

0/100  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

*Salita*  
30.1.19

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

OA No. 181/196

Sri K. K. Bordoloi,  
vs-

Applicant(s)

Union of India & ors.

Respondent(s)

Mr. DC Kath Hazarika  
Ms. SB Choudhury,

Advocates for the applicant(s)

Mr. A. K. Choudhury, Esq.

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	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.
<i>6/10/96 Saimo Dy. Registrar. 28/8/96</i>		
	trd	
	M	
	2/9	
<u>11/9/96</u>	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.
<i>Copy of the order issued to the parties along with the L/Advocates of the parties vide S.O. 3096 to 3101 d. 16.9.96</i>		In this application under Section 19 of the Central Administrative 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 submitted an appeal dated 11-3-96 addressed to the Chief Post Master General(vig), Assam Circle, Guwahati.

contd/-

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 ~~as~~ 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.

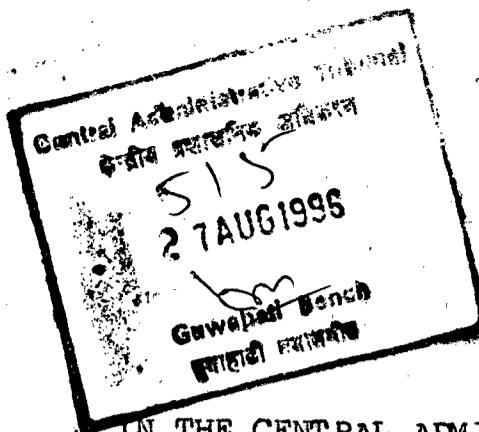
Copy of the order be furnished to the counsel of both sides.

Inform to the parties immediately.

10/9/96

1m  
10/9

60  
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. 181/96.

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

96/18/6/6  
10/10/96

Filed by:- Sri. Khagendra Kumar Bordoloi  
through:- M/s. B. Chaudhury  
Advocate  
27.8.96

<u>Sl.Nos.</u>	<u>Annexures</u>	<u>Particulars</u>	<u>Page</u>
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Filed by

Dated :-

(Ms. S. B. Choudhury)  
Advocate.

MS/Gr-20

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).~~
4. The Superintendent of Post Offices,  
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 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.

On 21/1/96  
MSL/KS

4.2. ...

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 at 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 Thous and

7/6/2016  
20

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 ...

12/12/93  
12/12/93

photo copy of the memorandum alongwith  
exchourses 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-NB-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 occasions, the Departmental Inquiries were conducted by different officers. On one occassion (on 6.6.89) the Officer Inquiry Officer was Sri B.K. Das 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]*

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 themself 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 <sup>re</sup>ex-faciat 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. ~~20.1.93~~ 30.1.93 and also after the loss fund of Rs. 44,140.09 (Rupees Forty four thousand one hundred forty and 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 FOR RELIEF WITH LEGAL PROVISIONS :

5.1. ....

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 ...

*M. N. K. J.*

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.

78/16  
13/3

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 wag es) 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, Jamugurighat 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 :- Gauhati. M. K. Bordoloi

Date :- 27-8-96

(KHAGENDRA KUMAR BORDOLOI)



## SEVENTYFIVE PAISE

प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलिओ की अपेक्षित संस्था सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलिओ 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	20/2/93	20/2/93	25/2/93	20/2/93

Dir. -- Sonitpur.

In the Court of Judicial Magistrate  
at TinsukiaS.R. case no 702/88

Plaintiff:  
S.B. Choudhury  
Advocate  
27.8.96

State

vs

Kikagandam Laxmi Bordoloi  
M/S 40971.P.C.

Cr. No.	Date	Order	Signs
	<u>30.1.93</u>	<p>Decreed. Person is Present. Two Rupees are given. They are present and discharge the Plaintiff There is no Plaintiff No more witness</p>	



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलिओ की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलिओ 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.  
Hence acquit of

both sides.  
Prosecution could  
not prove the charge

of S. 409 P. beyond all  
reasonable doubt at all.  
Hence, I acquit the

accused person and set  
him at liberty. Done  
this 21st

Sd/- R. Phukan  
(S) Magistrate

Mr. S. B. Choudhury  
Advocate  
27.8.96

21/2/96

199 असम राज्य लालिका बाबा  
लालिका बाबा, गुरु

20/2/96

21/2/96

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. Bardalei, then Sub-Postmaster, Lekra and new PA(Sig.) Jamugurihat vide this office Memo. no. F6-1(A)/88-89 dtd. 17-4-89 issued by the then Supdt. of P0s. 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-DLSC-11 dt. 5-7-1979. It is considered necessary to inform the aforesaid Shri Khagendra Kr. Bardalei, then SPM, Lekra, new 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. Bardalei, PA/Sig.  
Jamugurihat P.O.

2) The Asstt. Postmaster General (Vig) O/O the Chief P.M.G. Assam Circle, Guwahati w.r.t. to her letter no. VIG/14/5/85 dtd. 17.5.91 for information.

3) P.F. of the official.

4) The CR file of the official.

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

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

Annexure - C

M E M O R A N D U M

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

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

Dated, Tezpur 7-6-93

The undersigned proposes to hold an inquiry against Shri Khagendra Kr. Bardoloi 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-1)-A statement of the imputations of misconduct or misbehaviour in support of each Article of charge enclosed (Annexure-11). 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-111 and IV).

2. Shri Khagendra Kr. Bardoloi 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 denied each articles of charge.

4. Shri Khagendra Kr. Bardoloi 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. Bardoloi 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. Bardoloi

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

Shri Khagendra Kr. Bardoloi ( N. Bhattacharjee )  
Supdt. of Post Offices

Darrang dh, Tezpur.

PA/Signaller,

Janugurihat.

Arrested: N.S.P. Chaudhury  
22.7.93  
22.7.93  
22.7.93

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 Bardoloi, while functioning as Sub-Postmaster, Lekra during the period from 5-9-84 to 28-4-88, requested the Postmaster, Tezpur HO vide his letters dt. 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. Bardoloi, 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. Bardoloi 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. Bardoloi, 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 Lekra S.O. dt. 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. Bardoloi, 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. Bardoloi 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. Bardoloi while functioning as SPM, Lekra during the period from 5-9-84 to 28-4-88, requested the PM, Tezpur HO vide his letter dt. 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, Lekra duly acknowledged in the diary at 12-30 hours. The attempt made by Shri Khagendra Kr. Bardoloi 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. Bardoloi is found responsible for the violation of Rule-31(1)(2) ibid.

contd----2//

Tested  
S.B. (Signature)  
27.3.96

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 Dt, 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 has 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 28-4-88 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 VOL-VI Part-III and also Rule-3(1) (ii)(iii) of CCS (Conduct) Rules, 1964.

ANNEXURE-111

LIST OF DOCUMENTS BY WHICH THE ARTICLES OF CHARGE FRAMED AGAINST SHRI KHAGENDRA KR BORDOLOI, THEN SPM LOKRA NOW PA (SIC) 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 std. 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 Messenger Lokra.
9. , , , of Sri Hemnath Upadhyaya 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 4 PM T2 H-2.

contd...3//

Attested  
Mr. S. B. Choudhury  
Advocate  
27.3.96

-3-

ANNEXURE-IV

LIST OF WITNESSES BY WHOM the ARTICLE OF CHARGE FRAMBO  
AGAINST SHRI KHAGENDRA KR. BORDOLOI THEN SPM, LOKRA NOW PA  
(SIG) JAMUGURIHAT, <sup>ASL</sup> PROPOSED TO BE SUSTAINED.

1. Sri G.V. ANANTHANARAYANAN THEN Supdt. of POs, Tezpur now XXX
2. Sri Bindanda Hazarika, then ASPoS (HQ) Tezpur now Dy. Supdt. O/S the DPS, Nagaland Kohima.
3. Sri Tarun Kalita, then SDI (P), Tezpur now SDI (P), Pathsala.
4. Sri Phanidhar Haloi, then PA, Lekra now SPM, Naharbari.
5. Sri Chandra Bahadur Rai Vill. Headman, Somaipam, Lekra.
6. Sri Krishna Bahadur Chetry, President Assam Rifles, Ex-Serviceman, Assam, Lekra.
7. Sri Pradip Das, ED Packer dtd. 30/4/88. Lekra.
8. , , Arabinda Das, ED Messenger, Lekra.
9. , , Homnath Upadhyaya, Postman, Lekra.
10. , , Sasi Mohan Ch. Hazarika, O/S Cash, Tezpur.
11. , , Jitendranath Sarma, then ABM, Sub Account, Tezpur now retired.

*AB*  
( N. Bhattacharjee )  
Supdt. of Post Offices  
Darrang Dist, Tezpur-784001

Attested.  
MS. S.B. Choudhury  
Advocate  
23/8/96

## Daily Order Sheet for Dis Preliminary Hearing

Annexure - D

Disciplinary proceedings against Sri Khagendra Kr. Bordalai, the then Sp.P.M. Lokra S.O. now P.A./ Jamugurihat S.O. <sup>Code</sup> SPO/TZ memo no F6-1(A)/88-89/2 dt 17-8-93  
Present:-

1. Mol. Krietibieldin Ahmed. Present officer, 2 S.D.I (P) / Tezpur.
- 2.
3. Sri Khagendra Kumar Bordalai P.A / Jamugurihat Sd the then
4. S.P.M / Lokra S.O.

The charged officials 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:  
M. S. B. Chowdhury  
Advocate  
22.8.96  
Date: (S. K. Ahmed)  
(S. K. Ahmed)  
Presenting officer

Date:-  
Charged employee

Date: 21.10.  
Inquiry officer  
काम प्रबोधक / मुख्य कामोद्धक।  
नलबारी बरेटा कामदल  
नलबारी ७८१३३६  
Asst. Supdt. of Post (H.)  
Nalbari Barpara Dn.  
N. L. No. - 781336

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

In this office memo of even no dtg 7-6-93, it was proposed to take action against Sri Khagendra Kr Bardalai, the then SPM, Lekra SO, now PA, Jamugurihat SO under Rule-14 of CCS (CCA) Rules, 1965 on the basis of the articles of charge enclosed therin. 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, Lekra during the period from 5-9-84 to 28-4-88 requested the Postmaster, Tezpur HO vide his letters dtg 19-4-88 and 21-4-88 to remit cash for Rs 48,000/- (forty thousand) only by showing fictitious liabilities. Said Sri Khagendra Kr Bardalai also didn't place the requisition in the respective daily accounts as required under Rule-31(1)(2) of Postal Manual Vol-vi Part-iii. Thus Sri Khagendra Kr Bardalai is found responsible for the violation of Rule-31(1)(2) of Postal Manual 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 Lekra SO dtg 28-4-88 28-4-88, which was detected by the SPGs, 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 Manual 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 assurance 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, quasi-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 less 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-BISG-ii dtg 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.

However, Sir, I humbly submit my defence of each para .

20

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 a/c 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 HQ 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 Superintendant of Posts, Tezpur in the cash balances of my office on 29-4-88 in my absence. The shortage would be there because on the night of that 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 had the double locking arrangements, this was not locked by the key 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 Superintendant of Posts, 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 anybody particularly when the amount of money was Rs 44,146.00 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 checkider 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 less to the Govt. I was acquitted in the court of Law for the criminal aspects. I would therefore pray to you to exonerate 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 7-6-93. 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 proceeding was held on 5-10-93 at a/c SPMs, 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 SB 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.

Attested  
S. B. Choudhury  
Advocate  
A/27-8-96

(Ex (3)

2. On the day of preliminary hearing itself the charged official Sri K.K. Bardalai the then SPM, Lekra S8 now PA, Jamugurihat S8 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 defense by 18-10-93. 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 defense as follows:-

Addl documents :- 1) S8 P&T letter no 114/B24/78-Biss-II dt 5-7-79.

2) Application of NSC holders to SPM, Lekra dt 19-4-88 submitted by one Sri S.N. Singh.

3) The diaries of Sri K. Mastan, SPMs, Barrang Bn. for the month of January and February/91.

Witnesses :- 1) Sri K. Mastan, the then Subdt of PGS, Barrang Bivne, Tezpur.

The charged official also intimated the name of Sri K. K. Dey, Rtd, officer of postal deptt. as his defense ass'tt.

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 date of hearing inquiry on 18-7-94, the charged official was clarified in support of the SPMs/Tezpur letter no F6-1(A)/88-89/2 dt 4-11-93 that there was no relevancy of the addl. documents wanted by him to examine in his defense 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 Subdt of PGS, Barrang Bivne also could not be acceded to as there was no relevancy of the said officer to the charged levied against the charged official.

Sri K.K. Dey, the defense assistant as named by the charged official was served regd. notices 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 18-7-94 all the listed documents of the case were marked exhibits as under :-

1). SPM/Lekra's letter dt 19-4-88 = Ex.-1

2). SPM's Lekra letter dt 21-4-88 = Ex.-2

3). Lekra's daily a/e dt 19-4-88, 20-4-88 and 22-4-88 = Ex.3(a), 3(B), 3(e) respectively.

4). Written statement of Sri K.K. Bardalai dt 28-4-88 = Ex.-4

5). Inventory dt 29-4-88 = Ex.-5

6). Written statement of Sri Phanishwar Bardalai = Ex.-6

7). " " " " Pradip Das = Ex.-7

8). " " " " Aravinda Das = Ex.-8

9). " " " " Hemnath Upadhyaya = Ex.-9

10). Diary of a/s cash for the period from 20-2-88 to 26-4-88 = Ex.-10

11). Credit certificate dt 25-9-93 = Ex.-11.

The charged official admitted that the above exhibits were examined by him on 11-10-93 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.

(4)

- 1). Sri Phanidhar Haloi, the then PA, Lekra SB.
- 2). Sri Mahak Ch Hazarika, S/S, Gash, Tezpur.
- 3). Sri G.V. Akashanayak, the then SPM, Tezpur.
- 4). Sri Jitendra Nath Sarma, the then APM (Sub A/C), Tezpur HQ.
- 5). Sri Tarup Ch Kalita, the then SBI(F), Tezpur Sub Bn, 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, SPM, Naujan Bn.
- 2). Sri Arabinha Das, EB Messenger, Lekra SB.
- 3). Sri Chandra Bahadur Rai, Village Postman.
- 4). Sri Krishna Bahadur Chetry, President, Assam Rifle, Ex. ser. Veenam.
- 5). Sri Pradip Das, EB Packer, Lekra SB.
- 6). Sri Hemnath Upadhyaya, Ex postman, Lekra SB.

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 defense in writing as desired by him. Accordingly, the charged official Sri K.K. Bardalai submitted his defense statement on 28-7-95 vide Jamugurihat RL No 5359 dtg 21-7-95.

7. There was neither documents nor witnesses on the part of the defense 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 appealing against the charged official and with this the case of the defense 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 29-9-95.

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

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 HQ in the respective daily a/cs as required under the Rule 31(1)(2) of Postal Man.Vi Part.iii instead the charged official requested the Postmaster, Tezpur HQ vide his letter dtg 19-4-88 and dtg 21-4-88 to remit cash Rs 40000, by showing fictitious liabilities.

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

b). Exhibit-2, the SPM, Lekra SB letter dtg 21-4-88 reflects that the charged official requested the Postmaster, Tezpur HQ to supply cash Rs 40,000.00 intimating date fixed on 23-4-88. Exhibit-3(b), the SB daily a/c of Lekra SB dtg 28-4-88 and Exhibit-3(c) the SB daily account dtg 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 HQ 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 requisition cash on the SB 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

Attested.  
by S.P. Chetry  
Advocate  
27.3.96

he got confirmation as to the liabilities in letter in the shape of XPL message from SPM, Lekra SB before remitting the cash to the SB. Another witness to the case Sri G.V. Anantanarayan, the then SPB, 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 SB is must.

(d). Here in this instant case the charged official placed requisition of cash in a piece of paper twice but the same was not confirmed by writing on the SB daily account of 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 SB 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 SB 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 was 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.

Exhibits 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 SB, now PA, Jamugurihat as to the violation of Rule 31(1)(2) of Postal Manual. 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 44,140.00 in cash balance of Lekra SB 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 44,140.00 when verification was conducted by the then SPBs, 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 Bas. Thus shortage in cash balance of dated 28-4-88 has been admitted by the charged official.

(c). Sri G.V. Ananthanarayan, the then SPBs, Barrang Division, Tezpur, the witness of the case in his deposition confirmed the shortage of Rs 44,140.00 detected by him in cash balance of Lekra SB dtd. 28-4-88.

(d). Another witness to the case xxixth Sri Tarun Ch Kalita, the then SBI(P), Tezpur Sub BN also confirmed in his deposition xxixth in the inquiry that there was shortage of Rs 44,140.00 in the cash balance of Lekra SB dtd. 28-4-88.

(e). Another witness to the case and the then PA of the Lekra SB Sri Phanisher Halsei also confirmed in his deposition before the I.O. that there was shortage of Rs 44,140.00 in the cash balance of Lekra SB dtd. 28-4-88.

Attested:  
S.B. Choudhury  
Advocate  
27.4.96

8). Besides the charged official during the inquiry in reply to question put by I.C.O. on 12-9-95 clearly stated that he admits the total shortage of Rs. 44,140/-09 in cash balance.

9). 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 S.O., now P.A., Jamugurihat S.O. is fully established.

In the written brief the said Sri K.K. Bardalai, the then SPM, Lekra S.O. the charged official has contended that the deposition of Sri Phanidhar Halei 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 Halei 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 S.O. 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 agrees to the facts deposed by the said witness Sri Phanidhar Halei. Thus the facts deposed by Sri Halei 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 general evidences it is established that both the articles of charge brought against Sri K.K. Bardalai, the then SPM, Lekra S.O., now P.A., Jamugurihat S.O. are fully proven beyond doubt.

I have gone through the inquiry report of the I.C.O. and I am in agree with the I.C.O. that all the ~~xxxxxxxxxx~~ Article-i to Article-ii against the official stands proved beyond reasonable doubt. But 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.

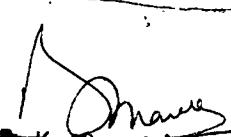
#### ORDER

I, Sri B.K. Marak, Superintendent of Post Offices, Darran Division, Tezpur:784001, hereby order that the pay of Sri Khagendra Kumar Bardalai, the then S.P.M., 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+150-EB-38=1660 Dsp. a period of 2(two) years without cumulative effects.

Sd/—  
Superintendent of Post Office  
Darran Division, Tezpur:784

MS. No. 27/5

1. Sri Khagendra Kumar Bardalai, P.A., Jamugurihat S.O.  
2. The Postmaster, TEZPUR. HS. for information and necessary action.  
3. The Postmaster General (Vig.), Assam Circle, Guwahati:1.  
4. Punishment Register.  
5. CoR. file of the official.  
6. P.F. of the official.  
7. O.C.  
8. Spare.

  
(B.K. MARAK),  
Superintendent-784001 Post Office  
Supdt. of Post Offices

Attested  
MS. S.B. Choudhury  
Advocate  
28.8.96

- 25 -

Annexure - F

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

ORDER

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.

Sd/-  
( K. Mastan )  
Supdt. of Post Offices  
Darrang Division, Tezpur

Copy to :-

U/R. 1) Shri B.K.Dam, Asstt. Supdt. of Po's(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) D/C.

W.Mur  
Supdt. of Post Offices  
Darrang Division, Tezpur.

Attested:  
Ms. S. B. Chaudhury  
Advocate  
27.8.96

RR/6/1/1/D

Annexure - G

Govt. of India.  
Department of Posts.

Ec. EC-1/93-94.

Dated at Hailbari the 17-9-93.

To,

Shri Khagendra Kr. Bordoloi.  
P.M. Jamugurihat S.O.  
Dist. Sonitpur (Assam).

Sub-Departmental Inquiry into the charges framed against  
Shri Khagendra Kr. Bordoloi the then SPM/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 dt. 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,  
Hailbari Barpeta Dn.  
Hailbari-781335.

Copy to:-

1) Md. Kutubuddin Ahmed, S.D.I.(P) Tezpur (Presenting Officer). He is also requested to attend the preliminary hearing at appointed date and time alongwith 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,  
Hailbari Barpeta Dn.  
Hailbari-781335.

Attested.  
S. B. Chaudhury  
Advocate  
27.8.96

Regd A/D

Annexure - H

मामाक No.	127
लाखों रुपयों का भूल	१२७
मामाक अधिकारी का नाम	प्रधान पोस्ट ऑफिसर
Signature of Receiving Officer	Signature of Receiving Officer
Amount of Stamps affixed	Rs. 2
पोस्ट ऑफिसर	Post Office
उन्हाँसे का नाम	Super Officer
Addressed to	Chief Post Master General (Vig), Assam Circle, Guwahati.

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 Superintendent of Post Offices, Darrang Division, Tezpur.

Dated Tezpur, the 7th 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 (CCS) 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.

Alleged  
S. S. B. Choudhury  
Advocate  
27.3.96

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

Contd.

( 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 enclosurers 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 Fourty 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

5. That again an Inquiry under Rule 14 of the Central Civil Services (CCS) Rules, 1965 was held at Guwahati <sup>in</sup> ~~in~~ State 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.

Attested  
by S.B. Choudhury  
Advocate  
27/8/96

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

Attested  
M/S. B. Chaudhary  
Advocate  
27.8.96

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.

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 ~~refund~~ <sup>refund</sup> ~~refusal~~ 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.

Attested :  
S. B. Chandra  
Advocate  
No. 228/96

Dated Tezpur,  
The 11th March '96.