

**CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW**

INDEX SHEET

CAUSE TITLE T.A. 1707/87 .....of 19  
6.A. 140650/85

Name of the parties A.K. Sivakova .....

.....Applicant.

Versus.

Union of India and others : Respondents

**Part A**

**Description of documents**

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3. Order sheet C.R. dated 05-09-91	A12 to A14
4. Petition with annexure	A15 to A38
5. Affidavit etc	A39 to A40
6. Power	A41 to A42
7. C.R. Application	A43 to A45
8. Power	A46 to
9. Affidavit	A47 to A50
10.	

CERTIFICATE

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

Date : 21-08-11



Countersigned

Rajendra  
01/08/11

Signature of the  
Dealing Assistant.

Section officer/Court officer.

\*\*\*\*\*

(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.

Sl No.	Description of documents	Page
<u>Part - A</u>		
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4.	Annexures	A17 - A27
5.	Affidavit	A28 - A29
6.	Power	A30 - A32
7.	C.M. Application	A33 - A35
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10.	C.M. Application 14, 225	A40
11.	Affidavit	A41 - A42
12.	Order Sheets of H.C.	A43 - A44
<u>Bench copy</u>		B1 — B 30

4  
4  
  
ANNEXURE - B

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOW.

Application No. \_\_\_\_\_ of 19  
Transfer Application No. \_\_\_\_\_ of 19  
Old Writ Petition No. \_\_\_\_\_ of 19

G E R T I F I C A T E

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

Date :

Countersigned

Signature of the  
Dealing Assistant.

Section Officer/ Court Officer.

(15)

(A2)

5/9/91

Hon. Mr. D.K. Afzael, I.M.

Hon. Mr. K. Obayya, Am.

Shri Siddhartha Verma appears on behalf of respondents.

C.M.A. 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.

2  
A.M.

D.A.M.

Recd Cbdt  
J. D. 15  
Collected 1 P.M.  
3/10/91

Recd  
3/10/91

5/2/91

Hon. Mr. Justice K. Prath, VC,  
Hon. Mr. K. Obeyya, 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.

  
J.

No Sittings Adj to 28.6.91

  
J.

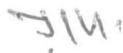
  
AM

No ex parte  
S.F. ex parte hearing

  
28/6  
4/7/91

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

  
AM

  
AM

  
AM

CIVIL

SIDE

CRIMINAL

## GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case..... *Armenia v. N. 650-85*Name of parties..... *Armenia v. Union of India*Date of institution..... *8.2.85*

Date of decision.....

(13)

(3)

(12)

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 Annex 27- and Affidav			202-00			
2.		Power.	1-		5-00			
3.		Crnd. 1600(w)- of 85 for Slay	1-		10-0			
4.		Power.	1-		5-00			
5.		Crnd. 1816(w)-85 f- for Modification of order			7-00			
6.		Power.	1-		5-00			
7.		Crnd. 14225(w) of 85 for not pressing the w.	3-		7-00			
8.		order Shieh.	2-		- - -			
9.		Search 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

(5)

Hon. Mr. D. K. Agarwal, A.M.  
Hon. Mr. K. Obeyya, H.M.

(1)

Dismissed as not pressed.

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

2d

A.M.

JK  
J.M.

Hon. S.S. Ahmad. 5  
Hon. B. Kumar. 5

Admit  
Some notice.

28.2.85  
R.S.

Pls. C.C. Other

RECEIVED

Impressed

10 Adhesive Rs 200/-

Total

Correct but final Court-fee ~~recd.~~  
will be made on receipt of law  
Court record.

In time up to

Papers filed. Copy of P.C.  
Should also be filed.  
Single - Bench.

Doa. Dms 1, 34425-285

Received

Quinton  
8.2.85

8.2.85

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 :-

8-2-85



A. J. D.

## CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

## FORM OF INDEX

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

A.K. Srivastava vs. U.O.I. &amp; ors.

## P A R T - I

1.	Index Papers	:- 1 to 3
2.	Order Sheet	:- 4 to 11 (Handle 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.	:-

D.Y. Registrat

Supervising Officer

Dealing Clerk

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

Dealing Clerk  
30-12-78

V.K. Mishra



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

C.M. Application No. 16/2/85 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.

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

11

28

Hon. S.S. Aliwadji  
Hon. B. Kumar

Issue nolà.  
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.

D/ 8.2.85

RS

Maesar

Gaur

5  
1  
AB3

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. 186 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

2214  
Applicants

In re:

Arun Kumar Srivastava and another

-Petitioners

versus

Union of India and others

-Opp-parties

12/2/85  
This application on behalf of the applicants  
above-named most respectfully sheweth:-

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

Bob

✓/b  
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. Chakravarthy  
13/2/85

Received for Shri L. P. Shukla

Kuldeepak No.  
Adv.

13-2-85

on. KMGJ

Put up tomorrow as prayed

13.2.85  
R



IN THE HON'BLE HIGH COURT OF JUDICATURE AT AYLAHABAD  
SITTING AT LUCKNOW  
C.M. Application No. 141225 (W) of 1985

In Re.

Writ Petition No. 650 of 1985

15070  
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 11, 1985.

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

## ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

ω · p

650

of 198 85

-No.-

—VS.

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
8-2-85	seen SS Ahmed, seen B Keemar, Issue notice Admit. , Sd SS Ahmed Sd. B Keemar 8-2-85 C.M. A.M. No 1600 (w) 85	
8-2-85	seen SS Ahmed, seen B Keemar, Issue notice until further orders -	
	charges today - Sd. SS Ahmed Sd. B Keemar 8-2-85	Received notice on behalf of S.P. No. 2 Sd. S. VERMA ADU.
	C.M. A.M. 1816 (w) 85 Hon. K.N. G. J. Put up tomorrow as per yesterday S.D. K.N. Gargal	12/2/85 (S. VERMA) ADU.
		13-2-85
	14-2-85 fixed in C.M. A.M. 1600 (w) 85 & 1816 (w) 85 for 02 days	As per Sd.

Flu-JC-N-G-S

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
	<p>From K14 Goyal</p> <p>Heard learnt case for the parties. The respondents have given this application with the jurisdiction that they would be moving separately for vacation of the stay order dated 02.05.2015 as they are still to controvert the allegations in the writ petition. In the present they only pray that while the order regarding payment of salary and other benefits may remain the respondents may not be directed to do so with reference to discipline.</p> <p>The positive direction made by the Bench for reinstatement was made only in order to forestall any plea of the respondents that the writs answered 3 and 4 had already come into force and as such any stay order passed in respect thereof was infunction. Indeed the petitioners themselves in their application had only asked for a direction for allowing all benefits of service and full salary and not for any direction of reinstatement.</p> <p>It is always open for the employer and the employee whether to take work</p>	

## ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD  
No. 650 of 1985

2011

8



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. 1707 of 1987 (L)

A. R. Srivastava

APPELLANT  
APPLICANT

DEFENDANT  
RESPONDENT

VERSUS

Govt

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
1/11/89	Hon' Mr. D.K. Agrawal, J.M.  No Division Bench is sitting. List this case on 20-12-89 for hearing.	OR Case has been recd from CAT, Bldg. on 14/9/89 Case is admitted Stay is granted No CA/RA filed Date was fixed from CAT, still the obj was not attached Submitted to order of file is 25/11/89 8/11/89 OR

J.M.

Hon' Mr. Justice Kamleshwar Nath, V.C.  
Hon' Mr. K. Obayya, A.M.

Shri Sidhartha Verma 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 orders on 30-1-1990.

A.M.

(sns)

V.C.

OR  
- No reply filed  
Submitted to order  
29/11/89

Recd 1/12/89  
10/12/89  
10/12/89

(11)

1707107(17)

30.1.90 Hon. Justice R. Nath, V.C.  
Hon. K. T. Raman, A.M.

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

List this case for ex parte final hearing on 26.3.90.

Hon

OR

A.M.

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

(11)

OR

23.10.90

No sitting Adj. to 8.11.90

(11)

No CA filed  
S.R. ex parte  
Leave

L  
17/128.11.90

Hon. Mr. M. V. Bhandarkar, A.M.

Hon. Mr. D. K. Agarwal, J.M.

Due to reselection of Bar Association case is adjourned

to 10.12.90

OR

No CA filed  
S.R. ex parte  
Leave

L  
5/1210.12.90

case not reached. Adjourned to 8.2.91 for hearing

(11)

B.O.C.

OR

No CA filed  
S.R. ex parte

(pu) Y

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

	<u>Pages</u>
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.	..

*Lal Bahadur 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

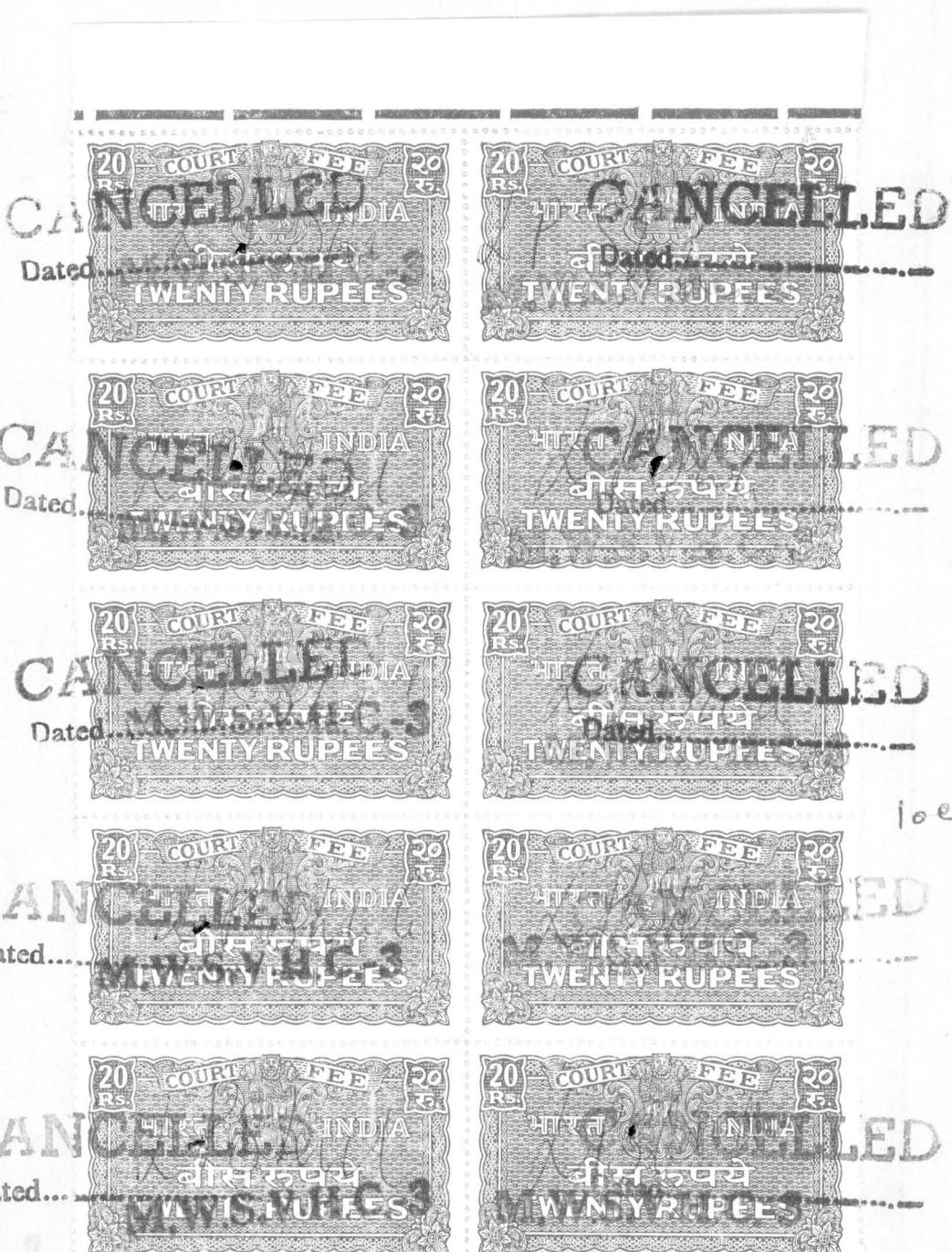
Writ Petition No. 650 of 1985

(P.M.)  
V.V.

Arun Kumar Srivastava & another - Petitioners

versus

Union of India and others - Opposite Parties



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.

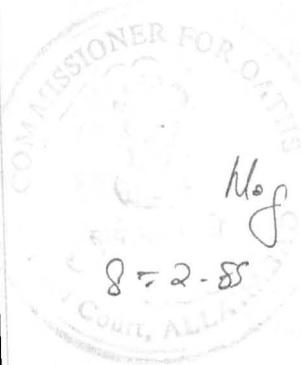
3. That on 5.2.1985 the petitioner no.1 had gone to meet the Steno to the Divisional Superintending Engineer in connection with a pending appeal. At this time he was summoned by the Senior Divisional Safety Officer, Lucknow. When the petitioner returned from the engineering branch after meeting the Steno 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



*R.D.*

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.

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



A.J.D.

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/0/26E(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/para 1 of the aforesaid circular.

8-2-85  
Mg

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,

AKD

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.



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,

along with the order of dismissal passed by opposite party no.2 and the annexure indicating charges against Annexure No.4 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

A.D.

8-2-85



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.



A.O.

AM

Y  
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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



*AKD*

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 ab initio 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



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'

*Kavirajat Shewal*

(AS)

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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 be pleased to :-

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

*Yashwant Shastri*

(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~~ ~~5.2.1985~~ and orders dated 6.2.1985 (Annexures No.1, 3 & 4);

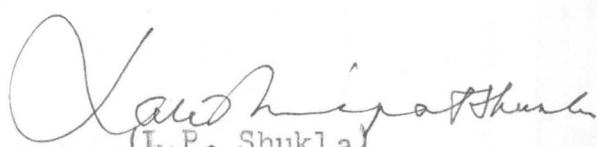
(iv) issue a writ, direction or order in the nature of mandamus commanding the opposite parties to treat the petitioners in service throughout and entitled to all the benefits;

(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.

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28

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. D50/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 ~~xx~~ 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

*A.K. Srivastava*

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/0/26E(D&A) dated 19.1.1974

Sub:- Disciplinary authorities for imposition of penalties for various types of irregularities 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 information and guidance. The Bd's letter dt. 28.7.72 was circulated under this office letter No.52-E/0/19E (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 experienced in initiating and finalising the disciplinary proceedings 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/finalisation 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 Divisional Safety Officer and Divisional Commercial Superintendent 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.



*A.D.*

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/III, 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.



17

(P)

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-2-

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



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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



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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



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



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



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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 ~~xxxix~~ 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.



23

(AP)

Y/25

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 them to the Chamber of Shri H.N. Khare, Divl. Personnel Officer(C)/ LKO and Shri D.P. 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 Divisional Railway Manager  
Lucknow.

True Copy





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.

A.K.D.  
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.

A.K.D.  
Deponent.

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

Karan Singh Shukla  
Advocate.

Solemnly affirmed before me on 8.2.1985

at 10.00 a.m./~~p.m.~~ by Sri Arun Kumar Srivastava

the deponent who is identified by

Sri L. P. Shukla

~~According 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.



*Kuldeep Singh*  
KULDEEP SINGH  
ATH. COMMISSIONER  
High Court, Allahabad  
Lucknow Bench  
80/963  
8 - 2 - 85

(प्र०)

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ब अदालत श्रीमान

महोदय

वादी (मुद्रा)  
प्रतिवादी (मुद्रामाले हैं)

का वकालतनामा

W. P. No.

of 1985

1985/31  
1985/32



Arun Kumar Srivastava & another

वादी (मुद्रा)

बनाम

Union of India and others — प्रतिवादी (मुद्रामाले हैं)

नं० मुकदमा सन् १९ पेशी की ता० १९ ई०  
ऊपर लिखे मुकदमा में अपनी ओर से श्री

L. P. Shukla, Kali Prasad Srivastava  
Advocate Advocate एडवोकेट महोदय

and K. D. NAG  
Advocate, c-700, Mahanagar, Lucknow  
को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और  
लिखे देता हूँ इस मुकदमा 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 दिगरी  
जारी करावें और स्पष्ट वसूल करें या सुलहनामा या इकबाल  
दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने  
हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें  
या कोई स्पष्ट जमा करें या हमारी या दिप्ति (परीक्षानी) का  
दाखिल किया स्पष्ट अपने या हमारे हस्ताक्षर-युवत (दस्तखती)  
उस्तों 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 भेजता रहूँगा अगर मुकदमा अदम पैरवी  
में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मे-  
दारी मेरी वकील पर न होगी। इसलिए यह वकालतनामा  
लिख दिया कि प्रमाण रहे और समय पर काम आवे।

नाम अदालत  
नं० मुकदमा फैसला  
नं० मुकदमा फैसला

Accepted  
K. D. NAG  
Accepted  
K. D. NAG  
Accepted  
K. D. NAG  
Accepted  
K. D. NAG

हस्ताक्षर

*Signature*  
A.D.

साक्षी (गवाह)..... साक्षी (गवाह).....

दिनांक..... महीना



रा अदालत श्रीमान महोदय शर्मा जिल्ला अदालत अहमदाबाद महोदय

वक्तालतबाट

Arun Kumar Srivastava  
Advocate

विजयनाथ ठोकरे

बातम

Union of India दफ्तर

प्रिंसिपल रेलार्ड अफ पार्टी

मुकदमा 650 सब 1985

पेशी फी त 20

अपर मुकदमा में अपना और से श्री Siddharth Verma, Advocate

1 इक्वोफेट/वफौल महोदय फो अपना वफौल बियुक्त फरफे ॥ इफरार॥ फरता हूँ  
 2 और लिखे देता हूँ फि मुकदमा में वफौल महोदय संवय अथवा अन्य वफौल  
 3 द्वारागो कुछ पैरवी व जवाब व प्रश्नोत्तर फरे या फोई फाग्ज दाखिल फरे  
 4 या लौटावा या हमारी ओर से डिग्री जारी फरादें और स्पष्ट फरे  
 5 या उल्लंघना या झूँवान् दावा तथा अपील व बिगरानी हमारी और से  
 6 आरे या अपने हस्ताक्षर से दाखिल फरे और तस्वीफ रफ़्या या मुकदमा डटावे  
 7 या फोई स्पष्ट जमा फरे या हमारी विपद्धि ॥ परीक्षानी ॥ फ दाखिल  
 8 या दुक्षा स्पष्ट अपने या हमारे हस्ताक्षर मुफ्त ॥ दस्तखती ॥ रसीद से लेजे फ  
 9 पैर बियुक्त फरे . . . . . वफौल महोदय द्वारा फो बहु वह  
 10 तब फार्वाहो हमारे सर्वथा स्वीकार है और होगी इसीलिये यह वक्तालत

हस्ताक्षर

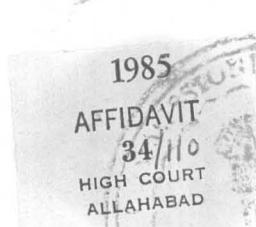
Divisional Railway Manager,  
Northern Railway,  
LUCKNOW.

सार्वी गवाह . . . . . सार्वी गवाह  
दिनांक . . . . . महोदय . . . . .  
सब 19. . . . . 85 | Accepted

Power on behalf of OP No. 2  
OP. No. 2 (Siddharth Verma)  
12/2/85  
Advocate

P36

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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

10 am

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 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 (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 this 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 petitioner's 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

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13.2.1985

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

Deponent

I identify the deponent ~~who has~~ signed in my presence.

(R.K. Srivastava)

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

Solemnly affirmed before me on 13.2.88  
at 11.10 a.m./p.m. by H. N. Khan the deponent who is identified by Sri R. K. Srivastava clerk to Sri B. C. Sarker 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.



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JATH COMMISSIONER  
High Court, (Lucknow Bench)  
LUCKNOW

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On the Hon'ble High Court of Judicature at Allahabad  
ज अदालत श्रीमान - लक्ष्मण बनेश लक्ष्मण नामक



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Union of Florida & the

ਪ੍ਰਤਿਵਾਦੀ/ਰੇਸਟਾਕੇਨਟ

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Accepted  
B. S. Dakseba  
13/3/85 230

हस्ताक्षर (Signature) Manager,

1987 Manager,

No. 6000 Runway,

LUCKNOW.

~~Sr. Fire Safety Officer  
Northern Railway~~

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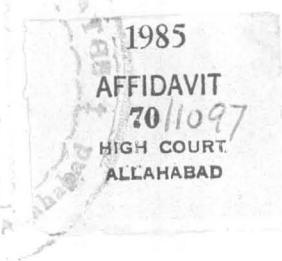
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Dr. and on behalf of Undivided  
LOCKHORI. HATE

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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 Munawar 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 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



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, 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,  
November, 1985.

  
Deponent.

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

  
Kuldeep Nag  
Advocate.

Solemnly affirmed before me on November 10, 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.

  
Meena Somay  
OATH CO. TIONER  
High Court (Delhi Bench)  
Date 10/10/97  
No. 12-12-83

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.M.).

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-

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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~~ <sup>for</sup> 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.Saksena*  
(B.C. Saksena)  
Advocate  
Counsel for the applicants