

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE

TA. 1165/87
WP. NO. 3335/82 OF

NAME OF THE PARTIES

Anandh Prasad Srivastava

Applicant

Versus

C.O. E. 2015

Respondent

Part A.

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CERTIFICATE

Certified that no further action is required to be taken and that the case is fit for consignment to the record room (decided)

This file received without protest

Recheck. Dated 21-9-11

Counter Signed.....

Section Officer/In charge

Signature of the
Dealing Assistant

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Lucknow-BENCH
Lucknow

CAUSE TITLE O. A. 1165 OF 87 199 (L)
T. A. WP. 3335/82 (T)
Name of parties.....A. P. Srivastava.....Applicant's.
VERSUS
Union of India.....U. O. 2 2001.....Respondents.

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CENTRAL ADMINISTRATIVE TRIBUNAL
Lucknow-BENCH Lucknow

TA 1165/87 (n)

WP 3335/82

O.A. No. _____ of 199

Application No. _____ of 199

writ petition _____ of 199

CERTIFICATE

Certified that no further action is required to be taken and the case is fit for
consignment to the record room. (decided)

Countersigned

Signature of the dealing
Assistant.

Section officer/Court officer

Dated :

P. Narayan
1/2/94

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

CAT /J/11

O.A./T.A. No. 1165 1987

A. P. Srivastava

Applicant(s)

Versus

Union of India & ors

Respondent(s)

No.	Date	Orders
13.4.88		<p>Office report in Misc Appln No. 25-B-T/88 in T.A. No. 1165/87, 1223/87 and 1507/87</p> <p>Sri A.K. Gaur Counsel for Union of India files an application for recalling the order dt 7.4.88 passed in FA O.A. 74/88. (Hon'ble A. Jochri AM & Hon'ble G.S. Sharma J.M.) The applicant has also applied for connecting the above three Cases together.</p> <p>Submitted for orders</p> <p><u>Jesun,</u> 13/4/88</p>
18.4.88	<p>Hon. B. Zaheer Hasan V.C. Hon. A. Jochri AM</p>	<p>on the illness slip of Sri A.K. Gaur counsel for the respondent the case is adjourned to 6.7.88.</p> <p><u>M</u> V.C.</p> <p><u>J</u> AM</p>

T.A 11/6/87 T

TA 1507/87 T

TA 1225/87 T AB

Dr. M. Justice B.C. Surinder
Dr. M. K. Chayya A.M

On the request of both
Parties Counsel Case is adjourned
to 26.8.92

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26.8.92

Case not reached.
Adjourned to 17.9.92.

O.R.

Charabata

case is

S.F.H. 17.9.92

Dr. M. Justice B.C. Surinder
Dr. M. K. Chayya A.M

16/9/92

Dr. P.M. Balper L.A. Hall.
applicant & Dr. B.K. Shukla
L.A. for respondents is present.

Arguments heard. Judgment

reserved.

Am

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19.9.92

Dr. M. Justice B.C. Surinder
Dr. M. K. Chayya A.M

Judgment pronounced today
in the open Court.

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OK.
Not signed
received
SFO

5/4/93

Dated

16.4.93

Hon'ble Mr. Justice V.C. Srivastava, V.C.

List this case for orders on
22.4.93.

✓
V.C.

22.4.93

Hon. Mr. Justice V.C. Srivastava, V.C.
Hon. Mr. V.K. Seth, Jm.

M.P. as prayed is allowed.
Let necessary corrections
be made. Certified Copy
may also be corrected.

✓
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VI.

(y)

OK
Not received
Dated
Applicant's correcting
signature
SFO
2/4/93

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH
LUCKNOW

- (1) T.A. 1165/87
(W.P. 3335/82)
- (2) T.A. No. 1507/87
(W.P. No. 324/84)
- (3) T.A. No. 1225/87
(W.P. No. 5741/83)

A.P. Srivastava

Petitioner

versus

Union of India & others

Opp. Parties.

Shri P.N. Bajpai

Counsel for Applicant/
Petitioner.

Shri B. K. Shukla

Counsel for Respondents.

Coram:

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, Adm. Member.

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

In the above three applications filed by the same applicant, different reliefs have been claimed. In T.A. No. 1165/87 the petitioner has prayed for issue of certiorari quashing the order dated 9.7.82 reverting the petitioner to one scale below and withholding the seniority for a duration of three years and mandamus directing the respondents not to revert the petitioner in pursuance of the aforesaid order dated 9.7.82 and treat him still continuing in the same post and scale of Rs 425-640. In T.A. No. 1225/87 he prayed for quashing the order dated 3.9.83 and for a mandamus commanding the

respondents to hold the fresh selection for the posts of Station Masters Grade Rs 550-750 and Grade Rs 455-700 under the restructuring scheme after considering the case of the petitioner vis-a-vis his juniors. In T.A. No. 1507/87 the petitioner has prayed for issuance of a certiorari quashing the entire disciplinary proceedings right from the stage of issuing chargesheet appointing Enquiry Officer and recording of prosecution witnesses after summoning the original from the respondents and for a mandamus commanding the respondents not to initiate disciplinary proceedings against the petitioner pertaining to the incident of 17.5.1979 for which he has already been punished.

2. The petitioner, admittedly, attained the age of superannuation in the year ¹⁹⁸⁹1988 during the pendency of this case. He started as a Clerk in the office of Loco and Carriage Superintendent as a permanent employee in the year 1948 and after confirmation he was promoted to the post of Assistant Station Master at Railway Station Aishbagh, Lucknow. On 12.5.79 he was served with a charge sheet under the signatures of Divisional Safety Officer, N.E. Railway, Lucknow. The charges against the applicant were that while functioning as Assistant Station Master on duty at the West Cabin/ASH from 16.00 to 24.00 hours the petitioner refused to allow to the movement of engines/and from ASH and Loco Shed and obstructed the movement in contravention of Appendix 'F' (Correction slip No. 1 dated 21.11.1977) para II Note No. (ii) below para (g) to the Station working Rules No. LGN/

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162 dated 7.9.1976 of Aishbagh JNC and thus he violated the G.R. 179 for not obeying the lawful orders prescribed in the Station Working Rules and further disobeyed the orders given by SM/ASH on 9.5.1979 and failed to maintain the devotion to duty and behaved in a manner which was unbecoming of a Railway Govt. servant. The applicant denied the charges. The enquiry proceeded. The applicant appointed the defence Assistant also. As a result of the enquiry report the respondent No. 3 passed the order reverting the applicant as stated above. The applicant refuted the charge sheet and he stated that as a matter of fact he acted under the directions of respondent No. 2 and had not violated any rules. The enquiry officer held the applicant responsible for disobedience and that is why he was awarded with the above penalty. The impugned order of reversion was stayed by the High Court with the result that it never came into effect at all. ^{The applicant was} removed from service against which he filed another case. The applicant has challenged the order on variety of grounds including that the order has been passed without application of mind and with malafide intention and the applicant was denied opportunity to defend himself and that the petitioner has not disobeyed any order, and he has acted in accordance with the order given by his officer.

3. On behalf of the respondents the action of reverting the applicant has been justified and it has been contended that the applicant having been removed from service this application becomes infructuous. It is true that the punishment order did not come into effect but the grievance

of the applicant is that the punishment order has been passed by the Divisional Safety Officer who is the head of Safety Division and the applicant was working under the direct control of Operating Deptt. and thus the order is without jurisdiction. Thus, according to the respondents it has been contended that at Zonal level the Chief Operating Superintendent is the Head of Operating Department and he is assisted by Sub-Heads viz. Chief Freight Traffic Superintendent, Chief Passenger Traffic Superintendent, Chief Traffic Safety Superintendent. At Divisional level the Senior Divisional Operating Superintendent is the head of the Operating Department. He is assisted by Divisional Safety Officer. Thus, the Divisional Safety Officer is a competent authority to exercise control over working of all Transportation staff for the purposes of disciplinary action and as such the orders of reversion of the petitioner is legal and valid.

Reference has been made to the Railway Board Circular dated 22.10.84 in this behalf. The only document which has been filed by the respondents is the letter which was sent by the Railway Board to the General Manager with reference to the query regarding the disciplinary authority of the staff of the Operating Department and it was stated in the letter that the writ petitions challenging in the case of Operating staff may be contested and may be pointed to the High Court that Safety Officers, as distinct from Commercial Officers, belong to operating side and there should be no objection to their taking disciplinary action

against Operating staff like SMs, ASMs, etc. who perform train passing duties. The letter is only in reply to a particular letter and it does not confer any power on the Divisional Safety Officer to take disciplinary action against ASMs who belong to the other side. May be that subsequently powers have been given but no document has been produced indicating that the said authority was entitled to take disciplinary action. Even otherwise, this renders the entire proceedings void and the action has been taken by the authority who is not competent and even otherwise the Enquiry Officer held that the applicant cannot be held responsible but the disciplinary authority was to defer from the finding of the enquiry officer, he was to record reasons and show cause should have been given to the applicant to represent the case by him. The same having not been done, vitiates the enquiry proceedings, as has been observed in the case of Narain Misra vs. State of Orissa (1969 SLR 557) and it is on this ground that the punishment orderx dated 9.7.82(Annexure No. 1) stands quashed. Accordingly this application deserves to be allowed and the reversion order dated 9.7.82 is quashed. It is a different matter that because of the subsequent orders it may have become infructuous but in case the subsequent order goes this order automatically will go out.

4. In T.A. No. 1225/87 the applicant has challenged the promotion order. According to the

to the respondents
applicant he ranks senior in the seniority list of Assistant Station Master working in the N.E. Railway. The applicant ranked at serial No. 15 whereas the other respondents are below him. Under the restructuring scheme a number of posts of Station Master grade Rs 550-750 were to be filled up from the category of of Asstt. Station Masters grade Rs 425-700 on the basis of seniority maintained by the respective Divisions. While promoting respondents 5 to 18 the case of the applicant was not considered though he was senior to them. In this application, the applicant has challenged the order dated 3.9.83 promoting in the grade of Rs 550-750 the respondents 5 to 18/ and the order dated 3.9.83 promoting the respondents 19 to 29 to the post of Station Master in the grade of Rs 455-700. Under the restructuring scheme it was directed that various cadres under different Departments pertaining to group C and D posts may be restructured with reference to the sanctioned cadre strength as on 1.8.1983. The scheme further provided that for the purpose of promotion existing selection promotion will be modified and selection will be on the basis of scrutiny of the service record and without any written examination. The applicant who was promoted to the post of Assistant Station Master in the year 1953 in the grade of Rs 425-640 w.e.f. 29.6.1963 and was confirmed on the said post with effect from 1.4.1964 and he was at serial No. 15 in the seniority list and was entitled to the benefit of promotional post but he was not promoted because of the punishment of reduction of rank vide order dated 9.7.82 against which he filed representation which was stayed and despite the interim order the punishment was taken into account for not promoting him and giving him a particular grade.

5. The respondents have opposed the application and have pointed out that because of serious accident the petitioner was charged of misconduct and removed from service ultimately. While the petitioner has pointed out that this Tribunal has allowed the application and quashed the removal order though subsequent to his retirement but according to the respondents the S.L.P. has been admitted and is pending. It has been stated by the respondents that as the applicant's name was considered but as he was undergoing penalty for major punishment his name was excluded from promotion. It has been further stated that he was not promoted in the grade of Rs 550-750 as Station Master. Besides the order of reversion, disciplinary proceedings against the petitioner was also pending, so he was not promoted against which he has filed another T.A. in which he has challenged the Memo of charge sheet itself.

6. It appears that the respondents admittedly took into consideration that the applicant has already been reverted. The reversion order was stayed by the High Court. So far as the applicant is concerned he could not have been treated as reverted in view of the operation of the interim order. The respondents should have considered the case of the applicant for time being, may be due to the note that he is being promoted but the same shall be subject to final orders passed in the writ petition or in case the interim order is vacated and consequences to follow. But the respondents committed an error in not

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promoting the applicant. It is a different matter that the applicant may not have been promoted to the higher post in view of pendency of the disciplinary proceedings but so far as earlier one is concerned he should not have been deprived of the same. The respondents are directed to consider the case of the petitioner for the benefit of restructuring scheme for seniority taking as if there was no punishment order against him and he could be, on the relevant date, when the proceedings re-stated later on, the benefit of promotion with effect from that date will not be given to the applicant because of pendency of disciplinary proceedings, except that he was to be considered and the result was to be kept in sealed cover. The respondents are directed to re-consider the case of the applicant in view of the above observations and in case the applicant is entitled to one or two promotions he may be given promotions and obviously is deemed to be in continuous service.

7. In T.A. No. 1507/87 the petitioner has challenged the ^{disciplinary proceeding and in O.A. no 216 of 1988 the removal order has been challenged} removal order which was passed after holding the departmental enquiry. The applicant was chargesheeted because of his act of omission and negligence, and due to accident. The applicant denied the responsibility and the proceedings were pending. Petitioner filed writ petition which was transferred to to this Tribunal but no interim relief

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was granted with the result that the writ petition was pending but at the same time no further action, it appears was taken on this application. The applicant has attained the aged of superannuation. Even if the benefit of superannuation would have been given to the applicant if the proceedings not having been culminated into proceedings against retired persons, this application becomes infructuous making the entire proceedings against the applicant also infructuous.

8. The above three applications are disposed of in the manner indicated above. No order as to costs.


Adm. Member.


Vice Chairman.

Shakeel/

Lucknow: Dated: 19.10.92



4/8



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

WRIT PETITION NO. 3335 OF 1982

Anurudh Prasad Srivastava

Petitioner

VERSUS

The Union of India & Others

Opp. Parties.

lucknow: DATED JULY 21, 1982.

ADVOCATE

A17

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

WRIT PETITION NO. _____ OF 1982.

3332

Anurudh Prasad Srivastava, aged
about 52 years, son of late Sri
Mangla Prasad at present working
as Assistant Station Master,
North Eastern Railway, Aishbagh,
Lucknow

... PETITIONER

VERSUS

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1. Union of India through the
General Manager, North Eastern
Railway, Gorakhpur.
 2. The Additional Divisional
Railway Manager (Shri R.S.
Jain), North Eastern Railway,
Ashok Marg, Lucknow.
 3. The Divisional Safety Officer
(Shri J.N. Mehrotra), North
Eastern Railway, Office of
the Divisional Railway
Manager, Ashok Marg, Lucknow.
 4. Executive Assistant to Divi-
sional Railway Manager (Shri
R.S. Sharma), North Eastern
Railway, Ashok Marg, Lucknow
 5. The Station Superintendent,
North Eastern Railway, Aishbagh
Lucknow.

... OPP. PARTIES.

At Srivastava/ass.



Received
 duplicate
 long copy
 21.7.82

Honble K.S. Varma, J
 Honble S.S. Anand, J

Put up for orders
 on 28.7.1982.

Till 28.7.1982 the
 petitioner will not be
 reverted.

Sd/- Ks
 21.7.1982

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Put up on
 29.7.82. Petitioner
 will not be
 reverted till
 29.7.82.

Sd/- Ks

Put up on 30.7.82.
 Interim order will
 continue till 30.7.82

Sd/-
 29.7.82

1 Impressed 30-00
 10 Adhesive 20-00
 Total 100-00
 Correct but final Court-fee receipt
 will be made on receipt of lower
 Court record.
 In time up to
 Papers filed. Copy of P.O.
 Should also be filed.
 Single Bench.

Last Imp. order Amer 1 dated
 9.7.82

Ram Prakash
 21/7/82

[Faint handwritten notes at the bottom of the page]

The Hon'ble Chief Justice of and
his companion Judges of the aforesaid
Court.

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Al. Sionlas

Hon K S Vanna J
Hon S S. Ahmad J.

Admit. Notice on behalf
of the opposite parties has
been taken by Sri Umesh
Chandra.

S. S. Ahmad /s/

2. 0. 1902

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and since then he is continuing at the same place. Besides the aforementioned fact the petitioner has also engaged himself in agitating the lawful cause for his fellow employees and at present he has been elected as Divisional Secretary of All India Station Masters Association, North Eastern Railway Division on account of love and affection of the fellow employees. Due to lawful Union activities several higher officers and other persons who are interested in some unlawful gains and who feels the petitioner as a hinderence in their way are always in the opportunity to harass the petitioner and teach him a lesson for helping the poor employees. A
21

A. S. Sivasakar



4. That while the petitioner was performing his duties to the entire satisfaction of his superiors at Aishbagh then on 12th of May 1979 he has been served with a chargesheet containing statements of imputation of charges and article of charges issued under the seal and signature of ~~Shri R. M. S. Sharma~~ ^{✓ K. K. Sarkar ✓}, Divisional Safety Officer, North Eastern Railway, Lucknow. The article of the charges which was supplied to the petitioner along with the memorandum of the chargesheet

dated 12.5.1979 is being reproduced here as
under:-

"On 9.5.1979 while function^{ing} as Assistant
Station Master on duty at the West Cabin/
ASH from 16.00 to 24.00 hours, Sri A.P.
Srivastava refused to allow the movement
of engines to and from ASH and Loco Shed and
obstructed the movement in contravention
of Appendix 'F' (Correction Slip No. 1
dated 21.11.1977) para II Note No.(ii)
below para (g) to the Station Working
Rules No. LGN/162 dated 6 7.9.1976 of
Aishbagh JNC. Station. Thus Sri A.P.
Srivastava violated the G.R. 179 for not
obeying the lawful orders prescribed in
the aforesaid Station Working Rules. Sri
A.P. Srivastava further disobeyed the
lawful orders given by SM/ASH on 9.5.1979.

Sri A.P. Srivastava by his aforesaid
acts of omission and commission violated
the Rule 3(i) (ii) and (iii) of Railway
Service Conduct Rules 1966 (advance correc-
tion slip no. 222) and failed to maintain
the devotion to duty and behaved in a manner
which was unbecoming of a Railway Govt. Servant.



Sd/- K.K. Sarkar
Divl. Safety Officer
N.E.R. Lucknow".

5. That the petitioner defended himself through Sri S.C. Dhar, Guard, to whom he nominated as his defence counsel. The proceedings went on and ultimately the arguments were submitted by the petitioner's counsel on 31.3.1981. After submission of the aforesaid arguments the petitioner was informed nothing for about one and half year i.e. upto 17.1.1982 and ultimately while he was waiting for the result which was to be declared for the post of Assistant Station Master in the scale of of Rs. 455.700, the next higher scale in the category of the petitioner, and for which the petitioner put himself in great labour for getting success in the examination, he came to know that the Opposite Parties are not considering his name for empanelment in the higher scale taking the ground that the petitioner has been reverted to the lower scale. Since the petitioner had already qualified the written examination and his performance in the viva-voce was also excellent he is very much hopeful for the success in the same.

A/23

A.P. Sivasakar



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6. That since the Opposite Parties are very much prejudice against the petitioner due to his skill and legitimate Union activities and they have been keeping their unshutted eyes on watch for an opportunity to teach a lesson to the petitioner, in pursuance of which they took the benefit of the enquiry as aforesaid and issued an illegal and order of reversion after about one and half year of the completion of the enquiry merely with the intention to delete the petitioner's name from the penal list which is to be declared very soon. As the Opposite Parties were waiting for the aforesaid opportunity so they kept the result of enquiry pending illegally for about one and half year and reverted the petitioner at the time of declaration of examination results.

A. G. Biswas



7. That the impugned order of reversion bears the date of its passing as 9th of July 1982 by which the petitioner has been punished and reverted in the scale of Rs.330-560 on a pay of Rs. 560/- per month for a period of three years with a loss of seniority from the scale of Rs.425-640 in the same category. A true copy of the aforesaid impugned order of reversion dated 9.7.1982 is being filed herewith as

ANNEXURE-1.

Annexure-1 to this Writ Petition.

8. That it appears from the impugned order of reversion that the same has been passed by Sri J.N. Mehrotra, Opposite Party No. 3 who is posted as Divisional Safety Officer, North Eastern Railway, Lucknow. It is pertinent to mention here that the petitioner is working under the direct control of Operating Department and as such the order of reversion which has been passed by an officer of the Safety Organisation cannot have any affect on the petitioner as the petitioner is not directly under his control.

9. That the following provision of law will automatically prove that the order of reversion has been passed by the incompetent authority which makes the order void abinitio.

"In Board's circular letter No.E(DA) 60 RG-630 dated 28.7.1962, it had, inter alia, been indicated that it would be procedurally wrong for the authority to initiate and finalised the disciplinary proceedings against the employee who is not under his administrative control".

The petitioner is working as an Assistant Station Master and it has been very much clarified in Railway Board's letter No. E(D&A) 72 RG 6-13, dated 16.10.73

AP. Srinivasan



and which reaffirmed vide R.B's letter No. E(D&A) 78 RG 615 dated 10.1.1979 that the disciplinary action should be initiated and finalised by the authorities under whose administrative control the delinquent employee may be working as any other ^A/₅₆ procedure would not be in keeping with the instructions of the Railway Board mentioned herein before. The Railway Board's letter dated 10.1.1979, as aforesaid, also clarifies that the Assistant Station Master and Station Master belong to Operating Department even though they may have to perform the duties ~~performing~~ pertaining to commercial department also from time to time. The Disciplinary Authorities in their cases, would, thus belong only to Operating Department and none else. If any other practice is being followed, that is irregular and should be stopped forth with.

10. That it is worthwhile to clarify the organisation of Railways in order to prove that the authority who instituted the Disciplinary proceedings and imposed the penalty of reversion upon

AP. Srinivasan
21/7/82



the petitioner are lacking jurisdiction as such the D.A.R. action taken by them against the petitioner is fully null and void. The organisation of Indian Railways is being clarified below:-

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"The General Manager is the Chief Administrative Head of a Zone and there are nine Zones in the Indian Railways. Each zone has its separate Headquarters Office. The work of the entire Railway Zone is divided at Headquarters, subject-wise, and each branch so divided has its Chief, who is directly responsible to the General Manager. There are various branches in the Headquarter of a Railway Zone. At the Board level the Head of each Branch is called as Director of the respective branch whereas at the zonal level the Head of the each Branch is called as the Chief of the respective Branch. In the same manner each Zone is divided geographically into various Divisions the Head of each Division is called as the Superintendent or the Officer of the respective Branch. For the purposes of the illustration the examples of three Branches can be taken with their Head at

A.P. Srinivasan



Board, Zonal and Divisional levels.

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SL. NO.	Branch	Designation of the Chief		
		At Board Level	At Zonal Level	At Divl. Level.
1.	Operating	Director Traffic Transportation	Chief Operating Supdt. (C.O.P.S.)	Divl. Operating Supdt.
2.	Commercial	Director Traffic (Commercial and General)	Chief Commercial Supdt. (C.C.S.)	Divisional Commercial Supdt. (D.C.S.)
3.	Safety	Director Safety & Coaching	Chief Safety Supdt. (C.S.S. or C.T.S.S.)	Divisional Safety Officer

And since the disciplinary proceedings against the petitioner have been instituted and punishment has been imposed by the Divisional Safety Officer who is the Divisional Head of the Safety Branch and as the petitioner is not working directly under his administrative control and is under the direct administrative control of Divisional Operating Superintendent hence all the disciplinary proceedings and the order of reversion dated 9.7.1982 is ineffective, non-jurisdictional, illegal and have no force of law as such is liable to be set aside by this Hon'ble Court.

A.P. Srinivasan



11. That a perusal of the impugned order of,

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reversion, a copy of which has been filed as ^A/₂₉ Annexure-1 also shows that the same will come into effect from the date the impugned order of reversion has been passed i.e. with retrospective effect which is illegal and unconstitutional in as much as it will come into effect from the date of its communication to the employee.

12. That the petitioner was supplied with the chargesheet on 12.5.1979 and the petitioner submitted his written arguments on 31.3.1981. The conclusions arrived at and punishment imposed upon the petitioner much later about one and half years after submission of the arguments. This itself contains malafides apart from the violation of the laws so far as the position of the law is concerned. In Disciplinary and Appeal Rules 1968 'Model time Schedule' for finalising disciplinary proceedings has been provided under Rules 9 which is to be followed strictly. According to the Schedule laws only 60 days time has been allowed by which the enquiry should be completed and the Enquiry Officer should submit his report to the Disciplinary Authority and only 20 days' time has been allowed to the Disciplinary Authority for taking final decision issuing the notice for the imposition of the penalty. It

A.P. Srinivasan



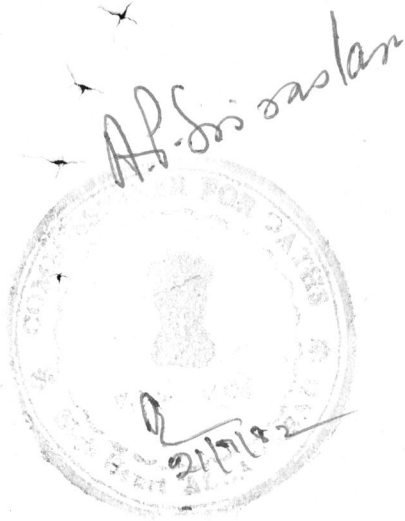
has been more clarified in Railway Board's ^A/_{3b} letter No.E (D&A) 69 RG-6-17 of 8.1.1971 and E (D&A) 70 R.G. 6-14 of 20.4.1971 by which within 55 days the Disciplinary Authority should take final decision on enquiry report and give notice imposing penalty failing which the Disciplinary Authority should submit a report to the next higher Authority indicating additional period likely to be taken for finalisation of the case together with the reasons thereof. Since the notice for the imposition of the penalty has been issued about one and half year after completion of the enquiry proceedings it violates the above mandatory provisions of law and as such liable to be set aside by this Hon'ble Court.

13. That the reason behind the delay in issuing the notice for imposition of the penalty is full of malafide intentions. This is evident from the fact that on the date of alleged occurrence (9.5.1979) for which a chargesheet has been issued to the petitioner, the reverting authority Shri J.N. Mehrotra (Opposite Party No. 3) was the then Assistant Operating Superintendent (Movement). When the petitioner found and detected the breach in Station Working Rules he reported to the Station Master, Aishbagh regarding the same



which was later on communicated to Opposite Party No. 3 through the Opposite Party No. 5. The Opposite Party No. 3, the then Assistant Operating Superintendent asserted to the petitioner through Opposite Party No. 5 to act in accordance with the usual practice and a correction slip would be issued very soon. On it the petitioner replied that the Opposite Party No. 3 was not the competent authority to issue correction slip as per Rule 39 of the said Station Working Rules regarding the fault as such the petitioner could not take such a grave risk. The Opposite Party No. 3 on it become very much annoyed to the petitioner and developed bias intention against the petitioner to teach him a lesson. Moreover, besides the above mentioned facts the petitioner had also reported a complaint to the Officer Incharge, CBI, Lucknow against the Opposite Party No. 3, Shri J.N. Mehrotra regarding the misappropriation of Government Revenue on 2.8.1979. This also developed a very revengeful attitude and malafide intention in the heart of the Opposite party No. 3 who luckily got an opportunity to take the revenge from the petitioner in such a way.

14. That so far as the facts of the case are that on 9.5.1979 while functioning as Assistant



Station Master on duty at the West Cabin ^A/₃₂
Aishbagh from 16.00 to 24.00 hours it is alleged
that the petitioner had not allowed the movement
of the engines to and from Aishbagh and Loco
Shed and obstructed the movement in contraven-
tion of Appendix 'F' (Correction slip no. 1
dated 21.11.1977) para II Note No. II below
para (g) to the Station Working Rules No. LWN/162
dated 7.9.1978 of Aishbagh Jn. Station. While the
petitioner detected the breach pertaining to
the defect in the aforesaid rule and he found
that if the same is not corrected it may give
any sort of serious consequences such as accident
due to movement of trains/engines, he immediately
reported the defect to the Station Master,
Aishbagh which was ~~con~~ conveyed immediately to
all superior authorities including the Assistant
Operating Superintendent (M), Opposite Party No. 3,
Sri J.N. Mehrotra. The report of defect in
Station Working Rules, Opposite Party No. 3 got
annoyed and asked the petitioner to act as per
the practice. The petitioner refused the verbal
assertion on the ground that he was not a competent
authority for creating the same as well as being
a devotee and faithful employee of the Railway
he cannot perform such a dangerous action which
may come to the extent of accident so he requested



that until and unless he had not been specifically directed by a superior and competent authority he would not act on his own risk.

Later on he was assured by Senior Divisional Operating Superintendent, Sri R.S. Jain, Opposite Party No. 2 that the same would be corrected within 3 to 4 days and he further assured to the petitioner that the petitioner would be supplied with a written direction to this effect.

15. That thereafter the petitioner acted as per the direction of the Opposite Party No. 2 who was then posted as Senior Divisional Operating Superintendent, but it was his misfortune that such an Officer of higher status deceived him by not supplying him any direction in writing as aforesaid. Later on a correction slip No. 2 dated 8.7.1979 was issued by which the fault detected by the petitioner was rectified.

16. That based on the aforesaid facts the petitioner was charged for refusal of the movement of the engines to and from Aishbagh and Loco Shed in contravention of the Appendix 'F'. The Appendix 'F' para II under Note No. (ii) Para (g) states:

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"II Movement of the engines from Lucknow Jn. to Loco Cabin/Aishbagh".

Note No. (ii) below para (g) act the movement of engines and loads to and from Loco Shed, Coal Dump Aishbagh, Lucknow Jn and Charbagh transhipment is controlled by Cabinman, Loco Cabin/Aishbagh and the Enquiry Officer has also found that since the contravention of provision aforesaid can only be done by the Cabinman and as the petitioner was working in the capacity of Assistant Station Master at West Cabin, Aishbagh, he cannot be held responsible for the same.

The above noted finding of the Enquiry Officer alongwith the imputation and 7 Articles of charges alongwith judgment and finding on each issue supplied with the impugned order of reversion is being filed herewith as Annexure-2 to this Writ Petition.

ANNEXURE-2

16. That the petitioner was secondly charged for the disobedience of orders of ~~the~~ Station Master, Aishbagh on 9.5.1979. As it has already been mentioned that while coming to know regarding

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the defect in Station Working Rule the petitioner informed the Station Master regarding the same defect which was so major which may cause serious accident. But the Station Master did not go through the pointed out defect fully and told the petitioner without applying the mind to proceed as per practice, whereas the petitioner was trying to explain him the consequences of doing so. Moreover the petitioner cannot be held responsible for this act also as under General and Subsidiary Rules Revised Edition 1962 No. 179 the petitioner was only bound to obey the lawful orders given by any persons placed in authority over him. It is also pertinent to mention here that in the Working Rules which has been issued under section 47 of the Indian Railway Act 1980 cannot have inconsistency with the Indian Railway Act. Secondly Rule 101(b) of the Indian Railways Act says that a Railway servant can only be punished if he disobeys any Rule or order which is not inconsistent with any such General Rule and the Railway servant is bound by the terms of his employment to obey and of which he had notice, and as the order of the Station Master ordering the petitioner without applying his mind to take such a grave risk is not only inconsistent with the

APC
A. P. S. Dasgupta



provisions of law as he was not empowered to do so but also the petitioner could also be not charged for disobedience of unlawful order which was inconsistent with the provisions of law.

17. That by the Enquiry Officer also the petitioner has only been held illegally responsible for the aforesaid disobedience and for that the petitioner cannot be awarded such a grave penalty which is not only reverting him to a lower scale, but his seniority shall also remain with-held for the period of three years.

18. That while issuing the impugned order, Opoosite Party No. 3 did not take pain to go through the whole case and he simply ordered to revert the petitioner with malafide and revengeful intention at the occasion when he e was going to get a chance of promotion on account of his efficiency and skill to the work.

19. That the order of reversion under para 4 informs the petitioner that there is a provision for appeal against the order of reversion under Rule 18 of the Railway Servant (D & A) Rule 1968. It is very much strange that such an information has been supplied in the order of reversion which is nothing but to keep the petitioner in the hands of miscreants so that they can again harass the



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petitioner. It is worthwhile to point out at this place that the appellate authority is Opposite Party No. 2, Sri R.S. Jain who was then Senior Divisional Operation Superintendent who felt insulted when the petitioner detected fault in the said Rules and on account of which the Opposite Party No. 2 fell into inferiority complex developed bias intention against the petitioner. So if he comes to the remedy provided under Rule 18 (D & A) Rule 1968, he will again be harassed for nothing and will remain a toy in the hands of biased persons from whom he has no hope of justice. Moreover the impugned order of reversion is without jurisdiction and has been passed in colourable exercise of power jeopardising the future of the petitioner, the petitioner has got no adequate alternative efficacious remedy except to invoke the jurisdiction of this Hon'ble Court.

App. Dismissed



19. That there are gross irregularities of law prevailing in the case of the petitioner. The petitioner has not been given notice, provided under Rule 10(5) (b) of D&A Rules 1968, proposing the penalty to be imposed upon the petitioner, hence the imposition of penalty is bad and liable to be set aside only by this Hon'ble Court.

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Abhishek



22. That the petitioner having no other alternative adequate and efficacious remedy invoking the writ jurisdiction of this Hon'ble Court challenging the validity of the disciplinary proceedings instituted against him as well as the impugned order of reversion passed against him by an incompetent authority under whose control the petitioner is not directly working and which violates the provisions of the law as well as the rights given in part III of the Constitution of India inter alia amongst the following:



GROUND S

- i) Because the impugned order of reversion has been passed by an incompetent authority having no jurisdiction as such it is void abinitio and liable to be set aside by this Hon'ble Court.
- ii) Because the order of reversion has been passed without application of mind and without going through all the facts on records and the punishment imposed upon the petitioner is full of revenge for his intelligentia by which the petitioner detected the fault of the Administration.

- iii) Because the order of the reversion come into effect retrospectively which is illegal and unconstitutional. As such the impugned order of reversion is bad in law.
- iv) Because the impugned order of reversion has been passed in colourable exercise of powers and only 2 persons (Opposite Parties Nos. 2 and 3) are getting chance to take the revenge from the petitioner, and it is very much misfortune of the petitioner that both are the only empowered authorities to deal with the case of the petitioner.
- v) Because the impugned order of reversion is totally unwarranted and against the principles of natural justice in as much as it has been awarded to the petitioner after clear cut findings that the petitioner is totally innocent and not responsible in any manner.
- vi) Because the impugned order of reversion has been issued after one and half year of the completion of the enquiry proceedings which not only violates the mandate provisions of the Schedule to Rule 9 of

the D&A Rules 1968 but is also against the principles of natural justice.

- vii) Because the notice under rule 10(5) (b) of D&A Rule 1968 proposing the punishment to be imposed has not been served upon the petitioner.
- viii) Because as a matter of fact the petitioner had worked with a great skill and when he had not violated any rule and acted in accordance with Rule as per findings of the Enquiry Officer also, he cannot be punished for disobedience.
- ix) Because the impugned order of reversion is not a well reasoned order and it is contrary to the finds of the Enquiry Officer.
- x) Because the petitioner cannot be punished for disobedience of unlawful order and the petitioner did not disobey any lawful order and he simply acted in accordance with the provisions of Rules.
- xi) Because the Opposite Parties have developed the mala fide intention against the petitioner and they passed the impugned

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order to throw the petitioner out from the list of panels in the higher scale which he qualified with his efficiency, ability and skill.

P R A Y E R

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

- a) to issue an order, writ or direction in the nature of certiorari quashing the impugned order of reversion dated 9.7.82 reverting the petitioner to one scale below and with-holding the seniority for a duration of three years which is contained in Annexure-1.
- b) to issue an order, writ or direction in the nature of mandamus directing the Opposite Parties not to revert the petitioner in pursuance of the aforesaid impugned order dated 9.7.82 and treat him still continuing in the same post and scale of Rs. 425-640.
- c) to issue any other order or direction which this Hon'ble Court deems fit, & just and proper in the circumstances of the case.
- d) to allow the petition with cost.

A.P. Srivastava

LUCKNOW DATED;
JULY 21, 1982.

(O.P. SRIVASTAVA)
ADVOCATE
COUNSEL FOR THE PETITIONER

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
SITTING A-T LUCKNOW

WRITPETITION NO. OF 1982.

Anurudh Prasad Srivastava Petitioner

VERSUS

The Union of India and
others Opp. Parties.

ANNEXURE - 1

NORTH EASTERN RAILWAY

Orders of imposition of penalty of reduction
to lower post under Rule 6(VI) of the Railway
Services (D&A) Rules, 1968.

No. T/190/Optg/LJN.

Dated: 9.7.1982.

Name	- Sri A.P. Srivastava s/o Shri Mangla Prasad.
Designation	- Asstt. Station Master.
Department	- Operating
Date of appointment	- 20.9.1948.
Station	- Aishbagh. Scale of pay - Rs.425-640 (RS).

Shri A.P. Srivastava, ASM/ASH is informed
that the Enquiry Officer appointed to enquire into
the charges against him has submitted his report.
A copy of the report of the Enquiry Officer is
enclosed.

2. On a careful consideration of the enquiry
report aforesaid, the undersigned agrees with the



A.P. Srivastava

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finding of the Enquiry Officer and holds that Sri Srivastava disobeyed the lawful orders given by the SM/ASH on 9.5.79 and acted in a manner which was unbecoming of a railway servant, thereby violating rule 3(1)(ii) & (iii) of Railway Service Conduct Rules 1966.

3. The undersigned has, therefore, come to the conclusion that the penalty of reduction to a lower post may be imposed on Shri A.P. Srivastava. Shri A.P. Srivastava, is, therefore, reduced to the lower post of Asstt. Station Master in the scale of Rs.330-560 fixing his pay at Rs.560/- p.m. for a period of three years from the date of this order with loss of seniority.

4. Under Rule 18 of the Railway Servants(D&A) Rules 1968, an appeal against these orders lies to Addl. Divl. Railway Manager, N.E. Railway, Lucknow provided:

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

5. ~~iii)~~ Please acknowledge receipt of this letter.

Sd/- Illegible
Divl. Safety Officer,
N.E. Railway, Lucknow.

DA: 6 Pages Enquiry
Report and one page
order-sheet.

9.7.82

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AP. Srivastava



AP. Srivastava

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

WRIT PETITION NO. OF 1982.

Anurudh Prasad Srivastava Petitioner

VERSUS

The Union of India & Others ... Opp. Parties.

ANNEXURE - 2



A.P. Srivastava

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NORTH EASTERN RAILWAY

HISTORY OF THE CASE

A memorandum for Major Penalty was issued by DSG/LJN against Shri A.P. Srivastava, ASM/ASH vide No. T/190/Optg/LJN dated 12.5.1979. EA/DRM was nominated by the DSO as the Enquiry Officer in this case vide No. T/190/Optg/LJN/ dated 3.10.1980.

During the course of the DAR enquiry Shri A.P. Srivastava was assisted by the Defence Counsel Shri S.C. Dhar Guard, Lucknow, and the following witnesses were examined:-

PROSECUTION WITNESS:

Shri R.B. Mathur, Dy. Ss/LJN the then Station Master, Aishbagh.

DEFENCE WITNESSES:

1. Shri Imtyaz Hussain, A.S.M./ASH.
2. Shri J.B. Pandey, R.G. ASH/LJN
3. Shri K.L. Chugh, TNL/LJN the then ASM/ASH.

Shri A.P. Srivastava submitted his defence statement on 31.3.1981 and was cross examined on 21.4.1981. The defence note was submitted by Defence Counsel which was kept in view while arriving at the findings.

Article of charges and the Statement of Imputations are reproduced below:-

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A.P. Srivastava

ARTICLES OF CHARGE

On 9.5.1979 while functioning as ASM on duty at the West Cabin/ASH, from 16.00 to 24/00 hrs., Shri A.P. Srivastava refused to allow movement of engines to and from ASH and Loco Shed and obstructed movement in contravention of Appendix-F (Correction Slip No. 1 dated 21.11.1977) para II Note No. (ii) below para (g) to the Station Working Rules No. LON/162/ dated 7.9.1978 of ASH Jn. Station. Thus Shri A.P. Srivastava violated GR 179 for not obeying the lawful orders prescribed in the aforesaid Station Working Rules. Shri A.P. Srivastava further disobeyed the lawful orders given by SM/ASH on 9.5.79.

Shri A.P. Srivastava by his aforesaid acts of omission and commission violated Rules 3(1)(ii)(iii) of Railway Service Conduct Rules 1966 (Advance Correction Slip No. 222) and failed to maintain devotion to duty and behaved in a manner which was unbecoming of a Railway Government Servant.

STATEMENT OF IMPUTATION IN SUPPORT OF THE ARTICLES OF CHARGE IN ANNEXURE I ABOVE.

Shri A.P. Srivastava while functioning as ASM on duty at the West Cabin/ASH from 16 to 24 hrs. on 9.5.79, refused to arrange movement of engines to and from ASH and Loco shed and obstructed movement

A.P. Srivastava



in contravention of Appendix 'F' (Correction Slip No. 1 dated 21.11.1977) Para II Note No. (ii) below para (g) to the Station Working Rules No. LUN/162 dated 7.9.76 of ASH Jn. Station. Train Engine No. 3177 came on Bahr Line to work AM2 at 16.50 hrs. but was detailed there upto 21/20 hrs. Because Shri A.P. Srivastava refused to arrange its reception in the yard. Similarly Diesel Engine No. 6202 arrived ASH at 17/20 hrs. and was detained upon 19/45 hrs., RDSO pilot arrived at 17/20 hrs. and was detained upto 23/30 hrs. because Sri A.P. Srivastava refused to arrange their despatch to Locoshed despite instructions of ASM Main and SM/ASH. The movement of these engines to ASH/Locoshed respectively had to be arranged via LUN.

Sri A .P. Srivastava had joined ASH Station on 4.7.64 as ASM and had been working there since then. Sri A.P. Srivastava signed his last Assurance certificate on 10.2.78, in terms of para 44 of Operating Circular No. 7 (revised), for Station Working Rules No. LUN/162 dated 7.9.76 of ASH Jn. Station (brought into force from 16.11.76). Sri A.P. Srivastava signed the Assurance Register in token of having studied and understood the aforesaid Station Working Rules

A.P. Srivastava

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with an understanding that he was in a position to take up his duty independantly at the said station byt he suddenly started finding fault with the SWR on 9.5.79 and started seeking clarifications about SWR which he had himself thoroughly studied and had certified that he had understood and which he had been following during his long stay at ASH.

Under CR 187(b) and SR 187(20) he was responsible for the efficient discharge of the duties devolving upon him and the members of the staff working under him so that the general working of the Station is carried out strictly in accordance with all rules, in force, for the time being. His refusal to work engines between Locoshed and ASH amounted to violation of SWR in force.

Sri A.P. Srivastava ought to have gone through para 37(4) of Operating Circular No.7 (revised) which requires all staff concerned to read Station Working Rules in conjunction with C&S Rules and other instructions issued by the Administration in the form of manual or otherwise and are legally binding on the staff concerned.

By his refusal to follow the SWR in force Sri A.P. Srivastava also violated CR 176 in not

A.P. Srivastava



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assistant the Railway Administration in carrying out rules for the time being in force.

The SM/ASH directed him in writing that movement to and from ASH & Locoshed was permitted in SWR and directed him to arrange movement as per existing practice, but Sri A.P. Srivastava refused to obey, lawful orders of his Station Master. Thus he violated G.R. 179".

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From the above, the following issues were framed for consideration:

1. Whether the obstruction caused in the movement of engines to and from ASH and Loco Shed Cabin constituted in contravention of the provisions of the SWR in force at that time for ASH station or not?
2. Whether he refused to arrange despatch of engines and Loco Shed despite the instructions of ASH Main and Station Master/ASH to observe existing practice but he refused to obey lawful orders of his Station Master which violated GR 179 - Railway Service Conduct Rule 3(1)(ii) and (iii).

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A.P. Srivastava

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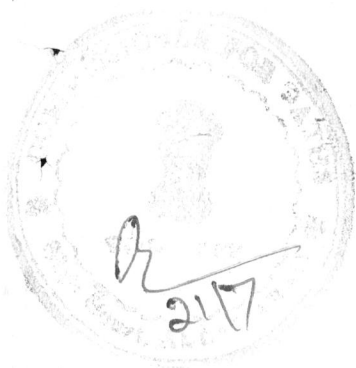
DISCUSSION OF EVIDENCE & REASONS FOR FINDINGS:

1. Appendix 'F' (correction slip No. 1 dated 21.11.77), Para II, Note No. (ii) below para (g) to the Station Working Rules No. LJM/162 dated 7.9.1976 of Aishbagh Station does not lay down the procedure of the movement of Engines and loads to and from Loco shed, or and Aishbagh and simply mentions that such movement is controlled by the Cabman Loco Cabin Aishbagh. Therefore, the first part of the Articles of Charge against Sri A.P. Srivastava for obstructing the movement in contravention of this Appendix 'F' does not hold good and is not proved from the records.

2. However, so far as not obeying the lawful orders given by the Station Master, Aishbagh on 9.5.1979 is concerned, the relevant points are given as under:-

i) The Station Working Rules of Aishbagh Station dated 16.11.1976 was read by Sri A.P. Srivastava and assurance Register signed on 18.11.1976 the correction slip no. 1 dated 23.11.1977 to the Station Working Rules was read and signed on 10.2.1978 and the last correction slip No. 2 dated 3.7.1979 was read and assurance register signed on 27.7.1979, vide answer to Q. No.8. Shri Srivastava has admitted that no doubt he had signed the assurance register but

A.P. Srivastava



the breach thereof came to his knowledge just on 9-5-1979 when he was on duty and he had brought the breach to the notice to the person placed on authority over him.

ii) When asked vide Q.No. 4, as to what was the material difference in the movement of Engines and load between the time of issue of correction slip No. 1 and subsequent issue of correction slip No. 2 Shri Srivastava has clarified that Cross Over points No. 5 was now falling in the block section after the issue of correction Slip No. 2. Thus the objection of Shri Srivastava to the Station Working Rules and thereby refusing the movement of engines etc. was merely more of a technical nature and had no practical significance (vide answer to Q.No.5.).

iii) It may be recalled that with the issue of correction slip No. 2, the Block Section over south line between Aishbagh and Lucknow Jn was subsequently rectified demarcating the block section from Signal No. 43 & B to Signal No.21 (vide answer to Q.No.22 ans 23). This error was of minor nature since up Advanced Starter of Aishbagh which happened to be the last stop signal was 21 as already given in the Signalling Appendix.

iv) It has been proved from the statements of

A.P. Srivastava



sent via Lucknow Jn due to such obstructive working of Shri Srivastava. At 7-00 hrs. of 10.5.1979 when Sr. DOS ordered the ASM (Main) Shri Chugh to continue normal working between ASH and Loco Shed CB as was done before 9.5.1979, the staff on duty complied his instructions and there was no dislocation in the working afterwards as per the statement of the then Station Master Shri R.B. Mathur.

vi) Whereas Shri K.L. Chugh, the then ASM
ASH
(Main) and Shri Imtiaz Hussain ASM/ASH on duty at 7 hrs. on 10.5.1979 complied with the orders of the Sr. DOS who assured that the correction slip to the SWR will be issued shortly, Shri A.P. Srivastava's conduct was otherwise and defiant as would be seen from the following exchange of memos :-

a) Station Master's memo "discrepancies pointed out by you will be discussed and decided for incorporation in the Station Working Rules if at all necessary. Movement should be allowed as usual". Shri A.P. Srivastava's memo - "But I require the instructions that how the movement will be effected from LCB to ASH when the points No. 5 falls in block section LCN-ASH. Such



A.P. Srivastava

movement will interfere the block-section ASH-LJN which is in the control of both the block stations as such both ASMs of ASH and LJN should be in knowledge of the movement as such the block back is required."

It will be seen that in case Shri Srivastava felt that to meet his objection block back was required, nothing prevented him from doing so. Instead he disobeyed the orders communicated by the Station Master ASH through the memo and continued his obstructive working. It may be pointed out that the procedure of block back or block forward had already been made in the G&S Rules which were binding on Shri Srivastava for observance of such rules and no suggestions or further instructions were required by any railway servant. The answer to Q.No. 19 in this regard from Shri Srivastava is evasive and his arguments untannable.

3. In the light of the facts narrated in para 2 Shri A.P. Srivastava by his acts of omission and commission is proved to have violated rules 3(ii) and (iii) of the Railway Service Conduct Rules 1966 (Advanced correction slip No.222).

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A.P. Srivastava



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F I N D I N G

Having considered all the evidences and records, the undersigned do find that Shri A.P. Srivastava, ASM/ASH, while on duty at West Cabin ASH on 9.5.1979 from 16 to 24 hrs. did not contravene the provisions of Station Working Rules of ASH Station as given in article of charge.

However, he is held responsible for disobedience of orders of Station Master, Aishbagh on 9.5.1979 and wilfully obstructed the movement of engines to and from Aishbagh to Loco Shed and thus committed acts of omission and commission violating Rules 3.1(ii) & (iii) of Railway Service Conduct Rules 1966 (Advanced correction slip No. 222).

Sd/- R.S. SHARMA
(R.S. SHARMA)
ENQUIRY OFFICER.

A.P. Srivastava



Extract of para 3 of N.E. Railway, ^{ASS}
Services (Conduct) Rules - 1966 published by the
Government of India, Ministry of Railway, New Del-
hi (Railway Board), vide their No. E&D & A)
62 GS 1-II dated 21st March, 1966.

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3. GENERAL:

I) Every Railway servant shall at all times:-

- (i) maintain absolute integrity;
- (ii) maintain devotion to duty; and
- (iii) do nothing which is unbecoming of a Railway of Governemtn servant.

2. (1) Every railway servant holding a supervi-
sory post shall take all possible steps
to ensure the interity and devotion to
duty of all railway servants for the
time being under his control and authority
- (ii) no railway servant shall, in the perfor-
mance of his official duties or in the
exercise of powers conferred on him, act
otherwise than in his best judgement
except when he is acting under the
direction of his official superiors
and shall, where he is acting under such
direction, obtain the direction in writing
wherever practicable, and ~~where~~ where
it is not practicable to obtain the
direction in writing, he shall obtain
written confirmation of the direction as
soon therefe after as possible.

Explanation:- Nothing in clause (ii) of sub-rule
(2) shall be construed as empowering a railway
servant to evade his responsibilities by seeking
ins tructions from, or approval of a superior
offier or authority whom such instructions are
not necessary under the scheme of distribution
of powers and responsibilities.

AP. S. S. S. S. S.

Having carefully gone through the defence of Shri A.P. Srivastava and DAR enquiry proceeding, I accept the findings of the Enquiry Officer.

As per his own statement sri A.P. Srivastava signed an assurance certificate on 10.2.78 for having understood the S.W.R. in force and continued to work according to it till 9.5.79 when he suddenly found fault with the S.W.R. and stopped movement of engines to and from the Loco shed without any prior notice to the administration.

In reply to Q.No. 12 and 13 during DA^R enquiry Sri Srivastava has stated that he resumed normal working on 10.5.1979 on an assurance of Sr.DOS that the S.W.R. would be corrected although Sri Srivastava had stopped movement despite similar assurances from AOS(M) on 9.5.79.

In reply to Q.No. 7, Sri Srivastava has stated that even after the issue of correction slip No. 2, the SWR is still incomplete and incorrect. But Sri Srivastava had signed the assurance having understood it on 27.7.79 and was following it without any objection. In reply to Q.No. 9, he has admitted that he had not filed any objection about the mistakes in the SWR as it stood after issue of C/Slip No.2. He had only verbally informed SS/ASH about it 5-6 days before the date of his statement (21.4.81).

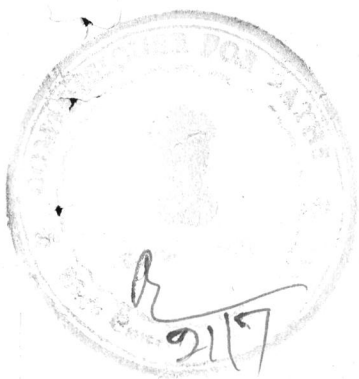
All this indicates that Sri Srivastava's action in suddenly stopping the movement was not out of his concern for safety but was a filful and preplanned act with a view to hamper operation.

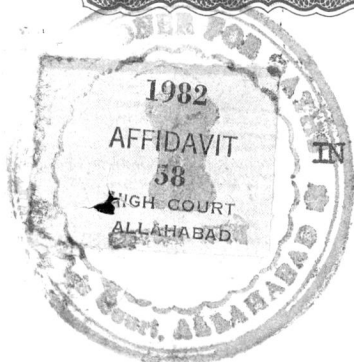
Charges of disobedience of orders of Station Master, Aishbagh and wilful obstruction of the movement of engines to and from Aishbagh to Loco Shed are proved beyond doubt.

Sri A.P. Srivastava, ASM/ASH in the scale Rs. 425-640 is reverted to the scale Rs.330-560 on a pay of Rs. 560/- p.m. for a period of three years with loss of seniority.

Sd/- Illegible
D.S.O.
9.7.1982.

A.P. Srivastava





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

WRIT PETITION NO. _____ OF 1982

Anurudh Prasad Srivastava Petitioner

VERSUS

The Union of India & others Opp. Parties



LUCKNOW: DATED.
JULY , 1982-

A.P. Srivastava
DEPONENT.

158 41
IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
SITTING AT LUCKNOW

A F F I D A V I T

IN RE:

WRIT PETITION NO. OF 1982

Anurudh Prasad Srivastava Petitioner

VERSUS

The Union of India and
others

..... Opp. Parties.

I, Anurudh Prasad Srivastava, aged about 52 years, son of late Sri Mangla Prasad at present working as Assistant Station Master, North Eastern Railway, Aishbagh, Lucknow, do hereby solemnly affirm on oath and state as under:

- A.P. Srivastava
1. That the deponent is the petitioner in the above noted Writ Petition and as such he is fully conversant with the facts of the case.
 2. That the contents of paras 1 to 22 of the accompanying writ petition are true to my personal knowledge, except the legal averments which are believed to be true on the basis of legal advice.
 3. That the Annexures to the writ Petition

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are true copies of the originals.

LUCKNOW DATED:
JULY 21, 1982.

A. S. Srivastava
DEPONENT

VERIFICATION

I, the abovenamed deponent do hereby verify that the contents of paras 1 and to 3 of this Affidavit are true to my own knowledge. Nothing material has been concealed and no part of it is false. So hlep me God.

A. S. Srivastava
DEPONENT.

LUCKNOW. DATED
JULY 21, 1982.

I identify the deponent who has signed before me.

[Signature]
ADVOCATE.

Solemnly affirmed before me on 21-7-82 at 6.10 AM/PM by the deponent who has been identified by Sri O.P. Srivastava, Advocate, Allahabad High Court, Lucknow Bench, Lucknow.

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

[Signature]
OATH COMMISSIONER
High Court, Allahabad,
Lucknow Bench

No. 372/58

Date 21-7-82



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Hon'ble Central Administrative Tribunal

अदालत श्रीमान

महोदय

Lucknow



का वकालतनामा

टिकट

वादी (अपीलान्त)

AP Srivastava vs Union of India & others
बनाम प्रतिवादी रेस्पॉण्डेंट

8/11

नं० मुकदमा 3335/82
TA 1465/87

पेशी की ता 10 12 9891

ऊपर लिखे मुकदमा में अपनी ओर से

PANKAJ SRIVASTAVA & Hori Kant - Advocates
Now & Kishore Road Lucknow
वकील एडवोकेट

महोदय

को अपना वकील नियुक्त करके प्रतिज्ञा इकरार करता हूं और लिखे देता हूं इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कानूनी और वादी व जवाब देही व प्रश्नोत्तर करें या कोई काम दाखिल कर या लौटावे या हमारी ओर से डिगरी जारी करावे और रुपया वसूल कर या सुलहनामा व इकबाल दाखिल तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकदमा उठावे या कोई रुपया जमा करें या हमारी विपक्ष (फरोकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवे या पंच नियुक्त करें--वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकदमा अदम पैरोकी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी। इसलिए यह वकालत नामा लिख दिया प्रमाण रहे और समय पर काम आवे।

नाम अदालत CA नं० Lucknow
मुकदमा नं० 3335/82 TA 1465/87
नाम फरिक्ते AP Srivastava बनाम

Accepted
Sd/-

Accepted
Sd/-

हस्ताक्षर AP Srivastava
6/11

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

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In the Honble Court of District
Ludhiana Bench

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ब अदालत श्रीमान

महोदय

वादी (मुद्दे) Sh. A.P. Singh
प्रतिवादी (महाअलेह) का **वकालतनामा**



Wb no 7198

Amrinder Singh वादी (मुद्दे)

बनाम

Union of India प्रतिवादी (मुद्दालेह)

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

O. P. Saini Advocate एडवोकेट

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 निगरानो हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्ष (फरोकसानी) का दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें - वकील महोदय द्वारा का गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी स्वयं या किसी अपने पैरोकारको भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरी वकील पर नहीं होगी। इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर A.P. Saini

साक्षी (गवाह) साक्षी (गवाह)
दिनांक 18 महीना 7 - 1982

नाम अदालत
नं० मुकद्दमा
नाम फरीकन

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most respectfully begs to submit as under:-

That for the facts, circumstances and reasons disclosed in the accompanying Writ Petition it is most respectfully prayed that this Hon'ble Court may graciously be pleased to stay the operation of the impugned order of reversion dated 9.7.1982 contained in Annexure-1 to this Writ Petition during pendency of the Writ Petition. Further this Hon'ble Court may also be pleased to pass any other suitable order which is found just and proper in the circumstances of the case.

WHEREFORE it is most respectfully prayed that the operation of the impugned order, Annexure-1 may be stayed during pendency of the Writ Petition. Any other order which this Hon'ble Courts deems fit, proper and just in the circumstances of the case be passed.

(O.P. SRIVASTAVA)
ADVOCATE

COUNSEL FOR THE APPLICANT-
PETITIONER.

LUCKNOW: DATED,
JULY 21, 1982.

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

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No. 3335 of 1982
vs. _____

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
	<p style="text-align: center;">Jaan cor 67540112</p>	<p style="text-align: center;">SL</p>
30384	<p>Fixed i CMA 67540CW 82 f o</p> <p style="text-align: right;">Hon K Nath S.D M/3.3.84</p>	
6.4.84	<p style="text-align: center;">Hon K Nath J.</p> <p>Three weeks' time is granted to opposite parties to file counter affidavit. List thereafter.</p> <p style="text-align: right;">6.4.1984</p>	
10/4/84	<p style="text-align: center;">Jaan a</p> <p>67540112</p> <p style="text-align: center;">HON/KMM Lee S.S.</p> <p style="text-align: center;">Put up tomorrow</p> <p style="text-align: center;">[Signature]</p> <p style="text-align: right;">10.5.84</p>	

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
11-9-84	Hm KNM, Hm SSA, J	
	For orders see the order of date passed in WP No 2666 6220 of 1982.	
	D7/- 11-9-84 @ [Signature] [Signature]	
10 9/84 15/10/84 19/10/84	24-9-84 for and for Loring Houcer Resent	BA
	19-10-84 for and BA	

Filed today
h
3/11/89
2/23/12

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BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNOW.

I N D E X

IN

REGISTRATION NO. TA 1165 OF 1987 (T)

Anirudh Prasad Srivastava-----Petitioner.

Versus

Union of India and others-----;Respondents.

S.No. Particulars of papers Page Nos.

1. Written Statement. 1 to 16
2. Annexure No.I: Photostat copy of order dated 7.4.88.
3. Annexure No.II: Photostat copy of order dated 28.6.88.
4. Annexure No.III: Extract of punishment.
5. Annexure No.IV: Photostat copy of order dated 3.4.1969.
6. Annexure No.V: Photostat copy of Board's Letter Dated 22.10.84.
7. Annexure No.VI: Photostat copy of enquiry report.
8. Annexure No.VII: True copy of order dated 24/29.11.78.

Angam
(A.K.Gaur)
Railway Advocate
COUNSEL FOR THE RESPONDENTS.

Dated: November ,1988.

Counsel not
available copy
attached.
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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNOW.

WRITTEN STATEMENT

On behalf of

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

IN

REGISTRATION NO. TA. 1165 OF 1987 (T)

Anrudh Prasad Srivastava-----Petitioner.

Versus

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

The humble reply on behalf of respondents
no.1 to 45 Most Respectfully Showeth as under:-

1. That before dealing with parawise reply
to the petition, it is significant to mention certain
important facts which are very relevant for the
purposes of the case.

2. That it will not be out of place to
mention here that the petitioner has already been

Brewari
प्रवर मंडल संरक्षा अधिकारी,
पूर्वोत्तर रेलवे, लखनऊ

removed from service vide order No.T/537/TA/3/86 dated 7.4.88 passed by Senior Divisional Safety Officer, North~~ern~~ Eastern Railway, Lucknow. A photostat copy of order of removal is being annexed herewith and marked as Annexure No.I to this reply.

3. That the ~~the~~ order of removal was passed, as the petitioner ~~was~~ working as Assistant Station Master on duty at West Cabin, Aishbagh, failed to advise the Cabinman on duty at the Loco Cabin to change the route for the dispatch of incoming engine and thereby causing serious train accident. The petitioner was chargesheeted for the aforesaid misconduct and an enquiry was set up against him and he was ultimately found guilty for violation of subsidiary rules and General Rules and Station working rules.

4. That the petitioner also preferred an appeal to Addl. Divisional Railway Manager against his removal order and Addl. Divisional Railway Manager, after carefully considering his case rejected the same

vide order dated 28.6.88. A photostat copy of the

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प्रवर मंडल संरक्षा अधिकारी,
पूर्वोत्तर रेलवे, लखनऊ

aforesaid order dated 28.6.88 is being annexed herewith and marked as Annexure No.II to this reply.

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5. That in reply to the contents of paragraph no.1 of the petition it is admitted that the petitioner was appointed in the year 1948 as a Clerk. Rest of the averments made in para under reply are denied.

6. That in reply to the contents of paragraph no.2 of the petition it is stated that the services of the petitioner were not satisfactory, efficient and excellent throughout. He was awarded punishment a number of times. An extract of the punishment is being annexed herewith and marked as Annexure No.3 to this reply.

7. That in reply to the contents of paragraph no.3 of the petition only this much is admitted that the petitioner was posted as Assistant Station Master at Aishbagh Railway Station. It is further stated that All India Station Masters' Association is not a recognised association and as such whether or not the petitioner

is the Divisional Secretary is not admitted for want of

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प्रवर मंडल संस्था अधिकारी,
पूर्वोत्तर रेलवे, लखनऊ

knowledge. The statements contrary to it are denied.

8. That in reply to the contents of paragraph no.4 of the petition, the issue of charge sheet dated 12.5.79 and its contents reproduced thereunder are only admitted.

9. That in reply to the contents of paragraph no.5 of the petition it is stated that the enquiry was conducted in which the petitioner appeared alongwith his defence counsel and he was punished with the penalty of reversion as Assistant Station Master (Rs.330-560) as contained in N.I.P. NO.T/190/Optg/LJN dated 9.7.82 for a period of 3 years with loss of seniority.

It is further stated that the selection for the post of Assistant Station Master (Rs.455-700) was held in the year 1982 in which the petitioner had qualified in the written test and appeared in the Viva Voce test. Since the petitioner did not qualify in the final selection he was not empanelled. It is however, denied that the petitioner was not empanelled for the reasons of his reversion.

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प्रवर मंडल सरका अधिकारी,
पुणे जिल्हा रेल्वे, लखनऊ

10. That the contents of paragraph no.6 of the petition are not admitted and are denied. The allegations made by the petitioner are false, baseless and without any substance.

11. That in reply to the contents of paragraph no. 7 of the petition it is stated that issue of order of reversion dated 8.7.82 contained in Annexure-1 to the writ petition is admitted.

12. That in reply to the ~~xxx~~ contents of paragraph no.8 of the petition it is only admitted that the order of reversion was passed by Sri J.N. Mehrotra, opposite party no.3, the then Divisional Safety Officer, North Eastern Railway, Lucknow. However it is denied that the petitioner is not under control of Divisional Safety Officer. There is no separate ~~x~~ Safety Department. The Divisional Safety Officer and Divisional Operating Superintendent (D.S.O. and D.O.S.) have been empowered by procedure office order No.1 dated 3rd April 1969 under para II(i) and (o) issued by General Manager, North Eastern Railway, Gorakhpur, to exercise control over

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प्रवर मंडल संस्था अधिकारी,
पूर्वोत्तर रेलवे, लखनऊ

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working of all transportation staff for the purposes of disciplinary action. A photostat copy of the said procedure ~~extraordinary~~ office order dated 3rd April, 1969 is being annexed herewith and marked as Annexure No. ⁴ ~~xx~~ to this reply.

13. That in reply to the contents of paragraph no.9 of the petition, the circular of Railway Board Dated 28.7.62, 16.10.73 and 10.1.79 referred by the petitioner are admitted. It is stated that the Divisional Safety Officer is an officer of the Operating Department and is the appointing and disciplinary authority of the Operating Staff like the petitioner and as such the Board's letter referred by the petitioner are not applicable in his case.

14. That in reply to the contents of paragraph no.10 of the petition, the extract of organisation of the Indian Railways are only admitted.

It is however denied that the Divisional Safety Officer is lacking jurisdiction to impose penalty on the

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प्रकाश मंडल संस्था अधिकारी
पूर्वोत्तर रेलवे, लखनऊ

petitioner. It is reiterated that Safety Organisation is a part of Operating Department to facilitate and for effective control of the working. At Zonal Level, the Chief Operating Superintendent (C.O.P.S.) is the head of the Operating Department. He is assisted by Sub- Heads viz. Chief Freight Traffic Superintendent, Chief Passenger Traffic Superintendent, Chief Traffic Safety Superintendent. At Divisional level the Senior Divisional Operating Superintendent is the head of the Operating Department. He is assisted by Divisional Safety Officer. Thus, the Divisional Safety Officer (DSO) is a competent authority to exercise control over working of all Transportation staff for the purposes of disciplinary action. As such the orders of reversion of the petitioner dated 9.7.82 are valid, legal and free from any legal infirmity. The Railway Board vide letter No. E(D& A) 84- RG6-47 dated 22.10.84 has clarified that safety Officers, as distinct from Commercial Officers, belong to Operating side, and there should be no objection to their taking disciplinary

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प्रवर मंडल संरक्षा अधिकारी,
पूर्वोत्तर रेलवे, लखनऊ

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action against Operating Staff like Station Masters, Assistant Station Masters etc. who perform train passing duties. A photostat copy of Railway Board's letter dated 22.10.84 is being annexed herewith and marked as Annexure No. ⁵ III to this reply.

15. in reply to
That/the contents of paragraph no.11

of the petition it is denied that order of reversion dated 9.7.82 will have retrospective effect as alleged by the petitioner. The orders dated 9.7.82 was implemented from the date of issue.

16. That in reply to the contents of paragraph no.12 of the petition it is stated that a model time Schedule for finalising departmental proceedings is only a guide line for speeding~~ing~~ disposal of enquiry proceedings. All possible efforts are made to adhere to this time limit but it does not mean that if it is not found practicable to adhere to this limit, due to administrative reasons, the enquiry proceedings would be termed as illegal.

17. That the contents of paragraph no.13 of the

प्रवर मंडल संस्था अधिकारी,
पूर्वोत्तर रेलवे, लखनऊ

writ petition are denied. Having been informed by opposite

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party no.5 i.e. Station Master that petitioner was stopping work on the plea that there was a flaw in the Station Working Rule, he was advised to inform the petitioner that there had been no change in the lay out of Aishbagh yard and that he should continue to follow the procedure that he had been following till then. The statement contrary to it are denied. It is further stated that the alleged complaint by the petitioner to C.B.I. Lucknow is denied for want of knowledge.

18. That in reply to the contents of paragraph no.14 of the petition it is stated that the Station ~~xx~~ Working Rules are issued for each station for the guidance of staff. Every Station Master and Assistant Station Master are required to go through the Station Working Rules (S.W.Rules) and sign on assurance certificate about having understood and followed them before they are allowed to perform duty as Station Master/ Assistant Station Master.

The petitioner had signed such a assurance

certificate on 10.2.78 and he had been following the

Station Working Rules till 9.5.79 without any objection.

प्रवर मंडल संरक्षा अधिकारी
पूर्वोत्तर रेलवे, लखनऊ

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On 9.5.79, while the petitioner was on duty at West Cabin, Aishbagh 16 to 24 hours shift, he suddenly stopped the movement of engines to and from Aishbagh to Loco shed. The petitioner pointed out certain discrepancies in the Station Working Rules. The petitioner was advised by Station Master Aishbagh to continue the work as per usual practice. But the petitioner refused to obey the lawful orders of Station Master and thus caused stoppage of Movement of engine disrupting the movement of trains. The articles of charges in detail have been incorporated in the charge memorandum.

19. That in reply to the contents of paragraph no.15 of the petition it is denied that the petitioner was deceived by opposite party no.2. The allegation is false, baseless and without any substance. Every Railway servant is under legal duty to take all possible steps to ensure the integrity and devotion to duty. The correction slip No. 2 was issued to rectify the errors in the Station Working Rules.

That the contents of paragraph no.16

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of the petition are not disputed.

21. That in reply to the contents of paragraph no.16 (another para 16) of the petition it is stated that Station Working Rules of Aishbagh Railway Station dated 16.11.1976 was read by the petitioner and Assurance Register signed by him on 18.11.76, the correction slip no.1 dated 23.11.1977 to the Station Working Rules was read and signed on 10.2.78 and the last correction slip no.2 dated 3.7.1979 was read and assurance register signed on 27.7.79.

It is further stated that after the petitioner had refused the movement of engine etc. between Aishbagh and loco shed in his duty hours from 16 to 24 hours, Shri Imtiaz Hussain who relieved him from duty at 24 hours on 10.5.79 performed his duties as usual and allowed the movement in the usual way as per orders of Senior Divisional Operating Superintendent.

Even when the petitioner performed the duty subsequently he allowed the movement of engine etc. between Aishbagh

प्रवर मंडल संरक्षा अधिकारी,
पूर्वांचल रेलवे, लखनऊ

and Loco shed till issue of correction slip No.2 to the

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Station Working Rules which was done after about two month's time. Thus the petitioner wilfully obstructed the operation on the pretext that the Station Working Rules were defective. The engines from Aishbagh to Loco shed were sent via Lucknow. Jn. due to petitioner's obstructive working. The petitioner disobeyed the lawful orders of the Station Master, Aishbagh.

22. That the contents of paragraph no.17 of the petition are not admitted. The article of charge for disobedience of the lawful orders of Station Master, Aishbagh were held proved by the Enquiry Officer. A photostat copy of finding of the enquiry Officer is being annexed herewith and marked as Annexure No. ⁶IX to this reply.

23. That the contents of paragraph no.18 of the petition are denied being incorrect and baseless.

24. That in reply to the contents of paragraph no.19 of the petition it is stated that the petitioner

was informed regarding the appropriate authority who was competent to hear appeal against the impugned order of

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प्रवर मंडल संस्था अधिकारी,
पूर्वोत्तर रेलवे, दिल्ली

reversion of the petitioner as required by statutory rules of Discipline and Appeal Rules, 1968. Since the petitioner has not exhausted the departmental remedy, he has no ground to invoke the writ jurisdiction of Hon'ble High Court. Statements contrary to it are denied.

25. That the contents of paragraph no. 19 (another para 19) of the petition are denied. Rule 10(5) of Discipline and Appeal Rule, 1968 inter alia provides as under:-

" If the disciplinary authority, having regard to its findings on or any of the articles of charges and on the basis of the evidence adduced during the inquiry is of the opinion that any of the penalties specified in clause (v) to (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

B. K. Tewari
प्रवर मंडल संरक्षा अधिकारी;
पूर्वोत्तर रेलवे, लखनऊ

imposed."

Thus the petitioner has no right for the notice proposing the penalty to be imposed upon the petitioner. The old Rule 10(5)(b) of Discipline and Appeal Rule 1968 has been modified vide Railway Board's Circular No.E/ (D&A) /78-RG/54 dated 24/29-11.78. A true copy of aforesaid order dated 24/29-11-78 is being annexed herewith and marked as Annexure No.VII to this reply.

26. That the contents of paragraph no.20 of the petition are denied. The orders of reversion was served upon the petitioner in a sealed cover in presence of Shri P.N. Gupta, Shri Rajesh Bihari and Shri A.H.Khan, all Assistant Station Master Aishbagh dated Shri Jagdeo Singh S. M.'s clerk on 15.7.82 but the petitioner did not put his signature on the acknowledgement register. The petitioner took the letter and went away stating that the Divisional Safety Officer be informed that the petitioner had received the reversion orders.

B. Tewari
प्रवर मंडल संरक्षा अधिकारी,
पूर्वोत्तर रेलवे, बख्तपुर

xx 15.

27. That the contents of paragraph no.21 of the petition are denied. The orders of reversion of the petitioner are valid, legal and in accordance with the Discipline and Appeal Rules. The reversion orders against the petitioner were passed for his disobedience of lawful orders of Station Master, Aishbagh and wilfully obstructing the movement of engine to and from Aishbagh Railway Station to Loco Shed.

28. That the contents of paragraph no.22 of the petition read with the grounds ~~xx~~ thereunder are not admitted. The grounds taken by the petitioner are not tenable in law.

29. That the petitioner is not entitled to the directions prayed from this Hon'ble Court and the writ petition is liable to be dismissed.

30. That in compliance of the Hon'ble High Court ~~xxxx~~ stay order dated 21.7.82 and 2.8.82, the petitioner was being paid his salary in the grade of Rx Rs. 425-640.

B. K. Tewari
प्रवर मंडल संरक्षा अधिकारी,
पूर्वोत्तर रेलवे, लखनऊ

31. That as a result of accident of 14Dn. express Train due to negligence of the petitioner, causing death of 7 persons, the petitioner after a disciplinary enquiry and charges having been proved against him, has been removed from service by the disciplinary authority vide order dated 7.4.88 (Annexure No. RA/1)

32. That in view of the facts mentioned above, the writ petition has become infructuous and is liable to be dismissed with cost.


DEPONENT.

प्रवर मंडल संरक्षा अधिकारी,
पूर्वोत्तर रेलवे, लखनऊ

Verification

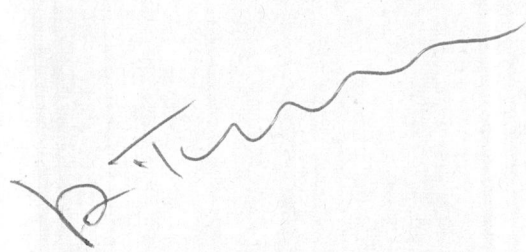
I, V. K. Tiwari . . . s/o Late Sh. J. P. Tiwari

aged about 37 years working as Sr.Divisional Safety Officer, North Eastern Railway, Lucknow do hereby verify that the contents of paragraph no.1 to 32 of this reply are based on perusal of official record and legal advise received.

Verified on this day of November, 1988
at Allahabad.


DEPONENT.

प्रवर मंडल संरक्षा अधिकारी,
पूर्वोत्तर रेलवे, लखनऊ



ORDERS OF IMPOSITION OF PENALTY OF DISMISSAL/REMOVAL/COMPULSORY RETIREMENT FROM SERVICE UNDER RULE 6 (VII), (VIII) AND (IX) OF THE RAILWAY SERVANTS (D/A) RULES. 1968.

No. J-1832/TN/3186

Date 7-11-88

To

Name Shri A.P. SrinivasaFather's name Shri Murali SrinivasDesignation Asst. Engineer Department OperationsTicket No. Nil Date of appointment 24.3.1948Station Aichalgarh Scale of pay 1400-2300Shri. A.P. Srinivasa Asst. A.S.H.

(Name, designation & office in which he is employee).

(Under suspension) is informed that the Inquiry Officer/Board of Inquiry appointed to enquire into the charge(s) against him has/have submitted his/their report. A copy of the report of the Inquiry Officer/Board of Inquiry is enclosed.

2. On a careful consideration of the enquiry report aforesaid, the undersigned agrees with the finding(s) of the Inquiry Officer/Board of Inquiry and holds that the Article(s) of charge is/are proved. Orders are attached as Annexure I

OR

* On a careful consideration of the enquiry report aforesaid, the undersigned agrees with the findings of the Inquiry Officer/Board of Inquiry in so far as it relates to article(s) of charge No. (s) and for reasons stated in the attached Memorandum holds that article(s) of charge No. (s) which the Inquiry Officer/Board of Inquiry has / have held as not proved/ proved, is also proved/ not proved.

3. The undersigned has, therefore, come to the conclusion that Sri A.P. Srinivasa is not a fit person to be retained in service and has decided to impose upon him the penalty of dismissal/removal/compulsory retirement from service, Shri A.P. Srinivasa is, therefore, dismissed/removed/compulsory retired from service with effect from immediate effect.

(Contd.)

प्रवर संवेद्य संज्ञा अधिकारी,
पूर्वोत्तर रेलवे, लखनऊ

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A84

4. Under Rule 18 of the Railway Servant (D & A) Rules, 1968 an appeal against these orders lies to ADRM/LN provided:-

- i) the appeal is submitted within 45 days from the date of receipt of these orders; and
- ii) the appeal does not contain improper or disrespectful language.

5. Please acknowledge receipt of this letter.

* Strike out where not applicable.

DA/ ~~AS~~ ~~MS~~
one

Signature

V.K. Fawad
(V.K. Fawad)

Name & Design.
of the disciplinary
authority.

Co. D.S. / L.N.

7/4

* * * * *

To
Divl. Rly. Manager (Safety),
N.E. Railway,
Lucknow.

Received your N.I.P. No. T/537/MA/3/86
dated 7.4.88 along with 18 pages enclosures.

Page 9 to 18 Not signed by E/O

WITNESS:

① M. S. Sharma
Asst. Secy. / A.S.H.

A.P. Siroha
SIGNATURE:

DATE 7/4/88

② M. S. Sharma
Secy. / A.S.H.
7/4/88

True Copy

Pravara

प्रवर मंडल संस्था अधिकारी,
पूर्वोत्तर रेलवे, लखनऊ

A85
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Annexure I of M.I.P No.1/537/TM/3/86 dated 7-4-1988
Issued to Sri A.P. Srivastava ASM/ASH under suspension.

O R D E R S.

I have gone through the full case, and agree with the findings given by the Enquiry Officer. Charged employee has deliberately non-cooperated with Enquiry Officer to delay the completion of enquiry.

I, therefore, order him his removal from service with immediate effect.

(V.R. THAKUR)

Sr. DIVL. SAFETY OFFICER

N.E.RLY. LUCKNOW.

True copy

125
प्रवर मंडल संरक्षा अधिकारी,
पूर्वोत्तर रेलवे, लखनऊ

N.E. RAILWAY.

Annexure No RA II

No. T/537/TM/3/86

DEPT. PLY. MANAGER'S OFFICE
LUCKNOW: LT. 28-6-88.

To,
Shri A.P. Srivastava,
A.S.M./Aishbagh,

Through: SS/ASH

Sub: Derailment of 24Dn. at LJM on
31-5-86.

Ref: Your appeal dated 29.4.88 against orders
of removal from service - NIP No. T/537/
TM/3/86 dated 7.4.88.

ADNM/LJM has passed the following orders on
your appeal quoted above.

VI have gone through the appeal dated 29.4.88
of Sri A.P. Srivastava, ex-A.S.M./ASH and the whole
case and observed as under :-

On 31.5.86, the appellant Sri A.P. Srivastava
was on duty as A.S.M. at West Cabin/Aishbagh in 8.00
to 16.00 hrs. shift. He instructed Sri Balram Singh,
Cabinman on duty at the loco cabin to despatch Down
light engine and accordingly gave shift by reversing
lever No. 12 in his cabin to enable the above said
cabin to set the cross over 5-5/6 for the dispatch of
the above Light Engine to Aishbagh. The above Light
Engine reached Aishbagh at about 9.15 hrs.

24Dn had arrived at Aishbagh at 9.10 hrs. and
its engine was to be sent to Shga on the same route
through which the Lt. Light Engine, mentioned above,
had come to Aishbagh. The above-named A.S.M. also
advised Sri Balram Singh Cabinman of loco cabin
regarding this movement and gave his shift by reversing
lever No. 12. This fact has been asserted by Sri
Balram Singh, Cabinman in his statement dated 31.12.87.
He also gave his private No. for the above movement.

At the same time
At ghrdampur, A.S.M./West cabin/ASH sought
permission of ADNM(Main)/ for reception of 24Dn.
for which he had already granted line clear. The
latter gave the permission and instructed that Up
Light Engine should be despatched to the loco

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पूर्वोत्तर रेलवे, लखनऊ

the written advice, would have attended the cabin for rectifying the failure. Instead of adopting the proper Procedure, Sri A.P. Srivastava adopted short cut method and violated the following rules :-

S.R. 2.56(a) - for not observing rules and special instructions i.e. he granted line clear for 24 Down to Amnusi and also advised Cabinman of Loco Cabin for despatch of incoming engine of 7907 without prior permission of ASM(Main)/ASH.

He also failed to declare the failure of lever No. 12 and did not adopt the correct procedure in case of failure of points and signals.

Rule 3.58(1) - in that he failed to report the occurrence to the Railway servant responsible for the upkeep of the signals in writing.

S.R. 3.62(1)(i) - Signals shall be lowered by their proper levers. If a signal cannot be lowered by its lever, it is not to be taken off by other means". Sri A.P. Srivastava manipulated with the S.M. for getting the route and clearing of signals for reception of 24 Down.

S.R. 3.63(2)(ii) - "When interlocking fails or becomes defective, the relevant signals shall also be treated as defective." In this case when Lever No. 12 could not be normalised, the S.M. (Sri A.P. Srivastava) should have adopted the proper procedure in case of failure of interlocking. He should have advised the Maintenance staff in writing or should have piloted 24 Down after ensuring correct setting of route for its reception.

S.R. 5.51(2) - "SM is directly responsible for the working of signals. No signal must not be taken off without the personal order of S.M. on duty. Sri Srivastava failed to adopt correct procedure when Lever No. 12 could not be put to normal position. He adopted short cut method for getting route and signal cleared by manipulating with S.M. on duty.

Sri A.P. Srivastava also violated Section Work-in Rules of Ais Nugh - Para 6(c)(iii) at page 11.

It is also established beyond doubt that it was a case of procedural failure due to conflicting movement made by Sri A.P. Srivastava S.M. on duty at West cabin Ais Nugh, which he failed to detect. He again failed to declare it and also failed to observe the proper

T.C.
प्रवर मंडल संस्था अधिकारी,
पूर्वोत्तर रेलवे, लखनऊ

Annexure ¹⁸ 18/RA/12

Punishments of Sd/- A.P. Sivasankar ASM

(1)

1188

1188

- CEN MT 11/52/24 7.5.52
- " MT 880/52/14 19-XI-52
- " MT 49/55/24 25.7.55
- " MT 72/55/24 25.7.55
- " MT/6/55/3 5.8.55

~~for details of Pass and P.T. stopped for 100 years~~

- CEN MT/69/55/3 4.9.56
- " No MT 120/BLP/56/3 17.X.56
- " T/6/11 LN 15.XI.56
- " TRE/6/1 I-76 4.9.3.57
- " WIP E ASM/128/120 26.2.57

Census - 27

WIP - 3

WIP - 4

Break in service

- CEN T/Signal/58 17.10.59
- " TD/6/CS/6 19.2.60
- " TD/6/HA 22.6.60
- " TD/6/HA 27.6.60

- " WIT Sxmnts TD/6/CS/60/12 22.6.60

- " WIT 0-6-0 T/134/ASM/110/59 11.11.60

- CEN TD/6/HA 4.11.60
- " NOT/134/111 HA/60 4.1.61
- " TD/6/CS/63/69 7.2.63
- " NoC/3/6/T. 19/62 6.4.63

- " WIT 0-1-0 TD/6/CS/63/734 12.9.763
- " 0-1-0 TD/6/CS/63/232 29.7.63

T.C.

- CEN TD/6/CS/63/167 30.4.63
- " TD/6/CS/63/157 18.4.63

25

- " WIP 0-6-0 TD/6/Memo/63/384 12.5.64

- CEN TD/6/Memo/64/55 18.5.64

प्रवर मंडल तिरुवा अविकारी,
पूर्वोत्तर रंगवे, तिरुवा.

- " TD/6/Memo/64/18 26.6.64

P.T.O

CEN TD/GI Memo/G4/145 d/19.64

W 3 months TD/GI Memo/G4/138 d/11.9.64

CEN. AGS (V) LON'S No TD/GI/Memo/G4/173 d/25.11.64

" AGS (G) LON NOT/134/8/ASH/664/15.6.66

" NIP No TD/GI/Memo/G7/11 d/19.3.68

" ~~High Memo R5172~~ 7/61/Memo/2.5.72

" NIP No T1537/m/se/ASIT/31/75 d/30.3.76

break in service ref 17.5.79 vide Memorandum No E/11/88

11.5.79 d/19.5.79

Attested
New
A. S. H.

सहायक चीफ कमिशनर
स्वीडिश मिशन, जयपुर

12.8.85

Visit to
B. C. S.

22/6/45

T. C.

W. S.

प्रवर राजा जैन अखिलारी,
मुद्रांतर, रावे, जयपुर

प्रवर मंडल संस्था अधिकारी,
पूर्वोक्त रेलवे, लखनऊ

Annexure No RA/170 13
A92

Copy of Railway Board's / New Delhi's L/No. 3 (B.S.) 8466-47 dated 22.10.1984 to the General Manager/S.A. Rly/Gorakhpur.

Sub: - disciplinary authority under Railway
servants (R.S.) rules, 1908-staff of
Operating Department.

Reference your letter No. S/7/2/Pt. 4/IV dated 24/26-7.84 on the above subject. The Board desire that your Railway should forcefully contest the writ Petitions challenging exercise of disciplinary powers by the Divisional Safety Officers in the case of operating staff and point out to the High Court that safety officers, as distinct from Commercial officers, belong to operating side and there should be no objection to their taking disciplinary action against operating staff like SAs, ASAs, etc. who perform train passing duties.

Please acknowledge receipt.

True Copy

B. Tewari

प्रवर संरक्षण अधिकारी,
पूर्वोत्तर रेलवे, लखनऊ

90/193

HISTORY OF THE CASE:

SNo. 96/14/2 A memorandum for Major Penalty was issued by DSO/LJN against Shri A.P. Srivastava, ASM/ASH vide No. T/190/Optg/LJN dated 12.5.1979. EA/DRM was nominated by DSO as the Enquiry Officer in this case vide No. T/190/Optg/LJN dated 3-10-1980.

SNo. 41/c

During the course of the DAR enquiry Shri A.P. Srivastava was assisted by the Defence Counsel Shri S.C. Dhar Guard, Lucknow, and the following witnesses were examined:-

PROSECUTION WITNESS:

Shri R.B. Mathur, Dy. SS/LJN the then Station Master, Aishbagh.

DEFENCE WITNESSES:

1. Shri Imtyaz Hussain, A.S.M./ASH.
2. Shri J.B. Pandey, R.G. ASH/LJN.
3. Shri K.L. Chugh, TNL/LJN the then ASM/ASH.

Shri A.P. Srivastava submitted his defence statement on 31.3.1981 and was cross examined on 21.4.1981. The defence note was submitted by Defence Counsel which was kept in view while arriving at the findings.

Article of charges and the Statement of Imputations are reproduced below:-

ARTICLES OF CHARGE

On 9.5.1979 while functioning as ASM on duty at the West Cabin/ASH, from 16.00 to 24/00 hrs., Shri A.P. Srivastava refused to allow movement of engines to and from ASH and Loco Shed and obstructed movement in contravention of Appendix 'P' (Correction Slip No. 1 dated 21.11.77) Para II Note No. (ii) below para (g) to the Station Working Rules No. LJN/162/ dated 7.9.1976 of ASH Jn. Station. Thus Shri A.P. Srivastava violated GR 179 for not obeying the lawful orders prescribed in the aforesaid station Working Rules. Shri A.P. Srivastava further disobeyed the lawful orders given by SM/ASH on 9.5.79.

Shri A.P. Srivastava by his aforesaid acts of omission and commission violated Rules 3(1)(ii)(iii) of Railway Service Conduct Rules 1966 (Advance Correction Slip No. 222) and failed to maintain devotion to duty and behaved in a manner which was unbecoming of a Railway Government Servant.

STATEMENT OF IMPUTATION IN SUPPORT OF THE ARTICLES OF CHARGE IN ANNEXURE I ABOVE.

Shri A.P. Srivastava while functioning as ASM on duty at the West Cabin/ASH from 16 to 24 hrs. on 9.5.79, refused to arrange movement of engines to and from ASH and Loco Shed and obstructed in contravention of Appendix 'P' (Correction Slip No. 1 dated 21.11.77) Para II Note No. (ii) below para (g) to the Station Working Rules No. LJN/162 dated 7.9.76 of ASH Jn Station. Train Engine No. 3177 came on Bahr line to work AM2 at 16.50 hrs. but was detained there upto 21/20hrs

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पूर्वोत्तर रेलवे, लखनऊ

and/

Because Shri A.P. Srivastava refused to arrange its reception in the yard. Similarly Diesel Engine No. 6202 arrived ASH at 17/20 hrs. and was detained upto 19/45 hrs., RDSO pilot arrived at 17/20 hrs. and was detained upto 23/30hrs. because Sri A.P. Srivastava refused to arrange their despatch to Locoshed despite instructions of ASM Main and SM/ASH. The movement of these engines to ASH/Locoshed respectively had to be arranged via LJN.

Sri A.P. Srivastava had joined ASH Station on 4.7.64 as ASM and had been working there since then. Sri A.P. Srivastava signed his last Assurance Certificate on 10.2.78, in terms of Para 44 of Operating Circular No 7(revised), for Station Working Rules No. LJN/162 dated 7.9.76 of ASH Jn. station(brought into force from 16.11.76). Sri A.P. Srivastava signed the Assurance Register in token of having studied and understood the aforesaid Station Working Rules with an understanding that he was in a position to take up his duty independently at the said station but he suddenly started finding fault with the SWR on 9.5.79 and started seeking clarifications about SWR which he had himself thoroughly studied and had certified that he had understood and which he had been following during his long stay at ASH.

Under CR 187(b) and SR 187(20) he was responsible for the efficient discharge of the duties devolving upon him and the members of the staff working under him so that the general working of the Station is carried out strictly in accordance with all rules, in force, for the time being. His refusal to work engines between Locoshed and ASH amounted to violation of SWR in force.

Sri A.P. Srivastava ought to have gone through Para 37(4) of Operating Circular No.7(revised) which requires all staff concerned to read Station Working Rules in conjunction with G&S Rules and other instructions issued by the Administration in the form of manual or otherwise and are legally binding on the staff concerned.

By his refusal to follow the SWR in force Sri A.P. Srivastava also violated GR 176 in not assisting the Railway Administration in carrying out rules for the time being in force.

The SM/ASH directed him in writing that movement to and from ASH & Locoshed was permitted in SWR and directed him to arrange movement as per existing practice, but Sri A.P. Srivastava refused to obey lawful orders of his Station Master. Thus he violated GR 179.

From the above, the following issues were framed for consideration:

1. Whether the obstruction caused in the movement of engines to and from ASH and Loco Shed Cabin constituted a contravention of the provisions of the SWR in force at that time for ASH station or not?
2. Whether he refused to arrange despatch of engines and Loco Shed despite the instructions of ASM Main and Station Master/ASH to observe existing practice but he refused to obey lawful orders of his Station Master which violated GR 179?

Handwritten signature and stamp
17/10/79
Sd/-
[Stamp: ASH STATION, 17/10/79]

DISCUSSION OF EVIDENCE & REASONS FOR FINDINGS:

1. Appendix 'F' (correction slip No. 1 dated 21-11-77), Para II, Note No. (ii) below para (g) to the Station Working Rules No. LJM/162 dated 7-9-1976 of Aishbagh Station does not lay down the procedure of the movement of Engines and loads to and from Loco Shed, ~~held up to and from~~ Aishbagh and simply mentions that such movement is controlled by the Cabinman loco cabin Aishbagh. Therefore, the first part of the Articles of Charge against Shri A.P. Srivastava for obstructing the movement in contravention of this Appendix 'F' does not hold good and is not proved from the records.

2. However, so far as not obeying the lawful orders given by the Station Master, Aishbagh on 9-5-1979 is concerned, the relevant points are given as under:-

i) The Station Working Rules of Aishbagh Station dated 16-11-1976 was read by Shri A.P. Srivastava and Assurance Register signed on 18-11-1976 the correction slip no. 1 dated 23-11-1977 to the Station Working Rules was read and signed on 10-2-1978 and the last correction slip No. 2 dated 3-7-1979 was read and assurance register signed on 27-7-1979, vide answer to Q.No. 8. Shri Srivastava has admitted that no doubt, he had signed the assurance register but the breach thereof came to his knowledge just on 9-5-1979 ~~and~~ when he was on duty ~~and~~ he had brought the breach to the notice to the person placed ~~in~~ authority over him.

ii) When asked vide Q.No. 4, as to what was the material difference in the movement of Engines and load between the time of issue of correction slip No. 1 and subsequent issue of correction slip No. 2, Shri Srivastava has clarified that Cross Over points No. 5 was ~~now~~ falling in the block section after the issue ~~xx~~ of correction Slip No. 2; ~~and~~ Thus the objection of Shri Srivastava to the Station Working Rules and thereby refusing the movement of engines etc. was merely more of a technical nature and had no practical significance. (vide answer to Q.No. 5)

iii) It may be recalled that with the issue of correction slip No. 2, the block section over south line between Aishbagh and Lucknow Jn was subsequently rectified demarcating the block section ~~xx~~ from Signal No. 43 A & B to Signal No. 21 (vide answer to Q.No. 22 and 23.) This error was of minor nature since up Advanced ^{Station} of Aishbagh which happened to be the last stop signal was 21 as ^{stated} given in the Signalling Appendix.

iv) It has been proved from the statements of the witnesses viz. Shri Imtiaz Hussain, and Shri K.L. Chugh and Shri J.P. Pandey, R.G. A.M.s that they had also thoroughly read and understood the existing Station Working Rules as on 9-5-1979, and none of them could find any procedural defect in the station working rules till pointed out by Shri Srivastava.

It is also a fact that after Shri A.P. Srivastava had refused the movement of engines etc. between Aishbagh and Loco Shed in his duty hours from 16-00 to 00-00 hrs. Shri Imtiaz Hussain who relieved him at 00-00 hrs. on 10-5-1979, performed his duties as usual and allowed the movement in the usual way as per orders of Sr. D.O. Even when Shri A.P. Srivastava performed the duty subsequently he himself allowed the movement ~~without~~ till ~~such~~ issue of correction slip No. 2 to the Station Working Rules, which was done after about two months' time.

T.C.

[Signature]

प्रवर मंडल सरंजा अधिकारी,
पूर्वोत्तर रेलवे, लखनऊ

v) The facts narrated under para 1) to (iv) above conclusively prove that the action of A.P. Srivastava in not allowing regular movement of Engine and loads from and to ASH as per practice was pre-planned with a view to hamper operation on the pretext that the Station Working Rules were defective. The Engines from ASH to Loco Shed were sent via Lucknow Jn due to such obstructive working of Shri Srivastava. At 7-00 hrs. of 10-5-1979 when Sr. DOS ordered the ASM(Main) Shri Chugh to continue normal working between ASH and Loco Shed CB as was done before 9-5-1979, the staff on duty complied his instructions and there was no dislocation in the working afterwards as per the statement of the then Station Master Shri R.B. Mathur.

vi) Whereas Shri K.L. Chugh, the then ASM(Main) ASH and Shri Imtiaz Hussain ASM/ASH on duty at 7 hrs. on 10.5.1979 complied with the orders of the Sr.DOS who assured that the correction slip to the SWR will be issued shortly, Shri A.P. Srivastava's conduct was otherwise and defiant as would be seen from the following exchange of memos:-

a) Station Masters memo "discrepancies pointed out by you will be discussed and decided for incorporation in the Station Working Rules if at all necessary. Movement should be allowed as usual". Shri A.P. Srivastava's memo - "But I require the instructions that how the movement will be effected from LCB to ASH when the points No. 5 falls in block section LJM-ASH. Such ~~movement~~ movement will interfere the block-section ASH - LJM which is in the control of both the block stations as such both ASMs of ASH and LJM should be in knowledge of the movement as such the block pad is required."

felt
It will be seen that in case of Shri Srivastava ~~felt~~ that to meet his objection block back was required, nothing prevented him from doing so. Instead he disobeyed the orders communicated by the Station Master ASH through the memo and continued his obstructive working. It may be pointed out that the procedure of block back or block forward had already been made in the G&S Rules which were binding on Shri Srivastava for observance of such rules and no suggestion or instructions are required by any railway servant. The answer to Q.No. 19 in this regard from Shri Srivastava is evasive and ~~irregu~~ arguments untannable.

3. In the light of the facts narrated in para 2 Shri A.P. Srivastava by his acts of omission and commission is proved to have violated rules 3 (ii) and (iii) of the Railway Service Conduct Rules 1966 (Advanced correction slip No. 222).

True. Wps

Wps
प्रवर मंडल मंडल अधिकारी,
पुणे, महाराष्ट्र

F I N D I N G.

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(8.6)
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Having considered all the evidence and records, the undersigned do find that Shri A.P. Srivastava, ASM/ASH, while on duty at West Cabin ASH on 9-5-1979 from 16 to 24 hrs. did not contravene the provision of Station Workings Rules of ASH station as given in article of charge.

However, he is held responsible for dis-obedience of orders of Station Master, Aishbagh on 9-5-1979 and wilfully obstructed the movement of engines to and from Aishbagh to Loco Shed and thus committed acts of omission and commission violating rules 3.1. (ii) & (iii) of Railway Servants Conduct Rules 1966 (Advanced correction slip No. 222).

R. S. Sharma
(R.S. SHARMA)
ENQUIRY OFFICER.

True Copy

W. S. M.
प्रवर मंडल संरक्षा अधिकारी,
पूर्वोत्तर रेलवे, बल्लभपुर

Extract of Para 3 of N.E. Railway, Services (Conduct) Rules - 1966 published by the Government of India Ministry of Railway, New Delhi (Railway Board), vide their No. E(D&A) 62 GS 1-II dated 21st March, 1966.

.....

3. GENERAL:

(1) Every railway servant shall at all times:-

- (i) maintain absolute integrity;
- ✓(ii) maintain devotion to duty; and
- ✓(iii) do nothing which is unbecoming of a railway or Government servant.

2.(i) Every railway servant holding a supervisory post shall take all possible steps to ensure the integrity and devotion to duty of all railway servants for the time being under his control and authority;

(ii) no railway servant shall, in the performance of his official duties or in the exercise of powers conferred on him, act otherwise than in his best judgement except when he is acting under the direction of his official superior and shall, where he is acting under such direction, obtain the direction in writing, wherever practicable, and where it is not practicable to obtain the direction in writing, he shall obtain written confirmation of the direction as soon thereafter as possible.

Explanation:- Nothing in clause (ii) of sub-rule(2) shall be construed as empowering a railway servant to evade his responsibilities by seeking instructions from, or approval of a superior officer or authority when such instructions are not necessary under the scheme of distribution of powers and responsibilities.

.....

True copy

[Signature]

भारतीय रेलवे बोर्ड,
नई दिल्ली, 21 मार्च, 1966

GOVERNMENT OF INDIA (Bharat Sarkar)
MINISTRY OF RAILWAYS (Rail Mantralaya)
(Railway Board)

A/ab

A96

No. B F(D&A)78AGG-54.

New Delhi Dated: 24/29.11.1978

Notification

S.O. _____ in exercise of the powers conferred by the proviso to Article 309 of the Constitution, the President hereby makes the following rules further to amend the Railway Servants (Discipline and 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 substituted, 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 ~~main~~ evidence adduced during the inquiry is of the opinion that any of the penalties specified in clauses (v) to (ix) of rule 6 should be imposed on the railway servant, it shall make an order imposing ~~an~~ such penalty and it shall not be necessary to give the railway ~~serv~~ 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 any such penalty on the railway servant."

P.N. MOHILE
SECRETARY, RAILWAY BOARD.

To
The Manager,
Government of India Press,
Ring Road, Maya Puri, New Delhi.

(To be published in part II, Section 3, sub-section(ii) of Gazette of India)

Sd/- (Gulzar Chand)
Dy. Director, establishment,
Railway Board.

True copy

WTS

BR/9484.

प्रवर मंडल सेवा अधिकारी,
पुणे

11/65
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BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNOW.

Rejoinder Affidavit to the Written Statement
Filed on behalf of the opposite parties (Union
of India and others).

IN

REGISTRATION NO.TA.1165 OF 1987(T)

Anurudh Prasad SrivastavaPetitioner
(Applicant)

Versus

Union of India and others Respondents
Opp.Parties.

I, Anurudh Prasad Srivastava, aged about 59
years, son of late Sri Mangala Prasad, resident of
555/Kha 2/4 Bhola Khera, Alambagh, Lucknow, do hereby
solemnly take oath and affirm as under:-

1- That I am the petitioner in the above-noted
claim petition and I am fully acquainted with the

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A. Prasad

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- 2 -

facts of the case. I have perused the written statement filed on behalf of the opposite parties and have understood the contents thereof.

2- That in reply to the contents of paras 1 to 4 of the written statement it is stated that the punishment order dated 7th April, 1988 removing the petitioner from service and the order rejecting the departmental appeal against the same had been challenged by means of another Claim Petition No. OA210/88(L) before this Hon'ble Tribunal. The same was admitted on 24.11.1988 and is pending. The relevant facts and grounds to challenge the said order have been detailed in the said claim petition. It is, therefore, not necessary to indicate the said facts and pleas in the present petition.

3- That the contents of para 5 of the written statement insofar as they admit the assertions made in para 1 of the claim petition call for no reply. The denial contained in para 5 of the other assertions is wholly baseless and the assertions made in para 1 of the petition are reiterated.

4- That the contents of para 6 of the written statement are irrelevant since it has not been disputed that the petitioner was promoted in the year 1960 to the post of Assistant Station Master.

APC. Simla

5- That the contents of para 7 of the written

- 3 -

statement insofar as they admit the assertions made in para 3 of the petition call for no reply. It is stated that the All India Station Masters' Association is a registered body and the assertions made in para 3 of the petition are hereinagain reiterated.

6- That the contents of para 8 of the written statement do not in any manner controvert the specific assertions made in para 4 of the claim petition nevertheless the said assertions are hereinagain reiterated.

7- That in reply to the contents of para 9 of the written statement the assertions made in para 5 of the petition are reiterated and anything to the contrary is denied. The opposite parties may be required to produce the record of the viva voce test. It is stated that ~~the~~ performance of the petitioner at the vova voce was excellent and there was no warrant not to have empanelled him.

8- That the denial contained in para 10 of the written statement is wholly baseless and the assertions made in para 6 of the petition are hereinagain reiterated.

9- That in reply to the contents of para 11 of the written statement the assertions made in para 7 of the petition are reiterated.

At Simla

- 4 -

10- That the contents of para 12 of the ~~claim~~ ~~petition~~ written statement insofar as they are contrary to the assertions made in para 8 of the petition are denied and the said assertions are hereinagain reiterated. The allegation that there is no separate Safety Department is a deliberate mis-statement. Reliance on Procedure Office Order No.1 dated 3.4.1969 is wholly baseless and irrelevant. In view of various subsequent Railway Board's letters as also the facts indicated hereinbelow it would be evident that the transportation/Traffic/Operating Departments are wholly separate and distinct Departments than the Safety Department. The Divisional Operating Superintendent is the Head of the Divisional Office of the Transportation/Operating/Traffic Department, while the Divisional Safety Officer is the Head of the Divisional Offices of the Safety Department. The said Procedure Office Order has also no statutory force. The petitioner was working under the direct control of the Operating Department and the Divisional Safety Officer and Officers of the Safety Organisation have no direct or disciplinary control over the petitioner.

11- That the contents of para 13 of the written statement insofar as they admit the assertions made in para 9 of the petition call for no reply. The allegation that the Divisional Safety

A. Simla

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- 5 -

Officer is an officer of the Operating Department is a deliberate mis-statement and is denied. As indicated hereinabove the aforesaid two officers belong to Different Departments. A Divisional Safety Officer is the Head of the Divisional Office of the Safety Department. He is not an officer of the Operating Department as alleged. A perusal of the Railway Board's three letters referred to in para 9 of the petition would show that thereby it has very clearly been indicated that an Assistant Station Master and Station Master belong to the Operating Department even though they have to perform the duties pertaining to Commercial Department also from time to time. The respondents appear to be taking a plea that an Assistant Station Master also has to perform some duties pertaining to the Safety Department. Even if that be so in view of the provisions of the said Railway Board's letters the Assistant Station Master would be an employee of the Operating Department alone and the disciplinary authority would be one belonging to the Operating Department and none else. It is further stated that several writ petitions have been decided by this Hon'ble Court in which the plea now sought to be advanced had been found to be unsustainable and it has been held that an officer of the Operating Department viz., a Divisional Operating Superintendent alone would be the disciplinary authority of the Assistant Station Master. The said decisions after obtaining certified copies thereof will be placed

Affidavits

- 6 -

for consideration of this Hon'ble Court.

12- That the contents of para 14 of the written statement insofar as they are contrary to the assertions made in para 10 of the petition are denied and the said assertions are hereinagain reiterated. The allegation that the Safey Organisation is a part of the Operating Department is wholly baseless and is denied. There is no factual basis for the allegation that at Zonal level the Chief Operating Superintendent is assisted by Sub-Heads including the Chief Traffic Superintendent(Safety) and at the Divisional Level the Divisional Operating Superintendent is assisted by Divisional Safety Officer. It is stated that the Chief Traffic Safety Superintendent is a Level I Officer and Head of the Department of Safety Organisation of Zonal Level. The Chief Operating Superintendent also is a Level I Officer and is the Head of the Operating Department at Zonal Level. The situation is obtaining since after 1979. The plea based on Railway Board's letter dated 22.10.1984 is misconceived which would be evident from a bare perusal of the said letter. It contained only instructions to oppose ~~exx~~ certain writ petitions pending in the Hon'ble High Court. No legal basis for the assumption indicated in the Railway Board's said letter exists. Detailed facts to support the plea of want of jurisdiction in the Divisional Safety Officer to pass an order of

A.P. Simons

- 7 -

punishment against the petitioner while holding the post of Assistant Station Master have been detailed in Claim Petition No. OA216^k/88(L) (Re: A.P.Srivastava Vs. Union of India and others). The petitioner craves the indulgence of this Hon'ble Court/Tribunal to direct the present claim petition (Registration No. TA.1165 of 1987(T)) as also two others viz., T.A.No.1225/87(T) (Re: A.P.Srivastava Vs. Union of India and others,) and T.A.No.1507/87(T) (Re: A.P.Srivastava Vs. Union of India and others) to be connected with the aforesaid Claim Petition No. OA216^k/88(L). Since the basic and primary question with regard to the want of jurisdiction has been raised in all the four petitions upto-date facts and provisions of law have been referred to in the last petition.

13- That in reply to the contents of para 15 of the claim petition it is stated that the order dated 9.7.1982 was to come into effect from the date of the passing of the said order i.e. with retrospective effect but in view of an interim order passed by the Hon'ble High Court in Writ Petition No. 3335 of 1982 on 2.8.1982 it has not come into effect and had not been implemented. The allegation to the contrary in para 15 of the written statement is wholly baseless.

14- That the plea in para 16 of the written

A.P. Srivastava

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- 8 -

statement is legally untenable and is denied. The model time schedule was intended to be adhered to strictly. Any breach in adhering to the said model time schedule would render the procedure illegal. The assertions made in para 12 of the petition are, therefore, reiterated. It is stated that there was no administrative reason for not adhering to the said time limit. As stated in para 13 of the petition the delay was due to mala fide intention.

15- That the contents of para 17 of the ~~claim peti~~ written statement insofar as they are contrary to the assertions made in para 13 of the ~~petition~~ are denied and the said assertions are hereinagain reiterated.

16- That the contents of para 18 of the written statement insofar as they are contrary to the assertions made in para 14 of the petition are denied and the said assertions are herein reiterated. On the basis of the facts indicated in para 14 of the perition the petitioner had good and sufficient reason to **stop** the movement of Engines to and from Aisghbagh Loco Shed, Lucknow. The objections pointed out by the petitioner were also valid. In the best interest of the working of the Railways the petitioner had insisted on correction of the ~~St~~ation Working Rules. The rules as existing had the possibility of resulting in a dangerous action and causing an accident. The

A.P. Sinha

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allegations in the charge-sheet have been duly replied to and the said explanation is hereinagain reiterated.

17- That the contents of para 19 of the written statement insofar as they are contrary to the assertions made in para 15 of the petition are denied and the said assertions are hereinagain reiterated. The petitioner craves the indulgence of this Hon'ble Tribunal to appreciate for itself that the very fact that the correction slip No.2 was subsequently issued is an admission that the Station Working Rules contained errors which required to be rectified. The belated action in issuing correction slip and the insistence of the authorities that the petitioner should work according to the unamended station working rules was wholly unethical ,arbitrary and capricious.

18- That the contents of para 20 of the written statement do not call for any reply.

19- TThat in reply to the contents of para 21 of the written statement it is stated that the signing of Assurance Register by the petitioner did not preclude the petitioner from pointing out the errors in the Station Working Rules as and when they came to his notice. The Inquiry Officer

A. Srinivasan

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- 10 -

has in his report exonerated the petitioner of the allegations in the charge-sheet of having allegedly violated the Station Working Rules. The assertions made in another para 16 of the petition are reiterated and anything to the contrary is denied.

20- That in reply to the contents of para 22 of the written statement insofar as they are contrary to the assertions made in para 17 of the petition are denied and the said assertions are hereinagain reiterated.

21- That the denial contained in para 23 of the written statement is wholly baseless and the assertions made in para 18 of the petition are reiterated.

22- That in reply to the contents of para 24 of the written statement the assertions made in para 19 of the petition are reiterated. Good and cogent reasons have been indicated in para 19 of the petition to support the plea that the petitioner had no alternative efficacious remedy. In view of the fact that the writ petition was admitted and entertained goes to show that the Hon'ble High Court was satisfied about the plea taken in para 19 of the petition.

23- That in reply to the contents of

At. Sinha

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- 11 -

para 25 of the written statement the assertions made in another para 19 of the petition are reiterated.

24- That the contents of para 26 of the written statement insofar as they are contrary to the assertions made in para 20 of the petition are denied and the said assertions are hereinagain reiterated.

25- That the plea in para 27 of the written statement is legally untenable and is, therefore, denied. On the grounds raised in the petition an order of reversion is wholly illegal, void and inoperative.

26- That the pleas in paras 28 and 29 of the written statement are legally untenable and are, therefore, denied.

27- That the contents of para 30 of the written statement do not call for any reply.

28- That the contents of para 31 of the written statement do not dispute that an illegal order for removal from service had been passed by an authority which had no jurisdiction and was not petitioner's disciplinary authority.

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29- That the plea in para 32 of the written statement is wholly baseless and is legally untenable and therefore denied. The petition has not become infructuous as alleged.

DEPONENT

Verification

I, Anurudh Prasad Srivastava, aged about 59 years, son of late Sri Mangala Prasad, resident of 555/Kha 2/4 Bhola Khera, Alambagh, Lucknow, do hereby verify that the contents of paras 1 to 29 of this rejoinder affidavit are true to my personal knowledge and that I have not suppressed any material fact.

Dated: January 24, 1989

A.P. Srivastava
Signature of the applicant.

Counsel for the applicant

To

The Registrar,
Central Administrative Tribunal.
Lucknow Circle, Lucknow.

A109

NS/CCS
-4

VAKALATNAMA

Before
in the Court of

The Central Administrative Tribunal
Circuit Bench, Lucknow

TAMs. 1225/87 (T)

Plaintiff
Defendant

A.P. Srivastava

Claimant
Appellant

Versus

Defendant
Plaintiff

Union of India & others

Petitioner
Respondent

F.T.
16/2/87

The President of India do hereby appoint and authorise Shri. B.K. Shukla
Ry Advocate, Lucknow

.....to appear, act, apply, plead in and prosecute the above described suit/appeal/proceeding on behalf of the Union of India to file and take back documents, to accept processes of the Court, to appoint and instruct Counsel, Advocate or Pleader, to withdraw and deposit moneys and generally to represent the Union of India in the above described suit/appeal/proceedings and to do all things incidental to such appearing, acting, applying, Pleading and prosecuting for the Union of India SUBJECT NEVERTHELESS to the condition that unless express authority in that behalf has previously been obtained from the appropriate Officer of the Government of India, the said Counsel/Advocate/pleader or any Counsel, Advocate or Pleader appointed by him shall not withdraw or withdraw from or abandon wholly or partly the suit/appeal/claim/defence/proceeding against all or any defendants/respondents/appellant/plaintiff/opposite parties or enter into any agreement, settlement, or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted or refer all or any matter or matters arising or in dispute therein to arbitration PROVIDED THAT in exceptional circumstances when there is not sufficient time to consult such appropriate Officer of the Government of India and an omission to settle or compromise would be definitely prejudicial to the interest of the Government of India and said Pleader/Advocate or Counsel may enter into any agreement, settlement or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted and in every such case the said Counsel/Advocate/Pleader shall record and communicate forthwith to the said officer the special reasons for entering into the agreement, settlement or compromise.

The President hereby agree to ratify all acts done by the aforesaid Shri. B.K. Shukla
Railway Advocate, Lucknow

in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of India this theday of.....198 .

Dated198

NER-84850400-8000-4 7 84

Accepted
H. Shukla
Adv.

Smt. Uley
C.S.M.N. Islam
Designation of the Executive Officer,
प्रवर मंडल कार्यालय अधिकारी,
पूर्वोत्तर रेलवे, लखनऊ

Sr. Divisional Personnel Officer,
N. E. Railway, Lucknow.

for Union of India

A110

NS/CCS

VAKALATNAMA

Before
in the Court of

In The Central Administrative Tribunal
Chennai Bench, Lucknow

TAM. 1165 of 87 (T)

Plaintiff
Defendant

A.P. Srivastava

Versus

Claimant
Appellant

Defendant
Plaintiff

Union of India and others

Petitioner
Respondent

The President of India do hereby appoint and authorise Shri...

B.K. Shukla,
Rly. Advocate, Lucknow

.....to appear, act, apply, plead in and prosecute the above described suit/appeal/proceeding on behalf of the Union of India to file and take back documents, to accept processes of the Court, to appoint and instruct Counsel, Advocate or Pleader, to withdraw and deposit moneys and generally to represent the Union of India in the above described suit/appeal/proceedings and to do all things incidental to such appearing, acting, applying, Pleading and prosecuting for the Union of India SUBJECT NEVERTHELESS to the condition that unless express authority in that behalf has previously been obtained from the appropriate Officer of the Government of India, the said Counsel/Advocate/pleader or any Counsel, Advocate or Pleader appointed by him shall not withdraw or withdraw from or abandon wholly or partly the suit/appeal/claim/defence/proceeding against all or any defendants/respondents/appellant/plaintiff/opposite parties or enter into any agreement, settlement, or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted or refer all or any matter or matters arising or in dispute therein to arbitration PROVIDED THAT in exceptional circumstances when there is not sufficient time to consult such appropriate Officer of the Government of India and an omission to settle or compromise would be definitely prejudicial to the interest of the Government of India and said Pleader/Advocate or Counsel may enter into any agreement, settlement or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted and in every such case the said Counsel/Advocate/Pleader shall record and communicate forthwith to the said officer the special reasons for entering into the agreement, settlement or compromise.

The President hereby agree to ratify all acts done by the aforesaid Shri...

B.K. Shukla
Railway Advocate, Lucknow

in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of India this theday of.....198 .

Dated198

NER-84850400-8000-4 7 84

Accepted
B.K. Shukla
Adv.

Smt. Ujjay
C. S. M. N. (Islam)
Designation of the Executive Officer,
प्रदर मंडल कार्यालय अधिकारी,
पूर्वोत्तर रेलवे, लखनऊ
Sr. Divisional Personnel Officer
U. B. Railway, Lucknow.

for Union of India

A111

NS/CCS

VAKALATNAMA

Before
in the Court of

In The Central Administrative Tribunal
Circuit Bench, Lucknow

TAN 1507/87 (T)

Plaintiff
Defendant

A. P. Solvastero

Claimant
Appellant

Versus

Defendant
Plaintiff

Union of India and
others.

Petitioner
Respondent

The President of India do hereby appoint and authorise Shri

B. K. Shukla,
Railway Advocate, Lucknow

.....to appear, act, apply, plead in and prosecute the above described suit/appeal/proceeding on behalf of the Union of India to file and take back documents, to accept processes of the Court, to appoint and instruct Counsel, Advocate or Pleader, to withdraw and deposit moneys and generally to represent the Union of India in the above described suit/appeal/proceedings and to do all things incidental to such appearing, acting, applying, Pleading and prosecuting for the Union of India SUBJECT NEVERTHELESS to the condition that unless express authority in that behalf has previously been obtained from the appropriate Officer of the Government of India, the said Counsel/Advocate/pleader or any Counsel, Advocate or Pleader appointed by him shall not withdraw or withdraw from or abandon wholly or partly the suit/appeal/claim/defence/proceeding against all or any defendants/respondents/appellant/plaintiff/opposite parties or enter into any agreement, settlement, or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted or refer all or any matter or matters arising or in dispute therein to arbitration PROVIDED THAT in exceptional circumstances when there is not sufficient time to consult such appropriate Officer of the Government of India and an omission to settle or compromise would be definitely prejudicial to the interest of the Government of India and said Pleader/Advocate or Counsel may enter into any agreement, settlement or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted and in every such case the said Counsel/Advocate/Pleader shall record and communicate forthwith to the said officer the special reasons for entering into the agreement, settlement or compromise.

The President hereby agree to ratify all acts done by the aforesaid Shri

B. K. Shukla
Railway Advocate, Lucknow

in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of India this theday of.....198 .

Dated198

NER-84850400-8000-4 7 84

Accepted
H. S. Shukla
Adv.

Smt. Usha
C. S. M. H. Islam
Designation of the Executive Officer,
प्रवर मंडल कार्यालय अधिकारी,
पूर्वोत्तर रेलवे, लखनऊ
Sr. Divisional Personnel Officer,
U. E. Railway, Lucknow

for Union of India

ब अदालत श्रीमान

[वादी] अपीलान्त ✓

प्रतिवादी [रेस्पान्डेन्ट]

The Central Administrative Tribunal Court Bench
Lucknow Gandhi Bhawan Lucknow



का वकालतनामा

WP No 3335/82

T.A. No 1165/87 (T)

वादी (अपीलान्त)

A.P. Srivastava

VS

Union of India & others

बनाम

प्रतिवादी (रेस्पान्डेन्ट)

WP मुकदमा नं० 3335 सन् 82

पेशी की ता०

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ऊपर लिखे मुकदमा में अपनी ओर से श्री

Sri B.C. Saxena Advocate

वकील

महोदय

एडवोकेट

नाम अदालत
मुकदमा नं० नाम
फरीकन बनाम

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

Accepted
B.C. Saxena

हस्ताक्षर

A.P. Srivastava

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १६ ई०

for Govt. use.

CWB

In the Court of C.A.T. Allahabad

NS/CCS

VAKALATNAMA

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113

Before
in the Court of

Reg. No 1165 of 87 (T)
A.P. Srivastava

Plaintiff
Defendant

Claimant
Appellant

Versus

Defendant
Plaintiff

U. O. 9, and other

Petitioner
Respondent

The President of India do hereby appoint and authorise Shri. A. K. G. A. V. R.

Rty. Advocate, 5 Thornhill Road, And

.....to appear, act, apply, plead in and prosecute the above described suit/appeal/proceeding on behalf of the Union of India to file and take back documents, to accept processes of the Court, to appoint and instruct Counsel, Advocate or Pleader, to withdraw and deposit moneys and generally to represent the Union of India in the above described suit/appeal/proceedings and to do all things incidental to such appearing, acting, applying, Pleading and prosecuting for the Union of India SUBJECT NEVERTHELESS to the condition that unless express authority in that behalf has previously been obtained from the appropriate Officer of the Government of India, the said Counsel/Advocate/pleader or any Counsel, Advocate or Pleader appointed by him shall not withdraw or withdraw from or abandon wholly or partly the suit/appeal/claim/defence/proceeding against all or any defendants/respondents/appellant/plaintiff/opposite parties or enter into any agreement, settlement, or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted or refer all or any matter or matters arising or in dispute therein to arbitration PROVIDED THAT in exceptional circumstances when there is not sufficient time to consult such appropriate Officer of the Government of India and an omission to settle or compromise would be definitely prejudicial to the interest of the Government of India and said Pleader/Advocate or Counsel may enter into any agreement, settlement or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted and in every such case the said Counsel/Advocate/Pleader shall record and communicate forthwith to the said officer the special reasons for entering into the agreement, settlement or compromise.

The President hereby agree to ratify all acts done by the aforesaid Shri.....

.....
in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of India this theday of.....198 .

ated198


Designation of the Executive Officer,

For Govt use

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NS/CCS

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VAKALATNAMA

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD

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114

Before
in the Court of

Transfer Application No. 1165 of 1987(T)

Plaintiff
Defendant

Anurudh Brasad Srivastava

Claimant
Appellant

Versus

Defendant
Plaintiff

Union of India & Others

Petitioner
Respondent

The President of India do hereby appoint and authorise Shri. A.K. Gaur,
Railway Advocate/Allahabad.

.....to appear, act, apply, plead in and prosecute the above described suit/appeal/proceeding on behalf of the Union of India to file and take back documents, to accept processes of the Court, to appoint and instruct Counsel, Advocate or Pleader, to withdraw and deposit moneys and generally to represent the Union of India in the above described suit/appeal/proceedings and to do all things incidental to such appearing, acting, applying, Pleading and prosecuting for the Union of India SUBJECT NEVERTHELESS to the condition that unless express authority in that behalf has previously been obtained from the appropriate Officer of the Government of India, the said Counsel/Advocate/pleader or any Counsel, Advocate or Pleader appointed by him shall not withdraw or withdraw from or abandon wholly or partly the suit/appeal/claim/defence/proceeding against all or any defendants/respondents/appellant/plaintiff/opposite parties or enter into any agreement, settlement, or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted or refer all or any matter or matters arising or in dispute therein to arbitration PROVIDED THAT in exceptional circumstances when there is not sufficient time to consult such appropriate Officer of the Government of India and an omission to settle or compromise would be definitely prejudicial to the interest of the Government of India and said Pleader/Advocate or Counsel may enter into any agreement, settlement or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted and in every such case the said Counsel/Advocate/Pleader shall record and communicate forthwith to the said officer the special reasons for entering into the agreement, settlement or compromise.

The President hereby agree to ratify all acts done by the aforesaid Shri. A.K. Gaur,
Railway Advocate/Allahabad.

in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of India this theday of April 1988.

Dated1988

NER-84850400-8000-4 7 84

(A.TETE)

Designation of the Executive Officer,
Dy. Chief Personnel Officer/Gaz.
North Eastern Railway/Gorakhpur

OLC
A/115
Cm 4

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW
.....

No. CAT/CB/Lkn/Jud1/ 36-37

Date : 2-4-93

REGISTRATION No. T.A. 1165/07 of 1992/93
C.W. 1507/07, 1225/07, 1225/07

A. P. Srivastava

Applicant

V E R S U S

V. D. J. & Ors

Respondent

- ① Sri Kartikey, Advocate, Bhairaji Road, Lucknow.
② Sri A.K. Gaur, Advocate, Bar Association, C.A.T.,
23-A, Thoon Hill Road Allahabad.

"Next Date 16-4-93 for Correction of ERROR"

Judgment.

Please take notice that the applicant above named has presented an application a copy of _____ thereof is enclose herewith which has been registered in this Tribunal and the Tribunal has fixed _____ day of _____ to Show-cause as to why the Petition be not admitted. Counter may be filed within _____ weeks. Rejoinder, if any, to be filed within _____ weeks thereafter.

If, no appearance is made on your behalf, your pleader or by some on duly authorised to Act and plead on your behalf on the said application, it will be heard and decided in your absence. Given my hand and the seal of the Tribunal this day of 31st March 1993.

Be 31/3
FOR DEPUTY REGISTRAR
2-31-3-93

C77

In the Court of the District Judge, District of Allahabad
Circuit Bench, Allahabad

व अदालत श्रीमान



T.A. 1165/87

बनाम

Applicant

A.P. Sinhasan

The Union of India & others

4

Shri for the

ऊपर लिख मुकद्दमा में अपनी ओर से श्री प्रयाग नारायण बाजपेई एडवोकेट

एवं श्री कार्तिकेय बाजपेई एडवोकेट भैरौ जी रोड, लखनऊ

महोदय

को अपना वकील नियुक्त करके प्रतिज्ञा [इकरार] करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिग्री जारी करावें और रुपया बसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या हमारी विपक्षी [कुरोक्वानो] का दाखिल किया हुआ रुपया आने या हमारे हस्ताक्षर युक्त [दस्तखती] रसीद से लेवे या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या पैरोकार को भेजता रहूंगा 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 ताकि प्रमाण रहे और समय पर काम आवे।

Accepted
17-9-92

हस्ताक्षर A.P. Sinhasan

साक्षी (गवाह) साक्षी (गवाह)

दिनांक 17 महीना 9 सन 1992 ई०

Before the Central Administrative Tribunal Lucknow

CM Application No.

1993

TA No. 1165/87 WP 3335/82

TA No. 1507/87 WP 324/84

TA No. 1125/87 WP 5741/83

A.P. Srivastava V/S, Union Of India & others.

APPLICATION FOR CORRECTION OF ERROR IN NARRATION IN PARA 2 & 7 of the
JUDGMENT DATED 19.10.92.

The Applicant very humbly submits as under:-

- (1) That in Para 2 of the said Judgment the date of superannuation in the year 1988 should be substituted as date of superannuation on 31.3.89.
- (2) That in T.A. 1507/87 the applicant has challenged the entire Disciplinary proceeding pertaining to the incident of 17.5.79 for which the applicant has already been punished with break in service on 17.5.79 and further prayed for as mentioned in the last few lines of para-1 of the Judgement Dt: 19.10.92

whereas in para-7 of the judgement Dt: 19.10.92. It has been mentioned that in TA 1507/87 the applicant had challenged the removal order which was passed after holding the Departmental enquiry. The applicant was charged because of his act of omission and negligence and due to accident but in TA 1507/87 the applicant had not challenged the removal order but challenged the entire Disciplinary Proceeding pertaining to the incident of 17.5.79 for which the applicant had already been punished with Break in service on 17.5.79 and the removal order has been challenged in another case No. OA 216/88 in which the Hon'ble Tribunal was pleased to pass the order not in favour of the applicant on 23/2/93.

Therefore, the applicant very humbly request that necessary alteration & Deletion may kindly be ordered in respect of para 2 & 7 of the Judgement Dt: 19.10.92.

Dated
15/3/93

AP Srivastava
Applicant.

Copy
19/3/93
R.No - 1097

Put up
with file
on 2/4/93

JA
24/3
211
SyR
19/3/93

Before the Central Administrative Tribunal Lucknow

CM Application No. 1993

TA No. 1165/87 WP 3335/82

TA No. 1507/87 WP 324/84

TA No. 1125/87 WP 5741/83

A.P. Srivastava V/S Union Of India & others.

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- (2) That in T.A. 1507/87 the applicant has challenged the entire Disciplinary proceeding pertaining to the incident of 17.5.79 for which the applicant has already been punished with break in service on 17.5.79 and further prayed for as mentioned in the last few lines of para-1 of the Judgment Dt: 19.10.92

whereas in para-7 of the judgement Dt: 19.10.92. It has been mentioned that in TA 1507/87 the applicant had challenged the removal order which was passed after holding the Departmental enquiry. The applicant was charged because of his act of omission and negligence and due to accident but in TA 1507/87 the applicant had not challenged the removal order but challenged the entire Disciplinary Proceeding pertaining to the incident of 17.5.79 for which the applicant had already been punished with Break in service on 17.5.79 and the removal order has been challenged in another case No. OA 216/88 in which the Hon'ble Tribunal was pleased to pass the order no favour of the applicant on 23/2/93.

Therefore, the applicant very humbly request that necessary alteration & Deletion may kindly be ordered in respect of para 2 & 7 of the Judgment Dt: 19.10.92.

15/3/93

AP Srivastava
Applicant.

T.A. No. 1165, 1507 and 1225/87

D. NO. 5089/94/XI
SUPREME COURT OF INDIA
DATED: 29th November, 1994

FROM:
THE REGISTRAR
SUPREME COURT OF INDIA
NEW DELHI

ORU 35

TO:
~~THE REGISTRAR~~
HIGH COURT OF JUDICATURE
AT ALLAHABAD (UP) ✓
THE DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. 20159 TO 20161 OF 1994
(Petition under Article 136 of the Constitution of India
for the Special leave to appeal to the Supreme Court from the
Judgment and Order dated 19th October, 1992 of the
High Court of Central Administrative Tribunal, Lucknow Bench, Lucknow
in T.A. No. 1165, 1507, and 1225 of 1987.)

Union of India & Ors.

.....PETITIONER(S)

VERSUS

Anurudh Prasad Srivastava

.....RESPONDENT(S)

Sir,

I am to inform you that the Petition above-mentioned for
Special Leave to Appeal to this Court was filed on behalf of
the Petitioners above named from the Judgment and Order of
the High Court noted above and that the same was dismissed
by this Court on the 14th day of November, 1994.

A Certified copy of this Court's Proceedings dated
14.11.94 is enclosed herewith for your
information and necessary action.

Yours faithfully,

ASSISTANT REGISTRAR

SB/SEC. XI

SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

A
122

20159-20161/94

Petition (s) for Special Leave to Appeal (Civil/Cd) No. (s) /94 (27732)

553029

(From the judgment and order dated 19.10.92 of the High Court of
CAT Lucknow Bench in TA No.1165/87, 1507/87 and 1225/87)
Union of India & Ors.

Versus

Anurudh Prasad Srivastava
WITH IA 1-3 (Apps. for c/delay in filing SLP)

Respondent (s)

Date: 14.11.94 This/these petition (s) was/were called on for hearing today.

CORAM:

Hon'ble Mr. Justice B.P. Jeevan Reddy
Hon'ble Mr. Justice S.C. Sen
Hon'ble Mr. Justice

For the petitioner (s)

Mr. VC Mahajan, Sr.Adv.
Mrs. Kitty Kumarmangalam, Adv.
Mr. VK Verma, Adv.
Mr. AK Sharma, Adv.

For the respondent (s)

UPON hearing counsel the Court made the following
ORDER

Delay condoned.

Having regard to the fact that the
respondent has since retired, we are not
inclined to interfere in the matter. The
Special Leave Petitions are dismissed.
However, the questions of law decided in the
judgment under appeal are left at large.

(Dinesh Kumar)
Court Master

(D.D. Jindal)
Court Master

A
120

O/c
C210

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

~~Allahabad Bench Lucknow.~~
~~23-A Thornhill Road, Allahabad-211 001~~

~~Grandhi Bhawan Lucknow.~~

Connected with 1225-87 J & 1507-87 (T)
No. CAT/Alld/Jud/30153 Dated the 12-5

T.A.No. 1165 To 156 of 1987. (T)

A. P. Sinayana

Applicant's

Versus

Union of India & others

Respondent's

To ① A. P. Sinayana, ASM, Aishbagh
555/Rha 2/4 Bhola Khara Alambagh Lucknow.

Whereas the marginally noted cases has been
Transferred by High Court Lucknow under the provision of the
Administrative Tribunal Act (No. 13 of 1985) and registered
in this Tribunal as above.

Writ Petition No. 5335/85

_____ of 198 . of the
court of High Court Lko.

arising out of order dated

_____ passed by _____

in _____

on your behalf the matter will be heard and decided in your
absence.

The Tribunal has fixed date of
25/5/1988. The hearing of
the matter.

If no appearance is ~~made~~
made on your behalf by your some
one duly authorised to Act and pled

Given under my hand seal of the Tribunal this

_____ day of 9/5/1988.

② In A. K. Gaur, Advocate
CAT, Allahabad -
dk

Ilhan
DEPUTY REGISTRAR (J)

Before the Central Administrative Tribunal
Bench at Allahabad ^A/₁₂₁ C/11

Misc. Application No of 1988

In

1507/87 (T)

Regn. No. 1185 and 12252 of 1987 (T)

A. P. Srivastava vs Union of India & Ors.

To

The Honble vice-chairman & other members of the Honble Tribunal Bench at Allahabad

The respondent Union of India most

respectfully submits as under -

Put up on
18.4.88
before Chief
as per verbal
order of Honble
A. J. Jaiswal
JMS
12.4.88

(i) That 3/5/88 was the date fixed for the hearing of the aforesaid case.

(ii) That the Honble Court on an application ordered to transfer the instant petition to Lucknow Bench for its further adjudication & had date fixed 28/4/88 for the appearance of the both parties.

(iii) That on the same day the Honble Ss A. Jaiswal & Ss G. S. Sharma had passed an order stating that in that the petition should not be transferred as there is no notification under Sec 7 of Sec 5 of the Administrative Tribunal Act XII of 1985 and as such there should be no sitting of Circuit Bench at Lucknow.

Further this order was passed on registration No 74 of 1988 (T) Ram Saran vs U. O. India

It is prayed that the order dated 7/4/88 be recalled & the copy of the same be sent to the applicant.

Anjan
Srivastava
(Counsel for Rly.)

To,
The Registrar,
Central Administrative Tribunal,
Allahabad.

C 2/2
A
122

Sir,

, Reg: Transfer of cases to Lucknow.

Respectfully, I beg to say that Writ Petition as per details given below was filed in High Court Allahabad, Lucknow Bench, the matter coming within the jurisdiction of Lucknow Bench.

It is prayed that the same may be transferred to the Lucknow Circuit Bench of the Tribunal for hearing and disposal. Prior to 3.6.80 as fixed as per your notice attached here with.

1. Writ Petition No. 3335/82 5741/83 324/84 ✓
2. Name of Parties: Petitioner AB. Sri Sankar Asst Station Master NER
Aushlagh
Vs.
Opposite Parties Union of India and others

Thanking you for the same,

Yours faithfully,

A. P. Sri Sankar

Enc:- Self addressed stamp envelop for communication of the order.

555/Kha/2/4

Bhala Khora

Alamhagh

Lucknow 5

S.O. 1
22/6

Per
6/4/88

DR 18
5/4/88

1165/87
1225/87
1507/87

20328

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
23-A, THORNHILL ROAD, ALLAHABAD-211001

*

No. CAT/A11d/

Dated

Transfer Application No. 1225 of 1987 (T)

Amrudha Prasad Sinartana APPLICANT(S)

Versus

Union of India & others. RESPONDENT(S)

Amrudha Prasad Sinartana
No. 8/0 Late Sri Mangla Prasad
Sinartana, R/o Bhola Kheda
Alambagh Lucknow.

WHEREAS the marginally noted cases has
has been transferred by High Court Lucknow under the
provision of the Administrative Tribunal 1 Act (No. 13
of 1985) and registered in this Tribunal as above.

Writ petition 5741 of
1983 of the Court of High
Court Lucknow arising out of
order dated _____

The Tribunal has fixed
date of 3/5/1988
the hearing of the matt-
er.

passed by _____
in _____

If no appearance is
MADE ON YOUR behalf by
your some one duly auth-
orised to

and pled on your behalf, the matter will be heard
and decided in your absence.

Given under my hand seal of the Tribunal
this _____ day of 3/5/1988

[Signature]
DEPUTY REGISTRAR

CIVIL
SIDE
CRIMINAL

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

A
126

Nature and number of case W.P. No. 3335 - 82.
Name of parties Ananath B. Sivasubramanian vs. Union of India
Date of institution 21-7-82 Date of decision.....

File no.	Serial no. of paper	Description of paper	Number of sheets	Court-fee		Date of admission of paper to record	Condition of document	Remarks including date of destruction of paper, if any
				Number of stamps	Value			
1	2	3	4	5	6	7	8	9
					Rs. P.			
	1	W.P. with annexes and affidavits	42	—	102-00			
	2	Power	1	—	5-00			
	3	C.M.A. 6759 (W)-82 for stay	2	—	5-00			
	4	order sheet	2	—	—			
	5	Bench copy	1	—	—			

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

To,

The Registrar,
Central Administrative Tribunal,
Allahabad Bench.

A
128

C219

Transfer application no.1225 of 1987/T
Writ Petition No.5741
A.P. Srivastava Vs. Union of India and others.

Sir,

That on my transfer application referred above
3 writ petitions were transferred to Hon'ble Central Administrative Tribunal Allahabad as under:-

3335/82	}	A.P. Srivastava Vs. Union of India & other.
5741/83		
324/84		

That on the file of writ petition 5741/83 which is
fixed by your honour on 3.5.88, the Hon'ble High Court
Lucknow Bench has passed an interim order to connect writ
petition 3335/82. Photostat copy of the order attached
herewith.

That the Writ petition 324/84 has the same similar
question of law as writ petition 3335/82 & 5741/83 and
have an important link with each other.

I therefore request you good self to connect
the above said 3 writ petition for disposal of the case
on 3.5.88.

For this act of your kindness I shall be very very
grateful.

That I am inclosing the Registered Stamped envelop
as per information for the same.

Yours faithfully,

A.P. Srivastava

(A.P. SRIVASTAVA)
ASM/ Ashbagh

555/Kha 2/4

Bhola Khera Alambagh
Lucknow-5

28.3.88

Enc Three (including one self addressed Stamped Envelope)

D R (T) for
a/c at his house

to arrange to put up
all the files before
the Hon'ble Court
for suitable order

28/3/88

S.O (T)
action immediate
order of Registrar
a/c at his house
action 28/3/88

20328

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
23-A, THORNHILL ROAD, ALLAHABAD-211001

*

No. CAT/A11d/

Dated 11/3/00

Transfer Application No. 1225 of 1997 (T)

Amrudha Prasad Sinvastana APPLICANT(S)

Versus

Union of India & others RESPONDENTS

Amrudha Prasad Sinvastana
No. 5/0 Late Sri Mangla Prasad
Sinvastana, R/o Bhola Kheda
Alambagh Lucknow.

WHEREAS the marginally noted cases has
has been transferred by High Court Lko under the
provision of the Administrative Tribunal 1 Act (No. 13
of 1985) and registered in this Tribunal as above.

Writ petition 5741 of
1998 of the Court of High
Court Lko arising out of
order dated _____

passed by _____
in _____

The Tribunal has fixed
date of 3/5/1998
the hearing of the mat-
ter.

If no appearance is
MADE ON YOUR behalf by
your some one duly auth-
orised to

and pled on your behalf, the matter will be heard
and decided in your absence.

Given under my hand seal of the Tribunal
this _____ day of 3/5/1998

[Signature]
DEPUTY REGISTRAR

As
At Sinvalas
20/3/00

130

271

अनेकज (नं. 9)

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

C.M.An.No.122258(W) of 83 in re Writ Petition No.5741 of 198
.....

Anrudha Prasad Srivastava.

Petitioner.

Vs.

Union of India through General
Manager, N.E.Railway, Gorakhpur
and others.

Opp.Parties.

Application for stay.

Lucknow:Dated:October 28, 1983.

HON'BLE MR. JUSTICE U.C.SRIVASTAVA.
HON'BLE MR. JUSTICE K.N.GOYAL.

Admit and connect with W.P.No.3335/82. List the stay application for orders before learned Single Judge, in the first week of December, 1983. In the meantime if any selection for the post of Station Master in the grade of Rs.550-750 is to be held then the case of the petitioner may also be considered in accordance with rules.

TRUE COPY

Shri Pal
Section Officer 1/10/83
Copying Department.

High Court; Lucknow Bench
LUCKNOW

Sd.U.C.Srivastava,
Sd.K.N.Goyal,
28.10.1983



Dr. S. S. S. S.

A. S. S. S.
20/11/80