

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH

FORM OF INDEX

~~D.A./T.A./R.A./C.C.P.~~ / No. 1137-1987

PART - I

1.	Index Papers	:- 1 to 4
2.	Order Sheet	:- 5 to 16
3.	Any other orders	:-
4.	Judgement	:- 17 to 26, Judgment
5.	S.L.P.	:- 25 to 46, Hearings

DR. Registrat

Supervising Officer

Dealing Clerk

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

- 1 - Petitions A27 to A41
- 2 - Powers A42
- 3 - Stay Application A43 to A45
- 4 - Cr. 483/84, Early Hearing Phases A46 to A52
- 5 - Process A58
- 6 - Amendment Application A59 to A81
- 7 - Application for Interim Relief MC No 4518 A82 to A82 to A84
- 8 - 62nd Statement A85 to A107
- 9 - Rejoinders - A108 to A112

W/MR 35  
Dealing Clerk

Rechecked  
on 10/13/12  
by  
K. Mishra

So (55)

Central Administrative Tribunal  
Lucknow Bench

Cause Title T A 1137/87 of 1993

Name of the Parties. A. A. Khan Applicant

Versus

Union of India

Respondents.

Part A. P.C

Sl. No.	<u>File</u>	Description of documents	Page
1.		Fee List	
2.		Order Sheet	A1 A2
3.		Judgement at 20/7/90	A3 A12
4.	High Court -	Petition Copy	A13 A71
5.		Annexure	
6.		Power	
7.		Counter Affidavit	A72 - A95
8.		Rejoinder Affidavit	A96 A101

B - File

B 162 B 153

C - File C 154 C 161

SIDE 2

## GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

AB

3

re and number of case

W.P. No. 1452 - 83

Name of Parties

Azwani Ghulam Khan vs. Union of India on

Date of Institution

15-3-83

Date of decision

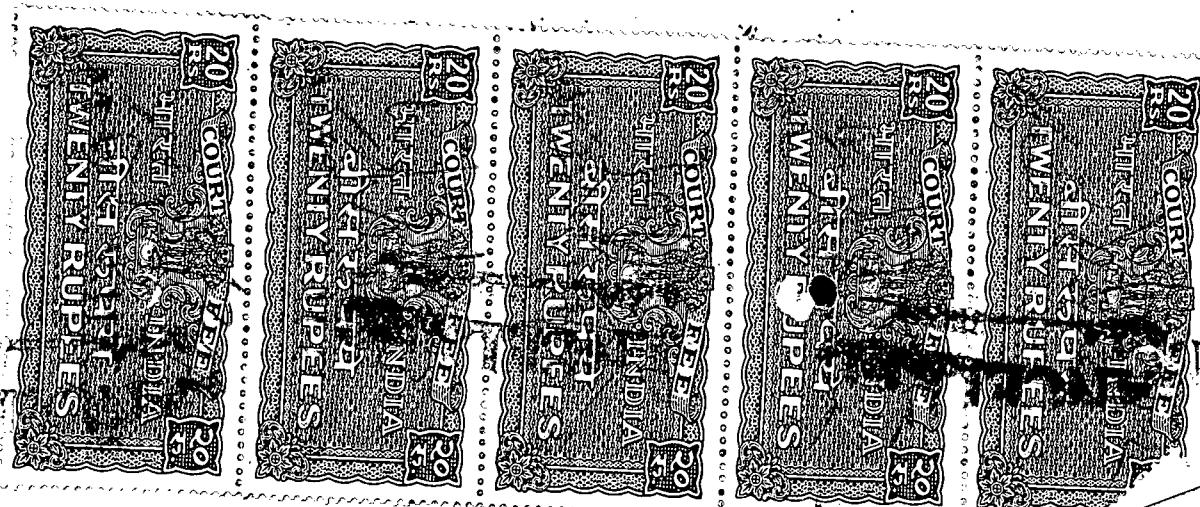
File no.	Serial no. of paper	Description of paper	Number of sheets	Court Fee		Date of admission of paper to record	Condition of document	Remarks including date of destruction of paper, if any
				Number of stamps	Value			
1	2	3	4	5	6	7	8	9
1		1- W.P. with Answer and appeals	16	-	102.00			
2		Power	1	-	5.00			
3		Copy. 3126(w) 883	1	-	5.00			
4		Copy 3973(w) 83 with Supply 10.	2	-	2.00			
5		Copy. 482(w) 84	4	-	7.00			
6		Power	1	-	-			
7		Copy. 8039(w) 884	1	-	2.00			
8		Copy of Answered 60 P.	12	-	-			
9		Appl. dt-29.9.84	2	-	5.00			
10		Copy. 4518(w) 885	3	-	7.00			

I have this day of 198<sup>4</sup>, examined the record and compared the entries on this sheet with the papers on the record. I have made all necessary corrections and certify that the paper correspond with the general index, that they bear court-fee stamps of the aggregate value of Rs. , that all orders have been carried out, and that the record is complete and in order up to the date of the certificate.

Munsarim

Clerk

Date



SCF = 100/-

Recd.  
10-3-83

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

Writ Petition No. 1452 of 1983

Anwar Ahmed Khan, aged about 44 years, son of Sri Abdul Rahman Khan, resident of village Lakhapura, post office Chiel, district Mirzapur.

..... Petitioner

Versus

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow.
3. Divisional Commercial Superintendent, DCM's Office, Northern Railway, Lucknow.

..... Opp. Parties.

Writ Petition Under Article 226 of the Constitution of India.

The petitioner most respectfully begs to state as under :-

1. That the petitioner joined his service in North Eastern Railway Muzaffarpur in Samastipur Division as Assistant Station Master after being

Anwar Ahmed Khan



selected by the Railway Service Commission at Allahabad. He was thereafter transferred to Northern Railway on the basis of mutual consent and was posted as leave Assistant Station Master at Suwansa district Pratapgarh.

2. That on 9.7.1977 while posted at Suwansa the petitioner was asked to work in leave reserve duty at Sarai Kansrai in district Jaunpur.
3. That on 12.3.1979 while posted at Banaras the petitioner received a chargesheet dated 1.9.1978 under the signatures of Sri S. Chand, Senior Divisional Commercial Superintendent. The said chargesheet contained the charge of defrauding the railway to the extent of Rs.43.40p. by fraudulently preparing the accounts and record foils of foreign blank paper ticket (FBPT) No.579865 dated 9.7.1977. The said charge related to the incident of 9.7.1977 and the chargesheet dated 1.9.1978 was issued to the petitioner on 12.3.1979 more than 1½ years after the date of the alleged incident.
4. That the aforesaid chargesheet along with other important documents including the petitioner's salary in a bag was stolen and therefore, the petitioner requested for a duplicate chargesheet by his letter dated 17.5.1979. The petitioner submitted his reply to the chargesheet denying the charge against him.
5. That on the basis of another similar incident alleged to have taken place on 12.9.1978 while the petitioner was posted at Nebhapur in district Jaunpur



*war Ahmad Khan*

11  
4

ORDER SHEET  
IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 1152 of 1983.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
15-3-83	Hon. T. S. Misra, J Hon. D. N. Mehta, Put up for hearing.	
16-3-83	Contd 3126 Cm 136 - stay 31/3/83 Put up for hearing, Babu	
17-3-83	Put up for hearing, Babu	
18-3-83	Put up on 21-3-83, Babu	
21-3-83	Hon. T. S. Misra, J Hon. K. S. Varma, J List in ordinary course.	
	Hon' T. S. Misra, J Hon. K. S. Varma, J dist in 15 weeks commencing 31st March, 1983.	21-3-1983

65

21-3-1983

9/1/81  
By Ct.

(9)

11  
2

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 11432 - 03 of 198

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
	<u>2-8-83</u> Fixed for appearance and for filing C.A in N.P. N.I to O.P. No. 1 to 3 by R.P.	
		<u>(B)</u> <u>2-6-83</u>
<u>10-1-84</u>	<u>0 Mon 10/10/87 (08/84)</u> Mallet - Day Test before Hon. the S. Judge at an early date.	
		<u>Sub. d. N. Agreement</u> <u>10-7-84</u>
	<u>fixed in ent. 6/87 (08/84)</u> for order to be S.T.	<u>ST 16/3/84</u>
	<u>23-4-84</u> fix for attendance for filing C.A in ent. 7 & 8/84 N.I to O.P. No. 1 by R.P.	
	<u>19/10/1982</u> 3 by Smt. Manager Smt. Manager	
		<u>D</u> <u>12-3-84</u>

(11)

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 1452 of 1983

25.

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
9.8.84	Fixed with C.R. 3126-83 for orders.	
7.9.84	Hon. D. N. Jha J. Hon. K. N. G. J.  C.R. 3039 (1984) for amendment Mr. B. K. Narang Court will be record. if possible, in the next week	
25-8-84	25-8-84 fixed in week 3126 and 3, 1984	30.8.84 7.9.84
9.9.84	Hon. D. N. Jha J. Hon. K. N. G. J.	
20.9.84	20.9.84 fixed now C.R. 3126 of 83 and 3039 of 84	20.9.84
	HON. D. N. Jha J. Hon. K. N. G. J.	

Admit. application stay rejected  
Amendment allowed by

20.9.84

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

(B)

REGISTRATION NO. 1137 of 1987 (T)  
(C.W.P. 1452/03)

APPELLANT  
APPLICANT

A. Khan (A.M.)

VERSUS

DEFENDANT  
RESPONDENT

U.O.C. (N.Rly.)

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
25/5	<p>No sitting. Adjourned to 6/7/89 for orders. B.O.C.</p> <p>25/5 B.O.C.</p>	<p>This Case has been referred on transfer from High Court Bench under the order of DR (T) 2. Notice were issued to parties with petition in admitt Counter &amp; Respondent has not filed No evidence and cover have been recd. back Petition is pending for order.</p>
	<p>Hon' Mr. Justice K. Nath, V.C. Hon' Mr. K.J. Raman, A.M.</p>	<p>Submitted for ad</p>
6/7/89	<p>Shri Sidhartha Varma learned counsel &amp; appears on behalf of the respondents and says that he would like to obtain instructions from the respondents because ever since from the transfer of the case from the High Court to the Bench of the Tribunal at Allahabad, he had not received instructions. It appears that counter affidavit is also not filed. He may obtain necessary instruc- tions and arrange to file counter within a week's time and list this case for orders on 3-8-89.</p>	<p>✓ No reply filed submitted for counter 2/7</p>
7/8/89	<p>(sns)</p> <p>Hon' Justice K. Nath, V.C.</p> <p>On the ground of illness of Shri Sidhartha Varma for the opposite parties the case is adjourned for orders on 12/9/89.</p>	<p>✓ No reply filed submitted for order 2/7</p>

✓ No reply  
submitted  
order

O.R.

Mr. Justice K. Nath, V.C.  
Hon. Mr. K. Obayya, Member (A)

The main grievance in this Review Application is that the judgement sought to be reviewed directed that the Review Appln. viz the applicant under Section 29 of the Administrative Tribunals Act, 1985 shall not get any back wages from the date of dismissal till the date of reinstatement.

It is pointed out that the Hon'ble High Court had passed an interim order in the applicant's Writ Petition, which was decided by us by transfer under Section 29 of the Act, on 17.5.85 that till further orders the respondents shall pay onwards the salary of the applicant of the post from which his services were dispensed with.

It is stated in para 4 of the Review Application that in terms of the aforesaid order the applicant was paid salary on the post of Asstt. Station Master which continued to be paid regularly till the judgement under review was passed. Issue notice to the respondents to show cause why the review application may not be admitted and why the applicant should not be given back wages.

List for hearing on 24.6.91.

Member (A) Vice Chairman

Dated the 9<sup>th</sup> May, 1991.

RKM

6.91 - Case not reached case is adjourned to 9.9.91.

9.91 No sitting. Adj. to 22.11.91

9.91 - No sitting adj. to 11.1.92

Review appl. No. 628/90

T.A. 1137/87

A. M.P. (Review) A.N. 628/90 C. L. has been filed in T.A. 1137/87 on 17/10/90.

The case hearing T.A. was decided by Hon. Bench of Mr. Justice K. Nath, V.C. & Hon.

Mr. K. Obayya, A.M. on dated 25/7/90. The author of the judgement is Hon. Mr. Justice K. Nath, V.C.

S. f. O

OSR

Notice issued  
10/7/91

OR

Notices were issued on 10.6.91.

Neither reply nor any counter reply has been received.

P.O.C. S.P. 4 L  
19/6

AB (17)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

CIRCUIT BENCH

LUCKNOW

T.A. 1137/1987

(Writ Petition No. 1452/83 of High Court of Judicature,  
at Allahabad, Lucknow Bench, Lucknow)

Anwar Ahmad Khan

...Petitioner.

versus

Union of India & others

...Respondents.

Hon. Mr. Justice K. Nath, V.C.

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

(Hon. Mr. Justice K. Nath, V.C.)

The Writ Petition described above is before us under section 29 of the Administrative Tribunals Act, 1985 for quashing the order dated 23.12.1982 (Annexure -1) whereby the petitioner was dismissed from railway service in consequence of a departmental disciplinary enquiry.

2. The petitioner Anwar Ahmad Khan was working as Assistant Station Master when a charge sheet dated 1.9.78 ~~xxx~~ issued by the Senior Divisional Commercial Superintendent was served upon him on 12.3.1979 for defrauding the railway administration of a sum of Rs 43.40 by preparing fraudulent accounts and records foils of various blank paper ticket No. 579865 dated 9.7.1977. He did not file any reply to the charge sheet on the pretext that he was asking for certain documents. The Enquiry Officer found him guilty of the charge and the General Manager, Headquarters, New Delhi passed the

44

18

impugned dismissal order after accepting the enquiry report.

3. The first point raised in this petition is that notice of holding an enquiry proceedings was never given to the petitioner, although he submitted a reply to the chargesheet. The answer in the counter is that the petitioner never furnished a reply to the chargesheet, yet the enquiry officer had given notice to the petitioner by telegram dated 21.9.81 and 16.10.1981 (Annexure -4 and Annexure -5 respectively). The petitioner never appeared and therefore, the proceedings were conducted ex parte. There is no reason to disbelieve the case taken in the counter. We find therefore, that the petitioner had reasonable opportunity of making a defence.

4. The next point raised is that the copy of the enquiry report was not furnished to the petitioner before the impugned order of punishment was passed by the disciplinary authority. No such plea was taken in the Writ Petition; we are not inclined to allow the petitioner to raise that question of facts at this stage.

5. The last and the most important point raised by the petitioner in para 15 A in the petition is that disciplinary proceedings was initiated by an authority who was not competent to do so and therefore, the entire disciplinary proceedings stands vitiated. The case of the petitioner is that in his capacity as Assistant Station Master, he was working in the operating department

under the administrative control of that department whereas the disciplinary proceedings were initiated by the Senior Divisional Commercial Superintendent who belonged to the commercial department. Reliance was placed on Railway Board Circular dated 16.10.1973 (Annexure -3) in this regard.

6. The reply in para 15 of the counter is that the circular of Railway Board dated 16.10.1973 has been superseded by Railway Board's circular dated 19.4.1974 (Annexure -9) and therefore, in the light of the latter circular the Senior Divisional Commercial Superintendent was competent to initiate the disciplinary proceedings.

7. In para 15 of the Rejoinder the petitioner has stated that the Railway Board letter dated 19.4.74 itself was superseded and withdrawn by Railway Board letter dated 10.1.1979 circulated by letter dated 3.2.1979 (Annexure -4). The true meaning of these circulars of the Railway Board would govern the question whether the departmental/proceedings against the petitioner was initiated by the competent authority or not.

8. Annexure -3, the letter dated 16.10.1973 in paragraph 1 referred to in Railway Board's earlier circular dated 28.7.1962 and mentioned that it had been indicated in that letter that it would be procedurally wrong for an authority to initiate and finalize the disciplinary proceedings against an employee who is not its administrative control. The letter then noticed certain difficulties

which were being experienced in initiating and finalizing the disciplinary proceedings and remarked that in respect of ASMs/SMs the disciplinary action is initiated and finalized by Divisional Safety Officer and Divisional Commercial Superintendent depending upon the department to which the irregularity committed pertained despite the fact that ASMs/SMs belong to the operating department. The Board then took a decision in the following words:

"The ASMs and SMs belong to the operating department even though they may have to perform the duties pertaining to the Commercial Department from time to time. The disciplinary authorities, in other cases, would thus belong only to the operating department and none else. If any other practice is being followed, that is irregular and should be stopped forthwith. The disciplinary action should be initiated and finalized by the authorities under whose administrative control the delinquent employee may be working as any other procedure would not be in keeping with the instructions referred to in para 1 above."

9. These decisions leave no manner of doubt the disciplinary proceedings could be initiated and finalized since as early as the Railway Board's circular dated 28.7.1962, only by an authority under whose administrative control the delinquent official serves, that the ASMs belong to the operating department and therefore, in his case, the disciplinary proceedings could be commenced only by an appropriate authority of the Operating Department and none else. The circular called upon to stop forthwith any practice to the contrary and directed that disciplinary action should be initiated and finalized by the authority under whose administrative control the delinquent employee may have been working.

Accordingly, the disciplinary proceedings against the petitioner could not have been commenced by the Senior Divisional Commercial Superintendent who is an authority in the commercial department whereas the petitioner belonged to the operating department. However, Annexure-9 to the counter is the Railway Board letter dated 19.4.1974. That letter referred to the Railway Board letter dated 16.10.1973 and in partial supersession of the instructions contained in that letter "clarified that the Station Masters/Assistant Station Masters belong to transportation(Traffic) and Commercial Department and not to Operating Department as mentioned in the letter dated 16.10.1973. It was observed that Station Masters/Assistant Station Masters in the course of their day to day functions might violate instructions of other departments, for example commercial or operating departments and in these circumstances, there is no objection for the authority in the commercial or operating wing of that department to initiate and finalize disciplinary action against the concerned Station Master/Assistant Station Masters according as irregularity for which the action is initiated relates to commercial or operating wing". This circular thus, modified the circular dated 16.10.1973 by clarifying that SMS/ASMs do not belong to operating department and that the authority of the Commercial department or operating wing could initiate and finalize the disciplinary action against them according as the irregularity for action relates to the commercial or operating department. Since defalcation of funds by fraudulent preparation of journey tickets concern the

commercial activity of the railways, it was permissible under the circular of 19.4.74 for the Senior Divisional Commercial Superintendent to initiate the disciplinary proceedings against the petitioner.

10. But the Railway Board circular dated 19.4.74 was cancelled in toto by Railway Board circular dated 10.1.1979 Annexure -4 in the following words:

"The Board have, after careful consideration, decided that their letter referred to above (that is dated 19.4.1974), should be treated as cancelled. The instructions contained in Board's letter No. E(D&A)72 RCS 13 dated 16.10.1973 on the above subject should continue to be followed."

11. This circular leaves no manner of doubt that the Railway Board's decision ~~that the Railway Board's~~ decision contained in the circular dated 19.4.1974 (Ann.9) was wholly cancelled and it was directed that the instructions contained in the circular dated 16.10.1973 (Annexure -3) should continue to be followed. In this context, it is material that whereas the chargesheet issued by the Senior Divisional Commercial Superintendent is dated 1.9.1978 when the Railway Board circular dated 19.4.74 (Annexure -9) <sup>was</sup> in force, it was served upon the petitioner only on 12.3.1979 when the circular dated 19.4.1979 (Annexure -9) had been totally cancelled by the circular dated 10.1.1979 circulated to the offices on 3.2.1979 by Annexure -4. In other words, even if it be held that the Senior Divisional Commercial Supdt.

could issue the charge sheet on 1.9.78, the disciplinary proceedings on that charge sheet could / have continued after 3.2.79, and therefore, on 12.3.1979 and afterwards it should have / withdrawn in accordance with the instruction

contained in the circular dated 16.10.1973 which was reiterated by the circular dated 10.1.1979. We have pointed out that in circular dated 16.10.1973 while it had been declared that the disciplinary authorities in the case of SMs/ASMs would belong only to the operating department and none else, <sup>it</sup> went on to say that any other practice being followed would be irregular "and should be stopped forthwith". It must be remembered that these letters contained the Railway Board's decision only for purposes of initiating the disciplinary proceedings but also for finalizing them. In other words, even if the initiation of the proceedings by the issue of charge-sheet dated 1.9.78 must be considered to be saved by circular dated 19.4.1974, any further proceeding thereunder could not have been protected after 3.2.1979, that is, even before the charge sheet was served upon the petitioner and consequently, should have "stopped forthwith" within the meaning of the circular dated 16.10.1973 (Annexure 3).

12. The learned counsel for the petitioner has also filed a copy of a judgment dated 27.2.1990 of the Hon. High Court of Judicature at Allahabad, Lucknow Bench, Lucknow in Second Civil Appeal No. 138/1981, Union of India through General Manager, Northern Railway, Baroda House, New Delhi vs. Hari Krishan to show that Divisional Commercial Superintendent had no administrative control over Hari Krishan the respondent who was chargesheeted on the post of Station Master and as such Divisional Commercial Superintendent was not competent to pass the

24

removal order; the lower court's judgment quashing the impugned removal order was confirmed by the Hon. High Court. It must be stated at once that while this decision establishes that a Divisional Commercial Supdt. had no administrative control over Station Master and therefore, could not pass an order of removal of the Station Master, the decision does not deal with the question of initiation of disciplinary proceedings. Further, while the removal order in that case was passed by the Divisional Commercial Superintendent, the dismissal order before us was passed by the General Manager. The decision, therefore, is distinguishable from the case before us.

13. In this context we may refer to rule 8 of the Railway Servants(Discipline & Appeal) Rules, 1968 which provides for the authorities to institute disciplinary proceedings. Sub-rule 1 speaks of the power of the President or any other authority empowered by him by general or special order to institute disciplinary proceedings or to direct the disciplinary authority to institute the disciplinary proceedings. Sub rule 2 speaks of the competence of the disciplinary authority to institute disciplinary proceedings read with the definition of the expression 'disciplinary authority' in rule 2 (c) of the Rules. It is admitted by the learned counsel for both the parties that the Railway Board exercises the powers of the President in this respect and that is how the various circulars issued by the Railway Board have the authority of law. The powers of the Railway Board, thus, will also include the power to prescribe or clarify as to

AT 23

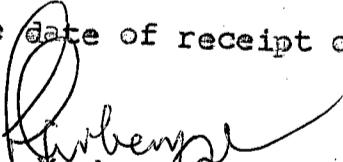
which authority of a department exercises administrative control over what class of employees. In this sense, the circular dated 16.10.1973 (Ann. -3) prescribed the authorities of the operating department only to be the appropriate authorities for initiating and finalizing disciplinary proceedings against ASMs; but that prescription must be considered to have <sup>been</sup> modified by the circular dated 19.4.1974 (Ann-9) which said that the authorities of the commercial department could also initiate proceedings against ASMs if the latter's default relate to activities concerned with the commercial functions like collecting money by issue of railway tickets. The authorities thus, prescribed by the circular dated 19.4.1974 must be held to have been cancelled only on 10.1.1979 when the circular of that date was issued and later circulated by letter dated 3.2.79 (Ann. 4). This circular could not operate retrospectively because neither it expressly describes itself to be retrospective, nor conferment or revocation of authority could be done retrospectively. We are of the opinion, therefore, that while issue of the charge sheet dated 1.9.78 by the Senior Divisional Commercial Superintendent against the petitioner was not invalid, any further proceeding in the disciplinary enquiry proceedings after 10.1.1979 or in any case after 3.2.1979, would be illegal and therefore, all the proceedings of enquiry from 12.3.79 when the charge sheet was served upon the petitioner after the date of the passing of the impugned dismissal order, would be illegal.

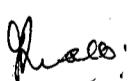
14. The effect of our findings is that the dismissal

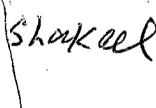
AP 26

order of the petitioner must be set aside but it is one of those rare cases where while the petitioner may be given pro-forma benefit of fixation of salary, opportunities of promotion etc., he may not be given back wages. The petitioner, in our opinion, has dis-entitled himself to back wages, because he did not participate in the proceedings of an enquiry despite repeated opportunities and if he had made appearance and raised objections about the competence of the authority which initiated the proceedings, the department might have examined and appreciated the true result of the circular referred to above.

15. The petition is partly allowed and while the impugned order of dismissal dated 23.12.1982 (Ann. -1) of the petitioner from service is quashed, and is declared to have continued to be in railway employment, he will only get pro-forma benefits of fixation of pay and a right to be considered for pro-forma promotion in accordance with law, he shall not get any back wages from the date of dismissal till the date of his re-instatement. The respondents are directed to re-instate the petitioner on an appropriate post within a period of one month from the date of receipt of a copy of this judgment.

  
Adm. Member.

  
Vice Chairman.

  
Shafeek

Lucknow Dated July, 25, 1990.

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

Writ Petition No. 1452

of 1983

Anwar Ahmed Khan ..... Petitioner

Versus

Union of India & others ..... Opp. Parties

I N D E X

Pages

1. Writ Petition .	... 1 to 9
2. Annexure No.1- Order of dismissal alongwith the inquiry report.	... 10 to 13
3. Annexure No.2- Petitioner's letter dt. 24.1.1983 to the DRM.	... 14
4. Affidavit.	... 15 & 16
5. Vakalatnama.	... 17
6. Stay application. (Separate)	...

*Kale Om Prakash*

DX

a criminal case was filed against the petitioner. The matter was earlier referred to the CBI by Sri S. Chand, Senior Divisional Commercial Superintendent. The charge against the petitioner in this criminal case No. RC 11/79 was of misappropriation of an amount totalling Rs.62.95p. realised in various excess fare tickets alleged to have been issued by him. After investigation the prosecution was lodged against the petitioner under Section 409 IPC before the Chief Judicial Magistrate, Lucknow.

6. That prior to the aforesaid incident the petitioner had worked for 4 months, that is, from 16.2.1978 to 15.6.1978 as Station Master and no complaint in any form whatsoever was made against him and the claim of overtime by the petitioner for this period amounting to about Rs.3000/- has not been paid to him and the officiating allowance for 82 days during this period amounting to Rs.82/- at the rate of rupee one per day has also not been paid to him.

7. That in the above criminal case the petitioner was released under Probation of First Offenders Act by the judgment and order dated 29.5.1981 passed by the Chief Judicial Magistrate Lucknow. Against the said judgment the petitioner preferred a criminal appeal No.147 of 1981 before the Sessions Judge Lucknow.

8. That the aforesaid criminal appeal of the petitioner was allowed by the Vth Addl. Sessions Judge Lucknow on 23.12.1982 setting aside the judgment and order dated 29.5.1981 and the petitioner was not held guilty of the offence under Section 409 of IPC with



Anwar Ahmad Khan

which he stood charged and was acquitted.

9. That in the matter relating to the alleged incident of 9.7.1977 in which chargesheet dated 1.9.1978 was issued to the petitioner no further notice was received by the petitioner regarding departmental proceedings on the basis of the chargesheet. The petitioner continued to discharge his duties on various postings in the bonafide belief that the administration had either decided not to press the charge in the chargesheet against him or had kept the matter in abeyance on the basis of the pending aforesaid criminal case on a charge of similar nature.

10. That no notice or intimation was sent to the petitioner in accordance with the procedure prescribed in the Railway Servants (Disciplinary and Appeal) Rules regarding the appointment of the Inquiry Officer nor any opportunity was afforded to him to lead any evidence or examine any witness in his defence. In fact no intimation of the dates of hearing was given to the petitioner nor was he warned that proceedings will be held ex-parte against him.

11. That while the petitioner was posted at Badohi he received a letter dated 19.12.1982 requiring him to be present before the Divisional Commercial Superintendent (Confidential Section) at Lucknow at an earliest possible date. The petitioner presented himself in the office of the Divisional Commercial Superintendent (Confidential Section) at Lucknow on 20.12.1982 and continued to attend the office daily on 21.12.1982 and 22.12.1982 but no ins-



Anwar Ahmed Khan

tructions were given to him. On 23.12.1982 the judgment in the pending criminal appeal was pronounced at 3.40 P.M. and when the petitioner again went back to the office of the Divisional Commercial Superintendent (Confidential Section) he was served with the letter of dismissal at about 4.10 P.M. The order of dismissal, in which the date is written by hand and which was served on the petitioner on the same date at 4.10 P.M. after the judgment in criminal appeal along with the copy of the inquiry report dated 4.3.1982, is filed as Annexure No.1 to this writ petition.

12. That from the aforesaid order of dismissal it is evident that it was passed by the General Manager at Headquarters Office, Baroda House, New Delhi, on 23.12.1982, and was served on the same date on the petitioner at Lucknow. Moreover the Inquiry report attached thereto is dated 4.3.1982. The said inquiry report further indicates that the documents attached thereto include all records as shown in annexure III of S.F. 5. However, no such documents were attached with the inquiry report served on the petitioner.

13. That the petitioner moved an application dated 24.1.1983 before the Divisional Railway Manager, Lucknow, requesting that the documents shown to have been attached along with the inquiry report have in fact not been so attached and the same may be supplied to him so as to enable him to file his appeal as required under the Railway Servants (Disciplinary and Appeal) Rules. A true copy of the petitioner's letter dated 24.1.1983 to the DRM Lucknow is filed as Annexure No.2 to this writ petition.



Anwar Ahmad Khan

14. That no documents as mentioned in the inquiry report dated 4.3.1982 attached to the dismissal order dated 23.1.21982 and requested by the petitioner through his letter dated 24.1.1983 were supplied to the petitioner and as such he was unable to file his appeal under Section 18 of the Railway Servants (Disciplinary and Appeal) Rules.

15. That the findings of the inquiry report are based on the aforesaid documents mentioned therein which were not supplied to the petitioner. The inquiry report also indicates that the inquiry proceedings were held after due notice to the petitioner which the petitioner categorically denies. No such notice as mentioned was given to the petitioner and the same, if any, exists on paper only. The entire inquiry was conducted behind the back of the petitioner without affording him any opportunity to lead evidence or examine witnesses in his defence. Consequently the findings in the inquiry report against the petitioner are baseless and arbitrary and against the principles of natural justice and without following the procedure contemplated under the law.

*Amendment incorporated*  
*Kuldeepah H. Maj. J.*

21-9-84

16. That the opposite parties were waiting for the decision in the petitioner's criminal appeal and when the appeal was allowed and the petitioner was acquitted they served him with the order of dismissal. The circumstances in which the dismissal order was passed and served on the petitioner also indicate that the dismissal order is actuated by malice and has been passed malafide which is evident on the face of the record itself.



*Anwar Ahmed Khan*

17. That the malafide against the petitioner is also evident from the fact that in anticipation of the proposed dismissal order against the petitioner either on the basis of his conviction in the criminal case or on the basis of the departmental inquiry his salary for the period of 16.11.1982 to 15.12.1982 was not prepared although the petitioner actually discharged his duties during this period as Assistant Station Master at Bhadohi.

18. That aggrieved by the order of dismissal dated 23.12.1982 and refusal to supply to him the documents mentioned in the inquiry report despite request, the petitioner having no alternative efficacious and speedy remedy has preferred this writ petition on the following amongst other grounds:-

G R O U N D S

(A) Because the order of dismissal dated 23.12.82 is illegal and without jurisdiction.

(B) Because the order of dismissal dated 23.12.1982 against the petitioner is malafide.

(C) Because the petitioner had no knowledge of the inquiry proceedings against him as no notice of appointing inquiry officer was given to him nor any intimation of the various dates of the inquiry proceedings was given to him and as such the inquiry against him was behind his back and against the principles of natural justice.



Anwar Ahmed Khan

(D) Because the petitioner was denied adequate opportunity to set up his defence.

(E) Because the petitioner has been falsely implicated on a baseless charge and as such the findings against him are perverse and illegal.

(F) Because the dismissal order based on the illegal inquiry is arbitrary and without jurisdiction.

(G) Because the petitioner was not supplied with the documents to have been attached with the inquiry report despite his request and as such he has been prevented from exercising his right to appeal under the Rules.

P R A Y E R

WHEREFORE it is most respectfully prayed that this Hon'ble Court may be pleased to :-

(i) issue a writ, direction or order in the nature of certiorari quashing the order dated 23.12.1982 (Annexure No.1) based on the inquiry report dated 4.3.1982;

(ii) issue a writ, direction or order in the nature of mandamus commanding the opposite parties to treat the petitioner in service throughout and entitled to all the benefits of service;

*Narayan Pathak*

(iii) issue such other writ, direction or order as deemed just and proper in the circumstances of the case;

(iv) award the costs of the writ petition to the petitioner.

Dated Lucknow:  
March 8, 1983.

*Lalchand Shukla*  
(L.P. Shukla)  
Advocate,  
Counsel for the petitioner.

(iii) issue such other writ, direction or order as deemed just and proper in the circumstances of the case;

(iv) award the costs of the writ petition to the petitioner.

*Lakshmi pat Shukla*

Dated Lucknow:

March 8, 1983.

(L.P. Shukla)

Advocate,

Counsel for the petitioner.

10

124

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD  
SITTING AT LUCKNOW

Writ Petition No. of 1983

Anwar Ahmed Khan ..... Petitioner  
Versus  
Union of India & others ..... Opp. Parties

ANNEXURE NO.1

---

Anwar Ahmed Khan





उत्तर रेलवे/NORTHERN RAILWAY

CM1/BSB

No C/34-Frauds NBP/77/BBM/1KK.  
dated 4-3-82The Sr DCS  
N.R. LKORegd: DAR enquiry A/G sh. AA Khan ASM. Working as  
LR ASM Sunwansa at Sarai KansRai.

Brief History of the Case:- That sh. AA Khan while working as LR ASM  
Sunwansa at SQN issued FBPT NO 579865 dt 9.7.77  
Fraudulently showing Ex Sarai KansRai to Dara ganj amount  
Rs 4.60 b<sup>t</sup> than passengers foil & Record foil and Ex Sarai-  
KansRai to Chailigachh UKN 1390 Rs 4.60/- on passengers foil  
and there b<sup>t</sup> embezzled Rs 43.40

Documents examined:-

(1) SM/SQN report c/H 6.8.77 8/18.7.77  
(2) Confidential Do Letter No NS/1/PCM B/18 dt 24.2.78-/-  
Sh TR Chaudhary 110/Coaching TA/DKZ address 2117  
STI 11N Srivastva ACS/LKO(3) Record Account of Passenger-foils original of FBPT NO 579865  
dt 9.7.77 issued Sh. AA Khan ASM while working as ASM at SQN

Witnesses Examined:- No Necessity was felt to examine any  
witness as there was documentary evidence to prove the Fraud  
played by Sh. AA Khan. That is why Sh. AA Khan also neither  
attended enquiry nor submitted any defence despite repeated  
reminders at SN 29-31-36-110-111. He has not even Nominated  
the name of his defence helper. From the statement placed at  
SN 37 it will be seen that Sh. A.A. Khan is in a habit of  
remaining absent from work or on sick report

Preamble:- It is a fact that BPT NO 579865 dt 9.7.77  
had been issued by Sh. A.A. Khan LR ASM at SQN as  
per report of SM/SQN placed at SN<sub>2</sub> SN<sub>3</sub> and then CM1/BSB  
report at SN<sub>5</sub>.

१००८८० 19/G.L. 19  
बनरेख ९९-बड़ा/Genl. 99-Large

(2)

उत्तर रेलवे/NORTHERN RAILWAY Collected from stations

The record fact of the said FBPT Collected from stations and accounts for collected from Dy CAOTA/DKZ placed on record clearly indicate that it has been issued for Daraganj station via Allahabad by 28 UP for

Rs 11-60 only where as the passenger fact of the said FBPT Collected from C/Rly through A D/Coaching TA Branch DKZ vide SNG clearly indicate that FBPT in question has been issued for Chalisgarh station on C Rly for 1390 Km by 28 UP for Rs 118-00. It clearly indicates that Sh A A Khan had intentionally played a serious fraud and embezzled a sum of Rs 113-40

This case does not require any other proof or witnesses/witneses as documentary evidence available on record are self explanatory and sufficient to prove the fraud played by Sh. A A Khan AISM

Finding: Sh. A A Khan can't escape the responsibility. He is directly involved in the above fraud and

therefore wholly and solely responsible  
P.S. He has also issued FBPT No 579863- 864, 856 and  
26, 868 and 869 on 9.7.77, 11.7.77, 13.7.77 8.15.7.77 for Dacca  
Surat, Bariya, Nath Dham directly but indicate fake destination like Daraganj, Ram Nathpur, Saidabad all NFR stations via  
Agra's ALD city for which there is no direct link. But because of the fact no passenger fact of the FBPT is in these cases had been collected therefore action could not be taken against him

DA. All record as shown  
in annexure III of SF5

Sd.

CMII/BSB

Three Copy

Anil Kumar  
Asstt. General Manager,  
Northern Railway, Lucknow.

14  
12/12/83  
IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD  
SITTING AT LUCKNOW

Writ Petition No. of 1983

Anwar Ahmed Khan ..... Petitioner

Versus

Union of India & others ..... Opp. Parties

ANNEXURE NO.2

The DEM/LKO  
NR

Ref. Notice of imposition of penalty No.170-E/925E  
(D&A) dt. 23.12.82.

Sir,

Please call for my verbal requests for supply of documents annexed with the report of the Enquiry Officer made on 23.12.82 when the notice of imposition of penalty referred to above was served on me in your office at Lucknow alongwith a true copy of the Enquiry Officer's report only without its enclosures which was pointed out by me then and there. And on 12.1.83 when I attended your office personally for receiving the said documents which were assured to be given to me. In this connection I regret to write you that despite assurance given by your office again on 12.1.83 to supply the said documents viz the enclosures of the Enquiry Officers report further within a week, the same are still awaited and as such filing of appeal is held up though a considerable time has already been expired for the said reason.

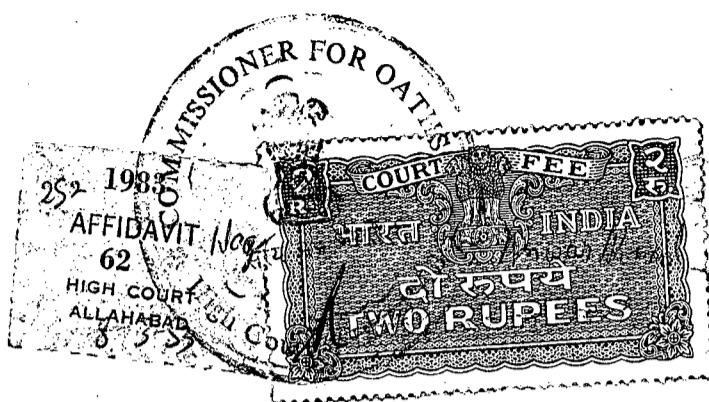
I therefore, request you again to supply the said documents within ~~time~~ days otherwise I will be compelled to knock the doors of the court against the injustice meted out to me throughout. This may please be treated as most urgent.

Anwar Ahmed Khan  
Thanking you

Yours obediently

Anwar Ahmed Khan  
ASM/Boy  
24.1.83.





IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD  
SITTING AT LUCKNOW

Affidavit

In

Writ Petition No. of 1983

Anwar Ahmed Khan ..... Petitioner  
Versus  
Union of India & others ..... Opp. Parties

A F F I D A V I T

I, Anwar Ahmed Khan, aged about 44 years, son of Sri Abdul Rahman Khan, resident of Village Lakhanpura, post office Chiel, District Mirzapur, do hereby solemnly affirm and state on oath as under:

1. That the deponent is the petitioner in the above writ petition and as such is fully conversant with the facts ~~depos~~ of the case.
2. That the deponent has read the accompanying writ petition along with the annexures, the contents of which he has fully understood.
3. That the contents of paragraphs 1 to 17 of the writ petition are true to my own knowledge.
4. That Annexure No.1 to the writ petition is the order in original as received by the deponent and



-2-

Annexure No.2 is the true copy duly compared from its duplicate.

*Anwar Ahmed Khan*

Dated Lucknow:

Deponent

March 8, 1983.

Verification

I, the above-named deponent, do verify that the contents of paragraphs 1 to 4 of this affidavit are true to my own knowledge. No part of it is false and nothing material has been concealed. So help me God.

*Anwar Ahmed Khan*

Dated Lucknow:

Deponent.

March 8, 1983.

I identify the above-named deponent who has signed before me.

*A Singh & L.P. Shukla*  
Advocate.

Solemnly affirmed before me on  
at 8.30 a.m./p.m. by Sri Anwar Ahmed Khan  
the deponent who is identified by  
Sri Anirudh Singh

Clerk to Sri L.P. Shukla

Advocate, High Court, Allahabad.

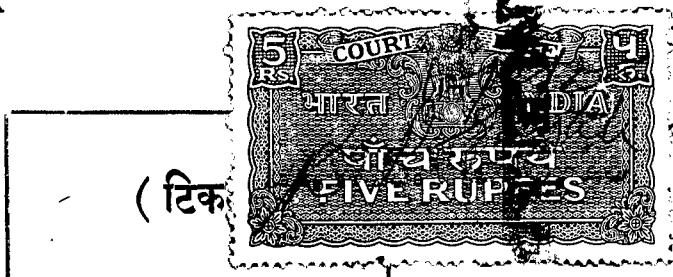
I have satisfied myself by examining the deponent that he understands the contents of this affidavit which have been read out and explained by me.



KULDEEPAK NAG  
OATH COMMISSIONER  
High Court, Allahabad  
Lucknow, Bench

*Kuldeepak Nag*  
KULDEEPAK NAG  
OATH COMMISSIONER  
High Court, Allahabad  
Lucknow, Bench  
No 282/62  
Date 8-3-83

17  
 In the High Court of Judicature  
 at Allahabad sitting at Lucknow  
 ब अदालत श्रीमान महोदय  
 वादी अपीलान्ट का वकालतनाम  
 प्रतिवादी रेस्पन्डेन्ट



(टिक)

1C.P. = 5/-

Ra  
11-3-1931

वादी (मुद्रित)

बनाम

Union of India & ors.

प्रतिवादी [मुद्रालेह]

नं० मुकदमा सन् १९ पेशी की ता० १९ ई०  
 ऊपर लिखे मुकदमा में अपनी ओर से श्री

L. P. Shukla, K. D. Nag  
C-700 Mahanagar, Lucknow

एडवोकेट

महोदय  
वकील

को अपना वकील नियुक्त करके प्रतिज्ञा [इकरार] करता हूँ और  
 लिखे देता हूँ इस मुकदमा में वकील महोदय स्वयं अथवा अन्य  
 वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य  
 कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी  
 जारी करावें और रप्या वसूल करें या सुलहनामा या इकबाल  
 दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने  
 हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकदमा उठावें  
 या कोई रुपया जमा करें या हमारी या विपक्ष [फरीकसानी] का  
 दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त [दरतख्ती]  
 रसीद से लेवें या एवं नियुक्त करें - वकील महोदय द्वारा की  
 गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं  
 यह भी स्वीकार करता हूँ कि मैं हर पेशी स्वयं या किसी झपने  
 पैरोकार को भेजता रहूँगा अगर मुकदमा अदम पैरवी में एक  
 तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे  
 वकील पर नहीं होगी । इसलिए यह वकालतनामा लिख दिया  
 कि प्रमाण रहे और समय पर काम आवे ।

Accepted  
Anwar Ahmad Khan  
हस्ताक्षर १

3 ..... 8 .....

साढ़ी (गवाह) ..... साढ़ी (गवाह) .....  
 दिनांक ..... १ ..... माह ..... ३ ..... सन् १९ ..... ८.३ ..... ई०

IN THE LUCKNOW HIGH COURT OF JUD

SITTING AT LUCK

1983

ANWAR KHAN

Writ Petition No.

Petitioner

Anwar Ahmed Khan

.....

Union of India & others

.....

Opp. Parties

W X

Pages

1. Writ Petition.

...

2. Annexure No.1- Order of dismissal  
alongwith the inquiry report.

...

3. Annexure No.2- Petitioner's letter  
dated 24.1.1983 to the D.M.

...

4. Affidavit.

...

5. Vakalatnamo.

...

6. Stay application.

...

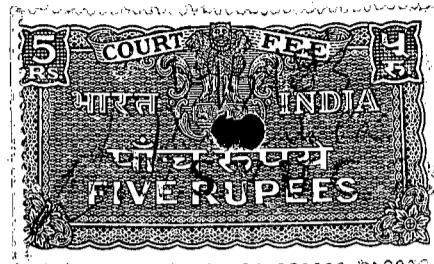
by the Railway Service  
thereafter transferred to No.  
basis of mutual consent and was  
Assistant Station Master at Suwana  
garh.

2. That on 9.7.1977 while posted at Suwana  
the petitioner was asked to work in leave from  
duty at Sarai Kansrai in district Jaunpur.

3. That on 12.3.1979 while posted at Banara  
the petitioner received a chargesheet dated 1.9.  
under the signatures of Sri S. Chand, Senior Di  
Commercial Superintendent. The said chargesheet  
contained a charge of defrauding the railway  
extent of Rs.43.40p. by fraudulently preparin  
accounts and record foils of foreign ~~light~~ paper  
ticket (FBFT) No.579865 dated 9.7.1977. The said  
charge related to the incident of 9.7.1977.  
chargesheet dated 1.9.1978 was issued to the pe  
on 12.3.1979 more than 1½ years after the date  
the alleged incident.

4. That the aforesaid chargesheet and  
other important documents including the pet  
salary in a bag was stolen and therefore,  
titioner requested for a duplicate chargesheet  
letter dated 17.5.1979. The petitioner  
reply to the chargesheet denying the  
him.

5. That on the basis of an  
alleged to have been issued to the  
petitioner



IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

C.M. Application No. 3126/CS of 1983

In 1482  
Writ Petition No. of 1983

Anwar Ahmed Khan .....

Petitioner/  
Applicant

Versus

Union of India & others .....

Opp. Parties

Stay Application

The applicant most respectfully begs to submit as under :-

That for the facts and circumstances stated in the accompanying writ petition it is most respectfully prayed that this Hon'ble Court may be pleased to stay the operation of the order dated 23.12.1982 (Annexure No.1 to the writ petition) pending disposal of the writ petition.

Dated Lucknow:

March 10, 1983.

*Lal Pathak*  
(L.P. Shukla)  
Advocate,  
Counsel for the Applicant.

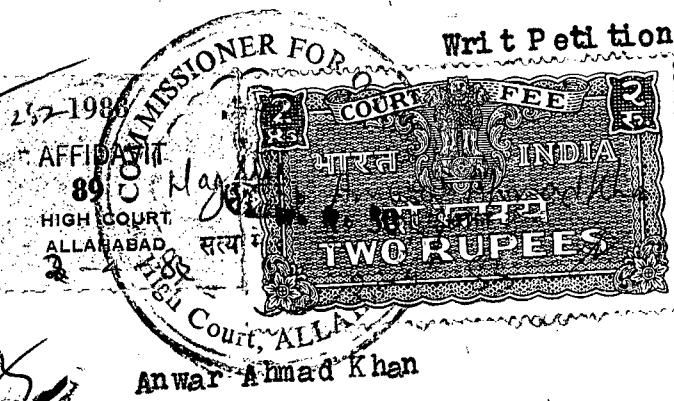
CMR 3973 (2) 103  
IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD :

LUCKNOW BENCH : LUCKNOW.

*Supplementary Affidavit.*

in re :

Writ Petition No. 1452 of 1983.



...Petitioner.

versus

Union of India and others.

...Opp. Parties.

SUPPLEMENTARY AFFIDAVIT.

I, Anwar Ahmad Khan, aged about 44 years, son of Shri Abdul Rahman Khan, resident of village Lakanpura, Post Office Chiel, District Mirzapur, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is the petitioner in the above writ petition and as such is fully conversant with the facts of the case.
2. That the deponent is filing this Supplementary Affidavit as directed by this Hon'ble Court.
3. That no Show-Cause Notice or a Second Show Cause Notice was given to the deponent nor any opportunity whatsoever was afforded to the deponent to show cause before issuing and serving the impugned order of his termination dated 23.12.1982 [Annexure No. - 1]. The said order is therefore



2

against the principles of natural justice.

AM  
Y  
K  
Anwar Ahmad Khan  
Deponent.

Lucknow, Dated. 2-4-83

Verification.

I, the deponent do hereby verify that the contents of paragraphs 1 to 3 of this affidavit are true to my own knowledge. No part of it is false and nothing material has been concealed. So, help me God.

Lucknow, Dated. 2-4-83

Anwar Ahmad Khan  
Deponent.

I identify the deponent, who has signed before me.

*Aswadh Singh C/o L.P. Shukla*

Advocate.

Solemnly affirmed before me on 2.2.4. 1983 at about 10 a.m. by the deponent Anwar Ahmad Khan, who is identified by Sri Aswadh Singh C/o L.P. Shukla, Advocate, High Court Bench Lucknow Bench, Lucknow.

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



OATH COMMISSIONER.

NO.....

DATE.....

*Kuldeepak Nag*  
KULDEEPAK NAG  
OATH COMMISSIONER  
High Court, Allahabad  
Lucknow, Bench  
No 282/83.....  
Date 2.4.83.....

IN THE HON'BLE HIGH COURT OF JUDICATURE AT  
LUCKNOW BENCH, LUCKNOW.

Supplementary Affidavit.

In re:-

Writ Petition No. 1452 of 1982.

Anwar Ahmad Khan

.....itioner.

versus

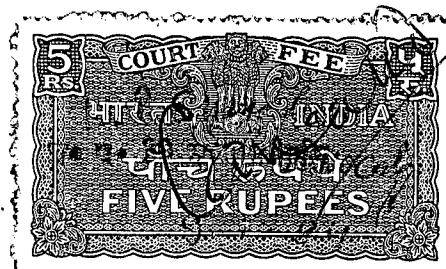
Union of India and others.

...Opp. Particulars.

SUPPLEMENTARY AFFIDAVIT.

I, Anwar Ahmad Khan, aged about 44 years, son of Shri Abdul Rahman Khan, resident of village Lakshmpura, Post Office Chail, District Muzaffarpur, do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the petitioner in the above writ petition and so much is fully consonant with the facts of the case.
2. That the deponent is filing this supplementary Affidavit as directed by this Hon'ble Court.
3. That no Show-Cause Notice or a second Show Cause Notice was given to the deponent nor any opportunity whatsoever was afforded to the deponent to show-cause before issuing and serving the impugned order of his termination dated 23.12.1982 ( Annexure No. 21 F). The said order is therefore



14.91 Rev ~~10/10/01~~

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD  
SITTING AT LUCKNOW 22

C.M. Application No. 901 (W) of 1984

In Re.

Writ Petition No. 1452 of 198

Anwar Ahmad Khan ..... Petitioner/Applicant

## Versus

Union of India & others ..... Opposite Parties

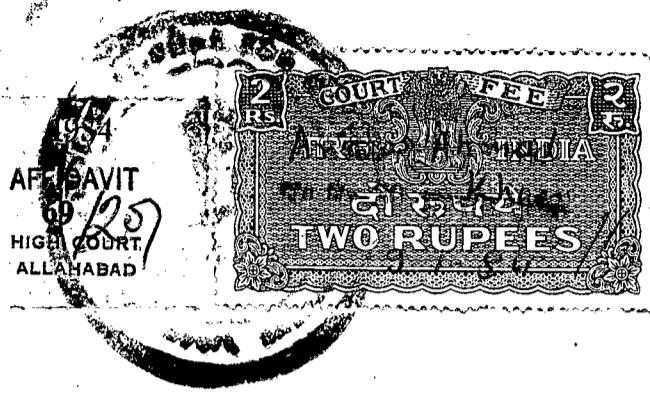
Application for early hearing

The applicant most respectfully begs to submit  
as under :-

That for the facts and circumstances stated in the accompanying affidavit it is most respectfully prayed that the above writ petition be heard and finally decided at an early date.

DATED LUCKNOW:  
JANUARY 9, 1984.

*Vakshiraj Shukla*  
(L.P. SHUKLA)  
COUNSEL FOR THE APPLICANT.



IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD  
SITTING AT LUCKNOW

Affidavit

In

C.M. Application No. (W) of 1984

In Re.

Writ Petition No. 1452 of 1983

Anwar Ahmad Khan ..... Petitioner

Versus

Union of India & others ..... Opposite parties

A F F I D A V I T

I, Anwar Ahmad Khan, aged about 44 years, son of Sri Abdul Rahman Khan, resident of village Lakhanpura, Post Office Chilh, District Mirzapur, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is the petitioner in the above writ petition and as such is fully conversant with the facts deposed to herein.
2. That the deponent in the above writ petition has challenged the order of dismissal of his service as Assistant Station Master dated 23.12.1982 (Annexure No.1) without affording him proper opportunity and in

Anwar Ahmad  
Khan



violation of principles of natural justice. The said order is also challenged on the ground that it is arbitrary, malafide and without jurisdiction.

3. That the ground of dismissal related to an incident of 9.7.1977 and the dismissal order was passed on 23.12.1982 on the same date when the deponent was acquitted in a criminal appeal by the judgment and order pronounced at 3.40 p.m.

4. That the deponent is suffering irreparable injury on account of undue delay of the Railway Administration and for no fault on his part. The deponent and his family on account of the arbitrary order of dismissal has been brought on the verge of starvation.

5. That the above writ petition has been admitted and notices have been served on the opposite parties. But no counter affidavit has been filed and the opposite parties are deliberately delaying filing of the counter affidavit and thus causing hardship to the deponent. In the interest of justice it is necessary that the above writ petition be heard and finally decided at an early date.

*Anwar Ahmad Khan*

Deponent.

Dated Lucknow:

January 9, 1984.

Verification

I, the above-named deponent, do verify that the contents of paragraphs 1 to 5 of this affidavit are true to my own knowledge and no part of it is false and



nothing material has been concealed. So help me  
God.

Dated Lucknow:

January 9, 1984.

Anwar Ahmad Khan  
Deponent.

I identify the above-named deponent  
who has signed before me.

  
Anwar Ahmad Khan  
Advocate.

Solemnly affirmed before me on 9.1.1984

at 12.30 a.m./p.m. by Sri Anwar Ahmad Khan

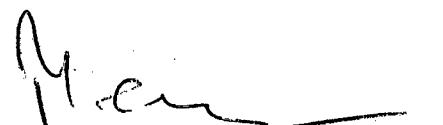
the deponent who is identified by

Sri L. P. Shukla

Clerk to Sri

Advocate, High Court, Allahabad.

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

  
L. P. Shukla  
9.1.84

P.BX

In The Hon'ble High Court of  
Judicature at Allahabad  
( Lucknow Bench), Lucknow

W. P. No 1452 of 1983

150

Anwar Ahmad Khan -- Petitioner

vs

Union of India & Others - Opp. Parties

Sir

Notices on opposite parties

2 & 3 who belong to Lucknow have  
not yet been served. Kindly  
direct the Office to serve opposite  
parties 2 & 3 through the messenger  
for which I am ready to bear  
the expenses. Further also kindly  
direct the Office to issue notices  
to opposite party re) through Registered  
Cover for which the duplicate and  
Registered cover has been filed.

12/3/84

Yes

12/3/84

Received

12.3.1984

12/3

Anwar Ahmad Khan  
Petitioner

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD,  
LUCKNOW BENCH, LUCKNOW.

From

Deputy Registrar,  
High Court, Allahabad,  
Lucknow Bench, Lucknow.

To

Divisional Railway Manger,  
Northern Railway, Hazratganj,

&

Divisional Commercial Superintendent,  
Divisional Railway's Officer, Northern Railway,  
Lucknow.

CR/SDS  
Sir A. A. Khan  
Sri A. A. Khan  
Attn: P. O. C. O.

Sir,

I am directed to inform you that  
Sri Desh Deepak an Official of this Court  
has been deputed to communicate the copy  
of this petition, on you, whose signature  
are attested as noted below.

Yours faithfully,

Signature:- Desh Deepak

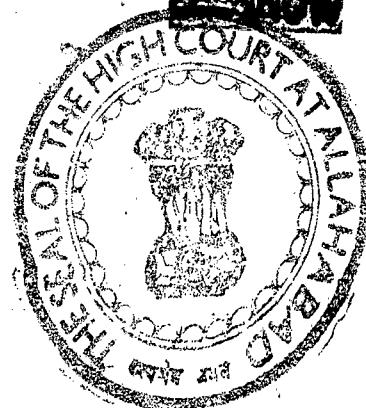
Attest. *Ravi Kant*  
Ravi Kant  
12/13/84

Attested.

Deputy Registrar  
High Court Lucknow Bench  
LUCKNOW

DEPUTY REGISTRAR

High Court Lucknow Bench  
Lucknow



१३७

हाईकोर्ट इलाहाबाद लखनऊ बेंच, लखनऊ

( अध्याय १२, नियम १ और ७ )

दोवानी विभाग

प्रकोणांक ( मतफर्रिक ) प्रार्थना - पत्र संख्या ..... सन १६ १०

W.P. १६५२

रु० ..... सन १६८३ १०० मे

Anwar Ahmad Khan ..... प्रार्थी

Union of India प्रत्याधी

Divisional Railway Manager

Northern Railway, Majlisganj

Lucknow

प्रत्याधी

चूंकि उपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त मुकदमे के सम्बन्ध में  
के नाम ..... वे ही दो प्रार्थना-पत्र

दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक २२ माह ५ सन १६८६  
को या उससे पूर्व उपस्थित होकर कारण बतलायें कि प्रार्थना-पत्र क्यों न स्वीकार कर  
लिया जाय। उक्त प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञप्ति कियी और  
दिन होंगी।

विदित हो कि आप उपर लिखे दिनांक पर या उससे पहले स्वयं अथवा किसी  
रडवोकेट या ऐसे व्यक्ति द्वारा, जो आपकी ओर से कार्य करने के लिए कानूनन अधिकृत  
हों उपस्थित न होंगे तो उस प्रार्थना-पत्र की सुनवाई और निर्णय आपकी अनुपस्थित  
में हो जायेगे।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक १२ माह ३ सन १६८६  
को जारी किया गया।

के रडवोकेट

तिथि

डिप्टी रजिस्ट्रार

इलाहाबाद/लखनऊ

सूचना—इस न्यायालय की १६८० की नियमावली के अध्याय ३७ नियम २ के अधीन  
तालिका मिल गया।

तालिका प्राप्त करने वाले कलक्क के

A10

## हाईकोर्ट इलाहाबाद लखनऊ बेंच, लखनऊ

( अध्याय १२, नियम १ और ७ )

दीवानी विभाग

प्रक्रीणक ( मुतफर्रिक ) प्रार्थना - पत्र सत्या ..... सन १६ ई०

W.P. .... १५५२ ..... सन १६४३ ई० मे

Anwar Ahmad Khan ..... प्रार्थी

Union of India for ..... प्रति

Central Railway Manager.

Northen Railway, Hazratganj

Lucknow

प्रत्यार्थी

चूंकि उपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त मुकदमे के सम्बन्ध में

के नाम ..... के हिते प्रार्थना-पत्र

दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक १२ माह १६४४ ई० को या उससे पूर्व उपस्थित होकर कारण बतायें कि प्रार्थना-पत्र क्यों न स्वीकार कर लिया जाय। उक्त प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञप्ति कियी और दिन होगी।

विदित हो कि आप उपर लिखे दिनांक पर या उससे पहले स्वयं अधिकार किसी राज्यकोट या ऐसे व्यक्ति द्वारा, जो आपकी ओर से कार्य करने के लिए कानूनन अधिकृत हों उपस्थित न होंगे तो उस प्रार्थना-पत्र की सुनवाई और निर्णय आपकी अनुपस्थित में हो जायेगे।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक १२ माह ३ सन १६४४ ई० को जारी किया गया।

के राज्यकोट

तिथि

अधिकारी

जिष्टी रजिस्ट्रार

सरकारीहस्ताक्षर/लखनऊ

सूचना—इस न्यायालय की १६४४ ई० की नियमावली के अध्याय ३७ नियम १ के अधीन प्राप्त तलवाना मिल गया।

तलवाना प्राप्त करने वाले कलक्कर के हस्ताक्षर

हाईकोर्ट इलाहाबाद लखनऊ बेंच, लखनऊ

( अध्याय १२, नियम १ और ७ )

दीवानी विभाग

प्रकोण्डक ( मुतफरिक ) प्रार्थना - पत्र संख्या १४३ सन् १९४३ ई०

..... अप्रैल १९४३ सन् १९४३ ई० में

..... अप्रैल १९४३ प्रार्थी

..... Union of India प्रत्याधी

International Commercial Superintendent

D.M.C. Office, Northern Railway

..... Lucknow प्रत्याधी

प्रत्याधी

चूंकि उपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त मुकदमे के सम्बन्ध में  
के नाम ..... वेहिये प्रार्थना-पत्र

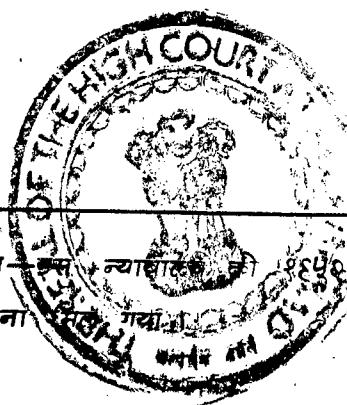
दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक २३ माह ६ ई० सन् १९४४  
को या उससे पूर्व उपस्थित होकर कारण बतलायें कि प्रार्थना-पत्र क्यों न स्वीकार कर  
लिया जाय। उक्त प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञाप्ति कियी और  
दिन होगी।

विदित हो कि आप उपर लिखे दिनांक पर या उससे पहले स्वयं अथवा किसी  
राष्ट्रोकेट या ऐसे व्यक्ति द्वारा, जो आपको और से क्षाय करने के लिए कानूनन अधिकृत  
हों उपस्थित न होंगे तो उस प्रार्थना-पत्र की सुनवाई और निर्णय आपको अनुपस्थित  
में हो जायेगे।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक १४ माह ६ ई० सन् १९४४  
को जारी किया गया।

के राष्ट्रोकेट

तिथि



Receiv'd

छप्टी रजिस्ट्रार

इलाहाबाद/लखनऊ

सूचना - इस न्यायालय की १९४४ की नियमावली के अध्याय ३७ नियम २ के अधोन प्राप्त  
तलवाना से गया।

तलवाना प्राप्त करने वाले कल्कि के हस्ताक्षर

MUR

## हाईकोर्ट इलाहाबाद लखनऊ बेन्च, लखनऊ

( अध्याय १२, नियम १ और ७ )

दीवानी विभाग

प्रकोणांक ( मुतफरिक ) प्रार्थना - पत्र सख्ता ..... १५५२ सन १६४३ ई०

..... १५५२ सन १६४३ ई० मे

..... Anwar Ahmad Khan ..... प्रार्थी

..... Mr. M. S. J. ..... प्रति

..... Criminal Commercial Superintendent ..... प्रत्याधी

..... D. M. S. of the Northern Railway

..... Lucknow ..... प्रत्याधी

..... चूंकि उपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त मुकदमे के सम्बन्ध में  
के नाम ..... वेलिये प्रार्थना-पत्र

दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक २३ माह ८ सन १६४६  
को या उससे पूर्व उपस्थित होकर कारण बतायें कि प्रार्थना-पत्र क्यों न स्वीकार कर  
लिया जाय। उक्त प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञप्ति कियी और  
दिन होगी।

विदित हो कि आप उपर लिखे दिनांक पर या उससे पहले स्वयं अथवा किसी  
एडवोकेट या ऐसे व्यक्ति द्वारा, जो आपकी ओर से काया करने के लिए कानूनन अधिकृत  
हों उपस्थित न होंगे तो उस प्रार्थना-पत्र की सुनवाई और निर्णय आपकी अनुपस्थित  
में हो जायेंगे।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक २३ माह ८ सन १६४६  
को जारी किया गया।

के एडवोकेट



तिथि .....

Reckha  
डिप्टी राजस्ट्रार  
एलाहाबाद/लखनऊ

सूचना—इस अध्यायका नियम १५२ को नियमावली के अध्याय ३७ नियम ६ के अधीन प्राप्त  
तलवाना मिल गया।

तलवाना प्राप्त करने वाले कलक्क के हस्ताक्षर

1792  
22-3-94

हाईकोर्ट इलाहाबाद लखनऊ बेंच, लखनऊ

( अध्याय १२, नियम १ और ७ )

दीवानी विभाग

1/50

प्रक्रीणांक ( सुतफर्किक ) प्रार्थना - पत्र संख्या ..... सन १६ ई०

W.P. 1452

रु 10 ..... सन १६ ई० २५० मे

Anwar Ahmed Khan ..... प्राधीनी

Union of India Post ..... प्रस्तावी

Union of India Through the General Manager

Northern Railway, Baroda House

New Delhi

प्रस्तावी

Insurance fee Rs.

P.

issued

न्यायालय में उपर्युक्त मुकदमे के सम्बन्ध में

602 Stamps affixed except 1792

red letters of not more weight prescribed in the P

Guide on which no acknowledgement

Received a V. P. Registered\*

addressed to

Union of India Post

New Delhi

Signature of Receiving Officer

4/-

Insured for Rs. (in figures)

Insurance fee Rs.

P.

मेरे हस्ताक्षर और न्यायालय को मोहर से आज दिनांक १२ माह ३ सन १६ ई० को जारी किया गया।

के राष्ट्रवोकेट

तिथि

१२ माह

दिसंबर १९५२

हाईकोर्ट/लखनऊ



सूचना - इस न्यायालय की १९५२ को नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त तत्वाना मिल गया।

तत्वाना प्राप्त करने वाले कलक्ता के हस्ताक्षर

# हाईकोर्ट इलाहाबाद लखनऊ बैन्च, लखनऊ

( अध्याय १२, नियम १ और ७ )

दीवानी विभाग

प्रकोणांक ( मुतफर्क ) प्रार्थना - पत्र संख्या ३१२६ सन् १६ अक्टूबर १९५०

रु १ १५८२ रु १० सन् १६ अक्टूबर १९५० मे

Anwar Ahmad Khan प्राधीन

Union of India प्रति प्रत्याधीन

Union of India Through General Manager

Northern Railway, Baroda House

New Delhi प्रत्याधीन

चूंकि उपर लिखे प्राधीन ने इस न्यायालय में उपर्युक्त मुकदमे के सम्बन्ध में

के नाम वे हिये प्रार्थना-पत्र

दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक १५ अक्टूबर १९५० सन् १६ अक्टूबर १९५० को या उससे पूर्व उपस्थित होकर कारण बतलायें कि प्रार्थना-पत्र क्यों न स्वीकार कर लिया जाय। उक्त प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञप्ति कियी और दिन होगी।

विदित हो कि आप उपर लिखे दिनांक पर या उससे पहले स्वयं अथवा किसी एडवोकेट या ऐसे व्यक्ति द्वारा, जो आपकी ओर से कार्य करने के लिए कानूनन अधिकृत हों उपस्थित न होंगे तो उस प्रार्थना-पत्र की सुनवाई और निर्णय आपकी अनुपस्थित में हो जायेगे।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक १५ अक्टूबर १९५० सन् १६ अक्टूबर १९५० को जारी किया गया।

के एडवोकेट

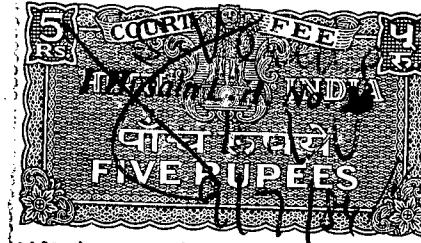
तिथि



१५ अक्टूबर  
डिप्टी रजिस्ट्रार  
इलाहाबाद/लखनऊ

सूचना - इस न्यायालय की १९५० की नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त तलवाना मिल गया।

तलवाना प्राप्त करने वाले कंलक्क के हस्ताक्षर



995

1/6

In the Hon'ble High Court of Judicature at Allahabad  
व अदात श्रीमान महोदय  
(Nizam-i-Din Bench) Lucknow

Anwar Ahmad Khan  
बहास

वादी प्रतिनिधि | Petitioner

प्रतिनिधि विरोधी दल |

Opp. Parties

16/10/19  
Union of India vs.

WP 50 मुकदमा 1452 संब 19 83 पैकी छी ता 19 हो  
क्षपर मुकदमा में अपनी ओर से श्री Siddharth Verma, Advocate

एक वोकेट/कठीन महोदय फो अपना वकील नियुक्त करके। हक्कारारा करता है और लिखे देता है कि मुकदमा में वकील महोदय सदय अथवा इन्यु वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर करे या फोइ फागज दाखिल करे या लौटावें या हमारी ओर से डिग्री जारी कराएं और रुपया वसूल करे या सुलहामा या छवाल दावा तथा अपील व नियराली हमारी ओर से हमारे या अपेक्षा हस्ताक्षर से दाखिल करे और तस्वीर रक या मुकदमा उठावें या फोइ रुपया जमा करे या हमारी विपक्षी प्रतीक्षावाही। फा दाखिल किया हुआ रुपया अपेक्षा या हमारे हस्ताक्षर गुकत हस्ताक्षर से रसीद से लेवे फा एवं नियुक्त करें। वकील महोदय द्वारा फी बहु वह सब फार्मिवाही हमारी सर्वथा स्वीकार है और होवी इस्तिये यह वकालतामा तिल दिया। फि प्रमाण रहे और समय पर फाम आवें।।

हस्ताक्षर.

Divisional Railway Manager,

Northern Railway,

LUCKNOW.

For & on behalf of  
साथी विवाह  
महोदय

Union of India

साथी विवाह  
दिल्ली एवं  
संब 19 हो

ACCEPTED

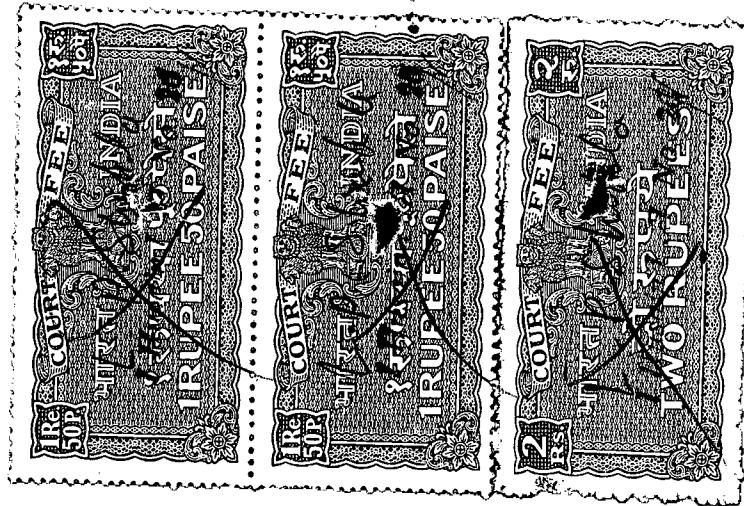
Siddharth

(SIDDHARTH VERMA)

ADVOCATE

Divisional Commercial Superintendent

Northern Railway  
Lucknow



IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

C.M. Application No. 8039 (W) of 1984

In Re.

Writ Petition No. 1452 of 1983

1172 Anwar Ahmed Khan ..... Petitioner/Applicant

Versus

Union of India & others ..... Oppl Parties

Application for amendment.

The applicant most respectfully begs to submit as under :-

That for the facts and circumstances stated in the accompanying affidavit it is necessary in the interest of justice to incorporate the amendments indicated under para 3 of the affidavit.

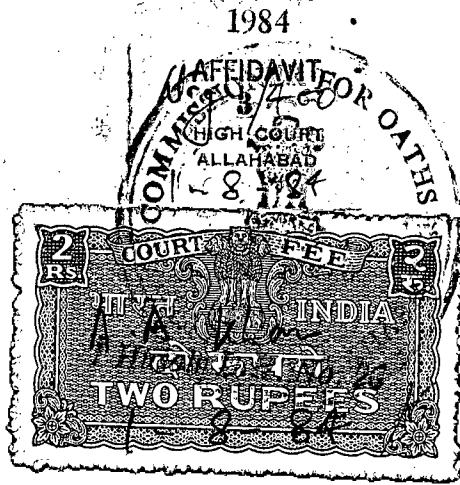
WHEREFORE it is most respectfully prayed that the amendments indicated in sub paras (A) and (B) of para 3 of the affidavit may be allowed to be incorporated in the above writ petition.

*Lalit Pranjali Shukla*

Dated Lucknow:

August 1, 1984.

(L.P. Shukla)  
Advocate,  
Counsel for the applicant.



IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD  
SITTING AT LUCKNOW

Affidavit

In

C.M.Application No. (W) of 1984

In Re.

Writ Petition No. 1452 of 1983

Anwar Ahmed Khan ..... Petitioner/Applicant

Versus

Union of India & others ..... Opp. Parties

A F F I D A V I T

I, Anwar Ahmed Khan, aged about 45 years, son of Sri Abdul Rahman Khan, resident of Village Lakhnepura, Post Office Chiel, District Mirzapur, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is the petitioner in the above writ petition and is fully conversant with the facts deposed to herein.
2. That in the above writ petition notices have been issued to opposite parties. The opposite parties are represented by a conseil but no counter affidavit has been filed so far.



Anwar Ahmed  
Khan

3. That in terms of the Railway Board's letter dated 16.10.1973 addressed to the General Managers it would be procedurally wrong for an authority to initiate and finalise the disciplinary proceedings against an employee who is not under its administrative control. The said circular having force of law was available to the deponent after filing the above writ petition. In accordance with the said circular of the Railway Board the following consequential amendments in the writ petition have become essential:

(A) That after para 15 the following be added as para 15A :

"15A. That the chargesheet was issued to the petitioner by Sri S. Chand, Senior Divisional Commercial Superintendent, Lucknow, on 1.9.1978. As no notice of the proposed inquiry on the basis of the above chargesheet was served on the petitioner he came to know for the first time from the order of his dismissal dated 23.12.1982 that a Commercial Inspector was appointed as Inquiry Officer who submitted his inquiry report dated 4.3.1982 which was also attached along with the aforesaid dismissal order dated 23.12.1982 although the documents shown to have been attached and relied upon in the said inquiry report were not given to the petitioner. In the circumstances the disciplinary proceedings were initiated and inquiry was held against the petitioner by authorities of the Commercial Department who did not exercise



Anwar Ahmed  
Khan

administrative control over the petitioner.

The petitioner was working as Assistant Station Master and came under the administrative control of the Operating Department of the Railways.

According to the Railway Board's circular dated 16.10.1973, which has the force of law, disciplinary action has to be initiated and finalised by the authorities under whose administrative control the delinquent employee may be working as any other procedure would not be in keeping with the instructions referred to in the said circular and if it is being followed and the same is irregular and should be stopped forthwith. A true copy of the Railway Board's circular dated 16.10.1973 is filed as Annexure No.3 to the writ petition."

(B) That in the grounds the following be added as ground (H) :

"(H) Because the disciplinary proceedings against the petitioner were conducted by the authorities of the Commercial Department while the petitioner belonged to the Operating Department and as such the disciplinary proceedings against him are illegal, without jurisdiction and in violation of the Railway Board's Circular dated 16.10.1973 (Annexure No.3) which has the force of law."



Dated Lucknow:  
August 1, 1984.

Anwar Ahmed Khan  
Deponent.

Verification

I, the above-named deponent, do verify that the contents of paragraphs 1, 2 and 3(A) of this affidavit are true to my own knowledge and those of paragraph 3(B) of this affidavit are believed to be true by the deponent. No part of it is false and nothing material has been concealed. So help me God.

Dated Lucknow:

August 1, 1984.

Anwar Ahmed Khan  
Deponent.

I identify the above-named deponent who has signed before me.

*Anwar Ahmed Khan*  
Advocate.

Solemnly affirmed before me on 1.8.1984

at 3'00 ~~00~~ /p.m. by Sri Anwar Ahmed Khan

the deponent who is identified by

Sri L. P. Shukla

~~Charkha to~~

Advocate, High Court, Allahabad.

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



*Kuldeepak Nag*  
KULDEEPAK NAG  
OATH COMMISSIONER  
High Court Allahabad  
Lucknow, Bench  
No. 3/450  
Date 1-8-84

26/10/1983

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD  
SITTING AT LUCKNOW

Writ Petition No. 1452 of 1983

Anwar Ahmed Khan ..... Petitioner

Versus

Union of India & others ..... Opp. Parties

Annexure No.3

Copy of Rly. Board's letter No.E(D&A)72RCS-13 dated 16.10.1973 addressed to the General Managers and others, circulated vide DPO/LKO's letter No.52.E/0-26/V(E3-1) dt. 8.2.1974 to all concerned.

-----  
Copy of Rly. Board's letter No.E(D&A)72RCS-13 dt. 16.10.73 addressed to the General Managers and others.

-----  
Sub: Disciplinary authorities for imposition of penalties for various types of irregularities under the Rly. Servants (D&A) Rules.

-----  
In Board's circular letter No.E(D&A)60RCS/30 dt. 28.7.62, it had, interalia, been indicated that it would be procedurally wrong for an authority to initiate and finalise the disciplinary proceedings against an employee who is not under its administrative control.

2. It has, however, been brought to the notice of the Board that some difficulties are being experienced in initiating and finalising the disciplinary proceedings against the staff involved in irregularities concerning personnel matters such as misuse of passes/PTOs, unauthorised occupation/retention of quarters, unauthorised absence from duty etc. and it has been suggested that the instructions referred to above may be so amended as to provide for initiation/finalisation of disciplinary proceedings by the officers of the Personnel Deptt. such



Anwar Ahmed Khan

as APOs, DPOs even against the staff who may be working in departments other than the personnel deptt. and thus be not under their administrative control. It has been also mentioned that in respect of the category of Asstt. S.Ms/SMs, the disciplinary action is initiated and finalised both by the Divisional Safety Officer and Divl. Comml. Supdt. depending upon the department to which the irregularity committed, pertains despite the fact that the ASMs and SMs belong to the optg. Deptt.

3. The matter has been carefully considered by the Board and in consultation with their legal adviser, it is clarified that a Rly. sergeant essentially belongs to only one department even though, in the course of the performance of his day to day duties he may violate certain rules/regulations administered by some other deptt. The ASMs and SMs belong to the Optg. Deptt. even though they may have to perform the duties pertaining to the Comml. deptt. also from time to time. The disciplinary authorities, in their cases, would thus belong only to the Optg. Deptt. and none else. If any other practice is being followed, that is irregular and should be stopped forthwith. Disciplinary action should be initiated and finalised by the authorities under whose administrative control the delinquent employee may be working as any other procedure would not be in keeping with the instructions referred to in para 1 above.



*Kuldeepak Nag*  
KULDEEPAK NAG  
OATH COMMISSIONER  
High Court Allahabad  
Lucknow, Bench  
No. 3/400  
Date 1-8-84

Anwar Ahmad  
Khan

In The Hon'ble High Court of Judicature  
At Allahabad  
Sitting at Lucknow

W. P. No. 1452 of 1983

165

*Anwar Ahmad Khan* — Petitioner/Applicant  
vs.  
Union of India & others — opp. Parties

Under signed is filing Amended Copies  
(two copies) of the above writ Petition  
as such the same may be taken up  
on record.

Kuldeepak Nag  
Advocate

counsel for the Petitioner

AMENDED WRIT PETITION

In the Honible High Court of Judicature at Allahabad  
Sitting at Lucknow

Writ Petition No.1452 of 1983

Anwar Ahmad Khan, aged about 44 years, son of Sri  
Abdul Rahman Khan, resident of village Lakhapura, post  
office Chiel, District Mirzapur.

..... petitioner

versus

1. Union of India through the General Manager, Northern

Railway, Baroda House, New Delhi.

2. Divisional Railway Manager, Northern Railway,

Hazratganj, Lucknow.

3. Divisional Commercial Superintendent, DRM's Office

Northern Railway, Lucknow.

..... Opposite Parties.

Writ Petition Under Article 226 of the Constitution

of India

The petitioner most respectfully begs to state  
as Under:-

1. That the petitioner joined his service in North  
Eastern Railway Muzaffarpur in Samastipur Division

as Assistant Station Master after being selected by the Railway Service Commission at Allahabad. He was thereafter transferred to Northern Railway on the basis of mutual consent and was posted as leave Assistant Station Master at Suwansa district Pratapgarh.

2. That on 9.7.1977 while posted at Suwansa the petitioner was asked to work in leave reserve duty at Sarai Kansrai in district Jaunpur.
3. That on 12.3.1979 while posted at Banaras the petitioner received a chargesheet dated 1.9.1978 under the signature of Sri S.Chand, Senior Divisional Commercial Superintendent. The said chargesheet contained the charge of defrauding the railway to the extent of Rs.43.40p. by fraudulently preparing the accounts and record foils of foreign blank paper ticket (FEPT) No.579865 dated 9.7.1977. The said charge related to the incident on 9.7.1977 and the chargesheet dated 1.9.1978 was issued to the petitioner 12.3.1979 more than 1½ years after the date of the alleged incident.
4. That the aforesaid chargesheet along with other important documents including the petitioner's salary in a bag was stolen and therefore, the petitioner requested for a duplicate chargesheet by his letter dated 17.5.1979. The petitioner submitted his reply to the chargesheet denying the charge against him.
5. That on the basis of another similar incident alleged to have taken place on 12.9.1978 while the

petitioner was posted at Nebhapur in district Jaunpur a criminal case was filed against the petitioner. The matter was earlier referred to the CBI by Sri S. Chand, Senior Divisional Commercial Superintendent. The Charge against the petitioner in this criminal case No. RC 11/79 was of mis-appropriation of an amount totalling Rs.62.95p. realised in various excess fare tickets alleged to have been issued by him. After investigation the prosecution was lodged against the petitioner under section 409 IPC before the Chief Judicial Magistrate, Lucknow.

6. That prior to the aforesaid incident the petitioner had worked for 4 months, that is, from 16.2.1978 to 15.6.1978 as Station Master and no complaint in any form whatsoever was made against him and the claim of overtime by the petitioner for this period amounting to about Rs.3000/- has not been paid to him and the officiating allowance for 82 days during this period amounting to Rs.82/- at the rate of rupee one per day has also not been paid to him.
7. That in the above criminal case the petitioner was released under Probation of First Offenders Act by the Judgment and Order & Dated 29.5.1981 passed by the Chief Judicial Magistrate Lucknow. Against the said judgment the petitioner preferred a criminal appeal no.147 of 1981 before the Sessions Judge Lucknow.
8. That the aforesaid criminal appeal of the petitioner was allowed by the Vth Additional Sessions Judge Lucknow on 23.12.1982 setting aside the judgment and

RJX

order dated 29.5.1981 and the petitioner was not held guilty of the offence under Section 409 of IPC with which he stood charged ~~in~~ and was acquitted.

9. That in the matter relating to the alleged incident of 9.7.1977 in which chargesheet dated ~~in~~ 1.9.1978 in which was issued to the petitioner no further notice was received by the petitioner regarding departmental proceedings on the basis of the charge-sheet. The petitioner continued to discharge his duties on various postings in the bonafide belief that the administration had either decided not to press the charge in the chargesheet against him or had kept the matter in abeyance on the basis of the pending aforesaid criminal case on a charge of similar nature.
10. That no notice or intimation was sent to the petitioner in accordance with the procedure prescribed in the Railway Servants (Disciplinary and Appeal) Rules regarding the appointment of the Inquiry Officer nor any opportunity was afforded to him to lead any evidence or examine any witness in his defence. In fact no intimation of the dates of hearing was given to the petitioner nor was he warned ~~what~~ what proceedings will be held ex-parte against him.
11. That while the petitioner was posted at Badohi he received a letter dated 19.12.1982 requiring him to be present before the Divisional Commercial Superintendent (Confidential Section) at Lucknow at an earliest

possible date. The petitioner presented himself in the office of the Divisional Commercial Superintendent (Confidential Section) at Lucknow on 20.12.1982 and continued to attend the office daily on 20.12.1982, 21.12.1982 and 22.12.1982 but no instructions were given to him. On 23.12.1982 the judgment in the pending criminal appeal was pronounced at 3.40 P.M. and when the petitioner again went back to the office of the Divisional Commercial Superintendent (Confidential Section) he was served with the letter of dismissal at about 4.10 P.M. The order of dismissal, in which the date is written by hand and which was served on the petitioner on the same date at 4.10 P.M. after the judgment in criminal appeal along with the copy of the inquiry report dated 4.3.1982, is filed as Annexure No.1 to this writ petition.

- 12: That from the aforesaid order of dismissal it is evident that it was passed by the General Manager at Headquarters Office, Baroda House, New Delhi, on 23.12.1982 and was served on the same date on the petitioner at Lucknow. Moreover the Inquiry report attached thereto is dated 4.3.1982. The said inquiry report further indicates that the documents attached thereto include all records as shown in annexure III of S.F. 5. However, no such documents were attached with the inquiry report served on the petitioner.
13. That the petitioner moved an application dated 24.1.1983 before the Divisional Railway Manager, Lucknow, requesting that the documents shown to have been attached along

KSG

with the inquiry report have in fact not been so attached and the same may be supplied to him so as to enable him to file his appeal as required under the Railway Servants (Disciplinary and Appeal) Rules. A true copy of the petitioner's letter dated 24.1.1983 to the DRM Lucknow is filed as Annexure No.2 to this Writ Petition.

14. That no documents as mentioned in the inquiry report dated 4.3.1982 attached to the dismissal order dated 23.12.1982 and requested by the petitioner through his letter dated 24.1.1983 were supplied to the petitioner and as such he was unable to file his appeal under Section 18 of the Railway Servants( Disciplinary and Appeal) Rules.
15. That the findings of the inquiry report are based on the aforesaid documents mentioned therein which were not supplied to the petitioner. The inquiry report also indicates that the inquiry proceedings were held after due notice to the petitioner which the petitioner categorically denies. No such notice as mentioned was given to the petitioner and the same, if any, exists on paper only. The entire inquiry was conducted behind the back of the petitioner ~~and without affording~~ without affording him any opportunity to lead evidence or examine witnesses in his defence. Consequently the findings in the inquiry report against the petitioner are baseless and arbitrary and against the principles of natural justice and without following the procedure contemplated under the law.

15-A. That the chargesheet was issued to the petitioner by Sri S.Chand, Senior Divisional Commercial Superintendent, Lucknow, on 1.9.1978. As no notice of the proposed inquiry on the basis of the above chargesheet was served on the petitioner he came to know for the first time from the order of his dismissal dated 23.12.1982 & that a Commercial Inspector was appointed as Inquiry Officer who submitted his inquiry report dated 4.3.1982 which was also attached along with the aforesaid dismissal order dated 23.12.1982 although the documents shown to have been attached and relied upon in the said inquiry report were not given to the petitioner. In the circumstances the disciplinary proceedings were initiated and inquiry was held against the petitioner by authorities of the Commercial Department who did not exercise administrative control over the petitioner. The petitioner was working as Assistant Station Master and came under the administrative control of the Operating Department of the Railways. According to the Railway Board's circular dated 16.10.1973, which has the force of law, disciplinary action has to be initiated and finalised by the authorities under whose administrative control the delinquent employee may be working as any other procedure would not be in keeping with the instructions referred to in the said circular and if it is being followed and the same is irregular and should be stopped forthwith. A true copy of the Railway Board's Circular dated 16.10.1973 is filed as Annexure No.3 to the Writ Petition."

16. That the opposite parties were waiting for the decision in the petitioner's criminal appeal and when the appeal was allowed and the petitioner was acquitted they served him with the order of dismissal. The circumstances in which the dismissal order was passed and served on the petitioner also indicate that the dismissal order is actuated by malice and has been passed malafide which is evident on the face of the record itself.

17. That the malafide against the petitioner is also evident from the fact that in anticipation of the proposed dismissal order against the petitioner either on the basis of the conviction in the criminal case or on the basis of the departmental inquiry his salary for the period of 16.11.1982 to 15.12.1982 was not prepared although the petitioner actually discharged his duties during this period as Assistant Station Master at Phadoli.

18. That aggrieved by the order of dismissal dated 23.12.1982 and refusal to supply to him the documents mentioned in the inquiry report despite request, the petitioner having no alternative efficacious and speedy remedy has preferred this writ petition on the following amongst other grounds:-

G R O U N D S

A. Because the order of dismissal dated 23.12.82 is illegal and without jurisdiction.

B. Because the order of dismissal dated 23.12.1982 against the petitioner is malafide.

C. Because the petitioner had no knowledge of the inquiry proceedings against him as no notice of appointing inquiry officer was given to him nor any intimation of the various dates of the inquiry proceedings was given to him and as such the inquiry against him was behind his back and against the principles of natural justice.

D. Because the petitioner was denied adequate opportunity to set up his defence.

(E) Because the petitioner has been falsely implicated on a baseless charge and as such the findings against him are perverse and illegal.

F. Because the dismissal order based on the illegal inquiry is arbitrary and without jurisdiction.

G. Because the petitioner was not supplied with the documents to have been attached with the inquiry report despite his request and as such he has prevented from exercising his right to appeal under the Rules.

H. Because the disciplinary proceedings against the petitioner were conducted by the authorities of the Commercial Department while the petitioner belonged to the Operating Department and as such the disciplinary proceedings against him are illegal, without jurisdiction and in violation of the Railway Board's Circular dated 16.10.1973( Annexure No.3) which has the force of law.

P r a y e r

WHEREFORE it is most respectfully prayed that this Hon'ble Court may be pleased to :-

i) issue a writ, direction or order in the nature of certiorari quashing the order dated 23.12.1982 (Annexure No.1) based on the inquiry report dated 4.3.1982;

ii) issue a writ, direction or order in the nature of mandamus commanding the opposite parties to treat the petitioner in service throughout and entitled to all the benefits of service;

iii) issue such other writ, direction or order as deemed just and proper in the circumstances of the case;

iv) award the costs of the writ petition to the petitioner.

Dated Lucknow

Advocate,  
Counsel for the Petitioner

, 1984.

In the Hon'ble High Court of Judicature at Allahabad

Sitting at Lucknow

Writ Petition No.1452 of 1983

Anwar Ahmed Khan . . . . . Petitioner.

Versus

Union of India & others . . . . . Opp. Parties.

Annexure No.3

Copy of Rly. Board's letter No.E(D&A) 72RCS-13 dated 16-10-1973 addressed to the General Managers and others, circulated vide DPO/LKO's letter no152 E/0-26/V(E3-1) dt. 8.2.1974 to all concerned.

Copy of Rly. Board's letter No.E(D&A) 72RCS-13 dt. 16.10.73 addressed to the General Managers and others.

Sub: Disciplinary authorities for imposition of penalties for various types of irregularities under the Rly. servants (D&A) Rules.

In Board's circular letter No.E(D&A) 60RCS/30 dt. 28.7.62, it had, interalia, been indicated that it would be procedurally wrong for an authority to initiate and finalise the disciplinary proceedings against an employee who is not under its administrative control.

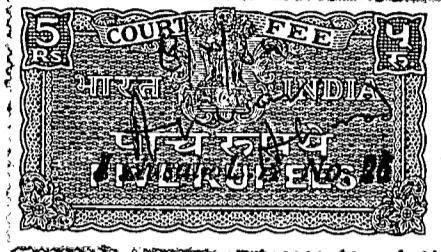
2. It has, however, been brought to the notice of the Board that some difficulties are being experienced and in initiating the finalising the disciplinary proceedings against the staff involved in irregularities concerning personnel matters such as misuse of passes/PTOs, unauthorised occupation/retention of quarter, unauthorised

absence from duty etc. and it has been suggested that the instructions referred to above may be so amended as to provide for initiation/ finalisation of disciplinary proceedings by the officers of the Personnel Deptt. such as APOs, DPOs even against the staff who may be working in departments other than the personnel deptt. and thus be not under their administrative control. It has been also mentioned that in respect of the category of Asstt. S.Ms/SMS, the disciplinary action is initiated and finalised both by the Divisional Safety Officer and Divisional Commissioner Superintendent depending upon the department to which the irregularity committed, pertains despite the fact that the ASMs and SMS belongs to the optg. deptt.

3. The matter has been carefully considered by the Board and in consultation with their legal adviser, it is clarified that a Rly. servant essentially belongs to only one department even though, in the course of the performance of his day to day duties he may violate certain rules/ regulations administered by some other deptt. The ASMs and SMS belong to the Optg. Deptt. even though they may have to perform the duties pertaining to the Commn. deptt. also from time to time. The disciplinary authorities, in their cases, would thus belong only to the Optg. Deptt. and none else. If any other practice is being followed, that is irregular and should be stopped forthwith. Disciplinary Disciplinary action should be initiated and finalised by the authorities under whose administrative control the delinquent employee may be working as any other procedure would not be in keeping with the instructions referred to in para 1 above.

In the Hon'ble High Court of Judicature at Allahabad,  
Sitting at Lucknow.

Writ Petition No. 1452 of 1983.



Anwar Ahmad Khan

.. Petitioner.

Versus

Union of India & others.

.. Opp. Parties.

To

The Hon'ble Senior Judge,  
High Court of Judicature at Allahabad,  
Lucknow Bench,  
Lucknow.

My Lord,

The above noted writ petition is against the dismissal of the petitioner. The petitioner has been admitted on 20-9-1984 and stay has not been allowed on the hope of which the petitioner is alive.

As the petitioner has been dismissed on 23-12-82 while discharging his duties as Assistant Station Master at Railway Station Bhadohi in Varanasi district.

There was neither any enquiry conducted in the case nor any prior notice was given to the petitioner regarding this dismissal.

As the petitioner is jobless since then and seven minor children are, only his dependents, how can the necessities of the family be fulfilled in such a dear and hard days.

One youngest minor who is today near about 3½ years old asks every thing (eatable things) which

15/2/81  
M. S. R.

15/2/81

Alhamdulillah. He passed to the court of his Lord  
eternal. His wife has also passed away in the same  
year 23-12-80. He is a follower of our Sufi master  
been addressed. The petitioner would like to thank the deceased  
father for his guidance and help. She also  
wishes to know about her son's marriage  
and his wife. The wife of her deceased son  
has been married to a man named Khan.

Yours

District Valentine,  
Railway Station Bhopal,  
Noshirwan Railway,  
ASafe Station Master,

(Answer Ahmed Khan)

29-9-1984.

Lucknow, dated :

Enclosure/ 1

obediently yours,

is attached herewith.

Death certificate of the petitioner's wife

other hardships.

the petitioner, and his minors from starvation and  
may kindly be finalised earliest possible to save  
now it is most humbly prayed that this case

48 hours old.

Hospital leaving this above mentioned child only  
expired on 9-3-1981 in Valentine Hindu University  
petitioner cannot afford. The petitioner's wife  
%

DOCTOR'S ORDERS

10/10/50

10/10/50

Mr. & Mrs. S. L. Thompson

12th & 13th

Mr. & Mrs. S. L. Thompson

12th & 13th

12th & 13th

12th & 13th

12th & 13th

Mr. & Mrs. S. L. Thompson

12th & 13th

12th & 13th

12th & 13th

12th & 13th

Mr. & Mrs. S. L. Thompson

12th & 13th

12th & 13th

12th & 13th

12th & 13th

Mr. & Mrs. S. L. Thompson

12th & 13th

12th & 13th

12th & 13th

12th & 13th

Mr. & Mrs. S. L. Thompson

12th & 13th

12th & 13th

12th & 13th

12th & 13th

Mr. & Mrs. S. L. Thompson

12th & 13th

12th & 13th

12th & 13th

12th & 13th

Mr. & Mrs. S. L. Thompson

12th & 13th

12th & 13th

12th & 13th

12th & 13th

Mr. & Mrs. S. L. Thompson

12th & 13th

12th & 13th

12th & 13th

12th & 13th

Mr. & Mrs. S. L. Thompson

12th & 13th

12th & 13th

12th & 13th

12th & 13th

Mr. & Mrs. S. L. Thompson

12th & 13th

12th & 13th

12th & 13th

12th & 13th

Mr. & Mrs. S. L. Thompson

12th & 13th

12th & 13th

12th & 13th

12th & 13th

DOCTOR'S ORDERS

IN THE HON'BL<sup>E</sup> HIGH COURT OF JUDICATURE AT ALLAHABAD

Lucknow Bench, Lucknow

C. Misc Application No. 451 (w) of 1985

In re:

Joint Petition No. 1452 of 1983



## Versus

Union of India and others ----- Opp. parties

Application for Interim Relief

The applicant most respectfully begs to submit  
as under :-

That for the facts and circumstances mentioned in the accompanying affidavit and pending Writ Petition the opposite parties be directed to pay salary to the petitioner pending disposal of the Writ Petition.

Lucknow. dated  
April 11, 1985

Kuldeepah H. J.  
Advocate  
Counsel for the applicant  
Petitioner

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD  
Lucknow Bench, Lucknow.

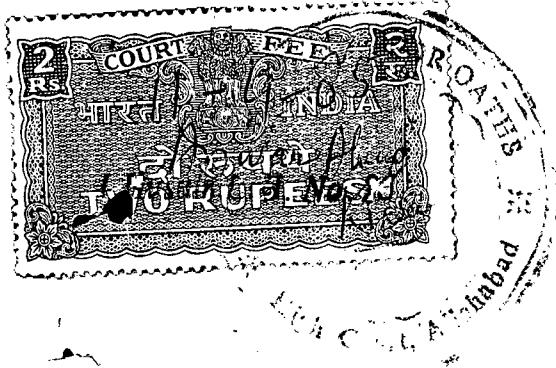
**-: AFFIDAVIT :-**

In

C. Misc Application No. \_\_\_\_ (w) of '84

In re:

Writ Petition No. 1452 of 1983



## Versus

"union of India and others ----- 0 p.p. parties

**-: Affidavit :-**

I, Anwar Ahmad Khan, aged about 45 years, son of Sri Abdul Rahman Khan, resident of village Lakhapura, Post Office Chiel, District Mirzapur, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is the petitioner in the above Writ Petition and is fully conversant with the facts deposed to hereinafter.
2. That in the above writ petition notices have been issued to opposite parties. The opposite parties are represented by a Counsel but no Counter affidavit has been filed so far.
3. That the above noted Writ Petition was admitted on 20-9-84 and on the same day again two weeks time was granted to the opposite parties to file

1773

their Counter Affidavit. However the opposite parties have not filed any Counter affidavit. Ex

4. That in view of the Railway Boards letter dated 16-10-1973 (Annexure No. 3) the entire action of Petitioner's dismissal was ab initio void and this Writ Petition is liable to be allowed on this score alone.
5. That the petitioner is starving along with his other dependant family members, and the deponent is suffering irreparable loss. As such the petitioner be given some financial help for his survival hood.
6. That none of the Petitioner's family member is earning member at present to afford livelihood to 10 family members.

V. R. PANDEY  
COMMISSIONER Lucknow.dated  
O. Com. Allahabad April 11, 1985

Amwar Ahmed Khan

**Deponent**

-: Verification :-

I, the above named deponent do hereby verify that the contents of paras 1 to 6 of this affidavit are true to my own knowledge, no part of it is false and nothing material has been concealed so help me God.

Lucknow. dated  
April 11, 1985

I identify the deponent  
who has signed before me.

Arwan Ahmed Khan

signed before me  
Kuldeepak H. J.  
Advocate

Advocate  
Solemnly affirmed before me on 11-4-1985

at (c) a.m./p.m. by the deponent

who is identified by Shri K. D. NAG,  
Advocate of High Court Allahabad.

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

Before the Central Administrative Tribunal  
Lucknow Bench, Lucknow.

T. A. No. 1137 of 1987 (T)  
(Writ Pet. No. 1452 of 83)

CA

Anwar Ahmad Khan.

-----Petitioner

Versus

Union of India and others.

-----Opp-parties

Written Statement on behalf of the  
answering opposite parties.

I, J. N. Sivartara son of  
Sri A.P.O / Lice presently working  
as Ass'tt Personnel Officer in the Office of the  
Divisional Railway Manager, Northern Railway, Lucknow,  
do hereby state as under :-

5/24/83  
F. filed today

1. That I am presently working as A. P.O.  
in the Office of the Divisional Railway Manager,  
Northern Railway, Lucknow and is looking after the  
case of the petitioner. I am fully competent and  
authorised to file this reply to the petition filed  
by the petitioner on behalf of the answering opposite  
parties.

2. That the contents of paragraphs 1, 2 and 3  
of the petition are admitted. It is most respectfully  
submitted that as soon as charges against the

ASSO  
N. R. Lko.

petitioner came into light, Memorandum of charge sheet No. C/34-Fraud-NBP/77BBM dated 10.9.78 was issued against the petitioner which was duly served on him on 12.3.79 as the petitioner was on the sick list.

3. That the contents of paragraph 4 of the petition are denied for want of knowledge. However, it is most respectfully submitted that no reply to the said charge sheet was submitted by the petitioner.

4. That the contents of paragraphs 5, 6, 7 and 8 of the petition need no comment from the answering opposite parties.

5. That the contents of paragraphs 9 and 10 of the petition are denied. It is most respectfully submitted that since the petitioner did not submit any reply to the Memorandum of Charge Sheet No. C/34-Fraud-NBP/77 BBM dated 10.9.78 inspite of the issuance of letter No. C/34-Fraud/77 BBM dated 2.5.1979, a copy of which is annexed as Annexure A-1 to this reply, the Enquiry Officer was appointed by letter reproduced as Annexures No. A-2 & A-3 respectively. The Enquiry Officer gave due notices to the petitioner vide telegrams dated 21.9.81 and 16.10.81, true copies of which are annexed as Annexures No. A-4 & A-5 respectively, but the petitioner failed to attend the Inquiry proceedings, under these circumstances, the Enquiry Officer had

*Ass'tt. Personnel to Officer*  
N. R. Lko.

6. That the contents of paragraph 11 of the petition, as stated, are denied. It is most respectfully submitted that the petitioner was called upon to attend office vide Memo dated 3.12.82 and 16.12.82 vide Annexure No. A-6 and the Station Master Bhadohi directed the petitioner to see the Divisional Commercial Superintendent, Lucknow through the Confidential Section on 20.12.1982 vide Station Master, Bhadohi's letter No.BOY/Estt./82/2 dated 19.12.1982. A true copy of this letter is being annexed herewith as Annexure No. A-7. However, the petitioner attended the concerned office on 23.12.1982 and the order No. 170-E/925E(D&A) dated 23.12.1982 passed by the General Manager, Northern Railway, New Delhi was served on the petitioner. The petitioner did not present himself in the concern section before the said date.

7. That in reply to the contents of paragraph 12 of the petition, it is most respectfully submitted that so far dismissal order of the petitioner is concerned, it requires no comments from the answering opposite parties. As regards non-attachment of records as shown in Annexure-III of the S.F.-5 is concerned, it is most respectfully submitted that the documents mentioned in the Inquiry Report were official documents on the basis of which charges were sustained and therefore, these could not be

*claimed by the petitioner,*  
Asstt. Personnel Officer  
N. R. Lko.

8. That the contents of paragraph 13 of the petition are denied. It is most respectfully submitted that no application dated 24.1.1983 as mentioned in the paragraph under reply was received by the answering opposite parties.

9. That the contents of paragraphs 14 and, 15 of the petition are denied. As already submitted in the foregoing paragraph 5 and 7, the records as shown in Annexure-III of the S.F.-5 in the inquiry report were original official records and therefore, could not be claimed by the petitioner. Moreover, no application dated 24.1.1983 was received in the office. It is further submitted that despite several opportunities given by the Inquiry Officer, the petitioner did not cooperate in the inquiry proceeding with the result that the Enquiry Officer had to proceed ex-parte.

10. That the contents of paragraphs 16 and 17 of the petition are denied being baseless and wrong.

11. That the contents of paragraph 18 of the petition need no comment.

12. That the undersigned has read and understood the supplementary affidavit filed by the petitioner and the same is replied hereinbelow.

Ass'tt. Pe. Sonne  
N. R. Lko.

RAB

DA

13. That the contents of paragraphs 1 and 2 of the supplementary affidavit need no comment from the answering opposite parties.

14. That in reply to the contents of paragraph 3 of the supplementary affidavit, it is most respectfully submitted that in terms of Railway Board's Notification No. E(D&A)-78-RGS-54 dated 29.11.1978, where disciplinary inquiry is conducted in departmental case, no show cause notice is necessary before imposing any penalty. A copy of the Railway Board's said Notification is being annexed as Annexure No. A-8.

15. That in reply to the contents of paragraph 15(A) of the petition, it is most respectfully submitted that it is admitted that the charge-sheet was submitted under the signature of Sri S. D. Chand, Senior Divisional Commercial Superintendent on 1.9.1978 which was duly acknowledged by the petitioner on 12.3.1979. But the petitioner failed to submit any defence despite issuance of letter No. C/34/Fraud/77 BBM dated 2.5.1979. Enquiry Officer was nominated and a copy was sent for service on the petitioner through C. M. I./BSB under letter No. C/34-Fraud/NBP/77/BBM dated 2.8.1979.

Regarding non-supply of documents attached with the inquiry report, it is submitted that the documents mentioned therein are the official

*Ass'tt. Secy. Officer*  
N. R. Lko.

documents which were returned to the concerned

Top

office for which mention was made in the report.

The inquiry was conducted by a Commercial Inspector.

Regarding Railway Board's letter No. E(D & A) 72 RGC-13 dated 16.10.1973 under P. S. No. 6047, it is most respectfully submitted that the same has been superseded by P. S. No. 6130. A true copy of the P. S. No. 6130-Circular No. 52-E/O/26/E (D & A) dated 29.5.1974 is being annexed herewith as Annexure No. 9.

Lucknow, dated,

2.12.89

Verification.

*JW*  
Ass't. Personnel Officer  
N. R. Lko.

I, *J. N. Srivastava*, presently working as *Asstt. Personnel Officer* in the Office of the Divisional Railway Manager, Northern Railway, Lucknow, do hereby verify that the contents of paragraphs 1 and 11 of this reply are true to my personal knowledge and those of paragraphs 2 to 10 and 12 to 15 are based on record and the same are believed to be true.

Lucknow, dated,

2.12.89

*JW*  
Ass't. Personnel Officer  
N. R. Lko.

Before the Central Administrative Tribunal, Lucknow Bench,  
Lucknow.

T. A. No. 1137/87 (T)  
(W.P. No. 1452/83)

Anwar Ahmad Khan.

-----Petitioner

Vs.

Union of India and others.

-----Opp-parties

ANNEXURE A-1

Northern Railway

No: C/34-Fraud/77 BBM

Divisional Rly. Manager's Office,  
Lucknow: Dt. 2.5.79.

Shri A.A. Khan,  
A.S.M., Varanasi.

Sub : Reg. No. SF-5 No. C/34-Fraud-NBP/77 BBM  
dated 1.9.78.

Please refer to this office memorandum No. C/34-Fraud-  
NBP/77 BBM dated 1.9.78 acknowledged by you on 12.3.79 to  
which reply is still awaited.

In case no reply is received within 5 days from the  
date of receipt of this letter, it will be presumed that  
you have no explanation to offer and no ex parte action will  
be taken against you.

Please acknowledge.

Sd/- illegible  
2.5.79  
for Divl. Rly. Manager.

*Joe*  
Asstt. Personnel Officer  
N. R. Lko.

Before the Central Administrative Tribunal, Lucknow Bench,  
Lucknow.

T.A. No. 1137/87 (T)  
(W.P. No. 1452/83)

Anwar Ahmad Khan.

-----Petitioner

Vs.

Union of India and others.

-----Opp-parties

ANNEXURE A-2

STANDARD FORM NO. 7

Standard form of order relating to appointment of Enquiry Officer Board of Enquiry Rule 9 (2) of R.S. (D&A) Rule, 1968.

No: C/34-Fraud/NBP/77/BBM

Divisional Office,  
Lucknow: Dt. 22.7.1979

ORDER

Whereas enquiry under Rule 9 of the Railway Servant (Discipline and Appeal) Rule 1968 is being held against Sri A.A. Khan, ASM/Varanasi and whereas the undersigned considers an enquiry officer should be appointed to enquire into the charges framed against him.

Now, therefore, the undersigned in exercise of the power conferred by sub-rule (2) of the said rule hereby appoints Shri T.B. Malhotra, CMI/Varanasi as enquiry officer to enquire into the charges framed against the said Sri A.A. Khan, Asstt. Station Master, Varanasi.

Sd/- S.D. Chand  
Sr. Divl. Commercial Supdt.,  
Lucknow.

Copy to :

1. Shri A.A. Khan, A.S.M., Varanasi, through C.M.I., Varanasi.
2. Shri T.B. Malhotra, C.M.I., Varanasi.
3. Station Superintendent, N.Rly., Varanasi.

Asstt. Personnel Officer  
N. R. Lko

Before the Central Administrative Tribunal, Lucknow Bench,  
Lucknow.

T. A. No. 1137/87 (T)  
(W. P. No. 1452/83)

Anwar Ahmad Khan.

-----Petitioner

Vs.

Union of India and others.

-----Opp-parties

Annexure A-3

N.R.

Genl. 190

Standard Form No. 7

Standard form of order relating to appointment of Inquiry Officer/  
Board of Inquiry Rule 9 (2) of RS (D & A) Rules, 1968

No. C/34-Fraud.NBP/77 BBM

Name of Railway Administration... N.Rly.

Place of Issue... Lucknow.....

Date.. 14.9.1981.

ORDER

WHEREAS an inquiry under rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968 is being held against Shri.. A.A. Khan, ASM..... (Name and designation of the Railway servant).

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

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

1. Board of Inquiry consisting :—

- 1.
- 2.
- 3.

{ Here enter names  
and designation  
of members of the  
Board of Inquiry.

Or

Shri... R. H. Bhatia, QM/Varanasi..... (Name and designation of the Inquiry Officer) as Inquiry Officer to inquire into charges [framed against the said Shri.. A.A. Khan, ASM/Lucknow.....

Sd/-  
(S.K. Nanda)  
Name Sr. Divl. Commr. Supdt.  
Lucknow. Secretary, Railway Board  
or

Designation of the Disciplinary Authority

Copy to—

Sri A. A. Khan, ASM/LKO....(Name and designation of the Railway Servant).  
through QM/Varanasi,

Copy to—  
Sri. R. H. Bhatia, QM/HQ.(Name and designation of the members of the Board of Inquiry/Inquiry Officer).

\*Copy to—

Sd. No. Supdt., N.Rly. LKO (Name and designation of the lending authority for information).

\*Note.—To be used wherever applicable—Not to be inserted in the copy sent to the Railway Servant.

N.R.—2.091/14—July, 1980—31,000 F.

*Jng*  
Asstt. Personnel Officer  
N. R. Lko.

Before the Central Administrative Tribunal, Lucknow Bench,  
Lucknow.

T. A. No. 1137/87 (T)  
(W. P. No. 1452/83)

Anwar Ahmad Khan.

Vs.

Union of India and others.

Petitioner

Opp-parties

यदि यह सार आवश्यक है तो इसे संक्षिप्त करें।

IS THIS TELEGRAM NECESSARY ? IF SO, MAKE IT SHORT

कार्यालय द्वारा यह संदेश अन्य संस्थान या व्यक्ति को भेजा गया, प्राप्त हुआ या दूरवाहन की वेदीग

NORTHERN RLY. LICENSED TELEGRAPH-SENT, RECEIVED OR TRANSIT MESSAGE

रेली/Class कार्यालय/Code तारीख/Date 21/9 1981 नियम/Rule नम्बर/No.

स्टेशन से/Station from	प्राप्त रुपये/Words Charged प्राप्त रु./Charged Rs. सेनाइल/Signalled	सेवा अनुदेश/Service Instruction	माइल/Office Stamp
BSB	इक्सप्रेस या नायपारस्ट/Express or ordinary राज्य या रेल सेवा/State or Rly. Service जवाहरी सार और जमा की गयी रकम/Reply paid & Amount Deposited	जिस उद्योग से यह संदेश भेजा जाना है उद्योग का पूरा पता Person to and full address AA Khan ASM LBH C/- TI Hdqrs. LKO, DOS DCS Hd. Typist LKO	माइल/Office Stamp

C/34-Fraud/NBP/77 BBM aaa DAR enquiry A/G A.A. Khan ASM LBH fixed  
for 6.10.81 at BSB at 13/- hrs aaa Attend alongwith your D/H if any  
w/o fail aaa TI Hdqrs LKO to arrange attendance of staff aaa  
Ho. Typist to depute one typist aaa DOS DCS for information aaa

EO QM/BSB

जब टिकट लगार तो उसमें इयको दूसरी ओर चिपका है, ताकि ने यदि भेजक के नाम  
का डिस्ट्रॉक्स करना हो तो उसे इस लाइन के ऊपर लिखाए।  
Stamp when used to be affixed on back, the name of the sender if to be telegraphed  
to be entered above this line.

भेजक के दस्तावेज वाले पता  
Signature & address of sender

Sd/- QM/ BSB

(इस उद्देश को यारी पूर्ण रूप से उत्तर/Reply forward this message in reverse)

Asstt. Personnel Officer  
N. R. Lko.

Before the Central Administrative Tribunal, Lucknow Bench,  
Lucknow.

T. A. No. 1137/87 (T)  
(W. P. No. 1452/83)

Anwar Ahmad Khan.

Petitioner

Vs.

Union of India and others.

Opp-parties

यदि यह तार आवश्यक है तो इसे संक्षिप्त करें।

IS THIS TELEGRAM NECESSARY ? IF SO, MAKE IT SHORT

छारे रेलवे लाइन पर तार भेजा गया, प्राप्त हुआ 3. 10.81 की रेलवे

NORTHERN RLY. LICENSED TELEGRAPHIC SENT, RECEIVED OR TRANSIT MESSAGE

मेसेंज़ी/Class XR कार्यालय/Code तारीख/Date 6/X 19 81 बलाकर/.....

Annexure A-5

इन्हें लाइन लाइन लाइन

लाइन लाइन

स्टेशन से/Station from	माला रेल/Train No. & charged प्राप्ति रु. /Charged Rs. ब्रेक्स/Seven less	द्वा अनुरेत्र/Service Instruction	मिलटी. नं. /Mil. No.	माला/रेल का गोहर Office Stamp
एक व्यक्ति वा वापारी/Express or Ordinary राज्य वा देश सेवा/State or Rly. Service जारी तार जीर जमा की गयी रकम/Reply paid & Amount Deposited		जिस व्यक्ति को बेज़ा जाना है रकम, का गोहर पत्र Person to and full address AA Khan ASM LKO C/ SS LKO TI HQ CHC LKO DOS DCS/LKO		

C/34 Fraud/NEP/77 BSB aaa DAR enquiry A/G A.A. Khan fixed for  
22.10.81 at BSB at 10/- hrs. Attend alongwith your defence  
helper if any duly verified by competent authority aaa No more  
chance will be given if fail to attend. SS CHC LKO arrange  
to spare Khan w/o fail aaa DCS DOK LKO for information aaa

B/O GAI/BSB

जब टिकट दिया गया है तो उसे इसकी दूसरी ओर विचारा है, तार में यदि मेष्ट्रो के नाम  
का उल्लेख करना हो तो उसे इच्छा के क्रम दिया जाए।  
Stamp when used to be affixed on back, the name of the sender if to be telegraphed  
to be entered above this line.

मेष्ट्रो के दस्तावेज़ भी दिया जाए  
Signature & address of sender 3d/-  
GAI BSB

(एय वर्देश की जारी दृष्टि भाग पर फॉर्म/Sheet forward this message in reverse)

*Ass't. Personnel Officer*  
N. R. LKO

Before the Central Administrative Tribunal, Lucknow Bench,  
Lucknow.

T.A. No. 1137/87 (T)  
(W.P. No. 1452/83)

Anwar Ahmad Khan.

-----Petitioner

Vs.

Union of India and others.

-----Opp-parties

827  
X/60

ANNEXURE A-6

TELEGRAM

LKO

S.M. BOY

3/12/82

No; Vig/4/SPE/81/LCS aaa

DIRECT A.A. KHAN ASM TO ATTEND CONFIDENTIAL SECTION ON 7th  
CERTAIN.

GAYATRI  
DCS

Note to be telegraphed.

Sd/- Lakhpati Rai  
for D.C.S., LKO.

Sai A.A. Khan ASM/BOY should be directed to attend  
office w/o further delay. He should not be allowed duty until he  
sees DCS in office through Confidential Section.

C. A.  
Confidential Sec.  
16/12

Relayed to Sri Krishna Prasad  
Area BSB/CNL at 16.20 hrs.  
on 16.12.82.

Asstt. Personnel Officer  
N. R. Lko.

T.A. No. 1137/87 (T)  
(W.P. No. 1452/83)

Anwar Ahmad Khan.

Petitioner

Vs.

Union of India and others.

Opp-parties

ANNEXURE - A 7

बी०ए० १०/८० १०/८०  
वरस १०-८०/ग्र० १०-८०

उत्तर रेल्वे/NORTHERN RAILWAY

BOY/Estt/82/2

The D.R.E.,  
N.Rly. Lucknow.

Station Master  
Bhadohi  
19.12.82.

Reg : ~~ASD~~ ASM Shri A.A. Khan to see DCS/LKO  
through Confidential Section.

Ref : Your CNL phone message of 4.12.82 and 16.12.82.

In reference to the above telephonic message, ASM  
Sri A.A. Khan/BOY is directed to see ~~DCS~~ DCS/LKO, N.Rly. through  
Confidential Section on 20.12.82.

He had been in sick list from 5.12.82 to 17.12.82 under  
treatment of ADMO/BSB, N.Rly. and presented himself on 19.12.82 after  
availing his rest on 18.12.82.

Sd/- S.R. Sharma  
S.M./BOY  
19.12.82

Sd/- A.A. Khan  
ASM/BOY

Signature of Sri A.A. Khan  
is attested.

Sd/- S.R. Sharma  
19.12.82

Station Master,  
Bhadohi, N.R.

*Asstt. Personnel Officer*  
N. R. Lko

T. A. No. 1137/87 (T)  
(W. P. No. 1452/83)

ABG

Anwar Ahmad Khan.

Petitioner

Vs.

Union of India and others.

Opp-parties

ANNEXURE A-8

Copy of Rly. Board's notification No. E(D&A)-78 RCS-54 dated 29.11.78 to the General Manager, All Indian Railways and others from Gulzar Dhand, Dy. Director, Establishment, Rly. Board.

NOTIFICATION.

S.O. In exercise of the powers conferred by the provisions to article 309 of the Constitution, the President hereby makes the following rules further to amend the Rly. Servants (Discipline & Appeal) Rules, 1968, namely :-

1. (1) These rules may be called the Railway Servants (Discipline and Appeal) Third Amendment Rules, 1978.
1. (2) They shall come into force on the date of their publication in the official Gazette.
2. In rule 10 of Railway Servants (Discipline and Appeal) Rules, 1968, for sub-rule (5) the following sub rule shall be substitute namely :-

"(5) If the disciplinary authority, having regard to its findings on all or any of the articles of charge and on the basis of the evidence adduced during the enquiry, is of the opinion that any of the penalties specified in clauses (v) and (ix) of rule 6 should be imposed on the railway servant, it shall make an order imposing such penalty and it shall not be necessary to give the railway servant any opportunity of making representation on the penalty proposed to be imposed.

Provided that in every case where it is necessary to consult the commission, the record of the inquiry shall be forwarded by the disciplinary authority to the Commission for its advice and such advice shall be taken into consideration before making an order imposing such penalty on the railway servant."

Sd/- P.I. Mohile  
Secretary, Railway Board

*Jag*  
Ass't. Personnel Officer  
N R I

before the Central Adjudicating Authority, Lucknow Bench,  
U.P. dated 29.5.1974.

P. A. No. 1107/RD (T)  
(C. P. No. 1462/1974)

DBP

Anwar Ahmad Khan,

Plaintiff-Petitioner

Union of India and others.

Defendants-Parties

✓/a

Annexure No. 9

Serial No. 6130 - Circular No. 52-E/0/26-E (D&A), dated 29.5.1974.

Sub : Disciplinary authorities for imposition of penalties  
for various type of irregularities under the Railway  
Servants ( Discipline and Appeal ) Rules.

In continuation of this office letter of even number dated  
13.3.1974 a copy of Railway Board's letter No. E (D&A) 72 RG 6-13, dated  
19.4.1974 is forwarded for information and guidance. This is in partial  
supersession of Railway Board's letter dated 16.10.1973 circulated  
under this office letter of even number dated 19.1.1974 (P.S.no. 6047).

The Station Masters/Assistant Station Masters in the course  
of their day to day functioning who violate instructions administered by  
different wings of that department such as Commercial or Operating, there  
is no objection for the authorities in Commercial or Operating wing of that  
department to initiate and finalise disciplinary action against the concerned  
Station Master/Asstt. Station Master if the irregularity for which  
action is initiated relates to Commercial or Operating wing. These instruc-  
tions equally apply to other categories, functioning in similar circu-  
mstances.

✓ Copy of Railway Board's letter No. E (D&A) 72 RG 6-13, dated 19.4.1974.

Sub :- As above.

Reference Board's letter of even number dated 16.10.1973 on the  
above subject. In partial supersession of the instructions contained in  
para 3 thereof, [it is clarified that the Station Masters/Assistant Station  
Masters, belong to Transportation (Traffic) and Commercial Department  
and not to Operating Department as mentioned therein. The Station Masters/  
Assistant Station Masters, in the courses of their day-to-day functioning,  
may violate instructions administered by different wings of that department,  
such as Commercial or Operating. In these circumstances, there is no  
objection for the authorities in Commercial or Operating wing of that de-  
partment to initiate and finalise disciplinary action against the concerned  
Station Master/ Assistant Station Master according as the irregularity  
for which the action is initiated, relates to Commercial or Operating Wing.]  
These instructions equally apply to other categories who work in one  
Department having different wings and in the course of their day-to-day func-  
tioning, violate rules/instructions administered by these wings.

...

JM  
Ass't. Personnel Officer  
N R L

Before the Central Administrative Tribunal,  
Lucknow Bench, Lucknow.

T.A.No.1137 of 1987 (T)  
(Srit Pet.No.1452 of 83)

Anwar Ahmad Khan.

-----Petitioner

Versus

Union of India and others.

-----Opp-parties

Written Statement on behalf of the  
answering opposite parties.

I, J. N. Srivastava  
son of  
Sri Dsith Purush <sup>presently working</sup>  
as <sup>officer</sup> in the Office of the  
Divisional Railway Manager, Northern Railway, Lucknow,  
do hereby state as under :-

1. That I am presently working as  
in the Office of the Divisional Railway Manager,  
Northern Railway, Lucknow and is looking after the  
case of the petitioner. I am fully competent and  
authorised to file this reply to the petition filed  
by the petitioner on behalf of the answering opposite  
parties.

2. That the contents of paragraphs 1, 2 and 3  
of the petition are admitted. It is most respectfully  
submitted that as soon as charges against the

Asstt. <sup>Officer</sup>  
Person  
N. R. Lku

petitioner came into light, Memorandum of charge sheet No.C/34-Fraud-NBP/77BBA dated 10.9.78 was issued against the petitioner which was duly served on him on 12.3.79 as the petitioner was on the sick list.

3. That the contents of paragraph 4 of the petition are denied for want of knowledge. However, it is most respectfully submitted that no reply to the said charge sheet was submitted by the petitioner.
4. That the contents of p of the petition no. no com opposite part

that the contents of paragraphs 9 and 10 of  
the petition are denied. It is most respectfully  
submitted that since the petitioner did not submit  
any reply to the Memorandum of Charge Sheet  
No. C/34-Fraud-B/77 BB dated 10.9.78 inspite of  
the issuance of letter No. C/34-Fraud/77 EBM dated  
2.5.1979, a copy of which is annexed as Annexure A-1  
to this reply, an Enquiry Officer was appointed by  
letter reproduced as Annexures No. A-2 & A-3  
respectively. Enquiry Officer gave due notices  
to the petitioner vide telegrams dated 21.9.81  
and 16.10.81, copies of which are annexed as  
Annexures No. A-4 & A-5 respectively, but the  
petitioner failed to attend the Inquiry proceedings,  
under these circumstances, the Enquiry Officer had  
proceeded ex parte.

N. R. G. K. proceed ex parte.

6. That the contents of paragraph 11 of the petition, as stated, are denied. It is most respectfully submitted that the petitioner was called upon to attend office vide Memo dated 3.12.82 and 16.12.82 vide Annexure No. A-6 and the Station Master Bhadohi directed the petitioner to see the Divisional Commercial Superintendent, Lucknow through the Confidential Section on 20.12.1982 vide Station Master, Bhadohi's letter No. BOY/Estt./82/2 dated 19.12.1982. A true copy of this letter is being annexed herewith as Annexure No. A-7. However, the petitioner attended the concerned office on 23.12.1982 and the order No. 170-E/925E(D&A) dated 23.12.1982 passed by the General Manager, Northern Railway, New Delhi was served on the petitioner. The petitioner did not present himself in the concern section before the said date.

7. That in reply to the contents of paragraph 12 of the petition, it is most respectfully submitted that so far dismissal order of the petitioner is concerned, it requires no comments from the answering opposite parties. As regards non-attachment of records as shown in Annexure-III of the S.F.-5 is concerned, it is most respectfully submitted that the documents mentioned in the Inquiry Report were official documents on the basis of which charges were sustained and therefore, these could not be claimed by the petitioner.

Ass. Secy  
N. R. Lko.

8. That the contents of paragraph 13 of the petition are denied. It is most respectfully submitted that no application dated 24.1.1933 as mentioned in the paragraph under reply was received by the answering opposite parties.

9. That the contents of paragraphs 14 and 15 of the petition are denied. As already submitted in the foregoing paragraph 5 and 7, the records as shown in Annexure-III of the S.F.-5 in the inquiry report were original official records and therefore, could not be claimed by the petitioner. Moreover, no application dated 24.1.1933 was received in the office. It is further submitted that despite several opportunities given by the Inquiry Officer, the petitioner did not cooperate in the inquiry proceeding with the result that the Enquiry Officer had to proceed *ex-parte*.

10. That the contents of paragraphs 16 and 17 of the petition are denied being baseless and wrong.

11. That the contents of paragraph 18 of the petition need no comment.

12. That the undersigned has read and understood the supplementary affidavit filed by the petitioner and the same is replied hereinbelow.

*Asstt. person:*  
N. R. Lky

13. That the contents of paragraphs 1 and 2 of the supplementary affidavit need no comment from the answering opposite parties.

14. That in reply to the contents of paragraph 3 of the supplementary affidavit, it is most respectfully submitted that in terms of Railway Board's Notification No. E(I&A)-78-RGS-54 dated 29.11.1978, where disciplinary inquiry is conducted in departmental case, no show cause notice is necessary before imposing any penalty. A copy of the Railway Board's said notification is being annexed as Annexure No. A-8.

15. That in reply to the contents of paragraph 15(A) of the petition, it is most respectfully submitted that it is admitted that the charge-sheet was submitted under the signature of Sri S. D. Chand, Senior Divisional Commercial Superintendent on 1.9.1978 which was duly acknowledged by the petitioner on 12.3.1979. But the petitioner failed to submit any defence despite issuance of letter No. C/34/Fraud/77 BBN dated 2.5.1979. Enquiry Officer was nominated and a copy was sent for service on the petitioner through C.W.I./BBB under letter No. C/34-Fraud/NBP/77/BBN dated 2.8.1979.

Regarding non-supply of documents attached with the inquiry report, it is submitted that the documents mentioned therein are the official

*(Signature)*  
Ass'tt. Person's  
N. R. L. documents which were returned to the concerned

office for which mention was made in the report.

The inquiry was conducted by a Commercial Inspector.

Regarding Railway Board's letter No. E(D & A) 72 RGC-13 dated 16.10.1973 under P. S. No. 6047, it is most respectfully submitted that the same has been superseded by P. S. No. 6130. A true copy of the P. S. No. 6130-Circular No. 52-E/U/26/E (D & A) dated 29.5.1974 is being annexed herewith as Annexure No. 9.

Lucknow, dated,

*JW*  
Assn Personnel Officer  
N. R. Lko.

Verification.

I, , presently working  
as in the Office of the  
Divisional Railway Manager, Northern Railway,  
Lucknow, do hereby verify that the contents of  
paragraphs 1 and 11 of this reply are true to my  
personal knowledge and those of paragraphs 2 to 10  
and 12 to 15 are based on record and the same are  
believed to be true.

Lucknow, dated,

*JW*  
Assn Personnel Officer  
N. R. Lko.

Before the Central Administrative Tribunal, Lucknow Bench,  
Lucknow.

T. A. No. 1137/87 (T)  
(W.P. No. 1452/83)

Anwar Ahmad Khan.

-----Petitioner

V 5.

Union of India and others.

-----Opp-parties

**ANNEXURE A-1**

Northern Railway

No: C/34-Fraud/77 BEM Divisional Rly. Manager's Office,  
Lucknow Dt. 2.5.79.

Shri A.A. Khan,  
A.S.M., Varanasi.

Sub : Reg . SF-5 No. C/34-Fraud-NBP/77 BBM  
dated 1.9.78.

Please refer to this office memorandum No. C/34-Fraud-NBP/77 BEM dated 1.9.78 acknowledged by you on 12.3.79 to which reply is still awaited.

In case no reply is received within 5 days from the date of receipt of this letter, it will be presumed that you have no explanation to offer and no ex parte action will be taken against you.

Please acknowledge.

Sd/- illegibel  
2.5.79  
for Divl. Ry. Manager.

ASSISTANT  
D. R. LKE.

Before the Central Administrative Tribunal, Lucknow Bench,  
Lucknow.

T. A. No. 1137/87 (T)  
( W. P. No. 1452/83 )

Anwar Ahmad Khan.

Vs.

Union of India and others.

-----Petitioner

-----Opp-parties

A  
101

ANNEXURE A-2

STANDARD FORM NO. 7

YANTRA KARTE

Standard form of order relating to appointment of Enquiry  
Officer Board of Enquiry Rule 9 (2) of R.S. (D&A) Rule, 1968.

No: C/34-Fraud/NBP/77/BBM

Divisional Office,  
Lucknow: Dt. 22.7.1979

ORDER

Whereas enquiry under Rule 9 of the Railway Servant  
(Discipline and Appeal) Rule 1968 is being held against  
Sri A.A. Khan, ASM/Varanasi and whereas the undersigned  
considers an enquiry officer should be appointed to enquire  
into the charges framed against him.

Now, therefore, the undersigned in exercise of the  
power conferred by sub-rule (2) of the said rule hereby  
appoints Shri T.B. Malhotra, C.M.I./Varanasi as enquiry  
officer to enquire into the charges framed against the said  
Sri A.A. Khan, Asstt. Station Master, Varanasi.

Sd/- S.D. Chand  
Sr. Divl. Commercial Supdt.,  
Lucknow.

Copy to :

1. Shri A.A. Khan, A.S.M., Varanasi, through C.M.I., Varanasi.
2. Shri T.B. Malhotra, C.M.I., Varanasi.
3. Station Superintendent, N.Rly., Varanasi.

*Jay*  
Asstn. Personnel Officer  
N. R. Lka.

Before the Central Administrative Tribunal, Lucknow Bench,  
Lucknow.

T. A. No. 1137/87 (T)  
( W. P. No. 1452/83 )

Anwar Ahmad Khan.

-----Petitioner

Vs.

Union of India and others.

-----Opp-parties

Annexure A-3

Genl. 190

Standard Form No. 7

Standard form of order relating to appointment of Inquiry Officer/  
Board of Inquiry Rule 9 (2) of RS (D & A) Rules, 1968

N.R.

No...C/34-Fraud.NEP/77 B.M.

Name of Railway Administration...N.Rly.

Place of Issue...Lucknow.....

Date..14.9.1981.

O R D E R

WHEREAS an inquiry under rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968 is being held against Shri.. A.A. Khan, ASM.....(Name and designation of the Railway servant).

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

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

1. A Board of Inquiry consisting :—

1.

2.

3.

{ Here enter names  
and designation  
of members of the  
Board of Inquiry.

Or

Shri... R. H. Bhatia, QM/Varanasi.....(Name and designation of the Inquiry Officer) is Inquiry Officer to inquire into charges [framed against the said Shri.. A.A.. Khan,.. ASM/Lucknow.....

Signature.....Sd/-

(S.K. Nanda)  
Name Sr. Divl. Commr. Suptt.  
Lucknow, Secretary, Railway Board

or  
Designation of the Disciplinary Authority

Copy to—

Sri A. A. Khan, ASM/LKO...(Name and designation of the Railway Servant).  
Copy to—through QM/Varanasi,

Sri R. H. Bhatia, QM/HQ.(Name and designation of the members of the Board of Inquiry/Inquiry Officer).

\*Copy to—

S. D. Suptt., N.Rly. LKO (Name and designation of the lending authority) for information.

\*Note.—To be used wherever applicable—Not to be inserted in the copy sent to the Railway Servant.

N..R—2.091/14—July, 1980—31,000 F.

*Ass't. Personn. Officer*  
*R. R. Lko.*

Before the Central Administrative Tribunal, Lucknow Bench,  
Lucknow.

T.A. No. 1137/87 (T)  
(W.P. No. 1452/83)

Anwar Ahmad Khan.

Petitioner

Vs.

Union of India and others.

Opp-parties

यदि यह तार आवश्यक है तो इसे संक्षिप्त करें।

IS THIS TELEGRAM NECESSARY ? IF SO, MAKE IT SHORT

कार्यालय द्वारा देखा गया तार जिसमें यहाँ नहीं दर्शक।

कार्यालय द्वारा देखा गया तार जिसमें यहाँ दर्शक।

NORTHERN RLY. EXCHANGED TELEGRAPHS-SENT, RECEIVED OR TRANSIT MESSAGE

Annexure A-4

एक्सेंज्यूर एक्सेंज्यूर एक्सेंज्यूर  
L.T. R.L.Y. L.T. R.L.Y.

रिक्विजन/Class	कार्यालय/Code	तारीख/Date	21/9 1981	मिलटरी/M.	मिलटरी/M.
रेटेशन के/Station from	प्रकाश वर्ष/Words Charged	सेवा अनुदेश/Service Instruction			मोहर/Office Stamp
BSB	प्रकाश रकम/Charged Rs.				
रेप्लिका का सापारख/Express or Ordinary					
राष्य या रेल सेवा/State or Rly. Service					
जवाबी तार और जमा की गयी रकम/Reply paid & Amount Deposited					
जिस उद्दिष्ट को येता जाता है उसका नाम और पुस्तक Person to and full address AA Khan ASM LBH C- TI Hdqrs. LKO, DOS DCS Hd. Typist LKO					

C/34-Fraud/NEP/77 BSB aaa DAR enquiry A/G A.A. Khan ASM LBH fixed  
for 6.10.81 at BSB at 13/- hrs aaa Attend alongwith your D/H if any  
w/o fail aaa TI Hdqrs LKO to arrange attendance of staff aaa  
Ho. Typist to depute one typist aaa DOS DCS for information aaa

EO QM/BSB

जब टिक्कट उत्पादन तो उत्पादन इकाई द्वारा और चिपका दें, तार में यदि ट्रेप्ल के नाम  
का उत्पादन करना हो तो उसे इस लाइन के ऊपर ट्रिक्सार।  
Stamp when used to be affixed on back, the name of the sender if to be telegraphed  
to be entered above this line.

ट्रेप्ल के उत्पादन और पता  
Signature & address of sender

Sd/- QM/BSB

(इस उद्देश का चारों दृष्टि द्वारा परिवर्तन/Forward this message in reverse)

Asstt. Personnel Officer  
N R Lko.

Before the Central Administrative Tribunal, Lucknow Bench,  
Lucknow.

T. A. No. 1137/87 (T)  
(W. P. No. 1452/83)

Anwar Ahmad Khan.

Vs.

Petitioner

Union of India and others.

Opp-parties

Annexure A-5

दस्तावेज़ नं. १०३  
LT/AT/1/LT/1

वह यह तार आवश्यक है तो इसे संक्षिप्त करें।  
IS THIS TELEGRAM NECESSARY ? IF SO, MAKE IT SHORT

उत्तर देखे साहू या अन्य तार भेज। या, प्राप्त हुए ५.८.८१ का संदेश

NORTHERN RLY. MCINSEED TELEGRAPHS-SENT, RECEIVED OR TRANSIT MESSAGE

सेवी/Class XR कार्यालय/Code तारीख/Date 6/X 19 81 ब्रह्मपुर/। निवास/पा. नम्बर/No.

स्टेशन से/Station from	प्रमुख शब्द/Words Charged प्रमुख रु./Charged Rs. प्रेषित/Signed	देवा अनुदेश/Service Instruction	प्राकाशित की भौद्धर Office Stamp
एक्सप्रेस या तापारेल/Express or Ordinary राज्य या रेल सेवा/State or Rly. Service जवाबी तार और बकाई या रकम/Reply paid & Amount Deposited		जिये उद्दिष्ट दो चेज़ा आना है उद्देश्य वाला अपार्टमेंट Person to and full address AA Khan ASM LKO C/ SS LKO TI HQ CHC LKO DOS DCS/LKO	

C/34 Fraud/NBP/77 BSB aaa DAR enquiry A/G A.A. Khan fixed for  
22.10.81 at BSB at 10/- hrs. Attend alongwith your defence  
helper if any duly verified by competent authority aaa. No more  
chance will be given if fail to attend. SS CHC LKO arrange  
to spare Khan w/o fail aaa DCS DOK LKO for information aaa

B/O CMI/BSB

जब टिकट रखारे हो तो उन्हें इसकी दूसरी ओर चिपका है, तार में यदि बेख्क के नाम  
का उल्लेख नहीं हो तो उसे इस साहू के कानून दिखाए।  
Stamp when used to be affixed on back, the name of the sender if to be telegraphed  
to be entered above this line.

प्रेषक के इस्तादार और वता  
Signature & address of sender Sd/-  
CMI BSB

(इस चेतावनी का ज्ञानी दूसरे भाग पर फॉर्म/Sorry forward this message on record)

*[Signature]*  
ASSIST. Personnel Officer  
N. R. LKO

Before the Central Administrative Tribunal, Lucknow Bench,  
Lucknow.

T. A. No. 1137/87 (T)  
(W.P. No. 1452/83)

Anwar Ahmad Khan.

-----Petitioner

Vs.

Union of India and others.

-----Opp-parties

~~10/12~~

ANNEXURE A-6

TELEGRAM

LKO

S.M. BOY

3/12/82

No; Vig/4/SPE/81/LCS aaa

DIRECT A.A. KHAN ASM TO ATTEND CONFIDENTIAL SECTION ON 7th  
CERTAIN.

GAYATRI  
DCS

Note to be telegraphed.

Sd/- Lakhpati Rai  
for D.C.S., LKO.

Sri A.A. Khan ASM/BOY should be directed to attend  
office w/o further delay. He should not be allowed duty until he  
sees DCS in office through Confidential Section.

C. A.  
Confidential Sec.  
16/12

Relayed to Sri Krishna Prasad  
Area BSB/CNL at 16.20 hrs.  
on 16.12.82.

*Ass't Personnel Officer*  
N. R. Lko.

BEFORE THE VICTORIAN HIGH COURT  
Lucknow.

T.A. No. 1137/87 (T)  
(W.P. No. 1452/83)

Anwar Ahmad Khan.

Petitioner

Vs.

Union of India and others.

Opp-parties

105

ANNEXURE - A 7

बी०एल० 19/G.L. 19  
रेलवे ११२८/ग्रन्ति ११२८

उत्तर रेलवे/NORTHERN RAILWAY

BOY/Estt/82/2

The D.R.B.,  
N.Rly. Lucknow.

Station Master  
Bhadohi  
19.12.82.

Reg : ~~direct~~ ASM Shri A.A. Khan to see DCS/LKO  
through Confidential Section.

Ref : Your CNL phone message of 4.12.82 and 16.12.82.

In reference to the above telephonic message, ASM  
Sri A.A. Khan/BOY is directed to see ~~DCS~~ DCS/LKO, N.Rly. through  
Confidential Section on 20.12.82.

He had been in sick list from 5.12.82 to 17.12.82 under  
treatment of ADMO/BSB, N.Rly. and presented himself on 19.12.82 after  
availing his rest on 18.12.82.

Sd/- S.R. Sharma  
S.M./BOY  
19.12.82

Sd/- A.A. Khan  
ASM/BOY

Signature of Sri A.A. Khan  
is attested.

Sd/- S.R. Sharma  
19.12.82

Station Master,  
Bhadohi, N.R.

*J.M.*  
Asstt Personnel Officer  
N. R. Lko

T.A. No. 1127/83 (T)  
(C.P. No. 1452/83)

Anwar Ahmad Khan,

-----Petitioner

V.S.

Union of India and others.

-----Opp.-parties

✓/p

ANNEXURE A-8

Copy of Rly. Board's notification No. E(D&A)-78 RCS-54 dated 29.11.78 to the General Manager, All Indian Railways and others from Gulzar Shand, Dy. Director, Establishment, Rly. Board.

NOTIFICATION.

S.O. In exercise of the powers conferred by the provisions to article 309 of the Constitution, the President hereby makes the following rules further to amend the Rly. Servants (Discipline & Appeal) Rules, 1968, namely :-

1. (1) These rules may be called the Railway Servants (Discipline and Appeal) Third Amendment Rules, 1978.

(2) They shall come into force on the date of their publication in the official Gazette.

2. In rule 10 of Railway Servants (Discipline and Appeal) Rules, 1968, for sub-rule (5) the following sub rule shall be substitute namely :-

"(5) If the disciplinary authority, having regard to its findings on all or any of the articles of charge and on the basis of the evidence adduced during the enquiry, is of the opinion that any of the penalties specified in clauses (v) and (ix) of rule 6 should be imposed on the railway servant, it shall make an order imposing such penalty and it shall not be necessary to give the railway servant any opportunity of making representation on the penalty proposed to be imposed.

Provided that in every case where it is necessary to consult the commission, the record of the inquiry shall be forwarded by the disciplinary authority to the Commission for its advice and such advice shall be taken into consideration before making an order imposing such penalty on the railway servant."

Sd/- P.I. Mohile  
Secretary, Railway Board

*JM*  
Asst. Personnel Officer  
N. R. Lko.

Before the Central Adjudicating Authority, Lucknow Bench,  
Date: 10.10.1974

T.A. No. 1137/74 (T)  
(S.R.O. 1437/74)

PA 5

Anwar Ahmad Khan,

-----Petitioner

Union of India and others.

-----Opp.-parties

Annexure No. 9

Serial No. 6130 - Circular No. 52-E/0/26-E (D&A), dated 29.5.1974.

Sub : Disciplinary authorities for imposition of penalties for various type of irregularities under the Railway Servants ( Discipline and Appeal ) Rules.

In continuation of this office letter of even number dated 13.3.1974, a copy of Railway Board's letter No. E (E&A) 72 RG 6-13, dated 19.4.1974 is forwarded for information and guidance. This is in partial supersession of Railway Board's letter dated 16.10.1973 circulated under this office letter of even number dated 19.1.1974 (P.S.no. 6047).

The Station Masters/Assistant Station Masters in the course of their day to day functioning when violate instructions administered by different wings of that department such as Commercial or Operating, there is no objection for the authorities in Commercial or Operating wing of that department to initiate and finalise disciplinary action against the concerned Station Master/Ass'tt. Station Master if the irregularity for which action is initiated relates to Commercial or Operating wing. These instructions equally apply to other categories, functioning in similar circumstances.

Copy of Railway Board's letter No. E (D&A) 72 RG 6-13, dated 19.4.1974.

Sub :- As above.

Reference Board's letter of even number dated 16.10.1973 on the above subject. In partial supersession of the instructions contained in para 3 thereof, it is clarified that the Station Masters/Assistant Station Masters, belong to Transportation (Traffic) and Commercial Department and not to Operating Department as mentioned therein. The Station Masters/Assistant Station Masters, in the courses of their day-to-day functioning, may violate instructions administered by different wings of that department, such as Commercial or Operating. In these circumstances, there is no objection for the authorities in Commercial or Operating wing of that department to initiate and finalise disciplinary action against the concerned Station Master/ Assistant Station Master according as the irregularity for which the action is initiated, relates to Commercial or Operating Wing. These instructions equally apply to other categories who work in one Department having different wings and in the course of their day-to-day functioning, violate rules/instructions administered by those wings.

...

  
Asstt. Personnel Officer  
N R L

Before the Central Administrative Tribunal,  
Lucknow Bench, Lucknow.

T. A. No. 1137 of 1987 (T)  
(Writ Pet. No. 1452 of 1982).

AS

RA

Anwar Ahmad Khan.

Petitioner

Versus

Union of India and others.

Opp-parties

Reply to the Written Statement.

I, Anwar Ahmad Khan, aged about 51 years, son of Sri Abdul Rahman Khan, resident of village Lakhanpura, Post Office Chail, District Mirzapur, do hereby states as under :-

1. That the above named deponent is the sole petitioner in the above noted petition and as such he is fully conversant with the facts stated hereinafter.

2. That the deponent has read and fully understood the contents of the written statement under reply filed by opposite parties.

3. That paras 1 and 2 of the written statement need no reply.

Anwar Ahmad Khan

X-65

4. That para 3 of the written statement as stated is not admitted and in reply para 4 of the petition is reiterated as correct. The deponent submitted his reply dated 31.5.1979 through Station Supdt., Varanasi, to the alleged charge-sheet.

5. That in reply to para 4 of the written statement contents of paras 5, 6, 7 and 8 of the writ petition are reiterated as correct. moreover the same are not denied by the opposite parties.

6. That contents of para 5 of the written statement are baseless, hence denied, and in reply contents of paras 9 and 10 of the writ petition are reiterated as correct. The deponent submitted his reply on 31.5.1979 through proper channel. The alleged letters and Telegrams contained in Annexures No.A-1, A-2, A-3, A-4 and A-5 are denied. The deponent never received any of the letters or Telegram as alleged by opposite parties.

7. That contents of para 6 of the written statement as stated are not admitted and in reply contents of para 11 of the writ petition is reiterated as correct.

*Anwar Ahmed  
Ibhan*

8. That contents of para 7 of the written statement as stated are not admitted and in reply contents of para 12 of the writ petition are

reiterated as correct. It is pertinent to mention that opposite parties have admitted in para under reply, that documents alleged to have attached with inquiry report were never supplied to the deponent. As such the petitioner was impaired to prefer departmental appeal by the action of opposite parties <sup>ing</sup> cause great prejudice ~~to him~~.

9. That contents of para 8 of the written statement as stated are not admitted and in reply contents of para 13 of the writ petition are reiterated as correct.

10. That contents of para 9 of the written statement as stated are not admitted and in reply contents of paras 14 and 15 of the writ petition are reiterated as correct.

11. That para 10 of the written statement is denied and in reply paras 16 and 17 of the writ petition are reiterated as correct.

12. That in reply to para 11 of the written statement, para 18 of the writ petition is reiterated as correct.

*Aman Khan*  
13. That paras 12 and 13 of the written statement need no reply.

Also

### Verification.

I, the deponent abovenamed do hereby verify  
that the contents of paras 1 to 16 \_\_\_\_\_  
are true to my own knowledge and those of paras  
\_\_\_\_\_ are believed by me to be true to on  
legal advice, and no part of it is false and  
nothing material has been concealed so help me  
God.

Signed and verified this 11th day of February,  
1990 at Lucknow.

Amara Al mad Khan  
Deponent.

I identify the deponent who  
has signed before me.

Advocate.

Before the Central Administrative Tribunal,  
Lucknow Bench, Lucknow.

T.A.No.1137 of 1987 (T)  
(Writ Pet.No.1452 of 83)

Anwar Ahmad Khan.

Petitioner

Versus

Union of India and others.

Opp-parties

Annexure No.4

P.S.No.7200

No.52-E/0/26-VI/E (D&A) dt.3.2.1979.

Sub: Disciplinary authorities for imposition of penalties for various type of irregularities under the Rly. Servants (Discipline & Appeal) Rules, 1968.

A copy of Rly. Board's letter No.E (D & A) 78-RG 6-15 dt.10.1.79 is forwarded herewith for information and guidance. The Railway Board's letter No.E (D & A) 72 RG 6-13 dt.16.10.73 and 19.4.74 were circulated under this office letter of even number dt.19.1.74 and 29.5.74 respectively (PS No.6047 & 6130).

Copy of Rly. Board's letter No.E(D&A) 78-RG 6-15 dt.10.1.79.

Subject : As above.

Ref: Board's letter No.K (D&A) 72 RG 6-13 dt.19.4.74 in the above subject.

2. The Board have, after careful consideration decided that their letter referred to above, should be treated as cancelled. The instructions contained in Board's letter No.E(D&A) 72 RCS-13 dt.16.10.73 on the above subject should continue to be followed.

Anwar Ahmad  
Shew

True-copy.

14. That contents of para 14 of the written statement as stated are not admitted and in reply contents of para 3 of the supplementary affidavit are reiterated as correct.

15. That contents of para 15 of the written statement as stated are vehemently denied and in reply contents of para 15-A of the writ petition are reiterated as correct.

The answering opposite parties have tried to misled the Hon'ble Tribunal by placing P.S.No.6130 dated 29.5.1974 annexed with the written statement. It is pertinent to mention that the said P.S.No.6130 dated 29.5.1974 was also superseded and withdrawn by subsequent P.S.No.7200 Circular No.52-E/0/26-VI/ E(D & A) dated 3.2.1979. Moreover it was directed that Board's letter No.E(D & A) 72-RCS-13 dated 16.10.1973 (Annexure No.3 to the writ petition) on the above subject should continue to be followed. A true copy of the P.S.No.7200 dated 3.2.1979 is filed as Annexure No.4 with this reply of the deponent.

16. That for the facts and circumstances stated in the writ petition and stated in this reply, the deponent (Petitioner) is entitled for the reliefs claimed by him.

Lucknow, dated,  
2.1990

*Ansar Ahmed Khan*  
Deponent.