

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

DA No. 112/96

MP No.

RA No.

CP No.

COA

COA

COA

APPLICANT(S)

Sri M. C. Talukdar

RESPONDENT(S)

Union of Ordes 1800

Mr. R. Dutta

Advocate for the applicant.

Mr. J. L. Sarkar, Rly.

Advocate for the Respondents.

Office Notes

Delhi

Court's Orders

This application is in form and within time

C. F. of Rs. 50/-

deposited vide 5-24487

IPO No.

Dated 26.6.96

He P. Registrar, 1-7-96

4-7-96

Learned counsel Mr. R. Dutta

for the applicant is present.

Learned Railway counsel Mr. J. L.

Sarkar for the respondents.

Issue notice on the respondents as to why this application should not be admitted and reliefs sought for should not be allowed.

Returnable ~~on~~ within 1-8-96.

List on 1-8-96 for show cause and consideration of admission.

Steps within to-day, ~~the~~ Respondent No. 1 & 2 may be served by the speed post at the cost of the applicant as requested.

lm

Member

6-7-96

Notice issued to the Respondts vide J. No. 1948 dt. 5.7.96.

Bm

15.7.96

Notice duly served on Respondt No. 3.

Bm Show Cause has not been ~~been~~ ^{been} ~~not~~ ^{not}

31/7

1-8-96

Learned counsel Mr. R. Dutta

for the applicant. Learned counsel

Mr. J. L. Sarkar for the respondents.

Show cause has not been submitted.

Application is admitted, Written statement within 6 weeks.

List for written statement and further order on 12-9-96.

In the circumstances of the case the matter requires expeditious disposal as submitted

cota/-

2

O.A.112/96

1-8-96

by both sides. Further pendency of this application shall not be a bar for the respondents to dispose of disciplinary proceedings.

1) Notice duly served on
OP. No 3.

2) 20/3/96 - he not seen
G.W.

lm


Member

17.9.96

Learned counsel Mr R. Dutta for the applicant. Learned counsel Mr J.L. Sarkar for the respondents. Mr Dutta submits that he may be allowed to withdraw this application as he has obtained the relief. He is allowed to withdraw the application.

The application is disposed of on withdrawal.

Copy of the order may be furnished to the counsel for the parties.



Member

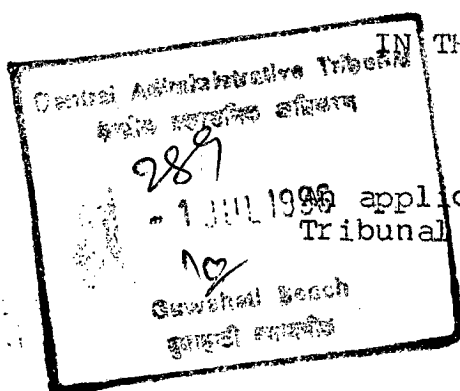
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18/9

18/9/96

Copy of the order
issued to the L/Advocates
of the parties vide
D.No - 3151 & 3152
dt 19.7.96.


18/9



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

Filed by
D. D. Choudhury
11/7/96
Mallikarjuna, Guwahati-781011.

application Under Section 19 of the Administrative Tribunal Act, 1996.

O. A. NO. 112 of 1996.

Shri Madhab Ch. Talukder : Applicant.

- Versus -

The Union of India & Others : Respondents.

I N D E X

Sl.No.	Description of documents relied upon.	Page Nos.	Annexure No.
1.	Application	1 to 7	
2.	Memorandum of charges dated 27.03.90	08 to 35	A/1.
3.	Inquiry Report	36 to 49	A/2.
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Madhab Chandra Talukder
SIGNATURE 29-6-96

Recd.
J.S. Rao
29/6/96
By. Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

5
Filed by
D. D. B. - 17/96
S. D. B. (Adm. Secy)
GUWAHATI

An application under Section 19 of the Administrative Tribunal Act, 1996.

O. A. NO. 112 of 1996.

1. Shri Madhab Ch. Talukder, Son of
Late B.C. Talukder, Resident of
Uzan Bazar, Guwahati.

..... Applicant.

- Versus -

1. Union of India represented by the
Secretary, Railway Board, Rail
Bhawan, New Delhi.
2. The Chairman, Union Public Service
Commission, Dholpur House, Sahajahan
Road, New Delhi - 110011.
3. The Chief Commercial Manager,
N. F. Railway, Maligaon,
Guwahati - 781011.

..... Respondents.

1. Particular of grievance for which the application
is made :-

The delay in finalisation of the disciplinary
proceeding initiated on 27.03.90.

Cont 2.

112
29/6/96

2. Jurisdiction of Tribunal :-

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

3. Limitation :-

The applicant further declares that the application is within the limitation period as it is a continuing wrong.

4. Facts of the Case :-

4.1. That, the applicant is a citizen of India and is therefore entitled to rights and privileges guaranteed under the Constitution of India.

4.2. That, the applicant was originally appointed as Commercial Apprentice a group 'C' post, in the N.F. Railway in the year 1961 and by dint of his sincere service was promoted to the post of Asstt. Commercial Superintendent on 20.06.83 and was posted at New Guwahati, N.F. Railway. The post of Asstt. Commercial Superintendent since 1992 has been redesignated as Asstt. Commercial Manager. The applicant was subsequently transferred from New Guwahati to Maligaon Head Quarter and was posted as Asstt. Commercial Officer/Rates, Head Quarter from which post he retired on superannuation with effect from 30th April 1994.

4.3. That, vide No. E/74/GAZ/250/Con. dt. 27.03.90 a memorandum of charges containing 12 Articles of charges

Cont ... 3.

489-86
28-6-86
18

were drawn against the applicant by the Chief Commercial Superintendent, N.F. Railway, Maligaon (a post since re-designated as Chief Commercial Manager). For various alleged omission and commission in the matter of assessment delivery and auction by the applicant while working at New Guwahati.

A copy of the said memorandum of charges is annexed herewith as ANNEXURE - A/1.

4.4. That, the applicant submitted his reply on 22.06.90. Thereafter, the Chief Commercial Manager, N.F. Railway, Maligaon appointed Shri V. Kumar, Chief Bridge Engineer, N.F. Railway, Maligaon as Enquiry Officer vide letter No. E/74/GAZ/250/Con. dtd. 16.08.90.

4.5. That, although a preliminary enquiry is to be held under Rule 9 Sub-Rule 11 of the (Railway Servant Disciplinary and Appeal) Rule 1968 immediately following the appointment of the Enquiry Officer, the preliminary enquiry took place only on 07.04.93. The regular enquiry started only on 16.07.93 and completed on 04.10.93.

4.6. That, vide letter No. E/74/GAZ/250/Con. dtd. 06.04.94 the applicant was furnished with a copy of the enquiry report in which the Article of charges No. 6, 7, 8, 10, 11 & 12 were held to be not proved and Article No. 1, 2, 3, 4, 5 & 9 held to be partially proved (for technical violation of some Circular) but without any

Cont 4.

22/6/94

undue loss to the Railway Administration.

A copy of the said Enquiry Report is annexed herewith as ANNEXURE - A/2.

4.7. That, the applicant submitted his representation on the enquiry report to Chief Commercial Manager, N.F. Railway, Maligaon on 20.04.94.

A copy of the said representation is annexed herewith as ANNEXURE - A/3.

4.8. That, no final decision on the disciplinary proceedings under rule 10 of the Railway Servant (Discipline and Appeal) Rule 1968 was taken by the disciplinary authority (Respondent No.3) the Chief Commercial Manager, N.F. Railway, Maligaon before 30.04.94, the date of retirement of the applicant on superannuation although the period between the date initiation of the disciplinary proceedings and the date of retirement of the applicant was long 4 years.

4.9. That, even after the retirement of the applicant another 26 months have passed, yet no final order under Rule 10 of the Railway Servant (Discipline and Appeal) Rule 1968 has been passed and communicated to the applicant.

4.10. That, the applicant retired from service on 30.04.94 and his gratuity, commutation money etc. have not been paid as yet.

Cont ... 5.

28/6/96

8/

4.11. That, in the year 1971, the Railway Board after taking into account the suggestions received from various Railway Administrations formulated a model time schedule for finalising the disciplinary proceeding laying down the time limits for the various stages of disciplinary proceedings and providing for finalising the disciplinary proceedings within a period of 202 days. The said model time schedule was circulated to the General Manager of all Indian Railway letter No. ²FD&A/ORG 6-17 dtd. 08.01.71. Subsequently, the model time schedule was revised to 150 days for finalisation of the disciplinary proceeding when the notice to show ~~xxxx~~ cause against the proposed penalty was dispensed with.

A copy of the model time schedule for finalising departmental proceedings is annexed herewith as ANNEXURE - A/4.

5. Ground for relief :-

5.1. That, the disciplinary authority should have taken a decision on the enquiry report, within 20 days of receipt of the remarks of the applicant on the enquiry report, under Rule 10 of the Railway Servant (Discipline & Appeal) Rules 1968 read with item 7 of the model time schedule (Annexure -A/4) which he failed to take.

5.2. That, the disciplinary authority is not taking any interest to finalise the disciplinary proceedings and left it pending even after 6 years from the date of issue of memorandum of charges on 27.03.90.

Cont 6

47915
2/6/94

5.3. That, due to non-finalisation of the disciplinary proceedings the ~~xxxxxx~~ gratuity, regular pension and commutation of pension of the application has been withheld.

5.4. That, the pendency of the disciplinary proceeding is putting avoidable strain and tension on the applicant.

6. Details remedies exhausted :-

There is no statutory remedy available to the applicant against non-finalisation of disciplinary proceedings ~~xxxxxx~~ by way of departmental appeal. However, applicant made personal representations to respondent No-3 for early finalisation of the departmental proceedings.

7. The applicant further declares that he has not previously filed any application, Writ Petition or Suit in respect of the subject matter of the application in any other branch of the Tribunal or in any other Court nor such application, Writ or Suit is pending before any of them.

8. Relief Sought for :-

On the facts and circumstances submitted above, the applicant humbly prays for :-

Cont 7

29.6.86

(a) A direction to the respondents for finalisation of the disciplinary proceedings by issue of a final order on the disciplinary proceeding within a period of 20 days from the date of receipt of the direction of the Hon'ble Tribunal failing which the disciplinary proceedings should stand quashed.

9. Interim Relief :-

N I L L

10. Particulars of Application fee :-

An Indian Postal Order No. 524483 in ^{20.6.96} favour of Registrar, Central Administrative Tribunal, Guwahati for Rs. 50/- is enclosed.

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

I, Shri Madhab Ch. Talukder, Son of Late B. C. Talukder, aged about 60 years, residing at Happy Villa C, Uzan Bazar, Guwahati-3 do hereby verify the contents of paras 4, 6, 7 and 10 of the application are true to my knowledge and belief and rests are my submission to the Hon'ble Tribunal and I have not suppressed any material fact pertaining to the matter of the application.

Madhab Chandra Talukder

Signature of the Applicant.

Dated : 29.06.96.

Place : Guwahati.

(8)

Annexure A/11

NORTHEAST FRONTIER RAILWAY.

OFFICE OF THE
GENERAL MANAGER
GUWAHATI-781011.

No. E/74/GAZ/250/Con.

Dated 27-3-90.

M E M O R A N D U M.

The undersigned propose(s) to hold an inquiry against Shri M.C. Talukdar, ACO/Rates/HQ. under Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charges (Annexure-I). A statement of imputations of misconduct or misbehaviour in support of each articles of charges 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).

2. Shri Talukdar is hereby informed that 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 CWO/MLG, N.F.Railway, Maligaon immediately on receipt of this Memorandum.

3. Shri Talukdar is further informed that he may, if he so desires, take the assistance of any other Railway servant (who satisfies the requirements of Rule 9 (13) of the Railway Servants (Discipline & Appeal) Rules, 1968) 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), Shri Talukdar should obtain an undertaking from the nominee(s) that he (they) is(are) willing to assist him during the disciplinary proceedings. The undertaking should also contain the particulars of other cases if any, in which the nominee(s) had already undertaken to assist and the undertaking should be furnished to the undersigned, along with the nomination.

4. Shri Talukdar is hereby directed to submit to the undersigned a written statement of his defence within ten days of receipt of this Memorandum, if he does not desire 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 -

Contd....2.

Alle Shri
D.T.O.

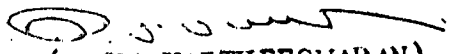
- (a) to state whether he wishes to be heard in person; and
- (b) to furnish the names and addresses of the witnesses, if any, whom he wishes to call in support of his defence.

5. Shri Talukdar 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. Shri Talukdar is further informed that if he does not submit his written statement of defence within the period specified in para 4 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 & 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 Shri Talukdar is invited to Rule 20 of the Railway Services (Conduct) Rules, 1966, under which no 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 matters 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 those proceedings, it will be presumed that Shri Talukdar 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 Services (Conduct) Rules, 1966.

8. The receipt of this Memorandum may be acknowledged.


(P.V. VAITHEESWARAN)
CHIEF-COMMERCIAL SUPDT.

Enclo:- Annexures-I, II,
III & IV.

To
Shri M.C. Talukdar,
ACS/Rates/HQ.

(Through CCS/MLG.).

AKK MS
2/10/68

~~Statement~~ Statement of Articles of Charges framed against Sri Madhab Chandra Talukdar, the then ACS/New Gauhati, now AGC/Wates, Head Quarters, H. F. Railway, Maligaon.

Article - 1

That Sri Madhab Chandra Talukdar while functioning as ACS/NGC at New Gauhati from 18-6-83 to 17-9-87 had in consideration of his own and in collusion with the consignee of Consignment booked under Invoice/R.R.No.7/464030 dt. 17/18-9-86 Ex. 'KZ' to NGC issued a fictitious A.D. Report on 17-11-86 with back date 15-11-86, without physical verification and actual assessment of damages, if any, in the said consignment in violation of C.C.O's Circular letter No.C/65/0/30/10 dt. 29-6-84 indicating imaginary percentages of damages on 132 bags of rice which were unloaded, delivered and removed from NGC(MG) Goods Shed premises on 15-11-86 when Sri Talukdar was availing two days' sanctioned casual leave on 15th and 16th November/83, out of his Head Quarters at that time.

Article - 2

That said Sri M.C. Talukdar, while working in the aforesaid post during the aforesaid period, had in consideration of his own and in collusion with the consignees of 21 consignments, detailed in Annexure 'A', issued fictitious A.D. Reports without physical verification of the consignments and actual assessment of damage/deficiencies, if any, in violation of CCO/N.F.Rly/Maligaon's circular letter No.C/65/0/30/10 dt. 29-6-84 indicating imaginary percentages of damages/deficiencies since the consignments were unloaded, delivered and removed from NGC(MG) Goods Shed during the period of hours when Sri Talukdar was actively engaged in performing duties at outstation viz: ICD/AMJ and thereby caused loss to the Railway Administration.

Article - 3

That said Sri M.C. Talukdar, while working in the aforesaid post during the aforesaid period had in consideration of his own, in collusion with the consignee of the consignment booked under Invoice/R.R.No. 207/676532 dt. 12-7-86 Ex. COP-NGC issued a fictitious A.D. Report on 1-8-86 without physical verification and actual assessment of damages, if any, on the 19 Bags Masur of aforesaid consignment in violation of CCO/N.F.Rly/Maligaon's Circular letter No.C/65/0/30/10 dt. 29-6-84, indicating imaginary 27 1/2% damages, even though the consignment was removed from NGC(MG) Goods on 27-7-86, when Sri Talukdar was actively engaged in outstation duty at ICD/AMJ and thereby caused loss to the Railway Administration.

Attested
D. Datta

Article - 4

109/ ✓
That said Sri H.C. Talukdar, while working in the aforesaid post during the aforesaid period, had in consideration of his own, and in collusion with the consignees of Consignments booked under Inv/R.R.No: 1/187670 dt. 21-7-86 Ex. Itpur to NGC and 85, 87/067803, 067804 dt. 29-3-87 Ex. CPC to NGC issued fictitious A.D. reports without proper verification/assessment of damages of all the alleged damaged bags, in violation of CCO/N.F. Rly's Circular letter No. C/65/0/30/ID dt. 29-6-84 indicating imaginary percentages of damages against certain numbers of alleged damaged bags which the parties had removed during the process of unloading from wagons and thereby caused loss to the Railway Administration.

Article - 5

109/ ✓
That said Sri H.C. Talukdar, while working in the aforesaid post during the aforesaid period had in consideration of his own issued assessment delivery reports in most perfunctory manner against 7 consignments, detailed in Annexure 'B', without observing the proper procedure of assessment delivery laid down in the Manual of Station Accounts, LICH Vol-II and CCO/N.F. Railway, Maligaon's Circular Letter No. C/65/0/30/ID dt. 29-6-84 and thereby caused loss to the Railway Administration.

Article - 6

That said Sri H.C. Talukdar, while working in the aforesaid post during the aforementioned period, had disposed of 17 consignments detailed in Annexure 'C', through Public Auction Sales at a very low price in consideration of his own deliberately fixing the reserve price of the consignments at the level of 17% to 45% below that should have been the reserve price, in contravention of Railway Board's instructions under their letter No. 77-TC III/53 dt. 17-1-83 circulated through CCO/N.F. Rly's letter No. C/65/0/93/ID/Recom-30 Pt. II dt. 28-29/1/83, causing loss to the Railway Administration.

Article - 7

That said Sri H.C. Talukdar, while working in the aforesaid post during the afore mentioned period had in consideration of his own, materially altered the size of the consignment of wheat which was underloaded at Godown No. 1 of NGC Goods-shed on 9-12-86 from Wagon No. NFC 14328, Ex. Hojai to NGC, by adding the words "Approximate weight 80 quintals" on 19-12-86 i.e. the date of auction sale of consignment, without putting any dated signature, in the Tally Book in continuation of unloading remarks recorded by Sri Bhagaban Kumar, CC/NGC on 9-12-86, to forestall any doubt as to the weight of the consignment shown in the auction sale documents.

Article - 8

110/ ✓
That said Sri H.C. Talukdar, while working in the aforesaid post during the aforesaid period, had in consideration of his own, and in connivance with S/ Sri P.B. Choudhury, CGS/II/NGC, and D.K. Bose, the then TIA /NGC arranged to record a reduced weight of 30 quintals in the auction records on 28-11-86, the date of auction, without actual weightment of the consignment of the 61 bags rice, against earlier recorded weight of 47 quintals that recorded on 15-10-86 i.e. on the date of the unloading of the said lots by Sri P.B. Choudhury, CGS/II/NGC and thereby caused loss to the Railway Administration.

- 3 -

Article - 9

That said Sri M.C.Talukdar while working in the aforesaid post during the aforesaid period, had in consideration of his own and in connivance with Sri D.K.Bose, the then TIA/NGC, arranged disposal of 2728 bags salt in 7 lots & through Public Auction Sale on 31-8-87 without determination/preparation of pre-determined reserve price list of the consignments in contravention of para 2235(3) of IRCM Vol-II and CCO/N.F.Railway's Circular No.C/65/0/93/ID/Recom-30 Pt.II dt.28/2-83 issued in reference to Railway Board's instructions under No.77 TC-III/53 dt.17-1-83.

Article - 10

That said Sri M.C.Talukdar, while working in the aforesaid post during the aforesaid period, had in consideration of his own and in connivance with Sarvaswari D.K.Bose, the then TIA/NGC, and P.B.Choudhury, C/S/II/NGC arranged preparation of 7 false bid sheets on 1-9-87 for submission as original bid sheets, in lieu of original bid sheets that were prepared at the time of auction sales held at NGC on 31-8-87 with a view to conceal the actual state of affairs to the higher authorities and thereby tampered with official records.

Article - 11

That said Sri M.C.Talukdar, while working in the aforesaid post during the aforesaid period, had in consideration of his own and in connivance with Sri D.K.Bose, the then TIA/NGC, disposed of 391 bags of salt that received in wagon No. N2BC 62525 Ex.III to NGC by inserting the particulars of these 391 bags salt in the bid sheet of another 224 bags in wagon No.25952, which were sold through Public Auction on 5-9-86 and thereby cornered the value of the entire lot of 391 bags salt causing loss to the Railway Administration.

Article - 12

That said Sri M.C.Talukdar, while working in the aforesaid post during the aforesaid period, had in consideration of his own and in collusion with Sri D.K.Bose, the then TIA/NGC, and Sri P.B. Choudhury, C/S/II/NGC, arranged deposit of Rs.11050/- being the sale proceeds of 1456 bags salt in 3 lots (i.e. 471 bags, 615 bags and 370 bags) without selling the same through proper and fair Public Auction sale on 31-8-87 with a view to deceive the Railway Administration from getting due sale proceeds that would have fetched in proper and fair public auction sale.

The above acts of Shri M.C.Talukdar exhibit his lack of absolute integrity, devotion to duty and conduct unbecoming of a Railway or Government servant and he thereby violated the Rules 3(1)(i), (ii) & (iii) of the Railway Services (Conduct) Rules, 1966.

(P.V. VAIHINESWARAN)
CHIEF COMMERCIAL SUPDT.

A. K. S. S. S. S. S.
D. S. S. S. S. S. S.
A. K. S. S. S. S. S. S.
D. S. S. S. S. S. S.
A. K. S. S. S. S. S. S.
D. S. S. S. S. S. S.

~~Statement of Imputation of Mis-conduct/~~
Mis-behaviour in support of Articles of Charges
framed against Sri Madhab Chandra Talukdar,
the then ACS/NIC, now ACO/Rates, Head Quarters,
N.F. Railway, Maligaon

Article -1

That Sri Madhab Chandra Talukdar, ACS, while functioning at New Gauhati from 18-6-83 to 17-9-87 had issued an A.D. Report on 17-11-86 for 132 bags Rice indicating different percentages of damages showing the date of issue as 15-11-86 against the consignment booked under Inv/R.R.No.7/464030 dt. 17/13-9-86 Ex. KZ to NRC Wagon Nos. NRC 53751 & RCC 24947 containing 295 bags Rice against the aforesaid Invoice/R.R. particulars were released at 9.15 hours of 15.11.86 being placed at 15.30 hours of 14.11.86. The consignment on being delivered was removed from NRC (NG) Goods Shed at 12.20 hours of 15.11.86 under Gate Pass No. 983/100 dt. 15-11-86. As per records, Sri Talukdar had submitted an application on 14-11-86 to AO/NRC for sanction of 2 days' casual leave on 15th & 16th Nov/86 for going to Basber (Barpeta) with request to allow him to leave the Head Qrs. Area Officer accorded his sanction on the said application and Sri Talukdar vide answers to question No.26 on 8-9-87 confirmed his availing of the sanctioned leave and he also stated that he left CMY on the evening of 14.11.86 and returned to GIM at night on 15.11.86. Regarding issue of the aforesaid A.D. Report Sri Talukdar vide his answer to Qn.No.27 of his statement dt. 8-9-87 stated that 'On 17-11-86 when I attended office after availing leave, two officials of Stat-fed approached me and stated that they had removed one consignment of rice under Invoice No.7 dt. 18-9-86 Ex. DKZ to NRC on 15-11-86 although there was damage in that consignment. They told me that if some assessment was not recorded against that consignment then they would be in trouble in their office. In response to the request and in consideration of the fact that Statfed being a Govt. Organisation I have recorded assessment delivery after ascertaining the fact from the unloading Goods Clerk and signed the report with date 15-11-86'. The consignee, on the strength of the above A.D. Report preferred claim for compensation and the same being registered under CCO's No.C/61/LP/262/NRC/2/87 HV was settled for payment of Rs. 11,116/- on the basis of the aforesaid A.D. Report. Thereby the Railway Administration sustained an undue loss of said amount. In terms of Rule No.138 of IRCA GT No. 37 Pt.1 Vol.1 the Railway shall not be responsible for any damage to or loss of property unless a notice of such is given in writing to the SM before delivery and removal from Railway premises. In the context of above rule, the consignee's approach for A.D. report on 17-11-86 i.e. after removal of the consignment on 15-11-86 under whatever plea and Sri Talukdar's granting of such A.D. Report in whatever consideration it may be, indicates the existence of wilful collusion between the parties involved in consideration of their own as well as issue of A.D. Report in clear violation of CCO/N.F. Railway's circular letter No.C/63/O/3/ID dt. 29-6-84.

That said Sri M.C. Talukdar while working in the aforesaid post during the aforesaid period was deputed to perform outstation duty at ICD/AMJ from 15.7.86 to 31.7.86 as per orders of ADPM/HGC and Sri Talukdar confirmed the same vide answer to Qn.No.23 on 8.9.87. Sri Talukdar had also drawn TA for Rs.350/- for performing the aforesaid outstation duty through his T.A. Journal for the said period (i.e. for July/1986) being passed under DAO/LMG's A.B.No.17/LGT dt.7.11.86. In the T.A. Journal he had specifically recorded the detailed period of hours of his each day's active outstation duty at ICD/AMJ. During the period of Sri Talukdar's outstation duty at ICD/AMJ the consignments detailed in Annexure 'A' were unloaded, delivered and removed from HGC(HG) Goods-shed. But Sri Talukdar in consideration of his own had issued A.D. Reports on the dates mentioned in column 22 for the quantity and percentages of damage/deficiency indicated in column 21 of the above referred Annexure 'A'. The detailed particulars of placement/Release of the wagons containing the consignments, date of delivery, Gate Pass No., date, time, truck particulars, entry particulars of Exit Gate Register and Sri Talukdar's active duty hours at ICD/AMJ on the relevant dates have been exhibited in the respective columns of the above cited Annexure 'A'. Comparative study of those particulars indicates that the consignments were disposed off from HGC (HG) Goods shed during the period of Sri Talukdar's active duty hours at ICD/AMJ, in other words he had no opportunity to physically examine or assess the quantum of damages, if any, in the said consignments while these were in the Railway Goods shed premises as required under CCO/H.F. Railway's circular letter No.C/65/O/30/ID dt.29.6.84 and therefore the A.D. Reports were issued in contravention of the circular. During the examination, Sri Talukdar vide his answer to Qn.No.33 on 8.9.87 confirmed the correctness of the time of his outstation duty at ICD/AMJ and as shown in the T.A. Journal in the following manner "Timing given in the T.A. Journal were correct...". As regards the basis of his granting the above referred 21 A.D. Reports Sri Talukdar vide answer to Qn.No.39 sums up the following - "The actual correct reply is I have not physically verified the extent of damages by myself before removal of the assessed consignments since the consignments had been removed before my return to HGC from ICD/AMJ in those days.... Regarding foul play of any kind in these assessment cases I have not checked up anything except D.D.M and Tally Book and utilised my previous experience in the matter of assessment." Sri Talukdar alleged instructions to the unloading Goods Clerks, vide answer to Qn.No.29 dt.8.9.87, to release the consignments meant for A.D. after keeping informations regarding extent of damage etc. were denied by the concerned unloading Goods Clerks, S/Shri S.C. Das, H.C. Das, H.C. Sarma and A.K. Baruah vide their statements dated 16.10.87, 22.10.87 and 20.10.87 respectively. As to the date and channel of his receiving the notices of assessment delivery from the consignees for the aforesaid 21 consignments Sri Talukdar vide answer to Qn.No.54 stated the following - "Yes, they had given their applications for A.D. directly to me after physical assessment done in my absence, goods removed and after my arrival at HGC sometime on the same day and sometime later on". Submission of notices for assessment of loss or damage by the consignees after removal of the consignments from the Goods-shed premises direct to Sri Talukdar establish the existence of wilful collusion between Sri Talukdar and the consignees. Sri Talukdar in contravention of Rule No.133 of IRCA GT No.37 Pt.1 Vol.1 issued A.D. Report against 21 consignments detailed in Annexure 'A' inter-alia in consideration of his own at the

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 A. Das, (Add. 10/10/87)
 N. Das, (Add. 10/10/87)

cost of the Railway Administration to favour the consignees. The consignees of 20 out of 21 above mentioned consignments preferred compensation claim on the strength of irregular A.D. Reports issued by Sri Talukdar. These claims have been registered under number shown in the column 23 and disposed in the manner shown in Column 24 of Annexure 'A' from CCO's office which caused the Railway Administration to sustain a loss of Rs. 68,033/- for the amount already paid. The payment for Rs. 9747/-, however, has been repudiated on other reasons and settlement of claim case for Rs. 700/- is still pending.

Article - 3

That Sri H.C. Talukdar while working in the aforesaid post during the aforesaid period had issued an A.D. Report on 1-8-86 by granting 27 1/2% damage/deficiency for 19 Bags Musurda which were booked under Invoice/R.R. No. 207/676554 dt. 12-7-86 Ex. COP to NCC. The consignment was unloaded from wagon WRC 25718 at 18.00 hours of 28-7-86, delivered on 29-7-86 and removed from NCC(NC) Goods-shed through Gate Pass No 129/8 dt. 29-7-88 at 13.00 hours of 29-7-86 under entries at S. Nos. 15 to 17 of Exit Gate Register of the Goods-shed. As per T.A. Journal of Sri H.C. Talukdar for July/86 he was actively engaged in duty at ICY/AMJ from 8.30 hours to 20.30 hours of 28-7-86 and 8.30 hours to 20.00 hours of 29-7-86 which inter-alia indicates that the aforesaid consignment was unloaded, delivered and removed from NCC(NC) Goods Shed during Sri Talukdar's active duty hours at ICY/AMJ. In terms of CCO/N.F. Rly's circular letter No. C/64/0/30/ID dt. 29-6-81 the official authorized to grant assessment/open delivery is required to personally examine and ascertain the actual quantum of damage/deficiency before granting/issue of open/assessment delivery report. In the face of aforesaid facts the issue of above referred A.D. Report was quite irregular and contrary to CCO/N.F. RLY's circular letter ibid as the consignment unloaded, delivered and removed from NCC when Sri Talukdar was out of NCC Goods shed. Sri Talukdar vide his answer to Qn. No. 41 on 9-9-87 confirmed the above fact in the following manner - "I have not actually assessed the consignment when the consignment was removed on 29-7-86 and during that time I was at AMJ/ICD. This consignment was assessed in the way I have already told in my answer to Qn. No. 29. The date has been wrongly inserted by me as 1.8.86". Sri Talukdar vide his answer to Qn. No. 29 maintained that when he was engaged in performing duty at ICY/AMJ he had instructed the unloading Goods Clerks to release the consignments which required his (Sri Talukdar's) assessment of damage, only after keeping information regarding the extent of damage, which he would agree upon. Under extant rules and instructions there is no provision to issue assessment/open delivery report without personal verification of affected goods by the signatory of AD/OD report. The consignee's removal of the consignment from the Railway Premises on 29-7-86 prior to actual assessment of damage by ACS/NCC and subsequent acceptance of A.D. Report issued by ACS/NCC on 1.8.86 reflect and establish the existence of collusion between consignee and Sri H.C. Talukdar. The consignee on the strength of the A.D. Report dated 1-8-86 issued by Sri Talukdar preferred a compensation claim for Rs. 2950/- which was registered under No. C/61/LP/997/NCC/8/86 LV.

Alk. N. S.
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30/11/86 (Ad. Secy)
11/11/86

Article - 4

That said Sri M.C. Talukdar while working in the aforesaid post during the aforesaid period in consideration of his own and in collusion with the consignees of three consignments, detailed in Annexure 'D', had issued fictitious A.D. Report recording imaginary percentages of damages without physical verification/assessment of the entire lot of alleged damaged bags unloaded from the concerned wagons in violation of CGO/H.F. Rly's Circular letter No.C/65/0/30/ID dt. 29.6.84 since during the process of unloading of the consignment from the concerned wagons the consignees had removed part of the alleged damaged part of the consignment prior to submission of formal applications for assessment delivery to the competent authority.

Out of the consignment of 181 bags Copra that received at HGC under Invoice/R.R.No.1/137670 dt. 21.7.86 Ex.TTR - HGC 92 bags were alleged to have been unloaded in damaged/deficient condition and the concerned wagon No.HRBC 17317 was released at 16.00 hours of 23.8.86 but as per records (detailed in Annexure 'D') party had removed 121 bags copra at 15.45 hours of 23.8.86 while the wagon was under process of unloading i.e. by leaving only 60 bags Copra at Railway premises in the wagon at that time. Similarly out of the consignment of 240 bags Masur dal received under Invoice/R.R.No.86 & 87 /067803 & 804 dt. 29.3.87 Ex.CPC - HGC, 75 bags were unloaded in alleged damaged and deficient condition and the same wagon was released at 17.00 hours of 5.5.87 but the parties concerned found to have removed 180 bags at 16.40 hours of 5.5.87 as per record (detailed in Annexure 'D') leaving a balance of only 60 bags at Railway premises in the wagon which were in the process of unloading at that time. Sri Talukdar's contention vide answer to Qn.40 of his statement dt. 9.9.87 viz. granting A.D. before removal of 1st part of consignments and recording of incorrect release time by unloading Goods Clerks were denied by the concerned unloading Goods Clerks S/Shri H.C. Sarma and S.C. Das vide their statements dated 22.10.87 and 16.10.87 respectively.

Since the unloading of the aforesaid consignment from the concerned wagon were completed at 16.00 hours of 23.8.86 and 17.00 hours on 5.5.87 respectively the concerned consignees and the unloading Goods Clerk were fully aware of the quantum of the damaged goods in the consignments only after the complete unloading of the consignment i.e. after release time of the wagons. Accordingly, the unloading Goods Clerk completed the recording of total quantum of damaged goods against each consignment in the Tally Book after the release time of the wagons. Similarly, the consignees also were in a position to commence preparation of application for A.D. only after the release time of the wagons indicating the specified quantum of the damaged goods against each consignment. As the quantum of damaged goods in the consignees' A.D. applications and Tally Book were exactly the same, it is crystal clear that the consignees prepared applications only after release time of the wagons shown in the Tally Book and Placement Register. However, before preparation and submission of application for A.D. the consignees had removed part of the alleged damaged goods viz. at least 32 bags damaged Copra and 15 bags damaged Masur dal at 15.45 hours of 23.8.86 and 16.40 hours of 5.5.87 under entries at Srl. No.37, 61 & 62 of Exit Gate Register on respective dates along with a good portion of the consignments. Consequently, after release of wagons the whole lot of alleged damaged consignment (i.e. 92 bags Copra and 75

bags Musurda) were not available in Railway premises for physical verification and assessment of damages by Sri Talukdar after receipt of consignees' applications for assessment delivery. Further, the span of time for which the lots of 60 bags copra and 60 Bags Musurda were available in the Goods shed premises after release of wagons but before removal from the Goods shed premises by the parties ranging from 25 minutes to 30 minutes respectively were quite insufficient for proper assessment delivery observing the procedures laid down in the Manual of Station Accounts, IRCH Vol. II and CCO/N.F.Rly's Circular Letter No.C/65/0/30/ID dt. 29-6-84. Sri Talukdar himself corroborated this aspect when he was asked to state what time he would require to grant assessment delivery of 40 Bags pulses. He stated vide his answer to Qn. No.20 on the following lines - "..... If the party co-operates fully in my assessing the consignment of these 40 bags, time to the extent of minimum 40 to 60 minutes would be required. But in case the party does not agree with the percentage of assessment as indicated by me then in such cases the time span would be more than what is normally required."

On the strength of fictitious A.D. Report issued by Sri Talukdar, the Parties had preferred claims which were registered under Nos. (1) C/61/LP/1072/NCC/9/86 -HV, (2) C/61/LP/999/NCC/6/87 and (3) C/61/LP/1000/NCC/6/87 and were finalised for payment of Rs. 20,832.00, Rs. 5429.00 and Rs. 11,052.00 respectively. The payment against latter mentioned two cases thus caused undue loss to the Railway Administration. The payment against Case No.C/61/LP/1072/NCC/9/86 -HV for Rs. 20,832.00* kept pending * was, however, after detection of the above mentioned irregularities.

The consignees' removal of part consignments during the process of unloading of the consignment from the wagon, including at least part of the alleged damaged bags of goods to the extent of 32 bags Copra and 15 Bags Musurda, before submission of formal A.D. applications as well as verification/assessment of the same by Sri Talukdar and his issue of A.D. Reports for the entire lots of 92 bags alleged damaged Copra and 75 bags alleged damaged Musurda (despite non-availability of entire 92 Bags Copra and 75 Bags Musurda in the Railway premises after release time of wagons and receipt of formal A.D. applications from the party) without actual verification of damage/deficiency establish the existence of collusion between the consignees and Sri M.C. Talukdar.

Article - 5

That said Sri M.C. Talukdar while working in the aforesaid post during the aforesaid period, in consideration of his own had issued A.D. Reports against seven consignments, detailed in Annexure 'B'. The span of time for which the alleged damaged part of afore mentioned seven consignments were available in the Goods shed premises after release time of the wagons recorded in the Placement register and the removal time recorded in the Gate Register varied from 0 Minute to 40 Minutes. The size of the damaged lots were of 40 bags to 115 bags consisting of commodities like pulses, cent and copra. The span of time for which alleged

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the alleged damaged lots were available in RGC (MG) Goods shed premises after unloading from wagon and before removal from Goods shed premises was quite insufficient for granting proper assessment delivery observing the procedure laid down in paras- 9.39, 9.41(2)(4), 9.49 of the Manual of Station Accounts, paras- 1845 and 1847 of INCM Vol. II and CCO/M.R. Railway, Maligaon's Circular letter No. C/65/0/30/ID dt. 29-6-81. In consideration of Sri Talukdar's statement recorded vide his answer to Q.No.20 dt. 7-9-87 that "If the party co-operates fully in my assessing the consignment of these 40 bags time to the extent of minimum 10 to 60 minutes would be required for proper assessment of a Pulse's consignment consisting of 40 bags." Further, Sri Talukdar vide his answer to Q.No.19 stated that "Yes, the party apply in writing for granting AD/OD and it can only be submitted only after complete unloading of the consignment from the wagon and only after all the formalities in connection with delivery of a consignment is completed. AD/OD applications are submitted to the concerned Goods Clerk, who after entering the same in the register, put up to me for further necessary action." If a minimum of 10 minutes is allowed for preparation of application seeking assessment delivery by the consigner, its receipt by the Goods Clerk and documentation in the register before submission to ACS for necessary action, the time available for effecting assessment delivery was only a few minutes in some cases and against some other cases the applications ~~xxxxxxxx~~ reached ACS only after removal of goods from Railway premises. Thus, Sri Talukdar by above assertions corroborates his issue of A.D. Reports in a perfunctory manner against the aforesaid seven consignments detailed in Annexure 'B'.

Article - 6

That said Sri H.C. Talukdar while working in the aforesaid post during the aforesaid period had disposed of 17 (Seventeen) consignments consisting of 594 tins Mustard Oil, 4715 bags salt in 15 lots and 227 tins Vegetable oil through Public Auction Sale at Rs. 78400/-, Rs. 96424/- and Rs. 46500/- respectively against Reserve prices of 75000/-, Rs. 94300/- and Rs. 44000/- respectively. Thus Reserve price of per tin or per bag of the aforesaid commodities were Rs. 126.26 for per tin of 15 Kg. M/Oil, Rs. 20/- for per bag of 75 Kg. Salt and Rs. 193.83 per tin of 15 Kg. V/Oil. The prevailing whole sale rates of the above commodities at Guwahati Whole Sale Market during the material period as per Secretary, Kamrup, Chamber of Commerce, Guwahati's letter No. KCC/32/87-98/7749 dt. 8-9-87 and Assistant Manager, Stat-For, Guwahati's letter dt. 8-9-87 and as per Assam Govt. Wholesale rate for Salt were Rs. 190/- for per tin of M/Oil, Rs. 4324 P. for per bag of 75 Kg. salt and Rs. 340/- for per tin of 15 Kg. Vegetable Oil (Tripti Brand). In terms of CCO/M.R. Railway's Circular letter No. C/65/0/93/ID/Recom. -30 Pt. II dt. 28/29-1-83 issued in reference to Railway Board's instructions under No. 77-TC III/53 dt. 17-1-83 Reserve prices of auctionable consignment ~~are to be fixed at 20% below~~ the prevailing wholesale market rate of identical commodity. The condition of commodities at the time of auction sale were good ~~as xxxxxx from xxx xxxxxx~~

Auction of Mustard Oil, Vegetable Oil, Salt etc.

Alk. H. S. D. Datta

Signature

as evident from the fact that no qualifying remarks about the commodity were recorded in the Reserve Price list or Auction Bid Sheets. Thus it is quite evident that Sri Talukdar, in contravention of CCO/N.F. Railway/Maligaon's as well as Railway Board's above referred instructions regarding fixation of reserve prices at 20% below the prevailing wholesale rates had fixed the reserve prices at further 17%, 15% and 29% below what should have been the reserve prices. From the concerned bid sheets it is evident that the highest bidder's rates were marginally higher than the reserve price rate but much below what should have been the reserve price rate. Regarding fixing of reserve prices for Mustard Oil at 17% below the proper reserve price Sri Talukdar vide his answer to Qn.No.53 stated that "I thought that consignment would not fetch 80% of the market value due to the nature and tendency of bidders at NCC. I have further lowered the reserve price to 75,000/- instead of 86,600/- as per extant rules. However, there was a failure on my part to record the same in paper." As to the fixing of price of reserve of salt at 15% below the appropriate rate, Sri Talukdar vide his answer to Qn.No.50 dt. 10-9-87 stated that "DRM, during his visit at NCC, insisted on me for the disposal of the consignments. I have apprised him regarding the position of the market prevailing then and also the position of the Godown and Yard as stated above and proposed the above reserve price to him. After returning to his Hd.Qrs. I got the confirmation from DRM/LIG on phone regarding my proposed reserve price @ Rs.20/- per bag. However, I have not taken any written confirmation from him and for this I did not also refer to him." But the then DRM/LIG Sri Raj Kumar under his note No.Nil dt. 8-3-88 categorically denied such any such instruction stating that "At no stage during my tenure as DRM/LIG, did Sri H.C.Talukdar, the then ACS/NCC, consult me on telephone regarding the alleged fixation of reserve price for auction held by him during the month of August/86 at New Cauhati." As regards fixation of reserve price of Vegetable Oil (Tripti Brand) at 29% below the proper reserve price, Sri Talukdar vide answer to Qn.No.58 dt. 10-9-87 stated that ".... so I considered (inter-alia) that reserve price should be fixed in such a manner that it would be sold to the bidders on the first occasion. Accordingly, I had fixed up reserve price at Rs.41,000/- although as per guideline the reserve price should have been Rs. 61744/-...." Sri Talukdar, on being asked vide Qn.63 on 30-12-87 to offer his remarks for fixing reserve price far below the limit of 80% of the wholesale price in the spirit of CCO/N.F. Railway's above referred guideline, stated that "For not observing the guidelines as circulated from time to time by the Administration I have got nothing to say but express regret for the same." The extent of loss thus caused to the Railway Administration for contravention of CCO/N.F. Railway, Maligaon's instructions under No.C/65/0/93/ID/Recom -30 Pt.II dt. 28/29-1-83 was to the extent of Rs. 1,01,391.00, being the difference between the 80% of prevailing wholesale market rate of the commodities referred to above and sale proceeds deposited to Railway Exchequer.

Article - 7

That said Sri H.C.Talukdar while working in the aforesaid post during the aforesaid period, in consideration of his own, had materially altered the size of a Wheat consignment on 19-12-86 i.e. the date of Auction Sale of said consignment which was unloaded from Wagon No.NFC 11328

Ex.Hojal to g. ACC on 9.12.86 by irregular addition of the words "Approximate weight 80 quintals" in the Unloading Tally Book without dated signature in continuation of unloading remarks recorded by Sri Bhagawan Kumar on 9-12-86. The said consignment of wheat was stated to have been unloaded in loose and rotten condition on 9-12-86 in Godown No.1 of NEC Goods-shed under supervision of Sri Bhagawan Kumar, B.A. 30/NGC. Sri Kumar did not record any remarks regarding the weight of consignment. The consignment was put to auction on 19.12.86 and was sold on that date. Sri Talukdar vide his answer to qn.No.61 on 10-9-87 inter-alia admitted that he had personally recorded the words "Approximate weight 80 qtls." on the day of fixation of reserve price on 1.9. on 19.12.86. The method he adopted for determining the weight of the said consignment, in view of the 'heap condition' of 'loose and rotten wheat' not covered by the procedure prescribed in Commercial Manual to compute the weight of a consignment, ~~was~~ ~~and~~ and therefore the weight was obviously not actual weight of the consignment. Being a responsible official, Sri M.C.Talukdar's adding the word "Approximate weight 80 quintals" in continuation of the unloading Tally Clerk's remark in the Tally Book without dated signature on the day of the auction sale of the said consignment exhibits unbecoming approach in determining the weight of the consignment and therefore the said approach cannot altogether be free from reasonable doubt of his attempt to reduce the size of the consignment in the form of weight though Sri Talukdar vide his answer to qn.No.77 on 31-12-87 admitted that ".... It was necessary to make the endorsement ~~by~~ ~~myself~~ ~~on~~ ~~the~~ ~~Tally~~ ~~Book~~ (affixing dated signature) by myself on the Tally Book which I failed for which I regret. However, there was no ill motive on my part."

Article - 8

That said Sri M.C.Talukdar while working in the aforesaid post during the aforesaid period had sold a lot of 64 bags damaged rice received in Wagon No.NEC 17737 Ex.III - NGC through Public Auction Sale on 28-11-86. As per Tally Book the said 64 bags damaged rice were actually unloaded on 15-10-86 from Wagon No.WRC 22845 being transhipped from original wagon NEC 17737 Ex.III - NGC though in the bid sheet wagon particulars were shown as NEC 17737 only. As per unloading Tally Book of Godown No.1 of NEC Goods-shed, Sri P.B.Choudhury, CGS/II/NGC, and incharge of Godown No.1 supervised the unloading of 64 bags of the damaged rice from Wagon No. WRC 22845, being transhipped from Wagon No. NEC 17737, had recorded the weight of the consignment as 47 quintals in the Tally Book on 15-10-86. The weight of the whole lot of 64 bags damaged rice was shown in the bid sheet and reserve price list as 30 quintals instead of originally recorded weight of 47 quintals. Sri Talukdar vide answer to qn.No.74 on 31-12-87 maintained that "As per my personal assessment it was considered that total weight will not be more than 30 quintals and I have taken the weight at 30 quintals. Proper weight could not be done due to rotten and scattered condition of the consignment". Sri Talukdar's plea vide answer to qn.No.75 regarding the reason of non-weighment of the consignment owing to labour's refusal to handle the consignment proves illusory since the consignment fetched an offer of Rs.4510.00/- from the bidder. His evasive reply against the imputation of motivated reduction of weight of the consignment from 47 quintals to 30 quintals vide qn.No.76 dt.31-12-87 establishes the presence of ill motive. Sri P.B.Choudhury, CGS/II/NGC and Sri D.K.Bose, the then TIA/NGC's complicity and connivance got established from the fact of their acceptance of the imaginary weight of 30 qtls. fixed by Sri Talukdar on the

Anchor sheet

anchor rice

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** Public 12/10/86*

on the date of auction against earlier recorded weight of 47 quintals for the lot causing wilful loss to the Railway Administration for deriving his personal gain.

Article - 9

That said Sri M.C. Talukdar while working in the aforesaid post during the aforesaid period had conducted the Public Auction Sale of 2728 bags Salt on 31-8-87 which was originally scheduled to be held on 28-8-87. On 28.8.87 Sri S.C. Dhar, the then TIA/HQ/Maligaon was deputed to witness the auction sale of the above mentioned 2728 bags Salt at NGC. Sri S.C. Dhar accordingly attended NGC Goods-shed on 28-8-87 and contacted Sri M.C. Talukdar which Sri Talukdar confirmed vide his answer to Qn. No.71. Sri Dhar during examination on 1-3-88 vide answer to Qn.No.4 stated that despite specific verbal request Sri M.C. Talukdar had not produce the Reserve Price list of 2728 bags of Salt to him. Sri Talukdar also vide his answer to Qn.No.71 inter-alia stated the following - "..... but on that date (28.8.87) due to heavy engagement in connection with M.P.'s (actually M.T.'s) visit at NGC. I was not sure whether the auction could be held or not. But considering the urgency of disposing the non-iodised salt before 31.8.87 I wanted to hold the auction. M.P.(M.T.) left NGC at about 17.00 hours and after that it was not possible to hold the auction due to whole day's engagement. I could not inform TIA regarding Reserve price. I had the idea to make final reserve price before auction which could not do due to heavy engagement....." Sri Dhar in his turn under Report No. SIV/AUC/NGC/87 dt. 31.8.87 to FA & CAO, N.F. Jly highlighted Sri Talukdar's non showing of reserve price to him.

During preventive vigilance check at NGC on 2-9-87 Sri Talukdar also had failed to produce the reserve price list of the above referred 2728 bags salt, which were disposed on 31.8.87, to Dy.CVO(T) with the plea that Reserve Price List was with Sri D.K. Bose, the then TIA/NGC, who witnessed the auction sale on 31.8.87, vide his answer to Qn.No.15 dt. 2.9.87. Sri D.K. Bose, in presence of Sri Talukdar vide answer to Qn.No.7 dt. 2.9.87 denied of keeping the reserve price list with him. Sri Bose, however, vide his aforesaid answer confirmed that he had seen the reserve price list, copied its particulars in his official diary on 31.8.87 (as evident from the entry of his diary also) and returned the same to Sri Talukdar.

Arrested
D. Bose

Sri Bose after recording of statement in between 15.00 hours to 16.30 hours of 2.9.87 submitted his diary to Dy.CVO/T at about 18.30 hours of that day as a proof of his recording the reserve price in his diary on 31.8.87. Sri Talukdar followed Sri Bose and submitted a small sheet of paper purported to be the reserve price list of the above mentioned 2728 bags Salt. The small sheet of paper that Sri Talukdar had submitted as reserve price list, was found to have been written by Sri D.K.Bose, containing the barest minimum particulars of consignments and certain amounts. Sri Bose, during examination vide answer to Qn.No.23, dt. 16.2.88 had identified the above referred sheet and stated that he had copied the reserve price particulars in his diary from this sheet on 31.8.87. The particulars of the consignments recorded in Sri Bose's diary on 31.8.87 were more elaborate than that recorded in the aforesaid sheet of paper and a comparison of the particulars of lots in the aforesaid two sets of records indicates that actually the small sheet of paper was prepared from the particulars recorded in the diary of Sri Bose and not the vice-versa as claimed by Sri Bose. The small sheet of paper written by Sri Bose however, contains Sri Talukdar's signature with date 27.8.87. As regards the time of preparation of the said small sheet of paper by Sri Bose and the time of Sri Talukdar's affixing signature with date 27.8.87, Sri Talukdar, during examination vide answer to Qn.No.71(a) to (d) inter-alia maintained that he along with Sri D.K.Bose and Sri P.B. Choudhury, CGS/IL/NGC, had made a final survey of the consignment on 31.8.87 and thereafter to facilitate finalisation of the reserve price, he requested Sri Bose to furnish tentative R/Price, fixed prior to 28.8.87, from Sri Bose's diary, and accordingly Sri Bose supplied the same in a sheet of paper and Sri Talukdar thereafter affixed his signature on it giving the date prior to 31.8.87 (actually 27.8.87) on 31.8.87. Regarding the small sheet of paper purported to be the reserve price list Sri Bose, during examination, stated that he had copied the same on 31.8.87, from the final reserve price list supplied to him on 31.8.87 by Sri Talukdar, though in earlier occasion, vide answer to Qn.No.7 dt. 2.9.87 he had stated that he had copied the Reserve price particulars in his diary from the R/Price list supplied by Sri Talukdar on 31.8.87.

During preventive check on 2.9.87 at NGC Sri Talukdar while handing over various papers in connection with the auction sale of 31.8.87 to Dy.CVO(T) had also handed over few sheets of paper with caption "Calculation showing maximum reserve price fixed for U/C and U/D Salt Consignments lying at NGC BG & MG Goods-shed taking the following factors under consideration as mentioned below:- " These sheets actually contain survey particulars of 2728 bags salt in seven lots and reserve price of only one lot. The original sheet of the above document was written by Sri D.K.Bose and fair copies were made out jointly by Sri M.C.Talukdar and Sri G.C.Bharali, CGS/NGC. Sri P.B.Choudhury, CGS/IL/NGC, during examination on 11.11.87 vide answer to Qn.No.14 stated that on 1.9.87 he had seen Sri Bose was preparing the said paper. Again on 11.11.87 vide answer to Qn.No.14 stated that Sri Talukdar had given him the said sheet of paper (written by Sri Bose) on 1.9.87.

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at about 11.00 hours along with partially made out fair copies, to copy out the balance portion which he had carried out and handed over to Sri Talukdar. In course of examination both Sarwshri Talukdar & Bose made efforts to represent that said sheet of paper bearing caption "Calculation showing mentioned below" was prepared on 27.8.87 as tentative reserve price of 2728 bags salt, and the content of the sheet was written by Sri Bose on the basis of Sri Talukdar's dictation vide their answers to Qn.No.69 dt. 30-12-87 and 60 dt. 19-2-88 respectively. But the aforesaid sheet contained reserve price of only one item and as such the said list cannot represent as tentative reserve price list of 2728 bags of salt in 7 lots as claimed by S/Sri Talukdar & Bose.

From the above it is evident that both S/Sri Talukdar & Bose had furnished various contradictory statements regarding determination/preparation of the pre-determined reserve price list of 2728 bags salt. But due to lack of conformity and existence of contradictions in their individual statement as well as statements of both taken together, reflect the fact that no reserve price list, either tentative or final, was prepared prior to auction on 31.8.87 and for that reason Sri Talukdar had failed to produce the Reserve Price List to Sri War, TIA/hq on 28.8.87 and to Dy.CVO(T) on 2.9.87. In this connection it is also evident that after auction sale on 31.8.87 S/Sri Bose & Talukdar attempted to construct a so-called pre-determined reserve price list showing reserve price figures of each lot slightly lower than the amount of the sale proceeds of each lot. The sheet bearing caption "Calculation mentioned below" was prepared to modify the condition of salt lots in order to bring conformity with the low reserve price recorded against each lot and selling the said lot at a low price in personal consideration. The object behind all these exercises by the aforesaid officials were to cover up the selling of consignments at a low price and to prepare records to prove that CCO/N.F.Rly's instructions under No.C/65/3/93/ID/Recom-30 Pt.II dt. 28.29/1/83 followed scrupulously to safeguard Railway's interest.

Article - 10

That said Sri M.C.Talukdar while working in the aforesaid post during the aforesaid period had produced seven ~~sets~~ sets of bid sheet and a few other sheets of paper on 2.9.87 relating to the auction sale of 31.8.87 from his almirah to Dy.CVO(T). Only 4 sets out of the total 7 sets of the aforesaid bid sheets were having the signatures of ACS/NCC (Sri M.C.Talukdar) and the highest bidder. The balance three sets were containing neither ACS/NCC nor the highest bidders' signatures. Sri Talukdar had submitted the bid sheets and other papers for Vigilance check. None of the said seven sets of bid sheets were containing the signature of auction witnessing TIA (Sri D.K.Jose). Sri Talukdar, on being shown the seven sets of bid sheets on 30.12.87, which he had handed over to Dy.CVO(T) on 2.9.87, stated vide answer to Qn.No.64 that "According to me these are original bid sheets." But when on the basis of Sri P.B.Choudhury's statement Sri Talukdar was informed that the bid sheets which he had handed over to Dy.CVO(T) on 2.9.87 were actually prepared on 1.9.87 and not the original bid sheets. Sri Talukdar vide answer to Qn.No.65 stated the following - "So far I remember original bid sheets were signed by me on the date of auction i.e. on 31.8.87. The papers were kept by Mr. P.B.Choudhury in my almirah without my knowledge which I told you earlier and the same were handed over to you on the day after, so if in between any change was effected by anybody it was not within my knowledge."

Thereafter when Sri Talukdar was requested to clarify the position by showing the three unsigned bid sheets (which he handed over to Dy. CVO(T) on 2.9.87) vis-a-vis ~~the~~ his statement to the effect that he had signed all the bid sheets on 31.8.87, Sri Talukdar stated that "The 4 Nos. of Bid sheets where my signatures are there, are definitely original bid sheets. For the rest, I am not sure." Sri Talukdar ~~vide~~ ^{*indirectly} this assertion ^{*admitted} the substitution of at least three original bid sheets. Further, Sri Choudhury CGS/II, NGC, being a normal man holding responsible post would not have levelled false allegation, implicating himself, as also the superiors under whom he was working had he not substituted the seven sets of bid sheets. Sri Talukdar, however, on finding the existence of his signature on 4 sets of bid sheets ~~truthfully~~ ^{truthfully} denied the substitution of the said four sets of bid sheets and claimed the same as original although circumstantial evidence indicates that he was aware of the substitution of all the sets of bid sheets since the said records were lying in his custody i.e. in his personal office almirah. Sri P.B. Choudhury's answer to Qn. No. 14 inter-alia reflects that the substituted seven sets of bid sheet, which he had prepared on 1.9.87, contain certain contents of the sheet of paper bearing Caption "Calculation showing mentioned below" as dictated by Sri D.K. Bose at the time of preparation since the particulars as indicated in the aforesaid sheet of paper were not available at the time of preparation of the original bid sheet on 31.8.87. The ~~changes~~ ^{*substitution} of the bid sheet was necessitated to incorporate the condition of each lot as shown in the aforesaid sheet of paper which contained certain qualifying remark against each lot such as percentages of damages/deterioration etc. The aforesaid substitution constitutes the element of tampering of office records which was primarily done with a view to cover up the selling of salt lots at low price for personal consideration and also to modify condition of each lot to bring conformity with the low reserve price found to have been fixed after auction sale.

Article - 11

That said Sri M.C. Talukdar while working in the aforesaid post during the aforesaid period had prepared Reserve Price List for 7 lots of salt on 29-8-86 and furnished a copy thereof to Sri D.K. Bose, the then TIA/NGC. The consignments mentioned in the list were sold through Public Auction on 5.9.86 and Sri Bose had forwarded the said Reserve Price List to FA & CAO, N.F. Rly., Maligaon along with his Auction Sale Report of 5.9.86. The Reserve Price List dt. 29.8.86 indicates that Sri Talukdar had fixed Reserve price of 224 bags salt received in wagon No. NEBC 25952 Ex. III to NGC weighing 168 qtls at Rs. 11,500.00 and himself recorded the amount under his dated signature on 29.8.86 under item No. 2 of the said list. The bid sheets submitted in connection with the Auction Sale of 5.9.86 reveal that another 391 bags of salt received in Wagon No. NEBC 62525 Ex. III - NGC, were also shown to have been sold along with the earlier mentioned 224 bags salt, in Wagon No. NEBC 25952, for Rs. 12,000/- on 5.9.86. Sri Bose had not submitted any Reserve Price List for 391 bags salt in wagon No. NEBC 62525 to FA & CAO, N.F. Rly. Maligaon which reflect that no reserve

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price was fixed by Sri Talukdar for 391 bags salt and communicated to Sri Bose for ultimate communication to FA & CAO, N.F.Rly., Maligraon. But in the Reserve Price Register maintained at NGC/IRC's office, Sri M.C. Talukdar found to have added himself the words "WGN No. NEBC 62525/391 Ill to NGC total ... 615 B/s" below the particulars of 224 bags salt in Wagon No. NEC 25952. The absence of particulars of 391 bags salt in the Reserve price list submitted by Sri Bose, TIA, reflect that Sri Talukdar had, in consideration of his own, recorded the above mentioned additional words in respect of 391 bags salt in the Reserve Price Register at a later stage/date, while recording the additional remark viz. "high price fetched as there was heavy competition among the bidders" on 5.9.86 against item of the relevant reserve price register. The difference between the pre-determined reserve price i.e. Rs. 11,500.00 of 224 bags salt in Wagon No. NEC 25952 and sold price i.e. Rs. 12,000/- of 615 bags salt (consisting 224 bags in NEC 25952 and 391 bags in NEBC 62525) is only marginal i.e. Rs. 500/- As such it is not a case of simple non-inclusion of pre-determined reserve price of 391 bags salt in the TIA's foil of Reserve Price list for 224 bags salt in Wagon No. NEC 25952 at Rs. 11,500.00 but the actual reflection of disposing of 391 bags salt in Wagon No. NEBC 62525 along with 224 bags salt in NEC 25952 for ~~xxxxxxxxxxxxxx~~ non-accountal of the value of 391 bags salt with a view to derive personal gain out of it at the cost of the Railway Administration. The Reserve price list of 29.8.86 also reveals that the quantity in each lot was not the criteria in determining reserve price of each lot as evident from the wide variation in the reserve price amount of the following items :-

Srl No.	Item No. in Reserve price List	No. of Bags and weight	Amount of Reserve Price
(1)	(2)	(3)	(4)
1.	1	217 Bags ; 162.75 qtls.	Rs. 3500/-
2.	2	224 Bags ; 168 qtls.	Rs. 11,500/-
3.	3	435 Bags ; 326.25 qtls.	Rs. 4,500/-
4.	4	425 Bags ; 318.75 qtls.	Rs. 8,200/-
5.	7.	230 Bags ; 172.50 qtls.	Rs. 4,800/-

The wide variation in prices between the Srl. No. 1 & 7 and 3 & 4 against marginal difference in quantities reflect that the difference in value is based on the quality of the product.

Article - 12

That said Sri M.C. Talukdar while working in the aforesaid post during the aforesaid period had disposed 2728 bags salt in seven lots on 31.8.87. In disposing these seven lots of salt Sri D.K. Bose, TIA, and Sri P.B. Choudhury

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CGS/II/NGC associated with Sri Talukdar on 2.9.87 Sri Talukdar had handed over seven sets of Bid sheets in connection with the disposal of aforesaid 2728 bags salt to Dy.CVO(T) from his almirah along with other auction papers of 31.8.87 for Vigilance check. Out of the aforesaid seven bid sheets, 3 sets of bid-sheets were found neither signed by ACS/NGC & TIA/NGC, the auction conducting/witnessing official, nor also signed by the highest bidders. Sri P.B.Choudhury, CGS/II/NGC had prepared the above cited 3 sets of Bid sheets for 3 lots consisting of 471 bags, 615 bags and 370 bags of salt indicating the highest bid and sale amount as Rs. 1950.00, Rs. 5750.00 and Rs. 3350.00/- respectively. Further, Sri Choudhury had also collected a sum of Rs. 11050.00, being the sale proceeds of these 3 lots of salt on 31.8.87 and 1.9.87 even though the bid sheets were neither signed by auction conducting/witnessing officials nor by the highest bidders i.e. without formal finalisation sale of the aforesaid lots through proper and fair public auction. Regarding collection of sale proceeds against the three un-signed bid sheets, Sri H.C.Talukdar vide answer to Q.No.73(B) stated the following - "My order to Sri P.B.Choudhury was very clear that he can accept 20% of the bid amount on the day of auction and until and unless the rest money is paid on a subsequent day, the consignment should not be allowed to remove. I have allowed to accept the above amount though the signature was not made by TIA".

A bid sheet for all practical purpose being a contract for sale of certain specified goods on certain specified amounts and becomes valid and operative only when the said document is signed by the auction conducting officer and the highest bidders. In terms of CGO/N.F.Rly's Circular letter No.C/65/0/93/ID/Recom -30 Pt.II dt. 28/29.1.83 issued in continuation of Railway Board's instructions under No.77-TC-III/53 dt. 17-1-83 signatures of (three) highest bidders are to be taken in the bid sheet. The obvious object of obtaining signatures of three highest bidders is inter-alia to keep sufficient proof of disposing of consignments in open and fair public auction sale. Thus it is crystal clear that Sri Talukdar, in consideration of his own, in collusion with Sarvaswari D.K.Bose, TIA, and P.B.Choudhury, CGS/II/NGC had disposed 1456 bags salt in three lots disregarding the primary norms of disposing consignments through Public Auction Sale i.e. without obtaining the purchasers' acknowledgement for their bids shown against their names in the bid sheet and their acceptance of goods specified in the bid sheet. The three sets of so-called bid sheets submitted by Sri Talukdar on 2.9.87 as document of sale of total 1456 bags salt in 3 lots for total sum of Rs. 11050/- cannot be treated as a valid proof of selling the consignments to the highest bidder mentioned therein in absence of at least respective highest bidders' signatures on the aforesaid sale documents. Similarly, the money deposited in their names through Money Receipts issued by Sri Choudhury, CGS, indicating deposits of amounts against their names in the Railway records cannot be accepted as a valid proof of depositing such amount by the same person as shown in the bid sheet due to absence

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R. P. Datta

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Annex A11

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of their signature/acceptance in the bid sheets. Thus the aforementioned three so-called bid sheets do not reflect the proof of selling the consignments mentioned therein through proper and fair public auction sale on 31.8.87. Sri P.B. Choudhury's ~~acceptance~~ issue of money receipt towards deposit of total sum of Rs. 11050.00 as sale proceeds without having valid auction sale documents for these lots and Sri Bose, TIA's putting of green pencil tick marks in the related money receipts as well as in related entries of the Cash Book without corresponding valid bid sheets exhibit their collusion with Sri M.C. Talukdar in irregular disposal of 1456 bags salt in 3 lots for Rs. 11050.00 without proper and fair Public Auction Sale on consideration of their own.

(P.V. VAITHEESWARAN) 23/2/90
CHIEF COMMERCIAL SUPDT.

Alleged

Dr. D. D. D.

(Advocate)
1990/11/11

List of Documents by which the Articles of Charges framed against Sri M.C. Talukdar, B.A./JCS/NGC, now ACO/Rates, Maligaon, are proposed to be sustained

Article - 1

- P1-1 ✓ 1. Sri M.C. Talukdar's C.L. application dt. 14.11.86 to AO/NGC for two days CL for 14.11.86 and 15.11.86.
- P2 ✓ 2. Station Record Foils of AD Report -MGR against Invoice / R.R.No.7/46 D30 dt. 17-18/9/86 Ex. DKZ to NGC.
- P3 ✓ 3. Consignee's (Stat Fed) application dt. 15.11.86 for 132 bags rice booked under Invoice A.D. of No.7 dt. 17/18-9-86 Ex. DKZ to NGC and Sri Talukdar's endorsement over it.
- P4 ✓ 4. CCO/N.F.Rly's Claim case No. C/3/LP/262/NGC/2/87-HV and payment advice of Rs.11116/- at SN-13 of the file.
- P5 ✓ 5. Placement particulars of Wagon No. NEC 53751 and SCC 24947 Ex. DKZ to NGC at page-76-77 (of E.C.S.C & N.S.Rly Placement Register from 1-9-86 to 11-7-86) .
- P6 ✓ 6. Gatepass Book Foil No.983 /D300 dt. 15.11.86 (of E.C.S.C & N.Rly's counter from 1-11-86 to 15-11-86) of NGC MG .
- P7 ✓ 7. Exit Gate Pass Register of NGC MG Goods shed from 7-10-86 to 3.5.87 .
- P8 ✓ 8. CCO/N.F.Rly's Circular Letter No. C/65/0/30/ID dt. 29-6-84 .
- P9 ✓ 9. Statement of Sri M.C. Talukdar recorded on 2.9.87 7.9.87 to 10.9.87 , 30.12.87 and 31.12.87 .

Article - 2

- P10 ✓ 1. Sri M.C. Talukdar's T.A. Journal for July 86 for Rs.350/- under DAO/LMG's N.S.No. 17 LTR of 7.11.86 .
- P11 ✓ 2. Sri M.C. Talukdar's statement recorded on 2.9.87, 7.9.87 to 10.9.87 ; 30.12.87 and 31.12.87.
- ✓ 3. Station copies of consignees' applications , A.D. reports and MGR foils in connection with particulars referred to in columns 21 & 22 of Annexure-A.
- ✓ 4. Placement register for (a) Western Rly for the period 24.6.86 to 1.1.87 , (b) Eastern, Central, South Central , Northern and Southern Rlys for the period 1.4.86 to 31.8.86 and (c) local, South Eastern and N.E. Rlys for period 1.4.86 to 29.9.86 , in connection with placement/release particulars of wagons referred to in columns 7 to 11 of Annexure-A.
- ✓ 5. Tally Books for consignments from (a) W.Rly & N.Rly (FCI) for the period 21.6.86 to 18.7.86 (b) W.Rly for the period from 19.7.86 to 21.9.86 (c) N.S.E.R.C.R. & S.C.Rlys for the period from 30-6-86 to 17-8-86 (d) N.E., Local and S.E. Rlys for the period from 21-6-86 to 28-7-86 and (e) N.E., L and S.E. Rlys for the period from 29-7-86 to 26-8-86 in connection with release time and unloading particulars of consignments for wagons referred to in column-7 of Annexure : A .

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6. Gate Pass Books for consignments from (a) W.Rly bearing Book No. 923/1 to 100 for the period 10-7-86 to 22-7-86, (b) W.Rly bearing Book No. 149/1 to 100 for the period 22-7-86 to 10-8-86, (c) N. S. E. G. & S.Rlys bearing Book No. 135/1 to 100 for the period 12-7-86 to 22-7-86 (d) N.Rly bearing Book No. 136/1 to 100 for the period 22-7-86 to 4-8-86 (e) N.E., Local and S.E. Rlys bearing Book No. 939/1 to 100 for the period 9-7-86 to 23-7-86 and (f) N.E., L and S.E.Rlys bearing Book Nos. 139/1 to 100 for the period 23-7-86 to 8-8-86 in connection with particulars referred to in columns 14 to 16 of Annexure - 'A'

7. Exit Gate Registers maintained by Goods Clerk of New Guahati Goods shed for the period 17-6-86 to 6-10-86 in connection with particulars referred to in columns 17 to 19 of Annexure 'A'.

8. Exit Gate Registers maintained by RPT Officials of NGC Goods shed for the period 20-6-86 to 17-7-86 and 11-7-86 to 4-11-86 in connection with particulars referred to in clms - 20 of Annexure 'A'.

9. Compensation Claim Case Nos. :-

- a) C/61/LP/1731/NGC/11/86 ✓
- B) C/61/LP/1125/NGC/9/86 ✓
- C) C/61/LP/1124/NGC/9/86 ✓
- D) C/61/LP/1127/NGC/9/86 HV ✓
- E) C/61/LP/841/NGC/7/86/LV ✓
- F) C/61/LP/1353/NGC/10/86-HV ✓
- G) C/61/LP/1461/NGC/11/86-LV ✓
- H) C/61/LP/1413/NGC/10/86 ✓
- I) C/61/LP/1736/NGC/11/86 LV ✓
- J) C/61/LP/1836/NGC/12/86-LV ✓
- K) C/61/LP/29/NGC/1/87 HV ✓
- L) C/61/LP/NGC/31/NGC/1/87/HV ✓
- M) C/61/LP/NGC/1315/NGC/10/86-LV ✓
- N) C/61/LP/28/NGC/1/87-LV ✓
- O) C/61/LP/1081/NGC/9/86-HV ✓
- P) C/61/LP/1253/NGC/10/86 ✓
- Q) C/61/LP/1676/NGC/11/86-LV ✓
- R) C/61/LP/1345/NGC/10/86 ✓
- S) C/61/LP/1344/NGC/16/86 ✓

10. CCU/N.F.Rly's circular letter No.C/65/0/30/ID dt. 29-6-84.

11. Statement of Sri Aniya Kumar Boruah, Sr.G.C./NGC dt. 20-10-87

12. Statement of Sri Nripendra Chandra Samra, Sr.CC/NGC dated 22-10-87.

13. Statement of Sri Jovan Chandra Das, Head G.C./NGC dated 16-10-87

14. Statement of Sri Nirmal Chandra Das, Hd.G.C./NGC dt. 22-10-87.

Article - 3

1. Sri H.C.Talukdar's statement dated 2-9-87. 7.9.87 to 10.9.87 20.12.87 and 31.12.87.

2. CCU/N.F.Rly's Circular letter No.C/65/0/30/ID dt.29-6-84.

3. Station records rolls, A.O. Reports, MGR and consignments application for assessment delivery for 19 bags Masur dal booked under Inv/R.R.No.207/676532 dt. 12.7.86 Ex.COP to NGC.

4. Placement Register for Local, S.E. & N.E.Rlys for the period 1.4.86 to 20-9-86 in connection with placement particulars of wagon No.WRC 23713 Ex.COP-NGC.

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6. Tally Book for N.E., L, S.E. & FGI for the period from 21-6-86 to 18-7-86.

7. Gate Pass for N.E. & L. S.E. Rlys bearing Book No. 139/1 to 100 for the period 28-7-86 to 8-8-86.

8. Exit Gate Register Register of NGC Goods-shed maintained by Goods Clerk for the period 17-6-86 to 6-10-86.

9. Exit Gate Register of NGC Goods shed maintained by RPF staff for the period 18-7-86 to 4-11-86.

10. Claim Case No. C/61/LP/997/NGC/6/83 LV.

11. T.A. Journal of Sri M.C. Talukdar for July/86 for Rs. 350/- passed under MAO/NGC's A.B.No. 17 Lgt dt. 7-11-86.

Article - 4

1. Statement of Sri M.C. Talukdar recorded on 2-9-87, 7-9-87, to 10-9-87, 30-12-87 and 31-12-87.

2. COO/N.F.Rly's Circular letter No. C/65/O/30/ID dt. 29-6-84.

3. Station Record foils of A.D. Reports, M.G.R and Consignee's applications for assessment delivery of consignments booked under invoice/R.R. Nos. 1/187/670 dt. 21-7-86 Ex.TTR.-NGC and 86 & 27/06/803 and 06/804 both dated 29-3-87 Ex.CPC to NGC.

4. Placement Register for -

a) Eastern, Central, South Central, Northern & Southern Rlys. for the period 1-1-86 to 31-8-86.

b) E.C. SC & N.S.Rly for the period 1.9.86 to 11.7.87.

5. Tally Books for N.S.E.R, C.R and G.C. Rlys for the period - a) 18-8-86 to 1-10-86 and (b) 29-4-87 to 8-7-87.

6. Gate Pass Books for (a) N.S.C & G.C. Rlys bearing Book No. 1170 /1 to 100 for the period 20-8-86 to 31-8-86 and b) E.S.C.R.S., & G. Rlys bearing Book Nos. 116/79 for the period 21-4-87 to 7-5-87.

7. Exit Gate Register of NGC Goods-shed maintained by Goods Clerk for the period from 17-6-86 to 6-10-86 and 7-10-86 to 5-5-87.

8. Exit Gate Register of NGC Goods-shed maintained by RPF staff for the period from 18.7.86 to 4.11.86 and 19.2.87 to 21.5.87.

9. Compensation Claim Case No. (1) C/31/LP/1072/NGC/9/86 (2) C/61/LP/999/NGC/6/87 & (3) C/61/LP/1000/NGC/6/87.

10. Statement of Sri Nripendra Chandra Sarma, Sr. GC of NGC Goods-shed.

11. Statement of Sri Sovu Chandra Das, Head G.C./NGC Goods-shed.

Article - 5

1. Statement of Sri M.C. Talukdar dt. 2-9-87, 7-9-87 to 10-9-87 30-12-87 and 31-12-87.

2. Station record foils of A.D. Report, NGR and Consignee's

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Annex A/1 (M2)

applications for assessment delivery of seven consignments detailed in Annexure 'B'.

13. CCU/N.F.Rly's Circular letter No. C/65/O/30/ID dt. 29-6-84.

4. Placement Register for N, S, C, P.C. and N.Rlys for the period from 1-9-86 to 1-7-87 and N.E., Local and S.R. Railways for the period from 21-9-86 to 23-5-87 in connection with placement/release particulars of wagons referred to in column -7 to 11 of Annexure 'B'.

5. Tally Books for N, S, E, C & S.C.Rlys for the period 2-9-86 to 10-11-86 and N, S, E, R., C.H and S.C.Rlys for the period from 11-11-86 to 12-1-87, for the period from 13-1-87 to 29-4-87 and N.E., Local & S.R.Rlys for the period from 13-5-87 to 3-7-87

6. Gate Pass Book for N, S, C, R, & S.C.Rlys Bearing Book No. 1174/1 to 100 for the period 6.10.86 to 16.10.86 (b) N, S, C, S.C & S.Rlys bearing Book Nos. 997/1 to 100 for the period 3.12.86 to 17.12.86. (c) N, S, C, R, & S.C. Rlys bearing Book No. 692/1 to 100 for the period 13.2.87 to 28.2.87. (d) E, C, S.C., N & S.Rlys bearing Book No. 691/1 to 100 for the period 28-2-87 to 14-3-87 (e) N.E. Rly's bearing Book No. 120/1 to 100 for the period 4.5.87 to 14.5.87 in connection with particulars of consignments referred to in columns-14 to 16 of Annexure 'B'.

7. Exit Gate Pass Register of N.C Goods shed maintained by Goods Clerk for period 7.10.86 to 5.5.87 in connection with particulars of consignments referred to in Columns 17 to 19 of Annexure 'B'.

8. Exit Gate Register of NCC Goods-shed maintained by RPF official for the period 18-7-86 to 04-11.86, 5.11.86 to 18.2.87 and 19.2.87 to 21.5.87 in connection with particulars referred to in column at 20 of Annexure B.

9. Compensation Claim Case No. :-

- a) C/61/LP/92/188/1/87 -HV ✓
- b) C/61/LP/296/188/2/87 -HV ✓
- c) C/61/LP/734/188/5/87 -HV ✓
- d) C/61/LP/763/188/5/87 -HV ✓
- e) C/61/LP/531/188/3/87 -HV ✓
- f) C/61/LP/532/188/3/87 -HV ✓

Article - 6

1. Sri M.C. Talukdar, ACS/MGC's statement recorded on 2.9.87, 7.9.87 to 10.9.87, 30.12.87 and 11.12.87.

2. CCU/N.F.Rly's Circular letter No. C/65/O/93/1d/Recom-30 Pt. II dt. 28/29-1-83

3. Reserve Price Register of ACS/MGC for the period 1.7.83 to 22.1.87.

4. Station copy of the list of commodities to be sold by Public Auction on 22.8.86 at NCC Goods-shed.

5. Station Copy of Bidders' list of Public Auction Sale held at NCC on 22.8.86.

6. Station copy of Bid sheets for (a) 133 bags salt from Wagon No. SRC 37590 Ex. Chib to NCC for Rs. 2800/- (b) 202 bags salt from NCC 17741 Ex. Ill to NCC for Rs. 4411/- (c) 481 bags salt from WRC 62311 Ex. Chib to NCC for Rs. 10,100/- (d) 255 bags salt from NCC 18420 Ex. Chib to NCC for Rs. 5000/- (e) 230 bags of salt from SSC 21011 Ex. Chib to NCC for

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for Rs. 1500/- (f) 151 bags salt from HSC 50868 and
HSC 22722 for Rs. 9000/- (g) 200 bags salt from HSC 14351
Ex.Chib to HSC for Rs. 1400/- (h) 747 bags salt from
HSC 2305, HSC 16729, HSC 5316, HSC 5403 Ex. ILL to HSC
for Rs. 15100/- (i) 180 bags salt from SRESC 38959 Ex.
Chib to HSC for Rs. 9,900/- (j) 200 bags salt from HSC
54515 Ex.Chib to HSC for Rs. 4,000/- (k) 136 bags salt
from HSC 54892 Ex.Chib to HSC for Rs. 3500/- (l) 240
bags salt from HSC 14036 Ex.Chib to HSC for Rs. 5100/-
(m) 200 bags salt from HSC 53779 Ex.Chib to HSC for
Rs. 4200/- (n) 200 bags salt from HSC 22707 Ex.Chib to
HSC for Rs. 1200/- and (o) 480 bags salt from HSC
22873 Ex.Chib to HSC for Rs. 10080/-

Bidders' and

✓ 17. Photostat copies of ~~xxxxxx~~ list of Bid sheet of
594 tins of M/Oil unloaded from Wagon No. HSC 15064 Ex.
IDH to HSC sold through Public Auction at HSC on 9-8-85
along with Photostat copy of consignee's (E/s. Tara
Industries) Bajuck dt. 6.4.85 and ACS/HSC's letter No.
CS/1w/87 dt. 20.1.87 to ACS/H. F. Rly.

✓ 18. Station copy of bid sheet of 227 tins of vegetable
oil sold through Public Auction at HSC Goods-shed on
19-12-86.

✓ 19. General Secy., Kamrup Chamber of Commerce, Guwahati's
letter No. KCC/12/37-83/749 dt. 8-9-87 regarding wholesale
rate of vegetable oil on 12-12-86 and Mustard Oil on
27-9-85.

✓ 20. Asstt. Manager, Assam State Co-operative Marketing
and Consumers Federation Ltd.'s letter No. Mil dt.
8-9-87 regarding Stat - fed rate of vegetable oil (Tripti Brand)
on 19-12-86 and M/Oil rate on 9-4-85.

✓ 21. Kamrup Chamber of Commerce/Guwahati's News Bulletin
dt. 28-9-85 and 19-7-86 regarding wholesale rate of salt

✓ 22. Reserve price of salt consignment auctioned on 22.8.86,
594 tins M/Oil auctioned on 9.8.85 and 227 tins Vegetable
Oil auctioned on 19.12.86 which were fixed on 21.8.86;
20-7-85 and 13-12-86 respectively and recorded in ACS/HSC's
Reserve Price Register for the period 1-7-83 to 22-1-87.
✓ 23. Sri Raj Kumar, Ex. DM/HSC's Note dt. 8-3-88.

* Article - 7

19 Sri M.C. Thakur, ACS/HSC's statement dt. 2.9.87, 7.9.87 to 10.9.87,
30.12.87 and 31.12.87.

✓ 24. Unloading particulars of wheat from Wagon No. HSC 14328 Ex.
HJI to HSC on 9.12.86 in the Unloading Tally Book of Shed No. 1
of HSC Goods shed for the period 3.1.86 to 30.4.87.

✓ 25. Bid sheet of Loose wheat unloaded from HSC 14328 Ex. HJI to
HSC sold at Rs. 8000/- on 19-12-86 at HSC Goods-shed.

✓ 26. Reserve price of ~~wagor~~ wheat consignment received from Wagon
No. HSC 14328 fixed on 19-12-86 recorded in reserve price
register of ACS/HSC for the period 1-7-83 to 22.1.87.

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Article - 8

1. Statement of Sri M.C. Talukdar dt. 2-9-87, 7-9-87 to 10-9-87, 30.12.87 and 31.12.87.
2. Bid Sheet of 64 bags damaged rice unloaded from wagon No. WRC 22845 on 15.10.86 Ex. III to NCC sold through Public Auction on 28.11.86.
3. Reserve Price particulars and weight of 64 bags rice unloaded from WRC 22845 on 15.10.86 fixed on 28.11.86 as appearing in the Reserve Price Register of ACS/NCC for the period 1.7.83 to 22.1.87.
4. Unloading particulars of 64 bags rice from WRC 22845 on 15.10.86 as recorded in the Tally Book of Godown No. 1 for the period 3.1.86 to 30.4.87 wherein CGS/II/NCC recorded the weight of the consignment.

5. Statement of Sri P.B. Choudhury, CGS/II/NCC.
6. Statement of Sri D.K. Bose, Ex. TIA/NCC.

Article - 9

1. Statement of Sri M.C. Talukdar, dt. 2.9.87, 7.9.87 to 10.9.87, 30.12.87 and 31.12.87.
2. 7 Sets of Bid sheets for (a) 220 bags salt from WRKC 52602 for Rs. 1200/-, (b) 62 bags salt from SCKC 44056 for Rs. 175/-; (c) 225 bags salt from SCKCX 61203 for Rs. 2200/- (d) 370 bags salt from SCKCX 86303 for Rs. 3350/-, (e) 615 bags salt from ERBOX 107492 for Rs. 5750/- (f) 765 bags salt from SCC 2489, HEPCT 62110 and SRC 34104 for Rs. 3375/- and (g) 471 bags salt from NCC 25721, WRC 55096 and WRKC 62178 for Rs. 1950/- which were handed over to Dy. CVO(T) at NCC on 2.9.87 by ACS/NCC.
3. Bidders' List for Public Auction at NCC for 28-8-87 and 31-8-87.
4. List for auctionable goods for auction sale dt. 31.8.87.
5. Sri S.C. Dhar, TIA/Hq's Auction Sale Report No. SD/AUC/NCC/87 dt. 31.8.87.
6. Statement of Sri S.C. Dhar, TIA/Hq dt. 1.3.88.
7. Small sheet of paper purported to be Reserve Price list of 2728 bags salt in 7 lots written by Sri D.K. Bose, TIA/NCC, containing Sri M.C. Talukdar, ACS/NCC's signature dt. 27-8-87.
8. Sheet of paper written by Sri D.K. Bose bearing caption "Calculation showing maximum reserve price fixed for the UC & UD Salt bags lying at NCC B & MG Goods-shed, taking the factors under consideration as mentioned below" along with duplicate fair copies of said sheet written by Sri M.C. Talukdar, ACS/NCC and Sri S.C. Dhar, CGS/II/NCC.

9. Statement of Sri D.K. Bose, TIA/NCC dt. 2.9.87.

10. Sri D.K. Bose, Ex. TIA/NCC's Official diary with caption "New Gauhati (Auction) opened on 24.4.86."

Article - 10

1. Statement of Sri M.C. Talukdar Ex. ACS/NCC dt. 2.9.87, 7.9.87 to 10.9.87, 30.12.87 and 31.12.87.

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Handwritten signature: R.D. Datta

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Annex A1 Contd.

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P/49

P/50(A+B)

P/51(A+B)

P/57

P/59

P/60

P/36

P/9(A+B)

P/50(A+B)

P/49

P/51(A+B)

S/12(A+B)

P/61(A+B)

P/62(A+B)

P/35

1. Statement of Sri P.B. Choudhary, CG V/II/MCC.

2. Statement of Sri D.K. Bose, Ex.TIA/MCC.

3. 7 Sets of Bid Sheets in connection with disposal of 2723 bags of salt which were handed over to Dy. CVO/I at MCC on 2.9.87 by ACS/MCC viz. (a) 220 bags salt from WRMC 52602 for Rs. 1200/- (b) 62 bags salt from SRC 11056 for Rs. 175/- (c) 225 bags salt from SCBOX 61203 for Rs. 2200/- (d) 370 bags salt from SC BOX 86303 for Rs. 3350/- (e) 615 bags salt from ERBOX 107192 for Rs. 5750/- (f) 765 bags salt from SRC 2439, WRMC 62110 and SRC 34104 for Rs. 3375/- and (g) 471 bags salt from MCC 25721, WRMC 55096 and WRMC 62178 for Rs. 1950/-

4. 1 Sheet of paper written by Sri D.K. Bose, Ex.TIA/MCC bearing caption "Calculation showing maximum reserve price fixed for UC & UD salt bags lying at MCC BG & MG Goods-shed taking the following factors into consideration as mentioned below."

5. Statement of Sri G.C. Bhargali, CG V/II/MCC.

Article - 11

1. TIA's foil of Reserve Price List dt. 29-8-86 (in 3 sheets) for 7 lots of salt and bid sheet for 224 bags salt from Wagon No. 480 25952 Ex.III to MCC along with 391 bags of salt from WRMC 52525 Ex.III to MCC for Rs. 12,000/- sold through Public Auction on 5.9.86 which submitted to EA & CAO/P.F. by Sri D.K. Bose under No. DE/MCC/MCC/86-27 dt. 2.9.87.

2. Reserve price of 7 lots of salt fixed by ACS/MCC on 29-8-86 as appearing in his Reserve Price Register for the period 1-7-83 to 22-1-87.

Article - 12

1. Statement of Sri M.C. Talukdar dt. 2.9.87, 7.9.87 to 10.9.87, 30.12.87 and 31.12.87.

2. Statement of Sri D.K. Bose, Ex.TIA/MCC.

3. Statement of Sri P.B. Choudhary, CGS/II/MCC.

4. 7 sets of bid sheets in connection with disposal of 2723 bags of salt which were handed over to Dy.CVO(I) at MCC on 2.9.87 by ACS/MCC viz. (a) 220 bags salt from WRMC 52602 for Rs. 1200/- (b) 62 bags salt from SRC 44056 for Rs. 175/- (c) 225 bags of salt from SC BOX 61203 for Rs. 2200/- (d) 370 bags salt from SCBOX 86303 for Rs. 3350/- (e) 615 bags salt from ERBOX 107192 for Rs. 5750/- (f) 765 bags salt from SRC 2439, WRMC 62110 and SRC 34104 for Rs. 3375/- and (g) 471 bags salt from MCC 25721, WRMC 55096 and WRMC 62178 for Rs. 1950/-.

5. Cash Books for UC & UD Section of MCC-MG Goods-shed for the period 3-1-87 to 1-9-87 and Auction Cash Book for MCC BG Goods-shed for the period 10-12-86 to 1-9-87.

6. Money Receipt ^{Book} for UC & UD Section of MCC Goods-shed containing foil Nos. 37400/699 used upto -614 and Auction Money Receipt Book for MCC BG Goods shed containing foil No. 69220/299 used upto - 207.

7. CC0/A.F.Ry's Circular letter No. 2/55/1/93/ID/Recom-30 Pt.II dt. 28/29-1-83 in continuation of Ry.Board's letter No.77-TC-III/53 dt. 17-1-83.

(P.V. VAITHESWARAN)
CHIEF COMMERCIAL SUPDT.

23/5/90

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Annexure - IV

Annex A/Cmt

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List of Witnesses by whom charges framed against
Sri M.C. Talukdar, Ex. ACS/M.C., now AGO/Rates, H.F. Rly.,
Maligaon are proposed to be sustained

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Article - 1

Nil .

Article - 2

1. Sri Amiya Kumar Barua, Senior Goods Clerk/NGC Goods-shed.
2. Sri Nripendra Chandra Barua, Sr. Goods Clerk, NGC Goods-shed.
3. Sri Sova Chandra Das, Hd. Goods Clerk, NGC Goods-shed.
4. Sri Nihal Chandra Das, Hd. Goods Clerk, NGC Goods-shed.

Article - 3

Nil .

Article - 4

1. Sri Nripendra Chandra Barua, Sr. Goods Clerk,
NGC Goods-shed.
2. Sri Sova Chandra Das, Head Goods Clerk, NGC
Goods-shed.

Articles - 5 & 6

Nil .

Article - 7

1. Sri Bhagaban ^{Kumar} Chandra Das, Coaching Clerk, NGC Goods-shed.

Article - 8

1. Sri P.B. Choudhury, CGS/II/NGC.
2. Sri D.K. Bose, Ex. TIA/NGC, now TIA/Hd. Qrs./Maligaon

Article - 9

1. Sri P.B. Choudhury, CGS/II/NGC
2. Sri S.C. Das, Ex. TIA/Hy/MLT, now TIA/KYQ
3. Sri Golak Chandra Bhattacharya, CGS/II/NGC

Article - 10

1. Sri D.K. Bose, Ex. TIA/NGC, now TIA/HQ/MLT

Article - 11

1. Sri P.B. Choudhury, CGS/II/NGC
2. Sri D.K. Bose, Ex. TIA/NGC, now TIA/Hy/Maligaon

Article - 12

1. Sri D.K. Bose, Ex. TIA/Maligaon, now TIA/Hy/Maligaon.
2. Sri P.B. Choudhury, CGS/II/NGC.

(P.V. VAITHEESWARAN)
CHIEF COMMERCIAL SUPDT.

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Annexure A/2

INQUIRY REPORT
in the DAR Case against Shri M.C.
Talukdar, ex. ACS/Now Guwahati (now
working as ACM (Marketing)/Maligaon.

Shri M.C. Talukdar, the then ACS/Now Guwahati now working as ACM (Marketing)/Maligaon was issued with a major penalty memorandum vide CCS/Maligaon's L/No. E/74/GAZ/250/Con dated-27.3.90. The undersigned was appointed as Inquiry Officer vide CCS/Maligaon's Notification No. E/74/GAZ/250/Con dt-16.8.90. The Charge Sheet and certain other Documents were forwarded under GM(P)/Maligaon's L/No. E/74/GAZ/250/Con dated 23.4.91. The then Presenting Officer Shri S. Chakraborty was generally not available or was on sick list. He was replaced by Shri N. Chakraborty vide CCM/Maligaon's Notification No. E/74/GAZ/250/Con dated 7.9.92.

2. A copy of the Statement of Article of Charges, Statement of Imputation of misconduct/misbehaviour, List of Documents relied upon and List of Prosecution Witnesses presented are enclosed as Annexure-I to IV respectively. The Preliminary Hearing of the case was held on 7.4.93. During the Preliminary hearings, the Charged ~~Officer~~ Official (C.O) denied each and every charge. The documents relied upon by the Prosecution were taken on record and a list of these indicating the coding is enclosed as Annexure-5.
3. The Regular Hearings were commenced w.o.f. 21-8-93 but were adjourned till 4-10-93 to enable the Prosecution to present one of its witnesses. In all, Prosecution presented 8 witnesses, marked as PW-1 to PW-8. No witness was presented by the Defence. C.O. was also examined on certain points by the I.O. Proceedings of the Regular hearings containing examination, cross-examination, re-examination of the witnesses as well as of the examination of C.O. by I.O. are enclosed as Annexure-6.
4. A few Documents were submitted by Defence. These have been taken on record on 4.10.93 and marked as DD-1A to E, DD-2, DD-3, DD-4 and DD-5. These are enclosed as Annexure-7. Copies of the Daily Order Sheets are enclosed as Annexure-8. Both the Prosecution as well as Defence submitted their Written Briefs which are enclosed as Annexure-9 & 10 respectively.
5. The charges brought against Shri M.C. Talukdar pertain to the period while he was working as ACS/Now Guwahati and also performed duty as Manager at ICD/Maligaon. Each of the Article of charges is considered individually in the succeeding paragraphs.

5.1 Article - 1

- 5.1.1 Prosecution has alleged that the C.O., in consideration of his own and collusion with the consignee, issued a fictitious A/D Report without physical verification and actual assessment of damages of 132 bags of rice consignment. He is thus alleged to have acted in violation of CCO/Maligaon's

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5.1.2 C.O., vide his defence contained in the Written Brief (Annexure-10) has stated that the Prosecution has failed to prove the elements of consideration of his own, collusion with the consignee and recording imaginary percentage of damage without physical verification. He has further added that the assessment in this case was made by the staff and his approval was given later on. But he has not quoted any authority for such action, which is justified by him only on grounds of a so-called practice. In doing this, he would appear to have violated the relevant instructions in the said CCO's Circular. Thus his point vide the Written Brief, that P.O. has not pointed out which part of CCO's Circular has been violated is superfluous.

5.1.3. From the above, it is established that the C.O. recorded the assessment after the goods were removed from the Goods Shed, thereby defeating the very purpose of assessment delivery by a Gazetted Officer, detailed instructions for which have been given in Exhibit P-8. These instructions enjoin upon the Gazetted Officer to personally examine the consignment for which A/D is to be made. However, the Prosecution has not produced any evidence in regard to quantum of assessment wrongly made, i.e., whether the assessed damages were excessive and whether any undue loss was caused to the railway. Further, no evidence was produced by Prosecution of C.O. acting in collusion with the consignee. C.O.'s Statement vide Exhibit P-9A & B that he recorded the assessment after the officials of STATE STAFFED approached him and told that they would be in trouble in their office if the assessment was not recorded, appears to be nearer to the truth.

5.1.4 In view of the above, the charge as framed, is not fully proved. However, it is proved that the G.O. made the assessment after the goods had left the Goods Shed and to that extent imaginary percentages of damages to rice bags were indicated.

5.2 Article-2

5.2.1 Prosecution's case is that the C.O. in consideration of his own and in collusion with the consignees of all the 21 consignments issued fictitious A/D Report with physical verification and actual assessment of damage/deficiency in violation of CCO's circular (P-8). These consignments are alleged to have been unloaded, delivered and removed from New Guwahati (MG) Goods Shed during the period of

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hours when the CO was engaged in performing duties at out-station, viz., ICD/Amingaon. Prosecution has produced evidence by way of TA Journal for July/86 (P-10) of the C.O. A/D Reports had been issued by the CO on the days and during the timings when the CO was supposed to have been engaged in active duty hours at ICD/Amingaon and could not, therefore, be physically present to examine or assess the quantum of damage in the said consignment, as required vide Exhibit P-8. As per CO's answers at the time of Preliminary Investigation (P-9A & B), the consignments were not physically verified by him as regards extent of damage. CO's alleged instructions to the unloading Goods Clerks to release the consignments meant for A/D after getting information regarding extent of damage, etc., were denied by the concerned unloading Goods Clerk, during the preliminary investigation. These statements were confirmed by witnesses PW-1 to PW-4 during the regular hearings vide their answer to Q.1 during their examination-in-Chief. The P.O. has also referred to the CO's statement vide P-9A & B. "Yes, they (consignee) had given their applications for A/D directly to me after physical assessment done in my absence, goods removed and after my arrival at New Guwahati sometime on the same day and sometime later on" and that this indicated existence of wilful collusion between the CO and the consignee in the day case.

5.2.2 In his defence, CO, vide his Written Brief (Annexure-10) has indicated that statements recorded at the time of Preliminary Investigations could not be relied upon as they were dictated put to mouth by Vigilance officials. He has stated that A/D was made by CGS/ACS as per powers. He has further stated that the correct procedure of stacking the good bags and segregating the damaged ones was being followed at New Guwahati as brought out during the cross-examination of the witnesses. He has pointed out that the Prosecution have not questioned that damage, deficiency was there and the same was reflected in the Tally Books. He has also stated that as ACS/New Guwahati, he had to look after the goods shed covering an area of about 1 Sq. Km, in addition to the Military siding, FCI Depot, DCOS/Pandu, Shillong Out Agency, and also the work of Manager/ICD, Amingaon. He has further stated that the TA bill had been prepared after 3 months. Though timings were not accurate, according to him, TA claimed was 70% only and was not irregular. He has also stated that though he made more than one round trip to ICD/Amingaon from New Guwahati on certain days, he did not indicate the same with the detailed timings in his TA Journal. He has also mentioned that the then Area Officer (AO)/New Guwahati, Shri R.H. Kalita, now AM/Assam, could have been asked by Vigilance about these special circumstances and problems prevailing in Assam and also that the AO had seen the CO making assessment in spite of the difficult situation. He has also brought out that the Prosecution has not spelt out which part of CO's circular dated 17-29.6.84 (Exhibit-P/8) has been violated by him and how.

5.2.3 At the time of preliminary examination, it was established that the procedure stipulated vide Ex.P-8 for A/D would take certain time. As per CO's answer to Q.no.20 (P-9A & B) during the Fact Finding Inquiry that a time of 40 - 60 mts. will be required for assessment delivery of 40 bags of pulses. This has not been disputed by

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B. Datta, (Ad. Secy.)
Calcutta, Guwahati-781011.

the defence. However, it is a fact that the prosecution has not stated which para (Ex.P-8) has been violated by CO, but the prosecution case relies upon the fact that CO was not present at that time when A/D was supposed to have been made as per the timings shown in his TA Journals. Vide P-8, it is not necessary for RPF staff to witness the assessment, when the assessment is granted by a Gazetted officer. This means that the officer making assessment must personally see the consignment and act as per para-2 under the heading "Assessment" in Ex.P-8. Thus, there is not much force in the CO's contention that the prosecution has not spelt out, as to which para of CCO's circular (P-8) has been violated.

5.2.4 CO has contended that he made more than one round trip from New Guwahati to ICD/Amingaon during the day and that timings given by him in the TA Journal of July/86 were not accurate but only reflected TA claim of 70% per day, since the journals were filled up much later due to his preoccupation. An examination of the Placement Registers, Tally Books, Gate Pass Books and Gate Exit Registers produced by the prosecution proves that the consignments were supposed to have been assessed during the periods when the CO was not present in his Hd.Qrs/New Guwahati. The timings entered in TA Journal of CO are not observed to be identical on day-to-day basis. Thus, it would be too much of a coincidence that on the day assessment deliveries were supposed to have been made, the CO made more than one round trip to ICD/Amingaon and made no mention of it in his TA Journal. Thus CO's defence that he made more than one round trip to ICD/Amingaon in each and every case of A/D listed by the prosecution is highly improbable.

5.2.5 However, the prosecution has not been able to produce any evidence that the damage assessment made in any case of A/D was on the high side and resulted in any undue loss to the railway and additional benefits to the consignees. No evidence of personal gain to the CO has also been produced.

5.2.6 In view of the above, it would appear that the defence given by CO during his preliminary examination at the time of Fact Finding Inquiry (Ans.to Q.29 in Ex.P-9A & B) reflect the most probable situation, i.e., he asked the unloading Goods Clerks to release the consignments requiring CO's assessment after keeping information regarding extent of damages, etc., and the CO later on gave the assessment to the consignees. No doubt, the witnesses during the inquiry have denied that they followed this course of action. But this was obviously in their own interest. CO has also mentioned that he was over-worked during the period and might have been forced to adopt a short-cut procedure. Thus there is a preponderance of the probability possibility that CO failed to examine personally all the consignments or at least a part of the consignments for which assessment delivery was made. He, therefore, violated the instructions contained in CCO's Circular (P-8). However, no wilful collusion with the consignee has been proved.

5.2.7 Therefore, the charge vide Article-2 is partially proved, viz., violation of provisions under the heading "Assessment" in Ex.P-8.

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5.3 Article-3

5.3.1 According to the Prosecution, CO in consideration of his own and in collusion with the consignee issued a fictitious A.D. Report without physical verification and actual assessment of damages of a Masurdal consignment in violation of CCU's circular vide Exhibit P-8. The charge has been supported by documents showing that the consignment was unloaded, delivered and removed from the Goods shed during the period when the CO was on active duty at ICD/Amingaon. At the time of Fact Finding Inquiry, CO, vide ans. to Q.4 (P-9A & B) had replied that he had not actually assessed the consignment when it was removed on 29.7.86. Further, vide ans. to Q.29 (P-9A & B), the CO had stated that the unloading Goods Clerks were instructed to release the consignment which required CO's assessment after keeping the information regarding the extent of damage. Prosecution has alleged that there is no rule and instruction which provides for issue of A.D. Report without personal verification by the A.D. Granting official and that issue of the A.D. Report established collusion between the CO and the consignee.

5.3.2 An examination of documents relied upon by the Prosecution namely, Placement Registers, Tally Books, Gate Pass Book and Exit Gate Register along with CO's TA Journal of July/86 proves that CO was not present in his Hd. Qrs. at How Guwahati to personally assess the consignment unless the TA Journal of the CO was false. The charge is similar to that vide Article-2 and CO, vide his Written Brief (Annexure-10) has clubbed it with Article-2 for his defence. The pros and cons of the charges vide article-2 have already been discussed in the preceding paragraphs. Prosecution has not been able to produce any evidence that the CO while indicating the percentages of damages without physical verification caused any undue loss to the railway; nor any gain to CO, has been proved. However, there is a high degree of probability that the CO did not personally examine the consignment with a view to assess the damages. Thus the partial charge of issue of A.D. Reports indicating percentages of damages without personal verification and thereby violating instructions issued vide Ex.P-8 is proved.

5.3.3 In view of the above, the charge is partially proved.

5.4 Article-4

5.4.1 Prosecution has alleged that the CO, in collusion with the consignee of 3 consignments had issued fictitious A.D. Report without physical verification in violation of Exhibit P-8. The wagons were unloaded, delivery made and goods removed on the same day date by the consignees. Vide Answer to Q.20 during the FFI, CO stated that 40 to 60 mts. time would be required to assess 40 bags pulses. This fact has not been disputed by the defence. Further, some time will be required to stack the damaged bags separately, before assessment can be undertaken. Release timings of the wagons and removal of Goods by the consignees, as per documents presented by prosecution, clearly indicate that the proper procedure of stacking the damaged goods separately and thereafter carrying out an assessment could not have been made if the provision of Ex.P-8 were to be properly followed.

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D. S. S.

B. S. S. (P. S. S.)
C. S. S. (P. S. S.)

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Annex A/2 Contd.
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5.4.2 Further, it is alleged by the prosecution that the consignee had removed part of the damaged goods along with good portion of the consignment (Exhibits P-15 & P-7), i.e., 32 bags of Copra and 15 bags of Masurdal were not available at New Guwahati Gds Shed premises for examination, though they were declared as damaged by CO.

CO, vide his Written Brief (Annex-ure : 10) has clubbed the defence along with the Article-2 & 3, some aspects of which have already been discussed in paragraphs 5.2 and 5.3 above.

5.4.3 The Prosecution has not produced any evidence that the CO was not physically present at the time of unloading/delivery/removal of consignments. Further, if the Officer making A.D. is present, it may not be necessary for goods to be taken inside the Gds Shed, unless some facilities inside the Gds Shed are required to be utilized. Also if the Officer is present, consignee need not wait for unloading to be completed, before applying for A.D., since it would involve unnecessary delay. Thus, prosecution's contention that the CO did not personally verify the consignment is not proved. No evidence that assessment granted was more than justified, has also been furnished. Thus it has not been proved that there was any undue loss to the railway. Personal gain to CO has also not been proved. Thus, the charge of CO colluding with the consignees is not proved.

5.4.4 However, in view of para 5.4.1, it is most probable that the proper procedure of "Assessment" as laid down in para-2 of Ex.P-8 was not followed by CO namely, sample weighing, etc., while granting A.D., since it would have involved a much longer time than that which was really available.

5.4.5 In view of above, the charge vide Article-4 is partially proved.

5.5 Article-5

5.5.1 The Prosecution has alleged that CO in consideration of his own issued assessment delivery reports in most perfunctory manner against 7 consignments without observing the proper procedure of A.D. as laid down in CCO's circular (P-8) and thereby caused loss to the railway. In support of the charge, documents have been produced to establish that consignments were available in the Goods Shed after release time of wagons and before removal time (as per Gate Register) for period varying from 0 to 40 minutes. The consignments consisted of commodities like pulses, cement & copra. This is alleged to be insufficient time for proper assessment delivery to be made, in terms of CCO's circular quoted above. However, no evidence of assessment of damages having been made on the high side and thereby undue loss being caused to the railway, has been produced.

5.5.2 In his defence, CO has brought out that the concerned witnesses have stated that the good and damaged consignments had been segregated. Removal of goods was done only after assessment or delivery was made against clear receipt.

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A. K. S.
D. S. S.

5.5.3 These allegations and charges are similar to Article-4. Defence vide Written Brief has raised the question of timings. There is nothing to disprove the record of timings. However, from the evidence presented by the Prosecution and in view of discussion in para 5.4.1, it is quite clear that the period available was inadequate for making a proper assessment in terms of CCO's circular (Ex.P-8). However, no evidence has been given that CO was not physically present to make the assessment and that the assessment resulted in any undue loss to the railway. No evidence of personal gain to CO has also been produced. Thus following the line of reasoning as per para 5.4.3 and 5.4.4, one would reach to similar conclusion as in Article-4.

5.5.4 Summarising, in all probability, the proper procedure of "Assessment" as per para-2 of CCO's circular (Ex.P-8) was not followed by CO while granting A.D. However, it is not proved that the assessment resulted in any undue loss to the railway. Thus the charge is partially proved.

5.6 Article-6

5.6.1 The Prosecution charge is that the CO had disposed off 17 consignments consisting of mustard oil, salt & vegetable oil through Public Auction Sale fixing the Reserve Price of these commodities at a very low value in consideration of his own. This action is alleged to be in contravention of Rly. Board's instructions issued vide exhibit P-35. The Prosecution case is that the RPs of the articles were fixed at a value much lower than 20% below the then prevailing wholesale market rate of identical commodity as per the guidelines contained in Exhibit P-35.

5.6.2 CO, in his defence vide Written Brief (Annexure-10) has brought out the followings :-

- 1) The condition of consignment which has been considered to be good by the Vigilance Branch is not factually correct.
- 11) There was a doubt whether the Dalda was really Tripti Brand Dalda. The tins were mutilated and contents were not in a good condition. Further, no party preferred any claim against this consignment.
- 111) The RP for M/sil had been intimated to CCO/Maligaon. The consignment was booked on ~~12.5.85~~ 12.5.85 from Idghh to New Guwahati and it was auctioned on 9/8/85. CCO had not referred back on fixation of the Reserve Price.
- iv) CO had consulted the then DRM/Luding in regard to fixation of RP in salt consignments. He states that these were lying in a scattered condition for a considerable period after being unloaded from wagons which in turn had been detained in the yard for about a month. CO has submitted document DD-4 which is purported to be a photocopy of CO's Note dt-29.8.86 and contains the noting of the then ADM/Guwahati that DRM/Luding has approved fixation of Rs.6/- as RP for this salt consignment.

5.6.3 Prosecution has brought out that the CO, vide Ans. to Q.50(P-9A & B) had taken the plea that the DRM/Luding confirmed CO's proposal of fixing Rs.20/- as RP of salt bags. But this was denied by DRM/Luding vide Ex.P-45.

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Further, even if DD-4 is accepted to be genuine, it is not clear whether R.P. approved vide DD-4 refers to the consignment in question. Hence no cognizance can be given to CO's contention that he consulted the then DM/Landing regarding fixation of R.P. prior salt consignment.

5.6.4 Prosecution has not stated as to which para of Rly. Bd.'s Circular (P-35) has been violated by the CO. A perusal of this circular, however, reveals that the guidelines for fixing R.P. are contained in para Nos. 2, 3, 8 & 10. In the case under consideration, it is seen that para-2 is applicable. As per this para, the Officer responsible to conduct the auction will finally fix the R.P. It is also mentioned in this para that reduction of about 20% of the verified market-price of the articles of almost similar nature, could be allowed. It is further stated that if the articles happens to be in damaged condition, a further reasonable reduction in the R.P. commensurate with the condition of the articles could be made. ~~However~~ Ultimately, the R.P. has to be fixed by the Auction conducting official before the date of the auction.

5.6.5 Prosecution has failed to prove that the articles were not in a damaged/deteriorated condition, since it is in that event only ^{L that} the CO can be held responsible for having caused a loss to the railway by fixing R.P. much below the limit of 20% reduction. No evidence of personal gain to the CO has also been produced.

5.6.6 In view of above, the charge is not proved.

5.7 Article-7

5.7.1 The Prosecution has alleged that the CO, in consideration of his own, materially altered the size of a wheat consignment by adding the words "Approximate weight 80 Qtls." on 19.12.86 i.e., the date of auction sale of consignment without putting any dated signature in the Tally Book in continuation of unloading remarks recorded by CC/Sec Guwahati to forestall any doubt as to the weight of the consignments shown in the Auction Sale document. During the preliminary inquiry, CO, vide Ans. to Q.61 (P-9A & B) had admitted that he had personally recorded the words "approximate weight 80 Qtls" in Ex.P-48 and had expressed regret for the same.

5.7.2 Defence has stated that even at the time of Preliminary Investigation nearly a year had passed since the Auction Sale and CO was not able to recall the facts very well. In his Written Brief (Annexure-10), CO has brought out that during inquiry proceedings, witness PW-6, vide Ans. to Q.1 on 24.9.93 stated that "Approximate weight 80 Qtls" was entirely in his own handwriting.

5.7.3 In view of the above, the Prosecution case has not been established. No evidence of personal gain to the CO was also produced by Prosecution. The charge is, therefore, not proved.

5.8 Article-8

5.8.1 According to the Prosecution, the CO, in connivance with S/Ch. PD Chowdhury, the then CCS-II/Sec Guwahati & D.K. Boro, the then TIA/Sec Guwahati arranged to record a reduced weight of 30 Qtls. in Auction records on 28.11.86, the date of auction, without actual weighment of the consignment of 64 bags tied against earlier recorded weight of 47 Qtls., recorded on 15.10.86, i.e., the date of unloading of

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1/10/93 (1/10/93)

the said lots and thereby caused loss to the railway. During the Fact Finding (Preliminary) Inquiry, CO, in reply to Q.7(P-9&55) stated that he had taken the weight as 30 qtls. by his personal assessment as proper weighing could not be done due to scattered and rotten condition of the consignment. During the inquiry, Witness PW-5, vide Ans. to Q.8 put by PO stated that the consignment was not so rotten that it could be dumped, rather it could be used as fodder. Prosecution has also stated that since the consignment was sold in auction at Rs.4510/-, CO's plea that the consignment was rotten and labour refused to handle it, could not be accepted.

5.8.2 CO, in his defence, has brought out in his Written Brief (Annexure-10) that PW-5, vide Ans. to Q.7 during his Examination-in-Chief by the PO stated that the consignment was so rotten that the labour refused to handle it at first, but later, on persuasion, they unloaded the wagons. Defence has further brought out that if the party wanted to take the weight of 47 qtls. instead of 30 qtls. after the auction sale, certainly CGS would not have permitted it nor it could have passed through the Gate.

5.8.3 Prosecution on one hand has stated that a high price was fetched for the auction sale and on the other they have questioned reduction in the weight of the consignment. It has been established that the consignment was damaged, but no evidence has been presented by the prosecution that the weight of the consignment was different from 30 qtls. as assessed by the CO on 23.11.86.

5.8.4 CO, vide his Written Brief has stated that the quantity was measured by him in presence of CGS/New Guwahati and Goods Shed staff and found to be 30 qtls. In the Tally Book, a quantity of 47 qtls was shown. It was the responsibility of CO to question as to what happened to the balance 17 qtls. and to arrange to inquire into the discrepancy. The CO would thus appear to have failed to take action on the discrepancy which had come to light on 23.11.86.

5.8.5 No evidence of personal gain to the CO and of his collusion with the then CGS/New Guwahati and TIA/New Guwahati has been furnished.

5.8.6 In view of above, the charge as framed is not proved. However, CO *prima-facie* appears to be responsible for not inquiring into the matter of reduction in the weight of the consignment, as brought out in para-5.8.4.

5.9 Article-9

5.9.1 Prosecution has alleged that the CO in consideration of his own and in connivance with Sh.DK Boso, the then TIA/New Guwahati, arranged disposal of 7 lots of salt through Public Auction Sale on 31.8.87 without determination/preparation of pre-determined R.P. List of the consignment. This is alleged to be in contravention of provisions in IECM & CO's Circular (Ex.P-35). The Prosecution case relies upon contradictory statements of CO and the then TIA/New Guwahati recorded during the Preliminary Inquiry, as regards to the recording and production of the pre-determined reserve price list. Exhibit P-56 and P-57 have also been relied upon by the Prosecution to substantiate its case that the CO and the TIA tried to create the R.P. list which showed the R.P. at a slightly lower level as compared to the highest bids purported to have been received during auction sale on 31.8.87. No further evidence in support of Prosecution case was presented during the inquiry.

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5.9.2 Vide para 2235(3) of IRCM and P-36, it is necessary that a pre-determined reserve price of the goods to be auctioned should be fixed in advance of the auction date and that papers relating to fixation of R.P. should be kept in safe custody by the Supervisor of Lost Property Officer or in the office of CGS/CGS of Divisional Office. The form in which it is to be recorded, is not, however, specified.

5.9.3 CO, vide his written Brief (Annexure-10) has stated that the Auction was originally fixed to be held on 23.8.87 and Shri Dhar, the then TIA(HQ), Witness PW-8, was deputed to associate with the auction. But the auction was not held due to visit of MT/Rly.Board. During cross-examination on 24.9.83, PW-8, vide Ans.to Q.5 stated that he instructed CGS to refund the money to the intending bidders which was earlier deposited by them as the 'security deposit'. Defence plea is that if PW-8 was not aware of the reserve price then he would not have associated with the preliminary work of auction.

5.9.4 CO has also brought out that a joint assessment statement was prepared (copy of which was presented as Defence Document DD-1/A to DD-1/E) after check by officials including Vigilance. The assessment of extent of damage was even higher than that assessed earlier by CO. He further adds that if there was any doubt about the quantum of damage or about the prices, the Vig.Branch could have very well stopped lifting of the auctioned lots. The delivery of the materials was given to the bidders immediately afterwards. He has further added that the RPs were shown to the Vig. party by Shri Baso on 2.9.87 as soon as he arrived.

5.9.5 It appears from Prosecution's case that the CO was not able to produce a copy of the RP List immediately. But no clear evidence has been presented by the Prosecution that no Reserve Price existed prior to Auction Sale and that the small piece of paper (P-56) which was presented by TIA/Now Guwahati containing TIA & CO's signatures was prepared after the auction Sale. IRCM and Rly.Board's instructions have been referred to by the Prosecution. However, these instructions are silent on the form and details required to be maintained. Certain details were furnished by CO. Further, Rly.Board's letter (P-36) stipulates simply that RP shall be fixed by the Auction conducting official before the date of Public Auction. The evidence presented does not establish that this was not done. Document P-56 purported to be the R.P. List was presented to the Vigilance party. Sh. Baso's Diary also contained the Reserve Prices which was seized by Vigilance. However, CO's contention that PW-8 waited till 18.30 hours on 23.8.87 and thereafter arranged refund of 'security money' to the intending bidders does not conclusively prove that the RPs were communicated to him.

5.9.6 It is, however, a fact that CO was not able to immediately produce a copy of R.P. which should have been in his safe custody, as laid down in the rules and mentioned in para 5.9.2 above. No evidence of personal gain to the CO has been presented by the Prosecution. Further, it is a fact that the bidders were permitted to take delivery of the auctioned lot. Had the price fetched not been adequate, this would not have been permitted.

5.9.7 In view of above, the charge is only partially proved in that the CO did not ensure proper custody of the Reserve Price List (as brought out in para 5.9.6 above).

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5.10 Article-10

5.10.1 The Prosecution charge is that the CO in consideration of his own and in connivance with Sri DK Bose, the then TIA/Now Guwahati and Sri PB Chowdhury, the then CO3-II/Now Guwahati Gds Shed arranged preparation of 7 false bid sheets on 1.9.87 in lieu of original bid sheets that were prepared at the time of Auction Sale held at Now Guwahati on 31.8.87, with a view to conceal the actual state of affairs and thereby tampered with official records. Only 4 sets out of 7 sets (Ex.P/51-A to G) were allegedly signed by the CO and the highest bidders. None of the bid sheets were signed by TIA. CO is alleged to have handed over the seven bid sheets on 2.9.87 to the Vig. Official and recorded on 30.12.87 that these were original bid sheets. But after being informed of Sh. PB Chowdhury's statement that these bid sheets were prepared on 1.9.87 and were not the original bid sheets, changed his statement. Vide Ans. to Q.65 (P-9A to B) at the time of Fact Finding Inquiry, CO stated that 4 Nos. bid sheets on which his signatures existed were original and for the balance 3 nos. he was not sure. Prosecution alleges that this is admission of substitution of atleast 3 sets of bid sheets. Further, according to PO, as per his Written Brief (Annexure-9) plea taken by Sri Bose (PW-7) in reply to Q.3 put by IO on 24.9.93 is not acceptable on the ground that both the documents P-56 & P-58 were written by Sri Bose. He has further pointed out that Sri PB Chowdhury (PW-5), during the inquiry in the course of his deposition on 23.9.93 (answer to Q.2 during Examination-in-Chief) stated that the bid sheets were original and the remarks were added in only one bid sheet marked P-51 regarding the condition of damage as per CO's instructions. At the time of Preliminary Inquiry, in Ans. to Q.14 of Ex.P-49, PW-5 had stated that the 7 sets of bid sheets were substituted on 1.9.87 on the dictation of Sri Bose, the then TIA/Now Guwahati. However, PW-5, vide Ans. to Q.1 during examination by PO on 23.9.93 stated that he stood by the document P-49 except in regard to Q.9. Thus prosecution failed to produce evidence during the regular hearings that the original bid sheets were substituted.

5.10.2 CO, in his defence vide Annexure-10 has also brought out that Sh. PB Chowdhury, Witness PW-5, in reply to Q.1 during his cross-examination by D.C. stated that his answer was dictated by the Vigilance official at the time of Preliminary Inquiry. He has further added that it is not a fact that the bid sheets were taken by Dy.CVO(T) from his custody. He added that all the papers had been taken by the Vig. Branch by issuing the seizure list on 2.9.87 and that he recorded a Note thereon on 30.12.87 when the papers were in the custody of the Vig. Branch. The Note recorded reads as under :-

"The bid sheet which was in my alairah was handed over to Dy.CVO(T) on 2.9.87 as considered original bid sheet"

CO, in his Written Brief stated that he had not written that these were handed over personally by him. He has maintained that these were in the custody of Sh. PB Chowdhury, CGS-II/Now Guwahati. Since he had not completed the same in all respect, they were not signed by him.

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5.10.4. In view of above, the prosecution has failed to prove that the original bid sheets were substituted and that the CO acted in connivance with the then TIA and CGS for personal gain. It is, however, clear that the CO as Auction Conducting official failed to ensure that all the Bid Sheets were signed by the highest bidders and were completed in time by the CGS/Mew Gwahati, immediately after the auction was over and also signed by the TIA and himself as per the rules. An examination of the bid sheet reveals that only C.R. Note No. may legitimately be left blank till the next day. But this could be entered the next day and TIA could affix his signature thereon, once again, this time, only for C.R. Note No. His answers at the time of Fact Finding Inquiry also do not indicate that he arranged for the preservation of the Bid Sheets properly, as required under the rules.

5.11.5 Thus the charge as framed is not proved. However, CO would appear to be responsible for not having ensured proper procedure being followed in regard to completion and preservation of the Bid Sheets.

5.11 Article-11

6.11.1 The Prosecution has alleged that the CO in consideration of his own and in connivance with Sri D.K. Bose, the then TIA/New Guwahati disposed off 391 bags of salt, the particulars of which were inserted in the Bid Sheet of another consignment of 224 bags of salt which were sold through Public Auction on 5.9.86 and thereby cornered the value of entire lot of 391 bags of salt causing loss to the railway. Prosecution relies upon the copy of the R.P. List (Ex. P-60) submitted by Sri D.K. Bose, the then TIA/New Guwahati, wherein the particulars of the lots auctioned on 29.8.86 did not include the quantity of the 391 bags received in wagon No. ME/BC-62525. It has been alleged that the particulars of these 391 bags were inserted by CO at a later date below the particulars of 224 bags indicated against Sl.No.2 in the R.P. Register (P-36). Prosecution has alleged that absence of the particulars of 391 bags in Ex. P-60 establishes that the particulars of 391 bags were entered by C.O. in the R.P. Register at a later date.

5.11.2 C.O., in his defence vide the Written Brief has brought out that the Reserve Price was fixed for 224 + 391-615 bags as Rs.11,500/- and if the reserve price was for 324 bags salt only, it would work out to Rs.51.38 which being very high would be absurd, since similar consignments had a comparatively very low reserve price.

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5.11.3 Prosecution, in the Statement of Imputation have referred to CO's Note dt-5.9.86 "High price / as there was heavy competition amongst the bidders. It is, however, noted that this note is given below item no.3 in the Reserve Price Register which has no relation with the lots under consideration.

6.11.4 The Prosecution has also given a comparison of the R.P. for various lots of salt consignments in the statement of Imputation. For better appreciation, the R.P. per quintal has also been worked out and the results obtained are as under :-

S/No.	Item No. in RP list.	No. of bags.	Weight (Qtls) for the lot.	Total RP (Rupees).	RP (Rupees) per Qtl.
1	1	207	162.75	3,500	16.13
2	3	435	328.25	4,500	13.73
3	4	425	318.75	8,200	25.73
4	7	230	172.50	4,800	27.83

5.11.5 If Rs.11,500/- is considered as the R.P. for 224 bags weighing as 168 Qtls, the R.P. per quintal will work out to Rs.68.45 which is a very high figure compared to the values for other lots which are varying between Rs.13/- to Rs.28/-. The R.P. can be calculated similarly on per bag basis. The value works out to Rs.61.34 per bag as stated by CO vide his Written Final Statement. CO has stated that such a high rate could not be fetched by a lot consisting of 224 bags of salt only. Considering that the consignment of 391 bags was similar to the others, its weight could be taken as about 300 Qtls. Thus if Rs.11,500/- was fixed as the R.P. for the lots of 224 + 391 = 615 bags (168 + 300) = 468 Qtls.) as claimed by CO, R.P. per quintal works out to Rs.24.57, which is comparable to the R.P. fixed for the other lots.

5.11.6 In view of above and in view of the fact that the Prosecution has not been able to present adequate evidence that the particulars of 391 bags salt were added at a later date by the CO, the charge is not proved.

5.12 Article-12

5.12.1 It has been alleged by the Prosecution that the CO in consideration of his own and in collusion with Sri D.K. Bose, the then TIA/New Guwahati and Sri P.B. Chowdhury, the then CGS-II/New Guwahati arranged deposit of Rs.11,050/- being the Sale Proceeds of 1456 bags salt in 3 lots without selling the same through Proper and fair Public Auction Sale on 31.8.87, with a view to deceive the railway from getting due sale proceeds that would have fetched in proper and fair Public Auction Sale.

5.12.2 The Prosecution case relies upon 3 sets of Bid Sheets out of 7 sets (Ex.P-51A to G) which were signed neither by the highest bidders nor by the CO and nor by the TIA. The amount of Rs.11,050/- is the Sale Proceeds consisting of 20% of the Bid amount for the aforesaid 3 sets of the bid sheet. Prosecution case is that the amount was collected without obtaining the signatures of the highest bidders, the Auction Conducting official and Auction Witnessing official, thereby proving that the consignments were not disposed off in an open and fair Public Auction Sale.

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5.12.3 CO, in his defence vide the Written Brief has denied the charges and stated that the Vig.Branch has not mentioned that w.e.f. 1-9-87 the sale of non-iodised salt was banned in the State of Assam and that by conducting the Auction Sale, a good number amount of money was realised by the railway. Otherwise, some expenditure would have been incurred in dumping it.

5.12.4 As stated in para-5.9.4 above, as a result of the joint check of the auctioned lots by the officials including Vigilance on 4.9.87, the same were released to be lifted by the highest bidders. It would, therefore, appear that there was no case of loss to the railway, otherwise, the consignments would not have been released. However, it is a fact that the 3 sets of bid sheets were not signed by the CO and TIA. It was the responsibility of CO and TIA to ensure that the signatures of the highest bidders were taken on the bid sheets on the date of the auction and the bid sheets should also have been signed by himself and the TIA. Thus, the CO would prima-facie appear to be negligent in this regard, though there does not appear to be any loss to the railway.

In view of the above, the charge, as framed, is not proved.

6. P I N D I N G S

Summarising, only partial charges are proved against the C.O. vide Articles - 1,2,3,4,5 & 9 of charges. In none of the Articles of Charges, undue loss to the Railway Admn. has been proved. No other charge, as framed vide Article of Charges, has been proved.

7. Other Matters Brought to Light:

7.1 In para 5.8.4, it has been brought out that the CO failed to take action on the discrepancy observed in the weight of consignment of 64 bags of rice, since he estimated the weight as 30 Qtls. against 47 Qtls. recorded in the Tally Book.

7.2 Clear instructions need to be issued that ACS and TIA should sign the bid sheets on the same day as that of Auction Sale immediately after the fall of hammer and the fact of depositing of the 20% or full bid amount, as the case may, should be recorded clearly. C.R. Notes particulars may be entered the next day, which may once again be signed by TIA before he sends a copy of the auction report to FA & CAO.

7.3 Vide para 5.12.4, it has been brought out that the CO would prima-facie appear to be responsible for a procedural lapse of not ensuring that the highest bidders signed the three bid sheets (Ex.P-51D,E & G) immediately after the fall of the hammer. He himself did not sign these 3 sets of bid sheets and thus violated the extant orders.

DA:-As above.

(Vinod Kumar)
Chief Track Engineer
(Ex.C.B.E./Maligaon)
INQUIRY OFFICER.

A. K. D. S. K.

(50)

For some A/34

To
The Chief Commercial Manager,
Northeast Frontier Railway,
Maligaon.

Sir,

Sub : E/74/GAZ/250/Con.

Ref : Inquiry Report.

With superannuation fast approaching, date being 30.04.94, I opt to withdraw any further representation though I have strong grounds for contest against the findings drawn and I am held partly responsible for some of the lapses.

My humble prayer, therefore, is to kindly keep in consideration that because of this unwarranted Vigilance case, I have already suffered innumerable loss of status and position in as much as that my juniors are all senior Scale Officers and a few of them have even risen to the rank of J.A. Grade (Shri S.C. Dhar, Sr. DCM/APDJ and Shri D. Talukdar who is also cleared for J.A. Grade were not even born in the Officers' cadre when I was Asstt. Commercial Officer).

I have undergone much humiliation already for no fault of mine and it was so when the administration had kept me on such an important chair as ACS/New Guwahati which is highest earner of the NF Railway and have maximum dealing with the users of our system, with Chambers of Commerce and also with high Government Officials both Civil and Army. It is irony of fate that when the employer was happy, the users in public, Semi Government Organisations viz. FCI, STC etc. and the Government Agencies and their high ranking Officers had recommendations for me, this Vigilance Case appeared and ruined my prospects of furtherance.

The Dept. had so much confidence in my sincerity and devotion that they made me to discharge additional duties of the Manager, ICD, Amingaon much against my desire and I had to run up and down from Amingaon to New Guwahati to manage both ends which caused clerical irregularities, letters given shape into serious lapses by that Vigilance Department.

It is not only the loss as above, it also has caused me heavy pecuniary losses in the shape of no increment being at the maximum of the grade and also loss in the shape of difference of pay of higher grade.

In the end, I once again fervently request that this case should be finalised with utmost speed so that I may have peaceful retired life. So far any punishment, if due, in this case, it may borne in mind that I have already undergone heavy penalties as discussed in the body of the letter.

Dated, Maligaon
the April/94.

Yours Faithfully,

(M. C. Talukdar),
Asstt. Comm. Manager/Marketing,
NF Railway, Maligaon.

Attested
R. D. Talukdar
R. D. Talukdar
Maligaon, Guwahati-781011.

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ANNEXURE - A/4.

**Model Time-schedule for finalising departmental proceedings
in case of major penalties**

Stage in the disciplinary proceedings	Time laid down in the D&A Rules.	Time limit for stages where no time limit is laid down in the rules.	Remarks.
(1)	(2)	(3)	(4)
1. Issue of charge-sheet .....	.....	.....	.....
2. Inspection of documents mentioned in the list enclosed with the charge-sheet and taking relevant extract therefrom, with the help of Assisting Railway servant, if any, and asking for inspection of additional documents not mentioned in the list enclosed with the charge-sheet.	20 days Maximum (Sub-rules 5(1) and (111) of rule 9 of RS(D&A) Rules, 1968.	.....	.....
3. Time by which the employee should submit his written statement of defence to the charge sheet, submit a list of witnesses to be examined on his behalf and nominate an Assisting Railway Servant, if not already done.	10 days.	10 days.	No time limit has been laid down in the rules for submitting a list of witnesses and nomination of an Assisting Rly. Servant. Therefore, 10 more days as mentioned in Column 3 may be given to the employee at the discretion of the disciplinary authority.
4. Time by which the disciplinary authority should take a decision to hold an inquiry after considering the defence to the chargesheet.	10 days (including two days for receipt of the statement of defence in the Office of the disciplinary authority)

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(1)	(2)	(3)	(4)
5. Time by which the date inquiry should be fixed after completion of all preliminaries.	20 days (Sub-rule 10 of rule 9)	Though in the rule, maximum of 30 days have been allowed for this purpose; yet it is considered the 20 days would be quite sufficient for the employee to prepare himself for defence. This also does not infringe the rule as the rule is not rigid about this.
6. Time by which the inquiry should be completed and the inquiry Officer should submit his report to the Disciplinary Authority.	.....	60 days	.....
7. Time by which the Disciplinary Authority, should take the decision and issue the notice of penalty.	.....	20 days	.....
50 days.		100 days.	Total 150 days.

A/16/15

D. J. O'Neil
 A. J. O'Neil, (Advocate)
 11/12/27, C.A. No. 781611,