

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 84/2003

R.A/C.P No.

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SECTION OFFICER (Judl.)

Kalita
16/11/17

(RULE - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. 84/03

Misc. Petition No. /

Contempt Petition No. /

Review Application No. /

Applicant (s) D. Das

- Vs. -

Respondent (s) H. C. T. Deka

Advocate for the applicant (s) Mr. S. Datta

Advocate for the respondent (s) CAGC

Notes of the Registry	Date	Order of the Tribunal
This application is in form but not in time. The fee is filed / not filed for Rs. 1/- deposited vide IPO/B/ No 86490151 Dated 19/4/03 <i>SD/-</i> <i>By, Registrar</i>	25.4.2003	<p>Heard Mr. B.C.Bas, learned counsel for the applicant and also Mr. S.Sarma, learned counsel appearing on behalf of the respondents.</p> <p>Issue notice to show cause as to why the application shall not be admitted.</p> <p>Also issue notice on the respondents to show cause as to why interim order as prayed for shall not be granted, returnable by three weeks.</p> <p>List the case on 23.5.2003 for admission.</p> <p>In the meantime the order dated 13.3.2003 transferring and posting the applicant to Malda and the ^{Consegru} subsequent order dated 26.3.2003 are suspended till the returnable date.</p> <p><i>[Signature]</i></p> <p>Vice-Chairman</p>

Notice prepared & sent to
DPS for fixing the hearing
date No 1105 by Regd.
A.D.

~~STS~~
DINo 875 K 879 Ad. 5/5/03.

No reply has been filed.

bb

Das
22.5.03.

(21)

Order dtd 23/5/03
Communicated to the
Parties Counsel.

26/5

Notice received in R/o Res-
pondent No 3. "Left as
mark by postman.

26

No reply has been
billed.

26/5/03

Pl. comply order
dated 24/6/03.

NS
27/6/03

Order dtd 27/6/03
Communicated to the
Parties Counsel.

27/7/03

No W/S has been
billed.

MD
31.7.03

Order dtd 1/8/03
Communicated to the
Parties Counsel.

1/8/03

26-8-03

W/S filed to the
Respondent No 122.

23.5.2003

Heard Mr. B.C. Das, learned
counsel for the applicant.

List again on 27.6.2003 to
enable the respondents to file reply,
if any.

In the meantime, interim order
dated 25.4.2003 shall continue.

Vice-Chairman

mb

27.6.2003

Respondents are yet to file its
reply. Mr. S. Sarma, learned counsel
appearing on behalf of the railway
prays for time to file reply. Put up
again on 1.8.2003 to enable the respondents
to file reply, if any.

In the meantime, interim order
dated 25.4.2003 shall continue until
further orders.

Vice-Chairman

mb

1.8.2003

The respondents are yet to file
written statement. Put up again on
29.8.2003 for admission. Interim order
dated 25.4.2003 shall continue.

Vice-Chairman

mb

29.8.03

Case is ready for hearing. The
case may now be listed for hearing on
12.9.03 for hearing.

Vice-Chairman

lm

26-8-03

W/S filed to the
Respondent No 122.

Ram

(31)

O.A.84/2003

Office Note	Date	Tribunal's Order
WLS filed on behalf ct R.No- 1-2.	12.9.2003	<p>Present: The Hon'ble Mr.K.Vprahaladar Administrative Member.</p> <p>List the case on 26.9.2003 again for hearing.</p> <p><i>KV Prahadaran</i> Member</p>
<i>BB</i> 25.9.03.	bb	
	26.9.2003	<p>Adjourned on the prayer of learned counsel for the parties. List on 14.11.2003 for hearing.</p> <p><i>Vice-Chairman</i></p>
	mb	
	1.6.2004	<p>On the plea of counsel for the parties, the case is adjourned. List on 7.6.2004 for hearing.</p> <p><i>KV Prahadaran</i> Member (A)</p>
	mb	
	7.6.2004	<p>On the prayer made by Mr.S.Sarma, learned counsel for the Railways, the case is fixed on 11.6.2004 for hearing.</p> <p><i>KV Prahadaran</i> Member (A)</p>
<u>29/7/04</u> The case is ready for hearing as regards W/S.	bb	
	11.6.2004	<p>On the plea of counsel for the applicant list on 21.6.2004 for hearing.</p> <p><i>KV Prahadaran</i> Member (A)</p>
	mb	

4
30.7.2004

On the plea of counsel for the respondent, list the matter on 9.8.2004 for hearing.

ICV Piddeesh
Member (A)

mb

9.8.2004

Heard counsel for the parties.
Hearing concluded. Judgment reserved.

ICV Piddeesh
Member (A)

6.9.2004

Judgment pronounced. The application is dismissed in terms of the order recorded separately. No order as to costs.

Interim order dated 25.4.2003 stands vacated.

6/8/04
The case is ready
for hearing
✓

Received
Mr. D. S.
For S. C. S. P.
7/9/04 pg

ICV Piddeesh
Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./~~XXXX~~No. 111 84 of 2003

DATE OF DECISION 06.09.2004.

..Sri. Debabrata Das.....APPLICANT(S).

Mr. Bijon Chandra Das & Mr. Surajit Dutta.
.....ADVOCATE FOR THE
APPLICANT(S).

-VERSUS-

..U.O.I. & Ors.....RESPONDENT(S)

..M.C.S. Sarma, Railway Advocate.....ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR. SHRI K. V. PRAHLADAN, ADMINISTRATIVE MEMBER.

THE HON'BLE

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 Member (A).

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 84 of 2003.

Date of Order : This, the 6th Day of September, 2004.
THE HON'BLE SHRI K. V. PRAHLADAN, ADMINISTRATIVE MEMBER.
Sri Debabrata Das
S/o Late Gopika Ranjan Das
Presently residing at "Krishna-Jyoti Bhavan"
Vivekanan Road, Near Matri Mandir
P.O: Silchar-788004
Dist: Cachar, Assam. Applicant.

By Advocates Mr. Bijon Chandra Das & Mr. Surajit Dutta.

- Versus -

1. The Union of India
Through the Secretary
to the Government of India
Ministry of Railways, New Delhi-110 001.
2. The General Manager (Construction)
Northeast Frontier Railway
Maligaon, Guwahati-781 001.
3. Sri M.Y.Kondalu
The Deputy Chief Engineer(Construction-I)
Northeast Frontier Railway
Silchar - 788 001.
4. Sri Ajoy Kumar
The Deputy Chief Engineer (Construction-II)
Northeast Frontier Railway
Silchar - 788 001.
5. Sri C.C.Mali
Assistant Engineer (Construction-V)
Northeast Frontier Railway
Silchar-788 001. Respondents.

By Mr.S.Sarma, counsel for Railways.

O R D E R

K.V.PRAHLADAN, MEMBER(A):

1/2

The applicant is at present working as a ~~Section~~
(works)
Engineer under the Deputy Chief Engineer (Construction),
N.F.Railway, Maligaon. His work was to supervise
construction work in railway yards and bridges. During

the course of his work, the applicant claimed, he ~~detected~~ ^{detected} ~~detected~~ ^{ours} irregularities in the construction work. He brought these irregularities to the notice to the Assistant Engineer, Construction as well as the Dy. Chief Engineer, Construction vide letters dated 20.12.2001, 18.1.2002, 21.3.2002 and 20.12.2002. The respondents instead of taking action against the alleged irregularities, directed the applicant to hand over all the records relating to CA No.CON/S-L/554 dated 20.12.2001 and CA No.CON/S-L/558 dated 03.1.2002 to one B.U.Laskar, Section Engineer (P.Way)/Con/Silchar. These record were pertaining to the construction of work against which the applicant has made allegation of irregularities. On 2.11.2002 the Chief Engineer, Construction, Maligaon called him to Guwahati. However, the applicant fell sick from 6.11.2002 to 14.12.2002 and he sent a medical certificate to respondent no.4. The applicant joined duties on 16.12.2002. He claimed that the respondents did not allotted him any work. On 13.3.2003 a memorandum was served upon the applicant by respondent no.4. The memorandum and the statement of articles and the charges framed against the applicant for misbehaviour against another railway official are at Pages 25 to 30. The applicant reported sick on 14.3.2003 and sent a medical report to the respondents on 15.3.2003 which are annexed at Pages 34 & 35. Respondent No.4 issued another memorandum to the applicant on

4

17.3.2003. The charges were coming late to office and going out of office without permission & intimation to higher officials as well as signing the attendance register marking his full presence on that day (Annexure-11). The applicant vide letter dated 20.3.2003 at Annexure 12 (2 sheets) replied to the memos dated 13.3.2003 & 17.3.2003. The applicant also submitted representation to the General Manager (Construction), N.F.Railway, Maligaon on 21.3.2003 at Annexure - 14 listing out all his grievances. On 24.3.2003 the respondent no.4 issued another memo to the applicant for unauthorisedly absenting himself from office w.e.f. 15.3.2003 and not reporting sick to Railway hospital, till 20.3.2003. The applicant replied to the memo dated 24.3.2003 at Annexure-16. The applicant was transferred and posted to Malda town on 13.3.2003 which was communicated vide order dated 26.3.2003 at Annexure-17. The applicant believes that the transfer order has been passed on extraneous consideration and at the instance of respondent nos.4 & 5 in order to punish him and hence it is highly arbitrary and malafide. The applicant claimed that memos issued against him on 13.3.2003, 17.3.2003 and 24.3.2003 have a nexus with the transfer order issued on 13.3.2003 served vide letter dated 26.3.2003. So the applicant claims that the transfer order was issued at the instance of respondent nos.3 & 4 to cover up thier ill-design and therefore, the same is

liable to be set aside.

Respondents in thier written statement claim that as per General Manager Construction, Maligaon's order No.50/2001 dated 23.3.2001 the applicant got his posting under the disposal of respondent no.4 not respndent no.3 as per his own request. With regard to the irregularities pointed out by the applicant in construction work, respondents say that in Railways there are three tier compulsory inspection levels ar in existence right from the Jr. Engineer level, at the Dy. Chief Engineer level and finally at the Chief Engineer and General Manager level. These teams visited the the site of work on 6.1.2003, 7.1.2003 as well as 13 & 14th February, 2003. The applicant was asked to hand over the records in order to cross-check and to meet the Chief Engineer but the applicant reported sick under the private doctor instead of going to the railway hospital as per official procedure. The applicant was given memos three times and he was given full opportunity for defence against the charged mentioned therein.

I have heard Mr.S.Dutta, learned counsel for the applicant as well as Mr.S.Sarma, learned counsel for the Railways. Learned counsel for the railways also submitted that apart from the complaint of misbehaviour against the applicant at Annexure-A/1, page 32, there were several other complaints against him. Learned counsel for the applicant by way of reply stated that if

that was the case the complaints should have been intimated to the applicant for his defence. ^{The} _{PS} administration receives numerous complaints against the officer working in the organisation, it is for the administration to decide which complaints are to be forwarded to the concerned officer for reply, which complaints are to be filed and which complaints should be verified using their own channels and information in a discreet manner. The administration has to consider the exigencies of circumstances and administrative necessity when they decide their posting and transfer and no government servant can claim retention against a particular post at a particular post. In the case of Mansukhlal Vithaldas Chauhan vs. State of Gujarat reported in (1997) 7 SCC 622, the Apex Court following the law laid down in the case of Tata Cellular v. Union of India reported in (1994) 6 SCC 651, in paragraph 25 of the judgment has held as follows:-

" This principle was reiterated in Tata Cellular v. Union of India in which it was interalia, laid down that the court does not sit as a court of appeal but merely reviews the manner in which the decision was made particularly as the court does not have the expertise to correct the administrative decision. If a review of the administrative decision is permitted, it will be substituting its own decision which itself may be fallible. the court pointed out that the duty of the court is to confine itself to the question of legality. Its concern should be:-

1. Whether a decision-making authority exceeded its power ?
2. Committed an error of law;
3. Committed a breach of the rules of natural justice;

4. Reached a decision which no reasonable tribunal would have reached; or
5. abused its powers,"

Taking all the above factors especially the ruling of the Apex Court it is apparent that the transfer order of the applicant was issued in the interest of administrative necessity. The O.A. is, therefore, liable to be dismissed and thus dismissed. Interim order dated 25.4.2003 vacated.

stands / No order as to costs.


(K.V.PRAHLADAN)
ADMNISTRATIVE MEMBER

22 APR 2003

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

Title of the case : O. A. No. 84 / 2003

Sri Debabrata Das : Applicant

-Versus-

Union of India & Others : Respondents

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Filed by

Sweajit Datta

Advocate

Date: 21. 04.03

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

O. A. NO. 81 / 2003

DEBRARATA DAS

... APPLICANT

- VERSUS -

UNION OF INDIA & OTHERS

... RESPONDENTS

SYNOPSIS

23.03.01- Applicant was posted at Silchar under the Respondent no. 3 as JE (Works).
→ Para 4.4, Page 3/Annexure-2, Page-15.

09.04.01- Applicant joined and he was entrusted with the supervision of various contract works.
→ Para 4.6, Page-3.

18.01.02-
17.02.02-
21.03.02-
31.08.02-
04.09.02-
→ Para 4.8, Page 3/Annexure-3 (Series), Pages-16-20.

31.10.02- Respondent no. 3 directed the Applicant to hand over all books/records pertaining to the works which he was entrusted to supervise. Applicant handed over the records.
→ Para 4.9, Page 3 / Annexure-4, Page-20.

06.11.02- Applicant fell ill - submitted sick report.
→ Para 4.9A, Page 4 / Annexure-5, Page-22.

14.12.02-
16.12.02- Applicant remained on bed rest with effect from 06.11.02 to 14.12.02 as per his Doctor's advice, however, resumed duties on 16.12.02 and submitted Medical Certificate and Joining report.
→ Para 4.10, Page 4 / Annexure-6 & 7, Page 23 & 24.

13.03.03- Applicant was served with a memorandum of charges.
→ Para 4.10A, Page 4/Annexure-8, Pages-25-33.

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14.03.03- Applicant again fell ill and was advised rest by the Doctor for 10 days -
15.03.03- applicant submitted sick report but the same was refused by the respondent no. 3.
→ Para 4.11, Page 4/Annexure-9 & 10, Pages-34 & 35.

17.03.03- Applicant was served with another memorandum of charges.
→ Para 4.12, Page 5/Annexure-11, Pages-36-37.

20.03.03- Applicant submitted his reply to the memorandum of charges dated
21.03.03- 13.03.03 and 17.03.03 and also submitted a representation.
→ Para 4.13, Page 5/Annexure-12, 13 and 14, Pages-38, 40 & 42.

24.03.03- Applicant was served with yet another memorandum of charges -
31.03.03- submitted his reply. He was also relieved and then served with the
26.03.03- impugned order of transfer.
13.03.03- → Para 4.14, Page 5/Annexure-15, 16, 17 and 18, Pages-45, 51, 52 & 53.

25.03.1967- Railway Board issued Circular on the issue of transfer of an employee
against whom departmental proceeding etc. are pending.
→ Para 4.15, Page 5/Annexure-19, Page-54.

CONTENTIONS OF THE APPLICANT

1. The impugned Transfer Order dated 13.03.2003 has been issued at the instance of the respondents no. 4 & 5 and with malafide intention and the same is devoid of any public interest.
2. The impugned Transfer Order dated 13.03.2003 is against the Railway Board's Circular dated 25/03/1967.
3. Transfer Order dated 13.03.2003 and the consequential relieving order are punitive in nature.
4. The impugned Transfer Order dated 13.03.2003 has been issued in isolation.

RELIEF (S) SOUGHT FOR

1. The impugned order dated 13.03.03 and the relieving order dated 26.03.03 be set aside and quashed.

Debabrata Das

Filed by:—
The Applicant
Through:—
Swarajit Datta
Advocate
21.04.03
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In The central Administrative Tribunal

Guwahati Bench

(An application under Section 19 of the Administrative Tribunals Act, 1986)

O.A. NO...../2003

Between

Sri Debabrata Das
Son of Late Gopika Ranjan Das
Presently residing at "Krishna-Jyoti Bhavan"
Vivekananda Road, Near Matri Mandir.
P.O. Silchar-788004, Dist-Cachar ,Assam.

.....Applicant.

AND

1. The Union of India
Through the Secretary to the Govt. of India
Ministry of Railways, New Delhi.-110001
2. The General Manager(Construction)
Northeast Frontier Railway
Maligaon, Guwahati-781001
3. Sri M.Y.Kondalu
The Deputy Chief Engineer(Construction-I)
Northeast Frontier Railway
Silchar- 788001
4. Sri Ajoy Kumar
The Deputy Chief Engineer(Construction-II)
Northeast Frontier Railway
Silchar- 788001
5. Sri C.C. Mali
Assistant Engineer(Construction-V)
Northeast Frontier Railway
Silchar-788001

.....Respondents

Details of the Application

1. Particulars of Order against which this application is made:

Office Order No. 30/2003 issued under No. E/283/Con/Tech/NG dtd 13-03-2003 by the respondent No.2 whereby the applicant has been transferred from his place of present posting at Silchar to Malda Town. The transfer order has been communicated to the applicant by the respondent No. 4 through a letter dtd 26-03-2003 issued under No,E/283/CON/SCL/Pt.III/1323.

2. Jurisdiction:

The applicant declares that the subject matter of the present application falls within the jurisdiction of this Hon'ble Tribunal.

3. Limitation:

The applicant further declares that this application has been filed within the period of limitation as prescribed under the Administrative Tribunal Act, 1986.

4.. Facts of the case:

- 4.1. That the applicant is a citizen of India and as such, he is entitled to all the rights protections guaranteed under the Constitution of India.
- 4.2. That at present the applicant has been working under the respondent No, 3 as Section Engineer (Works) after having been appointed as Inspector of Works w.e.f. 20-11-1989 by the General Manager, N.F.Railway.
- 4.3. That the applicant was initially put to serve under the General Manager (Construction),Guwahati-Jogighopa Project, Goalpara and he had served there with all sincerity, integrity and devotion. It may not be out of place to mention here that in recognition of his meritorious service rendered in the department , the applicant has been awarded with a number of certificates of merit.

Copies of some of the Certificates of Merit which have been awarded to the applicant,are annexed herewith as Annexure-1(Series)

A
A
A
A
A
A

4.4. That by virtue of an order being Office Order No. 50/2001 issued under No. E/283/C/NG/1/Pt-IX dtd 23-03-2001 by the respondent No.2, the applicant was posted at Silchar under the disposal of the respondent No.3. Be stated that at that time , the applicant was holding the designation of Junior Engineer(Works).

A copy of the Order dtd 23-03-2001 is annexed herewith as Annexure-2

4.5. That the applicant was relieved from the Goalpara Office on 27-03-2001 and he had joined the office of the respondent No.3 with effect from 09-04-2001.

4.6. That consequent to his joining in the office of the respondent No.3, the applicant was entrusted with the supervision of various construction works which were being carried on in different railway yards and bridges etc.In this connection , mention may be made of the works in the Railway Yards at Badarpurghat,Katakhal,Salchapra and Arunachal Railway Stations including the rebuilding of Bridge No.3 vide Contract Agreement No. CON/S-L/453 dtd 16-03-2000.

4.7. That the applicant started working in the office of the respondent No.3 with all sincerity,devotion and integrity and rendered duties to the best of his ability. During his supervision ,the applicant could detect serious irregularities committed by the contractor who was entrusted with the various construction assignments.The irregularities were in respect of non-compliance of the work-specification,use of materials not conforming with the specified quality etc.

4.8. That soon after detection of the above mentioned irregularities, the applicant took up the matter with the concerned contractor/construction companies.But his efforts in getting the work executed in conformity with the specification had failed and as such he took up the matter with the respondent No.3 and 5 and sought for their intervention.

Copies of the letters of the applicant dtd 18-01-02, 17-02-02, 21-03-02,31-08-02 and 04-09-02 intimating the irregularities are annexed herewith as Annexure-3(Series).

4.9. That the respondents acted with their vested interest and take any action whatsoever on the letters of the applicant.Instead, the respondent No.3 issued a letter on 31-10-2002 to the applicant and thereby directed him to hand over all the relevant books/records/documents pertaining to CA No.CON/S-L/554 dtd 20-12-2001 and CA No. CON/S-L/558 dtd 03-01-2002 to one Sri B.U.Laskar,Section Engineer(P.Way)/Con/Silchar.It is pertinent to mention here that the records above mentioned were in respect of the construction works against which the applicant had submitted the letters mentioned in the preceding paragraph of this application.Nevertheless, the applicant had complied with the direction of the respondent No.3 and accordingly handed over the records /documents to Sri B.U.Laskar on 31-10-02

A copy of the letter dtd 31-10-2002 is annexed herewith as Annexure-4

A
A
A
A

4.9A. That on 02-11-2002 , the Assistant Engineer(Construction-I) told the applicant that the ~~chief~~ Engineer(Construction-I)/Maligaon had called him on at Guwahati.The ~~chief~~ applicant,therefore,submitted an information to the respondent No.3 on 06-11-02 regarding his leaving the Headquarter.However, the applicant could not proceed to Guwahati as he had suddenly fallen ill and therefore had cancelled the journey.He,therefore, submitted a sick report on the same day to the respondent No.3 through a departmental Motor Driver, but since the said report was refused by the office of the respondent No.3 at the instruction of the respondent No.4, the applicant had sent the same by registered post on 07-11-2002

A copy of the sick report dtd 06-11-02 is annexed herewith as Annexure-5

4.10. That unfortunately the applicant had fallen seriously ill and had to remain on bed rest with effect from 06-11-02 to 14-12-02 as per his doctor's advice.However, on 14-12-02 the doctor declared the applicant fit to resume duties w.e.f. 16-12-02 and accordingly he went to resume duties on 16-12-02 and submitted a joining report to the respondent No.3 on the same day.

Copies of the Medical Certificate dtd 14-12-02 and the joining report dtd 16-12-02 are annexed herewith as Annexure- 6& 7 respectively.

4.10 A. That surprisingly,since his joining duties w.e.f. 16-12-02 the respondents did not allot the applicant with any nature of job and kept him idle.The applicant, being an able and qualified person,was quite shocked at such action of the respondents.Nevertheless,he continued to attend his duties regularly as before.But strangely enough, on 13-03-03, the respondent No.4 sent a dealing assistant namely , Sri Kalyan Chowdhury accompanied by 2(two) armed RPSF and 2(two) GRPF personnel along with three other railway personnel , to the residence of the applicant at about 6.35 PM and served upon him a Memorandum dtd 13-03-03.By the said memorandum the respondent No.4 alleged the applicant to have misbehaved with the respondent No.5 on 01-11-02.However, the respondent No.4 had given the applicant an opportunity of making a representation ,if he wished to do so ,on the proposed action sought to be taken against him. It is relevant to mention here that on the relevant day ,the applicant was working under the respondent No.3, but curiously enough ,the memorandum was issued by the respondent No.4

A copy of the memorandum dtd 13-03-03 is annexed herewith as Annexure-8

4.11 That the applicant was dumb struck with the receipt of the said memorandum , particularly, the manner in which it was served upon him.He felt much humiliated by the act of the respondents and fell sick due to mental shock.He,thus, consulted a doctor who advised him rest for ten 10 days and accordingly , he submitted a sick report dtd 15-03-03 addressed to the respondent No.3 whose office eventually refused to accept the same.

A copy each of the prescription of the doctor dtd 14-03-03 and sick report dtd 15- 03-03 is annexed herewith as Annexure-9 & 10

4.12 That to the utter shock and surprise of the applicant , the respondent No.4 again issued a memorandum on 17-03-03 , this time , with the allegation of attending office late and leaving before time.

A copy of the said memorandum dtd 17-03-03 is annexed herewith as Annexure-11

4.13. That the applicant submitted his reply to the memorandum dtd 13-03-03 and 17-03-03 on 20-03-03 and 21-03-03 respectively, the applicant had also forwarded a copy each of the said replies to the respondent No.2 and he also submitted another representation dtd 21-03-03 to the respondent No.2 ventillating his grievances and against the undue harassment meted out to him by the respondent authorities at Silchar.

Copies of the reply dtd 20-03-03 and 21-03-03 and the representation dtd 21-03-03 are annexed herewith as Annexure 12,13 and 14 respectively

4.14. That most unfortunately , on 24-03-03 the respondent No.4 issued yet another ~~memorandum~~ to the applicant and leveled the allegation of unauthorized absence w.e.f. 15-03-03 against him and this was not enough , the final blow was hammered on the applicant on 26-03-03 when the respondent No.4 issued a letter vide No. E/283//CON/SCL/PT-III dtd 26-03-03 and communicated thereby an order dtd 13-03-2003 purportedly issued by the respondent No.2. By the order dtd 13-03-2003, the applicant has been transferred to Malda Town and posted under the Deputy Chief Engineer(Constructio-II

Copies of the memorandum dtd 24-03-03 and its reply dtd 31-03-03, the letter dtd 26-03-03 and the order of transfer dtd 13-03-03 are annexed herewith as Annexure-15,16 ,17 and 18 respectively.

4.15. That the applicant states that he has reliably learnt and in the facts and circumstances of the case, has reason to believe that the transfer order has been passed on extraneous consideration and at the instance of the respondent No. 4 & 5 who are acting against the applicant for their vested interest.Further to add that Railway Board has issued a circular vide No.E(D&A) 65RG6/6 dtd 25-03-1967 wherein it is specifically mentioned that no non gazetted staff can be transferred from one Administration to another pending finalization of disciplinary proceedings if initiated against him.

From the facts and circumstances of the case mentioned hereinabove, it can be easily inferred that the impugned order of transfer is nothing but a measure deviced by the respondents to punish the applicant, the impugned order of transfer is highly arbitrary, unfair, malafide and liable to be set aside.

6
21

Deo abhaya Das

A copy of Railway Board's Order dtd 25-03-1967 is annexed herewith as Annexure-19.

4.16. That the action of the respondent No.2 in transferring the applicant to another construction project/ construction unit and the said order was issued on 13-03-2003. Similarly the action of the respondent No.4 in serving memorandums were on dtd 13-03-03, 17-03-03 and 24-03-03 respectively. Both the actions stated above has a clear nexus to each other and finally the motive has become clear while the transfer order dtd 13-03-03 was served on 26-03-03 by the respondent No.4 along with the release order and Last Pay Certificate(LPC).

From the above it can well be inferred that the respondent No.2 issued the order dtd 13-03-03 at the instance of respondent No. 3 & 4 to cover up their ill design. Surprisingly, the sparing order issued while in sick is illegal and improper. Service of all notices and transfer order were unusual in nature and based on ill motive of the respondent No. 3 & 4.

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

5.

Grounds for relief(s) with legal provisions

- 5.1. For that, the impugned order under memorandum dtd 13-03-03 is illegal and liable to be set aside
- 5.2. For that, the impugned orders have been issued at the instance of the respondents No. 4 & 5 who are acting with their vested interest and to safe guard the interest of their chosen contractors/construction companies
- 5.3. For that, the transfer order has been issued with an ulterior motive and with malafied intention to harass the applicant with a view to throw him out of the way of the respondents no. 4 and 5
- 5.4. For that, the transfer order has been passed in isolation and there is no interest, much less a public interest involved in it.
- 5.5. For that, the transfer order and the consequential relieving order is punitive in nature and has the effect of inflicting punishment on the applicant.
- 5.6. For that, the applicant has been transferred and relieved by the respondents during the period of his medical leave and when he is unfit to resume duties and this action shows their arbitrary and whimsical approach against the applicant.
- 5.7. For that, the applicant being an employee under the respondent no. 3, cannot be relieved by the by the respondent no. 4 as has been done in the instant case and this is nothing but a classical example of the fanciful action of the respondent.
- 5.8. For that, in any view of the matter, the impugned order of transfer dated 13-03-03 and the relieving order dated 26-03-03 are bad in law and therefore liable to be set aside and quashed.

6. Details of remedies exhausted

That the applicant declares that he has no other alternative and other efficacious remedy than to file this application.

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 the Tribunal nor any such application, Writ Petition or suit is pending before any of them.

Date dictated

8

23

8 Relief(s) sought for

Under the facts and circumstances stated above ,the applicant prays for the following relief(s):

- 8.1 That the impugned order of transfer dated 13-03-03 and the relieving order dated 26-03-03 be declared and thus, set aside and quashed
- 8.2 Costs of the application.
- 8.3 Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for:

During subsistence of this application, the applicant prays for the following relief:-

- 9.1 That the operation of the impugned order of transfer dated 13-03-03 be suspended and the respondent be directed to allow the applicant to continue at Silchar.

10.

9
29
Date of issue Date

This application is filed through Advocate

11. Particulars of the I.P.O

- i) I.P.O. No. : 8G 490151
- ii) Date of issue : 19. 04. 2003
- iii) Issued from : G.P.O., Guwahati
- iv) Payable at : G.P.O., Guwahati

12. List of enclosures : As stated in the index.

VERIFICATION

I, Sri Debabrata Das, son of Late Gopika Ranjan Das, aged about 40 years, resident of Vivekananda Road , Silchar-4, District-Cachar (Assam), do hereby verify that the statements made in paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the18th..... day of....April...., 2003. at Silchar

Debabrata Das

Annexure - 1

पूर्वोत्तर सीमा रेलवे
NORTHEAST FRONTIER RAILWAY
रेल सप्ताह / RAILWAY WEEK, 1992
योग्यता प्रमाण-पत्र
CERTIFICATE OF MERIT

वर्ष 1991-92 की अवधि में उत्कृष्ट कार्य के लिए

For outstanding work during the year 1991-92

श्री/श्रीमती को प्रदान किया जाता है।

Awarded to Shri/Smt. Debabrata Das
 IOW UNDFR Dy.CE/C/GOP

10th APRIL 1992


 महाप्रबन्धक
 GENERAL MANAGER

(12)



Annexure - 1

पूर्वोत्तर सीमा रेलवे
NORTH EAST FRONTIER RAILWAY

योग्यता प्रमाण-पत्र

CERTIFICATE OF MERIT

वर्ष 1994-95 की अवधि में उत्कृष्ट कार्य के लिए

For outstanding work during the year 1994-95

श्री / श्रीमती _____ को प्रदान किया जाता है।

Awarded to Shri/Smt. D. DAS, IOW/C/DDI.

महा प्रबन्धक
GENERAL MANAGER

13th April 1995



पूर्वोत्तर सीमा रेल
NORTHEAST FRONTIER RAILWAY

योग्यता प्रमाण-पत्र
CERTIFICATE OF MERIT

वर्ष 2000 में गोलपाड़ा-कामाख्या नई बड़ी रेल लाईन परियोजना का निर्माण सम्पन्न करने में उत्कृष्ट सेवा के लिए।

For meritorious service rendered in completion of Goalpara-Kamakhya new B.G. line project
during the year 2000.

श्री/ श्रीमती

Awarded to Shri/Smt.

D. Das.

को प्रदान किया जाता है।

JE/W/CLPT.

सप्तम्बर, 2000
September, 2000

GULSHAN RAI MADAN
GENERAL MANAGER (CONSTRUCTION)



21 (14)

रेल सप्ताह / RAILWAY WEEK, 2002

योग्यता प्रमाण - पत्र

CERTIFICATE OF MERIT

वर्ष 2001 - 2002 की अवधि में उत्कृष्ट सेवा के लिए।

For meritorious service during the year 2001 - 2002

श्री / श्रीमती को प्रदान किया जाता है।

Awarded to Shri / Smt. Debabrata Das, SE/Con. Dy.CE/Con/SCL



Vipan Nanda
General Manager

अप्रैल, April, 2002

Northeast
Frontier
Railway.

OFFICE ORDER NO. 50 /2001

Office of the
General Manager(Cen)
Maligaon: Guwahati - 11

In partial modification to this office order No. 174/2000 issued under even number dated 3.11.2000, Shri D. Das, JE(W)/1 under Dy. CE/Cen/GLPT at MLG in scale Rs.5500-9000/- who was ordered to be transferred under Dy. CE/Cen/Agartala is hereby posted under Dy. CE/Cen/I/SCL in his same capacity, pay and scale with immediate effect.

This issues with the approval of the competent authority.

(S. K. BOSE)
APO/CON
for General Manager/Cen

No. E/283/C/NO/1/Pt.IX

Dated: 23.3.2001

Copy forwarded for information and necessary action to:-

- 1) FA & CAO/Cen/MLG 1.a) CE/Cen/I, V
- 2) Dy. CE/Cen/GLPT at MLG - He is requested to spare the staff to report to Dy. CE/Cen/I/SCL immediately.
- 3) Dy. CE/Cen/I/SCL
- 4) ASN/Cen/COP
- 5) Dy. CE/Cen/Agartala
- 6) Staff concerned.

Subj
(S. K. BOSE) 23/3/01
APO/CON
for General Manager/Cen

Sd/-

जहारत के दोनों तरफ लिये
Use both sides if required

पू. सी० रेलवे
(निर्माण)

गार० बी०/R.B. जी० प्ल०/G.L. 19

पू. सी०/N.F. जी०/G. 40

N. F. RAILWAY
(CONSTRUCTION)

सं०/No. C.I/CON/554/1&C
पेपक/From..... S.E.(W)/C/SCL

सेवा न०/To..... D.Y.CE/CON-1/SCL

तारिख/Date..... 18/01/02

Sub. : Un-specified earth work between
Ref. : 127/01 to 127/01

Against CA. No Con/S-1/ 554 dt/20/12/01

With reference to the subject above you are to inform that the contract has engaged 16 Nos of tractors which are working round the clock. As a result the earth layer is not maintained properly and as a result it has also become impossible to check the desired field deposit. The contractor was instructed to do the same in a specified manner but no compliance is made from his part.

In this connection you are requested to intervene the matter such that correct specification can be maintained smoothly.

Shard
18/01/02
S.E.(W)/C/SCL

Copy to
1) AEN/Con-V/SCL for information and necessary action pl.

2
Copy of D.Y.CE
to AEN/Con-V/SCL
for information and
necessary action pl.

Shard
18/01/02
S.E.(W)/C/SCL

17
23
No: CA/554/CON/SCL/19/A
Subj:

Dtd 17-02-02 Annexure - 3

Ref: Dy.CE/Con-I/SCL

Sub:- Un specified execution of earth work. (Cr 12.2/404 to 127/880)

Ref: Against CA NO CON/S-I/554 Dtd 20-12-01

With reference to the subject cited above you are to inform that as per agreement the earth work in filling in each layer of earth shall be spreaded at a thickness of 30 cm with proper mechanical compaction. But the contractor is not maintaining such specification. He is spreading the each layer at a thickness of 1m to 1.5m and proper mechanical compaction is also not happening. He has been told to rectify the same but not complied with. In this connection you are requested to take the matter to the contractor for his immediate rectification otherwise maximum voids will remain inside of layer and as a result bank will not be stable and consolidated.

DAS 17/02/02
SE(W)/CON/SCL
(D.DAS)

Copy to :

1) AEN/CON-V/SCL for information please.

DAS 17/02/02
SE(W)/CON/SCL
(D.DAS)

DAS

N.F.Railway

No:CA/558/CON/SCL / 19 C

Dated 21-03-02

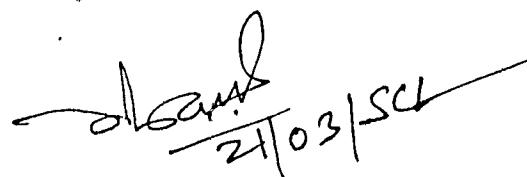
To

Dy.CE/CON-I/SCL.

Sub: Concreting in bottom slab of bridge No. 125

Ref: Against CA No CON/S-L/558 Dtd 03-01-02

With reference to above you are to inform that the reinforcement in bottom slab of Br. No.125 has now just started from 14-03-02 and will take approx 15 days more to complete. That sir, the coarse aggregates procured by the contractor is not conforming to specification. As per approved drawing maximum 20mm size is required but the contractor collected 30 to 40mm size for M-30 concreting. It is requested the contractor to remove the unspecified aggregates, but he turned down the request. In this connection your intervention is highly requested such that the contractor listed all oversize materials from site and desired strength of concrete can be achieved.


21/03/02SE(W)/CON/SCL
(D.Das)
21/03/02SE(W)/CON/SCL
(D.Das)

Copy to:

1) AEN/CON-V/SCL for information please &
necessary action pl

1. No: CA/554/CON/SCL/20A..... Dtd 31-08-02

(Without Prejudice)
Office of the
SE(W)/CON/SILCHAR.

To

M/S A.C.Nayak & Co,Lumding.
(Personel attention of Sheri Siddhartha Debate ,Site Engineer)
Camp at Harangajao Site.**Sub:-Rectification of unspecified construction of face walls of Br. Nos 133 & 137**

Ref: Against CA No CON/S-L/554 Dtd 20-12-2002

Dear Sir ,

During the course of our inspection it has come to our notice that the facewalls of the aforesaid bridges have been constructed and as usually we have inspected the said bridges and found the construction is not as per specification. You were several times told earlier that before concreting of facewalls of any Hume Pipe culverts information must be given to the concerned Rly.officials for its checking as per approved drawing; but it is regretted that neither you had inform the Rly officials before its concreting nor constructed it maintaining dimensional specification provided in the approved drawing.

You were also instructed that the shuttering of facewalls should be done at a time and subsequent concreting to be done listwise to avoid any bulding in the batter face; but you also failed to follow the instruction as a result batter face bulges severely. However it has been constructed at your own risk and cost since concerned officials were kept in darkness during its construction .

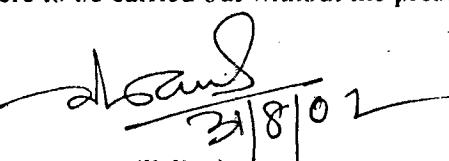
In this connection you are hereby requested to rectify the same immediately before taking it into account. Further you are also to note that no concreting at any where to be carried out without the presence of departmental officials please.

Your compliance is highly be anticipated please.

Copy to:

1)Dy.CE/CON-I/SCL for information pl.

2)AEN/CON-V/SCL for information & n/a pl.



31/8/02
(D.Das)
SE(W)/CON/ SILCHAR.


31/8/02

SE(W)/CON/SILCHAR



N.E.Railway(Without Prejudice)
Office of the
Dy.CE/CON/SILCHAR

No: CA/554/CON/SCL/ 21

dtd 04-09-02

To

M/s A.C.Nayak & Co,
Swarupananda Road Lumding.
Camp at Harangajao Site.Sub :-Submission of Load Test Certificate of Hume pipe
Ref: Against CA No CON/S-L/554 Dtd 20-12-2002

Dear Sir ,

With reference to the subject cited above it is observed that you are procuring hume pipes of internal dia. 1800mm from different hume pipe factories viz,Guwahati , Jorhat and Udarbond(Silchar) etc for the construction of hume pipe bridges in between New Harangajao-Ditokcherra section against the aforesaid agreement. Out of which the pipes procuring from Jorhat factory are seems to be poor quality;because both outer and inner surfaces not finished smoothly and also seen that the inner reinforcement of some of the pipes exposes on its surfaces which are not acceptable in any way as there will be definite effect when compressive loads exerted upon it.

In this connection you are requested to submit immediately the MBG Load Test Certificate of the said pipes before being laid in any particular bridge. You are also requested to ensure that the concerned departmental officials are to be informed for its physical checking and subsequent passing by appropriate authority in the respective working site please .

Copy to:
1)Dy.CE/CON-I/SCL for information pl.


 (D.Das)
 SE(W)/CON/ SILCHAR.

2)AEN/CON-V/SCL for information & n/a pl


 SE(W)/CON/SILCHAR



N.F.Railway

Office of the
 Deputy Chief Engineer (CON)
 Silchar

Dt.31.10.2002

No.W/76/CON/I/SCL/726

To
 Shri Debabrata Das
SE/W/CON/SCL

**Sub:- Handing over of all MBs,Level Books,X Section Sheets
 and other relevant documents.**

You are instructed to hand over the all MBs, Level Books ,
 Cross Section sheets and other relevant documents of CA No.CON/SL/554
 dt.20.12.2001 and CA No.CON/SL/558 dt.3.1.2002 to Shri B.U Laskar,
 SE/CON/SCL on date immediately on administrative ground.

MB Nos. CON/7340/SCL,CON/7360/SCL,
 CON/7341/SCL,CON/7361/SCL.

Level Book Nos.

5523,5524,5525,5526,
 5527,5811,5812,5813,
 5814,5815.

and all other official documents available with you.

Yours *31-10-002*
 Deputy Chief Engineer(Con)/I
N.F. Railway:::: Silchar

Copy to:-

(1) AEN/CON/V/SCL

: for information and necessary action
 please.

(2) Shri B.U Laskar,SE/CON/SCL

: He is instructed to take over the
 above said documents from Shri
 Debabrata Das SE/W/CON/SCL on
 date.

Deputy Chief Engineer(Con)/I
N.F. Railway:::: Silchar

नहीं नहीं NOT INSURED
लाए गये डाक टिकटों का मूल्य ... रु 22/-
Amount of Stamps affixed Rs.
एक रजिस्ट्री * प्राप्त किया
Received a Registered ...
पानेवाले का नाम ... N.F. Raelly
Addressed to ...

1170

No.

प्राप्त किया
Received a Registered ...
पानेवाले का नाम ... N.F. Raelly
Addressed to ...
कालिकारी के हस्ताक्षर
Signature of Receiving Office

1170

(22)

आर० बी०/R.B. जी० एल०/G.L. 19

पू० सी०/N.F. जी०/G. 40

37

तारिख/Date 6/11/02

सेवा गें. To.....

Dy. C.E./Con-1/SCL

Sub. :

Sick Sick

Ref. :

Sir,

I have the honour to
state that today myself supposed
to go to M.L.S. To C.E/Con-1/
and might ^{supper} ticket is also
obtained; but suddenly myself
fall sick. This is for your
information - Pl.

Abas

6/11/02

(D.Das)
SE(W)/Con/SCL

Sick report send by
M.Drver, Heeren
a M.Drver not received
any one not received
but this one received in the
receipt section of Dy. C.E. N.Drver
of instruction come to reader of
instruction of Dy. C.E. N.Drver
Heeren come to his departmental
at 11-30 AM with his report on
Vehicle and return on 7/11/02
this report

Abas
6/11/02
at 11-30 AM

Dr. B. B. Purkayastha

M.B.B.S

KAY CEE CLINIC & NURSING HOME

34145(N.H)

Date :

14-12-202

To whom it may concern

This is to certify that MR. Debananda Das
of Vivekananda Rd, Silchar, was suffering
from Anti Gastro Enteritis - followed by
numbness & Paresthesia - left hand and
was under my care from 6th Nov. 202

to 14th Dec. 202

He was advised to take complete
rest for those days

However, he has recovered now and is
fit to resume his normal office duty
from ^{day after} tomorrow - the 15th Dec. 202

14-12-202

Dr. B.B. PURKAYASTHA

M.B.B.S.

KAY CEE CLINIC & NURSING HOME
TULAPATI, SILCHAR-788 001

To

The Deputy Chief Engineer/Construction-I
N.F.Railway, Silchar

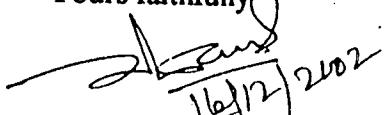
Sub:- Joining report

Sir,

I have the honour to state that I was under medical treatment with effect from 6-11-2002 to 16-12-2002 and in this connection you were reported accordingly. As per my(private) doctor's advise I am now fit for resuming duty.

I, therefore, request you kindly allow me to resume duty w.e.f. 16-12-2002 and arrange for regularizing the absent period by commuted leave. The necessary medical certificate is enclosed herewith for your kind necessary action.

Yours faithfully


16/12/2002
(D. Das)
SE(W)/Con-/SCL

STANDARD FORM NO.5

Standard Form of Chargesheet.

(Rule 9 of the Railway servants (Discipline and Appeal Rules, 1968)).

No. E/74/CON/SCL/Pt. I/DY. CE/CON/SCL, N.F.R.Ly. (Name of Railway Administration).(Place of issue) SILCHAR dated 13.03.2003

MEMORANDUM.

The President/Railway Board/Undersigned propose(s) to hold an inquiry against Shri Debabratna Das, SE(w/con/scl) under Rule 9 of the Railway servants (Discipline and Appeal) Rules, 1968. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is not out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputations of misconduct or misbehaviour in support of each article 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.

2. Shri Debabratna Das, SE(w/con/scl) 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 _____ immediately on receipt of this Memorandum.

3. Shri Debabratna Das, SE(w/con/scl) is further informed that he may, if he so desires, take assistance of any other Railway servant or official of Railway Trade Union (who satisfies the requirements of Rule 9(13) of the Railway servants (Discipline and Appeal) Rules, 1968 and Note I and/or Note 2 thereto) 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(s) Railway Trade Union Official(s), Shri Debabratna Das, SE(w/con/scl) 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 particular 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 along with the nomination.

4. Shri Debabratna Das, SE(w/con/scl) 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 documents 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 address of the witnesses if any, whom he wishes to call in support of his defence.

5. Shri Debabratna Das, SE(w/con/scl) is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each articles of charge.

6. Shri Debabrata Das, SE(N)/CON/SCl is further informed that if he does not submit his written statement of defence within the period specified in para 2 or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 9 of the Railway servants (Discipline and Appeal) Rules, 1968, 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 Debabrata Das, SE(N)/CON/SCl is invited to Rule 20 of the Railway services (conduct) Rules, 1968, under which no Railway servant shall bring or attempt to bring any political or other influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Shri Debabrata Das, SE(N)/CON/SCl 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) Rules, 1966.

8. The receipt of this Memorandum may be acknowledged.

Enclo: Annexure-I, II & III (each in one sheet), Annexure A, B, A-1, B-1-
(each in one sheet) By order and in the name of the President.

AS-13/3/68

(Ajay Kumar)
(Signature)

name and designation of Competent Authority.

Deputy Chief Engineer
N. J. Rlys. Sdhar

To Shri Debabrata Das,

SE(N)/CON/SCl, N.F.Rly (Designation)

Dy. CE/CON/N.F.Rly/SCl's Off. Place) / SILCHAR.

(a) Copy to Shri _____ (Name & designation of the lending authority) for information

Strike out which ever is not applicable.

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

Name of the authority. (This would imply that whenever a case is referred to the disciplinary authority by the investigating authority or any authority who are in the custody of the listed 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 where President or the Rly. Board is the competent authority.

To be issued wherever applicable - See Rule 16(1) of the Rly. DA Rules, 1968, - Not to be inserted in the copy sent to the Railway servant.

(27)

Annexure to Standard Form No.5 - Memorandum of Charge Sheet
under Rule 9 of the R.S. (D. & A.) Rules, 1968.

ANNEXURE - I

Statement of Articles of charge framed against Shri Debabrata Das
(Name and designation of the Railway servant) SE (W) CON/NFR LY/SILCHAR

Article - I

That the said Shri Debabrata Das, SE (W) /CON/ while functioning
as SE (W) /CON/NFR LY/SCL during the period from 09.4.2001 hereunder
definite and distinct article of charge).

Enclosed as ANNEXURE - A.

(N.S. - 13/03)-W3
(N.B. - 13/03)-W3

Article - II

That during the aforesaid period and while functioning in the
aforesaid office the said Shri Debabrata Das, SE (W) /CON/SCL (here enter
definite and distinct article of charge).

Enclosed as ANNEXURE - I.

(N.S. - 13/03)-W3
Deputy Chief Engineer (CON)
N. B. Riley Silchar

Article - III

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

NIL

(N.B. - 13/03)-W3

(23)

43

ANNEXURE - II

Statement of imputations of misconduct or misbehaviour in support of the articles of charge framed against Shri Sebabrata Das, SE(w)/CON/SCL (Name and designation of the Rly. servant).

Article - I

That the said Shri Sebabrata Das, while functioning as SE(w)/CON/NFLY/SIL CTRR during the period from 09.4.01 (here enter definite and distinct article of charge).

Enclosed as ANNEXURE - A-1

(S-13/03/2003)
S. Jay, M. C. M. C. (C)
N. R. Rly. S. C. S.

Article - II

That during the aforesaid period and while functioning in the aforesaid office, the said Shri Sebabrata Das, SE(w)/CON/NFLY/SCL (here enter definite and distinct article of charge).

Enclosed as ANNEXURE - B-1

(S-13/03/2003)
S. Jay, M. C. M. C. (C)
N. R. Rly. S. C. S.

Article - III

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

Nil

(S-13/03/2003)
S. Jay, M. C. M. C. (C)
N. R. Rly. S. C. S.

(29)
49

ANNEXURE - III

list of documents by which the articles of charge framed against
Shri Debabrata Das, SE(W)/SOIN/NFRLY/SCL (name and designation
of Railway servant) are proposed to be sustained.

1. Annexure - A (in one sheet) - Article of Charge - I
2. Annexure - B (in one sheet) - Article of Charge - II
3. Annexure - A-1 (in one sheet) - Statement in support of Article - I.
4. Annexure - B-1 (in one sheet) - Statement in support of Article - II.

*(AS-75/03-2013)
(Ajay Kumar)*

ANNEXURE - ASTATEMENT OF ARTICLE OF CHARGES FRAMED AGAINST SHRI DEBABRATA DAS
(SE/CON/SCL), N.F RAILWAY

Shri Debabrata Das (SE/CON/SCL) working under DY.CE/CON/SCL unit is supposed to do his duties properly, maintain absolute integrity and do nothing which is unbecoming of Railway servant.

But, Shri Debabrata Das (SE/CON/SCL) is behaving totally indifferently like abusing, fighting & threatening to Railway officials. Shri Debabrata Das (SE/CON/SCL) has abused & threatened to beat to Shri C.C. Mali (AEN/CON-V/SCL chamber) immediate superior (controlling officer) on dated 01.11.2002 at 11.00 hours in presence of Shri Sukumar Das (SSE/CON/SCL). This type of unwanted activity from the part of responsible subordinate like Shri Debabrata Das (SE/CON/SCL) is totally undesirable. The above act of misconduct/misbehaviour of Shri Debabrata Das (SE/CON/SCL) shows lack of absolute integrity and totally unbecoming of Railway servant violating article 3.1 (i) & (iii) of Railway Services (Conduct) Rules, 1966.

Mr.
(Anil Kumar)
Copyist Water Engineer (CON).
B.S. Klyt Suchal

ANNEXURE - BSTATEMENT OF ARTICLE OF CHARGES FRAMED AGAINST SHRI DEBABRATA DAS
(SE/CON/SCL), N.F RAILWAY

Shri Debabrata Das (SE/CON/SCL) working under DY.CE/CON/SCL unit is supposed to do his duties properly, maintain absolute integrity and do nothing which is unbecoming of Railway servant.

But, Shri Debabrata Das (SE/CON/SCL) has pasted one pamphlet on dr. 12.03.2003 at 16.45 hours in the office chamber's door of Shri C.C. Mali (AEN/CON-V/SCL which read as " We Demand CBI Enquiry against corrupted Railway officials". This type of unwanted activity from the part of responsible subordinate like Shri Debabrata Das (SE/CON/SCL) is totally undesirable. The above act of Shri Debabrata Das (SE/CON/SCL) shows lack of absolute integrity and totally unbecoming of Railway servant violating article 3.1 (i) & (iii) of Railway Services (Conduct) Rules, 1966.

(Ajay Kumar)
(Ajay Kumar)

ANNEXURE - A-1

To
The Dy.CE/CON-I-SCL
N.F.Railway.

Sub: Mishandling of Mr. D. Das, SSE/Works CON-SCL

Sir,

Today on 01-11-2002 at about 11.00 AM while I am sitting in my chamber with Mr. Sukumar Das, SSE/Works CON-SCL Mr. D. Das, SSE W CON-SCL came to my chamber and started shouting & using un-parliamentary language. He has also given threatening to me that he will beat me within few days and will force me to remain silent.

This is for your kind information please.

Yours faithfully,

L. Mallick
01/11/02

SSE/CON-I-SCL
A. M. C. N. F. R.

Dated, Silchar
The 1st Nov '02

SSE/CON-I-SCL

Copy to:- Dy CE/CON-I-SCL
for kind information
please.

L. Mallick
01/11/02
A. M. C. N. F. R.

ANNEXURE - D-1

Dt. 12.03.2003

To

Deputy Chief Engineer (com)
N. F. Railway, Sushar.

Sir,

We the following staff under DyCE/CON/SEC office we have seen during posting of one poster on the on the door of Sri C. mali AEN/CON/SEC chamber at about 16.45 hrs by Sri Debabrata Das SE/CON/SEC, while coming office canteen, the poster has been brought to the notice of DyCE/CON/SEC and DyCE/CON/SEC. The poster read.

WE
DEMAND
CBI
ENQUIRY
AGAINST CORRUPTED RAILWAY
OFFICIALS.

NAME

①	Bimal Dey	OS/11/CON/SEC	<i>Recd</i> 12/03/03
②	Sunil Kumar Verma	JE/1/c/CON/SEC	<i>Recd</i> 12/03/03
③	SUKUMAR DAS	SSE(W)CON/SEC	<i>Recd</i> 12/03/03
④	Dilip Borah	SDA/CON/SEC	<i>Recd</i> 12/03/03
⑤	Himadri K. Roy	HD-clock	<i>Recd</i> 12/03/03
⑥	Prasanta Kr Routh	SSE/WS/CON/SEC	<i>Recd</i> 12/03/03
⑦	Jogadish Ch. Chakraborty	in clock	<i>Recd</i> 12/03/03
⑧	Kalyan Chowdhury		<i>Recd</i> 12/03/03

Annexe - 9

u9 (34)

Dr. B. B. Purkayastha

M.B.B.S

NAYCEE CLINIC & NURSING HOME

34145(N.H.)

Date :

MR. D. Das -

C/C

1) uneasiness.
2) disturbed sleep.
3) Headache -

O/B Anxious.

B.P - 130/90 mm
at Hg.

Chart - clean.

Rx
1) Tab. Alprazolam (0.5mm)
1 tab. at bed time daily
0 X 10 days.

Adm. Rest for 10 days.

B.P. to be checked regularly.

To cure after 10 days.

BBP
14-03-2013.

To Deputy Chief Engineer/Construction-I
N.F Railway, Silchar

Subject: Sick Report

Sir,

I have the honour to state that today on 15-03-03 myself reported sick and undergoing treatment of private medical practitioner w.e.f 14-03-03, the prescription of which is enclosed herewith for your information and necessary action please.

DA:

1) Photo copy prescription

*Sick report is sent to Rly office (construction)
and received & despatched by the instruction
and receipt of "Section" by Deputy Chief Engineer/Silchar
of D.C.E. 15/3/03
SE(W) on sick*

15/3/03

D.Das

*(D.Das)
SE(W)/CON/SCL
N.F.Railway
Vivekananda Road
Silchar*

36

Annexure - II (2 sheets)

Annexure - II (2 sheets) **Memorandum of Notice for imposing**
Disciplinary Action (Rule 11 of R.S. (R.R.) Rules, 1963)

NO. E/FL/CON/SCL/PT. IV/1278

D.Y.CE/CON/NFR4/SCL (Name of
Railway Administration)

(Place of Issue) SILCHAR

Date: 17-03-2003

MEMORANDUM:

1. Shri Sebabrata Das (Designation) SE(N)/CON/NFR4/SCL
(Office in which working) Under D.Y.CE/CON/SCL is hereby informed that the president/Railway Board/Undersigned proposes to take action against him under Rule 11 of the Railway servants (Discipline & Appeal) Rules, 1963. A statement of the imputations of misconduct or Misbehaviour on which action is proposed to be taken as mentioned above is enclosed!

2. Shri Sebabrata Das is hereby given an opportunity to make such representation as may which to make against the proposals. The representation, if any, should be submitted to the undersigned (Through the General Manager, _____ Railway, so as to reach the said General Manager) within ten days of the receipt of the Memorandum.

3. If Shri Sebabrata Das fails to submit his representation the period specified in para-2, it will be presumed that he has no representation to make and orders will be liable to be passed against Shri Sebabrata Das SE(N)/CON/SCL ex-party.

4. The receipt of this memorandum should be acknowledged by Shri Sebabrata Das, SE(N)/CON/NFR4/SCL.

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

DAS: Statement of Description
of Charges (in one sheet)
As Annexure - I

Signature 17/03/2003

Name ASTAY KUMAR

Role & Designation of the
Competent Authority
Senior Chief Engineer (CON)
M. B. Rail Silchar

To Shri Sebabrata Das SE(N)/CON/NFR4/SCL (Name, Designation & Office
The receipt of this memorandum may be acknowledged.

ANNEXURE - I

IMPUTATION OF CHARGES FRAMED AGAINST SHRI DEBABRATA DAS. (SE/W/CON/SCL)
N.F RAILWAY

Shri Debabrata Das (SE/W/CON/SCL), working under DY.CE/CON/SCL unit; is supposed to maintain absolute integrity, regular to his official duties and do nothing which is unbecoming of Railway servant.

But, Shri Debabrata Das (SE/W/CON/SCL) is not regular to his official duties stipulated office hours. While office inspection of DY.CE/CON/II/SCL along with AEN/CON/I/SCL, OS of Dy.CE/CON/SCL office and other office staff on dated 13.03.2003 at 11.15 hours; Shri Debabrata Das (SE/W/CON/SCL) found absent from office (though, he was not booked/directed to go out side office as line duty by any of higher officials on dated 13.3.2003). But Shri Debabrata Das (SE/W/CON/SCL) came to office any time after 11.30 hours and he signed in attendance register (as a token of full present in the office) and went out of the office without permission/intimation of Railway official. At 17.10 Hrs of dated 13.03.2003; DY.CE/CON/II/SCL again inspected & checked the attendance of office staff along with AEN/CON/I/SCL, OS of Debabrata Das (SE/W/CON/SCL) found absent from office duty [office hour is from 9.30 hours to 17.30 hours (lunch break 13.00 hours to 13.30 hours) in all working days, except on Saturday from 9.30 hours to 12.00 hours] without intimation/permission of Railway higher officials. Absenting from office duty or late coming to office and signing of attendance register (as a token of full present in the office) and again leaving office duty without permission/ intimation of Raialway higher official, is gross irregular & misconduct on the part of Shri Debabrata Das (SE/W/CON/SCL).

The above act of Shri Debabrata Das (SE/W/CON/SCL) tantamount total lack of absolute integrity, lack of devotion to duties and also unbecoming of Railway servant violating article 3.1 (i), (ii) & (iii) of Railway Sevices (Conduct) Rules, 1966.

AS-
17/03/2003

(Ajay Kumar)
Disciplinary Authority
Deputy Chief Engineer/Construction-II
Silchar, N.F. Railway
Deputy Chief Engineer (CON)
N. F. Rly. Silchar

To,

The Deputy Chief Engineer/Construction / N.F.Railway, Silchar

Sub: Chargesheet.Reference: Your Memorandum vide No. E/74/CON/SCL/PT-IV dated 13-03-2003

Sir,

- 1) The above cited memorandum was received by me at my residence at 18-35 hours on 13-03-2003. I was astonished at the unusual manner of serving of the memorandum of charges through the dealing assistant of "Receipt & Despatch Section" of your office Sri Kalyan Chowdhury accompanied by 2 nos armed RPSF, 2 nos GRPF men and other railway personnel (i) Sri Prasanta Kumar Routh, (ii) Sri Sukumar Das and (iii) Sri Sunil Kumar Verma. My family members were horrified at the presence of armed guards in nocturnal hour and the neighboring residents must have imagined it as a raid against a criminal. There was little necessity of such pompous parade and the people who masterminded the nefarious device should be cautioned against employment of any step likely to disturb master servant - vis-à-vis employer-employee relation in the department.
- 2) As per Discipline & Appeal Rule, a list of documents and witness by which each article of charge is proposed to be sustained need be delivered to the charged employee. The list furnished at Annexure-III to your memorandum does not comply with the requirements. Annexure A & B are mere statements of charges and allegations and not documents in proper sense of the word. Moreover no list of witness has been furnished at all. Furthermore there is lack of authenticity of contents of Annexure A-1 & B-1 as these are unattested by the disciplinary authority. It appears that whole affair has been manufactured in a light vein which is forbidden in an important matter like disciplinary proceedings
- 3) In view of above it is most fervently prayed that the matter may kindly be dropped finally. If however for any reason it is not possible, then issue of a fresh chargesheet in full compliance with the disciplinary Rules may kindly be considered.
- 4) The chargesheet dated 13-03-2003 has been signed by Dy.CE/Con-II/SCL, although I am working under Dy.CE/Con-I/SCL who is very much present at Silchar office on the date of issue. No endorsement of Dy.CE/Con-I/SCL is found on the bottom of the memorandum. I may kindly be informed quoting authority as to who is my disciplinary authority so that I may submit my WS to the correct quarter. In this regard I will require an upto date copy of SCHEDULE-I to the Railway Servants (D&A)Rule 1968, for preparation of my defence on receipt of your revised/amended chargesheet.

5) I may kindly be excused for giving a copy of this reply to the learned General Manager/Construction/N.F.Railway/Maligaon, who is my original Appointing Authority

Copy to the

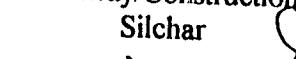
General Manager(Construction),N.F.Railway
Maligaon for favour of information and necessary
direction to the authorities at Silchar

Yours faithfully

 20/03/2003
on sick

(Debabrata.Das)

SectionEngineer(Works)
N.F.Railway/Construction
Silchar

 20/03/2003

(Debabrata.Das)
SectionEngineer(Works)
N.F.Railway/Construction
Silchar

Date: 20-03-2003

To,

The Deputy Chief Engineer/Construction
N.F.Railway/Silchar

Subject: Reply to Chargesheet.

Reference: Your Memorandum No. E/74/Con/SCL/PT-IV/1278 dated 17-03-2003

Sir,

- 1) I received your memorandum dated 17-03-2003 at 17-20 hours at my residence.
- 2) I absolutely deny the imputation brought in the Annexure-I to the said memorandum. It is a false allegation that I am not regular in my official duties in stipulated office hours. I have served the N.F.Railway over 14 years with utmost sincerity and devotion to duty which will be evident from my ACR. No adverse remark was ever communicated to me. In this connection I may state that I have been awarded a numbers of outstanding certificates of merits and the last awarded one is dated April 2002 for the year 2001-2002 which can be seen in my personal service file available in the office.
- 3) It is a wrong statement that during office inspection at 11-15 hrs to 11-30 hrs on 13-03-2003 I was found absent and it is also a travesty of truth that I came to office any time after 11-30 hrs and signed the attendance register and again left the office at 17-10 hrs without intimation/permission of higher officials. The actual fact is that during my presence in office from beginning to ending except lunch hours I have never seen such office inspection on 13-03-2003 by Dy.CE/CON-II/SCL. Hence it is a concocted attempt to malign me and to fulfill the ill design of the authority. However, the office hour from 9-30 hrs to 17-30 hrs (lunch break 13.00 hrs to 13-30 hrs) vide Annexure-I is mainly meant for ministerial staff only. The engineering staff of supervisory nature, work round the clock according to work load as long as they do not reach the point of fatigue and no hard and fast working hours can remain for them. Still as a prevalent practice they sign the attendance on the days of their stay at Hqrs. Absenting from allotted duties and late coming to attend duties are certainly gross irregularity. But no instance of any lapses in any roster duties has been pinpointed in the memo. of charge. As a matter of fact no specific work of any sort has ominously been allotted to me since 17-12-2002 for reason best known to the authorities which action has told heavily on my mind and physique. No able and qualified person can sit idle without work and draw salary. I have been made a victim of a lobby to do harm to me by influencing the higher authorities.
- 4) As far as I am aware there are Railway Servant's (Hours of Employment) regulation's read with the Indian Railways Act etc and the statutorily prepared duty rosters should be displayed at a conspicuous place at the place of work. Nothing like this has been done – must be due either to ignorance of procedure or to just incriminate innocent hands like me with fake presumptions with ulterior motive

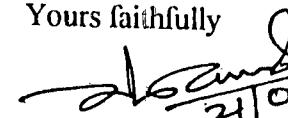
5) In view of the above position I do hereby categorically deny the allegations of lack of absolute integrity ,lack of devotion to duty and also unbecoming conduct of a Railway Servant and most fervently pray that the got-up charge may kindly be rescinded by giving up contemplation of any punitive action against me.I may kindly be informed why the memo.has been issued by Dy.CE/Con-II/SCL instead by Dy.CE/Con-I/SCL who is my real boss and is very much present in the office on the date of issue of the same .

6) I may kindly be excused for giving a copy of this reply to the learned General Manager/Construction/N.F.Railway/Maligaon,who is my original Appointing Authority

Copy to:

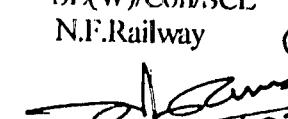
General Manager(Construction)
N.F.Railway,Maligaon for favour of his kind information
and necessary direction to the authorities at Silchar.

Yours faithfully


21/03/2003
on sick

(Debabrata Das)
SE(W)/Con/SCL
N.F.Railway

Date: 21-03-2003


21/03/2003
on sick

(Debabrata Das)
SE(W)/Con/SCL
N.F.Railway

To

The General Manager(Construction)
N.F.Railway,Maligaon

Sub: A self representation

Sir,

1) I have the honour to submit herewith a representation reflecting some self grievances for your kind perusal with sympathetic consideration and necessary action please. That sir I am very much aware that I have no right to approach or write to you directly but I have no other alternative way to get justice from any level unless informing you directly as our head of the organization and for which act I beg apologies .

2) That sir, I was allotted two nos, of contract agreements to look after viz CA No. CON/S-L/554 dtd 20-12-01 and CA No. CON/S-L/558 dtd 03-01-02 of agency M/s A.C.Nayak & Co. and M/s Nayak Engineering Works. The agency is not at all interested to maintain the work specifications from very beginning and in this connection he was several times requested to follow the specifications but failed to complied with. In this connection nos. of letters were communicated and informed to Dy.CE /Con-I /Silchar mentioning various unspecified works and irregularities happening in the site and regretted for not getting any positive response and as a result I had a tough situation to control and maintain the specification of the work. However, inspite of strong resistant and irritating situation from the contractor's part I had tried my level best to maintain the quality of the work in such a extremist prone area .

3) That Sir! It is a matter of regret that Dy.CE/Con-I had instructed me repeatedly not to write any official letter to the contractor reflecting the specification and quality of the work .But as and when it was detected unspecified work I had no alternative but to report to Dy.CE either verbally or in writings. For instance , on 29-10-02 it was detected a severe irregularities in connection with the binding of reinforcement in top slab of Br. No 125 where approx. 25 to 30 quintals of rods found not provided in the slab. The contractor was requested to rectify the same as per drawing but he turned down the request in presence of AEN/Con-V/Silchar (Sri C.C.Mali). It is needed to mention that before my details checking of rod AEN/Con-V/SCL told me that binding of reinforcement was checked by him and found as per drawing and also admitted that Dy.CE himself checked the same on 28-10-02 and allowed for concreting. However, after detecting such irregularities the contractor was requested to rectify the same in presence of AEN/Con-V and in turn he replied that he is not always bound to follow the approved drawing and ultimately threatened me showing the extremist camp exists nearby.

4) It is needed to mention that I was sent to MLG on 26-10-02 for attending tunnel demonstration hence it could not accompany Dy.CE on 28-10-02. It was also detected that the base course (M-20) in barrel portion of Br. No. 135 was also completed by AEN/Con-V/SCL

in between 26-10-02 to 28-10-02 without providing the granular materials layer below the layer. It was also detected that the reinforcement provided in the barrel portion of the same bridge does not conforming the specification as provided in the approved drawing and requested the contractor to rectify but regretted for turned down the same. Regarding various irregularities in site against CA No. CON/554 and CON/558 like (i) utilizing railway earth instead of contractor's own earth, (ii) supply of inferior quality of Hume Pipe without confirming any load test, (iii) regarding improper maintenance of mechanical compaction, (iv) regarding the starting & continuation of concreting in the bridges by the contractor without informing the concerned railway officials, (v) regarding improper turfing in the bank slopes etc numbers of letters were communicated to Dy.CE/Con-I/SCL requesting his intervention but regretted for not getting any positive response.

5) That Sir, it was brought the incident occurred on 29-10-2002 at site to the notice of Dy.CE/Con-I on 31-10-02 in his office chamber and after hearing all the facts he simply asked me to hand over the charges to one SE(Pway)/Cor/Silchar(Sri B.U.Laskar) and issued a letter vide No.W/76/CON/I/SCL/726 dtd 31-10-2002 in this connection instructing to complete the handing over charges on that particular date(31-10-02) . Accordingly I had followed the order and handed over all my charges to SE(P.Way)/SCL.

6) That Sir! On 01-11-02 when I reached office, it was served a transfer order vide No 11 of 2002 dated 01-11-2002 directing me to report to CE/Con-I/MLG. It is required to mention that on 01-11-2002 at around 16.00 hours I received a telephone call from CE/CON-I/MLG when he desired to know the incident happened and then I elaborated him the actual facts. This kind of motivated and unwarranted transfer heavily shocked my mind and physique and as a result I felt sick. After recovery I had resumed duty on 17-12-02 and later received an order regarding the cancellation of my transfer order.

7) That Sir ! this kind of motivated and ill oriented transfer and its cancellation virtually shocked me causing loss of moral strength and energy. Since my resuming on 17-12-2002 I have been entrusted no work and drawn salary sitting idle. An able and qualified person cannot sit idle and draw salary without doing any work.

8) That Sir, I have been served 2 nos of chargesheets dated 13-03-2003 and 17-03-2003 bringing different charges of misbehaviors, lack of integrity, lack of devotion to duties, late attending in duties, posterizing against Rly. Officials etc and the reply of which is enclosed herewith for your kind perusal and necessary directing to the authorities at Silchar. In this connection I like to draw your kind attention that on 13-03-2003 at around 11.00 hrs a group of Railway construction personnel led by Sri Sukumar Das, SSE/Con/SCL and directed by Dy.CE/Con-I/SCL went to the office chamber of my landlord (Superintendent of Sale Tax/Silchar) and asked him to turn me out from his residence, otherwise any unpleasant situation may occur. Furthermore, on the same day on 13-03-2003 a chargesheet was served to me in my residence at 18-35 hours by Sri Kalyan Chowdhury, a dealing assistant of "Receipt & Dispatch Section" of the office, accompanied by 2 nos armed RPSF, 2 nos GRPF men and some railway construction personnel, (i) Sri Prasanta Kumar Routh, (ii) Sri Sukumar Das and (iii) Sri Sunil Kumar Verma. Most surprising and unusual process of serving the memorandum of charges to me in my private residence which brought a great disrepute and damage to my family members as well as to the members to the family of land lord inspite of the fact that I was in the office upto the end of working hours on that date. However this part of my submission will be

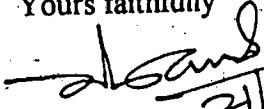
dealt separately in an appropriate manner with the appropriate authority as my family members are already developed fear psychosis and have been suffering from mental agony and anxiety.

9) Further to add that I have been awarded outstanding service certificate for devotion to railway works 4th times by your honour for the year 1991-92, 1994-95, 2000 and 2001-2002 which proves my integrity and sincerity in duties beyond doubt.

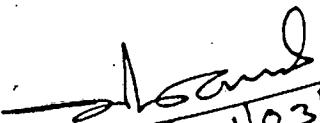
10) Therefore, I request your honour to arrange for details investigation of the whole motivated and willful affairs against me & extend your justice ~~such~~ that I can regain my strength and can devote more to the all round development of railway works.

With regards.

Yours faithfully


21/03/2003
or sick
(Debabrata Das)
SE(W)/CON/SCL

Copy for information to:
1) Dy.CE/Con-I & II/SCL


21/03/2003
or sick

Date: 21-03-2003

(Debabrata Das)
SE(W)/CON/SCL

Note Sent w/ Dy.CE/Con/SCL by
Fax dt² 21/03/2003 at 3:57 PM

Annexure-15 (5 sheets) 45
Received at my office
at 16-45 hrs. (Delivered
by (i) Kalyan Choudhury
(ii) Monosaran Roy
(iii) Pramod Ranjan Nath
B

STANDARD FORM NO.5

Standard Form of Chargesheet

(Rule 9 of the Railway servants (Discipline and Appeal Rules, 1968)).

No. E/74/CON/SCL/Pt. IV/13/4

Dy. CE/CON/NFLY/SCL (Name of Railway Administration).

(Place of issue) SILCHAR dated 24.03.2003

MEMORANDUM

The President/Railway Board/Undersigned propose(s) to hold an inquiry against Shri Debabrota Das, SE(N)/Coy/3d under Rule 9 of the Railway servants (Discipline and Appeal) Rules, 1968. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputations of misconduct or misbehaviour in support of each article 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.

2. Shri Debabrota Das, SE(N)/Coy/3d 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 _____ immediately on receipt of this Memorandum.

3. Shri Debabrota Das, SE(N)/Coy/3d is further informed that he may, if he so desires, take assistance of any other Railway servant or 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 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(s) Railway Trade Union Official(s), Shri Debabrota Das, SE(N)/Coy/3d 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 particular 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 along with the nomination.

4. Shri Debabrota Das, SE(N)/Coy/3d 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 documents 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 address of the witnesses if any, whom he wishes to call in support of his defence.

5. Shri Debabrota Das, SE(N)/Coy/3d is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each articles of charge.

- 2 -

6. Shri Debabrata Das, SE(N)/CON/scl is further informed that if he does not submit his written statement of defence within the period specified in para 2 or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 9 of the Railway servants (Discipline and Appeal) Rules, 1968, 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 Debabrata Das, SE(N)/CON/scl is invited to Rule 20 of the Railway service (conduct) Rules, 1968, under which no Railway servant shall bring or attempt to bring any political or other influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt within these proceedings, it will be presumed that Shri Debabrata Das, SE(N)/CON/scl 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) Rules, 1966.

8. The receipt of this Memorandum may be acknowledged.

Enclo: Article of Charges as Annexure-A. (in one sheet).

By order and in the name of the President.

AS 24/03/1968
(Ajay Kumar)
(Signature)

name and designation of the competent Authority.
Deputy Chairman (Competent Authority)

No. 1, Ajay Silchar

To Shri Debabrata Das,

SE(N)/CON/N.F.R.L./st (Designation).

SILCHAR (D.Y.C.E) (Place). (ON/scl office)

(a) Copy to Shri _____ (Name & designation)
of the lending authority for information.

Strike out which ever is not applicable.

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

Name of the authority. (This would imply that whenever a case is referred to the disciplinary authority by the Investigating authority or any authority who are in the custody of the listed 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 where President of the Railway Board is the competent authority.

To be issued wherever applicable - See Rule 16(1) of the RS(DA) Rules, 1968, - Not to be inserted in the copy sent to the Railway servant.

Annexure to Standard Form No.5 - Memorandum of Charge Sheet
under Rule 9 of the R.S. (D. & A.) Rules, 1968.

ANNEXURE - I

Statement of Articles of charge framed against Shri Debabrata Das,
(Name and designation of the Railway servant) SE(N)/CON/SC/INFR/LY

Article - I

That the said Shri Debabrata Das, while functioning
as SE(N)/CON/SC/INFR/LY during the period _____ here enter
definite and distinct article of charge).

Enclosed as Annexure 'A' (in one sheet).

AS
24/03/202
(Ajay Kaur)
Deputy Chief Engineer (CON)
No. 2, Ajay Silchar

Article - II

That during the aforesaid period and while functioning in the
aforesaid office the said Shri Debabrata Das, SE(N)/CON/SC/ here enter
definite and distinct article of charge).

Nil

AS
24/03/202
Deputy Chief Engineer (CON)
N. B. Ravi Silchar

Article - III

That during the aforesaid period and while functioning in the
aforesaid office the said Shri Debabrata Das, SE(N)/CON/SC/ here enter
definite and distinct article of charge).

Nil

AS
24/03/202
Deputy Chief Engineer (CON)
N. B. Ravi Silchar

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ANNEXURE - II

Statement of imputations of misconduct or misbehaviour in support of the articles of charge framed against Shri Sebabrata Das, SE(W)/CON/CCL (Name and designation of the Rly. servant).

Article - I

That the said Shri Sebabrata Das, SE(W)/CON/NFLY/SILCHAR while functioning as enter definite and distinct article of charge). (here

Nil

AS 24/03/2003
Deputy Chief Engineer (COM)
N. B. Ravi Silchar

Article - II

That during the aforesaid period and while functioning in the aforesaid office, the said Shri Sebabrata Das, SE(W)/CON (here enter definite and distinct article of charge).

Nil

AS 24/03/2003
Deputy Chief Engineer (COM)
N. B. Ravi Silchar

Article - III

That during the aforesaid Period and while functioning in the aforesaid office the said Shri Sebabrata Das, SE(W)/CON/CCL (here enter definite and distinct article of charge).

Nil

AS 24/03/2003
Deputy Chief Engineer (COM)
N. B. Ravi Silchar

ANNEXURE - III

List of documents by which the articles of charge framed against
Shri Debabrata Das, SE(w)kon/sol (name and designation
of Railway servant) are proposed to be sustained.

1. Article of Charges as Annexure-1.
(in one sheet)

98-24/03/2003
Senior Chief Engineer (COP)
N. T. Alvi Silchar

ANNEXURE - ASTATEMENT OF ARTICLE OF CHARGES FRAMED AGAINST SHRI DEBABRATA DAS
(SE/W/CON/SCL), N.F.RAILWAY

Shri Debabrata Das (SE/W/CON/SCL) working under DY.CE/CON/SCL unit; should be regular in his duties, maintain absolute integrity and do nothing which is unbecoming of Railway servant.

But, Shri Debabrata Das (SE/W/CON/SCL) is unauthorisedly absenting himself w.e.f 15.03.2003. It has been confirmed from Sr. DMO/CON/SCL that Shri Debabrata Das (SE/W/CON/SCL) has not reported sick to Railway Hospital, Silchar also till 20.03.2003. Absenting from official duties is gross misconduct on the part of Shri Debabrata Das (SE/W/CON/SCL). This type of gross irregularity is not at all expected from senior subordinate like Shri Debabrata Das (SE/W/CON/SCL).

The above act of Shri Debabrata Das (SE/W/CON/SCL) shows lack of absolute integrity, total lack of devotion to his duties and it is also totally unbecoming of Railway servant; thus, violating article 3.1 (i), (ii) & (iii) of Railway Services (Conduct) Rules, 1966.

AS 20/03/03
(Ajay Kumar)
Disciplinary Authority
Dy. Chief Engineer/Con-II
N.F.Railway : Silchar

Dy. Chief Engineer (CON)
No. 2, Ajay Silchar

To

The Deputy Chief Engineer(Construction)
N.F.Railway,Silchar

Subject: Reply to charge sheet

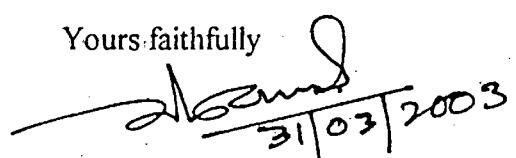
Reference: Memorandum of charge sheet vide No.E/74/CON/SCL/PT-IV/1314
dtd 24-03-03

Sir,

It appears that the statement of article of charges at Annexure-A has been prepared without thoroughly consulting relevant records. I actually fell sick on 14-03-2003 which was a holiday. So I had to approach a private medical practitioner as there was no scope of taking sick memo from office on that day. However on 15-03-2003 I sent my sick report along with the Doctor's prescription wherein the nature of illness, period to be taken rest etc clearly mentioned by the Registered Medical Practitioner to office through messenger. But the same was refused whereupon I had to send it by FAX at extra cost which was duly acknowledged. Further to add that due to deterioration of my health condition I had to again consulted with the Doctor on 17-03-2003 and 24-03-2003 and had taken further course of treatment and the copy of Doctor's advice already sent to you on 24-03-2003 by a registered post. The reason for non dealing of the same till 20-03-2003 deserves investigation to find out the real truth and to drop the matter finally.

Date: 31-03-2003

Yours faithfully



31/03/2003

(Debabrata Das)
Section Engineer
N.F.Railway/Construction
Silchar

Personal Copy

NORTHEAST FRONTIER RAILWAY

Office of the
Dy.Chief Engineer/Con
Silchar

NO. E/283/CON/SCL/PT.U(1/323

Dated 26-03-2003

To

✓Shri Debabrata Das,
SE(W)/CON/N.F.RLY/SCL.

Sub : Sparing.

Ref : GM/CON/MLG's Office Order No. 30/2003 circulated
vide No. E/283/CON/Tech/NG dated 13-3-2003.

In reference to above subject, you are hereby spared on dated 26-03-2003
(RN) from DY.CE/CON/SCL's Office to report to DY.CE/CON/MLDT/2 vide
GM/CON/MLG's Office letter under reference,

The above said transfer order is sent herewith for your information and
necessary action.

In this connection, your Last Pay Certificate is also attached herewith.

DA : 1) Transfer Order under reference.
2) LPC as above.

45-26/03/2003
(Ajay Kumar)
Dy. Chief Engineer/Con-II
N.F.Railway : Silchar

Copy to :

1. DY.CE/CON/MLDT/2 - For information please.
2. DY.FA&CAO/CON/SCL.
3. CE/CON/I & II/MLG.
4. DY.CE/CON/I/SCL.
5. FA&CAO/CON/MLG.
6. Staff Concerned P/Case.
7. Office Copy .
- 8.

Dy. Chief Engineer/Con-II
N.F.Railway : Silchar

26/03/03

Annexure - 18

(53)

N.F.Railway

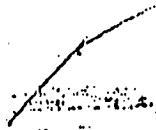
Office of the
General Manager/Con
Maliomoni Guwahati-11.

OFFICE ORDER NO. 30/2003.

The following transfer and posting order are issued to take immediate effect:-

Shri Debabrata Das, SE(W)/C/SCL in scale Rs.6500-10,500/- under Dy.CB/Con/SCL is hereby transferred to MLDT and posted under Dy.CB/Con/MLDT/2 in his same capacity pay and scale.

This has the approval of the Competent Authority,



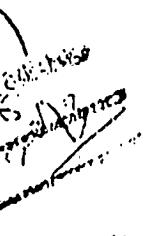
For General Manager/Con

No.3/283/Con/Tech/NG

Dated: 13.3.2003.

Copy forwarded for information and necessary action to:

1. FA&CAO/CON/MLG
2. CB/CON-I & II/MLG
3. Dy.CB/Con/SCL
4. Dy.FA&CAO/Con/SCL
5. Dy.CB/Con/MLDT
6. Staff concerned.



For General Manager/Con

Certified to be
true copy
S. Saha
Advocate
21.04.03

15.

Subject: Transfer of Staff whose conduct is under investigation under DAR

[No. E (D&A) 65RG6/6 dated 25.03.1967]

Reference Board's letter No. E (D&A) 62 RG6-15 dated 29.03.1962 wherein it was laid down that non-gazetted staff, whose conduct is under investigation for charges meriting dismissal/removal from service, including those under suspension should not be transferred from one Railway Administration to another till after the finalisation of the departmental or criminal proceedings against them. The Board have considered the matter further and have now decided that non-gazetted staff against whom a disciplinary case is pending or is about to start should not normally be transferred from one Railway/ Division to another Railway/Division till after the finalisation of the departmental or criminal proceedings, irrespective of whether the charges merit imposition of a major or minor penalty.

Note Extracted from Master Circular No 24
of Railway Board, New Delhi

20/11/2003
S.R.D.
55-
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

D.A. No. 84/2003

Sri Debabrata Das

-VS-

Union of India & ors.

WRITTEN STATEMENT FILED ON BEHALF OF RESPONDENT NO.1 & 2.

1. That the Respondent NO. 1 & 2 have received a copy of OA and have gone through the same. Same and except the statement which are specifically admitted hereinbelow, rests may be treated as total denial. The statements which are not borne in record are also denied and the applicant is put to the strictest proof thereof.
2. That with regard to the statement made in para 1, 2, 3, 4.1 & 4.2 the answering respondents while denying the contention made therein beg to state that the order of transfer issued to the applicant has been issued on administrative ground in the interest of public without there being any malafide as alleged by the applicant. Transfer is an incident of service and in the present case since there is no malafide and any statutory violation in issuing the order of transfer the present OA deserves no interference by the Hon'ble Tribunal.

Filed copy
the Respondents through
Siddhowni (Name)
Advocate
25/8/03
V
No. 2
CHANDRA SEN (Atti)

3. That with regard to the statement made in para 4.3 the answering respondents beg to state that the merit in past service with the order of transfer has got no nexus as transfer is an incident of service.

4. That with regard to the statement made in para 4.4 & 4.5 the answering respondents beg to state that as per General Manager Construction, Maligaon's order no. 50/2001 dated 23.3.2001 the applicant got his posting under the disposal of respondent No.4 instead of respondent No.3 as per his own request, and after relieving from Goalpara he joined under respondent No.4 instead of respondent No.3.

5. That with regard to the statement made in para 4.6 & 4.7 the answering respondents while denying the contention made therein beg to state that the allegation of irregularities are far from truth and these are after thought.

6. That with regard to the statement made in para 4.8 the answering respondents while denying the contention made therein beg to state that there is no irregularities in performing the work as alleged by the applicant. Under the Railways there are three tier compulsory inspection levels are in existence right from the Jr. Engineers/ Sr. Engineers (Site Supervisor); AXEN/XEN to Dy. Chief Engineer for ensuring conformity with specification in performing works. Apart from that there is regular departmental vigilance team for inspection of the work to ensure the quality of the work as well as the quantity in addition to all those inspection team consist of Chief Engineer and General Manager, NF

Railway use to visit the work sites to ensure the quality of work. In the instant case the aforesaid teams visited and inspected the work site between Haflong to Silchar on 6th and 7th January 2003 which was followed by another inspection dated 13 & 14 February 2003 under Lumding to Silchar section only for ensuring the best quality of work. It is therefore the allegation made by the applicant is not true and correspondences are also false and fabricated as none of these has been served upon the respondent.

7. That with regard to the statement made in para 4.9 the answering respondents beg to state that in the interest of public and on administrative ground and for the purpose of cross checking the applicant was directed to hand over all MBs, level books, cross section sheets and other relevant documents of CA No. CONSL/554 dated 20.12.2001 and CA No. CON/SL/558 dated 3.1.2002 to Sri B. U. Laskar SE/CON/SCL immediately.

8. That with regard to the statement made in para 4.9a & 4.10 the answering respondents beg to state that the Chief Engineer Construction, Maligaon called the applicant in connection with the aforementioned construction work but instead the applicant reported sick under private doctor whereas as per the prescribed procedure he was required to visit Railway Hospital. The aforesaid incident of falling sick that too on receipt of the message for attending the office of Chief Engineer Construction, Maligaon, clearly indicates the fact that intentionally the applicant did not attend the office of the Chief Engineer at Maligaon.

9. That with regard to the statement made in para 4.10a the answering respondents beg to state that an Office memorandum dated 13.3.2003 was issued to him and he was directed to submit representation against the said major penalty charge sheet.

10. That with regard to the statement made in para 4.11 the answering respondents beg to state that the applicant once again fell sick and reported the private doctor.

11. That with regard to the statement made in para 4.12 & 4.13 the answering respondents beg to state that another charge sheet was issued to the applicant for his unauthorised absent and he was provided with an opportunity to submit his representation and accordingly the applicant submitted his reply.

12. That with regard to the statement made in para 4.14 the answering respondents beg to state that for his unauthorised absent w.e.f 14.2.2003 another chargesheet was issued to him vide Memo dated 24.3.2003. The applicant thereafter intimated the authority regarding his ailment vide letter dated 6.5.2003. By an order dated 13.3.2003 the applicant was transferred to Malda Town and immediately from the next day he never reported to duties and on 6.5.2003 he intimated the authority regarding his ailment.

13. That with regard to the statement made in para 4.15, 4.16 & 4.17 the answering respondents while denying the contentions made therein beg to state that the

allegation of malafide is not correct and the applicant only with an intention to take undue advantage from the Hon'ble Tribunal and to make out a case of malafide highlighted the aforesaid memorandums which has got no nexus with the order of transfer as same has been issued in the interest of public. It is also stated that the Railway Board circular relied by the applicant is not applicable in the instant case.

14. That with regard to the statement made in para 5, 6, 7, 8, 9 the answering respondents beg to state that there is no ground for interference by this Hon'ble Tribunal and accordingly the OA deserves to be dismissed with cost.

15. That the respondents state that the allegations made against the respondent No. 3, 4 & 5 are also not correct and the applicant with a sole purpose to mislead the Hon'ble Tribunal has made them party by name instead of there designations but there is no specific allegation of malafide against those officials.

16. That the respondents state that the Original Application is premature and same is bad for non-joinder/mis-joinder parties and same is also hit by principles of waiver, estoppel and equiences and same is liable to be dismissed with cost.

VERIFICATION

I Shri HEM CHANDRA SENAPATI, aged about,
years, son of LATE BETHA Ram SENAPATI, resident
of Dy. CHIEF ENGINEER/CON/I/SILCHAR
presently working as
N.F. Railway, SILCHAR, do hereby verify and state that the
statement made in paragraphs
are true to my knowledge and those made in paragraph being
matters of records are true to my information derived
therefrom, which I believe to be true and the rest of my
humble submissions before this Hon'ble Tribunal. I am also
authorised and competent to sign this verification on behalf
of all the Respondents.

And I sign this verification on this ..5...th day of
August '2003


full name - (HEM CHANDRA SENAPATI)
Deponent