

pay fixation (No)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH

O.A. No. 476 of 1989  
~~Tax No.~~

DATE OF DECISION 31.1.1992

Shri Jeram Mohan Petitioner

Shri G.A. Pandit Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Shri R.M. Vin Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C. Bhatt

: Member (J)

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ? ☒
2. To be referred to the Reporter or not ? ☒
3. Whether their Lordships wish to see the fair copy of the Judgement ? ☒
4. Whether it needs to be circulated to other Benches of the Tribunal ? ☒

5

Shri Jeram Mohan : Applicant  
(Advocate :Shri G.A.Pandit)

VS.

Union of India & Ors. : Respondents  
(Advocate :Shri R.M. Vin)

O R A L - J U D G E M E N T

O.A. No.476 of 1989

Date : 31.1.1992

Per : Hon'ble Shri R.C. Bhatt : Member (J)

The applicant has filed this original application under Section 19 of the Administrative Tribunals Act, 1985, seeking three reliefs at para 7 (a), (b) and (c) of the application, but the same being multiple the learned advocate for the applicant has confined his argument only to relief at para 7 (a) and has not pressed 7 (b) and (c) of this application at this stage. The other point which requires to be considered by me is whether the respondents should be directed to decide the representation dated 27.7.1988 and 23.1.1987, produced collectively at annexure A/1, in this case by the applicant. The question of refixation of pay will depend on the decision of the respondents on the repre-



resentation of the applicant, annexure A/1. The respondents have filed reply contending that the order dated 10/15.9.1984<sup>is</sup> passed by the competent authority in accordance with the Rules and regulations of the Railway (Discipline & Appeal) Rules. It is contended that it is not correct that the representation of applicant dated 27.7.1988 is not being replied, but the respondents dispute the receipt of such representation. Having considered the pleading and documents on record, the respondents should consider the representation dated 23.1.1987 and 27.7.1988 and if the respondents have not received the same as contended in the reply, the applicant to furnish the copy of the same within ten days. The respondents shall have to decide the representation then by speaking order affording opportunity to the applicant to lead evidence, if any, in support of his representation. Hence the following order is passed :-

O R D E R

The relief in para 7 (a) is partially allowed. The applicant to furnish copies of his representation dated 23.1.1987 and 27.7.1988 to the respondents within ten days. The respondents, thereafter, to consider and decide the representation according to law by speaking order after affording opportunity to the applicant to lead

7

evidence, if he so desires. This being an old case and the grievance of the applicant being also very old, the respondents should dispose of the representation within four months from the receipt of the order of this Tribunal, without any delay. No order as to costs. The application is disposed of accordingly.

*R.C. Bhatt*  
(R.C. BHATT)  
Member (J)

\*Ani.

. . . . .

. . . . .

Central Administrative Tribunal Ahmedabad Bench.

Application No. OA/476/88 of 199


Transfer Application No. \_\_\_\_\_ Old Writ Pet.No. \_\_\_\_\_.


CERTIFICATE

Certified that no further action is required to be taken and the case is fit for consignment to the Record Room (Decided).

Dated: 17/2/92

Countersigned:

  
Section Officer/Court Officer.

  
Signature of the  
Dealing Assistant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AT AHMEDABAD BENCH

# INDEX SHEET

CAUSE TITLE OA/476/89. OF 198.  
NAMES OF THE PARTIES Shri. Jaram Mahan.  
VERSUS

U. O. J. & O.R.S.

PART A B & C

[illegible]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH, AHMEDABAD

RA/M.A/O.A./ T.A./ 426 1989

Jesam Mehen Applicant (s).





GA Pandit Adv. for the  
Petitioner (s).

Versus

Union of India & Co Respondent (s).

2m Vin Adv. for the  
Respondent (s).

SR. NO.	DATE.	ORDERS,
		(Copy Serial)
		Pay fixation)
	15-12-89	FIA (O.B.)
	18/12/89	issuance of advised - order admission to regn
		RPAD Recd from Resp. 2 kept in OA/542/89 (02.01)
		- V.P. filed by respondents' adv. mr. R.H. Vên, <del>on</del> on 18/11/90 <u>amp</u> 18/11
	19/11/90	Admitted on same steps
		9/2/90 Ch
		-> Reply filed by mr. R.H. Vên, adv. for respondents on 30/11/90 <u>amp</u> 30/11.

NO.	DATE.	ORDERS.
	1990	
912		Parties absent. No documents produced. Adjourned on same stage to 12/3/90.  
12/3		Parties absent. No documents produced. Adjourned on same stage to 16/4/90.  
16/4		Today case is on on Board before Registrar. No documents produced. Enough adjournments given already. It is a first case for the right to file responses submitted for advice before Hon'ble members.  
31-1-92	F/11	 Date informed to applicants adv.
GAC/		



CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH, AHMEDABAD.

Submitted;

C.A.T./Judicial Section.

Original Petition No.: 476 of 89.

Miscellaneous Petition No.: 2 of 89.

Shri Jerum Mohan Petitioner(s).

Versus.

Union of India & Co Respondent(s).

This application has been submitted to the Tribunal by  
Shri G. A. Pandit under Section 19 of  
The Administrative Tribunal Act, 1985. It has been scrutinised  
with reference to the points mentioned in the check list in the  
light of the provisions contained in the Administrative Tribunals  
Act, 1985 and Central Administrative Tribunals (Procedure) Rules,  
1985.

The application has been found in order and may be given to  
concerned for fixation of date.

The application is not been found in order for the same  
reasons indicated in the check list. The applicant may be  
advised to rectify the same within 21 days. Draft letter is  
placed below for signature.

- ✓ 1 Po & Rs. So not filed.
- ✓ Ann. A, is not legible
- ✓ Copy A
- ✓ page no. 12 is not marked properly.
- ✓ Valuation not filed
- ✓ Documents are not certified as true copies. We may inform accordingly.

27/7

27/7

10/3/89  
27/07/89

we may issue obs later

27/7  
ANT  
to  
may

*[Signature]*  
27/7

we may issue rule

31/7

Ans

*[Signature]*  
31/8

*[Signature]*  
31/8/88  
1/3 same  
31/8/88

Adv Concern has supplied legible copy  
of NP but left to comply in obs of  
copy of document (A3) 2 1/2 p B 50/-

So we may issue for obs board

19/9  
Ans  
do  
may  
✓ 1 1/2 p B 50/-  
2 copy of document (A3) - Done

*[Signature]*  
19/88

Adv Concern has sound obs so no  
may be looked on

We may fix the date for admission  
of a copy sent to  
other side.

~~There are~~

8/11/88

*[Signature]*  
8/11/88



## CENTRAL ADMINISTRATIVE TRIBUNAL

## AHMEDABAD BENCH

APPLICANT (S)

Jesam Mohan

RESPONDENTS (S)

Union of India & Co

## PARTICULARS TO BE EXAMINED

ENDORSEMENT AS TO  
RESULT OF EXAMINATION

1. Is the application competent?

y

2. (A) Is the application in the prescribed form?

y

(B) Is the application in paper book form?

y

(C) Have prescribed number complete sets of the application been filed?

y

3. Is the application in time?

If not, by how many days is it beyond time?

Has sufficient cause for not making the application in time stated?

No  
2 years or more

y

4. Has the document of authorisation/ Vakalat nama been filed?

y No.

5. Is the application accompanied by B.D./I.P.O for Rs.50/-? Number of B.D./I.P.O. to be recorded.

Not received.  
BB 918190 - 30 / 50  
2  
MA 361702 - 20 / 50  
20

6. Has the copy/copies of the order(s) against which the application is made, been filed?

Yes (Anne. A A 9)

7. (a) Have the copies of the documents relied upon by the applicant and mentioned in the application been filed?

y

(b) Have the documents referred to in (a) above duly attested and numbered accordingly?

y

(c) Are the documents referred to in (a) above neatly typed in double space?

y

8. Has the index of documents has been filed and has the paging been done properly?

y

### PARTICULARS TO BE EXAMINED

ENDORSEMENT AS TO BE  
RESULT OF EXAMINATION.

9. Have the chronological details of representations made and the outcome of such representation been indicated in the application?
10. Is the matter raised in the application pending before any court of law or any other Bench of the Tribunal?
11. Are the application/duplicate copy/spare copies signed?
12. Are extra copies of the application with annexures filed.
  - (a) Identical with the original.
  - (b) Defective.
  - (c) Wanting in Annexures  
No \_\_\_\_\_ Page Nos \_\_\_\_\_?
  - (d) Distinctly Typed?
13. Have full size envelopes bearing full address of the Respondents been filed?
14. Are the given addressed, the registered addressed?
15. Do the names of the parties stated in the copies, tally with those indicated in the application?
16. Are the translations certified to be true or supported by an affidavit affirming that they are true?
17. Are the facts for the cases mentioned under item No.6 of the application.
  - (a) Concise?
  - (b) Under Distinct heads?
  - (c) Numbered consecutively?
  - (d) Typed in double space on one side of the paper?
18. Have the particulars for interim order prayed for, stated with reasons?

Ys checked  
Dpt 2757

S/C No 3221/89  
257

8

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD.

ORIGINAL APPLICATION NO. 476 OF 1989.

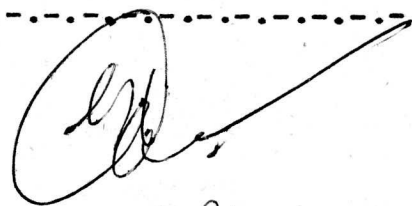
Shri Jeram Mohan. .... Petitioner.

V/s.

Union of India & Ors. .... Respondents.

I N D E X

Annexures.	Particulars.	Page No.
-	Memo of petition.	1-8
'A'	Copy of order No.EM/308/ 70/J/23(T) dt.10/15-9-1984	9
'A-1'	Copy of representation dated 27.7,1988 & 23-1-89	10-15
'A-2'	Copy of memorandum No.430 dated 14-8-1958 showing seniority list. collectively.	16.
'A-3'	Regular Civil Suit No.147/75	17-30
'A-4'	Copy of Regular Civil Suit No. 550/79.	31-49

  
(G. A. Pandit)

Copy Sent  
1000-21719  
Adm. Cell.  
25/7/89

GAP  
V.P.  
242  
D.O.  
10/1-

89

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD.

AHMEDABAD BENCH

ORIGINAL APPLICATION NO. 476 OF 1989.

Shri Jeram Mohan. .... Applicant.

V/s.

Union of India & Ors. .... Respondents.

DETAILS OF APPLICATION

1. Particulars of the applicant:

Name & Address of the applicant: Jeram Mohan,  
Khalasi, under  
Loco Foreman,  
Botad, Bhavnagar.

Address for service of notice: Mr. G.A. Pandit,  
Advocate,  
5 Sattar Taluka  
Society, Navjivan.  
P.O., Ahmedabad.

2. Particulars of the Respondents:

(1) The Union of India, through  
General Manager,  
Western Railway,  
Churchgate, Bombay.

(2) Divisional Railway Manager,  
Western Railway,  
Bhavnagar Para,  
Bhavnagar.

3. Particulars of the order against which application is made.

The application is against the following order:-

Order No. EM/308/70/J/23(T)

Date : 10/15-9-1984

Passed by DME(L) (E) - BVP.

Subject in brief:

Application under section 20(2) of the Central  
Administrative Tribunals Act, 1985, on the ground that  
the applicant represented against the above order

through the representation dated 27.7.88 preferred to Respondent No.2, D.R.M. Bhavnagar is not considered and not replied and therefore begs to approach this Tribunal.

4. Jurisdiction of the Tribunal:

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

5. Limitation :

The applicant further declares that the application is within the limitation prescribed in Section 21 of the Administrative Tribunals Act, 1985.

6. Facts of the case :

The facts of the case are given below:

(1) The applicant was appointed as an Artisan Khalasi on 24.8.58 and was allotted a railway quarter at Botad. The applicant state that this railway quarter with Shri Popat Laghra with the consent of his immediate superior. The applicant requested for regularising the exchange of quarter which was forwarded by Fitter-in-charge, Botad on 16.7.1970. The applicant was charge sheeted for unauthorised exchange of quarter and was removed from service

from 20.4.72 in terms of order dated 10.4.1972. His appeal against the penalty to the Divisional Mechanical Engineer also failed, which was dismissed in terms of order dated 26.5.1972. The applicant filed Regular Civil Suit No. 147/75 on 31.3.1975 before the Civil Judge, Senior Division, Bhavnagar. The said suit was decreed on 1.2.1977 in favour of the applicant and the order passed by the disciplinary authority removing the applicant from service was declared illegal. It was further held that the applicant was eligible to recover the sum of Rs. 5648/- being the arrears of salary for the period from the date of removal i.e., 20.4.1972 to filing of the suit i.e. 31.3.1975. The applicant was reinstated from 1.4.1977 and inspite of the clear directions from the Court, the period from 31.3.1975 to 1.4.1977 was treated as under suspension and he was paid the arrears of subsistence allowance amounting to Rs. 3100/-~~xxx~~ only. Thus the opponents did not pay full salary for the period from 31.3.75 to 1.4.1977. The applicant represented to the opponents-railway administration for making him payment of full salary for the period. The applicant was allowed to continue in service on the post of Khalasi until he was once again removed from service in terms of Divisional Mechanical Engineer, Bhavnagar Para's order dated 3.6.1978 against which he preferred an appeal to the Divisional Superintendent, Bhavnagar

which failed in terms of order dated 10.1.79.

The applicant filed another Regular Civil Suit

No. 550/79 before the Civil Judge, Senior

Division, Bhavnagar, which was decreed in

favour of the applicant on 30.4.1982, the

Hon'ble Court was pleased to hold that the

impugned order dated 3.6.78 and 10.1.79 as

illegal and further held that the applicant

was entitled to recover arrears of salary for

the period from the date of removal till the

filing of the suit i.e. from 3.6.78 to 15.10.79.

The applicant was paid an amount of Rs.4880/-

being the salary arrears for the said period.

The railway administration issued the order

dated 15.9.84 from the date of the impugned

order No. EM 308/70/J/23 whereby the period

from 16.10.79 to 29.7.82 i.e, the date of

filing of suit till the date of reinstatement

was treated as a period not spent of duty and

the applicant was pay 60% of the full pay.

The applicant represented against the order

dated 15.9.84 as illegal as the Rule 2044 R II

does not permit the railway administration

to take such action as the same rule is not

applicable in such cases. The said representa-

tion is not replied so far. The applicant made

representation again on 27.7.1988. The



applicant says that his pay ought to have been fixed in the revised scale with effect from 1.1.1973 at Rs. 202/- and his pay should have been drawing accordingly. The railway administration having failed to raise his pay by grant of notional increments, his pay of reinstatement on 28-7-1982 was also fixed at Rs. 202/-. That at the time of his next promotion as Senior Khalasi in the year 1984 his pay in the scale of Rs. 196 - 232 (R) was taken as Rs. 208/-. The petitioner therefore contents that his pay is required to be refixed right from 1.1.1973 taking Rs. 202/- as his basic pay on that date.

The applicant submits that his erstwhile juniors i.e., Kalu Pola, Magan Ram, Shankar Antha, Bupat Singh, Balchandra B. etc. are promoted to the higher posts whereas he is continued on the same post of Khalasi and has not been considered for promotion along with his juniors. That the applicant is denied and deprived of his promotion alongwith his juniors is arbitrary and violative of Article 14 & 16 of the Constitution of India.

The applicant therefore submits that the Respondents railway administration is grossly unjust and obdurate in not paying any attention to the grievance of the applicant raised before the Administration for last two decades. The said grievance are (a) refixation of pay from 1.1.1973



and grant of due increments, (b) The difference of salary for the period from 1.4.1975 to 1.4.1977 and again from 16.10.1979 to 28.7.1982, (c) Seniority position on the basis of deemed date Shri Kalu Pola was promoted., (d) To set aside the order dated 15.9.1984 being illegal and void. The applicant also sent Registered A.D. letters to Respondent No.1 in the form of a notice and he awaited the decision from the respondents-railway administration, he has not received any response to redress his grievance and therefore the applicant begs to approach this Hon'ble Tribunal on the above mentioned facts submissions and grounds.

7  
The petitioner, therefore prays that :

- (a) Your honour be pleased to direct the Respondents-Railway Administration to decide his representations dated 27.7.1988 & 23.1.87 and further be pleased to direct the railway to refix pay from 1.1.73 and grant due increments.
- (b) Your honour be pleased to direct the respondents to pay the difference of salary from 1.4.75 to 1.4.77 and again from 16-10-79 to 28-7-82.
- (c) Your honour be pleased to direct the Railway Administration to promote the applicant on the basis of his seniority and placed his above Kalu Pola, Magan Ram, Shankar Amtha, Bupat Singh,

15

Balachandra. B. etc.

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

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

9. (a) This Hon'ble Tribunal may be pleased to pass any other order or direction may be deemed fit in the interest of justice.

- (b) This Hon'ble Tribunal may be pleased to direct the Respondents-Railway Administration to decide his representation dated 27.7.1988 & 23.1.87 and further be pleased to direct the Railway to refix his pay from 1.1.73 and grant due increments.

- (c) Pending hearing and final disposal of this case the Hon'ble Tribunal may be pleased to pass any appropriate order or direction in the interest of justice may be passed.

10. Particulars of Bank Draft/Postal Order in respect of the Application Fee:

1. Number of Indian Postal Order(s):
2. Name of the issuing Post Office :

3. Date of Issue of Postal Order(s):

4. Post Office at which payable :

11. List of enclosures:

All the relevant documents are enclosed herewith  
this application. The list of annexures are given  
in index.

Ahmedabad.

Dt: -7-1989.

\* Jeram Mohan

VERIFICATION

I, Jeram Mohan, the applicant do hereby verify  
that the contents given in this application are true  
to my personal knowledge and belief and I believe the  
same to be true on legal advice and that I have not  
suppressed any material fact.

Ahmedabad.

Dt: -7-1989.

\* Jeram Mohan

Identified by me. & all the annexures are  
true copy.

(Advocate for the applicant)

Filed by Mr. G. A. Pandit  
Learned Advocate for Petitioners  
with second set & 2 copies  
copies copy served/not served to  
other side

Dt: 27/7/85 By Registrar C.A.T.(J)  
A'bad Bench

X

Western Railway

Annex-"A"

No.EM/308/70/J/23.(T)

DRM's Office BVP,  
Dt:- 10-9-1984.  
15

-: MEMORANDUM :-

Sub:- DAR - Mech (Loco) Deptt- Shri Jaram Mohan  
WSP Khalasi- BTD -

Ref:- Shri Jaram Mohan WSP Kh. STD representation dt.  
18-11-1983,

\*\*\*\*\*

After consideration of the representation dt.18.11.88, of Shri Jaram Mohan WSP Kh. BTD in response to this Office Notice No.E/L/J/83 dt.14.11.83, the DME(L) has decided under the provisions of rule 2044-A(2)-R,II to treat his intervening period From 3-6-78 to 29-7-82 as period not spent on duty and to pay him 60% of the full pay and allowance to which he would have been entitled, had he not been removed from Service, for the period from 16-10-79 to 29-7-82 as he has already been paid a sum of Rs.4880/- towards arrears of salary from 3-6-78 to 15-10-79 as per order of the Civil Judge (S.D.) Bhavnagar in regular C.S. No.550/79.

Sd/-  
For DME(L) (E) -BVP.

Copy to :- DAO- BVP

Shri Jaram Mohan, WSP Kh. BTD, tnro.LF BTD.

CC/EM. OS/SB. LF/BTD

File No. E/L/J/83.

do EM/308/70/5/22/Court.

TRUE COPY  
Adraete

Fresh typed copy  
received in Comptroller  
& Officer  
15-10-84  
Sh  
15/10/84

મહેરબાન,  
ડી.આર.એમ. સાહેબની સેવામાં,  
બાવનગર, પરા.

(વિ-અ-વાર વચ્ચે છે. માટે.)

અરજદાર બોટાદ લોકો સેડમાં નોકરી કરતા બલયું.એસ.પી. ખલાસી  
નેશમ મોહનની જમ્ના પૂર્વક અરજ કરું છું કે મને રેલ્વે ક્વાર્ટર અને બોયારાઉટ  
તા: ૨૭-૪-૭૨ના રોજ રેલ્વે માંથી રીમુવેલ કરેલ ત્યારબાદ તા: ૧-૪-૭૭ના મ  
બાવનગર દીવાની કોર્ટના બોર્ડરથી નોકરીમાં લેવામાં આવેલ.

ત્યારબાદ તા: ૩-૪-૭૮ના રોજ આજના બોર્ડર મુજબ ફરીથી નોકરી માંથી  
રીમુવેલ કરેલ તો તેના કોર્ટ બાવનગર બોર્ડર અનુસાર ફરીથી તા: ૨૭-૭-૮૨ના રોજ  
નોકરી ઉપર લેવામાં આવેલ પણ કોર્ટ બોર્ડર અનુસાર હજી સુધી મને જે હક મળ્યા  
જોઈએ તે આપવામાં આવેલ નથી. તેમજ મારી (પર તોર અ-ચાચ થઈ છે અને નીચે  
મુજબ મારી માંગણી બાકી છે.

જ્યારે મને રેલ્વેમાંથી રીમુવેલ કરેલ ત્યારે મારો સેડ જુના પગાર તપ, રૂા.  
હતો તો ક્ષેડ રીવાયાત વચ્ચે ત્યારે મારો પગાર ૨૦૨ તા: ૧-૧-૭૩ થયો જોઈએ  
તેની બદલે જ્યારે મને નોકરીમાં લેવામાં આવેલ તા: ૧-૪-૭૭ના રોજથી મારો પગાર  
૨૦૨ કરીને મને નોકરી લેવામાં આવેલ ત્યારે બાદ ફરીથી રીમુવેલ કરેલ અને ફરીથી  
નોકરીમાં લેવામાં આવેલ તારીખ તા: ૨૬-૭-૮૨ના રોજ ફરી નોકરીમાં લેવામાં  
આવેલ ત્યારે થી ફરી ૨૦૨ના પગારથી ચાલુ કરેલ તો મારી માનસર અંગે છે કે  
તા: ૧-૧-૭૩ થી ૨૦૨ પગાર સુધી અને તા: ૨૬-૭-૮૨ સુધીમાં દરેક ઉદ્દીમેન્ટ ચાર્જ  
કરીને મને વાતર મળવું જ જોઈએ પણ મેં અનેક વખત અરજ કરવા છતાં પચાન આપવામાં  
આવતું નથી તો કાયદેસર મારો પગાર તા: ૧-૧-૭૩ થી ફીક્ષ કરીને દરેક  
ઉદ્દીમેન્ટ મળવા જોઈએ તેમજ કોર્ટના બોર્ડર અનુસાર જે કાપલામાં આવેલ રકમ પણ  
આપવા મહેરબાની કરશોગી.

જ્યારે રેલ્વે ના ૧૫ વર્ષની સરવિંસ વાજાને રીમુવેલ કરેલ માફસ થયા  
અ-ચાચ કરીને કોર્ટ હુકમ કરેલ પુરુ મુકબલી કરવામાં આવતી નથી અને કોર્ટ બોર્ડર  
થોડી નોકરી વાજાને રેલ્વે જાહેર મહેરબાનીથી પુરી મુકબલી કરવામાં આવેલ છે.  
તો મારા નીચે મુજબના આઈટમના વહેલાસર ઉછેલ નથી. યાચ તો મારે કાયદેસર  
માનજ પગલા ભરવાની કરજ પડે.

૧) તા: ૩-૧-૭૩ થી મારો પગાર ૨૦૨ રૂા. કરીને મારી હીનિયરટી ફીક્ષ  
કરીને દરેક ઉદ્દીમેન્ટ ચાર્જ કરી આપવા મહેરબાની કરશોગી.

૨) તા: ૨૭-૪-૭૨ થી તા: ૩-૧-૭૫ સુધીનો જુના ઠાવામાં મેંડ રીવાયાત મુજબ  
કરી બાકીના નિજ્જતા રકમ મુકવા માટે મહેરબાની કરશોગી.

૩) તા: ૧-૪-૭૫ થી તા: ૧-૩-૭૭ સુધીનો પીરીયેડ જે જે કાયદેસર ફીક્ષ

(૨)

પીરીયેડ ગ્રેલ છે. તે ગેર કાયદેસર છે તે સરપેડ ગેર કાયદેસર ગણવામાં આવેલ છે. તે રૂલ પ્રમાણ ગણીને બાકી મઠવી રકમ ચુકવા મહેરબાની કરશોજી.

(૪) તા: ૧૫-૬-૭૬ થી તા: ૨૭-૮-૮૨ સુધીના કુલ પ્રમાણ જે બાવનગર દીવાની કોર્ટના જજ સાહેબના મોર્ડર અનુસાર જે ૬૦ ટકા પ્રમાણ ચુકવવામાં આવેલ છે. તે ગેર કાયદેસર છે તો બાકી નિમ્નલી ૪૦ ટકા આપવા મહેરબાની કરશોજી.

૫) જ્યારે બાવનગર -થાય કોર્ટમાં રહેલે વકીલ રુબરુ જજ સાહેબને વચન આપેલ કે જેરામ મોહનના દરેક હક હું આપવી દેશ તો મારી માનસ અરજ ધ્યાનમાં લેવા મહેરબાની કરશોજી. અને કાળુ પોલા જે તારીખે કોર્ટ બેસે તેની કરતા હું સીનીયર હું તો તે તારીખે થી કોર્ટ બનાવી આપવા મહેરબાની કરશોજી.

ઉપર મુજબ મારી અરજ ધ્યાનમાં લેવા મહેરબાની કરશોજી નિમિત્તે મારે વહેલી તકે આજ્ઞા પંચલા ભરવાની ફરજ પડશે તા: ૧૨-૫-૮૫ની અરજીનો જવાબ હજુ મળેલ નથી તો અરજ ધ્યાનમાં લેવા મહેરબાની કરશોજી.

લિ.

માપનો તથાબેહાર.

Jiram Mahan

(જેરામ મોહન)

W.S. Kh

Bolund

Received  
for  
Admission

**Xavier M. Mascarenhas**  
B. A., LL. B. Advocate  
D/74 Kaliabeeth, Arabhai Road  
BHAVNAGAR

By Registered Post A.D.

From :

**Xavier M. Mascarenhas**  
D.74 Kaliabeeth  
Bhavnagar

To :

23.01.1977

The General Manager  
Western Railway  
Churchgate  
BOMBAY. 400 020

Sir,

I, Xavier M. Mascarenhas, B.A., LL.B., advocate Bhavnagar, under the instructions of my client, Shri Jayaram Motan Washout Khalasi, under Loco Foreman, Botad, do hereby serve you with this notice and call upon you as under :

1. That my client was appointed in railway services on 24.8.1958 as a Artisan Khalasi.
2. That he was allotted a railway quarter no. 165 L/D at Botad. As he has 13 members in his family, my client exchanged his quarter with another railway employee, Shri Popat Laghra with the consent of his immediate superior. That Shri Popat Laghra, though a traffic hand, was allotted railway quarter from Loco Pool. That my client had requested for regularising the exchange of quarter which was forwarded by Fitter incharge, Botad, on 10.7.1970.
3. That my client was charge-sheeted for the unauthorised exchange of quarter and inquiry was conducted. The finding of the inquiry officer were not accepted by the disciplinary authority and he was served with a penalty of removal from service from 20.4.1972 in terms of order dated 10.4.1972. His appeal against the penalty to the Divisional Mechanical Engineer, also failed, which was dismissed in terms of the impugne order dated 26.5.1972.
4. That my client thereafter filed a RCS No. 147/75 on 31.3.1975 before the Civil Judge, Senior Division, Bhavnagar. The suit was decreed on 1.2.1977. The Honourable Court was pleased to hold the impugne orders dated 10.4.1972 and 26.5.1972 as illegal. It was also



held that he was eligible to recover the sum of Rs. 5648/- (Rupees five thousand six hundred fortyeight only) being the arrears of salary for the period from the date of removal i.e. 20.4.1972 to filing of the suit i.e. 31.3.1975.

The Honourable court, while deciding the issue no. 7 has held that "the effect of the declaration which will be given by this court that the impugne orders were illegally passed by the railway administration will be that the plaintiff was illegally dismissed from the service and the further effect of my this declaration will be that he is deemed to be in service." *and for that reason he is entitled to recover the arrears of salary from the date of the removal to the date of the suit.*

5. That the suit having been decreed on 1.2.1977, my client was reinstated from 1.4.1977 and inspite of the clear directions from the Court, my subsequent order, the period from 31.3.1975 to 1.4.1977 was treated as under suspension and he was paid the arrears of subsistence allowance amounting to Rs. 3,100/- (Rupees three thousand one hundred only); thus, he has not been paid full salary for the period from 31.3.1975 to 1.4.1977.
6. My client contends that the action on the part of the railway administration in not granting him full salary and in not considering the period in question for the purpose of granting him his due increments and seniority position is illegal especially in view of the clear directives issued by the Court in R.C.S. 148 / 75.
7. That my client was thereafter allowed to continue in service on the post of Khalasi until he was once again removed from service in term of DME, BVP's order dated 3.6.1978. His appeal to the Division Superintendent, Bhavnagar Para, also failed interms of DSBVP's order dated 10.1.1979.
8. That my client thereafter filed another RCS No. 550/79 before the Civil Judge, Senior Division, Bhavnagar. The suit was decreed in favour of my client on 30.4.1982. The Honourable Court was pleased to hold the impugne orders dated 3.6.1978 and 10.1.1979 as illegal and has further ~~held~~ held that my client was entitled to recover arrears of salary for the period from the date of removal till the filing of the suit i.e. from 3.6.1978 to 10.10.1979.



9. That my client was paid an amount of Rs. 4,880/- (Rupees - four thousand eight hundred eighty only) being the salary arrears for the said period.

9. That the ~~xxxxx~~ railway administration thereafter issued the impugned order bearing No. EM/308/70/J/23 dated 15.9.1984 whereby the period from 16.10.1979 to 29.7.1982 i.e. from the date of filing of the suit till the date of reinstatement was treated as period not spent on duty and my client has been paid 60 per cent of the full pay. My client contends that the order dated 15.9.1984 is illegal as the rule (2044 R II) does not permit the Railway administration to take such action as the same rule is not applicable in such cases. That the order dated 15.9.1984 passed by the railway administration is a non-speaking order as no reasons have been shown for arriving at the said decision. My client contends that the said order is to be quashed on this ground only.

10. My client contends that his pay ought to have been fixed in the revised scale with effect from 1.1.1973 at Rs. 202 and his pay should have been drawn accordingly. The railway administration having failed to raise his pay by grant of notional increments, his pay on reinstatement on 28.7.1982 was also fixed as Rs. 202. That at the time of his next promotion as Senior Khalasi in the year 1984 his pay in the scale Rs. 196 - 232 (R) was taken as Rs. 208 and the pay was fixed at Rs. 218.

11. My client therefore contends that his pay is required to be refixed right from 1.1.1973 taking Rs. 202 as his basic pay on that date.

12. My client also contends that his erstwhile juniors i.e. Kalu Pola, Magan Ram, Shankar Amtha, Bupat Singh, Balchandra B. etc. are promoted to the higher posts whereas he continues on the same post of Khalasi and has not been considered for promotion along with his juniors. That my client has a vested right of being considered for promotion and that he should be given all the consequential benefits arising thereof.

13. In the above premised, my client is entitled to
- a) refixation of pay from 1.1.1983 and grant of due increments.
  - b) The difference of salary for the period from 1.4.1975 to 1.4.1977 and again from 16.10.1979 to 28.7.1982.
  - c) Seniority position on the basis of deemed date Shri Kalu Pola & was promoted.
  - d) To set aside the order dated 15.9.1984 being illegal and void.

You are therefore requested to consider the claim of my client and to grant him the benefit as requested falling which my client shall file an application before the Central Administrative Tribunal, Ahmedabad and shall pray for the abovementioned relief at your cost and consequences. It is prayed to decide the matter before 15.2.1987 so as to enable my client to take further necessary actions.

*Lot before any order or returned*

Xavier M. Mascarenhas  
Advocate  
Bhavnagar

*Super Copy  
Bhal  
A. S. S.*

WESTERN RAILWAY

No.E.M.891/3/6.

DIVISIONAL OFFICE,  
BVP. D/ 14-8-1958.

- : MEMORANDUM : -  
No. 430

The approved candidates mentioned below are engaged as Substitutes against the existing vacancies on pay Rs.30/- p.m. in scale Rs.30-35 plus usual allowances admissible and posted at the station shown against each with immediate effect.

Sr. No.	Name	Designation.	Station.
1.	Shri Thakershi Ganeshbhai	Khalasi Cleaner.	BT
2.	Usman Mohamedbhai	Khalasi Artisan.	"
3.	Karmanbhai Mohanlal	-do-	"
4.	Ratilal Amarshi	-do-	"
5.	Mehboobkhan Pirkhan	-do-	"
6.	Kalu Pola	-do-	"
7.	Shiva Talashi	-do-	"
8.	Majamam Tatiram	-do-	"
9.	Jadav Narshi	-do-	"
10.	Kishanlal Vadilal	-do-	"
11.	Rajnikant Purshotam	-do-	"
12.	Jayantilal Amratlal	-do-	"
13.	Jeram Mohan	-do-	"
14.	Babulal Premchand	-do-	"
15.	V.M.Jacob	Call- Boy	"
16.	B.S.Upasani	-do-	"
17.	Nirmalchandra Nandi	-do-	"
18.	Mafatlal Hemabhai	R. E. Bearer	"
19.	Bhikhabhai Kalidas	-do-	"
20.	Virendrasingh Chauhan	B- M. Labour	"
21.	Mafatlal Lalbhai	-do-	"
22.	Bachu Noorbhai	-do-	"
23.	Harilal Damji	-do-	"
24.	Devabhai Ishwarbhai	Khalaso stores	"
25.	Suleman Rahman	-do-	"
26.	Hazarilal Ganeshlalji	-do-	"
27.	Babu Jivan	Khalasi Art.	SYX
28.	Jagjivandas Vallabhadas	-do-	"
29.	Jesabhai Bhimji	Khalasi Cleaner.	"
30.	Manugiri Shivgiri	-do-	"
31.	N.P.Mathur	Labour General	"
32.	Keshav Moti	Sweeper	BT

Their services are liable to be terminated on 24 hours' notice.

Asstt. Mechanical Engineer  
Bhavnagar para.

Copy to:- LF BVP, FIC BT, for info n/a. The date of joining the duty of each may be intimated.

Copy to:- DAO BVP, S.B.Sec. E.M.II.

Copy on:- Memo. File, Personal case of each.

Copy to:- Shri Jeram. Mohan. Makharji.

Go. Mohan Premi; New line Botad Stn.  
Botad Station

He should report to Fitter-in-charge Botad for duty within 3 days failing which the offer will be treated as cancelled.

Shyam.

Premji.

Om Maheshwar.

In the court of Civil Judge Senior Dn. at Bhavnagar.

Reg. Civil Suit No. 147/75.

Jeram Mohan, aged about 34

Occ: Nil; Residence: Behind

Loco Shed, Botad..... Plaintiff.

Versus.

Western Rly. through

its General Manager,

Church Gate, Bombay No.1..... Defendant.

Suit for declaration and recovery of Rs.5648/-  
towards salary, and for permission to file the  
suit under sec. 33 of C.P.Code.

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Shri F.K. Lalani ..... for the plaintiff

Shri D.K. Wyas ..... for the defendant.  
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#### JUDGMENT

Plaintiff has averred in the plaint that he was serving as artisan Khalasi in the loco shed at Botad, Western Rly. Bhavnagar Dn., and his monthly total salary was Rs.168/-. He has further averred that on 6th of July 1970 he had been allotted a Rly. quarter No.165/L/B for residential purpose and in the same way one worker viz. Popat Laghara had been allotted a quarter on 26th June 1970 by the Railway Administration. It is then averred by the plaintiff that he had got 13 members in his family and because the quarter allotted to him was too small to accomodate his big family, he had exchanged his quarter with that of Popat Laghara after taking permission of their immediate superior officer. He has also averred that he and Popat Laghara had made written application to the Department for exchange of quarter but the head clerk Mr. H.N. Gandhi had not forwarded the said

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said application. That thereafter he had again made an application on 16th of July 1970, which was forwarded to the higher authority. It is thereafter that the higher authority had ordered him to vacate the quarter No.80/L/B but because he had a big family, and because he could not find alternate accommodation, he could not obey the said order. That for this reason railway authority had taken disciplinary action against him and had commenced departmental inquiry. But after considering all the circumstances the inquiry officer had believed that he had not committed any misconduct and he had exonerated him from the charge levelled against him.

2. Plaintiff has further averred that the inquiry officer had believed that as per the turn and seniority the plaintiff was to be allotted the quarter No.80/L/B but the railway administration had unauthorisedly allotted the same to Popat Laghra. It is further averred that the disciplinary authority, who was the Assistant Mechanical Engineer, did not accept the report of the inquiry officer and served him a show cause notice as to why he should not be removed from the services. That in response to the said notice he had explained the circumstances under which he was unable to vacate the quarter, and he had also asserted for his right about the quarter in question but ultimately the disciplinary authority had ordered to remove him from the services without giving any reasons.

3. It is further averred by the plaintiff that the order of removal passed by the disciplinary authority is the non-speaking order and the said authority has not given any logical reasons for arriving at the said conclusion, and so this court should hold that the said order stands vitiated.

4. Plaintiff has further averred that he had carried the said order of removal in the appeal before the Divisional Mechanical Engineer but the said appellate



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appellate authority had also dismissed the appeal on 26th of May 1972. Plaintiff has also alleged that the order passed by the appellate authority is also the non-speaking order because the said authority has not given any reasons and findings on the charge which was levelled against him. Plaintiff has challenged both the aforesaid impugned orders on many other grounds, but I do not find necessary to discuss now because during the course of arguments plaintiff had not pressed for the said grounds. Plaintiff has also prayed that a decree for a sum of Rs.5648/- be passed against the defendant as the arrears of his salary because he is deemed to be in services. Plaintiff has prayed to declare that both the aforesaid impugned orders are illegal, void and not binding to him.

5. The defendant has resisted the suit by filing the written statement under the signature of Divisional Supdt. Western Rly. Bhavnagar para, contending inter alia that the plaintiff was allotted Rly. quarter No.165/L/B in exchange of his quarter No.60/L/B vide order dated 3-7-70. But thereafter instead of occupying the quarter No.165/L/B the plaintiff occupied the quarter No.80/L/B which was occupied by Popat Laghra who was the Rly. employee. It is then contended that plaintiff's contention is not correct that he had exchanged the quarter of Popat Laghra after getting previous permission of the authority concerned. It is then contended that Fitter in charge of Botad had forwarded one application of the plaintiff on 16-7-70 for the exchange of quarter but before that on 14-7-70 Popat Laghra had cancelled the said application for mutual exchange of quarters. But before the authority took any decision about the said application, the plaintiff already occupied quarter No.80/L/B and so plaintiff was repeatedly instructed to vacate the said quarter as it was unauthorisedly occupied by him but the plaintiff did not pay any heed to the

the instructions given by the Department and so ultimately Departmental inquiry had been commenced against him for his misconduct. It has been admitted that the plaintiff was exonerated from the charges by the inquiry officer but the disciplinary authority did not agree with the finding given by the inquiry officer and ultimately took a decision to remove the plaintiff from his services.

6. It is further contended that the disciplinary authority had given reasons of disagreement with the findings of the inquiry officer and the copy of those reasons was sent to the plaintiff along with the show cause notice, dated 14-12-71, and so even if it is believed that the disciplinary authority had not passed the speaking order even then because he had given the reasons of disagreement with the findings of the inquiry officer at the time the show cause notice was served, the punishment order can not be said to be illegal or void.

7. It is also contended that the order passed by the appellate authority is also the legal and valid order because the said authority had passed the said order after considering all the facts on record. Lastly it has been contended that the plaintiff is not entitled to get either the relief of declaration or the money decree for the sum of Rs.5648/- and so the suit deserves to be dismissed with costs.

8. Following issues have been framed at Ex.9 for determination:-

- 1) Is it proved by the plaintiff that the order of removal dated 10-4-1972 passed by the A.M.E. is illegal, unconstitutional and full of victimisation ?
- 2) Is it proved by the plaintiff that the order passed by the D.M.E.(appellate authority) is also illegal, unconstitutional and full of victimisation ?

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- 3) Is it proved by the plaintiff that he had not been given reasonable opportunity of hearing by both the A.M.E. and D.M.E. ?
- 4) Is it proved by the plaintiff that because both the impugned orders are not speaking orders they are illegal and void abinitio ?
- 5) Whether the legal and valid statutory notice was served by the plaintiff ?
- 6) Whether the plaintiff's relief about declaration should be granted as prayed for ?
- 7) Whether the plaintiff is entitled to recover Rs.5648/- or any amount from the defendant ?
- 8) What order and decree ?

My findings on the above issues are as under :-

- 1) Not pressed.
- 2) Do.
- 3) Do.
- 4) In affirmative.
- 5) Do.
- 6) Do.
- 7) Do.
- 8) As per final order.

#### REASONS

9. At the outset I find necessary to mention that both the parties have not led any oral evidence in this suit. Moreover, the learned advocate for the plaintiff had passed the pursis at Ex.30 stating therein that he did not press the impugned orders to be illegal on any other grounds except that they are not the speaking orders. For this reason, I have now to appreciate the only contention advanced on behalf of the plaintiff as to whether the impugned orders are speaking orders or not and if the answer is in the negative, then what is the effect of the said finding over this suit.

#### 10. Issues Nos. 1 and 2 :-

Wide Pursis Ex.30, learned advocate for the plaintiff has not pressed these two issues and so I



I answer them as not pressed.

11. Issue No.3:-

(30) In the same way, learned advocate for the plaintiff has made endorsement under his hand on ex.9 that ~~it~~ he did not press this issue and so I answer the same as not pressed.

12. Issue No.4:-

This is only crucial issue on which learned advocates for both the parties had concentrated. Now before I discuss the real controversy between the parties, it will be relevant to set out in brief certain admitted facts and facts which have not been disputed by the parties. It is an admitted fact that the plaintiff was serving as artisan Khalasi in loco-shed at Botad Rly. Station. There is also no dispute that his monthly emoluments were Rs.168/-.

13. I will now discuss certain documentary evidence, which have remained admitted between the parties. Majority of these documents are simple copies but as they have been admitted by both the parties, they have been given exhibits. The first documents in set is the allotment order dated 3-7-70 under which the plaintiff had been allotted quarter No.165/L/B, which was vacated by one Karsan. D. This document proves that the plaintiff has been allotted the said quarter in exchange of quarter No.60/L/B. The next relevant document is the common application made by the present plaintiff and Popat Laghra to the loco-foreman, dated 5-7-70 produced at ex.17. Under this application plaintiff had desired to keep the quarter No.80/L/B in exchange of quarter No. 165/L/B and Popat Laghra had showed willingness to exchange the same.

14. ex.18 is the copy of the letter written to the loco foreman on 16-7-70 in which it was recommended that the application made by the present plaintiff and Popatbhai to exchange the quarters may be sanctioned. The next letter is written by Popat Laghra to the Railway

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railway Department on 14-7-70 under which Popat had stated that he was not willing to keep the quarter No.80/L/B and it may be allotted to some other employee. He had also stated that the said quarter has been allotted to the present plaintiff but the said exchange may be taken as cancelled.

15. Ex.20 is the notice dated 18-11-70 given by the Divisional Mechanical Engineer to the present plaintiff to vacate the quarter immediately, and if he will not vacate then the disciplinary action will be taken against him. Admittedly the plaintiff did not carry out the instructions given in the said notice and so the charge sheet produced at Ex.21 was served against him. The charge against the plaintiff was that he during the period from 15-7-70 and onwards was charged with serious misconduct viz:- unauthorised occupation of quarter at BTD without initial allotment.

16. Ex.22, are the findings of the inquiry officer dated 20.7.1971. Admittedly, the inquiry officer had exonerated the plaintiff from all the charges. Thereafter the disciplinary authority who was Assistant Mechanical Engineer served a show cause notice dated 14-12-71 to the plaintiff to show cause why the penalty proposed of removal from the services should not be imposed on him. Admittedly, after taking into consideration, the reply given by the plaintiff, the disciplinary authority had passed the order on 10-4-72 removing the plaintiff from the services. Thereafter the plaintiff had carried the said order in the appeal before the D.M.E. but the appeal was dismissed and its intimation had been given to the plaintiff by the letter dated 26-5-72, produced at Ex.14. The copy of the order passed by disciplinary authority is produced at Ex.13

17. With this background, I will now discuss the real controversy between the parties. Mr. Lalani, appeared for the plaintiff, had vehemently argued that the disciplinary authority had not given reasons as to why

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why he did not agree with the findings of the inquiry officer and as to for what reasons he believed that the charges levelled against the plaintiff was proved and further as to for what reasons, he come to the conclusion that the plaintiff was not a fit person to be detained in the services. According to Mr. Lalani, in the same way, the order passed by the appellate authority confirming the order of ~~the~~ the disciplinary authority is also silent about the reasons as to why the appellate authority accepted the findings of the disciplinary authority. In short, it was vehemently contended that both the orders at both the stages were though passed by quaso-judicial characters, they are silent about the reasons and so they can be said to be non-speaking orders. It was further argued by Mr. Lalani that the Supreme Court of India and other Highest Tribunals of different States of the land, had an opportunity to deal with such orders and unanimously those courts have held that such non-speaking orders stand vitiated.

18. Against that, Mr. Vyas appeared for the defendant, had strenuously argued that the facts before the disciplinary authority were such that no additional reasons were required to be given by him in the final punishment order over and above he had given while serving the show cause notice to the present plaintiff, According to Mr. Vyas because the disciplinary authority had conveyed the reasons to the plaintiff as to why he did not agree with the finding of the inquiry officer it was not necessary for him again to pass a long reasoned order at the time of passing final order. In the same way Mr. Vyas had contended that the order of the appellate authority also can not be said to be a non-speaking order. To meet with the aforesaid contention of Mr. Vyas, the learned advocate for the plaintiff had relied on various authorities which I will discuss hereinafter.

19. Reliance had been placed on the ruling reported in A.I.R. 1970 S.C. at page 1302 between M/s. Mahavir Prasad Santosh Kumar v. State of U.P. and others. In this ruling the rule 1731 of the Rly. Establishment Code, Vol. I. was under appreciation. After discussing the facts of the said case, Their Lordships of the Supreme Court had observed that the relevant rule 1731 granted a right of appeal to the higher authority against the order of disciplinary authority and that implied that the aggrieved party must have an opportunity to convince an appellate authority that the order passed by the disciplinary authority was erroneous. That right could be effectly exercised if reason be recorded by the disciplinary authority and supplied the aggrieved party. Their Lordships further observed that if the aggrieved party is not supplied the reasons, the right of appeal is an empty formality. In this way, if we examine Rule 1731 of the above referred Code, it requires that the reasons must be given by the disciplinary authority while making the final order.

20. Mr. Was, appeared for the defendant had attempted to convince this court that when the disciplinary authority had served the show cause notice to the plaintiff he had forwarded the reasons as to why he did not agree with the findings of the inquiry officer and so it was not necessary for him again to write a reasoned judgment. I do not agree with the aforesaid submission of Mr. Was. Because after all, the delinquent has to challenge the order of punishment before the appellate authority, and if that order is non-speaking order then the delinquent can not know as to for which reasons the disciplinary authority believed the charge levelled against him and for which reasons, the said authority did not agree with the findings of the inquiry officer and more for which reasons, he did not accept the explanation given by him



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him the delinquent in reply to the show cause notice. I agree with the submission made by Mr. Lalani and hold that but for the disciplinary authority supplied the reasons to the plaintiff along with the show cause notice, he was not at liberty to pass the final non-speaking order. To appreciate the above discussed facts properly, I will reproduce here the order passed by the disciplinary authority.

"Removal from service from the date of receipt of this NIP for the charge as mentioned in Memorandum standard form No.5 of even number dated 30-12-70.

Sd/- A.M.E./BVP"  
8-4-72.

Looking to the aforesaid order, it is distinctly clear that it is the nonspeaking order and we can say without hesitation that the punishing authority had not delivered a reasoned judgment even though it was discharging its duty as a quasi-judicial character.

21. Mr. Lalani had relied upon the following authorities wherein the Supreme Court of India had occasion to protest against this practise in those decisions. I do not find to discuss all those authorities to burden this judgment but I will simply mention those authorities hereinafter. See A.I.R.1966 S.C.671 between M.P.Industries Ltd. V. Union of India. A.I.R. 1967, Supreme Court, page 1606 between Bhagat Raja V.Union of India, A.I.R. 1969 S.C. 1297 in State of Gujarat V. Patel Raghav Nath.

22. All the aforesaid authorities also lay down the rule that the disciplinary authority as well as the appellate authority are bound to deliver the reasoned judgments. The Highest Tribunal has observed the practise of executive authority dismissing statutory appeals against orders which prima facie seriously prejudice the rights of the aggrieved party without giving reasons, is nothing but a negation of the rule of law. Their Lordships have further observed after going ~~now~~ through such orders,

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it must appear not merely that authorities entrusted with quasi-judicial authorities have reached a conclusion of the problem before them and it must also appear that they have reached the conclusion which is according to law and just. According to Their Lordships, recording of reasons in support of a decision on a disputed claim by a quasi judicial authority ensures that the decision is reached according to law and is not the result of caprice, whim or fancy or reached on grounds of policy of expediency. Their Lordships have further observed that a party to the dispute is ordinarily entitled to know the grounds on which the authority has rejected his claim and if the order is subject to appeal the necessity to record is greater without recorded reasons, the appellate authority has no material on which it may determine whether the facts were properly ascertained the relevant law was correctly applied and the decision given was just.

23. If we now examine the order passed by the appellate authority, which I will reproduce here, it is distinctly clear that it does not satisfy the aforesaid test laid down by the Highest Tribunal of the land. The order intimated to the plaintiff is as follows :-

"D.M.E. has gone through your appeal quoted above and the case and order that you have been most indisciplined in that you occupied a quarter unauthorisedly and further you refused to vacate even though an alternate quarter was given to you. As such the penalty imposed by the A.M.E. stands good.

Sd/- D.M.E./BVP"

24. On perusal of the aforesaid order, it is distinctly clear that the appellate authority has not given independent reasons as to why he believed that the explanation given by the plaintiff in his appeal Memo, was not believable and as to why the findings given by the inquiry authority were not proper but the order passed by the disciplinary authority was proper and just. It is also painfully surprised that at both the



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the stages the concerned authorities have not given reasons as to why the highest punishment of removal from the services should be considered adequate. For all these reasons, I shall have to say that both the impugned orders as being non-speaking orders, they should be declared as illegal and not binding to the plaintiff. Before I part with this discussion, I do not miss to discuss that the full Bench of our Own High Court in the judicial pronouncement reported in 10 G.L.R. at page 622 between The Testeels Ltd. v. N.M. Desai, had also laid down the said settled position of law which I discussed in the earlier part of my this judgment. Without hesitation, I say at the cost of repetition that, both the authorities have ~~disregard~~ disregarded the mandatory provisions of the Railway Establishment Code VI.I and so their orders of removal can be said to be suffering from serious infirmity and the result will be that I shall have to hold that they get vitiated, for non-compliance of the mandatory provisions. The result is that I answer this issue in affirmative.

25. Issue No.5:-

In fact, during the course of arguments the learned advocate for the defendant had not challenged the legality and validity of the statutory notice dated 20-5-74, the copy of which is produced at Ex.11. However even if we peruse the said copy, it is clear that it satisfies all the requirements of a statutory notice and so I answer this issue in affirmative.

26. Issue No.6:-

In view of my finding of issue No.4 I hold that the plaintiff is entitled to get the declaration as prayed for. Hence I answer this issue in affirmative.

27. Issue No.7:-

Now the question arises as to whether the plaintiff's claim for a sum of Rs.5648/- should be allowed or not. My answer is that it should be allowed

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allowed because the effect of the declaration which will be given by this Court that the impugned orders were illegally passed by the Rly. administration, will be that the plaintiff was illegally dismissed from the services and the further effect of my this declaration will be that he is deemed to be in services and for that reason he is entitled to recover the arrears of salary from the date of the removal upto the date of the suit. Mr. Wyas had contended that the plaintiff is not entitled to get the said amount in form of damages because to recover the damages, he has to show as to whether he had done any work to earn his livelihood during the said period and if he has earned then that much amount should be deducted from the claim he had preferred. I do not agree with the aforesaid submission of Mr. Wyas because the plaintiff has not claimed the aforesaid amount in form of damages but he has claimed the said amount as arrears of salary. Mr. Wyas has relied upon the ruling reported in A.I.R. 1975 Karnataka at page 146 between M. Nanjappa v. M.P. Muthuswamy. I have gone through this ruling and I am of the view that it will not be applicable to the facts of the present case because therein, the aggrieved party had claimed damages on the ground that the other party had committed a breach of contract. The result is that I reject the aforesaid contention of Mr. Wyas and hold that the plaintiff's claim should be allowed. Hence I answer this issue in affirmative.

28. Issue No.8 :-  
As per order below.

ORDER

plaintiff's suit is ordered to be decreed as under :-

1. It is hereby declared that the impugned orders passed by the disciplinary authority and thereafter confirmed by the appellate authority on 10-4-72 and 26-5-72 respectively about the removal of service

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service pertaining to the plaintiff are illegal, void and so get vitiated.

2. It is further ordered that the plaintiff is entitled to recover Rs. 5648/- from the defendant as the arrears of salary as claimed in the suit.

3. It is further ordered that the defendant shall bear full costs of the plaintiff as well as its own.

4. Decree be drawn in terms of this order.

5. It is also ordered that the certified copy of the decree which may be passed, be sent to the Collector, Bhavnagar District, Bhavnagar, to recover the amount of court fees mentioned in the decree from the plaintiff under o.33, Rule 10 of C.P.Code.

Pronounced in open Court to-day on this, 1st day of February, 1977.

Sd/- R.C. Shah.

1-2-77.

Civil Judge Sr. Dn.,  
Bhavnagar.

PREPARED BY :- Sd/-

COMPARED BY :- Sd/-

True Copy

Sd/-

Clerk of the Court to the  
District and Sessions Judge  
Bhavnagar.

True Copy  
[Signature]  
[Signature]

A 4 (39)

In the Court of the Civil Judge, S.D. at Bhavnagar.

Regular Civil Suit No.550 of 1979.

Jeram Mohan, adult, Labourer,  
Add. Railway Quarter, No.80 Near  
L/B Loco Shed, Botad. .... Plaintiff.

Vs.

Union of India, Owing Western Railway,  
through General Manager, Western Railway,  
Church Gate, Bombay..... Defendant.

Advocate Shri F.K. Lalani, .... Plaintiff

Advocate Shri D.K. Was ..... Defendant.

: J U D G M E N T :

The plaintiff has filed this suit against the defendant for declaration that the order No.B.M.308/70/J/23 dated 3-6-78 of D.M.E., Bhavnagar is unconstitutional illegal invalid and it is not binding to him, and that he is continuous in service, and that the order No.E.M.308/70/J 23, dated 10-1-79 of D.S.Bhavnagar is illegal, invalid void etc. The plaintiff has filed the suit to recover the arrears of salary amounting to Rs.4880/- from the defendant. The plaintiff has also claimed costs of the suit from the defendant.

2. The case of the plaintiff as alleged in his plaint in short is as under :-

The plaintiff was serving as Khalasi in the workshop of Botad Station in Bhavnagar Division. The plaintiff was allotted quarter No.165 L.B. on dt.6-7-70 on dt.26-6-70 quarter No. 80/L/B was allotted to one Popat Laghara. It is the case of the plaintiff that there was 13 members in his

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his family, and the quarter which was allotted to him was small, and so, he could not accommodate his family members in it. Therefore, he and Popat Laghara exchanged their quarter after informing their officer, F.I.C. Botad. They have also given written application for exchange of the quarter. However, the Head Clerk Shri H.N. Gandhi had illegally detained their application, and so, they had given application to F.I.C., and he had forwarded their application on dt. 16-4-70. During that time they took consent of F.I.C. Botad, and they exchanged the quarters. The Disciplinary Authority, however, started inquiry against him under rule 9 of the Railway Servants, Discipline and Appeal Rules, 1968. In this inquiry, the inquiry officer held that his act was bonafide, and there was no act of misconduct, as under the rules he was entitled to quarter No. 80/I/B, but the authority had given this quarter to Popat Laghara. However A.M.E. Bhavnagar did not accept the findings of the inquiry officer, and he gave notice of removal from service to him. He had given reply of the notice. However on dt. 10-4-72 he was removed from service. He filed an appeal before D.M.E., However, his appeal was dismissed on dt. 26-5-72. Thereafter he had filed Reg.C.S.No.147 of 1975 in this court, and a decree was passed in his favour and the Court directed the defendant to take him in service, and he was also awarded the arrears of salary. In pursuance of the above order of the Court, the defendant had taken him in service, and they also paid the arrears of salary. Thereafter, on dt. 3-6-78 D.M.E. BVP. by his order No.308/70/J/23 dated 3-6-78 again removed him from service. He filed an appeal before D.S. Bhavnagar. However his appeal was dismissed on dt. 10-1-79. According to the plaintiff, he was served with the show cause notice on dt. 13-2-73, and that this show cause notice was in continuation of the notice dt. 14-12-71. When this notice was served, at that time, his mother had expired, and he was the only person to look after the family members and the case papers were lying with his advocate at Bhavnagar, and



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and the case papers were old, and so, they were not in traceable, so, he could not give reply of the notice dt. 18-2-78. However, he was removed from service by the order dt. 3-6-78, even though he has sufficient cause for not giving the reply of the notice. He was not given any opportunity of being heard, and no inquiry was held against him before passing the impugned order of removal. He was not even served with the charge sheet. Even both the impugned orders are not speaking orders. He was not given even any opportunity to defend himself. He was not even given any copies of the documents. Both the authorities have not applied their mind, and the punishment, which is imposed against him is of such a nature that by this punishment, there is his economic death. The impugned order of removal is, therefore, illegal, invalid, and void. He was removed from service with effect from dt. 3-6-78. So Rs. 4880/- is due to him from the defendant. So on dt. 23-1-79, he gave notice under section 80 of the C.P. Code to the defendant. The defendant has received this notice, however, they have not acted upon his notice. He has, therefore, filed this suit against the defendant for declaration as stated herein above. The plaintiff has also filed the suit to recover Rs. 4880/- from the defendant. He has also claimed costs of the suit from the defendant.

3. The defendant appeared in response to the summons served to him, and it has filed its written statement at Ex. 10. The defendant inter alia contended in its written statement Ex. 10, that the suit of the plaintiff is not true and that it does not admit its contents. It is further contended that the suit of the plaintiff is not on proper court fees. It is further contended that this court has no jurisdiction to try this suit as the dispute is covered under the Labour Laws, and that the plaintiff should agitate this point in the labour court. It is further contended that the plaintiff was working as Khalasi



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in loco Shed, Botad prior to removal from service, from dt. 7-6-78 for the charge of unauthorised occupation of Railway Quarter at Botad from dt. 15-7-70 without initial allotment. It is further contended that the plaintiff was originally allotted Railway Quarter No. 165/L/B in exchange of his quarter No. 60/L/B. vide loco foreman Bhavanagar para letter dt. 3-7-70. But instead of occupying this quarter No. 165/L.B. the plaintiff occupied the quarter No. 80/L.B., which was occupied by Shri Popat Laghara, the other employee, even though this quarter No. 80/L.B. was not allotted to him. It is denied that the said quarter was exchanged with the quarter of Popat Laghara after obtaining permission of the authority. It is contended that no permission had been granted to the parties for changing the quarters, even though they had applied for the same. It is admitted that the application was forwarded by Fitter-In-Charge Botad on dt. 16-7-70 for the change of the quarter. However, prior to this, i.e. 14-7-70, Popat Laghar had cancelled his application for mutual exchange of the quarters. That before ~~any~~ any decision was taken by the ~~competent~~ authority, the plaintiff had already occupied the quarter in question, which was not allotted to him and, therefore, the plaintiff was informed vide letter dt. 18-11-70 to vacate the said quarter No. 80/L/B. The plaintiff, however did not vacate the quarter, which he had unauthorisedly occupied and so, the plaintiff was served with the charge sheet dt. 30-12-70. It admits that the plaintiff was exonerated from the charges by the Inquiry officer in the Departmental Inquiry. It is not admitted that the inquiry officer held that the quarter No. 80/L/B. should have been allotted to the plaintiff according to the turn the quarter should have been allotted to the plaintiff. It is not admitted that inquiry officer had held that the quarter in question was wrongly considering the defence of the plaintiff, the competent authority

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competent authority removed the plaintiff from service by notice dt. 20-4-72. The plaintiff filed this suit No. 147/75 and that the decree was passed in favour of the plaintiff. It is contended that D.M.E. Bhavnagar issued letter to the plaintiff intimating that the notice imposition of penalty dt. 10-4-72 removing the plaintiff from service from dt. 20-4-72 is cancelled without prejudice to further action being taken and that the may submit his representation, in reference to show cause notice dt. 14-12-71. The plaintiff had received the said letter on dt. 21-2-72. The plaintiff was again reminded vide Divisional Mechanical Engineer's letter dt. 10-4-78, which he received on dt. 25-4-78. But the plaintiff did not file any reply of representation, and so, the disciplinary authority after applying mind issued order of removal from service vide No. E.M./308/10/5/23 dt. 3-6-78. The plaintiff filed an appeal. However his appeal was dismissed. It is further contended that no show cause notice was issued of dt. 18-2-78. The letter was sent to the plaintiff dt. 13-2-78. The plaintiff, however, did not care to submit defence inspite of the reminder. The plaintiff also did not reply to letter, and did not submit his defence. Ultimately, the disciplinary authority, after applying mind passed the impugned order of removal. It is not admitted that the impugned order is illegal, invalid, void etc. It is contended that the grounds mentioned by the plaintiff in sub para 1 to 4 are not admitted as legal and valid grounds, so as to set aside the order of removal passed by the disciplinary authority and the order passed by the appellate authority. It is contended that the impugned order is speaking order, that it is supported by the reasons. It is further contended that the competent authority has applied his mind and after going through the merits of the case, the authority has given final conclusion. The plaintiff is not entitled to

Rs. 4880/- or any amount. The defendant, therefore argued to dismiss the suit of the plaintiff with costs.

4. Following issues were raised at issues ex.11:-

- (1) Whether this court has jurisdiction to hear this suit?
- (2) Whether the suit is on proper court fees ?
- (3) Whether the plaintiff proves that impugned orders dt. 3-6-78 and 10-1-79 are illegal, invalid void etc., as alleged ?
- (4) Whether the plaintiff proves that he is entitled to recover Rs. 4880/- from the defendant as claimed ?
- (5) Whether the plaintiff is entitled to reliefs claimed ?

5. My findings on the above issues for the reasons stated hereunder is as under :-

- (1) In the affirmative.
- (2) In the negative.
- (3) In the affirmative.
- (4) In the affirmative.
- (5) In the affirmative.
- (6) As per order below.

Reasons.

6. Issue No.1:- The plaintiff has not stopped in the witness box, nor he has examined any witness. The Defendant has also not examined any witness. Now, most of the facts are not in dispute before me. They may briefly be stated.

The plaintiff was serving as Khalasi in Botad station, Workshop, Bhavnagar Division. On dt. 6-7-70 the plaintiff was allotted quarter No. 165/L.B. On dt. 26-6-70 one Popat Laghara who was also serving in Botad station, workshop, Bhavnagar was allotted quarter No. 80/L.B. The plaintiff exchanged his quarter with the quarter of Popat Laghar. It is the case of the plaintiff that he exchanged



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exchanged the quarter with the quarter of Popat.Laghara with the consent of F.C.I. Botad. The defendant has denied the above fact. However, the fact remains that the plaintiff exchanged his quarter with the quarter of Popat Laghra. The defendant therefore, started inquiry against the plaintiff. The plaintiff was served with the charge sheet on dt. 30-12-70. The inquiry officer exonerated the plaintiff from charges levelled against him. However, the disciplinary authority removed the plaintiff from service by the notice dt. 20-4-72. The plaintiff, filed an appeal before the D.M.E. However his appeal was dismissed on dt. 26-5-72. Thereafter, the plaintiff filed Reg.C.S.No. 147 of 1975., against the present defendant for declaration and he also claimed arrears of salary from the defendant. This suit of the plaintiff was decreed, and the defendant was directed to reinstate the plaintiff in service and to pay arrears of salary as per terms of the decree. The defendant reinstated back the plaintiff in service and paid the arrears of salary in pursuance of the decree of this court. Thereafter, on dt. 18-2-78 the defendant wrote letter to the plaintiff in pursuance of the show cause notice dt. 14-12-71. This letter is at ex.26 It appears that the present plaintiff did not give reply to the above notice. Thereafter, on dt. 3-6-78 the plaintiff was removed from service. This order is at ex.16. The plaintiff, therefore, filed an appeal before the D.S. Bhavnagar. The copy of the appeal memo is at ex.18. However his appeal was dismissed on dt. 10-1-79. The copy of the order of D.S.Dt.10-1-79 is at ex.17. Thereafter, the plaintiff served notice under section 80 of the C.P.Code to the defendant. The copy of this notice is at ex.14. It is dated 23-1-79. The postal acknowledgement is at ex.15. In this suit, the plaintiff has challenged his order of removal dt. 3-6-78 and which is confirmed in appeal by the order dt. 10-1-79 of the appellate authority.

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7. Now, it is contended by the defendant in his written statement ex.10 that the dispute is covered under labour laws, and that the plaintiff should agitate this point in labour or industrial court, and that this court has no jurisdiction to hear this suit. In view of the above let us see whether this court has jurisdiction or not. Now, as stated earlier, the plaintiff has filed this suit for declaration that the impugned order of removal from service is illegal & invalid, void, and that the impugned order of the appellate authority by which his appeal is dismissed is also illegal, invalid & void, and that he is continuous in service. The plaintiff has also claimed arrears of salary from the defendant. Now this court has jurisdiction to hear this suit. The learned advocate has not pointed out any provisions from industrial dispute act or Bombay Industrial Relation Act or from any other law that only the labour court or industrial court has jurisdiction to hear this suit and that jurisdiction of this court is barred to hear this suit. He has also not shown any authority in support of his contention, and the reliefs claimed that this court has jurisdiction to hear this suit. The learned advocate for the defendant has not shown any provisions by which the jurisdiction of this Court is expressly or impliedly barred to try such a suit. Even at the time of arguments, the learned advocate for the defendant has not urged anything on this issue, and it appears that he has conceded on this point, and that this court has jurisdiction to hear this suit. In view of the above, this court has jurisdiction to hear this suit. I therefore answer issue No.1 in affirmative.

8. Issue No.2:- The defendant has contended that the suit of the plaintiff is not on proper court fees. Therefore let us see whether the suit of the plaintiff is on proper court fees. Now, as stated earlier, the plaintiff has claimed declaration that the impugned order of removal is illegal,

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invalid & void and that he is continuous in service. Therefore the suit of the plaintiff would be governed by Section 6(iv)(c) of the Bombay Court fees Act. Section 6(iv)(c) provides that the suit for declaration of the status of plaintiff, to which remuneration, honorarium, grant, salary, income, allowance or return is attached, one fourth of ad valorem fee leviable on the emoluments of value of return for one year. Now, in this case, it is the case of the plaintiff that his salary is Rs.305/-. Therefore, the yearly salary of the plaintiff would come to Rs.3660/-. Therefore, 1/4 of Rs.3660/- would come to Rs.915/-. Now, the court fees of Rs. 915/- would come to Rs. 92/-. The plaintiff has, however paid the court fees of Rs.30/- on the rate relief of declaration therefore, the court fee of Rs.30/- paid by the plaintiff is not proper. The plaintiff has also claimed arrears of salary amounting to Rs.4880/- On this amount, he has paid the court fees of Rs.343-75 p. which is proper. However, as stated earlier, on relief of declaration, the plaintiff should have paid court fees of Rs. 92/- However, he has paid court fees of Rs.30/- only. Therefore, there is deficit court fees of Rs. 62/-.

Therefore, there is deficit court fees of Rs.62/- Therefore the suit of the plaintiff is not on proper court fees. The plaintiff's therefore not established that his suit is on proper court fees. I, therefore, answer issue No.2 in negative.

9. Issues Nos. 3 to 5:- As stated earlier, the plaintiff is removed from service by the order dt. 3-6-78. The plaintiff, therefore, filed an appeal before D.S. Bhavnagar. However his appeal was dismissed on dt.10-1-79. The plaintiff has challenged the impugned order of his removal and the impugned order dt. 10-1-79 by which his appeal was dismissed. On various grounds. According to the plaintiff, both the above orders are illegal, invalid & void. The defendant has denied the above allegations of the



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of the plaintiff. The plaintiff has also claimed arrears of salary amounting to Rs.4880/-. According to the defendant, the plaintiff is not entitled to arrears of salary as claimed by him. In view of the above, let us see whether the plaintiff proves that the impugned order dt. 3-6-78, and dt. 10-1-79 are illegal, invalid and void, and whether he is entitled to recover arrears salary from the defendant as claimed by him.

10. Now, the parties have not let any oral evidence. They rely on the documentary evidence and the decision cited at the bar. The facts are not in disputed, mostly all the facts are admitted facts, which have already been narrated herein above, and they are not repeated here again. However, briefly stated the facts are that in the year 1970, the plaintiff was served with the charge sheet on the ground that he exchanged the quarter with the quarter of one Popat Laghra without obtaining any permission of the Railway Administration. The inquiry officer exonerated the plaintiff from the charges levelled against him. However the disciplinary authority removed the plaintiff from service by his order dt. 10-4-72. The plaintiff, therefore, filed an appeal. However his appeal was dismissed on dt. 26-5-72. The plaintiff, thereafter, filed Reg.C.S.No.147 of 1975 in this Court. His suit was decreed. In ~~xxx~~ pursuance of this decree the plaintiff was again reinstated in service, and he was paid arrears of salary in terms of the decree. Thereafter, on dt. 18-2-73 the defendant again served show cause notice in pursuance of their provisions notice date 14-12-71. This notice is at ex.26. It can be seen from the notice that it is stated in it that the disciplinary proceeding against the the plaintiff pending, and so, he was placed under suspension with effect from dt. 20-4-72. Thus, it can be seen from the order ex.26 that the plaintiff was placed under suspension with effect from dt. 20-4-72, as the disciplinary proceeding against him were pending. As stated earlier,

Reg. C.S.No. 147/75 was decreed in favour of the plaintiff, and he was reinstated in service, and arrears of salary was paid to him. Even though, the office of the defendant again placed the plaintiff in suspension with effect from dt. 20-4-72 by the order ex. 26 on the ground that the proceeding against him is pending.

11. Apart from above, Reg. C.S.No. 147 of 1975 was decreed in favour of the plaintiff, and the plaintiff was again taken back in service. He was also paid arrears of salary in pursuance of the decree. According to the defendant the imposition of penalty dt. 10-4-72 by which the plaintiff was removed from service from dt. 20-4-72 is without prejudice and they again to be taken, and that so, the proceedings were again started. Now, the defendant has not produced the Judgment, and decree of Reg. C.S.No. 147 of 1975 to show that the defendant was at liberty to take action against the plaintiff as he had exchanged the quarter with Popat Laghra. The defendant has also not produced any document to show that the defendant was at liberty to hold the fresh inquiry against the present plaintiff on the above ground. Therefore, there is nothing on record to show that even though Reg. C.S.No. 147 of 1975 of the plaintiff was decreed in favour of the present plaintiff, the court had granted the permission to the defendant to hold a fresh inquiry against the present plaintiff on the same ground that is for exchange of quarter with Popat Laghra. In this case, the plaintiff has produced the order dt. 8-7-77 of I.M.E(E) BVP, Bhavnagar. It is at ex.25. In this order the operative portion of the judgment in Reg. C.S.No. 147 of 1975 has been stated. It can be seen from this order that this court had declared that the impugned order passed by the disciplinary authority and confirmed by the appellate authority on dt.10-4-72 and dt. 26-5-72 respectively about the removal of service pertaining to the plaintiff are

are illegal, void and so, get violated and the plaintiff is entitled to recover Rs. 5684/- from the defendant, as arrears of salary as claimed in the suit. There is nothing in this order to show that the defendant was allowed to initiate a fresh inquiry by this court on the same grounds against the plaintiff. As stated earlier, the defendant has not produced any document to show that this court had granted permission to the present defendant to hold a fresh inquiry against the present plaintiff on such a minor grounds.

12. Apart from above, it appears from notice of imposition of penalty ex.17 dt. 24th May 1978 -3-6-78 that on dt. 18-2-78 the disciplinary authority had issued the letter to the plaintiff and again reminder was sent to him. It is an admitted fact that the plaintiff has not given any reply of both the letters to the defendant. The plaintiff has stated the circumstances in the plaint as to why he could not give reply. However, the plaintiff has not led any evidence to prove those circumstances. Therefore, it is established that the plaintiff did not give reply of the letters dt. 18-2-78 & dt. 10-4-78 of the defendant. Now, it can be seen from the order which is at back of Ex.17 that the disciplinary authority came to the conclusion that as the plaintiff did not give reply of the above letters, it implieds that he accept the contention of the letter of even number dt. 18-2-78. Unfortunately, none of the party has produced the letter dt. 18-2-78 of the defendant. However, on going through the above order, it appears that it is in respect of the charges which were levelled against the plaintiff in the order ex.17. Now, merely because the plaintiff did not give reply of the letters from that itself to cannot be inferred that the plaintiff accept the contentions mentioned in the letter. It can be seen from this reasons, which are on the back of the notice ex.17 that the

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the disciplinary authority did not held fresh inquiry against the present plaintiff. Even though the impugned order of removal was set aside by this court in Reg.C.S.No. 147 of 1975 Not only that it appears that he held all charges proved against the present plaintiff on the basis of the finding which were arrived at by the inquiry officer in the inquiry, which was held in the year 1970 to 72. Thus, it appears that no fresh inquiry was held against the present plaintiff in the year 1978. However, the disciplinary authority gave its finding on the basis of findings which were arrived at by the inquiry officer and the inquiry, which was held against the present plaintiff in the year 1970 to 72. The defendant has not produced any document to show that the disciplinary authority was given any right by this court in Reg. C.S. No. 147 of 1975 to hold fresh inquiry from a particular stage. Therefore, in my opinion, a fresh inquiry should have been held against the plaintiff even if the defendant was given right to hold fresh inquiry against the plaintiff unless there is specific order of this court that disciplinary authority should hold a fresh inquiry from a particular stage. Thus, no witnesses are examined. No documents were produced in the inquiry of 1978. The plaintiff was not given any opportunity of being heard in the inquiry of 1978. Therefore, the impugned order of removal passed on dt.24th May,1978/dt. 3-6-78 cannot be said to be legal and valid.

13. Apart from above, there is nothing on record to show as to whether the disciplinary authority had given any opportunity to the plaintiff to submit his say as to why he should not be removed from service. Further more, for a theft of a needle a man cannot be hanged.

In this case, it has happened so. The only charge against the plaintiff was that he exchanged his quarter with that



that of a quarter of Popat Laghar, for such a small charge, the disciplinary authority removed the plaintiff from service. Thus there is an economic death of the plaintiff. Even it can be seen from the reasons, which are given on the back of the notice ex.17 that the disciplinary authority has not given any reason whatsoever as to why the order regarding the removal from service is passed even though the charge against the plaintiff was very small charge or very nominal charge. It is pertinent to note that the disciplinary authority has given reasons to show that the charge against the plaintiff has been proved. However, xhu he has not given any reasons as to why the order regarding the removal from service is passed against the plaintiff even though the charge against x him was very nominal or very small charge. In my opinion, for such a small charge the disciplinary authority should not have removed the plaintiff from service or at least he should have given reasons as to why he has imposed on him with penalty of removal from service. In the case of Mohanbhai Dungarshi Parmar Vs. Y.B. Jala and others, 20 G.L.R. at page 497, his Lordships struck down the impugned order of removal from service and one of the grounds for striking down the impugned order of removal was that the competent authority did not apply his mind at all as regards the question of penalty and that he had not given any reasons for imposing the maximum penalty of removal from service, which would result in the petitioner losing his source of livelihood and rendering his entire family destructed.

14 In the case Q.H.P. Thakor Vs state & others ? 16  
G.L.T. page 54, it was held as under;-

"Be it administration of Criminal law of the  
exercises of disciplinary jurisdiction in  
departmental proceeding punishment is not and  
cannot be the 'end' in itself. Punishment for the  
sake of punishment cannot be the motto. whilst

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deliverating upon the jurisprudential dimension the following factors must be considered.

(1) In a disciplinary proceeding for an alleged fault of an employee punishment is imposed not in order to seek retribution or to given to feeling of wrath.

2. The main purpose of a punishment to correct the fault of the employee concerned by making him more alert in the future and to hold out a warning to the other employees to be careful in the discharge of their duties so that they do not express themselves on similar punishment

3. It is not expedient in the interest of the administration to visit every employee against who a fault is established with the penalty of dismissal and to get rid of him. It would be counter productive to do so for it would be future to expect to recruit employees who are so perfect that they would never commit any fault. And citizens would be deterred from joining Government service if the principle of security of service is scuttled and every employee renders himself liable to loss his job, incure social stigma there be and exposes his entire family to misery if he commits a fault.

4. In order not to attract the charge of arbitreriness it has to be ensured that the penalty imposed is commensurate with the magnitude of the fault. Surely one cannot retionally or justly impose the same penalty for giving a slap as one would impose for homicide.

5. When different categories of penalties can be imposed in respect of the alleged fault one of which is dismissal from service, the disciplinary authority therefore required to consult himself for selecting the most appropriate penalty from out of the rang of repnalties available that can be imposed having regard to the nature, content and gravity of the default. Unless the disciplinary authority reaches the conclusion



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conclusion that having regard to the nature, content and magnitude of the fault committed by the employee concerned it would be risky to retain him in Government service, the maximum penalty of dismissal cannot be imposed. If a lesser penalty can be imposed without jeopardizing the interest of administration the disciplinary authority cannot impose the maximum penalty of dismissal from service. He is bound to ask his inner voice and rational faculty whether the penalty lesser than the penalty sought to be imposed can be without jeopardizing the interests of the service.

6. It cannot be overlooked that by and large it is because the maximum penalty is imposed and total ruination stares one in the eyes that the employee concerned is obliged to approach the court and wild of the costly and time consuming machinery to challenge in desperation the order passed by the disciplinary authority. If a lesser penalty was imposed, he might not have been obliged to make recourse to costly legal proceeding which result in loss of public time and also result in considerable hardship and misery to the employee concerned.

7. When the disciplinary proceedings are in favour of the employee the state has often to, pay back wages say for about 5 years without being able to take work from the employee concerned. The public exchequer suffers. On the other hand, the employee concerned would have had to suffer economic misery and mental torture for all these years. Even the misery of being obliged to remain idle without work would constitute an unbearable burden. And when the curtain drops every one is left with a bitter taste in the mouth. All because extreme penalty of dismissal or removal is imposed instead of a lighter one."

It was further held that :-

"The order must ex-facie show why the maximum penalty

penalty of dismissal if selected from out of the list of alternatives and why a less serious penalty has been considered to be inadequate. If selecting a maximum penalty and naming it from out of the list of alternative penalties which could have been imposed cannot be arbitrarily done and it cannot be a matter of ipse dixit of the disciplinary authority, he has to inform himself of the relevant considerations and to reassure himself that a particular penalty deserves to be imposed in order to meet the requirements of the situation. It will not be sufficient for him to say in a general vague and omibus manner that having to the circumstances of the case the employee concerned deserves to be dismissed. The disciplinary authority was bound to take into consideration the gravity of the charge, the nature of its consequences, whether the charge warranted an inference as regards his honesty, integrity or uprightness, whether the fault was such as had resulted in serious detriment to the public interest. All these were question which the disciplinary authority was about to pose to himself and to answer to his own satisfaction.

15. Now, in the case before me, as stated earlier, before imposing the economic death, penalty of removal from service, the disciplinary authority has not applied its mind to three vital considerations, namely, (1) as regards the nature and magnitude of the charge (2) as regards the desirability or otherwise of retaining the government servant in service in the context of the charges found proved against him and (3) as to whether a penalty lesser than the extreme penalty of dismissal or removal would, prove adequate. In view of the above, in the impugned order of removal is not legal and valid. The plaintiff has therefore, proved that the impugned order dt. 3-6-78 by which he is removed from service and the order dt. 10-1-79 of the appellate authority by which the appellate authority confirmed the impugned order dt. 3-6-78 of the disciplinary authority are illegal,

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illegal, invalid, & void.

16. Now, the plaintiff has claimed arrears of salary amounting to Rs. 4880/- from the defendant. As stated earlier, the impugned order dt. 3-6-78 and dt. 10-1-79 are illegal, invalid & void. The impugned order ex.16 is dated 3-6-78 by which the plaintiff is removed from service. The plaintiff has claimed arrears of salary from dt. 3-6-78 to dt. 15-10-79. Now, the plaintiff is entitled to recover arrears of salary from the defendant from dt. 3-6-78 to dt. 15-10-79. Now, according to the plaintiff his monthly salary was Rs. 305/-. It is not disputed before me that the plaintiff was not paid monthly salary of Rs. 305/-. Therefore, the plaintiff is entitled to recover arrears of salary from dt. 3-6-78 to dt. 15-10-79 at the rate of Rs. 305/- per month. The arrears of salary for the above period comes to Rs. 4880/-. Therefore, the plaintiff is entitled to recover arrears of salary amounting to Rs. 4880/- from the defendant. Therefore, the plaintiff has proved that he is entitled to recover arrears of salary amounting to Rs. 4880/- from the defendant.

17. Now, the plaintiff has claimed relief of declaration that the impugned order dt. 3-6-78 & dt. 10-9-79 are illegal, invalid & void, and that he is continuous in service. Now, as stated earlier, both the above orders are illegal, invalid & void. Therefore, the plaintiff is entitled to relief of declaration as claimed by him. The plaintiff has also claimed arrears of salary amounting to Rs. 4880/- from the defendant. The plaintiff is also entitled to recover the above amount from the defendant. Therefore, the plaintiff is entitled to relief claimed by him. I, therefore, answer issue Nos. 3, 4 & 5 in affirmative.

18. In view of my decision on the above issues as above the suit of the plaintiff has to be decreed with costs. Before parting with this judgment I feel that now, the

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the plaintiff has been sufficiently punished by the department by holding two departmental inquiries on the same cause and the plaintiff has to rush to the court for two times, and has to face two departmental inquiries. Therefore, I am of the opinion that the Railway Administration should close this chapter for ever, and should not hold any departmental inquiry against the plaintiff for the above cause or for the above charges., with the above observation. I part of this judgment. Hence, the order.

Order.

It is hereby declared that the order No.B.M.308/70/J 23, dated 3-6-78 of D.M.E., Bhavnagar and the order No. E.M.No.308/70/J/23 dt. 10-1-79 of D.S.Bhavnagar are illegal, invalid & void etc., it is hereby declared that the plaintiff is continuous in service. The defendant do pay a sum of Rs. 4880/- to the plaintiff within the period of three months. The defendant to bear his own costs and that he should bear the costs of the plaintiff. The plaintiff to pay up deficit court fee of Rs. 62-00 within a period of one month from the date of this order failing which the copy of the decree be sent to the Collector for recovering the court fees of Rs. 62-00 from the plaintiff.

Pronounced to day on this 30th April, 1982 in open Court.

Bhavnagar.  
Dt: 30-4-82.

Sd/- H.D. Pandya  
(H.D.Pandya)  
Civil Judge, Sr. Dn.  
Bhavnagar.

Prepared by :- Sd/-  
Compared by :- Sd/-

True copy  
Sd/-

Clerk of the Court,  
Civil Judge, Senior Division  
Bhavnagar.

True Copy  
[Signature]  
[Signature]

Mc

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Before the Central Administrative Tribunal at Ahmedabad.

O.A. No.476/89

Jeram Mohan ..... Applicant.

V/S

Union of India & Others ... Respondents.

1. The Railway Administration files its reply to the applicant's application, as under :
2. That the application is not according to law, malafide, and not tenable, being otherwise defective.
3. That the Railway Administration doesnot admit the truth or correctness of any Statement, allegation, or contention, as set out in the application, unless the truth or correctness of any One of them is specifically and expressly admitted in this reply.
4. Without prejudice to the above submissions, the respondents submit their reply to the contents of application, as under :-
5. That, referring to the contents of Para 3 of the application, it is stated that order No.EM/308/70/J/23(T) of 10/15-9-84, passed by the competent authority is in accordance of the rules and regulation of Rly's discipline and appeal rules, and is legal. It is not correct that the representation of applicant of dated 27.7.88 is not being replied; In fact, the respondent has not received such representation and as such, the allegation of applicant bears no ground.
6. That referring to the contents of Para 4 of application, No remarks needed as the same is formal.



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7. That referring to the contents of Para 5 It is stated that, the applicant's application is time barred and as such barred by limitation act and accordingly it may be rejected.

8. That referring to the contents of Para 6 of the application, it is stated that, regarding his appointment as Khalasi, and Civil Suits filed by him, as shown in application, the same is admitted and the Rly. Administration has honoured the Court's judgement fully by way of re instating<sup>ti</sup> the applicant as water softning plant Khalasi (WSP Khalasi) in scale Rs. 196-232(R), with effect from 9.7.77 and fixation of his pay has been done vide O.O. No. EM/198/77 dtd. <sup>8-7-77</sup> 7.8.77 and O.O. P.C./16/78 of 11.4.78 (<sup>by order</sup> Annexed ~~force~~ to the true copy of same and marked 'R' & R/1')

Further it is clarified that the competent authority has passed the order for treating Suspension period <sup>from</sup> 1.4.75 to 8.2.77 as period not spent on duty vide No. EM/308/J/23 of 23.2.78. The period of his removal from 1.4.75 to 8.2.77 was considered, as the applicant was under suspension, and for which he was paid Rs. 3188-75 of the said period.

It is admitted that the applicant has filed Civil Suit No. 550/79 against his removal from service vide Notice of Imposition of Penalty No. EM/308/70/2/23 of 3.6.78, and again, also, the respondent Rly. Administration had reinstated the applicant, in service on WSP Khalasi vide O.O. EM/171/82 of 28.7.82 and as per the judgement, he was paid 60% of full pay and allowances to which he would have been intitled had he not been removed from service for the period from 16.10.79 to 29.7.82 amounting to Rs. 4880/- towards the arrears of Salary and respondent Rly. Administration has fully honoured ~~the record~~ the Court's judgement.



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R/2 Further it is clarified that the fixation of the applicant, has already been done by way of fixing Rs.202/- with effect from 29.7.82 and further, Rs.205/- Rs.208/- 211/- till 1.8.84 and also, he was promoted as Sr.Khalasi (WSP) against upgraded post in Scale Rs.210-290 (R) vide O.O. EM/329/84 of 17/22-11-84 (True copy of the same is annexed <sup>here</sup> ~~here~~ to and marked R/2) Accordingly his Pay is fixed to Rs.210/- on 29.7.82, and Rs.214/- & 218/- on 1.7.83 and 1.7.84 respectively. Thus the allegations of applicant for not promoting as Sr.Khalasi and non fixing up his Pay is base less, fabricated and not tenable and as such denied.

The Allegations of applicant to promote his juniors is also denied, ~~The~~ Shri Kalu P. was already working as Fitter from 1.4.71 being senior and Shanker A. has subsequently passed Trade Test and promoted as Fitter from 30.6.79 i.e. after the date of removal from service of the applicant and also, it is pertinent to note that the channel of promotion of WSP Khalasi is different then the Fitter, the allegations of applicants for over looking his promotion as fitter bears no grounds, weight or reasons and hence denied.

9. That referring to the contents of Para 7(A) It is clarified that, the respondent has received the only representation of applicant of 2.5.86, regarding his Pay fixation, and promotion to the post of Fitter, from the date of the promotion of Kalu P. and he was replied vide No.E/L/8/83 of 29.7.86. (True copy of the same is attached <sup>J</sup>here to and marked R/3)

R/3 (B) Competant authority has treated the intervening period, as not spent on duty and the act of the competent authority is legal, just and as per the rules and regulations of Discipline and Appeal rules of Rly. Honourable Suprime Court..

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9.(B) Contd..

...Supreme Court of India has upheld such action of the departmental authority in SLP(Civil) 6998 of 1988 in the case of Parmananda V/s. State of Haryana, and accordingly the Act of the Rly. Administration is correct, and as per the rules and regulations.

(C) Fitter is skilled category and, to get promotion on the skilled post, employee has to pass Trade Test. The Rly. Administration has many time issued the notification, time to time and invited the applications for the promotion on skilled posts of Fitter, but the applicant has never applied for the same and as such, without appearing and without passing trade test of skilled category of fitter, he cannot be promoted and as such, his claim is not tenable.

10. That; No comments for Para 8 being formal.

11. That; referring to the contents of Para 9 & 10 (A to C)

It is prayed that, all the action has been taken very correctly and as per rules and regulations of Rly. In regards to fixation of the Pay, granting due increments, time to time, and also for his promotion, there is nothing remains to be done, and as such, no any relief to be granted to the applicant, rejecting the applicant's application, awarding the cost to the Rly. Administration.

12. The remaining paras of application are formal hence no comments.

13. That the Respondent Rly. Administration craves leave, to add, alter, amend, or modify any of the Statements, as and when required.

Bhavnagar.

Date: 24-1-1990


On and behalf of Union of India.

  
A22C Divisional Railway Manager,  
Bhavnagar Para.

(2)

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


I, Sewal Manohari Addl Divisional Railway Manager,  
W.Rly. Bhavnagar, do hereby solemnly affirms that, what is  
stated above, is gathered from the official records and the  
same is believed to be true to the best of my knowledge and  
belief.

  
Addl Divisional Railway Manager,  
Western Railway,  
Bhavnagar Para.

...

Reply/Rejoinder/written submission  
filed by Mr. R. N. N. N.  
learned advocate for petitioner /  
Respondent with second set.  
Copy served/not served to other side

Di 30/1/90

  
Dy. Registrar C A T (J)  
A'bad Bench

WESTERN RAILWAY

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S.O.O.No. EM/198/77

DMisional Office,  
Bhavnagar Para.  
Dt. 8/7/1977.Sub: DAR N.G Staff. ech. Deptt. Shri Jeram Mohan  
Ex. Artisan Khalasi BTD.Ref: This office NIP No. EM 308/70/J/23 dt. 10/4/72.  
=====

Shri Jeram Mohan Artisan Khalasi who is removed from service from 20/4/72 as per this office NIP quoted above had filed a Civil suit No. 147p75 in the court of Civil Judge S.D. Bhavnagar Challenging the order of removal from service as illegal, void and not binding to him and that he be deemed to continued in service and for recovery of Rs. 6648/-. etc.

The Civil Judge S.D. Bhavnagar has delivered the judgement on 1-2-1977 and passed the following orders. "It is hereby declared that the impugned order passed by the disciplinary authority and thereafter confirmed by the appellate authority on 10/4/72 10.4.72 and 26.5.72 respectively about the removal of service pertaining to the plaintiff are illegal, void and so get vitiated and that the plaintiff is entitled to recovered Rs. 5648/- from defendant as the arrears of salary as claimed in the suit."

In view of the above, Shri Jeram Mohan is reinsisted in service as Khalasi WSF in scale of Rs. 196/232(R) and posted at BTD with effect from the date he joins at BTD. The order regarding treatment of intervening period will be issued seperately.

His pay in scale Rs. 196/232(R) is provisionally fixed at Rs. 202/- P.M. in view of the pay drawn by him before removal. His fixation in revised scale and grant of increment as due will be done seperately.

He shall have to refund the amount of settlement dues received by him if any failing which his service will be treated as fresh for all purposes. This may be against to him.

This has approval of DME.

Sd/-  
For DME (E) BVP

Copy to: DAO BVP, LF BVP FIC BTD for information and necessary action.

" CC/SB/S (in duplicate) HC FS&DAR  
action in connection with treatment of intervening period and fixation of pay in revised scale and payment as due to him should be finalised early he has been paid Rs. 5648/- towards arrears of salary as per decree passed by the court and the amount should be adjusted from the supplimentary bill.

HC/Court, Seniority file.

True copy

सहायक कार्मिक अधिकारी,

आसन. Personnel Officer,  
W. Rly. - Bhavnagar Para.



WESTERN RAILWAY

S.O.O. No. PC/16/78

No. EM/763/2/2

DRM's Office,  
Bhavnagar Para.  
Dt. 11-4-1978.

Sub: Fixation of pay Revised scale of Pay  
 Mech. Deptt. Group 'D' staff Shri  
 Jeram Mohan Khalasi WSP-BTD.  
 =====

Pay of Shri Jeram Mohan Kh. WSP under FIC-BTD in APS 70-85 who has been deemed to have been placed under suspension w.e.f 20/4/72 to 8/7/77, vide this office No. EM/308/70/23 of 22.3.78 and re-instated vide SOO No. EM/198/77 dtd. 8/7/77 and EM/308/70/J/23(IV) dated 18.2.78 is hereby refixed in corresponding R/Scale Rs. 196-232, by treating him as deemed to have opted R/scale from 1-1-1973 as under:

Scale  
 Rs. 196-232(R)

Pay fixed.  
 Rs. 202/- from 1-1-1973  
 Next increment will be due after 12 months qualifying service from the date of his re instatement resumption i.e 9.7.1977.

NOTE: On revocation of of suspension and reinstatement Shri Jeram M/has resumed as Kh. WSP under FIC-BTD w.e.f 9/7/77.

2) The above fixation has been certified by DAO/BV.

For D.S(E) BVP

VIP to: DAO/BVP CC-SB (All in duplicate) CC-SB(1P.  
 fix card)  
 HC EM(4 copies) FIC BTD  
 Party concerned through FIC-BTD  
 Memo file.

7/20/78 C.M.



सहायक कार्यालय अधिकारी,

महाराष्ट्र राज्य

Personnel Officer,

Bhavnagar Para.



कार्यालय आदेश सं. ईएम/ 329 /84.

मंडल कार्यालय,  
भावनगर परा,  
दिनांक 17.11.84.

विषय:- वेतन निर्धारण - अराजपत्रित सहायक - यांत्रिक विभाग -  
श्री जेराम मोहन, खलासी-डबल्यू एसपी, वेतनमान  
रू. 196-232 रू.सं.

संदर्भ:- इस कार्यालय का दि. 28.7.81 का का.आ.सं.ईएम/172/82.

श्री जेराम मोहन खलासी-डबल्यूएसपी, वेतनमान रू. 196-232 रू.सं.  
बोटाद को इस कार्यालय के दि. 24.5.78 के एनआईपी सं. ईएम/308/70/  
जे/23 द्वारा, दि. 7.6.68 से रेल सेवा से हटाया गया था और बाद में  
दि. 28.7.82 के का.आ. सं. ईएम/171/82 द्वारा दि. 29.8.82 से रेल  
सेवा में बहाल श्री-इन्स्टीटेड किया गया था।

श्री जेराम मोहन के रेल सेवा से हटाये जाने की तारीख से सेवा  
बहाल श्री-इन्स्टीटेड की तारीख अर्थात् दि. 3.6.68 से दि. 20.7.82  
तक की अवधि को, इस कार्यालय के दि. 10/15-9-84 का शासन सं. ईएम/308/70/  
जे/23 टी. अनुसार "नोटस्पेन्ट ओन ड्यूटी" मान ली गई है।

उक्त स्थिति में श्री जेराम मोहन का वेतनमान 196-232 रू.सं. में  
वेतन संशोधित कर निम्नानुसार निर्धारित किया जाता है।

वेतन	वेतनवृद्धि की तारीख
रू. 202/-	29.7.82 बहाल की तारीख
रू. 205/-	3/1.8.82
रू. 208/-	3/1.8.83
रू. 211/-	3/1.8.84

श्री जेराम मोहन दि. 1.8.78 को खलासी डबल्यू एसपी के रोल  
पर थे और वे वरिष्ठ-खलासी डबल्यूएसपी के उपग्रेड हुए पद पर पदोन्नति  
के लिए पात्र थे। अतः उन्हें वरिष्ठ खलासी-डबल्यूएसपी, वेतनमान  
रू. 210-290 रू.सं. में पदोन्नत किया जाता है। वेतनमान रू. 210-290 रू.सं.  
में वेतन निर्धारण निम्नानुसार है :-

वेतन	वेतनवृद्धि की तारीख
210/-	29.7.82
214/-	1.7.83
218/-	1.7.84

तदनुसार देय डिफरेंस राशि का शीघ्र भुगतान किया जाए।

सं. ईएम/जे/83.

कृते मयाजी स्था. भावनगर परा.

प्रति:- लोको फोरमेन-भावनगर परा, बोटाद को सूचनाार्थ।

मैलेधि-भावनगर परा, अधी.-वेतनबिल 2 प्रति.

का.आ.फाइल/नु.लिपिक/डीएआर.

सेवापंजी, वेतनवृद्धि क्लर्क -वैयक्तिक फाइल, शासन फाइल.

मंडल मंत्री-वे.रे.ए.यू.वे.रे.म.सं.-भावनगर परा.

...

"मप"

प. रे./W. R.

COPY OF LETTER NO E/L/J/83जी 30 बी/जी एच 19  
dt 29-7-86 30 B/CL 19

संख्या/No... F/L/J/83

दिनांक/Dated... 29-7-1986

प्रेषक/From... The

DME (E) Btl

सेवा में/To... The

LG - BTD

विषय/Sub : Non-grant of Grievances - Case of Sheri

संदर्भ/Ref : J. Com. M. : SR. WSP. Kh. BTD

→ Parly's application dt 21-5-86

With reference to the application dt. 21-5-86 it is advised that all the payment as per Court's order have been paid to you as detailed given below.

1. You have been paid Rs. 5648-00/- through Court for the period from 20-4-72 to 31-3-75
2. Your pay has already been fixed Rs. 202/- from 1-1-73 vide this office O.O. No. PC/16/78 dt. 11-4-78. Since you were under suspension and taken back on duty 29-7-81 you were not eligible for increment. However your pay from 1982 to 1986 has been fixed by granting increment vide this office O.O. No. En/329/84 dt. 22-11-84.
3. You have been promoted as SR. WSP. Khasasi vide O.O. No. En/329/84 dt. 22-11-84.
4. Sheri Kalu P is promoted as bittar and you are not eligible for the post of bittar as his avenue of promotion is different as that of bittar.

Advise parly concerned accordingly.

TRUE COPY

SD/ AXX.

for DME (E) Btl

अधीनस्थ अधिकारी,

परिचय रेकर्ड, भावनगर पालिका

Asst. Personnel Officer,

(CC) Rly - Bhavnagar Para