

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 217/2001
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E.P/M.A No.

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SECTION OFFICER (Judl.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI.5 (FORM NO. 4)
(See Rule-42)

ORDER SHEET.

APPLICATION NO. 317/2000

Applicant(s) *Shri Jagin Bhargali*
Respondents(s) *Union of India and on.*
Advocate for Applicant(s) *Mr. K.P. Pathak*
Mr. S.K. Sharma
Advocate for Respondent(s): *C. Gse*

Notes of the Registry

DATE

ORDER OF THE TRIBUNAL

29.9.00

Present: Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

Heard Mr. K.P. Pathak, learned counsel for the applicant and Mr. B.K. Sharma learned counsel for Railway Administration.

Application is admitted. Call for records. Issue notice on the respondents. Pendency of this application shall not stand in the way of the respondents to exercise the power to review the order of suspension as per rules.

List on 16.11.00 for orders.

Vice-Chairman

lm

31/10/00

16.11.00

Heard Mr. Priya Kar, learned counsel appearing on behalf of the applicant and Mr. S. Sharma, on behalf of Mr. B.K. Sharma, learned Railway Standing Counsel.

Mr. Sharma has stated that the impugned order of suspension has been revoked and the applicant has also reinstated in service therefore the application has become infructuous. Accordingly the application is dismissed as infructuous.

Vice-Chairman

trd

16.11.

Form 300
D.P. of R.
deposited vide
IPOED No. 501934
Dated 27.9.2000

Bon

28/9/20

Pl. campy order
dtd 29.9.2000

23/10

Slts are received
11/11/00

Notice prepared and sent
to D/S for issuing the respon-
dents No 1 to 4 vide D/No
2268 W 2272 dtd 23/10/2000

12/10/00

16/11/2000

Copy of the order has
been sent to the D/S for
for issuing the order to the
L/Adm for 16 parts.

01/2000

15-11-2000

- ① Service report are still awaited.
- ② No. wls has been filed.

3M
15.11.

628 28 SEP 7M

GUWAHATI BENCH

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH
(An application under Section 19 of the Central Administrative Tribunal Act, 1985.)

O.A. NO. 317 OF 2000.

BETWEEN:

SRI GAGIN BHARALI

.....Applicant.

-VERSUS-

N.F. RAILWAY & ORS.

.....Respondents.

SUBJECT :

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Filed by:

Advocate

Filed by: The applicant
through Sanjeev B. Sharma
Advocate
27/9/00

Gagin Bharali

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH
(An application under Section 19 of the Central Administrative Tribunal Act, 1985.)

O.A.NO. 217 OF 2000

BETWEEN

1. Sri Gagin Bharali,
Son of Late Ram Charan Bharali,
Resident of Lachit Nagar, Guwahati,
Dist: Kamrup, Assam.
...Applicant.

AND

1. The General Manager,
N. F. Railway, Maligaon,
Guwahati, Kamrup.
 2. The General Manager(CON),
N.F. Railway, Maligaon,
Guwahati, Kamrup.
 3. The Divisional Signal Telecom. Engineer-I
TELE-CON/Maligaon,
N.F. Railway, Maligaon,
Guwahati, Kamrup.
 4. The Section Engineer,
TC/Test Room,
N.F. Railway, Maligaon,
Guwahati, Kamrup.
-Respondents..

DETAILS OF APPLICATION

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

(i) Order under Memo NO.N/51/10/TW(Loose) dated 19/7/2000 placing the applicant under suspension w.e.f. 28/5/2000 (Annexure-2, Page No. 19..)

(ii) Order under Memo No.N/51/10/TW(Loose)-29 dated 28/8/2000 rejecting applicant's prayer for revocation of suspension (Annexure-5, Page No. 22..).

2. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter of the instant application for which he wants redressal is well within the jurisdiction of the Hon'ble Tribunal.

3. LIMITATION:

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

4. FACTS OF THE CASE:-

4.1 That the applicant is a citizen of India and permanent resident of Guwahati, within the District of Kamrup, Assam and has been working as Tele Communication Maintainer /II/Construction in the Northeast Frontier Railway and as such he is entitled to all the rights and protection guaranteed under the Constitution of India and the laws framed thereunder.

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4.2 That the applicant states that on account of matrimonial discord, the wife of your petitioner lodged an F.I.R. before the Police on 8/4/2000 making therein certain false allegations of illtreatment against your petitioner and and his other family members. The Police registered a case being All Women P.S. Case No.13/2000 U/S 498 A against your petitioner, his brother and sister-in-law. That thereafter, your petitioner was arrested on 28/5/2000 and he remained in custody till 14/6/2000 on which date, the Hon'ble Gauhati High Court was pleased to release your petitioner on bail, holding that his further detention is unnecessary.

A copy of the aforesaid Order dated 14/6/2000 passed by the Hon'ble High Court is annexed herewith and marked as ANNEXURE-1.

4.3 That the applicant states that pursuant to the arrest of the applicant on 28/5/2000, the DSTE/TC/MLG (Respondent No.3) placed the applicant under suspension w.e.f. 28/5/2000 purportedly acting under Rule 5(2) of the Railway Servants (Discipline and Appeal) Rules, 1968 vide order under Memo No. N/51/10/T.W (loose) dated 19/7/2000.

A copy of the aforesaid order dated 19/7/2000 is annexed herewith and marked as ANNEXURE-2.

4.4 That the applicant states that as the applicant had already been released on bail by the Hon'ble Gauhati High Court and being desirous of resuming his duties on 21/7/2000 submitted a representation before the Respondent No.3, stating inter-alia therein, the actual facts of the case, as to how he had been implicated on false allegations and that the issue concerned was a purely private one which does not impinge upon his official duties and praying for revocation of the impugned suspension order.

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A copy of the aforesaid representation dated 21/7/2000 is annexed herewith and marked as ANNEXURE-3.

4.5 That the applicant states that the aforesaid representation of the applicant was referred by the Respondent No.3 to the Office of the G.M.(Con), N.F.Railway for expert opinion and the SPO (CON) for G.M (Con) N.F. Railway, by his communication dated 14/7/2000 bearing No.E/91/SS/CON/Pt. IV, inter-alia, advised the Respondent No.3 that in the instant case, on application of the suspended employee/applicant, the competent authority may review the suspension order, but the same would be subject to the result of the criminal case, while the matter of regularisation of the period of absence may be kept pending.

A copy of the aforesaid communication dated 14/7/2000 is annexed herewith and marked as ANNEXURE- 4 .

4.6 That thereafter, the Respondent No.2 intimated the applicant vide order dated 28/8/2000 through the SE/TC/Test Room that the revocation of suspension order may be considered subject to the result of the Criminal Case pending before the Court and that at present, his case could not be considered.

A copy of the Order dated 28/8/2000 is annexed herewith and marked as ANNEXURE-5.

4.7 That the applicant states that in similar circumstances, the authorities have revoked the suspension orders of other employees and allowed them to rejoin duty. For instance, one Sirazul Alam, CRI-II, N.F. Railway, Maligaon was placed under suspension vide order dated 1/4/1998 No. Dy. CMM/HQ/95(loose) due to detention in custody and pending criminal proceedings against him and the said order was revoked by another order vide No.DY.CMM/H1/95 (loose) dated

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12/6/1998 while the said criminal proceedings were still pending. In that view of the matter, the impugned decision of the Respondent No.3 refusing to review the suspension order of your petitioner is discriminatory and violative of his fundamental rights under Article 14 and 16 of the Constitution of India.

A copy of the aforesaid orders dated 1/4/1998 and 12/6/1998 are annexed herewith and marked as ANNEXURE-6.

4.8 That the applicant states that the Respondent Railways has a set of Rules known as "The Railway Servants (Discipline and Appeal) Rules 1968 which governs, inter-alia, the matter of suspension of Railway employees and there also exists a number of instructions and strict guidelines relating to manner and proceeding for placing and keeping an employee under suspension when such employee is detained in custody/released on bail and criminal proceedings are pending against him in any Court of law.

4.9 That as per the said instructions, it is the public interest that should be the guiding factor in deciding the question of placing or continuing an employee under suspension. Some of the relevant portions of the aforesaid Rules and instructions are quoted below:-

" 5. Suspension:

(1) A railway servant may be placed under suspension:

(a) Where a disciplinary proceeding against him is contemplated or is pending; or

(b) Where, in the opinion of the authority competent to place a railway servant under suspension, he has engaged himself in activities prejudicial to the interest of the

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security of the state; or

(c) Where a case against him in respect of any criminal offence, is under investigation, inquiry or trial.

(2) A railway servant shall be deemed to have been placed under suspension by an order of the competent authority:-

(a) With effect from the date of his detention, if he is detained in custody, whether on criminal charge or otherwise for a period exceeding forty-eight hours;

(b) With effect from the date of his conviction if, in the event of a conviction for an offence, he is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.

.....

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4.

(5) (a) An order of suspension made or deemed to have been made under this rule, shall continue to remain in force until it is modified or revoked by the authority competent to do so.

(b)

(c) An order of suspension made or deemed to have been made under this rule, may, at any time, be modified or revoked by the authority which made or is deemed to have made the order or any authority to which that authority is subordinate.

Factors accounting for suspension- The public interest should be the guiding factor in deciding the question of placing a government servant under suspension.

As and when criminal charges are framed by a competent court, the disciplinary authority should consider and decide the desirability of placing him under suspension in accordance with rules, if he is not already under suspension. The competent should also review the case from time to time, as per instructions on the subject and decide about the desirability of keeping him under suspension till the disposal of the case by the Court....[E(D&A) 81 RG6-29 dated 13-7-81,NR 7939]

REVOKING SUSPENSION

..... In any case all officers, who issue orders of suspension, should arrange to have all cases of suspension reviewed at least once a month to see if the employee can be put back to duty.[E (D & A) 64 RG 6-35 dated 10/12/64]

LIMITING NUMBER OF OFFICIALS UNDER SUSPENSION TO THE MINIMUM.

An official may be placed under suspension only in the following circumstances:

- (i) Where the continuance in office of the Government servant will prejudice investigation, trial or any inquiry (e.g., apprehended tampering with witnesses or documents);
- (ii) Where the continuance in office of the Government servant is likely to seriously subvert discipline in the office in which he is working;
- (iii) Where to continuance in office of the Government servant will be against wider public interest, e.g., if there

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is a public scandal and it is considered necessary to place the Government servant under suspension to demonstrate the policy of the Government to deal strictly with officers involved in such scandals, particularly corruption;

(iv) Where preliminary enquiry into allegations made has revealed a prima facie case justifying criminal or departmental proceedings which are likely to lead to his conviction and/or dismissal, removal or compulsory retirement from service; and

(v) Where the public servant is suspected to have engaged himself in activities prejudicial to the interest of the security of the State.

(b) Even, in the above circumstances, an official may be placed under suspension only in respect of misdemeanour of the following types:

(i) an offence of conduct invoking moral turpitude:

(ii) corruption, embezzlement or misappropriation of Government money, possessing of disproportionate assets, misuse of official powers for personal gains:

(iii) serious negligence and dereliction of duty resulting in considerable loss to Government;

(iv) desertion of duty; and

(v) refusal or deliberate failure to carry out written orders of supervisory officers.

(c)

(d) In case where an official is deemed to have been

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placed under suspension under Rule 10(2) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, as soon as the official is released from police custody the competent authority should consider the case to decide whether the continuance of the official under suspension is absolutely necessary or not. If the period of suspension has already exceeded the limit of three months and the competent authority does not find justification to revoke the suspension, in such case he should immediately make a report to the next higher authority giving detailed justification for continuing the official under suspension..... [D.G., P & T's letter No.201/43/76-DISC.II dated the 15th July,1976.]

Number of Employees under suspension- Number of suspended employees should be kept under control. For this some guidelines can be advised as under:

(1) No Railway servant should continue under suspension for more than 4 months without the case being referred to a higher Authority and without the specific approval of higher Authority.

(2)

(3)

(4) If the investigation is likely to take more time, it should be considered whether the Railway Servant should continue to remain under suspension or whether the suspension order should be revoked and the Railway servant permitted to resume duty. If the presence of the Railway Servant is considered detrimental to the collection of evidence, etc. or if he is likely to temper with the evidence, he may be transferred on revocation of the suspension orders.

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(6)

(7) The decision for continuing suspension or its revocation should be taken after positive consideration of the following:-

(a) The circumstances leading to the suspension of the employee.

(b) Whether it was necessary for the employee to have been placed under suspension during all the period involved and to further continue him under suspension.

(c) Whether it would be feasible to transfer the Railway Servant after revoking the suspension if the presence of the Railway Servant is detrimental to the D & AR proceedings/police cases."

The applicant craves leave of this Hon'ble Tribunal to produce, refer to and rely upon the other relevant portions of the aforesaid Railway servants (Discipline and Appeal) Rules, 1968 along with instructions and guidelines therein at the time of hearing of the instant application.

4.10 That it is respectfully submitted that it is a fit case where this Hon'ble Tribunal, may be pleased to intervene in the matter in an appropriate manner and grant the reliefs as prayed for by the petitioner. If the same is declined, the petitioner would suffer irreparable loss and injury.

4.11 That there is no other adequate, equally efficacious alternative remedy available and the reliefs sought for, if granted, would be just, proper and adequate.

4.12 That the applicant demanded justice and the same

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was denied to him.

4.13 That this application is filed bonafide and in the interest of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:

5.1 For that, the action of the Respondent No.2 in failing to consider the revocation of the impugned suspension order despite the clear advice of the GM(CON) through the SPC(con) to review the same is against the norms of service jurisprudence and fairplay in administrative action.

5.2 For that, the Public interest is not served in any way by keeping the applicant in continuous suspension as the allegations against him are totally unconnected to his official position. Rather, by keeping your petitioner under suspension, the Public Interest suffers due to wastage of public money as subsistence wage is to be paid without the employee rendering any service.

5.3 For that, the Criminal Proceedings instituted against the applicant on the basis of concocted allegations relate to a matter of matrimonial discord between husband and wife, a matter essentially falling in the private domain with no element of moral turpitude involved in the exercise of his official duties and as such, the refusal of the Respondent authorities to consider revocation of the impugned order of suspension is vindictive and malafide.

5.4 For that, revoking the impugned order of suspension and allowing the applicant to resume his duties will in no way hamper the investigation or proceedings or subvert discipline in the office as the matter is unconnected to his

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official position and as such, the applicant's continued suspension is not in the public interest and hence liable to be revoked.

5.5 For that, as per the aforesaid Rules, instructions, guidelines etc., the authorities issuing suspension orders are required to review the same at least once in a month to see if the employee can be put back to duty, but the action of the Respondent No.3 in forclosing the issue by refusing to review the case of the applicant before the result of the Criminal proceedings pending in Court has deprived the applicant of the reasonable opportunity to have his suspension order reviewed as per law. As such, the said action is unreasonable, arbitrary and in violation of the existing guidelines/instructions.

5.6 For that, the applicant has already spent more than three months under suspension (w.e.f. 28/5/2000) and as per Government instructions quoted hereinabove, if the competent authority does not find justification to revoke the suspension order, an immediate report to the next higher authority is required to be made, but to the best of the knowledge of the applicant no such report has been made by the Respondent No.3 after his impugned order refusing to consider revoking the suspension of the applicant. As such, the authorities have failed to observe mandatory procedure which has resulted in denial of justice to the applicant.

5.7 For that, in similar circumstances, the authorities have revoked the suspension orders of other employees and allowed them to rejoin duty while criminal proceedings were still pending against them. In that view of the matter, the impugned decision of the Respondent No.3 refusing to review the suspension order of your petitioner is discriminatory and violative of his fundamental rights under Article 14 and 16

of the Constitution of India.

5.8 For that, the Respondent No.3 before rejecting the application of the applicant for review of the suspension order, failed to form an opinion objectively on the consideration of all relevant material available, but rather acted without proper application of mind and against the expert advice (Annexure-) to revoke the impugned order of suspension.

5.9 For that, there being no material available on the record to suggest that in the circumstances of the case, the criminal acts attributed to the petitioner implied depravity and vileness of character amounting to moral turpitude, the action of the authorities in keeping the applicant under continued suspension is arbitrary, capricious and in violation of the Rules.

5.10. For that, the allegations made against the applicant in the criminal case do not make out any prima facie case under the stated penal sections, and is unlikely to lead to his conviction and as such there is no reasonable justification for the impugned action of the Respondents in keeping the applicant under continued suspension, more so when criminal proceedings are likely to take a long time to conclude.

5.11 For that, there has been an arbitrary exercise of power in the present case and the applicant has been subjected to an unfair treatment. The continuation of the impugned order of suspension is without any justification and totally uncalled for and has been passed malafide to victimise the writ petitioner. The same is illegal, arbitrary, unreasonable, whimsical, capricious and totally unfair. There is violation of Article 14 of the Constitution of India which warrants immediate interference by this Hon'ble Tribunal.

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5.12. For that, from the facts and circumstances of the case as stated above, it is apparent that the Respondent No.3 has not applied his mind to the relevant factors. In fact, there is non-application of mind to the relevant factors and the impugned order rejecting review of the suspension order was issued most mechanically, influenced by extraneous considerations. No reasonable person properly instructed in law could have passed the impugned order and continued with the same as has been done in the instant case. The impugned order and the continuance of the same can be justified only by reasons other than relevant and bonafide.

5.13 For that, the applicant is facing financial hardship and passing his days in severe mental agony. With his meagre subsistence allowance, the petitioner is finding it extremely difficult to maintain himself and his family. Suspension from service being a very serious matter, the same should be for as minimum a period as may only be necessary. No useful purpose would be served by continuing with the suspension of the petitioner any further. Suspension cannot be for an indefinite period. The authority cannot be vested with such total, arbitrary and unfettered power to place its employee under disability and duress for an indefinite duration. Such an action would be hit Articles 14 and 21 of the Constitution of India.

6. DETAILS OF REMEDIES EXHAUSTED:

The applicant declares that he has exhausted all the remedies available to him and there is no alternative remedy available to him.

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

The applicant further states that no application, writ

petition or suit regarding the grievances made in this instant application is pending before any Court or any other bench of this Hon'ble Tribunal.

8. RELIEFS SOUGHT FOR:

Under the facts and circumstances stated above, it is most respectfully prayed that your Lordships would be pleased to admit this petition, call for the records and upon hearing the parties and on perusal of the records be pleased to grant the following a reliefs :

(i) a direction and order setting aside and quashing the impugned orders under Memo No.N/51/10/TW(Loose) dated 19/7/2000 (Annexure-2) placing the applicant under suspension and order under Memo No.N/51/10/TW(Loose)-29 dated 28/8/2000 (Annexure-5) rejecting the applicant's prayer for review, both issued by the Respondent No. 3 (DSTE/TELE-CON/MLG). ✓

(ii) a direction to the Respondents to revoke, re-call, rescind and/or cancel the said impugned orders dated 19/7/2000 (Annexure-2) and 28/8/2000 (Annexure-5) and grant all consequential reliefs to the petitioner. ✓

(iii) a direction to the Respondents to forthwith reinstate the applicant on duty and to give full and complete relief to the applicant as prayed for.

(iv) cost of the application.

(v) Any other relief/reliefs that the applicant is entitled to in the facts and circumstances of the case.

9. INTERIM ORDER PRAYER FOR:

Pending disposal of the application, it is further prayed

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that Your Lordships may be pleased to direct the Respondents to review the impugned order of suspension dated 19/7/2000 and allow the petitioner to rejoin duty.

10.

The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O.

(i) I.P.O. NO. : 26 502939

(ii) Date : 27.9.2000

(iii) Payable at : Guwahati.

12. List of Enclosures:

As stated in the Index.

VERIFICATION.

Contd....p/

Bharal

V E R I F I C A T I O N

I, Gagin Bharali, S/o Late Ram Charan Bharali, aged about ³⁶ years, presently working as Tele Communication Maintainer /II/Construction in the Northeast Frontier Railway, resident of Lachit Nagar, Guwahati-7, in the district of Kamrup in the state of Assam do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs^{4.1}..... are true to my knowledge and those made in paragraphs^{4.2 to 4.13}..... being matter of records are true to my information.

I have not suppressed any material fact.

And I sign this verification on this ... th day of September, 2000 at Guwahati.

Gagin Bharali

(SRI GAGIN BHARALI)

(10)

No. 12/2000

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Office Notes, Reports,
Orders or proceeding with
Signature.

14.6.2000

Before :

The Hon'ble Mr. Justice P C Phukan

Heard Mr. K.P. Pathak, learned senior
counsel for the petitioner as well as Mr. Noor
Mohammad, learned PP, Assam. I have alsoperused the case diary. On completion of the
investigation the police has already submitted
charge sheet against the accused in this case.This court by order dated 17.5.2000 passed in
Bail Application No. 667 /2000 observed that
custodial interrogation is necessary insuch a case of alleged cruelty by the husband
and his relatives. Investigation is now over
there is now no question ofand as such no custodial interrogation is
necessary. The accused ~~xxxxxxxxxx~~ Sri GajenBharali and Monomohan Bharali ^{have been} are detained

in jail since 28.5.2000, and Their further

detention is not necessary. They are allowed

to go on bail of Rs.5,000/- each with one

surety of like amount to the satisfaction

of the learned CJM, Kamrup in c/w All Women

PS Case No.12/2000 u/s 498-A IPC.

Return the case diary.

This bail application stands disposed

of.

Self P.C. Phukan
Judge

Attested

Sfor

Certified to be true Copy

Dinur K. Choudhary

Superintendent (Copying)

GAUHATI HIGH COURT

Authorized U 376 Act of 1970

14/6/2000

14/6/2000

Order placing an Officer under Suspension when he is
Detained in Custody

(Rule 5(2) of Railway Servants (Discipline and Appeal)
Rules, 1968)

No. N/51/10/TW (Loose)

(Name of Railway Administration) N.F. Railway
(Place of issue) Malignon Date 19-07-2000

ORDER

Whereas a case against Shri Gajen Bharali, TCM/II/c
(name and designation of the Railway servant), in respect of a
criminal offence is under investigation.

And whereas the said Shri Gajen Bharali was detained
in custody on 28/05/2000 for a period exceeding forty-
eight hours.

Now, therefore, the said Shri Gajen Bharali is
deemed to have been suspended with effect from the date of detention
i.e. the 28/05/2000 in terms of Rule 5 (2) of Railway servants
(Discipline and Appeal) Rules, 1968 and shall remain under sus-
pension until further order.

[Signature]
Designation of the Suspending authority,
N. F. Riv. Malin

Copy to :-

✓ (1) Shri Gajen Bharali, TCM/II/c through SE/BG/Testroom/MLG
(name and designation of the
suspended Railway servant), Orders regarding subsistence allowance
admissible to him during the period of suspension will be issued
separately.

(2) SE/TELE CON/BG/Testroom/MLG for information pls.

Attested
[Signature]

[Signature]
Designation of the Suspending authority,
N. F. Riv. Malin

To
DSTE/TC/Con-I
Maligaon H.F. 1/4.

Through proper channel

Sub: Prayer for allowing to resume duty on revocation of suspension order.
Ref: DSTE/TC/Con-I's order No.N/51/10/TW (loose) dt.19.7.2000.

Sir,

With due respect and humble submission, I beg to state the following for your kind consideration and favourable orders please.

That I had been placed under suspension vide your order referred above, since 19.7.2000 in connection with a police case registered u/s 498A IPC and that I had been granted bail in the case by the Hon'ble Gauhati High Court on 14.6.2000 vide order of the High Court attached.

That the facts and circumstances of the unfortunate event are that my wife Juri Bujar Baruah alias Gayatri has some mental disorder and has been under treatment for her mental state since before marriage and after her marriage with me on 13.12.99, I took particular care to treat her by the best medical practitioner of the city and while her treatment was on she was induced by her parents to leave the matrimonial home in my absence on 30.3.2000, who in all probability was afraid of being unmasked at their role of marrying a sick and mentally retarded daughter with me.

That I had not the slightest intention of deserting my wife or subjecting her to any cruel treatment or allowing others to treat her with cruelty for any reason whatsoever; that her parents schemed to take her away so as to be able to lodge police complaint with concocted story which they did eventually in the said case.

That the investigation in the case is complete and my resumption of duty on your kind revocation of the said suspension order, would not in any way prejudice to the police proceedings now.

That the case is slated to take a long time to be disposed by the court and as such an innocent person like me who had been falsely implicated in a concocted complaint if allowed to suffer the hardship under suspension would be very unkind and devastating to me.

That the allegations in the case are only in the private domain and does not involve my official position and that nor I am involved in any moral turpitude as I was treating my wife with care, endearment and protective zeal contrary to the allegation put in under duress; that this is also amply proved by the initiative of my in-laws for arriving at reproachment in the case to which I am positively responding willing as I am to keep the matrimony in perfect sanctity.

Under the circumstances an in view of the statutory necessity of my suspension being reviewed once in a month at your kind end, I would humbly request you to sympathetically look in to the above facts and dispense your benevolent justice in allowing me to resume duty by revoking the said suspension order at an early date for which act of your kindness I would even pray.

~~Attested & signed~~
Attested & signed

Dated 2 July 2000

DA: Some documents &

medical investigations are
here with

Yours faithfully,

Gajin Bharali

(Gajin Bharali)

TCM/TC-II/MLG

14/6/2000

CONFIDENTIAL

N.F. RAILWAYOffice of the
General Manager(con)
Maligoan

Dated 14/7/2000

NO: E/91/SS/CON/Pt.IV

To
DSTE/TCMLGSub: Joining, LAP application and
Bail papers of Shri Gajen Bharali, Bharali,
TCM/C/II.Ref: Your letter No.N/51/10/MW
Dt.25/6/2000.

In reference to above, the following remarks are furnished for taking appropriate action from your end.

- (1) It is revealed from the Hon'ble High Court/GHY's Order dated 14/6/2000 that Shri Gajen Bharali, TCM/C/II was detained in Jail since 28/5/2000 and allowed on bail of Rs.5000/- with one surety of the same amount.
- (2) This is a case of Moral turpitude and falls under criminal charge. In terms of Rule No.5(1) of R.S.(D & A) Rules, 1968, a staff should be deemed in suspension by an order of the Competent Authority, if the staff concerned remains in Police Custody for a period exceeding forty-eight hours. In the instant case the staff concerned was in Jail custody for 16 days as he released on 14.6.2000.
- (3) Hence, the Competent Authority has to put the staff concerned under suspension. Thereafter, on the application, if any submitted by the concerned staff, the Competent Authority may consider to review the suspension order subject to the result of the criminal case which is under subjudice before the Hon'ble Court keeping pending the regularisation of the absence/leave period.

The leave application and a copy of Hon'ble High Court/GHY's order dt.14/6/2000 as received under your above mentioned letter is returned herewith for necessary action please. Further, it is requested to send any proposal or for any decision through a letter endorsing the relevant papers to this office and not in the file. This is as per order of the Competent Authority.

DA:5(Five)Sheets

(Signature)
(K.SAHA)
SPO(CON)
For General Manager(Con)

Attested
(Signature)

(Signature)
14/6/2000

. 22 .

ANNEX. 5

N.F.RLY.

A-5

OFFICE OF THE
DY.CSTE/TELE-CON/MLG.

NO. N/51/10/TW(Loose) - 29
Dated. 08.2000.

To.
SE/TC/TEST ROOM,
MALIGAON.

Sub:- An application of Shri Gajin Bharali, TCM/II/TC/MLG's
revocation of suspension order.

Ref:- Your letter No. SE/Con/Tele/Estt/2000/pt.II dtd.21-07-2000.

Revocation of suspension order may be considered subject to the
result of the criminal case which is under subjudice before the Hon'ble
court keeping no such result has yet been communicated to this end.
Hence, the application dt.21.07.2000. of Shri Gajin Bharali
TCM/II/CON/MLG, for revocation of suspension order is regretted. The
staff concerned may be advised accordingly.

Attested
for

R -
K
07/9/2000

✓
DSTE/TELE-CON/MLG.

Shri

23/7

मानक फार्म सं० 1
STANDARD FORM NO. 1

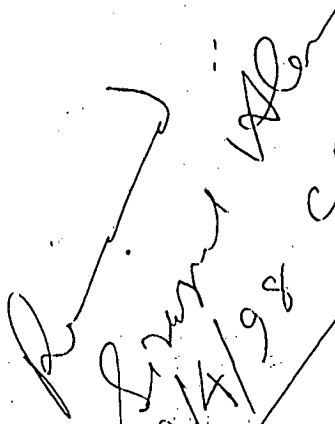
पू० सी० रेलवे/N. F. RAILWAY

नं०/G. 174 ए०/A

निलम्बन आदेश का मानक फार्म
Standard form of order of suspension(रे० क० (अनु० एवं अ०) नियम 1968 का नियम 5 (I)
(Rule 5(I) of the RS (D & A) Rules 1968)

नं०/No. CMM/HQ/ 95 (Loose)

(रेल प्रशासन का नाम) N.F.RLY.
(Name of Railway Administration)(जारी करने का स्थान) दिनांक
(Place of Issue) Date 1.4.98आदेश
ORDERपुंकि श्री/श्रीमती
(रेल कर्मचारी का नाम तथा पदनाम) के विरुद्ध अनुशासनिक
कार्रवाई अभिहित/विचारधीन है
Whereas a disciplinary proceeding against
Shri/Smt
(Name and designation of the Railway servant) is con-
templated/pending.पुंकि श्री/श्रीमती
(रेल कर्मचारी का नाम तथा पदनाम) के विरुद्ध फौजदारी अप-
राध की छानबीन, जांच की जा रही है / मुकदमा चल रहा है
Whereas a case against Shri/Smt. STRAZUL ALAM
C.R.I. (Name and designation of the Rail-
way servant) in respect of a criminal offence is under
investigation inquiry/trial.अतः अब रेल कर्मचारी (अनुशासन एवं अपराध) नियम, 1968 के नियम 4/(51) के परन्तु द्वारा प्रदत्त शक्तियों का प्रयोग करते
हुए राष्ट्रपति/रेलवे बोर्ड/अधीनस्थताधारी के (रेल कर्मचारी अनुशासन एवं अपराध नियम, 1968 के साथ संलग्न I, II, III/अनुमति) के
अनुसार रेल कर्मचारी को निलम्बित कर सकने वाला सक्षम प्राधिकारी/रेल कर्मचारी (अनुशासन एवं अपराध) नियम 1968 के
नियम 5 के परन्तु में उल्लिखित किसी प्राधिकारी द्वारा, अध्यागत श्री/श्रीमती
को एनरुदा रिपोर्ट के माध्यम से निलम्बित 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, in exercise of the powers conferred by rule 4/
proviso to rule (51) of the RS (D&A) Rules, 1968, hereby places the said Shri/Smt. STRAZUL ALAM C.R.I.
under suspension with immediate effect from 0.12.97 (date on which he was arrested)
to 10.3.98.Attested
Sfo


 02/4/98
 CRI

S. 10/10/10

जाये यह भी आदेश दिया जाता है कि इस आदेश के लागू रहने के दौरान उपर्युक्त श्री/श्रीमती
राशम प्राधिकारी की पूर्व-अनुमति प्राप्त किये बिना मुख्यालय से बाहर नहीं जायेंगे/जायेंगी।

It is further ordered that during the period this order shall remain in force, the said Shri/Ms. **SIRAZUL ALAM**,
shall not leave the 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) **Leena Sarma**

Dy. CMM/HQ

(Designation of the suspending authority)

(सचिव, रेलवे बोर्ड, जहाँ रेलवे बोर्ड की नियुक्त प्राधिकारी है)
(Secretary, Railway Board, where Railway Board is
the suspending authority).

(जहाँ राष्ट्रपति नियुक्त प्राधिकारी हो, वहाँ राष्ट्रपति की ओर
से प्रमाणिकरण हेतु सचिवान के अनुच्छेद 77 (2) के अधीन
प्राधिकृत अधिकारी का पदनाम)

(Designation of the officer authorised under article
77 (2) of the constitution to authenticate orders on
behalf of the president, where the President is the
Suspending authority).

प्रतिलिपि प्रेषित/Copy to:-

श्री/श्रीमती

(निलम्बित रेल कर्मचारी का नाम तथा पदनाम)

निलम्बन के दौरान देय निर्वाह मन्त्र से संबंधित आदेश अलग से जारी किये जायेंगे।

1. **Shri/Ms. SIRAZUL ALAM, CRI**

(name and designation of the suspended Railway ser-
vant). Orders regarding subsistence allowance admissible to him during the period of suspension will issue sepa-
rately.

2. **APO/ C for information and necessary action**

जहाँ आदेश राष्ट्रपति के नाम से हो दिया जाता है।
Where the order is expressed to be made in the name of President.

M. F. Rly. Pres-1/54/8603/104-May '88-15,000 Forms.

DY. CMM/HQ.

Attested
Sfor

25
Ref- Confidential.
ANNEX-7
A-7
STANDARD FORM NO.4.

Standard Form of Order for Revocation of Suspension Order
(Rule-5(5)(e) of RS(D&A) Rules, 1968.

No.Dy.CMM/HQ/95(1008E),

Dated: 12-6-98

RAILWAY-N.F. RAILWAY.

Place of issue-Maligaon, Guwahati-
17(Assam).

ORDER

Whereas an order placing Shri Sirasul Alam, CRI-II, CCM/Rates Office/N.F. Railway/Maligaon under suspension was made by Dy.CMM/HQ/N.F.Rly./Maligaon, vide No.Dy.CMM/HQ/95(Loose), dt 14-5-98.

Now, therefore, the undersigned(the authority) which made the order of suspension or any other authority to which that authority is subordinate) to exercise of the powers conferred by clause(c) of sub-rule(5) of the RS(D&A) Rule, 1968, HEREBY REVOKED the said order of suspension with immediate effect, i.e. effect from 12-6-1998.

Attested
Sfr

Signature:-

Name-Leena Sarma,

Designation of the authority

Making this Order-by.CCM/Rates.

Copy to:-

- ✓ 1. Shri Sirasul Alam, CRI-II- CCM/Rates Office,
N.F.Rly., Maligaon.

12.6.98
Dy.CCM/Rates.

.....

18/70