

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 290/2005

R.A/C.P No.....

E.P/M.A No.....

1. Orders Sheet OA-290/2005 Pg. 1 to 4
2. Judgment/Order dtd. 01/05/2007 Pg. 1 to 10 Dismissed
3. Judgment & Order dtd. Received from H.C/Supreme Court
4. O.A. 290/2005 Pg. 1 to 59
5. E.P/M.P. Pg. to
6. R.A/C.P. Pg. to
7. W.S. Pg. 1 to 7
8. Rejoinder Pg. to
9. Reply Pg. to
10. Any other Papers Pg. to
11. Memo of Appearance Pg. to
12. Additional Affidavit Pg. to
13. Written Arguments Pg. to
14. Amendment Reply by Respondents Pg. to
15. Amendment Reply filed by the Applicant Pg. to
16. Counter Reply Pg. to

SECTION OFFICER (Judl.)

(2)

FORM NO. @
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Original Application No. 290/05

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicant(s) N. L. Karn

Respondent(s) U.O. T 4003

Advocate for the Applicants Dr. B. U. Ahmed, R. Islam
S. Itwaseem

Advocate for the Respondent(s) Mr. M. C. Sarma Rly St. Counsel
SSC

Notes of the Registry	Date	Order of the Tribunal
1. The application is filed on 24.11.05. No. 290/05.	24.11.2005	Present: Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman. Heard Dr. B.U. Ahmed, learned counsel for the applicant and Dr. M.C. Sarma learned counsel for the respondents. The application is admitted. Issue notice to all the respondents. Post on 11.01.2006. Written statement, if any, in the meantime.
2. Steps taken: a) Please copy order dated 26.11.05. NB 26.11.05.	26.11.05	At the request of learned counsel for the Respondents four weeks time is granted to file written statement. Post the matter on 21.2.06.
3. Notice of order sent to D/Section Box issuing to GCSB Nos. 1 to 4 by regd. A/D post. D/No: 1653 to 1656 Dt: 5/12/05.	19.1.06	Vice-Chairman

Contd.....

Notice duly
Served on
resp. No. 2, 3 & 4.
by ~~MB~~ (LW)
19/12/05.

21.2.2006

Dr. M.C. Sharma, learned Railway

counsel ~~MB~~ submits that, he would
like to have some more time to file
reply statement. Let it be done.
Post on 22.3.2006.

Vice-Chairman

18-1-06

bb

① Notice duly served
on R.No. 2, 3 & 4.

22.3.06

Dr. M.C. Sharma learned Railway
counsel has some personal difficulty.
Post the matter on 27.4.06.

② No W.Ls have been
billed.

lm

Vice-Chairman

~~20-2-06~~

27.4.2006

Dr. M.C. Sharma, learned Railway
counsel wanted to have some more time
to file reply statement. Let it be
done. Post on 30.5.2006.

① Notice duly served
on R.No. 2, 3 & 4.

Vice-Chairman

② No W.Ls have been
billed.

bb

30.5.2006

Dr. M.C. Sharma, learned counsel
for the Railways requests for further
four weeks time to file reply statement
as a matter of last chance. Let it be
done as a last opportunity. Post the
matter on 30.6.2006.

My
21-3-06
No. W.Ls have been
billed

Vice-Chairman

bb

30.06.2006

Learned counsel for the respondents
wanted time to file reply state-
ment. Post on 14.07.2006.

26-4-06
29-5-06
No. W.Ls have been
billed

mb

Vice-Chairman

29-6-06
No. W.Ls have been
billed. My

← 3 →
O. A 290/05

Notes of the Registry	Date	Order of the Tribunal
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10.7.06 14.7.2006 Written statement has been filed.
W/S filed by the Respondents. Three weeks time is allowed to the applicant to file rejoinder, if any. Post on 10.8.2006. Respondents are also directed to be ready with the records by the next date.

Q/H


Vice-Chairman

W/S has been filed.

bb

By
13.7.06

10.8.2006

Being a disciplinary matter it requires elaborate hearing. Due to paucity of time case is adjourned. Post after a month.

Member
20.7.06

Q/H
Member (A)


Vice-Chairman

No Rejoinder has been filed.

bb

1-3-07

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

By
9.8.06.

Ce
Member


Vice-Chairman

pg

OA 290/05, 4-

1.5.07 Judgment delivered in open Court.

Kept in separate sheets. Application is
dismissed. No costs.

3.5.07

Received copy
of Judg D, 1.5.07.
Narayan Lal
Karn
315/07

lm

Vice-Chairman

Plm Recd.
Mew
on 05/07
Rly. Counsel.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

Original Application No.290 of 2005

DATE OF DECISION: 01.05.2007

Shri Narayan Lal Karn Applicant(s)

Dr B.U. Ahmed, Mr R. Islam and Mr S. Hussain Advocate(s) for the
applicant(s)

- Versus -

Union of India & Ors. Respondents

Dr M.C. Sarma, Railway Counsel Advocate(s) for the
Respondent(s)

CORAM:

THE HON'BLE SHRI K.V. SACHIDANANDAN, VICE CHAIRMAN
THE HON'BLE SMT CHITRA CHOPRA, ADMINISTRATIVE MEMBER

1. Whether reporters of local newspapers may be allowed to see the Judgment? Yes/No
2. Whether to be referred to the Reporter or not? Yes/No
3. Whether to be forwarded for including in the Digest Being compiled at Jodhpur Bench? Yes/No
4. Whether their Lordships wish to see the fair copy of the Judgment? Yes/No


Vice-Chairman

X

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.290 of 2005

Date of Order: This the 15 day of May, 2007

The Hon'ble Sri K.V. Sachidanandan, Vice-Chairman

The Hon'ble Smt Chitra Chopra, Administrative Member

Shri Narayan Lal Karn,
S/o Late Chaturbhuj Lal Karn,
Resident of Qr.No.DS-12/H, Railway Colony,
Kalibari, Guwahati Railway Station,
P.O. Panbazar, P.S. Panbazar,
Distt.- Kamrup, Assam.Applicant

By Advocate Dr B.U. Ahmed, Mr R. Islam
and Mr S. Hussain.

- versus -

1. The N.F. Railway, represented by the
General Manager,
N.F. Railway, Maligaon, Guwahati-11.
2. The Divisional Railway Manager,
North East Frontier Railway,
Lumding, Distt.- Nagaon, Assam.
3. The Senior Divisional Commercial Manager,
N.F. Railway, Lumding, Assam.
4. The Divisional Commercial Manager,
N.F. Railway, Lumding, Assam.Respondents

By Advocate Dr M.C. Sarma, Railway Counsel.

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L

ORDERK.V. SACHIDANANDAN (VICE-CHAIRMAN)

The applicant joined the service of the Railways as casual labourer in 1969 and after climbing the promotional ladder he was finally promoted to the grade of Senior Ticket Collector on 16.10.1992 and further upgraded to the post of Head Ticket Collector on 27.12.1993. According to the applicant he was falsely implicated in a 'Trap Case'. On the particular day i.e. 30.12.1996 the applicant was allotted duty at counter No.10 in the evening shift starting from 2-00 P.M. which included assisting passengers by providing current reservation as per availability according to chart of the trains and also to arrange retiring rooms for stranded passengers on realization of due charges. According to the averments, at about 4-00 P.M. on the particular day, the applicant was busy with the reservation chart of 5609 DN Avadh Assam Express when a person introducing himself as a member of the Zonal Railway Users and Consumers Committee (ZRUCC) sought an accommodation in the Air Conditioned retiring room of Guwahati Railway Station. The applicant issued a slip to the retiring room Care Taker, Shri R.S. Poddar for arranging accommodation of the said person in the A/C room and the applicant received Rs.73/- (Rupees seventy three only) through the Care Taker, Shri R.S. Poddar, in denominations of Rs.50/-, Rs.20/- and Rs.3/- against retiring room charges and snacks etc. The applicant received Rs.15/- as charge of berth from a Muzzaffarpur bound passenger and Rs.60/- from the ZRUCC member as retiring room charge. With the balance amount of Rs.13/- received from the ZRUCC member, the applicant was making arrangements for tea and snacks for the

ZRUCC member. The applicant was accosted by a Vigilance Team headed by one Shri D. Thakuria, Chief Vigilance Inspector and the applicant was imputed of receiving a bribe of Rs.13/-. The applicant was dragged off to a vacant retiring room and all records and cash were snatched away from the applicant including private cash and the amount of Rs.13/- received from the ZRUCC member for arranging tea and snacks.

2. By order dated 12.04.1999 one Shri K. Saha was appointed Inquiry Officer to enquire into the matter. The applicant was not given the list of witnesses but on 15.10.1998 the applicant was given a list of Documents only and for this reason the applicant could not defend himself properly at the time of evidence. Thereafter, one Shri A. Saikia was appointed as Inquiry Officer. The Inquiry Officer examined three officials as witnesses for the prosecution and based his findings on some records produced before him as documentary evidence by the Disciplinary Authority. The applicant was defended by a retired Railway Officer as defence counsel. On a culmination of the enquiry it is stated that the charges were proved and a penalty of reduction of rank was imposed on the applicant. The applicant filed an appeal before the Appellate Authority and the Appellate Authority after considering the entire case on a sympathetic ground reduced the penalty to NIP of reversion to the Junior Ticket Collector for one year by order dated 14.06.2005 (Annexure-11). Being aggrieved by the said orders the applicant has filed this O.A. seeking the following reliefs:

"(i) For setting aside and/or quashing the impugned order dated 16.09.04 and the appellate order dated 14.06.05 issued by the Disciplinary authority (Respondent No.4) and the appellate authority



(Respondent No.3) imposing and affirming the penalty of reduction of rank and reversion of the applicant to the lower grade/post of Junior Ticket Collector for a period of one year with cumulative effect fixing his scale at Rs.3950/- in the time scale of pay of Rs.3050/- to 4590/- with immediate effect.

(ii) For issuing the direction and passing appropriate orders to provide the entire service benefit of the applicant so long curtailed and held up by operation of the impugned order and all the other benefits consequential and incidental to the quashing of impugned orders."

3. The respondents have filed a detailed written statement contending that the application is devoid of any merit. The applicant was found to have charged an amount of Rs.65/- for a berth against Rs.15/- actually payable. A check of the applicant's private cash register also showed excess cash. On the basis of these allegations of corrupt practice involving innocent passengers the applicant was proceeded against after a proper departmental fact finding enquiry. However, a lenient punishment was awarded to the applicant in spite of the gravity of the offence. In the appeal stage also fairness and justice were ensured. The claim of the applicant that the amount of Rs.73/- was paid to the applicant by the ZRUCC member was not backed by any documentary or even oral evidence by the ZRUCC member and therefore no credence could be placed on the claim. Proper procedure was followed in the decoy check. On checking the cash produced by the applicant, G.C. notes were found mixed up with other cash with him. These notes were the ones handed over to the applicant by decoy, Shri P. Dasgupta. The applicant was found guilty of gross misdemeanor and corrupt practice for which the applicant



ought to have faced a severe punishment. The list of documents were sent with a memorandum of charges and these were also sent subsequently to the applicant on 15.10.1998 as admitted by the applicant. The first Inquiry Officer was transferred on administrative exigency and therefore a new Inquiry Officer was appointed to enquire into the matter. On the basis of the discussion of the evidence both documentary and oral adduced during enquiry the disciplinary authority was convinced of the misconduct of the applicant and accordingly imposed a penalty of reversion of the applicant to a lower post for one year with cumulative effect. Therefore, there is no ground for interference by this Tribunal and the O.A. is to be dismissed.

4. Heard Mr B.U. Ahmed, learned counsel for the applicant and Dr M.C. Sarma, learned Railway Counsel appearing on behalf of the respondents. The learned counsel for the parties have taken us to the various pleadings, evidence and materials placed on record.

5. The learned counsel for the applicant argued that the applicant has explained how the excess cash has got into his hands and the applicant has not indulged in any corrupt practice as alleged in the enquiry. The Inquiry Officer was biased and it was a precalculated move to victimize the applicant and therefore the O.A. has to be allowed.

6. The learned counsel for the respondents, on the other hand, persuasively argued that a ~~full~~ proof enquiry was conducted, reasonable opportunity was given to the applicant and the applicant was properly defended and a consistent finding was entered into by the Inquiry Officer, Disciplinary Authority and also the Appellate Authority. The applicant was guilty of corrupt practice and therefore



maximum lenient punishment was imposed on the applicant considering his retirement age. Otherwise the punishment would have been severe.

7. We have given due consideration to the arguments and materials placed on record. For better elucidation it is profitable to quote the memorandum of charges leveled against the applicant:

"ARTICLE-I"

That the said Shri Narayan Lal Karan while functioning as Hd. TC/Guwhati from _____
(here enter definite and distinct articles of the charges)

Shri N.L. Karan, Hd. TC/GHY while performing his duty at current counter No.10 at GHY station on 30.12.96 failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of a Railway servant in as much as he demanded and accepted Rs.65/- for issuing one berth reservation ticket No.027972 of 30.12.96 against berth No.8 in coach No.S/1 by 5609 Dn leaving GHY on 30.12.96 on PCT No.00060 (sleeper ME) Ex. GHY to MFP. The actual reservation in sleeper Class was Rs.15/-. But Shri Karan demanded and accepted Rs.66/- i.e. Rs.50/- excess than the actual reservation charges for his personal gain and consideration which tantamounts to serious misconduct and dereliction to duty.

ARTICLE-II

Shri N.L. Karan, Hd. TC/GHY while performing his duty as reservation Clerk at counter No.10 at GHY station on 30.12.96 failed to maintain absolute integrity and devotion to duty in as much as he possessed Rs.13/- excess than the total should be with him in course of his duty.

Thus by the above act Shri N.L. Karan, Hd. TC/GHY exhibited lack of integrity and devotion to duty and acted in a manner unbecoming of a Rly. Servant and thereby contravened rule No.3.1 (i) (ii) and (iii) of Rly. Services conduct rules- 1966.

Statement of imputation of misconduct or misbehaviour in support of the Article of charges framed against Shri N.L. Karan, Hd. TC/Guwhati."

8. The learned counsel for the respondents was good enough to produce the records pertaining to the enquiry and we have



carefully gone through the enquiry report. The issue involved in this case is that the applicant was found to have indulged in a corrupt practice of charging extra money in granting reservation to a sleeper berth in 5609 Avadh Assam Express leaving Guwahati on 30.12.1996 in a decoy check by the Railway's Vigilance team. The applicant was found to have charged Rs.65/- for a berth against Rs.15/- actually payable. A check of the applicant's private cash register also showed excess cash. On the basis of these allegations of corrupt practice involving innocent passengers the applicant was proceeded against after a proper departmental fact finding enquiry. On conclusion of the enquiry and after affording the applicant due and adequate opportunity to defend himself and in keeping with the norms of natural justice the Inquiry Officer, the Disciplinary Authority and the Appellate Authority found that the applicant had indulged in corrupt practice

9. On going through the entire records available meticulously, we find that the applicant was found to have taken from the decoy a sum of Rs.65/- in specially marked currency notes against the actual fare of Rs.15/- as reservation charge for a sleeper berth in the train concerned. It was found by the Vigilance team that the applicant demanded and received Rs.65/- for issuing reservation ticket No.027972 against berth No.8 in coach No.S/1 by 5609 Dn. Avadh Assam Express leaving Guwahati on 30.12.1996 as ticket No.00060 from Guwahati to Muzzafarpur. The actual reservation charge in sleeper class is Rs.15/- but the applicant demanded and accepted Rs.65/-, i.e. Rs.50/- in excess. A memorandum of charges was issued and an enquiry was conducted. The applicant was properly defended by a retired Railway employee and witnesses were cross

examined. We find that there was no violation of any natural justice in the procedure adopted by the respondents. It is also borne out that the story that has been cooked up by the applicant that cash was given by a ZRUCC member also fails and the applicant could not prove the same.

10. The learned counsel for the parties tried to take the evidence on record in detail. It is not a case of 'no evidence' but the applicant tendered certain explanation for the excess cash which was neither proved nor accepted by the Inquiry Officer.

11. At the very outset we want to make it clear that this court is not sitting as an appellate authority. The Hon'ble Supreme Court in a celebrated decision reported in 1994 (6) SCC 651, Tata Cellular Vs. Union of India and others has held that scope of judicial review lies on the decision making process and the merit of the decision itself is not reviewable as the court does not sit as an appellate authority while exercising power of review. What the court in such circumstances has to do is to evaluate as to whether the procedure and the action taken by the respondents are vitiated by arbitrariness, unfairness, illegality and irrationality. From the records we find that no such procedural lapses were committed by the respondents.

12. The learned counsel for the respondents has also taken our attention to Rule 2429 of the Indian Railway Commercial Manual and contended that the applicant has clearly violated the said rule and cash in excess of his private cash was found with him. Rule 2429 of IRCM is quoted below:

"2429. Keeping of private cash in station safe, etc., forbidden- (a) Private cash should not be kept in the railway cash chests, drawers, ticket tubes, cash safes, etc.

If any such amount or extra cash, whether stated to be private or otherwise, is found by the supervisory staff or inspecting officials, it should be remitted to the cash office.

"(b) The staff working in booking offices, parcels offices and goods sheds, whose duties actually involve cash transactions with the public, must declare in writing their private cash daily before they take up their duties in the station diary or in the cashbook or in a separate register to be maintained for this purpose. The specific categories of staff to whom these instructions apply, will be notified by the railway administrations concerned."

13. The learned counsel for the applicant, on the other hand, submitted that the punishment awarded is disproportionate to the gravity of the offence and also quoted certain decisions reported in AIR 1958 SC 300, Khem Chand Vs. Union of India and others; AIR 1971 SC 1447, K.R. Deb Vs. The Collector of Central Excise, Shillong; 1998 LAB. I. C. 2041, Lakhan Lal Sinha Vs. State of Bihar and others; 2003 SCC (L&S) 791, Union of India Vs. K.D. Pandey and another; 1995 (5) SLR 181, State Bank of India, Bhopal Vs. S.S. Kohal and argued that the Disciplinary Authority cannot direct a fresh enquiry to be conducted by some other officer and that the order of the Disciplinary Authority without discussing the report of the Inquiry Officer and without giving reason for disagreeing with the Inquiry Officer is illegal.

14. It appears that the second decision does not apply in this case since the earlier Inquiry Officer has been transferred and a fresh Inquiry Officer has been appointed to start with the enquiry. No prejudice, whatsoever has been caused to the applicant and the applicant fully cooperated with the enquiry proceedings. The other decisions regarding difference of opinion by the Disciplinary Authority

are not germane as far as the facts of the case are concerned. Therefore, these decisions are not applicable in this case.

15. The contention that the punishment awarded is disproportionate to the gravity of the offence cannot be accepted for the reason that a Government servant who commits corrupt practice should not be subjected to any sympathy, but it is borne out from the records and findings of the Appellate Authority and Disciplinary Authority that since the applicant is retiring soon a lenient view has been taken. Therefore, we are not inclined to interfere with the punishment awarded to the applicant.

16. In the conspectus of facts and circumstances of the case the applicant has not succeeded in bringing out a case for interference by this Tribunal and deserves to be dismissed. Accordingly the O.A. is dismissed.

No order as to costs.

Chitra Chopra
 (CHITRA CHOPRA)
 ADMINISTRATIVE MEMBER


 (K. V. SACHIDANANDAN)
 VICE-CHAIRMAN

nkm

Central Admin. Trib.

21 NOV 2005

গুৱাহাটী দ্বাৰাৰ্থৰ্পিত
Bench

THE CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH
AT GUWAHATI

O.A. NO. 290 / 2005

-BETWEEN -
Sri Narayan Lal Karn
-And-
Union of India and Others

SYNOPSIS

SLNo.	Fact	No. and date	Annexure	Page No.
1.	On 30-12-96 the applicant was made to declare his total cash in hand (both Government and private Cash)	Declaration slip dated 30-12-96 signed by the Applicant	Annexure- 1	18
2.	On 30-12-96 the Applicant was made to sign on a written Note called 'Post Check Memorandum' endorsed by three other persons.	Post- Check Memorandum dated 30-12-96 signed by the Applicant three and other persons	Annexure - 2	19- 20
3.	On 15-1-98 a Memorandum containing two article of charges along with statement of allegations was endorsed to the applicant asking him to show cause	Memo. containing Articles of Charges and Statement of Allegations dt.15-1-98	Annexure -3 & 3(a)	25-30
4.	On 28-10-98 applicant submitted his statement in defence.	Statement in Defence dt. 28-10-98	Annexure-4	31-33
5.	On 12-4-99 the Statement of defence submitted by the Applicant was rejected and the E.O was appointed.	Order rejecting statement in defence and order appointing the Enquiry Officer.	Annexure-5	34-35
6.	On 10-2-2000 one Mr. A. Saikia was appointed afresh as E.O.	Order appointing E.O. dt. 10-2-2000	Annexure -6	36
7.	On 26-11-2002 the Enquiry Report was prepared and on 26-12-2002 the same was endorsed to the Applicant.	Enquiry Report dt. 26-11-2002	Annexure-7	37- 45
8.	On 5-2-2003 the Applicant submits his representation against Enquiry Report	Representation dt. 5-2-2003.	Annexure - 8	46 - 52
9.	On 16-9-2004 punishment / penalty imposed by the Impugned Order.	Impugned order dated 16-9-2004	Annexure-9	53- 55
10.	On 10-12-2004 Statutory Appeal filed by the Applicant before Appellate Authority	Appeal dated 10-12-04	Annexure -10	56 -58
11.	On 14-6-2005 the statutory appeal was rejected.	Impugned order of the Appellate Authority dated 14-6-2005	Annexure-11	59

Filed by - *Raficul Islam*
(Raficul Islam, Advocate)

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Filed by the
applicant through
Petitioner/ Lawyer
several

Narayan Lal Karn

THE CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH
AT GUWAHATI

O.A. NO. 290 / 2005

-BETWEEN -

Sri Narayan Lal Karn

Son of Late Chaturbhuj Lal Karn

Resident of Qtr. No. DS-12/H, Railway Colony,
Kalibari, Guwahati Railway Station

P.O. Panbazar, P.S. Panbazar, Dist- Kamrup,
Assam

— APPLICANT —

-Versus-

1. The N.F. Railway, (Represented by the General Manager, N.F. Railway, Maligaon, Guwahati - 11.)
2. The ~~Divisional~~ Divisional Railway Manager, North East Frontier Railway, Lumding Dist- Nagaon, Assam.
3. The Senior Divisional Commercial Manager, N.F. Railway, Lumding Assam
4. The Divisional Commercial Manager N.F. Railway, Lumding, Assam

— RESPONDENTS —

DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE

1. Order dated 16-9-2004 passed by the Disciplinary Authority punishing the applicant and awarding penalty of reversion of Lower Post/ Grade as

Narayan Talukdar

Junior Ticket Collector for a period of one year with cumulative effect with fixing pay at the junior grade.

2. Order dated 14-6-2005 issued by the Appellate Authority in rejecting the Statutory Appeal of the applicant filed on 10-12-2004 against the order imposing punishment dt. 16-9-2004.

2. **JURISDICTION OF THE TRIBUNAL :**

The instant application challenges the imposition of penalty upon the Applicant in a disciplinary proceedings and this Hon'ble Tribunal has jurisdiction in this matter.

3. **LIMITATION :**

This application has been filed within the limitation period.

4. **FACTS OF THE CASE :**

4.1. That the applicant initially worked in the N.F. Railway as a casual labour for 9 years from July, 1969 to August, 1978. On 21-08-1978 he was given temporary status of Group 'D' Class- IV posts and appointed as Box Porter and posted at Chaparmukh under the Lumding Division of the N.F. Railway. Subsequently, he was promoted to the post of Points -Man Gr-'B' in the same Group -'D' Class -IV category on 21-02-79 and transferred to Guwahati. On his satisfactory services rendered to the Railways he was given promoted to the post of Points Man'A' on 16-11-81 at Guwahati. He then appear before the Selection Committee for promotion from Group -'D' Class- IV posts to Group-'C' Class- III posts and being selected was promoted to the post of Ticket Collector at Guwahati on 29-05-1984. In this Cadre again he was promoted to the grade of Senior Ticket Collector on 16-10-92 and then further upgraded to the post of Head Ticket Collector on 27-12-93 in which post he was last continuing before falsely implicated in a 'Trap Case' presented in the following paragraphs. The service antecedents of the Application are as follows :-

Sl. No.	Post	From	To	Class/ Grade
1	Engaged as Casual Labour	July, 1969	August, 1978	---
2.	Appointed as Box Poster	21-8-1978	February, 1979	IV Gr.D
3.	Appointed as Points -Man	16-11-1981	May, 1984	IV Gr. D
4.	Ticket Collector (On selection)	29-5-1984	Dec, 1992	III Gr.C
5.	Senior Ticket Collector	16-12-1992	Dec, 1993	III
6.	Head Ticket Collector	27-12-1993		III

4.2. That on 30-12-96 the applicant was allotted duty at counter No. 10 in the evening shift starting from 2.00 p.m. as Ticket Collector. The duty on that day included assisting passengers by providing current reservation as per availability according to chart of the trains. A part of his duty was also to see the difficulties of stranded passengers and arrange the retiring room for them realizing due charges.

4.3. That at about 4.00 p.m. on that day, i.e. on 30-12-96 as the Applicant was busy with the reservation chart of 5609 DN Avadh Assam Express, a person introducing himself as a member of the Zonal Railway Users and Consumers Committee (ZRUCC) sought his accommodation in the Air Conditioned retiring room of Guwahati Railway Station. Accordingly the Applicant issued a slip to the retiring room Care Taker Sri R.S. Poddar for arranging accommodation of the said person in A/C room. The said ZRUCC member was an important person having status of a V.I.P to the applicant and as he requested the applicant by giving Rs. 73/- (Rupees seventy three) through the said R.S. Poddar for arranging him tea and snacks, the Applicant received that amount from the Care Taker R.S. Poddar in denomination of Notes one 50/-, one 20/- and rupees 3/- as loose against the retiring room charges and snacks etc.

Narayan Lal Karm

4.4. That exactly at the same time, one Muzaffarpur bound passenger of sleeper Class in the 5609 Dn. Avadh Assam Express asked for a berth which the Applicant had provided on receipt of due charges after consulting the Chart. In exchange of a 50/- rupee note, the Applicant gave changes of five ten rupee notes to him. Thereafter however, he remained busy with other passengers and even forgot to send tea and snacks to the ZRUCC member in the A/C retiring Room. It is made clear that from the Muzaffarpur bound passenger the applicant received only Rs. 15/- as charge of the berth and from the ZRUCC member he received Rs. 60/- as charge of the Retiring Room and for the rest of the amount i.e. Rs. 13/- he was looking for the arrangement of tea and snacks for the said member. He did not demand or procure any extra money from them on any plea whatsoever and performed his duty faithfully. From the Muzaffarpur bound Passenger the Applicant received only Rs. 15/- as charge of the berth and that was the due charge for the berth.

4.5. That while he was completing the entries and recording the charges, and also at the same time looking ^{for} the scope to oblige the occupant of the Retiring Room (i.e. sending for tea and snacks) against the remaining amount of Rs. 13/-, he was accosted by a Vigilance Team headed by one Mr. D. Thakuria, Chief Vigilance Inspector. Mr. D. Thakuria, the said Chief Vigilance Inspector was unusually harsh to the applicant and on the imputation of receiving bribe of Rs. 13/- (i.e. Rs. 73/- - Rs. 60/-) dragged him to a vacant retiring room and snatched all records and cash from the Applicant including his private cash and also the amount of Rs. 13/- which was meant for the snacks and tea of the ZRUCC member. In this manner the applicant was stripped off the official cash and the records and Mr. Thakuria even obtained some initials and signatures of the Applicant on two Memorandum styled as "Post-Check Memorandum" and "Cash Check Memorandum" showing existence of Rs. 13/- in excess to his official and private cash. Exactly during the same time the Care Taker

Narayan Lal Karm

Narayan Lal Khan

of the A/C retiring room Mr. R.S. Poddar appeared in the scene and conveyed the displeasure of the ZRUCC member for not being provided with the tea and snacks against Rs. 13/- which the applicant was holding from him. At that disclosure the Chief Vigilance Inspector Mr. D. Thakuria got scared and gave back all the records and cash to the applicant for that day. The cash amounting to Rs. 807/- was also returned ^{and} Mr. D. Thakuria was disappointed and he retreated from his mission to falsely implicate the applicant. The applicant being released continued his duty and even arranged the tea and snacks to the retiring room passenger, i.e. the ZRUCC Member.

4.6. That on the next day i.e. on 31-12-96 by antedating the said two Memoranda, the aforementioned Chief Vigilance Inspector Mr. D. Thakuria enticed the accompanying R.P.F. personal in his office at Maligaon and set them to be witnesses against the applicant. But on the other hand, he kept private contact with the applicant with assurances that he would help the applicant in case of any eventual disciplinary proceedings. The applicant yet did not know that the said two memoranda with his signature would be used against him because on 30-12-96 no excess cash was found with him either as official cash or private cash except the amount of Rs. 13/- which was expended for the snacks and tea of the ZRUCC member accommodate in the A/C retiring room.

A copy cash of the cash declaration slip of the applicant dtd. 30-12-96 and Post Check Memorandum endorsed by Senior Vigilance Inspector Mr. B.K. Das, Mr. B. Aich, C.T.I. and the said Chief Vigilance Inspector Mr. D. Thakuria are annexed herewith as Annexures-1 and 2 respectively.

4.7. That on 02-02-98 a memorandum of Charges containing statement of allegations dt. 15-01-98 was served upon the applicant and he was asked to submit his defence statement against the charges levelled

against him with permission to take up assistance of a counsel. The memorandum containing Article of Charges was given under Rule – 9 of the Railway Servants (Discipline and Appeal)Rules 1968. A list of documents and a list of witnesses ^{stated to have been} were enclosed to the memorandum containing the Articles of Charges. The applicant was allowed defence counsel under Rule- 9(13) and infact he engaged a Railway Servant to assist him in the proceedings. The statement in defence against the Article of Charges was submitted before the disciplinary authority on 28-10-98 but by order dt. 12-04-99 it was rejected with an intimation to the applicant that the inquiry was proposed against him in the memorandum dt. 15-01-98 would be conducted on the allegations /charges. One Mr. K. Saha was appointed as Enquiry Officer to conduct the proceedings. The Applicant was not given the List of Witnesses but on 15-10-98 he was given a List of Documents only and for this reason he could not defend himself properly at the time of evidence.

A copy of the memorandum containing Articles of Charges, the statement in defence submitted by the applicant on 28-10-98 and the order rejecting the defence statement and appointing the Enquiry Officer issued on 12-04-99 are all annexed herewith as Annexure- 3 , 4 and 5 respectively.

A List of Documents furnished to the Applicant on 15-10-98 is annexed herewith as Annexure-3(a) of this Application

4.8. That by order dt. 12-04-99 (Annexure-5) Mr. K.Saha was appointed as Enquiry Officer under Rule -9(2) of the Railway Servants (discipline and Appeal) Rules, 1968, hereinafter referred to as 'The Rules'. But by another order dt. 10-02-2000 one Mr. A. Saikia was appointed as the Enquiry Officer.

24

A copy of the said order dated 10-2-2000 is annexed herewith as Annexure-6 of this application.

4.9. That in conduct of the proceedings the enquiry officer examined three officials as witness for the prosecution and based his findings on some records produced before him as documentary evidences by disciplinary authority and the case of the applicant was defended by a retired Railway Official as defence counsel. Two charges were framed against the applicant which were as follows :-

Charge – I : That the said Sri Narayan Lal Karan while functioning as Hd. TC/ Guwahati from _____
(here enter definite and distinct articles of charges)

Sri N.L. Karan, Hd. TC/Ghy while performing his duty at current counter No. 10 at CHY station on 30-12-96 failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of a Railway servant in as much as he demanded and accepted Rs. 65/- for issuing one berth reservation ticket No. 027972 of 30-12-96 against berth No. 8 in coach No. S/1 by 5609 Dn leaving GHY on 30-12-96 on PCT No. 00060 (sleeper ME) Ex. GHY to MFP. The actual reservation in sleeper Class was Rs. 15/- But Sri Karan demanded and accepted Rs. 65/- i.e. Rs. 50/- excess than the actual reservation charges for his personal gain and consideration which tantamounts to serious misconduct and dereliction to duty.

Charge –II: Shri N.L. Karan, HD. TC/GHY while performing his duty as reservation clerk at counter No. 10 at GHY station on 30-12-96 failed to maintain absolute integrity and devotion to duty in as much as he possessed Rs. 13/- excess than the total should be with him in course of his duty.

Thus by the above act Sri N.L. Karan Hd. TC/GHY exhibited lack of integrity and devotion to duty and acted in a manner

Narayan Lal Karan

25

unbecoming of a Rly. servant and thereby contravened rule No. 3.1 (1) (ii) and (iii) of Rly. Services Conduct rules 1966.

Statement of imputation of misconduct or mis-behaviour in support of the Article of charges framed against Sri. N.L. Karan, Hd.TC/Guwahati.

4.10. That the depositions of the official witnesses did not at all support the case of the authority that the applicant possessed Rs. 13/- in excess of the declared amount with him on 30-12-96. The whole story was presented in a very different manner before the enquiry officer by the prosecution and the records that were produced at the time of the conduct of the proceedings spoke of some other things very different and distinguishable from the incident of that day. The railway authority presented it as a "Trap Case" before the enquiry officer with the first charge of receipt of illegal gratification (bribe) of Rs. 50/- against issuing a berth to a passenger whereas the second charge was of accountability of Rs. 13/- found in excess with the applicant over the sum total of the Government Cash and Private Cash declared to be Rs. 807/-. Therefore, the two charges were mutually contradictory and inconclusive of any misconduct, and the witnesses also could not substantiate either of them. The depositions in the evidences of the prosecution witnesses indicated that the events were entirely modelled by the Chief Vigilance Inspector and the records indicated excess of Rs. 13/- with the applicant at that time which he properly explained in his defence statement submitted after charge. Besides, the vital witnesses were also not examined and the documents adduced for the railway authority were inconclusive of receipt of bribe of Rs. 50/-. The applicant craves the leave of this Hon'ble Tribunal to produce the depositions of the witnesses at the time of hearing of this case, when he will also make his submissions on the inconsistencies between different statements of the witnesses.

Narayan Lal Karan

4.11. That ultimately the enquiry officer prepared report on 26-11-2002 and the same was forwarded to the applicant by the disciplinary authority on 26-12-02 asking him to make representation thereon in writing within 15 days. Thereafter the applicant submitted his representation to the disciplinary authority on 05-02-03 against the said enquiry report pointing out the entire inconsistencies of the deposition of the witnesses and the observation made by the enquiry officer in different classes of enquiry report. Any way in the said representation the applicant petitioned before the disciplinary authority to exempt him of the charges because according to him these were not proved in course of the enquiry. It was specifically pointed out that the assessment of evidences by the enquiry officer could not lead to proving the charges and that the report was full of perversities. Very unfortunately, however, the tune with the findings of the enquiry officer, the disciplinary authority also held the charges to have been proved basing on the enquiry report and came to decide imposing the penalty of reduction of the rank of the applicant to a lower grade of service with commutative effect.

A copy of the enquiry report dt. 26-11-02 along with the forwarding dt. 26-12-02 and a copy of the representation of the applicant submitted to the disciplinary authority on 05-02-03 are annexed herewith as Annexure- 7 and 8.

4.12. That the penalty was imposed by the disciplinary authority on 16-09-04 and he was informed of the order imposing penalty and it was implemented with immediate effect and by operation thereof his future increment were postponed. Curiously enough, the disciplinary authority himself made an observation on the enquiry report that the evidences were shallow contradictory and inconclusive to prove the charges but unfortunately he imposed the penalty on the applicant despite reacting to such conclusions.

Narayan Lal Koirala

A copy of the impugned order of imposition of penalty punishment along with the observation of the disciplinary authority dt. 16-09-04 is annexed herewith as Annexure- 9 of this application.

4.13. That the applicant begs to state that he filed a statutory appeal before the Appellate Authority on 10-12-04 against the impugned order of the disciplinary authority imposing penalty dt. 16-09-04 but the same was rejected by the Appellate Authority on 14-06-05 and hence this application.

A copy of the statutory appeal dt. 10-12-04 and a copy of the order of the appellate authority dt. 14-06-05 are annexed herewith as Annexures- 10 and 11 respectively in this application.

5. GROUNDS FOR RELIEF SOUGHT FOR (With LEGAL Provisions)

5.1. ^{(a)and (b)} That under Rule 2429 of the Commercial Manual an Officer / Staff –member working in the Booking Officers, Parcel and Goodsheds whose duty actually involves cash transactions with public must declare in writing his private cash daily before he takes up the allotted duty / assignment in the Station Diary or in the Cash Book or in a Separate Registrar to be maintained for this purpose. Such specific categories of staff members/ employees of the Railways to whom these instructions apply are generally notified by the Railway Administration concerned. The applicant accordingly on 30-12-96 recorded his private cash as Rs. 147/- and for the transactions with the passengers on that day he had an amount of Rs. 660/- which was also recorded by him in the Cash Book of Counter No. 10. However, the total cash that were found with him that day was Rs. 820/- which was stated to be excess to the recorded cash by Rs. 13/- and the said excess of Rs. 13/- was duly explained in his statement –in-defence. Despite this clarity of the matter borne by the records the Railway

Narayan Lal Khan

Authority proposed to conduct the proceedings against him entirely on a different issue and as a result thereof he was prejudiced. The first charge was pertaining to acceptance of Rs. 50/- as bribe from a passenger (here the Decoy set by the Chief Vigilance Inspector) against the due charge of Rs. 13/- for a berth in coach No. S/1 of 5609 DN Adadh Assam Express. But the enquiry records do not support any acceptance of bribe of Rs. 50/- from any person because the amount that was found with him in excess was Rs. 13/- only for which he had his explanations. In other words one Article of charge contrast the other Article of charges and both are contrary to the records of the case. Therefore, the very foundation of the case for the basis thereof are conjectures and falsehood. The charges are also therefore vague and on such vague and mutually contradictory and inconsistent charges no such enquiry could be conducted. These shortcomings in the charges, which are incurable, renders the entire enquiry and the proceedings connected thereto void (Annexure- 1 and 2 referred to and emphasized).

5.2. That in the Memorandum containing Article of Charges, in Class -1 itself the authorities referred to a list of documents by which, and a list of witnesses by whom the articles of charges were proposed to be substantiated and the charges were sought to be proved in the proceedings. Those lists (list of documents and list of witnesses) were stated to have been annexed with the memorandum containing Article of Charges as Annexures- III and IV but no such list was supplied or furnished to the applicant which is an incurable defect sufficient to render the entire proceedings void. For non supply of the list of documents and list of witnesses the applicant's defence in the entire proceedings was jeopardise. It is most respectfully submitted that supply of the list of documents and list of witnesses before hand to be used to prove the facts in a prosecution or a domestic proceedings is a

must incompliance of the requirements of natural justice, but in the instant case since it was lacking, the entire proceedings is void in the eye of law. In all judicial or quasi judicial / disciplinary proceedings the non-supply of such list prior to framing of charges is an incurable defect and on this counts the present enquiry and the outcome thereof may also be held to be fatally defective in the eye of law.

5.3. The applicant begs to submit that none of the vital witnesses of the case such as the ZRUCC Member and the Caretaker of the A/C retiring room, namely, Mr. R.S. Poddar who were independent witnesses and from whom or through whom the excess amount of Rs. 13/- was retained by the applicant to provide tea and snacks was examined. The other interested witnesses produced by the authority before the enquiry officer were all partisan witnesses accompanying the Chief Vigilance Inspector and interested to trap the applicant by hook or by crook. Thus their statements were not required to be given full credence unilaterally by the enquiry officer but that was done to somehow react to the conclusion that the applicant was guilty of misconduct. The case of the prosecution also suffers from insufficiency of evidence and therefore the impugned orders are liable to be quashed or set aside.

5.4. That the applicant begs to state that the prosecution failed to produce even the witnesses who were present in the incident. The following witnesses were produced and examined by the prosecution –

- (i) P.W.1 — Sri P. Dasgupta, Decoy
- (ii) C.W.1 — Sri B. Aieh, Sr. CTI
(Court witness)
- (iii) C.W. 2 — Sri D. Thakuria, CVI
(Court witness)

Narayan Lal Karm

In the depositions of the prosecution witness (PW-1) Sr. P. Dasgupta who was used as the decoy in 'Trapping' the applicant, he stated that his statement and statement of P.W.2 were recorded by the Chief Vigilance Inspector (CVI) i.e. the abovenamed CW-2 on the next day, i.e. on 31-12-96. In cross he had also stated that he could not recollect the amount stated to be paid to the applicant for the berth. To a further cross question about the amounts exchanged he failed to recollect and then on emphasis about the date he reiterated that his own statements were recorded on 31-12-96. Therefore, from this deposition read with Annexure- 2 it would be evident that the Chief Vigilance Inspector, i.e. the C.W. -2, Mr. D. Thakuria cooked up the story on the next day and manufactured the documents to implicate the applicant. The evidence of this P.W. is not corroborative to the fact of demanding and accepting bribe from him by the applicant. This is mutually in contrast to the deposition of the C.W.2, i.e. Mr. D. Thakuria, Chief Vigilance Inspector on whose settings and initiatives the enquiry was conducted against the applicant. Therefore, the reliance placed by the enquiry officer on this type of oral evidences cannot be sustained as these are full of perversities. As such the conclusion that the charges were proved must fall.

5.5. That the applicant begs to state that since in the observations of the disciplinary authority appended to the impugned order imposing penalty dated 16-09-04 (Annexure -9) it is express and apparent that the statements of the vital witnesses of P.W. 1 are unreliable and shallow besides being mutually contradictory and inconclusive, it could not lead to prove the charges and yet the applicant was punished by the impugned order. As such the impugned orders are liable to be quashed.

5.6. For that the records of the case would go to show that there was a conspiracy in targeting the applicant hatched out by the Chief

Narayan Lal Karm

Vigilance Inspector, Mr. D. Thakuria for victimising him in the name of having excess money by Rs. 15/. The records will further show that the said Mr. Thakuria was bent upon the applicant and he prepared the entire records of the case on 31-12-96 in his Chamber on a cooked up story and submitted the same to the Railway authority for initiating proceedings and in doing so he had harnessed the help co-operation and involvement of other witnesses in a deceitful manner by misusing his office. The applicant vehemently reacted to such a design of the said CVI and even stated in all his defence statement and representations that he was put to threat by the vigilance team for obtaining his signature and that there was no indication in any of the records of his demand and receipt of Rs. 50/- from the decoy posted as the Muzaffarpur bound passenger on that day. Unfortunately none of his statements were considered and the punishment was imposed in a most cavalier fashion. The entire exercise was malafide and therefore the same cannot be approved by this Hon'ble Tribunal.

5.7. For that the statement of allegations and imputations in the case would not constitute any misconduct either for the alleged receipt of Rs. 50/- or having an excess of Rs. 13/- as cash –in-hand beyond personal cash. The applicant all along admitted having Rs. 13 in hand beyond the recorded cash (Government as well as private) and even explained the context and reason for having such excess but these were not believed or sought to be proved to the contrary either. The independent witnesses vital to the proceedings who were very much connected to the explanation advance by the applicant were not examined and that was deliberate. It was imperative upon the authorities to have called on or produced and examined the ZRUCC member and the said care-taker of the A/C retiring room from and through whom he had received this amount but that was not done despite the request of the applicant all along. Therefore, the insufficiency of

32
Narayanan Lakshmi

evidence against, and the unilateral or forceable proving of the charges render the proceedings void. None of the two charges could be proved conclusively by the gamut of evidences produced and harnessed by the prosecution. There was preponderance of evidences and yet the charges were wrongly said to have been proved. On this counts alone the proceedings must fall.

5.8. For that under the Railway Board's Regulations and Guidelines the proceedings must have been completed within certain time period preferably within a year but in all stages of the proceedings there were inordinate delay and from this standpoint also it is violative of provisions governing such proceedings, besides the punishment imposed was also disproportionate which altogether nullifies the legal validity of impugned orders.

5.9. For that in any view of the matter the impugned order is liable to be set aside and/or quashed.

6. DETAILS OF REMEDIES EXHAUSTED :

That the applicant filed a statutory appeal on 10-12-04 before the appellate authority but the same was rejected on 14-06-05 and hence this application.

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

The applicant begs to state that he has not filed any case in any other court and there is no proceedings currently pending in any other forum of law.

8. RELIEF SOUGHT FOR :

The applicant prays for the following relief :-

(i) For setting aside and /or quashing the impugned order dated 16-09-04 and the appellate order dated 14-06-05 issued by the Disciplinary authority (Respondent No. 4) and the appellate authority (Respondent No. 3) imposing and affirming the penalty of reduction

Narayan Lal Khan

of rank and reversion of the applicant to the lower grade/ post of Junior Ticket Collector for a period of one year with cumulative effect fixing his scale at Rs. 3950/- in the time scale of pay of Rs. 3050/- to 4590/- with immediate effect.

- (ii) For issuing the direction and passing appropriate orders to provide the entire service benefit of the applicant so long curtailed and held up by operation of the impugned order and all the other benefits consequential and incidental to the quashing of impugned orders;
- (iii) To pass any such other or further orders as may be deemed fit and proper in the interest of justice;
- (iv) To stay the operation of the impugned order during pendency of this application;

9. PARTICULARS OF THE I.P.O.

- (I) I.P.O. NO. 26 Cr 31 8955
- (II) DATE : 8/11/05.
- (III) PAYABLE AT : GUWAHATI

10. LIST OF ENCLOSURES :

1. IPO No. 26 Cr 31 8955	dated 8/11/05.....	
2. Declaration slip dated 30-12-96 signed by the Applicant		Annexure- 1
3. Post- Check Memorandum dated 30-12-96 signed by the Applicant three and other persons		Annexure - 2
4. Memo. containing Articles of Charges and Statement of Allegations dt. 15-1-98		Annexure -3
5. Statement in Defence dt. 28-10-98		Annexure-4
6. Order rejecting statement in defence and order appointing the Enquiry Officer.		Annexure-5
7. Order appointing E.O: dt. 10-2-2000		Annexure -6
8. Enquiry Report dt. 26-11-2002		Annexure-7
9. Representation dt. 5-2-2003.		Annexure -8
10. Impugned order dated 16-9-2004		Annexure-9
11. Appeal dated 10-12-04		Annexure -10
12. Impugned order of the Appellate Authority dated 14-6-2005		Annexure-11

VERIFICATION

I, Sri Narayan Lal Karn, son of Son of Late Chaturbhuj Lal Karn, resident of Qtr. No. DS-12/H, Railway Colony, Kalibari, Guwahati Railway Station, P.O. Panbazar, P.S. Panbazar, Dist- Kamrup, Assam do hereby verify that the contents of this application from paragraphs No, 1, 2, 3, 4, 5, 6, 7, 8 to 9 are true to my knowledge and I have noting to suppressed any material facts in the filing this application in this Tribunal.

I sign this verification on this 21st day of November, 2005 at Guwahati.

Narayan Lal Karn

(Narayan Lal Karn)

(TYPED COPY)

*Prepared
Memorandum* 35

ANNEXURE-1

CASH DECLARATION SLIP OF SRI N.L. KARN, Hd. TC/Ghy on 30-12-96

Govt. Cash as per R.T. Book - Rs. 660.00

Private Cash declared - Rs. 147.00

Total - Rs. 807.00

Total cash found in possession 820.00

Particulars of G.C. notes possessed -

1. Two hundred rupee notes bearing nos. - 4SK258660, 9CE172856.

2. Eight fifty rupee G.C. notes bearing nos.

AG 485594, OHE 361084, 6 KP 797725, 8KH917356, 8 HK 255408,
5RF077046, 2WP818325, 4KV309608.

3. One twenty rupee note bearing no. 070666907.

4. Eighteen Ten rupee G.C. notes bearing nos.

79E471377, 00C196337, 93V849292, 18Q770214, 90H319054,
80G155398, 96Q161701, 06R504524, 78E866150, 88K502492,
88K502493, 88K502494, 88K502495, 88K502496, 88K502497,
88K502498, 88K502499, 88K502500.

5. Four five rupee G.C. notes bearing nos.

85M601402, 23T590797, 20M282306, 16P831436.

Sd. Narayan Lal Karn

HDTG /Ghy

Certified to be true Copy

30-12-96

[Signature]
Advocate,

Date :

POST-CHECK MEMORANDUM

36

On receipt of a source of information that the TCS of Guwahati Station while at reservation counter is demanding and accepting excess amount than the actual while issuing RT for long distance stations. To apprehend the staff who is indulging in said practise, a Decoy Check up conducted at current counter (No. 10) on 30-12-96 and in course of check Sri N.L. Karn Hd. T.C. /Ghy' was apprehended after demanding and accepting a sum of Rs. 50/- excess while issuing R.T. No. 02797 dt. 30-12-96 for Rs. 15/- for one berth (B/No. 8) in S/I by 5609 Dn leaving Guwahati on 30-12-96 on TCT No. (SLP) 00060II M(E) ex Ghy BG to MFP. While issuing the said RT Sri Karn demanded and accepted Rs. 65/- from Sri P. Dasgupta who acted as Decoy in presence of Sri H.N. Roy on independent witness.

Before conducting the check, a pre-check memorandum was drawn depicting the GC Notes bearing Nos. as following :-

- (a) Nine (09) fifty rupees notes bearing nos. -
4SV888240, 4PG294514, 3QN963615, 6AG485594, 2HM553131,
3WQ932419, 4EB96014, 7RB986992, OFU551028.
- (b) Four (04) ten rupee notes bearing nos. -
UE471377, 49K816987, 88A489478, 95V816245
- (C) One (01) five rupee notes bearing no. -85M601402
- (D) Two (02) two rupee notes bearing nos. 89C401766, 50E697248
- (E) One (01) one rupee notes bearing no - 30D465138

Sri P. Dasgupta, the decoy approached Sri Karn on duty reservation clerk at current counter No. 10 to reserved one berth in 5609 Dn of 30-12-96 Ex G/M to MFP. Sri Karn issued a memo to CCC B/Ghy to issue one SLP ticket ex Ghy to MFP by 5609 DN of 30-12-96 indicating thereon S-1 and B/ 25.

Sri Dasgupta on this slip got the ticket and handed over to Sri Karn. Sri Karn demande Rs. 65/- from Sri Dasgupta and the latter handed over to the former Rs. 65/- from the GC notes, the numbers of which were recorded in the pre-check memorandum drawn prior to check. Sri Karn issued berth reservation ticket No. 02769 dt. 30-12-96 for one berth (B/No.06) in S/I by 5609 DN leaving Guwahati on 30-12-96 from Ghy to MFP on PCT (Slip) No. 00060 dt. 3012-96 and made over to the decoy. As soon as the transaction was over, the independent witness informed the vigilance team and the Vigilance Team entered to TC Office at current counter No. 10 to verify the actual fare of RT and asked on-duty reservation clerk Sri Karn regarding the actual fare of reservation. Sri Karn replied that the fare for RT is Rs. 15/- . Immediately asked to produce his private cash with P/Cash registered. He produced

Certified to be true Copy

[Signature]

Arinachal

Date :

Rs. 820.00 as his private cash and Govt. Cash (both cash was mixed up) but as per P/cash registered he had declared Rs. 147/- as his private cash. he was further asked to produce Govt. cash for which he stated that the Govt. Cash and private cash was mixed up. He was then asked to close the RT Book and as per RT Book Govt. cash was Rs. 660/-

The particulars of G.C. Notes produced by Sri Karn is attached herewith as Annexure- A. From the particulars of GC notes it is seen that the G.C. notes No. 6AG485594- one 50/- rupee note 79E471377, one 10/- rupee note No. 85M601402, one five rupee note were found mixed up with the cash produced by Sri Karn for verification and which were handed over by Sri Dasgupta to Sri Karn at the time of reserving berth.

On verification of RT Book it was noticed that Sri Karn had issued RT No. from 027962 to 027972 for Rs. 660/- and for all this transactions made during his duty hours (upto detection by Vigilance) cash produced by Sri Karn was Rs. 820.00 of which Govt. cash was Rs. 660/- private cash as per declaration was Rs. 147 and Rs. 13.00 was excess.

From the above fact it is evident that Sri Karn demanded Rs. 65/- agaoinst the actual fare for R.T (No. 027972) Rs. 15/- . The said RT along with PCT (No. 00060) and GC notes No. 6AG485594, 79E471377, 85M601402 were taken over by Vigilance since the nos. of all the GC notes exactly tallied with the nos. GC notes entered in the pre-check memorandum drawn prior to check. After taking over the said G.C. notes for Rs. 65/- another 65/- was given to Sri Karn to make good of his cash.

The pre-check memorandum was shown to Sri Karn while taking over the GC notes for Rs. 65/- which numbers were recorded in the pre-check memorandum drawn prior to check.

The RT No. 027972, PCT No. 00060 and GC Notes No. 6AG485594, 79E471377, 85M601402 were kept in a cover and sealed in presence of the following officials. The checking and recovery was also done in presence of them.

Sd/ N.L. Karn
HD TC/ GHY
Working at Current
Counter No. 10, Guwahati

Sd/ -B.K. Das
Sr. VI (T)

Sd/ B. K. Das
Sr. V.I. (T)

Sd/ B. Aich
CTI/ Ghy
B/C

Original *[Signature]* Copy
[Signature]
Date:

Cash declared in ship of
N. L. Karan H.d.T 4 G.H.Y (on 30.12.36.

Govt Cash as per F.T. Book = Rs. 660.00
Private Cash declared = Rs. 147.00
Total = Rs. 807.00

Total Cash found in possession of

Rs. 820.00

Particulars of 6.c. notes possessed.

- ① Two hundred rupee notes bearing nos.
45K 258660, 9CE 172856
- ② Eight fifty rupee 6.c. notes bearing nos.
46 485594, 0HE 361084, 6KP 797725, 8KH 917356
5HK 255408, 5RF 077046, 2WP 818325, 4KV 309608
- ③ One twenty rupee note bearing no:
070 666907,
- ④ Eighteen ten rupee 6.c. notes bearing nos.
79E 471377, 00C 196337, 93V 849292, 18Q 770214,
90H 319054, 80G 155398, 96Q 161701, 06R 504524,
78E 866150, 88K 502492, 88K 502493, 88K 502494,
88K 502495, 88K 502496, 88K 502497, 88K 502498
88K 502499, 88K 502500.
- ⑤ Four five rupee 6.c. notes bearing nos.
85M 601402, 23T 590797, 20M 282306, 16P 831436.

Enclosed:

18/12/36
AC

10

1. A. (A) 1/12/36
2. D.T. (G.M.L.)
3. C/12/196

Copy

26/12/36

cc
Date:

Post - check Memorandum 39

On receipt of a source information that T-2s of G/HY 971 which observation counter is being impersonated except current. It can be due to impersonation. To nullifying RT for long distance stations. To apprehend the staff who is indulging in said practice, a security check was conducted at current counter (No-10) on 30/12/96 and in course of check G/HY 971 was apprehended after demanding and accepting a sum of Rs 50/- each. nullifying RT No 027972 of 30/12/96 for Rs 15/- for one month (B/170-8) in S/I by 560 pm leaving G/HY on 30/12/96 on PCT No (S/L) 00060 (M/LPT) ex G/HY B/1 to MFP. nullifying the said RT in G/HY 971 demanded and accepted Rs 65/- from P. Banerjee who acted as security in presence of H.N. Roy an independent witness.

Before conducting the check, a pre-check memorandum was drawn depicting the G.C.M.A.S. items, as follows -

- (a) Nine (09) fifty - rupee notes having nos -
45V868240, 4PG12911514, 3QN963615, 6AG1
485594, 2HM553131, 3WQ932419, 4EB96014;
7RB986992, OFU 551028
- (b) Four (04) ten - rupee notes having nos -
7DE 971377, 49K 816987, 88A 489478
95V 816245,
- (c) One (01) five - rupee note having no -
85M 601402
- (d) Two (02) two - rupee notes having nos -
① 89 401766, 50E 697248
② 89 465138
- (e) One (01) one - rupee note having no -

11/12/97
Q/HY
15/12/97
Certified to be true copy
Advocate,
Date:

On P. Banerjee, the body approached in G/HY 971 for duty re-conviction date at current counter to receive one month in 560 pm of 30/12/96 ex G/HY to MFP. In G/HY 971 issued a memo to rec P/4/HY to issue one gap ticket ex G/HY to MFP in 560 pm of 30/12/96 indicating there are S-1 and S-25. In P. Banerjee on this slip got the ticket and handed over to G/HY 971. G/HY 971 demanded Rs 65/- from P. Banerjee and in return handed over the previous Rs 65/- from the G/HY 971. The amount of which was recorded in the

-2-

Pre-brief memorandum drawn prior to check. Sri Karan issued. Serial number 1027960 of 20/11/96 for our berth (B/10-08) in S/I by 56000 on leaving on 20/11/96 from ATM to MPP on PCT (sup) 110 00060 130/1/1 and make over to the diary. As soon as the transaction was over, the independent auditor informed the vigilance team and the vigilance team entered the RT office at current counter No-10 to verify the actual fare of RT and asked on duty reservation clerk Sri Karan about the actual fare of reservation. Sri Karan replied that the fare for RT is Rs 15/- Immediately he was asked to produce his private cash with P/Cash Receipts. He produced Rs 830/- in his private cash and Govt cash (both cash was mixed up) but on his P/Cash Receipts he had declared Rs 147/- in his private cash.

He was further asked to produce Govt cash for which he stated that all Govt cash and private cash was mixed up. He was then asked to close the RT book and after RT book Govt cash was Rs 660/-

The particulars of G.C. was produced by Sri Karan is attached herewith as Annexure 'A', from the particulars of G.C. after it is seen that G.C. number NO 6167 485594 - our fifty-rupie note, 79E 471377 our ten rupee note and 85M 601402 our five rupee note were found mixed up with the cash produced by Sri Karan for verification and which were handed over by Sri Dasgupta to Sri Karan at the time of reserving berth.

On verification of RT book it was noticed that Sri Karan had issued RT No from 027962 to 027972 for Rs 660/- and for all the transaction made during the duty hours (which detection by Vigilance) cash produced by Sri Karan was Rs 830/- of which Govt cash was Rs 660/-, private cash on P/Cash Receipts declaration was Rs 147/- and Rs 13. was excess.

From the above fact it is evident that Sri Karan demanded to accept Rs 65/- against the actual fare for RT (Rs 027972) Rs 15/-, the said RT along with PCT (110-00060) and G.C. No 6167 485594, 79E 471377, 85M 601402 were taken away by Vigilance since 15/11/96

660/-
147/-
830/-

830/-
13/-

110-00060

15/11/96

In number of slips G.C. notes exactly tallied with the nos of G.C. notes contained in pre-check memorandum drawn from to check after totaling over the said G.C. notes for Rs 65/- another Rs 65/- was given to Giri Kumar to make good of his cash.

The pre-check memorandum is shown to Giri Kumar with taking over the G.C. notes for Rs 65/- which numbers were recorded in the pre-check memorandum drawn from to check.

No. RT NO 027972, PCT NO 00060 and G.C. notes no 6A61485594, 79E 47/3ii/ 85 M 601402 were kept in a cover and sealed in presence of the following officials. The checking and necessary was also done in presence of them.

(N. L. Kumar)

HOTC/6th

W.M.C. at current
Counter No 10 at
6th

(B. Ach)

C79/4th

B/C

(D. Mukundan)
C/1/T

(B. K. Dan)

SVI(T)

affidavt

18/10/57

-25-

STANDARD FORM NO.5.

STANDARD FORM FOR CHARGE SHEET.

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

No. C/Con/LM/Misc/93 (NLK-HTC-GIY) Dated 15/01/83.

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

Place of issue DRM(C)/LMG's office.

M E M O R A N D U M.

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

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

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

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

(Contd....2).

Certified to be true Copy
*[Signature]*Annexure
Date:

3. Shri N.L.Karan, is informed that an enquiry will be held only in respect of these articles of charges are not admitted. He should, therefore, specifically admit or deny each articles of charge.

4. Shri N.L.Karan, 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 Enquiring authority or otherwise fails or refuse to comply with the provisions of rules-9 of the Railway servant (Discipline and Appeal) Rules, 1963 on the orders/direction issued in pursuance of the said rules, the enquiring authority may hold the enquiry ex parte.

5. The attention of Shri N.L.Karan, is invited to Rule-20 of the Railway Servants (Conduct) Rules 1963, under which no Railway servant shall bring or attempt to bring any political or to their influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Shri N.L.Karan, is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule-9 of the Railway services Conduct Rules-19630.

6. The receipt of this Memorandum may be acknowledged.

Encr:- 4 (four)

B/1/6464/ and the name of the President (S. K. Karan)

Signature.

Name and Designation of the Competent Authority

N. P. Railway/Lumding

To Shri Narayan Lal Karan, Hd. TG/GHY

..... Through : SS/GHY

(Designation & place)

Copy to Shri (Name & Designation of the lending authority) for information.
Strike out whichever is not applicable.

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

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

Whereas the President is the Disciplinary authority.

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

N.F.Railway.

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

Annexure - I.

Statement of Articles of the charges framed against
Shri Narayan Lal Karan, Hd. TC/GHY (Name and designation of the
Railway staff).

ARTICLE I.

That the said Shri Narayan Lal Karan while functioning
as Hd. TC/Guahati from _____
(here enter definite and distinct articles of the charges)

Shri N.L.Karan, Hd. TC/GHY while performing his duty
at current counter No.10 at GHY station on 30-12-96 failed
to maintain absolute integrity and devotion to duty and
acted in a manner unbecoming of a Railway servant in as
much as he demanded and accepted Rs.65/- for issuing one
berth reservation ticket No.027972 of 30-12-96 against
berth No.8 in coach No.S/1 by 5609 Dn leaving GHY on
30-12-96 on PCT No.00060 (sleeper ME) Ex.GHY to MFP. The
actual reservation in sleeper Class was Rs. 15/- But Shri
Karan demanded and accepted Rs. 65/- i.e. Rs.50/- excess
than the actual reservation charges for his personal gain
and consideration which tantamounts to serious misconduct
and dereliction to duty.

ARTICLE II.

Shri N.L.Karan, Hd. TC/GHY while performing his
duty as reservation Clerk at counter No.10 at GHY station
on 30-12-96 failed to maintain absolute integrity and
devotion to duty in as much as he possessed Rs.13/- excess
than the total should be with him in course of his duty.

Thus by the above act Shri N.L.Karan, Hd. TC/GHY
exhibited lack of integrity and devotion to duty and acted
in a manner unbecoming of a Rly.servant and thereby contravened
rule No.3.1 (i) (ii) and (iii) of Rly.services conduct rules-
1966.

Statement of imputation of misconduct or
mis-behaviour in support of the Article of charges
framed against Shri N.L.Karan, Hd. TC/Guahati.

.....

ARTICLE - I Annexure-II.

On getting source information it revealed that
TCs working at reservation counter at GHY station are in
habit of demanding and accepting excess money while granting
reservation. A Decey check was conducted at current counter
No.10 at GHY station on 30-12-96 to apprehend the corrupt staff.

Before conducting a pre-check memorandum was drawn
depicting the G.C.notes bearing Nos. as follows:-

4SV

(i) 9(nine) fifty rupee notes bearing Nos.

4SV 388240, 4PG 294514, 3W N 963615.

6AG 485594, 2HM 553131, 3WQ 932419.

4EB 960145, 7RB 986992, OFU-551028.

(ii) Four 4 ten rupee notes bearing Nos.

79 E 471377, 49 K 316937.

83A 439473 95 V 316245.

(iii) One five rupee note bearing No.

35 M 601402.

(iv) 2(two) two rupee notes bearing Nos.

C 401766, 50 E 697243.

39.

(v) 1(One) one rupee note bearing No.

30 D 465133.

The above G.C. notes were handed over to Shri P. Dasgupta, const/RPF CIB/MLG who acted as a decoy in presence of Shri H.N. Roy, Const/RPF/CIB/MLG who acted as an independent witness.

Shri Dasgupta, the decoy, approached Shri Karan on duty reservation Clerk at counter No.10 at GHY stn, to reserve one berth by 5609 Dn of 30-12-96 Ex. GHY to MFP. Shri Karan issued a memo addressing to CC/B/GHY to issue one sleeper Class ticket Ex. GHY to MFP by 5609 Dn of 30-12-96. Shri Dasgupta on this slip got the ticket and handed over to Shri Dasgupta. Then Shri Karan demanded Rs. 35/- from Shri Dasgupta and Shri Dasgupta handed over Rs. 35/- to Shri Karan from the G.C. notes the number of which recorded in the pre-check memorandum drawn prior to check. Shri Karan issued berth reservation ticket No. 027972 of 30-12-96 for one berth (B No.3) in S/1 by 5609 Dn, leaving GHY on 30-12-96 on PCT No.00060/slp) ex. GHY to MFP and handed over to Shri Dasgupta, the decoy in presence of Shri Roy, independent witness.

As soon as the transaction was over the independent witness informed the vigilance team and the vigilance team entered in the TC office at counter No.10 to verify the actual fare of BRT and asked on duty reservation clerk Shri Karan regarding the actual fare of reservation ticket. Shri Karan replied that the fare for BRT is Rs. 15/- Immediately he was asked to produce his private cash register. He produced Rs. 320/- as his private cash as well as Govt. cash as both the cash was mixed up with him. But as per P/cash register he had declared Rs. 147/- as his private cash. He was then asked to close the BRT book and as per BRT book Govt. cash was Rs. 360/-. From the particulars of G.C. notes produced by Shri Karan, it is seen that G.C. notes No. 6 AG 435594 (fifty rupee note), 79 E 471377 (ten rupee note) and 35 M 601402 (five rupee Note) were found mixed up with the cash produced by Shri Karan for verification which were handed over to Shri Karan by Shri Dasgupta at the time of reserving berths.

On verification of BRT book, it was noticed that Shri Karan had issued BRT No. from 027962 to 027972 for Rs. 330/- and for all transactions the cash produced by Shri Karan was Rs. 320/- of which Govt. cash was Rs. 360/- private cash as per declaration was Rs. 147/- and Rs. 13/- excess.

From the above fact, it is evident that Shri Karan demanded and accepted Rs. 35/- against the actual fare from BRT (No. 027972) Rs. 15/-. The said BRT with PCT No.00060 and G.C. notes No. 6 AG 435594, 79 E 471377, 85 M 601402 were taken over by vigilance since the numbers of said G.C. notes exactly tallied with the numbers of G.C. notes entered in Pre-check memorandum drawn prior to check. After taking over the said G.C. Notes for Rs. 35/- another Rs. 65/- was given to Shri Karan for make good of his cash. The pre-check memorandum was shown to Shri Karan while taking over the G.C. notes for Rs. 35/- of which numbers were recorded in the pre-check memorandum drawn prior to check.

(Contd. 3).

The BRT No.027372, PCT no.00060 and GC notes 3AG 435594, 97L 471377, 35 M 301402 were kept in a cover and sealed in presence of Shri B. Ach, CTI/GHY and Shri N.L.Karan. Hd. TC/GHY besides Shri Das, Sr.VI(T) and Shri Thakuria, CVI(T).

ARTICLE-II.

Said Shri Karan while performing his duty as reservation Clerk at counter No.10 at Guwahati on 20-12-96 possessed Rs. 13/- excess than the Govt cash and private cash. During check Shri Karan was asked to produce his private cash and Govt. cash. He produced Rs. 320/-. On verification of BRT Book and personal cash register, Govt. cash was Rs. 360/- and private cash Rs.147/- and thus Rs.13/- became excess. This was at his own consideration for his personal gain.

Thus by the above acts, Shri N.L.Karan Hd. TC/GHY exhibited lack of integrity and devotion to duty and acted in a manner unbecoming of Rly. servant and thereby contravened Rule No.3.1.(i) (ii) and (iii) of Rly. service conduct rules-1936.

मठठ बाणिज्य प्रबन्धक
Divl. Commercial Manager
श्री सी. रेण्डे. लामडिङ
N.E. Railway/Lumding

W.C.Y.

No. C/Con/ LM/Misc, ... K-HTC-GHY).

Office of the
Divl. Railway Manager (C)
Lumding.

Dated 15/10/98.

To
Shri Narayan Lal Karan, Hd.TC/GHY
(Through: SS/Guahati).

The following documents as prayed by you vide your application dated 4/2/98 is sent herewith to enable you to submit your defence within 7 days time failing which the case will be processed as per extant rules:-

1. Pre-check memorandum dt. 30/12/96.
2. Post check memorandum dt. 30/12/96.
3. Annexure-A for particulars of G.C Notes produced by Shri N.L.Karan,
4. Slip issued by Shri N.L.Karan, to CCB/GHY for sleeper Class ticket Ex. GHY to MFP by 5609 Dn of 30/12/96.
5. Requisition slip for reservation.
6. Statement of Shri N.L.Karan Hd.TC/GHY recorded at Maligaon on 27-1-97.
7. Statement of Shri P.Dasgupta, Const/RPF/CIB/MLG who acted as Decoy.
8. Statement of Shri H.N.Roy, Const/RPF/CIB/MLG who acted as independent witness.

for Divl. Railway Manager (C)
Lumding.

Copy to:- SS/GHY for information. He is requested to arrange delivery of the above records to Shri N.L.Karna, Hd.TC/GHY after obtaining clear receipt of the records/documents and send the same to this office for record.

for Divl. Railway Manager (C)
Lumding.

— 31 —

To,
The Divisional Rly. Manager (C),
N.F. Railway, Lumding.

Through proper channel.

Sir,

Sub :- Defence.

Ref :- Your Memorandum No.C/(CON)LM/Misc./98
(NLK-HTC-GHY) dtd. 15.1.98 and 15.10.98
respectively.

In obidience to due above, I beg to submit as under for
your kind appriciation and sympathetic consideration.

The alleged changes proved against me vide Article I and II
respectively to the Annexure I of the memorandum are categorically
denied by me.

The circumstances are submitted as follows :-

Re : Atticle of Charge - I :

I deny the charge that a sum of Rs. 65.00 was demanded
and accepted by me from one Sri P. Das Gupta, acted as decoy on
30-12-96 in the vigilence check.

That one person latter stated to have been Sri P. Das
Gupta approached me for one berth in 2nd Class sleeper by 5609 Dn.
leaving Guwahati on 30.12.96.

That after consulting the chart of availability of berth
and demanded by him. I confirmed that a berth was available. I
issued a slip to the booking clerk for issuing a Ticket. At that
point of time Sri Das Gupta asked if I could give him change for a
fifty rupee note which he might requires to make payment at follow
counter where as stated & by Sri Das Gupta the booking office ask

Revised
B.S.S.
28.10.98

Certified to be true Copy

Contd... P/2

Advocate:

Date :

for the exact amount. I have had ten rupees notes in my Govt. Cash we gave him five ten rupee notes against one fifty rupee note.

That after sometime he came back with the ticket and asked me as to how much was to be paid by him. I to asked him to pay Rs. 15.00 which he paid and I issued the reservation ticket and allotted the berth.

Re : Article of charge - II :

I deny the charge that there was any excess many other than the Rly Cash and my personal cash.

That the total Rly. Cash collected by me was Rs. 660.00 plus personal Cash Rs. 147.00 following a sum of Rs. 807.00 Beside the above a sum of Rs. 10.00 was due to be refunded to the occupant of Retiring Room No. 01. A sum of Rs. 3.00 was sent by the said occupant for arranging a cup of Tea. The Tea was sent but the payment on that account was not made till the time. The vigilence team conducted the check.

That had there been an acceptance of Rs. 50.00 in addition to the lenth charge of Rs. 15.00 from the Decoy - the total money available with me would have been as under :-

Govt. Cash	Rs.	660.00
Personal Cash	Rs.	147.00
Excess Money accepted.	Rs.	<u>50.00</u>
	Rs.	857.00

Due to the occupant of R/Room No. 01 / Rs. 10.00

Due to the paid for Tea Rs. 3.00
Total - Rs. 870.00

But I produced a sum of Rs. 820.00 total of my private money and also that of Rs. 13.00 as mentioned above. It categorically proves that a sum of Rs. 50.00 was not paid by the Decoy else. The total amount would have been found with me Rs. 870.00 There was no excess money found with me as demanded by the vigilence team.

That while the post check memorandum was drawn. I refused to sign the same on the following grounds :-

1. That although it was mentioned in the Post check memorandum that the Pre-check memorandum was shown to me, but the same was never produced by the vigilence team.
2. That I requested the vigilence team to contact the accupant of R/Room No. 1 and get it confirmed that a sum of Rs. 10.00 was due to the paid by me to him and also he sent a sum of Rs. 3.00 for tea but the vigilence team refused to do it.
3. That other Calculation for establishing the excess of Rs.13.00 was wrong for the reasons as stated above. But the vigilence team forced me to sign the post check memorandum under threat of getting me arrested by the GRPS and also take steps for pulling me under suspension.
4. That the vigilence team never could succeed to account for Rs.50.00 as allotted to have been taken by me and in that case there should have an excess of the money found with me to the extant of Rs.50.00 specially when the check was conducted immediately after the allaged acceptance by me and the private cash was declared at the to me my taking own the duties at 14.00 hours on the same day.

In appreciation to the above I shall be obliged if you will kindly withdraw the above memorandum.

28/10/98

Yours faithfully,

Narayan Lal Karm

HDTC/GM

N.F.Railway.

No. C/Con/LM/Misc/97 (NLK-HDTC-GHY).
Office of the
Divl.Railway Manager (C).
Lumding.

Dated 12-04-99.

To

Shri N.L.Karn,
Hd.TC/Guahati.

(Through: SS/Guahati).

You are hereby informed that your defence dated 28-10-98 to the Memorandum of charge No.C/Con/LM/Misc/98 (NLK-HDTC-GHY) dated 15/01/98 is not accepted. Hence a D.A.R enquiry will be conducted by Shri K.Saha, Enquiry Officer/HQ Maligaon for the above purpose.

W.L.S.
12/4/99
(Joseph Jamir)
Divl.Commercial Manager
Lumding.

W.L.S.
12/4/99
Date:

STANDARD FORM NO.7.

Standard form of order relating to
Appointment of Enquiry Officer
(Rule No.9(2) of R.S.(D & A) Rules-1963)

C/Con/LM/Misc/97 (NLK-HTC-GHY) Dated 12/04/1999,.....
No.

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

DRM(C)/LMG's office.

Place of issue :-

O R D E R.

Whereas an Enquiry under rule No.9 of the Railway Servant (Disciplinary and Appeal) Rule, 1963 is being held against Shri Narayan Lal Karn, Hd. TC/Guwahati (Name and designation of the Railway Servant).

AND whereas the undersigned considers that an Enquiry Officer should be appointed to enquire into the charges framed against him.

Now, therefore, the undersigned in exercise of the powers conferred by sub-rule(2) of the said rule hereby appoints Shri K. Saha, E.O/H/ Maligaon Enquiry Officer /H/ Maligaon (Name and designation of the Enquiry Officer) as Enquiry Officer to enquire into the charges framed against the said Shri Narayan Lal Karn, Hd. TC/Guwahati.

Signature
Designation of the Disciplinary Authority.

Copy to :- 1) Shri Narayan Lal Karn, Hd. TC/GHY through SS/GHY (Name and designation of the Railway Servant)

2) Shri K. Saha, Enquiry Officer/H/ Maligaon.
(Name and designation of the Enquiry Officer.)

N.F.Railway.

G-134 F.

STANDARD FORM NO.7.

Standard form of order relating to
Appointment of Enquiry Officer
(Rule No.9(2) of R.S. (D & A) Rules-1963)

No. C/Con/IM/Misc/96(NLK-HTC-GHY) Dated ..10/3/2000..

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

DRM(C)/LMG's office.

Place of issue :-

O R D E R.

Whereas an Enquiry under rule No.9 of the Railway Servant (Disciplinary and Appeal) Rule, 1963 is being held against Shri N.L.Karn, Hd. TC/Off. (Name and designation of the Railway Servant).

AND whereas the undersigned considers that an Enquiry Officer should be appointed to enquire into the charges framed against him.

Now, therefore, the undersigned in exercise of the powers conferred by sub-rule(2) of the said rule hereby appoints Shri A.Sakia, E.O/HO/MLG (Name and designation of the Enquiry Officer) as Enquiry Officer to enquire into the charges framed against the said Shri N.L.Karn, Hd. TC/Off.

This is in cancellation of the memorandum No.C/Con/IM/Misc/96(NLK-HTC-GHY) dated 30/9/96 nominating Shri K.Saha, E.O./HO/MLG as Enquiry officer due to change of incumbency.

Signature Joseph Kmir
Designation of the undersigned Div. Commercial Manager
Authority सी. ए. एस. रामेश्वर

Copy to :- 1) Shri N.L.Karn, Hd. TC/Off through SS/CHK (Name and designation of the Railway Servant)

2) Shri A.Sakia, E.O/HO/MLG (Name and designation of the Enquiry Officer.)

Certified to be true Copy

Sh. Kmir

Acccts.

Date :

- 37 -

N. F. Railway.

Office of the
Divl. Rly. Manager (C
Lumding).

No. C/COM/LM/Misc/98 (NLK-HTC-GHY) dt. 26th Dec'02.

To,
Shri Narayan Lal Karn,
Hd. TC/GHY.

The report of the Enquiry officer is enclosed.
the disciplinary authority will take suitable decision
after considering the report, if you wish to make any
representation or submission, you may do so in writing
to the disciplinary authority within 15 days of receipt
of this letter.

Enclo : One enquiry
report.

JK
26/12
(J. Jamir)
Divl. Comml. Manager
N.F. Rly-Lumding.

JK
Certified to be true Copy

JK
Advocate
Date :

CONFIDENTIAL

REPORT OF THE DEPARTMENTAL ENQUIRY INTO THE CHARGES FRAMED AGAINST SHRI N.L.KARN, HD.T.C./GUWAHATI INITIATED VIDE D.C.M./LNG'S CHARGE SHEET NO.C/CON/LM/MISC/98(NLK-HTC-GHY) DATED 15.01.98.

1.0. INTRODUCTION

1.1. I was appointed as Enquiry Officer by D.C.M/LNG vide his order No.C/Con/LM/Misc/96(NLK-HTC-GHY) dated 10.3.2000 in exercise of powers of a Disciplinary Authority (D.A.) to enquire into the charges framed against Shri N.L.Karn, Hd.TC./GHY. No, Presenting Officer (P.O.) was nominated by D.A.. The case was initially received by the then Enquiry Officer Shri K.Saha on 28.4.99 and the Preliminary Hearing was held by him on 21.1.2000. The first sitting of the Regular Hearing was held on 15.2.2001 at Maligaon. Further Regular Hearing was held on 06.9.2001 and completed on 07.9.2001.

1.2. The D.A. placed on record 9(nine) nos. of documents in the form of documentary evidence and 2(two) officials in the form of oral evidence vide Annexure-III & Annex.IV of the Charge sheet respectively. The C.O. did not cite any additional documents as his Defence Document while listed one official as his Defence Witness. The C.O. has appointed Shri R.K.Singh, Ex.CVI/G/MLG (Retired) as his Defence Counsel (D.C.).

1.3. E.O. has summoned 3(three) officials who were directly related with the preventive check as Court Witness No. 1, 2 & 3.

1.4. At the concluding stage of enquiry C.O. was generally examined by E.O.. Defence submitted final brief on 13.9.01. Other details are in the paras to follow.

2.0. ARTICLE OF CHARGES

2.1. The D.A. has framed two ~~different~~ article of charges against Shri N.L.Karn, Hd.T.C./GHY vide charge sheet in question which are reproduced below:

Article-I

That Shri Narayan Lal Karn, Hd.T.C./GHY while performing his duty at current counter No.10 at GHY station on 30.12.96 failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of a Rly. servant in as much as he demanded and accepted

26.11.02

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Rs.65/- for issuing one berth reservation ticket No.027972 of 30.12.96 against berth No.8 in coach No.5/1 by 5609 Dn. leaving GHY on 30.12.96 on PCT No.00060 (sleeper ME) Ex. GHY to MFP. The actual reservation in sleeper class was Rs.15/-. But Shri Karn demanded and accepted Rs.65/- i.e. Rs.50/- excess than the actual reservation charges for his personal gain and consideration which tantamounts to serious misconduct and dereliction to duty.

Article-II

Shri N.L.Karn, Hd.T.C./GHY while performing his duty as Reservation Clerk at counter No.10 at GHY Station on 30.12.96 failed to maintain absolute integrity and devotion to duty in as much as he possessed Rs.13/- excess than the total should be with him in course of his duty.

Thus by the above act, Shri N.L.Karn, Hd.T.C./GHY exhibited lack of integrity and devotion to duty and acted in a manner unbecoming of a Rly. servant thereby contravened rule No.3.1(i), (ii) & (iii) of Rly. Service conduct Rules, 1966.

2.2. The supporting allegations in proof of the above charges as contained in Annexure-II of the charge sheet i.e. statement of imputation of misconduct or misbehaviour are not reproduced here and will be discussed while assessing evidence.

3.0. The cases of the Disciplinary Authority.

3.1. The D.A. has proposed to substantiate the charges framed against the C.O. on the basis of 9(nine) nos. of documentary evidence as aforesaid which on being exhibited and authenticated marked as PD-1 to PD-9 in seriatim and oral evidence of 2(two) officials i.e. Prosecution witness No.1 & 2.

3.2. PD-1 is the Precheck Memorandum prepared by Vigilance check team on 30.12.96 before the Decoy check which reveals that an amount of Rs.500.00 with denomination of 9(nine) fifty rupee, 4(four) ten rupee, 1(one) five rupee, 2(two) two rupee and 1(one) one rupee G.C. Notes were handed over by Vigilance team to Shri P.Dasgupta, Const./RPF acting as decoy in presence of Shri H.N.Roy, Const/RPF to act as Independent witness to utilise in the decoy a check.

PD-2 is the post check memorandum drawn by Vigilance team after completion of decoy check detailing the check and facts detected during check.

PD-3 is the Cash declaration Slip of Shri N.L.Karn, Hd. TC/GHY showing an amount of Rs.660.00 as Govt. cash as per R.T. book and Rs.147.00 declared as private cash. PD-3 also shows Shri Karn was actually in possession of Rs.820.00 showing denomination of G.C.notes.

PD-4 is the requisition slips written by Shri N.L.Karn ex to CCC/GHY for a sleeper class ticket Ex.GHY to MFP by S609 Dn. of 30.12.96.

PD-5 is the Requisition Slip dt. 29.12.96 by decoy Shri P. Dasgupta for 1 sleeper by A.A.Express.

PD-6 is the statement of Shri N.L.Karn, Hd. TC/GHY recorded in CVO's office on 27.1.97.

PD-7 is the statement of Shri P.Dasgupta, Const/RPF (Decoy) recorded on 30.12.96.

PD-8 is the statement of Shri H.N.Roy, Const./RPF (Independent Witness) recorded on 30.12.96.

PD-9 was the Sealed cover on opening of which G.C.Notes amounting to Rs.65/- with denomination 1(one) fifty rupee note No.6AG 485594, 1(one) ten rupee No. & 79E471377, a five rupee note No.85M601402, PCT No.00060 and BRT No.027972 were recovered.

3.3 Out of two listed Prosecution Witnesses (PWs) only PW-1 Shri Prodip Dasgupta, Const./CIB/RPF/MLG (decoy) deposed during enquiry but PW-2 i.e. Harendra Nath Roy, Const/CIB/RPF acting as Independent Witness expired before the enquiry proceeding started. In addition S/Shri B.K.Aich, CTI/GHY and Shri D.Thakuria, Ex.CVI/T now LA/MLG a member of check team on 30.12.96 were summoned by E.O. as Court Witness No.1 & 2, respectively, appeared and deposed. CW-3 Shri B.K.Das, Ex.Sr. VI/T/ now ASM/KIR did not turn up and therefore dropped.

4.0. THE DEFENCE OF THE CHARGED OFFICIAL

4.1. In his initial written statement of defence to the charge sheet dated 15.1.98 C.O. Shri Karn submitted that -

Article-I

C.O. stated that excess amount of Rs.50/- recovered from him was given to him by decoy Shri Dasgupta in exchange of 5(five) ten rupee notes and in fact Shri Dasgupta gave him the actual reservation charge of Rs.15.00 only.

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Article-II

C.O. explained the excess possession of Rs.13/- than his declared P/Cash and Govt. cash as per records, as an amount out of which Rs.10.00 was to be returned to the occupant of Retiring Room plus Rs.3.00 sent by the occupant of R/Room for sending a cup of tea.

The defence was not accepted by the Disciplinary Authority and case submitted to E.O./HQ for a departmental enquiry.

4.2. In the final written brief dated 13.9.2001 C.O. analysed the evidencial aspects of the documents and witnesses in favour of defence as mentioned hereunder.

A. Documentary Evidence

PD-1 Pre-check Memorandum

C.O. stated that although the document was shown to him after the check, ~~the~~ decoy was not produced before him to confirm his possession of balance money as recorded on PD-1 after setting aside Rs.15/- utilised for the ticket.

PD-2 Post check Memorandum

C.O. stated that he had to sign the document under pressure from the Vigilance team without affording scope to understand the contents by not explaining the same in vernacular.

PD-3 Cash Declaration Slip

Referring to the document C.O. stated that the same was not prepared by him. That the document reflects total cash of Rs.820.00 with break up Govt. cash Rs.660.00 + Private cash Rs.147.00 + Rs.13.00 belonging to ZRUCC Member occupying Retiring Room, which does not prove that the 'decoy' paid him Rs.50.00 at the counter.

PD-4 & 5 i.e. two slips issued by C.O. Shri Karn one each for ticket and reservation

No comments.

PD-6 Statement of C.O. Shri Karn recorded on 27.1.97; C.O. stated that in his clarification ~~the~~ excess of Rs.13.00 was explained by him and that he factually demanded only Rs.15.00.

PD-7 Statement of Shri P. Dasgupta, Decoy

C.O. said that statement was prepared on the next day of the date of check in absence of C.O. and not signed by C.O. as a token of acceptance of the contents. That contents of PD-7 are contradictory.

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26.11.02

reservation was Rs.15/- but Shri Karn demanded and accepted Rs.65/- i.e. Rs.50/- excess for his personal gain and consideration which is tantamount to serious misconduct and dereliction to duty. The imputation in brief was that on the basis of a source information that TCs working at GHY station reservation counter were habituated in demanding and accepting excess money while issuing reservation, a decoy check was conducted at counter no.10 on 30.12.96 with the help of two RPF personnel observing prerequisite formalities. That Shri P.Das Gupta Const./CIB/RPF who acted as decoy, took the amount of Rs.500/- ~~amt~~ as recorded on PD-1 from the Vigilance check team on 30.12.96 in presence of Shri H.N.Roy, Const/RPF/~~amt~~ CIB/MLG acted as Independent witness and approached C.O. Shri Karn on duty at Counter no.10 for a berth by 5609 Dn. of 2 30.12.96 Ex.GHY to MFP. Accordingly, on the basis of slip issued by C.O. Shri Karn decoy got the ticket and handed over to C.O. when Shri Karn demanded Rs.65/- from decoy and accordingly decoy tendered Rs.65/- to C.O. from the G.C. notes handed over to decoy as recorded on precheck memorandum. C.O. then issued berth reservation ticket no. 027972 dt. 30.12.96 against PCT no.00060 (Slp) allotting berth no.8 in S/1 of 5609 Dn. leaving GHY on 30.12.96 and handed it over to decoy in presence of independent witness Shri H.N.Roy, Const/CIB/RPF/MLG. Immediately on getting the information of the transaction the Vigilance team entered into counter no.10 and on verification found that reservation fare of BRT was Rs.15/-. Further on verification of cash, C.O. produced Rs.820/- including his declared P/Cash of Rs.147/- mixed upto ~~amt~~ Govt. cash. That, Govt. cash as per BRT Book was Rs.660/- + Private cash Rs.147/- i.e. total Rs.807/- i.e. an excess possession of Rs.13/-.

From the above it was evident that C.O. Shri Karn demanded and accepted Rs.65/- against actual BRT fare of Rs.15/- i.e. an excess of Rs.50/-.

5.1.1. In the assessment of evidence, first of all PD-1 i.e. (precheck memorandum) was produced during enquiry which was authenticated and contents confirmed by both PW-1 (decoy -ans. to Q1No.2 of Examination-on-chief) and CW-2 (Shri D.Thakuria, Ex.CVI/G) a member of the check team, vide ans. to Q.No.1 of examination-in-chief). Examination of PD-1 also revealed that the check team planned the decoy check in organised manner with the help of two RPF personnel

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PD-8 Statement of Shri H.N.Roy, Independent Witness

C.O. stated that the witness could not be produced during enquiry and therefore the document is of no credence.

PD-9 Sealed cover

C.O. stated that Fifty rupee note recovered as recorded on PD-1 was held by C.O. was tendered at the counter for change.

B. Oral evidences

C.O.'s analysis of oral evidence on behalf of defence are as under -

PW-1 (Shri P.Dasgupta, decoy)

C.O. submitted that PW-1 failed to substantiate definite allegation framed against the C.O. in as much as during enquiry he failed to furnish definite clarification whether he got a 50(fifty) rupee note changed from the counter manned by C.O. on the date of check, which proved that he tendered the same in exchange.

PW-2 (H.N.Roy, Const/RPF/ I.Witness)

Explred before start of Enquiry proceedings.

C.W.-1 (Shri B.Aich, CTI/GHY)

C.O. Submitted that CW-1 as batch in-charge of C.O., in his deposition during enquiry stated that he did not see the transaction and that there was no excess cash in possession of C.O.

CW 2

C.O. termed the deposition of CW-2 as presumptdary and given at his own perception in that he failed to clarify during ~~exp~~ enquiry about the amount of unutilised money out of total amount recorded on PD-1. His deposition that decoy returned Rs.435/- unutilised money was purely on presumption without any evidence.

On the basis of above discussion C.O. stated that he deserved to be considered for exangration.

5.0. ASSESSMENT OF EVIDENCE

5.1.0. The article of charge-1 was that Shri N.L.Karn, Hd. TC/GHY while performing duty at current counter no.10 at GHY Stn. on 30.12.96 demanded and accepted Rs.65/- for issuing one berth reservation ticket no.027972 of 30.12.96 against berth no.8 of coach no.S/1 by 5609 dt. 30.12.96 on PCT No. 00060 (Sl.ME) Ex.GHY to MRRx MFP. The actual charges for

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and observing other prerequisites. Facts recorded on PD-2 (Post check memorandum) ~~ex~~ revealed the PD-1 & was shown to C.O. on recovery of Rs.65/- tendered money from Govt. cash (which were recorded on PD-1) and note nos. tallied. C.O. also stated in his brief that PD-1 was shown to him. The PD-1 (Post check Memorandum) was exhibited during enquiry and CW-1 Shri B.Aich, CTI/ Incharge and a signatory of PD-2 and CW-2, Shri Thakuria, Ex.CVI/T confirmed the contents of recorded on PD-2 (Ans. to Q.No.1 CW-1 and Ans. to Q.No.2 of CW-2 during examination-in-chief). Facts recorded on PD-2 shows that PW-1 i.e. decoy after receiving the amount from the check team approached counter no.10 ~~was~~ manned by C.O. for a berth and on the basis of a slip issued by C.O. purchased sleeper class ticket No.00060 Ex. GHY to MFP. The slip in question and the requisition of decoy were produced and authenticated during enquiry as PD-4 & 5 respectively. PD-9 also revealed that C.O. Shri Karn on getting ticket no.00060 from decoy issued BRT No. 027972 of 30.12.96 allotting berth No.8 in coach No.8/1 by 5609 Dn. of 30.12.96 in lieu of Rs.65/- against the actual fare of Rs.15/- i.e. an excess of Rs.50/-. It is also recorded on PD-2 that on verification of Govt. Cash mixed up with Private cash in possession of C.O. out of which Rs.65/- in denomination one fifty-rupee note bearing No.6AG 485594, one ten rupee note no.79E 471377 and a five-rupee note bearing no.85M 601402 was recovered and these nos. were recorded on PD-1 and ~~tallied~~. The PCT No.00060 of 30.12.96 BRT No.027972 of 30.12.96 and G.C. Notes amounting Rs.65/- as detailed above were exhibited and authenticated during enquiry as constituents of PD-9.

alleged to be
Defence plea that Rs.50/- ~~was~~ demanded/accepted excess and recovered during cash verification was tendered for change by decoy to C.O. for purchase of ticket, has got no evidence on record and therefore not convincing. In view of above discussions of evidence the article of charge levelled against Shri N.L.Karn, Hd.TC/GHY stands established.

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5.2.0. The article of charge-II in brief was that Shri N.L.Karn while on duty at Reservation Counter No.10 at GHY Station on 30.12.96 was found in possession of Rs.13/- excess than the actual cash ~~as~~ he should have ~~possessed~~ possessed in course of his duty and thereby failed to maintain

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absolute integrity, devotion to duty and acted in a manner unbecoming of a Rly. Servant in contravention to Rule 3.1(i) (ii) & (iii) and R.S.(Conduct) Rules, 1966. The imputation in brief was that Shri Karn while on duty at counter No.10 at Guwahati on 30.12.96 was subjected to a check and on being asked he produced Rs.820/- comprising Govt. cash and private cash mixed up. On verification of BRT book and P/Cash register amounts on records ^{an Govt Cash} ~~which~~ ^{of Cash} were Rs.660/- + Rs.147.00 respectively i.e. total Rs.807.00. Thus he was in possession of Rs.13.00 excess at his own consideration for his personal gain.

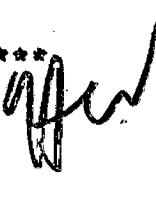
5.2.1. In the analysis of evidence it is observed that article of charge-II is the repetition of article of charge-I since discussion of evidence against article of charge-I confirmed that C.O. demanded and accepted excess from decoy. That his private and Govt. cash being found mixed up naturally he will possess excess cash. ^{due demand and upon} The crucial documentary evidence in this respect was C.O.'s cash declaration slip dt. 30.12.96 prepared during the course of Vigilance check and signed by C.O. which were exhibited and authenticated during enquiry as PD-3. PD-3 revealed the total amount of Rs.820.00 with denomination and note nos. in possession of C.O. during check on 30.12.96. The facts were also recorded on PD-2 which were confirmed correct during enquiry both by CW-1 and CW-2. C.O. in his defence submitted that Rs.13.00 in his possession belonged to a ZRUCC Member occupying a Rly. Retg. Room with break up Rs.10/- in excess of ~~Rs.10.00~~ ^{of} in excess of Retg. Room charge to be returned to ZRUCC Member and Rs.3/- due to the tea-stall for tea supplied to ZRUCC Member. The defence claim is not supported by any documentary or oral evidence and therefore found not at all convincing. In view of the above discussion article of charge-II stands established.

6.0. FINDINGS

6.1. On the basis of discussion of evidences both documentary and oral adduced during enquiry as discussed in paras 5.1.1. and 5.2.1. above the article of charges-I and II levelled against Shri N.L.Karn, Ed. TC/GHY are substantiated.

Dated: 26.11.2002.


(Assitant Enquiry Officer/HQ.)

124 

To
Shri Joseph Jamir,
Divisional Commercial Manager,
N.F.Railway, Lumding:

(Thro: Proper Channel)

Re: 'Further' representation/ submission
if any in addition to my earlier
written brief as asked for.

Ref: Your Letter No.C/CON/LM/Misc/98
(NLK-HTC-GHY) dated 26-12-2002 .

Sir,

While acknowledging the receipt of your above letter under reference covering forwarding of a copy of Enquiry Report with the advice to submit "further" representation or submission in writing within the target date for consideration of the disciplinary authority in view of the breach of R.S.(Conduct) Rules No.3(1)(i), (ii) & (iii) of 1966 - after going through the designated "findings" of the Report submitted by the designated Bias Enquiry Officer, a pall of gloomy has evolved upon my mind and also injured my mental peace followed by mental agony at "No-fault" of mine as alleged against me by the E.O. in view of the supporting available evidence in my favour.

In view of this it has become necessary to emphasize the need of pointing out the ^{following} vital issues which have been cropped up in conducting the so called Eye Wash Enquiry Proceedings.

(1) Mr.K.Saha was nominated on 12-4-99 as E.O. to conduct the enquiry under rule No.9(2) of R.S.(D&A)Rules,1968. After holding "PH" on 21-1-2000 he released the charges of E.O. to Mr.A.Saikia who was nominated on 10-3-2000 due to change of incumbency. Copy of the said nomination letter of E.O. was not docketted to the undersigned. Now the question arises whether the enquiry proceedings drawn by the E.O., Sri Saikia were incontinuation or in cancellation of the earlier proceedings by the then Sri Saha on 21.1.2000? While conducting the Enquiry R.H. on 15.2.2001 by Sri A.Saikia, it was mandatory to record in the regular hearing proceedings in the following manner - "the RH dated 15.2.2001 was incontinuation of in cancellation of the proceedings drawn on 21-1-2000 which attracted the provision of Rule No.24 of R.S.(D&A)Rules,1968. Nowhere in the RH held on 15-2-2001 this vital aspect was recorded by the E.O. Mr Saikia. Hence these serious lapses committed in conducting the Enquiry Proceedings either by the DA or by the

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Page No.2

the E.O. were clear violative of Rule No.9 of R.S.(D&A)Rules, 1968. If these aspects are not considered by the Disciplinary Authority now, it would be "quashed" in the eye of law.

(2) Since the PW-2 did not turn up in the enquiry to confirm his statement(PD-8) - his ~~deadxssata~~ recorded dead statement(PD-8) was ~~produced~~ produced before the PW-1 for confirmation by the E.O. and the said statement had no credential value as this was not ~~not~~ confirmed by the PW-2, in the enquiry. Hence the PD-8 should be dropped from the list of ~~witn~~ documents i.e. Annexure-III of the Memorandum of charge but this was not done by the E.O. due to lack of rule. It was another serious violation of R.S.(D&A) Rules, 1968 of Rule No.9.

(3) The laid down target of Board was exceeded to finalise this case. This aspect may please be looked into by the D/Authy.

(8) Violation of rules and procedures of surprise check in term of 'Trap Laying Case', to nab a persons demanding/accepting of illegal gratification.

(4) While drawing PD-1 (Pre-check Memorandum) by the Ring Leader of the surprise check conducted by the Rly. Vigilance Team, he did not cite or quote the place of trap, not quoted the object of trap/surprise check and no proper guidelines had been to the decoy and the I/witness have been recorded to follow, no person of the decoy was searched by the team of vigilance while handing over the different denomination of notes recorded in PD-1.

A part from above it may be stated for information of the Disciplinary authority that no written complaint from the nominated decoy by the team was obtained indicating the the name of the person/counterman who demanded and accepted extra money for issuing R.T. etc. The Independent witness to observe the activities of the decoy was not a man of status and a responsible person.

While conducting the above surprise check, the above prescribed vital formalities were not rigidly followed by the team of Vigilance(Reference Rule No.704 of the Vigilance Manual). It may be argued that for information of the D/Authy. that the E.O. did not find out the above serious prescribed formalities while recording the evidence of PW-2 who was the I.O. of the Team who organised this check/due to lack of rules and procedures of surprise check or deliberately ignored to protect the image of their department.

(5) PD-2 was written by the PW-2 after the check.

Page No.3.

CJ-2 deposed that Rs.435/- was returned by the Decoy(PW-1) to thlm after the check. This aspect was recorded in the PD-2 but this vital aspect was not recorded in the PD-2 by the CJ-2 which goes to prove that the deposition of the CJ-2 was false and fabricated to nab a case against me. Moreover the person of decoy was not searched by the team of ~~with~~ vigilance before and after the check as have been admitted by the CJ-2 in the enquiry.

In view of the above vital ~~Rekha~~ false statement of the CJ-2 and lapses committed in the search as admitted - while assessing the credential value of evidence aspects of CJ-2 and PD-2, the E.O. either deliberately ~~at~~ evaded or due to lack of his knowledge to assess the ~~even~~ evidential value or to ~~protect~~ protect ~~his~~ the image of the prosecution side blindly. This goes to prove that the E.O. is not the upright judge of the case. He is bias in all respects. These vital aspects ~~my~~ may please be looked into ~~the~~ by the D/Authority while deciding the fate of the case.

(5) As regards an excess amount of Rs.13/- found in the possession of the C.O. as alleged - it may be stated for information of the D/Authority that if any 'Excess amount' was detected/found after search in the possession of the defaulting Railway servant other than the Govt.Cash that very ~~Rekha~~ 'Excess ~~amount~~ amount' is to be deposited either in the Rly.Cash or Rly. Booking office as per extant commercial Rule Vol:1. In the instant case why the Team of Vig did not observe this vital rule because they were ~~not~~ satisfied with the explanation of the Rly.defaulting staff and handed over the said excess amount to the defaulting staff. Now the question arises when there was no any excess amount found officially in my possession - as per extant commercial rule that there was no case against me. The disputed amount was refunded to me by the team for refunding the said to the ZRUCC Member. This vital point/aspect was ignored/wilfully evaded by the E.O. in his assessment of evidential value to render facility to the ~~was~~ checking team i.e. prosecution to stand the allegation against me. This aspect may please be looked into by the D/Authority.

(6) As regards Rs.50/- i.e. Decoy money found in the Govt.cash as mixed up with the private cash - it may be highlighted for information of the Disciplinary authority that mere ~~was~~ avail-

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Page No.4.

(availability) of Rs.50/- in the Govt. Cash (i.e. decoy money) ~~in the Govt. Cash~~ did not tantamount to term as Rs.50/- was an excess money as have been accounted for by the E.O. in his assessment of evidence aspect deliberately evading the oral evidence of Decoy (PW-1). The Decoy always deposed that he did not recollect whatever the amount he paid to the counterman at the counter. After paying the exact reservation charges to the counterman, he had received the R.T.

Further it ~~is~~ may be stated that in the examination-in-chief PW-1 (Decoy) had confirmed his signature appearing in PD-1, PD-2 and PD-7 and their contents were correct. While in cross-examination by the DC the PW-1 totally refuted his earlier confirmation with the objection that his statement dated 30-12-96 (PD-7), ^{recorded} in the Vig. office next day i.e. on 31-12-96 and the PD-2 was not recorded in his presence. He was simply asked to sign the PD-2 and PD-7 by the team i.e. CW-2. Since the decoy was a semiliterate official having no knowledge of English and he could simply write/sign and could not read and understand English properly, his simply acceptance of correctness of contents of PD-1, PD-2 and PD-7 having no credential value.

In view of the above, it may be stated for information of the disciplinary authority that if the decoy could push the decoy money as bribe to the counterman, he should be given reward as per prevailing system in surprise check. But regret to state that when decoy found that the counterman had not demanded any extra money from him, he immediately made a plan after receiving the R.T. to tender decoy money Rs.50/- (fifty Rupees Note) to counterman for exchange of Rs.50/- and accordingly to fulfill his plan, he handed over the said Fifty Rupees Note to the counter-man for exchange. After getting the exchange from the counterman he left the counter.

It could further be argued that had I taken Rs.50/- extra in addition to Rs.15/- reservation charge, I would have got ~~maximum~~ half an hour time to shift the said money elsewhere to save my skin because the vigilance team after half an hour from the departure of the decoy from the counter called me to attend the Retiring ROOM where my person was searched by the team of vigilance, and asked ~~me to produce cash I possessed~~.

(7) As regards signalling of the decoy to the Independent witness by the decoy as alleged - in PD-7 the Decoy stated verbally to the PW-2 to inform the Vig. team but the PW-2 in his statement

Page No.5

Page No.3
(PD-8) stated that the Decoy gave signal to him by lifting his hand over the head and not verbally. Hence it goes to prove that their statements were contradictory to each other and having no any ~~any~~ credential value. PW-2 in in PD-8 stated that he had heard that the counderman demanded Rs.65/- from PW-1 and the said amount was paid by PW-1 to the counterman. It can be reasonably

In view of the above analogy, it can be reasonably argued that how it would be possible to hear the conversation held between the Decoy and the counterman in the midst of din and bustle outside the counter since the PW-2 was standing far away from the counter. Before coming into a final decision by the E.O. it required physical spot demonstration, ~~in order to~~ ~~fixing~~ ~~fixing~~ how far the statement of PW-2 was correct but regret to state that the E.O. instead of doing so, he had accepted the contents of PD-8 though the PW-2 was not present in the enquiry to authenticate his statement. Moreover this item of document (PD-8) was not dropped from the list of documents as produced by the E.O. This aspect may please be kept in mind by the Ex D/Authority for his consideration by rejecting the observation made by the E.O. in his report as an Up right Judge of the Case.

(8) As regards evidential value of CW-1 as recorded in the proceedings - CW-1 was the Batch-incharge of the counterman. He did not notice the transaction held between the counterman and the Decoy nor he found any excess cash in the possession of the counterman. PD-2 was recorded at his back. He simply signed the PD-2 along with others without going through it. This aspect may please be kept in mind by the D/Authy because all these points overlooked by the E.O. either deliberately or to establish the object of excess amount as alleged. Similarly, evidential value of CW-2 as recorded in the proceedings - it may be stated that the CW-2 was the Ring leader of the checking team. He had prepared PD-1 & PD-2. He has no any basic knowledge reg: rules & regulations of Surprise check. He should be given proper training to rectify the lapses/omissions committed in respect of decoy check ~~same~~ as have been discussed in the foregoing chapter those may please be looked into.

(9) As regards Rs.13/- an excess money found in the Govt Cash as alleged - I reiterate the object of my explanation with break-up of Rs.13/- in my earlier written brief submitted for perusal of the disciplinary authority that the amount of Rs.13/- was the balance amount of Retiring ~~Rs.~~ Room Fare booked by a ZRUCC Member which was not refunded to the occupant who told me to keep this amount with me for Tea etc. To prove the version of mine, the E.O. should call the Retiring Room Register and the ZRUCC Member, instead of doing ~~so~~ so, the E.O. had established the charge of excess amount found in my possession. In this connection it may be reiterated that the money termed as an excess amount found in my cash by the ~~team~~ team as have been alleged - as, ^{as} extant ~~as~~ commercial rule that very amount should be deposited in the govt. cash which should not be returned to the counterman. The ~~team~~ ^{of Vig.} was satisfied with my break up explanation of Rs.13/- as termed as excess amount for which they returned the said amount to me for refunding the same to the ZRUCC Member.

It may be stated for information of the D/Authy. that the designated E.O. is the officer of personnel branch having no knowledge of commercial rule for which ~~as~~ the E.O. had established this charge against me violating the extant Commercial rule Vol.I. This aspect may please be seriously viewed by the D/authority by rejecting the observation of E.O.

(10) I further cogently repeated the same thing for your patience hearing that my person was searched in the R/Room after a lapse of half-an hour of the incident of issuing reservation ticket to the Decoy. As I simply signed the PD-2 just like an ignorant army for fear-physchosis as told by the team without going through the contents of PD-2 because PD-2 was recorded at my back. mere signing of PD-2 did not tantamount to term of my acceptance of the contents of PD-2.

From the above vital materials as discussed/explained it may be reasonably concluded that how the designated E.O. without considering all these vital materials as ~~as~~ have been cropped up in the assessment of evidence had satisfied himself to establish the alleged ~~excess~~ charge brought against me. All the above assessment of evidence aspects may please be examined by the Disciplinary Authority who is the Up right Judge to decide. contd.. 7.

Page No. 7.

(11) It is needless to quote here that since my appointment to Railway as TC to Hd.TC, I have not involved any case like this. The frivolous allegation has injured my mental peace and created mental agony over the whole family of mine. I would request your honour to kindly go ~~thru~~ through my 'further' representation/ submission as presented above carefully with patience to render justice and ^{to} extend your helping hand to exempt me from the burden of alleged offence as concocted/fabricated in the statement of allegation which have no basic leg to stand in view of the above further submission pointing out all the above materials evidence aspect having in my favour. If I not be exonerated from the burden of charges I would approach before the honour of the higher authority for seeking redressal of natural justice.

Sir, I am at the verge of retirement. My humble submission is that I may kindly be exempted from the ~~xx~~ alleged charge/offence so that I can enjoy all the retirement benefits peacefully to enable me to save my family from the core of poverty because there is none to help me financially. My sons/daughters are not crowded with any Govt. Job. They are all fully dependable to me. Even all the daughters are unmarried. For humanitarian ground I may be ~~xx~~ exonerated from the burden of false allegation. In this ~~context~~ connection it may be further stated for your kind information that I have performed my duty always honestly and faithfully. In my service life I have not taken any bribe from any public. The Decoy lured me by offering bribe of extra money in addition to reservations charges. As I am a lay man I do not know any ~~xx~~ foul play to act. I could not understand the motive of the decoy why he demanded exchange of Rs, 50/- from me. Now I can realise the motive of the decoy why he had taken the exchange of money to the tune of Rupees fifty Rupees Note to derive benefit from the railway for his personal gain ~~from the SPUR~~ ^{by} ~~xx~~ the blood of other. I have nothing more to add ~~EXCEPT~~ ^{EXCEPT} your kind consideration.

Yours faithfully,

Narayan Lal Karan
(N. L. Karan)
Hd.TC/NFR/GNY.

Forwarded
CL
AT
Dated 3rd Feb:2003.

Northeast Frontier Railway

Notice of imposition of penalty of reduction to a lower service, grade of post or in a lower time scale, or in a lower stage in a time scale for specified periods.

(Ref:- SR-21 under rule - 1715 - RI)

No.C/CON/LM/MISC/98(NIK-Hd.TC-GHY) Dt.16.09.2004.

To,
Shri N. L. Karn,
Sr.TC/GHY.

(Through :- Sh/Gaz/GHY)

Father's Name	:- Shri Charbrij Lal Karn.
Designation	:- Sr.TC/GHY.
Date of Birth	:- 2.01.1946.
Date of Appointment	:- 21.06.1978.
Present pay and scale	:-
Date of Superannuation	:- 31.01.2006.

Your explanation dated 3rd Feb'2003 to the show cause notice No.C/CON/LM/MISC/98(NIK-Hd.TC-GHY), dt.26.12.2002 has not been accepted by DCM/LMC. The following charges were brought against you which have been proved during the course of enquiry.

Charges.

- Shri N.L.Karn, Hd.TC/GHY while performing his duty at current Counter No.10 at GHY station on 30.12.1996 failed to maintain absolute integrity and devotion to duty and acted in a manner unbefitting of Railway servant in as much as he demanded and accepted Rs.65/- for issuing one berth reservation ticket No.027972 of 30.12.96 against berth no.8 in coach No.S/1 by 5689 on leaving GHY on 30.12.96 on PCT No.60068 (Sleeper ME) Ex.GHY to MFP. The actual reservation in sleeper class was Rs.15/- But Shri Karn demanded and accepted Rs.65/- i.e. Rs.50/- excess than the actual reservation charges for his personal gain and consideration which tantamounts to serious misconduct and dereliction to duty.
- Shri N.L.Karn, Hd.TC/GHY while performing his duty as reservation & desk clerk at Counter No.10 at GHY station on 30.12.96 failed to maintain absolute integrity and devotion to duty in as much as he possessed Rs.13/- excess than the total should be with him in course of his duty.

Ch. 1 of 2
16/9/04 Contd..2.

Certified to be true Copy

[Signature]

Advocate,
Date :

22. You are hereby inform that in accordance with the orders passed by DCM/LMG (Observation of DCM/LMG in Annexure - 'A') You are now awarded with the penalty of ~~exemption~~ reversion to the lower post /grade or Jr.IG/ for a period of one year with Cumulative effect and pay may be fixed at Rs.3950/- in scale Rs.3050-4590/- with immediate effect.

3. The above penalty shall operate to postpone your future increment on restoration to your former grade in the existing pay and scale.

4. The above penalty shall take with immediate effect.

Encle:- Observation of DCM/LMG
in Annexure 'A'.

(A. B. BAS)

Name and Designation of the
Disciplinary Authority.

Copy to:- 1. DRM/P/LMG for information and necessary action please.
2. By.CVO/T/MLG for information please. In reference to his Extra letter No.Z/Vig/94/1/142/97, dt.23.10.1997.
3. SM/Gaz/GHY for information. He is advised to hand over this NIP to the staff concerned obtaining Acknowledgement and send the same to this office.
4. APO/GHY for information and necessary action please.

(A. B. BAS)

DCM/LMG

Divl Commi. Member

W. B. RIV. Member

Please note the instructions below:-

1. An appeal against these order lies to ADRM(next immediate superior) to the authority passing the orders within 45 days time.
2. The appeal may be withheld by an authority not lower than the authority from whose order it is preferred, if.
 - (a) It is a case in which no appeal lies under this rules.
 - (b) It is not preferred with the stipulation time on which the appellant was informed of the order appealed against no reasonable cause is shown/ the delay.
 - (c) It does not comply with various provisions and limitations stipulated in the rules.

O B S E R V A T I O N

Annexure 'A'.

I have gone through the proceedings, findings of E.O. and representations submitted by you in response to show cause Notice. I do not fully agree with the findings of the E.O.

From the proceedings it is observed that PW-1 Shri P. BasGupta, Const./CIS/RPF/MLG while cross examined by D.C. replied vide Q.No.3 that his statement was recorded on the next day of check at Vigilance Office. In reply to Q.No.8 the PW-1 could not recollect whether there was change of currency notes from Shri Karn manning the Counter. PW-1 in reply to Q.No.10 could not remember the amount which was returned to Vigilance team. PW-1 while re-examined by E.O. vide answer to Q.No.1 confirmed the date of recording statement on 31.12.1996 which is Contradictory. Further, vide answer to Q.No.2 he can not remember the amount paid to Shri Karn.

Taking all factors into consideration, I am of the opinion that the end of justice will be met if you are awarded with the penalty of reversion to the lower post/grade of Jr.IC for a period of one year with cumulative effect. His pay may be fixed at Rs. 3950/- in scale Rs. 3850-4590/- with immediate effect.

22-5-77
(A. B. DAS)

एस.सी.एस. (ग्रामीण)
पू. सौ. रोड्स/कामहिंग
Divl. Commi. Manager
H. S. Blv./Lumding

Not Collected

Drury Daffay

To,

The ADRM / Lumding
N. F. Railway

Through proper channel.

Sub :- Appeal against imposition of penalty.

Ref :- DCM / LMG's notice of imposition of penalty vide No. C/Con/LM/Misc/98 (NLK-Hd.TC-GHY) dated 16-9-2004 reached me on 29-10-04.

Sir,

Having exhausted channel at Disciplinary Authority (DA), and having been aggrieved by his incoherent order of imposing penalty, respectfully I beg to prefer this humble appeal to your kind repay perusal, against the following amongst others :-

1. **Fact of the case:** - On 30-12-96, I resumed duty at 14 Hrs. at counter No. 10 with private cash Rs. 147/- Entrusted with the job of booking current reservation available in the passenger chart of the Trains as well booking of retiring room to the bona-fide passengers obtaining scheduled charges for Govt. exchequer. In the process, when I was busy with the chart of 5609 Dn. and issuing reservation to the intending passengers, one gentleman introduced himself member of ZRUCC and sought for accommodation of AC retiring room also told me that he would send the booking charge through care taker after going to the room. I issued slip to care taker to allow AC retiring room for him, remained issuing reservation to other passengers. After some time, care taker Sri R.S. Poddar came to me with Rs. 73/- (one Rs. 50/-, one Rs. 20/- & loose Rs. 3/-) to obtain booking voucher of AC room and arrange snacks and tea for the occupant. Soon after I completed writing the voucher of Rs. 60/- for AC room, and looking for scope to procure snacks and tea for him, I was accosted by the team of civil dressed RPF and vigilance personnel headed by one Sri D. Thakuria (latter known, they had been keeping constant watch over me). Sri Thakuria appeared as persecutor, confiscated the records and cash (both, Govt. and private) including that of non perpetual Rs. 13/- (hold up in transactional time, meant for snacks and tea for ZRUCC member), and almost dragged me to up stair to a vacant retiring room, where Sri Thakuria consulted the records found Govt. money would be Rs. 660/- and private money Rs. 147/-, a total of Rs. 807/. On counting the cash found Rs. 820/- (i.e. Rs. 13/- excess). Already biased and pre-occupied mind Sri Thakuria did not listen the truth about Rs. 13/- (73-60=13), rather took that to make an instrument in preparing "post check memorandum" and "cash check memorandum" PD/2 & PD/3 of the case respectively, at his own sweet will by himself. On completion of writing obtained initials on them besides himself from three more personnel including me to give impetus in law. As an honest employee I had no hesitation to face the truth, and put initial after those were translated in Hindi. Experienced Sri Thakuria holding the responsible post of Chief Vigilance Inspector, academically law graduate and well conversant with the vigilance as well commercial Rules of the Railways, proceeded to deposit the confiscated so-said excess money Rs. 13/- to Govt. exchequer to bring allegation in confidence against me. At that point in time, care taker Sri R. S. Poddar appeared again and submitted the displeasure expressed by Hon'ble ZRUCC member for delay in serving tea & snacks. On hearing Sri Poddar, Sri Thakuria became scared, right away gave him (Sri Poddar) the very Rs. 13/- for services to ZRUCC member. Sri Thakuria being highly disappointed returned me the records and cash Rs. 807/- to continue duty. It remained significant fact on record that Sri Thakuria did not deposit the confiscated so-said excess money Rs. 13/- to Govt. exchequer, and ended his decoy check with no short or excess of money ultimately found with me.

Contd./2

Certified to be true Copy



Advocate,
Date :

2. **Heinous conspiracy :-** Highly disappointed Sri Thakuria CVI/T/HQ remained recalcitrant to appreciate my honesty and integrity for fear of adverse criticism, intrigued with RPF staff (decoy) at his chamber at Maligaon next day on 31-12-96. Depraved them for abetment to prepare hearsay statements and putting deceitful date 30-12-96 on them. (**Q&A of PW/1 Sri P. Dasgupta, did not escape notice of reverend DA**). After procuring those cooked-up statements Sri Thakuria engaged his brain-wave to keep the truth of disposal of the confiscated so-said excess money Rs. 13/- by himself under warps. Deliberately brought intricacies in the Govt. money received in exchange of legitimate charges on the plea that there he discovered 3 (three) currency notes of Rs.50/-, Rs.10/- & Rs. 5/- (as if) already depicted by him. Further, circustically wreaked up the settled issue of Rs. 13/- to read 50 Rupees currency note in all fantastic ways and means as evident at Article I & II, together with Annexure I & II of the charges. Those were nothing but figment of ostensive imagination without any iota of truth, already submitted at Para-(I), here in above.

3. **Onus of Enquiry Officer (EO) :-** Disciplinary Authority (DA) in following DA Rules appointed an Enquiry Officer to unearth the truth. Accordingly reverend Sri A Saikia chaired as EO. Reverend EO did not know the originating and terminating point of unlucky number thirteen (in this case Rs. 13/-). The Rs. 13/- being the moot point of entire allegations and is the lone determining factor to hold responsibility, abreast to exonerate honorably. **Because, mere availability of any depicted money in Govt. money without any excess, the person deputed to push the depicted money was to answer, not who received them legitimately.** No doubt, Rs. 13/- halted at me during its journey when I was accosted. It remained an indispensable factor for an impartial judge (EO) to look at least to its terminating point which was very much available in the knowledge with the authority confiscated the amount. It was to arrive at an equitable and rational finding in following the norms and principles of Natural Justice. Be it mentioned that Rs. 13/- did not find place in the sealed cover (PD/9) opened before EO at the time of enquiry. No evidence for its originating and terminating was sought and brought by EO as well DA, except allegation framed explicitly on suspicion derived from surmise and conjecture based upon PD/2 & PD/3 which were obviously not the end in themselves. Without seeing the available terminating point or evidence and without questioning CW/2 Sri Thakuria about disposal of Rs. 13/- at his end, reverend EO simply joined chorus in the tune of allowing the allegations. Conspicuously the action went repugnant to Natural Justice and in total violation of official propriety of holding an inquiry. **The conclusion thus arrived must suffered from ostensive aberration and utter ineptness as well bad in law, had to be abjured.**

(3)

4. **Implication of statutory Rules** :- Railway service conduct Rule 1966, Rule 3(1) reads :- Every Railway servant shall at all times (i) maintain absolute integrity (ii) maintain devotion to duty and (iii) do nothing which is unbecoming of a Railway servant.

Respectfully, I beg to crave for an indulgence to draw your kind prudent attention to the salient aspects of Decoy check conducted jointly by Vigilance & RPF. It will be seen therein, factually I had no control or initiative over Rs. 13/- which halted at me in course of its journey, was in order to maintain devotion to duty enshrined under Rule 3 (1) (ii), as **public servant to serve public representative ZRUCC member with his money**. There was no breaching of integrity as well unbecoming of a Railway servant from me. In fact, there is no ingredient to implicate me under any clauses this Rule. Rather, this Rule is very much applicable to implicate both RPF decoy and head of Vigilance team, stated in Para-(2) herein above.

DA Rule (9):- Model time schedule for finalizing departmental proceedings in the cases of imposition of Major penalty = total 150 days.

Para 4 = In items of the time schedule, the time with which the disciplinary authority is required to take a final decision on the inquiry report and issue notice of imposition of penalty, is 20 days. While it should be generally possible to adhere to this time limit, in certain rare cases where it is not found practicable to adhere to this target rigidly, the disciplinary authority should submit a report to the next higher authority indicating the additional period likely to be taken for finalization of the case together with the reasons therefore. (Authority Rly. Boards L/No. E (D&A) 70 RG/6-14 dated 20-04-1971).

The salient dates are appended below, it will be seen therein that this case already barred by the provision of time/limitation at its all the spell of activities, and is in violation of Rules and does not warrant to exist in the eye of law.

Duty was of 30-12-96, charge sheet issued on 15-01-98 (after one year) defense submitted after getting documents on 28-10-98, enquiry first held on 21-1-2000 (after one year three month), second enquiry held on 15-2-01 (again after one year) then on 6-09-01 & 7-09-01 (after seven months), EO's report made available on 26-12-02 (after one year three months), further submission made on 3-02-03, penalty imposed on 16-09-04 reached me on 29-10-04 (after one year nine months, in place of 20 days), directly in violation of Board's above order dated 20-04-1971.

5. **End of justice** :- That in the premises stated in Para 1 to 4 above, it is most respectfully prayed that your kind prudent honour will be pleased to appreciate the fact that any penalty imposed taking into account of aforesaid report of EO is bound to be repugnant to Natural Justices, and bad in law. When I being an humble innocent employee do not want any favour, abreast must not be denied justice and fair play. Hence this humble appeal to your kind noble honour to be pleased to pass an order to exonerate me from the undue punishments, or pass such order / orders as deemed fit and proper. For this act of kindness your humble employee shall ever pray.

Yours faithfully,

Dated :- 10-12-04

N. L. Karn
Hd. TC / GHY

N.F.Railway

Confidential.

Office of the

Divl. Railway Manager(C),

Lumding.

Dt.14.06.2005.

No.C/CON/LM/MISC/98 (NLK-HTC-GHY)

To,
Sri Narayan Lal Karn,
TC/GHY.

Thro: - SM/Gaz/GHY.

Sub: - Appeal against imposition of penalty No. C/CON/LM/MISC/98
(NLK-Hd.TC-GHY), dt.16.09.2004.

Ref: - Your appeal dated.10.12.2004 addressed to ADRM/Lumding.

Appellate Authority (ADRM/LMG) having gone through your appeal has passed the following orders: -

"I have read the charges, the defence of employee, the enquiry proceedings and findings, the NIP which was proposed and the NIP which was finally awarded. I have also read the appeal of employee against the employer.

This is a trap case by vigilance department. The earlier NIP proposed was reduction of pay by one stage for two years. However, as the employee is due to retire this penalty has already been reduced to NIP of reversion to Junior TC for one year. It is proven that the employee possessed extra cash at time of Vigilance Check.

I am of the opinion that the punishment imposed is adequate."

(S. C. Kumar)

Sr. Divl. Commercial Manager,
Lumding.

Copy to; -1. DRM(P)/LMG (ET/Cadre) for information and necessary action please.

2. APO/GHY for information and necessary action please.

3. SM/Gaz/GHY for information and necessary action please.

(S. C. Kumar)

Sr. Divl. Commercial Manager,
Lumding.

Certified to be true Copy

[Signature]

Advocate,
Date:

10 JULY 2006

गुवाहाटी बैच
Guwahati Bench

Filed by
Wenz
10/7/06
(Dr. M. C. Sarmah)
Advocate

Chandru Kumar
G. D. D.

Ex. 4291
Dr. Divy. Ch. D. D.

Ex. 4291
Dr. Divy. Ch. D. D.
N. P. Ry. L. No. 100

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH.

IN THE MATTER OF

O.A.290/2005

Shri Narayan Lal Karn

Applicant

Versus

General Manager,
N.F. Railway & Others

Respondents

AND

IN THE MATTER OF

Written Statement on behalf of the respondents.

The answering respondents respectfully SHEWETH :

1. That the answering respondents have gone through a copy of the application filed and have understood the contents thereof. Save and except the statements which have been specifically admitted herein below or those which have been borne on records all other averments/allegations as made in the application are hereby emphatically denied and the applicant is put to the strictest proof thereof.

2. That for the sake of brevity meticulous denial of each and every allegation/statement made in the application has been avoided. However, the answering respondent has confined his replies to those points/allegations/averments of the applicant which are found relevant for enabling a proper decision on the matter.

3. That the application suffers from want of a valid cause of action and therefore deserves to be dismissed. As will be clear from the submissions below, the applicant was found to have indulged in a corrupt practice of charging extra money in granting reservation to a sleeper berth in 5609 Avadh Assam Express leaving Guwahati on 30.12.1996 in a decoy check by the Railway's Vigilance team. He was found to have charged Rs.65/- for a berth against Rs.15/- actually payable. A check of the applicant's private cash register also showed excess cash. On the basis of these allegations of corrupt practice involving innocent passengers the applicant was proceeded against after a proper departmental fact finding enquiry. On the conclusion of a DAR enquiry and after affording the applicant due and adequate opportunity to defend himself and in keeping with the norms of natural justice the applicant was meted out a lenient punishment in spite of the gravity of the offence. In the appeal stage also fairness and justice was ensured.

Received by me
Rafiqul Islam
10/7/06

In view of these facts the respondents beg to submit that the application deserves to be dismissed.

4. That the application suffers from a wrong perception of a role of a Railway servant towards the travelling public who deserve to be helped in the course of their journey and not exploited by taking advantage of the difficulties they face. The respondents submit that unless exemplary punishment is meted out to such undesirable practices the travelling public will continue to suffer. The application deserves to be dismissed on this score also.

Parawise comments:

5.1. That as regards paragraphs 4.1 and 4.2 the respondents have no remarks to offer as they are part of the records.

5.2. That as regards paragraph 4.3, the respondents beg to submit that the claim of the applicant that the amount of Rs.73/- was paid to him by a ZRUCC member was not backed by any documentary or even oral evidence by the said member and therefore no credence could be placed on the claim. A member of the Railway's Zonal Users Consultative Committee is a very responsible person and if he had given even a written note supporting the claim of the applicant the same would have helped the applicant's cause. In absence of any such evidence the claim of the applicant in this matter appeared hollow.

5.3. That as regards paragraphs 4.4, 4.5 and 4.6 the respondents beg to state that the applicant has tried to unsuccessfully prove his innocence by making misleading statements. The actual facts are that in the decoy check held on 30.12.96 the applicant was found to have taken from the decoy a sum of Rs.65/- in specially marked currency notes against the actual fare of Rs.15/- as reservation charge for a sleeper berth in the train concerned. It was found by the vigilance team that the applicant demanded and received Rs.65/- for issuing reservation ticket No.027972 against berth No.8 in coach No.8/1 by 5609 Dn. Avadh Assam Express leaving Guwahati on 30.12.1996 on ticket No. 00060 from Guwahati to Muzaffarpur. The actual reservation charge in sleeper class is Rs.15/- but the applicant demanded and accepted Rs.65/-, i.e. Rs.50/- in ~~xxx~~ excess.

The vigilance checking team for the decoy check

consisted of RPF constable Shri P. Dasgupta of CIB/Maligaon and Shri H.N.Roy, Constable, RPF/CIB/Maligaon acting as an independent witness as required under extant practice.

Before conducting the raid a pre-check memorandum clearly indicating the currency notes (with numbers) used in the decoy check was made out with signatures of the decoy, the independent witness and the vigilance officials.

A copy of this pre-check memorandum is enclosed herewith and marked as ANNEXURE A.

In the actual event, Shri P. Dasgupta, the decoy, approached the Applicant, who was the on duty reservation clerk at counter No.10 at Guwahati station, for giving him one berth by 5609 Dn. Avadh Assam Express of 30.12.96 ex. Guwahati to Muzaffarpur. The actual reservation charge for the berth was Rs.15/- but the applicant demanded Rs.65/-. Shri P. Dasgupta, the decoy handed over to the applicant Rs.65/- from the G.C.notes whose numbers were recorded in the pre-check memorandum. On receipt of this amount the applicant issued berth reservation ticket No.027972 of 30.12.96 for berth No.8 in coach No.1 by 5609 Dn. Avadh Assam Express leaving on that date on ticket No.00060 and handed over the ticket and reservation mandate to the decoy in presence of Shri H.N.Roy, the independent witness.

After this, the vigilance team entered the counter where the applicant was on duty and asked the applicant to produce his private cash register. On being asked the actual and correct charge for a reservation ticket, the applicant stated that it was Rs.15/-. On checking the cash produced by the applicant, G.C.notes bearing numbers 6AG485594(fifty rupees), 79E471377(ten rupees) and 85M601402 (five rupees) were found mixed up with other cash with him. These notes were the ones handed over to the applicant by decoy, Shri Dasgupta.

As per approved practice, staff issuing tickets and doing reservation duty are required to declare and record their private cash before assuming duty. This cash is required to be kept separately from Govt. cash collected in course of their duty. In the vigilance check in question the applicant was not only found with excess cash but he was also found mixing his personal cash with the Govt. cash. These irregularities were found to be serious enough to warrant a DAR process of issue of major penalty memorandum against the applicant and to follow the same to its logical conclusion. It would thus be seen that the applicant was guilty for gross misdemeanour and corrupt practice for which he had to face a severe punishment.

5.4. That as regards paragraph 4.7 the answering respondents beg to deny that the applicant was not given the list of witnesses. In actual fact the list of witnesses containing two names was enclosed as Annexure IV of the chargesheet issued on the applicant vide No.C/Con/LM/Misc/98(NLK-HTC-GHY) dated 15.01.98 and the memorandum containing Articles of Charges and statement of allegations which has been enclosed by the applicant himself as Annexure-3 of the Application under consideration. The applicant is therefore not correct in stating that he could not defend himself properly for want of the list of witnesses. It is also further clarified that the list of documents was not only sent with the memorandum of charges but these were also sent subsequently to the applicant on 15.10.98 as admitted by him in this paragraph.

5.5. As regards paragraph 4.8 the respondents beg to state that a new Enquiry Officer was appointed as the previous incumbent was transferred on administrative exigency and the new Enquiry Officer was fully competent to conduct the enquiry as an independent authority.

5.6. As regards paragraph 4.9, the respondents beg to offer no remarks on the same as the facts are part of the records.

5.7. That as regards paragraph 4.10, the respondents beg to clarify that the report of the Enquiry Officer in the departmental enquiry (which is enclosed as Annexure-7 of the O.A.) clearly went against the applicant. The findings clearly stated that "On the basis of discussion of evidence both documentary and oral adduced during enquiry as discussed in paras 5.1.1 and 5.2.1 above the article of charges-I and II levelled against Shri N.L.Karn, Hd.TC/GHY are substantiated." The allegation that "vital witnesses were also not examined and the documents adduced for the railway authority were inconsistent of receipt of bribe of Rs.50/-" is emphatically denied by the respondents as will be seen from a perusal of the report of the enquiry officer.

5.8. That as regards paragraphs 4.11 and 4.12, the respondents beg to state that though the disciplinary authority noticed some minor aberrations in the evidence of the witnesses he was convinced of the misconduct of the applicant and therefore levied the punishment of reversion of the applicant to a lower post for one year with cumulative effect. Thus the disciplinary authority acted in a just and fair manner as the punishment could have been harsher.

5.9. That as regards paragraph 4.13, the respondents beg to state that the statutory Appellate authority, ADRM/Lumding, having gone through the entire case papers, observed that the punishment imposed was adequate. It is submitted that at the appellate stage due opportunity was given to the applicant as per rule and that the applicant was treated with fairness in view.

5.10. That with reference to the contention of the applicant in paragraph 5.1 the respondents beg to state that the charges against the applicant were two, namely, 1.charging Rs.65/- for a berth reservation ticket against due charge of Rs.15/- and 2.Possession of excess cash of Rs.13/- and of mixing his private cash with Govt.cash. In the departmental enquiry, both these charges were proved and as these revealed corrupt practice and were considered serious misconduct and dereliction of duty, he was punished for the same.

5.11. That as regards paragraph 5.2, the contention of the applicant that list of witnesses and list of documents were not sent is considered to be based on utter falsehood. As admitted by the applicant himself in paragraph 4.7, he received the list of documents again on 15.10.98 apart from the fact that the memorandum of charges itself contained the list of witnesses. By making sensational and hollow claims and allegations of imaginary injustice done to him, the applicant has tried to mislead the Hon'ble Tribunal.

5.12. That as regards paragraphs 5.3,5.4,5.5,5.6 and 5.7, the respondents beg to state that the attempt of the applicant to prove that the enquiry proceedings were flawed and perverse and that there was some kind of conspiracy against him cannot succeed in view of the records of the case. The applicant tried to prove his excess cash by contending that the same was given to him by a ZRUCC member but he failed to prove the claim by producing the records. He was free to produce the person concerned as a witness in course of the enquiry or at least produce a recorded note by the person concerned. As he did neither, he cannot prove his innocence in the matter.

5.13. That as regards paragraph 5.8, the respondents beg to state that the enquiry and disciplinary proceedings have not violated any regulations and guidelines of the Railway Board.

In view of the circumstances of the case and considering the facts as stated above, the respondents beg to submit that the contentions of the applicant do not deserve consideration and hence the same may be dismissed for want of a valid cause of action.

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

VERIFICATION.

I, Shri S. C. Kumar, son of Shri Jag Narayan pd, aged about 36 years and at present working as Sr DCMI Mgr, N.F.Railway, do hereby solemnly affirm that the contents of paragraph Nos. 1 to 5.13 are true to my knowledge and are based on record which I believe to be true and the rest my humble submissions before the Hon'ble Tribunal.

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

Sudhir Chandra Kumar
Signature

परिवर्तन गंतव्य विभाग
Designation. नियमित/लामिय
Sr. Civil Control Manager
N. F. Rly./Lumading

(7)

83

ANNEXURE - A

True Copy

Pre- Check Memorandum

In order to conduct a decoy check the following Govt. currency notes has been taken in order & handed over to Sri Pradip Dasgupta, Const/RPF/CIB/MLG who will act as Decoy in presence of Sri H.N. Roy, Const/RPF/CIB/MLG who will act as independent witness. The Decoy was strictly instructed not to hand over any excess amount if not demanded. The particulars of Govt. Currency notes are as under:-

- 1) Nine fifty rupee G.C. notes bearing nos. HSV 888240, 4PG 294514, 3QN 963615, 6AG 455594, 2HM 553131, 3WQ 932419, 4EB 960145, 7RB 986992, OFU 551028
- 2) Four ten rupee G.C. notes bearing no. 79E 471377, 49K 816987, 88A 489478, 95V 816245
- 3) One Five rupee G.C. note bearing no. 85M 601402
- 4) Two two rupee G.C. notes bearing no. C/89 401766, 50E 697248
- 5) One one rupee G.C. note bearing no. 30D 465138

-Sd-	-Sd-	-Sd-	-Sd-
(H.N. Roy)	(P. Das Gupta)	(B.K. Das)	(D. Thakuria)
Ind. Witness	Decoy	Sr.VI/T	CVI/T
Const./RPF/CIB/MLG	Const./RPF/CIB/MLG		

*Annexure A
Pre-Check*

61
Sarayukh Bhattacharya
Assistant Commr. Manager
B. R. Railway, Lucknow