

CENTRAL ADMINISTRATIVE TRIBUNAL
Circuit Bench, Lucknow
Opp. Residency, Gandhi Bhawan, Lucknow

INDEX SHEET

CAUSE TITLE T.A. No 1160/ of 1987 (T)
W.P. No - 3674/87

NAME OF THE PARTIES

Sri R. N. Gupta

Applicant

Versus

D. C. J.

& Respondent

Part A, B & C

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23-	A. Affidavit	A

Certified that no further action is required to be taken and that the Cause list for Cause No. 12 of 1987 is ready for disposal.

Sd/-
[Signature]

CENTRAL ADMINISTRATIVE TRIBUNAL
Circuit Bench, Lucknow
Opp. Residency, Gandhi Bhawan, Lucknow

APPLICATION No. _____ of 19

TRANSFER APPLICATION No. T A.N. 1160 of 1987 (T)

OLD WRIT PETITION No.: W P. No. 3 674 of 1983

CERTIFICATE

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

Dated : 17/12/91

COUNTER SIGNED :

Signature of the
dealing Assistant

Section Officer/Court Officer.

GENERAL INDEX

CIVIL

SIDE

Chapter XLI, Rules 2, 9 and 15

CRIMINAL

Nature and number of case W.P. No. 3674-83.Name of parties Brahma Ram Gupta vs. Union of IndiaDate of institution 18.7.83.

Date of decision _____

File	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 Annexure and affidavits	27-	-	102.00.			
	2-	Powers	1-	-	5.00.			
	3-	Cmd. 7670(W) 883. forslly	2-	-	5.00	-		
	4-	order sheet	3	-	-			
	5-	Bund Copy	1-	-	-			

I have this _____ day of _____ 1977, 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.

Date _____

Munsarim
Clerk

IN THE HON'BLE HIGH COURT OF ALLAHABAD,
(Lucknow Judicature)

WRIT PETITION NO. 1 OF 1983.

2674

Bramha Nand Gupta.

...Petitioner.

Versus

Union of India and others.

...Opposite Parties.

I N D E X

<u>Sl. No.</u>	<u>Description of papers.</u>	<u>Number of pages.</u>
1.	Writ petition.	... 1 to 11.
2.	<u>ANNEXURE NO.1.</u>	
	True copy of the suspension order...	12-13
2.	<u>ANNEXURE NO.2. and 3</u>	
	True copy of the representation.....	14-17 18-19
4.	<u>ANNEXURE NOS. 4 & 5.</u>	
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5.	<u>ANNEXURE NO.6.</u>	
	True copy of the representation dated 3.4.83.	... 24-25
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8.	Application for stay.	... 29-30

Lucknow, dated.

July 18, 1983.

P. N. Mathur

(P.N. MATHUR)

Advocate.

COUNSEL FOR THE PETITIONER.

A-1

IN THE HON'BLE HIGH COURT OF ALLAHABAD,

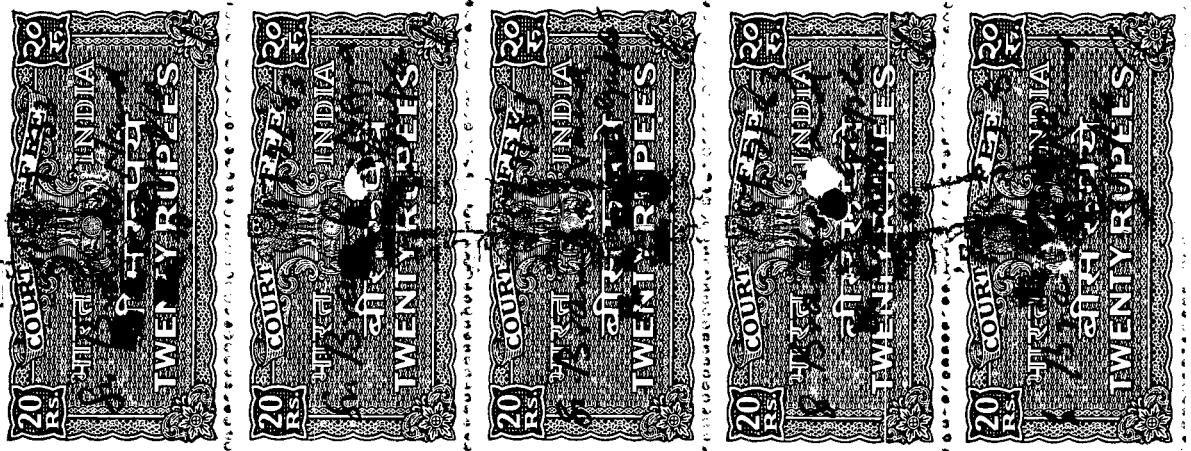
(Lucknow Judicature)

3674

WRIT PETITION NO. OF 1983.

PETITION UNDER ARTICLE 226 OF THE

CONSTITUTION OF INDIA.



SCF-1008-

Ran
15-12-83

Bramha Nand Gupta son of late Sri Ram Swarup

Gupta, resident of C-339, Niralanagar,

Lucknow.

...Petitioner.

Versus

1. Union of India through the General Manager,
North-Eastern Railway, Gorakhpur.
2. Divisional Engineer No. 1, North-Eastern
Railway, Lucknow Junction.
3. Senior Divisional Engineer, North-Eastern
Railway, Lucknow Junction, Lucknow.

....Opposite Parties.

The petitioner respectfully submits as under:-

- Signature*
1. That this writ petition is directed against the

(6)

Recd copy for of no 1003

Chandra

15/7/83 AS

In Chandra
AS

~~undressed~~

Give Rs 100/-

Final

2011. ~~Final Court fee~~

with ~~made on receipt of lower~~

~~and record~~

~~in the case~~

copy of P.C.

~~to be filed~~

11. Date

Last Imp Order No 1323-82

Dist. Lucknow

Inbnd

15/7/83

2

15/7

Honble U. S. Singh, J.

Honble Kamleshwar Nath, J.

learned counsel

for the opposite parties

prays for sometime

to file counter affidavit.

Counter-affidavit may be

filed within six weeks.

Rejoinder-affidavit may

-2-

be filed within two weeks thereof. The case shall be listed thereafter for admission hearing. In the meantime if within a period of three weeks the charge sheet is not issued to the petitioner, the further operation of the suspension order dated 22-3-82 contained in Annexure-1 shall remain suspended.

SS

Indr

10-7-83

suspension order dated 22.3.1982 passed against the petitioner in disregard of the Law and the Rules.

2. That the petitioner is Inspector of Works Grade II in the North-Eastern Railway and is posted at Bahraich.

3. That the petitioner has an unblemished record of service and prior to his suspension there had been no complaints against his work.

4. That all of a sudden on 10.5.1982 the petitioner received a suspension order from opposite party No.2 dated March 22,1982 suspending the petitioner from his post of Inspector of Works with immediate effect. A true copy of the said suspension order is ANNEXURE No. 1.

5. That in the said suspension order there is no reference to any charge or allegation against the petitioner and therefore he has not been able to know so far as to what impelled the authorities to suspend him.

6. That the Appointing Authority of Inspector of Works was the Deputy Chief Engineer at the time of the appointment of the petitioner. Now the same powers are being exercised by the Additional Chief Engineer. The Divisional Engineer is lower in rank than the Additional Chief Engineer or the Deputy Chief Engineer.

15/5
[Signature]

A-3

-3-

7. That as stated above the Divisional Engineer was not competent to suspend the petitioner.

8. That in spite of several requests having been made by the petitioner, he has not been informed of the charges against him, nor any formal charge-sheet has been served on him although the suspension order was passed on 22.3.1982.

9. That under the Railway Servants (Discipline and Appeal Rules, 1968, a railway servant may be placed under suspension by the Appointing Authority even where disciplinary proceedings against him are contemplated. The relevant Rule 5 is reproduced below in so far as it is relevant.

"5. Suspension:-

(1) A railway servant may be placed under suspension:-

(a) Where a disciplinary proceeding against him is contemplated or is pending; or

(b) Where, in the opinion of the authority competent to place a railway servant under suspension, he has engaged himself in activities prejudicial to the interest of the security of the State; or

(c) Where a case against him in respect of any criminal offence, is under investigation

Signature

A-4

-4-

inquiry or trial.

(2), X X X X X"

10. That Rule 4 of the said Rules enumerates the authorities which are competent to place a railway servant under suspension. Rule is reproduced below:-

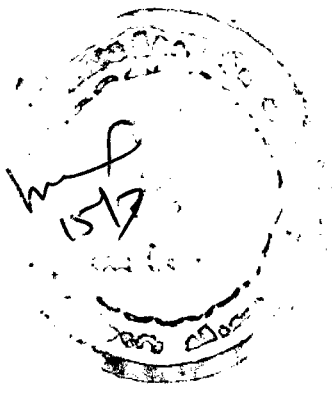
"4. Authorities competent to place a railway servant under suspension:-

The classes of railway servants who may be placed under suspension and the authorities by whom they may be so placed, shall be as specified in Schedules, I, II and III.

Provided that, in exceptional circumstances, any authority specified in any of the Schedules may place any subordinate railway servant specified therein, under suspension,

Provided further that that where any action is taken under the foregoing proviso, the authority concerned shall forthwith report to the authority competent to place such railway servant under suspension, the circumstances in which the order was made and obtain his approval.

Explanation:- For the purposes of this Rule, in respect of a railway servant officiating in a higher post, the competent authority shall be determined with reference



Signature

A-5

-5-

to the officiating post held by such railway servant at the time of taking action.

11. That upon a consideration of Schedule I of the said Rules it would appear that all classes of non-gazetted railway servants may be suspended by the head of office. The head of the office is the Chief Engineer under whom Inspector of Works are employed. The head of the office is the head of the Department. The Divisional ENGINEER is not the head of the Department but is subordinate of the Chief Engineer who is the head of the office. The next higher officer is the General Manager whose approval is to be obtained after the orders of suspension are passed. The petitioner believes that no such approval was obtained from the General Manager as none is mentioned either in the order contained in Annexure No. 1 or any order communicated to the petitioner.

12. That the petitioner is advised to state that the orders of the Railway Board are also Law and all subordinate authorities are bound by the same. The powers of suspension given in Rule 5 are controlled by the directions given by the Railway Board from time to time.

13. That the Board by its letter No. E/301/30/4/

Signature

A-6

-6-

E/301/30/4/18/12 (II) dated 28.1.1971 communicated to all departments of the Railways that the power of suspension was to be exercised cautiously if within three months of the date of suspension the chargesheet was not served on the railway servant, the suspension order should ordinarily be revoked. The said order is quoted below:-

" InBoard's confidential letter No. E (D & A) 65 RG 6-44 dated 8.7.66, it was inter alia laid down that in cases of Railway Servants under suspension, the investigation should be completed and a chargesheet filed in a Court of competent jurisdiction in cases of prosecution, or a chargesheet served on the Railway servant in cases of departmental proceedings, within six months as a rule.

2. In partial modification of the aforesaid orders, it has been decided that every effort should be made to file the chargesheet in the Court or serve the chargesheet on the Railway Servant, as the case may be, within three months of the date of suspension and in cases in which it may not be possible to do so, the Disciplinary Authority should report the matter to the next higher Authority.

3. The Board desire that the above instructions should be brought to the notice of all



Signature

Disciplinary Authorities for compliance.

4. It may be added that the information called for in Board's letter of even number dated 9.1.71 is still required and may be furnished to this office at the earliest."

14. That apart from the aforesaid directions of the Railway Board, it is submitted that all actions taken by the authorities have to be just, reasonable and equitable. If the action does not come within the imperative which is hit by Article 14 of the Constitution of India and is void.

15. That inordinarily long suspension of the petitioner from 22.3.82 till now without serving any chargesheet on him or informing him of the reasons for his suspension is wholly arbitrarily and unjust and therefore it is contrary to the spirit of Article 14 of the Constitution of India. It is not permissible under the law to keep any railway servant under suspension for an indefinite period without disclosing any reason for the same.

16. That the petitioner believes that he has been suspended to punish him in an illegal manner on account of the personal vendetta of some officer

15/7

Signature

of the Vigilance Department who could not substantiate any of the charges which he intended to level against the petitioner. It has been a long practice of the Railways that whenever any matured or dry tree is to be disposed of, preference is given to Railwayservants who may be interested in purchasing the same. One Shishamdry and matured tree existed in the Railway yard at Bahraich. The sale of the said tree was sanctioned by the Assistant Engineer in favour of the Stenographer of the Divisional Engineer. In compliance of the said order the tree was sold. Some officer of the vigilance department thought that the sale had been illegally made and he ordered investigation to be made. The Railway Protection Force after investigation submitted a final report which was accepted by the Railway Magistrate Gonda. This should have ended the matter, but it appears that the petitioner's suspension is being prolonged indefinitely without any attributable reason.

17. That after waiting for a long time the petitioner made a representation dated 22.6.82 to the Divisional Rail Manager (Engineering) North-Eastern Railway, Lucknow, to consider the matter and revoke the suspension. A true copy of the said representation is ANNEXURE NO.2.

Signature

18. That thereafter several reminders were sent on various dates to the various authorities, copy of which are ANNEXURES 3, 4 and 5. A representation under Rule 18 was made to the General Manager North-Eastern Railway Gorakhpur on 3.4.83, a true copy of which is ANNEXURE NO. 6. But so far no action has been taken and neither of the authorities have revoked the suspension order which is continuing.

19. That as a result of the suspension order the petitioner is suffering in many ways. Firstly, he is receiving much lesser emoluments; secondly, so long as the suspension order lasts he cannot be considered for promotion on the next higher post, thirdly, it publicly stigmatizes him although he is not at fault; and fourthly it is mentally torturing him for an indefinitely long period.

20. That finding that the petitioner is not getting justice anywhere he is filing this writ petition on the following:-

-G R O U N D S-

A. Because the suspension order is illegal and without jurisdiction as the authority passing it is not competent to suspend the petitioner

B. Because the suspension order is unreasonable



S. K. Singh

-10-

unjust and illegal as it is not based on any grounds and none of the grounds have been disclosed so far.

- C. Because in the absence of the disclosure of any ground for suspension or the framing of any chargesheet within 3 months, the suspension order is wholly arbitrary, without jurisdiction and void.
- D. Because there is no power to continue a suspension order for an indefinite period.
- E. Because the appeal preferred under Rule 18 to opposite party No. 3 should have been disposed of within a reasonable time that having not been done, the continuance of the suspension order is illegal.

The petitioner, therefore, prays as under:-

- (i) That a writ, direction or order in the nature of certiorari may be issued quashing the suspension order dated 22.3.1982 contained in Annexure 1 to the writ petition.

- (ii) That in the alternative opposite parties 1 and 3

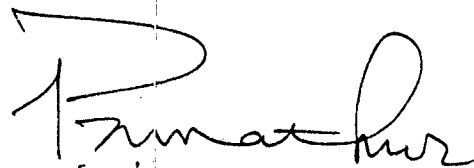
Agenda

may be directed to dispose of the appeal in the nature of representation made by the petitioner on 22.6.82 and 3.4.83 contained in Annexures 2 and 6.

- (iii) That a writ, direction or order in the nature of mandamus may be issued to opposite parties to revoke the suspension order forthwith, and
- (iv) Costs of the writ petition may be allowed to the petitioner.

Lucknow, Dated.

July , 1983.



(P.N. MATHUR)

Advocate.

COUNSEL FOR THE PETITIONER.

12

A-12

IN THE HON'BLE HIGH COURT OF ALLAHABAD,
(Lucknow Judicature)

WRIT PETITION NO. OF 1983.

Bramaha Nand Gupta.

....Petitioner.

Versus

Union of India and others.

....Opposite Parties.

ANNEXURE NO.....1.

No. W/DEN/I/LJN/ENG/IOW/Vig/82

Dated March 22, 1982.

Name of the Railway Administration

(Place of issue)

Divl. Rly. Manager (M) LJN

ORDER.

Whereas Disciplinary proceedings Whereas a case against

against Sri B.N Gupta.

Shri B.N. Gupta, IOW/Gr. II/BRK

IOW/Gr. II/Bahraich.

(name and Designation of the

(Name & Designation of the Rly. Rly Servant) in respect of

Servant) as contemplated/pending/ Criminal Offences under

investigation/trial.

Now the President/The Rly Board/the undersigned

(The authority competent to place the Rly servant under suspension

in terms of the Schedules I, II, & III appended to the Discipline

and Appeal Rules 1968 or any lower authority) in exercise of

the powers conferred by Rule 5 of Dar 1968 hereby place the said

Shri B.N. Gupta/ IOW/Gr. II/BRK under suspension with immediate

effect/with effect from 22.3.1982.

-2-

The employee will be paid susistance allowance
asadmissible under Rules.

Sd/- R.C.K.Nagrani.

Divisional Engineer)I/I/LJN

22.3.82.

Name and designation of the suspended
Railway Servant.

Copy to:- HC/C-II HC/Bills in office.

Thr: EN/HRK/ Party Concerned.

Received suspension memo No. W/DEN/I/LJN/Eng/ION/Vig-
82 dated 22.3.82 issued by DEN/I/LJN (Sri R.G.K.Nagap1

Sd/- B.N.Gupta.

ION/BRK/10.5.82.



Signature

IN THE HON'BLE HIGH COURT OF ALLAHABAD,
(Lucknow Judicature)

WRIT PETITION NO. OF 1983.

Bramha Nand Gupta.

...Petitioner.

Versus

...Opposite Parties.

ANNEXURE NO. 2...

To,

The Divisional Rail Manager (Engg)
N E. Railway.
Lucknow.

Subject: Representation against the order of suspension
vide letter No. W/DEN/L/LJN/ENG/ION/Vig/82
dated 22.3.82 delivered on 10.5.82.

Respected Sir,

With due respect I wish to draw your kind attention
towards the following lines for judicious consideration
and immediate decision.

That I was placed under suspension with effect from
22.3.82 without any valid reason. So far as I guess a
baseless complaint was lodged some time by one Sri Haveli
Singh a Railway Commercial Plot Holder against whom I
filed a regular suit in the Court of Munsif Magistrate
(i) Bahraich case No. 261 of 1981 on behalf of Railway
on account of damaging 2000 Nos. newly planted plants.
And thus being prejudiced due to frequent reports by me
vide my letter No. W/25/G dated 28.9.78, No. 9W/25/G/Tree
dated 13.12.78, No. W/7/G dated 11.9.79 etc.

Inspection note of Senior Divisional Engineer

1515

Signature

A15

-2-

Lucknow No. W/567/1/LJN/19/W-1A dated 16.2.82 regarding the area occupied by Shri Haveli Singh for commercial plot. I replied for the recovery of Rs. 12700/- from Sri Haveli Singh regarding non-compliance of Railway Rules and more area occupied than allotted to him.

Shri Haveli Singh called the vigilance organisation against myself who took wrong direction of the said man (Shri Haveli Singh) In this connection despite facts, documentary evidence and my clarification, this suspension came in force with effect from 22.3.82. It is on baseless charges violating provisions of D.A.R. It is on Rules No. 9 and Public Servants Enquiry Act; hence the suspension order should be withdrawn with immediate effect.

That the entire documents and evidence concerning complaint of Sri Haveli Singh has already been taken away by Dy. EVO (E) Gorakhpur and I cannot destroy his evidence now, nor there is any likelihood in this connection which created a lurking fear in the mind of disciplinary authority regarding spoiling their case by the accused employee. Thus the suspension is not at all necessary in this case and the disciplinary proceedings can be initiated without the order of suspension, hence the rules regarding suspension have been lavishly violated in my case and as such the suspension order may be withdrawn immediately.

That an F.I.R. has been given by Sri S.P. Singh and Sri F.B. Pal the C.V.I's who got the direction by Dy. EVO(E) Gorakhpur. who conducted the enquiry of the complaint lodged by Sri Haveli Singh regarding Shaisham trees. Now the case has been given to the Court of Railway Magistrate Gonda through R.P.F. Department, case No. 6 of 1982. An



Signature

enquiry officer was deputed to enquire the case from R.P.F. Department. After conducting the enquiry the final report given by R.P.F. to the Court of Railway Magistrate Gonda, the final report accepted by him as such the suspension may be cancelled.

But sorry to say no where the employee is placed under suspension until a prima facie case is made out against the employee and entire proceedings are to be done departmentally. But to my utter surprise I am now seeing some thing far away from law and justice.

That it is well known to all who go through the legal books that an enquiring authority should consider every pros and cons on a particular issue on which he relies but the Dy. EVO (E) Gorakhpur failed to consider my arguments and clerifications at the very time when he was at Bahraich and gave me rude replies which reveals, as if he is conducting the enquiry Exparty which is quite unjust and wrong.

On the basis of above naked facts and justified reasons I fervently request your goodself kindly to consider my representation with an open mind and issue orders for cancellation of the said order of suspension issued wrongly against me. Further I would request that an per Railway Board's order No. E D& A) 70C dated 22.7.71 the employee under suspension should be served with memorandum within three months from the date of suspension and if it is not possible matter should be brought to the notice of next higher authority.

It is further prayed that revision regarding enhancement of subsistence allowance was also not done

15/7

S. S. S.

17

-4-

uptill now as required vide Para 2043 of Establishment Code Volume II due to which I am termented financially besides suspension in these hard days of financial crysis.

My children are studying in final year of Intermediate and M A. hence requested to kindly allow me to remain at Bahraich for one year only.

Thanking you.

Yours faithfully,

(B.N. Gupta)

Inspector of Works.
NE. Railway Bahraich,
Pin Code 271801

Dated 22.6.82.

hup
15/7

B.N. Gupta

A 18

IN THE HON'BLE HIGH COURT OF ALLAHABAD,
(Lucknow Judicature)

WRIT PETITION NO. OF 1983.

Bramha Nand Gupta.

...Petitioner.

Versus

...Opposite Parties.

ANNEXURE NO. 3.

To,

The Sr. D.E.N. ,
N.E. Railway,
Lucknow.

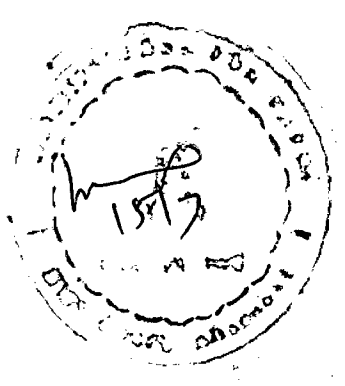
Respected Sir,

Sub: Appeal under Rule 18 of DAR' 68
against the order of suspension
order.

Ref: DEN/I/LJN No. DEN/I/LJN/Eng.IOM/
Wig/82 dt. 22.3.1982 (received on
10.5.82.

I beg to appeal against the order referred to
above, by which I have been placed under suspension
w.e.f. 22.3.82 on amonfst the following grounds:-

- (a) That the suspension order is not in confirmity
with the provisions contained in Rule 5 of
DAR 68 in as much as:-
- (a) It is having retrospective effect. I was under
RMC w.e.f. 22.3.82 to 9.5.82 and resumed on
10.5.82. The period from 22.3.82 to 9.3.82,
therefore cannot be treated as under suspension
was being sick. Order of suspension was issued
and delivered to me in terms of Rule 26 of
DAR 68. on 10.5.82.
- (b) No memorandum of major penalty followed the



Signature

A-19

-2-

suspension order till date, although under normal rules it should follow in terms of Rules 5 (1) (a) of DAR 68.

- (2) That the orders have been issued it transpires on the basis of malafide action, as will be evident from my applications dated 22.6.82 and 16.12.82.
- (3) That by uncalled for action, I am looking financially and mentally too for no fault of mine.
- (4) That my presence in my place of work would not prejudice any case alleged to be against me.
- (5) That there is no ~~prima facie~~ case against me which may require any DAR enquiry against me.
- (6) That the order of suspension is not in proper form as envisaged under rules.

Under the above circumstances, I most respectfully pray that the order of suspension be withdrawn immediately, latest within a fortnight, otherwise I will be forced to take further necessary action.

With regards.

Yours faithfully,

Dt. 28.1.83.

(B.N. Gupta)
I.O.W. Bahraich.

1517
Signature

A-20

IN THE HON'BLE HIGH COURT OF ALLAHABAD,

(Lucknow Judicature)

WRIT PETITION NO. OF 1983.

Bramha Nand Gupta.

...Petitioner.

Versus

Union of India and others.

...Opposite Parties.

ANNEXURE NO. 4.

To,

The Divisional Engineer/I,
North Eastern Railway,
Lucknow Jn.

Sub:- Revocation of suspension.

Ref:- Your letter No. W/DEN/I/LJN/Eng/IOW/Vig/22,
dated 22.3.1982 delivered on 10.5.1982.

Sir,

With reference to the above I have the honour to remind you again that no charges were framed against me upto now and communicated to me. It seems as if there is no prima facie case stands against me and I am unnecessarily been put under suspension with effect from 22.3.82 due to which I am undergoing financial trouble and mental torture in these hard days of financial crisis.

In these circumstances, I fervently request to your goodself to kindly review the case once again

and issue orders to revoke my suspension with effect for which I shall be grateful.

Yours faithfully,

Dt. 22.9.82.

Sd/- B.N. Gupta,
Inspector of Works, N.E. Railway,
Bahraich.

A/26

Copy forwarded for information and necessary
action to the:

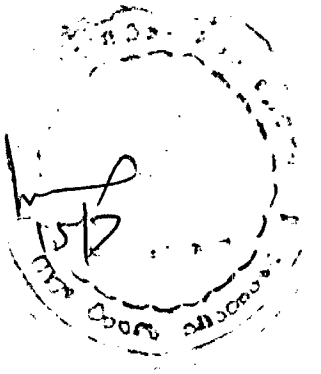
1. Chief Vigilance Officer, N.E. Railway, Gorakhpur.
2. General Manager North Eastern Railway, Gorakhpur.
3. Director Vigilance Railway Board, New Delhi.
4. Minister for Railways, Rail Bhawan, New Delhi.
5. Divisional Railway Manager, North Eastern Railway.

Lucknow Jn.

Sd/- B.N. Gupta.

Inspector of Works
N. E. Railway.

Bahraich



Signature

A-22

IN THE HON'BLE HIGH COURT OF ALLAHABAD,
(Lucknow Jurisdiction)

WRIT PETITION NO. OF 1983.

Bramha Nand Gupta.Petitioner.

Versus

Union of India and others.Opposite Parties.

ANNEXURE NO.....5

To,

The Divisional Engineer/I,
North Eastern Railway,
Lucknow Jn.

Sub:- Revocation of suspension.

Ref:- Your letter No. W/DEN/I/LJN/BNG/IOW/Vig/82,
dated 22.3.82 delivered on 10.5.1982.

Sir,

With reference to the above I have the honour to remind you again that no charge were framed against me upto now and communicated to me. It seems as if there is no prima facie case stands against me and I am unnecessarily been put under suspension with effect from 22.3.82, due to which I am undergoing financial trouble and mental torture in these hard days of financial crisis.

In these circumstances, I fervently request to your goodself to kindly review the case once again and issue orders to revoke my suspension with immediate effect for which I shall be grateful.

Yours faithfully,

Sd/- B.N.Gupta.

Inspector of Works, N.E.Railway
Bahraich



B.N. Gupta

A-23

Copy forwarded for information and necessary action
to the following:-

1. Chief Vigilance Officer, N.E. Railway, Gorakhpur.
2. General Manager, North Eastern Railway, Gorakhpur.
3. Director Vigilance, Railway Board, New Delhi.
4. Divisional Rail Manager, N.E. Railway, Lucknow.

Sd/- B.N. Gupta.
Inspector of Works
N.E. Railway.
Bahraich.

15/7

Signature

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IN THE HON'BLE HIGH COURT OF ALLAHABAD,
(Lucknow Judicature)

WRIT PETITION NO. OF 1983.

Bramha Nand Gupta,

...Petitioner.

Versus

...Opposite Parties.

ANNEXURE NO....6.

To,

The General Manager,
N E.Rly.
Gorakhpur.

Subject:- Representation against prolonged suspension without basis.

Ref: Suspension Order No. DEN/LJN/Feg./IOW/Vig/82 dated 22.3.82 served on 10.5.82.

Respected Sir,

I wish to draw your honours kind attention towards a unique case of necessary suspension of the applicant which started from 22.3.82 uptill now. A period of more than one year has passed and no charge sheet was served on me to explain my position. It seems as if there are no charges but still my suspension is continuing without any valid reason. Representation against above cause were made by me to DEN/I/LJN and CE/GKP- Took interview with above authorities including Sr, DEN/LJN and explained every thing but I am at a loss to understand that everyone turned a deaf ear against my cry. Now I am of the opinion to knock the door of justice and before going to the Court I am taking the liberty to see you with

1515

[Signature]

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the hope that you will perhaps listen to me and will
do justice.

Thanking you in anticipation.

Yours faithfully,

(B.N. Gupta)
I.O.O./ Bahraich.

Dated. 3.4.83.

(under Suspension)

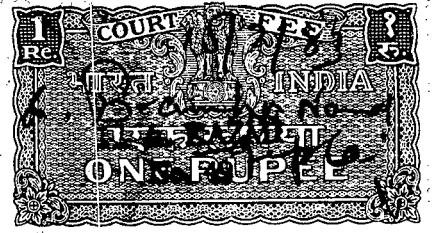
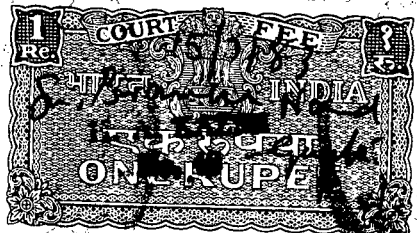
mf
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Signature

1/26

IN THE HON'BLE HIGH COURT OF ALLAHABAD,
(Lucknow Judicature)

WRIT PETITION NO. OF 1983.



Bramha Nand Gupta,

...Petitioner.

Versus

Union of India and others.

...Opposite Parties.

A F F I D A V I T

I, Bramha Nand Gupta, aged about 51 years, son of Late Sri Ram Swarup Gupta, resident of C-339, Niralanagar, Lucknow, the deponent do hereby state on oath as under:-

1. That deponent is the petitioner in the above noted writ petition and is well conversant with the facts of the case.
2. That the contents of paras 1 to 3, 5 to 8 and 16 of the writ petition are true to my own knowledge, contents of paras 4, 13, 14, 17 and 18 are believed by me to be true while the contents of paras 9 to 12, 15, 19 & 20 are believed by me to be true on the basis of legal advice received from my counsel.

3. That Annexures 1 to 6 of the writ petition are true copies of its originals which have been compared by me. ✓

July 15, 1983.

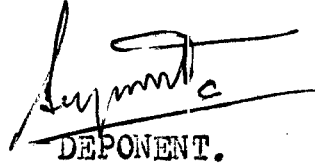
[Signature]
DEPONENT.

15/7/83

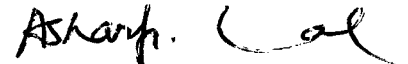
[Signature]

A/27

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



DEPONENT.


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


Clerk of Sri P.N. Mathur
Advocate.

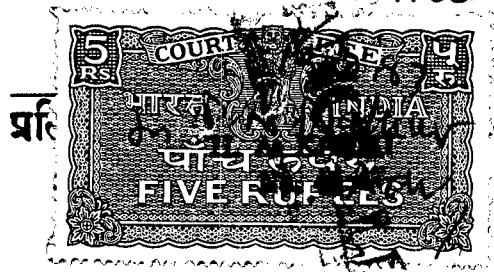
Solemnly affirmed before me on 15.7.83
at 10.55 AM the deponent who is identified by
Sri Asharfi Lal Clerk of Sri P.N. Mathur
Advocate, High Court, Lucknow Bench, Lucknow.

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


37/36/1
15.7.83


15/7/83

A-28
In the Hon'ble High Court of Judicature
ब अदालत श्रीमान at Allahabad (Lucknow Bench) Lucknow



वकालतनामा

10/- = 5/-

Ran 15-2-23

In. Brama Nand Gupta Petitioner
वादी (मुद्दे)

Union of India & others opp. parties
प्रतिवादी (मुद्दे)

नं० मुकद्दमा सन् १६ पेशी की ता० १६ ई०
ऊपर लिखे मुकद्दमा में अपनी ओर से श्री P.N. Mathura

Advocate - A.K. Jauhari 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 इक्बाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्ष (फरीकसानी) का दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त (दस्तखती) रसीद से लें या पंच नियुक्त करें - वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी स्वायं या किसी अपने पैरोकार को भेजता रहूँगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरी वकील पर न होगी। इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर... [Signature]

साक्षी (गवाह)..... साक्षी (गवाह).....

दिनांक..... महीना

नाम अदालत
नं० मुकद्दमा
नाम फरीकैन

Accepted
[Signature]

A 29

3/1

IN THE HON'BLE HIGH COURT OF ALLAHABAD,
(Lucknow Judicature)

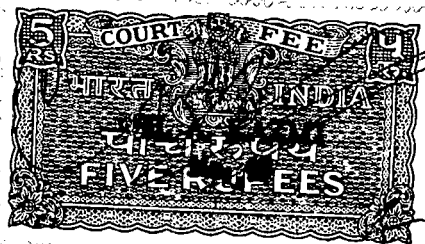
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C.M. APPLICATION NO. OF 1983.

In re:

3674

WRIT PETITION NO. OF 1983.



147 MS =
147/83

Bramha Nand Gupta, son of Late Sri Ram Swarup
Gupta, resident of C-339, Niralanagar,
Lucknow. ...Petitioner.

Versus

1. Union of India through the General Manager,
North-Eastern Railway, Gorakhpur.
2. Divisional Engineer No. 1, North-Eastern
Railway, Lucknow Junction.
3. Senior Divisional Engineer, North. Eastern
Railway, Lucknow Junction, Lucknow.

....Opposite Parties.

APPLICATION FOR STAY.

For the facts and circumstances mentioned in the

Pmz

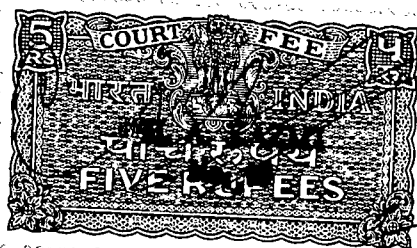
A 29

IN THE HON'BLE HIGH COURT OF ALLAHABAD,
(Lucknow Judicature)

C.M. APPLICATION NO. 767065 OF 1983.

In re:

WRIT PETITION NO. 3674 OF 1983.



Bramha Nand Gupta, son of Late Sri Ram Swarup
Gupta, resident of C-339, Niralanagar,
Lucknow. ...Petitioner.

Versus

1. Union of India through the General Manager,
North-Eastern Railway, Gorakhpur.
2. Divisional Engineer No. 1, North-Eastern
Railway, Lucknow Junction.
3. Senior Divisional Engineer, North-Eastern
Railway, Lucknow Junction, Lucknow.

....Opposite Parties.

APPLICATION FOR STAY.

For the facts and circumstances mentioned in the

Pr

Recd copy

Chande
18-7-83 BSV

Hon'ble Mr. Sivasubramanian
Hon'ble Kameshwar Nath

In orders see our
order of date passed
on the with petition

Shankar W

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ms

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writ petition further operation of the suspension
order dated 22.3.1982 contained in Annexure No. 1
may be stayed till the disposal of the writ petition.

Lucknow, Dated.

July , 1983.

P.N. Mathur

(P.N. MATHUR)

Advocate.

COUNSEL FOR THE PETITIONER.

To,

The Additional Registrar
High Court -
Lucknow
W.P. 3674/83

Brahma Mand Gupta
V/s
Union of India

Sir,

With due respect I beg to state
that my W.P. 3674/83 is lying in the Allahabad
High Court Lucknow for hearing. I am
under suspension since March 1982.

I shall request your honour to kindly
arrange to have my name in the cause
list as early as possible.

Thanking you

Yours faithfully,
Supriya

Date 23/11/84. (Brahma Mand Gupta
c-339 Nisals Nagar
Lucknow)

Report

The Court in his order dated 24-84
has ordered to list the W.P. for final hearing
in Case counter and Refunder Affidavit
is filed within a period of 2 weeks.
The time has expired for filing Refunder
Affidavit. The case is of 1983 and there
is no order to list early. Submitted.

Subscribed
23/11/84

80 (ms)

Report with
file & income

23/11/84

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P. No. 3674 of 1983

23.

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
18-7-83	<p>Hon U.C. Sivaraj, ></p> <p>Hon Kamleshwar Nath, ></p> <p>learned Counsel for the off. party — — —</p> <p>Contained in Annexure shall remain stayed.</p> <p>Sd. U.C. Sivaraj</p> <p>Sd. Kamleshwar Nath</p> <p>18-7-83</p>	
18-7-83	<p>C.M. An N 07670 CW 83</p> <p>Hon U.C. Sivaraj, ></p> <p>Hon Kamleshwar Nath, ></p> <p>For orders, see our order of date passed on the W.P.</p> <p>Sd. U.C. Sivaraj</p> <p>Sd. Kamleshwar Nath</p> <p>18-7-83</p>	

PO
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Df 20003

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
8/10/23	20.9.23 fixed main CMA 7670/23 of 23 Hou KESR Hou KMA	fo
10 7- 23	Fixed with main CMA 7670/23 Hou KESR Hou KMA	
7.11.83	Admiral counter affidavit may be filed within six weeks. Rejoinder affidavit may be filed within two weeks thereof. List the stay application for orders before the learned Single Judge immediately thereafter. In the meantime the earlier interim orders shall continue.	
	K	

7-11-83
K

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 3174 of 1983

25.

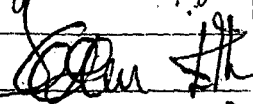
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4/2

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
	27-1-84	
	13-1-84 fixed in	
2 1/84	cmr 2670 cm 13 for	Appr 7.1.84
27/2/84	order	cr. 2
	HON DUNN	
	In spite of time having been allowed no counter affidavit has been filed. It is, therefore, ordered that this writ petition itself will be listed for admission and at that time confirmation of the stay order dated 18.7.1983 may be considered by a Division Bench.	
		3.2.1984
10 2/84	Report	
	Writ - Petition has already been admitted on 7.11.83.	
		1.1.1984
28/2/84	20-2-84 fixed in cmr 2670 cm 13 for order	
	22-2-84	10.2.84

HON K.M. Loya
Hon J.M.M.

SP

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
24.2.84	Hon. K. N. G. G. Hon. K. N. M. G. 16-3-84 fixed in court 7:30 am 13 for review	Bench 1/10
16.3.84	Hon. D. R. Jha Hon. S. S. A. G. Wrongly listed. dist after a week before a learned single Judge.  MHS/- 16-3-84	
20.3.84 21/4/84	30.3.84 fixed in court 7:30 am 13 for review Hon. K. N. M. G.	with single
	learned counsel for the petitioner Sri P. N. Mathur has fairly considered that since charge sheet was served on the petitioner, who has also submitted his reply and disciplinary proceedings are continuing against him, and in such operation of the suspension order cannot be stayed in view	

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 3674 of 1983

25.

A/33
4/3

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
	<p>of the order dated 18-7-83 of this Court wherein it was mentioned that, "if within a period of three weeks, the charge sheet is not issued to the petitioner, the further operation of the suspension order dated 22-3-82, contained in Annexure-1001 shall remain stayed. Thus, the interim relief application ⁱⁿ for ^{became} infructuous and thus stands disposed of ^{accordingly}. The writ petition will now be heard by a Division Bench. The learned counsel for the opposite parties pray for and is allowed two weeks time to file counter affidavit. In case counter affidavit is filed, petitioner may file rejoinder affidavit within a further period of two weeks. This petition may thereafter be listed for final hearing before the appropriate Bench.</p>	
	<p>D/- 26/8/84</p>	

C-6
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In the Central Administrative Tribunal & Additional

Bench : Allahabad

.....

Application on behalf of the Respondents

In

Registration Case No. 1168 of 1987(T)

Brahma Nand Gupta Petitioner

Versus

Union of India Respondent

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1. That the present writ petition was filed in the Lucknow Bench of the Allahabad High Court by the petitioner challenging an order dated 22.3.1982 placing the petitioner under suspension.

2. That after coming into force of the Administrative Tribunals Act, 1985 the above writ petition was transferred to this Honble Tribunal under Section 29 of the Administrative Tribunals Act XIII of 1985.

3. That it is, however, not necessary to file a detailed reply to the various allegations made by the petitioner in the present writ petition and it is submitted that the order of suspension dated 22.3.1982 against the petitioner has been withdrawn by the Divisional Railway Manager (Engineering) North

:: 2 ::

Eastern Rail way Lucknow vide his order No.SDEN/LJN/SS/BNG/83/1 dated 2/3.5.1985. A copy of the order dated 2/3.5.85 is being filed alongwith this application as Annexure-1. It is further stated that the entire period of suspension has been treated as one spent on duty,

4. That in view of the facts stated above, the present writ petition has become infructuous and is liable to be dismissed.

P r a y e r

It is, therefore, most respectfully prayed that the order of suspension dated 22.3.82 having been withdrawn, the present writ petition has become infructuous and is liable to be dismissed as such.

Dated: 26.7.89,

Amit Sthalekar
(Amit Sthalekar)
Advocate

Counsel for the Respondents.

C-8

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39

In the Central Administrative Tribunal : Additional
Bench : Allahabad

.....

Annexure-1

In

Application on behalf of the Respondents

In

Registration Case No. of 198

Brahma Nand Gupta .. Petitioner

Versus

Union of India .. Respondents

- - - - -

Office of the Divl.Rly.Manager (Engg.)

N.E.Railway/ Lucknow.

No. SDEN/LJN/SS/BNG/83/1 Dt. May 2/3, 1985.

ORDER

Whereas an order placing Shri B.N.Gupta
IOW/BRK under suspension was made by the then
DEN/I, Shri R.G.K.Nagpal on 22.3.1982.

Now, therefore, the undersigned in
exercise of the powers conferred by clause (c)
of sub-rule (5) of Rule 5 of the Railway Servants
(Discipline & Appeal) Rules, 1968, hereby revokes

C-9
40.

:: 2 ::

the said order of suspension with immediate effect.

sd/- (K.P.Singh)

Divisional Railway Manager (Engg) Lucknow

Copy forwarded for information and necessary action to

1. Shri B.N.Gupta IOW (Under suspension)
2. The G.M.(Engg)/GKP in reference to PA to CE/GKP's
D.O.No.CE/SS/195(5)/LJN dated 1.5.1985.
3. The DRM(P)/LJN
4. The General Manager (Vig)/NER/Gorakhpur

sd/- (K.P.Singh)

Divisional Railway Manager (Engg) Lucknow

Attested

True copy

Amit S. Halekhan
advocate
Counsel for Respondent.

C-10

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

....

Registration T.A. NO. 1168 of 1987

Bramha Nand Gupta ... Petitioner
vs.

Union of India and ors.... Opp. Parties

Hon' Mr Justice Kamleshwar Nath, V.C.

Hon' Mr K. Obayya, A.M.

(By Hon' Mr Justice Kamleshwar Nath, V.C.)

Shri Anil Srivastava files Vakalatnama of
Shri Amit Sthalkar Counsel for the opposite parties.
He also files an application dated 26.7.89 of Shri
Sthalkar mentioning that the impugned suspension order
dated 22.3.82 contained in Annexure-I to the writ petition
has already been withdrawn by order dated 2/3-5-1985 of
the D.R.M. (Engineering), North Eastern Railway, Lucknow .
A copy of the revocation order has been annexed to
the application. In this situation, no further proceedings
are required in the present case. The petition is
dismissed as infructuous.


MEMBER (A)


VICE CHAIRMAN

(sns)

January 3, 1990.

Lucknow.

TA 1168/07(7)
WS 3674/03
:: 2 ::

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C-11

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
6/12/09	<p>Hon Justice K. Nath, V.C. <u>Hon K. J. Raman, Am.</u></p> <p>Neither the parties nor the counsel are present. Relist the case for orders on 3/1/90 and issue notice to the parties as well as to their counsel directing the opposite parties to file a counter by the date fixed.</p> <p>Am. V.C.</p>	<p>CR</p> <p>Case has been reed - on 20.04.1990, Mtd</p> <p>Case is not admitted by the stay is granted on 10.7.03</p> <p>CA/RA has not filed Date was fixed for 20.04.1990, Mtd. etc is attached. Submitted for order</p> <p>57/12</p> <p>11/2/91</p>
3/1/90	<p>Hon' Mr Justice Kamleshwar Nath, V.C. <u>Hon' Mr K. Obayya, A.M.</u></p> <p>The petition is dismissed as infructuous. Detailed orders passed separately.</p> <p>(sns)</p> <p>A.M. V.C.</p>	

2 copies
deposited
N. Nath
CLA

402 18/1/90
Dinesh

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वकालतनामा

..... Before the Central Administrative Tribunal के समक्ष
Circuit Bench Lucknow के न्यायालय में

TANo 1168 of 1987 (CAT/KO)
(COPNo 3674 of 1983)

वादी
प्रतिवादी

Brahma Nand Gupta

दावेदार
अपीलार्थी

प्रतिवादी
वादी

बनाम

Union of India

अर्जीदार
प्रत्यार्थी

भारत के राष्ट्रपति इसके द्वारा श्री Amit Shalekar Railway Admn. के

को उपर्युक्त वाद/अपील/कार्यवाही में भारत संघ की ओर से उपसंजात होने, कार्य करने, आवेदन करने, अभिवक्त करने और आगे कार्यवाही करने के लिए दस्तावेज दाखिल करने और वापस लेने, न्यायालय की आदेशिका स्वीकार करने, काउन्सेल, अधिवक्ता या प्लीडर नियुक्त करने और उन्हें अनुदेश देने, रुपया वापस लेने और उसका निक्षेप करने तथा उपर्युक्त वाद/अपील/कार्यवाही में भारत सरकार का साधारण प्रतिनिधित्व करने और भारत संघ के लिए इस प्रकार उपसंजात होने, कार्य करने, आवेदन करने, अभिवक्त करने और आगे कार्यवाही करने की अनुषांगिक सभी बातें करने के लिए नियुक्त और प्राधिकृत करते हैं। किन्तु यह इस शर्त के अधीन रहते हुए होगा कि जब तक भारत सरकार के समुचित प्राधिकारी से उस निमित्त पहले ही स्पष्ट प्राधिकार प्राप्त नहीं कर लिया गया है, तब तक उक्त काउन्सेल/अधिवक्ता/प्लीडर या उसके द्वारा नियुक्त काउन्सेल/अधिवक्ता/प्लीडर सभी या किसी प्रतिवादी/प्रत्यासी/अपीलार्थी/वादी/विरोधी पक्षकार के विरुद्ध उस वाद/अपील/दावा/प्रतिरक्षा/कार्यवाही को पूर्णतः या भागतः न तो वापस लेगा, न उसका अधिव्यजन करेगा, न ऐसा कोई करार करेगा या समझौता करेगा जिसके द्वारा वाद/अपील/कार्यवाही पूर्णतः या भागतः समायोजित की जाए और न उससे उद्भूत या उसमें विवादग्रस्त सभी या किसी विषय को मध्यस्थ को निर्देशित करेगा, परन्तु आपवादिक परिस्थितियों में जब भारत सरकार के समुचित प्राधिकारी से परामर्श करने के लिए पर्याप्त समय नहीं है और वाद में समझौता करने में लोप करना निश्चित रूप से भारत सरकार के हित के प्रतिकूल होगा तो उक्त प्लीडर/अधिवक्ता/काउन्सेल ऐसा कोई करार या समझौता कर सकेगा जिसके द्वारा उक्त वाद/अपील/कार्यवाही पूर्णतः या भागतः समायोजित हो जाय और ऐसे प्रत्येक मामले में काउन्सेल/अधिवक्ता/प्लीडर करार या समझौता करने के विशेष कारण बताते हुए उक्त अधिकारी को तत्काल संसूचित करेगा।

राष्ट्रपति इस प्राधिकार के अनुक्रम में श्री Amit Shalekar Railway Admn. के

द्वारा किए गए सभी कार्यों का अनुसमर्थन करने को सहमत हैं।

इसके साक्ष्यस्वरूप भारत के राष्ट्रपति के लिए और उनकी ओर से इस विलेख को आज तारीख को सम्यक् रूप से निष्पादित किया जाता है।

तारीख 19

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Accepted
Amit Shalekar
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Sr Divisional Personnel
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