

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH AT BANGALORE**

ORIGINAL APPLICATION NO.170/01842/2018

DATED THIS THE 01ST DAY OF OCTOBER, 2019

**HON'BLE DR K B SURESH.....MEMBER (J)
HON'BLE SHRI C V SANKARMEMBER (A)**

P.C.Sahoo
S/o Sri Purna Chandra Sahoo
Aged about 37 years
Working as Loco Pilot (Goods)
South Western Railway, Bangalore Division
R/o 147/148, 5th cross
Brundavan Layout,
K R Puram, Bangalore-560 036.

...Applicant

(By Advocate Shri.K.Shiva Kumar)

Vs.

1. Union of India

Rep. by General Manager

South Western Railway, Hubli- 580 020

2. Divisional Railway Manager

South Western Railway, Bangalore- 560 023

3. Senior Divisional Mechanical Engineer

South Western Railway, Bangalore- 560 023

...Respondents

(By Advocate Shri N Amaresh, Senior Panel Counsel)

ORDER (ORAL)**HON'BLE DR K B SURESH, MEMBER (J)**

We find from Annexure A1 that a non speaking order has been passed by the concerned Appellate Authority which we quote:

*G.355/Standard Form No.5
Standard Form of Charge Sheet
(Rule 9 of the Rly. Servants) (Discipline and Appeal) Rules,
Mechanical Branch Sr.DME/O/SBC.*

No.B/M.227/MC/PCS/02/15. (Derailment)

Dated: 09.03.2015.

MEMORANDUM

The President/Railway board/Under signed proposes (S) to hold an enquiry against Shri.Prabodha Chandra Sahoo., under Rule 9 of the Railway servants (D & A) Rules, 1968. The substance of the imputations of misconduct or misbehavior in respect of which the enquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure –I). A statement of the imputations of misconduct or misbehavior in support of each article of charge is enclosed (Annexure-II). A list of documents by which and a list of witnesses by whom. The articles of charge are proposed the be sustained or also enclosed (Annexure-III & IV). Further copies of documents mentioned in the list of documents, as per Annexure-III are enclosed.

2. Prabodha Chandra Sahoo, is hereby informed that if he so desires, he can inspect and take extracts from the documents mentioned in the enclosed list of documents (Annexure –III) at any time during office hours with in 10 days of receipt of this memorandum. For this purpose he should contact Chos R.DME(O)SBC immediately on receipt of this memorandum.

3. Shri.Prabodha Chandra Sahoo, is further informed that he may if so desires, take the assistance of any other railway servant/An official of Railway Trade Union (who satisfies the requirements of Rule 9 (13) of the Railway Servants (Discipline & Appeal) Rules, 1968 and note 1 and/or note 2 their under as the case may be) for inspecting the documents and assisting him in presenting his case before the enquiry authority in the event of an oral enquiry being held. For this purpose, he should nominate one or more persons in order of preference. Before nominating the

assisting Railway Servant(s) or Railway Trade Union Officials(s), Shri Prabodha Chandra Sahoo, should obtain an under taking from the nominee(s) that he (they) is (are) willing to assist him during the disciplinary proceedings. The under taking should also contain the particulars of other case (s) if any, in which the nominee (s) already under taken to assist and the under taking should be furnished to the undersigned along with the nomination.

4. Shri.Prabodha Chandra Sahoo, is hereby directed to submit to the undersigned written statement of his defence which should reach with in 10 days of receipt of this memorandum, if he does'nt require to inspect any documents for the preparation of his defence, and with in 10 days after completion of inspection of documents if desires to inspect documents, and also:-

- a) To state whether he wishes to be heard in person; and
- b) To furnish the name and address of the witnesses if any, whom he wishes to call in support of his defence.

5. Shri.Prabodha Chandra Sahoo, is informed that any enquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

6. Shri.Prabodha Chandra Sahoo, is further informed that if he does'nt submit his return statement of defence within the period specified in para 2 or does not appear in person before the enquiry authority or otherwise fails or refuses to comply with the provisions of Rule 9 of the Railway Servants (D & A) Rule 1968, or the orders/directions issued in pursuance of the said rule, the enquiry authority may hold the enquiry ex-party.

7. The attention of Shri.Prabodha Chandra Sahoo, is invited to rule 20 of the Railway Services (Conduct) rules, 1966, under which no Railway Servant shall bring or attempt to bring any political or other influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Shri.Prabodha Chandra Sahoo, is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of rule 20 of the railway services (Conduct) rules, 1966.

8. The receipt of memorandum may be acknowledged.

(Encl: 2

To,

(B V Suresh)
ADME/F&O/SBC & DA
Name and Designation of

Shri.Prabodha Chandra Sahoo,
Sr.ALP/SGT.(designation)
CCRC/O/SGT (place)

Competent authority

**MEMORANDUM OF CHARGE SHEET UNDER RULE 9
OF THE RS(D&A) RULE 1968**

Annexure: I

Statement of article of charges framed against Sri.Prabodha Chandra Sahoo, Sr.ALP/SGT

Shri.Prabodha Chandra Sahoo, Sr.ALP, Working as LP/Shg/SGT, you have committed misconduct in as much as on 09.10.01.15 while performing 19-00 hrs to 07-00 hrs shunting duty at SGT Yard. Loco 12131/12046 DSL MU WDG4/UBL was brought from Road 11 after fueling to Road 5 by you for securing and shutting down as per the instructions of YM/SGT. You had failed to stable and shut down the loco within the demarcated zone and further failed to secure the loco as per the "JPO for stabling of loco in SGT Yard" Resulting in the roll down of the MU loco into shunting neck at WFPC end and causing derailment.

Thereby, Sri.Prabodha Chandra Sahoo, has violated GR 4.61 and failed to maintain devotion to duty and contravened Rule 3(1)(ii) of Railway Services (Conduct) Rules, 1966.

**(B.V.Suresh)
ADME/F&O/SBC & DA**

ANNEXURE II

STATEMENT OF IMPUTATIONS OF MISCONDUCT OR MISBEHAVIOUR IN SUPPORT OF THE ARTICLE OF CHARGES.

Sri.Prabodha Chandra Sahoo, Sr.ALP, Working as LP/Shg/SGT, you have committed misconduct inasmuch as on 09/10.01.15, while performing 19-00 hrs to 07-00 hrs shunting duty at SGT Yard, Loco No.12131/12046 DSL MU WDG4/UBL was brought from Road 11 after fueling to Road 5 by you for securing and shutting down as per the instructions of YM/SGT. You had failed to stable and shut down the loco within the demarcated zone and further failed to secure the loco as per

the “JPO for stabling of loco in SGT Yard”. This resulted in the roll down of the MU loco WDG4, 12046/12131 from Road 5 of SGT Yard into shunting neck, trailing through point nos. 171 and 174 towards WFPC end, dashed dead end and derailed at about 7.50 hrs. Leading loco front truck all wheels derailed and one pair of wheels of rear truck R-4 & S-4 derailed. L4 & L6 were floating off the rails. Failure to adhere to SOB/JPO for stabling of loco at SGT Yard resulted in the roll down of the MU loco into shunting neck at WFPC end and causing derailment.

Thereby, Sri.Prabodha Chandra Sahoo, has violated GR 4.61 and failed to maintain devotion to duty and contravened Rule 3(1) (ii) of Railway Services (Conduct) Rules, 1966.

(B.V.Suresh)
ADME/F&O/SBC & DA

Annexure III

LIST OF DOCUMENTS BY WHICH THE ARTICLE OF CHARGES ARE PROPOSED TO BE SUSTAINED.

1. JOP/SOB circulars dated 12.05.14 and 11.11.14
2. Event recorder of loco no.12046 WDG4/UBL.
3. Joint Observation report.
4. Statement of Sri.Ravi Kumar, TRH/SGT
5. Statement of Sri.Raghuveer Naik, YM/SGT
6. Statement of Sri.Prakash, TRH/SGT

Note:- Copy of the documents by which the article of charges are proposed to be sustained are enclosed herewith.

(B.V.Suresh)
ADME/F&O/SBC & DA

Annexure IV

LIST OF WITNESSES BY WHOME THE ARTICLES OF CHARGES ARE PROPOSED TO BE SUSTAINED

1. Sri.Ravi Statement of Sri.Ravi Kumar, TRH/SGT
2. Sri.Raghuveer Naik, YM/SGT
3. Sri.Prakash, TRH/SGT

(B.V.Suresh)
ADME/F&O/SBC & DA

2. Since no reasons are given we quash the same and remit the matter back to the Appellate Authority to hear the applicant once again and pass an appropriate order within one month next.
3. OA is disposed of as above. No order as to costs.

(C V SANKAR)
MEMBER (A)

(DR K B SURESH)
MEMBER (J)

/rsh/

Annexures referred to by the Applicant in OA No.170/01842/2019

- 1Annexure A1: Copy of the Charger sheet dated 09.3.2015
- Annexure A2: Copy of the Letter of the Applicant dated 25.4.2015
- Annexure A3: Copy of the Defence brief to E.O dated 13.5.2015
- Annexure A4: Copy of the Enquiry Report dated 27.5.2015
- Annexure A5: Copy of the written statement dated 20.6.2015
- Annexure A6: Copy of the Penalty Advice dated 27.7.2015
- Annexure A7: Copy of the Appeal dated 29.12.2015
- Annexure A8: Copy of the Appellate Authority order dated 26.4.2016
- Annexure A9: Copy of the Revision Petition dated 30.7.2016
- Annexure A10: Copy of the Revising Authority order dated 10.5.2017
- Annexure A11: Copy of the Hon'ble Tribunal order dated 31.7.2018

Annexures referred in Reply Statement

- Annexure R-1 Copy of the Representation to the Charge Memorandum dated 23/25.03.2015