

10/9

CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No. 471 of 1986

APPLICANT (s) Mukh Ram Sharma

RESPONDENT(s) Union of India through General Manager Northern

Railway New Delhi & 2 others.

Particulars to be examined

Endorsement as to result of Examination

- | | |
|---------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------|
| 1. Is the appeal competent ? | Yes |
| 2. (a) Is the application in the prescribed form ? | Yes |
| (b) Is the application in paper book form ? | Yes |
| (c) Have six complete sets of the application been filed ? | Yes, 8 sets self filed |
| 3. (a) Is the appeal in time ? | Yes |
| (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 ? | Yes |
| 5. Is the application accompanied by B. D. /Postal-Order for Rs. 50/- | Yes |
| 6. Has the certified copy/copies of the order (s) against which the application is made been filed ? | Yes. Certified by the Advocate in 3 copies only by putting his initials. |
| 7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ? | Yes |
| (b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ? | Yes. Attested by Advocate in 3 copies by putting his initials only. |

Order Sheet

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH ALLAHABAD

C.A. No. 6171 of 1986.

M. H. Sharma vs. C. A. D. S. K. Khan

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
28.11.86	<p>CR</p> <p>Matros filing 21.12.85 for hearing of the case & one month time for reply has been given to the respondents under section 20.</p> <p>Whether order can be made against order has been received back to this office & for.</p> <p>Respondents have not filed any reply & for.</p> <p>Case is submitted for hearing as directed by court.</p> <p>Gf 28/11</p>	

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

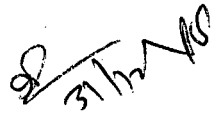
FORM OF INDEX

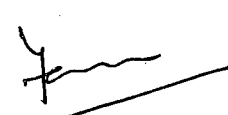
O.A./I.A./B.A./C.C.P. No. 471-1986

Mukherjee Sharma vs. U.O. & Co.

PART - I

1. Index Papers :- 1
2. Order Sheet :- 2 to 10
3. Any other orders :-
4. Judgement :- 11 to 12
5. S.L.P. :-


Dy. Registrar


Supervising Officer


Dealing Clerk

Note :- If any original document is on record - Details.

1 - Extra Check List - A to A2. Nil

2 - Jud. dt. 21-11-92


Dealing Clerk

Recheck
on 21-2-12
m

Report
Sd/- J. K. Mishra

J. K. Mishra

File B/c destroyed on 09-5-12

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

OA 471/86

1993 (L)

NEW DELHI

Mukhram Sharma

APPLICANT'S

VERSUS

Union of India & others

RESPONDENT'S

SL. NO. PARTICULARS OF DOCUMENTS

NO. OF PAGES

- ① - check List A-1 to A-2
- ② - order Sheet A3 to A7
- ③ - final judgment A8 to A9
Dated 21/11/92
- ④ - Petition with annexure & power A10 - A73
- ⑤ - Counter Affidavit A74 - A87
- ⑥ - Reply Affidavit A88 - A99
- ⑦ - Part B B-100 to B-188

⑧ Part C

C-189 to C-195

Extra Copies of Petition for parties

Chaitanya
Saxena

19.10.93

Order Sheet

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH ALLAHABAD

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(2)

GA No. 471 of 1986.

M. R. Sharma vs. U. O. Ind. S. & H.

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
28-11-86	<p>OK</p> <p>Notices fixing 2.12.86 for hearing of the case & one month time for filing reply has been issued to the respondents under registered cover.</p> <p>Neither notice nor acknowledgement card has been received back in this office so far.</p> <p>Respondents have not filed any reply so far.</p> <p>Case is submitted for hearing as directed by court.</p> <p>af 28/11</p>	

ORDER SHEET

AY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

(3)

NO. 471 OF 1986

Mulch Ram VS. Union of India

Date of order	ORDERS WITH SIGNATURE	Office Notes as to action (if any) taken on order
10.9.86	<p>Honible D.S. Misra, Member (A)</p> <p>Honible G.S. Sharma, Member (B)</p> <p>Heard. Admit.</p> <p>Issue notice to the respondents to file reply within a month. The petitioner may, thereafter file rejoinder affidavit within 15 days. List it for final hearing on 2-12-86.</p> <p>sd/-</p> <p>Member (A)</p> <p>sd/-</p> <p>Member (A)</p>	<p>Notice issued</p> <p>amp</p> <p>10/9</p>
2.12.86	<p>Hon.D.S.Misra -AM</p> <p>Hon.G.S.Sharma -JM</p> <p>Sri Deepak Singh for the plaintiff and Sri V.K.Srivastava for the defendant are present. On the application of Sri Srivastava, he is allowed to file reply within two weeks. Rejoinder may thereafter be filed within a week. List it for hearing on 12.1.87.</p> <p>AM</p> <p>JM</p>	<p>OR</p> <p>Time granted for filing reply has expired but no reply has been filed by the counsel for respondents</p> <p>Case is submitted for hearing as directed by court</p> <p>at 2/11</p>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

AB

CAT-11

7

O.A./T.A. No. 471 1986

Applicant(s)

Versus

Respondent(s)

No.	Date	Orders
	7-8-89	<p>Hon K. Nath, V.C. Hon K. J. Ramani Am.</p> <p>Put up for hearing on 11.10.89.</p> <p>Am. -</p> <p>V.C.</p>
	11.10.89	<p>Hon D.K. Agrawal, J.M. Hon K. Obeyya, Am.</p> <p>Due to lawyers strike Case is adjourned to 12.12.89 for hearing.</p> <p>Am. / C.O. Boz.</p>
	12-12-89	<p>Am.</p> <p>On the Request of the Parties counsel let this case be put up before Hon'ble Court on 14.3.90 for hearing.</p> <p>Am.</p>

16.7.91.

Mr. S.P. Sinha, Counsel for applicant.

Mr. V.K. Chandhary, proxy Counsel for Mr.

A.V. Srivastava, Counsel for respondents.

On the request of Counsel from both sides, may be listed for hearing on 26.9.91.

Dec
(P.K. Agarwal)
Jm.

K. Kumar
(Kamshat Kumar)
V. c.

26.9.91

No Sitting adjn 19.11.91

2

19.11.91

No Sitting adjn 16.1.92

2

16.1.92

No Sitting adjn 10.2.92

2

10.2.92

No Sitting adjn 12.3.92

2

12.3.92

No sitting adjn 28.4.92

2

28.4.92

No Sitting adjn 30.6.92

30.6.92

2

30.6.92

No Sitting adjn 14.8.92

14.8.92

No Sitting adjn 20.8.92

20.8.92

2

OR

S.F.H.

28.8.92

Now sitting adjn. Srivastava - ve
- on
Mr. K. Oberoi.

On the request of Counsel for applicant
Adjn to 9.11.92

Am.

W
NC

(11) AB

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

O.A.No. 471/86

Mukhran Sharma

Applicant

versus

Union of India & others

Respondents.

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

Hon. Mr. K. Obayya, Adm. Member.

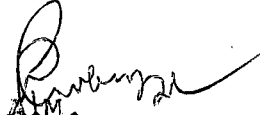
(Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant was working as Senior Depot Store keeper in P.OH section of Northern Railway. He was charge sheeted and enquiry proceeded against him. Thereafter the disciplinary authority awarded punishment of reduction to lower rank in the time scale in the grade of Rs 550-750 but later on reduction was reduced to one stage below for one year. The applicant filed appeal to the Additional Controller of Stores, Northern Railway but his appeal was withheld and was not disposed of and that is why he approached the Tribunal.

2. The applicant has challenged the proceedings on various grounds, but it is not necessary to enter into the same. The appellate authority was competent to allow or dismiss or modify the punishment order but it had not applied its mind. This application is allowed to the extent that the respondents are directed to decide the appeal of the applicant within a period

of two months. The appellate authority is also directed to give personal hearing to the applicant.

3. The application of the applicant is disposed of as above. No order as to costs.


A.M.


V.C.

Shakeel/-

Lucknow; Dated: 21.11.92.

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THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

.....

WRIT PETITION NO. OF 1986

Mukhram Sharma Applicant

versus

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

I N D E X

<u>S.No.</u>	<u>Particulars of documents</u>	<u>pages</u>
1.	xxxxxxxx Writ petition	2- 10
2.	Memorandum No. B/S/518 dt.10.6.83	11 to
3.	Explanation of memorandum dt.17.6.83	18
4.	Appointing enquiry officer vide B/S/518 dt.25.8.83	19
5.	Application for change of enquiry officer dt.30.8.83-9.12.83)	20 to 21
6.	Fixation of enquiry date vide no. B/S 518 dt.29.3.84	22
7.	Reply dt.12.4.84 and 20.7.84 to letter no. B/S.518 dt.29.2.84 for changing Enquiry officer	23 to 24
8.	Request for changed E.O. not acceded to vide letter no. B/S.518 dt.14.2.84	25
9.	Statement of Sri K. Ghosh Pd. ACOS N. Rly/AMO dt.27.11.84	26 to 30
10.	Statement of Gaye Pd. peon on 5.2.85	31. 32
11.	Statement of Sri Manilal Asstt. Supt. Dist. Section Alambagh Dept vide on 5.2.85	33 to 35
12.	Statement of Sri Khushali Ram peon dt.6.2.85	36 to 37
13.	Statement of Sri A.K. Malviya senior clerk on 6.2.85	38 to 40

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<u>S/No.</u>	<u>Particulars of documents</u>	<u>pages</u>
14.	call to defence witnesses vide letter no. E/S/518 dt. 2.8.85	41
15.	Statement of Sr. R.K. Singh Head clerk Estt. on 16.10.85	42 to 43
16.	Statement of S. Mukhram Sharma Sr. DSE/DSL dt. 16.10.85	44 to 45
17.	Statement of Sri Ram Kishan Driver A.W. Depot.	46 to 47
18.	Time for submission of defence note vide letter no. E/S.518 dt. 17.10.85	48
19.	Application dt. 17.10.1985 for inspection of attendance register	49
20.	Defence note dt. 31.10.85	50 to 54
22.	Imposition of penalty notice No. E/S.518 dt. 11.11.85 for review of punishment	55
23.	Application dt. 2.12.85 for review of punishment	56 to 57
24.	Punishment reduced vide O/O no. E/97 dt. 16.4.1986	58
25.	Appeal to additional controller of stores, Northern Railway Board House New Delhi dt. 15.5.1986	59 to 61
26.	Appeal turned down vide letter E/S.518 dt. 1.7.86	62
27.	Vakalatnama	63.

Deepak Singh
Counsel for the applicant.

Additional Branch
ALLAHABAD PATNA, LALPUR
Date of Filing 3.9.06 OR
Date of Receipt by Post

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S. Chandra
Deputy Registrar.

IN THE HON'BLE COURT OF CENTRAL ADMINISTRATIVE
TRIBUNAL DELHI, ADDITIONAL BRANCH AT ALLAHABAD

Mukh Ram Sharma aged 57½ years, son of Late Shri
G.B. Ram Depot Stores Keeper Diesel Depot Charbagh,
Lucknow resident of 39/3 Aish Bagh, Colony old Lucknow.

Versus

1. Union of India through General Manager Northern
Railway Baroda House, New Delhi.
2. Additional Controller of Stores Northern Railway
Baroda House, New Delhi.
3. Dy. Controller of Stores, Northern Railway,
Alambagh Lucknow.

- - - - - Respondents.

1. The details of application Form :-
Particulars of the Applicant.

- i) Name of the applicant : Mukh Ram Sharma.
- ii) Father's Name : Late Shri G.B. Ram
- iii) Name of the Post and Office : Senior Depot Stores
Keeper Grade Rs. 700-900 under
Asstt. Controller of Stores
Northern Railway Diesel Depot
Charbagh, Lucknow.
- iv) Address of Office : Asstt. Controller of Stores
Northern Railway Diesel depot
Charbagh, Lucknow.

Address for service of all Notices

- a) Union of India through General Manager Northern
Railway Baroda House, New Delhi.
- b) Additional Controller of Stores Northern Railway
Baroda House New Delhi.

S. Chandra
24/8/06

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-: 2 :-

- e) Deputy Controller of Stores Northern Railway
Aishbagh, Lucknow.

Particulars of the Respondents :-

- 1) Name and designation of the Respondent :-
- (a) Union of India through General Manager
Northern Railway Baroda House, New Delhi.
 - (b) Additional Controller of Store Northern
Railway Baroda House New Delhi.
 - (c) Deputy Controller of Stores Northern
Railway Baroda House New Delhi.

2. Particulars of the order against which the
application is Made :-

The application is against the following
orders :-

- i) Order No. E/S/518 and E/92
- ii) Dated 11.11.85 and 16.4.1986 Respectively.
- iii) Passed by Dy. Controller of Stores Northern
Railway Alambagh, Lucknow.

3. Subject in brief :-

- 1) No Prime Facie enquiry was ~~not~~ conducted
to establish the charges against the
applicant.
- 2) Appointment of enquiry officer was bias
and Prejudice, inspite of Several requests
dated 30.8.1983, 9.12.1983, 12.4.1984 and
20.7.1984. The request for the changing
enquiry officer was not acceded to.
- 3) Enquiry Officer has already given his

28/8/86

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- 3 3 -

^{adverse}
his noting on main report on 2.5.1983 at
page 4 in the case file No. E/S/518.

- 4) The Principal prosecuting witness was not examined.
- 5) Charges levelled against the applicant were not accepted by the prosecution witnesses Spli. Ganga Prasad Peon Khusali Ram Peon K.N. Malviya, Munni Lal.
- 6) The main relied upon document i.e. attendance Register for April 1983 not produced by the Respondent no. 3 at the time of enquiry proceedings.
- 7) The charges mentioned in Annexures 'I' & '2' and imposition of penalty notice are deffers from each others.
- 8) The defence note of the applicant's counsel was not considered at the time of awarding punishment.
- 9) The finding report along with Penalty order have not been supplied to the applicant.
- 10) The respondent No. 3 has withhold the appeal submitted to Additional Controler of Stores Northern Railway New Delhi as already mentioned in the Penalty Notice dated 11.11.1985 by the Respondent.

4. Jurisdiction of the Tribunal :-

I Mukh Ram Sharma hereby declare that cause of action occurred on 11.11.1985 and 16.4.1986 on rece


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of the imposition of Penalty order awarded by respondent no. 3 vide his letter No. E/S/518 dated 11.11.1985 and E/97 dated 16.4.1986. The Administrative Tribunals Act 1985 came into operation with effect from 1.11.1985 as such the redressal are within the jurisdiction of the Tribunal in term of Rule 14 Chapter III Jurisdiction Power and authority of the Tribunal.

5. Limitation :-

I, Mukh Ram Sharma (Applicant) further declare that the applicant with the limitation prescribed in section 21 of the administrative tribunal Act 1985. The respondent No. 3 has not taken proper decision in terms of the regularities mentioned under para 3 (IV) of the applica^{tion} (Copy Annexed) An application to waived of the period is submitted here with for favourable consideration. The applicant is due to be retired from service on 31.1.1987 and this reversion will effect in the loss of Gratuity and Pension which will be a recurring loss.

6. Facts :-

- 1) That the applicant was working as Sr. depot Stores Keeper in POH Section in Grade 700-900 under the administration Control of Respondent No.3.
- 11) The applicant has been served with a Memorandum No. E/S/518 dated 10.6.1983 on the ground the applicant has tempered with the records in attendance register for April 1983.

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- iii) The applicant requested to provide ot the relied upon documents for inspection in the terms of the para 2 of the memorandum vide application dated 17.10.1985.
- iv) The applicant submitted his explanation of the aforesaid memorandum on 17.6.1983 but the competent authority has not considered satisfactory and enquiry was set up on the subject matter .
- v) The disciplinary authority (Respondent No. 3) has nominated Shri Gyan Singh ACOS I as enquiry officer vide letter no. E/S/ 518 dated 25.8.1983.
- vi) That Shri Gyan Singh the enquiry officer has given a remark (noting) on the main report on the subject matter and was bias & prejudice thus enquiry officer considered to be bias. The applicant requested disciplinary authority for the change of enquiry officer as per rule, but not considered.
- vii) That the enquiry was proceeded on by Shri Gyan Singh the enquiry officer and finally finding were submitted to disciplinary authority. Copy of the said finding has not been provided which is against the rule and miger penalty imposed without consideration the report of enquiry report.


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- viii) That the enquiry officer has not done enquiry as per rule as the primary prosecution witness has not been called to record his evidence and the relied upon document were not shown to any defence counsel.
- ix) That the defence note of the application counsel has not considered with the finding reports submitted to the disciplinary authority, as the punishment has been imposed only considering the reply dated 17.6.1983 without considering the proper enquiry.
- x) That the disciplinary authority awarded punishment to the applicant vide notification No. E/5/518 dated 11.11.1985 for reduction to lower time scale of pay in grade Rs.550-750 permanently but the enquiry report has not been provided against the said imposition of Penalty. No. E/5/518 dated 11.11.1985 indicate that the enquiry submitted the enquiry report to disciplinary authority.
- xi) The applicant request disciplinary authority about the providing the facts for justice under Arbitration and Conciliation Act, 1996 of India.

reduced the punishment

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imposed the punishment cannot reduced to his own order.

dated 15-5-86

xii) The applicant preferred an appeal against the imposition of penalty reduction to a Lower Post, but the same was withheld which is against the natural justice ~~with~~

~~applicant appeal dated 15-5-1986.~~

xiii) That the disciplinary authority is not of the firm view that the applicant tempered with records in attendance register for April 1983 as he has only stated " He has tried & temper with the records. This fact further confirm the contention that the Disciplinary Authority still in doubt in his mind whether offences was committed or not.

xiv) The applicant is due to be retired on 31.1.1987 thus he will be in loss of Approx. Rs. 100/- per month in pension and about forty thousand in other retirement benefit which is voilation of the Social Security Act as applicable to retiring employees during the old age.

xv) That the applicant deprived of the natural justice as provided in Article 311 Constitution of India.

RELIEF

1) The punishment order No. E/5/518 dated

26/8/86
7.

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-: 8 :-

11.11.1985 & E/97 dated 16.4.1986 be quashed and the applicant be allowed to continue as Sr. D.S.K. Grade 700-900.

8. Interim Order

Injunction may kindly be granted to continue as Sr. D.S.K. Grade 700-900 as pay Rs. 830/- as applicant is in loss of Rs. 400/- ^{approximately} per month and the applicant is mentally and financially tortured on such type of illegal punishment.

9. Details of remedies exhausted

The applicant preferred an appeal to Addl. Controller of Stores Northern Railway Baroda House New Delhi on 15.5.1986 through proper channel but the disciplinary authority with hold and not forwarded to appellate authority for consideration vide his letter No. E/S/518 dated 1.7.1986.

10. Matter not pending with an other court :-

The applicant further declares that the matter regarding quash the order for imposition of penalty 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 application fee.

- 1) Number of Indian Postal Order(s) ^{DD} 458629
- 2) Name of the issuing post office
- 3) Date of issue of Postal order (s) 22/8/86
- 4) Post Office at which ~~Ranin~~ payable.

[Handwritten signature]
22/8/86

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-: 9 :-

12. Details of Index :-
Enclosed separte sheets.
13. List of enclosures :-
enclosed in separte sheets.

I, Mukh Ram Sharma son of Late Shri
G.B.Ram aged 57½ years working as DSK/Diesel, Charbagh
Lucknow resident of 39/3 Aish Bagh Colony old
Lucknow, do hereby verify that the contents from
1 to 13 are true to my personal knowledge and belief
and that I have not suppressed any material facts.

Place : Allahabad


Date : 28/8/86



Signature of the Applicant.

To,

The Registrar,
Court of Hon'ble Central Administrative
Tribunal, Allahabad.



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IN THE HON'BLE COURT OF CENTRAL ADMINISTRATIVE
TRIBUNAL DELHI, ADDITIONAL BENCH AT ALLAHABAD

Mukh Ram Sharma - - - - Applicant

Versus

Union of India and others - - - Respondents.

Application to produce the document at the
time of hearing.

The applicant above named begs to state
as follows :-

1. That the application is very much related to documentary evidence which are not in possession of the applicant the respondent are custodial agent, the document which are relevant and related with application are in possession of respondent.
2. That there is no provision for issuing of certified copies under these circumstances ends of justice demand the document which are relevant to the application be summoned for doing justice between the parties.

It is, therefore, most respectfully prayed that the Hon'ble Tribunal the direct to respondents to produce the documents which are given here under so that justice be done.

Details of documents summon :-

1. The attendance register for the month of April 1983 for depot supervisory staff.
2. Enquiry report submitted by enquiry officer to the disciplinary authority.

3. File no E/15/518.

[Signature]
Applicant.

Counsel for the applicant.

Deepak Singh

STANDARD FORM OF CHARGE SHEET

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

No.

E/S/518

Dy Commr/Amr/Mem of Railway Administration
(Place of issue) Alambagh dated 10-6-83

MEMORANDUM

The President/Railway Board/Underigned propose(s) to hold an inquiry against Shri Mukh Ram Sharma under Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968. The substance of the imputations of mis-conduct or mis-behaviour in respect of which the inquiry is proposed to be held is sent out in the enclosed statement of articles of charge (Annexure I) statement of the imputations of mis-conduct or mis-behaviour in support of each article of charge is enclosed. (Annexure II). List of documents by which and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexures III & IV).

2. Shri Mukh Ram Sharma 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 desired 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/General Manager H Railway 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, 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 extracts from such of the additional documents as he is permitted to inspect.

3. Shri Mukh Ram Sharma 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 show clearly that the request could not have been made at an

Contd.....2

TC

DS

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of the Railway servants (Discipline and appeal) Rules, 1968 or the orders/directions issued in pursuance of the said rules, the inquiring authority may hold the inquiry ex-parte.

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

9. The receipt of this memorandum may be acknowledged.

* ~~XXXXXXXXXXXXXXXXXXXX~~ By order and in the name of the president.

Marku Singh
(Signature)

Name and Designation of Competent authority

MDA of DR Secy
Dy. Commr. Amritsar

Encl:

To:

Sri.

M. K. Ran Sharma

Dr. P. S. K. Mittal (Designation)

Amritsar (Place etc.)

@ Copy to Sri. MDA of DR Secy (Name & Designation of the sending authority) for information.

* This time limit may be extended upto ten days at the discretion of the competent authority.

1. This time limit may be extended upto twenty days at the discretion of the competent authority.

2. To be retained whenever President or the Railway Board is the competent authority.

* Where the President is the disciplinary authority.

3. To be used whenever applicable. See Rule 16(1) of the Railway Servants (Discipline & Appeal) Rules, 1968. Not to be inserted in the copy sent to the Railway Servant.

4. Strike out whichever is not applicable.

** Submission of such list at this stage need not be insisted upon if the employee does not comply with this requirement.

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Manure, I,

Statement of article of charges framed
against Mr. Muph Ram Sharma
By DSK/Han 1/86

Mr. Muph Ram Sharma

is charged by DSK/Han under the provisions of
the Conduct and Temperance of the
office is 9 hrs on 21/7/83 and observed
as the, admirer of some class work

interior material by adopting
unauthorised means and facilities
with regard to the fact that a letter
below the signature of 21/7/83 -
attendance register of the subordinate
staff depot of April 83 which was
written from the fact was not
by some other subordinate and
checked by Head III on 20/7/83.

Thus Mr. Muph Ram Sharma
has been found to be in breach of
rule 185b of the Railway Service Rules
1956.

Manure Singh

(MANURE SINGH)
DY CS/Han 1/86

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Annexure IV

Statement of imputations of misconduct or misbehaviour on the basis of which Article of Charges framed against Shri Mukh Ram Sharma, Sr DSK/Amr/HK.

Shri Mukh Ram Sharma Sr DSK/Amr while ~~under suspension~~ working as Sr DSK attended office on time on 27/4/83 and put his signature in attendance register. He was placed under suspension on 30/4/83 and

while under suspension he came in EST/Section before office hours i.e. 9:00 a.m. on 2/5/83 and opened the almirah of leave clerk with ulterior motive by adopting an authorized means and tampered with record. He put the time on 2/5/83 below his signature of 27/4/83 in attendance register which was without time. This fact was noticed by leave clerk Subordinate and was checked by A.O. on 30/4/83.

Thus his integrity is doubtful and he has violated rules 3(i), (ii), and (iii) of Rg. Service Conduct rule 1966.

Manu Singh

(MANU SINGH)

Dy. Secy/Amr/HK

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Annexure III.

List of witnesses

- ① Shri. Khushali Ram Peon / Ann.
- ② " Gajendra " "
- ③ " Munam Lal Asst Supdt (Exd) Ann
- ④ " A. K. Malviya Sr Clerk (Exd) Ann
- ⑤ " S. P. Surti O.S. (K) Ann
- ⑥ " Mahesh Bared ACO (TL) Ann.

Marked with
(MANOHAR SINGH)
DY Cst/Ann / ACO

List of relied upon documents - A2)

① Attendance register of Senior Subordinates
dated 21st Jan April 83.

② Report of Shri. Khushal Ram
for dates 2/5/83

③ Report of Shri. Gaj & Basod Ram
dates 2/5/83

④ Report of Shri. Munim Lal and
others dated 2/5/83

⑤ Report of Shri. A.K. Malviya dated 2/5/83

⑥ " " S.P. Sarda 05(E) Amr
dated 2/5/83

Marked only
(MANOVAR Sarda)
D.Y.C. of Amr 10/83

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To,

The Dy. Controller of Stores,
N.K.V. Alambagh Lucknow.

Sir,

Ref:- S.F. 5 under Memorandum No. E/5/518 dated
10.6.83 issued to me.

Respectfully I beg to state as under for your kind consideration
and imparting your just decision:-

That the charges ^{Filed} against me are not only false but
exaggerated as I signed on the attendance register on
2.5.83 in presence of Estt Branch staff without any motive,
but just because I wanted to record correct time of my
arrival on the register for 27.4.83. as I was out station
on CL for the last 4 days.

That in case I would have signed before opening of the
office the attendance register of April '83 would not have
been available and the long list of staff names of whom
have been given in Ann III clearly denotes that all
these staff were also present when I signed the attendance
register. Had I signed the attendance register before opening
of the office as alleged in the chargesheet so many persons
belonging to Estt. Branch would not have been witnessed
the same.

In view of the above I request your ^{kind} ~~honour~~ kind honour to very
kindly to file this case by exonerating me of the false
charges levelled against me.

Thanking you,

Dated 17.6.83

Yours faithfully,

(MUKH RAM SHARMA)

Sr. DSK/POH

Under suspension

TC

DT

Recd
12/6/83

NORTHERN RAILWAY

Standard Form of Order relating to Appointment of Inquiry Officer/Board of Inquiry Rule 9 (2) of RS & DA Rules, 1968.

No. 15/5/528

Name of Rly. Administration Dy. Commr. Secy

Place of Issue Alambpur Rly.

Date 25.8. 1973

ORDER

Whereas an inquiry under rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968 is being held against Shri M. K. Ram Sharma (Name and designation of the Railway servant).

AND WHEREAS the Railway Board/ the undersigned consider(s) that a Board of Inquiry/ an Inquiry Officer should be appointed to inquire into the charges framed against him.

NOW, THEREFORE, the Railway Board/ the undersigned in exercise of the powers conferred by Sub-rule (2) of the said Rule, hereby appoint (s)

A. Board of Inquiry consisting :-

- 1.
- 2.
- 3.

Here enter names & designation of members of the Board of inquiry.

Shri Gyan Singh (Name and designation of the Inquiry Officer) again as Inquiry Officer to inquire into the charges framed against the said Shri M. K. Ram Sharma

Signature M. K. Ram Sharma

Name (M. K. Ram Sharma)

Secretary, Railway Board.

Designation of the Disciplinary Authority Dy. Commr. Secy

Copy to :-

Shri M. K. Ram Sharma (Name and designation of the Rly. servant).

Copy to :-

Gyan Singh (Name and designation of the Members of the Board of Inquiry/ Inquiry officer).

Copy to :-

(Name and designation of the lending authority), for information.

Note :- To be used wherever applicable-Not to be inserted in the copy sent to the Railway Servant.

15/04

TC

DS

The Dy. Controller of Stores,
Northern Rly., Alambagh, Lucknow.

Respected Sir,

REF :- Your Order No. E/9/518 of 25/8/1983.
.....

Respectfully I beg to request you to kindly change the Enquiry Officer in the above case as I feel that he being prejudiced with me I will not get justice in this case. In case enquiry is held I nominate Shri G. G. Sanyal, Head Clerk of this depot as my defence helper in this case. His consent is appended below please.

Thanking you,

Yours faithfully,

Dated : 30/8/1983.

(Mukh Ram Sharma)
Sr. DSK/POH (under Suspension)

Recd
BOS
30/8/83

TC
D

To

The Dy. Controller of Stores,
Northern Rly., Alambagh, Lucknow.

Respected Sir,

REG :- Major Penalty Memorandum No. E/S/518 of 25/8/83
issued to me.

REF :- Your letter No. E/S/518 of 30/11/1983.

.....

In reply to your above letter I most humbly and respectfully beg to bring the following documentary evidences which will prove beyond any doubt about the biased and prejudicial attitude of the Officer concerned whom your kind honour has nominated as the E.O. in the above case in terms of your Order No. E/S/518 of 25/8/83.

That during the period from April 1982 to Nov. 1982 when I was working as DSK/D ward the same Officer issued 5 Confidential letters to me on the following dates :-

1. No. AGOS/I/AMV/Confdl/82 dated 21/4/1982.
2. -do- " 31/7/82.
3. -do- " 27/9/82.
4. -do- " 13/10/82.
5. -do- " 11/11/82.

That I have also replied to all of these Confdl. letters to him pointing out that during this period of my working as DSK/D ward Adl. COS/NDLS in one of his inspection to this depot awarded Rs. 100/- cash to my ward adjudging it to be the best Ward of the Depot, but nothing could satisfy him and he kept on issuing me Confidential letters with the motive best known to him.

That apart from this the Memorandum in question has also been initiated on his personal pressure with the intention of implicating me falsely by hook or crook.

In view of above I would once again request your kind self to very kindly order for changing of E.O. in terms of Rly. Boards' letter No. B(D&A). 70-RGS-14(1) dated 19/6/74 which is very clear in this case.

I hope you will very kindly call for the above mentioned Confdl. letters and go through their contents as well as replies given by me to arrive at an impartial and just decision in this case and very kindly accede to my humble request so that I may not be deprived of justice from the partial hands of a biased officer who has always tried to bulley with my service in the past. Issuing of 5 Confidential in 6 months to a DSK in the face of the fact that Adl. COS/NDLS awarded Cash award to the same Ward itself will prove my fear & apprehension that the same Officer if given a free hand as E.O. will certainly spoil the case by his prejudicial & biased intentions.

Thanking you,

Yours faithfully,

(Mukh Ram Sharma)

DSK (under Suspension)

Dated :- 9/12/1983.

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Northern Railway

No.E/5/518

Registered A.D.
Dated : 29.3.84.

Sri Mukh Ram Sharma,
Sr. DML/POH,
29/3, Aishbagh Old Colony,
Lucknow.

Sub :- D.A.R.Enquiry in your case.

Ref :- Memorandum No.E/5/518 dt. 10.6.83 served to you.

...

In reference to your request vide letter No. nil dt. 9.12.83, it has been decided by the competent authority that the Enquiry Officer already nominated, will continue to hold the enquiry in this case and grounds which have been mentioned by you do not justify the reasons in support of change of the Enquiry Officer.

Thus the dates for conducting the enquiry in this case is fixed as under :-

16.4.84 14.00hrs. in the room of ACOS/I.

It is also advised that your presence in this enquiry is a must with your Defence counsel failing which the ex-parte decision will be taken.

(Gyan Singh)
Enquiry Officer.
ACOS/I/AMV/LKO.

Copy to :- 1. Sri Khushali Ram, Poon/AMV. (They are required to
2. Sri Gaya Prasad, " attend the enquiry on
the above date, time & place.
3. Sri G.G. Sanyal, AC/meeting/AMV to please attend
the above enquiry on the above date, time and place
as Defence counsel of Sri Mukh Ram Sharma, Sr.DSK/AMV.
4. Sri K.K. Sharma, Steno to please act accordingly.

Enquiry Officer,
ACOS(I)/AMV/LKO.

TC
53

24 22
Final Reminder A34
26A

To,
The Deputy Controller of Stores
N.Rly. Alambagh, Lucknow.

Respected Sir,

Sub: Major Penalty memorandum No.E/S/518 of 25.8.53 issued
to me.

Ref: (i) My application dated 9.12.83 and 12.4.84 for change
of E.O. in my case.

(111)

Most humbly and respectfully I beg to draw your kind attention to my application dated 9.12.83 and subsequent reminder dt. 12.4.84 requesting you for the change of E.O. in the above case in terms of Railway Board's letter No.E/D&A/70-RGS-14(1) dated 19.6.74 which is very clear on the subject, but I am at a loss to understand as to why same E.O. who is biased and prejudiced to me is kept as enquiry officer in the above noted case, moreover he is initiated this case 1st of all and he can not be an enquiry Officer in my case.

Apart from this I may point out here that I have also received a confidential letter No.E/108/G/AMV of 3.4.84 communicating adverse remark in my confidential report which was given to me after one year and it is also initiated by him hence in case ACOS-I/AMV is kept as E.O. in the subject noted case I am afraid that I will not be able to get justice from him and my future career will be spoiled by him. I am sure that if Shri Gyan Singh ACOS-I who has been deputed as E.O. in my case who is biased and prejudice to me is not changed then it is presumed that the administration is also intending to put me in trouble. ~~xxxx~~

In view of the above I am again requesting your kind honour to change the E.O. in my case so that I may face the enquiry off before an impartial officer who will at least be free from biased and prejudice & intention and impart justice in my case with a clear heart and free mind.

Thanking you,

Yours faithfully

(Mukh Ram Sharma)
Sr. DSK-DSK

N.Rly. Chaurbagh, Lucknow

*Handed over to S. R. Singh
on 24/7/84*
Dt. 20.7.84.

TC.

B.

(27)

100-100000

No. 1/1/518

Sri Mulch Van Shagun, S.D.E.
District, Chapra, M.P.

Subj: Major pay order - 1/1/518 - 1/1/518 - 1/1/518

Ref: Your letter No. 1/1/518 - 1/1/518

Your above letter has been examined by the S.D.E. and he does not find any reason to change the inquiry in your case.

For the S.D.E., 1000/1/1/518 - 1/1/518 - 1/1/518

Signature of S.D.E. (1)
1000/1/1/518 - 1/1/518 - 1/1/518

TC. B.

26 (25)
A36
Dated 27.11.1984.

Statement of Shri Laksh Pr. ACOS/III dated 27.11.84.

...

on 30.4.83 it so happened that Ram Kishan Driver had come to me to enquire about my going to Local Market, incidentally at that time the talk was going on about the occurrence of the case of the POH scrap Yard. The driver said to me that Sri Lakh Ram Sharma could not be involved in this case as he did not sign over attendance register on 27.4.83. There upon a curiosity has arisen in my mind as to whether it was a fact that Lakh Ram Did not sign on 27.4.83. I immediately called out the att. people to show me the register and noticed that there had been already the signature of Sri Lakh Ram Sharma on the attendance register. At that time only signatures were there and not any timings. There upon that attendance register was taken back by Shri Singh the then OS and there after the OS Lott. had made many other enquiries which have resulted in the levelling of the charges of his use of Register by Sri Lakh Ram Sharma.

(Laksh Prasad
ACOS/III.

(Shri G.G. Vanyal)
Ed. Clerk/III

Inquiry Officer
Gyan Singh/ACOS/

Question by Inquiry Officer.

Q.No. 1. Do you agree with the noting which you have given on 2.5.83 at Para. 4 and if so what do you say still ?

Ans. I agree, and nothing further to add.

Q.No. 2 when the Attendance Register of Cl. III staff for the month of April/83 was shown to you, how did you ensure that Shri Lakh Ram Sharma has tampered his signatures for 27.4.83 against his name ?

Ans. The time must have been near about 11.30 AM. and since there had been no evidence of any timings given at that time over the attendance register, so naturally the timings must have been given over the register afterwards. Now the recording of this timings over the Attendance register was done by Shri Lakh Ram Sharma, I do not know.

Question by Defence Council.

Note :- At this stage the defence council demanded production of the attendance Register of April/83 to scrutinise the same before the Inquiry Officer and the witness so that Cross questions may be made accordingly.

(H.R. Sharma (Witness)
C.O. ACOS/IC/III.

(G.G. Vanyal)
D.C.

(Gyan Singh)
A.O.)

Tc.

18

Question by the Inquiry Officer :-

Q.No.1 Please see ~~noting~~ dated 2.5.83 and tell whether you still agree.

Ans. Yes. I agree.

Q.No.2 While recommending the case of DA&R against Sri Mukh Ram Sharma were you completely satisfied.

Ans. Yes.

Q.No.3 In this case, is there any relevancy of the case regarding un-authorised entry of trucks in IOH took place on 27.4.83?

Ans. I can not throw any light in this case.

Q.No.4 What do you say about putting down the times by Sri Mukh Ram Sharma under the signatures for 27.4.83 in the relevant attendance register, is it correct?

Ans. When I did actually see the register no things were shown at that time. The things would have given afterwards. This is the position upto 30.4.83.

Q.No.5 What is your opinion on the fact of Sri Mukh Ram Sharma regarding putting down the time under his signatures on 27.4.83 in the ~~in the~~ relevant attendance register. Was it beneficial for Sri Mukh Ram Sharma if some thing says? Since Sri Mukh Ram Sharma was working under your control as Sr. DM/IOH and is directly related to the incidence of unauthorised entries of the trucks in IOH took place on 27.4.83.

Ans. Since Sri Mukh Ram Sharma had sign over the sale delivery register etc. on 27.4.83, in no way would it have been beneficial to Sri Mukh Ram Sharma by putting time under his signature on 27.4.83. as if any wrong thing might have committed by Sri Mukh Ram Sharma this putting of time could not save him.

Q.No.6 Since you recommended DA&R action against Sri Mukh Ram Sharma dt. 2.5.83, what was his major offence?

Ans. His major offence has emerged from the report of Sri S.P. Sinha the then OS/Asstt. dt. 2.5.83 that Sri Mukh Ram Sharma opened the Almirah and tampered with the records in attendance register.

Q.No.7 Is it not an indeciplined and undesirable activity of Sri Mukh Ram Sharma regarding tempering of records.

Ans. Yes.

(Mahesh Pd.)
ACOS/Retd/ANV

(G.G. Sanyal)
S.D.O.

(M.H. Sharma)
C.O.

(Gyan Singh)
S.O.

: 3 :

on 27.4.83, you took the pain of reviewing the curiosity to testify the facts by calling the attendance register. In the face of the fact that when a serious case in POH happened on 27.4.83 in which Sri Mukh Ram Sharma was implicated and as because he was on duty on 27.4.83 performing his official job in the POH, even then how this curiosity cropped up in your

(Mahesh Pd) (G.G. Baryal) (M. Sharma) (Gyan Singh)
Retd. COs/Inv. D.C. C.O. E.O.

Q.No.3 About the presence of Sri Mukh Ram Sharma on 27.4.83 should it be taken that you had no occasion on 27.4.83 when Sri Mukh Ram Sharma came across you during whole of the day ?

Ans. In this connection I have to state that Sri Mukh Ram Sharma had actually met me on 27.4.83 and I had seen him working in the POH. But some times it so happens that though a man physically works in the depot but he fails to sign over the register so despite his working throughout day he is taken ~~that he is absent from the depot~~ to be absent from the depot. if he has found to forget the sign over the register. Since the case has told me I took up this case as a case of deliberate avoiding of putting signature over the attendance register by Sri Mukh Ram Sharma and did not take it as a case of natural forgetfulness of putting the signatures over the register as some times when staff comes from his home in the office and immediately starts working under the urgent instructions of his officer he could forget to sign over the register.

Q.No.4 From your above reply it transpires that you have in the past tenure as Asstt. Officer of this depot might have come across of such deliberate avoiding of signing the register by the staff. But the case of Sri Mukh Ram Sharma who was working as Sr. JMK/POH instructed with delivery of lots to the purchaser is specially significant as because the date of 27.4.83 is the black day in the history of Allahbagh Depot. If your above statement is taken as correct then it can also be presumed that Sri Mukh Ram Sharma who worked with you on 27.4.83 and sign in the Official document such as sale delivery issue note (POH) delivery order, made the signatures, without recording his attendance in the attendance register, Please clarify this point?

Ans. In the past I had not come across any such case where an employee has worked throughout day in the depot and deliberately avoided his signatures over the attendance register. I have already stated in the previous reply that Sri Mukh Ram Sharma did physically worked in the POH on 27.4.83. But Sri Ramkishan Driver had created a confusion in my mind then to have the confusion removed from mind I had seen the attendance register and also checked up the signatures of Sri Mukh Ram Sharma. It occurred in my mind might it be possible that he might not have signed over the register deliberately on the occurrence of the case.

: 4 :

Q.No.5 In your statement you have stated that Sri Ram Kishan Driver created confusion in my mind about Sri Mukh Ram Sharma & spresence on 27.4.83 and as per your statement Sri Ram Kishan Driver uttered these words as because Sri Mukh Ram Sharma could not be involve in that case of 27.4.83. Will you please say whether the checking of the register by you is to satisfy your curiosity or to involve Sri Mukh Ram Sharma in the case of Sale Delivery of 27.4.83 what was the primary consideration

(Mahesh Rd.) (G.G.Sanyal) (M.R.Sharma) (Gyan Singh)
ACCY/Retd./I.V. D.O. C.O. B.O.

Ans. My primary consideration has been only to satisfy my curiosity as how Sri Mukh Ram Sharma dared to avoid his signatures over the register. But as soon as I saw his signature over the register the bad impression which was going to be formed in my mind about Sri Mukh Ram Sharma had vanished.

Q.No.6 In your statement you have stated that the time of your checking the register was 11.30 AM on 30.4.83. Whereas Sri Mukh Ram Sharma was served with the suspension order at about 10.30 hrs. on 30.4.83 by the Estt. Section. Does it mean that you had no knowledge about Sri Mukh Ram Sharma suspension at the time when you are exercising the checking of attendance register at 11.30 AM in presence of O.S./Estt. Sri Sinha. And also Sri Sinha who was OS/Estt. did not point out the fact of suspension of Sri Mukh Ram Sharma prior to checking of your attendance register.

Ans. I had no knowledge of suspension of Sri Mukh Ram Sharma at the time of my checking of the attendance register, and neither Sri Sinha then OS/Estt. had inlighten me on the matter.

Q.No.7 Do you remember that on 27.4.83 Sri Mukh Ram Sharma has signed in the issue notes of POH and the delivery order and got them signed thereafter by you.

Ans. Yes. I remember.

Q.No.8. In your preliminary observation dt. 2.5.83 you have said that you personally seen the register on 30.4.83. But in your statement dt. 27.4.83 before the inquiry officer you have attributed this checking of the register on the initiative of Sri R m Kishan Driver who created curiosity in your mind about the presence of Sri Mukh Ram Sharma. Will you please say as to why you omitted this observation in your note of 2.5.83 & subsequently during the course of inquiry dragged Sri R m Kishan Driver in this case for substantiating the fact of your checking of register on 30.4.83. Please clarify this point.

Ans. This thing that on the initiation of Sri Ram Kishan I check the register, I have omitted in my original written statement dated 2.5.83.

(Mahesh Rd.) (G.G.Sanyal) (M.R.Sharma) (Gyan Singh)

(5)

(30)

Page 2
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12.8.85.

Cross examination by Defence Council Contd....
as the attendance register of April/83 for which the
cross examination made on 27.11.84 could not yet be made
available.

...

Q.No.1 In your statement date 27.4.83 you have stated that
on 30.4.83 you checked the attendance register of April/83
for ascertaining whether Sri Mukh Ram Sharma has signed
thereon or not? Will you be able to Substantiate your
above statement with any documentary evidence by which
it can be testified that you checked the register on
30.4.83 and not on earlier date?

Ans.

This register was brought by Sri S.P. Sinha the then
OG/Asstt. to me when I had called for this register
in order to satisfy my curiosity created by a Motor
Driver Sri Ram Krishna that Sri Mukh Ram Sharma
did not sign over the attendance register on the day
of occurrence i.e. 27.4.83. When Sri Sinha brought this
register to me both of us had jointly checked up his
signatures and found that his signatures were there on
attendance register. When Sri Sinha told me that he
will record it that the signatures of Sri Mukh Ram Sharma
already exist over the register. Since at that time only
I have to satisfy my curiosity and found nothing serious
at that time so from my side I attached no
importance and returned back the register to Sri Sinha.
At this stage I can not prove my statement by any documentary
evidence.

Q.No.2 In reply to above question you have stated that Sri Sinha
OG/Asstt. assure you of recording your checking of the
register. Did you thereafter care to see whether Sri Sinha
recorded this aspect in any official document as promised
by him before you on 30.4.83. If so please state in which
other document this checking report of yours can possibility
be recorded apart from the attendance register?

Ans.

At the period when I had called for the register from the
Asstt. nothing serious was there in connection with the
signature of Sri Mukh Ram Sharma over the register on 27.4.83
simply it was only my casual checking whether he did
actually sign over the register or not, can't a receipt of the
information from the driver Sri Ram Krishna that Sri Mukh Ram
did not sign. But when I saw his signatures over the register
I was fully satisfied with his signatures and it did not
warrant any special action on my part. Since at that time
the circumstances were very ordinary and I had merely
told Sri Sinha to have note of it and thereafter I had not
thought it necessary to check up whether Sri Sinha had actually
noted this fact on any official document because out of this
happening of my having perused the register circumstances
were such as to have not framed my charge against Sri Mukh
Ram Sharma.

Q.No.3 In your statement you have stated that as because Sri
Ram Krishna Driver created confusion in your mind about
Sri Mukh Ram Sharma's not signing on the attendance register.

5.8.85

Statement of Sri Gya Prasad, Daftary/AMV/Stores given on 5.8.85 in the room of ACOS/Depot. AM

...

Date of Apptt. 26.3.83.
Pay Rs.202/-
Age. 24 Yrs.

G.M.'s warning was administered.

I have seen my statement dated 2.5.83 and accept the whole statement.

I was working during April/May/83 as Peon in AMV Depot and I was posted in Estt. sec. as Peon under OS/E. my duties were to clean the furnitures etc.

(M.R.Sharma)	(G.G.Banyal)	(Daya Pd.)	(Gyan Singh)
C.O.	D.N.	Daftary.	I.O.

Questions by Defence Helper.

Q.No.1. What is your normal duty hours.

Ans. It is from 8.30 to 17.00 hrs.

Q.No.2 On 2.5.83 as per your statement you have stated that at 8.20 you arrived in the office and after signing your attendance in the register you started your work. Was your attendance register available at 8.20 hrs. on 2.5.83?

Ans. The relevant attendance register in which I signed was lying on the table of OS/E where the other current registers were also lying.

Q.No.3 When you signed your attendance at 8.20 hrs. on 2.5.83 was there any other staff present in the office?

Ans. At that time Sri Khushali another peon was also present.

Q.No.4 Who opened the door of Estt. sec. on 2.5.83, when you entered inside that section. Was it lying opened?

Ans. When I entered the gate of Estt. Section from main hall side, the gate was already found in open condition.

Q.No.5 Was there any Class III staff present inside the main hall of the office of any section?

Ans. There was no class III staff.

Q.No.6 ~~xxxxthere xxxxxxx~~ Since your appointment as Peon in this office you were attached in Estt. sec. Will you be able to tell us to who opens the gate of the Estt. sec. normally on working days?

Ans. I always used to see that the door in question was found in open condition whenever I came to Estt. sec. for attending my regular duties.

(M.R.Sharma) (G.G.Banyal) (Daya Pd.)

Tc. 55

Q.No.7 On 2.5.83 when you arrived in the office you have stated that Sri Khushali was present. Did Sri Khushali told you about presence of any person inside the Dist. Section prior to your entering into the Dist. room.?

Ans. No.

Q.No.8 You have given a written statement on 2.5.83, please state as to who asked you to record this statement of yours ?

Ans. When I reported this matter to OS/E, he asked me to submit the report in writing and hence I submitted my report in writing on 2.5.83.

Q.No.9 At what time and place you have first seen Sri M.R.Sharma inside the Dist. Section on 2.5.83?

Ans. I do not remember the time but so far I remember I saw Sri M.R.Sharma near the almirah which was under the possession of Sri Malviya Clerk.

Q.No.10 Was it lying in the open condition ?

Ans. It was opened and Sri M.R.Sharma was turning over some papers.

Q.No.11 Did you find Sri M.R.Sharma holding any register in his hand or writing some thing thereon at that time ?

Ans. I am sure that Sri M.R.Sharma was handling the documents but I do not remember whether he was writing on any of the papers.

Questions by I.O.

Q.No.1. No Questions.

(M.R.Sharma) (G.G.Sanyal) (Gya Pd.) (Gyan Singh),
C.C. D.O. Daftary. I.O.

TC

SS

5.8.85.

Statement of Sri Laxmi Lal, Asstt./Jl. IV in the room of OCS/Direct, on 5.8.85.

Date of Apptt. 29.11.54
Age. 49 Yrs.
Pay. Rs.590/-

C.I.'s warning was administered.

I have seen my report dated 2.5.83 which has been signed by me and the following names have been mentioned who are working in Estt. Section.

1. Sri Laxmi Lal.
2. " A.K.Choudhary.
3. " R.C.Hovari
4. " Ramesh Kumar.
5. " V. Verma.

These names have been mentioned by me as witnesses. In addition to this I also want to add following :-

I am working in the Estt. Sec. for the last approximately 30 yrs. and so far I have worked at different place inside the establishment sec. In the month of May/83 I was in the Estt. sec. when I submitted my report dated 2.5.83 to OCS/. In these days, I was supposed to prepare muster roll of Jl. IV staff, and to prepare the Passes/PtOs of Class III and I staff.

Thus I hereby submit my above statement before Inquiry Office and Defence Helper.

(M.R. Sharma) (G.G. Janyal) (Laxmi Lal) (Gyan Singh)
C.O. D.H. AS/Estt./Jl. IV C.O.

Questions by Defence counsel:

Q.No. 1. What prompted you to submit your written statement on 2.5.83 in respect of your working on 1.5.83 ?

Ans. Next day morning, when I attended the office on 2.5.83, I found the unusual condition of Almirah as I have mentioned in my statement dt. 2.5.83, I discussed this situation with my Incharge Sri A.K. Singh, OCS now retired and he ordered to submit a report and thus I have submitted this report to OCS/.

Q.No. 2 In reply to your question above, you have stated that on 2.5.83 you found the almirah in unusual condition which prompted you to submit your written statement on 2.5.83. But in your report submitted on 2.5.83 in writing why you have failed to mention about the above facts i.e. finding of the almirah in a disturbed condition. Was it not your duty to incorporate such a vital

Page 334
A44

Fact in your written statement which you submitted on 2.5.83 as you are holding the post of A.S. in Estt. Sec. which is a supervisory post.

(H.R. Sharma) (G.G. Sanyal) (Hunni Lal) (Gyan Singh)
C.O. D.H. AS/Estt. E.O.

Ans. I did not feel necessary to make any record regarding the event of 2.5.83 and hence I have not mentioned in my report which I submitted to OS/E.

Q. No. 3 On 2.5.83 at what time you observed the disturbed condition of the almirah as stated by you in reply to Q. No. 1.

Ans. About at 9.10 hrs. I observed the disturbed condition of the almirah.

Q. No. 4. In your written statement dt. 2.5.83 you have mentioned that you were booked alongwith other staff for preparation of muster roll and after completion of the work you after satisfying yourself completely left the office after sealing all the almirahs and doors duly locked. Should it be taken that on 1.5.83 you were required to open all the almirahs in the Estt. sec. for preparation of muster roll, if so, please state - as to how many almirahs were opened by you on 2.5.83 and sealed thereafter completion of official work ?

Ans. I have sealed about 5 almirahs so far as I remember now.

Q. No. 5 As per your statement and in reply to Q. No. 1 you have stated that you found the almirah in a disturbed condition. Is that almirah which was found in a disturbed condition was one of those which you locked and sealed on 1.5.83 or it is not out of those five which were sealed by you on 1.5.83.

Ans. Yes.

Q. No. 6 What was the actual condition (disturbed) of the almirah in question. Was its lock which was fixed by you on 1.5.83 and labelled duly signed was found in broken condition/tampered or it was lying unopened, please clarify this point ?

Ans. The lock was in sound condition and it appear to me as it has been opened with the key ?

Q. No. 7 Will you be able to state as to who is responsible for bringing the keys of the almirah of the Estt. Sec. from the late sergeant and on 2.5.83 who brought the keys from Gate sergeant of those almirah of Estt. Sec. which includes that almirah which was found in a disturbed condition ?

Ans. The keys of the almirah are not deposited in the gate but it is kept in a box inside the drawer duly locked and the key of the drawer is kept by the OS and AS and on 2.5.83 it was with me.

Q. No. 8 On 2.5.83, did you arrive in the office prior to the arrival of your Officer you arrived after the arrival of OS ? please clarify.

Ans. I arrive after the arrival of OS.

TC

Q.No.9 Is replied by you against Q.No.8 about your arrival after the arrival of O.S./E, can it be presumed that your OS might have opened the almirah prior to your arrival as the key of the drawer was also available with him as well as with you, please clarify this point ?

Ans. It is also possible but I am not certain.

Q.No.10 In your statement and in reply to question you have stated that the almirah was in a disturbed condition, please elucidate further as to what do you mean by disturbed condition ?

Ans. The position which I left after closing of the almirah on 1.5.83 this position was not exactly same on 2.5.83 and it was clear that the paper has been disturbed by somebody ?

Q.No.11 When you found condition of the almirah in a disturbed condition, did you take the pain of finding out whether some records of the almirah are missing or you just checked the contents of the almirah usually ?

Ans. I did not prepare any report.

Q.No.12. Are you the first man who observed the almirah opened and in disturbed condition or it was in the notice of the OS /E whom you have said that he arrived prior to you on 2.5.83 in Distt. Sec.

Ans. No, nothing can be said.

Question by I.O.

Q.No.1 Can you tell the main document, were found disturbed after having sealed by you on 2.5.83 ?

Ans. Attendance registers old (April & May/83), leave cards of cl. III staff, Muster roll, input papers etc.

Q.No.2. The almirah which was got disturbed, was it your charge ?

Ans. Yes.

Q.No.3 What did you do with the attendance register of April/83 when you find in disturbed condition?

Ans. I do not remember what I did at that time, but I am sure that I have not handed over that attendance register to Sri S.P. Sinha, OS/E on 2.5.83.

Q.No.4 Who was keeping the keys of the almirah which was found in disturbed condition on 2.5.83 ?

Ans. The key of that almirah was with me, after the office hours I ~~never~~ used to keep the keys of the almirah with me.

Q.No.5 Did you continue keeping the keys of the almirah in question after this incidence on 2.5.83, if not to whom you handed over the keys ?

Ans. No, I handed over the keys to Sri S.P. Sinha, OS/E immediately after this incidence on 2.5.83.

Page 35 36

6.8.1985

Statement of Shri Khushali Peon/IV given in the room of
ACOs/ on 6.8.85.

A46

Date of appointment 13.6.55
Date of birth 31.5.33.
Basic Pay Rs. 240/-

I have seen my statement dated 2.5.83 and still accept
the whole statement, in addition to this I would like
to submit as

I am working in IV store as Peon for the last more
than 10 yrs and normally I am booked for opening and
closing of the Administrative building in which Stt. Sec.
is a part of Administrative building. My duty hours are
07.30 to 11.00 hrs. and 14.00 to till the closing of the
office. Thus I submit my statement.

(Khushali R m)	(G.G. Senyal)	(H.R. Sharma)	(Gyan Singh)
Peon	D.H.	C.O.	E.O.

Question by Defence :-

Q.No.1 In your statement dated 2.5.83 you have stated that you
saw a Babu standing on the Verandah whose name you could
not give on 2.5.83 ?

Ans. Shri Rasheed Ahmad.

Q.No.2 Who promoted you to give your statement in writing on
2.5.83 ?

Ans. On the instruction of O.S./Stt. Shri Sinha I gave the
written statement dt. 2.5.83.

Q.No.3 Did you see Sri Gaya Pd. Peon Stt. Sec. entering into
Stt. Sec. on 2.5.83. In your presence ?

Ans. No I have not seen,

Q.No.4 Did you see any other person except Sri Rasheed Ahmad
entering inside the office on 2.5.83 after opening
the office and Stt. Sec. on 2.5.83 ?

Ans. I have seen no other person except Sri Rasheed Ahmad and
after opening all the rooms of the Officers I came out
on the Verandah when Sri Gyan Singh ACOs arrived and I
collected his bag etc. and came upto his room. I know nothing
further.

(Khushali R m)	(G.G. Senyal)	(H.R. Sharma)	(Gyan Singh)
Peon	D.H.	C.O.	E.O.

TC

35

: 2 :

Question by Inquiry Officer :-

A47

Q.No. 1. Did you open the Mastt. Sec. on 2.5.85 if so at what time?

Ans. The inside gate of Mastt. Sec. was not locked hence as soon as the main hall is opened, the inside gate for Mastt. Sec. may also be opened as it is closed with door bolt only. I have opened the locks of main hall at 8.00

Q.No. 2. Did you enter Mastt. Sec. on 2.5.85 between 8.00 hrs and 9.00 hrs.?

Ans. No.

(Bhushali Ram)	(G.G. Aryal)	(L.R. Sharma)	(Gyan Singh)
Peon	D.H.	C.O.	C.O.

TC
D

6.8.85

Statement of Shri A.K. Malviya Sr. Clerk/EP given on 6.8.85
in the room of COS/D.

A48

Date of Apptt. 13.10.79
Date of birth 2.1.57
Rate of pay Rs.350/-

I have seen my report dated 2.5.83 which I submitted to Shri S.P. Singh Es/ and still I accept that my complete report is correct. In addition to this I submit as under.

I have worked in Asstt. Sec. from 79 to Sept/84. During the month of April/ and May/83 I have worked in Asstt. Sec. as leave clerk for Class III staff. I was provided one steel Almirah for keeping the records of Class III & Class IV staff whose key was under the possession of Shri S.P. Singh. The same Almirah used to be locked in the morning and closed at the closing of the Dept. by the person concerned. All the attendance registers old and current are also kept in this Almirah. I thus submit my above statement.

(Shri R. M. Sharma) (G.G. Janyal) (A.K. Malviya) (Gyan Singh)
C.O. D.H. Sr. Clerk/EP I.O.

Questions by Defence :-

Q.No.1 In your above statement you have stated that the attendance register both old and the current one are kept inside the Almirah and locked in the evening after the closing of the office, will you please throw some light as to how the current register are made available for signature of the staff in the morning. Who actually takes out the current register from the Almirah in question and provides for signature of staff in the morning.

Ans. Actually current register is not kept in that Almirah, The same is kept in the Almirah of DSK/I.

Q.No.2 In your statement above you have stated that the Almirah pertaining to the record of the leave sec. is closed in the evening after office hours and the key of the same is kept with Es/ Asstt. will you please elucidate as to who was holding the key of your leave sec. Almirah on 2.5.83 and whether on your arrival on 2.5.83 did you find the Almirah lying in open condition?

Ans. When I came in the office on 2.5.83 the Almirah in question was not locked. As all the Almirah in the Asstt. Sec. were opened by me that time.

Q.No.3 From your above reply it appears that the Almirah of leave sec. is neither closed by you in the evening, nor it is opened by you in the following morning?

Ans. It is being done by the person attached to the Asstt. Sec.

(R.M. Sharma) (G.G. Janyal) (A.K. Malviya) (Gyan Singh)
C.O. D.H. Sr. Clerk/EP I.O.

R. S.

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A49

Q.No.4 Have you got any knowledge that on 1.5.83 some Lstt. staff were booked to complete the muster roll of Line Khollasis and on that day this Almirah of your leave sec. was required to be opened by the staff booked on 1.5.83 (Sunday).

Ans. I have no such knowledge.

Q.No.5 On 2.5.83 when you arrived in the office what was the approximate time of your arrival ?

Ans. I reached right time in the office.

Q.No.6 Did you find your Almirah of the leave sec. in disturbed condition when you arrived in the office on 2.5.83 ? If so did you care to mention this fact in any of your report ?

Ans. I have no such knowledge and the Almirah was found by me undisturbed and as such I have not made any complaint in this regard.

Q.No.7 Will you please clarify as to on whose instruction you submitted your written statement on 2.5.83 which is before you ?

Ans. On the instruction of Os/Lstt. I submitted the report in question about my working.

Q.No.8 In your report dated 2.5.83 in the concluding para you have mentioned that Sri Mukh Ram Sharma DDA-II had not put time below the signature of 27.4.83 prior to 30.4.83. Are you in a position to substantiate your above statement with any documentary evidence before this Inquiry committee on date. If so please from which document you can be in a position to establish this fact.

Ans. It can be established if the attendance register of April/83 for Depot DAs and subordinate staff is made available to me as the same register was in the possession of Os/Lstt. for keeping his safe custody.

Q.No.9 From your above reply it is clear that the Register in question was taken away by the Os/Lstt. for its safe custody. Does it mean that this register was not returned to you by him subsequently after 2.5.83 ?

Ans. No. It was not returned to me by Os/Lstt. after 2.5.83.

(H.R.S. Sharma) (G.G. Sanyal) (A.A. Helwija) (G. Anand)
C.O. D.A. Sr. Clerk/ C.O.

TC
SS

Question by the Enquiry Officer :-

Q.No.1 What do you do with attendance register of Class III staff when you prepare the list of absentees, the reply very briefly?

Ans. 1. I receive the register after having marked double cross, I then make the proper entries of leave etc. to the concerned register.
2. At 14.00 hrs. I have to mark 'X' against those staff in which double cross has been mentioned and have not turned up on duty.
3. About at 16.00 hrs. I send the current register to DCM/I/C.

Q.No.2 On 2.5.83 how do you come to know that the tempering of the class III attendance register for the month of April/83 for 27.4.83 against the name of Shri M.R.Sharma Dr. DCM has been done?

Ans. Still I can not say how the tempering has been done and what type of tempering was done.

Q.No.3 While handing over the attendance register for the month of April/83, to Shri S.L.Bishta, did you see any thing on the x attendance marking place against the name of the Shri M.R.Sharma in the column for 27.4.83?

Ans. I saw that the time was mentioned in the marking place as prescribed so far I remember, I can not tell the time which was written over there.

Q.No.4 Was it in order for mentioning the time below the signature of Shri M.R.Sharma on the space of 27.4.83 in the attendance register keeping in view the past practice which was followed by Shri M.R.Sharma?

Ans. In the normal course, when the staff signs the attendance register he comes time no time is mentioned by such staff while signing, but in the case of Shri M.R.Sharma under the signatures of Shri M.R.Sharma time was mentioned whereas there was no cross, this is for 27.4.83 only I can not say whether the time was mentioned on 27.4.83 or after.

Q.No.5 On 27.4.83 while taking out the absentee, can you tell all the crosses against the staff and please also tell against whose names at the place of signatures you found the time also who have attended the office intime?

Ans. Unless I see the relevant register but as far as it is concerned that the times of those staff who attended intime, there was not even a single staff who has mentioned the time of arrival against his name under the signature.

Note by Defence council to ascertain the actual facts in the light of reply given by the procedure witness Shri Malviya against above question/20 the attendance register for April/83 may kindly be provided before this Enquiry Committee. by which the actual facts relating to this case will come up before the Inquiry oficer as well as Defence council.

Northern Railway

No. E/3/518

Dated : 8.8.85.

Sri Mukh Ram Sharma, Sr. Dm.
Diesel/CB/LKO.

(Through ACOS/DLL/CB/LKO)

Sub :- DAR inquiry against Sri M.R. Sharma, Sr. Dm.

Ref :-1. Major Penalty Memo No.E/3/518 dt. 10.6.83.
2. Your letter No. nil dt. 6. .85.

On perusal of the Annexure I of your letter mentioned in reference No. 2 the undersigned decides that the following persons are permitted to appear as Defence witnesses in your case, the proper date of cross examination of these persons will be intimated to you in due course of time :-

1. Sri Ramkishan, Motor Driver By. GOS/ANV.
2. Sri R.M. Singh, MC/Asst. -do-

The annexure II of the same letter was also examined by the undersigned and he decides that only the following documents are the relevant documents but it is one of the relied upon document also; hence it may not be considered under additional documents (subordinate attendance register of Cl. III staff for the month of April/83).

However, in case, this register is felt necessary for your defence, it will be produced during the hearing of your case.

(Gyan Singh)
ACOS/D/ANV.

Copy for information to :-

1. The ACOS/DLL/CB/LKO.
2. Sri G.C. Sanyal, Defence Helpe /ANV.

(Gyan Singh)
ACOS/D/ANV.

16.10.1985.

Statement of Shri R.K.Singh, H.C.E stt. Section, Alambagh-Lucknow given in the room of ACOS/Depot on 16.10.85.

A52

Date of Apptt. 3.7.1958
Age 47 Yrs.
Pay Rs.515/- P.M.

G.M.'s warning was administered.

on 28.4.83 at about 10.00 hrs. Shri Mukh Ram Sharma, Sr. DSE/POH came to Estt. Sect. and put timing under his signature in the attendance register where his signature is already existing for 27.4.83 in my presence.

(R.K.Singh)	(H.R.Sharma)	(G.G.Sanyal)	(Gyan Singh)
H.C.(Estt)	C.C.	D.H.	E.O.

Question by the Enquiry Officer :-

Q.No.1 On 28.4.'83 what were your duties in Estt. Section ?

Ans. I was working in Labour Estt. dealing with verification of service Book, increment, DMR against Class IV & Artizan staff etc.

Q.No.2 Was maintenance, security and up-keeping of attendance register of Cl. III staff for the period April & May '83 under your supervision if not in what way you can show the relevancy in order to link incidence of tampering attendance register by Shri Mukh Ram Sharma for 27.4.83 ?

Ans. Maintenance of Attendance Register was not in my preview so far as security of the attendance is concerned it is my duty to see it being a member of personnel Branch. On 28.4.83 I was seeing my pass account at about 10.00 hrs. and the seat of Pass Clerk is just adjacent to the leave clerk, in the mean time Shri Mukh Ram Sharma Sr. DSE/POH appeared there and started to sign on the register. I enquired gentlemen what are you doing at 10.00 hrs. in the attendance register and where had you been upto now. He replied I attended office on 27.4.83 at about 10.00 hrs. and forgotten to put time thereon, as such I am putting the arrival time in the attendance register below my signature on 27.4.83 to which I personally witnessed and after that Shri H.R.Sharma left the office.

Q.No.3 Did Shri Mukh Ram Sharma seek the permission of Leave Clerk concern for putting the time under his signature since you were sitting adjacent to the leave clerk ?

Ans. Shri Mukh Ram Sharma enquired from me if he can put time for his late arrival myself replied there is no harm you have come late it is your duty to put your time for which he had been late from your schedule time of attending office. However the leave clerk was not available there.

TC-8

Q.4. Since leave clerk was not available it was about 10.00 hrs. on 28.4.83, how did Shri Mukh Ram Sharma get the attendance register and how did he put time without getting the permission from OS/E or any other relevant staff. Keeping in view the security is one of the essential duties ?

Page 12
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A53

Ans. The Register attendance was lying at table of Leave clerk as usual as per practice the employees are duty bound to put the time of signature in case he is late whenever the cross is made on the attendance register generally employee attending office late after marking cross on the attendance register put their signature with time as well. There is no standing instructions nor it is in practice since long that employees marking their attendance on the cross seek permission from senior subordinate/officers as it will form a queue in the office and in the course of getting permission to sign in the attendance register after cross will take hours together and will be more wastage of time. However it is moral duty of each employee to put time whenever they are late and the same practice his in practice without concession of cross.

Q. No. 5. Can you give any similar example in which an employee who has attended the office late (after 10.00 hrs. or about at 10.00 hrs. who has put time under his signatures while signing the attended register ?

Ans. At this moment since I am not the leave clerk I can not quote the examples however it can be seen from the attendance register of April '83.

(R.L.Singh)
H.O. (stt)

(M.R.Sharma)
C.O.

(G.G.Sanyal)
D.H.

(Gyan Singh)
E.O.

TC
3

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A54

16.10.1985.

Statement of Shri Sukh Ram Sharma, Sr. D.A./11-33, (who then was D.A./10H-17) given in the room of SOB/Depot on 16.10.85.

Date of Apptt. 15.1.54
Age 55.72 Yrs.
Rs. 760/-

G... 's warning was administered.

I proceeded to duty on 22.4.83 to shift for one day 23.4.83 in connection with delivery of coal stock. I worked most of 24.4.83 being Sunday and the C.E. for 25 & 26.4.83 at 313. Thus I joined by office on 27.4.83 in late hours at about 10.00 Hrs.

I was ordered by Mr. Hari Lakhesh Agrawal, to rush up in the P.O. Yard where the deliveries of coal stock are to be made. He also asked me as to why I am late, immediately thereafter I went to P.O. i.e., the place of my work. Unfortunately the same day raid was made by SO/Inkrow of the lot of wheel sets pertaining to the delivery of which was in progress during this surprise raid of SO/Inkrow of the lot mentioned above and its delivery I was busy in the P.O. Yard with my normal work. That day I remained upto late night after putting off the delivery trucks from P.O. Yard which were subjected to checking by SO/Inkrow I left the office in the evening. The next day i.e. on 28.4.83 when I attended office as usual in time and came to know that a case has been registered by the SO/Inkrow of the delivery of wheel sets for which the raid was conducted by him on 27.4.83. Some of my friends and well wishers who were of know of this case of 27.4.83 asked me to record the actual timing of my arrival on 27.4.83 in the attendance register as such I recorded the timing in the register below my signature of 27.4.83.

I close my statement on my own record.

(M.R. Sharma)
C.O.

(G.G. Sanyal)
D.A.

(Gyan Singh)
E.O.

Question by the Enquiry Officer :-

Q.No.1 Earlier to 27.4.83, have you put the time under your signature whenever you attended the office late ?

Ans. As far as I remember, I have not attended M.V. Stores Depot late.

Q.No.2 Beside the even of 27.4.83, have you put time under your signature in the attendance register till now. Please quote the occasion if any ?

Ans. As far as I remember I never attended office late, thus there was no occasion for putting the time under my signatures.

Q.No. 3 How did you come know that a person who comes late should put the actual time of arrival under his signature in the attendance register while signing ?

Ans. Since I attended office at about 10.00 hrs. on 27.4.83 and did not find any cross against my name in the attendance register I simply signed without time on 27.4.83 but have put the time on 28.4.83.

Q.No.4. Who permitted you for putting the time under yours signature for 27.4.83 ?

Ans. I did not see permission of any staff concern. I put the time in presence of Shri R.N. Singh who is responsible person of Stt. Section as well as a Br. Secty. of a Recognised Union.

Q.No.5 From which date your suspension period had started ?

Ans. It is from 2.5.83.

Q.No. 6 What do you have to say about your presence in Stt. Section at about 8.00 hrs on 2.5.83 which was witnessed by Sri Gaya Pd. Leen & Sri Khushali Ram Leen according to them you were found doing some thing with the papers near steel almirah ?

Ans. I have not attended office on 2.5.83 the question of my presence stated by Sri Gaya Pd. & Khushali Ram. whenever during my suspension period I have over attended office I have recorded the same at the RRF Stores Gate in the register maintained there.

Q.No.7 It is the practice of putting the time under the signatures for staff who comes late when he signs the attendance register in RRF Depot or in any other Depot ?

As far as the practice is concern, I have nothing to say but in my case putting of the time on 27.4.83 was first occasion till now.

(P.R.Sharma) (G. Goyal)
G.O. D.I.

(Gyan Singh)
D.O.

TC 4

17.10.85

A36

Statement of Shri Ram Kishan Driver AMV Depot given in the room of ACOS/Depot on 17.10.85.

Date of Apptt. - 15.5.56
Age - 50Yrs.
Pay - Rs. 464/-P.H.

G.M.'s warning administered.

On 30.4.83 I was working as Driver in Alambagh Depot and I had no exchange of views with Shri Mahesh Prasad regarding POH case of 27.4.83, nor I had any talk with him relating to Shri Mukh Ram Sharma the then DSK/POH-AMV.

(Ram Kishan)	(G.G. Senyal)	(H.R. Sharma)	(Gyan Singh)
Driver AMV/Depot.	D.H.	C.O.	E.O.

Question by the Enquiry Officer.

Q.No.1. Since you have said that you did not talk any thing on the issue relating to Shri Mukh Ram Sharma to Shri Mahesh Prasad ACOS. please tell to how many person you met on 30.4.83 and what did you talk about, with vehicle you drove and the other movement ?

Ans. So far remember I drove Vehicle No. 9581 UMF and the cleaner was Shri Shyam Nath or Shri Lekh Raj. I do not remember the persons whom I met. The movements of whole day can also not be given as I do not remember.

Q.No.2. Did you meet Shri Mukh Ram Sharma between 27.4.83 and 2/5/83 and if so what discussion you had with him ?

Ans. I have not met Shri Mukh Ram Sharma.

Q.No.3. What is the incident of 27.4.83 in which the name of Shri. Mukh Ram Sharma Sr. DSK has been associated with .

Ans. It was heard by me that some trucks have been caught in the AMV Stores Depot which was carrying Rly. Material unauthorise dilly. Most of the time I was waiting Dy. COS Shri Manchar Singh on 27.4.83.

Q.No. 4. Did you meet Shri Mahesh Prasad ACOS from 27.4.83 to 2.5.83 and if so what did you talk about ?

Ans. So far I remember I saw Shri Mahesh Prasad ACOS on 27.4.83 but I do not remember whether I have met him or I have taken him in the vehicle which I drive from 27.4.83 to 2.5.83.

Q.No. 5 A case regarding tempering of Attendance Register by Shri Mukh Ram Sharma Sr. DSK/LKO has taken place in Alambagh Depot in Estt. Sec. on 2.5.83 xx have you heard, if so what do you know ?

(Ram Kishan)	(G.G. Senyal)	(H.R. Sharma)	(Gyan Singh)
Driver/AMV	D.H.	C.O.	E.O.

TC 35

Page 47
AS

Ans. I have not heard.

Q.No.6 Can you tell in what capacity Shri Mukh Ram Sharma was working and at which place in the period from 27.4.83 to 2.5.83

Ans. I do not know.

(Ram Kishan)	(G.G.Sanyal)	(M.R.Sharma)	(G. Singh)
Driver/Amv-Deppt D.H.		C.O.	L.O.

Tc. ~~AS~~

No,

The Assistant Controller of Duties, (L)
Treasury Office,
Ballymahon,
Dublin.

Enclosed are,

Subs. Inspection of Attendance Register for April, 1900.

oo

Enc. 1. Sub. Report. L. 1/2/100 (at) C.C. 100.

ooo

Reference is made to the fact that the above
register is not a correct one, and the Treasury Office has
been informed that the same is not correct. The only
reason for this is that the only register which
has been submitted to the Treasury Office is not correct.

The Treasury Office has been informed that the only
register which has been submitted to the Treasury Office
is not correct. The only reason for this is that the
only register which has been submitted to the Treasury
Office is not correct.

Yours faithfully,

For the Assistant Controller of Duties,
(Signature)
171/100
171/100

Forwarded
to the
Treasury Office
by
C. J. J.
171/100

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DEFENCE NOTE IN THE CASE OF SRI MUKHRAM SHARMA THE THEN SR.DSK/POH
NOW WORKING AS SR. DSK/DSL/CB/LKO conducted by ACOS/D/AMV as
Inquiry Officer in terms of SF-5 No.E/S/518 of 10.6.83.

A 60

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Charges as per Annexure 'I' of the above Memorandum :

Sri Mukhram Sharma, Sr. DSK/POH/AMV was charged vide Memorandum No.E/S/518 of 10.6.83 for his mis-conduct and tampering with official record in so far as he came in Estt. sec. before opening of Office i.e. 9 hrs. on 2.5.83 and opened the Almirah of Leave Clerk with ulterior motive by adopting unauthorized means and tampered with record. He put the time on 2.5.83 below his signature of 27.4.83 in attendance register of Sub Staff depot of April 1983 which was without time, the fact was noticed by Leave Clerk Sub and checked by ACOS(III) on 30.4.83.

2) Relied upon documents as per Annexure IV of the above memorandum

The first and foremost document i.e. the Attendance Register of Sub-depot staff for April 1983 shown at Sl.No.1 of the Annexure IV could not be produced by the I.O. during the Enquiry proceedings which started from 27.11.84 upto its conclusion on 17.10.85 inspite of repeated requests by the Defence Helper as well as delinquent staff i.e. Sri M.R.S Sharma. This Register which is considered to be the most vital and important record by the administration and on the basis of alleged inserting of timings in the Register in question by Sri Mukhram Sharma initiation of this DAR case against him has resulted, lost its importance and significance to such an extent that the prosecution failed to preserve it and could not produce it either during the course of examination of relied upon documents by defence or during the course of entire enquiry proceedings which lasted above 1 year.

3) The charges against Sri M.R.Sharma, have been based only on this official document and the prosecution have failed to preserve or provide this document during the entire enquiry proceedings, which can well be taken as a deliberate attempt on the part of the Prosecution to conceal the actual facts and creating a doubt about the genuineness of the charges labelled against Sri Mukh Ram Sharma.

Facts brought out from the Prosecution witnesses during the Enquiry.

As per Annexure 'III' of the said Memorandum a list of 6 Prosecution Witnesses were enlisted for proving the charges against Sri M.R. Sharma which included Sri S.P.Sinha the then OS/Estt. Sec. on whose note at Sl.No.4 of the Enquiry case the Memorandum in Question was issued to Sri M.R.S Sharma by the Rly. Admn. The most astonishing feature of this enquiry proceedings is non-production of Sri S.P.Sinha OS/Estt./AMV during the course of entire enquiry proceedings which lasted for about a year, thereby depriving the defence from legitimate right of cross examination from such an important prosecution witness on whose initiative rest of the other witnesses except Sri Mahesh Pd.ACOS(III) have been forced to submit their written statements on 2.5.83 which can be verified from the replies of all the witnesses during their cross examination by the Defence.

The thorough examination of Page 4 of the Enquiry Case (noting of OS/Estt/AMV) which has been shown as relied upon documents will also reveal a fact that ACOS/D who has been nominated as I.O. in this case has recorded his evidence in the shape of a noting on this page testifying the facts of disturbed condition of the Estt. Sec. record on 2.5.83 in the capacity of ACOS/D/AMV and in the face of his written remarks below the noting of OS/E/AMV (Sri S.P. Sinha) the very intention of Rly. Board's letter No. EO-60/CCA/ dt. 15.3.61 is totally defeated. This letter clearly indicated that "Disinterested Official to be appointed as Inquiry Officer in the interest of Justice and Fair Play. The Officer who hold the enquiry should not be suspected of any bias in the case". Sri Mukhram Sharma the delinquent Rly. servant also requested the Competent Authority for changing the I.O. vide his applications dt. 30.8.83, 9.12.83, 12.4.84 and 20.7.84, for changing a biased Officer from holding this Enquiry but his requests were turned down vide letter No. E/S/518 of 14.8.84 and thus the very spirit of Rly. Board's letter mentioned above has been violated and ignored.

The charges levelled against Sri Mukh Ram Sharma for his misconduct and tampering with official record entering into Estt. Sec. on 2.5.83 by opening the Almirah of Leave Clerk with ulterior motive by adopting unauthorized means was based on the report of two Class IV staff viz. Sri Khushali Ram Peon and Sri Gaya Pd. Peon. But during the course of enquiry Sri Khushali Ram peon a Prosecution Witness has categorically denied about presence of Sri M.R. Sharma in the office before 9.00 hrs. on 2.5.83 and also stated that he has not seen Sri Gaya Pd. Peon of Estt. Sec. during or after opening of Office on 2.5.83.

The other eye-witness i.e. Sri Gaya Pd. Peon who happens to be peon attached to Estt. Sec. on 2.5.83 and whose date of appointment is 20.3.83 i.e. hardly of one month prior to this alleged incident has stated that he has seen Sri M.R. Sharma near the Almirah of Leave Clerk handling with the documents, but he could not say whether Sri M.R. Sharma was writing on any of the papers. The genuineness and the very bonafide of his statement becomes very doubtful in the face of the fact that it is practically not possible for a person having put on only a month's service in depot to remember the names of Depot staff or recognize such persons by their names in such a short span of service until and unless he is not prompted by some one to specifically mention the name of a Person.

Two major factors which needs mentioning at this stage by Defence must not escape notice of the Inquiry Officer at the time of pronouncing his verdict in this case, which are as under :-

- i) That on 1.5.83, as per evidence of Sri Munni Lal AS/Estt the Estt. Sec. Staff were booked for preparation of Muster Roll Cl. IV staff and the Almirah in question was opened by him on 1.5.83 (Sunday) alongwith other 4 Almirahs of the Estt. Sec. in reply to Q.No.4 of Defence Counsel. The said Almirah could have been left open on 1.5.83 by Sri Munni Lal AS/Estt. or the Peon of Estt. Sec. & to cover up their mistakes they played this game tried to implicate Sri M.R. Sharma who was already under suspicion on that day.
- ii) Sri Munni Lal AS/Estt. in his reply to Qn. No. 2 of the Defence has also failed to reconcile his statement in respect of allegations that the Almirah of the Leave Clerk was found disburtened him as --

as he has failed to mention this fact in his first report of 2.5.83 which he submitted to OS/Estt. on his initiation. Sri Munni Lal in reply to Q.No.8 by the Defence has clearly stated that he ~~xxxxxx~~ arrived in Estt. Sec. after the arrival of OS/Estt. on 2.5.83 and in reply to Q.No.9 he has also accepted of the possibility of opening of the Almirah in question by OS/Estt. who arrived earlier to him. The hollowness of the evidence of Sri Munni Lal AS/Estt. became more glaring from his reply to Q.No.1 of I.O. in which he has stated clearly that Attendance Register old (April & May '83) were in disturbed condition. The availability of May '83 attendance Register in the Almirah in question in the morning of 2.5.83 is not at all possible at 9.15 hrs. as it is lying with DSK/I for signatures of the attending depot sub Staff.

The bonafide of statement of Sri Munni Lal AS/Estt. Becomes very doubtful from his very statement recorded on 5.8.85 before I.O. where-in he has stated that he was working in Estt. Sec. for the last approx. 30 years in different places of Estt. Sec. which can well be verified from his S.R.

The Leave Clerk Sri A.K. Malviya who was actually the Custodian of the Almirah in question in reply to Q.No.1 of the Defence has clearly stated that the Current Register of Attendance is not kept in Estt. Sec. Almirah, rather it is kept in the Almirah of DSK/I. Sri Malviya who was custodian of the Almirah in question has clearly stated that the Almirah is closed and opened by the Peon of Estt. Sec. every day in reply to Q.No. of Defence. Thus the changes of its' keeping open after Sunday work on 1.5.83 by peon can not be ruled out. In reply to Q.No.6 of Defence Sri Malviya has clearly stated that he found the Almirah in question in undisturbed condition and he thus made no complaint in this respect. Sri Malviya in reply to Q.No. 2 of the I.O. has also categorically refused & refused to accept any nature of tampering. Sri Malviya Leave Clerk in reply to Q.No.4 by I.O. has clearly stated that he can not say whether the time was mentioned on 27.4.83 or after by Sri M.R. Sharma.

In the face of above facts and evidences it is clear that charges of opening of Estt. Sec. Leave Almirah on 2.5.83 at 9.00 hrs. by Sri M.R. Sharma with ulterior motive by adopting unauthorized means and tampering with the record becomes unfounded and doubtful, as there is no eye witness who found Sri M.R. Sharma opening the Almirah of Leave Clerk or putting any thing in any record in writing.

The Primary charge labelled against Sri M.R. Sharma is that he put the time on 2.5.83 below his signature of 27.4.83 in Attendance Register of Sub Staff Depot of April 1983 which was without time and the fact was noticed by Leave Clerk Sub and checked by ACOS(III) on 30.4.83. So far as Leave Clerk is concerned, Sri Malviya in reply to Q.No.8 of the Defence has clearly stated that to Establish this fact he should be provided with the attendance register of April '83 for Depot DSKs and Sub Staff, but the I.O. was helpless to make this register available to testify the genuineness of the charges labelled against Sri M.R. Sharma. Thus in absence of this document/relief upon record the bonafide of the allegations remained in doubt and could not be substantiated with documentary evidence.

As far as evidence of Sri Mahesh Pd. ACOS(III) now retired is concerned relating to the fact that on 30.4.83 when he checked the said attendance register to verify whether there existed signature of Sri M.R.Sharma for 27.4.83, the statement made by Sri Mahesh Pd. ACOS(III) on 27.11.84 before the Inquiry Officer gives altogether a different story which prompted him to check the said register on 30.4.83. Sri Mahesh Pd. ACOS(III) stated that as because Sri Ram Krishan Driver informed him on 30.4.83 that Sri M.R.Sharma could not be involved in the POH Scrap Yard case as he did not sign over the attendance register on 27.4.83, the ACOS(III) to satisfy his curiosity called for the attendance register and found that there had been the signature of Sri M.R.Sharma on the attendance register & at that time there was no timings noted below his signature. The bonafide & genuineness of Sri Mahesh Pd. ACOS(III)'s evidence becomes doubtful as his very initiation of checking the register in question started from the time Sri Ram Krishan Driver informed him that Sri Mukh Ram Sharma could not be involved in the POH Case of 27.4.83 as has not signed on the Attendance Register on 27.4.83, thus it can well be taken that Sri Mahesh Pd. ACOS/III wanted to implicate Sri M.R.Sharma in the POH Case. The statement of Sri Mahesh Pd. ACOS(III) and the replies to Q.No.1 to 8 of the defence if gone through very carefully it will clearly indicate that Sri Mahesh Pd. any how tried to establish that he checked the attendance register on 30.4.83 but he failed to produce any documentary evidence by which it can be testified that he actually checked the register on 30.4.83. In reply to Q.No.8 of the defence Sri Mahesh Pd. ACOS(III) admitted that he omitted mentioning the name of Sri Ram Krishan Driver on whose initiative he checked the attendance register on 30.4.83 in his note of 2.5.83, which leads to believe that it is an after thought to implicate Sri M.R.Sharma on the part of ACOS(III) by hook & crook.

To bring out the actual facts and to testify the correctness of the evidence of Sri Mahesh Pd. ACOS (III) Sri Ram Krishan Driver was called for giving his evidence & from his statement & replies to Questions by the I.O. it becomes very clear that Sri Mahesh Pd. ACOS(III) has falsely mentioned his name in his statement to justify his so called checking of the Attendance Register on 30.4.83. Rather it appears to be very ridiculous that an officer makes a driver as his adviser & guide.

Sri R.K.Singh/HC/Estt.Sec. and the Br.Secretary of a recognised Union has clearly stated that Sri M.R.Sharma has put down the timings below his signature of 27.4.83 in the Attendance Register on 28.4.83 in his presence. Sri R.K.Singh a most respectable person & a responsible Supervisor of Estt. Sec. has very clearly replied all the questions of the I.O. which may kindly be kept in view at the time of pronouncing the judgement in this case.

Sri Mukhram Sharma in his statement has clearly indicated the circumstances under which he put the time on 28.4.83 under his signature of 27.4.83 in the Attendance Register.

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Before I conclude I would certainly point out here that the charges labelled against Sri Mukh Ram Chazma for tampering with Official record i.e. the Attendance Register of April 1983 becomes meaningless and unfounded when that very Register could not be preserved by the Administration or it could be produced by the Inquiry Officer during the course of entire enquiry proceedings to testify the actual facts beyond doubt and thereby the prosecution has totally failed to prove these charges beyond doubt. The primary consideration therefore, should be based on actual facts related with documentary evidences and oral evidences as well as gains and losses of the delinquent staff and the administration as well in this case.

Dated : 31/10/1985.

(G. C. Nayal)
Defence Helper.

TC \$

In case where it is intended that the fitness of the Railway servant for re-promotion or restoration to his original position be considered only after a specified period).

NORTHERN RAILWAY

(Form No 8)

E/01
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Orders of imposition of penalty under Rules 6(VI) of the Railway Servants (Discipline & Appeal) Rules-1968.

No: E/S/518

Place of issue Dy cos / NR / Bm

Dated 11-11-85

To: Shri. Mukh Ram Sharma
Sr Dsu
DSI Depot Charleagh.

(THROUGH: A cos / DSI / CB).

I have carefully considered your representation dated 17.6.83 in reply to the Memorandum of Show Cause Notice No. E/S/518 dated 10.6.83. I do not find your representation to be satisfactory due to the following reasons: It is evident that he has tried to tamper with the register.

I, therefore, hold you guilty of the charge(s) viz. Opening the almirah of leave in DSI section by unauthorised means & tampering with the office record.

I levelled against you and have decided to impose upon you the penalty of reduction to a lower post/grade/service. You are, therefore, reduced to the lower post/grade/service of DSU/II in the scale of Rs. 550-750 (Rs) up to Rs 675/- until you are found fit by permanently. The competent authority, after a period of _____ years _____ months from the date of the order, to be restored to the higher post/grade/service of _____ in the scale of Rs. _____ with/without postponing future increments.

(2) Under Rule-18 of the Railway Servants (Discipline & Appeal)

Rules, 1968 an appeal against these orders lies to Addl cos / NDLS

provided:-

(i) the appeal is submitted through proper channel within 45 days from the date you receive the orders; and

(ii) the appeal does not contain improper or disrespectful language.

(3) Please acknowledge receipt of this letter.

cc: 1 - Sd/Secy NRly / CB / Lko

2 - Hd. Clery / Brills / CB.

3 - Sd Book

Signature

Name

(K. Shanker)

Designation of the disciplinary authority

उपनिर्देशक
उत्तर रेलवे, जलियाँवाला

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AGG

FOR PARSIAL ATTENTION OF SHRI KALI SHANER.

To, ~~Shri~~
The Dy. Controller of Stores
N.M.J. Alambagh Lucknow.

Subj:- An application by Mukh Ram Sharma for revising & passing fresh order on an irregular punishment order No. R/S/518 dt. 11.11.85.

Ref:- Your punishment order No. R/S/518 dt. 11.11.85 in reference to my 1st reply dt. 17.6.85 in connection with your Memorandum No. R/S/518 dt. 10.6.85 for S.P.5.

Respected Sir,

Respectfully and humble submission I beg to submit that punishment order under above reference has been passed by your honour reducing me to Lower Grade permanently, without considering the complete fact and figures and relevant records of the enquiry proceedings, also representation submitted by the applicant dt. 17.6.85 on your Memorandum No. R/S/518 dt. 10.6.85 Para SP5 prior to initiation of D & AR proceeding and the final defence statement dt. 31.10.85 submitted by the applicant after finalization/completion of the D & AR proceeding could find no place in your consideration of the judgment as such aggrieved vide your above punishment order which is irregular unfounded and unwarranted. I wish to lay down a few lines for your sympathetic and reconsideration of whole case and passing the favourable orders on the subject.

1. I was put under suspension on 30.4.83 in sale staff delivery case dt. 27.4.83 and was not expected to visit Dy. COS office for attendance etc.
2. Except I missed in hurry to put down my arrival time in the attendance register dt. 27.4.83 and I felt my duty to put the time I attended in the office on 28.4.83 in presence of Shri. R K. Singh Head Clerk Estt. Section and others in good faith without any intention to defraud the administration. There is no evidence on records that the applicant visited the Dy. COS office on & after 28.4.83 with any ulterior motive for my signing for attendance register upto 30.4.83 which was as required as per existing rules and I adhered to it. The question for opening the Almirah with ulterior motive does not arise as key of the Almirah was with Shri S.P. Sinha C.S. Estt. section ~~and~~ which may be seen from the records of the enquiry. On receipt of suspension order on 30.4.83 at closing hours (being Saturday) I was never expected or called to visit Dy. C.O.S. office for attendance nor I visited later on.
3. Due to adverse planning by some interested person I was compelled to face false case. In this case Shri Mahesh Pd. ACOS(Retd.) baselessly brought in figures that the applicant manipulated the attendance register with no ulterior motive on 02.5.83.
4. The statement of ACOS-III Shri Mahesh Pd. is well contradicted by Shri Ram Lalhan Driver which is evident P.T.O.

Handed over to
Shri P.K. Sharma
By Mr. Anil Pershank
2/12/85

TC
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from the records of the enquiry.

5. There had been already so many correspondence made by the applicant which establish that Shri Gyan Singh has no good term with the applicant and he was interested to harming the applicant adversely, since he is prejudice which has already been proved in the records of the enquiry. A part from this Shri Gyan Singh ACOS(D) AMV has already been acted as prosecution witness by giving his noting in safe of statement as witnessing the condition of Almirah of leave clerk at page No. 4 in the main file from which order for Chargesheet was presented to Shri Mahesh Pd. by his influence which is clear that he has fabricated this false case against the applicant and thus he may not work as enquiry officer as per rules, that is why I again and again requested that Shri Gyan Singh ACOS(D)AMV may not function as enquiry officer in this case but no consideration of my request were done, resulting in that ends of justice has been fully defeated in this case.
6. Most authentic records i.e. the attendance register in question was never produced for open examination during the course of an enquiry intentionally by the enquiry officer who has full knowledge that he would not be able to establish any ulterior motive of the applicant on the face of records and evidence.
7. There is nothing in the prosecution that may contradict the statement of Shri R.K. Singh H.O./Estt. Sec. and to establish it as felt above being the man of the respectful character and popularity and responsible Head Clerk Shri Ran Kumar Singh is unchallengeable too.
8. The very important person witnessing the case Shri S.P. Sinha G.S. Estt. who dealt with case at so many level was not called for cross examination in enquiry proceeding as per Annexure-III of the said memorandum issued to me.

In the end I may submit that your punishment order dt. 11.11.85 has reference of my 1st reply dt. 17.6.85 and has no mention of all the subsequent action and proceeding statement including my defence statement at the end of the D & AR proceeding and your honour have given the judgment in this case which has resulted in great gap of consideration of the important D & AR proceeding and depriving me from the reasonable opportunity to defend myself.

PRAYER

As I am on the verge of retirement and keeping in view of my 32 1/2 years spotless service I hope that your honour will reconsider and revise the case and administer the justice in my case, so that my future as well as financial loss to my children may not be harmed.

I shall be highly grateful for this action of kindness and oblige.

Thanking you in anticipation.
Yours faithfully

Dt. 02-12-85.

(Mukr Ran Sharma)
DAR/DGL/CE/LEO

21/11/85

Northam Railway

Office Order No. 97

Date: 16-1-1983 A68

As a result of review by the Dy. CGO/STV the penalty of reduction to lower time scale vide Penalty Notice No. 2/4/518 dated 11.11.82 of Shri Mukh Ram Sharma, DCR-II/211/03 is reduced to reduction to lower time scale as 550-750 (RS) temporarily for one year from the date of original imposition i.e. 11.11.82.

Sd

For Dy. Controller of Stores,
M.B.I., Alambagh, Lucknow;

Copy to the following for information

1. The Secy (-)/CH.
2. The CGO/CS & AGO/DL/CH.
3. Dy. Secy (-)/CH.
4. Shri Mukh Ram Sharma, DCR-II/211/03.

W. S. S. 15/4/86

For Dy. Controller of Stores,
M.B.I., Alambagh, Lucknow.

1104

TC

SS

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AG9

FOR PERSONAL ATTENTION OF SHRI K.C. TANDON.

To,

The Addl. Controller of Stores,
Northern Railway, Garoda House,
New Delhi.

Through Dy. Controller of Stores/N.Rly., Alambach-Lucknow.

Sub : Appeal against the Penalty of reduction to lower time scale by Dy. COS/AMV.

Ref : Dy. COS/AMV office order No. E/97 dt. 16.4.86 in connection with the previous penalty notice No. E/S/518 dt. 11.11.85.

Respected Sir,

Respectfully and humble submission I beg to submit that I was awarded Punishment to lower grade permanently by the Dy. COS/AMV vide notice No. E/S/518 dt. 11.11.85 but on my review petition the Dy. COS/AMV reviewed my case and the Penalty of reduction permanently to lower time scale has been reduced to temporary for one year from the date of original imposition viz. 11.11.85 without the considering the complete fact and figures and relevant records of the enquiry proceedings. Also representation submitted by the applicant dt. 17.6.83 on memorandum No. E/S/518 dt. 10.6.83 from SF-5 prior to initiation of DAR proceeding and the final defence statement dt. 31.10.85 submitted by the applicant after completion of the DAR proceeding could find no place in Dy. COS/AMV consideration of the judgement, as such aggrieved vide Dy. COS/AMV punish order which is quite irregular & unfounded and unwarrant.

I wish to lay down a few time for your sympathies and favourable consideration of whole case and passing the order for waive off the punishment at an early date. I was put under suspension on 30.4.83 by implicating me in sale delivery case wrongly on 27.4.83. Although I was working in a quite separate section i.e. PCH Sec. and I was not expected to visit Dy. COS/AMV office for making my attendance etc. after 30.4.83 but I had been victimized for making false attendance on 2.5.83.

Except I missed in hurry to put down my late arrival time in the attendance register on 27.4.83 after availing 4 days leave and I felt my duty to put the time, so I attended in the office next day on 28.4.83 in presence of Shri R. Singh, M. Clerk Estt. Sec. and others in good faith without any ulterior motive to defend the administration.

....2/-

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There is nothing and no evidence in records that the applicant visited the Dy. COS/AMV on after 23.4.83 with any ulterior motive for my signing for attendance register upto 30.4.83 which was required as per existing rules and adhered to it. The question for opening the almirah of leave clerk with ulterior motive does not arise as key of the almirah was kept with Shri S.P. Singh. OS/ AMT. Section was may be seen from the records of the enquiry, on receipt of the enquiry order on 30.4.83 at closing hrs. (being Saturday) I was never contacted or called for the visit Dy. COS/AMV office for attending; nor I visited later on.

Due to adverse planning by some interested person I was compelled to face a false case, in this case Shri Mahesh Pd. AGO(AMT) Retd.) maliciously brought in figures that the applicant manipulated the attendance register with ulterior motive on 2.5.83.

The statement of Shri Mahesh Pd. AGO(Rtd.) (Copy enclosed) is well contradicted by Shri Ram Mishra driver which is evident for the records of the enquiry. (copy enclosed) Shri Mahesh Prasad failed to produce his checking report for attendance register and his false story has been proved in the DAR enquiry proceeding.

There had been already so many correspondence made by the applicant which established that Shri Gyan Singh has no good term with the applicant and he was interested to harm the applicant adversely it is evident from the confidential report for the year 1982-83 in which Shri Gyan Singh awarded with adverse report which causes with holding of my future promotion, since it is bias and prejudice to the applicant and this fact has even proved in the records of enquiry. As Shri Gyan Singh AGO/AMV has already been acted as prosecution witness by giving his nothing in ops of statement as witnessing the condition of almirah of leave clerk at Page No. 4 in the main file from which order for charge sheet was promoted to Shri Mahesh Pd. by his influence and it is clear that he has fabricated this false case against the applicant and thus he may not work as enquiry officer in my case as per rules, that is why I again & again requested that Shri Gyan Singh, AGO/AMV my not function as enquiry officer in this case and my application dt. 30.8.84, 9.12.83, 12.4.84 & 20.7.84 (copies enclosed) was not considered and refused by Dy. COS/AMV vide his letter No. E/S/518 dt. 14.8.84 resulting in that end of Justice has been fully defeated in this case.

Most authentic records i.e. the attendance register in question was never produced for on examination which was the only relied upon document during the course of enquiry intentionally by Shri Gyan Singh Enquiry Officer which is evident from his letter No. E/S/518 dt. 8.8.85 (copy enclosed) and thus I have been deprived from the reasonable opportunity to defend myself.

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There is nothing in the prosecution that may contradict the statement of Shri R.K. Singh, Hd. Clerk/ Rtt. Section and to establish the above fact being a man of respectful character and popularity and responsible Branch Secretary of a recognised Union Shri Ram Kiviar in unchallengable too (copy enclosed).

That very important person witnessing the case Shri J.P. Sinha, O.C. Rtt. who dealt with case at no way level was not called for cross examination in enquiry proceeding as per annexure III of the same memorandum issued to one.

In the end I may heroby enclosing my defense statement dt. 31.10.85 which was submitted after completion of enquiry proceeding and was not considered by the competent authority at the time of pronouncing his judgement which is not fair according to fact & figure given in the defence statement. The Punishment order No. D/S/518 dt. 11.11.85 has only the reference of my 1st reply dt. 17.6.85 which was given in hurry as I was fully perplexed by the wrong suspension in sale delivery order, which was pending in POH Siding.

It is therefore request your honour to kindly consider my case very sympathetically on humanitarian ground keeping in view of my 33 years spotless service and my early retirement which due in hardly after 8 months 1.00 Jan. '1987. As I am on verge of retirement and this heavy punishment will not only effect me but the great financial loss to my motherless children who are quite innocent for this heavy financial loss & obliged.

Thanking you in anticipation.

Yours faithfully,

[Signature] 15/5/86

(Mukh Ram Sharma)
DSK/DSL/CB/LKC.

o/e

Date : 15th May '86.

Byes / wms
Forwarded for disposal
SL
DCS/CB
15/5/86

DA

15/5/86

15/5/86

TC

1st

A72

E15/518

Dyces INdy
Am - Lno

dt-1-7-86

Shi Mukham Sharma
DSN II
DSI depot - CB

Req! - Appeal dt-15.5.86

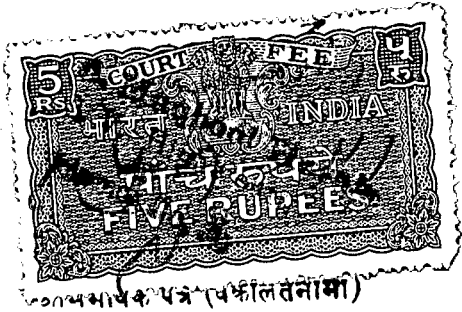
With reference to your above
appeal you are informed that
Dyces has ordered that since
the case has already been
reviewed and a lenient view
is taken hence your appeal can
not be forwarded.

foray controlling of Monas
मुख्य अधिकारी नियंत्रण
N. R. Singh
बलवत्त वृत्त.

TC
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हार्दिकोर्ट आफ जूडीकेचर, इलाहाबाद
Honble Court of Central Administrative Tribunal, Delhi Addl Bench
at Allahabad. सन १९७०

Mukh Ram Sharma

वादी प्रतिवादी
अपीलान्ट

बनाम

Union of India & others.

वादी प्रतिवादी
रेस्पान्डेंट

मैं/हम कि Mukh Ram Sharma S/o Late Sri G. B. Ram
Depot Stores Keeper Diesel Depot Chaurbagh.
Lucknow No 93/3 Aish Bagh Colony old Lucknow

उपरोक्त प्रकरण में/हम अपनी ओर के पक्ष समर्थन के हेतु
श्री Deepak Singh & S. P. Sinha एडवोकेट हार्दिकोर्ट इलाहाबाद

को कानूनी निश्चित शुल्क (मेहनताना) नियत करके अपना अभिभावक वकील (वकील) नियत करता है/करते हैं। वह स्वीकार करता है/करते हैं कि उक्त सज्जन हमारी ओर से वाद-पत्र (अजीदावा), प्रतिवाद-पत्र (बयान नहरी), वाद स्वीकार पत्र, विवाद पत्र पुनरवलोकन एवं पुनर्निर्णय प्रार्थना पत्र (दरखास्त) शापथिक कथन (हलफनामा), प्रवृत्त पत्र (दरखास्त इजराय) मूजवात अपील, निगरानी इत्यादि हर प्रकार के अन्य प्रार्थना पत्रादि एवं लेखादि की प्रतिलिपियां अपने हस्ताक्षर करके न्यायालय में प्रस्तुत करें अथवा किसी पत्र पर आवश्यकतानुसार शापथिक पुष्टीकरण करें और आवश्यक सवाल जवाब करें और लेखादि की प्रतिलिपियां एवं हमारे प्रायधन को अपने हस्ताक्षरी पावती देकर प्राप्त करें हमारी ओर से किसी को यध्य पत्र तथा साक्षी (गवाह) माने और उससे सम्बन्धित प्रार्थना-पत्र प्रस्तुत करें तथा उसका समर्थन करें तथा तसदीक करें, वाद-पत्र उठावे, छोड़े अथवा समझौता करें तथा मुलहनामा दाखिल करें तथा उसके सम्बन्ध में प्रार्थना पत्र पर दाखिल करके उसका समर्थन करें अर्थात् प्रकरण में सम्बन्ध रखने वाली कुल कार्यवाही डिप्री भर पाई होने के समय तक स्वतः या संयुक्त करें। आवश्यकता होने पर किसी अन्य वकील महोदय को वकील करें।

उक्त सभी कार्यवाही जो उक्त सज्जन करेंगे प्रत्येक दशा में अपने किये की भांति हमको/मुझको एवंथा स्वीकार होगी अगर मैं/हम कानूनी/निश्चित शुल्क उक्त सज्जन को न दें तो उनका अधिकार होगा कि वह हमारी ओर से मुकदमा की पैरवी न करें। उपरोक्त दशा में सज्जन का कोई उत्तरदायित्व न रहेगा।

अतएव यह अभिभावक पत्र लिख दिया कि प्रमाण रूप से समय पर काम आये।

वकालतनामा मन्जूर है

तिथि

माह

सं०

Counter Affidavit

A74

Before the Central Administrative Tribunal Additional
Bench at Allahabad.

R E P L Y

ON BEHALF OF THE RESPONDENTS

IN

Registration No.471 of 1986.

Mukh Ram Sharma Applicant.

versus.

Union of India and others Respondents.

I, N.U.Khan, aged about 42 years son of Shri F.U. Khan, presently posted as Assistant Personnel Officer (Stores) undery Deputy Controller of Stores, Northern Railway, Alambagh, Lucknow, most respectfully showth as under:-

1. That I am presently posted as Assistant Personnel Officer, (Stores) Northern Railway, Alambagh, Lucknow and has been duly authorised on behalf of respondents to file the instant reply. I have carefully perused the relevant records relating to the instant case and is thus fully acquainted with the facts of the case deposed to below.

2. That I have carefully perused the application filed by the applicant under section 19 of the Act No.13 of 1985 and the various annexures accompanying it and have understood the contents thereof.

Received C.A.
on 2-2-87
Deepak Singh
Adv.

Asstt. Personnel Officer (Stores)
N. Ry. Alambagh
Lucknow

A75

2.

3. That the contents of paragraphs nos.1 and 2 of the application being matter of records needs no comments.

4. That the contents of paragraph 3 of the application are not admitted and are denied in the form they stand. In reply thereof it is stated as under:-

- (A) That on 27.4.83 the applicant was working as Senior Depot Store Keeper.
- (B) That on 27.4.1983 the Security Officer in surprise check detected two Trucks loaded with Railway material without proper entry in Stores Depot, Alambagh and since Sri Mukh Ram Sharma was engaged in delivery of scrap material of POH Depot Alambagh he tried to tamper with the attendance Register of 27.4.83 by putting time etc. on 2.5.83 in order to manipulate his attendance of the date of incident to save himself from the responsibility of entry of t-two unauthorised trucks and applicant being the incharge of POH Depot was placed under suspension on 30.4.83 alongwith other concerned staff.
- (C) That on 2.5.83 the applicant while being under suspension in pursuance to order dated 30.4.83 went to the Establishment Section before office hours and after opening the Almirah of the Leave Clerk in his absence tampered with the official records by putting time below his signature of 27.4.83 in the attendance register indicating

[Signature]
Asstt. Personnel Officer (Stores)
N. Rly. Alambagh
Lucknow

A76

3.

that he came later on 27.4.1983. This incident was noticed by the Peons Sri Khushali Ram and Sri Gaya Prasad who were present there.

- (D) That when the office opened the aforesaid peons reported the matter to the O.S./Establishment.
- (E) That Shri A.K. Malviya, who was on the relevant date working as Leave Clerk also submitted his written report.
- (F) That thereafter O.S./Establishment made a report of the said incident to the higher authorities,
- (G) That thereafter the applicant was served a memorandum for major penalty No.E/S/518 Dated 10.6.83. The said Charge Sheet contained all documents and materials that are required under the rules.
- (H) That the applicant vide a letter dated 17.6.83 submitted his explanation. After considering the entire matter vide an order dated 25.8.83 enquiry was ordered by the disciplinary authority i.e. Dy. Controller of Stores, Northern Railway, Alambagh Lucknow and he appointed Sri Gyan Singh, Assistant Controller of Stores as the Enquiry Officer and the applicant was accordingly informed of the same.
- (I) That there upon the applicant made a request for the change of the enquiry officer which was considered by the disciplinary authority who vide a letter dated 14.8.84 refused the prayer of the

[Signature]
Asst. Personnel Officer (Stores)
N. Ry. Alambagh
Lucknow

A77

4.

applicant for the change of enquiry officer. As the applicant failed to assign any reason for the change of the enquiry officer, his request was rightly ~~raf~~ refused and applicant was accordingly informed of the same. His earlier request for change of enquiry officer was also rejected vide a letter dated 29.3.84.

(J) That thereafter the enquiry proceeded and six witnesses were examined by the prosecution and full opportunity was afforded to the applicant and his defence holper to cross examine, them. All the prosectution witnesses categorically supported the prosecution case.

(K) That thereafter on 6.8.85 the applicant requested for summoning of certain witnesses and documents.
~~True~~

(L) That vide a letter dated 8.8.85 the request was properly considered and replied a-s a result of which the applicant examined two witnesses as defence witnesses. In this regard it is pertinent to point out that both the witnesses whom the applicant wanted to examine as defence witnesses were permitted to appear as such and were examined as defence witnesses.

[Signature]
Asst. Prison Officer (Custs)
N. City. Alambagh
Lucknow

That thereafter the applicant submitted his defence note and the enquiry officer after considering the entire material on record held that Sri Mukh Ram Sharma has tampered the attendance

A78

5.

register of April 1983 (Dated 27.4.1983). Photo copy of the complete Enquiry Report is enclosed herewith and marked as Annexure * 1.*

(N) That the enquiry officer thereafter submitted his report on 1.11.85 to the disciplinary authority who after considering the entire material on the record, as per extant rules imposed a penalty of reduction in rank by one stage below permanently vide his order dated 2.11.85. Photo copy of the order of the Dicipinary Authority is enclosed herewith and marked as Annexure * 2.*

(O) That thereafter vide an order No.E/S/518 dated 11.11.85 the applicant was served with the punishment order on the same date. The said punishment order was accompanied alongwith the complete report of the enquiry officer and any allegations to the contrary are false, fictitious, baseless and misconceived and are denied.

(P) That in the said punishment order dated 11.11.85 it was specifically mentioned that under rule 18 of the Rly.servants discipline and appeal Rule 1968 and appeal against the said order lies to Additional Controller of Stores, New Delhi.

[Signature]
Asst. Personnel Officer (Stores)
N. Ry. Alambagh
Lucknow

That thereafter the applicant instead of preferring an appeal as contemplated in the punishment order on 2.12.85 preferred a review petition before the

A79

6.

disciplinary authority who as per extant rules vide a-n office order No. ~~EX~~ E/S dated 16.4.86 considered the case of the review application and after taking into view the entire circumstances of the case and material on record ~~pre~~duced the initial punishment ~~to~~ reduction in lower time scale Rs.550-750 (RS) temporarily for one year from the date of original imposition that is 11.11.85. Photo copy of the said order is enclosed herewith and marked as Annexure * 3.*

- (R) That the said order was accordingly conveyed to the applicant as per extent rules.
- (S) That thereafter the applicant submitted his appeal dated 15.5.86 to the Additional Controller of Stores Baroda House, New Delhi. This appeal was presented before the disciplinary authority for forwarding it to the appellate authority.
- (T) That as the applicant failed to prefer any appeal against the original punishment order dated 11.11.85 his subsequent appeal dated 15.5.86 was as per extant rules rightly and legally withheld by the answering respondents.

5. That in reply to paragraph 4 of the application needs no comments.

[Signature]
Asstt. Personnel Officer (General)
N. Ry. Alamb-6.
Lucknow

That the contents of paragraph 5 of the application are not admitted and denied. In reply thereof it is submitted that the applicant is put to

A80

7.

strict proof regarding the averments made therein.

7. That paragraphs 6 (i) and 6 (ii) of the application are admitted.

8. That the contents of paragraphs 6 (iii), 6 (iv), 6 (v), 6 (vi), 6 (vii), 6 (viii), 6 (ix), 6 (x), 6 (xi), 6 (xii), 6 (xiii), 6 (xiv) and 6 (xv) of the application are not admitted and are emphatically denied in the form they stand. In reply thereof the entire contents of paragraph 4 of the instant reply are reiterated. However it is further submitted that not only all reasonable opportunities were afforded to the applicant but also his objection raised and demands sought were considered and complied with as per extant rules and the decisions taken there upon were accordingly conveyed and any allegations to the contrary are baseless and are denied. The applicant himself instead of preferring an appeal as contemplated in the initial punishment order dated 11.11.85 preferred a review which was ~~an~~ as per extant rules decided by the disciplinary authority. As such his subsequent appeal dated 15.6.86 is not legally maintainable and as per extant rules has rightly been refused to be forwarded. The statement of the applicant before the enquiry officer, various representations sent by the applicant during the course of enquiry, the review application and the appeal are self contradictory vis-a-vis the pleas raised in the instant petition. Findings of the enquiry officer and the disciplinary authority are

W. H. G.
Asstt. Personal Officer (General)
N. K. V. Alambagh
Lucknow

A81

8.

based on material of record and there has been no violation of any rules in this behalf. The entire procedure adopted by the authorities are as per extant rules and there has been no violation of the principles of natural justice. From the records a prima-facie case is established against the applicant and^{he} has rightly been punished for the charges of misconduct. The entire petition is devoid of any merits and the grounds put forth by the applicant are imaginary and against rules and as such the instant petition is liable to be rejected.

9. That in the contents of paragraph no.7 and 8 of the application are not admitted and are emphatically denied. In reply thereof the contents of paragraphs 4 and 8 of the instant reply are reiterated. However it is further submitted that the applicant has utterly failed in making out any case for interference by this Hon'ble Court and as such not entitled for any reliefs claimed and the instant petition is liable to be dismissed with costs.

10. That in reply to paragraph 9 of the application it is submitted, as the appeal dated 15.5.86 was not legally maintainable as per extant rules. It has rightly been withheld and the instant application is not maintainable, and is liable to be rejected on this score alone.

W. J. G.
Asst. Personnel Officer (3rd)
N. K. Jy. Alambrgh
Lucknow

A82

9.

11. That in reply to paragraph 10 of the application it is submitted that the applicant is put to strict proof regarding the averments made therein.

12. That the contents of paragraphs 11, 12 and 13 of the application being matter of record needs no comments.

I, N.U.Khan, aged about 42 years son of Shri F.U.Khan presently posted as Assistant Personnel Officer (Stores), under Deputy Controller of Stores, Northern Railway, Alambagh, Lucknow, do hereby verify that the contents of paragraphs 1 and 2 are true to my personal knowledge and believe and those of paragraphs 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 are based on perusal of relevant records and that I have not suppressed any material facts. No part of this reply is false.

Shay
14/1/87

Asst. Personnel Officer (Stores)
N. Ry. Alambagh

Verified this... 12th ... day of January 1987
at Allahabad...

Annexure-1

/01

A83

INQUIRY REPORT.

Sub: - DAR case of Sri M.R.Sharma, Sr.DSK/DSL/CB-LKO.

.....

1.1 Case of prosecution.

Sri M.R.Sharma was served a memorandum for major penalty No. E/S/518 dated 10.6.83 and following charge was levelled against him: -

"Sri Mukh Ram Sharma, Sr.DSK/AMV who was under suspension is charged for misconduct and tampering with official record is so far as he came in Establishment section before opening of office i.e. 0900 hrs on 2.5.83 and opened the almirah of Leave clerk with ulterior motive by adopting unauthorised means and tampered with record. He put the time on 2.5.83 below his signatures of 27.4.83 in the attendance register of subordinate staff depot of April-83 which was without time, the fact was noticed by Leave clerk-subordinate and checked by ACOS/III Sri Mahesh Prasad on 30.4.83".

1.20 Assessment of Evidences.

I was nominated "Inquiry Officer" in this case by Dy.COS/AMV vide his letter No. E/S/518 dt. 25.8.83 and 19.8.84. The proper Inquiry was conducted on 27.11.84, 5.8.85, 6.8.85, 12.8.85, 16.10.85 and 17.10.85. The following prosecution witnesses were examined and proper reasonable opportunities regarding cross examination and defence were provided to Charged Officer - Sri M.R.Sharma, Sr.DSK/DSL/CB-LKO.

(I) Prosecution witnesses.

S.No.	Name of witness.	Designation.
1.	Sri Khushali Ram	Peon/AMV/LKO
2.	Sri Gya Prasad.	-do-
3.	Sri Munni Lal,	A.S/Estt/AMV/LKO.
4.	Sri A.K.Malviya.	Sr.Clerk/LP/AMV/LKO.
5.	Sri Mahesh Prasad.	Retd.ACOS/III/AMV/LKO.
6.	Sri M.R.Sharma.	Sr.DSK/DSL/CB/LKO.

(II) Defence witnesses.

The following defence witnesses were also examined:-

1.	Sri R.K.Singh.	HC/Estt/AMV/LKO.
2.	Sri Ram Kishan.	Motor Driver/AMV/LKO.

After having gone through the defence note of Sri M.R.Sharma Sr.DSK/AMV which was submitted by him on 17.6.83 to Dy.COS/AMV/LKO in which he has admitted the fact that he put the time under his signatures of 27.4.83, timings were put down on 2.5.83 in the "Attendance Register" for the month of April'83. This explanation goes to prove that Sri M.R.Sharma, Sr.DSK/AMV has admitted that the charge which is levelled against him is partly proved. Now the assessment of evidences have been studied in following paragraphs:

-contd.-

1.21 - It has been confirmed by Sri G. V. Prasad, a peon of AMV that Sri M. P. Sharma was found mishandling the papers on 2.5.83. Similarly Sri Khushali Ram, Peon has also confirmed that Sri M. R. Sharma, Sr. DSK/AMV was present in Estt. Section at about 0900 hrs on 2.5.83.

1.22 - Sri Munni Lal, AS/E/AMV/LKO has confirmed in his statement that he found the unusual condition of Almirah in which the Attendance register for the month of April '83 was kept. He later on has stated that the "Attendance register" for the month of April '83 was found in disturbed condition and he reported this matter to his O.S./Estt/AMV/LKO who was the concerned supervisor.

Sri A. K. Malviya, Sr. Clerk has confirmed in his statement that Sri M. P. Sharma has put down the time under his signatures which he made on 27.4.83 in Attendance register of month April '83. He has put the time after 27.4.83.

1.23 - The vital prosecution witness was Sri Mahesh Prasad, Retd. ACOS/III/AMV/LKO and he has also confirmed that Sri M. R. Sharma has put the time under his signatures of 27.4.83. The timings were put down by him on 2.5.83 and Sri Mahesh Prasad has also confirmed that Sri M. R. Sharma has tempered the "Attendance register" of Class III staff for the month of April '83.

1.24 - Statements of Sri R. K. Singh, HC and Sri Ram Kishan, Motor Driver in the capacity of Defence witnesses are not of any use as they have not deposed any relevant thing which can defend the case of Sri M. R. Sharma, Sr. DSK/DSL/CB-LKO.

On the basis of assessment of evidences and relied upon documents, I found that the prosecution could not provide "Attendance register" for the month of April '83 to other prosecution witnesses during cross examination but ~~xxx~~ it has been shown to charged officer Sri M. R. Sharma when he submitted his explanation on 17.6.83. Keeping in view these facts and evidences, it is established on record that Sri M. P. Sharma has tempered the attendance register of class III staff by putting down the time under his signatures of 27.4.83. This tempering has been done by Sri M. R. Sharma, Sr. DSK/DSL/CB-LKO on 2.5.83 in Estt. Section of Alambagh Stores Depot, Lucknow.

1.25 - FINDINGS.

Considering the facts, circumstances and assessments of evidences, it is proved that Sri M. R. Sharma, Sr. DSK/AMV now working as Sr. DSK/DSL/CB-LKO has tempered the "Attendance register" for the month of April '83 by putting down time under his signatures of 27.4.83 and thus his charge which was levelled against him is "totally proved".

(Gyan Singh) 1.11.85
Inquiry Officer
A.C.O.S/AMV/LKO.

Dated:- 1.11.85.

Annex-2

In case where it is intended that the fitness of the Railway servant for repromotion or restoration to his original position will be considered only after a specified period.

E101 103
A85

NORTHERN RAILWAY

(Form No 8)

orders of imposition of penalty under Rules 6(VI) of the Railway Servants (Discipline & Appeal) Rules-1968.

No: E/S/518

Place of issue Dy COS / NR / Am

Dated 11-11-85

To:

Shri Mukh Ram Sharma

DSE Depot Chaurangh

(THROUGH: Dy COS / DSE / CB).

I have carefully considered your representation dated 17.6.83 in reply to the Memorandum of Show Cause Notice No. E/S/518 dated 10.6.83. I do not find your representation to be satisfactory due to the following reasons: It is evident that he has tried to tamper with the register.

Therefore, I hold you guilty of the charge(s) viz. Opening the almirah of the office and tampering with the register.

I levelled against you and have decided to impose upon you the penalty of reduction to a lower post/grade/service. You are, therefore, reduced to the lower post/grade/service of DSK / II in the scale of Rs. 550-750 (Rs) pay Rs 675/- until you are found fit by the competent authority, after a period of 1 years months from the date of the order, to be restored to the higher post/grade/service of _____ in the scale of Rs. _____ with/without postponing future increments.

(2) Under Rule-18 of the Railway Servants (Discipline & Appeal) Rules, 1968 an appeal against these orders lies to Addl COS / NDR provided:-

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

(3) Please acknowledge receipt of this letter.

Copy to:- Sd/O (CO) N.R / CB / Lko

1 - Hd clink / Bith / CB

3 - Book

Signature

Name

Designation of the disciplinary authority

Varma/8-3-'75.

उपनिर्देशक, उत्तर रेलवे, आजमगढ़

असमका

5/11/85

102

Confidential

Northern Railway

No. ACOS/L/Genl/Conf/85

Dated: 1.11.85

N O T E

Sub:- Inquiry Report.

The Inquiry Report consisting of two pages dated 1.11.85 is enclosed herewith for your kind information and necessary action.

Encl: Original case consisting of 101 pages.

(Gyan Singh)
A.C.O. S/D/IV/LKO.

✓ Dy. COS/AMV.

In view of the proceedings & the report & conclusions of E.O. it is evident that Sh. Mukh Ram Sharma has tried to tamper with the register.

He is awarded reduction in rank by one stage per month.

APD

29/11/85

Annexure-3

AB

168

Northern Railway

Office Order No. E/ 97

Dated: 16-4-1986

As a result of review by the Dy. COS/AMV the penalty of reduction to lower time scale vide Penalty Notice No. E/S/518 dated 11.11.85 of Shri Mukh Ram Sharma, DSK-II/DSL/CB is reduced to reduction to Lower time Scale Rs. 550-750(RS) temporarily for one year from the date of original imposition viz. 11.11.85.

for Dy. Controller of Stores,
N.Rly., Alambagh, Lucknow;

Copy to the following for information.

1. The SAO (W)/CB.
2. The DCOS/CB & ACOS/DSL/CB.
3. HC/Bills /CB.
4. Shri Mukh Ram Sharma, DSK-II/DSL/CB.

for Dy. Controller of Stores,
N.Rly., Alambagh, Lucknow.

E/S/518

AKS
15/4

RA A.88

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH AT ALLAHABAD.

REJOINDER AFFIDAVIT
ON BEHALF OF THE APPLICANT.

IN

REGISTRATION NO. 471 of 1986

Mukh Ram Sharma --- Applicant.

v e r s u s

Union of India and others ---- Respondents.

I, Mukh Ram Sharma, aged about 58 years
son of Sri G.B. Ram, Most respectfully sheweth as under:-

1. That I am the sole applicant and is fully
acquainted with the facts and circumstances of the
case. I have carefully perused the reply submitted
by Mr. N.U. Khan, presently posted as Assistant
Personnel officer (Stores) under Deputy Controller
of Stores Northern Railway Alambagh and have understood
the contents thereof.

2. That the contents of paragraphs 1, 2 and
3 of the counter affidavit need no comments.

Recd Copy
A.88
9/8/87

2/3/87

(2)

A89

3. That paragraph 4 of the Counter affidavit is not admitted and in reply thereof it is stated as under;

(a) That on 27.4.83 the applicant was working as senior Depot Store keeper in P.O.H. while my name was wrongly included in sale delivery case which was another section and having no concerned with P.O.H. Section.

(b) Contents of para 4(B) of affidavit are emphatically denied in the form they stand. In reply thereof it is submitted that Sri Mahesh Pd. was Incharge of Sales & P.O.H. on 27.4.83. The applicant resumed his duty in late hours after awaiting 4 days leave as train arrived in late hours. I have signed in attendance register and could not put the late arrival time due to hurry as A.C.O's III met me at the main gate and instructed to come at once, so I could not put the time which was done on 28.4.83. It is further stated that on 27.4.83 a sale delivery of 5 truck was in progress and these five trucks were authorised by sale section through their gate pass as per procedure. A raid was conducted by A.S.O / R.P.F and five trucks which were loaded by sale section in P.O. H. yard, were checked and sale staff along with other staff were suspended on 27. 4.83 and after 4 days my name was also implicated in sale delivery and I was suspended on 30.4.83. Shri Gyan Singh A.C.OS I who was biased



(3)

A90

and prejudiced has fabricated wrong case against me and he asked Mr. Mahesh Pd. to issue charge sheet and a charge sheet was issued against me vide no. E/S/518 dt. 10.6.83.

It is worthy to mention here that in earlier case (Crime case No. 185/84 u/s 420, 218 I.P.C.) final report has been submitted by the police on 13.8.86 and was finally accepted by Hon'ble Munsif Magistrate on 24.12.87. A copy of the final report has already been submitted in the office of respondent no. 3 on 31.1.87.

(C) That the averments made in para 4C of the counter affidavit are denied and it is submitted that whole story is fabricated and manipulated. It is wrong to say that the incident was noticed by the peons Sri Khushali Ram and Sri Gaya Pd. who were present there. Charges levelled against the applicant were not accepted by the prosecution witness S/S Gaya Pd. peon, Khushali Ram peon, K.N. Malviya & Mr. Munni Lal.

(d) As per statement of Khushali it is clear that Mr. Khushali Ram was the first man to open the office on 2.5.87 and he has not given name of any D. S.K in his report dt. 2.5.87, but later on he has given the name of Rasheed Ahmad to be present at the office. But the applicant was not named in the statement (page 36). He had also stated in reply to one No. 3 rd that he had also not

Handwritten signature/initials

seen from the report at that time

(4)


A91

(e) In reply to para 4 E of Counter affidavit it is stated that Sri A.K.Malviya was incharge of relevant steel almira who clearly stated in his reply to Qn. No. 6 (p. 39) that " I have no such knowledge and Almira was found by me undisturbed and I had not made any complaint in this regard. It is also clear from the perusal of the statement made by A.K.Malviya that he has not reported for tempering of Attendance register in question. He has submitted the report only about his working . He has also clarified in reply to Qn. No. 2 by inquiry officer (Para 40) that " Still I can- not say how the tempering has been done and what type of tampering was done".

Most of authentic relied upon documents were not seen by Mr. A.K.Malviya himself.

(f) The most important prosecution witness Sri S.P.Sinha O. S. Establishment who had drafted the case for issuing me charge sheet, was not examined and while statement given by all the prosecution witnesses were based on the instruction of Sri S.P.Sinha who were not called for.

(g) The averment made in 4G are correct in part . However it is wrong to say that said charge sheet contains all documents and materials that required under the rules . It is further submitted that they have not supplied documents which have been mentioned in Annexure 4 of the memorandum (i.e. para 17 of the petition.)



(5)

A92

(h) That in reply to para 4 H of counter affidavit it is said that the explanation dated 17.6.83 was not considered properly by disciplinary authority and Sri Gyan Singh was appointed as an enquiry officer, who was biased & prejudicial to the applicant.

1) It is admitted that applicant has submitted application for changing the biased and prejudicial I.O vide letter dated 30.8.83 , 9.12.83 12.4.84, and 20.7.84 but the Railway Board order E(D & A) 70 R.G. 6-14(1) dt. 19.6.74 has been violated and totally ignored on the subject . An extract copy of the said order is hereby enclosed and marked as R. A-1.

j) Para 4J of counter affidavit are emphatically denied as much as relied upon documents were not produced during enquiry proceedings for the charges levelled against me. Main prosecution witnesses Sri S.P. Sinha was not examined and no D & A Proceeding (Ruling) was adopted in my case as much as they have not complied the provision of Rule (9(6) RS(D & A) Rule 1968) . A true copy of said rule is annexed herewith as Annexure RA=2.

k) That contents of para 4 K are partly admitted. It is further said that no relied upon documents were produced.

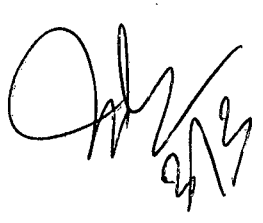


(6)

A93

L) That in reply to the contents of para 4 M it is stated that in fact the defence note was submitted on 31.10.85 but the opposite parties have not considered my defence note. And I have been penalised only on the basis of my earlier representation dated 17.6.83. It is apparently clear on the perusal of the penalty order (para 55) that I have been penalised without inquiry. It is also evident from the perusal of the enquiry report (Annexure 1 to this affidavit) that the name of applicant Mukh Ram Sharma is mentioned at Sl. No. 6 of the prosecution witnesses, whereas as per Annexure 3 of memorandum dated 10.6.83, 6 prosecution witnesses were mentioned including S.P. Sinha whose name has been left in his Annexure 1 of the Counter affidavit. It appears that I.O has not seen this fact properly due to biased and prejudicial attitude.

M) In reply to the contents of para 4 N it is submitted that the order shown as Annexure 2 of the counter affidavit differs with the punishment order given to the applicant vide dated 11.11.85 as there is no order for postponement of future increments in the Annexure 2 of the Counter affidavit and it is clear on the perusal of the Annexure 2 of counter affidavit that disciplinary authority is not sure about the tampering of attendance register.



A94

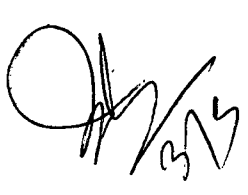
(7)

Hence his order is not speaking order.

N) In reply to the contents of para 4,0 it is stated that no enquiry report was annexed with punishment order dated 11.11.85. It is stated that averments made to the contrary are false baseless misconceived.

O) That para 4 P of the counter affidavit needs no comment.

P) That the contents of para 4Q of the counter affidavit are not admitted as much as the applicant wanted some clarification regarding punishment as a major punishment which was not possible without considering enquiry proceedings (provided in D.A. Rules for S.F.5) to enable me to make a proper appeal to Addl. COS New Delhi but Dy. CO's Alambagh who was adamant to penalise me, has passed the fresh order again in my case for reduction to one year which was very much surprising that after near about 25 days how he has changed the punishment order. It is wrong to say that the applicant prepared a review petition before disciplinary authority but he submitted an application on 2.12.85 for revising & passing the fresh order vide order no. E/97 dt. 16.4.86 (at page no. 58) of the petition) they reduced the punishment for a term



A95

(8)


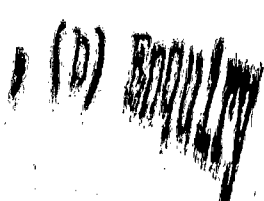
of one year. Thereafter I preferred an appeal to Addl. C.O's New Delhi on 15.5.86.

Q) That para 4 R & S are admitted.

R) That para 4 T of counter affidavit are totally denied and it is stated that appeal was prepared with in limitation and against the final order dated 16.4.86. It is clear that my appeal was not forwarded to the Addl. C.O's New Delhi and was wrongly withheld by Dy. C.O.'s Alambagh which is against the provision of the constitution of India.

4. That in reply to para 5, 6 of counter affidavit it is stated that averments made in para 4, 5 of the application is reiterated.

5. That para 7 of counter affidavit need no comment.

6. That in reply to para 8 of the counter affidavit the averments made in earlier paras of rejoinder affidavit are reiterated. It is further stated that I have requested vide letter dt. 28.8.86 (para 10A of the petition) for summoning the relied upon documents i.e. (a) attendance register for the month of April 1983, (b)  

(9)

A96

report submitted by enquiry officer to disciplinary authority (c) file no. E/S/518. But still item no. a and c was not given to us. It is stated here that any averments made in para 8 of the counter affidavit to the contrary are baseless and hence emphatically denied.

7. That in reply to para 9 of the counter affidavit the averments made in para 3 and 6 are reiterated. It is also submitted that the total prosecution story is fabricated and manipulated and this Hon'ble court will pass such order as may be deemed in the circumstances of the case and it is further stated that the petition is liable to be allowed.

8. That in reply to para 10 of the counter affidavit it is said that the appeal preferred against the final order was legally maintainable as per the rules. It is also submitted that the appeal was withheld in arbitrary manner and was against the provisions of the law.

(9)

A96

report submitted by enquiry officer to disciplinary authority (c) file no. E/S/518. But still item no. a and c was not given to us. It is stated here that any averments made in para 8 of the counter affidavit to the contrary are baseless and hence emphatically denied.

7. That in reply to para 9 of the counter affidavit the averments made in para 3 and 6 are reiterated. It is also submitted that the total prosecution story is fabricated and manipulated and this Hon'ble court will pass such order as may be deemed in the circumstances of the case and it is further stated that the petition is liable to be allowed.

8. That in reply to para 10 of the counter affidavit it is said that the appeal preferred against the final order was legally maintainable as per the rules. It is also submitted that the appeal was withheld in arbitrary manner and was against the provisions of the law.

9. That the averments made in para 11 and 12 need no comment.

I, Mukhram Sharma, aged about 58 years s/o Sri G.B. Ram do hereby verify that the contents of paragraphs 1 to 9 are true to my personal knowledge and believe and that I have not suppressed

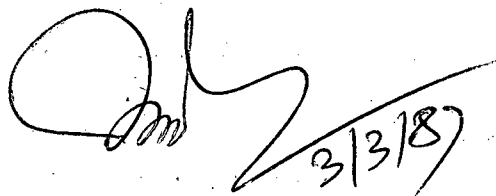
A97

(10),

any material facts in this affidavit.

No part of this reply is false .

Verified this day of
January, 1987 at Allahabad.

A handwritten signature in dark ink, appearing to be 'Mukh Ram Sharma', with a large loop at the start and a long horizontal stroke extending to the right. Below the signature, the date '3/3/87' is written in a similar handwritten style.

Sd. Mukh Ram Sharma.

A98

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH AT ALLAHABAD.

ANNEXURE NO. RA-I

IN

REJOINDER AFFIDAVIT
ON BEHALF OF APPLICANT.

IN

REGISTRATION NO. 471 of 1986

Mukh Ram Sharma Applicant

Versus

Union of India and others Respondents

Discipline & Appeal Rules 9 Page 53

Rules 9- (10) Inquiry under the discipline & Appeal Rules
appointment of enquiry authority :

The Boards orders contained in their letter No. E(D&A)70 RG6-14(1) dt. 19.6.74 on the subject inter alie, provide that only these enquiry officers who are free from bias should be appointed by the disciplinary authority to conduct departmental enquiries. It has further been provided, there in that wherever an application is moved by a Rly. servant, against whom disciplinary proceedings are initiated against the enquiry officer on grounds of bias, the proceeding should be stayed and the application reffered to the appropriate authority for considering the matter and passing appropriate order thereon. In this connection the staff bias raised the following point at a meeting of National Council, set up under the scheme of joint consultation machinery held in November 1975.

(True copy)

999

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH AT ALLAHABAD

....

ANNEXURE NO. RA-II

IN

REJOINDER AFFIDAVIT

ON BEHALF OF APPLICANT

IN

REGISTRATION NO. 471 OF 1986

Mukh Ram Sharma Applicant

Versus

Union of India and others Respondent

.....

Supply with a copy of the report of enquiry

Rules 9-31(2) Page 63.

2. It is clarified that in view of the statutory provision contained in Rule 12 of the Railway servants (Discipline & appeal) Rules 1968, that order made disciplinary authority shall be communicated to the Railway servant who shall also be supplied with a copy of the report of the enquiry if any held by the disciplinary authority and a copy of its finding on each Article of charge, it is obligatory to supply the delinquent Railway servant with a copy of the inquiry report, whenever a departmental inquiry has been held alongwith the finding and the order of the disciplinary authority, of the nature & punishment imposed minor or Major.

(Railway Board letter No.E/D&A/71 RG6-30 dt. 27.7.71)

(True copy)

[Handwritten signature]
9/3/87