

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓  
O.A/T.A No. 13/2007  
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is issued*

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SECTION OFFICER (Judl.)

*Subba*  
20/09/2017

GENERAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

SEARCH SHEET

1. Original Application No. 13/07
2. Misc Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) Dr. D. N. Rajkhowa vs Union of India & Ors

Advocate for the Applicant(s) D. P. Chalihā

I. Rajkumari

Advocate for the Respondent(s) Rly. Counsel, K.K. Biswakarma

Notes of the Registry	Date	Order of the Tribunal
This application is in form is filed C. P. A. R. No. 50/- and posted vide IPO/2007 No. 286/980579 Dated 9.1.07	18.1.2007	Post the case on 18.02.2007.
<i>Abis</i> Dy. Registrar	Abi	
<i>Abi</i> 17-1-07	8.2.07.	Post the matter on 12.2.07
Steps taken with envelope.	lm	
<i>Abi</i>		

*U*  
Vice-Chairman

*U*  
Vice-Chairman

12.2.07 In this matter the grievance of the applicant is that he is entitled to get the full pay and allowances on reinstatement for the entire period of absence including the period of suspension. The applicant was working as Grade-IV employee. A departmental proceeding was initiated against him and enquiry was conducted and by order dated 12.8.02 (Annexure 1) the applicant was removed from service. The said order of removal has been set aside by this Tribunal vide order dated 17.6.03 in O.A.No.404 of 02 directing the applicant to be reinstated in service, which is reproduced below:

"The orders imposing penalty are liable to be set aside and thus set aside. The respondents are directed to reinstate the applicant in service with all consequential service benefits without any back wages."

Dr.J.L.Sarkar learned counsel for the Respondents has submitted that the applicant was removed from service on 26.6.2002 and was reinstated in service on 29.1.2004; possibly he is entitled to get back wages prior to date of removal from service. The counsel also submitted that he would like to get instructions from the respondents. Four weeks time is granted to take instructions.

Contd/

Notice & Order sent to  
D/Section for moving  
to R-1 to 4 by regd.  
A/D post.

12.2.07.

In view of the facts and  
circumstances the application has to be  
admitted. Application is admitted. Issue  
notice on the respondents. Respondents  
are directed to file written statement. Post  
the matter on 27.3.07.

Vice-Chairman

lm

(1) Service report awaited  
(2) No Wts has been filed

27.3.07. Counsel for the respondents  
prays for four weeks time to  
file written statement. Post  
the matter on 30.4.07.

Vice-Chairman

26/3/07

lm

Notice duly served 30.4.2007  
on R-1, 2 and 3.

Mr. K.K.Biswas, learned counsel for  
the Railways sought for further time to file  
reply statement. Let it be done within four  
weeks.

Post on 01.06.2007.

Vice-Chairman

Notice for R-4  
received back  
as unanswered  
with a postal  
remark "Not Known".

1.6.2007

Mr. K.K.Biswas, learned Railway  
counsel is granted, on request, four weeks'  
time to file reply statement.

Post the case on 04.07.2007.

Vice-Chairman

No Wts has been  
filed.

/bb/

27.4.07.

No Wts has been  
filed.

29  
21.5.07

OA.13/2007

14-

4.7.2007

Mr.K.K.Biswas, learned Railway counsel has filed reply statement today which will brought on record if it is otherwise in order. Three weeks time is granted to the Applicant to file rejoinder, if any.

Post the case on 18.8.2007.

5.7.07

W/C (w/c) filed by the Respondents.  
Page 1 to 7 (6pm) served.

/bb/

Vice-Chairman

1.8.07.

No rejoinder has been filed. Post the matter on 22.8.07 for rejoinder.

Rejoinder not filed.

22  
31.7.07.

lm

Vice-Chairman

Rejoinder not filed.

22  
31.8.07.

22.8.2007

None appeared for the Applicant. Post the matter after two weeks as a final chance to the Applicant. It is made clear that if the Applicant side is not present on the next date, the matter will be decided in absence of the Applicant side.

Post on 12.9.2007.

Rejoinder not filed.

22  
11.9.07.

/bb/

Vice-Chairman

Rejoinder not filed.

22  
12.9.07.

12.9.07.

Let the case be listed on 3.10.07.

Vice-Chairman

lm

0.A.13/07/5

03.10.07

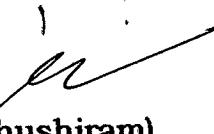
None appears for the applicant nor the applicant is present. However, Mr.K.K.Biswas, learned Standing counsel for the Railways is present.

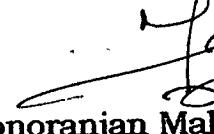
order dt. 3/10/07  
sent to D/Section  
for issuing to  
applicant.

*(cc)* D/No-1061  
22/10/07 Dt= 23/10/07

Call this matter for hearing on 26.11.07.

Copies of this order be sent to the applicant to remind the applicant about fixing the case of hearing on 26.11.07.

  
(Khushiram)  
Member(A)

  
(Monoranjan Mahanty)  
Vice-Chairman

Lm

26.11.2007 None appears for the Applicant today also. Mr.K.K.Biswas, learned counsel for the Railways is present. However, as a last chance to the Applicant this matter is adjourned to be taken up on 10.12.2007.

Copy of this order be sent to the Applicant ~~at~~ the address given in the Original Application.

  
(Khushiram)  
Member (A)

DL. 26.11.07

/bb/

Pl. send the order  
by to the applicant.



10.12.07

None appears for the applicant nor the applicant is present. However, Mr K.K.Biswas, learned counsel for the Respondents/Railways is present.

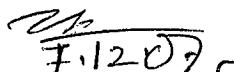
Call this matter on 11.12.2007.

  
(G. Ray)  
Member(A)

  
(M. R. Mohanty)  
Vice-Chairman

pg

Rejoinder not  
filed.

  
7.12.07

OA 13/07

pg

11.12.07 None appears for the Applicant nor the

applicant is present. However, Mr K.K.Biswas,

learned counsel for the Railways is present. None

appeared for the Applicant on all the dates, whenever

this matter was called. Therefore, this Original

Application is dismissed for non

prosecution/default. There will be no order as to

costs.

Copy of this order may be sent to the

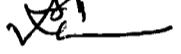
Applicant and all the Respondents.

20/12/07

Copy of the order  
sent to the D/See.  
for issuing the order  
to the parties  
and well as to  
the L/Adv. to  
the parties.

18.3.08

order issued  
vide D/Nos 2006  
to 20/10/07  
28.12.07

  
(G. Ray)  
Member(A)

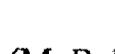
  
(M. R. Mohanty)  
Vice-Chairman

pg

11.12.07

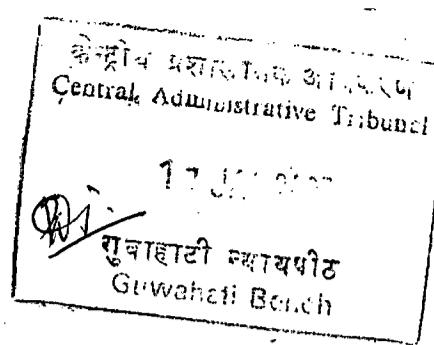
Call this matter on 31.12.2007.

  
(G. Ray)  
Member(A)

  
(M. R. Mohanty)  
Vice-Chairman

pg

17.1.07



4

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH

GUWAHATI

(Application under section 19 of the Central Administrative  
Tribunal Act, 1955)

O.A.No. 13 /2007

Dr. Debendra Nath Rajkhowa  
...Applicant

-Vs

Union of India & ors.

...Respondents.

S Y N O P S I S

This is an application under section 19 of the Central Administrative Act, 1985. This application is made for non payment of arrear salary for the period during which the applicant was out of service after the removal order.

The fact of the case is that the applicant is an employee under the N.F. Railway and presently working as Technical Grade-I employee. That while the applicant was working as Grade-IV employee a departmental proceeding was initiated against him and enquiry was conducted and by order dtd.

12.8.02 (Annexure-1) the applicant was removed from service. The said order of removal has been set aside by the Hon'ble Central Administrative Tribunal by its order dtd.

17.6.03 in O.A. No. 404/02 and accordingly petitioner was ordered to be reinstated in service on and from 29.1.04.

That during the pendency of the enquiry by order dtd. 20.5.02 the applicant was entitled to be promoted to next Grade. But since the enquiry has pending the order of promotion was given effect to only from 29.1.04 when the applicant was reinstated in service.

Contd....2/-

(2)

That's since the order of removal ~~from~~ from service has been set aside by the Tribunal and the applicant was reinstated in service. he is entitled to full salary and for the period of absence from duty. The applicant has made several representations before the competent authority requesting for payment of his arrear salary for the period of the absence. But the authorities have not taking any step for release of his arrear salary till date.

Hence this application is made before your Honour so that the applicant may be allowed for payment of his arrear salary during his absence period.

Filed by

Jagrih Rajkumar  
Advocate. H. I. O.F

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH  
GUWAHATI

( Application under section 19 of the Central Administrative Tribunal Act, 1965)

O.A. No. 13 /2007

Dr. Debendra Nath Rajkhowa

...Applicant

-Vs-

Union of India & ors.

...Respondents.

LIST OF DATES

<u>Date</u>	<u>Annexure</u>	<u>Particulars</u>	<u>Page</u>
12.8.02	1	Order issued by the Sri D.M.E. N.F. Railway Lumding removing the applicant from his service.	11-12
17.6.03	2	Order passed by the Hon'ble Tribunal directing the respondent authorities to reinstate the applicant in service.	13-16
1.9.04	3	Order issued by Sri Sec. Engineer(CHG) N.F. Railway, along re-fixing the date of promotion of the applicant on 29.1.04 i.e, his date of joining after reinstatement.	17-
26.8.04	4 25	Representations submitted by the applicant before the DRM N.F. Railway Lumding Assam, praying for his full payment and allowance during the period of absence after reinstatement.	18-22

Filed by  
Pagni Rajkumari  
Advocate. 11.1.07

THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH  
GUWAHATI.

(Application under Section 19 of the Central Administrative  
Tribunal Act 1985 )

C.A. No. /2007.

sri Debendra Nath Rajkhowa

versus .... Applicant  
The Union of India & Ors. .... Respondents.

I N D E X

<u>Sl. No.</u>	<u>Annexures</u>	<u>Particulars</u>	<u>Page No.</u>
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4.	1.	Copy of the order dtd. 12.8.02	- 11-12
5.	2.	Copy of order dated - 17.6.03.	- 13 - 16
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7.	4&5	Copies of representations dtd. 16.8.04 and 29.8.05.	- 18 - 22

Filed by - Jagriti Rajkumari

Advocate. 11.1.07

12

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BRANCH AT GUWAHATI.**

(An application under section 19 of the  
Central Administrative Tribunal Act 1985).

O.A. No. 13 /2007

**BETWEEN**

sri Debendra Nath Rajkhowa,  
son of late Chalu Ram Rajkhowa,  
Grade I Employee, N.F.Railway.

**-VERSUS-**

**APPLICANT**

1. The Union of India,  
represented by the Chief General Manager,  
N.F.Railway, Maligaon, Guwahati.
2. The General Manager, N.F.Railway,  
Maligaon, Guwahati.
3. The Divisional Railway Manager,  
N.F.Railway, Lumding.
4. The Senior Section Engineer (CSE),  
N.F. Railway, Guwahati.

**RESPONDENTS.**

**1. DETAILS OF THE APPLICATION :**

particulars of the order against which the application  
is made.

This application is made for non payment of arrear  
salary for the period from 1.9.02 to 28.1.04 i.e. for  
the period during which the applicant was out of service  
for the order of removal on 1.9.02.

**2. JURISDICTION OF THE TRIBUNAL :**

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

-2-

**3. LIMITATION :**

The applicant declares that the application is within the limitation period 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 as such he is entitled to all the rights and privileges guaranteed under the Constitution of India.

4.2 - That the applicant joined as an employee of the N.F.Railway and presently working as Technical Grade I employee.

4.3 - That while the applicant was working as a Grade IV employee of the N.F.Railway at New Guwahati, a complaint was lodged against him for illegally carrying 4 nos. of clamps for bearing sparing from B.G. Stock line of New Guwahati station. The applicant was caught while trying to dispose of the said materials at a scrap shop at New Guwahati. A complaint was filed against the applicant before before the Inspector, N.F.Railway, New Guwahati. Enquiry was held and he was found guilty and prosecution report was filed in the court of the Special Judicial Magistrate, N.F.Railway, Guwahati.

4.4. - That the learned Special Judicial Magistrate, N.F.Railway, Guwahati after examination of the charges by its judgment dtd. 16.12.96 sentenced sri D.N. Rajkhowa to pay a fine of Rs.2000/- in default Rigorous Imprisonment for six months.

4.5 - That as the applicant did not pay the fine of Rs.2000/- as directed, he was taken into judicial custody from 30.8.98 to 8.9.98 on 8.9.98, the applicant paid the fine of Rs.2000/- and on the same day he was released from judicial custody.

4.6 That, thereafter, the applicant was deemed to be placed under suspension with effect from 30.8.98 by the Respondent no.3 vide order dtd. 15.9.98 until further order.

4.7 - That the Respondent no.3 did not revoke the suspension order inspite of the fact that the Commander, N.P.Railway had informed the Sc/C that the applicant was released from judicial custody on 8.9.98 and there is no case pending against him.

4.8 - That the applicant, therefore, filed an application being O.A.No-91/99 before this Hon'ble Tribunal praying for setting aside the suspension order dtd. 15.9.98 and to reinstate the applicant with all consequential benefits.

4.9 - That the Hon'ble Tribunal by order dated - 25.3.99 disposed of the O.A. No.91/99 with a direction to the applicant to file an appeal before the Appellate Authority as required under the service Rules.

4.10 - That pursuant to the Hon'ble Tribunal's order, the applicant filed an appeal before the appropriate authority on 5.3.99 but the appeal has not disposed of by the authority concerned.

4.11 - That the applicant filed another application being O.A. No- 427/99 before this Hon'ble Tribunal praying for setting aside the suspension order and also to regulate the applicant with all consequential benefits.

4.12 - That the Hon'ble Tribunal by order dated - 4.5.01 disposed of the application directing the Respondent Authority for payment of applicant's arrear pay and allowances.

4.13 - That the applicant was however not paid the arrear salary for the period of suspension inspite. However, the Respondent no.3 initiated a disciplinary proceeding on the ground that the applicant informed the Department about his absence from duty for the period from 30.8.98 to 8.9.98 while submitting the application for leave for the absence. The applicant submitted his reply to the show cause and stated that he does not know remember what was stated in his application for leave as the same was written by office colleague.

4.14 - That the applicant states that an enquiry proceeding was held on 31.5.02 in the office of the SSE/Coaching ,Guwahati where the charges framed against the applicant vide Memorandum No.M-240/GHY/2 dated - 1.4.2000 issued by COD/JAG/GHY have enquired into.

4.15 - That the appellant stated that the enquiry proceeding report dtd.31.5.02 was received by him on 25.6.02 which was sent by the DME,N.F.Railway for his further representation to the disciplinary authority within 15 days of receipt of this letter.

4.16 - That the applicant states that after receiving the enquiry report he made a representation on 1.7.02 to the Sr.D.M.E. ,N.P.Railway praying for the copies of his first show cause dtd.1.4.2000 along with the charges since he had lost the papers and for that now without the copies he has not in a position to give effective reply. We also pray for extension of his time period for submission of his reply to the competent authority.

4.17 - That the applicant further states that as there was no response from the respondent side in the matter of his representation dtd. 1.7.02 he made another representation on 25.7.02 to the Sr.D.M.E., N.F.Railway, Lumding praying for the copies of his Ist. show cause dated 1.4.2000.

4.18 - That the applicant states that the Sr.D.M.E., N.F.Railway, Lumding vide its order dated 12.8.02 has not considered his prayer and charges had been held to be proved against him. By this order dtd. 12.8.02, the applicant was also removed from service treating 15.9.98 to 21.2.2000 as suspension period.

The order copy dtd. 12.8.02 is enclosed  
herewith and marked as ANNEXURE - I.

4.19 - That the applicant filed an appeal on 26.8.02 to the Divisional Railway Manager, N.F.Railway, Lumding against the order dtd. 12.8.02 praying to set aside this order and further he prayed that the order dtd. 12.8.02 may remain suspended till final disposal of the appeal.

4.20 - That the applicant states that the Sr.D.M.E., N.F.Railway, Lumding vide its Order dtd. 18.11.02 had regretted the appeal dtd. 26.8.02 filed by the applicant directing the punishment to be remained in force.

4.21 - That the applicant again filed an application being O.A. No. 404/2002 for setting aside /quashing the order dtd. 12.8.02 passed by the Sr.D.M.E., N.F.Railway, Lumding in which the applicant was removed from service treating 15.9.98 to 21.2.2000 as suspension period without further service benefits.

4.22. That the Hon'ble Tribunal by its order dtd. 17.6.03 has disposed of the O.A.No-404/2002 directing the Respondents to re-instate the applicant in service with all consequential service benefits without any back wages .

A copy of the Order dtd. 17.6.03 is annexed herewith and marked as ANNEXURE -2.

4.23. - That the Railway authorities have approached before the Hon'ble High Court challenging the Tribunal's Order dtd. 17.6.03 ,but the Hon'ble High Court by its order dtd. 25.11.03 have been pleased to reject the application upholding the order passed by the Hon'ble Tribunal in O.A. No. 404/2002.

4.24. - That in compliance with the above order , the applicant have been allowed to join his service by order dtd-29.1.04 in the original post of C.P.,Grade III and accordingly the applicant have resumed his duties as C.P., Grade III.

4.25. - That during the pendency of the enquiry by Order dtd.20.5.02 ,the applicant was entitled to be promoted to next Grade i.e,Grade II.But since the enquiry has pending by order dtd.1.9.04 issued by the sr.sec.Engineer ,CCHG., N.P.Railway ,the order of promotion was given effect to only from 29.1.04 when the applicant was reinstated in service and his pay is fixed at Rs.4000/- .

Copy of the order dtd.1.9.04 is enclosed herewith and marked as ANNEXURE -3.

4.26. - That again by order dtd.20.5.05 ,the applicant has temporarily promoted to the post of Technical Gr.I in scale of Rs.4,500 -7000/- and posted at their existing

place of working against the over all vacancies with immediate effect.

4.27 - That since the order of removal from service has been set aside by the Tribunal and the applicant was re-instated in service, he is entitled to full salary for the period of suspension with effect from 15.9.98 till date of resumption of duty and again for the period from 12.8.02 to 29.1.04.

4.28 - That the applicant made representation before the Divisional Manager, N.F.Railway, Lumding and the General Manager, N.F.Railway, Maligaon and requested them for payment of his salary during suspension period with effect from 15.9.98 till date of resumption of duty and again for the period from 12.8.02 to 29.1.04.

Copies of representations dtd. 16.8.04 and 29.8.05 is annexed herewith and marked as ANNEXURES 4 & 5 respectively.

4.29 - That this application is made bonafide and for the interest of justice.

5. GROUND FOR RELIEF :

5.1 - That the prayer of the applicant for the back wages during suspension period was not granted by the Respondents is bad in law.

5.2 - That under Chapter 4 of Central Civil Services (Classification Control and Appeal) Rules, and as applicable under the Railway Act, it is stated that a Govt. servant under suspension is entitled to subsistence and other allowances from the date and during the period of suspension under the statutory provisions of FR 53.

Believed with Rajkumar.

-8-

5.3 - That under Chapter 5 of the Central Civil Services (Classification Control and Appeal) Rules and as applicable under other Railways Act, it is also stated that when the dismissal, removal or compulsory retirement of a Govt. servant is set aside by a Court of Law/Administrative Tribunal on the merits of the case, without any reservation, full pay and allowances are to be allowed to the Govt. servant on reinstatement for the entire period of absence including the period of suspension and the entire period has to be treated as duty for all purposes.

5.4. - That the applicant is legally entitled for the payment during his suspension period and for the entire period of his absence and the Respondent Authorities depriving from his legal rights of payment is very much arbitrary and illegal.

5.5. - That there are clear legal provision that a Central Govt. servant is entitled to full pay and allowances during suspension period after reinstatement and hence the Respondent authorities cannot deprive the applicant from his legal right by not paying his salary and other allowances.

5.6 - That the authorities are legally bound to make an order in that respect immediately after the reinstatement but in the case of the applicant no such order has been made.

#### 6. REMEDIES EXHAUSTED :

The applicant declares that he has no other alternative remedies except by way of filing this application before this Hon'ble Tribunal.

20  
The undersigned oath by this date.

-9-

**7. Matter not previously filed or pending  
before any other Court.**

The Applicant further declares that he has not filed any application, writ petition or any suit regarding the subject matter in respect of which this application has has been made before this Hon'ble Tribunal or no such application or writ petition is pending before any of them.

**8. RELIEF SOUGHT FOR :**

Under the facts and circumstances of the aforesaid, the applicant prays for full pay and allowances on reinstatement for the entire period of absence including the period of suspension.

**9. INTERIM RELIEF Prayed For :**

During pendency of the application, the applicant prays that at least one third of the amount payable to the applicant during his absence period may be allowed.

**10. That this application is filed through an Advocate.**

**11. PARTICULARS OF POSTAL ORDER:**

I. I.P.O. No - 28 G 980579

II. DATE - 9.1.07

III. Payable at Guwahati

**12. List of Enclosures : As per index.**

VERIFICATION

I, Sri Deben Rajkhowa, son of late Chala Ram Rajkhowa, aged about 59 years, resident of New Guwahati, do hereby verify and state that the statements made in paragraphs 1, 2, 3, 4.1 to 4.17, 4.19 to 4.21, 4.23, 4.24, 4.26 to 4.29 are true to my knowledge and these made in paragraphs 4.18, 4.22, 4.25 are true to my information derived from the records.

I am duly authorised to sign this Verification and I have not suppressed any material facts.

I sign this Verification on this 11<sup>th</sup> day of Jan'07 at Guwahati.

*Deben Deo Seth Rajkhowa.*

SIGNATURE

NOTICE FOR IMPOSITION OF PENALTY OF REMOVAL FROM RAILWAY SERVICE

N. S/52(Misc).

Dated : 12.08.02.

To

Sri DEBENDRA NATH RAJKHWA,  
 Father's Name : Late Chaki Ram Rajkhowa,  
 Department : Mechanical ( Carriage & Wagon ),  
 Designation : Carriage Fitter Grade III/Guwahati,  
 Date of Birth : 31.12.1948,  
 Date of appointment : 26.02.1976,  
 Scale of Pay : Rs. 3050-4590/-,  
 Present pay : Rs. 3425/-,  
 Station : Guwahati.

Your reply dated 01.07.02 to the Show Cause Notice dated 26.6.02 has not been considered by SR. DME/LMG and the following charge have been held to be proved against you.

CHARGES

That Sri D.N.Rajkhowa while functioning as C.F. Gr.III under SSE/C/GHY was absenting from his duty from 31.08.98 to 09.09.98 and appeared in the office of SSE/C/GHY on 10.09.98 and submitted an application stating that he couldn't attend duty from 31.08.98 to 09.09.98 due to family trouble.

The declaration of Sri Rajkhowa on 10.09.98 proved to be a false declaration since he was under Judicial Custody on a Criminal Case during the period of absent from 31.08.98 to 09.09.98.

This act of Sri EXN D.N.Rajkhowa by suppressing fact tantamounts to gross misconduct and violation of Rule 3.1(1) of Rly. Service Conduct Rule 1966.

That Sri D.N.Rajkhowa while working as Group 'D' employee under SSE/C&W/NGC was convicted by SRM/GHY on a Criminal Case U/S 3(a) RP(UP) Act and Sentenced to pay fine Rs.2,000/- i/d. R.I. for Six months consequently Sri Rajkhowa was under Judicial Custody from 31.08.98 to 08.09.98 and paid a fine of Rs.2,000/- being convicted in the said Criminal Case and suffered the sentence of paying fine of Rs.2,000/- i/d. R.I. Six months.

The above act on the part of Sri D.N.Rajkhowa tantamounts to gross misconduct and violation of Rule 3.1(1) & (iii) of Rly. Service Conduct Rule 1966.

ORDERS OF DISCIPLINARY AUTHORITY

Reply to the Show Cause Notice by Sri D.N.Rajkhowa, Carriage Fitter Grade III under SSE/Coaching/GHY is not accepted. Sri Rajkhowa concealed the fact that he was sentenced to a fine of Rs.2,000/- i/d. R.I. for 6 months for Stealing Railway Materials and when he failed to pay the fine of Rs.2,000/- he was in jail from 31.08.98 to 09.09.98.

So, Sri Rajkhowa is awarded a punishment of ' Removal from Railway Service ' which will become operative from 01.09.2002.

Suspension period from 15.09.98 to 21.02.2000 is treated as Suspension.

An appeal against this order lies to DRM/LMG within 45 days on receipt of this office order.

Certified to be true copy  
 Krishnam  
 Adv.

SR. DME/N. F. RLY./LMG.

P. T. O.

1/2/02

Copy to :-

SR. DPO/LMG ,

APO/GHY ,

SSE/Coaching/GHY ,

CDO/GHY .

for kind information and necessary  
action accordingly.

SR. DME/N. F. RLY./LMG .

Received by  
Mr. Rajkumar  
CFO/GRM/GHY  
on date of 16-8-2002  
time 11.30 (hours).

**CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,**  
C.M. of 2002.

Original Application No. 404 of 2002.

Order shall appear on the 17th day of June, 2003.

The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman  
Administrative Member.

The Hon'ble Mr. Justice —  
The Hon'ble Mr. R.K. Upadhyaya, Administrative Member.

— 10 —

1. Union of India,  
represented by the Chief General Manager,  
N.F.Railway,  
Malligaon, Guwahati-11.

2. The Chief General Manager,  
N.F.Railway, Malligaon.

3. Sr. D.M.R., N.F.Railway,  
Lumding.

4. The Coaching Depot Officer,  
N.F.Railway, N Guwahati.

..... Respondents.

By Dr M.C.Sarma, Railway standing counsel.

## Q R D E R (ORAL)

CHOWDHURY J.-(V.C.)

The applicant at the relevant time was working as a Carriage Fitter Grade-III. A disciplinary enquiry was initiated against the applicant under Rule 9 of the Railway Servants (Discipline & Appeal) Rules 1968. Among others, the applicant was charged for the alleged misconduct for suppressing the fact of detention. The full text of the statement of imputation in respect of the charge reads as follows :

"that Shri D.N.Rajkhowa while fm working as C/F Gr.III under SSE/C/GHY was taken into police custody by EPF/NGC(P) on 30/8/98 on the strength of an arrest warrant issued by SRM/GHY against a criminal case. Thereafter Shri Rajkhowa kept under judicial custody from 31/08/98 to 08/9/98 having failed to pay a fine of Rs.2000/- being convicted in the said criminal case.

### cont'd. .2

certified to be true copy  
Physician  
adv.

39 4

Shri Rajkhowa after being released from judicial custody appeared in the office of SSE/C/GHY on 10.9.98 and wanted to join duty on a false declaration that he could not attend duty from 31/08/98 to 09/9/98 due to family trouble.

Thus Shri Rajkhowa suppressed the fact by submitting a false declaration which tantamount to gross misconduct and violation of Rule 3.1(I) of Rly. Service Conduct Rule 1966."

The applicant submitted his reply in writing before the authority. An enquiry was conducted through an enquiry officer. The enquiry officer submitted his report holding the applicant guilty of the charges. Copy of the enquiry report was also furnished to the applicant. The applicant submitted his reply to the show cause notice dated 26.6.2002 and by the impugned order the applicant was found guilty of the charges and penalty was imposed on the applicant thereby removing him from Railway service. The applicant preferred an appeal before the appellate authority. By its order dated 18.11.2002 the appellate authority dismissed the appeal. Hence this application assailing the legality and validity of the order of removal.

2. We have heard Mr D.P.Chaliha, learned Sr.counsel appearing for the applicant and also Mr M.C.Sharma, learned Railway standing counsel at length. Mr Chaliha, the learned Sr. counsel submitted that the authority arrived at a finding holding the applicant guilty of the charge without taking into account the relevant records. Dr Sharma, the learned Standing counsel for the respondents on the other hand contended that a full fledged enquiry was conducted, considering all the relevant aspects of the matter. In the applicant was found guilty of the charges and accordingly the order of punishment was passed.

3. We have perused the report of the enquiry officer. The enquiry officer observed in his report that the applicant was convicted for the offence. He then referred to the

application of the applicant dated 10.9.98 praying for resumption of the duty, the enquiry officer found that the stand taken by the applicant was not correct and found him guilty of the charge for suppressing the fact in his application dated 10.9.98 praying for resumption of duty. According to the respondents the very application for resumption dated 10.9.98 itself indicated the fact that the applicant was absent due to his detention of policy custody. We have already cited the charge which itself indicated that applicant wanted to join duty on a false declaration which is placed before us. The applicant was asked by the enquiry officer as to the fact that the applicant was in policy custody from 31.8.98 to 8.9.98 on the strength of an arrest warrant issued by SRM/GHY having been failed to pay a fine of Rs.2000/- . The answer was affirmative that he was in police custody for his failure to pay the fine. Then the enquiry officer asked him the following questions. "After being released from judicial custody you appeared in the office on 10.9.98 and applied to resume duty giving the reason of your absence as family trouble. It means that you have concealed the fact to the office regarding the cause of your absence, do you accept this ?" The applicant answered that he exactly did not remember as to what was written in his application as he was an illiterate staff and the same was written by somebody and he just signed it. He was again asked by the enquiry officer whether he could produce a copy of the said application. The reply of the applicant was negative. The finding of the enquiry officer to the effect that applicant accepted the report cannot ipso facto lead to a conclusion that applicant concealed the fact for his absence. The applicant in the

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enquiry did not accept the charge of concealment. The very application dated 10.9.98 was not before the enquiry officer. On the other hand the enquiry officer rejected the plea of the applicant that he did not know what was written in his application. According to enquiry officer the application was lying with the DRM(B). The enquiry officer while reaching the conclusion ought to have satisfied as to the existence of the application. The disciplinary authority accepted the enquiry report and found the applicant guilty of the charge. For his arrest which even before the enquiry officer admitted the fact that he was in fact arrested and kept in police custody for the aforesaid charge, the finding of the disciplinary authority holding the applicant guilty of suppression therefore cannot be sustained. An appeal was preferred and the appellate authority did not consider those aspects of the matter and held in the order that " applicant was taking shelter behind so called procedural shortcomings". The finding reached by the Enquiry Officer, and thereby holding the applicant is patently perverse and unsustainable in law. The disciplinary authority mechanically accepted the findings of the disciplinary authority and imposed the penalty of removal without applying its mind. The findings of the Appellate authority suffers from the similar vice. The impugned order of removal dated 26.6.2002 upheld by the Appellate Authority vide order dated 18.11.2002 are thus unsustainable in law. The orders imposing penalty are liable to be set aside and thus set aside. The respondents are directed to reinstate the applicant in service with all consequential service benefits without any back wages.

The application thus stands allowed. No order as to costs.

Certified to be true Copy  
Certified by  
S. D. T. 25/6/03

Section Officer (S)  
C.A.T. GUWALIJI BANCH  
Guwahati-781005

by D. D. T.  
Sd/- M. P. D. T. (S)

26/6/02  
26/11/04  
D. D. T.

13/6/03

N.F.Railway

No. E/283/GHY/1/04

Dated 01.02.2004

From. Sr. SE (C/Y's) GHY  
N.F.Rly

To DRm(P) UNG  
N.F.Rly.

Sub- ~~Re~~ Effect of Promotion as Tech/II(CP) in scale  
Rs. 4000-6000/- from his junior promoted i.e. w.e.f.  
25.2.2002 on external basis and monetary benefit  
should be accrued from the shouldering higher  
responsibility w.e.f. 29.1.2004.

Ref - DRm(P) UNG's of order No. E/283/1/un (2nd) Pt. IV  
dtd. 14.7.2004.

In ref. to the DRm(P)/UNG's of order cited above  
, I like to inform you that Sri Debendra Nath Rajkhowa, Tech/III  
(CP) now as Tech/II(CP)Ghy has been removed from Rly. Service  
which operative from 1.9.02 to 28.1.04 vide DME /LMG's L/No-  
G/58 (Susp) dtd. 12.8.2002 and accordingly allowed to resume  
duty on 29.1.2004 vide Sr.CDO/GHY's of order no.M-240/GHY  
dt. 29.1.2004 on pay Rs.3425/-

Further he has been promoted to the post of Tech/II  
(CP) in scale Rs. 4000-6000/- is hereby temporarily promoted  
to Tech/II (CP) from the date of his junior Promoted w.e.f.  
25.5.2002 on national basis accordingly his pay is hereby  
fixed at Rs. 4000/- and monetary benefit should be accrued from  
the date of shouldering higher responsibility w.e.f. 29.1.2004  
vide DRm(P)/UNG's of order no. E/283/1/UN (red) Pt. IV dt. 14.7.04.

It is noted that ,date of Promotion effected as  
earlier fixed on Promotion as Tech/II(CP) of Sri D.N.Rajkhowa  
vide this office even no.dtd. 20.8.2004 is now hereby date of  
Promotion refixed on 29.1.04.

This is as ordered by Sr.CDO/GHY.

This is for your information and no action please.

Sd/- Illegible

1.9.04

Copy to-Apo/GHY, N.F.Rly  
for information please

Sr. section Engineer (C.H.G.)  
N.F.Rly, Guwahati.

Sd/- Illegible

1.9.04.

Sr. section Engineer (C.H.G.)  
N.F.Rly Guwahati.

certified to be true copy  
Jagluna  
Adv.

*Belendu Nath Pathak*

To The Divisional Manager  
N.F. Railway, Lumding.

Through The Sr. Coaching Depot Officer,  
N.F. Railway, Guwahati

Subject Prayer for fixing the pay scale on the basis  
of promotion.

Ref. 1. Office order dated 20.5.02 issued by the  
Divisional Railway Manager (P) N.F. Railway  
Lumding.

2. Office order dated 29.12.02 issued by the  
Sr. CDO, Guwahati.

Sir,

Most respectfully I beg to state that I am  
a Group D employee under the N.F. Railway and is at  
present working in the Guwahati Railway Station under  
D.B.O Guwahati as of Grade III. By an order dated  
20.5.2002 I have been promoted to the post of Technician  
Grade II(C.F) in the scale of Rs.4000-6000/- passed  
by the Senior Divisional Manager (P) Lumding. The said  
order of promotion was however withheld due to the  
pendency of DAR.

It may be mentioned pending departmental  
proceedings I was put under suspension by order dtd.  
15.9.98. The said order of suspension was subsequently  
vacated and I was allowed to resume my duty. After  
conducting an enquiry on the charges brought against  
me. The enquiry was initiated and by order dated 12.8.02  
I was ordered to be removed from service. The departmental

*certified to be true copy  
Rejbumon  
A.D.V.*

....2

appeal having been dismissed by order dated 18.11.02, the said orders were ~~not~~ challenged before the Central Administrative Tribunal, Guwahati. The Hon'ble Tribunal in Case No. C.A 404/02 after hearing the parties by order dated 17.6.03 disposed of the application directing the railway authorities to reinstate me in service. The said order of the Tribunal was challenged by the Railway authorities before the Hon'ble High Court and the Hon'ble High Court by its order dated 25.11.03 have been pleased to reject the application upholding the order passed by the Hon'ble Tribunal.

In compliance with the above orders I have been allowed to join my services by order dtd. 29.1.04 in the original post of C.F. Grade III. Accordingly I have resumed my duties as C.F Grade III.

That since the order of promotion dated 20.5.02 as Tech/Grade II(C.F) was withheld due to the pendency of the DAR and the said Departmental proceedings having been decided in my favour and the punishment imposed having been set aside. I am entitle to the benefits of promotion from the date of the order i.e., from 20.5.02.

It is therefore submitted that necessary

directions be issued allowing me to the promoted post as Technician Grade II (C.F) and allow me to draw the salary of Rs. 4000-6000/- with effect from the date of promotion.

Debendra Nath Rajkhowa,  
Yours faithfully,

Dated 16-8-2004

( Debendra Nath Rajkhowa )

- 21 -

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To

The Divisional Railway Manager (P)  
N.F.Railway, Lumding, Assam.

Sub:- Prayer for salary during the period from  
12.08.2002 till date of Joining on 29.1.2004.

Dated - 29.8.03

Sir,

I am presently working as Technical Grade-I under the Railways. A D.P. was initiated against me and enquiry was conducted and by order dtd. 12.08.02 I was ordered to be removed from service. The said order of removal from service has been set aside by the Central Administrative Tribunal by its order dtd. 17.6.03 in O.A. case No. 404/02, I was ordered to be reinstated in service on and from 29.1.04.

During the pendency of the enquiry by order dtd. 20.5.02 I was entitled to be promoted to next Grade. But since the enquiry has pending the order of promotion was given effect to only from 29.1.04 when I was reinstated in service.

Since the order of removal from service has been set aside by the Tribunal and I am reinstated in service and as such, I am entitled to full salary for the period of suspension w.e.f. 15.9.98 till date of resumption of duty and again for the period from 12.08.02 to 29.1.04.

I am presently on medical leave and was under treatment in the Railway Hospital, Maligaon as an Indoor patient and Doctors have advised me to undergo an operation of the stomach.

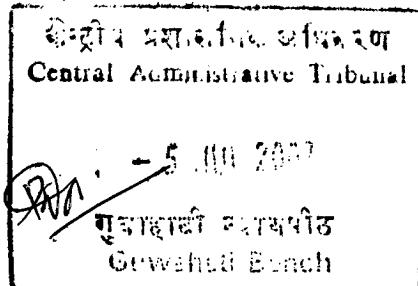
certified to be true copy  
Rajma  
Adv.

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-2-

You are therefore requested to pass necessary  
orders in the matter and reduce my salary for the aforesaid  
period at an early date.

Yours faithfully  
Debendra Nath Rajkhowa.  
(Debendra Nath Rajkhowa )  
C.F/Gr.I, Guwahati.



31  
File No. 5/10/2007  
Central Administrative Tribunal  
Guwahati Bench  
Sri D.N. Rajkowa ....., Applicant.  
-Vrs-  
Chief General Manager,  
N.F.Railway & ors. .... Respondents.  
IN THE MATTER OF :  
WRITTEN STATEMENT BY RESPONDENTS.  
The Answering Respondents most respectfully sheweth :  
1. That the answering Respondents have gone through the copy of the application filed by the above named Applicant and understood the contents thereof. Save and except the statements which have been specifically admitted herein below or those which are borne on records all other averments/allegations made in the applications are hereby emphatically denied and the application has put to the strictest proof thereof.  
2. That for the sake of brevity meticulous denial of each and every allegation/statement/averment made in the application has been avoided. However, the answering Respondents confined their replies to those points/allegations/averments of the application which are found relevant for enabling a proper decision on the matter.  
3. That the Respondents beg to state that for want of the valid cause of action for the applicant the application merits dismissal as the application suffers from wrong representation and lack of understanding of the basic principles followed in the matter as will be clear and candid from the statements made herein.  
4. That it is stated that the application is not tenable in the eye of law for MIS JOINDER and NON-JOINDER of the necessary parties. The Applicant has impleaded the Respondent No.1 as the Chief General Manager, N.F.Railway, Maligaon to represent  
Contd....P/2...the

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the Union of India. It is for the kind information of this Hon'ble Tribunal that there is no such Post in the name of Chief General Manager, N.F.Railway, Maligaon to represent the Union of India. The applicant does not know to implead the necessary parties as before incorporating the designation of the Chief General Manager for representing the Union of India as respondent No.1 he should have been convenience himself and get the matter verified as to whether there exists such a Post in the name of Chief General Manager, N.F.Railway. This is a serious infirmity in filing the Original Application before the Court of law and hence, on this score alone the application is liable to be rejected in limine along with other like infirmities.

5. That the answering Respondents respectfully submit that with regard to the statements made under Paragraphs 4.1 to 4.6 by the applicant who is presently working as Technician Grade-I (Carriage fitter) under Senior Section Engineer ( C & W), Guwahati, these are the averments based on official records and are admitted to the extent they are related in the instant case.

6. That with regard to the statements made under paragraph 4.7 of the O.A., it is stated that the suspension order which was made effective from 30.8.98 to 21.2.2000 was revoked vide order No.M-240/GHY/1 dated 14.3.00.

7. That with regard to the statements made under Paragraphs 4.8 to 4.10 it is stated that the Applicant's submission are not correct. The applicant may be advised to adduce documentary evidence in support of his statement made in this paragraph to establish the veracity of his statement. Uncorroborated statements leads only to the confusion and wastage of Court's valuable time in the litigation which is not at all acceptable and desirable in courts of Law. The Respondents, however, admit only those facts which are borne on records.

8. That with regard to the statement made under paragraph 4.11 it is stated that after revocation of the suspension order dated 22.2.00 as mentioned in response to the paragraph 4.7 of the O.A. above was made corrected vide order dated 14.3.2000 for the period from 30.8.98 to 21.2.2000. In the said order the applicant was informed that his arrear pay and allowances for the suspension period effecting from 30.8.98 to 21.2.2000 would be kept in abeyance till the matter of the case of his suspension was finally settled.

Contd.....P/3.

It is further stated that the Hon'ble CAT vide order dated 4.5.01 passed in O.A No.427/99 held that the matter of the O.A. became infructuous observing " since the order of suspension has been revoked, the respondent authority shall pass consequential order as per law". The respondents being law-abiding complied with the orders of the Hon'ble CAT and after regularization of the suspension order of the applicant necessary proceeding were drawn against him and it was decided by the competent authority for imposition of the penalty for removal from service with effect from 01.09.2002 after observing all formalities as per DAR 1968 and giving him all reasonable opportunities and also regularized his suspension period stated above as "suspension" and the case proceeded as per prevailing system and rules.

9. That with regard to the statement made under Para 4.12 in the O.A it is stated that the respondents are stunned to see the absurdity in making of the averment by the applicant in the name of the Hon'ble Tribunal's order. The Hon'ble Tribunal has never passed such type of order in its order which the applicant himself annexed as Annexure-8 in the O.A. It is not understood as to wherefrom such unhappened matter has been incorporated by the applicant in his proposition in making the averment before the Hon'ble Court of law so as to camouflage and confuse the judiciary to secure justice for the matter which are never cropped at all. The applicant's submission of this O.A is liable to be rejected in limine on this score alone and also necessary costs to be awarded for his misrepresentation of facts in the name of Judiciary.

10. That with regard to the averments made under paras 4.13 to 4.18 in the O.A. the respondents submit that as per service Rule the suspension period can not be regularized and no arrear salary for the period of suspension can be paid to the delinquent employee unless the Disciplinary Proceeding levelled against him are finalized. Regularisation of suspension period and payment of salary during the period of suspension are decided on the basis of the outcome of the disciplinary proceeding. The Respondents, however, after following the necessary procedural laws and rules imposed the punishment to the delinquent employee, herein the Applicant, the penalty of removal from service with effect from 01.09.2002 by issuing the Notice of Imposition of Penalty vide No.G/58 (Misc) dated 12.8.02.

Photo copy of the aforementioned order is annexed as ANNEXURE- |

Contd...P/4..That..

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11. That with regard to the averments made in Paras 4.19 and 4.20 the Respondents admit the facts only to the extent to those are borne on records and deny the others.

12. That with regard to the averments made under paragraphs 4.21 and 4.22 the applicant filed the O.A No.404/02 challenging the penalty of removal from services before the Hon'ble CAT, Guwahati. The Respondents, however, as directed by the Hon'ble Tribunal vide its order dated 17.6.03, complied with the orders and reinstated the applicant in service from the date of his removal i.e. from 1.9.02 to the Post of Carriage Fitter, Grade-III in Scale Rs.3050-4590/- on fixation of pay of Rs.3425/- per month without "back wages" <sup>as per</sup> the order passed by the Hon'ble Tribunal under O.A. No.404/02. So the averments made by the Applicant in this O.A. are also of contradiction of his earlier statement.

13. That with regard to the averments made under paragraphs 4.23-4.24 the Respondents admit the averments of the Applicant only to the extent of the facts borne in records and deny the others.

14. That with regard to the averment made under para 4.25 in the O.A. the Respondents submit that since DAR Proceeding was pending against the Applicant for the reasons stated in the Charge Sheet, the Applicant was not considered for promotion to the Post of Carriage Fitter, Grade-II as per Rule. It was only possible to consider his case by the Respondents and give him the necessary benefits as per his entitlement and also following the orders of the Hon'ble Tribunal only after the finalization of the DAR proceeding initiated against him for the reasons mentioned in the said Memorandum of charges. He was reinstated in service with effect from 1.9.02 and no back wages for the period of his out of employment including the period of his suspension was paid save and except the subsistence allowances and other payable as per Rules were paid to him as admissible. The Applicant, however, on his reinstatement was considered for promotion by the competent authorities and promoted him to the post of Carriage Fitter, Grade-II in Scale Rs.4000-6000/- with effect from 25.5.02 to the extent of his immediate junior and monetary benefit was given to him with effect from 29.1.04 i.e. from the date of his shouldering the responsibilities and duties in the higher grade of promotion i.e. Carriage Fitter, Grade-II.

15. That with regard to the averment made under paragraph-4.26 the Respondents

Contd....P/5..admit..

admit the facts only to the extent of which are borne on records and the rest are denied.

16. That with regard to the averment made under paragraph 4.27 in the O.A. it is submitted that the Hon'ble CAT's order dated 17.6.03 passed in O.A. No.404/2002 is very much clear and candid that he was given the order for reinstatement in service and other consequential relieves as admissible but he was not made entitlement to "any back wages". As such, the allegations brought by the Applicant against the Respondents in his averment under this paragraph is not tenable in the eye of law and also is denied altogether and the Respondents had not done anything which may cause injustice to the Applicant as he has contemplated and made submission in the O.A. for his relief.

17. That with regard to the averment made under paragraph 4.28 the Applicant is put to the strictest proof of having any acknowledgment of the Annexures 4 and 5 of the O.A. as he has alleged. There are no such Annexures named as Annexures-4 and 5 of the O.A. as it appears, at least these Annexures are not supplied to the Respondents, if at all annexed to the Original Application. The Respondents are totally ignored to those Annexures as to what the Applicant mean by mentioning such Annexures. It is stated that keeping totally ignorant about the annexures the Applicant means in his averment is also not desirable in the eye of law and accusing Respondents falsely for the submission of Annexure which was not brought to the notice of the Respondents or were not served to the Respondents. It was the bounden duty of the Applicant to handover the copies of notices and petitions to be served to the Respondents for which the Applicant has become a failure here in this O.A. if at all the Annexures as alleged he had enclosed with the O.A. However the Respondents submit that they have complied fully with the orders of the Hon'ble Tribunal passed in the O.A. No.404/02 and there had never anywhere mentioned anything in the name of payment of back wages for the period which he has not worked and remained out of employment.

18. That with regard to the averment made under paragraph 4.29 the Respondents prayed that the O.A. may be treated as barred by limitation and hence, is not tenable in the eye of law in addition it is being devoid of any merit at all.

19. That the Respondents respectfully submit for the reasons mentioned above and

Contd....P/6..also..

also others scores which the Hon'ble Tribunal may find in the course of its adjudication for which reasons the instant O.A. may be dismissed with cost.

20. That with regard to the averments made under the ground for relief in the Paragraphs 5.1 to 5.6 the Respondents submit that the Applicant's submission are not sustainable as per Respondents own set of Rules and system. The Respondents have their own set of Rules framed under Article 309 delegated by the President of India and all employees within the ambience of Railways Net Work are guided by the Railways' own system and Rules. The Central Civil Services Rules have got the other centralized services but not applicable in the Railways level so long they are not inconsistent with the Rules made under various Codal Provisions and the Circulars made by the Railway Board. The Applicant being a Railway employee is guided by the Railway's Rules and system and there is no such provision for payment of back wages to an employee for the period for which he/she was out of employment and/or did not perform any work for the reasons whatsoever nature. As such, the context of the Applicant in his submission under the head, Ground, for relief are not sustainable and the Respondents humbly pray that the instant O.A. may be dismissed.

21. That the Respondents beg to state that additional Written Statement or Re-joinder may be submitted by the Respondents, if necessary, and for which reason the Respondents respectfully crave leave of this Hon'ble Tribunal.

-VERIFICATION-

I, Sri Nitrode Baran Das....., son of Lt. Rabindra Nath Das....., aged about 57 years, working as D.P.O....., at Lumding.... under the .....N.F.Railway, Maligaon.....Lumding....., and being authorized by the other Respondent in the O.A mentioned above, do hereby solemnly affirm and verify that the contents of Paragraph.....1. To 17..... are the facts of the case and true to my knowledge, information and belief and that I have not suppressed any material facts and paragraphs.....18 To 21..... are my humble and respectful submission before this Hon'ble Tribunal.

And, I signed this VERIFICATION on this 6.th day of .....July....., 2007.

Place: Guwahati

Date 04.07.07.

Nitrode Baran Das  
SIGNATURE OF THE DEponent.

नितोदे बारन दास

१० सी० रेलवे, लामहिंग

Divisional Personnel Offices

C. P. Railway, Lumding

To  
 Sri DEBENDRA NATH RAJKHOWA,  
 Father's Name : Late Chaki Ram Rajkhowa,  
 Department : Mechanical (Carriage & Wagon),  
 Designation : Carriage Fitter Grade III/Guwahati,  
 Date of Birth : 31.12.1948,  
 Date of appointment : 26.02.1976,  
 Scale of Pay : Rs. 3050/- 4590/-,  
 Present Pay : Rs. 3425/-,  
 Station : Guwahati.

Your reply dated 01.07.02 to the Show Cause Notice dated 26.01.02 has not been considered by SR.DME/LMG and the following charge has been held to be proved against you.

#### CHARGES

That Sri D.N. Rajkhowa while functioning as C.P. Gr. III under SSE/C/GHY was absenting from his duty from 31.08.98 to 08.09.98 and appeared in the office of SSE/C/GHY on 10.09.98 and submitted an application stating that he couldn't attend duty from 31.08.98 to 08.09.98 due to family trouble.

The declaration of Sri Rajkhowa on 10.09.98 proved to be a false declaration since he was under Judicial Custody on a Criminal Case during the period of absent from 31.08.98 to 08.09.98.

This act of Sri H.M. D.N. Rajkhowa by suppressing fact tantamount to gross misconduct and violation of Rule 3.1(1) of Rly. Service Conduct Rule 1966.

That Sri D.N. Rajkhowa while working as Group 'D' employee under SSE/C&W/NGC was convicted by SBI/GHY on a Criminal Case U/S 3(a) RP (UP) Act and sentenced to pay fine Rs. 2,000/- 1/d. R.I. for Six months consequently Sri Rajkhowa was under Judicial Custody from 31.08.98 to 08.09.98 and paid a fine of Rs. 2,000/- being convicted in the said Criminal Case and suffered the sentence of paying fine of Rs. 2,000/- 1/d. R.I. Six months.

The above act on the part of Sri D.N. Rajkhowa tantamounts to gross misconduct and violation of Rule 3.1(1) & (iii) of Rly. Service Conduct Rule 1966.

#### ORDERS OF DISCIPLINARY AUTHORITY

Reply to the Show Cause Notice by Sri D.N. Rajkhowa, Carriage Fitter Grade III under SSE/Coaching/GHY is not accepted. Sri Rajkhowa concealed the fact that he was sentenced to a fine of Rs. 2,000/- 1/d. R.I. for 6 months for Stealing Railway Materials and when he failed to pay the fine of Rs. 2,000/- he was in jail from 31.08.98 to 08.09.98.

So, Sri Rajkhowa is awarded a punishment of ' Removal from Railway Service ' which will become operative from 01.09.2002.

Suspension period from 15.09.98 to 21.02.2000 is treated as Suspension.

An appeal against this order lies to DRM/LMG within 45 days on receipt of this office order.

Adm'd  
M.D. 65/1  
04.07.02  
ADM 65/1