

30/600

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 349/02

R.A/C.P No.

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SECTION OFFICER (Judl.)

(SEE RULE -4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI
....

ORDER SHEET

Original Application No : 349 / 02
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicant (s) G.K. Roy

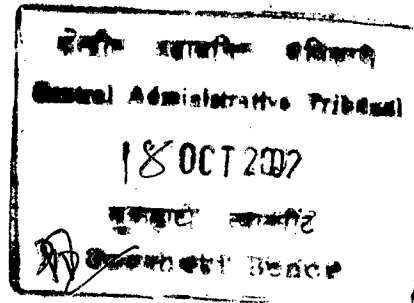
-Vs-

Respondent (s) U.O.I Form

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

Advocate for the Respondent(s) CASE H.D.A.A.

Notes of the Registry	Date	Order of the Tribunal
<p>RECEIVED IN OFFICE OF THE REGISTRAR GUWAHATI 27.9.02 24575323 Dy. Registrar</p> <p>defects removed today only steps not taken.</p> <p>26.8.2003 Copy of the order has been sent to the Dy. Sec for issuing the due to the 2/Advocates for the parties et</p> <p>20/3/03 mb</p>	<p>21.3.2003</p>	<p>Heard Mr. M. Chanda, learned counsel for the applicant and also Mr. S. Sengupta, learned standing counsel for the Railway.</p> <p>In the light of the order passed in O.A. Nos. 323/2002 and 324/2003, the application is returned to the applicant to re-file in the appropriate forum.</p> <p>The application is thus stands disposed.</p> <p>Vice-Chairman</p>



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. 349 /2002

Sri Gautam Kumar Roy : Applicant

- Versus -

Union of India & Others: Respondents.

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Filed by

[Signature]
Advocate

Date 11-10-2002

Gautam Kumar Roy

3
Filed by the applicant
through Sri G. N. Chakravarty
Advocate on 11-10-2002
[Signature]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O. A. No. 349 /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.*Gautam 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 charge sheet dated 25.07.2000, penalty order dated 8/16.11.2000 and Appellate Order dated 13.3.2002 modifying the order of penalty by 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.

4.2 That your applicant while working as Traffic Inspector under Senior Division Operations Manager, N.F.Railway,

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Katihar the impugned charge sheet issued under Memorandum bearing letter No. T/OS/K/Staff dated 25.7.2002 has been issued by senior DMO, Katihar on the alleged ground that the applicant while working as Traffic Inspector, Kishanganj he was living in the running room of Kishanganj but even then he was drawing payment of House Rent Allowance by claiming the same this act of the applicant is undesirable and the same is amount to misconduct and the said act of the applicant is in violation of Rule. The applicant immediately after receipt of impugned Memorandum of Charge sheet dated 25.7.2000 the applicant submitted a detailed reply categorically denying the charges labeled against him vide his reply dated 3.8.2000 which was in fact submitted on 4.8.2000 addressed to the Senior D.M.O., N.F.Railway, Katihar. In the said reply dated 3.8.2000 the applicant stated that as per the Rule laid down in the Establishment Code of Railways that all Railway Servants other than those provided with Govt. accommodation/hire accommodation posted at qualified cities should be paid House Rent Allowance. The applicant was not provided with the Govt. accommodation as such he was entitled to draw House Rent Allowance, therefore H.R.A. paid to him is legally justified. It is further stated by the applicant in his reply that owing to the fact that occasionally for smooth carrying out of his duties it was sometime necessary to halt at the running room. In this connection the applicant also pointed out that he

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use to stay in a far off place from the station as because due to repeated requests the administration failed to provide any Railway accommodation at his duty place. In such compelling circumstances the applicant required to stay at a far off place to take care of his old and ailing parents and the newly married wife. The applicant also categorically stated that as per Railway Board's letter No. (PFA)/11/HRA/41 dated 23.3.1978 only those officers who resides in the Railway Rest House at the place of their posting would not be entitled to House Rent Allowance and the term of Running Room does not come anywhere in the Rules for the purpose of HRA. The applicant was not provided with any Railway Accommodation in spite of his repeated requests and categorically denied that running room was not utilized by him or his family members for the purpose of accommodation.

It is specifically stated by the applicant that the charge labeled against the applicant is vague, not definite and specific and the same is contrary to the provision of the Disciplinary and Appeal Rules, 1968 and also prayed for exoneration from the charges labeled against him as because the charges labeled against the applicant does not fall within the purview of misconduct.

Copy of the Memorandum dated 25.7.2000 and the reply dated 3.8.2000 are annexed herewith and marked as **Annexure-1** and **2** respectively.

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4.3 That your applicant begs to state that most surprisingly the disciplinary authority i.e. Senior Divisional Operations Manager, Katihar, imposed penalty of stoppage of increment for three years without cumulative effect and also passed order for recovery of HRA already drawn by the applicant during period of Sectional T.I. of Kishanganj, vide impugned letter dated 8/16.11.2000. A mere reading of the order of penalty it appears that the disciplinary authority without any application of mind just in a mechanical way passed impugned order of penalty. Be it stated that in the order of penalty there is no discussion on the points raised by the applicant in his written statement as well the report of the Station Manager dated 6.10.2001 and the disciplinary authority also did not rely upon the report of the Caretaker of the Running Room. A mere reading of the report of the Station Manager dated 6.10.2001 and the statement of the Caretaker of the Running Room makes it abundantly clear that the charges labeled against the applicant is not correct and in fact there is no evidence could make available against the charges but the order of penalty is imposed upon the applicant in total violation of the Disciplinary and Appeal Rules, 1968. The applicant being aggrieved with the order of penalty preferred an Appeal on 20.12.2000 before the Additional Railway Manager, N.F.Railway, Katihar. In the said appeal the applicant inter alia contended that the penalty imposed

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upon the applicant is in total violation of principles of natural justice. However, the Sr. D.M.O., Katihar vide his Memorandum No. T/OS/K/Staff dated 13.3.2002 modified the order of penalty and reduced the penalty to the extent withholding of increment for one year from three years. It is stated in the Appellate Order dated 13.3.2002 that the Appellate Authority called upon the applicant for certain clarification and also admitted that the charge is not specific about the period for which Sri Roy allegedly stayed in the Kishanganj Running Room and further observed that normally a case of this nature should originate on the reporting of Running Room Caretaker/concerned Station Manager/concerned officer. Therefore clarification is sought from the applicant and on considering all aspects including the comments of Running Room Caretaker, Station Manager, Kishanganj and Senior D.S.O. the punishment is modified to the extent of withholding the increment for one year (non cumulative) in place of three years. However, there is no order passed by the Appellate Authority so far order of recovery passed by the Disciplinary Authority.

A mere reading of the Appellate order it appears that the Appellate Authority himself is satisfied that the charges brought against the applicant is vague. Moreover, it is fairly admitted by the Appellate Authority that the nature of charges labeled against the applicant ought to have been initiated following the report of Running Room caretaker, concerned

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Station Manager/concerned Sr. D.S.O. But in the instant case the charges is not initiated by the any of the concerned official. But most surprisingly the Appellate Authority without setting aside the order of penalty but modified the order of penalty to the extent of withholding of increment for one year in place of three years. This decision of the Appellate Authority is contrary to law, more so when there was no evidence made available against such allegation against the applicant rather all the enquiry report supports the contention of the applicant in Toto. Therefore imposition of penalty by the disciplinary authority without any evidence is contrary to law. As such, impugned order of penalty dated 8/16.11.2000 and the Appellate Order dated 13.3.2002 are liable to be set aside and quashed.

Copy of the Order of penalty dated 8/16.11.2000 and impugned Appellate Order dated 13.3.2002 are annexed as **Annexure-3 and 4** respectively.

- 4.4 That it is stated that after denial of the allegation by the applicant DRM(O) Katihar wrote a letter to S.S. Kishanganj dated 26.9.2001 directing him to obtain the version of Running Room in charge regarding the charges and the same should be submitted through the Controlling Officer of the Running Room. Accordingly the station Manager, Kishanganj, N.F. Railway, submitted his report vide letter bearing No. KNE/R/Room/6/00/2001 dated 06.02.2001 wherein the said

Goutam Kumar Roy

report it is stated by the Station Manager that on going through the records, it does not appear that the applicant had been staying at Kishanganj during his tenure of posting at Kishanganj. It is further submitted that on Enquiry it is came to the notice that the applicant was staying at night in the running room accidentally but not regularly as his residence is far away from Kishanganj Station.

It is quite clear from the report of the Station Manager Kishanganj that the allegation labeled against the applicant is totally false and misleading. It is relevant to mention here that the Caretaker of the running room also submitted a similar statement in writing like that of Station Manager wherein the Caretaker stated that the applicant use to take night shelter occasionally while arriving or leaving Kishanganj at late hours at night as because his private residence was far away from the Railway Station.

Copy of the letter dated 26.9.2001 and 6.10.2001 are annexed herewith as Annexure-5 & 6 respectively.

- 4.5 That your applicant further begs to state that although a Railway Quarter No. 5B(S & C) at KNE was allotted to the applicant but the same was unauthorisedly retained by Station Superintendent, PJP, Sri U.S. Mishra which

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would be evident from the inspection report of DRM, Katihar on 28.6.2000.

Copy of the inspection report dated 28.6.2000 is annexed as **Annexure-7**.

4.6 That in the facts and circumstances stated above the applicant finding no other alternative approaching this Hon'ble Tribunal for grant of adequate relief by passing an appropriate order setting aside the impugned order of penalty as well as the order passed by the Appellate Authority and further be pleased to direct the respondent to refund the HRA already recovered from the applicant.

4.7 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 Memorandum of Charge sheet dated 25.7.2000 is vague, not specific and definite and on that score alone the impugned Memorandum of charge sheet is liable to be set aside and quashed.

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

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- 5.3 For that, the order of penalty dated 8/16.11.2000 has been passed is in violation of relevant rules of Discipline and Appeal Rules, 1968 and the penalty imposed upon the applicant when there is no evidence could make available in support of the charges in the enquiry proceeding.
- 5.4 For that, this order of penalty has been passed in a most arbitrary manner without taking into consideration the categorical statement of the Station Manager, Kishanganj in the form of a report and also the specific statement of the Caretaker of Running Room relied on by the disciplinary authority which supports the contention of the applicant raised in the written statement.
- 5.5 For that, the Appellate Authority himself fairly admitted that the charges brought against the applicant is not specific and further admitted that nature of such proceeding ought to have been initiated at the instance of concerned Station Manger/ concerned Caretaker of Running room/ concerned D.S.O. but the instant proceeding is initiated otherwise.
- 5.6 For that the Appellate Authority although satisfied and observed that the proceeding was initiated at a wrong notion but even then did not set aside the order of penalty rather only modified the same to the extent of withholding of increment for one year in stead of three years which is not tenable in the eye of law.

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5.7 For that there is no discussion either in the impugned order of penalty or in the impugned Appellate Order regarding evidences in support of the charges brought against the applicant as required under the rule.

5.8 For that the impugned order of penalty as well as the impugned Appellate order is cryptic, non-speaking and as such the same is liable to be set aside and quashed.

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

Goutam Kumar Roy

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 To set aside and quash the order Memorandum of charge sheet bearing letter No. T/OS/K/Staff dated 25.7.2002, order of penalty issued under letter No. T/OS/K/Staff dated 8/16.11.2000 and impugned Appellate Order issued under letter No. T/OS/K/Staff dated 13.3.2002.
- 8.2 To direct the respondents to refund the amount of HRA already recovered from the applicant on the basis of the impugned order of penalty dated 8/16.11.2000.
- 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.

Goutam Kumar Roy

10.

This application is filed through Advocates.

11. Particulars of the I.P.O.

- i) I. P. O. No. : 79575329
ii) Date of Issue : 27-9.02
iii) Issued from :
iv) Payable at :

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 10th day of October, 2002.

Gautam Kumar Roy

STANDRAD FORM

Annexure - 1

STANDRAD FORM OF MEMORANDUM OF CHARGE FOR IMPOSING
MINOR PENALTIES (RULE NO. 11 OF AS PER D&A RULES - 1968)MEMORANDUMNO. T/OS/K/staff RLY. N.E. Ry Place. Katihar Date 25/7/20001. Sri Goutam Kumar Roy Designation LR/Traffic Inspector/Katihar

Office ^{on} 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.

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 (10) ten days of receipt of this memorandum

3. If Sri Goutam Kumar Roy fails to submit his representation within the period specified in para 2 will be presumed that he has not to submit representation and order will be passed against

Sri Goutam Kumar Roy ex parte

4. The receipt of this memorandum should be acknowledged by

Sri Goutam Kumar Roy

Signature -----

Name M. Rab.Designation Sr. DM/Katihar

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

Through -----

A Complaint has been lodged against Sri Goutam Kumar Roy, ex Traffic Inspector, Kishanganj before Divisional Railway Manager, Katihar that Sri Roy was living in the Running Room of Kishanganj and even then he has been drawing payment of House House Rent Allowance (HRA) by claiming it. This is undesirable and why action should not be taken against you.

Therefore, Sri Roy is charged with misconduct and Violation of Rule.

Noted
Jm
Advocate

M. Rab
Sr. Div. Operations Manager
Katihar/N.E. Ry.

मातृक प्रार्थना संस्था-

छोटी मातृक प्रार्थना संस्थाओं के लिए आरंभ के मातृक मा मातृक काम

1. रेल मंत्रालय 1960 और अगली नियम, 1963 के नियम 1.1.1.

संस्था : डी/आर/एल/क/ए/ए/ए

रेल प्रशासन का नाम : प्र. सी. इलाहाबाद

निर्माण स्थान : कटिहार

दिनांक : 25/7/2000

श्री गोबिन्द कुमार राय पदनाम रक्तमण्डल/मातृक/निरीक्षक/कटिहार

कार्यालय में काम करता है। को रक्तमण्डल द्वारा भुजि
किया जाता है कि जिस प्रकार की द्वारा उसके विरुद्ध रेल मंत्रालय और अगली
नियम, 1963 के नियम 1.1.1 के अंतर्गत कार्यवाई करने की प्रस्तावना की गयी है। दुर्घ-
वहार या अवधार के लाइसेंस का एक विवरण संलग्न है।

2. श्री गोबिन्द कुमार राय को रक्तमण्डल द्वारा यह उत्तर दिया जाता है कि
इस प्रस्तावना के विरुद्ध वह जो भी अभ्यावेदन देना चाहें, दें। अभ्यावेदन यदि देना
हो तो जिस प्रकार की को रक्तमण्डल के महाप्रबंधक के
साथ है, इस तरह प्रस्तुत किया जाना चाहिए ताकि यह इस शासन की प्राप्ति के
साथ दिव के भीतर उचित महाप्रबंधक के पास पहुंच जाये।

3. यदि श्री गोबिन्द कुमार राय द्वारा 2 में विनिर्दिष्ट अवधि के भीतर अभ्यावेदन
प्रस्तुत नहीं करते तो यह मान लिया जायेगा कि उन्हें कोई अभ्यावेदन नहीं देना है और
श्री गोबिन्द कुमार राय के विरुद्ध एक नवीन प्रार्थना प्रिये जा सकेगी।

4. श्री गोबिन्द कुमार राय इस शासन की प्राप्ति है।

संस्था : रक्तमण्डल/मातृक/निरीक्षक/कटिहार
पदनाम : रक्तमण्डल/मातृक/निरीक्षक/कटिहार
1. रक्तमण्डल/मातृक/निरीक्षक/कटिहार और पदनाम।

संस्था में, श्री गोबिन्द कुमार राय, रक्तमण्डल/मातृक/निरीक्षक/कटिहार

द्वारा

श्री गोबिन्द कुमार राय, पूर्व मातृक/निरीक्षक/कटिहार
के विरुद्ध गोबिन्द कुमार राय के सुपरी के
विचारण विचारण है कि श्री गोबिन्द कुमार राय के
रक्तमण्डल में रहते हैं। डॉ. इसके लाइसेंस 3.1.1
आवश्यकता (HRA) का प्रावधान प्रस्तावना में
रहते हैं। यह आवधिक है। इसके विरुद्ध कोई
नहीं करीब नहीं जाये।
- डॉ. श्री गोबिन्द कुमार राय के
उल्लेख करने के लिए आवश्यकता है।

Accepted
J. K. Singh
Secretary

रक्तमण्डल/मातृक/निरीक्षक/कटिहार

To:
The Sr. Divl. Operations Manager,
N. F. Railway, Katihar.

Sub: Defence.

Ref: Your memorandum No. T/OS/K/Staff dated 25.7.2000.

Sir,

With profound respect and humble submission, I beg to lay before your honour the following facts of my case in the hope of getting your sympathetic consideration and favourable orders please.

1. That, it is a fact that I was posted as TI at KNE, but it is not a fact that I committed any offence. Moreover, if any body has complained against me to DRM/KIR that I was residing in Running Room/KNE despite I took HRA is nothing but pavesy of truth.
2. That under the rule laid down in the Establishment Code that all Railway servants other than those provided with Government accommodation/ hire accommodation posted at qualified cities shall be paid house rent allowance. Accordingly I was not provided with Government accommodation, so I was not only entitled to get HRA whatever HRA paid to me was not only justified but legal also. Therefore, taking action on this account is against the principal of natural justice.
3. That, I was not permanently residing in the Running Room, but owing to the fact that it was considered necessary particularly when night was involved, I used to stay occasionally for smooth running of the railway.
4. That, I used to stay in the locality which was far off from the station and despite repeated requested, I was not provided with any railway accommodation. I was obliged by the circumstances to stay outside as because I have to take care of my old & ailing parents requiring proper medical assistance and also because I was newly married.
5. That, only the Officers residing in the railway Rest House at the place his posting would not be entitled to house rent allowance in terms of Railway Board's letter No. (PFA)/11/HRA/41 dated 23.3.1978. The term of Running Room does not come anywhere in the rules for the purpose of HRA.
6. I was not provided with railway accommodation and Running Room was not utilized for accommodation of mine as well as family members.

Allesed
Jan
Advocate

7. That, the charge sheet is not maintainable under the law as because there is no date of committing the offence detailed. Moreover, the charges are vague instead of definite and accurate. This contravene the provision laid down in the DA Rules, 1968.

In the perspective of facts and circumstances set forth above, I would request your honour kindly to exonerate me from the charge as I was absolutely innocent in this case and has committed no misconduct as alleged.

And for this kind act, I shall be highly oblige to you.

Yours faithfully,

Goutam K. Roy

(GOUTAM KR ROY)

LR/TI/KIR

KIR
Dated: 3.8.2000

*Alleged
misconduct*

anded over to Asst on 04.8.2000

v

दिनांक: 5/11/2002

16

[illegible]

प्राप्त: अभिमान संज्ञा (मूल) / अभिमान

आगत पत्र संख्या 41/3102/2-100 दिनांक 25/2/2000

उत्तर: संविधान में आपके राजस्व की कटौत के संदर्भ में आपको सूचित किया जाता है कि
 _____ के निम्नलिखित आदेश दिया है।

31 6 18 6-11 4-51

प्रस्तुत किया गया संपत्तीकरण खाता जनक नहीं है।
इसके लिए इनका तीन नमों का इन्फॉर्मेशन देना
है। यजमनी इन्फॉर्मेशन को कवर किया जाता है। नया
पुरी जानकारी का चार्ज किया गया HRA इनके
वतन से गणना की जा रही है। इसके लिए
गणना की जा रही है।

अनुदेश: इस आदेश के विरुद्ध आदेश देवेवाले प्राधिकारी तात्कालिक सपिट नकाचिकानी
~~30.08.2010/5/11~~ के पास प्राप्त तिथि के 45 दिनों के अंदर
 अपील की जा सकती है तथा इसमें अक्षोभनीय भाषा का प्रयोग नहीं किया
 जावता चाहिए।

10/11

अनुशासन विभाग प्रमुख
Senior Divl. Operations Manager

प्रतिलिपि: मंडल रेल प्रबन्धक कार्यालय/कटिहार को सूचना एवं आवश्यक कार्रवाई हेतु
 भेजित।

1. काटकर हस्ताक्षर करके कार्यालय में लौटा दें।

दितांक _____ इसके अन्वेष पत्र संख्या _____
 के पाठ्यपेक्ष्य में प्रस्तुत होने स्वच्छटी कृष्ण वच जानी आदेश के संबंध में आपके दितांक _____
 की सूचना संख्या _____ की प्राप्ति की
 अस्मिन् की कृति देतम है।

स्थान : -----

दिनांक _____ इस्तेमाल या अगुठे का विशाल

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To:
Addl. Divl. Rly. Manager,
N.E. Railway, Kaithar.

Through: Proper channel.

Sub: Appeal against stoppage of increment for 3 years(NC) as well as
recovery of HRA from the pay.

Ref. Sr.DOM/KIR's NIP No. T/OS/K/Staff dated 8/16.11.2000.

Sir,

Being aggrieved by the aforesaid punishment, I with profound respect beg to submit before your honour the following facts in the hope of getting your sympathetic consideration and favourable orders please.

1. That, I committed no offence even then the above punishment has been imposed by Sr.DOM/KIR which I feel is against the canon of the natural justice.
2. That, the allegation alleged by Sr.DOM/KIR memorandum No. T/OS/K/Staff dated 25.7.2000 was that I was residing in the running room at KNE and I took HRA. This was the complaint lodged by some one, but the complaint was not available nor any evidence was given to me.
3. That, in response the memorandum, I narrated to the Sr.DOM/KIR that I was not permanently residing in the running room at KNE, but owing to the fact that as and when it was considered necessary when night was involved, I used to stay occasionally for smooth running of the railway.
4. That, in reality I used to stay in the locality which was far off from the station. I was obliged by the circumstances to stay outside as because I have to take care of my old and ailing parents requiring proper medical assistance. Moreover, movement in the night in that area from my locality to the station was full of danger as because of the criminal interference and I was newly married.
5. That, I was not provided with railway accommodation despite my repeated request to Sr.DOM/KIR. I narrated this fact to DRM/KIR on 28.6.2000 at KKA station for which I became the eye shore of the Sr.DOM/KIR who has determined to punish me without any rhyme and reason. Firstly he has transferred me from KNE and secondly used to give me heavy punishment on fabricated offence in trifle matters. It was mentioned that the running room at KNE was not utilised by me or my family members so the allegation alleged upon me is not correct.
6. That, uptill now no quarters has been provided to me as a result of which I am living far off getting in-numerable difficulties.

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7. That, I submitted my defence, but it was regretted on the ground that my defence was not satisfactory. The order given by Sr.DOM/KIR is not speaking, but cryptic one. The general rule is that when an order imposing penalty is passed, the reason should be given. The order should be disclosed the process of reasoning by which the officer reached at the conclusion that the employee was guilty. The Supreme Court has repeatedly held that the order which are applicable must be speaking order (AIR-1968 SC 240 & AIR-1967 SC 1606). In this context attention is also invited to Rly. Board's letter No. E(D&A)91 RG-6-122 dt. 21.2.92.
8. That, I craved for justice and this is the reason that I have come to your door for justice.

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

Yours faithfully,

Goutam Kr. Roy

(Goutam Kr. Roy)
LR/TI/KIR

KIR:

Dated: 20.12.2000

DAA
22/12/2000

22/12/2000

N.F. Railway.Office of the
DRM(O)/KIR

Dt. 14/11/2000

No. T/OA/K/staff

To Shri Goutam Kr. Roy,
TI/KIR

Subj:- Your appeal No. 111 dt. 20.12.2000
against the punishment of stoppage of
increment for three years (N.C.) and
recovery of HRA from the pay. vide this
office NIP of even No. dt. 8/16.11.2000.

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

" I have gone through the case and carefully con-
sidered the appeal. I had also called Shri G.K. Roy and sought
some clarifications from him.

The charge is not specific about the period of for
which Shri Roy allegedly stayed in the KME running room.
Normally, a case like this should have originated on the
reporting of RR caretaker/concerned SM/concerned officer,
Sr.DSO in this case. That is why I had sought their comments.
The feed back says that Shri Roy used to stay sometimes
in the Running Room, when he reached KME/station at night.
I have seen the comments of RR caretaker, SM/KME, and Sr.DSO
(officer in-charge for KME RR).

Considering all the aspects, the punishment is
modified to " Withholding of increment for 1(One) year
(N.C.)".

DRM(O)/KIR.

Copy to DRM(P)/KIR for information and necessary action please.

This is in reference to this office NIP of even No. dt.
8/16-11-2000.

DRM(O)/KIR.

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Adv. cell*

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12/11*

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Office of the
DEM(O)/KIR

DT: 26.9.01

No. T/OS/K/Staff.

To

SS/KIR
N. K. Rly.

Subj: - Memorandum against Shri Goutam Kr. Roy, TI.

It has been reported to DEM/KIR that Shri G.K. Roy, while working as TI/KIR residing at Running Room/KIR. Besides he claimed HRA and took payment of HRA for the said period. A memorandum under minor penalty was issued to him for the lapse and violation of rules. While submitting defence he denied the charges brought against him.

Since, version of running room incharge, is not available and the same is essential to finalise the issue, you are advised to obtain the version of running room incharge regarding the issue and submit through the controlling officer of the running room.

This should be treated as urgent.

A DEM(O)/KIR

Copy to Sr. DES/KIR for information please.

Begd 26/9/01

A DEM(O)/KIR

Allocated
Leave
Advocate

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Annexure-6

N.F.Railway

No KNE/R/Room/6/10/2001

6-10-2001
dated 6.1.2001

From Station Manager

To DRM(O)/KIR

NFRailay,Kishanganj

NFRIV

Sub Regarding occasional use of R/Room by Ex TI/KNE

Sir,

On going through the station and R/Room records, No where mentioned that Sri Gautom Kr Roy Ex TI/KNE had been staying at KNE R/ROOM during the period of sectional TI/KNE at KNE.

I Enquired into the mater and it was came to my Notice that Sri GK Roy TI/KNE was staying at Night occasionally but not regularly ^{at} his Residential place far away from KNE station.

Enclosure :-

1. As above

2. Statement of Sri M Paul C/...../KNE/R/Room

Sd/-illegible

लेना में, श्रीमान् मंडल (परिचालक) प्रधान,

कार्य - जो वी. आर्. कटिहार
विषय - लेना में रहने के सम्बन्ध में

प्रमाण - श्री गोलका कुमा राय, वी. आर्. कटिहार,
जो कभी-कभी रात में, वहाँ से, जो
रनिगरा में कुछ सोई जाती है चले जाते हैं
रना, लारन से जब रात में आते हैं, रनिगरा
में रात में वहाँ जाते, और कुछ बड़े अपन
वा चले जाते हैं।

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Advocate

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100 m / 100 m
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100 m / 100 m

आपका प्रतीक

मुद्रा प्रतीक

केन्द्र एम. विभाग

29
SS/KNE

INSPECTION OF KNE COMPLEX AND MOTOR TROLLEY INSPECTION
FROM KNE TO KDPR & FOOT PLATING BY 69 UP BY DRM/KIR ON
28.6.2000

Time log:

Station	Arrival	Departure
KNE	-	11.07
HWIR	11.30	12.00
KKA	12.15	12.45
SJKL	13.04	13.05
DLK	13.17	13.55
TETA	14.10	14.12
SUD	14.35	14.45
BOE	15.18	16.45
AZR	17.12	17.17
KWE	17.40	17.45
KDPR	18.00	-
Dep. KDPR by 69 Up at 18.05		
Arrival KIR at 19.05 hrs.		

Attested
Law
Advocate

		Action by
1.	INSPECTION OF KNE COMPLEX	
1.1	KNE MG(E) CABIN:	Sr. DOM
1.1	Following staff are over-due PME:	
	i) Shri R K. Singh, C/Man - 28.02.2000	
	ii) Shri R.K. Srivastava, C/Man - 17.03.2000	
	iii) Shri N.K. Singh, C/man - 21.12.1998	
	iv) Md. Allauddin, C/man - 21.5.2000	
1.2	Checked cross over points where the change of path of Avadh Assam Express took place on 2.8.1999	DSO
2.	RUNNING ROOM, KNE:	
2.1	Occupation register check and found ok.	
2.2	Breathalyzer not available.	
2.3	Cooks were not in proper dress. ADMO/KNE was asked to visit Running room frequently and counsel them to be neat and clean.	ADMO/KNE SS/KNE

2.4	Inmates of Room No. 9 & 10 were satisfied with facilities provided in the Running room.	
2.5	After March, 2000, there was no supply of Safety Bulbline from HQ.	DSO
2.6	Shri Haricharan Mahato, Porter has unauthorisedly occupied one of the room at Running room since last 2 years. Caretaker and Porter were suspended on the spot.	Sr. DOM
3.	One half done construction by the side of Power house (Elec) said to be unauthorised, should be dismantled.	Sr. DEN/C
4.	Inspected Power house and found things OK, except one over aged DG set to be replaced.	DEE
5.	Inspected AEN/MG/KNE & AEN/BG/KNE's Chamber & office. AEN/MG/KNE's chamber was full of cobweb & rakes were dirty and files are kept haphazardly.	Sr. DEN/C
6.	PRS Office.	
6.1	Out of 2 AC units provided here one AC was not functioning.	DEE
6.2	Cobwebs to be cleared.	SS/KNE
6.3	Layer of fragmentary materials was seen in the water cooler provided in the PRS office, to be cleaned regularly.	DEE
7.	HEALTH UNIT/KNE.	
7.1	There is no shortage of life saving drugs.	CMS
7.2	Leaky roof to be repaired.	Sr. DEN/C
7.3	One extra steel cot was kept in the Store room; should be gainfully used, elsewhere, if required.	CMS
8.	KNE STATION:	
8.1	MG platform line was full of rank vegetation.	Sr. DEN/C
8.2	One Shri Hansraj Yadav, Pan Shop vendor, his license fee was cleared up to 1999-2000.	DCM

Attended
for
Review

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8.3	Complaint box was full of insects, has not been opened since long. These should be painted in Blue and white stripes, as a standard.	DCM
8.4	Cheque passes on non water marked papers are in use. These have ceased to be 'legal tender' over three years ago.	Sr.DPO SS/KNE
8.5	Stocked red and green hand signal flags are in a very poor quality and faded away, should be replaced immediately.	DSO Dv.ACOS
8.6	Quarter No.5B (S&C) at KNE has been allotted to TI/KNE, Shri Goutam Kr.Roy but this is being unauthorisedly retained by SS/PJP, Shri U.S.Mishra. He should vacate by 15 th July latest.	Sr.DOM
9.	<u>MOTOR TROLLEY INSPECTION:</u>	
9.1	Unauthorised huts on both sides of the railway track on BG & MG should removed early.	Sr.DEN/C
9.2	LC gate No. SK-317 at Km. 88/12-13, is the most busiest level crossing gate of KIR division on NH-31. ROB has been sanctioned.	Sr.DEN/C
10.	HWR	
10.1	It was noticed that the assets created by the Construction Organisation during doubling have not been taken over yet for lack of speed potential i.e. below 100 kph, some points and crossings and other materials. Sr.DEN/C to put up a consolidated position along with PDC; ultimately division has to maintain the P.Way.	Sr.DEN/C
10.2	Line No.1, starter on both directions are not visible as it is on a sharp curve. Sr.DOM had given a memo vide Inspection Note on 24.11.1999. What action has been taken?	Sr.DEN/ DSTE
10.3	Coaching returns have been delayed even though transactions are scanty.	DCM Sr.DOM
10.4	Signal failures are far too many.	DSTE

*Attested
Law
Advocate*

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15.7	The main Home was unlit, KUQ starter, proceed aspect not visible. Glass to be cleaned.	DSTE Sr DOM
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16. Summary of Signal failure station-wise and month-wise.

Sn	Station	Jan	Feb	Mar	Apr	May	June	July
1	HWR	-	-	05	05	09	-	-
2	KKA	-	-	06	10	08	-	-
3	SJKL	-	-	-	32	13	19	-
4	DLK	22	15	22	33	19	-	-
5	TETA	18	16	08	18	11	-	-
6	SUD	18	11	07	19	12	-	-
7	BOE	17	10	12	20	10	-	-
8	AZR	11	07	12	13	19	-	-
9	KWE	21	13	24	26	19	-	-
10	KDPR	14	40	19	27	24	-	-

DSTE

17. Summary of passenger earning(Avg. daily).

Sn	Station	No. of ticket sold	Earning(Rs)
1	HWR	17	220/-
2	KKA	61	997/-
3	SJKL	34	155/-
4	DLK	445	17050/-
5	TETA	339	4482/-
6	SUD	298	4031/-
7	BOE	900	45000/-
8	AZR	197	7191/-
9	KWE	216	1798/-
10	KDPR	755	9877/-

Dcm.

Col Arun Bhagra(TA)
DRM/KIR

No.Z/AB/ 17-2000.

Dated: 10 / 8 / 2000.

Copy forwarded for appropriate action to:

1. ADRM/KIR
2. BOs/KIR division.
3. S.S. & S.M. in station.

(1)