

3

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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✓ O.A./TA/ NO. 40 2019
R.A./CP/NO. 2015
E.P./M.P./NO. 2015

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SECTION OFFICER (JUDL.)

10/07/2015

9.3.2015

ORDERSHEET

1. Original Application No: 40/2009

2. Miscellaneous Petition No

3. Contempt Petition No

4. Review Application No

Applicant(s) Abirca Poddar

Respondant(s) M.O.I Jore

Advocate for the Applicant(s): Mr. Barun Chatterjee
Jayjit Datta

Advocate for the Respondant(s): 6 Railway Counsel

Notes of the Registrar	Date	Order of the Tribunal
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Application is in form
of Form F. Fee Rs. 50/-
d. 13.2.09 PC/BD
No. 386/108365
D. d. 23.2.09

[Signature]
Dy. Registrar
13.2.09

21/2/09

Steps taken with
envelops. Copy served.

[Signature]
21/2/09

Received plain copy of
order sheet dated 23.03.09

Jayjit Datta
Advocate
23.03.2009.

23.03.2009

For the reasons recorded separately,
this case stands disposed of.

[Signature]
23/03/09
(M.R. Mohanty)
Vice-Chairman

/pb/

24.3.09

Copy of order

2nd 23.3.09 along-

with copy of the applicant's
Send to the D/Sec. for
Issue the line to the
Respondents and copy of
the order to the Applicant
and A/Advocate for the
Rly.

24/3/09

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 40 of 2009

DATE OF DECISION : 23.03.2009

Smt. Abira Poddar

.....Applicant/s

Mr. Joyjit Dutta and Mr. Rabindra Chandra Paul, Advocates

..... Advocate for the
Applicant/s.

- Versus -

U.O.I. & Ors

.....Respondent/s

Dr. J. L. Sarkar, Railway Standing Counsel

..... Advocate for the
Respondents

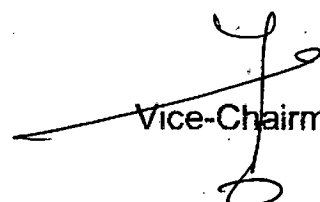
CORAM

THE HON'BLE MR.MANORANJAN MOHANTY, 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 their Lordships wish to see the fair copy of the Judgment? Yes/No[✓]


Vice-Chairman

9

1

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI :

Original Application No. 40 of 2009

Date of Order : This the 23rd Day of March, 2009

HON'BLE MR. M.R. MOHANTY, VICE-CHAIRMAN

Smt. Abira Poddar
W/o Sri Subir Poddar
Residing at C/o. Swapan Mahanta
Netaji Nagar, Babupara
Ward No. 9, Bongaigaon
Working as Head Enquiry-cum-Reservation Clerk
Under North Frontier Railway,
Rangiya Division, Bongaigaon
Pin- 783380.

Applicant

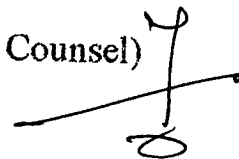
(By Advocates: Mr. Joyjit Dutta and Mr. Rabindra Chandra Paul)

-Versus-

1. UNION OF INDIA, through
The General Manager
North Frontier Railway
Guwahati, Assam
Pin- 781001.
2. THE CHIEF COMMERCIAL MANAGER
N.F. Railway, Maligaon,
Guwahati, Assam
Pin- 781011.
3. THE SENIOR DIVISIONAL COMMERCIAL MANAGER
North Frontier Railway
Rangiya Division
Guwahati, Assam
Pin- 781354.
4. THE DIVISIONAL COMMERCIAL MANAGER
North Frontier Railway
Rangiya Division
Bongaigaon, Assam
Pin- 781354.

Respondents

(By Advocate : Dr. J.L. Sarkar, Railway Standing Counsel)



ORAL ORDER
23.03.2009

M.R. Mohanty, V.C.

The Applicant, an employee of the North East Frontier Railways, faced a Departmental Proceeding under a Charge-sheet dated 14.02.2008. As it appears, she submitted a written statement on 14.04.2008. In the said proceedings, Enquiry Report dated 21.01.2009 was supplied to the Applicant on 18.02.2009 and she submitted a representation on the said Enquiry Report on 24.02.2009. Immediately thereafter, on 03.03.2009, the Applicant has approached this Tribunal with the present Original Application filed under section 19 of the Administrative Tribunals Act, 1985 with the following prayers:

- a) To quash and/or set aside the impugned Major Penalty Charge-sheet dated 14.02.2008 along with Article of Charges vide Annexure A-1 of this original Application;
- b) To quash and/or set aside the Enquiry Report dated 21.01.2009 submitted by the Enquiry Officer vide annexure A-2 of this original application;
- c) To declare at the interlocutory stage the proceedings which has been initiated by the Disciplinary Authority in respect of issuing the Charge-sheet along with the Enquiry Report is ultra vires and bad in law in the light of the decision made by the Hon'ble Division Bench of Calcutta High Court reported in 2008(1) Calcutta High Court Notes, Page 1 and the Hon'ble Supreme Court of India reported in

2000 SCC (L&S) page 906 and to quash and set aside the same;

d) To pass an appropriate order directing the respondent authority to quash and/or set aside the entire proceeding including charge-sheet and the Enquiry Report and further direct them to exonerate your applicant from all charges along with all consequential benefits;

e) To pass appropriate order directing the respondents authority to produce the entire records as well as to the proceedings of the said Enquiry Report and the Charge-Sheet before this Hon'ble Tribunal to appropriate adjudication of the case;

f) Costs;

g) Any other appropriate relief or reliefs.

2. Mr. Joyjit Dutta and Mr. Rabindra Ch. Paul (Advocates, appearing for the Applicant) have expressed their apprehension that, without considering all the points raised in the representation dated 24.02.2009, the Respondents/the Disciplinary Authority of the Applicant may pass final orders and that is why the Applicant has approached this Tribunal with the present Original Application.

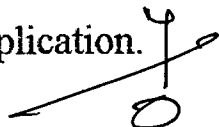
3. Dr. J.L. Sarkar, learned Standing Counsel for the Railways (on whom a copy of this Original Application has already been served) raised, mainly, two points, One- that the prayer to quash the Departmental Charge-sheet dated 14.02.2008 is bad; because the said prayer is being made after participating in the Disciplinary Proceeding that too at the fag end and the second point of the learned Standing Counsel is that this case

is premature; because the Applicant has approached this Tribunal almost within a month of submitting her representation to the Enquiry Report.

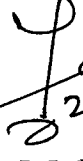
4. Having heard the learned counsel for both the parties and on perusal of the materials placed on record, this Original Application is hereby disposed of, at the admission stage, with direction to the Respondents to consider the grievances of the Applicant (as has been raised in the representation dated 24.02.2009 and in the present Original Application) before passing any final order in the Disciplinary Proceedings that was initiated on the basis of the Charge-sheet dated 14.02.2008. To state in other words, the Respondents/the Disciplinary Authority of the Applicant should not pass any final order in the Disciplinary Proceeding (that was initiated against the Applicant on 14.02.2008) without giving full consideration to each and every point raised in the representation dated 24.02.2009 of the Applicant and in the present Original Application and, if necessary, by giving adequate opportunity to the Applicant to examine documents and cross-examine persons named by her.

5. With the aforesaid observations and directions, this Original Application is disposed of by remitting the matter to the Respondents.

6. Copies of this order be sent to the Respondents; along with copies of this Original Application.



7. Free copies of this order be also sent to the Applicant and be supplied to the learned counsel appearing for both the parties.


23/03/09
(M.R. Mohanty)
Vice-Chairman

/pb/

OA (ie 2+4 sets) is filed today by
Sh. J. Dutta, Advocate & 1 P.O. & Enrolment
under
A copy on the Railway side — to be posted
on 23.3.09

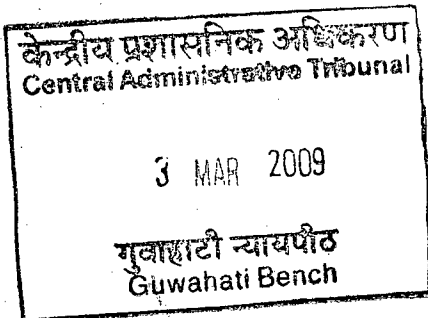
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Filed by
the applicant
through
Dy. P. O. &
Advocate
02.03.2009

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH, GUWAHATI

An application under Section 19 of the Administrative Tribunal Act, 1985



Title of the Case:

Original Application No. 40 of 2009

ABIRA PODDAR

...Applicant

-Vs-

UNION OF INDIA & ORS.

...Respondents.

Sl. No.	Description of documents relied upon	Annexure	Page
1.	Original Application		1 to 26
2.	Copy of the Major Penalty Charge-Sheet Memo No. C/421/RNY/VIG/STAFF/-25/ (MAJOR) N.F. Railway dated 14.2.2008 along with Article of Charges	A-1	27-49
3.	Written Statement submitted by the applicant dated 01.04.2008 against the Major Penalty Charge-Sheet dated 14.2.2008	A-2	50-52
4.	Copy of the Enquiry Report submitted by the Disciplinary Authority which has been served upon the applicant on 18.2.2009 Defence brief.	A-3 (collectively)	53-98
5.	Copy of the representation submitted by the Applicant on 24.02.2009 against the Enquiry Report	A-4	99-108

For use in Tribunal Office

Date of Filing:

Or

Date of receipt by post

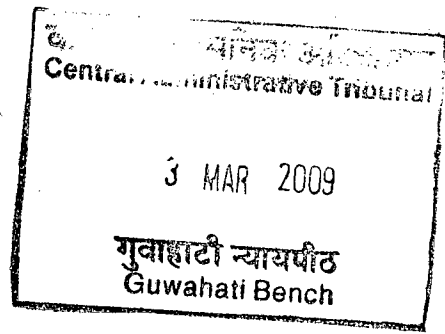
Registration No.

Signature of the Registrar

Abir Poddar
Signature of the applicant

Attested by

Signature of Advocate
Advocate



14/02/08

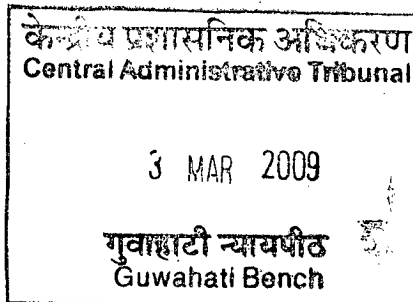
LIST OF DATES

- ① 18.2.2008 The respondent authority issued Major Penalty Charge-sheet along with Article of Charges against the applicant.
- ③ 18.2.2009 The respondent authority issued Enquiry Report to the applicant.
- ② 10.04.2008 The applicant made a Written Statement against the Major Penalty charge-sheet issued by the respondent.
- ④ 24.02.2009 The applicant made a representation before the respondent against the Enquiry Report.

SYNOPSIS

The applicant while she was discharging her duties and functions to the post of Head Enquiry-cum-Reservation Clerk (Hd. ECRC) at SCRB Bongaigaon a Memorandum of Major Charge-sheet dated 14.2.2008 was issued on the ground of excess cash in the counter where your applicant was performing her duties to the post of Enquiry-cum-Reservation Clerk of Rs. 9,385/- and at the time of vigilance check-up suddenly the cash of the said counter has verified during the busy hours where so many persons were waiting outside the counter for getting reservation. The said Article of Charges is absolutely baseless on the ground that the amount which has been shown is excess the amount the person concerned has given in the counter with requisition slip and during the processing of the said ticket the concerned authority has stopped the said process and made a remark that the said amount was excess.

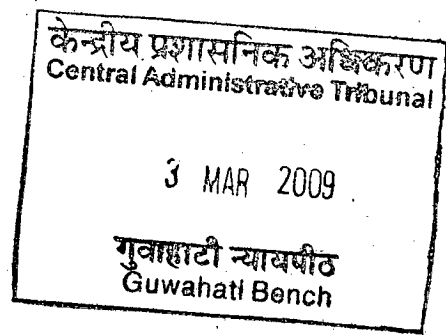
Alexander Padder



The applicant has denied and disputed the main allegations which was made in the said Charge-sheet and explained in details vide her Written Statement/Representation made against the said Charge-Sheet. But the respondent authority without considering the said Written Statement and Objection made in the Written Statement against the Charge-sheet proceeded with the enquiry. The said enquiry is not sustainable in the eye of law on the ground that the concerned Vigilance Officer who was came and raided the counter namely Mr. B.B. Giri (Chief Vigilance Inspector) at the time of duty performing by the application in the said counter has not been shown as a witness in the said charge-sheet and there is no opportunity of the applicant to make cross-examination to said Mr. B.B. Giri (Chief Vigilance Inspector) so how the authority concerned in the Enquiry Report stated that the said charges are true. Without examining the main vital witness (Chief Vigilance Inspector) in the said proceedings they cannot be say the charge-sheet and enquiry report are true. Moreover, those whose names have been cited as prosecution witnesses in the said charge-sheet (Annexure -IV) they have submitted their own statements and at the time of raid they were not present and they have not seen anything. So how the Disciplinary Authority came to a conclusion that witnesses they seized in respect of excess of cash at the time of raid.

At the time of seizure the documents in the said booking counter the said Chief Vigilance Inspector did not obtain any signature of the applicant on the seizure list and the said Chief Vigilance Inspector has snatched away all the papers at the time of business office hours. Due to avoid public agitation in the said booking counter the applicant could not make any sign of cry to the said Chief Vigilance Inspector and co-operate to the said Inspector to check out the

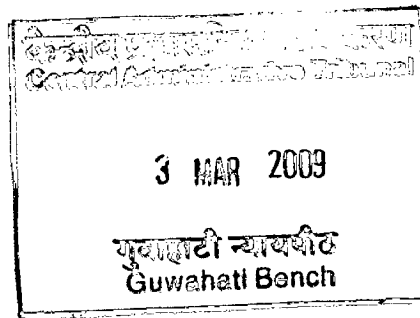
Alena Poddar



said cash counter. The entire proceedings which the Disciplinary Authority has initiated against the applicant is absolutely ultra vires and bad in law on the ground of not allowing the applicant to make a cross-examination to the most vital witness as well as they have not supplied with some of the listed documents mentioned in the Charge-Sheet as well as at the time of vigilance check-up in the seizure list they have not obtained the signature from the applicant.

Being aggrieved by and/or dissatisfied with against the said memorandum of Charge-sheet along with Article of charges as well as Enquiry Report, the applicant begs to move this application before this Hon'ble Tribunal for redressal of her grievances.

Aleira Rodder



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

Original Application No. 40 of 2009

In the matter of:

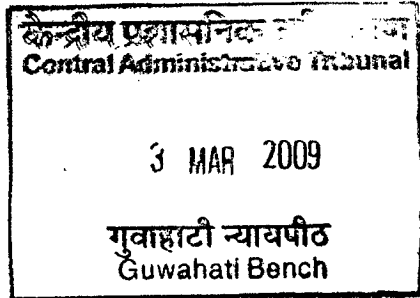
ABIRA PODDAR, wife of Sri Subir Poddar, aged about 39 Years, residing at C/o. Swapan Mahanta, Netaji Nagar, Babupara, Ward No. 9, Bongaigaon, working as Head Enquiry-cum-Reservation Clerk under North Frontier Railway, Rangiya Division at Bongaigaon. 783380

...Applicant

-Versus-

1. **UNION OF INDIA**, through the General Manager, North Frontier Railway, Guwahati, Assam; 781011

Abira Poddar



2. CHIEF COMMERCIAL MANAGER,

N.F. Railway, Maligaon, Guwahati,

Assam. 781011^w

3. THE SENIOR DIVISIONAL

COMMERCIAL MANAGER, North

Frontier Railway, Rangiya Division,

Guwahati, Assam; 781354^w

4. THE DIVISIONAL COMMERCIAL

MANAGER, North / Frontier

Railway, Rangiya Division,

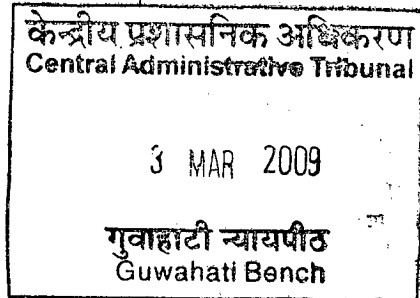
Bongoigaon, Assam; 781354^w

...Respondents

DETAILS OF THE APPLICATION:

1. Particulars of the Order against which the application is made:
 - (a) The impugned Major Penalty Charge-sheet Memo dated 14.2.2008 along with Article of Charges;

Aleira Lodder



- b) Copy of the Enquiry Report dated 21.1.2009 submitted by the Enquiry Officer vide letter dated 18.2.2009.
- c) Non-consideration of the Written Statement submitted by the applicant;
- d) Non-consideration of the representation submitted by the applicant;

2. JURISDICTION OF THE TRIBUNAL:

That your applicant further states that the subject matter of the order against which they want redressal is within the jurisdiction of this Hon'ble Tribunal.

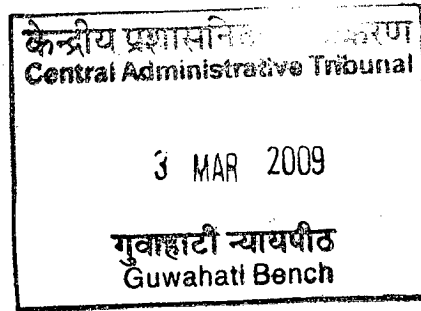
3. LIMITATION:

That your applicant further states that the subject matter of the order against which they want redressal of their grievances is within the limitation period prescribed in Section 21 of the Administrative Tribunal, Act, 1985.

4. FACTS OF THE CASE:

- 4.1 That the applicant is the citizen of India and has ordinarily been residing at the address as has already been given in the cause title.
- 4.2 That your applicant at present working to the post of Head Enquiry-cum-Reservation Clerk at Bongaigaon under Rangiya Division, North Frontier Railway, Assam after transferred from Katihar Division to Rangiya Division by North Frontier Railway while she was performing her duties.

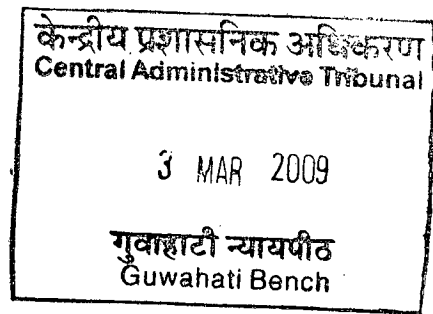
Alura Podder



4.3 While she was performing her duties to the post of Head Enquiry-cum-Reservation Clerk at PRS/SCRB, Siliguri on 9.11.2006 at the time of taking ticket by the four boys of Dada Bhai Sporting Club, Siliguri outside the booking counter when they were busy in fill up requisition slip for issuance of PNR ticket upto Sealdah for an amount of Rs.9400/- and at the time of processing of the said tickets at the very moment Shri B.B. Giri Chief Vigilance Inspector/NF Railway entered inside the counter and compelled the applicant to close the booking counter and by the order of the said Vigilance Inspector the applicant has closed down the said booking counter. The Chief Vigilance Inspector himself brought out the Government cash from the drawer and took the cash of Rs. 9400/- which was on the desk top and further thrown out the requisition slips and forced the applicant to add up the Government Cash as the applicant was under pressure from the said Chief Vigilance Inspector to prepare the cash particulars in respect of Smt. Sanchita Bhowmick, CRS/SCRB and therefore your applicant has not been allowed to generate the ticket against the said four requisition slips and on the ground of excess cash your applicant was charge sheeted by Major Penalty Charge-sheet memo dated 14.2.2008.

4.4 That in respect to the charge mentioned in Article-II of the above referred Major Penalty Memorandum and also in reference to the Enquiry Report dated 21.01.2009 the applicant like to state that it is alleged vide Article-II of the Charge Memorandum that 12 numbers of filled up requisition slips were recovered from the possession of the applicant which did not bear any

Abir Pathak

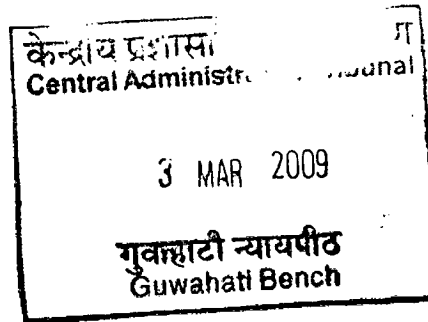


serial/PNR number and three PNRs 2332821081, 6264782932 and 6164544584 were also recovered from the possession of the applicant.

P.O. under caption "Discussion" referred PD-5 (original memorandum drawn on the spot narrating all the irregularities detected during vigilance check at SCRB), but it is surprising that the said vital document had been prepared keeping the applicant in the dark. This claim of the applicant is established from the fact that PD-5 does not bear her signature. Further the details of 12 Nos. of requisition slips as mentioned in Article-II have also not given either in Annexure-I or Annexure-II of the Charge Memorandum. No. such 12 Nos. of Requisition slips were recovered from the possession of the applicant. Moreover, none of the witnesses deposed anything about the alleged 12 Nos. of Requisition slips.

Hence in absence of details of the requisition slips stated to have been found from her possession (PD-5) is not accepted and thus does not hold good. Apart from the above, 3 Nos. of cancellation slips along with PNRs such as 2332821081, 6264782932 and 6164544584 stated to have recovered from the possession of the applicant. In this connection it is submitted that these PNRs were not generated by the applicant on 09.11.2006 and the applicant did not receive the said 3 cancellation requisition slips and the said PNRs. This was known to CRS/SCRB, because during break from 11.00 to 11.30 hrs. CRS/SCRB dealt some requisition slips and cancellation slips and also generated same PNRs for her personal purpose. The said PNRs were part of total cancellation slips generated by CRS/SCRB.

Abisa Poddar



Again P.O. referred the document PD-4 i.e. statement of Mrs. S. Bhowmick, CRS/SCRB where vide Q. No. 3, dt. 23.01.2007 she was asked to comment on the 12 Nos. of filled up requisition slips and 3 Nos. of requisition slips with cancel marks on top with 3 PNRs to which Smt. Bhowmick (PW-3) replied "Yes" which carries no meaning.

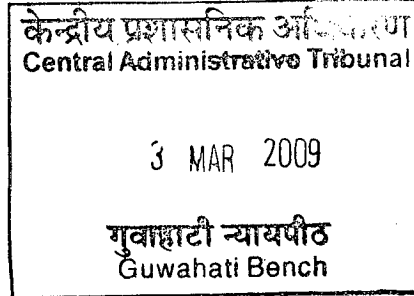
In view of the above, the allegation under Article-II has not been established during enquiry.

That in respect to the charge mentioned in Article-III of the above referred Major Penalty Memorandum and also in reference to the Enquiry Report dated 21.01.2009 the applicant like to state that it is alleged vide Article-III of the Charge Memorandum, that the applicant generated the following 3 (three) PNRs without Requisition slip –

- (i) PNR No. 6264935631 (DTC Transaction Sl. No. 8)
- (ii) PNR No. 6264940450 (DTC Transaction Sl. No. 81)
- (iii) PNR No. 2432993783 (DTC Transaction Sl. No. 190)

It is submitted that PNR No. 6264940450 under item No. (ii) above, generated at 09.22 of 09.11.06 with requisition slip and PNR No. 6264935631 under item No. (i) above, generated at 08.08 hours of 09.11.2006 with proper requisition slip which had been seized by CVT/T from CRS/SCRB on 09.11.2006 and the requisition slips could not be supplied by CVI/T during witness action on 12.01.2007. So the question generating PNR without requisition slip does not arise. It may further be

Alura Todder



submitted that Sri B.B. Giri, CVI/T seized 153 requisition slips of which requisition slips 1 to 138 were serially numbered in this seizure memo and major penalty memorandum.

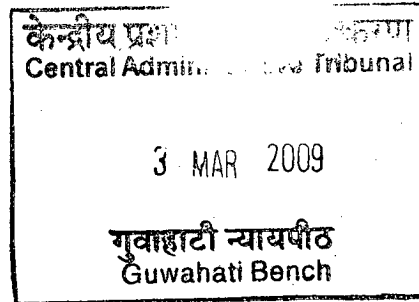
It may also be submitted that since the requisition slips were serially numbered and seized by CVI/T, so no responsibility be attributed on the applicant for non-availability of requisition slips.

Again regarding item No. (iii), PNR No. 2432993783 (DTC Transaction S/No. 190) it is submitted that the requisition slips have been seized at 11.51 hours PD-5 and DTC transaction PD-8 made out at 11.51 hours where as the PNR in question referred above, has been generated at 11.55 hours (Sl. No. 190) and that too it was not generated by the applicant as such this PNR can not come under the purview of check conducted at 11.51 hours of 09.11.2006.

P.O. also copied out the same through his Brief and tried to establish the allegation without going in to the details of the fact. Hence P.O.'s observation is not tenable and not acceptable.

That in respect to the charge mentioned in Article-IV of the above-referred Major Penalty Memorandum and also in reference to the Enquiry Report dated 21.01.2009 the applicant like to state that item No. (1) has been correctly generated as per requisition Sl. No. 27 with transaction time 08.28 hours Sl. No. of DTC Transactions 31, Item No. (ii) above PNR No. 6364936958 generated at 08.29 hours with requisition slip Sl. No. 28, but not 47 as

Abra Poelcar



mentioned in Article-IV, Sl. No. of DTC transaction is 32 and Item, No. (iii) the PNR No. as shown, 2132817186 with transaction time 08.30, Sl. No. 28 has not been generated at all. The said particulars are wrong. The correct position is PNR No. 2132517186 with transaction 08.30 hours was generated as per requisition slip under Sl. No. 29 and not 28 shown in the Article-IV, Sl. No. of DTC transaction is 33.

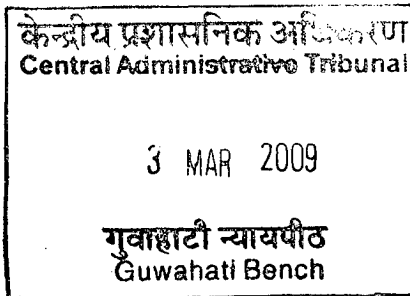
From the above factual position as per DTC transaction, the allegation of generating PNR with improper timings is not based on facts. In view of the above, the allegation under Article-IV does not hold good.

Further P.O.'s observation on the allegation under Article-IV is also based on incorrect particulars and hence not tenable.

That in respect to the charge mentioned in Article-V of the above referred Major Penalty Memorandum and also in reference to the Enquiry Report dated 21.01.2009 the applicant like to state that that the said cancelled PNRs were not generated by the applicant but those were generated by Smt. S. Bhowmick, CRS/SCRB during the applicant's Tiffin break period from 11.00 hours to 11.30 hours against her own privilege pass. These PNRs were cancelled at 11.22 hours on 09th November, 2006. That the said cancelled PNRs were generated by Smt. S. Bhowmick, CRS/SCRB (PW-3) who has admitted the fact vide her answer to Q. No. 11 dt. 23.01.2007.

In support of the above, the applicant would like to submit further that said Smt. Bhowmick CRS/SCRB generated 4 (four) PNRs against 5 privilege passes

Abisa Paeldas

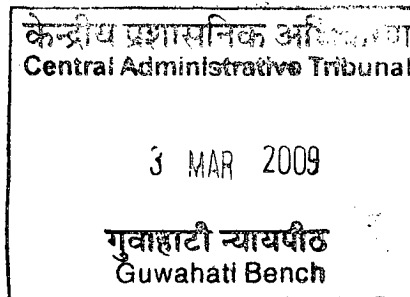


as reflected against Sl. No. 163, 164, 165 and 166 of DTC Transaction vide PNR Nos. 6264948308, 62649448430, 6264948472 and 6164859293 and requisition S.No. 122, 123, 124 and 125 on which the signature of Smt. Bhowmick also clearly put by her showing generating time 11.19 hours, 11.20hours, 11.21 and 11.22 hours of 09.11.2006 on which, earlier reservation was made. Smt. Bhowmick CRS/SCRB admitted the fact of generating PNRs in question vide her ans. to Q. No. 12, dt. 23.01.2007. P.O. vide his Brief observed only that cancelled PNRs were generated by the applicant without cancellation slips. But the fact is different, which is narrated above. As such P.O.'s observation does not hold good.

That in respect to the charge mentioned in Article-VI of the above-referred Major Penalty Memorandum and also in reference to the Enquiry Report dated 21.01.2009 the applicant like to state that, the allegations are baseless and vague. The PNR No. 6264949919 alleged to have been generated by the applicant have no existence in reality. DTC Transaction (PD-8) does not show such PNR No. as generated on 09.11.2006. The allegation labeled by citing the PNR in question is a cooked product and has been manufactured by Sri B.B. Giri, CVI/T in consideration of his own to malign the image of the applicant while there is no existence of the PNR in question, the question of requisition slip in this respect is also a vague one.

Further it is alleged that Requisition Slip Nos. 132, 133, 134, 135, 136 and 137 are not available in the bunch of slips. The seizure memo and the major penalty memorandum clearly indicate that CVI/T seized 138 requisition slips, which were serially numbered from 1 to 138.

A. B. S. P. S.



So the question of non-availability of slips No. 132 to 137 does not arise. For such non-availability, all responsibilities rest with Sri B.B. Giri, CVI/T as he has seized the said requisition slips under his signature and designation from CRS/SCRB on 09.11.2006.

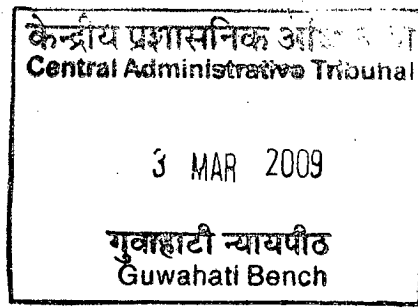
Hence no responsibility can be attributed on the applicant for non-availability of the said requisition slips.

That in respect to the charge mentioned in Article-VII of the above-referred Major Penalty Memorandum and also in reference to the Enquiry Report dated 21.01.2009 the applicant like to state that the allegation is baseless and vague. All the reservation slips have been serially entered in the DTC transaction.

However for your kind perusal, it is submitted that the Requisition Slip upto S/No. 125 have been in proper order and thereafter Mrs. S. Bhowmick CRS/SCRB generated two cancelled PNRs without requisition slip. After that all the Requisition slips have been numbered in proper order again from S. No. 126 onward (DTC transaction No. 169) S/No. 127 corresponds to 172 of DTC transaction, because 170, 171 connects with S. No. 126. This is how all the remaining requisition slips have been tallied with the DTC transaction. As such the allegation under Article-VII stands not sustained.

Further P.O. through his Brief simply copied the allegation from the Charge Memorandum under Article-VII. There is no basis of his

Abira Pooles



observation on the charges. As such P.O.'s observation does not hold good and hence not accepted.

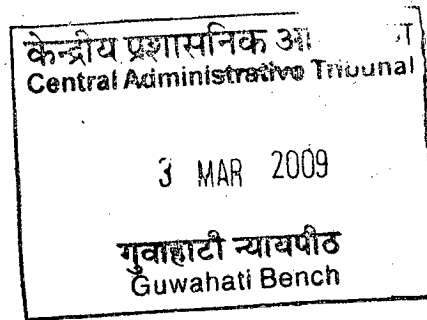
4.4 A Xerox copy of the Major Penalty Charge-Sheet along with Article of Charges dated 14.2.2008 is annexed hereto and marked with letter A-1.

4.5 Immediately after receipt of the said memorandum of charge-sheet your applicant has made a defence statement denying all the allegations and Article of Charges levelled against her in respect of the excess cash and requested the authority to make withdraw/cancel of the same.

A Xerox copy of the defence statement as submitted by our applicant dated 1.4.2008 against the Major Penalty Charge-sheet is annexed hereto and marked with the letter A-2.

4.6 The entire Charge-sheet memorandum is liable to be quashed and/or set aside on the ground the name of the most vital witness has not been mentioned in the said memorandum of charges the persons concerned who had raided in the said booking counter where the applicant was functioning to the post of Head Enquiry-cum-Reservation Clerk viz. Mr. B.B. Giri, Chief Vigilance Inspector and this point your applicant has been raised in defence statement but it has not been considered. Moreover the listed documents which are mentioned in the said charge-sheet and particularly in the seizure list there is no signature of the applicant at the time of raid and the said Chief Vigilance Inspector has snatched away all the papers from the said booking counter, the subsequent documents are

Alura Podder



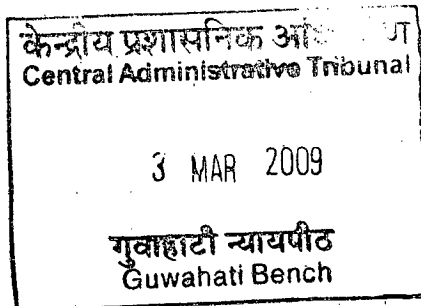
not subsequent are not sustainable in the eye of law as some of the vital documents have not been supplied by the respondent authority to the applicant.

- 4.7 In spite of the point and objection by your applicant in the defence statements the Disciplinary Authority without considering the same in a biased manner proceeded with the enquiry and at the time of participation of the enquiry your applicant also raised objection in respect of the said points in respect of cross-examination of most vital witness viz. Mr. B.B. Giri, Chief Vigilance inspector and your applicant also asked the documents which they have not supplied with to submit your applicant's defence. But the Enquiry Officer without considering the objection raised by the applicant the Disciplinary Authority submitted an Enquiry Report which has been served upon your applicant on 18.2.2009.

A Xerox copy of the Enquiry Report submitted by the Disciplinary Authority is annexed hereto and marked with the letter A-3.

- 4.8 The said Enquiry Report is not in accordance with the Rules and the law laid down by the Hon'ble Supreme Court in the case of Dipak Puri –Vs– State of Haryana & Ors., reported in 2000 SCC (L&S) page 906 where the Hon'ble Apex Court held that enquiry was not proceed till copies of all documents asked for by the applicant supplied to him and on the ground itself at the stage of interlocutory the Disciplinary proceedings including charge-sheet is quashed. The said Ruling is absolutely applicable in respect of the present case as the Disciplinary authority did not supply the

Alexia Podder

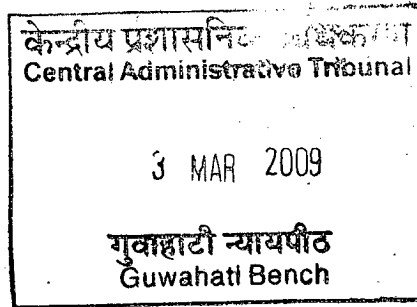


relevant document which your applicant has asked for before the Enquiry officer. Another vital point which is not being considered by the Enquiry Officer i.e. cross-examining of the most vital witness. The most vital witness in the present case is Mr. B.B. Giri the Chief Vigilance Inspector, who had raided the booking counter in the busy office hours while your applicant has been discharging her duties and functions and particularly on this point there is a decision of the Hon'ble Division Bench of High Court at Calcutta in the case of Tea Board & Anr., Vs. Rasamoy Chatterjee & Ors., reported in 2008(1) Calcutta High Court Notes, Page 1. Where the Division Bench held following the Supreme Court's judgment that chance not given to charge sheeted employee to cross-examine a vital witness in a fair proceedings, principle of natural justice violated and on that ground the entire disciplinary proceedings has been quashed and/or set aside. Your applicant craves leave to produce the judgment at the time of hearing of this application.

- 4.9 Because such biased Enquiry Report submitted by the Enquiry Officer your applicant made a representation dated 24.02.2009 against the same and submitted details and pointed out the lacuna in the enquiry proceedings and requested authority concerned to quash and/or set aside the same and exonerate her from all charges.

A Xerox copy of the Reply/Representation dated 24.02.2009 against the said Enquiry Report is annexed hereto and marked with the letter A-4.

Alura Podder



4.10 It is further submitted that the impugned Charge-Sheet Memo as well as Enquiry Report by the Disciplinary Authority at this stage is absolute unfair proceedings and violation of principle of natural justice, equity and fair play which is not sustainable and liable to be quashed and to declare ultra vires on the ground of the two other decision passed by the Hon'ble Division bench of High Court at Calcutta and the Hon'ble Supreme Court of India.

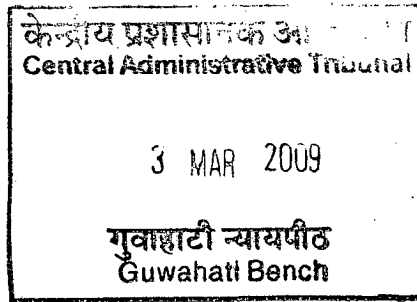
5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:

That being aggrieved by and dissatisfied with in respect of Major Penalty Charge-Sheet along with Article of Charges dated 14.2.2008 as well as Enquiry Report, your applicant begs to move this application before this Hon'ble Tribunal on the following amongst other

G R O U N D S

- I. For that the main allegation which has been made by the Disciplinary Authority in respect of the excess of cash in the booking counter is not sustainable in the eye of law because of the letter issued by the Dada Bhai Sporting Club dated 20.5.2008 before the Concerned Railway Authority to refund the cash of Rs. 9400/- and during process of ticket as per direction of Vigilance Inspector the applicant stopped the work and closed the booking counter so on that ground itself the entire proceeding is liable to be quashed and/or set aside in the eye of law.
- II. For that the applicant at present working to the post of Head Enquiry-cum-Reservation Clerk at Bongoigaon under Rangiya Division, North

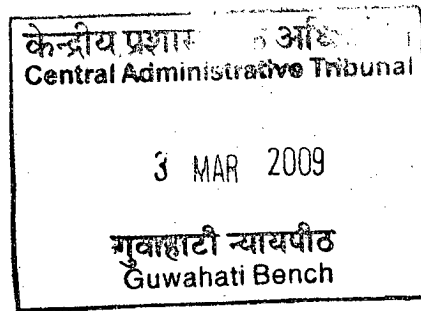
Alura Podder



Frontier Railway, Assam after transferred from Katihar Division to Rangiya Division by North Frontier Railway while she was performing her duties.

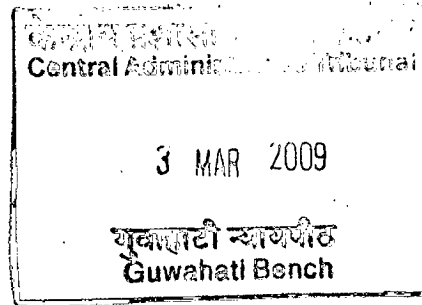
- III. For that while she was performing her duties to the post of Head Enquiry-cum-Reservation Clerk at PRS/SCRB, Siliguri on 9.11.2006 at the time of taking ticket by the four boys of Dada Bhai Sporting Club, Siliguri outside the booking counter when they were busy in fill up requisition slip for issuance of PNR ticket upto Sealdah for an amount of Rs.9400/- and at the time of processing of the said tickets at the very moment Shri B.B. Giri Chief Vigilance Inspector/NF Railway entered inside the counter and compelled the applicant to close the booking counter and by the order of the said Vigilance Inspector the applicant has closed down the said booking counter. The Chief Vigilance Inspector himself brought out the Government cash from the drawer and took the cash of Rs. 9400/- which was on the desk top and further thrown out the requisition slips and forced the applicant to add up the Government Cash as the applicant was under pressure from the said Chief Vigilance Inspector to prepare the cash particulars in respect of Smt. Sanchita Bhowmick, CRS/SCRB and therefore your applicant has not been allowed to generate the ticket against the said four requisition slips and on the ground of excess cash your applicant was charge sheeted by Major Penalty Charge-sheet memo dated 14.2.2008.

Alexa Podder



- IV. For that immediately after receipt of the said memorandum of charge-sheet your applicant has made a defence statement denying all the allegations and Article of Charges levelled against her in respect of the excess cash and requested the authority to make withdraw/cancel of the same.
- V. For that the entire Charge-sheet memorandum is liable to be quashed and/or set aside on the ground the name of the most vital witness has not been mentioned in the said memorandum of charges the persons concerned who had raided in the said booking counter where the applicant was functioning to the post of Head Enquiry-cum-Reservation Clerk viz. Mr. B.B. Giri, Chief Vigilance Inspector and this point your applicant has been raised in defence statement but it has not been considered. Moreover the listed documents which are mentioned in the said charge-sheet and particularly in the seizure list there is no signature of the applicant at the time of raid and the said Chief Vigilance Inspector has snatched away all the papers from the said booking counter, the subsequent documents are not subsequent are not sustainable in the eye of law as some of the vital documents have not been supplied by the respondent authority to the applicant.
- VI. For that in spite of the point and objection by your applicant in the defence statements the Disciplinary Authority without considering the same in a biased manner proceeded with the enquiry and at the time of participation of the enquiry your applicant also raised objection in respect of the said points in respect of cross-examination of most vital

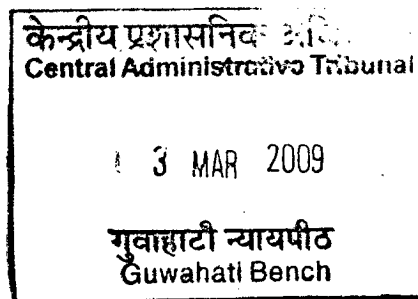
Alexis Poddar



witness viz. Mr. B.B. Giri, Chief Vigilance inspector and your applicant also asked the documents which they have not supplied with to submit your applicant's defence. But the Enquiry Officer without considering the objection raised by the applicant the Disciplinary Authority submitted an Enquiry Report which has been served upon your applicant on 18.2.2009.

- VII. For that the said Enquiry Report is not in accordance with the Rules and the law laid down by the Hon'ble Supreme Court in the case of Dipak Puri -Vs- State of Haryana & Ors., reported in 2000 SCC (L&S) page 906 where the Hon'ble Apex Court held that enquiry was not proceed till copies of all documents asked for by the applicant supplied to him and on the ground itself at the stage of interlocutory the Disciplinary proceedings including charge-sheet is quashed. The said Ruling is absolutely applicable in respect of the present case as the Disciplinary authority did not supply the relevant document which your applicant has asked for before the Enquiry officer. Another vital point which is not being considered by the Enquiry Officer i.e. cross-examining of the most vital witness. The most vital witness in the present case is Mr. B.B. Giri the Chief Vigilance Inspector, who had raided the booking counter in the busy office hours while your applicant has been discharging her duties and functions and particularly on this point there is a decision of the Hon'ble Division Bench of High Court at Calcutta in the case of Tea Board & Anr., Vs. Rasamoy Chatterjee & Ors., reported in 2008(1) Calcutta High Court Notes, Page 1. Where the Division Bench held following the Supreme Court's judgment that

Aleira Poddar



chance not given to charge sheeted employee to cross-examine a vital witness in a fair proceedings, principle of natural justice violated and on that ground the entire disciplinary proceedings has been quashed and/or set aside. Your applicant craves leave to produce the judgment at the time of hearing of this application.

VIII. For that because such biased Enquiry Report submitted by the Enquiry Officer your applicant made a representation dated 24.02.2009 against the same and submitted details and pointed out the lacuna in the enquiry proceedings and requested authority concerned to quash and/or set aside the same and exonerate her from all charges.

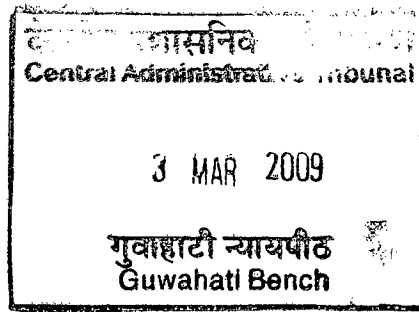
IX. For that the impugned Charge-Sheet Memo as well as Enquiry Report by the Disciplinary Authority at this stage is absolute unfair proceedings and violation of principle of natural justice, equity and fair play which is not sustainable and liable to be quashed and to declare ultra vires on the ground of the two other decision passed by the Hon'ble Division bench of High Court at Calcutta and the Hon'ble Supreme Court of India.

6. DETAILS OF THE REMEDIES EXHAUSTED:

The applicant declares that he has availed of all the remedies as available to them under the relevant service rules and for that purpose, he made the following representations:

- a) Copy of the Written Statement submitted by the applicant on 1.4.2008.
- b) Copy of the representation submitted by the applicant on 24.2.2009.

Aleira Poddar



7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:

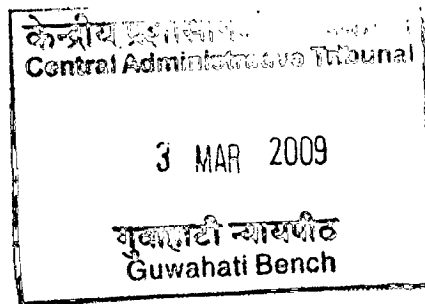
That the applicant further declares that she had not previously filed any application, writ application or suit regarding the matter in respect of which, this application has been made before any Court or any other writ petition or writ is pending before any of them.

8. RELIEF SOUGHT FOR:

In view of the facts mentioned in Para-4 above, the applicant pray for the following reliefs:

- a) To quash and/or set aside the impugned Major Penalty Charge-sheet dated 14.2.2008 along with Article of Charges vide Annexure A-1 of this original application;
- b) To quash and/or set aside the Enquiry Report dated 21.01.2009 submitted by the Enquiry Officer vide annexure A-2 of this original application;
- c) To declare at the interlocutory stage the proceedings which has been initiated by the Disciplinary Authority in respect of issuing the Charge-sheet along with Enquiry Report is ultra vires and bad in law in the light of the decision made by the Hon'ble Division Bench of Calcutta High Court reported in 2008(1) Calcutta High Court Notes, Page 1 and the

Abhishek Poddar



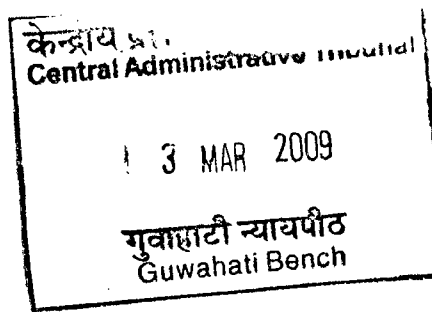
Hon'ble Supreme Court of India reported in 2000 SCC (L&S) page 906 and to quash and set aside the same;

- d) To pass an appropriate order directing the respondent authority to quash and/or set aside the entire proceeding including charge-sheet and the Enquiry Report and further direct them to exonerate your applicant from all charges along with all consequential benefits;
- e) To pass appropriate order directing the respondent authority to produce the entire records as well as to the proceedings of the said Enquiry Report and the Charge-Sheet before this Hon'ble Tribunal to appropriate adjudication of the case;
- f) Costs;
- g) Any other appropriate relief or reliefs;

9. INTERIM ORDER, IF ANY, PRAYED FOR:

- a) Restraining the respondents from passing any final order in connection with the said proceedings till disposal of original application;
- b) The respondents be restrained to proceed with the Enquiry Proceedings until and unless this application is disposed of:

Alexis Pocher



10. IN THE EVENT OF THE APPLICATION BEING SENT BY REGISTERED POST:

Not applicable.

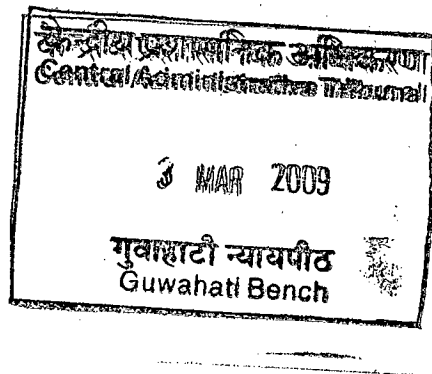
11. PARTICULARS OF THE POSTAL ORDER FILED IN RESPECT OF THE APPLICATION FEES:

- a) Postal Order No. 386 108365
- b) Date of issue of Postal Order: 28.02.2009
- c) Name of issuing Post Office: SICPUR HEAD POST OFFICE
WEST BENGAL
- d) Post Office at which payable:

12. LIST OF ENCLOSURES:

As per Index.

Aleira Podder



VERIFICATION

I, **ABIRA PODDAR**, wife of Sri Subir Poddar, aged about 39 years, residing at C/o. Swapan Mahanta, Netaji Nagar, Babupara, Ward No. 9, Bongaigaon working as Head Enquiry-cum-Reservation Clerk under North Frontier Railway, Rangiya Division at Bongaigaon, Assam, do hereby verify that the contents of Paras-1 to 12 except Para 5 are true to my personal knowledge and Para-5 is believed to be true on legal advise and I have not suppressed any material facts.

Date : 01.03.2009

Place: Siliguri

Advocate-on-Record:

Joyjit Dutta

(JOYJIT DUTTA)

Advocate

Central Administrative Tribunal,
Bar Association, 12th Floor,
Nizam Palace, 2nd M.S.O. Building,
Kolkata- 700020.

Abira Poddar

Signature of the Applicant

To,
The Registrar,
Central Administrative Tribunal,
Guwahati Bench,
Guwahati.

[Rule 9 of Railway Servants (Discipline and appeal) Rules, 1968]

No. 421/RNY/VIG/STAFF-25 (MAJOR)

(Name of Railway administration)

N.F. RAILWAY

(place of issue) RANGIYA

Dated 14-2-08

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

3 MAR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

MEMORANDUM

1. The President/Railway Board/undersigned propose(s) to hold an inquiry against Shri Smt. Abira Poddar, Hd. ECRC/SCRA (now at BNGN) under Rule 9 of Railway Servants (Discipline and Appeal) Rules, 1968. The substance of the imputations of misconduct and misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles (Annexure-I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure-III & IV). *Further, copies of documents mentioned in the list of documents, are per annexure-III are enclosed.

2. Smt. Shri Abira Poddar, Hd. ECRC/SCRA (now at BNGN) is hereby informed and if he so desires, he can inspect and take extracts from the documents mentioned in the enclosed list of documents (Annexure-III) at any time during office hours within ten days of receipt of this memorandum. For this purpose he should contact immediately on receipt of this memorandum.

3. Smt. Shri Abira Poddar, Hd. ECRC (now at BNGN) is further informed that he may, if he so desires, take the assistance of another Railway servant/an official of Railway Trade Union (who satisfies the requirements of Rule 9(13) of the Railway Servants (Discipline and Appeal) Rules, 1968, and Note 1 and/or Note 2 thereunder as the case may be) for inspecting the documents and assisting him in presenting his case before the Inquiring Authority in the event of an oral inquiry being held. For this purpose, he should nominate one or more persons in order of preference. Before nominating the assisting Railway servant(s) or Railway Trade Union Official (s), Shri Smt. Abira Poddar, Hd. ECRC (now at BNGN) should obtain an undertaking from the nominee(s) that the (they) is (are) willing to assist him during the disciplinary proceedings. The undertaking should also contain the particulars of other case(s) if any, in which the nominee(s) had already undertaken to assist and the undertaking should be furnished to the undersigned/General Manager. Railway alongwith the nomination.

4. Smt. Shri Abira Poddar, Hd. ECRC (now at BNGN) is hereby directed to submit to the undersigned (through General Manager, Railway) a written statement of his defence (which should reach the said General Manager) within ten days of receipt of this Memorandum, if he does not require to inspect any documents for the preparation of his defence, and within ten days after completion of inspection of documents if he desires to inspect documents, and also

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

41
This Annexure is True
Copy of Original Copy

Advocate

28 39

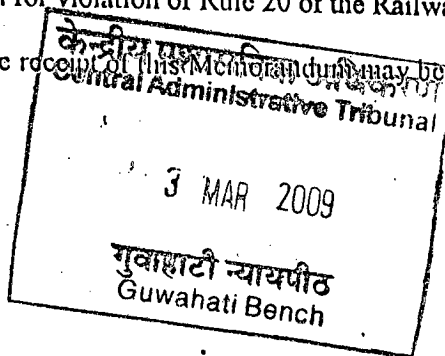
(b) to furnish the names and addresses of the witnesses if any, whom he wishes to call in support of his defence.

5. Smt Shri Abina Podder, Hd ECRC (now at BNGN)..... is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or/deny each article of charge.

6. Smt Shri Abina Podder, Hd ECRC (now at BNGN)..... is further informed that if he does not submit his written statement of defence within the period specified in para 2 or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968, or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry ex parte.

7. The attention of Smt Shri Abina Podder, Hd ECRC/SCRA (now at BNGN)..... is invited to Rule 20 of the Railway Servant (Conduct) Rules, 1966 under which to Railway servant shall bring or attempt to bring any political or other influence to bear upon any superior authority to further his interests in respect of matter pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt within these proceedings, it will be presumed that Smt Shri Abina Podder, Hd ECRC/SCRA (now at BNGN) is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the Railway Servants (Conduct) Rules, 1966.

8. The receipt of this Memorandum may be acknowledged.



14/03/08
A. K. SINHA
DIVL. COMM. MANAGER
[By order and in the name of the President]
(Signature)
Name and designation of competent authority.

Encls: 58 (fifty-eight).

To
Smt Shri Abina Podder, Hd/ECRC/SCRA (Designation)
Now at BNGN (Place)

Copy to Shri (name and designation of the lending authority) for information.

Strike out whichever not applicable.

* To be deleted if copies are given/not given with the Memorandum as the case may be.

** Name of the authority. (This would imply that whenever a case is referred to the disciplinary authority by the Investigation Authority or any authority who are in the custody of the listed documents or who would be arranging for inspection of the document or to enable that authority being mentioned in the draft memorandum).

Where the President is the Disciplinary Authority.

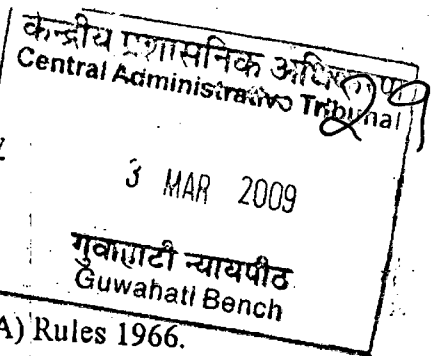
To be retained wherever applicable President or the Railway Board is the competent authority.

To be used wherever applicable - Note to be inserted in the copy sent to the Railway servant.

This Annexure 41 is True
Copy of Original Copy

Advocate

Northeast Frontier Railway



ANNEXURE TO STANDARD FORM NO. 5.

Memorandum of charge sheet under rule 9 of the R.S. (D&A) Rules 1966.

ANNEXURE - I

Statement of article of charge(s) framed against Smt. Abira Podder, Hd. ECRC/PRS/Siliguri Reservation Cum-Booking Office/(SCRB) (now at BNGN).
(Name and designation of the Railway Servant).

Article No. I.

Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while performing duty at PRS/SCRB Siliguri on 09-11-2006 committed a serious misconduct in as much as excess in Government cash to the tune of Rs. 9385/- was found in her possession with an unconvincing explanation. DTC cum summary print out upto 11:51 hrs. shows Rs. 119746/- but Government cash found in her possession was Rs. 129131/-.

Article No. II

Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09-11-2006 committed a serious misconduct in as much as 12 (twelve) nos of filled up reservation requisition slips were recovered from her possession which did not bear any serial number and/or PNR number. In addition three cancelled requisition slips alongwith PNR nos 2332821081, 6264782932 and 6164544584 were also recovered from her possession.

Article No. III

Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09-11-2006 committed a serious misconduct in as much as she generated the following PNRs without reservation slips:-

- (i) PNR No. 6264935631 (DTC transaction SL No. 8).
- (ii) PNR No. 6364940450 (DTC transaction SL No. 81).
- (iii) PNR No. 2432993783 (DTC transaction SL No. 190).

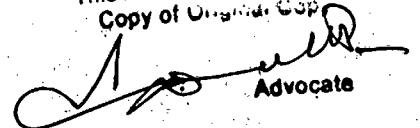
Article No. IV

Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09-11-2006 committed a serious misconduct in as much as she generated PNR 2232459105 with transaction time 08:28 hrs as per requisition slip No. 27, thereafter she generated PNR 6364936958 with transaction time at 08:29 hrs on the basis of requisition SL No. 47, which is highly irregular and then she generated PNR No. 2132817186 with transaction time at 08:30 hrs as per requisition slip No. 28.

Transaction time 11:55
But checking time upto 11:20
Requisition taken up 11:57

Contd... P/2

This Annexure is True
Copy of Original Copy


Advocate

Article No. V

Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while performing duty at PRS/SCRB on 09-11-2006 committed a serious misconduct in as much as she generated two cancelled PNRs bearing number 6264825665 (under DTC transaction SI No. 167) and 6164736346 (under DTC transaction SL No. 168) without any requisition slip(s).

Article No. VI

Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while performing duty at SCRB/Siliguri on 09-11-2006 had committed gross irregularity by generating PNR No. 6264949919 against a requisition slip which was found without any serial number marked on the same and requisition slip No. 132, 133, 134, 135, 136 & 137 were not available in the bunch. 109 group BSF

PNR
NOT found
in DTC

Article No. VII

Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while performing duty at SCRB/Siliguri on 09-11-2006 did not provide serial number on the reservation requisition slips in proper order from serial no.-125 and onwards- as a result the transaction made did not tally with the DTC transaction obtained from CRIS/Kolkata.

Article No. VIII

Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while performing duty at SCRB/Siliguri on 09-11-06 committed a serious misconduct in as much as she received one sealed cover containing her transfer order for RNY division addressed to CRS/SCRB from the office of the DRM/C/KIR at the time of receiving of her revocation letter but she did not hand over the same to the CRS/SCRB with an ulterior motive.

Thus by the above act of Omission and Commission Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) exhibited lack of integrity and devotion to duty and acted in a manner unbecoming of a Railway Servant and there by contravened Rule 3.1 (i), (ii) & (iii) of the Railway Service (conduct) Rule 1966.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
3 MAR 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

म. (अ.क. शर्मा)
Divisional Commercial Manager
N. F. Railway, Rangpo

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Advocate

STATEMENT OF IMPUTATION OF MISCONDUCT/MISBEHAVIOUR IN
SUPPORT OF THE ARTICLE(S) OF CHARGES FRAMED AGAINST
SMT. ABIRA PODDER, HD. ECRC/PRS/SCRB (NOW AT BNGN).

On 09-11-2006 a surprise check was conducted at PRS/SCRB at about 11:50 hours. Counter No. 6 was brought under check and found one Smt. Abira Podder, Hd. ECRC/SCRB manning the same. Her Government and personal cash were checked alongwith the requisition slip dealt by her. Reservation requisitions dealt upto the time of check were taken to Vigilance office for verification with DTC transaction details procured from CRIS/Kolkata. During scrutiny of the requisition slips the following irregularities revealed:-

Article No. I.

Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while performing duty at PRS/SCRB Siliguri on 09-11-2006 committed a serious misconduct in as much as excess in Government cash to the tune of Rs. 9385/- was found in her possession with an unconvincing explanation. DTC cum summary print out upto 11:51 hrs. shows Rs.119746/- but Government cash found in her possession was Rs. 129131/-.

Article No. II

Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09-11-2006 committed a serious misconduct in as much as 12 (twelve) nos of filled up reservation requisition slips were recovered from her possession which did not bear any serial number and/or PNR number. In addition three cancelled requisition slips alongwith PNR nos 2332821081, 6264782932 and 6164544584 were also recovered from her possession.

Article No. III

Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09-11-2006 committed a serious misconduct in as much as she generated the following PNRs without reservation slips:-

- (iv) PNR No. 6264935631 (DTC transaction SL No. 8).
- (v) PNR No. 6364940450 (DTC transaction SL No. 81).
- (vi) PNR No. 2432993783 (DTC transaction SL No. 190).

Article No. IV

Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09-11-2006 committed a serious misconduct in as much as she generated PNR 2232459105 with transaction time 08:28 hrs as per requisition slip No. 27, thereafter she generated PNR 6364936958 with transaction time at 08:29 hrs on the basis of requisition SL No. 47, which is highly irregular and then she generated PNR No. 2132817186 with transaction time at 08:30 hrs as per requisition slip No. 28.

Contd...P/2

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Advocate

Article No.V

Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while performing duty at PRS/SCRB on 09-11-2006 committed a serious misconduct in as much as she generated two cancelled PNRs bearing number 6264825665 (under DTC transaction SL No. 167) and 6164736346 (under DTC transaction SL No. 168) without any requisition slip(s).

Article No.VI

Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while performing duty at SCRB/Siliguri on 09-11-2006 had committed gross irregularity by generating PNR No. 6264949919 against a requisition slip which was found without any serial number marked on the same and requisition slip No. 132, 133, 134, 135, 136 & 137 were not available in the bunch.

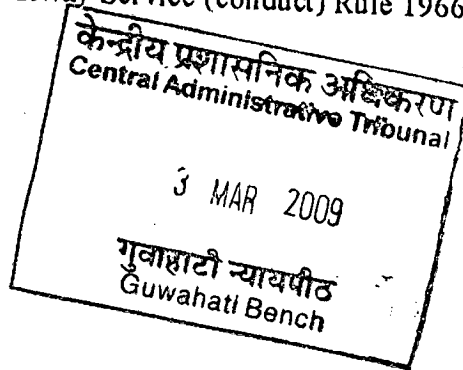
Article No.VII

Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while performing duty at SCRB/Siliguri on 09-11-2006 did not provide serial number on the reservation requisition slips in proper order from serial no.-125 and onwards- as a result the transaction made did not tally with the DTC transaction obtained from CRIS/Kolkata.

Article No.VIII

Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while performing duty at SCRB/Siliguri on 09-11-06 committed a serious misconduct in as much as she received one sealed cover containing her transfer order for RNY division addressed to CRS/SCRB from the office of the DRM/C/KIR at the time of receiving of her revocation letter but she did not hand over the same to the CRS/SCRB with an ulterior motive.

Thus by the above act of Omission and Commission Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) exhibited lack of integrity and devotion to duty and acted in a manner unbecoming of a Railway Servant and there by contravened Rule 3.1 (i), (ii) & (iii) of the Railway Service (conduct) Rule 1966.



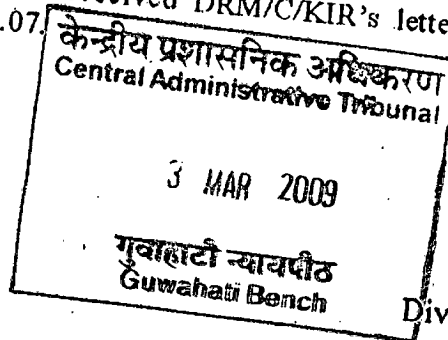
14/02/08
A.K. Sinha
Divisional Commercial Manager
Rangiya
N.E. Railway, Rangiya

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Signature
A.K. Sinha

LIST OF DOCUMENTS BY WHICH THE ARTICLE(S) OF THE CHARGE FRAMED
AGAINST SMT. ABIRA PODDAR, HD. ECRC/SCRB (NOW AT BNGN) ARE
PROPOSED TO BE SUSTAINED.

1. Cash particulars filled up by Smt. Abira Podder, Hd. ECRC/SCRB on 09-11-2006 on spot and DTC print out of counter No. 06 dated 09-11-2006.
2. Photo-copy of MR No. 683197 duly certified by CRS/SCRB under which an excess amount of Rs. 9385/- was deposited at SCRB on 10-11-2006.
3. Statement of Smt. Abira Podder, Hd. ECRC/SCRB recorded in SM/G/NJP's chamber on 12-01-2007.
4. Statement of Smt. Sanchita Bhowmick CRS/SCRB recorded in SM/G/NJP's chamber on 23-01-2007.
5. Original memorandum dated 09-11-2006 drawn on the spot.
6. A memo to CRS/SCRB vide No. Z/Vig/BG/50/06 dated 09-11-2006 advising CRS/SCRB to deposit the excess amount recovered from Smt. Abira Podder's Government cash.
7. A seizure memo dated on 09-11-2006 (of original reservation requisition slips) addressed to CRS/SCRB.
8. DTC transaction details dated 09-11-2006 in 23 pages in original of terminal No. 816 (counter No. 6) of SCRB obtained/procured from CRIS/Kolkata.
9. DRM/C/KIR's letter No. Com/Estt-Misc/station/Pt.-II dated 20.06.07.
10. Copy of SF - 4 with the endorsement dated 14.02.06 of Smt. Abira Poddar, Hd. ECRC to have received DRM/C/KIR's letter No. Com/Estt-Misc/station/Pt.-II dated 14.02.07.



14/02/08
(A.K. Sinha)
Divisional Commercial Manager
Rangiya
गु. र. म. वि. वि.
N. F. Railway, Rangiya

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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

3 MAR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

ANNEXURE-IV

List of witness:-

1. Shri Satya Barua, SRVI/T.
2. Shri Arjun Singh, CTTI/AF/HQ/Maligaon.
3. Smt. Sanchita Bhowmik, CRS/SCRB.

5/6/08
(A.K. Sinha)

Divisional Commercial Manager
Rangiya

N. F. railway, Rangiya

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Central Administrative Tribunal

3 MAR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

SN 182

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DAILY TERMINAL CASH SUMMARY

OPR ID: NJRAP DATE: NJR 11-20 TRM NO: 01451 WINDOW NO: 3 OPER NO: 1

COM NO.	CLS NO.	JCR	R	C	CST	S	NI	SC	TTL	FULL	CONC	RTC	PSGN
ROLL 1	33493051	33493200	136	34	15	1	0	3	0				
ROLL 2	33490001	33490039							189	281			
AMOUNT RECEIVED													
CASH	CCARD	RTC	VCH	CST	TOTAL	CLK AND CNFEE	REFUNDS						
125634							CASH	CCARD	RTC	VCH	CST		
			4696	2840	133170	3106	5888						
NET AMT - CASH: 119746 CCARD: 0 RTC: 0 VCH: 4696 CST: 2840													
RTSA CHRG: 0 IMPREST CASH: 0 PERSONAL CASH: 50 CONTINUE (Y): 2													

WRONGTYPE, Invalid type for field value, correct the value

Cash counted and tallied in presence of me by Asha Poddar
S. Bhattacharya
09/11/06

10000 x 15 = 15000 ✓
5000 x 67 = 33500 ✓
100 x 720 = 72000 ✓
500 x 91 = 45500 ✓
200 x 103 = 20600 ✓
100 x 201 = 20100 ✓
CASH = 11

129131

(One Lakh twenty nine thousand one hundred thirty one only)

Asha Poddar
Hd e/c
9/11/06
Morning shift

Attested

15/11/07

आशा पोडर (अधीक्षक)
आ. प्र. न्यायाधीश
गुवाहाटी न्यायपीठ

Attested

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SN 188

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Cash Declaration Form

- ① Name :- ABIRA PODDER
- ② Designation :- HD BCRC
- ③ Section :- TFC
- ④ Date of Birth :- 10-10-1968
- ⑤ Date of Appointment :- 9-9-1995
- ⑥ Date of Retirement :- 31/1/2028
- ⑦ Scale :- 5000/- - 8000/-
- ⑧ Pay :- ~~5448~~/5450/-
- ⑨ Govt. Cash as per DPC Printout :- 119746
One Lakh ~~one~~ Nineteen Thousand seven hundred
- ⑩ Govt. Cash produced :- 129131
One Lakh Twenty nine thousand one hundred thirty one only
- ⑪ Private Cash as per Declaration :- 50/-
(Fifty Rs only)
- ⑫ Private Cash ~~as per~~ produced :- 50/-
(Fifty Rs only)
- ⑬ Reason for excess/short in Govt Cash :-
- ⑭ Reason for excess/short in Private Cash :- Nil
- ⑮ I will deposit the excess Amount in S.B. A/c :- 9385/-
at SWUT/Boodh

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal
गुवाहाटी बेंच
Guwahati Bench
13 MAR 2009

Signature of Balabhadra Giri
CVI/TFC/HQ at SCRB
Date :- 09/11/06
Attested

Signature of the Co.
Abira Podder
Designation :- Hd TFC
Date :- 9/11/06
Shift :- 1st shift

Attested

Signature of Vigilance Insp.
Date :- 09/11/06
Attested

11-2-08
COPIES TO BE SUBMITTED
TO THE
DIRECTOR
GENERAL
OF
INVESTIGATION
AND
PUBLIC
RELATIONS
AT
SCRB

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Statement of Smt Abina Podder INTERVIEWED
 recorded at SA (C) Office H/O on 12/1/07 in
 presence of a lady staff Smt Seema Halder H/O.

38

केन्द्रीय प्रशासनिक अधिकरण
 Central Administrative Tribunal
 3 MAR 2009
 गुवाहाटी न्यायपीठ
 Guwahati Bench

Q NO 1 State govt self.

- i) Name - Smt Abina Podder
- ii) Designation - Hd ECR
- iii) Posted at - SCRBS
- iv) Working under - SM (C) / H/O
- v) Pay - 5300/-
- vi) Scale of pay - 5000/- — 8000/-
- vii) Date of Birth - 10-10-1968
- viii) Date of appointment - 9-9-95
- ix) Date of Retirement - 6 —
- x) P.F. No - (Cn) remembered

Abina Podder
 Hd ECR/SCRBS
 12/01/07

Q NO 2. Did you perform duty on 7/11/06
 from 8 hrs to 14 hrs. I counter no 6 of SCRBS.

Ans. Yes.

Q NO 3. How many reservation slips left by
 you up to the date of 7/11/06?

Ans - I have given slip 674 (674) to the person who
 was in charge of the counter at that time. I have not
 209 (209) reservation slips left by me.

* Q NO 4. Please state how many reservation
 slips were marked "with serial numbers"
 and how many marked "without serial numbers"
 by you after going through the reservation
 slips?

Ans - I have given slip 209 (209) to the person who
 was in charge of the counter at that time. I have not
 209 (209) reservation slips left by me.

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Could you like to state please. Why
Total 12 nos of filled up registration forms
recovered from your possession with
out ~~filling~~ nothing will still be no
There on, by D. VI/ Team on 9/11/06.

[illegible]

Alison Padden
Hd cpe / sets
12/01/07

ONE 6 - 3 (three) numbers of Prisoner's Property
clips with cancel mark on the top of the
slips along with three PNRs 2332 R21081,
4264782932, and 616 454454 recovered from
your possession state union?

[illegible]

0107. What was the total amount in Government cash on hand which you had produced before the U/Team on 7/11/06 up to the time of check?

Heated Ans: — 129131 (One lack twenty ~~one~~ nine thousand one hundred thirty one U.S.) for a rent.

8 NOV Who counted the money?

[illegible]

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Ans:— ଏହି ଗୋଟିଏ ଚିଠିରୁ ସ୍ପଷ୍ଟ ଭାବରେ ଜଣାପଡ଼ିଛି ଯେ ଡାକ୍ତର
ମି. ବି. ଗିରୀ, ଯେ ଏହି ଗୋଟିଏ ଡାକ୍ତରଙ୍କୁ ଏକ ସମୟରେ ମିଳିଥିଲା
ମି. ବି. ଗିରୀ ଏବଂ ଡାକ୍ତରଙ୍କୁ ଏକ ସମୟରେ ମିଳିଥିଲା, ଏହାକୁ
ଡାକ୍ତରଙ୍କୁ ଏକ ସମୟରେ ମିଳିଥିଲା ଏବଂ ଡାକ୍ତରଙ୍କୁ ଏକ ସମୟରେ ମିଳିଥିଲା,

Q No 10 - How much amount was found
excess in Govt cash & would
you please like to state what is
the reason of such a huge amount
in Govt cash i.e Rs 9385/-

[illegible]

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Advocate _____

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केन्द्रीय वायुमंडल अधिकारिका
Central Administrative Tribunal
3 MAR. 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

On 12. A PNR 6364936958 (DTC transaction details SL no 32) was generated by you irregularly ~~by you~~ with DTC transaction time of 8.29 hrs of 9/11/06 on the basis of Reservation Acquisition SL no 47, after generating PNR 2232459108 with transaction time 8.28 hrs. of its morning SL of Reservation no 27. State the reason of for such irregularity in generating PNR after a huge gap of its serial no.

॥ ११-१२-१९८० ॥
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 सहायक बाणिज्य अधिकारी
 - मेट्रिक -
 . स. रेस. र. गिया
 ॥ ११-१२-१९८० ॥
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 सहायक बाणिज्य अधिकारी
 - मेट्रिक -
 . स. रेस. र. गिया

[illegible]

04016

Registration गुवाहाटी न्यायपीठ
Guwahati Bench Worked by you, after
I am not in a proper order what
the cause of such disgusting error
is. in putting serial no. 2

Alison Poddar
Hd ecr2/scr13
12/1/07

[illegible]

All the information given by me is true, complete and best to my knowledge and without having any pressure from any corner.

Atish Podder
"leap" sec

Alvin Podder
Hd. e/c/c/ SRR
12/1/77
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11-2-88, Stukmen - of Sm - Abir Pocher

at Sm (9) w/ office in ^{for} ~~presence~~ of me on 12/11/07.

Geetha Halawat
Halemit

(6701W 1000 1-18 27 (12 1.30411N
 (1111 (1111 1111

STATEMENT OF SMT. SANCHITA BHOWMICK CRS/SCRB
TAKEN ON 23/01/07 AT SM(G) NJPS CHAMBER IN
PRESENCE OF A LADY STAFF MOHUA BHATTACHARYA

SN. 170

44 P-1

Q.1

State yourself -

Name - SANCHITA BHOWMICK

Designation - C.R.S.

Posted at - SCRIB

Working under - SM(G) NJPS

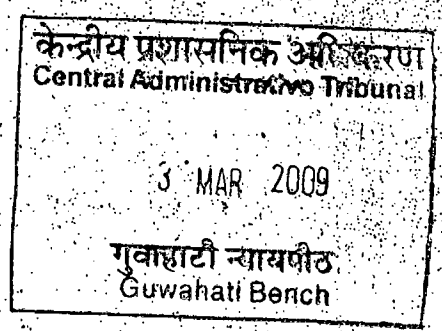
PAY - 6900/-

Scale - 6500 - 10500

Date of Birth - 3.8.66

Date of Appointment - 12-2-91

Date of Retirement - 30-8-2026



Q.2

Did you perform duty on 09/11/06 from
08:00 Hrs to 14:00 Hrs as CRS/SCRB?

Ans. Yes.

Q.3

12 Nos. of filled up Reservation Requisition Slips with
any Serial number and 3 Nos. of Requisition Slip
with Cancel mark on the top of the Slips along
three nos. of PNR, 2332821087, 6264782932 and
6164544584 recovered from Smt. Abina Mondal
Possession H of ECR/SCRB. Please Comment after
going through the original Slips?

Sanchita Bhowmick
CRS/SCRB
Dt 23-01-07

Ans. Yes.

11-2-07
पुष्पाक्षर प्रमाण प्रमाण
Commercial
Annexure
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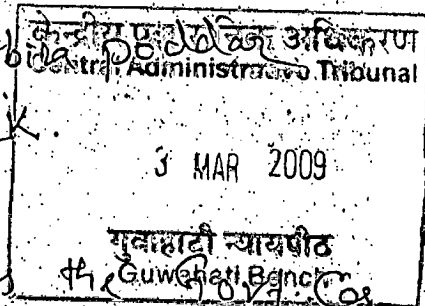
SN 178 M 45 P 2 (u)

4. Was Smt. Abir Poddar Hd ECR/scrns restricted to count the Government Cash by the v/ team on the date of check? Would you like to elaborate ~~by the~~ what was the actual situation when she was asked to count the Govt Cash by v/ team?

Ans: ~~Yes~~ Smt. Abir Poddar Hd ECR/scrns was not restricted to count the Govt Cash by the v/ Team. She is not in a position to count the cash but later she counted the cash and tallied the same physically.

Q. 5. Who counted the Government Cash on the date of v/check on 09/11/06 of SCRBS?

Ans. Govt Cash was counted by Smt. Abir Poddar Hd ECR/scrns on the date of v/check.



Q. 6. Would you like to state what was on hand which he had produced before the v/ team after going through the Cash declaration form filled up by her?

Ans: As per cash declaration form: she produced 129131 = 00
One lakh twenty nine thousand and hundred thirty one only.
What was the total Govt. Cash as per DTC print out Summary she produced before the v/ team?

As per DTC print out Summary she produced 119746 before the v/ team.

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Q. 8. How much amount was found excess in the Govt Cash of Smt. Abina Podder H.d. Ecce/scrbs on the date of v/ team check i.e. on 09/11/06?

Ans: 9385-00 found excess in her Govt Cash.

3 Nov 2009
Material 21448
Junal

Q. 9. Was the excess Amount deposited? If so please furnish the M.R no. under which it was deposited.

Ans:- Yes, Excess Amount was deposited under MR no. - 683197 At 10/11/06 at SCB.

Q. 10. Where the Govt. Cash was counted On the date of v/ check on 09-11-06?

Ans:- Govt. Cash was counted in her counted on the date of v/ check.

Q. 11. As per Statement of Smt. Abina Podder H.d. Ecce/scr two numbers of Cancelled PNR 6264825665 (DTC transaction details 167) and PNR 6164736346 under DTC transaction details 168 generated by you with any Requisition slips? State the reason?

Sancharita Bhojani
CRS/SCB At DS-01-07

Ans:- It may be happened so two numbers of Cancelled PNR I have generated but all the cancelled Requisition is attached in her center. Being a CHS reservation and cancellation may not be allowed in CHS and passenger taking a Requisition slip.

11-2-08
11-2-08

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करणा
जुना

As Stated by Smt Abina Poddar with a Receipt
SCRR in response to her to N.I.S. the following

- PNR 6264948308 by 5657 on 12/11/06
- PNR 6264948430 by 5657 on 12/11/06
- PNR 6364948471 by 5657 on 12/11/06
- PNR 6264 6164 859293 ——— 12/11/06
- PNR 6264 825665 by 3150 on 10/11/06
- PNR 6164 736346 by 3147 on 11/11/06

generated by you without Requisition Slip
in C No 6 on Abina Poddar, to whom
she was a tiffin. Comment that these
PNR, generated without R.S.P?

Attached Ans: 6264825665 | 3150 10/11/06 Rest 4 (symbols)
6164 7363 46 | 3147 11/11/06

Q.12.8 of PNR as mention above ~~the same~~
in question the same head section Slip already
available in the bunch under the Serial 122 to 125.

Q.13. Please go through the Cash declaration form
get filled in by Smt Abina Poddar H.E.C.R./M.P.
the memorandum drawn at Spot on 9/11/06, then
Seizure memo of RQ slips and a memo to deposit
excess cash addressing to CFS/SCRS. Do you
admit all the relevant particulars were
OK and done in your presence?

Ans: All the relevant particulars declared by
the charged official are done in my presence
and all are correct as per record available
in the filed.

All the information given by my employee

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[Signature]
Advocate

मेरे पास ऊपर की तली डेर साजने से
देखकर से 23.01.07 तिथि तक
संग्रहीत का कारा पत्र
N.P.T

Sandhya Khosla
CRS) 500, St. 28/01

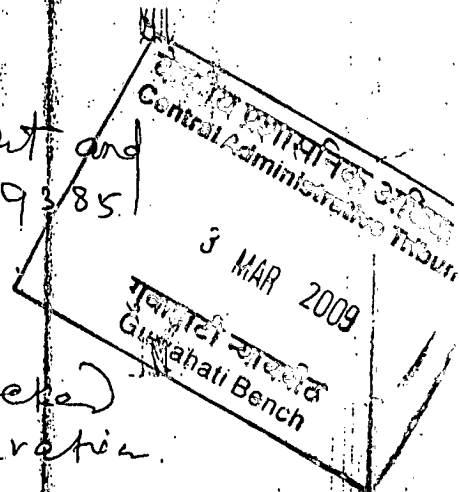
Memorandum (S)

SM 183

(28)

4852

A surprise check was conducted at CNO C of SERB/siliguri in morning shift on 9/11/06. On duty Hd ECR Mrs. ABRA PODDER was working in the said centre. ON being check the following irregularities came out:



- ① During compilation of DTC Print out and Cash on hand an amount of Rs 9385 found excess in the Govt cash.
- ② Here Private cash was also checked and found OK as per declaration.
- ③ Total 153 slips were dealt upto 11.5 hrs of 9/11/06 of which 1 to 138 serially numbered and rest 15 Nos found as unserialised without any SL No.
- ④ Three Nos of PNRs were also recovered from her which lined up with the Requisition slip without numbering. PNR Nos as 2332821081 62647 82932 and 6164544584 were also uncanceled. Hence the memorandum has been drawn for against the irregularities.

CRS/SERB
J. B. Bhowmik
CRS/SMB
19/11/06

CTI/GH
AF/HQ/MLg

(Sri V. T. H. St)

(Sri V. T. H. St)

Attested

11-2-08

15/2/08

Stamp: 15/2/08

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Advocate

To
CRS/ SERB NFRL

Dt. 04/11/06

37

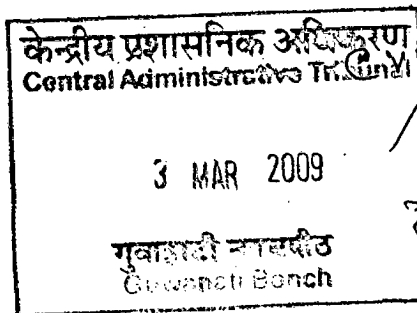
49

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No. Z/vig/BG/50/06 C.

SN/81

During vigilance check at C/G on 9/11/06 in Morning Shift an Amount of B 9385/- detected as excess Amount in Sort. Cash of ABIRA Poddar Hd ECR/ SERB. In the above connection you are requested to kindly arrange the excess Amount in SHUT and intimate as early as possible to the undersigned pocketing Money Receipt numbers in Support of the Excess Amount deposited.



Balabhadra Girish
CR/ Tbc/ Hd at
Tbc/ Hd at SERB
SERB
Dt 9/11/06

Received
dt. 13-4-08 HAS
S. Bhamini
CRS/ SERB
05/11/08

Attested

Attested

by
15/2/07



श्रीमान प्रशासनिक अधिकारी
आम. विभाग, ऑफिस-1
टो एच. डी. मल्लिक
ए. पी. राइज, मालवा
पुणे-44
कामधर्म-22

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3 MAR 2009

ANNEXURE

50
A2

To
The Divisional Commercial Manager
N. F. Railway, Rangigya
Disciplinary Authority.

गुवाहाटी न्यायपीठ
Guwahati Bench

Through 55/BNGN

Sub: - Defence statement Ref : Major Penalty Charge Memorandum
No. C/421/RNY/ VIG/STAFF-25 (Major) dt. 14.02.2008 issued against
Smt. Abira Podder, Hd. ECRC/SCRB (Now at BNGN)

Sir,

With due respect, I beg to submit the following few lines for favour of your kind consideration, judicious decision and favourable orders please.

- (1) That Sir, at the very out-set I deny the allegations labeled against me vide article I to article VIII through the aforesaid charge memorandum.
- (2) That Sir, the reason as to why I deny the allegations are appended below article wise.

Article - I

That Sir, as alleged that Rs 9,385.00 was found excess in my possession is not a fact. The said amount along with 3 requisitions has been pushed by three (3) passengers (member of Dada Bhai Sporting Club and was placed through the Counter Window where passengers placed requisitions). At that moment of time vigilance Inspector Sri B. Giri entered in side the counter and asked to close the counter and then it was closed immediately. The said amount of Rs.9,400.00 which was kept on the top of the counter along with requisition slips has been taken into Govt. Cash under my custody. Despite my repeated explanation that against the said amount no PNR was generated and hence this was not a part of Govt. cash. But all my efforts stood in vain.

As such I deny the said amount of Rs.9,385.00 alleged excess through Article - I.

Article - II

As regards allegation under Article-II to the effect that 12 Nos. of filled up requisition slips which did not bear any SL No. and or PNR no it is submitted that the said requisition slip were not handled by me not any PNR were generated by me against the said slips. Future regarding cancelled requisition slips along with PNR Nos. 2332821081, 6264782932 and 6164544584 alleged to have received from me is not based on facts. The said PNRs were not generated by me as it reveals from the said PNRs.

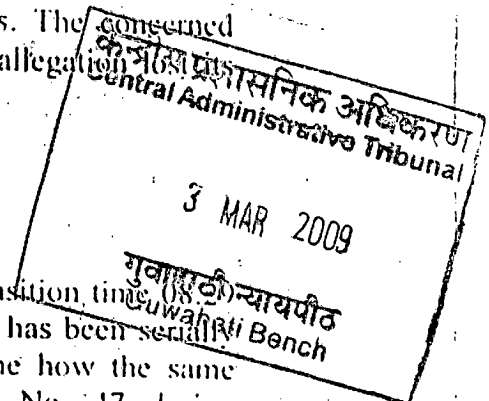
As such no responsibility on this account be attributed on me. Hence it is requested to withdraw the said allegation.

Contd...P.2

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Article - III

As alleged that 3 PNR Nos. 6264935631, 6364940450 and 2432993783 have been generated by me without requisition slips is not bared in facts. The concerned requisition slips are available on the bunch of the slips. Hence this allegation is devoid of credence.

Article - IV

As alleged vide article IV that PNR No. 6364936958 with transition time 08 hrs. having the requisition marked as 47 it is submitted that the PNR has been generated against requisition slip. But during performing duties some how the same might have been wrongly placed and ultimately marked as Sl. No. 47 during re-consideration. There was no ill-motive and the time showing against requisition slip No. 27, 47 and 28 will speak the truth. Hence the allegation under article No. IV may kindly be dropped.

Article - V

As alleged vide the said article that I had generated two cancel PNRs bearing Nos. 6264825665 and 6164736346 without any requisition slips, it is submitted that the said cancellation PNRs had not been generated by me but there were generated by Smt. Sanchita Bhowmick, CRS/SCRB during break time. The requisition slips No. 122 to 125 will disclosed the truth that the said cancellation and re-generation had been done by Mrs. Sanchita Bhowmick, CRS/SCRB. Hence the allegation labeled against me may kindly be withdrawn.

Article - VI

As alleged that PNR No. 6264949919 has been generated against requisition slip which found without any Sl. No. marked on the same, it is submitted that the requisition slip against the said PNR No. has not been supplied to me through the bundle of slips under item No. 7 Annexure-III of the charged memorandum. Hence I cannot comment any thing and regarding slip No. 132 to 137 have also not supplied to me. Hence I can not comment any thing.

Article - VII

As alleged vide the said article the said Nos. of requisition slips had not been properly numbered from Sl. No. 125 and onward, it is submitted that the PNRs against the said requisition slips had been generated by Smt. Sanchita Bhowmick CRS/SCRB and not by me. Hence no responsibility be attributed against me. Hence as such the allegation may kindly be withdrawn.

Contd...P/3

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Article – VIII

As alleged vide the said article that I received one "SEALED COVER" containing my transfer order for RNY Division addressed to CRS/SCRB at the time of receiving of Revocation letter but did not hand over the same to CRS/SCRB, it is submitted that from the endorsement made on the face of the revocation order dt. 14.02.2007 reveals that I have received 4 copies on 14.02.2007 at 18.00 Hrs. and I had handed over the copies to the respective authorities and consequently I was allowed to join on 15.02.2007 by CRS/SCRB. The 'Sealed Cover' referred to in the said article must have been handed over to CRS/SCRB consequent to which I was allowed to join on 15.02.2007 by the addressee of the said letter. I know nothing about the contents in the said "Sealed Cover". Since I have been allowed to join on 15.02.2007 by CRS/SCRB it indicates that the sealed cover had duly been handed over to CRS/SCRB. Hence the allegation under the said article is far from the reality and does not hold good. As such the allegation under the said article may kindly be dropped.

In view of the above your honour is requested kindly to exonerate me from the allegations labeled against me through the aforesaid charge memorandum by your magnanimity and there by I shall remain ever grateful to your honour, Sir.

With profound regards,

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
3 MAR 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

Yours faithfully,

Abira Podder
(ABIRA PODDER)
Hd. ECRC/BNGN
C. O.

Dt. 01.04.08

Forwarded
to DCM RNY.

01-04-08
जस्टिस सुपरिन्टेंडेंट
ए.पी. रॉड, गुवाहाटी
C. O. Ballivan/B...

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ANNEXURE

A3 A3 53

Northeast Frontier Railway

Office of the
Divisional Commercial Manager
Rangiya

No. C/421/RNY/VIG/Staff - 25 (Major)

Date:- 18.02.09

To
Smt. Abira Poddar
Hd. ECRC/BNGN

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

3 MAR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

(Through SS/BNGN)

Sub: - Show Cause Notice against DAR action for major penalty

Ref: - Major penalty charge sheet No. C/421/RNY/VIG/Staff - 25
(Major) dated 14.02.08

In connection with the subject issue enclosed please find a copy of the enquiry report along with the day to day proceedings submitted by enquiry officer/Maligaon for furnishing your remarks/final brief against the charges levelled vide memorandum cited above, as to why penal action should not be imposed upon you.

Your reply should reach this office within 10 (Ten) days time failing which it will be presumed that you have nothing more to say and the case will be decided as per records available.

DA: - 31 (Thirty-One)

18/02/09
(A. K. Sinha)

Divisional Commercial Manager
Rangiya

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ANNEXURE

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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

3 MAR 2009

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Guwahati Bench

NORTH EAST FRONTIER RAILWAY,

INQUIRY REPORT

ON

**The departmental inquiry held against
SMT ABIRA PODDAR
Hd ECRC BNGN**

**Submitted by
Shri S. Sen Gupta.
Inquiry Officer**

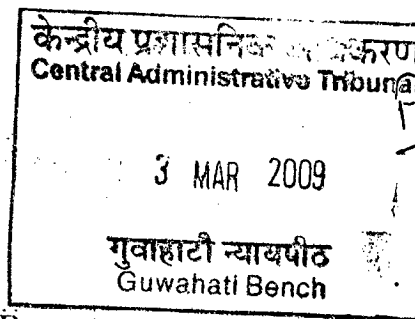
To

**DCM/ RNY
N.F/Railway. Rangia
(Disciplinary Authority:)**

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Advocate

[Signature]

NO / Z / VIG / CEI / SSG / 10 / 08-09



Dated. 21.1.09

Inquiry Report

On

The Departmental DAR Enquiry held against Smt Abira Poddar Hd ECRC SCRB now at BNGN

1. SEQUENCE OF DAR CASE RECORDS AND AUTHORITY FOR INQUIRY.

1.1 Under rule 9 (2) of Railway Servants (Disciplinary and Appeal) Rules 1968 the Divisional Commercial Manager, Rangia issued Memorandum C/421/RNY/VIG/STAFF-25 (MAJOR) dated 14.2.08 to Smt Abira Poddar Hd ECRC / SGUJ now at BNGN proposing to hold an enquiry against her for imposition of major penalty for the Article of charges framed therein.

1.2 **Record of delivery of charge sheet to the CO-** The above Memorandum was received by the CO along with all the Annexures.

1.3 **Order of the Disciplinary authority appointing of IO and PO** – DCM / RNY vide his order no C/421/RNY/Vig/Staff-25 (Major) dated 23.4.08. Appointed Shri S.Sen Gupta CEI / HQ as IO and Monej Kumar CVI / T as PO,

2. CASE OF DISCIPLINARY AUTHORITY.

2.1 Article of charge framed against Smt Abira Poddar Hd ECRC / SGUJ now at BNGN.

ARTICLE I Smti Abira Podder, Hd. ECRC/SCRB (Now at BNGN) while performing duty at PRS/SCRB Siliguri on 09.11.06 committed a serious misconduct is as much as excess in Govt. Cash to the tune of Rs. 9385/- was found in her possession with an unconvincing explanation, DTC-cum-summary print out at 11.51 hrs shows Rs. 119746/- but Govt. cash found in her possession was Rs. 129131.00

Article -II Smti Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09.11.06 committed a serious misconduct is as much as 12 (twelve) Nos. of filled up reservation requisition slips were recovered from her possession which did not bear any serial number and/or PNR number. In addition three cancelled requisition slips along with PNR Nos 2332821081, 6264782932 and 6164544584 were also recovered from her possession.

Article -III Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09.11.06, committed a serious misconduct in as much as she generated the following PNRs without reservation slips-

PNR No. 6264935631 (DTC transaction SI No.8), PNR No. 6264940450 (DTC transaction SI No.81) and PNR No. 2432993783 (DTC transaction SI No.190)

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Guwahati Bench

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Article - IV Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09.11.06, committed a serious misconduct in as much as she generated PNR 2232459105 with transaction time 08:28 hrs as per requisition slip No. 27, thereafter she generated PNR 6364936958 with transaction time at 08:29 hrs on the basis of requisition SL No. 47, which is highly irregular and then she generated PNR No. 2132817186 with transaction time 08:30 hrs as per requisition slip No. 28

Article - V Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09.11.06, committed a serious misconduct in as much as she generated two cancelled PNRs bearing numbers 6264825665 (under DTC transaction SL No. 167) and 6164736346 (under DTC transaction SL No. 168) without any requisitions slips(s).

Article - VI Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09.11.06 had committed gross irregularity by generating PNR No. 6264949919 against requisition slip which was found without any serial number marked on the same and requisition slip Nos. 132, 133, 134, 135, 136 and 137 were not available in the bunch.

Article - VII Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09.11.06 did not provide serial number on the reservation requisition slips in proper order from SL No. 125 and onwards as a result the transaction made did not tally with the DTC transaction obtained from CRIS/Kolkata.

Article - VIII Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09.11.06 committed a serious misconduct in as much as she received one sealed cover containing her transfer order for RNY Division addressed to CRS/SCRB from the office of the DRM (C)/KIR at the time of receiving of her revocation letter but she did not hand over the same to the CRS/SCRB with an ulterior motive.

Thus by the above act of omission and commission Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) exhibited lack of integrity and devotion to duty and acted in a manner unbecoming of a railway Servant and thereby contravened Rule 3.1(i) (ii) and (iii) of Railway Services(Conduct) Rule 1966.

STATEMENT OF IMPUTATION

2.2 On 9.11.06 a surprise check was conducted at PRS/SCRB at about 11.50 hrs counter no 6 was brought under check and found one Smt A. Poddar Hd ECRC / SCRB manning the same. Her Govt. cash and personal cash were checked along with the R/Slips dealt by her. Reservation requisition dealt up-to the time of check were taken to vigilance office for verification with the DTC transaction detail procured from CRIS / Kolkata. During the scrutiny of the requisition slips the following irregularities revealed.

ARTICLE I Smti Abira Podder, Hd. ECRC/SCRB (Now at BNGN) while performing duty at PRS/SCRB Siliguri on 09.11.06 committed a serious misconduct in as much as excess in Govt. Cash to the tune of Rs. 9385/- was found in her possession with an unconvincing

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explanation, DTC-cum-summary print out at 1.51 hrs shows-Rs. 119746/- but Govt. cash found in her possession was Rs. 129131.00

Article -II Smti Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09.11.06 committed a serious misconduct is as much as 12 (twelve) Nos. of filled up reservation requisition slips were recovered from her possession which did not bear any serial number and/or PNR number. In addition three cancelled requisition slips along with PNR Nos 2332821081, 6264782932 and 6164544584 were also recovered from her possession.

Article -III Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09.11.06, committed a serious misconduct in as much as she generated the following PNRs without reservation slips-

PNR No. 6264935631 (DTC transaction SI No.8), PNR No. 6264940450 (DTC transaction SI No.81) and PNR No. 2432993783 (DTC transaction SI No.190)

Article = IV Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09.11.06, committed a serious misconduct in as much as she generated PNR 2232459105 with transaction time 08:28 hrs as per requisition slip No. 27, thereafter she generated PNR 6364936958 with transaction time at 08:29 hrs on the basis of requisition SL No. 47, which is highly irregular and then she generated PNR No. 2132817186 with transaction time 08:30 hrs as per requisition slip No. 28

Article -V Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09.11.06; committed a serious misconduct in as much as she generated two cancelled PNRs bearing numbers 6264825665 (under DTC transaction SL No. 167) and 6164736346 (under DTC transaction SL No 168) without any requisitions slips(s).

Article -VI Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09.11.06 had committed gross irregularity by generating PNR No.6264949919 against requisition slip which was found without any serial number marked on the same and requisition slip Nos. 132,133,134,135,136 and 137 were not available in the bunch.

Article -VII Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09.11.06 did not provide serial number on the reservation requisition slips in proper order from SL No. 125 and onwards as a result the transaction made did not tally with the DTC transaction obtained from CRIS/Kolkata.

Article -VIII Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09.11.06 committed a serious misconduct in as much as she received one sealed cover containing her transfer order for RNY Division addressed to CRS/SCRB from the office of the DRM (C)/KIR at the time of receiving of her revocation letter but she did not hand over the same to the CRS/SCRB with an ulterior motive.

Thus by the above act of omission and commission Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) exhibited lack of integrity and devotion to duty and acted

in a manner unbecoming of a railway Servant and thereby contravened Rule 3.1(i) (ii) and (iii) of Railway Services (Conduct) Rule 1966. गुवाहाटी बेंच Guwahati Bench

2.2 LIST OF DOCUMENT DA produced 10 (Ten) documents on to which relied upon, Vide Annexures - III of the Charge Sheet.

2.3 LIST OF WITNESS There were 3 prosecution witness cited by the DA vide Annexures IV of the charge sheet.

3. PROCEEDINGS OF THE ENQUIRY.

3.1 PRELIMINARY HEARING The preliminary hearing of the case was held on 9.5.08. in the office of the CFI/HQ in presence of all PO.CO & DC.

3.2 PROSECUTION DOCUMENTS. Before starting the Regular hearing all the RUD's cited by the DA vide Annexures III were produced in original and were marked as follows.

SENO	DESCRIPTION	MARKED
1	Cash particulars of 9.11.06 and DTC print of counter no 6	PD/1
2	Photo copy of MR No 683197 certified by CRS/SCRB	PD/2
3	Statement of Smt A.Poddar dated 12.1.07	PD/3.
4	Statement of Smt S.Bhowmik CRS dated 23.1.07	PD/4
5	Memorandum dated 9.11.06	PD/5
6	Memo to CRS/SCRB advising to deposit excess amount recovered from Smt A.Poddar in Govt. cash	PD/6.
7	Seizure memo dtd 9.11.06 addressed to CRS/SCRB	PD/7
8	DTC transaction detail dtd 9.11.06 in 23 pages of terminal no 816 counter no 6 of SCRB procured from CRIS/Kolkata	PD/8
9	DRM / C / KIR's letter no Com/Estt-Misc/Station/Pt-II dts 20.6.07	PD/9.
10	Copy of SF-4 with the endorsement dtd 14.2.06 of Smt A.Poddar to have received DRM/C/KIR's letter no Com/Estt-Misc/Station/Pt-II dts 20.6.07	PD/10

3.3 PROSECUTION WITNESS: 3 (Three)

Sl No	Name	Evidence As	Deposition Date	Pages
1	Sri S.Boruah	PW-1	10.6.08	2
2	Sri Arjun Singh	PW-2	10.6.08	2
3	Smt S.Bhowmik	PW-3	28.7.08	2

3.4 DEFENCE DOCUMENTS- No defence document was produced by the CO on to which she relied.

3.5 DEFENCE WITNESS - NIL

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Guwahati Bench

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3.6 COURT DOCUMENT - One and marked as C-1 It is a letter of DADA BHAI SPORTING CLUB Siliguri, addressed to CRS/Siliguri dated 9.11.06..

3.7 REGULAR HEARING. Regular Hearing was held on 10.6.08 & 28.7.08 and the RH of the case was completed on 28.7.08.

3.8 GENERAL EXAMINATION OF THE C.O. On 28.7.08, Before the close of RH IO put mandatory question to the CO to clarify her position in general. Reply to the mandatory question by the CO was recorded.

3.9 TIME FRAME- The last RH was held on 28.7.08 and PO's brief was received on 11.8.08 and the Defence brief was submitted on 24.8.08.

4 GROUNDS TAKEN BY PO.

PO in his brief under the head result of enquiry mentioned that the case is of preventive case and all the witnesses produced during enquiry were examined and cross examined by the PO and CO and recorded their deposition.

4.1 PW-1 In reply to Q-1 he authenticate his signature and confirm the correctness of the contents of PD-5 the memorandum drawn on the spot by the vigilance team on 9.11.06. In reply to Q-5 he stated that if nay excess cash found mix up with the Govt. cash that excess cash is considered as unaccounted money and that has to be deposited in the Railway account. In reply to Q-8 he stated that the Govt. cash of Smt Poddar CO on 9.11.06 was counted in his presence.

4.2 PW-2 In reply to Q-1 authenticated the signature and confirmed the correctness of the contents in PD-5 the memorandum drawn on the spot by the vigilance team on 9.11.06. In reply to Q- 8 he stated that the Govt. cash of CO was counted again and again in his presence and there was Rs 9385/- was excess in the Govt. cash of the CO. In reply to Q-10 he stated that all the documents vide PD-7 were seized in his presence.

PW-3 In reply to Q-1 & 2 he authenticated the signature and confirmed the correctness of the contents in PD-5 the memorandum drawn on the spot by the vigilance team on 9.11.06. and PD-4 (the statement S.Bhowmik recorded at CVO / MLG 's office) In reply to Q-7 she stated that CO showed a list of which she had for generating some tickets and subsequently the same was acknowledge from on of her staff in the next shift.

PO in the head Analysis of document mentioned that

PD-1 is the cash particular filled up by Smt Poddar CO in her own handwriting from which it is clearly understood that the Govt. cash of Smt Poddar as per DTC was Rs 1,19,746/- but she produced Rs 1,29,131/- ie Rs 9385/- was found excess in her Govt. cash

PD-2 Is the copy of MR No 683197 against which Smt Poddar deposited her excess amount of Rs 9385/- found during the vigilance check.

PD-3 is the statement of Smt Poddar where in reply to Q-8 she had stated that her Govt. cash was counted in presence of S.Bhowmik. CRS / SCRB In reply to Q-12 she admitted that it was due to clerical mistake that two PNR, s were cancelled without taking any requisition slip. In reply to Q-14 she stated that the six requisition slips consecutively ie SI No 132 to 137 not available in the bunch by mistake.

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Bmbh -

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PD-4 is the statement of Smt Bhowmik recorded at CBVU/MLG's office in her deposition narrated as Vide Q-2 she had stated that she was on duty CRS / SCRB on 9.11.06 from 8 hrs to 14 hrs. Vide Q-3 she stated that 12 nos. of filled up requisition without any serial no and there nos. of requisition slip cancelled mark on the top of the slips along with three nos. of PNR 's were recovered from the possession of Smt Poddar CO. In reply to Q-4 & 5 she stated that CO was not restricted by the vigilance team to count the Govt. cash and was not in a position to count the cash. But later the Govt. cash was counted by Smt Poddar and tallied the same physically. In reply to Q-8 & 9 she stated that an amount of Rs 9385/- was found excess in the Govt. cash of the CO and the same was deposited vide MR No 683197. In reply to Q-10 she stated that the Govt. Cash was counted on the counter of the CO in her presence.

PD-5 is the original memorandum drawn on the spot narrating all the irregularities detected in the course of vigilance check of window no 3 terminal no 816 the said memorandum was signed by the checking team and CRS / SCRB as witness of the incidence occurred during the check.

PD-7 is the seizure memo issued by the vigilance to CRS / SCRB. The documents were seized from the CO's counter in presence of CRS were correctly produced as per PD-7 and there was no additional document included or left after the document were seized during the check.

PD-8 is the DTC summary collected from PRS NKG/ Kolkata which clearly reflects that all information in connection with the generating of PNR detailing compressive records of passenger including cancellation, NI, special cancellation, modification etc of a particular shift, counter no, terminal no, and ID of the ECRC. It is proved that CO was on duty on 9.11.06 on terminal no 816 at the time of vigilance check and on cross check from requisition slip and the DTC transaction detail transpires that the committed the following irregularities. Three PNR 626 4935631, 6364940450 & 2432993783 transaction SL no 8, 81 & 190 were generated by the CO without taking any requisition slip from the passenger. CO also generated two cancelled PNR 6264825665 & 6164736346 transaction SL no 167 and 168 without requisition slips. As per DTC transaction detail no 33 one PNR 6364936958 was generated against R/Slip no 47 at 8.29 hrs again as per SL no 34 one PNR no 213 2817186 was generated against R/Slip no 28 at 8.30 hrs This clearly indicates that CO has violated the priority and thus deprived the passenger from his due turn.

4.3 PO under the head Discussion mentioned that PD-1 was prepared by the CO in her own handwriting and she admitted that she kept the money for generation PNR's. PD-5 the memorandum which was drawn at the spot bears the signature of the checking team and CRS/SCRB wherein it is clearly mentioned and admitted that 12 nos. of reservation requisition slips were recovered from her possession which did not bear any SL no and PNR no and three PNR 2332821081, 6264782932 & 6164544584 were also recovered from her possession. PD-4 statement of CRS wherein vide Q-3 she stated 12 nos. of filled up requisition without any SL no and three nos. of R/slips cancelled mark on the top of the

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slips along with three nos. of PNR were recovered from the possession of Smt A. Poddar by the checking team. Thus from the above Article-1 & II stands established.

4.4 PO also mentioned that PD-8 proved that the CO was on duty on 9.11.06 at the time of vigilance check and she had committed the following irregularities. PNR 6264935631, 6364940450 & 2432993783 transaction SL no 8.81 & 190 were generated without taking any requisition slips. As per DTC transaction SL no 33 one PNR 636 4936958 was generated against R/Slip 47 at 8.29 hrs again as per DTC SL No 34 PNR 213 2817186 was generated against R/Slip no 28 at 8.30 hrs this clearly indicates that CO has violated the priority of the passenger in the sequence for extending favourism for her personal gain. CO generated two cancelled PNR 626 4825665 and 6164736346 without requisition slip. Hence from the above Article III, IV & V stands established.

4.5 PO also mentioned that PD-7 indicates that the documents were seized from the CO's counter in presence of CRS and CTH / A.F. Squad were correctly produced as per PD-7 and there was non additional document included or left after the document were seized during the check. On going through the R/Slips seized it is noticed that one PNR 6264949919 against R/Slip which was found without any SL no marked on and R/slip no 132 to 137 were not available in the bunch. The R/Slips seized from the counter, were cross checked with DTC and noticed that the SL no given by the CO does not match with that of DTC (PD-8) which proves her insincerity and inattentive while on duty.

4.6 PO also mentioned that one sealed cover containing transfer order of the CO for RNY addressed to CRS / SCRB from the office of the DRM/C/KIR along with her revocation order was handed over to the CO but she did not hand-over the same to the addressee. A letter no Com/Estt-Misc/Station/Pt-II dated 20.6.07 issued by DRM/C/KIR was produced as PD-9 wherein following remark was given at item no 4 at the time of handing over the 4 revocation letter to Smt a Poddar CO at DRM/KIR's office The Xerox copy of transfer order was also handed over to her along with the revocation letter of CRS / SCRB in a sealed cover with an advise to DCRS / SCRB to follow the transfer order issued by DRM/C/KIR vide revocation order dated 14.2.07. Thus the charge framed vide Article-VIII stands established.

5.1 GROUNDS TAKEN BY THE C.O IN HIS DEFENCE BRIEF.

CO in his brief discussed in details against each Article of charge.

Article -I of the Charge Memorandum referred to the Para 1.1 above, that and amount of rs. 9385/- was found excess in Govt. Cash at 11:51 hrs on 09-11-06 in her possession for which the explanation was unconvincing. In this connection it is submitted that in the true sence the said amount of Rs. 9385/- stated to be excess Govt. Cash was not so. The thing is, while the C.O has been performing duties on 09.11.06 three to four boys of "Ddabhai Sporting Club of Siliguri" were standing in the que outside the counter with three filled up requisitions for issue of PNR ticket upto SDAH and back and since C.O was very well known to them, they pushed the said amount along with 3 (three) filled up

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requisition slips through the counter for generating PNRs and when their turn comes and the Requisition slips with the amount of Rs. 9400/- were kept on one side of the counter. At that very moment, Sri B.B. Giri, CVI/T entered inside the counter and compelled the C.O to close the counter, which was complied with. The CVI/T himself brought out the Govt. Cash from the drawer and taken into the said cash of Rs. 9400/- throughing the said requisition slips and forced the C.O to add up the said cash with the Govt. Cash in her possession and the C.O was under pressure from the said CVI/T to prepare the cash particulars in presence of Smt. Sanchita Bhowmick, CRS/SCRB (PW-3). So the so-called excess amount of Rs. 9385/- was nothing but the amount of the said club for purchase of tickets. Sir, CVI/T even did not allow the C.O to generate tickets against the said 3 (three) requisition slips. In connection with the so called excess in Govt. cash Smt Sanchita Bhowmick CRS/SCRB (PW-3) confirmed vide ans to Q. No. 7 dt. 28.7.08 that the said money belongs to the club boys and tickets were to generate by C.O, which was not allowed by CVI/T. In support of her statement (PW-3) submitted one evidence, which was marked as C-1 during enquiry on 28.07.08. The said evidence is an application addressed to CRS/SCRB on the same day i.e 09.11.06 from the President "Dada Bhai Sporting Club/ Siliguri" for refund of Rs. 9400/- paid towards, to and fro fare Ex NJP to SDAH.

5.2 From the above document it is established clearly, that it is not a case of excess in Govt. cash, but made so by the CVI/T without allowing to generate the tickets as per list and requisition slips. The said action of CVI/T is direct interference in normal working of the C.O.

5.3 In this connection it is further submitted that, altogether there are 3 (three) PWs - as follows Sri S. Baruah (PW-1) is CVI/MLG, Sri Arjun Singh, CTT/AF/MIQ (PW-2) and Smt S. Bhowmik CRS (SCRB) PW-3. Out of the said three PWs, PW-1 vide his ans to Q. No. 3 dt. 10.06.08 confirmed that he was not associated with the said check at the beginning. He joined the check at about 12:15 hrs whereas it is seen from PD-1 (Terminal cash summery) made out 11:51 hrs and accordingly cash particulars was prepared and so called excess found. It is therefore established that so called excess in Govt. cash was established prior to association of PW-1 in the check. Similarly PW-2 vide his ans. to Q. No. 5 dt. 10.06.08 confirmed that counting of cash was done prior to his arrival to the spot. So, Smt S. Bhowmick CRS/SCRB (PW-3) was the only vital witness, who was present and associated in cash counting. PW-1 vide his ans. to Q.No.9 dt. 10.06.08 stated that, "The excess detected at that time was "some extent high in comparison to the result of normal checking and it was arise some doubt whether the amount came out correctly or not". But even after such doubt the vigilance team did not take any attempt to find out the reason of such a huge amount, as so called excess. Even the check team did not taken into consideration the documents i.e List/Requisition slip, produced by the C.O. to prove that the PNRs were to generate against the said amount. During general examination of C.O. by E.O, the C.O vide ans to Q.No. 1 dt. 28.7.08 clearly stated the said fact. Similarly, CO.

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during recording of statement dt. 12.01.07 clearly stated vide ans to Q. No. 10 dt. 12.01.07 that the club boys given Rs. 9400/- along with three requisition slips kept on counter desktop, which the CVI/T/MLG forcefully included with the Govt cash without allowing the to generate PNRs and hence so called excess. From the above facts and depositions, and documents adduced during enquiry it is established that the allegation under Article - I, stands not established.

5.4 Further P.O. under caption "Discussion" on Article I and II observed that during general examination by I.O to C.O where C.O admitted that she kept the money for generating PNRs. The said observation of P.O. is far from the fact. P.O. has twisted the statement of C.O. C.O clearly stated that the club boys kept the said amount of Rs.9400/- along with 3 requisition slips for generating tickets. Hence the P.O.'s observation in this respect is not tenable and hence does not hold good.

Article-II of the Charge memorandum, referred to in para 1.2 above that 12 numbers of filled up requisition slips were recovered from the possession of C.O which did not bear any serial / PNR number and three PNRs 2332821081, 6264782932 and 6164544584 were also recovered from CO's possession.

5.5 P.O. under caption "Discussion" referred PD-5 (original memorandum drawn on the spot narrating all the irregularities detected during vigilance check at SCR/B), but it is surprising that the said vital document had been prepared keeping the C.O. in the DARK. This claim of C.O is established from the fact that PD-5 does not bear the CO's signature. Further the details of 12 Nos of requisition slips as mentioned in Article -II have also not given either in annexure I or Annexure -II of the Charge Memorandum. No such 12 Nos of Requisition slips were recovered from the CO's possession. Again None of the witnesses deposed anything about the said 12 Nos of Requisition slip. Hence in absence of details of the requisition slips stated to have been found from C.O's possession (PD-5) is not accepted and thus does not hold good. Apart from the above, 3 Nos of cancellation slips alongwith PNRs such as 2332821081, 6264782932 and 6164544584 stated to have recovered from CO's possession. In this connection it is submitted that these PNRs were not generated by the C.O on 09.11.06 and the C.O did not receive the said 3 cancellation requisition slips and the said PNRs. This was known to CRS/SCR/B, because during break from 11:00 to 11:30 hrs, CRS/SCR/B dealt some requisition slips and cancellation slips and also generated same PNRs for her personal purpose. The said PNRs were part of total cancellation slips generated by CRS/SCR/B. In this connection P.O. referred PD-5 i.e memorandum, through the discussion under Article -I and II, but this PD-5 had not been prepared in association of the C.O. It was prepared in absence of C.O and the said PD-5 does not bear CO's signature as such the contents of PD-5 is not accepted by the C.O. Since the said PD-5 bears the signature of members of Vigilance team and CRS/SCR/B, it may be known to them, wherefrom the said documents come from. Again P.O. referred the document PD-4 i.e statement of Mrs S. Bhowmick CRS/SCR/B where vide Q. No. 3 dt. 23.01.07 she was asked to comment on the 12 Nos of

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filled up requisition slips and 3 Nos of requisition slips with cancel marks on top with 3 PNRs to which Smti Bhowmick (PW-3) replied "Yes" which carries no meaning. P.O. misconstrued the said answer and observed the 12 Nos of Requisition slips and 3 Nos. of Requisition slips with cancelled marked on top with 3 PNR's were recovered from the possession of C.O is not tenable and hence not acceptable. In view of the above, the allegation under Article -II has not been established during enquiry.

Article -III It is alleged vide Article -III of the Charge memorandum, referred to in para 1.3 above that C.O generated the following 3 (three) PNRs without Requisition slip- PNR No. 6264935631 (DTC transaction SI No.8) , PNR No. 6264940450 (DTC transaction SI No.81) , PNR No. 2432993783 (DTC transaction SI No.190)

5.6 In this connection it is submitted that PNR No. 6364940450 under item No. (II) above, generated at 09.22 of 09.11.06 with requisition slip and PNR No. 6264935631 under item No.I above , generated at 08-08 hrs of 09-11-06 with proper requisition slip which had been seized by CVI/T from CRS/SCRB on 09.11.06 and the requisition slips could not be supplied by CVI/T during statement stage on 12.01.07. So the question generating PNR without requisition slip does not arise. Because it may be submitted that Sri B.B. Giri CVI/T seized 153 requisition slips of which requisition slips 1 to 138 were serially numbered (kindly connect PD-7 (Seizure memo) and PD-5 (Memorandum). Hence the question of generating the said PNR under item IV and V above does not hold good. It may also be submitted that since the requisition slips were serially numbered (PD-5 and PD-7) and seized by CVI/T, so no responsibility be attributed on C.O for non-availability of requisition slips. Again regarding item No. VI PNR No - 2432993783 (DTC transaction S No. 190), it is submitted that the requisition slips have been seized at 11:51 hrs PD-5 and DTC transaction PD-8 made out at 11:51 hrs where as the PNR in question referred above, has been generated at 11:55 hrs (SI No. 190) and that too it was not generated by the C.O as such this PNR can not come under the purview of check conducted at 11:51 hrs of 09:11:06. P.O. Also copied out the same thing through his Brief and tried to establish the allegation without going in to the details of the fact. Hence P.O.'s observation is not tenable and not acceptable. In view of the above, the allegation under Article -III of the Charge Memorandum does not hold good and has not been substantiated during the enquiry.

Article -IV Charge memorandum, referred to in para 1.4 above that C.O generated PNR Nos. (i) 2232459105 at 08:28 hrs as per requisition slip (S/No. 27) (ii) 6364936958 at 08:29 hrs as per requisition slip (S/No. 47) (iii) 2132817186 at 08:30 hrs as per requisition slip (S/No. 28).

5.7 In this connection it is submitted that item No. (i) has been correctly generated as per requisition SL No 27 with transaction time 08.28 hrs SI No of DTC transaction is 31. Item No (ii) above PNR No. 6364936958 generated at 08:29 hrs with requisition Slip SI No. 28, but not 47 as mentioned in Article IV, SL No of DTC transaction is 32 and Item No. (iii) above, the PNR No as shown, 2132817186 with transaction time 08:30, SL No 28 has

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not been generated at all. The said particulars are wrong. The correct position is PNR No. 2132517186 with transaction 08:30 was generated as per requisition slip under SI No. 29 and not 28 shown in the Article-IV. SL No. of DTC transaction is 33. From the above factual position as per DTC transaction, the allegation of generating PNR with improper timings is not based on facts. In view of the above, the allegation under Article IV does not hold good. Further P.O's observation on the allegation under Article -IV is also based on incorrect particulars and hence not tenable.

Article-V of the Charge memorandum, referred to in para 1.5 above that the C.O generated 2 (two) cancelled PNR Nos. 6264825665 (DTC transaction S/No. 167) and 6164736346 (DTC transaction S/No. 168) without requisition slips.

5.8 In this connection it is submitted that the said cancelled PNRs were not generated by the CO but these were generated by Smt. S. Bhowmick, CRS/SCRB during break period from 11:00 hrs to 11:30 hrs against her own privilege pass. These PNRs were cancelled at 11:22 hrs on 09-11-06. That the said cancelled PNRs were generated by Smt S. Bhowmick, CRS/SCRB (PW-3) has admitted the fact vide her answer to Q. No. 11 dt. 23.01.07. In support of the above, I would like to submit further that said Smt. Bhowmick CRS/SCRB generated 4 (four) PNRs against 5 privilege passes as reflected against SI No. 163, 164, 165 and 166 of DTC transaction vide PNR Nos. 6264948308, 62649448430, 6264948472 and 6164859293 and requisition S/No. 122, 123, 124, and 125 on which the signature of Smt. Bhowmick also clearly put by her showing generating time 11:19 hrs, 11:20 hrs, 11:21 and 11:22 hrs of 09-11-06 and Smt Bhowmick cancelled the said two PNRs at 11:22 hrs on 09.11.06 on which, earlier reservation was made. Smt Bhowmick CRS/SCRB admitted the fact of generating PNRs in question vide her ans. to Q. No. 12 dt. 23.01.07 P.O. vide his Brief observed only that cancelled PNRs were generated by the C.O without cancellation slips. But the fact is different, which is narrated above. As such P.O's observation does not hold good. In view of the above, the allegation under Article V has not been substantiated.

Article-VI of the Charge memorandum, referred to in para 1.6 above that the C.O generated PNR No. 6264949919 against requisition slip on which no serial number was marked and requisition slip Nos. 132, 133, 134, 135, 136 and 137 were not available in the bunch.

5.9 In this connection it is submitted that, the allegations are baseless and vague. The PNR No. 6264949919 alleged to have been generated by the CO have no existence in reality. DTC transaction (PD-8) does not show such PNR No. as generated on 09.11.06. The allegation labeled by citing the PNR in question is a cooked product and has been manufactured by Sri B.B. Giri, CVI/T in consideration of his own to malign the image of the C.O. While there is no existence of the PNR in question, the question of requisition slip in this respect is also a vague one. Further it is alleged that Requisition Slip Nos. 132, 133, 134, 135, 136 and 137 are not available in the bunch of slips. Sir, PD-5 (memorandum) and PD-7 (Seizure Memo) clearly indicates that CVI/T seized 138

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requisition slips which were serially numbered from 1 to 138. So the question of non availability of slips No. 132 to 137 does not arise. For such non-availability, all responsibilities rest with Sri B.B. Giri, CVI/T, as he has seized the said requisition slips under his signature and designation from CRS/SCRB on 09-11-06. Hence no responsibility can be attributed on the C.O for non-availability of the said requisition slips. Again P.O. simply repeated the allegation through his Brief. In addition P.O. in consideration of his own used some unparliamentary words against the C.O, such as 'Insincerity' 'Unattentive' while on duty, etc., but such words are beyond the ambit of charges against the C.O. Hence, the observation of P.O. is uncalled for and does not hold good In view of the above, the allegation under Article -VI of the Charge memorandum has not been substantiated.

Article = VII of the Charge Memorandum, that C.O did not provide serial numbers on the requisition slips in proper order from S/No. 125 onwards as a result the transaction made, did not tally with the DTC transaction, obtained from CRIS / Kolkata.

5.10 In this regard it is submitted that the allegation is baseless and vague. All the reservation slips have been serially entered the DTC transaction (PD-8). However for kind appraisal of Hon'ble E.O, it is submitted that the Requisition slip upto S/No. 125 have been in proper order and thereafter Mrs. S. Bhawnick CRS/SCRB generated two cancelled PNRs without requisition slip. After that all the Requisition slips have been numbered in proper order again from S/No. 126 onward (DTC transaction No. 169) S/ No. 127 corresponds to 172 of DTC transaction, because 170,171 connects with S/ No. 126. This is how all the remaining requisition slips have been tallied with the DTC transaction. As such the allegation under Article -VII stands not sustained. Further P.O. through his Brief simply copied the allegation from the Charge Memorandum under Article VII. There is no basis of his observation on the charges. As such P.O.'s observation does not hold good and hence not accepted. In view of the above the allegation under Article VII not substantiated.

Article VIII of the Charge Memorandum, referred to in para 1.8 above, that the C.O received one sealed cover containing her transfer order for RNY Division addressed to CRS/SCRB from the office of the DRM/C/KIR at the time of receiving of her revocation letter, but she did not hand over the same to the CRS/SCRB with an ulterior motive.

5.11 In this connection it is submitted that the allegation is far from the reality. There is no good ground about the allegation. The revocation order vide No. Com/Estt-Misc/Station/Pt-II dt. 14.02.07 has been marked as PD-10 during enquiry. it appears from the endorsement made by the C.O on the side bottom of the said (PD-10) that C.O received 4 (four) copies of (PD-10) at 18:00 hrs on 14.02.07 one each for self, APO/Bill NJP, CRS/SCRB and SM (G)/NJP only. CO also during general examination by E.O stated the fact vide ans to Q. No. 1 dt. 28.07.08. But along with the aforesaid copies no other sealed cover was handed over to CO for CRS/SCRB. As alleged that one sealed cover, stated to have contained transfer order for RNY, has been given to the C.O is not a

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fact. No such transfer order was handed over to the C.O. whatever written in the said letter, does not concern the C.O. Further the said ACM/I/KIR Sri A.K. Sinha signed the letter (PD-9) on 20.06.07 and the transfer order stated to have been issued dt. 31.01.07 (PD-9) has no bearing with the Revocation order (PD-10). No where in PD-10 it is mentioned that a copy of the transfer order was given to CRS/SCRB along with the copy of PD-10 for CRS/SCRB. Since the copy of so called transfer order was not handed over to the C.O. question of not handing over the same to CRS/SCRB does not arise. P.O. simply copied the allegation purported to be his observation, which is not tenable. P.O. also could not cite any authentic evidence in regard to allegation. In view of the above, the allegation under Article -VIII has not been substantiated.

5.12 From the above facts, depositions of PWs, and document adduced and marked as C-1 and clarification of C.O. during general examination by E.O on 28.07.08, it established, that the allegations vide Article I to Article -VIII, have not been substantiated during enquiry.

6. DISCUSSION, ASSESSMENT OF EVIDENCES AND REASON FOR FINDINGS IN RESPECT OF ARTICLE OF CHARGE.

ARTICLE 1 Smti Abira Podder, Hd. ECRC/SCRB (Now at BNGN) while performing duty at PRS/SCRB Siliguri on 09.11.06 committed a serious misconduct is as much as excess in Govt. Cash to the tune of Rs. 9385/- was found in her possession with an unconvincing explanation. DTC-cum-summary print out at 11.51 hrs shows Rs. 119746/- but Govt. cash found in her possession was Rs. 129131.00

6.1 PO under the head Discussion mentioned that the CO in her own handwriting prepared PD-1 and she admitted that she kept the money for generation PNR's.

6.2 CO mentioned that the club boys given Rs. 9400/- along with three requisition slips kept on counter desktop, which the CVIT/MLG forcefully included with the Govt. cash without allowing to generate PNRs and hence so called excess. (Page-6, para-3)

6.3 From the documents the brief of both PO and CO it is clear that there is no doubt about the possession of the excess amount of Rs 9385/- by the CO at the time of check by the vigilance. CO's plea about the excess is club boys given Rs. 9400/- along with three requisition slips kept on counter desktop, which the CVIT/MLG forcefully included with the Govt. cash without allowing to generate PNRs. This plea of the CO is baseless and after thought. As no body will keep so much amount on the desk, without any care and also if they were in the Que. then obviously they would have raise objection or claim their tickets immediately. But no body claim that during the presence of vigilance team. Rather CO in PD-1 which is prepared by her own handwriting, clearly mentioned in (Sl No 15) and admitted the fact of excess cash and confessed that she will deposit the excess amount. Therefore there should not be any doubt about the possession of excess amount.

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Hence I consider the Article -1 as PROVED.

Article -II Smti Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09.11.06 committed a serious misconduct is as much as 12 (twelve) Nos. of filled up reservation requisition slips were recovered from her possession which did not bear any serial number and/or PNR number. In addition three cancelled requisition slips along with PNR Nos 2332821081, 6264782932 and 6164544584 were also recovered from her possession.

6.4 PO mentioned that the document PD-5 the memorandum which was drawn at the spot bears the signature of the checking team and CRS/SCRB wherein it is clearly mentioned and admitted that 12 nos. of reservation requisition slips were recovered from her possession which did not bear any SL no and PNR no and three PNR 2332821081, 6264782932 & 6164544584 were also recovered from her possession. PD-4 statement of CRS wherein vide Q-3 she stated 12 nos. of filled up requisition without any SL no and three nos. of R/slips cancelled mark on the top of the slips along with three nos. of PNR were recovered from the possession of Smt A. Poddar by the checking team.

6.5 CO mentioned that P.O. under caption "Discussion" referred PD-5 (original memorandum drawn on the spot narrating all the irregularities detected during vigilance check at SCRB), but it is surprising that the said vital document had been prepared keeping the C.O. in the DARK. This claim of C.O is established from the fact that PD-5 does not bear the EO's signature. Further the details of 12 Nos of requisition slips as mentioned in Article -II have also not given either in annexure I or Annexure -II of the Charge Memorandum. No such 12 Nos of Requisition slips were recovered from the CO's possession. Again None of the witnesses deposed anything about the said 12 Nos of Requisition slip. Hence in absence of details of the requisition slips stated to have been found from C.O's possession (PD-5) is not accepted and thus does not hold good. Apart from the above, 3 Nos of cancellation slips along with PNRs such as 2332821081, 6264782932 and 6164544584 stated to have recovered from CO's possession. In this connection it is submitted that these PNRs were not generated by the C.O on 09.11.06 and the C.O did not receive the said 3 cancellation requisition slips and the said PNRs. This was known to CRS/SCRB, because during break from 11:00 to 11:30 hrs, CRS/SCRB dealt some requisition slips and cancellation slips and also generated same PNRs for her personal purpose. The said PNRs were part of total cancellation slips generated by CRS/SCRB. (Page 6,7 of Para 5,6)

6.6 From the above it is clear that the argument of the CO as the "No such 12 Nos of Requisition slips were recovered from the CO's possession. Again None of the witnesses deposed anything about the said 12 Nos of Requisition slip. Hence in absence of details of the requisition slips stated to have been found from C.O's possession (PD-5) is not accepted and thus does not hold good". These pleas are not at all acceptable. Because all the PW admitted during examination that the content of PD-5 is correct which means that

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possession of 12 requisition and 3 PNR by the CO is correct. CO also confessed that the 3 mentioned PNR's were generated by the CRS, which clearly proves the existence of the same with the CO, knowingly though generated by others. Moreover out of 174 nos of requisition as dealt upto 11.31 hrs CO produced only 153 of which 15 numbers of requisitions were of without any number. Therefore there is no doubt about the correctness of the allegation.

Hence I consider the Article -11 as PROVED.

Article -III Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09.11.06, committed a serious misconduct in as much as she generated the following PNRs **without reservation slips**-

PNR No. 6264935631 (DTC transaction SI No.8), PNR No. 6264940450 (DTC transaction SI No.81) and PNR No. 2432993783 (DTC transaction SI No.190)

6.7 PO also mentioned that PD-8 proved that the CO was on duty on 9.11.06 at the time of vigilance check and she had committed the following irregularities. PNR 6264935631, 6364940450 & 2432993783 transaction SL no 8.81 & 190 were generated without taking any requisition slips

6.8 In this connection CO mentioned that the PNR No. 6364940450 under item No. (II) above, generated at 09.22 of 09.11.06 with requisition slip and PNR No. 6264935631 under item No.I above, generated at 08-08 hrs of 09-11-06 with proper requisition slip which had been seized by CVI/T from CRS/SCRB on 09.11.06 and the requisition slips could not be supplied by CVI/T during statement stage on 12.01.07. So the question generating PNR without requisition slip does not arise. Because it may be submitted that Sri D.B. Giri CVI/T seized 153 requisition slips of which requisition slips 1 to 138 were serially numbered (kindly connect PD-7 (Seizure memo) and PD-5 (Memorandum). Hence the question of generating the said PNR under item IV and V above does not hold good. It may also be submitted that since the requisition slips were serially numbered (PD-5 and PD-7) and seized by CVI/T, so no responsibility be attributed on C.O for non-availability of requisition slips.

6.9 From the document marked as PD-7 the original requisition slips and PD-8 the DTC transaction detail it is clear that PNR No. 6264935631 (DTC transaction SI No.8), PNR No. 6264940450 (DTC transaction SI No.81) and PNR No. 2432993783 (DTC transaction SI No.190) generated without any requisition slips. As no such requisition slips are found in the seized bunch, rather it revealed that the requisition slips marked as 8 by the CO by her own handwriting is of other PNR and of train, in the same way requisition marked by the CO as 81 and 190 also of other train. Therefore the allegation of without requisition is found correct.

Hence I consider the Article -III as PROVED.

Article - IV Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09.11.06, committed a serious misconduct in as much as she generated

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Bm/s.

PNR 2232459105 with transaction time 08:28 hrs as per requisition slip No. 27, thereafter she generated PNR 6364936958 with transaction time at 08:29 hrs on the basis of requisition SL No. 47, which is highly irregular and then she generated PNR No. 2132817186 with transaction time 08:30 hrs as per requisition slip No. 28

6.10 As per DTC transaction SL no 33 one PNR 636 4936958 was generated against R/Slip 47 at 8.29 hrs again as per DTC SL No 34 PNR 213 2817186 was generated against R/Slip no 28 at 8.30 hrs this clearly indicates that CO has violated the priority of the passenger in the sequence for extending favourism for her personal gain.

6.11 In this connection CO submitted that item No. (i) has been correctly generated as per requisition SL No 27 with transaction time 08.28 hrs SL No of DTC transaction is 31. Item No (ii) above PNR No. 6364936958 generated at 08:29 hrs with requisition Slip SL No. 28, but not 47 as mentioned in Article IV, SL No of DTC transaction is 32 and Item No. (iii) above, the PNR No as shown, 2132817186 with transaction time 08:30, SL No 28 has not been generated at all. The said particulars are wrong. The correct position is PNR No. 2132517186 with transaction 08:30 was generated as per requisition slip under SL No. 29 and not 28 shown in the Article-IV. SL No. of DTC transaction is 33.

6.12 From the document PD-7 and PD-8 it is clear that the PNR 6364936958 was generated at 8.29 hrs on the basis of requisition no 46 endorsed by the CO on the top of the requisition and kept serially. ie this PNR was generated in between PNR 2232459105 and 2132817186 at 8.28 and 8.30 Hrs respectively. There fore there should not be any doubt in any corner about the correctness of the allegation.

Hence I consider the Article -IV as PROVED.

Article -V Smt. Abira Podder, IId. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09.11.06, committed a serious misconduct in as much as she generated two cancelled PNRs with booking numbers 6204820003 (under DTC transaction SL No. 167) and 6164136346 (under DTC transaction SL No 168) without any requisitions slips(s).

6.13 CO in her brief mention that the said cancelled PNRs were not generated by the CO but these were generated by Smt. S. Bhowmick, CRS/SCRB during break period from 11:00 hrs to 11:30 hrs against her own privilege pass. These PNRs were cancelled at 11:22 hrs on 09-11-06. That the said cancelled PNRs were generated by Smt S. Bhowmick, CRS/SCRB (PW-3) has admitted the fact vide her answer to Q. No. 11 dt. 23.01.07. In support of the above, I would like to submit further that said Smt. Bhowmick CRS/SCRB generated 4 (four) PNRs against 5 privilege passes as reflected against SL No. 163, 164, 165 and 166 of DTC transaction vide PNR Nos. 6264948308, 62649448430, 6264948472 and 6164859293 and requisition S/No. 122, 123, 124, and 125 on which the signature of Smt. Bhowmick also clearly put by her showing generating time 11:19 hrs, 11:20 hrs, 11:21 and 11:22 hrs of 09-11-06 and Smt Bhowmick cancelled the said two PNRs at 11:22 hrs on 09.11.06 on which, earlier reservation was made. Smt Bhowmick

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CRS/SCRB admitted the fact of generating PNRs in question vide her ans. to Q. No. 12 dt. 23.01.07

6.14 From the document marked as PD-8 it revealed that both the PNR was generated at 11.22 ie during lunch time and vide Q-11 in her statement recorded on 23.1.07 Smt S.Bhowmik CRS/SCRB confessed that "two numbers of cancelled PNR I have generated". There fore it is clear tat CO allows others to operate in her ID which is highly irregular, and in such case sole responsibility lies with the ID holder only.

Hence I consider the Article -V as **PROVED**.

Article -VI Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09.11.06 had committed gross irregularity by generating PNR No 6264949919 against requisition slip which was found without any serial number marked on the same and requisition slip Nos. 132,133,134,135,136 and 137 were not available in the bunch.

6.15 PO also mentioned that PD-7 indicates that the documents were seized from the CO's counter in presence of CRS and CTTI / A.F. Squad were correctly produced as per PD-7 and there was non additional document included or left after the document were seized during the check. On going through the R/Slips seized it is noticed that one PNR 6264949919 against R/Slip which was found without any SL no marked on and R/slip no 132 to 137 were not available in the bunch.

6.16 In this connection EO submitted that; the allegations are baseless and vague. The PNR No. 6264949919 alleged to have been generated by the CO have no existence in reality. DTC transaction (PD-8) does not show such PNR No. as generated on 09.11.06. The allegation labeled by citing the PNR in question is a cooked product and has been manufactured by Sri B.B. Giri, CVI/T in consideration of his own to malign the image of the C.O. While there is no existence of the PNR in question, the question of requisition slip in this respect is also a vague one. Further it is alleged that Requisition Slip Nos: 132,133,134, 135, 136 and 137 are not available in the bunch of slips. Sir, PD-5 (memorandum) and PD-7 (Seizure Memo) clearly indicates that CVI/T seized 138 requisition slips which were serially numbered from 1 to 138. So the question of non availability of slips No. 132 to 137 does not arise. For such non-availability, all responsibilities rest with Sri B.B. Giri, CVI/T, as he has seized the said requisition slips under his signature and designation from CRS/SCRB on 09-11-06.

6.17 From the above documents marked as PD-7 the seized requisitions it is clear that that 15 requisitions are without any number though marked up to 125 .CO vide Q-16 statement recorded on 12.1.07 confessed that on that day she was disturb and felt sick just before Tiffin break. Which clearly indicates her acceptance about the fact.

Hence I consider that Article-VI as **PROVED**.

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Article -VII Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09.11.06 did not provide serial-number on the reservation requisition slips in proper order from SL No. 125 and onwards as a result the transaction made did not tally with the DTC transaction obtained from CRIS/Kolkata.

6.18 The R/Slips seized from the counter, were cross checked with DTC and noticed that the SL not given by the CO does not match with that of DTC (PD-8) which proves her insincerity and inattentive while on duty.

6.19 In this regard CO submitted that the allegation is baseless and vague. All the reservation slips have been serially entered the DTC transaction (PD-8).

However for kind appraisal of Hon'ble F.O, it is submitted that the Requisition slip up to S/No. 125 have been in proper order and thereafter Mrs. S. Bhowmick CRS/SCRB generated two cancelled PNRs without requisition slip. After that all the Requisition slips have been numbered in proper order again from S/No. 126 onward (DTC transaction No. 169) S/ No. 127 corresponds to 172 of DTC transaction, because 170,171 connects with S/ No. 126. This is how all the remaining requisition slips have been tallied with the DTC transaction. As such the allegation under Article -VII stands not sustained.

6.20 From the requisition slips seized vide PD-7 and PD-8 it is clear that from 8.00 hrs to 11.31 hrs PNR generated or cancelled but dealt 174 numbers and up to 11.00 hrs dealt 158 numbers. Investigating official seized 138 serially numbered and 15 without numbered requisition slips, and 3 PNR's. Therefore out of 174 requisition only 138+15 = 153 requisition slips were found available and seized. Hence the plea of the EO as "EO submitted that the allegation is baseless and vague. All the reservation slips have been serially entered the DTC transaction (PD-8)" is not correct.

Hence I consider the Article -VII as **PROVED**.

Article -VIII Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09.11.06 committed a serious misconduct in as much as she received one sealed cover containing her transfer order for RNY Division addressed to CRS/SCRB from the office of the DRM (C)/KIR at the time of receiving of her revocation letter but she did not hand over the same to the CRS/SCRB with an ulterior motive.

6.21 PO also mentioned that one sealed cover containing transfer order of the CO for RNY addressed to CRS / SCRB from the office of the DRM/C/KIR along with her revocation order was handed over to the CO but she did not hand-over the same to the addressee. A letter no Com/Estt-Misc/Station/Pt-II dated 20.6.07 issued by DRM/C/KIR was produced as PD-9 wherein following remark was given at item no 4 at the time of handing over the revocation letter to Smt a Poddar CO at DRM/KIR's office The Xerox copy of transfer order was also handed over to her along with the revocation letter of CRS / SCRB in a sealed cover with an advise to DCRS / SCRB to follow the transfer order issued by DRM/C/KIR vide revocation order dated 14.2.07. Thus the charge framed vide Article-VIII stands established.

6.22 CO in her brief mentioned that the allegation is far from the reality. There is no good ground about the allegation. The revocation order vide No. Com/Estt-Misc/Station/Pt-II dt.

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Bmbs

14.02.07 has been marked as PD-10 during enquiry. It appears from the endorsement made by the C.O on the side bottom of the said (PD-10) that C.O received 4 (four) copies of (PD-10) at 18:00 hrs on 14.02.07 one each for self, APO/Bill NJP, CRS/SCRB and SM (G)/NJP only. CO also during general examination by E.O stated the fact vide ans to Q. No. 1 dt. 28.07.08. But along with the aforesaid copies no other sealed cover was handed over to CO for CRS/SCRB. As alleged that one sealed cover, stated to have contained transfer order for RNY, has been given to the C.O is not a fact. No such transfer order was handed over to the C.O. PD-9 is and internal letter from ACM/I/KIR to DRM (P)/KIR dt. 20.06.07 whatever written in the said letter, does not concern the C.O. Further the said ACM/I/KIR Sri A.K. Sinha signed the letter (PD-9) on 20.06.07 and the transfer order stated to have been issued dt. 31.01.07 (PD-9) has no bearing with the Revocation order (PD-10). No where in PD-10 it is mentioned that a copy of the transfer order was given to CRS/SCRB along with the copy of PD-10 for CRS/SCRB. Since the copy of so called transfer order was not handed over to the C.O, question of not handing over the same to CRS/SCRB does not arise. P.O. simply copied the allegation purported to be his observation, which is not tenable. P.O. also could not cite any authentic evidence in regard to allegation. (Page-13 3rd para)

6.23 From the document marked as PD-9 item no 4 issued by ACM/KIR mentioned "Xerox copy of transfer order was also handed over to her". The allegation is framed on the basis of this comment only. PD-10 clearly shows that 4 copies were handed over to the CO with clear acknowledgement; but for the sealed cover neither any acknowledgement nor cited any witness who has actually handed over the same to the CO is mentioned. Therefore in the enquiry it is not establish whether actually the sealed cover was handed over to the CO or not.

Hence I consider the Article -VIII as NOT PROVED.

7. FINDINGS OF THE ARTICLE OF CHARGE.

From the documentary and oral evidence available during the course of the inquiry I consider that the charge framed against Smt Abira Poddar Hd ECRC / SCRB Now at BNGN vide memorandum no C/421/RNY/VIG/STAFF-25 (MAJOR) dated 14.2.08 issued by DCM/RNY are as :-

- | | |
|----------------|-------------|
| ARTICLE-I : | PROVED. |
| ARTICLE-II : | PROVED. |
| ARTICLE-III : | PROVED. |
| ARTICLE-IV : | PROVED. |
| ARTICLE-V : | PROVED. |
| ARTICLE-VI : | PROVED. |
| ARTICLE-VII : | PROVED. |
| ARTICLE-VIII : | NOT PROVED. |

(S. SEN GUPTA)
INQUIRY OFFICER

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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

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NORTH EAST FRONTIER RAILWAY

Sub:- Departmental Enquiry against Smt Abira Poddar ECRC / BNGN
Memorandum C/421/RNY/VIG/STAFF-25/(MAJOR) dated 4.4.08 issued
DCM/RNY.

DAILY ORDER SHEET-1

Venue Office of the CEI/HQ

Date 9.5.08

Present Smt i A.Poddar CO
Shri M. Chakraborty DC
Shri Monoj Kumar PO
Absent NIL

As per program Preliminary hearing of the case started and completed accordingly
Then all the RUD's were marked as PD-1 to PD-10.CO stated that at present she does not
want any defence document and witness but she will inform in RH if required. Then the
hearing is adjourned. Next date of regular hearing is fixed on 10.6.08 at 10 hrs in the office
of the CEI/HQ with the consent of all..

Abira Poddar
09.5.08
(A. Poddar)
CO

M. Chakraborty
09.05.08
(M. Chakraborty)
DC

Monoj Kumar
9/5/08
(M. Kumar)
PO

S. San Gupta
9/5/08
(S. San Gupta)
IO

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Guwahati Bench

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NORTH EAST FRONTIER RAILWAY

Sub:- Departmental Enquiry against Smt Abira Poddar ECRC / BNGN vide Memorandum C/421/RNY/VIG/STAFF-25/(MAJOR) dated 4.4.08 issued by DCM/RNY.

DAILY ORDER SHEET-2

Venue Office of the CEL/HQ

Date 10.6.08

Present	1. Smt A.Poddar	CO	2. Shri A.Singh	PW-2
	3. Shri M. Chakraborty	DC	4. Shri S.Boruah	PW-1
	5. Shri Monoj Kumar	PO		
Absent	1. Smt S.Bhowmik	PW-3		

As per program Regular hearing of the case started and completed accordingly. All the original documents were checked by the CO. Two out of three witness attended in the enquiry in the form of PW-1 and PW-2 and their deposition is recorded accordingly. PO requested for one more date for PW-3 and another date is fixed with the consent of both PO and CO. All the copies were handed over to the PO and CO. CO also requested to produce the original money receipt 683197 PD-2. Then the hearing is adjourned. Next date of regular hearing is fixed on 8.7.08 at 10 hrs in the Retiring Room NJP for easy availability of CRS Smt S. Bhowmik, with the consent of all..

Abira Poddar
10/6/08

(A. Poddar)
CO

M. Chakraborty
10/6/08

(M. Chakraborty)
DC

Monoj Kumar
10/6/08

(M. Kumar)
PO

S. Sen Gupta
10/6/08

(S. Sen Gupta)
IO

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NORTH EAST FRONTIER RAILWAY

Sub:- Departmental Enquiry against Smt Abira Poddar ECRE / BNGN vide Memorandum C/421/RNY/VIG/STAFF-25/(MAJOR) dated 4.4.08 issued by DCM/RNY.

DAILY ORDER SHEET-3

venue CE/HQ

Date 28.7.08

Present 1: Smt A.Poddar EO
3. Shri Monoj Kumar PO

2. Shri M. Chakraborty DE
4. Smt S.Bhowmik PW-3

Absent NIL

As per program regular hearing of the case is started in time and last prosecution witness of the case is attended and she was examined and cross examined by the PO and CO and her deposition is recorded accordingly and as per her statement one document she produced was taken by the enquiry as court document and marked as C-1, then the case from prosecution side is over. As there is no defence witness and as the CO denies to produce herself as her own witness nothing left except mandatory question of IQ to CO and is completed accordingly, then all the copies were handed over to the PO and CO and the case is then closed.

PO is requested to submit his brief within 10 days in triplicate with a copy to the CO and CO is requested to submit her defence brief within 10 days from the day she receive the PO's brief and failure to submit in time will be treated as nothing to brief. (Within 10+10=20 Days).

Abira Poddar 28/7/08
(A. Poddar) (M. Chakraborty)
CO DC

Monoj Kumar 28/7/08
(M. Kumar)
PO

S. Sen Gupta 28/7/08
(S. Sen Gupta)
IO

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Guwahati Bench

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NORTH EAST FRONTIER RAILWAY

Sub:- Departmental Enquiry against Smt Abira Poddar ECRC / BNGN vide Memorandum C/421/RNY/VIG/STAFF-25/(MAJOR) dated 4.4.08 issued by DCM/RNY.

Venue - Office of the CEF/HQ

Date 10.6.08

DEPOSITION OF SHRI S.Boruah PW-1

Examination In Chief By PQ

Q.1 Please go thorough the memorandum PD-5 authenticate your signature and confirm the correctness of the content of the same.

Ans Yes the document bears my signature and the content of the same is correct.

Examination in chief is over

Cross examination by CO.

Q.2 Please go thorough the memorandum PD-5 and state whether it bears the signature of CO.

Ans No

Q.3 Please state whether you associated with the check from the starting or not.

Ans I was directed by the competent authority along with BBGiri and A.Singh to check three counters at SCRB at a time ie just pass of 12 Hrs and accordingly I along with A.Singh conducted check in the counter on ground floor no 2 & 3 and Shri B.B.Giri on counter no 6 in first floor. So I was not present at the very beginning of the check.

Q.4 Will you kindly enlightened at what time you could complete your check.

Ans I cannot recollect exact time but probably 12.15.

Q.5: Please state the system of disposal of excess cash detected during check.

Ans Any excess cash found mixed up with the Govt cash, that excess cash is consider as unaccounted money for that particular time and that has to deposited in the railway account as unaccounted money and necessary memo should be issued to the staff concern for deposition of the same through CRS Concern.

Alexis Poddar
10/6/08

(A.Poddar)

CO

M. Chakraborty
10/6/08

(M.Chakraborty)

DC

S. Boruah
10/6/08

(S.Boruah)

PW-1

M. Kumar
10/6/08

(M.Kumar)

PO

S. Sengupta
10/6/08

(S.Sengupta)

IO

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Q. 6 Please state whether any attempt was taken from the checking team for immediate deposition of the excess amount since the excess cash was in the liquid cash form with the disposal of the checking team.

Ans During check normally Govt cash / p cash counted and produced by the staff concern in presence of independent witness, and the excess detected on that day was counted in presence of CRS Smt S. Bhowmik and the excess amount declared by her was acknowledge by all. In this regard memo issued to CRS to recover the excess amount from the staff concern to deposit in the Govt account. Apart from this nothing done with.

Q-7 Please state how much amount was declared as excess.

Ans Exact amount I cannot recollect but more than Rs 9000/-.

Q.8 Please ensure if the Govt cash was counted in your presence.

Ans So far I remember when I was attend at the spot the money was again counted and find out the total amount which were found available in the said counter.

Q.9 Please state why it was necessitate to count again after your arrival.

Ans The excess detected at that time was some extent high in comparison to the result of normal checking and it was arise some doubt whether the amount came out correctly or not.

Q.10 Please go through PD-5 and PD-1 and state whether any remark in regard to recounting of cash is embodied in said two documents.

Ans What ever declaration made by staff concern as well as in the memorandum was inputted after confirming the amount came out during the checking. and recounting is itself was a part of checking procedure before preparing the said documents.

Q.11 Please go through PD-7 and confirm whether the documents referred to in it have been seized in presence with you.

Ans No

Cross Examination by CO is over
Re examination by PO NII.

A. Peddar
CO
10/6/08

(M. Chakraborty)
DC
10/6/08

(S. Boruah)
PW-1
10/6/08

(M. Kumar)
PO
10/6/08

(S. Sengupta)
IO
10/6/08

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Guwahati Bench

NORTH EAST FRONTIER RAILWAY

Sub:- Departmental Enquiry against Smt Abira Poddar ECRC / BNGN vide Memorandum C/421/RNY/VIG/STAFF-25/(MAJOR) dated 4.4.08 issued by DCM/RNY.

Venue - Office of the CEI/HQ

Date 10.6.08

DEPOSITION OF SHRI A. Singh PW-2

Examination In Chief By PO

Q.1 Please go through the memorandum PD-5 authenticate your signature and confirm the content of the same.

Ans Yes the said document bears my signature which is made rounded and the content of the same is also correct.

Examination in chief is over

Cross examination by CO.

Q.2 Please go through the memorandum dated 9.11.06 produced before you and state whether it bears the signature of the CO Smt A. Poddar.

Ans No It does not bears the signature of the CO Smt Poddar

Q.3 How have you associated in the check conducted on 9.11.06 at SCRB, being a non vigilance man.

Ans With approved combined program.

Q.4 Have you checked the Govt cash under possession of the CO on 9.11.06 if so state the outcome of the check.

Ans It was not checked by me ; but by Shri Giri.

Q.5 Whether the counting of Govt cash was done in presence of you or not.

Ans No it was checked earlier of my arrival.

Q.6 Please state the procedure of dealing the excess Cash found during check.

Ans Excess cash is to be deposited in the Govt cash before closing the shift.

Q.7 It is seen from PD-6 that the memo was issued to CRS /SCRB on 9.11.06 to ask the CO to deposit the excess cash, Why such a memo was necessitated.

Ans For the knowledge of the CRS

Q.8 As you stated that cash counting was done before your arrival, please state how could you accepted as correct Rs 9385/- as excess in Govt cash through the memorandum.

Ans As the total cash was counted again and again in presence of me.

Abira Poddar
(A. Poddar)
CO
10/6/08

M. Chakraborty
(M. Chakraborty)
DC
10/6/08

A. Singh
(A. Singh)
PW-2

M. Kumar
(M. Kumar)
PO

S. Sengupta
(S. Sengupta)
IO

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Q.9 Can you recollect whether any recounting was made in your presence and that have been verified and compared with PD-1

Ans As recollect cash was recounted in my presence.

Q.10 Whether the documents were seized vide PD-7 in your presence or not.

Ans Yes all were seized in my presence.

Q. Have you checked or verified the said documents.

Ans No.

Q.12 As you have stated Govt. cash was recounted in your presence please state how much money was found on counting and recounting.

Ans I cannot recollect the exact figure.

Cross Examination by CO is over

Re examination by PO NIL

Alexa Poddar
10/6/08
A. Poddar (M. Chakraborty)
CO DC

AC Singh
10/6/08
(A. Singh) (M. Kumar)
PW-2 PO

S. Sengupta
10/6/08
(S. Sengupta)
IO

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NORTH EAST FRONTIER RAILWAY

Sub:- Departmental Enquiry against Smt Abira Poddar ECRC / BNGN vide Memorandum C/421/RNY/VIG/STAFF-25/(MAJOR) dated 4.4.08 issued by DCM/RNY.

Venue - CEI/HQ

Date 28.7.08

Deposition of Smt S. Bhowmik CRS / NJP PW-3

Q.1 Please go through the PD-4 and authenticate your signature if any and confirm the correctness of the content of the same.

Ans Yes the document bears my signature and the content of the same is correct.

Q.2 Please go through the PD-5 and authenticate your signature if any and confirm the correctness of the content of the same.

Ans Yes the document bears my signature and the content of the same is correct.

Q.3 As per PD-6 whether the amount was deposited or not.

Ans Yes the amount was deposited accordingly.

Examination in chief is over

Cross examination by CO.

Q.4 As you have confirmed that PD-4 bears your signature and the contents are correct. Please clarify the answer already given vide your ans to Q-3 dated 23.01.07 What you wanted to mean by YES in the answer.

Ans 3 PNR's were not cancelled but requisitions were found available.

Q.5 Vide Ans to Q-4 of PD-4 you stated that "She was not in a position of count the cash and vide Ans to Q-5 Govt. cash was counted by Shri Poddar. Please clarify the gap between the two.

Ans Before my arrival summary was taken out and format was prepared and I along with Smt Poddar counted the cash and then again it was recounted by us.

Q.6 As you have stated in your earlier Ans that during the process of cash counting you were initially in the ground floor and you were called in the upper stair. Please state on going there what you found in respect of the Govt cash.

Ans I cannot recollect.

Q-7 Please state where from the alleged excess cash of Rs 9385/- it has come.

Ans When I asked Smt Poddar she told and showed me a list which she had for generating some tickets for them. Subsequently the same was acknowledged from one of our college in the next shift which I am producing here as evidence.

Abira Poddar

(A. Poddar)
CO

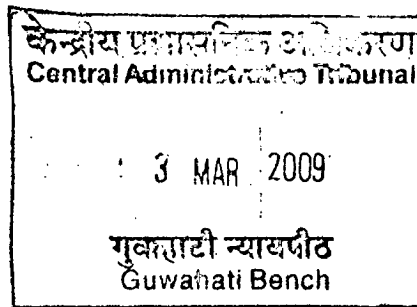
M. Chakraborty
(M. Chakraborty)
DC

M. Kumar
(M. Kumar)
PO

S. Bhowmik
(S. Bhowmik)
PW-3

S. Sengupta
(S. Sengupta)
IO

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Q.8 What is the rule to deposit the excess amount if detected in the possession of anybody (ECRC).

Ans At the time of closing the shift that excess amount to be deposited in the Govt. account with money receipt.

Q.9 Please go through PD-2 and state when and at what date it was deposited.

Ans I off from my duty at 14 hrs on that date so I cannot say any thing about this.

Q.10 Please state while Smt Poddar resumed duties after revocation on 14.2.07 was there any hue and cry and hearsay regarding any aspect. If in your knowledge.

Ans I was not available at that time.

Q.11 Please go through PD-7 and confirm your signature and content.

Ans Yes it bears my signature and the content is correct.

Cross Examination by CO is over
Re examination by PO NIL

Heiren Poddar
(A. Poddar)
CO

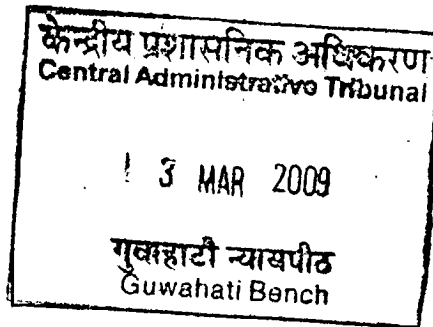
M. Chakraborty
(M. Chakraborty)
DC

M. Kumar
(M. Kumar)
PO

S. Bhowmik
(S. Bhowmik)
PW-3

S. Sengupta
(S. Sengupta)
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NORTH EAST FRONTIER RAILWAY

Sub:- Departmental Enquiry against Smt Abira Poddar ECRC / BNGN vide Memorandum C/421/RNY/VIG/STAFF-25/(MAJOR) dated 4.4.08 issued by DCM/RNY.

PRELIMINARY HEARING

Venue Office of the CEI/HQ

Date 9.5.08

Q.1 Have you received the charge Sheet.

Ans Yes

Q.2 Have you receive the documents mentioned in Annexures-III of the charge sheet

Ans Yes

Q.3 Have you understand the charge leveled against you.

Ans Yes

Q.4 Do you accept the charge leveled against you.

Ans No Not at all.

Q.5 Do you want additional document as defence document and if yes the relevance with the case and custodial of the same may be mentioned.

Ans Not now, if required I will inform in RH.

Q.6 Do you like to examine any witness on your behalf as defence witness during the regular hearing and relevance of the same and their proper and current address may be mentioned.

Ans Not now, if required I will inform in RH.

Abira Poddar
09.5.08
(A.Poddar)

CO

M. Chakraborty
09.05.08
(M.Chakraborty)

DC

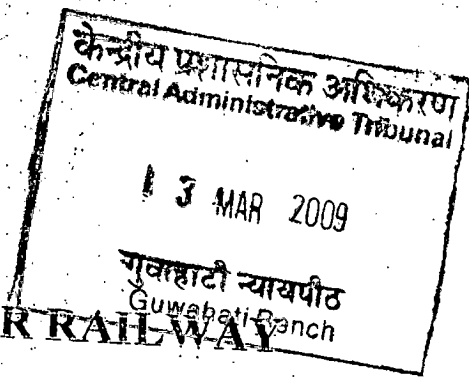
M. Kumar
9/5/08
(M.Kumar)

PO

S. Sengupta
9/5/08
(S.Sengupta)

IO

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NORTH EAST FRONTIER RAILWAY

Sub:- Departmental Enquiry against Smt Abira Poddar ECRC / BNGN vide Memorandum C/421/RNY/VIG/STAFF-25/(MAJOR) dated 4.4.08 issued by DCM/RNY.

Venue - CEI/HQ

Date 28.7.08

Mandatory Question of IO to CO Smt A. Poddar

Q.1 After the depositions of all the witnesses what is your comment about the allegations.

Ans. All the allegations are not correct as regarding excess in cash the boys of the club of 5 members requested me to generate their tickets and kept the money and the requisitions 3 numbers on the counter shelf and as soon as the vigilance came they closed the window all money and requisition were came inside and as included my Govt cash become excess as no tickets were till generated. Regarding Article II I cannot say any thing as during my tiffin period (11 To 11.30) S. Bhowmik manned the counter. Regarding Article III last PNR was generated after vigilance check. Regarding Article V both the PNR were cancelled without requisition by Smt S. Bhowmik during my tiffin hours. Regarding Article -VI one PNR no 6264949919 it is not available in the DTC. Regarding VIII I received 4 copies of the letter no, office order COM/ESTT/MISC/Station/Part-II dated 14.2.07 from KIR and accordingly I handed over all the three copies to the SS/NJP APO/Bill and CRS / SCRB keeping my copy with me. Therefore from all above I feel that I have not done anything wrong.

Abira Poddar
(A. Poddar)
CO

M. Chakraborty
(M. Chakraborty)
DC

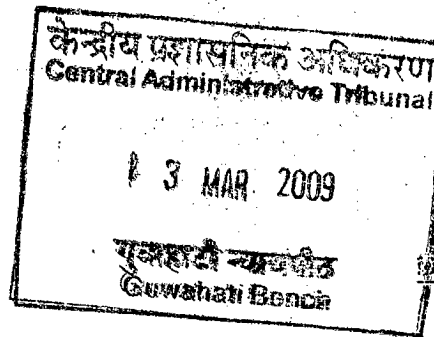
M. Kumar
(M. Kumar)
PO

S. Bhowmik
(S. Bhowmik)
PW-3

S. Sengupta
(S. Sengupta)
IO

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To
Shri S. Sengupta
C.E./IO
Enquiry Officer



ANNEXURE

Dated : 20/08/2008

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Sir,

Sub : Defence Brief in connection with Charge Memorandum
No. C/421/RNY/VIG/Staff-25 (Major) dt. 14.02.08,

Ref : E.O.'s instruction contained in D.O.S No. 3 dt. 28.7.08
for submission of Defence Brief.

Reference to the instruction contained in Daily Order Sheet No. 3
dt. 28.07.08, I am submitting the Defence Brief in connection with the subject
noted Charge memorandum. It is submitted the allegation labeled against C.O.
vide Article I to VIII, supported by imputation thereto could not be
substantiated during the enquiry stage and thereby the C.O pleaded herself free
from the so called allegations.

1.0 Before submission of Detail defence, the allegations under
Article of charges, are appended below for ready reference please.

1.1 Article -I

Smti Abira Podder, Hd. ECRC/SCRB (Now at BNGN) while
performing duty at PRS/SCRB on 09.11.06 committed a serious misconduct is
as much as excess in Govt. Cash to the tune of Rs. 9385/- was found in her
possession with an unconvincing explanation. DTC-cum-summary print out at
11.51 hrs shows Rs. 119746/- but Govt. cash found in her possession was Rs.
129131.00

1.2 Article -II

Smti Abira Podder, Hd. ECRC/SCRB (Now at BNGN) while
working at PRS/SCRB on 09.11.06 committed a serious misconduct is as

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Abira Podder

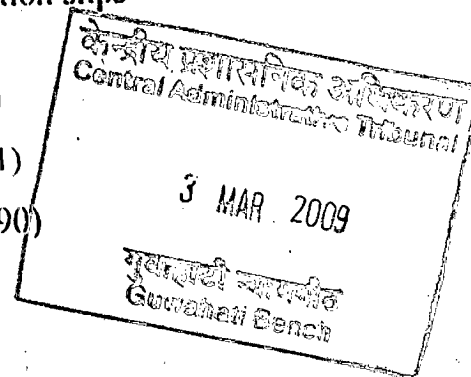
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much as 12 (twelve) Nos. of filled up reservation requisition slips were recovered from her possession which did not bear any serial number and/or PNR number. In addition three cancelled requisition slips along with PNR Nos 2332821081, 6264782932 and 6164544584 were also recovered from her possession.

1.3 Article -III

Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09.11.06, committed a serious misconduct in as much as she generated the following PNRs without reservation slips-

- (i) PNR No. 6264935631 (DTC transaction SI No.8)
- (ii) PNR No. 6264940450 (DTC transaction SI No.81)
- (iii) PNR No. 2432993783 (DTC transaction SI No.190)



1.4 Article - IV

Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09.11.06, committed a serious misconduct in as much as she generated PNR 2232459105 with transaction time 08:28 hrs as per requisition slip No. 27, thereafter she generated PNR 6364936958 with transaction time at 08:29 hrs on the basis of requisition SL No. 47, which is highly irregular and then she generated PNR No. 2132817186 with transaction time 08:30 hrs as per requisition slip No.28

1.5 Article -V

Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09.11.06, committed a serious misconduct in as much as she generated two cancelled PNRs bearing numbers 6264825665 (under DTC transaction SL No. 167) and 6164736346 (under DTC transaction SL No 168) without any requisitions slips(s).

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Abira Podder

1.6

Article -VI

Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09.11.06 had committed gross irregularity by generating PNR No6264949919 against requisition slip which was found without any serial number marked on the same and requisition slip Nos. 132,133,134,135,136 and 137 were not available in the bunch.

1.7

Article -VII

Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09.11.06 did not provide serial number on the reservation requisition slips in proper order from Sl. No. 125 and onwards as a result the transaction made did not tally with the DTC transaction obtained from CRIS/Kolkata.

1.8

Article -VIII

Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) while working at PRS/SCRB on 09.11.06 committed a serious misconduct in as much as she received one sealed cover containing her transfer order for RNY Division addressed to CRS/SCRB from the office of the DRM (C)/KIR at the time of receiving of her revocation letter but she did not hand over the same to the CRS/SCRB with an ulterior motive.

Thus by the above act of omission and commission Smt. Abira Podder, Hd. ECRC/SCRB (now at BNGN) exhibited lack of integrity and devotion to duty and acted in a manner unbecoming of a railway Servant and thereby contravened Rule 3.1(i) (ii) and (iii) of Railway Services(Conduct) Rule 1966.

2.0

Details Defence against each Article of charge are furnished below for favour of kind consideration and judicious decision please.

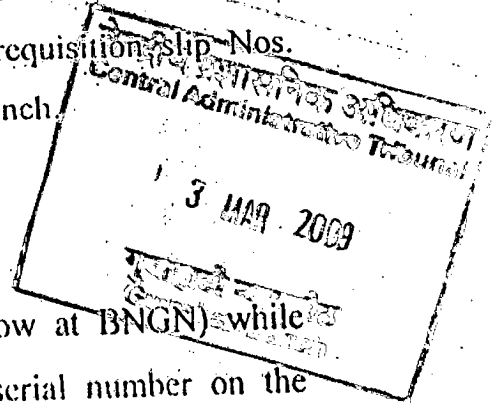
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Advocate

Abira Podder

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केन्द्रीय प्रशासनिक न्यायाधीश
Central Administrative Tribunal
MAR 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

2.1 It is alleged vide Article -I of the Charge Memorandum referred to the Para 1.1 above, that an amount of rs. 9385/- was found excess in Govt. Cash at 11:51 hrs on 09-11-06 in her possession for which the explanation was unconvincing. In this connection it is submitted that in the true sense the said amount of Rs. 9385/- stated to be excess Govt. Cash was not so. The thing is, while the C.O. has been performing duties on 09.11.06 three to four boys of "Ddabhai Sporting Club of Siliguri" were standing in the queue outside the counter with three filled up requisitions for issue of PNR ticket upto SDAH and back and since C.O. was very well known to them, they pushed the said amount along with 3 (three) filled up requisition slips through the counter for generating PNR as and when their turn comes and the Requisition slips with the amount of Rs. 9400/- were kept on one side of the counter. At that very moment, Sri B.B. Giri, CVI/T entered inside the counter and compelled the C.O to close the counter, which was complied with. The CVI/T himself brought out the Govt. Cash from the drawer and taken into the said cash of Rs. 9400/- bearing throughing the said requisition slips and forced the C.O to add up the said cash with the Govt. Cash in her possession and the C.O the CO was under pressure from the said CVI/T to prepare the cash particulars in presence of Smt. Sanchita Bhowmick, CRS/SCRB (PW-3). So the so-called excess amount of Rs. 9385/- was nothing but the amount of the said club for purchase of tickets. Sir, CVI/T even did not allow the C.O to generate tickets against the said 3 (three) requisition slips. In connection with the so called excess in Govt. cash Smt Sanchita Bhowmick CRS/SCRB (PW-3) confirmed vide ans to Q. No. 7 dt. 28.7.08 that the said money belongs to the club boys and tickets were to generate by C.O, which was not allowed by CVI/T. In support of her statement (PW-3) submitted one evidence, which was marked as (C-1)

during enquiry on 28.07.08. The said evidence (C-1) is an application addressed to CRS/SCRB on the same day i.e 09.11.06 from the President "Dada Bhai Sporting Club/ Siliguri" for refund of Rs. 9400/- paid towards, to and fro fare Ex NJP to SDAH.

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From the above document it is established clearly, that it is not a case of excess in Govt. cash, but made so by the CVI/T without allowing to generate the tickets as per list and requisition slips. The said action of CVI/T direct interference in normal working of the C.O.

In this connection it is further submitted that, altogether there are 3 (three) PWs – as follows Sri S. Baruah (PW-1) is CVI/MLG, Sri Arjun Singh, CTTI/AF/HQ (PW-2) and Smt S. Bhowmik CRS (SCRB) PW-3. Out of the said three PWs, PW-1 vide his ans to Q. No. 3 dt. 10.06.08 confirmed that he was not associated with the said check at the beginning. He joined the check at about 12:15 hrs whereas it is seen from PD-1 (Terminal cash summery) made out at 11:51 hrs and accordingly cash particulars was prepared and so called excess found. It is therefore established that so called excess in Govt. cash was established prior to association of PW-1 in the check.

Similarly PW-2 vide his ans. to Q. No. 5 dt. 10.06.08 confirmed that counting of cash was done prior to his arrival to the spot.

So, Smt S. Bhowmick CRS/SCRB (PW-3) was the only vital witness, who was present and associated in cash counting.

PW-1 vide his ans. to Q.No.9 dt. 10.06.08 stated that, " The excess detected at that time was "some extent high in comparison to the result of normal checking and it was arise some doubt whether the amount came out correctly or not". But even after such doubt the vigilance team did not take any attempt to find out the reason of such a huge amount, as so called excess. Even the check team did not taken into consideration the documents i.e List/Requisition slip, produced by the C.O. to prove that the PNRs were to generate against the said amount. During general examination of C.O. by E.O, the C.O vide ans to Q.No. 1 dt. 28.7.08 clearly stated the said fact.

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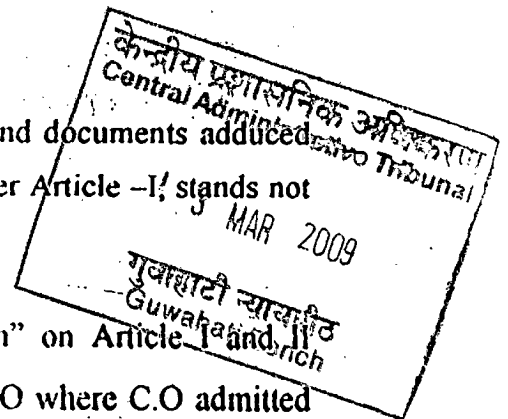
Advocate

Advocate

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Similarly, C.O. during recording of statement dt. 12.01.07 clearly stated vide ans to Q.No. 10 dt. 12.01.07 that the club boys given Rs. 9400/- along with three requisition slips kept on counter desktop, which the CVI/T/MLG forcefully included with the Govt cash without allowing the to generate PNRs and hence so called excess.

From the above facts and depositions, and documents adduced during enquiry it is established that the allegation under Article -I, stands not established.



Further P.O. under caption "Discussion" on Article -I and II observed that during general examination by I.O to C.O where C.O admitted that she kept the money for generating PNRs. The said observation of P.O. is far from the fact. P.O. has twisted the statement of C.O. C.O clearly stated that the club boys kept the said amount of Rs.9400/- along with 3 requisition slips for generating tickets. Hence the P.O.'s observation in this respect is not tenable and hence does not hold good.

2.2 It is alleged vide Article-II of the Charge memorandum, referred to in para 1.2 above that 12 numbers of filled up requisition slips were recovered from the possession of C.O which did not bear any serial/PNR number and three PNRs 2332821081, 6264782932 and 6164544584 were also recovered from CO's possession.

P.O. under caption "Discussion" referred PD-5 (original memorandum drawn on the spot narrating all the irregularities detected during vigilance check at SCRB), but it is surprising that the said vital document had been prepared keeping the C.O. in the DARK. This claim of C.O is established from the fact that PD-5 does not bear the CO's signature. Further the details of 12 Nos of requisition slips as mentioned in Article -II have also not given either in annexure I or Annexure II of the Charge Memorandum. No such 12 Nos of Requisition slips were recovered from the C.O's possession.

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Again none of the witnesses deposed anything about the Requisition slip.

Hence in absence of details of the requisition slips stated to have been found from C.O's possession (PD-5) is not accepted and must does not hold good. Apart from the above, 3 Nos of cancellation slips along with PNRs such as 2332821081, 6264782932 and 6164544584 stated to have recovered from CO's possession. In this connection it is submitted that these PNRs were not generated by the C.O on 09.11.06 and the C.O did not receive the said 3 cancellation requisition slips and the said PNRs. This was known to CRS/SCRB, because during break from 11:00 to 11:30 hrs, CRS/SCRB dealt some requisition slips and cancellation slips and also generated same PNRs for her personal purpose. The said PNRs were part of total cancellation slips generated by CRS/SCRB.

In this connection P.O. referred PD-5 i.e memorandum, through the discussion under Article -I and II, but this PD-5 had not been prepared in association of the C.O. It was prepared in absence of C.O and the said PD-5 does not bear CO's signature as such the contents of PD-5 is not accepted by the C.O. Since the said PD-5 bears the signature of members of Vigilance team and CRS/SCRB, it may be known to them wherefrom the said documents come from.

Again P.O. referred the document PD-4 i.e statement of Mrs S. Bhowmick CRS/SCRB where vide Q. No. 3 dt. 23.01.07 she was asked to comment on the 12 Nos of filled up requisition slips and 3 Nos of requisition slips with cancel marks on top with 3 PNRs to which Smti Bhowmick (PW-3) replied "Yes" which carries no meaning. P.O. misconstrued the said answer and observed the 12 Nos of Requisition slips and 3 Nos of Requisition slips with cancelled marked on top with 3 PNRs were recovered from the possession of C.O is not tenable and hence not acceptable.

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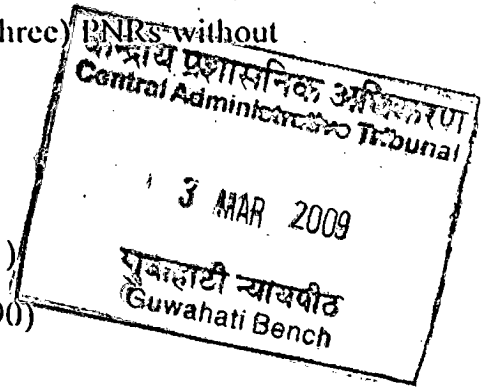
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In view of the above, the allegation under Article -II has not been established during enquiry.

Article -III

It is alleged vide Article -III of the Charge memorandum, referred to in para 1.3 above that C.O generated the following 3 (three) PNRs without Requisition slip-

- (i) PNR No. 6264935631 (DTC transaction SI No.8)
- (ii) PNR No. 6264940450 (DTC transaction SI No.81)
- (iii) PNR No. 2432993783 (DTC transaction SI No.190)



In this connection it is submitted that PNR No. 6364940450 under item No. (II) above, generated at 09.22 of 09.11.06 with requisition slip and PNR No. 6264935631 under item No. I above, generated at 08-08 hrs of 09-11-06 with proper requisition slip which had been seized by CVI/T from CRS/SCRB on 09.11.06 and the requisition slips could not be supplied by CVI/T during statement stage on 12.01.07. So the question generating PNR without requisition slip does not arise. Because it may be submitted that Sri B.B. Giri CVI/T seized 153 requisition slips of which requisition slips 1 to 138 were serially numbered (kindly connect PD-7 (Seizure memo) and PD-5 (Memorandum)).

Hence the question of generating the said PNR under item IV and V above does not hold good. It may also be submitted that since the requisition slips were serially numbered (PD-5 and PD-7) and seized by CVI/T, so no responsibility be attributed on C.O for non- availability of requisition slips.

Again regarding item No. VI PNR No. 2432993783 (DTC transaction S No. 190), it is submitted that the requisition slips have been seized at 11:51 hrs PD-5 and DTC transaction PD-8 made out at 11:51 hrs

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Alexander Podder

where as the PNR in question referred above, has been generated at 11:55 hrs (Sl No. 190) and that too it was not generated by the C.O as such this PNR can not come under the purview of check conducted at 11:51 hrs of 09.11.06.

P.O. Also copied out the same thing through his Brief and tried to establish the allegation without going in to the details of the fact. Hence P.O.'s observation is not tenable and not acceptable.

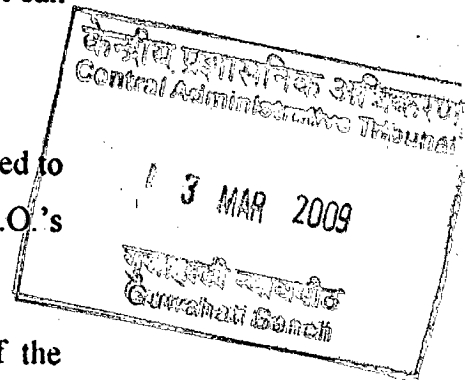
In view of the above, the allegation under Article -III of the Charge Memorandum does not hold good and has not been substantiated during the enquiry.

Article -IV

2.4 It is alleged vide Article - IV of the Charge memorandum, referred to in para 1.4 above that C.O generated PNR Nos. (i) 2232459105 at 08:28 hrs as per requisition slip (S/No. 27) (ii) 6364936958 at 08:29 hrs as per requisition slip (S/No. 47) (iii) 2132817186 at 08:30 hrs as per requisition slip (S/No. 28).

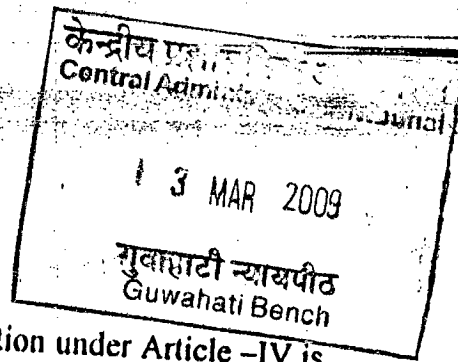
In this connection it is submitted that item No. (i) has been correctly generated as per requisition Sl. No 27 with transaction time 08:28 hrs Sl No of DTC transaction is 31. Item No (ii) above PNR No. 6364936958 generated at 08:29 hrs with requisition Slip Sl No. 28, but not 47 as mentioned in Article IV, Sl. No of DTC transaction is 32 and Item No. (iii) above, the PNR No as shown, 2132817186 with transaction time 08:30, SL No 28 has not been generated at all. The said particulars are wrong. The correct position is PNR No. 2132517186 with transaction 08:30 was generated as per requisition slip under Sl No. 29 and not 28 shown in the Article-IV. SL No. of DTC transaction is 33.

From the above factual position as per DTC transaction, the allegation of generating PNR with improper timings is not based on facts. In view of the above, the allegation under Article IV doesnot hold good.



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Alexa Bolder



Further P.O's observation on the allegation under Article -IV is also based on incorrect particulars and hence not tenable.

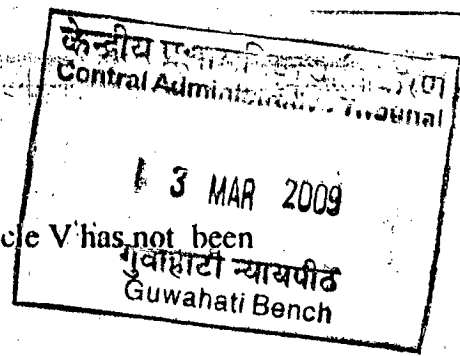
2.5 It is alleged vide Article-V of the Charge memorandum, referred to in para 1.5 above that the C.O generated 2 (two) cancelled PNR Nos. 6264825665 (DTC transaction S/No. 167) and 6164736346 (DTC transaction S/No. 168) without requisition slips.

In this connection it is submitted that the said cancelled PNRs were not generated by the CO but these were generated by Smt. S. Bhowmick, CRS/SCRB during break period from 11:00 hrs to 11:30 hrs against her own privilege pass. These PNRs were cancelled at 11:22 hrs on 09-11-06. That the said cancelled PNRs were generated by Smt S. Bhowmick, CRS/SCRB (PW-3) has admitted the fact vide her answer to Q. No. 11 dt. 23.01.07.

In support of the above, I would like to submit further that said Smt. Bhowmick CRS/SCRB generated 4 (four) PNRs against 5 privilege passes as reflected against Sl No. 163,164,165 and 166 of DTC transaction vide PNR Nos. 6264948308, 62649448430, 6264948472 and 6164859293 and requisition S/No.122,123,124, and 125 on which the signature of Smt. Bhowmick also clearly put by her showing generating time 11:19 hrs, 11:20 hrs, 11:21 and 11:22 hrs of 09-11-06 and Smt Bhowmick cancelled the said two PNRs at 11:22 hrs on 09.11.06 on which, earlier reservation was made. Smt Bhowmick CRS/SCRB admitted the fact of generating PNRs in question vide her ans to Q. No. 12 dt. 23.01.07 P.O. vide his Brief observed only that cancelled PNRs were generated by the C.O without cancellation slips. But the fact is different, which is narrated above. As such P.O's observation does not hold good.

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Aleisa Poddar
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In view of the above, the allegation under Article V has not been substantiated.

2.6 It is alleged vide Article-VI of the Charge memorandum, referred to in para 1.6 above that the C.O generated PNR No. 6264949919 against requisition slip on which no serial number was marked and requisition slip Nos. 132,133,134, 135, 136 and 137 were not available in the bunch.

In this connection it is submitted that, the allegations are baseless and vague. The PNR No. 6264949919 alleged to have been generated by the CO have no existence in reality. DTC transaction (PD-8) does not show such PNR No. as generated on 09.11.06. The allegation labeled by citing the PNR in question is a cooked product and has been manufactured by Sri B.B. Giri, CVI/T in consideration of his own to malign the image of the C.O. While there is no existence of the PNR in question, the question of requisition slip in this respect is also a vague one.

Further it is alleged that Requisition Slip Nos. 132,133,134, 135, 136 and 137 are not available in the bunch of slips. Sir, PD-5 (memorandum) and PD-7 (Seizure Memo) clearly indicates that CVI/T seized 138 requisition slips which were serially numbered from 1 to 138. So the question of non availability of slips No. 132 to 137 does not arise. For such non-availability, all responsibilities rest with Sri B.B. Giri, CVI/T as he has seized the said requisition slips under his signature and designation from CRS/SCRB on 09-11-06.

Hence no responsibility can be attributed on the C.O for non-availability of the said requisition slips.

Again P.O. simply repeated the allegation through his Brief. In addition P.O. in consideration of his own used some unparliamentary

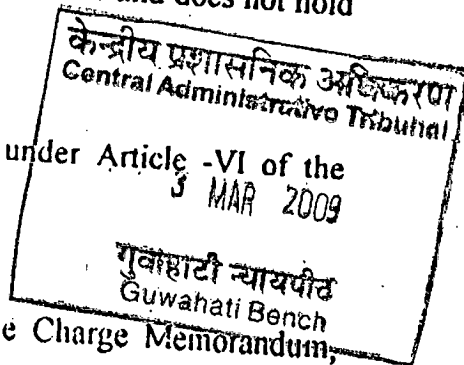
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words against the C.O. such as 'Insincerity' 'Unattentive' while on duty, etc., but such words are beyond the ambit of charges against the C.O.

Hence, the observation of P.O. is uncalled for and does not hold good.

In view of the above, the allegation under Article -VI of the Charge memorandum has not been substantiated.



1.7 It is alleged vide Article - VII of the Charge Memorandum, referred to in para 1.7 above, that C.O did not provide serial numbers on the requisition slips in proper order from S/No. 125 onwards as a result the transaction made, did not tally with the DTC transaction, obtained from CRIS/Kolkata.

In this regard it is submitted that the allegation is baseless and vague. All the registration slips have been serially entered the DTC transaction (PD-8).

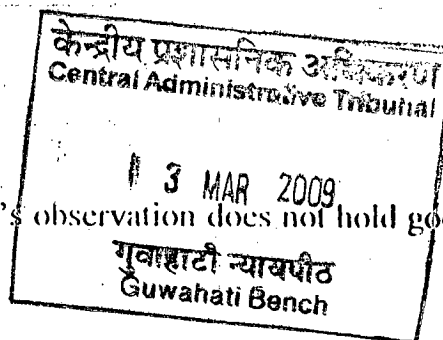
However for kind appraisal of Hon'ble E.O, it is submitted that the Requisition slip upto S/No. 125 have been in proper order and thereafter Mrs. S. Bhowmick CRS/SCRB generated two cancelled PNRs without requisition slip. After that all the Requisition slips have been numbered in proper order again from S/No. 126 onward (DTC transaction No. 169) S/ No. 127 corresponds to 172 of DTC transaction, because 170,171 connects with S/ No. 126. This is how all the remaining requisition slips have been tallied with the DTC transaction. As such the allegation under Article -VII stands not sustained.

Further P.O. through his Brief simply copied the allegation from the Charge Memorandum under Article VII. There is no basis of his

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Alexis Poddar

observation on the charges. As such P.O.'s observation does not hold good and hence not accepted.



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In view of the above the allegation under Article VII not substantiated.

2.8 It is alleged vide Article VIII of the Charge Memorandum, referred to in para 1.8 above, that the C.O received one sealed cover containing her transfer order for RNY Division addressed to CRS/SCRB from the office of the DRM/C/KIR at the time of receiving of her revocation letter, but she did not hand over the same to the CRS/SCRB with an ulterior motive.

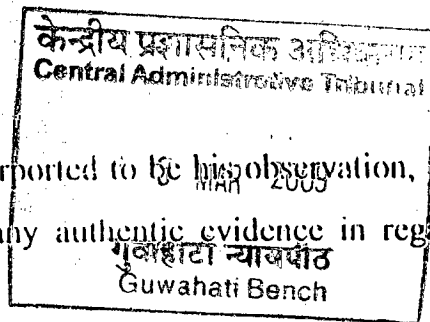
In this connection it is submitted that the allegation is far from the reality. There is no good ground about the allegation. The revocation order vide No. Com/Estt-Misc/Station/Pt-II dt. 14.02.07 has been marked as PD-10 during enquiry. it appears from the endorsement made by the C.O on the side bottom of the said (PD-10) that C.O received 4 (four) copies of (PD-10) at 18:00 hrs on 14.02.07 one each for self, APO/Bill NJP, CRS/SCRB and SM (G)/NJP only. CO also during general examination by E.O stated the fact vide ans to Q. No. 1 dt. 28.07.08. But along with the aforesaid copies no other sealed cover was handed over to CO for CRS/SCRB. As alleged that one sealed cover, stated to have contained transfer order for RNY, has been given to the C.O is not a fact. No such transfer order was handed over to the C.O. PD-9 is and internal letter from ACM/I/KIR to DRM (P)/KIR dt. 20.06.07 whatever written in the said letter, does not concern the C.O. Further the said ACM/I/KIR Sri A.K. Sinha signed the letter (PD-9) on 20.06.07 and the transfer order stated to have been issued dt. 31.01.07 (PD-9) has no bearing with the Revocation order (PD-10). No where in PD-10 it is mentioned that a copy of the transfer order was given to CRS/SCRB along with the copy of PD-10 for CRS/SCRB. Since the copy of so called transfer order was not handed over to the C.O, question of not handing over the same to CRS/SCRB does not

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arise. P.O. simply copied the allegation purported to be his observation, which is not tenable. P.O. also could not cite any authentic evidence in regard to allegation.



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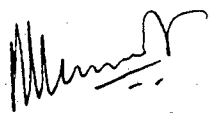
In view of the above, the allegation under Article -VIII has not been substantiated.

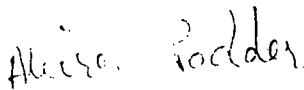
From the above facts, depositions of PWs, and document adduced and marked as ($\frac{C-1}{SSG}$) and clarification of C.O. during general examination by E.O on 28.07.08 , it established, that the allegations vide Article I to Article -VIII, have not been substantiated during enquiry.

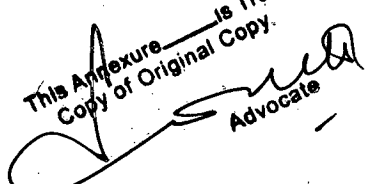
In view of the above, I would request your honour kindly to let free the C.O from the allegation labeled against her vide Article I to Article VIII with your natural magnanimity, so that the C.O may render more devoted service towards the administration in an anxiety free mind and for which act of your kindness C.O will remain ever grateful to your honour, Sir.

With profound regards,

Yours faithfully,

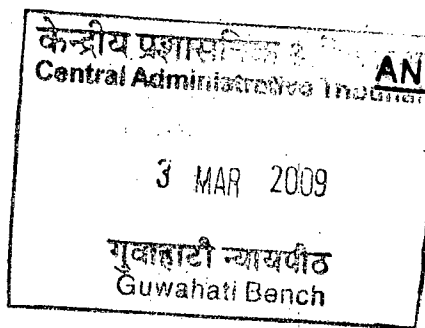

(M. Chakraborty)
Defence Counsel


(ABIRA PODDER)
Hd. ECRC/SCRB now at BNGN
Charged Official


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Advocate

To
The Divisional Commercial Manager,
Northeast Frontier Railway,
Rangia Division.

Through :: Proper Channel



REPRESENTATION

Re:: Major Penalty Memorandum No. C/421/RNY/VIG/Staff-25 (Major),
dated - 14.02.08 and the Enquiry Report submitted by Sri S. Sengupta,
Inquiry Officer, dated - 21.01.2009

Sir,

At the very outset I like to convey my deep respect towards you and further like to let you know the followings in regard to the articles drawn up against me in regard to the Major Penalty Memorandum referred above along with the Enquiry Report dated 21.01.2009:-

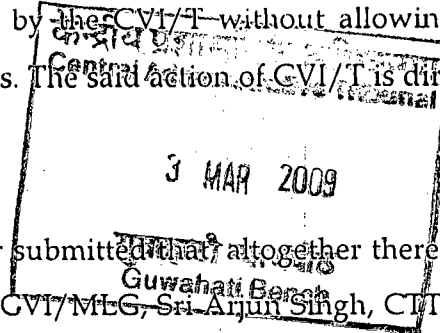
- 01) That in respect to the charge mentioned in Article-I of the above referred Major Penalty Memorandum and also in reference to the Enquiry Report dated 21.01.2009 I like to state that I was been performing my duties on 09.11.2006 when three to four boys of "Dadabhai Sporting Club of Siliguri" were standing in the queue outside the counter with three filled up requisitions for issue of PNR ticket upto SDAH and back and since I was very well known to them, they pushed the said amount with 3(three) filled up requisition slips through the counter for generating PNR as and when their turn comes, and the Requisition slips with the amount of Rs. 9400/- were kept on one side of the counter. At that very moment, Sri B.B. Giri, CVI/T entered inside the counter and compelled me to close the counter, which was complied with. The CVI/T himself brought out the Govt. cash from the drawer and took the said cash of Rs. 9400/- which was on the desktop and further thrown away the said requisition slips and forced me to add up the said cash with the Govt. Cash in my possession and I was under pressure from the said CVI/T to prepare the cash particulars in presence of Smt. Sanchita Bhowmick, CRS/SCRB (PW-3). Therefore the so-called excess amount of Rs. 9385/- was nothing but the amount handed over by the said club members for purchase of tickets. Sir, CVI/T even did not allow me to generate tickets against the said 3(three) requisition slips. In connection with the so-called excess in Govt. Cash Smt. Sanchita Bhowmick, CRS/SCRB (PW-3) confirmed vide Ans. to Q. No. 7 dt. 28.7.08 that the said money belongs to the club boys and tickets were to generate by me, which was not allowed by CVI/T. In support of her statement (PW-3) submitted one evidence, which was marked as C-1/SSG during enquiry on 28.07.08. The said evidence (C-1/SSG) is an

Received two (2) copies of memorandum containing seven pages. for forwarding to DCM/RNY

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application addressed to CRS/SCRB on the same day i.e. 09.11.2006 from the president, "Dada Bhai Sporting Club/Siliguri" for refund of Rs. 9400/- paid towards, to and from fare Ex. NJP to SDAH.

From the above circumstances it is established clearly, that it is not a case of excess in Govt. Cash, but made so by the CVI/T without allowing to generate the tickets as per list and requisition slips. The said action of CVI/T is direct interference in normal working of mine.



In this connection it is further submitted that altogether there are 3 (three) PWs - as follows Sri S. Baruah (PW-1) is CVI/MLG, Sri Arjun Singh, CITI/AF/HQ (PW-2) and Smt. S. Bhowmik, CRS/SCRB (PW-3). Out of the said three PWs, PW-1 vide his ans. to Q/No. 3 dt. 10.06.2008 confirmed that he was not associated with the said check at the beginning. He joined the check at about 12.15 hours whereas it is seen from PD-1 (Terminal cash summery) made out at 11.51 hours and accordingly cash particulars was prepared and so called excess found. It is therefore established that so called excess in Govt. Cash was established prior to association of PW-1 in the check.

Similarly PW-2 vide his Ans. to Q/No. 5 dt. 10.06.2008 confirmed that counting of cash was done prior to his arrival to the spot.

- 02) That in respect to the charge mentioned in Article-II of the above referred Major Penalty Memorandum and also in reference to the Enquiry Report dated 21.01.2009 I like to state that it is alleged vide Article-II of the Charge Memorandum that 12 numbers of filled up requisition slips were recovered from the possession of myself which did not bear any serial/PNR number and three PNRs 2332821081, 6264782932 and 6164544584 were also recovered from my possession.

P.O. under caption "Discussion" referred PD-5 (original memorandum drawn on the spot narrating all the irregularities detected during vigilance check at SCRB), but it is surprising that the said vital document had been prepared keeping me in the dark. This claim of mine is established from the fact that PD-5 does not bear my signature. Further the details of 12 Nos. of requisition slips as mentioned in Article-II have also

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[Signature]
Advocate

not given either in Annexure-I or Annexure-II of the Charge Memorandum. No. such 12 Nos. of Requisition slips were recovered from my possession. Moreover, none of the witnesses deposed anything about the alleged 12 Nos. of Requisition slips.

Hence in absence of details of the requisition slips stated to have been found from my possession (PD-5) is not accepted and thus does not hold good. Apart from the above, 3 Nos. of cancellation slips along with PNRs such as 2332821081, 6264782932 and 6164544584 stated to have recovered from my possession. In this connection it is submitted that these PNRs were not generated by me on 09.11.2006 and I did not receive the said 3 cancellation requisition slips and the said PNRs. This was known to CRS/SCRB, because during break from 11.00 to 11.30 hrs. CRS/SCRB dealt some requisition slips and cancellation slips and also generated same PNRs for her personal purpose. The said PNRs were part of total cancellation slips generated by CRS/SCRB.

Again P.O. referred the document PD-4 i.e. statement of Mrs. S. Bhowmick, CRS/SCRB where vide Q. No. 3, dt. 23.01.2007 she was asked to comment on the 12 Nos. of filled up requisition slips and 3 Nos. of requisition slips with cancel marks on top with 3 PNRs to which Smt. Bhowmick (PW-3) replied "Yes" which carries no meaning.

In view of the above, the allegation under Article-II has not been established during enquiry.

- 03) That in respect to the charge mentioned in Article-III of the above referred Major Penalty Memorandum and also in reference to the Enquiry Report dated 21.01.2009 I like to state that it is alleged vide Article-III of the Charge Memorandum, that myself generated the following 3 (three) PNRs without Requisition slip -

- (i) PNR No. 6264935631 (DTC Transaction Sl. No. 8)
- (ii) PNR No. 6264940450 (DTC Transaction Sl. No. 81)
- (iii) PNR No. 2432993783 (DTC Transaction Sl. No. 190)

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It is submitted that PNR No. 6264940450 under item No. (ii) above, generated at 09.22 of 09.11.06 with requisition slip and PNR No. 6264935631 under item No. (i) above, generated at 08.08 hours of 09.11.2006 with proper requisition slip which had been seized by CVT/T from CRS/SCRB on 09.11.2006 and the requisition slips could not be supplied by CVI/T during witness action on 12.01.2007. So the question generating PNR without requisition slip does not arise. It may further be submitted that Sri B.B. Giri, CVI/T seized 153 requisition slips of which requisition slips 1 to 138 were serially numbered (kindly connect PD-7 (Seizure memo) and PD-5 (Memorandum))

It may also be submitted that since the requisition slips were serially numbered (PD-5 and PD-7) and seized by CVI/T, some responsibility he attributed on me for non-availability of requisition slips.

Again regarding item No. (iii), PNR No. 2432993783 (DTC Transaction S/No. 190) it is submitted that the requisition slips have been seized at 11.51 hours PD-5 and DTC transaction PD-8 made out at 11.51 hours where as the PNR in question referred above, has been generated at 11.55 hours (Sl. No. 190) and that too it was not generated by me as such this PNR can not come under the purview of check conducted at 11.51 hours of 09.11.2006.

P.O. also copied out the same through his Brief and tried to establish the allegation without going in to the details of the fact. Hence P.O.'s observation is not tenable and not acceptable.

- 04) That in respect to the charge mentioned in Article-IV of the above-referred Major Penalty Memorandum and also in reference to the Enquiry Report dated 21.01.2009 I like to state that item No. (1) has been correctly generated as per requisition Sl. No. 27 with transaction time 08.28 hours Sl. No. of DTC Transactions 31, Item No. (ii) above PNR No. 6364936958 generated at 08.29 hours with requisition slip Sl. No. 28, but not 47 as mentioned in Article-IV, Sl. No. of DTC transaction is 32 and Item, No. (iii) the PNR No. as shown, 2132817186 with transaction time 08.30, Sl. No. 28 has not been generated at all. The said particulars are wrong. The correct position is PNR No.

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2132517186 with transaction 08.30 hours was generated as per requisition slip under Sl. No. 29 and not 28 shown in the Article-IV, Sl. No. of DTC transaction is 33.

From the above factual position as per DTC transaction, the allegation of generating PNR with improper timings is not based on facts. In view of the above, the allegation under Article-IV does not hold good.

Further P.O.'s observation on the allegation under Article-IV is also based on incorrect particulars and hence not tenable.

- 05) That in respect to the charge mentioned in Article-V of the above referred Major Penalty Memorandum and also in reference to the Enquiry Report dated 21.01.2009 I like to state that that the said cancelled PNRs were not generated by me but those were generated by Smt. S. Bhowmick, CRS/SCRB during my Tiffin break period from 11.00 hours to 11.30 hours against her own privilege pass. These PNRs were cancelled at 11.22 hours on 09th November, 2006. That the said cancelled PNRs were generated by Smt. S. Bhowmick, CRS/SCRB (PW-3) who has admitted the fact vide her answer to Q. No. 11 dt. 23.01.2007.

In support of the above, I would like to submit further that said Smt. Bhowmick CRS/SCRB generated 4 (four) PNRs against 5 privilege passes as reflected against Sl. No. 163, 164, 165 and 166 of DTC Transaction vide PNR Nos. 6264948308, 62649448430, 6264948472 and 6164859293 and requisition S.No. 122, 123, 124 and 125 on which the signature of Smt. Bhowmick also clearly put by her showing generating time 11.19 hours, 11.20 hours, 11.21 and 11.22 hours of 09.11.2006 on which, earlier reservation was made. Smt. Bhowmick CRS/SCRB admitted the fact of generating PNRs in question vide her ans. to Q. No. 12, dt. 23.01.2007. P.O. vide his Brief observed only that cancelled PNRs were generated by me without cancellation slips. But the fact is different, which is narrated above. As such P.O.'s observation does not hold good.

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- 06) That in respect to the charge mentioned in Article-VI of the above-referred Major Penalty Memorandum and also in reference to the Enquiry Report dated 21.01.2009 I like to state that, the allegations are baseless and vague. The PNR No. 6264949919 alleged to have been generated by me have no existence in reality. DTC Transaction (PD-8) does not show such PNR No. as generated on 09.11.2006. The allegation labeled by citing the PNR in question is a cooked product and has been manufactured by Sri B.B. Giri, CVI/T in consideration of his own to malign the my image while there is no existence of the PNR in question, the question of requisition slip in this respect is also a vague one.

Further it is alleged that Requisition Slip Nos. 132, 133, 134, 135, 136 and 137 are not available in the bunch of slips. Sir, PD-5 (memorandum) and PD-7 (Seizure Memo) clearly indicate that CVI/T seized 138 requisition slips, which were serially numbered from 1 to 138. So the question of non-availability of slips No. 132 to 137 does not arise. For such non-availability, all responsibilities rest with Sri B.B. Giri, CVI/T as he has seized the said requisition slips under his signature and designation from CRS/SCRB on 09.11.2006.

Hence no responsibility can be attributed on me for non-availability of the said requisition slips.

- 07) That in respect to the charge mentioned in Article-VII of the above-referred Major Penalty Memorandum and also in reference to the Enquiry Report dated 21.01.2009 I like to state that the allegation is baseless and vague. All the reservation slips have been serially entered in the DTC transaction (PD-8).

However for your kind perusal, it is submitted that the Requisition Slip upto S/No. 125 have been in proper order and thereafter Mrs. S. Bhowmick CRS/SCRB generated two cancelled PNRs without requisition slip. After that all the Requisition slips have been numbered in proper order again from S. No. 126 onward (DTC transaction No. 169) S/No. 127 corresponds to 172 of DTC transaction, because 170, 171 connects with S. No. 126. This is how all the remaining requisition slips have been

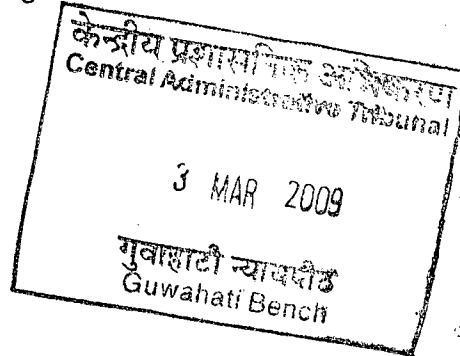
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tallied with the DTC transaction. As such the allegation under Article-VII stands not sustained.

Further P.O. through his Brief simply copied the allegation from the Charge Memorandum under Article-VII. There is no basis of his observation on the charges. As such P.O.'s observation does not hold good and hence not accepted.

Therefore in view of the above facts and circumstances and also considering the lawful fact that the CVI/T/HQR Sri B. B. Giri who conducted the search and seizure on 09.11.2006 was not included in the witness list and further was not allowed to be cross examined by me during witness action, I request your goodself to be kind enough to **exonerate me from the charges/allegations** drawn up against me and further be pleased to **quash, set aside, cancel the Major Penalty Memorandum** being No. C/421/RNY/VIG/Staff-25 (Major), dated - 14.02.08 along with the Enquiry Report dt. 21.01.2009 submitted by the Enquiry officer and allow me to continue my duty peacefully

With profound regards,



Yours faithfully,

Abira Podder
(ABIRA PODDER) 24.02.09

Hd. ECRC/SCRB now at
Bangaigaon
Charged Official

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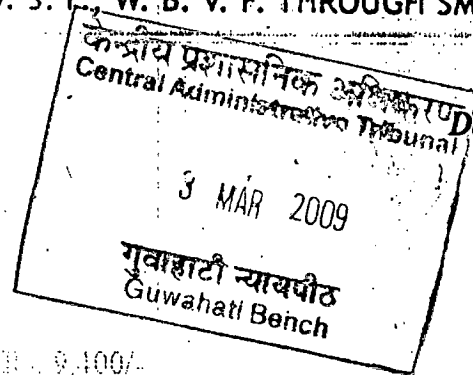
DADA BHAI SPORTING CLUB

Deshbandhu para, Siliguri, Darjeeling

AFFILIATED TO I. F. A., C. A. B., W. B. D. S. F., W. B. V. F. THROUGH SMKP. SILIGURI

Ref. No.....

To
The General Manager (Refund),
Northeast Frontier Railway,
Maligaon, Guwahati-78 011,
Assam.



Sub : Refund of cash amounting to Rs. 9,400/-

I, on behalf of our Club would like to draw your attention to the following facts for your favourable action please.

That the facts of the case is that I have sent 3 (three) members of our club along with 3 (three) requisition slips of reservation and necessary fares to purchase tickets Ex-NJP to Sealdah and back against marriage ceremony being attended by 18 (eighteen) club members and approximate fare of 18 (eighteen) tickets amounting to Rs. 9,400/- (Rupees nine thousand four hundred) only. The said Club members were in queue to obtain such reservation but the counter was being closed for the lunch break. Fortunately one Smt. Abira Poddar of our locality was in Counter No.6 and taking the advantage of such relationship our said members handed over Rs. 9,400/- to her together with requisition slips to complete the PNR on turn. But after a little while, when our said club members demanded ticket from Counter No.6 of ECRC, it was responded that the said sum of Rs. 9,400/- (Rupees nine thousand four hundred) had been taken over by the Railway Vigilance as excess cash from said Abira Poddar. Thereafter considering such situation our club members returned disappointed. Thereafter on 10th November & 11th November, 2006, our said club members remained at SCRIB to obtain the said fare amounting to Rs. 9,400/- (Rupees nine thousand four hundred) only but the Railway Officials stated to them that they have no scope to refund the said amount which has been seized by the Vigilance showing Excess Cash of Counter No.6.

That due to above departmental action our bonafide passengers have been harassed both mentally and financially and which can not be compensated by money.

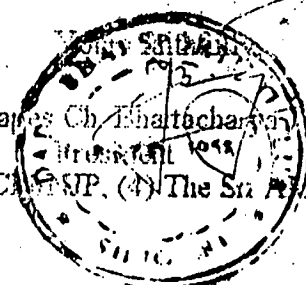
In view of the above, you are requested to make immediate arrangement for refund of the said amount of Rs. 9,400/- (Rupees nine thousand four hundred) only.

To restore the fair image of the Indian Railways your favourable action in this regard is highly solicited.

Thanking you,

Copy to - (1) The DRM/KIR, (2) The Secy, ECRC, (3) The DCM, NTP, (4) The Secy, AIT/NTP, (5) The ADRM/NTP for information please.

(Tapes Ch. Thakurchariya)



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Phone

DADA BHAI SPORTING CLUB

Deshbandhu para, Siliguri, Darjeeling

AFFILIATED TO I. F. A., C. A. B., W. A. D. S. F. W. B. V. F. THROUGH SMKP. SILIGURI

केन्द्रीय प्रशासनिक अदालत
Central Administrative Tribunal

Date: 11/03/2009

3 MAR 2009

गुवाहाटी न्यायापीठ
Guwahati BenchTo,
The Chief Commercial Manager
N.F. Railway, Maligaon
Guwahati-781001

Subj: Refund of Cash amounting to Rs. 9,400/-

Sir,

I, on behalf of Dada Bhai Sporting Club, Siliguri, to draw your pointed attention to the following facts for issuing necessary orders for refund of Rs. 9,400/- (Nine Thousand four hundred only) which has been ceased said to be the vigilance Organization of N.F. Railway from Reservation Counter No. 6 at Siliguri Computerized Reservation Office.

In this connection I would draw your attention to our letter dated 09.11.06 addressed to the reservation Superintendent, Siliguri Computerized Reservation Cum Booking Office, Siliguri (copy enclosed) and another letter dated 09.11.06 addressed to the Divisional Commercial Manager / N.F. copy to DRM/KIR and Sr. DCM/KIR (copy enclosed) and also to GM(Refund) N.F. Railway/MLG on 20.11.06 of which was duplicated to DRM/KIR, Sr. DCM/KIR, DCM/N.F. Sr. AM(TNIP) & ADM(N.F.) (copy enclosed).

In this connection I have to state that 3 members of our club were standing in a queue at Counter No. 6 for purchasing ticket Ex. New Jalpaiguri to Sealdah and back for 18 of our club members who were scheduled to go to Sealdah from New Jalpaiguri for attending a marriage ceremony. Unfortunately when their turn could come the window was closed said to be for lunch break, it was about 11:30 hrs.

Fortunately Smt. Abira Poddar, ECRC was in Counter No. 6 She is a resident of our locality, Deshbandhu Para, Siliguri. Since she was well known to our members, who were standing on the Queue, they gave her an amount of Rs. 9,400/- along with 3 requisition slips for 18 members for journey Ex. New Jalpaiguri to Sealdah and back by Darjeeling Mail and requested her to issue the tickets when their turn comes. After a while when our club members demanded ticket from her, Smt. Abira Poddar, the ECRC in Counter No. 6 replied us that the cash had been ceased by the Vigilance Organization of N.F. Railway. Our Club members returned disappointed as they suffered both ways - an amount of Rs. 9,400/- they lost simultaneously they could not get the ticket for the scheduled journey.

Hence, I would request you to arrange refund of the amount of Rs. 9,400/- without any further delay.
Thanking you.

Yours faithfully

Copy to :-
General Manager
N.F. Railway, Maligaon
Guwahati-781001(Tapash Bhattacharjee)
President
Dada Bhai Sporting Club
SILIGURIThis Annexure is True
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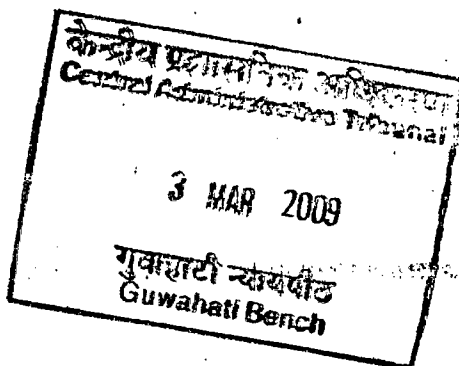
Reg. No. 117

N.F.RAILWAY.

Office of the
Chief Claims Officer
Maligaon, Guwahati-I I

Dated: 30.3.07.

No. C/64/Misc/CR/2006-07.

To
Shri Tapash Bhattacharjee,
President, Dada Bhai Sporting Club,
Deshbandhu Para, Siliguri, Darjeeling.

Sir,

Sub:- Refund of Rs.9400/-.

Ref:- Your Letter No. Nil dated 20.11.06 and 11.3.07.

On receipt of your letter under reference, a detail enquiry was conducted and found that Smt. Abira Poddar, ECRC/SCRB collected money in her personal capacity and Railway in no way responsible for such transaction.

Rs.9385/- was deposited by Smt. Abira Poddar as Govt. Cash under head "excess in booking" and there is no provision/rule for granting refund of such amount.

In view of the above, you are requested to contact Smt. Abira Poddar, ECRC/SCRB and arrange realization/ get refund from her.

Yours faithfully,

(S.K. Karmakar)

Dy. Chief Commercial Manager/Claims,
Maligaon, Guwahati-I I.

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