

30/100

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 234/02
Misc Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicants. Syed Jammaluddin Ali

-Vs-

Respondant(s) H.O.I. Form

Advocate for the Applicant(s) G.K. Bhattacharyya
B. Choudhury

Advocate for the Respondant(s) Barloway Counsel

Notes of the Registry	Date	Order of the Tribunal
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25.7.02

Present : Hon'ble Mr. Justice
D.N. Chowdhury, Vice-
Chairman.
Hon'ble Mr. K.K. Sharma,
Member (A).

Issue notice upon the respondents
as to why the application shall not be
admitted. Returnable by three weeks.

List on 19.8.2002 for further
order.

K. Usha
Member

Vice-Chairman

trd

19.8.02

List on 10.9.2002 to enable
the Respondents to file reply, if any.

K. Usha
Member

Vice-Chairman

mb

76577682
22.7.02
1/c. N. S. S.
22/7/02
P. S.

Steps taken

Notices prepared and
sent to D. Section for
issuing to the same
to the respondents through
Regd. post with A/D.
Vide D No 2100 to 2104
Dtd - 6.8.02.

2.8.02

10.9.02

Heard Mr. B.Choudhury, learned counsel for the applicant and also Mr. S.Sengupta, learned counsel for the Respondents.

Mr. S.Sengupta, learned counsel for the respondents prayed for some time to obtain necessary instructions on the matter. Prayer is allowed. List again on 8.10.2002 for admission.


Vice-Chairman

mb

8.10.02

Heard Mr. B.Choudhury, learned counsel for the applicant and also Mr. S.Sengupta, learned counsel for the Respondents.

Mr. S.Sengupta, learned counsel for the respondents again prayed for time for filing reply. Prayer is allowed.

List again on 11.11.2002 for admission.


Member



Vice-Chairman

mb

11.11.02

List again on 2.12.2002 to enable the respondents to file reply.

No. w/s has been
biled


29.11.02


Member



Vice-Chairman

mb

2.12.02

On prayer of Mr. S.Sengupta, learned counsel for the respondents further four weeks time is allowed to the respondents to file w/ reply, if any. List on 8.1.2003 for admission.

No. reply has been
biled


7.1.03


Member


Vice-Chairman

mb

8.1.03 present : The Hon'ble Mr Justice V.S. Aggarwal, Chairman.

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

Mr B.Choudhury, learned counsel is present for the applicant and Mr S.Sarma, learned counsel is present for the respondents.

By virtue of the present applicant Sri Syed Jammaluddin Ali (hereinafter described as applicant) prays for quashing of the departmental proceeding drawn against him. In this regard the applicant has raised two pleas, (a) the disciplinary authority was not competent to issue the above said notice for departmental proceeding and (b) the applicant had prayed for certain documents to be supplied to him, which are not been supplied to the applicant.

This Tribunal had issued notice to the respondents in this regard.

The applicant admits that on 17.5.2002 he has submitted a representation to the Divisional Railway Manager, N.F.Railway, Lumding and no decision on the same has been taken.

When the matter is pending before the Divisional Railway Manager, Lumding, referred to above, at this stage we don't intend to pass any order on merits of the matter. Any expression of opinion at this stage would be prejudicial or embarrassing for either side. Accordingly as for present we dispose of this application with a direction to dispose of the appeal of the applicant by considering the above noted points raised by the applicant and pass an appropriate order within two months from the date of receipt of this order and convey the same to the applicant.

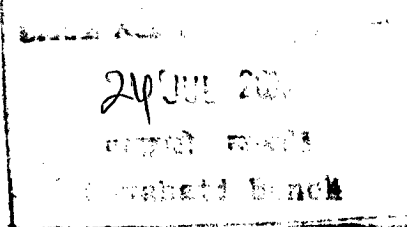
With this direction O.A. is disposed of

K.K.Sharma
Member

K. Aggarwal
Chairman

17.1.2003

Copy of the order
has been sent to
the Dy Sec. for issuing
the order to the L/Adm.
for the parties.
sd



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI
BENCH: GUWAHATI

(An Application under Section 19
of the Administrative Tribunal Act, 1985)

O.A. NO. 234 OF 2002

Sri Syed Jamaluddin Ali

... Applicant

-Vs-

Union of India and others

... Respondents

I N D E X

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Filed by

Bikram Choudhury
(Bikram Choudhury)

Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI
BENCH: GUWAHATI

(An Application under Section 19
of the Administrative Tribunal Act, 1985)

O.A. NO. 234 OF 2002

Sri Syed Jamaluddin Ali,
Son of Late Syed Asghar Ali,
Confidential Assistant to
Senior Divisional Safety
Officer, N.F. Railway,
Lumding.

... Applicant

- Versus -

1. Union of India,
Represented by the General
Manager, N.F. Railway,
Maligaon, Guwahati - 11.
2. Chief Personnel Officer,
N.F. Railway, Maligaon,
Guwahati - 11.
3. Divisional Railway Manager,
N.F. Railway, Lumding.

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Sri Jamaluddin Ali
Filed by the applicant
through Bikram Choudhury
Advocate
22.4.02

4. Mr. H. Tawna, Senior Divisional
Safety Officer. N.F. Railway,
Lumding.

5. Assistant Operations Manager
(Goods), (Enquiry Officer),
N.F. Railway, Lumding.

... Respondents

1. PARTICULARS OF THE ORDERS AGAINST WHICH THE
APPLICATION IS MADE :

- (i) Charge Memorandum No. ES-628-S(T). (DAR) dated 29.12.99 informing the applicant that an inquiry against the applicant was proposed under Rule -- 9 of Railway Servants (Discipline and Appeal) Rules, 1968.
- (ii) Order dated 2.11.01 appointing Sri N.A. Patil as the Enquiry Officer to hold inquiry into the charges. The order was issued by Sr. Divisional Operations Manager, Lumding, who was neither the disciplinary authority of the applicant nor he had any administrative control over the applicant.
- (iii) Letter dated 5.7.2002 issued by the Enquiry Officer, (i.e. Respondent No.5) fixing the date

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of inquiry on 24.07.02 in furtherance of the proclaimed objective of Respondent No.3 and 4 to remove the applicant from service.

2. JURISDICTION OF THE HON'BLE TRIBUNAL :

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

3. LIMITATION :

The applicant further declares that the application is within the limitation prescribed under Section 21 of the Administration Tribunal Act, 1985.

4. FACTS OF THE CASE :

1. That the applicant on being selected by the Railway Service Commission was appointed as a Stenographer on 3.10.75 and he was posted in the Lumding division of N.F. Railway. The applicant rendered efficient and dedicated service to the department and in consideration he was promoted as Confidential Stenographer in 1983 and was initially posted in the Personnel Department and thereafter he was transferred to the Safety Department in 1991. The applicant was promoted to the post of Confidential Assistant in the grade Rs. 5500/- to Rs 9000/- in

Ga

January 1998. Since the date of his joining service the applicant has been carrying out his duties sincerely and to the best of his abilities but for reasons best known to the authorities the applicant has been subjected to harassment at all levels and now after rendering more than 26 years of service a great injustice and illegality is sought to be done to the applicant and as such he is approaching this Hon'ble Tribunal for relief due to him.


2. That the applicant hails from Muzaffarpur in Bihar and he has been living at Lumding in a one room rented residence and he has not been allotted with any quarter as yet.

3. That while serving in the Safety Department the applicant fell ill on 24.8.99 and he sought for a sick memo on 25.8.99 from the then Divisional Safety Officer, Lumding Sri S.K. Karmakar. However, in the sick memo a note was appended that the applicant had been spared and directed to report to the Sr. Divisional Engineer Lumding on 20.8.99, but that the sparing letter could not be handed over to him. The applicant states that this part of the note was absolutely unnecessary as the applicant was never issued with any transfer order and the sparing letter was never issued to him.

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4. That the applicant appeared before Railway doctor on 25.8.99 and he was examined and finding that he was actually sick put him on the sick list for treatment. According to the advice of the Railway doctor the applicant attended the hospital at 2-3 days interval i.e. the applicant attended the hospital on 25.8.99, 28.8.99, 1.9.99, 3.9.99, 5.9.99, 7.9.99, 10.9.99 and 13.9.99 and the applicant was due to attend the hospital again on 15.9.99. The applicant attended the hospital on 15.9.99 but to his surprise he was informed that his name was struck off from the sick list on the orders of Respondent No.3.

5. That the applicant had not recovered from his illness which was later diagnosed as 'Fulminant Hepathisis' (Liver Problem) which is a life threatening disease. Having no alternative the applicant went for private treatment under Dr. N. Moitra, MBBS and the applicant informed this fact to his controlling officer by an applicant dated 16.9.99. That while the applicant was still ill and getting treatment, when the applicant was not in the room a charge memorandum for imposition of major penalty under memo no. ES-628-S(T) (DAR) dated 29.12.99 was pasted on the door of the room of the applicant. By the time the applicant came back the charge memo which was pasted on the door was already




torn but the applicant could make out that the charge memo was issued by S.K. Karmakar, Divisional Safety Officer, Lumding and it was alleged that the applicant was in the sick list from 25.8.99 to 15.9.99 and that due to non-attendance in the hospital his name has been struck off from the sick list w.e.f. 15.9.99 and that he was absenting himself from duty without any authority w.e.f. 16.9.99 and he was charged with violation of Railway Service Conduct Rules, 1966.

6. That it will be relevant to mention that the applicant was regularly attending the hospital from 25.8.99 to 13.9.99 and that when he reported on 15.9.99 he was informed that his name has been struck off due to non-attendance which was absurd.

A copy of the prescription memo is annexed herewith and marked as Annexure - I.

7. That thereafter nothing was heard about the inquiry until the applicant received letter No. ES-628-S(T) (DAR) dated 14.6.2000 from the Respondent No.3 whereby Sri A.T. Dey, A.O.M - I was appointed as the Enquiry Officer. The applicant was still under ~~the~~ treatment at that time but the applicant by his letter dated 19.6.2000 submitted a representation to



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the Divisional, Railway Manager (Personnel) challenging the authority of Sri S.K. Karmakar to issue the charge memorandum and also appointing the Enquiry Officer.

A copy of the said representation is annexed herewith and marked as Annexure - II.

8. That, again nothing was heard about the inquiry and on being advised by his doctor the applicant submitted his joining report on 19.3.01. The applicant was examined by a Railway doctor who had declared him fit and then only he was allowed to join duty on 23.3.01.

9. That subsequently the Senior Divisional Operation Manager by letter No. ES-628-S(T) (DAR) dated 2.11.2001 again appointed Sri N.K. Patil AOM (G) as the Enquiry Officer to inquire into the charges framed against the applicant.

A copy of the letter dated 2.11.01 is annexed herewith and marked as Annexure - III.

10. That the applicant also did not hear anything from the new Enquiry Officer and as such he

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prayed for and was granted 8 days casual leave w.e.f. 22.2.2002 to go to his home in connection with some personal matters and he was expected to resume his duty on 4.3.2002. Unfortunately due to development in Gujarat and the nationwide bandh on 1.3.2002 there was a lot of communal tension and the situation took a sudden change for the worse. In Muzaffarpur, where the applicant permanently reside the situation became charged with tension and there was some stray incidents where some anti-social elements entered a mosque and tried to man-handle the people there. Though the situation was controlled by the police, tension was high and the situation was such that communal riot would take place. In such a situation the applicant just could not leave his wife and minor children to come back and rejoin duty. Moreover because of the Ajothya episode and the plan to organize Asthi Yatra also increased tension and the apprehension of the people, when the situation somehow improved the applicant reported for duty on 9.4.02 and his services were utilised.

11. That on 10.4.2002 after completing the work assigned to the applicant, the applicant personally met Sri H. Tawna, Senior Divisional Safety Officer (i.e. Respondent No.4) to discuss his personal problem and for his advice. The applicant told him

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about the situation at home in Bihar and that it was becoming difficult for him to stay at Lumding by leaving his family in Muzaffarpur and sought his advice as to whether he should go on voluntary retirement. When Sri H. Tawna heard this he started laughing and told him that he need not seek voluntary retirement as Respondent No.3 i.e. Sri Ashutosh Swamy had already made up his mind and that instructions were already issued to remove him from service. The applicant was surprised when he heard this and asked him as to how he could be dismissed and was informed that he would be dismissed on the basis of the inquiry which is pending against him. Sri H. Tawna again repeated this to him on 12.4.2002 and 16.4.2002 and he became very disturbed. The applicant was surprised that such a decision could be taken when only the charge memo had been issued and the applicant had not yet submitted his reply and on 17.5.2002 the applicant submitted a representation to the Respondent No.3 stating the above facts and also that Sri H. Tawana had informed that he will be dismissed and prayed that the matter be treated in accordance with law.

A copy of the said representation is annexed

herewith and marked as
Annexure - IV.

12. That, subsequently, on 2.7.2002 the applicant received an intimation from the Enquiry Officer directing him to submit at least two names of defense counsel alongwith their consent letters. Since the applicant had not yet formally received the charge memo and the enquiry officer in hot haste by his letter dated 5.7.2002 informed the applicant that the enquiry would be held on 24.7.2002, the applicant on 11.7.2002 submitted an application to the Enquiry Officer praying that he be supplied with the charge memo dated 29.12.99 alongwith 5 other documents. In response to the same the Sr. DSO by his letter dated 12.7.2002 forwarded the copies of the charge memorandum dated 29.12.99 alongwith 2 other documents. The applicant was further informed that no decision has been taken on his application dated 17.5.2002 (Annexure -- IV) and that no other document was available.

Copy of the notice dated
5.7.2002, application dated
11.7.2002, forwarding letter
dated 12.7.2002 charge
memorandum dated 29.12.99 and

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slip dated 3.12.99 are
annexed and marked as
Annexure - V, VI, VII, VIII,
& IX respectively.

13. That from what is stated above and in view of the manner in which the matter has been dealt with the applicant is convinced that the applicant will not get any justice before the authorities more so when a decision has already been taken to terminate his services and as such the applicant is approaching this Hon'ble Tribunal.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

I. For that the applicant had been regularly attending the Railway doctor from 25.8.99 to 13.9.99 as will be apparent from Annexure-I and as such he could not have been discharged from the sick list w.e.f. 16.9.99 for non-attendance and as such the whole charge itself is misconceived.

II. For that the applicant was referred to and he was under treatment of Railway doctor and only after he was refused treatment on extraneous consideration the applicant approached the private doctor with

Qf

intimation to his office, and as such by no stretch of imagination that the applicant can be said to have violated the conduct Rules and as such the proceeding against the applicant is not tenable.

III. For that Sri S.K. Karmakar, DSO, Lumding is a Senior Scale Officer Group --B and he can impose only the minor penalty of censure and as such he was not competent to issue a major penalty charge memorandum against the applicant under the rules and as such the proceeding is bad in law on this ground also.

IV. For that since Sri S.K. Karmakar DSO was not competent to issue the charge memorandum he was not competent to appoint the Enquiry Officer and the proceeding is bad in law on this ground alone.

V. For that since the Respondent No.4 has already informed the applicant that a decision has been taken to terminate the services of the applicant, the applicant has a reasonable apprehension that he will not get justice before the authorities and the representation dated 17.5.2002 has not been

disposed off and as such this is a fit case where this Hon'ble Tribunal will exercise jurisdiction and grant relief.

VI. For that no misconduct or other irregularity alleged has been made out and the charges framed are contrary to law and as such this is a fit case where this Hon'ble Tribunal will exercise jurisdiction and grant relief.

VII. For that the proceedings against the applicant as far back as in 1999 and no steps were taken to complete the proceedings and suddenly the Enquiry Officer in hot haste ^{is} bend upon to complete the proceeding by short date of hearing and this fact will itself show that Enquiry Officer is under some pressure to complete the proceeding expeditiously so as to give a finding of guilt and dismiss the applicant.

VIII. For that in any view of the matter the impugned proceedings and action of the authorities is bad in law and is liable to be set aside.

6. DETAILS OF REMEDIES EXHAUSTED:

The applicant has no remedy under the service rules.

GK

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

The applicant further declares that he has 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. PRAYER:

It is, therefore, prayed that Your Lordships would be pleased to admit this application, call for the entire records of the case, ask the Respondents to show cause as to why the proceeding drawn up on 29.12.99 (Annexure -- VIII) should not be set aside and quashed and after perusing the causes shown, if any, be pleased to set aside and quash the proceeding drawn up

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on 29.12.99 (Annexure - VIII)
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 every pray.

9. INTERIM ORDER :

It is, further prayed that pending
disposal of the application, Your
Lordships may be pleased to stay
the proceeding.

10. DOES NOT ARISE:

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

- (i) I.P.O No. : 7G577~~687~~
- (ii) Date. : 22.7.02
- (iii) Issued by Guwahati Post Office.
- (iv) Payable at Guwahati.

12. LIST OF ENCLOSURES :

As stated in the INDEX

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

I, Sri Syed Jamaluddin Ali, Son of late Syed Asghar Ali, aged about 49 years, Confidential Assistant to Senior Divisional Safety Officer, N.F. Railway, Lumding do hereby verify that the statements made in Paragraphs No. 1, 2, 3, 4, 5, 7, 8, 10, 11 and 13 are true to my personal knowledge and the statements made in paragraphs No. 6, 9 and 12 are believe to be true on legal advice and that I have not suppressed any material fact.

And I sign this verification on this 24th day of July 2002 at Guwahati.

Place: GUWAHATI

Syed Jamaluddin Ali

SIGNATURE OF THE APPLICANT

Date: 24.7.02.

छोटा परिवार/Small Family Happy Family

पू० सी० रेलवे/N. I. Railway

आर० बी० मे०/R. B. MED/P 6

पू० सी० एम०/N. F. M. 6

चिकित्सा विभाग/Medical Department

नुस्खा पत्र/Prescription Memo

24/3/77

हस्पताल/Hospital

दवाखाना/Dispensary

क्रम सं०/Sl. No.

S. J. D.

कर्मचारी का नाम और विभाग/Name of employee and department

आश्रित का कर्मचारी से सम्बन्ध/Relationship to employee is dependent

आश्रित का पेशा/वृत्ति/Occupation if any, of dependent

कर्मचारी का पदनाम और विभाग/Designation of employee and department

पता निवास स्थान/Address (Res.)

वेतन/Pay

दिनांक/Date

दाखिल/Admission

निदान/Diagnosis

तारीख/Date	टिप्पणी और उपचार/Notes and Treatment	आरम्भ/Initial
24/3/77	<p>Headache (migraine)</p> <p>Mood + nervous in char.</p> <p>R</p> <p>Y. Mithun 100 mg</p> <p>Y. Naylon 100 mg</p>	

Certified to be true copy.

Bradhury

Adm.

তারিখ/Date	টিপ্পনী আর ব্যবস্থা, Note, and Treatment	আরম্ভ, Initial
২৭/১০/৫৫	<p>৭/১০/৫৫ ৩ day</p> <p>৭/১০/৫৫</p>	<p>৭/১০/৫৫</p>
২৮/১০/৫৫	<p>৭/১০/৫৫ ২ day</p> <p>৭/১০/৫৫</p>	<p>৭/১০/৫৫</p>
২৯/১০/৫৫	<p>Pain @ ১০</p> <p>Hepatic medication</p> <p>Chloroquine ১০০</p> <p>Mephyl ১০০</p>	<p>৭/১০/৫৫</p>
৩০/১০/৫৫	<p>৭/১০/৫৫</p> <p>৭/১০/৫৫</p>	<p>৭/১০/৫৫</p>
(১০/১১/৫৫)	<p>৭/১০/৫৫</p> <p>৭/১০/৫৫</p>	<p>৭/১০/৫৫</p>

To
 DRM(P)/Lumling,
 C/- DSO/LMG
 AOM/I/LMG.

Dated, 19.6.2000

Sub:- DAR proceeding against the undersigned.

Ref:- Your letter No.EB-S28-S(T) (DAR) dated
 14.6.2000 received on 19.6.2000.

In terms of the above letter Shri A.T.Dey, AOM/I/LMG has been requested to conduct DAR inquiry against the undersigned. Alongwith the above letter, an order appointing Shri Dey as the inquiring authority in this case has been enclosed. About a couple of months back a charge memorandum dt.29.12.99 was found clandestinely pasted on the door of my residence which was signed by Shri S.K.Karmakar, DSO/LMG. In respect of the charge memorandum and the order appointing Shri Dey, AOM/I/LMG, the inquiry officer, I have the following to submit.

1. The charge memorandum as well as the appointment order for the inquiry officer has been signed by the DSO/LMG, which is without jurisdiction and ultra vires the provisions of Rule 2, 7 and 9(2) of RS(D&A) Rules, 1968.
2. In terms of Rule 2(1)(c) of RS(D&A) Rules, 1968, 'disciplinary authority has been defined as: "in relation to Rule 9 in the case of any non-gazetted railway servant, an authority competent to impose any of the major penalties specified in Rule 6.
3. In terms of Rule 7, *ibid*, (clause 2), any of the penalties specified in Rule 6 may be imposed on a Railway servant by the authorities specified in Schedules I, II and III.
4. In terms of Rule 9(2), *ibid*, it is the disciplinary authority who can appoint the inquiry officer.
5. Schedule II appended to RS(D&A) Rules, 1968, applicable to zonal railways, specifies the powers of various authorities in respect of specified penalties, major and minor. Since Shri S. K. Karmakar, DSO/LMG, is a senior scale officer (Group 'B') his powers flow from column 3 of the Schedule. It is seen therefrom that he can impose only the penalty of 'censure' to a railway servant upto a scale of B.1640-2900 (RS/86). Since I am in scale B.1640-2900/- (RS/86), DSO/LMG is not competent to impose any of the minor penalties except 'censure' and none of the major penalties. As such, in terms of the provisions of Rules 2(1)(c) and 7(2), *ibid*, DSO/LMG is not competent to issue a major penalty charge memorandum to me. Nor is he competent to appoint the inquiry officer to inquire into any charges against me as he cannot be the disciplinary authority by reason of what has been mentioned *above*.

In view of the above, I submit that the issue of charge memorandum under Rule 9, *ibid*, and the appointment of inquiry officer by DSO/LMG is without jurisdiction and ultra vires the rules 2, 7 and 9, *ibid*, and as such the same are void ab initio and inoperative.

Thanking you,

Yours faithfully,

19/6/00

19/6/00

Certified to be true copy.
 Pradhum

N. F. RAILWAY.

Standard form of order relating to Appointment of Inquiry officer
Rule-9(2) of Railway servants (Discipline & Appeal) Rules-1968

No. ES-628-5(7)(DAR)

Name of Railway Administration :- N.F. Railway.

place of issue :- DRM(P) / Lunding's office Dated 10.2.01
02.11.01

ORDER.

Whereas an Inquiry under Rule-9 of the Railway servants
(Discipline and Appeal) Rules, 1968 is being held against
Shri Syed Jamaluddin Ali, C.A. to DSO/LMB
(Name & Designation of the Railway servant).

AND WHEREAS the undersigned consider(s) that an Inquiry officer
should be appointed to inquire into the charges framed against
him.

NOW, THEREFORE the undersigned, in exercise of the powers
conferred by Sub-Rule (2) of the said rules, hereby appoint
Shri N. A. Patil, AOM/G/LMB
(Name & Designation of the Inquiry officer) as Inquiry officer
to enquire into the charges framed against the said Shri

Syed Jamaluddin Ali, C.A. to DSO/LMB.

This is in pursuance of earlier nomination of I.O.

Signature :-

Name :- (V. P. Singh)
Designation of the Disciplinary Authority
Dr. Divl. General Manager
to G. H. P. Office, Lunding
N.F. Railway, Lunding

Copy to :- (i) Syed Jamaluddin Ali, C.A. to DSO/LMB Thru DSO/LMB
(Name & Designation of the Fly.Servant).

" " (ii) Shri N. A. Patil, AOM/G/LMB
(Name & Designation of the Inquiry Officer).

DA-19 (Relevant papers)

Certified to be true copy.
Chandrasekhar
Adl

(TYPED).

ANNEXURE-IV

From : S.J.Ali,
CA to Sr.DSO/LMG

Dated, 17.05.2002

To
Divisional Railway Manager,
N.F.Railway, Lumding .

Sub :- Violation of principles of natural Justice and fair play in prejudging the merits of the case and determining the penalty to be imposed even before inquiry has started. Bias of the disciplinary as well as appellate authority .

Sir,

Usually, DRM is addressed by way of appeal against an order of a disciplinary authority who happens to be a branch manager. However, a peculiar situation has developed where a branch manager is openly pronouncing the verdict on a disciplinary proceeding which had been instituted in 1999 by an authority who was not competent to institute it, on a charge of misconduct which was not a misconduct under any rules, and which was dead and buried and has now been exhumed, resuscitated and revived just in order to REMOVE ME FROM SERVICE. All this is being done at the behest of and at the instance of DRM who in course of time should be supposed to act and decide the issues involved as an appellate authority.

In this regard, I have the following submissions to make .

- 1) I had been granted 8 days' CL.w.e.f. 22.02.2002 to go home in connection with some personal matters. I was expected

contd...

*Certified to be true copy
Branch Manager
Adv.*

2.

to resume duty on 04.03.2002. But owing to developments in Gujarat and the nationwide bunch on 01.03.2002 communal harmony and atmosphere of peace and tranquility underwent a sudden change for the worse. At our place in Muzaffarpur the situation became surcharged with tension and passions rose over stray incidents where some hoodlums barged into a mosque before the Friday prayers and tried to mandandle some of the people gathered there. Though the situation was controlled by the Police, tensions ran high. In such a situation which could explode into a full-fledged riots any moment. I could not leave my wife and kids aged 6 and 4 to come back to Lumding to rejoin duty. Thereafter, the Ayodhya opisoda slated for 15th March, 2002, held the entire nation to ransom. After 15th March, a plan to organise a nationwide 'Asthi Yatra' of Godhra train massacre victims was announced which added to the apprehension of the people. When the situation some what eased. I rushed back and reported for duty to Sr.DSO/LMB on 09.04.2002, and submitted an application explaining the situation and sought permission to resume duty .

2) On 10.04.2002, Sr.DSO/LMG, Shri H. Tawns, without passing any order on my application dated 09.04.2002 for allowing me to resume duty, asked me to work in connection with recording of statements of staff connected with the accident of Down MGS HSD on 01.12.2001 near the IOC siding, Lumding and I worked therefor upto very late in the evening. In this enquiry, ~~SDE~~ DSC (P) and Sr.DEN/L/LMG also participated. Then on 11.04.2002 also another enquiry in connection with collision of light engine with stabled loads of Engg.special at HTL on 30.11.01 was held in which I worked. On 12.04.02 also I worked .

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3) That on 10.04.2002 during a meeting with Sr.DSO/ LMG when I expressed the desire to seek voluntary retirement as leaving my family at home and working at Lumding was causing worry to me in these times of great turmoil, Sr.DSO/ LMG laughed at that and stated that DRM wanted to remove me from service, hence my wish to seek voluntary retirement was premature and that in accordance with the wish of DRM he would be removing me from service. When I asked him on what matter DRM was aiming for my removal, Sr.DSO stated that the old case of 1999 was being revived for the purpose. Then again on 12.04.2002 he raised this issue and repeated the same thing. On 16.04.2002 when I had already been attending office since 09.04.2002 and had been working since 10.04.2002 I went to Sr.DSO/LMG to get my muster roll countersigned by him so that I could get my salary at the end of the month, Sr.DSO asked me as to who had allowed me to resume duty. When I told him that I have already submitted my application on 09.04.2002 to him and had been regularly attending office ever since and that he himself had been taking work from me since 10.04.2002 he stated that he had not allowed me to resume duty in writing and as such any work that I had done was for free. He further told me that since DRM wished that I should be removed from service he was going to remove me from service. When I asked him as to how he could pre suppose that the charge had been proved when an inquiry into charges has not even started and how he could decide on the quantum of penalty before hand, Sr.DSO/LMG categorically stated that

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he was not concerned with technicalities, that he was concerned only with imposition of penalty of removal irrespective of what was the outcome of the inquiry.

4) Listening to such outrageous pronouncements of Sr.DSO/LMG on as to how my service is destined to end no matter how the finding of the inquiry officer into the charges goes, how the authority who is expected to act with an open mind till the very end of the proceeding, without any bias, ill-will or prejudice against the charged official, has already formed his opinion not only as to my guilt but also to the penalty to be imposed in total disregard of the rules and laws, in furtherance of the direction of DRM, I felt severe pain in the neck, head and shoulders, giddiness and palpitation and came out of Sr. DSO's chamber and requested a friend to reach me at my residence. He also somehow managed to bring a private practitioner to attend to me. He diagnosed that I was suffering from high blood pressure due to acute mental turmoil and advised me rest and started treating me. Thus, since 16.04.02 I have been under the treatment of Dr. N. Moitra, MBBS, Lumding, and still am continuing under his treatment. An intimation to this effect has also been given to Sr.DSO on 16.04.02 itself. Due to the constant threat of removal from service looming large over my service career, administered by Sr.DSO/LMG my sickness continues with insignificant fluctuations in intensity.

5) From the above narrative of facts, it is crystal clear that the present disciplinary authority, Sr.DSO/LMG, at the behest of and at the instance of DRM/LMG has predetermined the

contd...

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course of action to be taken by reviving a dead case and influencing the inquiry officer to return a finding of guilt so that he could remove me from service.

6) By his conduct the disciplinary authority has surrendered jurisdiction to act as disciplinary authority inasmuch as he is biased, he is not capable of taking a decision with an open mind, that he is more interested in effectuating the direction of DRM/LMG than obeying law, that he has declared himself to be interested in imposing penalty of removal from service, that he is prejudiced against me, that he is not prepared to act on the evidence to be adduced during the inquiry, that he is interested in the outcome of the case adverse to my interests, and that he has no regard for rules and the law and the principles of natural justice. Therefore, Sr.DSO/LMG cannot act as a disciplinary authority in any case which may be pending against me.

7) That from pronouncements of Sr.DSO/LMG on 10.04.02, 12.04.02 and 16.04.02, as referred to in paragraph 3 above, it is clear that DRM/LMG for some unknown reasons holds a grudge against me and he bears malice towards me so much so that he has asked Sr.DSO/LMG to remove me from service and has asked the inquiry officer to expedite finalisation of the inquiry. Giving instructions to subordinate officers to pursue a particular course in a disciplinary proceeding is against all canons of justice and fair play. It is also violative of principles of natural justice. If DRM has embraced the cause of my removal from service and is influencing the course of the proceeding towards a particular, predetermined, goal, the principles of natural justice

contd...

6.

mandating that no person shall be a judge in his own cause, no person shall be condemned unheard and justice should not only be done but it should seemingly and undoubtedly be seen to have been done, are violated grossly and blatantly. Therefore, the constitutional guarantee of reasonable opportunity of being heard enshrined in Article 31(2) of the Constitution has been clearly flouted flagrantly.

8) In this connection, it is pertinent to mention here that DRM should have no cause for nurturing any ill-hatred or animus towards me. Shri Tawns, Sr. DSO/LMG, in his most inimitable style, explained the cause of DRM's acrimony towards me by stating that since Sf. DEN/C/LMG frequently complains to DRM that he has no stenographer and since there is acute shortage of stenographers, DRM wants me to be removed from service. Now Sr. DEN's stenographer—or rather absence of it—could have a cascading effect on Sr. DSO's stenographer is a mystery to me. Be that as it may, no order has been issued to me that I was to be working with Sr. DEN, for the last one year I did not hear even a whisper about any such transfer. I was even prepared to work with DRM after retirement of Shri T.K.N. Laskar, IS to DRM, but no order was issued to that effect. If the authorities are singularly lacking in proper manpower planning the fault does not lie at my door. Further, if I have become a person so non grate that my removal is being seriously contemplated why I am not being spared on transfer to Maligaon headquarters for which I have been applying unsuccessfully for the last several years? Because, in that event the opportunity for wreaking vendetta would be lost? However, this is neither here nor there. The crucial question now is my imminent removal from service by

contd...

7.

Sr. DSO who happens to be a Senior scale officer on ad-hoc charge of the post of Sr.DSO/LMG and as such he is not competent to decide my case even if he were not disqualified on grounds of bias, and DRM's interest in the cause of imposition of penalty of removal from service renders the entire proceeding an empty ritual with foregone conclusions, malafide and void for aforementioned reasons. Thus, it is violative of Articles 14, 16, 21, 51 A (h) and 311(2) of the Constitution.

9) In view of the foregoing, I request you to kindly act in accordance with law and suspend the disciplinary proceeding that has been revived for extraneous considerations and with ulterior motives which is unconstitutional and unlawful anyway, and if at all an inquiry has to be held let the same be handed over for inquiry and final orders to a competent authority of Operating Department of the headquarters so that the charges may be inquired into impartially, dispassionately, in accordance with law and the final order may be passed by an authority who is impartial and who may not be suspected of any bias against me.

10) Kindly communicate your decision on this application early so that my sickness which is caused by the threat of removal from service is cured and I may serve with peace of mind, to the best of my ability and sincerity and earn my livelihood and maintain my family.

Thanking you,

Yours faithfully,

Sd/(S. J. Ali)

CA to Sr. DSO/LMG

contd...

8.

Copy to :-

1. Sr.DSO/LMG for information.
2. Shri N.A.Patil,AOM/LMG (Inquiry Officer for information.
He is requested to pend the inquiry until disposal of this application.
3. GPO/Maligaon,for his kind information,and intervention.
4. General Manager,N.F.Railway,Maligaon,for his kind information .
5. Chief Safety Officer,Maligaon,for his kind information.

Sd/-Illegible,

(S.J.Ali)

GA to Sr.DSO/Lumding.

.....

From: S. J. Ali,
CA to Sr.DSO/LMG

Dated, 17.03.2002

To
Divisional Railway Manager,
N.F.Railway, Ludhiana,

Subj:- violation of principles of natural justice and fair play in prejudging the merits of the case and determining the penalty to be imposed even before inquiry has started; Bias of the disciplinary as well as appellate authority.

Sir,

Usually, DMS is addressed by me, of appeal against an order of a disciplinary authority who happens to be a branch manager. However, a peculiar situation has developed where a branch manager is openly pronouncing the verdict on a disciplinary proceeding which had been instituted in 1999 by an authority who was not competent to institute it, on a charge of misconduct which was not a misconduct under any rules, and which was dead and buried and has now been exhumed, resuscitated and revived just in order to REMOVE ME FROM SERVICES. All this is being done at the behest of and at the instance of DMS who in course of time should be supposed to act and decide the issues involved as an appellate authority.

In this regard, I have the following submissions to make.

1. I had been granted 6 days' CL w.s.f. 22.02.02 to go home in connection with some personal matters. I was expected to resume duty on 04.03.02. But owing to developments in Gujarat and the nationwide bunt on 01.03.02 communal harmony and atmosphere of peace and tranquillity underwent a sudden change for the worse. At our place in Muzaffarpur the situation became surcharged with tension and passions rose over stray incidents where some hoodlums barged into a mosque before the Friday prayers and tried to manhandle some of the people gathered there. Though the situation was controlled by the police, tensions ran high. In such a situation which could explode into a full-fledged riots any moment, I could not leave my wife and kids aged 6 and 4 to come back to Ludhiana to rejoin duty. Thereafter, the Ayodhya episode slated for 15th March, 2002, held the entire nation to ransom. After 15th March, a plan to organize a nationwide 'Aathi Yatra' of Godhra train massacre victims was announced which added to the apprehension of the people. When the situation somewhat eased I rushed back and reported for duty to Sr.DSO/LMG on 09.04.02, and submitted an application explaining the situation and sought permission to resume duty.

2. On 10.04.02, Sr.DSO/LMG, Shri H.Tawn, without passing any order on my application dated 09.04.02 for allowing me to resume duty, asked me to work in connection with recording of statements of staff connected with the accident of Down MGS HSD on 01.12.01 near the ICC siding, Ludhiana and I worked therefor upto very late in the evening. In this enquiry, DSC, DM(P) and Sr.DEN/L/LMG also participated. Then on 11.04.02 also another enquiry in connection with collision of light engine with stabled loads of Engg. special at HTL on 30.11.01 was held in which I worked. On 12.04.02 also I worked.

3. That on 10.04.02 during a meeting with Sr.DSO/LMG when I expressed the desire to seek voluntary retirement as leaving my family at home and working at Ludhiana was causing worry to me in these times of great turmoil, Sr.DSO/LMG laughed at that and stated that DMS wanted to remove me from service, hence my wish to seek voluntary retirement was premature and that in accordance with the wish of DMS he would be removing me from service. When I asked him on what

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matter was aiming for removal, Sr.DSO stated that the old case of 1997 was being revived for the purpose. Then again on 12.04.02 he raised this issue and repeated the same thing. On 16.04.02 when I had already been attending office since 09.04.02 and had been working since 10.04.02 I went to Sr.DSO/LMG to get my muster roll countersigned by him so that I could get my salary at the end of the month, Sr.DSO asked me as to who had allowed me to resume duty. When I told him that I had already submitted my application on 09.04.02 to him and had been regularly attending office ever since and that he himself had been taking work from me since 10.04.02 he stated that he had not allowed me to resume duty in writing and as such any work that I had done was for free. He further told me that since DDM wished that I should be removed from service he was going to remove me from service. When I asked him as to how he could presuppose that the charge had been proved when an inquiry into charges has not even started and how he could decide on the quantum of penalty beforehand, Sr.DSO/LMG categorically stated that he was not concerned with technicalities, that he was concerned only with imposition of penalty of removal irrespective of what was the outcome of the inquiry.

4. Listening to such outrageous pronouncements of Sr.DSO/LMG on as to how my service is destined to end no matter how the finding of the inquiry officer into the charges goes, how the authority who is expected to act with an open mind till the very end of the proceedings, without any bias, ill-will or prejudice against the charged official, has already formed his opinion not only as to my guilt but also to the penalty to be imposed in total disregard of the rules and laws, in furtherance of the direction of DDM, I felt severe pain in the neck, head and shoulders, giddiness and palpitation and came out of Sr.DSO's chamber and requested a friend to reach me at my residence. He also somehow managed to bring a private practitioner to attend to me. He diagnosed that I was suffering from high blood pressure due to acute mental turmoil and advised me rest and started treating me. Thus, since 16.04.02 I have been under the treatment of Dr. N. Mohtra, MBBS, Lucknow, and still am continuing under his treatment. An intimation to this effect has also been given to Sr.DSO on 16.04.02 itself. Due to the constant threat of removal from service looming large over my service career, administered by Sr.DSO/LMG my sickness continues with insignificant fluctuations in intensity.

5. From the above narrative of facts, it is crystal clear that the present disciplinary authority, Sr.DSO/LMG, at the behest of and at the instance of DDM/LMG has predetermined the course of action to be taken by reviving a dead case and influencing the inquiry officer to return a finding of guilt so that he could remove me from service.

6. By his conduct the disciplinary authority has surrendered jurisdiction to act as disciplinary authority inasmuch as he is biased, he is not capable of taking a decision with an open mind, that he is more interested in effectuating the direction of DDM/LMG than obeying law, that he has declared himself to be interested in imposing penalty of removal from service, that he is prejudiced against me, that he is not prepared to act on the evidence to be adduced during the inquiry, that he is interested in the outcome of the case adverse to my interests, and that he has no regard for rules and the law and the principles of natural justice. Therefore, Sr.DSO/LMG cannot act as a disciplinary authority in any case which may be pending against me.

7. Just from the pronouncements of Sr.DSO/LMG on 10.04.02, 12.04.02 and 16.04.02, as referred to in paragraph 3 above, it is clear that DDM/LMG for some unknown reasons holds a grudge against me and he bears malice towards me so much so that he has asked Sr.DSO/LMG to remove me from service and has asked the inquiry officer to expedite finalisation of the inquiry. Giving instructions to subordinate officers to pursue a particular course in a disciplinary proceeding is against all canons of justice and fair play. It is also violative of principles of natural justice. If DDM has subverted the cause of my removal from service and is influencing the course of the proceeding towards a particular, predetermined, goal, the principles of natural justice mandating that no person shall be a judge in his own cause, no person shall be condemned unheard and justice should not only be done but it should seemingly and undoubtedly be seen to have been done, are violated grossly and blatantly. Therefore, the constitutional guarantee of reasonable opportunity of being heard enshrined in

[illegible][illegible]

14. In view of the foregoing, I request you to kindly but insistently inform and suspend the disciplinary action, that has been taken on the aforementioned considerations and for other ulterior motives which is not institutional and unlawful anyway, and if at all an inquiry has to be held, let the same be handed over for inquiry and final orders to a competent authority of operating Department at the headquarters so that the charges may be required into impartially, dispassionately, in accordance with law and the final order may be passed by an authority who is impartial and who may not be suspected of any bias against me.

14. I fully recognize your decision on this application early, so that my release when it is issued by the threat of removal from service is noted and I may serve with peace of mind, to the best of my ability and efficiency and earn my livelihood and maintain my family.

Thanking you,

SECRET

100-443617-1

Casey, W. J.

1. Mr. [redacted] for information.
2. Mr. [redacted], Acting [redacted] Officer, for his information. He is requested to send the necessary will discuss of this application.
3. Mr. [redacted], for his information, and intervention.
4. Mr. [redacted], for his information.
5. Mr. [redacted], for his information.

S/R 17.05.02
101 J. All
On 14.05.02

0. 10. 1950. 1950.

H.P. Sikany.

ANNEXURE V

Office of the
DM(O)/Lum Ling.
Dt/- 5.7.02.

No. TB-623-S(T)(DAR).

To,

Shri Gyan Jagdishin Ali,
CA to Sr. DSO/Lum Ling.
Relieving Mess, Lum Ling.

Subj- DAR enquiry.

The date of DAR enquiry is fixed to be held at 10/2
hrs. on 24.7.02 in the chamber of the undersigned.

As such, you are advised to attend DAR enquiry with
your defence counsel if any on the aforesaid time and date.

P. A. Patil
5/7/02

(H.A. Patil)
ADM(Ods)/Lum Ling.
Inquiry Officer.

Certified to be true copy.
Ramdhany
Adv.

To
Shri N. Patil,
AOM(G)/Lumding
(Inquiry Officer)

Dated, 11-07-02

Sub:- Supply of essential documents in relation to the proposed inquiry into the charges framed under Charge memo No.ES-628-S(T) (DAR) dated 29.12.99.

Dear sir,

In terms of your letter No.ES-628-S(T) (DAR) dated 5.7.02 you have fixed DAR inquiry on 24.7.02. In relation to this proceeding I need the following documents which are essential to proceed further in accordance with law in this case.

1. Charge memorandum No.ES-628-S(T) (DAR) dated 29.12.99 which was not served on me but pasted on the door of my residence which could not be retrieved.
2. Sr.DMO/OPD/LMG's letter No.Nil dated 3.12.99, cited in Annexure III of the said charge memo.
3. My application dt.16.9.99 addressed to DSO/LMG intimating the fact of my name being stricken off from the sick list of Rly.Hospital,Lumding, and my seeking treatment under a private medical practitioner w.e.f. 15.9.99.
4. Copy of private medical practitioner's certificate dt.19.03.2001 submitted alongwith DFC issued by Rly.Hospital, Lumding No.635/01 dt.21.03.2001
5. Decision of DRM/LMG, if any, on my application dated 17.05.02, alleging bias of the disciplinary as well as appellate authority.
6. Letter No.ES-628-S(T) (DAR) dt. 2.7.02, pasted on my door.

The above documents may kindly be supplied to me at least 10 days before the proposed date of inquiry.

Thanking you,

Yours faithfully,

(S. J. Ali)
CA to Sr.DSO/LMG

Q
T
11/7/02
Certified to be true copy
Boudhany
Adv.

- 34 -

N.F.RLY.

ANNEXURE

VII

NO:ES-628-S(T) (DAR)

Office of the
Divisional Rly. Manager Safety
LUMDING
DI/- 12/07/2002.

TO

Sri Syed Jamaluddin Ali CA to Sr.DSO/LMG
Relieving Mess/LMG.

SUB :- Supply of essential documents.
REF :- Your letter No. Nil dated. 11/07/02.

Reference above Xerox copies of the following documents are sent herewith.

1. Charge memorandum No.ES-628-S(T) (DAR) dated. 29/12/02.
2. Sr.DMO/OPD/LMG's letter No. Nil dated. 03/12/99.
3. Letter No. ES-628-S(T) (DAR) dated. 02/07/02.
4. There is no decision of DRM/LMG on your application dated. 17/05/02.

At present no other document is available which will be supplied on resumption of Inquiry Officer.

DA: As stated.

Senior Divisional Safety Officer
N.F.RLY/LMG.

Need doubt of the
Sw. 1. to 3. above. The
contents of charge memos
are different from one
pasted on my door. Why?
12-07-02

Certified to be true copy.
Broadhury
Adh

STANDARD FORM OF CHARGE SHEET.

STANDARD FORM No. 5

(Rule 9 of the Railway Servants (Discipline & Appeal) Rules, 1968)

No. ES-628-S (T) (DAR)

Name of the Railway Administration: NERly

Place of issue: DRM (P) LMG Dated: 29-12-99

MEMORANDUM.

The President/Railway Board/undersigned propose(s) to hold an enquiry against Shri Syed Jamal Uddin Ali, CA to DSO under Rule 9 of the Railway Servants (Discipline & Appeal) Rules, 1968. The substance of the imputations of the misconduct or mis-behaviour in respect of which the inquiry is proposed to be held is sent out in the enclosed statement of articles of charge (Annexure-I).

A statement of the imputations of misconduct or mis-behaviour in support of each article of charge is enclosed (Annexure-III). A list of documents by which, under list of witnesses are also enclosed (Annexure-III & IV). Further copies of documents mentioned in the list of documents, as per Annexure-III are enclosed.

2. Shri Syed Jamaluddin Ali, CA to DSO is hereby informed that if he so desires, he can inspect and take extracts from the documents mentioned in the enclosed list of documents (Annexure-III) at any time during office hours within ten days of receipt of this memorandum. For this purpose he should contact ** DRM (P) LMG immediately on receipt of this memorandum.

3. Shri Syed Jamaluddin Ali, CA to DSO 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 & Appeal) Rules, 1968 and note 1 and 7 or note 2 thereunder as the case may be) for inspecting the documents and assisting him in presenting his case before the Inquiry Authority in the event of an oral inquiry being held. For this purpose, he should nominate one or more persons in order of preference. Before nominating the

assisting railway servant or Railway Trade union official(s) Shri Syed Jamaluddin Ali, CA to DSO 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 (General manager

Railway) alongwith the nomination.

4. Shri Syed Jamaluddin Ali, CA to DSO is hereby directed to submit to the undersigned (through General manager, Railway) a written statement of his defence (which should reach the said General manager) within ten days of receipt of this memorandum if he does not require to inspect any for the preparation of his 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.

Certified to be true copy
Abdulhameed

5. Shri Syed Jamaluddin Ali, CA No. 750/1965 is informed that an enquiry will be held only in respect of those articles of charges as are not admitted. He should, therefore, specifically admit or deny each article of charge.

6. Shri Syed Jamaluddin Ali, CA No. 750/1965 is further informed that if he does not submit his written statements of defence within the period specified in para - 2 or does not appear in person before the inquiring authority or otherwise fails to refuse to comply with the provisions of Rule 9 of the Railway servants (Disciplinary and Appeal) Rules, 1966 or the orders / directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry ex-parte.

7. The attention of Shri Syed Jamaluddin Ali, CA No. 750/1965 is invited to Rule 20 of the railway ~~xxxxxxx~~ services (conduct) Rules, 1966, under which no railway servants shall bring or attempt to bring any political or other influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Shri Syed Jamaluddin Ali, CA No. 750/1965 is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the Railway services (conduct) rule, 1966.

8. The receipt of this memorandum may be acknowledged by order and in the name of the President.

(Signature)

Name and Designation of competent authority.

To: Shri Syed Jamaluddin Ali, CA No. 750/1965

c/ Mr. Asgar Ali
Azad Road, Chandwara
Mazaffarpur, Bihar.

Copy to: Mr. Asgar Ali, CA No. 750/1965 (Name & Designation of the sending authority for information.)

To be taken out when ever is not applicable.

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

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

Where the president is the disciplinary authority.

To be retained wherever President / the Railway Board is the competent authority.

To be wherever applicable SEE rule 16(1) of the RS (DA) Rules, 1968 not to be inserted in the copy sent to the Rly servant.

8. He will please hand over one copy of the S.F. 5 to Shri Ali obtaining acknowledgment which should also be sent to this office for record of Shri Ali. If not available, then the said copy should be displayed in the office Board obtaining the necessary intimation to this effect.

3
N. F. RAILWAY.

ANNEXURE TO STANDARD FORM No. 5.

Memorandum of Charge Sheet.

Under rule:- 9 of the IS (DSA) Rules, 1968.

(ANNEXURE - I).

Statement of articles of charge framed against

Shri Syed Yousaf uddin Ali, CA & DSO

(Name & designation of the ~~xxxx~~ Railway servant).

ARTICLE - I.

That the said Shri Syed Yousaf uddin Ali
while functioning as CA & DSO during the period

~~xxxxxxx~~ here enter definite & distinct articles of charge)

Has been absenting himself from duty without any
authority w.e.f. 16.9.99 which is a serious
misconduct and violation of Rule 3 (1) (ii) (iii)
of Ry. Service Conduct Rule 69/66.

ARTICLE - II.

That during the aforesaid period and while functioning in the
aforesaid office, the said Shri
(here enter definite & distinct article of charge).

ARTICLE - III.

That during the aforesaid period and while functioning in the
aforesaid office, the said Shri
(here enter the definite & distinct article of charge).

Contd.....4.

ANNEXURE - II.

Statements of imputations of misconduct or misbehaviour in support of the articles of charge framed against Shri

7 Syed Jamshuddin Ali CA to DSO/Lmk
(Name and designation of the Railway servant).

ARTICLE - I.

It has been reported by Sd. DSO/Lmk vide letter no. nil dt 3.12.99 that Shri Syed Jamshuddin Ali, CA to DSO/Lmk was in the sick leave w.e.f. 25.8.99 to 15.9.99 and due to non-attendance in the hospital, his name has been struck off from the sick leave w.e.f. 16.9.99 and as such, he has been absenting himself from duty without any authority w.e.f. 16.9.99 which is a serious misconduct and violation of Rule 30 (ii) (c) of Ry. Service Conduct Rule - 1966.

ARTICLE - II.

ARTICLE - III.

[Signature]
(Sd. Jamshuddin Ali)
CA to DSO/Lmk

- 5 -

ANNEXURE-III.

List of documents by which articles of charge framed
against Shri Syed Jamaluddin Ali, CA to DSO/LMG.
(Name and designation of railway servant)
are proposed to be sustained:-
DMO/800/LMG's letter no. nil dt. 3-12-77

ANNEXURE-IV.

List of witnesses by whom the articles of charge framed against
Shri Syed Jamaluddin Ali, CA to DSO/LMG.
(Name and designation of the railway servant)
are proposed to be sustained:-
nil

29/12

[Signature]
(S. K. Mahapatra)
DSO/LMG
120, H. P. B. S. L.

44

जम्बूद्वीप पर दोनों तरफ लिखें
Use both sides if required

पू. रॉ. रेलवे, N. F. Railway

10/10/10

তারিখ/Date: 03/12/95

From.

सेवा से/To Prakash
6m

विषय / Subject

S. J. [Signature]

पृष्ठ २३

CA

D R M (C) Ltd

DRM (C) - 11
The above name is on side list
from 25/8/99 under Sr. Enos/000/Lm)
agent RMC no. 4023/99. dt 25/8/99.
But due to non attendance his name
is discharged from side list from
16/9/99 covers RMC from 25/8/99
to 15/9/99.

04-3-75

विश्व चिकित्सा प्रकाशी (अभिप्रेत)
Dr. Medical Office
Ry. Banding

Certified to be true copy
Broadbent
Adv.