

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 318/2004

R.A/C.P No.

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Shahita
24.11.17

FORM NO. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. 316 of 2004

Misc. Petition No.

Contempt Petition No.

Review Application No.

Applicants: G Irish Chandra Nath

Respondents: U.O.I & Ors.

Advocate of the Applicants: H. Rahman, A.M. Ahmed, Gi ashuddin

Advocate for the Respondents: Rly counsel

Notes of the Registry

Date

Order of the Tribunal

13.12.04.

Present: Hon'ble Mr. Justice R.K. Batta,
Vice-Chairman.

Heard Mr. A.M. Ahmed learned counsel
for the applicant.

The Review Application was filed by the applicant to the Chief Operation Manager, N.F. Railway, Maligaon, Respondent No.2 which is pending for disposal before him. In this view of the matter the application can be disposed of with a direction to Respondent No.2 to dispose of the Review Application by speaking and reasoned order. Accordingly, Review Application shall be disposed of by Respondent No.2 within a period of three months from the date of receipt of this order, if not already dispose of, without fail. Compliance of the directions of the Tribunal, be filed after three months by the Respondents and matter be put up on board for this purpose only. Application is disposed of in aforesaid terms.

Copy of the order duly authenticated be furnished to the learned counsel for the applicant.


Vice-Chairman

The application

is filed/C.F. for Rs. 10/-

deposited vide IPO/BD

No. 209125695

Dated 13.12.04


Dy. Registrar

Steps ~~not~~ taken

14.12.04

Copy of the order has been sent to the office for issuance. The same to the applicant as well as to the Respondent No.2 by post.

H.S.

4.4.05. Neither the counsel for the applicant nor the Respondents is present. Post the matter on 11.4.05.

lm

Vice-Chairman

11.04.2005 The O.A. was disposed of on 31.12.2004 at the admission stage itself. Now the matter is coming up for reporting compliance. Nobody appears for the respondents as on today. Hence notice to the respondents, returnable after four weeks.

Post on 11.5.2005.

Received order dated
13/12/2004 and dated
11/4/2005 received on
date only.

Member

Vice-Chairman

11.5.05

The respondents has filed report compliance report. Heard Mr.A.M.Ahmed learned counsel for the applicant and Dr.M.C.Sharma, learned counsel for Railway Respondents. In view of the compliance report the matter is closed.

Member

Vice-Chairman

lm

4.5.05

Compliance report has been submitted by the Railway advocate Dr.M.C.Sharma.

An

13.5.05

Copy of the order has been sent to the office for issuing the same to the applicant as well as to the Rly. Standby counsel by hand.

- 4 MAY 2005

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI, GUWAHATIIN THE MATTER OF

O.A.316 of 2004.

Shri Girish Chandra Nath

...

Applicant

Versus

Union of India & Others

...

Respondents.

AND

IN THE MATTER OF

Compliance report on Hon'ble Tribunal's order.

In compliance with the Hon'ble Tribunal's order dated 11.4.2005 a copy of letter No.T/2/54/01-02/LM dated 08.02.05 addressed to the applicant under registered A/D is submitted herewith for favour of kind information of the Hon'ble Tribunal.

Date - 04.05.2005.

Encl: One.

Munni
Dr.M.C.Sarma, 04/05/2005
Railway Advocate.

N.E. Railway

Office of the
DPM (O) LMG
Dated: 08/02/05

To:

Shri Girish Chandra Nath, Ex-RASM/GHY at KYQ (Removed)
C/O N.K. Das,
Railway Qrs. No.310/B
New Guwahati, Railway colony,
P.O. Bamunimaidan, Guwahati-781021.

Sub: -An appeal made by Shri Girish Chandra Nath, Ex-RASM/KYQ
against imposition of punishment Vide NIP No.T/2/5-4/01-02/LM dated
18/2/03

Ref: - Your appeal No. Nil dated: 01/9/03. Address to COM/Maligaon,
Guwahati.

With reference to above, your appeal has been reviewed by COM/MLG
(revisioning authority) who has passed the following observation:

**“ After going through the case file, I have come to the conclusion that
charges have been proved beyond a reasonable doubt, and punishment
awarded is commensurate with gravity of offence. I feel that there is no
need for any revision at this stage”.**

(B.M.M.Rao)
Divisional Operations Manager (Pl.)
N.E.Railway, Lunding.

Copy to: - Shri A. Sengupta, DPO/LMG for information in reference to his letter No.
E/Court/316 dated: 02/02/05.

Copy to: -GM (P)/MLG's legal cell for information in reference with CAT/GHY's order
dated: 13/12/04.

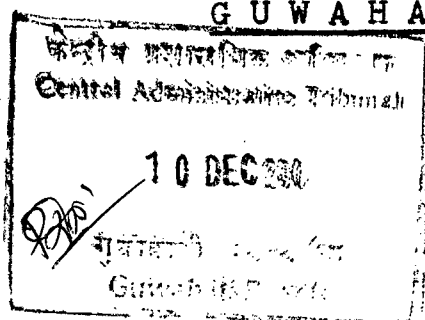
Copy to: -DRM (P)/LMG's legal cell for information.

Copy to: -COM/MLG for kind information

Copy to: -COS/ET cadre & OS/FS at office for information

(B.M.M.Rao)
Divisional Operations Manager (Pl.)
N.E.Railway, Lunding

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH :



Girish Chandra Nath .. Applicant.

- Vs -

Union of India & Ors.

.. Respondents.

L I S T O F D A T E S

03.02.99 : The applicant was appointed as Temporary Assistant Station Master in N.F. Railway, Lumding.

ANNEXURE-A, PAGE -16.

12.12.2001 : While the applicant was working as Assistant Station Master in Kamakhya Railway Station and a averted collision occurred between 5657 UP Kanchanjangha Express and 2435 DN Rajdhani Express.

A committee was constituted with Chief Safety Officer, Chief Signal Engineer and Chief Motive Power Engineer for fact finding enquiry and the Enquiry Committee submitted its report.

ANNEXURE-B, P-17 to 29.

30.1.2002 : A Memorandum of charge was issued to the applicant.

08.02.2002 : The applicant submitted its reply denying all the allegations.

An Departmental enquiry Committee was constituted and the Enquiry Officer submitted its report to the Disciplinary Authority. No copy was served to the applicant.

05.08.2003 : The applicant asked for a copy of the Enquiry Report.

ANNEXURE-D, PAGE-32.

18.02.03 : The removal order was passed by the Senior Divisional Operation Manager.

ANNEXURE-E, PAGE-33.

21.04.03 : An Appeal was filed by the applicant.

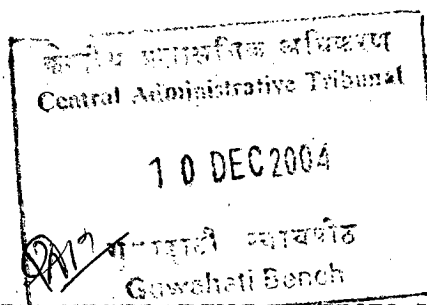
ANNEXURE-F, PAGE-35.

22.07.03 : The said appeal was rejected by the Divisional Railway Manager.

ANNEXURE-G, PAGE-32.

01.09.03 : Appeal for review application was filed by the applicant to the Chief Operation Manager, N.F. Railway, Maligaon, which is pending for final disposal.

ANNEXURE-H, PAGE-40.



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL :

GUWAHATI BENCH : AT GUWAHATI.

Original Application No. 316 /2004.

Sri Girish Ch. Nath.

.. Applicant.

- Vs -

Union of India & Ors.

.. Respondents.

I N D E X

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Filed by -

Ali Mostafa Ahmad,
(ADVOCATE)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL :

GUWAHATI BENCH : AT GUWAHATI.

Filed by the applicant
Girish Chandra Nath
through A/S Mustafa Ahmed,
Advocate 10.12.2004

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

ORIGINAL APPLICATION NO. 316 /2004.

Sri Girish Chandra Nath,
son of Sri Gopal Chandra Nath,
Assistant Station Master, (Removed),
Kamakhya, N.F. Railway,
Guwahati - 781011,
C/o. N.K. Das, Rly. Quarter No. 310/B,
New Guwahati Railway Colony,
P.O. Bamunimaidan, Pin Code-781021.

... Applicant.

- Versus -

- 1) Union of India, represented by the
General Manager, N.F. Railway,
Maligaon, Guwahati-11.
- 2) Chief Operating Manager, N.F. Railway,
Maligaon, Guwahati - 11.

Contd...P/2

3) Senior Divisional Railway Manager,
Lumding, N.F. Railway, Lumding,
District - Nagaon, Assam.

4) Divisional Railway Manager (Safety),
N.F. Railway, Lumding,
District - Nagaon, Assam.

5) Area Railway Manager, Guwahati,
N.F. Railway, Guwahati.

6) Assistant Operating Manager, Guwahati,
N.F. Railway, Guwahati, Assam.

... Respondents.

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS
APPLICATION IS MADE :

- i) This Application is made against the impugned Order No.T/2/54/01-02/LM dated 18-2-2003 by which the applicant was removed from service.
- ii) Non-disposal of the appeal filed by the applicant dated 1-9-2003.

II. JURISDICTION :

The applicant declares that the cause of action of this application is within the jurisdiction of this Hon'ble Tribunal.

III. LIMITATION :

The applicant further declares that the application

Contd...P/3

Gyish Chandra Nath
10.

is filed within the limitation prescribed in
Section 21 of the Administrative Tribunal Act, 1985

IV. FACTS OF THE CASE :

- 1) That your humble applicant is a citizen of India and is a permanent resident of Morigaon District in Assam and as such he is entitled for the rights and privileges guaranteed under the Constitution of India and Rules framed thereunder.
- 2) That your humble applicant begs to state that after his graduation he was ~~in search~~ of an employment and he applied for the post of Assistant Station Master in N.F. Railway in response to an advertisement published by the Railway Recruitment Board.
- 3) That your humble applicant was selected by the Railway Recruitment Board for the post of Assistant Station Master and the applicant was sent for training and after completion of training he was appointed as Temporary Assistant Station Master in the Scale of Pay Rs. 4500/- to 7000/- by the Office Order No. E/45-1(TR-ASM)PV(T) issued under the signature of Divisional Railway Manager (P), N.F. Railway, Lunding.

A copy of the said appointment Order is enclosed herewith and marked as

' ANNEXURE - A '.

Contd...P/4

Girish Chandra Nath //

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- 4) That your humble applicant begs to state that initially your humble applicant was appointed as Assistant Station Master in Digabor^a and thereafter he was transferred to Gauhati as ^aReliving Assistant Station Master at Guwahati.
- 5) That your humble applicant begs to state that while your humble applicant was working as Assistant Station Master at Kamakhya as a Reliving Station Master of Guwahati on 12-12-2001 there was an incident of Averted Collision between 5657 UP Kanchanjanga Express and 2435 DN Rajdhani Express at Kamakhya at around 5.50 hours.
- 6) That your humble applicant begs to state that just after the occurrence of the Averted Collision a fact finding enquiry was constituted to find out the cause of the accident and to fix up the responsibilities. The fact finding Committee of Inquiry was headed by Sri K.K. Saxena, Chief Safety Officer of N.F. Railway, Maligaon, Sri L.P. Singha, Chief Signal Engineer, N.F. Railway, Maligaon and Sri S.S. Singh, Chief Motive Power Engineer, N.F. Railway, Maligaon and after conducting the enquiry, the Committee submitted its report to the authority.
- 7) That your humble applicant begs to state that the fact finding enquiry constituted by the three Heads of the department and expert in operation and safety of the train movement recorded the evidence of all

relevant witnesses and verified the spot of the accident and submitted its report with recommendations.

A copy of the enquiry report is enclosed herewith and marked as 'ANNEXURE-B'.

- 8) That your humble applicant begs to state that the fact finding enquiry committee while examining all aspects of probability of accident came to the conclusion that the signal system in Kamakhya was not interlocked as per the requirement and it is possible to lower the starter signal without correctly setting the route. The Committee also came to the conclusion that Shri Girish Ch. Nath, ASM, RRI Cabin setting the route wrongly and violating the provision of GR.3.38 so the driver of Kanchanjunga Express also violated the provision of GR 3.81(1) & (3). The Committee also recommended for future guidelines to provide twin signal line i.e. Kamakhya Guwahati Section tokenless block working system.
- 9) That your humble applicant begs to state that as per the report of the fact finding enquiry Committee, the system of working between Kamakhya and Guwahati was defective on the point of safety, the negligence on the part of the Assistant Station Master for wrong setting of route and for violation of the signal by the driver of Kanchanjunga Express contributed the Averted Collision and the applicant was not only responsible for the Averted Collision on 12-12-01.

Contd...P/6

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Chandra Nath
Girish

Gurinder Chandra Nain

- 10) That your humble applicant begs to state that the fact finding enquiry Committee after completion of the enquiry called your humble applicant on 14/12/01 and recorded his statement in connection with the occurrence of Averted Collusion.

A copy of the statement is enclosed herewith and marked as 'ANNEXURE-C'.

- 11) That your humble applicant begs to state that on 30/01/02 a Memorandum of Charge was issued to your humble applicant by the DRM(Operating) Lunding, leveling the charge of misconduct. The same memorandum was issued on the basis of fact finding enquiry report besides statement of witnesses.
- 12) That your humble applicant begs to state that your humble applicant submitted his reply of Memorandum of Charges on 8-2-02 denying all the allegations of charges and prayed for leaving the applicant from charged as alleged.
- 13) That your humble applicant begs to state that after the reply of the Memorandum of Charges the Railway Authority appointed a departmental enquiry committee by appointing Sri Ajit Kr. Sharma as Inquiry Officer. The enquiry was conducted and the Inquiry Officer submitted its report of enquiry to the Senior Divisional Operating Manager without furnishing any copy to the humble applicant.

Contd...P/7

- 14) That your humble applicant begs to state that while the Inquiry Officer did not hand over the copy of the enquiry report to your humble applicant by his application dated 5-8-03 ^{asked for} a copy of the inquiry proceeding from the Senior Divisional Operating Manager and the Operating Manager furnished a copy to your humble applicant.

A copy of the said letter is enclosed herewith and marked as 'ANNEXURE-D'.

- 15) That your humble applicant begs to state that on, the basis of the enquiry report ^{and} on the basis of ^{the} statement recorded by the Inquiry Officer the Senior Divisional Operating Manager by the Office Order No. T/2/54/01-02/LM dated 18-2-03 passed the Order of removal from service with immediate effect. In the said Order of removal it was instructed to file the appeal within 45 days to the Divisional Railway Manager, Lunding.

A copy of the said Order is enclosed herewith and marked as 'ANNEXURE-E'.

- 16) That your humble applicant begs to state that as per the direction of the Order passed by the Senior Divisional Railway Manager, your humble applicant filed an appeal to the appellate authority on 21-4-03.

A copy of the said appeal is enclosed herewith and marked as 'ANNEXURE-F'.

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Gyrisw Chandra Nath

- 17) That your humble applicant begs to state that the appellate authority, Divisional Railway Manager, Lumding by his Order dated 29-7-03 rejected the prayer of the applicant and instructed to file a review petition to the next higher authority.

A copy of the said order is enclosed herewith and marked as 'ANNEXURE-G'.

- 18) That your humble applicant begs to state that as per the Order passed by the Senior Divisional Operating Manager, review appeal has been filed before the Chief Operating Manager, N.F. Railway, Maligaon, Guwahati-11 which was duly acknowledged on 1-9-03.

A copy of the said review appeal is enclosed herewith and marked as 'ANNEXURE-H'.

- 19) That your humble applicant begs to state that though the review application has been preferred to the Chief Operating Manager on 1-9-03 stating all the detail facts and circumstances with the fact finding report; and same is still pending for disposal till to-day.

- 20) That your humble applicant begs to state that after the occurrence of the averted collusion and as per the recommendation of the fact finding Enquiry Committee; the working system of Kamakhya has been changed by a Correction Slip No.1 to the station working rules of Kamakhya dated 26-5-2000 issued by the Office of the Divisional Railway Manager (S) Lumding under Memo

No. TK/KYQ (BG And MG). The contents of the Correction Slip No.1 is as follows :-

"As Up Starter of KYQ Station have been interlocked with both North and South lines Up Advance Starter. The Page No. 21, 22 and 23 of Appendix-B to the SWR of KYQ have been according Amended.

Replaced old page No. 21, 22 and 23 of Appendix-B by new page 21, 22, 23."

A Copy of the said Order is enclosed herewith and marked as 'ANNEXURE-I'.

- 21) That your humble applicant begs to state that the averted collusion at Kamakhya occurred on 12-12-01 and the correction slip was issued on 17-1-2002 and corrected the system of working after introducing the system of interlocked with both North and South line in Up Advance Starters. So, it clearly proves that the system of working in Kamakhya Railway Station was not safe as there was no interlocked system with the advance starter prior to the occurrence of the accident. As such your humble applicant was not responsible for the cause of averted collusion.
- 22) That your humble applicant filed the review application before the Chief Operating Manager which is pending for disposal and so the applicant have no other alternative but to file this application before Central Administrative Tribunal for redressal of grievance.

Contd...P/10

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V. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

- I) For that your humble applicant is Class-III employee and he was appointed by the General Manager, N. F. Railway but the order of removal was issued by the Divisional Railway Manager, Lumding who is not the competent authority to pass such removal order as he is not appointing authority of the applicant.
- II) For that the applicant is not responsible for the cause of averted collusion at Kamakhya Railway Station on 12-12-01 as per the inquiry report of the Fact Finding Inquiry Committee. The Fact Finding Inquiry Committee in the report pointed out the lapses for maintaining safety as the starter was free and not interlocked with the route system which was later on rectified and interlocked system was introduced just after the occurrence.
- III) For that due to non-interlocking facilities of Starter with the route system the signal operation was defective which caused the averted collusion in Kamakhya Railway Station for which your humble applicant was made scapegoat for the cause of occurrence and he was removed from service for no-fault of his own. The fact finding Inquiry Committee suggested the recommendation for safe running of train and the starter was interlocked with the route system just after the occurrence from 2-1-2002 which proves the negligence part of the Railway administration. To cover up the defect and lacuna of the train working system your humble applicant was removed from service which is a harsh punishment for the applicant.

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Gurish Chandra Saha

- IV) For that punishment of removal from service for the above incident is dis-proportionate to the gravity of offence for which a lesser punishment may be awarded to your humble applicant.
- V) For that the findings of the enquiry Committee could not fix-up any direct responsibility by evidence that the humble applicant is responsible for the occurrence dated 12-12-01. In such a situation the removal from service for the applicant is unwarranted in the present case, and a lesser punishment may be imposed to your humble applicant for the negligent part.
- VI) For that your humble applicant is a family holder and he is an only earning member of his family and in the midst of his life if he is removed from service in this way he can not go for alternative job due to his age and in that event his whole family will be ruin due to starvation.
- VII) For that your humble applicant can be punished by imposing a minor penalty for his negligence during the course of performance of his duties.
- VIII) For that when the Fact Finding Inquiry Committee could not come to the conclusion about the involvement of the applicant by direct evidence for the incident, he can not be removed from service as it was done in the present case.

20
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- IX) For that it is principle of law that before fixing the responsibility, there must be some evidence which was not available in the present case. As such the removal from service of the applicant is a harsh punishment which can^{be} modified by a lesser punishment after considering all the aspects in judicious manner.
- X) For that your humble applicant is nowhere responsible for the cause of the incident and only for negligence part, if ~~proved~~ he may be punished with lesser punishment considering his livelihood of his family members.
- XI) For that in any view of the matter, your humble applicant is not solely responsible for the cause of the averted collusion at Kamakhya Railway Station and so he is not liable for any major punishment like removal from service.

VI. DETAILS OF THE REMEDY EXHAUSTED :

There is no other ^{appropriate} remedy except filing of this Application before this Hon'ble Tribunal as your humble applicant has exhausted all the remedies available to him.

VII. MATTERS NOT PENDING IN ANY OTHER COURT/TRIBUNAL :

The applicant declares that he has not filed any other application before any Court or Tribunal.

Contd...P/13

VIII. RELIEF PRAYED FOR :

It is, therefore prayed that Your Lordship may be pleased to admit this application, issue a Show Cause Notice to the respondents and after hearing the respondents may issue direction to the respondents to set aside the punishment of removal imposed against your humble applicant for no-fault of his own and/or pass such order/orders for reducing the punishment and to convert the punishment from removal from service to a lesser punishment against your humble applicant as per gravity of the offence and/or pass such necessary order/s as Your Lordship may deem fit and proper.

IX. INTERIM RELIEF PRAYED FOR :

N I L.

X. PARTICULARS OF THE POSTAL ORDER :

206 J35695

issued from G.P.O. Guwahati.

Payable at Guwahati.

Contd...P/14

21
Girish Chandra Xaita

22

Girish Chandra Nath

XI. DETAILS OF INDEX :

An Index showing the particulars of documents
is enclosed.

XII. LIST OF ENCLOSURES :

As per Index.

... VerificationP/15

V E R I F I C A T I O N

I, Shri Girish Chandra Nath, son of Sri Gopal Ch. Nath, aged about 30 years, resident of village -Bamunimaidan, post Office - Bamunimaidan, District - Kamrup do hereby solemnly affirm and verify the statements made in this application as follows :-

1. That, I am the applicant in the above application and as such, I am acquainted with the facts and circumstances of the case.
2. That, I am fully competent to verify this application and I do verify this application as true to my knowledge and belief and I have not suppressed any material facts.

A n d

I sign this Verification on this the 10th day of December 2004, at Guwahati.

Place :

Date :

Girish Chandra Nath
(S I G N A T U R E)

ANNEXURE - A 24

NORTHEAST FRONTIER RAILWAY.

DRM(P)'s Office/Lumding.

No.E/45-1 (TR-ASM)PV(T)

Dated : 3-2-99

To

Shri Girish Ch. Nath (DJB),
TR. ASM at Office.

- 1) You are hereby appointed as a temporary ASM on Pay Rs.4500/- p.m. in scale Rs.4500-7000/- plus usual allowances and posted as ASM at DJB subject to :-

Immediate discharge without any notice of termination of service in the event of return of permanent incumbent from leave or on the expiry of temporary sanction of the post in which you are appointed or to your mental or physical incapacity or to your removal or dismissal from service for misconduct.

- 2) If the termination of your service is due to some other causes you will be entitled to a notice of 14 days or pay in lieu thereof.
- 3) You will not be eligible for any benefit except those admissible to temporary employees under the rules in force from time to time.
- 4) Your appointment shall have effect from 04-2-99 or from the date you actually commence work.
- 5) You will not be entitled to any grainshop concessional facilities.

Please report to SS/DJB for duty.

Sd/- Illegible
DS/LMG

(Seal illegible).

Copy to :-

- 1) GM(P)/MLG for information in reference to his letter No. E/41/143/Ptt.IV(T)(TR. ASM) dated 28-12-98.
- 2) DAO/LMG (3) RAC(O) at Office.
- 4) OS/Comml. at Office, (5) OS/ET/Bill at Office.
- 6) SS/DJB.
- 7) SS/LMG. He will please arrange to issue an E/D pass in 2nd Class in favour of the abovenamed ex-LMG to DJB.
- 8) Spare copy for P/Case.

Sd/- Illegible
For Divisional Rly. Manager(P),
N.F. Rly.Lumding.

(Seal Illegible).

Certified to be true Copy
galeka
Advocate

CH 5731 17-17-

ANNEXURE 'B'

B 37 5
SN 88
VS

By Com (S) ...

By ...

SUMMARY

1. Date : 12.12.2001.
2. Time : 06.18 hrs.
3. Railway : Northeast Frontier Railway
4. Gauge : Broad Gauge.
5. Location : Between Kamakhya and Guwahati stations at KM.405/12-13 (2435 Dn) and KM.405/6-7 (5657Up).
6. Nature of accident : Indicative (Averted collision).
7. Train involved : 2435Dn Rajdhani Express and 5657Up Kanchenjunga Express.
8. Speed at the time of occurrence : Not applicable. (Both trains were stopped).
9. System of working : Absolute Block System.
10. No. of track : Two (twin single line).
North line (BG/IMG gauntletted)
South line (BG only).
11. Gradient : 1 in 150 (Up grade).
12. Alignment : Straight.
13. Weather : Foggy.
14. Visibility : Impaired.
15. Cost of damage : Nil.
16. Casualties : Nil.

Certified to be true copy
Ati Mostafa Ahmed, Secy.

... at c

Sri Gopinath Nath
(O. C. Nath) 14/12/01
R/ASM GHY at KYD

17. Cause of accident : ASM/RRI Cabin/Kamakhya wrongly set the route in favour of south line instead of north line and lowered the starter signal of line No.1. S657Up entered into the south line and the driver passed Up advanced starter signal (south line) in 'ON' position and entered the block section without authority to proceed.

18. Staff held responsible :

Primary

- i) Shri Girish Chandra Nath, RASM/Guwahati at Kamakhya RRI cabin.
- ii) Shri Satya Narayan Prasad, Driver/Passenger/New Bongaigaon
- iii) Shri Pundit Gohain, Diesel Assistant Driver, New Bongaigaon

Blameworthy:

- i) TI/Guwahati
- ii) LI/New Bongaigaon

1.1 Constitution of Enquiry Committee:

C.R.S./S.E.Circle/Kolkata as well as Railway Board had given instructions to conduct a departmental Senior Administrative Grade Officers' joint enquiry and accordingly the General Manager, N.F.Railway, approved the S.A.G. Officers Enquiry Committee consisting of CSO, CMPE and CSE, N.F.Railway, Maligaon.

1.2 Inspection and enquiry.

The Enquiry Committee inspected the site of accident on 13.12.2001 and 14.12.2001.

1.3 The enquiry was held at the Committee Room in GM/N.F.Railway/Maligaon's office on 14.12.2001, 15.12.2001 and 16.12.2001.

- 2.0
- | | | |
|-----|--|---------|
| i) | Number of Railway witnesses examined | 16 Nos. |
| ii) | Number of Government officials other than Railway staff submitted deposition | Nil. |

A total of 19 witnesses had appeared before the Enquiry Committee out of which 16 witnesses were examined.

3.0 The accident : On 12.12.2001 at 05.50 hours ASM/RRI Cabin/Kamakhya obtained line-clear from ASM/West Cabin/Guwahati for 5657Up Kanchenjunga Express (Loco No.17365 WDM2, load - 13=26) through tokenless block instrument (north line) and operated the instrument in 'train going to' position.

At 05.58 hours ASM/West Cabin/Guwahati obtained line-clear from ASM/RRI Cabin/Kamakhya for 2435 Dn.Rajdhani Express (Loco No.18953 WDM2, load - 18=36) through tokenless block instrument (south line) and operated the instrument in 'train going to' position.

5657Up arrived Kamakhya at 06.03 hours and left at 06.08 hours from line No.1 with starter signal off and entered south line instead of north line as ASM/RRI Cabin/ Kamakhya wrongly set the route in favour of south line. The Driver of the train stopped at the foot of the Up advanced starter signal (south line) at 06.12 hours which was in 'ON' position but again he started at 06.15 hours disregarding the danger aspect of the up advance starter signal. Meanwhile 2435 Dn Rajdhani

Express left Guwahati at 06.10 hours. ASM/RRI Cabin/Kamakhya finding that the train had entered the south line, immediately contacted ASM/Gate Cabin (ST-9) and requested him to stop both the trains which were proceeding on the same line (south line). He also informed the matter to the Indoor ASM/Kamakhya and fled away.

ASM/Gate Cabin (ST-9) immediately informed the Gatemen of Gate Nos. ST-5 and ST-4 to stop both the trains by showing danger signal. The Driver of 5657Up stopped at KM.405/6-7 in rear of Gate signal of Gate No. ST-4 which was at 'ON'. The Gateman of Gate No. ST-4 immediately placed detonators on the track and exhibited danger signal to the Driver of 2435 Dn Rajdhani Express and the train came to a stop between Gate Nos. ST-5 and ST-4 and the collision was averted. The distance between two trains when they finally came to a stop was approximately 200 metres. On getting memo. from Indoor ASM, Kamakhya at 07.20 hours, the Driver of 5657Up pushed his train back to Kamakhya and the train arrived Kamakhya at 07.38 hours. 2435 Dn. left site towards Kamakhya at 08.05 hours and arrived Kamakhya at 08.15 hours and the south line was cleared.

4.0 Movement of Officers.

Dy.COM(Safety)/Maligaon on getting information immediately rushed to the site by road. DSO/Lumding, who was also available at Maligaon, left for site as soon as he heard about the incident.

5.0 Trains controlled, terminated and cancelled. : Nil

6.0 The movement of trains:-

2435 Dn. Rajdhani Express from Guwahati towards Kamakhya
5657Up Kanchenjunga Express from Kamakhya to Guwahati.

Rail 52 Kgs., PSC Sleeper with M17 density. The alignment at the site of accident is straight and on levelled track. There is a rising gradient of 1 in 150 between Kamakhya and Guwahati. Down grade - nil.

7.0

Discussion on the evidences:

- i) Shri Satya Narayan Prasad, Driver(Passenger)/New Bongaigaon -
Witness No.1.

Shri Prasad was the working Driver of 5657Up Kanchenjunga Express of 12.12.2001 from New Bongaigaon. The train arrived Kamakhya at 06.03 hours on line No.1 with proper signal and left at 6.08 hours with proper starter signal. The engine was short hood leading and Shri Prasad on the platform side at Kamakhya station. He could not exchange 'all right' signal with the Guard on account of fog and hence he contacted Guard on walkie-talkie. He stated that all the approaching and departing signals of Kamakhya station are situated on the right side of the track. At 06.12 hours he stopped at the foot of the Up advance starter signal of south line as it was in 'ON' position. He also observed that the Up advance starter signal of north line was in 'ON' position. He started his train at 06.15 hours when the Up advanced starter signal for south line was taken off. He again stopped at the gate signal of Gate No.ST-4 at 06.25 hours. He noticed another engine approximately 50 metres away from his train on the same track on which he was proceeding and the head-light of which was 'ON' and flasher light blinking. According to him, the speed of the train was 20 Kmph while it was approaching the gate signal. The gate signal was visible to him from an approximate distance of 25 metres and he could stop 15 metres short of the signals. On getting memo. from ASM/Kamakhya at 07.20 hours, he pushed his train back to Kamakhya and arrived Kamakhya at 07.38 hours. Finally the train left Kamakhya again at 08.25 hours and arrived Guwahati at 08.50 hours.

- ii). Shri Pundit Gohain, Diesel Assistant Driver, New Bongaigaon -
Witness No.2.

Shri Gohain was the working Diesel Assistant Driver of 5657Up of 12.12.2001, Ex.New Bongaigaon. He stated that starter signal which was lowered for his train was without route indicator and the advance starter signal was not visible from the engine cab while standing at Kamakhya station. It was visible just before reaching the L.C.Gate No.ST-1. He noticed the Up advanced starter signal of south line was showing danger aspect but he did not notice the aspect of the Up advance starter signal of north line. The train stopped at the foot of the Up advance starter and the speed of the train was 10 to 12 Kmph at that time. After 2/3 minutes the signal turned green and the Driver started the train.

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36 (10)
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(6)

He deposed before the Enquiry Committee that the train was received at Kamakhya on line No.1 and all the fixed approaching and departing signals were on the right-hand side of the track.

iii) Priya Kanta Basumatary, Driver/Mail/NBQ (W/No. 3)

Shri Basumatary was booked to work 2435 Dn Rajdhani Express on 12.12.2001 ex Guwahati to New Jalpaiguri as per link. He started his train from line no. 1 of Guwahati station at 06.10 hrs. via South Line. When he was approaching gate no. ST/4 at KM 405/12-13 between Guwahati - Kamakhya he heard the bursting sound of one fog signal and also saw the hand danger signal which was being exhibited by the gateman towards him and he immediately stopped his train and switched on the flasher light. Later on he came to know that 5657 UP was also coming wrongly on the same line (South line). He started his train from the site at 08.00 hrs. after the clearance of South line by 5657 UP at Kamakhya and arrived Kamakhya at 08.15 hrs. and left at 08.18 hrs. According to him the distance between two trains when they finally came to a stop was about 200 metres.

iv) Prafulla Kalita, Guard/Passenger/New Bongaigaon (W/No. 5)

Shri Kalita was on duty Guard of 5657 UP on 12.12.2001 ex New Bongaigaon. After stopping the train at the foot of the UP Advanced Starter (South/line) he tried to attract the attention of gateman of Gate No. ST-1 as his SLR was just near the gate. He explained the situation to the Gateman who tried to contact the ASM/Kamakhya but failed. When the driver told him that the advanced starter had turned green he could not verify the aspect of the signal on account of fog. He did not think that driver had passed the signal in 'ON' position as he had stopped the train when the signal was red and hence there was no reason to believe that he started the train when the signal was red. After starting the train he again came to a halt near the Gate No. ST/4 as the gate signal was at 'ON'. He also received a message from the Guard of 2435 Dn that his train was also travelling via South line. He told him that his train had stopped short of the gate signal and left brake van to protect the train towards the engine. Later on a pointsman from Kamakhya approached him and handed over the authority to back the train to Kamakhya and the train arrived Kamakhya at 07.37 hrs.

Contd.....7

v) Abani Kumar Sarkar, Guard/Mail/Alipurduar Junction (W/No. 6)

Shri Sarkar was called to work 2435 DN Rajdhani Express ex Guwahati and his train left Guwahati at 06.10 hrs. via South line. After a few minutes his train suddenly stopped at KM 405/19-12 with a heavy jerk passing Bharalumukh Gate. On enquiry he came to know from the gateman of Bharalumukh gate that 5657 UP was also travelling by the same South line. Then he contacted the ASM/Gate Cabin (ST/9) over phone. He also talked with ASM/Kamakhya through walkie-talkie for decision. The ASM/Kamakhya advised him to push back 5657 UP to Kamakhya. Meanwhile, Dy.COM/safety arrived at the site and tackled the situation. He contacted the driver of his train and Guard of 5657 UP on walkie-talkie. According to him Kanchanjunga Express was clearly visible from the engine of his train which was five or six coach apart from the Kanchanjunga Express.

vi) Girish Chandra Nath, RASM/Guwahati at Kamakhya RRI Cabin (W/No. 7)

Shri Nath was the on duty ASM at Kamakhya RRI cabin from 21.00 hrs. of 11.12.2001 to 07.0 hrs. of 12.12.2001. He obtained the line clear from Guwahati for 5657 UP via North line and operated the token less block instrument. Then he granted line clear to Guwahati for 2435 DN via South line and the token less block instrument was operated by the ASM/West Cabin/Guwahati. After the arrival of 5657 UP at Kamakhya at 06.00 hrs. he advised gateman of Gate No. ST-1 to close the gate for 5657 UP. Then he took off the UP advanced starter signal of North line. As he was to attend the nature's call he hurriedly operated the starter switch via South line and the train left via South line. At that time he saw his pointsman was coming and so he went down to attend nature's call. He noticed that 5657 UP was passing via South line after stopping for a while. Immediately he rushed to the cabin and received information through token less block instrument that 2435 DN left Guwahati. He rang for the Gateman but he did not respond. Then he informed ASM/Gate Cabin/Guwahati (ST-9) through auto phone at about 06.11 hrs. to control 2435 DN as 5657 UP was also on the same line. After informing the matter to Indoor ASM/Kamakhya he hired an auto rickshaw and rushed towards Guwahati to control the trains by any means. Finally he found that both the trains had been controlled. Thereafter, he found himself totally depressed and was trembling out of fear and so he left his place of duty. He stated that he joined as ASM/Dijaobra in February 1999 and in November 2000 he was posted as LR/ASM/Guwahati. On 17 Nov. 2000 he was posted as ASM/RRI Cabin/Kamakhya and had learnt Station

Working for a period of 5 days before taking up the duty independently and had also signed in the assurance register. He told that he informed the gateman of gate no. ST-1 that 5657 UP would pass via North line. Gateman of gate no. ST-1 does not keep any record of the movement of trains. He did not notice the route set on the panel after taking off the starter but came to know only after the train entered the South line. UP advance starter signals are visible from the cabin. He stated that UP advance starter signal for South line was in danger position and for North line was showing green aspect.

vii) Syed Akhterul Islam, ASM/Gate cabin (ST-9) (W/No. 9)

He was performing duty from 21.00 hrs. of 11.12.2001 to 07.00 hrs. of 12.12.2001. At 06.15 hrs. Shri G. C. Nath, ASM/RR1 cabin/Kamakhya informed him over auto phone to control 2435 Dn by any means as 5657 UP was also proceeding to Guwahati via same line (South line). At that time 2435 DN had already passed his cabin. He immediately informed both the gateman of ST-5 & ST-4 through magneto telephone to control 2435 DN and 5657 UP by any means. Gateman of ST-4 controlled 2435 DN by placing detonator and by exhibiting hand danger signal. 5657 UP also stopped at the gate signal of ST-4. He advised Guard of 2435 DN to start the train towards Kamakhya and the train left at 07.50 hrs.

viii) Pranab Bhattacharjee, ASM/West Cabin/Guwahati (W/No. - 10)

Shri Bhattacharjee granted line clear to ASM/RR1 Cabin/Kamakhya for 5657 UP at 05.50 hrs. over north line and the token less block instrument was operated by ASM/RR1 Cabin/Kamakhya. Then he obtained line clear from ASM/RR1 Cabin/Kamakhya for 2435 DN at 05.58 hrs. over South line. 2435 DN left Guwahati at 06.10 hrs. via South line. At 06.15 hrs. ASM/gate cabin (ST/9) informed him that some unknown person telephoned him to control 2435 DN as 5657 UP was also coming via South line. The train was controlled by the gateman of ST-4. He tried to contact ASM/Kamakhya but failed. He informed the matter to all concerned. SM, Dy.SM & SI attended his cabin at 07.00 hrs. and took the position of points, signals & token less block instruments. 5657 UP was pushed back to Kamakhya at 07.35 hrs. After getting confirmation of the clearance of south track he advised the Driver & Guard of 2435 DN through ASM/Gate Cabin (ST-9) to start the train towards Kamakhya. For all movement of trains he exchanges private number with the gateman stating the no. of train and the line by which the train will move and the above information is recorded by the gateman in the private number sheet itself.

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ix) Narayan Chandra Mazumder, Pointsman (A)/Kamakhya
(W/No. 11)

He was on duty pointsman at kamakhya station from 22.00 hrs. of 11.12.2001 to 06.00 hrs. of 12.12.2001. On 12.12.2001 he was engaged in shunting of 852 DN (M/G) and after completion of shunting he was sent to hand over OP/T & PLC for 5628 DN. While he was returning towards cabin he noticed that 5657 UP was running towards Guwahati via south line on which 2435 DN was also to pass. He noticed Cabin ASM was running towards Indoor ASM's room. He came to know from the ASM that 5657 UP left via south line instead of north line. Then he contacted ASM/Gate Cabin (ST-9) and requested him to stop both the trains by any means. After that he was handed over the OP/T by ASM/Kamakhya to back the train (5657 UP) to Kamakhya and the train was backed.

x) Bipra Kumar Parida, Gateman, Gate No. ST/4 (W/No. 12)

Shri Parida was the on duty Gateman at Gate No. ST/4 on 12.12.2001. At 05.55 hrs. he exchanged private number with ASM/Gate Cabin (ST/9) for 5657 UP and 2435 DN. ASM/Gate Cabin informed him that 2435 DN left Guwahati at 06.10 hrs. via South line and accordingly he closed the gate and transmitted the key through key transmitter. At 06.15 hrs. ASM/Gate Cabin informed him that 5657 UP also left Kamakhya via South line and 2435 DN was to be stopped at any cost. Immediately he rushed with some detonators and hand danger signal and placed one detonator on track and exhibited hand danger signal towards the driver of 2435 DN which had already passed Gate No. ST-5. After bursting the detonator 2435 DN came to a stop. After informing the driver of 2435 DN that 5657 UP was also approaching via same south line he immediately left towards Kamakhya end showing hand danger signal towards the driver of 5657 UP and finally 5657 UP also came to a stop. He told the driver of 5657 UP that 2435 DN was also on south line and had stopped in between ST-5 and ST-4. He then informed the matter to on duty ASM/Gate Cabin. He stated that ASM/Gate Cabin told him about the number of trains which would pass while exchanging private number but he did not tell him the line on which both the trains would pass. Moreover, there is no system of recording of time and train no. advised by ASM/Gate Cabin.

... I left at 6
Sri G. C. Nath
(G. C. Nath)
R/ASM GNY at RYO
14/12/01

xi) Manik Kushary, Gateman/Kamakhya, Gate No. ST/I (W/No. 13)

On 12.12.2001 Shri Kushary was the on duty gateman at Gate No. ST/I/ Kamakhya. At 06.00 hrs. ASM/RRI Cabin/Kamakhya informed him to close the gate and accordingly he closed the gate. He noticed that 5657 UP stopped near the I/C gate for few minutes and then again started. He has stated that generally ASMs do not tell the train no. and the line through which the trains will pass over the I/C gate. They record the same by observing the train. He noticed that the train was going via south line. When the train stopped near the I/C gate, the Guard of the train did not enquire from him about the stoppage of the train. He stated that he was all along in the gate cabin and there was no ring from RRI cabin.

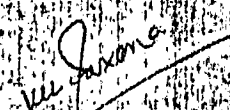
xii) Anup Ghatak, ST/Signal/Cuwahati (W/No. 16)

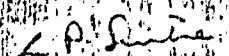
Shri Ghatak received the information at 06.15 hrs. from ESM/Kamakhya through telephone. He along with SSE/Signal/Cuwahati Mr. D. K. Chakraborty rushed to Kamakhya cabin at 06.30 hrs. After arrival at Kamakhya RRI cabin he found Indoor ASM Mr. Deka and TI/Safety/Landing Mr. Malik were in the panel room. He took the panel and token less block instrument position and also recorded token less block instrument testing report jointly. He stated that the ASM had set the route for south line and lowered the starter and the train entered south line. Starter at Kamakhya is free and is not interlocked with advance starter and it can be lowered without lowering the advance starter. Starter can be taken off only after closing the I/C gate No. ST/I. After getting the starter signal the driver will start from the station and will observe the aspect of the advance starter and if it is taken off he will proceed. It will not be possible to take off UP advance starter for south line if line clear has already been granted to a down train via south line. He carried out interlocking checking alongwith PWI & TI/Cuwahati and it was found normal. He also found the relay room in double locked condition. While he checked the panel both the UP advance starters (South line & North line) were showing danger aspect. According to him until the token less block instrument is put in 'train on line' (TOL) position after the passage of train over the track circuit the advanced starter can be taken off and put back to on any no. of times without any record.

out of rear and so I left at 6

Sri Gopin Chandra Nath
(O. C. Nath)
R/ASM CHY at KYR
14/12/01

A.S.M., R.R.I. Cabin, Shri Girish Chandra Nath has recorded in his statement that he had obtained the line-clear for 5657Up Kanchenjunga Express for north line from Guwahati but set the route in favour of south line and lowered the starter of line No.1 as well as advance starter of north line. Since the starter signal has not been interlocked with advance starter signal, it is possible to lower the starter despite the fact that the route had been wrongly set in favour of south line. The Driver started the train on the authority of lowering the starter signal and entered south line. However, A.S.M., R.R.I. cabin, Shri Girish Chandra Nath had already granted line-clear to Train No.2435Down Rajdhani Express on the south line and as such the Up advance starter signal of south line was showing red. Shri Satya Narayan Prasad, Driver of 5657Up has also admitted that when he was approaching the advance starter signal of south line, it was in 'ON' position. He stopped his train at advance starter but started the train again after three minutes, as according to him, the advance starter of south line has turned green. However, since the advance starter signal is interlocked to B.I. the interlocking will not permit lowering of Up advance starter signal of south line as line-clear for 2435Down Rajdhani Express had already been granted on the south line. Moreover, immediately after the inspection, an exercise was jointly conducted by Shri Ajay Banik, T/Guwahati, Shri A.Ghatak, Senior Section Engineer/Signal/Guwahati and Shri Paramananda Ram, Senior Section Engineer/Permanent Way/Guwahati who tried to lower the Up advance starter of south line under the similar conditions but it was not possible to lower the same, which clearly indicates that the Driver passed the Up advance starter signal of south line in 'ON' position.


(K.K. Saxena)
Chief Safety Officer
N.F. Railway-Maligaon


(L.P. Sinha)
Chief Signal Engineer
N.F. Railway-Maligaon


(S.S. Singh)
Chief Motive Power Engineer
N.F. Railway-Maligaon

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Findings

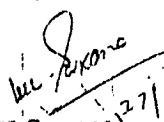
After having inspected the site of accident and after having gone through the evidences on record, we the undersigned have come to the conclusion that the accident occurred on account of:

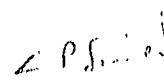
- i). Wrong setting of route by A.S.M., R.R.I. Cabin, Shri Girish Chandra Nath, thereby violating the provisions of GR.3.38(i).
- ii) Passing of advance starter signal of south line in danger position by Shri Satya Narayan Prasad, Driver of 5657Up Kanchenjunga Express and Shri Pondit Gohain, Diesel Assistant Driver of 5657Up Kanchenjunga Express, thereby violating provisions of GR.3.81(1) & (3).

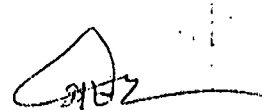
All the above-mentioned staff are hereby held primarily responsible for the accident.

In addition, the following staff are held blameworthy for the accident:

- 1 TI/Guwahati
- 2 LI/New Bongaigaon.


(K.K. Saxena) 27/12/01
Chief Safety Officer,
N.F. Railway-Maligaon


(L.P. Sinha)
Chief Signal Engineer,
N.F. Railway-Maligaon


(S.S. Singh)
Chief Motive Power Engineer,
N.F. Railway - Maligaon.

Remarks and Recommendations.

10.0

As a matter of policy, N.F. Railway has decided not to interlock the starter signal with advance starter to facilitate shunting movement. However, this situation is very unsafe specially in case of those stations which are having tokenless block instruments. Hence, the Committee is of the opinion that the

release of starter signal by advance starter may be provided in Kamakhya-Guwahati section (twin single line) immediately and at other stations with tokenless block working on a programme basis.

2. The issue regarding the desirability of having twin single line between Kamakhya and Guwahati should be examined afresh. The matter regarding conversion of twin single line into conventional double line should also be considered as working of trains on conventional double line enjoys a much higher degree of safety in train operation as compared to twin single line.

3. At present the nomination of line over which a particular train will move between Guwahati and Kamakhya is not being conveyed to the Gatemen on duty in Guwahati-Kamakhya section. Instructions should be issued immediately to advise the Gatemen about the line on which a particular train will move to enable the Gatemen to take remedial action in case the train is moving on wrong line.

(K.K. Saxena)
Chief Safety Officer,
N.F. Railway-Maligaon

(L.P. Sinha)
Chief Signal Engineer,
N.F. Railway-Maligaon

(S.S. Singh)
Chief Motive Power Engineer,
N.F. Railway - Maligaon.

*Certified to
be true copy.
Ali Mustafa Khan, Adv.*

Witness No.

BIO - DATA

Name	:	Shri Girish Chandra Nath.
Designation	:	R/ASM/GHY at KYQ.
Division	:	LMG.
Father's name	:	Shri Gopal Chandra Nath.
Date of birth	:	10.4.1973.
Qualification	:	B.Sc.
Date of appointment	:	4.2.1999.
Present basic pay	:	4750/-
Date of increment	:	1.1.2001.
Scale of pay	:	4500 - 7000/-.
Date of retirement	:	10.4.2033.
Punishment in last 3 yrs.	:	NIL.
Refresher course	:	NIL.
Last PME attended	:	27.5.1998.
Next PME due	:	27.5.2002.
Category(in safety council)	:	A2.

STATEMENT

I was working as RRI Cabin/GHY ASM from 21.00 hrs. of 11.12.2001 to 07.00 hrs. of 12.12.2001. Firstly I obtained line clear from GHY for 5657 Up via North line and operated TBI for the same train. After the ASM/West cabin asked line clear for 2435 Dn which was granted via South line and TBI machine was also operated. 5657 Up arrived KYQ at 06.00 hrs. Accordingly, I advised on duty gateman (ST-1) to close the L/C gate for 5657 Up. Then the advance starter of North line was taken off. On that very moment I was alone in the cabin and was having serious pressure for nature call. And due to same I hurriedly operated the starter switch for the same trains via South line and the trains (5657 Up) departed. In the meantime P/man was approaching and I went down for nature call and observed that 5657 Up is passing via South line after stopping for a while. I rushed to the cabin at once and received information through TBI that 2435 Dn left GHY. So, I rang for the gateman but was not responded. Simultaneously, I informed ASM/CC/GHY (ST-9) through auto phone at about 06.11 hrs. to control 2435 Dn as 5657 Up is also in the same path. Then I rushed for Mr. R.N.Deka, Indoor/ASM on platform and informed him the matter. Immediately I hired an

*Certified to be true copy
Ali Masala (Name)
Sd/-*

auto-rickshaw and rushed towards GHY for controlling the trains by every means. Finally I found ~~the~~ both the trains have been controlled. Thereafter I found myself totally depressed. I was trembling out of fear and so I left at 6

*Certified to be true copy
Ali Mostafa Signed, Adv.*

Sd/- Sri Girish Chandra Nath

14/12/01

(G. C. Nath)

R/ASM/GHY at KYQ.

ANNEXURE - D

To,

The Senior Divisional Operation Manager,
N. F. Rly/Lunding.

Sub :- Request to supply DAR enquiry proceedings.

Ref :- Major Memorandum/SF-5 No.T/2/54/OI-02/LM
of 30.1.2002 issued by Sr.DOM/LMG NFR.

Sir,

I have the honour beg to submit that while filing my appeal, the appellate authority (ADRM/LMG) although did not consider my appeal of 21.4.2003 and allowed to remain the punishment imposed by disciplinary authority but granted review appeal to COM/MLG vide order No.T/2/54/OI-02/LM of 20.7.03.

In order to submit my review appeal to COM/NFR/MLG, I would request you to kindly forward me the total proceedings drawn day to day in the DAR enquiry conducted by nominated enquiry officers i.e. Shri A.K. Sharma & P.S. seal, AOMS/GHY in their chamber on various dates.

The proceedings were not handed over to me as required under rules during the enquiry days but assured to supply on a later dates but was never supplied to me by any of the enquiry officers. The providing of copies of enquiry proceedings to delinquent employee's is mandatory vide CPO/MLG's No.DAC/74 of 19.08.65.

As the proceedings are vital and recorded documents authenticated by signatures of E.O., Defence Counsel & witnesses the same are essentially required by me to prepare my review petition to be submitted within 45 days counting from date of 20.7.2003.

Documents may kindly be sent to ADRM/GHY's office where from I shall collect the same.

Thanking you,

Dated : 5/8/03

Yours faithfully,

Sd/- Sri Girish Chandra Nath
5/8/03.

(GIRISH CH. NATH)
EX.RASM/GHY at KYQ.

*Certified to be true Copy
J. Della
Advocate*

ANNEXURE - E

N.F.G. 174 M

Northeast Frontier Railway

Notice of imposition of penalties under items (I), (II) & (III) of Rule 1707(1) and items (i) and (ii) of Rule 1707 (2)-RI.

(Ref. SR-9 Under Rule 1716-RI).

No.T/2/54/01-02/LM.

Date : 18/02/2003.

From : Senior Divisional Operations Manager,
N F Railway/Lumding.

To, Shri Girish Chandra Nath,
RASM/GHY (Through TI/GHY).

With reference to your explanation to the Charge Sheet No. T/2/54/01-02/LM, dtd.30/01/2002, you are hereby informed that your explanation is not considered satisfactory and that the Disciplinary Authority has passed the following orders :

Carefully going through the case and also considered the representation dtd. 14th February, 2003, submitted by Shri Girish Chandra Nath, Relg.Asst.Station Master/Guwahati at RRI Cabin Kamakhya in response to show cause Notice served to him vide this Office No.T/2/54/01-02/LM, Dtd.31/01/2003 & found that the Representation is not convincing.

Considering that Article of Charges No.1 in Annexure-II brought against him vide, Major Memorandum No.T/2/54/01-02/LM, dtd.30/01/2002 have been proved and justified, to meet the end of justice, it is decided that Shri Girish Chandra Nath is not fit to be retained as Asst. Station Master, so the undersigned impose upon him the penalty of "Removal" from Railway Service with Immediate effect".

Sd/- Illegible 18.2.03.,
(L. SAIKIA) IRTS,

Senior Divisional Operations Manager,
N.F.Railway/Lumding.

Signature and Designation of the Disciplinary Authority.

Contd...2

*Certified to be true copy
At: Muzaffarpur, Assm, Adv.*

(Annexure -E contd...)

When the Notice is signed by an authority other than the Disciplinary authority here quote the authority passing the order.

Here quote the acceptance or rejection of explanation and the penalty imposed.

INSTRUCTIONS

(1) An Appeal against those order lies to Divisional Railway Manager/N.F.Rly/ Lumding next (immediate superior to the authority passing the orders within 45 days).

Copy to : (1) DRM(P)/LMG, (2) ARM/GHY, (3) APO/GHY :
for information & necessary action please.

Sd/- Illegible

18-2-03

(L. SAIKIA), IRTS

Senior Divisional Operations Manager,
N.F.Railway/Lumding.

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*Certified to be true copy
Alli: Noted for signed, Adv.*

To,

The Divisional Railway Manager,
N.F.Rly., Lumding.

Date : 21.4.2003

(Through - ARM/GHY).

Sub :- An appeal under Rule 18 (ii) of the Railway
Servants (Discipline & Appeal) Rules, 1968.

Ref :- Notice of imposition of penalties under
items (i), (ii) & (iii) of Rule 1707(1) and
items (i) and (ii) of Rule 1707(2)-RI issued
by Shri L. Saikia, Senior Divisional Operations
Manager, N.F.Rly. Lumding vide Order dated
18-02-03.

Sir,

With due regards I beg to submit the following by way
of appeal against the penalty of 'Removal' imposed upon me
vide Order dated 18-02-03 :-

- i) That the entire enquiry proceedings is totally vitiated
as because the provisions of Rule 9 of the Railway
Servants (Discipline and Appeal) Rules, 1968 has been
violated by the Inquiry Officer while conducting the
inquiry in question.
- ii) That in the first place the Articles of Charge
which was served upon me on 30.01.02 does not contain
distinct articles of charge, neither it contains any
statement of the imputations of misconduct nor any list
of documents on the basis of which the charges levelled
against me has been sought to be proved, has been
served upon me. I requested the authorities verbally on
several occasions to grant me an opportunity to inspect
copies of these documents, but I was not allowed to do
so. As such my defence in the inquiry in question has
been seriously prejudiced.
- iii) That secondly after submission of my written statement
of defence I was not granted any opportunity to submit
my list of witnesses as because the statement of Syed
Akhtarul Islam, ASM/Gate Cabin(ST-9) as recorded by
the Fact Finding Enquiry Committee in its report
was of utmost importance for the purpose of

Certified to be true Copy
Sadeka
Advocate

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(2)

my defence. As because on 12.12.2001 at 06.15 hrs. after being informed by me over auto phone to control 2435 DN by any means as 5657 UP was also proceeding to Guwahati via same line, he immediately informed both gate mans of ST-5 and ST-4 through magneto telephone to control 2435 DN and 5657 UP. Accordingly, Gateman of ST-4 controlled 2435 DN by placing detonator and by exhibiting Hand Danger Signal. 5657 UP was also stopped at the gate signal of ST-4. As such failure on the part of the Inquiry Officer to allow me to exhibit this vital piece of evidence in my defence has seriously prejudiced me.

iv) That initially one Shri A.K.Sharma was appointed as the Inquiry Officer and suddenly Shri P.S.Seal, AOM/GHY was appointed as Inquiry Officer. I was not apprised about his appointment. As such I could not appear before him on 18.10.2002 and 29.10.2002 and thus led to issue Memo No.T/2/54/01-02/LM dated 7.11.2002 directing the Cashier not to thereby compelling me to undergo a state of mental depression. This has my defence in the inquiry in question.

v) That the entire copy of the inquiry report as submitted by the Inquiry Officer along with the statement of witnesses was never served upon me so as to enable me to make a detailed representation to the Disciplinary Authority.

In fact I also highlighted this vital aspect of the matter in my representation dated 27.02.03 but the Disciplinary Authority has also not considered this aspect of the matter. Thus has prejudiced my defence in a serious manner in as much as because of absence of a complete inquiry report. I was prevented from filling an effective and substantial representation.

vi) That the manner in which the inquiry has been conducted left a lot to be desired. It is perhaps needless to state that the Inquiry Officer is expected to conduct the inquiry in a free and fair manner. In fact his powers are akin to that of a quasi-judicial authority. But, unfortunately the Inquiry Officer acted as the Presenting

(3)

Officer as well. In fact no separate Presenting Officer was appointed from the side of the administration. As a result of which he himself put question to the departmental witnesses and recorded the same. Thus acting as a Judge as well as Prosecutor, thereby, giving a complete go-by to the principles of natural justice and administrative fair play.

- vii) That apart the Inquiry Officer has proceeded on the basis of surmise and conjectures in holding me guilty of the charges, levelled against me, in as much as, even assuming a wrong route was set by me for 5657 UP on 12.12.2001. It ought not to have gone beyond the Advanced Starter Signal. In that case 2435 DN, which was coming on the South line would have stopped at the foot of the Down Home Signal. As such from the above it is clear that there was no chance of any collision at all. Therefore, it is quite clear that there was no application of mind by the Inquiry Officer while holding me guilty of the charges levelled against me. In fact the averted collision occurred because of the wrong doing of the Driver of 5657 UP as because he has disregarded the Advanced Starter Signal and had entered the block section of Kamakhya/Guwahati South track without any authority to proceed.
- viii) That the Inquiry Officer had totally failed to appreciate the evidence on record in recording a finding that, "Shri G.C.Nath was involved with the violation of basic rule for lowering of departure stop signal," inas much as he failed to appreciate the fact that "taking off" of Starter Signal does not given any authority to the Driver of 5657 UP to go beyond the Advanced Starter Signal at 'ON' position.
- ix) That in this connection it would be pertinent to mention that I am being made a scapegoat because of lack of the system of interlocking at Kamakhya Station at the relevant time. It is only after this incident that the Starter Signal has been interlocked with the Advanced Starter Signal (vide DRM(S)/LMG's letter No.

(4)

TW/KYQ (BG & MG) dated 17.01.02). This is a relevant consideration which deserves to be taken note off while examining my request to kindly lessen the punishment of 'removal' awarded to me as the same is not commensurate to the gravity of the offence committed by me.

As such under facts and circumstances stated above, I respectfully pray before your nobleself to kindly look into the matter afresh and kindly pass such order(s), which would be proportionate to the honest and bonafide mistake, committed by me.

Yours faithfully,

Sd/- Sri Girish Chandra Nath.
(Sri Girish Ch. Nath),
RASM/GHY at KYQ.

Copy to DRM/NFR/LMG in advance, with a request to take an early sympathetic action please.

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Certified to be true Copy
J. Della
Advocate

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ANNEXURE-G

N.F. RAILWAY

Office of the
DRM(S) LMG,

No.T/2/54/01-02/LM

Date : 29/7/2003

To,

Shri Girish Ch. Nath,
Ex-RASM/GHY
at Office.

Sub :- NIP of even No. dated 18/2/2003.

Ref :- Your appeal dated 21/4/2003.

In reference to your appeal against NIP cited above,
the appellate authority (ADRM/LMG) has passed the following
orders.

" I have gone through the full case and the appeal
made by Shri G.C. Nath, Ex RASM/GHY. After considering the all
aspects, I find that penalty imposed by DA holds good."

This is for your information please.

Sd/- Illegible

29.7.03

(Seal illegible)

INSTRUCTION :

Further review appeal against this order lies to COM/N F
Railway/Maligaon(next.immediate superior to the authority
passing the orders within 45 days).

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

(Seal illegible).

*certified to be true copy
J.D. Deka
Asst. Secy*

To
The Chief Operations Manager,
N.E. Railway,
Maligaon, Guwahati 781 001.

Respected Sir,

Sub: Appeal for review of the Punishment of Removal
imposed by Sr. DOM/LMG and upheld by ADRM/LMG

Ref: Sr. DOM/NFR/LMG's letter No. T/2/54/01-02/LM Dt. 29.07.03.

With profound respect and heavy heart I beg to make the following humble submission to your benevolent honour with the high hope that my prayer will receive the balance of your justice and an early sympathetic order passed so that this poor staff may get a chance to serve your good offices and prove my worth.

That Sir, arising out of the incident of an averted collision between 5657 up and 2435 Dn between KYQ-GHY on 12.12.2001, I was served with a Memorandum for imposition of Major Penalty by Sr. DOM/LMG on 30.01.2002 (Annexure- A).

That Sir, I pleaded not guilty of the charge vide my written defence dated 08.07.2002 (Annexure-B).

That Sir, surprisingly all of a sudden I received a letter Dt. 12.04.02 from the then AOM/GHY bearing the same No. as of the Sr. DOM/LMG's Memorandum informing that my defence against the charge sheet "is not considered satisfactory by Sr. DOM/LMG and enquiry into the above case has been ordered" advising me "to submit the name of your defence counsel if any, with consent letter in order to dispose off the case early." (Annexure-C).

That Sir, all of a sudden the AOM/GHY Sri A.K. Sharma called me and my Defence Counsel verbally on 07.07.02 and held a preliminary enquiry and again on 14.11.02. Sri P.S. Seal, AOM/GHY (after change of incumbency) held a second preliminary enquiry while I was never informed about their appointments as enquiry officer.

That Sir, the above was followed by regular hearings on 14.11.02, 18.11.02, 21.11.02, 12.12.02 and cross examining (?) me on 16.12.02 when 3 (three) out of 7 (seven) P.Ws only were examined and no reason given for not calling the remaining 4(four) Prosecution Witnesses and 2 (two) Defence Witnesses (whom I quoted during both the preliminary hearings. It was on 16.12.02 after examining me the learned E.O. all of a sudden vide his Q.No.5 asked me "Do you have anything more oral /written as a defence before Inquiry Officer?"

The time not being mature I replied that I had nothing to submit at that stage and the learned E.O. recorded the answer as "NIL".

Certified to be
true copy
Ali Mustafa Ahmed

@
7-9-03

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The learned E.O. suddenly declared the enquiry concluded on 16.12.02 and requested my Defence Counsel to submit his brief within 5 (five) days.

In none of the cases I was informed about the appointment of the Enquiry Officers as required under the rules.

That Sir, I am entitled to get copies of the day to day proceedings (GM/P/N.F.Rly.'s No.DAC/74 dt.19.8.65) but these were not given and I had to obtain Photo copies of the same on 06.08.03 from Sr. DOM/LMG's office which will prove that my Defence Counsel had to submit his written brief and my appeals dt.13.02.03, 22.02.03 and 21.04.03 had to be made without having this statutory documents in hand

That Sir, it may be perused from the learned E.O.'s one page enquiry report (Annexure - D) under the heading "Brief of the inquiry " 6th line that written as "During the inquiry all the desired defence witnesses were examined etc" while fact remains that I quoted only 2(two) defence witnesses during the preliminary enquiries and none of them were called to appear and adduce their witnesses which not only denied me a reasonable opportunity to defend my case and proved himself to be a perversive in a bid to arrive at the tailor made conclusion.

That Sir, the judicious Disciplinary Authority vide his N.P.P dt. 31.01.2003, forwarding a copy of the E.O's above Report dt. 27.01.2003 (Annexure-E) gave me only 10 days time to submit a representation, if any, while in terms of Rule-10 of the R.S. (D&A) Rules, 1968 read with Rly. Bd's L/No.E(D&A) 87 RG 6-15] dt.04.04.96 circulated under GM(P)/NF Rly.'s No.DAC/541 dt.30.05.96 I am entitled to get 15 days time for the purpose from the date of receipt of the N.P.P.

That Sir, here in this case the notice dated 31.01.03 was signed by the D.A. on 03.02.03 and delivered to me on 06.02.03 and without being able to contact my Defence counsel or any other Rlyman capable of helping me I hurriedly submitted a representation on 13/14.02.03 (Annexure-F) 15th & 16th being closed days followed by the final representation dated 22.02.03 (Annexure-G) but in the mean time the Disciplinary Authority served his N.I.P. dt. 18.02.03 (Annexure-H) imposing the severe punishment of Removal from Service on me without having any speaking orders in terms of Rly. Board's letter Nos. (1) E(D&A) 70 RG 6-17 dt.18.8.70 (2) E(D&A)78RG6-11 dt. 03.03.78 and (3) E(D&A) 86 RG 6 -1 Dt.20.01.86. The disciplinary authority did not apply his mind independently but depended entirely on the report of enquiry officer which was perversive and tailor made. This has miscarried the justice.

That Sir, from what has been submitted above your judicious honour will surely appreciate that the disciplinary Authority was in a hurry to prove the harsh and unkind punishment else otherwise since the N.P.P. was served on me on 06.02.03 I was supposed to get 15 days time from the date of receipt i.e. upto 21.02.03 and 22nd and 23rd being closed days I personally went to hand over the representation and delivered in respective offices on 24.02.03.

That Sir, even if I could manage to submit my second appeal even on 21.02.03 at GHY/KYQ the same would not have surely reached LMG before 24.02.03(Monday) and

It is unkind to issue the death sentence to me on 18.02.03 (Annexure -I) which your benevolent honour will surely appreciate.

That Sir, I preferred an appeal against the N.I.P. to the DRM/LMG on 21.04.2003 (Annexure -J) but as ill luck would have it the same has been turned down without assigning any reason (Annexure-K)

That Sir, your benevolent honour's attention is invited to the report of the Accident Enquiry Committee appointed by the General Manager, N.F. Rly with Senior Administrative grade officers namely-

- (1) Chief Safety Officer, N.F. Rly.
- (2) Chief Signal Engineer, N.F. Rly.
- (3) Chief Motive Power Engineer, N.F. Rly.

to enquire and submit the report.

That vide para 10.0 of the report, elucidating the **Remarks & Recommendation**- it was recommended that in a twin Signal line between Kamakhya and Guwahati. The feature of Starter Signal released by Advance Starter may be provided immediately.

The committee also recommended to convert the section into Conventional Double Line instead of present twin signal line because Conventional Double Line will give higher safety provision than Twin Single Line (relevant report para 10.0 is enclosed as Annexure-L)

The first part of the recommendation was implemented by DRM(S)/LMG vide No. TW/KYQ (BG & MG) of 17.1.02 by providing system of interlocking between Starter & Advance Starter Signals.

The proverb says, "Necessity is the mother of all invention". Here, at Kamakhya station on the relevant date of incident the system was unsafe, which gone un-noticed by the Authority. But the alleged incident of accident although was indicative one but also noticed and controlled by my effort without harming to any life or property has greatly contributed to the future safety aspect of Railways operations as revealed from the committee's report.

In view of what have been submitted above and considering that a disastrous impending accident could be saved because of the timely initiative taken by me in informing the on duty ASM at Gate Cabin No. ST/9 Sayed A. Islam as may be evident from his answer to Q Nos 3 and 8 of the Enquiry Proceedings dated 18.11.2002 (Annexure-M) saying-

"Q.3. How you have come to know that both the trains i.e. 5657 Up and 2435 Dn are in the same line?

Ans: I have come to know through telephonic advice from ASM, RRI Cabin/KHY Shri G.C. Nath about the fact that 5657 up has started in the South Track and 2435 Dn. has already started from GHY in the South Track.

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Q.8 In addition to Shri G.C. Nath ASM/KYQ did you inform by anybody else that both the trains i.e. 5657 Up and 2435 Dn. are in the same route?

Ans: No body informed except Shri Nath, ASM/KYQ."

The Gateman, Gate No. ST/4 Shri B.K. Parida also admitted during enquiry dated 21.11.02 (Annexure-N) that-

Q.4. How you have got information about both the trains in the same track?

Ans: I have been informed by on duty ASM/Gate Cabin about the incident and immediately I have decided to stop the 2435 Dn. by placing detonators on the track and thereafter rushed to KYQ and by showing red hand signal to stop 5657 Up which was approaching on the South Track. The Driver has stopped his train short of Gate Signal.

I am confident that my prayer will receive the balance of your justice as the Enquiry Officer, the Disciplinary Authority and the Appellate Authority, all remained silent on the above stated issues and did work only on the tailor made report of the Enquiry Officer. An early favourable order be passed and you would be gracious enough to reduce the severe punishment (removal), to save me and the members of my family from utter destruction and for which act of your kindness I shall remain grateful and shall ever pray.

I shall be highly obliged, if your honour grants me personal hearing with a defence counsel's help.

With profound regards.

Encl: Annexures-A to N
as above in 25 pages.

Dt. 07-09-2003 Guwahati

POSTAL ADDRESS:

C/o N.K. Das
Rly. Qtr.No.310/B
New Guwahati Rly. colony
P.O: Bamunimaidam, GHY
PIN-781021

Yours faithfully,

Sin *Girish Chandra Nath*
(GIRISH CH.NATH)
ASM/KYQ Removed.

Certified to be true copy
Ali Mustafa Ahmed, Adv.

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(5)

ANNEXURE - I

OFFICE OF THE
DRM(S)/LMG.

No. TK/KYQ (BG & MG)

Dated : 17-01-2002.

Sub :- Correction Slip No.1 to the Station Working
Rules of KYQ(BG & MG) Dated 26-5-2000.

3. AS Up Starter of KYQ Station have been interlocked with both North and South lines up Advance Starters, The page No. 21, 22 and 23 of Appendix-B to the SWR of KYQ have been according Ammended.

Replace old Page No. 21, 22 and 23 of
Appendix-B by new Page 21, 22, and 23.

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Certified to be true copy
G. DeKa
Advocate