted to defended/ represented in my case by Mr. B.N. Dutta, Advocate, Laitumkhrah, Shillong vide my letter dt. 19.11.94. That Sri M. Sarania, C.B.I. Inspector was appointed as Presenting Officer. In view of that matter I would invite your kind attention to G.O.I.M.H.A.D.P. and A.R.O.M. No.11012/7/83-Estt.(A) dt. 23.7.84 which reads as under :
" Rule 14(8)(a) of CCS(CCA) Rules 1965 provides, inter alia, that a delinquent Government servant against whom disciplinary proceedings have been instituted as for imposition of a major penalty may not engage a legal practitioner to present the case on his behalf before the Inquiring Authority, unless the presenting officer appointed by the Disciplinary Authority is a legal practitioner, or the Disciplinary Authority, having regard to the circumstances of the case, so permits. It is clarified that, when on behalf of the Disciplinary Authority, the case is being presented by a Prosecuting Officer of the Central Bureau of Investigation or a Government Law Officer (such as legal Adviser, Junior Legal Adviser), there are evidently good and sufficient circumstances for the Disciplinary Authority to exercise his discretion in favour of the delinquent officer and allow him to be represented by a legal practitioner. Any exercise of discretion to the contrary in such cases is likely to be held by the Court as arbitrary and prejudicial to the defence of the delinquent Government Servant". This is self-explanatory.
- 3) That handicapped as I have been in the face of such expert Presenting Officer assisted by another Presenting Officer of the same rank from the C.B.I. and witness by another C.B.I. Inspector alongwith high officials the scale were heavily burdened against me, yet I feel that the inquiry officer has practically exonerated me from the charges.

Contd....2/-

Q. H. K. S. /

C. Lee.
For CSSC

14.2.97

4)

To bring forth the point to your kind attention, I would like to submit on the latter of the two charges and the discussions and findings of the Respected Inquiry officer.

1-4

The inquiry officer himself expressed the view that the 2nd point of determination that Shri P. Ghosh (charges officer) failed to maintain store records in a proper manner could not be substantiated and hence could not be proved considering the statements of the prosecution witness and the documentary records produced before me.

5)

That this has a bearing on the entire proceedings in as much as if the charges that store records were not maintained properly was not proved and the facts stands that when I handed over the charge of the store to my successor Shri R. Subba on 3.6.92 no where shortage of stationery has been indicated as per stock register.

6)

That the statement in the proceeding paragraphs made on the basis of the inquiry report demolishes the charge No. 1 and leaves no doubt that there had been no shortage in the store articles. The charge No. 1 can then be short listed to a single point that I recorded a certificate on 30.3.92 showing the receipt of the articles as per bill No. 9 and 10 dt. 18.3.92 for Rs.73,132.35 and Rs.2,10,000.00 respectively. That it has been explained without any ambiguity that stationery articles were supplied, the challan No. 15 dt. 20.3.92, challan No. 16 dt. 28.3.92 and challan No. 17 dt. 31.3.92, none of those aforementioned challans were received by me in view of the short supply detected and that compelled the supplier to come forward with a clear letter of undertaking dt. 30.3.92 that the goods were in transit and were held at a certain point and he would complete the supply within 9.4.92. I have already admitted that it was only with a view to avoid laps of grant and further complications I recorded my certificate on the bills subject, of course to the letter dt. 30.3.92 of the supplier and in the full knowledge of the store officer. I am extremely grateful to the inquiry officer he had kindly taken note of the position and in the last two pages of his report in the fitness of things and for natural justice he had thrown light on the state of affairs that prevailed in the Research Complex in regard to such purchase in the last moment of the financial year. I may kindly be permitted to state that this is not only applicable in our I.C.A.R. Res. Complex but perhaps equally applied to all Govt. Deptt. and Public sector undertaking in India.

7)

That without dilating much to the high principle it is admitted that the C.B.I. officers who are highly equipped to handle such matter did not go for spot verification of the store on 24.4.92. As to my own difficulties mentally and otherwise because of my wife's serious illness during that period and the hospitalization on 24.4.92 I could not personally taken much initiative in the matter and signed some paper in my hurry and mentally agony which if a stock verification would have been done then and there the communication gap that occurred in between and my lack of knowledge that the short articles have been already received would have been rectified. I have already stated that the store articles must have reached in the Complex before the supplier could take the cheque. This position has been vouched by the respected store officer in course of

Contd...3/-

his deposition which has been recorded in the inquiry report. That the store officer had been telling the truth about the state of affairs is clearly evident from the fact that while at the initial stage the inquiry officer was called upon to conduct inquiry against both the store officer as also myself it was letter No. RC(G)16/92 dt. 26.10.94 from the Administrative Officer, ICAR Research Complex, Barapani that no inquiry against Dr. B.P.S. Yadav, the respected store officer need be conducted. It is an established principle of law that a statement made by a witness have to be accepted in full or discounted in full. There is no via-media of accepting the evidence adduced by an witness as partly true and partly false. In the circumstances of the case the evidence adduced by Dr. B.P.S. Yadav that he was satisfied about the receipt of the store articles billed for must have to be accepted as true. The confusion to an extent I must admit was due to my lack of knowledge because of the communication gap as stated *ibid* and also because when the C.B.I. Inspector came to visit the store on 24.4.92 afternoon they did not care to take the store officer or summon him in the spot to verify the correct position. I am sure that had the store officer been present at that particular point of time there would have been no confusion left in the matter of receipt of store articles mentioned in the bill aforesaid. I had stated earlier that due to certain exigencies concerning my ownself I could not attend the office and the store on 1st April to 3rd April, 1992 and in fact I was out of touch that the store supply vide undertaking dt. 30.3.92 by the supplier was made up in between.

Lastly, in this matter I must submit that I was not completely unaware that I have been giving a certificate pre-dated for a post dated supply but this having been an establish practise by past precedent which unfortunately I could not show because the relevant file inspite of my asking of the same was not produced as stated in list of documents requested by me vide para-2 page 2 and as observed by the inquiry officer at para 7 at page 24 of his report.

- 8) That it is an admitted fact that I recorded a certificate about the full supply of ordered materials on 30.3.92 before receiving of all the materials in view of the undertaking given by the supplier N/S P. Paul and in consideration of drawal of cheque to avoid lapse of grant. But this was done bonafide in the interest of the Research Complex according to my best judgement following the precedent of the earlier years and which was authenticated under order contained in the relevant file production of which would have established my sincerity and innocence in the matter beyond any shade of doubt. I may kindly be permitted to submit that notwithstanding any un-intentional technical failure, there had been no lack of maintaining absolute integrity and devotion to duty.

Contd...4/-

- 9) That I have been working in this Research Center for the purpose of the various laboratory and a common one to the various laboratory and there is no sufficient information, because of the particular type of work of carrying a high level of research and will supply on various other items.

In the circumstances, I hereby give the following to be drawn out from the charge and for this are of your kind. I shall every year.

TOMAS H. H. H. H.

(H. H. H. H.)

Q/kskd.
Sale' So. CSSC
14/2/97

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H. REGION
UMROI ROAD, BARAPANI, MEGHALAYA

Annexure - VIII
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NO. RC(G)16/92

Dated Barapani, the 25th August, 95

ORDER

WHEREAS on inquiry under rule 14 of the CCS(CCA) Rules, 1965, as extended to ICAR employees was initiated against Shri Parimal Ghosh, Asstt., ICAR Research Complex for NEH Region, Barapani was held in respect of the following articles of charge framed against him and communicated to him vide Memo No. RC(G)16/92 dt. 17.2.94 :-

"While Shri Parimal Ghosh was posted and functioning as Store Asstt. in the stationery stores of ICAR Res. Complex for NEH Region, Barapani, Shillong during 1992 failed to maintain absolute integrity and devotion to duty as much as he certified the bills of the party to the tune of Rs. 2,84,732.00 to the effect that, he remind the stationery articles required to be supplied vide supply order dt. 9.3.92 by M/S Pabitra Paul, Shillong without receiving the stationery articles and apart from that he also failed to maintained the store records in proper manner and thereby by the above acts Shri Parimal Ghosh contravened the provision of Rule 3(1)(i) of CCS(Conduct) Rules, 1964".

WHEREAS the inquiry officer in his report has held him guilty to the extent of giving stock certificate of bills of M/S P. Paul prior to the actual receipt of all the materials.

WHEREAS the undersigned on a careful consideration of the inquiry report (copy enclosed) and the records of the inquiry agrees with the findings of the inquiry officer and holds that Shri Parimal Ghosh, Asstt. is guilty to the extent of giving stock certificate of bills prior to the actual receipt of all the materials.

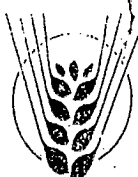
NOW, THEREFORE, having regards to the findings of the inquiry officer as stated above and taking into consideration other facts/records and circumstances of the case, the undersigned is satisfied that good and sufficient reasons exist for imposing on Shri Parimal Ghosh, Asstt. ICAR Research Complex for NEH Region, Barapani the penalty of "Censure".

Accordingly, the penalty of "Censure" is imposed on Shri Parimal Ghosh, Asstt., ICAR Research Complex for NEH Region, Barapani.

(S. Laskar)
Director

Shri Parimal Ghosh,
Asstt.
ICAR Res. Complex for NEH Region,
Barapani.

Officed
S. Laskar
S. Laskar
14/2/97



भारतीय कृषि अनुसंधान परिषद्
ICAR

भारतीय कृषि अनुसंधान परिषद्

कृषि भवन, डा० राजेन्द्र प्रसाद मार्ग, नई दिल्ली-110001

INDIAN COUNCIL OF AGRICULTURAL RESEARCH,

KRISHI BHAWAN, Dr. RAJENDRA PRASAD ROAD, NEW DELHI-110 001

Confidential

Registered A/D

F.No. 28(2)/92-Vig.

Dated the 25 July, 1996.

ORDER

WHEREAS an inquiry under Rule 14 of CCS (CCA) Rules, 1965, as applicable to ICAR employees was held against Shri Parimal Ghosh, Asstt, ICAR Res. Complex for NEH Region, Shillong by Director, NEH Region, the disciplinary authority in his case, in r/o the following article of charge framed against him & communicated to him vide order No. RC (G) 16/92 dated 17.2.94;

"While Sh. Parimal Ghosh Posted & functioning as store Asstt. in the stationery stores of ICAR, NEH Region, Barapani, Shillong during 1992 failed to maintain absolute integrity & devotion to duty as much as he certified the bills of the party to the tune of Rs. 2,84,732.00 to the effect that, he received the stationery articles required to be supplied vide supply order dated 9.3.92 by M/S Pabitra Paul, Shillong without receiving the stationery articles & apart from that he also failed to maintain store records in a proper manner.

WHEREAS the Director, NEH Region, on conclusion of the inquiry against Sh. Ghosh, imposed the penalty of Censure on Sh. Ghosh vide Order No. RC (G) 16/92 dated 25.8.95;

WHEREAS subsequent Director of the Institute, viz Dr. N.D.Verma made a recommendation dated 13.9.95 to the Revising Authority against the penalty of Censure as imposed on Sh. Ghosh on the ground that this penalty was not commensurate with the gravity of the charge, as the main part of the article of charge framed against Sh. Ghosh stood proved, besides other reasons including even the undertaking dated 30.3.92 being suspect;

WHEREAS the Revising Authority i.e Director General ICAR on careful consideration of the inquiry report and the records of the inquiry finds that;

(i) In the statement of imputation it was alleged that on 24.4.92 a surprise check was conducted in the Stationery Stores by Officials of CBI, when it was found that stationery

Docd-1
3/8/96

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items which had been certified by Sh. Ghosh, Asstt as having been received on 30.3.92 from M/S Pabitra Paul, were physically not available in the store. Sh. Ghosh also admitted about the non-receipt of the said stores.

The finding of I.O. in this regard was that in the absence of physical verification of store items on 24.4.92 one cannot say categorically that the balance supply of the material was not made good before issuing cheque for Rs. 2.94 Lakhs to Ms. Pabitra Paul on 3.4.92.

The above finding is based on deposition at cross examination stage of Shri K.C.Choudhary, Inspector who was one of CBI, the officials who conducted the surprise check, as well as contention of Shri Ghosh about his being under mental pressure on 24.4.92 due to illness of his wife.

It is however seen that in addition to Sh. Chaudhary, Inspector CBI, there were two other Inspectors of CBI who were listed as prosecution Witnesses (P.W.), but were apparently not examined during the inquiry. No reason for this has been recorded in the report, whereas they are key witnesses, since the Memo dated 24.4.92 prepared after the surprise check which is signed by all the three Inspectors (as well as Sh. Ghosh) clearly mentions of non-receipt of remaining stationery items till that date. Even Sh. Chaudhary was not pointedly asked by P.O. or I.O. that how it was stated in the Memo dated 24.4.92 that most of the items were found not supplied. In fact the circumstances in which Sh. Chaudhary has stated that there was no physical verification may simply mean that in view of Sh. Ghosh having admitted to non-receipt of certain items (whose number is also specifically indicated in the Memo) above there was hardly any need to physically count the entire stock in the stores. Similarly, Sh. Ghosh was also not asked how even in his subsequent statement recorded before CBI on 13.7.92 he had again admitted that material had not been supplied till 24.4.92. Therefore I.O. had obviously ignored the statement of Sh. Ghosh dated 13.7.92 as well as that of Dr. B.P.S. Yadav dated 10.7.92 even though both of them are listed documents. He has also convoluted the facts recorded in the Memo of CBI dated 24.4.92 when he says on page 27 (para 4) of the report that Sh. Ghosh has admitted vide this memo that material had not been received till 30.3.92 only, whereas on mere reading of the memo it is clear that material had not been received even till 24.4.92.

AS SUCH the Revising Authority is of the view that the inquiry in this case has not been properly conducted, and the decision as such on this issue is pre-mature;

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NOW THEREFORE the Director Genl. ICAR in exercise of power conferred under Rule 29(1) (IV) of CCS(CCA) Rule, 1965 hereby sets aside the penalty of Censure as imposed vide order dated 25.8.95, and remits back the case to the Disciplinary Authority i.e the Director, ICAR Res. Complex with the direction to hold a further inquiry on the issue that whether balance stationery items had been received till 24.4.92 or not.

Nu Dey
(Capt. R.K. Marwaha)
Director (Vigilance)
for & on behalf of
Dir Genl. ICAR.

DISTRIBUTION:

1. Dr. R.P. Awasthi,
Director, ICAR Res.
Complex for NEH Region,
Barapani, Shillong,
793103.

with an additional copy meant for Sh. P. Ghosh, Asstt., it may be got delivered to him after obtaining his dated signatures which may be forwarded to Council for record. Further, the inquiry as above may be completed within a period of three months of issue of this order, and the report with all the records forwarded to DG, ICAR.

- ✓ 2. Sh. Parimal Ghosh, Asstt, ICAR, Res Complex for NEH Region, Shillong.

Offsted,

Sec.

*S.C. GSC
14/2/92*

deposition.

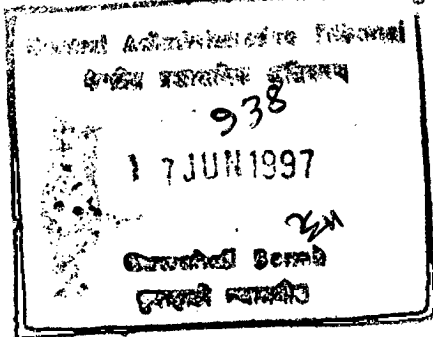
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

D.A. No. 260/96

Shri Parimal Ghosh ... Applicant

- Versus -

I.C.A.R. & Others ... Respondents



REJOINDER TO THE WRITTEN STATEMENT FILED BY THE RESPONDENTS

The Applicant begs to state as follows :

1. That the Applicant has gone through the copy of the written statement submitted on behalf of the respondents and have understood the contents thereof. Save and except the statements which are specifically admitted hereinbelow, other statements made in the written statements are categorically denied.

2. That with regard to the statements made in paragraphs 1 to 5 of the written statements, the Applicant begs to reiterate and reaffirm that statements made in the Original Application. The Respondents having not denied the contentions raised by the Applicant, the said contentions should be deemed to have been admitted by the Respondents.

3. That with regard to the statements made in paragraph 16 of the Written Statement, while the contentions raised in therein, the Applicant reiterates and reaffirms that statements made in the D.A. The punishment was imposed on the Applicant vide order dated 28.5.95 and the same was re-opened on the basis of the recommendation dated 13.9.95 of the successor in office of the Disciplinary Authority i.e. the

Copy will be served on
C.G.S.C. as soon as
available.
S. O. Chatterjee
17.6.97

Filed by
Siddhartha Sarma
Advocate
For Mr. B.K. Sanyal
17.6.97

17/6/97

- 2 -

Respondent No. 4. The said Respondent has done so malafide and in colourable exercise of power. The Respondents have admitted the contentions of the Applicant while stating in paragraph 16(ii) that the role of Enquiry Officer in course of the disciplinary proceeding being a quasi-judicial Magistrate has no scope to become unbiased. As regards the other statements made in paragraph 15 of the Written Statement, the Applicant begs to state that the power vested on the competent authority must be exercised judiciously and without any element of arbitrariness. In the instant case, the same was exercised not in exercise of any independent mind but at the behest of the Respondent No. 4 who is all along kept a grudge against the Applicant. Further while exercising the power of review vide Annexure-1 order dated 25.7.96 apart from the fact that the Authority did not exercise the said power in application of his independent mind but exercised the same at the behest of the Respondent No. 4, also exceeded in his jurisdiction in issuing a direction to hold further enquiry on the issue "that whether the balance stationery item did not receive till 24.4.92 or not" which was neither a charge nor an issue in the earlier enquiry. Thus the Authority in exercise of its power of revision took into account matter extraneous to the original charge and on this score alone, the impugned order is liable to be set aside and quashed.

4. That with regard to the statements made in paragraph 17 of the written statement, the allegations

- 3 -

made against the Respondent No. 4 having not been denied, the Respondents more particularly, the Respondent No. 4 has admitted the same and accordingly, the charge of malafide having been proved, the impugned order is not sustainable. In this connection, the applicant begs to state that the Respondent No. 4 who was the Director at the relevant time although was subsequently transferred, subsequently posted as Project Director, National Research Centre, Mithun, Nagaland has once again joined as Director during May 1997 and thus is the Disciplinary Authority of the Applicant. The Applicant having alleged malafide against the Respondent No.4, which has not been controverted he cannot hope for any justice if the proposed enquiry is allowed to continue as per Annexure-1 to the O.A. at the behest of the Respondent No.4.

The Respondent No. 4 Dr. N.D. Verma had recommended the revision of the case which was finally disposed by his predecessor. Such recommendation was made with a vindictive attitude for collateral purpose and to harass the Applicant due to his active role in the agitational programme which was called by the ICAR Employees Association during September 1995. The Applicant is the Joint Secretary of ICAR Employees Association and Joint Secretary of the INTUC (Meghalaya Branch). In this connection, various newspaper reports may be referred to including the one in which comment of Dr. N.D. Verma had been published and it is revealed from the said news item that Dr. Verma has taken a

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vindictive attitude towards the Union leaders. As a Union leader, the Applicant has made allegations against the Respondent No. 4 as reflected in the newspaper reports which naturally has attracted the wrath of the Respondent No. 4 as a consequence of which revision of the matter was recommended by the Respondent No.4. The newspaper reports are indicative enough that the malafide and colourable exercise of power is the foundation of the impugned order.

Copies of the newspaper reports dated 3.9.95, 4.9.95, 18.10.95, 22.8.95 and 18.10.95 are annexed hereto as ANNEXURES-A, B, C, D and E respectively.

5. That with regard to the statements made in paragraphs 18 to 26 of the Written Statement, while denying the contentions raised therein, the Applicant reiterates and reaffirms the statements made in the Original Application and so also hereinabove.

6. That in view of the facts and circumstances stated above, the Original Application filed by the Applicant deserves to be allowed with cost.

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- 5 -

VERIFICATION

I, Shri Parimal Ghosh, son of Late P.C. Ghosh, aged about 37 years, working in the office of the Director, Indian Council of Agricultural Research Centre, N.E.H. Region, Barapani, resident of Shillong, Meghalaya, the Applicant in O.A. No. 260/96, do hereby verify and state that the statements made above in paragraphs 1 to 6 above are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 13 th day of June 1997.



(PARIMAL GHOSH)

THE SENTINEL SUNDAY 3 SEPTEMBER 1995

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Workers Resent Appointment

From a Correspondent

SHILLONG, Sept. 2: The Indian Council of Agricultural Research (ICAR) north-eastern region is in ferment again over the appointment of Dr N D Verma as director of the research complex in Barapani, a few kilometers from here.

The Barapani complex is crawling with cops after Dr Verma took charge yesterday, while he himself has a security ring around him.

The ICAR Workers Union and the Employees Association, backed by almost all the other trade unions here, fired fax notes to the Union Minister of Agriculture Mr Balram Jakhar for the umpteenth time to extend the tenure of Dr S Laskar who retired on August 31.

At a hastily-called press conference today, leaders of the two workers unions of the ICAR decried the hard attitude of their Delhi headquarters. The general secretary, Mr Markos Dehar said that if Delhi did not take note of the several petitions for the extension of Dr Laskar's tenure from the important political leaders of the region, they had no other recourse but to agitate on this issue.

The workers have decided to give the Central Government a week's time to sort out the matter after which they will start their agitational programmes.

The workers felt that Dr Laskar should be retained for at least one more year within which he could complete the lab-to-land programme he had initiated.

They further alleged that the appointment of Dr Verma was motivated by some Delhi-based lobby which did not have the interests of the region in mind.

They felt that there was no earthly reason to give Dr Verma additional charge of the huge complex, while he was still in charge of the Mithun Project of Nagaland. "It is as if there are no other senior scientists capable of taking charge here," said Mr Farinal Ghose, an executive member of the ICAR Workers Union.

Why should Dr Verma be sent here when there are other more senior scientists like Dr R P Awasthi, heading Sikkim centre presently and Dr P Pal of the Yak Project in Arunachal Pradesh who are more in tune with the region's people, they said.

ANNEXURE- B

- 7 -

THE TELEGRAPH
MONDAY 4 SEPTEMBER 1995

ICAR staff up in arms against new N-E region chief

FROM LINDA C.

Shillong, Sept. 3: Dr N.D. Verma
of the Mithun project in
Nagaland is once

secretary of the union, Mr M. R.
Dhar.

The employees all

AY 12, 1996

apphira DAILY NEWS, Wednesday, October 18, 1995

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MANDATE '96

Party Position at 2200 hours

Total Number of Seats :	537
Results Declared :	505
BJP :	155
INC :	134
SHIV SENA :	15
SAMATA PARTY :	06
JANATA DAL :	34
CPI-M :	23
CPI :	10
TMC :	20
SANAJWADI PARTY :	14
DMK :	17
CONG-T :	04
AGP :	03
SAD :	08
RSP :	04
AIFB :	03
INDEPENDENTS :	10
OTHERS :	43

Karnataka Chief Minister, Mr H D Deve Gowda said on earlier occasion too the President had insisted on written support from Indira Gandhi when Charan Singh had staked his claim to form the government in 1979.

Vice President Not After PM's Office

NEW DELHI, May 11 (PTI): The Vice-President, Mr K R Narayanan, today made it clear that he had not put forward himself as a candidate for the prime ministership nor had any political party approached him in this matter.

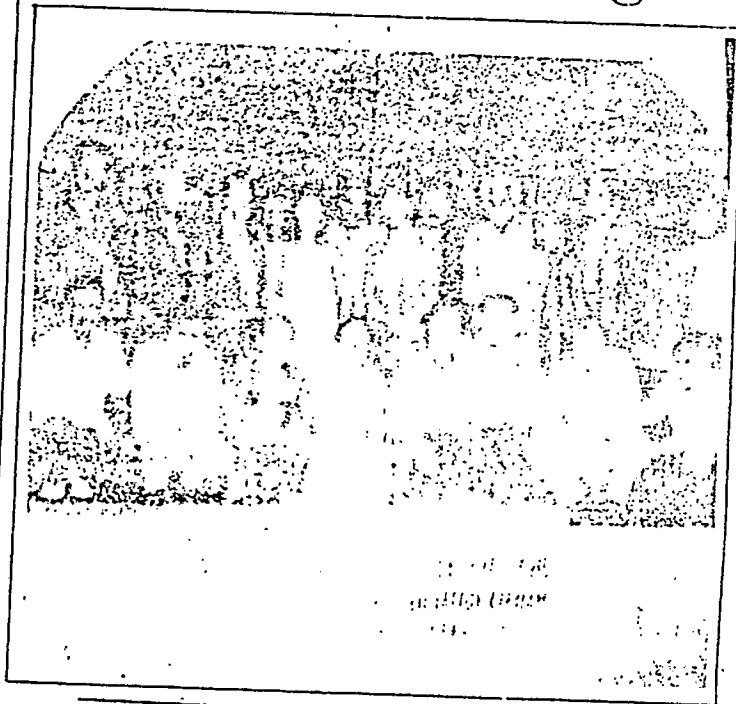
Mr Narayanan was reacting to press reports on his candidature for the prime ministership.

In a brief statement here, Mr Narayanan said "I have seen speculations in the media that I am a possible candidate for prime ministership. I wish to make it clear that I have not put forward myself as a candidate nor has any political party approached me in this matter".

IGNOU Credit Courses

App News Service

ICAR Employees' Association Conference Centre Misled by Vested Interests : Mawlong



App News Service

SHILLONG, May 11: The Centre was often misled by vested interests in addressing the problems faced by the farmers in the North East and even an institution like the Indian Council of Agricultural Research (ICAR) functioning at Umroi have problems, which are not fully understood by the Central authorities, said Mr E.K. Mawlong, MLA, who was chief guest at the 2nd annual general conference, of the ICAR Employees' Association, held at the State Central Library here today.

Mr Mawlong said it is important that there is co-operation between the ICAR and the state government, but he regretted that the state government had not come forward in assisting the farmers in marketing their produce, thereby resulting in farmers being cheated by traders and middlemen. Mr Mawlong called upon the workers to maintain discipline, responsibility and dedication in working for the benefit of the people specially farmers.

The conference later adopted resolutions, asking the ICAR authorities, not to stop payment of

special duty allowance but to seek clarification from the Council, as to which existing grades would be eligible for the same. The conference demanded that areas like Meghalaya and the North East, should be included in the Central government health scheme to enable employees to get medical benefits even after retirement, as applicable in other parts of the country.

Among others who spoke were the guest of honour, Mr B K Lahiri, AITUC president and special guests including the president of INTUC, Mr B.R. Tiewsoh, the general secretary of MBEA Mr Dipankar Choudhury, Lari Warjri and others.

The conference also elected new office bearers, with Mr M.Kharphuli as the president, Mr H.S. Nongkynrih as the vice president, Mr M.Dkhar as the general secretary, Mr P.Ghosh and Mr E.Pyngrope as the joint secretaries, Mr P.K.Deb as the organising secretary, Mr S.Karamjee as the treasurer and Mr A. Das Choudhury as the publicity secretary. Fifteen executive members were also elected.

THE SHILLONG TIMES TUESDAY, AUGUST 22, 1995

INTUC demands pension benefit to PSU staff

By Our Reporter

SHILLONG: The Meghalaya government has been urged to introduce pension benefit for the public sector undertakings (PSU) in lieu of the Contributory Provident Fund scheme. This demand was made at the 7th biennial conference of the state INTUC held here on Monday.

By another resolution, the conference demanded promotional benefit for all category of employees in PSUs after their completion of requisite number of years of service.

In this context, the conference welcomed the High Court judgement regarding time bound promotion and fixation of pay on the basis by the management of the MeSEB. By another resolution the conference urged the MeSEB to constitute a pay commission in accordance with its agreement with the employees in September 1991.

The conference open session was addressed by the former chief minister Mr D.D. Lapang who made an impassioned appeal to the workers of the state to improve their work culture and output. He said if the state has to make progress, the culture of

unpunctuality in offices and other working places must come to end. There must be discipline and honesty, he said.

Mr Lapang said liberalisation of economy had come to stay and it was for the small states like Meghalaya to take lessons from small countries like Singapore, China et al.

In his welcome address, the outgoing INTUC president Dr B.K. Roy appealed to the workers to give their best so that the best could come back to them. He said there was no choice left as far as MNCs are concerned. Regarding privatisation of MeSEB he said that the employees' misgiving were unfounded.

Among others who spoke on the occasion were the new president Mr B.R. Tiwsoh, Mr Benoy Lahiri, Mrs B.N. Dutta and Mr S.N. Roy Choudhury, secretary of INTUC, Meghalaya branch.

The conference elected the following office-bearers for the next term:

Mr B.R. Tiwsoh - President.
Mr W.S. Wahlang - Vice President.
Mr Ardena Dey - Genl Secy.
Mr Sekhar Goswami - Jt Secy.
Mr Parimal Ghose - Jt Secy.
Mr M.M. Syiem - Jt Secy. & Mr H. Lyttan - Treasurer.

| Car taken away ..

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apphira DAILY NEWS, Wednesday, October 18, 1995

ASI NEWS HEADLINES Review

: Mawsynram
mysterious dis-
today. The vic-
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the director
Verna has

countercharged the workers Union leaders with trying to hide their past corruption cases".

The daily says that Mr Verma accused the ICAR workers union leaders of trying to kick him out because they were afraid his tenure here would lift the lid on their past corrupt practice. *Peinigor* further says that the director said that four of the most active union leaders allegedly have pending corruption against them.

In another story *Peingur*, reporting from Dawki says that eight FKJGP men were arrested by the Dawki Police. The eight FKJGP men are accused with trespassing, damaging the office and assaulting employees of a coal exporting house called PKS Company.

The newspaper further tells us that the leaders of the central body of the FKJGP have rushed down to Dawki to help their men. However, quoting the president of the organization, *U Peingor* says that he said that the head of PKS had clarified that the assassins of the PKS employees at Dawki are not members

of the FKJGP.

Nongstoin Hima reports from Jowai that three person lost their lives when the boat in which they were travelling in, capsized mid-river in the Kupli. The victims happen to be young men between 25 and 27 years.

The same daily reports that the Dorbar Shuone of Lamavilla has joined the campaigns against liquor. In a letter written to the Excise department the dorbar asked the excise officials to see that all the IMFL wine stores in the jurisdiction of the dorbar should closed down. The dorbar also said that they had made this request last May with a petition to the deputy commissioner that these wine shops be shut for good, with their licences cancelled.

Today the same daily carries an anchor story on the late installation of the booster pumps at the Mawphlang plant of the Greater Shillong Water Supply Scheme. The newspaper expresses its amazement at the indifferent attitude of the government in getting the project com-

plied. The company contracted to supply the pumps. Kirloskar brothers is already five months late with their contracted job, but the authorities are not moved to inquire about this, says the newspaper. Further it reports that there are misgivings that the full amount of Rs 27 lakhs has already been paid to the company even before the pumps have arrived in Shillong. However, *Nongsain Hima* quotes the Chief Engineer of PHE as saying that the amount has been sanctioned but is yet to be paid. Only a certain amount of advance has been paid to the company, the CE said.

Mawphor reports that the people of Raliang, Jaintia Hills have requested the North Eastern Council (NEC) to build them a road. They submitted a memorandum to the chief minister in which they asked him to use his office to persuade the NEC to put the Raliang-Sahnsiang road in the NEC road project plans. This is an important route which will integrate more than 30 villages of the Raliang-Shanpung area, they maintained.