

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ..... BENCH  
OA/TA/RA/CP/MA/PT ..... of 20..... *0A 486/86*

..... *Abdul Ali* ..... Applicant(S)

Versus

..... *U.O.F. Board* ..... Respondent(S)

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Certified that the file is complete in all respects,

*B/c. Wadded out / destroyed*

Signature of S.O.

*[Handwritten Signature]*

Signature of Deal. Hand

*[Handwritten Signature]*  
*12/12/12*

A  
150

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH,

23-A Thornhill Road, Allahabad-211001 *nyd*

No. CAT/ALLD/ *P1446*

Dated: *17/9/86*

In re

Registration No.

*438* of 1986

*Abdul Ali*

APPLICANT

Versus

*Union of Inds & Others*

RESPONDENTS

To,

*Enquiry Officer (Sri L. J. Clarkson)*

*through Senior Borrowal Manager*

*Northern Railway Loco Shed,*

*Lucknow*

Please take notice that the applicant abovenamed has presented an application, a copy whereof is enclosed herewith, which has been registered in this Tribunal, and the Tribunal has fixed...*17th* day of...~~NOVEMBER~~...1986... for the hearing of the said application

If no appearance is made on your behalf by yourself, your pleader or by someone duly authorised to act and plead on your behalf in the said application, it will be heard and decided in your absence.

Given under my hand and the seal of the Tribunal this...*15th*... day of...~~SEPTEMBER~~...1986



*F. Chandra*  
DEPUTY REGISTRAR

A/151

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL (ALLAHABAD BENCH) AT ALLAHABAD  
\*\*\*\*\*

Regn. No. 438/86

Abdul Ali ..... APPLICANT,

vs

U.O.I. through G.M., Northern Rail ..... RESPONDENTS.  
-way N. Delhi & 8 other.

PRESENT

- 1. Hon'ble D.S. Misra, Member (A)
- 2. Hon'ble G.S. Sharma, Member (J)

ORDER

Heard the learned counsel for the applicant.

Admit. Issue notice to the respondents to file reply within a month. Rejoinder if any, may be filed within 15 days. List it for final hearing on 17.11.86.

Dt. 3.9.86

Sd./-  
MEMBER (A)

Sd./-  
MEMBER (J)

ATTESTED TRUE COPY

*Chandra*

(MOD CHANDRA)  
Section Officer  
Central Administrative Tribunal  
Additional Bench, Allahabad.



3/9

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**ADDITIONAL BENCH,**

23-A, Thornhill Road, Allahabad-211001

Registration No. 438 of 1986

APPLICANT (s) Abdul Ali

RESPONDENT (s) Union of India through General Manager Northern

Railway New Delhi & 3 others

<u>Particulars to be examined</u>	<u>Endorsement as to result of Examination</u>
1. Is the appeal competent ?	YS
2. (a) Is the application in the prescribed form ?	YS
(b) Is the application in paper book form ?	YS
(c) Have six complete sets of the application been filed ?	YS, 9 sets filed.
3. (a) Is the appeal in time ?	YS
(b) If not, by how many days it is beyond time ?	—
(c) Has sufficient case for not making the application in time, been filed ?	—
4. Has the document of authorisation/Vakalat-nama been filed ?	YS
5. Is the application accompanied by B. D./Postal-Order for Rs. 50/-	YS
6. Has the certified copy/copies of the order (s) against which the application is made been filed ?	YS
7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	YS
(b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	YS

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# CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No. L39 of 1986

AM

APPLICANT (s) Abdul Ali

RESPONDENT(s) Union of India through General Manager, Northern

Railway New Delhi + 3 others

<u>Particulars to be examined</u>	<u>Endorsement as to result of Examination</u>
1. Is the appeal competent ?	YS
2. (a) Is the application in the prescribed form ?	YS
(b) Is the application in paper book form ?	YS
(c) Have six complete sets of the application been filed ?	YS, 9 sets filed
3. (a) Is the appeal in time ?	YS
(b) If not, by how many days it is beyond time ?	-
(c) Has sufficient case for not making the application in time, been filed ?	-
4. Has the document of authorisation/Vakalat-nama been filed ?	YS
5. Is the application accompanied by B. D./Postal-Order for Rs. 50/-	YS
6. Has the certified copy/copies of the order (s) against which the application is made been filed ?	YS
7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	YS
(b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	YS

आदेश पत्रक  
ORDER SHEET

438/86

अपील  
निर्देश आवेदन

रजिस्टर में सं०

No. in Reference Application Register  
Appeal

अपील अनिकरण  
Appellate Tribunal

अपीलार्थी  
आवेदक

Appellant  
Applicant

अपीलार्थी  
आवेदक द्वारा

बनाम

प्रत्यर्थी

Appellant  
Applicant

Vs.

प्रत्यर्थी द्वारा  
Respondent

आदेश की क्रम संख्या  
और तारीख  
Serial number of  
order and date

संक्षिप्त आदेश, निर्देश देते हूँ यदि आवश्यक हो।  
Brief order, mentioning reference, if necessary

10.7.87

Hon. D. S. Misra, AM.  
Hon. G. S. Sharma, Jm.

Dr. O. P. Srivastava for  
the applicant is present. On  
the request of respondents' counsel  
the case is adjourned to 11-9-87.

pl  
A.M.

Jm.

11.9.87

Hon. D. S. Misra - AM.  
Hon. G. S. Sharma - JM

On the application of applicant's  
counsel, the case is adjourned to

19.11.87

pl  
AM

JM

Osaki Street

O.A. 438/88.

Hon. G. S. Sharma J.M.

Hon. K. J. Ramani A.M.

Shri. O.P. Sawant for  
the applicant and Shri. Lalji  
Shukla for the respondents  
are present. On the  
request of Shri. Sawant,  
the case be transferred  
to the district bench and  
be listed on 31.3.89.

*[Signature]*

A.M.

J.M.

2.2.89.

Be

31.3.89

sd

This case ought to be  
sent to circuit bench delhi  
but the same has not been  
done. Send the case to  
circuit bench delhi <sup>24</sup> 24.4.89  
(24th April 89)

*[Signature]*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No: 438 of 1986

APPELLANT  
APPLICANT

VERSUS

DEFENDANT  
RESPONDENT

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
4/9/89.	<p>Hon. Justice K. Nath, Jc. Hon. K. J. Raman, Am.</p> <hr/> <p>On the adjournment application of Sri Dalji Sinha on behalf of opposite parties on the ground of illness the case is adjourned to 25/9/89.</p> <p>Am. Jc.</p>	<p>Care is recorded hearing</p>
25/9/89.	<p>Hon. Justice K. Nath, Jc. Hon. K. Obayya, Am.</p> <hr/> <p>On account of illness of Sri Dalji Sinha the case will stand over and list for hearing on 23-11-89.</p> <p>Am. Jc.</p>	

23-11-89

No. 2290

20.12.90

No sitting Adj to 30.1.91

~~9~~

~~10~~

30.1.91

No sitting Adj to 15.3.91

~~11~~

15.3.91

No sitting Adj to 16.4.91  
J

16.4.91

No sitting Adj to 5.7.91  
J

ब अदालत श्रीमान Judge Central Administrative Tribunal  
 वादी मुद्दा Circuit Bench (Bank)  
 प्रतिवादी मुद्दालय का बकालत नामा

Legs Lab 430/06  
Abdul Ali Union of Ind  
 बनाम

वादी मुद्दा  
 प्रतिवादी मुद्दालय

न० मुकदमा 430 सन 1986पेशी की तारीख 19 ई०  
 उमर दिखे मुकदमे में अपनी ओर से श्री

Anil Srivastava Advocate एडवोकेट  
 मंडोदय  
 वकील

को अपना वकील नियुक्त करके प्रतिज्ञा इकरार कर चुके हैं। लिख देता हूँ। इस मुकदमे में वकील मंडोदय स्वयं अथवा अन्य वकील द्वारा जो भी जवाब देही या प्रस्ताव करेगा अन्य कोई कागज दाखिल करे या लौटा दें हमारी ओर से इतिहासी जारी कथाओं और खाया वसूल करेगा उनडनामा इकबाल दावा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करे और तसदीक करे या मुकदमा उठाये या कोर्ट में जमा करे या हमारी या विपक्ष परतीकसस्ती का दाखिल किया खाया अपने या हमारे हस्ताक्षर युक्त इस्तइत रोजिद ले लेवेना पंच नियुक्त करे वकील मंडोदय द्वारा की गये वहे कार्यवाही हमको सर्वथा स्वीकार है और होगी में भी यह कहता हूँ कि मैं हर पेशी स्वयं या किसी अपने फेरोंकारे को शकता रहूंगा अगर मुकदमा अवस पेशी में एक तरफा मेरे खिलाफ फैसला हो जाता है तो तब भी शिकायती मेरी वकील पर न होगी।  
 इस लिये यह वकालतनामा तिले किया कि प्रमाण रहें और समय पर काम आवें।

*filed today*  
*OSW*  
 18/9/91

साक्षी गवाही  
 दिनांक \_\_\_\_\_ मंडोदय

✓ हस्ताक्षर \_\_\_\_\_  
 साक्षी गवाही  
 नाम अदालत 3/9  
 न० मुकदमा \_\_\_\_\_  
 नाम परीकन \_\_\_\_\_

Accepted  
Anil Srivastava  
 Adv

ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD.

O.A. NO. 438 OF 19 86  
Abdul Ali Vs. G.O.G. Pathy

Sl.No. 1	Date 2	Office Report 3	Orders 4
copy		B. K. Pathy and B. K. Pathy 12/9/86	31-7-91 judgment delivered Today. as the applica- tion is allowed. Parties shall bear their own costs. <u>one</u>

PANKAJ/

P.T.O.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

LUCKNOW CIRCUIT BENCH

Registration O.A. No.438 of 1986

Abdul Ali ..... Applicant

Versus

Union of India & Others.... Respondents

Hon.Mr.Justice U.C.Srivastava, V.C.

Hon. Mr. A.B.Gorthi, Member (A)

(By Hon.Mr.A.B.Gorthi, Member (A) )

The applicant, Abdul Ali, aggrieved by the punishment of removal from the service passed against him by the Senior Divisional Mechanical Engineer (Sr.D.M.E. for short) on 1.6.78 filed this application under Section 19 of the Administrative Tribunals Act, 1985 seeking a direction for quashing of the said order of removal as also the order dated 14.11.85 under which his representation was rejected by the Divisional Railway Manager.

2. The applicant was a Driver grade 'C'. On 28.8.77 while he was the Engine Driver of 352 DN, the said train rammed into a tempo at a level crossing at Saraigopal Flag Station resulting in the death of 18 persons, all occupants of the tempo. Whereas a case under Section 101 of the Indian Railways Act, 1890 read with Section 304-A of the Indian Penal Code, 1860 was registered by the police, the Railway Department instituted Departmental Disciplinary action and served him with a chargesheet which reads as under :-

"That the said Shri Abdul Ali, Driver, HQ Lucknow working 352 Dn on 28.8.77 disregarded the gate signal of gate No.A-2 at Saraigopal Flag station in 'DN' position and entered in

level crossing which resulted in collision between 352 Dn Express train with Tempo No. UPZ 7184 at level crossing Gate No. A-2 at Saraigopal Flag station between Atrampur and Phaphamau stations on 28.8.77. He violated General Rule 76."

3. A Departmental Enquiry was held and the Inquiry Officer found the applicant guilty of the charge. A show cause notice was issued to which the applicant gave a detailed reply. Thereafter, the order of removal was passed by the Sr. D.M.E.

4. We have heard the learned counsel for the applicant Shri D.P. Srivastava at length. The first objection raised by him challenging the validity of the disciplinary proceedings was that the Sr. D.M.E., not being the Appointing Authority could not have passed the impugned order. It was contended that the applicant, being a Driver grade 'C' at the relevant time, could have been removed only by the General Manager who was the Appointing Authority. Shri Lalji Sinha, the learned counsel for the respondents showed us schedule 'C' to the Railway Servants (Discipline & Appeal) Rules, 1968 under which D.P.O. and W.M. were shown as the subordinate authorities to whom the General Manager had delegated his power to appoint class III and class IV staff. Our attention has also been drawn to the decision of the Supreme Court in Scientific Advisor to the Minister of Defence and Others Versus S. Daniel (1991) 15 ATC 799, wherein their Lordships observed that a subordinate authority to whom the power to appoint has been duly delegated or his equivalent authority would be the competent disciplinary authority as well for the purpose of Article 311(1) of the Constitution of India and Rule 9

8

of the Railway Servants (Discipline & Appeal) Rules. Accordingly, we hold that the Sr. D.M.E. was competent in this case to award the penalty of removal from service in respect of the applicant who was a grade 'C' Driver.

5. Another important issue raised by Shri O.P. Srivastava was that because the applicant was charged with violation of General Rule 76, he could not have been dealt with departmentally but should have been charged under Section 101 of the Indian Railways Act and tried by a Magistrate. Looking at the entire enquiry proceedings we are convinced that the mere mention of General Rule 76 in the charge memo had in no way prejudiced the applicant in his defence. The impropriety, if any, is not such as would hit the jurisdiction of the disciplinary authority. The arguments of the learned counsel for the applicant that the disciplinary proceedings are liable to be quashed on this ground alone cannot therefore be accepted.

6. Drawing our attention to the verdict of the Judicial Magistrate Ist Class who acquitted the accused of the charge under Section 101 of the Indian Railways Act, 1890 read with Section 304-A of the Indian Penal Code, 1860, the learned counsel for the applicant agitated that there was no justification for the finding of guilty by the Inquiry Officer on the same set of facts. We do not agree. The Bombay High Court in Bhaurao Dagadu Thakur Vs State of Maharashtra 1972 SLR 699 observed :-

" The domestic tribunal, such as the dismissing authority in departmental proceedings, does not violate any rule of law or any other principle of law, when it chooses to ignore the findings of the criminal Court and decides to act on

the evidence led before him, and ultimately comes to the conclusion that such police officer is not fit to be retained in service inspite of his acquittal by the criminal Court. He also does not violate any principle of natural justice merely by ignoring such findings of the criminal Court, where otherwise he has recorded his findings after giving full opportunity to the delinquent to have his say."

In any case, it is well settled that if the trial on a criminal charge resulted an acquittal departmental disciplinary proceedings could still follow provided the acquittal was otherwise than honourable. A perusal of the judgement of the Judicial Magistrate 1st Class in the instant case shows that the accused was acquitted on account of the failure of the prosecution to drive home the charge against the applicant. The said judgement cannot therefore legally come in the way of departmental action against the applicant.

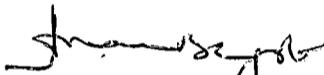
7. Assailing the manner in which the enquiry was conducted, the learned counsel for the applicant accepted that the report of the Additional Commissioner for Railways Safety was not made available to the applicant although the charge was based, admittedly, on the said report. As per the Inquiry Officer's report the accused demanded a copy of the said report which was not on file. There was however a subsequent endorsement in the enquiry report that the said report was received from higher authorities and was made available to the applicant. We do not therefore see any ground for complaint in this regard.

8. As regards the manner in which the enquiry was conducted, it was urged that the Inquiry Officer acted more

as a prosecutor than an impartial Inquiry Officer. Admittedly, no Presenting Officer was nominated at the enquiry. The Inquiry Officer in his enthusiasm undertook extensive questioning of all the witnesses. While an Inquiry Officer can legitimately question the witnesses to elicit the relevant facts of the case, he cannot cross examine them in a manner i.e. prejudicial to the defence of the accused. A perusal of the enquiry report clearly shows that the Inquiry Officer cross examined most of the witnesses on all such aspects on which the witness deposed favourably to the defence. The Inquiry Officer had gone to the extent of cross examining the accused ( the applicant ) at length. In Abdul Waziz Vs. State of Karnataka 1981(1) SLR 454, the Karnataka High Court observed that the cross examination of defence witnesses by the Inquiry Officer was in plain violation of the principles of natural justice and consequently the enquiry proceedings was vitiated. The Principal Bench of this Tribunal in Balu Singh Vs. Union of India ATR (1986) 1 CAT 195 held that where the Inquiry Officer had subjected the delinquent employee to cross examination and had thus assumed the role of both the judge and the Prosecutor, than the factum of Inquiry Officer assuming the role of prosecutor vitiates the entire proceedings. We therefore find that the Inquiry Officer did not conduct the proceedings in an impartial manner and had overstepped his authority. We therefore quash the enquiry proceedings.

and set aside the impugned order of punishment, Annexure-I as also the order of the Divisional Railway Manager, Annexure-2 rejecting the representation of the applicant.

9. The application is allowed. The applicant shall be deemed to be reinstated with effect from the date of his removal from the service. The applicant shall be given all consequential reliefs within six months from the date of receipt of a copy of this judgement. Parties shall bear their costs.

  
Member (A)

  
Vice Chairman



Σ Dated the 21 July, 1991.

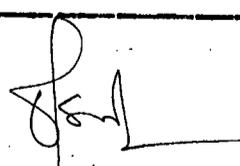
RKM

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BENCH AT ALLAHABAD

Abdul Ali ..... Applicant  
Versus  
 Union of India and others ..... Respondents.

I N D E X

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 (O.P. SRIVASTAVA)  
 HOD

A/B

FORM - 1  
( - See Rule 4 )

Application under section 19 of the Administrative  
Tribunal Act, 1985

For use in Tribunal's Office

Date of filing

or

Date of receipt  
by post

Registration

Reg. No. 430 of 1986  
Central Administrative Tribunal

Additional Bench

ALLAHABAD/PATNA/JABALPUR

Date of Filing 22.8.86 OR

Date of Receipt by Post

*Chandra*  
Deputy Registrar.

Signature  
Registrar

In the Central Administrative Tribunal  
Additional Bench at Allahabad

Between

Abdul Ali ..... Applicant

and

Union of India and others .. Respondents

Details of application

1. Particulars of the applicant:

- i) Name of the Applicant ... Abdul Ali
- ii) Name of the Father/Husband ... Nazim Ali
- iii) Designation and office in which employed .. Driver Grade 'C'  
Loco Shed, N. Railway,  
Lucknow.
- iv) Office address .. Loco Shed, N. Railway,  
Lucknow.
- v) Address for service of all notices .. Village Karanpur,  
near Bus Station,  
Pratapgarh.

2. Particulars of the respondent:

- i) Name and/or designation of the respondent. .. Union of India through  
General Manager, Northern  
Railway, Baroda House,  
New Delhi.

*Abdul Ali*

2. Divisional Railway Manager,  
Office of the Divisional  
Railway Manager's office,  
Hazratganj, Lucknow.
3. Senior Divisional Mechanical  
Engineer, N. Railway, Lucknow.
4. Enquiry Officer (Sri L.J.  
Clarkson) through Senior  
Divisional Manager Northern  
Railway, Loco Shed, Lucknow.

- |   |          |
|---|----------|
| ii) Office address of<br>the respondent.    | As above |
| iii) Address for service<br>of all notices. | As above |

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

The application is against  
the following orders

- i) Order No.
- ii) Date
- iii) Subject Passed by
- ~~xxxxSubject in brief~~
- iv) Subject in brief

- .. The application is against the  
.. order of removal from service  
of the applicant.
- .. T.G.1/G-1/77.R.B.
- .. 1/2.6.1978
- .. Senior Divisional Mechanical  
Engineer, Lucknow.
- .. Order rejecting the depart-  
mental Appeal No. T.G.8/G-1/1/  
77 RB/appeal dated 14.11.85  
passed by Dvl. Railway Manager
- .. The services of the applicant  
were removed by way of the  
disciplinary proceedings  
against which the applicant  
an appeal which was also  
rejected vide order dated  
14.11.1985.

4. Jurisdiction of the Tribunal.

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

*Abdul Al.*

5. Limitation :

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

6. Facts of the case :

The facts of the case are given below. -

- 6.1 That by way of the instant application the applicant seeks to challenge the validity of the impugned order of removal from service dated 1/2.6.1978 and the impugned order dated 14.11.1985 rejecting the departmental appeal of the applicant. The true copies of the aforesaid impugned orders are filed herewith as Annexures-1 and 2 to this application.
- 6.2 That the applicant while working as Driver Grade 'C' was served with a chargesheet dated 26.11.1977 containing the statement of article of charges framed against the applicant and the statement of imputation of misconduct or misbehaviour in support of the article of charges. Referring the report of Additional Commissioner of Railway Safety, Lucknow as a sole document relied upon under the list of documents and the list of witnesses substantiating the charges levelled against the applicant. A true copy of the aforesaid chargesheet dated 26th November, 1977 is being filed herewith as Annexure-3 to this

Abdul Ali

application.

6.3 That a perusal of the aforesaid chargesheet reveals that the same has been issued under the signatures of the Respondent No. 3, the Senior Divisional Mechanical Engineer, N. Railway, Lucknow under Rule 9 of the Railway Servants Discipline and Appeal Rules and Rules 1968 (hereinafter referred to as '1968 Rules'). Indeed the Respondent No. 3 is not the competent authority/Disciplinary authority as contemplated under Rule 2 read with Schedule II of the 1968 Rules.

6.4 That further the applicant submitted a representation demanding the documents relied upon, but all the documents relied upon were neither supplied to the applicant nor received reason for such refusal was communicated to the applicant.

6.5 That any how the Enquiry Officer was appointed by the Disciplinary Authority, the Opposite Party No. 3 who conducted the enquiry of the incident and later on submitted a report. A true copy of the Enquiry Report containing the preamble, history, enquiry proceedings, judgment, findings, the extract of the relevant Rules and the statements and cross examination of the witnesses is being filed herewith as Annexure-4 to this application.

Abdul Ali

- 6.6 That although the Enquiry Officer sat on 18.1.78, 28.1.1978, 22.2.1978, 24.2.1978, 9.3.1978, 16.3.78, 17.3.1978, 30.3.1978 and 31.3.1978 and prepared the enquiry report on 2.4.1978 and considered some other relevant points on 3.4.1978, yet the entire objections raised by the applicant and a demonstration held to find out the velocity of the allegations levelled against the applicant is wanting in the enquiry report.
- 6.7 That the Enquiry Officer submitted his findings holding the applicant as a sole responsible person for the accident and the charges levelled against the applicant were found to be substantiable by him, on the basis of which a show cause notice dated 20.4.1978 of penalty proposed to be imposed was issued to the applicant. A true copy of the aforesaid show cause notice dated 20.4.78 is being filed as Annexure-5 to this application.
- 6.8 That a perusal of Annexure-5 very well discloses that no reason or the foundation for the penalty proposed to be imposed is recited in the said show cause notice dated 20.4.1978. It is indeed a printed proforma which has been filled in by the Opposite Party No. 3 without going through the enquiry report and the record of the case and the show cause notice dated 20.4.1978 has been issued in a most mechanical manner without

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application of mind.

6.9 That thereafter the applicant submitted a detailed reply to the show cause notice dated 20.4.1978.

The applicant in his reply to the penalty proposed to be imposed clearly stated that the charges are not proved on the basis of the facts and circumstances recorded in the enquiry proceedings.

The applicant specifically stated in his reply to the show cause notice inter alia that the said enquiry was under the pressure and threat of the higher officer and the General Manager and the Enquiry Officer acted both as Prosecutor

and the Enquiry Officer and he did not apply his mind in judicial manner, as such the entire enquiry proceedings were a farce. The facts and circumstances placed by the applicant was overlooked. The report of Assistant Commissioner

Railway Safety, who conducted the enquiry at the very first stage and which was relied upon was not properly heeded to and altogether a different colour was given to the said report of Assistant Commissioner, Railway Safety. The applicant

was neither given reasonable adequate opportunity nor the conduct of other persons who were very much responsible for the accident was looked into and considered. The defence witnesses produced by the applicant were not believed and

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no reason for disbelieving the witnesses were given. A true copy of the detailed reply/ explanation dated 1.6.1978 submitted by the applicant in response to the show cause notice dated 20.4.1978 is being filed herewith as Annexure-6 to this application.

6.10 That thereafter the Opposite Party No. 3 without applying his mind to the various facts and circumstances of the case and to the questions raised by the applicant passed a cryptic order of removal from service dated 1/2.6.1978. Although this impugned order shows that reply of the applicant dated 1.6.1978 to the show cause notice was considered and thereafter the impugned order was passed, yet indeed no consideration was made with full application of mind by the Opposite Party No. 3 as the ~~applicant~~ applicant who received the show cause notice of the penalty proposed to be imposed on 15.5.1978 submitted his explanation on 1.6.78 and the Opposite Party No. 3 on the very day passed the impugned order dated 1/2.6.1978 removing the applicant from the services. None of the points raised by the applicant was dealt with by the Opposite Party No. 3. A true copy of the impugned order dated 1/2.6.78 removing the applicant from service has already

*Abdul Ali*

been filed as Annexure-1 to this application.

6.11 That being aggrieved of the aforesaid impugned order of removal dated 1/2.6.1978 which was received by the applicant on 14.6.1978, the applicant submitted an appeal under Rule 18 of 1968 Rules to the Opposite Party No. 2. In his appeal the applicant clearly averred that the Enquiry Officer had not made a fair enquiry and defacto he was acting both as Prosecutor and an Enquiry Officer. The report of the Assistant Commission, Railway Safety was not fully considered in its spirit and the applicant had been made a scape-goat for the entire accident. A true copy of the appeal submitted by the applicant dated 28.7.1978 is being filed herewith as Annexure-7 to this application.

6.12 That when for a ~~log~~ long time the applicant did not receive any response to his departmental appeal submitted under Rule 18 of 1968 Rules despite the various reminders sent by him from time to time, the applicant submitted a detailed representation in reference to his said departmental appeal dated 28.7.1978 craving that his departmental appeal may kindly be disposed of at the earliest. The applicant further submitted that due to long pendency of his departmental appeal his date of retire-

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ment which was 30.6.1983 was crossed. The applicant also submitted that the department had wrongly proceeded against the same set of charges/allegations which were under investigation by the Police Agency and was pending before the court of law. A true copy of the aforesaid representation dated 23.1.1984 in reference to the departmental appeal is being filed herewith as Annexure-8 to this application.

6.13 That it would be worthwhile to mention that a F.I.R. was lodged against the application along with other railway employees connected with the incident under section 101 of Indian Railways Act read with Section 304-A of Indian Penal Code at Police Station GRP Allahabad on which a criminal case No. 1634 of 1979 was registered. This case was investigated by the Police and was tried by the Court of Judicial Magistrate Ist Class, Allahabad. The Hon'ble Court after looking into the merits of the case held that the charges levelled against the applicant were not proved and un-substantiable on the basis of the evidence adduced and consequently the Hon'ble Court acquitted the applicant of the charges levelled. A true copy of the aforesaid judgment dated 19.11.1984 is being filed here-

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as the said impugned order besides being cryptic, non-speaking was also reciting the wrong date of the appeal submitted by the applicant under Rule 18 of 1968 Rules. The applicant, therefore, filed a representation addressing to Opposite Party No. 4 requesting that the order dated 14.11.1985 is mentioning the date of the departmental appeal submitted by the applicant as 24.6.1985 while indeed the applicant has submitted his departmental appeal on 28.7.1978 and no such appeal dated 24.6.1985 was ever submitted by the applicant.

Hence the applicant requested that if there is any error then the same may kindly be corrected and the detailed order, if any, passed by the Opposite Party No. 2 on the applicant's departmental appeal submitted under rule 18 of 1968 Rules be supplied to <sup>there is</sup> him and in any case if any thing otherwise then the same may also be supplied to the applicant at the earliest. A true copy of the aforesaid representation dated 31.12.1985 asking for the detailed order, if any, passed on the appeal of the applicant by the Opposite Party No. 2 is being filed herewith as Annexure-10 to this application.

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with as Annexure-9 to this application

- 6.14 That thereafter the applicant sent a certified copy of the judgment contained in Annexure-9 to the Opposite Party No.2 requesting that his departmental appeal be considered at the earliest. The applicant further submitted that the Hon'ble Court has found the charges unsubstantiable and unproved against the applicant and as such while considering the departmental appeal these facts be also taken into consideration.
- 6.15 That thereafter the applicant suddenly received a letter dated 14.11.1985 issued on behalf of Opposite Party No. 2 bearing the subject as disposal of the appeal of the applicant. Vide this letter the applicant was informed that the Opposite Party No. 4 has not given any relief to the applicant after considering his departmental appeal dated 24.6.1985. A true copy of the aforesaid order dated 14.11.1985 rejecting the departmental appeal of the applicant has already been filed as Annexure-2 to this application.
- 6.16 That the applicant fell into shock while looking the contents of the order dated 14.11.1985 as contained in Annexure-2 to this application

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as the said impugned order besides being cryptic, non-speaking was also reciting the wrong date of the appeal submitted by the applicant under Rule 18 of 1968 Rules. The applicant, therefore, filed a representation addressing to Opposite Party No. 4 requesting that the order dated 14.11.1985 is mentioning the date of the departmental appeal submitted by the applicant as 24.6.1985 while indeed the applicant has submitted his departmental appeal on 28.7.1978 and no such appeal dated 24.6.1985 was ever submitted by the applicant.

Hence the applicant requested that if there is any error then the same may kindly be corrected and the detailed order, if any, passed by the Opposite Party No. 2 on the applicant's departmental appeal submitted under rule 18 of 1968 Rules be supplied to him and in any case if there is anything otherwise then the same may also be supplied to the applicant at the earliest. A true copy of the aforesaid representation dated 31.12.1985 asking for the detailed order, if any, passed on the appeal of the applicant by the Opposite Party No. 2 is being filed herewith as Annexure-10 to this application.

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already been passed from the date of representation moved by the applicant asking for a copy of detailed order passed by the Opposite Party No. 2 on his departmental appeal submitted by him under Rule 18 of 1968 Rules, yet nothing has been communicated to the applicant so far. The applicant has left with no other alternative except to invoke the jurisdiction of this Hon'ble Tribunal.

6.18 That the entire enquiry proceedings are without jurisdiction and against the provision of law and in grave violation of the principles of the fair play, equity and natural justice. The Opposite Party No. 3 was neither competent to institute the disciplinary proceedings against the applicant nor he was competent to impose the penalty of removal from service in terms of 1968 Rules. Indeed under para 134 of the Indian Railways Establishment Code volume I it has been provided that the General Manager is the highest officer amongst hierarchy of the appointing authorities as defined in Rule 2 of 1968 Rules and therefore the Opposite Party No.3 was the only competent authority to initiate any action against the applicant and to impose the penalty.

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6.19 That the impugned order of removal from service dated 1/2.6.1978 contained in Annexure-1 is cryptic and non-speaking. It does not discuss the reasons for the conclusions arrived at. The specific points raised by the applicant in reply to the show cause notice has not been discussed and thus the impugned order of removal is non-speaking and ~~thus the impugned order~~ arbitrary.

6.20 That similarly the impugned order dated 14.11.1985 rejecting the departmental appeal submitted by the applicant is also cryptic and non-speaking. The appellate authority has not applied his mind and considered the matter in terms of Rule 18 of 1968 Rules. It is if infringing the provision of Railway Board's circular No. E(D&A) 78-6-11 of 3.3.1978 which provides that the disciplinary authority while passing the orders for imposing penalty as well as appellate authority while passing the order indicating the reasons for the conclusions arrived at.

6.21 That the impugned order contained in

Annexure-2 has not been issued under the signatures of the

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It is obligatory on the part of the Disciplinary Authority as well as the Appellate Authority to issue the orders under his own signature as provided under Railway Board's circular No. E (D&A) 70 RG6-58 of 18.11.1970 and thus the impugned order rejecting the departmental appeal of the applicant is a nullity in the eyes of Law and defacto it has no legal existence.

6.22 That a perusal of the chargesheet issued to the applicant contained in Annexure-3 to this Application makes it overt that the applicant has been charged for violation of the General Rule 76. The charge levelled against the applicant is being reproduced herein below:-

"That the said Sri Abdul Ali, Driver Headquarter Lucknow working 352 Train Down on 28.8.1977 disregarded the Gate Signal of Gate No. A-2 at Sarain Gopal Flag Station in on position and enter in level crossing which resulted collision between 352 Down Express train with tempo No. UPZ 7184 at level crossing Gate No. A-2 at Sarain Gopal Flag Station between Alranpur and Phapha-mau stations on 28.8.1977. He violated General Rule 76".

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6.23. That for the sake of ready reference General Rule 76 in force at the relevant time is being reproduced herein below:-

G.R.-76. DRIVER TO OBEY SIGNALS AND TO BE VIGILANT AND CAUTIOUS:

(a) The driver shall pay immediate attention to and obey every signal whether the cause of signal being shown is known to him or not.

(b) He shall not, however, trust entirely to signals, but always be vigilant and <sup>u</sup>cautious.

6.24 That the applicant neither violated the aforesaid General Rule 76 nor acted in any manner to misconduct. Virtually the persons who are actually responsible for the occurrence has not been punished and the applicant has been made a scape goat for the faults of others.

6.25 That a perusal of the chargesheet further reveals that the report of the Additional Commissioner Railway Safety, Lucknow was relied upon as a piece of evidence. The applicant when demanded for a copy of the said report he was not supplied with and only extract of the said report was given to him. The applicant is hereby filing a true copy of the extract **report** of the

Additional Commissioner Railway Safety

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which was supplied to him by the Enquiry Officer as Annexure-11 to this application.

6.26 That from a perusal of ~~app~~ Annexure-11 it is abundantly clear that a report was made by the higher level committee immediately after the incident. It has very much been pointed out in the said report that the applicant alone cannot be held responsible for the occurrence as the other staff have ~~clearly~~ equally contributed in the occurrence. The following inter alia are few points which have been referred in the said report:-

- a) The system of closing the Gate where the occurrence took place was not perfect and free from technical defect.
- b) The home signal which is alleged to have been over shot by the applicant was not fixed at proper distance which was subsequently corrected after the incident.
- c) The Gateman Sri Bhola was not a trained Gateman who was a Safalewala, who was asked to perform the duty of the Gateman by the superior officers. The duty of Gateman is a technical job and a person who is not technically qualified to deal with the instrument is not a fit person to be posted at such Gates. The incident took place at the first day of working of Sri Bhola

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who was neither medically examined nor technically examined by before being posted as Gateman on the said Gate.

- d) That there was no arrangement of communication between the Station and the Gate. Practically the Gateman having looked the coming train close the Gate.
- e) The Flag Station Master Sri Siddiqui of Saran Gopal was not a trained Station Master and was ignorant of the technical job. The duty of the Station Master is highly technical for ~~ix~~ which he had to go for a long training to learn the complexed procedure of operating the technical instruments.
- f) The tempo driver was running racklessly with over crowded tempo. In sitting capacity of six passengers he loaded 23 passengers in violation of motor vehicles Rules.
- g) The station working Rule was defective and was not safe enough to prevent the incident.
- i) Mohd Ayub IV, the fireman of the train concerned was not properly trained and conversant with the Section Rae/Bareilly-Allahabad.

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The aforesaid gleaning points are sufficiently enough to show that the said occurrence was owing

to joint failure of the administration and the staff for which the applicant alone cannot be held responsible and thus the penalty imposed, in any of the circumstances does not commensurate with the gravity of the responsibility and as such is arbitrary.

6.27 That the Enquiry Officer has conducted the entire enquiry under the pressure of the General Manager, as such he oftenly mentioned the phrase "G.M's warning given" in the enquiry proceedings and the report. No presenting officer was appointed to represent the case of the administration and the Enquiry Officer himself acted both as Presenting Officer as well as Enquiry Officer. As a Prosecuting Officer he cross-examined the witnesses, made the suggestions and tried to corroborate the facts on behalf of administration while as an Enquiry Officer he accepted all those contentions and held the applicant responsible.

6.28 That a perusal of the Enquiry report as well as the statements and cross-examination of the witnesses emphatically proves that Disciplinary Authority has not applied its mind on the evidence available on record.

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There is no evidence available on record which corroborates single man responsibility for the occurrence. The statement and cross-examinations of the witnesses were not properly considered and heeded too while making a finding.

6.29 That before pointing out the statement of the witnesses not considered, it is worthwhile at this juncture to state that a practical demonstration was made by the higher officers in order to ascertain the possibilities indicating the negligence of the applicant leading to the said occurrence. On demonstration two things were found as possibilities for the occurrence.

- a) The train was under the permissible speed and in case of said speed the emergency break is applied the train stops at 607.2 meters, while in fact the train stopped at 529 meters. This fact corroborates with the applicant version that he applied the emergency break at the time of incident. The The enquiry officer or the Disciplinary Officer or even the appellate authority did not pay heed to this point and held the applicant responsible

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for the negligence.

- b) The Gate signal was alleged to be inter-locked amounting thereby the Gates were instrumentally connected with signal. The effect of this inter-locking was that the signals cannot be put to off position unless the Gates are closed. On demonstration it was found that the said inter-locking was not absolute. The signal under question was lower quadrant and could be put to off position by simply pulling iron wire without even closing the Gates. This was found to be correct on demonstration and was duly considered by the Signal Inspector, Munna Lal in reply to question No. 7.

On the date of occurrence there was a rush because of the Nahan Mela and there was every possibility that some miscreant would have done so. The signal can be put to off position by fixing a stick or the like thing in the wheels rolling the iron wire. It is also very much possible that some-body has pulled the wire pl

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*the signal in off position and*

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which the occurrence took place and as no-body was cautious about it as appear from the statement of the Driver and other persons present on the spot, no-body could notice it. The Enquiry Officer, the Disciplinary Officer and the Appellate Authority did not apply their mind while fixing the responsibility of the applicant alone for the said incident.

6.30. That the complete safety is possible only with the collaboration of the entire staff and therefore the entire staff has got grave contribution in providing the safety to the running ~~trains~~ trains. There is no evidence available on record which definitely led to conclusion that the signal was not off and was over shot by the applicant.

6.31 That the enquiry was conducted under the influence of the Divisional Safety Officer as has been referred in the enquiry report itself, which renders the entire enquiry proceedings null and void as the Divisional Safety Officer has got no jurisdiction at all to interfere into the enquiry proceedings-

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in any manner whatsoever. The statements of the witnesses are not properly read which are in favour of the applicant. Similarly the defence witness appeared on behalf applicant were also not heeded to and discussed for testing the velocity of the facts.

6.32 That the Enquiry Officer has not freely considered the entire material on record as such the findings given by him is cryptic and non-speaking and does not prove the negligence of the applicant.

6.33 That other persons who are equally responsible for the occurrence have not been punished. The Supervisory Staff who posted such inefficient and untrained persons at such vital points have been left and the applicant alone has been held responsible for the occurrence.

6.34 That the disciplinary authority also did not consider all these points while issuing show cause notice for penalty proposed to be imposed. The reply to the show cause notice submitted by the applicant was not heeded to and no mind was applied while imposing the punishment.

6.35 That the notice for the penalty proposed to be imposed was served on the applicant on 15th May 1978 and before submitting the reply to the show cause notice the impugned order of removal

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from service was prepared and signed. On 1st of June 1978 the detailed reply to the said show cause notice was submitted by the applicant.

6.36 That the appellate authority did not decide the appeal by considering the points raised by the applicant in his departmental appeal.

6.37 That the penalty imposed upon the applicant is too severe and is arbitrary. It does not commensurate with the gravity of the responsibility as such it is violative of Article 14 of the Constitution of India besides the infringement of the various other Railway Board's circulars and the provisions of 1968 Rules.

6.38 That the applicant has been acquitted by the Court of Law for the same set of allegations as the prosecution failed to establish his case and corroborate the charges against the applicant. The Opposite Parties/Respondents cannot punish the applicant for the same set of charges in the departmental proceedings on the basis of conjectures and surmises.

7. Relief(s) sought.

In view of the facts mentioned in para 6 above, the applicant prays for the following relief(s).

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Relief 7.1 to issue appropriate orders/directions setting aside the impugned order of removal from service dated 1/2.6.1978 and the order rejecting the departmental appeal of the applicant dated 14.11.1985 as contained in Annexure-1 and 2 to this application and further pass the order directing and commanding the respondents to give the applicant entire consequential benefits from the due date.

GROUND'S FOR RELIEF 7.1

- i) Because the impugned order as contained in Annexures-1 and 2 are without jurisdiction.
- ii) Because the impugned orders are cryptic and non-speaking and are silent about the reasons for the conclusion arrived at.
- iii) Because the various points raised by the applicant were never heeded to and were not discussed with application of mind before imposing the punishment.
- iv) Because the Enquiry Officer acted both as Prosecutor as well as the Enquiry Officer, the entire disciplinary proceedings vitiated on the sheer ground that the Enquiry Officer cross-examined the witnesses as a prosecutor and made suggestions to them with a view to corroborate the charges against the applicant.

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- v) Because the demonstration made by the Railway Administration was not properly discussed .
- vi) Because the report of the Additional Commissioner Railway Safety was not supplied to the applicant in full which was the basic foundation of the disciplinary proceedings.
- vii) Because the Additional Commissioner Railway Safety's report has fixed the joint liability of various staff including the Railway Administration for the said occurrence. The applicant cannot be punished for the negligence and inefficiency of other staff.
- viii) Because the signal was not at proper distance in accordance with the Rules as well as the station working Rules were defective.
- ix) Because the inter-locking device was not perfect and was inoperative in certain circumstances. It is specifically pointed out that the various accidents have been occurred in recent past because of the defective inter-locking . The relevant material shall be placed before this Hon'ble Tribunal at the time of arguments.
- x) Because the enquiry was conducted under the pressure of the General Manager.
- xi) Because the statements of the defence witnesses were not considered.
- xii) Because there is no material available on

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on record which definitely lead to the conclusion to the effect that the applicant was the person solely responsible for the occurrence.

xiii) Because the applicant's reply to the show cause notice was not considered at all and the impugned order of removal from service was passed mechanically and without application of mind.

xiv) Because the applicant has been acquitted by the Court of Law for the same set of charges against which the departmental enquiry was made and the impugned order was passed.

RELIEF No.7.2

To pass such other appropriate orders directing and commanding the Respondents to give the petitioner the entire benefits for which he would have been entitled if he had been retired from service in due course of time. The after retirement benefits for which the applicant would have been entitled may also be given to him.

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GROUNDS FOR RELIEF 7.2

The same grounds as mentioned in Grounds for Relief 7.1.

RELIEF 7.3

To pass such other order and give such

other reliefs which are found just and proper in the circumstances of the case.

8. Interim order, if prayed for : Nil

9. Details of the remedies exhausted:

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

10. 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.

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

1. Number of Indian Postal Order : DD 984516  
4
2. Name of the issuing Post Office : Post Office, High Court, Lucknow Bench, Lucknow.
3. Date of issue of Postal Order(s) : 18.7.1986.
4. Post Office at which payable : Central Post Office, Allahabad.

12. Details of Index : Index enclosed.

13. List of enclosures : List of enclosures as per Index.

In verification:

I, Abdul Ali, son of Sri Nazim Ali, aged about years working as Driver Grade 'C', resident of Village Karanpur, near Bus Station, Pratapgarh do hereby verify that the contents from paras 1 to 13 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Place Lucknow  
Date 21. Aug 1986.

*Abdul Ali*

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Annexure 1

20.4.78

NORTH INDIA RAILWAY

Orders of Imposition of penalty under Rules 6 (vii) to (ix) of Railway Servants (Discipline and Appeal) Rules 1968.  
\*\*\*\*\*

No. PG8/G-1/1/77 RB.

Divl. Supdt's Office,  
Lucknow. Dt/-1.6.78.

Shri Abdul Ali,  
S/o Shri Nazim Ali,  
Driver, Grade 'C',  
Headquarter Lucknow.

Through: Loco Foreman, Lucknow.

I have carefully considered your representation dated 1.6.1978 in reply to the Memorandum of Show Cause Notice No. PG8/G-1/1/77 RB dated 20.4.78. I do not find your representation to be satisfactory due to following reasons

इसमें जगह की ओर में पढ़ा। उसमें दोड़े रसा/रसा जो है जिसके अन्तर्गत  
ये लाइसेंस है इसके अन्तर्गत गेट 2 सिगनल को "ऑन" की स्थिति में नहीं  
था।

1, therefore, hold you guilty of the charge:

"That the said Shri Abdul Ali, Driver, HQ Lucknow working 352 Dn on 28.8.77 disregarded the gate signal of gate No.A-2 at Saraigopal Flag station in 'ON' position and entered in level crossing which resulted in collision between 352 Dn Express train with Tempo No. UPZ 7184 at level crossing Gate No.A-2 at Saraigopal Flag station between Atrampur and Rhapsanau stations on 28.8.77. He violated General rule 76."

levelled against you and have decided to impose upon you the penalty of removal from service. You are, therefore, removed from service with effect from 1.6.1978.

2. Under Rule 18 of the Railway Servants (Discipline and Appeal) Rules 1968 an appeal against these orders lies to Divisional Superintendent, Lucknow provided:

- i) the appeal is submitted through proper channel within 45 days from the date you receive the orders,
- &
- ii) the appeal does not contain improper or disrespectful language.

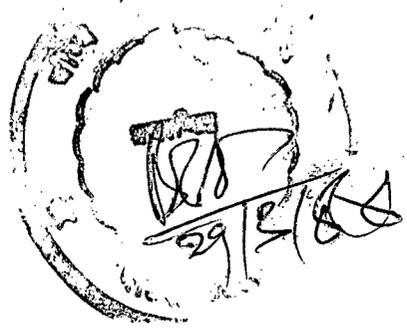
3. Please acknowledge receipt of this letter.

*[Signature]*  
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(Sd/-) *[Signature]*  
Sr. Divl. Secy. Lucknow.

**TRUE COPY ATTESTED**

*[Handwritten signature]*  
14/6/78



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Annexure 2

उत्तर रेलवे

सं० टी०जी०-४/जी-१/१/७७, आर.बी./ अपील

मण्डल कार्यालय / लखनऊ  
दिनांक १४.११.८५

श्री अब्दुल अली,  
करनपुर ग्राम का निवासी,  
बस स्टेशन के समीप,  
प्रतापगढ़।  
=====

विषय : भूतपूर्व ड्राइवर श्री अब्दुल अली की अपील का निपटान

.....

आपकी दिनांक २४.६.८५ की अपील के उत्तर में आपको सूचित किया जाता है कि आपकी अपील पर मण्डलीय रेलवे प्रबन्धक द्वारा विचार किया गया और उसे किसी प्रकार की राहत दे नहीं जा सकती।

*Abdul Ali*  
3/11/86

तहासक अधिवक्ता  
सत्य क्षेत्र  
सं० नि० दि० लखनऊ

हस्ताक्षर अपत्नीय,  
कृते मण्डल रेल प्रबन्धक,  
लखनऊ

सत्य-प्रतिलिपि।

*Abdul Ali*

Annexure 3

(1)

STANDARD FORM OF CHARGE SHEET

STANDARD FORM NO. 5

(Rule 9 of the Railway Servants Discipline & Appeal Rules, 1938)

No. RA-3/

Divisional Supdt.'s Office (Nemo of Railway Administration Northern Railway, Lucknow (Place of Issue).

Dated:

M e m o r a n d u m

The President/Railway Board/undersigned propose(s) to hold an inquiry against Shri [Name] under Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1938. The substance of the imputations of misconduct or misbehaviour 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 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 charges are proposed to be sustained are also enclosed (Annexure III & IV).

14-6-78  
14-7-78

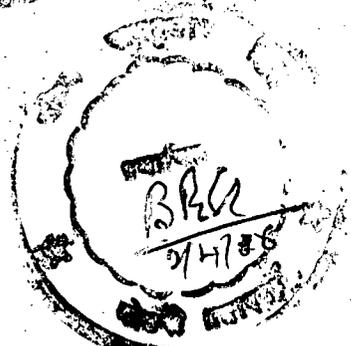
2. Shri [Name] is hereby informed that if he so desires, he can inspect and take extracts from the documents mentioned in the enclosed list of documents (Annexure III) at any time during Office hours, within five days of receipt of this Memorandum. If he desires to be given access to any other documents which are in the possession of Railway Administration but not mentioned in the enclosed list of documents (Annexure III), he should give a notice to that effect to the undersigned within ten days of the receipt of this Memorandum, indicating the relevance of the documents required by him for inspection. The disciplinary authority may refuse permission to inspect all or any such documents as are, in its opinion, not relevant to the case or it would be against the public interest or security of the State to allow access thereto. He should complete inspection of additional documents within five days of their being made available. He will be permitted to take extract from such of the additional documents as he is permitted to inspect.

3. Shri [Name] is informed that request for access to documents made at later stages of the inquiry will not be entertained unless sufficient cause is shown for the delay in making the request within the time limit specified above and the circumstances shown clearly that the request could not have been made at an earlier stage. No request for access to additional documents will be entertained after the completion of the inquiry unless sufficient cause is shown for not making the request before the completion of the inquiry.

4. Shri [Name] is further informed that he may, if so desires, take the assistance of any other railway servant/ an official of a Railway Trade Union (who satisfied the requirements of rule 9(2) of the Railway Servants (Discipline and Appeal) Rules, 1938 and Note 1 and or Note 2 there- after as the case may be) for inspecting the documents and assisting him in representing his case before the Inquiring authority; he should nominate one or more persons in order of preference. Before nominating the assisting railway servant(s) or Railway Trade Union Official(s).

Contd.....2/

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Handwritten signature: Akmal A. G.

X/8

Annexure to Standard Form No 57

(3)

Memorandum of Charge that under rule 76 of the R.S. (D & A) Rules 1968.

Annexure - I

Statement of Article of charge framed against Shri Abdul Ali Driver Hk Ludhiana.

That the said Shri Abdul Ali Driver Hk Ludhiana working 352 Dn on 28-8-77 disregarded the Gate Signal of gate no. A-2 at Saraijwal Flag station in ON position and entered in level crossing which resulted collision between 352 on & express train with tempo no. U.P. 7184 at level crossing gate no A-2 at Saraijwal Flag station between Itanampur and Shephaman stations on 28-8-77. He violated General Rule 76.

[Signature]  
Sr DME  
Ludhiana

Annexure II

Statement of imputations of misconduct or misbehaviour in support of the article of charge framed against Shri Abdul Ali Driver Hk Ludhiana.

On 28-8-77 Collision between 352 Dn Saharanpur - Allahabad Express train and tempo no. U.P. 7184 at manned level crossing gate no A-2 at Saraijwal Flag station between Itanampur and Shephaman stations was caused as a result of the Express train no 352 Dn having entered the level crossing with its gate leaves open to road to the

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[Signature]

(4)

Annex III (contd)

and gate signal of gate no A-2 in ON position.

Shri Abdul Ali Durrani was working 352 on  
of 28-8-77. He disregarded the gate signal of gate  
no A-2 at Saraiyatal flag station in ON position  
and entered the level crossing which caused collision  
between 352 on & passenger train with temporary No. 7184  
at level crossing gate no A-2 at Saraiyatal Flag  
station on 28-8-77 and thus he violated General  
Rule 76.

J. Durrani  
25/11  
Sr. DME  
Lucknow  
Annex III

List of documents by which the articles of charge framed  
against Shri Abdul Ali Durrani are proposed to  
be sustained.

Report of Addl. Commissioner of Railway Safety Lucknow

J. Durrani  
25/11  
Sr. DME  
Lucknow  
Annex IV

List of witnesses by whom the articles of charge framed  
against Shri Abdul Ali Durrani are proposed to be sustained.

- (1) Shri Mohd Ayub, F/111, Lucknow
- (2) Shri Shri Singh, Lucknow
- (3) Shri R. P. Singh, Lucknow
- (4) Shri L. Singh, F/511, Lucknow

J. Durrani  
25/11  
Sr. DME  
Lucknow

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Abdul Ali

PREAMBLE

Driver Abdul Ali Gr. 'B' Hd. Qrs. LKO was awarded SF.No.5 Memorandum No.TG-8/GI/1/77 RB dated 26-11-77 issued by Divil Supdt's office, Northern Railway, Lucknow, on the following charges, Teh charges as specified in the above quoted Memorandum Annexure II statement of imputations of mis-conduct or misbehaviour in support of the article of charge framed against Shri Abdul Ali Driver Gr. 'B' Hd. Qrs. LKO are:-

On 28.8.77 collision between 352 Dn Saharanpur-Allahabad express and tempo No.UPZ 7184 at unmaned level crossing gate No. A/2 at Saraigopal Flag Stations between Atrampur and Phaphnau stations was caused as a result of the express train No.352 Dn a having entered the level crossing with its gate leaves open to road traffic and gate signal of gate No.A-2 in 'ON' position.

Shri Abdul Ali Driver H. Qrs. LKO working 352 Dn on 28.8.77 disregarded the gate signal of gata No.A-2 at Saraigopal Flag station on (ON' position and entered the level crossing which caused collision between 352 Dn express train with Tempo No. UPZ 7184 at level crossing gate No.A-2 at Saraigopal Flag station on 28.8.77 thus he violated GR.76.

Under the provision of order relating to appointment of Inquiry Officer (Rule 9(2) of R.S.(D&A) Rules 1968, standard form No.7 was prepared infavour of the undersigned, duly ordered by Shri P.Mondgill, Sr.DME/LKO on 5/6-1-78, delegating the undersigned as E.O. to inquire into the charges framed against the said Shri Abdul Ali, driver Grade 'B' Hd. Qrs. LKO.

On 5-1-78 message was received from CPRC S.No.11(a) to talk to Sr.DME on phone, on contacting Sr.DME the undersigned was informed to expedite the finalisation of the case as Ministry of Railway was pressing hard for it, Similarly as per the above message DSO/LKO was also contacted and supported the above talk.

On 6.1.78 the undessigned attended DS/office and after going through the case file submitted the names of witnesses to be called who were pertinent to the case and fixed the inquiry date on 18.1.78 at DS/Office, LKO itself as DSO/LKO had ordered it, so that any difficulty in procuring the witnesses could be brought to his notice the whole situation. After Relief operations the track cleared and 352 Dn started at 14/55 hrs i.e. after 4 hrs detention with ART attached a ahead of 352 Dn and as such 352 Dn was worked upto PFM, where the ART was detached and LF/ALD SLI/ALD & SFI/ALD examined loco 7012 WP of 352 Dn and finding it safe allowed 352 Dn to be worked by the same loco which was detached at ALD, the destination for the loco and engine crew.

At ALD a fact finding inquiry was conducted by LF/ALD, SFI/ALD, and SLI/ALD and the statements of Dr. Abdul Ali, F/M Mohd Ayub IV and IInd Fireman Mohd Yaseen IV were recorded and cross-examined. Similarly LF/ALD took into his custody the 4 pairs of spectacles of Dr. Abdul Ali.

At 24/00 hrs. on 28.8.77 the ALD Police took into custody Dr. Abdul Ali and placed him under arrest and confirmed him to the lock up till about 12/00 hrs on 29.8.77 till he was released on a personal bail.

When the driver Abdul Ali was sent for his vision test as per extent rules, his original glasses was handed over to him by LF/ALD to undergo the test. As a result of the test conducted by DMD, the driver passed his vision test with the same glasses he was wearing at the time of the accident.

As a result of the accident which involved a passenger train and loss of human lives (23) it was obligatory for ACRA to conduct an inquiry which was completed and a report is on the case file for perusal.

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Accepted  
[Signature]

Abdul Ali

P.T.O.

As a result of ACRS' inquiry the driver is held responsible for disregarding the gate signal in 'ON' position and entered the level crossing in is pelinary responsible for the accident. He violated GR.76 .

Shri Ehola Gate Keeper whose specific duty was to close the gates and lwere the gate signal for the safe passage of 352 Dn.

Deceased Tempo Driver Mori Lal did not exercise any caution while entering the level crossing.

Sd/- L.J.Clarkshon.  
Enquiry Officer,  
2-4-78.

\*\*\*\*\*

HISTORY

On 28.8.77 Dr Abdul Ali Gr.'B' F/M Mohd Ayub IV and IInd F/M Mohd Yaseen IV were booked to work 352 Dn Sharranpur Allahabad express GR ex LKO to ALD, The above consisted of the engine crew who were operating Loco No.7012 WP.

Normal, operation of the loco and crew was apparently due to no trouble or time loss occuring enroute and after the schedule stoppage of the train at Atrampur which was hardly 2" the train was started and accelerated to a cruizing speed of approximately 65 to 67 Km P.H. at the time 352 Dn express was approaching SPGL Flag station which is situated between ARP-PRG on the LKO-RBL-UCR-PFM-ALD section of LKO division. The speed so accelerated was within the permissible speed of 75 Km PH as laid down in the time table and the driver was operating the loco on booked speed of the train.

On 28.8.77 was abig bathing day, and a heavy mela rush was observed passing through SPGL gate . The oncoming 352 Dn express approaching SPGL gate with the speed unchecked and the concerning gate signal at 'ON' and gate leaves open to road traffic resulted in a tragedy when simulteneously a tempo No. UPZ 7184 which under the rules should carry only 6 passengers was carrying 23 passengers in all entered the open gate and was on track at the precise second 352 dn express had overshoot the gate signal and was at the level crossing gate.

The collision of 325Dn express and tempo was about 10/17hrs when the driver heard the impact of the collision which occurred on the off side of the loco where the tempo entered the gate and by an emergency application of the break brough the train to a grinding halt, thereby dragging the tempo laden with passengers upto 529 meters.

After the train came to a halt and a check was made, it was observed that 18 passengers were killed and 3 passengers griviously injured and passenger sustained simple injuries, all from the road vehicle.

The District Magistrate and Police authorities attended the accident site, and recorded all the necessary particulars and investigations obligatory in cases of accident. Thereafter the Divl. Officers of ALD and LKO Div. also arrived alongwith the Accident Relief Train and assessed wherein he would take the initiative in getting them spared to attend he enquiry so that no undue delay may occur.

Note:- Since the case is already subjudiced in the court of law, it is imperative that no department proceeding should be taken against the accused, pending th decision of the courts, as any infringement of the rule may lead to "contempt of court".

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*Handwritten signature*

8/2/78 36

Therefore, the undersigned who has conducted the inquiry as authorised vide SF.No.7 and submitted the findings departmentally for perusal and disposal, may do so keeping within the rules so that no objections are raised at a later stage embarrassing the administration.

ENQUIRY PROCEEDINGS:-

1. The 1st sitting of the inquiry in DS/Office on 18.1.78 was held. At the onset of the inquiry the charges as specified in Memorandum No.TG-8/G-1/1/77 RE dated 26.11.77 were read out and explained to the accused Shri Abdul Ali and his defence counsel Shri. K.K.Srivastava. He was asked whether he accepted or denied the charges, the accused Shri Abdul Ali had denied the charges.

The accused at the enquiry demanded relevant documents to the case, and claimed he was not given the documents S.No.20.

Therefore the whole case file was placed before the accused Shri Abdul Ali and his defence helper Shri K.K.Srivastava to take whatever extract they so desired from the file. After doing so the case was P.B. to 28.1.78 so as to give the accused and defence counsel time to study the case.

2. The 2nd sitting of inquiry in DS/Office on 28.1.78 was held the accused Shri Abdul Ali submitted an appeal, demanding a complete report of ACR's which was not on file. Whereas the report of ACRS which specifically deals with the accident was on file in duplicate, but was not acceptable by the accused who demanded the whole report and claimed the inquiry would be illegal if denied those opportunities they also demanded the police report and original statements of F.S.M. L.U.Siddique and gateman Bhola which are not on file, and are with ACRS. The inquiry was P.B. to 30.1.78 as DSO was out, and who was required to clarify the progress.

Meanwhile F.S.M. SPGL Shri L.U.Siddique who was to depose before the E.O. refused to give any statement demanding a reply to his letter from S... PYG S.No.39.

The statement of Shri G.D.Misra, Shed Notice Clerk, Lucknow has deposed that previously drivers and fireman were given learning road whenever they have not worked on a section for a period of 3 months. At present this applies only to drivers, correction Slip No.4 dated 2.3.74 to the operating manual 1972 Rule No.4019 embodies, leading fireman (if duly qualified as driver) should be given learning road. The interpretation of this rule is clear and therefore no fireman is given learning road who is not qualified as driver. When this rule came into force DSO/LKO personally sent his L.I. safety Shri Hafiz Khan to the shed to ensure this practice of giving learning road to fireman should cease forthwith.

Therefore when F/M Mohd Ayub IV was pooled from 2s1 to work 352 Dn on 28.8.77 was quite in order and no infringement of the rule ax was indulged in.

3. on 30.1.78 the case file was returned to Accident branch vide covering letter No. SLI/DSL/LKO/78 Dt. 30.1.78 addressed to DSO/LKO. wherein the accused demanded full report of ACRS and statement of Gateman anx Bhola and Police report, They refused to sit for the enquiry until the above documents were seen to them, which incidentally was not on file.

P.F.O.4.

*Abdul Ali*

*True copy  
Accepted  
DRL*

DSC/LKO noting on PP3 on file dated 31.1.78 and Sr.DME/LK acknowledgment on same PP notings dated 7.2.78 have clarified "Do day ACR's report has been received only the list of witnesses/evidence is given in the report, it will be made available to E.O.

FSM will have to give statement. E.O. may be asked to expedite inquiry.

Sd/- Sr.DME/LKO.  
7.2.78

Sd/-DSO/LKO  
31.1.78.

4. The 3rd sitting was arranged on 22.2.78 in DS/Office LKO by DSO/LKO S.No.39.

Shri Mithai Lall TI/PYG deposed before the E.O. and in answer to Q.2. Page 58 he has confirmed that Shri Bhola gateman was not in possession of requisite competency and vision that-- test certificate which is a pre-requisite for this type of duty. He has also deposed vide answer to Q.3 page 57 that DS/Office LKO is responsible for booking Shri Bhola without any competency and vision test certificates, especially since this was his 1st assignment to work as gateman, wherein the accident took place only 2 hrs after he took charge as gateman SPGL.

Shri Mithai Lal has also confirmed in his statements that on questioning the public, he was told the level crossing gate was open and gate signal 'ON' when 352 dn passenger passed and collided with the tempo killing 18 people and injuring 4 passengers all from the tempo itself.

~~XXXXXXXXXX~~ Further the working of the gate and signals were checked by TI/PYG on his arrival and found to be good working order without any defects.

Therefore the public version who witnessed the accident and deposed before ACRS have all confirmed the gate leaves were open to road traffic and gate signal SPGL was at 'ON' and 352 dn passed the signal at danger. Also working of the gate and its concerning gate signal shows there was no defect. Hence it is concluded vide TI/PYG statement and cross-examination driver Abdul Ali passed the gate signal 'ON' at SPGL and collided with the tempo causing 18 deaths and 4 injuries to ist occupants.

Shri L.U.Siddique FSM/SPGL refused again to give his statement on the grounds of him being an accused in the same case page 59. He was apprised of the fact that in Dr. Abdul Ali call he was called as a witness and not accused. Since he was adamant not to give any statement he was put up to DSO and Sr. DCS who also apprised him of the facts, then only he deposed before the E.O. and gave his statement. He has clearly mentioned in his statement page 62 he heard 352 dn reaching platform SPGL and he showed red flag when he came out of his office the gateman shouted because gate was open and tempo was crossing it but the gateman and public were all unsuccessful and the collision occurred. Shri L.U.Siddique thereafter enquired from gateman why the gates were not closed. Hence he is a direct eye witness to the fact that the level crossing gates were open to road traffic, which incidently also means the gate signal was 'ON' and driver Abdul Ali of 352 dn passed the gate signal at danger as entered the level crossing colliding with tempo resulting in the death of 18 passengers and 4 injured, all from the tempo.

Q.1. page 61 Also confirm Shri L.U. Siddique observations immediately the accident took place and stated the gate leaves were open for road traffic and concerning gate signal was 'ON'.

Shri Mohd Ayub IV F/M LKO has deposed at the time of approaching SPGL gate signal he was putting in a fush charge of coal in the fire Box he was not aware of the section and flatly denies he doesnot know how the accident occurred. He became aware of the accident after the collision occurred.

*Wine are attached for file*

He further states he was busy firing coal and did not hear the driver calling out the aspects of signals of SPGL gage signals, he further states the driver only made the vac. break application after the collision took place. This statement appears correct and practically corroborates with the breaking distance trials carried out by SO/ST/LKO & PWI/Safety LKO vide their report placed at S.No.45 of office case file.

In 352 dn accident the drag of tempo was 529 meters in breaking distance trails the distance plus time lag was 607.2 meters.

F/M Mohd Ayub also deposed that on 28.8.77 when the accident occurred his mind was completely upset, especially when he was called in LE/ALD room for signing some statement, he did so without reading it or understanding the contents page 64. Therefore considering the revised statement wherein the driver made an emergency brake application and train stopped 529 meters dragging the tempo which also offered an additional resistance thereby bring the train to a stop after 529 meters. Comparing with the braking distance trial conducted wherein the braking distance came to 607-2 meters where there was no additional existence of a tempo being dragged which collided with the front cattle fender of the loco and obstructing and resisting the speed by the additional resistance offered. Therefore the comparative figure concile and prove the driver was not aware of the gage signal aspects of SPGL which he passed at danger and ~~xxxxxsignalaspectsxxx~~ collided with the tempo at SPGL level crossing gate killing 18 person and injuring 4 passneger which were inside the tempo 4-

It is felt F/M Mohd Ayub iv deviated from his previous statement due to :-

a) He know that by concocting the story of SPGL gate signal being lowered he would amply he proved that it was by the int3rlocking arrangement and the presence of a tempo at the level crossing which could only happen when the level & crossing gate leaves were open to traffic.

b) Since there was heavy traffic on 28.8.77 at SPGL level crossing gage due to mela which was also observed by the driver why was the speed of the train not checked.

c) The visibilty of SPGL gate signal is clear on a straighten line and can be seen about and 2Km ahead . Further a signal sighting board is also placed 960 meters ahead of the gate signal to alert the crew that they are approaching a stop signal and to be alerted, which was disregarded resulting in the accident occuring.

Either ways go to proved Dr. Abdul Ali disregardly gate signal at SPGL and passed the colliding with a tempo at the level crossing in which 18 passengers dead and 4 passengers sustained injuries.

The proceedings of the case 22.7.78 was carried out on 24.2.78 . The defence helper Sri K.N.Srivastava again preferred nis appeal on behalf of the accused that he wanted to examine the following witnesses which he felt was relevant and pertnent to the case, the following was asked for:-

1. DSO/LKO and all safety councillors.
2. Shri Eholia Gateman SPGL.
3. " S.N.Sharma Signal Inspector PBH.
4. " Jia Ram Resident of village Jamuai Distt. ALD
5. " Tulei Ram L.R. Porter SPGL.
6. " Peraria Guard. ALD.
7. " Mithoo Lall Resident of village Lakhimpur,
8. Udai Narain Singh. -do- Distt. ALD.
9. " Bajranj Bahadur, Resident Saraigopal
10. " UGain Narain Panday -do-

*Abdul Ali*  
*Emergency*  
*Appeal*  
*for*  
*the*

39  
2/5

1. Shri Aslam Khan.

Therefore the case file was returned to DSO/LKO for order x on 24.2.78 S.No.69.

On 28.8.78 letter was cocketted to the under signed at S.No.73 to decide the issue after examing the revelance of witnesses in the case. Therefore the undersigned gave the remarks to call all the witnesses as decided by D/C with the exception of DSO and Safety counsellors who do not have a direct hearing of Dr. Abdul Ali passing SPGL Gate signal at 'ON' hence they need not be called.

Consequently the administration arranged the 4th sitting in DS/Office on 9.3.78 and arranged to call all the public witnesses S.No.75.

5. The 4th sitting was arranged in DS/Office on 9.3.78

Shri Bhola Safaiwala cum gateman of saraigopal deposed before the E.O. he was on duty from 8/0c hrs to 20/0c hrs on 28.8.77 at SPGL as gateman and when 352 dn express was approaching he went to close the gate, but found some difficulty in doing so due to Mela rush, also the securing brack et of the gate was jamming and he was engaged in reducing the bracket in the mean while tempo forcibly passed the gate and entered the level crossing track when precisely 352 dn express also arrived at that crudical second and collided with the tempo. The sight was ghastly with so many people killed that he was mentally upset.

The questioner gateman Shri Bhola in answer to Q.5 on page 84 clearly states the gate signals was on 'ON' for 352 dn on 28.8.77 in further answer to Q.15,16,17, on page 82 it clearly envisages that tempo passed the gate in open condition and entered the level crossing and 352 dn passed the gate signal at 'ON'. Therefore all aspect point that Sr Abdul Ali passing SPGL Gate signal at 'ON' and colliding with tempo at the level crossing resulting in 18 passenger died and 4 passenger injured all from the tempo.

Shri Tulsi Ram L.R. Porter PYG deposed before the E.O. on 9.3.78 that he performed duty 20 oo hrs on 27.8.77 to 8/oc on 28.7.77 as gateman. The functioning of the gate and its interlocking and gate signal was in proper working order and no difficulty experienced in opening and closing the gate and no difficulty for lowering of the gate signal.

In answer to Q.4 page 86 the tulsi ram has deposed the gate signal cannot be lowered without closing the gate leaves.

Therefore it is clearly evident that there was no defect in the interlocking of gate signal leaves and lowering of gate signal at SPGL.

Since no public witnesses turned up also DSO/LKO noting on PP5. "It is responsibility of defence as well to produce public witnesses if so desired by the accused, Also on page 90 the E.O. gave it in writing to the accused and defence counsel as under:-

(1) The questing of calling DSO and all the Safety Counsellors in the inquiry does not have any bearing on the incident of driver of 352 Dn passing SPGL gate signal at on position and dashing against empo, resulting in the death of 18 people Hence the E.O. does not feel it obligatory to call the DSO and all the safety counsellors for any cross-examination

(2) the public witnesses which are required by you for cross-examination is your responsibility to produce them at

Abdul Ali  
P. M. G. M.  
Accepted  
J. S. S.

well as noted by DSO on page 5 of the file.

Therefore if you so desire you may arrange to call these witnesses yourself, as this office already called them but none have turned up page. 75.

5) The 5th sitting in DS/Office was arranged on 16.3.78.

Shri Raphael Pereira the guard of 352 dn express on 28.8.77 has deposed before the E.O. Shri P. rural has stated that his train left Atram pur at 10/11 hrs 6" late and picked up a speed of about 70 Km P.H. when suddenly he felt a jerk and vaccum dropped when the train was approaching SPGL. The train came to to halt with the B/van already passed the level crossing with a heavy scrimmage of public shouting and excited and he observed several people were killed.

The gaurd in ansere to Q.1 page 93 has confirmed when he got down from his B/van he observed the level crossing gate leaves opened to traffic and the gate signal in 'ON' position.

In ansere to Q.1 page 93 the guard has also confirmed as an eye witness and guard in charge of the train that the driver is responsible for passing gate signal at 'ON'.

In anwr to Q.7 on page 92 the guard admitted he saw the gate signal at ON at 10/19 hrs i.e. 2" after the accident which also confirm driver passed gate signal at ON.

Shri Lunna Lall S.I. (East) RBL deposed before the E.O. on 10.3.78 he has stated the interlocking of gate signals wa was tested by DS & DSO/LKO at 17/50 hrs and it was in working order Later the same locking was again tested jointly with TI/PYG and SI(I) LKO checked Shri Prem Singh and TI/RBL also replacement of signals were checked everything was found in perfect working order. In this connection the testing of joint report was submitte to ASTL/LKO.

Therefore, the signaling authority DST/DSO/LKO are also witnesses to the fact that the interlocking of gate in concerning signal at SPGL is inperfect working order, which leaves no room for doubt.

Since no public witnesses turned upon on 16.3.78 the E. gave a letter to the D/C with page 98 as under:-

Para (a) the E.O. feels it is not obligatory for calling DSO & Safety Inspectors to bear witnesses in this enquiry as they are not directly responsible or have no connection with this the incident of 352 dn expr2ss at SPGL on 28.8.77.

Para (b) DSO/LKO has given his noting at PP5 that it is the responsibility of defence to bring any outsider witnesses he so desired in ~~maxx~~ connection with this enquiry this office has already sent telegram calling the witnesses but none of them have turned up hence the ONUS of producing these witnesses is now your responsib lity. If however you can produce these witnesses at a later stage as ~~xx~~ specified by you within reasonable time, the inquiry can be postponed to suit your convenience. If however you do not agree on these condition than it becomes obligatory to decide the case on a an exparte decision. Will you please confirm.

*Abdul Al.*

*To the GM  
Attended  
of Smt  
Ad*

Sd/- E.O. 16.3.78.

cautious and vigilant, since there was a heavy rush at the level crossing.

The reply of driver in vague and not in conformity with the rules, he said he was sounding the engine whistle continuously with one hand ready to apply vacuum and be ready to stop short of any obstruction.

The driver in his very statement has said there was a heavy rush of Mela which meant the gate leaves were open to traffic firstly then again the very incident of a tempo entering the level crossing gate and dashed by 352 Dn signifies the gate leaves were open to road traffic. It is therefore, quite an undisputed fact that driver Abdul Ali passed gate signal of SPGL at CN with a speed of about 65/67 Km PH and dashed against tempo No. UPZ 7184 at manned level crossing gate No. A-2 at SPGL on 28.8.77 wherein 18 passengers were killed 4 passengers injured.

JUDGEMENT OF THE CASE.

On 28.8.77 Dr Abdul Ali working 352 Dn Sharanpur-Allahabad 2xpress Ex. LKO to ALD on Loco No. 7012 WP was running at a speed of about 65/75 Km PH when he passed SPGL gate signal in CN position as is evident from all the statements of witnesses examined during the course of enquiry as well as public witnesses examined by ACRs vide his report on file. Since the gate leaves of SPGL was still open to road traffic a tempo No. UPZ 7184 carrying 23 passengers passed the open gate cross over the other side. The tempo driver's crew of the approaching train could have been observed as against the seating arrangements of 6 passengers he was carrying 23 passengers which meant there was tight cramping of passengers in and on the sides of the tempo which prevented the driver from seeing 352 Dn approaching therefore due to dual errors of:-

(1) Driver Abdul Ali passing SPGL gate signal at on and running at 65/67 Km PH did not heed the open gate and heavy rush of public dashed against the tempo at the level crossing.

(2) Driver of Tempo UPZ 7184 due to his greed for money was carrying 23 passengers in his tempo instead of the permissible 6 passengers. This resulted he could not see 352 Dn entering SPGL and passed the open gate assuring the track was clear and met his doom alongwith 18 passengers killed and 4 injured.

Note:- If Driver Abdul had obeyed and respected the gate signals vide SR.34/1 GR76 & GR76(b) This accident could have been averted.

Sd/- L.J. Clarkshon.  
E.O.

2.4.78.

True Copy  
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[Signature]  
AD

Abdul Ali

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RIDER.

The Driver of the tempo had disregarded all rules of road, against the normal seating capacity of 6 he had allowed 23 passengers in the tempo, the passengers must have been accommodated on the his left and right, behind and heavy where in the cab of tempo, leaving no room for him to look outside ways. He had while approaching the level crossing not tried to look out for the approaching train and had inspite of hearings of other (as per evidence) entered the level crossing at speed. Although by the open position the level crossing gate road users precence that it is safe them to pass through. It is not cor-rec assumption to make since the of heavy is that of the train, and the driver of the road vehicle is required to look to right and left and make sure of its being safe to cross the level crossing. In his anxiety to reach his destination the road vehicle driver ignored this basic caution and to his death and alongwith him took 18 passengers lives and injred 4 passengers. Because of over crowding his helper also could not presemably assist him in the matter of locking out.

Therefore the tempo driver is responsible for violating the traffic rules and regulations and for over crowding the tempo making driving hazard which resulted in entering the level crossing gate of SPGL without being attentive and drove his tempo at the crucial second 352 dn was passing the level xing gate and collided whereby 18 lives were lost. and 4 injured all from the tempo.

Sd/- L.J. Clarkshon  
Enquiry Officer.  
3.4.78.

FINDINGS

The enquiry committee after having gone through all the evidence available on records, and cross-examinations of all witnesses, and with an unprejudiced view, do hereby find as under:-

- \* The Driver Abdul Ali Gr. 'B' H. Gr. LKO is found guilty of the charges as established vide Memorandum No. 20-8/GA/1/77 RB Dt. 26.11.77 issued by Divisional Supdt office Northern Railway, Lucknow.

Driver Abdul Ali Gr. 'B' H. Gr. LKO is responsible for disregards the the gate signal of gate No. A/2 at SPGL Flag Station while working 352 Dn as driver of the train on 28.8.77. He passed the said gate signal at 'ON' and entered the level crossing which caused collision between 352 dn express train and tempo No. UPZ 7184 at level crossing gate No. A/2 at SPGL Flag station on 28.8.77.

Sd/- L.J. Clarkshon  
S.O. 3.4.78

*M. H. H.*

*True copy  
Attested  
[Signature]*

A/S 44

S.R.340/1

"Gate Signals with 'G' Mischia every gate signal is non automatic signalling territory except those controlled the entry into a rail cum road bridge, or where there is a bridge between the gate signal and the gate, shall be provided with a yellow circular plate on the signal post with the letter 'G' inscribed thereon. When a driver finds the gate signal provided with a 'G' at 'ON' he must sound a long whistle and bring his train to stop in rear of the signal. If after waiting for one minute by day and two minutes in night, the signal is not taken off he may draw his train ahead cautiously and stop again in rear of the level crossing. He shall then he hand signalled passed the level crossing by hand-signal the gateman or by the guard. The person giving hand signals will ensure that the level crossing is clear and the same has been properly protected against road traffic.

\*\*\*\*\*

GR.76

Driver to obey signals and to be vigilant and cautious:-  
(a) The driver shall pay immediate attention to anyobey every signal whether the cause of the signal being shown is known to him or not.

GR.76(b)

He shall not however trust entirely to signals but always be vigilant and cautious.

\*\*\*\*\*

*Tram  
Accepted  
Sent  
A d*

*Abdullah Ali*

INDIAN RAILWAY

Statement of Shri G. J. Misra, S/O Shri ...  
Designation: ...  
Date of birth: ... 37 1/2 ... Length of service: 22 years.

G.O.'s regarding ...

I am working as ...  
Lucknow and ...  
On ... 77 I had booked ...  
with ... On ...  
had applied for leave during ...  
ALP on duty, when my ...  
duty ... to ... hrs. ...  
(IV) by pooling him ...

Sri S. Panjoly

I have nothing further to say ... close my statement of my own record.

(G.O. Misra)

Question - ...

Q.No.1. What is the procedure adopted for booking of running staff on main line in regard to learning road of a section?

Ans... Previously the Drivers and Fireman were given learning road whenever they have not worked on a section for a period of 3 months. At present, this applies only to the drivers. ...  
to the OMF Manual 1972 - Rule No. 4010 ...  
learning fireman (if duly qualified as Driver) should be given the learning road. The interpretation of this rule is clear and therefore no fireman is given learning road when is not qualified as a Driver. Since Lucknow Division does not have any Fireman qualified as Driver the question of giving learning road does not arise. Further when this correction slip was put into volume the D.S.O. ...  
his L.J. Safety ... to the ...  
ensure that this practice of ... giving learning road to the fireman should ceased forthwith.

10/05/78

Alidul Al.  
28.1.78

... and accepted as correct.

G. J. Misra  
28/1/78

(G.O. Misra)  
28.1.78

True copy  
Accepted  
[Signature]

Alidul Al.

45  
101

Statement of Shri Abdul Ali. son of Shri Nazim Ali.  
Rank. Driver. Station: Lucknow. Age: 53 yrs.  
Length of service. 34 years. Rate of pay. R. 530/-

GMs warning given.

You have been served with Memorandum No: TG-8/G-1/1/77 RB  
dt. 26.11.77 on the following charges ..

"On 28.8.77 collision between 352 Dn Saharanour-Allahabad  
Express train and tempo No: UPZ 7184 at manned level crossing  
gate No: A-2 at Sarai Gopal Flag station between Atramur and  
Phaphamu stations was caused as a result of the express train  
No: 352 Dn having entered the level crossing with its gate  
leaves open to road traffic, and gate signal of gate No: A-2 in  
'ON' position..

Shri Abdul Ali driver of HQ Lucknow, working 352 Dn  
on 28.8.77 disregarded the gate signal of gate No: A-2 at Sarai  
Gopal Flag station in 'ON' position, and entered the railway  
crossing which caused collision between 352 Dn express train  
with Tempo No: UPZ 7184 at level crossing gate No: A-2 at Sarai  
Gopal flag station on 28.8.77 and thus violated G.R. 76. "

Q. 1. Do you accept the above charges or not ?

Ans. I do not acc-ept the above charges.

Q. 2. Your Defence counsel has not turned up to defend your  
case although he has been advised to do so. Please let  
the committee know if you are ready to defend your own case  
in absence of your defence counsel ?

Ans. I require the assistance of the defence counsel and will  
not proceed with the enquiry until he arrives.

Enquiry Officer.

L. J. Chakravarti  
18-1-78

P/-

(Abdul Ali).  
Driver Lucknow  
Loco Shed.

Abdul Ali

True Copy  
Accepted  
J. S. Be

X/10

NORTHERN RAILWAY

Statement of Shri L.U. Siddiqui, S/o Sri Zakirullah Siddiqui  
Designation: F.S.M./ Prayag.  
Rate of pay: Rs. 316/- Length of Service: 23 years.

G.M.'s WORKING RULES:

I am not prepared to submit any statement unless I received a reply of my application dated 16.1.1978 addressed to Station Master, Prayag.

I have nothing more to say and close my statement of my own accord.

( L.U. SIDDIQUI )  
F.S.M./Prayag.

QUESTIONS BY THE ENQUIRY OFFICER.

Q.1. You have been called to attend the U.A.R. enquiry as a witness, therefore the question of you refusing to attend the enquiry demanding a reply to your letter to the Station Master is not a valid excuse. You are re-requested to cooperate in the proceedings as a witness as refusal to give a statement is tantamount to indiscipline and breach of the DAR proceedings. Kindly consider before giving refusal.

Ans.. The chief criteria for me not to attend the enquiry is based on the following facts:-

a) In my letter to Station Master Prayag I had asked for certain clarifications pertaining to Station working rules to be supplied to me which has not been supplied to me so far.

b) I feel that by me elaborating in this enquiry would induce an involvement which at a later stage may act against me and further involve me into a mess.

c) Since there is a proceeding in the court of law in the case I do not wish to aggravate the situation further by indulging in a more tedious and complicated enquiry in which I may further be deeply involved.

Therefore taking a paradoxical view of the situation I am not prepared to sit for the enquiry unless Station Master, Prayag and D.C.O./Lucknow clarify whatever points I have asked for.

*B. Carlson*  
ENQUIRY OFFICER

( L.U. SIDDIQUI )  
F.S.M.

28/1/78

*Abdul Ali*

*True copy  
for  
[Signature]  
[Signature]*

Statement of Sri Mithal Lal. S/O Sri J. Ram.  
Designation:- T.I. Headquarters:- Prayag.  
Length of Service:- 14 Years. Age:- 48 Years.  
Rate of Pay:- Rs. 730/-

G.M.'s warning given.

I am working as T.I./Prayag since 25.11.76. On 28.8.77 I was available in my Headquarter, on that date I received message from S.M./Prayag regarding the collision with Train no. 352 Dn. Train Express. Regarding time of receiving message and my arrival at the place of accident may be referred given to ACS Enquiry. I immediately reached the site and contacted Dy. CHC/Lucknow, I have checked up the relevant record and also tested the working of gate signal which was working properly. I asked the reason about the accident from FSM on duty Sri Sidiqi and Safaiwala Gateman also but they were so much perturbed and mentally disturbed but they could not able to give any convincing reply, I also enquired fr some of the public and concluded that the driver of 352Dn. passed the gate against the signal. There were so many officials on the spot from the Civil authority and also the Railway Authority of Allahabad division. Then after I was asked by DSO and LPO/Allahabad to arrange adhoc payment to the relatives of deceased persons accordingly. I moved towards Phaphamau Station where I took money and then proceeded to Beli Hospital to give payment to four injured persons admitted in the hospital. I close my statement at any own accord and have nothing to say more.

Read, and accepted as correct.

*Mithal Lal*  
Signature of Sri Mithal Lal,  
T.I./PRG. Dt. 22/2/78.

*L. G. Clackson*  
Enquiry Officer. 22/2/78

Questions by the Enquiry Officer.

- Q.1. On 28.8.77 who was the gateman posted to man the L/Crossing no.A-2 near Safaiwala Flag Station at the time of Passage of 352 Dn. ?
- A. Safaiwala When I reached the site I came to know that Sri Bhola, Safaiwala Cum-gateman newly posted by the office as performing the duty of gateman.
- Q.2. Was Sri Bhola passed the prescribed vision test / Competency to work as a Gateman?
- A. When I attended the site of accident I came to know that the accident occurred after 2 hrs. in the first-day duty of Sri Bhola from checking of the relevant record at the time of accident I came to know that Sri Bhola was not possessing requisite competency and vision test which is pre-requisite for this type of duty.

*L. G. Clackson*  
22/2/78

P.T.O.

*Mithal Lal*  
*Mithal Lal*

*True copy*  
*Accepted*  
*for*

Statement of Sri Nithal Lal, T.I./PRG Contd.....

Q.3.A Who is responsible for booking Sri Bhola to work as Gateman when he has not passed the prescribed Vision and his Competency ?

A. Divisional Office, Lucknow who issued <sup>his</sup> posting orders.

Q.4. For how long as Sri Bhola being working as Gateman at Saraijonaal.?

A. He has worked hardly 2 hrs. when the accident occurred. He assumed duty at gateman at 8/- hrs. and the accident occurred at 10/15 hrs.

Ques. Question by the Defence Helper:-

Q.5. Whether lowering of gate signal is possible by any fair or foul means without closing the gate.?

A. Not possible at all according ~~to~~ to the theory of Interlocking and specially by PSM or Gateman who is not a technical man.

Q.6. ~~xxxxxxx~~ In case Interlocking ~~xxxx~~ goes defective then whether the gate signal can be lowered with reference to my question no.5?

A. I am not aware of it.

Q.7. <sup>be</sup> If a gate signal ~~xxxx~~ <sup>goes defective</sup> in off position whether gate can ~~xxxx~~ <sup>be</sup> opened for ~~xxxx~~ <sup>Arms of</sup> Road Traffic.

A. Can not be opened for road traffic till the defective signal is put to OFF position or the gate is not properly protected from the Road Traffic.

Q.8. Has any incidence in the past occurred where this gate signal was found defective in OFF position and if so how was the gate traffic passed.?

A. There is no case of this gate signal ~~be~~ is being defective in the OFF position.

Q.9. In your opinion whether a Signal can be lowered despite of this fact that Interlocking does not permit?

A. I can not say anything on presumption but theory of Interlocking says that the signal can not be lowered when the gate is opened condition.

Q.10. When you arrived at the site of accident what was the condition of the gate and gate signal.?

A. The gate was found to be opened ~~xxxx~~ for road traffic and signal (Gate) was in OFF position.

Q.11. Can you say what are the factors which led to this accident.?

A. ~~the~~ Disregard of the gate signal by the driver.

*Ab. Clackson*  
*Elizab. W.*  
*Abdul Akbar*

P.J.C.

*Handwritten notes:*  
7/1/84  
22/2/84  
H. Akbar

*True copy of report*  
*Handwritten signature*

1/15 50

Statement of Sri Mithal Lal, T.I./PRG Contd.

Q.12. Please offer your comments regarding BR.22/1 of GASH Book?  
A. "When a signal can be taken off against its Interlocking as supported by the term conflicting signal in which Outer may be low on danger and warner is off or a Warner is taken off in conjunction with the Loop Line Home Signal".

A. I can not offer any comments since I am not having authoritative knowledge on the subject Interlocking.

Q.13. Since you have got authoritative knowledge on the subject how you checked signal, Gate, Interlocking and declared it correct?

A. To offer comments on the subject is something else which requires masterpiece knowledge but where the testing of signals, Gate, etc. it is a thing of common knowledge for the TI or any traffic man.

Q.14. Do you accept that in common knowledge there is any chance of mistake to creep in?

A. In my opinion there is no chances of mistakes to creep in.

Q.15. As per your statement when FSM and Gateman were not able to give any convincing reply how do you believe their reply regarding the gate and the signal etc.?

A. I have concluded so on the bases of enquiry from Public available at the site.

Q.16. Will you please name the persons you enquired about the gate signal whether they were well known to you prior to this accident being within your Jurisdiction? Whether they were present prior to this accident and remained there till your arrival?

A. ~~xxxxxxx~~ Few names were already submitted at the time of ACBS Enquiry in which some public man residing that area had submitted their statements in the ACBS enquiry. Their statement may be obtained from the ACBS enquiry report. It is not possible for the T.A. to remember the names of the outsider who is controlling more than 21 Stations.

Q.17. You have taken out two papers from the Station record of Saraijoni regarding the posting of Sri Bhole as Gateman on the said gate and you made over only one paper to DSO, where is the other paper?

A. Only one paper was available at the station regarding the posting order of Sri Bhole written in handwriting which was subsequently produced in the ACBS enquiry.

Q.18. What was the reason to destroy the evidence of the posting of Sri Bhole and taking out the papers from the station records without making over any receipt to FSM?

A. It is totally false to allege that any paper was destroyed, S.I. of the section can take any paper.

*Ab. Clouston*  
2102/2/8

*Abdul Ah*  
*ASD*  
*ACBS*

ST

Statement of Sri Mithal Lal, T.I./PRG Contd.

Ans. to Question no.18 Contd.... If thir's necessary. However the acknowledgement could have been given to P.S./SPGL if the same was required by him.

Q.19. During your last 14 years service have you ever seen defective interlocking of at any signal at any point. ?

A. Normally I have not seen the case of any defective interlocking except when any necessary repairs is done by the S&I branch.

Q.20. Have you ever heard Interlocking point defective?

A. I usually do not believe in hearing when I practically see the incidence spec' lly in case of failure of the Interlocking.

Q.21. How many gates are named in your jurisdiction?

A. In my opinion the above question has got no relevancy with the case in question, however the total number of gates in my section controlled by traffic and Engineering branch may be obtained from the D.S. Office.

Q.22. When you inspected the station last prior to this accident.?

A. I inspected last in the Month of July 1977. The actual date of inspection can be ascertained from the said inspection note.

Q.23. Did you find any irregularity in the working of P.S. or any lapses in execution of works as per sanctioned plans?

A. For the above information my relevant inspection note may kindly be reviewed seen. Subsequently the same gate was also inspected by P.S./IAC alongwith the Safety Inspector on date probably on 28.7.78 as that inspection note may also be consulted. It is further added that the provision of the telephone connecting with Phansara, or Acharanur was already suggested by previous T.I's, I can not quote the name of Sri P. Singh who was previous T.I./Praying. Still it has not been connected even upto the accident in lieu of that wiring work was provided in existing Control telephone.

*Abdul Ali*

NOTE:- AT THIS STATION reference should be made to Enquiry Officer to arrive for the inspection note of T.I./PRG and P.S./IAC and Safety Inspectors.

Read, explained and accepted as correct.

*(Signature)*  
Enquiry Officer.

*(Signature)*  
Signature of Sri Mithal Lal,  
T.I./PRG.

28.7.78.

*Abdul Ali*

*True copy  
Accepted  
(Signature)*

52

Name Shri Mohd Ayub IV S/o Shri Sarafar Hussain  
Design:- Fireman Gr. 'B' . D.O.B. 1934 . D.O.A. 22-1-55  
Rate of Pay RS.290/-

GM's Warning given

I was working as F/M alongwith driver Shri Abdul Ali working 352 Dn ex LKO to ALD on 28.8.77 on Loco no.7012 WP.

At LKO on 28.8.77 I was served the call book to work 2SL ex LKO to SLN with Dr. R. Millan I also signed on duty to work 2SL. I was working on 2SL Loco when the ALF Shri S.P.Srivastava informed me to work 352 Dn as there was no fireman. I informed the ALF I was not prepared to work 352 Dn as I was not aware of LKO-ALD via RBL section. The ALF informed me if I do not work 352 Dn I would be suspended.

Therefore in order to avoid being suspended I worked 352 Dn.

At the time of accident at gate A/2 at SPGL I was engaged in putting a fush charge of coal in the fire Box I was also not aware whether there was any gate or gate signal between ARP-PFM. I cannot say how the accident occurred.

When I heard the collision between Loco and tempo at the gate of SPGL I closed the fire hole door and looked out to ascertain the reason.

I observed a tempo had dashed with my locos I shouted to the driver to apply vaccum and the train has stopped.

I helped in extricating the passengers from the tempo and had to return to my loco as the crowd wanted to assault me.

I have nothing further to add and close my statement of my own accord.

Read and explained in Hindi and accepted as correct.

Sd/- Mohd Ayub IV  
24-2-78

Sd/-Abdul Ali.

Sd/-L.J.Clarkson  
24-2-78.

Q.1 What was the position of gate and gate signals as observed by you immediately after the accident ?.

Ans. I did not observe any thing.

Q.2. What was the train vaccum like ?.

Ans. Train vacuum were effective.

Q.3 Had you heard call out the aspect of gate signal at SPGL while approaching ?.

Ans. I never heard the driver call out the ~~any~~ signal aspect as I was busy firing at that time.

Q.4. When the driver made an emergency application of vaccum after colliding how are did the train stop beyond the gate signal.

Ans. About 300 meters distance.

Q.5. Did the driver make emergency break application before or after the collision with tempo.

Ans. ~~before~~ After collision took place.

Q.6. Was the driver wearing glasses throughout the journey?.

Ans. YES.

Sd/- Mohd Ayub IV  
24-2-78

Sd/-Abdul Ali

Sd/-L.J.Clarkson  
24-2-78.

*Truancy  
Average  
JSD*

*Abdul Ali*

- Q.7. What are your educational qualifications  
 Ans. 6th Class.
- Q.8. ~~Whether~~ Whether any inquiry was conducted on 28.8.77 If so by whom and at what place.  
 Ans. On 28.8.77 SFI/ALD asked us to the Running Room and asked me to sign ~~and~~ a statement which I did, as my mind was completely upset due to this accident I signed the statement with reading or understanding it.
- Q.9 Do you mean to say that there was nothing like an inquiry by SFI/ALD.  
 Ans. I was not aware there was any enquiry on 28.8.77.
- Q.10 Whether you were alone called to sign the statement or ~~an~~ driver and IInd fireman were also called.  
 Ans. Driver Abdul Ali was already sitting in ALF/ALD office, while myself and IInd Fireman went to the R.Room where we were well called from.
- Q.11 Who all were present in ALF/ALD office when you signed ~~the~~ these papers on 28.8.77.  
 Ans I donot know or recognize any one there-
- Q.12. Do you ~~remember~~ remember the Nos of persons sitting there and please fill their name and designation of the persons  
 Ans. There were about 5 to 6 persons I do not know them names and designations.
- Q.13 Do you mean to say that you did not recognise any one sitting in ALF Office and signed the papers without knowing the facts noted upon it.  
 Ans. My mind was totally upset over the accident hence I sign d the statement put up by SFI/ALD.
- Q.14. Do you accept it was blunder to sign any papers w/o ascertaining it the facts and knowing the persons after such a major accident.  
 Ans. My mind was upset, and I did not know exactly what to do hence I signed the papers.
- Q.15 Whether you mind ~~is~~ stil upset or you are in a position to ~~answer~~ answer correctly.  
 Ans. Iam completely confused, and can answer all questions at this stage.
- Q.16 In answer to Q.10 you have stated that Dr. Abdul Ali was present in ALF/ALD office and in answer to Q.11 you have denied to recognise any person sitting in ALF/ALD office. what is correct?  
 Ans. It is an undernoted fact I could recognize Drx Abdul Ali
- Q.17 Since 352 Dn was an express train passing through SPGL whether you repeated the aspects of signals with dr. Abdul Ali at every station and who was the 1st man to call the aspect of signals.  
 Ans I know ~~the~~ and used ~~the~~ called from LKO to UCR hence I was calling the aspects of signals from to after UCR who ever saw the approach signal first called out the aspects.  
 Read and explained in Hindi and accepted as correct.

Mark Sd/. Mohd Ayub IV  
 24.2.78.

L.J.Clarkson  
 E.O.  
 24.2.78  
*Abdul Ali*

*Handwritten signatures and initials*

50 54

Cross-examination of Shri L.U.Siddique continued. on 24.2.78

Q.1 When 352 Dn Loc collided with tempo No. UPZ 7184 at manned level crossing gate at Saraigopal and you rushed out to see the accident what were you observed ?.

Ans The gate was in opened condition. Gate signal was at ON There were several passengers of tampo badly mutilated by the collision. I then asked the gateman Shri Bhola Nath that it was due to not closing the gate leaves that this all collision took place. I then returned to my office and tried to contact controller on phone but unfortunately there was no response from control. I continued about 10" to try to get control, but all in vain. I then sent a message through a motoregist to the Police and doctor to arrange ambulance Also PFM informed accordingly again I k tried CNL and advised all concerned. Thereafter the Police arrived alongwith ALD Divl. Rly Officers to investigate the case further.

Q.2 In your opinion who is responsible for ~~de~~ deputing an incompetent gateman Shri Bhola to work as Gateman SPGL

Ans. In my ipinion Divl. Officer is responsible.

Q.3. Whether DSO/LKO or any Safety counsellors or TI/Safety inspected your station prior this accident. If so what date and what was the inspection note and when ~~did~~ ~~you~~ did you receive it.

Ans On 29.7.77 after two days of me working at SPGL. The DSO/LKO alongwith four or five safety inspectors arrived SPGL on motor trolly after passing the gate signal at ON and gate in opened condition and stood the trolly in front of the station building at 14/hrs approximately- At ~~that~~ that time I was putting my ~~uniform~~ uniform for duty after lunch break. DSO/LKO and his troop entered into the office they only asked my name and proceeded to inspect all the registers. I had hardly put to my uniform and with 2" to 3" they left the office on being they asked me the name o of Gateman and I replied Shri Beni Ram, they then left to atrampur. After about one hour approx. they again returned to SPGL w/o respecting gate signals which was at ON At that time the gate was totally ~~w~~ closed, but not locked. They then proceed to PFM I asked the cabinman who all this two of was and he ~~x~~ informed me it was DSO and his Sa-fety Inspectors as they never signed any of the station records or register, Inspection book etc- Since I am a commercial hand I was not aware of the identity of DSO or Safety inspectors.

Further after they accident of 352 Dn on 28.8.77 the DSO/LKO sent an inspection note on 30.8.77 when ACRS enquiry was started.

After the accident on 28.8.77 the register and several records of my office were taken away by Inspectors and I do not know what the records were mishandled by back dateing inspection at SPGL because Inspection note was ~~re~~ received by DSO/LKO containing few lines only as under:-

1. Inspection note DSO/lko dated 28.7.77 issued on 39.8.77 by F.S.M Shri Rameshwar Day
1. P.S.M Shri L.U.Siddique was on duty
2. Nobdoy ~~is~~ due vision test at this station.
3. Gateman shri Beni was on duty in uniform on gate No.A2 at the station.

unsigned.

Q.4. Have you complete knowledge of working of Interlocking of gate signal at SPGL where you ~~are~~ are working.

Ans. NO.

Q.5. How you came to know that gate signal was defective or ~~nt~~ not?.

Ans. Gateman reports about defects of signal.

*Tru copy  
Rameshwar Day*

*Abdul Ali*

34  
A7

Statement of Sri Tulsi R. S/O Sri Rajoo.  
Designation:- LR/Porter. Headquarters:- Prayag.  
Date of Appointment:- 13.12.66. Lengthy Age:- 32 Years.  
Rate of Pay:- Rs. 200/-.

.....

G.M.'s warning given.

I worked as Gateman during night shift from 20/- hrs. on 27/9/77 to 9/- hrs. on 28/9/77. There was no difficulty in ~~xxxxxxxxxxxxxxxx~~ my turn of duty and I made over charge to Sri Bhole at 8/- hrs. and went home. The functioning of the Gate and its interlocking and the Gate Signal was in proper working order and there was no difficulty experienced in opening and closing the gate and also no difficulty experienced in lowering of the Gate Signal. Normal working was invoked and no trouble in my turn of duty.

I have further nothing to add and close my statement of my own accord.

*[Handwritten signature]*

Page, explained in Hindi and accepted as correct.

Signature of Sri Tulsi R.,  
LR/Porter. Dt. 9/3/78.

*[Handwritten signature]*  
Industry Officer. 9/3/78

Questions by the Enquiry Officer:-

Q.1. When you made over charge to Sri Bhole at 8/- hrs. was he in normal condition or intoxicated?

A. He was in normal condition.

Q.2. Since how long you are working as LR/Porter at Saraijonaal.

Questions by the Reference Member:-

A. I came on 21/6/77 from Prayag Headquarter. I have also worked periodically at this rate quite often.

~~xxxx~~

Q.3. What is the system of closing the gate and lowering the Gate signal?

A. The North side gate is closed first locked and key released the same keys inserted in the Gate lock of South side and another key from South side Gate lock is released which is inserted in gate lock box is provided on the South side of the track then Lever no. 2 is pulled i.e. Gate lock lever and then they required gate signal is lowered.

Q.4. Can the Gate signal be lowered without completing these formalities?

A. No, it can not be lowered.

*[Handwritten signature]*

P.T.O.

Abdul Ali  
9.3.78

Abdul Ali  
Industry Officer  
9/3/78

*[Handwritten signature]*  
A. J.

A/74

Statement of Sri Bhola. S/O Sri Wafzal.  
 Designation:- Safai-cum-gateman. Headquarter:- Saraijopal.  
 Length of Service:- 15 Years. - Age:-32 Years.  
 Rate of Pay:- Rs. 203/-. Date of Appointment:- 24.12.63.

C.M.'s warning given.

On 28.8.77 I was working as Safaiwala-Cum-Gateman at Saraijopal duty from 8/00 to 20/00. 352 Dn. was approaching I went to close the gate but found some difficulty due to heavy Mela Rush while I was trying to close the gate the securing bracket of the gate were jaming and I was engaged in reducing the bracket, meanwhile a Tempo forcibly passed through the gate and meanwhile 352 Dn. arrived and bumped to the Tempo and dragged tempo about 100 Meters ahead. I tried to stop the tempo by shouting in gesticulating and showing red flag to the Tempo Driver who disregarded all these warnings.

When I saw 352 Dn. dashing with the Tempo and so many people were killed I got mentally upset, thereafter I fell into a faint and I do not know how when or where I have taken and knew nothing further beyond this. I have nothing further to say and close my statement of my own accord.

Head, examined in Hindi and accepted as correct.

Signature of Sri Bhola.  
 Safaiwala -cum-gateman.  
 Dt. 9/3/78.

L.J. Carlson  
 Enquiry Officer.  
 9.3.78

Questions by the Enquiry Officers:-

- Q.1. For how long have you worked as a Gateman?  
 A. It is my first chance to work as Gateman 8<sup>00</sup>- to 20/- hrs. at Saraijopal.
- Q.2. At about what time this accident took place at your gate?  
 A. Roughly about 10/00 as I have no watch.
- Q.3. Are you fully acquainted with the duties of the Gateman?  
 A. No, I ~~am~~ am not acquainted with the duties of the gateman.
- Q.4. Did you take learning of Gateman duties prior to performing the duty as Gateman?  
 A. I was given two days learning on 25th and 26th to pickup the gate duties of Gateman.
- Q.5. Was the gate signal off or on at Saraijopal?  
 A. The Gate signal were 'ON'.
- Q.6. What is the procedure for lowering the gate signal at Saraijopal.

L.J. Carlson  
 ELO  
 9/3/78

P.T.O.

Abdul H.  
 19.3.78

ALC  
 20

Abdul H.

From 5/7  
 Accepted  
 [Signature]

X/5 59

Statement of Sri Bhola Safai Cum Gateman contd...

Ans. 6 Question No.6 ... After closing the gate of Saraon side the keys extracted from its lock then it looks the gate leave at Pham-mau side and releases the key from the Phaphamau side gate and insert into the frame of signal lever and opened the lock thereafter the gate signal can be lowered.

Q.7: Can the gate signal be taken off if gates are improperly locked and can the key be extracted for lowering the gate signal.

Ans. No it is not possible.

Q.8: When did you pass your gate keepers competency test and by whom?

Ans. No competency test of mine was taken.

Q.9: When did you pass your vision test?

Ans. I did not pass any vision test before being booked to SPGL.

Q.10: Where are keys of gate are kept when gates are opened

Ans. Keys are in the locks of gate which cannot be taken out.

Q.11: Can the gate signal be taken off due to defect in interlocking.

Ans. I do not know.

Q.12: Where were you when you saw 352 Dn approaching?

Ans. I was at the station when I saw 352 Dn approaching

Q.13: Why was the gate not closed in time?

Ans. Due to Mela rush and gate leaves jamming on the road surface it took long in closing the gate.

Q.14: When you know there was a Mela rush why didnot you close the gates earlier.

Ans. When I was told by FSM to close the gate I obeyed.

Sd/- L.J. Clarkson,

Sd. Abdul Ali,

LTI of Bhola.

9.3.78.

9.3.78.

9.3.78.

Q.15: It is reported that on that day the gate signal were defective.

Ans. I saw it was at 'ON' position.

Q.16: In case signal goes defective in 'OFF' position how do you ~~open~~ open the gate for road traffic.

Ans. I do not know I have no experience of it I always work as Safiwala.

Q.17: It was reported that gate was forcibly opened by tempo driver and passengers with signal in 'OFF' position.

Ans. The tempo entered when gates were to ~~marks~~ be closed

Q.18: In your opinion how did this accident happen?

Ans. Due to tempo forcibly entered level xing despite of my red signals when the gate were being closed.

Q.19: What was the aspect of gate signal when 352 Dn was approaching after the collision?

Ans. I did not see the gate signal.

Q.20: If anybody pulls the signal wire can the signals be taken off.

Ans. I do not know.

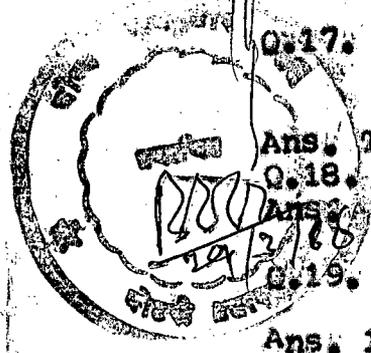
Read and explained in Hindi and accepted, as correct.

L.J. Clarkson,  
E.O.

Abdul Ali

Signature of Sri Bhola Safiwala, cum-Gateman  
Sd/- K.N.Srivastava)

TRUE COPY ATTACHED



Abdul Ali  
True copy  
Alena

60

7/11/78

Statement of Shri Muana Lal, Design S.I. (ast) ...  
Length of service: 6 yrs. Date of pay: 515/-P.M.  
Age: 36 yrs. Father's name: Late Hardoo Pd.

On 28.8.77 I received information through S.I. (West) EBL at about 12.00 hrs re: the accident at Saraigopal. Immediately I contacted from Test Room/LKO came at EBL stn at 12/15 hrs from where I get DS 501 I accompanied DS Spl & reached Saraigopal stn at 16/55 hrs. The interlocking of gate signals was tested by DS 500/LKO at 17.50 hrs. It was found in working order. Later the same locking again tested jointly with TI/FRC & SI (I) LKO Sh. Prem Singh & myself. Also replacement of signals were checked, every thing was found in perfect working order. The testing of joint report was submitted by to my ASST/ LKO.

7/11/78  
SI (E) RBL

Q. Explain in detail the full procedure for closing the gate at Saraigopal & lowering of the signals for the passes of UP & DN trains.

Ans. Before lowering the signals the gateman has to close first a gate of L/side & one key extracted from left hand side of gate and thereafter that key will be inserted, from the R/hand side of the gate closed position & left key will be left in the right hand of the gate and one key will be taken after closing. Now both the gates are closed completely, the key which has been taken out from the R/hand gate will be inserted in lock after then he will operate the lock lever and only then signals can be lowered.

Q.2. What is the time fact involved for closing the gates and lowering the signals?

Ans. Approximately 2 to 3 minutes in all. And for retruning to signal & opening the gates it takes about the same time.

Q.3. Was there any Mela on that date?  
Ans. There was a Nahan and heavy crowd was there.

Q.4. What is the back history for the working of the gate signal enterlocking?  
Ans. There was no trouble.

Q.5. Whether this very procedure which you have told is adopted to close the gate of every manned level crossing?  
Ans. No. Only at interlock gates.

Q.6. Whether lowering of gate signals is possible by any fair or foul means without closing the gates?  
Ans. That existing installation near about all gates is like that and can be done. For miscreants activities everything is possible.

Abdul Ah.  
16.3.78

Abdul Ah.  
16/3/78

Abdul Ah.

From my  
ASST  
[Signature]

Pat. O.  
7/11/78  
SI (E) RBL

61

Q.7. Please clarify ~~xxxx~~ vide your answer to Q.No.6, how can the gate signals be lowered with the gates in open conditions?

Ans. It is self explanatory. Everybody knows the wire run is outside and wire can be pulled but signals will replaced on immediately when wire is released. It can't be lowered until & unless a man pulling the wire will continue pulling the wire and that can be seen from any angle of the platform or from engine as the wire run and gate signals are clearly visible from straight ~~gate~~ alignment from Dn side & upside.

x Q.8. Does the interlocking at the gate permits the signals to be lowered with the gates open?

Ans. Never.

x Q.9. In case interlocking goes defective whether the gate signals can be lowered with the gate in open position?

Ans. Never.

x Q.10. If a gate signal goes defective in OFF position how the gate will opened for the road traffic?

Ans. The gate signal lever will be ~~xxxxxxx~~ put back to normal and lock lever of gate signal can be utilised to open the gate and defective in OFF position has got no meaning and signals will go itself in ON position.

Read, accepted as correct.

*L.G. Carlson*  
Enquiry Officer.  
16/3/78

*M. M. 16.3.78*  
Signature of SI(B)  
*Abdul Ali*  
16.3.78

TRUE COPY ATTESTED



*Abdul Ali*

62

- Q.1. How did you come to conclusion that the Driver have passed the Gate signal at all?
- Ans. The train was passing Sarai Gopal Gate, there was the slight jerk and the train came to stop after passing the train and stopped nearly 500 metres away. There was much gesticulating from the people of the side of the gate, when I got down and proceeded towards the gate, I noticed that the gate was opened and the gate signal was on the ON position. Further I asked the GA whether the signal was lowered of 352 Dn from my train, he answered in negative.
- Q.2. In your opinion who is responsible for this accident?
- Ans. In my opinion, Driver is responsible for the calamity.
- Q.3. When the train was approaching towards the gate signal, did you noticed the aspects of the gate signal?
- Ans. No.
- Q.4. When he did not see how the aspect of the signals, how do you say that the accident occurred due to passing signal at danger?
- Ans. On Enquiry from the FSM regarding the lowering of the gate, whether lowered or not to which he replied that the gate signals were not lowered.
- Q.5. Shri L.U.Siddiqui in his statement & answered to question No.6 has said that he did not see the position of gate signal before passing 352 Dn & the pateran S h.Bhola has stated in the Ans.of Q.No.19 that he did not see the aspect of the gate signal before 352 passed and Sh.Mithal Lal TI/PRG in his statement has said that both Sh.L.U.Siddiqui & Bhola perturbed that their statements are not convincing at the site of the accident while you believe them without going through facts and aspects of signals before passing it.
- Ans. At that moment these two Sh.L.U.Siddiqui & Bhola were examined that the train had come without the signal lowered, what have they have said afterwards & after thoughts.
- Q.6. How much time is required to put up gate signal in ON position?
- Ans. Not aware. As this was a interlocked gate, may have taken sometime.

p.t.o.

L.J. Chakson  
Elo.  
16/3/78

TRUE COPY ATTESTED

Abdul Ali



A/A

Q.7. At about what time you saw the gate signal ~~xxxx~~ in on ON position with your own eyes?

Ans. When I got down from the Brake and proceeding towards the gate signal at about 10-19 I saw the gate signal at danger.

Q.8. After getting down from the B/van & proceeding towards the engine you know the cause of the stoppage of the train, whether gate signal was in your front or back side?

Ans. The Gate signals was in the rear of the train. I got down from the train and proceeded towards the gate.

Q.9. From the answers of the above questions, it is clear that passing 352 Dn passed gate signal at danger is your presumption. Please comment?

Ans. ~~XXXXXXXXXXXX~~ It looks like it.

Q.10. Please clarify the above question in detail?

Ans. When I proceeded towards the gate I saw the signal at danger and I was confident that the Driver has passed in ON position.

Q.11. Whether the gate signals and we passed in ON position?

Ans. The gate signals can be passed in ON position at OPT 80 or the gate signal defective from the previous station.

Q.12. In case train starts from a station & a gate signal in a rule who is defective after the starting of the train. Who will issue OPT 80 to the Driver of the train to pass it or train will remain standing upto what time train will stand remain standing?

Ans. after the train has come to stoppage at the gate signal the Driver during night stop 2" and in day 1" and passed cautiously towards the gate. I see the condition of the gate if it is open asked the gate man that what is happening and proceed towards the next station & informed the station master regarding gate being defective and inform him that the gate being defective.

Q.13. To see the aspect of the signals in reference to the safety of the train is not a Guard's duty?

Ans. Of course we have to look out now & then for the safe running of the train but not the approach signals necessary.

*Handwritten:* ABCD AC, TG: 3-78

*Handwritten:* ABCD AC, Lg. Chakson, ELO, 14/3/78

p. t. c.

*Handwritten signature:* [Signature] 29/3/78

Q. 14. In lower quadrant signal the defect generally creeps that i.e. being grouping. Is not possible that signals was grouping at the time of passing the and after the accident, it was put in correctly ON position?

Ans. Well, I cannot say that this was position in this case, when I saw it was correctly in ON position.

Q. 15. What was the maximum permissible speed of 262 Dn. The maximum permissible speed was ~~XXXXXX~~ 75 KMPH. Read, accepted as correct.

Q. 16. Did the Driver ever speeded any where right from LKO to (arrigopal)?

Ans. No. He kept it was within speed limit.

Read, accepted as correct.

*A. C. Challen*  
Inquiry Officer.

Signature *16/3/78*

*16/3/78*  
*Abdul Ah.*  
*16/3/78*

Questions again continued...

Q. 17. ACRS in his finding has fixed up the responsibility on the Driver, Gateman and the Tempo Driver and you two have been held responsible in this very accident. In your opinion a finding of ACRS are incorrect? or your opinion is incorrect in answer to question No. 2.

ANS. Whatever the ACRS has fixed the responsibility, he is the better judge and I agree with him.

*Abdul Ah.*  
*16/3/78*

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*Abdul Ah.*

*SSC*  
*24/88*

Q.4 When you were as IInd Fireman have you ever worked as Actg Fireman,

Ans. Yes, but mostly on double crews with Restvans.

Q.5. When you have worked as IInd Fireman Actg Fireman you must have knowledge of signals stations etc, Therefore knowing the road, is also your duty, How can you deny that you were not aware of the road.

Ans. After a lapse of 7 to 8 years it is not possible to remember the sections correctly, when a driver does not work on a section for 3 months he ~~shou~~ should have given learning road.

Read and explained in Hindi and accepted as correct.

Sd/- Mohd Ayoub IV

Sd/- L.J. Clarskson  
E.O.

17.3.78.

TRUE COPY ATTESTED



Abdul Gh.

67  
33

YD

Statement of Shri Jagat Pal Singh S/O Shri Late ... Singh  
Age:- 70 yrs. Resident Sadra Sadra Pur Distt. P.I.

Who

I was going along with Sajraj Singh to ... before the enquiry officer and I submit the same statement which has been stated earlier by Shri Sajraj Singh.

Statement of Shri Sajraj Singh S/O Shri Chandan Pal Singh  
Age 24 yrs. Resident of Sadra Sadra Pur Distt. P.I.

I was going to take bath in Ganga and I was near gate on 28.8.77 where the accident to place. Is the tempo collided with the train. It was about 10.15 hrs. A tempo came on the gate from Saron side going towards ALD. The gate leavee wrc closed. The tempo driver told the gateman that he is in hurry please open the gato. The Gateman replied that the signal is down and he can not open the gate. The people from the tempo got down to open the gate. The gate was open When the tempo came on the track then the train arrived and crashed to the tempo. Resulting in death of several people. After that I left the place and I know nothing more and close my statement.

*L. J. J. J.*

The Enquiry Officer does not deem it necessary to cross examine the above witness as it appears to be a witness produced long after the occurrence of the accident, even his statement was not recorded in ACRS enquiry. Therefore it is all considered as an after thought.

Comments by Defence Council.

Shri K.N.Srivastava

Since no comments of cross examination is done by enquiry Officer hence I also dont want to examine the witness and I accept the above statement.

*Alkool Al.*  
30-3-78

TRUE COPY ATTESTED

*Alkool Al.*

*KUM*  
29/3/78

A/S

Statement of Shri Gajraj Singh S/O Shri Chandra Pal Singh  
Age 24 Yrs. Resident of Sadra Sunder Pur Distt. PBH.

I was going to take bath in Ganga and I was near gate ~~xxxxx~~  
on 28.8.77 where the accident to place. In the tampo ~~xxx~~  
collided with the train. It was about 10.15 hrs. A tampo  
came on the gate from Saron side going towards ALD. The gate  
leaves were closed. The tampo Driver told the gateman that  
he is in hurry please open the gate. The Gateman replied  
that the signal is down and he can not open the gate. The  
people from the tampo got down to open the gate. The gate was  
open. When the tampo came on the track then the train arrived  
and dashed to the tampo. Resulting in death of several people.  
After that I left the place and I know nothing more and close  
my statement.

*Handwritten signature*

The Enquiry Officer does not deem it necessary to cross ~~the~~  
examine the above witness as it appears to be a witness  
produced ~~the~~ long after the occurrence of the accident, even  
his statement was not recorded in ACRS enquiry. Therefore  
it is all considered as an after thought.

Comments by Defence Council.  
Shri K.N.Srivastava  
Since no comments of cross examination is done by enquiry officer,  
hence I also dont want to examine the witness and I accept  
the above statement.

*Abdul Hk*  
*30-3-78*

LABORATORY UNTESTED

*Abdul Hk*

*RRP*  
*29/3/78*

Name Shri Abdul Ali S/O Shri Nazim Ali Deoig. Driver Gr.(B)  
 Date of Apptt. 8.12.44 Date of birth. 1.7.25 Length of service  
 34 yrs. Rate of pay. Rs.580/-

Statement of Driver as under:- GM's warning given.

My statement given to the ACRS duly read by me stand goods but it should be read and explained in DAR. once again. I want my original statement not any copy of that not send by me.

Abdul Ali  
 30-3-78  
 ( Abdul Ali)

ACRS enquiry report statement of Driver Abdul Ali is placed as serial No.252 to 238 is put up for your perusal and scrutiny. Also you have taken the full extract of the report which is with you. All recorded statement in original are with HQ Office. The statement is given by ACRS is considered as valid. Now please let me know whether you will sit by this enquiry or not.

R  
 30/3/78

A. Chakravarty  
 ( Enquiry Officer) 30/3/78

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Abdul Ali

18/11/78  
 29/3/78

Statement of Sri Abdul Ali. S/O Sri Nazim Ali.  
Designation:- Driver. Headquarters:- Lucknow.  
Date of Appointment:- 8.12.44. Age:- 53 Years.  
Rate of Pay:- Rs.680/-.

CP

2/2

....

G.M.'s warning given.

I was working as Driver on engine no.7012 WP working  
352 Dn. on Saharanpur - Allahabad Express Ex IKO to AID on 28.8.77.  
My fireman Sri Mohd. Yaub IV and 2nd Fireman Sri Mohd. Yaseen IV.  
Guard of the Train was Sri Raphael Pereira.

My train was running two minutes late while approaching  
Saraigopal. After leaving Atrempur ~~xxxx~~ which was a Schedule halt,  
my train picked up speed about 65 to 67 KMPH. While approaching  
Saraigopal I observed the Gate signal was lowered, the time was about  
10-15 or 10-18 hrs. The aspect of the gate signal was in my view  
for about 2 Kilometers. The aspect of the signals was also called out  
by me and fireman Sri Mohd. Yaub IV.

Since it was a Mela bathing day I was sounding the engine  
whistle continuously while approaching the gate. ~~xxxxxxxxxxxx~~  
The gate all of a sudden I heard a loud noise as though some thing  
was breaking. I immediately made emergency application of the vacuum  
brake and stopped my train.

The tempo which was passing the gate from the left side of  
the Loco was not visible to me hence I could not have a clear vision  
of it. After the train had stopped, I got down to investigate the  
cause and found one Tempo No. UPR 7184, had dashed with my train and  
was badly damaged. Also I observed several people ~~xxxxxxxxxxxx~~  
had died due to this impact, moreover the tempo was over crowded with  
passengers, some of whom were dead and some alive.

Immediately I sounded the engine whistle to call the guard  
but the guard did not come, so I myself went back to call the guard  
who came along with me, to see the site of accident.

The guard, fireman and myself extracted the passengers dead  
and alive from the tempo entrapped, after protecting my train in front.  
First Aid was rendered.

Thereafter the guard made all arrangements and I returned  
to the engine. After a while the police officers, District Magistrate,  
all attended the site. After clearing the track by the police  
officials, my train was started at 14.55 hrs i.e. 4.35 minutes after  
the accident. The relief train was also attached to my train which  
worked upto Phaphaman.

At Phaphaman the relief train was detached and my engine was  
examined jointly by Loco Foreman PBH, L.F. Allahabad, SLI (Steam) AID  
and Sr. D.M.E. AID. There was found no defect on the engine and  
the engine brakes were found working satisfactorily. There after  
my train was worked upto AID with my engine reaching Allahabad at  
17.15 hours.

After reaching the loco shed at 18.00 hrs the statements of  
myself, fireman & 2nd fireman were taken by IF AID, SLI AID & SFI AID  
and there was also one man whom I do not recognize. All the  
said statements were duly signed by us after it was read out and  
explained to us.

I close my statement of my own accord as I have nothing  
further to add.

Read & explained in Hindi & accepted as correct.

Abdul Ali

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31-3-78  
Chaitan  
Elo  
3/3/78

70

Questions by the Enquiry Officer.

Q. 1. Was any police action taken against you for this accident?

Ans. At Allahabad while I was in the running room I was taken to police station by two constables at about 24 hrs on 28.8.77. I was told that I was under arrest. I was then locked up, till 12 hrs on 29.8.77 when my bail was accepted.

Q. 2. Is your case subjudiced in the courts of law?

Ans. Yes.

Q. 3. Did you avail proper rest before working 352 Dn on 28.8.77 ex Lucknow?

Ans. I got my proper rest at Lucknow of about 24 hours.

Q. 4. Did you pass with spectacle and that were you wearing the same at the time of accident?

Ans. Yes. I had passed with spectacles and was wearing them continuously. Loco Foreman, Allahabad took my spectacles i.e. four pairs and kept them in his custody. These were returned to me when I was booked for vision test which I passed with the same spectacles.

Q. 5. When were you promoted as Driver Gr. ~~XXXX~~ 'B'?

Ans. I was promoted as Driver Gr. 'B' and transferred to Lucknow from FBR on 17.5.77.

Q. 6. Was this your first trip ex LKO to AID via UCR to work 352 Dn.?

Ans. This was my fourth trip on the section. and I am fully conversant with the section.

Q. 7. At what distance in your estimation is the signal sighting Board situated from the gate signal?

Ans. About 500 to 700 feet.

Q. 8. On 28.8.77 was a main bathing day and heavy traffic was passing through at SINGL Gate, did you not observe this heavy rush while your train was approaching?

Ans. I saw my signal lowered and was whistling continuously to alert the traffic which was great due to main bathing day.

Q. 9. Can you say or explain to the Committee how the gate signal was lowered at Sarai Gopal and at the same time the passage of a tempo took place simultaneously which is against the working of an interlocked gate?

Ans. This I am unable to explain, as to how this has happened.

Q. 10. Can you explain the method of interlocking of SINGL gate?

Ans. The gates will be closed first and then signal lowered. The statement given by Signal Inspector that signal can be taken off by manually pulling the concerned wire is also a factor that has to be considered. It cannot be assumed by the driver whether the signal is manually lowered or otherwise, specially considering the heavy rush as stated earlier.

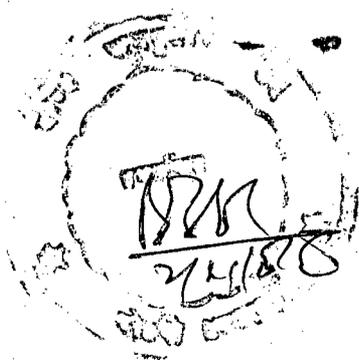
*Handwritten:* Abdul Ali  
31-3-78

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Elor  
31/3/78

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(Abdul Ali).

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Cross check to Shri Abdul Ali contd. -3-

Q. 11. Can you say whether it is feasible or not to observe any signal wire being pulled from the engine specially when the view ~~was~~ ahead is clear and time is about 10.15 hours ?

Ans. Due to Mela rush it is not possible.

Q. 12. When there is mela rush as stated by you, is it not obligatory for you to check the speed of the train specially when the rush was observed at the gate of SPQL ?

Ans. Due to interlocking of the gate it clarifies gates are closed and concerning gate signal is lowered which authorises me to go ahead. There are no other instructions to slow down the speed of the train on seeing the rush of mela .

Q. 13. Does GR 76 B give you this privilege or are you obliged to see the line ahead is clear of ob-struction or possible obstruction and is it not obligatory on your part to act in accordance with Safety to avoid any impending accident? AS 76 B states he shall not however, trust entirely to signals but be vigilant and cautious ?

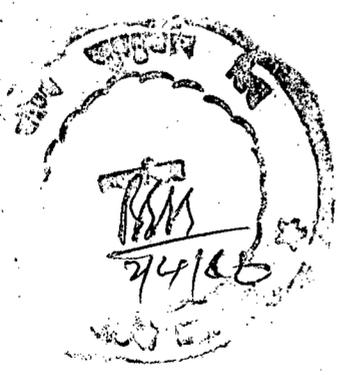
Ans. I ~~was~~ was sounding whistle continuously and was alert with my hand ready to apply the vacuum and observing the line ahead to stop short of any obstruction. If the tanno entered the track from off side and came on track at the precise moment my train was passing then I am helpless.

Head explained in Hindi and accepted as correct.

*L. J. Claasen*  
Enquiry Officer.  
31-3-78

*Abdul Ali*  
31.3.78.  
(Abdul Ali).  
Driver Gr 'B'.  
Lucknow. HQ .

TRUE COPY ATTESTED



*Abdul Ali*

Amneru 5

7/67

NORTHERN RAILWAY

S.F. NO. 9(c).

STANDARD FORM FOR ISSUE OF SHOW CAUSE NOTICE  
FORM NO. I & II UNDER RULE 20(S) OF R.S. (D & A) RULES - 1968.

MEMORANDUM

No. T-28/11/72 R.C.

Divl. Supt.'s office,  
Lucknow, Dated: 20-4-78

Shri Abdul Ali Durrani is informed that the Officer appointed to enquire into the charge(s) against him has submitted the report. A copy of the report of the Enquiry Officer is enclosed.

2. On careful consideration of the Enquiry Report aforesaid, the undersigned agrees with the findings of the Enquiry officer and holds that the article of charge(s) is proved. The undersigned has, therefore, provisionally come to the conclusion that :-

Shri Abdul Ali is not a fit person to be retained in service and so the undersigned proposes to impose upon him the penalty of Removal from service.

3. Shri Abdul Ali is hereby given an opportunity of making representation on the penalty proposed but only on the basis of the evidence adduced during the enquiry. Any representation which may wish to make on the penalty proposed will be considered by the undersigned. Such representation, if any, should be made in writing and submitted to the undersigned not later than 15 days from the date of receipt of this by Shri Abdul Ali.

4. The receipt of this Memorandum should be acknowledged by Shri Abdul Ali.

Encl: As above. (2 P/2)

Signature [Signature]  
Name :- [Name]  
Designation: [Designation]

To,  
Shri Abdul Ali  
Designation [Designation]  
Through \_\_\_\_\_

ACKNOWLEDGEMENT.

Received Show Cause Notice No. \_\_\_\_\_ dated \_\_\_\_\_  
Issued by \_\_\_\_\_

Station:-  
Date :-

Signature -  
Name -  
Designation:

Malik/30.x

Received  
in office  
25/5/78

Abdul Ali

Amr G M Aleski  
[Signature]

Answer 6

72

To  
The Sr. Divn. Mech. Engineer,  
Northern Railway,  
Lucknow.

Sub: S.F.9(C) No. TCS/CL/L/77-RS dt. 20-4-78

Sir,

With due respect I beg to lay down following few facts for your kind consideration and sympathetic justified orders.

That on 28-8-77 I worked 352 Dn Exp. and it is alleged that I passed gate signal of SPGL in ON position and collided with a passenger carrying tempo and caused the death of 18 person with 4 persons hurt grievously.

That in D & A.R. enquiry the learned E/O did not provide reasonable opportunities of defence and conducted the enquiry in an atmosphere of threatenings of ex parte action overlooking the points in my favour and high lighting the points against me just to prove the allegations against me and holding only me responsible for the said accident. Whereas learned A.C.R.S. has fixed up responsibilities on others shoulder's too.

That in DAR enquiry every point is examined to impart full justice but I regret to say that the same has not been done with me.

That learned A.C.R.S. in his report has mentioned that there were lapses in execution of sanctioned plan and why & how these lapses were being carried out and no divisional authorities nor any safety counsellors checked and pointed it out since long is a mystery and it is not revealed in Enquiry

contd..2

*Abdul Ali*



TRUE COPY ATTESTE

and even E/O too. It is nothing but only to overlook the facts.

T.I. PFG Sri Mithai Lal in the last question has accepted "I cannot give any argument as the gate signal was not tested by me before the accident."

Sri Tulsī Ram LR/Porter in answer to R.No.10 has accepted Yes, this happened one occasion with me when interlocking got defective.

Shri Bhola gateman has showed his innocence regarding the aspect of gate signal when 352 Dn was approaching or after the collision while answering R.No.19.

Shri R. Pararia Guard of the ill fated train has accepted while answering question No.9 that it was his mere presumption that Driver passed gate signal in 'ON' and in answers to P.No.138 14 he confirmed that he did not see the gate signal in 'ON' position before 352 Dn passed it.

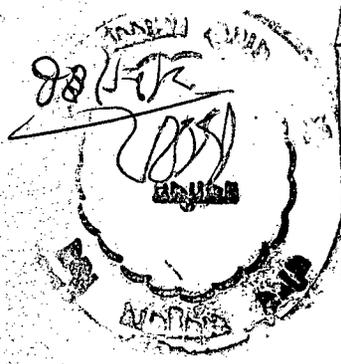
Sri L.U. Siddiqui FASM in his statement has said in Para '2'. "After sometime I heard the arrival sound of 352 Dn and I came out and found that train had reached the platform, I showed red flag and the gateman shouted because the gate was opened and Tempo was willing to cross it, but I myself, the gateman and the public all remained unsuccessful and the collision occurred."

It is strange that Sri L.U. Siddiqui ordered gateman to pass 352 Dn at about 10/00 but Sri Bhola remained relieving gate leaves from clutches and did not close the gate. It seems that gateman Sri Bhola made

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*Abdul*



*Handwritten signature*

confid.

believed upon interviewing overlooking the gate and  
 was traveling and 2/0 2.1.1. Sgt L.J. Clarkson  
 form and I was unfortunate enough that no 2.1.1.  
 put back to 'ON' when train was reaching at the plat-  
 through" was lowered for the train and signals were  
 stood by the side of driver to speak with that "MIM  
 on the engine and they made X on log registers and  
 that 2.1.1. Sgt Marshall & S.I.1 Sgt L.J. Clarkson were  
 starter of MS on 19-6-78. But he was fortunate  
 352 he passed it as Dr. of 120 he passed

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this section for several years)  
 it was revealed that he had been working as fireman in  
 and told that he was a new man in this section whereas  
 aspects repeated by fireman (who gone hostile later on  
 the gateman that signal was seen as lowered by me and  
 So, it was done either by some miscreant or by

be overlooked.  
 flash-plates this is much easy and this point must not  
 when miscreants are blocking railway track, opening  
 pulling the signal wire signal can be taken off and  
 reference to H.No. 6 & 7 was told that by simply  
 The answers of Sri Munn Lal S.I. (B) with

gate signal in 'ON' position before 352 he passed it.  
 Sgt L.J. Sidiqui no where was told that he saw  
 collision.  
 gate he failed to stop tempo MPZ 7184 and caused a  
 but unfortunately when the 352 he was approaching on  
 the side of the gate to stop road traffic and pass 352 he  
 some unfiled means and stood himself with a red flag by  
 no efforts to close the gate, lowered gate signal with

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declared me responsible for ignoring the gate signal.

That on it is not possible for Railway to depute a T.I. on every express train to confirm and tell the administration the truth so till such time any instrument or device is not fitted with engine or signals to prove the truth only the Drivers must not be removed from service on a report from any ASM or gateman.

That despite of the above mentioned facts if your honour disagree with me and hold me responsible for passing gate signal of SPGL in 'ON' the punishment of removal from service is too severe. There had been instances in past when dep. signal were overshooted by ill fated drivers and they were awarded the punishment of reversion to a lower post for 9 months. One year or two year. Moreover I have been punished by your honour by taking me 'off' from passenger service and allowing me to work only goods train. Every one knows that punishments are not awarded in instalment. Once a man is punished the punishment cannot be increased or decreased by the same authority.

It will not be out of point to mention here that as per Railway Board letter No.E(D&A)64R03-1 dated 3-2-1964 clarification contained in item (2) it is mentioned that once a court has taken cognisance of an offence either upon a complaint or upon a police report, all departmental proceedings for disciplinary action against the accused responsible for the accident should be suspended.

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8/3

one cannot be punished by two authorities for one mistake by the department and by the court. If I am proved guilty in the court I shall be duly punished and if not proved will be set free.

In the last I request your honour to take a justified lenient view and if I have committed any mistake the punishment already awarded to me is sufficient as any other punishment from your side will be illegal, unconstitutional, against the order of Hiy board as well as an injustice to me. You are prayed with folded hands not to snatch the pieces of bread from the mouth of my poor children if I have committed mistake I am to be punished not the poor member of my family. If you are so much adamant to remove me ignoring the facts and rule I pray your goodself to retire me.

With full hope of favour.

Yours faithfully,

Abdul Ali

( ABDUL ALI )  
Driver Gr. 'B' reduced to 'G'  
L.R./Lucknow.

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Dated: 1/6/ 1978.  
Need see copy  
with reproduction  
16/7/78

Abdul Ali

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R/S

as learned E/O denied to call respected D.S.O. and safety counsellors of the division. It is shameful for the authorities to cut a poor drivers threat to save their own skin.

That gateman Sri Bhola posted on the gate in question had neither gone under required medical test nor was fully aware of the duties of a gateman but he was posted on the gate as gateman. Had there been a qualified and medically fit gateman, such disastrous accident would have never taken place but the authorities responsible for his posting were totally saved and were not asked why they posted an incompetent man as a gateman on a gate with such a heavy traffic.

That after accident interlocking is always found as correct by the persons who may be responsible for defective interlocking and owing to insufficient knowledge it is believed that interlocking is faultless and no defect may ever crop up in it whereas G.R. (76B, SR. 82/1, 53/6, 78/1) say clearly or indicate that fault may crop up in interlocking and it may go defective at any moment.

That the public witnesses who offered themselves for statement before ACRS were not produced in D & A R enquiry to be cross-examined and the public witness produced by me were paid no importance and it is alleged by E/O that the statement was being dictated by defence helper. Here it will not be out of point to mention that E/O is an anglo-Indian and is not understanding Hindi well and generally all the statements were translated from Hindi to English and thus were DICTATED to typist

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*Ahmedul Akbar*

encl. 3

Annexure 7

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A/24

To,

The Divisional Superintendent,  
Northern Railway,

DURGAM

Through- L.P.LKO.

Ref No. 108/G-1/1/77 Dated 2-6-78.

Appeal lies under Rule 18(DA) to the Divisional Superintendent, L.P.LKO. vide above mentioned letter dated 2-6-78 which was received by us on 14-6-78.

Respected Sir,

1. That it is evident from the INCIDENTAL OBSERVATION made by the learned ACRS, in para 44 that DSTE/LKO. Staff had invited the cause of accident for not placing the Gate Signal of SPGL at an adequate distance i.e. (400 Meters) apart from the gates are open for the passage of road Traffic, practically the gate Signal of SPGL was placed at a distance of 180 (Meter) from the gate thus G.T.24 has been wilfully violated by DSTE/Staff.

2. That the defective and failure interlocking as per SRS/6, and SR 22/1 cannot be denied and over ruled from GDSOR of 1969 and further it goes to prove that under defective Interlocking the Signals can be lowered. Though the gate Signals of SPGL. was found to be off as corroborated by my Fireman Sri Mohd Ayub it is evident from perusal of records. The defect would have been checked if the Warner Signal would have been provided to repeat the aspect of Gate Signal. Another lapses have been committed by DSTE/Staff. For instance Bhupinagar Station is just like Sarsi Copal Station, the gate Signal aspect of VPO is repeated by a Warner Signal. Whereas the SPGL Gate Signal which was placed at 180 (Meter) inadequate distance from the gate; and having no Warner Signal. The trains are forced to run at SPGL for 252 km. was 07 km. more as at VPO. the locked speed for trains are 50 km/h. From the facts for a

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Ahmed Ali

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speedy train running 67 KM/h, Warning Signal was under the rules. The lapse for NOT providing warning Signal at SPGL for a train running with a speed of 67 KM/h. Further goes against the DSTE/staff. The attention of ACRS to this effect will be invited as this issued was not brought into light before ACRS.

3. That the positive failure by the Supervisory staff for absorbing Gateman without knowledge of Signal competency and medical certificate goes to prove that accident was involved under violation of GR 227. 39227/1. It is evident from the finding of ACRS in para 46 that Phola has been responsible contributed to the accident for violating para 1010 of the Indian Railway Way & Works Manual.

4. That the learned ACRS has declared FCM SPGL to be incompetent person for holding post of FCM. Thus safety was involved for infringing the obligatory rules. (Para 47 of the report of ACRS/WHO may be perused)

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5. That the leading Fireman Sri Mohd. Ayub IV was hooked on Express Train 353 Dn without conversation with the Section, thus para 1019(a) Optg. rule which was wilfully violated by Loco Shed LKO. (Para 52 of report submitted by ACRS/WHO may please be seen).



6. Though the gate Signal of SPGL was found to be lower, it might be under defective interlocking and assuming that the train can never be stopped at SPGL, gate Signal in position as Signal was not practically posted at an adequate distance where as on papers of working rule diagram No. DSTE 604/23-7-74 shows a dist of 400 (Meter) from the Signal to the level crossing at site it was found only 180 (Meter). Thus accident eventually invited by the DSTE/staff and are liable to be held responsible. Under such circumstances the

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maintenance of interlocking had functioned their practical jobs like DSTR staff which cannot be denied. On perusal of records concluded by the learned ACBS. I am of firm opinion that if ACBS would have not convicted the Enquiry himself the lapses of providing inadequate distance of 180 (Meter) from gate would have washed out to implicate the innocent Driver-Therefore passing Gate Signal or SPGL in on position can never be avoided on the following grounds:-

- i) Adequate distance of 400(Meter) from crossing level was not provided to the Gate Signal of SPGL.
- ii) The controlling movement of train running with a booked speed of 67 KM-canover be controlled at Gate Signal of SPGL without repeating the aspect of Gate Signal with a Warner Signal.

Under the facts and above circumstances passing of Gate Signal in on position may kindly be ruled out on material fault of DSTR/LRO. The attention of ACBS will be invited for regarding provision of Warner Signal.

Personal hearing solicited.  
 Thanks and oblige.

Yours sincerely,  
*Abdul Ali*  
 ( ABDUL ALI)

Driver Grade 1st (Retired)  
 Loco Shed Lucknow.

Dated. 28.7.1978

Address for communication to be made:-  
 Village-Karanpur Near Bus Station,  
 Pratapsarh (Ayadh) N. Rly.

*Received by*  
*M. Ali*  
*29/7/78*

TRUE COPY ATTESTED

*Abdul Ali*



Homeone J.

AT

The Asst. Comr. Genl. Manager,  
Lucknow Railway,  
Lucknow.

Ref : An appeal dated 28.7.1978 preferred  
under rule 13 of the Railway Ser-  
vants Discipline & Appeal Rules,  
1968 against the order of removal  
from service passed by the then  
Sr. DMS/LFO vide Imposition of  
Penalty Notice No. FI-8/7-1/1/77/  
dated 1/2/78-1978 (served on 14.6.78).

\*\*\*\*

Respected Sir,

With reference to above appeal, I bring  
the following further facts to your kind notice  
for justice:-

1. That the petitioner, on the basis of  
charge contained in Memorandum of Chargesheet No.  
FI-8/7-1/77 RS dated 26.11.1977, was removed from  
service with effect from 1.6.1978 when he was  
working as a Driver grade 'B' under the Loco Foreman,  
Lucknow.

2. That the aforesaid order of removal  
from service was passed during the pendency of  
investigation which subsequently took the shape  
of a Criminal Case No. 164 of 1977 in the Court  
of Judicial Magistrate, Ist. Class, Allahabad  
(State Versus Abdul Ali & others). The said case  
was tried under section 101 of the Indian Railways  
Act and section 304A I.P.C. for the same charge  
on the basis of which the order of petitioner's  
removal from service was passed by the then Sr. DMS/  
Lucknow.

3. That aggrieved by the aforesaid order  
of removal from service, the petitioner preferred  
an appeal dated 28.7.1978 under rule 10 of the  
Railway Servants Discipline & Appeal Rules, 1968  
to your goodself.

4. That despite various representations,  
reminders, the aforesaid appeal has yet not been  
decided and as such the petitioner has been awaiting  
the decision till today.

5. That the aforesaid Criminal case pending

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Abdul Ali

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In the court of Judicial Magistrate, Ist. Class, Allahabad on the same charge has now been decided on 19.11.1984 by means of which the petitioner stands acquitted of the charges. A photo-stat copy of the judgment dated 19.11.1984 is being filed herewith for your kind perusal.

6. That the judgment of the court will evidently show that the petitioner has been found innocent in the matter and no charge could be proved against him by the prosecution.

7. That in view of the final verdicts of the court on the same charge, there remains no justification to confirm the order of petitioner's removal from service in appeal which is pending before your Goodself since long.

In view of the facts mentioned above, it is respectfully prayed that your Goodself may be pleased to allow the appeal of the petitioner by setting aside the order of his removal from service passed by the Sr. DMS/LKO and the petitioner be deemed to have been retired from service in the afternoon of 30.6.1983 when he reached at the age of retirement with full benefits which would have accrued to him had he not been placed under suspension and removed from service. It may be mentioned that the petitioner is a pension optee.

An early decision in the matter is awaited.

Thanking You.

Yours faithfully,

*Abdul Ali*

( Abdul Ali ) (river side)  
( removed on 1.7.1978 )

r/o Village Karanpur, Near  
Bus Station, Pratapgarh.

DA/One photo-stat  
copy of judgment.

Dated 23.1.1984.

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*Abdul Ali*

Annex 9

न्यायालय सुप्रीम कोर्ट प्रथम बेंच, इलाहाबाद।

उपस्थित : जगदीश चन्द्र,

सूचना नम्बर 1834/79

संज्ञक उनाम अबदुल अली आदि।

धारा 101 भारतीय रेल अधिनियम,  
सं. 304 ए. भारतीय दण्ड संहिता,  
धारा जी. आर. जी. इलाहाबाद.

निर्णय

अभियुक्तगण अबदुल अली, भोला एवं नईम उल्ला के विरुद्ध उप आरक्षी श्री आशुतोष मालवीया ने अन्तर्गत धाराये 101, भारतीय रेल अधिनियम आर 304 ए. भारतीय दण्ड संहिता के अन्तर्गत धारा जी. आर. जी. इलाहाबाद धारा न्यायालय में आरोप पत्र प्रेषित किया है।

अभियोजन के अमानुसार दि 28-8-77 को करीब सवा पार बजे दिन स्थान सराय गोपाल रेलवे स्टेशन के उत्तरी स्टेशन का गेट खुला हुआ था। एक ट्रेन नं० यू. पी. जेड. 7104 जिसे ही गेट पर पहुंचा और से ट्रेन नं० 352 ज-उन ने तेजी से आकर ट्रेन पर टक्कर मारा। जिससे वह बफर में फँस गया। दाईं तरफ ने गाडी की स्पीड कम नही की और धक्के हूये 129 मी० तक ले गया जिससे 18 व्यक्ति घटना स्थल पर मर गये। इस घटना की सूचना उप आरक्षी श्री आशुतोष मालवीया को टेलीफोन धारा प्राप्त हुई। उन्होंने अभियुक्तगण के विरुद्ध सूचना दर्ज किया और विवेचना के उपरान्त अभियुक्तगण के विरुद्ध आरोप पत्र न्यायालय में प्रेषित किया है।

न्यायालय में अभियुक्तगण की उपस्थिति के कारण उनका बयान अर्जित किया और उन पर आरोप निर्दिष्ट किया गया जिसे अभियुक्तगण ने स्वीकार किया है।

अभियुक्तगण के विरुद्ध झूठ बोलने के लिये अभियोजन पत्र की ओर से पी. डब्ल्यू. 1 जी. आर. ग्रीवास्तव ए. ई. एन. को परीक्षित किया गया जिन्होंने बयान दिया है कि दि 28-8-77 को उन्होंने घटनास्थल का निरीक्षण विशेषज्ञ के साथ किया सम्बन्धित मुक्तों की लाना एवं ट्रेनों तथा रेलवे इन्जन घटना स्थल पर मौजूद थे। घटना स्थल पर फोटोग्राफ लिया गया था जो प्रदर्श 1 लगायत प्रदर्श 29 है। पी. डब्ल्यू. 2 हे. जी. राम किशोर मिश्रा ने बयान किया कि 28-8-77 को इस मुकदमे से सम्बन्धित 18 लाने

*Abdul Ali*  
*File*  
*28/8/77*

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टेम्पो का रजिस्ट्रेशन कराया गया। मेट स्टेशन इतिहास पर जो या है और इस सूचना पर जो घटना स्थल पर आयी। सुदामा कायमी की रपट थी. 2 सिद्ध किया है। विक संप. आडं. आर. प्रदर्शनी. 1 है। पचासत नामा इन्होंने तैयार किया जो प्रदर्शनी. 3 लगायत प्रदर्शनी. 7 है। प्रदर्शनी. 8 लगायत प्रदर्शनी. 11। सुक राम सुन्दर, राम प्रसाद, व लाल बहादुर सस. आडं. श्री के. पी. सिंह ने तैयार किया था। इसकी सुद्धमें की तस्वीर इन्होंने किया और गवाहान के बयानात लिये अन्तिम विवेचना का करण उप आरजी स. सस. खान द्वारा पूरा किया गया, जिन्होंने तीनो अभियुक्त का के विरुद्ध आरोप पत्र प्रदर्शनी. 21 न्यायालय में प्रेषित किया है।

उपरोक्त तारो साक्षीगण की साक्ष्य से स्वच्छ चला कि प्रकार दुई, कि प्रकार अभियुक्तगण की लापरवाही थी, सिद्ध नहीं होती है। अभियुक्त भोला मेट मैन रेलवे स्टेशन तरायें गोपाल मंड का अभियुक्त नईम उल्ला सिद्दीकी इन्वार्थ रेलवे स्टेशन तरायें गोपाल की हसियत से थे, और अभियुक्त अब्दुल अली उक्त गाडी के ड्राईर थे, इन तीनों अभियुक्त गण के विरुद्ध यही मुख्य आरोप है कि इन्होंने कर्तव्य और नियमों का पालन नहीं किया और अपने कर्तव्य पालन में घोर असावधानी का परिचय दिया है, अभियुक्त भोला, अभियुक्तगण ने ट्रेन को धीरे हुये देखकर भी मेट को बन्द नहीं किया। अभियुक्त नईम उल्ला सिद्दीकी ने इन्वार्थ रेलवे स्टेशन होने के नाते मेट नहीं बन्द कराया और अभियुक्त अब्दुल अली ने बिना सिग्नल का संकेत देखे हुये ट्रेन को तेजी के इतिहास मेट पर ले आये, जब कि इतिहास मेट खुला था। अभियुक्तगण की ओर उपरोक्त लापरवाही व असावधानी से टेम्पो न. यू. पी. क्र. 7184 से ट्रेन नं० 352 डाउन टकरा गई, जिससे 18 आदमी टेम्पो में जो यात्रा कर रहे थे, मोंके पर मर गये और वार बुरी तरह घायल हो गये और टेम्पो स्राव हो गया। प्रस्तुत बाद में जो आरोप पत्र प्रदर्शनी. 2 लगायत न्याय में प्रेषित किया गया है, उसमें विवेक ने 21 गवाहान की लिस्ट दिया है, परन्तु उपरोक्त वार औपचारिक साक्षीगण के अतिरिक्त कोई भी ऐसी साक्ष्य नहीं दी गई, जिससे किसी भी अभियुक्तगण के विरुद्ध अनन्त अपराध सिद्ध हो। विवेक का अन्तिम करण विवेक स. सस. खान द्वारा पूरा किया गया है, उसको भी परीक्षित नहीं किया गया है। पचावती में कोई भी ऐसी साक्ष्य उपलब्ध नहीं है, जिससे यह सिद्ध हो कि अभियुक्तगण की लापरवाही के कारण ट्रेन टेम्पो से टकरा गई और उक्त घटना घटित हुई। अभियुक्तगण की ओर से यह तर्क रखा गया कि यदि अभियुक्तगण की लापरवाही से उक्त घटना हुई तो विवेक के दारान बहुत ही ऐसी मौखिक व कापी साक्ष्य रकम थी या तकली थी, जिससे यह सिद्ध होता कि वास्तव में अभि...

Akmal Ali  
 Full copy  
 attached  
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Handwritten notes in the top right corner, including the name "H. K. Kulkarni" and some illegible scribbles.

Main body of the document containing dense, mirrored text that appears to be bleed-through from the reverse side of the page. The text is largely illegible due to the quality of the scan and the nature of the bleed-through.

Handwritten marks at the bottom left corner, including the number "1/2" and a signature.

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8/10

टैम्पो का रजिस्ट्रेशन कराया गया था और स्टेशन क्रॉसिंग पर हो या है और इस  
 सूचना पर वो घटना स्थल पर आये। मुकदमा कायमी की रफ्तारी 2 तिथि  
 किया है। चिक एच. आर्. प्रदर्शनी 1 है। पंचायत नामा इन्होंने  
 तैयार किया जो प्रदर्शनी 3 लगायत प्रदर्शनी 7 है। प्रदर्शनी 8 लगायत  
 प्रदर्शनी 11। इनके राम सुन्दर, राम प्रसाद, व लाल बहादुर एच. आर्. श्री  
 के. पी. सिंह ने तैयार किया था। इसकी मुकदमे की तस्वीर इन्होंने किया और  
 गवाहान के बयानात लिये अन्तिम विवेचना का वरप उप आरपी ए. एच.  
 खान द्वारा पूरा किया गया, जिन्होंने तीनों अभियुक्त का के विल्ट आरोप पत्र  
 प्रदर्शनी 21 न्यायालय में प्रेषित किया है।

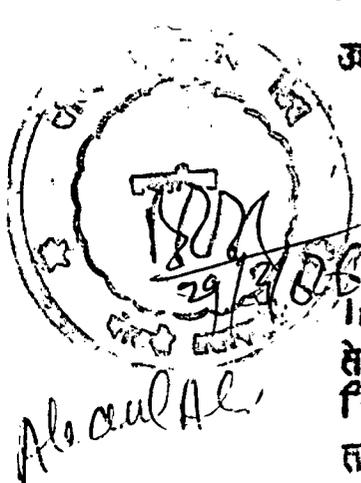
उपरोक्त तारों साक्षीगण की साक्ष्य से स्वच्छ घटना किस प्रकार हुई,  
 किस प्रकार अभियुक्तगण की लापरवाही थी, सिद्ध नहीं होती है।  
 अभियुक्त भोला गेट मैन रेलवे स्टेशन तरायें गोपाल मज का अभियुक्त नईम उल्ला  
 सिद्दीकी इन्वार्ड रेलवे स्टेशन तरायें गोपाल की हस्तगत से थे, और  
 अभियुक्त अब्दुल अली उक्त गाडी के ड्राईवर थे, इन तीनों अभियुक्त गण के  
 विल्ट यही मुख्य आरोप है कि इन्होंने कर्तव्य और नियमों का पालन  
 नहीं किया और अपने कर्तव्य पालन में घोर असावधानी का परिचय दिया है,  
 अभियुक्त भोला  
 अभियुक्तगण ने ट्रेन को छीले हुये देखकर भी गेट को बन्द नहीं किया। अभियुक्त  
 नईम उल्ला सिद्दीकी ने इन्वार्ड रेलवे स्टेशन होने के नाते गेट नहीं बन्द  
 कराया और अभियुक्त अब्दुल अली ने बिना सिग्नल का संकेत देखे हुये ट्रेन  
 को तेजी से क्रॉसिंग गेट पर ले आये, जब कि क्रॉसिंग गेट खुला था।  
 अभियुक्तगण की अनेक उपरोक्त लापरवाही व असावधानी से टैम्पो न, यू.  
 पी. के. 7184 से ट्रेन नं० 352 डाउन टकरा गई, जिससे 18 आदमी  
 टैम्पो में जो यात्रा कर रहे थे, मोंके पर मर गये और चार बुरी तरह घायल  
 होगये और टैम्पो तबाह होगया। प्रस्तुत बाद में जो आरोप पत्र प्रदर्शनी 2  
 लघायालय में प्रेषित किया गया है, उसमें विवेक ने 21 गवाहान की लिस्ट  
 दिया है, परन्तु उपरोक्त वार औपचारिक साक्षीगण के अतिरिक्त कोई भी  
 ऐसी साक्ष्य नहीं दी गई, जिससे किसी भी अभियुक्तगण के विल्ट अथवा  
 अपराध सिद्ध हो। विवेक का अन्तिम वरप विवेक ए. एच. खान द्वारा  
 पूरा किया गया है, उसको भी परीक्षित नहीं किया गया है। पंचायती में  
 कोई भी ऐसी साक्ष्य उपलब्ध नहीं है, जिससे यह सिद्ध हो कि अभियुक्तगण  
 की लापरवाही के कारण ट्रेन टैम्पो से टकरा गई और उक्त घटना घटित हुई।  
 अभियुक्तगण की ओर से यह तर्क रखा गया कि यदि अभियुक्तगण की लापरवाही  
 से उक्त घटना हुई तो विवेचना के दारमन बहुत ही ऐसी मौखिक व कागजी  
 साक्ष्य एकर की जा सकती थी, जिससे यह सिद्ध होता कि वास्तव में अभियुक्त-

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गण ने अपने कर्तव्य पालन में लापरवाही बरती। अभियुक्तगण अब्दुल अली साहब  
यदि तेज गति से घटनास्थल पर दौड़ कर लाया तो इसकी निश्चित ही  
मौखिक कागजी व दैनिक साक्ष्य द्वारा सिद्ध किया जा सकता था।  
इसी प्रकार अभियुक्त भोला गेट में इन्वार्ड तराय गोपाल स्टेशन नईम उल्ला  
के विरुद्ध भी अपराध कर्तव्य पालन में अवावधानी व लापरवाही का मौखिक  
व कागजी साक्ष्य से सिद्ध किया जा सकता था।

प्रस्तुत घात की घटना दिनांक 28-8-77 की बहुत पुरानी है,  
18 व्यक्तियों, 1 बजर, 2- राम पाल, 3- राम दुलारी 4- राम सुन्दर,  
5- राम प्रसाद, 6- इमत्याज अली, 7- एक अज्ञात महिला, 8- श्रीमती प्रेमा  
9- एक अज्ञात पुरुष, 10- एक अज्ञात महिला, 11 घुट्टा, 12- श्रीमती ननका,  
13- छोरी लाल 14 धनपत्ती, 15- घुट्टा 16- लाल बहादुर, 17- राम पदारथ,  
18- जमुना देवी की घटना स्थल पर ही मृत्यु हुई है। और चार व्यक्ति  
घायल हुये थे, यह निश्चित ही बहूनी दुर्भाग्य पूर्ण घटना है और अपराध बहुत  
गंभीर है अन्य व महत्व पूर्ण है। परन्तु यह बहुत खेद की बात है कि इस  
प्रकार के अपराध में भी बावजूद पर्याप्त अस्तर व साक्ष्य सौचित साक्षीगण  
नहीं पेश किये गये। यह पुलिस अभियोजन की लापरवाही व निर्धनता ही कही  
जायेगी। जैसा ऊपर लिखा गया है कि सिबि कोर्ड भी साक्ष्य रस्ता नहीं है,  
दिल्ले अपराध धारा 101, भारतीय रेल अधिनियम व 304 ए. भारतीय दण्ड  
संहिता का अभियुक्तगण के विरुद्ध सिद्ध हो। जो अभियोजन की ओरसे  
साक्षीगण परीक्षित किये गये हैं। इनसे घटना की परिस्थितियों तो अलग सिद्ध  
होती है, परन्तु इनसे किसी भी प्रकार से विविधत अभियुक्तगण को अपराधिक  
दोष से जिम्मेदार नहीं ठहराया जा सकता है। इन परिस्थितियों में न्यायालय  
के पास अभियुक्तगण को दोष मुक्त करने के अलावा और कोई भी मार्ग नहीं है।  
अतः साक्ष्य के अभाव में तीनों अभियुक्तगण के विरुद्ध में अभियोजन को अपराध  
धारा 101 भारतीय रेल अधिनियम और 304ए. भारतीय दण्ड विधान के  
अपराध को सिद्ध कर पाने में असफल पाता है। और तीनों अभियुक्तगणको  
अतः अपराध से दोष मुक्त करता है।

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अभियुक्त अब्दुल अली, भोला, एवं लईक उल्ला को अपराधधारा

101, भारतीय रेल अधिनियम और 304 ए. भारतीय दण्ड विधान के अपराध  
से दोषी नहीं पाया जाता है। अतः तीनों अभियुक्तगण अतः अपराध से दोषमुक्त  
किया जाता है। अभियुक्तगण जमानत पर है, इनकी जमानत निरस्त की जाती है  
तथा जामिनदारान को विमुक्त किया जाता है।

निर्णय इसे न्यायालय में हस्ताक्षरित दिनांकित,  
सर्व उद्घोषित किया गया।  
19/11/84  
10/- जगदीश सुन्द,  
जुडी. मज. प्रथम श्रेणी, उ० रेल० असाहाबाद,  
दिनांक 19-11-84

Ameeh 10

सेवा में,

मण्डल रेल प्रबन्धक,  
उत्तर रेलवे,  
लखनऊ

विषय: पत्रांक टी. जी.-8/बी-1/77, आर.बी./अपील, दिनांक 14.11.85.

महोदय,

निवेदन है कि प्रार्थी को उपरोक्त विषयों का पत्र द्वारा यह सूचना प्रेषित की गई है कि उसकी विभागीय अपील दिनांक 24.6.85. निरस्त कर दी गई है। इस सन्दर्भ में निवेदन है कि प्रार्थी ने दिनांक 24.6.85. को कोई विभागीय अपील प्रस्तुत नहीं की है। वास्तव में प्रार्थी ने रिमूवल पत्रों सर्विस के आदेश दिनांक 1/2.6.1978. को उसे दिनांक 14.6.1978. को प्राप्त हुआ था, के विरुद्ध विभागीय अपील दिनांक 28.7.1978. को आपकी सेवा में प्रस्तुत किया था, परन्तु आज तक उसके सम्बन्ध में प्रार्थी को कुछ भी अवगत नहीं कराया गया है। उपरोक्त विषयों का पत्र में यदि अपील का दिनांक सुदृष्टता 28.7.1978. के स्थान पर 24.6.85. हो गया हो तो सूचना उसे संशोधित करते हुए प्रार्थी को सूचित करने का कष्ट करें। साथ ही उपरोक्त विषयों से यह भी विदित होता है कि माननीय रेल प्रबन्धक महोदय द्वारा पारित आदेश कुछ अन्य है, जिसकी मात्र सूचना इसे प्रेषित की गई है। प्रार्थी को माननीय मण्डल रेल प्रबन्धक महोदय, उत्तर रेलवे, लखनऊ द्वारा पारित आदेश, जिसके विवरण देने वाले प्रार्थी को कक्षा विभागीय अपील को निरस्त कर दिया गया है, की आवश्यकता है।

अतः सर्विनय प्रार्थना है कि प्रार्थी को उपरोक्तानुसार सूचना अविलम्ब उपलब्ध कराई जाये, तथा उपरोक्त त्रुटि को, यदि ऐसा हो, तो ठीक किया जाय। यदि प्रार्थी की उपरोक्त विभागीय अपील दिनांक 28.7.78. को अभी तक निर्णित न किया गया हो तो उसे अविलम्ब निर्णित करते हुए निर्णय की प्रति प्रार्थी को उपलब्ध कराने का कष्ट करें, परन्तु यदि इस पर कोई निर्णय लिया गया हो तो उक्त निर्णय की प्रतिलिपि अविलम्ब प्रार्थी को उपलब्ध कराने का कष्ट किया जाये अति कृपा होगी।

प्रार्थी,

हस्ताक्षर अब्दुल अली,

डाक्टर ग्रेड "बी", रिमूवल ।  
दिनांक करनपुर, समीप बस स्टेशन, प्र

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लखनऊ :  
दिनांक: 31.12.85.

Abdul Ali

सत्य-प्रतिलिपि।

29/3/88

Annex 11

1/2/77

VIII CONCLUSION.

Part of ACRS Enq. report.

39. CAUSE.

On full consideration of the facts, material and circumstantial evidence, I have come to the conclusion that the collision between 752 Dn Saharanpur-Allahabad Express train and Road vehicles Nos UPZ 7184 at manned level crossing Nos 1/2, at Sarai Gopal flag station between Atrampur and Phaphamau stations on Lucknow division on Northern Railways was caused as a result of the express train having entered the level crossing with its gate leaves open to road traffic.

40. Responsibility.

40.1. Shri Abdul Ali driver of the Express train who disregarded the gate signal in 'ON' position and entered the level crossing is primarily responsible for the accident. He violated General Rule 76. An extract of the relevant rules is given in Annexure I.

40.2. Shri Bhola Gate Keeper whose specific duty was to close the gate and lower the gate signal for the safe passage of the approaching train and deceased Hiralal, driver of the road vehicles who did not exercise any caution while entering the level crossing, have contributed to the accident. Shri Bhola violated para 1610 of the Indian Railway Way and Works Manual and para 8 of the Station Working Rules of Sarai Gopal flag station. Extracts of the relevant rules are given in Annexure 'I'.

40.3. Shri Abdul Ali who is 52 years of age was appointed to Railway Service in 1944 as a cleaner and was gradually promoted to the post of a driver in Gr. 'C' in 1958. He had been working as driver in Gr. 'B' for about 3 months prior to the accident.

40.4. Shri Bhola who is 35 years of age was appointed to Railway service in 1968 in the capacity of gate keeper Safaiwala. He was posted as Safaiwala at Sarai Sarai Gopal flag station with effect from 28.8.77.

IX. INCIDENTAL OBSERVATIONS AND RECOMMENDATION.

42. The present arrangement for closing the gate is rather cumbersome. There are four swing type gate leaves two on each side of the crossing and each of these is to be disengaged from the catch and pushed. These leaves are no doubt coupled but a lot of physical effort is required to be used to close the gate. In view of the importance of the level crossing which is against a busy State High way with heavy vehicular traffic (29250 train vehicle units per day) and to facilitate easy and quick operation of the gate leaves should be replaced by a lifting barrier with a mechanism which operates both the barrier leaves simultaneously.

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43. The gate keeper at the level crossing is required to perform other duties at the station. While there should be no objection to such an arrangement in view of the light train services in the section (10 per day) particularly with a gate signal protecting the level crossing, it will be an additional advantage if telephonic communications provided from the nearest station to the level crossing and if the ASM of the station is made to advise the gate keeper of the movement of trains supported by a private number. There is already a control phone at the level crossing but there is no bell arrangement.

44. The gate signal is located at a distance of only 180 m from the level crossing which is inadequate for an unwarned lower quadrant two aspect signal. The signal posts should be shifted to a distance of 400 m from the level crossing.

45. The station working rule diagram No: DESTS 604/23 .7.74 shows a distance of 400 m from the signal to the level crossing while at site it was only 180 m. Such lapses are a matter of serious concern since sanctions are accorded by the Commission of Railway Safety on the presumption that plans correctly represent the site conditions. Such lapses in matters involving safety of trains should be avoided.

46. Shri Bhoja, although posted to Sarai Gopal Flag Station, as a Safaiwala was required to perform the duties of a gateman, porter and Safaiwala. He was entrusted with the job of a gateman without proper training and without his superiors ensuring his competency to do the job. While in view of the light nature of work at the station there should be no objection to his being put on a multi-trade post like safaiwala cum-Porter cum Gate Keeper, it is considered that there was a positive failure by the supervisory staff in the matter of ensuring his competence to perform the job. Such situations in matters relating to safety should be avoided.

47. Shri Siddique, Flag Station Master at Sarai Gopal displayed utter ignorance of the job he was required to perform as a flag Station Master. Evidently he was a misfit there. It is ~~surpr~~ surprising that with complex procedures and training programmes on the Railway suitability of the man to the job entrusted was not ensured. Since properly trained and competent staff could be an asset to the Railway the desirability of training such staff in duties likely to be performed by them should engage the attention of the Railway Administration.

*Abdul Ali*

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48. Sri Pereira, Guard, failed to protect the rear of the express train when it came to a stop in mid-section after the accident. While his depressed mental feelings in the face of the grim tragedy involving 18 deaths are understandable, an experienced Railway Servant he is, Sri Pereira should not have failed to master necessary courage to perform this basic duty. But this failure he exposed the train to a further risk. Train crew should be sufficiently educated not to under estimate the importance of protection of a train disabled for any cause whatsoever in mid section.

49. Sri Mithal Lal, Traffic Inspector has not shown any initiative in the matter of deciding the issue of posting of the Safawala to gateman's duty without a proper medical examination or competency test even after the matter came to his notice.

50. The Ministry of Shipping and Transport have in their communication No. TGS (21)/75 dated 19.9.75 to the State Governments suggested provision of Speed breakers (Bumps) in the approaches of level crossings and amendment of the Motor Vehicle Rules incorporating a clause requiring the road vehicle drivers to exercise extra caution at named level crossing gates in open condition. The Government of Uttar Pradesh have not so far taken action on either of these recommendations. It is understood that the Ministry of Transport have also withdrawn their suggestion about bumps. Provision of bumps in the approaches of level crossings is an urgent necessity in the interests of safety of road vehicles and it is suggested that the Railway Ministry may persevere the matter with the Ministry of Transport and persuade them to stand by their earlier decision. The State Governments should also be persuaded to provide speed breakers (bumps) at level crossings and to amend their Motor Vehicles Rules early.

51. The Paragraph relating to the working of the level crossing is poorly worded in the Station Working Rules of Sarai Gopal Station. It should be properly and precisely reworded under a correction slip.

52. There was a failure on the part of supervisory staff of Lucknow Loco shed responsible for booking Mohd Yaqub IV to work as a leading fireman of 352 Dn Express ex Lucknow to Allahabad on 28.8.77, without ensuring that he had conversant with the section Rae Bareilly-Allahabad. Because of this failure Mohd Yaqub IV could not assist his Driver in looking out for signal on the section.

It appears that while the general practice on Northern Railway in this regard is that a leading fireman is required to 'learn the road' before being asked

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to work in a particular section, there is no precise rule to enforce that practice. Para 4019(a) of Northern Ry's operating Manual, as modified by correction slip No: 4 of 2.8.74 reads as under:

"No driver or shunter passed Driver and / or Diesel Assistant/Leading Fireman ( if duly qualified as a driver) and, in the case of electric traction only, an Assistant Driver as well may be sent out working a train until he has thoroughly learnt the road and signed a certificate that he is fully acquainted with it."

The expression "working a train" may be interpreted to mean that the rule is applicable only as a driver) and, in the case of electric traction only, an Assistant Driver as well, may be sent out working a train until he has thoroughly learnt the road and signed a certificate that he is fully acquainted with it."

The expression "working a train" may be interpreted to mean that the rule is applicable only when the person concerned is required to work as a Driver. This view is further strengthened by the use of the expression "if duly qualified as a Driver" in the correction slip issued on 2.8.74.

It is necessary that the rule is properly amended to require a leading fireman or a Diesel Assistant (whether qualified to work as a driver or not) to learn the road and sign a certificate that he is fully acquainted with it before being sent out as a member of the engine crew working a train in a particular section.

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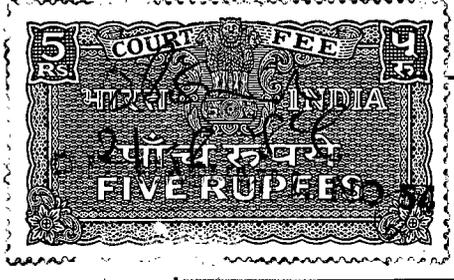
Before Central Administration

वकालत श्रीमान् ~~Dr. M. K. Bhatnagar~~ महोदय  
[ वादी ] अपीलान्ट  
Benar, Allahabad

प्रतिवादी [ रेष्पान्डेन्ट ] Abdul Ali

### वकालतनामा

Case No 4 1886



वादी (अपीलान्ट)

Abdul Ali

Union of Andhols प्रतिवादी (रेस्पान्डेन्ट)  
सन् पेशी की तां १६८ ई०

नं० मुकद्दमा

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री O.P. Srivastava Advocate  
867 Old mohamaga Near Fatma Hospital  
वकील

महोदय एडवोकेट

नाम अदालत  
मुकद्दमा नं०  
नाम फरीकैन

को अपना वकील नियुक्त करके प्रतिज्ञा ( इकरार ) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाब देही व प्रश्नोत्तर करे या कोई कागज दाखिल करे या लौटावे या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करे या मुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करे और तसदीक करे मुकद्दमा उठावे या कोई रुपया जमा करे या हमारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करे--वकील महोदय द्वारा की गई वह सब कार्रवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर नि० अ० Abdul Ali

साक्षी (गवाह) साक्षी (गवाह)

दिनांक महीना सन् १६८ ई०

उत्तर रेलवे  
=====

*Shankar*  
A/122

सं०: टी०जी०-८/जी०-१/१/७७.आर०बी०/अपील

मण्डल कार्यालय/लखनऊ

दिनांक: 14.11.85.

श्री अब्दुल अली.  
करनपुर ग्राम का निवासी  
बस स्टेशन के समीप .  
प्रतापगढ़ ।

विषय:- भ्रूतपूर्व ड्राईवर श्री अब्दुल अली की अपील का निपटारा ।  
.....

आपकी दिनांक 24.6.85 की अपील के उत्तर में आपको सूचित किया जाता है  
कि आपकी अपील पर मण्डलीय रेलवे प्रबन्धक द्वारा विचार किया गया और उसे किसी  
प्रकार की राहत ~~दे~~ नहीं दी जा सकती ।

*Shankar*  
कृते मण्डल रेल प्रबन्धक  
लखनऊ ।

*Shankar*





In the Central Administrative Tribunal: Additional  
Bench: Allahabad.

.....

o Reply on behalf of the Respondents

In

Registration No. 438 of 1986.

Abdul Ali ..... petitioner

Versus

The Union of India,  
and others ..... Respondents.

Reply of Reem Swaroop  
aged about 45 years  
Son of Shri Sheo Charan  
Assistant Personnel Officer, Northern  
Railway, Lucknow.

.....  
Deponent.

I, the deponent abovesaid, do hereby solemnly  
affirm and state on oath as under :-

1. That the deponent, is the  
Assistant personnel Officer, Northern Railway,  
~~at~~ Lucknow and is fully acquainted with the facts  
deposed to hereinafter.



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8.1.1987



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Respondent no. 3 who was the disciplinary authority of the petitioner.

7. That the contents of the paragraph no. 6(4) of the said petition are vague and are denied. The petitioner was supplied with all the documents which were relied upon. He was given opportunity by the Enquiry Officer to inspect the entire record, who permitted the petitioner to take extracts from the record.

8. That the contents of the paragraph no. 6(5) of the said petition are admitted.

9. That in reply to the contents of paragraph no. 6(6) of the said petition, it is stated that the Enquiry Officer considered all the objections raised on behalf of the petitioner and a perusal of the enquiry report would show that the petitioner was given full opportunity during the enquiry.



10. That in reply to the contents of paragraph no. 6(7) of the said petition, it is stated that the report of the Enquiry Officer is

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based on the materials<sup>w</sup> on record and does not suffer from any illegality or infirmity.

11. That the contents of the paragraph no. 6(8) of the said petition are denied. A perusal of Annexure 5 to the petition would show that the disciplinary authority had issued the show cause notice after considering the enquiry report. The enquiry report consists of evidence on record as well. The show cause notice is in accordance with law and does not suffer from any ~~infirm~~<sup>infirm</sup> infirmity.

12. That the allegations made in paragraph no. 6(9) of the said petition regarding the reply to the show cause notice given by the petitioner is admitted.

13. That the contents of the paragraph no. 6(10) of the said petition are denied. The Disciplinary authority after carefully considering the representation of the petitioner did not find the explanation satisfactory and held the petitioner guilty of the charge and imposed the penalty of removal from service.

14. That the allegations made



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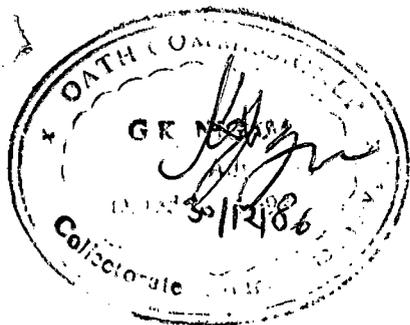
2. That the deponent has read and fully understood the contents of the petition filed by the petitioner.

3. That the contents of the paragraph nos. 1 to 5 of the said writ petition need no reply.

4. That the contents of the paragraph no. 6(1) of the said petition are not disputed.

5. That in reply to the contents of paragraph no. 6(2) of the said petition, it is stated that the petitioner was served with a charge-sheet containing the statement of articles of charges etc. and the statement of allegations. The names of the witnesses sought to be produced on behalf of the Administration was also cited. The document i.e. report of the Additional Commissioner, Railway Safety, Lucknow was also mentioned.

6. That the contents of the paragraph no. 6(3) of the said petition are denied. The charge-sheet was issued by the



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Respondent no. 3 who was the disciplinary authority of the petitioner.

7. That the contents of the paragraph no. 6(4) of the said petition are vague and are denied. The petitioner was supplied with all the documents which were relied upon. He was given opportunity by the Enquiry Officer to inspect the entire record, who permitted the petitioner to take extracts from the record.

8. That the contents of the paragraph no. 6(5) of the said petition are admitted.

9. That in reply to the contents of paragraph no. 6(6) of the said petition, it is stated that the Enquiry Officer considered all the objections raised on behalf of the petitioner and a perusal of the enquiry report would show that the petitioner was given full opportunity during the enquiry.

10. That in reply to the contents of paragraph no. 6(7) of the said petition, it is stated that the report of the Enquiry Officer is



hwb

based on the materials<sup>w</sup> on record and does not suffer from any illegality or infirmity.

11. That the contents of the paragraph no. 6(8) of the said petition are denied. A perusal of Annexure 5 to the petition would show that the disciplinary authority had issued the show cause notice after considering the enquiry report. The enquiry report consists of evidence on record as well. The show cause notice is in accordance with law and does not suffer from any ~~infirm~~ infirmity.

12. That the allegations made in paragraph no. 6(9) of the said petition regarding the reply to the show cause notice given by the petitioner is admitted.

13. That the contents of the paragraph no. 6(10) of the said petition are denied. The Disciplinary authority after carefully considering the representation of the petitioner did not find the explanation satisfactory and held the petitioner guilty of the charge and imposed the penalty of removal from service.

14. That the allegations made



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in paragraph no. 6(11) of the said petition regarding filing of appeal by the petitioner is admitted.

15. That in reply to the contents of paragraph no. 6(12) of the said petition, it is stated that the petitioners appeal was decided in accordance with law and there was no delay in deciding the appeal.

16. That the contents of the paragraph no. 6(13) of the said petition are not disputed. It is, however, submitted that the petitioner was acquitted by the criminal court for lack of evidence and this did not prevent the Disciplinary authority to initiate a departmental enquiry.

17. That in reply to the contents of the paragraph no. 6(14) of the said petition, it is stated that the judgment in the criminal case did not absolve the petitioner completely and it was open for the Railway administration to initiate disciplinary proceedings against him in order to find out as to whether the petitioner was guilty of misconduct for violating the Statutory Rules.



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18. That in reply to the contents of paragraph no. 6(15) of the said petition, it is stated that the petitioner's appeal was dismissed by the Respondent no. 4.

19. That in reply to the contents of paragraph no. 6(16) of the said petition, it is stated that Annexure 2 is only a communication of the order.

A true copy of the order passed by the appellate authority is being filed herewith and marked as Annexure No. CA 'I' to this reply.

20. That in reply to the contents of paragraph no. 6(17) of the said petition, it is stated that since the petitioner had been communicated the order passed in appeal, no fresh reply was given to the petitioner.

21. That the contents of the paragraph no. 6(18) of the said petition are denied. The Disciplinary Authority of the petitioner is the Senior Divisional Mechanical Engineer. The petitioner was appointed as a <sup>Cleaner</sup> ~~Knaleri~~ in Class IV service of the Railway and the General Manager had delegated powers under Section 134 of the Railway



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Establishment Code Vol. I to the lower authority to make the appointment.

22. That in reply to the contents of paragraph no. 6(19) of the said petition, it is stated that the impugned order of removal of the petitioner from service shows that the Disciplinary Authority had applied his mind before passing the impugned order. It was not necessary for the Disciplinary authority to write a detailed judgment.

23. That in reply to the contents of paragraph no. 6(20) of the said petition, it is stated that a copy of the appellate order is being attached to this reply which would show that the appellate authority had applied its mind before rejecting the appeal of the petitioner.

24. That in reply to the contents of paragraph no. 6(21) of the said petition, it is stated that Annexure 2 to the petition is a mere communication of the order rejecting the appeal of the petitioner. The order of removal communicated to the petitioner has been signed by the Senior Divisional Mechanical Engineer himself.

25. That the contents of the



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paragraph nos. 6(22) and (23) of the said petition are admitted.

26. That the contents of the paragraph no. 6(24) of the said petition are denied. The petitioner violated General Rule 76, in as much as, the signal was 'On' and he overshot the signal and leafgates were open thereby causing serious accident resulting in the death of 22 persons.

27. That in reply to the contents of paragraph no. 6(25) of the said petition, it is stated that a perusal of the report of the Enquiry Officer would show that the complete report of the Assistant Commissioner, Railway Safety, Lucknow was not on the file of the Enquiry Officer whereas the report of the Additional Commissioner, Railway Safety which specifically deals with the accident was on the file in duplicate, but was refused as unacceptable by the petitioner who demanded the whole report. The petitioner was thus supplied with the relevant part of the report which was only relied upon by the Enquiry Officer.

28. That the contents of the paragraph no. 6(26) of the said petition are not admitted. A perusal of Annexure 11 ~~XXXXX XXXXX~~



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read with other evidences on the record would show that the petitioner was responsible for the occurrence and he cannot take the plea that since other persons have not been punished, the petitioner is also not liable to be punished. The Gateman has also been punished, besides the Traffic Inspector and Guard of the Train. The points taken by the petitioner are wholly irrelevant in order to prove the charge against him. On the basis of the material on the record, it has been proved from the material on record that the signal was 'On' and the petitioner who was the Driver of the Train overshot the signal with the result that a serious accident was caused.

29. That the contents of the paragraph no. 6(27) of the said petition are denied. The Enquiry Officer did not conduct the enquiry under the pressure of the General Manager. The General Manager's warning was only to the effect that the witnesses shall not make untruthful and false statements, otherwise they shall render themselves liable for disciplinary proceedings. It was not mandatory to appoint a presenting Officer and the Enquiry Officer could always put questions in order to verify the correct facts. A perusal of the enquiry report would show that it has considered all the pleas raised on behalf of the petitioner during the course of enquiry.



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30. That the contents of the paragraph no. 6(28) of the said petition are denied. The report of the Enquiry Officer is a well reasoned report and he has given full reasons at arriving at the finding that the petitioner was guilty of the charge.

31. That the contents of the paragraph no. 6(29) of the said petition are denied. The allegations made by the petitioner are based on assumptions and presumptions. The findings recorded by the Enquiry Officer and Additional Commissioner, Railway Safety is that the signal was 'On' when he overshoot and the plea of the petitioner that the signal was 'off' i.e. it was down has not been believed by the Disciplinary Authority and the Enquiry Officer.

32. That in reply to the contents of paragraph no. 6(30) of the said petition, it is stated that the findings of the Enquiry Officer which has been accepted by the Disciplinary Authority is the signal was 'On' and not 'Off' as alleged by the petitioner.

33. That the contents of the paragraph no. 6(31) of the said petition are denied.



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The enquiry was conducted fairly and impartially and not under the influence of the Divisional safety Officer and the statement of witnesses were correctly recorded.

34. That the contents of the paragraph no. 6(32) of the said petition are denied. The Enquiry Officer has ~~not~~ given very detailed reasons in arriving at the finding that the petitioner was guilty of the charges.

35. That the contents of the paragraph no. 6(33) of the said petition are denied. Besides the petitioner, the Gateman, Traffic Inspector and Guard of the Train have all been punished for misconduct.

36. That the contents of the paragraph no. 6(34) of the said petition are denied. The Disciplinary Authority has considered the entire record of the case including the representation of the petitioner before passing the order of removal.

37. That the contents of the paragraph no. 6(35) of the said petition are denied. A perusal of Annexure 1 to the petition



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would show that the order of removal was passed by the Disciplinary Authority on 2.6.1978 after carefully considering the representation of the petitioner dated 1.6.1978.

38. That the contents of the paragraph no. 6(36) of the said petition are denied. The Appellate Authority has considered the appeal of the petitioner in accordance with law.

39. That in reply to the contents of paragraph no. 6(37) of the said petition, it is stated that the minimum penalty for such a serious misconduct is removal from service and it cannot be said that the petitioner has been given severe punishment. It is denied that the impugned order is violative of Articles 14 of the Constitution of India or the Discipline and Appeal Rules, 1968.

40. That in reply to the contents of paragraph no. 6(38) of the said petition, it is stated that the mere fact that the petitioner had been acquitted by the criminal court for lack of evidence does not prevent the administration from initiating disciplinary proceedings for violating the Railway Rules.



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41. That in reply to the contents of paragraph no. 7 of the said petition, it is stated that the petition is devoid of any merits and is liable to be dismissed.

VERIFICATION

I, *Ram Suroop* aged about *45* years Son of *Shiv Charan* Assistant Personnel Officer, Northern Railway, Lucknow do hereby declare and verify that the contents of the paragraph nos. 1 to 41 of the present reply are true to my personal knowledge and belief; and that I have not suppressed any material facts in it.

*91 date by the department, who has signed before me  
30/12/86*

Place: *Lucknow*  
~~Allahabad~~  
Dated: *15*.12.1986  
*30*

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.....  
Deponent.

*e. No 14 M*  
*1:30 PM*  
*Ram Suroop*  
*SS. D. Khera*  
*Udwa*

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*30/12/86*



In the Central Administrative Tribunal: Additional  
Bench Allahabad

A/27

RE JOINDER REPLY ON BEHALF OF APPLICANT

IN

REGISTRATION NO. 438 OF 1986

Abdul Ali ..... Applicant

VERSUS

The Union of India and  
others ..... Respondents.

I, Abdul Ali, son of Sri Nizam Ali, resident of village Karanpur near Bus Station, Pratapgarh, the applicant in the above noted case do hereby submit the Rejoinder Reply to the counter reply submitted by the Respondents as under:-

1. That the applicant has read the contents of the Counter Reply (hereinafter referred to as 'Reply') submitted on behalf of the Respondents and has <sup>understood</sup> noted the same.

2. That in reply to the contents of para 1 of the Reply it is stated that the Assistant Personnel Officer, Northern Railway, who has submitted the reply on behalf of the Respondents is not a party in the case and as such he has no authority to submit the reply. Moreover the said Assistant Personnel Officer has never been involved

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Amit S. Thakur  
Pls. direct  
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Abdul Ali

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in the matter nor has got any concern with the matter and as such how he has submitted the reply to the application verifying the contents to be true to his personal knowledge and belief. Thus the reply submitted by the said Assistant Personnel Officer on behalf of the Respondents is without jurisdiction and cannot be read as a reply.

3. That the contents of para 2 of the reply need no comments.

4. That the contents of para 3 of the reply need no comments.

5. That the contents of para 4 of the reply need no comments.

6. That since the contents of para 6.2. of the application have been admitted vide the contents of para 5 of the reply hence it requires no comments. It is, however, further stated that in the said chargesheet the applicant was held responsible for violation of the General Rule 76. No charges of mis-conduct under the Railway Servants Conduct Rules 1966 had been alleged to have been violated by the applicant and therefore no disciplinary action under Railway Servants (Discipline and Appeal) Rules 1968 (hereinafter referred to as 1968 Rules)

*Abdul Akbar*

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<sup>could</sup>  
~~can~~ be taken by following the procedure through the said chargesheet.

7. That the contents of para 6 of the reply are denied as incorrect and those contents of para 6.3 of the application are reiterated as correct. The respondent no. 3 has no jurisdiction to institute the disciplinary proceedings under 1968 Rules against the applicant. The Respondents have neither filed any provision of law in this regard nor filed the appointment letter of the applicant which is with the respondents. Indeed no disciplinary proceedings can be instituted against the applicant under the provisions of 1968 Rules as the alleged violation do not constitute mis-conduct and thus the entire disciplinary proceedings culminating into the impugned order are null and void.

8. That the contents of para 7 of the reply are denied as incorrect while the contents of para 6.4 of the application are reiterated as correct.

9. That the contents of para 8 of the reply need no comments as the contents of para 6.5 of the application have been admitted.

10. That the contents of para 9 of the reply are denied as incorrect and those contents of para 6.6 of the application are reiterated as

Abdul Ali

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correct.

11. That the contents of para 10 of the reply are denied as incorrect ~~and~~ while those contents of para 6.7 of the application are reiterated as correct.

12. That the contents of para 11 of the reply are denied as incorrect while those contents of para 6.8 of the application are reiterated as correct.

13. That the contents of para 12 of the reply require no comments as the contents of para 6.9 of the application have been admitted.

14. That the contents of para 13 of the reply are denied as incorrect while those contents of para 6.10 of the application are reiterated as correct.

15. That the contents of para 14 of the reply need no comments as the contents of para 6.11 of the application have been admitted.

16. That the contents of para 15 of the reply are denied as incorrect while the contents of para 6.12 of the application are reiterated as correct.

It is further submitted that the alleged violation of General Rule 76 is an offence which can only be tried by a Magistrate as envisaged in the Indian Railways Act 1890 (hereinafter referred to

*Abdullah Ali*

as Act) and the disciplinary authority has got not jurisdiction to institute any enquiry proceedings for the said offence. The petitioner was indeed tried under section 101 of the Act by a Magistrate of the competent jurisdiction and was acquitted as no charges could be substantiated against him.

17. That the contents of para 16 of the reply require no comments as the contents of para 6.13 of the application have been admitted. It is further stated that there is no distinction between the acquittal for lack of evidence or otherwise. It is well settled concept of law that even if an accused is acquitted by the court of law on the benefit of doubt, it is clear acquittal for all the purposes.

18. That the contents of para 17 of the reply are denied as incorrect and misconceived while those ~~the~~ contents of para 6.14 of the application are reiterated as correct. It is further stated that the departmental authorities have got no jurisdiction to try railway servants for the violation of the General Rules or <sup>or</sup> the conducts which are offences in the eye of law. The applicant has not been charged for the violation of any conduct rules and the alleged conduct of the applicant is not a mis-conduct, but is an offence under the

*Abdul Ali*

provisions of the Act. The applicant most humbly submits that he has been held responsible for the violation of General Rule 76. The General Rules have been framed under section 47 of the Act. Section 101 of the Act specifically says that if a railway servant when on duty endangers the safety of any person by disobeying any General Rule made, sanctioned, published and notified under the Act, he shall be punished with imprisonment for a term which may extend to two years or <sup>finned</sup> will be ~~convicted~~ which may extend to Rs. 500/- or both. Sections 99 to 105 of the deal with the offences by railway servants. The other offences have been dealt with under sections 106 to 130 of the Act. The procedure for <sup>trying the</sup> violation of the said offences has been described under sections 131 to 134 of the Act. Section 133 of the Act specifically says that the offences under the Act can only be tried by at least a Magistrate of the II Class. Section 132 contemplates that the provisions of Criminal Procedure Code are applicable for trying the offences under the Act. Similarly Rule 3 of 1968 Rules prohibits the disciplinary authority for instituting and conducting enquiry by following the procedure enshrined under 1968 Rules as the special procedure has been provided under the Act. Rule 9

Abdul Ali

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of 1968 Rules clearly contemplates that whenever the disciplinary authority is of the opinion that there are grounds for enquiring into the truth of any imputation of mis-conduct or mis-behaviour against ~~the~~ a railway servant it may itself enquire into or appoint <sup>any other officer</sup> under this rule to enquire into the truth. Since there are no imputation of misconduct or misbehaviour against the applicant no enquiry can be proceeded under Rule 9 and thus the chargesheet issued under Rule 9 is null and void and has got no legal existence. Likewise section 4 of the Code of Criminal Procedure 1973 contemplates that an offence under any law shall be investigated, enquired into and otherwise dealt with in accordance with the procedure provided in the said Code of Criminal Procedure 1973. It is obvious from the above discussion that the action of the disciplinary authority is void and once the applicant has been exonerated for the alleged offence by a competent court of law the disciplinary authority cannot take any action for the same offence against the applicant. For the sake of ready reference the relevant part of the General Rules showing that they have been framed under section 47 of the Indian Railways

Abdul Ah.

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Act and Section 47 of the Act as well as section 95 to 108 and again 128 to 135 of the Indian Railways Act showing that the violation of General Rules 76 is an offence which can only be tried by a court of law ~~xxx~~ under the Code of Criminal Procedure is being filed herewith as Annexure-12 to this Rejoinder Reply.

19. That the contents of para 18 of the reply need no comments as the contents of para 6.15 of the application have been admitted.

20. That the contents of para 19 of the reply are misconceived hence denied while these contents of para 6.16 of the application are reiterated as correct. It is further stated that the impugned order as contained in Annexure-2 is not only a communication but indeed is an order passed on the appeal of the applicant. The answering Opposite Party has also filed the same in the name of order filed by the appellate authority as Annexure No. CA-I while it has been asserted in the para under reply that the Annexure-2 is only a communication. After the Annexure-2 the applicant had specifically requested the respondents to furnish a detailed copy of the order passed in the appeal of the

Abdul Ali

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applicant, if any, but as no detailed and speaking orders were <sup>actually</sup> passed, the respondents failed to supply the same so far.

21. That the contents of para 20 of the Reply are the admission of the contents of para 6.17 of the application hence it requires no comments.

22. That the contents of para 21 of the Reply are denied as incorrect while those contents of para 6.18 of the application are reiterated as correct. The answering opposite party has not filed any order in support of the contention that the Senior Divisional Mechanical Engineer was the appointing authority of the applicant. No powers of dismissal were delegated in case of the petitioner in as much as the applicant was promoted to the post of Driver under the orders of the General Manager.

23. That the contents of para 22 of the reply are the admission of the contents of para 6.19 of the application hence it requires no comments. Nevertheless it is further stated that a perusal of the order will itself reveal that the said order has been passed without application of mind.

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24. That the contents of para 23 of the reply is misconceived and incorrect as <sup>here is</sup> no other order of the appellate authority except as contained in Annexure-2 to the application <sup>a copy of which</sup> has <sup>also</sup> been filed by the answering opposite Party with the reply. The appeal has not been properly considered in terms of the provisions of Rule 18 of 1968 Rules.

25. That the contents of para 24 of the reply are misconceived hence denied while those contents of para 6.21 of the application are reiterated as correct. A suitable reply has already been furnished in the preceding paragraph.

26. That the contents of para 25 of the reply need no comments as the contents of para 6.22 and <sup>6.23</sup> of the application have been admitted.

27. That the contents of para 26 of the reply are misconceived and incorrect hence denied while the contents of para 6.24 of the application are reiterated as correct. It is further stated that even in case the applicant is found guilty of violating the General Rule 76 he cannot be subjected to any departmental proceeding in view of the Rule 3 of 1968 Rules read with sections 101, 133 and 134 of the Act. The applicant has not been charged for any misconduct and the

Abdul Ali

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violation of the said General Rule 76 is an offence and therefore for committing any offence under the provisions of the Indian Railways Act the disciplinary proceedings cannot be instituted under Rule 9 of 1968 Rules.

28. That the contents of para 27 of the reply are denied to the extent it is contrary to the contents of para 6.25 of the application. It is further stated that the various statements and other material of the said report of Assistant Commissioner, Railway Safety was relied upon and the applicant was not supplied the relevant material from the said report which was in favour of the applicant. The material which was not useful for the applicant and ~~are~~ rather which was irrelevant to the context was supplied to the applicant.

29. That the contents of para 28 of the reply are incorrect hence denied emphatically, while those contents of para 6.26 of the application are reiterated as correct. It is further stated that similarly situated persons who were fully and equally responsible for the said occurrence have been let free. It is obviously discriminatory as the applicant alone cannot be punished for the said occurrence. More-over it was the

*Abdul Ah-*

employer who failed to provide the adequate safety arrangement which resulted in the said occurrence for which the applicant cannot be held guilty by any stretch of imagination. No action can be taken against the applicant as under the circumstances the action could obviously be discriminatory treatment with the applicant as the similarly situated other persons like Gateman, Station Master etc. have not been punished. The answering respondents have not filed any document in support of the plea that the other persons <sup>along with</sup> ~~except~~ the applicant were also ~~punish~~ punished for the said occurrence. The averment is baseless and <sup>has</sup> ~~is~~ simply been made for the sake of reply.

30. That the contents of para 29 of the reply are denied as incorrect while those contents of para 6.27 of the application are reiterated as correct.

31. That the contents of para 30 of the reply are denied as incorrect while the contents of para 6.28 of the application are reiterated as correct.

32. That the contents of para 31 of the reply are denied as incorrect while those contents of para 6.29 of the application are reiterated as

*Abdul Ah.*

correct. There is no such finding to the effect that the said occurrence took place owing to the sheer mistake of the applicant.

33. That the contents of para 32 of the reply are denied as incorrect while these contents of para 6.30 of the application are reiterated as correct.

34. That the contents of para 33 of the reply are denied while the contents of para 6.31 of the application are reiterated as correct.

35. That the contents of para 34 of the reply are denied while the contents of para 6.32 of the application are reiterated as correct.

36. That the contents of para 35 of the reply are denied as incorrect while those contents of para 6.33 of the application are reiterated as correct. No documentary evidence has been filed by the answering respondents in support of the contention that besides the applicant the Gateman, Traffic Inspector and Guard of the train have also been punished. Even the nature of the punishment has not been disclosed in the contents of the para under reply.

37. That the contents of para 36 of the reply are denied ~~as~~ while those contents of para 6.34 of the application are reiterated as correct.

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38. That the contents of para 37 of the reply are denied as incorrect while those contents of para 6.35 of the application are reiterated as correct.

39. That the contents of para 38 of the reply are denied as incorrect while those contents of para 6.36 are reiterated as correct.

40. That in reply to the contents of para 39 of the reply it is stated that the applicant has not committed any misconduct and therefore the penalty of removal or dismissal is not <sup>attracted</sup> directed. The applicant has not committed any misconduct and therefore no action can be taken against him under 1968 Rules.

41. That the contents of para 40 of the reply are denied as misconceived and incorrect while those contents of para 6.38 of the application are reiterated as correct. The nature of the conduct is not a misconduct but is an offence as contemplated in the Act for which Criminal proceedings can only be drawn before the court of law. In case the delinquent employee is convicted by the Court of law certainly he can be punished on the ground of such conviction but the respondents cannot institute any disciplinary proceedings for the said offence which is not a misconduct

Abdul Ali

Therefore the applicant cannot be and thereafter punished the applicant on the basis of the <sup>said</sup> disciplinary proceedings. Once the applicant has been tried by the Criminal Court of Law for committing the said offence and has been acquitted honorably the department has got nothing to do with the applicant except to provide him all consequential benefits.

42. That the contents of para 41 of the reply are denied as incorrect. It is further stated that the applicant's application is founded on well established principles and ground of law and is liable to be allowed in favour of the applicant with full consequential benefits.

VERIFICATION

I, Abdul Ali, aged about years, son of Sri Nizam Ali, do hereby declare and verify that the contents of paras 1 to 42 of the Rejoinder Reply are true to my personal knowledge and belief and that I have not suppressed any material facts in it.

*Abdul Ali*

Place: Allahabad:  
Dated . Feb. 1987.

DEPONENT .

~~Ammeure~~

Page 16

Ammeure-1987

1/39

# GENERAL RULES

## 1976

FOR

### INDIAN RAILWAYS

(Open Lines)

WITH

### SUBSIDIARY RULES

### AND

### APPENDICES

~~Ammeure~~  
OF THE

## North Eastern Railway

Atkinson (2002)  
my  
Joneal  
✓

(Edition 1978)

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Page 17

## PREFACE

1. This book (Edition 1978) contains :
  - (i) General Rules for Open Lines of Railways framed under Section 47 of the Indian Railways Act 1890 (9 of 1890) as published under Railway Board's Notification No. 69-RR/4. dated 11th February, 1976.
  - (ii) Subsidiary Rules of the North Eastern Railway issued on the authority of the Chief Operating Superintendent.
  - (iii) Special Instructions issued on the authority of the Chief Operating Superintendent, under provision of the General Rules.
2. This book supersedes the General and Subsidiary Rules Parts I and II of the North Eastern Railway (Revised Edition 1963).
3. The General Rules are printed in large type and the Subsidiary Rules are printed in small type immediately below the General Rules to which they refer. All Subsidiary Rules are prefixed with the letters "SR". The Subsidiary Rules have equal importance, force and validity as the General Rules. Under Section 101 of the Indian Railways Act, 1890 (9 of 1890) all Railway Servants on the North Eastern Railway are bound as much by the Subsidiary Rules and Special Instructions as they are by the General Rules.
4. *Knowledge of the Rules.*—Every concerned Railway servant must thoroughly acquaint himself with the General and Subsidiary Rules and shall execute his duties in accordance and conformity with them.
5. *Correction Mema.*—It is the duty of every Railway servant to maintain his copy of the book up to date. A record of all amendments made subsequent to the publication of this book shall be kept in the register of Correction Mema. When a Rule is amended, an ink endorsement must be made alongside of the Rule giving reference to the Correction Memo or to other notification. All Correction Mema will be published in the first instance in the Monthly Gazettes and it is the duty of every Railway servant to obtain printed copies of Correction Mema, when issued.
6. *Surrender of Rule books.*—This book is the property of the North Eastern Railway and shall be surrendered to the Railway Administration by staff leaving Railway service.

Gorakhpur.

Dated 7th October, 1977

R. K. NATESAN

Chief Operating Superintendent

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# ~~ANNEXURE II~~

Page 18

~~Page 18~~  
A/141

Indian Railways Act, 1890

[Section 46]

(h) "wharfage" means the charge levied on goods for not removing them from the railway premises after the expiry of the free time allowed for such removal.

## CHAPTER VI

### WORKING OF RAILWAYS

#### General

474. (1) The Central Government or in the case of a railway administered by a railway company, the railway company shall make general rules consistent with this Act for the following purposes, namely:—

(a) for regulating the mode in which, and the speed at which, rolling-stock used on the railway is to be moved or propelled;

(b) for providing for the accommodation and convenience of passengers and regulating the carriage of their luggage;

(bb) for the cancellation of tickets (whether with reservation of accommodation or not), the circumstances under which, and the time-limit within which, such cancellation may be allowed and the charges payable therefor;

(c) for declaring what shall be deemed to be, for the purposes of this Act, dangerous or offensive goods, and for regulating the carriage of such goods;

(d) for regulating the conditions on which the railway administration will carry passengers suffering from infections or contagious disorders, and providing for the disinfection of carriages which have been used by such passengers;

(e) for regulating the conduct of the railway servants;

(f) for regulating the terms and conditions on which the railway administration will warehouse goods or retain goods or animals at any station on behalf of the consignee or owner; and

(g) generally, for regulating the travelling upon, and the use, working and management of, the railway.

(2) The rules may provide that any person committing a breach of any of them shall be punished with fine which may extend to any sum not exceeding one hundred and fifty rupees, and that, in the case of a rule made under clause (e) of sub-section (1), the railway servant shall forfeit a sum not exceeding one month's pay, which sum may be deducted by the railway administration from his pay.

(3) A rule made under this section whether by the Central Government or a railway company, shall not take effect until it is published in the Official Gazette, and in the case of a rule made by a railway company, unless before such publication it has also received the sanction of the Central Government.

(5) Every rule purporting to have been made for any railway under section 8 of the Indian Railway Act, 1879 and appearing from the Official Gazette to be intended to apply to the railway at the commencement of this Act, shall, notwithstanding any irregularity in the making or publication of the rule, be deemed to have been made and to have taken effect under this section.

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# ANNEXURE 12

Page 19

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A/112

Indian Railways Act, 1890

[Sections 95-

43

Penalty for failure to reserve compartments for females and section 64.

95. If a railway company fails to comply with the requirements of section 64 with respect to the reservation of compartments for females or the provision of closets therein, it shall forfeit to the Central Government the sum of twenty rupees for every train in respect of which the default occurs.

Penalty for omitting to give the notices of accidents required by section 83 and under section 84.

96. If a railway company omits to give such notice of an accident as is required by section 83 and the rules for the time being in force under section 84, it shall forfeit to the Central Government the sum of one hundred rupees for every day during which the omission continues.

Recovery of penalties.

97. (1) When a railway company has through any act of omission forfeited any sum under the foregoing provisions of this Chapter, the sum shall be recoverable by suit in the District Court having jurisdiction in the place where the act or omission or any part thereof occurred.

(2) Nothing in this Chapter shall be construed as requiring any authority to recover and penalty in any case in which it thinks it proper to refrain from so doing.

Alternative or supplementary character of remedies afforded by the foregoing provisions of this Chapter.

98. Nothing in the foregoing provisions of this Chapter shall be construed to preclude the Central Government from resorting to any other mode of proceeding instead of or in addition to, such a suit as is mentioned in the last foregoing section, for the purpose of compelling a railway company to discharge any obligation imposed upon it by this Act.

## Offences by railway servants

Breach of duty imposed by section 60.

99. If a railway servant whose duty it is to comply with the provisions of section 60 negligently or wilfully omits to comply therewith, he shall be punished with fine which may extend to twenty rupees.

Drunkenness.

100. If a railway servant is in a state of intoxication while on duty, he shall be punished with fine which may extend to fifty rupees, or, where the improper performance of the duty would be likely to endanger the safety of any person travelling or being upon a railway, with imprisonment for a term which may extend to one year, or with fine, or with both.

Abandoning train, etc., without authority.

100A. If a railway servant, when on duty, is entrusted with any responsibility connected with the running of a train, rail-car or any other rolling-stock from one station or place to another station or place, and he abandons his duty before reaching such station or place, without authority or without properly handing over such train, rail-car or rolling-stock to another authorised railway servant, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five hundred rupees, or with both.

Obstructing running of trains, etc.

100B. If a railway servant, when on duty or otherwise, or any other person obstructs or causes to be obstructed or attempts to obstruct any train, rail-car or other rolling-stock upon a railway, by squatting, picketing, keeping without authority any rolling-stock on the railway or tampering with signal gear or otherwise, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five hundred rupees, or with both.

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16. ... safety of any person—

... made, sanctioned, published and ...

(b) by disobeying any rule or order which is not inconsistent with any such rule or order which he is bound by the terms of his employment to obey, or

(c) by any act of negligent act or omission,

he shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to five hundred rupees, or with both.

Compelling passengers to enter carriages already full.

102. If a railway servant compels or attempts to compel, or causes, any passenger to enter a compartment which already contains the maximum number of passengers exhibited therein or thereon under section 63, he shall be punished with fine which may extend to twenty rupees.

Omission to give notice of accident.

103. If a station-master or a railway servant in charge of a section of a railway omits to give such notice of an accident as is required by section 83 and the rules for the time being in force under section 84, he shall be punished with fine which may extend to fifty rupees.

Obstructing level-crossings.

104. If a railway servant unnecessarily—

(a) allows any rolling-stock to stand across a place where the railway crosses a public road on the level, or

(b) keeps a level-crossing closed against the public,

he shall be punished with fine which may extend to twenty rupees.

Fake returns.

105. If any return which is required by this Act is false in any particular to the knowledge of any person who signs it, that person shall be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to one year, or with both.

Other offences

Giving false account of goods.

106. If a person requested under section 38 to give an account with respect to any goods gives an account which is materially false, he and, if he is not the owner of the goods, the owner also shall be punished with fine which may extend to one hundred and fifty rupees for every quintal or part of a quintal of the goods, and the fine shall be in addition to any rate or other charge to which the goods may be liable.

Unlawfully bringing dangerous or offensive goods upon a railway.

107. If in contravention of section 59 a person takes with him any dangerous or offensive goods upon a railway, or tenders or delivers any such goods for carriage upon a railway, he shall be punished with fine which may extend to five hundred rupees, and shall also be responsible for any loss, injury or damage which may be caused by reason of such goods having been so brought upon the railway.

Needlessly interfering with means of communication in a train.

108. If a passenger, without reasonable and sufficient cause, makes use of or interferes with any means provided by a railway administration for communication between passengers and the railway servants in charge of a train, he shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both :

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*Page 22*

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refuses on demand to give his name and address, or there is reason to believe that the name or address given by him is incorrect, any railway servant or police-officer, or any other person whom such railway servant or police-officer may call to his aid, may, without warrant or other written authority, arrest him.

(2) The person arrested shall be released on his giving bail or, if his true name and address are ascertained, on his executing a bond without sureties, for his appearance before a Magistrate when required.

(3) If the person cannot give bail and his true name and address are not ascertained, he shall with the least possible delay be taken before the nearest Magistrate having jurisdiction.

(4) The provisions of Chapters XXXIX and XLII of the Code of Criminal Procedure, 1898, shall, so far as may be, apply to bail given and bonds executed under this section. 5 of 1898

**Magistrates having jurisdiction under Act.** 133. No Magistrate other than a Presidency Magistrate or than a Magistrate whose powers are not less than those of a Magistrate of the second class shall try any offence under this Act.

**Place of trial.** 134. (1) Any person committing any offence against this Act or any rule thereunder shall be triable for such offence in any place in which he may be or which the State Government may notify in this behalf, as well as in any other place in which he might be tried under any law for the time being in force.

(2) Every notification under sub-section (1) shall be published in the Official Gazette, and a copy thereof shall be exhibited for the information of the public in some conspicuous place at each of such railway stations as the State Government may direct.

#### CHAPTER X

#### SUPPLEMENTAL PROVISIONS

**Taxation of railways by local authorities.** 135. Notwithstanding anything to the contrary in any enactment, or in any agreement or award based on any enactment, the following rules shall regulate the levy of taxes in respect of railways and from railway administration in aid of the funds of local authorities, namely :—

(1) A railway administration shall not be liable to pay any tax in aid of the funds of any local authority unless the Central Government has, by notification in the Official Gazette, declared the railway administration to be liable to pay the tax.

(2) While a notification of the Central Government under clause (1) of this section is in force, the railway administration shall be liable to pay to the local authority either the tax mentioned in the notification or, in lieu thereof, such sum, if any, as an officer appointed in this behalf by the Central Government may, having regard to all the circumstances of the case, from time to time determine to be fair and reasonable.

(3) The Central Government may at any time revoke or vary a notification under clause (1) of this section.

(4) Nothing in this section is to be construed as debarring any railway administration from entering into a contract with any local authority for

*AB Smith*

*Abdul Al*

*See*  
*Section*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH,

23-A Thornhill Road, Allahabad-211001

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No. CAT | ALLD | P/44316 446

Dated: 27/9/86

In re

Registration No. 438 of 198

*Abdul AL*

APPLICANT

Versus

*Union of Jads & Others*

RESPONDENTS

To:

①  
②  
③  
④

*602 through E.M., N.R., B.P., New Delhi*

*D.M. N.R. Ues*

*Sr. Dir. Mech Engg. N.R. Ues*

*Engineering Officer (Sr. L. To Clarkson) Ues*

*Sr. Dir. Manager N.R. Ues S&S Ues*

Please take notice that the applicant abovenamed has presented an application, a copy whereof is enclosed herewith, which has been registered in this Tribunal, and the Tribunal has fixed...17<sup>th</sup> day of...November...1986 for the hearing of the said application

If no appearance is made on your behalf by yourself, your pleader or by someone duly authorised to act and plead on your behalf in the said application, it will be heard and decided in your absence.

Given under my hand and the seal of the Tribunal this...15<sup>th</sup>...day of...September...1986.



DÉPUTY REGISTRAR

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1986

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL (ALLAHABAD BENCH) AT ALLAHABAD

\*\*\*\*\*

Regn. No. 438/86

117

Abdul Ali

APPLICANT,

vs

U.O.I. through G.M., Northern Rail  
-way N. Delhi & 3 other.

RESPONDENTS.

PRESENT

1. Hon'ble D.S. Misra, Member (A)
2. Hon'ble G.S. Sharma, Member (J)

ORDER

Heard the learned counsel for the applicant.

Admit. Issue notice to the respondents to file  
reply within a month. Rejoinder if any, may be filed  
within 15 days. List it for final hearing on 17.11.86.

Dt. 3.9.86

Sd./-  
MEMBER (A)

Sd./-  
MEMBER (J)

ATTESTED TRUE COPY

*Vinod Chandra*

(VINOD CHANDRA)  
Section Officer  
Central Administrative Tribunal  
Additional Bench, Allahabad.



IN THE CENTRAL ADMINISTRATIVE  
ALLAHABAD BENCH  
23-A, Thornhill Road, Allahabad-211 01.

\*\*\*

No. CAT/A11d/

dated: \_\_\_\_\_

\_\_\_\_\_ APPLICANT(S)

Versus

\_\_\_\_\_ RESPONDENT(S)

To

*[Handwritten notes and scribbles, including "To" and "857"]*

Please take notice that the applicant above named has presented an application, a copy whereof is enclosed herewith which has been registered in this Tribunal, and the Tribunal has fixed \_\_\_\_\_ day of \_\_\_\_\_ 198 \_\_\_\_\_

If no appearance is made on your behalf, your pleader or by some one duly authorised to act and plead on your behalf in the said application, it will be heard and decided in your absence.

Given under my hand and the seal of the Tribunal this \_\_\_\_\_ day of \_\_\_\_\_ 198 \_\_\_\_\_

*[Signature]*  
For DEPUTY REGISTRAR

*[Handwritten signature]*  
22/12

Union of India  
Others

Respondents  $\frac{1}{2}$

OA No. 438 of 1986

F.F. 1.11.88

APPLICATION FOR ADJOURNMENT

On behalf of the applicant it is most respectfully submitted,

that as the undersigned counsel the applicant is suffering from bronchitis and is not well to conduct above noted case.

Wherefore, it is most prayed that the above noted case kindly be adjourned to some other date for this act of kindness the applicant shall remain highly obliged.

1.11.88

S. S. Srivastava

(S.P. SRIVASTAVA)  
867 Old Market  
Near Fatehpur  
Lucknow 226