

50/100

3

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

(DESTRUCTION OF RECORD RULES, 1990)

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9

( SEE RULE -4 )

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI  
.....

ORDER SHEET

Original Application No : 324/02  
Misc. Petition No. \_\_\_\_\_  
Contempt Petition No. \_\_\_\_\_  
Review Application No. \_\_\_\_\_

Applicant (s) G.K. Roy

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

Advocate for the Applicant (s) M. Chanda, G.N. Chakrabarty  
H. Dutta

Advocate for the Respondent(s) Cable. Dr. M.C. Sarma  
Rty Counsel

Notes of the Registry	Date	Order of the Tribunal
<p>Application is in order and not in time for disposal of the case. The case is for Rs. 50/- deposited with the court. No. 75313 Dated 25.9.02</p> <p><i>[Signature]</i> By Registrar</p>	<p>4.10.02</p> <p>lm</p> <p>(H'11)</p>	<p>Heard learned counsel for the parties.</p> <p>Application is admitted. Call for records. Returnable by four weeks. List on 14.11.02 for orders.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>Due to circuit sitting at Shillong, the case is adjourned to 27.11.02.</p> <p><i>[Signature]</i> A.K. 13 +44</p>

Steps taken

No signature in notice  
of the applicant's  
counsel

1/3  
31/10/02

2  
Slebs Inquired -  
Notice prepared and sent  
to S/S for his the respon-  
dent No. 1 to 3 by Regd.  
A.D. 5/11/02

DINo. 309-1698  
Dtd. 11/11/02

No written statement  
has been filed

3.1.03

bb

6.1.03

At the request of the respondents' counsel who seeks time to file reply/ written statement to the original application it is directed that the case be listed on 4.2.03. The reply should be filed within 3 weeks.

No written statement  
has been filed

3.2.03

pg

4.2.2003

Further four weeks time is allowed to the respondents to file written statement on the prayer of Mr. M.C. Sarma, learned Sr. counsel for the respondents.

List on 4.3.2003 for written statement.

S-B.03  
An objection on  
petition on jurisdiction  
has been submitted  
by Railway Counsel  
Dr. M.C. Sarma, on  
the above O.A.

mb

13/3/03  
S.O

26.3.2003

Copy of the order  
has been sent to the  
Office for issue  
the due to the L/Adv.  
for the applicant.

AT

17.3.2003

The application is squarely covered by the judgment and order dated 13.3.2003 passed in O.A. No. 323/2002. The application is accordingly dismissed in the light of the said order with liberty to file appropriate application before the appropriate forum.

mb

Mr. S. Sarma, learned counsel appearing on behalf of Mr. J.L. Sarkar, learned counsel for the respondents, prayed for a little accommodation to file written statement.

Prayer allowed. List the case on 6.1.2003 for further order.

Vice-Chairman

Member

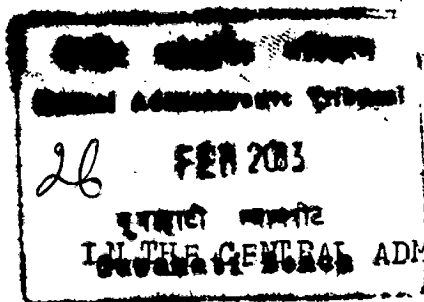
Chairman

Member

Vice-Chairman

4/12/03. Court did not set to day  
the case on adjournment  
to 13/3/2003

Vice-Chairman



GUWAHATI BENCH, GUWAHATI.

Filed by  
Munir  
26/2/03  
DR. M. C. Sarma  
Advocate for Rly.

IN THE MATTER OF

O. A. NO. 324 OF 2002

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.

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

(Contd...P/2)

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 Division of N.F. Railway. Shri Roy is at present posted with his headquarter at Katihar Station. 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 records of the case also does not show that the applicant approached the Hon'ble Chairman of the Principal Bench of the Tribunal nor is there anything on the 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.

d) That the answering respondents beg to submit that as per details provided in the O.A. the cause of action at the material time arose at Kishanganj which station lies within the state of Bihar. It is therefore clear that the case does not fall within the provision of sub-clause (ii) of Rule 6(1) of the Central Administrative Tribunal (Procedure) Rules, 1987.

e) 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. However, at both place his immediate superior officers, including those controlling his day to day work as well as those controlling disciplinary aspects of his working are posted at Katihar in the state of Bihar. It is therefore humbly submitted on behalf of the answering respondents that O.A. 324/2002 has been filed in a forum which cannot exercise territorial jurisdiction on the matter as per law laid down.

(Contd....P/3)

f) That it is therefore humbly submitted by the answering respondents that the O.A. No. 324/2002, the present application, has been filed in a forum which exercises no territorial jurisdiction on the matter. That the proper course for the applicant to follow was to file the case in a Bench of the Tribunal empowered to deal with the matters arising in the state of Bihar, where cause of action has arisen.

Under the circumstances, it is humbly prayed by the answering respondents that this Hon'ble Tribunal be pleased to dismiss the O.A. 324/2002 in limine for want of jurisdiction.

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

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

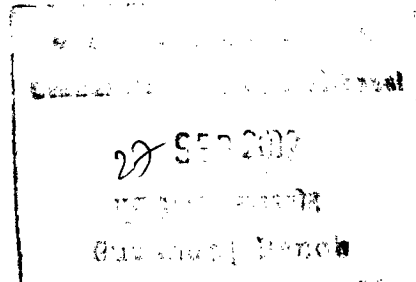
X

4

VERIFICATION

I, Shri A.S. Rao son of Sri A. Kotaiah 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 the foregoing paragraphs are based on the records of the case which I believe to be true. I submit the abovementioned prayer before the Hon'ble Tribunal and I sign this verification on this the 24<sup>th</sup> day of February, 2003.

*A. Seenivasa Rao.*  
for and on behalf of respondents.  
करिष्ठ मंडल परिचालन प्रबंधक  
S. Divisional Operations Manager  
पूर्वोत्तर सीमा रेल, कटिहार  
N. F. Railway, Katihar



**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. 324 /2002

Sri Gautam Kumar Roy : Applicant

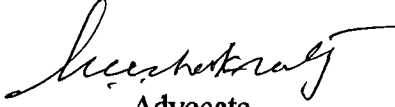
- Versus -

Union of India & Others: Respondents.

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Filed by

  
Advocate

Date 25-9-2002



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



## 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  
N.F.Railway,  
Katihar.

...Respondents.*Goutam Kumar Roy*

## DETAILS OF THE APPLICATION

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

This application is made against the impugned Memorandum of charge sheet dated 7.8.2001, Penalty Order dated 11.10.2001 and Appellate Order dated 8.4.2002 confirming the order of Penalty of withholding increment for a period of one year without cumulative effect.

### 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 privileges as guaranteed under the Constitution of India.

Gouram Kumar Roy

4.2 That your applicant while working as Traffic Inspector under Senior Division Operations Manager, N.F. Railway, Katihar, served with a Memorandum of charge sheet bearing letter No. TA-AI/3/8/99 dated 7.8.2001 issued under Rule 11 of the Railway Servant (Discipline and Appeal) rule 1968 along with statement of the imputations of misconduct. It is alleged that in the said Memorandum of charge sheet it is alleged that while the applicant was working as Traffic Inspector at Kishanganj during July/Aug, 1999 in the capacity of sectional Traffic Inspector he failed to maintain effective coordination and supervision of the working staff at the site which lead to number of system failures and it is further alleged that these failures were responsible for the head on collision between 5610 and 4055 at Gaisal on 2.8.1999. In the Memorandum it is also alleged that the applicant did not make specific counseling to all the staff associated with monitor locked working at Kishanganj and enough attention was not paid by him towards the preparation of Roster of the staff to be deployed at various locations and shifts and as a result of such act of omission/commission the applicant failed to observe the instructions contained in GR 501(a)(ii) of N.F. Railway and thereby exhibited lack of devotion to duty and contravened the Rule 3 (i) (ii) of Railway Service Conduct Rule 1966.

A copy of the Memorandum of Charge sheet dated 7.8.2001 is annexed herewith as **Annexure-1**.

Gouram Kumar Roy

4.3 That your applicant immediately after receipt of the Memorandum dated 7.8.2001 submitted a detailed reply in a form of interim defence. It is categorically stated by the applicant in his reply that he maintained full coordination and supervision to the working staff to the best of his ability and also specifically denied the correctness of the statements tendered before the Inquiry Commission by ASMS working at Kishanganj. It is further stated in the said reply by the applicant that it is the liability of staff to understand the temporary working instructions and read the same carefully so far as safety aspect is concerned and it is obligatory on the part of the Station Superintendent to ensure that the staff has signed the assurance register provided for the purpose as per provisions laid down in GR 5.01/(a) (ii) of N.F. Railway.

The applicant also stated in his defence that he was deputed at HWR s KKA stations during in non inter locked working by the then DSO, Katihar and came back to Kishanganj on 29/30.7.99 after performing night duty on 29/30.7.99 and temporary working instructions were supplied to the ASMS at Kishanganj on 12.7.99 much ahead of the night inspection work at Kishanganj. Moreover, Shri Harinarayan Singh, ASM, who was working at Kishanganj on regular basis and he was performing duty at night shift on 1/2-8.99 as per Roster and as such he got sufficient opportunity to read out the

*Goulet Kumar Ray*

temporary working instructions as such the statements of Shri H.N. Singh is not based on facts.

Similarly, Shri Arjun Kumar and Shri Ashok Kumar ASM posted at Kishanganj were also provided with temporary working instructions along with Green notice as such the pleas of Shri Arjun Kumar and Ashok Kumar are not maintainable. Moreover preparation of Roster of Staff to the deployed on various locations and shifts are not at all in the ambit of Traffic Inspector.

The applicant categorically stated in his reply that Sri S.P. Chandra ASM admitted before the Commission that counseling is made by the applicant during night shift on 31.7.1999.

The applicant also claimed that there was effective coordination as well as supervision of the working staff at the site. It is further stated by the applicant that there was no failure on his part in respect of head-collision between 5610 Up and 4055 Dn at Gaisal on 2.8.99. The applicant further claimed in his reply that there was no violation of any service conduct Rules as he exercised all supervisory powers with integrity and devotion to his duty. There was no failure on his part to observe the instructions contained in GR 5.01(a)(ii) of N.F.Railway as because these rules is specifically meant for class IV staff for which necessary certificates had to be obtained by the Station Master, Kishanganj before they were put to job. However, such register maintained at Kishanganj

*Goutam Kumar Roy*

and the staff were signed the register as a token of knowledge of working rules. As such the said rule is meant for working rules and not for temporary instructions. It is specifically stated by the applicant that during his inspection in this particular case he verified from the staff that they have enough knowledge of safety rules. But the Inquiry Commission arrived at the conclusion of holding the applicant responsible and also pray for supply of the entire findings of the Inquiry Commission for effective defence and also prayed to exonerate him from the charges labeled against him.

A copy of the reply of the written statement dated 16.8.2001 is annexed herewith and marked as **Annexure-2.**

- 4.4 That it is stated that no document is supplied to the applicant as prayed by him in his letter dated 16.8.2001, but the Senior Divisional Operation's Manager, Katihar issued the impugned order of penalty vide letter bearing No.TA-A1/3/8/99 dated 11.10.2001 wherein it is admitted by the Disciplinary Authority in the Impugned Order of Penalty dated 11.10.2001 that he has gone through the explanation of the applicant and it is observed/held by the Disciplinary Authority that the Primary responsibility of shift changing and reporting of duty staff as per the Roster is that of Station Master, therefore he has taken a lenient view and imposed the penalty of withholding of increment for

*Goulet Kumar Ray*

a period of one year without cumulative effect. A mere reading of impugned order dated 11.10.2001, it is abundantly clear that the applicant is not found responsible for the charge labeled against him vide Memorandum dated 7.8.2001 but even then penalty of withholding of increment for a period of one year is imposed. Hence, this arbitrary decision of imposition of penalty upon the applicant is contrary to law. As such, the impugned order of penalty dated 11.10.2001 is liable to be set aside and quashed.

A copy of the impugned order of penalty dated 11.10.2001 is annexed herewith and marked as **Annexure-3.**

- 4.5 That your applicant immediately after receipt of impugned order of penalty dated 11.10.2001 preferred an appeal before the Addl. Divisional Railway Manager, Katihar on 29.11.2001, in the said appeal the applicant inter alia raised the same grounds of defence. As indicated in his written statement dated 16.10.2001 and also specifically stated that when Senior DOM, Katihar held that the responsibility of shift changing and reporting of duty of staff rests on ASM. Thereafter imposition of Penalty upon the applicant is contrary to law and further prayed for supply of findings of the Inquiry Commission for effective defence and also prayed for exoneration from the charges labeled against him.

*Goutam Kumar Roy*

But most surprisingly the ADRM, New Jalpaiguri has confirmed the order of Penalty dated 11.10.2001 without giving any reasons, without discussions and also without considering the grounds raised by the applicant in his appeal dated 29.11.2001. The Appellate order is cryptic and non speaking and the same is passed without implication of his mind. As such the Appellate order is contrary to rule. The impugned order of Appellate Authority in fact communicated to the applicant by the Senior DOM, Katihar vide Impugned letter bearing No. TA/A1/3/8/88 dated 8.4.2002.

In the facts and circumstances stated above, the impugned order of Penalty dated 11.10.2001 as well as the impugned Appellate order communicated vide letter dated 8.4.2002 are liable to be set aside and quashed.

A copy of the Appeal dated 29.11.2001 and impugned Appellate Order dated 8.4.2002 are enclosed as **Annexure-4 and 5** respectively.

- 4.6 That your applicant finding no other alternative approached this Hon'ble Tribunal for protection of the rights and interests of the applicant by passing an appropriate order, setting aside the impugned order of penalty.
- 4.7 That this application is made bonafide and for the cause of justice.

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

*Goutam Kumar Ray*



- 5.1 For that, the charges labeled against the applicant is vague and the said charges not definite and specific.
- 5.2 For that, the charges labeled against the applicant were not proved as evident from the impugned order of penalty dated 11.10.2001.
- 5.3 For that, the Senior DOM, Katihar after being satisfied that the Primary responsibility of Shift changing and reporting of duty staff as per roster is entrusted with the Station Master, therefore imposition of penalty upon the applicant is contrary to rule as evident from the impugned order dated 11.10.2001.
- 5.4 For that, the order of Penalty dated 11.10.2001 and 8.4.2002 containing the order of Appellate Authority has been passed in total violation of Discipline and Appeal Rules 1968.
- 5.5 For that there was no discussions against the grounds raised by the applicant both in the impugned order of penalty dated 11.10.2001 and also in the Appellate order dated 8.4.2002.
- 5.6 For that the impugned order of penalty as well as the Appellate Order confirming the said penalty are cryptic/non-speaking and contrary to rule.

6. Details of remedies exhausted.

Goutam Kumar Roy

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):

- 8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned order of Penalty bearing letter No.TA.A1/3/8/99 dated 11.10.2001 and impugned Appellate

Goutam Kumar Roy

Order communicated vide letter bearing letter No. TA-A1/3/8/98 dated 8.4.2002.

8.2 Costs of the application.

8.3 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 575313
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 28<sup>th</sup> day of September, 2002.

*Gautam Kumar Roy*

## STANDARD FORM - 11

## STANDARD FORM OF MEMORANDUM OF CHARGE FOR IMPOSING MINOR PENALTIES (RULES NO. 11 OF AS PER D&amp;A RULES 1968)

## MEMORANDUM

NO. TA-AI/3/8/99 Date 07.08.2001

1. Shri Gautam Kumar Roy Designation EX-T/KNIE NOW T/KIR office which working ST DOM/KIR is hereby informed that the under signed proposed (S) to taken action against him under Rule 11 of the Railway servant (Discipline and Appeal) Rule 1968, statement of the imputations of misconduct or miss behaviors on which action is proposed to taken as mentioned above is enclosed/appended.

2. Shri Gautam Kumar Roy EX-T/KNIE NOW T/KIR 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. Shri Gautam Kumar Roy EX-T/KNIE NOW T/KIR 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. Shri Gautam Kumar Roy EX-T/KNIE NOW T/KIR

4. The receipt of this memorandum should be acknowledged by Shri Gautam Kumar Roy EX-T/KNIE NOW T/KIR within three days of receipt of this.

Ara  
(A.S.RAO)  
Name and designation of  
पञ्च संसद विचारक, पञ्च  
मिहिर, प. सी. रेलवे  
Senior Divl. Operations Manager  
Katihar/N. F. Rly.

To Gautam Kumar Roy EX-T/KNIE  
Shri NOW T/KIR  
(Name, designation, officer of the Rly. servant)  
Through COS/T/KIR  
(Statement of imputation of Miss Conduct - Miss behavior).

"Attached"

Attested  
Wale  
Advocate

## ( Statement of imputation of misconduct or misbehaviour )

22

Shri Gautam Kumar Roy, Ex. TI/KNE now TI/KIR, in the course of discharging his supervisory duties during non interlocked working at Kishanganj during July-August, 1999 in the capacity of Sectional TI, he failed to maintain effective co-ordination and supervision of the working of staff at the site which led to a number system failures. These failures were responsible for the head on collision between 5610 and 4055 at Gaisal on 2.8.1999. The following lapses were noticed in his working.

- (a) No specific counselling was done by him to educate all the staff associated with non-interlocked working at Kishanganj( during the period July-August, 1999). During their depositions before the enquiry Commission some of the ASMs working at KNE stated that they had neither seen nor did they get an opportunity to read the Temporary Working Instructions.
- (b) Enough attention was not paid by him towards the preparation of the roster of the staff to be deployed at various locations and shift. Though it was originally planned to man the night shifts by deploying regular ASMs of Kishanganj station; in practice no step was taken by him to ensure the same.

This was evidenced by the following two cases:

- (i) Shri Hari Narayan Singh, who was working as ASM/KNE in the night shift when the accident occurred at Gaisal on 2.8.1999 was booked as late as 20.00 hrs on 1.8.1999 for reporting for duty at 22.00 hrs of the same day and was asked to sign the assurance register at the same time. There was no prior roster for this booking. Shri Singh therefore did not get an opportunity to read the Temporary Working Instructions, as it was not shown to him.
- (ii) Shri Ashok Kumar, ASM/KNE was booked as late as 18.30 hrs of 31.7.1999 to work as Indoor ASM/KNE in the night shift of 31.7.1999 commencing from 22.00hrs of 31.7.1999 i.e. booking was done late and only 3 ½ hrs before the commencement of the shift.
- (iii) As a special duty, senior supervisor at KNE during non interlocked working, he had been assigned with the job of co-ordinating with staff and helping in the case of difficulties. He failed to take initiative in getting the blocked lines No. 3 & 4 at Kishanganj cleared at the earliest. This led to handling of a number of Dn trains on line no.1, which was a common loop requiring the operation of a large number of points for the reception and despatch of trains. As a Senior Supervisor, it was his duty to ensure steps to minimise the operational problems at a non interlocked station and this could have been done had he taken steps to get at least Line No.3 released for the movement of trains.

By the above act of omission/commission Sri Roy failed to observe the instructions contained in GR 5.01(a) (ii) of N.F. Railway and thereby exhibited lack of devotion to duty and contravened the Rule 3(1) (ii) of Rly. Service Conduct Rule, 1966.

AS Rao  
प्रवर मंडल परिचालन प्रबंधक  
काठिहार, पूर्वी रेलवे  
Senior Divi. Operations Manager  
Katihar/N.F. Rly.

To: *Sr.* Divisional Operations Manager,  
N.F. Railway, Katihar.

Through: OS/T/KIR

Sub: Interim defence.

Ref: Your memo No. TA-A1/3/8/99 dt. 7.8.2001.

Sir,

In my submission, I beg to submit as under:

1. That sir, in course of working as sectional TI/KNE, I maintained full coordination and supervision to the working of staff to the best of my ability. Whatever evidence has been tendered before Enquiry Commission by ASMs working at KNE is completely concocted and white lie. Before resuming duty as ASM, it is the liability of staff to understand the temporary working instructions and read the same carefully so far as safety aspect is concerned. In this context, SS who put ASMs in duty, should ensure that the staff has signed the assurance register provided for the purpose. This is as per provision laid down in SR.5.01/1 (a) of N.F. Railway.
2. That sir, I was deputed at HWR & KKA stations during non-interlocked working by the then DSO/KIR and came back to KNE on 30.7.99 after performing night duty at KKA on 29/30.7.99.
3. That sir, ASMs are class-III staff and ASMs posted at KNE have got enough opportunity to read out the temporary working instructions. It was supplied on 12.7.99 much ahead of the N/I work at KNE. Moreover, ASMs can not work independently without his knowledge of system of working in force and they have thoroughly understood the working of the station and declare in the assurance register provided for the purpose as a token that they have understood their duties and station working rules and other instructions pertaining to their duties.
4. That sir, Sri Hari Narayan Singh was working as ASM/KNE as a regular measure as because he was posted ASM and he was performing duty at night shift on 1/2.8.99 as per his roster of posted ASM/KNE. The sufficient opportunity was there to read out the temporary working instructions and Green Notice, both supplied on 12.7.99 much ahead of the N/I work at KNE. It is also mentioned that until and unless he has thoroughly understood the Station Working Rules and Temporary Working Instructions, he is not supposed to work in trains passing duties. This obviously indicates that he was aware of the rules and regulations.  
Therefore, the plea that Shri Hari Narayan Singh has got no opportunity to read the said temporary working instructions, has no logic. Being class-III staff, it was proper for him to read the same which was supplied much ahead of the N/I work at KNE. Nowhere he had mentioned in the diary that without knowing the rules and regulations, he was working.
5. That sir, as per roster of posted ASMs/KNE, Sri Arjun Kumar, ASM/KNE was to work in BG Indoor station/KNE in the night shift on 31.7.99. But the then DSO/KIR at KNE changed the staff in the evening on 31.7.99 as because Shri Arjun Kumar was accident prone and Shri Ashok Kumar, posted ASM/KNE was put to night shift on

*attested  
W. S. Advocate*

*16/8/01  
COSD/KIR*

31.7.99 commencing from 22.00 hrs. by the then DSO/KIR at KNE in consultation with SM/KNE. Hence Ashok Kumar, posted ASM/KNE was booked lately. However, Shri Ashok Kumar was posted ASM/KNE and the temporary working instructions along with Green Notice both were supplied much ahead of the N/I work at KNE and the same working instructions along with Green Notice were also supplied to HWR & KKA stations for N/I work which was commenced from 14.7.99 & 19.7.99, respectively. Shri Ashok Kumar, ASM/KNE was working there during N/I work at HWR.

So that the plea that he has got no opportunity to read temporary working instructions nor shown to him is not acceptable nor maintainable.

6. That sir, preparing of roster of staff to be deployed at various locations and shift are not at all within the ambit of TI. On this score, I can not be held responsible.

7. That sir, there was nothing such plan to man the night shift by deploying regular ASMs of KNE station. Such plan was not also at HWR & KKA. The posted ASMs of HWR & KKA were working at Indoor as regular measure as per system in vogue. The roster of the staff was prepared by SM/KNE and it was duly verified by the then DSO/KIR at KNE.

8. That sir, during my stay at KNE, I gave full co-ordination to the staff in connection with the job particularly I counselled them the safety rules in respect of non-interlocked working. Shri S.P.Chandra, ASM/NYT at KNE categorically stated during his cross examination by CCRS/LKO at KIR that myself as well as Pointsman and cabinman were counselled by him during night shift on 31.7.99.

9. That sir, there was block taken from 16.20 to 18.20 hrs. on 1.8.99 and I made concerted efforts along with Dy. CE/Con/NJP and AEN/Con/NJP at KNE to leave the block to minimise the operational problem at a non-interlocked station, but the block was not cleared for the movement of the trains for which I am not at all responsible. There was no lacking on my part to get the blocked line No.3 & 4 released for the movement of trains. This obviously indicates that I had taken all initiative in getting the block lines cleared at the earliest. There was effective co-ordination as well as supervision of working of the staff at the site. There was no failure on my part in respect of head-on collision between 5610 UP & 4055 Dn. at GIL on 2.8.99. 28

10. That sir, there was no violation of any service conduct rules as I exercised all supervisory powers with entire integrity and devotion to duty. There was no failure on my part to observe the instructions contained in GR 5.01 (a)(ii) of N.F.Railway, because this rule is specially meant for class -IV staff for which necessary certificate has to be obtained by the SM/KNE before they are put to job. However, such register maintained at KNE and the staff were signed the register as a token of knowledge of working rules. Your honour will appreciate that this rule is meant for working rule and not for temporary working instructions. It is also mentioned that during my inspection and in this particular case, I used to get it verified from the staff that they have enough knowledge of safety rules.



11. That sir, it is not understood how the Enquiry Commission has made me responsible as because I do not have the documents under which it has been disclosed the process of reasoning by which the Judicial Enquiry Commission arrived at the conclusion holding me responsible.

My request to your honour is that the entire findings together with the staff examined in course of judicial enquiry may kindly be supplied for effective defence.

In the prospective of narration given above, your honour is requested kindly to ponder my defence objectively with judicious angle and kindly exonerate me from the charge as I am absolutely innocent in the case.

And for this kind act, the applicant as in duty bound shall ever pray.

Yours faithfully,

Goutam K. Roy

Dated: 16/8/2001

( Goutam Kumar Roy)  
Ex. TI/ KNE , now at KIR

Notice of imposition of penalties under clauses (i) to (iv) of Sub-rule 1 and clauses (i) 7b and (ii) sub-rule 6)

Dated 11.10.2001

No.TA-A1/3/8/99

To: Shri Gautam Kumar Roy, Ex.TI/KNE now TI/KIR

From : Sr.DOM/KIR

With reference to your explanation to the charge sheet No.TA-A1/3/8/99 dated 7.8.2001 issued by this office, you are hereby informed that Sr.DOM/KIR has passed the following order:-

" I have gone through the explanation of the employee. The primary responsibility of shift changing and reporting of duty staff as per the roster is that of SM. Therefore, a lenient view is taken and I impose a penalty of withholding of increment for a period of one year with non-cumulative effect."

*AS Rao*  
(A.S. Rao)  
Signature & Designation of  
the Disciplinary Authority.

नगर मंडल वरिष्ठाध्यक्ष महोदय  
कटिहार, पू. सं. रेवडे  
Senior Divl. Operations Manager  
Katihar/N F Rly.

**Instruction:**

An appeal against the order lies  
to ADRM next immediate superior  
to the Authority passing the order.

Copy to: 1. DRM(P)/KIR for information & necessary action.  
3. CSO/MLG for information & necessary action.

(This portion must be detached, signed and returned to Sr.DOM/KIR)

To

I hereby acknowledge receipt of your notice No. \_\_\_\_\_  
dated \_\_\_\_\_ Conveying the orders on my explanation to the charge.  
No. \_\_\_\_\_ dated \_\_\_\_\_

Station:

Dated:

( Signature or thumb impression )

Designation.

*attested*  
*W. S. S.*  
*Advocate*

To The Additional Divisional Railway Manager,  
M. F. Railway, Katihar.

Through: Proper channel.

Sub: - Appeal against the order of Sr. DM/KIR for imposing penalty of withholding of increment for a period of one year with Non-cumulative effect.

Ref: - Sr. DM/KIR's MIP No. TA-A1/3/8/99 dt. 10.10.2001.

Sir, With profound respect, I beg to bestow before your honour the following facts in the hope of getting your sympathetic consideration and favourable order please.

1. That Sir, I committed no offence even then my increment has been stopped by Sr. DM/KIR which I feel is against the canon of natural justice. My case has not been looked in to on judicial angle otherwise would have been exonerated from the charge.
2. That Sir, in my case there is no specific speeding order, whatever order has been given which clearly indicates that SM was made responsible of shift changing and reporting of duty as per roster. Hence, I did not come in the picture and so imposing punishment is against the principle of natural justice and fair-play.
3. That Sir, in response to the memorandum dt. 7.8.2001, I had submitted my defence on 16.8.01 but while passing order by Sr. DM/KIR has stated no where that my defence was not convincing or not satisfactory. In such circumstances awarding punishment is not reasonable nor justified but irregular and unconstitutional.
4. That Sir, it is a fact that I maintained full co-ordination and supervision to the working of staff to the best of my ability. I had done my duty with entire integrity and devotion.
5. That Sir, ASMs are class III staff and ASIs posted at KNR had got enough opportunity to read-out the temporary working instructions. It was supplied on 12.7.99 much ahead of the N/I work at KNR. It is not understood how ASIs worked independently without knowing the system of working in force and how they have declared the assurance in the assurance register. Performance of duties after declaring the assurance completely proves that they were aware of rules and regulations and other instructions. Without knowing of system of working in force, an ASM can not work independently. Therefore, the plea of not getting opportunity to read the said temporary working instructions had no logic.
6. That Sir, Sr. DM/KIR agreed that the responsibility of shift changing and reporting of duty of staff rests with SM. On this analogy no punishment can imposed upon me but Sr. DM/KIR stopped my increment and that too one year which is irreparable loss to me without any fault of mine.
7. That Sir, so far as counselling of staff is concerned, I would like to bring this fact to your honour that I counselled them the safety rules in respect of N/I worked. Sri S.P. Chanda ASM/NYT at KNE categorically stated in course of cross examination by CCRS/LKO at KIR that he was counselled as well as pointsman and cabinman during night shift on 31.7.99.

On dt...2..

*Attested  
W. S. S.  
Advocate*

8. That Sir, I made concerted efforts along with Dy. CF/CON/NJP and AEN/CON/NJP at KNE to leave the block to minimise the operational problems at a non-interlocked station. This obviously indicates that I had taken all initiative in getting the block lines cleared at the earliest and there was no failure on my part in respect of head-on collision between 5610 UP & 4055 DN at GIL on 2.8.99.
9. That Sir, I had not violated any service conduct rules. Sincerity and devotion to duty is my sole objective to increase the image of railway.

Under the above circumstances I pray to your kind honour to look in to the case and to do justice by your kind order for waiver of the punishment imposed upon me.

For this act of kindness, I shall ever remain grateful to you, Sir,

Yours faithfully,

*Goutam Kr. Roy*  
29/11/01

(Goutam Kr. Roy)  
TI/KN Enow at KIR

R (A/N 22/11/01)  
29/12/01

- 21 -  
N.F. RAILWAY

Annexure - 5

29

Office of the  
Divisional Railway Manager(O)  
Katihar

Dated 8.4.2002

No.TA-A1/3/8/98

To

Shri G.K. Roy  
Ex. TI/KNE now TI/KIR

Ref:- Your appeal dated 29.11.2001.

With reference to your appeal dated 29.11.2001 against NIP of even number dated 11.10.2001 the appellate authority( ADRM/NJP) has passed the following order:-

I have gone through the Article of charges and the punishment imposed. The Sectional TI can not absolve their responsibility. The punishment imposed by Sr.DOM/KIR( Disciplinary Authority) itself is very lenient. This penalty is upheld.

*Akas*  
Sr. Divisional Operations Manager  
Katihar.

*Attested  
Wale  
Advocate*