

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE TA. 1707/87 of 19
W.B. NO. 650/85

Name of the parties A.K. Saini V/s. Ors.
.....Applicant.

Versus.

Union of India and others Respondents

Part A

Description of documents

- | | | |
|---------|---|-------------------|
| 1..... | <u>General Index</u> | <u>01 to 3</u> |
| 2..... | <u>Order sheet High Court order sheet</u> | <u>A4 to A11</u> |
| 3..... | <u>Order sheet CAT dated-05-09-91</u> | <u>A12 to A14</u> |
| 4..... | <u>Petition with annexure</u> | <u>A15 to A38</u> |
| 5..... | <u>Affidavit</u> | <u>A39 to A40</u> |
| 6..... | <u>Power</u> | <u>A41 to A42</u> |
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| 8..... | <u>Power</u> | <u>A46 to</u> |
| 9..... | <u>Affidavit</u> | <u>A47 to A50</u> |
| 10..... | | |

CERTIFICATE

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

Date : 21-08-11

Countersigned

Section officer/Court officer.

Signature of the
Dealing Assistant.

①

ANNEXURE - A

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW .

INDEX SHEET

CAUSE TITLE T.A. 1707 of 1987(T)
WP 650/85

Name of the parties A.K. Srivastava

Applicant.

Versus.

Union of India

Respondents.

Part A.B.C.

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<u>Part - A.</u>		
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2. General Index		A3
3. Petition		A4-A16
4. Annexures		A17-A27
5. Affidavit		A28-A29
6. Power -		A30-A32
7. C.M. Application		A33-A35
8. Affidavit -		A36-A38
9. Power -		A39
10. C.M. Application 14, 225		A40
11. Affidavit -		A41-A42
12. Order sheet of H.C.		A43-A44
<u>Bench copy</u>		B1 - B 30

4
(7)

ANNEXURE - B

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW.

Application No. _____ of 19

Transfer Application No _____ of 19

Old Writ Petition No. _____ of 19

C E R T I F I C A T E
6 - - - - -

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

Date :

Countersigned

Signature of the
Dealing Assistant.

Section Officer/ Court Officer.

.....

5/9/91

Non. Mr. S. K. Afzal, Jm.
Non. Mr. K. Obayya, Am.

Shri Siddhartha Verma appears
on behalf of respondents.

CMA No. 14225/85 dt. 11/9/85-
moved by the learned counsel
for the applicant is pending for
disposal. The application is
to the effect that the applicant
does not want to press the
petition because his grievance
has already been redressed
by the Department. The petition is
therefore dismissed as not
pressed without any order as
to costs.

Am.

Am.

Recd CMA
Judgment
3/10/91
Recd Shri
3/10/91

5/2/91

Now Mr Justice K. Patk, VC,
Now Mr K. Obeys, AM.

Counts affidavit has not
been filed despite opportunities.
The case shall proceed ex parte
and list for final hearing
on 8/4/91

Am.

VC

B

No S.W. 14 to 28.6.91

OR

No CA filed.
S.F. ex parte hearing

28.6.91 HON Mr K. Obeys - AM.
Now Mr S. N. P. 91 AM.

28/6
4/9/91

On the request of counsel
for the both parties case is adj to
5.9.91 for hearing

AM

Am

2

CIVIL

SIDE

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case... Agri. Union v. Union of India 650-85Name of parties... Agri. Union v. Union of IndiaDate of institution... 8.2.85

Date of decision.....

File no.	Serial no. of paper	Description of paper	Number of sheets	Court-fee		Date of admission of paper to record	Condition of document	Remarks including date of destruction of paper, if any
				Number of stamps	Value			
1	2	3	4	5	6	7	8	9
					Rs. P.			
	1-	W.P. with Annexure and Affidavit	27-		202-00			
	2.	Power.	1-		5-00			
	3.	Cmt. 1600(w) of 85 for stay	1-		10-00			
	4.	Power.	1-		5-00			
	5	Cmt. 1816(w) for modification of order	6-		7-00			
	6.	Power.	1-		5-00			
	7.	Cmt. 14225(w) of 85 for not pressing the work	3-		7-00			
	8	Order Sheet	2-	-	-			
	9.	Best Copy	-	-	-			

I have this

day of

198 ,

examined

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

Munsarim

Clerk

Date.....

5/9/91

Hon. Mr. D.K. Agrawal, 2m.
Hon. Mr. K. Oberoi, 1m.

Dismissed as not pressed.

For detailed orders see
our orders of date
passed on the ordersheet.

Am.

W
J.M.

Hon. S.S. Almad. 5
Hon. B. Kumar. 5

Admit
Home notice.

8.2.85
R/S

Prakash

Impressed

10 Adhesive Rs 200/-
Total

Correct but final Court fee up
will be made on receipt of lower
Court record.

In time up to

Papers filed. Copy of P. 2
should also be filed.
Single - Bench.

20th June 1, 34425-285

Lucknow

gudonh
8.2.85
8/4/05

(AS)

1/3

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

Writ Petition No. ⁶⁵⁰ of 1985

1. Arun Kumar Srivastava, aged about 25 years, son of Sri K.P. Srivastava, resident of M.L. 123, Moti Jheel, Pandey-ka-Talab, Lucknow.
2. O.N. Agnihotri, aged about 47 years, son of late Sri Jagannath Prasad, resident of Railway Quarter No. II-29A Munnawar Bagh, Railway Colony, Charbagh, Lucknow.

..... Petitioners

Versus

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. Addl. Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow.
3. Senior Divisional Safety Officer, Northern Railway, Hazratganj, Lucknow.

..... Opposite Parties

Writ petition under Article 226
of the Constitution of India.

The petitioners most respectfully beg to
submit as under :-



Ar. J.
8.2.85

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

FORM OF INDEX

C.A./T.A./B.A./C.C.P./ No. 1707-1987

A.K. Srivastava Vs. U.O. 18 and

PART - I

- | | | | |
|----|------------------|----|-----------------------------|
| 1. | Index Papers | :- | 1 to 3 |
| 2. | Order Sheet | :- | 4 to 11 (Hem. lile. H.C.) |
| 3. | Any other orders | :- | 12 to 14 (C.A.T.C.B.L.K.O.) |
| 4. | Judgement | :- | 15 (S.G.G.D) (") |
| 5. | S.L.P. | :- | |

23/12/88
DY. Registrar

30/12/88
Supervising Officer

30/12/88
Dealing Clerk

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

30-12-88
Dealing Clerk

V.K. Mishra



(12)

3
1

16/5/85

8/2/85

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

C.M. Application No. 1602(w) of 1985

In

Writ Petition No. 650 of 1985

Arun Kumar Srivastava &
another.Petitioners/Applicants

Versus

Union of India & others Opposite parties

Stay Application

The applicants most respectfully beg to submit
as under :-

That for the facts and circumstances stated
in the accompanying writ petition it is most respect-
fully prayed that this Hon'ble Court may be pleased to
stay the operation of the order dated 5.2.1985 (Annexure
No.1) and the orders dated 6.2.1985 (Annexure Nos. 3
and 4 to the writ petition) and direct the opposite
parties to continue, to allow all benefits of service
and full salary to the applicants pending disposal of
the writ petition.

Dated Lucknow:

Feb. 8, 1985.

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

28

Hon. S.S. Ahmad
Hon. B. Kumar

Issue notice.

Until further
orders of the court,
operation of the impugned
orders dated 6.2.85
contained in Annexures
3 and 4 relating to
petitioners 2 and 1
respectively shall
remain stayed and the
petitioner shall be
reinstated with all
consequential benefits
including the salary
which shall be paid
to them regularly
every month.

A copy of this order shall be
supplied to the learned counsel for the petitioner
on payment of necessary charges today.
8.2.85

RK

Maecar
Em

A33
5
1

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

--



Application for modification of the order dated
8.2.1985 passed by a Division Bench consisting
of Hon'ble Mr. Justice S.S. Ahmad and Hon'ble
Mr. Justice Brijesh Kumar

--

C.M. Application no. 1816 of 1985

Writ Petition No. 650 of 1985

--

1. The Union of India through the General Manager,
Northern Railway, Baroda House, New Delhi
2. The Additional Divisional Railway Manager,
Northern Railway, Hazratganj, Lucknow
3. The Senior Divisional Safety Officer, Northern
Railway, Hazratganj, Lucknow

Applicants

In re:

Arun Kumar Srivastava and another

-Petitioners

versus

Union of India and others

-Opp-parties

This application on behalf of the applicants
above-named most respectfully sheweth:-

1. That by means of the above-noted writ petition

Boa

No
12-2-85

2219

12-5-85
13/2/85

6

2/6

This application ^{before Ct No 2} will be moved today & since
Shri L. P. Shukla Advocate is
not available a request for its
being taken up tomorrow will be made.

B. Chakraverty
13/2/85

Received for Sri L. P. Shukla

Kuldipati Hoj
Advo.

13-2-85

on. KMG.J.

Put up tomorrow as prayed

13.2.85
R

CTA

AMO

17



1st fee
Rs 5.00
14/11/85

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

C.M. Application No. 14,225(u) (W) of 1985

In Re.

Writ Petition No. 650 of 1985

Arun Kumar, Srivastava & another Petitioners/
Applicants

Versus

The Union of India & others Opposite Parties

Application for not pressing
the writ petition.

The applicants most respectfully beg to
submit as under :-

1. That for the facts and circumstances stated
in the accompanying affidavit it is most respectfully
prayed that the above writ petition having become
infructuous the same may be dismissed as not pressed.

Lucknow Dated:
~~December~~
November 11, 1985.

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

15078

CTA

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P. No. 650 of 19885
Vs. _____

	Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
	1	2	3
	8-2-85	Mem SS Ahmad, Mem B Kumar, Admit. Issue notice Sd SS Ahmad Sd. B Kumar 8-2-85 C.M. An No 1600 of 85	
	8-2-85	Mem SS Ahmad, Mem B Kumar, Issue notice until further orders - charges today. Sd. SS Ahmad Sd. B Kumar 8-2-85	Received notice on behalf of OP. No. 2 Sd. Kumar
		CMA 1816(w)-85 Mem KM. G. J. Put up tomorrow as prayed Sd. K. N. Gargal 13-2-85	12/2/85 (S. VERMA) ADV.
	14-2-85	fixed in CMA 1600(w)-85 & 1816(w)-85 for order	By et Single

Jm. K. N. G. J.

26

(1)

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned	
1	2	3	
	<p>From K. H. Goyal</p> <p>Heard learnt counsel for the parties. The respondents have given this application with the submission that they would be moving separately for vacation of the stay order dated 01.2.05 as they are still to counter the allegations in the writ petition. For the present they only pray that while the order regarding payment of salary and other benefits may remain the respondents may not be ^{required} directed to be as to be subversive 7 discipline.</p> <p>To install the petitions (Apparently, the positive direction made by the Bench for reinstatement was made only in order to forestall any plea of the respondents that the orders annexes 3 and 4 had already come into force and as such any stay order ^{that may be} passed in respect thereof was infructuous. Indeed, the petitions themselves in their ^{stay} application had only asked for a direction for allowing all benefits of service and full salary and not for any direction of reinstatement. It is always open to the proper authorities or the employer whether to take work</p>		

(19) (Am) 8

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 650 of 1985

25.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
	<p>or not from an employee or a subordinated official. The latter cannot insist that work must be taken from him.</p> <p>The prayer made by the respondents in the regard is, therefore, clearly unreasonable. While the respondents will continue to give the salary and allowances and allow other benefits such as quarters, passes etc. the direction regarding reinstatement of the petitioners shall stand deleted.</p> <p>It may be added that it was ^{submitted} stated before me by the petitioners, counsel that as the order has been passed by a Bench, the application for modification should also be filed before that Bench. That would have been so if the order had been passed after contest. Under the rules of Court, if an <u>ex parte</u></p>	

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned	
1	2	3	
	<p>order has been passed by the Provision Bench, while admitting the petition, any subsequent orders for modification or vacation are to be passed by a single single Judge after contest. This plea is, therefore, not tenable.</p> <p style="text-align: right;">14/5/15</p>		
285-85	<p>Service Report of 1st 3. Power filed by Sec B.C. Saxena, Advocate.</p> <p>May office proceed?</p> <p>Yd. hve 80 21/6</p>	28/11	
	Fixed i.e. M.A. 1600(W)-85 - for order	Cham / Singh	

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. 1707 of 1987-63

APPELLANT
APPLICANT

A. K. Srinivas

VERSUS

CUL

DEFENDANT
RESPONDENT

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
1/11/89	<p><u>Hon' Mr. D.K. Agrawal, J.M.</u></p> <p>No Division Bench is sitting. List this case on <u>20-12-89 for hearing.</u></p> <p><i>(2)</i> <i>Noted for 20/12/89</i> <i>Srinivas (sns)</i> <i>21/11/89</i></p> <p><i>J.M.</i></p> <p><u>Hon' Mr. Justice Kamleshwar Nath, V.C.</u> <u>Hon' Mr. K. Obayya, A.M.</u></p> <p>Shri Sidhartha Vema appears on behalf of Opposite Parties. He wants time to file counter reply. Let counter be filed within four weeks to which the applicant may file rejoinder, if any, within one week thereafter. List this case for <u>orders on 30-1-1990.</u></p> <p><i>(sns)</i> <i>A.M.</i></p> <p><i>V.C.</i></p>	<p>OR</p> <p>Case has been noted from CAT, And. on 14/9/89</p> <p>Case is admitted stay is granted No CA/RA files</p> <p>Date was fixed from CAT, And. but it was not attached</p> <p>Submitted for order</p> <p><i>at notice 25/11/89</i></p> <p>OR</p> <p>Case is</p> <p>Both the parties have noted date</p> <p>Submitted for order</p> <p><i>(19/11/89)</i></p> <p>OR</p> <p>No reply filed Submitted for order</p> <p><i>(29/11/89)</i></p>

Noted 20/12/89
6/11/89
20/12/89

Recd. V. C. Nath
26/12/89

1707/07(1)

30.1.90 Hon. Justice K. Nark, V.C.
Hon. K.J. Raman, A.M.

No counter affidavit has been
filed on behalf of the respondents.
Sri L.P. Shukla is present for the
applicant.

List this case for ex parte
final hearing on 26.3.90.

for

A.M.

W
V.C.

m.

26.3.90

No sitting adj. to 9-10-90

26/3/90

9.10.90

No sitting Adj to 23.10.90

Q

23.10.90

No sitting Adj to 8.11.90

OR

No CA filed
S.F. Extra

W

Long

17/13

8.11.90

Hon. Mr. M.V. Priolkar, A.M.

Hon. Mr. D.K. Agrawal J.M.

Due to resolution of Bar
Association case is adjourned
to 10.12.90

OR

No CA filed
S.F. Extra

5/12

10.12.90

Case not reached Adjourn
to 8.2.91 for hearing

W

B.O.C.

OR

No CA Filed
S.F. Extra

Base

pu 1/1 1087 15

Group A - 14 (a)

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

Writ Petition No. 650 of 1985

Arun Kumar Srivastava &
another .

.....

Petitioners

Versus

Union of India & others

Opp. Parties

I N D E X

Pages

1. Writ petition.	.. 1 to 12
2. Annexure No.1- Suspension order dt. 5.2.1985.	.. 13
3. Annexure No.2- Rly. Board's circular dt. 16/17.10.1973.	.. 14 & 15
4. Annexure No.3- Dismissal order of petitioner No.2.	.. 16 to 19
5. Annexure No.4- Dismissal order of petitioner No.1.	.. 20 to 23
6. Affidavit.	.. 24 & 25
7. Vakalatnama.	.. 26
8. Stay application.	..

L.P. Shukla

Dated Lucknow:

Feb. 8, 1985.

(L.P. Shukla)

Advocate,

Counsel for the petitioners.

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

Writ Petition No. 650 of 1985

Arun Kumar Srivastava & another — Petitioners

Versus

Union Of India and others — opposite Parties



10.12.2006
8/2

1. That the petitioner No.1 is working as senior clerk in grade Rs.330-560 in Personnel Branch, Divisional Railway Manager's Office, Northern Railway, Lucknow. He is looking after the appeals under the Railway Servants Discipline and Appeal Rules preferred by the railway staff. In connection with his work he has to keep in touch constantly with the various branches in DRM's office and to collect information and files relating to the pending appeals.
2. That the petitioner No.2 is Head Clerk in the Establishment Section of Personnel branch in divisional office, Northern Railway, Lucknow. He is also active member of the Northern Railwaymen's union which is a recognised union.
3. That on 5.2.1985 the petitioner no.1 had gone to meet the Steno to the Divisional Superintending Engineer in connection with a pending appeal. At this time he was summoned by the Senior Divisional Safety Officer, Lucknow. When the petitioner returned from the engineering branch after meeting the Steno to the Divisional Superintending Engineer, he was told that he was wanted by opposite party No.3. The petitioner immediately went to the room of the opposite party No.3 who in a very off hand manner began to reprimand the petitioner for not being on his seat when he was called. The petitioner was taken aback by the tone of opposite party No.3 and he tried to explain that he had gone in connection with his work. He further tried to explain to opposite party No.3 that as he was looking



K.M.

(A7)

1/5

after the pending appeals, the nature of work was such that it required him to go to the concerned branch for obtaining necessary particulars and files of pending cases. Opposite party No.3 was, however, not prepared to accept this explanation and insisted that the petitioner had deliberately left his seat and was in the habit of remaining away from his seat. When the petitioner tried to contradict opposite party no.3 in his wrong presumption, opposite party no.3 lost his temper and said that he would see that the petitioner No.1 is out of service. He accordingly passed the order on the same date , that is, 5.2.1985 suspending the petitioner No.1 although no reasons were recorded in the said order of suspension. The suspension order was served on the petitioner in the next morning at 10 AM when he reached office on 6.2.1985. A true copy of the order of suspension dated 5.2.1985 served on the petitioner at 10 A.M. on 6.2.1985 is filed as Annexure No.1 to this writ petition.

Annexure No.1

4. That the suspension without assigning any reasons for suspension of petitioner No.1 states that disciplinary proceedings against him are contemplated and the order of suspension has been passed in exercise of powers conferred by fourth provisio to Rule 5(1) of the Railway Servants Discipline and Appeal Rules 1968. However, opposite party no.3 is not the controlling authority of petitioner No.1 as he belongs to the operating branch of Northern Railway. The petitioner no.1 belongs to the personnel branch of Northern Railway. In the aforesaid circumstances the petitioner no.1 does not come within the administrative control of opposite

COMMISSIONER FOR OATHS
8-2-85
Court, Allahabad

A.K.

party no.3 in terms of the Railway Board's Circular No. E(D&A) 72RG6-13 dated 16/17.10.1973 circulated under General Manager's printed serial No.6047-Circular No.52-E/O/26E(D&A) dated 19.1.1974. The said circular relates to the subject of the disciplinary authorities for imposition of penalties for various types of irregularities under the Railway Servants (Discipline and Appeal) Rules. A true copy of the Railway Board's circular dated 16/17.10.1973 is filed as Annexure No.2 to this writ petition.

Annexure No.2

5. That in terms of the aforesaid circular it has been clarified that a railway servant essentially belongs to only one department even though in the course of the performance of his day to day duties he may violate certain rules/regulations administered by some other department. This disciplinary action can be taken by the disciplinary authority of the department to which the delinquent belongs and not by any other authority belonging to another department. It further directs that contrary practice, if it is followed, should be stopped forthwith. Disciplinary action should be initiated and finalised by the authorities under whose control the delinquent employee may be working as any other procedure would not be in keeping with the instructions referred to ⁱⁿ para 1 of the aforesaid circular.

6. That when the order of suspension by opposite party No.3 on 5.2.1985 was served on the petitioner No.1 at 10 A.M. when he reached office on 6.2.1985, the petitioner No.1 went to meet the Divisional Personnel Officer (C), his controlling authority,

COMMISSIONER FOR OATHS
8-2-85
Nog

AKM

and to make a representation against the arbitrary order of his suspension, some senior members of the personnel branch along with some representatives of the union including petitioner no.2 followed him in sympathy. The Divisional Personnel Officer (C) heard the aforesaid grievance and gave assurance that he would look into the matter and immediately thereafter the staff dispersed peacefully.

7. That at about 11 P.M. on 6.2.1985 when petitioner no.2 was going to retire to bed, he heard movement of some persons outside the gate of his house. He went out and found out that some personnel of the Railway Protection Force along with one Chief Commercial Inspector had come to paste some notice on his door. The petitioner No.2 thereupon took the notice personally from them. The said notice contained an order of his dismissal dt. 6.2.1985 under Rule 14(ii) of the Railway Servants (Discipline and Appeal) Rules along with an annexure indicating the charges against him. A true copy of the punishment notice along with the dismissal order and annexure indicating the charges is filed as Annexure No.3 to this writ petition.

Annexure No.3

8. That on 7.2.1985 the petitioner no.1 came to know that action under Rule 14(ii) of the Railway Servants (Discipline and Appeal) Rules 1968 has been taken against him and he has been dismissed from service. He accordingly went to the office where the order of his dismissal under Rule 14(ii) dated 6.2.1985 was already pasted on the notice board. A true copy of the punishment ~~order~~ notice dated 6.2.1985 passed by the Addl. Divisional Railway Manager, Northern Railway, Lucknow,



110
✓
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Annexure No.4

along with the order of dismissal passed by opposite party no.2 and the annexure indicating charges against the petitioner is filed as Annexure No.4 to this writ petition.

9. That the relevant provisions of Rule 14(ii) of the Railway Servants (Discipline and Appeal) Rules are reproduced below:-

"14. Notwithstanding anything contained in Rules 9 to 13 :-

(i)

(ii) Where the disciplinary authority is satisfied, for reasons to be recorded by it in writing, that it is not reasonably practicable to hold an inquiry in the manner provided in these rules; or

(iii)

The disciplinary authority may consider the circumstances of the case and make such orders thereon as it deems fit;

Provided that the Commission shall be consulted, where such consultation is necessary, before any orders are made in any case under this rule."



10. That perusal of the dismissal orders dated 6.2.1985 (Annexures 3 & 4), which have been passed in exercise of the powers conferred by Rule 14(ii), shows that the disciplinary authority has given no reasons at all to show why it is not reasonably practicable to hold enquiry in the manner provided in the said

AK-2

Rules applicable in the case of the petitioners. Part IV of the said Rules from Rules 9 to 13 lays down the procedure for imposing penalties. Rule 9 lays down the procedure for imposing major penalties. Sub Rule (1) of Rule 9 is reproduced below:-

"(1) No order imposing any of the penalties specified in clauses (v) to (ix) of Rule 6 shall be made except after an inquiry held, as far as may be, in the manner, provided in this rule and rule 10, or in the manner provided by the Public Servants (inquiries) Act 1850 (37 of 1850), where such inquiry is held under that Act."

11. That the orders of dismissal dated 6.2.1985 (Annexures No.3 & 4) are the only communication in connection with petitioners' dismissal from service. Prior to these no show cause notice by way of an opportunity was given or an explanation was asked for from the petitioners. The dismissal orders are, therefore, arbitrary, against the principles of natural justice and discriminatory in violation of Articles 14 and 16 of the Constitution of India.

12. That the charges against the petitioners along with the punishment notice and order of dismissal under Rule 14(ii) are identical. The said charges are false as the petitioners did not incite the staff of the personnel branch and lead them to the chamber of Sri H.N. Khare and shout abusive slogans against Sri D.P. Pandey and cause damage to the railway property in the chambers of the above 2 officers as alleged therein.



Handwritten signature

It is also falsely stated that the petitioners went to the chamber of Sri D.P. Pandey, opposite party No.3 along with others. Sri D.P. Pandey was admittedly not present in his office and as such there was no occasion for the petitioners to enter his chamber particularly in view of the fact that it was closed in his absence. Thus the charges against both the petitioners are false and have been concocted for the purpose of taking action under Rule 14(ii) in an illegal and arbitrary manner.

13. That the charges or grounds for taking action against the petitioners without holding an inquiry as contemplated in the Rules are false and baseless and as such there is nothing to indicate how the retention of the petitioners is undesirable in the interest of Railway administration and also of the general public.

14. That number of writ petitions under Article 226 of the Constitution of India challenging the exercise of power under Rule 14(ii) of the Discipline and Appeal Rules have been filed in various High Courts and some of these writ petitions have been transferred to the Hon'ble Supreme Court. In these writ petitions interim orders have been passed by which the railway administration has been directed to continue to pay the salary to the petitioners.

15. That number of writ petitions have also been filed in this Hon'ble Court challenging the exercise of power under Rule 14(ii) without giving any reasons why it is not reasonably practicable to hold an inquiry



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in the manner provided in the Rules. In these writ petitions interim orders have been passed by this Hon'ble Court directing the railway administration to pay the salary to the petitioners. These writ petitions No.4882 of 1981, ~~813/81~~ K.N. Srivastava & others vs. Union of India & others, 813/81 Bhagwan Prasad vs. Union of India & others, 2259/82 Lawrence Henry vs. Union of India & others, 20/85 Parwez Alam & another vs. Union of India & others are still pending and the interim orders passed therein have been given effect by the railway administration.

16. That in writ petition No.2397 of 1975 S.K. Biswas vs. Union of India & others this Hon'ble Court has quashed the order of dismissal passed in exercise of power under Rule 14(ii). Similarly, in writ petition No.4280 of 1983 Param Jeet Singh vs. Union of India & others, this Hon'ble Court has quashed the order of dismissal passed in exercise of power under Rule 14(ii). In another decision of this Hon'ble Court reported in 1981 LLJ 223 it has been held that a show cause notice before taking action under Rule 14(ii) is mandatory. No such notice having been given in the present case the order of dismissal of the petitioners by waiving the inquiry prescribed under the rules is abinitio illegal and void.

17. That aggrieved by the orders dated 6.2.1985 (Annexure Nos. 3 & 4) dismissing the petitioners from service under Rule 14(ii) by dispensing with the inquiry as prescribed under the Rules and without assigning any reasons why it is not reasonably practicable to hold



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the inquiry as provided therein and also without giving any notice to the petitioners to show cause why action under Rule 14(ii) be not taken against them, the petitioners, having no alternative efficacious and speedy remedy, have preferred this writ petition on the following amongst other grounds:-

G R O U N D S

- (A) Because the orders dated 6.2.1985 are illegal, arbitrary and without jurisdiction.
- (B) Because the dismissal order of petitioner No.1 has been passed in continuation of his suspension order which categorically contemplates disciplinary inquiry under Discipline and Appeal Rules and as such the same is malafide and without jurisdiction.
- (C) Because the dismissal order of petitioner No.2 is wholly arbitrary and with ulterior motive as he alone has been singled out to the exclusion of others.
- (D) Because the order of suspension dated 5.2.1985 (Annexure No.1) is wholly illegal, arbitrary and without jurisdiction.
- (E) Because no reasons having been assigned why it is not reasonably practicable to hold an inquiry in the manner provided under the Discipline and Appeal Rules the petitioners'

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dismissal is in contravention of Rule 14 and Appeal Rules.

(F) Because the orders of dismissal are in colourable exercise of powers under Rule 14(ii) of the Discipline and Appeal Rules.

(G) Because the orders of dismissal are arbitrary and discriminatory in violation of Articles 14 and 16 of the Constitution inasmuch as petitioners alone have been singled out for unequal treatment in violation of Rule 14(ii) itself.

(H) Because the petitioners have been dismissed from service on false and non-existent grounds without inquiry which has resulted in grave mis-carriage of justice.

(I) Because the orders of dismissal have been passed without affording any opportunity to the petitioners to show cause against the proposed action and as such is arbitrary and against the principles of natural justice.

P R A Y E R

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

(i) issue a writ, direction or order in the nature of certiorari quashing the suspension order dated 5.2.1985 (Annexure No.1);

Chandrasekhar Patil

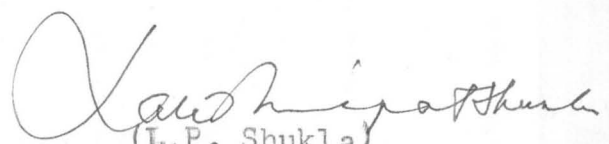
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- (ii) issue a writ, direction or order in the nature of certiorari quashing the orders dated 6.2.1985 (Annexures 3 & 4);
- (iii) issue a writ, direction or order in the nature of mandamus directing the opposite parties not to give effect to the orders dated ^{5.2.1985} ~~6.2.1985~~ and orders dated 6.2.1985 (Annexures No.1, 3 & 4);
- (iv) issue a writ, direction or order in the nature of mandamus commanding the opposite parties to treat the petitioners in service throughout and entitled to all the benefits;
- (v) issue any other writ, direction or order as may be deemed just and proper in the circumstances of the case;
- (vi) award the costs of the writ petition to the petitioners.

Dated Lucknow:

Feb. 8, 1985.


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

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

Writ Petition No. of 1985

Arun Kumar Srivastava &
another. Petitioners

Versus

Union of India & others Opp. Parties

Annexure No.1

Northern Railway

No.Sr. DSO/CA/1/85
Dt. 5.2.1985

Divl. Office,
Lucknow.

ORDER

Whereas a disciplinary proceeding against Shri A.K. Srivastava, Sr. Clerk, Appeal, Establishment Section is contemplated. Now, therefore, the undersigned in exercise of the powers conferred by Rule 4/proviso ~~para~~ to Rule 5(1) of the RS(D&A) Rules, 1968, hereby placed the said Shri A.K. Srivastava under suspension with immediate effect; with effect from 5.2.1985 AN.

It is further ordered that during the period this order shall remain in force the said Shri A.K. Srivastava shall not leave the Hqs. without obtaining the previous permission of the competent authority.

Sd/- Illegible
(D.P. Pande)

Sr. Divl. Safety Officer,
Lucknow.

C/-

Shri A.K. Srivastava, Sr. Clerk DRM Office
Establishment Br. Lucknow.

2. DPO (C) for inf. & n.a.

True Copy



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

Writ Petition No. of 1985

Arun Kumar Srivastava &
another Petitioners

Versus

Union of India & others Opp. Parties

Annexure No.2

Serial No.6047-Circular No.52-E/O/26E(D&A) dated
19.1.1974

Sub:- Disciplinary authorities for imposition
of penalties for various types of irregu-
larities under the Railway Servants
(Discipline and Appeal) Rules.

A copy of Railway Board's letter No.E(D&A)
72RG6-13 , dated 16/17.10.1973 is forwarded for infor-
mation and guidance. The Bd's letter dt. 28.7.72
was circulated under this office letter No.52-E/O/19E
(D&A) dt. 25.8.72 (Personnel Branch S.No.1753).

Copy of Rly.Bd's letter No; E(D&A)72RG6-13,
dt. 16.10.73.

Sub:- As above.

In Bd's circular letter No.E(D&A)60RG6/30,
dt. 28.7.62, it had, interalia, been indicated that it
would be procedurally wrong for an authority to initiate
and finalise the disciplinary proceedings against an
employee who is not under its administrative control.

2. It has, however, been brought to the notice
of the Board that some difficulties are being experien-
ced in initiating and finalising the disciplinary pro-
ceedings against the staff involved in irregularities
concerning personnel matters such as misuse of passes/
PTOS's unauthorised occupation/retention of quarters,
unauthorised absence from duty etc. and it has been
suggested that the instructions referred to above may
be also amended as to provide for initiation/finalisa-
tion of disciplinary proceedings by the officers of
the personnel Department such as APO's, DPO's even
against the staff who may be working in Departments
other than the Personnel Department and thus be not
under their administrative control. It has been also
mentioned that in respect of the category of Assistant
Station Masters/Stations Masters, the disciplinary
action is initiated and finalised both by the Divi-
sional Safety Officer and Divisional Commercial Superin-
tendent depending upon the department to which the
irregularity committed, pertains despite the fact that
the Assistant Station Masters and Station Masters belong
to the operating Department.



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

(For General Manager/Central Railway only.
This disposes of his Letter No.HPB/CON/309/RII, dt.
24.2.73 and 30.8.73).

True Copy.



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

Writ Petition No. of 1985

Arun Kumar Srivastava &
another Petitioners

Versus

Union of India & others Opp. Parties

Annexure No.3

PUNISHMENT NOTICE

No.Sr.DPO/SA/78

Place of Issue: Divisional Office
Northern Railway
Lucknow.

Dated : 6th February, 1985.

To,

Shri O.N. Agnihotri,
Head Clerk/Establishment Sec. 'P' Branch,
Divisional Office, N.Rly., Lucknow
Type II-29A Munnawar Bagh,
Railway Colony, Charbagh, Lucknow.

Thro' :

WHEREAS Shri O.N. Agnihotri, Desig. Head Clerk 'E' Sec. is responsible for the grave charges listed in the Annexure.

2. WHEREAS in the interest of Railway and also of general public, any further retention of Shri O.N. Agnihotri, designation Head Clerk 'E' Sec. in railway service is considered undesirable.

3. WHEREAS it is considered that the circumstances of the case are such that it is not reasonably practicable to hold an enquiry in the manner provided in Railway Servants Discipline & Appeal Rules, 1968.

NOW, therefore, in exercise of the powers conferred by Rule 14(ii) of Railway Servants Discipline & Appeal Rules, 1968 read with Proviso (b) to Article 311(2) of the Indian Constitution the undersigned hereby dismisses the said Shri O.N. Agnihotri, designation Head Clerk 'C' Section from service with effect from 6th February, 1985 A.N.

Sd/- Illegible
6/2/85

Name (P.N. Mehta)
Desig. Addl. Divisional Railway
Manager, Northern Railway,
Lucknow.

Enclosures:

1. Annexure indicating the charges.
2. Orders passed by the competent authority.

... 2.



Ar. Ch.

Under Rule 18 of the Railway Servants Discipline & Appeal Rules, 1968, an appeal against these orders lies to D.R.M./N.Rly/Lucknow, provided:-

1. The appeal is preferred within 45 days from the date on which a copy of this order is delivered to him.
2. The appeal is presented to the authority to whom the appeal lies and a copy is forwarded by him to the authority which made the orders appealed against. It does not contain any disrespectful or improper language.

ACKNOWLEDGMENT

To,

The Addl. Divl. Rly. Manager/N. Rly., Lucknow.

I hereby acknowledge receipt of your notice No.Sr. DPO/SA/78 dt. 6.2.85, conveying intimation regarding the imposition of the penalty specified in Notice No.Sr.DPO/SA/78 dt. 6.2.85.

Dt. _____ Name _____ Desig. _____

True Copy



Annexure indicating the charges against Shri O.N. Agnihotri, Head Clerk, Establishment Section, Personnel Branch, Divisional Office, Northern Railway, Lucknow.

On 6.2.1985 at about 10 hrs., he incited the staff of Personnel Branch and led them to the chamber of Shri H.N. Khare, Divl. Personnel Officer (C)/LKO and Shri DP Pandey, Sr. Divl. Safety Officer/LKO, who was not present in his office, and shouted abusive slogans against Shri D.P. Pandey and caused damage to the Railway Property in the chamber of above two officers. Thus, he violated Rule 3(I)(iii) of Railway Services Conduct Rules, 1966.

Sd/- Illegible

6/2/85

(P.N. Mehta)

Additional Divl. Railway Manager, Lucknow.

True copy



ORDER

WHEREAS, I, Additional Divisional Railway Manager, Northern Railway, Lucknow, the authority empowered to dismiss from service Shri O.N. Agnihotri, Head Clerk, Establishment Sec. Personnel Branch, who was appointed under the orders of an authority lower in rank to the undersigned, am fully satisfied that for the reasons which have been recorded in writing it is not reasonably practicable to hold an enquiry in the manner, provided under Rule 9 of the Discipline and Appeal Rules, 1968 and in exercise of powers vested in me under Rule 14(ii) of these Rules read with proviso (b) to Article 311(2) of the Indian Constitution and considering the circumstances of the case, I have come to conclusion that he is not fit to be retained in service and therefore, have decided to dismiss Shri O.N. Agnihotri, Head Clerk from service from the post of Head Clerk in scale Rs.425-700(RS) with effect from 6th Feb. 1985 (afternoon).

Sd/ Illegible
6/2/85

Addl. Divisional Railway Manager,
Northern Railway
Lucknow.

True copy

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

Writ Petition No. of 1985

Arun Kumar Srivastava &
another Petitioners

Versus

Union of India & others Opp. Parties

Annexure No.4

Punishment Notice

No.Sr.DPO/SA/78 Place of issue: Divisional Office,
Northern Railway,
Lucknow.

Dated : 6th Feby. 1985.

To,

Shri Arun Kumar Srivastava (under suspension)
Sr. Clerk 'E' Section, Personnel Branch,
Divisional Office, N. Railway, Lucknow
C/O Shri K.P. Srivastava,
Retd. Law Supdt., Avas Vikas Colony, near
Moti Jheel, Aishbagh,
Lucknow.

Throu

WHEREAS Shri Arun Kumar Srivastava Desig.
Sr. Clerk 'E' Sec. is responsible for the grave charges
listed in the Annexure.

2. WHEREAS in the interest of Railway and also
of general public, any further retention of Shri Arun
Kumar Srivastava Designation Sr. Clerk 'E' Sec. in
railway service is considered undesirable.

3. WHEREAS it is considered that the circumstances
of the case are such that it is not reasonably practi-
cable to hold an enquiry in the manner provided in
Railway Servants Discipline & Appeal Rules, 1968.

NOW, therefore, in exercise of the powers
conferred by Rule 14(ii) of Railway Servants Discipline
& Appeal Rules, 1968, read with Proviso (b) to Article
311(2) of the Indian Constitution the undersigned
hereby dismisses the said Shri Arun Kumar Srivastava
designation Sr. Clerk 'E' Sec. from service with effect

... 2.



K. D.

from 6th Feby. 1985 A.N.

Sd/- Illegible

6/2/85

Name (P.N. Mehta)

Desig. Addl.Divl.Railway Manager,
Northern Rly., Lucknow.

Enclosures:

1. Annexure indicating the charges.
2. Orders passed by the competent authority.

Under Rule 18 of Railway Servants Discipline & Appeal Rules, 1968, an appeal against these orders lies to D.R.M./N.Rly., Lucknow provided:

1. The appeal is preferred within 45 days from the date on which a copy of this order is delivered to him.
2. The appeal is presented to the authority to whom the appeal lies and a copy is forwarded by him to the authority which made the orders appealed against. It does not contain any disrespectful or improper language.

ACKNOWLEDGEMENT

To,

The Addl.Divl.Rly.Manager/N.Rly.,Lucknow.

I hereby acknowledge receipt of your notice No.Sr.DPO/SA/78 dt. 6.2.85 conveying intimation regarding the imposition of the penalty specified in Notice No.Sr.DPO/SA/78 dt. 6.2.85.

Dt. _____

Name _____
Desig. _____

True Copy



Order

WHEREAS, I, Additional Divisional Railway Manager, Northern Railway, Lucknow, the authority empowered to dismiss from service Shri Arun Kumar Srivastava, Sr. Clerk, Establishment Sec. Personnel Branch, who was appointed under the orders of an authority lower in rank to the undersigned, am fully satisfied that for the reasons which have been recorded in writing it is not reasonably practicable to hold an enquiry in the manner provided under Rule 9 of the Discipline and Appeal Rules, 1968 and in exercise of powers vested in me under Rule 14(ii) of ~~xxxxxx~~ these Rules read with proviso (b) to Article 311(2) of the Indian Constitution and considering the circumstances of the case, I have come to conclusion that he is not fit to be retained in service and therefore, have decided to dismiss ~~Shri~~ Arun Kumar Srivastava, Senior Clerk from service from the post of Senior Clerk in scale Rs.330-560(RS) with effect from 6th February, 1985 (Afternoon).

Sd/- Illegible

6/2/85

(P.N. Mehta)

Additional Divl. Railway Manager,
N. Rly., Lucknow.True Copy

AKK



Annexure indicating the charges against Shri Arun Kumar Srivastava, Senior Clerk, Establishment Section, Personnel Branch, Divisional Office, Northern Railway Lucknow.

On 6.2.1985 at about 10 hrs. , he incited the staff of Personnel Branch and led thm to the Chamber of Shri H.N. Khare, Divl. Personnel Officer(C)/ LK6 and Shri D.P. Pandey, Sr. Divl. Safety Officer/LK0, who was not present in his office, and shouted abusive slogans against Shri D.P. Pandey and caused damage to the Railway property in the chamber of above two officers. Thus he violated Rule 3(I)(iii) of Railway Services Conduct Rules, 1966.

Sd/- Illegible

6/2/85

(P.N. Mehta)

Additional Divisional Railway Manager
Lucknow.

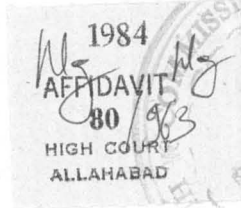
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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
SITTING AT LUCKNOW

Affidavit

In

Writ Petition No. of 1985

Arun Kumar Srivastava &
another Petitioners

Versus

Union of India & others Opp. Parties

A F F I D A V I T

I, Arun Kumar Srivastava, aged about 25 years,
son of Sri K.P. Srivastava, resident of M.L.123, Moti
Jheel, Pandey-ka-Talab, Lucknow, do hereby solemnly
affirm and state on oath as under :-

1. That the deponent is petitioner no.1 in the
above writ petition. He has been fully authorised by
petitioner No.2 to file this affidavit. He is fully
conversant with the facts deposed to herein.
2. That the deponent has read the accompanying
writ petition along with the annexures, the contents of
which he has fully understood.
3. That the contents of paragraphs 1 to 15 of
the writ petition are true to my own knowledge.



4. That Annexure Nos. 1 to 4 to the writ petition are the true copies duly compared from their duplicates and originals.

Dated Lucknow:

Feb. 8, 1985.

AK Sh
Deponent.

Verification

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

Dated Lucknow:

Feb. 8, 1985.

AK Sh
Deponent.

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

L. P. Shukla
Advocate.

Solemnly affirmed before me on 8.2.1985
at 10.00 a.m. / ~~10.00 a.m.~~ by Sri Arun Kumar Srivastava
the deponent who is identified by
Sri L. P. Shukla

~~Advocate Sri~~

Advocate, High Court, Allahabad.

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



Kuldeep Singh

COMMISSIONER
High Court, Allahabad
Lucknow Bench

8/963
8-2-85

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

ब अदालत श्रीमान

महोदय

वादी (मुद्दे)
प्रतिवादी (मुद्दालेह)

का वकालतनामा

W. P. No.

7/1988



Arun Kumar Srivastava & another

वादी (मुद्दे)

बनाम

Union of India and others — प्रतिवादी (मुद्दालेह)

नं० मुकद्दमा सन् १६ पेशी की ता० १६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

L. P. Shukla

Advocate

Kali Prasad Srivastava

Advocate

एडवोकेट

महोदय

and K. D. NAG

Advocate

C-700, Mahanagar, Lucknow

वकील

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिग्री 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 विपक्ष (फरीवसानी) का दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें - वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी स्वयं या किसी अपने पैरोकार को 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।

हस्ताक्षर

साक्षी (गवाह) साक्षी (गवाह)

दिनांक महीना

नाम अदालत

नं० मुकद्दमा

नाम फरीकत

Accepted
Kashinath
Accepted

Accepted
Kuldeep Singh

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अदालत श्रीमान Honble High Court of Allahabad महोदय

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वकालतनामा

Arun Kumar Srivastava
2 और

वकील/अधीनस्थ Peshwa

वकालत

Union of India & Ors

प्रतिवादी/रिप्लेण्ड ऑप पार्टि

संख्या मुकदमा 650 सन 1985

पेशी की तारीख

अपर मुकदमा में अपना और से श्री Siddharth Verma, Advocate

वकील/अधीनस्थ महोदय को अपना वकील नियुक्त करके इफ्तार करता हूँ और लिखे देता हूँ कि मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावा या हमारी ओर से डिग्री जारी करावे और स्वयं वसूल करें या मुकदमा या इफ्तार दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक रकबा मुकदमा उठावे या कोई स्वयं जमा करें या हमारी विपक्षी परीक्षा का दाखिल किया हुआ स्वयं अपने या हमारे हस्ताक्षर मुक्त दस्तखती रसीद से लेने का पर्व नियुक्त करें वकील महोदय द्वारा की गई वह सब कार्रवाही हमको सर्वथा स्वीकार है और होगी इसलिये यह वकालत

हस्ताक्षर

[Signature]
22/85
Divisional Railway Manager,
Northern Railway,
LUCKNOW.

सती/गवाह सती/गवाह
दिनांक महीना

सन 19 ई 0 1

Accepted
Power of Attorney
OP. No. 2
12/2/85
(Siddharth Verma)
Advocate

A36

5/4



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

Affidavit
in

Application for modification of the order
dated 8.2.1985 passed by a Division Bench
consisting of Hon'ble Mr. Justice S.S. Ahmad
and Hon'ble Mr. Justice Brijesh Kumar

The Union of India and others --Applicants

In re:

Writ petition no. 650 of 1985

Arun Kumar Srivastava and another --Petitioners

versus

Union of India and others --Opp-parties



I, H.N. Khare, aged about 50 years, son of late
Sri Bhupendra Bahadur Khare, at present working as
Divisional Personnel Officer (Coordination), Northern
Railway, Hazratganj, Lucknow, do hereby solemnly
take oath and affirm as under:-

1. That the deponent is at present working as

as an

Divisional Personnel Officer(Coordination), Northern Railway, Hazratganj, Lucknow and is fully conversant with the facts deposed to hereunder.

2. That by means of the above-noted writ petition the petitioners have challenged orders contained in Annexures 3 and 4 by which they have beandismissed from service in exercise of powers under rule 14(ii) of the Railway Servants Discipline and Appeal Rules, 1968 with effect from 6.2.1985 (AN).

3. That before passing the orders aforesaid applicant no.2(opposite-party no.2 to the writ petition) had passed a detailed and reasoned order on the executive file which the applicants would place for perusal of this Hon'ble Court at the time of the hearing of ~~the~~ application, accompanying this affidavit.

4. That the applicants presently are preferring the accompanying application for seeking modification of the order dated 8.2.1985 passed by a Division Bench consisting of Hon'ble Mr. Justice S.S.Ahmad and Hon'ble Mr. Justice Brijesh Kumar on Civil Misc. Application no. 1600(w) of 1985 in so far as it directs that "the petitioners shall be reinstated."

5. That from the facts which this Hon'ble Court will gather from the reasoned order which opposite-party no.2 has passed on the executive file it would be evident that it would neither be in public interest nor discipline in the office to permit the petitioners to resume their duties. The applicants



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have no objection to pay the monthly salary to the petitioners as and when it becomes due pending the filing of an application for vacation of the interim order along with a detailed counter-affidavit to the main writ petition.

6. That the applicants have also been advised to state that against the orders impugned in the writ petition right of appeal is available to the petitioners. That being so, this Hon'ble Court may consider the expediency of entertaining the writ petition without the petitioners having ~~availled~~ availed of the alternative remedy.

Dated Lucknow
13.2.1985

S. D. Au
Deponent

I, the deponent named above do hereby verify that contents of para 1 are true to my own knowledge and those of paras 2 to 5 are true on the basis of information derived from the official records and those of para 6 are true on the advice received from my counsel which I believe to be true. No part of it is false and nothing material has been concealed; so help me

God.

Dated Lucknow
13.2.1985

S. D. Au
Deponent

I identify the deponent who has signed in my presence.

(R.K. Srivastava)
Clerk to Sri B.C. Saxena, Advocate

Solemnly affirmed before me on 13.2.85 at 11.10 a.m./p.m. by *H.N. Khanna* the deponent who is identified by Sri *R.K. Srivastava* clerk to Sri *B.C. Saxena* Advocate, High Court, Allahabad. 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.



OATH COMMISSIONER
High Court, (Lucknow Bench)
LUCKNOW

No. *24/11*
Date *13.2.85*

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The Honble High Court of Judicature at Allahabad
अदालत श्रीमान --- *Deputy Bench Clerk* --- महोदय

वकालत



Arjun Kumar Pandey J. Esq.
वादी/अपीलेंट

बनाम

Union of India J. Esq.

प्रतिवादी/रेस्टाडेन्ट

संख्या मुकदमा 650 तन 85

पेशी की तारीख

उपर मुकदमा में अपना और से श्री *Fr. B.C. Saksena*
Advocate

एडवोकेट/वकील महोदय को अपना वकील नियुक्त करके **इफरार** करता हूँ और लिखे देता हूँ कि मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावा या हजारी ओर से डिस्ट्री जारी करा दें और स्वयं वसूल करें या पुनर्हजारी या इफ्तान दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक रफ़ या मुकदमा उठावें या कोई स्वयं जमा करें या हमारी विपत्ती **परिकसानी** का दाखिल किया हुआ स्वयं अपने या हमारे हस्ताक्षर मुफ्त **दस्तखती** रसीद से लेने का पत्र नियुक्त करें वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी इसलिये यह वकालत

Arjun Kumar Pandey
Sr. Civil Society Officer,
Northern Railway,
Lucknow.

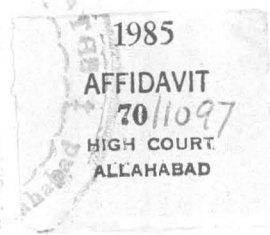
Accepted
B. C. Saksena
13/5/25
हस्ताक्षर
Manager,
Northern Railway,
LUCKNOW.

अपीलेंट/वादी *Ar. and in behalf of Union of India* प्रतिवादी

दिनांक महोला

सन 19 20

अदालत.
मुकदमा नं.
अपीलेंट



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

Affidavit

In

C.M. Application No. (W) of 1985

In Re.

Writ Petition No. 650 of 1985

Arun Kumar Srivastava & another Petitioners

Versus

The Union of India & others Opp. Parties

A F F I D A V I T

I, O.N. Agnihotri, aged about 47 years,
son of Sri Jagannath Prasad, resident of II/29A
Munnawar Bagh Railway Colony, Lucknow, do hereby
solemnly affirm and state on oath as under :-

1. That the deponent has been arrayed as
petitioner No.2 in the above writ petition. He has
has been fully authorised by petitioner No.1 to file
this affidavit. He is fully conversant with the facts
deposed to herein.

2.

That the petitioners No.1 and 2 in the

(Signature)



above writ petition have been re-instated by order dated 6.9.1985. The relief prayed for in the above writ petition having already been granted by the aforesaid order of re-instatement, the writ petition has become infructuous and is liable to be withdrawn.

Ducknow Dated:

~~November~~ 10^{Dec}, 1985.


Deponent.

Verification

I, the above-named deponent, do verify that the contents of paragraphs 1 and 2 of this affidavit are true to my own knowledge. No part of it is false and nothing material has been concealed. So help me God.

Lucknow Dated :

10 Dec^y
~~November~~, 1985.


Deponent.

I identify the above-named deponent who has signed before me. HE is personally known to me.


Advocate.

Solemnly affirmed before me on ~~November~~ 10^{Dec}, 1985

at 2.00 a.m./p.m. by Sri O.N. Agnihotri

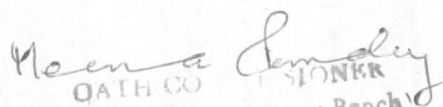
the deponent who is identified by

Sri K.D. Nag

~~Clerk to Sri~~

Advocate, High Court, Allahabad.

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


OATH CO NOTARY
High Court (now Bench)

No. 70/1097
Date 10-12-85



the petitioners have challenged orders contained in Annexures 3 and 4 by which they have been dismissed from service in exercise of powers under rule 14(ii) of the Railway Servants Discipline and Appeal Rules, 1968 with effect from 6.2.1985 (A.N.).

2. That before passing the said orders applicant no. 2 (opposite-party no.2 to the writ petition) had passed a detailed and reasoned order on the executive file which the applicants would place for perusal of this Hon'ble Court at the time of the hearing of this application.

3. That the applicants presently are preferring this application for seeking modification of the order dated 8.2.1985 passed by a Division Bench consisting of Hon'ble Mr. Justice S.S.Ahmad and Hon'ble Mr. Justice Brijesh Kumar on Civil Misc. Application no. 1600(w) of 1985 in so far as it directs that "the petitioners shall be reinstated."

4. That from the facts which this Hon'ble Court will gather from the reasoned order which opposite-party no.2 has passed on the executive file it would be evident that it would neither be in public interest nor discipline in the office to permit the petitioners to resume their duties. The applicants have no objection to pay the monthly salary to the petitioners as and when it becomes due pending the filing of an application for vacation of the interim order along with a detailed counter-

for


affidavit to the main writ petition.

5. That the applicants have also been advised to state that against the orders impugned in the writ petition right of appeal is available to the petitioners. That being so, this Hon'ble Court may consider the expediency of entertaining the writ petition without the petitioners having availed of the alternative remedy.

Wherefore, it is respectfully prayed that this Hon'ble Court be pleased to modify the order dated 8.2.1985 passed by a Division Bench ~~consisting of~~ ^{for} Hon'ble Mr. Justice S.S.Ahmad and Hon'ble Mr. Justice Brijesh Kumar and omit from the said interim order the direction that the petitioners shall be re-instated.

Dated Lucknow

13.2.1985


(B.C. Saxena)
Advocate
Counsel for the applicants