

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Original Application No. _____

Misc. Petition No. _____

Contempt Petition No. 27/05 W.O.A. 66/04

Review Application No. _____

Applicant(S): Mahendra Hazarika

Respondant(S): K.K. Saxena IAS

Advocate for the Applicant(S): Mr. A. Rahman Md. Giasuddin, Ali
Dr. M.C. Sharma

Advocate for the Respondant(S): Chand (Railway Counsel)
M. Ahmed

Notes of the Registry

Date

Order of the Tribunal

This Contempt petition
has been filed by the
Counsel for the petitioner
u/s 17 of the CAT Act, 1985
and praying for punishment
for wilful deliberate
violation of the order
dated 17.5.2005 in
W.O.A. 66/04 passed by
this Honble Tribunal
and before the
Honble Court for further
orders.

6.10.2005

Heard Mr. A.M. Ahmed, learned counsel
for the applicant.

Issue notice to the respondents.
post on 21.11.2005.

Personal appearance of the alleged
contemners is dispensed with for the
time being.

Member

Vice-Chairman

bb

21.11.2005

Mr. Ali M. Ahmed, learned counsel
for the applicant is present. Mr. M.U.
Ahmed, learned Addl. C.G.S.C. has already

21.11.2005

Mr. Ali M. Ahmed, learned counsel
for the applicant is present. Dr. M.C.
Sharma, learned Railway counsel submits
that a counter affidavit is submitted
today. post before the next Division
Bench. Rejoinder, if any, in the meant-
ime.

Vice-Chairman

bb

Section Officer

Pl. copy order dated
6.10.05

7.10.05

Notice & order sent to
D/Section for issuing
to respondent by regd.
A/D post.

D/No-1485

DT- 12/10/05

2.1.06.

The counsel for the applicant is present. Dr.M.C.Sarma learned Railway counsel has filed a letter seeking for adjournment of cases to come after 9.1.06. Post the matter on 10.1.06.

Member

Vice-Chairman

lm

18-11-05

Notice duly served on Resp.

NO reply as well as appearance received so far.

10.01.2006

Ms. U. Das, learned Addl. C.G.S.C. on behalf of Mr. H. Rahman, learned counsel for the applicant seeks for short adjournment. Dr. M.C. Sarma, learned railway counsel also wants a short adjournment. Post on 10.02.2006.

22.11.05

W/s filed by the respondent.

mb

10.02.2006

Post on 06.03.2006.

Vice-Chairman

30/12/05

1. Reply has been filed by the Contemner.

2. No rejoinder filed.

06.03.2006

Post on 10.03.2006.

Vice-Chairman (J)

Vice-Chairman(A)

9-1-06

Reply filed by the Contemner.

10.3.2006

Adjournment is sought on behalf of the applicant. post on 30.3.2006.

Vice-Chairman(J)

Vice-Chairman(A)

bb

8-2-06

Reply filed by the Contemner.

29-3-06

W/s filed on behalf
of the respondents

Ray

Addl. written statement
has been filed on behalf
of the respondents

NS
26.4.06

30.03.2006

Learned counsel for the
respondents was represented. Post
~~on~~ before the next Division Bench.
Till then personal appearance ~~is~~
of the alleged contemnors is dispen-
sed with.

[Signature]

Vice-Chairman

mb

04.08.2006 Present: Hon'ble Sri K.V.
Sachidanandan, Vice-Chairman
Hon'ble Sri Gautam Ray,
Administrative Member.

Post on 07.08.2006.

[Signature]

[Signature]
Member

Vice-Chairman

mb

7.8.2006

This contempt petition has been
filed for initiation of contempt procee-
ding for non-compliance of the orders
of this Tribunal passed in O.A.66/04.
~~on~~ When the matter came up for hearing
Mr.H.Rahman, learned counsel for the
petitioner was represented and was
stated on his behalf that orders of the
Tribunal had already been complied with
and he is not pressing the C.P. Dr.M.
C.Sharma, learned Railway couns~~el~~ is
present for ~~the~~ alleged contemnors.

Recording the above submissions
the C.P. is closed as dismissed.

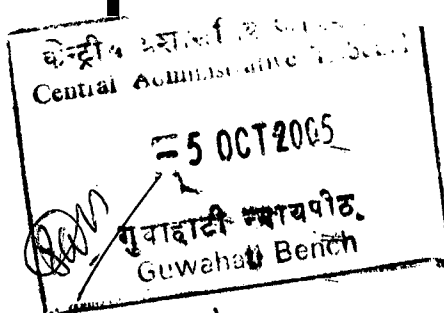
[Signature]
Member (A)

Vice-Chairman

bb

25.8.06

Copy of the order
handed over to the
A/Advocates for the
parties
etc



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI.

Filed by
Ati Mosha Ahmad, Adv.
4.10.05

Contempt Case No. 27 /2005
in Original Application No.66/04.

Mahendra Hazarika

... Applicant/petitioner

- Vs -

K.K. Saxena

Chief Operating Manager

N.F. Railway, Maligaon,

Guwahati - 11.

... Contemner/Respondent.

IN THE MATTER OF :

An Application under Section 17 of
the Central Administrative Tribunal's
Act, 1985

- A N D -

IN THE MATTER OF :

Wilful and deliberate violation of
the Order dated 17-05-2005 in
Original Application No.66/04

(Annexure - 1)

The humble petition of the above-named petitioner

MOST RESPECTFULLY SHEWETH :

1. That the applicant was initially appointed as
Assistant Station Master and thereafter, he was

promoted to the post of Station Master under N.F. Railway.

2. That your humble applicant begs to state that on 17-6-02, while he was working as Station Master at Dihakho Railway Station 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 due to the said accident. The applicant due to the aforesaid accident dated 17-6-02 was issued a memorandum of Charges on 5-9-02 by the Senior Divisional Operating Manager. After the completion of the Disciplinary Proceeding, your humble applicant was removed from service on 2-4-03 with immediate effect.

3. That your humble applicant begs to state that being aggrieved by the Order dated 2-4-03 passed by Senior Divisional Operation Manager, N.F. Railway, Lunding your humble petitioner approached this Hon'ble Tribunal by filing an application being Original Application No. 66/04 challenging the validity of the impugned Order dated 2-4-03 whereby the applicant was removed from service with immediate effect.

4. That the applicant begs to state that in the aforesaid application the Rule was issued on 17-3-04 *and its* Judgment was delivered by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati vide Order dated 17-5-05.

5. That the applicant begs to state that in the aforesaid application judgment was delivered in favour of the applicant and the Respondent No.2 was directed to pass a Speaking Order against the Appeal dated 11.9.03 filed by the applicant Mahendra Hazarika in accordance with law within a period of 3 months from the date of receipt of a copy of this Order. The respondents were also directed to give a personal hearing in case of the present applicant if, he so desires. The operative portion of the Order and Judgment dated 17-5-05 reads as follows :-

" 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.

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.

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

The aforesaid Order and Judgment dated 17-5-05 is annexed herewith as Annexure -1.

6. That the applicant begs to state that as per the order and judgment dated 17.5.05 the humble applicant has submitted an representation on 10-6-05 to the Chief Operating Manager, N.F. Railway, Maligaon, Guwahati along with the order of the certified copy dated 17.5.05 in O.A. No.66/04 by registered post. The respondents authority in spite of the order dated 17.5.05 is setting tight over the order dated 17.5.05 ; although there was a clear direction from the Hon'ble CAT to dispose of the appeal dated 11.9.03 filed by the applicant (which is pending before the Railway Authority) within 3 months from the date of receipt of the copy of this Order.

The copy of the representation dated 10.6.05 along with the postal receipt of the registered letter is enclosed herewith and marked as Annexures-II & III respectively.

7. That the applicant begs to state that the application submitted an representation on 10.6.05 and more than 3 months is over, but no action is initiated by the contemner to follow the judgment of the Hon'ble CAT. Such act of the respondent shows a clear disrespect of the Hon'ble CAT order and deliberate and wilful violation of order dated 17.5.05. The action of the respondent for

not implementing the order dated 17.5.05, shows gross negligences for which they are liable to be punished under Section 17 of the Central Administrative Tribunal Act, 1985.

8. That the petitioner begs to state that the respondents did not file any appeal against the Order of the Hon'ble CAT dated 17.5.05 ; which is a clear case of Contempt and therefore the Contemner may be punished under Section 17 of the Central Administrative Tribunal Act, 1985.

9. That the applicant begs to state that the non-implementation of the Order dtd. 17-5-05 is a clear case of Contempt. Furthermore, such acts of the respondents shows clear disrespect of the Hon'ble CAT's order for which the respondents are very much responsible and liable to be punished under Section 17 of the Central Administrative Tribunal Act, 1985. Moreover, the applicant is suffering from irreparable loss and injury for such wilful omission of the order dated 17-5-05 by the respondent authority.

10. That this petition is made bonafide and for the interest of justice.

It is, therefore, prayed before Your Lordship to admit this petition and show cause as to why a contempt proceeding under Section 17 of the Central Administrative Tribunal Act, 1985 should not be initiated and to punish the respondent/contemner for non-implementation of the order dtd. 17.5.05 and to pass any other order/orders as Your Lordship deem fit and proper.

And for this act of kindness your petitioner shall ever pray.

A F F I D A V I T

I, Sri Mahendra Hazarika, son of Late Bhogeswar Hazarika, aged about 57 years, resident of village - Puranimayi Satra, P.O. Bor Ahom Kathani, Dist. Jorhat, Assam, do hereby solemnly affirm and state as follows :-

1. That I am the petitioner in this instant petition and, as such, I am fully conversant with the facts and circumstances of the case.

2. That the statements made in this affidavit and in paragraphs 1, 2, 3, 4, 7, 8 and 9 of the accompanying petition are true to my knowledge, those made in paragraphs 5 and 6 being matters of record derived therefrom which I believe to be true are information, and the rest are my humble submissions before this Hon'ble Court.

And I sign this affidavit on this 4th day of ~~October~~ 2005 at Guwahati.

Identified by me :

Ali Mostafa Ahmed

Advocate 



DEPONENT.

- 7 -

SL No. 94

ANNEXURE - I

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 66 of 2003.

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

Advocate Mr S. Sarma and Ms B. Devi.

.....

O R D E R (ORAL)

*Certified to be true copy
At: Nagaon, Assam,
Adv.*

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 9.8.2003 (Annexure-5A). The applicant filed a further appeal [Review Appeal] dated 11.9.2003 (Annexure-6) before

J.V.

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.

AW



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.

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.

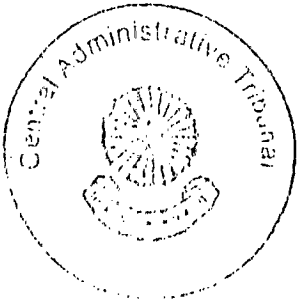
[Handwritten signature]

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.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (A)



Certified to be true copy
of the original

Certified to be true copy
Ali Nostafa Ahmed, Adv.

Section Officer (A)
C.A.T. GUWAHATI PANCH
Guwahati-781005

2/6/5

To,
The Chief Operating Manager,
N.F. Railway, Maligaon,
Guwahati.

Sub : Certified copy of the Order dated 17th May 2005 in
O.A. 66 of 2004.

Sir,

Most humbly and respectfully I beg to state the following few lines for your kind consideration and necessary action. That Sir, I was removed from service on 2/4/2003 in connection with an accident which took place on 17/6/2002 in between Dihakho-Mup Station in Lumding-Badarpur Hill Section. As against the removal Order, I filed my representation and appeal as I was not given fair opportunities to defend my case during the course of enquiry. The defence assistance was not provided to me, the witnesses were examined and cross-examined behind my back. I was removed from service on the basis of the said defect enquiries.

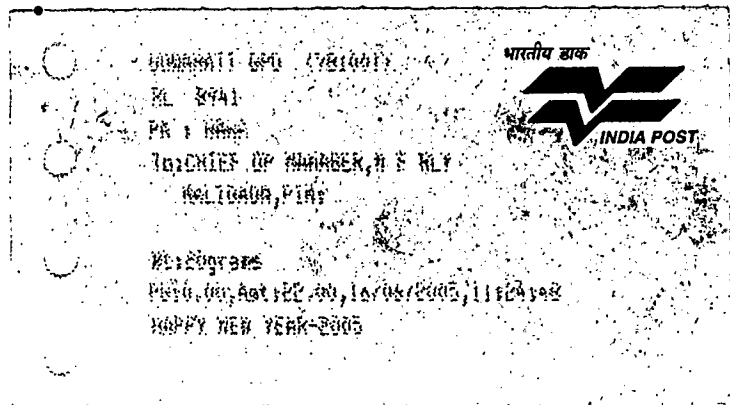
Finding no other alternative I filed an application in the Central Administrative Tribunal, Guwahati Bench at Guwahati. The case was registered as C.A. No. 66/2004. The Railway Authority as Respondent filed their written Statement. The case was heard by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati and the Order was passed on 17/5/2005 with a direction to your Honour to pass a Speaking Order on my appeal which is pending in your Office without any disposal. The Order may be passed within three months from the date of receipt of this Order. As per the Hon'ble Court's Order, a personal hearing may be given to me to highlight my grievances. I also request you to provide me an assistance as my legal representative on the day of personal hearing as per the Order of the Tribunal.

A certified copy of the Order is enclosed herewith for ready reference.

Yours faithfully,

Certified to be true copy
Ali Masraf Ahmed, Adv.

(Mohanendra Hazarika)
S/o Late Bhogswar Hazarika
Vill. Purnimatli Satra,
P.O. Bor-Ahom Kathani,
District - Jorhat, Assam.



Certified to be true copy
At Masripur, Asmid, Adv.

-13-

22 NOV 2005

গুৱাহাটী কেন্দ্রীয়
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

Filed by
Munir
21/11/05
DR. M. C. Samra
Adv. Advocate

IN THE MATTER OF

C.P.27/05 IN O.A.66/04

Shri Mahendra Hazarika ... Applicant

Versus

K.K.Saxena ... Respondent.

AND

IN THE MATTER OF

Written statement on behalf of the respondent.

The answering respondent most respectfully SHEWETH:

1. That the answering respondent begs to respectfully deny that at any stage there was any contempt of the Hon'ble Tribunal as the Hon'ble Tribunal's order dated 17.05.2005 in O.A.66 of 2004 was complied with in time both in letter and in spirit as would be clear from the submissions below:-

2. Parawise submissions:

2.1. That as regards paragraphs 1 to 6 of the petition the respondent has no remarks to offer except to respectfully state that the statements made therein are part of the record and that the applicant is put to a strict proof thereof.

2.2. That as regards paragraph 7, the respondent respectfully state that the respondent received the representation made by the applicant on the basis of the Hon'ble Tribunal's order dated 17.05.2005. After a careful examination of the record of the DAR case and the circumstances leading to his punishment, the respondent passed the following orders:

"I have gone through the file of papers pertaining to DAR case and I am of the opinion that adequate opportunity has been given to Sri Mahendra Hazarika to defend himself against the charge. The charges have been proved beyond a reasonable doubt. Since one person lost his life and several other persons got injured because of failure on part of Sri Hazarika to observe the rules, I am of the opinion that the punishment is commensurate with the gravity of offence, and no further revision is required at this stage."

A copy of letter No.T/2/12/02-03/LM dated 26.07.05 address by Sr.Divisional Operations Manager, N.F.Rly.LMG containing this order is annexed herewith and marked as ANNEXURE I.

....P. 2.....

Received Copy
Ali Mostafa Ahmed,
Adv.
21. 11. 2005

(2)

2.3. That as regards paragraphs 8 and 9, the respondent respectfully denies the allegation of contempt of the Hon'ble Tribunal's order and state that the applicant's appeal dated nil was received along with the copy of the Hon'ble Tribunal's order dated 17.05.2005 and after considering the records of the case passed his orders well within the period of three months of the passing of the orders on 17.05.2005. The said order was sent to the address of the last station where the applicant worked as he did not indicate an alternative address. However, his acknowledgment was obtained on 09.11.2005 with a special effort.

A copy of the acknowledgment of the letter is annexed herewith and marked as ANNEXURE II


2.4. Under the circumstances explained above and in view of the fact that the respondent has respectfully implemented the orders of the Hon'ble Tribunal well within the prescribed period it is humbly submitted that there was no contempt of the Hon'ble Tribunal at any stage of the proceedings of the case. The Hon'ble Tribunal is therefore respectfully urged to dismiss the contempt petition as the same is devoid of any cause of action.

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

VERIFICATION

I, Shri K.K. Saxena, son of Sri J.P. Saxena, aged about 53 years and at present working as Chief Operations Manager, N.F. Railway, do hereby solemnly affirm that the statements made in paragraphs 1 to 2.4 are true to the best of my knowledge and the rest are my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this the day of November, 2005 at Guwahati.


Signature 17/11/05
Chief Operations Manager
Designation
Guwahati-781011

14- Annexure-I
NORTHEAST FRONTIER RAILWAY

Divisional Office
Operations Branch
Lumding

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

Date:- 26.07.05

To,
Shri Mahendra Hazarika
ASM/DKE (Under order of removal)

Sub:- Appeal against the punishment order of Sr.DOM/LMG.
Ref:- DAR Case No. T/2/12/02-03/LM.

Your appeal against the punishment order of Sr.DOM/LMG was forwarded to COM & COM/NFR has passed the following orders:-

" I have gone through the file of papers pertaining to DAR case and I am of the opinion that adequate opportunity has been given to Sri Mahendra Hazarika to defend himself against the charge. The charges have been proved beyond a reasonable doubt. Since one person lost his life and several other persons got injured because of failure on part of Sri Hazarika, to observe the rules, I am of the opinion that the punishment is commensurate with the gravity of offence, and no further revision is required at this stage."

This is for your information.

Sr.Divl. Operations Manager
N. F. Railway, Lumding

Copy to:- DPO(IC)/N.F.Railway/Lumding for information and necessary action please.

Attested

17/5/05
Assistant Person (Legal Cell)
N.F. Railway, Maligaon,
Guwahati-11

ANNEXURE II

28/05 1999 00:12 FAX

ACKNOWLEDGEMENT RECEIPT

Please acknowledge the receipt of One Confidential Cover.
No. T/2/12/02-03/LM addressed to Shri Mahendra Hazarika,
Ex. SM/DKE from Sr. DOM/LMG.

(Office Seal)

Signature: [Signature]

Designation: [Designation]

Date: 09/05/05

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

26 APR 2006

गुवाहाटी न्यायपीठ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

IN THE MATTER OF

C.P.27/05 IN O.A.66/04

Shri Mahendra Hazarika ...

Applicant

Versus

Shri K.K.Saxena ...

Respondent

AND

IN THE MATTER OF

Additional Written Statement on behalf of the
Respondent.

The answering respondent begs most respectfully to seek the Hon'ble Tribunal's kind permission to submit this additional written statement in view of a material change in the status of the matter under consideration.

1. That the answering respondent begs to submit that in his written statement submitted before the Hon'ble Tribunal on 21.11.2005 it was stated that there was no case for contempt of the Hon'ble Tribunal as the order dated 17.05.2005 was complied with both in letter and in spirit well within the prescribed period.

2. That in order to afford to the applicant an opportunity of a personal hearing, the applicant was advised to appear before the respondent on 07.03.2006 in connection with his representation. However, as the applicant was not able to appear on that date, he was advised to appear on 10.03.2006.

3. That the applicant was given a patient hearing, during which he was allowed to speak freely of his grievances and on the basis of the facts emerging from the applicant's personal representation and based on a careful and detailed study of the disciplinary case the respondent considered it desirable to pass a revised order considering all aspects of the matter to meet the ends of justice. A copy of the order dated 30.03.2006 is submitted herewith as ANNEXURE A.

.... P.2.....

P.2.

4. That in view of the said order dated 31.03.2006 the respondent begs to submit that the Hon'ble Tribunal's order dated 17.05.2005 has been fully complied with and that there is no case for any contempt as alleged.

Under the circumstances the respondentx begs to submit that the Hon'ble Tribunal be pleased to dismiss the contempt petition for want of merit.

And the respondent petitioner shall as in duty bound ever pray.

....

VERIFICATION.

I, Shri K.K.Saxena, son of Sri J. P. Saxena. aged about 54 years and at present working as Chief Operating Manager, W.F.Railway, do hereby solemnly affirm that the statements made in paragraphs 1 to 4 are true to the best of my knowledge and the rest are my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this the day of April, 2006.

✓
K.K. Saxena
Signature

Chief Operations Manager
Designation
N.F. Ry. Maligaon
Guwahati-781011

Sub: Speaking order in compliance with the order dated 17.05.05 in OA No.66/2004 of Hon'ble Administrative Tribunal/Guwahati filed by Shri Mahendra Hazarika.

* * * *

I have gone through the order dated 17.05.05 in OA/66/2004 passed by the Hon'ble Administrative Tribunal, Guwahati bench. In compliance with the above order I have examined in detail the petition of the applicant. Also I have heard the applicant personally. While it is agreed that Motor Trolley entered the block section without proper authority on account of mistakes committed by SSE/W/Con/LMG, however this does not absolve Shri Mahindra Hazarika, for the mistake committed by him. Before granting the line clear to up Lumding Tank empty special, Shri Hazarika should have ascertained the location of the motor trolley. Had he taken precaution as mentioned above, the mishap could have certainly been avoided. He neither ascertained the availability of the Motor Trolley at his station nor ensured the arrival of the motor trolley at Mupa. This was a serious misconduct on his part.

2. In his petition Shri Hazarika has stated that he was not given the opportunity to cross-examine the prosecution witness. This is merely an after thought. He could have brought this fact to the notice of Enquiry Officer, during the course of enquiry itself and got it remedied at that time only. However, no such effort was made by Shri Hazarika during the enquiry.

3. I therefore impose the penalty of compulsory retirement on Shri M.Hazarika, Station Master/Dikaho, by reducing it from removal from service imposed earlier. This according to me, will meet the end of justice. He stands compulsorily retired from the service w.e.f. the date of imposition of earlier penalty.

COM/MLG