

50/100

4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 256/96

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SECTION OFFICER (Judl.)

B

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

CA No. 256/96

S. Chakrabarty Applicant(s)
-Versus-

Union of India & or. Respondent(s)

Mr. S.R. Sen Advocates for Applicant(s)

Mr. B.K. Sarma, R.S. Advocates for Respondent(s)

Office Notes 8 Date Courts' Orders

This application is in
form and within time
C.F. of Rs. 50/-
deposited vide

IPO RD No. *6144834*
Dated *17.10.96*

4/11/96
Registrar
6/11

19.11.96

Mr. S.R. Sen for the applicant.

Leave note of Mr. B.K. Sharma,
Railway Counsel upto 30.11.1996.

List for consideration of
admission on 3.12.1996.

6/11
Member

trd

m
19/11

8.12.96

None present.

List for consideration of admission
on 12.12.1996:

6/11
Member

trd

12.12.96

None present.

Issue notice before admission.

List for consideration of
admission on 9.1.1997.

6/11
Member

trd

1/12/96

9-1-97

None is present. List for consideration of Admission on 23-1-97.

~~6057-0-0555-070~~
~~0557~~

pg
M
9/11


Member

5.2.97

Mr S.R.Sen, learned counsel for the applicant is present. Mr J.L.Sarkar receives notice on behalf of the respondents. No formal notice is required to be sent.

List for admission on 11.2.97.

10-2-97

1) Requisite has not been submitted till to-day.

2) NO appearance filed.

M
10/2

pg
M
6/2


Member


Vice-Chairman

11-2-97

Mr.S.R.Sen learned counsel for the applicant is present.

List for Admission on 14-2-97.

1) Requisite has not been filed.

2) No appearance has been filed.

lm



Member


Vice-Chairman

14.2.97

This O.A. is against initiation of a departmental proceeding. According to the applicant departmental proceedings were initiated as far back in 1992. Charges were also framed and the article of charges submitted in 1992 itself. However, the proceedings were cancelled and thereafter fresh charges were issued in the year 1993 but uptill now the proceedings has not come to an end. Hence the present application.

Heard Mr S.R.Sen, learned counsel appearing on behalf of the applicant and Mr B.K.Sharma, learned standing counsel appearing on behalf of the respondents. Mr Sen submits that because though


contd..

SB
13/2

7

14.2.97 the charges were framed as far back in 1993 ^{however} there had been only two sittings and thereafter, nothing has been done. Mr B.K.Sharma does not dispute the same but he submits that he has no instruction as to whether the proceedings has been completed or not. On hearing the counsel for the parties we dispose of the Original Application with a direction to the respondents to dispose of the departmental proceedings as early as possible at any rate within a period of 4 months from today. The applicant must participate in the departmental proceedings and if the applicant fails to participate, the authority shall be at liberty to proceed ex-parte.

The application is disposed of. No order as to costs.

20.3.97

Copy of the order has been sent to the D/Sec. for issuing the same to respective parties.

sk

Issued vide J.No. 904-911 Dd. 21.3.97 through Regd. A/O.

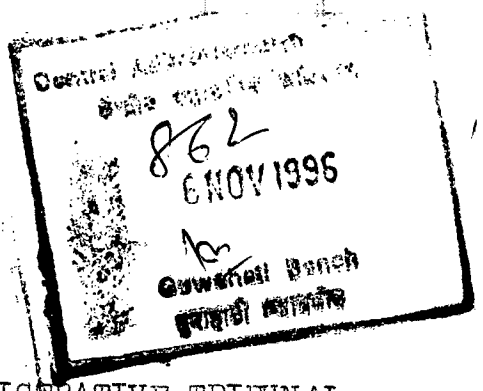
sk
26/3



Member



Vice-Chairman



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH, GUWAHATI

ORIGINAL APPLICATION No. 256 1996

BETWEEN

Shri Sadhangshu Chakraborty

.....Applicant

- Vs -

Union of India & Ors

..... Respondents

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Filed by

S. R. Sen.

(S.R. Sen)
Advocate

Copy received

(Smar)

R/S/AM7

31-10-96

Filed by.
the applicant
through . 6
S. R. Sen.
Advocate
31.10.96.

APPLICATION UNDER SECTION OF THE

ADMINISTRATIVE TRIBUNAL ACT 1985

DATE OF FILING

OR

DATE OF RECEIPT

BY POST

REGISTRATION No. *SA 256/96*

Signature

Registrar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH, GUWAHATI

ORIGINAL APPLICATION No. *256/96*

BETWEEN

Shri Sudhangshu Chakraborty

..... Applicant

- Vs -

Union of India & Ors

..... Respondents.

....2....

1. Particulars of the applicant :

- (i) Name of the applicant : Sri Sudhangshu
Chakraborty.
- (ii) Name of Father :- S. Chakraborty
- (iii) Designation and office :- District Store
in which employed Keeper(DSK)/III DBRT
Dibrugarh
- (iv) Office Address :- -do-
- (v) Address of service :- -do-
of all notices

2. Particulars of Respondents :

- (i) Name and Designation of the respondent :- 1. Union of India,
represented by
Secretary, Ministry
of Railway, Govt
of India, New Delhi.
2. General Manager,
North Frontier
Railway
Head Quarters,
Maligaon.
3. Chief Material
Manager, North
Frontier Railway,
Maligaon, Guwahati.

Contd...3...

S. Chakraborty

:- 4. Controller of Stores,
North Frontier Railway,
Head Quarters Maligaon,
Guwahati.

5. District Controller of
Stores, DBRT, North
Frontier Railway, Dibrugarh.

(ii) Office address of
the respondents :- -do- -do-

(iii) Address for service
of all notices :- -do- -do-

3. Particulars of the order
against which application
is made :

The Application is against the
following order -

(i) Order No. :- Memorandum No. E/S/57 (S)

(ii) Date :- 14.6.93

(iii) Passed by :- District Controller of
Stores, Dibrugarh Town.

(iv) Subject in brief :- An enquiry has been proposed
to be held against the
applicant under Rule 9 of
the Railway Servants
(Discipline and Appeal) Rules,
1968 in respect of charges
enclosed with the memorandum.

Contd....4....

Schankarthy

4. Jurisdiction of the Tribunal :

The applicant declares that the subject matter of the order against which he wants redress is within the jurisdiction of this Tribunal.

5. Limitation :-

The applicant further declares that he has filed appeal/representation dated 24.2.95, 24.3.95 and 16.11.95 for expediting and/or revoking the enquiry proposed to be held against him vide order dated 14.6.93, but no order has been passed thereon and therefore the application is within the limitation prescribed in Section 21 of the Administrative Tribunals Act, 1985.

6. FACTS OF THE CASE :-

The facts of the case are given below :-

- (i) The applicant is a District Store Keeper/III (DSK/III briefly) in the North Frontier Railway at Dibrugarh. At the relevant time he was in-charge of 05 Ward, consisting of strong room No. 8, 9 and 10. While taking over the charge of the 05 ward he noticed certain irregularities, namely huge quantities of Rejected Bronze Ingats of Receipt Section were lying in strong room No.9 of 05 section and he made several requests to the District Controller of Stores,

Contd....5....

Schankaty

Dibrugarh Town (DCOS/DBRT in brief) to remove these but of no avail. In any case the applicant since his taking over the charge had been discharging his duties with dedication.

(ii) On 7.11.91 when one Shri B.Chkarvarty, DSK/I broke the seal of the door of godown No.9 of 05 section to take out 2 pieces of rejected bronge ingats as ordered by DCOS/DBRT, detected shortage of 6 pieces of rejected bronge ingats from all stacks. The then DCOS/DBRT immediately conducted an enquiry. On enquiry it is found that CI sheet over the roof of the godown No. 9 and 10 and further metal cover below the CI sheet roof of godown No.8 and 9 of 05 ward had been forced open. The said DCOS/DBRT thus convinced that the case was one of theft but did not report to the Railway Protection Force and instead got the roof repaired.

(iii) The applicant in the circumstances, however, alongwith Shri B.Chakravarty, DSK/I/DBRT who was also in-charge of the 05 ward jointly submitted a theft report on the same day that is on 7.11.91. The following items were found short in the godown.

a) Tin Ingat (-) 309.200 Kg.

b) Copper Ingat (-) 25.800 Kg

c) Gun Metal Ingat 0

Class II ~~(X)~~ (-) 23.200 Kg.

d) Rejected Bronge Ingot (-) 291 Pcs = 2330 Kg.

Contd....6....

Schakravarty

(iv) The applicant states that even thereafter though physical verification was made by the respondents and they ~~xxx~~ were always of the view that the case is one of theft and accordingly recommended construction of pucca structure.

(v) The applicant states that when the matter was rested at that almost after a gap of one year the DCOS/DBRT, that is, the respondent No.5 issued memorandum dated 16/27.10.92 proposing to hold an enquiry against the applicant under Rule 9 of the Railway Servants (Discipline & Appeal) Rules 1968 with regard to the charges enclosed therewith. Applicant was asked to submit his statement of defence within 10 days. Charge framed against him was that while functioning as DSK/III of 05 ward caused loss to Railway property under his custody valued at Rs. 2,19,782.72 by dereliction of duty and thereby violated sub-rule (II) (III) to Rule 3 (I) of the Railway Services (Conduct) Rules, 1966, which amounts to misconduct. However, no list of document was supplied with the same. Thereafter one Shri J.N.Saikia, DSK/I/DBRT was appointed as fact finding officer, though the said Saikia himself was entangled in a CBI case but all protest in this regard went un-heeded. On 17.8.92 one CBI Inspector also visited the Depot but in fact he conducted no enquiry except collecting few documents from Shri J.N. Saikia.

Contd....7....

Schermanity

A copy of the Memo as referred to above is annexed herewith as Annexure-I.

(vi) The applicant was, by order dated 15.12.92 of the DCOS/DBRT placed under suspension pending disciplinary proceeding. However, he repeatedly requested the respondents to supply him the copies of documents to be relied to enable him to file his written statement of defence but failed to evoke any response from them.

A copy of the order dated 15.12.92 is annexed herewith as Annexure-II.

(vii) To the shock and surprise of the applicant the respondents without initiating any enquiry into the charges as contemplated in memo dated 16/27.10.92, cancelled the same by order dated 12.6.93 issued by the respondent No.5. It has been stated in the said order that the CBI had taken up the case, and a fresh memorandum dated 14.6.93 has been issued seeking to make an inquiry into the charges enclosed therewith against the applicant. Charges as enclosed now is sharp contrast with the earlier charges. Now the applicant has been charged of misappropriating (a) Bronze Ingats valued at Rs.87,919.77 alongwith Shri B.Chakraborty DSK/I DBRT, (b) Tin ingats value Rs. 56,725.83, (c) Copper ingats valued at Rs. 2,28,143/- and (d) Gun metal ingats valued at Rs. 1624/- and thereby contravened Rule 3 (1) (i) and (ii) of Railway Service and Conduct Rules, 1966.

Contd...8...

Schramm

A copy of the order dated 12.6.93 and Memorandum dated 14.6.93 ~~is~~ are annexed herewith as annexure III & IV.

(viii) The applicant thereafter though continued to be under suspension but no departmental or CBI enquiry had been initiated against him. The applicant though continued to be under suspension but had been denied subsistence allowance as per law. It may be stated while in such suspension applicant was now and then engaged into works by the then DCOS/DBRT and was assured that soon he would be allowed to join his duties. In the circumstances he submitted several representations before the respondents to enhance his subsistence allowance and further to revoke his suspension order but the same was futile. One such representation is representation dated 7.8.93.

A copy of the representation dated 7.8.93 is annexed as Annexure-V

(ix) As the enquiry was not proceeded with and the matter has been unduly protracted, the applicant continued to represent before the respondents to revoke the suspension order and to expedite the enquiry proceeding. On such representation ultimately the respondent No.4 by order

19.7.94 ?

Contd....9....

Schramm

dated 19.7.94 revoked the suspension order with effect from 20.7.94 and the applicant has been allowed to resume his duty. After several representations applicant was also allowed to inspect the relevant documents sought to be relied in the enquiry, On 14.2.95, but the copies of the same have not been handed over to him as assured till date.

A copy of the order dated 19.7.94
is annexed herewith as Annexure-VI.

(x) Thereafter the respondent No.5 by his order dated 20.9.94 further corrected the charge framed against the applicant pending enquiry as one of mismanagement and not misappropriation. This improvisation, the applicant state shakes the very credibility of the basis on which the charges have been framed against him.

A copy of the order dated 20.9.94
is annexed herewith as Annexure-VII.

(xi) The applicant was not supplied with the documents to be relied on proving the charges, however on his several requests he was allowed to inspect those documents but though assured that copies of the same would be handed over to him but not so done till date. Applicant states that in the

Contd.....10....

Schamuty

were
meantime dates ~~was~~ fixed and postponed several occasions for preliminary hearing. It may be stated that the preliminary hearing held at Maligaon on 14.8.95 and at Tinsukia on 16.2.96 much headway could not be made. On both such occasions the respondents failed to deliver the applicant the copies of documents sought to be relied by them on enquiry and this alone has seriously prejudiced his defence.

(xii) The applicant for such unreasonable delay in completing the enquiry on several occasions urged the respondents to expedite and/or to withdraw the same but they paid no heed to it. Such representations are dated 24.2.95, 24.3.95 and 16.11.95. Applicant states that though the suspension order has been withdrawn and he is allowed to join but ~~was~~ he has not been paid his salaries, arrears and/or enhanced subsistence allowance for the suspended period.

A copy of the representation dated 16.11.95 is annexed herewith as annexure-VIII.

(xiii) The applicant states that he has been selected for the post of DSK/II vide order dated 12.3.93 but has been denied promotion due to this protracted and unjustified enquiry proceeding.

Contd....11....

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(xiv) The applicant states that protracting the enquiry for such a long period is not only arbitrary and unjustified but also contravenes relevant rules and provisions in this regard and is therefore illegal.

(xv) The applicant states that there could be no justifiable ground for protracting the enquiry for such a long time and therefore the action of the respondents being without any sanction of law is illegal.

7. RELIEF(s) SOUGHT :

In view of the facts mentioned in para 6 above, the applicant prays for the following relief(s) :

- (a) Setting aside and quashing the Memorandum No. E/S/57 (s) dated 14.6.93 and the charges enclosed therewith issued by the respondent No.5 initiating an enquiry into the said charges against the applicant, as the unreasonable delay in completing the enquiry is not only unjustified and arbitrary but also contravenes relevant rules and procedure in this regard.

Contd....12....

Schewerby

- (b) Thereafter direct the respondents to grant all consequential benefits to the applicant including his arrears, dues for the suspended period as well as his promotion to DSK/II with retrospective effect.

8. INTERIM ORDER :

Pending final decision on the application, the applicant seeks issue of the following interim order -

- (i) Direct the respondents to pay the applicant his arrears, dues for the suspended period forthwith, and
- (ii) to promote him to the post of DSK/II as selected vide order dated 12.3.92 with retrospective effect from the date his immediate junior has been promoted.

9. DETAILS OF THE REMEDIES EXHAUSTED:-

The applicant declares that he has availed of all the remedies available to him under relevant service rule.

- (1) Representation dated 24.2.95 before respondent No.3. No order has been passed and communicated,

- (ii) Representation dated ²⁴29.3.95
before the respondent No.3.
No order has been passed and
communicated.
- (iii) Representation dated 16.11.95
before respondent No.3. No order
has been passed and communicated.

10. MATTER NOT PENDING WITH ANY OTHER COURT Etc.:

The applicant further declares that the matter regarding which this application has been made is not pending before any court of law or any other authority or any other Bench of the Tribunal.

11. PARTICULARS OF BANK DRAFT/POSTAL ORDER
IN RESPECT OF THE APPLICATION.FEE :

1. Name of the Bank on which drawn :
2. Demand Draft No.

OR

1. Number of Indian Postal Order(s) 444834
2. Name of the issuing Post Office Gudakali GPO.

Contd...14...

Security

3. Date of issue of Postal Order(s) 17.10.96
4. Post Office at which payable.

12. DETAILS OF INDEX :

An index in duplicate containing the details of the documents to be relied upon is enclosed.

13. LIST OF ENCLOSURES

. In Verification :

I, Sri Sudhangshu Chakraborty,
Son of S. Chakraborty age 40 years
working as District Store Keeper (DSK)/III DBRT
resident of Dibrugarh, ~~Dist~~ Dist. Dibrugarh.
do hereby verify that the contents from 1 to 13 are
true to my personal knowledge and belief and that
I have not suppressed any material facts.

Place : Guwahati

Date : 18.10.96

Sudhangshu Chakraborty

Signature of the applicant.

(Rule 9 of the Railway Servants (Discipline and Appeal Rules, 1968).)

No. 17/3/57 (S)

DOOS/N.F. Railway./DEPT

(Name of the railway Administration).

Place of issue) DEPT

Dated 16.10. 1992

MEMORANDUM

The President/Railway Board/undersigned propose(s) to hold an inquiry against Shri Sudhangshu Chakraborty 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 charge (Annexure I). A statement of the imputations of misconduct or mis-behaviour in support of each article of charge is enclosed (Annexure II). A list of documents by which, and a list of witnesses by whom, the articles of charges are proposed to be substantiated are also enclosed (Annexure III & IV). Further, copies of documents mentioned in the list of documents, as per Annexure III are enclosed.

2. *Shri Sudhangshu Chakraborty 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 the Memorandum. For this purpose he should contact** _____ immediately.

3. Shri Sudhangshu Chakraborty is further informed that if he so desires, take the assistance of any other railway servant, an official of Railway Trade Union (who satisfies the requirement of rule 9 (13) of the Railway Servants (Discipline and Appeal) Rules, 1968 and Note 1 and/or Note 2 thereunder as the case may be) for collecting the documents and assisting him in presenting his case before the Inquiring Authority in the event of an oral inquiry being held. For this purpose, he should nominate one or more persons in order of preference. Before nominating the assisting Railway servant(s) or Railway Trade Union Official(s), Shri Sudhangshu Chakraborty 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 case(s) if any, in which the nominee(s) had already undertaken to assist and the undertaking should be furnished to the undersigned General Manager \$ _____ Railway along with the nomination.

Shri Sudhangshu Chakraborty is hereby directed to submit to the undersigned (through General Manager _____ Railway) a written statement of his defence (which should reach the said G.M.) within 10 days of receipt of this Memorandum, if he does not require to inspect any documents for the preparation of his defence, and within ten days after completion of inspection of documents if he desires to inspect documents, and also:-

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

Contd. 2.

attested
S. L. S.

27/10/92

Shri Sudhangshu Chakraborty is further informed that if he does submit his written statement of defence within the period specified in para 2 or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule of the Railway servants (Discipline and Appeal) Rules, 1966, or orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry ex-parte.

7. The attention of Shri Sudhangshu Chakraborty is invited. 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 and the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Shri Sudhangshu Chakraborty is aware of such representation and that if has been made at his instance 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.

Encls : One

(Handwritten Signature)
(SIGNATURE)

L. N. Pharali
Name and Designation of Competent Authority.
DOOS/DBMT

To Shri Sudhangshu Chakraborty

DSV/III/05 (Designation)
DBMT (Place)

9) Copy to Shri 7/1/11 (Name & Designation) of the lending authority) for information.
1. OO S/Strike out whichever is not applicable.
2. Dy. C/O/S/MLC.

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

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

Where the President is the disciplinary authority.
To be retained where President of the Ry. Board is the competent authority.

To be issued wherever applicable - See Rule 16(I) of the RS(DA) Rules, 1968 - Not to be inserted in the copy sent to the railway servant.

attested
S. R. Sen.

- 17 -
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ANNEXURE -I

Article of charge

Article -I ; Shri Sudhangshu Chakraborty while functioning as DSK/III of 05 ward (Consisting of strong room Nos. 8, 9 & 10) caused loss of Railway property expressly under his custody to the tune of money value Rs. 2,19,782.72 by not maintaining devotion to duty and conduct unbecoming of Govt. servant thereby violated sub-rule -ii) and (iii) to Rule -3 (I) of the Railway services (conduct) Rules 1966. This amounts to serious misconduct.

ANNEXURE-II : Statement of imputations of misconduct or misbehaviour.

On ~~6.4.91~~^{3.11.91} Shri M.N. Chetia, the then DSK/I/R submitted written report for loss of 1809 Kg. Bronze Ingot Gun Metal from the godown No. 9 under 05 ward.

On 7.11.91 at 8-30 hrs, Shri Sudhangshu Chakraborty, DSK/III/05 submitted written theft report informing theft from the strong room No. 8, 9 & 10 of 05 ward under his custody. Since duplicate keys of the locks of the strong room No. 8, 9 & 10 of 05 ward remain under his custody as the custodian of the ward kept keys in his own key box of 05 ward duly locked and sealed with sign and label by him. A thorough investigation has proved that there was no theft or pilferage of the material occurred from Strong room No. 8, 9 & 10 of 05 ward.

The valuable stores missing from his ward are as under :-

Rejected -

1. <u>Bronze Ingot & Gun metal-II</u>		
4037.200 Kg. @ 39.41 per Kg.	= Rs.	1,59,145.46
2. <u>P.L.No. 91160017 Tin Ingot</u>		
309.200 Kg. @ Rs. 183.46 per Kg.	= Rs.	56,725.83
3. <u>P.L.No. 9100057 Copper Ingot</u>		
25.800 Kgs. @ Rs. 88.66 per Kg.	= Rs.	2,287.43
4. <u>P.L.No. 91090040 Gun Metal Cl-II</u>		
23.200 Kg. @ Rs. 70.00 per Kg.	= Rs.	1,624.00
<u>Total -</u>	<u>= Rs.</u>	<u>2,19,782.72</u>

The above loss to Rly. property has taken place for not showing devotion to duty and conduct ~~of~~ and Shri Sudhangshu Chakraborty unbecoming of Govt. servant. Thus he violated sub-rul (ii) & (iii) to Rule-3 (I) of the Railway Services (Conduct) Rules, 1966 which amounts to serious misconduct.

ANNEXURE -III List of Documents

- (a) Theft report - On ~~6.4.91~~^{3.11.91} submitted by Shri M.N. Chetia, the then DSK/I/R.
(b) Theft report - On 7.11.91 submitted by Shri Sudhangshu Chakraborty, DSK/III/05 & Shri B. Chakraborty, DSK/I/R.
- Stock sheet No.1/Stock sheet/SV/91 dt. 25.9.91
- Stock sheet No.2/Stock sheet/SV/91 dt. 5.12.91
- Stock sheet No.7/Stock sheet/SV/91 dt. 12.12.91
- Joint Tally Book of Bronze Ingot at Strong room No. 9 of 05 ward for the period from 14.12.91 to 23.12.91.
- Joint Tally Book of reweighment from 23.10.91 to 2.11.91.

Contd....20

attested
Sud su

27/11/91

ANNEXURE -IV : List of witness

1. Shri B.Chakraborty, DSK/I-R
2. Shri M.N. Chetia, Ex.DSK/I-R
3. Shri R.R. Sengupta, DSK/06,
4. Shri N.M. Chakraborty, Ex-ISA
5. Shri U.N. Bhuyan, Ex- DSK/I/Stock.
6. Shri J.N. Saikia, DSK/I/G,
7. Shri Muidur Rahman, Hd.Clerk/G
8. Shri R.K. Koiri, Khalasi, 05 ward
9. Shri Sripati Chakraborty, Sr.Clerk/G.

13
27/10/92
DCOS/LBRT

Attended
S. & Co.

Ann-II

19

24

STANDARD FORM NO.

CONFIDENTIAL

G. 174 A

Standard form of order of suspension
(Rule 5(1) of the RS (D & A) Rules 1968)

No. 2/2/57(S)

(Name of Railway Administration) N.F. Railway,

(Place of issue) DEPT. Dated 15/12/92

O R D E R

Order of suspension

Whereas a disciplinary proceeding against Shri. Suchangshu Chakraborty (name and designation of the Railway servant) is contemplated, pending.

Whereas a case against Shri. DSK/III/05 (name and designation of the Railway servant) in respect of a criminal offence is under investigation/inquiry/trial.

Now, therefore, the President, the Railway Board, the undersigned (the authority competent to place the Railway servant under suspension in terms of the Schedules I, II and III appended to RS (D&A) Rules, 1968, an authority mentioned in proviso to rule 5(1) of the RS (D&A) Rules 1968) in exercise of the powers conferred by rule 4/proviso to rule 5(1) of the RS (D&A) Rules, 1968, hereby places the said Shri. Suchangshu Chakraborty under suspension with immediate effect/with effect from 16/12/92 (PM).

It is further ordered that during the period this order shall remain in force, the said Shri. Suchangshu Chakraborty shall not leave the headquarters without obtaining the previous permission of the competent authority.

(By order and in the name of the President)

(Signature) [Signature]

(Name) (L. J. Bharali)

District Controller of Stores/DEPT.

Designation of the suspending authority

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

(Designation of the officer authorised under article 77 (2) of the Constitution to authenticate orders on behalf of the President, where the President is the Suspending authority).

Copy to: - COB/MLG & NAO/DEPT for information and necessary action.

Copy to: - OS/Estt., TK, DSK/1(S),

✓ Shri. Suchangshu Chakraborty (name and designation of the suspended Railway servant). Orders regarding subsistence allowance admissible to him during the period of suspension will issue separately. DSK/III/05 through DSK/1(S) for n/a.

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

*Attended
S.R.*

Annex-III

-20-

25

Confidential

Office of the
Distt. Controller of Stores,
N. F. Railway, Dibrugarh.

Dt. 12.6.93

No. E/S/57 (3)
To

Shri Suchangshu Chakraborty,
DSK/III

Sub : Major penalty charge sheet No. E/S/57(S)
dated 16/27.10.93.

Major penalty charge sheet No. E/S/57(S)
dated 16/27.10.92 was issued by the undersigned,
and this has been cancelled as per CVO/MLJ's confidential
letter No. 2/117/94/210/92 dated June, 10, 1993 being
the case has been taken up by CBI.

Please acknowledge receipt of it.

[Signature]
DCCS/DBRT

Copy to Dy.CVO(S)/MLJ for information.

DCCS/DBRT

Received
on 15/6/93
at 12.30 hrs
Sinambh.

Collected
S. R. S.

(Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968).

1/3/57 (S)

No. /

(Name of the Railway Administration).

of issue)

DRI

Dated 14/6/ 19 93

MEMORANDUM

The President/Railway Board/undersigned propose(s) to hold an inquiry against Shri Sudhangshu Chakraborty 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 charge (Annexure I). A statement of the imputations of misconduct or mis-behaviour in support of each article of charge is enclosed (Annexure II). A list of documents which, and a list of witnesses by whom, the articles of charges proposed to be substantiated are also enclosed (Annexure III & IV) further, copies of documents mentioned in the list of documents, per Annexure III are enclosed.

*Shri Sudhangshu Chakraborty 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 the Memorandum. For this purpose he should contact** _____ immediately.

Shri Sudhangshu Chakraborty is further informed that if he so desires, take the assistance of any other railway servant or official of Railway Trade Union (who satisfies the requirement of Rule 9 (13) of the Railway Servants (Discipline and Appeal) Rules, 1968 and Note 1 and/or Note 2 thereunder as the case may be) for inspecting the documents and assisting him in presenting his case before the Inquiring Authority in the event of an oral inquiry being held. For this purpose, he should nominate one or more persons in order of preference. Before nominating the assisting Railway servant(s) or Railway Trade Union Official(s), Shri Sudhangshu Chakraborty 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 case(s) if any, in which the nominee(s) had already undertaken to assist and the undertaking should be furnished to the undersigned General Manager § _____ Railway along with the nomination.

Shri Sudhangshu Chakraborty is hereby directed to submit to the undersigned (through General Manager _____ Railway) a written statement of his defence (which should reach the said G.M.) within _____ days of receipt of this Memorandum, if he does not require to inspect any documents for the preparation of his defence, and within ten days after completion of inspection of documents if he wishes to inspect documents, and also:-

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

Contd...2.

attested
Subra

Received
on 15/6/93
Senarath

[Handwritten initials]

: 2 :

Shri Sudhangshu Chakraborty is further informed that if he does submit his written statement of defence within the period specified in para 2 or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule of the railway servants (Discipline and appeal) Rules, 1968, or orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry ex-parte.

1. The attention of Shri Sudhangshu Chakraborty 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 and the Government. If any representation is received on his behalf from another person in respect of any matter dealt within these proceedings it will be presumed that Shri Sudhangshu Chakraborty is aware of such representation and that if has been made at his instance action will be taken against him for violation of Rule 20 of the Railway services (conduct) Rules, 1966.

2. The receipt of this Memorandum may be acknowledged.

Enclo : One

[Handwritten signature]
(SIGNATURE)

(L.N. Bharal)
Name and Designation of Competent Authority.
DCSB/DBRT

To Shri Sudhangshu Chakraborty
DSK/III (Designation)
DBRT (Place)

(a) Copy to Shri J.N. Saikia, DSK/I/G (Name & Designation of the lending authority) for information.
Strike out whichever is not applicable.

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

**Name of the authority. (This would imply that whenever a case is referred to the disciplinary authority by the Investigating Authority or any authority who are in the custody of the listed documents or who would be arranging for inspection of documents, the authority being mentioned in the draft Memorandum should be the President is the disciplinary authority.

to be retained where President of the Rly. Board is the competent authority.

to be issued wherever applicable - See Rule 16(I) of the RS(RA) Rules, 1968 - Not to be inserted in the copy sent to the railway servant.

Copy to Dy.CVC(S)/MLB, for information with reference to his confidential letter No.-Z/Vig/94/2/10/92 dated 10th June/1993 and 29.12.92.

attested
Sd/-

Article of charge

While Shri Sudhangshu Chakraborty was posted and functioning as DSK/III, N. F. Railway, Dibrugarh during the year 1991-92, he failed to maintain absolute integrity and devotion to his in as much as he (misappropriated) Bronze ingots weighing 2230.900 lbs valued Rs. 87919.77 along with Shri Bhabatosh Chakraborty, DSK/I, N.F. Rly., Dibrugarh He further (misappropriated) Tin ingots weighing 309.200 Kgs. valued Rs. 56,725.83. Copper ingots weighing 25.800 Kgs. valued Rs. 2087.43 and Gun metal ingots weighing 23,200 Kgs. valued Rs. 1624.00 and thereby the above acts Shri Sudhangshu Chakraborty contravened the provision of Rule 3. (1) (i) & (ii) of Rly. service and (Conduct) rules, 1966.

ANNEXURE-II

It is alleged that Shri Sudhangshu Chakraborty was posted and functioning as DSK/III in the office of the DCOS, N. F. Rly. Dibrugarh in the year 1991-92..

It is alleged that Bronze ingots belonging to Ward No.07 was kept in ward 05 of which Shri Sudhangshu Chakraborty was in-charge. On superannuation of Shri K.L. Chetia, DSK/I Shri Sudhangshu Chakraborty became joint custodian alongwith Shri Bhabatosh Chakraborty, incharge of ward 07 in respect of Bronze ingots.

It is alleged that after physical verification of the bronze ingots kept in 05 ward in presence of both Shri Sudhangshu Chakraborty and Shri Bhabatosh Chakraborty, the door of the strong room was locked and sealed under the joint signatures of the both custodians on 2/11/91 and the key was retained with Shri Sudhangshu Chakraborty.

It is alleged that on 7/11/01 when the DCOS, Dibrugarh ordered sending of few bronze ingots to National Test House, Nilima, the door of the strong room was opened in presence of the both Shri Sudhangshu Chakraborty and Shri Bhabatosh Chakraborty. On opening of the door some pcs. of Bronze ingots were found missing.

It is alleged that on receipt of the missing report DCOS Dibrugarh ordered verification of Stock of 05 ward by Shri J.M. Bhayan, DSK/I, Dibrugarh. He also appointed Sri J.N. Saitia, DSK/I, Dibrugarh for fact finding.

It is alleged that during verification of the said stock between 14/12/01 and 23/12/01 in presence of both

Contd...2.

attested
S. R.

-24-
201
68

Shri Sudhangshu Chakraborty and Shri Bhabatosh Chakraborty, Bronze ingot weighing 2230.900 Kgs. valued Rs. 87,919.77 was found short for which Shri Sudhangshu Chakraborty and Shri Bhabatosh Chakraborty was joint custodians.

It is alleged that during the said verification tin ingots weighing 309.200 Kgs. valued Rs. 56725.83, Copper ingot weighing 25.000 Kgs. valued Rs. 2287.48 and Gun metal ingots weighing 23,200 Kgs. valued Rs. 1624.00 were also found short for which Shri Sudhangshu Chakraborty was the sole custodian.

It is alleged that Shri Sudhangshu Chakraborty tried to give an impression that the shortage was due to theft committed by some unknown culprits, but the possibility of the fact was ruled out by the report submitted by Shri J.N. Saikia, fact finding officer.

Whereby the above acts of Shri Sudhangshu Chakraborty DCK-111 office of the DCOs, N.F. Rly. Dibrugarh contravened the provisions of rule 3(1) (i) & (ii) of Rly. service (Conduct) Rule, 1966.

14/6/93
DCCS/DBRT

attached
S. Ravi

Calendar of evidence (Documentary)

1. Field book for Depot Verification of 05 ward from 29-12-89 to 2.11.91.
2. Field book for Depot verification concerning to BSK/Stock Dibrugarh maintained by Shri U.N. Bhuyan.
3. Ledger Card No. 91/05/45) page No. 10 in respect of Copper Injots.
4. Ledger Card No. 91/05/43 (Page No. 4) in respect of Gun metal.
5. Ledger card No. 91/05/50 (Page No. 18) in respect of Tin Injots.
6. SPR Page No. 209 for Nov/91 in respect of Copper Injots.
7. SPR page No. 183 for January '92 in respect of Tin Injots.
8. Position of stock item for Dec/91 in respect of Gun metal.
9. Verification report of Sri U.N. Bhuyan dt. 6.1.92 in respect of non-ferrous materials containing in godown of 05 ward.
10. Letter No. S/DCOS/91/Policy dated 12.11.91 of DCOS, Dibrugarh.
11. Report of S/11/BSK/S Dtd. 2.5.92 of Shri J.N. Saikia.
12. Seal label of Strong Room No. 9 of 05 ward dt. 7.11.91 and 8.11.91 jointly signed by S. Chakraborty & B. Chakraborty.

This will prove that ~~at~~ as on 2.11.91 there was a balance of 18842.50 Kg. of Rejected Bronze Injots as 2538 pieces in 05 ward which was accepted by both A-1 and A-2.

This will prove the shortage were detected by Shri U.N. Bhuyan during verification from 14.12.91 to 23.12.91.

Sl. No. 3 to 5 will ~~xx~~ prove the shortages during verification from 14.12.91 to 23.12.91.

Sl. No. 6 to 8 will prove the cost of the materials.

This will prove that Shri J.N. Saikia was appointed Fact finding officer regarding shortages of materials.

This will prove that Shri Saikia did not agree that the shortage was due to theft.

This will prove that at the time of opening the door the seal on the labels were intact.

Contd. 4.

attested
S. R.

13. Cash transfer issue Note
dt. 04/04/1378/2 dt.
20.5.82.
14. Handing over/taking over charge
report of Sri K.M. Chetia and
Sri B. Chakraborty, dt. 4.11.91.
15. Report of theft submitted by
Sri B. Chakraborty and Shri
S. Chakraborty dt. 7.11.91
addressed to DCOS.
16. Report of theft by Sri. S. Chakraborty
dt. 9.1.92 in respect of Tin Ingots.

This will prove the cost
of Bronze Ingots. 3

ANNEXURE-IV

211 names of Evidence (Oral)

1. Sri J.N. Saikia, DSK-I
M. P. Rly. Dibrugarh.

2. Sri J.N. Chhayan, 4
DSK/I/DBRI
(Retired)

He will prove that
Sri S. Chakraborty and Shri
B. Chakraborty were joint
custodians of Bronze Ingots
and Sri S. Chakraborty
was the sole custodian in
respect of other items.

He will also prove the amount
of shortage found during
the verification of stock.

He will further prove that
there was no possibility of
theft.

[Signature]
DCOS/DBRI

attested

S.R.S.

1. DEOS / REPORT, (Through New Delhi / OSMI)
L.P. Railway.

Sub - pray for joining on duty, increasing of subsistence allowance and regarding the reasons for suspension w/d 16/12/92.

Ref - Your Memo - R/S/57(3) dt. 15/12/92, S/11/07/DEOS/Thrift & Loss/92 dt. 25/1/93, 28/4/93, S/11/07/Bronze Ingot/Verification dated 8/5/93

Sir,

My appeals dated 21/1/93, 10/5/93 & 28/6/93.

With due respect I beg to state the following facts for favours of you. Kind consideration & necessary action please.

That Sir, as per your orders dated 15/12/92, I have been suspended w/d 16/12/92 without showing any reason for the said suspension. Subsequently, I have made a few appeals, as stated above, for joining me on duty.

That Sir, it is requested to inform you that, by this long period of my suspension the Admn has neither increased my (half leave salary) subsistence allowance nor let me know the reasons for the suspension, as per rules laid down.

^{attested} & By - here that I have also attended the office & performed the normal official works along with the other staff on 14 and 15th May 1993 even during the period of my suspension, as per your orders dated 8/5/93.

You are therefore requested to personally see the matter and allow me to join duty, increase my subsistence allowance and let me know the reasons for my suspension at the earliest.

With best regards,

Yours faithfully
Sudhanshu Chandra
DSK/Suspendo

Dated, Dibrugarh.
7-5-1993.

Annex-1/1

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STANDARD FORM NO. 1

N. F. RAILWAY.

G.174.7.

STANDARD FORM OF ORDER FOR REVOCATION OF SUSPENSION ORDER.

(Rules 5 (5) (c) of NS(D&A) Rules 1963).

No. ES/57 (S)

DCOS (Name of the Rly. Administration)

(Place of issue..DBRT.... Dated 19.7.94

ORDER.

Whereas an order placing Sri/Smt. Sudhangshu Chakraborty, DSK/III (name and designation of Railway Servant) under suspension was made/was deemed to have been made by DCOS/DBRT. on 16.12.92.

Now, therefore, the president/the Railway Board/the undersigned (the authority which made or is deemed to have made the order of suspension or any other authority to which that authority is subordinate) in exercise of the powers conferred by clause (c) of sub-rule (5) of rule 5 of the NS (D&A) Rules 1963 hereby revokes the said order of suspension with immediate effect/with effect from 20.7.94.

(By order and in the name of the President)

(Signature [Signature])

(Name) (S.P.Dwivedi)

DCOS/N.F. Rly/DBRT
Designation of the authority making order.

(Secretary, Railway Board, where the order is made by the Railway Board).

Designation of the officer authorised under article 77 (2) of the Constitution to authenticate orders on behalf of the President where the order is made by the President).

attested
S.R.

Copy to - Sudhangshu Chakraborty, DSK/III under DCOS/DBRT

1. Sri/Smt. Barbari Rly. Colony (name and designation of the suspended Railway Servant).

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

- 2. NAO/DBRT, (3) Dy. CME/DBRT (4) COS/MLG, (5) DSK/I, (6) CVO/MLG
- (7) Asstt. Bill (8) Spare copy for P/Case.

DCOS/DBRT

Received
Shankar
17/7/94
at 17.00 hrs

Office of the
Distt. Controller of Stores,
N. F. Railway, Dibrugarh.

Dt. 20.9.94

E/S/57 (S)

✓ Shri Sudhangshu Chakraborty,
DSK/III/DBRT.

Sub : Corrigendum.

In reference to SF-5 No. E/S/57 (S) dated
16.9.93 served to you, the following corrigendum is
issued :-

The word "Mis-appropriated" should be read
as "Mis-managed" in the article of charge of Annexure-I.

[Signature]
DCCS/DBRT

Copy to :- 1. Shri J.N. Saikia, DSK/I/3
2. Dy.C/O(S)/MLG

This is in reference
to EC/HD/MLG's confl.
L.No. 2/CCN/CHI/AC:94
dated 23rd Aug/94.

DCCS/DBRT

Received
at 15:30 hrs
on 21/9/94

[Signature]

Attended
S.R.S.

ANN-VIII

Hon'ble Chief Material Manager,
RAILWAY, Maligaon at Dibrugarh.

Sub: Prayer for expediting the long pending DAR Enquiry, releasing the deducted salary amount during the suspension period wef. Dec 892 to July 894 and for the promotion of DSK/II with the protection of seniority position.

Ref: My appeals dated 24.2.95 and 24.3.95 to DCOS/DBRT.

Respected Sir,

With due respect I beg to state the following few lines for your favour of your kind consideration and necessary action please.

That Sir, on 7.11.91, I submitted a theft report with sri Bhabatosh Chakraborty then DCOS/DBRT. Sri Bharali the then DCOS/DBRT treated the said incident as a theft case and subsequently he issued me a Major Penalty Charge Sheet on 27.10.92 with out any copies of listed documents. On 15.12.92 he suspended me wef. 16.12.92 without showing any reason. He also compelled me to do official works even during my suspension period on 14 and 15th May 1993 along with others. And neither he allowed me to join duty nor increased my subsistence allowances on the other hand he modified the chargesheet on 14.6.93 and nominated Sri J.N.Saikia as the fact finding officer in the said aspect, who possessing the doubtful integrity due to a CBI case No. RC/25(A)/88-SHG.

Sir, I made several appeals to him for revocation of suspension orders, increasing of subsistence allowances and reason for the said suspension and he did not considered any of my request.

That Sir, in another case he also tried to conduct a DAR enquiry against me even violating the Court's order and subsequently he begged apology to Court for his mistake.

That Sir, our present DCOS/DBRT Sri Dwivedi considered my case and allowed me to join duty on 20.7.94 without any condition (after the lapse of 19 months from the date of my suspension), also allowed me to inspect the listed documents and accordingly I submitted the defence statement along with the consent letter of my defence counsel as on Feb'95.

That Sir, after the lapse of 22 months while the date of Preliminary Hearing fixed on 14.8.95 at Maligaon, not started due to non-attendance the concerned Presenting Officer. It is regretted to inform you that, no date has yet been refixed even for the preliminary hearing.

That Sir, I have already selected for the post of DSK/II vide APO (G&S) / MLG's L/No. E/254/IV/94(S) dt. 12.3.92 and till date neither the posting order nor the reason for non issue of the same has been informed to me by the Administration.

Sir, I have requested our DCOS/DBRT as on 24.2.95 and 24.3.95 for the remedial measures but with no effect as yet. As a result, most of my colleague have already promoted to the post of DSK/I, while I the only person is depriving of my promotion.

Finding no other alternatives I approach to your honour with folded hands and requested you to kindly arrange for expediting the long pending DAR Enquiry, arrears payment of suspension period and my due promotion at the earliest.

An early action to this regard will keep me evergrateful to you.

With best regards,

Yours Faithfully,

Dated, Dibrugarh.
The 16th. Nov. 1995.

Sudhangshu Chakraborty
(Sudhangshu Chakraborty)
DSK/Chasing under DCOS/DBRT.

Original copy handed over
Sri Rakha, CMM/MLG at DBRT
Charities of DY.CHE/DBRTS on
at 12.15 hrs, through DCOS/DBRT.

5/20/95