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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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disposed order-23/3/2001

O.A/T.A No. 105/2000
R.A/C.P No.
E.P/M.A No. 43/2001

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SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO.

105/2000 OF 199

Applicant(s)

Sri Dipankar Bandyopadhyay

Respondent(s)

Union of Ind'n and oes.

Advocate for Applicant(s)

Mr. G. K. Bhattacharyya
Mr. B. Choudhry.

Advocate for Respondent(s)

C.G.S.

| Notes of the Registry | Date | Order of the Tribunal |
|---|---|--|
| <p>Application is admitted. Issue notice on the respondents by registered post. Written statement within four weeks. Notice returnable on 24.4.2000.</p> <p>List on 24.4.2000 for written statement and further orders.</p> <p>24-3-2000</p> <p>Service of notice prepared and sent to D. Section for issuing to the same to the respondents through Regd. post with A.D.</p> <p>Vide D.Nos. 904 to 908 Dtd-27-3-2000. mk</p> | <p>15.3.00</p> <p>trd</p> <p>16/3/2000</p> <p>24.4.00</p> | <p>Application is <u>admitted</u>. Issue notice on the respondents by registered post. Written statement within four weeks. Notice returnable on 24.4.2000.</p> <p>List on 24.4.2000 for written statement and further orders.</p> <p>Member(J)</p> <p>Member(A)</p> <p>On the prayer of Mr.B.S.Basumatary, learned Addl.C.G.S.C., the case is adjourned to 12.5.00.</p> <p>Member</p> |

| Notes of the Registry | Date | Order of the Tribunal |
|---|----------------|--|
| 10-5-2000 Notice duly served on R.No. 3,425, <u>30</u> | 12.5.00 | On the prayer of Mr S.Sengupta, learned Railway counsel three weeks time allowed for filing written statement. List on 5.6.2000 for written state- ment and further orders. Member(J) |
| 11-5-00 no W/S has been filed. for 2/6/00, W/S statement has not been filed, for | pg 5.6.00 | Learned counsel for the Railways Mr. J.L.Sarkar requests for two weeks time to file written statement. Prayer allowed. List on 26.6.2000 for written statement and further orders. Member(J) |
| | trd 26.6.00 | There is no Bench today. Adjourned to 21-7-00. No |
| No. W/S has been filed <u>30</u> | 21-7-00 | No Bench is available. Adjourned to 25-8-00. No |
| | 25-8-00 | No Bench is available. Adjourned to 1-11-00. No |
| | 1-11-00 | No representation again on 3-11-00. By order |
| No. W/S has been filed, <u>30</u> 7.11.2000 | 2.11.00 | On the prayer of Mr.J.L.Sarkar learned counsel for the Railway Administration one weeks time is allowed for filing of written statement. List on 8-11-00 for written statement. Vice-Chairman |
| | lm | |

| of the Registry | Date | Order of the Tribunal |
|--|--|--|
| <p>4-12-2000</p> <p>No. written statement has been filed,</p> <p><u>By</u></p> | <p>3.11.00</p> <p>1m</p> | <p>Present: Hon'ble Mr. Justice D.N. Choudhury, Vice-Chairman.</p> <p>Four weeks time is granted on the prayer of Mr. B.K. Sharma at the instance of the learned Railway Administration.</p> <p><u>[Signature]</u> Vice-Chairman</p> |
| <p>No. writs has been filed,</p> <p><u>By</u> 3.1.2001.</p> | <p>5.12.00</p> <p>trd</p> <p>H-1-</p> | <p>On the prayer of Mr. S. Sarma the case is adjourned to 4.1.2001 for filing of written statement.</p> <p>List on 4.1.2001 for written statement and further orders.</p> <p><u>[Signature]</u> Vice-Chairman</p> |
| <p>No. writs has been filed,</p> <p><u>By</u> 18.1.2001</p> | <p>19.1.01</p> <p>pg</p> <p>9.2.01</p> | <p>These was a reference. List it on 19.1.2001.</p> <p><u>By</u> H.K. J.</p> <p>Heard Mr R.K. Deb Choudhury, learned counsel for the applicant and also Mr J.L. Sarkar, learned Railway standing counsel. Mr Sarkar prays for further time to file written statement. Prayer allowed as a last chance.</p> <p>List on 9.2.01 for order.</p> <p><u>[Signature]</u> Member</p> <p><u>[Signature]</u> Vice-Chairman</p> |
| <p>No. written statement has been filed,</p> <p><u>By</u> 8.2.01</p> <p>28.6.2001</p> <p>Copy of the Judgment has been sent to the office for filing the same to the applicant as well as to the L.R.D. for its reply.</p> <p>HS</p> | <p>9.2.01</p> <p>1m</p> | <p>Written statement has not been filed. Mr. B.K. Sharma learned counsel for the respondents again prays for some more time to file written statement. Prayer is allowed. List on 23.3.01 for hearing. In the meantime the respondents may file written statement.</p> <p><u>[Signature]</u> Member</p> <p><u>[Signature]</u> Vice-Chairman</p> |

| Notes of the Registry | Date | Order of the Tribunal |
|---|--|--|
| <p>12.2.2001</p> <p>W/s has been filed on behalf of the respondents.</p> <p><u>Pd. 12/2</u></p> <p>Written Statement filed by the respondents.</p> <p><u>22/3.01</u></p> <p>W/s has been filed.</p> <p><u>18.6.01</u></p> | <p>23.3.01</p> <p>pg</p> <p>17-5</p> <p>19.6.01</p> <p>pg.</p> | <p>On the prayer of the counsel for the respondents the case is adjourned to 14.5.2001 for hearing.</p> <p><u>11/11/01</u> Member</p> <p><u>12/5</u> Vice-Chairman</p> <p>on the prayer of the Counsel for both the parties (Mr. J. H. Sankar, Rly & Mr. B. Choudhury for the appellant) the case is adjourned to 19.6.2001.</p> <p><u>12.5</u></p> <p>Heard counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets. The application is disposed of in terms of the order. No order as to costs.</p> <p><u>11/11/01</u> Member</p> <p><u>12/5</u> Vice-Chairman</p> |

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI-5.

O.A.No. 105 of 122 2000.

19-6-2001.

DATE OF DECISION.....

Shri Dipankar Bandyopadhyaya (PETITIONER(S))

Sri G.K.Bhattacharyya, G.N.Das. ADVOCATE FOR THE
PETITIONER(S)


VERSUS

Union of India & Ors. RESPONDENT(S)

Sri J.L.Sarkar, Railway standing counsel ADVOCATE FOR THE
RESPONDENT (S)

THE HON'BLE MR JUSTICE R.R.K.TRIVEDI, VICE CHAIRMAN
THE HON'BLE MR K.K.SHARMA, ADMINISTRATIVE MEMBER.

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


Judgment delivered by Hon'ble Vice-Chairman.

19/6/2001

X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 105 of 2000.

Date of Order : This the 19th Day of June, 2001.

The Hon'ble Mr Justice R.R.K.Trivedi,Vice-Chairman.

The Hon'ble Mr K.K.Sharma,Administrative Member.

Shri Dipankar Bandyopadhyay,
Permanent Way Inspector (since retired)
Quarter No. 229A, West Gotanagar,
Maligaon,
Guwahati-11.

. . . Applicant

By Advocate Shri G.K.Bhattacharyya,G.N.Das.

- Versus -

1. Union of India,
represented by the Chairman,
Railway Board, Ministry of Railways,
Rail Bhaban, New Delhi.

2. The General Manager,
N.F.Railway, Maligaon,
Guwahati-11.

3. The Divisional Railway Manager,
N.F.Railway, Lumding,
Dist. Nagaon.

4. Senior Divisional Engineer,
N.F.Railway, Lumding,
Dist. Nagaon.

5. The Divisional Railway Manager(P),
N.F.Railway, Lumding,
Dist. Nagaon.

. . . Respondents.

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

ORDER

TRIVEDI J.(V.C)

We have heard Mr G.K.Bhattacharyya, learned counsel for the applicant and Mr J.L.Sarkar, learned Railway standing counsel for the respondents. By this application under Section 19 of the Administrative Tribunals Act 1985, the applicant has prayed for quashing the memo of charges dated 28.2.96 and 22.4.96 (Annexures II and III respectively). It has also been prayed that a direction should be given



contd...2

- 2 -

to the respondents to pay Death-cum-Retirement Gratuity and the full amount of the commuted^{ed} value of pension with interest.

2. The facts in short giving rise to this application are that on 20.11.95 an accident took place at Lunding in which 28 Down train was derailed in line No.6 of IOC Yard at about 22.10 hrs. Train No.4056 Up was also derailed on 21.11.95 at the same place i.e. line No.6 of IOC yard. An enquiry was conducted in regard to the aforesaid two accidents. The enquiry report concluded that the accident took place on account of presence of sharp curve between point No. 9 and point No.106 of the IOC yard. This entanglement resulted in derailments of the coaches. On the basis of the report of the fact finding body the applicant was served with the memo of charges which are impugned in this O.A. The applicant filed his reply. The enquiry officer submitted his report on 31.12.1998 exonerating the applicant from the charges. The applicant in the meantime retired on 30.6.1997. The disciplinary proceeding initiated against the applicant ^{on basis of} the impugned memo of charges, could not be concluded. Consequently, the amount of gratuity and part of the amount of commuted pension have not been paid to the applicant. Aggrieved by which he approached this Tribunal.

3. After hearing counsel for the parties at length we do not find any justification on the part of the respondents to keep the proceeding open and pending for such long time. About 4 years have passed since the retirement of the applicant from service. The amount of gratuity and the commuted pension may be urgently required by him to plan him for post retirement period and to discharge the

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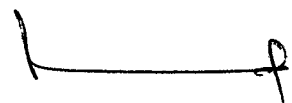
liabilities. Unmindful of the aforesaid factors the respondents have kept the proceeding pending though the report of the Enquiry Officer ^{was} submitted on 31.12.1998. From the material on record we do not find any kind of justification for this delay. Even in written statement also nothing has been stated indicating any justifiable reason for this inordinate delay. In our opinion for the ends of justice it is necessary that respondents may be directed to conclude the disciplinary proceeding within a specified time and may be further directed to pay the amount of gratuity and pension to the applicant without any delay.

4. The O.A. is accordingly disposed of with a direction to respondent No.3, Divisional Railway Manager, N.F.Railway, Lunding to conclude the disciplinary proceeding against the applicant within a period of 3 months from the date of receipt of a copy of this order. The amount of gratuity and commuted pension which has been withheld by the Railways shall be paid to the applicant within a month immediately on expiry of the aforesaid 3 months period. It is made clear that if the proceedings against the applicant are not concluded within the period stipulated the same shall be deemed to have been concluded for the purpose of payment to the applicant.

No order as to costs.



(K.K.SHARMA)
ADMINISTRATIVE MEMBER



(R.R.K.TRIVEDI)
VICE CHAIRMAN

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

Central Administrative Tribunal

231 13 MAR 2000 GUWAHATI.

GUWAHATI BENCH O. A. NO. 105 /2000.

Sri Dipankar Bandyopadhyay.

... Applicant .

- Versus -

Union of India and others.

... Respondents .

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Filed by :-

Bikram Choudhury
(Advocate)

Filed by the applicant
through Bikram Choudhury
Advocate

12/3/2000

Dipankar Bandyopadhyay

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH
: GUWAHATI.

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

O.A. NO. OF 2000

Sri Dipankar Bandyopadhyay,
Permanent Way Inspector (since retired)
son of Prafulla Ranjan Bandyopadhyay
presently residing at Quarter No.
229A, West Gotanagar, Maligaon,
Guwahati-11.

...APPLICANT.

VERSUS

1. Union of India,
Represented by the Chairman,
Railway Board, Ministry of Railways,
Rail Bhaban New Delhi.
2. The General Manager,
N.F. Railway, Maligaon,
Guwahati-11.
3. The Divisional Railway
Manager, N.F. Railway, Lumding,
District -- Nagaon.

Contd.../-

4. Senior Divisional Engineer,
N.F.Railway, Lumding,
District -- Nagaon.

5. The Divisional Railway Manager (P)
N.F.Railway, Lumding,
District - Nagaon.

... RESPONDENTS.

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLI-
CATION IS MADE


i) Action of the authorities in continuing the disciplinary proceedings drawn up against the applicant as far back as on 28.2.96 though the applicant has already reached the age of superannuation on 30.6.97.

ii. Non-payment of the Death-cum-Retirement Gratuity due to the applicant and also non-payment of the full amount of commutation value of pension.

2. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of this Tribunal.

Contd.../-



3. LIMITATION.

The applicant further declares 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 applicant initially joined service under the N.F.Railway as a Draftsman under Broad Gauge Construction Project on 30.9.63. Thereafter, he applied for the post of Permanent Way Inspector Grade-III departmentally and on being selected and after completion of one year's successful training he was promoted to the post on 1.5.76 and posted at Lower Haflong and Diphu. By dint of his hard work and efficiency, he was promoted to the post of Permanent Way Inspector Grade II at Diphu on 1.7.87 and transferred to Lumding and thereafter to the rank/post of Permanent Way Inspector Grade-I on 1.3.93 and posted at Lumding.

2. That, applicant begs to state that while working at Lumding he was assigned the job of maintenance of Railway Track of Lumding main yard and the applicant was efficiently performing his duties for which he received laurels at Divisional and Zonal Level.

3. That, the applicant begs to state that while working at Lumding on 20.11.95 an accident took place

Contd.../-

at Lumding which blocked the mainline between Lumding-Guwahati Section (PKB/LMG(S)). Thereafter, it was planned by the higher authorities to run trains through Indian Oil Corporation Yard Line and on refusal by the I.O.C. authorities on the ground that it was not meant for passenger traffic, the Respondent No. 4 talked to Chief Operation Manager, Maligaon who prevailed upon the I.O.C. authorities to let the train pass and accordingly, 4055 Dzn. Brahmaputra mail was passed on this line. But the next train 28Dn. passenger train while passing through the I.O.C. line got derailed and after clearing the track, again 4056 Up. Brahmaputra Mail was passed through the line and which also got derailed.

4. That, the applicant begs to state that a fact finding accident enquiry committee comprising of Sri D.K.Chakma, Sr. DOM/LMG, Sri A.Khare, Sr.DME/LMG and Sri A.Das, DEN/III/LUG was constituted and the committee submitted its report about the two accidents on 8.12.95 in which Sri A.Das DEN/III/LMG submitted a dissent note. The applicant in this connection further states that Sri A. Das was the only expert on tracks in the committee.

5. That, the applicant begs to state that the enquiry committee report revealed that the accidents took place due to presence of sharp curve between point No. 9 and

Contd.../-


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point No. 106 in IDC yard and held the applicant responsible for the accident. However, Sri A.Das, the engineering member of the committee in his dissent note stated in para 2 thereof that the sharp curvature which has been noticed is not due to the maintenance failure rather it was a defect in the layout which had been committed at the time of laying yard lines and which cannot be rectified unless entire layout of I.O.C. yard is changed. The I.O.C. yard line was laid out by construction department of the railways.

A copy of the accident enquiry report is annexed herewith and marked as ANNEX-URE-I.

6. That, subsequently the applicant received Memorandum No.W/12/LM/213/W-5 dtd. 28.2.96 and Memorandum No.W/12/LM/214/W-5 dtd. 22.4.96 issued by the Senior Divisional Engineer (Respondent No.4) whereby the applicant was informed that it was proposed to hold an Enquiry against him under Rule 9 of the Railway Servants (Discipline and Appeals) Rules, 1968. The charge was that while the applicant was functioning as Permanent Way Inspector, Grade-I, Lumding he failed to maintain absolute devotion to duty in violation of Rule, 3 (1) (ii) of Railway Services (Conduct) Rules, 1966, for failing to maintain the track within safety tolerance

Contd.../-



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leading to derailment of the 4056 Up Brahmaputra Mail Train and 280n. passenger train due to presence of sharp curve between points No. 9 and 106 in I.D.C. yard.


Copies of the two memorandum dated 28.2.96 and dated 22.4.96 are annexed herewith and marked as ANNEXURE-II and III respectively.

7. That, on receipt of the aforesaid memorandum the applicant submitted his reply denying the charges and prayed that certain relevant documents be supplied to him.

Copies of the aforesaid replies are annexed herewith and marked as ANNEXURE-IV and ANNEXURE-V respectively.

8. That, thereafter, there was some correspondence between the applicant and the authorities and ultimately the enquiry commenced sometime in June 1997. In the enquiry no witnesses were examined and only the copy of the enquiry report submitted by J.A. Grade Officers was taken into account. The statement of the applicant was recorded and he was questioned by the Enquiry Officer. The same system was followed in both the enquiries conducted by the same officer. The applicant understands that the Enquiry Officer had

Contd.../-



submitted the Enquiry Report holding that the charges framed against the applicant were not proved.

9. That the applicant begs to state that during the pendency of the proceedings the applicant reached the age of superannuation and he retired from service on 30.6.97. After the proceeding was completed the applicant was not informed about the outcome and no final orders have yet been passed and the applicant is facing great difficulties as he has not received the full retirement benefits including DCRG.

10. That the applicant on 26.5.99 submitted a representation to the Respondent No. 4 stating the above facts with the prayer that necessary steps be taken for settlement of his pensionary benefits including the payment of DCRG, fixation of pension and allowing him commutation of pension.

Copy of the said representation is annexed herewith and marked as ANNEXURE-VI.

11. That the applicant was surprised to receive letter No.W/12/LM/1 & 2/W-5-79 dtd. 11.10.99 from the Divisional Railway Manager (Works) by which the applicant was directed to confirm whether he had submitted his defence against major memorandum charge sheets dtd. 6.11.96 and 20.11.96 and if so, to send copies of

the same. The applicant duly submitted his reply on 30.10.99 stating that no charge sheet was issued to him on 6.11.96 and 20.11.96 but that charges were drawn up against him vide letter dated 28.2.96 and 24.4.96 and that the DAR enquiry was already completed on 30.12.98.

Copies of letter dated 11.10.99 and dated 30.10.99 are annexed herewith and marked as ANNEXURE-VII and VIII respectively.

12. That thereafter the applicant again received letter No.W/12/LM/1&2/W-5/23 dtd. 2.12.99 whereby the applicant was again asked to submit copies of defence statement against major memorandum charge sheets dtd. 6.11.96 and 20.11.96. The applicant on 10.12.99 duly submitted his reply again stating that letters dtd. 6.11.96 and 20.11.96 were not charge sheets and he had duly submitted replies to the charge sheets received by him and that DAR enquiries were completed in December, 1998.

Copies of letter dated 2.12.99 and dtd. 10.12.99 are annexed herewith and marked as ANNEXURES-IX and X respectively.

13. That, from what is stated above it will be apparent that the authorities were handling the matter in a casual manner without proper application of mind

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and that there was lack of co-ordination between the different departments. The applicant had submitted reminders and on 31.12.99 he had sent another representation to the Respondent No. 3 but there has been little progress and the applicant has not yet received his full retirement benefits.

Copy of representation dated 31.12.99 is annexed herewith and marked as ANNEXURE-
XI.

14. That the applicant begs to state that the applicant has not been paid his Death-cum-Retirement Gratuity which amounts to Rs. 1,30,085/- though he has retired from service as far back as on 30.6.97. Moreover, the applicant has been paid only a sum of Rs. 1,30,792/- towards commutation of pension when in fact he is entitled to receive a sum of Rs. 1,79,243/- and as such, the applicant is facing great financial difficulties even after his retirement after putting in years of faithful and loyal service to the department.

15. That the applicant begs to state that from the enquiry report and evidence adduced during the enquiry it will be apparent that :-

i. From the statement dtd. 24.11.95 of Sri J.C.Biswas, Chief Controller Lunding, it is evident that the decision to run 28 Dn and 4056 Up through the

Contd.../-

I.O.C. sidings was not that of the applicant and the decision was taken by the DRM, Sr. DOM and Headquarters and the applicant cannot be faulted in these.

ii. From the accident enquiry report it is apparent that the accident took place because of the sharp curve between points 9 and 106 in the I.O.C. yard which was a defect in the yard layout and cannot be attributable to poor maintenance by the Permanent Way Inspector and this is the finding given by the Enquiry Officer. Though the applicant has not received any order as yet the applicant has come to know that the authorities have initiated process for some cut in the pension which is not justified at all and as such he is approaching this Hon'ble Tribunal for relief due to him.

5. GROUND'S FOR RELIEF WITH LEGAL PROVISIONS.

i. For that in any view of the matter the action of the authorities in not paying the full retirement benefits to the applicant though he retired from service as far back as on 30.6.97 is bad in law and this is a fit case where this Hon'ble Tribunal will exercise jurisdiction and grant relief to the applicant.

ii. For that both the two proceedings drawn up against the applicant were completed as far back as on 31.12.98 and the Enquiry Officer has held that the

Contd.../-

charges in the two proceedings were not proved and the authorities have committed an illegality by sitting over the matter and denying the benefits due to the applicant and the impugned action is bad in law and liable to be set aside.

iii. For that, the applicant retired from service as far back as on 30.6.97 and no final orders in the proceeding has been passed though the same was completed as far back as on 31.12.98 and as such the proceedings is liable to be quashed.

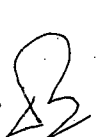
iv. For that, in the facts and circumstances stated above there can be no justification whatsoever in withholding the death-cum-retirement gratuity and the full amount of the commutation value of the pension and as such, the applicant is entitled for a direction for getting the payment with interest.

v. For that, in any view of the matter the impugned action of the authorities is bad in law and this is a fit case where this Hon'ble Tribunal will exercise jurisdiction and grant relief.

6. DETAILS OF THE REMEDIES EXHAUSTED.

The applicant had submitted appeals/ reminders dated 26.5.99 and 31.12.99 but there has been no response from the authorities.

Contd.../-



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

The applicant further declares that he had 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 this 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, call for the entire records of the case, ask the opposite parties to show cause as to why the proceedings drawn up as far back as on 28.2.96 (Annexure-II) and 22.4.96 (Annexure-III) should not be quashed and also as to why a direction should not be issued to pay the Death-cum-Retirement Gratuity and the full amount of the commutation value of pension with interest and after perusing the causes shown if any and hearing the parties quash the proceeding and direct that the

Contd.../-

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DCRG and full value of commuted pension be paid with interest and /or pass any other order/orders as Your Lordships may deem fit and proper.

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

9. INTERIM ORDER IF ANY, PRAYED FOR :

It is, therefore, prayed that pending disposal of this application Your Lordships would be pleased to direct the Respondents to pay the death-cum-retirement gratuity amount and the full amount of the commutation value of pension.

10. Does not arise.

11. PARTICULARS OF BANK DRAFT/POSTAL ORDER IN RESPECT OF THE APPLICATION FEE :-

- i) I.P.O. No. OG 493866.
- ii) Date 11/3/2000.
- iii) Issued by Guwahati Post Office.
- iv) Payable at Guwahati.

12. LIST OF ENCLOSURES:-

As stated in the index.

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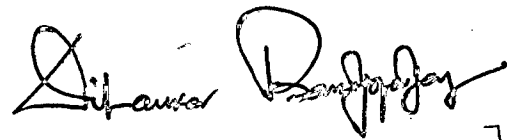
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VERIFICATION

I, Shri Dipankar Bandyopadhyaya, son of Prafulla Ranjan Bandyopadhyaya, presently residing at Quarter No. 229A, West Gotanagar, Maligaon, Guwahati, Assam, do hereby verify that the contents from paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 are true to my personal knowledge and the paragraphs 5 and 6 are believed to be true on legal advice and that I have not suppressed any material of facts.

Date : 13.3.2000

Place: GUWAHATI


[SIGNATURE OF THE APPLICANT]

- 15 -

ANNEXURE - I
48/25
I

ENQUIRY PROCEEDINGS OF 28 DN AND 4056 UP
BETWEEN LMG(S) & PKB ON 20-11-95

A. HISTORY

On 20-11-95, due to accident of DN PNGM Suit between LMG 'A' and LMG 'B' cabins, train running was suspended between LMG and PKB. It was planned to run trains through IOC yard line no 6. First train to pass through was 4056 DN Brahmaputra Main which passed through safely. Next train 28 DN passed through LMG(S) at about 21.35 and met with an accident on IOC lead at GHY end after passing line no 6 of IOC yard at about 22.10 hrs. Front pair of wheel of front trolley of coach no GS NF 8188 and rear trolley of coach no SLR NR 13671 derailed. No injury occurred to any passengers.

ART was ordered from LMG and siren was blown at 2235 hrs. The ART left at 2315 hrs and arrived site at 2345 hrs. Work started at 2355 hrs and completed at 0045 hrs on 21-11-95. Track was certified fit for running of trains at 5 KMPH at 0540 hrs.

Train No 4056 UP left PKB at 0600 hrs on 21-11-95 and was being piloted through line no 6 of IOC yard. It met with an accident at about 0645 hrs as rear trolley of coach no ACCW NR 14031 derailed.

ART was ordered from LMG and siren was blown at 0735 hrs. The ART left at 0830 hrs and arrived site at 0900 hrs. Work started at 0915 hrs and completed at 1100 hrs on 21-11-95. Track was certified fit at 1240 hrs only for Fourwheelers.

| | | |
|-----------------|-------|-------|
| Cost of damage: | P.Way | : nil |
| | C&W | : nil |
| | Total | : nil |

PF memo : Entanglement of buffers of derailed coaches.

B. REASONS FOR FINDINGS

From the evidences recorded, it is evident that the buffers of the derailed coaches had got entangled.

From the joint readings of the derailed coaches recorded by PWI/LMG and TXR/BD/LMG after the accident, it could be seen that there was no defect on the derailed coaches. The PWI and TXR also in their statements have clearly indicated that there was no defect on the coaches which could have caused the entanglement of the buffers or could have caused the derailment.

From the joint readings of the track recorded by PWI/LMG, TXR/BD/LMG and LI/Hill/LMG after the accident of 28 DN, no defect could be seen in the portion of the track recorded. However, in the readings recorded after the derailment of 4056 UP, the versines of the curve between point no 9 and point no 106 were found to be excessive and beyond permissible limits. Such sharp curves can result in the entanglement of the buffers and subsequent derailments. The PWI also in his statement admitted that sharp curves which are not within permissible limits can result in the entanglement of buffers.

Attested by
Bijay Choudhury
Advocate

- 16 -

From the readings of the derailed coaches and track, it can be easily concluded that the entanglement of the buffers of 28 DN and 4056 UP coaches occurred due to sharp curve between point no 9 and point no 106 of in IOC yard. This entanglement subsequently led to derailment of the coaches.

Sri Dipankar Bandopadhyay, PWI/LMG was questioned regarding presence of a curve sharper than permissible in IOC yard. But, no satisfactory answer could be obtained from him. He himself indicated that he was required to take the readings of all the curves in the yard once a year. But, he had never taken the readings of the curve responsible for the derailment. On further questioning, he indicated that he had no instructions for maintenance of the track in IOC yard. Concerned AEN was called to clarify the matter who indicated that there were specific instructions and regular maintenance was going on for six months. Concerned PWM also confirmed that he was regularly being deputed to IOC yard and PWI was also coming to supervise the work.

In spite of the evidence of the AEN and the PWM, the PWI denied having the charge of the yard and also failed to indicate the name of the PWI who was responsible for the maintenance of IOC yard track.

From the above it is clear that either Sri Dipankar Bandopadhyay is not aware of his responsibilities or he was deliberately trying to mislead the enquiry committee. In any case he is responsible for not taking the measurements of the curve as per the schedule laid down and for failure to maintain the curve as per laid down instructions.

C. FINDINGS

We, the undersigned, on going through the relevant documents/data came to the conclusion that the accidents took place due to presence of sharp curve between point no. 9 and point no. 106 in IOC yard.

D. RESPONSIBILITY

✓ Sri Dipankar Bandopadhyay, PWI/LMG.

(A. DAS)
DEN III/LMG

(A. KHARE)
SR DME/D/LMG

(D. K. CHAKMA)
SR DOM/LMG

- 176

19

24

Dissent Note

1. The enquiry has not brought out the vital fact, into light that passenger train has been allowed to pass through the goods yards line where the standard of maintenance is definitely inferior to passenger train carrying track, and sufficient time was not available to improve the track.
2. The sharp curvature which has been noticed is not due to the maintenance failure rather it is a defect in the layout which has been committed at the time of laying yard lines and now can not be rectified unless entire layout of IOC yard is changed.
3. In yard accident, speed of the train is quite vital. But the engine was without speedometer hence the speed of train could not be ascertained. Mech
4. Complete ^{Coach} coach measurement has not been taken on the plea that "Possible only at sick line CS/GHY". TXR should have taken it ~~there~~ there.
5. Vital coach measurement like wheel gauge and wheel dia. have not been taken by TXR. These parameters are as important as track gauge and track cross level. TXR
6. Whenever a train derails on curve the possibility of off-loading due to defect in spring of coach has to be checked. But in this case the same has not been done and no measurement has been taken by TXR. TXR

Amir Singh
DEN/III/LMG

B. Bandopadhyaya PWI/1/104.
under 2041/P/204.
in duplicate

ANNEXURE-II
25/11/96
28/11/96
4056/B. mail of
21.11.95 in 100 Sdgs
um

STANDARD FORM NO.5.

STANDARD FORM FOR CHARGE SHEET.

(Rules of the Railway Servants (Discipline and Appeal Rules-1968)

No. W/12/LM/213/W-5. Dated: 28 / 2 / 1996

N. F. Railway. (Name of Railway Administration).

Place of issue

MEMORANDUM.

The Undersigned proposes(s) to hold an Enquiry against Shri Dipankar Bandopadhyaya, under rule-9 of the Railway Servants (Discipline and Appeal Rules, 1968. The substance of the imputations of misconduct or mis-behaviour in respect of which the enquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputation of misconduct or mis-behaviour in support of each articles of charge is enclosed (Annexure-II). A list of persons by which, and a list of witnesses by whom the charges proposed to be sustained are also enclosed (Annexure-III) and (IV). Further, copies of documents mentioned in the list of documents in annexure-III are enclosed.

Dipankar Bandopadhyaya

2. Shri is hereby directed to inspect the documents enclosed list of documents (Annexure-III) and any other documents within 10 days of receipt of this Memorandum. He should contact immediately on receipt of this Memorandum.

Dipankar Bandopadhyaya

3. Shri is further informed that if he so desires, take the assistance of any other Railway servant an official of Railway Trade Union (who satisfies the requirements of rule 9(13) of the Railway servants (Discipline and Appeal) Rules, 1963 and note 1 and or note 2 thereunder as the case may be for inspecting the documents and assisting him in presenting his case before the enquiring authority in the event of an oral enquiry being held. For this purpose he should nominate one or more persons in order to preference. Before nominating the assisting Railway servant(s) of Railway Trade Union official(s), Shri Dipankar Bandopadhyaya should obtain an undertaking from the nominee(s) that he (they) is (are) willing to assist him during the disciplinary proceedings. The undertaking should also contain the particulars of other case(s) if any in which the nominee(s) had already undertaken to assist and the undertaking should be furnished to the undersigned, Rly. along with the nomination.

Dipankar Bandopadhyaya

4. Shri is hereby directed to submit the undersigned () a written statement of his defence (which should reach the said within ten days of receipt of this Memorandum, if he does not require to inspect any documents for the preparation of the defence and within ten days after completion of inspection of documents, if he desires to inspect documents, and also (a) to state whether he wishes to be heard in person and (b) to furnish the names and addresses of the witnesses if any whom he wishes to call in support of his defence.

(Contd 2).

Attested by
Bijoy Choudhary
Adv.

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case may be .
 ** Name of the authority (This would imply that whenever a case is referred to the disciplinary authority the investigation authority or any authority who are in the custody of the documents or who would be arranging for inspection of documents to enable that authority being mentioned in the draft memorandum.
 Whereas the president is the Disciplinary Authority .To be retained wherever President or the Railway Board is the competent.

ANNEXURE TO STANDARD FOR M NO. 5.

Recommendation of Charge Sheet under Rule - 9 of the
RCCD + A) Rules 1968.

ANNEXURE - I.

Statement of Article of Charge framed against Sri Dipankar
Bandopadhyaya, PWI(I)/LMG.

ARTICLE - I.

That the said Sri Dipankar Bandopadhyaya, PWI(I)/LMG while
~~functioning~~ functioning as PWI FAILED TO MAINTAIN ABSOLUTE DE
devotion towards duty and he has thereby violated Article 3.1(II)
of Railway Service (Conduct) Rules of 1965.

ANNEXURE - II.

Statement of imputation of misconduct and misbehaviour in
support of the Article of the charge framed against Sri Dipankar
Bandopadhyaya, PWI(I)/LMG.

ARTICLE - I.

That said Sri Dipankar Bandopadhyaya, while functioning as
PWI/LMG is responsible for safe maintenance of P. WAY under his
jurisdiction. on 21-11-95, 4056 UP B. P. Mail got derailed betn.
PKB/LMG(3) and the derailment took place due to presence of
sharp curve betn. point No. 9 and point No. 16 in IOC yard. Sri
Bandopadhyaya has failed to maintain the track with in safety to-
lerance and thus has violated Article 3.1(II) of Railway Service
(Conduct) Rules of 1966.

ARTICLE - II.

= NIL =

ANNEXURE - III.

List of documents by which Article of charge framed against
Sri Dipankar Bandopadhyaya, PWI(I)/LMG.

- i) Accident Enquiry Report conducted by T. A. Grade officers.


Sr. DEN/LUNDING.

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ANNEXURE-III

Derailment of 28th train b/w LMG(s) - PKB

20-11-95

No- 0811-52

Ad- 23.1.96

64/11

STANDARD FORM NO.5.

STANDARD FORM FOR CHARGE SHEET.

(Rules of the Railway Servants(Discipline and Appeal Rules-1968)

23.1.96

Dated: 22/1/1996

N. F. Railway. (Name of Railway Administration).

Place of issue

MEMORANDUM.

The undersigned proposes(s) to hold an Enquiry against Shri ~~Diwan~~ under rule-9 of the Railway Servants (Discipline and Appeal Rules, 1968. The substance of the imputations of misconduct or mis-behaviour in respect of which the enquiry is proposed to be held is set out in the enclosed statement of articles of charge(Annexure-I). A statement of the imputation of misconduct or mis-behaviour in support of each articles of charge is enclosed(Annexure-II) A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure-III) and (IV). Further, copies of documents mentioned in the list of documents as per annexure-III are enclosed. ~~Indhy, Pk/B~~

2. Shri ~~Diwan~~ is hereby ~~informed~~ that he/she, desires, he can inspect and take extracts from the documents mentioned in the enclosed list of documents(Annexure-III) at any time during office hours within 10 days of receipt of this Memorandum. For this purpose he should contact ~~immediately on receipt of this Memorandum.~~

3. Shri ~~Diwan~~ is further informed that he may, if he so desires, take the assistance of any other Railway servant an official of Railway Trade Union(who satisfies the requirements of rule 9(13) of the Railway servants (Discipline and Appeal) Rules, 1968 and note 1 and or note 2 thereunder as the case may be for inspecting the documents and assisting him in presenting his case before the enquiring authority in the event of an oral enquiry being held. For this purpose he should nominate one or more persons in order to preference. Before nominating, the assisting Railway servant(s) of Railway Trade Union official(s); Shri ~~Diwan~~ should obtain an undertaking from the nominee(s) that he (they) is (are) willing to assist him during the disciplinary proceedings. The undertaking should also contain the particulars of other case(s) if any in which the nominee(s) had already undertaken to assist and the undertaking should be furnished to the undersigned, Rly. along with the nomination. ~~Indhy, Pk/B~~

4. Shri ~~Diwan~~ is hereby directed to submit the undersigned () a written statement of his defence(which should reach the said within ten days of receipt of this Memorandum, if he does not require to inspect any documents for the preparation of the defence and within ten days after completion of inspection of documents if he desired to inspect documents, and also (a) to state whether he wishes to be heard in person and (b) to furnish the names and addresses of the witnesses if any whom he wishes to call, in support of his defence.

18/5/96

(Contd. 2).

..... 2

5. Shri Dipankar Bandopadhyaya is informed that an enquiry will be held only in respect of these articles of charges are not admitted. He should, therefore, specifically admit or deny each article of charge.

6. Shri Dipankar Bandopadhyaya is further informed that if he does not submit his written statement of defence within the period specified in para 2 of does not appear in person before the Enquiring authority or otherwise fails or refuse to comply with the provisions of rules-9 of the Railway Servants (Discipline and Appeal) Rules, 1968 on the orders/ direction issued in pursuance of the said rules, the enquiring authority may hold the enquiry ex parte.

7. The attention of Shri Dipankar Bandopadhyaya is invited to Rule-20 of the Railway Servants (Conduct) Rules 1968, under which no Railway servant shall be permitted to bring any political or to their influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the govt. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings. It will be presumed that Shri Dipankar Bandopadhyaya is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rules-9 of the Railway Services Conduct Rules-1968.

8. The receipt of this memorandum may be acknowledged.

Enclo:-

By order and the name of the President
Signature. S. C. Roy
Name and Designation
Competent Authority

To
Shri Dipankar Bandopadhyaya.....
PWT/T/LAG, Under CPWT/(P)/LAG,....
(Designation & Place)

Copy to ~~XXXX~~ A.E.N/T/BG, PWT/(P)/LAG.....
(lending authority) for information.
Strike out whichever is not applicable.

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

Name of the authority (This would imply that whenever a case is referred to the disciplinary authority the investigation authority or any authority who are in the custody of the documents or who would be arranging for inspection of documents to enable that authority being mentioned in the draft memorandum.

Whereas the president is the Disciplinary Authority. To be retained wherever President or the Railway Board is the competent.

Forwarded

ANNEXURE TO STANDARD FORM - 3
MEMORANDUM OF CHARGE SHEET.
UNDER RULE 20 OF THE RS(D & A)
RULES 1963.

(ANNEXURE - I)

39

Statement of articles of charge framed against Sri Dipankar Bandopadhyay, PVI/I/LMG (Name and designation of the Rly Servant).

ARTICLE - I

That the said Sri Dipankar Bandopadhyay, ^{while} functioning as PVI/LMG has failed to maintain absolute direction to wards entry and he has thereby violated Article 3.1 (ii) of Railway services (Conduct) rules of 1966.

ANNEXURE - II

Statement of Imputation of his conduct and Misbehaviour in support of the Article of Charge framed against Sri Dipankar Bandopadhyay PVI/I/LMG.

ARTICLE - I

That said Sri Dipankar Bandopadhyay, ^{while} functioning as PVI/I/LMG is held responsible for safe maintenance of P.Way under his jurisdiction. On 20/11/93, 28 In passenger train between LMG(S)-IAD got derailed and the derailment took place due to presence of sharp curve between Points NO-9 and point NO.16 in 100 yards.

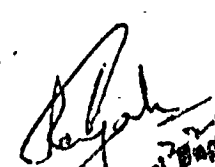
ARTICLE - II

NIL

ANNEXURE - III

List of document by which article of charges framed against Sri-Dipankar Bandopadhyay, PVI/I/LMG.

- 1) Accedent Enquiry report conducted by JA Grade Officers.


Sr. Divl. Engineer
N.P. Railway Building.

To
The Sr. DEN/N.F. Rly.
Lumding.

Sub:- Supply of documents.

Ref:- Your Major Memorandum No.
W/12/LM/213/W-5 dt. 28/2/96.

Sir,

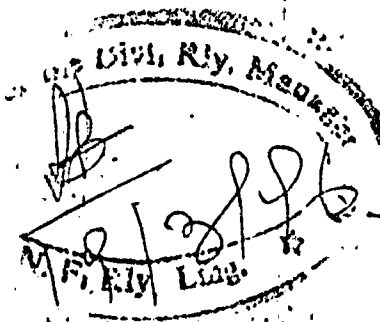
In ref. to the above I am to inform you that the charges brought against me vide above are baseless and fabricated hence I deny the same.

However to prepare a meaning ful defence I request you to supply me the relevant documents on the basis of which the charges have been brought against me. After examining the documents I may have the accession of calling witnesses as well as further relevant documents as necessary in terms of rule 9 and sub rule (6) (7) of D&A rule 1968.

Yours faithfully,

Dipankar Bandopadhyaya
(Dipankar Bandopadhyaya)
PWI/I/Lumding.

Dt. 18/3/96.



Attested by
Bhram Choudhury
Advocate
13/3/2000.

ANNEXURE-V

To

The Sr.DEN/NFRly.
Lumding.

•Thr: (CPWI/P/.....)

Sub: Supply of documents.

Ref: Your Major Memorandum No. W/12/LM/214/W-5 dtd.
22.4.96.

Sir,

In ref. to the above I am to inform you that the charges brought against me vide above are baseless and fabricated hence I deny the same.

However to prepare a meaningful defence, I request you to supply me the relevant documents on the basis of which the charges have been brought against me. After examining the documents I may have the occasion of calling witnesses as well as further relevant documents as necessary in terms of rule 9 and Sub-Rule (6) (7) of D & A Rules 1968.

Dated Lmg.
27.4.96

Yours faithfully,

Sd/- Dipankar Bandyopadhyaya
27.5.96,
P.W.1/1/Lmg.

attested by:
Bikram Choudhury
Advocate

13/3/2000

Contd.../-

To

The Sr. DEN/NFRly.

Lundung.

Thru: (CPWI/Plm)

Sub: Supply of documents.

Ref: Your Major Memorandum NR.

W/12/LM/214/W-5 dt. 22.4.96

Sir,

In ref. to the above I am to inform you that the charges brought against me vide above are baseless and fabricated hence I deny the same.

However to prepare a meaningful defense I request you to supply me the relevant documents on the basis of which the charges have been brought against me. After examining the documents I may have the accession of calling witnesses as well as further relevant documents as necessary in terms of rule 9 and Sub rule (6) (7) of D & A rule 1968.

Dated 27.5.96

Yours faithfully
Dipankar Bandopadhyay
(Dipankar Bandopadhyay) 27.5.96
PW/Plm.

To
The Sr.DEN/Lunding,N.F.Railway.
Sir,

Sub:- Non payment of DORG, non fixation of Pension and
non allowing of commutation of pension.

With due respect I beg to draw your kind attention on the following
few lines.

That Sir, I retired from service on superannuation from the post of
SE/P.Way/P/LMG w.e.f. 1.7.97. But my final pension has not been fixed till date.
Neither I got the benefit of commutation of pension nor my DORG has yet been paid
to me.

That Sir, a major penalty charge sheet No.W/12/LM/213/W-5 dt.28.2.96
was served to me framing a charge that I failed to maintain the track to safety
tolerance, on the occurrence of derailment of 4056 UP/B.P.Mail on IOC siding
line/LMG on 21.11.95.

That Sir, the charge framed against me was not correct. Because the
maintenance activity of the said track was entrusted to Construction Organisation
and they were maintaining the same since last six months of the occurrence of
derailment which is evident from the noting of SSE/PW/P/LMG (Photocopy
enclosed).

That sir, the IOC siding line at LMG was fit only for the Goods Train
with restricted speed and the 4056Up of 21.11.95 was allowed to pass through the
IOC siding line by the order of the then DRM/LMG, Sr.DRM/LMG and AEN-I/DG/LMG to
clear the congestion, ignoring the fact that there was an occurrence of
derailment of 280N Passenger train on 20.11.95, just on the previous day, on the
same line of the same siding.

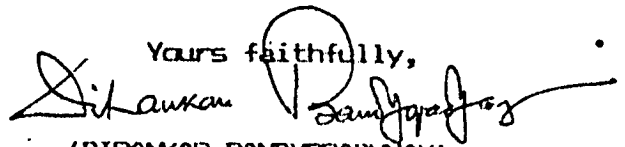
That Sir, the DAR enquiry against me was completed on 31.12.98. The
findings of the enquiry does not prove any charge framed against me. Even though
I am being deprived of the retirement benefits due to me.

That Sir, being harrassed mentally with a heavy monetary loss, the
non payment of settlement dues and pensionary benefits have created a tremendous
hardship to me and my family, a severe punishment with no fault.

Under the above circumstances, I pray to your goodself to take an
immediate step for issuing me the final LPC to clear up all my dues at earliest
possible time.

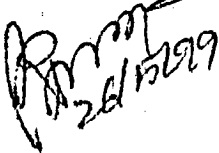
Enclosure : One as mentioned above.

Dated the Muliganv.
26.5.1999.

Yours faithfully,

(DIPANKAR DANDOPADHYAY)
Ex.SE/PW/P/LMG.
C/o Mr.D.Boro,
Gr.No.229/A, West Gotanagar,
Maligaon, Guwahati:-781011.

Copy to : 1.Chief Engineer,N.F.Rly./MLG, for information & necessary action
2.General Manager,N.F.Rly./MLG, please for information & necessary action please.

Yours faithfully,


26/5/99

attested by
Bikram Choudhury
Adi

बिमा नहीं / NOT INSURED

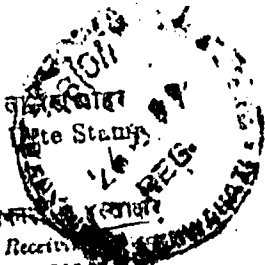
क्रमांक / No 4103

पत्र/पैकेट/पेकट/पार्सल का मूल्य / Amount of Stamps affixed Rs. 19/-

प्राप्त किया / Received & Registered

पानेवाले का नाम / Address

पानेवाले अधिकारी / Signature of Receiver



प्राप्ति-स्वीकृति (समय) / यदि न / ACKNOWLEDGEMENT

पत्र/पैकेट/पेकट/पार्सल प्राप्त हुआ / Received & Registered

प्राप्त किया / Received & Registered

पानेवाले का नाम / Name of the person to whom delivered

प्राप्त किया / Received & Registered

पानेवाले का नाम / Name of the person to whom delivered

प्राप्त किया / Received & Registered

पानेवाले का नाम / Name of the person to whom delivered

प्राप्त किया / Received & Registered

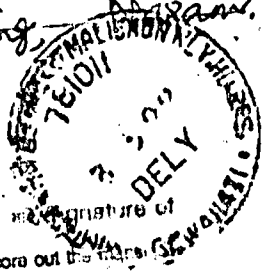
पानेवाले का नाम / Name of the person to whom delivered

Sr. Div. Engineer / N.F.D.

Lumding

P.O. - Lumding

28/11/49



अनुपस्थित की वजह से / For insured articles only

REG. WITH A/D.

N.F. Railway

OFFICE OF THE
DRM (W) LUMDING.

NO. W/12/LM/1&2/W -5 / 79

Dt. 11-10-99.

To
Shri Dipankar Bondopadhyaya
Retired PWI.
229/A West Gotanagar.
P.O. Maligaon.
Guwahati-11.

Sub:- Cut of pension in the case of
Shri Dipankar Bondopadhyaya Ex.
PWI/Gr-II under CPWI/P/LMG.

You are hereby requested to confirm wheather
any defence against Major Memorandum Charge Sheet No. W/12/
LM/213/W-5/77 dt. 5/6-11-96 and W/12/LM/214/W-5/223 dt. 10/20-
11-96 have been submitted to the disciplinary authority or not
if so please send the copies of the defences to this
office by Spl. man for onward transmission the same to the
competent authority for consideration.

This is URGENT.

B. J. 8/10/99
for Divl. Rly. Manager (Works)
Lumding.

Copy to DRM(P)/LMG for information. This is
reference to his letter No. E/74/DAR/LM(E) dt. 30.9.99.

for Divl. Rly. Manager (Works)
Lumding.

.....

Recd. on
22/10/99

attested by
Bikram Choudhury
Advocate

13/3

ANNEXURE - VII

Sir,

**Sub:- Cut of pension in the case of Sri Dipankar Bandyopadhyaya,
Ex. PWI / Gr. II under CPWI / P / LMG.**

Ref :- Your Letter No. W / 12/ LM/ 1 & 2 / W-5/ 79 dt. 11-10-99.

No major memorandum charge sheet vide No W/ 12/ LM/ 213/ W-5/ 77 dt 5/6 - 11-96 and W/ 12/ LM/ 214/ W-5/ 223 dt 10/20-11-96, as mentioned in your above quoted letter had been received by me and rather I am surprised to note the subject of your letter i.e. cut of pension which has not been relayed to me upto even after a lapse of 10 months after completion of DAR Inquiry inspite of my letter No Nil dtd. 26-5-99 sent to you by registered with A/D requesting to take immediate step to finalise the issue.

It is for your information that No. W/ 12/ LM/ 213/ W-5/ 77 dtd 5/6-11-96 and W/ 12/ LM/ 214/ W-5/ 223 dt 10/20-11-96 are two letters which contained copies of documents on the basis of which charges were framed against me in charge sheet No W/ 12/ LM/ 213 / W-5 dtd 28/2/96 & W/ 12/ LM/ 214/ W-5 dt.22/ 4/ 96 issued in reply to my defence. In reply to the above quoted letters, I denied the charges and asked for initiating inquiry into the charges vide my letter No.NIL dtd. 21-12-96. Accordingly DAR inquiry was initiated on 30-5-97 and completed on 31-12-98 i.e. it took more than 1 1/2 yrs. to complete the inquiry. The inquiry officer, had no other alternative than to exonerate me from the charges brought against me, which could not prove at all.

Under the above circumstances, I fervently request your good self to be kind enough to expedite finalisation of the case for redressal of monitory hardship being faced by me while I am not guilty at all.

I remain Sir,

Yours Sincerely

(Dipankar Bandyopadhyay) 30.10.99
Retn. SE/P2/ky/P-124.

Copy to :- DRM(P) / LMG for information and necessary action please.

attested by
Bikram Choudhury
13/3

CHALIGAON RLY HQ SD) Ctr. 2
RFG AD 2844
NAME: SR DEN NFR LUMDING, ASSAM
CITY: 782447

105 FOR RS. 0 / P-STAMP Rs. 0
 TIME: 19.00/ Gms.124 / 02/11/1999 13:02

[illegible]

- 31 -

ANNEXURE-17 u

N.F. Railway

(REGISTERED WITH A/D)

Office of the
DRM (W) LMG
Dt. 02-12-99

No. W/12/LM/1&2/W-5 / 23

To

Sri Dipankar Bandopadhyay
Retired PWI
229/A West Gatanagar
P.O. Maligaon, Guwahati

Sub:- Cut of pension ~~xxxx~~ in the case of
Sri Dipankar Bandopadhyay Ex. PWI/Gr. II
under CPWI/P/LMG.

Please find herewith the P/S copy of this
office letter No. W/12/LM/1&2/W-5/79 dt. 11-10-99 where
in you were advised to submit the copy of defence if
any against Major memorandum chargesheet No. W/12/LM/213/
W-5/77 dt. 5/6-11-96 and W/12/LM/214/W-5/223 dt. 20-11-96
but till date nothing is received.

This is along pending case, you are requested
once again to submit copy of defence to this office by
spk. special man at once otherwise decision will be taken
as Deem fit.

This is urgent,

for Divisional Rly. Manager (Works)
N.F. Railway, Lending.

Copy to :-

DRM (P) LMG-for information, This is in reference to
his letter No. E/74/DAR/LM(E) dt. 30-9-99.

for Divisional Rly. Manager (Works)
N.F. Railway, Lending.

.....

Noted by
Srikanth Choudhury
Adv.

13/3

Noted by
7/12/99

To
DRM(W) / LMG
N.F.Railway

Sir,

I am rather astonished to receive your letter no. W/ 12/ LM/ 1 & 2/ W-5/ 23 dt 2/12/99 without P/ S copy though mentioned in your letter while reply to your previous letter No. W/ 12/ LM/ 1&2/ W-5/ 79 dt 11-10-99 was sent to you by registered with A/D and acknowledgement due in token of receipt of the letter by you is available with me. So it indicates that reply to your letter dtd. 11-10-99 given by me has no way of denial that the letter was not received at your end. The letter under reference has not indicated the acceptance of my letter dtd. 30-10-99 while this letter itself was self explanatory and there is nothing kept hidden which is not understandable.

Basically letters No. W/ 12/ LM/ 213/ W-5 / 77 dt. 5/6-11-96 and W/ 12/ LM/ 214/ W-5/ 223 dt. 20-11-96 were not the Charge sheets as mentioned in your letter under reference as well as previous letter dt. 11-10-99. These were just the forwarding letters issued from your office enclosing documents as asked for by me on 18-3-96 and 22-5-96 respectively.

Now, I am at my wit's end to understand as to when charge sheet No. W/ 12/ LM/ 213/ W-5/ 77 dt. 5/6-11-96 & W/ 12/ LM/ 214/ W-5/ 223 dt 20-11-96 were issued and who received, as, so far I remember, I had received only Charge sheets No. w/12/lm/213/W-5 dt. 28/2/96 & W/12/LM/214/W-5 dt. 22/4/96 for which defences were given on 18/3/96 & 27/5/96 respectively with request to handover me the related documents on the basis of which charges were framed. Accordingly, P/S copies of the documents were received from you through your letter Nos. W/12/Lm/213/W-5/ 97 dt. 5/6-11-96 & W/12/ LM/ 214/W-5/223 dt 20-11-96 respectively. In reply to the above, I submitted my defence further asking inquiry on both the cases, which were nothing but fake & fabricated, on 22/12/96 which was received by you on 26/12/96.

After receipt of my defence and desire, DAR inquiry was started which completed in December'98. Since then nothing has been heard on the fate of the inquiry though a considerable time has already passed excepting your letters Nos. W/12/ LM/ 1&2/ W-5/ 79 dt 11-10-99 and W/ 12/ LM/ 1&2/ W-5/ 23 dt. 2/12/99 asking copies of defences of two fake charge sheet Nos. W/ 12/ LM/ 213/ W-5/ 77 dt. 5/6-11-96 & W/12/LM/214/ W-5/ 223 dt. 20/11/96.

(Condt. -2)

Attested by
Bikram Choudhary
Advocate

13/3

So, please let me know copies of defences of which Charge sheets are required by you instead of making un-necessary correspondances with fake Charge sheet which have not been received by me.

Yours Sincerely
(Dipankar Bandyopadhyay)

Copy to:-

- (i) DRM(P)/ LMG for information and necessary action please. This is in reference to DRM(W)/ LMG's letter No. W/ 12/ LM/ 1&2/ W-5/ 23 dt. 2/12/99.
- (ii) Chief Engineer/ N.F. Rly/ MLG with request for redressal of the case instead of lingering for indefinite period by Sr. DEN/ LMG as I am not guilty at all.

Dipankar Bandyopadhyay

Yours Sincerely 10/12/99
(Dipankar Bandyopadhyay)

229A/ West Ghatnagar
Matgam
Surat - 11

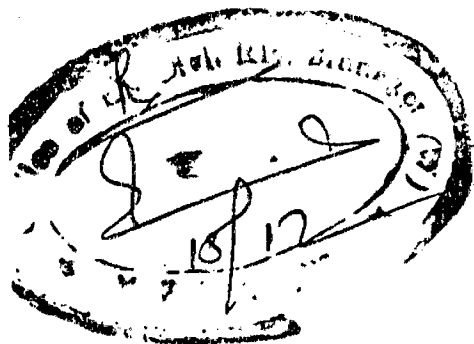
L L/M DB/DAR-3/99 dt. 10/12/99

Ref. Cut of Pension

Received L/M DB/DAR-3/99 dt. 10.12.

Ref. Cut of Pension

15/12/99
CIVIL. K.1. ENGINEER (P)
N.F. Rly. L. 4138
Surat



HALIGAN RLY HO 501 Cntr.2

REG AD 6762

NAME: SRI V. SUBRAMANYAM, DIV. RLY. MANAGER,

CITY: HALIGAN RLY 782447

भारतीय रेल



INDIA RAILWAYS

कृपया ध्यान दें

34

ANNEXURE-XI

INS FOR RS. 0 / F-STAMP RS. 0

ANT: 22.00/ 685.22H / 01/01/2000 11:57

No. D3/DAR-5/99

Dated : 31.12.99.

To

Sri V. Subramanyam,

Divisional Railway Manager,

N.F. Railway, Lumding.

Sub : Non finalisation of DAR enquiry
and non payment of PS dues.

Ref : My appeals dated 26.5.99, 30.10.99,
12.11.99 and 29.12.99.

Sir,

Respectfully, I beg to state that while working as
Jr. W.I./Lumding I was issued two major memorandums No. W/12/LM/213/
W-5 dt. 20.2.96 and W/12/LM/214/W-5 dt. 22.4.96. In terms of the
charge memorandum it was alleged that I had failed to maintain
devotion to duty and failed to maintain track safety tolerance. In
support of this allegation the only evidence relied on by the
Disciplinary Authority is the Accident Enquiry Report of
J.A. Grade Officers.

That Sir, it is seen from the main findings and determina-
-tion of responsibility has been signed by the two officers none
of whom are supposed to be fully conversant with the provisions
of Indian Railway Permanent Way Manual. One of the officers was
an Operating man and the other one was a Mechanical Engineer. The
third officer namely Sri A.Das, DEN/III/Lumding who supposed to
be an expert on P. Way management had not agreed with the
findings and the responsibility assigned on the c.o. by the two
members who were not technically qualified to pronounce judgement
on P. Way management. Therefore, my findings arrived at by the
two members should have been collected with the Dissent Note
submitted by DEN/III/Lumding. The d/Note clearly states that the
sharp curvatures, presence of which between point no.9 and point
no.105 in IOC yard has been cited by the two members as the cause
of the accident, is not due to maintenance failure, rather it is a
defect in layout which has been committed at the time of laying
yard lines of IOC yard. Further, from correction slip no.1 of
page no.5 issued by competent authority on 9.3.95 in respect of
IOC yard for line no.4 to 6 clearly states in column no.4 that
the said lines are meant for BG Goods reception and despatch. It
is evident there from that, IOC lines are not meant for Coaching
Traffic and as such the decision taken by the higher authorities
to pass 28 DN Passenger and 4056 UP Mail Train was clearly
erroneous and this decision is the main cause of accident of 28
DN and 4056 UP dated 20.11.95 and 21.11.95. Therefore, the c.o. is
not responsible for the maintenance of track within safety
tolerance. Moreover, the maintenance of IOC yard for that period

contd...2

Attested by
Bikram Choudhary
Adv.

13/3

... Construction Organisation as seen by the ...
... of S.A. 100/82/LMB dated 21.12.99 ...
... 100/82/LMB.

... recently ... to my office that the ...
... report ...
... of my ...
... of D.A. ...
... penalty ...
... inquiry.

... I ... from ... Service ...
... 20.6.97 ...
... / ... days ...

... I took the ...
... against ...
... for ...

In view of the above I ... for review the case ...
... and ... your good office to ...
... settlement.

With regards,

Encls. Two.

Yours faithfully,

Silanka Pandey 21.12.99

(DIRECTOR, PANDUPADHYAY)
Rd. 100/P/LMB.

TO
The Secretary/Ministry
New Delhi

Subject: Finalising of the enquiry and non
payment of final settlement

Ref: My appeal dated 20.12.99 dated 20.12.99
12.11.99, 30.10.99 and 10.12.99

Sir,

Respectfully, I beg to state that I was issued chargesheet
via Memorandum No 8/12/113/100 dt 20.2.96 and 8/12/113/
214/100 dt.22.4.96 and the regular enquiry was completed by
20/96 and the statement of defence was submitted in time.

Sir, I have retired on superannuation on 30.6.97 but still now
I have not received my dues, commutation of pension. Further,
my pension is still provisionally paid.

Sir, I like to inform you that I have not been communicated the
date of my inquiry report lying with you. It is high time
to mention here that owing to the inordinate delay I am suffering
from financial crisis and clouded with mental agonies and could
not take up settlement steps.

In this connection I have submitted a series of
appeal under reference and paid visit to Secy, Sr Secy and you
craving for your sympathy.

I hope you will take immediate measure to finalise the
long outstanding and allow release of my dues to
pass my rest days in peace.

With regards,

Yours faithfully,

Dipankar Bandyopadhyay
(Signature)

(Official Stamp)

21/12/99

Dated Durgam
29.12.99

Atto. 229A, West Gurnagar
P.O. Maligaon & Kamrup Guwahati-11

Copy to : Secy/Ministry for information and kind
action.

(Dipankar Bandyopadhyay)

सं. १००-११
१००-११
१००-११

सं. १००-११-विभाग/सचिवीय एवं विभाग
DEPARTMENT OF POSTS, INDIA

सं. १००-११-विभाग/सचिवीय एवं विभाग
Name Stamp of office of posting

सं. १००-११-विभाग/सचिवीय एवं विभाग

Dipankar Bandyopadhyay, P.O. SE/DH/P/111
229A, West Gurnagar
20 Maligaon P.O. Guwahati
Kamrup, Guwahati 781011

1708

001

781011

27
Central Administrative Tribunal
12 FEB 2001
Guwahati Bench

In The Central Administrative Tribunal
Guwahati Bench :: Guwahati.

17
For Personal Office
P. J. / M. /
Guwahati-781005

D.A. NO. 105/2000

Sri D. Bandopadhyay

Vs.

Union Of India & Ors.

In the matter of :

Written Statement on behalf of
the respondents.

Filed by the respondents
through P. Chakraborty
For J.L. Sanyal, Advocate

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

1. That the respondents have gone through the original application and have understood the contents thereof.
2. That the respondents do not admit any statement except those which are specifically admitted in this written statement. Statements not admitted are denied.
3. That the respondents do not admit statements made in paragraphs 4.1 to 4.2 which are not supported by records.
4. That in reply to statements in paragraph 4.3 it is stated that derailment of 28DN and 4056 UP between Lumding and Pathorkhola took place on 20.11.95 and 21.11.95 respectively.
5. That in reply to statements in paragraph 4.7

it is stated that the applicant submitted application dt. 18.3.96 and 27.5.96 respectively denying the charges but could not give any justification of his denial against the charges.

6. That in reply to the statements in paragraph 4.8 it is stated that the enquiry officer submitted report dt. 13.12.97 with remarks that the charges framed against the applicant were not proved.

7. That in reply to the statements in paragraph 4.9 it is stated that the disciplinary authority held applicant responsible for both the derailments and proposed 5% cut in pension for a period of 6 months.

8. That in reply to the statements in paragraph 4.10 it is stated that the representation dt. 26.5.99 has not been received by the respondents.

9. That in reply to the statements in paragraph 4.11 it is stated that the contents of the letter was misquoted as to the charge memorandums No. and issuing date and hence the DRM(Works) issued a corrigendum vide letter No. W/12/LM/213 and 214 DAR/W-5 dt. 21.12.99.

10. That the respondents do not admit the statements in paragraph 4.12 which are not supported by records.

11. That in reply to the statements in paragraph 4.14 it is stated that the death cum retirement gratuity of the applicant has been kept withheld for non finalisation of

Chief Personnel Officer
P. R. R. / Malabar
Gandhinagar

departmental disciplinary proceedings as per sub para(c) of Rule 10 of Railway service(pension) Rules 1993.

It is also stated that the commuted value of pension is concerned cannot be paid where the departmental disciplinary proceedings is pending against an employee as per Rule 5 under Chapter II of Railway Service (Commutation of pension) Rules 1993. But inadvertently revised commuted value of pension of Rs.1,79,243/- was paid to the applicant during the pendency of departmental disciplinary proceedings.

12. That in reply to the statements in paragraph 4.15 it is stated that the applicant as a permanent way inspector did not maintain the track of IOC siding and thus derailment took place.

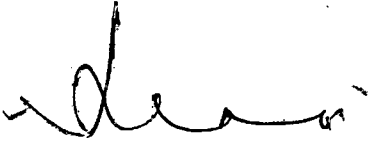
13. That in the facts and circumstances of the case the application deserves to be dismissed with cost.

Verification

I,.....A.K. NIGAM.....,working as Chief Personnel Office (Admn), N.F.Rly, Maligaon, do hereby verify that, the statements made in the paragraphs 1 to 10 are true to my knowledge.

Guwahati

8 / 2 / 2001


Signature

Chief Personnel Office
N. F. Rly, / Maligaon
Guwahati-11.