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**PUBLIC ACCOUNTS COMMITTEE
(1988-90)**

**SIXTIETH REPORT
(EIGHTH ASSEMBLY)**



REPORT OF THE COMMITTEE ON PUBLIC
ACCOUNTS ON THE REPORT OF THE COMP-
TROLLER AND AUDITOR GENERAL OF
INDIA FOR THE YEARS 1982-83,
(CIVIL) PERTAINING TO P.H.E.
DEPTT. GOVERNMENT OF
ASSAM

Presented to the House on 10-10-90

**ASSAM LEGISLATIVE ASSEMBLY SECRETARIAT
DISPUR, GUWAHATI-6**

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COMPOSITION OF THE PUBLIC ACCOUNTS
COMMITTEE (1988-90)

CHAIRMAN :

1. Shri A. F. Golam Osmani,

MEMBERS :

2. Shri Pradip Hazarika,
3. Shri Joy Prakash Tewary,
4. Shri Silvius Condpan,
5. Shri Sheikh Abdul Hamid,
6. Shri Ramendra De,
7. Shri Abdul Rob Laskar.
8. Shri Chandra Mohan Patowari,
9. Shri Abhijit Sarma,
10. Shri Pabindra Deka.
11. Shri Kamakhya Charan Chudhury,

SECRETARIAT :

- | | |
|-------------------------|--------------------|
| 1. Shri S. N. Deka, | Secretary, |
| 2. Shri S. K. Changmai, | Liaison Officer, |
| 3. Shri A. R. Chetia, | Under Secretary, |
| 4. Shri Dhiron Nath, | Committee Officer, |

PREFATORY REMARKS

1. I, Shri A.F. Golam Osmani, Chairman of the Committee on Public Accounts having been authorised to submit the report on their behalf, present this Sixtieth Report of the Committee on Public Accounts on the audit paras contained in the Report of the Comptroller and Auditor General of India (Civil) for the year 1982-83 pertaining to Public Health Engineering Department, Government of Assam.

2. The Report of the Comptroller and Auditor General of India (Civil) for the year 1982-83 was presented to the House on 17th July, 1985.

3. The Report as mentioned above relating to Public Health Engineering Department were considered by both the out-going Committee of the Eighth Assembly headed by Shri A.M. Choudhury, M.L.A. in their sitting held on 1st December, 1987 and by the present Committee on 16th November, 1989. The out-going Committee could not submit the Report to the House due to expiry of their terms. The present Committee re-examined all the relevant records and prepared the Report.

4. The Committee has considered the draft 60th Report on 5th October, 1990 and finalised it for presentation before the House.

5. The Committee places on record their appreciations to the strenuous works done by the outgoing Committees on Public Accounts for obtaining various records, information and clarification pertaining to the audit paras relating to Public Health Engineering Department. The Committee also wishes thanks to the departmental witness for their kind-Co-operation. The Committee also places on record their appreciation for the valuable assistance rendered by Accountant General, Assam with his staff and Finance Department.

Dispur,
The 5th October, 1990.

A. F. Golam Osmani,
Chairman,
Public Accounts Committee.

IRRIGULAR PURCHASE OF MATERIALS AND EXTRA EXPENDITURRE

(Audit Para 4.8/CAG-82-83 Civil)

1.1.1 The Audit has brought out that under the rules, Executive Engineer can make purchase upto Rs.4000/- only in each case provided the articles are included in the sanctioned estimate of works or the value thereof is within the sanctioned reserve stock limit of the division. Purchase in excess of this limit but not exceeding Rs. 0.30 lakh requires prior approval of the Chief Public Health Engineer and that in excess of Rs.0.30 lakh required approval of the Purchase Board.

1.1.2 In Hailakandi Public Health Engineering division the Sub-Divisional Officer (PHE), karimganj while holding charge as Executive Engineer purchased under his own powers, cast iron pipes and specials costing in all Rs.66.60 lakhs (Rs. 59.44 lakhs for works and Rs. 6.66 lakhs for stock) by placing 2119 supply orders each of which did not exceed Rs. 4000. The splitting of purchases in this manner was irregular and circumvented the control to be exerised by higher authorities. Neither was any estimate for purchase of materials for stock prepared nor any sanction of higher authority obtained; reasons were not available on record during audit nor intimated so far (November 1983). Between February and May 1982, cast iron pipes and specials were bought by the Division from 18 suppliers in this manner at a total cost of Rs. 9.95 lakhs on weight basis. It was, noticed during audit (July 1983) that the weight charged for these items were in excess of the standared weights prescribed for them by the manufactures resulting in excess payment of Rs. 3.78 lakhs. Similar payment for purchases made earlier from October 1981 to January 1982 was said to be under scrutiny by the Executive Engineer (July 1983). This was also reported in July 1983 by the Executive Engineer to the Chief Public Health Engineer.

1.2.1. The Department in their written reply stated that disciplinary proceedings were initiated against Shri Asis Chanda who made the irregular purchases when he was Executive Engineer in-charge of the Hailakandi (PHE) Division. Unfortunately during the pendency of the proceedings he expired on 1st September 1989. According to the report from the Executive Engineer, Hailakandi excess payment due to over weight was Rs. 6.31 lakhs. Rs. 4.48 lakhs have since been recovered from the suppliers. For the balance amount of Rs. 1.83 lakhs, Divisions have been asked to recover or to hand over the matter to the police. The matter was referred to the police on 24th December 1987.

1.2.2 During oral deposition, the Committee expressed their serious concern about the inaction of the Department in settling the matter properly. For appraisal, relevant portion of the proceedings are quoted below.

Chairman :- Secretary, P.H.E. may enlighten us about the financial irregularities done by the Executive Engineer and action taken in this regard.

Secretary PHE :- Ultimately proceedings were drawn up and before finalisation of the proceedings he expired and Government was kind enough to drop the proceeding.

Mr. Kalita,

Member :- From the record it is seen that you have recovered an amount of Rs. 1.83 lakhs and for the balance amount you have referred the matter to the police on 24th December 1987. What is the present position ?

Secretary PHE :- We have not been able to get much response from the police and we have subsequently issued two reminders to the police to take up the case against the suppliers. It was an amount of Rs. 6.31 lakhs, out of which Rs. 4.81 lakhs were recovered. The balance was not yet recovered.

Mr. Kalita,

Member:- My question is that the matter was referred to the Police after two back, what is the present position ? can you enlighten us ?

Secretary PHE :- Police had not responded even thereafter inspite of reminders were issued.

Chairman :- Let a copy of the FIR be filled so that it can be assessed. Mr. Choudhury, you have mentioned in your reply that the proceedings were dropped because he expired. What is the reason of dropping the proceedings and when it was dropped ?

Secretary PHE :- It was dropped on 3rd June 1988.

Chairman :- On the basis of the findings of the Inquiry ?

Secretary PHE :- He furnished his replies to the Government and in the Secretariat the matter was processed and the proceedings were dropped.

Shri S. Condpan :- Please tell us whether defaulting contractors have been able to take any work from the Department ?

Secretary PHE :- They should not get, but I shall check up and obtain the information for your knowlege.

Shri S. Condpan :- Yes, the Committee would like to know it.

Mr. Chairman :- Let us proceed in this way, who were the parties given the contract ? Of them how many made the refund and how many did not ?

Secretary PHE :- The information I have got with me Sir :-

(1) National Corporation :- From them amount recoverable is Rs. 1,13,000/- they refund Rs. 70,723/- leaving an outstanding amount of Rs. 42,277/-.

(2) Hardware Enterprise :- amount recoverable from them is Rs. 33,180/-, they paid back the whole amount.

(3) New India Enterprise - Amount recoverable Rs. 40,500/- they repaid an amount leaving an outstanding amount of Rs. 9,000/-.

(4) Commercial Enterprise :- amount recoverable Rs. 39,764.10P they paid back, outstanding amount - nil.

MR. Chairman :- Whether all these 18 parties have been included in the F.I. R. ?

Secretary PHE :- Who have paid back have not been included.

Shri S. Condpan :- How many are they then ?

Secretary PHE :- 10 parties are yet to repay fully.

Mr. Chairman :- Whether there is any rule of the Department for this type of action ? What was the scheme amount ? what was the sanctioned amount ? How many contractors were awarded the contracts ? Whether the Executive Engineer has any power to spend more in case of one item of work and less in case of another, secondly if he has done it and the cumulative sum is higher than the sum allotted.

Mr. Chairman :- How this excess purchase could be made ? The officer concerned purchased goods in excess of the requirement. Why ?

Secretary, PHE :- He purchased in excess of the requirement.

Mr. Chairman :- Whether any Enquiry Officer was appointed to inquire into this case ? please submit all the paper relating to this proceedings case.

Secretary PHE :- There was no Enquiry Officer appointed for the purpose I will check up again. As far as I remember, he submitted his explanation and on the basis of this, proceedings were dropped.

Mr. Chairman :- Who passed that order for dropping ?

Secretary, PHE :- Government passed the order.

Mr. Chairman :- You will please submit all the relevant papers leading to that Government order for dropping and the order itself. There is a criminal case involving all the parties. If the proceedings were dropped where was the criminality then ? We want to find from the F.I.R. whether there was any criminality, if it was there then Executive Engineer must be a party to it. I am surprised at your reply that the proceedings case dropped at the Government level. How it was done ? We have got to see

the findings and on what basis Government thought it wise to drop the proceedings. Please submit the relevant papers in the file so that the Public Accounts Committee can examine it. Also please tell us what steps you have taken to prevent further recurrence of such irregularities.

Chief Engineer, PHE :- Recently we have issued a circular directing the Superintending Engineer to check up the purchases of the Divisions in every month and send report to the Chief Engineer. Maximum irregularities crop up from this kind of purchases and I think this will stop all these irregularities in future.

Chairman :- Accountant General has pointed out that there was also no tender for the purchase.

Chief Engineer :- That is also correct.

Chairman :- It seems that you finished your duty by dropping the proceedings. So far as the Department is concerned, it was their duty to know who were the suppliers and how these type of things could happen. Let there be a high level enquiry and report should be submitted to us.

Chief Engineer :- We will do it.

Chairman :- Let the Department first make a through enquiry and submit its report. Regarding Hailakandi Division, we want to have the comparative statements on the purchases made from year to year.

Observations/Recommendations

1.3.1. Though the Department assured the Committee to furnish some additional records/information viz. the F.I.R., record of departmental enquiry etc., the same have not been received even at the time of writing this Report except the file No. PHED.928/84 on the departmental proceedings against the delinquent officer (Shri A. Chanda E.E.).

1.3.2. In so far as the file on the departmental proceedings is concerned, it is seen that the file begins from the receipt of the draft charges. The Committee would have been

happy to see the papers relating to the origin of the proceedings case with notes and orders thereon.

1.3.3. The chronology of the proceedings case, as per records made available to Public Accounts Committee is as follow:-

19-1-84 Placed under suspension.

7-3-84 Re-instead.

21-12 84 C.P.H.E. sent the draft charges to Government.

7-1-85 Government asked the C.P.H.E. to reframe the charges with detail particulars to make it definite and comprehensive.

25-4-85 Draft charges re-submitted to Government after revision of charges in paras 2, 3, 4, 5, 11, and 15.

29-6-85 Government served the charges to delinquent Officer with the approval of the Minister, P.H.E. (Shri J. C. Choudhury) dated 3rd May, 1985.

12-7-85 Minister P.H.E. called for the file relating to the proceedings against Shri Chanda.

13-7-85 The delinquent Officer intended to inspect some additional records.

17-7-85 File was submitted with the remark that the proceedings have been set in motion and after receipt of reply from delinquent Officer the case would be disposed of expeditiously.

6-8-85 Minister, P.H.E., submitted the file to Chief Minister for dropping the proceedings against Shri Chanda and on the same day the Chief Minister approved it.

9-8-85 Minister, P.H.E. passed orders in the file for Commissioner, P.H.E. Department to see the C.M's order and to drop all the charges and to issue orders accordingly.

- 10-8-85 The Commissioner, P.H.E., (Shri M.P. Bezbaruah) brought the matter into the notice of C.S.(Smti P.P. Trivedi).
- 10-9-85 The C.S. re-submitted to the Minister, P.H.E./C.M. drawing their notice that the charges are of serious financial irregularities, violation of established office procedure in awarding contracts, causing financial loss to Government and pointed-out that if the charges are enquired into the delinquent officer would get sufficient scope to defend himself.
- 13-9-85 The Minister, State P.H.E. (Shri Dorsing Terrang) over ruled and decided to stand by earlier orders and submitted the file to C.M. who approved it on 16th
- 10-11-85 The file with C.M's orders dated 16th September, 1989 received by C.S. on 13th November, 1985 and she resubmitted the file to Minister, State, P.H.E. & C.M. stating that in view of announcement of election, the case may be considered after election and may not be dropped of that stage.
- 19-11-85 The file was just returned by C.M. without any orders.
- 26-12-85 The C.M. (Shri P.K. Mahanta) on the advice of the C.S. (Smti P.P. Trivedi) approved that the proceedings may not be dropped.
- 1-1-86 The Minister, state (P.H.E.) ordered to start immediate departmental enquiry.
- 30-1-86 Government allowed the Delinquent officer to inspect the documents as wanted by him vide his letter dated 13th July, 1985.
- 3-3-86 Chief Engineer, P.H.E. directed the Executive Engineer P.H.E. Hailakandi to show the relevant records on a date to be intimated to the Delinquent officer.
- 21-5-86 Government asked the Delinquent officer to furnish the reply within 15 days. Same day Shri Chanda also intimated Government that no date for inspection of

documents has been fixed by the Executive Engineer, P.H.E. < Hailakandi.

- 4-8-86 This date has been fixed for inspection of the documents.
- 20-11-86 This date has been refixed by Governemnt for inspection of documents, and submission of reply within 10 days from the date of completion of inspections.
- 26-11-86 The Delinquent officer intimated Government that some of the records could not be furnished for his inspection.
- 4-12-87 Government asked the Chief Engineer, P.H.E. to arrange to show the wanting records to the Delinquent officer.
- 17-2-88 The Delinquent officer furnished his reply in deference.
- 7-3-88 Health Department stated to examine the case.
- 31-5-88 Government exonerated the Delinquent officer from the charges. The decision got the approval of the Minister P.H.E.
- 3-6-88 The proceedings dropped and the period of suspension from 19th January, 1984 to 7th March, 1984 treated as on duty.

1.3.5. Of the Departments of the Government involved in development works, which earned notoriety in financial mismanagement, P.H.E. is one of them that the general impression of the Public at large about this reputation is not without basis can be seen from the facts revealed in course of examination and hearing made in connection with this para. In course of hearing the Committee found that from lowest to the highest levels attempts were made to cover-up a malafide transaction involving lakhs of rupees which nearly succeeded but for the audit objection and the subsequent follow up actions initiated by the Committee in course of hearing.

1.3.6 From the records it is seen that the financial irregularities referred to in the para were committed from October '81 to June '82 and audit reported this case of irregularities to the Government in October '83. The relevant para was included in the CAG Report '82-83 (Civil). From the records it appears that the delinquent officer Shri Ashis Chanda, the then Executive Engineer in charge of Hailakandi P.H.E. Division was placed under suspension on 19th January, 1984 presumably in view of the nature of allegation made in the Audit Report. But before any formal charge could be drawn up, he was reinstated by the Government on 7th March, 1984. Records having bearings of this period has not been made available to the PAC. Otherwise, it would have been possible to see under what circumstances the officer concerned was placed under suspension and again reinstated within less than 3 months, and who were the authorities involved in this reinstatement and reasons thereof.

1.3.7. It appears from the records that from 7th March, 1984 the date of the reinstatement of the delinquent Official, it took more than a year to finalise charges and only on 29th June, 1985, Government served charges so framed on the delinquent officer with the approval of the then Minister, P.H.E., Shri J.C. Choudhury under Rule 9 of the Assam Services (Discipline and Appeal) Rules 1964 read with Article 311 of the Constitution of the India. Within 13 days of the framing of charges the then P.H.E. Minister, Shri J.C. Choudhury called for the relevant file suo-moto on 12th July, 1985. The file was submitted on 17th July, 1985 to the Minister by the Commissioner, P.H.E., with the remark that-

"The proceedings have been set in motion. We are yet to receive the replies from the officer proceeded against. as desired, the file is submitted which may kindly be returned early for expeditious disposal of the departmental proceedings."

On receipt of the file the then Minister, P.H.E., commented vide order sheet dated 6th August, 1985 forwarded to Chief Minister (vide Annexure)

"I have gone through the records and comments parawise and reveals that no charge could be established as also commented by the Deputy Secretary at page 2 ante. I am also of the opinion that for no fault of the incumbent, the charges are brought against him are vague, and, he should be releaved of all such frivolous charges. Chief Minister may kindly agree to the proposal as ennuciate may be dropped in view of the facts stated above."

It is also seen in the records that the then Chief Minister Shri Hiteswar Saikia agreed to the proposal of the then Minister on the same day i.e., 6th August, 1985. In the light of the Chief Minister's endoresment the Minister, P.H.E. asked the department to drop 'all charges' on 9th August, 1985.

1.3.8. On the examination of the note at page 2 as mentioned by the Minister, we find that what was referred to as the comment of the Deputy Secretary did not tally with the facts. According to that note, on 29th December, 1984 the Asstt. CPHE. submitted his comments to the Commissioner after making his evaluation of the draft charges drawn up by the department. In the draft charges there were as many as 16 charges, of which 6 charges were found to be not definite by the Asstt. CPHE. With endocement of the Commissioner, the above 6 charges were ordered to be reframed (enclosure-II), dated 7th January, 1985. The redrafted charges were accordingly submitted to the Government vide enclosure-III dated 25th April, 1985. The then Minister, PHE, Shri J.C. Choudhury gave his approval to the revised charges on 3rd May, 1985, on the basis of which, formal charge-sheet was drawn up on 29th june,1985.

1.3.9. In the premises, we are constrained to note that the then Minister came to the decision to exonerated the delinguent officer solely by himself and not in any way assisted by any comment of Deputy Secretary in whom he wanted to find a collaborator. It is abundantly clear from the records that on 6th August,1985 when he made proposal for dropping the proceedings he forgot that it was

he who endorsed the charges on 3rd May, 1985 on the basis of which the matter was proceeded against the delinquent official by a chargesheet served on the D.O. 29th June, 1985. That the matter smaked of malafide intention is evident from the reaction of the Commissioner of the Department Shri M.P. Bezbaruah is evident in his order dated. 10th August, 1985 wherein he instead of carrying out the order of the then Minister, PHE dated 9th August, 1985 for dropping all the charges against the delinquent official, forwarded the matter to the then Chief Secretary Mrs. P.P. Trivedi. Mrs. Trivedi after going through the records advised against the withdrawal of the disciplinary proceedings and opined :

" considering the seriousness of the charges, the Chief Minister may like to reconsider his earlier order" (vide enclosure-1). The matter was then referred back to PHE Minister and then Minister, PHE, Shri Dhor Sing Terang vide his order dated 13th September, 1985 overruled Mrs. Trivedi stating :

"Chief Minister has approved the earlier order of the then Minister PHE after carefully considering of the whole matter, I think the order of the Chief Minister is to stand".

This order of the then Minister of State Mr. Dorsing Terrang vide his order dt. 16th April 1985. When the file went back to Mrs. Trivedi, Chief Secretary she with held dropping of the proceedings vide her order dt. 18th November 1985 stating :

"In view of announcement of election, the case may be considered after election and not be dropped at this stage". (vide annexure-1).

1.3.10. It is seen that how at the executive level a serious matter involving mis-appropriation can

be compromised without caring about the law rules and departmental norms. How a charge formally drawn up under Rule 9 Assam Service (Discipline and Appeal Rule '64) can be dropped even when no reply by way of explanation is submitted by a delinquent official at the time when order for dropping of the proceedings was made. Strangely enough the political heads of the Government in the instant case, did not consider with seriousness that deserved the views taken by the permanent executive like Chief Engineer, PHE., Commissioner of the Department and even the Chief Secretary of the State.

1.3.11. What happened subsequently to this is also interesting in view of the fact that the reclessness of the political heads is not confined to a particular regime. The same style of ethics and functioning is observed when the matter came within the purview of the successive Government which came after the General Election held soon after.

1.3.12. Initially, there was trend in the new governmental heads to pursue the matter as seen in the note forwarded by Mrs. Trivedi, the then Chief Secretary to the new Chief Minister, Shri P. K. Mahanta for carrying on the departmental proceedings against Shri Chanda instead of dropping the proceeding as earlier ordered. The new Chief Minister approved continuence of the departmental proceeding vide his order dated 26th December, 1985.

1.3.13. In pursuance of the approval by Chief Minister the then Minister, PHE Shri Digen Bora ordered for the departmental proceeding to be taken up at-once vide Annexure - I.

1.3.14. From 1st January, 1986 to 17th February, 1988 nothing substantial happened about the proceedings except higgling between the department and the delinquent official about

the inspection of some records. On 17th December, 1988 a sudden progress was observed. The delinquent officer Shri Chanda at longlast submitted his reply in defence. On receipt of the reply the matter was examined by Under Secretary of the Department who held :

" most of the charges are not specific and the relevant document required for defence have not been made available. As stated most of the materials have been purchased either at the rates approved by the Division earlier or Silchar Division. In view of this, he cannot be held responsible for high rate vide order dated 7th March, 1988 (Annexure II).

1.3.15. This finding of the Under Secretary was forwarded to Deputy Secretary who more or less came to the same findings vide his order dated 3rd March, 1988 (Annexure - III). The findings was agreed to by the then Commissioner Shri C.R. Samaddar and duly forwarded to the Minister who approved all the suggestions vide his order dated 31st August, 1988. So accordingly, proceeding against Shri Chand, the delinquent official was dropped vide order dated 3rd June, 1988 and the suspension period from 19th January, 1984 to 7th March, 1984 was treated as on duty.

1.3.16 Now the question arises whether a proceeding drawn up under the provisions of the Assam Services (Discipline and Appeal) Rules 1964 read with Article 311 of the Constitution of India can be dropped in the manner as it was done as discussed above with a formal charge-sheet with as many as 16 charges served on the delinquent official to which he submitted his reply. In formal course, there should have been a hearing appointing an Enquiry Officer by the disciplinary authority. The order quashing the Departmental proceeding as passed by the Minister based on the findings of the Under Secretary (Annexure - II) and Deputy Secretary (Annexure - III) if examined closely seem to be motivated. That some records were not made available to the delinquent officer cannot be ground for assuming that there was no mala fide transactions. The disciplinary authority could call for the relevant records themselves and get it examined. Obviously the charges were drafted, redrafted and finalised by technical personnel of the Department. It is

not on record whether the Under Secretary and Deputy Secretary were competent enough to go into the technicalities of the case to come to a decision. Besides this, another disturbing aspect could not escape the attention of the Committee. Had the case been treated as is done usually, the proceedings would have been dealt with a departmental level engaging some superior officer to conduct the hearing as per provision of the Discipline & Appeal Rules. In case the delinquent officer is found guilty, there is a scope for appeal to the Govt. In the instant case, both in 1985 and in 1988, the proceedings were attempted to be disposed of at Secretarial level. Reasons for this unusual interest in both the phases are obvious.

- 1.3.17. As per audit report, a sum of Rs.66.60 was involved by placing 2190 supply orders each of which did not exceed Rs.4,000/-. As per norms of the Department the delinquent officer was not comment to place order of goods exceeding Rs. 4,000/- at a time. But this he did by splitting of purchases in 2119 supply orders. Neither was any estimate for purchase of materials for stock was prepared nor any sanction of the higher authority was obtained. Can a departmental proceedings be quashed in to in face of such serious and motivated transactions in violation of departmental rules.
- 1.3.18. Audit also pointed out that at the cost of Rs. 9.95 lakhs and the delinquent official purchased goods from 18 suppliers. The weights charged for these items were in excess of the standard weights prescribed for them by the manufacturer resulting in excess payment of Rs. 3.78 lakhs. The department in its reply admitted that excess payment due to overweight was Rs. 6.31 lakhs which is more than the figure pointed out by Audit. The Under Secretary and Deputy Secretary took it on themselves to exonerate the delinquent officer could not explain away this point in their evaluation of the charges.
- 1.3.19. The Committee did not consider it worth-while to evaluate the 16 charges in the light of the findings arrived at by the Under Secretary and Deputy Secretary because such evaluation could be possible only through a regular hearing by a competent authority.

1.3.20. The departmental reply is vary casual, they informed the committee in their reply that the proceedings has to be dropped because the delinguent officer expired on 1st September,1989. The Secretary, PHE, in course of his deposition before the Committee also stated, " Ultimately proceedings were drawn up and before finalisation of the proceedings he expired and Government was kind enough to drop the proceedings. " It is found on record that the proceedings was dropped by Minister, PHE, on 3rd June,1988, long before the expiry of the delinguent officer.

1.3.21. It is seen from the reply of the department that the matter was referred to the Police on 24th July,1987. The Committee wanted to see the relevant records connected with this police case which unfortunately could not be made available. But it appears from the reply that the police case is related to the recovery of an amount of Rs.1.83 lakhs from the suppliers. We are at a loss to understand why matter was not reported as a whole to the police after the detection of the case involving mis-appropriation of huge sums of money. From the cursury glance at the charges framed and served on the delinguent official on 29th June,1985, a prima-facio case of criminality can be found. Why criminal as well as departmental proceedings involving the delinguent officer as well as the suppliers were not lunched simoultanecusly is also a mystry.

1.3.22. There are some other interesting features in this case. It is found on records that some unusual interest was taken to see the officer not only out of the troubles, but also for his promotion to a higher substantive rest from S.D.O. to Executive Engineer during the pendency of the departmental proceedings. Generally, we find that when a departmental proceeding is pending, elevation of a delinguent official to a higher rank even if made is kept in abeyance in sealed cover and that the promotion is given effect to after the proceedings were dispced of exonerating him of the charges. In this connection we would like to refer to a part of the observation made by Shri J.C. Choudhury, the then Minister, PHE, dated 6th August,1985.

" Charges which were brought against the delinquent official appears to be mainly confined to the purchase of materials. However the prima-cacie charges were of 1981-82, while Shri Chanda, S.D.O., PHE, was holding the charges of PHE, Hailakandi in addition to his duties. Regarding the Charges, after careful considiration by the Promotional Committee, Shri Chanda was selected and promoted in the rank of PHE. It is paradoxically clear that the charges as alleged are not definite and clear and hence not taken into consideration for punishable offence".

1.3.23. The Committee do not want to make any comment on this for obvious reasons, but would like to know the circumstances in which the departmental Promotional Committee could promote Mr. Chanda to higher substantive post in face of a pending proceeding involving serious charges.1.3.24. In the analysis of this case, it is seen that for the condonation of a prima-facie malafide transaction, the political heads sometimes combine with the members of the bureaucracy. But it is heartening to see that at times the permanent executives do confront the political heads against condonation of a transaction purported to be malafide.

1.3.25. There is an impression gaining ground in our country for some time past that the present day administration our country is not like the administration that used to be. The administrative machinery which was bulid up in course of more than 150 years in this country could based as one of the most balanced efficient and wel knit system compared to any other administration of the world. At every stage the checks and balances were so arranged that no one could escape the system of accountability for their actions. The cause as to how and why the errosion in our administration took place can be traced to such cases as we are discussing now.

1.3.26. It is also seen that in earlier occassion also, the Hailakandi P.H.E. Division was found involved in these type of malafide transactions as reported in audit vide paras 5.5 & 5.6 /CAG 81-82 (C) extract of which is annexured (annexure IV).

1.3.27. On the question of making the recommendation, as is the practice, the committee feels that a recommendation in the nature of an administrative enquiry by some higher authority generally asked for will not be appropriate in the instant case. This is not a case simply where a district level Engineering Officer was involved in malafide transaction but also highest political as well as administrative heads of the Government like Chief Minister, Minister of P.H.E., Chief Secretary, Commissioners and high officials of the Departments etc. were found involved. In course of the observations it is seen that the case is not simply a case of malafide financial transaction but also of administrative abuses of serious nature.

1.3.28. What has happened in this case might have happened in cases of other Departments too. If something is not done immediately to stop the recurrence nothing will remain with administration worth its name. Accordingly, it is recommended that high level Judicial Enquiry under the Commission of the Inquiry Act to be instituted taking the case of the Para under reference as basis with terms of reference which will suggest administrative measures to be taken to put an end to the repetition of cases where political heads and members of permanent executive unites to undermine the process of Rule of Law.

CHAPTER - II
MAINTENANCE OF STORES ACCOUNTS
(Audit Para 5.1/CAG-82-83 (Civil))

- 2.1.1. According to rules, "Priced stores ledgers" showing receipts, issues and balances of stock of stores of works Departments are required to be maintained and closed at the end of each months for both quantities and values in every works division holding stock. Deviation from this rules, by the public Health Engineering Department as pointed out in audit are as follows :-

A ARREARS IN CLOSING PRICED STORES LEDGERS.

- 2.2.1. Out of the existing Divisions which held in 1982-83 in the Public Health Engineering Department details of stock transactions were received only from 4 (four) Divisions. The delay in closing of the priced stores Ledgers in these Divisions ranged between 60 months to 6 months. The details showing the division wise position of arrears in closing the priced stores Ledgers is as follows :-

Sl. No.	Name of the Division	Months from which <u>closing is in arrears.</u>
1.	Guwahati P.H.E. No.1	September, 1978
2.	P.H.E. Division, Tezpur.	October, 1982
3.	P.H.E. Division, Haflong.	October, 1982
4.	P.H.E. Division, North-Lakhimpur	October, 1982

- 2.2.2. The Department in their written reply have stated that priced Stores Ledger in respect of the 4 Divisions involved in the audit Para have now been posted/closed as shown below :-

1.	Guwahati, P.H.E. Division No. 1	- 8/78
2.	Tezpur, P.H.E. Division No. 1	- 9/85
3.	Haflong, P.H.E. Division No. 1	- 4/87
4.	North Lakhimpur, P.H.E. Division No. 1	- 9/86

- 2.2.3. In course of oral deposition (1-12-87) the Department witness (C.E.P.H.E.) clarified, so far Guwahati P.H.E. Division No. 1 is concerned : The Division at one time worked for the whole of the State. All materials were to be received by the Division and shifted to other Division. It had tremendous workload. Since last year, we had opened a Central Store Division. Now the work-load has gone down and we hope to bring it upto date. In the rest of the divisions, they have brought it from 1982 to 1985.

OBSERVATIONS / RECOMMENDATIONS

- 2.2.4. From the audit Para, it transpires that out of 17 P.H.E. Divisions that existed during 1982-83, details of Stock Transactions were received only in respect of 4 Divisions in audit for test check. These 4 Divisions are also found to be heavily in arrears in closing their priced Stores Ledgers. Naturally, it comes to our mind if the position of arrears of the remaining 13 Divisions whose records were not available to Audit is more serious.

- 2.2.5. The Committee further observes that even after presentation of the Report of the C.A.G. of Indian (Civil) for 82-83, on 17th July, 1985 wherein the para was incorporated, the Department's progress till examination of this para on 1st December, 1987 in clearance of arrear closing of priced Stores ledgers is not encouraging. Particularly, in respect of Gauhati P.H.E. Division No. 1, no progress was made at all despite it being pointed-out in Audit during 82-83 till examination of the para.

- 2.2.6. The Committee, therefore, recommends that the Department would take immediate action for updating the records and the officials found at fault would be brought to the book. The action taken and result achieved on this would also be intimated to the Committee.

B- MINUS BALANCE IN STOCK.

- 2.3.1. The Audit has brought out that the Stores and Stock accounts as on 31st March, 1983 of 11 (eleven) P.H.E. Divisions had minus balance reflecting unsatisfactory

maintenance of store accounts and delays in incorporation of debit relating to receipt of the materials issued from stock or adjustments due to issue of materials at market rates/issue rates higher than the purchase price. The minus balance have continued to appear year after year. The division wise position with their particulars is as follows :-

Sl. No.	Name of the Division	Amount of minus balance. (Amount in Lakhs)	Reserve stock limit
1.	Nowgong P.H.E. Division	54.56	Nil
2.	Mangaldoi P.H.E. Division	59.47	10.00
3.	Barpeta P.H.E. Division	109.78	10.00
4.	Marigaon P.H.E. Division	28.17	10.00
5.	Hailakandi P.H.E. Division	9.00	10.00
6.	North Lakhimpur P.H.E. Division	50.07	10.00
7.	Gauhati P.H.E. No.2 Division	43.63	Nil
8.	Gauhati P.H.E. No. 1 Division	184.92	34.00
9.	Dibrugarh P.H.E. Division	86.15	10.00
10.	Silchar P.H.E. Division	35.27	25.00
11.	Jorhat P.H.E. Division	72.84	25.00

2.3.2. The Department in their written reply have stated that the reasons for minus balance are that most of the materials required for Public Health Engineering Department are purchased from the parties holding the D.G.S. & D. rate contract.

The payment of the materials purchased from the D.G.S. & D. rate contract holder made by the Chief Controller of Accounts, Department of Supply, New-Delhi. Payment vouchers are sent to the respective Division through the Accountant General, Assam. The process took sufficient time to adjust the payment vouchers against the stock accounts. This is the major cause of (-) balance. divisions have been directed to adjust the minus balances. The Accountant General, has shown reserve stock limit 'NIL' against Nowgong and Guwahati PHE. Division No. II which is not correct. Reserve stock limit for Rs.15.00 lakhs to Nowgong PHE, Division and for Rs.10.00 lakhs to Guwahati PHE. Division No.II were already sanctioned on 29th March, 1975.

OBSERVATIONS / RECOMMENDATIONS :

2.3.3. The Committee appreciates the difficulties faced by the Department in avoiding minus balance in their stores & stock accounts. At a time, the Committee would also like to remind the Department that continuance of minus balance for years together signify unsatisfactory maintenance of their store accounts which can be avoided to a great extent through a system of efficient management of Accounts by officials responsible for keeping accounts properly. The P.A.C., therefore, recommends that officials engaged for keeping accounts should also be made responsible for expeditious settlement of accounts at need-based minimum time through regular pursuance of concerned agencies.

C- EXCESS OVER RESERVED LIMIT OF STOCK.

2.4.1. The Audit has brought out that in 3 (three) P.H.E. Divisions, the value of stores held on 31st March, 1983 exceeded the reserved limit of stock fixed by Government as shown below :-

Department	Divisions in which the value of stock held exceeded the reserve limit.		Division in which the value of stock held exceeded the reserve limit by more than 100 percent.	
Public Health	Number of divisions	Value of excess Stock (in lakhs of Rs. 69.70)	Number of divisions	Value of excess Stock (in lakhs of Rs. 69.70)
	3	Rs. 69.70	3	

2.4.2. The Department in their memorandum have stated that as per reports received from the Divisions, only Diphu P.H.E. Division had exceeded the reserved stock limit.

OBSERVATIONS :

- 2.4.3. In view of the contradiction the Department may take-up the matter with A.G. (Audit) Assam to short-out the differences.

D- PHYSICAL VARIFICATION OF STOCK.

- 2.5.1. The Audit has pointed out that for 82-83, annual physical varification of stock was not done in 3 P.H.E. Divisions out of 5 Divisions. The remaining Divisions (12 Nos.) have not reported till November, 1983.
- 2.5.2. The Department have stated that as a result of vigorous persuasion, the position is improving and the present position is as follows :-

Name of PHE. Division.	Name of PHE. Sub-division.	Dates on which stock materials physically varified by.	
		S.D.O.	Executive Engineer(PHE)
1	2	3	4
1. Guwahati Division - 1.	(a) Guwahati	26-10-83	-
	(b) Boko	30-9-82	-
2. Guwahati Division - II	(a) Water works	-	-
	(b) Dispur.	-	-
3. Jorhat Division	(a) Jorhat	9-11-82	10-11-82
	(b) Kamalabari	18-12-83	25-11-84
	(c) Golaghat	30-10-82	22-1-83
4. Silchar	(a) Silchar	26-9-82	20-11-82
	(b) Badarpur	19-11-82	9-1-83
5. Dhubri	(a) Dhubri	17-2-84	18-11-82
	(b) Kokrajhar	6-5-82	30-11-82
6. Tezpur	(a) Tezpur	3-6-82	29-9-82
	(b) Biswanath- Chariali.	4-1-82	23-11-82
7. Nowgong	(a) nowgong	30-9-82	22-7-85
	(b) Hojai	19-7-85	26-7-85
8. Haflong	(a) Haflong	11-12-84	9-1-85
	(b) Maibong	No stock	maintained.
9. Diphu	(a) Diphu	30-9-82	-
	(b) Hamren	6-12-82	-
	(c) Howraghat	25-10-82	-

10. Mangaldoi	(a) Mangaldoi	20-5-83	17-11-83
	(b) Tangla	Varified upto	October/83
11. Dibrugarh	(a) Dibrugarh	10-12-82	-
	(b) Tinsukia	6-10-82	-
	(c) Digboi	30-9-82	-
12. North Lakhimpur	(a) North Lakhimpur	30-10-82	10-1-83
	(b) Dhemaji	5-10-82	12-12-82
13. Morigaon	(a) Morigaon	21-1-83	17-8-82
14. Hailakandi	(a) Hailakandi	9-12-82	18-1-83
	(b) Karimganj	2-2-83	5-1-83
15. Barpeta	(a) Barpeta	12-10-82	23-11-82
	(b) Nalbari	14-10-82	25-11-82
16. Sibsagar	(a) Sibsagar	22-11-82	30-12-83
	(b) Sonari	14-1-83	6-12-82
17. Goalpara	(a) Goalpara	7-9-83	-
	(b) Bongaigaon	4-10-82	-

OBSERVATIONS / RECOMMENDATIONS

2.5.3. The Committee observes that the above information furnished by the Department as a reply to the audit para under discussion dates after presentation of the C.A.G. Report for 1982-83 i.e. 17th July, 1985. Under this position, the physical varification of stock required to be carried out annually under the Rules in force cannot be held as improving. The Public Accounts Committee, therefore, recommends that the annual physical varification of stock would be carried out as a matter of responsibility assigned under the Rules in force and the latest position in this regard would be intimated within a period of 3 months from the date of presentation of this Report before the House.

CHAPTER - III

MAINTENANCE OF ACCOUNTS OF TOOLS AND PLANTS
(AUDIT PARA 5.2/ CAG 82-83 (Civil))

3.1.1. The Audit has brought out that data sent by P.H.E. divisions maintaining tools and plants accounts in 1982-83 showed that :

(a) The Consolidated accounts of the receipts, issues and balances of tools and plant required to be closed at the end each month were not closed in 4 divisions; the earliest return due being for October, 1971. Details are given below :

- | | |
|-------------------------------------|---------------|
| 1. Guwahati P.H.E. Division No.1 | October, 1978 |
| 2. P.H.E. Division, Tezpur | October, 1982 |
| 3. P.H.E. Division, Haflong | October, 1981 |
| 4. P.H.E. Division, North Lakhimpur | October, 1980 |

(b) Physical varification of tools and plants was not done in 82- 83 in 3 PHE division.

3.2.1. The Department vide their written replies stated :

(a) The date of closing the consolidated accounts of the receipt, issues and balance of Tools and Plant of 4(PHE) Divisions are shown below as per divisional report.

- | | |
|------------------------------------|----------|
| 1. Guwahati P.H.E. Division No. 1 |9/78 |
| 2. Tezpur P.H.E. Division |3/87 |
| 3. Haflong P.H.E. Division | ...9/86 |
| 4. North Lakhimpur P.H.E. Division |9/85 |

(b) The present position is shown below :

Name of PHE. Dn.	Name of PHE. Sub-Division	Dates on which T&P materials physically veri- ed by.	S.D.O.	Executive Engineer (PHE)
1. Guwahati Divn. No.-1	(a) Guwahati	26/10/83	..	..
	(b) Boko	1/9/82	..	..
2. Guwahati Divn. NoII	(a) Water Works	..	..	..
	(b) Dispur	..	..	..
3. Jorhat	(a) Jorhat	9/11/82	10/11/82	
	(b) Kamalabari	18/12/83	25/11/83	
	(c) Golaghat	30/10/82	22/1/83	
4. Silchar	(c) Silchar	27/ 9/82	21/11/82	
	(b) Badarpur	20/11/82	9/1/83	
5. Dhubri	(a) Dhubri	19/2/84	23/2/84	
	(b) Kokrajhar	4/5/82	30/11/82	
6. Tezpur	(a) Tezpur	30/9/82	30/9/82	
	(b) Biswanath- Chariali.	30/9/82	25/11/82	
7. Nowgaon	(a) Nawgaon	29/9/83	22/7/85	
	(b) Hojai	19/7/85	26/7/85	
7. Haflong	(a) Haflong	14/3/85	..	
	(b) Maibong	05/1/82	..	
9. Diphu	(a) Diphu	30/9/82	..	
	(b) Hamren	10/12/82	..	
10. Mangaldoi	(a) Mangaldoi	29/10/83	..	
	(b) Tangla	Verified up to	09/83	..

11. Dibrugarh	(a) Dibrugarh	30/3/83	..
	(b) Tinsukia	7/10/82	..
	(c) Digboi	30/9/82	..
12. North Lakhimpur	(a) N. Lakhimpur	30/10/82	1/1/83
	(b) Dhemaji	20/10/82	12/12/82
13. Morigaon	(a) Morigaon	21/1/83	..
14. Hailakangdi	(a) Hailakandi	10/12/82	...
	(b) Karimganj	2/2/83	..
15. Barpeta	(a) Barpeta	16/01/83	16/11/82
	(b) Nalbari	14/10/82	27/11/82
16. Sibsagar	(Sibsagar	20/10/83	4/1/84
	(b) Sonari	12/1/83	6/12/82
17. Goalpara	(a) Goalpara	7/9/83	..
	(b) Bongaigaon	17/10/82	..

OBSERVATIONS/RECOMMENDATIONS

3.3.1 It appears that the Audit Para and departmental reply are almost similar with those dealt with in paras 2.2.2 & 2.2.3 and 2.5.1 & 2.5.2 in Chapter-II of this Report. The former para relates to stores and stock accounts while the paras under discussion deal with maintenance of accounts of tools and plants. The Committee, accordingly reiterates their observation/recommendation made in para 2.2.4 & 2.2.5 and 2.5.3 of this Report in respect of this Para also.

SUMMARY OF OBSERVATIONS/ RECOMMENDATIONS.

- | Sl: Reference
No. to para No. | Recommendations |
|----------------------------------|---|
| 1. 1.3.27 | On the question of making the recommendation, as is the practice, the Committee feels that a recommendation in the nature of an administrative enquiry by some higher Authority generally asked for will not be appropriate in the instant case. This is not a case simply where a district level Engineering Officer was involved in malafide transaction but also highest political as well as administrative heads of the Government like Chief Minister, Ministers of P.H.E., Chief Secretary, Commissioners and high officials of the Departments etc. were found involved. In course of the observations it is seen that the case is not simply a case of malafide financial transaction but also of administrative abuses of serious nature. |
| 2. 1.3.28 | What has happened in this case might have happened in cases of other Departments too. If something is not done immediately to stop the rot nothing will remain with administration worth its name. Accordingly, it is recommended that high level Judicial Enquiry under the Commission of the Enquiry Act to be instituted taking the case of the Para under reference as basis with terms of reference which will suggest administrative measures to be taken to put an end to the repetition of cases where political heads and members of permanent executive unite to undermine the process of Rule of law. |
| 3. 2.2.3. | The Committee, therefore, recommends that the Department would take immediate action for updating the records and the officials found at fault-would be brought to |

the book. The action taken and result achieved on this would also be intimated to the Committee.

4. 3.3.3. The Committee appreciates the difficulties faced by the Department in avoiding minus balance in their stores & stock accounts. At a time the Committee would also like to remind the Department that continuance of minus balance for years together signify unsatisfactory maintenance of their store accounts which can be avoided to a great extent through a system of efficient management of Accounts by officials responsible for keeping accounts properly. The Public Accounts Committee, therefore, recommends that officials engaged for keeping accounts should also be made responsible for expeditions settlement of accounts at need-based-minimum time through regular pursuance of concerned agencies.
5. 2.4.3. In view of the contradiction, the Department may take-up the matter with A.G. (Audit) Assam to short-out the differences.
6. 2.5.3. The Committee observes that the above information furnished by the Department as a reply to the audit para under discussion dates after presentation of the C.A.G. Report for 1982-83 i.e. 17th July, 1985. Under this position, the physical varification of stock required to be carried out annually under the Rules in force cannot be held as improving. The Public Accounts Committee, therefore, recommends that the annual physical varification of stock would be carried out as a matter of responsibility assigned under the Rules in force and the latest position in this regard would be intimated within a period of 3 months from the date of presentation of this Report before the House.

7. 3.3-1.

It appears that the Audit Para and departmental reply are almost similar with those dealt with in paras 2.2.2 & 2.2.3 and 2.5.1 & 2.5.2 in Chapter-II of this Report. The former paras relates to stores and stock accounts while the paras under discussion deal with maintenance at accounts of tools and plants. The Committee, accordingly, re-iterates their observation recommendation made in para 2.2.4 & 2.2.5 and 2.5.3. of this Report in respect of this para also.

(24-11/85)
17/1/85

Honble Chief Minister

Kindly see notes from page 1 also in connection with proceedings against Shri Ashir Chandra the then S.H.E. Hailakandi. Before commencing on this I should mention locally being it that whatever water facilities were given to the people of Hailakandi under 20 point programme it is only because of the agile and dynamism of Shri Chandra else I had every a doubt whether people of Hailakandi would have got any scum of water till date. It is a common phenomenon that whether there is work there is cry and we should choose the best.

The charges which were brought against the delinquent officer appear to be mainly confined to the purchase of materials. However, the prima-facie charges were of 1981-82 while Shri Chandra S.D.O. P.H.E. was holding the charges of P.H.E. Hailakandi in addition to his own duties. In spite of the charges, after careful consideration by the promotional committee, Shri Chandra was selected and was promoted to take rank of P.H.E. It is paradoxical that charges as alleged are not definite in nature and hence not taken into consideration for punishable offence.

ANNEXURE—I

EXTRACTS TAKEN FROM THE FILE NO. PHED.
928/84 AT PAGES 7 TO 10 AND PAGES 19 TO 37.

M.P.H.E.

Your order prepage. We have already served the charges and statement of allegations and as such, the proceedings have been set in motion. We are yet to receive the replies from the officer proceeded against.

As desired the file is submitted, which may kindly be returned early for expeditious disposal of the departmental proceedings.

(Sd/- Illigible)
17/7/85

Honble Chief Minister,

Kindly see notes from page 1 ante in connection with proceedings against Shri Ashis Chanda the then PHEE Hailakandi. Before commentintg on this, I should emphatically bring it that whatever water facilities were given to the people of Hailakandi under 20 point programme it is only because of the agile and dynamism of Shri Chanda, else, I had every a doubt whether people of Hailakandi would have got any scan of water till date. It is a common phenomenon that whether there is work, there is cry and we should choose the best.

The charges which were brought against the delinquent officer appears to be mainly confined to the purchase of materials. However, the Prima-facie charges were of 1981-82 while Shri Chanda, S.D.O. P.H.E. was holding the charges of P.H.E. E. Hailakandi in addition to his own duties Inspite of the charges, after careful consideration by the promotional committee, Shri Chanda was selected and promoted to take rank of P.H.E.. It is paradox ically clear that charges as alleged are not definite in nature and hence not taken into consideration for punishable offence.

I have gone through the records and comments para-wise and reveals that no specific charge could be established as also commented by deputy Secretary at page 2 ante. I am also of the opinion that for no fault of the incumbent concerned, the charges are brought against him is vague 4 and he should be relieved of all such frivolous charges.

Chief Minister may kindly agree to the proposal and the proceedings as enunciated may be dropped in view of the facts stated above.

For favour of kind approval.

(Sd/- J. C. Choudhury,) -
Minister, Public Health Engi.
neering etc. Assam, Dispur
6-8-85

As proposed
(Sd/-H. Saikia, C.M. 6-8-85

Commissioner, PHE.

Chief Minister's note above. Please drop all the charges and issue order accordingly.

(Sd/- J. C. Chaudhury),
Minister, PHE, etc.)
9-8-85

C.S.

As per C. S's recent direction, orders of Chief Minister prepage is brought to notice before taking further action. This is regarding departmental proceeding against Shri Chanda EE (PHE). The charges are at page 40-44. My predecessors notes at you and Minister PHE's notes and orders prepage.

(Sd/-Illegible)
10-8-85

Your orders at page 8/n approving proposals to drop departmental proceedings against Shri Ashis Chanda, SDO, PHE may kindly be seen. I have gone through the papers. The charges relate to serious financial irregularities, violation of established office procedure in awarding contract etc. and causing financial loss to Government be cause of such irregularities. It will be appropriate to have the charges enquired into, when the Officer will get sufficient scope to defend himself. Considering the seriousness of the charges Chief Minister may like to re-consider his earlier orders.

Minister, PHE
C.M.

(Sd/-P.P.Trivedi)
10-9-85

C.M. had approved the earlier order of the then Minister, P.H.E. after Careful examination and consideration of the whole matter and, I think the orders of the C.M. is to stand.

For C.M.'s kind approval.

Approved.
(Sd/-H. Saikia, C.M.)
18-9-85

Sd/-(D. Terrang)
Minister of State PHE
etc. Assam
13-9-85

The file with approval of the C.M. dated 16/9 has been received in my office on 13/11. In view of the announcement of the elections it is advised that the case may not be dropped at this stage and may be considered after the elections.

e.M., In charge, PHE

(Sd/-P.P. Trivedi)
18/11/85

Returned.
(Sd/-H. Saikia, C.M.)
19.11

My note at page 9/n read with note of Secretary, Health above it. It is recommended that the Departmental Proceedings should not be dropped against Shri Ashis Chanda, SDO, PHE in view of the grave financial irregularities committed by him.

(Sd/-P.P. Trivedi)

C.M.

Approved.
(Sd/-P.K. Mahanta, C.M.)
20-12-88

S.S.PHE
Minister, PHE

May kindly see.

(Sd/-P.P. Trivedi)
16/12

Annexure-II

Dy/Secy.,

Sl. 77-141/c may kindly be seen.

This is the reply submitted by Shri A. Chanda in respect to disciplinary proceeding issued against him vide letter No. at sl. 40-50-/c.

Before submission of reply he stated that most of the document wanted to inspect by him were not produced to him inspite of his request and Government's letters at Sl.-56/c,70/c,73/c & 76/c which amounts to denial of opportunity of defend and this give him a scope to say that the charges are vague and they were framed without consulting all relevant documents and records. However, he submitted the charge-wise replies. The charges and the replies in brief are stated below:---

Charge No. 1 While he was S.D.O. ((PHE) Karimaganj), he was asked to take over the charge of Hailakandi (PHE) Divn. During the period of holding over charge from Nov. '81 to June '82 he purchases materials like specials, valves etc. for cast iron, PVC & AC pressure pipes to the tune of Rs.66.59 lakhs violating the condition of CPHE and keeping the CPHE in darkness about this by non-submitting the monthly purchase Statement.

Reply : He stated that the charge is incorrect and baseless and he deny the same. The documents of this charge have not been produced to him for inspection. When he was ordered to hold the charge, he was also allowed to exercise the powers. Further, he requisitioned for materials to CPHE vide Sl 120/c,122-123/c & 124/c but no materials were received from CPHE. And in order to complete the work he purchased the materials as per requisitions of SDO(PHE) Hailakandi and Karimaganj Sub-Division. Regarding non submission of purchase statement he submitted a letter to CPHE (81-90/c) expressing his ignorance and requested to excuse for the same.

In view of non submission of the documents relevant to the charges for his inspection, this cannot be sustained.

Charge No.2 That during holding the charge of Hailakandi Division, he placed supply orders for huge quantity of various materials to the tune of Rs.66.59 lakhs without sanctioned detailed estimate and on hypothetical estimates before lands were acquired for two schemes and materials were found lying unutilized even after execution of works. He is therefore, charged with misuse of official powers.

Reply : He stated that he had purchased materials for the execution of the works without waiting for sanction of the detailed estimates and before formal acquisition of lands as has been done in other PHE Divisions. CPHE, also threatened entry of adverse remarks on the ACRs in cases of non-utilisation of allotted funds in full to and to execute the schemes vide Sl.94/c. On the other hand, the name and quantity of surplus materials were not stated specifically. Further, he was not given the opportunity of inspection of documents, to remove the vagueness of the charge. And hence he deny the charge and stated to be baseless.

Charge No.3 He had given 144 Nos of supply orders on 16.3.82 by splitting the orders within the limit of Rs. 4,000/- only in order [to keep them within the delegated power of PHEE. He is, therefore, charged with misuse official power for personal gain.

Reply : He stated that the Department could not produce/furnish the additional documents sought by him to defend the charge. He stated that he never split up orders deliberately, the procedure were followed for keeping proper accounts and for prompt verification of materials as permissible under rules.

The charge cannot be sustained.

Charge No.4 He given 22 Nos. of supply order to a particular firm on 16.3.82 for a particular type of materials by splitting orders to keep within the limit of Rs. 4,000/-.

Reply : He deny the same and stated that the supply orders were placed after observing proper procedure. The Department could not furnish any rule which debar issue

of separate supply orders on same day for separate scheme/works and requires consolidating such supply orders in one order as sought by him vide Sl.132/c

Charge No.5 He purchased a concrete mixture machine by splitting it into nine parts, at very higher price without obtaining approval of competent authority. He thereby caused loss to the Government. He is charged with misappropriation of Government money and misuse of powers for personal gain.

Reply : He stated that the charge is not based on correct interpretation of rules. Further, the cost incurred by him for purchasing the machine in parts is lower than the price purchased as a whole which is evident from Sl. 113-119/c.

Charge No.6 He had floated quotations for purchase of important materials allowing only 8 or 9 days time for receipt of quotations and thereby he had wilfully avoided wide-circulation and cause financial loss to Government for personal gain.

Reply : He deny the charge and stated that short notice quotations were invited to utilisation of fund within the financial year as required under CPHE's letter at Sl-95/c and he approved that rate which was not higher than the approved rate of this Division prior to his assumption of charge.

Charge No.7 : He purchased 50 mm 3/2 Core armoured cable for various Rural Water Supply Scheme without support of any technically sanctioned estimate. Rural Water Supply Scheme does not require such cable. Therefore, the entire purchase to Rs. 71,032.09 is a drain to Government Exchequer.

Reply : He stated that the cable were purchased as per requisition of SDO (PHE) Hailakandi for technically sanctioned schemes and the materials have been utilised in the schemes. Receipt of materials is not disputed and therefore, question of misappropriation does not arise.

Charge No.8. He purchased 3,400.00 R. metre of cooper cable Rs. 18/ per metre while the lowest rate received was Rs. 12/- per metre. Thus Government had to incur

loss of Rs. 14,400/-. He is, therefore, charged with misappropriation of Government money.

Reply : He stated that the Department could not produce him the comparative statement where lowest rate was Rs. 12/-- per metre. He purchased the materials as per approved rate of Silchar PHE Division which may be seen at Sl. 112/c.

Charge No. 9. He had purchased 171.00 R. M. of 10 mm² Armoured Cable at a rate of Rs. 57/-per metre against the market rate of Rs. 18.93 per metre and thus made the Government to incur loss of Rs. 6,509.97. He is therefore charged with misappropriation of Government money and misuse of official power for personal gain.

Reply : In reply he had stated that he had purchased the materials at the approved rate of Silchar PHE Division which was the parent Division of Hailakandi Division.

Charge No.10. He had purchased huge numbers of local made Ring Well Chlorinator at the rate of Rs. 590/- each without their performance. As per cost analysis, the cost of such chlorinator does not work out to more than Rs.35/- only. In this deal, he misappropriated Rs. 50,850/-. He is therefore, charged with misappropriation of Government money and misuse of power for personal gain.

Reply : The purchases were made at rates approved by his predecessor who also made purchases at such rates. The quality of materials found satisfactory and so he also purchased same quality of materials at the same rate. He also disputed the correctness of the rate of Rs. 35/- shown as worked out rate in the charge

But there is no details available to show him how the rates of Rs. 35/- was arrived at.

Charge No. 11. He had purchased CID joints at higher rates in violation of CPHE's order not to purchase such materials. And though these 200 sets of CID joints were lying unutilized since March' 82, he had purchased another 300 sets and caused huge loss to Government. He is, therefore, charged with misuse of official power as well as incurring considerable loss to Government.

Reply : He stated that the charge is vague and not correct. The charge is vague in sense that the charge is not specify the rate at which materials were purchased at Hailakandi and what was the approved rate of CPHE. It is also stated that the purchases were made at the approved rate of Silchar PHE Division and has furnished relevant document in support which may be seen at Sl-105/c.

Charge No. 12. He purchased Cast Iron doubled flanged sluice valves at much higher than the CPHE's approved rate and thus made the Government to incur loss to the tune of Rs. 1.00 lakhs.

Reply : He stated that the charge was vague as the approved rate of CPHE was not specified. It is also stated that he purchased the materials at the approved rates by his predecessor which was not higher than the prevailing market price. He also furnished a copy of a Company's price list at Sl.-104/c.

As the rate at which the materials were purchased was not specified, it cannot be said that the purchases were made at higher price.

Charge No.13 He had issued weight chart for C.I. pipes and specials to SDO (PHE) Hailakandi & Karimaganj & S.O (PHE) Store, Hailakandi. The weights circulated were much higher than the actual scale of weight and standard weight as per I.S. specification. In this deal, excess payment of Rs.6.21 lakhs was made to the suppliers.

Reply : In this connection, stated that he was not provided with standared weight chart of ISI specification. And that he had, therefore, obtained chart of standard weight followed in Silchar PHE Division. He also produced copy, which may be seen at Sl.102/c and 111-112/c. He also stated that the standerd weight in this chart was less than the standerd followed in checking and passing bills earlier in this Division which may be seen at Sl.103/c.

In view of this, he is not only responsible but his predecessor and the PHEE, Silchar who followed the chart are also responsible.

Charge No. 14. That Shri J. K. Bhattacharjee, on his posting as PHEE, Hailakandi Division, received some pending bills duly verified by S.O. Store, Karimganj and certified by SDO(PHE) Karimganj, for passing pay orders for payment. The bills were sent back to SDO (PHE), Karimganj finding the fabulous weight. He had resubmitted the bills reducing the weights hapazardly and that too were much above the actual weight. He thereby tried to cheat the Government.

Reply : He deny the charge, because the concerned bills could not produced to him for inspection.

Charge No. 15. He had paid supply bills on false verification without taking into account the materials. False payment on false bills was made to the tune of Rs.2,07,807.27 He is charged with negligence of duty, corruption and misappropriation of Government fund for personal gain.

Reply : He deny the charge and stated that all the bills were passed after duly verification by the S.O. and the S.D.O and he followed the same procedure as followed by other Divisions. Further, he stated that neither the particular bills were indicated in the charge nor these could be produced for his verification inspite of his written request. As such the charge cannot be sustained.

Charge No. 16. He had verbally asked a "Bengalee Daily" newspaper to publish/display advertisement on 15th Decembar 1981, 25th Decembar 1981 and 1st January 1982 in their newspaper at Rs.3,000/- only per display advertisement without any record. He had accepted the claim and sent the same to SDO(TC), Hailakandi for issue of formal order. The SDO(TC) received the same and kept in it in the file as issue of formal past dated order which was not fesible. He is therefore, charged with misuse of power for personal gain.

Reply : He deny charge. The issue arose out of publication of display in a local paper without any written order. The fact of publication has not been disputed in the charge. The publication seems to have been allowed at the instance of Jt. D.I.P.R. and the correctness of the claim stands certified by the Dist. Information and Publicity Officer. In this connection, Sl. 96-100/c may please be seen.

On the whole it is seen that the charges are relates mostly to purchases. But most of the charges are not specific and the relevant documents required for defence have not been made available to him. But, as stated, most of the materials have been purchased either at the rates approved by the Division earlier or Silchar Division. In view of this he cannot be held responsible for high rate.

(Sd/- Illegible)
7.3.88

Reply: He deny the charge and stated that all the bills were passed after duly verification by the P.O. and the S.D.O. and he followed the same procedure as followed by other Divisional. Further, he stated that neither the verification bills were indicated in the charge nor there could be proof for his verification in spite of his written request. A written charge cannot be sustained.

Charge No. 16: He had verbally asked a "Berakha Daily" newspaper to publish an advertisement on 13th December, 1981. 25th December, 1981 and 1st January 1982 in last newspaper at Rs. 3000/- only. He had not display advertisement without any reason. He had accepted the claim and sent the same to S.D.O. (Halls) for issue of formal order. The S.D.O. (Halls) received the same and kept it in his file as matter of formal pass order which was not feasible. He is therefore charged with misuse of power for personal gain.

Reply: He deny charge. The issue arose out of publication of display in a local paper without any written order. The fact of publication has not been disclosed in the charge. The publication seems to have been allowed at the instance of M. D.I.R. and the correctness of the claim stands verified by the Disc. Information and Publicity Officer. In this connection, SI. 90-100/c may please be seen.

Reply: He deny charge. The issue arose out of publication of display in a local paper without any written order. The fact of publication has not been disclosed in the charge. The publication seems to have been allowed at the instance of M. D.I.R. and the correctness of the claim stands verified by the Disc. Information and Publicity Officer. In this connection, SI. 90-100/c may please be seen.

ANNEXURE—III

Commissioner

Notes from Sl-19.

The replies submitted by Shri Ashis Chanda, PHEE, at Sl-77-141^c may kindly be read with the d/p drawn against him at Sl. 40-50.^c

The charges are analysed and my suggestions given as below:—

Charge No. 1. By this, Shri Chanda has been charged with wrongful discharge of his duties, concealment of fact about purchase and misuse of official powers as PHEE in Hailakandi Division during the period of November '81 to June '82.

Although Shri Chanda was holding the post of E.E., Hailakandi, in addition to his duties as SDO, Karimganj, as per Government notification, it was not irregular on his part to exercise the financial powers of E.E., nor he was told not to exercise the power. As such, he cannot be held responsible in discharging his duties as E.E. as per Government notification. Otherwise the works would have suffered in the Division during his tenure of 8 months.

It transpires that Shri Chanda placed requisition with the CPHE for supply of materials in 7 different letters from 27th November 1981 to 22nd March 1982. But the materials were not supplied. On the other hand, CPHE wrote on 11st January 1982 and 23rd January 1982, threatening that no surrender of fund would be accepted and that surrender of any fund by any E.E. will be reflected in the ACR of the concerned E.E. The E.E. thus, had no alternative but to go for purchasing the materials locally. All the purchases were on the basis of the requirements of the 2 SDOs of Hailakandi and Karimganj and that the rates were never higher than the rates approved by his predecessor.

The charge is not specific and has been framed very vaguely and that too, without valid records. By not supplying the materials inspite of 7 requisitions, on the other hand, threatening the E. E. that surrender of fund will reflect in his ACR, the CPHE forced the officer to purchase the materials.

As such the officer cannot be held responsible squarely for this. The charge will not be tenable on the court of law, if challenged.

Charge No. 2: This is the corollary of the first charge. As a matter of fact it should not have been made an independent charge as the materials are almost same. The officer has been charged for purchase of the materials before the details of the schemes were sanctioned. In reply, Shri Chanda has stated, I, quote, "It is also the practice in all the Divisions to incur expenditure on the administratively approved schemes without waiting for sanction of the detailed estimates to ensure realisation of fund within the financial year as the sanction of the detailed estimates are received very late and waiting for sanction of detailed estimates would lead to lapse of budget provision." I am inclined to accept this statement which is true and the practice which is in vogue. Besides, all the materials purchased have been utilised and it is not true that "the purchases were made for purchase's sake" as alleged.

The charge is therefore, liable to be dropped.

Charge No. 3 : It is also a corollary of charge No. 1. The charge is that orders were placed to different suppliers by splitting the orders within the limit of Rs. 4,000/- to keep them within the delegated power of the E. E.

In this connection, I refer to the order dated 12th April, 1988 passed by the State Engineering office on the d/p against Shri K. C. Borthakur, S.E (on deputation). I quote, "The note under the relevant Rules describes 'an individual item' as including a quantity of the same articles reckoned as one item according to the unit adopted by the PWD, e.g., 1,000 bricks are an individual item". Again, "there is, therefore, reasons to believe that there was genuine confusion as to what an individual item consisted of and a charge of misconduct or dishonesty cannot be built against Shri Borthakur in these circumstances. Again

the charged officer claimed that he made the purchases against on administrative and technical sanction given by the Govt. The Chief Engineer did not challenge his claim and simply stated that he was not sure if such sanction was there."

On the same analogy, Shri Chanda also cannot be held responsible as the orders placed for the quantities of the same articles are reckoned as an individual item. The charge may be dropped.

Charge No.—4 : This charge is also similar to charge no. 3. It says that Shri Chanda had given 22 nos. of supply orders on 16th March 1982 for a particular type of material by splitting orders to keep them within his financial competency.

The comments made against charge no 3 will also apply here. The charge is not tenable.

Charg No—5 : By this, Shri Chanda has been charged for splitting of orders for concrete mixture machine. In reply Shri Chanda has stated that as new man in that post, he only followed what the others had done in this matter. He has submitted copies of orders of Silchar and Nogaon Divisions who placed orders in parts. Shri Chanda has stated that by doing this, it saves Govt. money as the cost of the machine as a whole is Rs. 30,070/- whereas if parts are purchased and assembled later on it costs only Rs. 27,095/-.

Since this practice is in force in other Divisions also and that practice does not involve money higher than the actual cost of the machine, Shri Chanda cannot be held responsible for that, particularly he being new in that post at that time.

Charge No. 6 : In reply to this charge of floating quotations for purchase of materials within short notice, Shri Chanda has stated that the short notice quotations were invited to ensure utilisation of fund within the financial year as desired by the CPHE as mentioned in charge No. 1. Besides, the rates approved were never higher than the approved rates of the Division during the time of his predecessor.

The charge has been framed vague giving no data of the quotations. The charge is liable to be dropped as the suggestion of short notice quotation is in vague legally.

Charge No. 7: It has been charged that 50mm² 3½ Core Cable was purchased for various W/S/S without support of technically sanctioned estimated and that the rural W/S/S do not require such type of Cable.

The comments against charge No. 2 will also apply here. Besides, Shri Chanda has stated that the Cable were purchased as per requisition of the SDO, PHE, Hailakandi and that the cables have also been utilised in the scheme.

The charge may be dropped.

Charge No.8—This charge appears to be wrong. Shri Chanda has been charged that he had purchased copper cable at Rs.18 per metre while the lowest rate as received and entered in the comparative statement was Rs.12 per metre. Shri Chanda says that no quotation was called by him for this item, not to speak of preparing C.S. and that he purchased the material at the approved rate of Rs.18 of Silchar PHE Division CPHE could not show any document or any C.S. to substantiate this charge.

The charge may therefore, be dropped.

Charge No.9—In reply to the charge that armoured cable has been purchased by Shri Chanda at a rate much higher than the market price, it has been said that the purchase were made at the approved rate of the Silchar PHE Division; Hailakandi Division being new they did not have their approved rate and in most such cases, they followed the approved rates of Silchar Division the parent Division.

There is nothing wrong nor any irregularity committed and hence, the charge may be dropped.

Charge No.10—In reply to this charge, that local make ring well chlorinators have been purchased at much higher price than it should have been, without their performance, it has been stated that the rate of ring well chlorinator was approved by his predecessor. Shri Chanda had placed supply orders at rates approved by his predecessor who had also made purchases at this rate.

As such, Shri Chanda cannot be held responsible for the rate which was approved by his predecessor. The charge may be dropped.

Charge No. 11. Shri Chanda has been charged for unauthorised purchase of CTD joints from the local supplier and for that matter letter dated 29th September 1982 from CPHE debarring purchase of CID joints has been referred to. This charge is vague as Shri Chanda was in charge of Hailakandi Division upto June 1982 and the circular referred to above was issued when Shri Chanda left Hailakandi. Shri Chanda however, has stated that all purchases were made at the approved rates of the Silchar Division.

The charge may therefore, be dropped.

Charge No. 12. In reply to this charge that Iron Doubled flanged sluice valve was purchased by Shri Chanda at a rate much higher than the approved rate of the CPHE, Shri Chanda stated that the purchases were made by him at the approved rates of his predecessor. Besides, CPHE's rates have not been mentioned in the charge in which it is not possible to compare the rates. The rates may also vary there is nothing wrong.

The charge is vague and has not been established. Hence it may be dropped.

Charge No. 13. This charge has been brought against Shri Chanda, charging him for issuing a weight chart for C. D. pipes and specials to the SDO, Hailakandi and Karimanj. The weights circulated were much higher than the actual scale weights and standard weight as per I. S. Specification.

In reply Shri Chanda has stated that at the relevant time no weight chart of I. S. Specification for such materials was available with the Division. He collected a weight chart being followed by the Silchar Division, the parent Division and circulated the same for guidance. Besides on request from Shri Chanda to furnish/produce the weight chart of I. S. Specification for replying to his charge, the CPHE could not produce.

On the face of it Shri Chanda cannot be held responsible.

Charge No. 14. Charge has been levelled that Shri Chanda, as SDO PHE, Karimanj countersigned some bills duly certified by the S.O. Stores, Karimanj and sent to

the E. E., Karimganj Division for payment. The weight of the bills being 'fabulous', the E. E. returned the bills for re-examination and for re-submission, Shri Chanda made necessary correction reducing the weights. He has been charged with corruption and cheating. To meet the charge Shri Chanda was denied the documents referred in the charge.

Taking that the charge is correct, it is not serious as it is made to appear. Mistakes in the bills detected and subsequently sent back for rectification to the SDO by the E. E. cannot be termed as corruption and cheating. Besides, the charge framed is very vague and hence it may be dropped.

Charge No. 15. It has been alleged that the Auditors of the A. G., Assam, during their course of scrutiny of vouchers from No. '81 to May '82, detected that supply bills were passed for payment on the strength of false verification report furnished by the concerning APHE/J. E on the body of the bills.

This charge has been made very vague without citing bills, even during inspection of documents these bills could not be produced as stated by Shri Chanda. Shri Chanda, however, stated that all bills were paid by him only after receipt of materials and only after being duly certified by the concerned S. O. and the SDO. Presuming that the charge is correct, Shri Chanda cannot be held responsible for the misdeeds, if any, of his subordinates.

The charge is very vague and liable to be dropped.

Charge No. 16. Shri Chanda has been charged for misuse of power for giving verbal order to publish and display advertisement to "Sonar Cachar", a local Bengali news paper without any record.

Shri Chanda has stated that the order of the display was issued at the instance of the State Publicity Department and he has mentioned a letter in this connection from the Joint Director, I. & P. R., Assam. and the notes of the Joint Director thereon. The fact of publication of the display in the news paper was duly certified by the District Information and Public Relation Officer, Cachar. The verbal order was also confirmed in writing.

There is nothing wrong and the charge is not tenable.

It may be summed up that all these 16 charges were levhllled against the officer who was only officiating as E. E. for a period only 8 months.

Most of the charges are vague and not specific and hence bad in law.

Relevant documents/letters have not been cited in many charges and many documents/letters are either non-traceble or could not be produced inspite of repeated reminder from the Government as well as from the Office charged with.

Some charges have been repeated in many places. E. g., charge No. 1 is whole whereas the subsequent charges up to charge No. 8 are parts. Again charges No. 9 to 13 are concerning rates which were either approved by the predecessor of Shri chanda or these were rates being followed by the Silchar Division, the parent Division. So. for these rates, Shri chanda cannot be made responsible.

(Sd./- ILLEGIBLE)

3-5-88.

Deputy Secretary.

Minister, P. H. E.

We may agree to the D. S.' Suggestion above.

(Sd./- ILLEGIBLE)

17-5-88.

ANNEXURE IV

COMPOSITION OF THE COMMITTEE ON PUBLIC
ACCOUNTS 1986-88**CHAIRMAN :**

1. Shri Abdul Muktedir Choudhury,

MEMBERS :

2. Shri Joy Prakash Tewari,
3. Shri Sirajul Haque Choudhury,
4. Shri Amrit Lal Basumatary,
5. Shri Rasidul Haque,
6. Shri Binai Khungur Basumatary,
7. Shri Durgadas Boro,
8. Shri Gunin Hazarika,
9. Shri Ganesh Kutum,
10. Shri Padma Nath Koiri,
11. Shri Abdul Hussain Sarkar,