

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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FORM NO. 4
(S.I.B. RULE 12)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Org. App/ Misc. Petn/ Cont. Petn/ Rev. App¹

66/84

In O.A.

Name of the Applicant(s) Mahendra Hazarika

Name of the Respondent(s) W.O I Jones

Advocate for the Applicant H. Rahman, Md. Giashuddin, A. Patta

Counsel for the Railway/ C.S. Sarma

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

17.3.2004

Heard Mr. H. Rahman, learned counsel for the applicant and also Mr. S. Sarma, learned counsel for the Railway.

The application is admitted, call for the records. Issue notice to the parties. Returnable by six weeks.

List on 28.4.2004 for orders.

H. Rahman
By Registrar
17/3/04

ICD Borkakote
Member (A)

Pl. Comply and dated
17/3/04: *VS*

28.4.2004

Four weeks time is given to the respondents to file written statement. List on 27.5.2004 for orders.

Notice & order dt. 17/3/04
Sent to D/Section
for issuing to respondent
nos 1 to 4.
mb

ICD Borkakote
Member (A)

27/4/04
A/D card received after
only served on R-122.

VS 27/4/04

27.5.2004

On the plea of counsel

for the respondents four weeks time is given to the respondents to file written statement. List on 23.6.2004 for orders.

NO. W/bs has been
billed.

26.5.04

KV Prahadan
Member (A)

A/D card return
from respondent
no. 4.

23.7.2004 present: The Hon'ble Shri K.V. Sachidanand, Member (J).

The Hon'ble Shri K.V. Prahadan Member (A).

26.6.04

29.7.2004 written statement
not filed.

When the matter came up for order on 23.7.2004, learned counsel appearing on behalf of Mr. S. Sarma, learned Railway counsel, submitted that the respondents would like to file reply statement. Four weeks time is granted to file the same.

Post the matter on 26.8.2004.

KV Prahadan
Member (A)

Member (J)

25-8-04

Notice duly served

bb

04-9-04

NO. W/bs has been filed.

26.8.04 None for the parties. No reply filed.

List on 4.10.04 for order.

KV Prahadan
Member (A)

vice-Chairman

1/10/04
1) Notice duly served on R-4.

pg

2) Respondents 1 to 3 no A/D cards received by this Registry.

4.10.2004 Present: The Hon'ble Mr. Justice R.K. Batta, Vice-Chairman.

The Hon'ble Mr. K.V. Prahadan Administrative Member.

3) S/R is awaited for R-1-3.

4) NO reply has been filed.

Ms. U. Das, learned counsel for the respondents states that she is filing written statement today with copy to learned counsel for the applicant. Learned counsel for the applicant if so desires may file rejoinder within three weeks with advance copy to the learned counsel for

1/10/04

Contd/-

3
3
O.A. 66/2004

Notes of the Registry Date Order of the Tribunal

contd/-

4.10.2004

the respondents. The matter be listed for hearing on 13.12.2004.

K. P. Venkatesh
Member (A)

R
Vice-Chairman

7.10.04

W/S filed by
the Respondents.

mb

2222222222

13.12.04.

The matter be listed for hearing on 21.1.04.

R
Vice-Chairman

19.11.04

Reply filed
by the applicant.

lm

27.4.2005

No Division Bench. List on 17.5.2005

for hearing.

R
Vice-Chairman

The case is ready as
regards Service.

mb

27.4.2005

No Division Bench. List on 17.5.2005

for hearing.

R
Vice-Chairman

Case is ready for hearing.

DR

Devi

Bandaru
26.5.05

26.5.05

C.C. of the judgment has
been collected by the L.I.C.
for the applicant and copy given
Same handed over to H.
Rly. Standing Counsel by
hand on 26.5.05 by

mb

17.5.2005

Heard Mr. H. Rahman, learned
counsel for the applicant and Ms B.
Devi, learned counsel for the
respondents. Hearing concluded.
Judgment delivered in open court, kept
in separate sheets. The application is
disposed of. No order as to costs.

K. P. Venkatesh
Member

nkm

R
Vice-Chairman

R
Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./P.A. No. 66 of 2005

DATE OF DECISION 17.5.2005

Shri Mahendra HazarikaAPPLICANT(S)

Mr H. Rahman, Md Giashuddin and Ms D. PatraADVOCATE FOR THE
APPLICANT(S).

-VERSUS -

The Union of India and othersRESPONDENT(S)

Mr S. Sarma and Ms B. DeviADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR. G. SIVARAJAN, VICE-CHAIRMAN

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

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

2. To be referred to the Reporter or not ?

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

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

Judgment delivered by Hon'ble Vice-Chairman

Shri Hazarika

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.66 of 2005

Date of decision: This the 17th day of May 2005

The Hon'ble Justice Shri G. Sivarajan, Vice-Chairman

The Hon'ble Shri K.V. Prahladan, Administrative Member

Shri Mahendra Hazarika,
S/o Late Bhogeswar Hazarika,
Village- Puranimati Satra,
P.O.- Bor- Ahom Kathani,
District- Jorhat, Assam.Applicant

By Advocates Mr H. Rahman, Md Giashuddin
and Ms D. Patra.

- versus -

1. The Union of India, represented by the
General Manager,
N.F. Railway, Maligaon,
Guwahati.

2. Chief Operating Manager,
N.F. Railway, Maligaon,
Guwahati.

3. Divisional Railway Manager,
Lumding, District- Nagaon,
Assam.

4. Sr. Divisional Operation Manager,
N.F. Railway, Lumding,
District- Nagaon, Assam

.....Respondents

By Advocate Mr S. Sarma and Ms B. Devi.

.....

O R D E R (ORAL)

G. SIVARAJAN. J. (V.C.)

The applicant, a Station Master in Dihakho Railway Station in Lumding Division under N.F. Railway, was removed from service vide order dated 2.4.2003, Annexure-5, after an enquiry in connection with a Railway accident which took place on 17.6.2002. His appeal filed against the said order was rejected by order dated 5.8.2003 (Annexure-5A). The applicant filed a further appeal (Review Appeal) dated 11.9.2003 (Annexure-6) before

gmv

the respondent No.2, Chief Operations Manager, N.F. Railway, Maligaon. The said appeal has not yet been disposed of. Since there was no response to the said appeal, the applicant has filed this O.A. on 10.3.2004.

2. Respondents have filed their written statement also. Para 9 of the application refers to the Review Appeal filed by the applicant before the respondent No.2. Para 11 of the written statement reads thus:

"That with regard to the statement made in para 9 of the O.A. the deponent begs to state that the applicant further preferred a review appeal before the Chief Operation Manager, N.F. Railway on 11.09.03. In connection with his appeal some clarification has been asked from the Division vide GM(P)/MLG's letter No.E/74/111/46(T), dated 21.10.03. With reference to the above letter dated 21.10.03 the authorities have been making due consideration of the facts and circumstances to finalise the matter with the approval of GM(P)."

3. In view of the fact that the said appeal is under consideration by the authorities and a decision has yet to be taken, we are of the view that this application can be disposed of by directing the respondent No.2 to dispose of the appeal (Annexure-6) in accordance with law by a speaking order.

4. However, since Mr H. Rahman, learned counsel for the applicant, has brought to our notice the various irregularities committed by the 4th respondent in conducting the enquiry and in imposing the penalty and since the orders passed by the two authorities do not contain any discussion of the materials and evidence in the case or any proper reasons, we will note some of the main contentions taken by the applicant in the O.A. briefly:

According to the applicant there is no finding of any involvement of the applicant in the accident on the spot enquiry conducted at the instance of the Railways.

lph/

Learned counsel, in support of the said contention, took us to certain portions from the fact finding enquiry report available at pages 20 to 39 of the O.A. The relevant contentions are with reference to para IV at page 27 and 28, para VI at pages 29 to 31 and para 13 (ii) at page 35 (the relevant rules). The learned counsel for the applicant also took us to the findings under para 14. The counsel also submitted that the applicant had filed detailed objections (Annexure-4) to the enquiry report and the findings therein in the reply to the show cause notice (Annexure-3). The main complaint is that though the witnesses were crossexamined with reference to the statement given by them it was not done in the presence of the applicant and that the applicant was not given an opportunity to defend his case by putting questions to the said witnesses which has prejudicially affected his case.

5. Since, neither the Disciplinary Authority nor the Appellate Authority had considered any of the relevant matters raised in the objection filed by the applicant in their respective orders, we are sure that the respondent No.2 at least will consider these contentions with reference to the records while passing the order in the appeal. If the applicant so desires he can make a request for a personal hearing in which case the applicant or his representative will be given opportunity of personal hearing before disposing of the appeal.

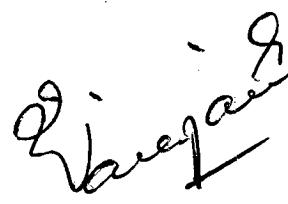
6. In the circumstances we direct the respondent No.2 to pass speaking orders on the appeal, Annexure-6, filed by the applicant in the manner directed hereinabove and in accordance with law within a period of three months from the date of receipt of a copy of this order.

Amr

7. The applicant will produce the order urgently to the 2nd respondent for compliance.

The application is accordingly disposed of. No order as to costs.


(K. V. PRAHLADAN)
ADMINISTRATIVE MEMBER


(G. SIVARAJAN)
VICE-CHAIRMAN

nkm

15 MAR 200.

~~Guwahati Bench~~

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H/1/2
Mahendra Hazarika
15/3/2004

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL .GUWAHATI BENCH,
GUWAHATI

O.A. No. 66

Shri Mahendra Hazarika Applicant

- Versus -

Union of India & others. RespondentsLIST OF DATES

Applicant was working as Station Master in Dihakho Railway Station in Lumding Division under N.F. Railway.

17.6.2002 An accident took place in between Dihakho Railway Station and Mupa Railway Station, Head on Collision between DN SSE(W) Con's Motor Trolley and up LMG Empty tank special at 12.10 AM.

5.9.2002 Memorandum of Charge was issued by the Sr. Divisional Operating Manager.

(Annexure- 1 ,Page 13)

12.3.2003 A copy of the Enquiry Proceeding was handed over to the applicant with a direction to submit representation, if any,

(Annexure- 2 , Page 40)

25.2.2003 Penalty of Removal from service was issued by the Sr. Divisional Operating Manager.

(Annexure- 3 , Page, 56)

31.3.2003 Representation to the Show-cause Notice.

(Annexure- 4 , Page 58)

2.4.2003 Senior Divisional Operation Manager ,Lumding Passed the order of removal with immediate effect.

(Annexure- 5 , Page- 62)

2.5.2003 Appeal filed by the applicant before
the ADRM and the same was rejected on 13.8.2003.

(Annexure- 5A, Page- 64)

11.9.2003 Appeal to the Chief Operating Manager

(Annexure- 6, Page- 65)

The said Appeal is pending .Hence this
application.

Filed by-

Hasibur Rahman

(Hasibur Rahman)
Advocate

For the applicant.

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:GUWAHATI BENCH
AT GUWAHATI

An application under Section 19
of the Central Administrative Tribunal
Act, 1985.

ORIGINAL APPLICATION NO. 66 / 2003

Shri Mahendra Hazarika,
Son of Shri Late Bhagaban Hazarika.
of Village- Puranimati Satra,
Post office- Bor- Ahom Kathani.
District- Jorhat, Assam.

..... Applicant

- Versus -

1. The Union of India, represented by
the General Manager, N.F. Railway,
Maligaon, Guwahati- 11.
2. Chief Operating Manager,
N.F. Railway, Maligaon, Guwahati- 11
3. Divisional Railway Manager, Lumding
Districts- Nagaon, Assam.
4. Sr. Divisional Operation Manager,
NF Railway, Lumding,
Districts- Nagaon (Assam)

.... Respondents

**I. PARTICULARS OF THE ORDER AGAINST WHICH,
THIS APPLICATION IS MADE**

- i) This application is made against the order No. T/2/12/02-03- LM dated 13.8.2003 by which the appeal was rejected by the Divisional Railway Manager (Operating), Lumding.
- ii) Non-disposal of the appeal filed by the applicant on 11.9.2003 before the Chief Operating Manager, N.F. Railway, Maligaon.

II. JURISDICTION :

The applicant declares that the cause of action of this application is within the Jurisdiction of this Hon'ble Tribunal.

III. LIMITATION :

The applicant further declares that the application is filed within the limitation prescribed in Section 21 of the Administrative Tribunal Act, 1985.

IV FACTS OF THE CASE :

1. That your humble applicant was working as Station Master in Dihakho Railway Station within the jurisdiction of the Lumding Division under the N.F. Railway.
2. That your humble applicant begs to state that he was initially appointed as Asstt. Station Master by the General Manager, N.F. Railway and there-

Mo hendo Aonganig

after he was promoted to the post of Station Master and he was working as such in the Dihakho Railway Station under N.F. Railway till he was removed from service in connection with an accident which took place between a train and a motor trolley in between Dihakho railway station and Mupa railway station in Lumding- Badarpur Hill Section.

3. That your humble applicant begs to state that while your applicant was working as Station Master at Dihakho on 17.6.2002, an accident occurred between the motor trolley and the goods train as a result of which one person died on the spot and some other persons got injured.
4. That after the accident, a Memorandum of Charges was issued to your humble applicant on 5.9.2002 by the Sr. Divisional operating Manager, Lumding by which charges were framed against your humble applicant and an enquiry was conducted and after completion of the enquiry, a copy of the enquiry report was furnished to your applicant. During the course of enquiry, the Enquiry Officer came to the conclusion that the ~~telephone~~ communication of entire hill section in Lumding- Badarpur Section was defective. The motor trolley violated the rules prescribed for working on the motor trolley in subsidiary rule of the railway.

A copy of the Memorandum of Charges and copy of the enquiry report is annexed hereto and marked as Annexure- 1.

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Mo hondra thongonka

Mothenon, Gangaridh

5. That your humble applicant begs to state that as the departmental enquiry was completed, the respondent No. 3, Divisional Railway Manager, Lumding issued a copy of the enquiry report to your applicant and advised to submit his representayion to the show ~~cause~~ notice within three days. The forwarding Memo issued by the respondent No. 3 on 12.3.2003 was handed over to your applicant along with a copy of the proceedings of the enquiry report.

A copy of the report is enclosed herewith and marked as Annexure- 2.

6. That your humble applicant begs to state that on 25.2.2003 ,another show cause notice was issued to your applicant by the Senior Divisional Operating Manager by which it was decided to impose a major penalty of removal from service and for which your humble applicant was directed to submit a representation or show cause within a period of ten days from the date of receipt of the show cause.

A copy of the show cause is enclosed herewith and marked as Annexure- 3.

7. That your humble applicant begs to state that as against the show cause notice, your applicant preferred an appeal to the Senior Divisional Manager, Lumding on 31.3.2003.

A copy of the said representation is enclosed herewith and marked as Annexure- 4

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Mohendra Hazarika

8. That your humble applicant begs to state that after going through the representation submitted by the applicant, the Senior Divisional Railway Manager(Operating) passed an order by which the appeal of the applicant was rejected and it was directed to file an appeal to the next higher authority i.e. the Divisional Railway Manager within a period of 45 days . Accordingly, your humble applicant submitted an appeal on 12.5.2003 and the same was also rejected by the Appellate Authority ADRM,Lumding.

A copy of the said appeal and the order or rejection passed by the appellate authority are enclosed herewith and marked as Annexures 5 & 5A respectively

9. That your humble applicant begs to state that as per direction of the authority your humble applicant filed an appeal on 11.9.2003 to the Chief Operating Manager, NF Railway who is the final authority of N.F. Railway for consideration of the case of the applicant. The said appeal is still pending and not yet disposed of.

A copy of the said appeal dtd. 11.9.2003 is enclosed herewith and marked as Annexure- 6.

10. That your humble applicant begs to state that the applicant has ~~fixed~~ availed all the

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Mohendra Hazarika

opportunities available to him by filing the appeals one after another which were turned down by the authorities without considering the legal aspect of the matter and other provisions of the rules and without application of mind and so your humble applicant has filed this application before this Hon'ble Tribunal for redressal of his genuine grievances.

V. GROUND FOR RELIEF WITH LEGAL PROVISIONS:

- i) For that your applicant is a Class - III employee and he was appointed by the General Manager, N.F. Railway, and his removal order was issued by the Sr. Divisional Operating Manager, Lumbding who is not the competent authority to pass such a removal order as he is not the appointing authority of the applicant.
- ii) For that the cause of accident that took place, your humble applicant is in no way responsible as the motor trolley and the trolley man incharge of the motor trolley have failed to comply with the rules prescribed for the motor trolley and for violation of the rules by the motor trolley and entered into the block section without the authority of law clearly proves that the driver of the motor trolley has acted illegally for which the accident took place and your humble applicant is not responsible for any of his act of omission or commission .

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Mohendra Hazarika

- iii) For that during the course of enquiry it was well established that the motor trolley and the incharge of the motor trolley entered into the block section without any authority of law and caused accident for which the station master cannot suffer when the station master did not grant line clear to the motor trolley to enter into the block section of Dihakho- Mupa.
- iv) For that the driver of the motor trolley entered the block section without authority of law which was proved during the course of enquiry and for that the accident took place .So the Station Master of Dihakho station cannot be blamed for the accident. Rather, the trolley driver and the incharge of the trolley who is a senior officer of the Mechanical Department entered into the block section by violating all the general rules and the subsidiary rules of the railway for which he is solely responsible for the cause of accident.
- v) For that during the course of enquiry the cause of action was written by the joint enquiry report that " Down SSE/W/CON/LMG Motor ~~xxx~~ trolley entered into the block section between Dihakho & Mupa stations following 856 Dn. passenger trains without proper authority to proceed/ motor trolley permit ".
- vi) For that when the joint enquiry department headed by the Chief Safety Officer came to the conclusion that the accident ~~xxx~~ took place due to the

fault of the motor trolley. The penalty of removal from service passed against the applicant is not legal and not based on any evidence tendered as per the enquiry proceedings.

vii) For that for the fault of the motor trolley who has entered into the block section by violating the rules provided for working of motor trolley and entered into the block section without any authority, the Station Master cannot be pulled up for the cause of accident and the punishment imposed against the station master of removal from service for which such act is disproportionate and harsh punishment without any fault of the station master.

viii) For that during the course of preliminary enquiry as well as the departmental ~~enquiry~~ enquiry the station master is not responsible and the trolleyman and the trolley driver is fully responsible for violation of the subsidiary rules of the railway and to enter into the block section without any authority of law caused the death of some persons and for which your applicant cannot be removed from service for the offence committed by some other persons .

ix) For that the Station Master being the applicant has completed for more than 20 years of impeccable service and if he is removed for no fault of his own, he cannot go in for some other service at this stage and for which his whole family

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Mohendra Hazarika

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will be in trouble and now they are starving for removal of the applicant from service which is illegal , non-application of mind and the same is bad in law.

x) For that the action of the respondents in passing such a harsh punishment against your applicant for the fault of the others is prejudicial to the applicant and punishment of removal from service may be set aside and a lesser punishment may be given if he is found to be negligent and the punishment so imposed may be converted taking into consideration of the gravity of the offence.

xi) For that your humble applicant is nowhere responsible for the cause of the accident and only for negligence on his part if proved ,he may be punished with lesser punishment considering his long association with the railway.

xii) For that as per the enquiry report it is finally proved that the trolley and the trolley man entered into the block section without authority of law for which they are liable for serious punishment for violation of the rules prescribed for motor trolley.

xiii) For that in any view of the matter, your applicant is nowhere responsible for the cause of death of passenger of trolley and to cause accident for his own fault.

VI. DETAILS OF THE REMEDY EXHAUSTED:

There is no other remedy except filing of this application before this Hon'ble Tribunal as your humble applicant has exhausted all the remedies available to him.

VII. MATTERS NOT PENDING IN ANY OTHER COURT TRIBUNAL

The applicant declares that he has not filed any other application before any Court or Tribunal.

VIII. RELIEF PRAYED FOR:

It is therefore prayed that Your Lordships may be pleased to admit this application, issue a show cause notice to the respondents and after hearing the respondents may issue direction to the respondents to set aside the punishment of removal imposed against your humble applicant for no fault of his own and/or pass such order/orders for reducing the punishment and to convert the punishment from removal from service to a lesser punishment against your applicant as per gravity of the offence and /or pass such necessary orders as your Lordships may deem fit and proper.

IX. INTERIM RELIEF PRAYED FOR:

NIL

X. PARTICULARS OF THE POSTAL ORDER:

Postal order No. 11G 378553

Date of issue:- 10.3.2004

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Issued from G.P.O., Guwahati.

Payable at Guwahati

XI.

DETAILS OF INDEX

An index showing the particulars of documents
is enclosed.

XII.

LIST OF ENCLOSURES:

As per index

Verification ...

Mohan Deo Bhagania

VERIFICATION

I, Shri Mahendra Hazarika, son of late Bhogeswar Hazarika, aged about 56 years, resident of village- Puranimayi Satra, Post office- Bor Ahom Kathani, District- Jorhat (Assam), do hereby solemnly affirm and verify the statements made in this application as follows:-

1. That, I am the applicant in the above application and as such, I am acquainted with the facts and circumstances of the case.
2. That, I am fully competent to verify this application and I do verify this application as true to my knowledge and belief and I have not suppressed any materials facts.

And

I sign this verification on this the 15th day of March, 2004 at Guwahati.

Place:

Date:

Mahendra Hazarika

DEPONENT

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Annexure- 1

STANDARD FORM OF CHARGESHEET
STANDARD FORM NO. 5

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

No T/2/12/02-03/ LM

(Name of Railway Administration N.F Railway

Place of issue:- DRM(O)LMG's Office dated 4.9.2002

MEMORANDUM

The President/ Railway Board/ Undersigned propose(s) to hold an inquiry against Shri Mahendra Hazarika, Station Master/ Dihakho Station under Rule 9 of the Railway Servants(Discipline & Appeal) Rules, 1968. The substance of imputations of misconduct or mis-behaviour in respect of which the inquiry is proposed to be held is sent out in the enclosed statement of articles of charge(Annexure- 1) A statement of the imputations of misconduct or misbehaviour in support of each articles of charge is enclosed (Annexure- II). A list of documents by which under list of witness are also enclosed (Annexure- III)& IV), further copies of documents mentioned in the list of documents as per Annexure- III are enclosed.

2* Shri Mahendra Hazarika, Station Master/ Dihakho Station is hereby informed that if he so desires ,he can inspect and take extract 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 immediately on receipt of this Memorandum. For this purpose he should contact ** Sr DOM/L Lumding immediately on receipt of this Memorandum.

*Certified to be true (by)
I Deka
Advocate*

2* Shri Mahendra Hazarika, Station Master/Dihakho further/ Station is hereby informed that if he may, if he so desired, take the assistance of any other Railway servant an official of Railway Trade Union(who satisfies the requirement of Rule 9(13) of the railway servants(Discipline & Appeal) Rules, 1968 and note 1 and 7 or Note 2 thereunder as the case may be) for inspecting the documents and assisting him in presenting his case before the Inquiry Authority in the event of an oral inquiry being held. For this purpose, he should nominate one or more persons in order of preference. Before nominating the assisting Railway servant or Railway Trade Union official(s), Shri Mahendra Hazarika, Station Master/ Dihakho Station should obtain an undertaking from the nominee(s) that he(they) is(are) willing to assist him during the disciplinary proceedings. The undertaking should also contain the particulars of other (cases) if any, in which the nominee(s) M had already undertaken to assist & and the undertaking should be along with the nomination.

4. Shri Mahendra Hazarika, Station Master/ Dihakho Station is hereby directed to submit to the undersigned (Through proper channel) a written statement of his defence (which should reach to the said) within Ten days of receipt of this Memorandum, if he does not require to inspect any for the preparation of his defence, and within ten days after completion of inspection of documents, and also(a) to state-

Whether he wishes to be heard in person, and (b) to furnish the names and addresses of the witnesses if any whom he wishes to call in support of his defence.

5. Shri Mahendra Hazarika, Station Master/ Dihakho Station is informed that an inquiry will be held only in respect of those articles of charges as are not admitted. He should, therefore, specifically admit or / deny each articles of charge.

6. Shri Mahendra Hazarika, Station Master/ Dihakho Station 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 to refuse to comply with the provisions of Rule 9 of the Railway Servants(Discipline & 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 Mahendra Hazarika, Station Master/ Dihakho Station is invited to Rule 20 of the Railway Services(Conduct) Rules, 1966, 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 interest s in respect of any matter pertaining to his service under the Govt. If any representation is received on his behalf from

from another person in respect of any matters dealt with pertaining to his service under the Govt. 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 Mahendra Hazarika, Station Master/ Dihakho Station is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rules, 20 of the Railway Services (Conduct) Rules, 1966.

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

Sd/- 5.9.02

(L.Saikia)

Sr. DOM/LMG

To

Shri Mahendra Hazarika, Station Master Designation)
(Dihakho Place).

@ Copy to Sri Mahendra Ha ariak, Station Master/Dihakho Station (Name and designation of the sending 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 caste 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.

To be retained wherever President or the Railway Board is the Competent Authority.

@ To be wherever applicable SEE Rule 16*1) of the RS(DA) Rules, 1968 not to be inserted in the copy sent to the Railway Servant.

NORTHEAST FRONTIER RAILWAY

Annexure to Standard Form No. 5

Memorandum of charge sheet.

Under Rule 9 of RS(DA) Rules, 1968.

Sd/- 5.9.02
Sr. Divl Operations Manager,

(ANNEXURE- I)

Statement of Articles of charge framed against Shri Mahendra Hazarika, Station Master/ Dihakho Station (Name & Designation of the Rly Servant).

ARTICLE- I

That the said Shri Mahendra Hazarika, Station Master/ Dihakho Station while functioning as Station Master during the period from 6/30 hrs to 14/30 hours on 17.6.2002 at Dihakho Station, is charged for violation of SR 6.06/2(a), SR 15.25/2(b) (i) & (ii) and Rule No. 3.1 (ii) & (iii) of Railway Service(Conduct) Rules, 1966.

ARTICLE- II

NIL

ARTICLE- III

NIL

(ANNEXURE- II)

Statement of imputations of misconduct or misbehaviour in support of the articles of charge framed against Sri Mahendra Hazarika, Station Master/ Dihakho Station (name and Designation of the Railway Servant).

ARTICLE- I

On 17.6.2002 Shri Mahendra Hazarika while functioning as Station Master at Dihakho Station during his duty hours from 6/30 hrs to 14/30 hrs , granted lineclear to the Station Superintendent Mupa station for UP LMG Tank Empties Spl. without ensuring complete arrival of Down SSE/W/ Con's Motor Trolley at Mupa station knowing that the said Motor Trolley had left Dihakho Station, in the following of 856 Down Tripura Passenger

Train without authority to proceed(i.e. Motor Trolley permit) towards Mupa Station. As a result Down SSE W/ Con's Motor Trolley which was coming from Dihakho Station collided with UP LMG Tank empties Spl. at KM 54/1-2 between Dihakho Mupa station at about 12.10 hrs resulting in the death of Shri Prahlad Singh, Constable RPSF/LMG who was travelling by the said motor trolley. He also did not inform the Section Controller/ Lumding and Dy Station Superintendent /Mupa station about the movement of Down SSE/W/Con's Motor Trolley towards Mupa station. The fact that the Down SSE/W/ Con's Motor Trolley left Dihakho Station for Mupa station following of 856 Da Tripura Passenger Train without authority to proceed(i.e. Motor Trolley permit) was also not communicated by Shri Hazarika . Thus, Sri Hazarika ,violated the provisions of SR 6.06/2(a) and SR15.25/2(b) (i) & (ii).

The above acts on the part of Sri Mohendra Hazarika Station Master/ Dihakho show gross neglect to duty as well as conduct unbecoming of a Railway Servant.

Hence, Shri Hazarika is charged for violation of Rule 3.1(ii) & (Iii) of Railway Service(Conduct) Rules, 1966.

ANNEXURE- III

List of documents by which the articles of charge framed against Shri Mahendra Hazarika, Station Master/Dihakho Station are proposed to be sustained:-

- 1 .Findings of the enquiry committee.

ANNEXURE- IV

List of witnesses by whom the articles of charge
framed against Shri Mahendra Hazarika, Station Master/
Rikha Dihakho Station are proposed to be sustained.

1. Sri Kuhu Ram Bare, Dy. SS/ Mupa.
2. Shri Chittaranjan Seth, SSE/W/Con/ LMG
3. Shri Samir Kanti Das, Motor Trolley Driver
working under Dy. CE/Con/LMG.

Sd/-
5.9.2002
(L. Saikia)
Sr. Divn. Operation Manager,
NF Railway, Lumding

SUMMARY

1. Date 17.6.2002
2. Time. 12.10 hrs.
3. Railway Northeast Frontier Railway.
4. Gauge Metre Gauge
5. Location Between DIHAKHO and MUPA stations
at KM 54/1-2
6. Nature of accident: Head on collision between DN
SSE/W/CON's Motor Trolley & UP LMG
Tank Empties.
7. Train involved Up LMG Tank Empties and DN SSE/W/ Cons
Motor Trolley.
8. Speed at the time of occurrence UP LMG Tank Empties = 25 KMph and Down
SSE/W/ Con's Motor Trolley = 15 KMph
9. System of working Absolute Block System
10. No of track Single line
11. Gradient 1 in 70 falling towards Lumding
12. Alignment 10 Degree curve(curve no. 137 at KM
53/8-54/1).
13. Weather Fair.
14. Visibility Impaired due to curve and hills.
15. Cost of damage Engineering = Rs. 950/- (Nine hundred
fifty only).
16. Casualties Killed = one, Trivial = five.
17. Cause of accident:- Down SSE/W/ CON/LMG Motor Trolley
Entered into the Block Section between
Dihakho & MUPA stations following 856
Dn. passenger train without proper
authority to proceed/ Motor Trolley
permit.
18. Staff held responsible: Primary:
1. Shri Mohendra Mazarika, S m/DIHAKHO
2. Shri Chittorajjan Seth, SSE/W/CON/LMG
3. Shri Samir Kanti Das, Motor Trolley
m Driver of Motor Trolley No. CE-306
(MG/EMPTY)

Secondary

NONE

1.0 ENQUIRY

1.1 Constitution of Enquiry Committee,

General Manager, NF Railway, appointed the S.A.G. officers enquiry Committee consisting of CMPE(R & L), CSO, and CE/1/ CON, NF Railway.

1.2. INSPECTION AND ENQUIRY

The Enquiry Committee inspected the site of accident on 21.6.2002 along with Dy CE/CON/ LMG, and Sr. DSO/ LMG.

1.3 The enquiry was held at the Committee Room in DRM/ Lumding, NF Railway's office on 21.6.2002 , 22.6.2002 and 23.6.2002.

- 2.0
- i) Number of railway witnesses examined- 23 Nos.
 - ii) Number of Government officials other than Railway Staff submitted.

Deposition: NIL.

A total of 29 witness had appeared before the enquiry Committee out of which 23 witnesses were examined.

30. THE ACCIDENT

On 17.6.2002 DN SSE /W/ CON's Meter Trolley No. CE/ 306 (MG /Empty) arrived Dihakho station on Line No.1 at 10.40hrs on proper line clear. Control lines were down and a crowding of UP TPT Empty Stock Special and 856 Dn passenger was arranged through Block Communication at DIHAKHO station. UP TPT Empty Stock Special was to be received on line No.2 and 856 Dn passenger was to be received on line NO.1. After complete arrival of UP TPT Empty Stock Special on line No.2 at 11.00 hrs

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the Motor Trolley which was waiting on line No.1 was transferred to line No.2 in rear of Brake Van of Up TPT Empty Stock Special to facilitate reception of 856 Dn .Passenger train on Line No.1 856 Dn passenger arrived Dihakho Station at 11.33 hrs and left for Mupa station at 11.35 hrs .After despatching 856 Dn passenger train from Dihakho station from Line No.1, the Motor Trolley which was waiting on line No.2 in rear of UP TPT Empty Stock Special left at 11.40 hrs. for MUPA station following 856 Dn passenger train without authority to proceed/ Motor Trolley permit. After getting the IN report of 856 Dn passenger train from MUPA station at 11.57 hrs SM/ DIHAKHO granted line clear to Up LMG Tank Empties (loco No. 6110 YDM 4, Load 37= 297 tonnes) at 11.58 hrs Up LMg Tank Empties left MUPA Station at 12.02 hrs Dn SSE/W/ CON's Motor Trolley which was coming from DIHAKHO Station collided with UP LMG Tank Empties at KM 54/1-2 between DIHAKHO and MUPA Station at near about 12.10 hrs. resulting into death of 1 RPSF Constable and 5 other sustaining trivial injury. Out of 10 surviving persons, 5 No. of RPSF Personnel were brought to Lumding Railway Hospital along with the dead/ mutilated body of Shri Prahlad Singh, Constable, RPSF/LMG by the ARME. Other 5 persons left site of accident before the arrival of the ARME at their own and reported to Railway Hospital/LMG for check up.

4.0 CASUALTY

One person died and 5 other suffered trivial injuries.

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5.0 INTIMATION

Control line was down since long, so information of accident was received by DYC/Hill Board at 13.10 hrs from SM/ DIHAKHO and he informed to all officers immediately and called for ARME at 13.15 hrs.

6.0 RELIEF MEASURES:

After getting information about accident at 13.10 hrs , A ARME was immediately ordered at 13.15 hrs. ARME left from LMG at 13.15 hrs, reached at the site of 15.30 hrs which left site at 16.45 hrs with the dead/ mutilated body of one Constable/RPSF and 5 other RPSF personnel and arrived Lumding at 20.00 hrs of 17.6.02.

7.0 MOVEMENT OF OFFICERS:-

On getting information from Dy Controller/LMG/ Control, ARME was called for immediately at 13.15 hrs the ARME left Lumding station at 13.35 hrs along with ADRM, CMS/LMG(associated with other Railway Doctors and Para medical staff), Sr. DME(I/c), Sr. DSTE, Sr. DSO & DY EE(CON/LMG).

8 .0 TRAINS CONTROLLED, TERMINATED AND CANCELLED

NIL

9.0 DESCRIPTION OF SITE:

The direction of track is from North to South The track was laid with PSC Sleeper with M+ 7 density provided with 90R Rail. The alignment at the site of accident is 10 degree curve (curve No. 137 at KM 53/8 to 54/1) where there is a falling gradient of 1 in 70 towards Lumding.

10.0 COST OF DAMAGE:

Engineering	Rs. 950/-
Mechanical	Rs. Nil
Total	Rs. 950/-

11.0 A total No. of 29 witnesses appeared and submitted their deposition out of which 23 Nos. of witnesses were cross- examined.

12.0 IMPORTANT SUMMARY OF WITNESSES:-

I). Shri Mohendra Hazarika, working Station Master of DIHAKHO Station.

Witness No. 17.

On 17.6.2002 Shri Mahendra Hazarika was on roster duty from 6.30 hrs to 14.30 hrs He stated that the Motor Trolley arrived at his station at 10.40 hrs on line No.1 with proper line clear which was pushed from line No.1 to line No. 2 and played in rear of the Brake Van of Up TPT Empty Stock Special towards Mupa end so as to receive 856 Dn passenger on line No.1 .In reply to question No.3 he admitted that he informed SS/MUPA regarding the Dn wards movement of Motor Trolley at the time of asking line clear for despatch of 856 Dn passenger.In reply to question No.2 he replied that the motor trolley driver Shri Samir Kanti Das and SSE/W/CON/LMG Shri Chittaranjan Seth came to him for obtaining authority to go to MUPA. After despatch of 856 Dn passenger from line no.1 he found that Dn SSE/W/CON Motor Trolley had already left for MUPA Station following 856 Dn passenger just after 3-4 minutes which was informed to SS/MUPA at 11.40 hrs and relayed to section Controller between 11.40 to 11.45 hrs.In reply to question No. 7 he stated that he

he instructed the Cabin man of East Cabin that the Motor Trolley would be despatched from line No.2. In reply to question No. 15 he stated that SS MUPA had given him the arrival report of 856 Dn passenger at 11.57 hrs. and asked for line clear for Up LMG tank Empties on being asked by him about the time of arrival of Dn SSE/W/CON8s Motor Trolley he replied that the Motor Trolley had also arrived but time was not recorded by SS MUPA, on the basis of this information he granted line clear for Up LMG Tank Empties at 11.58 hrs. which left MUPA station at 12.02 hrs. In reply to question No. 14 he admitted that the Block Instrument between Dihakho and MUPA station was in " train going to " to position which was not altered and no alteration was made in the setting of point and crossings in the event of this incident. He came to know about this incident at 12.30 hrs. from MUPA Station.

III) Shri Rajaloo, working Cabin man/East Cabin/
DIHAKHO Station.

Witness No. 18

He was on roster duty from 6 hrs to 18 hrs in East Cabin of Dihakho station. In reply to question No. 7 he stated that as per instruction of SM/ Dihakho he set route for the line No.2 as the Motor trolley would be despatched towards MUPA station. In reply to question No. 8 & Question No. 10 he stated that he did not exhibit any signal from his cabin towards the Motor Trolley on line No.2. In reply to question No. 11 & question No. 12 he stated that SM/ DIHAKHO had instructed him to set the route for the passage of

of Motor Trolley towards MUPA station following 856 Dn passenger train. In reply to question No. 19 he stated that as soon as he noticed that Motor trolley was not available on line No. 2 which was nearer to east cabin he at once informed this to SM/ DIHAKHO. In reply to question No. 24 & question No. 25 he stated that after despatch of 856 Dn passenger neither the SM/ Dihakho asked about Motor Trolley nor informed him that the Motor Trolley had left the Station towards MUPA station without any authority and without permission of SM/ DIHAKHO.

III) Shri Kuhl Ram Bore, working Dy SSM/Mupa Station.

Witness No. 16

On 17.6.2002 Shri Kuhl Ram Bore was on duty as Dy. SS/ MUPA station from 6.15 hrs to 15.15 hrs. He stated that at the time of asking line clear for 856 Dn passenger, the SM/ DIHAKHO did not ask for private number for Dn SSE/W/CON's Motor Trolley following 856 Dn passenger but informed that one Motor Trolley had to go to MUPA station. At the time of giving out report of 856 Dn passenger he did not inform about the Motor Trolley and no, out report of Motor Trolley was received by him from SM/DIHAKHO. ON arrival of 856 Dn passenger at 11.57 hrs, he asked line clear for up LMG Tank Empties which was granted by the SM/DIHAKHO AT 11.58 hrs. The Up LMG Tank Empties left his station at 12.02 hrs. In reply to question No. 2 he stated that no information was given by the SM/DIHAKHO regarding the Motor Trolley, more over he granted line

clear for UP LMG Tank Empties at 11.58 hrs. In reply to question No. 5 he stated that he did not enquire about the Motor Trolley at the time of asking line clear for UP LMG Tank Empties from SM/DIHAKHO. In reply to question No. 6 he stated that he did not inform any such thing to SM/DIHAKHO. In reply to question No. 7 he stated that he did not enquire about Motor Trolley as he did not get out report of the Motor Trolley from SM/ DIHAKHO. In reply to question No. 10 he stated that he did not say any thing to SM/ DIHAKHO about the Motor Trolley, it was totally false.

IV) Shri Samir Kanti Das, Working Motor Trolley Driver of Motor Trolley No. CE/306 (MG)/EMPTU) OF SSE/W/CON/LMG.

✓ Witness No. 9.

On 17.6.02 Shri Samir Kanti Das, was working the SSE/W/CON's Motor Trolley No. CE. 306/(MG/EMPTY) from Langting station, Shri Manmohan Das, Shri Joykanta Sharma , and Shri Girindra Narayan Konwar were the Trolley man of the Motor Trolley. He stated that he reached with his Motor Trolley at DIHAKHO station at about 1050 hrs on line No.1 with proper authority. As per advise of SM/ DIHAKHO, the Motor Trolley was transferred from line no. 1 to line No.2 and kept in rear of Brake Van of Up TPT Empty Stock Spevial. He was also told by SM/ DIHAKHO that after despatching 856 Dn. Passenger, the Motor Trolley would be allowed to run following 856 Dn passenger to MUPA Station. After departure of 856 Dn passenger he along with SSE/W/CON went to SM/DIHAKHO asking for " following

line clear " from Dihakho to MUPA Station. but the SM/ DIHAKHO told them to go immediately and not to ~~purse~~ for paper line clear otherwise it would be delayed, he also told that SM/ MUPA had already been informed regarding the Motor Trolley following 856Dn passenger and the route in favour of the Motor Trolley on line No. 2 had already been set. He stated that green signal was exhibited by the East Cabin man at about 11.50 hrs After negotiating curve at KM 54/0-2 he suddenly noticed a train approaching from opposite direction at a distance of around 25 metres only, he at once shouted and jumped from the Motor Trolley before collision occurred. After the occurrence of collision he found that all the occupants were in stable condition except one constable of RPSF who died on the spot having been cut into several pieces. The escort party threatened them in such a manner that he fled away with fear to save his life from the site of accident and rushed to Lumding Railway Hospital by road. In reply to question No. 3 he stated that he was fully conversant with the rules for the working of Motor Trolley in the Block section but in reply to question No. 4 he admitted that he did not follow the rules to enter into the ~~block~~ section between Dihakho- MUPA station. In reply to question No 10 he stated that the speed of the Motor Trolley was approximately 15 KMPH at the time of the accident.

V) Shri Monmohan Das, Sr. Trolleyman, working trolley man of MTNCE/306(MG(empty) of SSE/W/CON/LMG.

Witness No. 10.

Shri Monmohan Das was working as Trolleyman of DN SSE/

W/Con's Motor Trolley on 17.6.2002 from Langting station. He stated that after arrival at Dihakho station at about 1050 hrs the Motor Trolley was pushed from Line No.1 to line No. 2 and kept in rear of Brake Van of Up TPT Empty stock special. After the departure of 856 Dn passenger, the Motor Trolley Driver ordered the Trolley man to follow 856 Dn passenger. The motor Trolley left Dihakho station at about 11.50 hrs for MUPA station on the green signal exhibited by the Cabinman/ MUPA end. He stated that the Motor Trolley reached KM 54/0-2 at about 12.20 hrs while he and other Trolleymen noticed an engine approaching at a distance of about 25 metres. On seeing the engine they all shouted 'GARI GARI' and jumped from the Motor Trolley before the collision occurred. After the collision he found all the occupants were in stable condition except one Sepoy RPSF who was crushed and killed on the spot. Having been threatened by the RPSF staff he fled away from the site of accident with fear and shock to save his life and rushed to Lumding by road. In reply to question No. 4 he stated that the Motor Trolley followed 856 Dn passenger train after an interval of 4 to 5 minutes. In reply to question No. 5 he stated that the Cabinman/East Cabin of dihakho station displayed green signal from the Cabin towards the Motor Trolley.

✓ vi) Shri Chittaranjan Seth , SSE/W/Con/Lumding, Incharge of Motor Trolley No. CE/306(MG)/ empty)

Witness No. 23.

On 17.6.2002 Shri Chittaranjan Seth SSE(W)/ CON/ Lumding, in charge of Motor Trolley No. CE/306(MG)/ Empty arrived Langting station with Motor Trolley Driver and

and Trolleymen by 5811 Dn where SSE(W)/Con's Motor Trolley was kept stabled. He stated that he had to take initial level at Km 49 between Dihakho and MUPA stations. He arrived Dihakho station on Line No.1 at about 10.40 hrs His Motor Trolley was transferred from Line No.1 to Line No. 2 and placed in the rear of Brake van of Up TPT Empty Stock Special standing on Line No.2, to facilitate reception of 856 Dn passenger on Line No.1. Whenever, he asked for 'line clear' to SM/ DIHAKHO to go to MUPA Station the SM/ Dihakho advised him to go to MUPA following 856 Dn passenger Accordingly, after the passage of 856 Dn passenger the route for Line No.2 was set in favour of Motor Trolley and green signal was exhibited by the Cabin man from the Cabin, on seeing this he ordered the Motor Trolley Driver to start the Motor Trolley following 856 Dn passenger towards MUPA station. He reached KM 54/1 at about 12 hrs and suddenly noticed an Up train approaching from the opposite side .At once he advised the Motor Trolley Driver to apply brake and allthe staff began to jump down to save their lives. But within a very short period his motor Trolley found colkided with the Up train. He was mentally depressed with fear and unable to say regarding Motor Trolley and staff, after sometime he found himself on a road vehicle going to Lumding Hospital. In reply to Question No. 12 he admitted that entering into the block section without authority was aviolation of rule .

In reply to Question No. 18 he stated that he did not hear any whistle of the Train Enginee In reply to Question

No. 19 headmitted that on seeing the mutilated body @ he was so horrified that he was unable to think for anything.

vii) Shri M. Pukeho, Head Constable No. 8661, RPSF/ Lumding, working escort of Dn SSE(W)/CON/LMG's Motor Trolley Boarded at Dihakho Station.

Witness No. 8

On 17.6.02 Shri M. Pukeho, Head Constable, RPSF/LMG arrived Langting station by 5811 Dn Barak Valley Express along with Shri U.N. Jha/ Const, Shri Yash Paul (R)/ Const, Shri Ganesh Dutt (T)/ Const, Shri A.Q. Khan (Const) and Shri Prahalad Singh/ Const. and boarded onthe SSE(W)/Con's Motor Trolley as per order of his superior officer to esco t Shri Chittaranjan Seth, SSE(W)/Con/ Lumding & going from Langting to Mupa for site work. On arrival at station Shri Seth, SSE(W)/ Con advised the escort party to have their lunch there. At the time of starting from Dihakho Station bound for Mupa station, Shri Seth, SSE(W) | Con/ Lumding sat on the front seat alongwith Motor Trolley Driver and Shri Ganesh Dutta(TpConst/RPSF) and Shri Pukeho, Hd Const. RPSF/ Lumding sat on the rear seat along with Shri U.S.Jha, Const. Shri Yash Paul(R)/ Const. , Shri Prahalad Singh/ Const and Shri A.Q. Khan, Const/ RPSF/ Lumding, the three Trolleymen could not sit but stood here and there on the Motor Trolley. When the Motor Trolley was nearer to KM 54/1 he noticed one Up train approaching from the opposite side and Shri Seth, SSE(W)/Con along with other staff jumped down without giving any caution to the Escort Party. At once members of the Escort party also jumped down from the

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the Motor Trolley to save their lives and after a few seconds he heard a sound of collision .He at once called the colleagues and rushed to the collision spot, where he found the body of Shri Prahlad Singh cut into several pieces. He did not find Shri Seth ,SSE/W/Con and the other staff there, He at once came to MUPA station and detailed the occurrence in writing to SM/ MUPA and again returned to the spot of accident .After arrival of ARME with ADRM, SR. DMO of Lumding and RPF and GRP officials from Maibong station, the body was certified dead by Sr. DMO, on being released by GRP officials, the body was handed over to SRPF which was brought to Lumding by ARME at about 21.00 hrs.

viii) Shri Sitanath Nath, Driver of Up Lumding Tank Empties.

Witness No. 13

Shri Sitanath Nath was booked to work in Up LMG Tank Empties hauled by Loco No. 6110 YDM 4(Long hood) load 19/37= 297 tonnes from Lower Haflong to Lumding station on 17.6.02. He arrived Mupa station at about 11.37 hrs. After crossing with 856 Dn passenger he left MUPA station at about 12.03 hrs and proceeded towards DIHAKHO station. Suddenly he noticed one Motor Trolley approaching from the opposite direction. On seeing this, he tried his best to avoid collision by applying brakes but failed. The train collided with the Motor Trolley, resulted in one RPSF Constable cut into several pieces. A memo in this regard was jointly issued by him and the Guard Shri N C Nath and submitted to SS/MUPA at about 12.20 hrs. He stated that he was not cautioned by any body regarding the running of the Motor Trolley in the section between DIHAKHO- MUPA Stations.

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In reply to Question No 4 he stated that he sounded whistle before the accident took place. In reply to question No. 6 he told that the existence of the Motor Trolley came to his sight near about 20 metres from the train enginee.

In reply to question No. 7 he expressed that he applied Vacuum Brake, emergency position and Loco Brake immediately.

ix) Shri Dipak Deb Nath, DYC/Lumding.

Witness No. 1

On 17.6.02 Shri Dipak Deb Nath was on roster duty from 12.00 hrs to 17.00 hrs on Hill Board. He had taken over charge from Shri T. Pujari, SCR at 12.25 hrs. He stated that there was "noring" and "no voice" at most of all stations. Voice was available at JTH, LFG, and MXR stations. The matter was recorded in the Control chart and Test room and was kept informed. At about 13.10 hrs information regarding collision between Up LMG Tank Empties and Down SSE(W)/Con's Motor Trolley received from SM/ DIHAKHO station. The movement of Motor Trolley was out of his knowledge; On getting the information he brought it to the notice of CHC/ Shift and CHC/IC and ARME was called for immediately at 13.15 hrs.

In reply to Question No. 2 he expressed his experience of 80% failure of control communication.

In reply to question No. 4 he stated that there was "no ring" and "no voice" at Dihakho and MUPA stations, but in reply to Question No. 5 he admitted that suddenly he got the voice of SM/DIHAKHO at about 13.10 hrs who informed about the occurrence of the accident.

In reply to Question No. 8 he stated that since his resumption at 12.30 hrs he was not aware of the movement of any Motor Trolley in the section. He came to know from SM/ DIHAKHO only at about 13.10 hrs.

In reply to Question No. 10 he ^{stated} that the occurrence of the accident was relayed to him by SM/ Dihakho at about 13.10 hrs verbally but numbered and recorded message was received at 15.30 hrs from SM/DIHAKHO.

13.0 Reasons for findings.

- i) Shri Mahendra Hazarika SM/ Dihakho received down Motor Trolley on line No.1 at DIHAKHO station and transferred to lineNo.2 in rear of Up TPT Empty stock Special to facilitate reception of 856 Dn passenger train on lineno.1. After the depa ture of 856 Dn ,he instructed cabin man/ East cabin to set the route in favour of lineno. 2 for the despatch of down motor trolley from lineNo.2 towards MUPA Station, just after 3-4 minutes after th the passage of 856 Dn passenger train. Though Shri Mahendra Hazarika, SM/ Dihakho did not admit that he despatched the Motor Trolley after the passegae of 856-Dn Passenger train, but it was in his knowledge that Dn Motor Trolley was to move. The movement of Motor Trolley towards MUPA stati on, had his tacit approval as the point was set in favour of Line No.2.Knowing the fact that the motor trolley was following 856 Dn passenger train(though it was following without line clear/Motor Trolley permit), Shri Hazarika granted line clear to SS/MUPA for Up LMG Tank Empties without ensuring complete arrival of Dn

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Motor Trolley at MUPA station. He also did not inform section controller as well as SS/MUPA regarding the fact that the Motor Trolley had left without proper authority towards MUPA station thus violated Rule Nos. SR 6.06/2(a) and SR 15.25/2(b) (i) & (ii).

- ii) Shri Chittaranjan Seth, SSE/W/Con/LMG being in charge of the Motor Trolley ordered the Motor Trolley Driver to start the motor trolley from Dihakho station towards Mupa station without authority to proceed Motor Trolley permit thus violated the following Rules,
- a) SR 15.18/1(iii)
 - b) SR 15.25/ 2
 - c) SR 15.25/1(a) & (b)
 - d) SR 15.25/2(b) (i)
- iii) Shri Samir KantiDas, Motor Trolley Driver started the Motor Trolley as per instruction of SSE/W/Con/LMG (in Charge of the Motor Trolley) inspite of Knowing the fact that a Motor Trolley cannot enter into the block section without authority to proceed/Motor Trolley permit thus violated the following rules.
- a) SR 15.18/1(iii)
 - b) SR 15.24/2
 - c) SR 15.25/1(a) & b)
 - d) SR 15.25/2(b) (i).

14.0 FINDINGS:

After having inspected the site of accident and after having gone through the evidence on records, we the undersigned have come to the conclusion that the accident occurred on account of:-

- 1) Granting line clear by Shri Mahendra Hazarika, SM/ DIHAKHO to SS/ MUPA for Up LMG Tank Empties without ensuring complete arrival of Down SSE/W/Con Motor Trolley at MUPA station knowing that the Motor Trolley left his station following 856 Dn passenger train without authority to proceed/ Motor Trolley permit towards MUPA station. He also did not inform the Section Controller and SS/ MUPA about the movement of Motor Trolley towards MUPA station. The fact that the Motor Trolley left his station for MUPA station following 856 Dn passenger train without authority to proceed/ without Motor Trolley permit was known to him. Thus, violated the provisions of SR 6.06/2(a) & SR 15.25/2(b) (i) & (ii).
- 2) Ordering the Motor Trolley Driver by Shri Chittaranjan Seth, SSE/W/Con/LMG being in charge of the Motor Trolley to start the Motor Trolley from Dihakho station towards MUPA station without authority to proceed/ Kotor Trolley permit thus violated the follwoing rules-
 - a) SR 15.18/1(iii)
 - b) SR 15.24/2
 - c) SR 15.25/1(a) & (b)
 - d) SR 15.25/2(b) (i).
- 3) Starting the Motor Trolley by Shri Samir Kanti Das, Motor Trolley Driver in spite of knowing that a Motor Trolley cannot enter into the block section without authority to proceed/Motor Trolley permit thereby violated the provisions of the following Rules:

- a) SR 15.18/1(iii)
- b) SR 15.24/2
- c) SR 15.25/1(a) & (b)
- d) SR 15.25/2(b) (i)

All the above mentioned staff are hereby held primarily responsible.

15.0 REMARKS AND RECOMMENDATIONS

1. Due to failure of control communication system information of accident was received by Lumding Control at 13.10 hrs i.e. about one hour late after the occurrence of accident which also caused delay to call for ARME.
The Control communication system of entire Hill section in Lumding Badarpur section should immediately be changed and modified to restore better communication system between the Section Controller and the Station Master/ other supervisory officials of any system- stream to facilitate timely conveyance of information to control during emergency/ or in case of accident.
2. The rules for the working of Trolley, Lorry and Motor Trolley and rules for the working of motor trolley following a train are not followed properly specially in the hill section. The trolley, lorry and Motor Trolley must work as per rules incorporated in Chapter XV A & B/G & SR Rule Book ,N.F. Railway, 1982 edition.
The Station Masters and the holder of Trolley Lorry or Motor Trolley (not below the rank of an Inspector) must follow the rules rigidly during working of Trolley, Lorry and Motor Trolley with or without the line clear and working following a train. The Station Master must keep records in the Train Signal Register.(in red ink in case of running

Motor Trolley following a train).

3. The supervisory officials of Traffic, Mechanical, S & T and Engineering (Open Line & Construction) are required to educate the staff of his own insisting on following the rules during working of Trolley, Lorry and Motor Trolley in the section. The Trolley, Lorry and Motor Trolley must not enter into the block section without the permission and knowledge of the Section Controller and the Concerned Station Masters under any circumstances. The train signal register shall be maintained by the Station Masters concerned accordingly and the notice portion of "X" or "XA" forms shall be preserved by the Station Masters concerned for further reference.
4. During the course of enquiry it was observed that there is no proper record maintained at stations or with Engineering department about the Line Clear / Motor Trolley permit requisition. Though there is no definite record that Line Clear/ Motor Trolley permit are refused by Station Master/ Section Controllers, but the movement of the Motor Trolley in this case suggests that Line Clear/ Motor Trolley permit are generally not taken/ granted . For proper maintenance of track, movement of Motor Trolley for maintenance should be liberally allowed so that the track maintenance for want of Blocks/ Line Clear/Motor Trolley permit does not endanger the safety of train operations.

5. There is shortage of transport facilities in the Hill section, either by road or by Railways. Buxim Due to conversion work, the staff/ officers have to move to work places and come back along with the escort, 4/5 extra stoppages should be given for Train No. 5811/5812 in both Up and Dn. directions.

Sd/-15.7.02

(S.S.Singh)
CAMPE(R & L)
(CHAIRMAN)

Sd/- 15.7.02

(P.L.Lohomor)
CSO

Sd/-

15.7.2002

(Arvind Kumar)
CE/I/CON

Certified to be true Copy
S. Deka
Advocate

Annexure- 2

N.F. RAILWAY

NO. T/2/12/02-03/ LM

Office of the DRM(O)/LMG

Dtd. 12.3.03

To

Shri Mahendra Hazarika,
SM/DKE

Through SS/DKE.

Sub:- DAR enquiry proceedings.

Ref: Your L/ No. Nil dtd. 11.3.03

In reference above, the DAR enquiry proceedings with cross examination are sent herewith. You are advised to submit your representation of show cause notice within 3 days otherwise competent authority will take suitable action as per rules.

DA- 11 sheets.

Sd/ Illegible,
12.3

For DRM(O)/LMG

Certified to be true Copy
Sadeka
Advocate

DAR enquiry report in connection with the charges framed against Shri Mahendra Hazarika, SM/ DKE vide SF- 5(Major Memorandum)

No. T/2/12/02-03/LM dtd. 4.9.2002

1. Authority of enquiry: I was nominated by Sr. DOM/LMG(DA) to act as Inquiry officer to enquire into the charges framed against the defendant Shri Mahendra Hazarika
T/2/12/02-03/LM
SM/ DKE vide Sr DOM/LMG's letter No. T/2/02-03/LM dtd.

16.10.02

2. History of the case: On 17.6.2002 Down SSE/W/ Cons Motor Trolley No. CE/306 (MG/Empty) arrived Dihakho Station on L/No 1 at 10.40 hrs on proper line clear. Crossing of the UPTPT Empty Stock Special and 856 Dn passenger Train was arranged at Dihakho station. Up TPT Empty Stock Special was to be received on Line No. 2 and 856 Dn, Passenger was to be received on Line No. 1. After complete arrival of Up TPT Empty Stock Special on Line No. 2 at 11.00 hrs, the Motor Trolley which was waiting on Line No. 1 was transferred on Line No. 2 in rear of the Brake Van of Up TPT Empty Stock Special to facilitate reception of 856 Dn, Passenger train on Line No. 1. 856 Dn Passenger arrived Dihakho Station at 11.33 hrs and left for Mupa station at 11.35 hrs. After despatching 856 Dn Passenger train from Line No. 1 of DKE Station, the Motor Trolley which was waiting on Line No. 2 in rear of Up TPT Empty Stock Special left at 11.40 hrs from Mupa Station following 856 Dn, Passenger train without authority to proceed/ Motor Trolley permit. After getting the IN report of 856 Dn Passenger train from Mupa Station at 11.57 hrs. SM/DKE granted Line CClear for Up LMG Tank Empty Special (Loco No. 6110 YDM 4, Load 37/297 tonnage) at 11.58 hrs.

Up LMG Tank Empty Special left Mupa Station at 12.02 hrs. Dn SSE/W/Con's Motor Trolley which was coming from DKE Station collided with Up LMG Tank Empty Special at KM 54/1-2 between DKE and MPP Stations at about 12.10 hrs resulting into death of one RPSF Constable and five other sustaining trivial injury. Out of 10 surviving persons, five numbers of RPSF Personnel were brought to Lumding Railway Hospital along with the dead/mutilated body of Shri Pradhad Singh, Constable, RPSF Lumding by the ARME.

3. Article of Charges: On 17.6.2002, Shri Mahendra Hazarika SM/DKE while functioning as Station Master at Dehakho Station, during his duty hours from 6/30 hrs to 14/30 hrs, tax granted line clear to the Dy Station Superintendent/ Mupa station for Up LMG Tank Empty Special without ensuring complete arrival of Down SSE/W/Con's Motor Trolley at Mupa station knowing that the said Motor Trolley had left Dehakho Station, in the following of 856 Down Tripura Passenger Train without authority to proceed (ie Motor Trolley permit) towards Mupa station. As a result Down SSE/W/Con's Motor Trolley which was coming from Dehakho Station collided with Up LMG Tank Empty Special at KM 54/1-2 between DKE - MPP Stations at about 12.10 hrs resulting into death of Shri Prahlad Singh, Constable, RPSF/ Lumding who was travelling by the said Motor Trolley. Shri Hazarika also did not ^{inform} the section Controller/ LMG and Dy Station Superintendent of Mupa station about the movement of Down SSE/W/Con's Motor Trolley towards Mupa Station. The fact that the Down SSE/W/Con's Trolley left Dehakho Station for Mupa station following of 856 Dn Tripura Passenger train without

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authority to proceed (i e. Motor Trolley permit) was also not communicated by Shri Hazarika Thus, Shri Hazarika violated the provision of SR 6.06/2(a) and SR 15.25/2(b) (i) & (ii) of G & S Rule Book of 1982 Shri Hazarika also has been charged for violation of Rule No. 3.1(ii) and 3(iii) of Railway Service (Conduct) Rules, 1966.

4. Conducting of DAR Inquiry:-DAR enquiry was conducted by fixing up enquiry dates on 18.11.2002 , 4.12.2002, 3.1.2003 , 21.1.2003 and 10.2.2003. As Shri Mahendra Hazarika, SM/DKE did not nominate any Defence Counsel, he was asked whether he would face the enquiry without defence help. Final statement submitted by the Charged official was while arriving at the decision. This statement submitted by Sri Mahendra Hazarika SM/DKE is enclosed with the report.

5. Documents Examined:

- (i) DAR proceedings containing 16 pages
- (ii) Statement submitted by Shri Mahendra Hazarika, SM/DKE dtd. 21.1.2003
- (iii) SF-5(Major Memorandum) No.T/2/12/02-03/LM dtd. 4.9.2002.
- (iv) Cross examination report of Shri Mahendra Hazarika SM/ DKE.
- (v) Cross examination report of Shri CR Seth, SSE/W/CON
- (vi) Cross examination report of Sri Samir Kanti Das, M/ Trolley driver.
- (vii) Cross examination of Sri Dipak Debnath, ^{Dy}LMG
- (viii) Cross examination report of Shri K.R Bore, ^{Dy} SS/MPP.
- (ix) Cross examination report of Shri Rajeev C/

6. Person examined:

- A) Shri Mahendra Hazarika, SM/DKE
- B) Shri CR Seth, SSE/W/CON
- C) Shri Samir Kanti Das, M/Trolley Driver.
- D) Shri Dipak Debnath, DYC/LMG
- E) Shri K.R. Boro, Dy SS/MPP
- F) Shri Rajloo C/Man/DKE

7. Findings:

After having gone through above mentioned documents and witnesses carefully, the undersigned found and come to a conclusion that the charges framed against Shri Mahendra Hazarika, SM/DKE for violation of the provision of SR 6.06/2(a) and SR 15.25/2(b) (i) & (ii) of G & S Rule Book of 1982, edition and for violation of Rule 3.1(ii) and 3.1.(iii) of Railway Service(Conduct) Rules, 1966 are justified and proved.

Shri Mahendra Hazarika, SM/DKE is responsible for granting line clear to the Dy Station Superintendent Mupa station for Up LMG Tank Empty Special without ensuring complete arrival of Down SSE/W/Con's Motor Trolley at Mupa station knowing that the said Motor Trolley had left Dehakho station, in the following of 856 Dn Tripura Passenger Train without authority to proceed (i.e. Motor Trolley permit) towards Mupa Station, resulted Down SSE/W/CON's Motor Trolley which was coming from Dehakho Station collided with Up LMG Tank Empty Special at KM 54/1-2 between DKE- MPP stations at about 12.10 hrs on 17.6.2002.

8. Reasons for Findings:

- (i) In reply to Q No. 2 of Cross examination report of Shri Samir Kanti Das, M/ Trolley Driver, he stated that while SM/ DKE granted line clear for 856 Dn Passenger train, SM/DKE informed him that Trolley will be following 856Dn Passenger.
- (ii) In reply to Q No. 3 of Cross examination report of Sri C, R Seth, SSE/W/Con/LMG, he stated that Line clear was asked by him for Motor Trolley from S M/DKE but Sm/ DKE assured him to go as following of 856 Dn.
- (iii) In reply to Q No. 3 of Cross examination report of Shri K. R Boro, Dy SS/MPP, he stated that it was the duty of SM/DKE to inform him regarding the movement of Motor Trolley towards MPP. Moreover, SM/ DKE would have to ensure that Motor Trolley hasbeen arrived at MPP (following 856 DN) before granting Line clear for Up LMG Tank Empty Special which was detaining at MPP.
- (iv) In reply to Q no. 3 of Cross examination report of Shri Mahendra Hazarika, SM/DKE, he stated that he did not inform Dy SS/MPP regarding the movement of Motor Trolley as he had not given any authority to proceed to the Driver of the Motor Trolley.

Sd/-

24.2.03
(A.K. Patke)
DOM/PL/LMG

(Inquiry Officer)

Cross- examination of Shri Mahendra Hazarika, SM/DKE in connection with DAR inquiry into the charges brought against him vide Major memorandum No.T/2/12/02-03/LM dated 4.9.2002

Q. No. 1:- Please narrate the incident in detail ?

Ans:- I received Dn Motor Trolley with proper authority to proceed and line clear on L/ No.1 at DKE station at about 10.40 hrs and as there was crossing of 856 Up Dn with ~~856~~ TPT/ E/ Ston which was already at DKE station on L/ 2. So I shifted Dn N/ Trolley from L/ No.1 to L/ No2 and Kept the motor trolley behind the brake van of up TPT E/ Stock. I also informed the M/ trolley incharge regarding the crossing and also informed purpose behind shifting of M/ trolley from L/ No 1 to L/ No. 2 I took ^{Line clear} which ever for 856 Dn from Mpp station and despatched the train at 11.35 hrs and I was not aware about the movement of Dn M/ trolley as M/ trolley has not taken ~~any~~ any authority to proceed from me and also at station because of curve line and jungle. Starter signal for L/ No. 2 could not be seen from the station buildings and also on duty exit cabinman did not inform me regarding the movement of Dn motor trolley. As M/ trolley incharge did not take authority to proceed from me I have line clear for Up train.

Q No. 2: What was the status of communication with Control ? And did you inform Const regarding the movement of Dn M/ trolley ?

Ans:- On that day there was no direct communication with control and therefore I could not inform Control regarding movement of Dn M/ trolley.

Q. No. 3:- Did you inform to MPP station master regarding the movement of Dn M trolley ?

Ans:- I informed SM/ MPP about the arrival of Dn M/ trolley at DKE station but did not inform him regarding the movement of Dn M/ trolley as I have not givee any authcity to proceed to Dn M/ trolley nor being any memo was served by M/ Trolley incharge to me in connection with its movement.

Q. No. 4:- As there was M/ Trolley at DKE station waiting for movement towards Dn direction and you can follow a train in same block section. So why did not you enquire about the M/ trolley before granting line clear to up train fromMPP station ?

Ans:- I did not inquire about the movement of M/ trolley as there was a camp of this people near east cabin of DKE station and also it was their usual practice to take rest in this camp by taking off the M/ trolley whenever they detain for the moment.

Q. No. 5. It has been known from SSE/W/Con that Cabin man of East Cabin exchanged green signal with him. Did the cabin man informed you regarding their movement ?

Ans:- He did not inform me and not even exchanged private number with me. I did not give him any information regarding the movement of M/ trolley and he cannot show green signal on his own.

Q No. 6 After the despatch of 856 Dn point was set in favour of L/ No. 2 on which M/ trolley was standing Give more explanation ?

Ans:- After despatch of 856 Dn point was set in favour of L/ No.1 and line clear was given for up trains and up train was informed to receive on L/No.1 How and why the point was altered in favour of L/No 2 is not known to me and I did not give any instruction to C/man to alter the point in favour of L/No 2.

Sd/- Mahendra Hazarika,
SM/DKE, dtd. 21.1.2003

Cross- examination to Shri Samir Kanti Das, M/ trolley driver in connection with DAR Inquiry into the case No.

Q. Narrate the incident.

Ans:- We started our motor trolley from LGT with proper L/c and arrived DKE on L/1. When asked for further movement from DKE to MPP, SM/DKE informed us that there would be crossing of Up TPrTK and 856 Dn. After the arrival of Up TK, we were advised to go to L/2 behind the Up TK Spl. Accordingly we obeyed. IOW/ Con and myself went to station and approached for our movement. SM/ DKE told us that you would go following of 856 Dn and he would inform over movement to SS/MPP.

Q. No. 2 At the time of leaving for MPP did you inform SM/DKE, regarding your movement.

R:- While granting lineclear of 856 dn , SM/DKE informed us for our movement i.e. following the Dn passenger train.

Q. No. 3 Did you make any conversation with on duty cabin man before leaving for MPP from DKE and did on duty cabin man exchanged " All Right" signal with you ?

Ans:- No, we exchanged signal with cabin man with bare hand.

Q. No-4 After the departure of Dn passenger from DKE apparently when you started following the Dn Passenger ?

R:- Approx. after 5 minutes of the departure of 856 Dn we started.

Q No. 5:- Did you aware about the Rules when Motor Trolley follows a train in the same block section ?

R:- Yes.

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Q. 6 Why have you not taken proper authority to proceed for Motor Trolley ?

R:- We informed to S M/DKE for proper authority and when SM/DKE did not grant us, I informed the matter to any I/c i.e., SE/COn/LMG and as per his instruction I proceeded for MPP.

Q No. 7 What was the speed of your M/ trolley in the Station ?

R:- About 25 KmsPH.

Q No. 8:- Did you hear the whistle of the approaching train in the section ?

R:- No I could not hear the whistle, I met the train just after negotiating the curve.

Sd/ Samir Kanti Das,
M/T/ Driver

Cross- examination to Shri Kuhu Ram Boro, WK DN, SS/MPP in /W DAR Inquiry Case No. T/2/12/02-03/LM dtd. 4.9.02

*

Q no. 1 Please narrate the incident.

R, As per CNL order to SM/KOI crossing arrangement between 856 Dn and Up LMG TK was arranged at M PP 17.6.2002 on 19.6.2002. Up LMG TK was received on L/2 first and 856 Dn was received on L 3 at 11.57hrs. After receiving 856 Dn I asked for L/c to SM/DKE for Up LMG/E/TK, SM/DKE granted L/c for the said train and accordingly I despatched the Up train. At 12.40 hrs Sri P.K. Lala, Guard of Up LMG TK came to station and informed me that a head on collision took place between Dn SSE/CON Mt and Up LMG E/TK in the section MPP! DKE.

Q 2 Did SM/ DKE give any information about the movement of M/Trolley in the section before granting L/c to Up train ?

R He informed regarding the availability of M/trolley at DKE but he did not inform me regarding its movement while granting lineclear to Up train.

Q No. 3 From your end why you had not ask regarding the movement of M/ trolley when you were aware regarding its availability at DKE station?

R I was aware about the availability of Motor trolley at DKE Station but not about its movement and that Motor trolley can go either way. It was his duty to inform me ~~about~~ regarding its movement further at MPP station. I had one Up train waiting for movement. It is my duty to despatch it without any unnecessary detention. So I asked for its L/c to SM/DKE and he has

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granted me line clear and accordingly, I despatched the train and also I did not receive the get ' Out Report' of Up /Dn Motor trolley from SM/DKE.

Sd/- Sri Kuhu Ram Baro,
Dy / SS MPP

10.2.2003

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Cross-examination to Shri Rajloo, C/ Man/DKE in connection with DAR Inquiry of Case No. T/2/12/02-03/LM dtd. 4.9.2002.

Q. Narrate the incident.

R I was advised by SM/DKE to receive Up TPT on L/2 accordingly Up TaPT E/S was received on L/2 and as per advice of SM/DKE I allowed the movement of M/Trolley from Line No.1 to Line No.2 and kept it behind the B/ Van of Up TPT on L/2. After that I set the point for L 1 to despatch 856 Dn and according to 856 Dn left DKE. After that, SM/DKE rang me to Sect L/2 to despatch Dn M/ trolley and I did as per his instruction. Then Dn M/ trolley left from L/2.

Q 2 Did you exchange private No. with SM/DKE regarding movement of motor trolley ?

R No neither I nor SM/DKE exchanged any private No.

Q 3 Did you inform SM/DKE when it left for MPP to SM/DKE and did you exchange " All Right" signal with M/trolley ?

R Yes, I informed SM/DKE after its departure but I did not exchange " All Right" signal with M/trolley.

Q 4 Did you make any conversation with Motor Trolley Personnel before its departure ?

R No

Sd/ -

Rajloo
C/MAN DKE

10.2.2003

Cross- examination to Shri Dipak Debnath, on duty DYC/LMG in connection with DAR Inquiry of Case No. T/2/12/02-03/LM dated 4.9.2002.

Q no. 1 What was your duration of duty in the Hill Board on 17.6.02 ?

R. From 12 hrs to 17 hrs and I took charge at 1225 hrs.

Q 3 Had you been aware regarding the movement of Motor Trolley from DKE to MPP ?

Rs; I was not aware as there was no control communication with DKE and MPP.

Q. 4 Did you aware of Up Tank movement from MPP to DKE ?

R. NO.

Q No. 5 When did you come to know about accident and how ?

R. At about 13 10 hrs, SM/DKE Sri Mazarika's voice come over phone in a very feeble manner. I somehow heard that a collision between Up TK Spl. and Dn Motor Trolley occurred in the Section DKE- MPP.

Q. 6 What action you have taken after the incident of collision that took place ?

R. I, immediately informed to CHC/Shift Shri S. Choudhury and CHC/ic Mr. D. Pathak about the collision for necessary action and controlled the train as per situation.

Q. 7 How was the communication on entire Board on that day ?

R. There was no control Rins/ voice with majority of Station except slight voice coming from ILG, LFG, MXR, DTA, MBG. In all communication was very poor.

Sd/ Dipak Debnath, DYC/ LMG
10.2.2003

Cross- examination to Chitta Rn Seth, SSE/SON/LMG working in connection with DAR Inquiry of Case No. T/2/12/02-03/LMG dtd. 4.9.2002

Q.1 After your arrival at DKE station, what conversation took place between you and SM/DKE ?

R. I arrived DKE station with proper L/C from LGT. I handed over the L/C and wanted L/C to proceed to MPP from SM/DKE. SM/DKE informed that there was corssing arrangement at DKE station and I may go as following of 856DN. I placed the Motor trolley behind the B/V of Up TPT after its arrival. On L/2, After the departure of 856 DN from L/1, I again asked for L/C. The SM/DKE informed me that you may go as following of 856 DN and he would inform your movement to SS/MPP accordingly ~~the~~ set point in favour of L/No.2 and we started after giving information to SM/DKE.

Q.2 Did on duty cabin men exchanged " All Right Signal " with you ?

R. Yes, he exhibited green signal flag.

Q.3 Are you aware about the rule when a Motor Trolley follows a train in same block section ?

R. Yes.

Q.4 Why you have not taken proper authority to proceed from SM/DKE which is required for the movement of Motor Trolley or did you serve any memo for movement of Motor Trolley in Dn Direction ?

R. I asked for L/C but he didnot allow me, rather he assured me to go as following and he would inform the movement to SS/DKE. I did not serve any memo for the movement.

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- Q. 5 Did not you hear whisle of train before collision ?
R I heard the whistle but we wee ^{underdone} ~~undone~~ then
as the distance was very very short.
- Q. 6 For what ppurpose, you were going to MPP from
DKE ?
R I was going from DKE to MPP for work supervision
in connection with Gauge ^{conversation} ~~conversion~~.
- Q. 7 Before leaving from DKE to MPP i.e. following of
856 Dn, did you make any conversation with
only duty Cabinman ?
R No. Only my trolley man exvhanged " All right " signal with Cabinman.

Sd/-

Chittaranjan Seth,
SSE/W/C/LMG
10.2.2003

Certified to be true copy
Iadeka
Advocate

Annexure- 3

N.F. RAILWAY

No.T/2/12/02-03/ LM

Divisional Office
Operations Branch

To

Dtd. 25.2.2003

Shri Mahendra Hazarika,
SM/DKE

(Thres: TI/Hill/LMG)

Sub:- Show cause notice in connection with
Major Memorandum of even No. dtd.
4.9.2003.

In connection with the above, a DAR enquiry was held against Shri Mahendra Hazarika, SM/DKE, which has been conducted by Sri A.K. Patke, DOM/PL/LMG (Inquiry Officer). As per the DAR enquiry report the charges levelled against Shri Mahendra Hazarika, SM/DKE have been established. One copy of the DAR enquiry proceedings is enclosed herewith.

*Certified to be true copy
J. Della
Advocate*

After having gone through the case file as well as Accident Enquiry Report and DAR Enquiry Report, the undersigned find that Sri Mahendra Hazarika, SM/DKE is responsible for granting line clear to the Dy. Station Superintendent/ Mupa station for Up LMG Tank Empty Special without ensuring complete arrival of Down SSE/W/Con's Motor Trolley at Mupa station knowing that the said Motor Trolley had left Dehakho Station, in the following of 856 Dn Tripura passenger Train without authority to proceed (i.e. Motor Trolley Permit) towards Mupa station, resulted Down SSE/W/Con's Motor Trolley which was coming from Dehakho station collided with UP LMG Tank Empty Special at KM 54/1-2

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between DKE- MPP Stations at about 12.10 hrs, on 17.6.2002 . Thus, the charges levelled against Shri Mahendra Hazarika, SM/DKE in the Major Memorandum (SF/5) have been established and proved.

To meet the ends of justice, the undersigned finds that Sri Mahendra Hazarika, SM/DKE is not fit to be retained as Station Master, so it has been decided to impose upon him the penalty of Removal from Railway Service with immediate effect.

Your representation if any should be submitted within 10th (ten) days on receipt of this show cause.

Sd/-
25.2.2003

(L.Saikia)
Sr. Divl. Operations Manager
NF Railway/ Lumding

*Certified to be true Copy
g Della
Advocate*

Annexure- 4

To

The Sr. Divisional Operations Manager,
N.F. Railway, Lumding.

(Through Proper Channel)

Sub: Representation to show cause notice.

Ref: Your No.T/2/12/02-03/ LM dtd. 25.2.03 &
12.3.03.

Hon'ble Sir,

In response to your aforesaid show cause notice I beg most respectfully to lay before you the following submissions for favour of your sagacious and sympathetic consideration please.

That Sir, the Enquiry report is a part of the proceedings of the DAR Enquiry which contains various useful informations in connection with the enquiry as to where and when the enquiry was conducted, who were called for and who attended the enquiry or not., whether proper opportunity for defence was afforded to the defendant or not etc etc. but in the instant DAR enquiry proceedings were not drawn at all.

That Sir, the E.O. examined and cross examined all the prosecution witnesses totally in my absence and the E.O. fully deprived me of the opportunity of cross examining the witnesses against me as per RS(D&A) Rules and Natural justice the witnesses produced in support of the chatges will be cross examined by the defendant or his defence counsel .It is a leagal entitlement. This is a most valuable right of the defendant and it should be clearly specified on the record of enquiry proceedings that the defendant was given the opportunity to cross examine the witnesses. Therefore,

*Certified to be true G.P.Y
Gadkia
Advocate*

the findings of the E.O. on the basis of statement of the witnesses not examined by me are untenable, vitiated and liable to be quashed.

That Sir, vide para 4 of the enquiry report the E.O. stated to have asked me whether I would face the enquiry without defence help but instead of recording my reply he stated that "Final statement submitted by the charged official was while arriving at the decision" since the statements of the witnesses were not recorded in my presence so how the defence counsel could help me thus the scope of taking the help of defence counsel was not actually afforded to me.

That Sir, as per rules the depositions of the prosecution witnesses are to be recorded first and then defence witnesses if any and lastly the final statement of the defence but in this case the E.O. did just the opposite. The E.O. first recorded my statement and cross examined me on 21.1.2003 and recorded the statements of prosecution witnesses subsequently on 10.2.2003 that too in my absence. It is very highly irregular and seriously injurious to the defendant. As per RS(D&A) Rules, the statement of the prosecution witnesses are to make available to the defendant at least three days in advance of the enquiry. This provision was nullified due to conducting the enquiry irregularly. So, the findings of the E.O. on the basis of enquiry conducted very irregularly are incredible.

That Sir, in the Annexure- III of the Memorandum, the list of documents by which the charge was proposed to be sustained was only one document namely, "Findings of the Enquiry Committee" but the E.O.

examined as many as 9(nine) documents and dropped out the listed document and 6(six) documents out of 9(nine) were prepared by the E.O. himself(vide Para 5 of the enquiry report).

The E.O. did not inform me about these documents which were not listed and did not give me any opportunity to inspect those new documents before taking on the record as per rule The E.O. has no right to drop the listed document. Similarly under Annexute- IV of the memorandum in the list of witnesses by whom the Articles of Charges were proposed to be sustained, there were only 3(three) witnesses but the E.O. examined as many as 6(six) witnesses including myself but I was not at all given any opportunity to cross ~~xxx myself~~
~~xxxxxx~~ examine any of the witnesses As req required by Rules the statements of the witnesses were not recorded in my presence. Thus this enquiry is full of procedural lapses resulting in serious prejudice to defence, hence the findings of the E.O. is unjustified and unworthy for acceptance.

That Sir, it is highly regretable that although the enquiry Committee examined as many as 23(twenty three) witnesses but the main co-accuseds who even pleaded guilty into the same case are produced as the prosecution witnesses against me, So they are not acceptable to unfold the Truth rather they are expected to entangle me to save their own skin, The E.O. also relied upon those main co-accuseds and gave his findings accordingly.

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- 62 -

Would you, therefore, in view of the above, circumstances be gracious enough to exonerate me from the charged and for this act of your kindness, I shall remain ever grateful to your goodself.

Yours faithfully

Sd/

Dated Dihakho
the 31st March, 2003

(Mahendra Hazarika)
SB/DKE

Certified to be true Copy
I Deka
Advocate

Annexure- 5

Northeast Frontier Railway N.F.G 174 M

**Notice of Imposition of Penalties under Items (i), (ii) &
Items (i) and (ii) of Rule 1707(2)-RI.**

(Ref- SR 9 Under Rule 1716-R1)

No. T/2/12/02-03/ LM Dated 2.4.2003

From s -

Sr Divisional Operation Manager,
NF Railway/ Lumding.

To

Shri Mahendra Hazarika,
SM/DKE (Through: TI/Hill/LMG)

With reference to your explanation to the Charge Sheet No.T/2/12/02-03/ LM dated 4.9.2002, you are hereby informed that your explanation is not considered satisfactory and that " the Disciplinary Authority has passed the following orders"

Carefully considered the Representation dtd. 31.3.2003, submitted by Shri Mahendra Hazarika, S M/DKE in response to Show- cause Notice served to him vide this Office No. T/2/12/02-03/LM dtd. 25.2.2003 & found that the Representation is not convincing.

Copy Considering that Article of Charges No.1 in Annexure-II brought against him vide, Major Memorandum No.T/2/12/02-03 / LM dtd. 4.9.2003 have been proved and justified to meet the ends of justice. It is decided that Shri Mahendra Hazarika, S M|DKE is not fit to be retained as Station Master, so the undersigned impose upon him the penalty of " Removal" from Railway Service with immediate effect.

Sđ/- 2.4.2003

(L. Saikia)

Senior Divisional Operations Manager,

NF Railway/ Lunding

Signature &Designation of the Disciplinary Authority

4

- 63 -
- 64 -

* When the notice is signed by an authority other than the Disciplinary authority here quote the authority passing the order.

** Here quote the acceptance or rejection of the explanation and the penalty imposed.

INSTRUCTION:

(i) An appeal against ~~whose~~ order lies to Divisional Railway Manager/ NF Rly/ Lumding next(immediate superior to the authority passing the orders within 45 days).

Copy to: (1) DRM(P)/LMG, (2) DRM(P)/ET Cadre/LMG (3) SS/DKE: for information & necessary action please.

Sd/-

2.4.2003

(L. Saikia)

Senior Divisional Operations Manager,
N.F. Railway/ Lumding

Certified to be true copy
Gadeka
Advocate

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- 65 -

Annexure- 5A

N.F. Railway

Office of the
DRM()/ LMG

NO.T/2/12/02-03/LM

Dated 13.8.2003

To

Shri Mahendra Hazarika,
EX SM/DKE
C/ M.A. Laskar,
Dy SS(Retd)
Hojai, Rly Station, Hojai.

Sub: N I P of even No. dtd. 2.4.2003

Ref: Your appeal dated 2.5.2003

In reference to your appeal against NIP cited the appellate authority (ADRM/LMG has ~~passed~~ passed the following orders.

" I have gone through the full case and appeal made by Shri M. Hazarika, EX SM/DKE. His negligence had resulted in death of one RPSF, Constable and trivial injuries to 5 others. I find that there is no merit to reconsider this case. Hence, penalty imposed by D.A. holds good."

This is for your information please.

Sd/-

13.8.03

(L. Saikia)

SR DRM/LMG

Instruction:

Further review appeal against this order lies to COM/NFRLY Maligaon(Next immediate superior to the authority passing the orders with in 45 days)

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

Sd/-

13.8.03

SR DOM/ LMG

Annexure- 6

To

The Chief Operations Manager,
NF Railway, Mailgaon

(Through Proper Channel)

Sub: An appeal against the order of Removal
from service,

Ref : DRM/LMG's No.T/2/12/02-03/ LM dtd. 13.8.03

Hon'ble Sir,

Most respectfully I beg to lay before you
the following submissions for favour of your sagacious
and sympathetic consideration please.

That Sir, the instant DAR enquiry was
conducted most illegally in contravention to extent
RS(D & A) Rules, Principles of natural justice and
fair play. As a result I was totally deprived of the
opportunity of my defence and I am thus condemned
unheard.

That Sir, I pinpointed out the serious
procedural lapses vide my application annexed here-
with as Annexure- A 1-2 but the disciplinary authority
kept mum on the subject and passed the penal order
which was extremely cryptic and totally non-speaking.

*Certified to be true copy
Gopal K. A.
Advocate*

That Sir, then I appealed to DRM/LMG vide
Annexure- B 1-2 to this appeal but the DRM/LMG also did
not applied his mind into the arguments raised by me
about the serious procedural lapses which resulted
in the deprivation of the opportunity of defence and
held good the penal order of the D.A.

That Sir, as per RS(D & A) Rules, 1966 statement of prosecution witnesses must be recorded in presence of the charged official and the charged official is entitled to cross examine the witnesses but in the instant case the statement of witnesses were not taken in my presence and I was not given the chance of cross examining the witnesses. There were many other lapses as stated in Annexure-A which were injurious to my defence.

That Sir, I have been suffering from serious resentment and financial stringency to feed six hungry mouths without any other source of income. The penal order of removal has not only removed me from service but has also deprived me of all other terminal benefits at the end of 25 years of service but this penal order of removal is superimposed upon me without abiding by well established rules of DAR enquiry. I am thus just condemned unheard.

In view of the facts and circumstances stated above I beg to pray that -

(i) The penal order of removal may be set aside/ quashed or

(ii) The DAR enquiry may be ordered to be held de novo maintaining proper procedure as per RS (D & A) Rules , 1966 , or

(iii) Some lesser punishment may be imposed and at least compulsory retirement , or

Any other order may be passed which you deemed

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- 67 -

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fit and proper to meet the ends of justice and
fairplay and for this act of your kindness I shall
remain ever grateful to your benignself.

DA:- As above. #

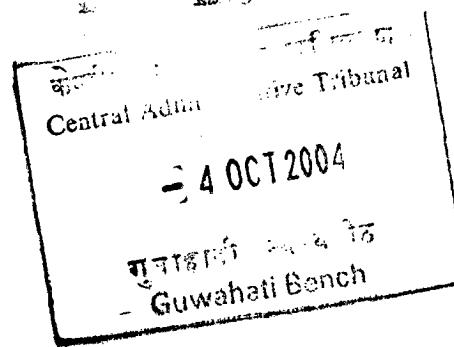
Yours faithfully

Sd/- Mahendra Hazarika
EX SM/DKE

Dated Hojai the
11.9.2003

C/o M. A. Laskar,
Dy. SS/Hojai (Redd)
Hojai Rail Colony
PO Hojai, Distt- Nowgong.

Certified to be true copy
G Deka
Advocate



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

O.A. NO 66/64

Sri. Mahendra Hazarika.

— V 3 6 6 —

Union Of India & ors.

IN THE MATTER OF:

Written Statement filed by
the respondents.

That a copy of the O.A has been served on the respondents and the respondents have gone through the copy of the O.A filed by the applicant and have understood the contents thereof.

2. That save and except the statements which are specifically admitted hereinbelow, other statements made in the D.A are categorically denied. Further the statements which are ^{not} borne on records are also denied and the applicant is put to the strictest proof thereof.

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इस कामिक भाषकारे
पु. द्वी. लंबा. नामडिंगा
ग्रन्ती. Office.
N. B. १७. Lundin

3. That before dealing with the various contentions made in the O.A the deponent begs to raise the preliminary objection regarding the maintainability of the O.A. The O.A is bad for non-joinder of necessary parties, waiver, estopped and acquiescence. It is stated that the claim made by the applicant contains disputed questions of facts and the applicant ought to have approached the Civil Court having jurisdiction adjudication of the matter and as such same is liable to be dismissed with cost.

4 That with regard to the statement made in para 1 of
the O.A the deponent does not admit anything contrary to the
relevant records of the case.

5 That with regard to the statement made in para 2 of
the O.A the deponent begs to state that while working as
Station Master at Dihako station (DKE) the applicant was
removed from service in connection with an accident on 17.6.92
in between Dihako Railway Station and Mupa (MPP) Railway
Station.

6 That with regard to the statement made in para 3 of
the O.A* the deponent , begs to state that the accident occurred
between a Dn Motor Trolley and an up goods train in the manner
of head on collision which resulted in death of one RPSF
person on the spot and injuries to other five persons.

7 That with regard to the statement made in para 4 of
the D.A the deponent a charge sheet dated 5.9.82 was served
upon the applicant for his negligence and misconduct.
Accordingly, an enquiry was also held as per the Railway

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W.M.J. *[Signature]*
কলকাতা প্রামাণ্য
পু. কো. রেল
Div. Personnel, Office
N. P. R. R. W. L. and D.

Servent (Disciple and Appeal) Rules 1965 providing him all the reasonable opportunity of hearing. The enquiry officer submitted his report on 24.02.03. In the enquiry report the Enquiry Officer drew his elaborate conclusion holding the applicant responsible for granting line clearance to the Dy. SSE/MPP) Station for Up goods train with out ensuring complete arrival of Dn Motor Trolley at Mupa Station knowing that the said Motor Trolley had left Dihako Station in the following 856 Dn Tripura Passenger Train with out authority to proceed (i.e. Metro Trolley permit) towards Mupa Station, resulted DN SSE/W/CON's Motor Trolley which was coming from Dihako Station collided with Up LMG Tank Empty special at km 54/1-2 between DKE-MPP Stations at about 12.10 hrs. on 17.6.02. Thus the allegation put against the applicant vide charge sheet dated 05.09.02 was proved and established.

8 That with regard to the statement made in para 5 and 6 of the O.A the deponent begs to state that a show cause letter No.T/2/12/02-03/LM dated 25.02.03 was issued to the applicant by Sr.DOM/LMG advising him to submit representation to the proposed penalty of removal from Railway service within 10 days from the date of receipt of the letter. On receipt of the same the applicant submitted an application on 11.03.03 to have the copies of records of full proceedings of the DAR enquiry to prepare his representation against the proposed penalty. Consequent upon this letter No.T/2/12/02-03/LM dated 12.03.03 was issued to the applicant where by the DAR enquiry proceedings with the statement of cross-examination were sent to him with advice to submit representation to the show cause notice with in three days.

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Ujj
राजस्थान कार्यालय
राजस्थान रेलवे
रेलवे व्यवस्था विभाग
Div. Personnel Office
N.P. & R. Lumding

9. That with regard to the statement made in para 7 of the O.A the deponent begs to state that the applicant submitted a representation dated 31.03.02 to the show cause letter dated 25.02.03 and 12.03.03 as quoted in the proceeding paragraph. On going through the representation the Sr.DOM/LMG (respondent No.4) imposed the penalty of removal from service, upon the applicant vide NIP No.T/2/12/02-03/LM, dated 02.04.03.

10. That with regard to the statement made in para 8 of the O.A the deponent begs to state that against the orders for imposing the penalty of removal from service the applicant preferred an appeal before the Divisional Railway Manager, Lumding (respondent No.3). The Additional Railway Manager, Lumding after going through his appeal dated 02.05.03, passed the speaking order dated 13.8.03 upholding the penalty of removal from service imposed by Sr.DOM/LMG, (the disciplinary authority/ respondent No.4). Mere indication of Appealate authority/Reviewing Authority does not mean advice. It is the charged employee who is to decide to file appeal or review application and since no prejudice has been caused the applicant can not claim any interfearence from the Hon'ble Tribunal.

11. That with regard to the statement made in para 9 of the O.A the deponent begs to state that the applicant further preferred a review appeal before the Chief Operation Manager, N.F.Railway on 11.09.03. In connection with his appeal some

कार्यकारी विभाग
संचालन विभाग
प्रमुख प्रबन्धक
O&P. Personnel Office
N.B. & R. Lumding

clarification has been asked from the Division vide GM(P)/MLG's letter No.E/74/III/46(T), dated 21.10.03. With reference to the above letter dated 21.10.03 the authorities have been making due consideration of the facts and circumstances to finalise the matter with the approval of GM(P).

12. That with regard to the statement made in para 10 of the O.A. the deponent the deponent begs to state that the opportunities for redressal of his grievances, have been granted to him in each and every stage of the proceeding and there has been no irregularities in the said proceeding as such ^{acc} and therefore there is no ground for intreference in the said proceeding by the Hon'ble Tribunal and the OA accordingly liable to be dismissed with cost.

13. That with regard to the statements made in para V to IX the deponent while denying the contentions made therein begs to state that the applicant has been granted with all the reasonable opportunity of hearing in each and every stage of the said proceeding as per the rules guiding the field. The applicant has also failed to show any prejudice that has been caused during the said proceeding and basing the admitted facts the authority has removed him from his service, and as such the applicant is not entitled to any reliefs as prayed for in this O.A.

14. That the deponent begs to state that under the facts and circumstances stated above the OA deserves to be dismissed with cost.

VERIFICATION

I Shri. Khwaipaknam Paatap Singh, aged about years, son of Khwaipaknam Dinaanar Singh, resident of Lumding, P.O. - Lumding Dist - Nagaon, Assam presently working as Divisional Personal Officer (I/c) N.F. Railway, Lumding do hereby verify and state that the statement made in paragraphs 1, 2, 14 ^{4 to 13 are} _↑ are true to my knowledge and those made in paragraph ¹ 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 4 th day of October, 2004.


Deponent

दृष्ट कामिक विधिकारी
पू. श्री. रमेश रामदिल
Divi Personnel Office
N. F. R. C. Lumding

19 NOV 2004

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :

GUWAHATI BENCH : AT GUWAHATI.

Filed by the applicant

Mahendra Hazarika
through Ali Molla Ahmed
Adv. 19. 11. 2004

Original Application No.66/2004.

Sri Mahendra Hazarika

... Applicant.

- Vs -

Union of India and others

... Raspondents.

IN THE MATTER OF :

Rejoinder filed by the applicant in
O.A. No. 66 of 2004.

I, Sri Mahendra Hazarika, son of Late Bhogeswar Hazarika, aged about 56 years, resident of Village - Puranima Satra, Post Office - Bar Asom Kathani, District - Jorhat (Assam) have gone through the Written Statement of the respondent and after going through the same I have understood the contents thereof and I file my Rejoinder ; which is as follows :-

1. That the statements made in paragraphs 1 to 6 relates to the facts of the case, which the deponent already stated in his Original Application, therefore no comment upon the same.

Contd...P/2

- 2 -

2. That in reply to the statements made in paragraph 7 of the Written Statement of the respondents, the deponent begs to state that it is not correct that the deponent granted line clear to the driver of the motor-trolley from Dihako Station rather he was not aware about the unauthorised movement of the motor-trolley from Dihako Railway Station. The driver of the motor-trolley neither asked for line clear from the Station Master of Dihako nor he informed the Station Master of Dihako that he entered into the Block Section of Dihako-Mupa. The Station Master of Dihako can not be held responsible for the accident as the motor-trolley driver by violating the rules and procedure entered into the Block Section of Dihako-Mupa which resulted the accident.

3. That in reply to the statements made in paragraph 8, the deponent begs to state that during the course of Departmental proceeding the deponent was not allowed to cross-examine the witnesses. So, the statement of cross-examination alongwith the DAR enquiry proceeding were not given to the deponent.

4. That in reply to the statement made in paragraphs - 12 and 13, the deponent begs to state that during the course of enquiry no opportunity was given to the deponent for cross-examination. When the deponent was not allowed to cross-examine the witnesses, it cannot be a fair enquiry

- 3 -

for reasonable opportunities. The enquiry was conducted as per the whims of the authority and not as per the procedure of enquiry laid down in the Departmental Inquiry Procedure. As such, the departmental enquiry was ~~initiated~~ for non-observing the rules.

5. That the statements made in paragraphs 1 to 4 are true to my knowledge and those made in paragraphs — being matters of record, which I believe to be true and the rest are my humble submissions before the Hon'ble Tribunal.

And I sign this Rejoinder on this the 19th day of Nov. 2004.

Identified by -

Advocate's clerk.

Mohendra Hazarika

D E P O N E N T.