



# THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

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No. 552 Dispur, Friday, 11th September, 2026, 20th Bhadra, 1948 (S. E.)

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GOVERNMENT OF ASSAM  
ORDERS BY THE GOVERNOR  
LABOUR WELFARE DEPARTMENT

**NOTIFICATION**

The 7th September, 2026

ECF No. 841544/36.- Whereas dispute between the Management of Koomtai tea Estate, Golaghat VS The Workman represented by ACKS, Golaghat was referred to the Presiding Officer, Labour Court, Dibrugarh constituted under the Industrial Dispute Act, 1947 for adjudication and whereas an Award has been given on the dispute by the said Labour Court vide Ref. Case No. 10/2007 Award dated 29.8.2026 as shown in the Annexure hereto.

Now, therefore, in exercise of the powers conferred by Section 17(1) of the Industrial Disputes Act, 1947 (Act. XIV of 1947) as amended, the Governor of Assam, is pleased to direct that the said Award to publish by notifying at the Office of the Labour Commissioner, Assam, Guwahati.

(A W A R D As in the Annexure)

**ASHRAFUL AMIN,**  
Joint Secretary to the Government of Assam,  
Labour Welfare Department.

**IN THE LABOUR COURT OF ASSAM AT DIBRUGARH:**  
**REFERENCE CASE no 10/2007**

In the matter of an Industrial Dispute between :

1. The Management of Koomtai Tea Estate Golaghat
- Vs
2. The Workman represented by ACKS Golaghat

**PRESENT:**

**Sri Debashish Saikia**  
**Presiding Officer,**  
**Labour Court, Dibrugarh.**

**Sri Wahidur Rahman .....Advocate for**  
**theSangha/workman**

**Sri R.Borthakur .....Advocate**  
**for the Management.**

**Date of final hearing : 14.08.2026.**

**Date of Award : 29.08.2026.**

**AWARD:**

1. The reference in question has been received from the Govt of Assam vide notification No GLR .70/2007/8 dtd 17.7.2007 on the following two points.

- (i) Whether the management of Koomtai tea estate P.O. Badulipar, District Golaghat is justified in dismissing the services of Sri Simanta Katakya workman w.e.f 12.4.05?
- (ii) If not, is the said workman entitled to reinstatement with full back wages or any other relief in lieu thereof?

2. Upon receipt of the reference the same was registered as Reference case no 10/07 and notices were issued to both parties who on receipt of notice appeared and filed respective written statements.

3. The case of the Management is as follows: The delinquent workman Simanta Katakya was working in Koomtai tea estate in the capacity of a stores clerk and that the genesis of the dispute finds mention in the show-cause notice being issued to the delinquent workman Simanta Katakya and one Ratul Borah who was then working as the senior stores clerk. By way of the said show cause the management alleged that it had come to their notice that the store of Koomtai tea estate under the control of the delinquent and the senior stores clerk was not being maintained properly and that many items in the store did not tally with the store ledgers. It

was also mentioned that there was no good system of receipt and issue of items and their accountability was in a mess. In another show cause notice dtd. 16.7.04 it was alleged that there were discrepancies in connection with chemicals. The management alleged that on the basis of an internal audit report dtd. 28.6.04 a difference of 31,356 litres of HSD oil consumption was noticed pursuant to which another show cause notice was issued. The delinquent workman on receipt of said show cause notice submitted written reply. The two noticees were further served another show cause informing that on cross checking of the stores ledger discrepancies on issuance of high speed diesels without requisition on various dates were found and that not satisfied with the replies so submitted by the delinquent, the management on 29.11.2004 served a charge sheet upon the delinquent and the senior stores clerk Ratul Borah where in it was stated that on cross checking of the ledgers it was found that the delinquent and Sri Ratul Borah with a mala-fide intention of committing theft, had misappropriated company's property for personal gain by indulging in alleged offences like misappropriation of HSD to the extent of 30691 litres amounting to Rs. 6,25,880/- between the period 1.4.2003 and 31.7.2004 and that they had further indulged in fraudulent activities by manipulating the stores ledgers, the requisition slips etc. Both the delinquent and Sri Ratul Borah were asked to show cause why disciplinary action should not be taken against them and to submit explanation within the

time period mentioned therein. Not satisfied with the reply of the delinquent workman, a domestic enquiry was initiated against him. The management states that a domestic enquiry was conducted against the workman by observing the principles of natural justice, and that the delinquent was found to have committed the offences charged with, which amounted to misconduct as per the standing orders, and therefore the services of the delinquent workman was terminated on 12.4.05.

4. The case of the workman is that he has been falsely implicated. It is the case of the delinquent workman that Factory Engineer /Dy Manager receives the oil vouchers and unloads the oil tankers and fills the tank of the factory where HSD oil is preserved, and that the delinquent is not at all involved in the acts so alleged against him. It is stated that Dy Manager checks the oil tankers before unloading and that after unloading, signs the challan after which a copy is handed over to the driver and that two copies to the Stores keeper. It is stated that the HSD oil preserver tank is well within fenced boundaries and that tight security exists and therefore question of stealing HSD oil is not at all possible. It is also stated that requisition for HSD oil is mainly written by the head fitter and signed by the factory manager and the basic duty of the store clerk is simply to issue the HSD or any other materials to the bearer on receipt of proper requisition slip and that it is not the duty of the stores clerk to see where the HSD is

used by the authority in day to day work. According to the workman the duty of the Stores clerk is to maintain the stock ledger and that physical stock of HSD is checked by the factory manager. It is stated that as per the audit report dtd 14.8.04 it was the power house which has not maintained proper record for which the delinquent is no way responsible as the delinquent is only responsible to issue and stock register maintained by him which is kept in the custody of the management. It is stated that when responsible person like factory manager and Sr stores keeper is there, the delinquent who is a mere store keeper is no way responsible for the allegations brought against him. The delinquent workman further contends that the domestic enquiry report was not provided to him and that he was not given any chance for his self defence and as such the termination of the delinquent by way of the domestic enquiry is illegal and unfair, and hence the delinquent prays for his reinstatement with back wages and any other incentives which the court deems fit.

**5.** Additional written statement was filed by delinquent workman contending that Senior Store keeper Babul Borah was not implicated along with the factory manager. The delinquent also contended that HSD oil preserver tanks were not properly checked and maintained periodically by unloading that oil from tank to check whether there was any leakage on the base of the tank or not.

**5.(i)** The management on the other hand in its additional written statement submitted that they intend to rely upon the domestic enquiry held by the management first and if the court holds that the domestic enquiry is not in order and violative of the principles of natural justice they intend to lead evidence to prove their case.

**6.** After the pleadings were filed by both the parties evidence was led by both sides and after hearing both sides an Award was passed on 31.12.2010, wherein both the points of reference were answered in favour of the management and it was held that the management was justified in dismissing the services of the delinquent workman Simanta Katakya and that the delinquent workman is not entitled to reinstatement with full back wages or any other relief in lieu thereof.

**7.** The Award so passed was challenged by the delinquent by way of writ before the Honob'le Guahati High court and the Honb'le Court vide order dtd. 3.10.23 was pleased to quash and set aside the Award passed by this court, with a direction to decide the Reference afresh in conformity with the principles required to be followed in a reference of such nature which consists of two stages for consideration of the Reference.

**8.** After receipt of the case record and after hearing learned counsels of both sides one of my learned

predecessor in chair framed a preliminary issue vide order dtd 4.4.24. The preliminary issue that was framed for deciding the reference is as follows:

**ISSUE**

**Whether the domestic enquiry conducted against the workman by the management side was proper and valid?**

9. It needs to be mentioned here-in that, in connection with the aforesaid issue the management side examined one witness as M.W.1 who was duly cross-examined by the workman side. Vide order dated 20.12.2024 the Court was pleased to allow the management side to file additional affidavit of M.W.1 and accordingly the management side filed the additional affidavit of M.W.1. and the case was fixed for further cross-examination of M.W.1. However, my learned predecessor vide order dated 11.09.2025 passed an order to the effect that it is not necessary to go for cross-examination of M.W.1 at present and that it is only required to hear both the sides on the validity of domestic enquiry held against the workman without any reference to the evidence adduced before this court, post reference and accordingly fixed the case for hearing the parties on the validity of the domestic enquiry.

10. I have heard the learned counsel for both the sides.

**SUBMISSIONS OF THE LEARNED COUNSELS:**

**11.** Learned counsel for the management side submitted that for the misconduct committed by the delinquent workman, a charge sheet was filed against him and notice was issued to the workman, who then participated in the domestic enquiry. The charges were explained to the delinquent and evidence was led by them by examining two witnesses who were duly cross-examined by the workman. It is submitted that the delinquent workman also examined himself in the said enquiry. Learned counsel submits that two independent observers were present during the course of enquiry and that the Enquiry Officer after considering the evidence led by the management side and by the workman, submitted his findings holding the workman to be guilty. Learned counsel further submits that the management side issued second show-cause notice to the workman along with the enquiry report submitted by the Enquiry Officer and asked him to appear and submit his reply pursuant to which the workman appeared on 04.03.2005 and submitted his reply and that not being satisfied with the reply the management side dismissed the workman. Learned counsel submits that the contention of the workman as pleaded by the workman in his W.S. that the documents pertaining to the domestic enquiry proceeding and the final report submitted by the Enquiry officer was not provided to him and that he was not given any chance for his self defence does not hold

any ground, as according to the learned counsel the enquiry report submitted by the Enquiry Officer was sent along with the second show-cause notice issued to the workman, and apart from that the workman has also never pleaded in his W.S. that he was severely prejudiced for not supplying with the enquiry proceedings and the final enquiry report before issuance of the second show-cause notice. In this regard the learned counsel for the management side relied upon the Judgment passed in **Civil Appeal No. 18448/17 in the case of Uttarakhand Transport Corporation (earlier known as U.P.S.R.T.C) and Others Vs. Sukhveer Singh by the Hon'ble Supreme Court of India**. On the aforesaid grounds the learned counsel for the management side would submit that the domestic enquiry held against the workman was validly conducted by observing the principles of natural justice and that the workman was rightly terminated by the management side on the basis of the evidence adduced during the enquiry proceedings.

**12.** The learned counsel representing the workman side submitted that the Enquiry Officer in its report has not assigned any reason as to why the evidence adduced by the workman did not appeal to the Enquiry Officer or was not considered creditworthy. Learned counsel submitted that the order of the Enquiry Officer and his conclusion arrived at for holding that the charges against the workman stood proved is not supported by any

reason and as such, there was no valid enquiry being held against the workman, and therefore the termination of the workman is not valid. In this regard the learned counsel for the workman side relied upon the Apex Court decision of **Anil Kumar Mohan and Labour Court and Others passed in Civil Appeal No. 4692(NL) of 1984 decided on May, 8, 1985**. Learned counsel finally submitted that the enquiry report was not furnished to the workman before terminating him from his services and thus the domestic enquiry conducted was vitiated.

### **DISCUSSIONS AND FINDINGS:**

**13.** Having considered the submissions forwarded by the learned counsel for both the sides, the enquiry proceedings conducted by the Enquiry Officer, and the documents relied upon in the enquiry proceedings, and the final enquiry report submitted by the Enquiry Officer is minutely perused.

**14.** At this stage it would be apt to refer to the Apex Court Judgment of **The Workman of M/s. Firestone Tyre and Rubber Company of India Pvt. Ltd. Vs. The Management and Others reported in (1973) 1SSC813** wherein the principles applicable to adjudication of industrial disputes arising out of order of dismissal or discharge has been discussed by the Hon'ble Apex Court. In para 36 it has been held as follows :-

36. We will first consider cases where an employer has held a proper and valid domestic enquiry before passing the order of punishment. Previously the Tribunal had no power to interfere with its finding of misconduct recorded in the domestic enquiry unless one or other infirmities pointed out by this Court in *Indian Iron & Steel Co. Ltd.*, AIR 1958 SC 130 existed. The conduct of disciplinary proceeding and the punishment to be imposed were all considered to be a managerial function which the Tribunal had no power to interfere unless the finding was perverse or the punishment was so harsh as to lead to an inference of victimization or unfair labour practice. This position, in our view, has now been changed by Section 11A. The words "in the course of the adjudication proceeding, the Tribunal is satisfied that the order of discharge or dismissal was not justified" clearly indicate that the Tribunal is now clothed with the power to reappraise the evidence in the domestic enquiry and satisfy itself whether the said evidence relied on by an employer established the misconduct alleged against a workman. What was originally a plausible conclusion that could be drawn by an employer from the evidence, has now given place to a satisfaction being arrived at by the Tribunal that the finding of misconduct is correct. The limitations imposed on the powers of the Tribunal by the decision in *Indian Iron & Steel Co. Ltd.*, AIR 1958 SC 130 case can no longer be invoked by an employer. The Tribunal is now at liberty to consider not only whether the finding of misconduct recorded by an employer is correct; but also to differ from the said finding if a proper case is made out. What was once largely in the realm of the satisfaction of the employer, has ceased to be so; and now it is the satisfaction of the Tribunal that finally decides the matter.

37. ....

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**15.** A perusal of the enquiry proceedings as available in the reference case record discloses that the charge sheet was lodged against the present workman Sri Simanta Katakya and Sri Ratul Bora on 20.07.2004 who were working as store clerk and senior store clerks respectively at Koomtai Tea Estate and that in the charge sheet it has been alleged that many items in the store of the Koomtai Tea Estate which were under the control of the store keepers do not match with the store ledgers and that as per concluded internal audit report dated 28<sup>th</sup> June, 2004 by Messrs Saraf & Chandra, the management has come across a difference of 31,356 liters in the HSD consumption whereas store ledger show a consumption of 2,49,015 liters HSD against the actual consumption of 2,17,659 liters.

**16.** The case record of the enquiry proceedings discloses that the show cause notices, the charge sheet issued against the delinquent and all other relevant documents upon which the management relied upon were duly served upon the delinquent workman. The enquiry proceedings disclose, that the charge sheet consisting the charge (marked as Annexure 7) was duly explained to the workman in course of the proceeding.

The proceedings further disclose that the reply submitted by the workman by way of reply to the show causes dtd 20.7.04, 14.8.04, 27.8.04, the reply to the charge sheet dated 29.11.04, and the notices dtd 14.12.04, 6.1.05, 25.1.05 informing the delinquent workman about the initiation of the domestic enquiry and the date and place where the enquiry will be held, his(delinquent's) right to get full opportunity to conduct his defence and to examine witnesses and to cross examine the company's witness were all marked in course of the proceedings as Annexure 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 respectively. The proceedings disclose that the documents relied upon by the management side to prove the charges against the workman has been marked as Annexures 15, 16, 17 and 18 and the same were shown and read out to the delinquent workman. The proceedings disclose that the enquiry proceedings were conducted in the presence of two independent witness /observers namely Sri B.K Sarmah and Sri A.C Roy, and that the delinquent workman fully participated in the enquiry proceedings and has cross examined the two witnesses examined by the management side and that the delinquent workman also examined himself and was cross examined by the presenting officer. The delinquent workman however did not examine any independent witness on his behalf though was provided opportunity for that. The enquiry proceedings finally concluded and that the enquiry officer discussing the evidence adduced at the enquiry

proceedings, submitted the Enquiry report on 15.2.05. The enquiry proceedings further disclose that vide notice dated 1.3.05 the management side issued the final notice to the workman for his appearance on 4.3.05 for the purpose of hearing and to submit further statements if any upon the findings given by the enquiry officer. The said notice discloses that the relevant portion of the findings of the Enquiry report was enclosed with the above notice. As submitted by the learned counsel for the workman it is true that the entire enquiry report was not submitted by the management side to the workman and that only the relevant portion was submitted along with the aforesaid notice, however what cannot be ignored is the fact that the workman never pleaded in his W.S that he was severely prejudiced by the failure on the part of the management side in not-furnishing the entire enquiry report on the basis of which the punishment of termination was imposed vide notice dated 12.4.05. One may in this regard refer to the decision of Apex court passed in case of **Uttarakhand Transport Corporation (Earlier known as U.P.S.R.T.C) Others vs Sukhveer Singh** on which the management side has relied upon. The Apex court in the said judgment has held that non supply of the Enquiry report does not automatically warrant re-instatement and that it is incumbent upon the delinquent employee to plead and prove that he was seriously prejudiced due to non-supply of the Enquiry report. In the present reference the delinquent workman has failed to plea and

prove how he was prejudiced by non-furnishing of the entire enquiry report. There is nothing on record that the delinquent had ever raised any grievance for not being furnished with the entire enquiry report. As stated earlier the relevant portion of the enquiry report was furnished to the delinquent along with the final show cause notice dtd 1.3.2005 and thus no prejudice was caused to the delinquent workman. Thus in the above facts circumstances it is held that the domestic enquiry conducted against the workman was done by observing the principles of natural justice.

**17.** The further question that needs to be decided is whether the findings recorded by the Enquiry officer is justified and supported by the evidence available in the inquiry proceedings as per the decision of **Workman of Firestone (supra)**. The Honb'le Apex court in the aforesaid decision has held that with the introduction of sec 11 A in the ID Act, now the Tribunal is clothed with the power to re-appraise the evidence of the domestic enquiry and satisfy itself whether the said evidence relied on by the employer establishes the misconduct alleged against the workman. (para 36 of the Apex court judgment). In the backdrop of the aforesaid principle laid down in the case it now needs to be seen as to what were the charges laid against the workman, and what was the evidence led in the enquiry.

**18.** The Enquiry Record discloses that two charges were framed against the workman and the charges are as follows:

**Charge 1:**

*The delinquent with malafide intention of theft, fraud and dishonesty for personal gain indulged in misappropriation of HSD oil to the tune of 30,691 litres worth Rs 625880/- between the period 1.4.2003 to 31.7.04.*

**Charge no 2:**

*The delinquent has indulged in fraudulent activities and dishonestly by manipulating the Stores ledgers and the requisition slips with malafide intention of willful destruction and damages to garden books to cover up the theft of HSD.*

**19.** The enquiry officer in his report, so far as Charge no 1 has held as follows:

*“The delinquent in his replies dtd 30.7.04 (Annexure 2) dtd 22.11.04 (Annexure 6) dtd 7.12.2004 (Annexure 8) dtd 20.12.2004 tried to explain his innocence and deny the charges preferred against him. The delinquent cross examined the two witnesses. From the proceedings it appears the statements made by the witnesses do not assist the delinquent. Also from the documents presented, and the statements of the witnesses made during the Enquiry, the management in my opinion has proved the charges against the delinquent”.*

**20.** Thus what is noticed is that the enquiry officer has not discussed anything as to what is the evidence being led by the two management witnesses with reference to the first charge of theft and misappropriation of HSD oil, and how the documents that were marked as Annexures establishes the charge of theft and misappropriation of HSD oil against the delinquent workman. The replies of the workman as reflected in Annexure 2, 6 and 8 pertains to the explanation given by the workman to the show cause notices issued to him, however in none of the aforesaid replies the workman has admitted his guilt of committing theft, fraud or misappropriation of HSD oil, and therefore in such circumstances no reliance can be placed on the aforesaid replies to hold that the workman guilty of the charges of theft, fraud and dishonesty in misappropriation of HSD oil. I have also perused the evidence of two management witnesses namely Jiten Kurmi and Banshidhar Kurmi examined in course of the enquiry proceedings. Both of them in their evidence only stated about the procedure being followed by the power house in issuing requisition for HSD oil from the stores. Witness Jiten Kurmi in his evidence spoke about the over-writings in the requisition slips, additions made in the requisition slips which he identified to be in the handwriting of delinquent workman. The second witness Banshidhar Kurmi only spoke about the procedure being followed by power house in requisitioning HSD oil from stores and the persons who actually issues requisition

slips from the power house for such HSD oil. Thus the evidence of witness Jiten Kurmi nowhere discloses the fact that on the basis of the altered requisitions in the handwriting of the delinquent workman HSD oil amounting to 30691 litres were indeed issued by the delinquent workman to unknown persons for the purpose of committing theft or misappropriation of HSD oil by himself. Similarly, the second witness Banshidhar Kurmi had also not stated anything to the effect that the delinquent by manipulating the requisition slips had issued HSD oil to someone and thereby misappropriated the same or for that matter had committed theft of the same. That apart none of the above two witnesses stated in their evidence that the quantities of HSD oil so issued on the basis of manipulated requisitions correspond substantially with the alleged shortage of HSD oil so detected during the period in question. Thus the evidence of two management witnesses led in the domestic enquiry proceedings no way establishes the charge of theft, or misappropriation of HSD oil by the delinquent workman. The management side on the other hand by relying upon the shortage reflected in the stores ledger and by relying upon the alleged manipulation of the requisition slips and stores ledger as evidence connecting the delinquent workman with the shortage of HSD oil, has sought to establish the charge of theft and misappropriation of HSD oil by the delinquent workman, but then mere existence of shortage in the stock of HSD even if assumed to be correct and true, but that by itself

would not establish that delinquent workman had committed theft or misappropriation of HSD oil. It is true that the alleged manipulation of requisition slips and ledger books may create a suspicion against the delinquent workman as it is also in the evidence of the delinquent that the delinquent had written requisition slips and had also corrected stores ledger, but the same without any other connecting evidence will not support the charge of theft or misappropriation. Moreover, it also needs to be mentioned herein that the show causes and charge sheet dtd 29.11.2004 were issued against both the delinquent workman and the senior stores clerk Ratul Borah, but the management is totally silent as to whether the said Ratul Borah was tried separately or was exonerated from the charges. No concrete evidence was even led in the domestic enquiry proceeding that the said Ratul Borah was innocent and that it was the present delinquent who was solely responsible for the shortage of 30691 litres of HSD oil. That being the case, this court is of the considered view that the evidence led by the management does not establish the first charge of commission of theft or misappropriation of HSD oil amounting to *30,691 litres worth Rs 625880/- between the period 1.4.2003 to 31.7.04.* by the delinquent workman.

**21.** Now so far as the second charge relating to fraudulent activities and dishonest manipulation of Stores Ledger and requisition slips by the delinquent is

concerned, the evidence of the two management witnesses and the documentary evidence in the form of (Annexures 15) and the corresponding carbon copies of requisition slips (Annexure 16) brought on the enquiry proceedings are relevant. The presenting officer through management witness Jiten Kurmi who worked as the second fitter in the garden has brought on record the requisition slips dtd 17.6.03 and 31.7.03 where particular entries relating to requisition of HSD oils were not in the handwriting of the fitter and which was confirmed by the witness to be that of the delinquent workman. The delinquent has not disputed his handwriting appearing in the aforesaid two requisition slips. The said witness further confirmed that original requisition slip dtd 22.8.03 shows an entry of 1860 litres of HSD oil also being requisitioned, while the corresponding carbon copy of the said original requisition shows only 860 litres of HSD oil being requisitioned. The aforesaid witness in his evidence clarified that requisition for HSD oil is made by power house and is prepared by the fitter and then forwarded to the stores, and that as per slips they(power house) receive the HSD in drums of 215 litres which is then entered in the power house ledger. The witness also stated that the requisition is made by the Head fitter and in the absence of Head fitter by him. Similarly the second witness of the management side namely Banshidhar Kurmi who worked as staff of Koomtai tea estate and looks after the power house as Tech grade C also stated that when stock of HSD becomes low in the power house,

they have a requisition book which is being filled with the requirement of HSD and signed by the Factory in charge and thereafter taken to the Stores where HSD is issued in 215 litres drum, which is then carried in a small trolley from stores to the power house after which they enter the quantity of oil received by them in the ledger book kept in the power house. The witness on being cross examined reiterated that preparation of requisition slips is being done by the Head fitter and that after the departure of the said Head fitter now the same is done by Assistant in charge factory. The witness also reiterated in his cross that even when engine is in running condition with stock becoming low he never took loose HSD from stores without requisition slips, or without the permission of "Sahib". The evidence so adduced by the witnesses could not be shaken by the workman in course of cross examination.

**22.** Now coming on to the documentary evidence adduced by management side it is seen that the documentary evidence marked as Annexures 15 series and 16 series clearly discloses that the original requisition slips prepared in the handwriting of authorised person was later manipulated by the delinquent workman himself by subsequently adding/inserting entries of HSD oils which was originally not requisitioned through the aforesaid requisition slips. That apart, in one such requisition slip it is noticed that figure 1 was added before an original entry of 860 litres

of HSD oil to make it appear that 1860 litres of HSD oil was requisitioned and whereas the corresponding carbon copy only discloses figure of 860 litres of HSD oil and not 1860 litres of HSD oil. Though it is true that management witness Jiten Kurmi in his cross examination admitted that the delinquent workman being the stores clerk used to write requisition slips in emergency situation but then such circumstance would not authorise the delinquent to make subsequent additions to an already completed requisition slip when the delinquent was not able to lead evidence to show that he was authorised to do so as per written or oral instructions of superior officials. Again, though there is no direct evidence to establish that such adding of the figure 1 before the original figure of 860 in the requisition slip was made by the delinquent, but then considering the fact that insertion/addition of entries of HSD oils by the delinquent himself in his own hand writing in certain requisition slips without any authority only points the needle of suspicion towards the delinquent workman.

**23.** The enquiry proceedings disclose that the workman in his statement made before the enquiry proceedings admitted that after the detection of "herafiri"(pilferage) of HSD oil, they do not write requisition slips but earlier they used to write requisition slips. The delinquent workman also admitted that in the entry dtd 19.6.04 in the stores ledger, corrections by use of white ink eraser was made to show HSD issued to the

transporter at the end of the month as per instruction of the auditors. He also stated that the issue of 1000 litres and 2000 litres HSD in two slips on 6.7.04 was further corrected to only 2000 litres of HSD as 2000 litres were required by the power house, and for which corrections were made. A perusal of the above facts so stated by the delinquent workman would only go to show that he has indirectly admitted to have manipulated the requisition slips by inserting/adding extra quantities of HSD oil in the requisition slips issued by the power house, and that he also had made corrections of stores ledger by using white ink erasures prior to the detection of shortage of HSD oils which practice was discontinued after the incident. There was no explanation from the delinquent as whether he had the authority to add or insert any extra items on the requisition slips issued by the power house to the store which was looked after by him. That apart it is further noticed that the delinquent workman himself in his W.S also claimed that the requisition of HSD oil is mainly written by the head fitter and signed by the factory manager and that the basic duty of the stores clerk is simply to issue HSD or any other materials to the bearer on proper receipt of requisition slip. Therefore, in such a scenario, the delinquent did not have the authority to insert or add any extra item in a concluded requisition slip. In the above facts circumstances the explanation provided by the delinquent in his statement in course of the enquiry proceedings wherein he tried to exonerate himself by giving his reasons could not be said

to be convincing enough to justify the circumstances in which the manipulations by way of insertion/addition were made by him. Thus the admissions of the delinquent that he used to write requisition slips and that he had made certain corrections in the stores ledgers by using white ink on certain entries further corroborates the fact that the delinquent has fraudulently manipulated the requisition slips and stores ledger with a mala-fide intention.

**24.** I have also given due consideration to the submission of the learned counsel for the workman that the enquiry officer in its report has not given his reasons for the conclusion drawn by him in holding the charge no 2 being proved against the delinquent workman. The decision of **Anil Kumar Mohan(supra)** relied upon by the learned counsel has also been perused. I have also gone through the enquiry report and the reasons given by the enquiry officer in holding that charge 2 has been proved against the delinquent. The enquiry officer has held as follows:

*"The documents presented, like the requisition slips dtd 21.7.03, 23.7.03 etc. clearly indicate the additions, erasures by use of white fluid the mala-fide intention of the accused. The delinquent admitted during the enquiry, to have made/corrected the entries in his own handwriting. The entries have been written in the requisition slips after the slips have been signed by the Assistant Manager in Charge as seen by the absence of such entries in the carbon copy of the slips in the*

*requisition book presented and shown by the management”.*

**25.** Though it is true that the enquiry officer has not discussed elaborately the oral evidence adduced by the two management witnesses, nevertheless the enquiry officer has given brief reasons for drawing his conclusion in holding the charge no. 2 being proved against the delinquent based on the oral and documentary evidence led by the management side and the admissions made by delinquent workman. Thus the findings recorded by the enquiry officer in his enquiry report cannot be faulted with. The judgment of the Apex court in **Anil Kumar Mohan** (Supra) upon which the learned counsel for the delinquent workman is considered but the said case was delivered in the facts circumstances of the said case which is not so in the present reference case and as such the same is of no help to the workman side.

**26.** In **Cholan Roadways Ltd Vs G. Thiruganasambandam reported in (2005) 3 SCC 241** the Apex court has held that the standard of proof required in a Domestic Enquiry is only preponderance of probability and not proof beyond all reasonable doubt. In the present reference case the evidence so led clearly establishes the charge of fraudulent manipulation of requisition slips and store ledgers by the delinquent **on the principle of preponderance of probability**. The

reasons and the conclusion drawn by the enquiry officer on the basis of the oral and documentary evidence coupled with the unsatisfactory explanation given by the delinquent so far as the charge against the delinquent workman of his fraudulent activities by manipulating the stores ledgers and requisition slips with mala-fide intention cannot be said to be perverse or that it was based on no evidence. That being the case **the charge no. 2** brought against the delinquent stands proved.

27. Thus in the ultimate analysis of the entire evidence led in the domestic enquiry **the charge no. 1 though** has not been proved against the delinquent workman, however the **charge no 2 has been duly proved against the delinquent** and once charge no. 2 stands proved, the delinquent can be said to have committed an offence of misconduct and it is accordingly held that the delinquent has committed an act of misconduct as per standing orders of the company.

28. Situated thus, the preliminary issue so framed is decided in the affirmative and it is held that the domestic enquiry conducted against the workman was proper and valid following principles of natural justice.

29. Now as misconduct as mentioned in charge no. 2 is proved, the next question which arises for consideration is whether the punishment imposed is just legal or is disproportionate to the gravity of charges. One

may in this regard refer to the case of Apex court decided in the case of **M.L Singla vs Punjab National Bank and Another in Civil Appeal no 1841 of 2010.**

**30.** In the domestic enquiry proceeding charge no. 2, which pertains to manipulation of requisition slips and stores ledger with a fraudulent intention is proved against the delinquent workman. Now no employer would tolerate such misconduct on the part of a workman which is very serious in nature. The faith of an employer upon its employee would no longer remain when serious acts of misconduct is proved to have been committed by such employee. Therefore, in such circumstances the punishment of dismissal cannot be said to disproportionate to the gravity of charges so brought against the delinquent workman and thus this court does not deem it fit to interfere in the punishment so imposed in exercise of its power under sec 11 A of the ID Act.

**31.** Therefore, in view of the discussions made in the preliminary issue **points of** reference in answered as follows:

**Point no. 1.**

The Management of Koomtai Tea Estate P.O. Badulipar District Golaghat is justified in dismissing the services of Sri Simanta Kakoty, workman w.e.f 12.4.2005.

**Point no. 2.**

As point no 1 has been answered in the affirmative and in favour of management of Koomtai Tea Estate, the workman is not entitled to re-instatement with full back wages or any other relief in lieu thereof.

Send a copy of this Award to the Labour Department Government of Assam for publication in accordance with law.

Given under my hand and seal on this **29<sup>th</sup>**  
**day of August, 2026 at Dibrugarh.**

Presiding Officer,  
Labour Court, Dibrugarh.