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

(1) MP 261/98 under page 1 to 2 dtd 4.12.98  
(2) MP 265/98 under page 1 dtd 4.12.98  
(3) MP 122/96 under page 1 to 3 Allowed 5.3.97

(DESTRUCTION OF RECORD RULES, 1990)

**INDEX**

O.A./T.A No. 185/96

R.A./C.P No. ....

E.P./M.A No. ....

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3. Judgment & Order dtd. ....Received from H.C/Supreme Court
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SECTION OFFICER (Judl.)

Salite  
30.1.18

At No. 185/96

Sri. Deena

Applicant(s)

VS-

Union of India & Respondent(s)

Mr. P. Upadhyay, M.C. Don

~~Mr. P. Upadhyay, M.C. Don~~ Advocates for the applicant(s)

Mr. B. K. Sharma RC Advocates for the Respondent(s)

Office Notes

Date

Courts' Orders

This application is in  
form and within time

C.H. of Rs. 50/-

deposited vide

IPO/RS No. 346806

Dated 26.8.96

*[Signature]*  
Registrar. 10/9/96

The case was defective  
& now removed.

1) Statement has not been submitted  
2) Service copy has not submitted  
to notices

5.11.96

Service of copy to  
Respondent not yet  
filed by the applicant  
Advocate.

Ben.  
w/ statement - has not been  
submitted.

5/12

19.9.96

Heard learned counsel Mr P.

Upadhyay for the applicant. Perused

the contents of the application and

the reliefs sought. Application is

admitted. Issue notice on the res-

pondents by Registered Post. Written

statement within six weeks.

List for written statement and  
further orders on 13.11.1996.

This is a Division Bench matter  
~~list~~ To be listed before Division  
Bench.

*[Signature]*  
Member

13.11.96

None present. Written state-

ment has not been submitted.

List for written statement  
and further orders on 16.12.96.

*[Signature]*  
Member

pg

M

14/11

Notice Issued to the  
Concerned parties  
to the Respondant  
No. 1 to 6 vide  
D. No - 4137 to 4142  
Dated - 17.12.96.

6.12.96

None present.

Written statement has not been  
submitted.

List for written statement and further  
orders on 6.1.1997.

Member

trd

W  
6/12

W  
17-12

Written Statement has  
not been filed.

6.1.97

None present. No written statement  
has been filed.

List for written statement and fur-  
ther orders on 28.1.97.

Member

9-1-97

Notice duly served  
Respondant No- 3, 4, &  
5. A.

pg

W

27-1-97

28.1.96

None present for the applicant.

Mr. B.K.Sharma, Railway counsel present  
for the respondents.

List for further order on 5.2.1997.

Member

Vice-Chairman

trd

W  
4/12

4.3.97

Written Statement  
has not been filed  
by the respondents.

5.2.97

Written statement has not been submitted.  
in spite of several extensions of time. We are  
not inclined to grant any further time.

List this case for hearing on 5.3.97.

Member

Vice-Chairman

nkm

W  
6/12

W

(3)

O.A. 185 of 1996

5.3.97

In view of the order passed in M.P. No. 122 of 1996(O.A. 185/96) we grant three weeks time to file written statement.

List on 31.3.1997 for further orders..

  
Member

  
Vice-Chairman

1) ~~Service~~ ~~Reports~~ duly send  
on op. Nos-1, 3, 4 & 5.  
2) Service Reports are  
still awaited on op.  
Nos. 2 & 6.  
3) W/ statement - has not  
been b/w  
4) Memo of appearance  
has not been b/w -  
80  
27/3

trd  
11/3

31.3.97

Mr B.K. Sharma, learned Railway Counsel, informs that he has not been able to file the written statement. He prays for further extension of time for filing of written statement. We have perused the order sheets. Several adjournments have been granted. We are not inclined to grant any further time. The case will be heard without the written statement.

Let this case be listed for hearing on 19.5.97.

  
Member

  
Vice-Chairman

nkm


11/4

19-5-97

1) Service Reports are  
ready on R.Nos 1, 3, 4 & 5  
2) W/s - has not been b/w  
27/7

There is no representation.  
List on 3/7/97, for hearing.

  
Member

  
Vice-Chairman

3.7.97

A mention has been made on behalf of Mr P. Upadhyaya, learned counsel for the applicant that Mr Upadhyaya is unable to attend court today due to his personal difficulty.

The case is adjourned till 18.8.97.

Member

Vice-Chairman

nkm

18-8-97

Heard Mr.P.Upadhyaya, learned Sharma counsel for the applicant and Mr.B.K. learned counsel for Railway Administration.

Hearing concluded. Orders to-morrow.

Member

Vice-Chairman

lm

19.8.97

Judgement delivered in the open court. The application is disposed of. No order as to costs. Order is kept in separate sheets.

Member

Vice-Chairman

trd

14.8.97

- 1) Notice duly served on R-1,3-5.
- 2) NO written statement has been filed.

- 3) Memo of appearance for not yet filed. JH

NT  
14/8/97.

13.11.97

Copy of the Judgment has been sent to the d/pes for filing and also to the party's

at vide No. 34098

Dated 18.11.97.

6

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : GUWAHATI-5

O.A. No. 185 of 1996

Date of decision 19.8.1997

Sri Dina

PETITIONER(S)

Mr. P. Upadhyay, Mr. M.C. Das.

ADVOCATE FOR THE  
PETITIONER(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)

Mr. B.K. Sharma, Railway Standing Counsel.

ADVOCATE FOR THE  
RESPONDENT(S)

THE HON'BLE MR. JUSTICE D.N. BARUAH, VICE-CHAIRMAN.

THE HON'BLE SHRI G.L. SANGLYINE, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether the Judgement is to be circulated to the other Benches?

Judgement delivered by Hon'ble Vice-Chairman



X

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 185 of 1996

Date of decision : This the 19th day of August, 1997.

Hon'ble Mr. Justice D.N.Baruah, Vice-Chairman.

Hon'ble Shri G.L.Sanglyine, Administrative Member.

Sri Dina

Son of Ramji

Compulsory Retired Carriage/Fitter/BPB

Rly Qtrs No. L-205/A, Jharna Colony,

P.O. Bodarpur,,

District-Karimganj (Assam

Applicant.

By Advocate Mr. P.Upadhyay.

-versus-

1. Union of India  
through the Secretary to the Govt. of India,  
Ministry of Railway,  
New Delhi.
2. The General Manager,  
N.F.Railway, Maligaon,  
Guwahati-11.
3. The Senior Divisional Mechanical Engineer (P),  
LMG, N.F.Railway, Lumding,  
District-Nagaon, Assam.
4. The Divisional Railway Manager (P),  
N.F.Railway, Lumding,  
Lumding, District-Nagaon,  
Assam.
5. The Divisional Mechanical Engineer (C&W)  
N.F.Railway, Lumding,  
District-Nagaon (Assam).
6. The Assistant Mechanical Engineer,  
N.F.Railway, Badarpur.

Respondents.

By Advocate Mr. B.K.Sharma, Railway Standing Counsel.

O R D E R

BARUAH J.(V.C.).

In this application the applicant has challenged the Annexure-A/20 order dated 1.12.1994 passed by the Respondent No. 5 terminating the service

....of

B

of the applicant with effect from 20.12.1994 and the compulsory retirement order dated 8.2.1995 Annexure-A/22 by way of punishment passed by the Appellate Authority and also prays for further directions to give him consequential benefits including back wages and promotion. The facts are;

2. At the material time the applicant was Carriage Fitter under the Carriage and Wagon Superintendent, Badarpur, N.F. Railway and was working there. According to him he rendered his service to the satisfaction of his superior authorities. After about 22 years of unblemish service the applicant was placed under suspension by order dated 22.2.1986. He states that suspension order was revoked with effect from 12.6.86 by the order dated 24.6.86 passed by the 5th respondent. During the period of suspension the applicant was verbally informed by his Office Superintendent that he was transferred to New Guwahati but he was not allowed to join his duty. On 27.11.86 the order of transfer was cancelled and the applicant was allowed to resume his duty. Again he was suspended by the 6th respondent by Annexure A/3 order dated 11.9.87 and the order of suspension was revoked on 1.10.1987. Later on memorandum of charges framed against him was served and appellant was directed to show cause as to why action would not be taken against him. The written explanation was submitted by the applicant. The authority not being satisfied with the explanation submitted by the applicant decided to hold an enquiry. An enquiry officer was appointed accordingly. The enquiry officer after the enquiry found him guilty and therefore he

...was

AB

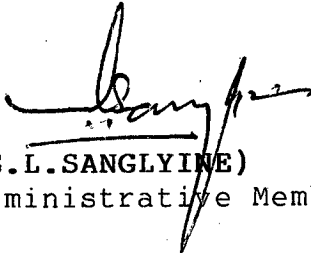



was dismissed from his service. On appeal the Appellate Authority confirmed the finding of the Disciplinary Authority holding him guilty. However the order of dismissal was converted to compulsory retirement. Hence the present application.

3. We have heard Mr. P. Upadhyay, learned counsel appearing on behalf of the applicant and Mr. B.K. Sharma, learned Standing Railway Counsel. Learned counsel for the applicant submits that after alteration of the punishment from dismissal to compulsory retirement, the applicant was not paid the retirement benefits. Mr. B.K. Sharma, learned Railway counsel very fairly submits that if any amount pursuant to the voluntary retirement is due to him as per rules, he will get the same if not already paid.

4. On hearing counsel for the parties we dispose of the application with direction to the respondents to pay all the retirement benefits which an employee on voluntarily retired is entitled to, if not already paid, as early as possible at any rate within a period of 3 months from the date of receipt of the copy of this order.

Considering the entire facts and circumstances of the case, however, we make no order as to costs.

  
(G.L. SANGLYINE)  
Administrative Member

  
(D.N. BARUAH)  
Vice-Chairman

IN THE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. No. 185 of 1996

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

Sri Dina ..... Applicant

-Versus-

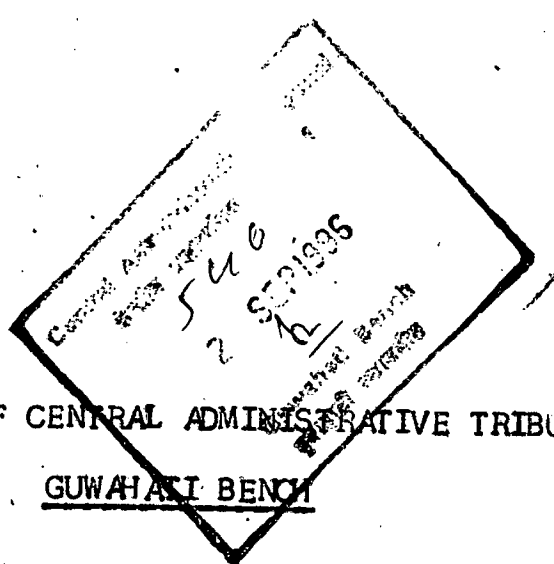
Union of India & Ors ... Respondents.

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Contd...

*Indenture to be made in  
copy to the standing counsel of  
Railway - 30/8/96*



*Filed by  
Sri Dina  
through his Advocate  
30/8/96*

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Date of Filing 30/8/96

Registration No. PA 185/96

Registrar.

*[Signature]*

12

IN THE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI  
BENCH

BETWEEN

Sri Dina                                      ....                                      Applicant

-Versus-

Union of India & ers .....                                      Respondents

1. PARTICULAR OF APPLICANT

SRI DINA

son of Ramji

Compulsory Retired Carriage/Fitter/BPB

Rly Qutrs No. L-205/A, Jharna Colony

P.O. Bodarpur, District-Kamringanj (Assam)

2. PARTICULAR OF RESPONDENTS

(1) Union of India

through the Secretary  
to the Govt. of India  
Ministry of Railway,  
New Delhi

(2) The General Manager

N.F. Railway, Maligaon  
Guwahati - 11

(3) The Senior Divisional Mechanical Engineer (P)

IMG, N.F. Railway, Lumding  
District-Nagaon, Assam.

Contd...

- 19
- FT
- (4) The Divisional Railway Manager (P)  
N.F. Railway, Lumding,  
Lumding, District Nagaon (Assam)
- (5) The Divisional Mechanical Engineer (C&W)  
N.F. Railway, Lumding, District-Nagaon (Assam)
- (6) The Assistant Mechanical Engineer, N.F.  
Railway, Badarpur

3. PARTICULARS OF ORDERS WHICH APPLICATION IS MADE

The application is directed against the following orders :-

- (I) The order/clarification dated 21-11-95 passed by the Divisional Railway Manager (P), Lumding under reference No ED/116 in connection with the appeal filed by the applicant on 7.11.95.
- (II) The order dated 8.2.1995 passed by the Senior Divisional Mechanical Engineer (P)/IMG, N.F. Railway, Lumding making observation that "I have gone carefully through the appeal submitted by Sri Dina and the punishment is reduced to compulsory retirement from service" and the said order is communicated by the Divisional Railway Manager (P) to the applicant under reference No. ED/116 dated 8.2.1995.

14/11/94  
[Signature]

(III) The order dated 1-22-94 passed by the Disciplinary Authority (Divisional Mechanical Engineer (C&W) N.F. Railway, Lumding removing the applicant from his service with effect from 20-12-94 vide No.ED/116 dated 1-12-94.

(IV) The Order dated 28-9-87 purportedly passed by the Divisional Mechanical Engineer (C & W) transferring and posting the applicant vide the order No.E/ 283/ 1/LM/C&W/ADMN. LUMDING/dated 28.9.87.

4. JURISDICTION OF THE TRIBUNAL :

The applicant declared that the subject matter of the impugned orders are amenable to the jurisdiction of the Tribunal and the respondents against whom the relief sought are residing within the jurisdiction of this Tribunal.

5. LIMITATION :

The applicant states that the final order against which this application is preferred to was passed on 8.2.95 and this application was to be made within 8.2.96 i.e. one year from the date of passing impugned order but due to serious mental agony, illness and financial problem of applicant he could not prefer his application within 1 year from 8.2.1995 and the applicant has to prefer his application <sup>6 months</sup> 22 days beyond the date of expiry of the limitation. For which the application has filed a separate petition for condonation of delay in preferring this application. An appeal was also filed by the applicant for review of the impugned order 8.2.95.

15  
17  
19

The applicant received the last order/clearification on 21.11.95 from the office of Divisional Rly Manager (A) Lumding. From this date there is limitation. However the applicant has filed the separate application for condonation of delay.

6. THE FACTS OF CASE :

(1) That the applicant joined on 10-10-1963 in his service as a carriage Fitter under the Carriage and Wagon Superintendent/Badarpur/ N.F. Railway and was working sincerely, honestly and deligently to the satisfaction of his superior authority.

(2) That after 22 years of unblemish service in the N.F. Railway the applicant was suddenly placed under suspension with effect from 22.2.86 vide the order of suspension passed by the Asstt. Mechanical Engineer, N.F. Railway ,Badarpur under reference No.DE/2 dated 22/2/86 .

(Photocopy of the said suspension order dated 22-2-86 is annexed herewith and marked as Annexure-A-1)

(3) That the suspension order dated 22.2.86 was revoked with effect from 12.6.86 vide the order dated 24.6.96 passed by the respondent No.5 (Divisional Mechanical Engineer, C & W, N.F. Railway, Lumding) under reference No.ED/116.

(Photostat copy of the said revocation order dated 24.6.86 is annexed herewith and marked

11/11/86  
[Signature]

as Annexure -A2)

(4) That during the period of the suspension the Applicant was verbally informed by his office Superintendent that he was transferred to NGC and he was not allowed to join his duty even after the revocation of the suspension order, and on 27.11.86 the transfer order was cancelled and the applicant resumed his duty.

5. That the applicant was again suspended by the Respondent No.6( Asstt.Mechanical Engineer) with effect from 9-9-87 vide his order dated 11.9.87 passed under reference No.E/2.

Copy of the said suspension order dated 11.9.87 is annexed herewith and marked as Annexure-A3)

6. That the suspension order dated 11.9.87 was revoked on 7.10.87 by the respondent No.6 (Asstt. Mechanical Engineer) with immediate effect.

(Photostat copy of the revocation order dated 7.10.87 is annexed herewith and marked as Annexure -A3(1)

7. That suprisingly enough that during the period of suspension the applicant was transferred on 28.9.87 by the respondent No.5 ( Divisional Mechanical Engineer (C&W)

Contd....



and was posted under WS/NGC vide the order dated 28.9.87 passed by the respondent No.5 under reference No,E/283/1/LM/C&W/ADMN. Lunding/dated 28.9.87. On receipt of the said transfer order dated 28.9.87 the applicant went to New Guwahati Railway Office to join his duty but he was not allowed to join in his duty.

(Photostat copy of the transfer order dated 28.9.87 is annexed herewith and marked as Annexure - A4)

8. That the applicant could not join his duty either at the New Guwahati Office or at the Badarpur office. A secret conspiracy was hatched by one Q C R Hans the then Assistant Mechanical Engineer, Badarpur in collusion with the then office Superintendent to harass the applicant and to deprive him of his service. The said C.R. Hans instigated the officials to harass and torture the applicant in various manner. The C.R. Hans had even doubted the applicant as Mad and had tried to show him unfit for duty. At his instigation the applicant was frequently suspended and transferred and the false criminal cases were also filed against the applicant, but he was acquitted of charges in all criminal cases. As the applicant was harassed and tortured in various manner he filed various representations and to the respondents for redressal of his grievances. One of such representation was filed on 12.7.87 to the respondent No.4 and 5 xx In the said representation the applicant clearly stated how he was harassed and tortured by the departmental staff. The

8/11/87  
H

said C.R. Hans even got arrested by GRPs on 9.9.87 and put in jail hajot on some false charges but the applicant was acquitted of the charges by the court.

(Copy of representation dated 12-7-87 is annexed herewith and marked as Annexure -A5)

9. That a disciplinary proceedings was initiated against the applicant by the Respondent No.5 (Divisional Mechanical Engineer) and the applicant was served upon a memorandum of charges dated 14.8.88 along with copies of the documents.

The memorandum of charges contained the allegations as follows and on 9-9-87 he attempted to assault AME/BPB with a Hammer in train passing office at 17/35 hrs and accordingly he was arrested by GRP on some dates. For obstruction time to time of normal works as well as causing detention to trains even after his retention at BPB he was again transferred to NGC on administrative interest & under DFM(P)/LMC's No. E/283/I/LM/C&W/ADMD dated 28.9.87. But he refused to accept the same for which CWS/BPB pasted his sparing letter in the Notice Board on 18-10-87 and after that he has not yet reported at NGC and absconding since then which tantamounts insubordination, misconduct and misbehaviour on his part.

(Photostat copies of memorandum of charges and documents are annexed herewith and marked as Annexure A6 series).

Contd....

19/11/88  
[Signature]

10. That all allegations contained in the charge sheet are totally false and concocted. The applicant never made any attempt to assault AME/BPB nor normal work of office was obstructed time to time causing detention to train as stated in the charge sheet, dated 14.6.88. Regarding the alleged incident of 9.9.87 a criminal case was also filed vide GR Case No.975-A/87 in the Court of Chief Judicial Magistrate, Karimganj. After trial the applicant was honourably acquitted of the charge in the said case.

(Photostat copy of the judgement dated 25.5.89 passed by the judicial Magistrate, Karimganj is annexed herewith and marked as Annexure-A7)

11. That the charges were based on the complaints filed by the said C.R. Hons, the then AMR/BPB. In fact the said C.R. Hons had got <sup>ill feeling</sup> ~~effecting~~ and grudge against the applicants for the reason best known to him with malafide intention to the said C.R. Hons instigated other staffs also to harass the applicant. On the complaint of the said C.R. Hons the applicant was transferred to the New Guwahati office during his suspension period. The said transfer order dated 28.9.87 (Annexure A4) was passed as a measurement of punishment of the initiative of the said C.R. Hons. The said transfer order was not properly served upon the applicant. The allegation that the applicant refused to accept the same is totally false and concocted. The applicant having saw the transfer order

Contd...

on notice Board on 18.10.87 he went to join his duty at New Guwahati office but when he was not allow to join his duty there, he came back and informed the matter to his office.

12. That the applicant was not allowed to work on this or that ground inspite of his various representations. The applicant never absconded but he was falsely alleged that he absconded. In the month of May, 1988 also the applicant filed his representation dated 10-5-1988 to the Divisional Railway Manager (P) with copies to the DME/C&W/ Lumding, AME/Badarpur/N.F. Railway. In the said representation dated 10-5-1988 the applicant made prayer to cancell thr transfer order and allow him to resume his duty and also pay the back wages.

(Copy of the representation dated 10.5.1988 is annexed herewith and marked as Annexure A8).

13. That in pursuant to the initiation of the disciplinary proceedings against the applicant the first enquiry officer was appointed on 6.8.88 and Sri P.C. Chakraborty, AME(P) /LMG was the enquiry officer but no enquiry was made by him.

(Photostat copy of the appointment letter of Enquiry Officer dated 6.10.88 is annexed herewith and marked as Annexure -A9)

Contd...

14. That the enquiry officer P.C. Chakraborty was replaced by another enquiry officer R.N. Roy, AME/C&W/LMG vide his appointment letter dated 3.1.1989.

(Photostat copy of the appointment letter of R.N. Roy is annexed herewith and marked as Annexure -A10)

15. That the said Enquiry Officer R.N. Roy held enquiry on 5.5.89 in his office Chamber and the applicant duly attended the enquiry and made his statement denying all the charges and he was cross examined and his statement was duly recorded by the Enquiry Officer.

(Copy of the Statement recorded by the Enquiry Officer on 5.5.1989 is annexed herewith and marked as Annexure -A11).

16. That in the cross examination the E.O. brought all the facts and circumstances of the cases before the applicant who gave reply to all questions. The applicant made his reference plea clear in the cross examination. No further evidence was necessary to prove his innocence. The Enquiry officer R.N. Roy <sup>after</sup> completion of his enquiry and submitted his enquiry report to the Divisional Mechanical Engineer. But instead of accepting his report the Divisional Mechanical Engineer removed the said E.O. and in his place another Enquiry Officer Sri S. Chakraborty AME/BPB was appointed on 2.4.90.

(Photostat copy of the appointment letter is annexed herewith and marked as Annexure-A12)

17. That the said E.O. Sri S. Chakraborty conducted no enquiry. Thereafter another enquiry officer Sri R.L. Das was appointed on 4.9.90 but he also held no enquiry.

(Photostat copy of the appointment letter of R.L. Das is annexed herewith and marked as Annexure -A13)

18. That the Enquiry Officer Sri R.L. Das was replaced with one Sri S.D. Choudhury, AME/WGC on 8.3.91 but no further enquiry was held by him.

(Photostat copy of the appointment letter dated 8.3.91 is annexed herewith and marked as Annexure-A14)

19. That after Sri S.D. Choudhury another Enquiry Officer Sri S.P. Ambasta, AME/BDB was appointed on 23.1.92 who submitted the Enquiry Report on 30-12-93 to the Divisional Mechanical Engineer (C & W)

(Photostat copy of appointment letter dated 23.1.92 and Photostat copy of the Enquiry report dated 30-12-93 are annexed herewith and marked as Annexure -A14 (1) and A15 respectively.)

20. That the Enquiry report submitted by the Enquiry Officer Sri S.P. Ambasta is not based on record. The Enquiry Officer gave the reason for findings as follows:

"Ample opportunity were given to Sri Dina from time to time from the side of Enquiry authority. But no representation, submission, or objection made by him in the defence.

The Enquiry officer Sri S.P. Ambasta intentionally avoided to discuss the evidence recorded by his Predecessor Sri R.N. Raj. It is pertinent to mention here that the said R.N. Ray recorded the evidence of the applicant which was very much relevant for the proper adjudication of the matter but the said Enquiry Officer Sri S.P. Ambasta did not discuss evidence of the applicant and also his petitions/representations filed from time to time before the earlier Enquiry Officers.

21. That it is totally wrong to say that no representation, submission, or objection is made by the applicant in defence. In fact the applicant not only <sup>gave</sup> his evidence denying all allegation, but also submitted his various representation. In this connection the applicant would like to mention here that the applicant submitted his representation on 21.7.1990 to the then Enquiry Officer Sri S. Chakraborty with a request to finalise the enquiry report early. In the said representation dated 21.7.1990 the applicant also stated about his grievances.

(Copy of the representation dated 21-7-90 is annexed herewith and marked as Annexure -A16)

22. That when there was inordinate delay for disposal of the disciplinary proceedings the applicant filed his various representations demanding for early disposal of the disciplinary proceedings. In those

Contd...

representations the applicant pleaded for allowing him to join his duty.

(Copy of one of the representation submitted to the Divisional Railway Manager (P) on 10.3.92 is annexed herewith and marked as Annexure A17).

23. That on 17.9.92 the applicant was informed by the Divisional Mechanical Engineer (C & W) that the Disciplinary Authority would take suitable decision after considering the report dated 14.6.88 and he was further directed to make the representation or submission if any in writing to the Disciplinary authority within 15 days on receipt of this letter.

(Photostat copy of the said letter dated 15/7/92 is annexed herewith and marked as Annexure A-18)

24. That on receipt of the said letter the applicant submitted his reply on 24.9.92 to the D.R.M. (P) and DME (C&W). In the said reply dated 24.9.92 the applicant stated that he attended the enquiry on 5-5-89 at AME(C&W)/LMG's Chamber and replied almost all queries as asked by the Enquiry Officer and when subsequent dates for enquiry were fixed and then also he said that he had nothing more to say and he should not be called for further enquiry .

(Copy of reply dated 24/9/92 is annexed herewith and marked as Annexure-A19)

Contd ...



25. That the applicant having been already expressed his clear view earlier the Enquiry officer Sri S.P. Ambasta ought to have considered all relevant documents and evidence available before him but the said Enquiry Officer became biased and submitted the partisan report dated 20-12-93 to the Disciplinary Authority, on the basis of said report the Disciplinary Authority (Respondent No.5) most illegally and arbitrarily passed the impugned order dated 1.12.94 removing the applicant from his service with effect from 20-12-94.

(Photostat copy of the impugned order dated 1-12-94 is annexed herewith and marked as Annexure -A20)

26. That the applicant preferred an appeal before the Appellate Authority (Respondent No.4) challenging the impugned order dated 1-12-94.

(copy of appeal petition dated 9.12.1994 is annexed herewith and marked as Annexure A21)

27. That the D.R.M (P)/N.F.Railway, Lumding by his letter NO.ED/116 dated 8th February, 1995 communicated to the applicant the following order purported to have been passed by the Sr. DHE(P)/LMC (respondent No.3) on the appeal petition dated 9.12.1994.

"I have gone carefully through the appeal submitted by Sri Dina. The punishment is reduced to compulsory retirement from service".

Contd...

Contd...

compulsory retirement .w.e.f. 20-12-94 he became entitled to get the benefits of his service . By his petition dated 7.11.1995 the applicant sought the clarification about the benefits payable by the department in his compulsory retirement.

The applicant asked the respondent No.4 to clarify on the following points

(1) Month wise salary statement from the date of placing the incumbent under suspension till the date of passing the order of his compulsory retirement.

(2) Full particulars of other benefits with promotion enhancement of salary and other service benefits.

(3) Total amount payable by the Railway administration if the incumbent had not been suspended and discharged from the service.

(4) Vide letter No.ED/116 dated 19.4.95 the period of suspension is shown from 9-9-87 to 7-10-87 and not the period from 22-2-86 to 12-6-86. So the arrangement of payment of that period.

(5) Arrangement for payment of 3 months 11 days relating to the transfer period to NGC.

(6) Arrangement for payment of wages of 58 days for the period when he was not allowed to do his duty inspite of fitness in the year 1986 to 1987.

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A/C

30. That in reply to the appeal dated 7.11.95 the applicant received a letter dated 21.11.1995 purportedly issued by the Respondent No.4 who failed to give the clarification sought by the applicant as to what benefits accrued him when the punishment of removal inflicted on him was reduced to the compulsory retirement on appeal. The respondent No.4 surprisingly stated in paragraph 1 of his reply dated 21.11.95 that particulars of benefits could not be furnished until and unless the vacation report of Rly qtrs. was received along with the other clearance certificates and prescribed form in support of claiming F.S. Etc.

(Copy of the reply letter dated 21.11.95 is annexed herewith and marked as Annexure -A24).

31. That the respondent No.4 put unreasonable condition upon the applicant for disclosing the benefits accrued to the applicant on account of the so called reduction of his punishment to the extent of compulsory retirement. The applicant has the reason to believe that the intention of the respondents is to drive away the applicant from his service without giving him any benefits. Though the punishment of removal was reduced to the extent of compulsory retirement yet the respondent No.4 failed to indicate the benefits on account of reduction of the punishment so the so called reduction of punishment became meaningless to the applicant.

Contd...

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32. That the contention of the respondent No.4 that the applicant failed in the Trade test for the Post of C/Fitter Gr. II held on 20.7.86 is not true inasmuch as that he was not given such chance of appearing the test. As such the question of unsuccessful in the test does not arise. The contention of the respondent No.4 that the applicant was booked for T.T. for C.R/CRII under this office letter dated 27.9.87 and 1.2.88 but he failed to appear in the T.T. and rather absconded since 9.10.87 etc. as stated in the letter dated 21.11.95 are also not true. The applicant was never informed that he was booked for T.T. for CR/CR-II under the office letter dated 28.9.87 and 1-2-88 as stated in the impugned letter 21.11.95. The allegation of absconding since 9.10.87 is apparently false as he was actually not allowed to join his duty at Guwahati as well as at Badarpur.

33. That the petitioner is lawfully entitled to get his salary and other benefits from 22-2-86 but the respondents have not paid the same inspite of various representations. The impugned letter dated 21.11.1995 the respondent No. 4 already stated that the department was not liable to pay any back wages etc. The contention of the department is in fact negation to the truth. When the suspension period from 22.2.86 to 12.6.86 and 9.9.87 to 7.10.87 was regularised as stated in the paragraph 4 to 6 of the impugned letter dated 21.11.1995 the applicant became entitled to the full salary and other benefits. As such the respondents have got no right to deprive the Applicant of his legitimate claims on same frivolous grounds.

Contd...

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[Signature]

7. RELIEF SOUGHT

In view of the facts mentioned in para 6 above the applicant prays for the following relief .

- (i) That the impugned order dated 1.12.94 (Annexure-20) passed by the Respondent No.5 terminating the service of the applicant from his service with effect from 20-12-94 and the compulsory retirement order dated 28-02-95 (Annexure-22) by way of punishment passed by the appellate authority (Respondent No.3) be set aside.
- (ii) That the respondents be directed to reinstate the applicant in his service with all consequential benefits including back wages and promotion etc.
- (iii) That all illegal transfers and disciplinary proceedings be set aside.
- (iv) That any other relief or reliefs that may be deemed fit and proper.

GROUND S :-

- 1. For that the applicant was acquitted of the Criminal Charges and the departmental proceeding on same charges of which the criminal court have already acquitted, ought to have been dropped/revoked and on the same charges no action should be taken by the department. As such the entire disciplinary proceedings is bad in law.

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2. For that the Enquiry officer totally failed to consult all the relevent record and document , particularly the enquiry report prepared by the previous enquiry officer. In the instant case the succeeding enquiry officer ignored the evidence duly recorded by his predecessor during the enquiry . As such the report of last enquiry officer is bad and perverse and the disciplinary authority ought not to have acted upon such enquiry report.
3. For that the impugned orders are passed against all principles of fair play and natural justice. As such the impugned orders are liable to set aside.
4. For that the disciplinary authority failed to consider all relevant records including the representations filed by the appellant from time to time denying all allegations brought against him but the disciplinary authority without consulting the entire record and also without consulting the Commission as Contemplated under Section 10 of the Railway Servants ( D & A) Rules, 1968 imposed the major penalty .
5. For that there is no reason or materials to give the compulsory retirement to the Appellant. The Appellate setting aside one penalty ought not to have given the other penalty , though which is less harsh but it has got ~~the~~ same effect as no service benefits was given to the applicant. As such the impugned order passed by the Appellate authority is also not tenable in law and is liable to set aside or modified.

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6. For that the disciplinary authority acted malafidely with an intention to harass the applicant . As all impugned orders including the transfer are liable to be set aside.
7. For that the penalty imposed upon the applicant is dispropotionate to the alleged misconduct of the applicant. As such the impugned orders are liable to set aside.
8. For that there is not bonafide exercise of power on the part of disciplinary authority in taking the action against the applicant. The disciplinary authority exercised the power most arbitrarily and collaterally. As such, the impugned orders are liable to be set aside.
9. For that the impugned orders are passed in clear violation of various provision of law, more particularly the Article 311 of the Constitution. ~~of the~~
10. For that the applicant worked for many years in the N.F. Railway very sincerely and honestly without any blemish.
11. For that in any view of the matter the impugned orders are liable to be set aside.

Contd...



11/11/96  
11/11/96

8. DETAILS OF REMEDIES EXHAUSTED

The appeal is filed after exhausting all the remedies prescribed by the rule.

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

10. Particulars of postal order in respect of the application fee Rs.50.00 (Rupees fifty only)

Postal Order No. : 09 346806

Date : 26/8/96

Issuing Post Office : Guwahati Head office,  
Panbazar  
payable

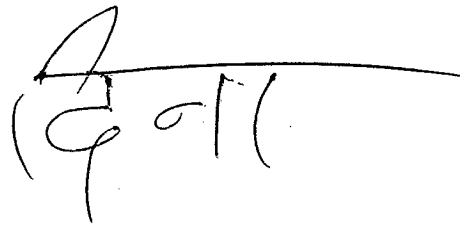
11. List of enclosure : As stated in the index.

VERIFICATION ....

VERIFICATION

I, Sri Dina son of Late Ramjit Pandit aged about 54 years, resident of Rly. Quarters No. L-205/A Jharna Colony P.O. Bodarpur in the District of Karimganj (Assam), do hereby verify that the contents from 1 to 12 are true to my knowledge and belief and I have not suppressed any material facts.

I sign this verification today the 30<sup>th</sup> day of August, , 1996. at Guwahati.



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

No. E/R

(Name of Railway Administration) N.F.Rly

(Place of issue) Amritsar Dated 22-2-86  
23

ORDER

Whereas a disciplinary proceeding against Shri. Dina, Car File / MTS (name and designation of the Railway servant) is contemplated/pending.

Whereas a case against Shri. .... (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. Dina, Car File / MTS under suspension with immediate effect/with effect from 22-2-86

It is further ordered that during the period this order shall remain in force, the said Shri. Dina, Car File / MTS 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) ASST. MCH. ENGR.

N. F. RLY  
BADALPUR

Designation of the suspending authority

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

(Designation of the officer authorised under cate orders on behalf of the President, where the President is the Suspending authority).

Copy to :-

Shri. Dina, Car File / MTS (name and designation of the suspended Railway servant). Orders regarding subsistence allowance admissible to him during the period of suspension will issue separately.

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

N. F. Rly. Press-1/572/L/113 June '72-25,000 Forms.

DRM(P)/Lms  
Dint (Caw)/Lms

Attest  
[Signature]  
23/2/86

## Standard form of order for revocation of suspension order

( Rule 5 (5) (c) of RS (D&amp;A) Rules, 1968 )

No. ED/116  
BN.F.R. (Name of the Rly. Administration)  
 (Place of issue) DRM (P) LG Dated 21/6/86

## ORDER

Whereas an order placing Shri/Smt. Dina, CF/BPB ( name and designation of  
 the Railway Servant ) under suspension was made/was deemed to have been made by AME/BPB  
 on 22-2-86

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 RS (D&A) Rules, 1968, hereby revokes the said order of suspension with immediate effect/  
 with effect from 12-6-86

\*(By order and in the name of the President).

( Signature ) [Signature] 23.6.86

( Name ) (P. R. Boddhaw)

मंत्रालय में निदेश के द्वारा  
 Designation of the authority making this order  
Divisional Mechanical Engineer (C&W)  
N. F. Rly, Lumding.  
 (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 authen-  
 ticate orders on behalf of the President, where  
 the order is made by the President).

Copy to Dina, CF/BPB — AME/BPB  
 Shri/Smt. .... ( name and designation of the suspended Railway Servant ).

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

② AME/BPB ③ C&W/BPB  
 N. F. Rly. Form—1/7512/80—May '76—30,000 Forms.

Attested by  
[Signature]  
[Signature]

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

No. E/2(Name of Railway Administration) Aut. H/O(Place of issue)..... Dated 11-9-87

## ORDER

Whereas a disciplinary proceeding against Shri. Dina, Carr. H/O (name and designation of the Railway servant) is contemplated/pending.

Whereas a case against Shri. Dina (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. Dina under suspension with immediate effect/with effect from 9.9.87.

It is further ordered that during the period this order shall remain in force, the said Shri. Dina 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) (C. H. Hans)

N. F. RLY

RAJABHILIC

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 :—

Shri. Dina, Carr. H/O (name and designation of the suspended Railway servant). Orders regarding subsistence allowance admissible to him during the period of suspension will issue separately.

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

N. F. Rly. Press-1/5/72/L/13/June 72-25,000 Forms

[Signature]  
Adv

STANDARD FORM NO. 4

Railway

STANDARD FORM OF ORDER FOR REVOCATION OF SUSPENSION ORDER  
(Rule 5(5)(c) of RS(D&A) Rules 1968)

No. E/2

KFR/Rb

(Name of the Railway

Administration) Place of issue Amf's

Dated 7.10.87

Offr/Rb

ORDER

Whereas an order placing Shri/Smt Dina C/Fiter/Amf's (Name and designation of a Railway servant) under suspension was made/was deemed to have been made by Amf's on 9.9.87

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 RS(D&A) Rules 1968, hereby revokes the said order of suspension with immediate effect, with effect from 7.10.87

\*(By order and in the name of the President).

(Signature) [Signature]

(Name) CEA MECH ENGINEER

Designation of the authority making this order CEA MECH ENGINEER

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

Designation of the officer authorised under article 73 of the Constitution to authenticate orders on behalf of the President, where the order is made by the President)

Copy to:-

Shri/Smt Dina C/Fiter/Amf's (Name and designation of the suspended Railway servant)

Reg. Cover. to Shri Rb  
Date 12/10/87

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

ad281187

[Handwritten signatures]

[Large handwritten signature]

OFFICE ORDERDEM(P)'s office,  
Lunding, dt/- 28-9-87.

On Administrative ground Shri Dina, Carr: Fitter under CWS/BPB is hereby transferred and posted under TS/NGC on his existing pay and scale vice existing vacancy with immediate effect.

He is entitled to get the transfer benefits as per extant Rules.

S/-  
( S.K. Bardhan )  
DIV. MECH: ENGINEER (C&W)

No. E/283/1/LM/C&W/ADMN.Lunding/- dt. 28.9.87.

Copy to :-

1. DAO/LMG.
2. APO/NGC.
3. WS/NGC.
4. OS/EM/Bill.
5. P/case.
6. Staff concerned.
7. A&P/BPB along with the spare copy of the staff concerned which may kindly be sent to his Home address (Qrs.) by Regd. with A/Due.
8. CWS/BPB for information please.

9. CC (GRD) BPS. He is requested to trace all attls creating trouble in the case of Shri Dina.

Har  
\* DIV. ELY: MANAGER (P)  
N.F. Railway/ Lunding.

....

To

- (1) The Divisional Railway Manager (P),  
N.F.Rly., Lunding.
  - (2) The DME/C & W / N.F.Rly./ Lunding.
  - (3). Magistrate, 1st class, Karinganj.
- (XX)

Sub: Appeal against un-necessary assault, harassment, putting me off-duty by, Departmental officials, of Badarpur, GRP & RPF Personnels- Soliciting redressal action thereof.

Respected Sir,

With due honour I beg to state that I was suddenly spared from duty by the TIR Mr. Sushen on 17/8/87 and replaced by Shri M.R. Seal calling me Mad.

- 2). That on 18/8/87 when I attended my duty as usual the Hd. TIR Shri D. Chakraborty forced me to sign on a white paper which I did not, in presence of the on-duty staff, which may kindly be enquired and proper action may kindly be taken. The matter also intimated to the Magistrate, Karinganj.
- 3). That on 17/8/87 I reported sick and treated under private registered Medical practitioner from 17/8/87 to 24/8/87 I attended office with sick and fit certificate for my resumption to duty on 25/8/87.
- 4). That I was allowed to my usual duty from 25/8/87 to 31/8/87 and pay also received duly.
- 5). That while I was going to lodge a complaint to Badarpur GRPC I was unnecessarily assaulted by one B.S.F. personnel and got injury on my left leg, for which I had to report sick under Railway doctor of Badarpur and remained under the treatment of Rly. Doctor, from 1/9/87 to 8/9/87.
- 6). That on 9/9/87 when I resumed to my usual duties with sick and fit certificate of the Rly. doctor and advised to perform shift duty from 14-00 Hrs. to 22-00 Hrs.
- 7). That to my utter surprise again I was assaulted by the departmental staff, AME/BPB and sent me to Badarpur G.R.P.S. at about 18-00 Hrs. and the GRPS/Badarpur put me in jail hat for the whole night and I was sent to Court of Karinganj on the morning of 10/9/87. Badarpur GRPS snatched away Railway property, viz. Hammer.
- 8). That my family members were forcibly assaulted and ousted from the allotted quarters No. L/X-205 at Jharna colony, Badarpur and compelled to take shelter at Temple of dities.

Now solicit justice

JAY MA KA.LI.

Dated: Badarpur,  
The 12th September/1987

Yours faithfully,

(Dina Pandit)

Carrive fitter, Carr. Shop/BPB  
( Under C&S/Badarpur / N.F.Rly. )

*Attest  
Dina Pandit*



## Discipline and Appeal Rules-Chapter XVII-R.I. Rules 1708-1715-R. I.

(Reference to R.I. under Rule 1707-R.I.)

No. ED/116

Date

14/6/68

## MEMORANDUM OF CHARGES FOR MAJOR PENALTIES

Shri. Dina, Com. Fitter/BPB is hereby informed that it is proposed to hold an inquiry against him under Rules 1708 to 1715 R. I. The allegations on which the inquiry is proposed to be held are set out in the enclosed statement of allegations and the charges framed on the basis of the said allegations are specified in the enclosed Statement of Charges.

2. Shri. Dina, CF/BPB is hereby informed that if he so desires he can inspect and take extracts from the documents mentioned in the enclosed list at any time during office hours **within 7 working days** of receipt of this Memorandum. If he desires to be given access to any other official records other than those specified in the list referred to above, he should submit a list of all such additional documents to the under officer within 5 days of completing the inspection of the documents mentioned in the list. Access will be given only to such of the additional records as are considered relevant. He will not be given access to any documents if it is considered that it is against the public interest to give him such access. He should complete the inspection of the additional documents **within 5 days** of their being made available. He will be permitted to take extracts from such of the additional documents as he is permitted to inspect.

3. Shri. Dina, CF/BPB is informed that the request for access to documents made at the later stages of the enquiry will not be entertained unless sufficient cause is shown for the delay in making the request within the time limit specified above and the circumstances show clearly that the request could not have been made at an earlier stage. No request for access to additional document will be entertained after the completion of the inquiry.

4. Shri. Dina, CF/BPB is further informed that he may, if so desires, take the assistance of another Railway servant/an official of a Railway Trade Union (who satisfies the requirement of Rule 1712(2)-R.I.) 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 furnish the names of three persons, in order of preference to assist him.

(P. T. O)

*Atk-82*  
*Dina, CF/BPB*

5. Shri..... is hereby required to submit to the undersigned (through proper channel) a written statement of his defense not later than..... and also:

- (a) to state whether he desires to be heard in person;
- (b) to furnish the names and addresses of the witnesses, if any, when he wishes to call in support of his defence; and
- (c) to furnish a list of documents, if any, which he wishes to produce in support of his defence.

He is informed that an inquiry will be held only in respect of the charges or allegations as are not admitted. He should, therefore, specifically admit or deny each of the charges and each of the allegations in the statement of allegations. The charges and the allegations which are not specifically denied which will be admitted.

6. Shri. DINA CF/DB is further informed that if the written statement of his defence is not received on or before the date specified above, the inquiry is liable to be held ex-parte.

7. The attention of Shri..... is invited to Rule 17 of the Railway Services (Conduct) Rule, 1956, under which, no Railway servant, shall bring or attempt to bring any political or other outside 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 any other person in respect of any matter dealt within these proceedings, it will be presumed that Shri..... 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 Rules 17 of these rules.

8. The receipt of this Memorandum should be acknowledged.

**ENCLOSURE**

1/9 (wine)

(Reed with A/D)

• To

**Shri**

Dina, U  
Cos: Fitter

Case: Little  
Ry. Q. No. L-2

④ Copy to Shri

R. N. Biswas, CWSB

(designation and station of the lending authority) for information.

**See Rule 1702(11)-R.1.**

© To be used wherever applicable--See Rule 1721(1)-R, 1. Not to be inserted in the copy sent to the Railway servant.

*[Handwritten signature]*

Charge-I

" Shri Dina, while functioning as Carr.Fitter/III under CWS/BPB was under order of transfer to NGC on Admn. ground vide DRM(P)/LMG's No. ED/116 dt. 18-2-86 for creating troubles during working hours with his co-workers as well as with his supervisors and even with the AME/BPB.

On 27-11-86 he represented the case to CRSE/MLG for this retention who was on inspection in Hill section and CRSE advised CWS/BPB to give him a chance and accordingly he was retained at BPB cancelling his transfer order vide DRM(P)/LMG's No. ED/116 dtd: /3-87.

But on 9-9-87 he attempted to assault AME/BPB with a Hammer in train passing office at 17/35 hrs. and accordingly he was arrested by GRP on same date. For obstruction time to time of normal works as well as causing detention to trains even after his retention at BPB he was again transferred to NGC on admn. interest under DRM(P)/LMG's No. E/283/I/LM/C&W/ADMN dtd: 23-9-87. Accordingly CWS/BPB spared him wef. 9-10-87 for NGC vide his sparing letter No: E/3 dtd: 13-10-87, but he refused to accept the same for which CWS/BPB pasted his sparing letter in the Notice board on 18-10-87 and after that he has not yet reported at NGC and absconding since then which tantamounts insubordination, misconduct and misbehaviour on his part."

*Attestd  
R.M., D.V.*

*Fardher*  
14.6.88  
Sd/-  
Divisional Mechanical Engineer (C&W)  
N. F. Rly, Lunding.

Enclosure to the Memorandum of  
Charge Sheet for Major penalties

Statement of charges framed against Shri..... Dina,  
..... CE/BPB..... (name and designation of the Rail/way  
Servant :—

Charge I

That the said shri..... Dina,  
functioning as..... CE/BPB..... during the period..... 1 Sept/87 to 16 Oct  
order of 13.10.87 to NAC on a dwn. should, but not  
yet reported though spread form BPB

Charge II

That during the aforesaid period and while functioning in the aforesaid  
office, the said shri.....

Charge III

That during the aforesaid period and while functioning in the aforesaid  
office, the said shri.....

Statement of Allegations on the basis of which charges are framed  
against shri..... Dina, CE/BPB..... (name and designation  
of the Rail/way servant.)

ALLEGATIONS REGARDING CHARGE I

Enclosed

ALLEGATIONS REGARDING CHARGE II

ALLEGATIONS REGARDING CHARGE III

- List of documents
- 1) AME/BPB's LNO = C/ISC/1 of 20-11-86, E/2 of 22-5-87 2 C/ISC/1 of 16-9-87.
  - 2) CAS/BPB's LNO = E/3 of 6-7-86, XR NAC = C/ISC/87 of 10-9-87, E/3
  - of 13-10-87 and 21-10-87.

Note;—The Allegations should indicate clearly how exactly the Railway servant concerned  
is culpable, i.e. what exactly his responsibility was in a particulars case and how he  
failed to discharge it.

Heard  
by  
How

No. E/3

N.F.Railway.

CWS' s office  
Badarpur.  
dt-/ 6-7-86.

To  
DRM(P)/Lunding  
N.F.Rly.

Sub:- Transfer of Shri Dina, Carr/Fitter BpB  
on administrative ground.

Ref:- Your office order No. ED/116 dt. 19-2-86  
and L/No. ED/116/ dt. 26-6-86.

-o-

In connection with the above this is to inform you that your above quoted office order (has received by this office on 21-2-86 and Shri Dina was placed under suspension wef. 22-2-86 as he was arrested by Police and was under their custody. So the transfer order could not be handed over to him.

On receipt of your letter dated 26-6-86 he was asked on 4-7-86 to accept the transfer order but he flatly refused to accept any papers from office and created shouting. He even threatened if we force him to ~~am~~ carry out transfer order by sparing him he will teach us a good lesson one by one. He is not afraid of Polices Court etc. Before handing over transfer order Police may be kept ready.

On 5-7-86 he appeared in the office with leave and Pass application and asked my Chief Clerk to accept the same. He (CC) replied us you denied to accept any paper from office. I shall not take any paper from you. Then he became furious and created same in presence of all staff and used insulting language towards him. When he passes through by the side office building he is always uttering "Shala lok koo ham dekhenga" During last 6 months he was arrested by Police several times and sent to Karinganj Court but after being release on bail he is repeating the occurrence. Almost all the staff are not talking with him, He is breaking the discipline and creating bad atmosphere in working place.

This has already been reported verbally to AME/BPB during his visit and he is also well ~~acc~~ acquainted with his dealing and behaviour.

In view of the above you are requested to let this office what further action may be taken whether the transfer order ~~his name may be struck off from the presence of two witness and~~ is not accepting the order please.

Sd/-  
CWS/BPB.

Copy to :- DME(C&W) LMG for information and taking immediate necessary action. As the man is not afraid of Police Court etc. he can do any serious crime at any movement please.

Copy to :- AME/BPB for information. This was verbally discussed w th him on 5-7-86 Please.

14688TKM:

Certified true copy

CWS/BPB.

Office Supdt. (A)  
N. F. Rly. Badarpur

Wg

AME' s Office  
Badarpur, dt:  
20-11-86

W-11-86

-0-

*[Signature]*  
Office Supdt. of  
D. Rly. Location

N.F.Railway.

47

No. E/2

Office of the  
AME's dt. 22-5-87.To  
DME(C&W)/LMJ.

Sub: - Misbehaviour by Shri Dina, C/Fitters/BPB.

To days at about 16-35 hrs. Shri Dina, C/Fitter BPB working under CWS/BPB entered in to my chamber and I could ask him the reason and the cause for doing so. He remained absent from duty unauthorisedly for 5 days wef. 2-5-87 to 6-5-87. On 7-5-87 he appeared before CWS/BPB with an application on 7-5-87 who directed him to my office as per prevailed procedure for obtaining resume to duty subsequently he was allowed to resume duty on 9-5-87. About the regularisation of the period quoted above, it is presumed that he remained in the Police custody the detailed information still to be found out. He has not disclosed anything in his application or any where in the office in writing. Hence at present it is difficult to write anything about the regularisation of the unauthorise period. He was simply allowed to resume duty. For this purpose I understood he might have come to my chamber to-day. He did not say anything the above information. He was simply shouting for regularisation for his period. The relevant papers in this regard are also enclosed for your information. Some suitable action in this regard is very much required, for avoiding any near future happening.

DA/ Three.

Sd/-  
( C.R.Hans)  
AME/BPB.

-ooOoo-

Started using unparliamentary language before

Attested  
Hans, D.W.

Certified true copy

Office Supdt. (P)  
F. R. K. K. K.

36 Copy

N.F.Railway.

AME's Office /BPB  
Dt. 16-9-87.

No. MISU/1

To  
DRM./Lumding.

Thro:- Sr.DME(P)/Lumding.

Sub:- Misconduct and breach of discipline by  
Shri Dina . Carr. Fitter/BPB, under CWS/BPB  
in the TXR/ TP Office on 9-9-87.

-0-

On 9-9-87 at about 10 hrs. CWS/BPB informed me that  
Shri Dina Carr. Fitter came to TXR/TP office at about 5/40  
hrs. in the morning and threatened on duty TXR Shri D.C.Roy,  
CTXR to take him on duty. Shri Dina as per records available  
with CWS/BPB reported sick and had taken sick memo on 31-3-87  
On 9-9-87 also he had not brought fit certificate to office  
for proper resumption.

At 14/- hrs. ( approx.) on 9-9-87 he again came to  
TXR/TP office and threatened on duty TXR, Shri Sushen Ch.Das  
and showed him a ball pin hammer. With the fear of his life  
Shri Sushen Das left his office and went to CWS/BPB for solving  
the situation. Around 16/- hrs. I went to CWS office and  
called him to know the real history. He flatly refused to  
come to me as per to the person I had deputed for.

Around 17/30 hrs. I along with CWS/BPB, TXR Shri  
B.Acherjee & other TXRs went to TXR/TP office with the  
information that Shri Dina is still creating disturbance. I  
called him in the TXR/TP office on this he came to me in the  
angry mood. I asked him for the reason he came without  
authority as he was in the sick list I advised him to produce  
fit certificate from Rly. Doctor in CWS/BPB's office for  
joining to duty in TXR office. On this he started shouting  
and raised his hand with hammer on me also which was protected  
by Sr.Subordinates available and immediately Shri Dina was  
handed over to GRP/BPB with the help of OC/RPF/BPB

Shri Dina had created disturbance during office  
hours no of times in the past also. The detailed report of  
which from the past records will be sent very recently to you  
On 9-9-87 also he had threatened to all other co-workers  
some of them had stopped their work totally with the fear of  
their lives.

A fact finding enquiry has also been called consisting  
of three Nos. of Sr. Subordinates as per instruction of  
DME(C&W)/LMG. The report of which will be communicated to you  
immediately after completion of Enquiry.

Shri Dina C/Fitter. Gr.III under CWS/BPB is a very  
problem creating person in C&W Depot /BPB. A suitable action  
leading to a permanent solution is requested.

Sd/-  
( C.R.Hans )  
AME/BPB

Copy to :- DME( C&W)/LMG for information and necessary  
action Please.

Certified True Copy

Sd/-  
(CR.Hans.)  
AME/BPB.N.F.Railway.

Office Supdt. (P)  
T.M.  
N.F. Rly. Lumding



Q

Sub: Transfer and posting of C/Fitter  
Lina under WS/NGC.

Ref: - DRM(P)/LMG's L/No.E/283/I/LM/C&W  
ADMIN. of dtd: 23-9-87.

In terms of DRM(P)/LMG's L/No. quoted above  
Sari Dina, C/Fitter of this depot has been spared  
to carry out his transfer order on 9-10-87(4N).

Please take his name in your roll accordingly from the date of his reporting to duty.

Necessary service particulars so far available in this office is given below and his attendance & bill particulars is shown in the annexure.

Name :- Dina

Desig. :- Carr. Fitter (SK)

Pay: - Rs. 1130/- (RP)

PI No. 166187.

Pass/PTO :- He has availed one set of P/Pass &  
no PTO is used by him.

CL:- Available 13 days CL upto date.

Qtrs:- 1st Qtrs.No. L-205 (Type-II pucca, Electrified)  
at BPB is under his occupation.

Sd/- ( CWS/BPB )

D/4 ( Two ) 1. One list of tools  
2. Attendance.

Copy for information & n/action to :-

1. DRAM(P)/LMG B\* (2) AMS/BPB (3) Party  
Copy concerned.

Sd/-

CWS / Badarpur.  
N.F.Rly.

N.F.Rly.

Certified True copy

Office Superintendent  
T.M. Hayden

*[Handwritten signature]*

No.E/3 of dt. 21-10-87

To  
DRM(P)/Lmding.

Sub:- Sparing of ~~EX~~/ C/F Dina to WS/NGJ .

Ref:- This office L/No.E/3 of 13-10-87.

-0-

Sparing L/No E/3 of 13-10-87 issued to Shri Dina (Staff copy) has been pasted on the notice Board of CWS/BPB office on 18-10-87 in presence of three staff as he referred to accept the letter.

This is for your information and  
n/ action Please.

Sd/-  
CWS/BPB.  
N.F.Railway.

Certified true copy

*Handwritten signature*

Office Super. (P)  
Rly. Lmding.

*Handwritten notes:*  
File SA 2  
Rly. Lmding

39

39

Copy

51

XR 10/ - BPB 10(SD9/9)

TO: OC/GRP RPE BPB C/DME(C&W) SRMDOS LMG AME

-MISC/37.C/F DINA CREATED OBSTRUCTION TO NORMAL WORKS AND TRAIN RUNNING TRAINS SUFFERED DETENTION. DEMANDING RESUMPTION WITHOUT FIT CERTIFICATE THOUGH IN SICK LIST. NOT ALLOWING STAFF TO WORK. WORK SUSPENDED. ACTION SOLICITED.

-CWS-

LN/B/1546/10/9 BPB TP 4

Certified true copy  
Office Supdt. (P)  
A. F. Rly. London

Copy

XR 115 BPB 10

TO -DME (C&W) LMG C/DRM(P)/LMG SRMDOS CRSE/MLG.

- MISC/37. FENIAN EVEN NO OF 9/9 C/FITTER DINA ATTEMPTED TO ASSAULT AME /BPB WITH HAMMER. IN T/ T/PASSING OFFICE ON 9/9 AT 17/35 HRS. ARRESTED BY GRP ON 9/9.

- CWS-

LN/7/1540/10/9 BPB TP-3

Certified true copy

TKM:

Office Supdt. (P)  
A. F. Rly. London

प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	प्रतिलिपि तैयार की तारीख Date on which the copy was ready for delivery.	प्रतिलिपि को देने की तारीख Date of making over the copy to the applicant.
27-5-89.	2-6-89.	6-6-89.	15/6/89	17/6/89

Pt. No. 536.

By :- Shri Dina Pandit.

In the Court of  
Chief Judicial Magistrate, Karimganj,  
Assam.

Present :- Shri K.S. Nath, M.A., LL.B.

Judgment in G.R. Case No. 975-A/87.

State ... .. Complainant.

- Versus -

Dina Pandit ... .. Accused.

U/c. 449/352/508 I.P.C. read with Sec. 12  
of the I.R. Act.

Dates of recording  
evidence :- 27-10-88,  
25-11-88 &  
21-01-89.

Date of argument :- 25-05-89.

Date of Judgment :- 25-05-89.

Judgment.

Contd.....(2).





प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

- 2 -

Judgment.

The case for the prosecution in brief is that on 9-9-87 @ 14 hours, accused Dina Pandit, who was a C/Fitter was on sick, forcibly entered into TXR/Train passing office at Badarpur Rly.

Junction with one hammer in hand and threatened TXR Sushen Dae, C/Fitter Nagendra Kr. Nath and obstructed them from discharging their lawful duties. The matter was brought to the notice of AME/BDP, Shri C.R. Hane, who in turn attended T/passing office, @ 17-35 hours. At that time the accused also attempted to assault him with the hammer.

Shri Hane prevented the accused with his hand. It happened in presence of TXR, CWS, CTXR, H/Clerk

Contd.....(3)..





प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

- 3 -

*File & ...*  
*...*

Manik Malakar, TXR B. Acharjee, C/F Nagendra Nath who were on duty. With these facts FIR was lodged with GRP, Badarpur upon which a case was registered and after usual investigation, the accused was charge sheeted u/s. 448/352/502 IPC read with Sec. 121 of the I.R. Act.



On receipt of the Charge Sheet, the accused was asked to appear to stand his trial. On his appearance offence under the above Section of law was explained, to which the accd. pleaded not guilty and claimed ~~xxxx~~ ~~xxxx~~ to stand trial. From the trend of cross-examination and statement of the accd. the defence case appeared to be a total denial one.



प्रतिलिपि के लिए आवेदन की तारीख - Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

- 4 -

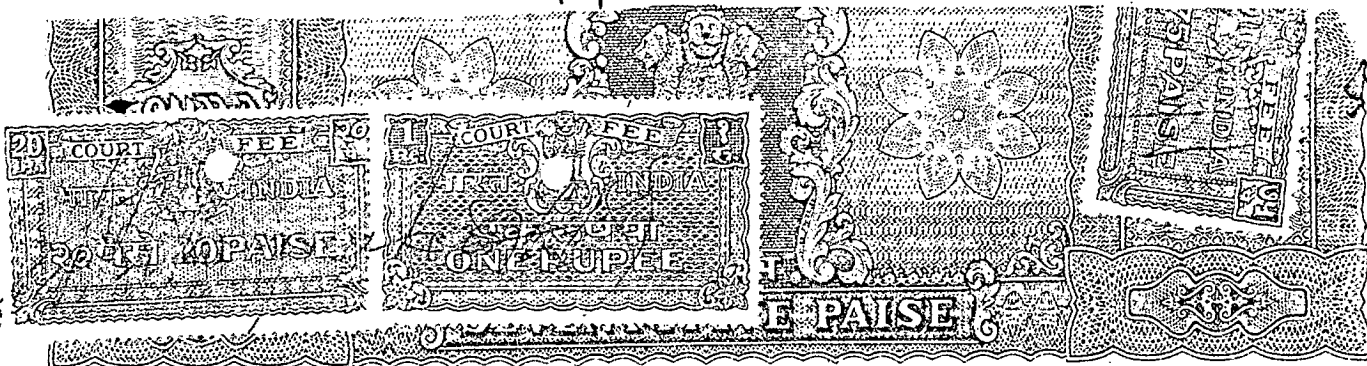
4 P.Ws. were examined. The I.O. was not available on several attempts. The defence led no evidence. Now the question arose for determination is as follows :-

Did the accd. illegally enter into TKR/train passing offence on 9-9-87, and if so, did he threaten the life of the official concerned ?

P.W.1, Rabindra Nath Biswas claimed to be the CNS at Badarpur on 9-9-87, who stated that accd. Dina, a Fitter of his office was on sick list on that day. But he appeared in office at 7.30 A.M. on that day for resuming his duties without any fitness certificate. Supervisor, Nanda Gopal Dutta asked the accd. to produce fitness memo and to



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प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

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resume his duties. But the accd. failed to give his fitness memo and as a result he was not allowed to join. The accd. then had altercation with Shri Dutta. He went to the office at 8-30 A.M. and reported the above matter. After a while accd. Dina again came and urged upon him to allow him to join, but it was not entertained without fitness memo. The accd. became angry stating that he would come again. Accordingly @ 2 P.M. the accused came with a hammer and threatened TXR Sushen Das for not allowing him to join without fitness memo. The accd. obstructed other employees from discharging their lawful duties. These facts were reported to him. Pursuant to such report, he submitted a report to the Asstt. Mechanical Engineer, AME, Shri C.R. Hans



Contd.....(6).





प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

- 6 -

along with Shri Hans and others Shri Biswas went to TXR office at 5.30 P.M. The accd. was called by Shri Hans and told him to leave that place as without fitness memo, he could not be considered to resume his duties. But the accd. attempted to assault Shri Hans with a hammer, who protected himself by raising hands. The accused was caught hold by Saraf Uddin and Basudev Acharjee. The RPF post was nearby and the O/C, RPF was called and the accd. was handed over to him, who in turn handed over the accused to the O/C, GRPS with the hammer. He filed FIR, marked Ext-1 and Ext-1(1) is his signature. Vide Ext-2, the hammer was seized. Ext-2(1) is his Signature. The hammer could not be produced to the Court. In his cross-examination he said that

Contd.....(7)..





प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

- 7 -

*Heard by  
Magistrate*



he did not refer to Ext-1 that the accused attended the office at 7.30 A.M. wherein it was stated that the accused attended office at 2 P.M. Fitters were given hammers by the department. He denied that the accused appeared with a fitness memo, but it was ignored by all concerned. The Police did not seize the sick list. Other cases were filed against the accd. But he did not know if the accd. was sent as a N.C.L. The accused was earlier suspended for the allegation that he assaulted GRP on administrative grounds. The accd. was once transferred and it was cancelled on his representation. Then on various grounds several

cases were filed against him. He denied that the

Contd.....(8).

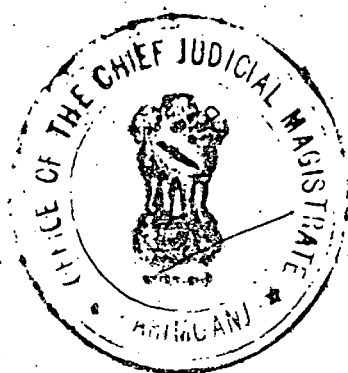


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*Heard by P. W. 2*

accd. with his hammer and a fitness memo came to resume his duties, but it was refused and he was forcibly handed over to the police with false and flimsy grounds. The distance between TXR office and GRP was less than half a furlong, intervened by other offices. The distance was about 100 mtrs. The earlier incident was not informed to the GRP.



P.W.2, Nan/da Gopal Butta stated that on 9-9-87 accd. Dina appeared in their CWC office at 7.30 A.M. for resuming his duties, although he was sick before hand. He asked him to obtain a fitness certificate and produce it when the accd. replied that he submitted it and left the office. In the evening when they left the office by closing and

Contd.....(9).



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

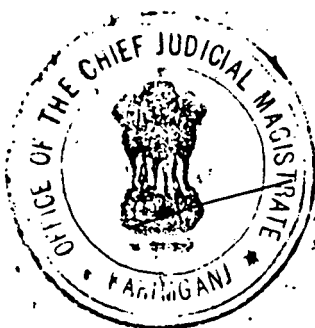
- 9 -

arrived beside the TAX office and entered that office where H.S. Hans, AME, Badarpur, R.K. Biswas, CWS, Basudev Acharjee, TXR were present. They reported to him that the accused forcefully demanded of them to allow him to resume his duties. H.S. Hans/ told the accused that he was sick and he could not be allowed attempted to assault Shri Hans with the hammer. That time Basudev Acharjee and Saraf Uddin took the accd. outside the office. In his cross-examination he said that he told the police that he received a telephone from TXR office after 2.30 P.M. to the effect that accd. Dina was creating troubles.

The said AME was in his office at that time and @

4 P.M. came to CWS office. There was a discussion

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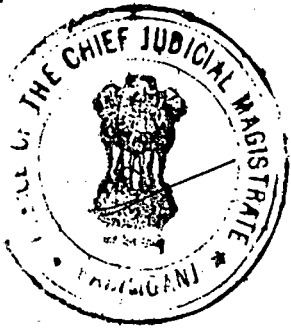




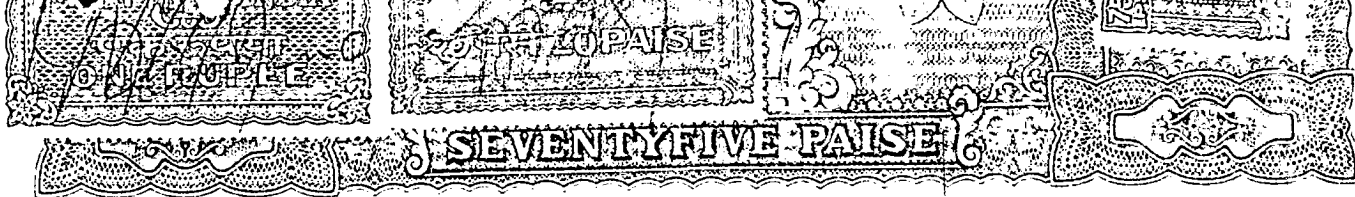
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between the said between the said CNS and AME, but he was not aware of the discussion. He denied that the accd. submitted a fitness certificate. At the time of occurrence he was fit to work. He did not know if any other cases were filed against the accused. He denied that the accd. was not about to assault the AME with a hammer. He denied that he did not tell it to the police and the accd. was not restrained by Basudev and Sarif Uddin. The hammer was supplied by the Rly. Deptt. to the Fitters. The RPF post was located near the TXR office, but none came from that office. He denied that there was no hammer in the hands of the accd. and he simply went to the office at 2.30 P.M. for resuming his duties.



Contd.....(11).



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

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P.W.3, Basudev Acharjee stated that on 9-9-87 he was the Head Clerk of TXR office at Badarpur and accd. Dina was a carriage fitter under CWS. On that day the accd. was not on duty as his name was in the sick list. But on the above date @ 5 P.M. when he was in his office he heard that the accd. created troubles in the TXR's Train passing office. Then he himself, AME, C.R. Hans, Supdt. R.S. Biswas, Nanda Dutta and others went there and found accd. Dina was loitering inside the TXR office with a hammer in his hand. He asked C.R. Hans to allow him to join his duties, But Shri Hans told him to obtain a fitness certificate. Accd. Dina gave a deaf hearing to it and attempted to

Contd.....(12).



*Handwritten signature and initials.*

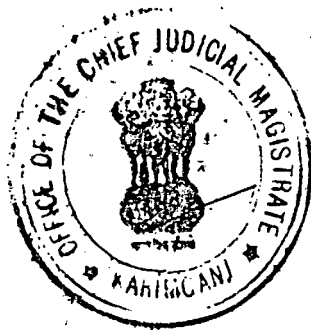


प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

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assault Shri Hans with the hammer. They caught hold of Dina and took him to GRP office. In his cross-examination he said that he came to Badarpur in 1980, but accd. Dina worked at Badarpur before that time. He heard that there were other cases against Dina, but he could not say how many cases were pending against him. He denied that Dina had a fitness certificate which was ignored. No departmental proceeding was drawn against the accd. He did not know if he was acquitted in two other cases. He denied that his (accd.) transfer was cancelled on his representation, which annoyed all concerned and for that other cases were created against the accd. He denied that the accd. did not attempt to assault any concerned. In

Contd.....(13).





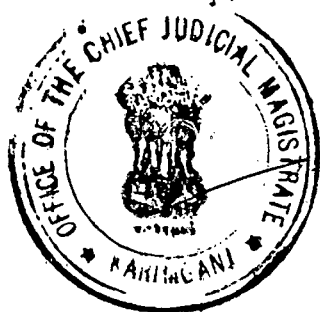
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one room of TXR office there was RPF post and that remained for 24 hours. They had also fire arms. The accused voluntarily went with them to the GRP. One RPF Inspector also came out.

P.W.4, Suchen Ch. Das said that on 9-9-87 he was on duty from 2 P.M. and accd. Dina was sick. At that time he entered into the office and with a hammer hit on the table and asked him to allow his attendance, He replied that he was not capable to allow his attendance which might be allowed by the authority above. But the accd. threatened his life. He then informed this incident to CWS with a request that he could not work in in that a situation. Then he left the office with

Contd.....(14).







प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

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*Affected  
R. G. Singh, P.W.*

sick memo. In his cross-examination he said that at the time of that incident TAX Upendra Purkaystha was present. He reported it to CWS at CWS office about a furlong away from his office. He was examined by the police. Ext-A was written by him and vide it the accd. was allowed to work only for a day. He denied that the accd. did nothing and this case was created with a mind to harass him.



The fact of appearance of the accused at 7.30 A.M. was not subscribed in FIR, marked Ext-1. P.W.2 in his cross-exam. specifically admitted that at the time of occurrence, the accd. was fit to work. Had it been so, the accd. might be allowed to resume his duties with a direction

Contd.....(15).



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

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to produce the fitness memo within a reasonable time. But for ends of natural justice, the accused was not given that opportunity. The presence of Upendra Purkayastha was not disclosed by any other witness, excepting P.W.4. It appears that there were other cases against the accused and none of the witnesses could give result of such cases. P.W.1 in his cross-exam. admitted that the transfer of the accused was cancelled by the authority above on his representation. The defence took the plea that such cancellation of the transfer of the accd. annoyed the witnesses and they instituted several cases against him on flimsy grounds. P.W.3 did not admit that any transfer of the accd. was



Contd.....(16).



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

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cancelled on representation. P.W.3 in his cross-examination admitted that the accd. voluntarily went with them to the GRP when one RPF Inspector came out. The evidence of their witnesses showed that the accused was caught hold and handed over to the GRP. P.W.4 admitted that he allowed the accd. to resume his duties for a day on the strength of Ext.A. However, all the witnesses stated that the accused threatened his immediate bosses for not allowing him to join without a fitness memo. In such a case he could be put under suspension, but it was not done. Such action on the part of the accused cannot be indulged. Equally, the strictness on the part of the witnesses also cannot be appreciated when P.W.3

Cantd.....(17).





प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

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in his cross-examination admitted that the accused was fit to work, he could have been given an opportunity to produce the Fitness Certificate after allowing him to resume his duties.

Therefore, considering the totality of the evidence on record and the facts and circumstances received therefrom; I conclude that the case is not proved beyond the shadow of all reasonable doubt. Equally, I warn the accd. not to recur any such incident in future. I further observe that his immediate bosses should also give him opportunity which may arise from the facts of the time. The accd. is acquitted and set at liberty forthwith. His bailbond stands discharged.



Contd.....(18)..



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

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Sd/- K.S. Nath,  
Chief Judicial Magistrate,  
Karimganj.  
Dt. 25-5-89.

Dictated & corrected  
by me.

Sd/- K.S. Nath,  
Chief Judicial Magistrate,  
Karimganj.  
Dt- 25-5-89.

COMPARED BY:

Comparing Clerk,  
Date.....

Typed By :-  
(Steno).

COPIED BY :-  
(SEKHAR NATH).

CERTIFIED TO BE A TRUE COPY

*Nibaran Ch Das*  
Head Assistant.  
Chief Judicial Magistrate's Office  
Authorised U S-76 of Act: 1 of 1972  
KARIMGANJ.

*Attested*  
*Supd. Adv.*

To  
The Divisional Railway Manager (F),  
N.F. Railway,  
L U M D I N G.  
-----

Sub: (i) Prayer for -

- (i) allowing resumption to my duty as Carriage Fitter at Badarpur.
  - (ii) Payment of all unpaid wages for my suspension period and non-working period.
- 

Sir,

I have the honour to submit the following for favour of your sympathetic consideration and favourable redressal orders.

That sir, I have been working as a Carriage Fitter under CWS/Badarpur/N.F. Railway. But sir, since sometimes back I have been being harassed and assaulted by the Departmental staff of Badarpur associated with the GRP/BPB and RFF/BPB even filed Court cases in various fabricated ways in the Law Court at Karimganj, ~~xxxxxx~~ stating me a 'Mad'. Although the Rly. doctors certified me fit for duty, I have not been given duty and kept me either in suspension or without work, for which I had to loose my wages resulting putting me and my dependant family members into starvation.

That sir, the Court Cases filed by the Deptt., RPF & CRFS - Badarpur have been decided in my favour and I have been honourably acquitted.

Under the circumstances, now I most fervently pray to your goodself to kindly arrange my resumption to my usual duties and also arrange payment of my back wages, and also treat the transfer order as cancelled and allow me to resume at Badarpur, saving me and my dependant family members from starvation and entire ruin and for which act of your kindness I shall remain ever grateful to your honour.

With all regards,

Dated: Badarpur,  
The 10th May/1988

Copies forwarded for kind information and favourable action :-

- 1). The DME/C&W/Lumding
- 2). AME/Badarpur/N.F.Rly
- 3). Hon'ble Magistrate, Karimganj Court, Karimganj.
- 4). S.J. Rajib Gandhi, Hon'ble Prime Minister of India, N/Delhi
- 5). S.J. Madhab Rao Scindia, Hon'ble Rly. Minister, New Delhi

Yours faithfully,

*(Signature)*

( Dana )

Carriage Fitter,

( Under CWS/Badarpur/N.F.Rly.

P.O. Badarpur - 788806,

Dist. Karimganj ( Assam ).

(Dina)

10/5/1988.

Carriage Fitter

To be sent Regd. with A/D

**Standard form of order relating to appointment of  
Inquiry Officer, Board of Inquiry**  
(Rule 9 (2) of RS (D&A) Rule, 1968)

No. ED/116  
N.F.R. (Name of Rly. Administration)  
DRM D/LUG (Place of issue) Dated 12/12  
6-10-88

## ORDER

Whereas an inquiry under rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968 is being held against Shri Dina, C/Fitter/302 (name and designation of the Railway servant).

AND WHEREAS the ~~Railway Board~~/the undersigned consider(s) that a ~~Board of Inquiry~~/an Inquiry Officer should be appointed to inquire into the charges framed against him.

NOW, THEREFORE, the ~~Railway Board~~/the undersigned, in exercise of the powers conferred by sub-rule (2) of the said Rule, hereby appoint (s) —

a Board of Inquiry consisting of :

1. }
2. } Here enter names and designations
3. } of Members of the Board of Inquiry.

OR

Shri P. C. Galabot, AWE(D) LUG (name and designation of the Inquiry Officer) as  
 Inquiry Officer to inquire into the charges framed against the said Shri Dina, C/Fitter

xx Ssi Dina, ✓  
 C/Fitter  
 Rly. Serv. No. L-205/A  
 Dharna Colony  
 P.O. Badarpur  
 Dist. Asansol  
 (Assam)

Signature [Signature] 05-10-88  
 Name (S. K. Baschaw)

Secretary, Railway Board

Designation of the Disciplinary Authority  
 N. F. Rly. Lumding.

Copy to (name and designation of the Railway servant) (xx)  
 Copy to (name and designation of the Members of the Board of Inquiry/Inquiry Officer). Ssi P. C. Galabot  
 "Copy to (name and designation of the lending authority) for information. AWE(D) LUG

\*Note: To be used wherever applicable—Not to be inserted in the copy sent to the Railway servant.

Standard form of order relating to appointment of  
Inquiry Office / Board of Inquiry  
(Rule 9 (2) of RS (D & A) Rule, 1968)

No. ED/116

N. F. Rly (Name of Rly. Administration)

DRO (P) LMG (Place of issue) Dated 12/883-1-89

## ORDER

Whereas an inquiry under rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968 is being held against Shri. Dina, C/Fitter/BPB (name and designation of the Railway servant).

AND WHEREAS the ~~Railway Board~~ the undersigned consider(s) that a Board of Inquiry/an Inquiry Officer should be appointed to inquire into the charges framed against him.

NOW, THEREFORE, the ~~Railway Board~~ the undersigned, in exercise of the powers conferred by sub-rule (2) of the said Rule, hereby appoint (s)—

A Board of Inquiry consisting of:

1. {
2. { Here enter names and designations
3. { of Members of the Board of Inquiry.

OR

Shri. R. N. Roy, Ane/As/LMG (name and designation of the Inquiry Officer) as

Inquiry Officer to inquire into the charges framed against the said Shri. Dina, C/Fitter

*This is modification of earlier office letter even wtd 6-10-88.*

Signature S. S. L. Basu 2.1.89

(S. S. L. Basu)

Secretary, Railway Board

Divisional Mechanical Engineer (Rly.)  
N. F. Rly, Lumding.

- Copy to (name and designation of the Railway Servant) (X)  
Copy to (name and designation of the ~~Members of the Board of Inquiry~~ Inquiry Officer). S. R. N. Roy  
\* Copy to (name and designation of the lending authority) for information. Ane/As/LMG

S. R. N. Dasgupta  
CAS/BPB

\*Note: To be used wherever applicable—Not to be inserted in the copy sent to the Railway servant.



Proceeding of DAR enquiry held at 10.30 hrs on 5.5.89 at AME(C&W)/LMG's chamber(E.O) against Sri Dina, Ex.C/Fitter under CWS/UPD as per DAR 1968 in respect of Major Memorandum No.CD/116 dt/-14.6.88 issued by DME(C&W)/LMG.

The delinquent Sri Dina, Carr:Fitter under CWS/BPB attended.

The Enquiry Officer read out the charges brought against Sri Dina and explained the same in Hindi which the delinquent understood.

Signature of Sri Dina

Statement of Sri Dina, in connection with the above DAR enquiry.

I Sri Dina, Carr:Fitter under CWS/BPB do not want to engage any defence counsel or Union's assistance to defend my case. I shall defend the case myself.

As regards, allegation against me I would like to say that all are false and made intentionally to harm heress me.

Signature of Sri Dina

Cross examination of Shri Dina by E.O

Q.1 You were asked to attend DAR enquiry on 20.2.89. In reply you informed that you had to attend court on the same date. You were asked vide this office letter of even No dated 6.4.89 to be present to attend DAR enquiry on 26.4.89 along with the documentary evidences in support of your court attendances. Why could not you produce the documentary evidence in support of the Court attendance?

A- I did not receive any letter from Magistrate/Karimganj but under the instruction of my defence counsel(Advocate) I attended the court.

Q.2 You were again asked to be present on 26.4.89 to attend the DAR enquiry at AME(C&W)/LMG's chamber but you failed with the plea that you had to attend court on 26.4.89. Again you were asked to be present to attend DAR enquiry on any date on per your official date with 20.5.89 along with documentary evidences in support of your court attendances. Accordingly, you have reported on date vide AME/UPD's letter No.AME/BPB/E-2/89 dated 3.5.89. But you have not been able to produce documentary evidences in support of your court attendance on 26.4.89.

Why have not you brought the documentary evidences in support of your court attendance on 26.4.89.

A- I was not issued any letter by Magistrate/Karimganj, but asked by my defence counsel(Advocate) to be present in the court on 26.4.89. So I do not have any documentary evidences in support of my court attendances.

Contd....2

Attested  
Perforating, B.A.

Q.3 You were transferred to New Guwahati on Administrative ground. Why did not you carry out the order ?

A- I went to New Guwahati to resume duty but I was not allowed and driven away.

Q.4 Whether the transfer order what you had carried with you for US/MC/NCC were received by US/MC/NCC ?

A- I was not issued any letter by CWS/BPB.

Q.5 Why did you leave Badarpur without any letter ?

A- I was told by the Officer of CWS/BPB that all the relevant papers were sent to US(MC)/NCC by post and I saw one copy of the transfer order letter was posted on the Notice Board. On seeing this I went to NCC.

Q.6 On 9.9.87 at about 17.30 hrs where were you ?

A- I was on duty on Train passing and receiving Lala Bazar train on Line No.6.

Q.7 Can you say while you had been receiving the Lalabazar train, where your AME was ?

A- After receiving the train, I was coming to Train passing Office and there I found AME/BPB, Shri C.R.Hans.

Q.8 Who were the other staff you saw discussing with AME/BPB ?

A- Shri N.G.Datta, TXR, Basudeb Acherjee, TXR, Sushan Ch:Das-TXR, Sri R.N.Biswas, CWS/BPB, Sri. Ashit Kar-Fitter, Sri Sushil Mali -Fitter, Sri Nagendra Nath-Fitter, Sri S.Paul-Fitter and one RPF personnel.

Q.9 Why did you go to Train passing office ?

A- I went to keep my tools in tool box.

Q.10 What did you do then ?

A- I was called by AME/BPB, Sri C.R.Hans who asked me where I was since last 8 days.

Q.11 What did you reply ?

A- I told that Shri Sushan, TXR did not allow me to resume duty on 17.8.87 on the reason that I was behaving like a mad, so I asked to issue me a sick memo and I was issued and subsequently reported to a Private Doctor. Then AME told me that where I had been since last 8 days U.O.P. 17.8.87. I told that I was under Private Medical practitioner.

Q.12 What did AME/BPB tell you then ?

A- AME/BPB asked me no more questions but told the RPF personnel present there to hand me over to CRP.

Contd....3

Attested  
[Signature]  
[Signature]

Q.13 Had you have any quarrel with AME/BPS during this conversation ?

A- No.

Q.14 What is your idea why AME/BPS had asked RPF personnel to hand you over to GRP ?

A- I have got no idea about it.

Q.15 Do you like to cross examine the staff whose names you have mentioned earlier and present during the conversation between you and AME/BPS on 9.9.87 ?

A- No. I need not cross examine them.

Ala (5/5/88)  
Signature of E.O  
(AME/C&W/LMG)

(E-71) 5/5/88  
Signature of Sri Dina  
Carr:Fitter

Attest  
[Signature]

Standard form of order relating to appointment of  
Inquiry Officer/Board of Inquiry  
(Rule 9.(2) of RS (D&A) Rule, 1968)

No. ED/116N. F. Rly. (Name of Rly. Administration)(Place of issue) DRM(D)LMG Dated 13/902-4-90

## ORDER

Whereas an inquiry under rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968 is being held against Shri Dina, Ex. CF/BBB (name and designation of the Railway servant).

AND WHEREAS the ~~Railway Board~~/the undersigned consider(s) that a Board of Inquiry/an Inquiry Officer should be appointed to inquire into the charges framed against him.

NOW, THEREFORE, the ~~Railway Board~~/the undersigned, in exercise of the powers conferred by sub-rule (2) of the said Rule, hereby appoint (s) —

a Board of Inquiry consisting of :

1. }
2. } Here enter names and designations
3. } of Members of the Board of Inquiry.

OR

Shri S. G. Gokhale, AME/BBB (name and designation of the Inquiry Officer) as

Inquiry Officer to inquire into the charges framed against the said Shri Dina, Ex. CF/BBB.

*This is in partial modification of  
our office letter of even no. 6-10-88 and 31-89.*

Signature S. G. Gokhale 20.3.90Name S. G. GokhaleSecretary, Railway Board DRM(D)LMG

OR

Designation of the Disciplinary Authority

Copy to (name and designation of the Railway servant) (XX)Copy to (name and designation of the Members of the Board of Inquiry/Inquiry Officer) S. G. Gokhale\*Copy to (name and designation of the lending authority) for information: AME/BBB

\*Note: To be used wherever applicable—Not to be inserted in the copy sent to the Railway servant.

*Attest  
S. G. Gokhale*

**Standard form of order relating to appointment of  
Inquiry Officer/Board of Inquiry**  
(Rule 9 (2) of RS (D&A) Rule, 1968)

No. ED/116  
N. F. Rly. (Name of Rly. Administration)  
DRM (PLW) 6 (Place of issue) 4/9/90 (Date)

**ORDER**

Whereas an inquiry under rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968 is being held against Shri. Dina, Ex-CE/11/DPB (name and designation of the Railway servant).

AND WHEREAS the ~~Railway Board~~/the undersigned consider(s) that a ~~Board of Inquiry~~/an Inquiry Officer should be appointed to inquire into the charges framed against him.

NOW, THEREFORE, the ~~Railway Board~~/the undersigned, in exercise of the powers conferred by sub-rule (2) of the said Rule, hereby appoint (s) —

a Board of Inquiry consisting of :

1. {
2. { Here enter names and designations
3. { of Members of the Board of Inquiry.

OR

Shri. R. L. Das, AME/614 (name and designation of the Inquiry Officer) as  
 Inquiry Officer to inquire into the charges framed against the said Shri. Dina, Ex-CE/DPB

(xx) Sri Dina  
C/Fitter

Ry. Qar. no. L/205-A  
Sharnu Colony  
P.O. Badarpur  
Dist. Haringay  
(Assam)

Signature [Signature] 4.9.90

Name S. K. Baidhwa  
सहायक यंत्रिक इंजीनियर (रे. रेल)

Secretary, Railway Board, रेलवे, बामडिंग  
Orignal Mechanical Engineer (C&M)  
 Designation of the Disciplinary Authority [Signature]

Copy to (name and designation of the Railway servant) (xx)  
 Copy to (name and designation of the Members of the Board of Inquiry/Inquiry Officer) Sri R. L. Das  
 \*Copy to (name and designation of the sending authority) for information. AME/614

\*Note: To be used wherever applicable—Not to be inserted in the copy sent to the Railway servant.

This is in modification of this office letter of  
even no dtd 6.10.88 (B.1-80)

Standard form of order relating to appointment of  
Inquiry Officer, Board of Inquiry  
(Rule 9 (2) of RS (D&A) Rule, 1968)

No. ED/116

N.F. Rly (Name of Rly. Administration)

(Place of issue) DRMOLMG Dated 8/3/91

ORDER

Whereas an inquiry under rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968 is being held against Shri DINA, Ex-CE/11/BDB (name and designation of the Railway servant).

AND WHEREAS the Railway Board/the undersigned consider(s) that a Board of Inquiry/an Inquiry Officer should be appointed to inquire into the charges framed against him.

NOW, THEREFORE, the Railway Board/the undersigned, in exercise of the powers conferred by sub-rule (2) of the said Rule, hereby appoint (s) —

a Board of Inquiry consisting of :

1. {
2. { Here enter names and designations
3. { of Members of the Board of Inquiry.

OR

Shri S.D. Choudhary, AME/NGC (name and designation of the Inquiry Officer) as

Inquiry Officer to inquire into the charges framed against the said Shri DINA, Ex-CE/11/BDB

Signature [Signature] 8.3.91

Name (S. R. Bazzellon)

Secretary, Railway Board

OR Divisional Mechanical Engineer (C) Designation of the Disciplinary Authority

Copy to (name and designation of the Railway servant) (xx)

Copy to (name and designation of the Members of the Board of Inquiry/Inquiry Officer) S.D. Choudhary, AME/NGC

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

Notice board of CAS/BDB's office in presence of two staff

\*Note: To be used wherever applicable — Not to be inserted in the copy sent to the Railway servant.

This is modification of this office letter of even no dtd 6-10-88, 3-1-89 & 4-9-90.

Standard form of order relating to appointment of  
Inquiry Office, Board of Inquiry  
(Rule 9 (2) of RS (D&A) Rule, 1968)

No. ED/116  
.....  
N.F.Rly. (Name of Rly. Administration)  
.....  
(Place of issue) DDM DLMG Dated 23/1/92

## O R D E R

Whereas an inquiry under rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968 is being held against Shri Dina, Ex-CE/III/BPB.....(name and designation of the Railway-servant).

AND WHEREAS the ~~Railway Board~~/the undersigned consider(s) that a ~~Board of Inquiry~~/an Inquiry Officer should be appointed to inquire into the charges framed against him.

NOW, THEREFORE, the ~~Railway Board~~/the undersigned, in exercise of the powers conferred by sub-rule (2) of the said Rule, hereby appoint (s)—

a Board of Inquiry consisting of :

1. {
2. { Here enter names and designations
3. { of Members of the Board of Inquiry.

O R

Shri S.P. Ambasta, AME/BPB.....(name and designation of the Inquiry Officer) as Inquiry Officer to inquire into the charges framed against the said Shri Dina, Ex-CE/III/BPB.

(xx) For Dina, CE/III/BPB  
Rly. Cor. no. L/205 (A)  
Jharna Colony  
P.O. = Badarpur  
Dist = Kosiungay  
(Assam)

Signature .....

Name.....

Secretary, Railway Board, Rly., L...

O R

Designation of the Disciplinary Authority

Copy to (name and designation of the Railway servant) (xx)

Copy to (name and designation of the Members of the Board of Inquiry/Inquiry Officer). S.P. Ambasta

\*Copy to (name and designation of the lending authority) for information. ✓

✓ Notice board of CE/III/BPB's office

\*Note: To be used wherever applicable—Not to be inserted in the copy sent to the Railway servant.

This is immodification of this office no- ED/116 dtd  
6-10-88, 3-1-89, 4-9-90 and 5-3-91.

Findings of DAR enquiry against Sri Dina. Ex-CF under CWS/BPB.

**BRIEF HISTORY OF THE CASE:-** Sri Dina while he was functioning as CF under CWS/BPB, it was his common habit to create in his place of works during duty hrs with his co-workers as well as with his supervisors even with the AME/BPB.

For instance on 09.09.87. He attempted to assault AME/BPB with a hammer in train passing office at 17.35 hrs, accordingly he was arrested with GRP on the same date. Due to off and on obstruction created by Sri Dina. The normal official works used get hampered which even some time resulted in train detention.

Sri Dina was transferred to NGC on admn ground. But on representation against his transfer to CRSE/MLG while came for hill section inspection and accordingly he was retained at BPB. But his behaviour was not improved.

Again he was transferred to NGC on admn ground. But he refused to accept the sparing letter as per prevailing procedure. The same was pasted in the notice board on 18.10.87. and after that he has not reported at NGC and since then he is absconding. On the basis of the report from his immediate superior a charge was framed and major memorandum issued against him by his disciplinary authority under No-ED/116 dt-14.6.88. Accordingly to give him chance to represent his side, an enquiry was proposed to be held by appointing an enquiry officer (AME/BPB). The enquiry officer served several notices proposing to hold enquiry fixing the dates more than once. Such as (on 12.4.93, 18.6.93 & 3.11.93) But neither he turned up on fixed dates, time & place nor anything was heard from him.

### ARTICLE OF CHARGES.

Charge No:- (1) Shri Dina, while functioning as carr. Fitter/III, under CWS/BPB was under order of transfer to NGC on ADMN ground vide DRM(P)/LMG's No-ED/116 dt 18-2.86 for creating troubles during working hours with his co-workers as well as with his supervisors and even with the AME/BPB.

On 27.11.86 he represented the case to CRSE/MLG for this retention who was on inspection in hill section and CRSE advised CWS/BPB to give him a chance and accordingly he was retained at BPB cancelling his transfer order vide DRM(P)/LMG's No-ED/116 dt- /3-87.

Attested  
[Signature]



with a hammer in train passing office at 17-35 hrs and accordingly he was arrested by GRP on same date. For obstruction time to time of normal works as well as causing detention to trains even after his retention at BPB he was again transferred to NGC on admn. interst under DRM (P)/LMG's No. E/283/1/LM/C&W/ADMIN-dt-28.87. Accordingly CWS/BPB spared him wef- 9.10.87 for NGC vide his sparing letter No. E/3 dated- 13.10.87. But he refused to accept the same for which CWS/BPB posted his sparing letter in the notice board on 18.10.87 and after that he has not yet reported at NGC and absconding since then which tantamounts insubordination, misconduct and misbehaviour on his part.

Shri S.P. Ambasta AME/BPB on being nominated by the disciplinary authority (DME/C&W/LMG) of Shri Dina to conduct an enquiry on the charges as mentioned in major memorandum No. ED/116 dated- 14.6.88 issued against (Dina Carr. Fitter/BPB) by his disciplinary authority.

Accordingly the enquiry was held ex parte on the following grounds.

1. A notice under No. M/BP/E-II/93 dated 18.3.93 was served to Shri Dina. Fitter of BPB carriage department to appear before me (Enquiry authority) on 12.4.93 in my office to hold enquiry to give him chance to represent against the charges as framed against him. Shri Dina was also given opportunity to nominate and communicate the name of another Railway servant who can act his defence counsel in presenting the case before the enquiry authority. But Shri Dina neither attended in the proposed enquiry nor sent communication in this respect.
  2. Again notice was given to Dina to appear before the enquiry authority on 18.6.93 to represent his side but he did not the opportunity.
  3. Further Shri Dina was given chance to turn up before the enquiry officer on 03.11.93, to submit his representation in connection with the charges as framed against him. But nothing was heard from him.
- The notice for Shri Dina's appearance before the enquiry authority was sent by Regd post on 24.10.93, and received by on 26.10.93.

Attest  
RPMY Adm

The notice which were served time to time on Shri Dina Carr-Fitter under CWS/BPB, a copy of such notices were displayed in the notice board by CWS/BPB for information of all concerned as Shri Dina functioned last under CWS/BPB.

DISCUSSION OF EVIDENCES :- From the records it is seen that Shri Dina had attended the enquiry on. 5.5.89 in the chamber of enquiry officer (AME / C & W / LMG), but unfortunately the enquiry could not be finalised due to some unavoidable reasons. Hence the AME / BPB was nominated to conduct the enquiry vide SN/68.

Accordingly time to time notices were served on Shri Dina for appearance before the enquiry authority for the hearing of the case. But Shri Dina neither attended the enquiry in person nor sent any representation. It was necessary on the part of Shri Dina to face the enquiry to present his side against the charges framed against him. But no initiative had taken from the dependant side to come out clear of the charges.

REASONS FOR FINDINGS :- Ample opportunities were given to Shri Dina from time to time from the side of enquiry authority. But no representation, submission or objection made by him in his defence.

FINDINGS :- Having gone through the discussions and other relevant records of the case from which it appears that the defendant had nothing to say against the charges as framed against him (Shri Dina).

Hence the enquiry officer is in opinion that the charges stand good.

The charge is approved.

Attest  
[Signature]  
[Signature]

[Signature]  
(S.P. Anibasta).  
Enquiry Officer

AME / BPB,  
N. F. Railway.

Dated: \_\_\_\_\_

in connection with the display of notices issued from time to time to Sree Dina for attendance in DAR enquiry.

The enquiry officer (AME/BPB) served several notices to Sree Dina fixing up date on (12-04-93, 18-06-93 & 03.11.93) for attending DAR enquiry in the office of the AME/BPB in connection with the major memorandum No-ED/116 dated 14.06.88 issued by DME/C&W/LMG against Sree Dina, all such notices were duly displayed in the notice board for information of all concerned as Sree Dina was not available in his duty place.

Heard  
enquiry ADV.

23.12.93

To  
The Enquiry Officer,  
(AME/BPB), N.F.Rly.,  
B A D A R P U R.  
-----

Sub: COMMUNICATING THE RESULT OF ENQUIRY AND  
TAKING EARLY DECISION IN THE MATTER OF ALLOWING  
MY RESUMPTION AT BPB AS C/Fitter UNDER CWS/BADARPUR.  
-----

Respected Sir,

With profound respect I beg to state that I have already appeared before the enquiry on the specified date(s) and submitted my all replies of the queries item by item.

That sir, since 1985 I have been being harassed by the officials of the carriage department calling me as a (MAD), and I had been put off duty and put under suspension and later on transferred to NGC on punitive measure, although I was quite fit for duty in every respect as per doctors fit certificate of Badarpur Railway Hospital.

Further I was harassed handing over to RPF, GRP of Badarpur and false and got up cases were instituted against me and almost in all cases the Court judgment were in my favour. At the time of enquiry I produced the copies of the Court judgement.

That sir, since last years together I have not been given any employment for no fault of mine resulting abnormal hardship and starvation to my family members. And time to time the enquiry dates are being fixed and debarred for finalisation of the case, but till date no final decision has yet been arrived.

Under the circumstances I most fervently pray to your goodself to kindly finalise your enquiry report so that either I may kindly be put to my usual duties at Badarpur or I may kindly be settled finally, saving me and my family members from further hardship and starvation and for which act of your kindness I shall remain ever grateful to your honour.

A-2  
P. J. M.  
D. W.  
Dated : Badarpur,  
The 21/7/1990.  
-----

Yours faithfully,  
(Dina)  
Carriage fitter, Gr. II  
(Under CWS/Badarpur )  
N.F.Rly.

Copy to :

- 1). The DRM(P)/Lumding/N.F.rly
- 2). DME/C&W/Lumding
- 3). O/C. RPF/Badarpur
- 4). O/C- Badarpur GR/S

for favour of their kind information and early favourable action in the matter as prayed for and for their act of kindness I shall remain ever grateful to your honour.

23/7/90  
23/7/90  
ina )

To  
The Divisional Railway Manager (P),  
V.F. Railway,  
LUMDING.

SUB: PRAYER FOR ALLOWING ME TO MY USUAL DUTY AT  
BADARPUR AS CARRIAGE FITTER OR ARRANGING MY  
FINAL SETTLEMENT EXEMPTING ME FROM APPEARING  
BEFORE THE ENQUIRY UNDER AME/BPB (Shri S.P. Ambasta)  
VIDE YOUR NO. ED/116 DT. 23-1-92.

Respected Sir,

With due honour I beg to state that I have been sitting idle without any job since long years back without getting any wages for my livelihood and for that of my dependant family members for no fault of mine and only due to only concocted allegations of my colleagues and my superior officials.

That sir, in the past I faced before the Enquiry officer as arranged by your honour and I submitted my documents and talked about my innocence, but till date no final decision has yet been arrived either about my resumption of duty or settling up finally.

That sir, again vide your above letter your honour have proposed for an enquiry and Shri S.P. Ambasta, AME/BPB deputed for enquiry.

Now, I pray that without any conducting any further enquiry either I may kindly be allowed to resume to my usual duties or I may be settled up finally without hanging me in the balance as because my torture and sufferings without any source of income reached to the extreme which is unbearable for me.

Your final and early decision in this respect is earnestly solicited and for which I shall remain ever grateful to your honour.

Yours faithfully,

Dated: Badarpur, 1  
The 10/03/1992

(Dina)

- Copy to :
- 1). DME/C&W/Lumding. 1 Carriage Fitter, Gr.III
  - 2). AME/Badarpur. 1 ( Under CWS/Badarpur/V.F.Rly.)
  - 3). General Manager, 1 Rly. Qra. No. 1/205(A),  
V.F. Railway/ Jharna Colony, P.O. Badarpur-788806  
Nalgaon. 1 Dist. Karimganj (Assam).
  - 4). Chairman, Railway Board, Govt. of India, New Delhi
  - 5). Hon'ble Rly. Minister, Govt. of India, New Delhi.
  - 6). Hon'ble Prime Minister, Govt. of India, New Delhi.

Dated: 10/03/92.

(Dina)

Carriage fitter, Gr.II  
V.F. Railway, Badarpur-788806

Tested  
signature

Regd. Such AD

No. FD/116

DDM (P) on file  
Dt 15/7/92

17-9-92

To,

Sri Dina, P. C. Titter Dina

Ply Qas. No L/205(A)

Jharkha Colony

P.O. - Badapah


Dist. - Kharagpur (Assam)

Sub: - Representation against proceeding  
and findings.

The report of the Enquiry Officer in connection with Enquiry conducted on 14.6.88 is enclosed.

The disciplinary authority will take suitable decision after considering the report. If you wish to make any representation or submission, you may do so in writing to the disciplinary authority which is duly on receipt of this letter.

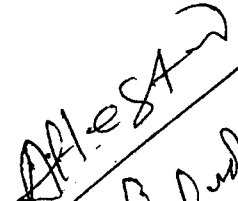
Encl 2

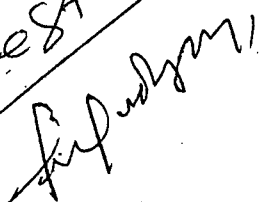
  
 डी. एम. ई. (मि. ई.)

पु. ए. रेलवे, कलकत्ता

Divisional Mechanical Engineer (COW)

N. F. Ry. Lending

  
 डी. एम. ई.

  
 डी. एम. ई.

To  
The Divisional Railway Manager (P), N.F. Railway,  
LUMDING.  
Copy to DME (C&W), N.F. Rly.,  
Lumding.

Sub: Representation against Proceedings  
and Findings.

Ref: Your No. ED/116 Dt. 15/7/92  
17/9/92

Respected Sir,

I acknowledge the receipt of your  
above letter and in reply I beg to state that  
I attended enquiry on 5-5-89 at AME(C&W)/LMG's  
chamber and replied almost all the queries as asked  
the Enquiry officer and when subsequent dates for  
Enquiry were fixed, then also I communicated that  
I had nothing further to say and I need not be called  
for further enquiry.

Hence in this respect I again pray to your  
goodself either arrange my resumption at Badarpur  
in my existing post or I may kindly be settled finally  
to avoid lingering of the issue and for which act of  
your kindness I shall remain ever grateful to your  
honour.

With regards,

Dated: Badarpur,

The 24/09/1992

Yours faithfully,

*[Signature]*  
( Dina )

Carr. Fitter, Gr. III,  
Badarpur carriage shop,  
P.O. Badarpur - 788806,  
Dist. Karimganj ( Assam ).

*Attested  
by [Signature]*

Regd. with A/D.

NOTICE OF IMPOSITION OF PENALTY OF  
REMOVAL FROM SERVICE.

DAR - 1968.

No. ED/116

Dt. / -12-94.

To  
Sri Dina, Carr: Fitter/Gr. III  
S/O. Ranji,  
Rly. Qrs. No. L-205/A, Jharna Colony,  
P.O. Badarpur, Dist. Karimganj (Assam).

Designation &amp; Station :- Carr: Fitter/III/BPB.

Scale of pay :- 950-1500/-.

Department :- Mechanical.

Date of Apptt. :- 10-10-63.

Since you have failed to attend the DAR enquiry held on 12-4-93, 18-6-93 and 3-11-93 to the memorandum of charge for major penalty issued by DME/C&W/IMG vide even No. dtd. 14-6-88 the enquiry in question has been held ex-parte and the following charge have been proved.

" Shri Dina, while functioning as Carr: Fitter/III under CWS/BPB was under order of transfer to NGC on Admn. ground vide DRM(r)/IMG's No. EO/116 dt. 18-2-86 for creating troubles during working hours with his co-workers as well as with his supervisors and even with the AME/BPB.

On 27-11-86 he represented the case to CRSE/MLG for this retention who was on inspection in Hill section and CRSE advised CWS/BPB to give him a chance and accordingly he was retained at BrB cancelling his transfer order vide DRM(r)/IMG's No. ED/116 dtd. /3-87.

But on 9-9-87 he attempted to assault AME/BPB with a Hammer in train passing office at 17/35 Hrs. and accordingly he was arrested by GRP on same date. For obstruction time to time of normal works as well as causing detention to trains even after his retention at BrB he was again transferred to NGC on Admn. interest under DRM(r)/IMG's No. E/283/I/IM/C&W/ADMN dtd. 28-9-87. Accordingly CWS/BrB spared him w.e.f. 9-10-87 for NGC vide his sparing letter No. E/3 dtd. 13-10-87, but he refused to accept the same for which CWS/BPB ~~passed~~ pasted his sparing letter in the Notice board on 18-10-87 and after that he has not yet reported at NGC and absconding since then which tantamounts insubordination, misconduct and misbehaviour on his part."

You are hereby informed that in accordance with the order passed by the undersigned you are hereby removed from service with effect from 20-12-94 (AN).

Receipt of the NIP may be acknowledged.

*Alleged*  
*Supd. Engg. Adm.*

*Secured*  
21.12.94  
Signature of Disciplinary  
Authority (S. M.)  
To the  
Divisional Mechanical Engineer (C&W)  
N. F. Ry. L. ...  
Contd...P/No.2



Copy to :-

- 1) CWS/BPB in duplicate for information and n/action. Accordingly he will please handover one copy of the NIP to the party concerned if available otherwise display the same on the Notice Board in presence of two witnesses with the intimation to this office.
- 2) OS/FS Section.
- 3) EM/Bill.
- 4) DAO/Lundding.
- 5) AME/BPB.
- 6) SLWI through AM/BPB.

*Standard*  
01.12.94  
Signature of disciplinary  
Authority.

Divisional Member  
N.I.P. Rly. Lundding.

I n s t r u c t i o n s

- 1) You will be/have been relieved of your duties on 20-12-94 (AN).
- 2) Settlement of your dues will be made at DRM(P)/IMG's office.
- 3) An appeal against the order lies to Sr.DME(P)/IMG (Next immediate superior to the authority passing the order).
- 4) The appeal may be withheld by an authority not lower than the authority from where order it is preferred if :-
  - a) It is a case in which no appeal lies under the rules.
  - b) It is not preferred within forty five days of the date on which the appellant was informed on the order appealed against and no reasonable cause is shown for delay.
  - c) it does not comply with the various provision and limitations stipulated in rules.

*Attested*  
*Debnath, AM*

debnath/301194

*RCM 6/12/94*

78  
Registered/A.D.

ANX. A 21

To  
The Divisional Railway Manager,  
N.F. Railway, Lumding,  
P.O. Lumding, Dist. Nazim ( Assam ).

SUB: APPEAL AGAINST THE IMPOSITION OF PUNISHMENT BY  
REMOVAL OF SERVICE BY DME /C&W/LMG.

Ref: DME/C&W/LMG's No. ED/116 dated 1-12-94 received by  
me on 6-12-94.

Respected Sir,

Being aggrieved with the final decision of  
the DME/C&W /Lumding I submit this appeal for your  
review the order and put me to usual duties.

That sir, I was made scape goat by the staff  
of carriage department who biased all the superior  
officers against me for drawing proceedings etc. to  
prove me as 'insane' person and kept me off from my  
duties since the year 1987. But the medical officers  
examined me and issue fit certificate for my usual  
duties. Firstly the atrocities started against me  
in the year 1985 while the Doctor issued fit Certificate  
No. B-72 dated 9-12-85 ( threatening me from 26-11-85 to  
9-12-85 and made me fit for duty on 10-12-85, but the CWS  
& AME/BPB did not allow me for duty (Fit certificate is  
self explanatory). Again from 31-8-87 to 9-9-87 I  
remained sick under valid sick Memo, but when I came to  
resume duty with the fit certificate of DMO/BPB, I was  
not allowed to resume duty, rather told me to resume duty  
at NGC, whereas the Hon'ble CRSE cancelled the transfer  
order and ~~allow~~ advised CWS/BPB to allow my duty at  
BPB, inspite of that I was not allowed duty at BPB.

That sir, DAR enquiry arranged against me  
on 12-4-93, 18-6-93 and 3-11-93, where I attended all  
the Enquiries and disclosed everything, but I have been  
blamed for not attending the enquiry, which is not a fact.

That sir, to harass and assault me RPF, GRP  
staff were engaged against me and court cases were initiated  
against me, but I was honourably acquitted by the  
Honourable trying magistrates of Karimganj Court in each  
and every time.

That sir, in this way I was put off from duty  
from 9 the year 1985 putting me and my family members  
in starvation and great financial hardships. For  
authentication of my statements the Medical certificates  
may kindly be verified and perused.

Under the circumstances I fervently pray to  
kindly arrange to ~~max~~ put me to my usual duties as Carriage  
Fitter at Badarpur waiving up the punishment imposed by  
the DME/C&W/LMG and for which act of your kindness I  
shall remain ever grateful to you.

Dated: 09/12/1994

Yours faithfully,

Copy to :

- 1). General Manager,  
N.F.Rly/Maligaon.
- 2). DME/C&W/Lumding  
N.F.Rly.

( Dina )  
Carr. Fitter ( Under CWS/Badarpur  
Rly.Crs.No. L/205/A,  
Jharna Colony, Badarpur-788806

*Attested  
[Signature]*

79

- Regd. with A/D - 79

ANX A22

N. F. RLY.

No. ED/116.

DRM(P)'s office  
Lunding, Dt. 8/2/1995

To: Sri Dina, C/Fitter,  
Rly. Qrs. L/205/A - Jharna colony  
P. O. Badarpur (788806), Dist. Karimganj (Assam).

Sub:- Appeal dtd. 9.12.94 against removal  
from service.

Ref:- This office NIP No. ED/116 dt. 1.12.94.

The above appeal has gone thorough  
by Sr.DRM(P)/LMG(i.e. next appellate authority) and  
has passed the following orders.

" I have gone carefully through the appeal  
submitted by Sri Dina. The punishment is reduced to  
compulsory retirement from service".

In accordance with the above your service is  
hereby terminated w.e.f. 20/12/94(AN) following com-  
pulsory retirement.

for D. R. M. (P)/N. F. RLY.  
LUNDING.

Copy to: (1) CWS/BPB (2). OS/FS sec.  
(3) EM/Bill (4). DAO/LMG  
(5) AME/BPB (6). SLWI thro. AM/BPB.

for D. R. M. (P)/N. F. RLY.  
LUNDING.

Attest  
[Signature]

To  
The Divisional Railway Manager (P),  
N.F. Railway, Lumding,  
E.C. Lumding Dist. Nagaon (Assam).

Sub: Clarification of the issues and furnishing the  
particulars item-wise as furnished below.

&  
Re-consideration of my appeal dated 9-12-94 against  
removal of service, now reduced to the extent of  
compulsory retirement from service.

Ref: Your No. SD/116 Dt. 8-2-95 ~~xxxxxx~~

Respected Sir,

Reference and subject above I have the honour  
to state that vide your office order my appeal against  
removal from service has been reduced and considered  
and in place of removal order for compulsory retirement  
has been made.

That sir, your revised order has come me as  
'placing me from fire to Fry pan'. However, I shall  
be much grateful if your honour very kindly <sup>transfer to</sup> ~~grant~~ and  
furnish the following particulars within 15 (fifteen)  
days from the date of receipt of this petition of mine  
otherwise I am not going to accept my voluntary retirement.

- 1). Month-wise salary statement from the date of placing  
the incumbent under suspension till the date of passing  
the order of my compulsory retirement.
- 2). All particulars of other benefits with promotion/  
enhancement of salary and other service benefits.
- 3). Total amount payable by the Railway Administration  
if the incumbent ~~xxxxx~~ had not been suspended and  
discharged from the service.
- 4). Vide your letter No. SD/116 Dated ~~xxxxxx~~ 19-4-95  
the period of my suspension period shown from 9-9-87  
to 7-10-87 and not the period from 22-2-86 to 12-6-86.  
So, the arrangement for payment of that period may  
kindly be made at an early date.
- 5). Arrangement for payment of 3 (three) months 11 (eleven)  
days, relating to my transfer period to NGC, may kindly  
be made earliest.
- 6). That I was sick ~~and~~ under Railway doctor and had to  
remain without job for not allowing me to duty, for  
58 (fiftyeight) days. Wages for the said period to  
be made at the earliest. (In this connection  
I have got all relevant documents, which may be  
produced if required.

Your early action in the matter cited above, will  
that is for settlement, enable me to sign the paper  
on accepting the Voluntary retirement or kindly allow me to  
realise my dues and seek justice Court of law and oblige  
thereby.

Dated: 07/11/1995

Copy to : (1) DMB/C&N/Lumding.  
(2). L.W.I./ Badarpur.

Yours faithfully,

(~~Signature~~)  
Carriage fitter/ Badarpur  
( Under CWS/Badarpur  
N.P.Sly.

*Handwritten notes:*  
Attested  
Supd. Jy. Adv.

N. F. RAILWAY.

BY REGD. POST.

NO. ED/116.

Office of the  
Divisional Rly. Manager(P),  
Lumding, dtd 21-11-1995.

To  
Sri Dina, Ex.C/Fitter/BPB.  
Rly. Qrs. NO.L/205(A), Jharna colony.  
P.O. Badarpur (788806).  
Dist - Karimganj (Assam).

Sub: - Your appeal dtd 7.11.95 received by  
this office on 16.11.95 reg. some  
clarification.

:::

In ref. to the above appeal this is to inform you the  
following.

Item - (1) and (3) The particulars as asked for cannot be  
furnished untill and unless the vacation report of Rly.  
Qrs. is received along with the other clearance certi-  
ficates and prescribed forms in support of claiming F.S.  
dues etc.

(2) You have been failed in the Trade test for the post  
of C/Fitter Gr-II held on 20.7.86 which already been in-  
timated under DME/C&W/LMG's No. M/CON/I/TT(C&W) dtd 11.8.86  
and this office letter No. E/281/I/LM/C&W Pt. II dated  
21.3.87 and again/ you were booked for T.T. for CR/Gr-II  
under this office letter dtd 27.9.87 and 1.2.88, but,  
you have failed to appear in the T.T. rather absconding  
since 9.10.87 while spared from BPB to carry out the trans-  
fer order to NGC on admn. ground and thus the question of  
promotion does not arise.

(4) Both the suspension periods from 22.2.86 to 12.6.  
86 and 9.9.87 to 7.10.87 have since been regularised as  
on suspension under this office letter of even No dtd  
5.3.87 and 19.4.95 respectively and you have been paid due  
substance allowances for the aforesaid periods.

While the letters dtd 5.3.87 and 21.3.87 was offered to  
you by CWS/BPB for acceptance at that time you were de-  
liberately refused to accept the same as intimated by  
CWS/BPB under his letter NO. E/3 dtd 7.4.87.

(5) The payment for 3 m. 11 days relating to your transfer  
period to NGC does not arise as you were spared from BPB  
wef 29.8.86 to report to NGC, but you did not reported  
there and subsequently allowed to retained at BPB w.e.f.  
27.11.86 by CRSE/MLG who was on inspection in Hill sec.  
Thus, your absence period from 29.8.86 to 26.11.86 cannot  
be taken into a/c as a part of duties and the same is now  
regularised as LWP under this office letter of even No.  
dtd 20.11.95 which was not regularised earlier.

.. 2 ..

Attested  
Signature, [Signature]

82-

: 2 :

(6) During the year of 1985,86,87 you were on sick/leave/extension etc. and the periods in question have since been regularised ~~into~~ into leave due under this office letter N<sup>o</sup>. ED/113 & ED/116 dtd 31.3.86,10.3.87,30.5.88 & 19.4.95 and the question of pay and allowances for the days spent without job does not arise at all as you have not performed any ~~duty~~ duties at NCC after sporing from BPB rather dishonoured the orders of the controlling officer/supervisors.

Please note.

for Divisional Rly. Manager(P),  
N. F. Railway : Lumding.

Copy to: 1) OS/FS sec. 2) OS/EM/B111.  
3) CWE/BPB.

'naha'  
211195

for Divisional Rly. Manager(P),  
N. F. Railway : Lumding.

*Attested*  
*[Signature]*