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

(DESTRUCTION OF RECORD RULES, 1990)

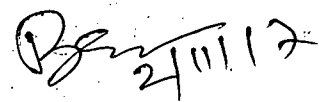
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O.A/T.A No. 119/05

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SECTION OFFICER (Judl.)

FORM NO. 4  
(SEE RULE 42)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

ORDER SHEET

Original Application No. 119/05

Misc. Petition NO. \_\_\_\_\_

Contempt petition No. \_\_\_\_\_

Review Application No. \_\_\_\_\_

Applicants. B. Bhanu Das

Respondents. U.O.I. Govt.

Advocates for the Applicant. G.M. Paul, S. Bhuyan

Advocates of the Respondents. Railway Counsel

Notes of the Registry	Dated	Order of the Tribunal
<p>Application is in form is filed/C.F. for Rs. 50/- deposited vide IP/BD No. <u>206/133/70</u> Dated <u>26.5.05</u></p> <p><u>sd/-</u> Dy. Registrar</p> <p><u>Bondamurthy</u> <u>Advocate</u> <u>8.6.05</u></p> <p><u>8.6.05</u> Copy of the Judgment handed over to the Advocates for the parties. SP</p>	<p><u>31.5.05.</u></p> <p>lm</p>	<p>Judgment delivered in open Court. Kept in separate sheets. Application is disposed of. No costs.</p> <p><u>[Signature]</u> Member</p> <p><u>[Signature]</u> Vice-Chairman</p>

CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH.

O.A. No. 119 of 2005

DATE OF DECISION: 31-05-2005.

Shri Bridaban Bihari Das

APPLICANT(S)

Mr. G.M. Paul

ADVOCATE FOR THE  
APPLICANT(S)

- VERSUS -

U.O.I. & Ors.

RESPONDENT(S)

Mr. S. Sarma, Railway counsel

ADVOCATE FOR THE  
RESPONDENT(S)

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

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

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether the judgment is to be circulated to the other Benches?

Judgment delivered by Hon'ble Vice-Chairman.

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.119 of 2005.

Date of Order: This the 31<sup>st</sup> Day of May, 2005.

HON'BLE MR.JUSTICE G.SIVARAJAN, VICE-CHAIRMAN  
HON'BLE MR.K.V.PRAHLADAN, ADMINISTRATIVE MEMBER.

Sri Brindaban Behari Das,  
Son of Late Sridam Kumar Das  
ACCI/Grade-1  
SE/AC/DBRT  
Office of the AEE/Coaching/DBAT.  
N.F.Railway, P.O. & District-Dibrugarh.

Applicant.

By Advocate Mr.G.M.Paul, Mr.S.Bhuyan.

-Versus-

1. Union of India,  
Represented by the Secretary,  
To the Government of India in the  
Railway Deptt. New Delhi
2. The General Manager  
N.F. Railway, Maligaon  
Guwahati-781011.
3. Senior Divisional Elect. Engineer.  
N.F.Railway, Tinsukia (Assam).

Respondents

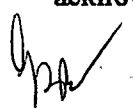
By Advocate Mr. S. Sarma, Railway counsel. —

ORDER (ORAL)

SIVARAJAN,J (V.C):

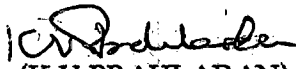
Having heard Mr. G. M. Paul, learned counsel for the applicant and Mr.S.Sarma learned counsel for the Railway appearing on behalf of the Respondents, we are of the view that this application can be disposed of at the admission stage itself.

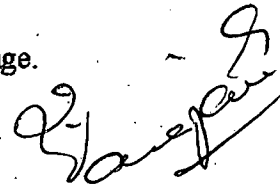
The applicant while working as ACCL/Gr-1 under N.F.Railway was charge sheeted for misconduct of attempting to molest a lady passenger named Lt. Sandhya Suri of Indian Navy on 17.09.99 in Kamrup Express Train. After conducting disciplinary proceedings the disciplinary authority passed an order stopping his two years increments with cumulative effect from his next date of increment. The applicant being aggrieved by the said order filed an appeal (Annexure IX) before the 2<sup>nd</sup> respondent which was acknowledged by the said respondents on 31.5.04 (Annexure 10).



2. Mr. G. M. Paul learned counsel appearing on behalf of the applicant submits that though more than one year has passed since the filing of the appeal the same has not so far been disposed of. Mr.S.Sarma, learned counsel for the Respondents submits that if the appeal has not so far been disposed of the same will be disposed of within a reasonable time. We find that it is on this day in the year 2004, the 2<sup>nd</sup> respondent has received the appeal on 31.5.04. If, in fact, the appeal has not so far been disposed of, in the absence of valid reasons, the delay cannot be justified. However, we direct the 2<sup>nd</sup> respondent to dispose of the appeal (Annexure IX) as expeditiously as possible at any rate within a period of two months from the date of receipt of this order. The order must be a speaking one. The applicant will produce this order before the 2<sup>nd</sup> respondent for compliance within two weeks from to day.

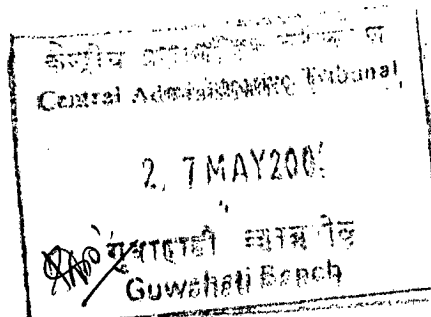
The application is disposed of as above at the admission stage.

  
(K.V.PRAHLADAN)  
ADMINISTRATIVE MEMBER

  
(G.SIVARAJAN)  
VICE-CHAIRMAN

LM

81-5-05



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI

( An application Under Section 19 of the  
Administrative Tribunal Act, 1985 ).

Original application 119.../05

Sri Brindaban Behari Das  
... Applicant.

- Vs -

Union of India & others.  
... Respondents.

Synopsis/ List of Dates

S1 .	Date	Particulars	Annexure	Page
1.	18/9/99	The applicant holds a permanent post of ACCI/Gr-I under the N.F. Rly. On 17/9/99 & 18/9/99 he was on duty boarding 5959 up Kamrup Express running from Howrah to Dibrugarh. One Lt. Sandhya Suri of Indian Navy boarding in the train lodged an FIR with O/C, GRP/NJP station dt. 18/9/99 alleging that on the night of 17/9/99 and following morning the applicant outrage her modesty. The GRPS/NJP registered as case vide GD No. 626, dated 18/9/99. Police failed to make any headway with the case and the applicant not prosecuted by laying any chargesheet before a competent court of law.	Annexure-I Copy of the FIR dated 18/9/99.	10-11

Contd..2

2. 22/9/99      The Disciplinary Authority on 22/9/99 place the applicant under suspension.      Annexure-II      12  
Suspension  
Order dated  
22/9/99
  
3. 30/9/99      The Disciplinary Authority issued a chargesheet with a Memorandum and the article of charge on 30/9/99.      Annexure-III & IV      13-14  
Memorandum and  
articles of      15  
charge respec-  
tively .
  
4.      The Disciplinary Authority appointed an enquiry officer and he examined only one witness for the Disciplinary authority who is not an eye witness.
  
5. 17/1/04      The enquiry officer examined the applicant on 17/1/04. He denied the charges brought against him.      Annexure-V      16-17  
Recorded  
statement of  
the applicant  
on 17/1/2004.
  
6. 28/1/2000      The Disciplinary Authority on 28/1/2000 revoked the order of suspension w.e.f. 29/1/2000.      Annexure-VI      18  
(Suspension  
revocation  
order dated  
28/1/2000).

7. 9/3/04 The Enquiry Officer, Submitted his report, dated 9/3/04 holding that the charges against the applicant was not proved. Annexure-VII 19  
(Enquiry report dated 9/3/04)
8. 3/5/04 The Disciplinary authority surprisingly on 3/5/2004 stop 2 years increment with stopped with cumulative effect from his next date of increment. Annexure-VIII 20  
order dated 3/5/2004  
(Impugned order)
9. 31/5/04 The applicant preferred an appeal /representation against the impugned punishment to the appellate authority at Maligaon, Guwahati and the same was received at the office on 31/5/05. The authority did nothing till date and hence the applicant file this petition. Annexure-IX & X 21-22  
Copy of Appeal/ representation and postal receipt respectively. 23



A

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI

(An application Under Section 19 of the  
Administrative Tribunal Act, 1985 ).

Original application ...../05

Sri Brindaban Behari Das

... Applicant.

- Vs -

Union of India & others.

... Respondents.

I N D E X

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Filed by ,

Sukrat Bhuyan  
Advocate

10  
Filed by  
the applicant  
Brindaban Behari Das  
through  
Subat Bhuyan  
Advocate  
26.5.05

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH,  
GUWAHATI**

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

Original Application No...../ 2005

**1. Particulars of the Applicant:**

Sri Brindaban Behari Das

Son of.. Late.. Girdam Kumar Das

ACCI / Grade - I

SE / AC / DBRT

Office of the AEE / Coaching / DBAT,

N.F. Railway, P.O. & District – Dibrugarh.

**2. Particulars of the Respondents:**

1. Union of India,

Represented by the Secretary to the Government of India in the  
Railway, <sup>Deptt,</sup> New Delhi

2. The General Manager,

N. F. Railway, Maligaon,  
Guwahati – 781011.

3. Senior Divisional Elect. Engineer, ,

N. F. Railway, Tinsukia (Assam).

**3. Particulars of the Order against which the application is made:**

This application is made against No. LV / D – 25 / DAR / G – 15 /  
53 dated 03.05.04 from the respondent No. 3 stopping 2 (two).

years' increment with cumulative effect from the next date of increment and for not giving full service benefits as if on duty during the suspension period around four months ten days from 22.09.1999.

**4. Jurisdiction of the Tribunal:**

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

**5. Limitation:**

The applicant declares that the present application is within the Limitation prescribed in Section 21 of the Administrative Tribunal Act, 1985.

**6. Facts of the Case:**

6.1 That the applicant is a citizen of India and a permanent resident of Dibrugarh, Assam. Being a citizen of India he is entitled to all fundamental rights guaranteed under the Constitution of India and other legal rights framed thereunder.

6.2 That the applicant holds a permanent post of ACCI / Gr. s-  
- I under the N. F. Railways. On 17.09.99 and 18.09.99 he was on duty boarding 5959 UP Kamrup Express running from Howrah to Dibrugarh. He was on duty on Coach No. A/I. One Lt Sandhya Suri of the Indian Navy boarding the train on seat No. 23 lodged an FIR with o/c, GRP / NJP Station on 18.09.99 alleging that on the night of 17.09.99 and the following morning the applicant outraged her modesty. The GRPS / NJP registered a case at 07.50 hrs on 18.09.99 vide G.D No. 626, dated

*Birinda Chandra Lohari Dtn.*

18.09.99. Police failed to make any headway with the case and the applicant was not prosecuted by laying any charge-sheet before a competent court of law.

A Xerox copy of the FIR is annexed hereto and marked as Annexure: - I to the application.

- 6.3 That the Disciplinary Authority vide No. LV /D -25/ DAR / G - 15 / 46, dated 22.09.99 placed the applicant under suspension with immediate effect pending disciplinary proceedings against him.

A photocopy of the suspension order is annexed hereto and marked as Annexure: - II.

- 6.4 That the Disciplinary Authority vide its No. LV /D - 25 / DAR / G-15/47, dated 30.09.99 issued a Charge-sheet against the applicant with a memorandum and the article of charges. The articles of charge are on two counts, viz.

- a) alleged attempt to molest a lady passenger named Lt. Sandhya Suri of Indian Navy on 17.09.99 on the Kamrup Express, A/C 2 tier while the applicant was on duty;
- b) GRPF personnel at N.J.P junction on receipt of a FIR from Smti Sandhya Suri failed to locate him, although for that purpose the train was detained there for 15 (fifteen) minutes.

Xerox copies of the memorandum and articles of the charge are annexed herewith and marked as Annexure: - III & IV respectively.

*- Brinda San. Lohan. Sec.*

*Brinda Bhatnagar*

6.5 That the Disciplinary Authority appointed an enquiry officer and he examined only one witness, namely Sri S.K. Mukherjee, TTE / NJP for the Disciplinary authority. He is not an eye-witness. He is a hearsay witness. No other witness was examined to corroborate the evidence of Sri Mukherjee.

6.6 That on 17.01.2004 the Enquiry Officer examined the delinquent officer, viz the applicant. The applicant denied the charges brought against him. As regards the charge of not being traceable by the GRP personnel at N.J.P. Railway Station the applicant stated that at the time he was on duty at the RR Unit.

A Xerox copy of the recorded statement of the applicant before the enquiry officer is annexed hereto and marked as Annexure: - V.

6.7 That the Disciplinary Authority vide No. LV / D - 25 / DAR / G - 15 / 3, dated 28.01.2000 revoked the order of suspension with effect from 29.01.2000.

A Xerox copy of the suspension revocation order is annexed hereto as Annexure: - VI.

6.8 That the Enquiry Officer submitted his report, dated 09.03.04 holding that the charges against the applicant was not proved for lack of evidence.

A Xerox copy of the enquiry report is annexed hereto and marked as Annexure: - VII.

- 6.9. That the Disciplinary Authority by No. LV / D -15 / DAR / G - 15 / 53 dated 03.05.2004 communicated to the applicant that " His 2(two) years increment should be stopped with cumulative effect from his next date of increment".

A Xerox copy of the order communicating punishment is annexed hereto and marked as

Annexure: - VIII.

- 6.10. That on receipt of the order of punishment having been passed illegally the applicant preferred an appeal against the punishment to the appellate authority, at Maligaon, Guwahati, and the same was received at his office on 31.05.04. But inspite of persuasions many times the appellate authority ignored to dispose off the appeal / representation with intimation to the applicant.

A Xerox copy of the appeal / representation and postal receipt of thereof are annexed hereto and marked as Annexure: - IX & X respectively.

- 6.11. That the suspension period of the applicant has not yet been regularized. The applicant humbly submits that in the facts and circumstances of the case his suspension period has to be held as on duty and the difference between the amounts paid to him during his suspension period and the amounts to which he would have been entitled had he not been placed under suspension has to be paid to him by the department authority i.e. the respondents.

*Brinda can be seen*

7. **Grounds for Relief with Legal Provision: -**

Being highly aggrieved by the illegal actions of the respondents the applicant prefers this application inter alia on the following grounds: -

- (A) For that in the departmental inquiry no eye-witness including the complainant Lt. Sandhya Suri having not appeared and the only witness Sri S.K. Mukherjee, TTE / NJP not being a eye-witness to the alleged occurrence there was no substantive evidence against the applicant. The applicant in law has been punished with no evidence on record. The impugned orders of punishment is liable to be set aside;
- (B) For that the Disciplinary Authority having failed to produce any eye-witness including the complainant before the enquiry officer the applicant was deprived of cross-examination to refute the allegations brought against him. The punishment inflicted upon the applicant was utterly violative of the principle of natural justice. Giving natural justice to a delinquent officer is a sine quo non in a departmental proceeding;
- (C) For that the enquiry officer in his report gave the findings that the charges laid in the charge-sheet against the applicant was not proved. The impugned order of punishment is bad in law;
- (D) For that what made the Disciplinary Authority to impose punishment upon the applicant disagreeing with the report of the enquiry officer was not stated to the applicant, nor is there any indication to that effect in the

*1/3/2014*

impugned order communicated to the applicant. The order of punishment is cryptic and illegal for lack of transparency and being violative of the rules of natural justice;

- (E) For that the applicant having been not found guilty in the departmental enquiry his suspension period was required to have been regularized holding him on duty and paying him full salary for the period. The applicant was paid only subsistence allowance. No-payment to the applicant full salary for the suspension period has been bad in law;

**8. Details of the remedies exhausted: -**

The applicant preferred appeal/ representations before the General Manager, N.F. Railway, Maligaon, Guwahati and the same was received at his office on 31.05.04 but nothing has been done till date. The applicant has no other alternative remedy except approaching this Hon'ble Tribunal. The applicant demanded justice which has been denied by the respondent authorities.

**9. Matters not previously filed or pending in any other Court or Tribunal: -**

The applicant declares that the subject matter of this application is not pending before any Court of Law, or any other branch of the Hon'ble Tribunal.

**10. Relief Sought: -**

The applicant, therefore, prays that this Hon'ble Tribunal may be pleased to -

- (I) Direct the respondents to release full salary benefits minus the subsistence allowance already paid to him for his suspension period.

*Ben da leon lhu' den.*



- (II) Set aside the order of punishment passed in the departmental proceeding initiated against the applicant.
- (III) Any further or other order / orders as this Hon'ble Tribunal may deem fit and proper for appropriate reliefs to the applicant.

**11. Interim order if any prayed for:**

The applicant prays no interim relief in this case.

**12. Particulars of I.P.O.**

I.P.O. Number - 206133170  
Date of Issue - 26.5.05  
To whom payable - The Registrar, CAT  
Payable at - Guwahati

**13. Documents.**

Detailed particulars of the documents are indicated in the Index of this Application.

....Verification

*Biswadev Kumar*

VERIFICATION

I, Sri Brindaban Bihari Das, Son of Late Sriolam Kumar Das  
aged about 48 years, resident of Kadlamani, Kalibari Road, P.O-S Dist - Dibrugarh  
Assam do hereby state that the statements made in paragraphs  
6.1 ..... are true to my knowledge and  
the statements made in paragraphs 6 (2 to 10) ..... are  
true to my information derived from the records which I believe to be true.  
And I sign this verification on this the 25<sup>th</sup> day of May 2005.

*Brindaban Bihari Das*

Signature

LT. SANDHYA SURI, INDIAN NAVY, DAUGHTER  
OF SRI S.N. SURI, DATE OF BIRTH - 5 MAY 1972  
242/SS, INS., JYD C/O. FLEET MAIL OFFICE  
MUMBAI 90T. VISHAKHAPATNAM), 18 SEPT, 1999

9

To  
The OC/GRP/NJP Station,  
New Jalpaiguri (WB)

Lodging of Complaint : Sri B.D. Das, ACCI/Gr-II, I/C No. 051424  
on duty staff in A/C of 5959 Up of 17-09-99 Ex. HWII.

1) I was travelling from HWII to NJP vide T/No. C30-6498284  
(PNR) and boarded 5959 UP Kamrup Express on 17-09-99, Seat  
No. 23, Coach No. A/1.

2) At about 23.00 hrs. he, Mr. B.D. Das passed by my seat and  
passed his hands over my leg.

Assuming it to be an over sight on his part I  
let it be. The same occurred after an hour and he passed his  
hands on my chest and walked on. At third time Mr. Das came  
up to me and woke me up. He was reeling of alcohol. He had  
a pillow in his hand and asked me if he could put there till  
Malda, I refused and asked him to go away. Yet again at about  
03/15 hrs. on 18-09-99 morning he came across and deliberately  
passed his hands over my chest again.

I got up and took the assistance of Captain  
K.Y. Datta, 19 Wing AF to lodge a Complaint with Sr. S.K.  
Mukhopadhyay, TTE, Mr. Das, i.e. he has asked for and upon  
the advice of the TTE this formal complaint is being lodged  
against Sri Das at NJP Railway Station where I alight.

3) It is requested that a fine and corrective action be taken  
against Sri B.D. Das for :-

- a) harassment and intentional, physical abuse.
- b) for being in a drunken state whilst on duty.

Thanking you,

Yours sincerely,

sd/-

( SANDHYA SURI )

Contd..P/2

Attested  
Suri

(( 2 ))

I sign it as fully correct and correct and no witness.

SD/CAPT. K.Y. Dole, O/C 3 AF Pu, I/D

19 Wing A.F. Gownhati, AF Station

PNR - 630-6368153, B/No. 07 in A/C 2 TR (MLDT-GHY)

FIR Lodged at GRPS/NJP at 7.50 hrs. on 18-09-99.

G.D. No. 626, Dt/- 18-09-99.

*Attested  
by*

STANDARD FORM NO. 1

Standard Form of Order of Suspension Rule 5, 1 of the RI (D&A) Rules, 1968).

No. LV/D-25/DAR/G-15/246  
Railway N.F. Railway,  
Place of Issue Tinsukia  
Date 22.9.99.

ORDER

Whereas disciplinary proceedings  
against  
Shri Brindabhan Bihari Das,  
ACCI/Or I/DMRT  
(Name & designation of the Railway  
servant) is contemplated/pending.

Whereas a case against Shri Brindabhan  
Bihari Das,  
ACCI/DMRT  
(Name and designation of the Railway servant)  
in respect of a criminal offence in under  
investigation/inquiry/trial).

Now, therefore, the president/the Railway Board/the undersigned the  
authority competent to place the Railway servant under suspension in terms  
of the Schedules I, II and III appended to RI (D&A) Rules, 1968/an authority  
mentioned in provision to rule 4 of the RI (D&A) Rules, 1968) in exercise of  
the powers conferred by rule 4/provision to rule (51) of the (D&A) Rules 1968,  
hereby places the said Shri/ B.B. Das  
under suspension with immediate effect from 22-9-99

It is further ordered that during the period this order shall remain in  
force, the said Shri B.B. Das shall not leave the  
headquarters without obtaining the previous permission of the competent authority.

Signature [Signature]  
Name Shri B.P. Roy Choudhary  
(Designation of the undersigned authority)

Copy to: Shri B.B. Das, ACCI/DMRT,  
Through SE/AC/DMRT  
(Name and designation of the suspended Railway servant)  
Copy to: DM4(F)/TSK  
Copy to: ACC/Coaching/DMRT

Attested  
[Signature]

## NORTHEAST FRONTIER RAILWAY

\*\*\*\*\*

STANDARD FORM OF CHARGE SHEET.

STANDARD FORM NO. 5

(Rule 9 of the Rly. Servants' Disciplinary and Appeal Rule, 1968)

NO. LV/P-25/DAR/G-15/47 Dt. 30.9.99

Office of ... Sri Divl. Electrical Engineer, Tinsukia

Place of issue ... Tinsukia Date: 30.9.99

## MEMORANDUM

1. The President/Rly. Board/undersigned propose(s) to hold an inquiry against Shri. ... under rule 9 of the Rly. servants' (Disciplinary and Appeal) Rules, 1968.

The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement or articles of charge (Annexure-I).

A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II).

A list of documents by which and a list of witnesses by whom the articles of charge are proposed to be sustained are also enclosed (Annexure - III & IV).

Further, copies of documents mentioned in the list of documents as per Annexure-III are enclosed.

2. Shri. B.B. Das is hereby informed that if he so desires, he can inspect and take extracts from the documents mentioned in the enclosed list of documents (Annexure-III) at any time during office hours within ten days of receipt of this memorandum.

For this he should contact ... Sr. DEE/TBR immediately on receipt of this memorandum.

3. Shri. B.B. Das is further informed that he may, if he so desires, take the assistance of any other Rly. servant/an official of Rly. Trade Union (who satisfies the requirements of Rule (9) 13 of the Rly. Servants' Discipline and Appeal Rules, 1968 and Note 1 and/or Note 2 there under as the case may be, for inspecting the documents and assisting him in presenting his case before the undersigned. For this purpose, he should nominate one or more persons in order of preference. Before nominating the assisting Rly. servant(s) or Rly. Trade Union official (s) Shri. B.B. Das should obtain an undertaking from the nominee(s) that he (they) is (are) willing to assist him during the disciplinary proceedings. The undertaking should also contain the particulars of other cases if any, in which the nominee(s) had already undertaken to assist and the undertaking should be furnished to the undersigned/General Manager, N.F. Railway along with the nomination.

(Continued)

Attested  
By

4. Shri. Brindaban Bihari Das, AGCI/I/DBRT.

In hereby directed that you to be the authorized a written statement of his defence within ten days of receipt of this memorandum, if he does not require to inspect or submit documents for the preparation of his defence and within ten days after completion of inspection of documents if he desires to inspect documents, and also

(a) to state whether he wishes to be heard in person; and

(b) to list the names and addresses of the witnesses if any, whom he wishes to call in support of his defence.

B.R.Das,

It is directed that an inquiry will be held only in respect of those articles of which he is accused and which he should, therefore, specifically admit or deny and not of the charges.

B.R.Das,

It is further directed that if he does not submit his written statement of defence within the time specified in para 2 or does not appear in person before the inquiry authority or otherwise fails or refuses to comply with the provisions of para 2 of the Railway Servants (Discipline and Appeal) Rules, 1936 or the orders/ directions issued in pursuance of the said rules, the inquiry authority may hold the inquiry ex parte.

7. The attention of Shri B.R.Das,

further invited to Rule 20 of the Railway Services (Conduct) Rules, 1936 under which no Railway servant shall bring or attempt to bring any political or other influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt within those proceedings, it will be presumed that Shri B.R.Das is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the Railway Services (Conduct) Rules, 1936.

8. The receipt of this memorandum may be acknowledged.

Encl. enclosed

To,

Shri Brindaban Bihari Das, AGCI/I/DBRT.

Designation Through - SE/AG/DBRT Station

Copy to DTM/P/TSK.

Attested  
Shyama

4. Sri Brindaban Bihari Das, ACCI/1/DBRT.

Is hereby directed to submit to the undersigned a written statement of his defence within 10 (ten) days of receipt of this memorandum, if he does not require to inspect the documents for the preparation of his defence and within ten days after completion of inspection of documents if he desires to inspect documents, and also.

(a) to state whether he wishes to be heard in person and to furnish the names and address of the witnesses if any, whom to refer to call in support of his defence.

5. Shri B.B.Das, ..... that an inquiry will be held only in respect of those articles of charges ..... he should therefore, specifically admit or deny the memorandum of charge.

6. ....Shri B.B.Das ..... that if he does not submit his written statement of defence ..... specified in para 2 or does not appear in person before the enquiry authority or otherwise fails or refuses to comply with the provision of Rule 9 of Rly. Servants (Discipline and Appeal) Rules 1968 or the orders/directions framed in person or the said rule, the enquiry authority may hold the enquiry ex parte.

7. The attention of Shri B.B.Das,

further invited to Rule 20 of the Railway Services (Conduct Rules) 1966 under which no railway servant shall bring or attempt to bring any political or other influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt within these proceedings, it will be presumed that Shri B.B.Das is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the Railway Services (Conduct) Rules, 1966.

8. The receipt of this memorandum may be acknowledged.

Enclosure:

To

Shri Brindaban Bihari Das, ACCI/1/DBRT.

Designation Through-SE/AC/DBRT Station

Copy to DRM/P/TSK.

Sd/

Dated 30.9.99.



-15-

ANNEXURE TO STAFFED FORM NO. 15

MEMORANDUM OF 3/305 F 101 OF 1 OF THE G.O. (D & A) RULES, 1903.

ANNEXURE - I

Statement of articles of charge framed against Shri Brindaban

Bihari Das, AGCT/1/DBRT.

ARTICLE - I

That said Shri B.B. Das,

while functioning as AGCT/Gr. 1.

during the period 17.9.99 to 18.9.99

& misconduct.

ARTICLE - II

That during the aforesaid period while functioning in the aforesaid office, the said Shri

ANNEXURE - II

Statement of imputations of misconduct of misbehaviour in support of the article of charge framed against Shri B.B. Das, AGCT/1/DBRT.

(Name and designation of the Railway servant).

ARTICLE - I

Allegation of charges

Shri B.B. Das, AGCT/Gr. 1/DBRT while ascending Kharup Express in A.C. 2 tier 1st. class to DBRT on 17.9.99 tried to molest one lady passenger on berth No. 23 named Lt. Sandhya Suri of Indian Navy.

Lt. Sandhya Suri lodged FIR with GRT/NJP stating that Shri B.B. Das touched her and passed his hand over her chest 3 times within one hr. time. GRT personal tried to locate Shri Das at NJP, but he left the AC coach and was not traceable through announced through P.A. system.

The train was detained for 15 mts. on this account at NJP.

This is a gross offence on the part of Shri B.B. Das on duty AGCT/Gr. 1 and which tantamounts to serious misconduct.

ARTICLE - II

ARTICLE - III

ANNEXURE - III List of documents by which the articles of charge framed against Shri (Name & Designation) that previous to be sustained.

ANNEXURE - IV List of witness by which the articles of charge framed against

Shri (Name and designation of the Railway servant) to be sustained.

Attested  
Shyam

30/7/99

Proceeding of the DAK enquiry held in the DEH/Task's office on 12-1-04 against charge sheet no. LV/D-25/DAR/G-15/47 dt. 30.9.99

The CO Shri B.B. Das along with Shri J.N. Saikia, DC attended at the enquiry.

Statement of Shri B.B. Das, C.O.

(1) There is an allegation against you vide DEE/TSK's letter No. LV/D-25/DAR/G-15/47 dt. 30.9.99 are you agree?

Ans:- I am not agreed.

(2) Describe in brief what happened on that particular day while you are on duty in 5959 Up on 17/18.9.99.

Ans:- At MLDT station at about 2.00 A.M. one side of the 2 tier coach was hot as I heard some passengers are talking about. I attended the portion and set right the panel and returned to my waiting place (on the vacate berth). While I was going to attend the panel one of the blanket was fallen and due to this I was going to be fallen on the corridor but somehow I managed to stay by holding the cantiner. That particular portion was dark as the night lamps were "ON".

One of the lady passenger who was occupying the berth No. 23 asked me who I am while I returned ? I answered her that I am an AC staff.

After some time the on duty conductor called me and asked me to show my identity. I showed my Card pass and the conductor kept the Card pass in his custody. He also informed me that the lady passenger complained against me that I was passed my hand over her chest.

At NJP station the lady passenger, the conductor lodged complain against me at GRP/NJP thana.

(3) How did you know that they lodged complain in the GRP thana against you?

Ans:- At NJP station I asked the conductor to return my Card pass then he informed me that they are going to lodge complaint against me to GRP/NJP thana without returning my Card pass.

(4) Are you asked the lady passenger why she complaint against you?

Ans:- I did not ask her why she had complained against me.

(5) Do you know why she complain?

Ans:- I do not know why she complain, it is known to the lady.

(6) Are you agree with her complaint?

Ans:- No I am not agreed.

(7) Do you know that there is any announcement for you at NJP station?

Ans:- Yes, there was an announcement in the station. I heard the announcement while I was working in the RIC UNIT before the train left the station.

(8) Was there any detention of train at NJP?

Ans:- No I did not know.

(9) Do you know where about the conductor while incident was happened?

Ans:- The conductor was on the berth no.4 of the same coach (2 tier).

J. N. Saikia  
(J. N. Saikia)

Attested  
Bhuvan

B. B. Das  
12.1.04 C.O.



17-

2/4

Page- 2

Shri J.N. Saikia, Defence Counsel has raised the following points for taken into consideration:-

- (1) The cause of action of DAR case against Shri B.B. Das, ACCI/IDBRT was of 17.9.99, e.g. about 4 years and 4 months.
- (2) The SE/S dt. 30.9.99 served against Shri B.B. Das, was procedurally lapsed such as 4 annexure were not properly enclosed.
- (a) Statement in brief, (b) Allegation in detail, (c) List of relied upon documents and (d) List of witness to be relied upon..
- (3) Complainant has not attended in the DAR enquiry despite letters issued by the administration.
- (4) The DAR case initiated against Shri B.B. Das was against the very spirit of Rly Board's order No. E(C & A) 6 RG 6-45 dt. 10-10-1961 where in stated that No. DAR action should be initiated where written FIR was lodged either in police or GRP. In this case FIR was lodged with GRP/NJP vide case No. GIDE/626 dt. 18.9.99.

Further, the order of Rly. Board of 1974 stated that if any DAR case was initiated, should be kept pending till disposal of the case by the court of Law.

In view of the above, the DA through the EO is requested to take ex-parte decision of the case in favour of the charged employee.

12/01/09  
J.C.

Attested  
Shyama

-18-

Annexure - VI

STANDARD FORM NO. 1

STANDARD FORM OF ORDER FOR REVOCATION OF SUSPENSION ORDER S(5) OF R.A(D&A)

NO. ~~44~~ LV/D-25/DAR/G-15/3

Dated: 20-01-2000

N.F.Rly. : Name of Rly. with.

DAR(ENCLT)/TSK Office : Place of Issue.

ORDER

Whereas in order placing Shri Brindaban Behari Das  
(Name and designation of the Rly. Servant) under suspension was made/was  
to have been made by ~~xx~~ AEE/TSK on 22-9-99.

Now, therefore, the undersigned (the authority which made on is  
deemed to have made the order of suspension or any other authority which  
that authority is subordinate) in exercise of the powers conferred by  
clause (3) of the Sub-Rule (5) of Rule-5 of the R.A (D & A) Rule 1008,  
heroby revoke the said order of suspension with immediate effect w.o.f.  
22-01-2000

Signature (Name, Designation of  
the Authority making order).

Copy to:- Shri Brindaban Behari Das, AEE/Gr. I/DBRT.  
(Name & Designation of suspended Railway servant).

Through: SE/AC/DBRT

C/ENR(P)/TSK - for information and necessary action.

C/ - for information & necessary action.

Attested  
[Signature]

P/2/2000  
28/1/2000



-19-

Annexure - VII

29

(13)

# INQUIRY REPORT

- 1.0. In the case of Sri Brindaban Bihari Das, ACC/Gr. I/DBRT.
- 1.1. Under sub Rule 9(2) of rule 1968 I am appointed by ADRE/FSK as the enquiry authority to inquire into the charge framed against Sri Brindaban Bihari Das, ACC/Gr. I/DBRT vide his letter No. LV/D-25/DAR/G-15 dt 4.11.03 I have since completed the inquiry and on the basis of statement of C/O and documentary evidence before I prepared my inquiry report as under
- 2.0. Particulars by the charge officer in the inquiry and defence assistance available with him.
- 2.1. Defence assistance - Sri J.H. Saha
- 3.0. Article of charge as substance of imputation of misconduct or misbehaviour.
- 3.1. The following charge have been framed against Sri Brindaban Bihari Das, ACC/Gr. I/DBRT under SE/ACC/DBRT Statement of imputation of misconduct or misbehavior in support of which charge framed against Sri Brindaban Bihari Das, ACC/Gr. I/DBRT Sri Das while executing Kamrup-Express in AC 2 tier EX HWL to DBRT on 17.9.99 tried to molest one lady passenger on berth no 23 named Lt. Sandhya Surt of Indian Navy Lt. Sandhya Surt lodge FIR with GRP/NJP stated that Sri B.D. Das touched her and passed his hand over her chest 3 times with in one hr time GRP personal tried to locate Sri Das at NJP, but he left the AC coach and was not traceable though announced through PA system The train was detained for 15 min on this account at NJP. This is a great offence on the part of Sri B.D. Das on duty ACC/Gr. I and which tantamount to serious misconduct.
- 4.0. Analysis and assessment of evidence
- 4.1. Sri B.D. Das, ACC/Gr. I/DBRT was examined and his statement was taken from which the following are revealed -
- 4.1.1 In the first statement of Sri Das at SE-1, where he admitted that he had fallen on Lt. Sandhya Surt who was a lady passenger traveling while she was sleeping on berth no.23 due to the blanket fallen on the passenger But in the statement obtained on 12.1.01 at SN-09, he denied that he had not fallen over the said passenger and even fallen on the corridor but some how he managed to stay by holding the corridor.
- 4.1.2 Hence both the statements are contradictory itself
- 4.1.2. Berth no 23 is in the middle of the coach and night lamps were switched "OFF" So the fallen blanket in the passage can be seen
- 4.1.3 Hence the plea of fallen by the fallen blanket can not be accepted
- 4.1.3 Lt. Sandhya Surt of Indian Navy was informed vide this office letter No. LV/D-25/DAR/G-15 dt 5.1.2000, 16.6.2000 and 8.12.03 at 334-37,40 and 60 But she neither attended nor give any information against the above reference It may be the reason that she may not received any letter or as she lodge the FIR against Sri B.D. Das vide GD no. 626 dt 18.2.99 So she wanted the case may be finalized at court it self
- 4.1.4. From the statement of Sri S.E. Mulhopadhyay TTB/NJP, it revealed that he was not present at the incidence spot as he was sitting at 1st and the incidence was happened at 18/23 of the same coach
- 4.1.5. On duty ACC/A of the coaches were also not known any things regarding the incidence as per their statement
- 4.1.6 C.O. GRP/NJP was requested vide this office letter no. LV/D-25/DAR/G-15 dt 9.1.03 at 334-39 to submit the present status of the case by register post but till date no reply is received
- 5.0. Finding.
- 5.1. On the basis of the statement of Sri B.D. Das, ACC/Gr. I/DBRT and the evidence in the case file, it revealed that Sri B.D. Das has given contradictory statement and the plea of darkness due to fallen down is not acceptable. More over Lt. Surt had lodge FIR to GRP/NJP and Sri Das applied for security protection at 334-35 and 36 Hence it is true that he had done wrong with Lt. Sandhya Surt

But the molesting with Lt. Surt can not be proved due to the lack of evidence

20/11/04  
Sd/-  
E. Q.

Attested  
B. Saha

### ENQUIRY REPORT

- 1.0 In the case of Sri Brindaban Behari Das, ACCI/Gr. I/DBRI,
- 1.1 Under sub rule 9(2) of rule 1968 I am appointed by ADEE/ISK as the enquiry authority to inquire into the charge framed against Sri Brindaban Bihari Das, ACCI/Gr. I/DBRT vide his letter No. LV/P-25/DAR/G-15, dated 04.11.03 I have since completed the inquiry and on basis of my inquiry report as under.
- 2.0 Participation by the charge officer in the inquiry and defence assistance available with him.
- 2.1 Defence assistance - Sri J.M. Saikia
- 3.0 **Article of charge as substance of imputation of misconduct or misbehaviour.**
- 3.1 The following charge have been framed against Sri Brindaban Bihari Das ACCI/Gr. I/DBRT under SE/AC/DBRT. Statement of imputation of misconduct or misbehaviour in support of which charge framed against Sri Brindaban Bihari Das, ACCI/gr. I/ under SE/AC/DBRT escorting Kamrup Express in AC2 tier FX HWH to DBRT on 17.09.99 tried to molest one lady passenger on berth No. 23 named Lt. Sandhya Suri of Indian Navy. Lt. Sanjhya Suri Lodge FIR with GRP/NJP stated that Sri B.B. Das touched her and passed his hand over her chest 3 times within one hr. time. GRP personal tried to locate Sri Das at NJP but he left the AC Coach and was not traceable through PA system.  
The train was detained for 15 mins on this account at NJP. This is a great offence on the part of Sri B.B. Das on Duty ACCI/gr. - I and which tantamount to serious misconduct.
- 4.0 **Analysis and assessment of evidence.**
- 4.1 Sri B.B. Das, ACCI/gr-I DBRT was examined and his statement was taken from which the following are revealed
- 4.1.1 In the first statement of Sri Das at SN-1 where he admitted that he had fallen on Lt. Sandhya Suri who was a lady passenger traveling. While she was sleeping on berth No. 33 due to the blanket fallen on the passage. But in the statement obtained on 12.01.04 at SN - 02 he denied that he had not fallen over the said passenger and even fallen on the corridor but some how he managed to stay by holding corner.  
Hence both the statements contradictory itself.

4.1.2 Berth No. 23 is in the middle of the coach and night lamp were switched "ON" so the fallen blanket in the passage can be seen.

Hence the plea of fallen by the fallen blanket cannot be accepted.

4.1.3 Lt Sandhya Suri of Indian Navy was informed vide this office letter No. 1 V/D - 25/DAR/H-15 dated 05.01.2000, 16.06.2000 and 08.12.2003 at SN - 37, 40 and 60. But she neither attended nor give any information against the above reference. It may be the reason that she may not received any letter or as she lodge the FIR against Sri B.B. Das vide G.D. No. 626 dated 18.09.99. So she wanted the case may be finalised at Court itself.

4.1.4 From the statement of Sri S.K. Mukhopadhyaya TTE/NJP, it revealed that he was not present at the incidence spot as he was sitting at RD and the incidence was happened at B/23 of the same couch.

4.1.5 On duty ACCA of the coaches, were also not known any things regarding the incidence as per their statement.

4.1.6 OC GRP/NJP was requested vide this office letter No. IV/P-25/DARH-15 dated 09.12.03 at SN-9 to submit the present status of the case by register post but till date no reply is received.

#### 5.0. Finding.

5.1. On the basis of the statement of Sri B.B. Das ACCI/Gr. I/DBRT and the evidence in the case file, it revealed that Sri B.B. Das has given contradictory statement and the plea of darkness due to fallen down is not acceptable. Moreover Lt. Suri had lodge FIR to GRP/NJP and Sri Das applied for security protection at SN 15 and 36. Hence it is true that he had done wrong with Lt. Sandhya Suri.

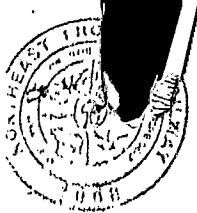
But the molesting with Lt. Suri cannot be proved due to the lack of evidence.

Sd

Sishir Das

EQ

09.03.04



-20-  
N.E. RAILWAY

Amewre - Vh  
32

NOTICE OF IMPOSITION OF PENALTIES UNDER ITEM (I), (II) & (III) RULES 6 (I) AND  
ITEMS (I) & (II) OF RULES G (V) OF DAR 768.

Office of the  
Sr. Divnl. Elect. Engineer  
N.E. Railway, Tinsukia.

No. LV/D-25/DAR/G-15/ 53

Dated :- 3.5.04

Ref :- B.B. Das  
Designation:- AC/AG-1  
Through :- SE/AC/DBRT

With reference to your explanation to the charge sheet  
No. LV/D-25/DAR/G-15/ 47 dated 30.09.99 you are informed that your explanation  
is not considered satisfactory and the ADDE has passed to the following order:-

**" His 2(Two) years increment  
should be stopped with cumulative  
effect from his next date of increment."**

Signature & Designation of  
Disciplinary authority  
(Srl B.P. Roychowdhury) 3/5/04

C/- DRM(P)TSK & CC/Cadre(Elect) through DRM(P)TSK.

When the notice is issued an authority other than the Disciplinary authority here quote the  
authority passing order. Here quote the acceptance or rejection of explanation of penalty  
imposed.

An appeal against this lies to the authority  
Passing the order.

(Next immediate superior)

ACKNOWLEDGEMENT

THIS PORTION MUST BE DETACHED, SIGNED & RETURNED TO THE OFFICE OF  
ISSUE

To,  
Sr. DEE/TSK

I hereby acknowledge receipt of your NIP No. LV/D-25/DAR/G-15/ 53 dated 3.5.04  
conveying the orders passed on my explanation to the charge sheet.

No. LV/D-25/DAR/G-15/ 47 dt 30.09.99

Station:- DBRT

Dated:-

Signature or Thumb Impression  
of Employee & designation

Attested  
By



TO,  
1. The General Manager,  
N.F. Railway Maligaon,

2. The Senior Divisional Electric Engineer,  
N.F. Railway, Tinsukia, Dist. Tinsukia.

Dated December \_\_\_\_th, day of  
May, 2004.

SUBJECT : Representaion with a prayer to review and rescind  
the order passed by the sri B.P. Roy Chowdhary,  
disciplinary authority imposing penalty of stoppage  
of 2 years increment.

Ref : order vide memo no. L.V/D-25/DAR/G-15/53, Dated  
3.5.04.

SIR, With befetting honour and due respect, I beg the follow  
ing few lines for your honour's kind perusal, consideration  
and necessary action thereof please.

1. That sir, I have been working as ACCI/G-I under your kin  
kind authority and since my date of joining in the service  
I have been performing my duties diligently without any  
blemish from any quarter.

2. That to my gretest unfortune, I was placed under suspen-  
sion vide order no. LV/D-25/A DAR/G-15/46 W.e.f 22.9.99 and  
charged misconducts on lodging of a F.I.R. with G.R.P./NJP  
bearing false, baseless, concocted and vexation statements  
by one lady passenger namely Lt. Sandhya Suri of Indian Navy

3. That I appeared before the Enquiry committee on receipt  
of notice in due process and the allegations made against  
me vide the aforesaid F.I.R. was not substantiated and prove  
ed at all for lack of evidence. Although my suspension  
order was revoked with effect from 29.01.2000, penalty of  
stoppage of 2 years increment with cumulative effect from  
my next date of increment imposed by the diciplinary Authority  
which is against the princiles of natural justice and equity

4. That I most humbly beg to submit that all the allegations  
made against me are fabricated under wrong conception about  
the alleged incident which had put me under suspension for  
long period since 22.9.99 to 29.01.2000. During that period  
I was paid with subsistence allowances and still I am deprived  
off the remaining part of my salary amounting to Rs.16,881.00  
(Rupees sixteen thousand, eight hundred and eighty one) which  
has not been paid to me till date.

5. That the enquiry officer in his findings of the enquiry  
clearly holds that the charge of Sadma molestation as alleged  
has not been proved at all and held me liable for misconducts  
only on mere presumption. It may be stated here imposing  
punishment or diciplinary action on mere presumption will amount  
to denial of justice in as much as severe penalty was imposed  
upon me on mere presumption only.

6. That I hereby for review /rescind the order passed vide  
LV/D-25/DAR/G-15/53, dated 3.5.04 on the following grounds  
amongst others :-

GROUND IN PAGE NO 2.

Attested  
By

22- 37

GROUNDS

1. That the charges framed against me on a F. I. R. which bears false, baseless, concocted, frivolous and vexatious statements.
2. That the Disciplinary Authority failed to produce the Informant LT. Sandhya Suri and other witness namely Capt. K.Y. DOLE of A.F. Guwahati for examination and cross examination which is a full denial of reasonable opportunity under natural Justice as shrouded under article 311 of the constitution of India.
3. That the other witness namely sri S.K. Mukarjee, TTE/ NJP deposed before the enquiry committee as a prosecution witness, it is clearly revealed in his statement that he was not an Eye witness and learnt about such an incident from others. so, as per provision of Indian Evidence Act, his evidence could not be considered as the evidence of hearsay witness is not evidence at all under the statute.
4. That the holding of the Enquiry officer about my contradictory statement has also bears no value in a process of law. The evidence adduced in course of statutory departmental Enquiry is final and except that no statement, if made any by any person anywhere under no circumstances, could be considered. Hence my statement given on 12.1.04 is only final.
5. That S.F./S dated 30.9.99 was not properly filled as annexure II was not at all filled up, Annexure III, the list of Documents upon which the entire case relies also not at all duly filled and further Annexure IV, list of witness also not all filled up. It is gross violation of the rules of DAR enquiry.
6. That as per standing order passed by railway Board, no proceeding could be initiated if F.I.R. lodged to the police or G.R.P till decision of court of law.
7. That the Enquiry is barred under law of limitation as the cause of action allegedly arose on 17.9.99 and there is a lapse of more than 205 days which is a gross violation of Rly. Board's order dated 8.9.94.
8. And various other ground or grounds.
7. That natural justice is denied to me by the enquiry committee by not considering the above facts, circumstances and law points and hence this appeal.
8. That this appeal is preferred bonafide and for ends of Justice.

In view of the above facts and circumstances, it is most humbly may be pleased enough to consider the above circumstances and Quash the entire proceeding and the order passed vide LV./ D-25/DAR /G-15/53 dated 3.5.04 and allow continuance of increment as I am Entitled for in usual procedure in the interest of justice, equity and good conscience.

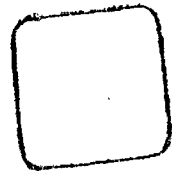
*Attested*  
*Shyama*

23-

Measure - X  
X

35

INDIAN POSTS AND TELEGRAPHS DEPARTMENT



Address Sender's

Date Stamp

107  
Sri Brinda ban bala  
c/o Mr. Nasim Khan  
Advocate, of M.R. Road,  
(Kausipathy) Nalapoor  
P.O. & Dist. Sibbanga

56  
29/5/24

REPRESENTATION

ACKNOWLEDGEMENT

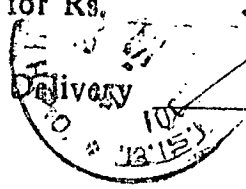
Received a Registered Letter/Postcard/Packet/Parcel No.  
INSURED

General Manager

Addressed to (Name) { N-F-Railway,  
P.O. - Maligaoon,  
Dist. Maligaoon

Insured for Rs.

Date of Delivery



Signature of addressee  
31/5/24

Attested  
[Signature]