

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

✓ FORM OF INDEX

O.A./T.A./R.A./C.C.P./ No. 516-----1986

Shahab Uddin -B- U.S.G.

PART -I

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22/3/86
DY. Registrar

4/
Supervising Officer

29/12/86
Dealing Clerk

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

Nil

This file is left ready out
Rgeen
So (5)
Dealing Clerk

V.K. Mishra

File B/c. destroyed on 9-5-12

①

Central Administrative Tribunal
Lucknow Bench

Cause Title J16 of 1986 (u)

Name of the Parties Shahabuddin Khuram Applicant

V e r s u s

Union of India Respondents.

Part A - P.C.

Sl. No.

Description of documents

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B - File

C - File

In extra copy of petition

26/9

CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

(2)

(A)

Registration No. 516 of 1986

APPLICANT (s) Shahabuddin Khan

RESPONDENT(s) Union of India through Director General, Research

Designs and Standards Organisation Lucknow

Particulars to be examined

Endorsement as to result of Examination

1. Is the appeal competent ?
2. (a) Is the application in the prescribed form ?
(b) Is the application in paper book form ?
(c) Have six complete sets of the application been filed ?
3. (a) Is the appeal in time ?
(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 ?
5. Is the application accompanied by B. D./Postal-Order for Rs. 50/-
6. Has the certified copy/copies of the order (s) against which the application is made been filed ?

Yes

Yes

Yes

Yes, 6 sets filed.

Yes

-

-

Yes

Yes

Yes [Annex H & O]

Yes

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

Yes by Advocate

Order Sheet

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH ALLAHABAD

No. 576 of 1986.

VS.

(B) (4)

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
<p>28/12/86</p> <p>30-10-86</p>	<p><i>OR</i></p> <p>Notice fixing 31.12.86 for hearing on interim matter has been issued to the side respondent under regd. cover. Another notice for acknowledgement card has been received back so far. Respondent has not filed any reply on the matter of interim relief so far submitted for orders.</p> <p><i>Ans</i></p> <p>28/12</p> <p>Hon. S. Zahed Hasan, V.C. Hon. Ajay John, A.M.</p> <p>Sri V.K. Srivastava - for the applicant. Sri Delhi Singh for the respondents.</p> <p>Counter affidavit can be filed within one month. Replies may be filed within ten days thereafter. Put up on 15-12-86 for final hearing.</p> <p><i>[Signature]</i> V.C.</p> <p><i>[Signature]</i> A.M.</p>	

Order Sheet

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
- ADDITIONAL BENCH ALLAHABAD

CP No. 516 of 1986.

Sri. Subodh vs. Union of India
Kham

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
26/2/87	<p>(Hon. S. Zahoor Husain, V. Hon. Ajay Johari, or (A))</p> <p>Sri V.K. Sankaran for the applicant Sri Lalji Suthra for the respondents satisfy adjournment. Court up for hearing on 31-3-87.</p> <p>VC</p> <p>31/</p> <p>or (A)</p>	
28-3-87	<p>OR</p> <p>Case is submitted for hearing as directed by court</p> <p>up 28/3</p>	
31-3-87	<p>Hon. S. Zahoor Husain, V. Hon. Ajay Johari or (A)</p> <p>Sri V.K. Sankaran for the applicant Sri Lalji Suthra for the respondents Court up for hearing on 6.5.87.</p> <p>VC</p> <p>31/</p>	

VC

or (A)

आदेश पत्रक
ORDER SHEET

अपील रजिस्टर में सं.
निर्देश आवेदन

No. in Reference Application Register
Appeal

516-87

अपील बनिकरण
Appellate Tribunal

अपीलार्थी
आवेदक

Appellant
Applicant

अपीलार्थी द्वारा
आवेदक

Appellant
Applicant

प्रत्यर्थी द्वारा
Respondent

बनाम

प्रत्यर्थी

Respondent

Vs.

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

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

पालन कैसे हुआ और पालन
करने की तारीख
How complied with and
date of compliance

3/9/87

Hon. S. Indar Hassan, V.
Hon. Ajay John, J.

But no order
agreement.
But up for here
9.11.87

9.11.87

Hon. K. S. Butthswamy, V.
Hon. Ajay John, J.

On the basis of
similarity for the respondent
applicant himself the case

4/16/12/87

order - A

16

14-3-88

Applicant present in person.
None present for the respondent.
Let this case on 19-7-88
for further orders.

[Signature]

DR J

19-07-88

Registrar

Applicant is present. He requests
for the legal aid. His application is
to be forwarded to legal aid commi-
tee. Work & put up on 23/8/88.

[Signature]

Registrar

23.8.88

DR J

Applicant in person is present
and files an application.
Respondent's counsel is expected at
Ludlow on 26.8.88.

Put up before court for
orders on once application on 26.8.88.

[Signature]
DR J

26.8.88

Hon. A. John, A.M.
Hon. G. S. Sharma, Jm.

^{the applicant}
Heard ^{the applicant} counsel for the ~~respondent~~ respondent.
We have considered the Misc. Application
No. 6 of 1988 (Y), dated 23.8.88 wherein a prayer
has been made for a direction to be issued to
the respondents to pay the applicant's salary
for the period from 29.8.84 to 13.3.86. In the
main application the same relief has been
claimed for. No interim orders can be given as to
on this relief. Therefore this application is
rejected.

In this case counter affidavit has been
filed. The applicant prays for and is allowed

(23)

GA 516/06

23-1-89

Hon. D.S. Misra, Am.

Hon. G.S. Sharma, Jm.

Shri B.H. Siddiqui for the applicant
is present.

On the request made on behalf
of Shri A.V. Srivastava for the
respondents the case is adjourned
to 24-1-89.

Jm.

Am.

Am.

24-1-89

Hon. D.S. Misra, Am.

Hon. G.S. Sharma, Jm.

Shri A.V. Srivastava for the
respondents is present.

On the request received from
the learned Counsel for
the applicant Shri B.H. Siddiqui
the case is adjourned
to 22-2-89.

Jm.

Am.

Am.

22-2-89

No sitting. Adjourned to 23/2/89
for hearing.

Am.

22/2

(15)

5A 576/88

20-4-89

Hon'ble Justice K. NATH, VC
Hon'ble Jm D.S. Mishra, DM

OR

Case was adjourned
to 20-4-89 for hearing.
Submitted for hearing

Aug
20/4

On the request of
Counsel for both the parties
Case is adjourned to 9.5.89
for final hearing.

be

DM.

OR

VC

Aug
20/4

OR

Case was adjourned to
9.5.89 for hearing
Submitted for hearing

h
8/5

Hon' Mr. G.S. Sharma, J.M.

Hon' Mr. K.J. Raman, A.M.

9/5/89

Shri T. N. Tewari, learned counsel for the
applicant and Shri A.V. Srivastava, learned
counsel for the respondents are present.

On the request of Shri Tewari, the case is
adjourned to 29-5-89 for hearing.

h
A.M.

(sns)

J.M.

OR

Case was adjourned to
29.5.89 for hearing.
Submitted for hearing

h
26/5-

29-5-89

No sitting. Adjourned to
10-7-89 for hearing.

OR

Case is submitted
for hearing

7/7

~~20-8-89 No sitting adj to 25-5-89~~
7/3

OA 516/86

16

118

10.7.89

Hon. D.K. Agrawal - IM

No sitting of Division Bench.

Fixed 26.7.89 for hearing.

J.M.

h

26.7.89

No sitting Adj. to 12.9.89.

h
26/7

द. ज.
पञ्चवली मुनगा
द. रस

12-9-89

माननीय - आपसीति के नाथ, उपाध्यक्ष
माननीय के जे. रमण, सदस्य

प/ब
11/5

वर्ष के अगुआ पर 8.11.89
को अंतिम मुनगा के लिए सूचीबद्ध
है।

सदस्य (90)

उपाध्यक्ष

OK
Submitted for
hearing. R
21/11/89

Hon' Mr. D.K. Agrawal, J.M.

3/11/89

The applicant is present in person.

Shri A.V. Srivastava counsel for the respondents
is also present. No Division Bench is sitting.

List this case on 15/1/90 for hearing as the first
case of the date on account of the fact that a stay
order operate in favour of the applicant.

ccil Copy
Dishabuddhi
23/11/90

J.M.

(sns)

No sitting of D/B Adj. to 9.3.90.

h
D.O.C

15/1/90

18

AM

11.9.90

Hon'ble Justice K. Math. V.C.
" MR. M.M. Singh AM.

Due to sad demise of
Hon'ble Justice Kaul. case is
adj to 29.11.90

AM.

VC Q

B.O.C

2

29.11.90

No sitting Adj to 24.1.91

AM

Hon. Mr. D.K. Agarwal, J.M.
Hon. Mr. K. George AM

9.1.91

M.P. 16/91 taken up. We have
perused the record. No stay in
respect of Govt accommodation
in occupation of applicant has
been passed at any stage by
the Tribunal

AM

AM

Received
Krupa
at 11/91
(V.B.K. Rao)
CLM AD 30/1000
for forwarding.

24.1.91

No sitting Adj to 24.1.91
Q

ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD/C.B. LUCKNOW

(A10)

(20)

OA 516 No. OF 1991

Sahabuddin Khan Vs. b.c. 11

Sl.No.	Date	Office Report	Orders
	20.11.91		No S. Imp. adj. 22.1.92
	22.1.92		No S. Imp. adj. 29.1.92
	29.1.92		Hon Justice V.C. Shivastava - V.C. Hon. Mr. A.B. Gethi - Bm
			Put up tomorrow
			VC
			VC
	30.1.92		Hon Justice V.C. Shivastava - V.C. Hon. Mr. A.B. Gethi - Bm
			Argument heard Judgement Reserved
			VC
			VC

(A11) (20)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL.
LUCKNOW BENCH LUCKNOW.

O.A. No. 516 of 1986

Shahabuddin Khan

Applicant

versus

Union of India & others

Respondents.

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

Hon. Mr. A.B. Gorthi, Adm. Member.

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

The applicant aggrieved by an order removing him from service, has filed this application praying that the punishment order be quashed and that he be reinstated in service with full consequential reliefs.

2. The applicant who joined the railway service on 29.11.1959, was working as U.D.C. in R.D.S.O, Lucknow. In 1982, due to his wife's illness he asked for leave from 15.2.82 to 14.2.83 which was sanctioned vide D.D.E. note No. ADC/202 dated 15.2.82 (Annexure-A). He asked for extension of leave from 15.2.83 to 13.4.83 which was also sanctioned vide Annexure B. He again sought further extension of leave but the respondents did not reply. He remained under the impression that the

A12

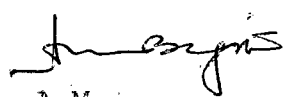
22

extension was granted and accordingly he reported for duty on 2.7.83. Again he had to be absent^{ed} due to his own sickness and he therefore, sent his leave application on 5.12.83. He remained sick till 22.8.85 but the office was being informed about his sickness regularly. He reported for duty on 23.8.85 but on 11.9.85 he was informed that he was removed from service with effect from 29.8.84. He filed a petition before the Tribunal but while it was pending, the respondents passed a fresh order of removal mainly to frustrate the legal proceedings initiated by him.

3. The respondents have asserted that the applicant was a habitual absentee. Annexures A and B attached to his application are not genuine documents and he was never sanctioned any leave for the long spells of absence from 15.2.82 to 2.7.83 and again from 5.12.83 to 22.8.85. Regular departmental enquiry was held and thereafter the competent disciplinary authority passed the order of removal from service. when Later/the applicant filed^a petition before the Tribunal, the respondents found that the personal file of the applicant was missing/removed. Hence, the competent disciplinary authority, on the basis of enquiry and other documents held in the office file (copies at Annexures I and II to the counter affidavit) passed a fresh order removing the applicant from service with effect from 13.3.86.

23 A13

4. We have heard the learned counsel for both the parties. It is seen that the applicant was a habitual offender and there was no sanction ever given for the long periods of his absence from duty. Obviously he had lost interest in service and the order removing him from service is, therefore, justified. No such illegality or irregularity has been pointed out to us as would justify our intervention.
5. The application is without merit and is accordingly dismissed.
6. Parties to bear their own costs.


A.M.


V.C.

Shakeel/

Allahabad Dated: 3-2-92

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Reg. No. 516 of 1906
Central Administrative Tribunal

INDEX.

BETWEEN

SHAHABUDDIN KHAN

Additional Bench

ALLAHABAD/PATNA/JASALPUR

Date of Filing... 24.9.86 OR

Date of Receipt by Post

Handwritten signature
Deputy Registrar.

APPLICANT

&

UNION OF INDIA, THROUGH DIRECTOR GENERAL ---RESPONDENT

& ?

OTHERS. 2

S.No.	PARTICULARS OF THE DOCUMENTS	FROM	TO
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH,
ALLAHABAD.

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNAL ACT-85

BETWEEN

SAHABUDDIN KHAN.....Applicant.

&

UNION OF INDIA THROUGH DIRECTOR GENERAL.....RESPONDENT

2. ~~SHRI N.K. AGARWAL DY.D.G.~~ 2
3. ~~SHRI T.S. VARDYA EX.D.G.~~ 2

DETAILS OF THE APPLICATION

1. PARTICULARS OF THE APPLICANT.

(i) Name of the applicant.....Shahabuddin Khan.

(ii) Name of the FatherL. Shri A.U. Khan.

(iii) Designation and office.....Upper Dy. Clerk
in which employed. Research Designs and
Standards Organisation
Manak Nagar, Lucknow-11

(ix) Office address.

As above.

(v) Address for service of all
notices.

A/53/A Forty-Quarters
Rly. Colony, Alambagh, LKO

2. PARTICULARS OF THE RESPONDENT.

(i) Name of the respondent
or designation.

1. Director General.
2. Dy. Director General 2
3. ~~Shri T.S. Vardya~~ 2
~~EX-Director General.~~ 2

(ii) Office address of the respondent... 122 2
Research Designs and
Standards Organisation
here called R.D.S.O/Lucknow.

(iii) Address for services of all
notices.

122
Director General R.D.S.O
Manak Nagar/Lucknow-11

3. PARTICULARS OF ORDERS AGAINST WHICH
THE APPLICATION IS MADE.

(i) Order No. APC/202 APC/202/Pt.

(ii) Date. 11.9.85 14.3.86

(iii) Passed by DG Dy.DG

(iv) Subject in brief.....Removal from service.

The application is against
the following orders:

Sukhan

On

Alk

~~(ii) Subject in brief.~~

~~Removal from service.~~

4. JURISDICTION OF THE TRIBUNAL.

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

5. LIMITATION.

The applicant further declares that the application is within the limitation prescribed under section 21 of The Administrative Tribunal Act-1985.

6. FACTS OF THE CASES.

(i) The petitioner was selected as Ticket Collector from Railway service Commission but there being no vacancy of Ticket Collector he was absorbed as Office Clerk in Grade 60-130 in Divisional Supdt. Office/Allahabad on 29.12.1959.

(ii) In 1960 petitioner was transferred to the Office of the General Manager/Northern Railway, H.Q./New Delhi.

(iii) In 1962 petitioner was transferred to RDSO/Simla and thereafter as a result of shifting of the above office the petitioner came to Lucknow and since then he is continuing there.

(iv) In 1972 the petitioner got promotion and posted as Upper Divisional Clerk in scale of Rs.130-360(As)

(v) In 1978 the petitioner was confirmed as Upper Division Clerk.

(vi) In 1981 the petitioner was again promoted as Office Assistant in scale of Rs.425-800 against leave vacancy but after filling up of the said vacancy by UPSC candidate the petitioner was reverted back to his original post of Upper Division Clerk

~~(vii) On 3rd December/1983, it being Saturday, the petitioner went to his native place to see his ailing brother, but~~

Dr. Sukhar

APR

3.

(vii) On 15.2.82 the applicant proceeded on leave after getting it sanctioned by the competent authority. Leave was sanctioned from 15.2.82 to 14.2.83 vide DDE's note No. APC/202 dated 15.2.82 (Annex... A... (A+9))

(viii) Since the problems for which the applicant had taken leave had not been solved but the situation had been more aggravated by the sickness of applicant's wife. The applicant had to apply for further extension of leave. This extension was also sanctioned for the period from 15.2.83 to 13.4.83 vide DDE's Note No. APC/202 dated 14.2.83 (Annex... B... (10)...). Thus from 15.2.83 to 13.4.83 leave had been fully sanctioned by the competent authority. Again after this date of 13.4.83 and since the applicant's wife was struggling for life and was on death bed. The Applicant sent an application dated 10.4.83 for further extension along with medical certificate. Normally when leave is not sanctioned the refusal is communicated to the party concerned, but since no refusal was communicated and the circumstances under which the applicant was compelled to take extension made the applicant to understand that leave will be sanctioned. Under this impression the applicant continued leave till 1.7.83 and resumed on 2.7.83 (FN). (11) (Annex C)

(ix) On ^{14.7.83} ~~third~~ December being Saturday applicant took leave HQ to see his ailing brother at his native place but most unfortunately he himself fell ill due to his infection. The applicant consulted Govt. Doctor in his office about his sickness through application (Annex... D... 12...). The applicant continued leave till 22.8.85 and the office was regularly informed till applications/extension dt-21-12-83 Annex E al

A. Sulea

ANB

4

- (x) After recuperating from illness and being declared medically fit the applicant submitted his arrival report along with all medical sick/fit certificates on 23.8.85 to his employer i.e. DG/RDSO, Lucknow and asked for medical memo to be produced to the Divisional Medical Officer/RDSO, Lucknow for counter-signature (Annex... F... (1/2)) Reminder dt 29.8.85 - (Anex. G) at page 15
- (xi) After a lapse of long interval the petitioner was informed through memo No. APC/202 dated 11.9.85 that he had already been removed from service since 29.8.84 without assigning any reason. This was done without any chargesheet being given or any enquiry being conducted without given any opportunity to defend the applicant (Annex... H... at page 16)
- (xII) Since the applicant had been sending the representation and several reminders but the RDSO authority has failed to supply the copy of the so called removal order and has not issued medical memo to enable the applicant to resume his duty nor supplied any relevant documents, charges of allegations/removal order, as would be evident from Anex-1 to N at pag 17 to 22.
- (xIII) After exhausting all the department channel the applicant approached your Hon'able Tribunal for redressal on 20.1.86. While the case was under the consideration of the Hon'able Tribunal the DG/RDSO played a clumsy trick and misled the Court, without cancelling the removal order of 29.8.84 vide DG's letter No. APC/202 dated 11.9.85 they issued a fresh letter No. APC/202/Pt dated 14.3.86 removing the applicant from service from 13.3.86 (AN) on the unauthorise absence from 15.2.86 onwards. (Anex - On page no 23) and other extensions - Anex B

Sh. Sreen

Thus the Hon'able Court was made to understand that since the applicant had approached the Tribunal on basis of the letter dt 11.9.85 and since the applicant have been removed only on the basis of the subsequent letter dated 14.3.86 the applicant's representation to the court was infructuous. Anex - P at page 25

(xiv) During the pendency of the case and due to the bad luck the applicant could not draw the attention of the Hon'able court regarding the mischievous game played by DG/RDSO by issuing second letter of removal and artificially making representation infructuous.

(xv) Now coming to the main points according to the letter No. APC/202/Pt, it was alleged that applicant was on unauthorise absence from 15.2.83 onwards which totally incorrect. The applicant was sanctioned leave from 15.2.83 to 13.4.83 vide note No. APC/202 dated 14.2.83, after this date the applicant had asked for extension of leave supported by Medical certificates. This extension was not refused nor refusal communicated to the enable him to join in case extension has not granted. Thus the charge of unauthorise absence is totally false.

Second charge is habitual of ^{un}authorise absence this is totally vague not supported by facts and dates.

(xvi) In the letter No. APC/202 dated 14.3.86 Dy. DG/RDSO, LKO mentioned of an enquiry being conducted this totally false and fictitious no enquiry was conducted. As a matter fact not even a chargesheet was given nor the applicant was given an opportunity to defend the applicant in gross violation of the principal of natural justice. If there was an enquiry delquent, signatures could have been taken on each and every sheet of the enquiry proceedings. The Hon'able court may asked DG/RDSO to produce the enquiry proceedings containing the applicant's signatures.

(xvii) The DG/RDSO letter No. APC/202/Pt dated 14.3.86 para 6 mentioned that applicant file is lost. The applicant has an apprehension that the file has been manipulated to be lost only to conceal their fictitious and false statement about the applicant's so called unauthorise absence and imaginary enquiry.

(xviii) Long sickness made the petitioner very weak, poor which required very nourishing diet and tonic. The applicant having burden of 4 grown up young daughters (college going), widown mother and wife. During these hard days and on account of heavy burden of so many liabilities and in absence of non-payment of salary the petitioner alongwith his family members is undergoing unbearable sufferings and misearable life.

(xix) Finally the applicant appeal to DG/RDSO, Lucknow vide letter dater 2.5.85 and got final letter from DG/RDSO No. APC/202 Pt. dt. 20/26.6.86 that the applicant's appeal have been rejected. (Anex. Ret 28) Having failed to get my grievances redressed from departmental authority, the applicant approaches your Hon'able court with the humble prayer. (Anex Q)
page 26
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A20

-6-

7. Relief Sought.

- (i) The Hon'able authority be pleased to quash the alleged removal order dated 13.3.86 passed by the respondent.
- (ii) The respondent be directed to make full payment towards the salary and other dues upto 13.3.86 the last removal from service.
- (iii) Till the pendency of the case respondent may be debarred from taking any action to deprive the applicant from the Railway Quarter.
- (iv) The respondent should be restrained for adopting again a caladastine as they have done in the past to make the letter of 14.3.86 again infructuous.

8. Interim Order.

- (i) The respondent be directed to take the applicant on duty immediately and not to disturb in the peaceful working of the ~~working~~ 2 till the pendency of the case.
- (ii) Since the applicant having long long family consisting widow mother, 4 grown up college going daughters, till the case is finally decided the respondent be directed to pay substance pay to the applicant.
- (iii) That the applicant may not be asked to vacate the Rly. Quarter till the pendency of the case.

9. Details of remedies exhausted.

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

Dr. Suresh

(A2)

(ii) - The following representations were made and the outcome is shown against each

Date of applition	Regarding	Results
5.12.83	1st Medical inforation	NIL
21.12.83	2nd ; ;	NIL
8.1.84	3rd ; ;	NIL
23.1.84	4th ; ;	NIL
23.1.84	5th ; ;	NIL
7.2.84	6th ; ;	NIL
22.2.84	7th ; ;	NIL
6.3.84	8th ; ;	NIL
21.3.84	9th ; ;	NIL
5.4.84	10th ; ;	NIL
20.4.84	11th ; ;	NIL
6.5.84	12th ; ;	NIL
21.5.84	13th ; ;	NIL
5.6.84	14th ; ;	NIL
20.6.84	15th ; ;	NIL
5.7.84	16th ; ;	NIL
20.7.84	17th ; ;	NIL
4.8.84	18th ; ;	NIL
19.8.84	19th ; ;	NIL
3.9.84	20th ; ;	NIL
1.10.84	21st ; ;	NIL
4.11.84	22nd ; ;	NIL
1.12.84	23rd ; ;	NIL
1.1.85	24th ; ;	NIL
1.2.85	25th ; ;	NIL
1.3.85	26th ; ;	NIL
1.4.85	27th ; ;	NIL
1.5.85	28th ; ;	NIL
1.6.85	29th ; ;	NIL
1.8.85	30th ; ;	NIL
23.8.85	31st ; ;	NIL
29.8.85	32 Arrival Report	NIL
30.9.85	33rd Request for memo	Requested was not extended.
16.10.85	34th ; ;	NIL
5.11.85	35th ; ;	NIL
11.11.85	36th ; ;	NIL
13.11.85	37th Interview with Dy.DG	NIL
14.11.85	38th Reminder to Dy.DG	NIL
21.11.85	39th " " "	NIL
26.11.85	40th Reminder to D.G. for personal inter- vention	NIL
2.5.86	41th Appeal	Rejected

10. MATTER PENDING WITH ANY OTHER COUR ETC.

The applicant further declare that the matter regarding which this application has been made is not pending before any court or any other authority or any other bench of the TRIBUNEL.

Dr. Suresh

A22

11. Particulars of the postal order in respect of the application fee.

- i) No. of the postal order ... DD 826725
 ii) Name of the issuing post office Mahatma Gandhi Marg
 iii) Date of the issue of postal Order 29.7.86
 iv) Post Office at which payable G.P.O. Allahabad

12. Details of INDEX As in front page.

13. List of the enclosures

Sl.No.	Particulars	Date	Annexure
1.	Note No. APC/202	12.2.82	A
2.	Note No. APC/202	14.2.83	B
3.	Application for Extension	10.4.83	C
4.	Application for leave	5.12.83	D
5.	Extension of leave	21.12.83	E
6.	Arrival Report	23.8.85	F
7.	Reminder	29.8.85	G
8.	Memo No. APC/202	11.9.85	H
9.	Application	30.9.85	I
10.	Reminder	16.10.85	J
11.	Reminder	11.11.95	K
12/2 <u>Reminders</u> 12.	Interview with Dy.DG	13.11.85 / 19 th 85	L
13.	Reminder	21.11.85	M
14.	Intervention of DG	26.11.85	N
15.	Memo No. APC/202/Pt.	14.3.86	O
16.	Tribunal Judgement	31.3.86	P
17.	Appeal to DG	2.5.86	Q
18.	Memo No. APC/202/Pt.	20.6.86	R

IN VERIFICATION

I, Shahabuddin Khan, son of Sri Aftabuddin Khan age about 45 years working as Upper Division Clerk, resident of A-53/A, 40 Quarters Alambagh, Lucknow do hereby verify that the contents from 1 to 18 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Place: Allahabad
 Date : 29.7.86

S. U. Khan
 (SHAHABUDDIN KHAN)
 Signature of the applicant

[Signature]
 29.9.86

[Signature]

123

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(R.D.S.O.)

Note No. APC-202

Kanak Nagar, Lucknow-11

Dated: 12-2-82

Shri S.U. Khan

Designation UDC

Has been sanctioned LWP/LWP/LWP/Granted leave/LLH for 365
Days from 15-2-82 to 14-2-83 LWP

2. Shri Khan suggestion may please be noted. His
jo in report may be sent to Estt. Section-II early/ in due
course.

D:THH

(B.R. SHARMA)
Dy. Director/Estt-II

To,

Shri S.U. Khan

Leave due as on 12-2-82

UDC/ETI/R.D.S.O

L.A.P.
L.H.P. NIL

Attended
for
24.9.86

for
24.9.86

2 Sukun

-10
GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(R.D.S.O.)

Anex. -B.

Note No. APC-202

Nanak Nagar, Lucknow-11
Dated: 14.2.83

Shri S.U. Khan Designation UDC
has been sanctioned L.P./L.P./L.P./Comuted leave/LLH for 58
days from 15.2.83 to 13.4.83

2. Shri Khan sanction may please be note. His
joining report may be sent to Estt. Section-II early/ in due
course.

DA: HIL

To,

Shri S.U. Khan
UDC/RDSO/LKO

(B.R. SHARMA)
Dy. Director/Estt-II

Leave due as on 15.2.83

L.P.: } NIL
L.H.P.: }

Approved T.C.
[Signature]
24-9-86

Or Suresh

To

-14

Anex-C

The DG

RDSO

Lucknow

LUCKNOW

Dated 10.4.83

Sub. Extension of leave from 14.4.83 to 01.7.83

Sir, As the condition of my wife is still deteriorating. She is under treatment of our family doctor. Doctor has advised her to take nourishing diet and proper rest at least for two months. I am submitting her medical certificate. It is therefore requested that kindly extend my leave upto 01.7.83. Thanking Sir

Yours faithfully

Yours faithfully

DE II

P. U. Khan

U.D.C. / E II

RDSO

Attd T.C.

24.9.06

Dr. Sushu

ANNEX - A

-12. Annex - D

P.O. Sheikhpur
Distt. Pilibhit

05.XII-83

To

The Director General
R.D.S.O / Lucknow.

Sub: Grant of Medical leave

(17)

Sir,
I have come here to see my ailing brother, but suddenly I have fallen ill hence I contacted P.H. Doctor, he has given me medicine & advised me to take complete rest for 15 days.

It is therefore requested to please grant me medical leave from 05.XII.83 to 20-12-83. With thanks

I am submitting photostat copy of the medical certificate. Original I will submit after my arrival at Lucknow

✓ Sd/-
DDE II

Yours faithfully
Sd/- K. K. Kaur
Line / R.D.S.O

रेल मंत्रालय
MIN. OF RAILWAY
न. नगर, कानपुर-II
LUCKNOW-II
17 DEC 1983

क. क. क.
L. Dy. No. _____
E.I. SECTION DIARY NO 1242

Sd/- Sankar

Handwritten signatures and initials at the bottom of the page.

A26

Anne - E

To
The Director General
R.D.S.O./Lucknow.

P.O. Sherpur
Distt Pilibhit
AT- 21-12-83

Subj: Extension of leave

Sir,

It is to inform you that I am still ill & not in a position to attend my duties, Doctor has again advised me to take rest upto 07-1-84. Therefore it is requested that I may please be sanctioned leave upto 07-1-84.

Photo state copy of the medical certificate is enclosed herewith. Thanking Sir,

✓SO/civil
DDEH

Yours faithfully

U. Khan
UDC/RDSO

रेल मंत्रालय
MIN. OF RAILWAY
एडमिन, बजट-II
S.O. LUCKNOW-II
30 DEC 1983

श्री ४१० २०

श्री. डी. नं.

EN SECTION DIARY NO 2194

Approved P.C.

24-9-84

a. Sankar

To

The Director General.

RDSO / Ministry of Railways

Manak Nager, Lucknow-11.

Dated: 3rd Aug 85

Sub: - Issue of Medical Memo

Sir I was on sick list with effect from 05-XII-83 to 22.8-85 and now after declaring fit from my private doctor I have come to resume my duties. Hence you are requested to please issue me medical memo to enable me to get fitness from Railway doctor, DMO/RDSO/LKO.

Enclosures :-

1. Sick & fit certificates

11. B
23/8/85

(RAM KISHAN)
LDC/Receipt & Despatch

Thanking Sir
Yours faithfully.

L. U. Khan

(SHAHAB UDDIN KHAN)

UDC/Establishment-II

RDSO / LKO

Date 23rd Aug 85

On leave

Address: A-53-A

40 quarters

Alambagh

Lucknow-5

Approved T.C.

for Mr. Singh

By Smt.

15
The Director General
RDSO, Ministry of Railways

24.8.85

Annex - G

Aligarh Nagar
Lucknow-11
24.8.85

ADP

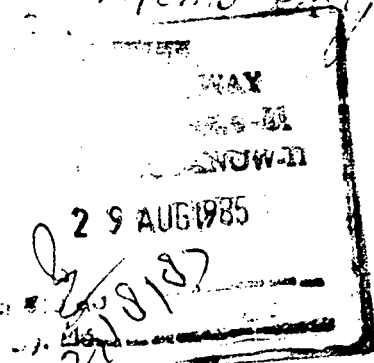
Sub: Issue of Medical Memo

Ref: My letter dt 23.8.85

Respected Sir,

In response to the above cited letter
I beg to state that till now I have not
been issued medical memo for DMO
RDSO/LKO.

Kindly arrange to issue me medical
Memo early. Thanking Sir



(RAN KISHAN)
LDC/Recpt/Dispatch

Yours faithfully

M. K. Singh
LDC/RDSO
Aligarh

455A
40 quarters
Aligarh
Lucknow-5
24.8.85

At Steel T.C.

Ad
24.9.86

Dr. Sushan

तार : रेलमानक-लखनऊ
Telegrams : 'RAILMANAK' LKO.



-15-

Anne- H

टेलीफोन Telephone 50567 & 50017

भारत सरकार - रेल मंत्रालय

Regd. A/D

अनुसंधान अभिकल्प और मानक संगठन
GOVERNMENT OF INDIA - MINISTRY OF RAILWAYS
RESEARCH DESIGNS & STANDARDS ORGANISATION

पत्र संख्या

Our Reference No. APC-202

लखनऊ-226011-दिनांक

LUCKNOW-226011-Dated 11.9.85.

MEMORANDUM

With reference to his application dated 23.8.85, Shri S.U. Khan is informed that he has already been removed from service w.e.f. 29.8.84 (AN).

Therefore, the question of issuing him a Medical Memo does not arise.

DA: Nil.

(Basant Kumar)
for Director General.

Shri S.U. Khan,
Quarter No. A53A,
40, Quarters,
Alambagh/Lucknow- 5.

Attended T.E.
24-9-86

-17 -

Anne. 1

30.9.85

Lucknow

A30

The Director General,
RDSO(MINISTRY OF RAILWAYS),
Manak Nagar,
Lucknow.

Sub:- Issue of Medical Memo.

Ref:- Your memo No. APC/202 dt. 11/17-9-1985.

Respected Sir,

Having received the above cited Memo on 25.9.85, I was very much shocked to go through the contents there of.

In this connection I would like to submit that I have never been served with any memo calling upon me to submit my explanation against any charges what so ever. Chargesheet or any show cause notice have also not been served to me for my defence.

In deed this tantment to an unprecedented injustice haveing been met by any employee of such a long standing an outstanding services rendered so faithfully to your administration. Should I remind you that I have, to my credit, a regular and permanent service for a period not shorter than 26 Years.

I am also humbly state that I am having four grown-up college going daughters and naturally it is impossible to pull on any longer the heavy burden of my responsibilities to wards my large family in these hard days in the absence of my salary drawn for a such a long time even after my fitness with effect from 22.8.85. Hence, you are humbly requested to issue me the Medical memo to enable me to resume my duties without further delay.

I would like to have separate a certified copies of the Original removal orders said to have been passed alongwith the copy of the full proceedings if any.

Thanking you.

Yours faithfully,

S. U. Khan

(S. U. Khan) 30.9.85
UDC/RDSO/Min. of Rlys

53 A
40 quarters
Alambagh
Lucknow-5

30.9.1985

Suklan

Handwritten signatures and notes including "24-9-85" and "22-9-85".

Anne-J Sno 10
16/x/85

The Director General,
R.D.S.O.,
Lucknow.

(A3)

Sub:- Issue of Medical memo.

Ref:- Your memo no. APC/202 dt. 11/17-9-95 and my application dt. 30.9.85.

Sir,

Sorry to point out that neither the medical memo for joining duty nor the copies of the proceedings if any and removal letters is issued to me so far.

In this regard I would emphatically stated that despite of my fitness w.ef. 22.8.85 from the authorised medical practioners still I have not been allowed to resume my duties which clearly violated the existing Rly.rules of establishment Manual.

Hence I am again requesting you to very kindly consider my case very sympathically without any prejudice manner and allow me to join my duty without any further delay or supply me all the relevant documents on the basis which I was removed from service.

Now, in the last I would like mentioned that if within week's time I am not getting proper or reasonable reply I shall be compell to seek the redress in the court of law against your illegal arbitrary and one sided action without providing any opportunity of defence and violating natural justice.

Thanking you.

Yours faithfully,

S.U.Khan
(S.U.Khan) 16/x/85
53/A 40 Quarters.
Alambagh, Lucknow.

Dated. 16.10.85

5861130901
11-OCT-85
R.D.S.O. LUCKNOW-II
IN. OF RAILWAY

रेल मंत्रालय
IN. OF RAILWAY
R.D.S.O. LUCKNOW-II
16 OCT 1985

Sultan

Attache P.L.
Adm
24.9.86

-19-

Anne-K

SVO

A53A
40 quarters
Alambagh.
Lucknow-5

Dated 11.XI.85

Reminder

The DG

RDSO

LUCKNOW

Sub: Issue of Medical Memo.

Ref: My application dt 23.8.85 and subsequent reminders dt 29.8.85, 30.9.85, 16.10.85 and 05.11.85.

Sir

In reference to the above mentioned application and all reminders it is stated that till now I have not received the above said memo nor the certified copies of the original orders alongwith the relevant proceedings if any.

In absence of not getting salary I alongwith my all family members are passing very very miserable & straining life. So it is humbly requested that please issue me the said memo to enable me to resume my duties. Thanking Sir.

Yours faithfully.

M. Khan

LDC/RDSO

LKO.

Sukum

Diary

24.9.86

20 -

Annex 1

The Dy. Director General.
R.DSO/Ministry for Rlys
Lucknow.

S/O 12

dt 13.11.85

Sub: Joining of Duty

Ref: Your Memo NO APC/202 dt 11.9.85

Ref: My representation dt 30.9.85 and
followed by several reminders

Respected Sir.

To day I came to seek interview
with DG, but Secy to DG has directed
me to see your honour to rectify
my grievances on the subject for
which I have been harassed by
your Administration.

An early & immediate action
is requested by your personal inter-
vention. Thanking Sir.

Yours faithfully.

U. Khan
UDC/RDSO
dt 13.11.85

Seen Dy DG on date.

13.11.85

Sukhen

AA Steel T E
from AA
21-9-06

20/2

Anne - 12

13

The Dy. DG

19. XI. 85

Lucknow

R.D.S.O.

Lucknow.

P34

Sub: Joining of duty

Ref:- My representation dt 30.9.85 and subsequent reminders there on

Ref:- Interview with Dy. DG on 13.11.85

Sir

With reference to my representation/reminders and subsequent interview with Dy. DG I have not been given any response to my request or supplied me any certified copies of my removal case if any.

So, in view of the facts as above I request Dy. DG to consider my financial plight, heavy burden of my four grown up college going daughters & I should be allowed to resume my duties, in case the documentary proof leading to my removal case cannot be shown or given.

Hope you will consider my request judiciously Sir.

M. A. Khan

Yours faithfully

M. A. Khan

UDC/RDSC

Sukla

Adm
20.11.91076

Dated. 21.XI.85

Anex - M

The Director General
R.D.S.O.,
Lucknow.

Sir,

Re: Joining of duty.

- Ref:- i) My representation dated 30.9.85 and subsequent several reminders there on.
- ii) Interview with Dy.DG on 13.11.85 and reminder on 19.11.85

With reference to my various applications/representations and subsequent interviews with the Dy.DG it may be stated that I have not been informed of any final decision so far.

2. You will appreciate my plight having a large family of 8 persons to support in such hard days. Particularly when I have exhausted all my savings during my prolonged illness, I have no other alternative than to request you that I may be allowed to resume my duties in view of having no apparant case against me. Sir, it may be mentioned that any further delay will put me to further mental agony and out of frustration there would be no other way left for me than to get the redressal through court of law for which I would request you to supply me all the relevant documentary papers leading to my removal from service, as already requested earlier and have discussed in person with Dy.DG, who had assured me to supply the same as earliest possible, to enable me to go through relevant documents, if any existed.

(S.U.Khan)
UDC

21.XI.85

Sukhan

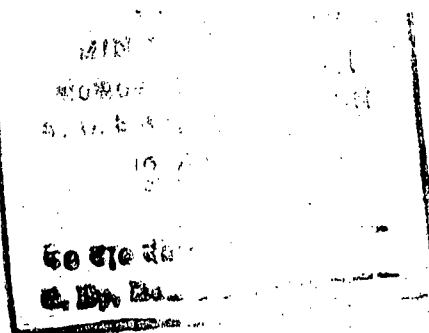
22 NOV 1985

13

Attested T.C.

[Signature]
24-9-86

22
The Director General,
R.D.S.O.,
Lucknow.



Anne - ~~A~~

(A36)

Kind attention of Shri T.S.Vardhaya/DG, RDSO.

Sub:- Issue of medical memo and joining of duty.

Ref:- Your memo No. APC/202 dt. 11/25-9-1985

Ref:- My representation dt. 30.9.85 and followed by several reminders.

(ii) My interview with Dy.DG on 13.11.85 and reminder on 21.11.85.

Sir,

In reference to my representation, I want to state that I have not received any documents or any reply so far. It is requested that you personally interfere in the matter and take and impartial decision/allow me to join my duty as early as possible.

Thanking you.

Dated. 26.11.85

Yours faithfully,

S. U. Khan
(S.U.Khan) 26.11.85

WDC / R.D.S.O./Lucknow.

Suleem

Attended T.C.

Adm

24-9-86

dh



भारत सरकार-रेल मंत्रालय
अनुसंधान अभिकल्प और मानक संगठन

Government of India—Ministry of Railways
RESEARCH DESIGNS & STANDARDS ORGANISATION

पत्र संख्या

Our Reference No. APC-202/Pt.

लखनऊ-226011-दिनांक

LUCKNOW-226011-Date 14.3.1986.

MEMORANDUM

While working as Upper Division Clerk in this office at Lucknow, Shri Shahabuddin Khan had been absenting from duty without notice. As a result of his continued long absence from duty, a charge sheet for major penalty was issued to him. The following charges were levelled against him in the aforesaid charge sheet:

- (a) Unauthorised absence from duty from 15.2.1983 onwards.
- (b) Habitual in remaining on long unauthorised absence thereby showing utter disregard to official discipline and to performance of official duties allotted to him.
- (c) Deliberately avoiding to give correct whereabouts during the leave period.

2. Subsequently, since the said Shri S.U. Khan failed to submit a written statement of his defence, Shri T.R. Gulati, Section Officer (Stenos) was appointed to enquire into the above charges framed against him, and the said Shri S.U. Khan was directed to present himself before the Enquiry Officer. Since the said Shri S.U. Khan failed to appear before the Enquiry Officer the Enquiry Officer had, therefore, to hold the enquiry ex-parte. The ex-parte report was submitted by the Enquiry Officer on 29.7.1983.

3. As Shri S.U. Khan had resumed duty on 2.7.1983, it was decided by the competent authority to give the said Shri S.U. Khan a personal hearing and consequently Memo No. APC/202 dated 2/5.9.1983 with all enclosures, was again given to him. The said Shri S.U. Khan was further advised by the Enquiry Officer that the enquiry against him would be held on 4.10.1983. Necessary advice for holding the enquiry was noted by the said Shri S.U. Khan on 3.10.1983 in File No. CBS/ESTT. The said Shri S.U. Khan had accordingly attended the said enquiry which was conducted by Shri T.R. Gulati, Section Officer (Stenos) on 4.10.1983. Necessary documents were supplied to Shri S.U. Khan and the enquiry report was submitted by the Enquiry Officer to the competent authority on 31.10.1983.

.../-

Sukhan

A30

4. The following charges were proved against him:
- (a) Unauthorised absence from duty from 15.2.83 onwards.
 - (b) Habitual in remaining on long unauthorised absence, thereby showing utter disregard to official discipline and to performance of official duties allotted to him.

Consequently, he was removed from service w.e.f. 29.3.1984 A.N. A copy of the Enquiry Report together with other connected documents is enclosed in seven sheets for his information.

5. Shri S.U.Khan, ex-UJC/RDSO has filed a suit in the Hon'ble Central Administrative Tribunal vide Registration No.37 of 1985 alleging that he is not being issued a Sick Memo to enable him to report to the Railway Doctor to obtain a Fit Certificate and join duty. In this connection, his attention is drawn to this office Memo No.APC-202 dated 9.12.1985 which was sent by Registered 'A.D.' post to his known address and which was received back from the postal authorities undelivered on 23.12.1985 with the remarks "avoid to take delivery". A copy of the said Memorandum No.APC-202 dated 9.12.1985 is also enclosed for his information.

6. The said Shri S.U.Khan is further informed that since his personal file which contained the original DA&R proceedings against him is not traceable, it has become necessary to reconsider the case on the basis of the enquiry report and other records available in this office.

7. On a careful consideration of the report submitted by the Enquiry Officer, Shri T.K. Gulati, Section Officer(Stenos), I am satisfied that reasonable opportunity was afforded to the said Shri S.U. Khan by the Enquiry Officer to defend himself. Further on a perusal of the records available in this office and the charges framed and proved against the said Shri S.U.Khan by the Enquiry Officer in the Enquiry Report, I am satisfied that the punishment of removal from service awarded to him by the competent authority w.e.f. 29.8.1984 A.N. was just and proper.

8. The undersigned has, therefore, come to the conclusion that the said Shri S.U. Khan is not a fit person to be retained in service and the undersigned has imposed on him the penalty of Removal from Service w.e.f. 13.3.1986 A.N.

9. The appeal against the abovementioned orders lies with the Director General, R.D.S.O. Lucknow and if the said Shri S.U.Khan wishes to prefer an appeal, he may do so within 45 days of the receipt of this Memo. The appeal should be self-contained and should not contain any disrespectful or improper language.

10. The receipt of this Memo alongwith enclosures should be acknowledged.

Encl: Copy of the Enquiry Report
in 7 pages and copy of Memo.
dated 9.12.85.

Shri S.U. Khan,
ex-UJC/RDSO,
A-53/4, 40. Quarters,
Alambagh, Lucknow. *Sukhn*

(N.K. Aggarwal) 14/3/86
Dy. Director General.

Added TC
for
AN
906

A39

**CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD**

(Court No. 1)

Registration No. 37 of 1986

Shahabuddin Khan vs. Union of India through Director General,
R. D. S. O., Lucknow.

Hon. D.S.Misra, Admn. Member

Hon. G.S.Sharma, Judicial Member

(Delivered by Hon.G.S.Sharma, Jdl.Member).

In this case under Sec. 19 of the Administrative Tribunals Act, the applicant has challenged the order dated 11.9.85 of his removal from service on various grounds. A notice was issued to the respondent to show cause as to why the application be not admitted for hearing. In reply to the notice the respondent has filed a memorandum dated 14.3.86 of the Deputy Director General, Government, of India, Ministry of Railways, Lucknow, removing the applicant from service with effect from 13.3.1986. The applicant impugned order of removal thus automatically stands set aside and the application has become infructuous and is liable to be rejected summarily.

2. During the pendency of this application this Tribunal had ordered on 20.1.1986 that in the meantime the applicant shall not be ejected from the official residence occupied by him at Lucknow. He later on moved an application before us stating that he was being forcibly evicted by the Estate Officer, RDSO, Lucknow in defiance of the order of the Tribunal, whereupon a notice was issued to the Estate Officer to show cause as to why suitable action should not be taken against him for the disobedience of the order of the Tribunal. In reply the Estate Officer has tendered an unqualified apology before us stating that no order of eviction was passed by him against the applicant and he had simply initiated proceedings under Public Premises (Eviction of Unauthorised Occupants) Act against the applicant and even the order initiating the said proceedings was cancelled on 27.2.1986 and he did not wilfully disobey any order of the Tribunal. We have considered over the matter. The apology tendered is hereby accepted and no further action is called for in this connection.

3. For the reasons discussed above, the application is summarily rejected.

Dated: 31.3.86

sd/-
Admn. Member

sd/-
Jdl. Member

Sudam

*Accepted & C.
from
24.9.86*

2.5.86

The Director General,
R.D.S.O.,
Lucknow.

Ref:-Your memo no. APC/202/Pt dated 14.3.1986.

Respected Sir,

I am compelled to state that the graver injustice could not have been perpetrated as in my case on the basis of fictitious and imaginary charges and contradictory orders.

Under the first letter of removal from service vide memo No. APC/202 dated 11.9.85 I was removed from service from 29.8.1984(AN). Yet this order was not cancelled at all, but a second and a fresh order dated 14.3.86 vide memo no. APC/202/Pt. was again served upon me removing me from service from 13.3.86(AN). I am at a loss to understand which order is the correct one and if the last order is correct, then why have I not been paid salary and other allowances till 13.3.86(AN) the date upto which even according to your office I was in service. Comming to the facts of the case I humbly submit as under:

1. I have taken 2 months leave from 15.2.83 for the treatment of my wife, duly sanctioned by the competent authority. During these two months since the condition of my wife deteriorated and became critical I sent an application for extension of leave duly supported by a medical certificate regarding the condition of my wife. My wife continued to struggle between life and death and as a result I had to sent a further extension till 1.7.1983, when I resumed back.

- an application for

2. Not a single letter was sent to me by your office indicating the resusal of my extension of leave. Had this been done, I would have joined my duty earlier inspite of serious sickness of my wife.

and 3. After I joined back, suddenly one day I was asked to note (to appear before an enquiry Officer on a certain date in connection with D&A enquiry.

4. After noting the letter I had immediately written back that I had not received any chargesheet accompanying documents and other relavants papers and that unless informed of the charges I will not be in a position to defend my self in the enquiry. I had also mentioned that failure to give me the charge memo, the article of charges etc. will be denial of opportunity to defend myself. Unfortunately there was no reply to (Opportunity) this letter of mine.

5. The whole story of an enquiry being held and the proceedings being drawn with my signature on the proceedings are totally false and pure manipulation. I would request you to call for the orginal records and proceedings and verify it by your goodself. The very same person who have manipulated the action against me, are instrumental in causing the file to dis-appear to cover their sins. I have not signed any enquiry proceedings, since I have not attended any enquiry.

Sukhan

Amneel T E
24.9.86

AM

6. I have completed 26 years of honest service and the baseless charges hurled at me in the Memo No. APC/202 dated 14.3.86 hurt an honest man as because.

i) I was not absent from 15.2.83 but had proceeded on leave for two months having been sanctioned.

habitual
ii) The charge of ~~actual~~ absence is totally incorrect as my leave had been already sanctioned through it was without pay at times.

iii) Most humbly and respectfully it is stated that according to your memo No. APC/202 dt. 14.3.86 I feel the punishment given to me is disproportionate to the alleged baseless charge.

For the reasons stated above and keeping in consideration that I have four un-married college going daughters and family to support at this old age. I humbly appeal to your goodness to kindly review my case and show your kind mercy by cancelling the penalty of removal from service as imposed upon me.

I and my family members shall always be thankful for this kind of actness.

With great regards. Thanking you Sir.

Yours faithfully,

Dated. 2.5.86

S. U. Khan
(S. U. Khan.)
UDC/R.D.S.O/LKO.

Sukhan

MAILED
24.5.86

तार : रेलमानक-लखनऊ

Telegrams : RAILMANAK-LUCKNOW



28

टेलीफोन

Telephones

[50567 & 50017

REGISTERED AD

Anex - R

भारत सरकार—रेल मंत्रालय

अनुसंधान अभिकल्प और मानक संगठन

Government of India - Ministry of Railways

RESEARCH DESIGNS & STANDARDS ORGANISATION

पत्र संख्या

Our Reference No. APC-202/Pt.

लखनऊ-२२६०११ दिनांक

LUCKNOW-226011 Dated

20.6.1986.

MEMORANDUM

With reference to his appeal dated 2.5.1986 and interviews with the Director General on 10.6.1986 and 11.6.1986, Shri S.U.Khan, ex-UDC/RDSO is informed that his appeal has been carefully considered by the Director General and the same has been rejected.

(N.K. Aggarwal)

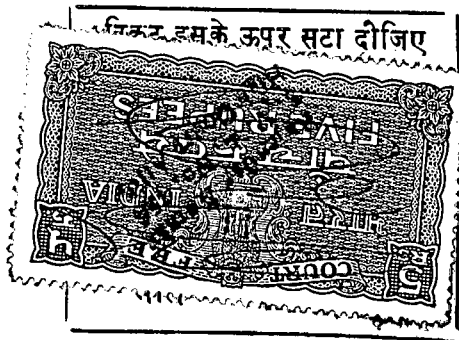
Dy. Director General.

Encl: Nil.

Shri S.U. Khan,
ex-UDC/RDSO,
A/53A, 40 Quarters,
Alambagh,
Lucknow.

Suklan

Attested
24-6-86



29

AUB

न्यायालय

Before the Central Administrative Tribunal

विवाद अभियोग सं० सन् १९

बादी / प्रार्थी / अपीलान्त सन् १९

Shahabuddin Khan बनाम U.O. 9

प्रतिवादी / विपक्षी / रिस्पाण्डेंट सन् १९

मैं / हम कि Shahabuddin Khan against

80 Late Mr. A.M. Khan HD A.S. 3A 40

हमको उपरोक्त अभियोगवाद् नाबिस नम्बरी अपील
जवाब दावा निगरानी

दरखास्त इजरा इस्तगासा विवाद में पुनर्विचार दाखिल करना व पैरबी करना
दरखास्त तजबीवखानी जवाबदेही
आवश्यक है, अतएव अपनी स्वेक्षा और प्रसन्ता से पूरा और निश्चित हुआ परिश्रमिक देने
की प्रतिज्ञा करके श्री युत् Vinay Kumar Sonar

एडवोकेट
अपना वकील नियुक्त करके प्रतिज्ञा करते हैं कि वकील साहब इस
मुख्तार
अभियोग विवाद से प्रारम्भिक न्यायालय से हाईकोर्ट तक जो पैरबी प्रयत्न व प्रश्नोत्तर
लिखकर या मौखिक करें और जो आवश्यक पत्र दस्तावेज दाखिल करें या वापस ले लें
प्रार्थना-पत्र सन्धि-पक्ष अपने दखलत दाखिल करके प्रमाणित करे प्रमाण-पत्र साक्षी व
सुपुर्द छाछसी व दखलत-गरदारी इत्यादि को गुजरावे या प्रमाणित करें या हमको मिलने
वाली नगद रुपया हमारी ओर से रसीद लिखकर और अपना हस्ताक्षर बनाकर प्राप्त करें
व जमा करें, रकम तछयाना फीस जमीन या दूसरे प्रकार का रुपया इस अभियोग विवाद
के प्रति प्राप्त करें, प्राप्तगी की रसीद दें तात्पर्य यह है कि जो कुछ प्रश्नोत्तर तर्क प्रयत्न
आदि का पैरबी करने के

एडवोकेट
सभी कार्य वकील साहब का हमको हर प्रकार से स्वीकार व मंजूर होगा और उनके
मुख्तार
द्वारा मैं इस स्वीकृत कार्यों के समान बाध्य हूंगा / होगे इस कारण वकाळत मुख्तारनामा
लिख दिया कि वक्त पर काम आवे तथा प्रमाण रहे।

लिखने की तिथि महोना सन् ई०

नोट :—जिस कार्य के लिए एडवोकेट, दकील, मुख्तार नियत करना। उसे लिखकर
व असम्बद्ध शब्द काट देना चाहिए।

हस्ताक्षर Shahabuddin Khan

अदाखत
इन्तदाई नम्बर सन् १९
नाम से

साक्षी
साक्षी

In the Hon'ble Administrative Tribunal

Addl. Bench, Allahabad

Registration No. 516 of 1986

Sahabuddin Khan

..

Applicant

V/s

Union of India through ..
Director General/RDSO,
Lucknow

Respondents

COUNTER AFFIDAVIT TO THE PAPER BOOK
ON BEHALF OF OPPOSITE PARTIES

I, Prem Nath Kapoor s/o Shri Amar Nath Kapoor
aged about 54 years resident of C-8/2, Manak Nagar,
Lucknow-226011 do hereby solemnly affirm and state
as under:-

1. That the Deponent is Dy. Director (Estt.)-II,
Research Designs & Standards Organisation, Deptt. of
Ministry of Railways, Manak Nagar, Lucknow and as such is
fully competent to affirm the contents of this
Affidavit on behalf of Respondents.
2. That I have read the petition filed by the
Petitioner.
3. That the facts stated in paragraphs 6(i) to(iii)
are not disputed.
4. That in reply to paragraphs 6(iv) and (v) of the
petition, it is stated that the Petitioner was promoted
to the post of UDC on 7th June, 1973 and was confirmed
as such on 23rd April, 1979.
5. That in reply to paragraph 6(vi) of the petition,
it is stated that the Petitioner was absenting himself
from duty with effect from 17th November, 1980. However,
on account of his seniority position he was promoted
to officiate as Assistant in the scale Rs. 425-800(RS)

.../-

425

with effect from 8th Jan., 1981. The Petitioner continued to absent himself and the promotion order was cancelled on 5th Feb., 1981 and this promotion was thus never given effect to.

6. That the allegations made in Para 6(vii) of the petition are denied. The Petitioner did not proceed on leave after obtaining the sanction from the Competent Authority from 15.2.1982. The Petitioner's absence was unauthorised from 15.2.1982 to 1.7.1983. Petitioner, however, reported for duty on 2.7.1983. Annexure 'A' filed along with the petition does not appear to be a genuine document. The Petitioner was asked to produce the original of Annexure 'A' of the petition by the Appellate Authority during his interview on 10.6.1986 and he promised to produce the same the next day, but did not produce the original on the pretext that they have been eaten away by white ants.

✓ with the
Director
General

In this connection it is also stated that the Memo at Annexure 'A' of the petition is sent only to the Section concerned in which the employee is working for information and record and it is never sent to the employee concerned. This is another reason to show that Annexure 'A' does not appear to be a genuine document.

Under the delegation of powers, Dy. Director was competent to sanction privilege leave for a period of four months only. Leave beyond this period was to be sanctioned by Head of Department. Leave without pay for a period of one year is not sanctioned ordinarily as made out by the petitioner. This is yet another reason to show that Annexure 'A' does not appear to be a genuine document.

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- 3 -

7. That the allegations made in paragraph 6(viii) of the petition are again incorrect and denied. As stated, the Petitioner was not granted any leave from 15.2.1982 to 13.4.1983. As such the question of his being granted extension of leave beyond 13.4.1983 did not arise. The Petitioner was not granted any leave from 15.2.1983 to 13.4.1983 and Annexure 'B' of the petition also does not appear to be a genuine document. It is, on the face of it, not worthy of any reliance.

8. That in reply to paragraph 6(ix) of the petition, it is stated that the Petitioner resumed duty on 2nd July, 1983 and he was served with a charge sheet and the charges against the Petitioner were:-

- (1) Unauthorised absence from duty from 15.2.1982 onwards;
- (2) Habitual in remaining on long unauthorised absence thereby showing utter disregard to official discipline and to the performance of official duties allotted to him; and
- (3) Deliberately avoiding to give his correct whereabouts during the leave period.

That the Inquiry Officer gave full opportunity to the Petitioner during the enquiry. A photo copy of the minutes of the enquiry held at 11.00 hrs on 4.10.1983 is attached as Annexure-I.

That thereafter the Petitioner again absconded. He, however, sent applications for leave on 5.12.1983 and 21.12.1983 as will be clear from Annexures-'D' and 'E' of the petition. He was, however, removed from service with effect from 29.8.1984 (AN).

9. That in reply to paragraph 6(x) of the petition, it is stated that since the Petitioner had already been

.../-

427

- 4 -

removed from service, there was no question of his being given any sick memo etc. for getting fit certificate from Railway Doctor for resuming duty.

10. That the allegations made in para 6(xi) of the petition are not admitted. Since the Petitioner had been removed after regular departmental enquiry in which he participated, there was no question of his being allowed to resume duty and he was advised accordingly vide Annexure 'H' of the petition.

11. That in reply to paragraph 6(xii) of the petition, it is stated that the petitioner was again advised regarding his removal from service by Registered AD letter at his home address vide Memorandum No.APC-202 dated 9.12.1985 which was received back undelivered on 23.12.1985 with the remarks "avoids to take delivery".

12. That in reply to paragraph 6(xiii) of the petition, it is stated that the Petitioner filed a petition in the Hon'ble Tribunal and a copy of the petition was served on the Respondent on 20.1.1986 and then file relating to the Disciplinary Enquiry against the petitioner was searched out and it was found that it had been lost/stolen/removed. The Disciplinary Authority, therefore, passed fresh order of removal from service with effect from 14th March, 1986 on the basis of the material and record available. A copy of the order of removal dated 14.3.1986 has been attached along with the petition as Annexure 'O'.

In view of the order of removal dated 14.3.1986, in which it was specifically mentioned that the Petitioner can prefer an appeal against the order of removal, the petition was dismissed as premature.

13.

.../-

AND

13. That the allegation made in paragraph 6(xiv) of the petition are denied. There was nothing mischievous on the part of Respondent by issuing order of removal dated 14.3.1986. The order of removal dated 14.3.1986 specifically mentioned that the file of the Petitioner's case is not traceable and it has, therefore, become necessary to reconsider the case on the basis of Inquiry Report and other records available in the office.

14. That in reply to paragraph 6(xv) of the petition, it is stated that the Petitioner was absent unauthorisedly from 15.2.1982 to 1.7.1983 and no leave was sanctioned. The Petitioner did not apply for any extension and as such the question of extension did not arise.

As regards the second charge, the Petitioner was in the habit of absenting himself unauthorisedly. However, even assuming for the sake of argument that this charge has not been met out, even then the Petitioner can be removed from service on the basis of the first charge.

15. That in reply to allegations made in paragraph 6(xvi) of the petition, it is stated that the original record of the disciplinary proceedings are untraceable and Annexure-I of this reply is the copy of the Inquiry Proceedings which has been kept by the Inquiry Officer in his file. A statement from the Inquiry Officer in the Petitioner's case, verifying the above is attached as Annexure-II.

16. That in reply to paragraph 6(xvii) of the petition, it is stated that there is no question of the file being manipulated by the Director General/RDSO, Lucknow. No official has personal enmity against the Petitioner and

.../-

therefore, there is no reason why the file should be manipulated.

17. That in reply to paragraph 6(xviii) of the petition, it is stated that the alleged sickness of the Petitioner is not borne out by any material on the record. He did not submit any application for his absence and the certificates which are alleged to have been filed by the Petitioner, on the face of it, appear to be manipulated and forged documents.

18. That in reply to paragraph 6(xix) of the petition, it is stated that the Petitioner has preferred an appeal which was rejected by the Director General. A photo copy of the orders passed by the Director General on the appeal is attached as Annexure-III to this reply.

19. That in reply to paragraph 7 of the petition, it is stated that the petition is devoid of any merits and liable to be dismissed.

20. That in reply to paragraph 8 of the petition, it is stated that the Petitioner has been removed from service and therefore, there is no reason why any Stay order be passed on the petition.

Dated: 27.11.1986

Deponent

Lucknow.

By, Director (Estt.) - I.L.

उप निदेशक (स्थापना) - II

Verification

R. D. S. G. (Ministry of Railway)

I, the above named deponent do hereby verify

LUCKNOW.

that the contents of paras 1 to 5 of the affidavit are true to my own knowledge, the contents of para 6 are true to knowledge derived from the office records. No part of it is false and nothing material has been concealed. So help me God.

Lucknow

Dated: 27.11.1986.

Deponent

By, Director (Estt.) - I.L.

उप निदेशक (स्थापना) - II

R. D. S. G. (Ministry of Railway)

40

ASO

From a perusal of papers and documents produced before me by the deponent, I am satisfied that the person making this affidavit is the very person and he has himself signed this affidavit.

Advocate

Report of Enquiry held on 4.10.1983,
against Shri S.U.Khan, UDC, under
D&A Rules, in Room No.229 of Admn.
Building of RDSO, at Lucknow.

(AS)

In pursuance to Sr. Dy.DG's orders vide his noting of 30.8.1983 at page 29/n of File No.APC/202 of Shri S.U.Khan, UDC, in order to give him the personal hearing though report of enquiry held ex-parte was submitted on 29.7.83, of which no cognisance has been taken as Sh. Khan joined duty on 2.7.83, A Memo No.APC/202 of 2/5.9.83 with all enclosures was again given to him because the earlier one sent by post was received back undelivered. The ex-parte enquiry was held on 25.7.1983.

2. After studying the papers in connection with the holding of enquiry, the proceedings were held on 4.10.83 and thereafter the case was studied further with a view to recording the findings of the enquiry.

3. Memo No.APC/202 of 2/5.9.83 was issued by me to Shri S.U.Khan, UDC, directing him to attend the enquiry at 11 hrs. on 4.10.1983 in Room No.229 of Administrative Building of RDSO at Lucknow.

4. Before the start of the enquiry, Shri S.U.Khan was given the opportunity to study the charges framed against him by the RDSO Admn. to enable him to prepare himself for the same, which he did in my presence. He was also given the offer to see any papers in the file, if he so desired, or seek the help of/consult anyone in the defence of his case, which he did not avail.

5. Shri S.U.Khan was asked if he accepted all the charges framed against him, which he did not fully and wholly. The enquiry was then proceeded with connected charges mentioned in the Memo No.APC/202, dt.2/5.9.83 giving due consideration to his reply of 12.9.1983.

6. The proceedings of the enquiry were simultaneously recorded which Sh.S.U.Khan signed in token of acceptance and a copy of the same was given to him. *Minutes, as Annexure I, attached.*

7. BASED ON:-

- i) Official records made available by the RDSO Admn. in the shape of personal file and leave record of Sh.S.U.Khan;
- ii) Memos issued to Shri S.U.Khan and received back impressing upon him the urgency to join duty immediately because of his leave having not been sanctioned;
- iii) not giving his movement during absence from duty from time to time;
- iv) on reference to the old leave record;

Pruman
22.11.86

contd....

TVE Rg

Minutes of the enquiry held at 11.00 hours on 4.10.83
in Room No. 229 of Administrative Building of RDSO against
Shri S.U.Khan, UDC, RDSO.

(ASU) 1/1

Before the start of the enquiry, the Enquiry Officer
afforded the opportunity to Sh. S.U. Khan to see any docu-
ments in his personal file with the Admn., if he so desired
as, also he went through the charges levelled against him,
copy of which was supplied to him.

Question:

Answer:

For the questions put & answers given, please
see the attached Annexure 'A' Consisting of
4 Pages numbered 1 to 4 & duly signed by us.

Sd-
4-10-83
(T.R.GULATI)

Sd/-
(S.U.Khan)
4-10-83

Received one Copy Sd/-
4-10-83
(S.U.Khan).

1. Is it a fact that you requested for the grant of leave from 15-2-82 to 5-3-82 due to domestic circumstances on 18-2-82, and gave your leave address as 53-A, 40 Grs. Alambagh, Lucknow ?
Yes please.
2. How is it that while remaining at Lucknow you could not submit your application on 15-2-82 itself
I do not remember why I could not submit application well in time.
3. From your application dated 18-2-82 which was received in this office through R&D section it appears that you were not in Lucknow from 15-2-82 onwards.? What have you to say?
I do not remember exactly.
4. Is it a fact that you left Lucknow on 15-2-82 itself, and applied for leave from out station
I do not remember exactly.
5. Being a 24 hour Government servant you cannot leave the Headquarters as per rules. Do you know this ?
Yes please.
6. (i) Did you obtain permission before leaving Headquarters ? (ii) If not, do you accept lapse on your part ?
(i) No please.
(ii) Yes please.
7. Could you tell me where you had been from 15.2.82 onwards ?
In my native place Sherpur(Pilibhit)

Sd/- 4/X
(F.R. GUIATI)

Sd/-
(S.U.Khan)

Contd.....

18. Any proof to substantiate ?

ANNEXURE-I.

Yes I lodged a complaint with S.P. Pilibhit and I will submit a copy of such a report shortly. I was given a police party for the protection of self and family.

No Since I was always on the move for the safety reasons I could not received any communications.

19. If I put to you that you had been deliberately avoiding to receive communication sent by this office not due to the domestic reason but due to certain other reasons, what have you to say ?

20. What have you to say regarding your long absence from duty and the loss suffered by the Government?

I regret very much for the inconvenience caused to the Administration.

21. If I put to you that you have no interest in your duties or office work entrusted to you, What have you to say?

I have done my best when on duty and did work entrusted to me.

22. Your house collapsed and you were in Sherpur to repair. Have you any documentary proof from Municipal authority or Village Panchayat?

Yes. My house collapsed and is still in damaged condition. It was partly repaired. I have no proof in support.

23. You sent to office letter/applications for extension of leave from Sherpur. Is your Sherpur address given to Administration sufficient for our letters to reach you?

Yes please.

24. Why did our letter not reach you when the address given was completed and sufficient for any communication to reach you ?

While on the run from one place to another I managed with my neighbour to receive all the letters and keep them till my return to the village. Unfortunately the neighbour became influenced by the opposite party and did not receive my letters, that may be the reason why I did not received the letters. I do not remember. Some time they were there, as I received two letters of 7.4.82 and 29.06.82 through my family.

25. Were none of your family members at Sherpur, whenever this office sent the letters?

Sd/-
(P.R.Gulati)
4.10.

.....
Sd/-
(S.U.KHAN)

The Enquiry Officer,
RISO, Lucknow.

in 18/3
ASU
Annexure - II
Bye 1
Dated: 20.10.33.

Ref: Enquiry held on 04.10.1933.

Sir,

In reference to the enquiry held on 4.10.33 as per item 13, I am submitting a spare copy of the complaint lodged to Police (Civil) authority.

DA-One copy.

yours faithfully,

S/-

(S.U.Khan)
Dt. 20.10.33.

....


A55

Statement from Shri T.R. Gulati, Section Officer
RDSO/Lucknow, Inquiry Officer in the D&A Rule
case against Shri S.U. Khan, ex-UDC/RDSO.

It is solemnly affirmed that I was the Inquiry Officer nominated by the Sr. Dy. Director General, RDSO, Lucknow in the Discipline & Appeal Rule case against Shri S.U. Khan, ex-UDC, Petitioner in Case No. 516 of 1986 before the Hon'ble Central Administrative Tribunal, Allahabad Bench, in which Shri Khan was issued a charge sheet containing the following charges:-

- (1) Unauthorised absence from duty from 15th Feb., 1982 onwards;
- (2) Habitual in remaining on long unauthorised absence thereby showing utter disregard to official discipline and to the performance of official duties allotted to him; and
- (3) Deliberately avoiding to give his correct whereabouts during the leave period.

2. After submitting the original to the Disciplinary Authority, I had a copy of the Enquiry Proceedings in my file and the Annexure-I to this reply is the photo copy of the copy available in my file. Annexures to the Enquiry Proceedings were duly signed by the Petitioner and these are true copy of the original record. The Petitioner personally attended the enquiry on 4.10.1983 and signed the proceedings.


(T.R. Gulati) 27.11.86
अनुभाग अधिकारी (आशुलिपिक)
प्रनुसंधान अधिकरण और मानक संगठन
(रेल मंत्रालय)
मानक नगर, लखनऊ-226011

In accordance with Shri S.U.Khan's request for personal hearing (SN 33) and correspondence thereafter ending with his letter dated 15.5.86 (SN 38), Shri Khan was granted a personal hearing on 10.6.86 a.n.

2. He had nothing to say about the merits of the case but merely requested for him to be pardoned this time in view of the difficulties which his four daughters would face in view of the punishment imposed.

3. In order to confirm that the representation at SN 36 was his, he was shown his signatures on the letter at SN 36 and asked whether they were his and when ~~xxx~~ he confirmed that it was so, he was asked why these signatures are different from the ones that are available in his letters at SN 31 and 32 and his earlier signatures. He told that he has changed his signatures but could not answer why he should put signatures differently at different times.

4. On further enquiry he produced a photostat copy of a Memo sanctioning him leave for 2 months from 15.2.83 to 13.4.83. When asked for the original, since his files in RDSO are missing, he promised to bring the original the next day.

5. He was again given a personal hearing on 11.6.86 a.n. when he told that he could not produce the original Memo as it has been eaten away by white ants. He, however, produced another photostat copy of the LWP sanctioned to him for 1 year from 15.2.82 to 14.2.83. He, however, could not produce the original for this also for the same reason as he stated for the earlier sanction.

6. He repeatedly requested for only pardon in view of his four daughters. He was told that his performance had been consistently bad from 1966 onwards as seen from SN 267, 311, 327, 369 and 375 and his CR folder pages 7, 11, 14, 17, 20, 37 and 44 from which it is seen that he had removed an office typewriter unauthorisedly in 1966 and was on unauthorised absence repeatedly.

7. From the papers in the reconstructed file, I find that although the Enquiry Officer had asked him on 04.10.83 questions about his absence from 15.2.82, in his Enquiry Report, he had mentioned the date of unauthorised absence from duty from 15.2.83 onwards. This appears to be a mistake but cannot be verified because his original papers have been lost. However, it is seen from the Attendance Register for that period, which is available, that he was absent from 15.2.82 onwards.

8. Shri S.U. Khan had also appealed to the Central Administrative Tribunal, Allahabad, against the punishment given to him where his appeal had been dismissed.

9. Having carefully considered his overall performance and the specific charges which have been proved in this case for which he has been removed from service, I do not see any reason for either reducing or cancelling the punishment, which I consider just and reasonable.

Alusled

Berman
27.11.86

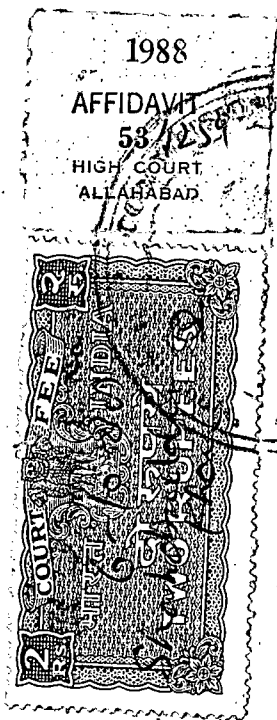
...17

of File Listed
APC-202 at 21.34
Vol.II

R.A.
AST

In the Hon'ble Additional Administrative Tribunal,
Additional Bench, of Lucknow.

Registration No. 516 of 1986



Shahabuddin Applicant.

Versus

Union of India through Director General,

R. D. S. O. Lucknow. Opposite party.

Rejoinder Affidavit to the counter Affidavit.

I, Shahabuddin Khan, aged about 45 years, son of Shri A. U. Khan, resident of A-53/A Forty quarters Railway Colony Alambagh, Lucknow, do hereby solemnly affirm and state as under :-

1. That the applicant has read the counter affidavit filed by the respondent and understood its contents.

2. That in reply to para 6 of the respondent's counter affidavit, it is stated that the petitioner never promised to produce the original. It was clearly told that the original papers had been eaten away by white ants, if the petitioner was absent from 15.2.82 to 1.7. 1983 as stated by the respondent, the onus of producing the documentary evidence to that effect lies on them.

Recd Copy
7-10-88
at 10.25 AM

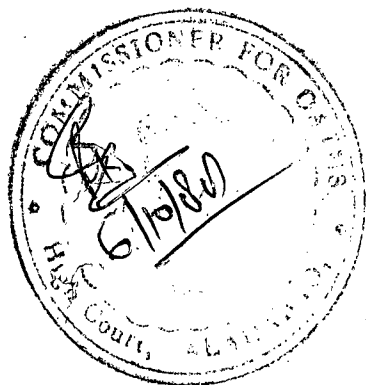


Shahabuddin

ASD

(2)

Again para 6 of the counter affidavit is denied as the sanction of leave on average pay is always intimated to the party/ section concerned and annexure A and B is the only proof of it. In respect of the para 6 it is further stated that no doubt Deputy Director is competent to sanction leave only for four months but the sanction of leave is always intimated under the signature of the Deputy Director though the sanction has been given in the file by the head of the department and this is exactly what happened in this case also. The respondent is not categorical that the document is not genuine but only states that it does not appear to be genuine document. The whole argument is proved false as the respondent has not been able to produce any document to prove that the petitioner was not on any leave.



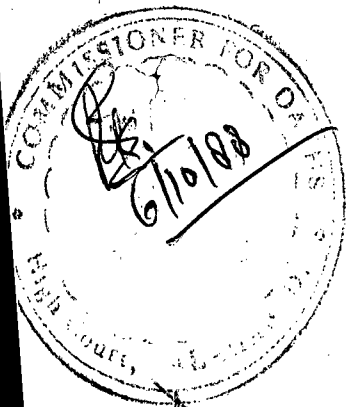
Abubakarudin

3. That in reply to para 6 of the respondent's counter affidavit, it is further stated that the same argument of not appearing to be genuine does not hold good. Appearance and facts are different. The respondent has produced no document to prove his argument, whereas the petitioner has produced a Photostat copy of the same.

ASA

(3)

4. That in reply to para 6 of the respondent's counter affidavit it is again stated that no charge-sheet was ever issued to the petitioner. Only an intimation of the so-called enquiry was got noted by the petitioner. But on the same day the petitioner replied vide his letter dated 30.9.1983 challenging the legality of the intimation when no charge sheet had been served, no allegation had been made against the petitioner and no documents in support of the allegations had been served nor the petitioner was given any opportunity to defend himself. Again no reply was given of this letter to the petitioner by the respondent. It is also denied that any enquiry was ever held. The whole thing said in para 8 is a figment of imagination and not a fact. The documents produced by the respondent do not prove the truthfulness of the fact that the enquiry was held. In every sheet of the enquiry proceedings the enquiry officer, the delinquent, the defence counsel and the witnesses are all required to sign but in the copy of the proceedings produced by the respondent, it is only marked "signed" and the name of the petitioner and the enquiry officer are written under-neath. The Photostat copy of the proceedings if it is genuine should bear the signature of both the petitioner and the enquiry officer. In the absence of signature it is fully established that the



Shri. K. S. Kulkarni

1160

(4)

documents of the so-called enquiry are not genuine and no enquiry was ever held at all.

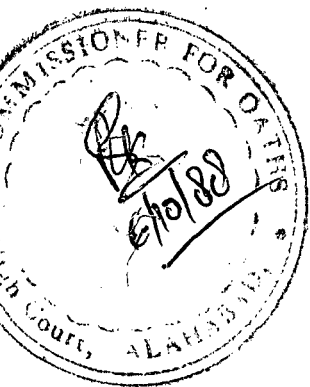
5. That in reply to para 6 of the respondent's counter affidavit it is added that the petitioner was removed from the service twice without any proof in violation of the principles of natural justice.

6. That in reply to para 6 of the respondent's counter affidavit, it is again submitted that it is incorrect and denied that the enquiry had been done as the respondent has not produced the genuine proceedings otherwise the petitioner's signatures would have been there, Since there was no enquiry, the petitioner was terminated illegally and was illegally refused to join duty.

7. That in reply to para 6 of the respondent's counter affidavit it is again denied that any registered letter was received by the deponent.

8. That in reply to para 6 of the respondent's counter affidavit, it is again stated that the story of file having been lost is false and is only to colour up the illegality of the orders of removal.

9. That in reply to para 6 of the respondent's counter



Shahabuddin

126

(5)

affidavit it is again stated that the second order is also illegal as the procedure laid down under D. & A Rules have not been followed. The documents i. e. the enquiry report and other records mentioned are not genuine and are fabricated as on none of them the petitioner's signature are found, which has to be there if there are any proceedings at all. Again it is contradictory to say that on the one hand the file is lost as stated and yet some records which are supposed to be part of the file are produced.

10. That in reply to para 6 of the respondent's counter affidavit it is again stated that the applicant had been sanctioned leave vide letter No. APC/232 dated 14.2.83 and then the petitioner had asked for extension on the ground of serious sickness of his ailing wife. The second charge is baseless.

11. That in reply to para 6 of the respondent's counter affidavit, it is stated that in the absence of original records nothing is proved. The copy of the enquiry proceedings produced do not bear the petitioner's signature and as such are not genuine, nor do they bear the enquiry officer's signature.

12. That until the original documents are produced which are in possession of the opposite parties they can no



Arivalathan

(6)

make any claim to have established any charge against the deponent.

13. That in reply to para 6 of the counter affidavit it is stated that the respondent has wrongly alleged that the documents of the deponent are manipulated in any manner. There are sufficient documents on record to establish leave of the deponent.

14. That because only paras 1 to 6 of the counter affidavit have been verified the rest of the paras do not form part of the counter affidavit and need no reply in the rejoinder affidavit.

15. That the petitioner has been removed unlawfully and in violation of the principles of natural justice and D A. rules and out of malafides.

Lucknow

dated 06.10.88.

Shahabuddin
Deponent.

L. T. I of the deponent.

Verification :-

I, the above named deponent do hereby verify that the contents of paras 1 to 15 of the affidavit

....7....



A63

are true to my own knowledge.

Nothing is wrong in it and nothing material
has been concealed. So help me God.

Lucknow

dated 06.10.88.

Ashahabuddin
Deponent.

L. T. I. of the
deponent.

I, identify the deponent

who has signed before me.

Badar Chaudhary
Advocate. 6/10/88

Solemnly affirmed before me on 6-10-88
at 12.00 A. M. / P. M. By the above

named deponent who has been identified by xxx Clerk
to Shri *Badar Hakeem*
Advocate High Court of Allahabad (Lucknow Bench)
Lucknow.

I have satisfied myself by examining the
deponent that he understands the contents of this
affidavit which are read out and explained by me.



Chaudhary
F. R. Chaudhary
OATH COMMISSIONER
High Court, Allahabad.
Lucknow Bench

No. 53/1259
Date 6/10/88

0/9

CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No. 516 of 1986

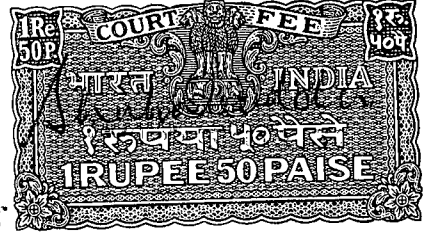
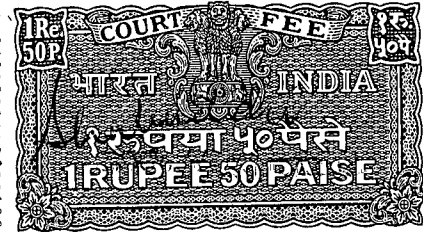
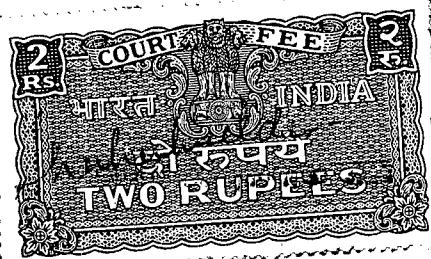
APPLICANT (s) Shahabuddin Khan

RESPONDENT (s) Union of India through Director General Research

Design and Standard Organisation Lucknow

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, 6 sets 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 [Annex H & O]
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 by Advocate

Before the Central Administrative Tribunal (Delhi Bench), DCO. महोदय
 ब अदालत श्रीमान (Delhi Bench), DCO. महोदय
 [बादी] अपीलान्त ✓ श्री Sahabuddin Khan का वकालतनामा
 प्रतिवादी [रेस्पान्डेंट]



Sahabuddin Khan

मुकदमा नं० Union of India बनाम प्रतिवादी (रेस्पान्डेंट)
 सन् पेशी की ता० 29-1-1992 ई०
 TAYO 516-86(T)
 ऊपर लिखे मुकदमा में अपनी ओर से श्री R. C. Saxena

Advocate, High Court.

वकील
 महोदय
 एडवोकेट

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवें या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा छपर मुकदमा अदम पैरवी में एक तरफ मेरे खिन्नाफ फंसला हो जाता है उसको जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर Sahabuddin

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक 29 महोना 1 सन् 19 ई० 92

Reg. No. 516 of 1986
 Central Administrative Tribunal
 Additional Bench
 ALLAHABAD PATNA, JALPAIGURI
 Date of Filing ... 24.9.86 ... OR
 Date of Receipt by Post

(B3)

Pr Chandan
 Deputy Registrar.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD

INDEX

BETWEEN

SHAHABUDDIN KHAN-----Applicant

&

Union of India, through Director General - Respondent

&
 others *a*

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3	List of enclosures		6
4	All enclosures (1 to 28)	7	- 28
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B4

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH
ALLAHABAD.

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNAL ACT-85
BETWEEN

SAHABUDDIN KHAN.....Applicant.
&

UNION OF INDIA THROUGH DIRECTOR GENERAL.....RESPONDENT

- 2. ~~SHRI N.K. AGARWAL DY.D.G.~~ 3
- 3. ~~SHRI T.S. VARDYA EX.D.G.~~ 0

DETAILS OF THE APPLICATION

1. PARTICULARS OF THE APPLICANT.

- (i) Name of the applicant.....Shahabuddin Khan.
- (ii) Name of the FatherL. Shri A.U. Khan.
- (iii) Designation and office.....Upper Dn. Clerk
in which employed. Research Designs and Standards Organisation
Manak Nagar, Lucknow-11
- (ix) Office address. As above,
- (v) Address for service of all notices. A/53/A Forty Quarters
Rly. Colony, Alambagh, LKO

2. PARTICULARS OF THE RESPONDENT.

- (i) Name of the respondent or designation. 1. Director General.
2. Dy. Director General 3
3. ~~Shri T.S. Vardya~~ 0
EX-Director General. 2
- (ii) Office address of the respondent. 1-2-2-2
Research Designs and Standards Organisation
here called R.D.S.O/Lucknow.
- (iii) Address for services of all notices. 0 (3) 3-3 Kumbha Marge, Sukharia Circle, Udaypur
Director General R.D.S.O
Manak Nagar/Lucknow-11

PARTICULARS OF ORDERS AGAINST WHICH
THE APPLICATION IS MADE.

- i) Order No. APC/202 APC/202/Pt.
- ii) Date. 11.9.85 14.3.86
- Passed by DG Dy.DG

Subject in brief.....Removal from service.

The application is against
the following orders:

(105)

(11) ~~Subject in brief.~~

Removal from service.

4. JURISDICTION OF THE TRIBUNAL.

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

5. LIMITATION.

The applicant further declares that the application is within the limitation prescribed under section 21 of The Administrative Tribunal Act-1985.

6. FACTS OF THE CASES.

(i) The petitioner was selected as Ticket Collector from Railway service Commission but there being no vacancy of Ticket Collector he was absorbed as Office Clerk in Grade 60-130 in Divisional Supdt. Office/Allahabad on 29.12.1959.

(ii) In 1960 petitioner was transferred to the Office of the General Manager/Northern Railway, H.Q./New Delhi.

(iii) In 1962 petitioner was transferred to RDSO/Simla and thereafter as a result of shifting of the above office the petitioner came to Lucknow and since then he is continuing there.

(iv) In 1972 the petitioner got promotion and posted as Upper Divisional Clerk in scale of Rs.130-360(As)

(v) In 1978 the petitioner was confirmed as Upper Division Clerk.

(vi) In ¹⁹⁸¹1981 the petitioner was again promoted as Office Assistant in scale of Rs.425-800 against leave vacancy but after filling up of the said vacancy by UPSC candidate the petitioner was reverted back to his original post of Upper Division Clerk

Q (vii) ~~On 3rd December/1983, it being Saturday, the petitioner~~
~~went to his native~~ place to see his ailing brother, but

BSE

(vii) On 15.2.82 the applicant proceeded on leave after getting it sanctioned by the competent authority. Leave was sanctioned from 15.2.82 to 14.2.83 vide DDE's note No. APC/202 dated 15.2.82 (Annex... *A. at page 9*)

(viii) Since the problems for which the applicant had taken leave had not been solved but the situation had been more aggravated by the sickness of applicant's wife. The applicant had to apply for further extension of leave. This extension was also sanctioned for the period from 15.2.83 to 13.4.83 vide DDE's Note No. APC/202 dated 14.2.83 (Annex... *B. at page 10.*) Thus from 15.2.83 to 13.4.83 leave had been fully sanctioned by the competent authority. Again after this date of 13.4.83 and since the applicant's wife was struggling for life and was on death bed. The Applicant sent an application dated 10.4.83 for further extension along with medical certificate. Normally when leave is not sanctioned the refusal is communicated to the party concerned, but since no refusal was communicated and the circumstances under which the applicant was compelled to take extension made the applicant to understand that leave will be sanctioned. Under this impression the applicant continued on leave till 1.7.83 and resumed on 2.7.83 (FN). *(Annex C at 11)*

(ix) On third December being Saturday applicant took permission to leave HQ to see his ailing brother at his native place but most unfortunately he himself fell ill due to his brother's high infection. The applicant consulted Govt. Doctor and informed his office about his sickness through application dated 5.12.83 (Annex... *D. at page 12.*). The applicant continued on sick list till 22.8.85 and the office was regularly informed through applications.

Dr

- (x) After recuperating from illness and being declared medically fit the applicant submitted his arrival report along with all medical sick/fit certificates on 23.8.85 to his employer i.e. DG/RDSO, Lucknow and asked for medical memo to be produced to the Divisional Medical Officer/RDSO, Lucknow for counter-signature (Annex. F at page 14; Reminder dt 29.8.85 (Anex-G) at page 15)
- (xi) After a lapse of long interval the petitioner was informed through memo No. APC/202 dated 11.9.85 that he had already been removed from service since 29.8.84 without assigning any reason. This was done without any chargesheet being given or any enquiry being conducted without given any opportunity to defend the applicant (Annex. H at page 16)
- (xII) Since the applicant had been sending the representation and several reminders but the RDSO authority has failed to supply the copy of the so called removal order and has not issued medical memo to enable the applicant to resume his duty nor supplied any relevant documents, charges of allegations/removal order, as would be evident from Anex. I to N at page 17 to 22
- (xIII) After exhausting all the department channel the applicant approached your Hon'able Tribunal for redressal on 20.1.86. While the case was under the consideration of the Hon'able Tribunal the DG/RDSO played a clumsy trick and misled the Court, without cancelling the removal order of 29.8.84 vide DG's letter No. APC/202 dated 11.9.85 they issued a fresh letter No. APC/202/Pt dated 14.3.86 removing the applicant from service from 13.3.86 (AN) on the unauthorised absence from 15.2.86 onwards, Anex. O at page 23

83

-5-

Thus the Hon'able Court was made to understand that since the applicant had approached the Tribunal on basis of the letter dt 11.9.85 and since the applicant have been removed only on the basis of the subsequent letter dated 14.3.86 the applicant's representation to the court was infructuous. Annex 'P' at page 25

(xiv) During the pendency of the case and due to the bad luck the applicant could not draw the attention of the Hon'able court regarding the mischievous game played by DG/RDSO by issuing second letter of removal and artificially making representation infructuous.

(xv) Now coming to the main points according to the letter No. APC/202/Pt. it was alleged that applicant was on ^{un}authorise absence from 15.2.83 onwards which totally incorrect. The applicant was sanctioned leave from 15.2.83 to 13.4.83 vide note No. APC/202 dated 14.2.83, after this date the applicant had asked for extension of leave supported by Medical certificates. This extension was not refused nor refusal communicated to the enable him to join in case extension has not granted. Thus the charge of unauthorise absence is totally false.

Second charge is habitual of ^{un}authorise absence this is totally vague not supported by facts and dates.

(xvi) In the letter No. APC/202 dated 14.3.86 Dy. DG/RDSO, LKO mentioned of an enquiry being conducted this totally false and fictitious no enquiry was conducted. As a matter fact not even a chargesheet was given nor the applicant was given an opportunity to defend the applicant in gross violation of the principal of natural justice. If there was an enquiry delquent, signatures could have been taken on each and every sheet of the enquiry proceedings. The Hon'able court may asked DG/RDSO to produce the enquiry proceedings containing the applicant's signatures.

(xvii) The DG/RDSO letter No. APC/202/Pt dated 14.3.86 para 6 mentioned that applicant file is lost. The applicant has an apprehension that the file has been manipulated to be lost only to conceal their fictitious and false statement about the applicant's so called unauthorise absence and imaginary enquiry.

(xviii) Long sickness made the petitioner very weak, poor which required very nourishing diet and tonick. The applicant having burden of 4 grown up young daughters (college going), widown mother and wife. During these hard days and on account of heavy burden of so many liabilities and in absence of non-payment of salary the petitioner alongwith his family members is undergoing unbearable sufferings and misearable life.

(xix) Finally the applicant appealad to DG/RDSO, Lucknow vide letter dater 2.5.85 and got final letter from DG/RDSO No. APC/202 Pt. dt. 20/26.6.86 that the applicant's appeal have been rejected. Annex. R at 28 Having failed to get my grievances redressed from departmental authority, the applicant approaches your Hon'able court with the humble prayer. Annex Q 26, 27

2

(B1)

-6-

7. Relief Saught.

- (i) The Hon'able authority be pleased to quash the alleged removal order dated 13.3.86 passed by the respondent.
- (ii) The respondent be directed to make full payment towards the salary and other dues upto 13.3.86 the last removal from service.
- (iii) Till the pendency of the case respondent may be debarred from taking any action to deprive the applicant from the Railway Quarter.
- ★ (iv) The respondent should be restrained for adopting again a caladastine as they have done in the past to make the letter of 14.3.86 again infructuous.

8. Interim Order.

- (i) The respondent be directed to take the applicant on duty immediately and not to disturb in the ~~peceful working of the~~ working till the pendency of the case. 2
- (ii) Since the applicant having long long family consisting widow mother, 4 grown up college going daughters, till the case is finally decided the respondent be directed to pay substance pay to the applicant.
- (iii) That the applicant may not be asked to vacate the Rly. Quarter till the pendency of the case.

9. Details of remedies exhausted.

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

8

(B11)

11. Particulars of the postal order in respect of the application fee.

- (i) No. of the postal order 826725
- (ii) Name of the issuing post office Mahatma Gandhi Marg P.O.
- (iii) Date of the issue of postal Order 29.7.86
- (iv) Post Office at which payable. Head Post Office - Allahabad

12. Details of INDEX as in front page.

13. List of the enclosures

<u>SL.No.</u>	<u>Particulars</u>	<u>Date</u>	<u>Annex</u>
1.	Note No. APC/202	12.2.82	A
2.	Note No. APC/202	14.2.83	B
3.	Application for extension	10.4.83	C
4.	Application for leave	5.12.83	D
5.	Extension of leave	21.12.83	E
6.	Arrival Report	23.8.85	F
7.	Reminder	29.8.85	G
8.	Memo No. APC/202	11.9.85	H
9.	Application	30.9.85	I
10.	Reminder	16.10.85	J
11.	Reminder	11.11.85	K
12.	Interview with Dy. DG	13.11.85 / 19/11/85	L
13.	Reminder	21.11.85	M
14.	Intervention of DG	26.11.85	N
15.	Memo No. APC/202/Pt	14.3.86	O
16.	Tribunal Judgement	31.3.86	P
17.	Appeal to DG	2.5.86	Q
18.	Memo No. APC/202/Pt.	20.6.86	R

2/2 Remindu

L 2

IN VERIFICATION

I, Shahabuddin Khan, Son of Shri Aftabuddin Khan age about 45 years working as Upper Division Clerk, resident of 453-A, 40 quarters alambagh Lucknow do hereby verify that the contents from 1 to 18 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Place Allahabad

Date. 29.7.86

S. U. Khan
(SHAHABUDDIN KHAN)
Signature of the applicant.

[Signature]
Ad
29.7.86

(B12)

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(R.D.S.O.)

Note No. APC-202

Nanak Nagar, Lucknow-11
Dated: 12-2-82

Shri S.U. Khan Designation unc
Has been sanctioned LOP/LTP/LTP/Leave/LLI for 365
days from 15-2-82 to 14-2-83 LTP

2. Shri Khan sanction may please be noted. His
report may be sent to Estt. Section II early in due
course.

D:Nil

(B.R. SHARMA)
Dy. Director/Estt. II

To,

Shri S.U. Khan
UNC/ET/R.D.S.O

Leave due as on 12-2-82

L.A.P.
L.I.P. NIL

Approved T.C.
Ad
24.9.86

2

Anex - B

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(R.D.S.O.)

Note No. APC - 202

Manak Nagar, Lucknow-11
Dated: 14.2.83

Shri S.U. Khan Designation UDC
has been sanctioned LAP/LIP/LTP/Committed leave/LLH for 58
days from 15.2.83 to 13.4.83

2. Shri Khan sanction may please be noted. His
joining report may be sent to Estt. Section-II only / in due
course.

DA/NIL

(B.R. SHARMA)
Dy. Director/Estt-II

To, Shri S.U. Khan
UDC/RDSO/LKO

Leave due as on 15.2.83

L.A.P. } NIL
L.I.P. }

[Handwritten signatures and initials]

To

-11-

Anex. c

103

The DG

RDSO

LUCKNOW

LUCKNOW

Dated 10.4.83

Sub Extension of leave from 14.4.83 to 01.7.83

Sir, As the condition of my wife is still deteriorating. She is under treatment of our family doctor. Doctor has advised her to take nourishing diet and proper rest at least for two months. I am submitting her medical certificate. It is therefore requested that kindly extend my leave upto 01.7.83. Thanking Sir

DA/one Medical Certificate

Yours faithfully

IDE II

L. U. Khan

LDE / E II

RDSO

Handed T.E.

24.9.06

Recd. Shekhpur
Distt. Panchayat
05-XII-83

To
The Director General
R.D.S.O. / Lucknow.

For Sub. Grant of Medical leave
Sir,

(B/M)

I have come here to see my ailing brother, but suddenly I have fallen ill, hence I contacted the Doctor, he has given me medicine & advised me to take complete rest for 15 days.

It is therefore requested to please grant me medical leave from 05-XII-83 to 20-12-83. With thanks

I am submitting photostat copy of the medical Certificate. Original I will submit after my arrival at Lucknow.

✓Sd/-
DDE II

Yours faithfully
Sd/-

Khan
LDC/RDSC

रेल मंत्रालय
MIN. OF RAILWAY
2nd FLOOR, B-11
LUCKNOW-11
17 DEC 1983

उद्दिष्ट
Dy. No.

SECTION DIARY NO. 1242

Handwritten signatures and initials, including "An" and "21.9.83".

Anne - E

To

The Director General

R.D.S.C./Lucknow.

P.O. Sherspur

Distt PilibhitAt- 21-12-83* Sub: Extension of leave

Sir,

It is to inform you that I am still ill & not in a position to attend my duties, Doctor has again advised me to take rest upto 07-1-84. Therefore it is requested that I may please be sanctioned leave upto 07-1-84.

Photo state copy of the medical certificate is enclosed herewith. Thanking Sir,

✓ 50/and

* DDEII

Yours faithfully

U. K. Khan
UDC/RDSC

रेल मंत्रालय
MIN. OF RAILWAY
एन. डी. एन. - II
LUCKNOW-II
30 DEC 1983

To No

Op. No.

EII SECTION DIARY NO 2194

Approved
for
Ad.
21-12-83

To
The Director General.
RDSO/Ministry of Railways
Manak Nager, Lucknow-11.

Dated 23rd Aug 85

Sub:- Issue of Medical Memo
xxxxx

Sir I was on sick list with effect from 05-XII-83 to 22.8-85 and now after declaring fit from my private doctor I have come to resume my duties. Hence you are requested to please issue me medical memo to enable me to get fitness from Railway doctor, DMO/RDSO/LKO.

Enclosures:-

One Sick & fit certificate

DE II. B

23/8/85

(RAM KISHAN)

LDC/Receipt & Dispatch

Thanking Sir
Yours faithfully

U. Khan

(SHAHAB UDDIN KHAN)

UIC/Establishment-II

RDSO/LKO

Date 23rd Aug 85

On leave

Address: A-53.A

40 quarters

Alambagh

Lucknow-5

Attest T.C.
[Signature]
[Signature]
[Signature]

30.9.85

Lucknow

B19

The Director General,
RDSO(MINISTRY OF RAILWAYS),
Manak Nagar,
Lucknow.

Sub:-Issue of Medical Memo.

Ref:-Your memo No.APC/202 dt.11/17-9-1985.

Respected Sir,

Having received the above cited Memo on 25.9.85, I was very much shocked to go through the contents there of.

In this connection I would like to submit that I have never been served with any memo calling upon me to submit my explanation against any charges what so ever. Chargesheet or any show cause notice have also not been served to me for my defence.

In deed this tantment to an unprecedented injustice haveing been met by any employee of such a long standing an outstanding services rendered so faithfully to your administration. Should I remind you that I have, to my credit, a regular and permanent service for a period not shorter than 26 Years.

I am also humbly state that I am having four grown-up college going daughters and naturally it is impossible to pull on any longer the heavy burden of my responsibilities to wards my large family in these hard days in the absence of my salary drawn for a such a long time even after my fitness with effect from 22.8.85. Hence, you are humbly requested to issue me the Medical memo to enable me to resume my duties without further delay.

I would like to have separate a certified copies of the Original removal orders said to have been passed alongwith the copy of the full proceedings if any.

Thanking you.

Yours faithfully,

S.U.Khan

(S.U.Khan) 30.9.85
UDC/RDSO/Min.Of Rlys

53A
40quarters
Manbajh
Lucknow-5

Y.
d. 30.9.1985

Attested T.C.
J. Khan
24-7-86

Annex - J S No 10
16/x/85 (B20)

The Director General,
R.D.S.O.,
Lucknow.

Sub:- Issue of Medical memo.
Ref:- Your memo no. AFC/202 dt. 11/17-9-95 and my
application dt. 30.9.85.

Sir,

Sorry to point out that neither the medical memo for joining duty nor the copies of the proceedings if any and removal letters is issued to me so far.

In this regard I would emphatically stated that despite of my fitness w.ef. 22.8.85 from the authorised medical practioners still I have not been allowed to resume my duties which clearly violated the existing Rly.rules of establishment Manual.

Hence I am again requesting you to very kindly consider my case very sympathically without any prejudice manner and allow me to join my duty without any further delay or supply me all the relevant documents on the basis which I was removed from service.

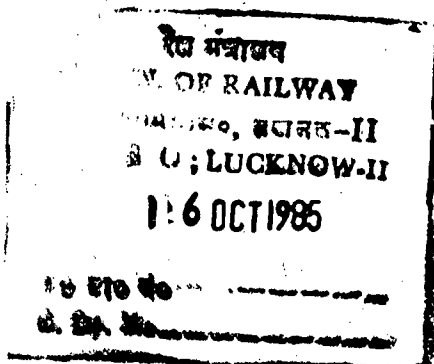
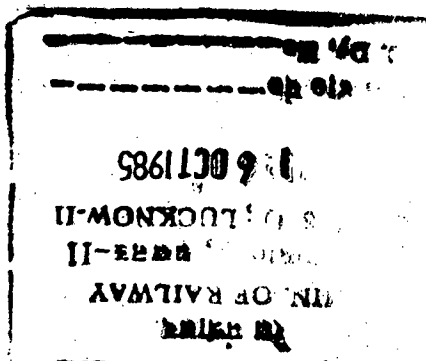
Now, in the last I would like mentioned that if within week's time I am not getting proper or reasonable reply I shall be compell to seek the redress in the court of law against your illegal arbitrary and one sided action without providing any opportunity of defence and violating natural justice.

Thanking you.

Yours faithfully,

S. U. Khan
(S. U. Khan) 16/x/85
53/A 40 Quarters.
Alambagh, Lucknow.

Dated. 16.10.85



Attested T.C.
for
S. U. Khan

-19-

The DG
RDSO
LUCKNOW

Reminders

Anne-K

SW 11

A53A
40 quarters
Alambagh
Lucknow-5

(B21)

Dated 11.XI.85

Sub: Issue of Medical Memo.

Ref: My application dt 23.8.85 and subsequent reminders dt 29.8.85, 30.9.85, 15.10.85 and 05.11.85.

For
Sir

In reference to the above mentioned application and all reminders it is stated that till now I have not received the above said memo nor the certified copied of the original orders alongwith the relevant proceedings if any.

In absence of non getting salary I alongwith my all family members are passing very very miserable & starving life. So it is humbly requested that please issue me the said memo to enable me to resume my duties. Thanking Sir.

Heard T.L.
from
24.9.86

Yours faithfully.

M. Khan
LDC/RDSO
LKO.

To. - 20 -
The Dy. Director General.
RDSO/ Ministry for Rlys
Lucknow.

Annex. I

SW 12

dt 13.11.85

(B)

Sub: Joining of Duty

Ref: Your Memo NO APC/202 dt 11.9.85

Ref: My representation dt 30.9.85 and
followed by several reminders

Respected Sir,

To day I came to seek interview
with DG, but Secy to DG has directed
me to see your honour to rectify
my grievances on the subject for
which I have been harassed by
your Administration.

An early & immediate action
is requested by your personal inter-
vention. Thanking Sir,

Yours faithfully.

U. Khan
UDC/RDSO
dt 13.11.85

Seen Dy DG on date.
13.11.85

Attested T-C
Jain
Adh
24/11/85

B24

The Director General
R.D.S.O.,
Lucknow.

Sir,

Re: Joining of duty.

- Ref:- i) My representation dated 30.9.85 and subsequent several reminders there on.
ii) Interview with Dy.DG on 13.11.85 and reminder on 19.11.85

With reference to my various applications/representations and subsequent interviews with the Dy.DG it may be stated that I have not been informed of any final decision so far.

2. You will appreciate my plight having a large family of 8 persons to support in such hard days. Particularly when I have exhausted all my savings during my prolonged illness, I have no other alternative than to request you that I may be allowed to resume my duties in view of having no apparant case against me. Sir, it may be mentioned that any further delay will put me to further mental agony and out of frustration there would be no other way left for me than to get the redressal through court of law for which I would request you to supply me all the relevant documentary papers leading to my removal from service, as already requested earlier and have discussed in person with Dy.DG, who had assured me to supply the same as earliest possible, to enable me to go through relevant documents, if any existed.

S. U. Khan
(S.U.Khan)
UDC

21.XI.85

78 000000

22 NOV 1985

13

Attended T-C
Dy.DG
24.9.86

21

20/2

511 13
Anne - B 2

19.XI.85

Lucknow

The Dy. DG

R.D.S.O.

Lucknow.

Sub: Joining of duty

Ref: My representation dt 30.9.85 and subsequent reminders there on

Ref: Interview with Dy. DG on 13.11.85

With reference to my representation/reminders and subsequent interview with Dy. DG I have not been given any response to my request or supplied me any certified copies of my removal case if any.

So, in view of the facts as above I request Dy. DG to consider my financial plight, heavy burden of my four grown up college going daughters & I should be allowed to resume my duties, in case the documentary proof leading to my removal case cannot be shown or given to me.

I hope you will consider my request judiciously.
Thanking Sir.

Yours faithfully

U.C. Khan
UDC/RDSO

Attd T.C.
For
Signature

22
The Director General,
R.D.S.O.,
Lucknow.

Anne-NT

B25

Kind attention of Shri T.S.Vardhaya/DG, RDSO.

Sub:-Issue of medical memo and joining of duty.

Ref:-Your memo No.APC/202 dt.11/25-9-1985

Ref:- My representation dt.30.9.85 and followed by
several reminders.

(ii) My interview with Dy.DG on 13.11.85 and remind-
der on 21.11.85.

Sir,

In reference to my representation, I want to state that
I have not received any documents or any reply so far. It is
requested that you personally interfere in the matter and take
and
impartial decision/allow me to join my duty as early as possible.

Thanking you.

Dated. 26.11.85

Yours faithfully,

S. U. Khan
(S.U.Khan) 26.11.85

Wdc / R.D.S.O/Lucknow.

Assessed TC
Jagan
24.9.86



B2b

भारत सरकार-रेल मंत्रालय
अनुसंधान अभिकल्प और मानक संगठन

Government of India—Ministry of Railways
RESEARCH DESIGNS & STANDARDS ORGANISATION

पत्र संख्या

Our Reference No. APC-202/Pt.

लखनऊ-226011-दिनांक

LUCKNOW-226011-Date 14.3.1986.

MEMORANDUM

While working as Upper Division Clerk in this office at Lucknow, Shri Shahabuddin Khan had been absenting from duty without notice. As a result of his continued long absence from duty, a charge sheet for major penalty was issued to him. The following charges were levelled against him in the afore-said charge sheet:

- (a) Unauthorised absence from duty from 15.2.1983 onwards.
- (b) Habitual in remaining on long unauthorised absence thereby showing utter disregard to official discipline and to performance of official duties allotted to him.
- (c) Deliberately avoiding to give correct whereabouts during the leave-period.

2. Subsequently, since the said Shri S.U. Khan failed to submit a written statement of his defence, Shri T.R. Gulati, Section Officer (Stenos) was appointed to enquire into the above charges framed against him, and the said Shri S.U. Khan was directed to present himself before the Enquiry Officer. Since the said Shri S.U. Khan failed to appear before the Enquiry Officer the Enquiry Officer had, therefore, to hold the enquiry ex-parte. The ex-parte report was submitted by the Enquiry Officer on 29.7.1983.

3. As Shri S.U. Khan had resumed duty on 2.7.1983, it was decided by the competent authority to give the said Shri S.U. Khan a personal hearing and consequently Memo No. APC/202 dated 2/5.9.1983 with all enclosures was again given to him. The said Shri S.U. Khan was further advised by the Enquiry Officer that the enquiry against him would be held on 4.10.1983. Necessary advice for holding the enquiry was noted by the said Shri S.U. Khan on 3.10.1983 in File No. CBS/ESTT. The said Shri S.U. Khan had accordingly attended the said enquiry which was conducted by Shri T.R. Gulati, Section Officer (Stenos) on 4.10.1983. Necessary documents were supplied to Shri S.U. Khan and the enquiry report was submitted by the Enquiry Officer to the competent authority on 31.10.1983.

.../-

B27

4. The following charges were proved against him:
- Unauthorised absence from duty from 15.2.83 onwards.
 - Habitual in remaining on long unauthorised absence, thereby showing utter disregard to official discipline and to performance of official duties allotted to him.

Consequently, he was removed from service w.e.f. 29.3.1984 A.N. A copy of the Enquiry Report together with other connected documents is enclosed in seven sheets for his information.

5. Shri S.U.Khan, ex-UDC/RDSO has filed a suit in the Hon'ble Central Administrative Tribunal vide Registration No.37 of 1985 alleging that he is not being issued a Sick Memo to enable him to report to the Railway Doctor to obtain a Fit Certificate and join duty. In this connection, his attention is drawn to this office Memo No.APC-202 dated 9.12.1985 which was sent by Registered 'A.D.' post to his known address and which was received back from the postal authorities undelivered on 23.12.1985 with the remarks "avoid to take delivery". A copy of the said Memorandum No.APC-202 dated 9.12.1985 is also enclosed for his information.

6. The said Shri S.U.Khan is further informed that since his personal file which contained the original DA&R proceedings against him is not traceable, it has become necessary to reconsider the case on the basis of the enquiry report and other records available in this office.

7. On a careful consideration of the report submitted by the Enquiry Officer, Shri T.R. Gulati, Section Officer(Stenos), I am satisfied that reasonable opportunity was afforded to the said Shri S.U. Khan by the Enquiry Officer to defend himself. Further on a perusal of the records available in this office and the charges framed and proved against the said Shri S.U.Khan by the Enquiry Officer in the Enquiry Report, I am satisfied that the punishment of removal from service awarded to him by the competent authority w.e.f. 29.8.1984 A.N. was just and proper.

8. The undersigned has, therefore, come to the conclusion that the said Shri S.U. Khan is not a fit person to be retained in service and the undersigned has imposed on him the penalty of Removal from Service w.e.f. 13.3.1986 A.N.

9. The appeal against the abovementioned orders lies with the Director General, R.D.S.O. Lucknow and if the said Shri S.U.Khan wishes to prefer an appeal, he may do so within 45 days of the receipt of this Memo. The appeal should be self-contained and should not contain any disrespectful or improper language.

10. The receipt of this Memo alongwith enclosures should be acknowledged.

Encl: Copy of the Enquiry Report
in 7 pages and copy of Memo.
dated 9.12.85.

Shri S.U. Khan,
ex-UDC/RDSO,
A-53/A, 40 Quarters,
Alambagh, Lucknow.

(N.K. Aggarwal) 14/3/86
Dy. Director General.

Handwritten signatures and initials:
M. K. Aggarwal
S. K. Singh
S. K. Singh

(COPY)

Annex. P

B28

CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD.

(Court No.1)

Registration No.37 of 1986

Shahabuddin Khan

Vs Union Of India through Director General
RDSO, Lucknow.

Hon. D.S.Misra, Admn.Member.

Hon. G.S.Sharma, Judicial Member.

(Delivered by Hon.G.S.Sharma, Jdl.Member.)

In this case under section 19 of the administrative Trib. act., the applicant as challenged the order dated 11.9.85 of his removal from service on various grounds. A notice was issued to the respondent to show cause as to why the application be not admitted for hearing. In reply to the notice the respondent has filed a memorandum dated 14.3.85 of the Dy. Director General/Govt. Of India Min. of Rlys/Lucknow removing the applicant from service w.e.f. 13.3.86. The ~~statu~~ impugned order of removal thus automatically stands set aside and the application has become infructious and is liable to be rejected summarily.

2. During the pendency of this application this Tribunal had ordered on 20.1.86 that in the mean time the applicant shall not be rejected from the Official residence occupied by him at Lucknow. He latter on moved an application before us stating that he ~~may~~ was being forcibly evicted by the Estate Officer, RDSO/Lucknow in defiance of the order of the Tribunal, where upon a notice was issued to the Estate Officer to show casue as why suitable action should not be taken against him for the disobedience of the order of the Tribunal in reply the Estate Officer has tendered an unqualified aplogy before us stating no order of eviction was passed by him against the applicant and he had simply initiated proceeding under public premises (Eviction of unauthorised occupants) act against the applicant and even the order initiating the said proceeding was cancelled on 27.2.86 and he did not willfully disobay any order of the Tribunal. We have considered over the matter. The apology tendered hereby accepted and no further action is called for in this connection.

3. For the reasons discussed above, the application is summarily rejected.

Dated.31.3.86

Sd/-
Adm.Member

Sd/-
Jdl.Member.

Handwritten signatures and initials:
M. S. Misra
G. S. Sharma
24.9.86

(129)

The Director General,
R.D.S.O.,
Lucknow.

R. 5. 86

Ref:-Your memo no. APC/202/Pt dated. 14.3.1986.

Respected Sir,

I am compelled to state that the graver injustice could not have been perpetrated as in my case on the basis of fictitious and imaginary charges and contradictory orders.

Under the first letter of removal from service vide memo No. APC/202 dated 11.9.85 I was removed from service from 29.8.1984(AN). Yet this order was not cancelled at all, but a second and a fresh order dated 14.3.86 vide memo no. APC/202/Pt was again served upon me removing me from service from 13.3.86(AN). I am at a loss to understand which order is the correct one and if the last order is correct, then why have I not been paid salary and other allowances till 13.3.86(AN) the date upto which even according to your office I was in service. Comming to the facts of the case I humbly submit as under:

1. I have taken 2 months leave from 15.2.83 for the treatment of my wife, duly sanctioned by the competent authority. During these two months since the cordition of my wife deteriorated and became critical I sent an application for extension of leave duly supported by a medical certificate regarding the condition of my wife. My wife continued to struggle between life and death and as a result I had to sent a further extension till 1.7.1983, when I resumed back.

an application for

2. Not a single letter was sent to me by your office indicating the resusal of my extension of leave. Had this been done, I would have joined my duty earlier inspite of serious sickness of my wife.

and 3. After I joined back, suddenly one day I was asked to note to appear before an enquiry Officer on a certain date in connection with D&A enquiry.

4. After noting the letter I had immediately written back that I had not received any chargesheet accompanying documents and other relavants papers and that unless informed of the charges I will not be in a position to defend my self in the enquiry. I had also mentioned that failure to give me the charge memo, the article of charges etc. will be denial of opportunity to defend myself. Unfortunately there was no reply to (Opportunity) this letter of mine.

5. The whole story of an enquiry being held and the proceedings being drawn with my signature on the proceedings are totally false and pure manupulation. I would request you to call for the orginal records and proceedings and verify it by your goodself. The very same person who have manipulated the action against me, are instrumental in causing the file to dis-appear to cover their sins. I have not signed any enquiry proceedings, since I have not attended any enquiry.

6. I have completed 26 years of honest service and the baseless charges hurled at me in the Memo No. APC/202 dated 14.3.86 hurt an honest man as because.

i) I was not absent from 15.2.83 but had proceeded on leave for two months having been sanctioned.

ii) The charge of ~~habitual~~ habitual absence is totally incorrect as my leave had been already sanctioned through it was without pay at times.

iii) Most humbly and respectfully it is stated that according to your memo No. APC/202 dt. 14.3.86 I feel the punishment given to me is disproportionate to the alleged baseless charge.

For the reasons stated above and keeping in consideration that I have four un-married college going daughters and family to support at this old age. I humbly appeal to your goodness to kindly review my case and show your kind mercy by cancelling the penalty of removal from service as imposed upon me.

I and my family members shall always be thankful for this kind of actness.

With grat regards. Thanking you Sir.

Yours faithfully,

Dated. 2.5.86

S. U. Khan
(S. U. Khan)
UDC/R.D.S.O/LKO.

Approved T.C.
[Signature]
24.9.86

तार : रेलमानक-लखनऊ
Telegrams : RAILMANAK-LUCKNOW



-28

टेलीफोन [50567 & 50017
Telephones

REGISTERED AD

Anex - R

अनुसंधान अभिकल्प और मानक संगठन
Government of India - Ministry of Railways
RESEARCH DESIGNS & STANDARDS ORGANISATION

पत्र संख्या
Our Reference No. APC-202/Pt.

लखनऊ-२२६०११ दिनांक
LUCKNOW-226011 Dated 20.6.1986.

MEMORANDUM

With reference to his appeal dated 2.5.1986 and interviews with the Director General on 10.6.1986 and 11.6.1986, Shri S.U.Khan, ex-UDC/RDSO is informed that his appeal has been carefully considered by the Director General and the same has been rejected.

(N.K. Aggarwal)

Dy. Director General.

Encl: Nil.

Shri S.U. Khan,
ex-UDC/RDSO,
A/53A, 40 Quarters,
Alambagh,
Lucknow.

Sukh
Amal T.S.
Devan
Adh
24-9-86

(B32)

In the Hon'ble Administrative Tribunal

Addl. Bench, Allahabad

Registration No.546 of 1986

Sahabuddin Khan

..

Applicant

V/s

Union of India through ..
Director General/RDSO,
Lucknow

Respondents

COUNTER AFFIDAVIT TO THE PAPER BOOK
ON BEHALF OF OPPOSITE PARTIES

I, Prem Nath Kapoor s/o Shri Amar Nath Kapoor
aged about 54 years resident of C-8/2, Manak Nagar,
Lucknow-226011 do hereby solemnly affirm and state
as under:-

1. That the Deponent is Dy. Director (Estt.)-II,
Research Designs & Standards Organisation, Deptt. of
Ministry of Railways, Manak Nagar, Lucknow and as such is
fully competent to affirm the contents of this
Affidavit on behalf of Respondents.
2. That I have read the petition filed by the
Petitioner.
3. That the facts stated in paragraphs 6(i) to (iii)
are not disputed.
4. That in reply to paragraphs 6(iv) and (v) of the
petition, it is stated that the Petitioner was promoted
to the post of UDC on 7th June, 1973 and was confirmed
as such on 23rd April, 1979.
5. That in reply to paragraph 6(vi) of the petition,
it is stated that the Petitioner was absenting himself
from duty with effect from 17th November, 1980. However,
on account of his seniority position he was promoted
to officiate as Assistant in the scale Rs.425-800(RS)

.../-

B33

with effect from 8th Jan., 1981. The Petitioner continued to absent himself and the promotion order was cancelled on 5th Feb., 1981 and this promotion was thus never given effect to.

6. That the allegations made in Para 6(vii) of the petition are denied. The Petitioner did not proceed on leave after obtaining the sanction from the Competent Authority from 15.2.1982. The Petitioner's absence was unauthorised from 15.2.1982 to 1.7.1983. Petitioner, however, reported for duty on 2.7.1983. Annexure 'A' filed along with the petition does not appear to be a genuine document. The Petitioner was asked to produce the original of Annexure 'A' of the petition by the Appellate Authority during his interview on 10.6.1986 and he promised to produce the same the next day, but did not produce the original on the pretext that they have been eaten away by white ants.

With the
Director
General

In this connection it is also stated that the Memo at Annexure 'A' of the petition is sent only to the Section concerned in which the employee is working for information and record and it is never sent to the employee concerned. This is another reason to show that Annexure 'A' does not appear to be a genuine document.

Under the delegation of powers, Dy. Director was competent to sanction privilege leave for a period of four months only. Leave beyond this period was to be sanctioned by Head of Department. Leave without pay for a period of one year is not sanctioned ordinarily as made out by the petitioner. This is yet another reason to show that Annexure 'A' does not appear to be a genuine document.

.../-

7. That the allegations made in paragraph 6(viii) of the petition are again incorrect and denied. As stated, the Petitioner was not granted any leave from 15.2.1982 to 13.4.1983. As such the question of his being granted extension of leave beyond 13.4.1983 did not arise. The Petitioner was not granted any leave from 15.2.1983 to 13.4.1983 and Annexure 'B' of the petition also does not appear to be a genuine document. It is, on the face of it, not worthy of any reliance.

8. That in reply to paragraph 6(ix) of the petition, it is stated that the Petitioner resumed duty on 2nd July, 1983 and he was served with a charge sheet and the charges against the Petitioner were:-

- (1) Unauthorised absence from duty from 15.2.1982 onwards;
- (2) Habitual in remaining on long unauthorised absence thereby showing utter disregard to official discipline and to the performance of official duties allotted to him; and
- (3) Deliberately avoiding to give his correct whereabouts during the leave period.

That the Inquiry Officer gave full opportunity to the Petitioner during the enquiry. A photo copy of the minutes of the enquiry held at 11.00 hrs on 4.10.1983 is attached as Annexure-I.

That thereafter the Petitioner again absconded. He, however, sent applications for leave on 5.12.1983 and 21.12.1983 as will be clear from Annexures-'D' and 'E' of the petition. He was, however, removed from service with effect from 29.8.1984 (AN).

9. That in reply to paragraph 6(x) of the petition, it is stated that since the Petitioner had already been

B&S

- 4 -

removed from service, there was no question of his being given any sick memo etc. for getting fit certificate from Railway Doctor for resuming duty.

10. That the allegations made in para 6(xi) of the petition are not admitted. Since the Petitioner had been removed after regular departmental enquiry in which he participated, there was no question of his being allowed to resume duty and he was advised accordingly vide Annexure 'H' of the petition.

11. That in reply to paragraph 6(xii) of the petition, it is stated that the petitioner was again advised regarding his removal from service by Registered AD letter at his home address vide Memorandum No.APC-202 dated 9.12.1985 which was received back undelivered on 23.12.1985 with the remarks "avoids to take delivery".

12. That in reply to paragraph 6(xiii) of the petition, it is stated that the Petitioner filed a petition in the Hon'ble Tribunal and a copy of the petition was served on the Respondent on 20.1.1986 and then file relating to the Disciplinary Enquiry against the petitioner was searched out and it was found that it had been lost/stolen/removed. The Disciplinary Authority, therefore, passed fresh order of removal from service with effect from 14th March, 1986 on the basis of the material and record available. A copy of the order of removal dated 14.3.1986 has been attached along with the petition as Annexure 'O'.

In view of the order of removal dated 14.3.1986, in which it was specifically mentioned that the Petitioner can prefer an appeal against the order of removal, the petition was dismissed as premature.

13.

.../-

13. That the allegation made in paragraph 6(xiv) of the petition are denied. There was nothing mischievous on the part of Respondent by issuing order of removal dated 14.3.1986. The order of removal dated 14.3.1986 specifically mentioned that the file of the Petitioner's case is not traceable and it has, therefore, become necessary to reconsider the case on the basis of Inquiry Report and other records available in the office.

14. That in reply to paragraph 6(xv) of the petition, it is stated that the Petitioner was absent unauthorisedly from 15.2.1982 to 1.7.1983 and no leave was sanctioned. The Petitioner did not apply for any extension and as such the question of extension did not arise.

As regards the second charge, the Petitioner was in the shabit of absenting himself unauthorisedly. However, even assuming for the sake of argument that this charge has not been met out, even then the Petitioner can be removed from service on the basis of the first charge.

15. That in reply to allegations made in paragraph 6(xvi) of the petition, it is stated that the original record of the disciplinary proceedings are untraceable and Annexure-I of this reply is the copy of the Inquiry Proceedings which has been kept by the Inquiry Officer in his file. A statement from the Inquiry Officer in the Petitioner's case, verifying the above is attached as Annexure-II.

16. That in reply to paragraph 6(xvii) of the petition, it is stated that there is no question of the file being manipulated by the Director General/RDSO, Lucknow. No official has personal enmity against the Petitioner and

.../-

4. That in reply to para 6 of the respondent's counter affidavit it is again stated that no charge-sheet was ever issued to the petitioner. Only an intimation of the so-called enquiry was got noted by the petitioner. But on the same day the petitioner replied vide his letter dated 30.9.1983 challenging the legality of the intimation when no charge sheet had been served, no allegation had been made against the petitioner and no documents in support of the allegations had been served nor the petitioner was given any opportunity to defend himself. Again no reply was given of this letter to the petitioner by the respondent. It is also denied that any enquiry was ever held. The whole thing said in para 8 is a figment of imagination and not a fact. The documents produced by the respondent do not prove the truthfulness of the fact that the enquiry was held. In every sheet of the enquiry proceedings the enquiry officer, the delinquent, the defence counsel and the witnesses are all required to sign but in the copy of the proceedings produced by the respondent, it is only marked "signed" and the name of the petitioner and the enquiry officer are written under-neath. The Photostat copy of the proceedings if it is genuine should bear the signature of both the petitioner and the enquiry officer. In the absence of signature it is fully established that the

therefore, there is no reason why the file should be manipulated.

17. That in reply to paragraph 6(xviii) of the petition, it is stated that the alleged sickness of the Petitioner is not borne out by any material on the record. He did not submit any application for his absence and the certificates which are alleged to have been filed by the Petitioner, on the face of it, appear to be manipulated and forged documents.

18. That in reply to paragraph 6(xix) of the petition, it is stated that the Petitioner has preferred an appeal which was rejected by the Director General. A photo copy of the orders passed by the Director General on the appeal is attached as Annexure-III to this reply.

19. That in reply to paragraph 7 of the petition, it is stated that the petition is devoid of any merits and liable to be dismissed.

20. That in reply to paragraph 8 of the petition, it is stated that the Petitioner has been removed from service and therefore, there is no reason why any Stay order be passed on the petition.

Dated: 27.11.1986

Lucknow.

Deponent

Dy. Director (Estt.) - I.I.
उप निदेशक (स्थापना) - II

Verification

R. D. S. O., (Ministry of Railway)
आर डी एस ओ (रेल मंत्रालय)

I, the above named deponent do hereby verify

that the contents of paras 1 to 5 of the Affidavit are true to my own knowledge, the contents of para 6 are true to knowledge derived from the office records. No part of it is false and nothing material has been concealed. So help me God.

Lucknow

Dated: 27.11.1986

Deponent

Dy. Director (Estt.) - I.I.
उप निदेशक (स्थापना) - II

R. D. S. O., (Ministry of Railway)

आर डी एस ओ (रेल मंत्रालय)

LUCKNOW.

B2D

From a perusal of papers and documents produced before me by the deponent, I am satisfied that the person making this affidavit is the very person and he has himself signed this affidavit.

Advocate

B29

Report of Enquiry held on 4.10.1983,
against Shri S.U.Khan, UDC, under
D&A Rules, in Room No.229 of Admn.
Building of RDSO, at Lucknow.

In pursuance to Sr. Dy.DC's orders vide his noting of 30.8.1983 at page 29/n of File No.APC/202 of Shri S.U.Khan, UDC, in order to give him the personal hearing though report of enquiry held ex-parte was submitted on 29.7.83, of which no cognisance has been taken as Sh. Khan joined duty on 2.7.83. A Memo No.APC/202 of 2/5.9.83 with all enclosures was again given to him because the earlier one sent by post was received back undelivered. The ex-parte enquiry was held on 25.7.1983.

2. After studying the papers in connection with the holding of enquiry, the proceedings were held on 4.10.83 and thereafter the case was studied further with a view to recording the findings of the enquiry.

3. Memo No.APC/202 of 2/5.9.83 was issued by me to Shri S.U.Khan, UDC, directing him to attend the enquiry at 11 hrs. on 4.10.1983 in Room No.229 of Administrative Building of RDSO at Lucknow.

4. Before the start of the enquiry, Shri S.U.Khan was given the opportunity to study the charges framed against him by the PLSO Admn. to enable him to prepare himself for the same, which he did in my presence. He was also given the offer to see any papers in the file, if he so desired, or seek the help of/consult anyone in the defence of his case, which he did not avail.

5. Shri S.U.Khan was asked if he accepted all the charges framed against him, which he did not fully and wholly. The enquiry was then proceeded with connected charges mentioned in the Memo No.APC/202, dt.2/5.9.83 giving due consideration to his reply of 12.9.1983.

6. The proceedings of the enquiry were simultaneously recorded which Sh.S.U.Khan signed in token of acceptance and a copy of the same was given to him. Minutes, as Annexure I, attached.

7. BASED ON:-

- i) Official records made available by the RDSO Admn. in the shape of personal file and leave record of Sh.S.U.Khan;
- ii) Memos issued to Shri S.U.Khan and received back impressing upon him the urgency to join duty immediately because of his leave having not been sanctioned;
- iii) not giving his movement during absence from duty from time to time;
- iv) on reference to the old leave record;

Bannu

सुभाष चन्द्र बोस (स्वा II)

contd....

सुभाष चन्द्र बोस (स्वा II)

(रि. सुभाष चन्द्र बोस, बल्लभ - ११)

TVE B/f

Minutes of the enquiry held at 11.00 hours on 4.10.83
in Room No. 229 of Administrative Building of RDSO against
Shri S.U.Khan, UDC, RDSO.

(Buo) 15/1

Before the start of the enquiry, the Enquiry Officer
afforded the opportunity to Sh. S.U. Khan to see any docu-
ments in his personal file with the Admn., if he so desired
as, also he went through the charges levelled against him,
copy of which was supplied to him.

Question:

Answer:

For the Questions put & answers given, please
see the attached Annexure 'A' Consisting of
4 Pages numbered 1 to 4 & duly signed by us.

Sd-
4-10-83
(T.R.GULATI)

Sd/-
(S.U.Khan)
4-10-83

Received one Copy Sd/-
4-10-83
(S.U.Khan).

1. Is it a fact that you requested for the grant of leave from 15-2-82 to 5-3-82 due to domestic circumstances on 18-2-82, and gave your leave address as 53-A, 40 Grs. Alambagh, Lucknow ?
Yes please.
2. How is it that while remaining at Lucknow you could not submit your application on 15-2-82 itself
I do not remember why I could not submit application well in time.
3. From your application dated 18-2-82 which was received in this office through R&D section it appears that you were not in Lucknow from 15-2-82 onwards.? What have you to say?
I do not remember exactly.
4. Is it a fact that you left Lucknow on 15-2-82 itself, and applied for leave from out station
I do not remember exactly.
5. Being a 24 hour Government servant you cannot leave the Headquarters as per rules. Do you know this ?
Yes please.
6. (i) Did you obtain permission before leaving Headquarters ? (ii) If not, do you accept lapse on your part ?
(i) No please.
(ii) Yes please.
7. Could you tell me where you had been from 15.2.82 onwards ?
In my native place Sherpur(Pilibhit)

Sd/- 4/X
(T.R. GUJATI)

Sd/-
(S.U.Khan)

Contd.....

18. Any proof to substantiate ?

ANNEXURE-I.

Yes I lodged a complaint with S.P. Pilibhit and I will submit a copy of such a report shortly. I was given a police party for the protection of self and family.

No Since I was always on the move for the safety reasons I could not received any communications.

19. If I put to you that you had been deliberately avoiding to receive communication sent by this office not due to the domestic reason but due to certain other reasons, what have you to say ?

20. What have your to say regarding your long absence from duty and the loss suffered by the Government?

I regret very much for the inconvenience caused to the Administration.

21. If I put to you that you have no interest in your duties or office work entrusted to you, What have you to say?

I have done my best when on duty and did work entrusted to me.

22. Your house collapsed and you were in Sherpur to repair. Have you any documentary proof from Municipal authority or Village Panchayat?

Yes. My house collapsed and is still in damaged condition. It was partly repaired. I have no proof in support.

23. You sent to office letter/applications for extension of leave from Sherpur. Is your Sherpur address given to Administration sufficient for our letters to reach you?

Yes please.

24. Why did our letter not reach you when the address given was completed and sufficient for any communication to reach you?

While on the run from one place to another I managed with my neighbourhood to receive all the letters and keep them till my return to the village. Unfortunately the neighbourhood became influenced by the opposite party and did not receive my letters, that may be the reason why I did not received the letters. I do not remember. Some time they were there, as I received two letters of 7.4.82 and 29.06.82 through my family.

25. Were none of your family members at Sherpur, whenever this office sent the letters?

Sd/-
(P.R.Gulati)
4.10.

.....
Sd/-
(S.U.KHAN)

The Enquiry Officer,
RISO, Lucknow.

^{IN}
18/3
(BB)
Annex - II
Bye 1
Dated: 20.10.23.

Ref: Enquiry held on 04.10.1932.

Sir,

In reference to the enquiry held on 4.10.23 as per item 13, I am submitting a spare copy of the complaint lodged to Police (Civil) authority.

En- One copy.

yours faithfully,

Sd/-

(S.U.Khan)
Dt. 20.10.23.


.....

Statement from Shri T.R. Gulati, Section Officer
RDSO/Lucknow, Inquiry Officer in the D&A Rule
case against Shri S.U. Khan, ex-UDC/RDSO.

It is solemnly affirmed that I was the Inquiry Officer nominated by the Sr. Dy. Director General, RDSO, Lucknow in the Discipline & Appeal Rule case against Shri S.U. Khan, ex-UDC, Petitioner in Case No. 516 of 1986 before the Hon'ble Central Administrative Tribunal, Allahabad Bench, in which Shri Khan was issued a charge sheet containing the following charges:-

- (1) Unauthorised absence from duty from 15th Feb., 1982 onwards;
- (2) Habitual in remaining on long unauthorised absence thereby showing utter disregard to official discipline and to the performance of official duties allotted to him; and
- (3) Deliberately avoiding to give his correct whereabouts during the leave period.

2. After submitting the original to the Disciplinary Authority, I had a copy of the Enquiry Proceedings in my file and the Annexure-I to this reply is the photo copy of the copy available in my file. Annexures to the Enquiry Proceedings were duly signed by the Petitioner and these are true copy of the original record. The Petitioner personally attended the enquiry on 4.10.1983 and signed the proceedings.


(T.R. Gulati)
अनुसंधान अधिकारी (अनुसंधान विभाग), 11-86
अनुसंधान अधिकारी और मानक निदेशन
(रेल मंत्रालय)
मानक नगर, लखनऊ-226011

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In accordance with Shri S.U.Khan's request for personal hearing (SN 33) and correspondence thereafter ending with his letter dated 15.5.86 (SN 38), Shri Khan was granted a personal hearing on 10.6.86 a.n.

2. He had nothing to say about the merits of the case but merely requested for him to be pardoned this time in view of the difficulties which his four daughters would face in view of the punishment imposed.

3. In order to confirm that the representation at SN 36 was his, he was shown his signatures on the letter at SN 36 and asked whether they were his and when ~~xxx~~ he confirmed that it was so, he was asked why these signatures are different from the ones that are available in his letters at SN 31 and 32 and his earlier signatures. He told that he has changed his signatures but could not answer why he should put signatures differently at different times.

4. On further enquiry he produced a photostat copy of a Memo sanctioning him leave for 2 months from 15.2.83 to 13.4.83. When asked for the original, since his files in RDSO are missing, he promised to bring the original the next day.

5. He was again given a personal hearing on 11.6.86 a.n. when he told that he could not produce the original Memo as it has been eaten away by white ants. He, however, produced another photostat copy of the LWP sanctioned to him for 1 year from 15.2.82 to 14.2.83. He, however, could not produce the original for this also for the same reason as he stated for the earlier sanction.

6. He repeatedly requested for only pardon in view of his four daughters. He was told that his performance had been consistently bad from 1966 onwards as seen from SN 267, 311, 327, 369 and 375 and his CR folder pages 7, 11, 14, 17, 20, 37 and 44 from which it is seen that he had removed an office typewriter unauthorisedly in 1966 and was on unauthorised absence repeatedly.

7. From the papers in the reconstructed file, I find that although the Enquiry Officer had asked him on 04.10.83 questions about his absence from 15.2.82, in his Enquiry Report, he had mentioned the date of unauthorised absence from duty from 15.2.83 onwards. This appears to be a mistake but cannot be verified because his original papers have been lost. However, it is seen from the Attendance Register for that period, which is available, that he was absent from 15.2.82 onwards.

8. Shri S.U. Khan had also appealed to the Central Administrative Tribunal, Allahabad, against the punishment given to him where his appeal had been dismissed.

9. Having carefully considered his overall performance and the specific charges which have been proved in this case for which he has been removed from service, I do not see any reason for either reducing or cancelling the punishment, which I consider just and reasonable.

...17

Attested

Bannan

22.11.86

of File Listed
APC-202 at SN 39
Vol.II

B46

In the Hon'ble ~~Additional~~ Administrative Tribunal,
Additional Bench, of Lucknow.

Registration No. 516 of 1986

Shahabuddin Applicant.

Versus

Union of India through Director General
R. D. S. O. Lucknow. Opposite party.

Rejoinder Affidavit to the counter Affidavit.

I, Shahabuddin Khan, aged about 45 years, son
of Shri A. U. Khan, resident of A-53/A Forty quarters
Rail way Colony Alambagh, Lucknow, do hereby solemnly
affirm and state as under :-

1. That the applicant has read the counter affidavit
filed by the respondent and under stood ~~by~~ its contents.
2. That in reply to para 6 of the respondent's counter
affidavit, it is stated that the petitioner never
promised to produce the original . It was clearly told
that the original papers had been eaten away by white
ants , if the petitioner was absent from 15.2.82 to
1.7. 1983 as stated by the respondent, the onus of
producing the documentary evidence to that effect lies
on them.

(B47)

(2)

Again para 6 of the counter affidavit is denied as the sanction of leave on average pay is always intimated to the party/ section concerned and annexure A and B is the only proof of it. In respect of the para 6 it is further stated that no doubt Deputy Director is competent to sanction leave only for four months but the sanction of leave is always intimated under the signature of the Deputy Director though the sanction has been given in the file by the head of the department and this is exactly what happened in this case also. The respondent is not categorical that the document is not genuine but only states that it does not appear to be genuine document. The whole argument is proved false as the respondent has not been able to produce any document to prove that the petitioner was not on any leave.

3. That in reply to para 6 of the respondent's counter affidavit, it is further stated that the same argument of not appearing to be genuine does not hold good. Appearance and facts are different. The respondent has produced no document to prove his argument, whereas the petitioner has produced a Photostat copy of the same.

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documents of the so-called enquiry are not genuine and no enquiry was ever held at all.

5. That in reply to para 6 of the respondent's counter affidavit it is added that the petitioner was removed from the service twice without any proof in violation of the principles of natural justice.

6. That in reply to para 6 of the respondent's counter affidavit, it is again submitted that it is incorrect and denied that the enquiry had been done as the respondent has not produced the genuine proceedings otherwise the petitioner's signatures would have been there, Since there was no enquiry, the petitioner was terminated illegally and was illegally refused to join duty.

7. That in reply to para 6 of the respondent's counter affidavit it is again denied that any registered letter was received by the deponent.

8. That in reply to para 6 of the respondent's counter affidavit, it is again stated that the story of file having been lost is false and is only to colour up the illegality of the orders of removal.

9. That in reply to para 6 of the respondent's counter

1650

(5)

affidavit it is again stated that the second order is also illegal as the procedure laid down under D. & A Rules have not been followed. The documents i. e. the enquiry report and other records mentioned are not genuine and are fabricated as on none of them the petitioner's signature are found, which has to be there if there are any proceedings at all . Again it is contradictory to say that on the one hand the file is lost as stated and yet some records which are supposed to be part of the file are produced.

10. That in reply to para 6 of the respondent counter affidavit it is again stated that the applicant had been sanctioned leave vide letter No. APC/232 dated 14.2.83 and then the petitioner had asked for extension on the ground of serious sickness of his ailing wife. The second charge is baseless.

11. That in reply to para 6 of the respondent's counter affidavit, it is stated that in the absence of original records nothing is proved . The copy of the enquiry proceedings produced do not bear the petitioner's signature and as such are not genuine , nor do they bear the enquiry officer's signature.

12. That untill the original documents are produced which are in possession of the opposite parties they can not

(B5)

(6)

make any claim to have established any charge against the deponent.

13. That in reply to para 6 of the counter affidavit it is stated that the respondent has wrongly alleged that the documents of the deponent are manipulated in any manner . There are sufficient documents on record to establish leave of the deponent.

14. That because only paras 1 to 6 of the counter affidavit have been verified the rest of the paras do not form part of the counter affidavit and need no reply in the rejoinder affidavit.

15. That the petitioner has been removed unlawfully and in violation of the principles of natural justice and D A. rules and out of malafides.

Lucknow

dated 6.10.88.

Ahahabuddin
Deponent.

L. T. I of the deponent.

Verification :-

I, the above named deponent do hereby verify that the contents of paras 1 to 15 of the affidavit

(7)

are true to my own knowledge.

Nothing is wrong in it and nothing material
has been concealed. So help me God.

Lucknow

dated 06.10.88.

Shahabuddin
Deponent.

L. T. I. of the
deponent.

I, identify the deponent
who has signed before me.

Advocate

Solemnly affirmed before me on

at A. M. / P. M. By the above

named deponent who has been identified by ~~Sxx~~ Clerk
to Shri

Advocate High Court of Allahabad (Lucknow Bench)
Lucknow.

I have satisfied myself by examining the
deponent that he understands the contents of this
affidavit which are read out and explained by me.