

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

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Malita
25/09/17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

CHARGE SHEET

1. Original Application No. 65/07
2. Misc Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) Amritika Prasad Sarma vs Union of India & Ors

Advocate for the Applicant(s) D.K. Sarma, P.C. Baru
Ms. B. Devi, H.K. Das

Advocate for the Respondent(s) Railway Counsel, Ms. Bhanali Dwi

Notes of the Registry	Date	Order of the Tribunal
This application is in form is filed/C. F. for Rs. 50/- deposited vide IPO/BD No. 34/651/504 Dated 8.3.07	15.3.07	Issue involved in this case is that the applicant who was working as Chief Personal Inspector did not visit the Agthori station. Inspection was conducted by the Assistant Personnel Officer by visiting the same station and submitted his inspection report and charge sheet was filed. Punishment was imposed against the applicant by withholding two increment with cumulative effect. The applicant preferred an appeal and the appellate authority reduced the punishment to withholding two increment without cumulative effect. Aggrieved by certain action of the respondents the applicant has filed this O.A. with a prayer to set aside and quash the impugned orders dated 31.7.06 & 31.10.06 and also for a direction to extend the consequential benefit after setting aside those orders.
<i>AMR</i> Dy. Registrar	<i>AMR</i> S/ No. 1000	
<i>AMR</i> Petitioners copy's for issue notice with envelops are received.		
<i>AMR</i>		

Heard Mr D.K.Sarma, learned counsel for the applicant and Dr J.L.Sarkar, learned Railway standing counsel for the respondents. When the matter came up for consideration the counsel for the parties submit that notice may be issued to the respondents at this stage.

Notice & Order Sent
to D/Section for
issuing to R-1,3,4
by Regd. A/D post
and org 2 and 5
sent to received
by hand.

Issue notice to the respondents returnable by four weeks.

Post on 26.4.07 for admission.

Member(A)

Vice-Chairman

D/No-337,338

pg

26/3/07 Dt- 339,340

29/3/07

Received copy
for Reg No 2
A/C/CP 5/2
N/F PM
9/4/07

and Mrs. B. Devi

26.4.07. Dr.J.L.Sarkar, learned counsel for the Respondents prays for some more time to file written statement. Four weeks time is granted to file written statement. Post the matter on 29.5.07.

Member(A)

Member(J)

① Service awaited
from R.No-1,3,4 & 5.

28/4/07

J.Sarkar
Member(J)

Notice duly served 29.5.07.
on R-2,3.

Counsel for the respondents wanted time to file written statement. Let it be done. Post the matter on 20.6.07.

28.5.07

No W.S filed so far.

Vice-Chairman

lm

bm

No W.S has been
filed.

19.6.07.

20.6.07.

Counsel for the applicant wanted time to file rejoinder. Let it be done. Post the matter on 6.7.07.


Vice-Chairman

22.6.07
Wts filed by
the Respondents. Lspm
not yet served.

6.7.2007

Post the case on 17.7.2007 granting further time to the Applicant to file rejoinder.

Rejoinder b/well.

3/7.07.

/bb/

Rejoinder not
filed.

17.7.2007

Rejoinder not filed.

Post on 9.8.07 for order.


Vice-Chairman

Rejoinder not
filed.

pg

20.9.07
21.9.07 The counsel for the applicant submitted that rejoinder is being filed to day. Let it be placed on record. Since the pleadings are complete counsel appearing for the parties pray that the case may be listed for hearing.

Post on 9.10.07 for hearing.


Vice-Chairman

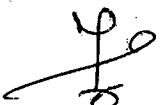
pg

09.10.2007 Mr H.K.Das, learned Counsel for the Applicant and Mrs Bharati Devi, learned Counsel for the Railways are present. In this case written statement has already been filed and Counsel for the parties do agree to set the matter for final hearing on 29.11.2007.

10.10.07
Rejoinder filed
by the Applicant.
Copy served.




(Khusiram)
Member

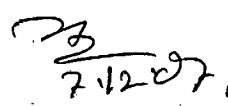

(M. Mohanty)
Vice-Chairman

The case is ready
for hearing.

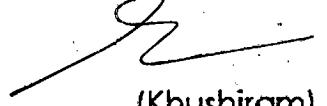
29.11.2007 nkm

This is a Division Bench matter. The case is adjourned and listed on 10.12.2007 as prayed by Mr/H.K.Das, learned counsel for the Applicant.

The case is ready
for hearing.


7.12.07.

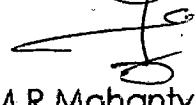
/bb/


(Khushiram)
Member (A)

10.12.2007

On the request made on behalf of learned counsel for the Respondents, call this matter on 11.12.2007.


(Gautam Ray)
Member (A)


(M.R. Mohanty)
Vice-Chairman

/bb/

11.12.2007 Heard Mr H.K. Das, learned Counsel for the Applicant and Mrs Bharati Devi, learned Counsel for the Respondents/Railways and perused the materials on record.

For the reasons recorded separately, the O.A. stands disposed of.



(G. Ray)
Member (A)



(M. R. Mohanty)
Vice-Chairman

nkm

Received copy
Hridip K. Das
8.1.08

18.3.08
Handed over
vide D/Nos 1971
to 1976 370
28.12.07
H.K.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.65 of 2007

DATE OF DECISION: 11.12.2007

Shri Ambika Prasad SarmaAPPLICANT(S)

Mr D.K. Sarmah, Mr P.C. Boro,
Ms B. Devi and Mr H.K. Das. ADVOCATE(S) FOR THE
APPLICANT(S)

- versus -

Union of India & Ors.RESPONDENT(S)

Mrs B. Devi, Railway Standing Counsel ADVOCATE(S) FOR THE
RESPONDENT(S)

CORAM:

The Hon'ble Mr. M.R. Mohanty, Vice-Chairman

The Hon'ble Shri G. 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 compiled at Jodhpur Bench and other Benches? Yes/No
4. Whether their Lordships wish to see the fair copy of the Judgment? Yes/No


Vice-Chairman/Member

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.65 of 2007

Date of Order: This the 11th day of December 2007

The Hon'ble Shri M.R. Mohanty, Vice-Chairman

The Hon'ble Shri G. Ray, Administrative Member

Shri Ambika Prasad Sarma,
S/o Late Madhab Chandra Sarma,
At present working as Chief Personnel Inspector,
Guwahati, under A.P.O. Guwahati,
N.F. Railway.Applicant

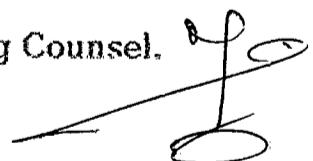
By Advocates Mr D.K. Sarmah, Mr P.C. Boro,
Ms B. Devi and Mr H.K. Das.

- versus -

1. The Union of India, represented by the General Manager, N.F. Railway, Maligaon, Guwahati-11.
2. The Chief Personnel Officer, N.F. Railway, Maligaon, Guwahati.
3. The Additional Divisional Railway Manager, N.F. Railway, Lumding.
4. The Divisional Personnel Officer, N.F. Railway, Lumding Division, Lumding.
5. The Assistant Personnel Officer, N.F. Railway, Guwahati, Panbazar, Guwahati.Respondents

By Advocate Mrs B. Devi, Railway Standing Counsel.

.....



ORDER (ORAL)

Date: 11.12.2007

M.R. MOHANTY (VICE-CHAIRMAN)

Heard Mr H.K. Das, learned Counsel appearing for the Applicant and Mrs B. Devi, learned Counsel appearing for the Respondents/Railways and perused the materials placed on record.

2. The Applicant, a Chief Personnel Inspector of N.F. Railways, faced a Departmental Proceeding and, ultimately, visited with a punishment order vide Annexure-E dated 31.07.2006. Relevant portion of the said penal order dated 31.07.2006 reads as under:

"It is the duty of the Personnel Inspector to visit the stations in his section as frequently as possible. His job is not over by just filling up of settlement papers of the staff who are retiring. Had he visited the stations regularly, he would have pointed out the various lapses to his Controlling Officer (P).

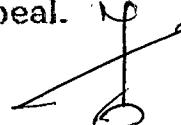
His written defence is not at all sufficient to counter the charge that he is not visiting AGT station regularly. Had he visited the station regularly, he would have straightway given the dates on which he had visited the station.

Therefore, for violating Rule 3.1 (i) (ii) and (iii) of the Railway Service (Conduct) Rule, 1966, his increment is withheld for one year (NC)."

3. The Applicant challenged the abovesaid punishment order in an appeal, which was disposed of under Annexure-H dated 31.10.2006. The text of the Appellate Order as communicated under Annexure-H dated 31.07.2006 reads as under:

"Order of the Appellate Authority

I have read the charge, the representation, the NIP and the appeal. I am not satisfied with the list of retired staff as proof of being visited the stations. The employee has not indicated when he has visited the station, either in his representation or his appeal.



The penalty is however reduced to stoppage of increment without cumulative effect for 6(six) months."

4. The present Original Application, filed under Section 19 of the Administrative Tribunals Act, 1985, is, virtually, directed against the abovesaid Appellate Order dated 31.10.2006.

5. In this case written statement has been filed by the Respondents/Railways and a Rejoinder has also been filed by the Applicant.

6. Part V of the Railway Servants (Discipline and Appeal) Rules, 1968, deals with the right to prefer Appeals etc. in Disciplinary Proceedings. Rule 22 thereof postulates as to what should be considered by the Appellate Authority. Relevant portion of Rule 22(2) reads as under:

"22. Consideration of appeal-

(1)

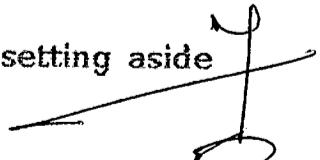
(2) In the case of an appeal against an order imposing any of the penalties specified in Rule 6 or enhancing any penalty imposed under the said rule, the appellate authority shall consider-

(a) whether the procedure laid down in these rules has been complied with, and if not, whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice;

(b) whether the findings of the disciplinary authority are warranted by the evidence on record; and

(c) whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe; and pass orders-

(i) confirming, enhancing, reducing or setting aside the penalty; or



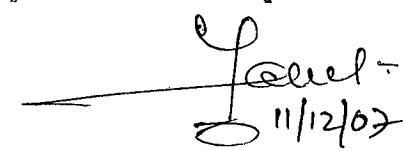
(ii) remitting the case to the authority which imposed or enhanced the penalty or to any other authority with such directions as it may deem fit in the circumstances of the case:

....."

It appears, on a plain reading of Annexure-H dated 31.10.2006, that the Appellate Authority did not examine all aspects of matter as required under Rule 22(2) of the aforesaid Rules of 1968. It is a cryptic one; as the Appellate Authority did not examine as to whether appropriate procedure were followed in the enquiry and in the disciplinary proceedings and as to whether the evidences were properly assessed in the departmental enquiry.

7. In the aforesaid premises, having heard the learned counsel for the parties, this matter is remitted back to the Appellate Authority for giving a fresh consideration in the matter. While remitting back the matter to the Appellate Authority we grant liberty to the Applicant to raise such further points/grounds before the Appellate Authority; which should also receive due consideration by the Appellate Authority; if such additional grounds are taken by the end of December 2007. The Appellate Authority is to pass necessary reasoned/speaking orders on the appeal (and on the additional grounds) of the Applicant by end of March 2008. With these observations and direction, this Original Application stands disposed of; by remitting back the matter to the Appellate Authority.


(G. RAY)
ADMINISTRATIVE MEMBER


11/12/07
(M. R. MOHANTY)
VICE-CHAIRMAN

(13 MAR 2011)

गुवाहाटी बैचनी
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH.

D.A. No. 65 of 2007

BETWEEN

Ambika Prasad Sarma. Applicant.

AND

Union of India & ors. Respondents.

SYNOPSIS

The grievance projected by the present applicant in the instant OA is against the impugned order of the Disciplinary authority which was fully/partly upheld by the Appellate Authority holding the applicant to be guilty of the charges. Though the aforesaid impugned order stated to have been issued following the provisions of the rules holding the field and after holding departmental enquiries but in reality no enquiry was held and the authority concerned without following the prescribed procedure closed the proceeding violating the settled proposition of Audi-alterem partem. The applicant ventilated his grievance by exhausting departmental remedies but same yielded no result in positive. Hence this OA.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title Case No.

Q.A NO. 65 /07

BETWEEN

Sri Ambika Prasad Sarma

...Applicant

AND

Union of India & Others

...Respondents

I N D E X

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Filed By

Regd. No.

Hridip, Mr. Das.

Date. 9.3.07

Advocate

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under Section 19 of the Central administrative Tribunal Act, 1985)

Q.A. NO. 65/07

BETWEEN

Sri Ambika Prasad Sarma, Son of- Late Madhab Chandra Sarma, at present working as Chief Personal Inspector,Guwahati, under A.P.O., Guwahati, N.F. Railway.

...Applicant

-AND-

1. The Union of India represented by the General Manager, N.F. Railway, Maligaon, Guwahati-11.
2. The Chief Personal Officer, N.F. Railway, Maligaon, Guwahati- 11.
3. The Additional Divisional Railway Manager, N.F. Railway, Laming.
4. The Divisional Personnel Officer, N.F. Railway, Laming Division, Laming.
5. Assistant Personnel Officer, N.F. Railway, Guwahati Panbazar, Guwahati-1.

...Respondents.



filed by:-
the applicant
through
Adv. Mr. Das.
Advocate
9.3.07

PARTICULARS OF THE APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION IS MADE :-

This application is directed against the Order dated 31.07.06 passed by the Respondent No. 4 (Disciplinary Authority) imposing minor penalty of withholding increment for a period of 1 year and against the Order dated 31.10.06 passed by the Respondent No. 3 (Appellate Authority) by which the penalty of stoppage of increment without cumulative effect has been reduced for 6 months.

2. LIMITATION :-

The applicant declares that the instant application has been filed within the limitation period prescribed under Section 21 of the Central Administration Tribunal Act, 1985.

3. JURISDICTION :-

The applicant further declares that the subject matter of the case is within the jurisdiction of the Central Administrative Tribunal.

4. FACTS OF THE CASE :-

4.1 That the applicant is a citizen of India and as such she is entitled to all the rights, privileges and protections as guaranteed by the constitution of India and laws frame thereunder.

4.2 That the applicant has been entered in Railway Service way back in the year 26.05.72 as Junior Clerk, and he has completed 34 years of blemish free Services in different posts. More particularly, the petitioner served as an Inspector sincerely with the utmost satisfaction of all concerned in the welfare Department since last 20 years. During the aforesaid period of 34 years, the applicant has not been communicated with a single show cause notice nor any employee, retired employee or successor of any pre-mature death employees has made any complaint against the applicant at any point of time. As such the applicant has been working as a Chief Personnel Inspector without any blemish since last 34 years till the statement of allegation vide Memorandum No. Minor- 1/06 (P) dated 11.07.06 served upon him.



4.3 That the application begs to state that while he has been rendering his duties and responsibilities entrusted to him without any blemish and to the satisfaction of all concerned, must surprisingly and with the pre-determined intension, the Assistant Personal Officer, Guwahati, had visited the Agthori station without informing the applicant who is the Jurisdictional Welfare Inspector. The normal procedure is that the Jurisdiction Welfare Inspector accompanied the Officer at the time of inspection of any place and station. But the Assistant Personal Officer, Guwahati (hereinafter referred to as A.P.O./Ghy) with an intension to blame the applicant visited the Agthori Station on 18.05.06 and in his said visit neither the applicant informed nor asked the applicant to accompany him.

4.4 That the applicant begs to state that a copy of the Inspection Report dated 22.05.06 has been communicated to the applicant by the A.P.O., Guwahati and on receipt of the said report, the applicant submitted his Compliance Report immediately on 12.06.06 and also stated that he has been regularly visiting the station but as there was no grievance Register maintained by the Deputy Station Superintendent of Agthori Station, the applicant did not sign in the same.

A copy of the Inspection Report dated 22.05.06 and the Compliance Report dated 12.06.06 are annexed herewith and marked as ANNEXURE-A & B respectively.

4.5 That the Applicant begs to state that after the aforesaid development the A.P.O, Guwahati has not communicated anything regarding visiting of the Agthori Station nor the said Officer made any warning to that effect and nothing has been discussed about the allegation of not visiting the aforesaid Station. The A.P.O, Guwahati has not tried to find out the genuineness of the matter and forwarded the same to the Higher Authority without any further reference on receipt of the Compliance Report from the applicant.

4.6. That the applicant begs to state that he shocked and surprised on receipt of the Memorandum No. Minor- 1/06/P dated 11.07.06 alongwith the statement of allegation from the Divisional Personal Officer, Laming, whereby the authority proposed to take action against him under Rule-11 of the Railway Servant's (Discipline and Appeal) Rules, 1968 and asked to submit the representation against the proposed action. The allegation against the applicant was that he had not been visiting the Agthori Station regularly therefore failed to maintain devotion to duty which is unbecoming of a Railway Servants thereby violating Rule-31 (I) (II) (III) of the Railway Service conduct Rules, 1966.

C. D. D.

A copy of the aforesaid Memorandum dated 11.07.06 alongwith the statement of allegation are annexed herewith and marked as ANNEXURE- C & C-1 respectively.

4.7 That the applicant on receipt of the said Memorandum along with the statement of allegation dated 11.07.06, on 21.07.06 submitted his written reply enclosing the letter dated 19.07.06 of the Station Superintendent before the Divisional Personnel Officer/ I.C., Lumding. In the said reply, the applicant denied all the statement of allegations leveled against him and stated that he has been visited the Agthori (AGT) Station regularly as per his tentative program. At the time of his visit he had not found Deputy Station Superintendent/ Agthori (AGT) , he met on duty Assistant Station Master and other staff working under the said Station. The grievance register was maintained at the station. But the present Deputy SS/ AGT stated that he had not found the register at the time of his joining which aspect of the matter was duly informed to the APO, Guwahati by the applicant. The applicant also stated that he has been regularly visited the AGT Station which is also reflected in the letter dated 19.07.06 submitted by the Deputy S.S./AGT.

A copy of the representation-dated 21.07.06 along with the letter-dated 19.07.06 are annexed herewith and marked as ANNEXURE-D & D-1.

4.8 That the applicant begs to state that inspite of the facts and circumstances narrated in the aforesaid representation submitted by the applicant, the case of the applicant has not been considered and he has not been exonerated from the charged levelled against him. Instead of that the Divisional Personnel Officer, Lumding (Disciplinary Authority) has now communicated that the explanation of the applicant is not satisfactory and imposed him the penalty of withholding 1 year (NC) increment for violation of Rule- 3.1 (I) (II) & (III) of the Railway Service Conduct Rules, 1966. The aforesaid action has been communicated to the applicant vide notice for imposition for penalties dated 31/07/06 under the seal and signature of the respondent No.4.

A copy of the aforesaid notice dated 31/07/06 is annexed herewith and marked as Annexure-E.

4.9. That the Applicant begs to state that, as the Disciplinary Authority has not considered the case of the applicant sympathetically and the explanation submitted by him has not also been considered at all, the applicant preferred an appeal before the Additional



Divisional Railway Manager, N.F. Railway, Lumding (Appellate Authority) to reconsider his case by exonerating him from the charge leveled against him. The applicant along with his aforesaid appeal has also annexed the list of retired staff and the list of other than normal retirement cases pertaining to the year 2004, 2005 and 2006 which reveals his frequent visit to the station as the fact remains that without visiting the station, it was not possible on the part of the applicant to settle the cases of the said staff.

A copy of the appeal dated 18.09.06 and the list of retired/ONR cases are annexed herewith and marked as Annexure-F & G series.

4.10. That the applicant beg to state that the Appellate Authority also has not applied his judicial mind towards consideration of the case of the applicant and has passed the order by which the Appellate Authority instead of exonerating the applicant from the charges leveled against him, has reduced the penalty to stoppage of increment without cumulative effect for 6 months instead of 1 year. The aforesaid order of the Appellate Authority has been communicated by the Respondent No.4 vide letter under Memo No. Minor-1/06(P) dated 31.10.06.

A copy of the aforesaid letter dated 31/10/06 is annexed herewith and marked as Annexure-H.

4.11. That the applicant begs to state that both the Disciplinary and Appellate Authority failed to consider the case of the applicant on the basis of the materials available before them. Hence this applicant seeking an appropriate direction from this Hon'ble Tribunal.

4.12. That the applicant begs to state that the respondents have acted without any jurisdiction and have acted beyond jurisdiction. Apart from that the respondents have failed to provide the reasonable opportunity of hearing to the applicant in every stage of the proceeding and the procedure for recording the evidence and records have not be followed. The findings arrived at by the I/O was perverse and without any materials. It is under this fact situation of the case the findings arrived at by the I/O as well as the impugned orders are not at all sustainable and liable to be set aside.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS



5.1. For that the action on the part of the Respondents for not considering the case of the applicant to exonerate him from the charges levelled against him is per-se illegal, arbitrary, discriminatory and violation of the principle of Natural Justice and Administrative Fair play.

5.2. For that the inspection of the Agthori station on 18.05.06 by the APO/GHY in absence of the applicant even without informing and asking him to accompany as being the jurisdiction Welfare Inspector is itself proved the malafide intention of the said officer for which direction need be issued directing the respondents to exonerate from the charges levelled against him considering his 34 years blemish free and sincere services.

5.3. For that the authority ought to have considered the case of the applicant as there was no single allegation/complaint against the applicant during his last 34 years of services. More particularly when he rendered 20 years of services as welfare Inspector.

5.4. For that the Disciplinary Authority as well as the Appellate Authority failed to appreciate that the applicant has visited the station regularly and without being visiting the same, it is not possible for him to settle the cases of retired staff as well as O.N.R. cases.

5.5. For that both the Disciplinary as well as Appellate authority failed to appreciate that the station superintendent had categorically mentioned in his letter dated 19.07.06 that P.I. met the other staff of the station and did/solve the problems of the staff and take their counter-signature in the settlement papers during his regular visits.

5.6. For that in any view of the matter both the impugned orders dated 31/07/06 and 31/10/06 passed by the Disciplinary Authority and Appellate Authority respectively are not sustainable in the eye of law and liable to be set aside and quashed.

5.7. For that in any view of the matter the impugned action of the respondents are not sustainable in the eye of law and liable to be set aside and quashed.

The applicant craves leave of the Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED

That the applicant declares that he has exhausted all the remedies available to him and there is no alternative remedy available to him.



7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER

COURT

The applicant further declares that he has not filed any applicant, writ petition or suit regarding the grievances in respect of which this applicant is made before any other court or any other Bench of this Tribunal or any other Authority nor any such applicant, writ petition pursued and pending before any of them.

8. RELIEF SOUGHT FOR

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted, records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following relieves to the applicant.

8.1. To set aside and quashed the impugned order dated 31/07/06(Annexure-E) and order dated 31/10/06(Annexure-H) passed by the Respondent No. 4 and 3 respectively.

8.2. To direct the respondent to extend the consequential benefit after setting aside the order of imposition of penalties.

8.3. Any other relief/relieves to which the applicant is entitled under the facts and circumstances of the case and deem fit and proper.

9. INTERIM ORDER PRAYED FOR

Under the facts and circumstances of the case the applicant does not pray for any Interim order at this state.

10. This application is filed through advocates.

11. PARTICULARS OF THE I.P.O.

(I) I.P.O. NO. : 346 651504
(II) Date : 8.3.07
(III) Payable at : Guwahati.

12. LIST OF ENCLOSURE:

As stated in the Index.



VERIFICATION

I Shri Ambika Prasad Sarma, aged about 56 years, son of Late Madhav Chandra Sarma, resident of Maligaon, Guwahati-11, Kamrup, Assam do hereby solemnly affirm and verified that the statements made in paragraphs....4:5., 4:11, 4:12.....are true to my knowledge and those made in paragraphs 4:2-4:4, 4:6.-4:10..... are also true to my legal advise and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material fact of the case.

AND I sign this verification on this 9th day of March/2007 at Guwahati.

Ambika Prasad Sarma

SIGNATURE

39
10th Jan 2006

**INSPECTION REPORT OF G.K.KAKATI,APO/GHY CONDUCTED THE STATION
AGTHORI ON 18-05-06**

On 18-05-06 I visited Agthori station and the following points have been noted-

1. BOS

As per BOS the following sanction and on roll is available

<u>As per BOS of 01-04-05</u>	<u>Present</u>
	<u>On roll</u>
Dy.SS	=01
ASM	=02
P/Man'A'	=04
P/M'A'RG	=01
LR	=01
Porter	=02
PTR(RG-LR)	=01

But on ASM/Rg whose headquarter was at Pandu has been shifted to AGT to avoid continuous T.A from PNO

DRM(P)/LMG will look into the matter to include the post from PNO.

2. Regularisation of leave

As Dy.SS has indicated that no regularization statement has been received since long. Dealing bill clerk/E and concerned PI/I will furnish the position.

3. Visiting board of Welfare Inspector, Labour laws, wage board, roster board, are not available.

Dy.SS has indicated that no Welfare Inspector visited the station since long.

4. No grievance register is available. Dy.SS has been advised to open the register immediately. Procedure of grievance has been indicated to Dy.SS.

5. PME & refresher

No overdue of PME and refresher till 31-05-06 is available.

6. Safety rules and circulars have been maintained properly.

7. Issue of P/Pass & PTO

Privilege pass and PTO are being issued from the station. Verified issue register and stock records. Records are maintaining properly.

Contd..2

Attested

Advocate

8. Staff grievance

Sri Sontosh Ghose, ASM who was engaged in N.I work at GHY from 19.9.05 to 4.10.05, submitted T.A journals to AOM/GHY in time. But no T.A. has been paid by AOM/GHY, and dealing bill clerk/E will furnish remarks.

9. Sri Joydev Sinha, Porter appointed on 2-02-06 has not been paid regular salary for the month of April paid in May/06 Ch.OS/Bill/GHY will furnish remark.

10. Dy.SS pointed that full payment of salary has been paid to some staff though absence has been shown in the muster roll.

As for example Sri D.C.Boro, P/Man'A' was marked absence on 20-03-06 and 3-04-06. But no salary has been deducted. Dealing bill clerk/E will furnish the remark.

11. Quarter and drinking water condition

There are type-II quarter-4, type-I quarter-8 are available. But the quarter No-T/6 A type-II is not in a position to reside without repairing, T/6'B' type-II is lying vacant.

There are 5 Tube wells are available in the colony and station. But out of 5 only one Tube well is in working condition. So difficulty arises for drinking water both in the colony and station.

12: Approaching road

After construction of road and ROB connecting HT to National Highway this approach road to station has been blocked. Arrangement may be made to construct the approach road.

Sr. DEN/MLG will look into the matter.

(G.K.KAKATI)
APO/GIY

Dated: 22/5/2006

No-E/212/MISC/Inspection/CHIV

Copy forwarded to :-

1) GM(P)/MLG

2) OS/G to DRM/LMG, *carry/bh7*

3) DRM(P)LMG,

4) Ch.OS/BII/GHY

5) Sri ~~REGISTRA~~ ~~PRAGM~~

(G.K.KAKATI)
APO/GHY

Compliance Report of Inspection of
A.P.O/GHY at AGT Station on 18.5.06

Item No 2 :- Regarding particulars of
leave, it will employ at DR (P) / I.M.S.

Stem no. 3 :-

2) Visiting Board :- Your sister has already issued memo to concern S.S.E (IV) to supply the same at the earliest.

b) Lakota Lak's. - The same has been suspended
on 9. 6. 26

c) Wage Board :- Dy. S.S./A.T.T. has a decision issued Memo.

2) Party Roster :- It is available in the Station

c) Visit of Welfare Inspector: I am regularly visiting the Station. As no. Grivence Registration was maintained by Dy S.S./A.G.T. I control and sign in the Register.

If claim no 411. By S.S./AGT was been advised to open 2 Separate grievances
Register immediately.

1. Warren
12-6-06
CPI/GHY

Attestation

John
Adams

STANDARD FORM NO. 11

Standard Form of Memorandum of Charge for imposing
Minor Penalties under Rule 11 of RS (D&A) Rule, 1963

NO. M/202-1/06(P)

RAILWAY NP

Place of issue DPO/IC/MLB

Dated 11-7-06

MEMORANDUM

1. Shri Ambika Prasad Sarma, CPI/CHY of APO/CHY

(Name, designation & office in which working)

is hereby informed that the undersigned proposes to take action against him under Rule 11 of the Railway Servants (Discipline and Appeal) Rule, 1963. A statement of the imputations of misconduct or misbehaviour on which action is proposed to be taken as mentioned above, is enclosed.

2. Shri Ambika Prasad Sarma, CPI/CHY 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 so as to reach within ten days of receipt of this memorandum.

3. If Shri Ambika Prasad Sarma, CPI/CHY 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 Ambika Prasad Sarma ex parte.

4. The receipt of this Memorandum should be acknowledged by Shri Ambika Prasad Sarma, CPI/CHY

Signature Shri Ambika Prasad Sarma

Name Sri Ambika Prasad Sarma

(Designation of the competent authority.)

To Shri Ambika Prasad Sarma

CPI/CHY under APO/CHY

(Name, designation & office of the Rly. Servant)

Attested

Sh.

Advocate.

Statement of allegation

During the inspection of AGT station by APO/GHY on 18.05.2006, it was pointed out that the Dy. SS / AGT indicated that no welfare inspector visited the station since long. Sri A.P. Sarma, CPI/GHY is the concern PI for the AGT station. In the compliance report submitted to DRM(P)LMG office vide APO/GHY's letter no. E/212/Inspection/GHY dated 26.06.2006 it was mentioned by the PI himself that since no grievance register was maintained by the Dy. SS / AGT, he could not sign in the register. Now, if it is true that he was regularly visiting the station, then how come the PI never reported to APO/GHY or DPO/IC/LMG or any officer of the Operating department that the Dy. SS was not maintaining grievance registers. There is no record available in the office of APO/GHY office nor in the DRM(P)LMG office that Sri Sarma ever pointed out the non existence of grievance registers at AGT. This shows that Sri Sarma had not been visiting the station regularly. Sri A.P. Sarma has therefore, failed to maintain devotion to duty which is unbecoming of a Railway servant thereby violating rule 3 (1) (ii) & (iii) of the Railway Service Conduct Rules, 1966.

Attested

68

Advocate.

To The Divisional Personnel Officer / I.C.

N.F.Rly, Lumbding.

Dated Guwahati the 21st July / 2006

Sub:- Representation against S.F.II.

Ref:- Your Memorandum of Charges
No Minor-1/06 (P) DT 11.7.06

Sir,

In terms of your Letter undate reference
dt 11.7.06 against S.F.II, I would like to bring
your notice the following few lines for kind
consideration please.

That Sir, I have visited AT&T Station
regularly as per my tentative programme. At the
time of my visit I have not found Dy S.S / AGT
I have met on duty AT&T and other staff working
under the Station. Grievance Register was main-
tained at the Station. But the Present Dy S.S / AT&T
stated that he has not found the Register at
the time of his joining and I have informed
10. A.P.O / GHY accordingly.

But Sir, as I have already informed
A.P.O / GHY, I have not feel to submit report to
D.P.O / I.C / I.M.G, also it is not possible to submit
the Report against the every visiting of my
jurisdiction. So, after visiting my jurisdiction
I have informed A.P.O / GHY.

That Sir, in connection of Inspection Report,
Dy S.S / AGT's letter dt 19.7.06 addressed
to A.P.O / GHY, it is very much clear that I
have visited the AT&T Station regularly.

In view of the above circumstances
I have requested to look into the matter sympath-
etically and to exonerated me from the Charges
as indicated the Memorandum for this case.

Yours faithfully,

Ambrika Prasad Sarma
C.P / 6711

Attested



Advocate

ANNEXURE-D/1

1c.

APD/GHM.

N.F.RLY.

Sub:- Visit of Welfare Inspector.

As per your inspection note of AGT
Smt Dated 18.05.66, it has been
mentioned that P.I has not visited
the Smt since long, but it is not
certain. The welfare committee said that
that the P.I have not visited the
Smt since we joined hereby he may
visited the Smt in absence of me.
As there was no any Grievance kept in
the Smt after we joined hence
no any proof of visit, but later
from the other staff of AGT Smt, it
is known that P.I met with staff
and did their some personal
problems and filled up some nomination
papers.

(A.D.)
(P.G.C.B.)

SB/AGT

Affected

Dr.

Others.

N.G/3 - 174 M

NORTHEAST FRONTIER RAILWAY

NOTICE FOR IMPOSITION OF PENALTIES UNDER ITEMS (i) (ii)
& (iii) AND ITEMS (i) & (ii) OF RULE 1707 (T) AND RULE 1707 (2)
RI (ref. SR- 9 UNDER RULE 1706-RI)

NO. Minor-1/06 (P) Dated 31-7-2006

From DPO/IC/EMG
N.P. Rly.

To S/o A.R. Sarma,
CRI/CHY

Re: Your explanation No. 1/01 dated 1/7/06

With reference to your explanation to the charge sheet No.

Minor-1/06 (P) dated 11-7-06 you are hereby informed that your explanation is/is not considered satisfactory and the undersigned/Disciplinary Authority has passed the following orders-

ORDERS

AC. reverse -

W.M. Rly. (P)

Divisional Com. (P)

Signature & Designation of the
Disciplinary Authority

N.B: When the notice is signed by the authority other than the Disciplinary Authority, here quote the authority passing the orders.

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

INSTRUCTIONS: - An appeal against these orders lies to

ADM/LMS (next immediate superior to the authority passing orders) within 15 days

COPY TO: - OSER of office for Information & necessary action if necessary.

Attested

Advocate

(10)

W.M. Rly. (P)
Divisional Personnel Officer/ I.L.
N.C. (M) - 2006
N.C. (M) - 2006
W.M. Rly. & Lading.

7/8/06

- 17 -

OR D E C R

It is the duty of the Personnel Inspector to visit the stations in his section as frequently as possible. His job is not over by just filling up of settlement papers of stock who are retiring. Had he visited the stations regularly, he would have passed the various lapses to his controlling Officer(s).

His written evidence is not at all sufficient to counter the charge that he is not visiting AST station regularly. Had he visited the station regularly, he would have straightway given the dates on which he had visited the station.

Therefore, for violating Rule 3.1 (i), (ii) and (iii) of the Railway Service Conduct Rule, 1966, his increment is withheld for one year (MC).

His written report
Divisional Personnel Officer

q.v. 11/1/66

M. V. D. B. (Leading)

The Additional Divisional Railway Manager
N.E. Railway, Lumding

Dated : 03.07.06

Sub: Appeal against S.I.P. vide DPO/IC/Lumding Memorandum No. 4/06 (P) dated 11/07/06

With due respect I beg to represent the following in connection with imposition of penalty. The punishment is withheld for one year (N.C) by DPO/IC/Lumding (Disciplinary authority) addressed in Memorandum No. 4/06 (P) dated 11/07/06 which is considered to be injustice to me and I feel it is my right to submit my explanation of the circumstances in favour of my innocence and report of S.S/AGT addressed to A.P.O/Ghy.

That Sir, I have already explained in my representation submitted to DPO/IC/Lumding on 11/07/2006 along with a copy of S.S/AGT's report addressed to A.P.O/Ghy in connection with visit of welfare inspector at AGT Station. In my representation submitted to DPO/IC/Lumding on 21/07/2006, which I feel to get Proper consideration of the Disciplinary authority as a result of which the aforesaid penalty was imposed.

So, I am submitting explanation again for your consideration and review of the aforesaid report.

That Sir, A.P.O/Ghy visited the AGT Station on 19.06.2006. Neither he informed me nor I accompanied the jurisdiction welfare inspector for the inspection of AGT Station. General jurisdiction Welfare Inspector accompanied the officer in the inspection of jurisdiction. Dy. SS/AGT submitted my compliance report against the inspection note of A.P.O/Ghy on 12/06/2006. DPO/IC/Lumding in Memorandum No. 4/06 (P) dated 11/07/2006 stated my allegation of non-visit of AGT Station. SS/SGT indicated that no welfare inspector visited the station since long. That Sir, this is not correct. I have visited the station as per my tentative programme. In the inspection note of A.P.O/Ghy at item no. 4 Dy. SS/AGT has indicated that no welfare inspector visited the station since long. As per jurisdiction Welfare Inspector should have to visit the jurisdiction regularly, officers of 'P' branch have also the same responsibility to inspect the station / sub-ordinate offices. So, none of the 'P' branch officer visited the AGT Station since long.

Besides our periodic visit, for filling up of E.S. Papers of N.R. & O.N.R. cases, we shall have to visit the station/Sub-ordinate offices to contact the staff also to take signature in the settlement paper.

My frequent visit to the station and other station will be revealed from the data pertaining to 2004, 2005 & 2006 (enclosed).

That Sir, I have visited the AGT Station regularly and SS/SGT in his report against the visiting of Welfare inspector addressed to A.P.O/Ghy, stated that report at item no. 4 is not true.

In view of the above charges brought against me that "It is the duty of the Personnel Inspector to visit the Station in his section as frequently as Possible. His Job is not over by just filling up of settlement papers of staff who are retiring. Had he visited the station regularly, he would have pointed the various lapses to his controlling officer (P)" are not true. Therefore the imposition of penalty on the above charges is an injustice to me which may please be reconsidered by your authority and cancellation from the aforesaid charges.

I shall be grateful to you

Yours faithfully

Ambika-Preasad Sarker

Chief Personnel Inspector
Guwahati

Attested

[Signature]

Advocate

Name of Retired Staff
From 01.01.04 to 31.12.04

2004-33 (P.R.)

Sl. No.	Name	Designation	D/Retirement
1	Sri Bishan Deo	T/man/NGC	31.01.04
2	Sri Haril Shaw	SSE (c)/GHY	31.01.04
3	Sri Tapeswar Prasad	Tech/1/PNO	31.01.04
4	Sri Nirmal Ch. Paul	Porter/PNO	29.02.04
5	Sri Kamala Kanta Das	H/clerk/GHY	29.02.04
6	Sri M.C. Gha	Tech/1/GHY	29.02.04
7	Sri Masum	St. T/man/GHY	31.03.04
8	Sri Ganu Shah	Sr. Trackman/NGC	31.03.04
9	Sri Tarini Show	Tech/1/Ghy	30.04.04
10	Sri Harmohan Deka	C/F/1/GHY	30.04.04
11	Sri Tara Kanta Baishya	Tin Smith/GHY	30.04.04
12	Sri P.C. Rajbangshi	Tech/1/GHY	30.04.04
13	Sri S.C. Mali	Tech/1/GHY	30.04.04
14	Sri Raghu Nandan Das	P/man A/PNO	31.05.04
15	Sri Nami Gopal Sutradhar	Carpenter/GHY	31.05.04
16	Sri Git Ram Pandey	Tech/1/M2G	31.05.04
17	Sri T. Appalaswami	Keyman/GHY	30.06.04
18	Sri Ramendra Ch. Nath	S.E. (c)/PNO	30.06.04
19	Sri Pula Tologn	Tech/1/PNO	30.06.04
20	Sri Appaya	Trackman/NGO	31.07.04
21	Sri Hubon Ali	TCM/MIC	31.07.04
22	Md. P.K. Rakshit	Tech/1/PNO	31.07.04
23	Sri Gopal Ch. Dey	Tech/11/GHY	31.08.04
24	Sri S.R. Majumdar	Seaman/PNO	30.09.04
25	Sri Tarun Barman	Tralleyman/GHY	30.09.04
26	Sri Tek Bahadur	Sr. Trackman/NGC	31.10.04
27	Sri Naba Gour		31.10.04
28	Sri Gopinath Gena	Sr. Trackman/GHY	31.10.04
29	Sri Aviman Ch. Majumdar	MCM/GHY	31.10.04
30	Sri Jugarnath	GWM/GHY	31.10.04
31	Sri Batabu Ram Deka	Sr. Trackman/GHY	30.11.04
32	Sri Parimal Roy Choudhury	Locn/1/PNO	31.12.04
33	Sri Sonoswari Boro	Trackman/GHY	31.12.04

Attested

Advocate

Other than Normal Retirement Cases

From 01.01.04 to 31.12.04

Sl. No.	Name	Designation	D/Retirement
1	Late Munilal Gour	Ex Trackman/NGC	03.01.04
2	Late Kartick Das	Ex Trackman/GHY	23.01.04
3	Sri Hari Ram Dubey	Ex TEM/MLG	17.06.03
4	Late Rajkumar Hajong	Ex Trackman/NGC	25.01.04
5	Late Putaya	Ex Trackman/GHY	22.03.04
6	Late Ram Kewal	Ex Trackman/GHY	30.03.04
7	Sri Pijan Kr. Deb	Ex Mali/Ghy	13.05.04
8	Sri Janaki Ram	Ex Trackman/NGC	08.06.04
9	Sri Dilip Kr. Mukherjee	Ex Tech/1	24.05.04
10	Late Haren Kumar	Ex Trackman/GHY	18.07.04
11	Late Amrit Singh Bardalei	Ex IF/1/GHY	21.08.04
12	Late Rati Ram	Ex Tech/111/MLG	06.09.04
13	Late V. Krishna	Ex C/Fitter/11	10.11.04
14	Sri Normal Ch. Konwar	Ex Trimmer/GHY Compulsory Rtd	01.10.04
15	Late Satya Narayan Sengupta	Ex OF/1/GHY	26.12.04
16	Late Gobinda Boro	Ex Tech/111/GHY	25.12.04
17	Late Onkar Nath Singh	Ex Tech/1/GHY	30.12.04

From 01.01.05 to 31.12.05

2005 = 35 (N.R.)

Sl. No.	Name	Designation	D/Retirement
1	Sri Mukunda Singh	Trackman/NGC	31.01.05
2	Sri Har Kanta Kakati	Mate/GHY	31.01.05
3	Sri Motilal Rajbhai	Trachman/GHY	31.01.05
4	Sri Kalipada Das	Trachman/NGC	31.01.05
5	Sri Netai Ch. Bhowmick	Tech/1/PNO	31.01.05
6	Sri S. Roy Choudhary	HTPO/MLG	31.01.05
7	Sri Siba Presad Gowala	O.S./1/NGC	28.02.05
8	Sri Kamaleswar Das	Sr. Tech/GHY	28.02.05
9	Sri Appalaswami	Sr. Tech/GHY	28.02.05
10	Sri Sarda Ram	Trackman/NGC	31.03.05
11	Sri Narendra Nargary	Trackman/NGC	31.03.05
12	Sri Sital	Mate/NGC	31.03.05
13	Sri T. Perumala	Mate/NCC	31.03.05
14	Sri Rrjani Kalita	Trackman/GHY	31.03.05
15	Sri Manish Dhar	HTPO/MLG	31.03.05
16	Sri Umesh Singh	S/Attendant	31.03.05
17	Sri Sarbeswar Nargary	Trackman/NGC	30.04.05
18	Sri Krishna Deka	Trackman/GHY	30.04.05
19	Md. Aziz Khan	Tech/1/GHY	31.05.05
20	Sri B.P. Chumer	Mcm/PNO	31.05.05
21	Sri A.K. Ghose	Teach/1/MLG	31.05.05
22	Sri R.C. Chakraborty	Painteo/GHY	30.06.05
23	Sri Baldeo Ronhi	SE/GHY	30.06.05
24	Sri Pairthally	Trackman/GHY	31.07.05
25	Sri K.K. Mallick	Sr. trackman/NGC	31.08.05
26	Sri Bedeshi	Mate/GHY	31.08.05
27	Sri M.M. Bhowmick	SE (Tele)/MLG	31.08.05
28	Sri T. Perumala	Mate/NGC	31.08.05
29	Sri Biswanath Basfore	Tech/11/GHY	30.09.05
30	Sri Subal Ch. Das	Mate/NGC	31.10.05
31	Sri Sukdeo Roy	Sr. Trackman/NGC	30.11.05
32	Sri Mono Ranjan Malakar	Keyman/GHY	30.11.06
33	Md. Dhana Ali	Mate/NGC	31.12.05
34	Sri Karnaeswar Boro	Trackman/NGC	31.12.05
35	Sri Jatindra Ch. Roy	Sr. Trackman/GHY	31.12.05
36	Sri B.C. Seal	Toch/11/GHY	31.12.05
37	Sri Ramendra Narayan Gupta	SSE(c)/GHY	31.12.05
38	Sri Samir Kanti Sinha	SE(c)/GHY	31.12.05
39	Sri Parimal Bhattacharjee	Hd. (ash wity) MI G	31.12.05

Other than Normal Retirement Cases

From 01.01.05 to 31.12.05

Sl. No.	Name	Designation	D/Retirement
1	Late Rabi	Ex Keyman/GHY	18.02.05
2	Late Sunath Bordaloi	Ex Sr. Trackman/GHY	26.02.05
3	Late Jusodha	Ex Keyman/GHY	26.02.05
4	Late Bnbul Ch. Bhowmich	Ex Tech/1/GHY	15.04.05
5	Late Babul Ch. Rai	Ex B/Sonith/11/GHY	07.04.05
6	Sri lakhiya Raqm Gorh	Tech/111/GHY	31.05.05
7	Late Pravash Chokraborty	Ex Tech/111/GHY	14.03.05
8	Late Gopal Barua	Ex Trackman/GHY	16.05.05
9	Late Samin Ch. Rava	Ex Trackman/NGC	31.04.05
10	Late Bindeswar Kanti	Ex Trackman/NGC	23.05.05
11	Late Bishu Biswas	Ex Gateman/GHY	09.06.05
12	Sri ramaiya Arjal	Ex tech/1/GHY	26.03.05
13	Late Satish Ch. Kalita	Ex Tech/111/GHY	26.06.05
14	Late Shyamal Dey	Ex tech/111/GHY	21.07.05
15	Sri Swapan Kr. Dey	Ex Whal/helper/GHY (Vol Rtd)	30.09.05
16	Late S. S. Purakaystha	Ex Trachma/NGC	26.07.05
17	Sri Simadri	Tech/11/GHY	28.04.05
18	Late Narayan Ch. Dey	Ex Tech/1/GHY	29.09.05
19	Late Sakhi Chand Manjhi	Ex Jeep Driver/GHY	19.10.05
20	Late Chatnrgum	Ex mate/NGC	29.10.05
21	Late Gopal Ch. Ghosh	Ex MCM/GHY	09.11.05
22	Smt. Uma Choudhury	CTPO/MLG (Vol Rtd)	31.12.05
23	Late Sambhu Panl	Ex Trachman/GHY	18.12.05
24	Sri Purna Ch. Dey	Helper/Ghy (Medically Unifit)	12.12.05

Name of Retired Staff

From 01.01.06 to 31.12.06

2005 = 355 (N.R.)

Sl. No.	Name	Designation	D/Retirement
1	Sri Ningina	Sr. Trackman/GHY	31.01.06
2	Sri Timla Basfore	Mate/GHY	31.01.06
3	Sri Pandri Chamaya	Sr. Trackman/GHY	31.01.06
4	Sri Madhu Sudhan Dey (no 1)	Tech/1/GHY	31.01.06
5	Sri ram Charan	Mate/NGC	28.02.06
6	Sri Chena Ran Das.	Tech/1/GHY	31.03.06
7	Sri M.R. Debnath	Keyman/GHY	31.03.06
8	Sri ram Nawaz	Jdr Peon/GHY	31.03.06
9	Sri Bhubaneswar	Sr. Trackman/NGC	30.04.06
10	Md. Musheb Ali	Sr. Trackman/NGC	30.04.06
11	Sri Ram Lakan	Sr. Trackman/GHY	31.05.06
12	Sri Pua Ram	Sr. Trackman/GHY	31.05.06
13	Sri K.K. Kundu	Sr. Trackman/GHY	30.06.06
14	Sri Hasan Mia	Sr. Trackman/NGC	31.07.06
15	Sri Hara Kanta Bora	Tech/1/GHY	31.07.06
16	Sri Parimal Ch. Dey	Tech/1/GHY	31.07.06
17	Sri Kamakhya	Sr. Trackman/NGC	31.08.06
18	Sri Bhadra Deka	SWM/GHY	31.08.06
19	Sri Tezoo	Sr. Trackman/GHY	31.08.06
20	Sri Makroo Ram	Driver/11/GHY	31.08.06
21	Sri Kanak Ch. Saikia	Revitter/1/GHY	31.08.06
22	Sri Dilip Roy	Mate/GHY	30.09.06
23	Sri Adi Ram Bora	Sr. Trackman/GHY	30.09.06
24	Sri Kesho prasad keot	Sr. Trackman/GHY	30.09.06
25	Sri Sew Prasad Pashi	Keyman/GHY	30.09.06
26	Sri Dharma Dutta Sarma	Tech/1/GHY	30.09.06
27	Sri Mudhu Sunhan Debnath	Welder/GHY	30.09.06
28	Sri Ranjit Ch. Aine	Hd TNC/KYQ	30.09.06
29	Sri Abodh Nath	Sr. Trackman/NGC	31.10.06
30	Sri Bimal Ch. Bhowmich	Tech/1/GHY	31.10.06
31	Sri Tanku Kohar	Keyman/GHY	30.11.06
32	Sri Nepal Ch. Sen	Mate/NGC	30.11.06
33	Md. Sam Ser Ali	Sr. Trackman/GHY	31.12.06
34	Sri Sushanta Kr. Sen	SWM/1	31.012.06
35	Sri Lal Mohan Bir	Sr. Trackman/GHY	31.12.06

Other than Normal Retirement Cases

From 01.01.06 to 30.06.06

Sl. No.	Name	Designation	D/Retirement
1	Late Appa Roo	Ex Sr. Trackman/NGC Expd.	26.01.06
2	Late Baleswar	Ex Sr. Trackman/Expd.	01.02.06
3	Late Manik Ch. Boro	Ex Sr. Trackman/Expd.	04.02.06
4	Late M. Tata Rao	Ex S/cleaner/GHY	23.01.06
5	Late Puna Ram Bora	Ex. Painter/GHY	15.03.06
6	Late Promod Ch. Pathak	Ex. Painter/GHY	09.06.06
7	Late Dhareswar	Ex Sr. Trackman/GHY	19.06.06

Office of the
Divisional Rly. Manager (P)
Lumding

NO. Miner- 1/06 (P)

Dated 31-10-06

To
Shri A.P. Sarma,
P.I/III/GHY.

Sub :- Order of Appellate Authority.

Ref :- Your appeal dated 18-9-06

Your above appeal was submitted to Appellate Authority (ADRM/LMG) who has passed the following orders:

Order of Appellate Authority

I have read the charge, the representation, the NIP and the appeal. I am not satisfied with the list of retired staff as proof of being visited the stations. The employee has not indicated when he has visited the station, either in his representation or his appeal.

The penalty is however reduced to stoppage of increment without cumulative effect for 6(six) months.

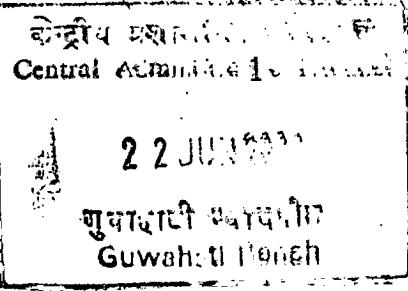
(K.P. Singh)
DPO/IC/LMG
(Disciplinary Authority)

Copy to :- 1) OS/EQ at office
2) APO/GHY

(K.P. Singh)
DPO/IC/LMG

A/A

Attest
Sar.
Advocate



DIST. - KAMRUP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :
GUWAHATI BENCH AT GUWAHATI

O.A. No. 65 of 2007

Shri Ambika Prasad Sarma.....Applicant
-Vs-
Union of India & others..... Respondents.

WRITTEN STATEMENTS ON BEHALF OF THE
RESPONDENTS.

The Written statements of the Respondents are as
follows :-

1. That a copy of the Original Application No. 66707 (herein after referred to as the "application" has been served upon the respondents. The respondents have gone through the same and understood the contents thereof.
2. That save and except the statements which are specifically admitted by the respondents, the rest of the statements made in the application may be treated as denied.
3. That the statements made in paragraph 4.1 to the application the answering respondent has no comment unless contrary to the records.
4. That in regard to the statements made in paragraph 4.2 to the application the answering respondent has no comments and does not admit anything contrary to the records. The answering respondent further begs to state that the averments made by the applicant is not true as the respondent served the show cause notice to the applicant Sri A.P. Sarma vide Memorandum No. EQ/ 27-A (DAR-Minor) dated 10.05.05 due to misconduct or misbehaviors in performing his duties against which he has filed a Case before the Central Administrative Tribunal (CAT), Guwahati bearing O.A.No.66/07. Hence the averments made by the applicant regarding rendering of his duties and responsibilities as entrusted to him without any blemish is completely false and baseless as he was found guilty of misconduct

Given to
Gauri Kanta Hazarika

Filed by
Bhavesh Deo
D.I.L. Personnel Officer
N.F. Lly. Guwahati-J

28/6/07
P/A Bhavesh
28/6/07

Received by
Bhavesh
28/6/07

or misbehavior in performing his duty and in complete violation of Rule 3.1 (i), (ii) and (iii) of the Railway Service (Conduct) Rules, 1966 and as such he was imposed with a minor Penalty of withholding of increment for one year (NC) by the Disciplinary Authority dated 31.7.06

5. That the statements made in paragraph 4.3, 4.4 & 4.5 to the application are not admitted by the deponent. The Asstt. Personnel Officer, Guwahati has authority to make inspection and surprise visit to any station to ensure whether or not any employee working under him is performing his duty sincerely with a sense of devotion to duty. Further there is no such procedure that the concerned inspector should always accompany the officer concerned. The answering respondent further begs to state that the compliance report after detection irregularity during surprise inspection does not cure the misconduct, insincerity and lack of devotion to duty. It is the duty of the concerned Personnel Officer to ensure that the Grievance Register is properly maintained by every Station Master of his Jurisdiction. The APO, Ghy after detecting lapses in course of inspection forwarded the same to the concerned higher authority for information and necessary action.

6. That the statements of allegation made in paragraph 4.6 are untrue allegation. The answering respondent begs to state that the charge leveled against the applicant was not only for non visiting of Agthuri Station but also for not informing the administration regarding non existence of Grievance Register which is an ample proof of non visiting of Agthuri station.

7. That the statements made in paragraphs 4.7 & 4.8 to the application are not acceptable at all and the same are hereby denied by the answering respondent. It may be mentioned herein that the applicant submitted his defense statement/ representation against the memorandum of charges and the Disciplinary Authority after considering the defense statements and the facts and circumstances of the case disposed of the matter rightly imposing minor penalty as stated in the aforementioned para- 4 of the W/S .

8. That the statements that averred in paragraphs 4.9, 4.10 & 4.11 are not admitted by the deponent. The answering respondent further submits that on appeal being preferred by the applicant, the Appellate Authority however, reduced the penalty to stoppage of increment without cumulative effect for 6

*D. J. V. L. Personnel Officer
N. F. L. B., Guwahati-1*

(Six) months .As such there is no illegality & infirmity in passing the order of penalty to the applicant which is just , proper and reasonable and the same is sustainable law. The competent authority passed the order of penalty with due care applying judicial mind hence the question of violation of natural justice is out of tune. The answering respondent further begs to state that the applicant has not exhausted all the forums of law for redressal available to him. As per DAR rules, there is provision for filing revision/review petition . The applicant has not availed/exhausted all the avenues ,as such the application is not maintainable at all and liable to be dismissed.

9. That from the facts and circumstances quoted above, no arbitrary and discriminatory exercise of power committed by the Railway Authority and there is no violation of fundamental rights as alleged by the applicant. The applicant has no *prima facie* case at all.

10. That the application filed by the applicant is baseless and devoid of merit and as such not tenable in the eye of law and liable to be dismissed

11. That in any view of the matter raised in the application and the reasons set forth thereon , there cannot be any cause of action against the respondents at all and the application is liable to be dismissed with cost.

In the premises aforesaid , it is, therefore, prayed that Your Lordships would be pleased to peruse the records and after hearing the parties be pleased to dismiss the application with cost. And pass such other orders/orders as to the Hon'ble Court may deem fit and proper considering the facts and circumstances of the case and for the ends of justice.

And for this the humble respondent as in duty bond shall ever pray.

Saurav Kant Saha
Saurav Kant Saha
Divl. Personel Officer
J. E. Lly. Guwahati-1

VERIFICATION

I, Shri Gauri Kanta Nakati Son of Late Lohit
 Ch. Nakati resident of Guwahati
 at present working as the Divl. Personnel Officer
 N.F.R.B., Guwahati Guwahati being
 competent and duly authorized to sign this verification do hereby
 solemnly affirm and state that the statements made in paragraph
 1 to 10 & 13 are true to my knowledge and belief, and the rests
 are my humble submission before this Hon'ble Tribunal. I have
 not suppressed any material fact.

And I sign this verification on this 20/6 day of
 June, 2007 at Guwahati.

DEPONENT

Gauri Kanta Nakati
 DIVL. Personnel Officer
 N.F.R.B., Guwahati

देशी, क्रान्ती, शायरी
Central Administrative Tribunal

10 OCT 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Filed by:
The Applicant
Dipu N. Das
21/9/07

O.A. NO. 65/07

Sri Ambika Prasad Sarma

-VRESUS-

Union of India and Others.

REJOINDER TO THE WRITTEN STATEMENT FILED BY THE RESPONDENTS :-

1. That the applicant has gone through the copy of the Written Statement submitted by the Respondent and has understood the contents thereof. Save and except the statements, which are specifically admitted herein below. Other statements made in the written Statements are categorically denied. Further the statements, which are not borne on records, are also denied and the respondents are put to the strictest proof thereof.
2. That with regards to the statements made in paragraphs 1, 2 & 3 of the Written Statements, the applicant has no comment to offer.
3. That with regards to the statements made in paragraph 4 in the written statements, the applicant while denying the statements made therein, begs to state that the respondents have not denied about the 34 years of blemish free service rendered by the applicant in different posts, more particularly the 20 years of service rendered by the applicant as an Welfare Inspector without any blemish as has been stated in paragraph 4.2 in the original application. Hence it is deemed to be admitted. The only averment made in the written statement is that about the allegations leveled against the applicant in the impugned memorandum of charges are nothing else but imaginary one.
4. That with regards to the statements made in paragraph 5 of the written statements, the applicant while denying the contentions made therein begs to state that although there is no bar of surprise visit by any officer to ensure whether any employee working under him is performing his duty sincerely or not; but it is not the case in hand. In the instant case, it was the pre-determined intention of the Officer concerned who had visited the Agthori Station without informing the applicant intending only to give an adverse remark against the applicant. The said averments made in paragraph 4.1 has not been denied in the written statement. Further the A.P.O., Guwahati without intimating/ informing anything about the

lapses detected by him forwarded the same to the higher authority for necessary action against the applicant which has proved the pre-determined intention of the said Officer.

5. That with regards to the statements made in paragraph 6 of the written statement, the applicant while denying the contention made therein begs to state that the grievances register maintained at Agthori Station; was available; but the present Deputy S.S./ A.G.T. on several visits of the applicant stated that he had not found the grievance register at the time of his Joining in the Station and the applicant in his such visit requested the Deputy SS/AGT to search for the said grievance register which aspect of the matter was duly informed to the APO, Guwahati by the applicant. As such, the allegation for not informing Administration regarding non-existance of grievance register does not arise. So far the allegation of non-visiting of Agthori Station is concerned, the letter dated 19.07.06 submitted by the Deputy SS/AGT clearly proved the fact that the applicant had been visited the station regularly. As such, both the allegations i.e, for not informing the Administration regarding non-existence of grievance register and non- visiting the Agthori Station are not correct at all, hence denied.

6. That with regards to the statements made in paragraph 7 of the written statement, the applicant while denying the same begs to state that the Disciplinary Authority did not consider the defence statements at all and in the facts and circumstances of the case, the Disciplinary Authority could have warned the applicant instead of imposing the penalty.

7. That with regards to the statements made in paragraph 8 of the Written Statements, the applicant while denying the contention made therein begs to state that the Disciplinary Authority as well as the Appellate Authority did not apply judicial mind at the time of consideration of the case of the applicant and imposed the penalty that too at this last stage of his service without considering his past blemish free services rendered by him. It is pertinent to mention herein that as per the provisions of rules, it is not mandatory to prefer revision/review before coming to this Hon'ble Tribunal but there is no bar to review the case of the applicant for the authority in their own motion. As such, the question of non-maintainability of the present application does not arise.

8. That the applicant begs to state that the respondent authority neither controverted nor denied the allegation and statements made in paragraph 4.12, of the Original Application regarding not providing the reasonable opportunity to the applicant and not maintaining the proper procedure etc, while conducting the inquiry and imposition of penalty on the basis of the said inquiry in the written statements. As such, the same shall be deemed to be admitted by the respondents.

9. That the applicant begs to state that in view of the contentions and averments made herein above, it is a fit case wherein this Hon'ble Court may be pleased to interfere in the matter and be set aside and quashed the impugned order directing the respondents to extend all the consequential benefit with costs.

VERIFICATION

I Shri Ambika Prasad Sarma, aged about 56 years, son of Late Madhav Chandra Sarma, resident of Maligaon, Guwahati-11, Kamrup, Assam do hereby solemnly affirm and verified that the statements made in paragraphs.....4,6,7,8,9.....are true to my knowledge and those made in paragraphs.....3,5..... are also true to my legal advise and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material fact of the case.

AND I sign this verification on this ^{20th}

 day of March/2007 at Guwahati.

Ambika Prasad Sarma

SIGNATURE