

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH

FORM OF INDEX

~~O.A./T.A./R.A./C.C.P./~~ No.

1137-1987

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Recheeq  
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cm

50 (53)

L.K. Mishra

Central Administrative Tribunal  
Lucknow Bench

1

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.

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# GENERAL INDEX

(Chapter XLI, Rules 2, 9, and 15)

AB (3)

re and number of case

W.P. No. 1452-83

le of Parties

Arwen Abdul Kham vs. Union of Bahrain

Date of Institution

15-3-83

Date of decision

7

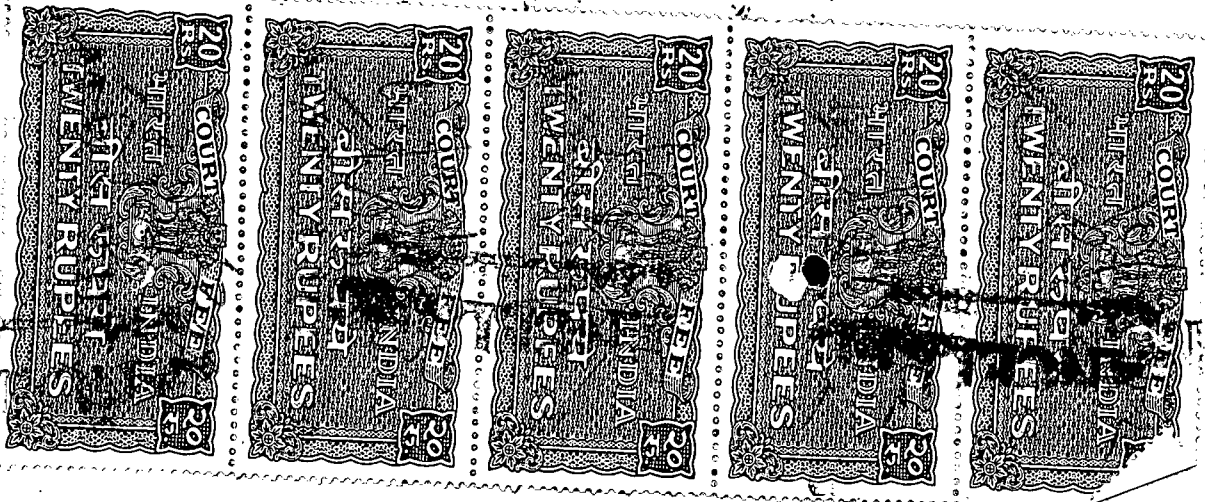
File no.	Serial no. of paper	Description of paper	Number of sheets	Court Fee		Date of admission of paper to record	Condition of document	Remarks including date of destruction of paper, if any
				Number of stamps	Value			
1	2	3	4	5	6	7	8	9
					Rs. P.			
	1	W.P. with Arwen and affidavits	16	-	102-00			
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	8	Copy of Affidavits W.P.	12	-	-			
	9	App. dt-29-9-84	2	-	5-00			
	10	Comm. 4518(w) 885	3	-	7-00			

I have this day of 198 , 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



SC-F-100/-

Ran

14-3-83

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 Lakhanpura, 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, DMM'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

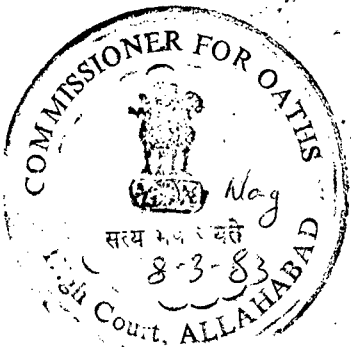
selected by the Railway Service Commission at Allahabad. He was thereafter transferred to Northern Railway on the basis of mutual consent and was posted as leave Assistant Station Master at Suwansa district Pratapgarh.

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 <sup>the</sup> 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



was Ahmad Khan

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11/4

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.B.

No.

1152

of 1983.

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
15-3-83	Hon. J.S. Mishra J Hon. D.N. Tripathi J  Put up tomorrow. Beo An	
16-3-83	cont 3126 cases 136 stays 18123 Put up tomorrow. Beo An	
17-3-83	Put up tomorrow. Beo An	
18-3-83	Put up on 21-3-83. Beo An (181218)	
21-3-83	Hon. J.S. Mishra J Hon. K.S. Varma J  List in ordinary course.  21-3-1983 Hon. T.S. Mishra J Hon. K.S. Varma J list in the week commencing 21st March, 1983.	

K. J.

21-3-1983

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- of 1988

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
	<p>5-8-83</p> <p>Fixed for utterance and for filing C.A. in N.P. N.1 to O.P. No. 1 to 3 by R.P.</p> <p style="text-align: right;">B 8-6-83</p>	
16-1-84	<p>Order No 487/1984</p> <p><u>Adopted by</u></p> <p>Set before Hon. the S. Judge at an early date.</p> <p style="text-align: right;">Sd/- N. Agrawal 10-1-84</p>	
	<p>fixed in case 487/1984 for order</p>	<p>ST 16.3</p> <p>76/10/84</p>
	<p>23-4-84 fixed for utterance for filing C.A. in N.P. and O.P. N.1 to O.P. No. 1 by R.P. N.2 to O.P. No. 2 &amp; 3 by Spl. Magistrate S. Deshpande</p> <p style="text-align: right;">R 12-3-84</p>	

# ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No.

1452 of 1983

25.

11/3

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
9-8-84	Fixed with C.A. 3126-83 for orders. Hon. D.N. Jha J. Hon. K.N. G. J.	
7-8-84	C.A. 8039 of 84 for amendment Mr. B. Kumar Don't write the record, if possible, in the next week. Hon. B. Kumar J. 7-8-84	
25-8-84	25-8-84 fixed with C.A. 3126 and 3, 8039 of 84 Hon. D.N. Jha J. Hon. K.N. G. J.	
20-9-84	20-9-84 fixed with C.A. 3126 of 83 and 8039 of 84 Hon. H.N. Seth AL SEAT	To.

Admt. given notice Stay rejected  
Amendment allowed

20-9-84



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. 1137 of 1987 (T)  
(WP 1452/03)

APPELLANT  
APPLICANT

A. A. Khan (Att)

VERSUS

DEFENDANT  
RESPONDENT

U.O.

(N. Reg.)

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
<u>25/5</u>	<p>No sitting. Adjourned to 6/7/89 for orders. B.C.</p> <p>25/5 B.O.C.</p> <p>Hon' Mr. Justice K. Nath, V.C. Hon' Mr. K.J. Raman, A.M.</p>	<p>This Case has been referred on transfer from Bench under the order of D.R. (T) &amp; notice were issued. B. post. with petition in admitt. Counter &amp; Reply order has not filed. No enclosures reply order have been recd. Since Petition is pending for order. Submitted for order.</p>
<u>6/7/89</u>	<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 instructions and arrange to file counter within a week's time and list this case for <u>orders on 3-8-89</u>.</p> <p><u>(sns)</u> Hon. Justice K. Nath, V.C.</p>	<p>No reply filed submitted for order.</p>
<u>3/0/89</u>	<p>On the ground of illness of Shri Sidhartha Varma for the opposite parties the case is adjourned for orders on <u>12/9/89</u>.</p>	<p>No reply submitted for order.</p>

Mr. Justice K. Nath, V.C.

Hon. Mr. K. Obayya, Member(A)

Review appl. No. 628/90

In

T.A. 1137/87

A. M. P. (Review) A. No.

628/90 has been

filed in T.A. 1137/87

on 17/10/90.

The case bearing 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.

OR  
notice issued  
10/6/91

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

11.91 - No sitting. Adj. to 11.1.92

Notices were issued on 10.6.91.

Neither reply nor any amended report. Cover has been returned.

P.O.C. S.F.H. 19/6

AS-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 ~~was~~ 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

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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 <sup>given</sup> 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

AS (19)

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/disciplinary proceedings against the petitioner was initiated by the competent authority or not.

8. Annexure -3, the letter dated 16.10.1973 in paragraph <sup>1</sup> 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 <sup>be</sup> 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

AB (20)

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 finalised 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.

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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.

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AA (23)

could issue the charge sheet on 1.9.78, the disciplinary proceedings on that charge sheet could <sup>not</sup> have continued after 3.2.79, and therefore, on 12.3.1979 and afterwards it should have <sup>been</sup> withdrawn in accordance with the instructions 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

Pr

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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

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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

APR 26

order of the petitioner must be set aside but it is one of those rare cases <sup>where</sup> 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 <sup>he</sup> 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.

Lucknow Dated July, 25, 1990.

Shakeel

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

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Kareem Singh

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



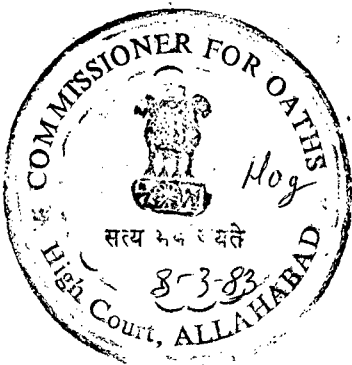
Answer At madhwa

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 what proceedings will be held ex-parte against him.

11. That while the petitioner was posted at Bhadohi 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 ins-



Anwar Ahmad 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 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*  
*Kuldeep Singh*  
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

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

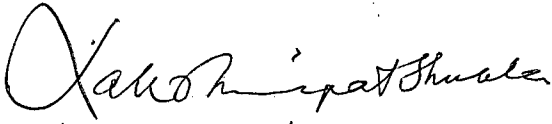
- (i) issue a writ, direction or order in the nature of certiorari quashing the order dated 23.12.1982 (Annexure No.1) based on the inquiry report dated 4.3.1982;
- (ii) issue a writ, direction or order in the nature of mandamus commanding the opposite parties to treat the petitioner in service throughout and entitled to all the benefits of service;

*Narayan Patshale*

(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.

  
(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.

Dated Lucknow:  
March 8, 1983.

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

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

 The Sr DCS  
 N.R. LKO

CMI/BSB

No C/34-Frauds NBP/77/BBM/MKK.

dated 4-3-82

 Reg:- DAR enquiry A/G sh. AA Khan ASM. Working as  
 LR ASM. Suwansa at Sarai Kansrai.

Brief History of the Case:- That sh AA Khan while working as LR ASM  
 Sumera Suwansa at SAN issued FBPT No 579865 dt 9.7.77  
 Fraudulently showing Ex Sarai. Kansrai to Dara jang amount  
 Rs 4.60 to then passengers foil & Record foil and Ex Sarai-  
 Kansrai to Chalingachon KM. 1390 Rs 418/- on passengers foil  
 and there by embezzled Rs 413.40

Documents examined:- 1. SM/SAN report dt 6.8.77 & 18.7.77

(2) Confidential DO Letter No NS/4/PCMB/18 dt 24.2.78 for  
 Sh TR Chaddha AO/Coaching TA/DKZ addressing  
 Sh HN Srivastva ACS/LKO

(3) Record Account & Passenger foils original of FBPT No 579865  
 dt 9.7.77. issued sh. AA Khan ASM while working as ASM at SAN

Witnesses Examined:- No Necessity was felt to examine any  
 witnesses 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 SAN as  
 per report of SM/SAN placed at SN 2 SN 3 and then CMI/BSB  
 report at SN 5.



## उत्तर रेलवे/NORTHERN RAILWAY

The record fait of the said FBPT Collected from station and accounts fait collected from DyCAOTA/DKZ placed on record clearly indicate that it has been issued for Daraganj Station via Allahabad by 28UP for Rs 11-60 only where as the passenger fait of the said FBPT Collected from C/Rly through AD/Coaching TA Branch DKZ vide SN 9 clearly indicate that FBPT in question has been issued for Chalisgam station on C Rly for 1390 Km by 28UP 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 written witness as documentary evidence available on record are self explanatory and sufficient to prove the fraud played by Sh A A Khan ASM

Findings: Sh A A Khan can't escape the responsibility. He is directly involved in the above fraud and therefore wholly and solely responsible

Order: He has also issued FBPT No 579863-864, 856 and 866, 868 and 869 on 9.7.77, 11.7.77, 13.7.77 & 15.7.77 for Daclay, Surat, Baliya Nath Dham circuit but indicate Fake destination like Daraganj, Ram Nathpur, Saidabad all NER stations via Ald S ALD city for which there is no direct link. But because of the fact No passenger fait 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

True copy

Sd.

CMI/BSB

For Divisional Railway Manager,  
Northern Railway, Lucknow.

A 20  
A 30

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 DRM/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 five 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.

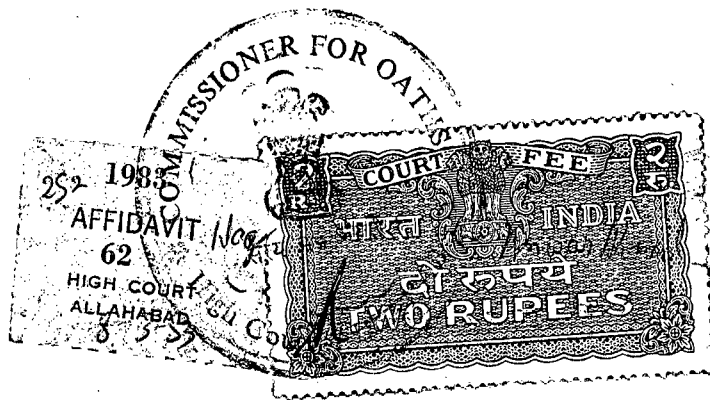
Thanking you

Yours obediently

Anwar Ahmed Khan  
ASM/Boy  
24.1.83.

Anwar Ahmed Khan





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 ~~and~~ 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  
Anwar Ahmed Khan 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,  
Deponent

Dated Lucknow:  
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,  
Deponent.

Dated Lucknow:  
March 8, 1983.

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

*A. Singh*  
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.

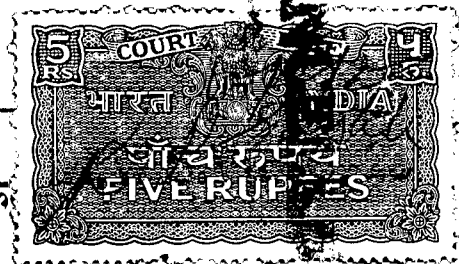


KULDEEPAK NAG  
OATH COMMISSIONER  
High Court, Allahabad  
Lucknow, Bench  
Date .....  
No .....  
Date .....  
No .....

*Kuldeepak Nag*  
KULDEEPAK NAG  
OATH COMMISSIONER  
High Court, Allahabad  
Lucknow, Bench

No 282/62  
Date 8-3-83

117  
In the Hon'ble High Court of Judicature  
ब अदालत श्रीमान at Allahabad sitting at Lucknow महोदय  
वादी अपीलान्त का वकालतनामा  
प्रतिवादी रेस्पान्डेन्ट



(टिक)

10/- = 5/-

Anwar Ahmad Khan

11-3-83 वादी (मुद्दई)

बनाम

Union of India & ors.

प्रतिवादी [मुद्दालेह]

नं० मुकद्दमा सन् १६ पेशी की ता० १६ ई०  
ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

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

को अपना वकील नियुक्त करके प्रतिज्ञा [इकरार] करता हूँ और लिखे देता हूँ इस मुकद्दमा 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 रुपया 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 मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्ष [फरीकसानी] का दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त [दस्तखती] रसीद से लेवें या पंच 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 अपने पैरोकार को भेजता रहूँगा अगर मुकद्दमा 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।

हस्ताक्षर Anwar Ahmad Khan

३ .....

साक्षी (गवाह) साक्षी (गवाह)  
दिनांक 9 माह 3 सन् 83 ई०

Accepted  
Vandana Singh  
Accepted  
Kuldeep Singh

IN THE HON'BLE HIGH COURT OF JUDICATURE  
SITTING AT LUCKNOW 1983

Writ Petition No.

Petitioner

Anwar Ahmed Khan

....

Opp. Parties

Union of India & o

.....

EX

Page

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 DSI. ...
4. Affidavit. ...
5. Vakalatnama. ...
6. Stay application. ...

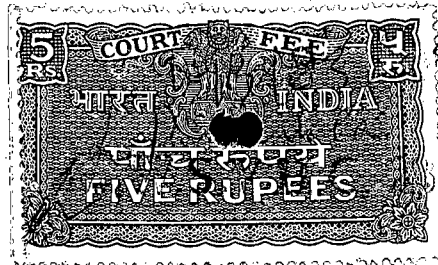
by the Railway Service thereafter transferred to No. basis of mutual consent and was Assistant Station Master at Suwansagarh.

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

3. That on 12.3.1979 while posted at Banara the petitioner received a chargesheet dated 1.9.1978 under the signatures of Sri S. Chand, Senior District Commercial Superintendent. The said chargesheet contained a charge of defrauding the railway to the extent of Rs.43.40p. by fraudulently preparing accounts and record books of foreign blind paper ticket (FBPT) No.579865 dated 9.7.1977. The said charge related to the incident of 9.7.1977. 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 on 17.5.1979. The petitioner received a reply to the chargesheet denying the charge against him.

5. That on the basis of an order dated 12.3.1979, the petitioner was alleged to have been removed from service. The petitioner



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

C.M. Application No. 3126 Co of 1983

In 1482  
Writ Petition No. of 1983

Anwar Ahmed Khan ..... Petitioner/  
Versus Applicant  
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 res-  
pectfully 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.

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



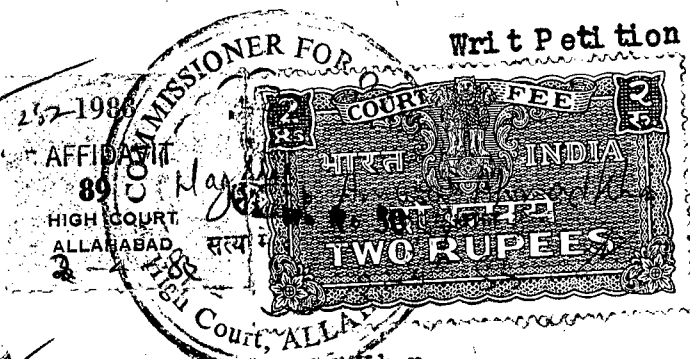
3973(10) 183  
IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD:

LUCKNOW BENCH : LUCKNOW.

Supplementary Affidavit.

in re :

Writ Petition No. 1452 of 1983.



Anwar Ahmad Khan

....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 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 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



Anwar Ahmad Khan

..2..

against the principles of natural justice.

Lucknow, Dated. 2-4-83

Anwar Ahmad Khan  
Deponent.

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.

A Singh / C. 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 Anisrudh Singh C/P. 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.....

Kuldeep Singh Nag  
KULDEEP NAG  
OATH COMMISSIONER  
High Court, Allahabad  
Lucknow, Bench

No 232/89  
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 1993.

Arvar Ahmad Khan

.... Petitioner.

versus

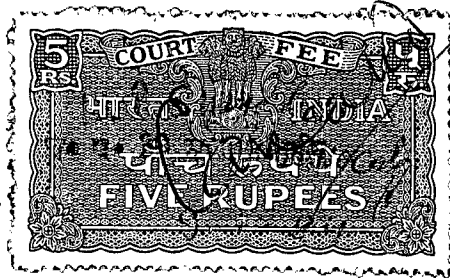
Union of India and others.

...Opp. Parties.

SUPPLEMENTARY AFFIDAVIT.

I, Arvar Ahmad Khan, aged about 44 years, son of  
Shri Abdul Fatah Khan, resident of village Lakhpur,  
Post Office Ghel, 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 so much 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. 2-1). The said order is therefore



5/18/84

10/5/84

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

C.M. Application No. 407 (W) of 1984

In Re.

Writ Petition No. 1452 of 1984

Anwar Ahmad Khan ..... Petitioner/Applicant

Versus

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

5/19


Application for early hearing

The applicant most respectfully begs to submit  
as under :-

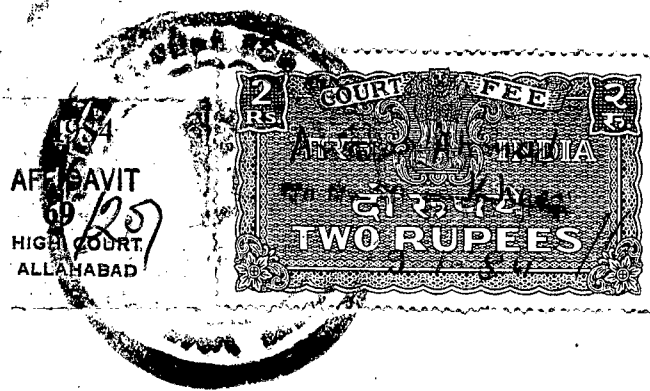
That for the facts and circumstances stated  
in the accompanying affidavit it is most respectfully  
prayed that the above writ petition be heard and  
finally decided at an early date.

HW  
18/5/83

DATED LUCKNOW:  
JANUARY 9, 1984.

  
(L.P. SHUKLA)  
COUNSEL FOR THE APPLICANT.

5/18/84



A340  
5/2

File

10.1.84.

Wx

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

ABX  
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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.

*L. P. Shukla*  
Advocate.

Solemnly affirmed before me on 9.1.1984  
at 230 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.

*Man*  
70/12017-84  
9.1.84

In The Hon'ble High Court of  
Judicature at Allahabad

( Lucknow Bench ) Lucknow

W.P. No 1452 of 1983

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 spl messenger  
for which I am ready to bear  
the expenses. Further also kindly  
direct the office to issue notice  
to opposite party no. 1 through Registered  
cover for which the duplicate and  
Registered cover has been filed.

Anwar Ahmad Khan  
Petitioner

Report

If approved.

Sri Deepak Kumar

may be appointed

as Special on duty com.  
messenger &

notice may be  
issued to O.P.  
through Registered  
cover

Done  
12/3/84

Yes

Alam  
12/3/84

Received

12/3

12.3.1984



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.

Sir,

I am directed to inform you that  
Sri Besh 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,

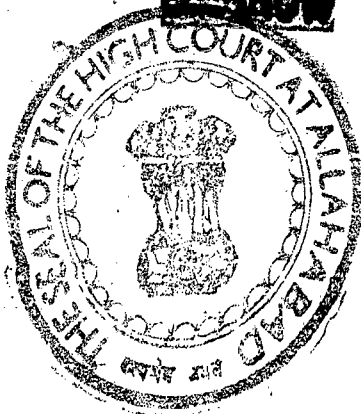
Signature: - Besh Deepak

( Ravi Kant )

Attested.

Deputy Registrar  
High Court Lucknow Bench  
LUCKNOW

DEPUTY REGISTRAR  
High Court Lucknow Bench  
Lucknow



# हाईकोर्ट इलाहाबाद लखनऊ बेंच, लखनऊ

( अध्याय १२, नियम १ और ७ )

दीवानी विभाग

प्रकीर्णक ( मुतफरिफ ) प्रार्थना - पत्र संख्या ..... सन १६ ई०

..... सं० ..... सन १६८३ ई० में

Anwar Ahmad Khan

प्राधी

Union of India

प्रत्याधी

Divisional Railway Manager

Northern Railway, Meerut

Lucknow

प्रत्याधी

चूंकि ऊपर लिखे प्राधी ने इस न्यायालय में उपर्युक्त मुकदमें के सम्बन्ध में

..... के नाम ..... देलिये प्रार्थना-पत्र

दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक २३ माह ४ सन १६८५ 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 किसी और दिन होगी।

विदित हो कि आप ऊपर 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 अनुपस्थिति में हो जायेंगे।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक १२ माह ३ सन १६८५ को जारी किया गया।

..... के एडवोकेट

तिथि .....

डिप्टी रजिस्ट्रार

इलाहाबाद/लखनऊ

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

तलवाना प्राप्त करने वाले क्लर्क के

# हाईकोर्ट इलाहाबाद लखनऊ बेंच, लखनऊ

( अध्याय १२, नियम १ और ७ )

दीवानी विभाग

प्रकीर्णक ( मुतफरिफ ) प्रार्थना - पत्र संख्या ..... सन १६ ई०

..... H.P. .... 1452 ..... सन १६८३ ई० में

..... Anwar Ahmad Khan ..... प्राथी

..... Union of India for ..... प्रति ..... प्रत्याथी

..... Divisional Railway Manager .....  
..... Northern Railway, Meerutgarh .....  
..... Lucknow ..... प्रत्याथी

चूंकि ऊपर लिखे प्राथी ने इस न्यायालय में उपर्युक्त मुकदमें के सम्बन्ध में

..... के नाम ..... देलिये प्रार्थना-पत्र

दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक 23 माह 4 सन १६८५ को या उससे पूर्व उपस्थित होकर कारण बतलाये कि प्रार्थना-पत्र क्यों न स्वीकार कर लिया जाय। उक्त प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञप्ति किशी और दिन होगी।

विदित हो कि आप ऊपर 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 अनुपस्थिति में हो जायेंगे।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक 12 माह 3 सन १६८५ को जारी किया गया।

..... के एडवोकेट

तिथि .....

.....

डिप्टी रजिस्ट्रार  
इलाहाबाद/लखनऊ

सूचना—इस न्यायालय की १६५४ की नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त तलवाना मिल गया।

तलवाना प्राप्त करने वाले क्लर्क के हस्ताक्षर

हाईकोर्ट इलाहाबाद लखनऊ बेंच, लखनऊ

( अध्याय १२, नियम १ और ७ )

दीवानी विभाग

प्रकीर्णक ( मुतफरिफ ) प्रार्थना - पत्र संख्या ~~११५२~~ सन १९८३ ई०

~~११५२~~ ११० १५५ सन १९८३ ई० में

~~Amwar Ahmad Khan~~ प्राथी

प्रति

~~Union of India~~ प्रत्याथी

~~National Commercial Superintendent~~

~~D. M. Office, Northern Railway~~

~~Lucknow~~ प्रत्याथी

चूंकि ऊपर लिखे प्राथी ने इस न्यायालय में उपर्युक्त मुकदमें के सम्बन्ध में  
के नाम वे लिखे प्रार्थना-पत्र

दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक २३ माह ५ सन १९८४ 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 किशी और दिन होगी।

विदित हो कि आप ऊपर 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 अनुपस्थिति में हो जायेंगे।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक १२ माह ३ सन १९८४ को जारी किया गया।

के एडवोकेट

तिथि



*Ramesh*

डिप्टी रजिस्ट्रार

इलाहाबाद/लखनऊ

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

तलवाना प्राप्त करने वाले क्लर्क के हस्ताक्षर

हाईकोर्ट इलाहाबाद लखनऊ बेन्च, लखनऊ

( अध्याय १२, नियम १ और ७ )

दीवानी विभाग

प्रकीर्णक ( मुतफरिफ ) प्रार्थना - पत्र संख्या 1452 सन १९८३ ई०

..... 1452 सन १९८३ ई० में

..... Ammar Ahmad Khan प्राथी

..... Union of India प्रति प्रत्याथी

..... Divisional Commercial Superintendent

..... D.M's Office, Northern Railway

..... Lucknow

प्रत्याथी

चूंकि ऊपर लिखे प्राथी ने इस न्यायालय में उपयुक्त मुकदमें के सम्बन्ध में

..... के नाम ..... के लिये प्रार्थना-पत्र

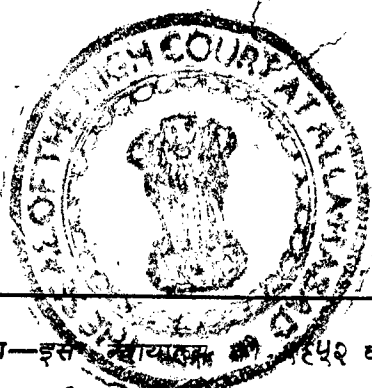
दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक 22 माह 4 सन १९८४ को या उससे पूर्व उपस्थित होकर कारण बतायें कि प्रार्थना-पत्र क्यों न स्वीकार कर लिया जाय। उक्त प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञप्ति किशो और दिन होगी।

विदित हो कि आप ऊपर 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 अनुपस्थिति में हो जायेंगे।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक 12 माह 3 सन १९८४ को जारी किया गया।

..... के एडवोकेट

तिथि .....



.....  
डिप्टी रजिस्ट्रार  
इलाहाबाद/लखनऊ

सूचना—इस न्यायालय की १९५२ की नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त तलवाना मिल गया।

तलवाना प्राप्त करने वाले क्लर्क के हस्ताक्षर

1792  
22-3-84

947

# हाईकोर्ट इलाहाबाद लखनऊ बेंच, लखनऊ

( अध्याय १२, नियम १ और ७ )

दीवानी विभाग

1/50

प्रकीर्णक ( मुतफरिफ ) प्रार्थना - पत्र संख्या ..... सन १६ ई०

LP

1452

..... सं० ..... सन १६ ई० ३६० में

Anwar Ahmed Khan

प्राधी

Union of India प्रति

प्रत्याधी

Union of India Through the General Manager

Northern Railway, Baroda House

New Delhi

प्रत्याधी

Insurance fee Rs.

P.

issued

602

Stamps affixed except red letters of not more weight prescribed in the P Guide on which no acknowledgment

Received a V. P. Registered\*

addressed to

Union of India New Delhi

Signature of Receiving Officer

Insured for Rs. (in figures)

No.

Name and address of Sender.

Amount to

No., Name issue and M. O. in that the ed under

Initials of examining of any issued

न्यायालय में उपर्युक्त मुकदमें के सम्बन्ध में

..... के लिये प्रार्थना-पत्र

कि आप दिनांक 22 माह 4 सन १६०५

तलायें कि प्रार्थना-पत्र क्यों न स्वीकार कर उसके बाद नियमानुसार विज्ञप्ति किशो और

कि पर या उससे पहले स्वयं अथवा किसी ओर से कार्य करने के लिए कानूनन अधिकृत की सुनवाई और निर्णय आपकी अनुपस्थित

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक 12 माह 3 सन १६ ०५ को जारी किया गया।

के एडवोकेट

तिथि



Dr. R. K. Bhatia  
डिप्टी रजिस्ट्रार  
इलाहाबाद/लखनऊ

सूचना - इस न्यायालय की १६५२ की नियमावली के अध्याय ३० नियम २ के अधीन प्राप्त तलवाना मिल गया।

तलवाना प्राप्त करने वाले क्लर्क के हस्ताक्षर

हाईकोर्ट इलाहाबाद लखनऊ बेंच, लखनऊ

( अध्याय १२, नियम १ और ७ )

दीवानी विभाग

प्रकीर्णक ( मुतफरिक ) प्रार्थना - पत्र संख्या 3126 सन १९८४

W.P. 1452 सन १९८४ में

Anwar Ahmad Khan प्राधी

Union of India प्रति प्रत्याधी

Union of India through the General Manager  
Northern Railway Baroda House  
New Delhi प्रत्याधी

चूंकि ऊपर लिखे प्राधी ने इस न्यायालय में उपर्युक्त मुकदमें के सम्बन्ध में

.....के नाम ..... वैलिये प्रार्थना-पत्र

दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक 23 माह 4 सन १९८४ 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 किशी और दिन होगी।

विदित हो कि आप ऊपर 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 अनुपस्थिति में हो जायेंगे।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक 12 माह 3 सन १९८४ को जारी किया गया।

.....के एडवोकेट



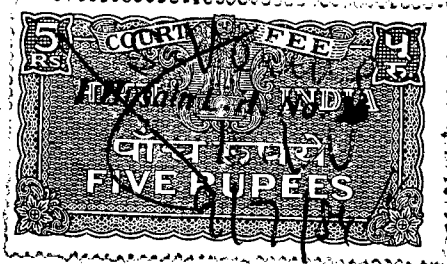
तिथि .....

रजिस्ट्रार  
इलाहाबाद लखनऊ

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

तलवाना प्राप्त करने वाले क्लर्क के हस्ताक्षर

995



1/6

In the Honble High Court of Judicature at Allahabad  
व अदातत श्रीमत्. (Circuit Bench) Lucknow महोदय

Amwar Ahmad Khan  
बनम

वादी अपीलेंट Petitioner

प्रतिवादी रेस्पण्डेंट

Opp. Parties

Union of India others

WP सं 0 मुकदमा 1452 सं 19 83 पेची की तारीख 19 80

ऊपर मुकदमा में अपनी ओर से श्री Siddharth Verma, Advocate

एडवोकेट/वकील महोदय को अपना वकील नियुक्त करके इकरार करता हूँ और लिखे देता हूँ कि मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रयत्नोत्तर करे या कोई कागज दाखिल करें या तौटावें या हमारी ओर से डिग्रि जारी करावें और रुपया वसूल करें या सुलहनामा या इकवाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक रक या मुकदमा उठावें या कोई रुपया जमा करें या हमारी विपरीत फरीकनामी का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर मुक्त दस्तखती रसीद से लेवे का पंच नियुक्त करें . . . . . वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी इसलिये यह वकालतनामा लिख दिये कि प्रमाण रहे और समय पर काम आवे ।।

हस्ताक्षर.

Divisional Railway Manager,  
Northern Railway,  
LUCKNOW.

सत्योपपत्ति.

दिनांक:

सं 19

80.

For as on behalf of  
महोदय  
Union of India

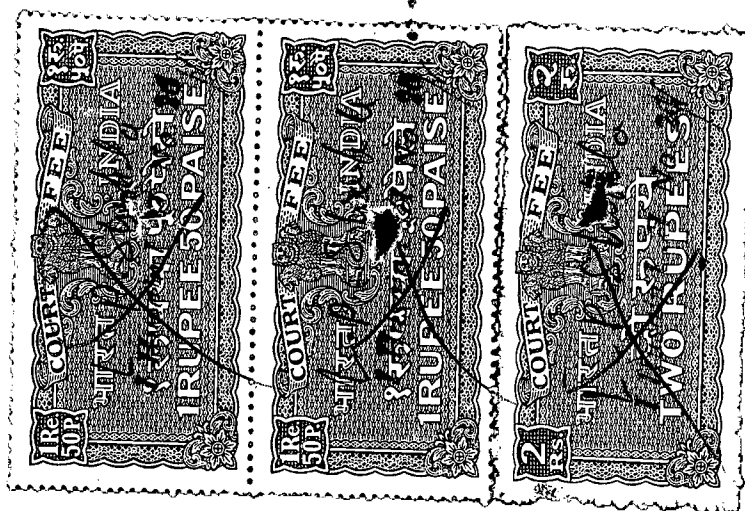
ACCEPTED

Siddharth

(SIDDHARTH VERMA)  
ADVOCATE

Divisional Commercial Supt.  
Northern Railway,  
Lucknow





2/1 Aug

3 C.B.R. 5/1  
7/8/84

1172

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

Anwar Ahmed Khan ..... Petitioner/Applicant

Versus

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

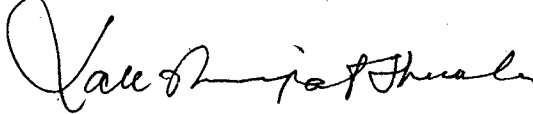
Application for amendment.

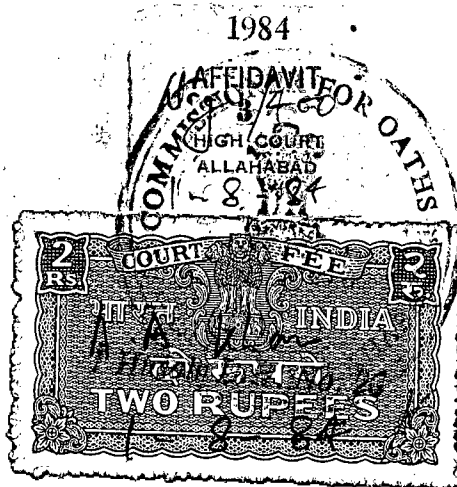
The applicant most respectfully begs to submit  
as under :-

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.

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 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 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 counsel but no counter affidavit has been filed so far.



Anwar Ahmad  
Khan

2 Aug  
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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  
Anwar

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 Ahmad 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.

*L. P. Shukla*  
Advocate.

Solemnly affirmed before me on 1.8.1984

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

the deponent who is identified by

Sri L. P. Shukla

~~Advocate to S.P.~~

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

2/6 AS

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/O-26/V(E3-1) dt. 8.2.1974 to all concerned.

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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

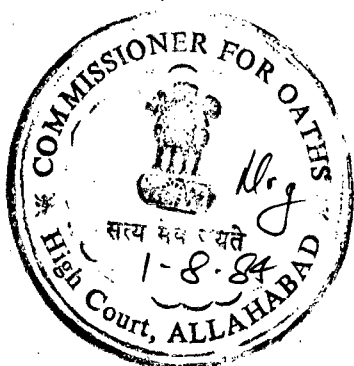


Anwar Ahmed Khan

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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 N. G.  
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

AS3 /

A/60

8/8/84  
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 Nig  
Advocate

Counsel for the Petitioner



8/ 1754  
AMENDED WRIT PETITION

In the Honble 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 Lakhanpura, 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.

..... 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 (FBPT) No.579865 dated 9.7.1977. The said charge related to the incident on 9.7.1987 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 far 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 ~~off~~ Offenders Act by the Judgment and Order 2 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

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 and was acquitted. A52  
18/80

9. That in the matter relating to the alleged incident of 9.7.1977 in which chargesheet dated ~~12~~ 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 ~~that~~ what proceedings will be held ex-parte against him.

11. That while the petitioner was posted at Bhadohi 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

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 the same~~ without affording him any opportunity to lead evidence or examine witnesses in his defence. ~~Thus~~ 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.



- 7/10/2
- 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

, 1984.

Advocate,  
Counsel for the Petitioner

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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 DFO/LKO's letter no152 E/O-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 <sup>and</sup> ~~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

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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 Comm. 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.

Abc

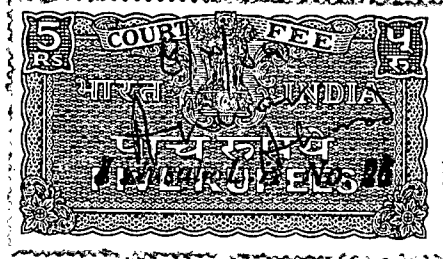
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In the Hon'ble High Court of Judicature at Allahabad,  
Sitting at Lucknow.

Writ Petition No. 1452 of 1983.



Anwar Ahmad Khan

.. Petitioner.

Versus

Union of Inda & 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 3 1/2 years old asks every thing (eatable things) which

So. (ing)  
P. (ing) will  
for

8/10/84

petitioner cannot afford. The petitioner's wife  $\frac{80}{80}$   
 expired on 9-3-1981 in Varanasi Hindu University  
 Hospital leaving this above mentioned child only  
 48 hours old.

Now it is most humbly prayed that this case  
 may kindly be finalised earlier possible to save  
 the petitioner, and his minors from starvation and  
 other hardships.

Death Certificate of the petitioner's wife  
 is attached herewith.

Enclosure/ 1

Lucknow, dated :  
 29-9-1984.

Asst. Station Master,  
 Northern Railway,  
 Railway Station Bhadohi,  
 District Varanasi.

Anwar Ahmad Khan  
 (Anwar Ahmad Khan)

Obediently yours,

Kopar

The wife has already been admitted. Anwar Ahmad Khan  
 has already been filed. Stay application has  
 been rejected. The petitioner states that since his daughter  
 on 23-12-82 he is jobless, along with his seven minor  
 children. His wife has also refused work in other under  
 circumstances. He prays for speedy disposal of his writ.

Arjun

15/2/84  
 Anwar

Dear (address)

18

This is to certify that Mrs. Subhagratna

Devi, of the village of ...

... has been ...

... and ...

... and ...

... and ...

...

...

...

...

...

...

...

...

DOCTORS' ORD

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

Lucknow Bench, Lucknow.

C. Misc Application No. 4518 (w) of 1985

In re:

Writ Petition No. 1452 of 1983



Anwar Ahmad Khan \*\*\*\*\* Applicant  
Petitioner

Versus

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

Application for Interim Relief

4758  
Early Mr

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

Kuldeep Singh

Advocate  
Counsel for the applicant  
Petitioner



A-70  
10/2

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

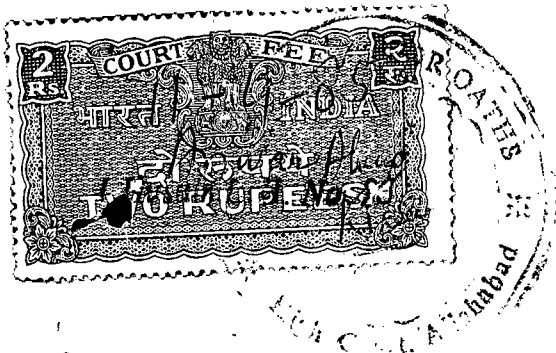
-: AFFIDAVIT :-

In

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

In re:

Writ Petition No. 1452 of 1983



Anwar Ahmad Khan \*\*\*\*\* Applicant/  
Petitioner

Versus

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

-: Affidavit :-  
\*\*\*\*\*

I, Anwar Ahmad Khan, aged about 45 years, son of  
Sri Abdul Rahman Khan, resident of village Lakhnpura,  
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

Anwar Ahmad Khan

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

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.

Anwar Ahmad 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.

Anwar Ahmad Khan

Deponent

Kuldeep Singh  
Advocate

Solemnly affirmed before me on 11-4-1985

at 10 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.

V. K. PANDEY  
COMMISSIONER  
Lucknow dated  
April 11, 1985  
No. 810-815  
Date 11-4-1985

Before the Central Administrative Tribunal  
Lucknow Bench, Lucknow.

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

AS

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. Swaranta

son of

Stri

APo / Lico

presently working

as Asstt Personnel officer in the Office of the  
Divisional Railway Manager, Northern Railway, Lucknow,  
do hereby state as under :-

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

5/24/87  
Filed today  
N. R. Lko.

A73

A  
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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.

Assn. Personnel Officer  
N. R. Lko.  
to proceed ex-parte.

A74

8/8

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.

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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.

Asstt. Personnel Officer  
N. R. Lko.

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8/8

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

Assn.  *Documents Officer*  
N. R. Lko.

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/O/26/E (D & A) dated 29.5.1974 is being annexed herewith as Annexure No.9.

Lucknow, dated,  
2.12.89

Verification.

Asstt. Personnel Officer  
N. R. Lko.

I, J. H. Srinivasan, 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

Asstt. Personnel Officer  
N. R. Lko.



A-78

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 BEM

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

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

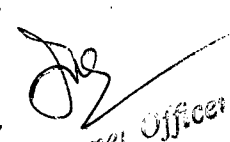
Sub : Reg . SF-5 No. C/34-Fraud-NRP/77 BEM  
dated 1.9.78.

Please refer to this office memorandum No. C/34-Fraud-NRP/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. Rly. Manager.

  
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/BEM

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.

Assst. Personnel Officer  
N. R. Lko

Before the Central Administrative Tribunal, Lucknow Bench,  
Lucknow.

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

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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.NEP/77 BEM

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, QMI/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.....

Signature..... 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 QMI/Varanasi,


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

\*Copy to—

Stn. 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.

  
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

उत्तर देने का यह तार संक्षिप्त होना चाहिए, प्राप्त हुआ कि संक्षिप्त होना चाहिए

Annexure A-4

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

वर्ग/Class	कॉड/Code	तारीख/Date	21/9 1981	विवरण/	विषय/M.	नम्बर/No.
स्टेशन से/Station from	प्रसारण शब्द/Word charged	सेवा अनुदेश/Service instruction		किस व्यक्ति को भेजा जाना है उसका नाम और पता		
BSB	प्रभारित रकम/Charged Rs.			Person to and full address	AA Khan ASM LBH	
	संकेत/Signal Code			C/- TI Hdqrs. LKO, DOS DCS Hd. Typist		
एक्सप्रेस या सामान्य/Express or ordinary						
राज्य या रेल सेवा/State or Rly. Service						
जवाबी तार और जमा की गयी रकम/Reply paid & Amount Deposited						
						LKO

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  
Hd. Typist to depute one typist aaa DOS DCS for information aaa

EO QMI/BSB

जब टिकट लगाने से पूर्व इसकी प्रतिलिपि और भिषिका दें, तब से यदि भिषक के नाम  
का उल्लेख करना हो तो उसे इस साइन के ऊपर लिखें।  
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 हस्ताक्षर और पता  
Signature & address of sender

Sd/- QMI BSB

(इस संदेश की छापी हुई प्रतिलिपि पर लिखें/Reply forward this message on 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

Annexure A-5

यदि यह तार आवश्यक है तो इसे संक्षिप्त करें।

IS THIS TELEGRAM NECESSARY? IF SO, MAKE IT SHORT

उत्तर में तार में आवश्यक तार में क्या गवर्न, प्राप्त हुआ है, तार में कोई संदेश

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

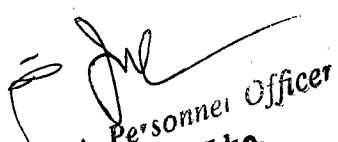
वर्ग/Class	XR	कोड/Code	तारीख/Date	6/X 19 81	व्यक्ति/Person	विवरण/Details	नम्बर/No.
स्टेशन से/Station from	प्रभुता बन्ध/Charges charged		सेवा अनुदेश/Service instruction		ऑफिस का मुहर/Office Stamp		
एक्सप्रेस या साधारण/Express or Ordinary		प्रभुता रकम/Charged Rs.		जिसे व्यक्ति को भेजा जाना है उसके नाम और पता			
राज्य या रेल सेवा/State or Rly. Service		प्रभुता रकम/Charged Rs.		Person to and full address AA Khan ASM LKO			
जवाबी तार और जमा की गयी रकम/Reply paid & Amount Deposited		प्रभुता रकम/Charged Rs.		C/ SS LKO TI HQ CHC LKO DOS DCS/LKO			

C/34 Fraud/NEP/77 BEM 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 QAI/BSB

जब टिकट लगाए तो इसे इसकी प्रतिलिपि और भिजका दें, तार में यदि भेजक के नाम का उल्लेख करना हो तो उसे इस लाइन में भर दिया जाए। Stamp when used to be fixed on back, the name of the sender if to be telegraphed to be entered above this line.	भेजक की हस्ताक्षर और पता Signature & address of sender 3d/- QAI BSB
---	--

(इस संदेश को आगे भेजने पर ध्यान दें/Do not forward this message on received)

  
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 )

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Anwar Ahmad Khan.

-----Petitioner

Vs.

Union of India and others.

-----Opp-parties

A  
a/b

ANNEXURE A-6

TELEGRAM

LKO

S.M. BOY

YAWALDI KOTHI... 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.

Gd/- Lakpati Rai  
for D.C.S., LKO.

-----

SBI 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.

Assst. 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

बी.एल. 19/G.L. 19

बदल 99-बदा/आ. 99-लुग

उत्तर रेलवे/NORTHERN RAILWAY

BOY/Estt/82/2

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

Station Master  
Bhadohi  
19.12.82.

Reg : ~~SM~~ 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.

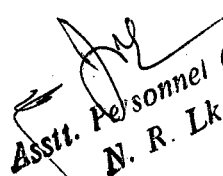
Sd/. S.R. Sharma  
S.M./BOY  
19.12.82

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 )

ASE

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 RGS-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.

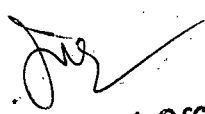
(2) They shall come into force on the date of their publication in the official Gazette.

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

  
Assit. Personnel Officer  
N R I



I.A. No. 1187/81 (IT)  
(15.06.1982/2)

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Anwar Ahmad Khan,

-----Petitioner

Union of India and others.

-----Opp-Parties

X/29

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/Asstt. 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 course 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 these 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 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 Asstt Personal Officer* presently working  
as 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

*Assy Person*  
*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 paragraph 5 of the petition need no comment. The opposite parties

Telegrams 5, 6, 7 & 8

sent from the ...

ies.

that the contents of paragraphs 9 and 10 of  
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/77 BB dated 10.9.78 in spite 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, 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, the 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  
to proceed ex parte.

Per ...

N. R. ...

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.  
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.

Asst. 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(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 13(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.M.I./BSB 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 documents which were returned to the concerned

Assist. Personnel  
N. R. Lakshmi

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,

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,

Assn. Personnel Officer  
N. R. Lko.



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Before the Central Administrative Tribunal, Lucknow Bench,  
Lucknow.

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

Anwar Ahmad Khan.

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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 BEM  
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. Rly. Manager.

ASSN. *[Signature]*  
N. R. Lkq.

Before the Central Administrative Tribunal, Lucknow Bench,  
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ANNEXURE A-2

STANDARD FORM NO. 7

YAWANM KSEFTS

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/NEP/77/BEM

Divisional Office,  
Lucknow: Dt. 22.7.1979

O R D E R

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, QMI/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.

Assn. Personnel Officer  
N. R. Lke.

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 BEM

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, QMI/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. 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 QMI/Varanasi,

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

\*Copy to—

Stn. 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.

Ass. Secy. to the Tribunal  
D. B. Lko.

Before the Central Administrative Tribunal, Lucknow Bench,  
Lucknow.

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यदि यह तार आवश्यक है तो इसे संक्षिप्त करें।

IS THIS TELEGRAM NECESSARY ? IF SO, MAKE IT SHORT

उत्तर देने के लिए आवश्यक तार संक्षिप्त करें। आवश्यक नहीं है तो इसे न भेजें।

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

Annexure A-4

Rate/Class

काउन्टर/Code

तारीख/Date 21/9 1981

अंक/No.

मिनट/Min.

नम्बर/No.

स्टेशन से/Station from

प्रस्तुत शब्द/Word charged

सेवा अनुदेश/Service instruction

आफिस का  
मोहर  
Office Stamp

BSB

प्रभुता नं./Charged Rs.

प्रेषण/Signal/Mod

एक्सप्रेस या साधारण/Express or Ordinary

राज्य या रेल सेवा/State or Rly. Service

प्रवासी तार और जमा की गयी रकम/Reply paid &  
Amount Deposited

जिस व्यक्ति को भेजा जाता है उसका नाम और पता

Person to and full address AA Khan ASM LBH  
C/- TI Hdqrs. LKO, DOS DCS Hd. Typist  
LKO

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 QMI/BSB

जब 'डिपेंडेंस' तार भेजा जाता है तो उसकी प्रतिलिपि भेजी जाती है, तब ही यदि प्रेषक का नाम  
का उल्लेख करना हो तो उसे इस लाइन के ऊपर लिखें।  
Stamp, when used to be affixed on back, the name of the sender if to be telegraphed  
to be entered above this line.

प्रेषक की हस्ताक्षर और पता  
Signature & address of sender

Sd/- QMI BSB

(इस संदेश को आगे भेजने पर ध्यान दें/Do not forward this message on to others)

Assy. 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

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-----Opp-parties

Annexure A-5

यदि यह तार आवश्यक है तो इसे संक्षिप्त करें।

IS THIS TELEGRAM NECESSARY ? IF SO, MAKE IT SHORT

उत्तर देने के लिए तार संक्षिप्त तार में होना चाहिए, प्राप्त हुके के कारण की संदेश

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

सेवा/Class XR

कडान/Code

तारीख/Date

6/X 19 81

बजट/...

मिनट/...

पत्र/No.

स्टेशन से/Station from	भुगतान बजट/Amount charged	सेवा अनुदेश/Service instruction	प्राप्त करने की मोहर Office Stamp
एक्सप्रेस या साधारण/Express or ordinary	प्रभुत्व रू./Charged Rs.	जिस व्यक्ति को भेजा जाना है उसका नाम और पता Person to and full address	
राज्य या रेल सेवा/State or Rly. Service	प्रेषित/Signalled	AA Khan ASM LKO	
जवाबी तार और जमा की गयी रकम/Reply paid & Amount Deposited		C/ SS LKO TI HQ CHC LKO DOS DCS/LKO	

C/34 Fraud/NBP/77 BSM 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 OMI/BSB

जब टिकट लगाए तो उन्हें इसकी प्रतिलिपि और चिपका दें, तार में यदि प्रेषक के नाम का उल्लेख करना हो तो उसे इस लाइन के ऊपर दिखाएं। 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 हस्ताक्षर और पता Signature & address of sender Sd/- OMI BSB
--	--

(इस संदेश को आगे भेजें, साथ पर लिखें/Carry forward this message on received)

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-6

TELEGRAM

LKO

S.M. BOY

3V12.82

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/- Lakshpati Rai  
for D.C.S., LKO.

-----

SBI 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.

Assst Personnel Officer  
N. R. Lko.

Before the Central Board of Secondary Education  
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 7

बी.एल. 19/G.L. 19

बयल 99-बय/जन. 19-12-82

उत्तर रेलवे/NORTHERN RAILWAY

BOY/Estt/82/2

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

Station Master  
Bhadohi  
19.12.82.

Reg : ~~ASM~~ 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.

Asslt. Personnel Officer  
N. R. Lko

T.A.No. 1137/83 (I)  
(A.E.No. 1452/83)

Devi

Anwar Ahmad Khan.

-----Petitioner

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-----Opp-parties

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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.
- (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

Assis. Personnel Officer  
N. R. Lko.



T.A. No. 1137/81 (T)  
(A.P. No. 1442/83)

pa 5

Anwar Ahmad Khan,

-----Petitioner

Union of India and others.

-----Opp-parties

Annexure No. 9

Serial No. 6130 - Circular No. 52-E/O/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 finalize 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 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 finalize 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).

1/8/84

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

part

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.

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

Anwar Ahmed  
Wahid

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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 causing 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.

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

Aman Ahmed  
Khan

Aloo

A/11

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 & on legal advice, and no part of it is false and nothing material has been concealed so help me God.

Signed and verified this 11<sup>th</sup> day of February, 1990 at Lucknow.

Anwar Ahmad 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)

*1/12*

Anwar Ahmad Khan.

-----Petitioner

Versus

Union of India and others.

-----Opp-parties

Annexure No.4

P.S.No.7200

No.52-E/O/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.

True-copy.

*Anwar Ahmad Khan*

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/O/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

Amir Ahmad Khan  
Deponent.