

10/100

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 181/96

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SECTION OFFICER (Judl.)

*balita*  
30.11.9

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

DA No. 181/96

Sri K.K. Bordoloi, Applicant(s)  
VS-

Union of India & ors. Respondent(s)

Mr. D.C. Kath Hazarika, Advocates for the applicant(s)  
Ms. S.B. Choudhury,

Mr. A.K. Choudhury, Secy. Advocates for the Respondent(s)

Office Notes Date Courts' Orders

This application is in  
form and within time  
C. F. of Rs. 50/-  
deposited vide  
IPO BD No 346798  
Dated 26.8.96

Saimo  
Dy. Registrar. 28/8/96

2.9.96

Mr. A.K. Choudhury, Addl. C.G.S.C.  
present.

None present for the applicant.

List for consideration of  
admission on 10.9.96.

Member

trd

m  
2/9

10-9-96

Learned counsel Mr. D.C. Kath  
Hazarika for the applicant. Addl.  
C.G.S.C. Mr. A.K. Choudhury for the  
respondents.

In this application under  
Section 19 of the Central Admini-  
strative Tribunals Act 1985, the  
applicant has prayed for setting  
aside and quashing of the impugned  
order conveyed by Memo No. F6-1(A)/  
88-89/2 dated Tezpur the 29-12-95  
by which the applicant was imposed  
punishment of reduction by 2 stages  
from Rs.1540/- to Rs.1480/- in the  
scale of pay 975-25-1150-EB-30-1660  
for a period of 2(two) years without  
cumulative effect. Consequent to  
this punishment the applicant submit-  
ted an appeal dated 11-3-96 addre-  
ssed to the Chief Post Master Gene-  
ral(vig), Assam Circle, Guwahati.

11.9.96

Copy of the order  
issued to the parties along-  
with the L/Advocates of  
the parties vide D.No.  
3096 to 3101 d. 16.9.96

Khy  
11/9

contd/-

O.A.181/96

10-9-96 During the course of hearing for Admission it is gathered that this appeal is pending disposal before the Chief Post Master General, Assam Circle till date. It is considered that this application needs not be admitted at this stage. This application is disposed of with a direction to the respondents No.2, Chief Post Master General, Assam Circle, Guwahati to dispose of the appeal dated 11-3-96 within three months from to-day. The respondent No.2 while disposing of the Appeal shall give the applicant personal hearing and the applicant ~~xx~~ is at liberty to submit all the contentions he has made in this O.A. before the appellate authority.

The application is disposed of as above and the applicant may approach this Tribunal again if he is aggrieved with the appellate order.

Copy of the order be furnished to the counsel of both sides.

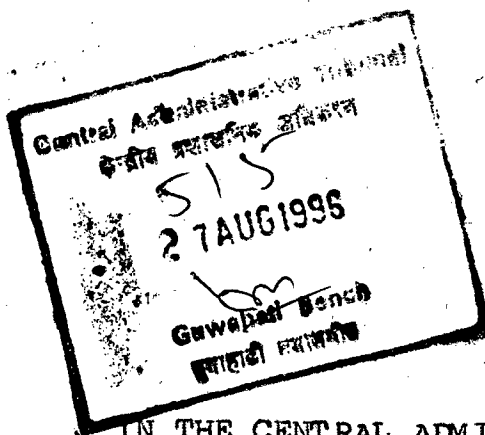
*Inform to the parties immediately.*

*M 10/9/96*

lm

*M 10/9*

*lm*  
Member



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ::: GUWAHATI  
BENCH

(An application Under Section 19 of the Central  
Administrative Tribunal Act, 1985).

TITLE OF THE CASE O.A. NO. 18/196.

Sri Khagendra Kumar Bordoloi  
then Sub-Postmaster, Lokra S.O.  
and now Postal Assistant, Jamugurihat S.O.  
(since removed), vill- Jamugurihat,  
P.O. Jamugurihat, Tezpur,  
District - Sonitpur, Assam.

Applicant.  
Appellant.

-Versus-

Union of India and others.

Respondents.

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Contd....2  
C

98/8/20

Filed by:- Sri. Khagendra Kumar Bordoloi.  
Through:- Mr. S.B. Choudhury,  
Advocate.  
27.8.96.

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Filed by

Dated :-

(Ms.S.B.Choudhury)  
Advocate.

14/2/2018

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::GAUHATI BENCH.

O.A.No. 181 of 1996.

BETWEEN

Sri Khagendra Kumar Bordoloi  
then Sub-Post Master, Lokra S.O.  
and now Postal Assistant, Jamugurihat S.O.  
(Since removed), vill- Jamugurihat,  
P.O. Jamugurihat, Dist. Sonitpur  
(Assam).

Appellant.

-Versus-

1. The Union of India,  
represented by the Secretary to the  
Government of India, Ministry of  
Communication, New Delhi.
2. The Chief Post Master General, Assam  
Circle, Guwahati-1 (Assam).
- ~~3. The Post Master General, Assam region,  
Guwahati-1 (Assam).~~
3. The Superintendent of Post Officer,  
Darrang Division, Tezpur  
H.O.-784001 (Assam).

Respondents.

1. The particulars of the order against which  
this application is made :

The ...

The application is made against the following order :

Order vide Memo No.F6-1(A)/88-89/2 dated 29.12.95 for <sup>d</sup>refuction of pay by 2(two) stages from ~~Rs.~~1540/- to Rs.1480/- in the scale of pay 975-25-1150-EB-30-1660 for a period of 2(two) years without cumulative effect, by the Superintendent of Post Offices, Darrang Division, Tezpur, and such omission/action has caused great injustice to the petitioner.

(Annexure-E)

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.

3. LIMITATION :

The applicant declares that the subject-matter of the order against which he wants redressal is within the limitation prescribed of the Central Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE :

4.1. That the applicant is a citizen of India and a permanent resident of Assam and as such, entitled to all the privileges and safeguards under the Constitution of India.

4.2. ...

*Handwritten signature and date: 22/12/95*

4.2. That your applicant was working as SPM, Lokra during the period from 5.9.84 to 28.4.88 and has a clear records of 23 years faithful service rendered to the Nation in the establishment of the Respondents.

4.3. That shortage of cash amounting to Rs.44,140.00 (Rupees Forty Four Thousand One Hundred forty and nine paise) only was found by the then Supdt. of POS Tezpur in the Cash balance of the applicant's office on 29.4.88 in his absence. The reason of the shortage was that, on the night of the day when the applicant received the cash from the Head Office, some unknown people overpowered the applicant an gun-point and snatched away the key of the office safe and took away the said cash amount. Although the safe had double-locking system, this was not locked by the clerk which facilitated the crime.

4.4. That accordingly, charges were framed and show cause notice was served against the applicant vide office Memo No.F6-1(A)/88-89 dtd. 17-4-89 issued by the then Supdt.of POS, Darrang Dn. Tezpur. The applicant submitted his defence statement. He was also personally heard, quasi-judicial & Inquiry was completed but no punishment was imposed on the applicant due to the fact that he could prove his innocence in oral inquiry.

4.5. That the authority had also realised the loss fund amounting Rs.44,140.09 (Rupees Forty Thousand

One ...

*Handwritten signature and date 17/6/94*



One Hundred Forty and Nine paise) only from the salary and GPF of the applicant on different dates.

(Annexure-E)

4.6. That the authority even then lodged an FIR vide GR Case No.702/88 U/S 409 IPC with the Tezpur Police Station in which the applicant was prosecuted in the court of the Chief Judicial Magistrate (Tezpur), on the same ground/ cause of action and eventually the applicant was found not guilty of the charge and was acquitted after careful examination of the whole case.

A photo copy of the judgement dtd. 30.1.93 issued by Magistrate (J), Tezpur, Sonitpur is annexed herewith as Annexure-A.

4.7. That even though there had been no loss to the Government at all, and the charges framed against the applicant was also ordered to be treated as cancelled vide office Memo No.F6-1(A)/88-89/2 dtd. 4.6.93, issued by Respondent No.3, the applicant was again charge-sheeted on the same ground vide office Memo No.F6-1(A)/88-89/2 dtd. 7.6.93 issued by Respondent No.3.

Photo copy of the cancellation order vide Memo No.F6-1(A)/88-89/2 dtd. 4.6.93 issued by Respondent No. 3 is annexed herewith as Annexure-B.

Photo ...

12/6/93  
N. D.

photo copy of the memorandum alongwith  
exchlosures vide Memo No.F6-1(A)/88-89/2  
dtd. 7.6.93 issued by Respondent No. 3 is  
annexed herewith as Annexure-C.

4.8. That Departmental proceeding was held once  
again vide Memo No.F6-1(A)/88-89/2 dtd. 17.8.93 issued  
by Respondent No.3 on the same charge and subsequently  
punishment was inflicted upon the applicant vide Memo  
No.F6-1(A)/88-89/2 dtd. 29.12.95 issued by Respondent  
No.3 whereby an order was passed that the pay of the  
applicant be reduced by 2(two) stages from Rs.1540/- to  
Rs.1480/- in the scale of pay 975-25-1150-EB-30-1660  
for a period of 2(two) years without cumulative effect,  
by not taking into consideration the written statement  
filed by the Applicant and other related events.

Be it stated here that on both the occa-  
ssions, the Departmental Inquiries were conducted by  
different officers. On one occasion (on 6.6.89) the  
Officer  
Inquiry Officer was Sri B.K.Dam and on the other  
occasion (on 17.9.93), it was Sri A.C.Das.

Photo copy of the Inquiry order Vide Memo  
No.F 6-1(A)/88-89/2 dtd. 17.8.93 issued by  
Respondent No. 3 is annexed herewith as  
Annexure-D.

Photo ...

*[Handwritten signature]*  
27/10/93

Photo copy of the order vide Memo No. F6-1(A)/88-89/2 dtd. 29.12.95 is annexed herewith as Annexure-E.

Photo copies of the letters of Departmental Inquiry dt. 6.6.89 and 17.9.93 are annexed herewith as Annexures - F and G.

4.9. That finding no way out, the applicant preferred an appeal before Respondent No.3 on 11.3.96 stating the facts that the whole inquiry proceeding was completed illegally as the procedure for holding such inquiry had not been followed. The whole inquiry report was not furnished to the applicant. The applicant was not even allowed to cross-examine the witnesses nor he was informed to adduce defence witnesses, if any. Moreover, when the applicant produced his defence witnesses, they were not examined by the authority which was admitted by the Respondents themselves in the order dt. 29.12.95. But the said representation is pending till date without any steps being taken.

A photo copy of the representation dt. 11.3.96 is annexed herewith as Annexure-H.

G R O U N D S

(A) The order of punishment vide No. F6-1(A)/88-89/2 dtd. 29.12.95 is ex-fac<sup>ie</sup> illegal in as much as the same is passed without conclusive proof and proper investigation/inquiry.

(B) ...

(B) The said order of punishment is passed against the applicant without application of mind and the departmental proceeding was conducted 5 years after the same had been cancelled vide Memo No.F6-1(A)/88-89/2 dtd. 4.6.93 and after the applicant had been acquitted of the same charge vide judgement dtd. ~~20.10.93~~ 30.1.93 and also after the loss fund of Rs.44,140,09 (Rupees Forty four thousand one hundred forty and ~~one~~ nine paise) had been credited by the applicant to Government account as UCR on different dates. The whole proceeding was conducted haphazardly, whimsically and in contravention with the mandatory provisions of 311(2) of the Constitution of India.

(C) The said order of punishment is apparently illegal, founded on malafide and colourable exercise of power where the enquiry/investigation is not conducted with due diligence, care and without any violation of principles of Natural Justice and hence, does not take into account the various privileges and protections of the Central employees.

(D) The order of reduction of pay by 2(two) stages for a period of 2(two) years without cumulative effect by way of punishment by the Disciplinary authority (i.e., Respondent No.3) is not a speaking order.

5. GROUND'S FOR RELIEF WITH LEGAL PROVISIONS :

5.1. ....

*Handwritten signature/initials*

5.1. For that malafide, discrimination, harassment being the foundation of the impugned order vide Memo No.F6-1(A)/88-89/2 dtd. 29.12.95 is not maintainable in the eye of law and hence, liable to be quashed and set aside.

5.2. For that the said impugned order against the applicant is not only illegal, arbitrary but also a gross violation of the Principles of Natural Justice and administrative fair play and hence liable to be quashed and set aside.

5.3. For that it is submitted that the said impugned order dated 29.12.95 was passed by the Respondent No. 3 whimsically, arbitrarily, unilaterally and in gross violation of the provisions of Articles 14 and 16 and hence liable to be quashed and set aside.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant declares that he has exhausted the departmental remedies by filing representation and there is no other alternative remedy open to him except by way of filing this application.

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

The applicant further declares that he has not previously filed any writ petition or suit regarding

the ...

*Handwritten signature*  
29/12/95

the grievances in respect of which this application is made before any court or any other Bench of this Hon'ble Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR :

In view of the facts mentioned in paragraph 4 above, the applicant prays for the following reliefs.

Instant application may please be admitted, records be called for and on perusal of the same and upon hearing the parties on the cause or causes that may be shown, may be pleased to grant the following reliefs :-

(i) to set aside and quash the impugned order vide Memo No.F6-1(A)/88-89/2 dtd. Tezpur the 29.12.95 issued by the Respondent No.3.

(ii) Refund of cash amount realised from the pay and GPF of the applicant.

(iii) Payment of Full wages w.e.f. 29.12.95.

(iv) Cost of this application.

(v) any other relief or reliefs to which the applicant is entitled and as the Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the case.

22/12/96  
Decd  
22/12/96

9. INTERIM ORDER PRAYED FOR :

Pending disposal of this application the applicant prays that the operation of the impugned order vide Memo No.F6-1(A)/88-89/2 dtd. Tezpur the 29.12.95 may please be stayed with further direction to allow the applicant to receive his present increment (full wages) w.e.f. 29.12.95 till disposal of this application.

10. PARTICULARS OF THE I.P.O.

(i) No. of the I.P.O. 8 09 346798

(ii) Date : 26.8.96.

(iii) Payable at G.P.O. Guwahati.

11. LIST OF ENCLOSURES :

As stated in the Index.

VERIFICATION

I, Sri Khagendra Kumar Bordoloi, aged about 45 years, at present working as a Postal Assistant, Jamugurihat Sub-Post Office, village- Jamugurihat, P.O. Jamugurihat, Tezpur in the district of Sonitpur (Assam) under the Superintendent of Post Offices, Darrang Division, Tezpur H.O. hereby solemnly verify that the statements made in paragraphs 1 to 11 are true to my knowledge and I have not suppressed any material facts.

Place :- Guwahati. *M. K. Bordoloi*

Date :- 27-8-96

(KHAGENDRA KUMAR BORDOLOI)

*27/8/96*



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
2.2.93	28/2/20	28/2/20	25/2/93	28/2/93

Dir - - Sonit - -

In the Court of Judicial Magistrate  
at Jn.

G.D. case no 702/88

State

vs

Kikagondan Kari Boudalai  
M/S 409/1.P.C.

Attested.  
Ms. S.B. Chawdhary  
Advocate  
27.8.96.

CL no	Date	Order	Signature
	<u>30.1.93</u>	<p>Accused Person is</p> <p>Present.</p> <p>Two Accused are</p> <p>Present. They are</p> <p>discharged.</p> <p>These prosecution</p> <p>are more witnesses &amp;</p>	





प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की तिथि तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

is required to be  
examined as per  
submission of  
prosecution. Hence  
evidence for prosecution  
is cleared.  
Statement of the  
accused person recorded.  
Hearings of  
both sides.  
prosecution could  
not prove the charges  
beyond all  
reasonable doubt at all.  
Hence I acquit the  
accused person and set  
him at liberty with  
will.

Alleged  
Mr. S.B. Choudhary  
Advocate  
27.8.76

अभिमान  
27/2/76

142 अतिरिक्त प्रतिलिपि का  
प्रतिफल, 10/10/76

20/2/76

20/2/76

Self R Phukan  
(S) Magistrate

Annexure - B

DEPARTMENT OF POSTS - INDIA  
OFFICE OF THE SUPDT. OF POST OFFICES DARRANG DN TEZPUR

Memo. No. F6-1(A)/88-89/2

Dated, Tezpur, the 4.6.93

Without prejudice to future action under C.C.S. (CCA) Rules 1965 being taken, the charges framed against Shri Khagendra Kr. Bardolei, then Sub-Postmaster, Lokra and now PA(Sig.) Jamugurihat vide this office Memo. no. F6-1(A)/88-89 dtd. 17-4-89 issued by the then Supdt. of POs, Darrang Dn, Tezpur, is hereby ordered to be treated as cancelled agreeable to Govt. of India's instructions no. (9) below Rule-15 of CCS(CCA) Rules, 1965 as contained in DG P&T's letter no. 114/324/78-DISC-11 dt. 5-7-1979. It is considered necessary to inform the aforesaid Shri Khagendra Kr. Bardolei, then SPM, Lokra, now PA/Sig. Jamugurihat that the charges under Rule-14 of CCS(CCA) Rules, 1965 is being initiated by the appropriate disciplinary Authority based on appropriate charges.

*Sd/*  
( N. Bhattacharjee )  
Supdt. of Post Offices  
Darrang Dn, Tezpur.

Copy to:-

- ✓ REGD. AD. 1) Shri Khagendra Kr. Bardolei, PA/Sig. Jamugurihat P.O.
- 2) The Asstt. Postmaster General (Vig) O/O the Chief P.M.G. Assam Circle, Guwahati w.r. to her letter no. VIG/14/5/85 dtd. 17.5.93 for information.
- 3) P.F. of the official.
- 4) The CR file of the official.

*RB*  
Supdt. of Post Offices  
Darrang Dn, Tezpur-784001.

*Attested  
Ms. S.B. Chowdhury  
Associate  
27.8.96*

- 14 -

DEPARTMENT OF POSTS-INDIA  
OFFICE OF THE SUPDT. OF POST OFFICES DARRANG DN TEZPUR.

Annexure - c

MEMORANDUM

Rule-14 of Central Civil Service (CCA) Rules, 1965.

No. F6-1(A)/88-89/2

Dated, Tezpur 7-6-93

The undersigned propose to hold an inquiry against Shri Khagendra Kr. Bordoloi under Rule-14 of the CCS(CCA) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I) - A statement of the imputations of misconduct or misbehaviour in support of each Article of charge enclosed (Annexure-II). A list of documents by which and a list of witnesses by whom the articles of charge are proposed to be sustained are also enclosed. (Annexure-III and IV).

2. Shri Khagendra Kr. Bordoloi is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should therefore, specifically admit or deny each article of charge.

4. Shri Khagendra Kr. Bordoloi is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 of above or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule-14 of the CCS(CCA) Rules, 1965 or the orders/directions issued in pursuance of the said Rule the inquiring authority may hold the inquiry against him EX-Parte.

5. Attention of Shri Khagendra Kr. Bordoloi is invited of Rule-20 of the CCS(Con) Rules 1964 under which no Govt servant shall bring or attempt to bring any political or outside influence to bear upon any Superior Authority to further its interest in respect of matters pertaining of his service under the Govt. If any representation is received on his behalf from another person in respect of any matters dealt with these proceedings it will be presumed that Shri Khagendra Kr. Bordoloi

is aware of such representation and that it has been made at his instance and action will be taken against him for violation of Rule-20 of the CCS(Con) Rules 1964.

6. The receipt of this memo may be acknowledged.

REGD. AD To

( N. Bhattacharjee )  
7/6/93

Shri Khagendra Kr. Bordoloi Supdt. of Post Offices  
Darrang dn, Tezpur.

PA/Signaller,

Janagurihat.

Attested.  
Ms. S. B. Choudhury  
27-2-96

ANNEXURE-1

STATEMENT OF ARTICLES OF CHARGE FRAMED AGAINST SHRI KHAGENDRA KR. BORDOLOI, THEN SPM, LOKRA NOW PA (SIG) JAMUGURIHAT.

ARTICLE-1

That the said Shri Khagendra Kumar Bordoloi, while functioning as Sub-Postmaster, Lokra during the period from 5-9-84 to 28-4-88, requested the Postmaster, Tezpur HO vide his letters dtd. 19/4/88 and 21-4-88 to remit Cash for Rs. 40,000/- (forty thousand) only by showing fictitious liabilities. Said Shri Khagendra Kr. Bordoloi, also did not place the requisition in the respective daily accounts as required under Rule-31(1)(2) of Postal Manual Vol-VI Part-111. Thus, Shri Khagendra Kr. Bordoloi is found responsible for the violation of Rule-31(1)(2) of Postal Manual VOL-VI Part-111.

Article-11

That during the aforesaid period and while functioning in the aforesaid office said Shri Khagendra Kr. Bordoloi, kept shortage of cash for Rs. 44,140.09 (Rs. Forty four thousand one hundred forty and paise nine) only in the cash balance of Lokra S.O. dtd. 28-4-88, which was detected by the SPOs, Tezpur during his visit to the P.O. on 29-4-88. However, said Shri Khagendra Kr. Bordoloi, credited the shortage amount of cash for Rs. 44,140.09 only to Govt. account as UCR on different dates subsequently.

Thus, the said Shri Khagendra Kr. Bordoloi is found responsible for the violation of the provisions of Rule-84(A) of Postal Manual Vol-VI Part-111, and also Rule-3(1) (ii)(iii) of CCS (Conduct) Rules, 1964.

ANNEXURE-11

STATEMENT OF IMPUTATION OF MISCONDUCT OR MISBEHAVIOUR IN SUPPORT OF THE ARTICLES OF CHARGE FRAMED AGAINST SHRI KHAGENDRA KR. BORDOLOI, THEN SPM, LOKRA NOW PA JAMUGURIHAT.

That the said Shri Khagendra Kr. Bordoloi while functioning as SPM, Lokra during the period from 5-9-84 to 28-4-88, requested the PM, Tezpur HO vide his letter dtd. 19/4/88 and 21/4/88 respectively, to remit cash for Rs. 40,000/- (Forty thousand) only before 23rd April/88 by showing fictitious liabilities. He did not furnish the particulars of liabilities in the appropriate columns of the reverse side of the daily accounts. However, the PM, Tezpur HO remitted cash for Rs. 40,000/- (Forty thousand) only on 23.4.88 through O/S Cash, Tezpur who had handed over the remittance for Rs. 40,000/- only to the SPM, Lokra duly acknowledged in the diary at 12-30 hours. The attempt made by Shri Khagendra Kr. Bordoloi to collect cash on the pretext of fictitious liabilities from the H.O. and without observing the procedures laid down in Rule-31(1)(2) of Postal Manual Vol-VI Part-111 and therefore, said Shri Khagendra Kr. Bordoloi is found responsible for the violation of Rule-31(1)(2) ibid.

contd----2//

checked  
S.B. Choudhury  
Advocate  
27.3.96

=2=

Article-11

That during the aforesaid period and while functioning in the aforesaid office, Said Shri Khagendra Kr. Bordoloi reported personally to the Supdt. of Post Offices, Darrang Dn, Tezpur in his chamber, on 28-4-88 that a sum of Rs. 45,000/- (Forty five) thousand only was short in the cash balance of Lokra S.O. which he had handed over to some body on good faith. The Supdt. of POs, Tezpur verified the cash balance of Lokra physically on 29-4-88 and found total shortage for Rs. 44,140.09 (Rs. Forty four thousand one hundred forty and paise nine) only which was charged as UCP in the account of Lokra dtd. 29-4-88.

However, this shortage amount of Rs. 44,140.09 only had been credited subsequently by Said Shri Khagendra Kr. Bordoloi as UCR in the Govt. account on different dates voluntarily.

Thus, by keeping shortage of cash for Rs. 44,140.09 on in x in cash balance of the office dtd. 28.4.88, Shri Khagendra Kr. Bordoloi, is found responsible for the violation of Rule-84(A) of Postal Manual VDL-VI Part-III and also Rule-3(1)(ii)(iii) of CCS (Conduct) Rules, 1964.

ANNEXURE-III

LIST OF DOCUMENTS BY WHICH THE ARTICLES OF CHARGE FRAMED AGAINST SHRI KHAGENDRA KR BORDOLOI, THEN SPM LOKRA NOW PA (SIG JAMUGURIHAT.

....

1. SPM/Lokra's letter dtd. 19.4.88
2. SPM/Lokra's letter dtd. 21-4-88.
3. Lokra daily accounts dtd. 19/4, 20/4, 22/4/88.
4. Written statement of Sri K.K. Bordoloi dtd. 28-4-88.
5. Inventory dtd. 29-4-88.
6. Written statement of Sri Phanidhar Haloi, PA now SPM, Naharbari.
7. Written statement of Sri Pradip Das, ED Packer, Lokra dtd. 30.4.88.
8. ,, ,, of Sri Arabinda Das, dtd. 30.4.88, ED Messeng Lokra.
9. ,, ,, of Sri Homnath Upadhaya dtd. 30-4-88, Postman, Lokra.
10. Diary of O/S Cash, Tezpur period -20.2.88 to 26.4.88.
11. Credit certificate dtd 25-9-90 & PM Tz Ho.

contd...3//

Attested  
Ms. S. B. Choudhary  
27.8.96

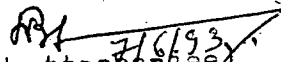
=3=

ANNEXURE-1V

LIST OF WITNESSES BY WHOM the ARTICLE OF CHARGE FRAMED  
AGAINST SHRI KHAGENDRA KR. BORDOLOI THEN SPM, LOKRA NOW PA  
(SIG) JAMUGURIHAT, ARE PROPOSED TO BE SUSTAINED.  
.....

1. Sri G.V. ANANTHANARAYANAN THEN Supdt. of POS, Tezpur. NOW
2. Sri Bindanda Hazarika, then ASPDs (HQ) Tezpur now Dy. Supdt.  
O/O the DPS, Nagaland Kohima.
3. Sri Tarun Kalita, then SDI(P), Tezpur now SDI(P), Pathsala.
4. Sri Phanidhar Haloi, then PA, Lokra now SPM, Naharbari.
5. Sri Chandra Bahadur Rai vill. Headman, Somaipam, Lokra.
6. , , Kxi Krishna Bahadur Chetry, President Assam Rifle, Ex-  
Serviceman, Assam, Lokra.
7. Sri Pradip Das, ED Packer dtd. 30.4.88. Lokra.
8. , , Arabinda Das, ED Messenger, Lokra.
9. , , Homnath Upadhaya, Postman, Lokra.
10. , , Kxi Mohan Ch. Hazarika, O/S Cash, Tezpur.
11. , , Jitendranath Sarma, then ABM, Sub Account, Tezpur now  
retired.

Attested  
Ms. S. B. Choudhury  
Advocate  
27.8.96

  
( N. Bhattacharjee )  
Supdt. of Post Offices  
Darrang Dn, Tezpur-784001

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Annexure-D

Daily order Sheet for Dis Preliminary Hearing

Disciplinary proceedings against Sri Khagendra Kr. Bordalai,  
the then SpP.M. Lokra S.O. now P.A./ Jamugurihat S.O. vide  
SPD/T2 memo no FB-1(A)/88-89/2 dtd 17-8-96  
Present:-

1. Md. Kutebuddin Ahmed, Presiding Officer, 2 S.D.1 (P) / Tezpur.
2. Sri Khagendra Kumar Bordalai P.A. / Jamugurihat S.O. the then
3. S.P.M. / Lokra S.O.

The charged official has received the Charge Sheet  
He pleads not guilty.

2. The presenting officer is directed to offer inspection of the documents listed in Annexure-III to the charge sheet, to the charged officials (with his defence assistants, if any) in his office at 10.00 A.M. on 11-10-93 and on the subsequent day, if necessary. He also should also supply to the charged officials the copies of the earlier statement, if any made by the witnesses during the preliminary inquiry.

3. The charged official should thereafter by 18-10-93 submit a list of additional documents he wishes to inspect and a list of witnesses he would like to examine, in his defence. Full particulars of the documents showing the custody and relevance to the charges must be furnished. In the case of witnesses the complete postal addresses, the name of and designation of their controlling authorities, if they are in public employment and their relevance to the charges has to be furnished.

4. The charged official should also intimate the name, designation and address of the employee, if any who will be assisting him during the inquiry. In case he has been allowed the assistance of a legal practitioner by the disciplinary authority, the name and address of such legal practitioner should be intimated together with a copy of the letter of permission.

5. The next date of hearing will be intimated in due course.

Attested  
Ms S.B. Chowdhury  
Advocate  
22.8.96

Date: 11.10.93  
Presenting officer

Date: 11.10.93  
Charged employee

Date: 11.10.93  
Inquiry officer  
বই জবোয়াক / মুখ্য কার্যাবলি  
নালবারী বারপেটা পাকমন্ডল  
নালবারী ৩৮১৩৩২  
Asst Supdt of Post (H.)  
Nalbari Barpeeta Dn.  
Nalbari- 781335

DEPARTMENT OF POST: INDIA  
OFFICE OF THE SUPDT OF POST OFFICES: BARRANG DIVISION  
TEZPUR:-784081.

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Annexure - E

Memo No:-F6-1(A)/88-89/2 Dated at Tezpur the 29-12-95.

In this office memo of even no dtd 7-6-93, it was proposed to take action against Sri Khagendra Kr Bardalai, the then SPM, Lokra SO, now PA, Jamugurihat SO under Rule-14 of CCS (CCA) Rules, 1965 on the basis of the articles of charge enclosed therein. Said Sri Bardalai was given an opportunity to make such representation as he may wish against the proposal within 10(ten) days of receipt of the said memo. The articles of charge framed against him is as under:-

STATEMENT OF ARTICLES OF CHARGE FRAMED AGAINST SRI KHAGENDRA KR BARDALAI::SPM: LOKRA. NOW PA: JAMUGURIHAT SO.

Article-i :- That the said Sri Khagendra Kr Bardalai while functioning as SPM, Lokra during the period from 5-9-84 to 28-4-88 requested the Postmaster, Tezpur HQ vide his letters dtd 19-4-88 and 21-4-88 to remit cash for Rs 40,000/=(forty thousand) only by showing fictitious liabilities. Said Sri Khagendra Kr Bardalai also didnot place the requisition in the respective daily accounts as required under Rule-31(1)(2) of Postal Mannual Vol-vi Part-iii. Thus Sri Khagendra Kr Bardalai is found responsible for the violation of Rule-31(1)(2) of Postal Mannual VOL-vi Part-iii.

Article-ii:- That during the aforesaid period and while functioning in the aforesaid office said Sri Khagendra Kr Bardalai kept shortage of cash for Rs 44,140.09 (Forty four thousand one hundred forty & paise nine) only in the cash balance of Lokra SO dtd 28-4-88, which was detected by the SPOs, Tezpur during his visit to the PO on 29-4-88. However, said Sri Khagendra Kr Bardalai credited the shortage amount of cash for Rs 44,140.09 only to Govt. account as UCR on different dates subsequently.

Thus the said Sri Khagendra Kr Bardalai is found responsible for the violation of the provisions of Rule-84(A) of Postal Mannual Vol-vi Part-iii and also Rule-3(f)(ii)(iii) of CCS (Conduct) Rules, 1964.

Said Sri K.K. Bardalai received the above memo on 9-6-93 and he submitted his written statement of defence on 16-6-93 which was received at this office on 18-6-93 which runs as under.

I have the honour to state that I have received your above memo enclosing the memo of charges against the occurrence of 27th, 28th of April, 1988. The similar memo of the same charges was also received by me in the month of April/1988, I submitted the defense statement, I was personally heard, quassi-judicial Inquiry was completed but no punishment what so ever was imposed on me obviously due to fact that I could not prove my innocence in the oral Inquiry. This case was tried in the Court of Law of course, the criminal aspect, but there also I had to appear before the trying court of Law in different dates for trial against the criminal charges framed by the state. But after careful examination of the whole case, I was found not guilty of the charges by the Learned Magistrate and was acquitted by the court of Law. This was the aspect however of the criminal side but of the same and the same case only.

But now it is very regretful affairs to note that I have again been charge sheeted after every operation is over even though there is no loss to the Govt. at all and this is also initiated again after more than 5 years of time with the instrument of the provisions of DG's letter No 114/324/78-DISC-ii dtd 5-7-1979. Respected Sir, can you favour me with a copy of the said letter as practically we clerical staff do not get a touch of such instrumental sensitive letters.

contd at Page-2.



However, Sir, I humbly submit my defence of each para. the charges against me as levelled now.  
CHARGE 1 :- The failure to note in the daily account of the liabilities may be an omission on my part due to heavy pressure of work in the office but the liabilities were not fictitious. The exact facts and figures as on now after a lapse of 5 years can not be cited or stated by me in absence of records. But the Head Post Office after consideration and satisfaction of the liabilities sent the cash to my office through the s/s cash. It is a well established fact and procedure of the department that the Head Post Office after observing all formalities and after being fully satisfied of the liabilities sent the cash of Rs 40,000/- particularly when it was a heavy amount of cash. It is therefore not a fact that I attempted to get cash from Tezpur HPO in an irregular or fraudulent manner but requisitioned for cash to me the genuine liabilities and I got the cash to clear up office liabilities only.

CHARGE No 2 :- The shortage of cash was found by the then Supdt of POs, Tezpur in the cash balance of my office on 29-4-88 in my absence. The shortage would be there because on the night of the day when I received the cash, some unknown people overpowered me on the point of revolver and snatched away the key of the office safe and took away the money from the office. The safe though with the double locking arrangements, this was not locked by the clerk which also facilitated the crime. It is not a fact that I gave the money to some one as noted in your charge. I was taken to the office of the Supdt of POs, they started interrogating me along with police officers. They were not ready to hear me or believe whatever I wanted to say. I had to write what they wanted me to write. The money whether belonging to the Govt. or of personal not be given to any body particularly when the amount of money was Rs 44,140.05 paise. Giving such amount of money to somebody on good faith is unnatural and unusual. I, therefore, firmly state that the fact is this that the cash was forcibly taken away from me on the point of revolver. Lekra is a very solitary place isolated from the market area. There was no chowkidar in the office nor there was any staff quarters who would come forward to help me at the time of such an occurrence.

The shortage of cash was made good by me without loss a single paise of loss to the Govt. I was acquitted in the court of Law for the criminal aspects. I would therefore pray to you exonerated from the charges without punishing me after 5 years of the occurrence.

Then an enquiry under Rule-14 of CCS(CCA) Rules, 1965 was ordered to be held vide this office memo of even no dtd 7-6-88. And accordingly Sri Atul Ch Das, ASP(HQ), Nalbari and Md Kutubuddin Ahmed, SBI(P), Tezpur were appointed as Inquiry Authority and Presenting Officer respectively.

The I.A. held preliminary enquiry on 5-10-93 and concluded the enquiry on 12-9-95 and submitted his Inquiry Report under his letter no EC-1/93-94 dtd 22-11-95 which runs as under.

Preliminary hearing of the disciplinary proceedings was held on 5-10-93 at s/s SPOs, Barrang Bivn, Tezpur. The charged official Sri K.K. Bardalai pleaded not guilty. Thus Presenting officer Sri Kutubuddin Ahmed was directed to offer inspection of the listed documents to the charged official with his defence Assistant on 11-10-93 at 10 a.m. in his office and on the subsequent day if necessary. The presenting officer was also directed to supply to the charged official the copies of the earlier statement made by the witnesses during the preliminary inquiry. Accordingly the Presenting officer, Sri Kutubuddin Ahmed made the listed documents available to the charged official Sri K.K. Bardalai, the then SPM Lekra SO on 11-10-93 in the office of SBI(P), Tezpur Sub Division, Tezpur. Sri K.K. Bardalai, the charged official certified in writings that he examined all the listed documents on 11-10-93 and satisfied himself.

*Heard  
S.B. Chowdhury  
Advocate  
27.8.96*

(X) (3)

2. On the day of preliminary hearing itself the charged official Sri K.K. Bardalai the then SPM, Lekra SO new PA, Jamu-gurihat SO was also directed to submit a list of additional documents he wishes to inspect and a list of witnesses he would like to examine in his defence by 18-12-93. Besides, the charged official was also asked to intimate the name and designation and address of the employee, if any who will be assisting him during the inquiry. Accordingly the charged official furnished the list of addl. documents and witnesses to examine in his defence as follows:-

- Addl documents :- 1) BG P&T letter no 114/B24/78-Disc-II dtd 5-7-79.  
2) Application of NSG holders to SPM, Lekra dtd 19-4-88 submitted by one Sri S.N. Singh.  
3) The diaries of Sri K. Mastan, SPOs, Barrang Bn. for the month of January and February/91.
- Witnesses :- 1) Sri K. Mastan the then Supdt of POn, Barrang Bn., Tezpur.

The charged official also intimated the name of Sri K. K. Dey, Rtd, officer of postal deptt. as his defence asstt.

Thereafter the oral inquiry on 18-12-93 and 29-12-93 could not be held as the charged official was not attended the inquiry. On the next that date of hearing inquiry on 19-7-94, the charged official was clarified in support of the SPOs/Tezpur letter no FG-1(A)/88-89/2 dtd 4-11-93 that there was no relevancy of the addl. documents wanted by him to examine in his defence to the charges. Thus question of supply of the said addl. documents in oral inquiry do not arise. The request of the charged official to examine Sri K. Mastan, the then Supdt of POn, Barrang Bn. also could not be acceded to as there was no relevancy of the said officer to the charges levelled against the charged official.

Sri K.K. Dey, the defence assistant as named by the charged official was served regd. notice in respect of each date to attend the inquiry. But the said Sri K.K. Dey did not attend on any date in the inquiry.

3. On the day of inquiry on 19-7-94 all the listed documents of the case were marked exhibits as under :-

- 1). SPM/Lekra's letter dtd 19-4-88 = Ex.-1
- 2). SPM's Lekra letter dtd 21-4-88 = Ex.-2
- 3). Lekra's daily a/o dtd 19-4-88, 20-4-88 and 22-4-88 = Ex.3(a), 3(B), 3(c) respectively.
- 4). Written statement of Sri K.K. Bardalai dt 28-4-88 = Ex.-4
- 5). Inventory dtd 29-4-88 = Ex.-5
- 6). Written statement of Sri Phanidhar Bardalai = Ex.-6
- 7). " " " " Pradip Das = Ex.-7
- 8). " " " " Aravinda Das = Ex.-8
- 9). " " " " Hemnath Upadhyaya = Ex.-9
- 10). Diary of e/s cash for the period from 20-2-88 to 26-4-88 = Ex.-10
- 11). Credit certificate dtd 25-9-98 = Ex.-11.

The charged official admitted that the above exhibits were examined by him on 11-12-93 and these are all genuine.

There is no further exhibits in this case either from prosecution side or from defence side.

4. Out of the listed witnesses the following witnesses were examined in the inquiry.

Heated  
S.B. Ghosh  
Advocate  
27/8/96

(4)

- 1) Sri Phanidhar Haloi, the then PA, Lekra SO.
- 2) Sri Mahan Ch Hazarika, S/O. Gash, Tezpur.
- 3) Sri G. V. Ananthanarayan, the then SPM, Tezpur.
- 4) Sri Jitendra Nath Sarma, the then APM (Sub A/C), Tezpur HS.
- 5) Sri Tarun Ch Kalita, the then SSI (P), Tezpur Sub Dn, Tezpur.

The following witnesses did not appear before the I.O. in spite of repeated notices served to them to attend the inquiry. Besides for their repeated failure to appear before the I.O. the Presenting Officer of the case wanted deletion of the witnesses as their oral evidence is not required to him in the inquiry.

- 1) Sri Binanda Hazarika, SPOs, Naugachan Dn.
- 2) Sri Arabinda Das, ED Messenger, Lekra SO.
- 3) Sri Chandra Bahadur Rai, Village Postman.
- 4) Sri Krishna Bahadur Chetry, President, Assam Rifle, Ex. ser Voonan.
- 5) Sri Pradip Das, EB Packer, Lekra SO.
- 6) Sri Hemnath Upadhyaya, Ex postman, Lekra SO.

5. Copies of the daily order sheet as well as of deposition of witnesses were issued to the charged official under acquittance in respect of each date of oral inquiry.

6. After the case for the disciplinary authority was closed, the charged official was asked to submit his defence in writing as desired by him. Accordingly, the charged official Sri K.K. Bardalai submitted his defence statement on 28-7-95 vide Jamugurihat RL No 5359 dtd 21-7-95.

7. There was neither documents nor witnesses on the part of the defence side to produce in the inquiry. The charged official also did not want to examine himself on his behalf.

8. Before the conclusion of oral inquiry and being the I.O. of the case questioned the charged official on the circumstances appearing against the charged official and with this the case of the defence side was also closed on 12-9-95.

9. The presenting officer of the case submitted his written brief endorsing copy to the charged official which was received by me on 18-9-95.

10. The charged official Sri K.K. Bardalai the then SPM, Lekra SO now PA, Jamugurihat SO also submitted written brief in support of his defence and was received by me on 18-9-95.

11. During the inquiry, the charged official was allowed all reasonable opportunity to defend himself.

12. In the article 1 of the charges brought against Sri K.K. Bardalai, it was alleged that Sri Bardalai did not place the requisition for cash Rs 40,000/- to Tezpur-HS in the respective daily a/c as required under the Rule 31(1)(2) of Postal Man.VI Part.III instead the charged official requested the Postmaster, Tezpur HS vide his letter dtd 19-4-88 and dtd 21-4-88 to remit cash Rs 40000, by showing fictitious liabilities.

13. a). Exhibit-1- the letter of SPM, Lekra SO dtd 19-4-88 reflect that the charged official wrote to Postmaster, Tezpur HS in a piece of paper placing requirement of Rs 40,000/- on or before 23-4-88 for NSC discharge. Exhibit-3(a), the SO daily a/c of Lekra SO dtd 19-4-88 does not bear any particulars of liabilities against NSC or other items.

b). Exhibit-2, the SPM, Lekra SO letter dtd 21-4-88 reflects that the charged official requested the Postmaster, Tezpur HS to supply cash Rs 40,000.00 intimating date fixed on 23-4-88. Exhibit-3(b), the SO daily a/c of Lekra SO dtd 26-4-88 and Exhibit-3(c) the SO daily account dtd 22-4-88 do not bear any particulars of liabilities against NSC.

c). Sri Jitendra Nath Sarma, the witness of the case and the then APM sub a/c, Tezpur HS in his depositions before I.O. on 28-3-95 confirmed the genuineness of the Ex.1, Ex.2, Ex.3(a), Ex.3(b), and Ex.3(c) and deposed that there was no remark/note of requisitioning cash on the SO daily a/c i.e. on Ex.3(a), Ex-3(b) and Ex.3(c). The said Sri Sarma witness to the case also stated that he

Attended  
by S.B. Choudhury  
Advocate  
27-8-96

he got confirmation as to the liabilities in letter in the shape of XPL message from SPM, Lekra SO before remitting the cash to the SO. Another witness to the case Sri G.V. Anantanarayan, the then SPOs, Barrang Bn, Tezpur stated that the Postmasters are to oblige the requisition of cash made in a piece of paper also but it should be followed by note in the respective daily a/c of the SPM which may receive on a later date in HQ. The said witness to the case Sri G.V. Anantanarayan confirmed in reply to question put by the I.O. that noting of remarks of particulars of requisition made to HQ by the SO is must.

(d). Here in this instant case the charged official place requisition of cash in a piece of paper twice but the same was not confirmed by writing on the SO daily account on the dates or of the following day.

(e). The Presenting Officer of the case rightly argued in his written brief that there were no note of liabilities of Rs 40,000.00 in any of the SO daily a/cs dtd 19-4-88, 20-4-88 and 22-4-88 as to the payment of NSC as appearing in Ex.-1 and Ex-2. Apart from this even after receipt of cash the SO called liabilities was not cleared upto 28-4-88 though the date of payment was fixed on 23-4-88 as per Ex.-2 nor the surplus cash as remitted back to Tezpur HQ. Thus the Presenting Officer's argument in support of fictitious liabilities shown by the charged official reflects its merit.

(f). The charged official in his written brief stated that he had no experience to work independently as a SPM, being a clerk promoted from the postman cadre after being postman from EDDA. The charged official also stated that the liabilities were shown but the same were perhaps not written in proper place in proper way.

The contention of the charged official is not convincing. The plea of having no experience is not at all acceptable and the Ex. 3(a), 3(b) and 3(c) clearly reflects that there were no particulars of liabilities on anyone of them against the NSC payment of Rs 40,000.00.

Besides, in reply to the question put by the I.O. the charged official stated that he forgot to place the requisition in the respective daily a/c in support of liability. Thus the charged official is taking different pleas time to time in support of his defence against article-1 of the charges which are not at all true and convincing.

Discussions above from 12, 13(a) to 13(f) of this report reflect that the article-1 of the charges brought against the said Sri K.K. Bardalai the then SPM, Lekra SO, now PA, Jamugurihat as to the violation of Rule 31(1)(2) of Postal Man. Vol.Vi part-iii is fully established.

14. In the Article ii of the charges brought against the charged official it was alleged that the charged official kept shortage of Rs 44,140.09 in cash balance of Lekra SO on 28-4-88 and thus violated Rule 84(A) of Postal Manual Vi Part.-iii.

15(a). Exhibit-4 reflects that there was shortage of Rs 44,140.09 when verification was conducted by the then SPOs, Barrang Division, Tezpur on 29-4-88 in presence of several independent witnesses. Exhibit-4 was confirmed to be genuine by the charged official as well as by the witnesses.

(b). Exhibit-4 also reflects that the charged official gave away Rs 45,000.00 from office cash on good faith to one Sri Haren Das. Thus shortage in cash balance of dated 28-4-88 has been admitted by the charged official.

(c). Sri G.V. Ananthanarayan, the then SPOs, Barrang Division, Tezpur, the witness of the case in his deposition confirmed the shortage of Rs 44,140.09 detected by him in cash balance of Lekra SO dtd. 28-4-88.

(d). Another witness to the case ~~xxxxxx~~ Sri Tarun Ch Kalita, the then SAI(P), Tezpur Sub Bn also confirmed in his deposition ~~xxxxxx~~ in the inquiry that there was shortage of Rs 44,140.09 in the cash balance of Lekra SO dtd. 28-4-88.

(e). Another witness to the case and the then PA of the Lekra SO Sri Phanidhar Halsei also confirmed in his deposition before the I.O. that there was shortage of Rs 44,140.09 in the cash balance of Lekra SO dtd. 28-4-88.

Attested.  
S.S.B. Choudhury  
Advocate.  
27.8.96

f). Besides the charged official during the inquiry in reply to question put by I.O. on 12-9-95 clearly stated that he admits the total shortage of Rs. 44,140.09 in cash balance.  
g). Apart from above the charged official has not denied in his written brief dated 10-10-95 that there was shortage in cash.

In view of above discussion in para 14, 15(a) to 15(g) it is evident that the Article-II of the charges brought against the charged official Sri K.K. Bardalai, the then SPM, Lekra SB, now PA, Jamuguri SO is fully established.

In the written brief the said Sri K.K. Bardalai, the then SPM, Lekra SO the charged official has contended that the deposition of Sri Phanishar Haloi is not at all acceptable to him because of 8 years gap in between the occurrence of the case and the date of his deposition. Sri K.K. Bardalai contended that the said Haloi can not remember after 8 years as to what was written or shown in Daily account of dated 22-4-88 and 19-4-88. Contention of the said charged official is not at all correct. The SO daily a/cs dated 22-4-88, 20-4-88 and 19-4-88 are the exhibits of the case and these have been admitted by the charged official as genuine. The daily a/cs clearly agree to the facts deposed by the said witness Sri Phanishar Haloi. Thus the facts deposed by Sri Haloi can not be challenged. Besides, Man may lie but documents cannot.

In view of the above facts and reasonings based on documents as well as on oral evidences it is established that both the articles of charge brought against Sri K.K. Bardalai, the then SPM, Lekra SO, now PA, Jamuguri SO are fully proved beyond doubt.

I have gone through the inquiry report of the I.O. and I also agree with the I.O. that all the ~~XXXXXXXXXXXXXXXXXXXX~~ ~~XXXXXXXXXXXX~~ articles of charge brought against Sri K.K. Bardalai have been proved beyond doubt.

On the basis of the documentary and oral evidences adduced in the case, all the charges from Article-I to Article-II against the official stands proved beyond reasonable doubt. But considering the length of service rendered by the official and with the hope of future rectification, I took a most lenient view of the case and award the following punishment to meet the end of justice.

ORDER

I, Sri S.K. Barak, Superintendent of Post Offices, Darran Division, Tezpur:784001, hereby order that the pay of Sri Khagendra Kumar Bardoloi, the then S.P.N., Lekra S.O., now Postal Assistant Jamugurihat S.O. be reduced by 2 (two) stages from Rs.1540/- to Rs.1480 only in the scale of pay 975-25-1450-EB-38-1660 for a period of 2 (two) years without cumulative effects.

(Sd/-)  
Superintendent of Post offices  
Darran Division, Tezpur:784

*Attended  
Ms. S.B. Choudhury  
Advocate  
22.8.96*

1. Khagendra Kumar Bardoloi, P/A, Jamugurihat S.O.
2. The Postmaster, Tezpur. He for information and necessary action.
3. The Postmaster General (Vig.), Assam Circle, Guwahati:1.
4. Punishment Register.
5. Co.R. File of the official.
6. P.F. of the official.
7. O.C.
8. Spare.

(Sd/-)  
Superintendent of Post Offices  
Supdt. of Post Offices

DEPARTMENT OF POSTS:INDIA  
OFFICE OF THE SUPDT OF POST OFFICES:DARRANG DIVISION:TEZPUR

Memo-No. F6-1(A)/88-89

Dated at Tezpur the 6.6.89

O R D E R

Whereas an inquiry under Rule 14 of CCS(CC&A) Rules, 1965 is being held against Shri Khagendra Kr. Bardoloi, the then offg. SPM Lokra now offg. PA Tezpur H.O.

And whereas the undersigned in exercise of the powers conferred by Sub Rule (2) of the said Rule, hereby appoints Shri B.K.Dam, ASPOs(DD), Darrang Division, Tezpur as Inquiring Authority to inquire into the charges framed against Shri Khagendra Kr. Bardoloi.

*Self*  
( K. Mastan )  
Supdt. of Post Offices  
Darrang Division, Tezpur

Copy to :-

- U/R. 1) Shri B.K.Dam, Asstt. Supdt. of POs(DD), Darrang Divn, Tezpur.  
A copy of the articles of charges is enclosed. He will please complete the inquiry within 75 days and submit his report.
- ✓ 2) Shri Khagendra Kr. Bardoloi, PA Tezpur H.O.
- 3) Shri J. Biswas, C.I. Tezpur.
- 4) O/C.

*Wm*  
Supdt. of Post Offices  
Darrang Division, Tezpur.

*Attested.*  
*Ms. S. B. Choudhury*  
*Advocate.*  
*27.8.96*

BB/AA/D

Govt. of India.  
Department of Posts.

Annexure - G

No. EC-1/93-94,

Dated at Halbari the 17-9-93.

To,

Sri Khagendra Kr. Bordoloi.  
P/A Jamugurihat S.O.  
Dist. Sonitpur (Assam).

Sub:- Departmental Inquiry into the charges framed against  
Sri Khagendra Kr. Bordoloi the then SPH/Lekhna S.O.

Sir,

I have been appointed as Inquiring Authority to conduct inquiry in the case above cited, vide order No. F6-1(A)/88-89 dtd. 17.8.93 issued by Supdt. of Post Offices, Darrang Division Tezpur, a copy of which has been endorsed to you.

2. Accordingly, a preliminary hearing of the case will be held by me on 5.10.93 at 1200 Hrs. in the office of the Supdt. of Post Offices, Darrang Divn. Tezpur. You should present yourself along with your defence assistant, if you so desire, in time to attend the preliminary hearing and wait until further directions. In case you fail to appear at the appointed date and time, proceeding will be taken ex-parte.

3. Receipt of this notice may please be acknowledged.

Yours faithfully.

(Sri A.C. Das)  
Inquiring Authority,

Asstt. Supdt. of Post Offices,  
(HQ) O/O the Supdt. of P.Os,  
Halbari Barpeta Dn.  
Halbari-781335.

Copy to:-

- 1) Mr. Kutubuddin Ahmed, S.D.I. (P) Tezpur (Presenting Officer). He is also requested to attend the preliminary hearing at appointed date and time along with all listed documents in original.
- 2) The Supdt. of Post Offices, Darrang Division, Tezpur for taking necessary action for timely relief of the officials and to arrange sitting accommodation for inquiry.

Sd/-  
Inquiring Authority.

&  
Asstt. Supdt. of Post Offices,  
(HQ) O/O the Supdt. of P.Os,  
Halbari Barpeta Dn.  
Halbari-781335.

Attested  
by S. B. Chaudhary  
Advocate  
27.8.96

Annexure - H

Regd A/D

NOT INSURED  
Amount of Stamps affixed Rs. P.  
Received a Registered  
Addressed to  
Signature of Receiving Officer

The Chief Post Master General (Vig),  
Assam Circle,  
Guwahati.

Through the Superintendent of Post Offices,  
Darrang Division, Tezpur - 784001.

Subject :- An appeal against the Order vide Memo NO.  
F6-1(A)/88-89/2 dated 29.12.95 for reduction  
of pay by 2 (Two) Stages from Rs.1540/- to  
Rs.1480/- in the scale of pay 975-25-1150-  
EB-30-1660 for a period of 2 (Two) years  
without cumulative effect, by the Superin-  
tendent of Post Offices, Darrang Division,  
Tezpur.

Dated Tezpur, the      th March'1996.

Sir,

The humble appellant begs to state as  
follows :-

1. That the charges levelled against the  
appellant, Shri Khagendra Kumar Bordoloi, then Sub-  
Post Master, Sub-Post Office, Lokra and now Postal  
Assistant, Jamugurihat Sub Post Office vide memo NO.  
F6-1(A)/88-89 dated 7.4.89 by the Superintendent of  
Post Offices, Darrang Division, Tezpur, of keeping  
shortage of cash for Rs.44,140.09 (Rupees forty four  
thousand one hundred forty) and paise nine) only in the  
cash balance of Lokra, Sub Post Office during the  
period from 5.9.84 to 28.4.88 while functioning in the  
aforesaid Office, was cancelled agreeable to Government  
of India's instructions NO. (9) Rule 15 of Central  
Civil Services (CCA) Rules, 1965 as contained in DG P&T's  
letter NO.114/324/78-DISC-11 dated 5.7.79 ; on 4.6.93  
after completion of the department proceeding in the  
year 1990.

Copy of the cancellation Order  
dated 4.6.93 is annexed herewith  
as Annexure - "A".

Contd.

Attested  
S. S. B. Chowdhury  
Advocate  
27.2.96



( 2 )

2. That subsequently, the authority after disposal of the departmental proceeding again held an enquiry and served a show cause notice to the appellant on the same charges/on similar grounds vide memo NO.F6-1(A)/88-89/2 dated 7.6.93.

Copy to the memorandum alongwith enclosures dt.7.6.93 is annexed herewith as Annexure - B

3. That the authority had already realised the loss fund amounting Rs.44,140.09 (Rupees Forty four thousand one hundred forty) ~~rupees~~ and paise nine) only from the salary and GPF of the said appellant on different dates before the subsequent show-causes notice was served upon the appellant.

4. That the authority even then lodged an FIR vide G.R. Case NO.702/88 u/s.409 I.P.C. with the Tezpur Police Station in which the appellant was prosecuted in the Court of the Chief Judicial Magistrate (Tezpur), Sonitpur on the same ground cause of action as stated in the show cause notice dtd.7.6.93 and eventually appellant was acquitted in the said G.R. Case by Judgment dated 30.1.93.

Copy of the Judgment dated 30.1.93 is annexed herewith Annexure C

*Attested  
Ms S.B. Choudhury,  
Advocate  
27/8/96*

5. That again an Inquiry under Rule 14 of the Central Civil Services (CCA) Rules, 1965 was held at Guwahati <sup>in the</sup>insense of Lokra where cause of action arises against the appellant vide memo NO.F6-1(A)/88-89/2 dated 17.8.93.

Copy of the Inquiry Order dt. 17.8.93 is annexed herewith as Annexure D.

Contd.

( 3 )

6. That the appellant states that the whole enquiry proceeding was completed illegally, as the procedure for holding such enquiry had not been followed. The whole enquiry report was not furnished to the appellant for submissions of proper statement of defence in same cause of action for the second time.

7. That the appellant states that in the enquiry in Inquiring Officer took the evidence of the prosecution witnesses, acting to be Preseating Officer and the appellant was neither informed about his right to cross-examine the witnesses nor he was allowed to cross-examine all of them. The Inquiry Officer also did not inform the appellant about his right to adduce the defence witnesses, if any, But the appellant produced his defence witnesses who were not examined by the authority.

8. That the punishment inflicted upon the appellant on the basis of the findings of the Inquiry Officer by the Superintendent of Post Offices on the charges of misconduct or misbehaviour is illegal, void and awarded arbitrarily.

Copy of the Order dt. 29.12.95  
is annexed herewith as Annexure E

9. That the appellant states that the authority at the time of passing the impugned Order dated 29.12.95, failed to take into consideration the written statement filed by him and other events related to the matter and hence, such Order is bad in law and liable to be set aside.

Contd.

Attested.  
Ms. S.B. Choudhary,  
Advocate.  
27.8.96

It is, therefore, prayed that your Honour would be pleased to admit this appeal, call for the records and after perusal of the records be pleased to set aside the impugned order dt. 29.12.95, of reduction of pay by 2 (two) stages from Rs.1540/- to Rs.1480/- in the scale pay 975-25-1150-EB-30-1660 for a period of 2 (Two) years without cumulative effect, passed by the Superintendent of Post Offices, Darrang Division, Tezpur and pass such Order(s) or direction(s) to <sup>regain</sup> ~~refuse~~ the disputed amount reduced from the salary and GPF of the appellant since 29.12.95.

Yours faithfully,



( Shri Khagendra Kr Bordoloi )  
then Sub Postmaster, Lokra S.O  
and now Postal Assistant,  
Jamugurihat S.O. (since removed)  
Village Jamugurihat,  
P.O. Jamugurihat, Tezpur  
District. Sonitpur, Assam.

Dated Tezpur,  
The 11th March'96.

Attested.  
Ms. S.B. Chandrahary.  
Advocate.  
27.8.96