

50/100  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

X

(DESTRUCTION OF RECORD RULES, 1990)

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Disposed date- 27/09/2000

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~~16/09/2000~~  
SECTION OFFICER (Judl.)

## FORM NO. 4

( See Rule 42 )

**In The Central Administrative Tribunal**

GUWAHATI BENCH : GUWAHATI

## ORDER SHEET

APPLICATION NO. 55/2000

OF 199

Applicant(s) Sri Ananya Lal Dutta and ors.

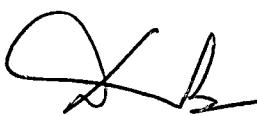
Respondent(s) Union of India and ors.

Advocate for Applicant(s) Mr. G. K. Bhattacharyya  
Mr. G. N. Das.

Advocate for Respondent(s) Mrs. N. Devi.

Rdy. - Advocate.

Notes of the Registry	Date	Order of the Tribunal
1. Service of notices prepared and sent to D. Section for issuing of the same to the respondents through <del>Regd.</del> Post with A.P.O. 2. File D. Nos. 508 & 509 dt. 21.2.2000 mk 3. <i>15/2/2000</i>	14.2.2000 <i>11/2/2000</i> <i>11/2/2000</i>	<p>Present : Hon'ble Mr. Justice D.N. Baruah, Vice-Chairman, and Mr. G.L. Sanglyine, Administrative Member.</p> <p>Heard Mr. G.K. Bhattacharyya, learned counsel for the applicant.</p> <p>Application is admitted.</p> <p>Mr. Bhattacharyya prays for interim order of stay of the impugned transfer order. Mr. J.L. Sarkar, learned Railway Advocate has no instruction in this regard except what is appearing in the record.</p> <p>Issue notice to show cause as to why the interim order shall not be granted. Notice is returnable by 13.3.2000.</p> <p>Meanwhile, the impugned transfer order dated 25.1.2000 shall remain suspended.</p> <p><i>62</i> Member</p>

  
 Vice-Chairman

Notes of the Registry	Date	Order of the Tribunal
Service report will still awaited.	13.3.2000	On the prayer of Mr.J.L.Sarkar learned counsel for the respondents two weeks time is allowed for filing of written statement. List on 27.3.00 for filing of written statement and further orders.
Copy of the order of 13.3.2000 issued to the counsel of the parties.	1m	Interim order dated. 14.2.2000 shall continue until further orders.
Notice duly served on R. No. 124.	1m	<i>JS</i> Member(J) <i>60</i> Member(A)
4.5.2000 WPS has not been filed.	27.3.00	Mr. G.N.Das, learned counsel for the applicants. No written statement has been submitted. None is present on behalf of the respondents. For the ends of justice the case is adjourned till 26.4.2000. List on 26.4.2000 for order.
by	trd	<i>60</i> Member
26.4.00	trd	None for the respondents. List on 5.5.00 alongwith M.P.No.149 of 2000.
	1m	<i>60</i> Member
	5.5.00	Mr J.L. Sarkar, learned Railway Counsel prays for time to file written statement. Prayer allowed. List for written statement and further orders on 2.6.00.
	nkm	<i>21/IV</i> Member
	2.6.00	There is no Bench today. Adjourn to 13.6.00

Notes of the Registry	Date	Order of the Tribunal
	13.6.00	Present: Hon'ble Mr D.C. Verma, Judicial Member Let this case be listed on 29.6.00 along- with M.P.No.149/2000.
12 - 7 - 2000 No. wbs has been filed.	nk	
	29.6.00	To be listed alongwith m/s 149/w on 13.7.00. 1070 la
	13.7.00	Present: Hon'ble Mr. S.Biswas, Administrative Member. On the prayer of Mr.J.L.Sarkar, learned counsel for the respondents two weeks time is allowed for filing of written statement. List on 8.8.00 for filing of written statement and further orders.
	1m	 s. Biswas Member(A)
	8.8.00	There is no hearing adjourned to 30.8.00. 1070 la
22-9-2000 written statement has been filed by the respondents.	30.8.00	There is no hearing adjourned to 27.9.00. 1070 la
	27.9.00	Present : Hon'ble Mr. Justice D.N.Chowdhury, Vice-Chairman Mr. G.K.Bhattacharyya, learned counsel for the applicant. A prayer has been on behalf of Mr. J.L.Sarkar, Railway Standing Counsel that he is sick. Accordingly the case is adjourned to 27.10.2000.
25 - 10 - 2000 wbs has been filed	trd	List on 27.10.2000.  Vice-Chairman

Notes of the Registry	Date	Order of the Tribunal
Written statement has been filed.	27.10.00	<p>Present: Hon'ble Mr. Justice D.N.Choudhury, Vice-Chairman.</p> <p>None appears for the applicant.</p> <p>Mr.J.L.Sarkar learned counsel for the respondents has prayed for disposal of the M.P.No.225 of 2000. List the matter in presence of learned counsel for the applicant. List on 21.11.00 for orders.</p> <p>Vice-Chairman</p>
20.11.2000	1m	
The case is ready for hearing.	21.11.00	<p>In view of the order passed in M.P. 149/2000 list on 12.12.00 for hearing.</p> <p>Vice-Chairman</p>
2.12.2000	pg	
The case is ready for hearing.	12-12.	<p>No S.B. Adjourned to 3.1.2001.</p> <p>B.M. A.K.S. 12-12</p>
23.12.2001	3.1.2001	<p>On the prayer of the counsel for the parties the case is adjourned to 18.1.2001 for hearing.</p> <p>Vice-Chairman</p>
23.12.2001	pg	
24.1.	6-1-	<p>M.S.B. Adjourned to 21.1.2001.</p> <p>M.S. A.K.S. 6-1.</p>
24.1.	8-2.	<p>Left over to 8/2/2001.</p> <p>M.S. A.K.S. 8-2</p>
24.3.	8-2.	<p>No S.B. Adjourned to 14.3.2001.</p> <p>M.S. A.K.S. 8-2</p>
		<p>On the prayer of <del>the</del> Counsel for the parties the case was adjourned to 4.4.2001.</p> <p>M.S. A.K.S. 4.4.2001</p>

Notes of the Registry	Date	Order of the Tribunal
	4.4.2001	On the prayer made on behalf of Mr J.L. Sarkar, learned Railway Counsel, the case is adjourned on the ground of illness of Mr Sarkar. List for hearing on 9.4.01.
	nkm	
	9.4.01	Heard counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets. The application is allowed in terms of the order. No order as to costs.
17.5.2001 Copy of the Judgm has been sent to the Spec. for sending the same to the applicant as well as to the L/bdr for the resps.	pg	Vice-Chairman

Notes of the Registry	Date	Order of the Tribunal

(6)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. No. .... 55 ..... of 2000.

DATE OF DECISION. .... 9-4-2001. ....

Sri Amrita Lal Dutta

PETITIONER(S)

S/Sri G.K.Bhattacharyya, G.N.Das

ADVOCATE FOR THE  
PETITIONER(S)

-VERSUS-

Union of India & Ors.

RESPONDENT(S)

Sri J.I.Sarkar, Railway standing counsel, - - - - -  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

ADVOCATE FOR THE  
RESPONDENT(S)

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

O.A. No. .... 55 ..... of

THE HON'BLE

DATE OF DECISION. ....

1. Whether Reporters of local papers may be allowed to see the  
judgment ?

PETITIONER(S)

2. To be referred to the Reporter or not ?

3. Whether their Lordships wish to see the fair copy of the  
judgment ?

ADVOCATE FOR THE  
RESPONDENT(S)

4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman.

RESPONDENT(S)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

ADVOCATE FOR THE  
RESPONDENT(S)

THE HON'BLE

O.A. No. .... 55 ..... of

THE HON'BLE

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judgment ?

ADVOCATE FOR THE  
RESPONDENT(S)

ADVOCATE FOR THE

RESPONDENT(S)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

THE HON. BLD

O.A. No. .... of

THE HON. BLD

.....

DATE OF DECISION.....

1. Whether Reporters of Jocat papers may be allowed to see the  
PETITIONER(S) *tragdument 3*

2. To be referring to the Reporter of Jocat

3. Whether paper perquisites may be seen the fair copy of the

ADVOCATE FOR THE

RESPONDENT(S) *tragdument 3*

*tragdument getaffersd by Hon. Pte*

RESPONDENT(S)

ADVOCATE FOR THE

RESPONDENT(S)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

THE HON. BLD

O.A. No. .... of

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RESPONDENT(S)

ADVOCATE FOR THE

RESPONDENT(S)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

THE HON. BLD

O.A. No. .... of

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 55 of 2000.

Date of Order : This the 9th Day of April, 2001.

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

1. Sri Amrita Lal Dutta and 4
2. Sri Maheswar Barman
3. Sri Naba Kumar Das
4. Sri Upen Chandra Barman,
5. Abdul Latif

. . . Applicants.

By Advocate S/Shri G.K.Bhattacharyya &  
G.N.Das.

- Versus -

Union of India & Ors. . . . Respondents.

By Sri J.L.Sarkar, Railway standing counsel.

O R D E R

CHOWDHURY J.(V.C)

The transfer and posting of the 5(five) Railway employees from New Guwahati Diesel Shed to Malda and Siliguri Diesel Shed alongwith the posts is assailed in this proceeding as arbitrary and discriminatory. These applicants were holding the posts of Diesel Mechanic Gr.III, Cell Fitter Gr.III and Diesel Electrical Gr.III etc. The applicants No.1 and 2 were served with the order dated 29.1.2000 by the Divisional Mechanical Engineer, Diesel, New Guwahati. By the aforesaid two orders it was indicated that the transfer of the said two applicants were made in terms of General Manager(P), Maligaon office order No.E/261/Sec(Con)/Mech. Maligaon dt. 25.1.2000. The full extract of the aforementioned order dated 25.1.2000 is re-produced below :

"The following staff of New Guwahati Diesel Shed are hereby transferred on their existing pay & scale to the Diesel Shed,

mentioned against each, on administrative interest alongwith the posts.

<u>SN</u>	<u>Name &amp; Desig.</u>	<u>Transferred to</u>
1.	Sh AL Dutta,D/Mech./Gr.III	MLDT D/Shed
2.	Sh.Maheswar Barman,Cell Fitter/Gr.III	- do -
3.	Sh.Abdul Latif,D/Elec.Gr.III	SGUJ D/Shed
4.	Sh. UC Barman,D/Elec.Gr.III	-do-
5.	Sh.B Naba Kr.Das,D/Mech./Gr.III	-do-

2. As their transfer is on administrative interest they are eligible for transfer grant,TA,Transfer Pass & joining time etc. However, their lien will be maintained in their respective Sheds.

3. This issues with the approval of CME & CPO."

According to applicant the said order was passed as a sequel to the event that took place on 11.8.99 at New Guwahati.

According to the applicants on 11.8.99 the Divisional Mechanical Engineer, New Guwahati found Md. Sattar, Ex-Welder in the verandah of his office room. The said Sattar went on retirement in June 1999 and came to the office of the respondent No.3 for expediting his pension case and for appointment of his son on compassionate ground. On seeing him the aforementioned officer started abusing him with various filthy languages for no fault of him. Md Sattar became shocked and surprised and consequently he fainted on the spot and died before he could be given any medical aid. On 12.8.99 the employees after knowing the incident assembled at the place of occurrence and discussed about the incident with the Sr.D.M.E.(D), New Guwahati and urged upon him for the transfer of the D.ME(Construction). On 13.8.99 the employees again put forth their earlier demand. On 14.8.99 the Divisional Railway Manager, Lumding visited the shed and on getting information his visit the employees assembled in front of the office of the Sr.D.M.E.(D). The D.R.M called 10 employees at about 1-30 P.M. and held discussions with them. The D.R.M assured the employees for transfer of D.M.E.(Con). The Sr.

The Senior Divisional Personnel Officer, Lumding issued show cause notices to some of the employees of the Diesel Shed on the allegation that they participated in an illegal strike on 12.8.99 and 13.8.99 and advised them to submit their reply within 10 days. About 90 to 100 employees were served with similar show cause dated 18.8.99 issued by respondent No.3 to show cause as to why break in service should not be imposed on them for participating in illegal strike in the Diesel Shed on 12.8.99 to 15.8.99. The applicants submitted their reply to the respondent No.3 through proper channel denying their participation in the strike from 12.8.99 to 15.8.99 and explaining the attending circumstances that took place after the death of Md Satter under the tragic circumstances. Some of the applicants were thereafter informed that their explanations were not satisfactory. They were provided with one more opportunity against the proposal to take action against them <sup>either</sup> in writing or through personal hearing. When things rested at this stage, the applicants No.1 and 2 as indicated earlier were served with the transfer order. According to the applicants the said order was passed as a punitive measure against the alleged illegal strike. For that departmental proceeding was also initiated.

2. The respondents submitted its written statement and denied and disputed the contention. According to the respondents this was a routine transfer order, which was passed due to administrative exigencies. According to the respondents the Railway operation system is dependent on the Diesel locomotive and in the N.F.Railway there is no electric train. For efficiency in the Railway service Diesel sheds have been established in a number of places like New Guwahati, Siliguri and Malda. For efficiency of operation, transfer of posts

and incumbents amongst these sheds becomes necessary and such transfer are carried out on administrative reasons and in the public interest. The respondents asserted that the transfer of the applicants has had no nexus with the incidents which was the subject matter of different proceedings. The transfers were made for efficient maintenance of works in Diesel Sheds by posting incumbents in places where their services were required.

3. The order issued by the General Manager clearly did not indicate as to why these 5 applicants had been transferred. Though the order re-produced earlier indicated that their transfer was on administrative interest and said orders were passed to the approval of the Chief Mechanical Engineer and Chief Personnel Officer. The incident took place at New Guwahati Shed and these applicants were working in the Guwahati Diesel Shed on the relevant date. These applicants were transferred alongwith the posts. No reasons as such is discernible. Admittedly the orders of transfer were issued on 29-1-2000 in the light of the communication sent by D.R.M., Lumding in reference to his confidential letter No. E/Con/DSL/LMG/99 dated 29.11.99 addressed to the C.M.E., Maligaon. The communication of the C.M.E., Maligaon was also sent by a confidential note No. CME/SS/71 dated 24.12.99 to the General Manager. The aforesaid two communications which were of vital nature were not produced before us. The written statement submitted by the respondents also did not even remotely addressed to the circumstances under which the transfer orders were made alongwith the posts. The written statement submitted by the Chief Personnel Officer were verified as on personnel knowledge. The applicants in this application challenged

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the action of the respondents as arbitrary, discriminatory and therefore violative of Article 14 of the Constitution. Prima facie the applicant established the infringement of Article 14. The respondents failed to justify the action by producing the relevant records showing that there was no arbitrariness in their action and that those orders were passed bonafide free from extraneous consideration. Considering all the aspects of the matter and in the attending circumstances the impugned orders of transfer are held to be unlawful. Accordingly these are set aside.

The application is allowed. There shall, however, be no order as to costs.

( D.N.CHOWDHURY )  
VICE CHAIRMAN

17 FEB 2000

गुवाहाटी आयोग  
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH: GUWAHATI

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

O.A. NO. 55 /2000.

Sri Amrita Lal Dutta.

... Applicant.

- Vs -

Union of India and others.

... Respondents.INDEX

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Filed by

  
 (Advocate)

Amrita Lal Dutta

15  
Filed by the  
Petitioner -  
Amrita Lal Dutta  
Amrita Lal Dutta  
through -  
Nilima Das  
11.2.2000 Thoscalo

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:GUWAHATI BENCH:GUWAHATI

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

O.A. NO. 55 /2000.

1. Sri Amrita Lal Dutta

Son of Late, Khagendra Kr. Dutta  
D/Mechanic, Grade-II  
Office of the Senior D.M.E. (D)  
N.F. Railway, New Gauhati .

2. Sri Maheswar Barman

Son of Sri Baba Nath Barman  
D/Cell Fitter, Grade-III  
Sr. D.M.E. (D)  
N.F. Railway, New Gauhati .

3. Sri Naba Kumar Das

Son of Late Sarbeswar Das  
D/ Mechanic, Grade-III  
Under Sr. D.M.E. (D)  
N.F. Railway ,New Gauhati ..

4. Sri Upen Chandra Barman

Son of Late Dalim Chandra Barman  
D/ Electrician, Grade-III  
Under Sr. D.M.E. (D)  
N.F. Railway, New Guwahati .

5. Abdul Latif

Son of Md. Khalil  
D/Electrician Grade-III  
Under Sr. D.M.E. (D)  
N.F. Railway, New Guwahati .

.... Applicants.

contd....

## - Versus -

1. Union of India  
(Represented by General Manager, N.F.  
Railway, Maligaon ).
2. General Manager (Personnel )  
N.F. Railway, Maligaon .
3. Senior Divisional Mechanical Engineer  
(Diesel ) N.F.Railway, New Guwahati.
4. Divisional Manager (P)  
Lumding Division  
N.F. Railway, Lumding .

.... Respondents.1 : PARTICULAR OF THE ORDER AGAINST WHICH THE APPLICATION ISMADE:-

1) Office order No. E/261/SEC/Con) Mech. Maligaon dated 25.1.2000 issued by the General Manager (Personnel) N.F. Railway Maligaon regarding transfer of all the applicants from New Guwahati to Siliguri and Malda Diesel sheds on administrative interest alongwith their posts .

2) Office order dated 29.1.2000 passed by the Sr.D.M.E., (D) N.F.Railway, New Guwahati (Respondent No.3) as communicated in his office memo No. E/283/D/M(M) (Con) dated 29.1.2000 . Transferring Sri A.L. Dutta ( applicants No.1) and Sri Naba Kr. Das ( applicant No. 3) to Malda Diesel Shed and Siliguri Diesel shed respectively alongwith their respective posts . The applicants have come to know that similar transfer orders have also been issued by Respondent No. 3 transferring the remaining applicants, namely , Maheswar Barman to Malda and Open Chandra Barman and Abdul Latif to Siliguri although the orders have not yet been received by them .

Amritalal Saha

contd..

2 : JURISDICTION OF THE TRIBUNAL:-

The applicants declare that the subject-matter of the order against which they want redressal is within the Jurisdiction of the Tribunal .

3 : LIMITATION :-

The applicants further declare that the application is within the Limitation prescribed U/s 21 of the Administrative Tribunals Act, 1985.

4: FACTS OF THE CASE :-

- 1) That the applicants are working in Diesel shed at New Guwahati , N.F. Railway, under the Administrative Central of Sr. D.M.E. , N.F. Railway, New Guwahati (Respondent No.3). The applicants have a common grievance and interest in the matter and as such they are filing a single application inasmuch as the relief granted to one of them will be equally applicable to all others as they are all similarly situated with a view to avoiding multiplicity of litigations. The applicants crave leave of this Hon'ble Tribunal to allow them to file this single application as provided in Rule 4(5) (a) of the C.A.T. (Procedure ) Rules, 1987.
- 2) That the applicants have put in long years of service in the Railways and there was no occasion in their service career when they incurred the displeasure of their superiors at any point of time. They have been discharging their duties honestly and sincerely and to the best of their ability.

contd...

*Anupjiba Lal Dutta*

11/8/99

4.

3) That, on 11.8.99, Shri S.S. Chakraborty, Divisional Mechanical Engineer (Cons), New Guwahati happened to meet Md. Sattar, Ex-Welder, New Guwahati in the verandah of his office room and started abusing him with various filthy languages for no fault on his part. It would be relevant to mention here that Md. Sattar who went on retirement in June, 1999 on medical ground was visiting the office of the Respondent No. 3 to expedite <sup>his</sup> pension case and for appointment of his son on compassionate ground. Md. Sattar became shocked and surprised at the treatment meted out to him by Shri S.S. Chakraborty and consequently he fainted on the spot and died before he could be given any medical aid. ✓

On 12.8.99 at about 7 A.M., the employees working in the Diesel shed came to their duty and the incident became known to them. All the employees became mortified when they found that their old colleague, Md. Sattar, died on 11.8.99 under tragic circumstances. When the incident got publicity, On 12.8.99 morning, about 400 employees assembled at the place of occurrence at about 9 A.M. and discussed about the incident with the Sr. D.M.E. (D), New Guwahati and they urged upon him for the transfer of Shri S.S. Chakraborty at the earliest. ✓

On 13.8.99 the employees turned up as usual, at 7.30 A.M. for duty but due to commotion prevailing in the campus, the employees assembled at the shed and put forth their earlier demand regarding transfer of Sri S.S. Chakraborty. ✓

4) That, on 14.8.99, the Divisional Railway Manager, Lumding visited the shed and on getting the information of

contd...

Amritlal Duttar

his visit, the employees assembled in front of the office of the Sr. D.M.E. (D) New Guwahati. The D.R.M. called for 10 (ten) employees at about 1.30 P.M. and held discussions about the incident. The D.R.M. also assured the employees that he would take up the matter of transfer of Sr. Chakravorty with the General Manager, Maligaon and the result would be communicated to them within 15 days through the Sr. D.M.E. (Diesel) New Guwahati. Immediately after the departure of the D.R.M., all the employees went to their duty post and attended their duty till 4.30 P.M. It was a National holiday on 15.8.99 and also weekly rest-day.

5) That, the Sr. Divisional Personnel Officer, Lumding camping at Guwahati issued show cause notices on 14.8.99 to some of the employees in Diesel shed alleging that they participated in an illegal strike on 12.8.99 and 13.8.99 at Diesel shed, New Guwahati, <sup>and</sup> they were asked to submit their reply within 10 (ten) days as to why break in service should not be imposed on them for their participation in alleged strike.

A copy of the said show cause notice 14.8.99 addressed to one shatoo, Black Smith, Grade-I(D), New Guwahati is annexed herewith and marked as Annexure-I.

6) That, the applicants beg to state that about 90/100 employees of the Diesel shed including the applicants were served with similar show cause Notices dated 18.8.99 issued by the Respondent No. 3 directing them to show cause, within 10 (ten) days, as to why break in service should not.

contd...

*Amritlal Dutta*

be imposed on them for participating in illegal strike in the Diesel Shed, New Guwahati from 12.8.99 to 15.8.99.

The copies of the said show-cause notices dated 18.8.99 issued by the Respondent No.3 served on three applicants are annexed herewith and marked as Annexure-II, III and IV respectively.

7) That, the applicants duly submitted their show cause reply to the Respondent No.3 through proper channel denying their participation in the strike from 12.8.99 to 15.8.99 as has been alleged and explaining the attending facts and circumstances of the case which immediately follow after the death of Md. Satter on 11.8.99 under tragic circumstances .

Copies of the said show cause replies dated 9.9.99 submitted by Maheswar Barman and Upen Barman are annexed herewith and marked as Annexure- V and VI respectively.

(Other applicants also submitted exactly similar replies to the Respondent No.3).

8) That, the applicants beg to state that , the Respondent No.3, by his office letter No. M/79/D/Memo/NGC, dated 14.1.2000, intimated the applicants only that the explanation submitted by them in response to the show cause notices, as stated above, were not considered satisfactory

contd....

Amrit Lal Dubra

by the competent authority . The authority had tentatively decided to impose break in service only on the applicants leaving aside other employees although most of them including the applicants submitted the same show-cause reply. The applicants were, however, given a chance to file a representation within 15 days as to why the proposed break in service should not be taken against the applicants .

The copies of the order dated 14.1.2000 issued to Maheswar Barman, Naba Kumar Das and Upen Chandra Barman ( all applicants ) are annexed herewith and marked as Annexure- VII, VIII and IX respectively.

9) That, on receipt of the aforesaid memoranda, the applicants duly submitted their replies to the Respondent No. 3 through proper channel, reiterating their earlier stand and prayed that the proceedings be dropped at that stage .

Copies of the replies dated 2.2.2000 addressed to the Respondent No. 3 by Maheswar Barman, Naba Kr. Das and Upen Chandra Barman in this regard is annexed herewith and marked as Annexure-X,XI and XII respectively.

10) That, the applicants beg to state and submit that they were legitimately expecting that their cases

would be considered with sympathy by the competent authority but, instead of issuing any order as to the fate their representations against the proposed and tentative <sup>decision</sup> direction of the authority to impose break in service to the applicants and others, the applicants, out of about <sup>160</sup> ~~400~~ employees who were served with show cause notices, had been singled out for transferring them with their respective posts from New Guwahati to Malda and Siliguri arbitrarily and by way of penalty.

11) That, the Respondent No.3, by his office order No. E/283/D/M(M)/Con dated 29.1.2000, in terms of GM(P) MLG's office order No. E/261/Scc(Con) Mech. Maligaon dated 25.1.2000 transferred sri A.L. Dutta (applicant No.1) to Malda Diesel shed on administrative interest alongwith the post held by him on his existing pay and scale. It would be relevant to mention here that Sri A.L.Dutta had been lying seriously ill and bed-ridden due to high pressure and under-going treatment in his Quarters. The Respondent No.3 hung a copy of the said transfer order in respect of the said Dutta in the Notice Board ignoring the leave application filed by sri Dutta. The Respondent No.3, by his order dated 3.2.2000, also spared him from his office on transfer to Malda Diesel shed with immediate effect. The said order dated 3.2.2000 was also hung in the Notice Board.

Copies of the aforesaid order dated 3.2.2000 are annexed herewith and marked as Annexure- XIII and XIV respectively.

contd....

Amritkumar Dutta

12) That, similarly, the Respondent No.3, by his office order of even Number dated 29.1.2000, transferred sri Naba Kr. Das (applicant No.3) to Siliguri Diesel shed an administrative interest alongwith the post held by him on his existing pay and scale. As the applicant also lying seriously ill, the said order of transfer was hung in the Notice Board and the order dated 3.2.2000 issued by Respondent No.3 sparing the applicant from his office with immediate effect transferring to the Siliguri Diesel shed was also hung on the Notice Board.

The copies of the said orders dated 29.1.2000 and 3.2.2000 are annexed here-with and marked as Annexure- XV and XVI respectively.

13) That, the applicants beg to state and submit that the Respondent No.3 had also issued similar transfer orders in respect of Maheswar Barman, Upen Chandra Barman and Abdul Latif (remaining applicants) transferring them to Malda, Siliguri and Siliguri Diesel sheds respectively, but the applicants have not yet received the same.

14) The applicants beg to state and submit that although the authority is vested with powers to transfer an employee in Public interest and in the exigencies of administration, the instant transfer orders have not been issued bonafide. The orders are issued arbitrarily in colourable exercise of power.

contd...

Amrit Lal Chatterjee

The transfer orders are issued by way of penalties and therefore punitive and arbitrary in character.

The transfer of the applicants is preceded by the allegation of participating in alleged illegal strike against them and as such it should be held to be punitive in character. This is a fit case where this Hon'ble Tribunal will exercise jurisdiction and grant relief to the applicants. The applicants will suffer irreparable loss and injury if the operation of the impugned <sup>are</sup> orders ~~not~~ stayed by this Hon'ble Tribunal.

5 : GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:-

I) For that, the action of the authority in issuing the un-scheduled and unreasonable transfer orders would uproot the families of the applicants causing irreparable harm to them and driving them to desperation. The transfer orders, if carried into operation, would surely disrupt the education of their children and would also lead to numerous other complications and problems resulting in hardship and demoralisation and as such the action of the authority is bad in law and liable to be set aside.

II) For that, the applicants have been singled out and illegally discriminated against in transferring them to Malda and Siliguri with the posts held by them although show cause notices were issued to as many as 100 employees and as such the action of the respondent

contd...

authority is bad in law and liable to be set aside as highly arbitrary .

III) For that, the authorities have issued the transfer orders by way of penalty instead of finally disposing of the proceedings initiated against the applicants ~~and others~~ regarding the alleged participation in the strike and as such the action of the authority in transferring the applicants is liable to be struck down as un-sustainable in law .

IV) For that, the instant transfer orders are preceded by the allegation of participating in alleged illegal strike against the applicants and as such the transfer order are held to be ~~the~~ punitive and as such the transfer orders are bad in law and liable to be set aside .

V) For that, although the applicants are liable to for transfer, they are, at the same time , entitled to the guaranteed protection of Articles 14 and 16 and 311 of the Constitution of India. The ~~the~~ cause replies filed by most of the employees numbering 90/100 were similar and as such it is not understood as to how the replies submitted by the applicants were not considered satisfactory and therefore the action of the authority is bad in law and liable to be set aside as extremely arbitrary offending constitutional safeguards given to the applicants .

VI) For that, the transfer orders <sup>issued</sup> imposed by way of punishment, if effected, would surely uproot the

contd....

Amritbala Datta

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12.

families of the applicants causing irreparable harm to the applicants and would also drive them to dispairation and as such action of the authority is bad in law and liable to be set aside.

VII) For that, the power of transfer vested in the authority has been abused in issuing the transfer order by way of penalty/<sup>and</sup> as such the transfer order is bad in law and liable to be set aside .

VIII) For that, in any view of the matter, the action of the authorities in transferring the applicants is bad in law and liable to be set aside .

6 : DETAILS OF THE REMEDIES EXHAUSTED :

The applicants do not have any remedy against such ~~any~~ transfer order issued by way of penalty .

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

The applicants 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 .

8 : RELIEF SOUGHT:-

It is, therefore, prayed that your Lordships would be pleased to admit this application,

contd...

Amrit Lal Dass

call for the entire records of the case, ask the respondents to show cause as to why the impugned transfer orders should not be set aside and quashed and after perusing the causes shown, if any, and hearing the parties, set aside and quash the impugned transfer orders dated 25.1.2000 and 29.01.2000 (Annexure -XIII and XV in respect of applicants A.L. Dutta and Naba Kumar Das respectively ) transferring ~~the~~ the applicants from New Guwahati Diesel shed to Siliguri/Malda Diesel sheds and orders dated 25.1.2000 and 29.1.2000 issued in respect of Maheswar Barman, Upen Ch. Barman and Abdul Latif (Copies of these 3 orders could not be obtained and as such these are not annexed ) and/or pass any other order/orders as Your Lordships may deem fit and proper.

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

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

It is further prayed that your Lordships would be pleased to stay the operation of the said impugned transfer orders issued in respect of the applicants pending final disposal of this

contd...

*Amrit Lal Deka*

14.

28

application by this Hon'ble Tribunal inasmuch as the applicants would suffer irreparable loss and injury if the operation of the said orders are not stayed .

10. Does not arise. The application will be presented personally by the advocate of the applicants.

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

IPO No. 458537 dated 10.2.2000 issued by the Guwahati Post Office payable at Guwahati is enclosed .

12 : LIST OF ENCLOSURES :-

As stated in the index .

contd...

Amritlal Dutta

VERIFICATION

A  
V

I, Shri Amrita Lal Dutta, son of Late Khagendra Kumar Dutta, aged about 51 years, presently serving as the Mechanic Fitter, Grade-II in the office of the Sr. D.M.E.(D), New Guwahati, do, hereby verify that the contents in paragraphs No. 2, 3, 4 to 9, 12 to 14 are true to my personal knowledge and those in paragraph 1 to 10 are believed to be true on legal advice and that I have not suppressed any material fact.

I, being one of the applicants, have been authorised by other applicants to sign this verification on behalf of them.

Place :- Guwahati .

Date :- 11-2-2000

*Amrita Lal Dutta*

Signature of the applicant.

## Northeast Frontier Railway

Office of the  
Sr. DME(Diesel)  
New Guwahati

No. M/79/Memo/D/NGC.

Date 14-8-99

To

Shri S. K. G.   
 B/Smith 22/2/1999.

SUB.: SHOWCAUSE NOTICE FOR BREAK IN SERVICE.

On the 12<sup>th</sup> & 13<sup>th</sup> August, '99, there was a sudden illegal strike in the Diesel Shed/NGC in which you have also participated. Given the nature of work in the Diesel Shed, it is quite likely that this could lead to adverse effect on safety. It is therefore proposed to impose break in service on you for this act.

You are hereby given a time of 10 (ten) days to reply to this show cause notice as to why break in service should not be imposed on you for having participated in this illegal strike.

  
 Sr. DPO/LMG at GHY  
 For Divisional Rly. Manager(P)/LMG  
 • ১৯৯ ১৯৯ ১৯৯ ১৯৯  
 • স্রী. মো. মোস্তাফা  
 • স্রী. মো. মোস্তাফা  
 • Divl. Rly. Manager  
 • N.F. Rly. Engineer

(17)

ANNEXURE-II

9

North East Frontier Railway

No. M/79/MEMO/D/NGC.

Office of the  
Sr. DME (Diesel)  
New Guwahati  
Date - 18/08/99

TO :

Shri

M. B. Bhattacharya

Ex-Sub-Officer, C.R.M./NGC

SUB: SHOWCAUSE NOTICE FOR ILLEGAL STRIKE.

On the 12<sup>th</sup> to 15<sup>th</sup> August'99, there was a sudden illegal strike in the Diesel Shed/NGC in which you have also participated. Given the nature of work in the Diesel Shed, it is quite likely that this could lead to adverse effect on safety. It is therefore proposed to impose break in service on you for this act.

You are hereby given a time of 10(ten) days to reply to this show cause notice as to why break in service should not be imposed on you for having participated in this illegal strike.

Hand over the  
Copy to Party  
Concerned on 28/8/99  
Dr  
17/8/99

Sr.DME(Diesel)  
NGC Diesel Shed  
17/8/99  
Dr. M. B. Bhattacharya  
Ex-Sub-Officer, C.R.M./NGC  
Hand over the Copy to Party  
Concerned on 28/8/99  
Dr  
17/8/99

C.M.E

(18)

ANNEXURE

32  
III

North East Frontier Railway

Office of the  
Sr. DME(Diesel)  
New Guwahati  
Date 18-08-99

Re. DME/NGC/DNGC.

TO

Shri Naba Kr. Das  
Dimech gr III INUC

SUB: SHOWCAUSE NOTICE FOR BREAK IN SERVICE

On the 12<sup>th</sup> to 15<sup>th</sup> August '99, there was a sudden illegal strike in the Diesel Shed/NGC in which you have also participated. Given the nature of work in the Diesel Shed, it is quite likely that this could lead to adverse effect on safety. It is therefore proposed to impose break in service on you for this act.

You are hereby given a time of 10(ten) days to reply to this show cause notice as to why break in service should not be imposed on you for having participated in this illegal strike.

Sr.DME(Diesel)  
NGC Diesel Shed

Asstt. Engineer (DME)  
S. M. Das, M. E. (DME)  
Sr. Div. Mech. Engineer DME  
N.E. Railways, New Guwahati

(19)

ANNEXURE - IV

3)

Northeast Frontier Railway

Office of the  
Sr. DME(Diesel)  
New Guwahati  
Date 18-08-99

No. M/79/MEMO/E/NGC.

TO

Shri Upen Ch. Barman  
Elect. Engr. INNC

SUB: SHOWCAUSE NOTICE FOR BREAK IN SERVICE

On the 12<sup>th</sup> to 15<sup>th</sup> August '99, there was a sudden illegal strike in the Diesel Shed/NGC in which you have also participated. Given the nature of work in the Diesel Shed, it is quite likely that this could lead to adverse effect on safety. It is therefore proposed to impose break in service on you for this act.

You are hereby given a time of 10(ten) days to reply to this show cause notice as to why break in service should not be imposed on you for having participated in this illegal strike.

Hand over the  
Copy to Party  
Concerned on 28/8/99  
Dr  
28/8/99

Sr.DME(Diesel)  
NGC Diesel Shed  
022 2535 1111 (2) 11  
90 37 37 37 37 37  
Sr. M/s. Mech. Engineer  
Mechanical Store Control

C.M.T

TO, The Sr.Divisional Mech/Engineer(Diesel),  
N.F.Railway, New Guwahati-

(Through Proper channel)

Sub: Show-Cause notice for break in service.

Ref: Your letter No.M/79/Memo/D/NGC :: dt.18/8/99.

Sir,

I deny that there was any illegal strike in the Diesel-Shed on 12th to 15th August, 99 as has been alleged and I specifically and categorically deny that I had ever participated in such sudden illegal strike. It is, therefore essential that I be allowed to bring to your attention the following facts for consideration by your goodself :-

a) On 11.8.99, Sri S.S.Chakraborty, DME(Cons.)/NGC happened to meet Md.Sattar, Ex.Welder/NGC in the office Varanda and started abusing him with filthy languages as he was unfit to achieve the reward which was not recommended by the authority even he had done best job against the locomotive. On hearing this version and treatment meted out by Sri S.S. Chakraborty to Md.Sattar suddenly fainted on the spot and passed away. Shri S.S.Chakraborty, lost his humanity, taking law in his hand and also violative of the principles of natural justice and administrative fair play.

b) On 12/8/99 at 7 A.M. all the employees in the Shed came to their prospective duty post and became mortified when they found their old colleagues, Md. Satter died under tragic circumstances. Employees about 400 assembled at the place of occurrences about 9 A.M. and met the Sr.DME(D)/NGC in this regard and they urged the transfer of Sri S.S. Chakraborty as earliest.

c) On 13/8/99, the employees turned up, as usual at 7-30 A.M. for duty but unfortunately they continued to suffer from sur-charges and again assembled at the Shed and urged the previous demand i.e. transfer of Sri S.S. Chakraborty.

d) On 14/8/99, the DRM/LMG visited the Shed and on getting the information the employees assembled in front of Sr.DME(D)/NGC's office. The DRM/LMG was call for 10(ten) employees and held discussion about the issues insolved, 1) Md.I. Hussain, Sr.Instructor, 2) K.C.Kalita, CMA, 3) J.P.Singh, 4) N.Das, 5) N.Barman, 6) U.Barman, 7) A.latif, 8) S.P.Singh were sit on

:: 2 ::

discussion with the DRM and held discussion at 1-30 P.M. Sri I. Hussain also urged about corruption by E /staff to the employees hurushments. The DRM also expressed that the transfer of Sri Chakraborty would take up the matter to CM/MLG and would communicate the result within 15 days through Sr. DME/D/NCC. Immediately after departure of the DRM all the employees went to their duty posts and attended their duties till 4-30 P.M.

e) On 15/8/99 was mentioned holiday and also weekly rest.

It is, therefore, prayed that your goodnesself would be graciously pleased to consider what is stated above in proper prospective and drop the matter at this stage. It, however, the authority want to proceed further, I may kindly be given fair opportunities of being heard. In this connection, I would not deny that there were some amount of commotion amongst the employees when it one of their colleagues died under tragic circumstances as stated above.

Date: The New Guwahati  
-12-th Sept/99.

Yours faithfully,

Mahinuddin Hussain

Cell Officer, On M

N.G.C. D/S/Secd.

Received  
Abuas (S)(A)  
03/9/99

:::

TO, The Sr.Divisional Mech/Engineer(Diesel),  
N.F.Railway, New Guwahati-

(Through Proper channel)

Sub: Show-Cause notice for break in service. ✓  
Ref: Your letter No.M/79/Memo/D/NGC :: dt.18/8/99.

Sir,

I deny that there was any illegal strike in the Diesel Shed on 12th to 15th August, 99 as has been alleged and I specifically and categorically deny that I had ever participated in such sudden illegal strike. It is, therefore essential that I be allowed to bring to your attention the following facts for consideration by your goodself :-

- a) On 11.8.99, Sri S.S.Chakraborty, DME(Cons.)/NGC happened to meet Md.Sattar, Ex.Welder/NGC in the office Varanda and started abusing him with filthy languages as he was unfit to achieve the reward which was not recommended by the authority even he had done best job against the locomotive. On hearing this version and treatment meted out by Sri S.S. Chakraborty to Md.Sattar suddenly fainted on the spot and passed away. Shri S.S.Chakraborty, lost his humanity, taking law in his hand and also violative of the principles of natural justice and administrative fair play.
- b) On 12/8/99 at 7 A.M. all the employees in the Shed came to their prospective duty post and became mortified when they found their old colleagues, Md. Satter died under tragic circumstances. Employees about 400 assembled at the place of occurrences about 9 A.M. and met the Sr.DME(D)/NGC in this regard and they urged the transfer of Sri S.S. Chakraborty as earliest.
- c) On 13/8/99, the employees turned up, as usual at 7-30 A.M. for duty but unfortunately they continued to suffer from sur-charges and again assembled at the Shed and urged the previous demand i.e. transfer of Sri S.S. Chakraborty.
- d) On 14/8/99, the DRM/LMG visited the Shed and on getting the information the employees assembled in front of Sr.DME(D)/NGC's office. The DRM/LMG was call for 10(ten) employees and held discussion about the issues insolved, 1) Md.I. Hussain, 2) Instructor, 2) K.C.Kalita, CMA, 3) J.P.Singh, 4) N.Das, 5) N.Barman, 6) U.Barman, 7) A.latif, 8) S.P.Singh were sit on

Contd.....2.

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:: 2 ::

discussion with the DRM and held discussion at 1-30 P.M. Sri I.Hussain also urged about corruption by E /staff to the employees hurushments. The DRM also expressed that the transfer of Sri Chakraborty would take up the matter to GM/MLG and would comminacated the result within 15 days through Sr. DME/D/NGC. Immediately after departure of the DRM all the employees went to their duty posts and attended their duties till 4-30 P.M.

e) On 15/8/99 was mentioned holiday and also weekly rest.

It is, therefore, prayed that your godself would be graciously pleased to consider what is stated above in proper prospective and drop the matter at this stage. It, however, the authority want to proceed further, I may kindly be given fair opportunities of being heard. In this connection, I would not deny that their were some amount of commotion amongst the employees when it one of their colleagues died under tragic circumstances as stated above.

Date: The New Guwahati  
--2th Sept/99.

Yours faithfully,  
Lipon Ch Baruah

E/G. 74

Received  
Anasif (A)  
03/9/99

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(24)

ANNEXURE- VII

N.F.Railway.

( Confidential)

8  
3

Office of the  
Sr. DME/ Diesel/NGC

NO: M/79/D/Memo/NGC.

Dated 14- 1- 2000

To  
Shri Maneswar Barman,  
Cell Fitter, Gr.III  
/D/NGC.

( Thro:-SS/D/NGC)

Sub:- Illegal strike from 12-8-99  
to 15-8-99 at NGC- Follow  
up action thereof.

Ref:- i) Show Cause Notice No.M/79/  
Memo/D/NGC dt. 18-8-99.  
ii) DRM/LMG's L.No.E/CON/DSL/LMG  
/99 dated 27-12-1999.  
.....

The explanation given by you for the Show Cause  
Notice referred to above has been examined in detail and  
is not considered satisfactory by the Competent Authority.  
The Administration tentatively has decided to impose Break-  
in-Service.

You are hereby given one more opportunity to make  
such representation, you may wish to make against the pro-  
posal to take action against you, in writing or through  
personal hearing or by both to the undersigned within 15  
(Fifteen) days from the date of receipt of this letter.

( V. Selvam )  
Sr. DME/ Diesel/NGC  
N.F.Railway.

(2)

(25)

ANNEXURE - VIII

N.F.Railway.

(Confidential)

Office of the  
Sr. DME/ Diesel/NGC

NO: M/79/D/Memo/NGC

Dated 14-1-1999

To

Shri Naba Kumar Das,  
Diesel Mechanic.Gr.III  
D/NGC.

Sub:- Illegal strike from 12-8-99  
to 15-8-99 at NGC- Follow  
up action thereof.

Ref:- i) Show Cause Notice No.  
M/79/Memo/D/NGC dt.  
18-8- 1999.

ii) DRM/LMG's letter No. E/  
CON/DSL/LMG/99 dt.27.12.  
1999.

The explanation given by you for the Show Cause  
Notice referred to above has been examined in detail  
and is not considered satisfactory by the Competent  
Authority. The Administration tentatively has decided to  
impose Break-in-service.

You are hereby given one more opportunity to  
make such representation, you may wish to make against  
the proposal to take/against you, in writing or through  
personal hearing or by both to the undersigned within  
15(fifteen) days from the date of receipt of this letter.

( V. Selvam )  
Sr. DME/ Diesel/NGC  
N.F.Railway.

N.F.Railway.

(Confidential)

Office of the  
Sr. DME/ Diesel/NGC

Dated 14-1- 2000

(NO: M/79/D/Memo/NGC)

To

Shri U.C.Barmen,  
Electrician Gr.III/D/NGC.

( Thro: SS/D/NGC)

(Sub:- Illegal strike from 12-8-99  
to 15-8-99 at NGC-Follow up  
action thereof.Ref:- i) Show Cause Notice No.M/79/  
Memo/D/NGC dt.18-8-99  
ii) DRM/LMG's letter No.E/CON/  
DSL/LMG/99 dt.27-12-1999. )  
.....

The explanation given by you for the Show Cause Notice referred to above has been examined in detail and is not considered satisfactory by the Competent Authority. The Administration tentatively has decided to impose Break-in-service.

You are hereby given one more opportunity to make such representation, you may wish to make against the proposal to take/against you, in writing or through personal hearing or by both to the undersigned within 15(fifteen) days from the date of receipt of this letter.

( v. Selvam )  
Sr. DME/ Diesel/NGC  
N.F.Railway.

To,

The Sr. District - Mech/Engineer (Diesel),  
N.F. Railway, New Guwahati.

(Through Proper Channel)

Sub:- Illegal strike from 12-8-99 to 15-8-99 at NGC  
Follow up action thereof.

Ref:- i) Show cause Notice No.M/79/Memo/D/NGC dt. 18.8.99.  
 ii) DRM/LMG's letter No. E/CON/DSL/LMG/99 dt.27.12.99.

Respected Sir,

In reference to your letter No of even no. dt.14-1-99 on the subject cited above I shri. .... beg to submit here with the following facts for favour of your kind information and sympathetic consideration pbeassd.

That Sir, I have already communicated the actual facts that had taken place at NGC/D/Shed on 12.8.99 to 15.8.99. I narrated very clearly that neither I have participated in any illegal strike nor I had any intention to take part to any such illegal strike on 12.8.99. I, as usual attended my duties and I cheecked battery of schedule loco from 6 A.M. to 10 A.M.. Thereafter a group of people came inside and compelled us to go out from the shed. All the people were in ~~gaxent~~ angry mood and forced me to go out.

On 13.8.99 (Friday) I was due rest. on 14.8.99(Saturday) I was pick up my evening shift duty and I was attendd my duty at about 14.30 hrs. and I inform my duty to our incharge under Battery sec. & shift supervisor room.

On 15.8.99 (Sunday) I was avail N.H.

On 16.8.99 (Monday) I pick up my evening shift ~~day~~ duty.

As such I hope and trust that you will realize my circumstances which made me compell to discontinue my work.

Since my absent from duty on the period mentioned above under threat of a group of people, I may be excused and charges brought against me may kindly be withdrawn and this help me to get myself free from the proposed notice of Break-in-Service, so that I can serve the Railways for its further achievement.

Thanking you.

free  
12/8/99  
27/8/99

Copy to :- General Secretary  
 Mazdoor Union, N.F. Rly.  
Pandu.

Yours faithfully,  
 Maheswar Barman.

Call fitter Ctr III  
 N.G.C./L/1999  
 2-2-2000

To  
The Senior Divisional Mechanical Engineer,  
N.F. Railway, New Guwahati.

(Through SSE/D/NGC).

Sir,

Sub:- Illegal stike from 12-8-99 to  
15-8-99 at New Guwahati.

Ref:- Your letter No. M/79/D/Memo/NGC  
dt. 14-1-2000.

With due respect and humble submission I beg to  
state that I have never joined or investigate for  
illegal strike or stoppage of work.

In fact I was one of the victim of the issue as  
narrated in my previous appeal. However I had promised  
also in that letter that I do not support the stoppages  
of work.

I have nothing to add but to reassure you that  
in future I will be more alert so that I do not entangle  
with any stoppages of work. In the past my service  
record is very good and I have always worked to satisfy  
my superiors.

In view of the above I would pray to your honour  
not to impose any Break-in-service on me.

I shall remain ever grateful if you kindly consider  
my appeal from its correct perspective and exonerate me.

Thanking you,

Yours faithfully,

Dated, the New Guwahati  
-1-2000.

*Nabakumar Das*  
-----  
*Diesel mechanic III*

To,

The Sr. District Mech/Engineer (Diesel),  
N.F. Railway, New Guwahati.

(Through Proper Channel)

Sub:- Illegal strike from 12.8.99 to 15.8.99 at NGC  
Follow up action thereof.

Ref:- i) Show cause Notice No. M/79/Memo/D/NGC dt.18.8.99.  
 ii) DRM/LMG's Letter No. E/CON/DSL/LMG/99 dt.27.12.99.

Respected Sir,

In reference to your letter No. of even no dt.14.1.99 on the subject cited above I shri. ..... beg to submit here with the following facts for favour of your kind information and sympathetic consideration please.

That Sir, I have already communicated the actual facts that had taken place at NGC/D/Shed on 12.8.99 to 15.8.99. I narrated very clearly that neither I have participated in any illegal strike nor I had any intention to take part to any such illegal strike on 12.8.99 I, as usual attended any duties from 7 A.M. to 10 A.M. I working in loco and my supervisor noted my working reported in diary book. A group of people came inside and compelled us to go out from the shed. All the people were in angry mood and forced me to go out.

As such I hope and trust that you will realize my circumstances which made me compell to discontinue my work.

Since my absent from duty on the peried mentioned above under threat of a group of people, I may be excused and charges brought against me may kindly be withdrawn and this help me to get myself free from the prepesed notice of Break-in-Service, so that I can serve the Railways for its further achievement.

Thanking you.

Yours faithfully,  
Umesh Sarker

First letter dated  
 NGC/16/99

22.12.99

Copy to :- General Secretary  
 Mazdoor Union, N.F. Rly.  
Pandu.

Received  
 03/12/2000  
 03/12/2000  
 03/12/2000

(30)

ANNEXURE - XVIII

See ORDERS

In terms of GM(P)/MLG's Office Order, Sec. (Con) Mech. Maligaon, dated 25-1-2000, Shri A.L.Dutta, D/Mech.Gr.II, is hereby transferred on his existing pay & Scale to Malda Diesel Shed on Administrative Interest alongwith the post.

As his transfer is on Administrative Interest, he is eligible for transfer grant, TA, Transfer Pass and Joining time etc. However, his Lien will be maintained in New Guwahati Diesel Shed.

This issues with the approval of GM& CFO.

Sr. DME/Diesel/NGC  
N.F.Railway.

E/203/D/M(M)/Con

Dated 29-01-2000

Y forwarded for information & necessary action to:

1. GM(P)/MLG. 2. FALCAO/MLG 3) CME/MLG 4) DRM/LMG.
5. DRM/KIR. 6. DRM(P)/KIR 7) DAO/KIR 8) ADAO/CHY.
9. Sr.DME/Diesel/MLDT.
10. SS/D/NGC- He is advised to spare the staff immediately.
11. OS/G. 12. OS/Ett.
13. Staff concerned ( Thro:SS/D/NGC).
14. P. Cases

Sr. DME/Diesel/NGC  
N. F. Railway.

Referred to take the  
letter in <sup>to</sup> ~~to~~ <sup>in</sup> ~~in~~  
of the authority.

Yash K. K. K. 11/1/2000

W. T. Almora  
adv. 3-2-2000  
at 8 AM.

29.11.2000

CME - 21.12.99  
CME/SS/71

DRM - 29.11.99

→ E/Con/DSE/DME/99

Altered  
by  
S. S. S.

Umc Nmc/D/E-3

Office of the  
Comptroller  
3/3/2000

To

Sri A. L. Datta, D/mech Gr II/D/mmc

Sub:- Spawning

In terms of Com (P) MLC's O.O. No. E/261/see  
(con) mech. Maligaon, dated 25/1/2000 and  
Sr Dmc/D/mmc's O.O. No. E/283/D/m (A)/con  
dt. 29/1/2000, you are hereby appointed  
from this office <sup>on transfer to PROT/DO/S</sup> with immediate effect.

3/3/2000

(32)

ANNEXURE

XV

N.E.Railway.

Confidential

Office of the  
Sr. DME/ Diesel/NGC

OFFICE ORDER

In terms of GM(P)/MLG's Office order No.E/263/  
Sec(Con) Mech.Maligeon dated 25-1-2000, Shri Naba Kumar  
Das, D/Mech.Gr.III is hereby transferred on his existing  
pay & scale to Siliguri Diesel Shed on Administrative  
Interest alongwith the post.

As his transfer is on Adminstrative Interest,  
he is eligible for transfer grant, TA, Transfer Pass and  
joining time etc. However, his Liion will be maintained in  
New Guwahati Shed.

This issues with the approval of DME & CPO.

Sr. DME/ Diesel/NGC  
N.E.Railway.

NO: E/283/./M(M) (Con)

Dated 29-01-2000

Copy forwarded for information and necessary action to:-

1. GM(P)/MLG
2. FAS&CAO/MLG
- 3) CIE/MLG
- 4) DRM/MLG
5. DRM/KIR
6. DRM(P)/KIR
- 7) DAO/KIR
- 8) ADAO/GHY
9. Sr.DME/DSE/SCU
10. SS/D/NGC, ~~HO~~ is advised to spare the staff accordingly.
11. OS/G.
- 12) OS/Zett.
13. staff concerned, Thro: SS/D/NGC.
14. P. Gao.

Sr. DME/ Diesel/NGC  
N.E.Railway.

Refused to take file

Letter in process  
of two months.

- (1) Jayanta K. K. M/Chk.
- (2) Padma Rani D. M/Chk (C)

dd. 3-2-2000  
at 8 AM,

Filed  
by  
Advocate

NAC/D/E-3

Office of the  
SSB/D/NAC  
3-2-2000Sri Naba Kumar Das  
D/Mech Cr III/D/NAC

## Sub:- Spacing

In terms of Am(P) mca's o.o. no. E/261/-  
(con) Mech. Maligaon, dated 25/1/2000 and  
Sr. DME/D/NAC's o.o. no. E/283/D/M(n)/  
dated 29.1.2000, you are hereby being  
spared from this office with immediate  
effect on transfer to Silguri/D/SLED.

Done  
3/2/2000  
R.C. SARKAR, D.M.E.  
Mechanical Engineers (n), D.S.  
M. P. RAIKHER, D.M.E.

Refused to take this  
letter in presence  
of two witness.

- 1) Tyoh. Kakkati. 100/C/10/C(9)
- 2) Padma Boudhoo. 100/C/10/C(9)

Dtd. 3-2-2000

At. 2 AM.

Central Administrative Tribunal

20 SEP 2000

গুৱাহাটী ব্যায়পাল  
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH.

G U W A H A T I.

IN THE MATTER OF :-

O.A. No. 55/2000

Shri A.L. Dutta & Others.

... APPLICANTS.

Vms.

Union of India & Others.

... RESPONDENTS.

AND

IN THE MATTER OF :-

Written statement on behalf of  
the respondents.

The respondents in the above case most respectfully beg to state as under :-

1. That the respondents have gone through the original application and understood the contents thereof. Save and except the statements specifically admitted, all other statements are denied.
2. That the application is not maintainable for plural number of applicants filing a single application against administrative order of transfer and sparing

Contd....2.

individual employees by individual orders. Some of the applicants have joined before receipt of any order and as such as pre-empting action not permissible under the Administrative Tribunals Act, 1985. The application deserves to be dismissed on these grounds alone.

2. That in reply to the statements in para 4.1, it is stated that single application is not maintainable for the reasons stated in the para 1 above.

3. That in reply to the statements in para 4.2, the correctness of the statements are denied. However, these statements are not relevant for the purpose of the instant cause of action and as such, the respondents are not ~~giving~~ giving narrations and craves~~x~~ for the liberty to narrate if occasion arises or wanted by the Hon'ble Tribunal.

4. That in reply to statements in para 4.3 to 4.9, the respondents beg to state that the facts relate to matter of discipline in the place of work, and looking for total welfare necessary executive functions maintaining Constitutional norms and Rules framed for administrative discipline including Rule under Art. 309 of the Constitution.

For maintaining discipline in the big Diesel Shop all necessary executive and administrative steps have been

taken. The two Heads of Depts. viz. Chief Personnel Officer (Administration) and Chief Motive Power Engineer (Diesel) have visited the shed for appraisal of the situation. The situation have become normal and the Officers have been able to convince the employees that on the disciplined and efficient functioning of the shed depends the efficiency of the train communication of the Railway for the welfare of the people in general. However, as disciplinary measures, show cause notices have been issued and it has been decided that proceedings under the Railway Servants' Discipline and Appeal Rules, 1968, will be commenced in appropriate cases for ensuring discipline with a view to ensure efficient maintenance of train communication.

It is denied that the Divisional Mechanical Engineer (Con) started abusing with filthy languages as alleged. It is also stated that the death of Md. Sattar was a natural death. The allegations in the paragraphs under reply are not admitted and disciplinary proceedings in the context is pending. It is stated that the recognised Unions have dissociated from the strike resorted to by some employees in the New Guwahati Diesel Shed.

5. That in reply to the statements in para 4.10 it is stated that the Railway operational system is dependent on the Diesel locomotive and in N.F. Railway, there is no Electric Train. For efficiency in the Railway Service, Diesel Sheds have been established in number of places, e.g. New Guwahati,

Siliguri, Malda. For efficiency of operation, transfer of posts and incumbents amongst these sheds becomes necessary and such transfers are carried out on administrative reasons in public interest. There is nothing arbitrariness and as such, transfers are necessary for public convenience and is in no way punitive. The transfer of the applicants have no nexus with the incidents in the shed as narrated by the applicants which are subject matter of different proceedings. The transfers have been made for efficient maintenance of works in Diesel Sheds by posting incumbents in places where their services are required. These are not punitive.

6. That in reply to the statements in paragraphs 4.11 to 4.14 of the application, the statements in the preceding para are reiterated. From the narration of these paragraphs it is clear that the facts of the case are not identical and separate applications should be made for each cause. It is stated that some of the applicants indulged in indiscipline by refusing to receive duly signed and officially issued communication/orders. The matter is under consideration to be dealt with separately under the process of procedure established by law.

7. That in the facts and circumstances explained above, the application deserves to be dismissed with cost.

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- 5 -

VERIFICATION.

I, SRI A.K. NIGAM, working as  
Chief Personnel Officer (Admn), N.F. Railway,  
aged about 47 years, do hereby verify that the  
statements in paragraphs 1 to 7 are true to my  
knowledge.

Dated, Guwahati,  
the 4-9 Aug 2000.



SIGNATURE.

