

CENTRAL ADMINISTRATIVE TRIBUNAL

~~PRINCIPAL BENCH, DELHI~~

AHMEDABAD BENCH

O.A No. 577 of 1993. ~~198~~
~~K.A. No.~~

DATE OF DECISION 16th March, 1994.

Shri Premchand P.Dhanka Petitioner

Shri K.K.Shah Advocate for the Petitioner (s)

Versus

Union of India and Others Respondent

Shri N.S.Shevde Advocate for the Respondent(s)

CORAM .

The Hon'ble Mr. N.B.Patel : Vice Chairman

The Hon'ble Mr. K.Ramamoorthy : Member (A)

JUDGMENT

Shri Premchand P.Dhanka,
17-B, Pankaj Housing Society,
Chikalia Road,
Dohad, Dist. Panchmahals,
Gujarat State.

..Applicant.

(Advocate : Mr.K.K.Shah)

Versus

1. Union of India,
notice to be served through,
The General Manager,
Western Railway,
Churchgate,
Bombay - 400 020.
2. The Deputy Controller of Stores,
Western Railway,
Sabarmati, Ahmedabad.

..Respondents.

(Advocate : Mr.N.S.Shevde)

ORAL JUDGMENT

O.A.NO. 577 OF 1993.

Dated : 16th March, 1994.


Per : Hon'ble Mr.N.B.Patel : Vice Chairman


On behalf of the Railway Administration it is stated by the learned counsel Mr.N.S.Shevde, that the inquiry authority has fixed the inquiry on 28th and 29th March, 1994, and that he will finalise his report latest by 10th April, 1994, and that the disciplinary authority will conclude the matter latest by the end of April, 1994. It is true that the charge-sheet having been furnished in 1989, there has been some delay in concluding the inquiry. However, on the mere ground of such delay the applicant cannot insist on the quashing of the inquiry when he faces a charge of default in his duty of supervision

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and thereby showing lack of integrity, lack of devotion to duty, etc. We, therefore, reject the O.A. with the specific direction to the Inquiry Authority to finalise the inquiry report by 10.4.1994, The Disciplinary Authority is directed to take its decision on the inquiry report by 30.4.1994. It is made clear that the applicant will have to co-operate with the authorities in seeing that the inquiry is concluded as early as possible. Copy of the order may be delivered to Mr.N.S.Shevde, latest by 18.3.1994, so that he can forward it to the concerned authorities for compliance.

No order as to costs.


(K.Ramamoorthy)
Member (A)


(N.B.Patel)
Vice Chairman

ait.

MA/295/34 in
OA/577/93

Office Report

ORDER

07/6/34

~~Advocate's note by applicants/respondents~~
advocate. Adjourned to 14/6/34


L. RAMAMOORTHY
MEMBER [A]


(P. B. Patel)
Vice Chairman

~~Advocate's note by applicants/respondents~~
advocate. Adjourned to


(P. B. Patel)
Vice Chairman

other
As the learned Member of
the Bench is not available,
the matter is adjourned
to 23.6.34


(P. B. Patel)
Vice Chairman

4/6/94

Date

Office Report

ORDER

7/6/94

~~Intelligible note by applicants' respondents~~
~~advocate. Adjourned to 14/6/94.~~

L. RAMAMOORTHY
MEMBER (A)

(M. B. Patel)
Vice Chairman

~~(M. B. Patel)~~
~~Member (J)~~

~~Intelligible note by applicants' respondents~~
~~advocate. Adjourned to~~

~~(M. B. Patel)~~
~~Vice Chairman~~

other
As the learned Member of
the Bench is not available,
the matter is adjourned
to 23/6/94

(M. B. Patel)
Vice Chairman

14/6/94


14/6/94

Date	Office Report	ORDER
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23-6-94

M.A. 295/94 in O.A. 577/93

Extension of time till 10-6-1994 and 30-6-1994 is claimed by the present applicant. Since the period for which the extension is claimed, expired on 10-6-94 the M.A. has become infructuous. However, at the request of Mr. Shevde and with the consent of Mr. Shah, time to finalise the inquiry is finally extended till 30-9-1994 as it is stated that due to change of Inquiry Officer the Department has not been able to complete the inquiry even till today. M.A. stands disposed of.


(K. Ramamoorthy)
Member (A)


(N.B. Patel)
Vice Chairman.

*AS.

Office Report

ORDER

24.10.94

Heard Mr. Shevde and Mr. K. K. Shah. M.A. allowed.

Extension granted till 30.12.94.

No order as to costs.

(K. Ramamoorthy)
Member (A)

(N. B. Patel)
Vice Chairman

npm

CENTRAL ADMINISTRATIVE TRIBUNAL
Ahmedabad Bench

Application No. 04/577/93 of 19

Transfer Application No. _____ Old W.Pett 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 : 07/04/94

Countersigned :

Anil
Section Officer/Court officer

ceelap
Signature of the Dealing Assistant

Anil 13-284

CAUSE TITLE.....02/577/93.....OF 198 ☐.

NAMES OF THE PARTIES..... MR. P. P. Dhanka.....

U. B. A. B. B.

[illegible]

2. 10. 1963 21.10.1963

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AHMEDABAD.

O.A. NO. /1993.

Premchand P Dhanka ... Applicant.

Versus.

Union of India & Others ... Respondents.

DETAILS OF APPLICATION

Particulars of the Applicant.

- i) Name of the applicant : Premchand P Dhanka
- ii) Designation and office in which employed : Depot Store Keeper III working under District Controller of Stores DOHAD, Dist.Panchmahals, Gujarat.
- iii) Address for service of notice. : 17-B, Pankaj Hou. Society, Chikalia Road, Dohad, Dist.Panchmahals Gujarat State.

Details of Respondents.

- i) Name and/or designation of the Respondent : Union of India
- ii) Office address of the respondents and address for service of all notices. : Notice to be served through :
The General Manager,
Western Railway
Church Gate,
Bombay-400 020.
(2) The ^{Deputy} ~~Dist.~~ Controller of Stores
Western Railway,
~~DAHOD~~. Sabarmati.

*Amended:
in the court
of the
30/11/93
Jubill*

1. Order under challenge.

The applicant is hereby challenging the charge-sheet dated 18.1.1989 bearing No.E/308/1/1102 issued by the

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Respondent No.2. A copy of the same is annexed hereby and marked as Annexure A.

Subject in brief: The applicant was initially kept under suspension and the said suspension was challenged before this Hon'ble Tribunal in OA No.603/88. The said O.A. was decided on 1.11.1988 and the Hon'ble Tribunal was kind enough to stay the implementation of the suspension order dated 1.8.1988. A copy of the said order dt. ~~1.8.1988~~ 1.11.1988 is annexed hereby and marked as Annexure A-1. The applicant further submits that the respondents as a punitive measure transferred the applicant vide order dated 17.6.1988 from Dohad to Sabarmati though normally Scheduled Castes and Scheduled Tribes employees are not to be transferred unless there strong reasons and in the instant case the respondents transferred the applicant without giving any reasons. The copy of the transfer order is annexed hereby and marked as Annexure A-2 dated 16.7.1988. The circulars pertains to the transfer of Scheduled Caste and Scheduled Tribe is annexed hereby and marked as Annexure A-3.

The applicant has also challenged the said transfer order in OA No.461/88 where there was specific ground of applicant with the reason beyond the transfer order is not the administrative interest but as a punitive measure. But respondents in their written statement came out with the plea that the applicant can be transferred and this transfer is not malafide or arbitrary and not as a punitive measure or on contemplation of any disciplinary case.

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After the aforesaid two original applications were decided the respondents in the year 1990 transferred the applicant to Baroda Division on his representation dated 22.1.1990. A copy of the said representation is hereby annexed and marked as Annexure A-4.

The applicant submits that since he is a native of Dohad and having a family responsibility was kept away from his family for about 3 years at Sabarmati and subsequently at Baroda. The charge-sheet which is issued to him is for the alleged incident of the year 1988 and after receipt of the charge-sheet in January, 1989, the applicant replied within 10 days to the said charge-sheet. A copy of the written statement to the charge-sheet is hereby annexed and marked as Annexure A-5. There is no further progress made on the aforesaid charge-sheet and almost more than 4½ years is over and though the applicant has been passed the selection for the post of DSK Gr.II he has not been promoted on the alleged ground of pendency of disciplinary case.

Therefore, the impugned charge-sheet Annexure-A requires to be held as deemed to be cancelled or due to inordinate delay in finalising the inquiry the charge-sheet may kindly be quashed on that ground as well as on other grounds realised in this application.

2. Limitation.

The applicant submits that the disciplinary case is pending against him on the impugned charge-sheet

Annexure-A and normally he has to approach this Hon'ble Tribunal after finalising the inquiry but the respondents Railway themselves have not implemented their model schedule for finalising the inquiry as well as their own circular and procedure prescribed under Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968 and since 1989 no further progress has been made on the impugned Charge-sheet Annexure-A and the applicant's promotion for DSK Gr.II post is with-held and therefore, the DR proceedings on the impugned charge-sheet Annexure-A is a perpetual cause of action till it is finalised and the applicant can approach for quashing of the same on account of inordinate delay and on other grounds. Therefore the application is to be considered within the period of limitation.

3. Jurisdiction.

The applicant states that the subject matter of the challenge is within the jurisdiction of this Hon'ble Tribunal.

4. Facts of the case.

The applicant belongs to the Scheduled Tribe community and is a native of Dohad, District Panchmahals, Gujarat. The applicant while working as DSK Gr.III was kept under suspension and no charge-sheet or nothing was issued through the requisite period as prescribed under the rules was over. The applicant being aggrieved with the said suspension challenged the same before this Hon'ble Tribunal

by preferring O.A No.603/1988. As stated above in para 3, the said O.A was decided in favour of the applicant. The applicant submits that the respondents have also transferred the applicant at Sabarmati on the ground of contemplating inquiry, etc. but the said reason was not mentioned in the transfer order intentionally and deliberately. The applicant had raised the specific ground in the original application No.461/88. The said application was rejected and the applicant under compelling circumstances carried out the transfer to Sabarmati. The grounds offered by the applicant was correct which can be seen from the letter of COS (E) To Senior DCOS, BRC dated 30.4.1992. The respondents filed the incorrect written statement and mislead the Hon'ble Tribunal because of the same the applicant had carried out the transfer at Sabarmati on rejection of the original application. Copy of the letter dated 30.4.1992 which is referred above wherein it is categorically stated that, "Shri P.P.Dhanka DSK Gr.III was transferred out of Dohad on the advice of Vigilance and the Competent Authority has not given clearance for ~~the~~ his posting back to Dohad". The copy of the said letter is annexed hereby and marked as Annexure A-6.

The applicant submits that after he carried out his transfer to Sabarmati was served with a charge-sheet as per Annexure-A. The charges levelled against the applicant were without any base and any

evidence and was given to him with vindictive mind and to harass the applicant. The articles of charges in the charge-sheet it is mentioned that Shri P.P.Dhanka while working as such on 22.2.1988 committed ~~serious~~ serious misconduct. The language used in the charge-sheet itself prove that without holding the inquiry the decision was taken that the applicant has committed misconduct. So far as the rest of the articles mentioned therein are without any cogent proof or any valid evidence. The documents relied in the charge-sheet were also not supplied to the applicant.

The applicant had replied to the said charge-sheet on 27.1.1989 and denied the charges levelled against him. The applicant has also called upon the respondents in para 4 of his reply to furnish him the documents mentioned therein. It is to be informed hereby that till filing of this application no documents have been supplied nor decision of the disciplinary authority informed or communicated to the applicant that whether the disciplinary authority is still want to continue the inquiry on the aforesaid charge-sheet or not.

Rule 9(a)(iv) reads that if the Disciplinary Authority, after consideration of the written statement of defence, is of the opinion that the imposition of a major penalty is not necessary, it may drop the proceedings already initiated by it for the imposition of major penalty.

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The applicant submits that the Disciplinary Authority has neither opined nor has taken a decision on the written statement of the applicant denying the charges.

The applicant as per Rule 9(7) ~~applied~~ applied in writing for supply of copies of documents as per sub-rule (6) but the respondents failed to supply till date.

The applicant submits that since his family is residing at Dohad and he is having grown up children and therefore, his presence is very much essential at Dohad. After he is transferred to Sabarmati in the year 1990 when he came to know that vacancy is available in Baroda and since the authority is not inclined to re-transfer him at Dohad he applied for transfer him at Baroda and the authority transferred him in the year 1990 at Baroda. Since no further progress has been made on the aforesaid charge-sheet the applicant represented further for his transfer at Dohad through the All India Schedule Caste and Scheduled Tribe Railway Employees Association as well as in his personal capacity. The copies of the said representation is annexed hereby and marked as Annexure-A-7 (Colly.).

The Baroda authority under whom the applicant is working is inclined to re-transfer the applicant at Dohad but the local authority of Dohad is intentionally and deliberately not clearing the posting back of the applicant at Dohad on the alleged ground

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of pendency of disciplinary authority and on the advice of vigilance as mentioned in letter dated 30.4.1992.

The applicant submits that on one hand the respondents are not finalising the inquiry and on the other hand they are not re-considering his transfer to Dohad and recently on 25.2.1993 when the promotions were given to his immediate juniors to the post of DSK Gr.II, the applicant was not given because of the pendency of the disciplinary case.

Being aggrieved with not giving the promotion the applicant gave representation to the Director of Scheduled Caste and Scheduled Tribe and and Director of S.C. and S.T. has forwarded the said representation to the General Manager, but till date no reply has been given to his said representation. The applicant has also reminded to the Director on 29.7.1993. Copy of the same is annexed hereby and marked as Annexure A-3(Colly.).

5. Grounds.

- (A) The action of the respondent by not completing the inquiry as per model time schedule given in the IVth Edition of Railway Servants (Discipline and Appeal) Rules, 1968 by M.L.Jand. and Bhari Bros is not in confirmative with their own circulars.

The Railway Board Circular dt.29.3.1985 and 5.12.1985 wherein Board has directed that photostate/type copies ~~may be~~ relied upon/

listed documents would be furnished alongwith the charge-sheet, the cases whereit may be possible. It was also further contented that hearing should be contineous and expeditious and adjournment should be granted only on unavoidable ground. The copy of the model time schedule and the afore-said letter of the Railway Board is annexed hereby and marked as Annexure A-9.

In the instant case it is an admitted position that the same time schedule and the circulars have not been followed in terms and spirit and in absence of statutory rule of fixing time limit. The Circular of the Railway Board is requires to be implemented and is deemed to have a statutory force of law.

No valid reason has been given for not taking any decision or for such an inordinate delay has been given to the applicant and, therefore, on the ground of delay and laches and non-completion of inquiry within the time bound schedule, the charge-sheet is requires to be held deemed to be cancelled and this Hon'ble Tribunal may kindly held the action of the respondent as improper, unjust, arbitrary, discriminatory and bad in law.

- (B) The action of the respondents by not furnishing the documents relied in the charge-sheet together with the charge-sheet as per Rule 9(7) and since they failed to furnish the same in the span of 4½ years it is to be presumed that the Disciplinary Authority is not having the said documents with

him or his intention becomes clear that notto supply the same to the applicant. The non-supply of documents with the charge-sheet and even after demanding the same by not supplying is in flagrant violation of Rule 9(7) of the Railway Servants (Discipline and Appeal) Rules, 1968 as well as of the Railway Board Circular as relied in Ground (A).

The non-supply of relevant documents relied in the charge-sheet amounts denial of reasonable opportunity and violation of natural justice and fair play as decided by the Hon'ble Supreme Court in the case of Kashinath Dixit Vs. Union of India 1986 1 ATC Page 176. The non-supply of documents therefore, is a material lapse on the part of the Disciplinary Authority and, therefore the disciplinary proceedings requires to be vitiated and action of the Disciplinary authority requires to be held illegal and bad in law.

- (C) The inordinate delay in taking decision after the defence was submitted to the charge-sheet and till date no further correspondence or communication or any intimation informing to the applicant about the said charge-sheet is arbitrary, discriminatory, hit by delay and latches and therefore, the entire reaction of (8) initiating the disciplinary case against the applicant requires to be held improper and unjustified in the eyes of law and against the principles of equity and fair play.

- (D) The action of the respondents by delaying the inquiry was intentionally by the Respondent No.2 Shri Madhavial with a view to favour Shri Mansuri who is actually responsible for the alleged charges and the Disciplinary Authority waited for his retirement and after his retirement the action has been initiated and then after since the disciplinary authority himself was also responsible to certain extent in the alleged incident he has not continued further inquiry. But with a view to harass the applicant and with vindictive mind continued the same without passing any specific order of cancellation of the charge-sheet. Therefore, the action of the Respondent No.2 is malafide, vindictive and arbitrary and discriminatory and therefore the impugned charge-sheet is requires to be quashed and set aside.
- (E) The applicant was already penalised once by the transfer order as is become evident from the letter dated 30.4.1992 and was also not considered for promotion for the post of DSK Gr.II when his juniors namely Shri G.K.Meena and Shri K.V.Narendran were promoted as DSK Gr.II by order dated 25.2.1993 and therefore, any penalty even if imposed on the alleged charge-sheet will be a double jeopardy and nothing else and therefore, also the charge-sheet requires to be quashed and set aside.
- (F) The un-reasonable and un-due delay in finalising the charge-sheet and the disciplinary case is not in confirmative with the ratio of the Supreme Court

and various judgements of the Tribunal and therefore, the same requires to be declared arbitrary, unreasonable and the impugned charge-sheet requires to be quashed and set aside and any further action thereon by holding it as illegal.

(G) The action of the respondent by transferring the applicant being a Scheduled Tribe out of his native and his district is not in terms of the Railway Board Circular and also by not giving him promotion on the alleged ground of pendency of disciplinary case is against the mandate of constitutional provision, equity and fairness and violative of articles 14 and 16 of the Constitution of India

6. Reliefs sought.

(A) This Hon'ble Tribunal may please held that the action of the respondents by not completing and finalising the inquiry on the alleged charges at Annexure A charge-sheet dated 18.1.1989 is arbitrary, discriminatory, suffers by delay and laches and also by not supplying the documents is denial of reasonable opportunity and the entire action is not in confirmative with the Railway Servants (Discipline and Appeal) Rules, 1968 and therefore the impugned charge-sheet may kindly be quashed and set-aside and as a consequence the applicant may kindly be directed to the respondent to

re-transfer at Dohad and may be given promotion from the date his juniors have been given and with-held on the ground of pendency of the disciplinary case with all consequential benefits in the interest of justice.

(B) This application may kindly be allowed with cost.

(C) Any other order or direction as may be deemed fit in the interest of justice may kindly be passed.

7. Interim relief.

(A) Pending admission and final disposal of this application, the respondents may be called upon to produce the file pertains to the DAR action initiated on the Annexure-A charge-sheet and further action on the Annexure-A charge-sheet may kindly be stayed since no documents, etc. has been supplied till filing of this application in last 4½ years.

(B) The respondents may be directed to re-consider to transfer him at Dohad and be further directed to release the promotion of the applicant for the post of DSK Gr.II.

(C) Any other order or direction as may be deemed fit in the facts and circumstances of the case may please be passed.

8. Details of the remedies exhausted.

The applicant declares that he has availed of all the remedies available to him under the relevant service rules, etc.

9. Matter not pending with any other court, etc.

The applicant further declares that the matter regarding which this application has been made is not pending before any court of law or any other authority or any other Bench of the Tribunal.

10. Particulars of Demand Draft in respect of the application fee.

1) Demand Draft No. : MOT/A/38-620148

2) Name of the issuing Office: State Bank of India,
Navrangpura Br.
Ahmedabad.

3) Date of issue : 16th Aug. 1993

11. Details of index.

As annexed.

12. List of enclosures.

As annexed.

Date : August , 1993

Place: Ahmedabad.

KIRAN K SHAH
Advocate for the
Applicant.

Filed by Mr. Kiran K. Shah
Learned Advocate for Petitioners
with second set & 2 spares
copies copy ~~served~~/not served to
other side

Di. 2/9 1993 Dy Registrar C.A.T.(I)
for A'bad Bench


: 15 :

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

I Shri Premchand P. Dhanka, DSK Gr.III, working under District Controller of Stores, Baroda, aged adult, permanently residing at 17-B, Pankaj Housing Society, Chikali Road, Dohand, Dist. Panchmanals, Gujarat State, do hereby states that what is stated in paragraphs 1 to 4 and 6 to 11 is true to the best of my knowledge and belief and what is stated in paragraph 5 are legal grounds are on the advice of my Advocate and the same is accepted by me as correct. I further declare that I have not suppressed any material fact.

Identified by me


K.K. Shah, Advocate.


(PREMCHAND P. DHANKA)

Place : Ahmedabad

Date : August , 1993.

आरोप पत्र का मानक फॉर्म
STANDARD FORM OF CHARGE SHEET[रेल कर्मचारी (अनुशासन और अपील) नियम 1968 का नियम 9]
[Rule 9 of the Railway Servants (Discipline and Appeal) (Rules 1968)]

रेल प्रशासन का नाम Name of Rly. Admn.....

DCO S

संख्या No. E/308/1/1102

जारी करने का स्थान Place of issue.....

SBI.

तारीख Dated..... 18 JAN 1989

ज्ञापन MEMORANDUM

निम्नहस्ताक्षरकर्ता रेल कर्मचारी (अनुशासन और अपील) नियम 1968 के नियम 9 के अधीन श्री..... के विरुद्ध जांच करने की प्रस्तापना करते हैं। भ्रष्टाचार या कदाचार के अभ्यारोपों का सार, जिनके संबंध में जांच करने की प्रस्तापना है, आरोप के अनुच्छेदों के विवरण (अनुबन्ध-I) में दिया गया है। आरोप के प्रत्येक अनुच्छेद के समर्थन में भ्रष्टाचार या कदाचार के अभ्यारोपों का विवरण संलग्न है (अनुबन्ध-II)। जिन दस्तावेजों से और जिन साक्षियों द्वारा आरोप के अनुच्छेदों की पुष्टि की जाने की प्रस्तापना है, उनकी भी एक सूची संलग्न है (अनुबन्ध III और IV) दस्तावेजों की सूची में उल्लिखित दस्तावेजों की प्रतियां अनुबन्ध III के रूप में संलग्न हैं।

P. P. Dharka.

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

2. **श्री..... को एतद्द्वारा सूचित किया जाता है कि यदि वह चाहे तो इस ज्ञापन की प्राप्ति के 10 दिन के भीतर कार्यालय समय में किसी भी समय दस्तावेज सूची (अनुबन्ध-III) में वर्णित दस्तावेजों का निरीक्षण कर सकता है और उनके उद्धरण से सकता है। इस प्रयोजन के लिए, इस ज्ञापन की प्राप्ति के बाद उसे तत्काल..... से संपर्क स्थापित करना चाहिए।

P. P. Dharka.

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

3. श्री..... को प्राप्ति यह भी सूचित किया जाता है कि यदि वह चाहे तो दस्तावेजों का निरीक्षण करने तथा मौखिक जांच की स्थिति में जांच प्राधिकारी के समक्ष अपना मामला प्रस्तुत करने में सहायता के लिए किसी अन्य रेल कर्मचारी / रेलवे ट्रेड यूनियन के किसी पदाधिकारी (जो रेल कर्मचारी (अनुशासन और अपील नियम 1968 के नियम 9 (13) और यथा स्थिति उनके नीचे नोट 1 और/अथवा नोट 2 की अपेक्षाओं को पूरा करते हैं) की सहायता से सकता है। इस प्रयोजन के लिए, अधिमाम्यता क्रम में उसे एक या अधिक व्यक्तियों का नाम निर्देशन करना चाहिए। सहायक रेल कर्मचारी (कर्मचारियों) या रेलवे ट्रेड यूनियन के पदाधिकारी (पदाधिकारियों) का नाम निर्देशन करने से पहले श्री..... द्वारा नामित व्यक्ति (व्यक्तियों) से वचन ले लेना चाहिए कि वह (वे) अनुशासनिक कार्यवाही के दौरान उसकी सहायता करने के लिए तैयार है। वचनबन्ध में ऐसे अन्य मामले (मामलों) का, यदि कोई हो, विवरण भी दिया जाना चाहिए, जिसमें नामित व्यक्ति (व्यक्तियों) द्वारा सहायता करने का पहले ही वचन दिया जा चुका है और नाम निर्देशिनी द्वारा दिया गया वचनबन्ध नामांकन पत्र के साथ निम्नहस्ताक्षरकर्ता को भजा जाना चाहिए।

P. P. Dharka.

Shri..... is further informed that he may, if he so desires take the assistance of any other Railway servant/an official of Railway Trade Union (who satisfies the requirements of Rule 9 (13) of the Railway Servants (Discipline and Appeal) Rules, 1968 and Note 1 and/or Note 2 thereunder as the case may be) for inspecting the documents and assisting him in presenting his case before the inquiring authority in the event of an oral inquiry being held. For this purpose he should nominate one or more persons in order of preference. Before nominating the assisting railway servant (s) or Railway Trade Union Official (s), Shri..... P. P. Dharka..... should obtain an undertaking from the nominee (s) that he (they) is (are) willing to assist him during the disciplinary proceedings. The undertaking should also contain the particulars of other case (s) if any, in which the nominee (s) had already undertaken to assist and the undertaking should be furnished to the undersigned along with the nomination.

4. श्री.....को एतद्वारा निर्देश दिया जाता है कि यदि उसे अपना प्रतिवाद दायर करने के लिए किसी दस्तावेज का निरीक्षण करना अपेक्षित न हो तो इस आपन प्राप्ति के दस दिन के भीतर और यदि वह दस्तावेजों का निरीक्षण पूरा करना चाहे तो दस्तावेजों का निरीक्षण पूरा होने के बाद 10 दिन के भीतर निम्नहस्ताक्षर कर्ता के पास अपने प्रतिवाद का लिखित कथन प्रस्तुत करें और यह भी—

Shri..... P. P. Dharka

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

(क) बतायें कि क्या वह स्वयं पेश होकर कुछ कहना चाहता है, और
(a) to state whether he wishes to be heard in person; and

(ख) उन साक्षियों के, यदि कोई हों, नाम और पते बतायें, जिन्हें वह अपने प्रतिवाद के समर्थन में बुलाना चाहता है।
(b) to furnish the names and addresses of the witnesses if any; whom he wishes to call in support of his defence.

5. श्री.....को सूचित किया जाता है कि आरोप के केवल उन अनुच्छेदों के बारे में जांच की जायेगी जो स्वीकार नहीं किए गए हैं। इसलिए उसे चाहिए कि आरोप के प्रत्येक अनुच्छेद को या विनिर्दिष्ट रूप से स्वीकार या प्रस्वीकार करें।

Shri..... P. P. Dharka

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

6. श्री.....को भागे सूचित किया जाता है कि पैरा 4 में विनिर्दिष्ट अवधि के भीतर यदि वह अपने प्रतिवाद का लिखित कथन प्रस्तुत नहीं करता है या जांच प्राधिकारी के सामने व्यक्तिगत रूप से हाजिर नहीं होता या रेल कर्मचारी (अनुशासन और अपील) नियम 1968 के नियम 9 के उपबंधों या उक्त नियम के अनुसरण में जारी भावदेशों / निर्देशों का अनुपालन करने में अत्यन्त विफल रहता है या इन्कार करता है तो जांच प्राधिकारी एक पक्षीय रूप से जांच कर सकता है।

Shri..... P. P. Dharka

.....is further informed that if he does not submit his written statement of defence within the period specified in Para 4 or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provision of Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968 or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry ex-parte.

7. श्री.....का ध्यान रेल सेवा (आचरण) नियम, 1966 के नियम 20 की ओर दिलाया जाता है जिसके अधीन कोई रेल कर्मचारी सरकार के अधीन अपनी सेवा से संबंधित मामलों के संबंध में अपने हितों को भागे बढ़ाने के लिए किसी वरिष्ठ प्राधिकारी पर कोई राजनैतिक या अन्य प्रभाव न तो डालेगा अथवा न ही आने का प्रयत्न करेगा। यदि इन कार्यवाहियों से संबंधित किसी मामले में उसकी ओर से किसी अन्य व्यक्ति से कोई अभ्यावेदन प्राप्त होता है तो यह उपचारणा की जायेगी कि श्री.....को उस अभ्यावेदन की जानकारी है और वह उसके कहने पर दिया गया है और उसके विरुद्ध रेल सेवा (आचरण) नियम 1966 के नियम 20 का अतिरिक्त करने के लिए कार्रवाई की जायेगी।

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

8. इस आपन की पावती है।

The receipt of this Memorandum may be acknowledged.

संलग्न Encls. (one as above)

सेवा में To

श्री Shri..... P. P. Dharka,

पदनाम Designation..... DSK Gr. III

स्थान Place..... DL Depot SBI.

प्रतिलिपि श्री Copy to Shri..... (Thro. ACO & DL) SBI. को सूचना के प्रेषित for information.

(उपारक्षता प्राधिकारी का नाम और पदनाम Name and designation of the lending authority)

* जो लागू न हो, उसे काट दें।

Strike out whichever is not applicable.

* यदि आपन के साथ प्रतियाँ दी जाती हैं / नहीं दी जाती, तो यथास्थिति इसे काट दिया जायेगा।
To be deleted if copies are given/not given with the Memorandum as the case may be.

** प्राधिकारी का नाम (इसमें यह विधिवत होगा कि जब कभी जांच प्राधिकारी द्वारा अनुशासन प्राधिकारी या किसी प्राधिकारी को आरोप पत्र जारी करने के लिए कोई मामला निर्देशित किया जाता है तो उस प्राधिकारी को उस प्राधिकारी का उल्लेख करना चाहिए जिसकी अभिरक्षा में सूचीगत दस्तावेज हैं या जो दस्तावेजों के निरीक्षण की व्यवस्था करेगा ताकि इस प्राधिकारी का प्रारूप आपन में उल्लेख किया जाये)।
Name of the authority. (This would imply that whenever a case is referred to the disciplinary authority by the investigating authority or any authority who are in the custody of the listed documents or who would be arranging for inspection of the documents to enable that authority being mentioned in the draft memorandum.

हस्ताक्षर Signature
(Mukul Kumar)

सक्षम प्राधिकारी का नाम और पदनाम
Name and Designation of Competent Authority
DCO S: SBI.

प्रत्युत्तर ANNEXURE 'I'

रेल कर्मचारी (अनुशासन और अपील) नियम 1968 के नियम 9 के अधीन आरोप-पत्र का प्रारूप।
Memorandum of Charge Sheet under Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968

श्री..... (रेल कर्मचारी का नाम और पदनाम) को विरुद्ध लगाए गए आरोप के अनुच्छेद का विवरण :—
Statement of Articles of charge framed against Shri..... P. P. Dhanka, DSK Gr. III DL Depot SBI.
(Name and Designation of Railway Servant)

अनुच्छेद ARTICLE 'I'

उक्त श्री..... अवधि के दौरान के रूप में कार्य करते हुए

(यहाँ पर निश्चित और सुस्पष्ट आरोप का अनुच्छेद दर्ज करें)
That the said Shri..... P. P. Dhanka, DSK Gr. III, DL Depot SBI.
while functioning as..... DSK Gr. II as on 22.2.88
scrap yard DHD..... during the period.....
consequently serious.
(here enter definite and distinct article of charge)

attached.

अनुच्छेद ARTICLE 'II'

उपर्युक्त अवधि के दौरान और उक्त कार्यालय में कार्य करते हुए, उक्त श्री.....

(यहाँ पर निश्चित और सुस्पष्ट आरोप का अनुच्छेद दर्ज करें)
That during the aforesaid period and while functioning in the aforesaid office, the said Shri..... P. P. Dhanka
DSK Gr. III.
(here enter definite and distinct article of charge)

Attached.

अनुच्छेद ARTICLE 'III'

उपर्युक्त अवधि के दौरान और पूर्वोक्त कार्यालय में कार्य करते हुए, उक्त श्री.....

(यहाँ पर निश्चित और सुस्पष्ट आरोप का अनुच्छेद दर्ज करें)
That during the aforesaid period and while functioning in the aforesaid office the said Shri..... P. P. Dhanka
DSK Gr. III.
(here enter definite and distinct article of charge)

श्री..... (रेल कर्मचारी का नाम और पदनाम) के विरुद्ध लगाए गये

भारोप के अनुच्छेद के समर्थन में व्यवहार या दुरुव्यवहार के साक्ष्यों का विवरण ।

Statement of imputations of misconduct or misbehaviour in support of the articles of charge framed against Shri.....

D.K. Gr. III DL Depot SBI.

P. P. Dhanka,
(Name & designation of the Railway Servant)

अनुच्छेद ARTICLE 'I'

Attached.

अनुच्छेद ARTICLE 'II'

अनुच्छेद ARTICLE 'III'

685 70 - 50) 1/1

संलग्न ANNEXURE 'III'

दस्तावेजों की सूची, जिनके द्वारा श्री..... (रेल कर्मचारी का नाम और पदनाम) के

विरुद्ध लगाये गये भारोप के अनुच्छेदों को लगाए जाने का प्रस्ताव है ।

P. P. Dhanka

List of documents by which the articles of charge framed against Shri.....
are proposed to be sustained :—

(Name and designation of Railway Servant)

attached.

संलग्न ANNEXURE 'IV'

साक्षियों की सूची, जिनके द्वारा श्री..... (रेल कर्मचारी का नाम और पदनाम) के

विरुद्ध लगाये गये भारोप के अनुच्छेदों को लगाए जाने का प्रस्ताव है ।

P. P. Dhanka

List of witnesses by whom the articles of charge framed against Shri.....

(Name and Designation of the Railway Servant) are proposed to be sustained.

(Attached.

(20)

Draft article^{etc} of Charges and statements of imputation
against Shri P.P.Dhanka DSK (II) Scrap - DHD

1.0. Article^{le} of Charges

1.1. Shri P.P.Dhanka DSK (II) Scrap - DHD while working
as such on 22-2-88 committed ~~series~~ misconduct in
as much as.

- (1) That he failed to supervise the loading of auction
material in the truck of the party during delivery
as scrap -yard DSD.
- (2) That he failed to ^{weigh} ~~way~~ the loaded truck No GRY 4055 on
Navagivan weigh bridge which was nominated by DCOS. DHD
and as per gate pass.
- (3) That he deliberately, Took the loaded truck in the
premises of the party and delivered 6.280MT wheel sets
worth Rs. 27632/- excess to the party without prior
permission of DCOS-DHD, obviously with vested interest.

1.2. Shri Dhanka Thus acted in a manner showing lack of
integrity, lack of devotion, to his duties and there by
exhibited an act unbecoming to a Rly Servant and thereby
violated rule 3 (I) (i) (ii) & (iii) of the Railway
service (conduct) Rules 1966.

2.0 Statements of imputation.

2.1. Shri P.P. Dhanka DSK (II) Scrap duty bound to supervise
loading of auction materials in the truck, proper weighment
of loaded trucks and delivery of auction materials, as he
was deputed to the said duties by (I) Scrap DHD.

2.1 He failed to supervise loading of wheel sets in truck No.
GRY 4055 for delivery to M/s. ^{Adarsh} ~~Adas~~ Steel re.rolling Mills,
from Dohad from lot No, L/175 and 177 /87 of 65 MT. sold
on 5.2.88, with the result 21.190.MT wheel sets were loaded
by the party instead of 14.910 MT due.

2.2 He allowed the truck for weighment in the premises of the
purchaser instead of on Navajivan weigh bridge in violation
of special conditions levelled by DCOS, AAO & auctioneer
as well as against gate pass.

2.3. Accordingly the truck was taken in the premises of ^{Adarsh} ~~Adas~~
Steel re rolling Mills. -Dohad and it was allowed to go
in Mill without issue of weighment receipt.

2.4. During vigilance, check the truck was ^{re-weighed} ~~weighed~~ and weighment
slip was got issued by VI-KTT and the gross weight was
found at 21.190 MT. VI KTT obtained signature of Shree

R. M. Kiratkudave SV and Shri Munir Khan ASPF, were
accompanied with the truck.

2.5. Their after laquna revealed that only 14.910MT. wheelsets.

Contd..2.

due to the party & It was a last delivery , but all the 21.190MT. material was unloaded in the ~~premises~~ of the party without permission ^{of} competent authority.

2.6 Subsequently the party got permission of DCOS-DHD and paid Rs. 27,632/. vide MR No. 354772 Dt 22.2.88.

2.7. Had there no vigilance Check 22.2.88 Shri Dhanka might ^{adjusted} had agested the WT of 21.190MT' to 14.190MT, by connieving the SV & ASPF and had favoured the party by causing loss of ~~big~~ revenue worth Rs. 27.632/- with the vested interest has never any truck was recorded such weight .

2.8 Shri Dhanka was thus committed ^{breach} of rule .3(1)(i)(ii) of the Railway service (conduct) Rule 1966.

3.0 Documents relied upon

3.1. Weighment receipt No. 3098 Dt. 22.2.88 of ^{Adunh} Adras Steel Re-Rolling Mills.

3.2. Note dated 22.2.88 prepared by VIKTT.

3.3 Issue not number 61/20/1034 Dt. 22-2-88

3.4. Gate pass No. 573924 Dt. 22-2-88

3.5. Application of Shri M. parawala M/s. ^{Adunh} Adras steel re-rolling Mills Dohad Dt. 22-2-88.

3.6. MR No. ~~354772~~ ³⁵⁴²²⁵ of Rs. 27,632/- Dt. 22-2-88

3.7. Special condition in 4 sheets for auction sale Dt-5-2-88. issued by DCOS-DHD, AAO(W&S)-DHD and auctioneer.

3.8. statement Dt, 25-2-88 of Shri M.R. Mansuri DSK(I) DHD

3.9. -do- Shri R.M. Kiratkudavi -SV-DHD.

3.10. -do- Shri Munir Khan ASPF-RPF-DHD.

3.11 Statement showing cases of excess delivery to the party from 1.11.87 to 22-2-88 signed by DCOS-DHD.

3.12. Statement Dt. 4-4-88 of Shri N.K. Sukla Head Constable 6 (VO KTT.

3.13 Statement of Shree P.P. Dhanka DSK (II) Scrap DHD Dt.25-2-88

4.0. List of witnesses.

4.1. Shri M.R. Mussuri DSK (I) DHD

4.2. Shri R.M. Kiratkudavi SV : DHD.

4.3. Munir Khan ASPF-RPF- DHD.

4.4 N.K. Sukla Head Const. (V) KTT.

4.5. B.L. Sharma VI-KTT.

*True Copy.
K.K. Shal
Advocate*

O.A./603/88

ANNEXURE A1 (22)

Shri P.P.Dhanka
Shri K.K.Shah

..... Applicant
..... Advocate

V/s.

General Manager,
Western Railway,
Churchgate,
BOMBAY.

District Controller of
Stores,
Western Railway,
Sabarmati,
AHMEDABAD.

District Controller
of Stores,
Western Railway,
DAHOD.

..... Respondents
..... Advocate

Shri N.S.Shevde

CORAM : HON'BLE MR. P H TRIVEDI : VICE CHAIRMAN
: HON'BLE MR. P M JOSHI : JUDICIAL MEMBER

01.11.1988

Heard Mr. K.K.Shah and Mr. N.S.Shevde learned advocates for the applicant and the respondents. The respondent has not filed any reply on admission and on interim relief. The petitioner's case is that on his joining at Sabarmati in compliance of the order dated 02.08.1983 he was placed under suspension from 01.08.1983. No memorandum of charges has been yet issued to him as is required under rules within three months of the date of placement under suspension. The petitioner has already filed an appeal and it is pending. In these circumstances, it will be appropriate to direct as follows:

The petitioner first should exhaust his remedy before the appellate authority and in the meantime until the disposal thereof, the respondent not having given any reply and not having issued any memorandum of charges the petitioner be protected by interim

...2...



...2...

relief against the order of suspension dated 01.08.1938 which order ~~has~~^{is} not implemented. The petitioner is free to approach the Tribunal ~~in the form of the Tribunal~~^{or} if he has any cause left after the disposal of the appeal. With this direction and observation, the case is disposed of. Direct service on respondent No. 2 may be permitted at the request of the learned advocate for the petitioner.



TRUE COPY

SD/-
(P H TRIVEDI)
VICE CHAIRMAN

SD/-
(P M JOSHI)
JUDICIAL MEMBER

[Signature]
-1/XI/88
Section Officer
Central Adm. Tribunal,
Ahmedabad Bench.

Prepared by : P.F.T.
01/11/88

Compared by *[Signature]*
1/11/88

True Copy
K-K-shah
Advocate

WESTERN RAILWAY

ANNEXURE

A2

24

Office Order No.E/31

DCOS's Office,
Dohad.

Dt: 17.6.1988

Sub: Transfer of N.G.Staff (Group 'C') From Stores
District Dohad to Stores District SBI.
.....

Shri P.P.Dhanka DSK(III, Dohad in scale Rs.1400-2300(RP) at pay Rs.1850/- p.m is transferred to SBI Depot under DCOS-Sabamati with immediate effect.

Shri P.P.Dhanka DSK(III) Dohad is hereby releived from 17.6.88 A.N ~~xxx~~ reporting for duty at Sabamati Depot. Necessary transfer pass Ex.DHD to SBI for self only, Ist Cl. vide No.834179 dtd.17.6.88 is enclosed.

This has the approval of COS-CCG.

Case No.E.1140/1

Madhraj ff
17/6/88
DCOS/Dohad.

C/ Shri, P.P.Dhanka DSK III DHD.

True copy
K.K.Shah
Advocate

Annexure. *25*
ANNEXURE A3

GOVERNMENT OF INDIA (BHARAT SARKAR)
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)
(RAILWAY BOARD)
NEW DELHI.

B R O C H U R E

on

Reservation for Scheduled Castes

and

Scheduled Tribes in Railway Services.

CHAPTER XI
OTHER INSTRUCTIONS

1. Transfers :- Subject to the exigencies of service, transfer of Scheduled Castes and Scheduled Tribes employees should be confined to their native districts or adjoining districts or the places where the Administration can provide quarters. They should be transferred very rarely and for every strong reasons only.

Letter Nos. (1) E(ECT)70 CA 15/15/3 dated 19th Nov, 1970
and (11) E(ECT)74 CA 15/03 dated 14th Jan, 1975.

*True Copy
H. K. Shukla
Advocate*

ANNEXURE A4 (25)

Date : 22/1/1990

To:
Shri R. K. Sharma,
Divl. Controller of Stores,
W.Rly., Pratapnagar,
D.C.O.S. DHD.

Sr. D.C.O.S.'s
B.R.'s P.O. No.
5/90/6
7.12.89
D.C.O.S.'s B.R.'s
10/11/89

Through proper channel.

Sub :- Filling up of post of D.S.K.(III) under D.C.O.S. PRTN, W.Rly.

--- --

Respected Sir,

It is learnt from reliable sources that there are some vacancies of D.S.K. (III) (to be filled up under your kind control.

I, beg to apply for the same. My bio-data ^{is} ~~are~~ furnished as under :-

1. Name : P. P. Dhanke.
2. Designation : D.S.K. (III) (Confirmed)
3. Scale : Rs. 1400-2300 (RP)
4. Rate of pay : Rs. 1850/-
5. Present working place : Diesel Depot, Sabarmati.
6. Date of birth : 01.03.1943. (1/3/1943)
7. Date of appointment : 30.10.1964

I am experiencing following difficulties at Sabarmati.

1. I am native of Dahod City. At present I am working at SBI and due to that I have to maintain double establishment there by being financially handicapped.
2. My parents are of old age. There is nobody except myself to look them after.
3. My wife is suffering from Chronic ^{ailment} ~~alliment~~ and under treatment at Dahod.
4. My daughter is studying at Dahod.
5. I am also suffering from hernia and due to that I am feeling strenuous hardship to attend duty from far away of Ahmedabad.

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In view of the above facts, I will be much grateful to you if you would kindly get me transferred to PRTN with my original seniority of Dahod Stores District.

Thanking you in anticipation and hoping for favourable reply.

Yours faithfully,

P. P. Dhankas

(P. P. Dhankas)
D.S.K. (III)
C/o. A.C.D.S. (DL) SBI.

Advanced copy to :-

C/- Divl. Controller of Stores-Pratapnagar,
W.Rly.BRC. for information and necessary action please.

*True copy.
K. K. Shah
Advocate.*

Annexure A5 28

From:
P.P. Dhanka,
DSK Gr.III
DL Depot. SBI.

To
Shri Mukul Kumar or his successor
DCOS, Western Railway, SBI,
(through ACOS (DL) SBI)

Ref: Reply to charge sheet issued by DCOS, SBI
dated 18th January 1988, bearing No. E/308/
1/1102.

Sub : Issued charge sheet for reply against
Shri P.P. Dhanka for alleged misconduct
under Rule 3(I)(1)(ii) & (iii) of the
Railway Service (Conduct) Rules, 1966.

Respected Sir,

The undersigned has received the above charge-
sheet on 20th January 1989 and have been called
upon to reply the same within 10 days of its
receipt.

2. The alleged charges have been incorporated with
only annexure with the standard form of charge
sheet in para 1 in sub-para 1.1 & 1.2. I hereby
denied the above charges in toto. I have gone
through the statement of imputation specified in the
said annexure in para 2 in sub-para 2-1 to 2.8, the
same was also I hereby denied.

In regard to the documents relied upon by you
in para 3 of the same annexure and list of witnesses
in para 4 of the said annexure I have to submit
that as per, ~~Rule~~ Rule the documents relied upon by
you particularly Rule 9, Sub-rule 7 you are caste
upon with a statutory duty to furnish the documents
together with the charge sheet to place/put a proper
defence by the undersigned. By not furnishing the
documents relied upon by you, you have ~~fixed~~ violated
Rule 9(7) of the Railway Servant(Discipline & Appeal
Rules 1968.

Recd
27/1/89

4. In addition to the above documents I am calling upon you to furnish me the following documents also to defend my case :

- (1) Copy of office order No.89(Confidential) dated 2.9.80.
- (2) Office order/note issued by Shri B.H.Khanna DCOS, DHD during 1.9.60 ⁶⁴~~84~~ in connection with weighment of loaded truck on weigh bridge outside the depot. ^{in case of depot's weigh bridge goes out of order}
- (3) Statement given by stock verifier ^{K. V. R. D. D. S.} (Shri Ramchandra) DSK(1) Shri M.R.Mansuri, DCOS Shri Madhavlal, Constable RPF Shri Munirkhan, made before vigilance inspector on 22.2.1988.
- (4) The entire report of the vigilance inspector vigilance committee.
- (5) Copy of charge sheet issued to DSK(1) Shri M.R. Mansuri and his reply given on the same.
- (6) Any letter given by operator of Navjivan Weigh Bridge, Dohad to DCOS Dohad/Vigilance Officer regarding weighment of Scrap Wheel Set Lot No. L/175 & 177/87.
- (7) Copy of S.D.Notes dated 22.2.88 and gatepass dated 22.2.88 of another item delivered to

(x) Latest-
stons instruction/
Circular on the
Subject-

30

M/s. Adbsh Steel Re-rolling Mills, Dahod.

(8) The duty list dated 22.2.88 of DSK I Scrap section, stock verifier (for delivery of Scrap materials ^{sale} to private party), representative of RPF, DCOS (for delivery of scrap materials ^{sale} to private party) dated 22.2.88.

(9) Copy of vigilance report and records according to seizure ^{memo} dated 25.2.88.

(10) Copy of gatepass, duly quoted time of lorries/trucks gone outside the store premises for weighment of material on Navjivan Weigh Bridge Dahod City on 22.2.88 from Dahod Store Depot.

(11) Copy of policy of general conditions for sales of scrap material by public ^{auction} ~~open~~ in force on 22.2.88.

(12) Copy of special conditions for auction sale in force on 22.2.88, if any.

()

5. As alleged by you in para 1.1 that while working on 22.2.88 I have committed serious misconduct is denied hereby me. I further state that as stated by you in para 1.1. sub-para 1 that I have failed to supervise loading of auction material in the ~~truck~~ truck of the period during delivery of scrap yard DHD i.e. also denied by me herewith.

6. As stated by you in para 1.1 in sub-para 2 that I have failed to weigh the load Truck No. GRY 4055 of Navjivan Weigh Bridge which was nominated by DCOS Dahod and as per gatepass the same is also denied by me herewith. As per your para 1.1 in sub-para 3 not deliberately or even without the same action has been committed by me as stated and there was no ^cvasted interest by the undersigned in the same, is denied

(13) Copies of all M.R issued to M/s. Adarsh Steel Trading Mills Dahod for loading charges on 22.2.88 for all trucks.

(14) Copy of record of entry time of all trucks of M/s. Adarsh Steel Trading Mills Dahod carrying their sold materials maintain at Stores Gate (RPF) Dahod on 22.2.1988.

① for taking delivery

g

herewith. The alleged charges are not correct and the same is not becoming misconduct under Rule 3(I) (1)(ii) & (iii) of the Railway Service (Conduct) Rules 1966.

7. The alleged charges of without weighing the truck GRY 4055 was not in my charge on 22.2.88. In the said truck RPF Constable ^{Shri M. M. Khanna} and R.M. Kirat Kudave ^{Stock Vendor} were there and since I was not in the said truck. The base of the charge sheet is wrongly made against me and the same is incorrect.

8. The alleged vasted interest of Rs. 27,632 is not been proved nor can be of the undersigned since I was not carrying the truck GRY 4055. There were two trucks went outside the gate on 22.2.88, GRY 4055 and after some time just behind the same another truck went which must be noted down by the gatekeeper in which I have been given by duty by the Dahod authority, ^{DSKCID} The question of having vasted interest of Rs. 27,632 excess to the third party is not arise at all for the undersigned.

9. In para 2.6 it is mentioned that party has given permission by DCOS Dahod and paid Rs. 27,632 by M.R. No. 354772 dated 22.2.88 so in fact no loss has been occurred to the railway nor it has been proved in vasted interest with another rationale or naxes with the alleged charge by any documents nor any statement showing the same. The charge levelled against me are far from the truth are not becoming misconduct under the Railway Service (Conduct) Rules 1966 and the same are denied hereby.

10. The alleged charges are also vauged not properly specified that how I have committed alleged misconduct what is the nexus with the "vasted interest" as alleged and on what basis it is said.

11. The ASPF Munirkhan has been transferred to Bombay as per my knowledge no action has been initiated against him so far though he was in Truck No. GRY 4055, same in the case of R.M. Kirit Kudve and in the case of M.R. Mansuri. Shri M.R. Mansuri was sanctioned leave upto his actual date of retirement and have been retired then what is the reason for sanctioning his leave and retiring him with sanctioned leave, it itself shows a favour has been done to him.

12. Over and above being a competent authority at the Dahod Store Depot, the DCOS Shri Madhavla is also involved in the alleged charges and incidents since he has made a statement before the vigilance inspector also on 22.2.88.

Being a sincere and honest employee of the railway I have been penalised by transferring from Store Depot Dahod to Store Depot Sabarmati with a reason to temper with the records and proceedings and to favour the favourite person like Mr. Mansuri and to hide the fraud committed by the DCOS Dahod also indirectly by joining hands with Mr. Mansuri, Munirkhan etc.

13. Since my disciplinary authority documents DCOS Dahod and for the alleged incidents since his statement has also been recorded by the vigilance inspector and he as a party the charge sheet can only be issued by ^{by - 105} ~~Senior DCOS~~ ^{Controller of Stores} or Chief Depot Store Constable, Headquarter CCG and there is no power with DCOS, SBI to issue made the charge sheet and it is in violation of Article 311(1) of the Constitution of India and against the railway Board's circulars and policy and Railway Servant Discipline & Appeal Rules 1968.

14. In well known judgment of ^{Sangram} ~~Sankram~~ Singh As well as in Rajada Trilokinath and in the case of Kashinath Dixit

the Hon'ble Supreme Court has observed that the non-furnishing of vigilance inspector and vigilance committee report to a delinquent employee to defend his case amounts violation of principle of natural justice and Article 14 of the Constitution of India.

15. Looking to the charges levelled against ^{me} ~~him~~ are far from the truth, violation of Article 14 & 16 of the Constitution of India since a man like Munirkh and Madhavlal are favoured by the respondents railway this incidents may not be aware to the General Manager level otherwise DCOS Dahod himself would have been also called upon for such a gross misconduct committed by them etc. and the only conclusion can be ^{devised} ~~denied~~ at this ^{junction} ~~venture~~ that I have been discriminated in the eyes of law, an arbitrary action has been taken by you.

16. The suspension order issued to me without any reason or alleged charges though in reply before the Central Administrative Tribunal, Ahmedabad, the same incident has been cited in O.A.No. 461/88, the Hon'ble Tribunal stayed the operation of the suspension order. It itself is an evidence that when the judiciary has ^{intervene} ~~infert~~ by looking to the prima facie case now the ^{quasi-} judicial authority trying to harrase me further without any reason..

17. The incident cited by you is quite old about 11 months i.e., on 22.2.88 if it is the case then why the prompt action has not been taken when I was working at Dahod and from there I have been transferred from Dahod to Sabarmati on the roof of administrative exigencies and public & interest or administrative interest and on resuming at Sabarmati immediately I have been suspended without any reason or justification totally arbitrary and illegally and ~~in~~ wherein

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sanctioning the leave of Shri Manguri and retiring him out of this series of action shows that the alleged charges are without application of mind, abuse of process of law, discriminatory action, colourable exercise of powers, malafide and violative of principle of natural justice. On non-furnishing the documents asked by me in this reply and the documents relied upon by you I can not participate in any enquiry and I can not present my case properly or defend satisfactory. The delay and laches in issuing the charge sheet a reason with the data may be furnished to me. The rule 9 has been violated in the undersigned case.

18. Over and above the undersigned should be furnished ^{with} that the Railway Service (Conduct) Rules 1966 and Railway Servant Discipline & Appeal Rules of 1968. On getting the above documents and rules I am reserving my rights to give a further detailed reply to the charge sheet to defend my case and then after only I will give if the enquiry is going to be initiated, a name of defence assistance.

19. In the aforesaid circumstances the above charge-sheet may kindly be withdrawn since it is baseless and futile exercise and totally illegal and arbitrary action without having powers with you to ~~initiate such action~~ initiate such action.

Yours truly,

P. P. Dhanka

(P P Dhanka)

Place : Ahmedabad.

Date : 27.1.1989.

True copy.
K. K. Sheth
Advocate

ANNEXURE AG

Headquarter Office,
Churchgate, Bombay-20.

Dated: 30/4/92.

WESTERN RAIL

NO.E/Stores/839/2/2 Vol.III.

TO:
Sr.DCOS-BRC.

Sub:- Transfer of Class-III Staff - Case of Shri
P.P.Dhanka, DSK Division Stores PRM-BRC Divn.

Ref:- your letter NO.E/839/1/Div-Stores dated 17.3.92.

(Signature)

Shri P.P.Dhanka in his representation dated 16.3.92 has
noted the reference of his earlier application dated 24.5.91. This
office, however, is not in receipt of any letter from your office
forwarding the said application.

2) In this connection, it is however advised that Shri P.P.Dhanka,
DSK-III was transferred out of DHD on the advise of vigilance and
the competent authority has not given clearance for his posting
back to DHD.

WMA
FOR.EOS(E).

C/-for file NO.S/396/113 L(1).

True Copy
K.K. Shah
Advocate

ANNEXURE AG ally. 35

From:-

F.P. Dhanka,

(D.S.K.)

C/O S. DCOS (BRC).

Baroda

Date: 16/3/1992.

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To,

The General Manager (E),

Western Railway,

Churchgate Bombay,

(Through Proper Channel),

Sub;- Transfer of Gr.III Staff from One Establishment to another

Ref;- My application dt. 24/6/1991.

Respected Sir,

I may kindly be permitted to draw your kind attention to my application cited above under which I have requested your kind self to transfer me from BRC Division to Dahod stores Depot but nothing has been communicated.

There is no male in my family except, myself to look after my family and old parents.

I am also suffering from Harnia and therefore feel strenuous hardship in attending my duties.

I have completed 3½ years outside the Dahod i.e my native place. I am financially handicapped

I hope that your honour will take favourable action in view of the constrained and compelling circumstances,, explained in my earlier application and arrange to transfer me to Dahod stores depot for which act of kindness, I shall ever remain grateful to you.

Thanking you in anticipation.

Yours faithfully,

(F.P. Dhanka.)

Copy to;- C.F.O. (IR) CCg for information and necessary action.

Copy to;- C.O.S. (E) CCg (for kind attention of Shri. G.Shiv Shankar).

Copy to;- Shri. Mahesh Chandra Dy. CCS (VI) CCg for information and needful action.

True Copy (P.T.O.)
K. K. Shal
Advocate

37 Copy to; - P.A. to COS CCg. for information and needful action.

Copy to; - S.P.O. (R.P. CCg for information and necessary action.

Copy to; D.C.O.S. DID for information and necessary action.

In reference to to his letter No. E/1140/1 dt . 5/3/92

He is requested to kindly arrange to send me copy of COS, CCg's letter No. S.396/4/Vol V dt 1/11/91 and oblige.

Copy to; - Secretary All India SC/ST Railway Employees Association Baroda / Dahod for information and necessary action.

✓ Copy to; - Advance copy to all concerned.

*True Copy
12.12.92
Advocate*

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Bareda.

Date: 24/6/1991.

From:-

P. P. Dhanka,
Depot store keeper,
C/O Sr.DCOS office
Bareda.

To,

The General Manager(E)
Western Railway,
Churchgate-BOMBAY.

Through proper Channel.....

SUB:- Transfer of Class III staff from one establishment
to another.....

Ref:- My applications dated: 29/9/1990, 2/11/1991,
27/2/1991 and 19/6/1991 addressed to COS-CCG W.R.

Respected Sir,

With due respect and humble submission I beg to
state the following few lines for your kind and sympathetic
consideration.

- (1) I was transferred from Dahod stores depot to SBI
on administrative ground vide DCOS-DHD's office
order No. E/31 dated: 17/6/88 and there after I
transferred to DRM office Bareda.
- (2) At present I am working as Depot store keeper
under senior BMS DCOS-BRC.
- (3) I am S.C. Candidate and native of Dahod city.
I have old parents and there is no male person
in my family except my self to look after them.
- (5) I am also suffering from Hamia and Acidity and
therefore feel strenuous hardships in attendings
my duties.

(6) It is not out of place to mention here that DCOS Dahod has issued promotion order E/25 dated 6/6/91 for DSK(11) Grade 1600-2660 (RP) who are junior to me and one DSK(111) who is under DAR has been promoted as chief clerk ignoring all penalties whereas my symple request for transfer from BRC to DHD has not been considered for the last three years.

Over ruling existing rules for SC/ST. employees.

(7) There is no DAR inquiry against me and if any thing is pending that can be conducted at Dahod also.

(8) Since last three years I am away from my native place.

At present I am residing at Baroda and find my self financially handicapped due to two establishments. I am only earning member in my family, since considerable time passed but I have not been favoured by transferring to Dahod.

In the Circumstances stated above I am fully confident that your kind good self would look into the matter and arrange to transfer me to Loco stores Depot Dahod or OHE stores Depot Dahod.

Thanking you in anticipation and early action in the in the matter is solicited.

Craving for kindness.

Yours faithfully,

(P. P. Dhankar)

*True copy
K. K. Shah
Advocate*

(1) COS(E) CCG (for kind attention of Shri G. Shiv Shankar.)

(2) S.P.O. (RP) CCG for information and necessary action.

✓ (3) Secretary to All India SC/ST Railway employees Association Dehri/Bareilly Branch for information and necessary action.

(4) Advance to all concerned.

True copy
K. K. Shah
Advocate

27th February, 1991

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From:
P.P. Dhanka
OSK(III)
C/o. Sr.DCOS/BRC
BDM Office
PATN

(Through Proper Channel)

To
COS/CCG

*Relief is required
to continue Divisionization
of staff include
of staff include
of staff include*
Sub.: Transfer of Cl.III staff from one
establishment to another.

Ref.: My applications dt. 23-7-90, 15-11-90
and 3-1-1991. -----

*11.3.91
S.D. COS*

Respected sir,

I may be allowed very kindly to draw your valuable kind
attention to my applications cited above under which I
have requested your kindness to transfer me from BRC
Division to Bahad Stores Depot but nothing has been
communicated to me so far.

I again request your worthiness to consider my request
for transfer to Bahad Stores depot on humanitarian grounds
as early as possible in view of constrained and compelling
circumstances as stated in my above applications so as to
enable me to lead a normal family life and oblige. For
this kindness I shall ever remain grateful to you honour.

Thanking you in anticipation sir.

Yours faithfully,

Dhanka
(P.P. Dhanka)
OSK(III)

*True Copy
K.K. Shah
Advocate*

BARODA

Dated : 3-1-1991

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FROM :

P.P.Dhanka
DSK(111)
C/o. Sr. D.C.O.S.BRC,
DRM Office,
Baroda.

To,
COS(E).CCG

THROUGH PROPER CHANNEL

Sub : Transfer of Cl.III Staff from one establishment to another.

Ref : My application dt. 28-9-90 and dt 15-11-90.

Respected Sir,

With due regards I beg to submit the following few line on the above subject for your kind consideration and sympathetic approval.

- (1) I was transferred from Dahod Stores Depot to SBI Stores Depot Vide DCOS-Dahod's office order no.E/31 dt 17-6-1988 on administrative account.
- (2) At present I am working as DSK(111) Scale Rs.1400-2300(RP) under Sr.DCOS BRC.
- (3) I belong to S.C.Community and Dahod is my native place having my own house there.
- (4) My family is residing at Dahod. My daughter is studying at Dahod. My wife is suffering with chronic ailment. I have my old parents and there is nobody except myself to look after them and to assist in the domestic affairs.
- (5) I am also suffering from Hemia and Acidity and due to that.I feel strenous hardship in attending to my duties.
- (6) I am residing at Baroda and feel myself financially handicapped due to double establishment during such an acute dearness. I am the only earning member in my family.
- (7) My seniority lien is being maintained at Dahod Stores depot. Those Juniors to me have been promoted as DSK(ii) scale Rs. 1600-2660(RP) by DCOS,DHD. There is no DAR inquiry against me.

Under the circumstances explained above. I request your worthyness with sanguine hope to kindly transfer me back to Dahod Stores Depot saving me from the jaws of dearness facilitating my cadre promotion for which I have been sustained great set back in wake of the position that my juniors have been promoted as DSK(ii).

I alongwith my whole family will remain even grateful to you for this act of kindness. Thanking you sir,

Yours faithfully,

C/- P.A. to COS CCG FOR information and necessary action.

(P. P. DHANKA)

C/- C.M.M.(I) CCG for information and necessary action.

C/- Dy. COS (VI) CCG

"

"

C/- S.P.O. (RP) CCG

"

"

C/- D.P.O. DRM office BRC for information and necessary action.

C/- Advance to all concerned.

True Copy.
K. K. Shah
Advocate

Annexure A7 Cally.

BY REGD AD

Dated: 17.6.93

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From:
Premchand P. Dhanka
17-B Pankaj Hou sing society
Cha kalia Road
Dahod Dist: Panchmahals
Gujarat.

To:

Shri A K Ramchan,
Chairman,
National Commission for scheduled
caste & Scheduled tribe
Ministry of welfare
New Delhi

Sub: Injustice and harassment-transfer & promotion.

Ref: Association's letter No. BRC/SCT/REA/G dt. 26.7.91
13.8.91 addressed to COS, COG W.Rly and BRC/SCT/
REA/G dt. 16.6.91 & 17.9.92 addressed to SDGM-W.Rly
COG & my individual applications to COS W.Rly
COG and G M W Rly, COG.

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Honourable Sir,

Most humbly and respectfully I beg to state that I am working as Depot, Store keeper under senior Divisional controller of stores, W.Rly, Pratapnagar, Vadodara. I have requested for my transfer to Dahod at my native place and due promotion but in spite of my all efforts and association's action my request has not been considered so far. Lastly I approach to your honour to consider my request sympathetically on following grounds:.

1. I had been victimised in one of the charges sheet vide E 3 08/1/1102 dt. 18.1.89 when I was working as D S K (III) at Sabarmati on 27.1.89 but in spite of my personal efforts neither my case is closed nor my transfer is considered at Dahod even 4 1/2 years already passed.
2. All India SC/ST Railway employees association has made so many references to COS, COG W.Rly, CMM, COG W.Rly and SDGM W.Rly, COG but response is not given and my case is not considered for transfer to Dahod as all my parents & family settled at Dahod.
3. As I have already passed written test of Depot Stores keeper (II) Grade Rs. 1600-2600 (RP). I was called for viva voce test on 16.11.92 Distt. Controller of Stores Dahod has declared result vide his office order no. E/97 (Case no. E/1025/1) dt. 6.1.93 but my name is not appearing in the panel. My result has been kept pending.

pto.

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PB
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- 4 . The person those who are juniors to me (Shri Meena & Narendran) have been promoted as DSK(II) scale Rs.1600-2 60 0 (RP) vide DCOS office order no. E/110(case No. E/839/1) dt. 25.2.93 and made the great injustice as my case was not finalised since 18.1.89. As per Rly Board's Extent Order DAR cases are to be finalised within 150 days.

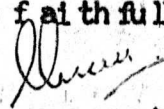
Looking to all above facts, I approach to your honour to kindly protect me as being SC candidate as I am victimised for nothing. Kindly order to close the case as it is long outstanding for nothing but harassment to me and consider my request for transfer to Dahod and promotion at the earliest.

Copies of all relevant papers are sent herewith for your kind perusal please.

Encl:.

1. Charge sheet no. E/308/1/1102 dt. 18.1.89
2. My defence dated 27.1.89
3. Association letter no. BRC/SCT/REA/G dt. 26.7.91, 13.8.91, 16.6.92 & 17.9.92
4. CO S COG's letter No. E/Stores/839/9/2 vol-III dt. 30.04.92
5. DCOS DHD's order no. E/78/dt 5.11.92, E/97 Dt. 8.1.93 E/110 dt. 25.2.93.

Yours faithfully


(P. P. DHANKA)

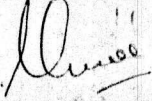
C/- Shri Jhinabhai R Darjee
Member-National commission for SC & ST New Delhi for information
& needful action, pl.

Director for SC/ST,
11-A Nathalal society, A'bad for information & doing the needful.

*True Copy
K. K. Shah
Advocate*

5. DCOS. DHD's office order no. E/78/dt.5.11.92, E/97 dt. 8.1.93, E/110 dt. 25.2.93.

Yours faithfully,



(P.P. DHANKA)

C/- Shri Jhinabhai R. Darjee
Member - National Commission for
SC & ST New Delhi for information
and needful action.

True Copy
K. K. Shah
Advocate

By READ

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From :

Premchand P. Dhanka.
17-B, Pankaj Housing Society,
Chakalia Road,
Dahod. Distt. Panchmahal.
Gujarat.

Date : 6.5.1993.

To,

Shri Ram Dhanji.
Chairman.
National Commission for Scheule -
Caste and Schedule Tribes.
Ministry of welfare,
New Delhi.

Sub : Injustice and Harasment - Transfer and promotion.

Ref : Association's letter No. BRC/SCT/REA/G dt. 26.7.91
13.8.91 addressed to COS. CCG. W.Rly. and BRC/SCT/
REA/G dt. 16.6.91 and 17.9.92 addressed to SDGM-
W.Rly. Churchgate. and my individual applications to
COS. W.Rly. CCG, and G.M. W.Rly. CCG.

Honourable Sir,

Most humbly and respectfully I beg to state that I am working as Depot. Store keeper under Senior Divisional Controller of stores W.Rly. Pratapnagar, Vadodara. I have requested for my transfer to Dahod at my native place and due promotion but inspite of my all efforts and Association's action my request has not been considered so far. Lastly I approach to your honour to consider my request sympathetically on following ground.

1. I had been victimised in one of the charge sheet vide E 308/1/1102 dt. 18.1.89 when I was working as D.S.K. (III) at Sabarmati Stores Depot W.Rly. I had given my defence on 27.1.89 but inspite of my personal efforts neither my case is closed nor my transfer is considered at Dahod even 4½ years already passed.
2. All India SC/ST Railway Employees Association has made so many references to COS. CCG. W.Rly. GM COS. W.Rly

....2/-

and SDGM W.Rly. CCG but response is not given and my case is not considered for transfer to Dahod as all my parents and family settled at Dahod.

3. As I have already passed written test of Depot Stores keeper (ii) Grade Rs. 1600-2600 (RP). I was called for viva voce test on 16.11.92. Distt. controller of stores Dahod has declared result vide his office order No. E/97 (case No. E/1025/1) dt. 6.1.93 but my name is not appearing in the panel. My result has been kept pending.
4. The person those who are juniors to me (Shri Meena and Narendran) have been promoted as DSK (ii) scale Rs. 1600-2600 (RP) vide DCOS Dahod Office order No.E/110 (case no. E/839/1) dt. 25.2.93 and made the great injustice as my case was not finalised since 18.1.1989. As per Rly. Board's extant order DAR Cases are to be finalised within 150 days.

Looking to all above facts, I approach to your honour to kindly protect me as being SC candidate as I am victimised for nothing. Kindly order to close the case as it is long outstanding for nothing but harassment to me and consider my request for transfer to Dahod and promotion at the earliest.

Copies of all relevant papers are sent herewith for your kind perusal please.

Encl. :

1. Charge sheet No. E/308/1/1102 dt. 18.1.89
2. My defence dt. 27.1.89
3. Association letter No. BRC/SCT/REA/G/ dt. 26.7.91, 13.8.91, 16.6.92, 17.9.92.
4. COS. CCG's letter No. E/stores/839/9/2 Vol. 111, dt. 30.4.92

.....3/-

*True copy
K.K. Shah
Advocate*

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ALL INDIA SCHEDULED CASTES & SCHEDULED TRIBES RAILWAY EMPLOYEE'S ASSOCIATION



Bharat Ratna
Dr. B. R. Ambedkar

WESTERN RAILWAY
VADODARA DIVISION

(Regd. & Recognised Vide Rly. Board's Letter No. 80E (SCT)
15/1 Part II Dated 5-2-82/21-9-82)

OFFICE :

Pratapnagar Rly. Station Building, BARODA-390 004.

No. BRC/SCT/REA /G

Date : 17/9/ 1992

President :

Shri A. H. Ahire

To,

SDGM - CCG W.Rly,
Church Gate,
Bombay - 20.

Working President :

Shri J. R. Sampat

Sub :- Vigilance case of Shri P.P. Dhanka DSK(111)
working under Sr. DCOS-BRC.

Ref :- Asso's letter of Even No. dt. 16.6.92,
13.8.91 and 26.7.91.

COS(E) CCG's letter No. E/Stores/839/9/2
Vol. III dt. 30.4.92.

Vice President :

Shri Ratiram Sakhiya
Shri G. B. Nahin

Dear Sir,

Association would like to draw your kind
attention once again towards above case which is
pending since Jan.89, though above named has given
his deffence on 27.1.89.

For want of above case he was transferred to
DCOS-SBI then under Sr. DCOS-BRC at present. His
transfer to DHD is not being so far considered for
want of above case. He belongs to SC community to
consider his transfer to his native place, but case
is too much delayed.

Association therefore request to kindly withdraw *
the case and transfer may kindly be considered on
humunity ground as he is already penalised by keeping
him away from his family for the last 4 years.

Yours Sincerely,

(P.A. Bhagwat)

Divisional Secretary

C/- COS CCG for kind immediate necessary action w/r to
his letter No. quoted above.

C/- C.M.M. CCG (E&G)

For information and necessary action.

Treasurer :

Shri M. S. Bhanderia

Divisional Secretary :

Shri P. A. Bhagwat
16, Vishwabharti Soc.,
Waghodia Road,
Vadodara-390 019.

Jt. Divisional Secretary :

Shri C. N. Vasava
Shri D. A. Makwana
Shri J. V. Fitter

Organizer Secretary :

Shri R. S. Parmar

True Copy
K.K. Shah
Advocate

30/1
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ALL INDIA SCHEDULED CASTES & SCHEDULED TRIBES RAILWAY EMPLOYEE'S ASSOCIATION



Bharat Ratna
Dr. B. R. Ambedkar

WESTERN RAILWAY
VADODARA DIVISION

(Regd. & Recognised Vide Rly. Board's Letter No. 80E (SCT)
15/1 Part II Dated 5-2-82/21-9-82)

OFFICE :
Pratapnagar Rly. Station Building, BARODA-390 004.

BY READ

No. BRC/SCT/REA/0

Date : 16/6/ 199₂

President :

Shri A. H. Ahire

Working President :

Shri J. R. Sampat

Vice President :

Shri Ratiram Sakhiya
Shri G. B. Nahin

Divisional Secretary :

Shri P. A. Bhagwat
16, Vishwabharti Soc.,
Waghodia Road,
Vadodara-390 019.

Jt. Divisional Secretary :

Shri C. N. Vasava
Shri D. A. Makwana
Shri J. V. Fitter

Organizer Secretary :

Shri R. S. Parmar

Treasurer :

Shri M. S. Bhanderia

To,

SDCM, CCG. W.Rly,
Bombay.

Sub :- Vigilance case of Shri. P.P. Dhanuka DSK
(111) DL Depot. SMI now working as DSK
under Sr. DCOs, BRC-Baroda.

Ref. :- COS(E) CCG's letter No.E/stores/839/9/2
Vol. III dt.30.4.92.

Dear Sir,

The above named had already given deffence on
27.1.89 (copy enclosed) in reference to chargesheet
framed vide E/308/1/1102 dated 18.1.89 but so far no
decision have been taken to the case even laps of
four years. He was transfered from Dahod to Sabarmati
Stores depot and there to Baroda since then his request
for transfer to Dahod is not so far considered on
human & family ground though he was representing since
last four years.

Association therefore request to kindly consider
his request for transfer to DHD on following ground

- (1) Case is of four years old and he is already
penalised since he was transfered out of
residence since 4 years.
- (2) Association's letter of even no dt.13.6.91
(copy enclosed).

True copy
K. K. Shah
Advocate

Contd..2.

(3) COS (E) ccg's letter No quoted under reference

(Copy enclosed)

(4) (S8) Secondary Rly. Board's letter No.89-E (SCT) 11/9/46

dt.9.5.89. (Copy enclosed)

(5) Association's letter of even no. dt 26.7.91

(copy enclosed)

(6) He belongs to S.C. Community

Looking to all documents and request, Association do hope, he may kindly be allowed to transfer to DHD Stores depot and withdraw the case to avoid hardship to the employee and his family.

A line of reply to the employee as per directive of Rly. Board may be given advising Association suitably and instruct COS (E)-ccg to consider his ~~for~~ transfer to DHD.

DA - As above

Yours Sincerely,

(P.A. Bhagwat)
Divisional
Secretary

Copy to :- Secretary Railway Board in reference to his letter No.89-E (SCT) 11/9/46 dt.9.5.89. (Copy enclosed) for immediate action.

Encl - One

*True copy
K.K. Shastri
Adviser*

**ALL INDIA SCHEDULED CASTES & SCHEDULED TRIBES
RAILWAY EMPLOYEES' ASSOCIATION**



WESTERN RAILWAY
VADODARA DIVISION

(Regd & Recognised Vide Rly. Board's Letter No. 80E (SCT) 15/1 Part II
Dated 5-2-82/21-9-82)

Patron :

Shri Ranjitsingh Gaekwad M. P.

Ad

No. BRC/SCT/REA/G

Dt: 13/08/91

Under Certificate of Posting.

To,
The Controller of stores,
New Building, Western Rly.,
Churchgate, BOMBAY - 20.

Sub: Injustice of Shri P. P. Phanka,
Depot Store Keeper C/o.
Sr.DS Office, Baroda.

Ref: Association letter of even no. dt. 26.7.91.

--X--

Dear Sir,

The above-named was transferred from DHD to SBI and then BRC on administration ground before three years back. This more than punishment to him and his family.

Association already requested vide above to kindly consider his case to transfer him at DHD as his family staying at DHD on following grounds.

1. He was suffering from Hemilia.
2. His old parent and family yet staying at DHD.
3. He was already passed three years out of DHD more than punishment.
4. He is belong to SC Community.
Consider his case for residence transfer as per Rly. Boards directives.
5. He is totally handicapped with two establishment.

Association and employee will be obliged if you kindly consider his transfer to DHD.

Yours faithfully,

[Signature]
P. A. BHAGWAT
DIVISIONAL SECRETARY

C/- Additional General Manager(G),
Western Rly., Churchgate, Bombay-20
for necessary action please.

True Copy.
K. K. Shal
Advocate.

President :
Shri K. M. Mukundrao

Working President :
Shri A. H. Ahire

Vice President :
Shri I. M. Parmar
Shri T. V. Makvana

Divisional Secretary :
Shri P. A. Bhagwat
16, Vishwabharti Society
Waghodia Road,
Vadodara-390019.

Joint Divisional Secretary
Shri J. V. Fitter
320, Vishal Nagar
Tarsali,
Vadodara-390009.

Treasurer :
M. S. Bhandaria

ANNEXURE A8

Date : 29/7/1993

From :

Premchand P. Dhanka
17-B, Pankaj Housing Society,
Chakalia Road,
Dahod. Gujarat

To,

Director for SC & ST
11-A, Nathalal Society,
2nd Floor Stadium Road,
Near Sardar Patel Colony,
Ahmedabad - 380 014

Sub : Injustice and Harassment-Transfer and promotion.

Ref : Your letter No. 12/A/111/G/93 Res. dt. 16.7.93
addressed to G.M. W. Rly. Charchgate, Bombay and
copy to me.

Respected Sir,

I am grateful for initiating action vide your letter quoted above.

On the above subject I may state further that my case has not been finalised within time schedule of 150+30 days as fixed by Rly. Board vide their confidential D.O. dated 3.4.86 circulated vide G.M.'s letter No. confi/E/DAR/308/14/9/1 dt. 21.4.86 (Zerex copy of Railway sentinal is enclosed).

Juniors to me Shri Narendran and Meenal have been promoted as D.S.K. II scale Rs. 1600-2660 (RP) by DCOS DHD vide his office order No. E/110 (case No. E/839/1 dt. 25.2.93).

I am already penalised before any inquiry or DAR putting me 5 years away from my family and promotion deliberately.

In view of above facts I approach your good self to kindly protect me as being SC candidate as I am victimised for nothing. Kindly arrange to get the case closed as it is long out standing for nothing but, harassment to me and consider my request for transfer to Dahod and promotion at the earliest.

End. A
above

Yours faithfully,

(P.P. Dhanka) , D.S.K.
C/o. Sr. D.C.O.S. W.Rly.
BRC.

Contd..2..

45
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..2..

Copy :

Chairman,

C/ National Commission for SC and ST New Delhi for information and needful action please. Zerox copy of Railway Sentinel April 90 is enclosed - ~~XXXXXX~~ Enclose. One.

C/ Shri Jhinaabhai R. Darji
Member National Commission for SC & ST New Delhi for information and necessary action please.

C/ Controller of stores (For kind attention of Shri C.G. Bijlani)
Churchgate, Bombay W.Rly. for information and necessary action.

True Copy
K.K. Shah
Associate

ANNEXURE A8 *copy*

TELEGRAM : "RECASTRIBES"

TELEPHONE: 409250

Bharat Sarkar/Government of India
Ministry of Welfare
National Commission for Sch. Castes and Sch. Tribes
Office of the Director for Sch. Castes & Sch. Tribes
(Gujarat, Dadra and Nagar Haveli)

11-A, Nathalal Society,
2nd Floor, Stadium Road,
Ahmedabad-380 014.

No:12/A/111/6/93-Res.

Dated the 16th July, 1993.

To: The General Manager,
Western Railway,
Headquarters,
Bombay-400 021.

Sub: Representation dated 17-6-93 from Shri Premchand P.
Dhanka, 17-B, Pankaj Housing Society, Chakalia Road,
Dahod, Dist. Panchmahal, Gujarat regarding transfer.

Sir,

I am to forward herewith the above representation in original received from Shri Premchand P. Dhanka of Dahod. Applicant came to this office and explained his case in detailed. It is requested that kindly to look into the matter personally and his request may please be considered sympathetically.

Action taken in the matter may please be intimated to this office for information of the National Commission for Sch. Castes and Sch. Tribes, Government of India, New Delhi at an early date.

Yours faithfully,

sd/-
For Director.

No:12/A/111/6/93-Res.

Dated the 16th July, 1993.

✓ Copy to Shri Premchand P. Dhanka, 17-B, Pankaj Housing Society, Chakalia Road, Dahod, Dist. Panchmahals for information.

V.M. Parmar
(V.M. Parmar)
Research Officer.

True Copy
K. K. Shah
Advocate

or person is governed, should be imposed on him, it may, after consultation with the lending authority, pass such orders on the case as it deems necessary, in accordance with the said rules;

Provided that in the event of a difference of opinion between the borrowing authority and the lending authority, the services of such Government servant or person shall be replaced at the disposal of the lending authority;

(ii) if the borrowing authority is of the opinion that any of the major penalties specified in the rules by which such Government servant or person is governed, should be imposed on him, it shall replace his services at the disposal of the lending authority and transmit to it the proceedings of the inquiry and thereupon the lending authority may pass such orders thereon as it may deem necessary.

ORDERS OF RAILWAY ADMINISTRATION ON RULE 9

When charges are admitted—Enquiry not necessary—In respect of charge/charges admitted by the delinquent employee without any qualification no inquiry may be held.

[E(D&A) 57 RG 6-6, dated 26.4.1957 (NR 103)]

No evidence may be led by the delinquent on the admitted charge during the inquiry on other charges.

[SC 91/67] E(D&A) 67 RG 6-2, dated 3.2.1967]

Enquiry in accident cases—Even where a staff has been held responsible in an accident inquiry, an enquiry under D & A Rules must be held in case of imposition of major penalties.

[E (D&A) 57 RG 6-6, dated 26.4.1957(NR 103)]

Need to take prompt action—As recommended by PAC in its 125th report, endeavour must be made to initiate action against persons responsible for serious lapses well in time before they retire and finalise cases before retirement. If the penalty cannot be imposed during service, the case can be continued with a view to impose cut in pension under 2308 RII Cases to approach President under 2308 after retirement should be the barest minimum.

[E(D&A) 88 RG 6-100 of 22.9.1988 (RBE 215/88)(SC 197/88)]

1. Model time schedule for finalising disciplinary proceedings—Taking into account the suggestions received from the various Railway Administrations, a model time-schedule to be followed in respect of the time-limits during the various stages of disciplinary proceedings is attached.

2. In accordance with the revised time-schedule, the target period for finalising disciplinary proceedings is 150 days. The Board observe that it should be generally possible for the Railway Administrations to finalise the disciplinary proceedings within the revised

target of 150 days. However, in certain SPE/Vigilance cases, where a Railway Administration does not find it practicable to adhere to this target rigidly, steps should be taken by them to minimise, as far as possible the additional time likely to be taken, over and above the target period. But it is imperative that in cases of accidents, where prompt and expeditious finalisation of disciplinary action is of utmost importance and which do not present the difficulties encountered in SPE/Vigilance cases, all possible measures should be adopted to ensure that the time-schedule of 150 days for finalisation of disciplinary proceedings is not exceeded. It may be noted that with the revision of the time-schedule the overall target prescribed for finalisation of all accident cases including those in which disciplinary proceedings are involved as also others, viz., 90 days, would not be affected.

3. In respect of SPE/Vigilance cases against Gazetted Officers where essential factors, such as consultation with the Central Vigilance Commission, enquiry by a Commissioner of Departmental Enquiries, appointment of a Presenting Officer of the SPE/Vigilance Organisation etc. are likely to retard the progress of the disciplinary proceedings, the Railway Administration should streamline the existing procedure with a view to eliminating delays, particularly at the stage of inspection of documents by the delinquent official, by taking prompt action to procure documents from the SPE/Vigilance Organisation, to determine the relevancy etc. of the additional documents that may be asked for by the delinquent official and to refer promptly requests for additional documents etc. to the Board only when access to such documents is proposed to be refused for good and sufficient reasons.

[Rly. Board's letter No. E(D & A) 69 RG 6-17, dated 8.1.1971 (NR 5235, SC 5171, ER 7646, SE 21171, 7266)]

4. In items of the time-schedule, the time within which the disciplinary authority is required to take a final decision on the inquiry report and issue the notice of imposition of penalty, is 20 days. While it should be generally possible to adhere to this time-limit, in certain rare cases where it is not found practicable to adhere to this target rigidly, the disciplinary authority should submit a report to the next higher authority indicating the additional period likely to be taken for finalisation of the case together with the reasons therefor.

[Rly. Board's letter No. E (D & A) 70 RG 6-14, dated 20.4.1971 (NR 6664)]

Model time-schedule for finalising departmental proceedings in cases of imposition of major penalties

Stage in the disciplinary proceedings	Time laid down in the D & A Rules	Time limit for stages where no time-limit is laid down in the rules	Remarks
(1)	(2)	(3)	(4)
1. Issue of charge-sheet	—	—	Contd.

(1)	(2)	(3)	(4)
2. Inspection of documents mentioned in the list enclosed with the charge-sheet and taking relevant extracts therefrom, with the help of Assisting Railway servant, if any, and asking for inspection of additional documents not mentioned in the list enclosed with the charge-sheet	20 days maximum (sub-rules 5(i) and (iii) of Rule 9 of RS (D&A) Rules, 1968.		
3. Time by which the employee should submit his written statement of defence to the charge-sheet submit a list of witnesses to be examined on his behalf and nominate an Assisting Railway servant, if not already done.	10 days (sub-rule 4 of Rule 9)	10 days more.	No time limit has been laid down in the rules for submitting a list of witnesses and nomination of an Assisting Railway servant. Therefore, 10 more days as mentioned in Column 3 may be given to the employee at the discretion of the disciplinary authority.

4. Time by which the disciplinary authority should take a decision to hold an inquiry after considering the defence to the charge-sheet	10 days (including two days for receipt of the statement of defence in the office of the disciplinary authority).		
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Contd.

(1)	(2)	(3)	(4)
5. Time by which the date of inquiry should be fixed after completion of all preliminaries.	20 days (sub-rule 10 of Rule 9).		Though in the rule, maximum of 30 days have been allowed for this purpose yet it is considered that 20 days would be quite sufficient for the employee to prepare himself for defence. This also does not infringe the rule, as the rule is not rigid about this.
6. Time by which the inquiry should be completed and the enquiry officer should submit his report to the disciplinary authority.		60 days.	
7. Time by which the Disciplinary Authority should take the final decision and issue the notice of imposition of penalty.		20 days.	

*True copy
K.K. Shah
Advocate*

50 days 100 days Total 150 days

Quick finalisation of disciplinary cases—In their letter No. E.(D & A) 83 RG 6-14 of 29.3.85, SE 80/85 SCS9/85, WR 94/85 the Board directed that (1) photostat/typed copies of all the relied upon/listed documents would be furnished alongwith the charge sheet, cases where it may be possible. This will not, however, affect the right to inspect the original. (2) Along with the issue of the charge memo, orders for appointment of Inquiry Officer and Presenting Officer, if any, should be issued, though the inquiry will start only when the case is remitted to the I.O by the D. Authority after consideration of "in" defence. If no defence is received, Ex-parte action may be taken. (3) Hearing should be continuous and expeditious and adjournments should be granted only on unavoidable grounds.

[Also see E(D&A) 83 RG 6-14 of 5.12.85 SE 276/85]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

O. A. NO. 577 OF 1993

P.P. Dhanka.....

... Applicant

V/s

Union of India & Anr....

... Respondents

REPLY ON BEHALF OF
RESPONDENTS OPPOS-
ING ADMISSION.

The respondents humbly beg to file this
reply in response to Notice pending admission issued
by the Hon'ble Tribunal opposing admission as under:-

1. This reply is filed only for the purpose
of opposing admission and the respondents reserve their
right to file additional/further reply as and when
necessary.

2. At the outset it is submitted that the
applicant was serving under the District Controller of
Stores, Western Railway, Dohad, prior to his transfer
to Sabarmati in 1988. The applicant is transferred
from Sabarmati to Baroda in the year 1990 and since
then he is working in the DRP Office, Baroda, as
Depot Stores Keeper Grade III. It is stated that the

*Received
Sumit Chavhan
9/1/88
11/1/88*

*Presented today
09-3-88 by the
Rsp. Adv. Mr.
M.S. Shinde
before the court
09-3-88*

CO 5

applicant has not joined Divisional Railway Manager, Western Railway, Baroda as party respondent to the present application. It is submitted that the Divisional Railway Manager, Baroda, is a necessary and proper party to the present application. The application is, therefore, liable to be dismissed for non-joinder of necessary and proper party.

3. Contents of paras 1 to 3 are procedural and need no reply. The charge-sheet at Annexure A with the application is issued by the District Controller of Stores,

Sabarmati and not by the District Controller of Stores, Dohad. It is stated that the transfer order ^{challenged} issued in

461

1988 in O.A.NO.502/88 has been implemented and that the applicant reported for duty at Sabarmati. The applicant had filed O.A.NO.603/88 challenging the order of suspension

which is disposed of as per order dated 1.11.88 (Annexure A/1 with the application). It is not disputed that

the applicant was transferred from Sabarmati to Baroda vide Office Order dated 8.3.90 to work under Senior

District Controller of Stores, Baroda on Baroda Division

in same pay-scale & capacity. The charge-sheet dated 11.1.89 (Annexure A) is issued by the DCOS, Sabarmati.

On applicant's transfer from Sabarmati to Baroda, the departmental enquiry papers were also transferred to DRM Office, Baroda, under whom the applicant was posted to work in Baroda Division.

: 3 :

It is stated that there were two major penalty cases pending against the applicant. Out of these two cases, one case has been finalised and the applicant has been awarded penalty of reduction by one step at lower stage of his pay for one year with future effect vide Notice of Imposition of Penalty No. EC/161/308/27/6834, dated 31.5.1993/7.6.1993 and the said NIP has been served on the applicant. The applicant has already preferred an appeal against the said order of penalty on 19.7.93 and the said appeal is pending. The applicant has not disclosed the aforesaid fact in his original application.

On transfer of the applicant from Sabarmati to Baroda, the DAR case was also transferred by DCOS Sabarmati to Senior DCOS, Baroda. It is stated that the competent authority nominated SAO(Sales), Churchgate, as Enquiry Officer to enquire into the charges levelled against the applicant. It is stated that the said Enquiry Officer Shri B.P. Songh-SAO(Sales), Churchgate, vide his letter dated 12.7.93 has sent all the enquiry papers to ^C SMM(I) CCG-Chief Material Manager(I), Churchgate for nominating another Enquiry Officer in his place. It is stated that further orders from CMM

(I) Churchgate in the matter are awaited. Now Shri S.C. Kotian SAO(IC) CCG has been nominated as EO by competent authority vide Conf. No. W&S/PL/ADM/E/308 of 10-1-94. It is submitted that in the mean time the

applicant made a representation to the administration

for his transfer back to Dohad, which was under consideration for some time and the administration could not accede to the said request of the applicant.

4. The respondent No.2 has already referred the matter to the Senior Controller of Stores, Western Railway, Baroda, for obtaining information from him about progress of the enquiry against the applicant and the present position thereof and the detailed information from him is awaited.

5. Regarding para 4.1, it is stated that the applicant belongs to reserve community ^{SC} (ST) and was working in the Office of DCOS, Dohad as DSK Grade III in the year 1988. The applicant was transferred from Dohad to Sabarmati by order dated 17.6.88 (Annexure A/2). The applicant challenged the said transfer order in O.A. No.461/88. The said original application was dismissed by the Hon'ble Tribunal at the final hearing stage. The applicant thereafter carried out the transfer order and reported at Sabarmati under DCOS, Sabarmati. The applicant was placed under suspension by the DCOS, Sabarmati. The applicant challenged the order of suspension by filing O.A.No.603/88 and the said O.A.No.603/88 was decided by the Hon'ble Tribunal on 1.11.1988 as per ~~ex~~ Annexure A/1 with the application, directing the applicant to prefer an appeal against the said suspension order. The averments of the applicant regarding contentions raised by him in the said two original applications are not relevant to the

: 5 :

present application. The letter dated 30.4.92 (Annexure A/6 with the application) is issued by the Headquarter Office in reference to the applicant's representation dated 16.3.92 for his transfer from Baroda to Dohad.

The representation dated 24.6.91 is not received by the Headquarter Office as stated in letter dated 30.4.92.

The competent authority has not acceded to the applicant's request for his transfer back to Dohad.

6. Contents of para 4.2 are not fully true and are not admitted. It is not disputed that the applicant was served with charge-sheet dated 18.1.88 (Annexure A) at Sabarmati. It is denied that the charges levelled against the applicant were without any base and evidence and the said charge-sheet was given to the applicant with vindictive mind and to harass the applicant as alleged. It is denied that the language of the charge-sheet itself proves that without holding enquiry, a decision is taken that the applicant has committed misconduct. It is denied that the Articles of Charge are without any cogent proof or any valid ~~xxxx~~ evidence. It is not admitted that the documents relied upon were not supplied. It is submitted that the charges levelled against the applicant are clear and specific and give full opportunity to the applicant to understand the same and defend himself. It cannot be said that the charge-sheet is vindictive. It is stated that the said charge-sheet has been issued on the basis of evidence.

7. Contents of para 4.3 relate to the

proceedings of enquiry, which are with the Divisional Office, Baroda.

8. Regarding para 4.4, the respondents rely on true and proper interpretation of rule 9(a)(iv) of the Railway Servants (Discipline & Appeal) Rules, 1968.

The averments need no detailed reply.

9. Regarding para 4.5 & 4.6, it is submitted that the averments relate to the Departmental Enquiry which is being conducted by ~~the~~ Baroda Division. It is denied that the Disciplinary Authority has not taken any decision on the defence submitted by the applicant denying the charges. The averments relate to the Baroda Division.

10. Regarding paras 4.7 & 4.8, it is submitted that considering the request of the applicant for his transfer to Baroda, he was transferred from Sabarmati to Baroda in the year 1990. The applicant's request for his transfer from Baroda to Dohad is not acceded to by the competent authority. The applicant was involved in the vigilance case. The applicant cannot be transferred from Baroda to Dohad without the approval of the competent authority. The authority at Baroda cannot transfer the applicant from Baroda to Dohad. It is denied that the local authority at Dohad is intentionally and deliberately not clearing the posting ^{of} the applicant back to Dohad on

: 7 :

the alleged ground of pendency of disciplinary proceedings. The applicant has no right to be transferred back to Dohad when the enquiry is pending against him.

11. Regarding para 4.9, it is submitted that the averments relate to Baroda Division and Head-quarter Office. As stated herein above, the applicant was facing two departmental enquiries in February, 1993, when his immediate junior is alleged to have been promoted to the post of DSK Grade II. The applicant is not eligible to be promoted during the pendency of the departmental enquiries.

12. The applicant has no cause to file the present application as stated in para 4.10 of the application.

14. Contents of para 5 are not true and are not admitted. None of the grounds of challenge taken by the applicant exists.

(A) Regarding ground (A), it is submitted that the time limit prescribed in Annexure A/9 is directory and not mandatory. Vigilance cases take more time. There may be several other reasons for not finalising the enquiry within time-limit provided in the Schedule. However, it is submitted that the efforts are always made to finalise the enquiry as early as possible. The documents relied upon in the charge-sheet are always supplied to the delinquent

and the delinquent is also given an opportunity to inspect the documents and take extracts/copies thereof. It is denied that the charge-sheet is deemed to be cancelled on the ground of delay and laches. The said averments are without any merit.

(B) Contents of ground (B) relates to the Disciplinary Authority of the applicant. There is no violation of rule 9(7) of DAR Rules. The respondents rely on the ratio of the judgement by the Hon'ble Supreme Court in Kashinath Dixit's case. The enquiry against the applicant is not yet finalised. It is denied that the non-supply of documents is a material lapse. The averment is without any merit as the enquiry is still pending. The charge-sheet cannot be vitiated at this stage.

(C) The contents of grounds (C) & (D) are not true and are not admitted. The averments relate to the Disciplinary Authority, who is not a party to the present proceedings. It is stated that the Enquiry Officer was already appointed, who had submitted the enquiry papers to the Disciplinary Authority for appointment of another Enquiry Officer. It is denied that the respondents ~~are~~ were delaying the enquiry intentionally with a view to favour Shri Mansuri, who is actually responsible for the alleged charges as alleged. It is stated that the said Shri Manusri was also served with a charge-sheet.

(D) Contents of ground (E) are not true and are denied. The applicant could not be considered for promotion

: 9 :

to the post of DSK Grade II. As stated herein above the applicant is already awarded punishment by the Disciplinary Authority in one of the enquiries. It is denied that the penalty imposed on the charge-sheet would ^{be} double jeopardy.

(E) Contents of ground (F) are not true and are denied. The ground is vague. It is denied that the impugned charge-sheet is required to be declared arbitrary, unreasonable, illegal and deserves to be quashed and set aside. The averments are vague and without any merit.

(F) Contents of ground (G) are not true and are denied. The averments challenging his transfer made in 1988 are without any merit. As per the extant rules, the applicant cannot be promoted to the post of DSK Grade II. There is no violation of Articles 14 & 16 of the Constitution of India.

14. The applicant is not entitled to any of the reliefs claimed in para 6 of the application.

15. The applicant is not entitled to any interim order as prayed for in para 7 of the application.

16. Regarding para 8, it is submitted that the applicant has approached the Tribunal before finalisation of the enquiry and hence the application is pre-mature and liable to be dismissed.

: 10 :


In view of what is stated above, the application may be dismissed with costs.

VERIFICATION.


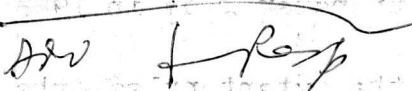
I, S.K.Gupta, age about 30 years, working as District Controller of Stores, Western Railway, Dohad, and residing at Dohad do hereby state that what is stated above is true to my knowledge and information received from the record of the case and I believe the same to be true. I have not suppressed any material facts.

Dohad

Dated: 27.1.1994


District Controller of Stores,
Western Railway, Dohad.

File 9-384

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD

62

O.A./T.A./M.A./R.A./D.A. No. 295 194 in OA/STT/93

U.O.I. 2000
APPLICANT (S)

MR N.S. Sherde
COUNSEL

VERSUS

MR P.P. Dhanke
RESPONDENT (S)

COUNSEL

Date	Office Report	ORDER
	Extension of Time	<p>Disfranch of on 23 Feb as intimation</p>

Filed by Mr. N S Shende
Learned Advocate for Petitioners
with second set of Nik spare
copies duly served to
other side

By Registrar C.A. 30
At Ahmedabad
9.5.94

MA 57 295/94

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD
M. A. NO. 295 OF 1994
IN
O. A. NO.577 OF 1993

Union of India & Ors....

... Applicants
(Original
respondents)

V/s

P.P.Dhanka.....

... Opponent
(Original
applicant)

APPLICATION FOR
EXTENSION OF TIME

The applicants herein- original respondents
humbly beg to submit as under:-

1. The original applicant filed O.A.NO.577 of 1993 in this Hon'ble Tribunal praying for a relief to the effect that the Hon'ble Tribunal will be pleased to hold that the action of the respondents by not completing and finalising the enquiry on the alleged charges at Annexure A charge-sheet dated 18.1.1989 is arbitrary, discriminatory, suffers by delay and laches and that non-supply of documents is denial of reasonable opportunity and that the entire action is not in conformity with the Railway Servants (Discipline & Appeal) Rules, 1968 and

therefore the impugned charge-sheet may be quashed and set aside and as a consequence the applicant may kindly be directed to the respondents to retransfer at Dohad and may be given promotion from the date his juniors have been given and withheld on the ground of pendency of disciplinary case with all consequential benefits in the interest of justice. The applicant had also prayed for interim relief. When the matter came up on Board for admission Hon'ble Tribunal was pleased to issue notice pending admission on the respondents.

2. The respondents filed a reply opposing admission. Hon'ble Tribunal was pleased to issue direction to disclose approximate time required for finalising the enquiry. On 16.3.94 it was submitted by the respondents that the Enquiry Officer had fixed enquiry in the last week of March, 1994. After hearing Hon'ble Tribunal was pleased to direct the Enquiry Officer to submit his enquiry report by 10.4.94 and further direct the Disciplinary Authority to finalise the enquiry by 30.4.94. The original application was rejected with the directions issued by the Hon'ble Tribunal. A certified copy of the order dated 16.3.94 was supplied to the Advocate on or about 23.3.1994 and it was then forwarded by the Office of JCOs, Dohad to the Headquarter Office vide D.O. letter dated 24.3.94.

: 3 :

The Enquiry Officer was apprised of the directions of the Hon'ble Tribunal that he has to finalise the enquiry proceedings by 10.4.94.

3. The applicants herein submit that the enquiry was fixed on 28.3.94 and 29.3.94. As informed by the Enquiry Officer vide his letter dated 29.3.94 no prosecution witness had attended the enquiry on 28.3.94, that Shri N.K.Shukla, Head Constable(V), Kota, attended the enquiry on 29.3.94 and his evidence has been recorded on that day. Next date for the final enquiry has been fixed on 20th & 21st April, 1994 with the consent of the defendant in the present case and that in view of the said facts it is not possible for him to finalise the DAR enquiry by 10.4.94 and requested to file an application before CAT praying for two months extension i.e. upto the end of 31.5.94 to enable him to finalise the DAR proceedings. It is submitted that on 29.3.94 the enquiry was adjourned to 20th & 21st April, 1994 with the consent of the delinquent-original applicant as he was pre-engaged in other matters. Hence this application for extension of time.

4. The applicants herein submit that the DCOS, Dohad, wrote a letter dated 30.3.94 to the Advocate to file Review Application before the CAT praying for two months extension to finalise DAR proceedings.

The said letter was supplied to the ~~an~~ advocate on 31.4.94. However, copy of judgement dated 16.3.94 was remained to be supplied to the advocate for drafting an application for extension of time. The matter remained out of sight. The representative of DCOS, Dohad attended the Tribunal on 4.5.94 in connection with another case and enquired of the application for extension in the present case. Thereupon, the draft of the application was collected by the representative on the same day for signatures of the competent authority. The said application has been signed by the competent authority at Dohad on .5.1994 and is thereafter filed in the Tribunal immediately. Hence ~~this~~ delay, if any, in filing the present application for extension of time is required to be condoned by the Hon'ble Tribunal in the facts and the circumstances of the case. It is submitted that there is no intentional delay in filing the application for extension of time or in finalising the enquiry.

5. The applicants herein- original respondents, therefore, pray that:-

(A) Hon'ble Tribunal will be pleased to grant this application and extend time-limit to comply with the directions by a period of two months i.e. upto 10.6.94 & 30.6.94 respectively for finalising the enquiry.

(B) Delay, if any, in filing this application may kindly be condoned.

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(C) Any other order may be passed that the Hon'ble Tribunal deems fit and proper.

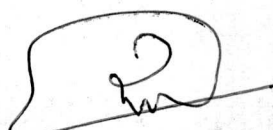
VERIFICATION

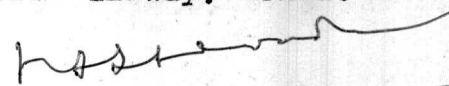
I, S.K.Gupta, age about 30 years, son of Shri S.P.Bansal, working as District Controller of Stores, Western Railway, Dohad and residing at Dohad do hereby state that what is stated above is true to my knowledge and information received from the record of the case and I believe the same to be true. I have not suppressed any material facts.

Dohad

Dated: 7.5.1994

7.5.94


District Controller of Stores,
Western Railway, Dohad.


D.O. for A.H. Rep.

Submitted.

Application has been scrutinized and found to be in order. May be placed before Hon'ble Bench for necessary order.

cc: 13.05.94

May be placed for orders on sgcs)

7-6-94.

13.5-94

sgcs) 13-5-94

O.A. / T.A. / M.A. / R.A. / C.A. No. 538 / 94 in 04/577/93

VERSUS

DATE	OFFICE REPORT	ORDER
Extension of Time		

24.10.94

MA ST/567/94

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

M. A. NO. 538 OF 1994

IN

O. A. NO.577 OF 1993

Union of India & Ors.....

V/s

P.P.Dhanka.....

... Applicants
(Original
respondents)

... Opponent
(Original
applicant)

APPLICATION FOR
EXTENSION OF TIME

The applicants herein- original respondents

humbly beg to submit as under:-

1. The original applicant filed O.A.NO.577/93 in this Hon'ble Tribunal praying for relief to the effect that the action of the respondents by not completing and finalising the enquiry on the alleged charges at Annexure A charge-sheet dated 18.1.1989 be held arbitrary, discriminatory, suffering by delay and laches and that non-supply of documents is denial of reasonable opportunity and that the entire action is not in conformity with the Railway Servants (Discipline & Appeal) Rules, 1968 and therefore the impugned charge-sheet may be quashed and

Filed by Mr. N. S. Shrivastava
Learned Advocate for Petitioners
With second set of documents
Copies copy served, not served to
other side

At 14/10/94 By Registrar C.A.T. A
A'bad Bench

Copy/Regd. under written submitted
Filed by 14/10/94
as not advocate for petitioners
Respondent with second set
Copy served/not served to other side

At 14/10/94 By Registrar C.A.T. A
A'bad Bench

set aside and as a consequence the applicant may kindly be directed to the respondents to retransfer at Dohad and may be given promotion from the date his juniors have been given and withheld on the ground of pendency of the disciplinary case with all consequential benefits in the interest of justice. The applicant had also prayed for interim relief.

2. In response to the notice issued by the Hon'ble Tribunal, the respondents filed reply opposing admission. The Hon'ble Tribunal was pleased to issue direction to disclose the approximate time for finalising the enquiry. On 16.3.94 it was submitted by the respondents that the Enquiry Officer had fixed enquiry in the last week of March, 1994. After hearing, Hon'ble Tribunal issued directions that the Enquiry Officer to submit his enquiry report by 10.4.94 and the Disciplinary Authority to finalise the enquiry by 30.4.94. The original application was rejected with the directions issued by the Hon'ble Tribunal. The certified copy of order dated 16.3.94 supplied to the advocate for the respondents was forwarded by DCOS, Dohad to the Headquarter Office vide D.O. letter dated 24.3.94. The Enquiry Officer was apprised of the direction of the Hon'ble Tribunal that he has to finalise the enquiry proceedings by 10.4.1994.

; 3 ;

3. The Enquiry Officer fixed the enquiry on 28.3.94 and 29.3.94. The Enquiry Officer vide his letter dated 29.3.94 informed that no prosecution witness had attended enquiry on 28.3.94, that Shri N.K.Shukla, Head Constable (V), Kota, attended the enquiry on 29.3.94 and his evidence was recorded on that day. The next date for the final enquiry was fixed on 20.4.94 and 21.4.94 with the consent of the applicant in the O.A. and that in view of the said facts it was not possible for him to finalise the enquiry by 10.4.94 and requested to file an application before the Tribunal praying for two months extension i.e. upto the end of 31.5.94 to enable him to finalise the DAR proceedings. On 29.3.94 the enquiry was adjourned to 20.4.94 & 21.4.94 with the consent of the original applicant as he was pre-engaged in other matters.

4. The DCOS, Dohad, vide his letter dated 30.3.94 to the Advocate instructed him to file an application before the Tribunal praying for two months extension to finalise the disciplinary proceedings. Accordingly, an application for extension of time was drafted by the advocate and was sent to the DCOS, Dohad, for his signatures. The original respondents filed an application M.A.NO.295/94 for extension of two months time to finalise the enquiry. The said application was ~~registered as~~ heard and decided by the Hon'ble Tribunal by its order

dated 23.6.94 observing inter alia that the application has become infructuous but in view of change of Enquiry Officer extension is finally granted upto 30.9.94.

5. The applicants herein submit that the Enquiry Officer had fixed number of sittings for finalising the enquiry. The enquiry was fixed on 21 & 22.7.94 when the applicant did not attend as per his letter dated 20.7.94. The enquiry was fixed on 11 & 12.8.1994 when the applicant did not attend vide his letter dated 11.8.94. Thereafter the enquiry was fixed on 7 & 8.9.94 but on ~~that~~ those days also the applicant did not attend as stated in his letters dated 7 & 8 September, 1994. The ~~enquiry~~ enquiry also ⁹ was fixed on 1 & 2.10.94 when the applicant ~~was~~ attended but the hearing could not be held in the absence of Shri B.L.Sharma, CBI Inspector. The Enquiry Officer Shri Murlidar Madhur has informed the above development stating inter alia that the enquiry could not be finalised mainly due to inability of the applicant to attend hearing along with his defence assistant and has requested the DCOS, Dohad, to ask for further extension of at least three months to finalise this enquiry. Hence this application for extension of time.

6. The applicants herein- original respondents therefore pray that:-

(A) Hon'ble Tribunal will be pleased to grant this application and extend time-limit to comply

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with the direction by f a further period of three months from 30.9.94.

(B) Delay, if any, may be condoned.

(C) Any other order may be passed that the Hon'ble Tribunal deems fit and proper.

VERIFICATION.

I, S.K.Gupta, age about 30 years, son of Shri S.P.Bansal, working as District Controller of Stores, Western Railway, Dohad and residing at Dohad do hereby state that what is stated above is true to my knowledge and information received from the record of the case and I believe the same to be true. I have not suppressed any material facts.

Dohad,

Dated: 12.10.1994

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14.10.94

[Signature]
District Controller of Stores,
Western Railway, Dohad.

[Signature]

Submitted.

Application has been scrutinized and found to be in order. May be placed before Hon'ble Bench for necessary order.

[Signature]
17/10/94

[Signature]
S.D.J.)

S.D.J.)
(on leave)