

50/600

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

MLP-39/97 ordersheet pg-1

Disposed Date-28/02/97

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BRANCH

106/96

DA
LA
GA

Amiya Hazarika

VERSUS

Union of India & Ors

Mr. B.K. Sharma, B.A., Advocate for the Applicant.
S. Sharma

Mr. G. Sarma, Advocate for the Respondents.

Police Notes Date Court's Orders

This application is in
form and within time
C. F. of Rs. 50/-
deposited vide
IPO No 345-928
Dated 22.6.96

26.6.96

Learned counsel Mr B.K. Sharma
for the applicant. Mr G. Sarma, learned
Addl. C.G.S.C., for the respondents.

This application has been submitted
by the applicant as he has not been released
from Dimapur pursuant to the transfer
order dated 26.4.1993 (Annexure-1). Issue
notice on the respondents to show cause
as to why this application should not
be admitted and reliefs sought should
not be allowed. Returnable on 19.7.1996.

Pendency of disposal of show
cause and admission of this application
shall not be a bar for the respondents
to release the applicant from Dimapur
for joining at Jorhat. Further the respondents
are directed to release the salary of
the applicant from March 1996 immediately

List on 19.7.96 for consideration
of show cause and admission.

Steps within tomorrow, 27.6.96.

Copy of the order may be
furnished to the counsel for the parties.

3.2.96

Notice issued to the
Respondents vide No. 1867
Dt. 2.2.96

Ban

Service Reports are still awaited.

18/7

2
O.A. 106/96

19.7.96

Mr B.Mehta for the applicant. Mr G.Sarma, Addl.C.G.S.C for the respondent.

Show cause has not been submitted.

Mr Sarma seeks time for the same.

List on 8.8.96 for show cause and consideration of admission.

Member

pg

8.8.96

Mr S.Sarma for the applicant. Mr G.Sarma, Addl.C.G.S.C for the respondent.

Show cause has not been submitted.

List for show cause and admission on 10.9.96.

Member

pg

10-9-96

Learned Addl.C.G.S.C. Mr.G.Sarma for the respondents. Mr. B.K.Sharma, has submitted leave note.

No show cause/written statement has been submitted.

Adjourned for show cause/written statement and for consideration of admission on 24-9-96 in presence of counsel of the applicant.

Member

1m

12-9-96

W/S filed by
w/ Resp. As. at
for 26-47-

(3)

O.A.No.106/96

24.9.96

Learned counsel Mr S. Sarma for the applicant. Learned Addl. C.G.S.C. Mr G. Sarma for the respondents has submitted show cause with copy to Mr S. Sarma. Mr S. Sarma seeks time for perusal and consideration of the show cause.

List for consideration of admission on 8.10.96..

[Signature]
Member

nkm

[Signature]
24/9

Learned counsel Mr S. Sarma for the applicant. Leave note of Mr G. Sarma, learned Add. C.G.S.C..

List for consideration of admission on 14.10.96.

[Signature]
Member

nkm

[Signature]
9/10

14.10.96

Learned counsel Mr B.K. Sharma for the applicant. Learned counsel Mr R. Dutta mentions on behalf of Mr G. Sarma, learned Addl. C.G.S.C. on account of personal difficulty and submits for adjournment.

List for consideration of admission on 14.11.96.

[Signature]
Member

nkm

[Signature]
15/10

14.11.96

Learned counsel Mr B. Mehta for the applicant. Learned Addl. C.G.S.C. Mr G. Sarma for the respondents. Mr B. Mehta submits that the application may be taken up for admission in presence of Mr B.K. Sharma who has submitted leave note.

List for consideration of admission on 3.12.96.

[Signature]
Member

nkm

[Signature]
14/11

w/ statement has been b'w

28/7/10

*1) Service Reports are still awaited on Respdt no 1, 3, 4 & 5
2) Notice on Respdt no 2 is unserved as 'Rebase Mark'.*

w/ statement has been b'w

11/10

*1) Service Reports are still awaited on Respdt no 1, 3, 4 & 5
2) Notice on Respdt no 2 is unserved as 'Rebase Mark'.*

3) w/ statement has been b'w

13/11

w/ statement has been b'w

28/12

4.12.96

Learned counsel Mr S. Sarma for the applicant. Learned Addl. C.G.S.C. Mr G. Sarma for the respondents.

By consent adjourned to 6.12.96 for consideration of admission.

W/Statute - to be b/w.
5/12
nkm
5/12
trd
6/12
pg
9/12

Member

6.12.96

Mr. S.Sarma for the applicant.

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

Adjourned for consideration of admission on 9.12.96 on the request of Mr. S.Sarma.

Member

9.12.96

Mr G.Sarma, Addl.C.G.S.C is present and ready. However, Mr S.Sarma, learned counsel for the applicant has submitted leave note for today.

Adjourned for admission to 10.12.96

Member

10.12.96

The applicant, Shri Amiya Hazarika, was working as Design Store Keeper Grade II in Dimapur, a unit under Assistant Garrison Engineer (I), Leimakhong. He is a civilian employee. He was transferred and posted to GE(AF), Jorhat, as communicated by order No.1008/LKJ/542/EI dated 26.4.1993. Shri A.C. Gope, Store Keeper II from GE(AF), Jorhat, was transferred and posted in place of the applicant. The applicant was to be relieved within 7 days of reporting of Shri Gope. The handing and taking over of charge between them was, however, completed on 7.6.1994. Apparently, after handing over charge the applicant reported for duties in Leimakhong as according to his representation ^{dated 24.6.94} he had prayed for allowing him to join in the new office pending enquiry into certain discrepancies in Stores, or grant him leave for 10 days as he was feeling uneasy day by day at Leimakhong. The AGE(I), Leimakhong, replied vide his letter No.C/1000/LKJ/381/EI dated 28.6.1994 that neither leave can be sanctioned to the applicant nor can the applicant be relieved till he made up the deficiencies or the proceedings in regard to the deficiencies was completed by the competent authority. After that representations were made by the applicant, but the position remains that the applicant has not been released pursuant to the transfer order dated 26.4.1993 (Annexure-1). The prayer of the applicant in this application is to release him from Dimapur to enable him to join his new place of posting at Jorhat in implementation of the order dated 26.4.1993. In the written statement in reply to the show cause the respondents put the blame for the delay on the applicant. Their contention is that the movement order to Jorhat will depend on the finalisation of proceedings before the Staff Court of Enquiry regarding the discrepancies in Stores and finalisation of the proceedings could not, however, be made because the applicant wilfully did not attend the Court of Officers and Court of Enquiry held to investigate into the loss of Stores while the applicant was in charge. Mr S. Sarma, learned counsel for the applicant submits that the applicant may be released for even if the applicant is found guilty.

10.12.96

of discrepancies in the Stores Department he can still be proceeded departmentally. However, learned Addl. C.G.S.C. Mr G. Sarma, supports the contention of the respondents in the written statement and resists the submission of Mr. S. Sarma.

Heard the counsels of both sides and perused the application and the written statement. This application is in fact relating to release of the applicant from the charge of AGE(I), Leimakhong, for joining his new place of posting in GE(AF), Jorhat. I find no case to admit this application for scrutiny and decision. Therefore, this application is not admitted, but it is disposed of with directions. Perusal of the records available shows that the Court of Enquiry (Annexure R/6) was expected to complete the proceedings in all respects and submit its report to Headquarters by 24.12.1994. Apparently, it was not completed. Thereafter again it is seen that the fresh Court of Enquiry (Annexure R/8) was constituted and its report was expected by 5.3.1996. Learned Addl. C.G.S.C., Mr G. Sarma, has stated that he has no instructions whether the proceedings of the Court of Enquiry has since been finalised. Having heard the counsels of both sides and considered the submissions this application is disposed of with a direction to the respondents to finalise the matter of release of the applicant pursuant to the transfer order dated 26.4.1993 (Annexure-1) within 45 (fortyfive) days from the date of receipt of a copy of this order by the respondent No.5, Col. HQ, 137 Works Engineer C/o 99 APO.

The application is disposed of.

Copy of the order may be furnished to the counsels of both sides.

Member

nkmm

26/12-86

Copy of the order has been issued to the parties alongwith the parties Admnstr vide No-07 to 15 Dtd 1/1/97.

14/12

256
25 JUN 1996
RECEIVED
GUWAHATI BENCH
CENTRAL ADMINISTRATIVE TRIBUNAL

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

O. A. No. 106 1996.

Amiya Hazarika ... Applicant.

Vs.

Union of India & Ors. ... Respondents.

I N D E X.

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For use in Tribunal :

Registration No. 106/96
 Filed on 25.6.96
 Signature _____
 Deputy Registrar. 576

Recd
Copy
Jalep Jarne
24/6/96
C.A.T.
Guwahati

Filed by
Siddhartha Hazarika
24.6.96

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH.
(An application under Sec. 19 of the Administrative Tribunal
Act, 1985)

O. A. No. 106 1996.

BETWEEN

Amiya Hazarika,
Stores Keeper Gr.II in
Military Engineering Service,
res-ident of Jorhat,
Govt. Qrs. No. T/70/30. ... Applicant.

AND

1. Union of India, represented by
the Secy. to the Govt. of India,
Ministry of Defence, New Delhi- 11.
 - 2..Brigadier, Army HQs. PE-in-C's Branch,
New Delhi-11.
 3. The Chief Engineer, Eastern Command,
Engineering Branch, Fort William,
Calcutta-21.
 4. The Chief Engineer, Shillong Zone,
S.E. Falls, Camp, Shillong-11.
 5. Col.HQs . 137 Works Engineers, C/o. 99 APO.
 6. No. 6 GE 869, EWS C/o. 99 APO.
- ... Respondents.

DETAILS OF APPLICATION :

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

The instant application is not made against any
particulars order, but has been filed for implementation of
transfer order No. MES 238098 under letter No. 1008/LKG/542/E1
dtd 26.4.93 transferring the applicant from Leimakhong to
Jorhat.

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 the Tribunal.

Ctd.....2

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3. Limitation :-

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

4. Facts of the case :

- i. That the applicant is a citizen of India and permanent resident of Assam and as such, he is entitled to all the rights and protections guaranteed by the Constitution of India.
- ii. That presently, the applicant is holding the post of Stores Keeper Gr.II under M.E.S. and he is a civilian employee and thus, this Hon'ble Tribunal has got jurisdiction over the matter, being agitated in this application for proper redressal.
- iii. That in November 1990, the applicant was transferred to the Office of the Asstt. Garrison Engineer (Independent), Leimakhong, Imphal from Jorhat where he was working as Stores Keeper Gr. II in the Office of Garrison Engineer. On his reporting to duty at Imphal (Leimakhong) in Nov 90, he was attached to an unit at Demapur under AGE(1), Leimakhong.
- iv. That by an order No. MES 238098 under letter No. 1008/LKG/542/E1 dt 26.4.93, the applicant was transferred to Jorhat.

A copy of the said order dtd 26.4.93 is annexed herewith and marked as ANNEXURE 1.

Ctd....4

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v. That in place of the applicant one Shri A.C. Gope was transferred and posted from G.E./Air Force/Jorhat and in his place the applicant was directed to join.

A copy of the order dtd 19.7.93 is annexed as ANNEXURE 2.

vi. That the applicant states that in spite of the aforesaid trans-fer orders immediate effect of the same was not given and the applicant was also not released enabling him to report at Jorhat where he has got Govt. accommodation vide Qrs. No. T/70/30. Be it stated here that Dimapur is a tenure posting of 2 years involving field station duty. Under this circumstances, the Qrs. at the original place of posting is permitted to be retained and accordingly, the applicant kept his family at Jorhat in the aforesaid quarters. Upon such transfer of the applicant to Jorhat he was happily looking forward to join his new place of posting at Jorhat. However, the much needed release order has not been issued till date which is the crux of the instant case.

vii. That in the mean time, Shri A.C. Gope, SK/II from G.E.(A/F), Jorhat had been posted to Det AGE(1)/Dimapur ~~and~~ by an order under Sl. No. 104 dt 15.3.94.

A copy of the order dated 15.3.94 is annexed herewith as ANNEXURE 3.

viii. That again by another order dt 20.4.94 it was directed that the applicant be released immediately. Further, by another ~~order~~ letter No. LKG/Det/267 dt 27.4.94; question of certain discrepancies were raised with the observation that the discrepancies may be settled or proper investigation may be carried out.

Copies of the letters dtd 20.4.94 and 27.4.94
are annexed herewith as ANNEXURES 4 & 5 respectively.

ix. That the applicant states that after the aforesaid letter dt 27.4.94 lot of correspondences have taken place but nothing has materialised so far towards implementation of the transfer of the applicant but no formal release order has been issued in his favour. In the mean time, said Shri Gope has taken over charge from the applicant w.e.f. 7.6.94 and the applicant is now neither at Dimapur nor at Jorhat in-as-much-as there is no vacant post at Dimapur. Even after such taking over of charge from the applicant by said Shri Gope and in spite of the fact that there is no vacant post to accommodate the applicant, he has not been released so far. Eventually w.e.f. 26.4.95, the applicant has been sitting idle without any work and without even any attendance in the Attendance Register, but he has been paid ~~xx~~ his salary. However, the applicant as a mark of protest and such payment of salary without any work being opposed to his conscience has now refused to receive his salary w.e.f. March'96, after receiving salary upto Feby 96. The applicant has come to know that his salary is being drawn regularly even after Feby 96.

x. That the applicant states that on 5.9.94 he took Earned Leave for his ailment relating to guttor and came down to Jorhat for his treatment. He was shifted to Assam Medical College, Dibrugarh, where he was operated upon in Jan'y 95. There-after on full recovery from his ailment

Ctd....6

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he re-joined his duties at Dimapur w.c.f. 26.4.95, by submitting joining report and medical certificate etc. The entire period of his absence has been regularised by granting due leave and he has been paid his salary also. With all these happenings, there is total moral break-down on the part of the applicant due to the inaction and non-chalant attitude and ~~xxx~~ apathy shown by the respondents. As stated above, with this particular date, i.e. 26.4.95, the applicant has been made to sit idle without any work at Dimapur and even he has not been allowed to sign the Attendance Register. In such a situation his mental condition can well be understood.

xi. That the applicant states that in between lot of correspondences took place with the authorities but nothing has been materials so far. However, vide letter dt 8.4.96, the wife of the applicant was informed that a decision would be taken regarding release of the applicant.

Some of the correspondences and a copy of the said letter dtd 8.4.96 are annexed as ANNEXURES 6, 7, 8, 9, 10, 11, 12 & 13 respectively.

xii. That the applicant states that the instant case is an unique of its kind in which the applicant although has been transferred to Jorhat on completion of his tenure posting at Imphal/Dimapur, he has not been released towards implementation of the order of transfer. Even assuming but not admitting that there are certain discrepancies in the Stores, same cannot block the release of the applicant. Even ~~afterxxx~~ if he is held to be guilty of discrepancies in the Stores, he can be prosecuted departmentally but for that

Ctd.....7

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purpose his release from Dimapur cannot be stalled. The applicant cannot be penalised by way of not releasing him and keeping him idle without any work. Adding insult to the injury he is being paid his salary regularly although as stated above, he is doing no work w.e.f. 26.4.95. He had to accept his salary to maintain his family but as a mark of protest and being opposed to his conscience he has refused to accept salary w.e.f. the month of March '96. In this situation, his hardship both mental and financially can easily be understood. The respondents have acted malafide and in colourable exercise of power in not releasing the applicant towards implementation of the order of transfer. Here is a case in which although the applicant has not been released from Dimapur, there is no post of Stores Keeper/Gr.II to accommodate him and the post earlier being held by him has already been occupied by the ~~app~~ transferee Shri Gope, he has been kept idle at Dimapur by the respondents without giving him any work but on the other hand he is being paid his salary. He has not even allowed to sign the Attendance Register. In such a situation, there is no earthly reason as to why the applicant should not be released towards implementation of his order of transfer.

xiii. That the applicant stated that presently, he is without any posting and he is neither at Dimapur nor at Jorhat and because of the apathy consistently being shown by the respondents ever since his order of transfer he is under constant suffering. In this unique situation his mental condition can very well be understood and unless a proper interim direction is issued to the respondents, the applicant will continue to suffer for no fault of his own. As has been

Ctd....8

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stated above, even if there is no discrepancies in the Stores the applicant can be prosecuted departmentally and for that matter he need not be retained at Dimapur without any work. By detaining the applicant at Dimapur without any work and paying him his salary the respondents have committed fraud on themselves.

5. Grounds :

- i. For that the applicant cannot be detained at Dimapur in the manner as has been done in the instant case.
- ii. For that the applicant having completed his tenure posting at Dimapur he is legally entitled to his posting at Jorhat from where he was transferred to Imphal.
- iii. For that the applicant even if held to be guilty of deficiency in Stores, he cannot be detained at Dimapur in the manner as has been done in the instant case.
- iv. For that the respondents are being guilty of malafide and illegal action, appropriate interim direction is required to be issued for immediate relief to the applicant.
- v. For that in the name of investigation into the matter, the applicant cannot be detained at Dimapur and that too, without any work and even without any attendance.
- vi. For that the applicant is entitled to be released from Dimapur enabling him to join at Jorhat towards implementation of the order of transfer.

Ctd....9

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vii. For that in any view of the matter, the impugned action/inaction on the part of the respondents are not sustainable.

6. Relief(s) sought for :

Under the facts and circumstances stated, the instant application be admitted, records be called for and upon hearing the parties on the cause or caused that may be shown and on perusal of records be pleased to grant the following reliefs to the applicant :-

- i. To direct the respondents to release the applicant immediately from Dimapur enabling him to join his new place of posting at Jorhat pursuant to the Annexure '1' order dt 26.4.93.
- ii. To direct the respondents to implement Annexure '1' order dtd 26.4.93 in respect of the applicant immediately.
- iii. Cost of the application.
- iv. Any other relief or reliefs to which the applicant is entitled to under the facts and circumstances of the case.

7. Interim order, if prayed for :

Pending disposal of the application, it is most respectfully prayed that the respondents be directed to release the applicant from Dimapur enabling him to join at Jorhat pursuant to his order of transfer vide Annexure '1' order dtd 26.4.93. The interim order prayed for is urgent and unless the same is granted, the applicant will suffer irreparable loss

Ctd....10

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and injury. The respondents may further be directed to pay the salary of the applicant w.e.f. March 96 which although has been drawn the applicant has not received as a mark of protest as an illegal action of the respondents .

8. Details of the remedies exhausted :

The applicant declares that he has availed of all the remedies available to him under the relevant service rules, etc.

9. Matter not pending with any other court etc:

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

10. Particulars of I.P.O. :-

- i. I.P.O. No. 8.09.345928
- ii. Date : 23.2.96
- iii. Payable at : Guwahati.

11. Details of Index :

As stated in the Index.

Verification....11

Pa

VERIFICATION.

I, Shri Aniya Hazarika, Stores Keeper Gr.II, in Military Engineering Service, resident of Jorhat, Govt. Qrs. No. T/70/30, the applicant in the instant case do hereby verify that the contents from 1 to 11 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Place : Guwahati.

Date : 22.6.96.

Sh

Aniya Hazarika

AGE (I) Leimakhong.
C/o. 59 Mtn Bde.
C/o. 99 APO.

1008/IKG/542/E1.

26 Apr 93.

No. MES 238098.

Name Shri Amiya Hazarika.

Design SK Gde II.

POSTING/TRANSFER :: SUBORDINATES.

1. You have been posted to GE(AF) Jorhat vide HQ CEEC Calcutta posting order No. 1 31322/2/93/50/01/Engra~~o~~ EIC(I) dated 24 Mar 93 with date of completion of move as on 30 Jun 93.
2. Please note that your representation, if any, against the above posting order, should be given within 15 days from the date of information of the posting order giving full details and photo copy of relevant documents. You may get our part I Order No. 17 dtd 12 Apr 93 intimating the said posting, but the letter received first will be date from which 15 days will be taken.
3. Advance of TA/DA, if required, can be had on application immediately on receipt of this letter and not on receipt of decision of representation later on. Movement order is being issued separately so as to enable you to claim advance of TA/DA as admissible.

Sd/-

(Inder Pal Singh)

A.E.

AGE (I) Leimakhong.

Copy to:-

Headquarters
Chief Engineer
Eastern Command
Fort William
Calcutta-21.

Amiya
Amiya

From : HQ 137 Wks Engrs. In lieu of mag form.
To : CME (AF) Jorhat. DTG: UNCLAS
Infor: GE (AF) Horhat. 1274.

Posting/transfer on turn over from fd to pease (.) ref case
13 1322/2 /93/54/01/engrs/cic (1) mar 24 (.) request direct
go (of) jorhat relieve mes/242423 shri ac gope comma two (.)
ensured reliever from age (i) lkg shri hazarika be relieved
within s even days of reporting shri ac gope (.) request intimate
sta/etd direct age (i) lkg.

Page 1 of 1 Shri BS Das, AE(FLg) AO HQ 137 WE.

Case file : 1139/EI C(1)

Sd/-

Dated : 19 Jul '93.

Copy by post:

AGE(I) LKG - For information w.r.t. your letter/telegram

No. 1008/LKG/EI dtd 05 Jul '93.

...

*Atenu
S
Dmi*

Copy

Part I ORDER.

SHRIINDERPAL SINGH, A.E., AGE(I) LEIMAKHONG.

STATION : C/O. 99 APO Srl. No. 104 dated 1 5.3.94.

ALLOCATION OF DUTIES.

1. Consequent on posting of Shri A.C. Gope, SK II from GE(A/F) Jorhat, he has been posted to Det AGE(I) Dimapur. He will take over the charge from Shri A. Hazarika, SK II.
2. Handing/taking over duly completed in all respect and will be submitted to the undersigned by 25 Mar 94.

Sd/- (I P Singh)

A.E.
A.G.E.(I) Leimakhong.

Distribution :

1. MES/2424211 Shri A.C. Gope, SK II.
2. MES/238098 Shri A Hazarika, SK II.
3. B/S Section.

...

A. Gope
Sd/-

AGE (I) LEIMAKHONG
57 Mtn. Bde.
C/o. 99 APO.

20 Apr 1994.

1011/LKG/XY/EL.

MES/238098 Shri A. Hazarika, SK II.

MES/242428 Shri AC Gope, SK II.

(Through I/C Det, Dimapur)
C/o. HQ 137 Wks Engrs.

ALLOCATION OF DUTIES.

Ref. this office part I order No. 104
dated 15 Mar 94.

Handing/taking over notes between Shri A.
Hazarika, SK II and Shri A.C. Gope, SK II was
due to reach this office by 25 Mar 1994 has not
been received so far. Intimate present position
and relieve Shri A. Hazarika SK II immediately.

Sd/-

(I P Singh)

A.E.

A.G.E. (I) Leimakhong.

Copy to:-

B/s Section- for similar action.

Attended
AMF

I/C Det of Leimakhong
at Dimapur.
C/o. HQ 137 Wks. Engrs.
27 Apr 94.

No. LKG/Det/267.
AGE/I/Leimakhong.
C/o. 57 MTN DIV.
C/o. 99 APO.

ALLOCATION OF DUTIES.

Ref Your Part I order no. 104 dtd 15.3.94
and replied vide their Det letter No.
LKG/Det/265 dated 18.4.94.

Again your letter No. 1011/LKG/DY(E)
dated 20.4.94.

It is intimated that the following
discrepancies may please be settled on proper
investigation may please be carried out.

- | | | |
|-------------------------|----------------------------|-------------|
| (1) Cement in jute bags | 63 bags. | L/P No. |
| of 50 Kg. in each | 61,6365. | UN/LKG/Det. |
| (2) CGI sheets. | | |
| 3000 x 800 x 063 | <u>5 nos.</u>
MT 0.068. | Pse 21/81. |
| (3) Angle M.S. | <u>MT - 2.434</u> | Pse 3/31. |
| 74 x 75 x 6 mm. | Rm 383.60 | |

Copy to :-

B/s Sub-divn. - for information
and necessary action
please.

(A. HAZARIKA)
SK II
I/C. Det Dimapur.

...

Atkinson
ms

To:

AGE(I) LKG.
C/O. 57 Stn. Div.
C/O 99 APO.

HANDING/TAKING OVER OF STORES.

Sir,

Ref your confidential letter No. C/1000/Lkg/381/E1 dated 28 Jun 94.

The following replies are hereby submitted for your record and reference.

Para 2. I have handed over the stores with the deficiency note paper without showing reason of deficiency. But the matter had already been informed you verbally and in writing vide letter No. Lkg./Det/265 dtd 18 Apr 94 and Lkg./Det/267 dtd 27 Apr 94 as directed by you vide your letter No. 188/85/286/E1 dated 25 Apr 94. Handing/taking over was completed on 87 Jun 94 at Leimakhong physically for smooth functioning of administration.

Para 3. It is pointed out that on 10 June 93 I came to your office for sanction of leave for one month for treatment as well as operation of Geitar. But you have turn my application in from of Supdt. B/SI and using unparliamentary words.

My wife and children are staying at MES Qtr No. T/70/3 under GE(AF) Jorhat. But you had issued letter No. 1888/LKG/787/E1 dtd 30 May 94 to my home address i.e. Vill Mazgaon, P.O. & PS Roha, Dist. Nowgaon in stead of present address in order to delayed the case and complicated.

Para 4. I am under treatment of Doctor to date but operation has not yet been done due to my financial hardship and domestic problems.

Para 5. It is also pointed out that I have applied for 10 days leave to sort out my domestic problems but not yet sanctioned. Now my health does not allow me to stay at Leimakhong and I am facing much difficulties.

I presume that I have been harassed in all means violating the Govt. rules and regulation. Anyhow, I shall gladly accept any punishment laid down by Board of Officers as called for to enquire the cause of deficiency and final recommendation of the Board.

I therefore again request you to kindly sanction me 6 days leave from 11 Jul 94 to 17 Jul 94 to settle down my domestic problems at Jorhat. An application is also enclosed.

Thanking you,

Yours sincerely,

Sd/-
(A. Hazarika)
SK-II.

A. Hazarika
mm

From:

MES/258098
A. HAZARIKA
SK II.

To
AGE(I) LEMMAKHONG
C/o. 57 MPN DIV.
C/O. 99 APO.

ALLOCATION OF DUTIES.

Ref. your letter No.1008/LKG/791/EI dated 4.6.94 addressed to Supvr. B/S Gde. I and copied to I/C Det AGE(I)/LKG and HQ 137 Wks. Engrs.

I beg to state the following few lines for favour of your kind consideration and necessary action please.

That Sir, myself along with Smt A.C. Gope, SK II reported your office on 5.6.94 (AN) and handing/taking over completed on 7.6.94 through documents duly signed by both but copies of handing/taking over has not been handed over to me till to date.

That Sir, I request your kindness to issue me the same and oblige.

Thanking you,

Yours faithfully

Sd/-

(A. Hazarika)

SK II.

Station : LKG

Dated 11.6.94.

....

*Attended
by
Smt*

To
AGE(I) LEIMAKHONG.
C/o. 57 MTN DIV.
C/o. 99 APO.

HANDING/TAKING OVER OF STORES.

Sir,

Ref. your letter No. 1008/LKG/791/EL dtd 4.6.94 handing/taking over of stores was completed on 7.6.94 as per your order, keys of stores handed over to my reliever Sri A.C. Gope, SK II in front of you. But it is surprised that the copies of handing/taking over has not been handed over to me to date. Further, I have also signed the discrepancies note including statement.

It is requested that I am a patient of Goiter and feeling uneasy day by day at Leimakhong. Doctor also advised me to get it operated as early as possible.

In view of the above, you are requested ~~to~~ to finalise the matter or allow me to join the new office pending enquiry for the same or sanction may please be accorded for 10 days leave for this act of kindness I shall remain grateful to you.

Thanking you,

Yours faithfully,

Sd/-

MES/238098

A. HAZARIKA

SK II

Dtd 24.6.94.

Advance copy to :-

HQ 137 Wks Engrs.

C/o. 99 APO. - for information and necessary action please.

...

A. Hazarika
SK II

To

HQ 137 Works Engrs.

C/o. 99 APO

(Through Proper Channel)

PERSONAL INTERVIEW.

Respected Sir,

Respectfully, I beg to lay down the following few lines for favour of your kind consideration and necessary action with justification please.

That Sir, as per HQ CEEC's posting orders of 24.3.93 ~~may~~ my reliever Sri A.C. Gope, SK II has joined in my place on 15.3.94. Handing/taking over of stores at Det of Dimapur was completed on 7.6.94 with a list of Det of Stores.

That Sir, your kind attention is drawn to AGE(I) LKG letter No. C/1000/LKG/38/EI dated 28.6.94 and C/1000/Hazarika/21/EI dated 20.7.94.

That Sir, I may please be allowed to explain some words before you physically regarding actual fact on this matter.

That Sir, I may please be allowed to do my duty under your above guidance till finalise the case or orders my please be issued to relieve me from this office as I am sitting idle without entrusted with my works for this act of kindness I shall remain grateful to you.

Thanking you,

Yours faithfully,

Dtd 25.7.94.

Sd/-

MES/238098.

Advance copy to :-

A. Hazarika, SK II.

HQ 137 Wks. Engrs.

C/o. 99 APO - for advance information.

...

*Attenu
Suro*

From: A. Hazarika, SK II
Qrs. No. 1/70/3
C/o GE(A/T) Jorhat-5.
Assam.

To: AGE(I) Leimakhong,
C/o. 57 Mtn. Divn.
C/o. 99 APO.

BOARD OF OFFICERS - 2380 JAN'95 and 13TH FEB'95.

Respected Sir,

1. Reference your telegram 14th Jan'95 and 2nd Feb'95.
2. Your kind attention is drawn to your letter No. 1008/LKG/791/EI dated 4.6.94 addressed to Sub/Maj VI Sivan Supvr B/S I and copy to HQ 137 WE and to me as I/C Det. Statement of loss of CGI sheets 5 nos. and Angle Iron 75x75x6 mm 2.434 MI submitted on 7.6.94 and completed handing/taking over same item. But no action taken from your side but I have been forced to make good the stores as custodian vide your letter No. C/1000/LKG/381/EI dated 28.6.94.
3. Further to get rid of your harassment and pressure I approached to CWE HQ 137 WE on 5.8.94 to seeking justice. CWE also conveyed me that I will not be relieved till finalisation of the case. Not only this but AGE(I) has also been instructed to regularise the stores.
4. On 31.8.94, I have been called by AGE(I) to his office room through Sri B. Paul, SK II at about 8.30 P.M. AGE(I) explaining that Sub/Maj V.G. Sivan paid Rs. 10,000/- and I have also paid the equal amount to regularise the stores. But I had no money in hand in that time accept 2 month salary, i.e. July and Aug'94 Rs. 5000/-. AGE(I) direct Sri B Paul to take the amount from me. Sri Paul and myself came to barrack line and I paid Rs. 5,000/- in cash for regularisation of stores. Now only this I have been allowed for 5 days E/L for medical check up.
5. On 1st Sep 94, I have submitted proper E/L form for 5 days w.e.f. 5.9.94. Office Supdt informed me that I can proceed on leave on 3 Sep 94 being Saturday. But I proceeded on leave from 5.9.94.
6. After medical check up Medical Surgeon of Civil Hospital Jorhat advised me for treatment. A medical certificate submitted to your office which was sent to 5 AF Hospital Jorhat by you for verification vide your letter No. C/1000/LKG/469/EI dtd 24.11.94 copy to HQ 137 WE and to me. But 5AF Hospital replied back to your office stating genuinity of the case. As ill luck for me my condition became so precarious that I had to move to AMC Dibrugarh and under treatment.

Ctd.....2

*Attended
Smt*

continuation sheet ...

7. In view of the above, I am facing such financial hardship to maintain my family and also my treatment. My Pay and allowances from Sep 94 to day stopping by you. Medical expenditure come to Rs. 15,000/- from Sep 94 to date and another Rs. 10,000/- required to get admission in AMC Dibrugarh after 3 weeks. It is not possible for me to go LKG due to my ill health. Further if any untoward incident happen to me on account of this injustice to me then the whole responsibilities for this will devolve on you.

8. Hoping for favourable orders with justification pleas c.

Thanking you.

Yours faithfully,
Sd/-
(A. Hazarika)

Dtd. 3.2.95.

Advance copy to:-

HQ 137 Works Engineers,
C/O 99 APO - for information please.

HQ Chief Engineer - for information and request for
Shillong Zone justice being low paid employee.
SE Falls Camp
Shillong-11.

HQ Chief Engineer,
Eastern Command,
Fort William
Calcutta-21.

- do -

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*Attenu
&
am*

From: - 23 -
 Mrs. Shanti Prave Hazarika,
 W/o. A. Hazarika, SK II.
 Qrs. No. T/70/3,
 C/o. GE(AF) Jorhat-5 (Assam).
 To: HQs . 137 Works Engineer.
 C/o. 99 A.P.O.

ANNE XURE 11.

Sub: Prayer for relive of MES/238098 A. Hazarika SK II
 (C/o. AGE(I)LKG).

Respected Sir,

With due respect I beg to state the following few lines for
 favour of your kind consideration & sympathetic orders please.

2. That reference my husband's application dt 3.2.95 addressed
 to AGE(I)LKG and copy to your honour and CESZ Shillong, CCEC
 Calcutta explaining the whole details.
3. That Sir, my husband approached to you vide his application
 dt 25.7.94 for seeking justice and to relieve him from AGE(I)LKG.
 But your honour has conveyed him that he will not be relieved till
 receipt of confirmation of finalisation of both the cases. Moreover
 AGE(I) has also been directed to sort out the def. But according
 to advice of AGE(I), he tried to fulfill the def but has not
 done anything against the authority. The question of relieve has
 not been implemented so far for which my whole family is suffering
 too much financially, mentally etc.
4. Therefore, I request your goodself to settle his case amicably
 with justification being a low paid employee. Moreover he is a
 patient and under treatment of AMC Medical College, DBR. The
 climatic condition of LKG does not suit him being a patient
 of goiter.
5. In view of the above, you are requested to look into the
 matter and to justify the domestic problems ~~for~~ from July 94 to-date
 and orders may please be issued to AGE(I) LKG to relieve my
 husband, for this act of kindness, I shall remain ever grateful
 to you.

Thanking you in anticipation Sir,

Date : 4th March 1995.

Yours faithfully,
 Sd/-

(Mrs. Shanti Prave Hazarika)

Copy to:-

1. AGE(I)LKG - requested for implemntntation of his move as
 C/o 57 MTN Div. early as possible.
 C/o 99 APO.
2. CE SZ, - requested to look into the matter and justify
 SE Falls Camp the HQ's 137 Works Engineers order decision
 Shillong-11. of 5.8.94.
3. CE EC - Requested to instruct for implementation of
 Calcutta-21 posting order vide your letter no. nil dt
 6.3.93 and to save my small family.

A. H. ...
amr

From:
Smt. Santi Prava Hazarika,
W/O. Shri A Hazarika, SK II
C/o. D Neogi, LDC
GE Jorhat-5 (Assam).

To : HQ Chief Engineer,
Eastern Command (Engr Br.)
Fort William
Calcutta-21.

Sub: POSTING/TRANSFER : MES. 238098 SHRI A. HAZARIKA, SK II
OF GE369 EWS.

Respected Sir,

Ref. my application dt 4.3.95 add to HQ 137 WE and copy
endorsed to your HQ.

2. That Sir, your kind attention to my above application is drawn and I would like to inform your HQ that HQ 137 Wks. Engineers vide their letter No. C/1139/Part/28/EI Con of 30.3.95 that my husband will be relieved after finalisation of disciplinary case.
3. That Sir, it is a matter of utter surprise that even to date my husband has not been called for to attend any Board of Officer/C of I and thus the HQ 137 WE is delaying and intentionally lingering the case of relieve of my husband.
4. That Sir, in such a adamant and belicos attitude of the HQ 137 Wks Engrs to harass and punish mentally, physically and ~~economically~~ economically to a deceased person who has recently join the service after prolong medical treatment at AMC Dibrugarh, I had to approach your HQ again vide my application of 11.10.95. But instead of relieving my husband now I came to know that the case of disciplinary action on my husband is being responded at a belated stage after lapse of one year, i.e. Mar 96 to Mar 95 (as per HQ 137 WE letter at para 2 above) and it is presumed that even after one or two years by husband will not be able to come back to Jorhat as per your HQ posting order No. 131322/2/93/SD/91/Engrs./EIC dtd 24.3.93.
5. That Sir, it is cleared to understand from the above that the lower formations can disobey your HQs orders and can keep pending unactioned inspite of your clear instruct ons issued vide your HQs letter No. 131396/1/36/Engrs./EIC(I) dt 6 Mar 93 regarding "Implementation of posting".
6. Since I have been deprived from the departmental justice, I have to think about my harassed family members I will not get my husband move from Leimakhong to Jorhat within a month as per your orders/instructions issued from time to time to the lower formations.
7. I hope that your HQ will not compell me to go to the Civil administration for getting lawful justice.

Thanking you,

Dated the Jorhat
16.3.96.

Yours faithfully,
Sd/-
(Mrs. Shanti Prava Hazarika)

Atten
mm

TELE :: 222-2398.

Mukhalaya Purvi Kaman,
HQ Eastern Command
Abhiyanta Shaka
Engineers Branch,
Fort Willing, Calcutta-21.

131322/2/93/5D/2/6/Engrs./EIC(I)

8th Apr 96.

Smt. Santi Prova Hazarika,
W/o. Shri A. Hazarika, SK Gde II
C/o. D Neogi, LDC

GE Jorhat - 5 Assam.

POSTING/TRANSFER : MES/238098 SHRI A HAZARIKA
SK GDS II OF GE 869 EWS.

Madam,

1. Reference your application dtd 16.3.96.

2. It is informed to you that your husband is involved with deficiency of stores etc. It has been directed to GE Shillong Zone to finalise the G of I at the earliest. Some information has been called from GE Shillong Zone, On receipt of same, decision will be taken regarding move of Shri Hazarika from GE 869 EWS to GE(AF) Jorhat and you will be informed accordingly.

Thanking you,

Yours faithfully,

Sd/-

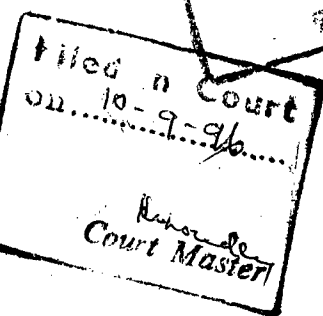
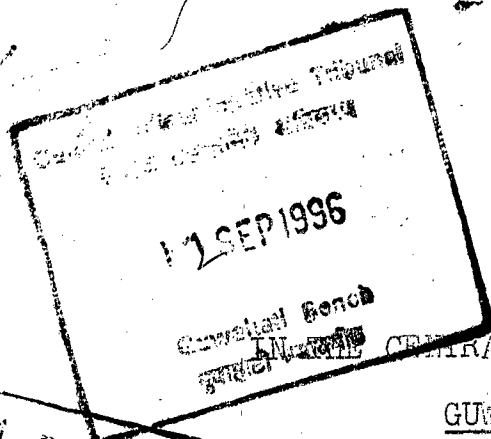
(GN Daspotadar)

S. A. O.

S. O. 2 (Pers)

for Chief Engineer.

Attenu
mm



GUWAHATI BENCH

In the matter of :

O.A.No.106/96

Amiya Hazarika & Others ...Applicants

-Versus-

Union of India & Others ...Respondents

-AND-

In the matter of :

Written Statement on behalf of
the Respondents.

I, IC-44958F Major Ashutosh Kumar Gupta
Garrison Engineer 369 Engr Wks Sec, ,Respondent No.6
do hereby solemnly affirm and declare as follows:-

1. That a copy of application alongwith an order passed by this Hon'ble Tribunal have been served upon the respondents and being authorised to defend the case on behalf of myself and on behalf of other respondents, I do hereby file the written statement and assert categorically that save and except what is admitted in this Written Statement, rest may be treated as total denial by all the respondents.

Contd/.

33
213 by
Golap Sarma
Additional Counsel
Govt. Engineering College
Guwahati
18/9/96

2. That with regard to the contents made in paragraphs 1,2 and 3 of the application, the Respondents beg to state that they have nothing to comment.

3. That with regard to the contents made in paragraph 4(i) of the application, the Respondents beg to state that the applicant was posted on 20th Nov '90 with the then AGE(I) Leimakhang now merged with GE 869 Engrs Works Section. He was lawfully put as a Store Keeper Incharge of detachment at Dimapur to look after stores meant for defence projects at Leimakhang. He was assigned the duties of receipt, safe custody and issue of stores as and when directed as per charter of duties of person of this category. Consequent of his tenure in this station, the applicant was transferred to Garrison Engineer (Air Force) Jorhat by the Competent Authority i.e. Chief Engineer, Headquarters Eastern Command vide their letter No.131322/2/93/50/01/Engrs/EIC(1) dated 24-3-93. The stipulated date of completion of move was 30th June '93 subject to physical reporting of his reliever.

4. That with regard to para 4(ii), Respondents beg to state On arrival of his reliever Shri A.C.Gope, SK-II, the applicant was ordered through Part I order at serial No.104 dated 15th March '94 to hand over his charge by 25th March '94 so that the posting order is implemented in letter and spirit within the stipulated date.

Contd/.

5. That with regard to the contents made in paragraph 4(iii) of the application, the Respondents beg to state that inspite of clear orders to complete the handing/taking over of charge within 25th March '94, the applicant had willfully delayed the proceedings. He finally handed over the charge on 07 June '94 after a lapse of 70 days as against the stipulated period of 7 days authorised for such handing/taking order. During the handing/taking the applicant left the duty station without any permission/leave sanctioned on 26th May '94. He has willfully absented himself. The applicant was directed to report back to duty vide AGE(I) Leimakhong letter No.1008/LKG/784/EI dated 30th May '94 and a telegram on the same date.

The copies of the letter and telegram are annexed herewith and marked as Annexure R-1 and Annexure R-2.

6. That with regard to the contents made in paragraph 4(iv) of the application, the Respondents beg to state that the Govt. Qr. No.T/70/30 at Jorhat was under occupation by the applicant within the prevision of quartering rules. This has no relevance for his transfer and release order from Dimapur.

7. That with regard to the contents made in paragraph 4(v) of the application, the Respondents beg to state that the letter dated 20th April '94 referred by the applicant is merely a reminder issued by the AGE(Indep) Leimakhong to the applicant & Shri A.C.Gupta(reliever) to expedite

expedite the handing/taking over. It is brought to the kind notice of this Hon'ble Tribunal that the safe custody of stores entrusted to the Store Keeper is part of his duty which he has to accept in same state during physical handing over of charge by the outgoing employee without any discrepancy in the quantity of Govt. property for which he was responsible while holding charge of such property as a Storekeeper. Inspite of additional time given to the applicant to hand over his charge, he has not obeyed the lawful order and willfully delayed the handing over process by absenting himself.

8. That with regard to the contents made in paragraph 4(vi) of the application, the respondents beg to state while finalising the handing/taking over between the applicant and Shri A.C.Gope SK-II, deficiencies of govt. stores which were in custody of the applicant came to light and the applicant has signed for the deficiencies which he himself was responsible, having failed to safe custody of govt. stores entrusted to him as part of his duty.

9. That with regard to the contents made in paragraph 4(vii) of the application, the respondents beg to state that the applicant handed over the charge with deficiency of following items which was under his physical custody :-

(aa) Cement in 50 Kg bag each	- 63 bags	
(ab) CGI Sheets 3000 x 800 x 0.63 mm	- 85 nos)
	0.068 MT)
(ac) Angle M.S. 75x75x6 mm	- 383.60) (spprox)
	2.434MT)

Contd/.

Item No.(aa) was subsequently reconciled and items (ab) and (ac) stand deficient till date.

A copy of the loss statement/deficiency certificate enclosed herewith and marked as Annexure R.3.

10. That with regard to the contents made in paragraph v(viii) of the application, respondents beg to state that the applicant was given instructions to make up the deficiencies before he is relieved. In this context, the letter addressed to the applicant vide AGE(I) Leimakhong No.C/1000/LKG/381/EI dated 28th June '94 is relevant.

The copy of the letter is annexed herewith and marked as Annexure R.4.

The applicant's contention that there was no vacant post at Dimapur is misleading and inconsequential. Detachment at Dimapur is a part of AGE(I) Leimakhong office, and the applicant was positioned in Leimakhong for duty after handing over the charge to settle the deficiencies before he was to be relieved.

11. That with regard to the contents made in paragraph 4(ix), the respondents beg to state that the applicant's statement that he has refused his salary w.e.f. March '96 is far from the truth. It is seen from the leave records that the applicant has left with only 15 days earned leave and 17 days HPL to his credit. Any absence beyond this period will entitle Extra Ordinary Leave without pay and allowances. Pay for the applicant is not being claimed wef May '96 as he has no leave to his credit, thus he is not entitled to pay and allowances.....

31 38

allowances as per Rules in vogue. Pay for the months of May and April '96 have been claimed and not disbursed to the applicant due to his absence from duty having left without obtaining proper sanctioned leave and whereabouts not informed by him. The allegation by the applicant that his pay from Feb '96 is being claimed is baseless.

12. That with regard to the contents made in paragraph 4(x), the respondents beg to state that the applicant's alleged statement that he took earned leave with effect from 05 Sept '94 is not correct. The applicant absented himself without leave and left the duty station and remained absent till he voluntarily reported for duty on 26th April '95. The applicant was advised to attend duty vide AGE(I) Leimakhong letter No.1006/LKG/470/EI dated 24th Nov '94.

A copy of the letter is annexed herewith and marked as Annexure R.5.

The applicant's contention that he was made to sit idle at Dimapur is not correct as there was no work for him at Dimapur. He was assigned to perform his duties at Leimakhong as per order.

Leimakhong is an outstation sub-Division of GE 869 EWS. The allegation made by the applicant that he had not been allowed to sign the Register is incorrect and baseless. It is apparently to gain the sympathy from this Hon'ble Tribunal. Part I Order No.104 dated 15.3.94 issued after posting of Shri A.C.Gope, SK-II and he has been posted to Det at Dimapur. The applicant was asked to hand over the charge and report to AGE S/R Leimakhong.

Contd/.

13. That with regard to the contents made in paragraph 4(xi), the respondents beg to state that the applicant's wife sent application to relieve him from Dimapur/Leimakhong. However, the departmental formalities to be completed against the applicant being involved to the loss of govt. property which was under his physical custody. HQ Eastern Command Engineer's Branch was informed that the applicant is involved in Court of Inquiry. The decision will be taken to relieve him on permanent transfer to Jorhat on finalisation of Court of Inquiry. It is therefore evident that the applicant is involved in discrepancies of stores entrusted to him. A Staff Court of Inquiry has been ordered vide Stn HQ Leimakhong letter No.2605/Gen/Stn dated 15.12.94, Chief Engineer Eastern Command had informed that if the applicant may be relieved by the Presiding Officer of the Court of Inquiry after completion of his part of evidence. The applicant however is not co-operating and again absented himself from 13.3.96 till date (prior to this he was absent from 5.8.94 to 24.4.95). His total absence thus far from date after handing over the stores, is given below for kind information of this Hon'ble Tribunal.

- (a) 05.8.94 tp 24.4.95 - 261 days
- (b) 13.3.96 to date - 165 days(upto 24.8.96)

As per policy in vogue whenever such losses are observed in the govt. property entrusted to the Storekeeper, the matter is to be resolved and the defaulting official is asked to make good the deficiencies after the same has been established by the Court of Inquiry. It is only after the proceedings of such Court of Inquiry is

completed.....

completed that the defaulting official can be relieved.

14. That with regard to the contents made in paragraph 4(xii) of the application, the respondents beg to state that the applicant has shown disregard and callousness in discharging his duty in safeguarding the valuable govt. stores entrusted to him. He is found responsible for incurring loss of govt. stores worth Rs. 40,900(approx), as annexed in Annexure R.3 and an opportunity was given to make good the deficiency. A board of officers was convened by the Staff Auth to ascertain the reasons for the loss of govt. stores vide Station HQ Leimakhong letter No.2605/Gen/Stn dated 15.12.94 as per the regulation contained in para 867 of BSR Vol II of 1957.

Copy of which are annexed herewith and marked as Annexure R.6 & 7.

The applicant has conveniently absented himself without any approval w.e.f. 05 Sept '94 to 26th April '95 to avoid appearance in front of the board of officers. Instead, he was representing and making correspondence through his wife to various higher authorities to relieve from duty.

Further, a Staff Court of Inquiry was convened by Station HQ, Leimakhong vide letter No.2605/Gen/Stn dated 23.2.96 to investigate the circumstances for loss of stores and regularisation action. Again the applicant has absented himself from 13.3.96 till date.

A copy of the letter is annexed herewith and marked as Annexure R.8.

Contd/...

The applicant is well within the authorised establishment of GE 869 EWS and his place of duty is at AGE B/R Leimakhong. Due to his willful absence for a long duration, the Staff Court of Inquiry to investigate the loss of govt. stores is being delayed.

15. That with regard to the contents made in paragraph 4(xiii), the respondents beg to state that the applicant is well within the authorised establishment of GE 869 EWS and his place of duty is at AGE B/R Leimakhong. The applicant is not having any leave to his credit and payment of salary will be regularised of his absence once he reports back for duty with the supporting documents towards his absence as per the Central Civil Service Leave Rules, 1972. His movement order to Jorhat will also depend on the finalisation of Staff Court of Inquiry where he was stores holder and found responsible for discrepancy of govt. stores entrusted to him. The applicant has now sought the intervention of Hon'ble CAT to redress his alleged grievance instead of complying the departmental orders.

16. That with regard to the contents made in paragraphs 5, 6, 7, 8 & 9 of the application, the Respondents beg to state that they have nothing to comment.

17. That the respondents beg to submit that there being no any cause of action, this application is liable to be dismissed.

Contd./.

18. That the respondents beg to submit that the application is barred by law of limitation, hence liable to be rejected.

19. That the application is to be dismissed as the applicant has not exhausted all the remedies available to him.

20. That the respondents begs to submit that the applicant does not deserve any sympathy from any corner including this Hon'ble Tribunal as he has exhibited wilful disobedience and dereliction of duty by not attending the Board of Officers and Court of Inquiry to investigate the loss of stores to reach the final conclusion.

21. That the respondents begs to submit that the applicant is not having any leave to his credit and payment of salaries will have to be regularised while his absence which is not permissible by law and by the code of service condition of the applicant is decided upon.

22. That the respondents begs to submit before this Hon'ble Tribunal to dismiss the application filed by the applicant and pass orders directing to the applicant to attend duty forthwith and help the department to finalise the Staff Court of Inquiry and to relieve him at the earliest.

Contd/.

23. That the present application is ill-conceived of law and mis-conceived of facts and hence liable to be dismissed.

24. That the Respondents crave leave of filing additional written statement if this Hon'ble Tribunal so directs.

25. That the Respondents beg to submit that this Written Statement is filed bonafide and in the interest of justice.

Verification.....

Ashutosh
A. K. GUPTA
MAJOR
Civil Engineer

37 44

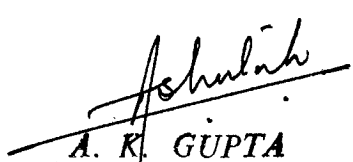
12 ✓

VERIFICATION

I, IC-44958F Major Ashutosh Kumar Gupta
Garrison Engineer 869 Engr Wks Sec, Respondent No.6
do hereby solemnly affirm and declare on behalf of
myself and also on behalf of all the respondents do that
the statements made in paragraph 1 of this Written
Statement are true to my knowledge and those made from
paragraph 2 to 16 are derived from records which I believe
to be true and rest are humble submissions before this
Hon'ble Tribunal.

AND I sign this Verification on this 09th day
of Sep , 1996 at 1200 hrs .

DEPONENT


A. K. GUPTA
MAJOR
Garrison Engineer

In lieu of telegram form

SRI AMIYA HAZARIKA
STOREKEEPER GRADE TWO
VILL MAZGAON
PO DISHAIDAR
DIST PAHA NOWGONG
ASSAM

STATE : MIL

DEPT : ARMY

YOU HAVE LEFT DETACHMENT WITHOUT SANCTION/INFORMATION SINCE
TWENTY SIX MAY AAA INSTRUCTED REPORT THIS OFFICE IMMEDIATELY
FAILING DISCIPLINARY ACTION WILL BE INITIATED AAA REPORT
FORTHWITH

ASSENGEP INDEP LEIMAKHONG

(Not to be telegraphed)

1008/LKG/788/E1

AGE (I) Leimakhong
Care 57 Mtn Div
C/O 99 APO

SD/- x x x
(INDEP PAL SINGH)
AE
for AGE (I) Leimakhong

30 May 94

Copy by post in confirmation to :-

Sri Amiya Hazarika
Storekeeper Grade II
Vill Mazgaon , PO Dishaidar
(Paha) Dist Nowgong
Assam

- As above

HQ 137 Wks Engrs
C/O 99 APO

- The individual has been instructed to report to this office but failed to do. It is now found that he left the Det on 26-5-94 without any permission/leave sanctioned. He is in the habit of leaving the Det without prior permission. This is for your info. Further progress will be intimated later.

Attested

Ashutosh
A. K. GUPTA
MAJOR
Garrison Engineer

CONFIDENTIAL

R-2
Appx 'B'

REGD A/D
AGE (I) Leimakhong
Care 57 Mtn Div
C/O 99 APO

1008/LMG/787/E1

30 May 94

Sri Amiya Hazarika
Storekeeper Grade Two
Vill- Mazgaon,
PO- Dishaidar
(Faha) Dist Nowgong
Assam

NOTIFICATION OF DUTIES

1. Ref this office Part I Order No 104 dt 15 Mar 94.
2. As per above Part I Order handing/taking between you & Sri AC Gope SK-II should have been completed by 25 Mar 94 which has not been completed till date even after lapse of 2 months. You have also been instructed by the undersigned to report to this office with Handing/Taking over note. Instead of reporting to this office, you have reported certain discrepancies in store holding. As you are the physical custodian of this store at Det and therefore discrepancies if any should be sorted out by you.
3. In view of above, you are once again instructed to report to this office immediately with Handing/Taking over note alongwith discrepancies.

Sd/- x x x
(Inder Pal Singh)
AE
AGE (I) Leimakhong

Copy to :-

HQ 137 Wks Engrs
C/O 99 APO

Det AGE (I) Leimakhong
Care HQ 137 Wks Engrs
C/O 99 APO

Garrison Engineer (Air Force)
Jorhat -785005 (Assam)

CONFIDENTIAL

Ashutosh
A. R. GUPTA
MAJOR
Garrison Engineer

15
40
Annexure A
R-3
47
/COPY/

LIST OF ITEMS DEFICIENT FOUND AT THE TIME OF
HANDING/TAKING OVER

The following deficiencies found during/handing/Taking over in
between MES-238098 Shri A Hazarika, SK II and MES 242428 Shri AC Gope
SK II at Det AGE (I) Leimakhong, Dimapur on _____ Jun 94.

- | | | | |
|-----|---|---|------------------------|
| (1) | GI Sheets
3000 x 800 x 0.63mm | - | 0.058 MT
5 Nos |
| (2) | Cement in jute bags
of 50 Kg in each | - | 3.150 MT
63 bags |
| (3) | Angle 75 x 75 x 6mm | - | 2.434 MT
357.95 R M |

(Items three only) (@ 6.8 Kg P/R.M).

Taken over with the
above deficiency

Sd/- x x x
dt 7/5/94
Sd/- x x x
Sd/- x x x

Sd/- x x x
MES/238098
A HAZARIKA SK II
LKG to d.m.
7/5/94

Sd/- x x x
AGE (I) LKG.

Ashutosh
A. R. GUPTA
MAJOR
Garrison Engineer

41
48

Annexure B
R-3

Estimated cost of the deficient items created by MS 238086
Sgt Aniya Hazarika SK II while handing over the stores to Shri

A C Gops SK II:-

Sl No	Description of items	Qty	Rate as per SAIL	Amount
1.	WT Sheet class II I 3000 x 800 x 0.63mm	5 Nos 68 Kgs	25.69 Per Kg	1814.92
2.	Angle Iron 75 x 75 x 6mm	2434 Kgs	15.40 per Kg	37483.60
Total				39298.50
Add Sales Tax @ 4%				1571.94
				40870.45

Say Rs. 40,900.00

The rates of items are as per prevailing rates of steel auth of
India (Govt of India undertaking)

A. R. Gupta
A. R. GUPTA
MAJOR
Garrison Engineer

CONFIDENTIAL

42
Appx .c²
R-411

AGE (I) Leimakhong
Care 57 Mtn Div
C/O 99 APO

28 Jun 94

17
C/1000/LKG/381/E1

Shri A Hazarika, SK II
C/O AGE (I) Leimakhong

HANDING/TAKING OVER OF STORES

1. Reference your handing/taking over note dt 07 Jun 94 and your application dt 24 Jun 94.
2. It is seen from the handing/taking over note that you have handed over the stores with deficient list. No reason has been given as to how the stores have become deficient. Details mentioned by you in the statement of discrepancies substantiate the deficiencies of the items which have been occurred because of you only.
3. Earlier while on charge at Det at Dimapur you were in the habit to leave the stores and became absent on duty without prior sanction of leave. In this connection this office letter No 1008/LKG/787/E1 dt 30 May 94 be referred to.
4. As regards to your illness of goiter as stated by you the contention is not agreed to. You were sent to take the charge Det at Dimapur on your plea one and half years back so that treatment simultaneously could be done. Instead, being an isolated place from this station, you took the opportunity to leave the place often for your home town without any proper approval.
5. In view of the above neither any leave can be sanctioned to you nor you can be relieved till you make up the deficiency or proceedings for deficiency is completed by competent authority.

Sd/- x x x
(Inder Pal Singh)
AG
AGE (I) Leimakhong

Copy to :-

HQ 137 Wks Engrs

- While handing/taking over certain deficiency have been accepted by the individual without assigning any reason which substantiate that the deficiency is self created by the individual. The individual cannot be sent on leave/relieved till he is cleared of the deficiency. A detailed report is being sent separately.

CONFIDENTIAL

A. K. Gupta
A. K. GUPTA
MAJOR
Garrison Engineer

43
D' R-5
Appx

REGD POST
AGE (I) Leimakhong
C/O 57 Mtn Div
C/O 99 APO

24 Nov 94

1006/LKG/470/E1

MES-238098 Shri
Amiya Hazarika, SK II
Gr No T/70/3
C/O GR (Air Force) Jorhat
JOFHAT (765005)

ABSENT FROM DUTY

1. You have left the station without sanctioning of leave and absented from duty wef 05 Sep 94. Inspite of repeated telegrams you have failed to report for duty. The period of absence will be treated as EOL. The medical certificate forwarded by you after almost elapse of one month did not specify any period upto which the medical treatment may prolong and probable date of your fitness.
2. You are once again directed to report for duty immediately failing which disciplinary action will be instituted against you.

Sd/- x x x
(TK Bhattacharya)
AE
Offg AGE (I) Leimakhong

W O b

Copy to :-

HO 137 Wks Engra

- Further to our letter No 1006/452/E1
of 01 Nov 94.

As there is no response from the above
individual, you are requested to take up
case with CE SZ

E1 Cen (Internal)

Encl : Brief Statement & copy of MC.

Ashutosh
A. R. GUPTA
MAJOR
Garrison Engineer

BRIEF STATEMENT

ABSENT FROM DUTY : SUBORDINATES

1. MES-238098 Shri A Hazarika, SK Gde II had applied for 6 days E/L wef 05 Sep 94 but due to exigencies of his services the leave has not been approved/Sanctioned.

2. The individual left the station without prior sanction of leave and absented from duties wef 05 Sep 94. He did not report for duty inspite of repeated Telegraphic Intimation. Please refer to AGE (Indp) Lkg last Telegram post copy No 1006/LKG/452/E1 dt 01 Nov 94. Last telegram given on 09 Nov. 94 to the individual

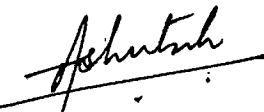
3. After lapse of one month on 04 Oct 94 an MC has been received by this office in which it is stated that the individual is under treatment wef 11-9-94 for Goitre and Hypertension. (Copy of MC inclosed). No further MC received. He is being directed for second medical opinion.

4. As the individual's reporting for duty is not known it is requested to take up the case with CE Shilloim Zone for taking suitable action as this office is not the disciplinary authority, individual being Basic class III.

Sd/- x x x

AG

Offg AGE (I) Imimakhong


A. R. GUPTA
MAJOR
Garrison Engineer

CONVENING ORDER

LP R-6

45
52

1. A bd of offr composed as under will assemble at place, date and time be fixed by the presiding offr for ascerating the reasons for the loss of CGI sheet 3000 x 800 x 0.63 mm and Angle 75 x 75 x 6 mm and pin point the responsibility.

Presiding Offr : One Offr from AGE (I) Leimakhong
Members : One JCO from 64 Field Coy (Engr)
: One JCO from 57 Mtn Div Sig Rect.

2. The bd proceedings duly completed in all respect will be submitted to this HQ by 24 Dec 1994.

Case No 2605/Gen/Stn

Station Headquarters
Leimakhong

15 Dec 94

Distrs :-

AGE (I) Leimakhong

64 Field Coy (Engr)

HQ 57 Mtn Div Sig Rect

HQ 57 Mtn Div (Q) - for Info please

Office Copy

Sd/- x x x
(P P Venucopalan)
Major
SSO
For Offg Stn Cdr

Ashutosh
A. K. GUPTA
MAJOR
Garrison Engineer

Apnx 'P'

R-7

21 US 53

DRF VOL - II OF 1987

667 PROCEDURE IN CASE OF DISCREPANCIES : If any difference of opinion arises between the officers giving over and receiving charge regarding the condition, description and quantities of the stores on charge, a station board, whose opinion will be binding on both officers, will be convened by the OC station to report on the matter. The board will state the cause to which in its opinion, the discrepancies are due and will forward the proceedings to the convening officer for disposal.

Ashutosh
A. R. GUPTA
MAJOR
Garrison Engineer

CONVENING ORDER

Appt 'G'

R-8

22

54

1. A C of I composed as under will assembled at a date , time and place decided by the Presiding Officer to investigate the circumstances under which CGI Sheet 0.068 MT and Angle Iron MS 2.434 Mtr found missing from Store Yard of AGE (I) Leimakhong at Dimapur.

- (a) Presiding Officer : One Offr from 57 Mtn Div
DOU
- (b) Members 1. : One Capt from 103 Engr Regt
2. : One Rep MES AGE (I)
Leimakhong

2. The C of I will pin point the responsibility for loss of stores and recommend action against these found responsible .

3. Board proceeding to be completed and fwd to this Stn HQ in sextuplicate by 05 Mar 96.

Sd/- x x x
(I S Bains)
Capt
SHO
for Offg Stn Cdr

Case No: 2605/Gen/Stn

Station Headquarters
Leimakhong

23 Feb 96

Distr :-

1. HQ 57 Mtn Div DOU
2. 103 Engr Regt
3. AGE (I) Leimakhong
4. HQ 3 Corps (Q)
5. 137 Works Engrs
6. GE 869 EWS
7. 57 Mtn Div (Q)
8. Office Copy

Ashutosh
A. R. GUPTA
MAJOR
Garrison Engineer