

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

1

(SEE RULE -4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI
....

ORDER SHEET

Original Application No : 323/02
Misc. Petition No.
Contempt Petition No.
Review Application No.

Applicant (s) G. K. Hoji

Respondent (s) -Vs- h. O. I. Form

Advocate for the Applicant (s) M. Chanda, G.N. Chakraborty

Advocate for the Respondent(s) Cafe. H. Dutta
Dr. M. C. Sarma

Notes of the Registry	Date	Order of the Tribunal
<p>Notes of the Registry</p> <p>26575312</p> <p>25.9.02</p> <p>Dr. Registrar</p> <p>Slips taken 31/10/02</p> <p>Notice prepared and sent to the respondents No 1 & 3 by Regd. A.D. 16/10/02</p> <p>SINo 2949 & 2951</p> <p>Dtd 5/11/02</p>	<p>4.10.02</p> <p>11.11.02</p>	<p>Heard learned counsel for the parties.</p> <p>Issue notice on the respondents to show cause as to why the application shall not be admitted. Back for records. Returnable by four weeks. List on 11.11.02 for Admission.</p> <p>Member <u>K. Ushar</u> Vice-Chairman <u> </u></p> <p>List again on 10.12.2002 to enable the respondents to state their cause. This order is passed on the prayer of Mr. A. Chakraborty, learned counsel appearing for Mr. J.L. Sarkar, learned Rly. Standing counsel,</p> <p>Member <u>K. Ushar</u> Vice-Chairman <u> </u></p>

No. reply has been
biled.

7.1.03.

N

10.12.02 Sri S.Sarma, learned counsel
appearing on behalf of ~~the~~ ~~xxx~~ Mr. S.L.
Sarkar, learned counsel for the respond-
ents makes a request for adjournment
of the case. Prayer is allowed. List
again on 8.1.2003 for admission.

1. C. U. S. h.
Member

mb

8.1.03 present : The Hon'ble Mr Justice V.S. Aggar-
wal, Chairman.
The Hon'ble Mr K.K.Sharma,
Admn. Member.

No. reply has been
biled.

22.1.03

At the request of the applicant's
counsel list it on 23.1.03 for admission.

K. K. Sharma
Member

V. S. Aggarwal
Chairman

pg

23.1.2003 Present : The Hon'ble Mr. Justice D.N.
Chowdhury, Vice-Chairman.
The Hon'ble Mr. S.K. Hajra,
Administrative Member.

Put up again on 29.1.2003 for
admission on the prayer made by Mr. S.Dutta
learned counsel appearing on behalf of ~~the~~
Mr. M. Chanda, learned counsel for the
applicant.

S. M.
Member

[Signature]
Vice-Chairman

No. reply has been
biled.

26.2.03.

29.1.2003 List the matter on 27.2.2003 for
admission alongwith M.P. 131/2002.

S. M.
Member

[Signature]
Vice-Chairman

mb

Notes of the Registry	Date	Order of the Tribunal
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27.2.2003

List on 13.3.2003 for admission alongwith M.D. No. 131/2002.

5.3.03

An objection petition on jurisdiction has been submitted by Dr. M.C. Sarma, Railway Counsel on the above mentioned O.A.


Vice-Chairman

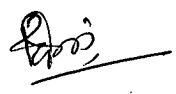
mb

~~13.3.2003~~

~~Heard Mr. M. Chanda, learned counsel for the applicant and also Dr. M.C. Sarma, learned counsel for the respondents.~~

~~Considering the counter reply~~

6/3/03
S.O



~~13.3.2003~~

~~Heard Mr. M. Chanda, learned counsel for the applicant and also Mr. M. C. Sarma, learned counsel for the respondents.~~

~~Considering the counter reply opposing the preliminary objection on jurisdiction raised by the respondents, the application is dismissed as not maintainable by giving reason separately.~~

~~The application is dismissed as not maintainable.~~

~~Stand disposed~~

Vice-Chairman

mb

12.3.03

Counter reply opposing the preliminary objection on Jurisdiction raised by the respondents.



for presentation in the proper forum

O.A.No.323/2002

O.A. No.

Notes of the Registry

Date

Order of the Tribunal

13.3.2003

Heard Mr M. Chanda, learned counsel for the applicant and also Dr M.C. Sarma, learned counsel for the respondents.

Considering the counter reply opposing the preliminary objection on jurisdiction raised by the respondents, the application is ^{disposed} dismissed as per reasons given separately.

The application is thus returned to the applicant for presentation in the proper forum.

Vice-Chairman

nkm

Office is directed to return the O.A. to the applicant with the endorsement as to the date of presentation and ^{the} return of the O.A., the name of the party presenting it and a brief statement of the reasons for returning it.

By Order

[Signature]
13/3/2003

The above direction may be comply.

[Signature]
24/3/03.

27.3.2003

Copy of the Judgment has been sent to the office for issuing the same to the L/Advocates for the parties.

[Signature]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.323 of 2002

Shri G.K. Roy : Applicant

-Vs-

The Union of India and others : Respondents

For the applicant : Mr M. Chanda, Mr G.N. Chakraborty
and Mr H. Dutta

For the respondents : Mr M. C. Sarma

Present: The Hon'ble Mr Justice D.N. Chowdhury,
Vice-Chairman

Date of Order: This the 13th day of March 2003

.....

O R D E R

The legality and validity of the order dated 6/17.11.2000, Annexure 3, as well as the order communicated vide Memo No.T/134/K/GM dated 10.5.2001 are assailed in this proceeding. Incidentally, the applicant also challenged the disciplinary proceeding initiated by the Senior Divisional Operating Manager, Katihar, respondent No.2, vide Memorandum dated 23.12.1999.

2. The respondents raised a preliminary objection as to the maintainability of the application on the ground of territorial jurisdiction. In the preliminary objection of jurisdiction, the respondents mentioned the provisions of Rule 6(1) of the Central Administrative Tribunal (Procedure) Rules, 1987 and contended that the cause of action of the O.A. arose at Kishanganj Railway Station and part at Suryakamal and another part arose at

Aluabari Road Railway Station which are outside the jurisdiction of this Bench. The respondents contended that in the absence of any order to the effect under Section 25 of the Administrative Tribunals Act, 1985 by the Chairman of the Central Administrative Tribunal, the Bench should not entertain the application.

3. The respondents in the preliminary objection asserted that the applicant as a Traffic Inspector, at all relevant time was posted at Katihar Station and at the material time he was posted at Kishanganj. At both places his immediate superior officer including those controlling his day to day work and those controlling his action on disciplinary grounds were posted at Katihar in the State of Bihar. Therefore, this Bench lacked the territorial jurisdiction.

4. The applicant submitted a rejoinder and reiterated that this Bench has also the jurisdiction since the Headquarters of the N.F. Railways is within the jurisdiction of this Bench.

5. When the preliminary question was raised the matter requires to be taken note of. The Act itself indicated the distribution of business amongst the Benches. As per Section 18 of the Act, it is the appropriate Government, namely the Central Government to issue the notification from time to time making the provision as to the distribution of business of the Tribunal amongst Benches. As per the notification issued by the Central Government the jurisdiction of the Guwahati Bench is extended to the State of Assam, Meghalaya, Manipur, Nagaland, Tripura, Arunachal Pradesh and Mizoram and the jurisdiction.....

jurisdiction of Patna Bench is extended to the State of Bihar. In exercise of the powers conferred by Clauses (d), (e) and (f) of sub-section (2) of Section 35 and Clause (c) of Section 36 of the Administrative Tribunals Act, 1985, the rule making authority mentioned as to the places of filing application which reads as follows:

"6(1) An application shall ordinarily be filed by an applicant with the Registrar of the Bench within whose jurisdiction-

- (i) the applicant is posted for the time being, or
- (ii) the cause of action, wholly or in part, has arisen;"

6. On the own showing of the applicant, at all relevant times he was posted for the time being within the jurisdiction of the Patna Bench. As pointed out earlier the applicant assailed the disciplinary proceeding dated 23.12.1999 issued by the senior Divisional Operating Manager, Katihar. At all relevant times the applicant as well as the respondents who issued the notice are/were residents of Katihar in the State of Bihar. The impugned order dated 6/17.11.2000 assailed by the applicant in this proceeding was issued by the Senior Divisional Operating Manager, Katihar Railway Station to the applicant at Katihar. The applicant preferred an appeal dated 26.12.2000 from Katihar before the Divisional Railway Manager, N.F. Railway, Katihar. The impugned order dated 10.5.2001 communicated through the Divisional Railway Manager (O), Katihar was also served on the applicant at Katihar. For all purposes the cause of action arose at Katihar.

7. As per the scheme of the Act as well as the scheme mentioned in the Code of Civil Procedure, 1908 a Court or

a.....

a Tribunal will have jurisdiction over a matter if the cause of action arose within the legal limits of jurisdiction. The expression cause of action can be comprehensively meant to indicate every fact that would be necessary for the applicant to prove, if traversed, in order to support his right to the judgment of the Court or Tribunal. It need not embrace every piece of evidence that is necessary to prove each fact, but every fact which is necessary to be proved (emphasis added). A cause of action means the whole bundle of material facts which is necessary for the applicant to prove in order to entitle him to succeed in the application. In the O.A., the applicant is required to prove and establish his right as well as infringement of his right. The cause of action arose where the right is created and infringed. Where right and infringement thereof took place outside the jurisdiction of this Bench it would not be appropriate in this Bench. Admittedly, the place of suit as per the scheme of the Act is/was in the State of Bihar. Admittedly, the applicant is posted for the time being outside the jurisdiction of this Bench and the cause of action wholly or any part had arisen outside the jurisdiction of this Bench.


8. For the reasons stated above, this Bench cannot be the place of suing. In the circumstances the O.A. is returned to the applicant for presentation in the appropriate forum in the light of Order VII Rule 10 of the Code of Civil Procedure.

9. The O.A. is thus to be returned to the applicant to be presented to the Bench in which the O.A. should have.....

have been instituted.

10. Office to act accordingly.

11. The application thus stands disposed of. No order as to costs.


(D. N. CHOWDHURY
VICE-CHAIRMAN

nm

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An Application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the case : O. A. No. 323 /2002

Sri Gautam Kumar Roy : Applicant

- Versus -

Union of India & Others: Respondents.

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Filed by

M. Chakravarty
Advocate

Date 25-9-2002

Gautam Kumar Roy

Filed by the applicant
through Sri G. N. Chakravarty
Advocate on 25-9-2002
M. Chakravarty

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI
(An Application under Section 19 of the Administrative Tribunals Act, 1985)

O. A. No. _____/2002

BETWEEN

Sri Gautam Kumar Roy

Son of Pranesh Chandra Roy

Traffic Inspector

N.F.Railway,

Katihar

...Applicant

-AND-

1. The Union of India,
Represented by the General Manager,
N.F.Railway, Maligaon,
Guwahati-781011
2. The Senior Divisional Operating Manager
Katihar,
N.F.Railway, Katihar.
3. The Additional Divisional Railway Manager

Gautam Kumar Roy

N.F.Railway,

Katihar.

...Respondents.

DETAILS OF THE APPLICATION

1. Particulars of order(s) against which this application is made.

This application is made against the impugned charge sheet issued under Rule 11 Vide letter dated 23.12.1999 and also against the order of penalty dated 6/11/2000 and Appellate Order dated 10.5.2001 and praying for refund of money recovered on account of aforesaid penalty i.e. as a result of stoppage of increments.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

The applicant further declares that this application is filed within the limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case.

- 4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and

Goutam Kumar Roy

privileges as guaranteed under the Constitution of India.

4.2 That your applicant while working as Traffic Inspector under Senior Division Operations Manager, N.F.Railway, Katihar the impugned charge sheet issued under Memorandum bearing letter No. T/134/K/GM dated 23.12.1999 issued under Rule 11 of the Railway Servant (Discipline and Appeal) rule 1968 along with statement of the imputations of misconduct, in the said Memorandum of charge sheet it is alleged that during the inspection of Gaisal, Panjipara and Kishangnj conducted by the General Manager, Maligaon on 14.10.1999. It is found that the applicant being sectional Traffic Inspector did not conducted any night inspection of Surya Kamal and Alubari road stations for last two months as such applicant is being charged with negligence of his duty and carelessness towards his duties, the said memorandum of charge sheet is issued by senior divisional operation Manager, Katihar, N.F.Railway. .

Copy of the Memorandum dated 23.12.1999 is annexed herewith and marked as **Annexure-1**.

4.3 That your applicant after receipt of the Memorandum dated 23.12.1999 submitted a detailed reply/representations denying the alleged charges to the respondent No.2 in the said reply the applicant categorically stated that he had conducted night

Goutam Kumar Roy

inspection at Surya Kamal station on 2.9.99 and the inspection report was duly submitted in time however the applicant fairly admitted that he could not conduct night inspection at Aluabari Road station during the relevant period and explained in detail the reasons for not conducting the night inspection at Aluabari Road station.

The applicant stated in his reply that after the Gaisal accident the workload of the applicant has been increased tremendously all of a sudden and in fact the applicant got heavily engaged in the restoration work at Gaisal followed by CCRS enquiry and also due to movement of high officials in connection of Gaisal accident whom the applicant had to accompany quite frequently and thereafter applicant had to perform roster duty for night inspection work with effect from 8.8.99 to 15.8.99 as per order of Chief Traffic Manager, Maligaon, in addition to the aforesaid work. The applicant was also engaged to Monitor on duty ASM upto 25.8.1999 following the order of Assistant Operating Manager (G), Katihar. The applicant further submitted that he did not neglect any routine work as sectional Traffic Inspector rather night inspection were done quite frequently during the relevant period and given detail chart of the night inspection conducted by the applicant during the relevant period.

A copy of the reply/representation dated 5.5.2000 is annexed herewith and marked as **Annexure-2**.

Goutam Kumar Roy

4.4 That the respondent No.2 being not satisfied with the reply submitted by the applicant issued the impugned order of penalty of stoppage of increment with non-cumulative effect for two years vide order bearing letter No. SR. DOM/KIR/SNIP No T/134/K/GM dated 6/17.11.2000. In this connection it may be stated that the impugned order of penalty has been passed by the Senior DOM Katihar mechanically without application of mind and also without recording any reasons for imposition of the penalty. No opportunity is also provided to the applicant before imposition of the penalty. The penalty has been imposed upon the applicant in violation of relevant rules of Discipline and Appeal Rules 1968. The impugned order of penalty is also vague as because the date of stoppage of increment has not been specified in the order itself. There was no discussion regarding the points raised by the applicant in his reply against the impugned Memorandum of charge sheet as such the order of imposition of penalty is arbitrary, unfair and illegal and the same is liable to be set aside and quashed.

A copy of the penalty order dated 6/17.11.2000 is annexed as **Annexure-3**.

4.5 That your applicant being aggrieved with the order of penalty, preferred an appeal to the Additional Divisional Railway Manager, N.F.Railway, Katihar. In the said appeal the applicant narrated the grounds once

Goutam Kumar Roy

again and further reiterated that in view of the explanation made before the disciplinary authority the order of penalty is uncalled for and further stated that the disciplinary authority did not even look into his reply and also did not take into consideration the fact that he had submitted his report for night inspection of Surya Kamal station on 2.9.1999 and also to the fact that the applicant heavily engaged to the restoration work, after the Gaisal accident and carried out the order of his superior officer at the relevant time and preferred duty 12 (twelve) hours in a day and also drawn the attention of the Appellate Authority to the provision of schedule of inspection laid down in operating manual.

It is further submitted by the applicant that imposition of penalty by the aforesaid impugned order is violative of Railway Boards letter bearing No. E//((DNA)91/RG 6.122 dated 21.2.1992.

A copy of the appeal-dated 26.12.2000 is enclosed as Annexure-4.

- 4.6 That the Appellate Authority vide impugned order bearing letter No. T/134/K/GM dated 10.5.2001 reduced his penalty of withholding increment for one year instead of two years. It is stated in the Appellate Order that there was no record of his inspection in the station Register while General Manager conducted inspection on 14.10.1999 and the applicant held guilty

Goutam Kumar Roy

for not conducting inspection at Aluabari Road Station. In this connection it is stated that the applicant categorically stated in his reply against the Memorandum dated 23.12.1999 that he had conducted night inspection at Surya Kamal station and the applicant also made the specific statement in his appeal-dated 26.12.2000. Therefore the authority, without providing any opportunity to the applicant to rebut the aforesaid allegation, rejected his explanation regarding Aluabari Road Station night inspection arbitrarily. As such, the order of penalty under Rule 11 without providing reasonable opportunity cannot be sustained in the eye of law. Moreover, the order of penalty as well as the Appellate Order confirming the penalty passed by the disciplinary authority is cryptic, non-speaking and contrary to the provisions laid down in Discipline and Appeal Rules 1968. As such, the order of penalty dated 6/17.11.2000 and the Appellate Order dated 10.5.2001 is liable to be set aside and quashed.

Copy of the Appellate Order dated 10.5.2001 is enclosed as **Annexure-5**.

- 4.7 That it is a fit case for the Hon'ble Tribunal to interfere with the impugned Memorandum of charge sheet dated 23.12.1999 and penalty order dated 6/17.11.2000. Appellate Order dated 10.5.2001 whereby the order of penalty imposed upon the applicant arbitrarily to protect the rights and interests of the applicant.

Boutam Kumar Roy

4.8 That this application is made bonafide and for the cause of justice.

5. Grounds for relief(s) with legal provisions.

5.1 For that, the order of penalty has been passed without considering the grounds raised by the applicant in his reply-dated 5.5.2000 and also without recording any good reason for imposition of penalty.

5.2 For that, the order of penalty dated 6/17.11.2000 has been passed is in violation of relevant rules of Discipline and Appeal Rules, 1968 and also in violation of Railway Board Letter dated 21.2.1992 as indicated in his appeal.

5.3 For that, this order of penalty has been passed in a most arbitrary manner without taking into consideration the categorical statement of the applicant that he had submitted the night inspection report regarding Surya Kamal Station and also without taking into consideration his specific statement that the applicant was heavily engaged for restoration work and carried out all necessary orders of the higher authorities after Gaisal accident.

5.4 For that, the order of penalty and Appellate Order is contrary to the provisions laid down in Discipline and Appeal Rules, 1968.

Boulam Kumar Roy

6. Details of remedies exhausted.

That the applicant states that he has exhausted all the remedies available to him and there is no other alternative and efficacious remedy than to file this application.

7. Matters not previously filed or pending with any other Court.

The applicant further declares that he had not previously filed any application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

Goutam Kumar Roy

8.1 To set aside and quash the order of penalty issued under letter No. SR. DOM/KIR/SNIP No T/134/K/GM dated 6/17.11.2000 (Annexure-3) and Appellate Order bearing letter No. T/134/K/GM dated 10.5.2001 (Annexure-5).

8.2 To direct the respondents to grant the benefit of increment which was withheld following the order of penalty dated 6/17.11.2000.

8.3 Costs of the application.

8.4 Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

During pendency of this application, the applicant prays for the following relief: -

9.1 That the Hon'ble Tribunal be pleased to make an observation that the pendency of this application shall not be a bar for the respondents to consider the case of the applicant.

10.

This application is filed through Advocates.

11. Particulars of the I.P.O.

i) I. P. O. No.	:	76 575312
ii) Date of Issue	:	25-9-2002
iii) Issued from	:	G.P.O, Guwahati.
iv) Payable at	:	G.P.O, Guwahati.

12. List of enclosures.

As given in the index.

Goutam Kumar Roy

VERIFICATION

I, Shri Gautam Kumar Roy, Son of Pranesh Chandra Roy, working as Traffic Inspector, N.F. Railway, Katihar, aged about.....years, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 25th day of September, 2002.

Gautam Kumar Roy

Signature



-12-
Translated copy

Annexure - 1 Series.

STANDRAD FORM

**STANDRAD FORM OF MEMORANDUM OF CHARGE FOR IMPOSING
MINOR PENALTIES (RULE NO. 11 OF AS PER D&A RULES - 1968)**

MEMORANDUM

NO. T/134/K/GM

Date 23/12/99

1. SRI Goutam Kumar Roy Designation Traffic Inspector

On Office, which working ----- is here by informed that the undersigned proposed(s) to take action against him under rule 11 of the railway servant (Discipline & Appeal) rule 1968. statement of the imputations of misconduct or miss behaviours on which action is proposed to take as mentioned above is enclosed. perpended.

2. Sri Goutam Kumar Roy is here by given opportunity to make such representation as he may wish to make against the proposal. The representation if any, should be submitted to the undersigned so as to reach the undersigned within in (10) ten days of receipt of this memorandum

3. Sri Goutam Kumar Roy Fails to submit his representation within in the period specified in para 2 will be presumed that he has no representation and order will be liable to be passed against

Sri Goutam Kumar Roy

4. The receipt of this memorandum should be acknowledged by

Sri Goutam Kumar Roy with in three days of receipt of this.

Signature -----

Name M. Rab

Designation Sr. DOM/Katihar

TO SRI Goutam Kumar Roy, Traffic Inspector
Sr. Divisional Operation Manager
(Name, Designation, Office of the Railway Servant)

Through -----

(STATEMENT OF IMPUTATION OF MISCONDUCT MIS-BEHAVOUR)

During the inspection of Gaisal, Pamipara and Kishanganj Conducted by the General Manager, Maligaon on 14-10-99, it was found that Sri Goutam Kumar Roy being Sectional Traffic Inspector has not conducted any night inspection of Surya Kaml and Aluabari Road stations for last two months

Therefore, Sri Roy is charged with negligence of his duty and careless ness towards his duty.

Sd/ M. Rab.
Sr. Divi. Operations Manager
Katihar/N.F. Rly.

Attested
H. W. L.
Advocate

634000

24

STANDARD FORM -11

STANDARD FORM OF NOTIFICATION OF CHARGE FOR IMPOSING
MINOR PUNISHMENT (RULE 11 OF THE RLY. ACT -1969)

MEMORANDUM

No. Tirukulam Date 23/11/22

1. श्री जैसरा कुमार राय designation जूनियर डिप्टी
Office on which working is is hereby informed that the
und-signed propose (s) to take action against him under Rule
11 of the Railway Servant (Discipline and Appeal) Rules 1969,
statement of the imputations of misconduct or mis-behaviours on
the which action is proposed to be taken as mentioned above is
enclosed/attached.

2. श्री जैसरा कुमार राय is hereby given opportunity
to make such representation as he may wish to make against the
proposal. The representation if, any should submitted to the
undersigned so as to reach the undersigned within (10) Ten days
of receipt of this memorandum.

3. If श्री जैसरा कुमार राय fails to submit his
representation within the period specified in para-2 will be
presumed that he has no representation and order will be
liable to be passed against श्री जैसरा कुमार राय

4. The receipt of this memorandum should be acknowledged
by श्री जैसरा कुमार राय within
three days of receipt of this.

(रम. रस)
Name and designation of
the competent authority.
Senior Divl. Operations Manager
Katihar/B. P. Rly.

To
श्री जैसरा कुमार राय, गुवागल निरीक्षक
(Name, designation & office of the Rly. servant)

Through

(STATEMENT OF IMPUTATION OF MISCONDUCT MIS-BEHAVIOUR)

दिनांक 14.10.99 को मध्य प्रबंधक। माली गोंय द्वारा जाईमाल, पंजीपाश
रण फिशानगंड निरीक्षण के दौरान पाया गया कि श्री जैसरा कुमार राय
ने सेक्सनल यातायात निरीक्षक होते हुए कमल रंग अणुवाणदी रेल
स्टेशन का विगत के गार्ड के कोई सत्रि निरीक्षण नहीं की है।
अतः श्री राय को आपने कार्य की अपेक्षा रंग कर्मचारी के
परि आपराधी करने का आरोप लगाया जाता है।

(रम. रस)
Name and designation of
the competent authority.
Senior Divl. Operations Manager
Katihar/B. P. Rly.

attested
H. W. S. Advocate

To
Sr. Civil Operations Manager,
N. E. Rly/Katihar

Sub: - Submission on charge-sheet.

Ref: - SF-11 issued vide order No. T/134/K/GM dt. 23.12.99.

Respected sir,

With due respect and humble submission, I beg to put before you the following facts in connection with the above referred SF-11 for your kind consideration and beniger extension of justice please.

That sir, I have been charged of not conducting Night Inspection of SJKL and AUB stations in the preceding last two months. Sir, it is true that I did not conduct night Inspection at AUB stn. during the said period, but as regards SJKL stn I did conduct Night Inspection on 02.9.99, report of which was submitted in due time.

That sir, I could not conduct night Inspection at AUB ~~tax~~ stn. during that period can be explained in the light of sudden ~~increase~~ increase in the workload in the aftermath of Gaisal accident.

During that period sir,, I got heavily engaged in the restoration work at Gaisal followed by COAS inquiry at KNE and also officers movement in connection with the Gaisal accident whom I had to accompany quite frequently.

Later on I was enjoined upon to perform roster duty at KNE for N/I ~~work~~ from 08.8.99 to 15.8.99 as per order of CFM/MLC. After completion of N/I work at KNE, I was engaged to monitor on duty ASM at KNE upto 25.8.99. This was as per AOM(G)/KIR.

Sir, despite this busy schedule I did not neglect my routine work a sectional TI and night Inspections were done quite frequently by me. And here is the list of night inspections conducted by the undersigned during the said period

- i) L/C gate No. KM 85 of KNE.

Contd...2/-

Attested
by
Advocate

-2-

- ii) L/C gate No. 34 of KNE
- iii) SJKL Stn.
- iv) HWR Stn.
- v) KKA Stn.
- vi) L/C gate No. KN 66 of KKA
- vii) KNE Stn.
- viii) L/C gate No. KN 84 of RUA

A part from this, I also made these inspection during the period in reference which are.

1. Intensive Footplate inspection by 49 up/4055 Dn.
2. Detailed inspection of KKA Station.
3. Detailed inspection of SJKL Station.
4. ~~EMXX~~ Non detailed inspection of Gaisal Station.
5. Non detailed inspection of AUB Station.
6. Special drive at GIL Station.
7. Special drive of KKA Station.
8. Detailed inspection of PJP Station.
9. Detailed inspection of HWR Station.
10. Joint inspection by P/Trolley Ex KNE to KKA (BG)
11. Intensive foot plate inspection by 3141 up/3142 Dn.
12. West Cabin of KNE (BG)
13. cursory inspection of Gaisal Station.
14. West Cabin of PJP Station.
15. Non detailed inspection of KNE.

In view of the facts explained above, Sir, I earnestly request your honour to kindly absolve me of the charges lavelled against me in the memorandum. I shall be ever obliged to your for this kind act.

Thanking you;

Yours faithfully,

Goulam M. Roy
TD/KNE

मुख्य विपणनमाली, 1981 के सं. 1111 संख्या एवं विपणनमाली के 1111 के 141 के

अंतर्गत दण्ड आरोप की सूचना :-

संख्या : 1/134/1/जी.ए.ए.
 प्रेषक : मंडल रेल प्रबंधक (परिचालन)/कटिहार
 सेवा में : श्री राजेश कुमार झा
 रेल रक्षक/परिचालन विभाग/कटिहार
 द्वारा : विपणन रेल प्रबंधक (परिचालन)/कटिहार

दिनांक 6/11/2011
 17

आरोप-पत्र संख्या 1/134/1/जी.ए.ए. दिनांक 23/12/2011
 के परिपेक्ष्य में आपके स्पष्टीकरण के संदर्भ में आपको सूचित किया जाता है कि —
 ने निम्नलिखित आदेश दिया है।

प्रत्यक्ष किया गया स्पष्टीकरण संतोषजनक नहीं है।
 इसका लिए इसका अंतिम दो वर्षों का इतिहास
 खींचा जा रहा है और उसके बाद उसके आदेश दिए
 जाते हैं। यह बिना गैर-मान्य है।

17/11

मुख्य मंडल परिचालन प्रबंधक
 कटिहार पू. मी. रेलवे
 Senior Divl. Operations Manager
 Katihar/N. E. Rly

अनुदेश : इस आदेश के विरुद्ध आदेश देनेवाले प्राधिकारी तात्कालिक वरिष्ठ पदाधिकारी
 1/134/1/जी.ए.ए. के पास प्राप्त तिथि के 45 दिनों के अंदर
 अपील की जा सकती है तथा इसमें अशोभनीय भाषा का प्रयोग नहीं किया
 जाना चाहिए।

अनुशासनिक प्राधिकारी के हस्ताक्षर/पदनाम
 प्रतिलिपि : मंडल रेल प्रबंधक (कार्यक)/कटिहार को सूचना एवं आवश्यक कार्रवाई हेतु
 प्रेषित।

1. काटकर हस्ताक्षर करके कार्यालय को लौटा दें।

दिनांक _____ के आरोप पत्र संख्या _____
 के परिपेक्ष्य में प्रस्तुत मेरे स्पष्टीकरण पर जारी आदेश के संबंध में आपके दिनांक : _____
 की सूचना संख्या _____ की प्राप्ति
 की अभिप्रीति देता हूँ।

स्थान _____ दिनांक _____
 1. हस्ताक्षर या अंगूठे का निशान।

Attested
 by
 Advocate

To,
Add. Divisional Railway Manager,
N. E. Rly. Katihar.

Sub: - Appeal against stoppage of increment of
two years N/C.

Ref: - Sr. DOM/KIR's NIP No. T/134/K/GM dt. 06/17.11.2000

Sir,

Being agrieved by the aforesaid punishment I with due regards beg to submit before your good self on the hope of getting your sympathetic consideration and favourable orders please.

1st That despite my ardent service to Rly. administration while I was at KNE and at present at KIR I have been served with the memorandum No. T/134/K/GM dt. 23.12.99 alleging that I had not conducted night inspection of SJKL & AUB Station since last two months.

2nd I submit my defence on 05.05.2000 but Sr. DOM/KIR did not consider the fact where in I narrated the detail conducted by me while I was posted at KNE.

3rd That it is not a fact that I did not conducted night inspection of SJKL station. The night inspection of SJKL Station was conducted by me on 02.09.99 and the report was submitted to Sr. DOM/KIR but irony of fact is that this had not been looked in to by Sr. DOM/KIR

So far AUB is concerned this could not be conducted night inspection due to heavy work loads arising out of Gaisal accident. The fact is that I got myself engaged for restoration work at Gaisal followed by CERS enquiry and also movement of officers of H/Q, Rly. Board as well as from the division in connection with the Gaisal accident whom I had to accompany quite frequently.

4th That as per order of CFM/MLG, I performed 12 hrs. roster duty with regards non-interlocking work at KNE from 08.08.99 to 15.08.99. Prior to that I was also engaged in non-interlocking work at HWR & KKA and the accident took place at GIL on 02.08.99 and so my entire energy work was diverted to wards the said accident.

After completion of 12 hrs. Roster duty at KNE, I was engaged to monitor on duty ASM/KNE up to 25.08.99 in connection with interlocking work as per instruction of ADM(G)/KIR

5th That your honours attention is invited to wards the provision of the schedule of inspection laid down in operating manual. This schedule has correctly being followed where it was considered necessary. The details of inspection has already been given in my defence dt. 05.05.2000 which may kindly be perused.

6th That while passing the order of Sr. DOM/KIR has not given reasoned order and stopped my increment for two years N/C which is violating of provision laid down in Rly. Board's letter No. E/(D&A)91/HG 6-122 dt. 21.02.92.

Contd...2...

Attested
Advocate

7.

That it is also brought to your kind notice that particular of the station should be inspected night inspection by me is no where laid down. In my jurisdiction there were eight stations which I inspected where I considered necessary.

In the circumstances, I would request your honour kindly to waive the punishment as I am absolutely innocent in this case.

And for this kind gesture, I shall ever pray.

Date:- 28.12.2000

Yours faithfully,

Goutam K. Roy

(GOUTAM KR. ROY)
LR, TI/KIR.

28/12/2000

U.F. Railway.

Office of the
DM(O)/KIR.

No. T/134/K/GM

Dt. 10/5/2001

To

Shri. Goutam Kr. Roy,
DM/II/KIR

Through:- COS(T)/KIR
U.F. Rly.

Sub:- Your appeal No. Nil dt. 26/12/2000 against the
punishment of stoppage of Increment for two
years (N.C) vide this office NIP of even no.
dt. 6/17-11-2000.

- - - - -

On going through your appeal ADMM/KIR has passed the
following orders :-

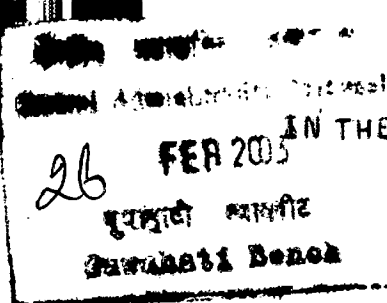
" I have gone through the case and carefully
considered the appeal. If he had done night inspection
at SJKL on 2/9/99 as stated in his defence / appeal,
an indication to this effect should have been there in
Station records, during inspection of GM on 14.10.99.
If he had not issued his inspection notes or recorded
his observation in the Station register, what good the
inspection was even if he had done it. His plea of not
doing night inspection of AUB because of heavy work is
also not tenable. Shri Roy is therefore guilty of the
charge. On sympathetic consideration however, the punish-
ment is reduced to withholding his increment for one(1)
year (N.C). "

✓ DM(O)/KIR.

Copy to DM(P)/KIR for information and necessary action please.
This has in reference to this office NIP of even no.
dt. 6/17-11-2000.

✓ DM(O)/KIR.

Attested
W. S. R. S.
Advocate



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI
IN THE MATTER OF
O.A NO. 323 OF 2002

Filed by 31
Munir
copy 03
Dr. M. C. Samra
Advocate

Shri Gautam Kumar Roy ----- Applicant

Versus

1. The Union of India represented
by General Manager, N.F.Rly.
Maligaon, Guwahati.
2. The Senior Divisional Operating Manager,
Katihar.
3. The Additional Divisional
Railway Manager, Katihar
..... Respondents.

IN THE MATTER OF :

Preliminary objection on Jurisdiction.

1. That before submission of Written Statement in full the Answering Respondents humbly and respectfully beg to raise a preliminary objection that the Hon'ble Central Administrative Tribunal, Guwahati Bench lacks territorial jurisdiction to deal with the matter on hand for the following reasons :-

(a) That Rule 6(1) of the Central Administrative Tribunal (Procedure) Rules, 1987 lays down as follows :-

" An Application shall ordinarily be filed by an applicant with the Registrar of the Bench within whose jurisdiction -

(i) the applicant is posted for the time being, or

(ii) the cause of action, wholly or in part, has arisen:

Provided that with the leave of the Chairman the application may be filed with the Registrar of the Principal Bench and subject to the orders under section 25, such application shall be heard and disposed of by the Bench which has jurisdiction on the matter.

(b) That it is submitted on behalf of the answering respondents that the Applicant, Shri Gautam Kumar Roy was posted at the material time at Kishanganj Railway Station of Katihar of Division of the N.F. Railway. Shri Roy is at present posted at Katihar. As both Kishanganj and Katihar are in the state of Bihar, the proper forum for adjudication of the matter would be that Bench of the Tribunal dealing with cases arising in the state of Bihar.

(c) That the answering respondents beg to further state that as per details provided in paragraph 4.3 of the O.A., part of the cause of action arose at Kishanganj, part at Suryakamal and another part arose at Aluabari Road railway stations, none of which stations lie within the territorial jurisdiction of the Guwahati Bench of the Central Administrative Tribunal. It is therefore humbly submitted that the proper forum for adjudication of the matter lies in that Bench of the Central Administrative Tribunal which exercises territorial jurisdiction in the State concerned.

(d) That the records of the case also does not shown that the applicant approached the Hon'ble Chairman of the Principal Bench of the Tribunal nor is there anything on record to prove that an order has been passed by the Hon'ble Chairman under Section 25 of the Administrative Tribunal Act, 1985 transferring the case to the Guwahati Bench of the Tribunal. It is therefore clear that the case also does not fall within the ambit of the proviso to Rule 6(1) of the Central Administrative Tribunal (Procedure) Rules, 1987.

(e) That it is further submitted on behalf of the answering respondents that Shri Gautam Kumar Roy, the Applicant, is a Traffic Inspector posted at Katihar Station at present. He was no doubt posted at Kishanganj at the material time. At both places his immediate superior Officers, including those controlling his day to day work and those controlling his action on disciplinary grounds are posted at Katihar in the State of Bihar. It is therefore submitted on behalf of the answering respondents that O.A. 323/2002 has been filed in a forum which cannot exercise territorial jurisdiction on the matter.

(f) That it is therefore humbly submitted by the answering respondents that the O.A. 323/2002, the present application, has been filed in a forum which exercises no territorial jurisdiction on the matter. That the application should have been filed in Bench of the Tribunal empowered to deal with matters arising in the State of Bihar, where ~~cause~~ cause of action has arisen.

Under the circumstances it is

:- 3 -:

humbly prayed by the answering respondents that this Hon'ble Tribunal be pleased to dismiss the O.A.323/2002 in limine for want of jurisdiction

It is also humbly prayed on behalf of the answering respondents that respondents be allowed to submit detailed parawise Written Statement on the O.A. on the question of merit after the Hon'ble Tribunal is pleased to make known a decision on the question of jurisdiction.

And for this act of kindness as in duty bound the answering respondents will ever pray.

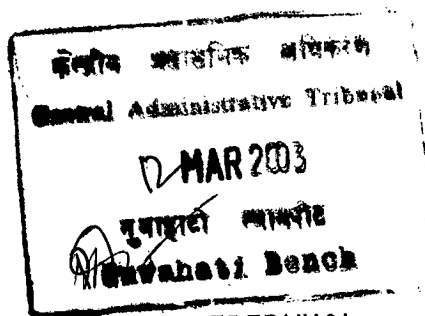
Contd....4/-

:- 4 -:

VERIFICATION

I, Shri A. S. Rao -----
 Son of Sri A. Kotiah ----- aged about 39 Years,
 at present working as Senior Divisional Operating Manager,
 N.F. Railway, KATIHAR DIVISION, do hereby solemnly affirm and
 state that the statements made in paragraphs 1(a) to 1(f) are
 based on the records of the case which I believe to be true and
 on legal advice on the question of jurisdiction. I submit the
 abovementioned prayer before the Hon'ble Tribunal and I sign this
 verification on this the 24th day of February, 2003.

A. S. Rao
 For and on behalf of the respondents.
 - वरिष्ठ मंडल परिचालन प्रबंधक
 Sr. Divisional Operations Manager
 पूर्वोत्तर सीमा रेल, कटिहार
 N. F. Railway, Katihar



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

In the matter of :

O.A. No. 323/2002

Shri Gautam Kumar Roy .

-vs-

Union of India & Ors.

-And-

In the matter of

Counter reply opposing the
preliminary objection on
jurisdiction raised by the
Respondents.

The applicant above named most humbly and respectfully
begs to state as under :

1. That with regard to the statement made in paragraph 1
(B), (C), (D), (E), and (F) the contention of the
respondents are categorically denied and further beg to
state that this Hon'ble Tribunal has jurisdiction to
deal with this matter/grievances of the applicant under
the provision laid down in Rule 6 (1) (I) of the
Central Administrative (Procedure) rules, 1987, since
the Headquarter of the applicant is located at
Maligaon, Guwahati. Be it stated that the applicant is
under the Administrative control of General Manager,
N.F. Railway, Maligaon, the controlling officer of the

Filed by Applicant
Through Surajit Choudhury
Advocate
12/3/03

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Divisional Railway Manager (P), Katihar is also under the absolute administrative control of Respondent No.1. It is specifically stated in the said Rule i.e. Rule 6 (1) (I) that an application shall ordinarily be filed by an applicant with the registrar of the Bench within whose jurisdiction the applicant is posted for the time being, therefore, it is quite clear that the applicant is presently posted under the administrative control of the General Manager, N.F. Railway, Maligaon, as such the applicant is well within the jurisdiction of the Registry of this Bench of Hon'ble Central Administrative Tribunal.

It is pertinent to mention here that the initial recruitment/appointment, promotion and seniority of the applicant is being maintained by the office of the General Manager, N.F. Railway, Maligaon, Guwhati, the same would be evident from the Zonal seniority list published as on 1.4.1998 by the General Manager (P), Maligaon. It would further be evident from letter bearing No. E/283/43/Selection (T) Pt. I dated 9.12.2002 and also from the Memo under letter bearing No. E/254/76/Pt-VII(I) dated 30.1.2003 that the selection list for the post of T.I. in scale of Rs. 6,500-10,500 whereby the applicant is called upon to appear in the written examination and viva voce test in fact conducted by the General Manager, Maligaon, moreover, the applicant is empanelled for promotion to the post of Traffic Inspector in the scale of Rs.

6,500-10,500/- also being approved by the General Manager, N.F. Railway, Maligaon, as such the applicant is posted at Katihar under the administrative control of General Manager, N.F. Railway, Maligaon. Hence, the office of the Principal Respondent falls within the jurisdiction of this Hon'ble Tribunal.

Copies of the letter dated 16/17.12.1998, 9.12.02 and 30.1.2002 are annexed as **Annexure A(Series)**.

2. That the cause of action which arises while working at Kishanganj cannot be a sole criteria for determining jurisdiction for filing an applicant under section 19 of the Central Administrative Tribunal Act, 1985 and mere posting of the applicant at Katihar cannot be a ground for raising objection on the issue of jurisdiction point.

It is categorically submitted that the preliminary objection on jurisdiction point filed by the respondent Union of India is not maintainable and therefore the application filed by the respondents raising objection on jurisdiction is liable to be dismissed.

VERIFICATION

I, Shri Gautam Kumar Roy, Son of Pranesh Chandra Roy, working as Traffic Inspector, N.F. Railway, Katihar, aged about.....years, applicant in the Original Application No. 323/2002, do hereby verify that the statements made in Paragraph 1 and 2 of this reply to the objection filed by the respondents are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 12th day of March, 2003.

Gautam Kumar Roy

39

Zonal seniority list of TI in scale Rs. 5500-9000/- of
N. F. Railway as on 1.4.98.

....

SN	Name	Stn.	Date of birth.	Date of appt.	Date of promotion.	UC/ST	Remarks.
1.	Sri A. Jha.	TSK	2.1.64	5.1.84	17.7.95	-	
2.	J.L. Dargayari	APDJ	19.10.62	21.4.67	5.8.96	ST	
3.	Gautam Roy	KIR	11.7.65	9.8.96	9.8.96	-	
4.	Achir Das.	LMG	1.10.69	9.8.96	9.8.96	-	
5.	P.K. Pegu	TSK	30.10.64	9.8.96	9.8.96	ST	Traffic and Production S/R
6.	Lakshman Das.	GM/Con	1.5.61	9.8.96	9.8.96	SC	Quota.
7.	B.B. Choudhury	HQ	4.9.53	24.2.75	17.9.96		New working as Safety Counsellor ex cadre post
8.	A.K. Singh	KIR	6.1.53	24.2.75	25.9.96		
9.	H.P. Sen.	LMG	6.3.54	21.11.78	17.9.96		
10.	P.J. Sinha	H.	25.1.57	20.7.73	17.9.96		
11.	N. Chattopadhyay	APDJ	17.2.52	6.5.75	11.12.97		

Zonal seniority list of TI in scale Rs. 5000-8000 as on 1.4.98.

1.	Sri Sekhar Basu.	APDJ	1.1.51	6.5.75	11.8.96
2.	Sri P.K. Chakraborty	APDJ	13.8.49	5.9.75	24.6.96

N.E./255/11/P.V(T).

for General Manager (P)/MLG.
Maligaon, date 16/7-12-97.

Copy for information and necessary action to:

1. DOM ()/KIR, APDJ, LMG, TSK
2. Sr. DOM/KIR, APDJ, LMG, DOM/TSK.
3. GM (CON)
4. Dy. DOM (C)/Maligaon..... spare copies are sent herewith for staff concerned.

5. Any representation against the seniority position shown in the S/list should be submitted within 30 days.

6. NFRMU/MLG.

7. NFRMU/MLG.

for General Manager (P):MLG.

a/- 1.11.97

Recd

Attended
Advocate
12/03/03

B.P. No.

40

No. B/283/49/Selection (T) PT. I

Office of the
DM(P)/Katihar
Dt. 9/12/02TO
Sr. DM/KIR.Subj:- Selection for the post of TI in
scale B.6500 - 10500/-.Ref:- OM(P)/MLG's letter No. B/264/76/PT. VII (T)
Dt. 20/21.11.2002.

In terms of OM(P)/MLG's letter quoted above it has been decided to hold a selection at Head Qrs. level for forming a panel of 15 posts (UB-12, AC-3 & ST-III) in scale B.6500-10500/- as per scheduled programme shown below.

1. Written test on 18.12.02
2. Absentee test on 7.1.03
3. Viva-voce test on 17.1.03.

Please spare and direct the following staff working under you well in time to attend the written test on 18.12.02 at OM(P)/MLG with intimation to this office.

- | | | |
|----|--------------------|--------|
| 1) | Sri Goutam Kr. Roy | TI/KIR |
| 2) | Sri H.L. Mall | TI/KIR |

(S. Behera)
Aptt
FOR DM(P)/KATIHAR

Copy forwarded for information and necessary action to.

- 1) COS/T.
- 2) OS/P/Pass. He will please issue necessary duty pass in favour of above named staff from Sr. KIR to MLG and back.
- 3) Staff concerned.
- 4) OM(P)/MLG. In reference to his letter No. quoted above.

(S. Behera)
Aptt
FOR DM(P)/KATIHAR

Attested
Advocate
12/03/03

As a result of the written selection held on 18-12-02
absentee on 7-1-03 and Viva-Voce on 17-1-03 for promotion to
the Post of TI in scale Rs. 6500-10500/-, the following candidates
have found successful and empanelled provisionally for promotion
to be post of TI in scale Rs. 6500-10500/-.

- | | | | |
|-----|-----------------------------|-----|-------------|
| (1) | Sri Gautam Ray, (JR) | ... | TI/Katihar. |
| (2) | Sri Laksman Das (SC) | ... | TI/GW/CJ. |
| (3) | Sri H.P. Sen, (JR) | ... | TI/Lumding. |
| (4) | Sri Jekhar Dasu, (JR).... | | TI/APDJ. |
| (5) | Sri P.K. Chakraborty, (JR). | | TI/APDJ. |
| (6) | Sri S. Dutta, (JR) | ... | TI/GW/CJ. |
| (7) | Sri B.C. Muchahari, (ST)..< | | TI/Lumding. |
| (8) | Sri Pijush Chakraborty (JR) | | TI/HQ. |
| (9) | Sri Mo. Kayum Ali (JR) | ... | TI/HQ. |

The result of the selection has been approved by CPTM
on 24-1-03.

Thm 30/1/03
(L. D. Singh)
Asstt. Personnel Officer
(T)
for General Manager (P)
N. F. Rly. Maligaon.

NO: E/254/76/Pt-VII (T)

Maligaon, dt. 30-1-2003

Copy forwarded for information and necessary action to:-

1. GM/CJN/MLG. , CVO/Maligaon.
2. LRM(P), KIR, APDJ, LMG & TSK.
3. Sr. DCM-KIR, APDJ, LMG & TSK.
4. CPTM/Maligaon.

Thm 30/1/03
for General Manager (P)
N. F. Railway, Maligaon.

Attested
Advocate
12/03/03

R.
4/2/03