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6
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 246/2000

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SECTION OFFICER (Judl.)

Galita
20/12/07

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 246/2000 OF 199

Applicant(s) Sri Sukdeo Ram.

Respondent(s) Union of India and others.

Advocate for Applicant(s) Mr. G.K. Bhattacharya

Mr. G.N. Das.

Advocate for Respondent(s) Mr. P. Sharma.

C.G.S.C.

Notes of the Registry	Date	Order of the Tribunal
1. This application is filed in the form and a copy of the C.P. of R. No. 246/2000 is deposited with the I.P.O. B.D. No. 502409 Dated 4.9.2000 My 8/10/2000	22.9.00	Present : The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman. Heard Mr G.K. Bhattacharya, learned counsel for the applicant and Mr J.L. Sarkar, learned Railway standing counsel for the respondents. Application is admitted. Issue usual notices. List on 16.11.2000 for written statement and further orders.
2. Notice prepared and sent to D/S. for serving the respondents No. 1 to 7 vice D.O. No. 2132 to 2138 dtd 9/10/2000	pg 16.11.00	Vice-Chairman Four weeks time is granted to the respondents to file written statement on the prayer of Railway counsel. List on 19.12.2000 for order.
3. Dated 24/5/2002	pg 16.11.	Vice-Chairman

Notes of the Registry	Date	Order of the Tribunal
<u>15-11-2000</u> ① Service report are still awaited.	19.12.00 20.12.00	On the prayer of learned counsel for the respondents four weeks time is allowed for filing of written statement. List on 15.1.01 for filing of written statement and further orders.
<u>20.11.2000</u> ② No. written statement has been filed.	16.1.01 1m	<i>Mr</i> Member Vice-Chairman
<u>20.11.2000</u> Memo of appearance filed by in Rly. Counsel	14.2.01 1m	List on 14.2.01 to enable the respondents to file written statement.
<u>20.11.00</u> Notice has been served on Respondent No. 2, 3, 5 & 6. 1, 4 & 7 are awaited.	18-12-00 no W.S. filed	<i>LL Usha</i> Member Vice-Chairman
<u>21/12/00</u> No. written Statement has been filed by the respondents.	1m	
<u>12-1-2000</u> Notice has been served on 1, 2, 3, 5 & 6. 4 & 7 are awaited		
<u>16/01/01</u> No. written Statement has been filed.		

3/4
13.2.01

OA 246/2001

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Notes of the Registry	Date	Order of the Tribunal
No. Wts has been filed. <u>25/4/01</u>	19.3.01	List on 26.4.01 to enable the respondents to file written statement. C.U.Sharma Member Vice-Chairman
No. written statement has been filed. <u>26/6/01</u>	26.4.01	List on 30.5.01 to enable the respondents to file written statement. C.U.Sharma Member Vice-Chairman
No. Wts has been filed. <u>22.8.01</u>	30.5.01	No written statement has so far filed by the respondents. Further four weeks time is given to the respondents for filing of written statement. List for orders on 27-6-2001. Vice-Chairman
No. Wts has been filed. <u>23.8.01</u>	27.6.01	Mr. S. Sarma, learned counsel for the respondents, prays for and granted four weeks and ^{no} more time to file written statement. The applicant will have two weeks thereafter to file rejoinder. List on 28-8-2001 for order. C.U.Sharma Member Vice-Chairman
	23.8.01	List this matter for hearing. The respondents may, however, file written statement within 3 weeks. List on 27/9/01 for hearing. Vice-Chairman
<u>15.11.2001</u> Copy of the Judgment has been sent to the D/ce. for issuing the same to the applicant as well as to the Rly. Counsel KSI	27.9.01	Heard counsel for the parties. Hearing concluded, judgment delivered in open court, kept in separate sheets. The application is dismissed in terms of the order. No order as to costs. C.U.Sharma Member Vice-Chairman

(3) 5/4 246/2000

4

Notes of the Registry

Date

Order of the Tribunal

16-3-01N/S to be issued
to the firm.16N/S has been
billed.21.8.0119.9.2001N/S on behalf
dependent submitted.22

N/S has been billed.

26.9.01

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 246 of 2000.

Date of Decision. 27.9.2001.

Shri Sukdeo Ram

Petitioner(s)

Mr. G. K. Bhattacharyya, Mr. G. N. Das
Mr. Prakash Sharma & Mr. B. Choudhury

Advocate for the
Petitioner(s)

Versus-

Union of India & Ors.

Respondent(s)

Mr. B. K. Sharma & Mr. S. Sarma.

Advocate for the
Respondent(s)

THE HON'BLE MR. JUSTICE D. N. CHOWDHURY, VICE CHAIRMAN.

THE HON'BLE MR. K. K. SHARMA, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble : Vice Chairman.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 246 of 2000.

Date of Order : This is the 27th Day of September, 2001.

HON'BLE MR JUSTICE D.N.CHOWDHURY, VICE CHAIRMAN

HON'BLE MR K.K.SHARMA, ADMINISTRATIVE MEMBER

Shri Sukdeo Ram
S/O Late Rameswar Ram
Presently serving as Khalasi
Helper (Diesel) under the
Administrative Control of the
Senior Section Engineer (Diesel)
N.F.Railway, Lumding. Applicant.

By Advocate Mr.G.K.Bhattacharyya, Mr.G.N.Das
Mr.Prakash Sharma & Mr.B.Choudhury.

- Vs -

1. Union of India
(Represented by the Secretary
Ministry of Railways, Govt. of India
New Delhi.

2. General Manager
N.F.Railway
Maligaon, Guwahati.

3. Divisional Railway Manager
N.F.Railway
Lumding.

4. Divisional Railway Manager (P)
N.F.Railway
Lumding.

5. Senior Divisional Mechanical
Engineer (Diesel)
N.F.Railway
Lumding.

6. Senior Section Engineer (Diesel)
N.F.Railway
Lumding.

7. Assistant Mechanical Engineer (Diesel)
N.F.Railway
Lumding. Respondents.

By Mr. B.K.Sharma, Mr.S.Sarma.

ORDER

CHOWDHURY J.(V.C.) :

By an order dated 21.6.99 the applicant who happened to be a Motor Driver-III was reverted to the lower post of Khalasi Helper at a fixed pay of Rs 2910/- in the ^{scale} of Rs 2650-4000 for a

period of two years with cumulative effect from 21.6.99.

2. Mr.D.Choudhury on behalf of Mr.G.K.Bhattacharyya Sr. learned/counsel for the applicant strenuously argued that the applicant was denied a fair enquiry, which caused miscarriage of justice. Mr.Choudhury also submitted that the findings of the Disciplinary Authority are patently perverse.

3. We have also heard Mr.S.Sarma, learned counsel appearing for the respondents. Mr.Sarma stated that the punishment meted out to the applicant was after holding a proper enquiry, which was apparently just and fair.

5. We have given our anxious consideration to the matter. Though we find some merit in the contention of Mr. Choudhury that in order to defend his case the applicant should have given a fair opportunity to cross-examine the only witness examined by the department, but nonetheless looking to the facts and circumstances of the case in its entirety, we do not find that any miscarriage of justice have been caused to the applicant.

5. On consideration of the facts and circumstances and the lapses of the authority, we are not inclined to intervene in the matter at this stage.

The application is accordingly dismissed.

There shall, however, be no order as to costs.

K.K.Sharma
(K.K.SHARMA)
ADMINISTRATIVE MEMBER

[Signature]
(D.N.CHOUDHURY)
VICE CHAIRMAN

Central Administrative Tribunal
Guwahati Bench

3 AUG 2000

Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH GUWAHATI.

(An application U/s 19 of the Administrative Tribunals Act, 1985).

O. A. NO. 246 12000.

Shri Sukdeo Ram.

... Applicant.

-Versus-

Union of India and others.

... Respondents.

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Filed by :-

(Advocate)

Filed by
Prakash Sarma
Advocate
3.8.2000

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH GUWAHATI.

(An application U/S 19 of the Administrative Tribunals Act, 1985).

O. A. NO. 246 /2000 .

Shri Sukdeo Ram

Son of Late Rameswar Ram

Presently serving as Khalasi

Helper (Diesel) under the
administrative Control of the
Senior Section Engineer(Diesel),
N.F.Railway, Lumding .

... Applicant .

-Versus -

1. Union of India

(Represented by the Secretary ,
Ministry of Railways, Govt. of
India, New Delhi).

2. General Manager ,

N.F. Railway ,
Maligaon, Guwahati .

3. Divisional Railway Manager,

N.F. Railway, Lumding .

4. Divisional Railway Manager (P),

N.F. Railway, Lumding .

5. Senior Divisional Mechanical

Engineer (Diesel),

N.F.Railway, Lumding .

contd....

SUKDEORAM

2.

6. Senior Section Engineer (Diesel)

N.F. Railway, Lumding .

7. Assistant Mechanical Engineer(Diesel)

N.F. Railway, Lumding .

.... Respondents.

1: PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE :-

I) Order dated 21.6.99 passed by the Sr. Divisional Mechanical Engineer (Diesel), N.F. Railway, Lumding (Respondent No.5) , as communicated in his office memorandum No. M-10/LM/1/DSL/Major/37/98 dated 21.6.99 , whereby the penalty of reduction to the lower post of Khalasi Helper from the post of Mechanical Driver ,Grade-III with cumulative effect from 21.6.99 for a period of 2(Two) years at a fixed pay of Rs. 2910/- P.M. in the scale of pay of Rs. 2650-4000/- after inflagrant violation of the prescribed procedure and the principles of Natural Justice while conducting the Disciplinary Proceedings as provided in Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968 .

II) Illegal and arbitrary action of the Divisional Railway Manager, N.F.Railway,Lumding (Respondent No. 3) in summarily rejecting the appeal preferred by the applicant in violation of the prescribed Rule .

contd...

3.

2 : JURISDICTION OF THE TRIBUNAL :-

The applicant declare that the subject-matter of the order against which ^{he} wants redressal is within the jurisdiction of the Tribunal .

3 : LIMITATION :-

The applicant further declare that the application is within the limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4 : FACTS OF THE CASE :-

1) That the applicant initially joined the N.F.Railway at Lumding on 20.11.88 as Khalasi Helper. He was promoted to the rank of Motor Driver, Grade-III on 22.11.96 and he joined his duties as Driver. Since the date of his joining service, the applicant had been discharging his duties sincerely, honestly and to the best of his ability and there was no occasion when he incurred the displeasure of his superiors at any point of time .

2) That, thereafter, the applicant was suddenly placed under suspension with effect from 7 A.M. of 9.12.98 by the Senior Section Engineer (Diesel), Lumding vide his office memo No. DSL/2/CS dated 9.12.98 without assigning any reason. A copy of the said suspension order was endorsed by the Respondent No. 6 to the Senior D.M.E., (Diesel) Lumding with a request to issue formal suspension order .

contd...

S. Ram

Copy of the said order dated 9.12.98 is annexed herewith and marked as Annexure-I.

3) That the Respondent No.6, by his office memorandum No. DSL/2/CS dated 9.12.98 addressed to the Sr. D.M.E. (D), Lumding (Respondent No.5) reported that the applicant was booked to deliver scrap materials to the Deputy Controller of Stores (DCOS in short), Pandu vide advice note No. 35260081 and 35260082 dated 1.12.98 loaded in truck No. AS-02-7763. It was further reported that the applicant left Lumding on 2.12.98 at about 8 A.M. but he had neither reported to the DCOS, Pandu till 4.12.98 nor he had sent any intimation to the authorities. It was alleged that the applicant had not performed any substantial work with effect from 3.12.98 to 4.12.98 which amounted to gross negligence of duty. It was also reported that it subsequently came to notice that the applicant and one Ratan Das, Diesel Khalasi reached Pandu at 5 A.M. of 5.12.98 (as per statement given by Shri Ratan Das) and deposited the scrap materials to the Deputy Controller of Stores, Pandu and collected paints and tumbler glass on 5.12.98.

Copy of the said memorandum dated 9.12.98 is annexed herewith and marked as Annexure-II.

4) That the Assistant Mechanical Engineer, Diesel, Lumding (Respondent No.7), by his office order No. M/10/LM/1/DSL/Major/37/98 dated 10.12.98, issued the

contd...

suspension order in the prescribed form placing the applicant under suspension with effect from 7 A.M. of 9.12.98.

Copy of the said order dated 10.12.98 is annexed herewith and marked as Annexure-III.

5) That the Assistant Mechanical Engineer, Diesel/II/Lumding, (Respondent No.7) , by his memorandum No. M/10/LM/1/DSL/Major/37/98 dated 12.12.98, issued a charge sheet, as provided in Rule 9 of the Rules, to the effect that an enquiry was proposed to be held against the applicant on the basis of some articles of charges levelled therein. The articles of charges, imputation of misconduct or misbehaviour, list of documents by which and the list of witnesses by whom the charges levelled against the applicant were going to be sustained were also annexed therein. The applicant was directed to submit his written statement in defence within 10 days of the receipt of the charge memorandum .

Copy of the said charge memorandum dated 12.12.98 is annexed herewith and marked as Annexure- IV.

6) That, on 23.12.98, the applicant submitted a representation/written statement in defence to the Respondent No.7 explaining the circumstances under which the delay was caused in arriving at Pandu. It was specifically pointed out that the vehicle started

contd...

developing some engine troubles on way to Pandu for which he had to halt at various places between Lumding and Pandu. All-out efforts were made to continue the journey by repairing the vehicle himself. Before reaching Pandu, the applicant got his truck examined in Ramakrishna Engineering Works at Maligaon and after examining the vehicle, the mechanic in the Workshop opinioned that the vehicle developed starting trouble due to the battery and other defects were also pointed out. After explaining the entire examination, the applicant could not reach in due time due to mechanical defects of the vehicle, the applicant prayed that the proceeding be closed/dropped at that stage.

Copy of the said written statement dated 23.12.98 is annexed herewith and marked as Annexure- V.

7) That the Respondent No. 7, by his office order No. M-10/LM/1/DSL/Major/37/98 dated 1.1.99, revoked the order of suspension dated 10.12.98 with effect from 1.1.99. The copies of that order dated 1.1.99 were also endorsed to the Respondents No. 4 and 6 for taking necessary action.

Copy of the said order dated 1.1.99 is annexed herewith and marked as Annexure- VI.

8) That the Respondent No. 7, by his order No. M-10/LM/1/DSL/Major/37/98/49 dated 11.1.99, appointed

contd...

Shri A.K. Chakraborty, LI/DSL/LMG as the Enquiry Officer to enquire into the charges initiated against the applicant.

9) That the applicant begs to state and submit that the Enquiry Officer fixed 22.2.99 as the final date of hearing. As no Presenting Officer was appointed by the Disciplinary Authority, the Enquiry Officer, discharged dual functions, namely, as a Judge (Enquiry Officer) and as Prosecutor (Presenting Officer). Before examining any witness on that day of hearing, the Enquiry Officer subjected the delinquent official (Present applicant) to cross examination during which he fully explained the facts and circumstances under which he could not arrive at Pandu with his truck in time. The cross examination of the applicant in the form of ~~and~~ questions and answers were reduced into writing by the Enquiry Officer.

10) That, thereafter, the applicant received memo No. M-10/LM/1/DSL/Major/37/98/504 dated 3.5.99 from the Respondent No. 7, whereby the Enquiry Report containing 4 (four) pages dated 22.2.99 was forwarded to the applicant for taking necessary action. It appeared from the Enquiry Report that the Enquiry Officer did not discuss anything on the assessment of the evidence in respect of the charges and various points raised by the applicant in his defence as required under the Rule. The Enquiry Officer also did not record his findings as to the guilt of the applicant with reasons thereon in violation of the prescribed procedure. The Enquiry Officer

contd...

did not record his own findings whether the charges levelled against the applicant were proved on evidence on record or not.

A copy of the said memorandum dated 3.5.99 alongwith the Enquiry Report dated 22.2.99 is annexed herewith and marked as Annexure-VII.

11) That, thereafter, the Senior Divisional Mechanical Engineer (Diesel), Lumding (Respondent No.5), by his office order No. M-10/LM/1/DSL/Major/37/98 dated 21.6.99, holding the charge to be proved against the applicant, imposed the penalty that the applicant be reduced to lower post of Khalasi Helper for a period of 2 (two) years with cumulative effect from 21.6.99 at a fixed pay of Rs. 2910/- P.M. in the scale of pay of Rs. 2650-4000/- .

It will be pertinent to point out that the Assistant Engineer, (Diesel) Lumding (Respondent No.7) is the competent Disciplinary Authority in respect of the applicant while the Respondent No.5, being the Appellate Authority, imposed the penalty, as stated above, on the applicant after holding that the charge was proved with a non-speaking order. The finding arrived ^{at} _{there} by the Enquiry Officer was not taken into consideration without recording any reason as to the guilt to the applicant.

Copy of the said order dated 21.6.99 is annexed herewith and marked as Annexure- VIII.

contd...

(12) That, being aggrieved, the applicant on 3.8.99, submitted a statutory appeal to the Divisional Railway Manager, N.F. Railway, Lumding (Respondent No. 3) as provided in Rule 18 of the Rules raising various points/arguments and praying for ~~exoneration~~ ^{exoneration} of the applicant by allowing the appeal best surprisingly, the Respondent No. 3, without following the procedure for the disposal of such statutory appeal, summarily rejected the appeal by a non-speaking order.

Copies of the appeal dated 3.8.99 and the memorandum dated 5.11.99 rejecting the appeal filed by the applicant are annexed herewith and marked as Annexure- IX and X respectively.

5 : GROUND FOR RELIEF WITH LEGAL PROVISIONS :-

I) For that the Disciplinary Authority is under legal obligation to observe procedural fairness in conducting such enquiries and in the instant case, such fairness in action is given a go by and as such the action of Disciplinary Authority is certainly violating of procedural safeguards and contrary to fair and just enquiry and therefore, the entire proceedings are bad in law and liable to be set aside.

II) For that, the Enquiry Officer has not substantially complied with the prescribed procedure contained in Rule- 9 of the Rules for conducting the instant enquiry and consequently such non-compliance has resulted in serious prejudice to the applicant

contd...

and in violation of constitutional safe-guards and in failure of justice and fair play and as such the impugned order of penalty on the basis of a legally invalid enquiry report is bad in law and liable to be set aside .

III) For that the findings and conclusions arrived at by the Disciplinary Authority holding the applicant guilty on the basis of a perverse and capricious enquiry report which has not specified that the charges levelled against the applicant have been proved are not warranted by evidence on record and as such the order of penalty imposed on the applicant is bad in law and liable to be set aside .

IV) For that, the Disciplinary Authority has failed to exercise proper application of mind to the report submitted by the Enquiry Officer and other records of the enquiry before imposition of the penalty on the applicant as required under the Rule and as such the impugned order of penalty is bad in law and liable to be set aside .

V) For that, while passing the impugned order of penalty, the Disciplinary Authority has not recorded its own findings with reasons on each article of charges levelled against the applicant after proper consideration of the enquiry report and other records of the enquiry as required under the Rules and as such the impugned order is bad in law and liable to be set aside .

VI) For that the Enquiry Officer has examined Shri Ratan Das, Diesel Khalasi as P.W. but surprisingly

contd...

he was not allowed to be cross examined by the applicant which caused serious prejudice to the defence of the applicant during the enquiry and as such the entire proceedings including the impugned order of penalty is bad in law and liable to be set aside on this ground along .

VII) For that, the authorities have failed to consider various contentions /pleas raised by the applicant in his written statement in defence and the appeal filed by him and as such the impugned order of penalty is bad in law and liable to be set aside .

VIII) For that, the Disciplinary Authority did not appoint any Presenting Officer to present the case before the Enquiry Officer on behalf of the authorities for which the Enquiry Officer has acted both as a Judge and a prosecutor and as such the entire proceedings including the order of penalty are vitiated as as unsustainable in law .

IX) For that, the Enquiry Officer committed a serious illegality by subjecting the applicant to cross examination by the Enquiry Officer even before examination of the witness flagrant violation of the prescribed procedure and as such the impugned order of penalty is bad in law and liable to be set aside .

X) For that, the Senior D.M.E. (Diesel), N.F. Railway, Lumding is not the Disciplinary Authority in respect of the applicant and as such he has exceeded his jurisdiction by signing the impugned order of penalty in violation of Railway Board Circular dated 20.12.67 and

contd...

as such the impugned order of penalty is bad in law and liable to be set aside .

XI) For that the penalty imposed on the applicant is grossly disproportionate to the nature of misconduct alleged and as such this is a fit case where this Hon'ble Tribunal will exercise jurisdiction and grant relief to the applicant .

XII) For that the appellate authority, while disposing ~~as~~ of the appeal filed by the applicant, is legally required to consider :-

(a) Whether the procedure laid down in the Rules has been complied with and if not, whether such non-compliance has resulted in violation of any provisions of the Constitution of India or in failure of justice ;

(b) Whether the findings of the Disciplinary Authority are warranted by the evidence on record

(c) Whether the penalty imposed is adequate or severe and then to pass, considering the attending facts and circumstances of the case and evidence on record a reasoned and speaking appellate order and that not having been done , the impugned order of penalty is bad in law and liable to be set aside .

XIII) For that the Appellate Authority, namely, DRM, Lumding (Respondent No. 3) committed a serious illegality by summarily rejecting the statutory appeal

contd...

filed by the applicant by passing the appellate order in a routine and mechanical way without showing independent application of mind and without recording any reason as to why the ~~petitioner~~ penalty was imposed on the applicant and as such the impugned order is bad in law and liable to be set aside.

XIV) For that, in any view of the matter, the impugned order of penalty imposed on the applicant is bad in law and liable to be set aside.

6 : DETAILS OF THE REMEDIES EXHAUSTED :-

The applicant has submitted an appeal to the Appellate Authority challenging the impugned order of penalty but the same has since been summarily rejected.

7 : MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT :-

The applicant further declare that they have not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any Court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

contd...

8: RELIEF SOUGHT :-

It is, therefore, prayed that your Lordships would be graciously pleased to admit this application, call for the entire records of the case, ask the respondents to show cause as to why the impugned order of penalty dated 21.6.99 (Annexure - VIII) should not be set aside and quashed and after perusing the causes shown, if any, and hearing the parties , set aside and quashed the impugned order of penalty dated 21.6.99 (Annexure- VIII) and the appellate order dated 5.11.99 (Annexure - X) and/or pass any other order/orders as Your Lordships may deem fit and proper..

And for this act of kindness, the applicant , as in duty bound, shall ever pray .

contd...

15.

9 : INTERIM ORDER, IF ANY, PRAYED FOR :-

NIL.

10 : Does not arise. The application will be presented personally by the Advocate of the applicant .

11: PARTICULARS OF THE POSTAL ORDER IN RESPECT OF THE APPLICATION FEE :-

I.P.O. NO. 2G- 502409 dated 3-8-2000 issued by the Guwahati Post Office payable at Guwahati is enclosed .

12: LIST OF ENCLOSURES :-

As stated in the Index .

contd....

VERIFICATION

I, Shri Sukdeo Ram , son of Late Rameswar Ram , aged about 35 years , presently serving as Khalasi Helper (Diesel) under the Administrative Control of the Senior Section Engineer(Diesel), N.F.Railway, Lumding , do, hereby verify that the statements made in paragraphs Nos. 1, 6, 9 and 12 — as true to my personal knowledge, and the statements made in paragraphs Nos. 2, 3, 4, 5, 7, 8, 10, 11 & 12 and believed to be true on legal advice, and that I have not suppressed any material fact. I, being one of the applicant , have been authorised by other applicant to sign this verification on behalf of them .

Place :- *Gauhati*

Date :- 3.8.2K.

SUKDEORAM
SIGNATURE

2/12/98 = *Dim b/w S. G. S. P.
Mehra.*

N. F. RAILWAY.

NO. DSL/2/CS

Office of the
SSE/D/LMG

Dated:- 9.12.98.

To

Shri Sukdeo Ram M/Driver. Gr. III

Sub :- Suspension.

You are put under suspension wef. 7.00 hrs. of 9.12.98.

Sd/- 9.12.98

Senior Section Engineer (Diesel)
N.F. Railway, Lumding .

Copy to :-

Sr. DME/D/LMG requested to kindly issue formal suspension
order against Shri Sukdeo Ram M/Driver Gr. III.

Seal

Sd/- SSE/D/LMG

N.F. Railway, Lumding .

Attested by
S. C. S.
Advocate

ANNEXURE-I

M.F.R.C.

(18)

2000/2/CS

1. 10. 2000
SPE/2/2000
T- 2/12/96

To : Shri Sukdeo Ram - R/o/DRG

Entire Suspension

You are put under suspension
wef 20th of 2/12/96.

Copy to : S.D.M.E./y.m.c required to K.R.D.
issue formal Suspension order against
Shri Sukdeo Ram, R/o/DRG

Tested to
J. R. Rao

M. R. Railways

ANNEXURE-II

(19)

Copy

dt 9.12.98

No.DSL/2/CS

From. SrSE/D/LMG

To SrDME/D/LMG.

Sub:- Neglegency

Shri Sukdeo. Ram, Motor Driver Gr. III was booked to deliver scrap materials to DCOS/PNO vide advice Not No. 35260081 and 35260082 dt 1.12.98, loads in Truck No. As-02-7763. Shri Sukdeo. Ram left Lunding on 2.12.98, at about 8.00 hrs. But Shri Ram has not reported to DCOS/PNO till 4.12.98 nor he sent any intimation to any corner.

This is a gross neglegency in duty as Shri Ram has not performed any substantial work wef. 3.12.98 to 4.12.98.

Subsequently it came to notice that Shri Ram, Sukdeo. Ram and Shri Ratan Das (DSL/Kh) reached DCOS/PNO at morning 5.00 hrs. (XH as per statement given by Shri Ratan Das) of 5.12.98, and deposited the scrap materials to DCOS/PNO and collected paints and Tumbler glass on 5.12.98.

Heated

2/12/98

महानगर राजनीति (माज्हा

प. सी. रेलवे: साप्तिंग

Asstt. Mech. Engineer (Dsl)

N.P. Railway, Lumbia

Sd/ 9/12/98.
Senior Section Engineer (Diesel)
N.F. Railway, Lumbia.

Arrested by
S. Garg
Associate

पू. रो. रेलवे / N. E. Railway

नो/G.174 व. A.

मानक फॉर्म नं. 1
STANDARD FORM NO. 1नियमित आदेश का मानक फॉर्म
Standard form of order of suspension(र. ए. (अनु. ए. ए. ए.) नियम 1968 का नियम 5 (1)
(Rule 5 (1) of the RS (D & A) Rules 1968

प्रकाशित नं. 10/1998/10/LM/1/DSL/Major/37/98

(रेल. प्रशासन का नाम).....

(Name of Railway Administration)..... N.E.R.

Office of the दिनांक

(जारी करने की स्थिति) SF/DMR/DSL/LMG Date 10.12.98

(Place of issue).....

ORDER

चूकि श्री/श्रीमती

(रेल कर्मचारी का नाम तथा पदनाम) वे विस्तृत अनुशासनिक कार्रवाई

अपेक्षित/विचाराधीन हैं।

Whereas a disciplinary proceeding against

Shri/Smt..... SUKDEO RAM, M/Driver-III

(Name and designation of the Railway servant) is under investigation/inquiry/.....

अतः अब रेल कर्मचारी (अनुशासन एवं अपील) नियम, 1968 के नियम 4/(51) के परन्तु द्वारा यह रेल राष्ट्रपति/रेलवे बोर्ड/अधीक्षिताधीन के (रेल कर्मचारी/अनुशासन एवं अपील नियम, 1968 के नाम स्थान I, II, III अनुसुचियों के अनुसार उन कर्मचारी को नियन्त्रित करने के लिए स्थान स्थान प्राप्तिकारी)/रेल कर्मचारी (अनुशासन एवं अपील) नियम, 1968 के नियम 5 के परन्तु उन्हें उपलिखित किसी प्राप्तिकारी द्वारा, उपर्युक्त श्री/श्रीमती (.....) द्वारा एवं दिनांक (.....) के दस्तावेज़ प्राप्त से नियमित किया जाता है।

Now, therefore the President/the Railway Board/the undersigned the authority competent to place the Railway servant under suspension in terms of the Schedules I, II and III appended to RS (D & A) Rules, 1968/ an authority mentioned in proviso to Rule 5 of the RS (D & A) Rules 1968, in exercise of the powers conferred by rule 4/provided to rule (51) of the (D & A) Rules, 1968, hereby places the said Shri/Smt..... Sukdeo Ram, M/Driver-III under

suspension with immediate effect from..... 7.00 hrs. of 9.12.98.

123 वृद्धि राम

Attested by
Yashwant
Advocate

गांव गढ़ गी आदेश दिया जाता है कि इस आदेश के साथ रहने के दौरान राष्ट्रपति श्री/श्रीमती
सुखदेव प्राधिकारी की पूर्ण-अनुमति आवंटित किये दिया भूषणालय से बाहर नहीं जायेंगे/जायेंगी।

It is further ordered that during the period this order shall remain in force, the s/o Shri/Smt....Sukdeo/Railway
Driver-III.....shall not leave his head quarters without obtaining the previous permission of the
competent authority.

* (राष्ट्रपति के आदेश द्वारा उनके और उनके नाम में)

* (By order and in the name of the President)

(हस्ताक्षर/Signature).....

(नाम/Name).....(S. N. Roy).....

निलम्बित करने वाले प्राधिकारी/SSE/DCI/LMG

Designation of the suspending authority.

(सचिव, रेलवे बोर्ड, जहाँ रेलवे रेलवे निलम्बन प्राधिकारी हो)

(Secretary-Railway Board, where Railway Board is the
suspending authority).

(जहाँ राष्ट्रपति निलम्बन प्राधिकारी हो, वहाँ राष्ट्रपति की ओर से प्रमाणित रूप
हेतु संविधान के अनुच्छेद 77 (2) के अधीन प्राधिकृत अधिकारी का पदनाम)

(Designation of the officer appointed under article 77 (2) of the
constitution to authenticate order on behalf of the President,
where the President is the suspending authority).

प्राप्तिक्रिया प्रेसित / Copy to :—

श्री/श्रीमती.....(निलम्बित रेल कर्मचारी का नाम लाप्ता
रहनाम) विलम्बन के दौरान देश भवित्वे से संबंधित आदेश अस्ति से जारी किये जायेंगे।

Shri/Smt....Sukdeo/Railway/Driver-III (Name and designation of the suspended Railway servant).
Orders regarding subsistence allowance admissible to him during the period of suspension will issue separately.

जहाँ आदेश स्पष्टता: राष्ट्रपति के नाम से ही दिया जाता है। Copy to; SSE/DCI/LMG for information in
which the order is expressed to be issued/In the name of President. 98.

Copy to DPM(P)/LMG, & for information & necessary action plz.

FORM OF CITA REQUEST
(Rule: 9 of the Rai
1968)

(STANDARD FORM NO. 5)

No. 140/124/1494/137/98

(Place of Issue) (Name of Railway Administration)
Original of SADMS (B) Dated 12.12.93
Gwalior Divisional U.D. S.I.

The president/Railway Board/undersigned propose(s) to hold an inquiry against Shri _____ under rule-7 of the Railway servants (Sustenance) appeal) Rules 1968. The substance of the imputations of misconduct or mis-behaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement or articles of charge (Annexure.I). A statement of the imputations of misconduct or mis-behaviour in support of each articles of charge is enclosed (Annexure:II) A list of documents by which and a list of witnesses by whom, the articles of the charge are proposed to be sustained are also enclosed (Annexure:III & IV). * Further copies of documents mentioned in the list of documents as per Annexure: III, are enclosed.

2. * Shri _____ 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 within 10. (Ten) days of receipt of this Memorandum. For this purpose he should contact ** SDRM (DSL)'s office immediately on receipt of this Memorandum.

3. Shri Sukdeo Ram is further informed that he may, if he so desired, take the assistance of any other RLY: servant an official or Rly. Trade Union (Who satisfies the requirement of rule:9(13) of the Railway servants (Discipline and Appeal) Rules:1958 and Note:1 and/or Note:2 thereunder as the case may be) for inspecting the documents & assisting him in presenting his case before the Inquiring Authority in the event of an oral inquiry being held. For this purpose, he should nominate one or more persons in order of preference. Before nominating the assisting Railway servant(s) of Railway Trade Union Official (s) Shri Sukdeo Ram should obtain an undertaking from the nominee(s) that he (they) is (are) willing to assist him during the disciplinary proceeding. The undertaking should also contain the particulars of other case(s) if any, in which the nominee(s) had already undertaken to assist & the undertaking should be furnished to the undersigned/General Manager & Sukdeo Ram Railway along with the nomination.

4. Shri _____ is hereby directed to submit to the undersigned (through General Manager _____ SSE|DSL|LM Railway) & a written statement of his defence, (which should reach the said General Manager), within 10 days of receipt of this Memorandum if he does not require to inspect any documents for the preparation of his defence, & within ten days after completion of inspection of documents if he desires to inspect documents, and also-

(a) To state whether he wishes to be heard in person and
(b) To furnish the names and addresses of the witness if any whom he wishes to call in support of his defence.

"Contd.

Detected by
J. J. C. and
AeroCam

5. Shri Sukdeo Ram is informed that an inquiry will be held only in respect of those articles of charge which are not admitted. He should, therefore, specifically admit or each articles of charge.

6. Shri Sukdeo Ram is further informed that if he does not submit his written statement of defence within the period specified in para 2 or does not appear in person before the inquiry authority or otherwise fails or refuses to comply with the provisions of rules 9 of the Railway servants (Discipline & Appeal) Rules 1968 on the order/direction issued in pursuance of the said Rule the inquiring authority may hold the inquiry ex parte.

7. The attention of Shri Sukdeo Ram is invited to Rule 20 of the Railway services (conduct) Rules 1968, under which no Rly servant shall bring or attempt to bring any political or other influence to bear upon any superior authority to further his interests 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 within these proceeding, it will be presumed that Shri Sukdeo Ram 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 Rly. services (conduct) Rules 1966.

8. The receipt of this Memorandum may be acknowledged.

Encl: 2 (Two) ~~Ex-100~~

By order and in the name of the President

S. N. Roy 12/11/58
Signature of the President (Rly. Board)

Name and designation of the competent authority:
S. N. Roy, M.A., B.A., LL.B.,
Asst. Secy. to the President, Rly. Board
(S. N. ROY)
AME/DSL/II/LMG

To: Shri Sukdeo Ram

Design: and Place:

① Copy to Shri Ex-100 (PSL)/176 (Name & Desig: of the leading authority) information.

② Strike out which ever is not applicable.

* To be deleted if copies are given/not given with the Memorandum as the case may be.

** Name of the authority (This would imply that whenever a case is referred to the Disciplinary authority by the investigating authority or any authority who are in the custody of the listed document or who would be arranging for inspection of the documents to enable this authority being mentioned in the draft memorandum).

③ Where the President is the Disciplinary authority.

X To be retained wherever President or the Rly. Board is the competent authority.

④ To be used where ever applicable See Rule 16(i) of the RS (DA) Rules 1968. Not to be inserted in the copy sent to the Rly. servant.

N.F.RAILWAY.
ANNEXURE TO STANDARD FORM NO. 5.

Memorandum of charge sheet under Rule 9 of the RS(D&A) Rules 1968.

Annexure(I)

Statement of articles of charge framed against Shri Sukdeo Ram, M/Driver-III

ARTICLES- I

That the said Shri Sukdeo Ram,

while functioning as M/Driver-III during the period 2-12-98 to 5-12-98,

(here enter definite and distinct articles of charge)

That the said Shri Sukdeo Ram, Motor Driver-III while driving the Rly. Truck No. AS-02-7763 Wof:- 2.12.98 on 5.12.98 had reached to DCOS/PNG EX. BSL/Shed/LMG with scrap materials after a lapse of three days and kept the Rly. Truck along with materials in unsafe places enroute.

ANNEXURE-II

Statement of imputations of mis-conduct or mis-behaviour, i.e., गमन विवर (गमन विवर) in support of the articles of charge framed against Shri Sukdeo Ram, Motor Driver-III 2-12-98

That the said Shri Sukdeo Ram while performing duty as Motor Driver-III was booked on 2-12-98 to Drive the Diesel Truck No. AS-02-7763 Pt. BSL/Shed/LMG to DCOS/PNG for delivering the Diesel Scrap Materials loaded in Truck to DCOS/PNG.

Accordingly Shri Ram started with Truck towards DCOS/PNG at 8.00 a.m of 2.12.98 & reached DCOS/PNG at 5.00 a.m of 5.12.98 i.e., he has taken time near about three days to reach to DCOS/PNG & halted at different places with Rly. Truck and scrap materials & did not inform to BSL/Shed/LMG anything about the running troubles of Truck or otherwise which tantamounts a serious offence being a Motor Driver.

2.12.98

5.12.98

२५. भारतीय रेलवे (रेलवे)
ग. सी. रेलवे अधिकारी
Asst. Mech. Inspector (Dr.)
N.F. Railway, London

ANNEXURE-III

List of documents by which the articles of charge framed against Shri Sukdeo Ram, M/Driver-III are proposed to be sustained.

1. SSE/DSL/LMG's L/NO. DSL/2/CS Dt. 9.12.98.

2. Statement dt. 11.12.98 of Shri Ratan Das, ^{12/12/98} ~~12/12/98~~

१२/१२/९८
दस्ताविकल दस्तावेज (डिजिटल)
प. सी. रेस्टो: लायरिंग
Asstt. Mech. Enggineer (Dsl)
N.P. Railway. Lumding

ANNEXURE-IV

List of witnesses by whom the articles of charge framed against Shri Sukdeo Ram, Motor Driver-III, are proposed to be sustained.

1. Shri Ratan Das, Diesel & Khalasi, Under SSE/DSL/LMG.

१२/१२/९८
दस्ताविकल दस्तावेज (डिजिटल)
प. सी. रेस्टो: लायरिंग
Asstt. Mech. Enggineer (Dsl)
N.P. Railway. Lumding

To
AMF(D)/LMG.
(Through SSE(D)/LMG)

Sub: Representation against chargeheet issued
vide your letter NO.EK/10/LM/ADSL/Major/37/98
dt. 12-12-98.

Respected Sir,

With profound respect and humble submission I beg
to lay before you the few lines for your kind
consideration, please.

That, sir I was booked on 2-12-98 to drive the
Diesel Truck Ex. LMG to DCOs/PNO, while I was
driving it was observed some trouble with the
truck and as a result I had to halt in different
places and repairing of the truck was done by my
own as per my experience.

That sir, finally when I failed for rectification
of the truck in the very early morning on
3/12/98, the truck was taken to Ramkrisna Engg. Works
at Maligaon to check up the truck, and some
defects were detected. The zerox copy of which is
attached herewith.

That sir, on that very day I proceeded for DCOs/PNO,
the person named Shri Ratan D. just after delivery
of the scrap left me and returned back to LMG.

That sir, on 7/12/98 one named Shri Rajat Kumar Dey
reported to (me) who was sent from LMG witnessed, the
difficulties with the truck.

That sir, however, by how I returned back to LMG
with risk.

Therefore it is my earnest request to your
honour to go through the actual fact and difficulties
I had to face enroute and hope that your kind heart
will exempt me from the charge brought against me.

For this act kindness I will remain
evergrateful to you.

Thanking you.

Yours faithfully.

SUKDEORAM

Dt. 23/12/98

Enc.: One certificate (sub rem)
of Ramkrisna
Engineering Works, Driver Od.III
Maligaon.

Tested by
Rakesh
Advocate

23/12/98
at 10 AM

Phone No. 571851

RAMAKRISHNA ENGINEERING WORKS .

(Automobile Engineers and order Suppliers)

MALIGAON GUWAHATI-781011 .

Date :- 15.12.98

To

The Sr. DME
LMG D/S/L Shadr .

Sir,

Your vehicle No. AS-02-7763 which is in Gauhati in our Workshop at 5.12.98 for official visit in that time we fained in vehicle trouble .

- 1) Battery trouble for starting problem .
- 2) Brack Compressor .
- 3) F.O.L.R. (fuel inject pump) problem .

So we, inquiry this in that time your Drive Sukdeo Ram Helper Ratan Das was present there vehicle was march at 10.30.

So you are take necessary reply to me .

Sd/- Ramakrishna Engineering Works

Salim Ali

15.12.98.

Arrested by
Police
Accuse

MR. AMRITESHWAR ENGINEERING WORKS

(Automobile Engineers and Order Suppliers)

MALIGAON GUWAHATI-781011

F. No. 8/ME

L.M.G. 2/5/2 shadow.

Date : 15-12-95

Your vehicle no. AS02/7763 which is in Garhali
in our workshop at 5/12/95 for official visit
in that time we found in vehicle trouble

1) Battery trouble for steering problem.
2) Back Compressor.

3) The 'P' (Fuel Inject Pump) Problem.

So, you may notice this in that time your Dealer Sankar Ram
Kheria Raton was present there.

Vehicle was ready at 13.30.

So you can take necessary steps to my

AS. AMRITESHWAR ENGINEERING WORKS

Siddhanta
15/12/95. CorrespondentAttested by
S. S. Chakraborty
Date: 15/12/95

(29)

ANNEXURE - VI

STANDARD FORM NO. 4

N. F. RAILWAY

G. 174.E

Standard Form of order for revocation of suspension order

(Rules 5 (3) (c) of RS (D&A) Rules 1968)

No. M-10/LM/1/DSL/Major/37/98.....

N.F.R.....(Name of the Administration)

Office of the Sr.DME/DSL/LMG
(Place of issue).....Dated.....1.1.99

ORDER

Whereas an order placing Shri/Smt...Sukdeo Ram, M/Dr. II (name and designation of Railway Servant) under suspension was made/was deemed to have been made by AME/DSL/II/LMG on....9.12.98.....

Now, therefore, the President/the Railway Board/the undersigned (the authority which made or is deemed to have made the order of suspension or any other authority to which that authority is subordi-nate) in exercise of the power conferred by clause (c) of sub-rule (3) of rule 5 of the RS (D&A) Rules, hereby revokes the said order of suspension with immediate effect,.....from.....1.1.99.....

(By order and in the name of the President)

(Signature).....

EF 99

(Name).....(S. N. Roy).....

AME/DSL/II/LMG

Designation of the authority making this order

(Secretary, Railway Board, where the order is made by the Railway Board)

Designation of the officer authorised under article 77(1) of the Constitution to authenticate orders on behalf of the President (where the order is made by the President).

Copy to—

Shri/Smt. Sukdeo Ram.....(name and designation of the suspended Railway Servant).
Motor Driver-III, Thro: SSE/DSL/LMG

Where the order is expressed to be made in the name of the President.

N. F. Ry. Press—1/89/9003/139—May 90—10,000 Form

Copy to: DRM(P), SSE/DSL/LMG, for information & N/action please.

Attested by
Jasen
Advocate

निलम्बन आदेश के प्रतिसंरक्षण के लिए आदेश का मानक फार्मूला
रेल सेवक (अनु० और अपी०) (नियम, 1968 का नियम 5 (६) (ग))

प०

(रेल प्रकाशन का नाम)

दिनांक

आदेश

अतः श्री अनु० और अपी० द्वारा दिनांक १०.०८.१९६८ (रेल कम्बिकारी का पदनाम) को निलम्बित करने का आदेश दिया गया।

अतः अनु० राष्ट्रपति/रेलवे वोर्ड/गिर्गाहस्ताधारी (यह प्राधिकारी जिसने निलम्बन आदेश दिया है या जिसके द्वारा दिया गया समझाया जाता है या कोई अन्य प्राधिकारी जिसका पह प्राधिकारी अधीनस्थ है), रेल सेवा (अनु० और अपी०) द्वारा प्रदत्त नियमों का प्रयोग करते हुए एवं उत्तद्वारा उत्तराधिकारी को तत्काल दिनांक से प्रति-संहित करते हैं।

(राष्ट्रपति के आदेश द्वारा और उनके नाम से)

(हस्ताधर)

(नाम)

आदेश देनेवाले प्राधिकारी का पदनाम सचीव, रेलवे वोर्ड यदि आदेश देनेवाले वोर्ड द्वारा दिया जाये।

यदि आदेश का राष्ट्रपति के नाम से दिया जाना चाहा तो दिया जाये (यदि आदेश राष्ट्रपति द्वारा दिया जाये तो प्राधिकृत अधिकारी का पदनाम जिसे संदिग्धान के अनुच्छेद 77 (२) के अंतर्गत राष्ट्रपति की ओर से आदेशों को विभिन्न अंगित करने का अधिकार दिया गया।)

श्री अनु० राष्ट्रपति/रेल कम्बिकारी का नाम और पदनाम

प्राधिकारी

(31) ANNEXURE-VII

N.F.R.

Office of the
Sr. DME/DSL/LMG
Dt. 3.5.99.

(Series)

No. N-10/LM/1/DSL/Emajor/37/98. /504

To,

Shri Sukdeo Ram,
Motor Driver-III,
Thro:- SSE/DSL/LMG.

Sub:- Action on enquiry report
"Show Cause Notice" - DAC-461.

Ref:- This office Major Memo. of
even No. 12.12.98. /

In connection with the above charge Memorandum and Inquiry Officer's Report Dt. 22.2.99, the Disciplinary Authority based on the report will take suitable decision thereon after considering the report. If you wish to make any representation on submission, you may do so in writing to the Disciplinary Authority within 15 days on receipt of this letter.

D.A./- Four Enquiry Reports.

(S. N. Roy)

AME/DSL/II/LMG

Signature of Disciplinary
Authority with Desig. & Seal

Arrested by
S. N. Roy
Signature

Proceedings and findings of DAR enquiry vide case no. M-10/LM/I/Ds1/Major/37/98 Dtd. 10.12.98 of Sri Sukdeo Ram, M/Driver III in connection with he delayed from 2.12.98 to 5.12.98 to reach from Ds1/Shed/LMG to DCOS/PNO with Rly. truck no. AS-02-7763 with scrap materials and kept the truck in unsafe places enroute.

Authority: Undersigned nominated as inquiry officer conduct this enquiry vide appointment no. M-10/LM/I/Ds1/Major/37/98 Dt. 11.1.99

Articles of Charge: Article-I

That the said Sri Sukdeo Ram M/Driver III while driving the Rly. truck no. AS-02-7763 w.e.f. 2.12.98 to 5.12.98 had reached to DCOS/PNO Ex Ds1/Shed/LMG with scrap material after lapse of three days and kept the Rly. truck along with materials in unsafe places enroute.

Annexure II

Statement of imputations of misconduct or misbehaviour support of the articles of charge framed against Sri Sukdeo Ram M/Driver III. That the said Sri Sukdeo Ram while performing duty as M/Driver III was booked on 2.12.98 to drive the Ds1.truck no. AS-02-7763 Ex Ds1/Shed/LMG to DCOS/PNO for delivering the Diesel scrap material loaded in truck to DCOS/PNO.

Accordingly Sri Ram started with truck towards DCOS/PNO at 08:00 A.M of 2.12.98 and reached DCOS/PNO at 05:00 A.M of 5.12.98 i.e., he has taken time near about three days to reach to DCOS/PNO & halted at different places with Rly. truck & scrap materials & did not inform to Ds1/Shed/LMG anything about the running troubles of truck or otherwise which tantamounts a serious offence being a motor driver.

Present:

1. Sri Sukdeo Ram, M/Driver III (Delinquent employee)
2. " Ratan Das, D/Kh. (Witness)
3. " A.K. Chakraborty, LI/Ds1/LMG (E.O.)
4. " Defence Counsel: Nil As per statement given in black & white by the accused.

Statement: Statement submitted by Sri Sukdeo Ram, M/Driver III as enclosed

History of the case:-

The said Sri Sukdeo Ram while performing duty as M/Driver III was booked on 2.12.98 to drive the Diesel truck no. AS-02-7763 Ex diesel shed/LMG to DCOS/PNO for delivering the Diesel scrap materials loaded in truck to DCOS/PNO along with Sri Ratan Das, D/Kh./LMG. Accordingly Sri Ram started with truck towards DCOS/PNO at 08:00 A.M on 2.12.98 & reached DCOS/PNO at 05:00 A.M of 5.12.98 i.e., he has taken time near about three days to reach DCOS/PNO & halted in different places with Rly. truck & scrap materials & did not inform to Ds1/Shed/LMG anythings about the running troubles of truck or anythings else.

Proceedings begin at 10:00 A.M of 22.2.99 in the chamber of LI/Ds1/LMG

The charged employee Sri Sukdeo Ram, M/Driver III has received the Major charge sheet vide no. M-10/LM/I/Ds1/Major/37/98 Dtd. 10.12.98 on 14.12.98 vide S.N/17 & submitted his defence on 23.12.98 vide S.N/22.

The Charged employee also intimated to submit the name of two other Co-worker who will assist, help & defend him during enquiry vide SN/23

(Signature)
E.S. 22-2-99
(19/12/2002)

Questions are asked by the I.O during DAR enquiry to the charged employee as per his statement as follows :-

Q.No.1 Do you admit the charge which has brought against you vide Memo. NO. M-10/LM/I/DSL/Major/37/98 Dtd. 10.12.98?

Ans. Yes.

Q.No.2 Are you agree to defend your case without defence counsel?

Ans. Yes.

Q.No.3 On 02-12-98 did you book to drive the Rly. truck No. AS-02-7763 Ex LMG D/Shed to DCOS/PNO & what date you reached at PNO?

Ans. Yes I drove the truck Ex LMG on 2.12.98 & reached at DCOS/PNO on 5.12.98.

Q.No.4 It is clear that you took time for 3(Three) days to reach Ex LMG/Dsl|Shed to DCOS/PNO but why?

Ans. As on 2.12.98 after starting from LMG I stopped the truck at Shankar Nagar for getdown Shri Rama Rao, Fitter Gr. I further it did not take self start. So it was started by the help of pushing of my helper Shri Ratan Das & Shri Rama Rao and others two public. Then again for the second time stopped the truck at Katiyatali Charalikat at about 14:15 Hrs. as to take our meal again it was started by the help of pushing for the 3rd time at about 16:30 Hrs. I stopped the truck at Thekeragury as to take tea. For the 4th time at about 18:30 Hrs. I stopped the truck at Dharamtul & started at 19:00 Hrs. & at 20:30 Hrs. I reached at Jagiroad & halted there for that night. On 3.12.98 At 9 Hrs. I started from Jagiroad and stopped at Sompur at about 11:15 Hrs. and started from there at about 14:30 Hrs. & arrived at Jorabat at about 16:15 Hrs. & compelled to halt there for that day due to traffic jam. On 4.12.98 I left the truck at 7:30 Hrs. from Jorabat & arrived near Bishpur at 16:30 Hrs. and halted there for that day. On 5.12.98 I started the truck at about 4:30 Hrs. & arrived PNO at 5:00 Hrs. of 5-12-98

Ans. No

Q.No.5 If it is correct that due to stoppage of the truck you could not start easily then why did you OFF the start of the truck?

Ans. As the fuel was defective so it was not possible to keep start on unmainted condition.

Q.No.6 When you faced the trouble then why did you not informed to your authority concern?

Ans. This is my mistake.

Q.No.7 Did you not know that you were performing a great responsible job but you is it not correct that you have done like a irresponsible person?

Ans. Yes I accept that I have done like a irresponsible person as at that time I failed my intellect power.

23/2/98 a 21/1
Signature of the employee
Dated 22.2.99

22.2.99
(L9/854/2 ms)

8932
49

Qus.⁸ Can you say normally how many times require to reach from LMG/Dsl/Shed to DCOS/PNO?

Ans. Normally it require 9.00 hrs. to reach DCOS/PNO
Ex. LMG/D/Shed.

Qus.⁹ If so then why did you delay from 02-12-98 to 05-12-98 to reach at DCOS/PNO?

Ans. I delayed due to defective of Fuel pump motor of truck and nut bolt loose of axle box which was tightened by myself.

Qus.¹⁰ It is seen that the causes of delayed which you have explained that you stopped the truck in different places and wasted time unnecessary is not it?

Ans. Due to sickness of myself I could not drive at a stress, So I took rest in different places. So I beg pardon for this.

23/12/98
Signature of the delinquent employee

Dt. 22.2.99

Rahat Ali
E.O
22.2.99
(L9/DSL/LMG)

Interrogation of Shri Ratan Das, D/Rn. who was booked to perform duty as helper with Sri Sukdeo Ram, D/Driver T/T in connection with delayed from 2.12.98 to 5.12.98 to reach from D/shed LMG to DCOS/PNO with Diesel truck NO. AS-02-7763 loaded with scrap materials.

Q.No.1. On 2.12.98 did you book as helper of Driver Sri Sukdeo Ram with D/shed AS-02-7763 Ex LMG D/shed to DCOS/PNO.

Ans. Yes.

Q.No.2 Can you say with details that why the truck delayed from 2.12.98 to 5.12.98 to reach at DCOS/PNO.

Ans. On 2.12.98 started from LMG at 8:00 Hrs. & reached at Shankar Nagar at where the truck stopped for the first time to get down fitter III Rama Rao but there the truck did not take self start, so started by pushing of my self with fitter Shri Rao & other two public, 2nd time Driver stopped the truck at Katiyatuli Charali & there he took alcohol resulted he was unbalanced to drive the truck & took rest on way for a few times again he proceeded but for the third time stopped at Thekeraguri where he took alcohol again. I protested him again and again but he did not listen to me. At there he was completely unbalanced and lost his sense also. So I threw water on his eyes after about two hours he got his sense and started the truck but again he stopped the truck for 30 mts. near paper mill of Jagiroad, further he started arrived Jagiroad and halted there for that night. On 3.12.98 the truck took start by self and started at 7:00 Hrs. & stopped before arrival Jorabat & took alcohol for which he was unbalanced to drive the truck and somehow he reached at Jorabat at about 15:00 Hrs. and halt there for that day i.e. 3.12.98 On morning of 4.12.98 when I told him to start but he replied me that I am unable to control the truck, So I will not proceed now. At about 16:00 Hrs. he started the truck & arrived near Dishpur at about 18:00 Hrs. & halted there for that night. On 5.12.98 started the truck from Dishpur at about 05:00 Hrs. and arrived DCOS/PNO at about 7:00 Hrs.

Q.No.3 When you saw that Driver was not in normal position to drive the truck, then why did you not report to your authority concern from any Rly. station or P.D.F phone.

Ans. As the truck did not stop near of any Rly. station more over P.D.F phone no. was not in my knowledge.

Q.No.4 Is it correct that the truck did not take self start?

Ans. At Shankar Nagar & Dishpur the truck did not take self start, other all places took self start.

Ratan Das

Signature of the witness

04.22.2.99

Chakrobarty

E.O

22.2.99

(19/02/99)

(A)

Kalka

(B)

Thekeraguri

(C)

Jorabat

36
NORTH EAST FRONTIER RAILWAY *Duty* N. E. G. - 174 J

Notice of imposition of penalty or reduction to a lower service, grade or post or to a lower time scale, or to a lower stage in a time-scale for specified period.

(Rule 9 of RS (DR) Rules- 1968)

-(Rule SR-21 under Rule 1715-R1)

No. 1410/131/1/DSL/Major/37/98.

Date 21.6.99.

To

Name...Shri Suddeo Ram.

Father's Name Late Rameshwar Ram Department Mech....(DSL)....

Designation Motor. Driver- III Date of appointment 20-11-83.

Ticket No. Scale of pay...Rs...3050...45.90/- (RP)...

Station Diesel Shed, Luning.

1. Your explanation dated 23-12-98 to the charge sheet dated 12-12-98 has not been accepted by A.E./DSL/II/LMG.

Your reply date NIL to the "Show Cause Notice" dated 3-5-99.

has also been considered by A.E./DSL/II/LMG and the following

charge (s) has/have been held to be proved against you:

That the said Sri Suddeo Ram, M/Driver-III while driving the Rly. Truck No. AS-02-7763 Wef:- 2.12.98 to 5.12.98 had reached to DCOF/PRO-Bx....DSL/Shed/LMG with scrap materials after a lances of three day's & kept the Rly. Truck along with materials in unsafe places enroute & did not inform to Diesel Shed/LMG anything about the running troubles of Truck or otherwise which tantamounts to serious offence being a Motor Driver & violates sub-Rules No. 3(i), (ii) & (iii) of Rly. Service Conduct Rules '68.

2. You are hereby informed that in accordance with the orders passed by A.E./DSL/II/LMG you are reduced to:

The lower post of Khalasi Helper in scale of Rs 2650 - 4000/- (RP)
 The lower grade of Rs.....
 The lower stage of Rs..... in your existing scale of pay of Rs.....% for a period of 2 (Two) years (C)..... months (t) until you are found fit, after a period of..... years..... months from the date of this order to be restored to the higher post/grade of..... in scale of Rs..... with cumulative effect Wef:- 21.6.99.

3. The above penalty shall not operate to postpone your future increment on restoration to your former post/service/scale of pay/stage in the existing scale of pay.

4. Party is under suspension wef:- 8.30 hrs. of 13.2.99 for the different charges framed against him vide this off(p.c.t.o.) Major Memo of even No. 12/13.5.99 which will continue. However, the reversion to the grade of Kha/Bp will take effect from 21.6.99.

Attested by
Sh. C. S.
 Advocate

45

Moy

2

4. You are also informed that on restoration to your former post/grade/time scale, your seniority will be fixed as follows :—

- (a) If the reduction is not to operate to postpone future increments, your seniority will be fixed in the higher service, grade or post or the higher time scale at what it would have been but for your reduction.
- (b) If the reduction is to operate to postpone future increments your seniority will be fixed by giving credit for the period of service rendered by you in the higher service, grade or post or higher time scale prior to your reduction.

5. (e) Your pay will be fixed at Rs. 2210/- and from the date of your reduction, w.e.f. :— 21.6.69.

Copy to: DRD(P), SSE/DSL/G/LMG, for information & necessary action please.

Signature.....

Designation Sr.DRE/DSL/LMG

Station Diesel Shed, Lumding.

I. M. 64: 1/1

Div. Block. Bagroo (1st)

W. R. Railway, Lumding.

- Score out whichever is inapplicable.
- This is applicable when restoration is automatic.
- This is applicable when restoration is not automatic.
- This is not applicable in cases of reduction to a lower stage in a time-scale of pay.
- This is not applicable in cases of reduction to a lower stage in a time-scale.

N.B.:—Please note the instructions below :—

1. An appeal against these orders lies to.....DRD/LMG.....(next immediate superior to the authority passing the order) within 45 day's on receipt of this order.
2. The appeal may be withheld by an authority not lower than the authority from whose order it is preferred it,

- (a) It is a case in which no appeal lies under the rules ;
- (b) It is not preferred within 45 day's of the date on which the appellant was informed of the order appealed against and no reasonable cause is shown for the delay ;
- (c) It does not comply with the various provisions and limitations stipulated in the rules.

To
Divisional Railway Manager
N. F. Rly. : Lumdinga .

Sir,

Sub :- Appeal under Rule 16 (ii) against penalty
of reduction in rank.

Ref :- Sr. DME/Diesel/LMG's NIP hearing No.
M-10/LM/1/DSL/Major/37/98 dt. 21-6-99.

Being aggrieved with the order of Sr. DME/Diesel/
LMG imposing penalty on me of reduction in rank from the post of
M/Driver-III to the post of Khalasi Helper in scale E. 2650-400/-
fixing pay in E. 2910/-, I submit this appeal before you. I submit
(a) Fact of the matter (b) Material statement and argument against
the order of penalty (c) Submission for your judicious considera-
tion please.

(a) Fact of the matter :

1. That I was served with a major memorandum of
charge by AME/Diesel/LMG vide No. M/10/LM/1/DSL/major/37/98 dated
12-12-98. The allegation brought against me in the aforesaid
charge memorandum as under :-

" That the said Shri Sukdeo Ram, Motor Driver- III
while driving the Rly. truck No. AS-02-7763 w.e.f.
2-12-98 to 5-12-98 had reached to DCOS/PNO EX.
DSL/shed/LMG with scrap materials after a lapse
of three days and kept the Rly. truck alongwith
materials in unsafe places enroute. "

That 2 documents and one witness was cited at
Annexure- III and IV of the charge memorandum to sustain the
charge.

2. That in response to the aforesaid charge memoran-
dum, I submitted my statement of defence vide my application
dated 23-12-98.

3. That AME/D/LMG, the Disciplinary Authority without
considering the statement of defence submitted by me appointed Sri
A. K. Chakraborty, LI/DSL/LMG as Enquiry Officer to enquire into
the charge.

4. That the Enquiry Officer fixed date of final
DAR inquiry on 22-2-99 without preliminary hearing.

5. That on the date of hearing on 22-2-99, the
Enquiry Officer started cross-examination of the charged official
and witness from the begining of the inquiry without producing
and hearing the prosecution case.

Contd... P/2

Attested by
J. Green
Advocate

6. That the enquiry officer draw the final proceedings and finding on 22-2-99 itself whereupon he had not hold or maintained the charge as proved in his findings.

7. That in this case AME/D/LMG was being the disciplinary authority communicated the copy of the proceedings and findings of enquiry officer vide his letter No. M-10/LM/1/DSL/major/37/98/504 dt. 3-5-99.

8. That although Sr. DME/D/LMG was Appellate authority in this case as per procedure, but Sr. DME/D/LMG vide his NIP No. M-10/LM/1/DSL/major/37/98 dt. 21-6-98 held the charge not proved and that too without any reasoned order. He had also not considered and taken the findings of the enquiry officer in his NIP nor quoted any reason for disagreement with the findings of the enquiry officer.

That although there was no charge for violation of any Service Conduct Rule, yet Sr. DME/D/LMO held in his NRP that charged official violated sub-rule No. 3. (1), (11) and (111) of Rly. service conduct Rules, 62.

That thus Sr.DME/D/LMG imposed penalty of reduction in rank on the charged official without mentioning whether or not on restoration of penalty charged official is entitled to have his own seniority.

1. That in terms of Sub-rule (14) of Rule 9 of Railway Servants(D&A) Rule, 1968, preliminary inquiry should be held within 20 days from the date of appointment of enquiry officer. But in this case no preliminary inquiry was held.

2. That in terms of Sub-rule (17) of Rule 9 of Railway Servants (D&A) Rule, 1968, on the date of inquiry oral and documentary evidence by which articles of charges are proposed to be proved, shall be produced by or on behalf of the disciplinary authority. The witnesses shall be examined by or on behalf of the presenting officer and cross-examined by or on behalf of the Railway servant.

Railway servant. But in the instant case no prosecution document and evidence were produced in the inquiry nor the charged official was allowed to cross-examine the prosecution witness. Instead, inquiry officer himself cross-examined the charged official as well as prosecution witness at the starting of the inquiry and the inquiry closed with this without affording any opportunity to cross-examine the witness.

Thus the above inquiry was done completely in violation of existing procedure of rule of inquiry where charged official was handicapped to defend himself.

3. That in terms of Clause (a) (1) of Sub-rule (9) of Rule 9 of Railway Servants (D&A) Rule, 1963, on receipt of the written statement of defence, the disciplinary authority shall consider the same and decide whether the inquiry should be proceeded with under this Rule or not. In terms of Rly. Board's letter No. E(D&A)64 RG 6-36 dt. 27-5-67, as soon as the charge sheet is issued the appointment of enquiry officer may be made, but inquiry should start only after consideration of defence.

But in the instant case, although the charged official submitted his written statement of defence dt. 23-12-98 but the disciplinary authority did not consider the same and decided to proceed with the inquiry and enquiry officer also fixed inquiry on 22-2-99 which does bear the stamp of fairness and also violative of existing rule.

4. That it is evidently proved from the enquiry report that enquiry officer had not hold the charge as proved in his report.

5. That in terms of sub-rule(5) of Rule 10 of Rly Servants (D&A) Rule, 1963, if the disciplinary authority having regard to the findings on all or any of the article of charges and on the basis of evidence adduced during inquiry is of the opinion that any of the penalties specified in clause (V) to (X) of Rule 6 should be imposed on the railway servant, it shall make an order imposing such penalty.

But in the instant case neither the disciplinary authority i.e. AME/D/LMG considered the inquiry report nor taken any action on inquiry report except communicating the same to the charged official.

6. That Sr. DME/D/LMG do not have any power, authority and jurisdiction to impose penalty on the charged official in terms of Rly. Board's order No. E(D&A)67 RG 6-35 dt. 20-12-67 as he was not disciplinary authority in this case.

7. That there is no existance of Railway service conduct Rule 1966 mentioned by Sr.DME/D/LMG in his NIP dt. 21-6-99 which alleged to have been violated by the charged official.

8. That although the charge could not be proved in the inquiry, yet Sr. DME/D/LMG imposed no penalty of reduction in rank without taking the inquiry report into account.

9. That Sr.DME/D/LMG in his penalty order neither discussed the evidence nor recorded any reason to ~~make~~ reach the conclusion of guilt which is a mandatory provision of Rule.

6)

Submission

In view of the foregoing, I beseech you to be kind enough to consider the magnitude of injustice passed on the charged official in complete violation of principles of natural justice and reasonable opportunity within the meaning of Article 311(2) of the Constitution of India and brush ~~against~~ ^{against} and quash the order of penalty of reduction in rank imposed by the Sr. DME/D/LMG on me. For this I shall remain ever grateful to you.

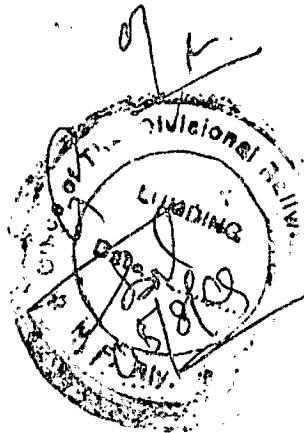
With regards,

Yours faithfully,

SUKDEORAM
(SUKDEO RAM)
M/Driver-III
now Kha.Helper
Diesel Shed/Lumding

Copy to Sr. DME/D/LMG for information and needful action please.

SUKDEORAM
(SUKDEO RAM)



R.
D.A.
5.8.97.

ANNEXURE-X

N.F.R

Office of the
Sr.DME/DSL/LMG
Dt. 5.11.99.

NNo. M-10/LM/1/DSL/Major/37/98

To:-

Shri Sukdeo Ram,
Ex. Motor Driver-III,
Now DSL/Kha/Hp,
Thro:- SSE/DSL/G/LMG.Sub:- Appeal against This office
NIP of even No. Dt. 21.6.99
addressed to DRM/LMG.

Ref:- Your appeal Dt. 3.8.99.

DRM/LMG, the appellate authority
of above mentioned DAR case has gone through
the case as well as your appeal very care-
fully & he has passed the following orders." Under the circumstances the
penalty imposed by Disciplinary Authority
is considered appropriate & the appeal is
rejected".

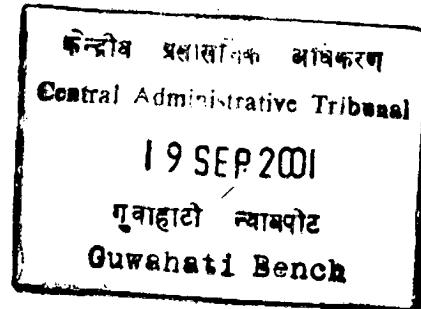
Please note.

Sr.DME/DSL/LMG

Copy to; DRM(P), SSE/DSL/G/LMG, for infor-
mation & N/action please.

Sr.DME/DSL/LMG.

Arrested by
J. G. Gopal



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

D.A No. 246/2000

Shri Sukdeo Ram

versus

Union of India & Ors.

IN THE MATTER OF

Written statement on behalf of
Respondents.

The answering Respondents beg to state as follows

1. That the answering Respondents have gone through the copy of the OA as served on them and have understood the contents thereof. Save and accept the statements which are specifically admitted herein below, other statements made in the OA are categorically denied.
2. That with regard to the statements made in paragraph 4.(1) of the OA, the answering Respondents state that the Applicant joined at Diesel Shed NF Railway, Lumding on 22.11.96 as Motor Driver Grade.III.
3. That with regard to the statements made in paragraphs 4.(2) to (5) of the OA, the answering Respondents do not admit anything contrary to the relevant records.
4. That with regard to the statements made in paragraph 4.(6) of the OA, the answering Respondents state that the Applicant submitted his written statement on

= 2 =

23.12.98, before the Respondent No. 7 (Disciplinary Authority). The Disciplinary Authority after considering the representation passed an order for holding an enquiry. Accordingly a letter No. M-10/LM/1/DSL/Major/37/98 dated 11/1/99 was issued by the Disciplinary Authority whereby Shri A.K. Chakraborty, Loco Inspector/Diesel, N.F. Railway, Lumding was appointed as Inquiry Officer to enquire into the charge framed against the Applicant. A copy of the said letter was also endorsed to the Applicant. The enquiry officer vide his letter No. M-10/LM/1/DSL/Major/37/98 Dt. 2.2.99 fixed the date of enquiry to be held on 22.2.99. The Applicant received the said letter of Inquiry Officer on 4.2.99 & attended the enquiry on 22.2.99 & expressed his willingness by his application dated 22.2.99 to defend his case on his own without any defence counsel.

5. That with regard to the statements made in paragraphs 4.(7) and (8) of the OA, the answering Respondents do not admit anything contrary to the relevant records.

6. That with regard to the statements made in paragraph 4(9) of the OA, the answering Respondents state that as has already been stated above, the Inquiry Officer fixed the date of enquiry on 22.2.99, not as a final date as averred by the Applicant. The facts in this issue is that, the Applicant & Shri Ratan Das, Diesel Khalasi Helper were deputed to deliver the scrap materials to Dy.COS/PANDU by a Railway Truck NO. AS-02-

= 3 =

7763. Accordingly, both of them left Lumding at 08.00 hours of 2.12.98 with the said truck which was in a good working condition. Usually, as per running time the truck should reach Pandu in the evening of 2.12.98. When the Dy.COS/PANDU was contacted about the arrival of the said truck, he replied that the said truck did not reach PANDU. But after a lapses of three days it was found that, the truck reached at 5.00 hours of 5.12.98 at PANDU. If the truck was with any problem, during that period, the Applicant should have informed to the Railway authority, but he did not do so. The Railway authorities were kept in complete dark about the two deputed staff & the truck with the scrap materials which was a serious mis-conduct on their part. In the enquiry held on 22.2.99, it revealed from the statement of Shri Ratan Das, Diesel Khalasi Helper, that, the Applicant had taken alcohol several times at several places on the way from Lumding to Pandu & for three days caused to the two staff with the loaded truck No. AS-02-7763 was intentional.

The delay for three days to reach Pandu with the loaded truck was due to negligence & intentional acts of the Applicant. Accordingly, the Inquiry Officer, furnished his findings holding the charge brought against the Applicant as proved after going through all the aspect involved.

7. That with regard to the statements made in paragraph 4(10) of the OA, the answering Respondents state that the Applicant, in a course of the enquiry proceedings

held on 22.2.99, clearly admitted the charge brought against him, in response to the question No. 1. The Inquiry Officer, in his enquiry report discussed in detail the various aspects, statement & records and drew his findings holding the charge leveled against him as proved. The Applicant did not submit any representation to the "Show cause notice" as sought from him vide letter No. M-10/LM/1/DSL/Major/37/98/584 dated 3.5.99.

8. That with regard to the statements made in paragraph 4(11) of the OA, the answering Respondent state that as per, Schedule of power, AME/DSL/II/LMG, the Disciplinary authority of this case is not empowered to revert staff in scale Rs. 3050-4500/- as he is not the appointing authority to this grade. Since there was no Sr. Scale Officer in Diesel Sheed/Lumding. Sr. DME/DSL/LMG, upheld the punishment & signed the NIP.

9. That with regard to the statements made in paragraph 4(12) of the OA, the answering Respondents state that since the notice of imposition of penalty was signed by Sr. DME/DSL, automatically DRM becomes the next appellate authority of this case & accordingly on getting the appeal of the Applicant dated 3.8.99 the case was put up to DRM/LMG on the schedule time. DRM/LMG. After considering the appeal and on the basis of the gravity of the case he passed the speaking order and the same was intimated to the Applicant.

10. That the answering Respondents submit that under the facts and circumstances stated above, the OA is not

= 5 =

maintainable and liable to be dismissed with costs. The answering Respondents crave leave of the Hon'ble Tribunal to produce the relevant documents and the files at the time of hearing of the case.

Verification . . .

= 6 =

VERIFICATION

I Shri A.K. NIGAM, aged about 47 years, son of Late S.P. GAURHA, resident of Maligaon, Guwahati-11, presently working as Chief Personnel Officer/Admin., N.F. Railway do hereby verify and state that the statement made in paragraphs 1-3 and 10 are true to my knowledge and those made in paragraph 4,5,6,7,8,9 being matters of records are true to my information derived therefrom, which I believe to be true and the rest of my humble submissions before this Hon'ble Tribunal. I am also authorised to competent to sign this verification on behalf of all the Respondents.

And I sign this verification on this 14th day of September 2001.


Deponent

(A)