

50/100

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

(DESTRUCTION OF RECORD RULES, 1990)

**INDEX**

O.A/T.A No. 47/95.....  
R.A/C.P No.....  
E.P/M.A No.....

1. Orders Sheet. OA-47/95.....Pg. 1.....to 2.....
2. Judgment/Order dtd. 27/3/95.....Pg. No. Separate order.....
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A.....47/95.....Pg. 1.....to 18.....
5. E.P/M.P.....NIL.....Pg.....to.....
6. R.A/C.P.....NIL.....Pg.....to.....
7. W.S.....NIL.....Pg.....to.....
8. Rejoinder.....NIL.....Pg.....to.....
9. Reply.....NIL.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

2/

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI, 5

✓ O.A.No.

45/95

Misc. Petn.

C.P. No.

R.Appl: .....

..... R. C. Chandra ..... APPLICANT'S  
frs.

..... U. O. I. 9005 ..... RESPONDENT'S

..... Mr. R. Dutta ..... FOR THE APPLICANTS

..... Mr. B. K. Sharma ..... FOR THE RESPONDENTS  
H. Advocate

OFFICE NOTE

DATE

ORDER

27.3.95

Mr R. Dutta for the applicant.

This application is in  
form and within time

C. F. of Rs. 50/-

Deposited vide

IPO/BD No. 803882804

Dated 21.1.95

The application is admitted. Notice to  
the respondents returnable forthwith.

Mr B.K. Sharma, learned Railway Counsel,  
waives notice. By consent the matter is  
taken up for final disposal.

The applicant is a Group 'C' employee  
of the N.F. Railway. By order dated 16.4.1993  
he was suspended from service (Annexure-A/1).  
No reasons were indicated in support of the  
order. The aforesaid order of suspension,  
however, was revoked by the competent  
authority by order dated 25.5.1993 (Annexure-  
A/2).

Mr R. Dutta, the learned counsel for  
the applicant, submits that the competent  
authority while revoking the order of  
suspension did not specify as to how the  
period of suspension was to be treated. He  
relies on para 1345 of Indian Railway  
Establishment Code (IREC), Volume-II. The

27.3.95

said para 1345 provides that when a Railway servant who has been suspended is reinstated the authority competent to order reinstatement shall consider and make a specific order -

(a) .....

(b) Whether or not the said period shall be treated as a period spent on duty.

The order of revocation, Annexure-A/2 does not comply with the aforesaid requirement. No contemporaneous or subsequent order has been passed according to the applicant despite his having requested for issuing the necessary orders in his representation dated 28.2.1994, Annexure-A/3. That is the only question which arises for consideration at this stage. Consequently, the respondent No.2 is directed to pass an order as required under Clause (5) of Sub-para (1) of para 1345 of IREC. The order shall be passed within one month from the date of receipt of a certified copy of this order.

Since the applicant has approached the Tribunal at this stage when the order as directed above has not been passed it is made clear that if he is aggrieved by the order passed he will be at liberty to adopt such remedies as may be advised in accordance with law including approaching this Tribunal

The application is disposed of in terms of the aforesaid order.

Copy of the order to be supplied to the counsel.

12.5.95

Copy of order dtd. 27.3.95 issued to all concerned by Regd. Post and their counsel also vide Gyno. 2098 to 2102 dtd. 17.5.95.

nkm

Member

Vice-Chairman

3.13

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक अधिकरण

22 FEB 1995

Guwahati Bench  
गुवाहाटी न्यायालय

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

O. A. No. 45 of 1995.

Shri Rakesh Chandra Chanda -- Applicant.

Vs

Union of India & Others -- Respondent.

I N D E X

Sl. No.	Particulars of document	Annexure No.	Page No.
1.	Application	-	1 to 8
2.	Suspension order dated 16-4-93	A/1	9 & 10
3.	Order dated 25-5-93 revoking the order of Suspension.	A/2	11
4.	Applicants representation dated 28-2-94	A/3	12 & 13
5.	Applicants reminder dated 12-4-94	A/4	14
6.	Applicants reminder dated 5-8-94	A/5	15
7.	Railway Board's letter No.E(D&A)86 RG 6-19, dated 7-4-86.	A/6	16 to 18.

Signature of the applicant

File by  
R. Dutta  
22/2/95  
Malligaon, Guwahati-781011.

Received by  
B. B. Choudhary  
22-2-95  
W. M. B. K. Choudhary  
Advocate

THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : GUWAHATI

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

Original Application No. \_\_\_\_\_ of 1995

Shri Rakesh Chandra Chanda -- Applicant  
Son of Late Rajendra Ch. Chanda  
resident of Qrs.No.T/30(B),  
Upper Babu Patty, Lumding.

Versus

1) Union of India represented by  
General Manager, N.F.Rly., Maligaon,  
Guwahati, PIN-781011.

2) Sr. Divisional Commercial  
Manager, N.F.Rly., Lumding, P.O.-  
Lumding, PIN-788447, Dist.-Nagaon,  
Assam.

-- Respondents.

(1) Subject matters of application:

Regularisation of the period of suspension,  
from 17-4-93 to 24-5-93, of the applicant.

(2) Jurisdiction of the Tribunal:

The applicant declares that the subject  
matter of the application withi~~n~~<sup>in</sup> the  
jurisdiction of the honourable tribunal.

(3) Limitation:

That applicant submits that the application  
is within the period of limitation.

File by  
R. Dutt  
Maligaon, Guwahati-781011

(4) Facts of the case:

4.1) That the applicant is a citizen of India and therefore entitled to the rights and preveliges available to a citizen of India.

4.2) That the applicant is a Group-C employee of N.F.Railway and is working as a Head Travelling Ticket Examiner (in short Hd.TTE) and posted at Lunding under Sr. Divisional Commercial Manager (in short Sr.DCM), N.F.Rly., Lunding. The immediate superior of the applicant is the Chief Travelling Ticket Inspector (in short CTTI), N.F.Rly., Lunding.

4.3) That, the applicant was earlier working as conductor. The designation of conductor has been abolished and the applicant has been redesignated as Hd.TTE.

4.4) That the duty<sup>or</sup> perform<sup>ed</sup> by the conductor is to ~~be~~ guide the passengers to his/her allotted birth as per the reservation chart and also to allot birth if any/ as and when a birth falls vacant.

4.5) That the applicant was put under suspension by the Sr. Divisional Commercial Manager, N.R.Rly., Lumding. (Respondent No.2) under No.G/1/92/Policy dated 16-4-1993 without assigning any reasons.

A copy of the said suspension order is annexed as Annexure-A/1.

4.6) That, Rule 5(1) of the Railway servant (Discipline & Appeal) Rules, 1968 provides that a railway servant may be placed under suspension when there is a disciplinary proceeding pending or contemplated against him or a case against him in respect of any criminal offence is under investigation, inquiry or trial or in the opinion of the disciplinary authority the railway servant has engaged himself in activities prejudicial to the interest of the security of the State.

4.7) That, neither any disciplinary proceeding was pending nor any case in respect of criminal offence was under investigation or trial/ at the time of suspension against the applicant. He was also not detained in custody or was convicted. The applicant also did not engage

himself in any activities prejudicial to security of the state.

4.8) That, the Sr. Divisional Commercial Manager, N.F.Rly., Lunding (Respondent No. 3) revoked the order of suspension on 25-5-93 vide his No.G/1/92/Policy dated 25-5-93.

A copy of the revocation order No.G/1/92/Policy dated 25-5-93 is annexed as Annexure-A/2.

4.9) That, the applicant expected that some disciplinary proceeding might have been contemplated by the Sr. Divisional Commercial Manager, N.F.Rly., Lunding (respondent No. 2) and awaited for the same till February, 1994. When no memorandum of charges was served on him upto February, 1994, he submitted representation on 28-2-94 to the Divisional Commercial Manager, N.F.Rly., Lunding for treating the period of suspension from 17-4-93 to 24-5-93 as on duty and issue necessary order for payment of salary for the said period. As no reply was received reminder were issued on 12-4-93 & 5-9-94 without any response.

Copies of the representation dated 28-2-94 & reminder dated 12.4.94 5-9-94 are enclosed as



9  
: 5 :

Annexure- A/3, A/4 & A/5  
respectively.

4.10) That, the Railway Board under letter No.E(D&A)86 RG 6 19 dated 7-4-86 forwarded to all zonal Railways a copy of department of Personnel & Training's letter No.11012/15/85-Esstt(A) dated 5th Dec./1985, communicating the Govt. of India's decision that the period of suspension to be treated as duty when the suspension is wholly unjustified and a minor penalty is imposed after conclusion of disciplinary proceeding.

A copy of the said letter No.

E(D&A)86 RG 6 19 dated

7-4-86 is annexed as Annexure-A/6.

5) GROUND FOR RELIEF:

5.1) That, as there was no disciplinary case or criminal case pending in any Court or under investigation and as no disciplinary proceeding was even contemplated, the order placing the applicant under suspension (Annexure-A/1) wholly unjustified and violative of rule-5(1) of the railway servant (discipline & appeal) rules, 1968 and was wholly unjustified.

Contd./---p6

5.2) That, the period of suspension of applicanta is to be treated as duty as no disciplinary proceeding was started against him nor he was awarded any penalty.

5.3) That, no order regarding treatment of the suspension period has been passed by the disciplinary authority(respondent No.2) as yet.

(6) Details of Remedies exhausted:

6.1) That, the applicant preferred representation on 28-2-94 followed by reminder dated 12-4-94 and 5-9-94 <sup>for 5 days in period of suspension</sup> as duty but no reply has been received. do

(7) Matter not previously filled or pending before any other court:

That, the applicant further declares that he has not previously filed any application, writ petition regarding the matter in respect of which the application has been made before any Court of law or any other bench of the Honourable Tribunal nor any such application, writ petition or suit is pending.

(8) Relief Sought:

On the facts and circumstances stated above the applicant humbly prays:-

8.1) That, the order issued by the Sr. Divisional Commercial Manager, N.F.Rly., Lumding vide No.G/1/92/Policy at 16-4-93 (Annexure-A/1) placing the applicant <sup>under suspension</sup> ~~be~~ <sup>Co</sup> declared ultra vires to rule 5(1) of the railway servant (Discipline & Appeal) Rules, 1968 and quashed.

8.2) A direction may kindly be issued to the Sr. Divisional Commercial Manager, N.F. Rly., Lumding (Respondent No.2) to issue necessary orders for regularisation of the period of suspension of the applicant from 17-4-93 to 24-5-93 as on duty.

(9) Interim Relief:

N I L.

(10) Particulars of the application fee:

Indian Postal Order No.882804 dated 21-1-95 for Rs.50.00 are enclosed as application fee.

V E R I F I C A T I O N

I, Shri Rakesh Chandra Chanda, Son of Late Rajendra Chandra Chanda, aged 53 years, resident of Qrs.No.T/30(B), Upper Babu Patty, P.O. Lumding, Dist.-Nogaon(Assam), PIN-782447 do

12 ✓  
: 8 :

hereby verify that the contents of paragraphs 4, 6, 7 & 10 are true to my knowledge and belief and paragraphs 2, 3, 5 & 8 are believed to be true on legal advice and that I have not suppressed any material fact.

Date: 21st FEB'75

Place: Maligaon.

Rakesh A. Chandra.

Signature of the applicant.

Rakesh A. Chandra.

-9-

Annex - A/r.

मानक फार्म सं० 1.  
STANDARD FORM No.1

पू० सी० रेलवे/N. F. RAILWAY:

जी०/G.174 ए०/A.

निलम्बन आदेश का मानक फार्म  
Standard form of order of suspension

(रे० क० (अनु० एवं अ०) नियम 1968 का नियम 5 (1)  
(Rule 5(1) of the RS (D&A) Rules 1968)

सं०/No.... G/1/92/Policy.....

..... N.F. Railway.  
(रेल प्रशासन का नाम)  
(Name of Railway Administration)

(जारी करने का स्थान)  
(Place of issue) ..... दिनांक  
..... Date ... 13-4-93

आदेश  
ORDER

चूंकि श्री/श्रीमती .....  
(रेलकर्मचारी का नाम तथा पदनाम) के विरुद्ध अनुशासनिक  
कारवाई अपेक्षित/विचाराधीन है  
Whereas a disciplinary proceeding against  
Shri/Smt. .... R.C. Chandra, Cond./LMG .....  
(Name and designation of the Railway servant) is  
contemplated/pending.

चूंकि श्री/श्रीमती .....  
(रेल कर्मचारी का नाम तथा पदनाम) के विरुद्ध अपराध  
की छानबीन, जांच की जा रही है / मुकदमा चल रहा है  
Whereas a case against a Shri/Smt. ....  
(Name and designation of the Rail-  
way servant) in respect of a criminal offence is under  
investigation inquiry/trail.

अतः अब रेल कर्मचारी (अनुशासन एवं अपील) नियम, 1968 के नियम 4/(51) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते  
हुए राष्ट्रपति/ रेलवे बोर्ड/ अयो-हस्ताक्षरी के (रेल कर्मचारी अनुशासन एवं अपील नियम, 1968 के साथ संलग्न I, II, III अनुसूचियों  
के अनुसार रेल कर्मचारी को निलम्बित कर सकने वाला पञ्चम प्राधिकारी) / रेल कर्मचारी (अनुशासन एवं अपील) नियम 1968 के  
नियम 5 के परन्तुक में उल्लिखित किसी प्राधिकारी द्वारा, उक्त श्री/श्रीमती .....  
को एतद्वारा दिनांक ..... से तात्कालिक प्रभाव से निलम्बित किया जाता है।

Now, therefore the president/the Railway Board/the undersigned the authority competent to place the Railway  
servant under suspension in terms of the Schedules I, II and III appended to RS (D&A) Rules, 1968) an autho-  
rity mentioned in provide to Rules 5 of the RS (D&A) Rules 1968, in exercise of the powers conferred by rule 4/  
provide to rule (51) of the RS (D&A) Rules, 1968, hereby places the said Shri/Smt. .... R.C. Chandra, Cond./  
under suspension with immediate effect, from .....

Attested

22/4/93  
R. D. ...  
Muzam, ...

- 10 -

आगे यह भी आदेश दिया जाता है कि इस आदेश के लागू रहने के दौरान उपर्युक्त श्री/श्रीमती .....  
सक्षम प्राधिकारी की पूर्व अनुमति प्राप्त-किये-बिना, मुख्यालय से बाहर नहीं जायेंगे/जायेंगी।

It is further ordered that during the period this order shall remain in force, the said Shri/Smt ..... A. C. Chanda  
Cond/Lumding shall not leave the head quarters without obtaining the previous permission of  
the competent authority.

\*(राष्ट्रपति के आदेश द्वारा उनके और उनके नाम में)

(By order and in the name of the President)

(हस्ताक्षर/Signature) .....

(नाम/Name)..... ( G. S. Bagriya ).....

नियमित करने वाले प्राधिकारी का पदनाम ( G. S. Bagriya )

Designation of the suspending authority Sr. D.M. Commr Manager

(नियंत्रण बोर्ड, जहाँ नियंत्रण बोर्ड है नियमित प्राधिकारी है)

(Secretary, Railway Board, where Railway Board  
is the suspending authority).

(जहाँ राष्ट्रपति नियमित प्राधिकारी हो, वहाँ राष्ट्रपति की  
ओर से प्रमाणिकरण हेतु संविधान के अनुच्छेद (77) 2 के  
अधीन प्राधिकृत अधिकारी का पदनाम)

(Designation of the officer authorised under ar-  
cle 77 (2) of the Constitution to authentic  
orders on behalf of the President, where the Pres-  
ident is the Suspending authority).

प्रतिनिधि प्रेषित/Copy to:-

श्री/श्रीमती

Shri R. C. Chanda, Cond/Lumding

Through CTRD/CMR

(नियमित रेल कर्मचारी का नाम तथा पदनाम)

निलम्बन के दौरान दिये निर्वाह भत्ते से संबंधित आदेश अलग से जारी किये जायेंगे।

Shri/Smt..... (name and designation of the suspended Railway ser-  
vant); Orders regarding subsistence allowance admissible to him during the period of suspension will issue sepa-  
rately.

\*जहाँ आदेश स्पष्टतः राष्ट्रपति के नाम से ही दिया जाना है।

Where the order is expressed to be made in the name of President.

N. F. Ry. Press-1/62/8912/112- Jun., '70-10/00) F3 ms.

*Received*  
*[Signature]*  
Lumding Jn., N. F. Ry.

11-

Index - A/2

N.F. RAILWAY. (STANDARD FORM NO.4).

STANDARD FORM OF ORDER OF REVOCATION OF SUSPENSION ORDER.

Rule 5(5) of R.S. (D & A) Rules-1963.

No. G/1/92/Policy.

Dated... 25/5/93.

Name of the Railway Administration:-

ORDER.

Whereas an order placing Shri R.C.Chanda, Cond/LMG (name and designation of the Railway servant) under suspension was made by Sr.PCH /sLunding on 16-4-93

Now, therefore, the undersigned (the authority which made or is deemed to have made of the order of suspension of any other authority to which the authority is subordinate is exercise of the powers conferred by clause(e) of sub-rule-5 of the R.S (D & A) Rules-1963 hereby revoked the order of Suspension with immediate effect.

*G.R. Bagriya*  
(G.R. Bagriya)  
Designation of the  
Authority making the order.  
St. Divl. Comm. Manager  
N.F. Railway, Lunding

Copy (3) Shri R.C.Chanda, Cond/LMG N.F. Railway, Lunding through CTTI/LMG for information.

- (2) CTTI/LMG for information and necessary action please.  
(3) DDM(P)/LMG for information and necessary action please.  
(4) OS/ET/Cadre / OS/ET/Bill for information and necessary action please.  
(5) RAC(C)/LMG (at office) for information and necessary action please.

Suspension from  
17.4.93 to 24.5.93.

*Received*

*24/5/93*  
Lunding Jm. N. F. Rly.

*Atk*

*R. Dulla*  
R. Dulla. (Addl. Secy)  
Mallagan, Coochbehar-781011.

V

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

(Through Proper channel)

Sir,

Sub:- Regularisation of Suspension period.

I have the honour to state the following for your kind consideration and sympathetic orders.

1. That sir, I was placed under suspension vide Sr.DCM/ LMG's order No G/1/92/Policy dated 16.4.93.
2. That sir, there were neither any disciplinary proceeding or a case in respect of any criminal offence was pending against me.
3. That sir, after placing me under suspension neither any memorandum of charges served on me nor any investigation was initiated against for any omission or commission in performance of my duty.
4. That sir, instead of initiating any proceeding the order of suspension was revoked by the Sr. DCM/LMG vide order No G/1/92/Policy dated 25.5.93 without indicating as to treatment of period of suspension.
5. That sir, Rule 5(1) of the Railway Servants (Discipline & Appeal) Rules, 1968 provides as under:-  
" (1) A Railway Servant may be placed under suspension:  
(a) where a disciplinary proceeding against him is contemplated or is pending; or  
(b) where, in the opinion of the authority competent to place a railway servant under suspension, he has engaged himself in activities prejudicial to the interest of the security of the state; or  
(c) where a case against him in respect of any criminal offence, is under investigation, inquiry or trial. "
6. That sir, as stated in paras 3 and 4 above there no criminal case was pending or under investigation nor there was any criminal case was registered against me by any police authority nor there was any disciplinary proceeding ~~was~~ pending or even contemplated, as is evident from non initiation of proceeding during the period of suspension or even thereafter, the suspension was wholly unjustified and needs to be treated as duty. Herein I may mention that the Railway Board under letter No E (D&A) 86 RG 6-19 dated 7.4.86 forwarded to all Zonal Railways the Government of India's decision that the government servants can be placed

14/4/93  
to 25/5/93  
17.4.93.  
15  
24.5.93.

AKMS  
R. Dutta, Manager  
Mallan, Guwahati, 24/5/93

Contd P/2.



-2-

placed under suspension if a prima facie case is made out justifying his prosecution or disciplinary proceedings which are likely to end in his dismissal, removal or compulsory retirement. It was further instructed that where departmental proceedings against a suspended employee for the imposition of major penalty ends in minor penalty the suspension cannot be said to be wholly unjustified and should be treated as duty.

7. That sir, the above submissions would indicate my suspension was not justified and is to be treated as duty.

I would therefore umbly pray to your honour to be kind to regularise the period of my suspension from 17.4.93 to 24.4.93 as duty and issue necessary orders for payment of my salary for the period and oblige.

With kind regards,

Yours faithfully,

Date 28.02.94.

Rakesh. K. Chanda.

( R.C. Chanda )  
Hd, TTE/LMG under  
CTTI/LMG.

Received  
one copy (Two sheets)  
28/2/94.

.....

.....

.....

A/K/S  
R. Datta. (28/2/94)  
Mallagan, Guwahati-781011.

To The Sr. DCM/LMG, N.E.Rly.

Through: Proper channel

Sir, <sup>3</sup> Sub: Suspension Period from 16.4.93 to 25.5.93.

With due respect I beg to be excused for intruding upon your valuable time with my following Prayer, which I hope will be looked into and decision given.

That Sir, I was placed under suspension as per your letter no-9/1/92/Policy dt 16.4.93, from 17.4.93 to 24.5.93. Though I was placed under suspension and revocation ordered vide, your office letter no-9/1/92/Policy dt 25.5.93. issued till date no memorandum has been issued against me, and I was compelled to issue a letter vide my application dt 28.2.94 for regularisation of my suspension period to enable me to get the monetary benefit.

Though more than a month have elapsed wither any order of regularisation of the suspension period nor any communication made for issuing the memorandum showing my offence has been received.

As this a case pending for a year, I would request you kindly to arrange to regularise the period of suspension, so that I can get the salary for the above period for which I shall be grateful.

Dated, Dundering  
the 12th April 1994.

Yours Faithfully,  
Rakesh B. Chandra.  
Hd. III / LMG.

Received  
SP  
12.4.94

Attested

R.  
Hd. III / LMG.  
12.4.94  
Hd. III / LMG.  
Hd. III / LMG.

To

The Divisional Rly Manager, N.F.Ry., Lumding.

Thro: Proper channel

Sub: - Remainder No-3, regarding the regularisation of my suspension Periods.

Ref: - my application dt. 28.2.94 & 12.4.94.

Sir,

I beg to state that, I was placed under suspension from 17.4.93 to 25.5.93. by Sr DCM/LMG vide his order NO-5/1/92/Policy dt. 16.4.93 and the suspension order was revoked by Sr DCM/LMG vide his order NO-5/1/92/Policy dt. 25.5.93. without indicating the fate of my Periods of suspension what it was to be treated.

In this connection I applied two times, before your honour for the regularisation of my suspension Period. But month after month was rolled down, still the fate my suspension Periods remained undecided.

Here I am willing to mention to your ~~your~~ <sup>you</sup> honour that in future I shall not disturb <sup>you</sup> in the connection as stated above.

Under the above circumstances may I hope & pray that you would be kind enough to regularise my suspension Periods expeditely and oblige.

Dated, LMG

The 05th Sept/94.

Yours faithfully.

Rakesh Ch. Chanda  
cond/LMG.

P 06/9/94

Attested

R. D.

Mallapuri.

22/9/94

R.B.E. No. 57/86

Subject: Recommendation of the Committee of the National Council(JCM) Period of Suspension to be treated as duty if only Minor Penalty is imposed after conclusion of disciplinary proceedings.

No.E(D&A)86 RG 6-19,  
dated 7-4-86.

A copy of the Department of Personnel and Training's O.M. No.11012/15/85-Estt(A) dated 3-12-85 on the above subject is sent herewith for guidance and compliance of all concerned. The Department's O.M. No.43/56/64-AVD dated 22-10-64 was circulated vide Board's letter No.E(D&A)64 RG 6-35 dated 10-12-64.

Copy of Department of Personnel and Training letter No.11012/15/85-Estt(A) dated 3 December, 1985.

Subject: Period of suspension to be treated as duty if only a minor penalty is imposed after conclusion of the disciplinary proceedings - Recommendations of the Committee of the National Council(JCM).

The undersigned is directed to invite attention to this Department O.M.No.43/

*Allen*  
R. Dutt, Secy.  
Mallan, Canteen-731018. 24/4/85

Contd./-----p2

56/64-AVD dated 22-10-64 containing the guidelines for placing Government servants under suspension and to say that these instructions lay down, inter alia, that Government servant could be placed under suspension if a prima facie case is made out justifying his prosecution or disciplinary proceedings which are likely to end in his dismissal, removal or compulsory retirement. These instructions thus make it clear that suspension should be restored ~~for~~ only in those cases where a major penalty is likely to be imposed on conclusion of the proceedings and not a minor penalty. The Staff Side of the Committee of the National Council set up to review the CCS (CC&A) Rules, 1965 had suggested that in cases where a government servant, against whom an inquiry has been held for the imposition of the major penalty, is finally awarded only a minor penalty, the suspension should be considered unjustified and full pay and allowance paid for suspension period. Government have accepted this suggestion of the staff side. Accordingly, where departmental proceedings against a suspended employee for the imposition of a major penalty finally and with the imposition of a minor penalty, the suspension can be said to be wholly unjustified in terms of FR(54-B).

Alleged  
R. Datta.  
Mallikarjun, Gowanahalli-781511

Contd./---p3

2. Ministry of Agriculture etc. are requested to bring the contents of para 1 above to the notice of all authorities concerned under their control.

3. These orders will become effective from the date of issue. Past cases already decided need not be reopened.

Sd/-

( A. JAYARAMAN )  
Director.

A. K. M.

K. D. M. & S.  
Mallagan, Gummalla-781011: 24/5/55

2

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :: GUWAHATI - 5

O.A. 45/95

Sri Rakesh Chandra Chanda ... Applicant

-VS-

Union of India & Others ... Respondents

P R E S E N T

THE HON'BLE JUSTICE SHRI M.G.CHAUDHARI, VICE CHAIRMAN  
THE HON'BLE SHRI G. L. SANGLYINE, MEMBER (ADMN.).

For the Applicant ... Mr. R. Dutta.

For the Respondents ... Mr. B.K. Sharma.

12  
Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMN)

Memo No. :

Date :

Copy for information & necessary action to :

- (1) Shri Rakesh Chandra Chanda, S/O. Late Rajendra Ch. Chanda, resident of Qrs. No. T/30(B), Upper Babu Patty, Lumding.
- (2) The General Manager, N.F. Railway, Maligaon, Guwahati-11.
- (3) The Sr. Divisional Commercial Manager, N.F. Railway, Lumding, Dist. Nagaon, Pin Code 788 447, Assam.
- (4) Mr. R. Dutta, Advocate, Gauhati High Court, Guwahati.
- (5) Mr. B.K. Sharma, Rly. Advocate, C.A.T., Guwahati Bench, Guwahati.

SECTION OFFICER (J)