

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

ORIGINAL APPLICATION NO. 1738/2000

SHRI/SMT. Sri Kant Prayapati APPLICANT

VERSUS

Union of India and others RESPONDENT

This application has been submitted to the Tribunal by
Shri/Smt. B. S. Mainee under Section 19 of
the Administrative Tribunal Act, 1985 and the same has been
scrutinised with reference to the points mentioned in the
Administrative Tribunal Act, 1985 and Procedure Rules, 1988.

The applicant has also filed a Misc. Application(s)
regarding (a) jurisdiction (b) joining (c) condonation of delay
and/or (d) Petition for Transfer. MA W/R 6 of CAT Procedure
Rules, 1988.

The application has been found in order and may be
listed in Court for admission/orders.

L.O. (Listing)

D.R. (J)

JOINT REGISTRAR

COURT NO. VII (C)

DATE 8/1/00

4/9

5/9/2000

5-9-2000

6/9

SB DB

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S.O. (Listing)

D.R. (J)

JOINT REGISTRAR

COURT NO. VII C

DATE 11/1/00

AP 738/m

FORM NO. 2

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

SB/DB

DB

REPORT ON THE SCRUTINY OF APPLICATION

Diary No. 1732

Presented By : B. S. Mainee Date of Presentation : 29.8.2003

Applicant (s) : Sri Kant Pragasari

Respondent (s) : Union of India and others

Nature of grievance : Removal

of applicants : One No. of Respondents :

CLASSIFICATION

Subject : Dismissal Department : Railway

तारीख का पुन
नियम दिया
5. Condon Date
4/5/04
प्र. निदेश (न्याय)
प्र. Registrar (S)

1. Is the application is in the proper form? (PROFORMA / COMPILATION)
(three complete sets in paper book form
in two compilations).

2. Whether name, description and address of
all the parties been furnished in the
cause title? Yes

(a) Had the application been duly signed and
verified? (SIGNED / VERIFIED)

(b) Have the copies been duly signed? Yes

(c) Have sufficient number of copies of the
application been filed? Yes

4. Whether all the necessary parties are impleaded? Yes

5. Whether English translation of documents in a
language other than English or Hindi been filed? Yes

6.(a) Is the application in time? Yes
(See Section 21)

(b) Is MA for condonation of delay filed? Yes

7. Has the Vakalatnama/Memo of appearance/OC
authorisation been filed? Yes

8. Is the application maintainable? u/s 2, u/s 14, u/s 18
(U/s 2, 14, 18 or U/R 6 etc). U/R 6, PT u/s, 25 file

9. Is the application accompanied by IPO/DD
for Rs. 50/-? Yes

10. Has the impugned orders original/duly
attested legible copy been filed? LEGIBLE/ATTESTED

11. Have legible copies of the annexure duly
attested been filed? LEGIBLE/ATTESTED

43, 45, 46, 48, 49, 51, 56, 57, 67 To 73
pno 35, 36, 38, 40

Was the index of documents been filed
and pagination done properly ?

FILED/PAGINATION

Has the applicant exhausted all
available remedies ?

Have the declaration as required
by item 7 of Form-I been made ?

Have required number of envelopes
(file size) bearing full address
of the respondents been filed ?

18.(a) Whether the reliefs sought for,
arise out of single cause of
action ?

(b) Whether any interim relief is
prayed for ?

7. In case an MA for condonation of
delay is filed, is it supported
by an affidavit of applicant ?

18. Whether this case can be heard by
Single Bench ?

19. Any other point ?

20. Result of the scrutiny with initial
of the Scrutiny Clerk.

The application is in order and may be registered and listed before
the Court for admission/orders on;

- (a) MA for joining - U/R (5) (a) / 4 (5) (b)
- (b) MA U/R 6 of CAT Procedure Rules, 1987
- (c) PT u/s 25 under At Act
- (d) MA for condonation of Delay;

OR

The application has not been found in order in respect at Item No(s)
mentioned below ;

- (a) Item Nos. 11
- (b) Application is not on prescribed size of paper.
- (c) MA U/R 4(5)(a) / 4(5)(b) has not been filed.
- (d) Application /counsel has not signed each page of the
application/documents.
- (e) MA U/R 6 has not been filed.

The application might be returned to the applicant for rectification
of the defects within 7 days.

SCRUTINY CLERK

SECTION OFFICER

D.R. (J)

JOINT REGISTRAR

COURT NO. DATE

The div. page have been got rectified. - Page page in
which a line or two were div - These have been explained.
Page 67 & 76. I have objection & raised
the Co

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

PRINCIPAL BENCH : NEW DELHI.

O.A. NO. 1738/2000.

SHRI SRIKANT PRAJAPATI,
S/o SHRI SUBEDAR PRAJAPATI. APPLICANT.

VS.

UNION OF INDIA & ORS. RESPONDENTS.

I N D E X

S. Particulars of documents relied upon. Page Nos.
No. -----

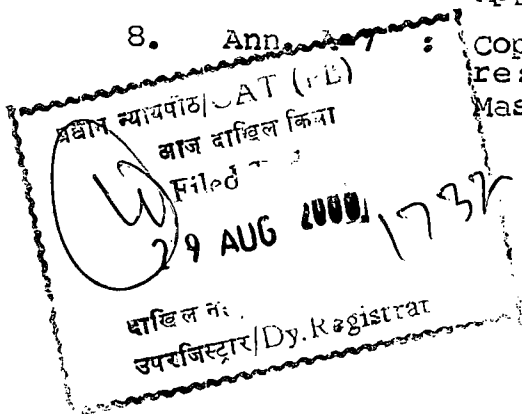
COMPLN. I

1. MAIN APPLICATION. 1-21

COMPLN. II

2. Ann. A-1 : Copy of order dt: 28.1.98 issued by Respondents, posting the Applicant as Bungalow peon. 22
3. Ann. A-2 : Copy of letter dt: 30.10.98 issued by the Respondents to the Applicant. 23
4. Ann. A-3 : Copy of written request dt: 10.11.98 submitted by the Applicant explaining his position. 24
5. Ann. A-4 : Copy of charge-sheet dt: 11.11.1998 issued by the Respondents against the Applicant. 25-31
6. Ann. A-5 : Copy of reply letter dt: 17.9.98 submitted by the Applicant. 32
7. Ann. A-6 : Copy of representation dt: 25.12.98 submitted by the Applicant to Respondents. 33
8. Ann. A-7 : Copy of letter dt: 18.1.99 re: Appointment of Shri Mohd. Masroof as Enquiry Officer. 34

..2..



| S. No. | Particulars of documents relied upon. | Page Nos. |
|--------|---|-----------|
| 9. | Ann. A-8 : Copy of Regd. A.D. letter dt: 24.1.99 submitted by the Applicant, requesting to join duty. | 35 |
| 10. | Ann. A-9 : Copy of Regd. A.D. letter dt: 26.1.1999 submitted by the Applicant, requesting Respondents to allow him to join duty. | 36 |
| 11. | Ann. A-10 : Copy of letter dt: 1.2.1999 issued by Respondents, refusing to postpone the enquiry on 9.2.99. | 37 |
| 12. | Ann. A-11 : Copy of letter dt: 17.2.99 sent by Applicant, requesting the Respondents to put up the case to Competent authority and to issue journey passes. | 38 |
| 13. | Ann. A-12 : Copy of letter dt: 9.3.1999 issued by the Enquiry Officer. | 39 |
| 14. | Ann. A-13 : Copy of detailed letter dt: 15.3.99 submitted by Applicant requesting for putting him on duty or placing him under suspension. | 40-41 |
| 15. | Ann. A-14 : Copy of letter dt: 30.3.99 issued by P.R.O. to see the Asstt. Secy. to G.M. on 16.4.99. | 42 |
| 16. | Ann. A-15 : Copy of letter dt: 6.4.99 sent by the Applicant, requesting for issue of journey passes. | 43 |
| 17. | Ann. A-16 : Copy of letter dt: 20 20.5.99 issued by the Enquiry Officer, directing the Applicant to appear before him on 20.5.99. | 44 |
| 18. | Ann. A-17 : Copy of representation dt: 11.5.99 submitted by Applicant to the Secretary to G.M., Rly. Electrification. | 45-46 |
| 19. | Ann. A-18 : Copy of letter dt: 8.6.1999 submitted by Applicant, nominating Shri Mohd. Ismail as his Defence Helper. | 47 |

[Handwritten signature]

| S. No. | Particulars of documents relied on. | Page Nos: |
|--------|---|-----------|
| 20. | Ann. A-19 : Copy of statements made by P.W. - Shri Vishwakarma, Office Supdt. (G). | 48-55 |
| 21. | Ann. A-20 : Copy of letter dt:21.7.99 issued by the Enquiry Officer, directing the Applicant to file list of documents & Defence witnesses. | 56-58 |
| 22. | Ann. A-21 : Copy of written statement submitted by the Applicant. | 59-62 |
| 23. | Ann. A-22 : Copy of statement of Shri I.N. Singh, Head Clerk recorded on 19.8.99. | 63-65 |
| 24. | Ann. A-23 : Copy of statement of Shri N.P. Singh, P.R.O. recorded on 26.8.99. | 66 |
| 25. | Ann. A-24 : Copy of Defence Note dt: 20.12.99 submitted by the Applicant. | 67-73 |
| 26. | Ann. A-25 : Copy of order of transfer of Smt. Meena Devi dt: 4.8.1999. | 74 |
| 27. | Ann. A-26 : Copy of order rendered by Hon'ble Tribunal dt:19.8.99 in OA No. 1771/99. | 75-78 |
| 28. | Ann. A-27 : Copy of order dt: 1.9.1999 passed by the General Manager, Rly. Electrification re: Cancellation of transfer order of Smt. Meera Devi. | 77 |
| 29. | Ann. A-28 : Copy of O.A.No.1771/99 filed by Smt. Meera Devi. | 78-87 |
| 30. | Ann. A-29 : Copies of letters dt:23.6.98 and 2.7.99 issued by the Respondents. | 88-89 |
| 31. | Ann. A-30 : Copy of representation dt: 31.1.2000 submitted by the Applicant to Respondents. | 90-91 |
| 32. | VAKALATNAMA <i>Rfhy</i> | 92-114 |

(B.S. MAINEE & MRS. MEENU MAINEE)
Advocates.
240, Jagriti Enclave,
Delhi - 92.

DATED: 29 / August, 2000.

Complete

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

PRINCIPAL BENCH : NEW DELHI.

O.A. NO. 1738/2000.

SHRI SRIKANT PRAJAPATI,
S/o SHRI SUBEDAR PRAJAPATI.

Ex. Bungalow Khalasi,
Under General Manager,
Railway Electrification,
Allahabad.

R/o House No. 53,
Gali No. 4,
Shastri Nagar,
New Delhi - 110 052.

... APPLICANT.

VS.

UNION OF INDIA

THROUGH :

1. SHRI N.P. SRIVASTAVA,
General Manager,
Railway Electrification,
Allahabad.
2. The Chief Liaison Officer,
Railway Electrification,
Tilak Bridge,
New Delhi.

... RESPONDENTS.

DETAILS OF APPLICATION

- 42
1. PARTICULARS OF THE ORDER AGAINST
WHICH APPLICATION IS MADE :

1.1 That the Applicant is aggrieved by the wrongful, illegal and unconstitutional action of Respondent No.1 who has removed the Applicant from service without passing appropriate orders, only because his daughter Ms. Teesa Srivastava at whose residence the Applicant had been deputed to work, has made a false complaint against the Applicant, to her father.

1.2 That the entire action against the Petitioner to remove him from service has been taken at the behest of Shri N.P. Srivastava, General Manager, who firstly had posted the Petitioner to work as a domestic

servant of his daughter in her house at Vasant Kunj, New Delhi and thereafter removed the Petitioner from service when she had lodged a false report with her father against the Petitioner.

2. JURISDICTION OF THE TRIBUNAL :

That the Principal Bench of the Hon'ble Tribunal has the territorial jurisdiction to entertain and try this application because the Applicant was working at New Delhi when he had been removed from service. Further, the petitioner is residing at New Delhi and belonging to the poorest section of Society, it will be convenient for him to conduct his case at Delhi.

3. LIMITATION :

That the Applicant further declares that the application is within the limitation period as prescribed in Section 21 of the A.T. Act, 1985.

4. FACTS OF THE CASE :

4.1 That the Applicant was appointed as Bungalow Khalasi in the pay scale of RS. 750 - 950 to work with Shri N.P. Srivastava, Adviser (Budget), working in the Railway Board's Office, initially for three months from 19.6.1996 to 18.9.1996 vide Respondents' letter dated 19.6.1996.

4.2 That subsequently, in terms of letter dated 24.10.1996, the working period of the Applicant was extended from 19.9.1996 to 30.9.1996 and again from 1.10.1996 to 31.12.1996. Similarly, the said working period of the Applicant had been extended from time to time and the Applicant had been continuously working

as Bungalow Khalasi.

4.3 That subsequently, Shri N.P. Srivastava was promoted and posted as General Manager, Railway Electrification at Allahabad, but while going to Allahabad, the said Shri N.P. Srivastava, Respondent No.1 posted the Applicant at Delhi itself to work at the residence of his daughter Ms. Teesa Srivastava, who was living in a private house at Vasant Kunj, New Delhi. She was living alone and was self-employed. She used to come back at her residence late at night, sometimes in an imparadicated condition with her several friends and directed the Applicant to cook meals for all of them. The Applicant was required to work as Domestic Servant to her for cooking her meals, cleanliness of the house, utensils, etc. A copy of the order vide which the Applicant was posted in Delhi dated 28.1.1998 is annexed hereto and marked as Annexure A-1.

Ann. A-1

4.4 That the Applicant had been working at the residence of the daughter of Shri N.P. Srivastava and had been performing all the house-hold duties as per the requirements of Respondent No.1's daughter.

4.5 That Respondent No.1's daughter had been torturing the Applicant manually as well as physically and had been insisting that the Applicant should work for full 24 hours at her residence and at the slightest pretext used to reprimand, abuse and assault the Applicant.

4.6 That inspite of the fact that dedicated and obedient services the Applicant had been rendering, the

said daughter Ms. Teesa Srivastava made a false complaint to her father (Respondent No.1) that the Applicant was absent from his duty from 8.6.1998 and as such, a letter was addressed to the Applicant on behalf of the General Manager, Railway Electrification on 30.10.1998, directing him to appear in the office of the General Manager, Railway Electrification, Allahabad. A copy of the said letter dated 30.10.1998 is annexed hereto and marked as Annexure A-2.

Ann. A-2

4.7 That the Applicant accordingly appeared in the office of the General Manager, Railway Electrification, Allahabad and explained his position that the complaint made by Ms. Teesa Srivastava was false and the Applicant had never absented from duty. He, therefore, gave a written request on 10.11.1998, requesting for permission to join duty. A copy of the said letter dated 10.11.1998 is annexed hereto and marked as Annexure A-3.

Ann. A-3

4.8 That thereafter, on the behest of the General Manager, Railway Electrification, one Shri N.P. Singh who was working as Public Relation Officer, Railway Electrification, issued a charge-sheet dated 11.11.1998, alleging that the Applicant had been absenting unauthorisedly with effect from 8.6.1998 without any leave or permission from the Competent authority and, therefore, violated the Government Conduct Rules. A copy of the said charge-sheet dated 11.11.1998 is annexed hereto and marked as Annexure A-4.

Ann. A-4

4.9 That in this regard, it is respectfully submitted that although the Applicant had been deputed to work at the residence of Ms. Teesa Srivastava at her residence at Vasant Kunj, New Delhi, but his attendance was being marked and payment was being made under the Chief Liaison Inspector, Railway Electrification, Tilak Bridge, New Delhi.

4.10 That although the Applicant was working continuously at the residence of General Manager, Railway Electrification's daughter, but maliciously and falsely a Muster Sheet was forged, showing the Applicant as absent in the Office of General Manager (E), Railway Electrification, Allahabad.

4.11 That the Applicant submitted his reply in terms of his letter dated 17.9.1998, denying the charges and also pointed out that the charge-sheet as issued to the Applicant, was illegal. A copy of the reply letter dated 17.9.1998 is annexed hereto and marked as Annexure A-5.

Ann. A-5

4.11 That the Applicant submitted another representation on 25.12.1998, requesting the Public Relation Officer, Railway Electrification to allow the Applicant to join his duty pending enquiry. A copy of the said letter 25.12.1998 is annexed hereto and marked as Annexure A-6.

Ann. A-6

4.12 That the Respondents committed an illegality of not allowing the Applicant to join his duty nor placing him under suspension during the enquiry as per Rules.

Ann. A-7

4.13 That the Public Relations Officer, Railway Electrification appointed Shri Mohd. Masroof who was working as Assistant Personnel Officer under Respondent No.2 as the Enquiry Officer vide his letter dated 18.1.1999, a copy of which is annexed hereto and marked as Annexure A-7.

Ann. A-8

4.14 That in terms of Registered A.D. letter dated 24.1.1999, the Applicant requested the Public Relations Officer, Railway Electrification, Allahabad to allow him to join duty during the pendency of the enquiry or to place him under suspension. A copy of the Registered A.D. letter dated 24.1.1999 is annexed hereto and marked as Annexure A-8.

Ann. A-9

4.15 That under the orders of Respondent No.2, the Applicant was being harassed and was denied the rights and privileges which are admissible to the charged officer. Neither the Applicant was being allowed to perform duty nor he was given any subsistence allowance and the Applicant was starving with his family. But, the Respondents did not take any mercy upon the Applicant on account of the deep prejudice and bias on the part of Respondent No.1, whose daughter had complained against the Applicant. The Applicant, therefore, sent another Registered A.D. letter dated 26.1.1999, requesting the Respondents to allow the Applicant to join duty and also requested the Enquiry Officer to hold the enquiry in the case. A copy of the said letter dated 26.1.1999 is annexed hereto and marked as Annexure A-9.

4.16 That the Applicant had also requested that his Defence Assistant was going out on pilgrimage and will be out of station upto 26.2.1999 and, therefore, the preliminary enquiry fixed for 9.2.1999 may be fixed in the first week of March 1999.

4.17 That the Enquiry Officer, however, under the wrongful and undue pressure of the General Manager, Railway Electrification issued a letter on 1.2.1999, refusing to postpone the enquiry. A copy of the said letter dated 1.2.1999 is annexed hereto and marked as Annexure A-10.

Ann. A-10

4.18 That since blatant injustice was being done to the Applicant, he submitted an application on 17.2.1999 to the Enquiry Officer indicating that neither the journey pass was being made available to the Applicant for travelling from Delhi to Allahabad nor the facility of Defence Helper is being given to him, nor he is being put back to duty during the pendency of the enquiry. The Applicant, therefore, requested the Enquiry Officer to put up the case to the Competent authority and get decisions regarding putting him back on duty and also to make journey passes available for attending the enquiry. A copy of the said letter dated 17.2.1999 is annexed hereto and marked as Annexure A-11.

Ann.A-11

4.19 That the Enquiry Officer, however, wrongfully, arbitrarily and maliciously rejected the request of the Applicant vide his letter dated 9.3.1999, fixing the date for hearing on 22.3.1999 without issuing

Ann. A-12

journey pass to the Applicant. A copy of the said letter dated 9.3.1999 issued by the Enquiry Officer is annexed hereto and marked as Annexure A-12.


4.20 That because the Enquiry Officer was not holding the enquiry in accordance with the Rules and was denying the facilities as are admissible to the charged officer and the bias against the Applicant was absolutely evident, he made a detailed complaint to the Public Relations Officer, Railway Electrification and also requested for permission to join duty or being placed under suspension. A copy of the said letter dated 15.3.1999 submitted by the Applicant is annexed hereto and marked as Annexure A-13.

Ann. A-13

4.21 That in reply to the aforesaid representation, the Public Relations Officer, Rly. Electrification informed the Applicant to see the Assistant Secretary to the General Manager, Railway Electrification on 16.4.1999. A copy of the said letter dated 30.3.1999 is annexed hereto and marked as Annexure A-14.

Ann. A-14

4.22 That in reply, the Applicant submitted a request to the Secretary to the General Manager, Railway Electrification for issue of journey passes for himself as well as for the Defence Helper to appear before the Enquiry Officer as well as before the Secretary to the General Manager, as desired. A copy of the said letter dated 6.4.1999 is annexed hereto and marked as Annexure A-15.


Ann. A-15


4.23 That the complaint made by the Applicant against the Enquiry Officer was rejected and the Enquiry Officer directed the Applicant to appear before him on 20.5.1999 for holding the preliminary enquiry. A copy of the said letter dated 7.5.1999 is annexed hereto and marked as Annexure A-16.

Ann. A-16

4.24 That the Applicant submitted a representation on 11.5.1999 to the Secretary to the General Manager, Railway Electrification, pointing out that the ground of not making available journey passes is incorrect, because the Respondents are not acting in accordance with the Rules and are not allowing the Applicant to perform his duty, nor he has been placed under suspension and, therefore, the contention of the Respondents was incorrect, illegal and mala fide and opposed to the principles of natural justice. A copy of the said letter dated 11.5.1999 is annexed hereto and marked as Annexure A-17.

Ann. A-17

4.25 That since Shri Kalra, Defence Helper of the Applicant had expressed his helplessness to defend the Applicant on account of his ill health, the Applicant nominated one Shri Mohd. Ismail as his Defence Helper and in terms of application dated 8.6.1999, requested for additional documents including attested copies of the letters dated 23.6.1998 and 2.7.1998 and also copy of the report regarding unauthorised absence along with some other documents. A copy of the said letter dated 8.6.1999 is annexed hereto and marked as Annexure A-18.


Ann. A-18

4.26 That in Annexure IV to the charge-sheet, the Disciplinary authority had listed the name of Shri R.S. Vishwakarma, Office Superintendent (G) as Prosecution Witness and the said P.W. was examined on 28.6.1999 by the Enquiry Officer. During the cross-examination Shri Vishwakarma made the following points :-

- (i) That the Applicant never appeared before him for marking attendance, but since he was working at the residence of the General Manager, Railway Electrification, thw P.W. was marking attendance as per information given to him by the Public Relations Officer or Secretary to the General Manager;
- (ii) That the Prosecution Witness admitted that although the Applicant was working at Delhi ^{private} at the/residence of the General Manager, yet his attendance was marked at Allahabad on the information being given to him about his attendance; and
- (iii) That, in his reply to Question No.24, the witness stated that the Applicant was working at Tilak Bridge, New Delhi at the private residence of the General Manager, Railway Electrification, where his family was residing.

4.27 That because the P.W. Shri Vishwakarma had stated that two letters dated 23.6.1998 and 2.7.1998 had been sent to the Applicant regarding his absence from duty; when asked where these two letters were



sent by him, he answered in reply to Question No.20 that the said letters were issued by Shri I.N. Singh, Head clerk (Estt.). Thereafter when Shri I.N. Singh was produced in the enquiry on 19.8.1999, his reply to Question No.1 was that the said two letters dated ^{not} 23.6.1998 and 2.7.1998 were/prepared by him, but the Secretary to the General Manager - Shri B.K. Sharma - called the witness in his chamber and gave copies of the said letters to him to place on the file and when the witness asked the Secretary to the General Manager whether copy of the letter had been despatched, the Secretary to the General Manager stated that these letters will go. A copy of the statements made by the Prosecution Witness Shri Vishwakarma, etc. is annexed hereto and marked as Annexure A-19.

Ann. A-19

4.28 That all the above facts clearly show that these two letters were fabricated by the Secretary to the General Manager and were never despatched.

Moreover, the address written on the said letters is also of Allahabad while the Applicant was deputed to work at New Delhi.

4.29 That when Shri I.N. Singh was asked that when the Applicant was working at New Delhi, why did he not point out to the Secretary to the General Manager that the address mentioned on these two letters was of Allahabad and whether these letters had actually been delivered to the Applicant or not,

the witness stated that he could not detect the mistake in the address of those two letters.

4.30 That after the examination of Prosecution witness Shri Vishwakarma was over on 19.7.1999, the Enquiry Officer asked the Applicant to submit list of documents as well as list of Defence witnesses. The Applicant submitted the lists on 21.7.1999. A copy of the said letter dated 21.7.1999 is annexed hereto and marked as Annexure A-20.

Ann.A-20

4.31 That the Applicant was also asked to give his written statement which the Applicant gave, a copy of which is annexed hereto and marked as Annexure A-21,

Ann. A-21

4.32 That in his statement, the Applicant, inter-alia, stated that after the transfer of Shri N.P. Srivastava to Allahabad, the Applicant was deputed to work at the residence of his daughter in her residence at Vasant Kunj, New Delhi and was performing the duties of cleanliness of the house and utensils, looking after the dak and cooking of food, etc. That he also performed all those duties which were required to be performed by the daughter of the General Manager by name Ms. Teesa Srivastava, who was living alone in the house. He further stated that one day she asked the Applicant to go to a Book Seller and bring some magazines which she had written on a piece of paper and when he brought those magazines, she became wild and scolded the Applicant that he had brought a wrong magazine which she had already read. When the Applicant informed her that on the slip which was given by her, the months in respect of which the magazines were required, had not been mentioned and as such,

the Book Seller had given a magazine of May 1998. On this, Ms. Teesa Srivastava became more annoyed and started abusing and slapping. The Applicant reported the matter to her father. The Applicant further stated in his statement that when he went to see the General Manager, Railway Electrification at Allahabad, the General Manager told him to go and ask for the forgiveness from his daughter at Delhi. The Applicant tolerated the said humiliation also and asked for a apology from Ms. Srivastava, but she refused to take the Applicant back and on the directions of Ms. Teesa Srivastava, the General Manager, Railway Electrification ordered disciplinary action against the Applicant. It is respectfully submitted that the Applicant is not explaining in full details the contents of his letter, since a copy of the said letter is being annexed hereto as Annexure A-21.

Ann. A-22

4.33 That thereafter, the statement of Shri I.N. Singh, Head Clerk was recorded on 19.8.1999, a copy of which is annexed hereto and marked as Annexure A-22.

Ann. A-23

4.34 That thereafter, the statement of Shri N.P. Singh, Public Relations Officer was recorded on 26.8.1999, a copy of which is annexed hereto and marked as Annexure A-23.

4.35 That after the enquiry, the Enquiry Officer directed the Applicant to submit his Defence Note which was submitted on 20.12.1999. A copy of the said Defence Note dated 20.12.1999 is annexed hereto

Ann.A-24

and marked as Annexure A-24-

4.36 That after holding the enquiry, no further action had been taken against the Applicant. Neither any order had been issued to terminate the service of the Applicant nor duty had been given inspite of repeated personal representations of the Applicant to the General Manager and Public Relations Officer.

4.37 That from the above, it will be seen that the charges levelled against the Applicant were false, baseless and fabricated. In fact, Ms. Teesa Srivastava, the daughter of the General Manager Shri N.P. Srivastava at whose residence at Vasant Kunj, New Delhi the Applicant had been deputed to work as her Domestic Servant, got annoyed on a very minor issue and turned the Applicant out of her residence and reported the matter to her father who dismissed the Applicant from service.

4.38 That the entire drama of disciplinary proceedings has been enacted at the directions of the General Manager, Railway Electrification and the officer Shri N.P. Singh, Public Relations Officer and the Enquiry Officer Shri Mohd. Ismail who were working as subordinate officers of the General Manager, had no option but to act in accordance with the wishes of the highest authority of the Railway Electrification, i.e. the General Manager Shri N.P. Srivastava.

4.39 That after the Applicant was turned out by Ms. Teesa Srivastava from her residence in June 1998, another Khalasi Mrs. (Shmt.) Meena Devi (Widow employee) working in the Railway Electrification, was



deputed by the General Manager - Shri N.P. Srivastava to work at the residence of his daughter Ms. Teesa Srivastava. When Ms. Teesa Srivastava one day became annoyed with Shmt. Meera Devi, she turned her out from her residence and reported the matter to her father Shri N.P. Srivastava. The General Manager without appreciating the facts of the case passed orders transferring the said Smt. Meera Devi from Delhi to Ambala by way of punishment. A copy of order of transfer of the said Shmt. Meena Devi dated 4.8.1999 is annexed hereto and marked as Annexure A-25.

Ann. A-25

4.40 That the said Shmt. Meera Devi challenged the said orders by filing an O.A. being No. 1771/99 alleging that the said order was mala fide because it was passed at the behest of the daughter of the General Manager, by name Ms Teesa Srivastava at whose residence Shmt. Meera Devi was posted to work as Domestic Servant.

4.41 That after the aforesaid O.A. was filed before this Hon'ble Tribunal, the Hon'ble Tribunal passed orders on 19.8.1999, restraining the Respondents from transferring Shmt. Meera Devi to Ambala and issued a Notice to the Respondents. A copy of the order passed by the Hon'ble Tribunal on 19.8.1999 is annexed hereto and marked as Annexure A-26.

Ann. A-26

4.42 That after the Notice was served upon Respondent No.1, he immediately cancelled the said order on 1.9.1999 and informed this Hon'ble Tribunal that the impugned orders have been cancelled.

Accordingly, the O.A. was disposed of as infructuous. A copy of the order passed by the General Manager on 1.9.1999, ~~is~~ cancelling the order of transfer of Shmt. Meera ^{DEVI} ~~Kumari~~ is annexed hereto and marked as Annexure A-27.

Ann. A-27

4.43 That copy of the O.A. No.1771/99 filed by Shmt. Meera Devi is annexed hereto and marked as Annexure A-28.

Ann. A-28

4.44 That the action of the Respondents against the Applicant in not allowing him to perform his duty is only because of a false complaint of Ms. Teesa Srivastava to her father.

4.45 That neither during the pendency of the enquiry nor even after the enquiry, the Applicant has been allowed to perform his duty nor any order has been passed

4.45 That the impugned charge-sheet and subsequent disciplinary proceedings are arbitrary, illegal, discriminatory and unconstitutional, inter-alia, on the grounds as mentioned in para 5 below :

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 That the charges levelled against the Applicant are absolutely false and baseless and the Applicant never absented from duty.


5.2 That although the Applicant was appointed as Bungalow Khalasi by the General Manager, but he was posted at the residence of his daughter Ms. Teesa Srivastava to work as a Domestic Servant.

5.3 That the Applicant belonging to the poorest section of the Society and scheduled caste also, could not protest against the aforesaid illegal action of the General Manager, Railway Electrification to save his job and earn his livelihood.

5.4 That although the action of the General Manager, Rly. Electrification Shri N.P. Srivastava to post the Applicant to work as a Domestic Servant at the private residence of his daughter Ms. Teesa Srivastava was absolutely illegal, yet the Applicant continued to work to the best of his ability as a Domestic Servant of Mr. Teesa Srivastava and did not protest even against the grave provocation and intolerable torture to which the Applicant was being put by the said lady.

5.5 That the Applicant even digested the stupendous humiliation of being abused and slapped in front of the friends of Ms. Teesa Srivastava. She had no mercy for the poor man or his family.

5.6 That the charges of unauthorised absence are false. The Applicant had never absented, much less any unauthorised absence. Immediately, the Applicant was turned out of the house of Ms. Teesa Srivastava, the Applicant went to Allahabad and met the General Manager, Railway Electrification (Respondent No.1) and narrated the incident to the General Manager, but the General Manager appeared to be afraid of his daughter and asked the Applicant to go back to apologise to his daughter and if she agrees, the Applicant will be taken back. The Applicant digested this humiliation also and went all the way to the residence of



the daughter of the General Manager, Railway Electrification, but she refused to relax, resulting in the charges and disciplinary proceedings.

5.7 That the Enquiry Officer was out and out biased against the Applicant. The Enquiry Officer was under pressure and undue influence of his boss Shri N.P. Srivastava and had no option but to give his findings against the Applicant. He did not even act in accordance with the procedure as also Statutory Rail Rules for holding the enquiry.

5.8 That the Enquiry Officer even refused to issue journey passes in favour of the Applicant for his journey to Allahabad and during the pendency of the case neither the pay was given to the Applicant nor any subsistence allowance was given to the Applicant.

5.9 That the Hon'ble Supreme Court in the case of Jagdamba Prasad Shukla has held that in case the charged officer is not given subsistence allowance during the enquiry, the enquiry proceedings are vitiated and the punishment was illegal and false.

5.10 That when the Applicant was admittedly working at the ~~private~~ residence of Ms. Teesa Srivastava, how his attendance could be marked at Allahabad. The muster roll was fabricated to punish the Applicant at the behest of the General Manager, who was the highest authority in the Railway Electrification at Allahabad.

5.11 That the statements made by the Prosecution witness clearly show that the entire case was concocted against the Applicant. The two letters alleged to have been sent to the Applicant on 23.6.1998 and



2.7.1998 were never sent by the Respondents and never received by the Petitioner. Copies of these two letters are annexed hereto and marked as Annexure A-29.

Ann. A-29

5.12 That no orders have been passed and no order has been received by the Applicant from the Disciplinary authority after the enquiry has been completed.

5.13 That although the Applicant has submitted a representation to the General Manager, Railway Electrification on 31.1.2000, requesting him to drop the charges against the Applicant and allow him to perform his duty, but no reply has been received. A copy of the said representation dated 31.1.2000 is annexed hereto and marked as Annexure A-30.

Ann. A-30

5.14 That the impugned action is arbitrary, illegal, unconstitutional and mala fide.

6. DETAILS OF REMEDIES EXHAUSTED :

That the Applicant has exhausted all the departmental remedies.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT :

That the Applicant further declares that he had not previously filed any application, writ Petition or any suit regarding the matter in respect of which this application has been made before any Court, authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.



8. RELIEFS SOUGHT :

8.1 That this Hon'ble Tribunal may be pleased to allow this application and quash the charge-sheet as also the subsequent disciplinary proceedings as being void ab-initio.

8.2 That this Hon'ble Tribunal may be further pleased to direct the Respondents to reinstate the Applicant with all consequential benefits.

8.3 That any other or further relief which this Hon'ble Tribunal may deem fit and proper on the facts and in the circumstances of the case may kindly be awarded in favour of the Applicant.

8.4 That the cost of the proceedings may kindly be granted in favour of the Applicant.

9. INTERIM RELIEF, IF ANY, PRAYED FOR :

NIL.

10. NOT APPLICABLE.

21 /
11. PARTICULARS OF THE POSTAL ORDER ATTACHED :

(i) No. of Postal Order

112263

(ii) Post Office from where issued

B. M.

(iii) Date of issue of Postal Order

29/8/00

12. LIST OF ENCLOSURES : AS PER INDEX

अभिषेक . अग्रवाल
Applicant

VERIFICATION

I, Srikant Rajapath

s/o Subedar Rajapath

aged about 25 years working as Bungalow Khallas

in the office of Under GM, Ry Electrification, Allahabad
c/o Brij Bhan, A/N-53, Gali No 4, Shastri Nagar,
and r/o New Delhi-52

do hereby verify that the contents of paras 1 to 4 of the above application are true and correct to the best of my knowledge and paras 5 to 12 are believed to be true on legal advice and that I have not suppressed any material fact.

Date = 29/8/00
New Delhi

अभिषेक . अग्रवाल
APPLICANT

through

(B.S. MAINEE / MEENU MAINEE)

Advocates

240, Jagriti Enclave,

Vikas Marg Extn.

Delhi - 110 092

Tel. : 2152172, 2166162



-३२-

11

प्रधान कार्यालय :
केन्द्रीय रेल विद्युतीकरण संगठन
इलाहाबाद - २११००१
Head Quarters Office :
Central Organisation
Railway Electrification
Allahabad - 211001
Telex - 540 | 290
Fax - 0532 | 803900

पत्रांक: जी-6/23/भाग-8,

दिनांक: 28.01.98.

उसकाधि/केरेविसं,
इलाहाबाद ।

विषय:- श्री श्रीकान्त प्रजापति के
वेतन के संबंध में ।

---xxx---

महाप्रबंधक महोदय के निर्देशानुसार श्री
श्रीकान्त प्रजापति को दिल्ली में काम करने हेतु
डिप्यूट किया गया है । वेतन भुगतान की सुविधा
हेतु कृपया जगले निर्देशा तक इनका वेतन जलग शीट
पर बनाने की व्यवस्था करें ।

१ सन ०५०१०१०१०१
को तो महाप्रबंधक इलाहाबाद,
केरेविसं/इलाहाबाद ।
२८/१/९८

.....

Attn: C. P. R.
11/8
PR 6

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-23-

12

प्रधान कार्यालय
केन्द्रीय रेल विद्युतीकरण संगठन
इलाहाबाद - 211001
Head Quarters Office :
Central Organisation
Railway Electrification
Allahabad - 211001
Telex - 5401290
Fax - 05321603900

पत्रांक: जी-6/23डीएसआर॥

दिनांक: 30-10-1998.

✓ श्रीकान्त प्रजापति,
आत्म्य/श्री सूबेदार प्रजापति,
ग्राम:- क्वीरमालपुर,
पत्रालय:- मोहनाथ,
जनपद:- आजमगढ़ ॥ उ० प्र० ॥

विषय: बिना सूचना कार्य पर अनुपस्थित रहना ।

संदर्भ: इस कार्यालय का समसंख्यक-पत्र, दिनांक :
23.6.98 तथा 2.7.98.

-----xxx-----

आप दिनांक: 8.6.98 से बिना कोई सूचना दिये अपने कार्य से लगातार अनुपस्थित चल रहे हैं । इस संबंध में आपको इस कार्यालय के समसंख्यक-पत्र, दिनांक: 23.6.98 एवं 2.7.98 द्वारा एक सूचना भी दिया गया है, परन्तु अभी तक आपने इस कार्यालय को किसी प्रकार की सूचना नहीं दी और न ही अपने कार्य पर उपस्थित हुए ।

अतः एक बार पुनः आपको सूचित किया जाता है कि आप इस पत्र के प्राप्त होते ही इस कार्यालय में उपस्थित हों, अन्यथा रेल आचरण नियम के अनुसार आपके विरुद्ध अनुशासनात्मक कार्यवाही की जा सगी ।

॥ सन० पी० सिंह ॥

कुते महाप्रबंधक ॥ ता॥

केरेवित्त / इलाहाबाद ।

- प्रतिलिपि:- 1. महाप्रकाश/उरे/बड़ौदा हाउस, नई दिल्ली को सूचनार्थ प्रेषित । चूंकि कर्मचारी का लियन उ० रे०, प्रधान कार्यालय में रखे-रखाव हो रहा है ।
2. उपमुख्य कार्मिक अधिकारी/केरेवित्त/इलाहाबाद को सूचनार्थ प्रेषित ।
3. व्यक्तिगत मितिल हेतु ।

.....

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- 24

A3

Shri Kant Singh
Elect. Secy. to G.M.
Central Rail Elect. Org.
Bikaner.

Sir,

Sub: Unauthorised absence.

...

In reference to your letter No. G6/23/D&R
Dt. 30.10.98 directing me to report for duty, I
beg to report for duty on date.

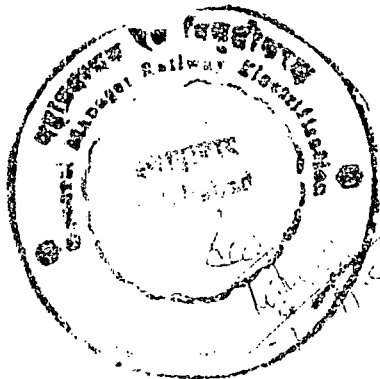
Kindly allow me to resume duty as I was
seriously ill and could not attend my duties early.

Thankin g you,

Yours fithfully,

श्री कान्त प्रजापति
(Sri Kant Prajapaty)
Bungalow Khallasi.
Under GM/RE.

Dated:- 10-11-98



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WESTERN RAILWAY

Standard Form No. 5.

STANDARD FORM OF CHARGE SHEET FOR MAJOR PENALTIES

(Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968)
office of issue

No. G-6/23/DAR

Dated 11.11.98.

MEMORANDUM.

The undersigned propose(s) to hold an inquiry against Shri Shri Srikant Prajapati, B/Kh. under rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968. The substance of the imputations of misconduct or mis-behaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure I). A statement of the imputations of misconduct or mis-behaviour in support of each article of charge is enclosed (Annexure II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexures III & IV). Further, copies of documents mentioned in the list of documents, as per Annexure III are enclosed.

2. Shri Shri Srikant Prajapati, B/Kh. is hereby informed that if he so desires, he can inspect and take extracts from the documents mentioned in the enclosed list of documents (Annexure III) at any time during office hours within ten days of receipt of this Memorandum. For this purpose he should contact ** OS(G)/RE/ALD immediately on receipt of this memorandum.

3. Shri Shri Srikant Prajapati is further informed that he may, if he so desires, take the assistance of any other railway servant/an official of Railway Trade Union (who satisfies the requirements of rule 9 (13) of the Railway Servants (Discipline and Appeal) Rules, 1963 and Note 1 and/or Note 2 thereunder as the case may be) for inspecting the documents and assisting him in presenting his case before the Inquiring Authority in the event of an oral inquiry being held. For this purpose, he should nominate one or more persons in order of preference. Before nominating the assisting railway servant(s) or Railway Trade Union Official (s), Shri Srikant Prajapati should obtain an undertaking from the nominee(s) that he (they) is (are) willing to assist him during the disciplinary proceedings. The undertaking should also contain the particulars of other case (s) if any, in which the nominee (s) had already undertaken to assist and the undertaking should be furnished to the undersigned alongwith the nomination.

4. Shri Srikant Prajapati is hereby directed to submit to the undersigned a written statement of his defence which should reach the undersigned within ten days of receipt of this Memorandum, if he does not require to inspect any documents for the preparation of his defence, and within ten days after completion

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-26-A4

1.2 CONDUCT AND DISCIPLINE RULES FOR RAILWAY SERVANTS

of inspection of documents if he desires to inspect documents and also.

- (a) to state whether he wishes to be heard in person ; and
- (b) to furnish the names and addresses of the witnesses, if any, whom he wishes to call in support of his defence.

5. Shri Srikant Prajapati, B/Kh is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

6. Shri Srikant Prajapati is further informed that if he does not submit his written statement of defence within the period specified in para 4 or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 19 of the Railway Servants (Discipline and Appeal) Rules 1968, or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry ex-parte.

7. The attention of Shri Srikant Prajapati is invited to Rule 20 of the Railway Services (Conduct) Rules, 1966, under which no railway servant shall bring or attempt to bring any political or other influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt within these proceedings, it will be presumed that Shri Srikant Prajapati is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the Railway Services (Conduct) Rules, 1966.

8. The receipt of this Memorandum may be acknowledged.

Encls: Annex. I, II, III & IV
& _____
Name & Designation of Competent Authority. जन सार्वजनिक अधिकारी
रेल विद्युतीकरण, इलाहाबाद
Public Relations Officer
By: Mr. N. P. Singh
Allahabad
To Shri Srikant Prajapati
B/Khalasi (Designation),
RE/Allahabad (Place, etc.)

Copy to Shri _____ (Name & designation of the lending authority) for information.

- * To be deleted if copies are given/not given with the Memorandum as the case may be.
- ** Name of the authority. (This would imply that whenever a case is referred to the disciplinary authority by the Investigating authority or any authority who are in the custody of the listed documents or who would be arranging for inspection of the documents to enable that authority being mentioned in the draft memorandum.

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-27

A4

Article of charges and allegations framed against
Shri Srikant Prajapati S/O Shri Subedar Prajapati,
Bungalow Khalasi under GM/CORE.

Charges: Un-authorized absence from duty and mis-
conduct.

Allegations: You are absen^ging un-authorizedly from
your duty w.e.f. 8.6.98 without any
leave or permission from the competent
authority and thus there is a prima-
facie evidence of misconduct and you
have violated the rule 3(ii) and (iii)
of Railway service conduct Rule-1966.

Annexure-II Shri Srikant Prajapati has been absen-
ting himself without any intimation and
permission since 8.6.98.

Annexure-III List of documents by which Article
charges is proposed to be substantiated

(1) Master sheet for the period from
8.6.98 and onwards up to date.

Annexure-IV List of persons by which the Article
Charge is proposed to be substantiated.

NIL

Dated: 11-11-98.

(*Ch. Pr. Singh*)
(*Ch. Pr. Singh*)
रेल विभाग, इलाहाबाद
Public Relations Officer
Rly. Electrification
Allahabad

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-28-

44

Annexure- I

Statement of Article of charges framed against Shri
Srikant Prajapati S/O, Shri Subedar Prajapati, Bungalow
Khalasi under CM/CORE/ALD.

.....
While working as Bungalow Khalasi at CM's Bungalow
he has committed misconduct and he is absenting unauthorisally
from his duty w.e.f. 8.6.98 without any leave or permission
from the competent authority and thus he has failed to
maintain absolute integrity devotion to duty and acted in
a manner unbecoming of Rly. servant and thereby contravened
Rule 3.1 (ii) & (iii) of Rly. service conduct Rule 1966.

(N.P. Singh)

PRO/CORE/ALD.

प्रमुख सम्पर्क अधिकारी

रेल विद्युतीकरण, इलाहाबाद

Public Relations Officer

Rly. Electrification

Allahabad

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-29

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Annexure- II

Statement of imputation of misconduct / misbehaviour based on which the Article of charges framed against Shri Srikant Prajapati S/O Shri Subedar Prajapati, Bungalow Khalasi under GM/CORE are proposed to be sustained.

He has been unauthorisidly absenting himself from his duty since 9.6.99 without any leave or permission from the competent authority and thus he has failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of Rly. servant and thereby contravened Rule 3.1 (ii) and (iii) of Rly. service conduct. Rule 1966.

(N.P. Singh)
PRO/CORE/ALD.
रेल सम्पर्क अधिकारी
रेल विद्युतीकरण, इलाहाबाद
Public Relations Officer
Rly. Electrification
Allahabad

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30

14
Annexure-III

List of documents by which Article of charges framed against Shri Srikant Prajapati S/O Shri Subedar Prajapati B/Khalasi under CM/CORE are proposed to be sustained.

Master sheets for the period from 8.6.98 and onward.

(M.P. Singh)
PRO/CORE/M.D.
जन सम्पर्क अधिकारी
रेल विद्युतीकरण, इलाहाबाद
Public Relations Officer
Rly. Electrification,
Allahabad

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31-

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Annexure- IV

List of witness by whom the Article of charges framed against Shri Srikant Prajapati S/O Shri Subedar Prajapati, 9/Khalasi under GM/CORE are proposed to be sustained.

1. Shri R.S. Vishwakarma, O.S. (3)/CORE.

(Signature)

(N.P. Singh)
PRO/CORE/ALD.

सह सम्पर्क अधिकारी

रेल विद्युतीकरण, इलाहाबाद
Public Relations Officer

Rly. Electrification

Allahabad

ATTESTED
(Signature)

-32-

AS

Recd. A/D.

To: Sh. N. P. Singh,
The Public Relation Officer,
Rly. Electrification,
Allahabad.

Sir,

Re:- DAR case against Sh. Sri Kant Prajapati,
B/Kh.

....

1. In reference to memorandum of Chargesheet for imposition of major penalty bearing No. G-6/23/DAR dt. 11.11.98 served on me on 12.11.98 in the office of RE/ALD when I reported for duty in response to your office letter No. G-6/23/DAR dt. 30.10.98, I beg to submit as under :-
2. That I deny the charge framed against me in as much as it is false, fabricated and baseless.
3. That as per extant rules, the copies of all relied upon documents are required to be supplied to the delinquent employee alongwith the charge sheet, which unfortunately has not been supplied. Kindly arrange to supply the same.
4. That as per extant instruction each annexure of the charge sheet i.e. Annex ure I, II, III and IV is required to be seperately served on the employee, duly signed which may now be done.
5. That as per extant rules, the charge sheet showing Annexure IV as NIL, is in complete necessary amendment may also be made in Annexure - IV accordingly.
6. That after receipt of your reply I shall submit the name of my defence heloer.

Yours faithfully,

सि.क.प्राजापति

(Sri Kant Prajapati)
B/Khallasi
House No. 432,
Babu Bypass Krishna Nagar,
Ghaziabad, U.P.

सि.क.प्राजापति

17-11-98

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To,

The Public Relation Officer,
Railway Electrification,
Allahabad.

X/Sir,

Sub:- DAR case again Sh. Srikant Prajapati,
B/Khallasi.

.....

In reference to your letter No. G-6/23/D&R dated 30.10.98 directing me to report for duty, I reported for duty on 10.11.98.

Instead of permitting me to resume duty, I was served with the memorandum of chargesheet for imposition of major penalty in the Office itself on 10.11.98.

I have already submitted my Defence to charge sheet but I have not yet been allowed to resume duty. Since the charge framed against me are required to be inquired into and will take due time, I may please be allowed to resume duty.

Thanking you,

Dated: 15.12.98.

Yours faithfully,

(Srikant Prajapati)
Bungalow Khallasi

Address:

90A Samrat Prajapati

J-60
Khema Kabra
Nai Basti

Kailangant

Delhi (110007)

TRUE COPY

ATTACHED

Date 23.1.99

Reg. No. 101/101

34

47

APPENDIX II

335

STANDARD FORM NO. 7

Standard Form of Order Relating to Appointment of Inquiry Officer/Board of Inquiry [Rule 9(2) of RS (D&A) Rules, 1968]

No. G. 6/2387/DAR
Railway Rly. Electrification
Place of issue Allahabad
Dated 13.1.99

ORDER

Whereas an Inquiry under Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968 is being held against Shri. Srikant Rajapati, B.Khalasi
(Name and designation of the Railway servant)

AND WHEREAS the undersigned considers that a Board of Inquiry/an Inquiry Officer should be appointed to inquire into the charge framed against him.

NOW, THEREFORE, the undersigned, in exercise of the powers conferred by sub-rule (2) of the said Rule, hereby appoints.

A Board of Inquiry consisting of:

| Name of Member | Designation |
|----------------|-------------|
| 1. / | / |
| 2. / | / |
| 3. / | / |

OR

Shri. Mr. Masood APO/RE/ALD
(Name and designation of the Inquiry Officer)

as Inquiry Officer to inquire into the charges against the said Shri. Srikant Rajapati, B.Khalasi 15 6/11

Signature /
Name /
(Designation of the Disciplinary Authority)

Copy to:

Shri. Srikant Rajapati, B.Khalasi 15 6/11
(Name and designation of the Railway servant)

Copy to:

1. Shri. Mr. Masood APO/RE/ALD
(Name and designation of the Member) Delhi - 110007

2. Shri. /
(Name and designation of the Member)

3. Shri. /
(Name and designation of the Member)

Shri. Mr. Masood APO/RE/ALD
(Name and designation of the Inquiry Officer)

TRUE COPY
ATTESTED

Registered A/D

Public Relation Officer,
Railway Electrification,
Allahabad.

Sir,

Reg : DAR case against Sh.Prajapati B/Kh.

1. your kind attention is drawn to my applications dated 10.11.98 (personally submitted in your office/duty acknowledged by your office) followed by my applications dated 17.11.98, 25.12.98 and 5/1/99 (Sent under Registered cover) requesting therein to allow me to resume duty.
2. In reference to your office letter No. G6/23/D&AR dt. 30.10.98, I had reported for duty on 10.11.98 but I was not allowed duty without assigning any reason. Since then I had been pleading for duty vide my applications referred to in Para 1 above but of no avail.
3. Since the Inquiry officer has been nominated and I am fully cooperating, I may please be allowed to resume duty or alternaturely the Adm. may put me under suspension.
4. To keep an employee away from duty without assigning any reason is against the extant-Rules and is in violation of the Fundamental Rules.

Dated : 24.1.99.

yours faithfully,

Sd/-

(Sri Kant Prajapati)



Shri Mohd. Masroof
Enquiry officer/APO/CORE/ALD..

Dear Sir,

Reg : DAR Inquiry against Sh.Srikant prajapati.

In reference to your letter No. RE/P/SKP/D&AR dated
21.1.99 I beg to submit as under :-

2. Since our programme of the whole family was scheduled long ago, we shall not be available in Delhi upto 26.2.99 visiting so many places including Kanrya Kumari/Prandrum. It is therefore requested that another date in first week of March may please be fixed for preliminary Inquiry.

3. The delinquent employee Sh.Srikant Prajapati has neither been allowed to resume duty nor alternatively, put under suspension as he is under completing circumstances residing at Delhi. In view of this he may also be issued with IInd class pass for NDLS TO AID to back to turn his journey.

4. As preliminary Inquiry is being held to sort out the preliminary I shall be grateful if the Inquiry is held at Delhi/NDLS.

5. In class Pass No. 054/69 dated 2.1.99 is enclosed for cancellation.

DA as above.

26.1.99.

yours faithfully,

sd/-

(B.D.Kalra)

Retd.Sr.vig.Inspector.



37 4/10

Headquarters Office
Central Organisation
Railway Electrification
Allahabad

No. RE/P/SKP/D & IR/

Dated: 1.2.1999

Sri Srikant Prajapati,
Substitute A/Khalasi,
C/O Shri Saneru Ram,
J-63, Khama Ram Katre,
Bai-Basti, Kishanganj,
Delhi-7.

Sub: D & R enquiry.

Ref:- Your application dated 16.1.99 (received on 1.2.99)
for postponement of DAR enquiry.

....

With reference to above, you are hereby informed that
as already intimated vide my letter of even no. dated 21.1.99,
the date 9.2.99 has been fixed for preliminary hearing only.

It can not be postponed due to non availability of
your Defence assistant.

You are, now also advised that no Railway Pass is
admissible to cover your journey ex KMS to ALD and back
in connection with above DAR enquiry and you have to make
your own arrangements for the same.

You are advised to attend at the time, date and venue
already fixed vide my letter of even no. dated 21.1.99
(i.e. at 11.00 hrs. in my chamber on 9.2.99).

(Mohd. Masroof)

E.O./APO/COR2/Allahabad.

2-2-99

....

[Handwritten signature]

-38-

A11

Shri Mohd. Masroof,
Enquiry Officer,
APC/CORE/ALD.

Sir,

Re: DAR Inquiry against Shri Kant Prajapathi.

1. In reference to your letter dt. 1.2.99 (under Registered cover) received me on 7.2.99, I beg to submit as under:-

2. That the decision communicated vide para 3 of your letter referred to above is unjustified and void of any reasoning supported by any rules in force in as much as that I am still a Railway servant and as such entitled to Railway passes for attending DAR Inquiry as per instructions contained in pass Manual. How strange it is that the pass is being issued to my Defence Helper and even the passes are issued to an outsider, other than Railway employees, when called for attending DAR inquiry, but myself still a Railway employee is being denied the legitimate right of getting passes to cover the journey to attend DAR inquiry.

3. That the said decision has been communicated to me without getting the approval/sanction of the competent authority.

4. That I am being forced to attend DAR Inquiry without my defence helper vide para 2 of your letter referred to above which is a denial of reasonable opportunity and against the law of natural justice.

5. That the case may please be put up to the competent authority for issuance of passes in my favour to enable me to attend DAR inquiry at Allahabad.

6. That the issue may also be decided by the competent authority as to why I am being denied the opportunity of resuming duty when the charges have already been framed against me and DAR Inquiry has been initiated. OR alternatively I may be put under suspension as per extant rules.

7. That there is no such rule in force which could permit the Administration to keep away the employee from duty, when he reported for the same. I reported for duty on 10.11.98, but till date I have neither been allowed to resume duty nor put under suspension as per rules.

8. That before fixing another date kindly arrange to get decision of the competent authority on the point raised in para 5,6,7 above.

Yours faithfully,

(Signature)

(Shri Kant Prajapathi)

Banglow Khallasi

C/O Sh. Samaru Ram, J-60, Khana Ram Katra,
Naibasti, Kishanganj, Delhi-5

Copy forwarded to the Disciplinary Authority with the request that necessary decision on any request in para 5,6,7, may kindly be communicated early to enable me to attend DAR Inquiry so that it could be finalised at an early date.

TRUE COPY
ATTESTED

25

~~39~~ *Royal*
Headquarters Office
Central Organisation
Railway Electrification
Allahabad

No. RE/P/SKP/D & AR/

Dated: 9.3.1999.

Sri Srikant Prajapati,
Sub. B/Khalasi,
C/O Sri Samaru Ram,
J.60, Khema Ram Katra,
Naibasti, Kieanganj,
Delhi-7.

Sub:- Departmental enquiry into charges framed
against Sri Srikant Prajapati, Sub. B/Khalasi
of GM/CORE.

...

Ref:- Your representation dated 17.2.99.

...

A copy of my letter of even no. dated 1.2.99 stated
to have been received by you on 7.2.99 was also delivered
to you through Special messenger under clear acknowledgement
on 2.2.99. Despite that you failed to attend preliminary
enquiry on 9.2.99.

I am giving you an other chance to attend the
hearing on 22.3.99 alongwith your defence assistant,
at 11.00 hrs in my chamber. In case you fail to attend
at appointed date and time, proceedings will be taken
exparte.

As regards issuance of pass to you, it has already
been intimated that no Railway pass is admissible to
cover your journey ex NDLS to ALD and back to attend
the enquiry, since you are residing at a place other
than your Headquarter at your own will, There is no
need of taking any body's approval.

M. Masroof
(Mohd. Masroof)
E.O./APO/CORE/Allahabad

Copy to Sri B.D. KAIRA, Retd. Sr. Vigilance Inspector,
N.Railway, FC 83, Tagore Garden, New Delhi- 110027 along
with 1st class Pass No. 05455 dated 9.3.99 ex
DLI/NDLS to ALD and back.

...

15 3 99
TRUE COPY
ATTESTED

-40 AB

To,
The Public Relation Officer,
(Disciplinary Authority)
Railway Electrification
Allahabad

Sir,

Reg:- D.A.R. Inquiry against Sh. Spikant Prajapati B/Kh

1. While drawing your kind attention to my representation dated 17.2.99 addressed to Enquiry Officer (Sh. Mohd Masroof) and copy sent to you for seeking decision in para 5,6,7, thereof I beg to submit as under (A copy of representation dated 17.2.99 is enclosed for ready reference).
2. That in reference to your letter No. 6G/23/D&R dated 30.10.98 I reported for duty 10.11.98, but I was not allowed to resume duty without assigning any reason and instead issued with the memorandum of charge sheet (SF-5) for imposition of major penalty on 10.11.98 itself in the office. That I submitted my defence to charge sheet but not yet allowed to resume duty. I had been pleading against the arbitrary decision of the Administration to keep ^{me} away from the duty or alternatively putting me under suspension, if the charges are so grave. No decision of the disciplinary authority has yet been communicated to me which is against the fundamental Rule.
3. Since I was neither being paid any salary nor subsistence allowance, under ^{compelling} circumstances I had to shift my headquarter temporarily to save myself from the clutches of starvation.
4. Now the Enquiry Officer (Shri Mohd. Masroof) started ^{intimidating} and coercing me by his unlawful method. When in reference to his letter dated 11.1.99 fixing the date of hearing as 9.2.99 at A.L.D., the enquiry officer was advised by my defence ^{hyper} vide letter dated 26.1.99 that he had his scheduled programme long ago for visiting number of place for which advance reservations were made, the request was made to fix another date in first week of March 1999, instead of appreciating the problem, he wrote a strong letter dated 1.2.99, ordering me to attend the Inquiry on the said date and time without my defence helper.
5. Since the pass was not being issued in my favour to enable me to attend Inquiry at A.L.D. I requested Enquiry officer as well as Disciplinary authority for issuance of the pass. However, A.L.D. advised me vide his letter dated 1.2.99 that such pass was not admissible. But when his attention was drawn to pass Rules at well so the ~~circumstances~~ ^{circumstances} under which I entrees to Delhi

-41- A13
- 2 -

(due to stravation) he in his letter dated 9.3.99 rejected my request on the plea that I was residing at Delhi at my own will.

6. The Enquiry officer is appointed by the Disciplinary authority to inquire into charges that is to assist the Disciplinary authority and nowhere the disciplinary authority delegates the power to E.O. to take decision at his own without getting approval/sanction of the disciplinary Authority. In case of issuance of pass, E.O. was specifically requested to obtain the orders of the disciplinary authority but I regret to state that he violated all the norms and advised that there was no need of taking any body's approval vide his letter dated 9.3.99.

7. Method adopted by the Enquiry Officer to intimidate and coerce me is a clear indication of his biased attitude. As such he may kindly be changed and another officer be appointed in his place (clarification(3) of Rule 9 of Rly Servant (DPA) Rules 1968).

8. It is also requested that the decision of the competent authority regarding permission of duty or alternatively placing me under suspension and issuance of pass in my favour may please be communicated. Rly Servant (Pass) Rules Schedule VII para 48 may please be passed.

Dated 15.3.99

B.D. Kalra
(B.D. KALRA)
Defence Helper

Yours faithfully,
Sri Kant Pradapathi
(SRI KANT PRADAPATHI)

Copy forwarded to Sh. Mohd. Masroof for information
1st Class Pass No.054557 is returned herewith.

TRUE COPY
ATTESTED



17/5/99
42

144 प्रधान कार्यालय
केन्द्रीय रेल विद्युतीकरण संगठन
इलाहाबाद - 211001
Head Quarters Office :
Central Organisation
Railway Electrification
Allahabad - 211001
Telex - 5401280
Fax - 05321603900

पत्रांक: जी-6/23/भाग- डीएआर,

दिनांक: 30.03.1999.

श्री श्रीकान्त प्रजापति, ✓

एवजी बंगला खलासी,
द्वारा:- श्री समाराम,
जे-60, खेमाराम कटरा,
नई बस्ती, फिशानगंज,
दिल्ली-7.

विषय: विभागीय जॉय के संबंध में ।

संदर्भ: आपका अभ्यावेदन, दिनांक: 15.3.99.

आपका संदर्भित अभ्यावेदन, जो इस कार्यालय में दिनांक: 22.3.99 को प्राप्त हुआ है, के संबंध में आपको सूचित किया जाता है कि आप सचिव/महाप्रबंधक महोदय के समक्ष दिनांक: 16.4.99 को व्यक्तिगत रूप से सुनवाई के लिए अवश्य उपस्थित हों ।

॥ एनओ पीओ सिंह ॥
कुले महाप्रबंधक ॥ता॥,
केरेविस/इलाहाबाद ।

प्रतिलिपि:- जॉय अधिकारी/सहायक कार्मिक अधिकारी, केरेविस/इलाहाबाद ।

Rk. Rai

TRUE COPY
ATTESTED

Regd/AD-43 (Rukhai By name)

SECRETARY to General Manager
Railway Electrification
Allahabad

115

28

Sir,

Sub. D.A.R. Inquiry against Sh. Srikanth Prajapati
Benglow Khallas

In reference to your office letter no G-6/23/Pan (D.A.R.) dated 13.3.99 advising me to appear before you on 16.4.99 for personal hearing, I beg to submit as under;

That no Pass to cover my Journey & NOK to A.D. Chak has been sent to me to enable me to attend your office. Since I am starving and have no money to purchase the ticket for my Journey and as per Rule I am entitled to Free Pass for attending Inquiry as already submitted in my application dated 15.3.99 kindly arrange to send me Free Pass in my favour.

As my Defence Helper has since been nominated and Inquiry proceedings initiated, I may be allowed to appear for hearing along with my Defence Helper and that case 1st class Pass may also be issued in his favour.

Yours faithfully

6.4.99

(B.D. KAIRA)

TRUE COPY
ATTESTED

Witnessed by

G.M. 90

(SRIKANT PRAJAPATHI)
90 Sh. Samany Ram
J-60 Khema Kutra
Nai Basti, Kishanganj
Delhi 110007

44 - A16

Headquarters Office
Central Organisation
Railway Electrification
Allahabad

REGD.

No. RE/P/SKP/D & NR/

Dated: 7.5.99.

Sri Kant Prajapati,
B/Khalasi,
C/O Sri Samaru Ram,
J-50, Khema Ram Katra,
Naibasti, Kicanganj,
Delhi-7.

REGISTERED!

Subj:- Departmental enquiry into charges framed
against Sri Srikant Prajapati, Subs B/
Khalasi of GM/CORE.

...

Your representation dated 15.3.99 levelling charges
of bias and coercion against undersigned, the E.O. having
been decided by competent authority vide letter No. G-6/23
/DMR/Unag 1 dated 7.5.99, you are advised that
preliminary hearing in the case will be held by me on
20.5.99 at 11 hrs. in my chamber. You are advised
to attend alongwith your defence assistant at the time
and venue mentioned above without fail.

In case, you fail to attend the proceedings will
be taken ex-parte.

(Mohd. Masroof)
(Mohd. Masroof)
EO/APO/CORE/Allahabad.

✓
Copy to: Sri B.D. Kalra, Retd. Sr. Vigilance Inspector/
N.Rly. F.C-83, Tagore Garden New Delhi alongwith Ist.
Class Pass No. 054681 dated 7.5.99 ex DLI/ADLS
to AID and back.

↑
Alongwith Ist-class
Pass no. 054681
dt. 7.5.99

TRUE COPY
ATTESTED

Secretary to General Manager,
Railway Electrification.
ALLAHABAD.

Sir,

Sub :- D&AR Inquiry against Sh. Srikant Prajapati
Bungalow Khallasi.

In reference to your letter No. G-6/23/DAR/Part-I

dated 7.5.99 communicating your decision on my representation dated 15.3.99 and 6.4.99 I beg to submit that the issue has not been appreciated properly perhaps due the improper feed back at the lever level.

2. In regard the personal hearing I had also requested for permission to appear for the same alongwith any Defence Helper in addition to grant of free pass but unfortunately the former part has been omitted which communicating the decision.

3. In Para.2 of your letter referred to above It has been mentioned that according to extant Rule I should have remained at Headquarter(AID) till the end of the proceeding of DAR, but that Rule also says that the employee when reports for duty, he may either be given duty or put under suspension and cannot be kept away from duty for indefinite time, unfortunately no decision on this point has been communicated by your goodself. Special reference was made in para 8 of my representation dated 15.3.99.

4. Since I have been kept away from duty against the extant Rules. I was forced to leave the Headquarter in order

Handwritten signature

to serve me from the clutches of starvation under compelling circumstances because neither was I getting salary nor subsistence allowance.

5. As the Administration is adamant not to allow me to resume duty in under violation of the extant Rules and also not to grant me pass to attend Inquiry at Allahabad is requested that for the Sake of natural Justice and reasonable opportunity the Inquiry proceeding may kindly be held at Delhi as most of the relevant record will be available at Delhi.

6. Early decision is solicited.

yours faithfully,

sd/-

(Sri Kant Prajapati)

c/o Ph. Samar Ram

J-60, Khema Ram Katra,
New Basti, Kishan Ganj,
Dlhi.

11.5.99.

sd/-

(B.D.Kalra)

Defence Helper.

copy forwarded to Enquiry Officer :

My defence Helper is suffering from acute ulcer and is not in a position to undertake journey as per advice of his medical attendant as such another date he filed Medical Certificate will be produced as when the Inquiry is fixed/held.



47

A18

To The Enquiry officer,
APO (CORE) / APO

Sub:— Departmental Enquiry into the
charges framed against me.

Ref:— your letter NO. RE/P/SRP/DAR of

Sir,
Further to the inspection of relied upon documents
(Mustersheet for the period from 8-6-98 and onward)
by myself alongwith my D. H. Sri Mohd. Ismail, on
on 3-6-99, the date fixed for the same, I beg to
submit the list of ~~the~~ additional documents
to be supplied, for study, preparation of defence
to and to prove my innocence.

1- Attested copies of G.M/CORE/APO's letter NO. G-6/-
-23/DAR of 23/6/98 and 2/7/98, as referred to
in the letter of same no. dt. 30.10.98, stated to be
sent to ~~my~~ me to report for duty and mode of
despatch alongwith copies of postal receipts, if any.

2- Attested copies of mustersheets relating to the period
of my attendance maintained at Head Quarters office
Allahabad, prior to the date of my ^{alleged} absenting from duty
on 8-6-98 and the copy of the transfer order NO. GA-7/99 (TP)
dt. 1-10-97 regarding my posting from NDLs to APO
~~alongwith~~ (not readily available with me), alongwith
the reference of transfer Passes issued in my favour
to cover up my journey from NDLs to APO.

3- A copy of ~~my report~~ ^{my report} ~~regarding my absence~~ ^{regarding my absence} ~~from duty~~ ^{from duty} ~~by controlling official~~ ^{by controlling official} ~~of my~~ ^{of my}
Besides above, I would like to inspect the
original paid vouchers ~~of~~ from the period of my
posting at APO, to ascertain the names of the Cashiers
and the ~~with~~ witnessing authorities, so that I
may submit the names of my defence witnesses.
However, the list of other documents required by me
will be submitted during the course of enquiry.

In the end it is requested to kindly complete the
enquiry at the earliest, so that I may be saved of heavy
cost express being increased in my journey from Delhi in
absence of Rly Passes, which have already been denied.

Yours faithfully
M. H. Ismail

Dt. 8-6-99

Mohd. Ismail

PO/ Khalasi
under G.M/CORE/APO

C/BSM Samant Ram

T/60, Khana Ram, Katta
Nai Basti, Kuthangari
Delhi - 7

TRUE COPY
14/6/99
ATTESTED

~~48~~ A19

DAR enquiry against Shri Srikant Prajapati, Subs. 1/Khalasi
of GM/CORE/ALD against charges levelled vide Memorandum
No. G-6/23/DAR dated 11.11.98.

Present :

Dated: 28.6.99

Mohd. Masroof, E.O./APO.
R.S. Vishwakarma, PW/OS/G/CORE.
Mohd. Ismail, Retired OS(Const)/NR/ (D.H.).
Srikant Prajapati, C.O.

Statement of Shri R.S. Vishwakarma. (PW)

Shri Srikant Prajapati has been absenting from his duty
w.e.f. 8.6.98 without any intimation to the office. He was
informed for his absence vide this office letter No. G-6/23
(DAR) dated 23.6.98 & 2.7.98. He was again informed to report
the office vide letter No. G-6/23(DAR) dated 30.10.98. He
came to the office on 10.11.98 along with an application
stating his fitness but no supporting Medical certificate
was given. Since Shri Prajapati was absenting unauthorisedly
without giving any intimation to the office he was served
Major Memorandum for violating the rule 3(iii) & (iii) of
Rly. service conduct Rules/1966 on 11.11.98. This was
acknowledged by him on 12.11.98.

Examination by E.O.

Q. 1. When Shri Prajapati reported to you on 10.11.98.
Did he state in writing or verbally that during
the period from 8.6.98 to the date of reporting
he was sick under some Doctor?

Ans. Shri Prajapati gave in writing that he could not
attend duty to his serious illness vide his
application dated 10.11.98 but no supporting Medical
certificate was given.

Q.2. Was he advised to come along with supporting Medical
certificate?

Ans. He was advised verbally to produce Medical
Certificate in support of his sickness.

Cross Examination by Shri Mohd. Ismail, D.H.

Q.1. Are you the controlling official in regard to attendance
of the Bungalow Peon including that of Shri Srikant
Prajapati?

Ans. Though I am marking attendance of Gr. 'D' categories
but the controlling Officer is PRO.

Q.2. Have you marked the attendance of Shri Srikant Prajapati
as shown in the Muster sheet supplied as relied upon
documents?

Ans. Yes.

Q.3. Did Shri Prajapati come to you in person to get his
attendance marked by you?

Ans. Since he was working at the bungalow of GM his attendance
was marked as per the information given by PRO or Secy.
to GM.

M. Masroof
E.O./APO
28/6

Mohd Ismail
PW/OS/G
28/6/99

Attn. Secy. to GM.
28.6.99

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49-

A19

- 2 -

Q.4. Whether PRO /secy to GM used to inform you in writing or verbally regarding present or absent of Shri Prajapati ?.

Ans. The information given verbally and the attendance is countersigned by PRO.

Q.5. Regarding absence of Shri Prajapati from 8.5.98 who informed you and when ?.

Ans. The information was given by PRO. everyday i.e. 8.6.98.

Q.6. (Showing the attested copy of the Muster sheet to Shri Vishwakarma as well as P.O. for the month of June/98) It is clearly seen that Shri Prajapati was marked 'P' on 8.6.98 & 9.6.98 by you but at later stage he was marked 'A' with overwriting without putting any initial. How did it happen.?

Ans. He was marked 'P' in anticipation in the morning as usual but later on the same day it was informed that he was not present.

Q.7. It was your obligatory duty to get the counter signature of the informing authority for making correction in the attendance sheet. But it has not been done, why ?.

Ans. Normally attendance get countersigned by PRO but in this case it was left inadvertently.

Q.8. Why it could not be got rectified at the time of issuing a letter to Shri Prajapati regarding his absence. I hope the muster sheet must have been consulted /Verified at the time of issue of the letter ?.

Ans. Since original Muster sheet is sent to Personnel branch and photocopy of the same is kept for office records, any correction in photocopy was not felt proper at the time of issuing a Memorandum or the letters.

~~Q.9. It was your duty to check the muster sheet at the time of issuing a letter to Shri Prajapati regarding his absence. I hope the muster sheet must have been consulted /Verified at the time of issue of the letter ?.~~

Q.9. (When did Prajapati resume his duty at Allahabad on his transfer from NDLG.

Ans. On having been released from NR he resumed duty at CORE on 1.10.97 (P.N.).

Q.10. Would you say with affinity that the dates on which he had been marked 'P' by you, Shri Prajapati remained at Allahabad ?.

Ans. Yes.

Q.11. Kindly confirm the availability of Shri Sri Kant at Allahabad on the under noted dates :-

26.11.97, 23.12.97, 23.1.98, 17.2.98, 18.3.98, 19.3.98, 9.4.98 & 27.5.98

Ans. As per Muster sheet he was available at Allahabad on 26.11.97, 23.12.97 & 23.1.98 thereafter he was deputed to TKJ as intimated to P branch for drawing his pay for payment at TKJ vide letter No. G-6/23/Pt. Viti dated 29.1.98. so he was at TKJ on the remaining dates..

Q.12. It means you have stopped maintaining the muster sheet of Shri Sri Kant Prajapati and it began to be maintained at TKJ ?.

Ans. The attendance was maintained at Allahabad.

TRUE
TESTED

50 - A-19

Q.13. What was the mode of payment of Shri Srikant Prajapati prior to ~~the~~ his deputation at TKJ. (you may consult record if you desire so).

Ans. Normally payment was arranged at Allahabad.

Q.14. What is the procedure ?. Whether do you advise the place of payment of the staff under your roll through the Muster sheet.

Ans. No. We simply send attendance to P branch and payment is arranged from there.

Q.15. How many B/Khalasis of GM/RE are in your Muster roll and who is the witnessing authority of their payment ?.

Ans. There are two B/Khalasis at GM's Bungalow. Their payment is normally witnessed by me alongwith the other Gr. 'C' & 'D' staff.

Q.16. It means you have witnessed the payment of Shri Srikant prior to his deputation at TKJ.

Ans. After consultation of these paid vouchers .This can be ascertained.

Q.17. From the perusal of the Muster sheet of Shri Srikant Prajapati it is observed that Muster sheet has been maintained separately and not allow with the other B/Khalasis. Why did so ?.

Ans. Before deputation to TKJ his attendance was maintained alongwith others.

Q.18. In this way the payment of Shri Srikant would have been arranged at Allahabad alongwith other B/Khalasi. What are you say in this regard ?.

Ans. Definitely but it is to be verified from paid Vouchers. by me, before giving any reply.

Q.19. From the perusal of GM/G's letter No. G-6/23/DAR dated 23.6.99 and 2.7.99 it is seen that Shri Srikant Prajapati was informed about his absence from duty but the address was mentioned as B/Khalasi /GM/CORE/ALD. -Can you say to whom the said letters were delivered and at which place.

TO BE CONTINUED ON 29.6.99 AT 10.00 HOURS

M. Rasim
28/6/99

M. Rasim
28/6/99

attest & record
28.6.99

TRUE COPY
ATTESTED

Present :

Mohd. Masroof, S.O./APO.
R.S. Vishwakarma, PW/OS/G/CORE.
Mohd. Ismail, Retired OS(Const)/NR (D.H.).
Srikant Prajapati, C.O.

Q.19. From the perusal of GM/G's letter No. G-6/23/DAR dated 23.6.98 and 2.7.98 it is seen that Shri Srikant Prajapati was informed about his absence from duty but the address was mentioned as B/Khalasi /GM/CORE/ALD-Can you say to whom the said letters were delivered and at which place.

Ans. I have nothing to say as these letters were not gone through me.

Q.20. Kindly mention the name of the official who has issued these letters?

Ans. The letters were issued by Establishment Clerk Shri I.N.Singh, Hd. Clerk.

Q.21. Shri Srikant Prajapati has been working as B/Khalasi in Bungalow of GM/CORE and he has is alleged to have been absenting from duty w.e.f. 9.6.98. From perusal of the PP-1 it appears that the noting for the sake has come on 23.10.98 and put up to the controlling officer since incumbent is attached with the highest authority of the RE organisation. Why so delay in taking suitable action against the incumbent was made i.e. after more than 4 months. ?

Ans. Action to be taken was not much delayed as he was already being informed through letters dated 23.6.98 & 2.7.98.

Q.22. In reply to Q.No.11 you have stated that Shri Srikant was deputed to TKJ vide letter No. G-6/23 /Pt.VIII dated 28.1.99. Can you say in what capacity and under whom he was working at TKJ ?

Ans. He was working as B/Khalasi at GM's Bungalow where GM's family were residing at Delhi.

Q.23. Whether GM/RE occupied Rly. Bungalow at TKJ after his coming at Allahabad on beyond 28.1.98 ?

Ans. No.

Q.24. It means Shri Srikant was employed at TKJ in the Private accommodation of GM /RE to reside with his family staying there ?

Ans. Yes.

Q.25. Has Srikant been paid any TA for the period he worked at TKJ ?

Ans. No.

Q.26. Can you ascertain whether Srikant was aware of his deputation at TKJ ?

Ans. He was deputed to work at TKJ as per PR's L.No.G-6/23/Pt.VIII dt 28.1.99 addressed to Dy. CPO/RE. No other records are available whether he was aware of his deputation.

29/6/99
R/S
29/6/99
DH 29/6/99
29.6.99

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ATTESTED

-52-

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- 5 -

Q.27. Kindly elaborate the duties of B/Peon .As an Office Supdt. you are supposed to know the same?

Ans. No duty list has been issued in CORE for B/Peon.

Q.28. When Shri Srikant Prajapati was taken back from TKJ to ALD from his deputation ? In support of which the Office order may kindly be quoted.

Ans. He was absconding from TKJ Delhi and no order for his coming back to Allahabad was issued till 8.6.98.

Some questions are to be replied by P.W. after consultation of paid Vouchers as stated by him. His replies will be recorded on the next date of hearing.

[Signature]
29.6.99

[Signature] Mohd. Ismail
29/6/98 DA 29/6/99
Post 05/4

श्री. न. य. शर्मा
29.6.99

TRUE COPY
[Signature]
ATTESTED

- 53 - A19

DAR enquiry against Shri Srikant Prajapati, subs. 3/Khilesi of 3M/CORE/ALD against charges levelled vide Memorandum No. G-5/23/DAR dated 11.11.98.

....

Dated: 19.7.99.

Present :-

Mohd. Masroof, EO/APO/CORE/ALD.

R.S.Vishwakarma, P.W./O.S.(G)/CORE/ALD.

Mohd. Ismail, Retired OS/Const/N.Rly/ALD (D.H.).

Sri Kant Prajapati, C.O.

Statement of Shri R.S.Vishwakarma (PW) -(contd.).

Q.29. I think you have consulted the paid vouchers and are in a position to state names of witnessing authority of payment of Sri Prajapati prior to his deputation at NDLS. If so kindly state their names with designation.

Ans. Payment of Oct and Nov/97 has been witnessed by CLI/RE/TKJ by Shri Brij Behari and payment of Dec./97 has been taken by Shri Mukund Singh, PRI/RE/ALD on pay authority at ALD. Payment for Jan/98 has been taken by Shri F. Karim, SSE(M)/RE/ALD on pay authority at ALD.

Q.30. Who have witnessed payment ~~authority~~ on pay authority for the month of Dec/97 and Jan/98 ?

Ans. Payment has been witnessed by me.

Q.31. Kindly state whether Shri Prajapati was present at ALD on 29.10.97, 29.11.97, 1.1.98 & 2.2.98 ? You may consult the Office records.

Ans. As per records he was at ALD on 29.10.97, 29.11.97 & 1.1.98 and at TKJ on 2.2.98.

Q. 32. Payment of Oct/97 & Nov/97 was witnessed by Shri Brij Behari, CLI/RE/TKJ at TKJ. As per records as stated by you Shri Srikant Prajapati was at ALD. How it is that payment has been arranged at TKJ?

Ans. I do not know about his physical presence and how his payment was arranged at TKJ. As per attendance he was at ALD.

Q. 33. What is the procedure of sending the Muster sheet to 'P' branch for drawing the salary. I mean upto what date you submit the A/Sheet & what is the ~~marked~~ ~~marked~~ date upto which actual attendance is marked ?

Ans. Actual attendance is marked upto 15th. of the current month and muster sheet is submitted to P branch by 16th. or 17th. of each month.

A.C. Masroof
19/7/99

19/7/99
19/05/99

19/7/99
19/7/99

[Signature]

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A-19

- 7 -

Q.34. It may be presumed the Muster sheet for the month of June/98 was closed on 15.6.98 and sent to P branch within a couple of days thereafter ?

Ans. The Muster sheet for June/98 was closed on 15th. June/98 & sent to P branch on 17th. June/98.

Q.35. From the perusal of paid Vouchers for the month of June/98 bearing Voucher No. RE/1135/98 dated 23.6.98 it is seen that salary of Shri Srikant Prajapati was drawn for 30 days i.e. full payment subsequently the payment for 7 days i.e. from 1.6.98 to 7.6.98 was drawn. Could you say how it is happen whether Muster sheet was submitted after preparation of the bill?

Ans. Attendance for 7 days i.e. for 1.6.98 to 7.6.98 was sent to P branch as usual. How his full payment was prepared and thereafter made correction can be explained by Bill Clerk.

Q.36. From the reply given by you during cross examination it is apparent that you merely marked the presence or absence of Shri Srikant Prajapati on the basis of the verbal information given by PRO and you had no knowledge about his physical whereabouts. It means you can not say with affinity that Shri Srikant was absenting from duty on an from 8.6.98. What you have to say in this regard.

Ans. As per system Attendance of B/Khalasi is marked on the basis of verbal information. Similarly the Attendance of Shri Prajapati was marked and I believe to be correct. The information in case of Shri Prajapati was given by PRO/Secy to GM. I can say with affinity that Shri Prajapati was absenting on an from 8.6.98.

Q.37. In your reply to Q.No.32 you have stated that you do not know about the physical presence of Shri Srikant Prajapati, B/Khalasi, but here you stated with affinity that Shri Prajapati was absenting from duty on & from 8.6.98. Which of the statement is correct ?

Ans. As regards attendance I depend upon information given by PRO/Secy to GM. which I believe to be correct.

The statement of P.W. witness concludes herewith.

P. Maswani
20/10/99

19/7/99
12/7/99
19/7/99

Hyd. Mail
19/7/99

19/7/99
19/7/99

TRUE COPY
ATTESTED

-55 A19

DAILY ORDER SHEET FOR REGULAR HEARING

Disciplinary Proceedings against Shri Srikanth Prajapati,
Subs B/Kh of GM/CORE.

Proceedings on 28.6.99 & 29.6.99

Present :

Mohd. Masroof, E.O./APO.
R.S. Vishwakarma, P.W./OS/G/CORE,
Mohd. Ismail, Retired OS/Const/WR/ALD (D.H.).
Srikanth Prajapati, C.O.

The proceedings started at 11.00 hrs. on 28.6.99. The C.O. was given additional documents as demanded by him vide application dated 9.6.99/14.6.99 with attested copies of GM/G/CORE/ALD's Letter No. G-6/23(DWR) dated 23.6.99 & 2.7.99, ~~containing~~ attested copies of PP-1 of Case file No. G-6/23/Pt.1 as a report regarding absention of Shri Prajapati from duty. Copies of Muster sheet prior to 3.6.99 have not been supplied for reasons conveyed through letter No. RE/P/SKP/DWR dated 15.6.99. As regards inspection of paid Vouchers a note has already been sent to AO/CORE on 21.6.99 detailing Voucher Nos. The C.O. has been advised to contact A.O./CORE and inspect the Bill Vouchers on date afternoon. Thereafter he will submit the list of defence witnesses as stated by him earlier.

After taking action as above the statement of P.W. Sh. R.S. Vishwakarma was recorded after which he was examined by C.O. and cross examined by D.H. The process continued upto 17.00 hrs. and it was decided to take up the case on 29.6.99 at 10.00 hrs.

On 29.6.99 the enquiry started at 10.30 hrs. the same persons who were present on 28.6.99 were also present on 29.6.99. The proceedings continued and statement of P.W. & cross examination of PW Sh. R.S. Vishwakarma continued upto 12.30 hrs. Since a couple of questions could not be replied by Sh. Vishwakarma in respect of which he stated to offer comments after consulting paid vouchers, the prosecution case remained inconclusive to this extent. Shri Vishwakarma replies will be recorded on next date of hearing.

In the meantime the C.O. will inspect paid Vouchers and submit the list of Defence witnesses indicating relevances of their statement to his case, and their full official addresses with name and designation and supervisors under whom they are working.

The next date will be fixed on receipt of list of Defence witnesses.

Mohd. Masroof
29.6.99

Mohd. Ismail
29/6/99
D.H.

TRUE COPY
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A20

The Enquiry officer,
APO/CORE/ALD

Sub: - DAR Enquiry into the Charges framed against me.

Ref: - your letter no. RE/P/SKP/DAR dt 12-7-99 and order sheet dt 17-7-99


After inspection of the paid vouchers for the month of Oct. 97 to June, 98, I submit herewith the names of defence witnesses and the list of documents that are essentially needed under the provision of reasonable opportunity, to defend my case suitably and establish my innocence from the Charges framed against me vide memorandum Charges ~~vide~~ dt 11-11-98.

Name of witnesses

- | | | |
|----------------------|----------------|--|
| 1- Sri Brij Behari | CL1/RE/TKJ | } Witnessing authority of my payment of wages at TKJ Received my wages on pay authority at ALD Disbursed my wages. |
| 2- " M. Singh | PR1/RE/ALD | |
| 3- " F. Karim | SSE/M/RE/ALD | |
| 4- " Panch Raj Singh | Cashier/RE/ALD | |

List of Documents

- 1- Attested copies of Muster Sheets for the month of Oct. 97 to May 98 - Already demanded dt 8-6-99, but denied on the plea that the relevancy not shown by me. It is now quite relevant in view of the concealing and twisting the facts, as have come to light from the statement of P.W., Sri R.S. Vishwakarma and after inspection of the paid vouchers.
- 2- Reference of Passes and Transfer allowance paid to me. Issued in my favour EX NDLS to ALD for carrying out my transfer work to to ~~re-sumpti~~ resume at CORE/ALD. Already demanded vide my application dt 8-6-99 but neither information given nor any remarks offered for the same.



Contd- P.2.

3- Attested copies of the Paid Vouchers along with the Pay Authorities pasted thereon (For the month of Oct. 97 to June, 98)

4- Attested Copy of Rly. Bd's letter NO. E (NG) III-72CD/51 dt. 3-1-76 circulated to all concerned vide CE/RB/ALD's letter NO. RE/E/38 dt. 20-9-83 on the issue of provision of B/Beons and their specified duties

5- Attested Copy of the order of my stated ~~deputation~~ deputation to TKJ. The reference of my duty pass EX ALD to TKJ. The actual date of resumption of my duty at TKJ

6- Reference of duty Passes issued in my favour, if any, for performing duty outside Hd. Qrs. Office, Allahabad on 29.10.97 & 29-11-97

In addition to above the statement of Sri I.N. Singh Hd. cl. GM/G/RE/ALD, is required to be recorded, examined and cross-examined to ascertain the authenticity of so called issue and delivery of letter no. G-6/23/DAR dt 23-6-99 and 2-7-99, 'informing me about my alleged absence. OS/G/RE/ALD, the P.W., has shown his inability to say any thing about these letters, which were stated to be issued by the said dealing staff. These letters appear to be fake and fabricated, added in the case file merely to enhance the gravity of the charged framed against me.

Further, the statement of PRO/RE/ALD, who used to inform the OS/G/RE/ALD ~~for his statement~~ verbally, regarding my attendance, is also required to be recorded. As per statement of OS/G (P.W.) the PRO/RE/ALD, was the authority, who informed him about my alleged absence wef. 8-6-98 and asked him to mark 'A' in the muster-sheet.

After inspection of these records it has become necessary to have the same to corroborate my defence statement at the appropriate time.

The OS/G/RE/ALD, the P.W., has denied, in his statement, for having been issued such instructions, for the reasons best known to him. This is required to show the misuse of a Govt. servant and ultimately playing with my service career.

I had never been informed about such order of my deputation to TKJ, to the best of knowledge. It has revealed from the statement of the P.W. that as per GM/G/RE/ALD's letter NO. G-6/23/Pt II dt. 28-1-98 I was deputed to work at TKJ and therefore payment arranged at TKJ

Required on the basis of remarks endorsed by PRO/RE/ALD, on the Pay Authorities for payment, for the month of Oct. 97 & Nov. 97

The relevancy of the appearance of the above mentioned witnesses and the documents is to bring out the truth by proving that:-

- 1- I never worked in G.M./RE/ALD's bungalow at ALD since after ^{his} coming to ALD as G.M./RE, as alleged vide Annexure I of the Memorandum of Charges.
- 2- I was put to ~~work~~ look after domestic work at G.M./RE's private house no. 3490, Block, D/3, Basant Kunj New Delhi, with his family.
- 3- I never absented from duty unauthorisedly, rather was expelled from the house and was not allowed duty thereafter.
- 4- Manipulation and false maintenance of my Muster Sheet at ALD, was made merely to establish my presence at ALD and payment arranged either at ALD on Pay authority or at TKJ through separate paysheet.
- 5- The letter NO-G-6/23/DAR dt 23-6-98 and 2-7-98 stated to be issued to me are fake and fabricated, merely to enhance the gravity of the Charges.
- 6- Misuse of a poor paid Govt. servant in contravention with the Rly. ~~Board's~~ Board's instructions as mentioned in para 4 of list of documents, has resulted in framing of charges against me with an ultimate motive to spoil my future service career.

Dated 21-7-99

EO is requested to ensure appearance of the above mentioned witnesses, other concerned official/officer and supply of informations/documents as applied for by the CO, to bring out the truth and to establish ^{his} innocence.

TRUE COPY
ATTESTED

Mohd. Ismail
Defence Assistant

Yours faithfully
M. A. G. O. 11/10/99
B/K. K. K. K.
C.O.

विभागीय जांच के सम्बन्ध में जांच अधिकारी
के समक्ष श्रीकान्त प्रजापति बंगला खलासी
का लिखित बयान

मैंने लिखित चार्जशीट संख्या जी-6/23/डी. ग. आर. दिनांक 11.11.78
द्वारा लगाये गये अभियोग के सम्बन्ध में मुझे यह कहना है कि समस्त
अभियोग असत्य, निराधार एवं एक उच्च अधिकारी द्वारा अपने
अन्तर्गत कार्यरत एक निम्न स्तर के कर्मचारी के शोध का एक
अद्भुत नमूना है।

सचार्थ यह है कि जी. रम. महोदय के इलाहाबाद स्थानान्तरण
होने के पश्चात् मुझे उनके साथ इलाहाबाद स्थित बंगले में कार्य करने
का अवसर कभी भी नहीं दिया गया। इसके विपरीत जी. रम. महोदय
के दिल्ली स्थित बंगले का खाली करने के पश्चात् मुझे उनके बिली
बंगले संख्या 3490, ब्लॉक डी/3, लखनऊ, दिल्ली में उनकी
सुपुत्री टीसा श्रीवास्तव के साथ घरेलू कार्य करने के लिए रत दिया
गया था। जहां पर मैं घरेलू नौकर के समान काम करता था। उदाहरण
के लिए मैं लिंगे जाड़, धुंसा, घर की सफाई, कुत्ते की देखभाल
तथा अन्य कार्य जी. रम. महोदय की सुपुत्री टीसा श्रीवास्तव द्वारा
जोटाये गये कार्य को सुचारु रूप से करता था। उस बंगले में सुश्री
टीसा श्रीवास्तव के आतिथित ~~उन बंगले में~~ जी. रम. महोदय के पसोरा
का कोई और सदस्य नहीं रहता था। वह एक निरतन पहने का
कार्य करती थी। वह आवश्यकता अनुसार मुझसे कुछ पत्रकार व
अन्य सामग्री मुझसे मांगती थी। जो बहुधा सील मोहर बन्द होती थी।

अभाव्यतः एक दिन उनके आदेशानुसार कुछ पत्रकारों जहां मैं
लेकर आया तो उनको देखा कर मैंने उन्हें बरस पड़ी और उन्हीं
किताबों में मैंने ऊपर मारा और कहने लगी, "इन पत्रिकाओं (मई-78)
को मैं पढ़ चुकी हूँ, तुम्हें पुनः की पत्रिकाएं लाना था।" मैंने
जवाब दिया, "मेरा साहब आपने जो कुछ लिखकर दिया था, वह
मैंने दकानदार को दिया और उसने उसी के अनुसार पत्रिकाएं दी
थीं। मैंने अपने मन से कोई कार्य नहीं किया।" फिर मैं उन पत्रिकाओं
को लेकर दकानदार के पास गया और वह भारी बातें बतायीं। उसने
अनुर में बताया कि मैं किसी महीने का नाम नहीं था, इसलिए
मैंने मई महिने की पत्रिका दे दी थी। फिर भी उसने बरस कर पुनः
महीने की पत्रिका दे दी थी। जब मैं पत्रिका लेकर वापस आया

TRUE

ATTESTED

(क० प० ७०)

मुझे सुश्री लीसा श्रीवास्तव ने मेरे ही सामने अपने पिता जी.रम
महोदय से अंग्रेजी में काफी देर तक बात किया। उसके पश्चात
मुझसे कहा जाओ अब तुम्हारी ड्यूटी हो गयी और तुम्हें नौकरी
से निकाल दिया गया। मैं परेशान रौता हुआ क्षमा याचना
करता रहा, परन्तु शक भी सुनवाई न हुई। इसके पश्चात
मैंने जी.रम महोदय से सारी घटना बतलाने का निश्चय किया
और उनसे मिल कर अपनी व्यथा बतलाने को सोचा, अन्त
में मैं इलाहाबाद आया और जी.रम महोदय से मेट कर
अपनी बात बतई तथा मैंने उनसे यह भी आग्रह किया कि
मेरा कसूर बताया जाय और यदि मैंने कोई कसूर किया है
तो मैं सजा भुगतने के लिए तैयार हूँ। उन्होंने मुझसे अपनी
सुपुत्री सुश्री लीसा श्रीवास्तव से मिल कर क्षमा मांगने को कहा
और कहा कि = तुम्हें इयुटी पर वही लेगी, और मैं निराश हो कर
दिल्ली भाट गया। जब मैं दिल्ली उनसे मिला तो उन्होंने
इयुटी पर लेने से इन्कार कर दिया और कहा अब तुम्हें इयुटी
पर जी.रम महोदय अर्थात् मेरे पिता ही ले सकते हैं।

इस प्रकार मैं जी.रम महोदय, उनकी सुपुत्री सुश्री
लीसा श्रीवास्तव तथा आर.इ. कार्यालय में घुस कर काटता रहा।
परन्तु कोई सुनवाई न हुई और अन्त में मुझे पता चला कि मेरे
स्थान पर आनमगढ़ के पत्र पर शक पत्र सं. जी-6/23/डी.ग.आर
दिनांक 30.10.98 द्वारा मुझे इलाहाबाद कार्यालय में उपस्थित होने
के लिए कहा गया है। अभाग्यवश उस समय मैं लुरवार से पीड़ित
होने के कारण तुरन्त कार्यालय उपस्थित न हो सका। मेरे इलाज
दिल्ली में चल रहा था और डाक्टर द्वारा फिट बताने पर दिनांक
10.11.98 को मैं इलाहाबाद कार्यालय में उपस्थित हो गया। दृष्ट
का विषय है कि मुझे इयुटी देने के बजाय पार्जशील सं.
जी-6/23/डी.ग.आर. दिनांक 11.11.98 दे दिया गया। जिससे
मेरे विरुद्ध बिना बतारा इयुटी से गाने का अभियोग लगाया
गया था। मैंने अपनी बात बताने की चोटा की परन्तु कोई
सुनने के लिए तैयार नहीं था। ~~किसी भी प्रकार से मुझे इयुटी नहीं दी गई~~
~~मुझे इयुटी देने के बजाय पार्जशील सं. जी-6/23/डी.ग.आर. दिनांक 11.11.98 दे दिया गया।~~
मैंने घटनाओं
के कार्यालय के पत्र दिनांक 30.10.98 के अनुसार मैं इयुटी के
लिए उपस्थित हुआ हूँ। आगे बताया कि बीमार होने के कारण

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उपस्थित होने में कुछ देरी हो गयी, परन्तु मुझसे कहा गया कि यह ~~मैं~~ चार्जशीट पकड़ो। तुम्हारा सामाना मीटो जी.राम. महोदय से है। हम लोग कुछ नहीं जानते। उस समय मुझसे कोई मेडिकल रॉर्टिफिकेट नहीं मांगा गया था। ~~उस समय~~ अंतराव मैं अपने इस वयाग के साथ 22.10.98 से 8.11.98 तक बीमारी के सम्बन्ध में जिन्दल क्लीनिक रॉड हॉस्पिटल द्वारा जारिकीप्रमाण पत्र सलग्न कर रहा हूँ। इस बीमारी के सम्बन्ध में मैंने अपने प्रार्थना पत्र ~~11~~ दिनांक 10.11.98 को लिखा था।

राफ वार पुनः मैं कहना चाहता हूँ कि मुझ पर लगाया गया अभियोग सरासर असत्य और निराधार है, जिसके लिए निम्नांकित प्रमाण प्रस्तुत कर रहा हूँ।

1- मैं जी.राम. महोदय के वंगले में इलाहाबाद में कभी भी नहीं रहा अंतराव इलाहाबाद के जी.राम. के वंगले से बिना वतार अनुपस्थित होने का प्रश्न ही नहीं उठता।

2- मुझे इलाहाबाद में कार्यरत दिवाने के लिए मेरे स्थानान्तरण का आदेश सं. जी.रा. - 7/1997 (टी.पी.) दिनांक 01.10.97 जी.राम.पी. कौर ~~द्वारा~~ इलाहाबाद द्वारा जारी किया गया परन्तु वास्तविकता यह है कि मैं कभी दिल्ली से स्थानान्तरित होकर इलाहाबाद आया हूँ और मैंने कोई ऐसा आदेश मिला है मेरे जवाबदेगी के कागज पर मेरा हस्ताक्षर यह कह कर लिया गया था कि चूंकि जी.राम. महोदय इलाहाबाद में हैं इसलिए तुम्हारी ज़िम्मेदारी भी इलाहाबाद, श्री दिवाना पंडेगा राटि में इलाहाबाद आया और मुझे तथा मेरे परिवार को स्थानान्तरण पास. टी.रा. व अन्य भत्ता अलग दिया गया होता, परन्तु प्रशासन के पास इस तरह का कोई प्रमाण नहीं है।

3- मेरी हाजिरी 01.10.97 से 7.06.98 तक इलाहाबाद में ही दिखलाई गयी है, जो सरासर असत्य है।

4- मेरा भुगतान अक्टूबर-97 से जून-98 तक दिल्ली में ही कराया गया है, जो इस बात का प्रमाण है कि मैं अक्टूबर और नवम्बर-97 में दिल्ली में ही था परन्तु मेरी हाजिरी इलाहाबाद में हो रही थी। दिसम्बर-97 और जनवरी-98 में मेरा भुगतान इलाहाबाद में वै.अ.सि. द्वारा कराया गया है, और यह दिखाया गया है कि मैं इयली में था, परन्तु इयली पास का सम्बन्ध मैंने प्रशासन से समझा है। फरवरी-98 से जून-98 तक मेरा भुगतान दिल्ली में ही कराया गया है, जिसके लिए यह दिखाया गया है कि

[Handwritten signature]

मुझे इयूटी के लिये दिल्ली में डिप्यूट किया गया था परन्तु यह असत्य है, ऐसा कोई आदेश नहीं हुआ था, क्योंकि प्रशासन के पास मेरे इलाहाबाद में दिली जाने के लिये इयूटी पास जारी करने का कोई प्रमाण नहीं है।

5- उनके आतिरिक्त प्रशासन के गवाह श्री आर. राम विश्वकर्मा अधीक्षक के प्रश्न नं० 24 के उत्तर में दिया गया बयान इस बात का प्रमाण है कि मैं जी. राम. महोदय के निजी मकान में उनके परिवार (सुपुत्री) के साथ दिल्ली में कार्यरत न कि किसी सरकारी कार्य हेतु दिल्ली भेजा गया था और यह कि 07.06.98 तक उसी बंगले में था।

6- कृपया मेरे हाजिरी में जो कि इलाहाबाद में हो रही थी, 01.10.97 से 7.06.98 तक का अवलोकन करें। आपको विदित हो जाएगा कि मैंने इस बीच में न तो कभी छुट्टी लिया है न नागा हुआ हूँ, न बीमारी की छुट्टी ली है। इसके आतिरिक्त मेरी कोई छुट्टी का प्रार्थना पत्र भी प्रशासन के पास नहीं है। जिससे यह बताया जा सके कि मुझे कोई आवश्यक कार्य था जिसके कारण छुट्टी न मिलने पर मैं नागा हो सकता था। हालाँकि इयूटी से नागा होने का आभियोग सरासर झूठ है।

7- इस सम्बन्ध में रेलवे बोर्ड के पत्र सं० डी (एम.जी.) III-72 सी.डी/51 दिनांक 03.01.76 जो कि मुख्य अभियन्ता, रेलवे इलेक्ट्रीफिकेशन इलाह के पत्र सं० आर.ई/38 दिनांक 20.09.83 द्वारा सम्बन्धित कार्यालयों को जारी किया गया है कि एक प्रतिनिधि सम्मेलन कर रहा है जिसके अवलोकन में मैंने आधिकारी स्वयं सहभागियों के घर विराम लगाया गया आभियोग बिना उत्तरा अनुपस्थित रहने का न हो कर मुझे श्री राम. महोदय द्वारा रेलवे बोर्ड के आदेशों की अवहेलना करते हुए मुझे अनाधिकृत व्यक्ति के हवाले कर दिया गया था, जिसने अपनी स्वेच्छा से मुझे घर से निकाल दिया गया और फिर मुझे इयूटी पर नहीं लिया। जिसके कारण मैं दर-2 की ठोकरें खा रहा हूँ, न कोई वेतन मिला रहा है और न कोई भत्ता। उल्टे मुझ पर अनुपस्थित रहने का आभियोग भी लगाया गया। यदि मैं जी. राम. के बंगले में जी. राम. के साथ इलाह में इयूटी करता होता और मुझसे रेलवे बोर्ड के आदेशानुसार कार्य लिया होता तो आज मेरे साथ यह दुर्व्यवहार न होता।

संलग्न - 1. जिवदल क्लीनिक रैन्डु हस्पिटल व
द्वारा जारी मेडिकल रीपोर्ट फिक्टेड है।

04.08.99

रेलवे बोर्ड, पत्र सं० डी (एम.जी.) III-72 सी.डी/51

जो कि मु.आम. 30.09.83 द्वारा आर.ई/38

दिनांक 20.09.83 द्वारा सम्बन्धित कार्यालयों को

TRUE

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को मान्य प्रमाणित।

-63 122

DAR enquiry against Shri Srikant Prajapati, Sub. B/Khalasi
of GM/CORE/ALD against charges levelled by Memorandum No.
G-6/23/DAR dated 11.11.98 .

Dated: 19.8.99.

Present:

Mohd. Masroof , EO/PO/CORE/ALD.
I.N.Singh, Hd. Clerk /G Branch.
Mohd. Ismail, Retd. OS/Constn/N.R./ALD (D.H.)
Srikant Prajapati, C.O.

Examination and cross examination of Shri I.N.Singh. H.C.
arising out of statement made by Shri R.S.Vishwakarma.

Examination by E.O.

Q.1. Shri R.S.Vishwakarma, during his cross examination by D.H.
on 29.6.99 has replied that GM/G's letter No. G-6/23/DAR
dated 23.6.98 and 2.7.98 had not gone through him and
when asked to name the officials who had issued these
letters replied that the letters were issued by Estt.
Clerk Shri I.N.Singh, H.C. Both these letters are address-
sed to Shri Srikant Prajapati as B/Khalasi, G.M./CORE/ALD
What to you have to say in this regard ?

Ans. These two letters were not prepared by me but the then
Secy. Shri B.K. Sharma called me in Chamber and gave
the copies thereof to place on file. On being asked by
me whether outgoing copy of the letter had gone, he
stated that it will go. Thereafter on 30.10.98 I prepared
a letter and sent the same to the Home address of Shri
Prajapati in reference to which he reported in this office
for duty on 10.11.98. Copies of the letter dated 30.10.98
and application of Shri Prajapati dated 10.11.98 fax
are presented herewith. (Marked Annexure I & II).

Cross Examination by D.H.

Q.1. The first letter is stated to have been issued on 23.6.98
and the second one being reminders on 2.7.98. Were the
office copy of these two letters were given to you by Secy
to GM on one date ~~xxx~~ or on respective date ?

Ans. The copies of letter under reference were given to me
by the then Secy to GM/CORE/ALD separately on respective
date of the issue of the letter.

Q.2. Are you dealing staff of the concerned subject ?

Ans. Yes.

Q.3. Did you know about the absence of Shri Srikant Prajapati,
B/Kh. prior to the receipt office copies of these letters.
Ans. I knew about his absence on 15.6.98 while sending
Muster sheet to (P) Branch.

Q.4. As a Dealing staff you could have detected the address
of Shri Srikant Prajapati who was reported absenting from
duty i.e. from the Bungalow of GM/RE/ALD and then pointed
this mistake to Secy. to GM/CORE/ALD. for ensuring the
delivery of the letter. It has not been done why ?

Ans. I could not detect the discrepancy and could not pay
attention to the mistake in the address.

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Masroof
EO 19.8.99

I.N. Singh
Hd Clerk
19/8/99

Mohd Masroof
DH 19/8/99

Shri R.S. Vishwakarma
19.8.99

-64 A22

Id. from Page- 1.

Q.5. There was a gap of 10 days in between the stated issue of letters dated 23.6.98 and 2.7.98. Why this mistake was not got rectified at the time of issue of the IInd. letter i.e. 2.7.98.

Ans. Since I could not detect the discrepancy in the address of Ist. letter, it was also not detected at the time of filing the IInd. one.

Q.6. What was the fate of these two letters stated to have been issued in the name of Shri Prajapati.

Ans. I do not know.

Q.7. As stated above you have issued a letter No. G-6/23/DNR dated 30.10.98 at the Home address of Shri Prajapati, whether you had initiated the action from your own accord or by the instructions of some authority.

Ans. The letter was issued as per instructions of the PRO.

Q.8. In this letter you have referred the letters of 23.6.98 and 2.7.98. Why you could not ensure about the fate of these letters. Whether or not the letters were actually delivered to the staff concerned.

Ans. The letter dated 23.10.98 was only a reminder for issuing which it was not necessary to ascertain the delivery of earlier letter Ist. and then issue the reminder.

Q.9. It means you do not know about the issue, delivery and further disposal of these letters dtx of 23.6.98 and 2.7.98. Only to GM/RE/ALD can say about this.

Secy to

Ans. I have already replied earlier in reference to your earlier Question.

Q.10. In my opinion these two letters are fake and fabricated and added in the case file merely to enhance the gravity of the charges. What you have to say in this connection.

Ans. I do not agree with your assumption. The letters are genuine and not fabricated.

Q.11. How can you say this when you are not in a position to say whether the letters were issued, delivered or disposed off.

Ans. The letters were given to me on the dates of issue or a day thereafter and placed by me on file as such they are not fabricated.

The cross examination of Shri I.N.Singh concludes.

K. Masani
19.8.99
20

I. Singh
19.8.99
Hd Clerk

Mohd. Iqbal
DH 19/8/99

Prof. J. N. Singh
19.8.99

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65 A22

Daily order sheet for regular hearing.

Disciplinary proceeding against Shri Srikant Prajapati
Subs. B/Khalasi of GM/CORE/ALD .

Proceedings on 26.8.99.

Present :-

Mohd. Masroof, EO/APO/CORE/ALD.

N.P.Singh, PRO/CORE/ALD.

Mohd. Ismail, Retd. OS/Constn/N.Rly/ALD (D/H).

Srikant Prajapati, C.O.

The proceedings started at 11.00 hrs. and continued upto 12.30 hrs. The examination and cross examination of Shri N.P.Singh, PRO were recorded. The next date will be fixed in due course for recording defence statement and statement of defence witnesses . Advices will be issued accordingly.

Mohd. Masroof
E.O.

ਮੋਹਿੰਦ ਮਸਰੂਫ਼

C.O.

ਸ਼੍ਰੀਕਾਂਤ ਪ੍ਰਾਜਾਪਤੀ

26. 8.99

Mohd. Ismail
D.H. 26/8/99

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123

Enquiry against Shri Srikanth Prajapati, subs. B/Khalasi of GM/CORE/ALD against charges levelled by Memorandum No. C-5/73/DAR dated 11.11.99.

Dated: 26.8.99.

Present:-

Mohd. Masroof, EO/APO/CORE/ALD.

N.P.Singh, PRO/CORE/ALD.

Mohd. Ismail, Retd. OS/Constn/N.Rly/ALD (D/H.).

Srikanth Prajapati, C.O.

Examination and cross examination of Sh. N.P.Singh, PRO/CORE/ALD arising out of statement made by Sh. R.S.Vishwakarma, P.N. examination by E.O.

Q. 1. Sh. R.S.Vishwakarma during his examination by D/H on 29/29.6.99 has stated that he was marking attendance of Shri Srikanth Prajapati on the Muster sheet based on information furnished by you. Please record your statement what you have to say in this regard.

Ans. ~~xxxxxx~~ Normally the Attendance of ~~xxxxxx~~ are maintained in the concerned branches. Whenever he goes on leave or absente himself the concerned officer informs the branch to mark him accordingly. In case of Srikanth Prajapati B/~~xxxxxx~~ Khalasi of GM/RE/ALD, the then Secy. to GM Sh. B.K.Sharma, told me that Sh. Srikanth Prajapati is absenting himself from 8/6/99. Being Estt. Officer I am informed to my OS/G to mark his attendance accordingly.

Q.2. Does it mean that Shri Srikanth Prajapati was all along present prior to 8.6.99 ever since his posting as B/Kh. of GM/CORE.

Ans. Yes. ~~xxxxxx~~ please.

Cross examination by D/H.

Q.1 From the perusal of the attested copies of the Muster sheet supplied by you it is seen that Shri Srikanth Prajapati has always been marked 'P' prior to 8.6.99 even he was not present at ALD rather at Delhi on duty. Why it so?

Ans. He was at the Bungalow of GM as GM had not shifted Luggage etc. from Delhi to ALD he was working there.

Q.2. Did GM/RE/ALD occupied Rly. accomodation at Delhi even after his resumption at ALD.

Ans. So far as I know for sometime after his transfer, he was in Rly. Bungalow after that he might have shifted to his own house. Details are not known to me.

Q.3. In reply to Q. No. 24 during cross examination Sh. R.S. Vishwakarma, the P.W. has stated that Shri Srikanth was employed at TKJ in the private accomodation of GM/RE resides with him family staying there. ~~xxxx~~ Is it correct?

Ans. I do not know about it.

M. Masroof
Bo

Mohd. Ismail
26.8.99
Co

Mohd. Ismail
D/H 26/8/99

N.P. Singh
PRO/ALD/ALD
26/8/99

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ATTESTED

The Enquiry officer,
APO/CORE/ALD

67 A24

Sub: - Defence Note in connection
with the DAR Enquiry held
against the Undersigned.

Sir,

Most humbly I beg to submit as Under
for your perusal, Consideration and further
necessary action.

History of the Case

I was directed to report for duty vide
GM/G/RE/ALD's letter NO. G-6/23/DAR dt. 30-10-98
sent by post to my home address at Azamgarh.
In response to the said letter I reported for duty
in the office of GM/G/CORE/ALD, with an application
dt. 10-11-98, stating that I could not attend the office
early (on receipt of the letter), because of my serious
illness. Unfortunately, instead of allowing me duty after
obtaining fitness from Rly. doctor, on the basis of the
P.M.C., which I had with me, I was served with a
Memorandum of Charges for imposition of major penalty
bearing NO. G-6/23/DAR dt. 11-11-98, which too was
improper and without supporting Annexures. However
on my demand, the required Annexures and the
details of Charges were supplied vide GM/G/RE/ALD's
letter NO. G-6/23/DAR dt. 28-12-98.

The Charges as framed against me, are quoted as Under:

"While working as Bungalow Kh. at GM's Bungalow he
has committed misconduct and he is absenting
unauthorisedly from his duty wef. 8-6-98 and thus
he has failed to maintain absolute integrity, Devotion
to duty and acted in a manner Unbecoming of
Rly. Servant and thereby Contravened Rule 3-1 (ii) 2 (iii)
of Rly. Service Conduct Rule 1966."

The Copies of M/Sheets for the period from 8-6-98 and onward
were supplied as relied upon documents under Annexure
iii and see R.S. Kumar Vishwakarma OE/G/RE/ALD, was
named as Prosecution witness, by whom the
article of Charges framed under Annexure IV
- Sd/- Masroor APO/CORE/ALD was appointed as Inquiry
officer by Disciplinary Authority, with whom the

Mohd. Ghani

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Sd/- Masroor

Contd. P-2

the application for inspection of relevant records, supply of additional documents and arranging appearance of additional witnesses relating to prosecution side and my defence witnesses were preferred before commencement and in course of Enquiry proceeding which will be discussed hereunder.

The charges as levelled against me were denied by me during preliminary Enquiry held on 20.5.98 before Enquiry officer.

DAR Enquiry proceedings and the Conclusion.

The regular hearing of the case started on 28.6.99 from the statement of the prosecution witness Sri ~~Pr~~ R.S. Vishwakarma OS/G/COE/ALD, his Examination by E.O. And Cross Examination by Sri Mahd. Ismail Atd (OS/ALD) Dy-CO/C/ALD, my defence helper and ended with the statements and Examination of the defence witnesses and the undersigned.

The facts that have come out of the statements of prosecution additional witnesses, defence witnesses, and from the records and documentary proofs, do not substantiate the charges levelled against me, due to following reasons.

- 1- The charge of absenting myself from duty unauthorisedly from GM/RE/ALD's bungalow at ALD wef 8-6-98, itself becomes void, when Sri Vishwakarma, P.W. stated that I absconded from duty from Delhi and no order for my coming back to Allahabad was issued till 8-6-98 (Ans. to Q. no. 28 Cr. Ex.) It clearly shows that the place of occurrence (alleged absenting from duty) was Delhi and not Allahabad. This is also a fact that GM/RE/ALD was occupying Rly. Bungalow at Allahabad not at Delhi at that time. It has also been admitted by the P.W. that I was working in the private house of GM/RE/ALD situated at Delhi as with his family (Ans. to Q. no. 24 Cr. Ex.) This totally supports to my defence statement that I was kept in GM's

Mohd. Ismail
D.H.

authenticated
C.O.

Contd. P.3

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private ~~no~~ House No-3490 Block D/3, Pansaut Kunj, Delhi,
to perform domestic work, with his daughter Miss
Gissa Srivastava, who expelled me from the house
and did not allow me duty. Thereafter I was
marked "A". ~~as~~ I never absented from duty
unauthorisedly.

2- It may be noted that no one could confirm
that actually I absented unauthorisedly from duty.
Sri Vishwakarma, P.W., the custodian of the M/sheet
told that he marked "A" from 8-6-98 and onwards
on the Verbal information given by Sri N.P. Singh
PRO/RE/ACD (The controlling officer) (Ans. to Q.No-5 G.Ox.)
although as per M/sheet I was marked "P" on
8/6/98 & 9/6/98 originally, but at later stage it was
marked "A" with overwriting without any initial
thereon, either of OS/G/RE/ACD or the PRO/RE/ACD
to ascertain the actuality, Sri N.P. Singh PRO/RE/ACD was
called as an additional witness by E.O. to get his statement
recorded. In reply to Q.No-1 of Ex. by E.O., Sri N.P. Singh
has stated that he was informed by the then Secy.
to GM/RE/ACD, Sri B.K. Sharma regarding my absence
from duty w.e.f 8-6-98, so he informed his OS/G (Sri
Vishwakarma) to mark the attendance accordingly.
Significantly, Sri N.P. Singh, the PRO/RE/ACD, is a nat.
only controlling officer, but also the Disciplinary Authority
in this case. How he contemplated to hold Departmental
Enquiry for imposition of major penalty against me, merely
on the verbal information of the then Secy. to GM, is
a matter of grave concern, as no written report regarding
unauthorised absence ~~and~~ from competent authority, could
be produced either as relied upon document or
during Enquiry. ~~The~~ No further confirmation was obtained
from Sri B.K. Sharma the then Secy. to GM/RE by E.O. But
most humbly I may submit here that Sri B.K. Sharma
would have surely named some other person as an
informant, because he himself was not at Delhi, where
I ~~was~~ was put to mark at that time. In support of my
this statement, I may quote ~~the statement~~ the letter
no. G-6/23/DAOR dt. 23/6/98 and 2/7/98, stated to be
issued directly by Sri B.K. Sharma to me at the address
of GM/LORE/ACD's bungalow at Allahabad, wherein I was
informed about my unauthorised absence.

Md. Iqbal
DA.

Contd. P-4

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P-4

From the perusal of these two letters, supplied to me, and the statement of Sri I.N. Singh HC, GM/RE/RE/ALD, during may EX. & Cross EX. in course of Enquiry on 19-8-99, it can be seen that the letters were addressed to me at Allahabad (GM/RE/ALD's Bungalows), from where I was alleged to be absenting from duty. As per statement of Sri I.N. Singh, during EX. by E.O. & Cross EX. by D.H., it came to light that Sri A.K. Sharma then Deputy to GM/RE, himself issued these letters & the office copies of the same were handed over to Sri I.N. Singh HC. for keeping in the file. If the information furnished by Sri N.P. Singh PRO/RE/ALD is taken as true, then the reliability of report of Sri A.K. Sharma regarding my absence, may be judged at a glance. It means he informed Sri N.P. PRO/RE/ALD sometimes after 9/6/98 regarding my absence from duty from Delhi and on 23/6/98 & 27/7/98, he is addressing the letters at GM's Bungalow at ALD as if I was absconding from GM's private house at Delhi and staying in GM's Bungalow at Allahabad.

It goes to prove that the disciplinary authority did not apply his mind to acquire substantial material before taking decision for issuing Chargesheet for major penalty. Therefore the memorandum of Chargesheet is void and bad in the eyes of law.

3- The Charges as framed against me are, baseless, and fabricated and merely to cover up unlawful action committed by GM/RE/ALD while keeping a Govt. servant (myself) on the mercy of an Unauthorised person (his daughter) at his private house at Delhi. In support of this, I may submit following evidences both oral & documentary.

(i) Maintenance of my attendance ~~was~~ at Allahabad was nothing but manipulation of records only to establish that I was working with GM/RE at Allahabad. (ii) My so called transfer from Delhi and thereafter posting order issued vide GM(P)/CORP/ALD's office copy NO. GA-7/99 (TD) dt. 10-10-97, copy of which supplied as an additional document, cannot be taken as reliable at least for me, since the copy originated at St. No. 6 for employee M. M. Sharma CO.

M. M. Sharma

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Contd. P.5

concerned, is filed in case file, instead of delivery of the same to me, which is evident from the copy itself. So my statement that ~~neither~~ I knew about my transfer from Delhi, nor I joined at Allahabad is correct. However, my signature on joining report was obtained with an understanding that I ought to have ~~been~~ shown joined at Allahabad since after posting of GM/RO at Allahabad.

(iii) NO reference of transfer passes to me as well as for my family, and payment of transfer allowance ~~to~~ could be produced by Administration.

(IV) All my payments of wages were ~~made~~ made at Delhi. Payment for Oct-97 & Nov-97 were ~~not~~ ^{made at Delhi} witnessed by Sri Brij Behari CL/RE/TKJ (See the Ex. of his statement) and also for Jan-98 to June, 98 all witnessed by him. As regards payment for Dec-97 & Jan-98, it were arranged through Pay Authority issued by PRO/RO/ALO, with clear remarks thereon, that I was on duty outside Allahabad. But no reference of the duty pass, TA or the place of duty could be produced.

(V) As per GM/G/RE/ALO's letter NO. G-6/23/Pt III dt-28.1.98 I was shown as deputed to work at TKJ, but neither I have been marked "D" in the M/sheet, nor my reference of duty pass ~~to~~ to carry up journey Ex ALO to TKJ, could be produced.

From the above it may be seen that I never joined at Allahabad to work in the Bungalow of GM/RE at Allahabad and the ^{records} so maintained in the office of GM/G/RE/ALO are manipulated in my case. My Ex-pulsion from GM/RE/ALO's private house & not absenting from duty unauthorisedly.

Further to what I have already stated in my defence statement during Enquiry, ~~that~~ I beg to submit that I was expelled ~~from~~ from the private house NO. 3490 Block D/3, Bawant Kunj, Delhi, by Miss Tissa Khurastana, GM/RE/ALO's daughter owing to domestic reasons. All on 04/01/98.

Mohd. Ismail

C.O.

Contd. P.6

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- 2 - Miss Tissa Srivastava, who is rude in nature, (There are other instances similar to this) persecuted her father not to allow me duty in spite of all efforts made by me. ^(GM/RE)
- 3 - I was in the understanding that her annoyance ^{could} be cooled down due course, as to my view I did not commit any grave mistake, so used to see the GM/RE/Alp, her father, her mother, at Banglow, office as well as in Temple, wherever I got a chance. As per direction of GM/RE/Alp I also saw Miss Tissa Srivastava at Delhi ^{and requested} to ask her father (GM/RE/Alp) to allow me duty, but to no effect. Similar was the result of my requests made to PRO/RE/Alp, the Secy to GM/RE and the OS/RE/Alp. They all did not pay any attention stating that they were not in a position to intervene in the matter, which related with the GM/RE/Alp. In this ~~was~~ may the days passed on, till the receipt of an official letter NO. G-6/23/DAR dt. 30-10-98 from GM/RE/Alp asking me to report for duty. I thought my request had been acceded to by GM/RE/Alp. After getting fitness certificate, I reported to the office of GM/RE/Alp, for duty. I was sick from 22-10-98 to 8-11-98 under private doctor at Delhi. The PMC which I brought with me was not taken by PRO/RE/Alp, OS/RE/Alp, rather I was asked to stay and receive the memorandum of charge sheet, which was served to me on 12/11/98 in the office.
- 4 - In the above circumstances, I did neither explain the whole things regarding my expulsion from the house of GM/RE, at Delhi in writing, earlier or at the time of resuming my duty on 10-10-98 in response to GM/RE's letter dt. 30-10-98. In this connection, my application dt. 10-11-98 placed in the file may please be referred to, which is worth reading, to extract some positive conclusion. The word "EARLY" appearing in the last line of the application is totally related with the letter dt. 30-10-98, my sickness from 22-10-98 to 8-11-98 and my physical presence at Allahabad in a few days back, that I could have attended earlier, had I not been fallen ill, after the receipt of this letter. (The duplicate copy of the medical certificate has already been annexed with my defense statement.)
- Mahd. Mansif
D.H.
- C.O.

Contd. P.7

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5- The letter NO. G-6/23/DAR dt 30-10-98 is itself faulty.

The letters of same no. dt 23/6/98 & 2/7/98, as referred to have been sent to me, were neither properly addressed, nor sent to me. Moreover the disposal of these letters could also not be known as per statement of Sri T.N. Singh H.C. These letters were added in the case file merely to enhance the gravity of the case at late stage.

6- I may also like to submit for consideration of E.O. that how the administration failed to take suitable action against me, if I was actually absenting from duty unauthorisedly for a period of four months i.e. from 8/6/98 to 30/10/98, since I was attached with the highest authority of the R.E. organisation. In reply to Q. no. 5 Sri Vishwakarma the PW has disclosed that PRO informed him every day about my absence/presence. It clearly shows that I was forced to remain out of duty and thus I was marked 'A'.

7- The most tragic aspect of the case is this that misuse of the poor paid Govt. servant (myself) in contravention with the Rly. Bd's direction issued vide letter NO. E(NG) III-72 CD/51 dt 31-7-76, circulated vide CE/RE/AD's letter NO. RE/E/38 dt 20-9-83 (copy annexed with my defence statement), has resulted in fabrication of charges over and above the miseries, I have been facing due to non-payment of my wages since 8-6-98 to till date. Had I been employed at Allahabad with GM/RO's help I would have not been compelled to face such adverse situation.

In view of the facts as brought out above, it may be concluded that the charges framed against me vide chargesheet NO. G-6/23/DAR dt 11-11-98, are baseless, fake and fabricated. No misconduct has been committed by me nor I absented unauthorisedly. On the contrary I was forced to leave the house and not allowed duty since 8-6-98. This state of affairs is beyond my control and thus I should not be held responsible.

Therefore, the charges are liable to be withdrawn.

Mohd. Hussain
DH

Dated - 20-12-99

Yours faithfully
Mohd. Hussain

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CO
B/lt. GM/RO/Allahabad

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ANNEXURE A-1

Office order No. P/A/7/99/EP

dated 4.8.99.

Smt. Meera Devi Khallasi Pay scale 2550-3200 working under chief liaison Inspector Railway Electrification Tilak Bridge Delhi is transferred on administrative grounds under Chief Project Manager R.E. Ambala Cantt on the existing post and pay scale.

This has the approval of competent Authority.

Copy to :-

for General Manager (P)
R.E Allahabad.

1. Chief Project Manager, A.E. Ambala Cantt.
2. Dy. G.M. Coré Allahabad.
3. Chief Liaison Inspector Tilak Bridge Delhi.
4. Concerned employees.

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75- 126
No.5

OA-1771/99, MA-1332/99

19.08.99

Present: Sh. B.S. Mainee for applicants.

Heard.

Issue notice to respondents directing them to file their reply within four weeks. Two weeks thereafter for rejoinder.

The ld. counsel for the applicants presses for an ex parte interim order staying the impugned order of transfer dated 04.08.99 and 06.08.99 transferring applicants No.1 & 2 to Ambala Cantt. and Lucknow respectively. The learned counsel has submitted that the applicants have the shortest stay in Delhi while those with longer stay are still working in Delhi. He ^{has} further submitted that applicant No.1 (Smt. Meera Devi) had been transferred only recently in March 1999 after she was appointed on compassionate grounds to enable her to be with her brother-in-law ^{who could} ~~and~~ also ~~to~~ look after her child. He has also submitted that the impugned transfer orders have been passed as a measure of punishment because of applicant No.1 reporting for duty at the Bungalow of daughter of General Manager late, and hence he has prayed ^{that} ~~for~~ these consequential transfer orders may be stayed.

Having regard to the above facts and circumstances, particularly to the fact that the

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76 - A 26

-2-

applicant No.1 has been recently transferred to Delhi
and applicant No.2 has ^{also} been transferred from Ambala
to Delhi in January 1999 and considering the grounds
of balance of convenience and irreparable loss to the
applicants if the interim order prayed for is not
granted, the prayer is allowed. The impugned
transfer orders dated 04.08.99 and 06.08.99 are
accordingly stayed for a period of two weeks ^{retraining respondents} from
transferring the applicants to their new postings.

List on 02.09.99 for further consideration of
the interim relief.

In the meantime, the respondents are directed
to file a short reply.

Dasti.

(Smt. Lakshmi Swaminathan)
Member(J)

/vv/

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17-09-99

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CTAC

Ministry of Railways
Central Organisation
Railway Electrification
ALLAHABAD

OFFICE ORDER No.

Dated : 01.9.1999.

The competent Authority has decided to cancel the following Office Orders issued by General Manager(P)/RE/Allahabad :

- 1) Office Order No. GA-7/99(TP) dt. 4.8.99 transferring Smt. Meera Devi, Khalasi from Railway Electrification, Tilak Bridge, New Delhi to Railway, Electrification, Ambala.
- 2) Office order No. 79/99 dt. 6.8.99 transferring Shri Jaggu Prasad, Motor Vehicle Driver from Railway Electrification, Tilak Bridge, New Delhi to Rly. Electrification, Lucknow.

Sd/-
SECY. TO GM
CORE/ALLAHABAD.

Copy in confirmation to :-

1. Dy.CPO/RE/Allahabad to issue formal orders.
2. CPM/RE/Ambala.
3. CEE(P)/RE/Lucknow.
4. CLI/RE/TKJ.

.....



78 128

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH : NEW DELHI

O.A.NO. ____/1999

1. Smt. Meera Devi
widow of late Shri Suresh Singh
Khallasi
under Chief Liaison Inspector
Railway Electrification
Tilak Bridge
New Delhi

2. Shri Jaggu Prasad
s/o Shri Pujari Nath
Vehicle Driver
under Chief Liaison Inspector
Railway Electrification
Tilak Bridge
New Delhi

... Applicants

versus

Union of India : Through

1. The General Manager
Railway Electrification
Allahabad

2. The Chief Liaison Inspector
Railway Electrification
Tilak Bridge
New Delhi

3. ~~Ms. Teena Srivastava~~
~~D/o Shri N. N. Srivastava~~
~~D-3/3490~~
~~Vasant Kunj~~
~~New Delhi~~

... Respondents

DETAILS OF APPLICATION

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

- (1) Impugned order No. E/1/19/18/TT dated 4.8.1999
- (2) Impugned order No. E/1/19/18 / P2/8Part-VI dated
dated 6.8.1999

Both passed by the General Manager (P)

Railway Electrification, Allahabad.

That the applicants are aggrieved by the impugned orders

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79-128

in terms of which both the applicants have been transferred from New Delhi to Ambala and Lucknow respectively by way of punishment because applicant No.1 who had been deputed by the Respondent No.1 and 2 to work as Bungalow Khallasi at the residence of Ms. Teesa Srivastava, Respondent No.3 who is daughter of General Manager, Railway Electrification, Allahabad. Ms. Teesa Srivastava, Respondent No.3 had at whose residence the applicant No.1 was working as a domestic servant and as desired by the General Manager, got annoyed with the applicant only because she arrived late at the residence of Respondent No.3 on 2.8.1999 because she could not catch the bus in time as a result of which the applicant No.1 was not only badly assaulted by the Respondent No.3 but also got applicant No.1 and applicant No.2 transferred from New Delhi to Ambala and Lucknow respectively.

That the applicant No.2 has been transferred because the applicant No. 1 who is a widow was living with the family of applicant No.2 who happens to be her brother-in-law. The applicant No.2 is being punished because applicant No.1 was given shelter by applicant No.2 after the applicant was transferred from Ambala to New Delhi in April 1999.

2. JURISDICTION OF THE TRIBUNAL :

That the applicants declare that the subject matter of the order against which they want redressal is within the jurisdiction of the Tribunal.

3. LIMITATION :

That the applicant further declares that the application is within the limitation period as prescribed in Section 21 of the A.T.Act, 1985.

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4. FACTS OF THE CASE :

- 4.1. That the applicant No.1 was given appointment as Khallasi on compassionate ground on the death of her young husband Shri Suresh Singh, who was working as a Khallasi under the Respondents and expired on 28.4.1996.
- 4.2. That on the death of her husband the applicant No.1 was given appointment in the year 1997.
- 4.3. That the applicant No.2 who is the brother-in-law of applicant No.1 is working as a Vehicle driver under respondents No.1 and 2.
- 4.4. That the applicant No.1 was given appointment and was posted at Ambala as a Khallasi. The applicant No.1 belongs to District Kanauj, U.P. and there was none to look after her and her small child of 3 years and as such she got herself transferred from Ambala to New Delhi because her brother-in-law applicant No.2 is posted at New Delhi and working as a vehicle Driver under Respondent No.1 and 2.
- 4.5. After her transfer from Ambala to New Delhi she was accommodated by applicant No.2 in his house to live alongwith his family.
- 4.6. That on posting at New Delhi the applicant No.1 was directed to work as a Bungalow Khallasi at the residence of Ms. Teeza Srivastava who is the daughter of General Manager, Railway Electrification, Allahabad.
- 4.7. That the applicant who was living with his brother-in-law at Badarpur was required to go every day to Vasant Kunj at the residence of Ms. Teeza Srivastava, House No. D-3/3490 Vasant Kunj, New Delhi. Accordingly the applicant No.1 was

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commuting between Badarpur and Vasant Kunj every day and was spending Rs. 10/- a day by way i.e. 5/- for outward and 5 for inward journey.

4.8. That the behaviour of Respondent No.3 towards the applicant No.1 was extremely arrogant and rude. Although the applicant No.1 had been tiling whole of the day, washing and cleaning the floors, washing clothes, cleaning the utensils and even cooking whenever required but the Respondent No.3 unmindful of the hard work the applicant No.1 was put in used to maltreat and even rebuke even at the slightest pretext. Since applicant No.1 was spending Rs. 10/- every day, on 2.8.1999 she went to Mehrauli to get the D.T.C. pass which is available for Rs. 110/- per month. After having got the bus pass issued the applicant No.1 arrived at the residence of Respondent No.3 at 11 A.M. instead of 9 A.M. at which time the applicant No. 1 usually arrived early over there.

4.9. That the Respondent No.3 become furious and started abusing and assaulting the applicant No.1 because of her reaching late at her residence without ~~marry~~ caring over the pleadings of applicant No.1 and reason given by her. Not only the applicant No. 1 was insulted, disgraced and assaulted but also the Respondent No.3 spoke to her father at Allahabad and asked him to punish the applicant No.1 for her "misdeed" of reaching late at her residence.

4.10. That the Respondent No.1 Shri N.P. Srivastava, General Manager, Railway Electrification, Allahabad without giving any opportunity of hearing to the applicant No.1

and without hearing her part of story passed orders to transfer her from New Delhi to Ambala once again although the applicant No.1 had arrived at New Delhi only couple of days back.

4.11. That there are other khallasia who are working under Respondent No.2 for years together but they have not been touched and the applicant No.1 has been ordered to be transferred as a punishment because of the complaint made by Respondent No.3.

4.12. That not only the applicant No.1 has been punished and ordered to be transferred out of New Delhi but applicant No.2 , who is brother-in-law of applicant No.1 and who had given shelter to applicant No.1 has also been punished and ordered to be transferred out of New Delhi to Lucknow.

4.13. That the applicant No.2 had also been transferred in administrative interest from Ambala to New Delhi in January 1999 and as a result the said transfer the applicant No.2 also got herself transferred in New Delhi to have the benefit of protection of her brother-in-law.

4.14. That there are seven drivers under Respondent No.1 and Respondent No.2 at New Delhi and all the other six drivers are working in New Delhi for a long time and some are working for the last 10 years. But they have not been touched. The applicant No.1 who has only 3 months stay at New Delhi and applicant No.2 who has only six months in New Delhi have been picked up for transfer while those khallasia and

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drivers who are working under Respondent No.1 and 2 at New Delhi for years together have not been touched. This very fact also shows that the order of transfer are not in the administrative interest but are colourable exercise to punish the applicants with mala fide intention.

4.15. That the aforesaid orders have not yet been served upon the applicants and as such they have not yet been relieved officially, on transfer.

4.16. That the impugned orders are arbitrary, discriminatory and mala fide inter-alia on the grounds as mentioned in para-5 below :

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1. That the transfer orders passed by Respondent No.1 against the applicants are punitive orders passed by way of punishment.

5.2. There is no exigency of service on account of which the applicants are being transferred but the administrative ground as mentioned is only a camouflage to cover up the illegal action.

5.3. That the impugned transfer orders are also discriminatory because the applicants have shortest stay in New Delhi while those who have much longer stay are still working in Delhi and they have not been transferred.

5.4. That the impugned action of the respondents is totally arbitrary, discriminatory and mala fide.

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5.5. That when applicant No.2 was transferred from Ambala to New Delhi on administrative ground the applicant No.1 had also requested for her transfer on the ground that there was no one to look after her and her child at Ambala where she was lonely and the ground given by her for transfer from Ambala that her brother-in-law and his family has been transferred to New Delhi and as such she will get the protection of her brother-in-law and his family to look after her child when she goes on duty.

5.6. That nobody has been posted vice the applicants and the posts on which the applicants have been working also not been surrendered which clearly shows that the orders of transfer of both the applicants are motivated and punitive.

6. DETAILS OF REMEDIES EXHAUSTED :

That the applicants are approaching this honourable Tribunal for immediate protection because the respondents have not left any scope for the applicants to make a representation against the illegal transfer.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT :

That the applicants further declare that they have not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any court or any other authority or any other bench of the Tribunal nor any such application, writ petit

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or suit is pending before any of them.

8. RELIEFS SOUGHT :

8.1. That this honourable Tribunal may be pleased to allow this application and quash the impugned orders.

8.2. That any other or further relief which this honourable Tribunal may be deem fit and proper under the circumstances of the case may also be granted in favour of the applicants

8.3. That the cost of the proceedings may also be awarded in favour of the applicants.

9. INTERIM RELIEF IF ANY PRAYED FOR :

9.1. That this honourable tribunal may be graciously pleased to restrain the respondents from giving effect to the impugned orders till the final disposal of this application.

9.2. That unless the aforesaid interim orders are passed the applicants will suffer an irreparable loss which will not be capable of being compensated subsequently.

10. NOT APPLICABLE

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11. PARTICULARS OF THE POSTAL ORDER ATTACHED :

- (i) No. of Postal Order
- (ii) Post Office from where issued
- (iii) Date of issue of Postal Order

12. LIST OF ENCLOSURES : AS PER INDEX

श्री सुश्री

Applicant

VERIFICATION

I, Smt Meena Devi

s/o Late Shri Suresh Singh

aged about 37 years working as Khallasi

in the office of under C.I. / Tilak Bridge, New Delhi

and r/o RZH, 6/A, Pul Prahladpur, Badarpur, New Delhi/Haryana

do hereby verify that the contents of paras 1 to 4 of the above application are true and correct to the best of my knowledge and paras 5 to 12 are believed to be true on legal advice and that I have not suppressed any material fact.

Date : 12/8/99
New Delhi

श्री सुश्री

APPLICANT

through

(B.S. MAINEE / MEENU MAINEE)

Advocates

240, Jagriti Enclave,

Vikas Marg Extn.

Delhi - 110 092

Tel. : 2152172, 2166162

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- 10 - 87 - A28

11. PARTICULARS OF THE POSTAL ORDER ATTACHED :

- (i) No. of Postal Order
- (ii) Post Office from where issued
- (iii) Date of issue of Postal Order

12. LIST OF ENCLOSURES : AS PER INDEX

5722191416
Applicant

VERIFICATION

I, Jaggu Prasad
s/o Puzari Nath

aged about 42 years working as Driver

in the office of under C.I./Tilak Bridge, New Delhi
and r/o RZ-H6/A, Pul Prahladpur, Badarpur, New Delhi-110044

do hereby verify that the contents of paras 1 to 4 of the above application are true and correct to the best of my knowledge and paras 5 to 12 are believed to be true on legal advice and that I have not suppressed any material fact.

Date - 12/8/99
New Delhi

5722191416
APPLICANT

through

(B.S. MAINEE / MEENU MAINEE)

Advocates

240, Jagriti Enclave,
Vikas Marg Extn.
Delhi - 110 092

Tel. : 2152172, 2166162

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प्रधान कार्यालय
केन्द्रीय रेल विद्युतीकरण संगठन

नवाब यूसुफ रोड, सिविल लाइन्स
इलाहाबाद - २११००१

फोन ०५३२/६०३३(०)
तार रेल विजनी
Telegram RAIL BIJI

Head Quarters Office
CENTRAL ORGANISATION RAILWAY ELECTRIFICATION
Nawab Yusuf Road, Civil Lines
Allahabad-211001

पत्र संख्या

Letter No. जी-६/२३/डी.ए.ए.ए.

दिनांक

Date. 23.6.98

श्री श्रीकान्त प्रजापति,
आत्मज-श्री सुवेदार प्रजापति,
वंगला खनासी,
महाप्रबन्धक/केसरवि/
इलाहाबाद ।

विषय:- बिना सूचना कार्य पर अनुपस्थित रहना ।

आपका कार्यालय को बिना कोई सूचना दिए दिनांक 08.6.98 से लगातार अनुपस्थित चल रहे हैं । पूर्व में आपका कार्य भी संतोषजनक नहीं रहा है । अतः इसके लिये आपके विरुद्ध अनुशासनात्मक कार्यवाही अपेक्षित है ।

True copy
attested

Signature
Official Seal
Office
Allahabad

॥ श्रीरेन्द्र कुमार शर्मा ॥
मुख्य महाप्रबन्धक/सामान्य
केसरवि/इलाहाबाद ।

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ATTESTED



प्रधान कार्यालय
केन्द्रीय रेल विद्युतीकरण संगठन

नवाब यूसुफ रोड, सिविल लाइन्स
इलाहाबाद - २११००१

Head Quarters Office
CENTRAL ORGANISATION RAILWAY ELECTRIFICATION
Nawab Yusuf Road, Civil Lines
Allahabad-211001

फैक्स : 0532/603300
तार : रेल विज्ञानी
Telegram : RAIL BIJLI

पत्र संख्या
Letter No. **जी-६/२३/डी.ए.ए.**

दिनांक
Date **02.07.1998.**

श्री श्रीधराना प्रजापति,
आत्मज-श्री सुवेदार प्रजापति,
जंगला छासरी/महाप्रबंधक/ केसरिवि/
इलाहाबाद।

विषय:- बिना सूचना कार्य पर अनुपस्थित रहना।
तदर्थ :- इस कार्यालय का समसंख्यक पत्र दि० २३.६.९८.

....

आप दिनांक ०८.६.९८ से बिना कोई सूचना दिये अपने कार्य से लगातार अनुपस्थित चल रहे हैं। जिसकी सूचना आपको इस कार्यालय के समसंख्यक पत्र दिनांक २३.६.९८ द्वारा दिया भी गया है। आप अपने कार्य से अनुपस्थित चल रहे हैं तथा आपका कार्य भी सतोषजनक नहीं रहा है। अतः आपको पुनः सूचित किया जाता है कि आपकी अनुपस्थिति रेल आचरण नियम के विरुद्ध है और इसके लिए आपके विरुद्ध अनुशासनात्मक कार्यवाही अपेक्षित है।

True copy
attested

GA

अतः आपकी अनुपस्थिति
रेल आचरण नियम के विरुद्ध है
और इसके लिए आपके विरुद्ध
अनुशासनात्मक कार्यवाही अपेक्षित है।

॥ श्रीरेन्द्र कुमार शर्मा ॥
कृते महाप्रबंधक/सामान्य/॥
केसरिवि/इलाहाबाद।

TRUE COPY
ATTESTED

90 A30

To

The General Manager,
Railway Electrification,
ALLAHABAD.

Sub : Charge-sheet No. G-6/23/DAR dated
11.11.1998.

Sir,

Most humbly and respectfully, I beg to say that the charges as levelled against me in the charge-sheet mentioned above, are false.

2. I have never absented from duty. Your Honour had directed me to work at the residence of your daughter at her private residence in Vasant Kunj, New Delhi and I had been performing my duties over there with full dedication and devotion. In fact, I had been performing 24 hrs. duty at her residence. However, she got annoyed on a very slight issue and turned me out. Although I had reported the matter to your goodself, but still no charge-sheet had been issued to me by the P.R.O. making false allegations of unauthorized absence.

3. It is respectfully submitted that the Enquiry Officer has also not held the proper enquiry and has denied reasonable opportunity of defence, denying even the issue of journey passes. During the enquiry, neither I was placed under suspension nor I was given duty inspite of several requests made by my Defence Helper. It clearly shows that the Enquiry Officer as well as the Public Relation Officer were biased against me and wanted to hold

..2..

TRUE COPY
ATTESTED

91- 1730

- 2 -

me guilty of false charges by hook or crook.

4. I am a very poor man with family to look after and I am virtually starving and see a ray of hope and, therefore, I am sending this representation to your Honour to take pity on my circumstances and allow me to perform my duties peacefully dropping disciplinary proceedings, which, even otherwise, is illegal.

I pray for your prosperity and happiness in life.

Thanking you in anticipation.

yours most obediently,

(SRIKANT PRAJAPATI)
Bungalow Khalasi.
House No. 53, Gali No.4,
Shastri Nagar,
New Delhi - 52.

31st January, 2000.

TRUE COPY
ATTESTED

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA NO.1738 OF 2000

IN THE MATTER OF:

SRIKANT PRAJAPATI

APPLICANT

VERSUS

UNION OF INDIA & OTHERS

RESPONDENTS

I N D E X

| Sl. No. | Particulars | Pages |
|---------|---|--------|
| 1. | Reply to the OA on behalf of Respondents. | 1 - 17 |
| 2. | Annexure-R1, copy of letter dt. 16.3.2001. | 18-19 |
| 3. | Annexure-R2, copy of letter dt. 1-2-99. | 20 |
| 4. | Annexure-R3, copy of letter dated 7.5.1999. | 21 |
| 5. | Annexure-R4, copy of clause 521. | 22 |
| 6. | Annexure-R5, copy of medical certificate. | 23 |

through -

H K Gangwani
Sr. Railway (P) Counsel
50, Autab View Apartments
Shaheed Jeet Singh Marg
New Delhi-110016.
Phone: 696-7149.

प्रधान न्यायाधीश/CAT (PB)
आज दाखिल किया
Filed Today
22 MAY 2000
दाखिल नं०/Filing No. 4735
न्यायिक/Registrar

Received
22/5/2000

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA NO.1738 OF 2000

IN THE MATTER OF:

SRIKANT PRAJAPATI

APPLICANT

VERSUS

UNION OF INDIA & OTHERS

RESPONDENTS

Reply to the OA on behalf of Respondents.

MOST RESPECTFULLY SHOWETH:

1.1 Contents of this paragraph are wrong and incorrect hence, are vehemently disputed and denied. The applicant has been removed from service vide letter No.G-6/23/Pt.I(DAR) dated 16.3.2001 only. He was not removed from service earlier as claimed by applicant.

1.2 Contents of this paragraph are wrong and incorrect hence, are disputed and denied. It is submitted that he has been charged vide Memo. No.G-6/23/DAR dated 11.11.1998 for unauthorised

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93

absence from duties w.e.f. 8.6.1998 and which is still in continuance. It is mentioned that the applicant has been removed now from service vide letter No.G-6/23/Pt.I (DAR) dated 16.3.2001, copy of which is enclosed and marked as ANNEXURE-R1.

2-3. Contents of these paragraphs are matters of record before this Tribunal.

4.1-4.2 Contents of these paragraphs are not admitted save and except what appears from records.

4.3 Contents of this paragraph are wrong and incorrect hence, are disputed and denied. It is submitted that respondent No.1 was posted as General Manager, Railway Electrification, Allahabad. The allegations levelled in reference to Miss Tisha Srivastava are hereby denied. He was directed to work at GM's Camp Office, Tilak Bridge, New Delhi.

4.4-4.5 Contents of these paragraphs are wrong and incorrect hence, are disputed and denied.

4.6 Contents of this paragraph are wrong and incorrect hence, are disputed and denied. It is submitted that the allegations made in reference to the daughter of respondent No.1 are hereby

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denied. However, it is a fact that the applicant was absenting unauthorisedly w.e.f. 8.6.1998 and the letter at Annexure A-2 was issued by the disciplinary authority. Annexure A-3 of the application is a proof that the charges levelled in this para are false as the applicant has admitted in aforesaid annexure that he was seriously ill, as such he is simply concocting the averments.

4.7

Contents of this paragraph are wrong and incorrect hence, are vehemently disputed and denied. It is submitted that the applicant submitted application dated 10.11.1998 stating inter alia that he was seriously ill and he could not attend his duties but he did not submit any medical certificate either from the private medical practitioner or from the Railway Doctor, hence, he could not be taken back to duty and a decision was taken to initiate disciplinary proceedings against him for his unauthorised absence w.e.f. 8.6.1998. It is pertinent to mention that if Railway employee is sick he would have to report with a medical fitness certificate in support of his sickness to enable the competent authority to send him for medical examination by a Railway doctor for ascertaining his fitness to join duty. Even the medical certificate issued by Dr. Mahendra Kumar

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95

Jindal for period 22.10.1998 to 8.11.1998 shows that he was not fit to resume his duties.

4.8 Contents of this paragraph are wrong and incorrect hence, are vehemently disputed and denied. It is submitted that it is incorrect to state that the chargesheet dated 11.11.1998 was issued at the behest of the respondent No.1. Respondent No.1 is the highest official of Railway Electrification and he is not the disciplinary authority of the applicant. The officer who was competent to issue the chargesheet has taken cognizance of the unauthorised absence of the applicant and issued the chargesheet dated 11.11.1998 which is as per Railway Service Disciplinary and Appeal Rule, 1968.

4.9 Contents of this paragraph are wrong and incorrect hence, are disputed and denied. It is submitted that the averments made in this para that applicant was working at the residence of the daughter of respondent No.1 is hereby denied. However, the payment was being arranged at Delhi at the oral request of the applicant because the applicant was temporarily posted at the Camp Office of the General Manager at Tilak Bridge, New Delhi.

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96

4.10 Contents of this paragraph are wrong and incorrect, hence, are disputed and denied. It is submitted that the allegation that the muster sheet was forged is hereby denied because the Annexure A-3 proves an admission by the applicant that he was seriously ill w.e.f. 8.6.1998 and could not attend his duties.

4.11 Contents of this paragraph are not admitted save and except what appears from records.

4.12 Contents of this paragraph are wrong and incorrect hence, are disputed and denied. It is submitted that as per Annexure A-3, the applicant has not reported for duty alongwith a medical certificate showing his fitness to resume his duties as such due to non-submission of medical fitness certificate by the applicant he could not be considered for joining duties.

4.13-4.14 Contents of these paragraphs are not admitted save and except what appears from records.

4.15 Contents of this paragraph are wrong and incorrect hence, are disputed and denied. It is submitted that it is wrong to state that

b 97

respondent No.2 was harassing the applicant and was denying the rights and privileges to the applicant. Since the applicant was not suspended, the question of paying the subsistence allowance does not arise. As regards joining for duties, since he did not produce any medical fitness certificate showing his medical fitness to join duties, the same could not be considered. The allegations levelled against respondent No.1 are also denied. The application dated 26.1.1999, attached as Annexure A-9 to the OA is addressed to the enquiry officer who has already given a reply to the applicant vide his letter No.RE/P/SKP/D&AR dated 1.2.1999. A copy of the aforesaid letter is annexed herewith and marked as ANNEXURE- R2. It is also mentioned that as per DAR Rule, 1968, the jurisdiction of the Enquiry Officer is limited to holding enquiry in context to the charges and allegations mentioned in the chargesheet only and it does not extend beyond that. As such Enquiry Officer has got no power to allow any staff to join his duties.

4.16 With regard to the contents of this paragraph, it is submitted that the Enquiry Officer has already given a reply to the applicant vide his letter No.RE/P/SKP/D&AR dated 1.2.1999 that preliminary enquiry cannot be postponed due to non-

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availability of defence assistance. However, the Enquiry Officer has already given reply to the application vide his letter No.RE/P/SKP/D&AR dated 9.3.1999.

4.17 Contents of this paragraph are wrong and incorrect hence, are disputed and denied. It is submitted that it is incorrect to state that the letter dated 1.2.1999 was issued by the Enquiry Officer under the wrongful and undue pressure of General Manager. Enquiry Officer under D&A Rules becomes a quasi judicial authority and no pressure can be exercised upon him.

4.18 Contents of this paragraph are wrong and incorrect hence, are disputed and denied. It is submitted that the jurisdiction of an Enquiry Officer appointed under the D&A Rules, 1968 has been indicated in the D&A Rules, 1968 and he has got no power to usurp a right which is not vested to him. The Enquiry Officer has acted strictly as per the provisions laid down in the D&A Rules, 1968 hence, the allegations made in this para are hereby denied.

4.19 Contents of this paragraph are wrong and incorrect hence, are disputed and denied.

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4.20 Contents of this paragraph are wrong and incorrect hence, are disputed and denied. It is submitted that the allegations made against the Enquiry Officer are hereby denied. He has acted strictly according to the prescribed rules. An opportunity was given vide letter No.G-6/23/Pt./DAR dated 30.3.1999 for personal appearance of the applicant before Secretary to General Manager on 16.4.1999 for hearing him in reference to his complaint at Annexure-A3 of the OA. But he did not turn up.

4.21 Contents of this paragraph are wrong and incorrect hence, are disputed and denied. It is submitted that the annexure A-14 of the OA is a proof that the applicant was advised to appear before Secretary to General Manager and not before the Assistant Secretary to the General Manager.

4.22 With regard to the contents of this paragraph, it is submitted that representation dated 6.4.1999 was made to the Secretary to GM to which a reply was given vide letter No.G-6/23/Pt.I dated 7.5.1999. A copy of which is annexed herewith and marked as ANNEXURE-R3.

4.23

With regard to the contents of this paragraph, it is submitted that the Enquiry Officer fixed up the date of preliminary hearing on 20.5.1999 at 11:00 AM in his chamber and a first class pass No.054681 dated 5.7.1999, ex New Delhi/Delhi to Allahabad and back was also issued in favour of Shri B D Kalra, retired Sr. Vigilance Inspector, Northern Railway, who was his defence counsel.

4.24

Contents of this paragraph are wrong and incorrect hence, are disputed and denied. It is submitted that no rules of natural justice has been denied by any of the officials. The applicant himself in para 4 of his application dated 11.5.1999 which is annexed as Annexure A-17 to the OA, has admitted that he was forced to leave the headquarter for financial reasons. As such the pass could not be issued to him as he is not supposed to remain out of his headquarter without leave or permission of the competent authority. The applicant cannot force a disciplinary authority to get him suspended because the disciplinary authority has to act as per the rules of D&A Rules, 1968 only. As regards his assertion for joining the duties it is mentioned that the applicant has not come forward for joining the duty with a fitness certificate from a private

10 101

medical practitioner to enable the competent authority to send him to Railway Medical Officer for his medical examination and issuing a fitness certificate for his joining duties. A copy of Clause 521 of Railway Establishment Code Vol. I is annexed herewith and marked as ANNEXURE-R4.

4.25 With regard to the contents of this paragraph, it is submitted that the applicant himself in this para admitted that B D Kalra, his defence counsel, was a sick person who expressed his helplessness to defend his case and thereafter he appointed Shri Mohd. Ismail as his defence helper.

4.26 With regard to the contents of this paragraph, it is submitted that deposition of Shri Vishwakarma is a part of the enquiry and only in answers to question No.24 of defence counsel he has replied with the word 'Yes' but in this connection the question of the defence counsel may also be looked into which clearly mentions that the residence of General Manager is Tilak Bridge and not at Vasant Kunj for which in the previous several paragraphs the applicant has levelled charges against the daughter of respondent No.1. So the answer of the witness should be read in context with the question only and should not be employed for a different matter by the applicant. It is a fact

11/102
that there is a camp office of GM, Railway Electrification at Tilak Bridge. Therefore, the question No.24 of the enquiry officer is redundant.

4.27 With regard to the contents of this paragraph, it is submitted that it is a fact that letter dated 23.6.1998 and 2.7.1998 were not denied either by Shri Vishwakarma or Shri I N Singh. Moreover, vide Annexure A-3 to the OA the applicant himself has admitted that he was seriously ill and could not attend his duties. It is confirmed by Annexure A-3 to the OA that whatever was stated in letter dated 23.6.1998 and 2.7.1998 was correct and even for the sake of arguments if it is accepted that these two letters were not received by the applicant, Annexure-3 itself certifies that he was seriously ill and was not able to move and perform his duties w.e.f. 8.6.1998.

4.28 Contents of this paragraph are wrong and incorrect hence, are disputed and denied.

4.29 With regard to the contents of this paragraph, it is submitted that the reply of Shri I N Singh is a matter of record on which the Enquiry Officer has already formed his opinion and submitted his findings to the Disciplinary Authority.

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103

4.30-4.31 Contents of these paragraphs are a matter of record before this Tribunal.

4.32 Contents of this paragraph are wrong and incorrect hence, are disputed and denied. It is submitted that to safeguard the skin he has himself concocted the story which has got no base. He has already submitted Annexure A-3 as seriously ill and could not attend his duty. He has also submitted a duplicate copy of medical certificate issued by Dr. Mahendra Kumar Jindal of Jindal Clinic and Hospital, Delhi in which he was advised rest w.e.f. 22.10.1998 to 8.11.1998 but he was not declared fit to resume duty by the aforesaid doctor. This duplicate certificate was issued by the said doctor on 4.8.1998⁹. It means on that date also the applicant was not fit to resume duty. A copy of the said Medical certificate is annexed herewith and marked as ANNEXURE-R5.

4.33-4.35 Contents of these paragraphs are a matter of record before this Tribunal.

4.36 Contents of this paragraph are wrong and incorrect hence, are disputed and denied. It is submitted that the applicant has mentioned that he has been removed from the service by the

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104

respondent No.1 which has been denied in the previous paras on behalf of both the respondents. As regards this para it is mentioned that Enquiry Officer submitted his findings to the Disciplinary Authority vide letter dated 20.1.2000 thereafter the DA sent copy of enquiry report to the applicant vide their letter dated 6.3.200 followed by a reminder of even number dated 28.9.2000. It is mentioned that the applicant has failed to submit any representation in reference to the findings of the Enquiry Officer, which tantamount to acceptance of the findings of the Enquiry Officer. While the proceedings as per D&A Rules, 1968 was under process, the applicant has filed a case before Hon'ble Tribunal, New Delhi which was premature. However, the applicant has been removed from service with immediate effect vide letter No.16.3.2001.

4.37

Contents of this paragraph are wrong and incorrect hence, are disputed and denied. It is submitted that the allegations that the charges levelled against the applicant was false, baseless etc. are denied. Instead, from Annexure-A3, it is proved that the applicant was seriously ill and he was not able to join duties. During the enquiry he has also submitted a duplicate medical certificate

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105

issued by Dr. Mahendra Kumar Jindal for the period from 22.10.1998 to 8.11.1998. In this certificate he has not been declared fit by the said doctor for resumption of duties. Even this duplicate medical certificate does not cover the period from 8.8.1998 to 21.10.1998. The other remaining allegations are also wrong. It is reiterated that the applicant has not been dismissed. The D&A proceedings was still under consideration and without waiting for the results of the D&A proceedings the applicant has knocked the door of CAT prematurely. However, the applicant has been removed from service vide letter dated 16.3.2001. This order is appealable to the next higher authority. The applicant has not moved any appeal. The applicant has also not exhausted the departmental channel available for redressal of his grievances, if any.

4.38 Contents of this paragraph are wrong and incorrect hence, are disputed and denied. It is submitted that the allegations in this paragraph are also denied as no proof has been furnished to show that the Enquiry Officer or the PRO were acting on the wishes of respondent No.1. The name mentioned in this para of Enquiry Officer is incorrect.

15 106
4.39 Contents of this paragraph are wrong and incorrect hence, are disputed and denied. It is submitted that the case of Smt. Meera Devi has got no relevance with this case.

4.40-4.43 Contents of these paragraphs are not admitted save and except what appears from records.

4.44 Contents of this paragraph are wrong and incorrect hence, are disputed and denied. It is submitted that it is an admitted fact that the applicant was absenting w.e.f. 8.6.1998 without any leave or permission from the competent authority. This fact has also been proved by his application dated 10.11.1998 which is at Annexure A-3 of the OA and further fortified by his duplicate sick certificate submitted to the Enquiry Officer in support of his sickness from 22.10.1998 to 8.11.1998 in which the doctor has not certified him fit for resumption of duties.

4.45 Contents of this paragraph are wrong and incorrect hence, are disputed and denied. It is submitted that since neither during the pendency of the enquiry nor even after he has produced any certificate from a private medical practitioner declaring him fit for resuming of duties, the

16 107
question of taking him back to duty could not considered, as required under Railway Ministry's letter dated 18.1.1979. As per this letter cases where the duration of sickness is more than 3 days, fitness certificate from a private medical practitioner is necessary for sending him again for medical fitness to be examined by a Railway Medical Officer before he is taken back to duty. However, he has been removed from service vide letter dated 16.3.2001. It has been proved during the course of enquiry that he was absenting unauthorisedly w.e.f. 8.6.1998 and therefore, the chargesheet is not arbitrary, illegal and unconstitutional.

5. Grounds:

5.1-5.13 Contents of Grounds 5.1 to 5.13 are wrong and incorrect, hence, are disputed and denied. The position has been clarified hereinabove and is not being repeated for the sake of brevity. I crave leave to make appropriate submissions at the time of hearing.

6-12. Contents of these paragraphs are matters of record before this Tribunal.

17
108

In view of the submissions made hereinabove, it is most respectfully prayed that the OA may be dismissed being devoid of merit with exemplary costs.

VERIFICATION:

I, RAJESH KUNAR RAI working as Secretary to GM/RE do hereby verify that the contents of above mentioned reply to OA are true and correct and nothing material has been concealed therefrom and are based on official records and legal opinion tendered.

Allahabad
Verified at ~~New Delhi~~ on this 11-12 day of May, 2001.

through -

H K Gangwani
Sr. Railway (P) Counsel

RK/ai
11/5/2001
RESPONDENT
सचिव / म.प्र.
रे.वि. / इलाहाबाद
Secy to GM/RE
ALD

RK/ai
11/5/2001
DEPONENT
For General Manager
सचिव / म.प्र.
रे.वि. / इलाहाबाद
Secy to GM/RE
ALD

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REGD.-A.D

RI

Form No. 109

**Orders of Imposition of penalty under Rule 6 (VII) to (IX) of
Railway Servants (Discipline and Appeal) Rules – 1968.**

No.G-6/23/ part I (DAR)

Place of Issue: Office of GM/CORE/ALD
Dated : 16.3.2001

To,
Shri Shrikant Prajapati,
C/o Shri Brijbhan,
M. Block, Street No. 4,
House No. 53, Shashtrinagar,
New Delhi – 110052.

I have carefully considered your representation dated 27.11.98 in reply to the Memorandum No. G-6/23/DAR dated 11.11.98. I do not find your representation to be satisfactory due to the following reasons :-

" Indicated overleaf "

I, therefore, hold you guilty of the charges(s) viz. **Unauthorised absence from duty and misconduct** levelled against you and have decided to impose upon you the penalty of removal from service. You are, therefore, removed from service with immediate effect.

2. Under Rule-18 of the Railway Servants (Discipline and Appeal) Rules, 1968 an appeal against these orders lies to Secretary to GM /CORE/ Allahabad provided :-

- (i) the appeal is submitted within 45 days from the date you receive the orders and
- (ii) the appeal does not contain improper or disrespectful language.

3. Please acknowledge receipt of this letter.

Signature *M. P. Singh* 16/3...

Name : (M. P. Singh)

Designation of the } Asstt. Secretary
Disciplinary Authority } to GM/CORE/ALD

16/3/2001

19 110

ORDER

I have carefully gone through the major penalty charge sheet to Shri Shrikant Prajapati, Substitute Bungalow Khalasi, issued vide No. G-6/23/DAR dated 11.11.1998, the Enquiry Officer's report and other connected papers as well as defence note of C.O. dated 20.12.1998.

2. Briefly the charges framed against Shri Shrikant Prajapati are that he has been absenting unauthorisedly from duty w.e.f. 8.6.1998 without any leave or permission from competent authority.
3. Shri Shrikant Prajapati has denied the charges in his defence and has stated that he was not absenting but was expelled from duty.
4. As per E.O's report dated 20.1.2000, the charges of unauthorised absence from duty w.e.f. 8.6.98 have been proved. The story of expulsion from duty could not be substantiated in view of application dated 10.11.98 of Shri Shrikant Prajapati addressed to Assistant Secretary to General Manager admitting that he did not attend to his duties from 8.6.98 due to sickness and marking as absent on muster roll from 8.6.98 and onward. Muster Sheet for the period from 8.6.98 and onward and his application dated 10.11.98 addressed to Asstt. Secretary to General Manager prove that he did not attend to his duties from 8.6.98.
5. A copy of E.O's report was sent to C.O. under Registered AD letter No. RE/P/SKP/DAR dated 06.03.2000 but despite reminder under Regd. AD cover No. RE/P/SKP/DAR (616) dated 28.09.2000 and 08.11.2000 duly acknowledged by him on 20.11.2000 he failed to submit any representation which proves that he agrees with the findings of the Enquiry Officer.
6. Thus, the charges of unauthorised absence from duty from 8.6.98 stands proved. I agree with the findings of E.O.
7. Shri Shrikant Prajapati has thus failed to maintain devotion to duty and has acted in a manner which is unbecoming of a Government (Railway) servant.
8. I am, thus, constrained to remove Shri Shrikant Prajapati from service.

M.P. Singh
(M.P. SINGH) 16/3
Asstt. Secretary to GM
&
Disciplinary Authority.

Headquarters Office
Central Organisation
Railway Electrification
Allahabad

No. RE/P/SKP/D & AR/

Dated: 1.2.1999

Sri Sri Kant Prajapati,
Substitute B/Khalasi,
C/O Shri Samaru Ram,
J-60, Khema Ram Katra,
Nai-Basti, Kishanganj,
Delhi-7.

Sub: D & AR enquiry.

Ref:- Your application dated 26.1.99 (received on 1.2.99)
for postponement of DAR enquiry.

....

With reference to above, you are hereby informed that
as already intimated vide my letter of even no. dated 21.1.99,
the date 9.2.99 has been fixed for preliminary hearing only.

It can not be postponed due to non availability of
your Defence assistant.

You are, ~~also~~ also advised that no Railway Pass is
admissible to cover your journey ex NDLS to ALD and back
in connection with above DAR enquiry and you have to make
your own arrangements for the same.

You are advised to attend at the time, date and venue
already fixed vide my letter of even no. dated 21.1.99
(i.e. at 11.00 hrs. in my chamber on 9.2.99).

(Mohd. Masroof)
E.O./APO/CORE/Allahabad.

....

Copy sent through CH-TRJ.ashu

Trin 15-05h
DESPATCHED
1. 2. 99
date
of Despatched



केन्द्रीय रेल विद्युतीकरण संगठन

नवाब यूसुफ रोड, सिविल लाइन्स
इलाहाबाद - २११००९

Head Quarters Office

CENTRAL ORGANISATION RAILWAY ELECTRIFICATION

Nawab Yusuf Road, Civil Lines

Allahabad-211001

दिनांक : 07.5.99.

Date.....

संख्या : जी-6/23/डीएआर/भाग-I.

Order No.....

श्री श्रीकान्त प्रजापति,
एवजी बंगला खलासी,
द्वारा:- श्री तमारु राम,
जे - 60, खेमाराम कटरा,
नई बस्ती, किशनगंज,
दिल्ली-7.

विषय: विभागीय जॉय के संबंध में।

संदर्भ: आपका अध्यावेदन, दि. 15.3.99 एवं 6.4.99.

आपके अध्यावेदन के संबंध में आपको अपने विचार सचिव/महाप्रबंधक महोदय के समक्ष प्रस्तुत करने हेतु 16.4.99 को उपस्थित होने का निर्देश दिया गया था। किन्तु आपने अपने आवेदन, दि. 6.4.99 द्वारा पास की मॉर्गकर निर्धारित तिथि को उपस्थित नहीं हुए।

चूंकि विभागीय कार्यवाही होने तक आपको मुख्यालय पर ही रहना चाहिए, अतः नियमानुसार आपको पास जारी नहीं किया जा सकता। तत्सम अधिकारी ने निर्णय लिया है कि श्री मोहम्मद मसरूफ, सहायक कार्मिक अधिकारी/जॉय अधिकारी के विरुद्ध, आप द्वारा लगाया गया "घायत एवं कोयरसन" का आरोप निराधार है तथा वे जॉय अधिकारी बने रहेंगे।

अतः जॉय अधिकारी द्वारा निर्धारित की गई तिथि पर उपस्थित होकर अपना बचाव-पक्ष प्रस्तुत करें।

सन् पी. सिंह

कृते महाप्रबंधक सा।

प्रतिलिपि:- श्री मोहम्मद मसरूफ, सहायक कार्मिक अधिकारी/केरेविल/इलाहाबाद।

संबंधित लूकेस आपके पास भेजा जा रहा है। कृपया सचिव/महाप्रबंधक महोदय के निर्देशानुसार आवश्यक जॉय-प्रक्रिया पूरी करें।

आज 7.5.99
जयपुर/का. 24
से किशोरि का 24
बा. 1 अ. 2
7/5/99
का. 24

DEPARTED
7.5.99

Chief of Dept. Secy.

R-I

22
R 12
113

(2) Where, however, the authority competent to grant leave is not satisfied about the genuineness of a particular case, it will be open to such authority to secure a second medical opinion by requesting a Government Medical Officer/Railway Medical Officer not below the rank of Civil Surgeon/Medical Superintendent or Staff Surgeon/Divisional Medical Officer to have the applicant medically examined on the earliest possible date.

(3) It shall be the duty of the Divisional Medical Officer to express an opinion both as regards the facts of the illness and regards the necessity for the amount of leave recommended and for that purpose he may either require the applicant to appear before himself or before a Medical Officer nominated by himself.

(4) The grant of medical certificate under this rule does not in itself confer upon the railway servant concerned any right to leave. The medical certificate shall be forwarded to the authority competent to grant leave and orders of that authority awaited.

(5) The authority competent to grant leave may at its discretion, waive the production of medical certificate in case of application for leave for a period of not exceeding 3 days at a time. Such leave shall not, however, be treated as leave on medical certificate and shall be debited against leave other than on medical grounds.

521. Grant of leave on Medical Certificate to Group C & Group D Railway Servants. —

(1) Subject to the provisions contained in sub-rules (2) to (5) of rule 520, an application for leave on medical certificate made by a railway servant in Group C and Group D shall be accompanied by a medical certificate given by a Railway Medical Officer, defining as clearly as possible the nature and duration of the illness.

(2) When a Railway servant residing outside the jurisdiction of a Railway Medical Officer requires leave on medical certificate, he should submit, within 48 hours, a sick certificate from a registered medical practitioner. Such a certificate should be, as nearly as possible, in the prescribed form as given in Annexure III. and should state the nature of the illness, and the period for which the Railway servant is likely to be unable to perform his duties. The competent authority may, at its discretion accept the certificate or, in cases where it has reasons to suspect the bonafides, refer the case to the Divisional Medical Officer for advice or investigation. The medical certificate from registered private practitioners produced by Railway servant in support of their application for leave may be rejected by the competent authority only after a Railway Medical Officer has conducted the necessary verifications and on the basis of the advice tendered by him after such verifications.

Note. — Ordinarily, the jurisdiction of a Railway Medical Officer will be taken to cover Railway servant residing within a radius of 2.5 kilometres of the Railway hospital or health unit to which the doctor is attached, and within a radius of one kilometer of a Railway station of the doctor's beat.

Railway Ministry's decision 1. —Where a Railway employee remained on medical leave upto and including 3 days duration and reported back for duty with a fitness from the medical practitioner, he may be allowed to join duty without obtaining fitness certificate from the Railway Medical Officer subject to the conditions that the employee furnished a declaration that he had not suffered during this period from any eye disease. In the other cases where the duration of the sickness is more than 3 days, the railway employee should be put back to duty within 24 hours on his producing fitness certificate from a private medical practitioner, provided he is found fit by the competent railway medical officer. In case there is any delay beyond 24 hours in obtaining the fitness certificate from the competent Railway Medical Officer, the employee concerned will be deemed to have been put back to duty within 24 hours of his producing the medical certificate of the private medical officer.

(Rly. Ministry's letter No. E(G) 78LE 1-17 dt. 18-1-1979).

20 I

23 Apr 1998
 Clinic : 7529038
 Residence : 7771257
 cum Clinic : 3556008

JINDAL CLINIC & HOSPITAL

MATERNITY VACCINATION LABORATORY FACILITIES AVAILABLE

Registered with Municipal Corporation of Delhi
 Recognised by : Oriental Fire & General Insurance Co. Ltd.

Duplicate

114

Dr. MAHENDRA KUMAR

M.B.B.S.

Ex-Resident IRWIN & G.B. Pant Hospitals
 Regd. No 15007

(Children Specialist)

Dr. (MRS.) JAGWANTI

M.B.B.S.

Gynaecologist & Obstetrician
 Ex-Resident Medical College, Rohtak

Regd. No 15902

Dr. RACHNA JINDAL

M.B.B.S.

Ex-Resident LNJP & G.B. Pant Hospitals

Authorised Medical Consultant to :

National Airports Authority of India

Mineral & Metals Trading Corporation of India Ltd.

Project & Equipment Corp. of India Ltd.

Chemical & Pharmaceutical Corp. of India Ltd.

State Trading Corp. of India Ltd.

INDIAN AIRLINES

AIR INDIA

National Hydroelectric Power Corp.

National Thermal Power Corp.

Badarpur Thermal Power Station.

Bharat Heavy Electricals Ltd.

STATE BANK OF INDIA

Delhi Development Authority of India

C.C.I.C.

Central Ware Housing Corporation

Bharat Electronics Ltd.

Delhi Transport Corporation

National Airport Authority

Central Institute of Hindi

Punjab State leather Development Corp. Ltd.

Maruti Udyog Ltd.

Directorate of Transport (Delhi Admn.)

H.P.M. & C. Ltd.

CLINIC CUM RESIDENCE

232, Vivekanand Puri

Sarai Rohilla, Delhi-110007

DOCTORS' NEST

224/1, Padam Nagar,

Kishan Ganj, Delhi-110007

NOT TO PREVENT COURT APPEARANCES

Signature of Patient..... *Sri Kant Bajaj*

Certified that Sh./Smt. Miss *Sri Kant Bajaj*

whose signature is given above is/was suffering

Enteric fever

from He/She is/was advised rest

w.e.f. *22/10/98* to *8/11/98*

*Verified for record
 M. Jindal*

He/She shall be fit to resume duty w.e.f.

M. Jindal
Dr. Mahendra K. Jindal

Regd. No. 15007

Arrangement for Oxygen Therapy & IV Fluids (Glucose)

Regd. No. *418/98*

115

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH NEW DELHI

O.A.NO. 1738/2000

~~2011102~~
15/12/02

IN THE MATTER OF :

SHRI SRIKANT PRAJAPATI... APPLICANT

VERSUS

UNION OF INDIA & OTHERS

... RESPONDENTS

I N D E X

Sl.No. Description of documents relied upon page Nos.

1. Rejoinder on behalf of the applicant

1-14

(P.E.)
Stamp: 20 NOV 2002
Date: 20/11/02
Registered

(B.S. Mainee & Mrs. Meenu Mainee)

Advocates

240 Jagriti Enclave, Delhi-110092

[Handwritten signature]
[Handwritten signature]
20/11/02

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH : NEW DELHI

O.A.NO. 1738/2000

In the matter of :

Shri Srikanth Prajapati

... Applicant

versus

Union of India & others

... Respondents

REJOINDER ON BEHALF OF THE APPLICANT

MOST RESPECTFULLY SHOWETH :

1. Para-1 of the counter reply is wrong and denied and para-1 of the O.A. is reiterated. The applicant had filed the above noted O.A. on 29.8.2000 challenging the wrongful action of the Respondent No.1 who has removed the applicant from service by oral false complaints of Ms. Teesa Srivastava at whose residence the General Manager had deputed the applicant to work although the applicant had been performing all the domestic duties as required by Ms. Teesa Srivastava, daughter of the General Manager but for no reason whatsoever she made a complaint against the applicant on which the General Manager by passing a oral order terminated the services of the applicant.

Subsequently during the pendency of the O.A. written order was passed on 16.3.2001 which has been challenged by amending the O.A.



2. Para-2 of the counter reply is wrong and denied. 117

After the applicant had filed the O.A. which was pending the disciplinary authority could not have passed the order dated 16.3.2001 under Section 19(4) of the Administrative Tribunal Act 1985. Therefore in view of the Section 19(4) of the A.T. Act the order passed on 16.3.2001 is a nullity in the eyes of law. The Principal Bench has the Territorial jurisdiction to entertain and try this application


3. Para-3 of the O.A. has not been denied by the Respondents.

4. The contention of the Respondents that the applicant had not amended the O.A. is incorrect. The applicant has filed complete amended O.A. in which page Nos. 1, 16 and 20 of the original O.A. has only been amended.

4.1. Para-4.1 of the O.A. has not been denied by the Respondents.

4.2. Para-4.2 of the O.A. has not been denied by the Respondents.

4.3. Para-4.3 of the counter reply is wrong and denied and para-4.3 of the O.A. is reiterated. This is a case where the counter affidavit has been filed only by the Secretary to the General Manager while the General Manager



who is respondent No.1 by name has not filed any affidavit and as such the averments made by the applicant in para-4.3 are deemed to have been admitted by the respondents

4.3. and 4.5 : Paras 4.4 and para 4.5 of the counter affidavit are wrong and denied and para 4.4 and 4.5 of the O.A are reiterated.

4.6. Para-4.6 of the counter reply is wrong and denied and para 4.6 of the O.A is reiterated. In this connection the applicant respectfully submits that he was never absent from 3.6.1998 as was alleged by the respondents vide letter dated 30.10.1998. The applicant was actually sick from 26.10.1998 to 8.11.1998 for which period he had submitted medical certificate also. Annexure A-3 was signed by the applicant as per direction of the General Manager. The applicant does not know English and Annexure A-3 was got typed by the Secretary to the General Manager himself and the applicant was asked to sign the same.

4.7. Para-4.7 of the counter affidavit is wrong and denied. The applicant appeared and requested for permission to join duty but he was not allowed to join duty under the wrongful orders of the General Manager. The contention of the respondents that the applicant did not produce fitness certificate is a complete concoction. In accordance with rules when an employee resumes after sickness, the controlling officer may issue a memo on prescribed form directing the employee to Railway doctor for railway doctor's confirmation about fitness. This is done in case the

B

controlling officer has any doubt about the fitness of employee, but in this case neither the applicant was directed to railway doctor with the prescribed memo nor he was allowed to perform duty. The contention of the respondents that even Dr. Mahender Kumar Jindal's certificate did not show that the applicant was fit to join duty is incorrect.

As submitted in the preceeding paragraphs the applicant was sick only from 28.10.1998 to 8.11.1998 for which period he had produced medical certificate. As already submitted Annexure A-3 was got signed by the Secretary to the General Manager at the direction of the General Manager from the applicant under duress. The contention of the Respondents that because disciplinary proceedings were initiated against the applicant therefore he could not be taken back on duty is contrary to the rules as well as law. Even if the disciplinary proceedings are to be initiated the applicant ought to have been allowed duty or he should have been placed under suspension because the applicant having acquired temporary status was entitled to all the rights and benefits which were admissible to the regular railway employees. The applicant produced private medical certificate because the Respondents staff refuse to issue R-92 to the applicant.

- 4.9. Para-4.8 of the counter reply is wrong and denied and para 4.8 of the O.A. is reiterated. As already submitted the General Manager, Railway Electrification Shri N.P. Srivastava under whom the applicant was working deputed the applicant to work at the residence of his daughter

Ms Teesa Srivastava although the salary was being paid by the office of the General Manager, Railway Electrification. Ms. Srivastava has been utilizing



the applicant as a domestic servant from morning till evening and had some misunderstanding she made a complaint to her father General Manager Shri N.P. Srivastava against the applicant and Shri N.P. Srivastava got a memorandum charge sheet issued to the applicant on the false charge of unauthorised absence. The applicant was only absent during 22.10.1998 to 8.11.1998 for which period he had submitted medical certificate. 120


4.9. Para-4.9 of the counter affidavit is wrong and denied and para-4.9 of the O.A. is reiterated.

4.10. Para-4.10 of the counter reply is wrong and denied and para- 4.10 of the O.A. is reiterated. The applicant had never stated that he was seriously ill with effect from 8.6.1998 the applicant was ill only from 22.10.1998 to 8.11.1998 for which period the medical certificate had been produced.

4.11. Para-4.11 of the counter reply is wrong and denied and para-4.12 of the O.A. is reiterated.

4.12. Para-4.12 of the counter reply is wrong and denied and para-4.12 of the O.A. is reiterated.

That the medical certificate issued by Dr. Mahinder Kumar has certified that the applicant was under his treatment from 22.10.1998 to 8.11.1998 and thereafter he was fit to perform his duty.




The ground being given by the respondents in this paragraph ~~xxxx~~ for not allowing the applicant to join duty is absolutely false, baseless, concocted and mischevious. The Respondents could not have denied the right of the applicant to join his duty. In case there were any doubt they could have directed the applicant to go to the R.M.O. to bring fitness certificate. But the applicant was illegally kept out neither allowed to join duty nor placed under suspension during the period after 10.11.1998.

4.13 and 4.14 : Paras 4.13 and 4.14 of the O.A. have not been denied by the respondents.


4.15. Para-4.15 of the counter reply is wrong and denied and para-4.15 of the O.A. is reiterated.

The Respondents never directed the applicant to produce medical fitness certificate. In accordance with rules if an employee joins after long sickness it is duty of the railway officer to issue a memo to the said employee and to direct him to the R.M.O. for fitness certificate. But in this case the Respondents never directed the applicant to R.M.O. for obtaining fitness certificate. The ground given by the Respondents in this para is totally false, baseless and concocted. The contention of the respondents



122

that the Enquiry Officer 's duty is to hold enquiry and nothing else is also incorrect. The Enquiry Officer is the appointee of the Disciplinary Authority and as such it is his duty to ensure that enquiry held in accordance with rules and the charged officer is placed under suspension or is allowed to perform his duty so that he can defend himself properly. It is however respectfully submitted that the Enquiry Officer as well as the Disciplinary Authority were both from junior subordinate of the General Manager and therefore could not do any thing which could in any way to annoy their boss Shri N.P.Srivastava. They were acting under the strict instructions of the General Manager to teach a lesson to the applicant against whom the General Manager 's daughter had made a complaint. The Enquiry Officer also never informed the applicant that so far as the request of the applicant regarding duty is concerned he may report to the General Manager or any other officer. In fact the Enquiry Officer never considered the said request of the applicant. The reply given by the Enquiry Officer also clearly shows that he was going contrary to the rules. The applicant being a charged officer was entitled to free railway pass to cover his journey from New Delhi where the applicant was



posted to Allahabad and where the enquiry was to be held.

4.16. Para-4.16 of the counter reply is wrong and denied and para-4.16 of the O.A. is reiterated. The refusal of the Enquiry Officer to grant a and genuine request of the applicant also shows that the Enquiry Officer himself was also biased against the applicant.

4.17. Para-4.17 of the counter reply is wrong and denied and para-4.17 of the O.A. is reiterated.

4.18. Para-4.18 of the counter reply is wrong and denied and para-4.18 of the O.A. is reiterated. The Enquiry Officer was requested to put up his case to the competent authority regarding ~~re~~ grievance of the applicant but the Enquiry Officer failed to do so on account of the afraid of the General Manager and consequent biased against the applicant.

4.19. Para-4.19 of the O.A. has not been denied by the Respondents.

4.20. Para-4.20 of the counter reply is wrong and denied and para-4.20 of the O.A. is reiterated.

The applicant was never issued a journey pass to proceed Allahabad to meet the Secretary to the General Manager

in spite of the request of the applicant.

4.21. para-4.21 of the counter reply is wrong and denied and para 4.22 of the O.A is reiterated.

4.22. Para-4.22 of the O.A. has not been denied by the respondents. The request of the applicant was wrongly turned down.

4.23. In regard to para 4.23 of the counter reply is wrong and denied and para 4.23 of the O.A. is reiterated. It is however respectfully submitted that the journey pass from the place of duty of the applicant to the place of enquiry which ought to have been issued by the respondents was not issued in spite of request of the applicant.

4.24. Para-4.234 of the counter affidavit is wrong and denied. The applicant was entitled to a journey pass for attending the disciplinary inquiry which was wrongly denied. The applicant was neither allowed to join duty nor placed under suspension. This single fact goes to prove the mala fide attention of the respondents to harass, humiliate and starve him. The submissions made in para 4.7 of the rejoinder are reiterated.



125

The Respondents have not given any cogent reason as to why the applicant ~~at~~ count not be allowed to join duty or could not place under suspension. So far as the fitness certificate the applicant was never directed to Railway Medical Officer in accordance with rules.

4.25. Para-4.26 of the O.A. has not been denied by the respondents.

4.26. Para-4.26 of the counter reply is wrong and denied and para-4.26 of the O.A. is reiterated.

4.27. Para-4.27 of the counter reply is wrong and denied and para-4.27 of the O.A. is reiterated. The submissions made in earlier paragraph are reiterated and para-4.27 of the O.A. is reiterated.

4.28. Para-4.28 of the counter reply is wrong and denied and para-4.28 of the O.A. is reiterated.

4.29. Para-4.29 of the ~~counter~~ O.A. has not been denied by the respondents.

4.30 and 4.31 Paras 4.30 and 4.31 of the O.A. have not been denied by the respondents.

4.32. Para-4.32 of the counter reply is wrong and denied and para-4.32 of the O.A. is reiterated.

126

It is respectfully submitted that duplicate copy of the medical certificate was obtained on 4.8.1999 when the ^{enquiry} Disciplinary ~~authority~~ had initiated against the applicant

4.33 to 4.35 : Paras 4.33 to 4.35 of the counter reply are wrong and denied and paras 4.33 to 4.35 of the O.A. are reiterated. In this regard it is respectfully submitted that the Enquiry Officer did not examine the applicant to ask mandatory questions as per Rule 9(21) of the Railway Servants Discipline and Appeal Rules.

4.36. Para-4.36 of the counter reply is wrong and denied and para-4.36 of the O.A. is reiterated. A copy of the enquiry report said to have been sent vide letter dated 6.3.2000 does not appear to have been received by the applicant because all the communications which were received by the applicant had been made over to his defence counsel and he had given suitable reply. The applicant had already filed the petition on 29.8.2000 against the illegal and unconstitutional order passed by the respondents in throwing the applicant out of job without passing any written order the question of any reminder having been sent by the respondents and received by the applicant does not arise. The entire action against the applicant was motivated and mala fide on the part of General Manager who is the head of the Railway Electrification and the applicant was victimised under his orders by his immediate subordinate officer.

4.37. Para-4.37 of the counter reply is wrong and denied and para-4.37 of the O.A. is reiterated. The respondents



have no other ground to defend their illegal action of clutching of Annexure A-3 in an illegal manner. The applicant was neither allowed to perform his duties now he was placed under suspension in spite of the repeated representations and ultimately the applicant was told that his services have been terminated with the result that the applicant had no other curam but to approach this honourable Tribunal against the out and out illegal action of the respondents.

4.38. Para-4.38 of the counter reply is wrong and denied and para-4.38 of the O.A. is reiterated.

4.39. Para-4.39 of the counter reply is wrong and denied and para-4.39 of the O.A. is reiterated.

4.40 to 4.43 : Paras 4.40 to 4.43 of the counter reply are wrong and denied and para-4.40 to 4.43 of the O.A. are reiterated.

4.44. Para-4.44 of the counter reply is wrong and denied and para 4.44 of the O.A. is reiterated. The respondents unfortunately and unexplicably are repeatedly clutching on Annexure A -3 to vainly defend their illegal action but Annexure A-3 does not assist the respondents in their malacious illegal and unconstitutional action against the poor applicant.

4.45. Para-4.45 of the counter reply is wrong and denied and para-4.45 of the counter reply is reiterated. The circular dated 18.1.1979 is not applicable to the facts of this case. Nor the respondents have supplied




copy of the said circular. The applicant therefore reserve his right to file the reply as and when the copy of the circular is supplied to the applicant. Even otherwise it was the duty of the respondents to direct the applicant to R.M.O. if they wanted fitness certificate from the R.M.O. In accordance with rules in case of long sickness the respondents issue a memo to the employee directing him to go to the R.M.O. and present himself before him to obtain fitness certificate from him this was not done in case of the applicant and for reasons best known to them. It is also submitted that the applicant was never asked to obtain fitness certificate from railway doctor. This shows malafide intention of the respondents.

4.
~~Para-4.46~~ Para-4.46 of the counter reply is wrong and denied and para-4.46 of the O.A. is reiterated.

5. Para-5 of the counter reply is wrong and denied and para-5 of the O.A. is reiterated.

6. Para -6 of the counter reply is wrong and denied and para-6 of the O.A. is reiterated.

7 to 12 : Paras 7 to 12 of the O.A. have not been denied by the respondents.



11. PARTICULARS OF THE POSTAL ORDER ATTACHED :

129

- (i) No. of Postal Order
- (ii) Post Office from where issued
- (iii) Date of issue of Postal Order

12. ~~LIST OF ENCLOSURES : AS PER INDEX~~

सहित अर्जित

Applicant

VERIFICATION

I, Srikant Prasad Patil
Subedar Prasad Patil
s/o

aged about 25 years working as B K b

in the office of G.M Electrification All.

and r/o 53, Gali No 4, Shastri Nagar, New Delhi

do hereby verify that the contents of ~~paras 1 to 4~~ of the above application are true and correct to the best of my knowledge and ~~paras 5 to 12~~ are believed to be true on legal advice and that I have not suppressed any material fact.

Date = 20/11/02
New Delhi

सहित अर्जित
APPLICANT

through

(B.S. MAINEE / MEENU MAINEE)

Advocates

240, Jagriti Enclave,

Vikas Marg Extn.

Delhi - 110 092

Tel. : 2152172, 2166162