

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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Central Administrative Tribunal  
Guwahati Bench:

ORDERS SHEET

1. Original Application No. 198/06

2. Misc Petition No. /

3. Contempt Petition No. /

4. Review Application No. /

Applicant(s) Sudhira Prasad Tons

Respondent(s) U. O. P. Tons

Advocate for the applicant(s) ... P. Bhattacharjee .....

... J. Talukdar .....

.....,.....

Advocate for the Respondent(s) ... C. S. ... .....

Notes of the Registry	Date	Order of the Tribunal
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10.08.2006

**The application is disposed of in terms of the order passed in separate sheets at the admission stage itself.**

  
Member

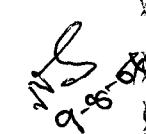
Vice-Chairman

  
Member

  
Member

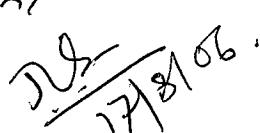
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Member

  
Member

10.8.06

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collected by the L/Adv.  
for the applicant and a  
copy of the same handed  
over to the L/Adv. for the  
applicant.

  
Member

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI

198 of 2006

O.A. No. ....

10.08.2006  
DATE OF DECISION .....

Shri Sudhir Prosad & Others ..... Applicant/s

Mr P. Bhowmick and Mr J. Talukdar ..... Advocate for the  
Applicant/s.

- Versus -

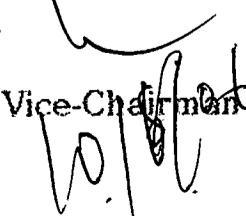
Union of India & Others ..... Respondent/s

Dr. J.L. Sarkar, SC Railways ..... Advocate for the  
Respondents

CORAM

HON'BLE SRI K.V. SACHIDANANDAN, VICE-CHAIRMAN  
HON'BLE SRI GAUTAM RAY, 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 complied at Jodhpur Bench? Yes/No
4. Whether their Lordships wish to see the fair copy of the Judgment? Yes/No

Vice-Chairman  


IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 198 of 2006

Date of Order : This the 10th day of August 2006.

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

The Hon'ble Sri Gautam Ray, Administrative Member.

1. Shri Sudhir Prosad  
S/o Late Dhanraj Prasad  
Rly. Quarter No. DS/16. (H)  
Station Colony, Guwahati.
2. Shri Bindeswari Singh  
S/o Late Raj Narayan Singh  
Rly. Quarter No. DS-86(C),  
Ambari Railway Colony, Guwahati.
3. Sri Avijit Ghose  
S/o Late Amal Krishna Ghose  
Flat No. 504, R.K. Apartment,  
Adabari, P.O. - Pandu, Guwahati - 12.
4. Shri Harshit Kumar Narzary,  
S/o Doghadip Narzary  
East Gotanagar  
Rly. Quarter No. 88/A  
Maligaon, Guwahati.
5. Shri Sagar Chowdhury  
S/o Late Binod Choudhury  
Gosala East, Rly. Quarter No. 206(A)  
Maligaon, Guwahati.
6. Shri Bimal Kumar Chanda  
S/o Late Bisendra Chanda  
Quarter No. 25(B)  
B.B.C. Colony, Pandu  
Guwahati.
7. Shri Rajib Rajbongshi  
S/o Late A.K. Rajbongshi  
Uzanbazar, Happy Villa  
B.R. Road, House No. 14,  
Guwahati - 781 001.

... Applicants

By Advocates Mr P. Bhowmick and Mr J. Talukdar.

Versus -

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

2. Senior Area Railway Manager,  
N.F. Railway, Guwahati.
3. Divisional Commerical Manager  
N.F. Railway, Guwahati.
4. Assistant Commercial Manager,  
N.F. Railway, Guwahati.

... Respondents

By Advocate Dr. J.L. Sarkar, Railway Standing Counsel.

.....  
**ORDER (ORAL)**

**K.V. SACHIDANANDAN (V.C.)**

The Applicants are working as Train Ticket Examiners in the N.F. Railway, Maligaon, Guwahati. Their grievance is that charges of less collection of penalty earning that Train Ticket Examiners of the Railways do not strictly come within the purview of misconduct. Non-compliance of the circulars issued to that effect would not come within the purview of misconduct, the same being against all canons of equity, justice and fair play, the same not being a condition of service and the direction contained in the circulars in question having not found place in the relevant service rules as misconduct, non-compliance of the same cannot amount to misconduct for which the Applicants are required to answer certain charges in a disciplinary proceeding. They should not have been punished for non-compliance of the circulars. But the Respondents initiated disciplinary proceedings against the Applicant for less collection and punishment imposed after consideration of their appeal. Aggrieved by the said inaction of the Respondents, the Applicants has filed this Application, seeking the following reliefs:-

"To set aside and quash in impugned orders issued vide order No. C/GHY/Earnings/03 dated 25.4.2005

issued by the Divisional Commercial Manager, N.F. Railway, Guwahati in respect of Applicant No. 1, order No. C/GHY/Earnings/03 dated 26.4.2005 issued by the Divisional Commercial Manager, N.F. Railway, Guwahati in respect of Application No. 2, order No. C/GHY/Earnings/03 dated 30.08.04 issued by the Divisional Commercial Manager, N.F. Railway, Guwahati in respect of Applicant No. 3, Order No. C/GHY/Earnings/03 dated 25.4.05 issued by the Divisional Commercial Manager, N.F. Railway, Guwahati in respect of Applicant No. 4, order No. C/GHY/Earnings/03 dated 25.4.05 issued by the Divisional Commercial Manager, N.F. Railway, Guwahati in respect of Applicant No. 5, order No. C/GHY/Earnings/03 dated 25.4.05 issued by the Divisional Commercial Manager, N.F. Railway, Guwahati in respect of Applicant No. 6 and orders No. C/GHY/Earnings/03 dated 30.4.04 issued by the Divisional Commercial Manager, N.F. Railway, Guwahati in respect of Applicant No. 7."

2. Heard Mr P. Bhowmick, learned Counsel for the Applicants and Dr. J.L. Sarkar, learned Standing Counsel for the Railways.
3. Learned Counsel for the Applicant submitted that though the Applicants have preferred appeal against the imposition of punishment, they have got liberty to submit Revision Petition, which may be permitted to submit within a time frame and the Respondents may be directed to consider and dispose of the same. Learned Counsel for the Respondents, on the other hand, submitted that the O.A. is not maintainable, since the Applicants' have different cause of action and different cause of action cannot club in a single Application. Therefore, the Application is not maintainable for mis-joinder and ~~mis-joinder~~ of cause of action. However, the learned Counsel for the Respondents submitted that if the Applicants want to submit Revision Petition, it will suffice ends of justice and he has no objection.
4. Therefore, in the interest of justice, we direct the Applicants to submit separate Revision Petition before the Revisional Authority within a

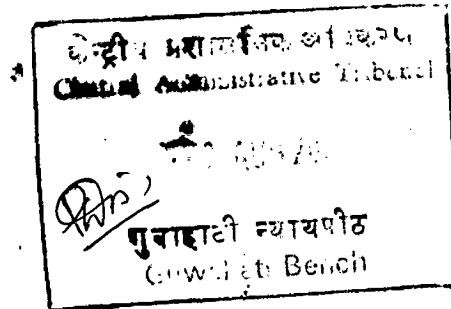
period of 15 days from today. On receipt of such Revision Petition, the Revisional Authority shall consider and dispose of the same within a period of three months from the date of receipt of the Revision Petition. We make it clear that the Revisional Authority will condone the delay, if any. If aggrieved further the Applicants are at liberty to approach this Tribunal individually in separate proceeding since they have no common cause of action.

The O.A. is disposed of as above at the admission stage itself.  
No order as to costs.

  
( GAUTAM RAY )  
ADMINISTRATIVE MEMBER

  
( K.V. SACHIDANANDAN )  
VICE-CHAIRMAN

/mb/



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,  
AT GUWAHATI

O.A. No. 198 /2006.

Shri Sudhir Prosad & others

APPLICANTS

-Versus-

Union of India & others

RESPONDENTS

SYNOPSIS OF THE CASE

An application under Section 14 of the Administrative Tribunals Act, 1985 read with Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987 challenging the legality and validity of the action of the Respondents in initiating the departmental proceeding against the Applicants and subsequently awarding punishment to them for being unable to collect adequate penalty earnings from the ticketless Railway travellers, the applicants being serving as Train Ticket Examiners in the N.F.Railway, Guwahati, in violation of the Order dated 17.8.1990 passed by this Hon'ble Tribunal in O.A. No.10(G)/90.

Filed by

Jayanta Salukdar  
Advocate

No. O.A. No. 196 /2006

Shri Sudhir Prosad & ors. **APPLICANTS**

- Versus -

Union of India & ors. **RESPONDENTS**

**LIST OF DATES**

- 14.5.04 The Applicant No. 6 was served with Memorandum of Charge for imposition of minor penalties under Rule-11 of the Railway Services (Disciplinary and Appeal) Rules, 1968 along with the statement of allegations.
- 19.5.04 The Applicant No. 4 was served with Memorandum of Charge for imposition of minor penalties under Rule-11 of the Railway Services (Disciplinary and Appeal) Rules, 1968 along with the statement of allegations.
- 1.6.04 Respondent No.3 awarded punishment to Applicant No.4 by way of stoppage of next increment for next two years.
- 8.6.04 Applicant No. 6 submitted representation against the Memorandum of Charges and statement of allegations.
- 19.7.04 Applicant No. 4 submitted representation against the Memorandum of Charges and statement of allegations.
- 19.7.04 Appeal filed by the Applicant No.6 against the punishment imposed.
- 20.7.04 The Applicants No. 1, 2, 3, 5 and 7 were served with Memorandum of Charge for imposition of minor penalties under Rule-11 of the Railway Services (Disciplinary and Appeal) Rules, 1968 along with the statement of allegations.
- 11.8.04 Applicants No. 1 and 2 submitted representations against the Memorandum of Charges and statement of allegations.
- 12.8.04 Applicant No. 5 submitted representation against the Memorandum of Charges and statement of allegations.

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- 17.8.04 Applicant No. 3 submitted representation against the Memorandum of Charges and statement of allegations.
- 30.8.04 Respondent No. 3 awarded punishment to Applicants No.1,2,4 & 7 by way of stoppage of next increment for next two years.
- 30.8.04 Respondent No.3 awarded punishment to Applicants No.3, 5 & 6 by way of stoppage of next increment for next one year.
- 5.10.04 Appeal filed by the Applicant No.1 against the punishment imposed.
- 6.10.04 Appeal filed by the Applicant No.2 against the punishment imposed.
- 11.10.04 Appeal filed by the Applicant No.5 against the punishment imposed.
- 26.4.05 On receipt of appeal, Respondent No. 3 reviewed the punishment imposed upon Applicant No.1 and all sets of passes and PTOs were stopped for next two years.
- 26.4.05 On receipt of appeal, Respondent No. 3 reviewed the punishment imposed upon Applicant No.2 and the punishment awarded was that he was penalised with stoppage of two sets of passes.
- 26.4.05 On receipt of appeal, Respondent No.3 reviewed the punishment imposed upon Applicant No.4 and directed that four sets of passes be stopped when next due.
- 26.4.05 On receipt of appeal, Respondent No.3 reviewed the punishment imposed upon Applicant No.5 and he was penalised with stoppage of 3 sets of passes when next due.
- 26.4.05 On receipt of appeal, Respondent No.3 reviewed the punishment imposed upon Applicant No.6 and he was penalised with stoppage of 3 sets of passes when next due.
- 21.12.05 Applicant No.7 was served with another Memorandum of Charge along with statement of allegations for imposition of minor penalty

( To be continued ) Contd. ....

17.8.90. This Hon'ble Tribunal in O.A. No 10(G)90, had held in  
Annx. 8 that charges of less collection of penalty earning by  
the Train Ticket Examiners of the Railways do not  
strictly come within the purview of "misconduct".  
Non-compliance to circulars issued to that effect  
would not come within the purview of misconduct,  
the same being against all canons of equity, of  
justice and fairplay, the same not being a condition  
of service and the direction contained in  
the circulars in question having not found a place  
in the relevant service rules as misconduct, non-  
compliance of the same can not amount to misconduct  
for which the applicants are required to  
answer certain charges in a disciplinary proceeding  
and as such, grating irregularity has been  
conducted by the Respondents in punishing the  
applicants for non-compliance of the circulars.

Filed by

Jayanta Jalukdar  
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,  
AT GUWAHATI

ORIGINAL APPLICATION NO. 198/2006

Shri Sudhir Prosad & ors. ... Petitioners

-Versus-

Union of India & others ... Respondents.

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Filed by :-



(JAYANTA TALUKDAR ),  
ADVOCATE

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,  
AT GUWAHATI

O.A. No. 198 /2006.

IN THE MATTER OF :

An application under Section 14 of the  
Administrative Tribunals Act, 1985 read  
with Rule 4(5)(a) of the Central Admin-  
istrative Tribunal (Procedure) Rules,  
1987.

- A N D -

IN THE MATTER OF :

1. Shri Sudhir Prosad,  
S/o Late Dhanraj Prasad,  
Rly. Quarter No. DS/16.(H),  
Station Colony, Guwahati.
2. Shri Bindeswari Singh,  
S/o Late Raj Narayan Singh,  
Rly. Quarter No. DS-86(C),  
Ambari Railway Colony, Guwahati.
3. Shri Avijit Ghose,  
S/o Late Amal Krishna Ghose,  
Flat No.504, R.K.Apartments,  
Adabari, P.O. Pandu, Guwahati-12.

Contd...

Filed by  
Jayanta Gohel  
Advocate  
Strong  
19  
08.08.05

Rajib Raybongshi

4. Shri Harshit Kumar Narzary,  
S/o Doghadip Narzary,  
East Gotanagar,  
Rly. Quarter No. 88/A,  
Maligaon, Guwahati.

5. Shri Sagar Chowdhury,  
S/o Late Binod Choudhury,  
Gosala East,  
Rly. Quarter No. 206(A),  
Maligaon, Guwahati.

6. Shri Bimal Kumar Chanda,  
S/o Late Bisendra Chanda,  
Quarter No. 25(B),  
B.B.C. Colony, Pandu,  
Guwahati.

7. Shri Rajib Rajbongshi,  
S/o Late A.K.Rajbongshi,  
Uzanbazar, Happy Villa,  
B.R.Road, House No.14,  
Guwahati - 781001.

APPLICANTS

- Vs -

1. Union of India  
represented by General Manager,  
N.F.Railway, Maligaon, Guwahati.
2. Senior Area Railway Manager,  
N.F.Railway, Guwahati.

Contd...

3. Divisional Commercial Manager,

N.F.Railway, Guwahati.

4. Assistant Commercial Manager,

N.F.Railway, Guwahati.

RESPONDENTS

DETAILS OF APPLICATION :

I. Nos. of the order against which the application is made :-

The instant application has been preferred against order No. C/GHY/Earnings/03 dated 25.4.05 issued by the Divisional Commercial Manager, N.F.Railway, Guwahati in respect of Applicant No.1, order No. C/GHY/Earnings/03 dated 26.04.05 issued by the Divisional Commercial Manager, N.F.Railway, Guwahati in respect of Applicant No.2, order No. C/GHY/Earnings/03 dated 30.08.04 issued by the Divisional Commercial Manager, N.F.Railway, Guwahati in respect of Applicant No.3, order No. C/GHY/Earnings/03 dated 25.4.05 issued by the Divisional Commercial Manager, N.F.Railway, Guwahati in respect of Applicant No.4, order No. C/GHY/Earnings/03 dated 25.4.05 issued by the Divisional Commercial Manager, N.F.Railway, Guwahati in respect of Applicant No.5, order No. C/GHY/Earnings/03 dated 25.4.05 issued by the Divisional Commercial Manager, N.F.Railway, Guwahati in respect of Applicant No.6 and orders No. C/GHY/Earn-

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Rajib Raj Ganguli

ings/03 dated 30.8.04 issued by the Divisional Commercial Manager, N.F.Railway, Guwahati in respect of Applicant No.7.

II. Jurisdiction of the Tribunal :-

The Applicants declare that the subject matter of the orders against which they want redressal is within the jurisdiction of the Tribunal.

III. Limitation :-

The Applicants further declare that the application is made within the limitation period prescribed under Section 21 of the Administrative Tribunal Act, 1985.

IV. Facts of the case :-

1. That the applicants state that the Applicant No.1 is working as a Head Train Ticket Examiner, Guwahati in the N.F. Railway and is a resident of Railway Quarter No. DS/16(H), Station Colony, Guwahati, the Applicant No.2 is working as Train Ticket Examiner in the N.F.Railway at Guwahati and is a resident of Railway Quarter No. DS-86(C), Ambari Railway Colony, Guwahati, the Applicant No.3 is working as Head Train Ticket Examiner in the N.F.Railway at Guwahati and is a resi-

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Rajib Rajbanshi

dent of Flat No. 504, R.K. Apartment, Adabari, P.O. Pandu, Guwahati, the Applicant No.4 is working as CTTI/I, N.F.Railway, Guwahati and is a resident of East Gotanagar, Railway Quarter No. 88/A, Maligaon, Guwahati, the Applicant No.5 is working as Train Ticket Examiner in the N.F.Railway at Guwahati and is a resident of Gosala East, Railway Quarter No. 206(A), Maligaon, Guwahati, the Applicant No. 6 is working as CTTI/II in the N.F.Railway at Guwahati and is a resident of Wuarter No. 25(B), B.B.C. Colony, Pandu, Guwahati, and the Applicant No.7 is working as TTE in the N.F.Railway at Guwahati and is a resident of Uzanbazar, Happy Villa, B.R.Road, House No.14, Guwahati-781001.

2. That the applicants respectfully state that since then have a common cause of action, as such, they respectfully submit that they may be permitted to file a single application as the nature of relief prayed for in the instant O.A. is also similar and they have a common interest in the matter, as per the provisions of Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987.

3. That the Applicant No.1 was served with a Memorandum of Charge for imposing minor penalties under Rule 11 of the Railway Services (Disciplinary and Appeal) Rules, 1968 on 20.7.04 by the Respondent No.3. The said Memorandum of Charge was accompanied with a state-

ment of allegations dated 20.7.04 wherein it has been stated that scrutiny of the individual performance of the Applicant No.1 for June, 2004 reveals that the ticket checking performance in respect of detection and charging of without ticket passengers by the Applicant No.1 was very poor. He worked 14 days during the period and his penalty earnings was Rs.1893/- As per the relevant circular dated 10.7.98, minimum penalty earnings per amenity TTE and Squad TTE, per month should have been Rs.6,000/- and Rs.10,000/- respectively. As such, the Applicant No.1 has shown lack of integrity and devotion to duty and thereby contravened the Service Conduct Rules No.3.1(i)(ii)of 1966.

On receipt of the aforesaid Memorandum of Charge, the Applicant submitted his representation on 11.8.04 wherein he stated that the allegations contained in the statement of allegations are based on surmises and conjectures and that he has been punctual and faithful to his duties and he had no occasion to encourage irregular passengers so as to achieve a particular financial limit of penalty earnings. That apart, this Hon'ble Tribunal in O.A. No.10(G)/90 had held that such kind of arbitrary limit cannot be fixed towards collection of penalty earnings by the Railway administration. Therefore, the Applicant respectfully submitted before the Respondent No.3 that the charges framed against him may be dropped.

Thereafter, vide order No. DCM/GHY/C/41/

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*Rayil Raj Sanghi*

Earnings/03 dated 30.8.04, the Respondent No.3 was pleased to observe that the defence submitted by the Applicant No.1 was not satisfactory. However, a lenient view was taken and the Applicant No.1 was punished with stoppage of his next increment for two years.

The Applicant No.1 on being intimated about the delivery of the aforesaid letter dated 30.8.04, submitted a representation before the Respondent No.2 on 5.10.04 relying on various circulars issued by the Railway Board and prayed that the authority would be please to cancel/set aside the punishment imposed upon him. On receipt of the aforesaid representation dated 5.10.04, the Respondent No.3 vide order dated 26.4.05 was pleased to review the penalty imposed upon the Applicant No.1 and had directed that all sets of passes and PTOs were stopped from next two years. On receipt of the aforesaid order dated 26.4.05, the Applicant No.1 submitted another representation dated 31.5.05 before the Chief Area Manager, N.F.Railway, Guwahati. The fate of the said representation dated 31.5.05 has never been communicated to the Applicant No.1.

Copies of the aforesaid Memorandum of Charges, statement of allegation, representation dated 11.8.04, order dated 30.8.04, representation dated 5.10.04, order dated 26.4.05 and representation dated 31.5.05 are annexed hereto and marked as ANNEXURE-1 series.

Contd...

Rajil Ray Sanghi

4. That the Applicant No.2 was served with a Memorandum of Charge for imposing minor penalties under Rule 11 of the Railway Services (Disciplinary and Appeal) Rules, 1968 on 20.7.04 by the Respondent No.3. The said Memorandum of Charge was accompanied with a statement of allegations dated 20.7.04 wherein it has been stated that scrutiny of the individual performance of the Applicant No.2 for June, 2004 reveals that the ticket checking performance in respect of detection and charging of without ticket passengers by the Applicant No.2 was very poor. He worked 21 days during the period and his penalty earnings was Rs.5292/- As per the relevant circular dated 10.7.98, minimum penalty earnings per amenity TTE and Squad TTE, per month should have been Rs.6,000/- and Rs.10,000/- respectively. As such, the Applicant No.2 has shown lack of integrity and devotion to duty and thereby contravened the Service Conduct Rules No.3.1(i) and (ii) of 1966.

On receipt of the aforesaid Memorandum of Charge, the Applicant No.2 submitted his representation on 11.8.04 wherein he stated that the allegations contained in the statement of allegations are based on surmises and conjectures and that he has been punctual and faithful to his duties and he had no occasion to encourage irregular passengers so as to achieve a par-

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Rajib Raybangshi

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ticular financial limit of penalty earnings. That apart, this Hon'ble Tribunal in O.A. No.10(G)/90 had held that such kind of arbitrary limit cannot be fixed towards collection of penalty earnings by the Railway administration. Therefore, the Applicant No.2 respectfully submitted before the Respondent No.3 that the charges framed against him may be dropped.

Thereafter, vide order No.C/GHY/Earnings/03 dated 30.8.04, the Respondent No.3 was pleased to observe that the defence submitted by the Applicant No.2 was not satisfactory. However, a lenient view was taken and the Applicant No.2 was punished with stoppage of his next increment for two years.

The Applicant No.2 on being intimated about the delivery of the aforesaid letter dated 30.8.04, submitted a representation before the Respondent No.2 on 6.10.04 relying on various circulars issued by the Railway Board and prayed that the authority would be pleased to cancel/set aside the punishment imposed upon him. On receipt of the aforesaid representation dated 6.10.04, the Respondent No.3 vide order dated 26.4.05 was pleased to review the penalty imposed upon the Applicant No.2 and he was penalised with stoppage of two sets of passes.

Contd...

Rajib Raybongshi

Copies of the aforesaid Memorandum of Charges, statement of allegation, representation, dated 11.8.04, order dated 30.8.04, representation dated 6.10.04, and order dated 26.4.05 are annexed hereto and marked as ANNEXURE-2 series.

5. That the Applicant No.3 was served with a Memorandum of Charge for imposing minor penalties under Rule 11 of the Railway Services (Disciplinary and Appeal) Rules, 1968 on 20.7.04 by the Respondent No.3. The said Memorandum of Charge was accompanied with a statement of allegations dated 20.7.04 wherein it has been stated that scrutiny of the individual performance of the Applicant No.3 for June, 2004 reveals that the ticket checking performance in respect of detection and charging of without ticket passengers by the Applicant No.3 was very poor. He worked 8 days during the period and his penalty earnings was Rs.1836/- As per the relevant circular dated 10.7.98, minimum penalty earnings per amenity TTE and Squad TTE, per month should have been Rs.6,000/- and Rs.10,000/- respectively. As such, the Applicant No.3 has shown lack of integrity and devotion to duty and thereby contravened the Service Conduct Rules No.3.1(i)(ii) of 1966.

On receipt of the aforesaid Memorandum of

Contd...

Rajil Raybanshi

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Charge, the Applicant NO.3 submitted his representation on 17.8.04 wherein he stated that the allegations contained in the statement of allegations are based on surmises and conjectures and that he has been punctual and faithful to his duties and he had no occasion to encourage irregular passengers so as to achieve a particular financial limit of penalty earnings. That apart, this Hon'ble Tribunal in O.A. No.10(G)/90 had held that such kind of arbitrary limit cannot be fixed towards collection of penalty earnings by the Railway administration. Therefore, the Applicant No.3 respectfully submitted before the Respondent No.3 that the charges framed against him may be dropped.

*Rajib Rajbanshi*

Thereafter, vide order No. C/GHY/Earnings/03 dated 30.8.04, the Respondent No.3 was pleased to observe that the defence submitted by the Applicant No.3 was not satisfactory. However, a lenient view was taken and the Applicant No.3 was punished with stoppage of his next increment for 1(one) year.

The Applicant No.3 on being intimated about the delivery of the aforesaid letter dated 30.8.04, submitted a representation before the Respondent No.2 relying on various circulars issued by the Railway Board and prayed that the authority would be pleased to cancel/set aside the punishment imposed upon him. The fate of the said representation has not been communicat-

Contd...

ed to the applicant No.3 till date.

Copies of the aforesaid Memorandum of Charges, statement of allegation, representation dated 17.8.04, order dated 30.8.04 and the second representation are annexed hereto as ANNEXURE-3 series.

6. That the Applicant No.4 was served with a Memorandum of Charge for imposing minor penalties under Rule 11 of the Railway Services (Disciplinary and Appeal) Rules, 1968 on 19.5.04 by the Respondent No.3. The said Memorandum of Charge was accompanied with a statement of allegations dated 19.5.04 wherein it has been stated that the Applicant No.4 had failed to increase the earnings of his squad batch as well as his individual earnings. As per the relevant circular dated 10.7.98, minimum penalty earnings of TTEE working in squad per month should have been Rs.10,000/-. But none of the TTEs working under him could so far achieve the target which clearly reflexes bad performance and slack of supervision. As such, the Applicant No.4 has shown lack of integrity and devotion to duty and thereby contravened the Service Conduct Rules No.3.1(i)(ii) of 1966.

On receipt of the aforesaid Memorandum of Charge, the Applicant NO.4 submitted  representation  ~~and~~ wherein he stated that the allegations con-

Contd...

tained in the statement of allegations are based on surmises and conjectures and that he has been punctual and faithful to his duties and he had no occasion to encourage irregular passengers so as to achieve a particular financial limit of penalty earnings. That apart, this Hon'ble Tribunal in O.A. No.10(G)/90 had held that such kind of arbitrary limit cannot be fixed towards collection of penalty earnings by the Railway administration. Therefore, the Applicant respectfully submitted before the Respondent No.3 that the charges framed against him may be dropped.

Thereafter, vide order No.C/GHY/Earning/03 dated 1.6.04, the Respondent No.3 was pleased to observe that the defence submitted by the Applicant No.4 was not acceptable and he was punished with stoppage of his next increment for two years.

On receipt of the aforesaid letter dated 1.6.04, the Applicant No.4 submitted an appeal on 19.7.04 against the punishment imposed on him before the Respondent No.2 relying on various circulars issued by the Railway Board and prayed that the authority would be pleased to cancel/set aside the punishment imposed upon him. On receipt of the aforesaid appeal dated 19.7.04, the Respondent No.3 vide order dated 26.4.05 was pleased to review the penalty imposed upon the Applicant No.4 and had directed that four sets of passes were stopped when next due.

Contd...

Copies of the aforesaid Memorandum of

Charges dated 19.5.04, statement of

allegation dated 19.5.04, ~~order dated 26.4.05~~

~~order dated 26.4.05~~

order dated 1.6.04, representation dated

19.7.04 and order dated 26.4.05 are

annexed hereto as ANNEXURE-4 series.

7. That the Applicant No.5 was served with a Memorandum of Charge for imposing minor penalties under Rule 11 of the Railway Services (Disciplinary and Appeal) Rules, 1968 on 20.7.04 by the Respondent No.3. The said Memorandum of Charge was accompanied with a statement of allegations dated 20.7.04 wherein it has been stated that scrutiny of the individual performance of the Applicant No.5 for June, 2004 reveals that the ticket checking performance in respect of detection and charging of without ticket passengers by the Applicant No.5 was very poor. He worked 13 days during the period and his penalty earnings was Rs.3594/-. As per the relevant circular dated 10.7.98, minimum penalty earnings per amenity TTE per month should have been Rs.6,000/-. As such, the Applicant No.5 has shown lack of integrity and devotion to duty and thereby contravened the Service Conduct Rules No.3.1(i)(ii) of 1966.

On receipt of the aforesaid Memorandum of Charge, the Applicant No.5 submitted his representation

Contd...  
*Rajib Raybangeshi*

on 12.8.04 wherein he stated that the allegations contained in the statement of allegations are based on surmises and conjectures and that he has been punctual and faithful to his duties and he had no occasion to encourage irregular passengers so as to achieve a particular financial limit of penalty earnings. That apart, this Hon'ble Tribunal in O.A. No.10(G)/90 had held that such kind of arbitrary limit cannot be fixed towards collection of penalty earnings by the Railway administration. Therefore, the Applicant No.3 respectfully submitted before the Respondent No.3 that the charges framed against him may be dropped.

Thereafter, vide order No. C/GHY/Earnings/03 dated 30.8.04, the Respondent No.3 was pleased to observe that the defence submitted by the Applicant No.5 was not satisfactory. However, a lenient view was taken and the Applicant No.5 was punished with stoppage of his next increment for 1(one) year.

The Applicant No.5 on being intimated about the delivery of the aforesaid letter dated 30.8.04, submitted a representation before the Respondent No.2 on 11.10.04 relying on various circulars issued by the Railway Board and prayed that the authority would be pleased to cancel/set aside the punishment imposed upon him. On receipt of the aforesaid representation dated 11.10.04, the Respondent No.3 vide order dated 26.4.05 was pleased to review the penalty imposed upon the Applicant No.5 and had directed that the applicant No.5

Rajit Rajbanshi  
Contd...

was penalised with stoppage of 3 sets of passes when next due.

Copies of the aforesaid Memorandum of Charges dated 20.7.04, statement of allegation dated 20.7.04, representation dated 12.8.04, order dated 30.8.04, representation dated 11.10.04 and order dated 26.4.05 are annexed hereto and marked as ANNEXURE-5 series.

8. That the Applicant No.6 was served with a Memorandum of Charge for imposing minor penalties under Rule 11 of the Railway Services (Disciplinary and Appeal) Rules, 1968 on 14.5.04 by the Respondent No.3. The said Memorandum of Charge was accompanied with a statement of allegations dated 14.5.04 wherein it has been stated that scrutiny of the individual performance of the Applicant No.6 for April, 2004 reveals that the ticket checking performance in respect of detection and charging of without ticket passengers by the Applicant No.6 was very poor. He worked 16 days during the period and his penalty earnings was Rs.798/- As per the relevant circular dated 10.7.98, minimum penalty earnings per amenity TTE and Squad TTE, per month should have been Rs.6,000/- and Rs.10,000/- respectively. As such, the Applicant No.6 has shown lack of integrity and devotion to duty and thereby contravened the Service

Contd...

Rajib Rajbanshi

Conduct Rules No.3.1(i)(ii) of 1966.

On receipt of the aforesaid Memorandum of Charge, the Applicant No.6 submitted his representation on 8.6.04 wherein he stated that he could not find out large scale ticket-less travellers and as such, he had no scope to penalise the bonafide passengers. Therefore, the Applicant No.6 respectfully submitted before the Respondent No.3 that the charges framed against him may be dropped.

Thereafter, vide order No. C/GHY/Earnings/03 dated 1.6.04, the Respondent No.3 was pleased to observe that since no defence has been submitted by the Applicant No.6, he was penalised with stoppage of next increment for one year.

On receipt of the aforesaid order dated 1.6.04, the Applicant No.6 submitted an appeal before the respondent authorities on 19.7.04 wherein he stated that the allegations contained in the statement of allegations are based on surmises and conjectures and that he has been punctual and faithful to his duties and he had no occasion to encourage irregular passengers so as to achieve a particular financial limit of penalty earnings. That apart, this Hon'ble Tribunal in O.A. No. 10(G)/90 had held that such kind of arbitrary limit cannot be fixed towards collection of penalty earnings by the Railway administration. Therefore, the Applicant No.6 respectfully submitted before the Respondent No.3 that the charges framed against him may be dropped.

Contd...

*Rajib Ray Ganguly*

The Applicant No.6 was served with another Memorandum of Charge for imposing minor penalties under Rule 11 of the Railway Services (Disciplinary and Appeal) Rules, 1968 on 20.7.04 by the Respondent No.3. The said Memorandum of Charge was accompanied with a statement of allegations dated 20.7.04 wherein it has been stated that scrutiny of the individual performance of the Applicant No.6 for June, 2004 reveals that the ticket checking performance in respect of detection and charging of without ticket passengers by the Applicant No.7 was very poor. He worked 22 days during the period and his penalty earnings was Rs.4435/- As per the relevant circular dated 10.7.98, minimum penalty earnings per amenity TTE and Squad TTE, per month should have been Rs.6,000/- and Rs.10,000/- respectively. As such, the Applicant No.6 has shown lack of integrity and devotion to duty and thereby contravened the Service Conduct Rules No.3.1(i)(ii)of 1966.

On receipt of the aforesaid Memorandum of Charge dated 20.7.04, the Applicant No.6 submitted his representation on 8.8.04 denying the charges levelled against him and respectfully submitted before the Respondent No.3 that the charges framed against him may be dropped.

Thereafter, vide order No. C/GHY/Earnings/03 dated 30.8.04, the Respondent No.3 was pleased to observe that the defence submitted by the Applicant No.6

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was not satisfactory and therefore, taking a lenient view, the Applicant No.6 was punished with stoppage of his next increment for two years.

Thereafter, the Applicant No.6 submitted an appeal dated 15.10.04 before the Respondent No.2 against the punishment imposed on him vide the orders dated 1.6.04 and 30.8.04 relying on various circulars issued by the Railway Board and prayed that the authority would be pleased to cancel/set aside the punishment imposed upon him. On receipt of the aforesaid appeal dated 15.10.04, the Respondent No.3 vide order dated 26.4.05 was pleased to review the penalty imposed upon the Applicant No.6 and had directed that he is penalised with stoppage of 3 sets of passes when next due.

Copies of the aforesaid Memorandum of Charges dated 14.5.04, statement of allegation dated 14.5.04, representation dated 8.6.04, order dated 1.6.04, representation dated 19.7.04, Memorandum of Charges dated 20.7.04, statement of allegation dated 20.7.04, representation dated 8.8.04, order dated 30.8.04, appeal dated 15.10.04 and order dated 26.4.05 are annexed hereto and marked as ANNEXURE-6 series.

9. That the Applicant No.7 was served with a

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Memorandum of Charge for imposing minor penalties under Rule 11 of the Railway Services (Disciplinary and Appeal) Rules, 1968 on 20.7.04 by the Respondent No.3. The said Memorandum of Charge was accompanied with a statement of allegations dated 20.7.04 wherein it has been stated that scrutiny of the individual performance of the Applicant No.7 for June, 2004 reveals that the ticket checking performance in respect of detection and charging of without ticket passengers by the Applicant No.7 was very poor. He worked 24 days during the period and his penalty earnings was Rs.4053/- As per the relevant circular dated 10.7.98, minimum penalty earnings per amenity TTE and Squad TTE, per month should have been Rs.6,000/- and Rs.10,000/- respectively. As such, the Applicant No.7 has shown lack of integrity and devotion to duty and thereby contravened the Service Conduct Rules No.3.1(i)(ii)of 1966.

On receipt of the aforesaid Memorandum of Charge, the Applicant No.7 submitted his representation wherein he stated that the allegations contained in the statement of allegations are based on surmises and conjectures and that he has been punctual and faithful to his duties and he had no occasion to encourage irregular passengers so as to achieve a particular financial limit of penalty earnings. That apart, this Hon'ble Tribunal in O.A. No.10(G)/90 had held that such kind of arbitrary limit cannot be fixed towards collection of penalty earnings by the Railway administration. The

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Applicant No.7 also stated that he was recruited in N.F.Railway basically for sports as a cricket player. Therefore, the Applicant No.7 respectfully submitted before the Respondent No.3 that the charges framed against him may be dropped.

Thereafter, vide order No. C/GHY/Earnings/03 dated 30.8.04, the Respondent No.3 was pleased to observe that the defence submitted by the Applicant No.7 was not satisfactory. However, a lenient view was taken and the Applicant No.7 was punished with stoppage of his next increment for two years.

Thereafter, the Applicant No.7 submitted an appeal before the Respondent No.2 praying for review of his case in lenient view and to waive the punishment imposed on him.

The Applicant No.7 was served with another Memorandum of Charge for imposing minor penalties under Rule 11 of the Railway Services (Disciplinary and Appeal) Rules, 1968 on 21.12.05 by the Respondent No.3. The said Memorandum of Charge was accompanied with a statement of allegations dated 21.12.05 wherein it has been stated that scrutiny of the individual performance of the Applicant No.7 for the months of April, 2005 to September, 2005 reveals that the earnings of Applicant No.7 was very poor and during that period of 6 months, his penalty earnings was Rs.2658/-against the target earnings of Rs.36,000/- as per the relevant circular dated 10.7.98. As such, the Applicant No.7 has failed to

Contd...

maintain devotion to duty and thereby contravened the Service Conduct Rules No.3.1(ii) of 1966.

Copies of the aforesaid Memorandum of Charges dated 20.7.04, statement of allegation dated 20.7.04, representation made against the same, order dated 30.8.04, appeal preferred against the said order, Memorandum of Charges dated 21.12.05, statement of allegation dated 21.12.05, are annexed hereto and marked as ANNEXURE-7 series.

10. That the applicants respectfully state that the fact as to whether the respondents have been legally authorised to fix limits for collection of penalty earnings by the applicants is no more res-integra. As far back on 17.8.90, this Hon'ble Tribunal in O.A. No. 10(G)/90 had the occasion to deal with one such matter. In the said case, it has been held by this Hon'ble Tribunal that the charges of less collection of penalty earnings by Train Ticket Examiners of the Railways do not strictly come within the purview of misconduct. This Hon'ble Tribunal was pleased to observe that it is beyond the Hon'ble Tribunal's apprehension as to how a Train Ticket Examiner would pay such amount fixed by the authority without realisation. Non-compliance of circu-

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lars issued to that effect would not come within the purview of misconduct, the same being against all canons of equity, justice and fairplay, the same not being a condition of service and the direction contained in the circulars in question having not found place in the relevant service rules as misconduct, non-compliance of the same can not amount to misconduct for which the applicants are required to answer certain charges in a disciplinary proceeding, and as such, glaring irregularity has been committed by the respondents in punishing the applicants for non-compliance of the circulars.

A copy of the aforesaid Judgment and Order dated 17.8.90 is annexed hereto and marked as annexure -8.

## V. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :-

(A) For that the fact as to whether the respondents have been legally authorised to fix limits for collection of penalty earnings by the applicants is no more res-integra. As far back on 17.8.90, this Hon'ble Tribunal in O.A. No. 10(G)/90 had the occasion to deal with one such matter. In the said case, it has been held by this Hon'ble Tribunal that the charges of less collection of penalty earnings by Train Ticket Examiners of the Railways do not strictly come within the purview of

Contd. . .

misconduct. This Hon'ble Tribunal was pleased to observe that it is beyond the Hon'ble Tribunal's apprehension as to how a Train Ticket Examiner would pay such amount fixed by the authority without realisation. Non-compliance of circulars issued to that effect would not come within the purview of misconduct, the same being against all canons of equity, justice and fairplay, the same not being a condition of service and the direction contained in the circulars in question having not found place in the relevant service rules as misconduct, non-compliance of the same can not amount to misconduct for which the applicants are required to answer certain charges in a disciplinary proceeding, and as such, glaring irregularity has been committed by the respondents in punishing the applicants for non-compliance of the circulars.

(B) For that misconduct has not been defined in the Rules, the word "misconduct" is anti-thesis of the word "conduct". Thus the expression "misconduct" means wrong or improper conduct, unlawfull behaviour, misfeastance, wrong conduct, misdemeanour etc. There being different expressions of the misconduct, therefore, the same is to be construed with reference to the subject and the context wherein the said expression occurs. Inability to collect the required amount of penalty earnings as fixed by the respondents in the absence of sufficient numbers of ticketless travellers

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in trains can not be construed to be misconduct by any stretch of imagination.

(C) For that the action of the respondents in fixing ceiling limits for collection of penalty earnings in the facts and circumstances of the case is without any authority of law and as such illegal and is, therefore, violative of Article 14 of the Constitution of India.

(D) For that the applicants crave leave of this Hon'ble Tribunal to raise, refer to and rely upon any fresh/new ground at the time of hearing of the case.

**VI. DETAILS OF THE REMEDIES EXHAUSTED :-**

The applicants declare that they have availed all the remedies available to them under the relevant service rules as stated in the preceding paragraphs and the same has not be considered by the respondents.

**VII. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY**

**COURT :- \***

The applicants further declare that they have not filed any application, writ petition or suit regarding the instant matter and no other application has been made before any court or any other authority or any

Contd...:

Bench of the Tribunal, nor any such application, writ petition or suit is pending before any of them.

VIII. RELIEF SOUGHT :-

In view of the facts stated above, the applicants respectfully pray for the following reliefs :-

To set aside and quash in impugned orders issued vide order No. C/GHY/Earnings/03 dated 25.4.05 issued by the Divisional Commercial Manager, N.F.Railway, Guwahati in respect of Applicant No.1, order No. C/GHY/Earnings/03 dated 26.04.05 issued by the Divisional Commercial Manager, N.F.Railway, Guwahati in respect of Applicant No.2, order No. C/GHY/Earnings/03 dated 30.08.04 issued by the Divisional Commercial Manager, N.F.Railway, Guwahati in respect of Applicant No.3, order No. C/GHY/Earnings/03 dated 25.4.05 issued by the Divisional Commercial Manager, N.F.Railway, Guwahati in respect of Applicant No.4, order No. C/GHY/Earnings/03 dated 25.4.05 issued by the Divisional Commercial Manager, N.F.Railway, Guwahati in respect of Applicant No.5, order No. C/GHY/Earnings/03 dated 25.4.05 issued by the Divisional Commercial Manager, N.F.Railway, Guwahati in respect of Applicant No.6 and orders No. C/GHY/Earnings/03 dated 30.8.04 issued by the Divisional Commercial Manager, N.F.Railway, Guwahati in respect of Applicant No.7.

Contd...

Rajib Rajlangshi

IX. INTERIM ORDER, IF ANY, PRAYED FOR :-

Pending disposal of this application, the applicants respectfully pray that the operation of the impugned orders issued vide order No. C/GHY/Earnings/03 dated 25.4.05 issued by the Divisional Commercial Manager, N.F.Railway, Guwahati in respect of Applicant No.1, order No. C/GHY/Earnings/03 dated 26.04.05 issued by the Divisional Commercial Manager, N.F.Railway, Guwahati in respect of Applicant No.2, order No. C/GHY/Earnings/03 dated 30.08.04 issued by the Divisional Commercial Manager, N.F.Railway, Guwahati in respect of Applicant No.3, order No. C/GHY/Earnings/03 dated 25.4.05 issued by the Divisional Commercial Manager, N.F.Railway, Guwahati in respect of Applicant No.4, order No. C/GHY/Earnings/03 dated 25.4.05 issued by the Divisional Commercial Manager, N.F.Railway, Guwahati in respect of Applicant No.5, order No. C/GHY/Earnings/03 dated 25.4.05 issued by the Divisional Commercial Manager, N.F.Railway, Guwahati in respect of Applicant No.6 and order No. C/GHY/Earnings/03 dated 30.8.04 issued by the Divisional Commercial Manager, N.F.Railway, Guwahati in respect of Applicant No.7 may be kept in abeyance.

X. This application has been filed through the counsel for the applicants.

**XI. NUMBERS OF THE POSTAL ORDER IN RESPECT OF THE APPLICATION FEE :**

I.P.O. NO. : 55E 545137-41  
Date of Issue : 2-8-06  
Issuing Poste Office : N P.O.  
Post Office at which payable.

**VERIFICATION**

I, Shri Rajib Rajbangshi, S/o.Late A.K.Rajbangshi aged about 34 years, presently working as T.T.E.Guahati, in the office of the N.F.Railway, Maligaon, Guahati and a resident of Uzanbazar, Happy Villa, B.R.Road, Guahati-1 do hereby state that I am the Applicant No.7 in the instant O.A. and I have been authorised by the other applicants to sign this verification on their behalf also and I do hereby verify that the contents in 1, 2, I, II, III 5 - VIII are true to my personal knowledge, those in 3 to 10 are believe to be true on legal advice and I have not suppressed any material fact.

Date : 8.8.06

Place : Guahati

*Rajib Rajbangshi*

Signature of the Applicant



STATEMENT OF ALLEGATION

Scrutiny of the individual performances for June/2004 reveals that the ticket checking performance in respect of detection and charging of without ticket passengers by Shri

S. Basu Designation 40. TTE/onyas  
very poor. He worked 14 days and where as his penalty earnings is Rs. 1893/- only which clearly indicated his negligence and lack of devotion his duty. As per CCM/N.F.Rly/MLG's letter No.C/26/Review/85/TC-pt.III dtd. 10.7.1998 that the minimum penalty earnings per amenity TTE and squad TTE per month should be Rs.6000/- and 10,000/- respectively. This is far away from his actual earnings.

Thus by the above act Shri S. Basu executed lack of integrity and devotion to duty and there by contravened Service Conduct Rule No.3.1(i) and (ii) of 1966.

  
Divnl. Comml. Manager  
N. F. Railway/Guwhati.

25/7/04  
D.S.C.  
Divnl. Comml. Manager  
N. F. Railway/Guwhati  
N. F. RAILWAY, GUWAHATI

**Certified to be True Copy.**

  
Jayanta Talukdar,  
Advocate.

To,  
The Divisional Commercial Manager  
N.F. Rly, ~~Jorhat~~ Guwahati

Through Proper Channal

Sir,

Sub : Representation against memorandum.

Ref : No C/GHY/Earnings/03 N.F. Rly. Dated 20.07.04

I have the honour to submit this representation to you against the memorandum bearing its number mentioned above under reference for reasons & grounds mentioned below :-

- 1) That Sir, during my course of service I did not allow or let loose any without ticket travelers to travel without ticket and there is no such proof of it.
- 2) That Sir, before entering the job of Traveling Ticket Examiner I did not sign in any agreement of contract with Rly administration and regarding depositing Rs. 6000.00..... per month on account of without ticket travelers even if such proportionate number of passengers do not travel without ticket.
- 3) That Sir, rule 3.1 (i) (ii) of Service Conduct Rules, 1966 no where contemplate or substantiate the verbatim of the statement of allegation framed against me by you and the alleged statement of allegation framed against me by you under rule 3.1 (i) (ii) of Service Conduct Rule 1966 are based on conjectures or services.
- 4) That Sir, I am very much punctual and faithful to my duties and I am not at fault.
- 5) Should I encourage the irregular passengers to entrain in my couch instead of resisting such elements.
- 6) It amazing to read in the memo that my earning has crossed the so called quota (which is fixed by administration) still I have been charged.
- 7) In this connection I like to mention here that Honorable Judge of CAT/GHY Branch acquitted the punishment of Mr. N.C. Acherjee Hd. T.T.E. / LMG. Vide his verdict dated..... which might be available in your office.
- 8) That Sir, I view of the above mentioned facts & circumstances and legal aspects here I am earnestly requesting you with all humility to consider my below mentioned prayer for ends of justice please :-

PRAYER

Kindly exonerate me from the charges and withdraw / rescind / cancel the charged memorandum framed against me or totally drop the matter at this satge.

Please do needful and oblige.

Dated : 11/8/04..  
Place : Guwahati

Yours faithfully,  
Sudisa Nasar  
Hd T.T.E./G.H.Y

Certified to be True Copy.

Jyanta Talukdar,  
Advocate.

प०सी०जी०-१७४एम०  
N.F.G.-१७४ M

# पूर्वोत्तर भीमा रेलवे

## Northeast Frontier Railway

संस्कृत - नियम ०१६ राज. का. १ नियम ७ (Ref. ८८८ Under Rule १२१६-रि.)  
 सं/ No. १४५४। दार्शनिक विवरण तथा दार्शनिक विवरण  
 Date/ Date ३.०१.८१०७  
 दार्शनिक/ From Dcm/ UHY

सेत्रा में. Total 18. Prasad. Hcl / अ. E / अ. Hg 1. 11  
H. 1. 11 Thro. L1 C + 1 / 1 C / Hg 1. 11

आरोप पत्र सं० दिनांक पर आपके स्पष्टीकरण के संबंध में आपको सुनिश्चित किया जाता है कि, आपका स्पष्टीकरण सत्याज्ञक नहीं है लेकिन निम्नलिखित आदेश दिया है  
 \*\*-/- With reference to your explanation to the charge sheet No. 103 dated 20.7.1947 you are hereby informed that your explanation is not considered satisfactory and that the Dcm. 4.HY. has passed the following orders : \*\* - - - - -

अनुशासनिक प्राधिकारी का हस्ताक्षर एवं पठनाम  
Signature & Designation of the  
Disciplinary Authority

इस भाग को कटकर हस्ताक्षर करके जारी करनेवाले दार्यालय को लौटा दें। (The portion must be detached, signed and returned to the office of issue).

## प्राप्ति स्वीकृति/ACKNOWLEDGEMENT

सेवा में/to S. Pranad, H.D.T.I.E/पृष्ठ्य  
Name: ( + T ) / C / पृष्ठ्य

मैं सुचना पत्र सं० ----- दिनांक ----- की -----

अरोप पत्र सं. ----- दिनांक -----

प्राप्ति स्वीकार करता हूँ॥ hereby acknowledgement receipt of your Notice No.....  
dated ..... the charge Sheet No .....

तिरीका/Dated: .....  
स्टेशन/Station: .....

हस्ताक्षर या अंगुठे का निशान  
Signature or Thumb Impression

Designation: \_\_\_\_\_

certified to be True Copy.

Jayanta Talukdar,  
Advocate

\* जब अनुशासनिक प्राधिकारी के शिवा अन्य प्राधिकारी द्वारा सूचना पर इस्तासर किया जाये तो यहाँ आदेश देनेवाले का उल्लेख करें।/When the notice is signed by an authority other than the Disciplinary authority he quote the authority passing the order.

\*\* यहाँ स्पष्टीकरण की स्वीकृति या अस्वीकृति और दिये गये दण्ड का उल्लेख करें। Here quote the acceptance or rejection of explanation and the penalty imposed.

#### हिंदायर्ट्स/INSTRUCTIONS

(1) इन आदेश के विलङ्घ अपील

(अदेश देनेवाले प्राधिकारी से ठीक ऊपर का प्राधिकारी के पास की जा सकती है। An appeal against those order lies to S.I.A. M/4/HY next (immediate superior to the authority passing the orders).

" Defence submitted by Shri S. Prasad Hd. TTE/4/HY is not satisfactory. Shri Prasad worked as amanuity TTE for 14 days during the month of June/04 and penalty amounting to Rs. 1893/- against the fixed pay of Rs. 6000/- given by C.C.H. N.S.R. 80 a dominant view is taken and as such he is punished with stoppage of his next increment - for 2 (two) years P.C."

Copy to:-

① Dnm/p/Lms }  
2. APO/4/HY } for information  
3. CTTI/10/4/HY } please.  
4. Dm/Lms }

30/8/04  
(D.N. Bhowmik)  
S.P. MULWARI, 20000 forms

30/8/04  
S.P. MULWARI  
Commercial  
S.P. MULWARI, 20000 forms

To  
The Sr. ARM/Guwahati  
N.F. Railway

(Through Proper Channel)

Sir

Sub : Appeal Against punishment imposed by DCM/GHY  
Ref : DCM/GHY's No. C/41/Earnings/03 dated 30.08.04

Most respectfully, I beg to prefer the following appeal to your grace against the punishment imposed by DCM/GHY to the tune of stoppage of increments for two year (NC) vide his order under reference.

To focus the background, I am enclosing herewith the following relevant paper for your kind perusal.

1. Memorandum issued by DCM/GHY under SF -11 (Annexure -'A').
2. Defence to memorandum submitted by me on 11.8.04 (Annexure -'B').
3. The order imposing the penalty by the DCM/GHY (Annexure -'C').

In my defence, the following points were raised in support of my alleged failure to maintain the alleged earnings of Rs. 6000.00 in the concerned month.

- (i) During my activities, as far there was no instance when I failed to respect in arresting ticket less travel including any irregularities on that account which proved my sincerity.
- (ii) That there was no pre-condition made/ mentioned while I was appointed to work as ticket checking staff by the appointing authority as now the application of an fixed amount controverts the service conditions.
- (iii) That Hon'ble CAT/GHY pronounced a judgment in exactly under the similar circumstances stating that there could not be any target fixed as penalty earnings for ticket checking staff as individual performance.
- (iv) I declared myself as a duty bound employee without any shortcomings.
- (v) Although the TTEs manning the amenity coaches were duty bound to remain present in the coach for all the time from the departure of the train till he reaches destination to ensure.
  - (a) against un-authorized entry of passengers in the coach.
  - (b) to ensure comfort all the passengers in the reserved coach.
  - (c) to ensure that no theft occurs.
  - (d) He must make himself available on call by the passengers etc.
- (vi) But when the alleged target was imposed arbitrarily (since I was not made known the process/justification followed for fixing such target, I had no way but to depart from my duty taking the full risk to leave the reserved coach and go for hunting without ticket/irregular travelers in the other general coaches.

**Certified to be True Copy.**

**Jayanta Talukdar,**  
Advocate.

(vii) That the alleged target of Rs. 6000.00 was although fixed without any proper analysis and or appreciation, a TTE working less Nos. of days cannot be expected to give an earning in reference to the target.

But unfortunately, my defence was not taken seriously and punishment was imposed by the DCM/GHY without application of his mind for which the speaking order was not passed by him.

In the matter of passing a "Speaking Order", the Rly. Board has issued the following orders, which are produced below for your kind appraisal.

1. Rly. Board's No. E(D & A) 56 RG 6-14 dated 20-12-55

"Speaking Orders" – The disciplinary authority imposing the penalty must apply its mind to the facts, circumstances and records of the case and then record its findings on each imputation of misconduct or misbehavior. The disciplinary authority should give brief reasons for its findings to show that it has applied its mind to the case. The reasons recorded by the disciplinary authority shall be of great help to the delinquent Railway servant in preferring his appeal. The disciplinary authority must not pass non-speaking and cryptic orders because the orders of imposition of penalty being appealable must be speaking orders. When the explanation of the delinquent has not been considered satisfactory, the competent authority must invariably record reasons for rejecting the explanation. Sketchy and cryptic orders have been held by the Court of law to be non-speaking and as such illegal."

2. Rly. Board's No. E (D & A) 78 RG 6-11 dated 3.3.78; (SE 106/78 NR 6966, SE 45/78, ER 50/78, NF/ADC 326).

"Speaking Order" – While imposing any of the penalties laid down in D & A Rules, Speaking Orders indicating the reasons for imposing a particular penalty, must be passed. (See 'Consulting UPSC' under Rule - 14 also) The same procedure should be adopted by the appellate authority while passing orders on appeals."

3. Rly. Board's No. E (D&A) 86 RG 6-1 of 20.1.86. (RBE 5/86). "D & AR case – Need for Speaking orders" – As well settled by the courts, the disciplinary proceedings are quasi-judicial in nature and it is necessary that orders in such proceedings are issued only by the competent authority who have been specified as Disciplinary/Appellate/ Revising authorities under the rules and the orders should have the attributes of judicial order. Supreme Court in one case observed that recording of reason is obligatory as it ensure that it is as per law and not capricious".

In such circumstances your grace surely on application of your mind will very kindly cancel the punishment imposed by DCM/GHY is violation of DA Rules, 1968 and also in denial of Natural justice guaranteed by the Constitution of India.

Thanking you.

DA : As above

Yours faithfully,

Sudhish Prasad  
Comd/GHY

Date 05/10/04 copy forwarded to

Read and an copy forwarded to  
S/o ARM/GHY

SD/10/04

DA. B.M.

Certified to be True Copy

Jayanta Talukdar,  
Advocate.



N.F.Railway

Office of the  
Chief Area Manager  
Guwahati, Dt. 26/4/05

848

No.C/GHY/Earnings/03

To  
Shri/Smt..... S. Prosad....  
..... Comdt. f. U.M.G. ....  
.....

Through:- CTTI/1C/9142

Sub:- Appeal against NIP of even No dtd.... 3.0.2.04

Ref:- Your appeal No..... N.I.L..... dtd..... 5.1.04.04.

In continuation to DCM/GHY's notice of imposition of penalty of even No. dtd. 3.0.2.04  
& ..... respectively. Whereas Shri.... S. Prosad.... (Comdt. f. U.M.G.)  
was punished with stoppage of 2 (L.T.W) years, increment (NC) / pass.....  
..... The case/s was /were put up to Sr. ARM/GHY for review.

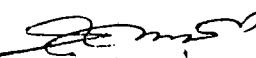
On going through the appeal submitted by shri.... S. Prosad.... (Comdt. f. U.M.G.)  
Sr.ARM/GHY has passed the following orders.

" Mr. S. Prosad Comdt f. U.M.G. his earnings  
were Rs. 1893/- against target of Rs.  
6000/- his penalty is reviewed to stoppage  
all sets of passes 2 pros for next two  
years. "

Divisional Commercial Manager.

Copy forwarded for information and necessary action please.

1) DRM/P/LMG, 2) DCM/LMG, 3) APO/GHY,  
2) 4) CTTI/GHY

  
Divisional Commercial Manager.

  
Certified to be True Copy.

Jayanta Talukdar,  
Advocate

The Chief Area Manager  
N.E. Railway.

Through proper channel.

Sub: Appeal for withdrawal punishment with ref. office order No. C/GHY/Earnings/03, dated 31st June 2005.

Sir,

Most humbly and respectfully stated the following for your kind disposal.

That Sir, my previous humble prayer for quench the charge framed against me by the above mentioned letter could not yield positive response from your end, the reason best known to the administration. My sincere effort was on to achieve the target of earnings, sadly enough I remained a little lagging behind as destructed by the unavoidable circumstances of mine. I can categorically say that had I been got chance to work for the whole month I would have easily the target of earnings. Regret for that.

Be that as it may, the gap between the working days (14 days - 1 day rest) = 13 days and the amount realised was not much widen and it is easy accessible to consider my case sympathetically. As ill luck would have it, it embraced a hard hit blow on my head, by stopping pass and PTOS for the two years, which is certainly unbearable, injurious, and indiscriminate can any one imagine its initiation. My agony is this that the administration adopts the soft-stand against someone and hardone for one for the same offence perpetuated by the concerning staff. Naturally it causes the up set of my mental balance and I earnestly appealed to the leaved honour for its kind revival.

That Sir, This is the first kind of charge framed against me which I even had devioudly its proves my sincerity devotion an dedications to the service needs no clarification. And I do assure you that I shall keep it up my tempo to genup the checking zeal to increase earnings and never get chance to remind me once again in near future. Here I would like quote a vital factor for your kind disposal. That Sir, I am hailing from Bihar and residing area here with my family leaving my old parent there. As no one predicts the fate or mine in case of sudden demise of near and dear one on more particularly inevitable purposes. How it is injustice to wrap the hands and feet tight by stopping pass and PTOS of a subordinate staff like me. I want its justice.

Under the above circumstances may I pray your honour to consider my case sympathetically and exonerate from all charges and punishment.

I am quite optimistic that the door of your good office always remain open for justice and not necessitate to bang on door to door to a justice, as its truth lies in the saying in English "Never leave to other what one should finish oneself."

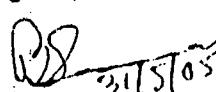
The act of your leniency would be the substantial boost to keep the morals high of your pity subordinate staff like me and ease to attain goal.

Thanking you.

Yours faithfully,  
Sudish Prasad  
(S. Prasad) 31/5/05  
Conductor/Cily.

Certified to be True Copy.

  
Jayanta Talukdar,  
Advocate.

  
S. Prasad  
31/5/05

Forwarded to  
CAM/CHY for kind  
consideration please. At present  
I'm S. Prasad Conductor/CHY is  
living good penalty earnings.

NORTHEAST FRONTIER RAILWAY

STANDARD FORM NO. II

G/174 L

Standard Form of Memorandum of charge for imposing minor penalties  
(Rules 11 of RS (D&A) Rules, 1968)

No. G/447/earnings/23

Dr. Adm/410 (Name of Railway Administration)

(Place of issue) dated 28/7/69

Dr. Adm/410/23 Office

MEMORANDUM

Shri B. Singh (Designation) TTE/410 Office on which working CTTI/1C/410 hereby informed that the President/Railway Board/undersigned propose (s) to take action against him under Rule 11 of the Railway servants (Discipline and Appeal) Rules, 1968. A statement of the imputation of misconduct or misbehaviour in which action is proposed to be taken as mentioned above is enclosed. See on reverse

2. Shri B. Singh is hereby given an opportunity to make such representation as he may wish to make against the proposal. The representation, if any, should be submitted to the undersigned (through the General Manager) Railway, so as to reach the said General Manager within ten days of receipt of this Memorandum.

3. If Shri B. Singh fails to submit his representation within the period specified in para 2, it will be presumed that he has no representation to make and orders will be liable to be passed against Shri B. Singh the next party.

4. The receipt of this Memorandum should be acknowledged by Shri B. Singh TTE/410

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

Signature

B. Singh  
20/7/69

Name

B. N. Banerjee  
CTTI/410

Name and Designation of the  
Competent Authority

To

B. Singh, TTE/410

Shri (Name Designation and Office of the Railway Servant)

Dr. CTTI/1C/410

To be retained wherever this Memorandum is issued by the Railway Board/the President  
Where the President is the disciplinary authority.

Certified to be True Copy.

STATEMENT OF ALLEGATION

Scrutiny of the individual performances for June/2004 reveals that the ticket checking performance in respect of detection and charging off without ticket passengers by Shri B. Singh Designation TTE/4478 is very poor. He worked 21 days and where as his penalty earnings is Rs. 5292/- only which clearly indicates his negligence and lack of devotion his duty. As per CG/N.F.Rly/MLG's letter No.C/26/Review/85/TC-pt.III dtd. 10.7.1998 that the minimum penalty earnings per amenity TTE and squad ~~per month~~ should be Rs.6000/- and 10,000/- respectively. This is far away from his actual performance.

Thus by the above act Shri B. Singh executed lack of integrity and devotion to duty and there by contravened Service Conduct Rule No.3.1(i) and (ii) of 1966.

  
20/7/04  
Divnl. Comml. Manager  
N. F. Railway/Guwahati.

CC: ~~Mr. B. Singh, TTE~~  
~~Commercial Manager~~  
~~Guwahati Division~~

Certified to be True Copy.

  
A.  
Jayanta Talukdar,  
Advocate.

To,  
The Divisional Commercial Manager  
N.F. Rly, Guwahati

Through Proper Channel

Sir,

Sub : Representation against memorandum.

Ref : No C/GHY/Earnings/03 N.F. Rly. Dated 20.07.04

I have the honour to submit this representation to you against the memorandum bearing its number mentioned above under reference for reasons & grounds mentioned below :-

- 1) That Sir, during my course of service I did not allow or let loose any without ticket traveler to travel without ticket and there is no such proof of it.
- 2) That Sir, before entering the job of Traveling Ticket Examiner I did not sign in any agreement of contract with Rly administration and regarding depositing any fixed amount per month on account of without ticket travelers even if such proportionate number of passengers do not travel without ticket.
- 3) That Sir, rule 3.1 (i) (ii) of Service Conduct Rules, 1966 no where contemplate or substantiate the verbatim of the statement of allegation framed against me by you and the alleged statement of allegation framed against me by you under rule 3.1 (i) (ii) of Service Conduct Rule 1966 are based on conjectures or services.
- 4) That Sir, I am very much punctual and faithful to my duties and I am not at fault.
- 5) It is amazing to read in the memorandum that my earning is far away of your fixed quota do not stand, because I have crossed the quota for the month ie. I worked \_\_\_\_\_ days and my penalty earning is \_\_\_\_\_ which is proportionally far above the quota.
- 6) In this connection I like to mention here that Honorable Judge of CAT/GHY Bench acquitted the punishment of Mr. N.C. Acherjee Hd. T.T.E. / LMG. Vide his verdict . which might be available in your office.
- 7) That Sir, In view of the above mentioned facts & circumstances and legal aspects here I am earnestly requesting you with all humility to consider my below mentioned prayer for ends of justice please :-

PRAYER

Should I encourage the irregular passengers to entrain in my coach instead of resisting such elements as described in the schedule of duties of SLEEPER CLASS T.T.E'S vide Boards letter No. L / 2000 CHG- II / 30 / 10.Dated 25.05.01.

Kindly exonerate me from the charges and withdraw / rescind / cancel the charged memorandum framed against me or totally drop the matter at this stage.

Please do needful and oblige.

Dated : .....  
lace : Guwahati

Yours faithfully

*Certified to be True Copy.*

*Jayanta Talu*  
Advocate.

प०सी०जी०-१७४ए५०  
N.F.G.-174 M

# पूर्वोत्तर सीमा रेलवे

## Northeast Frontier Railway

नियम 1707 (1) की मद (I), (II) और (III) और नियम 1707 (2) स्थान को मद (I) और (II) के अन्तर्गत दण्ड देने के संबंध : राजनामा/Notice of imposition of penalties under items (I), (II) & (III) of Rule 1707 (1) and items (I) and (II) of Rule 1707 (2). D & A Rules, 1968.

(सन्दर्भ - नियम 1716 रक्षा का ज्ञ नियम-७) Ref. 6446 Under Rule 1716-R7  
सं/ नं. C.G.L.Y. Farmings 103 Date/ Dated 30/8/04

प्रेसिस्ट्रॉन Dcm 417

19. *Leucosia* *leucostoma* (Fabricius) *leucostoma* (Fabricius) *leucostoma* (Fabricius)

सर्वा में 13. Birnatheswari Singh TTE/462  
थ्रा - CTTI/1447

आरोप पत्र सं० ..... दिनांक ..... पर आपके स्पष्टीकरण के संबंध में आपको सूचित किया जाता है कि आपका स्पष्टीकरण संतुष्टजनक नहीं है तथा \* ..... ने निम्नलिखित आदेश दिया है  
 \*\*/ With reference to your explanation to the charge sheet No. .... dated ..... 20.7.64  
 you are hereby informed that your explanation is not considered satisfactory and that \*  
 the ..... Dcm/4.4/ has passed the following orders : \*\*

अनुग्रामित विवरण का प्राप्तिकारी का स्वाक्षरण  
Signature of Recipient  
Dated 25/12/2018  
Digitized by Aditya Patel

टिप्पणी - हिदायत दुसरी तरफ देखें।/N.B. :- Please see instructions on the reverse side.

इस भाग को काटकर हस्ताक्षर करके जारी करनेवाले वार्षिक योग्य को लौटा दें। The portion must be detached, signed and returned to the office of issue.

## प्राप्ति स्वीकृति/ACKNOWLEDGEMENT

सेवा में To Bimaldev Singh / TTE / 644  
Thro. 1 - CTTI / 14444.

मैं सुचना पत्र सं० ----- दिनांक ----- की

अरोप पत्र सं - - - - - दिवाकर

प्राप्ति स्वीकार करता हूँ I hereby acknowledgement receipt of your Notice No.....  
dated..... the charge Sheet No .....

तारीख/Dated

रटेशन/Station .....

.....  
Certified to be True Copy.

हस्ताक्षर या अंगुठे का निशान  
Signature or Thumb Impression

पदाम Designation .....

Jayanta Talukdar,  
Advocate.

P.T.C

\* जब अनुग्राहनिक प्राधिकारी के रिवा अन्य प्राधिकारी द्वारा सूचना पर हस्ताक्षर किया जाये तो यहाँ का उल्लेख करें।/When the notice is signed by an authority other than the Disciplinary, quote the authority passing the order.

\*\* यहाँ स्पष्टीकरण की स्वीकृति या अस्वीकृति और दिये गये दण्ड का उल्लेख करें।/Here quote the acceptance or rejection of explanation and the penalty imposed.

### दिशापत्र/INSTRUCTIONS

(i) इन आदेश के विरुद्ध अपील

(अदेश देनेवाले प्राधिकारी से ठीक ऊपर का प्राधिकारी के पास की जा सकती है।/ An appeal against those order lies to ... Sr. Arm/Officer..... next (immediate superior to the authority passing the orders).

4 Defence Submitted by Shri Bimleshwar Singh TTE/4147 is found not satisfactory. Shri Singh worked as an entry TTE for 21 days during the month of June/04 and penalty earning is Rs. 52-92/- instead of fixed Target- Rs. 6000/- So, a lenient view is taken and as such he is punished with stoppage of his next increment for 2 (two) years. N.C. 4

copy to:

1. DRM/P/LM
2. APO/4147
3. CTTI/14147
4. DCM/4147

for information on plan.

30/8/04

(Dr. Bimleshwar Singh)  
DCM/4147

30/8/04

DCM/4147

IRM/Guwahati  
Railway

(Through Proper Channel)

Sir

Sub : Appeal Against punishment imposed by DCM/GHY

Ref : DCM/GHY's No. C/41/Earnings/03 dated 30.08.04

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3. The order imposing the penalty by the DCM/GHY (Annexure -'C').

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- (iv) I declared myself as a duty bound employee without any shortcomings.
- (v) Although the TTEs manning the amenity coaches were duty bound to remain present in the coach for all the time from the departure of the train till he reaches destination to ensure.
  - (a) against un-authorized entry of passengers in the coach.
  - (b) to ensure comfort all the passengers in the reserved coach.
  - (c) to ensure that no theft occurs.
  - (d) He must make himself available on call by the passengers etc.
- (vi) But when the alleged target was imposed arbitrarily (since I was not made known the process/justification followed for fixing such target, I had no way but to depart from my duty taking the full risk to leave the reserved coach and go for hunting without ticket/irregular travelers in the other general coaches.

Stated to be True Copy

Contd P. 2

Jayanta T'u'ar,  
Adv.

(vii) That the alleged target of Rs. 6000.00 was although fixed without any proper analysis and or appreciation, a TTE working less Nos. of days cannot be expected to give an earning in reference to the target.

But unfortunately, my defence was not taken seriously and punishment was imposed by the DCM/GHY without application of his mind for which the speaking order was not passed by him.

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3. Rly. Board's No. E (D&A) 86 RG 6-1 of 20.1.86 (RBE 5/86). "D & AR case

Need for Speaking orders - As well settled by the courts, the disciplinary proceedings are quasi-judicial in a nature and it is necessary that orders in such proceedings are issued only by the competent authority who have been specified as Disciplinary/Appellate/ Revising authorities under the rules and the orders should have the attributes of judicial order. Supreme Court in one case observed that recording of reason is obligatory as it ensure that it is as per law and not capricious".

In such circumstances your grace surely on application of your mind will very kindly cancel the punishment imposed by DCM/GHY in violation of DA Rules, 1968 and also in denial of Natural justice guaranteed by the Constitution of India.

Thanking you,

DA : As above

*Received and forwarded to  
one copy C.H.Y  
Sd/ ARM 6/10/04  
B.B. 6/10/04*

*CCW / IC / GHY  
R.R. RLV*

Yours faithfully,

*Bideshwar Singh  
TTE/644*

*Certified to be true copy.*

*Jayanta T. T.  
Advocate*



-45-  
N.F.Railway

Office of the  
Chief Area Manager  
Guwahati, Dt. 26.4.05

No.C/GHY/Earnings/03

To

Shri/Smt... Bindheswari Singh.  
.....TTE/4HY.....  
.....

Through:- CTTI/144HY

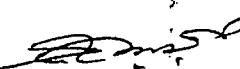
Sub:- Appeal against NIP of even No dtd..... 20/8/04

Ref:- Your appeal No..... N.I. .... dtd..... N.I. ....

In continuation to DCM/GHY's notice of imposition of penalty of even No. dtd. 20/8/04  
& respectively. Whereas Shri... Bindheswari Singh., TTE/4HY  
was punished with stoppage of 2(L.R.) 44415. increment (NC) / p pass.....  
..... The case/s was/were put up to Sr. ARM/GHY for review.

On going through the appeal submitted by shri... Bindheswari Singh., TTE/4HY  
Sr.ARM/GHY has passed the following orders.

" Shri B. Singh, TTE/4HY - since he has earned  
Rs. 5292/- against target of Rs. 6000/- he is  
penalised with stoppage of 2 sets of passes."

  
Divisional Commercial Manager.

Copy forwarded for information and necessary action please.

- 1) DRM/P/LMG, 2) DCM/LMG, 3) APO/GHY,
- 2) 4) CTTI/GHY

  
Divisional Commercial Manager.

Certified to be True Copy.

  
Jayanta Talukdar,  
Adm. Off.

0296634

NORTHEAST FRONTIER RAILWAY

STANDARD FORM NO. 11

G/174 L

Standard Form of Memorandum of charge for imposing minor penalties  
(Rules 11 of RS (D&A) Rules, 1968)

No. C/1987/Barwings/03.

NEP Ry. (Name of Railway Administration)

(Place of issue) ... dated 20/7/04  
Sr. Addy's Office

MEMORANDUM

Shri A. Ghose (Designation), HO 775/C/04, office on which working) C/771/1 is hereby informed that the President/Railway Board, undersigned propose (s) to take action against him under Rule 11 of the Railway servants (Discipline and Appeal) Rules, 1968. A statement of the imputation of misconduct or misbehaviour in which action is proposed to be taken as mentioned above is enclosed. *See on reverse.*

2. Shri A. Ghose is hereby given an opportunity to make such representation as he may wish to make against the proposal. The representation, if any, should be submitted to the undersigned (through the General Manager, Railway, ~~so as to reach the said General Manager~~) within ten days of receipt of this Memorandum.

3. If Shri A. Ghose fails to submit his representation *by 20/7/04*, the period specified in para 2, it will be presumed that he has no representation to make and orders will be liable to be passed against Shri A. Ghose ex-party.

4. The receipt of this Memorandum should be acknowledged by Shri A. Ghose.

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

Signature.....

*DR. B. Barwah*  
20/7/04

Name.. DR. B. Barwah

Name and Designation of the  
Competent Authority

To

Shri A. Ghose, HO 775/C/04, (Name, Designation and Office of the Railway Servant)

Shri: C/771/1/copy

\*To be retained wherever this Memorandum is issued by the Railway Board/ the President  
% Where the President is the disciplinary authority

STATEMENT OF ALLEGATION

scrutiny of the individual performances for June/2004 reveals that the ticket checking performance in respect of detection and charging of without ticket passengers by Shri

A. Chose Designation HO. TTE/Ans  
very poor. He worked 8 days and where as his penalty earnings is Rs. 1836/- only which clearly indicated his negligence and lack of devotion his duty. As per CCM/N.F.Rly/MLG's letter No.C/26/Review/85/TC-pt.III dtd. 10.7.1998 that the minimum penalty earnings per amenity TTE and Squad TTE per month should be Rs.6000/- and 10,000/- respectively. This is far away from his actual earnings.

Thus by the above act Shri A. Chose executed lack of integrity and devotion to duty and there by contravened Service conduct Rule No.3.1(i) and (ii) of 1966.

  
26/7/04  
Divn'l. Comm'l. Manager

N. F. Railway/Guwahati.

THE STATE OF ASSAM, GUWAHATI  
NATIONAL COMMERCIAL HIGHWAY  
WADAWA, GUWAHATI

**Certified to be True Copy.**

  
Jyanta Talukdar,  
Adm.

To,  
The Divisional Commercial Manager  
N.F. Rly, Lumding

Sir,  
Through Proper Channal  
Sub : Representation against memorandum.

Ref : No C/GHY/Earnings/03 N.F. Rly. Dated 20.07.04

I have the honour to submit this representation to you against the memorandum bearing its number mentioned above under reference for reasons & grounds mentioned below :-

- 1) That Sir, during my course of service I did not allow or let loose any without ticket travelers to travel without ticket and there is no such proof of it.
- 2) That Sir, before entering the job of Traveling Ticket Examiner I did not sign in any agreement of contract with Rly administration and regarding depositing Rs..... per month on account of without ticket travelers even if such proportionate number of passengers do not travel without ticket.
- 3) That Sir, rule 3.1 (i) (ii) of Service Conduct Rules, 1966 no where contemplate or substantiate the verbatim of the statement of allegation framed against me by you and the alleged statement of allegation framed against me by you under rule 3.1 (i) (ii) of Service Conduct Rule 1966 are based on conjectures or services.
- 4) That Sir, I am very much punctual and faithful to my duties and I am not at fault.
- 5) Should I encourage the irregular passengers to entrain in my couch instead of resisting such elements.
- 6) It amazing to read in the memo that my earning has crossed the so called quota (which is fixed by administration) still I have been charged.
- 7) In this connection I like to mention here that Honorable Judge of CAT/GHY Branch acquitted the punishment of Mr. N.C. Acharya Hd. T.T.E / LMG. Vide his verdict dated..... which might be available in your office.
- 8) That Sir, I view of the above mentioned facts & circumstances and legal aspects here I am earnestly requesting you with all humility to consider my below mentioned prayer for ends of justice please :-

PRAYER

Kindly exonerate me from the charges and withdraw / rescind / cancel the charged memorandum framed against me or totally drop the matter at this stage.

Please do needful and oblige.

Dated :.....  
Place : Guwahati

Yours faithfully

*Anup Gosh*

*Certified to be True Copy.*

*Jayanta Talukdar,*  
*Advocate.*



62

\* जब अनुशासनिक प्राधिकारी के रिया अन्य प्राधिकारी द्वारा सूचना पर हस्ताक्षर किया जाये तो यहाँ आदेश देने का उल्लेख करें।/When the notice is signed by an authority other than the Disciplinary authority quote the authority passing the order.

\*\* यहाँ स्पष्टीकरण की स्वीकृति या अस्वीकृति और दिये गये दण्ड का उल्लेख करें।/ Here quote the acceptance or rejection of explanation and the penalty imposed.

### हिंदायर्स/INSTRUCTIONS

(i) इन आदेश के विरुद्ध अपील -

(आदेश देनेवाले प्राधिकारी से) ठीक ऊपर का प्राधिकारी के पास की जा सकती है।/ An appeal against those order lies to ..... next (immediate superior to the authority passing the orders).

4 Defence submitted by Shri Arject Ghosh, H.D.C.T.T.E/C/1970 is found not so satisfactory since Ghosh worked as amantri for 8 days during the month of June 1970 and penalty earning is Rs. 18.36/- against fixed target of Rs. 6000/- So, a lenient view is taken and as such he is punished with 10 days of his next increments for 1 (one) year N.C.

(मार्च 1971)

Copy to:

1. Dcm/P/2m/

2. APO/UTT

3. C.T.T.I./C/1970 for information

4. Dcm/Secy/Long

(DAN BORNAH)  
Dcm/4/17

(B.S.)  
31/8/04

Dcm/4/17

N.F.Rly.Press-1/11/9701/61-May '97-15,000 Forms.

Certified to be True Copy

Jayanta Basu  
Adviser

To  
The Sr. ARM/Guwahati  
N.F. Railway

(Through Proper Channel)

Sir

Sub : Appeal Against punishment imposed by DCM/GHY

Ref : DCM/GHY's No. C/41/Earnings/03 dated 30.08.04

Most respectfully, I beg to prefer the following appeal to your grace against the punishment imposed by DCM/GHY to the tune of stoppage of increments for two year (NC) vide his order under reference.

To focus the background, I am enclosing herewith the following relevant paper for your kind perusal.

1. Memorandum issued by DCM/GHY under SF -11 (Annexure -'A').
2. Defence to memorandum submitted by me on 11.8. 04 (Annexure -'B').
3. The order imposing the penalty by the DCM/GHY (Annexure -'C').

In my defence, the following points were raised in support of my alleged failure to maintain the alleged earnings of Rs. 6000.00 in the concerned month.

- (i) During my activities, as far there was no instance when I failed to respect in arresting ticket less travel including any irregularities on that account which proved my sincerity.
- (ii) That there was no pre-condition made/ mentioned while I was appointed to work as ticket checking staff by the appointing authority an now the application of an fixed amount controverts the service conditions.
- (iii) That Hon'ble CAT/GHY pronounced a judgment in exactly under the similar circumstances stating that there could not be any target fixed as penalty earnings for ticket checking staff as individual performance.
- (iv) I declared myself as a duty bound employee without any shortcomings.
- (v) Although the TTEs manning the amenity coaches were duty bound to remain present in the coach for all the time from the departure of the train till he reaches destination to ensure.
  - (a) against un-authorized entry of passengers in the coach.
  - (b) to ensure comfort all the passengers in the reserved coach.
  - (c) to ensure that no theft occurs.
  - (d) He must make himself available on call by the passengers etc.
- (vi) But when the alleged target was imposed arbitrarily (since I was not made known the process/justification followed for fixing such target, I had no way but to depart from my duty taking the full risk to leave the reserved coach and go for hunting without ticket/irregular travelers in the other general coaches.

*Verified to be True Copy*

*Jayanta Talukdar,  
Advocate.*

(vii) That the alleged target of Rs. 6000.00 was although fixed without any proper analysis and or appreciation, a TTE working less Nos. of days cannot be expected to give an earning in reference to the target.

But unfortunately, my defence was not taken seriously and punishment was imposed by the DCM/GHY without application of his mind for which the speaking order was not passed by him.

In the matter of passing a "Speaking Order", the Rly. Board has issued the following orders, which are produced below for your kind appraisal.

1. Rly. Board's No. E(D & A) 56 RG 6-14 dated 20-12-55

"Speaking Orders" - The disciplinary authority imposing the penalty must apply its mind to the facts, circumstances and records of the case and then record its findings on each imputation of misconduct or misbehavior. The disciplinary authority should give brief reasons for its findings to show that it has applied its mind to the case. The reasons recorded by the disciplinary authority shall be of great help to the delinquent Railway servant in preferring his appeal. The disciplinary authority must not pass non-speaking and cryptic orders because the orders of imposition of penalty being appealable must be speaking orders. When the explanation of the delinquent has not been considered satisfactory, the competent authority must invariably record reasons for rejecting the explanation. Sketchy and cryptic orders have been held by the Court of law to be non speaking and as such illegal."

2. Rly. Board's No. E (D & A) 78 RG 6-11 dated 3.3.78; (SE 106/78 NR 6966, SE 45/78, ER 50/78, NF/ADC 326).

"Speaking Order" - While imposing any of the penalties laid down in D & A Rules, Speaking Orders indicating the reasons for imposing a particular penalty, must be passed. (See 'Consulting UPSC' under Rule - 14 also) The same procedure should be adopted by the appellate authority while passing orders on appeals."

3. Rly. Board's No. E (D&A) 86 RG 6-1 of 20.1.86 (RBE 5/86). "D & AR case - Need for Speaking orders - As well settled by the courts, the disciplinary proceedings are quasi-judicial in a nature and it is necessary that orders in such proceedings are issued only by the competent authority who have been specified as Disciplinary/Appellate/Revising authorities under the rules and the orders should have the attributes of judicial order. Supreme Court in one case observed that recording of reason is obligatory as it ensure that it is as per law and not capricious".

In such circumstances your grace surely on application of your mind will very kindly cancel the punishment imposed by DCM/GHY in violation of DA Rules, 1968 and also in denial of Natural justice guaranteed by the Constitution of India.

Thanking you.

DA : As above

Yours faithfully,

Date

*Certified to be True Copy.*

*Jayanta Talukdar,*  
*Advocate.*

NORTHEAST FRONTIER RAILWAY  
MEMORANDUM FORM NO. 11

G/174 L

Standard Form of Memorandum of charge for imposing minor penalty  
(Rules 11 of RS (D&A) Rules, 1968)

No. C/947/Ex-Parte/2003

N.P.Rly (Name of Railway Administration)

(Place of issue) S. N. R. M. P. R. Y. S. Office dated 12/5/04

MEMORANDUM

Shri H. K. Marzari

Shri H. K. Marzari (Designation) C/771/1/Ex-Parte Office on which working) C/771/1/Ex-Parte is hereby informed that the President/Railway Board/undersigned propose(s) to take action against him under Rule 11 of the Railway servants (Discipline and Appeal) Rules, 1968. A statement of the imputation of misconduct or misbehaviour in which action is proposed to be taken as mentioned above is enclosed.

2. Shri H. K. Marzari is hereby given an opportunity to make such representation as he may wish to make against the proposal. The representation, if any, should be submitted to the undersigned (through the General Manager) within ten days of receipt of this Memorandum.

3. If Shri H. K. Marzari fails to submit his representation C/771/1/Ex-Parte within the period specified in para 2, it will be presumed that he has no representation to make and orders will be liable to be passed against Shri H. K. Marzari ex-party.

4. The receipt of this Memorandum should be acknowledged by Shri H. K. Marzari C/771/1/Ex-Parte

(By order and in the name of the President)

Signature M/19/05

Name (D. Hossain)

Name and Designation (D. Hossain)  
Competent Authority (General Manager)  
RAILWAY, GUWAHATI

To:

Shri H. K. Marzari C/771/1/Ex-Parte

Shri H. K. Marzari (Name Designation and Office of the Railway Servant)

To be retained wherever this Memorandum is used by the Railway Board/President

Where the President is the disciplinary authority.

True Copy

STATEMENT OF ALLEGATION

Shri H.K.Nargari, CTTI/I/GHY while working as Incharge of GHY ticket checking squad "B" has committed gross negligence of duty and deviation of duty in as much as he failed to increase the earnings of his squad/ batch as well as his individual earnings. As per GCM/MIG's letter No. C/T-26/Review/85/TC-Pt.III dtd. 10.7.1998 the monthly personal earnings of TTEs working in squad should be Rs. 10,000/- but none of the TTEs working under him he could not far achieve the target, which clearly reflexes bad performance and slack of duty supervision.

Thus by the above act Shri H.K. Marzani, CTTI/I/GHY executed lack of integrity and devotion to duty and thereby contravened service commitment conduct Rule No. 311(i) and (ii) of 1966.

Divil. Comm'l. Manager  
Guwahati

1960. 07. 10. 1960. 07. 10. 1960.

~~Certified to be True Copy~~

Jayanta Talukdar,  
Moorat.

पुस्तक नं. 17499

N. F. O. - 174 M,

पूर्वोत्तर रेलवे रेल्वे

Northeast Frontier Railway

विधि 1707 (1) की विधि (i), (ii) और (iii) और विधि 1707 (2)-स्थान को पद (i) और (ii) के अन्तर्गत  
प्रति देवी के अन्तर्गत नियम/Notice of imposition of penalties under items (i), (ii) & (iii)-of Rule  
1707-(1) and items (i) and (ii)-of Rule-1707-(2)-RI. (M. & A. (K. L. C. O. 14/1938).

(विधि : विधि 1716-स्थान का एवं विधि 9)/Ref:- SR-9 Under Rule 1716-RI.

ि/No. E/7444/Paravas/103

दिनांक/Date 11/11/1947

प्रियक/From D. Com/143

संवाद में/To S. M. K. Naqazai E/7444/Paravas/103

11/11/1947 E/7444/Paravas/103

मार्ग पत्र एवं दिनांक पर आपके स्पष्टीकरण के संदर्भ में आगामी सूचित  
किया जाता है यदि आपका स्पष्टीकरण सातोप्रज्ञक नहीं है तथा  
दिया है।/With reference to your explanation to the charge sheet No. E/7444/Paravas/103  
dated 13/5/1947 you are hereby informed that your explanation is not considered  
satisfactory and that the \_\_\_\_\_ has passed the following orders:

11/11/1947 Orders on 8/11/1947

धनुशासनिक प्राधिकारी का  
द्वितीय एवं पदान्वय  
Signature & Designation  
of the Disciplinary  
Authority

टिप्पणी:— द्वितीय दूसरी तरफ देख। /N. B.: Please see instructions on the reverse!

(इस भाग को काटकर हस्ताधार करके जारी करनेवाले कार्यालय को दीटा दे) / (The portion must be  
detached, signed and returned to the office of issue),

ग्रिवाल्य/ACKNOWLEDGEMENT

ि/To S. M. K. Naqazai E/7444/Paravas/103

11/11/1947 E/7444/Paravas/103

मार्ग पत्र एवं दिनांक की  
प्रति स्वाक्षरता/ACKNOWLEDGEMENT  
I hereby acknowledge receipt of your Notice No. \_\_\_\_\_  
and Charge Sheet No. \_\_\_\_\_

दिनांक/Dated

स्टेशन/Station

दिनांक/Dated

दिनांक/Dated

दिनांक/Dated

हस्ताधार या अन्य नियम  
Signature on Blanks in pression

प्रत्यय/Designation

Jayanta Talukdar,  
A. D. M. R.

P.T.O.

• अब अनुचानिक प्राप्तिकारी के लिया अग्र प्राप्तिकारी द्वारा गूपता पर अवाधार लिया जाये तो यहाँ प्राप्तिकारी का उल्लेख नहीं। / When the notice is issued by an authority other than the Disciplinary authority here etc., be the authority passing the order.

• यहाँ प्रकृति स्पष्टीकरण की स्वीकृति का अस्वीकृति और दिये गये दण्ड का लक्षण करें / Hero quote the acceptance or rejection of explanation and the penalty imposed.

### दियावलि/INSTRUCTIONS

(1) यहाँ आदेशों के विवाद अपील (प्राप्तिकारी से टीक ऊपर का प्राप्तिकारी) के पास की जा सकती है। / An appeal against those orders lies to the ~~next~~ <sup>immediate</sup> next (immediate superior to the authority passing the orders).

• P. M. Press

Defence is not acceptable. His individual earnings as well as batch earnings are far from the target fixed by com/nr. Rly. 45 in charge of the batch he failed to inspire the staff to increase Rly. earning. So he is punished with stoppage of his next increment for two years (v)

Copy to

DRM

ANO/9103

S. M/9/9/9103

Dem/ct/s  
N.R. Rly

For information  
and necessary  
action please

Certified to be True Copy

Jyoti Talukdar  
Advocate.

Dem/ct/s  
6/10/9103

## EARNING PARTICULARS

MONTH	NOS. OF CASES	FARE	PENALTY	TOTAL
May, 2003	80	8557.00	5955.00	14512.00
June, 2003	64	5512.00	4722.00	10234.00
July, 2003	93	7744.00	7032.00	14776.00
August, 2003	59	4954.00	4925.00	9879.00
September, 2003	71	6133.00	5807.00	11940.00
October, 2003	70	7275.00	5498.00	12773.00
November, 2003	65	5545.00	4705.00	10250.00
December, 2003	46	4360.00	3448.00	7808.00
January, 2004	34	3092.00	2391.00	5483.00
February, 2004	17	1530.00	1500.00	3030.00 (Worked for 15 days)
Total	599	54702.00	45983.00	100685.00

## PLEASE SEE

March, 2004 - On leave

April 2004 - On leave.

Total number of Cases in 10 months = 599

Average per month = 60

Total penalty earnings = Rs 1,00,685.00

Average Penalty earnings per month = 10,000.00

Certified to be True Copy

Joyanta Talukdar,  
Advocate.

01.1.2004 - 5621 Dn x 703 up GHY-KYQ-GHY, 5603 Up GHY-LMG

02.1.2004 - 5960 Dn LMG - GHY, 5621 Dn GHY-KYQ, 701UP KYQ-GHY

03.1.2004 - 5621 Dn x 701UP GHY-KYQ-GHY, 5665up x 2068 Dn GHY-CPK-GHY with ACM/GHY.

04.1.2004 - 5621 Dn x 701UP GHY-KYQ-GHY, 5665up GHY-LMG.

05.1.2004 - 5966 Dn LMG - GHY, 2667 Up, 5960 Dn SPOP at GHY

06.1.2004 - 5621 Dn x 701UP GHY-KYQ-GHY, 5603 Up GHY-LMG.

07.1.2004 - 5960 Dn LMG - GHY, 5621 Dn x 701UP GHY-KYQ-GHY

08.1.2004 - 5621 Dn x 701UP GHY-KYQ-GHY, 5665up GHY-CPK-GHY

09.1.2004 - 5621 Dn x 701UP GHY-KYQ-GHY, 5603 Up GHY-LMG.

10.1.2004 - 5604 Dn LMG-GHY, 5621 Dn x 701UP GHY-KYQ-GHY.

11.1.2004 - REST.

12.1.2004 - 5960 Dn x 703 up GHY-RNY-GHY, 5665up x 2068 Dn GHY-CPK-GHY.

13.1.2004 - 805 Up x 806 Dn GHY-HBN-GHY.

14.1.2004 - 2067 Up x 2068 Dn GHY-LMG-GHY with CRS/CCRS.

15.1.2004 - 5621 Dn x 701UP GHY-KYQ-GHY, 5603 Up GHY-LMG

16.1.2004 - 5960 Dn LMG - GHY, 5621 Dn x 701UP GHY-KYQ-GHY

17.1.2004 - 5665up GHY-LMG with ACM/GHY.

18.1.2004 - 5604 Dn LMG-GHY, 5621 Dn x 703UP GHY-KYQ-GHY

19.1.2004 - 801 up x 8904 Dn GHY-DGU-GHY, 5665up x 2068 Dn GHY-CPK-GHY with ACM/GHY.

20.1.2004 - 5621 Dn x 703 up GHY-CPK-GHY, 5603 GHY-LMG

Certified to be True Copy.

Jayanta Talukdar,  
Advocate.



N.F.Railway

(X)

Office of the  
Chief Area Manager  
Guwahati, Dt. 26/4/05

No.C/GHY/Earnings/03

To

Shri/Smt... H... K... Nargari  
..... C.T.I.I.I.I.C.H.Y.

Through: CTTI 1C/4/HY.

Sub:- Appeal against NIP of even No did... 1915/04

Ref:- Your appeal No..... NIP..... did... 1917/04.....

In continuation to DCM/GHY's notice of imposition of penalty of even No. did. 1915/04 & ..... respectively. Whereas, Shri..... H... K... Nargari..... C.T.I.I.I.I.C.H.Y. was punished with stoppage of 2 (Two) years increment (NC) / p.pas..... The case/s was/were put up to Sr. ARM/GHY for review.

On going through the appeal submitted by shri..... H... K... Nargari..... CTTI/1C/HY Sr.ARM/GHY has passed the following orders.

" Mr. H. K. Nargari: Since he has been working as incharge of his batch, it is expected that he performs well to lead others, however, he has failed to do so, he is penalised with stoppage of four sets of passes before next due. "

  
Divisional Commercial Manager.

Copy forwarded for information and necessary action please.

- 1) DRMP/LMG, 2) DCM/LMG, 3) APO/GHY,
- 2) 4) CTTI/GHY.

Divisional Commercial Manager.

Certified to be True Copy.

Jayanta Talukdar,  
Admn. Asst.

0296598

6/10  
X2

The Area Manager  
N.E. Railway, GHY

(Through proper channel)

Sir,

Sub: - Appeal against punishment imposed by DCM/GHY.

Ref: - DCM/GHY's letter no. C/GHY/Earnings/2003 dated. 19/05/2004

\*\*\*\*\*

The humble memorialist begs to file the following appeal against the punishment imposed to the tune of stoppage of increment for 2 years (Non-cumulative) by the DCM/GHY.

The alleged charge framed against him was as under:-

*Sri H.K. Narzary, CTTI/I/GHY while working as Incharge of GHY ticket checking squad "B" has committed gross negligence of duty and lack of devotion of duty in as much as he failed to increase the earnings of his squad batch as well as his individual earnings. As per CCM/MIG's letter no. CFT - 26/Review/85/IC- Pt. III dated. 10.07.1998 the monthly personal earnings of the TTEx working in squad should be Rs 10,000/- but none of the TTEx working under him could so far achieve the target, which clearly reflexes bad performance and slack of supervision.*

In the above context the, humble memorialist may be permitted to place the following for your grace for reviewing the same on the grounds: -

- (i) He leads a squad for preventing ticket less travel.
- (ii) The performance of his <sup>my</sup> squad was compared with that of the other squad lead by Shri Sonowal, CTTI/I/GHY.
- (iii) The comparison of performances of his <sup>my</sup> squad with that of other squad is not justified on the following grounds.
  - (a) The other squad was allotted with free movement and they could pick up any Train at any time of their choice.
  - (b) Where as my squad was given a fixed diagram by the CTTI/IC/GHY without any choice for altering the same (ANNEXURE: -C for the month of January, 2004 as an example)
  - (c) There are some specific trains prone for travelling without ticket passengers but I have had no liberty to select such trains to work.

Contd. Page: -2

Read and  
one copy forwarded to  
ARM/CHY  
BS  
H/2004

*Certified to be True Copy.*

*Jayanta Talukdar,  
Advocate.*

(iv) The performances should be judged on the basis of numbers of without ticket/irregular traveler and not on amounts.

(v) In this context, the memorialist is taking the indulgence of annexing his performances during the period from May, 2003 to June, 2003 (AS ANNEXURE: -A). It may please be seen from the said annexure that ~~he~~ did not lead the batch during the period from February 2004 (he worked for the days in the said month) and in the March 2004 & April 2004 ~~he~~ was on leave.

(vi) The memorialize succeeded to prevent ticket less travel which would be evident from the facts that the window sales increased gradually as compared with the corresponding period of the last year.

(vii) In view of the consideration of working in a particulars and specific diagram ~~he~~ was subjected to work, the performances of ~~my~~ squad can not be reasonably compared with the other squad having no specific programme given to them and was granted the liberty to select the trains of their choice.

(viii) The memorialists own performances during the period from May, 2003 to February, 2004 i.e. for 10 months on average was Rs 10,337.00 per month (ANNEXURE: -B).

(ix) It is further submitted that the comparison of performance reasonably should be done within the members of the particular squad and not that of the other squad as has been done.

(x) You may kindly also connect the judgement of the Hon'ble CAT/GHY in Case no. 10(G) of 1990 wherein the **PUNISHMENT IMPOSED ON THE PRETEXT OF LOW EARNINGS ON SRI NRIPENDRA CHANDRA ACHARYA, HEAD TTE OF LMG** was quashed. The Photostat copy of the judgement is enclosed as ANNEXURE: -D.

It is therefore, hoped that your good grace would be kind enough to cancel the punishment imposed by DCM/GHY please.

Thanking you,

Yours faithfully,

DA: - As above.

Date: - 10-07.2004.

*H.K.Narzary*  
(H.K. Narzary)  
CTTI/I/GHY

**Certified to be True Copy.**

*Jayanta Talukdar,*  
*Advocate*

## NORTHEAST FRONTIER RAILWAY

STANDARD FORM NO. 11

G/174 L

Standard Form of Memorandum of charge for imposing minor penalties  
(Rules 11 of RS (D&A) Rules, 1968)

No. CP 11/4/ Form 11/4/23  
Smt. ALD/11/4 (Name of Railway Administration)

(Place of issue) Sr. Ann/11/4 dated 20/7/1974

## MEMORANDUM

Shri S. Chowdhury (Designation) ITTE/4/23 (Office on  
which working) S.T.T.I.L. L.G. Smt. hereby informed that the President/Railway Board/  
undersigned propose (s) to take action against him under Rule 11 of the Railway ser-  
vants (Discipline and Appeal) Rules, 1968. A statement of the imputations of miscon-  
duct or misbehaviour in which action is proposed to be taken as mentioned above, is  
enclosed. See on reverse.

2. Shri S. Chowdhury is hereby given an opportunity to make such representa-  
tion as he may wish to make against the proposal. The representation, if any, should be  
submitted to the undersigned (through the General Manager) Railway, is  
to reach the said General Manager) within ten days of receipt of this Memorandum.

3. If Shri S. Chowdhury fails to submit his representation within the  
period specified in para 2, it will be presumed that he has no representation to make  
and orders will be liable to be passed against Shri S. Chowdhury ex parte.

4. The receipt of this Memorandum should be acknowledged by Shri S. Chowdhury ITTE/4/23

(By order and in the name of the President)

Signature

B.S.D  
26/7/74

Name (D. N. Barnabas)

Name and Designation of the  
Competent Authority  
Commercial Manager  
R. R. Manager, Commercial  
Commercial Manager  
R. R. Manager, Commercial Manager

Shri S. Chowdhury ITTE/4/23  
(Name, Designation and Office of the Railway Servant)

Date: 27/7/1974

Certified to be True Copy.

Jayanta Talukdar.

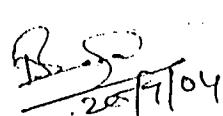
To be obtained wherever this Memorandum is issued by the Railway Board/the President  
Where the President is the disciplinary authority

## STATEMENT OF ALLEGATION

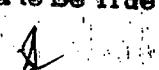
Scrutiny of the individual performances for June/2004 reveals that the ticket checking performance in respect of detection and charging of without ticket passengers by Shri S.

S. Chowdhury designation TTE is very poor. He worked 13 days and whose as his penalty earnings is Rs. 3594/- only which clearly indicated his negligence and lack of devotion his duty. As per CCM/N.F.Rly/MLG's letter no.C/26/Review/85/TC-pt.III dtd. 10.7.1998 that the minimum penalty earnings per month TTE and Senior TTE per month should be Rs.6000/- and 10,000/- respectively. This is far away from his actual earnings.

Thus by the above act Shri S. Chowdhury executed lack of integrity and devotion to duty and there by contravened Service Conduct Rule No.3.1(i) and (ii) of 1966.

  
26/7/04  
Divnl. Comml. Manager  
N. F. Railway/Guwhati.

Certified to be True Copy.

  
Jayanta Talukdar,  
Advocate.

64

XO

The Divisional Commercial Manager  
N.F.Railway/ Guwahati.

Through: Proper Channel.

Sir,

Sub:- Defence.

Ref:- Your memorandum No. C/CHY/Earnings/03 dated 20-7-04.

.....

In obedience to the above, I have the honour to submit the following for favour of your appraisal please.

That the alleged charge framed against me vide your memorandum under reference is denied.

That the grounds/circumstances for such denial are placed herunder for your kind consideration please.

In the memorandum it has been shown that my penalty earning in the month of June/2004 was Rs.3594.00 for 13 working days. It otherwise says that my per day earnings were  $Rs. 3594 \div 13 = Rs. 276.50$  paise approximately.

The alleged target for a month has been shown as Rs. 6000.00. In a month of 30 days, the net working days comes 30 days less 4 weekly rest = 26 days; Per day target earnings comes as  $Rs. 6000.00 \div 26 = Rs. 222.22$  paise approximately.

Under such circumstances I do not know as to how your grace could frame a charge against me of failing for maintaining targets.

Your grace will surely agree that according to the target of Rs.6000.00 P.M, the average earning per day comes to Rs. 222.00 and as such for pinpointing the success/failure, such amount be multiplied by the working days. This is a rational approach having the logical support.

Besides that, basically I am being guided with duty chart prepared by the Rly authority for manning the amenity coaches, these have been elaborated/ incorporated as follows:-

- (a) The ticket checking staff shall make himself available in front of the coach before he is nominated to man prior to departure of the train.
- (b) He does have the sole responsibilities to prevent un-authorized persons from taking entry in the coach.
- (c) He will ensure his presence for all the time in the coach during the journey (i.e. duty hours).
- (d) He has to ensure at intermediate stoppages of the train to guard against any un-authorized entry at such stoppages.
- (e) He has to ensure that at such stoppages, all the doors at opposite side of the coach from the platform are secured so as to ensure safety, security of the passengers, above all the un-authorized entry.
- (f) He must be available in the coach at a call by the commuters for extending required help and relief etc.
- (g) The above chart of duties if complied with full devotion he cannot have any opportunity to raid the without ticket/irregular travelling for penalty earnings in other coaches leaving his nominated coach.

Summed to be true Copy

(Contd. on 2)

Page-(2)

(h) It may be mentioned also in this context that unless relaxation in the heavy duty schedule as mentioned above, the TTE manning the amenity coach will have no scope to show penalty earning.

(i) It also may please be appreciated that the TTE manning the amenity coaches cannot leave his coach/coaches for raiding other coaches for general ticket checking. His such move, if taken by him cannot be a healthy one rather he will be lagging from his duty schedule.

(j) The TTEs can not give penalty earnings by remaining in their allotted coaches. If however, he can give Rs. 6000.00 penalty earning only allowing un-authorized entry of passengers inside the reserved coach, I believe that your grace may not accept such situation as befitting for them.

I hope that in appreciation to the above you will very kindly withdraw the memorandum under reference and thus obliged.

Thanking you,

Date: 12. 8.04.

Yours faithfully,

Sagar Chowdhury

( Sagar Chowdhury )

TTE/ CHY.

Certified to be True Copy.

Jayanta Talukdar,  
Advocate.

27/8/04  
Sagar Chowdhury  
TTE/ CHY.

ପ୍ରକାଶିତ ୧୨୧୯୦  
ନିର୍ମାଣ ମୁଦ୍ରଣ

1. **Yankee River Line**  
**Northeast Frontier Railway**

CP/157/Garnett 8/03, filed dated 30/8/04.

W. B. Brown. Demp G.H.Y.

To: Mr. Sagar Chowdhury, MEL/CONY.  
Mrs: ~~Estelle Gandy~~

S. N. B. Orders on reverse

प्रा. गांग की काटकर एस्टाधर करके जारी करनेवाले चार्टर्स को लौटा दे। The portion must be detached signed and returned to the office of issue.

प्राप्ति स्वीकृति/ACKNOWLEDGEMENT

सेवा में १०५  
S. S. Gagan Chowdhury. TTE/CO/H  
17/10. 07/11/2014.

प्राचीन विद्या का विवरण

आरोप पत्र ३०

प्राप्ति स्वीकार करता है। hereby acknowledgement receipt of your Notice No.

The charge Sheet No.

एकाधार या अंगुके का निशान  
Signature or Thumb Impression

Certified to be True Copy

Juganta Talukdar,

जब अनुशासनिक प्रापिकारी के लिया अन्य प्रापिकारी द्वारा सूचना पर हस्ताप्त किया जाये तो यहाँ आदेश देखेंगे।/When the notice is signed by an authority other than the Disciplinary authority quote the authority passing the order.

“यहाँ राष्ट्रीकरण की स्वीकृति या अस्वीकृति और दिये गये दण्ड का उल्लोक करें। Here quote the acceptance or rejection of explanation and the penalty imposed.

## INSTRUCTIONS

(1) इन आदेशों के विरह अपील

(अदेश देनेवाले प्राधिकारी) रोकी अधिकारी का प्राधिकारी के फॉर्म की जा सकती है। An appeal against those order lies to Sr. Admin. / etc. next (immediate superior to the authority passing the orders).

"Defence" subordinated by Son Sagar Chowdhury; the party is not satisfactory. Son Chowdhury worked as conveniently as possible 13 days during the month of June 04 and remitted earnings Rs. 3594/- - agreed price based on Rs. 6000/- So a lacunae viz. 1/2 chicken and as such he is punished with stoppage of his meal increment for one year &c"

Copy 10

- ① DR mfp/lnk
- ② APO/487
- ③ CTI/14/487
- ④ Dempster

for my son's  
place.

ENR-1384 LT (80-1111970-6) May 9 7-15,0000 Form 12

Scanned to the True Copy

Govinda Telukdar.

gg

SDM/GHY  
Railway

Sir,

Sub:- Appeal against punishment imposed by DCM/GHY

Ref:- DCM/GHY's letter no. C/GHY/Earnings/03 of 30.08.2004.

\*\*\*\*\*

1. Most respectfully, I beg to prefer the following appeal to your grace against the punishment imposed by the DCM/GHY to the tune of stoppage of increment for one year (Non cumulative) vide his order under reference.

2. To focus the background, I am enclosing herewith the following relevant documents for your kind perusal please.

- (i) Memorandum issued by DCM/GHY under SE-II (Annexure-A).
- (ii) Defence to the Memorandum submitted (Annexure-B).
- (iii) The order imposing the penalty by the DCM/GHY (Annexure-C).
- (iv) The duty specified by the Railway Administration (Annexure-D).

3. In my defence, the following points were raised by me in support of my faultiness activities and against the alleged failure for maintaining the alleged target of earnings.

1. The basic duties of the TTE manning the amenity coach are of the following:-

- (i) To prevent ticket less passengers entering in the coach he maintained.
- (ii) To prevent the unauthorized passengers holding the general journey ticket fare from entering the reserved coach.

2. The TTE manning the amenity coach shall make himself available for all the time in the coach to:-

- (i) To prevent theft of luggage of the passengers.
- (ii) Work into the general amenities services to the occupants.
- (iii) To ensure his availability on call by the passengers.

Contd. Page 2

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Jayanta Talukdar,  
Advocate.

The TTE is to ensure locking of the doors at immediate stoppage. (8)

3.4. The TTE can give penalty earnings only by allowing the :-

(i) Un-authorized/without ticket passengers to travel in the reserved coach

And or

(ii) By leaving the coach and go on hunting the without ticket passengers in other coaches.

3.5. My earnings as alleged was Rs 3,59/- (Rupees three thousands five hundred ninety four) only involving only 13 (Thirteen) working days and as such per day average earning was Rs 276.50 (Rupees two hundred seventy six & paise fifty) only where as the target earnings of Rs 6,000/- (Rupees six thousands) only in a month in 26 days working days (30 days minus 4 weekly rest = 26 days), the average daily earning comes to Rs 222.22 (Rupees two hundred twenty two & paise twenty two) only and as such I did not fail to achieve the earnings.

4. The DCM/GHY did not give any speaking any speaking order countering the above points raised by me and also his honor failed to apply his mind in as much as:-

(i) The process of fixing the target of Rs 6,000/- was not made known to me.

(ii) The target so fixed is supposed to be achieved by a TTE working for the whole month.

In the matter of passing a "speaking order" the Railway Board have issued the following orders which are reproduced below for your kind appraisal please

(i) Railway Board's order no. E (D&A) 26 RTG 6-14 dated. 20.12.85

**Disciplinary orders** - The disciplinary authority imposing penalty must apply its mind to the facts, circumstances and records of the case and then record its findings on each imputation of misconduct or misbehavior. The disciplinary authority should give brief reasons for its findings to show that it has applied its mind to the case. The reasoning recorded by the disciplinary authority shall be of great help to the delinquent Railway servant in preferring appeal. The disciplinary authority must not pass him speaking and cryptic orders, because the orders of imposition of penalty being appealable must be speaking orders. When the explanation of the delinquent has not been considered satisfactory, the competent authority must invariably record reasons for rejecting the explanation. Sketchy and cryptic orders have been held by the court of law to be non-speaking and as such illegal.

Contd. Page 3

**Certified to be True Copy.**

**Jayanta Talukdar,**  
Advocate

Railway Board's orders no. E (D&A) 78 RG 6-11 dated, 3.3.78 (SE 106/78 NR SC 43/78, ER 50/78, NI/ADC 326)

Penking Order :- While imposing any penalties laid down in D & A Rules, Speaking Orders indicating the reasons for imposing a particular penalty must be passed (see 'Consulting UPSC' under Rule 14 also).

The procedure should be adopted by the appellate authority while passing orders on appeals

(iii) Railway Board's orders no. E (D&A) 78 RG 6-1 dated, 20.1.86 (RBE 5/86)

D & A.R Cases (Need for speaking orders) :- As is well settled by the courts, the *disciplinary* proceedings are quasi judicial in a nature and it is necessary that orders in such proceedings are issued only by the competent authority who have been specified as Disciplinary/Appellate/Revising authorities under the rules and the orders should have the attributes of a judicial order. Supreme court in one case observed that recording of reasons is obligatory as it ensures that it is as per law and not capricious.

In view of the circumstances, your grace may surly on application of your mind will very kindly cancel the above punishment imposed to the tune of stoppage of increment for 1 year (non-cumulative) by DCM/GHY in violation of Disciplinary & Appeal Rules, 1968 and also in denial of natural justice guaranteed by the constitution of India.

Thanking you,

DA:- As stated above.

Yours faithfully,

*Sagar Chowdhury*  
(S.Chowdhury)  
TTE at GHY  
Under CTTI/IC/GHY

Date : 11.10.04

70  
CTT/IC/GHY  
N.P. 022

*Certified to be True Copy.*

*Jayanta Talukdar,  
Advocate.*

71  
83  
N.F.Railway

Office of the  
Chief Area Manager  
Guwahati, Dt. 26/11/05

No.C/GHY/Barnings/03

To

Shri/Smt....Sagar Choudhury  
TTE/417

Through: CTTI/IC/CMG

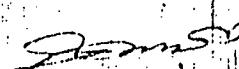
Sub:- Appeal against NIP of even No dtd....2nd/7/05

Ref:- Your appeal No.....N11.....dtd.....12/8/05

In continuation to DCM/GHY's notice of imposition of penalty of even No. dtd. 2nd/7/05  
& ..... respectively. Whereas Shri....Sagar Choudhury, TTE/417  
was punished with stoppage of ..... increment (NC) / p pass.....  
..... The case/s was/were put up to Sr. ARM/GHY for review.

On going through the appeal submitted by Shri....Sagar Choudhury, TTE/417.  
Sr. ARM/GHY has passed the following orders.

a) Shri Sagar Choudhury since Shri  
Choudhury worked only for 13 days  
and earned Rs. 3591/- only against target  
of Rs. 6000/-, he is penalised with  
stoppage of 3 sets of passes when next due.

  
Divisional Commercial Manager

Copy forwarded for information and necessary action please.

- 1) DRM/P/LMG, 2) DCM/LMG, 3) APO/GHY,
- 2) 4) CTTI/GHY

Divisional Commercial Manager

Certified to be true copy.

  
Jayanta Tuli-dar,

NORTHEAST FRONTIER RAILWAY  
STANDARD FORM NO. 11

G/174 L

Standard Form of Memorandum of charge for imposing minor penalties  
(Rules 11 of RS (D&A) Rules, 1968)

4 No. C/ENR/2003

N.E. Rly. (Name of Railway Administration)

(Place of issue) \_\_\_\_\_ dated 14/5/04

SARVAKA'S office

MEMORANDUM

Shri B. K. Chanda (Designation) CTT1/11 (Office on

which working) \_\_\_\_\_ is hereby informed that the President/Railway Board/undersigned propose (s) to take action against him under Rule 11 of the Railway servants (Discipline and Appeal) Rules, 1968. A statement of the imputation of misconduct or misbehaviour in which action is proposed to be taken as mentioned above is enclosed. See on reverse.

B. K. Chanda

2. Shri \_\_\_\_\_ is hereby given an opportunity to make such representation as he may wish to make against the proposal. The representation, if any, should be submitted to the undersigned (through the General Manager \_\_\_\_\_ Railway, so as to reach the said General Manager) within ten days of receipt of this Memorandum.

B. K. Chanda

3. If Shri \_\_\_\_\_ fails to submit his representation Within the period specified in para 2, it will be presumed that he has no representation to make and orders will be liable to be passed against Shri B. K. Chanda, ex-party.

4. The receipt of this Memorandum should be acknowledged by Shri

B. K. Chanda, CTT1/11/04,

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

Signature.....

M 1215

Name (A. Hossain)

Name and Designation of the

Competent Authority \_\_\_\_\_

R.P. RAILWAY, GURGAON

To

Shri B. K. Chanda, CTT1/11/04,  
(Name Designation and Office of the Railway Servant)

Thru: - CTT1/11/04.

\*To be retained wherever this Memorandum is issued by the Railway Board/the President

% Where the President is the disciplinary authority.

Certified to be True Copy.

STATEMENT OF ALLEGATION

Scrutiny of the individual performances for April/2004 reveals that the ticket checking performances in respect of detection and charging of without ticket passengers by Sri B.K. Chanda CT71/442 is very poor. He worked 16 (Sixteen) days and where as his penalty earnings is Rs. 798/- which clearly indicated his negligence and deviation his duty. As per CCR/B.P.Rly/MLG's L/Sc.C/T-26/Review/85/RC-Ft-III dated 10/7/1998 that the minimum penalty earnings per amenity TTE and Squad per month should be Rs.6000/- and Rs.10,000/- respectively. This is far from his actual earnings.

Thus by the above act sri B.K. Chanda CT71/442 executed lack of integrity and deviation to duty and thereby Contravened Service Conduct Rule No. 31 (i) and (ii) of 1966. *Lack of*

AM 12/15  
Divil. Compl. Manager/AM  
Additional Commercial Manager  
S. P. RAILWAY, GUWAHATI

*Reed*  
*86-6*

Certified to be True Copy.

8  
Jayanta Talukdar,  
Advocate.

प्र० सी० जी - 174५म०

N. F. G. - 174 M.

पूर्वोत्तर सीमा रेलवे

Northeast Frontier Railway

नियम 1707 (1) की मद (i), (ii) और (iii) और नियम 1707 (2)-स्था० को मद (1) और (ii) के अंतर्गत इसे के संदर्भ में सूचिता/Notice of imposition of penalties under items-(i), (ii) & (iii) of Rule 1707-(1) and items-(i) and -(ii) of Rule 1707-(2)-Rt. D & A Rule, 1968.

(सन्दर्भ:- नियम 1716-स्था० का उप नियम-9)/Ref:- SR-9 Under Rule 1716-RI)

सं०/No. Cf.G.K.Y./Explanations/03

दिनांक/Date. 01/6/04

प्राप्ति/From. Demy/City.

N. F. Railway.

संवा मे/To. Smt. B. K. Chaudhary, ETI/11/647.

M. D. - ETI/11/647.

बारोंप पत्र सं० ..... दिनांक ..... पर आपके स्पष्टीकरण के संदर्भ में आपको सूचित किया जाता है कि आपका स्पष्टीकरण संतोषजनक नहीं है तथा\* ..... ने निम्नलिखित आदेश दिया है\* ---/With reference to your explanation to the charge sheet No. Cf.G.K.Y./Explanations dated 14/5/04 you are hereby informed that your explanation is not considered satisfactory and that the ..... Demy/City ..... has passed the following orders:--

N. B. - Order on reverse.

अनुशासनिक प्राधिकारी का  
हस्ताक्षर एवं पदनाम  
Signature & Designation  
of the Disciplinary  
Authority,

(A. Hossain)

Read  
06-6-04

टिप्पणी:— हिन्दायत दूसरी तरफ देख। /N. B. :—Please see instructions on the reverse.

(हरा भाग को काटकर हस्ताक्षर करके जारी करनेवाले कार्यालय को लौटा दे) / (The portion must be detached signed and returned to the office of issue).

प्राप्ति स्वीकृति/ACKNOWLEDGEMENT

मि/To. Smt. B. K. Chaudhary, ETI/11/647.

Dated. ETI/11/647.

मि गुच्छा पत्र सं० ..... दिनांक ..... की ..... आरंभ पत्र सं० ..... दिनांक ..... की

प्राप्ति स्वीकृत करता हूँ। /I hereby acknowledgement receipt of your Notice No. ..... dated ..... the charge Sheet No. ....

मि/Dated.....

स्टेशन/Station. Certified to be True Copy.

मि/Dated ..... 2

Jayanta Telukdar,  
Advocate.

हस्ताक्षर पालिंग का निशाच  
Signature of/Thumb Impression  
पदनाम/Designation

PTO

\* जब अनुसारिक प्रानिकारी के नियम अथवा प्रानिकारी द्वारा यूनियन पर दस्तावेज किया जाए तो यहाँ उद्देश देना उपरिकारी का उल्लेख करें। / When the notice is signed by an authority other than the Disciplinary authority here quote the authority passing the order.

\*\* यहाँ सावधीकरण की स्वीकृति या अस्वीकृति और दिये गये दण्ड का उल्लेख करें / Here quote the acceptance or rejection of explanation and the penalty imposed.

### हिदायत/INSTRUCTIONS

(1) इन आदेशों के विरुद्ध अनीत (Appeal against those orders) देने वाले प्राधिकारी से टीक ऊपर का प्रानिकारी के नाम की जा सकती है। / An appeal against those orders lies to.....S.2. A. M. D. Y. C. A. Y. next (immediate superior to the authority passing the orders);

" Since no defense has been  
presented by Com  
B. R. Chandra and I do  
not see any stipulation  
in it is proposed that -  
they have nothing to say  
about the conduct the work be  
done is planned with  
stoppage of next movement -  
for one year (one)."

*in 16*  
Dec 20/67

Copy to :-

(1) D.R.M./P.L.C.M.C. }  
 (2) A.P.O./M. } For information.  
 (3) S.M.C./C. P. C. Y. } For pleasure.

*Certified to be True Copy.*

*J. S. T. U. D. A.*  
4th

*D.R.M./C. H. P.*

To  
The Divisional Commr. Manager,  
N.F. Railway, Guwahati.

(Through Proper Channel).

Sir.

Sub:- Memo NO.C/GHY/Earnings/2003 N.F. Rly. dated  
14-5-04.

With due regards I beg to state in reference to the above quoted memo of charges for imposing minor penalties as my defence for your kind consideration please.

That Sir, I have received the above memo of charges in time.

That Sir, I had been entrusted to work in Sleeper Coach (Amenities) during the relevant period as mentioned in the memo.

But Sir, as ill luck would have it, during the afore-mentioned period I could not find out large scale ticket-less travellers in one hand and on the other most of the passengers were running with ticket and reservation slip and as a result I had no scope to penalise the bonafide passengers since there were no ticket less passengers ran in sleeper coach where I was on duty.

Sir, lastly I assure you that there shall not be any lapses on my part to do my duty with devotion and integrity.

In view of the above, I pray for exoneration me from the charges levelled against me for which act of your kindness I shall remain ever grateful to you.

Yours faithfully,  
Bimal K. Chanda  
(B.K. Chanda),  
C.T.T.I./II at  
Guwahati.

Dated 08-06-04.

Subscribed on - 08/6/04  
S No - 453 of 08/6/04

Subscribed to be True Copy.

Jayanta Talukdar,  
Advocate.

The Area Manager  
N.F.Railway, GHY

(Through proper channel)

Sir,

Sub : Appeal against punishment imposed by DCM/GHy  
Ref : DCM/GHY's letter no. C/GHY/Earnings/2003 dated 01- 06 -  
2004

1. The humble petitioner submit the following appeal against the punishment imposed by DCM/GHY under reference to the tune of stoppage of increment for one year (Non-cumulative) (copy of the standard form for memorandum of charge imposing minor penalty, is enclosed as ANNEXURE :- A for your reference please).
2. The above punishment was imposed on ex part decision since I failed to submit my written defence within the stipulated period of 10 ndays. This happended due to my pre occupation on Administrative duties and also for getting the extract of CCM/MLG's letter no. C/T-26/Review/85/TC - ET - III dated. 10.07. 1998 as has been mentioned in the statement of allegation but failed to collect the same from CTTI/GHY's office. This has caused the delay in submitting of his reply. However, he had submitted the defence on 08 - 06 - 2004 duly received by CTTI/GHY's office vides serial no. 453 dated 08 - 06 - 2004 (Copy enclosed at ANNEXURE :- B).
3. The basic charge framed against me is not tenable due to the following reasons :-  
 (a) I worked very sincerely & with all rigidity to prevent the unauthorized passanger both without ticket traveller & ticket holder having no reservation.  
 (b) In the event of rigidity he followed, I had no scope to detect and charge without ticket passenger and contribute for railway earning in the amenity coach I manned.  
 (c) I always ensured my presence in amenity coaches allotted to my save guard :-  
    (i) Proper maintenance of the coaches.  
    (ii) Ensure safty of the passanger traveling in the coaches.  
    (iii) Ensure basic available comforts to the passenger travelling in coaches without interfering by the unauthorized persons.  
 (d) If would be a rare occation when any person daring to enter into the reservation coaches and as such there is rare possibility for me to fulfill the alleged targets of Rs. 6000/- earnings on ticket less travel by me.  
 (e) I further feels that my contribution towards rendering most sincere service caused a good name to the railway which would be established as there was no complain in the reservation coaches, I maintained my services, I would have been rather appreciated by the Administration.

Certified to Be True Copy.

Jayanta Talukdar,  
Advocate.

(f) I am sure that during the month of April 2004 over all window sells of ticket were increased as compared with the corresponding period of the previous years.

(g) I would be obliged if the Administration directs me to leave the reservation coaches for which I was booked unman and go on hunting for without ticket passenger in General Coach for earnings as has been targeted.

(h) I further places the judgement of the Hon'ble CAT/GHY in Case No: 10(G) of 1990 wherein PUNISHMENT IMPOSED ON THE PRETEXT OF LOW EARNINGS ON SRI NRIPENDRA CHANDRA ACHARYA, HEAD TTE OF LMG was quashed. The Photostat copy of the judgement is enclosed as ANNEXURE-C

In view of the above positive, the applicant will be highly obliged if the appropriate Appellate Authority cancels the punishment imposed on me by DCM/GHY.

Thanking you,

DA: As above.

Date: 19-7-04

Yours faithfully  
*Bimal K. Chanda*  
 (CTTII/GHY) 19/7/04

**Certified to Be True Copy.**

*Jayanta Talukdar,*  
*Advocate.*

NORTHEAST FRONTIER RAILWAY  
STANDARD FORM NO. 11

G/174 L

Standard Form of Memorandum of charge for imposing minor <sup>penal</sup> ~~disciplinary~~  
(Rules 11 of RS (D&A) Rules, 1968)

No. CTT1/11/4147 / Earnings/03

Dr. Amritpur (Name of Railway Administration)

(Place of issue) ..... dated 20/7/64

Dr. Amritpur Office

MEMORANDUM

Shri B. K. Chanda (Designation) CTT1/11 (Office on which working) ..... is hereby informed that the President/Railway Board/undersigned propose (s) to take action against him under Rule 11 of the Railway servants (Discipline and Appeal) Rules, 1968. A statement of the imputation of misconduct or misbehaviour in which action is proposed to be taken as mentioned above is enclosed. See on reverse

2. Shri B. K. Chanda is hereby given an opportunity to make such representation as he may wish to make against the proposal. The representation, if any, should be submitted to the undersigned (through the General Manager) Railway, so as to reach the said General Manager within ten days of receipt of this Memorandum.

3. If Shri B. K. Chanda fails to submit his representation within the period specified in para 2, it will be presumed that he has no representation to make and orders will be liable to be passed against Shri B. K. Chanda ex-party.

4. The receipt of this Memorandum should be acknowledged by Shri

B. K. Chanda CTT1/11/4147

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

  
20/7/64  
Signature.....

Name. D. N. Baruah  
CTT1/11/4147

Name and Designation of the  
Competent Authority

Recd  
01/6/64

To

B. K. Chanda CTT1/11/4147

Shri ..... (Name Designation and Office of the Railway Servant)

Zero. CTT1/11/4147

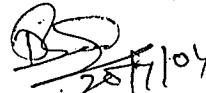
\*To be retained wherever this Memorandum is issued by the Railway Board/the President  
% Where the President is the disciplinary authority.

Certified to be True Copy.

STATEMENT OF ALLEGATION

scrutiny of the individual performances for June/2004 reveals that the ticket checking performance in respect of detection and charging of without ticket passengers by Shri B. K. Chanda Designation CTT/II is very poor. He worked 22 days and where as his penalty earnings is Rs. 4435/- only which clearly indicated his negligence and lack of devotion his duty. As per CGM/N.F. Rly/MLG's letter No.C/26/Review/85/TC-pt.III dtd. 10.7.1998 that the minimum penalty earnings per amenity TTE and squad TTE per month should be Rs.6000/- and 10,000/- respectively. This is far away from his actual earnings.

Thus by the above act Shri B. K. Chanda executed lack of integrity and devotion to duty and there by contravened Service conduct Rule No.3.1(i) and (ii) of 1966.

  
28/7/04  
 Divnl. Commr. Manager  
 N. F. Railway/Guwahati.

ANUJEE BHOWMIK, QM  
 Assistant General Manager  
 1. Assistant Manager  
 2. Assistant Manager  
 3. Assistant Manager

*Certified to be True Copy.*

*J*

Jayanta Talukdar,  
 A.I.M.

To  
The Divnl. Commr. Manager,  
N.F. Railway, Guwahati.

(Through Proper Channel).

Sir,

Sub:- Memo of charge NO.C/GHY/Earnings/03-Sr.ARM/  
GHY's Office dated 20-7-04.

With due regards I beg to state that I have received your above quoted memo of charges only on 01-08-04 and came to know the contents thereon.

That Sir, it is a fact that I was on amenity duty for June, 2004 and my penalty earnings is Rs.4435/- (Rupees four thousand four hundred thirty five) only out of my 22 working days of the said month.

Sir, you have stated in your statement of allegation that as per CCM/N.F.Rly./MLG.'s letter NO.C/26/Review/85/TC-Pt. III dated 10-7-98 that the minimum penalty earnings per amenity TTE per month should be Rs.6,000/- (Rupees six thousand) only i.e. per day Rs.200/- whereas you have stated my penalty earning is Rs.4435/- out of 22 working days i.e. more than Rs.200/- per day and thereby I earned minimum penalty as required under referred letter of CCM/MLG.

In view of the facts stated herein above, I pray to exonerate me from the charges levelled against me, for which act of your kindness I shall remain ever grateful to you.

Yours faithfully,

*Bijoy K. Chanda*  
(B.K. Chanda)  
CTTI/II, Guwahati.

Dated 8-8-04.

*R*  
*8/8/04*  
*(9/8/04)*

**Certified to Be True Copy.**

*J*  
Jayanta Talukdar,  
Advocate.

पूर्वोत्तर सीमा रेलवे  
N.F.R. - 174 एम

पूर्वोत्तर सीमा रेलवे  
Northeast Frontier Railway

नियम 1707 (1) की मर्द (1), (11) और (111) और नियम 1707 (2) स्पार्ट को भर (1) और (11) के अर्तात दण्ड देने के संबंध में रखना/Notice of imposition of penalties under items (1), (11) & (111) of Rule 1707 (1) and items (1) and (11) of Rule 1707 (2) RL D & A Rules, 1968.

संदर्भ - नियम 1706 स्पार्ट का तर्फ नियम 9) भर. का अनुसार Under Rule 1706-RL  
सं/ No. 401/ Form No. 103 Date 30/8/01.

प्रेषित/From Dcm/447

सेवा में To B. K. Chanda, CTTI/11/447  
S/o: CTTI/11/447

आरोपित सं/ अपने पत्र की विवरण के अनुसार आपके स्वास्थ्यकरण के संदर्भ में आपको रुक्ष किया जाता है कि आपका स्वास्थ्यकरण स्थिरान्तर नहीं होता है इसलिए आपको अनुसिखित जारी दिया है।

With reference to your explanation to the charge sheet No. 103 dated 20/7/01, you are hereby informed that your explanation is not considered satisfactory and that the Dcm/447 has passed the following orders:

B. K. Chanda (S/o) (Signature) 25/8/01

अनुसासिक प्राधिकारी का हस्ताक्षर एवं पदनाम  
Signature & Designation of the  
Disciplinary Officer

टिप्पणी - हिदायत दुसरी तरफ देखे। N.B. :- Please see instructions on the reverse.

इस भाग को काटकर हस्ताक्षर करके जारी करनेवाले कार्यालय को लौटा दें। The portion must be detached signed and returned to the office of issue.

प्राप्ति स्वीकृति/ACKNOWLEDGEMENT

सेवा में/To B. K. Chanda, CTTI/11/447  
S/o: CTTI/11/447

में सुचना पत्र सं/ दिनांक अरोप पत्र सं/ दिनांक

प्राप्ति स्वीकार करता हूँ। I hereby acknowledgement receipt of your Notice No. ....  
dated ..... the charge Sheet No. ....

तिरीक्षा/Dated 25/8/01

स्टेशन/Station

हस्ताक्षर या आँख का निशान  
Signature or Thumb Impression

पदनाम/Designation

Recd on - 25/8/01

Certified to be True Copy

✓

Jagannath Das

P.O.

\* जब अनुशासनिक प्राधिकारी के सिवा अन्य प्राधिकारी द्वारा सूचना पर हस्ताक्षर किया जाये तो यहाँ आदेश देनेवाले को उल्लेख करें। When the notice is signed by an authority other than the Disciplinary authority he quote the authority passing the order.

\*\* यहाँ स्पष्टीकरण की स्वीकृति या अस्वीकृति और दिये गये दण्ड का उल्लेख करें। Here quote the acceptance or rejection of explanation and the penalty imposed.

## डिवायर्ट/INSTRUCTIONS

(1) इन आदेश के विरुद्ध अपील

(अदेश देनेवाले प्राधिकारी से ठीक ऊपर का प्राधिकारी के पास की जा सकती है। An appeal against those order lies to ..... Sr. Admin. M.Y...... next ( immediate superior to the authority passing the orders ).

6. Defense submitted by Shri Bimal Kumar Chanda, CTT/11/6417, is found not significantly Shri Chanda worked as an acting TTE for 25 days during the month of June/04 and penalty evening is Rs. 4135/- instead of fixed forged - Rs. 6000/- given by CEM/NF12. So, a lenient - view is taken and as such he is punished with the lossage of his next increment - for 2 (two) years. R.C.

Wiley H. T.

1. DRM | P | LMY
2. APO | UMY
3. CETI | U | GMY
4. DEM | LNY

*B. S.*  
3618 P.O.Y  
M. Borsig  
so Dampf. 4

N.F.Rly.Press-1/11/9704/61-May'97-15,000Forms.

**Certified to be True Copy.**

Jayanta Talukdar,  
Advocate.

To

The Sr.ARM/GIY  
N.E. Railway

(Through proper channel)

Sir,

Sub:- Appeal against punishment imposed by DCM/GIY.

Ref:- DCM/GHY's letter no.

1. C/GHY/Earnings/2003 of 01.06.2004.
2. C/GHY/Earnings/ 03 of 30.08.2004.

\*\*\*\*

1. Most respectfully, I beg to place to your honour the following appeal for favour of your kind & sympathetic consideration please.

2. That a Memorandum under SF-11 was issued to me by DCM/GHY vide his letter no. C/GHY/Earnings/2003 dated 14.05.2004 and the defence was due to be submitted within 10 days, the stipulated period but I could not manage to file my defence in time for which the case was decided ex parte and a punishment order of stoppage of increment to the tune of 1 (one) year non-cumulative was imposed on me vide his letter no. C/GHY/Earnings/2003 dated 1.06.2004, which was received by me on 08.06.2004.

3. As mentioned in the said imposition of penalty order, I prefer an appeal against the said punishment order on 19.07.2004 but it is surprising that the DCM/GHY took this appeal of mine dated 19.07.2004 as a defence of Memorandum dated 20.07.2004 and imposed a penalty of stoppage of increment to the tune of 2 (two) years non-cumulative vide his letter no. C/GIY/Earnings/03 30.08.2004.

4. From the facts focused as above, you will surely appreciate that:-

- (i) DCM/GIY the disciplinary authority imposed 2 sets of punishment to the tune of 1 year & 2 years stoppage of increment respectively for disposing a particular memorandum dated 20.07.2004.
- (ii) DCM/GHY at one stage decided the case ex parte and again he traced on a document which was not defence but an appeal to the next higher authority.
- (iii) DCM/GHY acted both as disciplinary authority and as appellate authority, which is beyond the recognition of the D & A Rules, 1968.

5. The above acts clearly show that the DCM/GHY while imposing 2 sets of penalties did not at all apply his mind which is a most important and vital under D & A rules, 1968 while imposing the penalties of stoppage of increment for 2 years non-cumulative on me dated 30.8.2004, he simply stated that the points raised by me in my appeal dated 19.07.2004 vide item no. 3 were not satisfactory and he abstained from passing a speaking order and thus violated the D & A rules, 1968 and instructions issued by the Railway Board in the matter of compulsion in passing the speaking order.

R/563  
15/10/04

Forwarded  
15.10.04  
N.E. R.R.  
15/10/04

Certified to be True Copy

Jayanta Talukdar,  
Advocate.

Contd. Page:- 2

6. DCM/GHY also ignored the basic facts while imposing penalty in the matter of alleged target expected to be acted upon by a TTE. In the month under reference, my earning was Rs 4435/- (Rupees four thousands four hundred thirty five) only in 22 days i.e. per day average earning was above Rs 200/- (Rupees two hundred) only and the alleged target of earning of Rs 6000/- (Rupees six thousands) only in 30 days i.e. average daily earning comes to Rs and the alleged target comes to Rs 200/- (Rupees two hundred) only. This also shows that DCM/GHY neither apply his mind while framing the charges nor while imposing the penalty.

7. In the matter of passing a "Speaking order" the Railway Board have issued the following orders which are produced below for your kind appraisal please.

**(i) Railway Board's orders no. E (D&A) 56 RG 6-14 dated. 20.12.55**

**Speaking orders** - The disciplinary authority imposing penalty must apply its mind to the facts, circumstances and records of the case and then record its findings on each imputation of misconduct or misbehavior. The disciplinary authority should give brief reasons for its findings to show that it has applied its mind to the case. The reasons recorded by the disciplinary authority shall be of great help to the delinquent Railway servant in preferring appeal. The disciplinary authority must not pass non-speaking and cryptic orders, because the orders of imposition of penalty being appeal-able must be speaking orders. When the explanation of the delinquent has not been considered satisfactory, the competent authority must invariably record reasons for rejecting the explanation. Sketchy and cryptic orders have been held by the court of law to be non-speaking and as such illegal.

**(ii) Railway Board's orders no. E (D&A) 78 RG 6-11 dated. 3.3.78; (SE 106/78 NR 6966, SC 45/78, ER 50/78, NF/ADC 326)**

**Speaking Order** - While imposing any penalties laid down in D & A Rules, Speaking Orders indicating the reasons for imposing a particular penalty must be passed (see 'Consulting UPSC' under Rule 14 also).

The procedure should be adopted by the appellate authority while passing orders on appeals.

**(iii) Railway Board's orders no. E (D&A) 78 RG 6-1 dated 20.1.86 (RBE 5/86)**

**D & A R Cases (Need for speaking orders)** - As is well settled by the courts, the disciplinary proceedings are quasi judicial in a nature and it is necessary that orders in such proceedings are issued only by the competent authority who have been specified as Disciplinary/Appellate/Revising authorities under the rules and the orders should have the attributes of a judicial order. Supreme court in one case observed that recording of reasons is obligatory as it ensures that it is as per law and not capricious.

In view of the circumstances, your grace may surely on application of your mind will very kindly cancel the above punishment imposed to the tune of stoppage of increment for 1 year & 2 year (non-cumulative) by DCM/GHY in violation of Disciplinary & Appcal Rules, 1968 and also in denial of natural justice guaranteed by the constitution of India.

Thanking you,

Yours faithfully,

*Bimal Kumar Chanda*

(B.K. Chanda)

CTT/I at GHY

Under CTT/IC/GHY

*Created to be True Copy*

*Jayanta Talukdar*  
Advocate.



86

28

N.F.Railway

Office of the  
Chief Area Manager  
Guwahati Dt. 26/4/05

No.C/GHY/Earnings/03

To:

Shri/Smt.... Pa... Kr... Chanda  
..... CTTI/II/GHY...

Through:-

CTTI/II/GHY

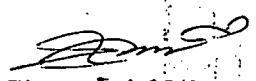
Sub:- Appeal against NIP of even No dtd. 20/8/04

Ref:- Your appeal No..... N.I..... dtd..... 15.1.05 D.A...

In continuation to DCM/GHY's notice of imposition of penalty of even No. dtd. 20/8/04 & respectively. Whereas Shri.... Pa... K... Chanda... CTTI/II/GHY was punished with stoppage of ~~next~~ increment (NC) / pass. The case/s was/were put up to Sr. ARM/GHY for review.

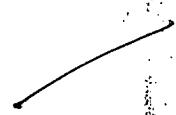
On going through the appeal submitted by shri... Pa... K... Chanda... CTTI/II/GHY Sr.ARM/GHY has passed the following orders.

"Sri Pa. K. Chanda, CTTI/II/GHY. His earnings have been Rs. 4435/- against target of Rs. 6000/- He is penalised with stoppage of 3 sets of passes when next due and is advised to full up his performance."

  
Divisional Commercial Manager

Copy forwarded for information and necessary action please.

- 1) DRM/P/LMG, 2) DCM/LMG, 3) APO/GHY,
- 2) 4) CTTI/GHY

  
Divisional Commercial Manager

Certified to be True Copy.

  
Jayanta Talukdar,  
Advocate.

0296632

## NORTHEAST FRONTIER RAILWAY

STANDARD FORM NO. 11

G/174 L

Standard Form of Memorandum of charge for imposing minor penalties  
(Rules 11 of RS (D&A) Rules, 1968)

No. C Earnings/03

Sr. ARM/410 (Name of Railway Administration)

(Place of issue) \_\_\_\_\_ dated 28/2/04

Sr. ARM/410/5 of tree

## MEMORANDUM

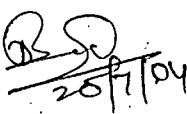
Shri R. Raybonghi (Designation) TTE/410 Office on which working TTE/410 is hereby informed that the President/Railway Board/undersigned propose (s) to take action against him under Rule 11 of the Railway servants (Discipline and Appeal) Rules, 1968. A statement of the imputation of misconduct or misbehaviour in which action is proposed to be taken as mentioned above is enclosed. See on reverse

2. Shri R. Raybonghi is hereby given an opportunity to make such representation as he may wish to make against the proposal. The representation, if any, should be submitted to the undersigned (through the General Manager \_\_\_\_\_ Railway \_\_\_\_\_ as to reach the said General Manager) \*within ten days of receipt of this Memorandum.

3. If Shri R. Raybonghi fails to submit his representation within the period specified in para 2, it will be presumed that he has no representation to make and orders will be liable to be passed against Shri R. Raybonghi ex-party.

4. The receipt of this Memorandum should be acknowledged by Shri R. Raybonghi TTE/410

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

  
Signature

Name D. M. Banerjee

Name and Designation of the Competent Authority General Manager

To

R. Raybonghi TTE/410

Shri \_\_\_\_\_ (Name, Designation and Office of the Railway Servant)

Shri LT/1/14410

\*To be retained wherever this Memorandum is issued by the Railway Board/the President  
% Where the President is the disciplinary authority.

  
Certified to be true Copy

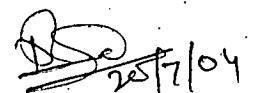
Jayanta Talukdar,  
Advocate.

STATEMENT OF ALLEGATION

scrutiny of the individual performances for June/2004 reveals that the ticket checking performance in respect of detection and charging of without ticket passengers by Shri R.

Raybomshi Designation 24 TTE is very poor. He worked 24 days and where as his penalty earnings is Rs. 1053 ( ) only which clearly indicated his negligence and lack of devotion his duty. As per CCM/N.F.Rly/MLG's letter no.C/26/Review/85/TC-pt.III dtd. 10.7.1998 that the minimum penalty earnings per amenity TTE and squad TTE per month should be Rs.6000/- and 10,000/- respectively. This is far away from his actual earnings.

Thus by the above act Shri R. Raybomshi executed lack of integrity and devotion to duty and there by contravened Service Conduct Rule No.3.1(i) and (ii) of 1966.

  
25/7/04  
Divnl. Commr. Manager  
N. F. Railway/Guwhati.

THE DIRECTORATE OF  
THE STATE LEVEL  
COMMERCIAL INSPECTION  
DEPARTMENT  
NATIONAL CAPITAL TERRITORY

Certified to be True Copy.

  
Jayanta Talukdar,  
Advocate.

पू०सी०जी०-१७४एम०  
N.F.G.-174 M

# पूर्वोत्तर सीमा रेलवे

## Northeast Frontier Railway

नियम 1707 (1) की मर्द (1), (II) और (III) और नियम 1707 (2) स्थान को भर (I) और (II) के अन्तर्गत दण्ड देने के रास्ते : रुक्ना/Notice of imposition of penalties under items (I), (II) & (III) of Rule 1707 (1) and items (I) and (II) of Rule 1707 (2). D & A Rules, 1968.

(सन्दर्भ - नियम ७१६ स्थान का एवं नियम ७) Ref. ६५६ Under Rule 716-RI  
 राइ. No. N.O. ८५४७/१ Easternings/०३ Dated ३.५.१०५

Arrived/From Yunnan Dcm/4.11.92

सेवा में 10. Rajib Rajbanshi, TTE/CHY

Phone - CTTI/relays

आरोप पत्र सं<sup>10</sup> दिनांक <sup>10/10/04</sup> पर आपके स्पष्टीकरण के रास्ता में आपको सन्तुष्ट किया जाता है कि आपका स्पष्टीकरण समीमत्त नहीं है तथा <sup>Chq. No. 108</sup> Earnings/108 dated 20/10/04. :-/ With reference to your explanation to the charge sheet No. ...., dated 20/10/04, you are hereby informed that your explanation is not considered satisfactory and that the <sup>Defn. 41A</sup> Dcm. 41A has passed the following orders:-

N.B. orders on servers.

अनुशासनिक प्राधिकारी का दस्तावेज़ एवं प्रमाणात्मक  
Signature of Disciplinary Officer of the  
Disciplinary Authority

टिप्पणी - हिदायत दुसरी तरफ देखें।/N.B. :- Please see instructions on the reverse side.

(इस भाग को काटकर हस्ताक्षर करके जारी करनेवाले कार्यालय को लैटा दें (The portion must be detached, signed and returned to the office of issue).

#### प्राप्ति स्वीकृति/ACKNOWLEDGEMENT

सेवा में / To Rajib Raybanshi, TTE / Govt  
Thru: CTI/IC/WS

मैं सचना पत्र सं० ..... दिनांक ..... की .....

अरोप पत्र सं. ----- दिनांक. -----

प्राप्ति स्वीकार करता है। I hereby acknowledgement receipt of your Notice No.....  
dated ..... the charge Sheet No. ....

तारीख/Dated ..... ।

स्टेशन/ Station ..... Signature or Thumb Impression .....

हस्ताक्षर या अंगुठे का निशान  
Signature or Thumb Impression

पदाम् (Designation) .....

Javaanta Telukdar,  
Aducaate

\* जब अनुशासनिक प्राधिकारी के रिवा अन्य प्राधिकारी द्वारा सूचना पर हस्ताक्षर किया जाए तो यहाँ आदेश देते वाले का उल्लेख करें।/When the notice is signed by an authority other than the Disciplinary authority quote the authority passing the order.

\*\* यहाँ स्पष्टीकरण की स्वीकृति या अस्वीकृति और दिये गये दण्ड का उल्लेख करें।/Here quote the acceptance or rejection of explanation and the penalty imposed.

### हिदायतें/INSTRUCTIONS

(i) इन आदेश के विवर अपील -

(आदेश देते वाले प्राधिकारी से ठीक ऊपर का प्राधिकारी के पास की जा सकती है।/An appeal against those order lies

(ii) S.M. A.n.m./4.H.Y..... next (immediate superior to the authority passing the orders).

" Defence submitted by Shri Rajib Rayboshi TTE/4H5 is not satisfactory. Shri Rayboshi worked as a temporary TTE for 24 days during the month of June 104, and penalty earning is Rs. 425/- instead of Rs. 600/- a target fixed by CEM/N.F.E. So, a lenient view is taken and as such he is punished with stoppage of 2 (two) years of his next increment. N.C.Y

Copy to:

1. D2m/P/Lm6
2. APO/4H7
3. CTT/14GH7
4. Dcm/4H76

for information  
please.

30/8/104  
(B.N. Banerjee  
General Secretary  
C. BARWARI, D.E.W.

~~Certified to be True Copy~~

Substantia T. u. d. a.

91  
103

NORTHEAST FRONTIER RAILWAY  
STANDARD FORM NO. 11

G/1741

Standard Form of Memorandum of charge for imposing minor penalties  
(Rules 11 of RS (D&A) Rules, 1968)

No. 464/1/Earnings/03

N.F. Bly (Name of Railway Administration)

(Place of issue) dated 21/12/05  
Cachar/447

MEMORANDUM

Shri R. Rayborthi (Designation) TTI/464 Office on which working CTT/1/447 is hereby informed that the President/Railway Board/undersigned propose (s) to take action against him under Rule 11 of the Railway servants (Discipline and Appeal) Rules, 1968. A statement of the imputation of misconduct or misbehaviour in which action is proposed to be taken as mentioned above, is enclosed. See reverse

2. Shri R. Rayborthi is hereby given an opportunity to make such representation as he may wish to make against the proposal. The representation, if any, should be submitted to the undersigned (through the General Manager) Railway, as to reach the said General Manager within ten days of receipt of this Memorandum.

3. If Shri R. Rayborthi fails to submit his representation Within the period specified in para 2, it will be presumed that he has no representation to make and orders will be liable to be passed against Shri R. Rayborthi ex-party.

4. The receipt of this Memorandum should be acknowledged by Shri R. Rayborthi

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

Signature Abdullah Date 21.12.05

Name D. General Manager

Name and Designation of the  
Competent Authority D. General Manager

To

Shri R. Rayborthi (Name, Designation and Office of the Railway Servant)

Through CTT/1/447

\* To be used when the General Manager or the President is the authority.  
\*\* When the President is the ultimate authority.

U. L. Bly, Pres. 1/1/2004/31 May 94 (Acting)

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Jayanta Talukdar  
Addl. Secy.

STATEMENT OF ALLEGATION

Scrutiny of the individual performance  
 for the month of April/05 to Sept./05 reveals that earnings of  
 Shri. *R. Raybonghi*.....designation....TTE/444....  
 was very poor. During this period of 6 months his penalty  
 earnings was ~~Rs. 2458/-~~ (Two thousand six hundred fifty eight)  
 against the target earnings of  
 Rs. 36000/-, as per CCM/N.R.Rly./MLG's L/No. C/20/Review/  
 85/TC pt.III dtd. 10.7.1993.

Thus by the above act shri. *R. Raybonghi*....  
 designation....TTE/444....failed to maintain devotion  
 to duty and thereby contravened Rule No. 3.1(ii) of the  
 Rly. Service Condt. Rules 1960.

*Prabhakar*  
 21.12.05  
 Asstt. Commr. Manager  
 सहायक वाणिज्य सेक्टर  
 दुर्व्वापत्ति फैदा ग्राहकी  
 ग्राहक वाणिज्य ग्राहकी

Certified to be True Copy.

*J*  
 Jayanta Talukdar,  
 Advocate.



R/908

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N.E.R.Railway.

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Office of the  
Divl. Commr. Manager  
Guwahati, D.C. 05/01/06

No. C/GHY/Earnings/62

To

Shri/Smt. R. Raybonshe.

RECORDED TTE/94/

Throughs - CFTI/GHY

Sub:- Non received of defence against SF-11

Please refer this office Memorandum of even Nos  
dtd. 21.12.65, your defence in this connection has not yet been  
received by this office.

Please note that if your defence is not received  
by the undersigned within 5 days of receipt of this letter, ~~exparte~~  
exparte decision will be taken from this end.

Please treat this as 'MOST URGENT'.

✓ 06/01/06

Asstt. Commr. Manager  
Guwahati.

Certified to be True Copy.

Jayanta Talukdar,  
Advocate

To

Date : ..... 106

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The Divisional Commercial Manager  
N. F. Railway, Maligaon,  
Guwahati.

(Through proper channel)

Sub :- Representation against the allegation of Memorandum.

Ref :- Memorandum No. C/GHY/Earnings/03 dated 20<sup>th</sup> July 2004.

Sir,

I hereby submit my statement of defence as under,

The whole proceeding framed against me vide the memorandum cited above with the charges imposing allegations upon me, negligence in duty and violation of service conduct rule (i), (ii) & (iii) – 1966 is not justified and it is a matter of great resentment which indicating the effort to persuade me for victimization.

That Sir, inspite of my heart and soul effort with absolute sincerity and devotion, I fell short a little behind to acquire the target earnings, amidst the stiff competition of special ticket checking function incessantly conducted by various ticket checking batch along with officers, vigilance with the assistance of security personnel from every corner and so it can not be regarded as less earner by showing negligence in duty. Regular ticket checking function in every train from various spot did not left even a single scope for leakage of Railway revenue from ticket checking side and as a result day by day ticketless traveling movement reducing and parallely widow sale of every stations have been turning towards ascending order. So depending upon the above fact, fluctuation in individual earnings in the part of ticket checking staff cannot be regarded as negligence in duty. Yet for your information my earnings for the month of June/04 was not far behind the target earnings. Over and above, imposition of any punishment on the basis of less earner will be injustice to concerning staff. Here in this connection the verdict of Hon'ble CAT, Guwahati on the plea of less earnings quashed order may be taken as reference.

Moreover Sir, our function as amenity TTE confined within a certain jurisdiction. As a amenity TTE our vital strength have to utilise in primary function for coach maintenance in respect of dealing with reservation, ensure availability of amenity provided and restrict over crowding. In addition frequently officers with squad TTE used to check our coaches from various spots and makes tickets from WT and IT passengers if available in our coaches interfering before us. Thus scope of penalty earnings in our part also diminishes and this is also one of the reason, why we fall short from achieving target earnings.

That Sir, my recruitment in N.F.Railway basically meant for sports as a cricket player and my effort solely have to dedicate for the reputation of N.F.Railway in respect of sports. Almost always my attachment involved with the N.F.Railway's sports association either as a player or as a coach. So my contribution as TTE should not be considered as other.

Therefore considering the above fact, I hope that you will be kind enough to judge my case in positive manner with your learned view to exonerate me from the imposed charges.

Your positive judgment in my favour will certainly provide me encouragement to gear up my individual earnings in future with assurance.

Yours faithfully,

Rajib Rajbongshi  
TTE / GHY  
N. F. Railway.

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Joganta Talukdar,  
Advocate

To

The Sr. ARM/ GHY.

N.F.Railway.

(Through proper channel.)

Sub: An appeal to waive up punishment imposed upon me by DCM/Ghy.

Ref: DCM/Ghy's office order No- C/Earning/03 dated 03-08-2004.

Date:.....

Sir,

In reference to the above subject matter, I would like to furnish the following few lines, to draw your kind attention towards the consequences of injustice laid down by the controlling officer DCM/GHY, by imposing punishment 2 (two) years increment stop (NC) depending upon the allegation brought against me as a less earner to achieve the earnings stipulated by CCM/MLG and here your learned and sympathetical intervention is highly solicited to review my case in lenient view, so that I will be considered release from the imposed punishment.

That Sir, it is a matter of great resentment and act of imprecation, to punish any checking staff depending on less earning. Inspite of heart and soul effort, my earning for the month of June 2004 was a little behind to achieve target amount. So as a amenity T.T.E. my earnings was not to negligible to be punished. Yet DCM/ GHY instead of considering my case leniently he took a stern view and punished me by stopping increment for next two (2) year (NC). To speak the truth DCM/GHY utilized his power on the basis of **might is right** and as a result, I the innocent staff have to suffer mentally and financially for no fault.

That Sir, amidst the incessant stiff ticket checking function conducted by squad TTE's along with officers and security personal from every corner. Existence of amenity TTE's earnings has reduced. Yet in the month of June 2004 my earnings was Rs 4053.00 and I have given 26 penalty cases in 24 days of working. For non-achievement of this small amount of earnings DCM/GHY could have taken the matter in a lenient view, yet he did not do so whereas punished me badly with stern view.

Over and above Sir, I am a sportsman of NFRSA and ACA. My involvement as a cricket player and a coach with these organizations simultaneously reciprocal with my job as a checking staff. So any mental agony may torture my career.

Therefore, finally with an expect, to get a proper and positive justice from your side bringing favour by reviewing the case in lenient view to waived up the imposed punishment against me, I hereby submitting my appeal to you. Your consideration will be a existence to be remembered ever.

Encloser: -

1. Charge sheet copy.
2. Statement of defence copy.
3. Punishment imposed letter.

Thanking You

Yours Faithfully.

  
(Rajib Rajbangshi)  
TTE/GHY.

~~certified to be True Copy~~

  
Jayanta Talukdar,  
Advocate.

found the order of punishment as impugned and had exonerated Sri Acharya of the charge and therefore declared—acquitted.

THE JUDGMENT IN DEWAL IS GIVEN HEREIN UNDER

In the Central Administrative Tribunal, Gauhati Bench

Original Application—No. 10 (G) of 1990.

Date of Decision the 17th day of August, 1990.

Sri Nripendra Chandra Acharya, Hd. WTB. 139/B. New Colony.

Lumding, Dist. Nagaon

VS  
Union of India Represented by GM&B Rly. CCS/N.F. Rly. DRB/LMG, DCS/LMG.

JUDGMENT

In this application under section 19 of the Administrative Tribunals Act 1985 the petitioner prays to quash the penalty imposed on the petitioner by Withholding Three future increments without Cumulative effect.

(2) Shortly stated the case of the petitioner is That while he was functioning as a Head Ticket Examiner, a Chargesheet was delivered to him alleging that the target of minimum earning of an individual travelling Ticket Examiner Working in Squad/amenity was fixed at Rs 1800.00 Rs. 1000/- per month i. e. Rs. 60.00 Rs. 30.00 on average per working day.

On Examination it revealed that the earning of the petitioner during the January 1985 to July 1985 on this account was far below the target and therefore the petitioner was proceeded against in a departmental enquiry and he was Called upon to submit his explanation on the above mentioned charges. In his turn the petitioner submitted his explanation which was not accepted to be satisfactory and vide Annexure 'III' dated 10th February 1987 the departmental authority found the petitioner guilty of the Charge and imposed a penalty to the extent of stoppage of three increments without Cumulative effect. By saying that the petitioner has submitted an explanation it should be construed that the petitioner alongwith the several others had submitted a joint explanation which was not taken notice of because it was not the individual explanation filed by the charged officer. Against this order of punishment the petitioner had preferred an appeal on 23rd February 1987 which did not yield any fruitful result, hence this application with the aforesaid prayer.

(3) In their Counter the opposit parties the-opposit parties maintain that the order of punishment is legally justified and is not liable to be quashed because as a matter of fact the petitioner had not reached the target which was imposed on every Ticket Examiner by virtue of a circular dated 30th January 1986 vide Annexure 'R-1' Further—more it is main-

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Jayanta Talukdar,  
Advocate.

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tained that there being no violation of principle of natural justice, the departmental authority rightly ordered punishment of the petitioner because the petitioner and that of his colleagues are not rising to the necessity to check Ticketless travelling. In a nutshell it is maintained by the opposit parties that order of punishment should not be unsettled rather it should be sustained.

We have heard Mr G. K. Bhattacharjee, learned counsel for the petitioner and Mr. B.K. Sharma learned standing counsel assisted by Mr. A.K. Ray, at some length, Mr. Bhattacharjee submitted before us that this order of punishment imposed by the concerned authority in levying a particular amount in respect of each Traveling Ticket Examiner to realise from the Ticketless travellers and pay the Railway administration is against all canons of justice, equity and fair play. According to Mr Bhattacharjee such directions given by the concerned authority not having found place at one of the Conditions of service of such ticket examiner either in the rules or in the letter of appointment and the non-compliance of the said circular not having come within any of the 'MISCONDUCT' defined in the conduct rules, it should not have persuaded the concerned authority to draw up a proceeding against the petitioner and impose punishment. Hence it was further submitted that the impugned order of punishment should be quashed.

(5) On the other hand it was strenuously urged by Mr B.K. Sharma learned standing counsel that once there has been a direction given by the competent authority asking the travelling Ticket Examiner to reach the particular target towards realisation of amount from the ticket less travellers and such direction not having been complied, it definitely amounts to misconduct for violation and hence the petitioner was liable for punishment on account of misconduct. Furthermore it was submitted by Mr B.K. Sharma that the case is grossly barred by limitation. It should be illumined dismissed, and as a last submission it was stated by Mr Sharma that no appeal having been preferred by the petitioner against the order of punishment, the provisions contained under Section 20 of the Administrative Tribunal Act 1985 it is a clear bar to entertain such an application.

(6) We have given our anxious consideration to the argument advanced at the Bar. We like to take up the question of limitation first. Admittedly the impugned order was passed on 10th February 1987. From Annexure 'V' it is apparently clear that an appeal was preferred by the petitioner on 23rd February 1987 which was disposed of vide order dated 15th May 1987 as Contained in Annexure 'V' Computing the period of limitation from 15th May 1987 till 24th January 1990 ( date of filing of this application ) undoubtedly the case is barred by limitation, of course it does not come within the purview of Section 21 (2) of the Admini-

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Jayanta Talukdar,  
Advocate

statute Tribunals Act 1985 but the case being barred by limitation under the foregoing provision of Section 21 (2), it requires Condonation if sufficient cause is made out or otherwise for the interest of justice. At this stage we would prefer to advert to the merits of the case to consider whether the delay needs to be—Condoned. As stated earlier it is the duty of the petitioner to make out sufficient cause for condonation of delay or if the court otherwise feels that there is a grave miscarriage of justice the delay ought to be condoned. From the nature of charge framed against the petitioner we feel that it does not strictly come within the purview of misconduct. In case there are no ticketless travel or travellers in a train, how can one expect the ticket examiner to realise the amount fixed by the authority and pay the same to the Railway administration. It is beyond our comprehension as to how the Ticket Examiner would pay such amount without realisation. We also fail to understand as to how, non Compliance with this circular would come within the purview of 'misconduct' and therefore we are in complete agreement with Mr. Bhattacharjee that this is against all canons of Equity, Justice and Fairplay. Nothing has been stated in the counter that there has been any condition imposed under the rules or in the letter of appointment to the above effect as one of their condition of service and therefore even though this circular has not been challenged by the petitioner to be ultravires, yet we think that the direction given in the circular not having found place in the relevant rules as 'misconduct' non Compliance of the same cannot amount to 'misconduct,' for which the petitioner has required to answer certain charges in a departmental proceeding. Glaring illegality has been committed by the departmental authority in punishing the petitioner for non compliance of this circular. We cannot allow such an illegal order to remain on the field and we cannot allow such an illegal order to be sustained merely on a technical ground of limitation. Therefore considering the question of limitation we may say that if it comes within the provisions contained in the last portion of Section 21 (2) of the Act, then we have no power to condone the delay if the cause of action has occurred in favour of the person aggrieved prior to first November 1982 but cause of action arising after 1.11.85 could be condoned if sufficient cause has been made out. The Supreme Court in its judgment reported in AIR 1987 Supreme Court 8353 (Circular, Land Acquisition Anant Nag & Others VS Mat. Katiji & others) has laid down that the court should make a liberal approach while considering the question of limitation. Their lordships have been pleased to observe as follows:—

(1) Ordinarily, a litigant does not stand to benefit laws

(2) Refusing to consent.... .... .... result in maritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is

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Jayanta Talukdar  
Advocate.

condoned ..... highest that can happen is that a case would be decided on merits after hearing the parties.

(3) 'Everyday's delay must be explained' does not mean that a pedantic approach should be made. Why not every hours delay, every seconds delay? The doctrine must be applied in a rational common sense and pragmatic manner'

(4) When substantial justice and technical consideration are pitted against each other, cause of substantial justice deserves to be preferred for the owner side—cannot claim to have vested right in injustice being done because of non-deliberate delay.

(5) There is presumption that delay is ... deliberately or ... ... ... culpable negligence or on account of malafides. A litigant does not stand to benefit by resorting to delay. In fact he runs serious risk.

(6) It must be grasped that judiciary is respected not on account of its power to legalise injustice on technical grounds, but because it is capable of removing injustice and is expected to do so.

(7) During course of argument it was submitted on behalf of the petitioner that since his near—relations were ill and the petitioner was in a disturbed mind; he could not come to this court within time. Considering all these aspects and in view of the fact that a glaring illegal order should not be allowed to remain on the field, We do hereby condone the delay and furthermore in view of the reasons stated above, the impugned order of punishment is hereby quashed and petitioner is exonerated of the charge and acquitted, Both the orders passed by the disciplinary authority and that of the appellate authority are hereby quashed.

(8) Lastly the contention of Mr. Sharma that Section 20 of the Administrative Tribunals Act would be a bar for entertaining this application has no force, because an appeal was preferred as contained in Annexure 'V' Therefore this submission of Mr Sharma carries no weight with us.

(9) In view of the discussions made above the punishment imposed on the petitioner is hereby quashed and be exonerated of the charge.

(10) Thus the application stands allowed leaving the parties to bear their own cost.

Sd/-Member (A)

17.8.90

Sd/-Vice Chairman

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Jayanta Talukdar,  
Advocate.