

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH LUCKNOW

INDEX SHEET

Cause Title T.A. 1566/87 (of 19)

Name of the parties K. Ramrattan Applicants.

Versus

C.O.F.

Respondents.

Part B.C.

Sl.No. Description of documents Page

①	Order sheet	A ₁ to A ₆
②	Judgement	A ₇ to A ₉
③	Petition	A ₁₀ to A ₂₇
④	Annexure	A ₂₈ to A ₇₄
⑤	R.A.	A ₇₅ to A ₈₅

B-File

B86 to B159

Petition, Annexure

Consider -

- ① Notices No. A1 to A5.
- ② Order A6 to A7.
- ③ Notice A8 to A9.
- ④ Any paper. A10.

This file open without box. Check on 17/1/12

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

SB(S)

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P. No. 4923 of 1984

(A)

3
7

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
9.10.84	<p>Mr. D.N. Jha,</p> <p>Admit. some notice to all parties.</p> <p>sd. D.N. Jha 9.10.84</p>	
	<p>15-5-85</p> <p>Filed for attendance and for filing C-A in W.P. N.1500-P-No-1505 by R-P.</p>	
		<p><u>Bareilly</u> 10-4-85</p>

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with, and date of compliance
---------------------------------	--	---

No Siting Adj. to 12.2.90

This case has been received on transfer. Notice were issued to the counsels by the Office at Allahabad. *None is present for the applicant report.* Let notice be issued again to the *applicant* as directed by Hon'ble Mr. D.K. Agarwal, J.B.

L
11/11

OR
notice issued
17/11/90

12.2.90

No Siting Adj. to 9.4.90

J
12/11

Case was received on 17-1-90
Case is admitted.
CA/RA not filed

9-4-90

Hon P.S. Habel Mohanram
Hon J.P. Sharma J.M.

Counsel for applicant present. The respondents have taken notice and represented by *Mr. Anil Srivastava*.

Notices were issued to the applicant on 17-1-90.
No amended reply was received.
S. P.O.

Thence time is sought for by the respondents to file counter-affidavit. Learned counsel for the applicant has no objection. Affidavits may be filed within 2 weeks thereafter. List for orders on 30-8-90.

[Signature]

[Signature]

[Signature]
A.M.

OR
No CA filed.
S. P.O.
29/10

3

1506/0247

(P3)

30.9.90 Hon'ble S.K. Agrawal, JM.
K. Obayya AM

Sri Mahesh. Reed brief-holder of Sri 2. Tilani
appears for the applicant and desires for adjournment.
C.A. has already been filed. R.A. may be filed within
three weeks. Listed for hearing on 30.10.90.

(A.M.)

(J.M.)

5-11-90

Dir. to Holiday, Adjourn to
11.12.90

CA & RA have

not been filed.

S.F.H

11/12/90

Hon. Mr. Justice K. Natu, VC
Hon. Mr. K. Obayya, AM.

L
S/H

On the request of the learned
counsel for the applicant, list
for final hearing on 9/11/91 in
the meantime, the applicant
may file a rejoinder within
two weeks with a copy to the
learned counsel for the respondents.

(A.M.)

VC

9-11-91
Applicant desires
time to file
rejoinder. He
is directed to
file it by 8/2/91

8-2-91

D.R.

Both the parties are
absent today. Appli-
cant to file R.A.
by 26/3/91

OR

CA/RA have
not been filed
S.F.H

7/11/90

(D) W
S/H

(A)

(U)

T.A. No. 1566/87

26.3.91

D.R.

Respondent's side
is present. Applicant
is absent today.
R.A. has not been
exchanged.
Applicant to
file it, by 29.4.91

29.4.91

D.R.

Both the parties are
absent today. Applicant
did not file Reply
today. He is ordered
to file it, by 26/6/91.

26.6.91

D.R.

Both the parties are
absent today. Applicant
is directed to file
Reply by 12/8/91.

12.8.91

D.R.

Both the parties are
present. Counsel for the
applicant to file Reply
by 28/10/91.

5

28.10.91

D.R.

Both the parties are present. Applicant is directed to file rejoinder by 30/12/91.

✓

30.12.91

D.R.

Both the parties are present. Rejoinder has been filed today. Case is listed for final hearing on 7/2/92 before the Hon. Bench.

AKS
SO.

7.2.92 No sitting adjn 16.3.92
a

16.3.92 No sitting adjn 18.5.92
a

18.5.92 Hon Justice V.C.S, VC
Hon K of eggs, DM

on
No. CA filed
RA filed
SAM
13.5.92

No counter has been filed.

The learned counsel for the respondent Administration states that he has requested the learned counsel for the applicant to give him a copy of writ petition. List the case for hearing on 22-7-92.

✱

DM

✓

vc.

6

T.A 1566/02

22.7.92

No filing of D.B. affidavit
4.8.92

OR

No ca. filed
but R.A has been filed. S. 104
4.8.92

श्री. Mr Justice B.C. Srinivasan
श्री. Mr. K. obayya Aiyar

On the report of the
Amil Srinivasan learned Counsel
the respondent. Case no. 1566/02
do 26.8.92

S.F.O.

[Signature]

25/8/92

[Signature]

[Signature]

[Signature]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW

O.A. NO _____ 199 (L)

T.A. NO _____ 1566 / 87

Date of Decision 26/8/92

Khwaja Qamruzzamma

PETITIONER.

Khwaja Qamruzzamma

Advocate for the Petitioner(S)

VERSUS

Union of India & Others

RESPONDENT.

Advocate for the RESPONDENT(S)

CORAM

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

The Hon'ble. Mr. K. Obayya, A.M.

1. Whether Reporter of local papers may be allowed to see the Judgment?
2. To be referred to the reporter or not?
3. Whether their Lord ships wish to see the fair copy of the Judgment?
4. Whether to be circulated to other benches?

Vice-Chairman/Member

Station Master and yet he was appointed as Enquiry Officer. The applicant has certain grudge against the said Enquiry Officer and that is why he applied for change of the said Enquiry Officer. His prayer was not granted, against which he approached the higher authorities by way of appeal/representation, but that was also rejected.

2. It appears that the applicant did not participate in the enquiry and according to him it was an exparte enquiry. The Enquiry Officer recorded his findings and acting upon the same the disciplinary authorities removed him from service. The applicant filed an exhaustive deparmental appeal raising various points and pleas and also prayed for a personal hearing. The Appellate Authorities dismissed the appeal without giving a personal hearing. He filed a Review Application in which also he made a prayer for personal hearing, but that too was not granted and the review was also not granted.

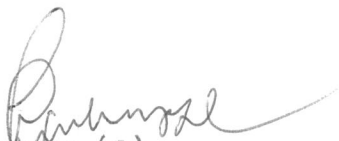
3. It was incumbent on the appellate authorities to grant personal hearing to the applicant, more so when the applicant desired it, but the same was not done. Accordingly the order passed in appeal cannot be allowed to stand and as such the ~~XXXXXX~~ order passed in appeal dated 3-4-82 is quashed with the result that the ^{order passed in} review application dated 2-4-83 is also quashed and as such the appeal is deemed to be pending. The appellate authorities shall decide the appeal within a period of 3 months taking

u

A9

-3-

into consideration all the pleas raised by the applicant. The appellate authorities shall give the applicant a personal hearing and they shall pass a speaking order may be in favour of the applicant or against him or it may be in respect of the quantum of punishment as the applicant's other grievance in respect of the punishment is that the same is excessive since for such minor charges he should not have been removed from service and that too at the fag end of his service. No order as to the cost.


Member (A)


Vice-Chairman.

Dated: 26th August, 1992, Lucknow.

(tgk)

~~XXXXXXXXXX~~

T.A. No.1566/87(T)

26-8-92 Hon. Mr. Justice U.C.Srivastava, V.C.
Hon. Mr. K. Obayya, A.M.

Judgment has been dictated in the open
Court.


A.M.


V.C.

CIVIL
 SIDE
 CRIMINAL

GENERAL INDEX

A16

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case *w.p. no. 4923-84*
 Name of parties *Khweja Damayamma v. Union of Ind*
 Date of institution *9-10-84* 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.			
		<i>1- w.p. with Affidavit and Power</i>	<i>63</i>	<i>-</i>	<i>102-00</i>			
		<i>2- Power</i>	<i>2</i>	<i>-</i>	<i>10-00</i>			
		<i>3- schedule</i>	<i>1</i>	<i>-</i>				

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.

Date.....

Munsarim

Clerk

Group - A - 14 (b) (A11)

8117

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALAHAABAD,

Lucknow Bench, Lucknow.

Writ Petition No. 4923 of 1984.

14753

Khwaja Qamruzzamma Petitioner

Versus.

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

I N D E X .

<u>Serial</u> <u>No.</u>	<u>C o n t e n t s</u>	<u>Pages</u>
1.	Writ Petition	<u>1 to 14</u>
2.	Affidavit of Petition	<u>15 to 16</u>
3.	Annexure - 1 true copy of suspension, Revokation order	<u>17</u>
4.	Annexure - 2 " Memorandum	<u>18 to 28</u>
5.	Annexure - 3 " Defence Statement	<u>29 to 30</u>
6.	Annexure - 4 " Appeal against the Enquiry Officer	<u>31 to 32</u>
7.	Annexure - 5 " Review Appeal -do-	<u>33 to 34</u>
8.	Annexure - 6 " Enquiry postponed	<u>35</u>
9.	Annexure - 7 " Enquiry officers findings	<u>36 to 39</u>
10.	Annexure - 8 " Removal order	<u>40 to 41</u>
11.	Annexure - 9 " Appeal against Removal	<u>42 to 53</u>
12.	Annexure - 9A " -do- " Rejected	<u>54 to 56</u>
13.	Annexure - 10 " Review petition	<u>57 to 62</u>
14.	Annexure - 11 " -do- Rejected by Reviewing Authority	<u>63</u>
15.	Vakalatnama	

Lucknow

Dated 3rd Oct. 1984
9th



Z. X. Jeelani

(Advocate)

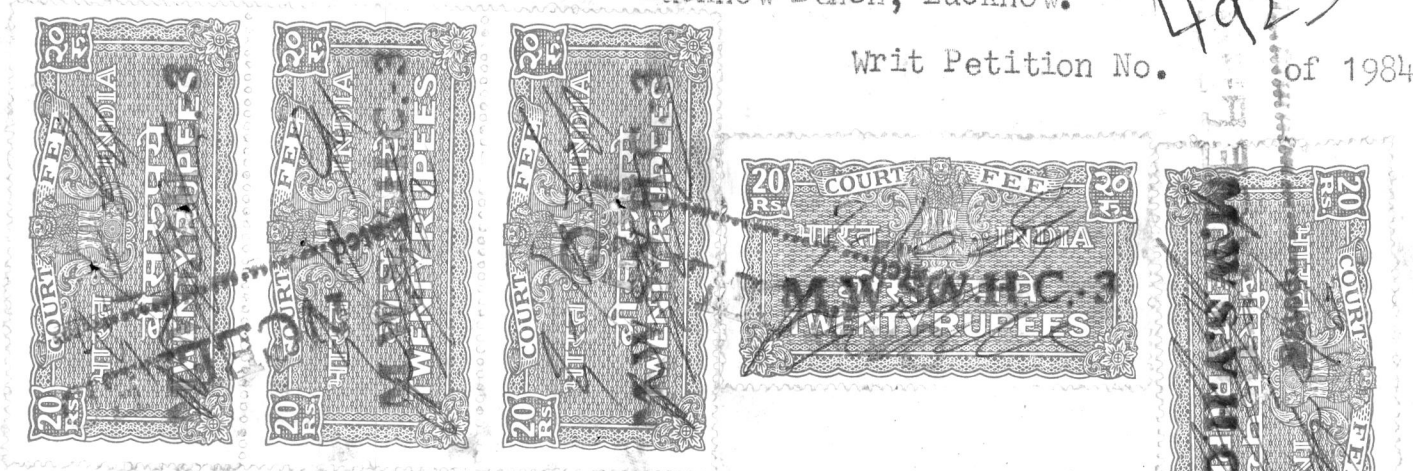
Counsel for the Petitioner

A 12

4923

Writ Petition No. _____ of 1984.

IN THE HONBLE HIGH COURT OF JUDICATURE AT ALLAHABAD,
Lucknow Bench, Lucknow.



Khwaja Qamruzzama aged about 57 years s/o
late Shri Syed Manzoore Ahsan resident of
Railway Quarter No.T-4 at Railway Station
Rudauli, Northern Railway, Distt: Barabanki
Distt: Barabanki(U.P.).

... Petitioner.

Versus.

- 1) ✓ Union of India Through the Secretary
to Government, Minister of Railways,
Rail Bhawan, New Delhi.
- 2) ✓ Divisional Railway Manager,
Northern Railway, Divisional Office,
Hazratganj, Lucknow.
- 3) ✓ Additional Divisional Railway Manager,
Northern Railway, Divisional Office,
Hazratganj, Lucknow.
- 4) ✓ Senior Divisional Operating Superintendent,
Northern Railway, Divisional Office,
Hazratganj, Lucknow.
- 5) ✓ Shri V.P. Trivedi, Senior Wagon
Movement Inspector, Northern
Railway, Divisional Office,
Hazratganj, Lucknow.

Syed Mansoor
Fes
9/7/84

.....Opposite parties

To Honourable the Chief Justice and his companion

contd....2/-



Khawaja Qamruzzama

FILED.

Unpressed
Five Adhesive Rs 100/-
Total

Correct but final Court-fee ~~rs~~
will be made on receipt of ~~to~~
Court record.
In time up to
Papers filed. Copy of ~~F.~~
should also be filed.
Date - 10/10/84.

Last Imp. Order Am 11 = 3-8-83
discharge
Beyard 90 days by 351 days
on 9-10-84.

Quoted
9.10.84
9/10/84

Humble D.N. Thakur, J.

Advert. Issue
notice to opposite
parties.
mhs/
9-10-84

(2)

A13

judges of the Honourable High Court of judicature
at Allahabad, sitting at Lucknow.

Writ Petition under Article 226 of the Constitution
of India.

The Petitioner above named begs to submit
as under:-

- 1) That the Petitioner was initially appointed as Assistant Station Master in the East Indian Railway company and joined on the same post on 2.1.1947 in the Pay Scale of Rs.30-4-60. The said pay scale was revised in 1949 and it was enhanced to 80-5-130, and again revised and enhanced to Rs.130-260 in 1953, as such since 1953 the Petitioner had remained working in the grade of Rs.130-260 till his promotion to the Senior Scale of Assistant Station Master in the grade Rs.425-640 in which he was promoted with effect from 21.6.65. Thereafter the petitioner was selected and promoted to the post of Station Master in the grade of Rs.455-700 which post he had joined on 17.6.77. On this post the Petitioner had remained working till his removal from service by order dated 5.10.81.
- 2) That on 7.6.80 the Petitioner was placed under suspension by order No.TT63A/STNS/RDL dated 7.6.80



Khawaja
Raufurrahman

contd.....3/-

A14

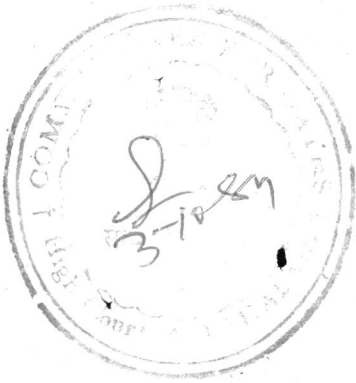
(3)

passed by the Senior Divisional Operating Superintendent, Northern Railway, Lucknow (Opposite Party Number 4). The said suspension order was unconditionally revoked by order dated 14.11.80 (Passed by the opposite party number 4) vide true copy of the said order being filed herewith as Annexure- 1.

3) That on 23.6.80 the Petitioner was served with the (Memorandum chargesheet dated 23-6-80 issued by the Opposite party Number-4. The said charge sheet was accompanied with a list of documents and a list of witnesses in order to support the allegations made in the chargesheet. True copy of the said charge sheet is being filed herewith as Ann.-2.

4) That although the copies of documents which had been asked for by the Petitioner had not been supplied to him. Yet he had submitted his defence statement (reply to the charge sheet) on 10.7.80. True copy of the said Defence Statement is filed herewith as Ann.-3.

5) (a) In this reply the Petitioner had specifically denied and refuted all the charges and the same position is being maintained even today as the charges levelled against the Petitioner were all incorrect and false.



Khooja
Daboozame

A 15

(4)

(b) That the Restriction Bulletins mentioned in the charge sheet which are said to have been violated by the Petitioner had never been supplied to the Petitioner either before imposing the Restriction on booking or after having imposed the restriction on booking.

5) That the List of documents relied upon in support of the articles of charge mentioned only one document namely " Report of W.M.I. (Wagon Movement Inspector) Lucknow of 7.6.80". It is pertinent to mention here that the said Wagon Movement Inspector who had submitted his report against the Petitioner on 7.6.80 was a subordinate of Shri V.P. Trivedi (Senior Wagon Movement Inspector/Lucknow) who had been appointed as Enquiry Officer against the petitioner.



Khawaja
Lahorewama

6) That Shri V.P. Trivedi (Enquiry Officer) was the Divisional Secretary of Northern Railway Mens Union while the Petitioner was an active member of the Uttarya Railway Mazdoor Union. The ~~Union~~ Petitioner's Defence Helper Shri R.C. Jauhri was the Divisional Secretary of the Uttarya Railway Mazdoor Union.

A16

(5)

7) That the aforesaid two Unions are main rivals of each other among the Trade Unions of the Railway Employees and as such the office bearers and active members of these Unions bear strained and enimical relations and they generally remain interested in causing ~~haras~~ to each other . As such Shri V.P.Trivedi could not be said to be an impartial persons and was therefore not entitled to be appointed as Enquiry Officer to the Petitioner.

8) That the said Enquiry Officer Shri V.P.Trivedi was even junior than the Petitioner on the substantive post and on this account also he was not fit to be appointed as Enquiry Officer against the Petitioner. Shri Trivedi was initially appointed as a Train Clerk on 5.9.1953 in the pay scale Rs.60-130 while the Petitioner had joined the Railway Service on 2.1.1947 on the post of Asstt. Station Master in the Scale of Rs.30-4-60 which scale was revised and enhanced to Rs.80-5-130 in 1949 and Rs.130-260 in 1953.



Khawaja
Lafisarrame

9) That the Post of the Train clerk is lower in Rank than the post of Assistant Station Master and rather the post of Trains clerk has always been a post of subordinate to the post of Assistant Station Master.

(6)

- 10) That the said Shri V.P.Trivedi was promoted to the post of Guard on 13.7.1959 in the pay Scale of Rs.64-130-225.

- 11) That on 21.6.1965 the Petitioner was promoted in the Senior Scale of Asstt. Station Master and was thus placed in the pay Scale of Rs.425-640.

- 12) That on 17.6.1977 the Petitioner was promoted after selection to the post of Station Master in the pay scale of Rs.455-700 and in this very grade he was working at the time of the aforesaid Enquiry proceedings.

- 13) That Shri V.P.Trivedi had been promoted on the post of Wagon Movement Inspection in the grade of Rs.425-640 on 9.5.1977 and he was promoted in the Senior Scale of Wagon Movement Inspector on 8.6.1979 and was placed in the Scale of Rs.455-700.

- 14) That the Petitioner was confirmed on the post of Station Master in 1977 itself while the said V.P.Trivedi was confirmed on the post of Wagon Movement Inspector in the pay Scale of Rs.455-700 in 1980.



Khuraja Ramkrishna

A18

(7)

15) That Wagon Movement Inspector (W.M.I.) and Senior Wagon Movement Inspector (Sr. W.M.I.) if posted at Stations remain subordinate to the Station Master as such Shri V.P.Trivedi by nature of the post was on a subordinate post although posted in the Head Quarter office, Lucknow direct under the subordination of the Senior Divl. Operating Superintendent/Lucknow.

16) That promotions to the post of Senior Wagon Movement Inspector are made from amongst the Wagon Movement Inspector, Guards and Junior Scale Asstt. Station Masters and as such the officiating promotion of Shri V.P.Trivedi to the post of Senior Wagon Movement Inspector in the Grade of Rs.550-750 and subsequently his adhoc appointment on the same post by order dated 1.12.80 could in no way make him sufficiently senior than the Petitioner for being appointed as an Enquiry Officer against the Petitioner.

Khawaja
Lalpurana

17) That the Petitioner had even filed appeal before the Senior Divisional Operating Superintendent against the appointment of Shri V.P.Trivedi as Enquiry Officer on 28.7.80 and requested him to appoint some other person as Enquiry Officer. But the said appeal were rejected by the Senior Divisional Operating Superintendent on 16.9.80. (True copy of the said Appeal dated 28.7.80 is
contd.8/-

filed herewith as Annexure-4).

- 18) That on 16.9.80 the Petitioner had submitted another appeal to the Divisional Railway Manager Lucknow against the appointment of Shri V.P. Trivedi as Enquiry Officer (True copy of the said appeal is filed herewith as Annexure-5). No reply was however received by the Petitioner in respect of the Appeal and rather the opposite party No.5 had started Enquiry proceedings by fixing the date of Enquiry on 15.9.80. Intimation about this date of Enquiry was telephonically conveyed to the petitioner on the same date at about 11 A.M. As such the Petitioner could not attend the said Enquiry on 15.9.80.
- 19) That on 15.9.80 it was also conveyed to the Petitioner by opposite party No.5 telephonically that the Petitioner appeal for the change of Enquiry Officer had already been rejected by the Senior Divisional Operating Superintendent/ Lucknow and the Petitioner was directed to contact the Senior Divisional Operating Superintendent in this respect.
- 20) That accordingly when the Petitioner called upon the Senior Divisional Operating Superintendent on 16.9.80, he was given letter dated 16.9.80 rejecting petitioners' appeal for change of Enquiry Officer.
- 21) That on 19.9.80 the Petitioner had received ² ~~an~~ notice dated 15.9.80 fixing the next date of



*Khajja
Rahmattaruna*

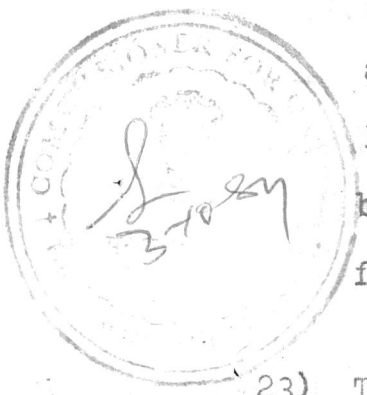
A 28

(9)

a notice dated 15.9.80 fixing the next date of Enquiry on 24.9.80.

22) That on 23.9.80 the Petitioner had moved an application for postponement of the said date mainly on the ground that the Defence Counsel could not be informed in such short time and his presence also could not be ensured for enquiry. This application was moved before the Senior Divisional Operating Superintendent/Lucknow on 23.9.80.

23) The said Senior Divl. Operating Superintendent/Lucknow had assured the Petitioner that said date of 24.9.80 would to postponed and a fresh date be fixed for the said enquiry. In this respect an official intimation was also received by the petitioner through control phone at Rudauli on 23.9.80 that the date fixed for 24.9.80 had been postponed. A true copy of the said message is being filed herewith as Annexure-6.



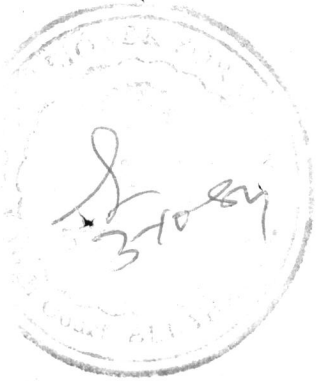
23) That, thereafter no intimation was received by the petitioner about the said Enquiry and as such there was no occasion for him to participate in the said Enquiry. (The petitioner's Defence counsel had also received no intimation about any date fixed by the Enquiry Officer subsequent to 24.9.80. It is also relevant to mentioned here that for none of the dates fixed by the enquiry officer, any advise was given to the Officers under whom the Petitioner 's Defence Counsel Shri R.C. Jauhari was working as Welfare Inspector at Lucknow to spare him for the said dates of Enquiry, fixed by the Enquiry Officer.)

Khawaja
Rambhadrarama

A 21

(10)

- 24) That, on 5.10.81, the opposite party No.4 had issued an order removing the Petitioner from Service by imposing upon him the penalty of removal from service and alongwith the said order a copy of the findings dated 27.10.80 recorded by the opposite party No.5 had also been served on the Petitioner. True copy of the said finding is filed herewith as Annexure No.7 and true copy of the removal order is filed herewith as Annexure No.8.
- 25) That from the perusal of the findings recorded by the opposite party No.5 it appears that the opposite party No.5 had fixed 9.10.80 and 26.10.80 also for conducting the said Enquiry but no intimation or notice about the said date had been received by the Petitioner or his Defence Counsel. As such the said dates appear to have been mentioned only to cover up the Ex. parte proceedings of the Enquiry. It is also relevant to mention here that the petitioner had continuously remained at Rudauli during all this period that is from 24.9.80 to 26.10.80. That it is, also relevant to mention that no show cause notice was issued to the petitioner, calling upon him to explain as to why the punishment of removal from service be not awarded to the petitioner. That it is also relevant to mention here that the copy of the report of the Enquiry Officer had also not been supplied to the Petitioner at any time before the passing of the Removal order.
- 26) That it is also relevant to mention here that the Enquiry Officer appears to have recorded the Statement of Shri R.K.Misra, Wagon Movement Inspector/Lucknow as witness of the department behind the back of the petitioner and without intimating the petitioner about



Khawaja
Qawurrana

A 23

(11)

the date fixed for recording his statement. Moreover, it is also pertinent to mention here that the name of the said R.K.Misra was not mentioned in the list of witnesses supplied alongwith the chargesheet. As a matter of fact no witness was named in the said Charge sheet and as such there was no occasion for recording Statement of any witness on behalf of the Department.

- 27) That being aggrieved from the aforesaid order of removal dated 5.10.81 the petitioner filed an appeal before the Addl. Divl. Railway Manager/Lucknow on 30.10.81.
- 28) That in the said appeal also the petitioner had raised all these contentions and had urged that the Enquiry proceedings were liable to be quashed and had also requested for personal hearing but no opportunity was ever given to the petitioner to appear in person before the Appellate authority. True copy of the memorandum of Appeal dated 30.10.81 is filed herewith as Annexure-9. That the said Appeal was rejected by the opp. party No.3 and the rejection order was communicated to the petitioner on 3.4.82 by means of letter dt. 4.2.82 issued by the Opp. Party No.3. True copy of the said letter is filed herewith as Annexure No.9(A).
- 29) That after rejection of the aforesaid appeal the petitioner had moved a Review petition before the opp. party No.2 on 27.4.82. True copy of the said review petition is filed herewith as Annexure No.10.
- 30) That the said Review Petition was also rejected by the opposite party No.2 and the rejection order was communicated to the petitioner on 3.8.83 which was served on the petitioner on 9.8.83. True copy of the said letter
- 31)

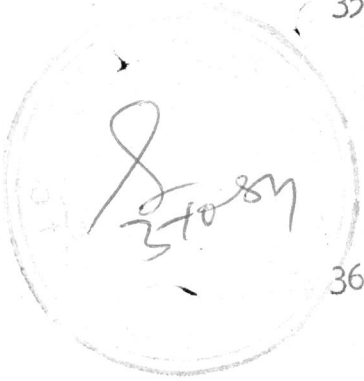


Khawaja
Lamburama

A23

dated 3.8.83 is filed herewith as Annexure No.11.

- 32) That, thereafter petitioner is still residing in the Railway Quarter at Rudauli and in case he is dispossessed from the same, he and his family members shall be exposed to the risk of being thrown on the open street.
- 33) That the Petitioner being an employee of the East India Company and his appointment order being not available there on the record, (his appointing authority will be deemed to have been the General Manager as per provision of rules contained in Railway Board No. ES-51 TRU/1 dt. 14.12.52, Rly. Board No. E(D&A)63 Rg.6-23 dt.21.2.64, Rule No.134R/IC and 1702 Railway Establishment code ^{volume} column No.1.)
- 34) That, thereafter the petitioner had sent a memorial to the Government of India through the Ministry of Railways dated 23.8.83 but no reply of the said memorial has been received by the petitioner so far and the said memorial has remained unheaded.
- 35) That subsequently the Minister for Railways and Minister of State for Railways had also been approached by the petitioner for the decision of his memorial but no positive result has appeared so far.
- 36) That the Petitioner had remained waiting for the result of the aforesaid memorial but so far he could not get any order about the result of the said memorial and as such he was advised not to wait any more and to challenge the orders of removal in Writ Petition and as such this Writ Petition is being filed.
- 37) That being aggrieved and having no other appropriate and alternative remedy the petitioner begs to file this Writ Petition on the following amongst the other grounds:-



Khawaja
Lamburrama

: G R O U N D S :

A) Because the Petitioner's removal from Service has been ordered by an authority subordinate to the Petitioner's appointing authority as such the removal order is violative of Article 311 of the constitution of India.

B) Because the impugned removal order has been passed in flagrant violation of the principals of natural justice and also in utter disregard of the provisions of article 311 of the constitution of India.

C) Because the removal of the petitioner from service has been ordered without complying with the requirements of rules & without giving adequate opportunity of hearing, to the petitioner.

D) Because the impugned order of removal has been passed in an arbitrary and discriminatory manner and as such the same is hit by article 14 and 16 of the constitution of India, also.

E) Because the impugned order of removal is manifestly & patently illegal and the same is liable to be quashed.

F) Because the impugned orders passed by the Appellate & Reviewing authorities are also arbitrary and non-speaking orders and the same are also liable to be quashed.

P R A Y E R.

It is therefore prayed that :-

a) By means of a writ in the nature of certiorari or any other appropriate writ order or directive this Honourable court may kindly be pleased to quash the impugned order of removal dt. 5.10.81 (Annexure-8) passed by the Opp. party No. 4 as well as the orders dt. 4.2.82 (Ann. 9-A) and order dt. 3.8.83 (Ann. 11) passed by the opposite parties 3 and 2 respectively.

b) By means of a Writ in the nature of mandamus the opp. parties may kindly be commanded to treat the petitioner to be continuing in service without any break and pay him all the

*Khooja
Rameshrama*

JPL

CONTD..... 14 -

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(14)

a) ~~Cost~~

emoluments admissible under rules and also to grant him all the facilities and amenities for which he was entitled and which were enjoyed by him till his removal from Service.

c) Cost of the petition be awarded to the petitioner against the opposite parties and

d) to allow the Writ petition ^{with} costs.

Lucknow.

Filous Advocates
Counsel for the Petitioner.

Dated: 3 Oct. 1984.

97

Certified that the instant Writ Petition involves no defects and is based on good grounds.

Dated:
Oct. 3, 1984.

Filous
Counsel for the Petitioner.

9

*Khawaja
Rahimurrahman.*

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

Lucknow Bench, Lucknow.

Petition No. _____ of 1984



Khawaja Qamruzama Petitioner

Versus.

Union of India & others Opp. Parties.

A F F I D A V I T.

I, Khawaja Qamruzamma aged about 57 years
 s/o Late Shri Sayed Manzoore Ahsan r/o Railway Quarter
 No.T-4 , Northern Railway Station Rudauli Distt:Barabanki
 solemnly affirm and state on oath as under:-

1) That the deponent is the petitioner in the
 instant writ Petition and as such is fully conversant
 with the facts and circumstances of the ~~case.~~

2) That the contents of paras 1 to 36
 _____, except the bracke-
 tted portions of paras 23 and 33 of the
 accompanying writ petition are true to my personal knowled-
 ge ~~and the content of~~ ^{and the content of} paragraphs 37 as well as

contd....2/-



Khawaja Qamruzamma

(2)

the bracketted portions of paras 23 and 33 of the same are believed by me to be true.

Lucknow.

Khawaja Ramzurrawa
Deponent.

Dated: 3
Oct., 1984.

I, the deponent named above do hereby solemnly affirm and declare that the contents of paragraphs 1 and 2 of this affidavit are true to my personal knowledge. That no part of this affidavit is false and nothing material has been concealed. So help me God.

Signed and verified this affidavit this 3rd day of October, 1984 at Lucknow.

Khawaja Ramzurrawa
Deponent.



On the basis of the papers and documents produced before me. I am satisfied that the person making this affidavit and alleging himself to be K.Q.Zama is the very person and he has signed this writ petition and affidavit before me.

Advocate

solemnly affirmed before me on 3-10-84 at 11.00 A.M. by the deponent Khawaja

Ramzurrawa who is identified by Shri Mohd. Sayeed Advocate, High Court, Allahabad/

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

TISH CHANDRA
Commissioner
Allahabad
No. 440/947/84
Date 3-10-84

Deponent

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A28
IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD,

Lucknow Bench, Lucknow.

Writ Petition No. of 1984.

Khwaja Ramruzama

Petitioner.

Ver sus.

Union of India and others ...

Respondents.

Annexure No. I

मानक फार्म संख्या : 4

निलम्बन आदेश के प्रति संहरण के लिये आदेश का मानक फार्म
रेल सेवक(अनु० और अपी०)नियम, 1968 का नियम 5(5)(ग)

संटीटी/63/स्टेशन/उद्दोली

उत्तर रेलवे मण्डल अधीनकार/ लखनऊ

दिनांक : 14/11/80

आदेश

यतः श्री के०क्यू० जर्मा एस०एम० उद्दोली (रेल कर्मचारी का नाम और पदनाम)

को व०म०परि०अ० द्वारा दिनांक 07/6/80 को निलम्बित करने के आदेश दिया गया।

अतः अब राष्ट्रपति/रेलवे बोर्ड / निम्नलिखित (वह प्राधिकारी जिसने निलम्बन आदेश

दिया है जिसके द्वारा दिया गया समझा जाता है या कोई अन्य प्राधिकारी जिसका

वह प्राधिकारी अधीनस्थ है) रेल सेवक(अनु० और अपी०)नियम 1968 के नियम 5 के

उन नियम (5) के खण्ड(ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद् द्वारा उक्त

निलम्बन आदेश तत्काल/दिनांक 14/11/80 से प्रति हसरित करते हैं।

(राष्ट्रपति के आदेश द्वारा और उनके नाम
हस्ताक्षर

नाम: (आर०सी०शर्मा
आदेश देने वाले प्राधिकारी का पदनाम

(यदि रेलवे बोर्ड यदि आदेश रेलवे बोर्ड
द्वारा दिया जाय।

+ यदि आदेश का राष्ट्रपति के नाम से दिया जाना अभिव्यक्त किया जाये।

(यदि आदेश राष्ट्रपति द्वारा दिया जाय तो प्राधिकारी का पदनाम जिसके

संविधान के अनुच्छेद 77(2) के अधीन राष्ट्रपति की ओर से आदेश को अधिप्रमाणित

करने का अधिकार दिया गया हो

प्रतिलिपि :-

(श्री के०क्यू० जर्मा एस०एम० उद्दोली

(निलम्बित रेल कर्मचारी का नाम और पदनाम)

ब्योरा/ 30 —10



Khawaja
Ramruzama

2. Shri K.Q.Zama is hereby informed that if he so desires, he can inspect and take extracts from the Documents mentioned in the enclosed list of documents(Annexure-III) at any time during office hours, within five days of receipt of this memorandum. If he desires to be given access to any other documents which are in the possession of Railway administration but not mentioned in the enclosed list of documents(Annexure-III) he should give a notice to that effect to the undersigned within ten days of the receipt of this memorandum, indicating the relevance of the documents required by him for inspection. The disciplinary authority may refuse permission to inspect all or any such documents as are, in its opinion, not relevant to the case or it would be against the public interest or security of the State to allow access thereto. He should complete inspection of additional documents within five days of their being made available. He will be permitted to take extract from such of the additional documents as he is permitted to inspect.

3. Shri K.Q.Zama is informed that request for access to documents made at later stages of the inquiry will not be entertained unless sufficient cause is shown for the delay in making the request within the time limit specified above and the circumstances shown clearly that the request could not have been made at an earlier stage. No request for access to additional documents will be entertained after the completion of the inquiry unless sufficient cause is shown for not making the request before the completion of the inquiry.

contd....3/-

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4. Shri K.Q.Zama is further informed that he may if so desires, take the assistance of any other Railway Servant, an official of a Railway Trade Union(who satisfied the requirements of rule 9(2) of the Railway Servants(Discipline and appeal) Rules 1968 and (Note-I and Note 2 thereafter as the case may be) for inspecting the documents and assisting him in representing his case before the Enquiring authority, he should nominate one or more persons in order of preference. Before nominating the assisting Railway Servants or Railway Trade Union official, Shri K.Q.Zama should obtain render taking from the nominee that he is willing to assist him during the Disciplinary proceedings. The understanding should also contain the particulars of other case, if any, in which the nominee had already ~~undertaken~~ undertaken to assist and the undertaking should be furnished to the undersigned alongwith the nomination.

5. Shri K.Q.Zama is hereby directed to submit to the undersigned a written statement of his defence (which should reach the undersigned within ten days) of after completion of inspection of documents if he desires to inspect the documents, and also (a) to state whether he wishes to be heard in person, and (b) to furnish the names and addresses of the witnesses, if any, whom he wishes to call in support of his defence, and (c) to furnish a list of documents, if any, which he wishes to produce in support of his defence.

6. Shri K.Q.Zama is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, speciallt A-dmit or deny each article of charge.

Khawaja
Lawharrama

21 (A32)

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7. Shri K.Q.Zama is further informed that if he does not submit his written statement of defence within the period specified in para-5, or does not appear in person before the Enquiring Authority otherwise fails or refuses to comply within the provisions of rules 9 of Railway Servants Discipline and Appeal Rule 1968 or the orders/ directions issued in pursuance of the said rule the Inquiring Authority may held an Enquiry Ex. Parte.

8. The attention of Shri K.Q.Zama is invited to rule 20 of the Railway Servants conduct rules 1968 under which no Railway Servant shall bring or attempt to bring any political or other influence to bear upon any superiors Authority to further his interest in respect of matters pertaining to his service under the Govt. If any representation is received on his behalf from another person in respect of any matter dealt within these proceedings, it will be presumed that Shri K.Q.Zama is aware of such a representation and that it has been made at his instance and the action will be taken against him for violation of rule 20 of the Railway Service(conduct) Rules-1968.

9. The receipt of this Memorandum may be acknowledge.

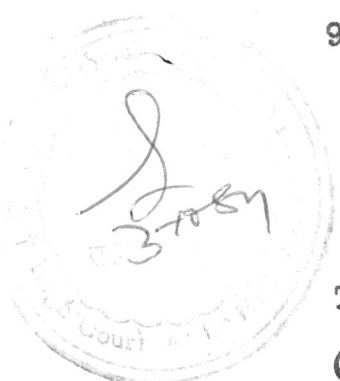
Signature:

Name: R.C.Sharma,
Designation of the competent authority).

Senior Divisional Operating Superintendent, Lucknow.

To,

(Name) Shri K.Q.Zama,
(Designation) Station Master,
(Place) Rudauli.



Khawaja
Lawharrama

22 (A33)

Annexure - I.

Statement of article of Charge framed against
Shri K.Q.Zama , Station Master, Rudauli.

That the said Shri K.Q.Zama while
functioning as Station Master Rudauli is
found guilty as noted below:-

- 1) For booking against restriction.
- 2) For relaying wrong stock report
 - (a) Indicating wrong destination loaded.
 - (b) Not giving correct outstanding registrations.
- 3) For falsifying records to show receipts and allotment of Wagons.



Sd/-

(R.C.Sharma)
Sr.Divl. Operation Supdt.,
Lucknow.

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23 (A3u)

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Annexure - II.

Statements of imputations of misconduct or misbehaviour framed against Shri K.Q.Zama, Station Master Rudauli in support of article charge proposed to be sustained.

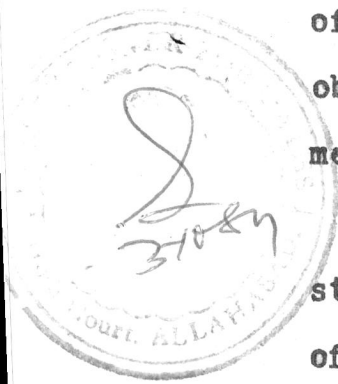
- - - - -

It has been observed that Shri K.Q.Zama Station Master Rudauli loaded 55 wagons for N.F.Railway and 5 Wagons for E.Railway and S.E.Railway as per list attached against restriction and also without obtaining allotment from this office.

The said station Master violated the restriction imposed vide message No.TT67/3/387 of 16.4.80, TT67/3/415 of 22.4.80 and TT67/3/461 of 2.5.80 and TT67/3/502 of 19.5.80. Booking of Food Grains was restricted until further advise and loading of other commodities via FKK he also done after getting specific allotment from this office. This was advised to all concerned vide this office message No.TT67/3/387 of 16.4.1980. Booking of all Traffic without any exception but excluding Food grains, sugar, sponsored by FCI and Zonal Salt was restricted on the B.G. as well as M.G. route to destination on N.F.Railway vide this office TT67/3/415 of 22.4.80, TT67/3/461 of 2.5.80 and TT67/3/502 of 19.5.80.

The above Station Master loaded wagons for Stations of E.Railway and S.E.Railway as per list attached without obtaining prior permission from this office as vide this office message No.TT67/5/270 of 17.3.80.

Shri K.Q.Zama Station Master Rudauli relayed wrong stock report while giving 18 hours stock to stock CNL in CNL office, Lucknow on 27/4, 28/4, 30/4, 4/5/80, 5/5/80, 8/5/80, 9/5/80, 10/5/80, 25/5/80, 31/5/80 and 3/6/80. He also loaded wagons to N.Rly. Stations but indicated wrong destinations.



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Annexure-2I contd.

Wagons to N.E. Railway Stations but indicated wrong destinations to Stock CNL/Lucknow in CNL office, Lucknow.

The above Station Master did not relay correct outstanding to stock CNL, Lucknow on the dates mentioned above, and also falsified Station records and showed receipts and allotment for N.E. Railway, E.Rly. and S.E.Rly. destinations which were not given by this office.

Thus ^{SHRI} this K.Q.Zama Station Master, Rudauli was careless and negleasant to legitimate duty and violated para 31(ii) and (iii) of Rly. Servants conduct rules-1968.

Sd/-

(R.C. Sharma)
Sr. Divl. Operating Supdt.,
Lucknow.



Khawaja
Qasimurrahman

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Annexure-III.

List of Documents relied upon framed against Shri K.Q.Zama , Station Master, Radauli in support of article of charge proposed to be sustained:

Report of W.M.I./Lucknow of 7/6/80.

Sd/-

(R.C.Sharma)
Sr.Divl.Operating Superintendent,
Lucknow.

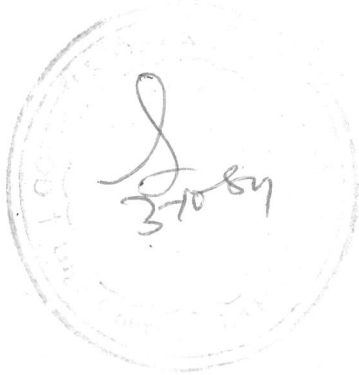
Annexure-IV.

List of witnesses framed against Shri K.Q.Zama Station Master Radauli in support of Article of charge proposed to be sustained:-

Nil

Sd/-

(R.C.Sharma)
Sr.Divl.Operating Supdt.,
Lucknow.




Khawaja
Kawurrama

26 (A) 22

1. Priority Date	2. No.	3. Commo dity.	4. Station From	5. Station To	6. Rly.	7. M.R.No.	8. Wagon No. XXXXXX	9. Wagon supplied. Dt.	10. Time	11. R.R.No.	12. I/V	13. Allotment recd. R.as per R.NoSM/RDL	14. Allotment as per DRM/LKO.	15. Remarks.
24.4.80	25	240Rlce	RDL	Silchar	NF	461977	CR/CL 16782	27/4	6/-	27/4	2/-	721152	26.4.80	SM shown loading as per 18 hrs. stock.
"	26	"	"	"	"	78	NR/CL 36415	"	"	"	"	-53	26.4.80	1F/W T KD 1Wheat CPC 3Rlce BSB Instead of SCL/NF
"	27	"	"	"	"	79	NR/CL0565	"	"	"	"	-54	"	"
"	28	"	"	"	"	-30	CR/CL21900	"	"	"	"	-55	"	"
"	29	240bags wheat.	"	"	"	-31	CR/CL16006	28/4	6/30	28/4	6	-57	"	1Wheat for BSB Instead of SCL/NF.
"	30	"	"	"	"	-32	ER/CL 16679	"	"	"	7	-58	"	"
"	31	"	"	"	"	-33	ER/CL95574	30/4	12/-	30/4	8	-59	"	S h
"	32	"	"	"	"	-34	CR/CL26664	"	"	"	9	-60	"	O W N
"	33	"	"	"	"	-35	SE/CL74447	"	"	"	10	-61	29.4.80	N
26.4.80	34	240 bags Rlce.	"	"	"	-36	WR/CL38646	"	"	"	11	-62	"	I
"	35	"	"	"	"	-37	SC/CL2777	"	"	"	1	-63	"	I
"	36	"	"	"	"	-38	SE/CL36087	28/4	12/-	"	2	-64	"	"
"	37	"	"	"	"	-39	SE/CL75507	"	"	"	12	-65	"	"

contd....2/-


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26.4	40	240 RDL	Tinsu	NF461992	GR/CL21356	3.5	8/-	3/5	3	721166	2.5	80	
30.		Rice bags.khla											
1.5	41	RDL	"	"	WR/CL1745	"	"	"	4	-67	"		Shown 4 Rice MZP instead of SCL/NF.
"	42	240 SCL wheat bags.Silchgr	"	"	CR/CL23581	"	"	"	13	-68	"		
"	43	RDL	"	"	MP/CL26981	"	"	"	14	-69	"		
"	44	"	"	"	NR/CL11333	"	"	"	15	-70	"		
"	45	"	"	"	ER/CL21599	4.5	7	4.5	16	-73	"		
"	46	240B Rice	TSK	"	CR/CL55122	80	"	"	5	-71	"		
3.5	47	"	"	"	ER/CL 354	"	"	"	6	-72	"		
"	48	"	SCL	"	ER/CL21349	"	"	"	17	-74	"		Shown 6 wheat bags
"	49	"	"	"	PW/CL46499	"	"	"	18	-75	"		VYN 4 Rice MZP
"	50	"	"	"	SC/CL39817	"	"	"	19	-76	"		instead of TSK and
"	51	240B wheats	"	"	NR/CL31302	"	"	"	20	-77	"		SCL/NF.
"	52	"	"	"	CR/CL55347	"	"	"	21	-78	"		
"	53	"	"	"	CR/CL52317	"	"	"	22	-79	"		
"	54	"	"	"	CR/CL24010	"	17	5/5/30	23	-80	"		
"	55	240B Rice	TSK	"	WR/CL67474	6.5	9/-	6.5	9	-88	"		
"	56	"	Karimganj	"	SR/CL12503	5.5	8/-	5.5	3	-87	"		
"	57	"	SCL	"	NR/CL23131	"	"	"	24	-81	"		

contd.....3/-



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30.57	25.56	34	35	33	32	31	30	29	28	27	26	25	24	23	22	21	20	19	18	17	16	15	14	13	12	11	10	9	8	7	6	5	4	3	2	1
30.57	25.56	34	35	33	32	31	30	29	28	27	26	25	24	23	22	21	20	19	18	17	16	15	14	13	12	11	10	9	8	7	6	5	4	3	2	1
Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat	Wheat
30.57	25.56	34	35	33	32	31	30	29	28	27	26	25	24	23	22	21	20	19	18	17	16	15	14	13	12	11	10	9	8	7	6	5	4	3	2	1
30.57	25.56	34	35	33	32	31	30	29	28	27	26	25	24	23	22	21	20	19	18	17	16	15	14	13	12	11	10	9	8	7	6	5	4	3	2	1
30.57	25.56	34	35	33	32	31	30	29	28	27	26	25	24	23	22	21	20	19	18	17	16	15	14	13	12	11	10	9	8	7	6	5	4	3	2	1

Shown 4 Wheat
 MZP
 3 Wheat VYN
 instead of
 1 Karimganj H.F.
 4 SCL/NF
 2 TSK/NF.

Shown:
 1 wheat VYN instead of TSK
 1 Karimganj
 6 SCL

*Khawaja
 Kawserama*

29 (A40)

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

W-rit Petition No. of 1984.

Khwaja Qamruzzama Petitioner

Versus

Union of India & others Respondents.

Annexure No. 3

The Senior Divisional Operating Superintendent,
Northern Railway,
Lucknow.

Ref: SF 5 No.TT63A/Stations/RDL dated 23.6.80

...

Sir,

In explanation to the charges levelled against me, I most respectfully beg to state as under:-

- 1) That, all the wagons booked to NF Rly. were booked via ~~FKK~~ ^{BJU.}. No loading was done via FKK at all.
- 2) That loading position as well as outstanding registration was personally relayed by me from the Stock book correctly, as per entries therein. The fault in noting down at the other end is entirely his responsibility, and if there was any thing wrong, The advise should have been given to me either by the stock CML or Deputy CHC/Stock.
- 3) That, allotment was regularly received from the Stock clerk according to the ~~ADDR~~ after an usual gap of two or three days as on the records, and all the empty wagons for loading at RDL were arranged and supplied by the stock section accordingly. On 2.5.80 it was clearly advised by him that the allotment is only required if it is booked via FKK, as such the traffic booked via BJU should not be asked for the allotment till any fresh instructions are issued, which was issued in the evening of 10.5.80 and the loading was stopped forthwith.
- 4) That, only certain stations on ER and SER were named in the

Stamp: LUCKNOW
3-10-87

Khwaja Qamruzzama

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(2)

Restrict Bulletin No.131 of 20.2.30, confirmed on 17.3.30, for which allotment was required, but the few Wagons booked by me to the stations do not find place in the above mentioned list, and so have been booked, treating as free destination, also with the consent of the Dy.CHC/Stock on phone. I may please be allowed to inspect the relevant records and restriction Bulletin in this connection.

I therefore, request your honour that I may please be excused for the mistake, if any, as it is simply a case of mis-conception of things some where and for which I am extremely sorry and promise to be more careful in future.

Yours faithfully,

Sd/--K.Q.Zama,
S.M./RDL
under suspension.

Dated: 10.7.30.



A circular stamp containing a handwritten signature and the date '3/7/30'.

Khawaja
Qabiruzzaman

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

Lucknow Bench, Lucknow.

Writ Petition No. of 1984.

Khawaja Qamruzzama ... Petitioner.
Versus
Union of India and others ... Respondents.

Annexure No. 4

The Senior Divisional Operating Superintendent,
Northern Railway,
Lucknow.

Sub: Appeal against the orders of appointment of Shri
V.P. Trivedi Sr. W.M.I. ~~as W.M.I.~~ as Enquiry Officer.

Ref: Your No. TT63/Stations/RDL dt. 25.7.80.

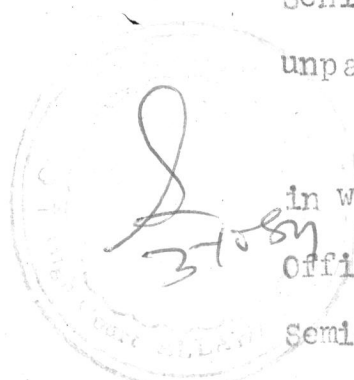
Honoured Sir,

Respectfully I beg to prefer an appeal against
the appointment of Shri V.P. Trivedi, W.M.I. (Divisional
Secretary of Northern Railway Mens Union) as an Enquiry
Officer, as below:-

That the SF-5 has been framed on the report of the
W.M.I. and the Enquiry is also based on the same. The WMI is a
probable witness likely to be cross examined by me. The
Senior WMI in such circumstances can not be expected to be
unpartial in the course of cross-examination of the WMI.

That there is no example in the last many years
in which the WMI would have been appointed as an Enquiry
Officer in the case of booking against restriction which is
Semi-commercial case with the technicalities of goods booking
having the least concern with the Wagon **MOVEMENT INSPECTOR.**

contd...2/-



Khawaja
Qamruzzama

32

A43

(2)

That, Shri V.P. Trivedi is the Divisional Secy. of the NRMU which is anti to the URMU to which I and my defence counsel belong. The WMI who reported against me and is liable to be cross examined, also many others who are likely to be called during the course of Enquiry belongs to the Union of Mr. Trivedi.

That in such circumstances there is every possibility of rivalry to crop up against me and the Enquiry would take a prejudiced and biased form ~~of~~ JEOPARDISING all the canons of justice.

That the office bearers of either of the ^{UNIONS} ~~reviews~~ has been traditionally appearing as a Defence counsel to protect the right of the Employees and have never been appointed as an Enquiry officer due to one reason or other, as a fair and impartial result can not be expected in either of the cases.

As such I request your honour to very kindly appoint any other Inspector, other than WMI or office bearer of NRMU.

Thanking you, very much, Sir,

Yours faithfully,

sd/-

(Khwaja Qanruzzama)

28/7/80

Station Master/Rudauli
under suspension.

Dated: 28.7.80.

Copy forwarded to:-

- 1) The D.R.M./Lucknow for information and necessary action please.

31/8/80

Khawaja
Qanruzzama

33

Amr

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

Writ Petition No. of 1984.

Khawaja Qamruzzama Petitioner.

Versus.

Union of India and others Respondents.

Annexure No. 5

Shri Harbans Singh Chatta,
The Divisional Railway Manager,
Northern Railway,
Lucknow.

Sub: Appeal against the orders of appointment of Shri
V.P.Trivedi, Senior W.M.I. as Enquiry Officer.

Ref: Your letter No.TT63/Stations/RDL dated 25.7.80 and
my appeal dated 28.7.80.

Honoured Sir,

Respectfully I beg to prefer an appeal against
the appointment of Shri V.P.Trivedi WMI (Divisional Secy. of
NRMU) as an Enquiry officer, on the grounds noted below:-

That the SF-5 has been framed on the report of
the WMI and the Enquiry is also based on the same. The WMI
is a probable witness liable to be cross examined by me. The
Senior WMI in such circumstances can not be expected to be
impartial in the course of the Cross examination of the WMI.

That, there is no example every in the past in
which the ~~W.M.I.~~ ^{W.M.I.} would have been appointed as an Enquiry Officer
~~officer~~ specially in the case of booking against restriction,
which is a commercial case with the technicalities of goods
working having the least concern with the Wagon Movement
Inspector, a non- qualified man.

cont d.....2/-

3/10/84

Khawaja
Qamruzzama

(2)

34 *Ans*

That , Shri V.P.Trivedi is the Divisional Secretary of the Northern Railway Mens Union which is anti to the Uttariya Railway Mazdoor Union to which I and my Defence counsel belong. The WMI who reported against me and is liable to be cross examined and also many others who are liable to be called during the course of Enquiry belong to the Union, of Mr. Trivedi 's NRMU.

That in such circumstances there is every possibility of rivalry to crop up against one and the Enquiry would take a prejudiced and biased form jeopardising all the cannons of justice.

That the office bearers of either of the Unions have been traditionally appearing as a Defence counsel to protect the right of the employyes and has never been appointed as an Enquiry officer due to one reason or the other as a fair and impartial result can not be expected in either of the cases.

As such I request your honour to very kindly appoint any Inspector other than any WMI or office bearer of NRMU.

Thanking you very much, Sir,

Yours faithfully,

Dated: 16th September, 1980.

Sd/-
(Khwaja Samruzzama)
Station Master/Rudauli
N.R. under suspension
since 7.6.80.

Copy to:-

- 1) Sr. DOS for information in reference to my original appeal dated 25.7.80.
- 2) Shri R.C.Johri Divisional Secretary UNMU/Lucknow. (Defence counsel) for information and necessary action.

...

S
3-10-80

Khwaja Samruzzama

35- (AUG)

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

Writ Petition No. of 1984.

Khwaja Qamruzzama Petitioner

Versus.

Union of India and others Respondents.

Annexure No. 6

Message(True copy)

Copied from Asstt. Station Masters.
Relief Diary Maintained at Rudauli.

Spl.:

Through CML to SM/RDL.

Please inform Shri K.Q.Zama, S/M
that the Enquiry has been postponed.

Time 17/40

P.No. RDL 13/

LKO 62

Sd/-

(V.N. Bajpai)
Asstt. Station Master,
on duty at RDL,
dated 23.9.80.



Khwaja
Qamruzzama

36 (A17)

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

Lucknow Bench, Lucknow.

Writ Petition No. of 1984.

Khawaja Qamruzzama ... Petitioner.

Versus.

Union of India and others Respondents.

Annexure No. 7

The Sr. Divisional Optg. Superintendent,
Northern Railway,
Lucknow.

Sub: DAR Enquiry against shri K.Q.Zama/RDL under suspension.

Proceedings of the Enquiry committee.

Shri K.Q.Zama was issued SF-5 and I was appointed as Enquiry Officer to enquire into the charges levelled against ~~shri~~ Sri K.Q.Zama SM/RDL (under suspension) vide letter No.TT63A/Stations/RDL dt. 25.7.80.

The first sitting was fixed vide letter No.TT63A/ dated 8.9.80(S.No.27) to the office of SM/BBK on 15.9.80 but he failed to attend the same alongwith his defence counsel. He was also informed through ASM/BBK on 15.9.80 to proceed by 1 ML to BBK to attend the Enquiry and the private number was exchanged between ASM/BBK and ASM/RDL. But ~~he~~ he refused to attend the Enquiry as informed by ASM/RDL.

Shri K.Q.Zama was again informed vide letter dated 15.9.80 (S.No.30) that Enquiry will be held at BBK from 24.9.80 to 30.9.80. This letter was however acknowledged by him on 19.9.80 as per S.No.32 of the file. He again ~~asked~~ **FAILED** to attend the Enquiry and the Enquiry was postponed,

contd....2/-



Khawaja
Qamruzzama

(2)

on 24.9.80 as the Asst on duty had informed that he had gone to Delhi.

Another date for Enquiry was fixed for 9.10.80 vide letter No. of even dated 6.10.80 and a copy of the same was given to Shri R.C. Jauhri specially in presence of Senior DPO and Shri K.Q. Zama was informed through Section CML about this date of Enquiry on 7.10.80. Neither his Defence counsel nor Shri K.Q. Zama attended the Enquiry which was fixed to be held at LKO on 9.10.80.

Another and final date was fixed vide letter dated 9.10.80 that he should attend the Enquiry on 26.X.80 in SS office/LKO and the intimation was sent to Shri K.Q. Zama under Regd. A.D. cover but the same has been returned undelivered with the remarks of Post office that he is at Lucknow and when he will be returning to RDL is not known. The undelivered letter alongwith acknowledgement slip is as S.No. 40, 41, and 42. Shri R.C. Jauhri had also acknowledged this letter under his clear signature but neither the defendant nor his defence helper attended the Enquiry despite clear warning that no further postponement will be allowed and the Enquiry will proceed Ex. Parte. Since Shri K.Q. Zama and his defence are evading Enquiry and failed to attend on various occasions though only one postponement is allowed as per P.S.No. 4961 issued by G.M./P/NDLS. Therefore having no alternative the Enquiry proceeded Ex. parte on the basis of evidence on records:-



Khawaja
Rauf Khawaja

38 Aug

(3)

Charges:

Statement of articles of charges framed against Shri K. Q. Zama Station Master Rudauli.

That the said Shri K. Q. Zama while functioning as SM/RDL is found guilty as noted below:-

- 1- For booking against restriction.
- 2- For relaying wrong stock-report.
 - (a) Indicating wrong ~~xx~~ destination loaded.
 - (b) Not giving correct outstanding Registration.
- 3- For falsifying records to show receipts and allotment of Wagons.

statement of imputation of misconduct or misbehaviour framed against Shri K. Q. Zama SM/RDL in support of article of charges proposed to be substantiated.

It has been observed that Shri K. Q. Zama SM/RDL loaded 55 Wagons for NF Railway and 5 Wagns against restrictions and also without obtaining allotment from this office. The said SM violated the restriction imposed vide message no. TT67/3/461 dated 2.5.80 and TT67/3/502 dated 19.5.80. Booking of Food Grains was restricted until further advise ~~one~~ ^{AND} loading of other commodities via FKK be also done after getting specific allotment from this office. This was advised to all concerned vide this office message No. TT67/3/387 of 16.4.80. Booking of all traffic without any exception but excluding Food Grains, Sugar, sponsored by FCI and zonal salt was restricted on the BG as well as MG routes to destinations on N.F. Railway vide this office TT67/3/415 of 22.4.80, TT67/3/461 of 2.5.80 & TT67/3/502 of 19.5.80.

3-10-80
 Khwaja
 Paudyal

The above Station Master also loaded wagons for Stations of E.Rly. and SE Rly. as per list attached without

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39 (AS9)

(4)

obtaining prior permission from this office as vide this office message No. TT67/5/270 of 17.3.80.

Shri K. Q. Zama SM/RDL relayed wrong stock report while giving 18 hours stock to stock CNL in CNL office Lucknow on 27/4, 28/4, 30/4, 3/5, 4/5, 5/5, 8/5, 9/5, 10/5, 25/5, 31/5 & 3.6.80. He also loaded wagons to NF Rly. Stations but indicated wrong destinations to stock CNL/LKO in control Lucknow.

The above SM did not relay correct outstanding to stock control Lucknow on the dates mentioned above and also falsified Station record and showed receipt and allotment of Wagons for NF Rly., E. Rly. and SE Rly. destinations which was not given by this office.

Thus Shri K. Q. Zama SM/RDL was careless and negligent to legitimate duty and violated para 3.1(ii) and (iii) of Railway Service conduct rules-1966.

Shri R. K. Misra, Sr. WMI/LKO was called on 26.10.80 to act as prosecution witness in this case which was considered essential to reach to a particular conclusion. His ~~statement~~ Statement has been recorded and is attached with the proceedings.

According to the evidence on record and the Statement of Shri R. K. Misra, Sr. WMI/LKO the following findings have been drawn:-

FINDINGS:

I hereby find that the charges levelled against Shri K. Q. Zama vide Memorandum No. TT63/A/Station/RDL dt. 23.6.80 are proved on the basis of evidence on record.

Dated 27.10.80.

Sd/- V.P. Trivedi,
Sr. WMI/LKO.

37087
Khuraja
Rameshram

42 ASZ

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW BENCH, LUCKNOW.

Writ Petition No. _____ of 1984.

Khwaja Qamruzzama Petitioner.

Versus

Union of India & others..... Respondent.

Annexure No. 9.

To,

The Additional Divisional Rly. Manager,
(Operation),
N.Railway,
Lucknow.

Through: The Proper Channel.

Subject: Appeal under rule 18 of the Rly.Servants
Discipline and Appeal rules 1968, against
order No.TT/63A/Stations/RDL, dated 6.10.81
passed by Shri Baldev Singh, Sr.D.O.S., N.Rly.
Lucknow removing the appellant from service
w.e.f. 6.10.1981.

Respected Sir,

Without prejudice, the appellant having been aggrieved
by the above order, respectfully prefers the following appeal
for your judicious consideration and justice into the case.

1. (i) That the brief facts giving rise to this appeal are
that on 7.6.1980 the appellant, by an order bearing No.TT63A
/Stations/RDL dt. 7.6.80 having been passed by Sri R.C.Sharma,
the then Sr.D.O.S., Lucknow N.R. was placed under suspension
without any good and sufficient cause as required under the
law and rules. Thereafter, the said orders of suspension was
unconditionally revoked w.e.f. 14.11.1980 vide order dt.
14.11.1980 passed by the said Shri R.C.Sharma.

(ii) On 23.6.1980, The appellant was served with a char-
ge sheet bearing No.63A/Stations/RDL dt. 23.6.80 issued by the



*Khwaja
Qamruzzama*

43 (A) 4

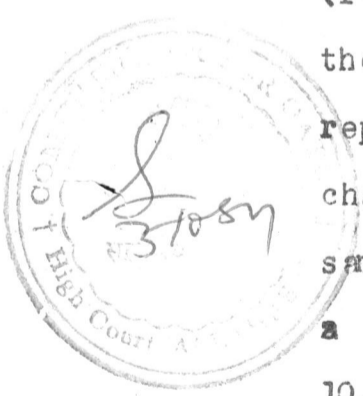
aforsaid Shri R.C.Sharma Sr.D.O.S. Lucknow . Alongwith the said chargesheet, there was a list of document (Annexure III) by which and list of witnesses (Annex.IV) by whom the charges as hereunder mentioned were proposed to be sustained in the Enquiry proposed to be held under rule 9 of D.& A. rules 1968.

Charges:-

- 1. For booking against restriction.
- 2. For relaying wrong stock report.
 - (a) Indicating wrong destination loaded.
 - (b) Not giving correct outstanding registrations.
- 3. For falsifying records to show receipt and allotment of wagons.

(iii) In the aforesaid list of document (Annex. III) the report of W.M.I. /LKO dated 7.6.80 was the only document by which the so called charges were framed and proposed to be sustained in the enquiry against the appellant. It may be mentioned that no witness was cited in the list of witnesses annexed with the said memorandum of chargesheet.

(iv) Alongwith the aforesaid memorandum of chargesheet the appellant was not furnished with a copy of the said report of W.M.I./LKO which was the basis of the so called charges, Though the appellant had demanded access of the same. There being no alternative, the appellant submitted a preliminary explanation against the so called charges on 10.7.1980 and thereby claimed inspection of the documents relied upon as well as all other documents relevant to the case was denied. It is made clear that at no stage the report of W.M.I. which was relied upon document was shown to the appellant, though it was the basis of the case.



Shri R.C. Sharma
D.O.S. Lucknow

44 (A)

- 3 -

(v) In purported exercise of the powers conferred by rule 9(2) of D & A rules 1968 the learned Sr.D.O.S. (Shri R.C.Sharma) vide his order TT63A/Stations/RDL dt. 25.7.80 appointed one Shri V.P.Tervidi, Sr.W.M.I. and the Divisional secretary of NRMJ, Knowing fully well that the appellant was an active member of URMJ and had proposed to engage one Shri R.C.Jauhri the Divisional Secretary of URMJ as defence helper.

(vi) By a representation dated. 28.7.1980, the appellant challenged the appointment of the Enquiry officer on Various grounds which deserved for an utmost consideration to meet the ends of the justice but no decision was taken on the said representation by the learned Sr.D.O.S. and as such the appellant was constrained to prefer an another representation on 1.8.80 to the Divisional Rly. Manager, for change of the enquiry officer on the grounds mentioned therein.

(vi) During the pendency of the aforesaid representation the appellant all of a sudden was informed by a Telephonic message on 15.9.80 given by the said Shri V.P.Tervidi, Enquiry officer directing the appellant to attend enquiry at Barabanki on the same date. In the said message, the so called enquiry officer had suggested the appellant to join the enquiry at BBK. by under taking a journey by 1 ML Passenger train on that very date. In response of the said message of the so ~~in~~ called enquiry officer. The appellant informed him atonce that since the representations for change of enquiry officer were already pending before the competent authorities, the enquiry scheduled to be held at BBK. would defeat the very purpose of justice and as such a request was made by the appellant to postpone the said enquiry till the disposal of his said representations. Thereafter the so



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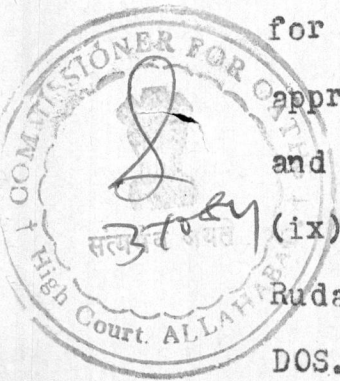
45-ASG

called enquiry officer intimated the appellant on phone on the very same date that his representation was already disposed of, and in that respect he can see the Sr.DOS on 16.9.80. In compliance of the orders, the appellant contacted Sr.DOS(Shri R.C.Sharma) in office on 16.9.1980 and on that date only he was given letter No. TT63A/Stns./RDL dt. 16.9.80 intimating him that his request for change of enquiry officer was not acceded to by the Sr.DOS. Lucknow N.R.

(vii) Thereafter, the so called enquiry officer fixed 24.9.80 for enquiry Scheduled to be held at BBK. Since the appellants representations dated 1.8.80 and 16.9.80 for change of enquiry officer were already pending before the learned DRM, the appellant moved an another application dt. 23.9.80 to the Sr.DOS.(Shri R.C.Sharma) Showing his inability to attend the enquiry on 24.9.80 on that ground as well as on many other grounds, warranting the postponement of the date. The Sr.DOS postponed the date vide his message, through CNL Phone to RDL.

(viii) Thereafter, the appellant did not receive any notice for enquiry from the so called enquiry officer, nor he was apprised of the fate of his two representation dt. 1.8.1980 and 16.9.80.

(ix) On 5.10.81, the appellant while working as SM. Rudauli, NR. received a telephonic message on behalf of Sr. DOS. Lucknow directing him to attend his office at Lucknow on 6.10.81. In compliance of the order, the appellant attended the said office on the same date where he was given a sealed cover containing order No.TT63A/Stations/RDL dt. 5.10.1981 alongwith a copy of report/findings dated 27.10.1980 of the so called enquiry officer. By the said order the appellant



Khuraja
Ranabhai

46 (ASZ)

came to know that he had been removed, from service on the basis of an expert report and findings of the so called enquiry officer, hence this appeal.

2. That the order of appellants removal from service including the order of suspension, chargesheet, appointment of enquiry officer, all are illegal, unconstitutional and against Departmental rules and Principles of natural justice on the following amongst other grounds.

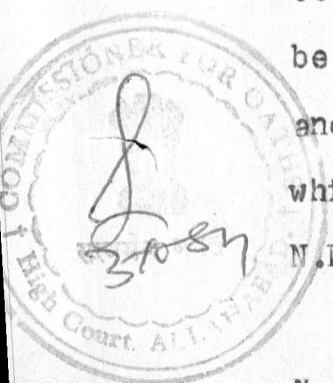
Grounds:

(a) That the so called chagesheet is no chargesheet in the eyes of law and departmental rules, as it does not contain definite and distinct articles of charges and other materials which ought to have been brought on the record with a view to efford a reasonable opportunity to the appellant to rebut the same.

In terms of subrule (3) or rule 9 of DA rules of 1968 it was obligatory on the part of the disciplinary authority to frame charges definite and distinct in nature. It will be seen from the memorandum of chargesheet that no particulars and specification have been given therein to show as to which particular consignment was booked by the appellant to N.F.Rly. via FKK.

It is worth mentioning that honourable High Court of Nagpur has held in T.N.Pandey Vs. Govt. of India reported in AIR 1953 NAG 138 that a person must be told in the clearest, terms and with full particulars what his alleged faults are. It should notbe left to the Govt. Servent to find out what the specific charges against him are.

In terms of RB letter No.E(D&A) 62RG-6-8dt. 27.7.63 no



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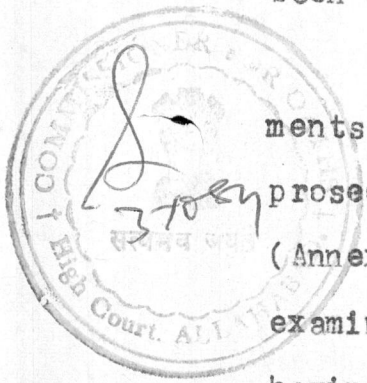
47 (ASS)

material shall be relied on at the back of the delinquent Rly. servant-without being given a reasonable opportunity to him, to rebut the same.

In view of the above, your honour will observe that memorandum of chargesheet issued to the appellant is not according to law and the departmental rules, and as such it can not be made a basis to punish the appellant on such allegations against which no reasonable opportunity of defence was offered to him. The action therefore is against the principles of natural justice as also ordered by the Rly. Board in their circular No.E-55-RG-6-20 dt. 4.2.1956.

(b) That it will be seen from memorandum of chargesheet that number of restriction messages have been shown in the statement of allegations (Annex. II) but none of the said documents has been brought on the records of the enquiry by citing them in the list of documents (Annex. III) for the consideration in the enquiry. Similarly many other documents such as RR. and allotments orders as shown in the list attached with the said memorandum of chargesheet have also not been brought on the records of enquiry for scrutiny and Exam.

Under the law and the departmental rules all the documents referred to in the chargesheet and relied on by the prosecution should have been shown in the list of documents (Annex. III) and produced in the enquiry for scrutiny and examination even in the ex parte proceedings. All these having not been done, the case of the prosecution and the charges levelled against the appellant do not stand proved. Thus the order of appellants removal from service is in flagrant violation of the departmental rules and principals of NATURAL JUSTICE.



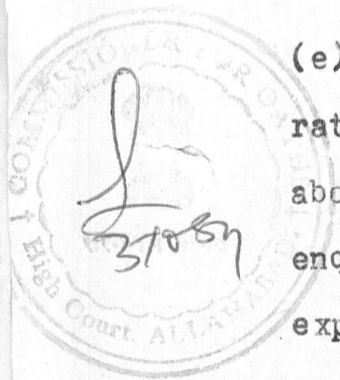
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Gauravarama*

48 (Asa)

(c) That it will be seen even from the report of the so called enquiry officer that the solitary report of WMI/LKO dt. 7.6.80 was not produced even in the exparte proceedings which ought to have been examined in the enquiry. It is submitted again that at no stage the said report was shown to the appellant. Thus placing of reliance on such report is not only against the principals of natural justice but also against the rules of the department. R.B. letter No.E(D&A)62RG-6-8 dt. 27.7.63.

(d) That, the so called enquiry officer, in the course of exparte proceeding travelled beyond his jurisdiction by examining Shri R.K.Misra, Sr.WMI/LKO. who was never cited as prosecution witness in the charge sheet, nor any intimation regarding his examination in the enquiry was ever given to the appellant to prepare his defence and to submit his written statement against the so called charges. Thus the action of the so called enquiry officer is purely arbitrary and against the rules of the department.

(e) That, the exparte proceeding is highly unjustified rather arbitrary in law as the appellant was never intimated about the same. It was a must on the part of the so called enquiry officer to intimate the appellant before having proceeded exparte. It is worth mentioning that the appellant never evaded to participate in the enquiry purposely and deliberately. All the intimations as mentioned in the report of the so called Enquiry officer, except the intimations for holding the Enquiry on 15.9.80 and 24.9.80 were not served on the appellant. The report of the so called Enquiry officer is self evident that his letter dated 9.10.80 fixing the date of



Khuraja
Lawrence

49 (A66)

- 8 -

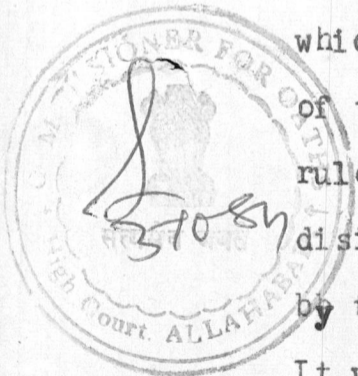
enquiry on 26.10.80 was not delivered to the appellant . In view of this clear admission on part of the so called enquiry officer the action for holding enquiry ex-parte is highly against the rules of the department as well as against the provisions in the Public servants enquiries Act. 1850.

Apart from the above it is also worth mentioning that it is evidently clear from the report of the so called enquiry officer that no notice dt. 9.10.80 fixing the enquiry on 26.10.80 was sent to the appellant's defence helper and no official documents are coming on the records of the enquiry to show that his defence helper was officially spared to attend the enquiry on 26.10.80 but he did not do so.

In view of the above the action of the so called enquiry officer to hold ex parte enquiry without any sufficient notice to the appellant and his defence helper is purely, arbitrary and prejudicial.

(f) That for the reasons mentioned in the appellant's representations dated 28.7.80 moved to Sr.DOS Lucknow and 1.8.80 and 16.9.80 moved to DRM/LKO the appointment of Shri ~~V.P.Tervidi~~ V.P.Tervidi (an active member & Divisional Secretary of NRMU, which is a rival union of URMU) as enquiry officer in the case of the appellant who was an active member of URMU is against the rules of the department as he can not be said to be a disinterested person. According to the instructions issued by the Rly. Board in their letter No.FC60/CCA/1 dt.15.3.61 It was a must on the part of the disciplinary authority to appoint a disinterested person as an enquiry officer.

(g) That, in terms of Rly. Board letter No.E(D&A)71-RG-6-4 dt. 2.3.71(Ps.No.5302) the enquiry officer must be sufficiently Senior to the delenquent Rly.Servant. The Official records



Khewaja
Rambhawan

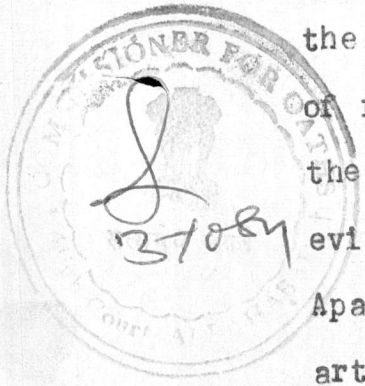
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A66

will evidently show to your honour that so called enquiry officer in no case, was Senior to the appellant either in grade or otherwise. He was simply an officiating WMI having no his confirmation in the grade held by him at that time.

(h) That, the so called enquiry officer was also not competent to hold the enquiry in the matters arising from commercial irregularities for which he was not possessing any departmental qualification whereas the appellant had already passed P-16 Course. In a case reported in 1957 II An.W.R.226 the honourable Court has laid down principles that even in the departmental proceedings the enquiry held by an incompetent enquiry officer cannot validate the proceedings.

In view of the facts mentioned above, the enquiry held by Shri V.P.Trivedi is absolutely based on prejudicial and biased attitude, and as such that can not be made a basis to punish the appellant.

(k) That, in any case, the ex parte proceedings held by the so called enquiry officer is not according to rules of the department and it is no finding under sub -rule (19) (1) of rule 9 of D&A rules, as not a single word available in the report of the so called enquiry officer to show that evidence coming on the record were discussed and assessed. Apart from this he has also not drawn his finding on each article of charges which was mandatory in law and in the said rules. He has also not discussed the statement of Shri R.K.Misra, the only witness examined in support of the charges. Under the rules, it was a must on the part of the so called enquiry officer to mention as to how the testimony of Shri R.K.Misra, recorded at the back of the



Khawaja
Qamrazzama

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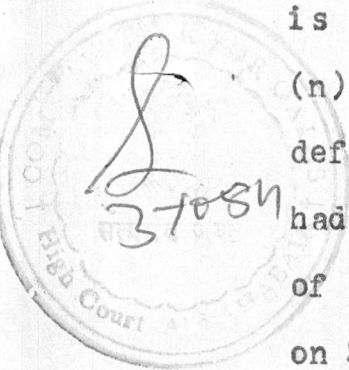
appellant, was helpful to the prosecution case. The so-called enquiry officer without applying his minds to the facts and circumstances and the evidences coming on the record, held in a arbitrary and crytic manner that the charges levelled against the appellant stands proved. It is also worthly to mention that no reasoning has been given by the so-called enquiry officer in support of his finding.

In view of the above, the report and the findings of the so-called enquiry officer is no finding in the eyes of law and the departmental rules mentioned above.

(m) That, the order of removal from service under appeal cannot be said to be a speaking order as it does not contain any finding on any article of charge. His mere acceptance of the so-called enquiry officer's report and findings which is no finding in the eyes of law and departmental rules, cannot be said to be the sufficient compliance of sub-rule 4 of rule 10 of the D & A rules 1968. The order of removal, under the facts and circumstances stated above is therefore arbitrary, crytic, and capricious.

(n) That it amounts to denial of opportunities of defence even at the stage of appeal both as the appellant had not been furnished with a copy of the statement of Shri R.K.Misra Sr.WMI/LKO alleged to have been recorded on 26.10.80.

(p) That the order of appellant's removal from service has not been passed by the appointing, equivalent, or higher authority. In accordance with the rules of the department, the appointing authority of the



Khawaja
Rauf

52

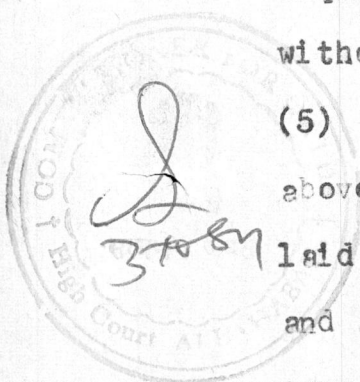
A63

appellant is General Manager. Thus it is clear violation of article 311 (1) of the Constitution of India.

(3) That, the case of the appellant has been dealt with discriminately and in violation of article 14 of Constitution of India, in that many persons (as) already intimated vide my representateion dated 1.8.80 baring the similar circumstances, have not been dealt with in a manner as has been done in the case of the appellant. Law desires that like should be treated alike both in privileges conferred and liabilities imposed.

(4) That, the appellant had been implicated in this false and fabricated case under a deep routed conspiracy and plan hatched by some intersted persons with a view to deprive him of his right to get promotion in the next higher grade for which he was in the selected panel and seniority list. The appellant wasnted to establish this aspect in the enquiry and as such he was demanding a fair and unbiased enquiry officer which was purposely and deliberately refused without any good and sufficient reason.

(5) That the facts and circumstances, mentioned above your honour will rightly consider that the procedure laid down in the D&A rules has not been complied with and such non-compliance has resulted in the violation of constitutional provisions and failure of justice and that the so-called report and finding of the enquiry officer as well as the observation of the disciplinary authority are not meritted and warranted by the evidence on the records and as such the punishment under appeal is not within the four walls of justice. The appellant has committed no wrong and his no



Khuraja
Dandekar

53. (A64)

act is subversive to law and the departmental rules. The appellant assured your honour that he discharged his duties strictly to the departmental rules and administrative order. He is innocent in the matter and the punishment awarded to him is merely based on surmises, conjectures and astronomical matters forming no part of evidence.

(6) That the appellant hails from a poor family and has a great liability to carry on his family burden. This unjust order of his removal has created a lot of dislocation in his family affairs and the members of his family are at the verge of starvation. The education of his children is also about to discontinue, as he has no alternative means

to bear ^{THE EXPENSES.} in the name of justice, humanity and mankind, it is respectfully prayed that your good self may be pleased to look into the matter with an adjudicious view and to meet the ends of justice, the order of removal from service be set aside, so that the members of his family and he should not suffer any more.

It is further prayed that I may kindly be granted personal hearing in this case.

Thanking you, Sir,

I have,
the honour to be,

Sir,

yours faithfully,

Khwaja Qamaruzzama

(Khwaja Qamaruzzama)
Station Master,
Rudauli, N.R., Dated 30.10.81.

3/10/81

Khawaja Qamaruzzama

Copy forwarded to:-

1. The Divisional Secretary URMJ/LKO. for information

54

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

Lucknow Bench, Lucknow.

Writ Petition No. _____ of 1984.

Khawaja Qamruzzama ... Petitioner

Versus

Union of India and others ... Opp. Parties.

Annexure - 9-A.

Divisional Office,
Lucknow, dated 4.2.82.

No.E/Appeal/Misc.

Shri K.Q.Zama,

Ex. S.M./FDL.

Through: S.M./FDL.

Sub: Appeal under Rule 18 of the Railway Servants
Discipline and Appeal Rules-1968 against order No.
TT/63/A/Stations/FDL dt. 5.10.81 passed by Shri Baldev
Singh, Sr. DOS/N/Rly./LKO removing the Appellant from
service w.e.f. 6.10.81.

Ref: Your appeal dated 30.10.81.

As per Rly.Servants Discipline and Appeal
Rules 1968 Rule 22(2) The appellant's authority ADEM(T&EO)
LKO having carefully examined the case and passed the
following orders:-

I have gone through the case and the Defence
Appeal. I do not find any ground for technical objections
raised by the employee. The position is clarified as
under:-

....2/-

*Khawaja
Qamruzzama*

55 AGS

(2)

(a) It is not necessary to issue a memorandum and establish charges through a articles in this articular case. The Disciplinary Authority felt that no witness could be produced to substantiate established the charges.

(b) Relied upon documents and other documents were not required to be furnished alongwith the memorandum. The employee could have however, examined these documents in the office. A copy of relied upon documents could be supplied to the employee before the enquiry on request. In the present case he did not seek any permission to see Addl. documents nor asked for Inspection of relied upon documents. He made no intention in his Defence statements that he was denied access to any of the documents. His plea now that he was denied access to these documents is obviously an after thought.



*Khosaja
Lawyer*

(c) The Enquiry Officer nominated was in Grade Rs.550-750 while the employee was in the grade Rs.455-700 and as such is senior and competent to conduct DAR Enquiry.

(d) The employee had raised objection to the appointment of Shri Trivedi as Enquiry Officer on grounds of he being prejudice against the employee. This case was considered by the Disciplinary Authority and his request for change of Enquiry Officer turned down. DRM can not order any change over this Disciplinary authority unless he wants to be the Disciplinary Authority himself and as such any representation

contd.....3/-

(3)

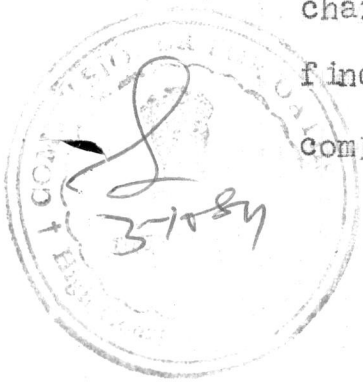
56 AGG

to DRM was injections. Once the request for change of Enquiry Officer was turned down by the disciplinary authority the employee should have attended the DAR sittings. He evaded it althrough.

- (e) Memorandum contains definite and DISTINCT articles of charges.
- (f) Since the employee was evading to attend the Enquiry there was no option but to hold enquiry Ex. Parte. The employee has been given adequate and enough opportunity to attend the Enquiry but he has failed to attend and defend himself Ex. parte Enquiry is in order.

Not withstanding the fact that the employee has not defend himself against any of the charges in the appeal or refuted the basis of holding him guilty of the charge. I have gone through the Enquiry report and findd that the charges have been established fully and completely.

His appeal is therefore rejected.



Khawaja
Aabdurrahman

Sd/- (B.K. Sinha)
Asstt. Personnel Officer,
Northern Railway,
Lucknow.

57 (A67)

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

Writ Petition No. of 1984.

Khawaja Qamruzana ... Petitioner.

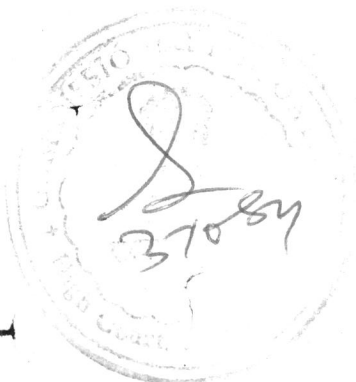
Versus.

Union of India & others Respondents.

Annexure No. 10

The Divisional Railway Manager,
Northern Railway,
Lucknow.

Review Petition under rule 25 of D&A Rules, 1968
against order No.E/ Appeal/Misc. dated 4.2.1982
issued by the Assistant Personnel Officer, N.Rly.,
Lucknow communicating the orders passed by the
A.P.R.M.(T&E.O.) N.Rly., LKO rejecting the
petitioner's appeal dt.30.10.1981 preferred
against the order of his removal from service
passed by the Sr. DOS/LKO vide N.I.P. No.TT/63/W/
Station/RDL dated 5.10.81.



*Khawaja
Qamruzana*

Respected Sir,

Most humbly and respectfully, the petitioner prefers
the following review petition under rule 25 of the D&A Rules,
1968 for your judicious consideration and justice into the
case:-

- 1) That by an order dated 5.10.1981 passed by the
learned Sr. DOS/LKO the petitioner was removed from service
with effect from 6.10.1981 i.e. from the post of Station
Master/RDL.

contd...2/-

50 (A68)

(2)

2) That as per instructions contained in the aforesaid order of removal, the petitioner preferred an appeal dated 30.10.1981 to the learned ADRM(Operating), Northern Rly., Lucknow and whereby challenged the entire disciplinary proceedings beginning from suspension to the stage of removal from service on various grounds deserved for an ut-most consideration by the competent appellate authority.

3) That by order referred to above communicated by the A.P.O. vide his No.E/Appeal/Misc. dated 4.2.1982, the aforesaid appeal of the petitioner has been rejected by the A.D.R.M.(T&EO) LKO (Shri R.C.Sharma).

4) That the order passed by Shri R.C.Sharma, ADRM(T&EO) LKO rejecting the petitioner's appeal is no order in the eyes of law and the observations made by him in support of his action are arbitrary, capricious and cryptic in nature on the following amongst other:-

G R O U N D S:

(a) Because Shri R.C.Sharma, ADRM has wrongly functioned as appellate authority to decide the appeal of the petitioner as he had already functioned as a disciplinary authority of the petitioner's case by issuing orders of the petitioner's suspension, revocation and charge sheet etc. etc. Thus he, by deciding the petitioner's appeal, has travelled beyond jurisdiction and acted without authority.

(b) Because, in any way, the observations made by him rejecting the petitioner's appeal are against the evidence on the records and, therefore, are arbitrary in law.

37087

Khawaja
Ranjana

59 (A69)

- (c) Because the learned ADM- the so-called appellate authority of the petitioner left to consider various points of the petitioner's appeal which consideration was necessary and expedient in the interest of justice and this he did purposely, deliberately and with a biased attitude to defeat the ends of justice.
- (d) Because the observations of the learned so-called appellate authority mentioned against Serial No.(a) of the letter dated 4.2.1982 issued by the A.P.O./IKO are vague, against the rules and the evidence on the records. From this, it appears that the learned so-called appellate authority has mis-understood and misconstrued the points raised by the petitioner in his appeal and, therefore, it is evidently clear that he did not apply his mind to the facts and circumstances of the case while deciding the petitioner's appeal.
- (e) Because similarly the observation made by the said authority against Serial No.(b) are also against the materials available on the records and contrary to the rules of the department and principles of Natural Justice, which facts further show that he did not apply its judicious mind to the facts and circumstances of the case.
- (f) Because the observations made by the said authority against item (c) of the said letter are also against the rules of the department and materials available on the records and they are incomplete as no observations has been made in respect of the points raised by the petitioner that the Enquiry Officer



Khawaja
Raufurrahman

60/A-70

(4)

being the office bearer of the rival Union was not expected to take a fair decision in the case and, therefore, was not competent to hold enquiry against the Petitioner. The order of the so-called appellate authority will evidently show that the said authority failed to give any finding on this important issue involved in the case. This fact alone shows that the so-called appellate authority exercised its power and decided the appeal of the petitioner in a mechanical manner with a pre-occupied mind not to grant any relief to the petitioner. The action, therefore, is not only arbitrary but also mala fide.

(g) Because the observations made by the so-called appellate authority against S.No.(d) of the said letter dt.4.2.82 issued by APO/LKO are further contrary to rules and against the facts available on the records. It is submitted that a mere act of the disciplinary authority to turn down the request of the petitioner in respect of change of Enquiry Officer duly supported by sufficient reasons and justifications is no lawful order unless the act of rejection is followed by reasons valid in law. Thus this having not been done in the case of the petitioner the said action of the disciplinary authority can not be said to be valid in law and the sufficient compliance of the departmental rules. The action therefore is arbitrary and prejudicial.

(h) Because the mere act of saying by the so-called appellate authority that the Memorandum of charge sheet was containing distinct and definite articles of charges is not

.....5/-



*Khosla
Rameshram*

sufficient in law. The so-called appellate authority was required to give its findings in a very specific manner in the light of the points raised by the petitioner in his appeal rejecting the same. Thus this having not been done, the action is arbitrary and prejudicial.

i) Because the so-called appellate authority has wrongly mentioned in total disregard of the facts available on the records that the petitioner evaded to attend the enquiry. purposely and deliberately, he had left to consider the facts mentioned by the petitioner in his appeal on this issue by which it is established beyond doubt that no notice for enquiry as required under the law and the departmental rules was ever served on the petitioner.

5) That for the facts and circumstances mentioned above, it is established beyond doubt that the so-called appellate authority acted in the case of the petitioner beyond jurisdiction and without authority and the observations made by him rejecting the petitioner's appeal are no observations in the eyes of law and the departmental rules.

g) That in view of the facts mentioned above the points raised by the petitioner in his appeal dated 30.10.1981 still hold good and deserves for an utmost consideration by your honour even at the stage of this review petition and for this purpose, the petitioner herewith submits a copy of his said appeal as annexure 'A' to this petition and the same is a part of it.

To meet the ends of justice, it is respectfully prayed that your honour may be pleased to consider this review petition in the light of the points raised by the petitioner in his appeal dt. 30.10.1981 and the same may be treated as a part of

contd....6/-



*Khawaja
Lawrence*

62 (A73)

(6)

this review petition. Your honour be further pleased to set aside the orders passed by the disciplinary authority as well as by the so-called appellate authority to meet the ends of justice and the petitioner may be reinstated in service, so that the members of his family may not suffer any more. In the end, the petitioner assures your honour that he is innocent in the matter and has acted strictly according to the rules and instructions of the department. The so-called charges levelled against him are false and he specifically denies the same even at this stage.

It is further prayed that in the alternative, the exparte enquiry be quashed and order for a denovo enquiry be ordered to be made by any authority competent under the law and the departmental rules. The petitioner be also granted a personal hearing in the matter.

It is hoped that due justice as prayed would be given to the petitioner at an early date.

Thanking you,

Dated: 27.4.1982.



Yours faithfully,

Sd/-

(Khawaja Qamruzzaman)
EX. SM/RDL.

*Khawaja
Qamruzzaman*

63 (A73)

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

Lucknow Bench, Lucknow.

Writ Petition No. _____ of 1984.

Khawaja Qamruzzama

Petitioner.

Versus.

Union of India & others

Opp. Parties.

उत्तर रेलवे ।

Annexure-11.

मण्डल कार्यालय ,

लखनऊ दिनांक 3-8-83 ।

पत्र संख्या : ई / अपील/मिस/13/83 ।

श्री के.व्यू.जमा, एक्स एम.एम./ अर.डी.ए.

द्वारा एम.एम.अर.डी.ए.

विषय: दंड नोटिस संख्या TT 63A Stn./ RDL/ 5- 10- 81

निमित्त दंड Removal from Service

द्वारा A.D.R.M. (P)

के विरुद्ध आप की अपील ।

संदर्भ: आप की दिनांक 27-4-82 की अपील ।

=====

रेल कर्मचारी अनुशासन एवं नियम 1968 के नियम 22(2)

के अनुसार अपील अधिकारी डी.अर.एम. लखनऊ ए.डी.अर.एम. की

द्वारा उपरोक्त आदेश के विरुद्ध आप के द्वारा की गई अपील

दयानपूर्वक विचार करके निम्नलिखित निष्कर्ष व्यक्त किया है ।

।क। अनुशासन प्र. अधिकारी के निष्कर्षों के अनुसार प्रमाणित है कि

।ख। आरोपित दंड The removal appeal is rejected.

प्रतिलिपि सूचनाएं आवश्यक कार्यवाही हेतु सहायक कार्मिक अधिकारी

हो

लखनऊ

। संबंधित लिपिक कार्मिक विभाग ।



Khawaja Qamruzzama

A 74

The Hon'ble High Court of Allahabad
 व अदालत श्रीमान महोदय
 वादी (मुद्दई) का वकालतनामा
 प्रतिवादी (मुद्दाअलेह)

W.P. No. _____ / 1984



Khwaja Ramesh Chandra
 वादी (मुद्दई)

बनाम
 Union of India & others प्रतिवादी (मुद्दाअलेह)

14/2/84
 2
 9/4

नं० मुकद्दमा सन् १६ पेशी की ता० १६ ई०
 ऊपर लिखे मुकद्दमा में अपनी ओर से श्री
 Z. Jilani एडवोकेट
 महोदय
 वकील

नाम अदालत
 नं० मुकद्दमा
 नाम फरीकैन

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 तसदीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या दिपक्ष (परीवसानी) का दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करे - वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी स्वयं या किसी अपने पैरोकार को भोजता रहूंगा 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।

accepted
 Jilani

Khwaja Ramesh Chandra
 हस्ताक्षर

साक्षी (गवाह) साक्षी (गवाह)
 दिनांक 3 महीना 10 - 1984

हाईकोर्ट इलाहाबाद लखनऊ बेंच, लखनऊ

(अध्याय १२, नियम १ और ७)

Handwritten number 2680

दीवानी विभाग

प्रकीर्णक (मुतफरिफ) प्रार्थना - पत्र संख्या जन १६ ई०

..... सं० 4923 जन १६ ई० में

..... Khuram Razaq Khan प्राची

..... प्रति प्रत्याची

To M. P. ... S. W. M. Inspector
Northern Railway
Divisional Office Lucknow
..... प्रत्याची

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

.....के नाम के लिये प्रार्थना-पत्र

दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक 15 माह जन १६

या उससे पूर्व उपस्थित होकर कारण बतलायें कि प्रार्थना-पत्र क्यों न स्वीकार का
जाय। उक्त प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञप्ति किशो और
योगी।

बीमा नहीं

निहित हो कि आप ऊपर लिखे दिनांक पर या उससे पहले स्वयं अथवा किसी
ट या ऐसे व्यक्ति द्वारा, जो आपको ओर से कार्य करने के लिए कानूनन अधिकृत
उ स्थान न होंगे तो उस प्रार्थना-पत्र की सुनवाई और निर्णय आपकी अनुपस्थिति
में हो जायेंगे।

मात्रे गये डाक
Amount of Star

रु री
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पते
Addr

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक 10 माह जन १६

को जारी किया गया।

.....के सहचोकेट

तिथि.....



Handwritten signature and text: रजिस्ट्रार इलाहाबाद/लखनऊ

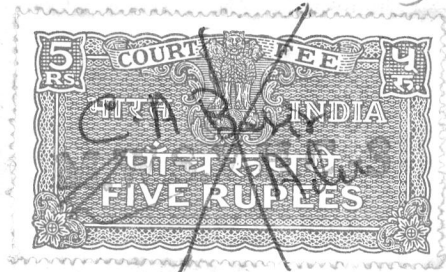
सूचना—इस न्यायालय की १९५२ की नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त
तकवाना मिल गया।

तकवाना प्राप्त करने वाले कलक के हस्ताक्षर

2/2

In the Honble High Court of Judicature at Allahabad
अदालत श्रीमान महोदय
(Dukesnow Bench) Dukesnow

~~1125~~ W.P. No
1125



4923/84

Khawaja Qamruzama

वादी/अपीलर Petitioner

वचन

Union of India

Opp. Parties प्रतिवादी/रेस्टाडेंट

संख्या मुकदमा 4923 सन 1984

पेशी की तओ

अपर मुकदमा में अपना और से श्री C. A. Basir, Advocate

वकील महोदय को अपना वकील नियुक्त करके इकरार करता हूँ और लिखे देता हूँ कि मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब व प्रस्तावत करें या कोई कागज दाखिल करें या लौटावा या हमारी ओर से डिग्री जारी करावे और स्वयं वसूल करें या सुनहनात या इक्वान दावा तथा अपील व निगारती हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक रक्य या मुकदमा उठावे या कोई स्वयं जमा करें या हमारी विपरीत परीकसानी का दाखिल किया हुआ स्वयं अपने या हमारे हस्ताक्षर मुफ्त इस्तखती रसीद से लेजे का र्थव नियुक्त करें वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी इसलिये यह वकालत

अदालत मुकदमा वचन

Accepted on behalf of opp parties C.A. Basir Adv

हस्ताक्षर Divisional Railway Manager, Northern Railway, LUCKNOW.

वादी/अपीलर प्रतिवादी महोदय

NW 12/16.84 SP 15-5-85

Senior Divl. Operating Supt., Northern Railway, Lucknow

Addl. Divisional Railway Manager, Northern Railway, LUCKNOW.

In The Central Administrative Tribunal,
Circuit Bench, Lucknow.

ब अदालत श्री मान

वादी मुद्दाई

प्रतिवादी मुद्दालय का वकालतनामा

वादी मुद्दाई

K. Samruzzaman

बनाम U.O. 9.4 others

प्रतिवादी मुद्दालय

T. A. नं० मुकद्दमा 1566 सन 1987 पेशी की तारिख 09-04-1990

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उपर लिखे मुकद्दमा में अपनी ओर से श्री

ANIL SRIVASTAVA

एडवोकेट

महोदय

वकील

को अपना वकील नियुक्त करके प्रतिज्ञा इकरार करता हूं। लिखें देता हूं। इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्न करेगा अन्य कोई कागज दाखिल करें या लौटा दें हमारी ओर से डिक्ली जारी करावें और रूपया वसूल करेगा मुलहनामा इकबाल दावा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करे या मुकद्दमा उठाये या कोर्ट में जमा करें या हमारी या विपक्ष फरीकसानी का दाखिल किया रूपया अपने या हमारे हस्ताक्षर युक्त दस्तखती रसीद से लेदेगा पंच नियुक्ति करें वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं भी यह कहता हूं। कि मैं हर पेशी स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरी वकील पर न होगी। इसलिये यह वकालतनामा लिख दिया कि प्रमाण रहें और समय पर काम आवें।

साक्षी गवाह

हस्ताक्षर

दिनांक महीना

साक्षी गवाह

नाम अदालत

नं० मुकद्दमा

नाम फरीकन

Accepted
Anil Srivastava
Adv.
9/4/90

Divisional Railway Manager
Northern Railway
LUCKNOW

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
23-A Thornhill Road, Allahabad-211 001

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o/c

T.A. No. 1566 of 1987

No. CAT/Alld/Jud

dated the _____

Khawaja Qumruzama

APPLICANT(S)

VERSUS

41047+41318

Union of India

RESPONDENT(S)

TO

- 1- Shri Z. Jeelani, Advocate, Lucknow High Court
Lucknow.
- 2- Shri C.A. Basir, Advocate, Lucknow High Court
Lucknow.

Whereas the marginally noted cases has been transferred by

H.C. I.K.O

Under the provision of the

Administrative Tribunal Act XIII of 1985 and registered in this Tribunal
as above.

Writ Petition No. 4923
of 1984
of the Lucknow High Court, Lucknow


The Tribunal has fixed date of 11-12-1989 1989. The
hearing of the matter at Gandhi
Bhawan, Opp. Residency, Lucknow.

If no appearance is made on your
behalf by your name one duly authorised to
act and plead on your behalf

the matter will be heard and decided in your absence.

Given under my hand seal of the Tribunal this 25th
day of August 1989.

dinesh/


DEPUTY REGISTRAR

15/9
AC

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH
Gandhi Bhawan, Opp. Residency, Lucknow

*** TA 1566/07

No. CAT/Alid/Transfer/

Dated the 17/1/90

Khooja Camruzzaman APPLICANT'S

VERSUS

Union of India RESPONDENT'S

① To Shri Khooja Camruzzaman 870 Shri Syed
Memzoor Ahsan No Rly, A 1074
at Railway Station Rudauli N. Rly
Distt Barabanki

Whereas the marginally noted cases has been transferred
by H. C. Lko under the provision of the Administrative
Tribunal Act XIII of 1985 and registered in this Tribunal as above.

Writ Petition No. 4923/0 The Tribunal has fixed date of
of 1990, of the Court of 12.2.90 1990. The hearing
H. C. Lko of the matter.
arising out of order dated _____ If no appearance is made on your
_____ passed by behalf by your some one duly authorised
in _____ to Act and plead on your behalf.

The matter will be heard and decided in your absence.
given under my hand seal of the Tribunal this 15
day of 1 1990.

dinesh/

DEPUTY REGISTRAR

Before the Hon^{ble} Administrator
Tribunal Central Inquiries
T.A. No 1566 of 1987

11/10

Khanja
vs ~~Shri~~ Ramkrishnan ————— Petitioner

Union of India & others — app. Sectors
Applicator for time to file P.A.

The petitioner cannot help to submit
as under:

- 1) That the above stated case filed
for filing rejoinder affidavit today.
- 2) That rejoinder affidavit cannot be
prepared today.

It is therefore prayed that

Adj to
8/2/91
for
rejoinder
9/1/91

this Hon^{ble} Court be pleased to
grant term may kindly be granted
for filing rejoinder affidavit.

Dated
9-1-91

File
(Consent for Petitioner)

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In the Central Administrative Tribunal, Allahabad,
Circuit Bench, Lucknow.

T. A. No. 1566 of 1987
(Writ Petition No. 4923 of 1984).

Khwaja Qamruzzama _____ Applicant.

Versus

Union of India & others _____ Respondents.

REJOINDER TO THE COUNTER AFFIDAVIT
FILED ON BEHALF OF RESPONDENTS.

The applicant begs to submit as under :-

1. That the applicant has read and understood the contents of counter affidavit filed on behalf of the respondents and files this rejoinder as follows :-
2. That the contents of para 1 of the counter affidavit call for no remarks.
3. That the contents of para 2 of the counter affidavit call for no remarks.
4. That the contents of para 3 of the counter affidavit are denied.

B filed today

SH
30/12/91

Khwaja Qamruzzama
30/12/91

5. That the contents of para 4 of the counter affidavit are wrong and misleading, hence they are denied. It is further respectfully submitted that the order of applicant's removal from service has been passed in gross violation of rules and Principles of Natural Justice. The order of removal from service was abruptly passed even without giving an opportunity to the applicant to make his representation against the report of the Inquiry Officer which was a must in view of the principle laid down by the Hon'ble Supreme Court of India in the case of Union of India Versus Mohd. Ramzan Khan, AIR 1991 S.C. 471.

6. That the contents of para 5 of the counter affidavit are wrong, hence they are denied. It is further respectfully submitted that the appellate authority did not pass the order rejecting the applicant's appeal after due application of mind as required under rule 22 of the Railway - Servants (Discipline & Appeal) Rules, 1968 in that it had to consider the appeal in the following manner :-

- (a) Whether the procedure laid down in the Discipline & Appeal Rules, 1968 has been complied with, and if not, whether such non compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice;

Khaja Ramzama
30/12/91

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(b) Whether the findings of the disciplinary authority are warranted by the evidence on the record; and

(c) whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe.

7. That the contents of para 6 of the counter affidavit, in so far as they are matter of records, are not denied.

8. That the contents of para 7 of the counter affidavit need no reply.

9. That the contents of para 8 of the counter affidavit call for no reply.

10. That the contents of para 9 of the counter affidavit are wrong and misleading, hence they are denied and the averments made in para 4 of the writ petition are reiterated. It is further respectfully submitted that the applicant has been held guilty of the charge in the inquiry in an arbitrary manner and in violation of rules and Principles of Natural Justice.

11. That the contents of para 10 of the counter affidavit which are contrary to the facts mentioned in para 5 of the writ petition are denied

Khusaya Damsurawa
30/12/91

and the averments made in the said para of the writ petition are reiterated.

12. That the contents of para 11 of the counter affidavit are denied and the averments made in paras 6 and 7 of the writ petition are reiterated. It is further respectfully submitted that as per instructions issued by the Railway Board, as incorporated in para (2) at page 41 of the ' Brochure on Railway Servants (Discipline & Appeal) Rules, 1968 ', the appointment of Sri V.P. Trivedi as Inquiry Officer in the case of the applicant was in violation of rules. The said para (2) is reproduced below :-

" (2) Appointment of an Enquiry Officer or a Board of Inquiry.*- The disciplinary authority will appoint a single officer or a committee of officers consisting of two or more members to enquire into the charges. Senior Class III officials are also eligible for appointment of enquiry officers. There is no bar to the immediate superior of the employee being proceeded against, holding an enquiry. However, as a rule, the official who undertakes this task, should not be suspected of any bias in such cases, nor should an official who has to give evidence at a departmental inquiry, be nominated as an inquiry officer or associated with the disposal of the proceedings of the inquiry. The officer selected for appointment as an inquiry officer, should be sufficiently senior in rank to the officer whose conduct is being inquired into and should be one who did not have an occasion to express an opinion on the merits of the case at an earlier stage. Disciplinary cases except in cases arising out of fact-finding inquiries, inquiries made by Vigilance Organisation, inquiries consequent to audit reports and reports from S.P.E. should not be entrusted to an officer lower in status than that of the officer who conducted the fact-finding inquiry."

13. That the contents of para 12 of the counter

Khawaja Qasim
30/12/91

affidavit are denied and in view of the averments made in the foregoing para of this rejoinder, the averments made in para 8 of the writ petition are reiterated.

14. That the contents of para 13 of the counter affidavit are denied and the averments made in paras 9, 10 and 11 of the writ petition are reiterated. It may further be mentioned that the Inquiry Officer was not sufficiently senior to the applicant as required under the rules.

15. That the contents of para 14 of the counter affidavit call for no remarks.

16. That in reply to contents of para 15 of the counter affidavit, it is respectfully submitted that the averments made in paras 13 and 14 of the writ petition are most relevant for the adjudication of the case particularly in respect of appointment of the Inquiry Officer, who was not competent to hold the inquiry of the applicant.

17. That the contents of para 16 of the Counter affidavit are denied and the avrments made in para 15 of the writ petition are reiterated.

18. That the contents of para 17 of the counter affidavit are vehemently denied and the averments made in para 16 of the writ petition are reiterated

Kusaja Rammesana
30/12/91

The respondents are required to a strict proof to establish the competency of Sri V.P. Trivedi for being appointed as Inquiry Officer in the case of the applicant who was then working as a confirmed Station Master in grade Rs. 455-700.

19. That the contents of para 18 of the counter affidavit are denied and the averments made in para 17 of the writ petition are reiterated. It is further respectfully submitted that Sri V.P.-Trivedi, not being sufficiently senior to the applicant, was not at all competent to hold the D&AR enquiry against the applicant and that the applicant's appeal regarding change of Inquiry Officer was rejected by the respondent no. 4 in an arbitrary manner and against the provisions of rule.

20. That the contents of para 19 of the counter affidavit are wrong and mis-leading, hence they are denied and the averments made in para 18 of the writ petition are reiterated. It is further respectfully submitted that the contentions of the respondents, as set forth in the para under reply, are not supported by any rule. The applicant, in the interest of justice, had every right to appeal the Divisional Railway Manager against the illegal orders passed in his case. During the pendency of the said appeal to the Divisional Railway Manager made against the Inquiry Officer also on the ground of his being bias, the Inquiry Officer, in terms of instructions issued by the Railway Board contained

...8.

Khesaja Ramaswara
30/12/91

in para (3) at page 41 of ' Brochure on Railway Servants (Discipline & Appeal) Rules, 1968 ', was not competent to hold the inquiry. The provisions of said para (3) are reproduced below :-

" (3) Application against an Inquiry Officer on ground of bias.*-

Whenever an application is made by a Railway Servant, against whom disciplinary proceedings are initiated, against the Inquiry Officer, on ground of bias, the departmental proceedings should be stayed and the application of the delinquent, alongwith other relevant material, forwarded to the appropriate ~~authority~~ reviewing authority for considering the application and passing appropriate orders thereon expeditiously. "

21. That the contents of para 20 of the counter affidavit call for no reply.

22. That the contents of para 21 of the counter affidavit are wrong rather false and misleading, hence they are vehemently denied and the averments made in para 23 of the writ petition are reiterated. Fact is that no notice for inquiry, as alleged in the para under reply, was ever served either on the applicant or on his defence helper.

23. That the contents of para 22 of the counter affidavit, in so far as they relate to fixation of next date of inquiry for 26.10.1980, are denied. No such notice fixing 26.10.1980 was served on the applicant. The respondents themselves

Khawaja Dawoodzama
30/12/91

admit in the para under reply that the notice fixing the date of inquiry for 26.10.1980 sent to the applicant by registered post was received back as un-served, ~~and~~ thereafter, no effort was made by the Inquiry Officer to get the same served on the applicant. Thus it is evidently clear that no notice of inquiry for 26.10.80 was received and the applicant had no knowledge of the inquiry on 26.10.80. In such circumstances, the ex parte inquiry held without sufficient service of notice on the applicant is illegal and against the principles of Natural Justice.

As regards passing of removal order, it is respectfully submitted that it was passed by the respondent no. 4 without affording an opportunity to the applicant to make representation on the report of the Inquiry Officer. In view of the principle laid down by the Hon'ble Supreme Court in the case referred to in para 5 of this rejoinder, the respondent no. 4 was bound to furnish a copy of report of the Inquiry Officer and the applicant should have been given an opportunity to make his representation thereon before passing the final order by him. Thus the order of removal, in such circumstances, is illegal being violative of the Principles of Natural Justice.

24. That the contents of para 23 of the counter affidavit are wrong and misleading, hence they are denied and the averments made in para 25 of the writ petition are reiterated.

Khuraja Dhanraj
30/12/91

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25. That the contents of para 24 of the counter affidavit are wrong and mis-leading, hence they are denied and the averments made in para 26 of the writ petition are reiterated. It is further submitted that the applicant must have been given an opportunity to make a representation on the report of the Inquiry Officer before passing the final order of punishment.

26. That the contents of para 25 of the counter affidavit need no reply.

27. That the contents of para 26 of the counter affidavit, as stated, are denied and the averments made in para 28 of the writ petition are reiterated. It is further submitted that even at the stage of appeal, no opportunity of personal hearing, as provided under the rules, was afforded to the applicant to substantiate his contentions as set forth in the appeal. It was, therefore, against the Principles of Natural Justice. It may further be mentioned that no reason for not granting the opportunity of personal hearing on the appeal was recorded and communicated to the applicant.

28. That the contents of para 27 of the counter affidavit need no reply.

29. That in view of averments made in para 32 of the writ petition, the contents of para 28 of

Khawaja Samir
30/12/91

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the counter affidavit are denied.

30. That the contents of para 29 of the counter affidavit are wrong, hence they are denied and the averments made in para 33 of the writ petition are reiterated. It is further respectfully submitted that the Divisional Personnel Officer is neither the appointing authority of the applicant nor he is competent to make appointment of a Station Master in grade Rs. 455-700 which the applicant was holding at the time when the order of his removal from service was passed. It is further submitted that the respondent no. 4, who passed the order of applicant's removal from service, is also not competent to make appointment of a Station Master in the said grade. Sub rule (1) (a) (i) ⁽ⁱⁱ⁾ and (iii) of rule 2 of the Railway Servants (Discipline & Appeal) Rules, 1968 provides that appointing authority in relation to a Railway servant means (i) the authority empowered to make appointments to the Service of which the railway servant is, for the time being, a member or the grade of the Service in which the railway servant is, for the time being, included, or (ii) the authority empowered to make appointments to the post which the Railway servant, for the time being holds, or (iii) the authority which appointed the Railway servant to such service, grade or post as the case may be whichever authority is the highest authority.

31. That in reply to contents of para

Shriwaja Ramaswaramoorthy
30/12/91

30 of the counter affidavit, it is respectfully submitted that the applicant, by sending memorial to the higher authorities, made all possible efforts to get justice which was open to him.

32. That the contents of para 31 of the counter affidavit are denied.

33. That the contents of para 32 of the counter affidavit are wrong, hence they are denied. The writ petition, in the facts and circumstances of the case, deserves for being allowed by this Hon'ble Tribunal with all consequential benefits which the applicant would have received had he not been suspended and removed from service.

Khawaja Ramzurrana
Applicant/Petitioner.

Lucknow:
Dated: 29.12.91.

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Verification.

I, the abovesaid applicant/petitioner, do hereby verify that the contents of paras 1 to 32 of this rejoinder are correct to my personal knowledge *and those of para 33 are correct to my belief.* I have not suppressed any material fact.

Khawaja Ramzurrana
Applicant/Petitioner.

Lucknow:
Dated: 29.12.1991.

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