

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

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓
O.A/T.A No. 126/2007

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SECTION OFFICER (Judl.)

[Signature]
03.10.17

CENTRAL BOARD OF DIRECTORS
GENERAL MEETING

ORDER SHEET

1. Original Application No. 126/07

2. Misc. Petition No. _____

3. Contempt Petition No. _____

4. Review Application No. _____

Applicant (S) Dinesh Ch. Das vs Union of India & Ors

Advocate for the Applicant (S) S.C. Kayal

Advocate for the Respondent (S) Railway advocate

Notes of the Registry Date Order of the Tribunal

22.5.07.

Post the matter on 23.5.07.

This application is in form

is for 10/-

de

R 346 653224

lm

Date 23.5.07

Vice-Chairman

For L.J. Registrar

24.5.07. Order pronounced in open Court. Kept in separate sheets. Application is disposed of. No costs.

Vice-Chairman

Petitions & applications

for issue notices are

Received.

Shri:

Recd
21/6/07

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 126 of 2007

DATE OF DECISION: 24.05.2007

Shri Dinesh Chandra Das Applicant/s
Mr. S. C .Kayal Advocate for the
Applicant/s

- Versus -

U.O.I & Others Respondent/s

Dr.J.L.Sarkar. Advocate for the
Respondents

CORAM

THE HON'BLE MR. K.V.SACHIDANANDAN, VICE CHAIRMAN

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 & other Benches? Yes/No
4. Whether their Lordships wish to see the fair copy of the Judgment? Yes/No

Vice-Chairman
27/5/07

CENTRAL ADMINIISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 126 of 2007

Date of order: This the 24th Day of May, 2007.

HON'BLE MR.K.V.SACHIDANANDAN, VICE-CHAIRMAN

Shri Dinesh Chandra Das
Son of late Sambhu Ram Das,
Vill & P.O. Bangsor, P.S. Sualkuchi,
Dist.Kamrup, Assam.

Applicant.

By Advocate Mr. S. C.Kayal,

-Versus-

1. The union of India
Represented by the Secretary to the Govt. of India,
Ministry of Railway, New Delhi
2. The General Manager,
N.F.Railway, Maligaon,
Guwahati-781011
3. The General Manager (Personal)
N.F.Railway, Maligaon
Guwahati-781011.
4. The Divisional Railway Manager (P)
N.F.Railway, Alipurduar Junction
P.O.Alipurduar.
5. The Senior Divisional Mechanical Engineer,
N.F.Railway, Alipurduar Junction
P.O.Alipurduar Respondents.

By Advocate Dr.J.L.Sarkar,

ORDER (OPRAL)

K.V.SACHIDANANDAN, V.C:

The applicant was appointed on 3.3.1973 as Engine
Cleaner and his services were regularised in the year 1974 and
promoted to the post of Fireman. While he was working as Fireman on
1.12.98 a disciplinary proceeding initiated against the applicant.
According to the applicant no notice was issued to him. Thereafter, he

was compulsorily retired. According to the applicant nor any opportunity of being heard was provided to the applicant before passing the order. Being aggrieved by the action of the respondents, the applicant approached this Tribunal by filing O.A. No.238 of 2002. Vide order dated 9.1.2003 this Tribunal has dismissed the application of the applicant holding it to be premature with a liberty to the applicant to avail remedies as per law and seek necessary papers including pension papers from the authority. Thereafter the applicant has approached the Hon'ble Gauhati High Court in W.P.© No.2012 of 03 . The High Court by order dated 1.4.03 was dismissed the Writ Petition upholding the order of the Tribunal keeping open to the applicant of seek appropriate remedy of filing statutory appeal against the order of compulsory retirement. Thereafter on 23.7.03 the applicant submitted an appeal before respondent under Rule 19 of the Railway Servants (Discipline and appeal) Rule 1965 praying for setting aside and quashing of impugned order dated 1.12.98, 6.5.99 as well as on 1.6.99 and also for his reinstatement and for payment of all service benefits. But the respondents did not dispose of the appeal of the applicant. Being aggrieved the applicant has filed this O.A. seeking the following reliefs:-

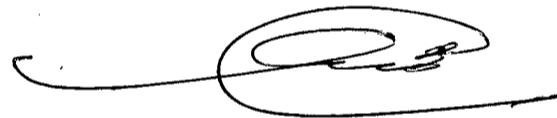
"Under the facts and circumstances of the case the applicant prays that the impugned orders dated 1.12.98, 6.5.99(not communicates to the applicant) as well as the order dated 1.6.99 be set aside and quashed and the respondents be directed to reinstate the petitioner in the service and to pay all arrear and current salaries including all the benefits and/or may pass such further or other order or orders as this Hon'ble Tribunal may deem fit and proper."

I have heard Mr. S.C. Kayal, learned counsel for the applicant and Dr. J. L. Sarkar learned Railway counsel for the respondents.

When the matter came up for hearing the learned counsel for the applicant has submitted that he will be satisfied if direction is given to the Respondents No.2 or any other competent authority to consider and to dispose of his appeal (Annexure 6) dated 23.7.03 and to dispose of the same within the time framed. Counsel for the Respondents has submitted that he has no objection if such direction is given.

In the interest of justice this Court directs the 2nd respondents or any other competent authority to consider and to dispose of the appeal with a speaking order and communicate the same to the applicant within a time frame of three months from to-day.

With the above observations the O.A. is disposed of. There shall be no order as to costs.



(K.V.SACHIDANANDAN)
VICE-CHAIRMAN

I'm

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI
BENCH: GUWAHATI

(An Application under section 19 of the Administrative
Tribunals Act 1995)

OA No. 126/07

BETWEEN

Dinesh Chandra DasApplicant

-And-

The Union of India & othersRespondents

Synopsis and List of Dates:

This application has been filed by the applicant challenging the order dated 1.12.98 & 6.5.99 passed by the respondents imposing major punishment of Compulsory retirement on the applicant without affording of any opportunity of being heard in violation of the rules and principles of natural justice. The respondents have also failed to dispose of the statutory appeal of the applicant filed as far as back on 23.7.03 and the reminders there against on 14.11.2006 & 23.2.2007. Hence, under the compelling circumstances the applicant has to come before this Hon'ble Tribunal once again against the arbitrary and discriminatory actions of the respondents.

List of Dates:

3.3.73 : The applicant was appointed as Engine Cleaner and his services were regularised in the year 1974 and promoted to the post of fireman.

1.12.98 : The Sr. Divisional Mechanical Engineer passed the order compulsory retiring the applicant. No copy of the order was ever served on the applicant.

5.2.02 : The applicant filed representation before the G.M., N.F. Railway and Divisional Manager, Alipoordwar for furnishing copies of order dated 1.12.98 and 1.6.99.

9.1.03 : This Hon'ble Tribunal dismissed the O.A. no. 238/2002 of the applicant holding it to be premature with a liberty to avail remedies as per law.

X
Truly
for
Dinesh Chandra Das
Applicant
Date
2007

1.4.03 : The Writ Petition no. 2012/03 filed by the applicant was also dismissed by the Hon'ble Gauhati High Court keeping open to the applicant to seek appropriate remedy of filing statutory appeal against the order of compulsory retirement.

23.7.03 : Applicant filed appeal before the respondent No. 2 under Rule 19 of the Railway Servants (Discipline and appeal) Rules, 1965.

14.11.06 : Applicant filed reminder.

23.2.07 : Applicant again filed the reminder, but to no avail

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI
BENCH: GUWAHATI

(An Application under section 19 of the Administrative
Tribunals Act 1995)

OA No. 126/07

BETWEEN

Dinesh Chandra DasApplicant

-And-

The Union of India & othersRespondents

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Date:

Filed by

*Subash Chandra Rayal
Advocate*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI
 BENCH: GUWAHATI

(An Application under section 19 of the Administrative
 Tribunals Act 1985)

OA No. 126/07

BETWEEN

Sri Dinesh Chandra Das
 Son of late Sambhu Ram Das,
 Vill & P.O. Bangsor, P.S. Sualkuchi,
 Dist. Kamrup, Assam.

.....Applicant

-And-

1. The Union of India
 Represented by the Secretary to the Govt.
 of India, Ministry of Railway, New Delhi.

2. The General Manager,
 N.F.Railway, Maligaon,
 Guwahati-781011

3 The General Manager(Personal),
 N.F.Railway, Maligaon,
 Guwahati-781011

4. The Divisional Railway Manager (P)
 N.F.Railway, Alipurdwar Junction
 P.O. Alipurdwar.

5. The Senior Divisional Mechanical
 Engineer, N.F.Railway, Alipurdwar
 Junction
 P.O. Alipurdwar.

.....Respondents

DETAILS OF THE APPLICATION

1. Particulars of order against which this application is made:

1. Dinesh Ch. Das
 Son of late Sambhu Ram Das, P.O. Bangsor, P.S. Sualkuchi, Dist. Kamrup, Assam.

This application is made against the arbitrary and discriminatory actions of the respondents in not disposing of the appeal filed by the applicant on 23.7.03 and reminder submitted on 14.11.2006 and 23.2.2007 there against. The appeal was filed against the impugned orders dated 1.12.98, 6.599 (copy not supplied to the applicant) and order dated 1.6.99 passed by the respondent imposing the major punishment of compulsory retirement on the applicant without affording of any opportunity of being heard and in clear violation of the Rules and principles of natural justice.

2. Jurisdiction of the Tribunal

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

3. Limitation

The applicant further declares that this application is filed within the Limitation prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4. Facts of the Case:

4.1 That the applicant is a citizen of India and a permanent resident of Assam.

4.2 That the applicant was initially appointed as Engine Cleaner on 3.3.73 under the respondents and his services was regularised in the year 1974. During his service tenure, he was promoted to the post of Fireman due to his hard work, sincerity, and dedication to the service.

4.3 That your applicant states that while he was posted at New Bongaigaon under the office of Asstt. Mechanical Engineer the applicant was away from duty about two months in the year 1999. But on reporting for duty he was not allowed to join his duty and consequently he returned home. Thereafter because of his leg injury, the applicant was incapable to pursue with the authority concerning his continuation in service. On recovery, he again

Birendra Ch. Dev

12
W.M. 83. Ch. Des

reported for duty at New Bongaigaon with medical certificate but the request of the applicant for joining duty was rejected by the authorities and he was asked to report before the Divisional Mechanical Engineer at Alipurdwar Junction for redressal of his grievances. Accordingly the applicant went to the respondent No. 4 as directed but he was not allowed to meet the respondent, however the applicant came to know from the office of the respondent No. 2 that an order has been passed vide letter No. E/59/Supl/APM dated 1.6.99 compulsory retiring the applicant from the service. On perusal of the letter dated the applicant came to know that major punishment of compulsory retirement was passed on 1.12.98 by the Sr. Divisional Mechanical Engineer against him. It is to be mentioned here that neither the copy of the order dated 1.12.98 was served on the applicant nor any opportunity of being heard was provided to the applicant before passing the order dated 1.12.98, denying the principles of natural justice.

Copy of the letter dated 1.6.99 is annexed hereto and is marked as Annexure-1

4.4 That on coming to know about the punishment of compulsory retirement, the applicant repeatedly prayed before the respondents for providing him with the copies of the order dated 1.12.98 and 6.5.99 but till date he was not provided with the said letter. Consequently, on 5.2.02 the applicant submitted written request before the General Manager, N.F. Railway and Divisional Manager, Alipurdwar Junction, for furnishing him copies of the aforesaid two letters, but he was not furnished with the said copies.

Copy of the letters dated 5.2.02 is annexed hereto and is marked as Annexure: 2 & 3 respectively.

4.5 That being aggrieved by the action of the respondents, the applicant approached this Hon'ble Tribunal through O.A. No. 238/2002 praying for setting aside and quashing of order dated

1.6.99 ans in alternative a direction to the respondents to pay the pension and other retirement benefit. But this Hon'ble Tribunal by order dated 9.1.2003 pleased to dismiss the application of the applicant holding it to be premature with a liberty to the applicant to avail remedies as per law and seek necessary papers including pension papers from the authority.

Copy of the order-dated 1.3.2003 is annexed hereto and is marked as Annexure 4.

4.6. That your applicant thereafter, approached the Hon'ble Gauhati high Court through W.P.(C) No. 2012/03 praying for a setting aside of the impugned orders passed by the respondents dated 1.12.98, 6.5.99 and 1.6.99 as well as the order passed by this Hon'ble Tribunal. The applicant also prayed for a direction to the respondents to pay pension and other retirement benefits. However, the Hon'ble Gauhati High Court by order dated 1.4.03 was pleased to dismiss the writ petition upholding the order passed by this Hon'ble Tribunal keeping open to the applicant of seek appropriate remedy of filing statutory appeal against the order of compulsory retirement. The Hon'ble High Court, however, made an observation that if there is delay on the part of the applicant in approaching before the appellate authority, the appellate authority shall consider the same by keeping in the mind the pendency of the application before the Central Administrative Tribunal and the Hon'ble High Court.

A copy of the order dated 1.4.03 passed in WP (C) No. 2012/03 is annexed hereto and is marked as Annexure: 5.

4.7 That your applicant states that thereafter, on 23.7.03 the applicant submitted an appeal before respondent no. 2 under Rule 19 of the Railway Servants (Discipline and appeal) rule 1965 praying for setting aside and quashing of impugned order dated 1.12.98, 6.5.99 as well as 1.6.99 and also for his reinstatement and for payment of all service benefits. The appeal was duly received by the office of the respondent No. 2 on 23.7.03 and is still

Dr. Magan Ch. Des

awaiting disposal for last about 4 years. In the meantime the applicant on several occasion filed reminders before the respondents but to no avail. The respondent not only failed to dispose of the appeal of the applicant but also failed to release the pensionary benefit of the applicant as yet

Copy of the appeal dated 23.7.03, reminders dated 14.11.2006 and 23.2.07 are annexed hereto and are marked as Annexure: 6, 7 and 8 respectively.

4.6 That this application is made bonafide and in the interest of justice.

5. GROUNDS FOR RELIEF (S) WITH LEGAL PROVISION:

5.1 For that the impugned action of the respondents being in gross violation of the order of the Hon'ble Gauhati High court as well as of this Hon'ble tribunal the same is liable to be interfered with.

5.2 For that the respondents are duty bound to dispose of the appeal of the applicant within the statutory period, but they are sitting over the same for last about 4 years violating the rules as well as the principles of natural justice and as such they are liable to be directed to disposed of the appeal of the applicant forthwith.

5.3 For that the procedure prescribed under the Railway Servants (Discipline and Appeal) Rules, 1968, prior to imposing penalty of compulsory retirement, has been disregarded and totally ignored and no opportunity whatsoever of being heard was afforded to the applicant and as such violated the rules in imposing the major punishment of compulsory retirement, the impugned orders are liable to be set aside and quashed

5.4 For that the impugned orders dated 1.12.98 and 1.6.99 are wholly illegal and arbitrary as the same were passed in violation of the cardinal principles of "audi alterem partem" rule of natural justice and as such the impugned orders are non est in law and as such the same are liable to be set aside and quashed. .

Prinmesh Ch. Das

5.5 For that the applicant was not only deprived of the opportunity of being heard before passing of the impugned orders of major punishment but he was also not served with the copies of impugned orders that to after repeated demand, non compliance of the statutory provisions before imposing the major punishment is fatal rendering the impugned orders as null and void and non est in law.

5.6 For that the illegal and arbitrary actions on the part of the authority concerned in imposing the major punishment of compulsory retirement against the applicant de hors the rules and against the settled principles of law, cannot stand the scrutiny of law and, therefore, liable to be set aside and quashed.

5.7 For that the illegal and arbitrary actions on the part of the respondents in imposing major punishment of compulsory retirement de hors the Rules and the settled principles of law is a direct infringement of fundamental and legal rights of the applicant as guaranteed under the Constitution of India and other laws for the time being in force and as such on this ground alone the impugned orders are liable to be set aside and quashed.

5.8 For that the impugned actions of the respondents is illegal, arbitrary, and discriminatory and as such, the same is liable to be set aside and quashed.

5.9 For that in any view of the matter the impugned orders are liable to be set aside and quashed.

6. Details of Remedies Exhausted.

That your applicant states that he has no other alternative and efficacious remedy that to file this application.

7. Matter not previously filed or pending with any other court/Tribunal.

That applicant declares that he had filed O.A. No. 238/2002 before this Hon'ble Tribunal and Writ Petition No. 2112/2003 before the Hon'ble Gauhati High Court concerning his compulsory retirement and both application were disposed of on 9.1.2003 and 1.4.2003 respectively, and the applicant further declares that no

application, writ petition or suit regarding the matter in respect of which this application has been made is pending before any of them.

8. Reliefs sought for:

Under the facts and circumstances of the case the applicant prays that the impugned orders dated 1.12.98, 6.5.99 (not communicated to the applicant) as well as the order dated 1.6.99 be set aside and quashed and the respondents be directed to reinstate the petitioner in the service and to pay all arrear and current salaries including all the benefits and/or may pass such further or other order or orders as this Hon'ble Tribunal may deem fit and proper.

9. Interim relief sought for:

During pendency of this application, the respondents may be directed to dispose of the appeal of the applicant submitted on 23.7.2003.

10. That this application is filed through advocate.

11. Particulars of the IPO

- (i) IPO No..... 34G 653 224
- (ii) Date of Issue:..... 7/6/2007
- (iii) Issued from: G.P.O. Guwahati.
- (iv) Payable at: G.P.O. Guwahati.

12. List of enclosures:

As stated in the Index.

VERIFICATION

Sri Dinesh Chandra Das Son of late Sambhu Ram Das, Vill & P.O. Bangsor, P.S. Sualkuchi, Dist. Kamrup, Assam. do hereby verify that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 17th day of May 2007
at Guwahati.

Dinesh Ch. Das.

Dinesh Ch. Das.

ANNEXURE - I

N. F. RAILWAY.

Office of the
Divl. Rly. Manager (P)
Alipurduar Junction.

No. E/59/Supl/APM

Dated :-- 01.06.99.

A. M. E. / NBQ.

Sub :- Compulsory retirement of Shri Dinesh Ch. Das, 2nd
F/man/NBQ.

Ref :- Your P.O. No. N/01/RG/99 dated 17.5.99 addressed to
Sr. DPO/APDY.

The punishment awarded for compulsory retirement of
Sri Dinesh Ch. Das, 2nd F/man/NBQ vide Sr. DME/APDJ's No. M/54
VII/AP/O dated 01.12.98 to be implemented treating this offic.
letter No. E/59/Supl/APM dated 06.05.99, item No. 2 Sri Dinesh
Ch. Das as cancelled.

Orders for temporary re-deployment as Watchman of
S/Sri Frasanna Barman and Swapan Kr. Das, 2nd Firemen/ NBQ
communicated vide this office letter of even number dated
06.05.99 is stand' good.

Sd/-

For Divl. Rly. Manager (P)
Alipurduar Junction.

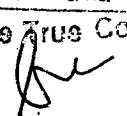
Copy forwarded for information and necessary action to :--

1. Sr. DME/APDY (2) Area Manager/NBQ.
3. SSE(Loco)NBQ. (4) P/Cuse of Sri D.C. Das.
5. Sri Dinesh Ch. Das, 2nd F/man/NBQ thro : SSE/Loco/ B.
6. C. P. I./MPP/APDJ As per order of Sr. IPO/APDJ he is
requested to put up for replacement in
place of Sri D.C. Das.
7. O. S./.. Bill. (8) D. A. O./ADJ.

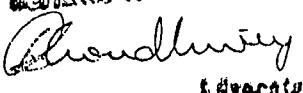
Sd/- Illegible,

For Divl. Rly. Manager (P)
Alipurduar Junction.

Certified to be true Copy.


Advocate

~~Certified to be true copy~~


Advocate

To,

The General Manager,
N. F. Railway,
Maligaon, Guwahati.

SUBJECT : FURNISHING COPIES OF RELEVANT ORDERS.

Sir,

I would humbly like to place the following before your goodself and for your kind consideration and necessary action so that I am not made to suffer any longer.

1) That, while serving as a 2nd Fireman, I was served with a copy of your Order No. E/59/SUPL/APM dated 01/06/99 whereby your goodself directed that the order of compulsory retirement be implemented and to treat office letter No. 14B/SUPL/dated 06-06-99, item No.2 as cancelled.

2) That, I was never served with a copy of letter dated 1-12-98 and 6-5-99 and as such I am not aware as to why I was compulsorily retired.

3) That, in this connection I have been visiting your office for the last 2 years and verbally praying for copies of the aforesaid letters but till date I have not been furnished with the copies and as a result of which I have not been able to pursue the legal remedies and I have not received any benefits as yet.

I, therefore pray before your goodself to kindly take into the matter and pass necessary order so that copies of letter dated 1-12-98 and 6/5/99 are furnished to me at your earliest convenience. The expenses, if any, for the copies will be paid by me.

5/2/2002.

Obediently yours,

Certified to be True Copy
W/
Advocate

(SRI DINESH CH. DAS)
S/o. Late Sambhu Ram Das,
Vill - Bongsoor,
Dist - Kamrup, Assam.

To,

The Divisional Railway Manager (P),
 N. E. Railway,
 Alipurduar Junction.

SUBJECT : FURNISHING COPIES OF RELEVANT ORDERS.

Sir,

I would humbly like to please the following before your goodnesself and for your kind consideration and necessary action so that I am not made to suffer any longer.

1. That, while serving as a 2nd Fireman, I was served with a copy of your Order No. E/59/SUPL/APM dated 01/06/99 whereby your goodnesself directed that the order of compulsory retirement be implemented and to treat office letter No.1/B/SUPL/dated 06-05-99, item No.2 as cancelled.

2. That, I was never served with a copy of letter dated 1-12-98 and 6-5-99 and as such I am not aware as to why I was compulsorily retired. ✓

3. That, in this connection I have been visiting your office for the last 2 years and verbally praying for copies of the aforesaid letters but till date I have not been furnished with the copies and as a result of which I have not been able to pursue the legal remedies and I have not received any benefits as yet.

I, therefore pray before Your goodnesself to kindly to took into the matter and pass necessary order so that copies of

contd.

~~Enclosed to be used~~

Abdulhameed
 2.000/-

10 = 12

- 2 -

letter dated 1-12-99 and 6-5-99
are furnished to me at Your earliest
convenience. The expenses, if any,
for the copies will be paid by me.

5/2/2002

Obediently yours,

(SRI DINESH CH. DAS)

w/o. Late Lambhu Ram Das,
Vill - Bongsoor,
Do
Dist - Kamrup, Assam.

RECKE TO BE USED

Dinesh Das

13

(Typed Copy)

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH:

ORDER SHEETOriginal Application No. 238/2002

Applicant : Sri Dinesh Chandra Das

-versus-

Respondent (s): Union of India and others

9.1.2003

Present: The Hon'ble Mr. Justice V.S. Aggarwal, Chairman
 The Hon'ble Mr K.K. Sharma, Administrative Member.

By virtue of the present application the applicant Sri Dinesh Chandra Das seeks quashing of the order dated 1.6.1999 purported to have been passed by the Divisional Railway Manager (P), Alipurduar Junction, copy of which is annexed with the application as Annexure-I. The applicant has been compulsorily retired.

Mr. B. Choudhury, learned counsel for the applicant addressed us on the merits of the matter. However, it has been pointed out to the applicant that an appeal against such an order would not be maintainable and once the appeal is not maintainable, it would not be appropriate for this Tribunal to interfere at this stage. Consequently, the Original application No. 238/2002 must be held to be pre-matured.

Accordingly, the present application, for the reasons, is dismissed. By way of abundant caution it is made clear that nothing herein is an expression of opinion on the merits of the matter. The applicant may avail the appropriate remedy available in law and seek the necessary papers including the pension papers and other documents from the authority.

Subject to observations made, the application is dismissed. No order as to costs.

*Certified to be
true copy
Xpm 17/3/03*

*JW
Certified to be True Copy.*

Sd/ CHAIRMAN

Sd/ MEMBER(A)

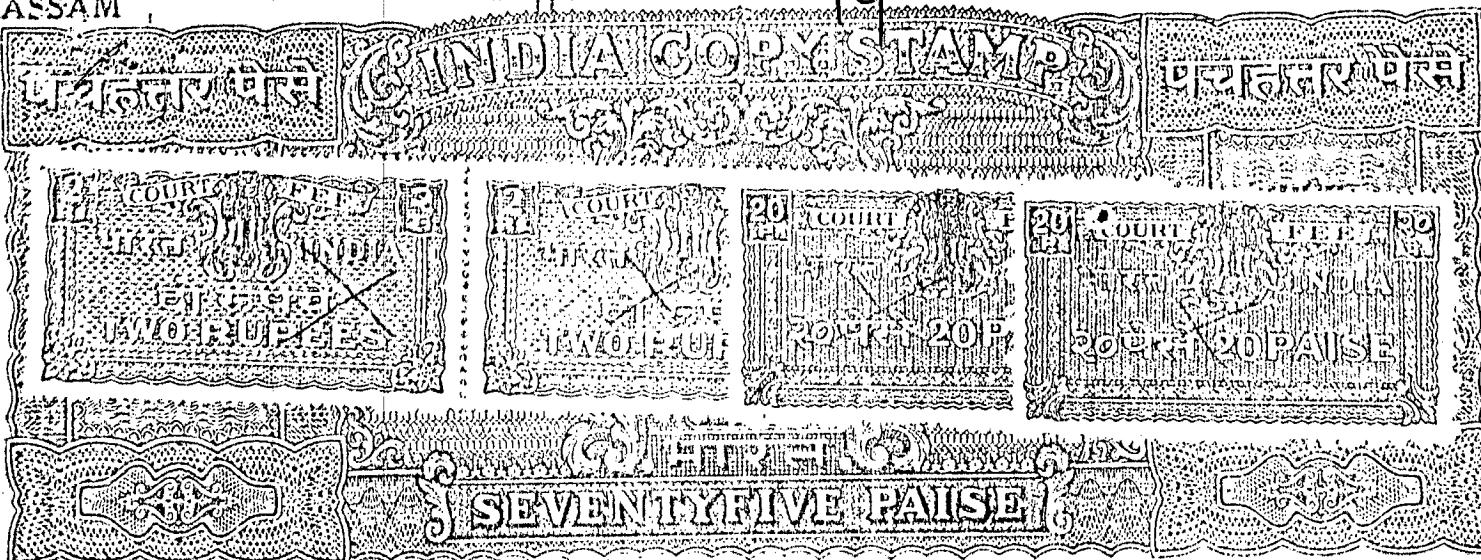
Sect. 16

ASSAM

-11-

14

22



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित राश्या सूचित करने की तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को ग्राहित किया देने की तारीख Date of making over the copy to the applicant.
914103	814103	914103	914103	91412003

IN THE CAUHATI HIGH COURT

ANNEXURE - 5

(HIGH COURT OF AS AM: NAGLAND: MGH: LAYA: MANIPUR: TRIPURA:
MIZORAM AND ARUNACHAL PRADESH)

W.P.C. NO. 2012/2003.

Shri Dinesh Chandra Das, son of Late Sambhu Ram Das,
vill and P.O. Bangsar, P.S. Gualkuchi, Dist-Kamrup.

..Writ petitioner

-Vs-

1. The Union of India, represented by the General Manager
N.F. Railway Maligaon, Ghy
2. The General Manager (Personnel) N.F. Rly, Maligaon, Ghy
3. The Divisional Manager (P) N.F. Railway, Alipurduar Junction.
..Respondents.

::PRESENT::

THE HON'BLE THE CHIEF JUSTICE MR. P.P. NAOLEKAR

THE HON'BLE MR. JUSTICE AMITAVA ROY

For the petitioner : - Mr. M. Bhuyan, Mr. H. Das, Mr. P. Hazarika
Mr. S.K. Talukdar.

For the respondents - S.C. N.F. RLY -

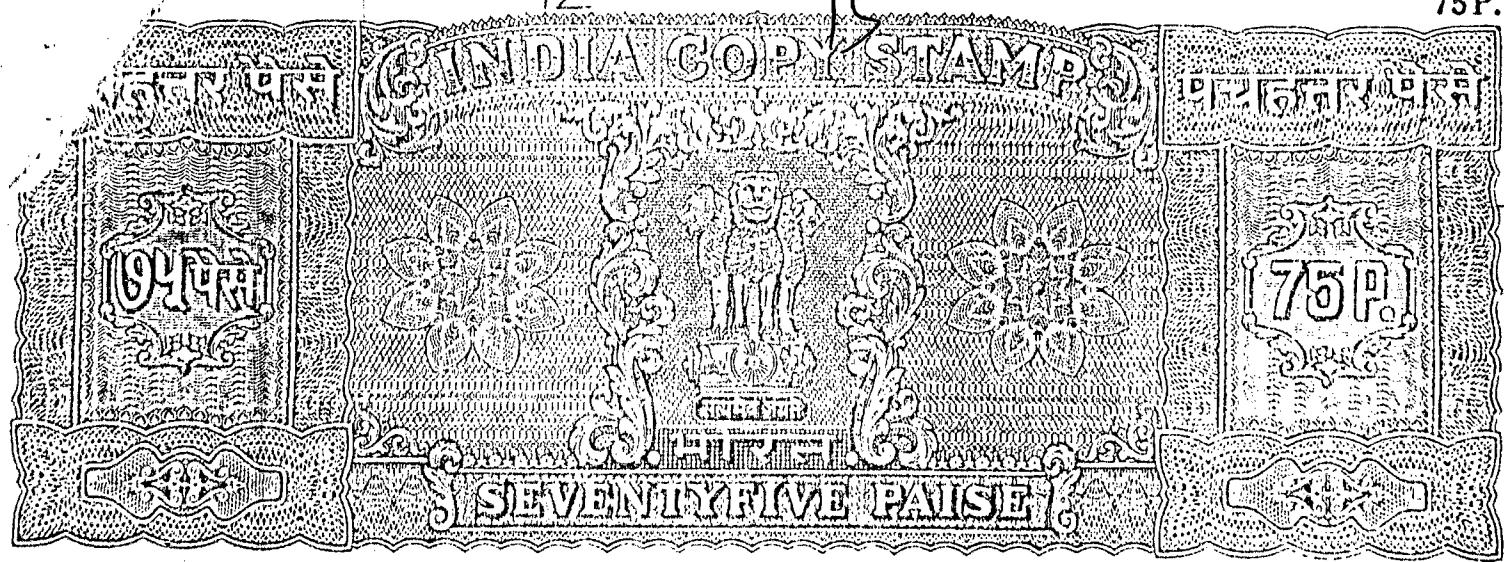
Date :- 1.4.2003. O R D E R

Heard Mr. M. Bhuyan learned counsel for the petitioner and
Mr. B.K. Sarma, learned senior counsel for respondent Railways.

...2/-

Certified to be True Copy

GPM
Advocate



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाप और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाप और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

-2-

When the statute provides the remedy of filing appeal against the order of compulsory retirement and if the Central Administrative Tribunal has given a direction to approach the appropriate forum by filing an appeal which is provided under the Rules, the Tribunal has not committed any error either of jurisdiction or law. The writ petition is without any substance and is dismissed.

However it is made clear that while considering the matter if there is delay the appellate authority shall keep in mind the pendency of the petition before the Central Administrative Tribunal and again in this court.

Sd/-AMITAVA ROY

JUDGE.

Sd/-P.P. NAOLEKAR

CHIEF JUSTICE.

K. ROY 9/1/03
Chaudhary 9/1/03
656A

CERTIFIED FOR P.M. TAKIR WAD

Date 9/1/03
Signature of Superintendent (Copying Section)
Bank of India
Authorised L.P.S. 16, Act 1, 1978

J.W.D.

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BEFORE THE GENERAL MANAGER, N.F.RAILWAY, MALIGAON
GUWAHATI (APPELLATE AUTHORITY)

IN THE MATTER OF :

An appeal under Rule 19 of the Railway Servants (Discipline and Appeal) Rules, 1968.

-AND-

IN THE MATTER OF :

Impugned order No. M/54/VII/AP/O dated 1.12.98 issued by the Sr. Divisional Mechanical Engineer (DME), N. F. Railways, Alipurduar Junction, imposing major punishment of compulsory retirement upon the appellant from the post of 2nd Fireman, NBQ.

-AND-

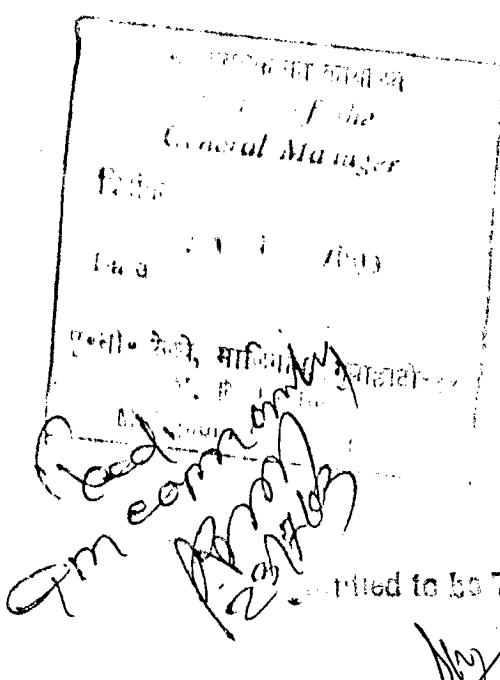
IN THE MATTER OF :

Impugned order contained in No. E/59/Supl/APM dated 1.6.99, issued from the Office of the Divisional Railway Manager (P), N. F. Railway, Alipurduar Junction, addressed to the controlling authority of the appellant with direction to implement the major punishment of compulsory retirement inflicted upon the appellant by aforesaid order dated 1.12.98.

-AND-

IN THE MATTER OF :

Impugned action on the part of the controlling authority imposing major punishment of compulsory retirement to the appellant in utter



ASST. SECY

violation of the statutory provisions of the Railway Servants (Discipline and Appeal) Rules, 1968.

-AND-

IN THE MATTER OF:

Impugned action on the part of the controlling authority imposing major punishment of compulsory retirement to the appellant in violation of the cardinal principles of "audi alterem partem" rule of natural justice.

-AND-

IN THE MATTER OF:

Shri Dinesh Chandra Das,
S/o Late Sambhu Ram Das,
Village and P.O. Bangsor, P.S. Sualkuchi,
District- Kamrup.Appellant

The humble appeal of the appellant abovenamed.

MOST RESPECTFULLY SHEWETH :

1. That it is stated that the appellant before your Honour joined Railway Service as Engine Cleaner on 3.3.1973, to which post his service was regularized in the year 1974. Since the date of joining service the appellant was rendering his duties sincerely and to the best of his abilities and satisfaction of all concerned. During his service tenure, the appellant had also secured promotion to the post of Fireman by dint of his hard work, sincerity and dedication to service. It is stated that while the appellant was posted at New Bongaigaon under the office of the Assistant Mechanical Engineer, he was away from duty for about two months in the year 1999. On reporting for duty he was not allowed to join for which the appellant returned home. Due to a leg injury the appellant was rendered incapable to pursue with the authorities concerned regarding his continuation in service.

Having recovered from the injury, the appellant again reported for duty at New Bongaigaon together with the medical certificate issued by the attending doctor. His prayer was outright rejected and he was advised to report before the Divisional Mechanical Engineer (DME) at Alipurduar Junction for redressal of any of his grievances. It is stated that when the appellant reported at Alipurduar, he was not allowed audience with the DME but came to learn from the dealing clerk about the existence of the letter No. E/59/Supl/APM dated 1.6.99, issued from the office of the Divisional Railway Manager (P), Alipurduar Junction, directing the controlling authority of the appellant, that is, the Assistant Mechanical Engineer, N. F. Railway, New Bongaigaon, to implement an order of 1.12.98 by awarding the punishment of compulsory retirement upon the appellant. It is stated that the said letter dated 1.6.99 was never served upon the appellant at any point of time, either by post or by hand. It was only after great persuasion that the dealing clerk allowed the appellant to retain a xerox copy of the letter dated 1.6.99 by acknowledging receipt of the same in the original. Also, it was only on going through the said letter dated 1.6.99, that the appellant learnt about two other orders, namely, the order No. M/54/VII/AP/O dated 1.12.98 passed by the Senior DME/APDJ directing the controlling authority of the appellant to implement the said order of 1.12.98 by awarding the punishment of compulsory retirement upon the appellant as well as order No. E/59/Supl/APM dated 6.5.99, the contents or gist of which was neither reflected in the letter dated 1.6.99 nor brought to the knowledge of the appellant at any point of time. To reiterate, the aforesaid two orders dated 1.12.98 and 6.5.99 were never communicated and/or served upon the appellant. Even as on today the appellant has not been served with the copies of the said orders. It was only by pure chance that the appellant came to learn about the illegal action of the controlling authority on his visit to Alipurduar Junction in September 1999. Being highly aggrieved at the manner and method by which the appellant had been inflicted with the major penalty of compulsory retirement from service, he made innumerable requests, time and again, to the controlling authorities to make available to him the copies of the letters dated 1.12.98 and 6.5.99 in order to learn as to

Ch. 205
Srinivas

why he had been compulsorily retired and also to enable him to pursue legal remedies. Months rolled by with the appellant hoping that the copies of the said letters would be furnished to him as per the repeated assurances given by the controlling authority. Requests of the appellant remained unheeded, the assurances of the authority did not materialize and, therefore, on 5.2.2002 the appellant made two representations – one addressed to the General Manager, N. F. Railway, Maligaon, Guwahati, and the other to the Divisional Railway Manager (P), N. F. Railway, Alipurduar Junction with request to look into the matter and to furnish copies of the order dated 1.12.98 and 6.5.99. Mention was also made that no benefits, whatsoever, had been made over to the appellant until the date of the representations.

Copies of the aforesaid representations of like date i.e. 5.2.2002 submitted before the authorities concerned are annexed herewith and marked as Annexures -1 and 2 respectively.

2. That it is stated that finding no alternative the appellant filed Original Application No.238/2002 on 30.7.2002 before the learned Central Administrative Tribunal, Guwahati Bench at Guwahati, praying for setting aside and/or for quashing the impugned order dated 1.6.99 and/or alternatively to direct the controlling authority to pay pension and the retirement benefits of the appellant. By order dated 9.1.2003 the learned Central Administrative Tribunal, Guwahati Bench was pleased to dismiss the O.A. No. 238/2002 holding that the application was premature.

3. That it is stated that aggrieved by the order dated 9.1.2003 passed by the learned Central Administrative Tribunal, Guwahati Bench, the appellant approached the Hon'ble Gauhati High Court by filing W.P.(C) No.2012/2003 praying for setting aside the order dated 9.1.2003, passed by the learned Central Administrative Tribunal, Guwahati Bench, in Original Application No. 238/2002 and also for setting aside the order dated 1.12.98 and order dated 6.5.99 (not communicated to the appellant) as well as the

B. S. D. S. J. D. B. M. S. H. B.

order dated 1.6.99. The Hon'ble High Court was pleased to dismiss the writ petition upholding the direction given by the Tribunal to the appellant to approach the appropriate forum by filing an appeal as provided under the rules. The Hon'ble Court further ordered that if there is delay, the appellate authority while considering the matter would keep in mind the pendency of the petition before the Central Administrative Tribunal as well as before the Hon'ble High Court.

A copy of the aforesaid order dated 1.4.2003 passed by the Hon'ble High Court, in W.P.(C) No.2012/2003 is annexed herewith and the same is marked as Annexure-3.

4. That it is stated that pursuant to the order dated 1.4.2003 passed by the Hon'ble High Court in W.P.(C) No.2012/2003, this instant appeal is being filed before Your Honour on the following amongst other :

G R O U N D S

I. For that the procedure prescribed under the Railways Servants (Discipline and Appeal) Rules, 1968, prior to imposing penalty of compulsory retirement, has been disregarded and totally ignored and no opportunity whatsoever of being heard was afforded to the appellant. It is the mandate of the Rule 9 of the said Rules that no order imposing any of the penalties specified in clauses (v) to (ix) of Rule 6 shall be made except after an enquiry held as far as may be, in the manner provided in this rule and Rule 10 of the Rules. It is stated that "compulsory retirement" under Rule 6 (1) (vii) of the Rules, is a major penalty and a punishment on that count has to be preceded by the statutory procedure laid down under Rule 9 of the Rules. In the instant case the controlling authority in utter violation of the Rules of 1968 and/or in defiance of all canons of law imposed the major penalty of compulsory retirement from service upon the appellant, thereby

Dr. Dinesh Ch. Desai

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rendering the aforesaid impugned orders dated 1.12.98, 6.5.99 and 1.6.99 as null and void and non est in law.

II. For that the impugned orders dated 1.12.98 and 1.6.99 are wholly illegal and arbitrary, in that, the same were passed in violation of the cardinal principles of "audi alterem partem" rule of natural justice. It is stated that under the Railway Servants (Discipline and Appeal) Rules, 1968, a railway servant is entitled to place his case after perusal of records before the inquiry officer and it is only after being afforded reasonable opportunity of being heard that an order of major punishment can be imposed by the authority. However in the case in hand the authority concerned neither communicated/served the impugned order dated 1.12.98, whereby major punishment of compulsory retirement was imposed upon the appellant nor instituted any enquiry or had afforded any opportunity of being heard to the appellant before being inflicted with the severest punishment of compulsory retirement from service. Non compliance of the same on the part of the controlling authority is fatal rendering the impugned orders dated 1.12.98, 6.5.99 and 1.6.99 as null and void and non est in law.

III. For that the illegal and arbitrary actions on the part of the authority concerned in imposing the major punishment of compulsory retirement against the appellant de hors the Rules and against the settled principles of law, cannot stand the scrutiny of law and, therefore, liable to be set at naught. It is stated that the high handed action of the authority concerned is also demonstrated by the fact that not only the appellant has been inflicted with the severest punishment but he has also been thrown out unceremoniously without giving him any monetary benefits that has accrued to him during his long 30 years of dedicated service. On this ground alone the impugned orders dated 1.12.98, 6.5.99 and 1.6.99 are liable to set aside and/or be quashed.

Dr. V. S. Chidgupkar

IV. For that the illegal and arbitrary actions on the part of the controlling authority in imposing major punishment of compulsory retirement de hors

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the Rules and the settled principles of law is a direct infringement of his fundamental and other legal rights as guaranteed under the Constitution of India and other laws for the time being in force. On this ground alone the impugned orders are liable to be set aside and/or be quashed.

V. For that the impugned actions on the part of the authority concerned is wholly illegal, arbitrary and discriminatory and the same can be justified only by reasons other than bonafide and just.

5. That this instant appeal is being filed bonafide and for the ends of justice.

In the premises aforesaid it is therefore prayed that Your Honour may be pleased to admit this appeal, call for the records and to set aside the impugned order dated 1.12.98 and order dated 6.5.99 (not communicated to the petitioner) as well as the impugned order dated 1.6.99 and also be pleased to direct the controlling authority to reinstate the appellant in service and to pay all arrear and current salaries including all benefits to the appellant. Further, Your Honour may be pleased to pass such other order or orders as Your Honour may deem fit and proper and in accordance with law.

And for this the appellant, as in duty bound, shall ever pray.

Dinesh Ch. Des

Hirulal Maurya

M.Com., LL.B.
Advocate, Gauhati High Court

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Annexure-7
Residence :
P. R. Complex, 1st Floor
Beside Rupasree Cinema
A. T. Road, Guwahati - 1
Assam
Mobile : 94351-98174
Kailash Ch. Das Building
Shantipur Hillside (West)
PNGB Road, Guwahati - 9
Assam
Ph. : 0361-2603897

Ref. No.....

Date: 14/11/2006

UNDER REGISTERED POST WITH A/D

To

भरत रेल अधिकारी (1)

कलागाँव, गुवाहाटी

14/11/2006 (2)

दिनांक, अवधि, नं। (3)

The General Manager
N.F.Railway, Maligaon
Guwahati - 781011

The General Manager (Personnel)
N.F.Railway, Maligaon
Guwahati - 781011

The Divisional Railway Manager (p)
N.F. Railway, Alipurdwar Junction

(4) The Senior Divisional Mechanical Engineer
N.F. Railway, Alipurdwar Junction.

Re:

My Client Shri Dinesh Chandra Das, Son of Late Sambhu Ram Das, Vill & P.O. Bangsor, P.S. Sualkuchi, Dist - Kamrup, Assam.

Ref: (i) Letter No. E/59/Supl/APM dated 01/06/99 issued from the Office of Divisional Railway Manager, Alipurdwar Junction concerning compulsory retirement of my abovenamed client Shri Dinesh Chandra Das, 2nd F/Man/NBQ.

(ii) Denial of compulsory retirement benefits to my abovenamed client Shri Dinesh Chandra Das.

(iii) Non disposal of Appeal filed by my client Shri Dinesh Chandra Das before General Manger N.F. Railway, Maligaon and received by the Office of the General Manager, N.F. Railway, on 23/7/2003.

Sub:

Reminder for earliest disposal of the Appeal filed by my abovenamed client before You i.e. Addressee No. 1 and received by the Office of the General Manager, N.F. Railway, Maligaon, Guwahati on 23/07/03 and alternatively Notice for providing pension and other compulsory retirement benefits to my abovenamed client Shri Dinesh Chandra Das.

Sir,

Under the instruction received from and upon the authority of my abovenamed client Shri Dinesh Chandra Das. I do hereby serve this notice to you for the reasons noted as hereunder:

1) That my above named client joined Railway service in N.F. Railway as Engine Cleaner on 3/3/1973 and his service was regularized in the year 1974. During his service tenure my client was promoted to post of Fireman on account of his hardwork, sincerity and dedication to service.

Certified to be True Copy.
Advocate

File No. 1

Ref. No.....

Date:.....

2) That my above named client while was posted at New Bongaigaon under the Office of Asstt. Mechanical Engineer, he was away from duty for about two months in the year 1999. But on reporting for duty my client was not allowed to join his duty and consequently he returned home. Thereafter on account of his leg injury, my client was incapable to pursue with the Authority concerning his continuation in service. On recovery my client again reported for duty at New Bongaigaon with medical certificate, but my client's request for joining duty was rejected by the Authorities and my client was asked to report before the Divisional Mechanical Engineer at Alipurdwar Junction, for redressal of his grievances. On visit to the office of the Divisional Mechanical Engineer i.e. D.M.E. at Alipurdwar Junction, my client was not allowed audience with the Divisional Mechanical Engineer. However, from the office of the D.M.E. my client came to learn that order has been passed vide letter No. E/59/Supl/APM dated 1/6/99 for compulsory retirement of my client.

In this regard it is stated that the aforesaid Order/Letter dated 1/6/99 for compulsory retirement of my client was never served on my client nor my client was provided any reasonable opportunity of being heard by the Authorities before passing the aforesaid compulsory retirement order. However, on great persuasion the dealing clerk allowed my client to have a zerox copy of the letter dated 1/6/99 by acknowledging the receipt of the same in the original.

3) That aforesaid letter dated 1/6/99 also reflected about two other letters bearing letter No. M/54/VII/AP/O dated 01/12/98 issued by Senior Divisional Mechanical Engineer, Alipurdwar Junction and letter No. P/59/Supl/APM dated 06/05/99.

4) That on coming to know about his compulsory retirement order and about the aforesaid two letters, my client repeatedly prayed for providing him the copies of the letters dated 01/12/98 and 06/05/99 but he was not provided with the said letters. Consequently my client on 05/02/2002 submitted Written request before the General Manager, N.F. Railway and Divisional Railway Manager, Alipurdwar Junction, for furnishing him copies of the aforesaid two letters, but my client was not furnished with the said copies.

5) That my client thereafter, instituted one Original Application No. 238/2002 before the Central Administrative Tribunal, Guwahati Bench to quash the letter dated 01/06/99 concerning compulsory retirement of my client and/or alternatively to direct the Controlling Authority of my client to pay pension and other retirement benefits to my client. However, the said application, holding as premature, was dismissed by the Central Administrative Tribunal vide order dated 9/1/2003. The Hon'ble Central Administrative Tribunal however, stated that my client may avail the remedies as per law and seek necessary papers including pension papers from the Authority.

Subsequently, my client, instituted one Writ Petition bearing W.P.(c) No.2012/2003 for setting aside the order dated 9/1/2003 passed by the Central Administrative Tribunal and also to set aside the Orders/ Letters dated 1/12/98, 6/5/99 as well as 1/6/99 and alternatively to pay pension and other retirement benefits to my client. The Hon'ble High Court dismissed the Writ Petition by upholding the Order dated 9/1/03 passed by the Central Administrative Tribunal. However, the Hon'ble High Court

11/11/08

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GUWATI GPO <781001>

RL R 3299

Counter No:2,DP-Code:MC

To:THE SR DIV MECHA,ENGG

ALIPURDUAR,JUNCTION



Wt:90grams,

Amt:42.00 , 14/11/2006 , 11:59

<>

GUWATI GPO <781001>

RL R 3300

Counter No:2,DP-Code:MC

To:THE DIV.RAILWAY,MANAGER

ALIPURDUAR JUNCTION



Wt:90grams,

Amt:42.00 , 14/11/2006 , 11:59

<>

Hiralal Maurya

M.Com, LL.B.

Advocate, Gauhati High Court

Chamber :

P. R. Complex, 1st Floor
Beside Rupnarender Cinema
A. L. Road, Guwahati - 1
Assam
Mobile : 94351-98174

Residence :

Kailash Ch. Das Building
Shantipur Hillside (West)
PNGB Road, Guwahati - 9
Assam
Ph. : 0361-2603897

Ref. No.....

Date:.....

made an observation that if there is delay on the part of my client in approaching before the Appellate Authority, then the Appellate Authority shall consider the same by keeping in the mind the pendency of the application before the Central Administrative Tribunal and the Hon'ble High Court.

6) That thereafter my client, submitted an appeal before the General Manager N.F. Railway, Maligaon, under Rule 19 of the Railway servants (Discipline and Appeal) Rule 1965 to set a side the impugned order dated 1/12/98 and 6/5/99 as well as 1/6/99 as mentioned above and also for his reinstatement in service and for payment of all service benefits or for such other order/ Orders as the Appellate Authorities may deem fit and proper.

The said appeal was duly received by the Office of the General Manager, N.F. Railway, Maligaon, on 23/7/03 and is still awaiting disposal.

7) That more than 3 (three) years has already passed from the date of submitting the aforesaid Appeal but the aforesaid appeal is not yet disposed nor any communication with that regard is communicated to my client till date, nor the pension and other benefits accruing to my client on account of compulsory retirement is provided to my client for the reasons best known to the Railway Authorities.

8) That in view of above, by this notice I intend to draw your attention towards the abovementioned facts and write you that non-disposal of appeal for such a long period is absolutely illegal and malafide and also arbitrary and violative of principles of natural justice. Furthermore even if, my client's appeal is not considered favourably then also pension and other retirement benefits cannot be withheld and denied to my client. The aforesaid act of the Railway Authorities in not disposing the appeal and in not providing the pension and other retirement benefits to my client is inhuman and tortuous, as on account of non-receipt of salary or retirement benefits, as the case may be, by my client, my client and his family members are suffering immense trouble and hardships for no fault of my client and his family members.

Hence, vide this notice I hereby on behalf of my client, call upon you to look into the matter in a judicious manner and dispose the appeal at the earliest and release all arrear and current salaries with all service benefits to my client and to reinstate him in service, and alternatively to pay / release pension and other retirement benefits to my client at the earliest by communicating about the actions taken by you in this regard to my client within two months from receipt of this notice by you /any of you. Failing which, my client will be compelled to take appropriate legal action against you, as per law, at your costs, risks, and responsibilities.

Thanking you.

Document Enclosed:

(H.L. MAURYA)
Advocate.

- 1) Letter dated 01/06/99
- 2) Two letters dated 5/2/2002
- 3) Order dated 9/1/2003 passed by CAT
- 4) Order dated 1/4/2003 passed by Hon'ble High Court.

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ANB-8

Hiralal Maurya

M. Com. LL.B.
Advocate, Guahati High Court

Chamber:
P.R. Complex, 1st floor
Beside Rupsree Cinema
A.T. Road, Guwahati -1
Assam
Mobile 94361-98174

Residence:
Kailash Ch. Das Building
Shantipur Hillside (West)
PNGB Road, Guwahati -9
Assam
Ph. 0361-2603897

Date: 23-02-2007

To,

- (1) The General Manager ,
N.F.Railway, Maligaon, Guwahati- 781011 .
- (2) The General Manager (Personnel) ,
N.F.Railway, Maligaon, Guwahati- 781011 .
- (3) The Divisional Railway Manager (p) ,
N.F. Railway, Alipurdwar Junction ,Alipurdwar.
- (4) The Senior Divisional Mechanical Engineer ,
N.F. Railway, Alipurdwar Junction , Alipurdwar.

Ref: My earlier reminder/ Notice dated 14-11-2006 (Copy enclosed).
Sub: Second Reminder.

Sir,

With reference to above and on instructions received from and upon the authority of my abovenamnd client Shri Dinesh Chandra Das, Son of Late Sambu Ram Das Vill & P.O. Bangsor, P.S. Sualkuchi, District – Kamrup, Assam, I do hereby give this Second Reminder to you for the reasons noted as hereunder:

1. That my client has submitted one Appeal before you i.e. before the General Manager, N.F. Railway, Maligaon, Guwahati, under Rule 19 of the Railway Servants (Discipline and Appeal) Rule, 1965 to set aside the impugned Order dated 01-12-1998 and 06-05-1999 as well as 01-06-1999 and also for his reinstatement in service and for payment of all service benefits or for such other Order/ Orders as the Appellate Authority may deem fit and proper. The said Appeal was duly received by the Appellate Authority i.e. the General Manager, N.F. Railway, Maligaon on 23-7-2003.

2. That in spite of submitting the aforesaid Appeal , the said Appeal still remains pending awaiting disposal, and thereby no decision has been taken by the Railway Administration on my client's Appeal till today. In addition to it, my client is also not provided the pension and other benefits on account of his compulsory retirement.

3. In view of above my client vide above referred Reminder / Notice dated 14-11-2006 submitted through his Advocate, drew your attention towards the abovementioned facts and called upon you look into the matter in a judicious manner and dispose the Appeal at the earliest and to release all arrear and current salaries with all Service Benefits and to reinstate him in service and alternatively to pay/ release the pension and other retirement benefits to my client at the earliest within two months from the date of receipt of the said Notice/ Reminder by you.

The said Reminder/ Notice dated 14-11-2006 was received by the Addressee No. 1 and 2 on 14-11-2006 itself .The copy of the said Reminder/ Notice was served on Addressee No. 3 and 4 vide Registered Post on14-11-2006. However, the A/D cards have not been received back, nor the Registered letters send to Addressee No. 3 and 4 have been returned back, wherefrom it appears that the Postal articles i.e. Reminder /Notice dated 14-11-2006 has been duly service on Addressees No. 3 and 4.

4. That in spite of receipt of the Reminder/ Notice dated 14-11-2006, by you, you have failed to take any concrete action on the same nor you have communicated anything to my client concerning the aforesaid matter till today. Consequently my client has been compelled to suffer a lot unnecessarily and for no fault of him.

In view of above, and before instituting any legal action against you, I hereby give this Second and final Reminder / Notice to you calling upon you to look into the matter and to dispose the Appeal preferred by my client within a period of 15 (fifteen) days only from the date of receipt of this Second Reminder / Notice by you , failing which my client will be compelled to take recourse to law by instituting proper legal actions/ proceedings against you as well as against N.F.Railway Authorities as per law , at your costs, Risks and Responsibilities.

Thanking you.

1/1/07
(H) 10/10/07
(HIRA LAL MAURYA)
Advocate.

Note : All correspondences to be made at my Chamber Address only

Certified to be True
Advocate