

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE Tat. 1919/82 of 19
W.P. 4045/85

Name of the parties C.K. Bhattacharya
.....Applicant.

Versus.

Union of India and others Respondents

Part A

Description of documents

- | | | |
|-----|--------------------------------|---------------------|
| 1. | <u>General Index sheet</u> | <u>A1 to A3</u> |
| 2. | <u>order sheet</u> | <u>A4 to A7</u> |
| 3. | <u>Judgment dt- 15-02-92</u> | <u>A8 to A9</u> |
| 4. | <u>Petition</u> | <u>A10 to A43</u> |
| 5. | <u>Affidavit with Annexure</u> | <u>A44 to A98</u> |
| 6. | <u>Vakalatnama</u> | <u>A99</u> |
| 7. | <u>Counter</u> | <u>A100 to A124</u> |
| 8. | <u>Vakalatnama</u> | <u>A125</u> |
| 9. | | |
| 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)

Date :

Countersigned

Section officer/Court officer.

Signature of the
Dealing Assistant.

A
1

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

FORM OF INDEX

O.A./T.A./R.A./C.C.P./ No. 1919-1987

PART - I

- | | | | |
|----|------------------|----|-----------------------|
| 1. | Index Papers | :- | 1 to 4 |
| 2. | Order Sheet | :- | 5 to 9 |
| 3. | Any other orders | :- | - |
| 4. | Judgement | :- | 10 to 11 - subject at |
| 5. | S.L.P. | :- | 15 7 92 H.K.R. |

20/1/89
DY. Registrar

ref
Supervising Officer

20/1/89
Dealing Clerk

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

Dealing Clerk

V.K. Mishra

2

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

No. _____ of 1993

Public Notice No. _____ of 1993

Ref. No. _____ of 1993

C E R T I F I C A T E

ad that not further action is required to be
that the case is fit for consignment in the
System.

Courier signed

Signature of the dealing
Assistant

Officer/ Court Officer

①

A
2Central Administrative Tribunal
Lucknow BenchCause Title IA 1919

1993 (T)

Name of the Parties P. K. Bhattacharya

Applicant.

Union of India

Respondents

Part A.P.S.

Description of Documents

Page

Check List

x

Order Sheet

A1 - A2, A97

Final Judgement

15-7-92

A3 - A4

Petition Copy

A5 - A42

Annexure

A43 - A95

Power

A96

Counter Affidavit

A98 - A122

Rejoinder Affidavit

B- File

B1 - 115

C- File

CIVIL
SIDE
CRIMINAL

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case W.P. 4045-85

Name of parties P. K. Battarayya

Date of institution 14.8.85

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 affidavit and Annex	89		102.00			
	2-	Power	1-		5.00			
	3-	ack. Stch.	1-					
	4-	Back Copy	1-					

I have this day of 198 , examined the record and compared the entries on this sheet with the papers on the record. I have made all necessary corrections and certify that the paper correspond with the general index, that they bear Court-fee stamps of the aggregate value of Rs. that all orders have been carried out, and that the record is complete and in order up to the date of the certificate.

Date

Munsarim

Clerk

4

✓ (A8)

BEFORE THE HON'BLE HIGH COURT OF JUDICATURE AT
ALLAHABAD

LUCKNOW BENCH, LUCKNOW.

4045

Civil Misc. Writ Petition No. of 1985.

Dated



separate
fee
21/8/05

P.K. Bhattarya aged about 44 years
son of Late Sri Pt. Badri Nath ,
Resident of C-3-d, Punjab Nagar
Railway Colony, Alambagh, Lucknow.

----- Petitioner.

Versus

1. Union of India , through its
Secretary, Ministry of Railways
New Delhi.
2. Chief Workshop Engineer, Northern
Railway, Baroda House, New Delhi.
3. Additional Chief Mechanical Engineer (W)
Northern Railway Loco Shops Charbagh,
Lucknow.

----- Opposite Parties.

Sur



45

Impressed
5 Adhesive Posters
Total

Correct but final Court fee report
will be made on receipt of lower

~~Court record~~

In time up to

Papers filed, Copy of V. 2

should also be filed.

Single - Boffen

dash Deposits Due 10
= 28-7-83

Lucknow.

Begun 7 days by.
1 year, 285 days as
8-8-85

Indrk
8888
2
840405

Hon. K S. Varma, J

Hon. S S Sharma, J

dist in ordinary

Course.

14885

SS

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P.

No.

4045

of 198

vs.

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
14.8.85	Hon' K. S. Verma J. Hon' S. S. Ahmad J.	
	2nd in ordinary course	
	Sd. K. S. Verma	
	Sd. S. S. Verma	
	14-8-85	
		for Bueh

X/6

①

A

10/5/90 Hon. Mr. K. J. Laxar, A.M.
Hon. Mrs. D.K. Agrawal, J.A. Commr

Shri S. Sharma, is present on behalf of the petitioner. No one is present on behalf of the respondents in spite of notice issued as per order dated 5/3/90.

Another opportunity is given to the respondents. Notice may be issued again to the respondents.

The case may be listed for orders on 10/9/90.

Office going
on
16/5/90

sd

J.M.

1990

A.M. OR

10.9.90 Hon'ble Justice K. Nath V.C.
M.M. Singh, A.M.

Sri Anil Srivastava files his vakalatnama. He requests and is allowed four weeks time to file C.A. to which the applicant shall file R.A. within two weeks. List for orders on 22.10.90.

Notices were issued on 16.5.90 to the respondents.

No unserved copy has been returned back.

Acknowledgement has been received.

S.F.O.

L
5/9/90

M.M. Singh

(A.M.)

(V.C.)

OR

22.10.90

No sitting day to 22.11.90

No C.A. filed
S.F.O.

22.11.90

Hon. Mr. Justice K. Nath, V.C.
Hon. Mr. M.M. Singh, A.M.

The respondents are given last opportunity to file counter within 2 weeks, rejoinder may be filed within 2 weeks, and reply must be filed for final hearing on 24.1.91.

M.M. Singh
A.M.

L
16/11/90

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. 1919 of 1987(T)

APPELLANT
APPLICANT

P. K. Bhattacharya

VERSUS

DEFENDANT
RESPONDENT

U O 9

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
1/12/89	<p>Hon' Mr. D.K. Agrawal, J.M.</p> <p>None appears for the parties.</p> <p>List this case on <u>14-12-89</u> for orders.</p> <p><i>J.M.</i></p> <p>(sns)</p> <p>No Sitting Adj. to 5.3.90.</p> <p>Both the Counsel are present on the request of the L/C for the applicant the case is fixed on 5.3.90.</p> <p>14/12</p>	<p>Case has been read from CAT, And on 14.9.89.</p> <p>Case is not admitted.</p> <p>No CA/RA filed.</p> <p>Date was fixed from CAT, And, but it was not attached.</p> <p>Submitting for order.</p>
5/3/90	<p>Hon. J.P. Sharma, J.M.</p> <p>Issue notices to Shri Satish Sharma Respondent to file counter affidavit within 4 weeks and rejoinder affidavit, if any, within 2 weeks.</p> <p>List for orders on 10/5/90.</p> <p><i>J.M.</i></p>	<p>or Notice of Jussel 24/3/90</p> <p>or Notice was issued on 24.3.90</p> <p>Neither reply nor any unsentenced order has been return back.</p> <p>O - F - O</p>

(9)

A/X

24.1.91 - No sitting Adj to 26.2.91.

26.2.91 - No sitting Adj to 3.5.91.

3.5.91 No sitting adj to 31.7.91

31.7.91 No sitting adj to 4.10.91

4.10.91 - No sitting Adjourned to 5.12.91.

5.12.91 No sitting adj to 3.1.92

3.1.92 No sitting adj to 14.2.92

14.2.92 - No sitting Adj to 9.4.92

9.4.92 No sitting of D.B. adj to 7.5.92

7.5.92 No sitting adj of D.B. adj to 15.7.92

CA filed

or
CA filed
SPH
1/12/92

Decided on
15.7.92

A
8

AB

10

Registration T.A. No. 1919 of 1987
(W.P. No. 4045 of 1985)

Union of India				
and others	Respondents.

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


✓

A/9
11

- 2 -

the applicant in the disciplinary matter but that too was not done in this case. The order passed by the appellate authority is apparently non-speaking order as no reasons have been assigned except taking those grounds which were already taken by the disciplinary authority.

2. Accordingly, this application is allowed and the appellate order dated 28.1.1983 is quashed. The appellate authority is directed to decide the appeal after giving an opportunity of hearing to the applicant within a period of three months from the date of communication of this order. The application is disposed of with the above terms. Parties to bear their own costs.


Member (A.)


Vice-Chairman

Dated: 15.7.1992

(n.u.)

10

Gr. No. A-1867

15/1/82

A6

6084

In the Hon'ble High Court of Judicature at

ALLAHABAD

Lucknow Bench, Lucknow.

Writ Petition No. 4048 of 1981.

P.K. Bhattarya

Petitioner

Versus

Union of India & others --- Opposite Parties.

I N D E X

Sl. No.	Particulars	Page.
1.	Stay Application	1-2
2.	Writ Petition	3-35
3.	Affidavit.	36-37
4.	Annexure No. 1. A true copy of suspension order Dt. 14.9.81.	38
5.	Annexure No. 2. True copy of Charge Sheet Dt. 23.9.1981.	39-49
6.	Annexure No. 3. True copy of application dated 5.10.1981.	50-51
7.	Annexure No. 4. True copy of Letter application Dt. 17.12.1981.	52-55
8.	Annexure No. 5. True copy of application Dt. 17.5.1981.	56-60
9.	Annexure No. 6. True copy of Defence Note Dt. 13.9.82.	61-71

10431

19

Sl. No.	Particulars	Page.
10.	Annexure No. 7. True copy Copy of application dated 28.12.1982.	72-75
11.	Annexure No. 8. True copy of Enquiry Officer's Report dated 30.20.	76-85
12.	Annexure No. 9 . True copy Letter Dt. 24.1.1983.	86-88
13.	Annexure No. 10. True copy of letter Dt. 28.7.83.	89-90
14.	Vakalatnama	91

S. N. Shukla
(S.N. Shukla)

Dated

Advocate.

Dt. 8.1985.

Counsel for Petitioner.

4/2

-4-
A9

- 2 -

Writ Petition under Article 226 of
the Constitution of India

To

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

The humble petition of the petitioner above
named most respectfully begs to sheweth as
under :-

1. That the petitioner is a permanent incumbent of the technical services of Northern Railway and at the material time he was working as Charge Man Grade 'A' in the pay scale of Rs. 550-750.
2. That the matter relates to the time when the petitioner was working as Charge Man Pattern Shop in Locomotive Workshops Northern Railway, Charbagh Lucknow.
3. That during the performance of his duty, the petitioner noted certain gross irregularities in the Pattern Shop, therefore, he drew attention of the Authorities concerned towards these irregularities in the interest of Railway.
4. That the petitioner gave an application

Sm



A/B

- 5 -

Al^o

- 3 -

dated 12.2.1981 and on 28.2.1981 stating therein that Sri K.N. Kapoor Shop Superintendent Foundry & and Pattern Shop has declared one worker Sri B.D. Sharma to have passed the test for wood Machinist (turner) without taking his trade test. It was a serious irregularity towards which attention of Additional Chief Mechanical Engineer (W) Northern Railway Charbagh Lucknow was drawn but nothing was done in this regard by the Authorities.

5. That instead of taking any action against Mr. K.N. Kapoor, it was the petitioner who was transferred from this unit to another unit and reporting by the petitioner against Mr. K.N. Kapoor annoyed Sri K.N. Kapoor very much and he started to plan to harm the petitioner.
6. That the petitioner was actually transferred to Production Office / Material Control Cell but under the administrative control of Mr. K.N. Kapoor who was already annoyed. This thing gave a chance to Mr. K.N. Kapoor to damage the petitioner. Mr. Kapoor threatened the petitioner many times that he (Mr. Kapoor) would see the petitioner and he also threatened that he would like to see the petitioner out of job.



A
14
-6-
A11

7. That after taking a new assignment under Kapoor, the work of removal of auctioned heaps of brass Foundry clinker was into operation by the contractor.
8. That the contract provided only for the removal of clinker but the contractor was allowed the processing and screening of the clinker then and there, thus virtually taking away the precious metal @ Rs. 5.50 per K.G. instead of clinker and thereby the purpose of the contract for relieving of the ground space with the removal of the clinker was totally frustrated.
9. That not satisfied with this, the contractor took hold of the fresh daily arisings of Brass Foundry clinker and even trespassed in the section of the petitioner which was objected by the petitioner and brought to the notice of Mr. K.N. Kapoor, Shop Superintendent Foundry and Pattern and Production Engineer.
10. That remonstrance by the petitioner not heeded, and the section was closed for 20 days on the verbal orders of Production Engineer on 15.8.1981 and thus giving a free gift of fresh daily arisings of Brass Foundry to the contractor.



Sw,

7-
A12

11. That the petitioner requested Mr. K.N. Kapoor Shop Superintendent Foundry and Pattern many times for his posting to any other section in view of his own section having been closed, but all in vain.
12. That the petitioner moved an ^{cf} application on 11.9.1981 to Additional ^{cf} Chief Mechanical Engineer (W) Charbagh Lucknow through Mr. K.N. Kapoor Shop Superintendent Foundry and Pattern stating therein his position and requesting for a personal interview with Additional Chief Mechanical Engineer(W) Charbagh Lucknow to bring to his notice the nefarious activities of the contractor with the help of some self interested person purely in the interest of Railway administration.
13. That on 14.9.1982 a false report F.I.R. was lodged with the police station Alambagh Lucknow by Mr. S.C. Saha Assistant Shop Superintendent Foundry and Pattern in which it was stated that while Mr. S.C. Saha was sitting in the room of Mr. K.N. Kapoor, Shop Superintendent Foundry and Pattern, the petitioner entered in the room and started arguing with Mr. S.C. Saha Assistant Shop Superintendent Foundry and Pattern and



Ser

(A13)

A/16 1/4

-8-

- 6 -

14. when Mr. S.C. Saha did not accosted to the arguments of the petitioner, he slapped Mr. S.C. Saha in the presence of Sri K.N. Kapoor and others and threatened to harm and kill him.
14. That on the same date Mr. S.C. Saha , Assistant Shop Superintendent Foundry and Pattern also filed a complaint of the same act to Additional Chief Mechanical Engineer (W) M.Rly. Loco Shops Charbagh , Lucknow attaching a copy of F.I.R. filed in the Police Station Alambagh, Lucknow.
15. That the petitioner was placed under suspension on 14.9.1981 by the Production Engineer Loco Shops Charbagh , Lucknow. A true copy of the suspension order dated 14.9.1981 is being annexed herewith as ANNEXURE NO. 1 to this writ petition.
16. That it would not be out of place to mention here that the suspension order was bad in law in so much so that it was passed by the Production Engineer, who is neither an appointing authority nor a disciplinary authority of the petitioner.
17. That it would not be out of place to mention here that the complaint submitted by Sri

SW



A
17
AMU
9-
1/9

S.C. Saha Assistant Shop Superintendent Foundry and Pattern on 14.9.1981 to Additional Chief Mechanical Engineer (W) Charbagh Lucknow was written in hand writing of Mr. K.M. Kapoor Shop Superintendent Foundry and Pattern and was only signed by Sri S.C. Saha, Assistant Shop Superintendent Foundry and Pattern.

18. That it so transpires and Mr. K.M. Kapoor Shop Superintendent Foundry and Pattern by exercising undue influence on Mr. S.C. Saha, Assistant Shop Superintendent Foundry and Pattern horridly corroborated the whole affair for fear of exposition of his mal practice with the contractor due to the petitioner's application of 11.9.1981 coupled with an intention to harm the appellant as was threatened by him previously and since then he has been planning so.

19. That the petitioner was served with a Charge sheet No. PC/PKB dated 23.9.1981. A true copy of the Charge Sheet No. PC/PKB dated 23.9.1981 is being annexed herewith as ANNEXURE NO. 2 to this writ petition.

20. That the charge against the petitioner reads as under -



for

A
18

(AIS)

-10-

1/10

"That while functioning as Chargeman 'A' Foundry and Pattern maker, grade Rs, 550-750 (RS) Shri P.K. Bhattarya M.C.C. section entered into the room of Shop Superintendent Foundry and Pattern Sri K.N. Kapoor at about 9.20 hrs. on 14.9.1981 and started arguing with Sri S.C. Saha Assistant Shop Superintendent who was sitting there. When Sri Saha showed his inability to concede to his arguments, Shri Bhattarya slapped him and hurled abuse on him and also threatened to harm and kill him in the presence of Sri K.N. Kapoor, resulting in serious misconduct and violation of the service conduct Rule Para 3 (i)(III) of Railway service conduct Rules 1966."



SC

21. That the Charge sheet was signed by Additional Chief Mechanical Engineer (W) Charbagh Lucknow.
22. That it is very much important to mention here that the appointing authority for the post of Chargeman grade 'A' against which the petitioner was working in General Manager Northern Railway, and it is well established rule that the chargesheet should be issued by the appointing authority alone, and it is also well settled rule of law that the

power to issue the chargesheet could not be delegated to any subordinate authority and as such, the charge sheet is bad in law because it was not issued by the competent authority.

23. That the petitioner vide his application dated 5.10.1981 demanded a copy of five documents and also requested that he should be allowed the inspection of the file related to his letters dated 13.2.1981/28.2.1981, 7.3.81 and 11.9.1981. A true copy of application dated 5.10.1981 is being filed herewith as ANNEXURE NO. 3 to this writ petition.

24. That the Additional Chief Mechanical Engineer (W) Charbagh Lucknow vide his letter dated 17.12.1981 informed the petitioner that the documents required by him were not available on file except those as demanded at para (4) and (5) of his application of 5.10.1981 and that the petitioner could not be allowed the inspection of the file as requested by him. A true copy of letter Dt. 17.12.81 is annexed as ANNEXURE No. 4 to this Writ Petition.

25. That in the absence of the documents required by the petitioner the petitioner was handicapped in answering the charges and to make out his defence and to refute the charges leveled against him.

26. That thereafter, Additional Chief Mechanical



Signature

A/20 (A7) -12- 1/12

Engineer (W) Charbagh Lucknow appointed Shri H.D. Mall Production Engineer, Locoshops Charbagh Lucknow as Enquiry Officer.

27. That the petitioner vide his application dated 17.5.1981, again requested the Enquiry Officer for certain documents which were much material in his defence, but the documents so required have never been supplied to the petitioner. A true copy of application dated 17.5.1981 is being annexed herewith as ANNEXURE NO. 5 to this writ Petition.
28. That the enquiry officer recorded the statement of Sri S.C. Saha the complainant and Shri K.N. Kapoor on 18.5.1982 and asked the petitioner for cross examination of the both i.e. Sri S.C. Saha and Sri K.N. Kapoor. The petitioner requested that no effective cross examination of these two prosecution witnesses can be made unless he is supplied with the copies of the documents required by him vide his application dated 17.5.1982. There is a complete and clear note of defence helper at the foot of the statement of both the witnesses available on record which records as follows: -

Since an application for produc-



Sm

tion of certain documents necessary for the effective cross examination of the witness had already been moved on 17.5.1982 at 15.50 hrs. by the Defence and the documents mentioned therein have not been made available the Defence is handicapped to cross examine the witness, and therefore , requests that the documents be arranged and then it will start cross examination of the witness. The Defence is still prepared even at this stage to cross examine the witness provided the documents asked for are made available or any reply resting on substantial ground in support of non production of the documents is given to it. "



Sm

29. That however, the documents requested vide application dated 17.5.1982 were never supplied to the petitioner. Therefore, he could never cross examine both the witnesses i.e. Sri S.C. Saha and Sri K.N. Kapoor.
30. That on the next date of hearing i.e. on 10.8.1982 the petitioner was asked to give his statement in the presence of Sri S.C. Saha and the complainent.
31. That in his statement, the petitioner stated that his statement is to be recorded at

A/22 (A19)

-14-

1/14

the conclusion of enquiry proceedings after the cross examination of the prosecution witnesses. He was compelled by the Enquiry Officer to reveal the relevancy of the documents asked for, in the presence of Sri S.C. Saha, the complainent.

32. That however, the statement of the petitioner on merit could not be recorded due to the biased attitude of the administration which had fixed the enquiry only to punish the petitioner.

33. That thereafter nothing more happened and the petitioner submitted his defence note on 13.9.1982 on the orders of Enquiry Officer vide his Office letter No. PC/PKB of 28.6.82. That alongwith his defence note, the petitioner was in a position to file a copy of his two applications address to Additional Chief Mechanical Engineer (W) Charbagh, Lucknow dated 14.2.1981 and 11.9.1981. A true copy of the Defence Note dated 13.9.82 is being annexed herewith as ANNEXURE No.6 to this writ petition.



[Handwritten signature]

34. That Enquiry Officer after reading the defence note reached the conclusion, that by not allowing the cross examination and

A/22 (A29) -15-
15

- 13 -

by not recording the statement of the petitioner, he has acted illegally. Therefore, in order to fill up the gaps in the enquiry he issued a letter no. PC/PKB of 13.12.82 which read as under -

* As you have objected to give your statement in the presence of prosecution witness, you are therefore, given a chance to give your statement in the absence of the same. Please, therefore, attend the enquiry in this respect along-with your defence counsel on 26.12.82 at 14.30 hrs. in the room of the undersigned. *

35. That the reading of the letter clearly reveals that Enquiry Officer was trying to fill up the gaps in the enquiry as stated by the petitioner in his defence note.

36. That however, the petitioner replied the same letter vide his letter dated 28.12.82 stating that to recall the petitioner again to give his statement would amount to re-open the Enquiry when the Enquiry Officer has informed the petitioner vide his office letter of 28.8.1982 that the proceedings in



Shr

the above said case have already been completed. It was also requested that since the petitioner was lying under suspension for a very long period, he should first be reinstated and then the enquiry should be started by the Enquiry Officer. A true copy of letter dated 28.12.1982 is being annexed herewith as ANNEXURE No. 7 to this writ petition.

37. That the Enquiry Officer submitted his report to the Additional Chief Mechanical Engineer (W) Charbagh Lucknow, a copy of which has been supplied to the petitioner along with the letter of Additional Chief Mechanical Engineer (W) Charbagh Lucknow dated 24.1.83 by which the punishment has been imposed on the petitioner. A true copy of the Enquiry officer's report is being annexed herewith as ANNEXURE NO. 8 to this writ petition.

38. That at the end of the report, Mr. H.D. Mall, the Enquiry Officer has put his signature with date 30/10 with no year.

39. That it so transpires that in order to cover the action of enquiry officer of calling the petitioner to give his statement on 28.12.82 Additional Chief Mechanical Engineer Charbagh Lucknow in his order dated 22.1.1983 has said



[Handwritten signature]

that the letter was issued by the Enquiry Officer under order, but peculiar enough letter of enquiry officer of 13.12.1982 does not bear any mention of the order having been so passed by Additional Chief Mechanical Engineer (W) Charbagh Lucknow.

40. That however, the Additional Chief Mechanical Engineer (W) Charbagh Lucknow without applying his mind, mechanically endorsed their report of the Enquiry Officer and by an order reduced the petitioner from the rank of Charge-man Grade 'A' to Chargeman grade 'B' vide his order dated 24.1.1983. He also withheld the increments for three years.
41. That the Enquiry Officer did not act according to the procedure prescribed by law in so much so that full chance of defence has not been granted to the petitioner.
42. That the petitioner persistingly requested the Enquiry Officer and the Disciplinary Authority both that the papers demanded vide application dated 5.10.1981 and 17.5.1982 be supplied to him but the required documents were never supplied to the petitioner.
43. That by the said documents the petitioner wanted to prove that Mr. K.N. Kapoor was



Sen

~~annoyed~~ with the petitioner and was seeking a chance to punish him and he by exercise of his undue pressure on Sri Shah got a false and fabricated report with the Police Station Alambagh as well as to the Additional Chief Mechanical Engineer Charbagh Lucknow.

44. That the Enquiry Officer had reached to two conclusions -

(i) that the petitioner was lingering the enquiry proceedings unnecessarily and

(ii) that the charge has been proved against him.

45. That on every appointed date the petitioner appeared before the Enquiry Officer and requested him to supply the copies of the documents as demanded by him or to allow the inspection of the same, so that he may establish his defence but the petitioner was never afforded the above opportunity and was thus debarred from natural right guaranteed under the Constitution of India to every citizen. The petitioner is failed to understand as to how the Enquiry Officer has arrived at the conclusion that the petitioner himself was lingering the enquiry. The records available on file would clearly reveal that



[Handwritten signature]

A/27 (A24) -19-
1/19

no stage the petitioner ever tried to linger the enquiry proceedings. It is strange to note that the person who was placed under suspension could have dared to linger the enquiry. As a matter of fact the petitioner wanted to get the enquiry finalised as early as possible so that the final decision in his case may be taken and the petitioner in fact cooperated with the Enquiry Officer in expediting the enquiry. It so transpired that the Enquiry Officer being biased tried his best to harass the petitioner and when he could not get anything against the petitioner he reported that the petitioner was lingering the enquiry.

46. That the conduct of the Enquiry Officer was not fair during the enquiry proceedings as he allowed Sri Saha the complainant to sit in the enquiry proceedings throughout where as he had the status of a witness only and the witness cannot be allowed to sit during the course of enquiry except at the time when his statement was required to be recorded.



Shy

47. That the statement of petitioner as well as the letter requiring the petitioner to give his statement issued by the Enquiry Officer on 13.12.1982 would clearly reveal that he allowed Mr. Shah to sit in the

A/S (A25) -20-
1/20

enquiry.

48. That it is well established law that it is the charged officer, who has got the right to cross examine the prosecution witnesses but the prosecution witnesses in no way can cross examine the charged officer nor can participate in the enquiry proceedings except at the time when he is required to give his statement. By allowing Mr. Shah to sit in the whole proceedings has materially vitiated the whole enquiry and further proved that the enquiry officer was biased.

49. That the other conclusion which has been reached by the Enquiry Officer that the charge is proved against the petitioner is also not sustainable in the eye of law. In his report Mr. Shah has stated that the occurrence was seen by Sri K.N. Kapoor and many others. In his statement he had stated that among out of many other persons he remembered one person i.e. of Sri Sahi who is said to be a clerk in Foundry Section. That other person who had seen the whole occurrence was not called by the Enquiry Officer. It is well established rule of law that if a person is charged then the charge must be proved beyond all reasonable doubts and if there is any doubt, the benefit of

8.8.85
8.8.85

Shy

A
29

A26

✓

doubt goes to the charged officer. It is also well established rule of law that even if the charged officer does not co-operate and the ex- parte proceedings are drawn against the charged officer even then it is the duty of the Enquiry Officer to prove the charge with the help of the witnesses against the charged officer and if it has not been done then the proceedings are vitiated and are not sustainable in the eye of law.

50. That in the petitioner's case the Enquiry Officer came to know of at least one person who belongs to the same office, who was easily available to be called by him. But the Enquiry Officer did not care to call Sri S.K. Sahi, clerk Foundry Section to enquire if the incident had actually take place or not.

51. That the Enquiry Officer has discussed in his report that Sri Sahi should have been produced as defence witness whereas it was his duty to call him and to enquire from him and if it has not been done then there is a gap in view of the fact that the only witness Sri Kapoor was fully biased and the charge can never be said to have been proved against the petitioner. The Enquiry Officer further failed to consider



Sh

all the evidence available on the record. alongwith defence note the petitioner filed copies of two complaints lodged by the petitioner against the said Mr. Kapoor to Additional Chief Mechanical Engineer Charbagh but not even a single word has been discussed or referred to by the Enquiry Officer in his whole report.

52. That the Enquiry Officer has reached to the conclusion that the charge has been proved against the petitioner, is not based on record but on surmises and presumption. Thus the prosecution has totally failed to establish that the charge was proved against the petitioner.

53. That the arguments produced by the petitioner that the F.I.R. lodged with the Alambagh, Police Station is false and could not be proved and as such the concerned Police had filed the same without any action against the petitioner. This too was not rebutted either by the complainent or by the Enquiry Officer by the reasonings or by the help of records but it has been simply said that it is not ground.



[Handwritten signature]

54. Thus it is proved beyond any shadow of doubt

A/31 (A28) -23-
✓3

that the observations of the Enquiry Officer are baseless and wrong in as much as they are not based on record hence they are not sustainable in the eye of law.

54. That the whole enquiry is against the rules and the procedure prescribed by law in so much so that no chance to defend the case was allowed by the Enquiry Officer to the petitioner. It also transpires that some mischief had been played with the records by the Enquiry Officer.

55. That Sri K.B.L. Wadhwa Additional Chief Mechanical Engineer (W) Northern Railway, Loco Shops Charbagh Lucknow vide his order No. PC/PKB dated 24.1.1983 reverted the petitioner to his original post of Chargeman Gr. 'B'. A true copy of the reversion order dated 24.1.1983 is being annexed herewith as ANNEXURE NO. 9 to this Writ Petition.



56. That the punishing authority has not applied his mind and has mechanically endorsed the report of the Enquiry Officer.

57. That he has not passed a speaking order.

58. That against the order of reversion the petitioner filed an appeal to the Chief

A
32 (A29) -24-
LM

- 22 -

Workshop Engineer Northern Railway Baroda
House New Delhi.

59. That according to Railway Board's letter No. E (D&A) 78 RG-6-11 of 5.3.78 (N.R.S. No. 6966) final orders passed by the disciplinary authority should be speaking order i.e. the authority passing order must apply its mind to the relevant facts and while passing orders give the reasonings thereof. The orders passed by the disciplinary authority which are not speaking orders are liable to be quashed.
60. That in view of the above submissions it is quite clear that the punishing authority should pass speaking order but in the petitioner's case the order speaks that " on a careful consideration of the aforesaid enquiry report I agree th with the enquiry officer's verdict that your are guilty in this case of the charge levelled against you". Thus , the order passed by the disciplinary authority in the petitioner's case as aforementioned cannot be said to be a speaking order.
61. That assuming for a while but not admitting even if the charge is proved against the petitioner, the order of punishment is too harsh because it will badly affect the future



Sen

carreer of the petitioner. Further, the order is bad because it imposes double^e penalties on the appellant, one is reduction in the rank while the other is with holding of annual increment permanent for three years.

62. That it is well established rule of law that two punishments for one act cannot be inflicted.
63. That the final order of reduction in rank is bad ⁱⁿ law in so much so that it had been passed by the ACME (W)/CB-LKO i.e. Additional Chief Mechanical Engineer (W) Charbagh Lucknow.
64. That the appointing authority of the post of Chargeman grade 'A' is General Manager and Article 311 of the Constitution of India gives the guarantee to civil servants that no person lower than the rank of appointing authority can pass the order in reduction in rank.
65. That the said order imposing the punishment on the petitioner is against the natural justice because neither the Enquiry Officer nor the disciplinary authority has given any chance to the petitioner, the opportunity of personal hearing
66. That the petitioner very specifically made a



Sh.

A/35 (A30) - 25-
15

request that he should be given an opportunity of personal hearing but the same has not been granted by the punishing Authority.

66. That the final order passed by the disciplinary authority is also bad in law in view of the fact that it is based on an enquiry which is itself vitiated by not following the procedure prescribed by law.
67. That the impugned order passed by the Additional Chief Mechanical Engineer (W) Charbagh under appeal is also against the rules of natural justice because full chance to defend the case has not been given to the petitioner to establish his innocence either by the Enquiry Officer or the disciplinary authority (Additional Chief Mechanical Engineer Charbagh).
68. That the order under appeal is further bad in law and is not sustainable because it is based on the enquiry which failed to prove the charge against the petitioner.
69. That due to defects in enquiry and order of reversion, the petitioner submitted the following additional information for the consideration of the Appellate Authority.
70. That the contractor, picking the auctioned heaps of Brass Foundry clinker, was allowed



Sen

A32
35

57

to ragregate, process and screen the auctioned clinker in the premises of Brass Foundry Clinkers and reclamation Section, thereby allowing him to take away nearly pure metal and Metal enriched clinker only at the rate of Rs.5.50 Kg. and leaving behind the rest, thus putting the Railways at loss.

71. That the fact that contractor actually processed and screened the heaps of auctioned clinker, has been virtually admitted by the administration in its letter No. P/127/81 dated 21.11.1981 in reply to Sri Mushtaq Ahmad, Chargeman Gr. 'A' T.No. E-140's letter dated 17.11.1981.

72. That Sri Mustaq Ahmad Chargeman Gr. 'A' T.No. E-140 vide his reply dated 23.9.1982 in reply to his Confidential Report to Additional Chief Mechanical Engineer (W) requested for an enquiry in regard to the theft of copper plates occured in the month of June/July, 1981 the report of theft of Copper plates was never made to Railway Protection Force. Sri Mushta-q Ahmad took the onus of paving the facts. The request was turned down by the Rev. Additional Chief Mechanical Engineer (W) Charbagh Lucknow.



Shr

73. That under what circumstances the Brass Foundry clinker reclamation Section was

A23

30

57

closed by Production Engineer thereby giving a free gift of fresh daily arisings of clinker of Brass Foundry for which there was no contract in spite of the fact that the petitioner vide his letter of had in clear words informed and objected to the acts of contractor which were detrimental to the interests of Railway Establishment.

74. That what were the reasons the local administration had to resort to untruths in connection with the documents demanded by the petitioner vide his letter of 1981 and 17.5.1982.
75. That in his office letter no. PC/PKB of 17.12.1981 Rev. Additional Chief Mechanical Engineer has endorsed at Para (6) above said letter, "Inspection of files can not be permitted". It clearly reveals that the documents for which the request to inspect the file was made, were there on the record, and due to certain reasons they could not be made available to the petitioner.
76. That the enquiry officer vide his office letter No. PC/PKB of 30.6.82 informed the petitioner, in response to his letter of 17.5.1982 wherein the petitioner requested for the production of documents " As the applications enumerated under para 3(i) and (iii) to (vii) of your above letter do not



Shr

- 29 -
A34
37
48

appear to have received in this office, please submit copies of the same immediately to enable me to consider your demand". It may be made clear that the letters asked for at para 3(i) and (iii) of my letter of 17.5.82 are the same very letters for which the Rev. Additional Chief Mechanical Engineer (W) Charbagh Lucknow has replied as stated above.

77. That in his enquiry findings of 30/10, at the foot of page 3, the Enquiry Officer again changed his verdict in connection with the same documents and had stated " As the documents demanded by the petitioner were not appearing on the file."
78. That though a copy of his letter of 11.9.81 was submitted by the petitioner along with his defence note wherein the petitioner had requested for grant of a personal interview with Additional Chief Mechanical Engineer (W) the Rev. Additional Chief Mechanical Engineer (w) could not care to grant the same prior to awarding the punishment on the petitioner.
79. That the petitioner was not allowed by Additional Chief Mechanical Engineer (W) Charbagh Lucknow to have a personal interview with your Honour on your visit to these Shops on 10.1.1983 and 20.1.1983 as requested by the



See

A
28

(A35)

29

petitioner vide his letter of 19.1.1983.

80. That the petitioner is not provided with a refusal in writing to complete his file as requested by the petitioner vide letter of 20.1.1983.
81. That production Engineer evaded the fact finding enquiry and took an hasty action to suspend the petitioner inspite of the fact that Production Engineer was in the know of the petitioner's letter of 11.9.1981. The remarks given by Sri K.N. Kapoor Shop Superintendent Foundry and Pattern on the petitioner's letter of 11.9.1981 and a proof of this fact.
82. That however, the Appellate Authority mechanically rejected the appeal of the petitioner vide its order dated 28.7.1983 . A true copy of which is being Annexed herewith as ANNEXURE NO. 10 to this writ petition.
83. That on perusal of the order passed by the Appellate Authority it was revealed that the Appellate Authority did not apply his mind when rejecting the appeal of the petitioner.
84. That the Appellate Authority has failed to pass an speaking order which is required under law on the appeal filed by the petitioner.
85. That from the order it does not show that the



Sy

A36
A/39
1/30
-31-

Appellate Authority has taken into consideration all the facts and point of law raised by the petitioner in his appeal.

86. That the Appellate Authority has simply confirmed and endorsed the [✓]reversion order passed by the Punishing Authority who was not competent to pass the same.
87. That the orders passed by the Appellate Authority is further bad in law because it has not considered the law which was directly involved in the case of the petitioner.
88. That the enquiry was not fair and legal and the petitioner has been punished without having sufficient evidence on record to prove his guilt.
89. That the Enquiry Officer despite repeated request has taken steps to re-open the enquiry when it was finally closed.
90. That despite repeated requests neither the Punishing Authority nor the Enquiry Officer furnished the documents required for the defence of the petitioner; hence no proper opportunity has been given to the petitioner.
91. That the order of reversion has been passed by an authority which was not competent to pass it.



Sn

A37

X/40 31

92. That the petitioner has been punished without following the procedure prescribed by his Service Rules ; hence the enquiry is against the rules of the Department applicable to the petitioner.
93. That the ^creversion order has also been passed in contravention of the provisions of Article 311 of the Constitution of India.
94. That the enquiry has not been properly conducted and the Punishing Authority has passed the orders of reversion in gross violation of the well established rules of natural justice.
95. That the petitioner has been punished without the charge having been proved against him by the evidence on record.
96. That the order of the Appellate Authority is bad in law in so much so that it is not an speaking order and the appellant authority without applying its mind has simply endorsed the orders passed by the punishing authority.
97. That the petitioner's charge having not been proved and the condone punishment of reversion has illegally been inflicted upon the petitioner without giving him full opportunity to defend the case.



Smy

A38

A
41

1/32

98. That feeling aggrieved and having no other adequate, efficacious, speedy remedy available the petitioner is compelled to file the present Writ Petition amongst others on the following grounds.



GROUND S

- A. BECAUSE the Enquiry Officer despite repeated request has taken steps to re-open the enquiry when it was finally closed.
- B. BECAUSE despite repeated request neither the Punishing Authority nor the Enquiry Officer provided the documents required for the defence of the petitioner, hence no proper opportunity has been given to the petitioner.
- C. BECAUSE the order of reversion has been passed by an Authority which was competent to pass it.
- D. BECAUSE the P-etitioner has been punished without following the procedures prescribed by his Service Rules hence the enquiry is against the rules of the Department.
- E. BECAUSE the reversion order has also been passed in contravention of the provisions of the Article 311 of the Constitution of India.

JW Shukla

A37

A
ND

33

- F. BECAUSE the enquiry has not been properly conducted and the Punishing Authority has passed the orders of reversion in a gross violation of the well established rules of natural justice.
- G. BECAUSE the petitioner has been punished when the charge having not been proved against him by the evidence on record.
- H. BECAUSE the order of the Appellate Authority is bad in law in so much so that it is not a speaking order and the Appellate Authority without applying its mind has simply endorsed the orders passed by the Punishing Authority.
- I. BECAUSE when the petitioner's charge having not been proved, the condine punishment of reversion has illegally been inflicted upon the petitioner without providing him full opportunity to defend his case.
- J. BECAUSE the petitioner has not been given an opportunity of personal hearing despite his personal request in writing to the Punishing Authority as well as to the Appellate Authority.

WHEREFORE, the petitioner prays for the following reliefs :-


R E L I E F S

Handwritten signature

AVC
A
43
34

- (i) To issue a writ, order or direction in the nature of certiorari thereby quashing the order of reversion dated 24.1.83 contained in Annexure No. 9 and also the order of the appellate Authority dated 28.1.1983 contained in Annexure No. 10 alongwith entire proceedings including the Charge sheet.
- (ii) To issue a writ , order or direction in the nature of mandamus thereby commanding the opposite party to treat him as Chargeman Gr. 'A'.
- (iii) . To issue any other appropriate writ, order or direction which the court may deem fit on the facts and circumstances of the case.
- (iv) To award the cost of the Writ Petition.

Lucknow


(S.N. Shukla)
Advocate.

Dt. 8.8.1985.

Counsel for Petitioner.

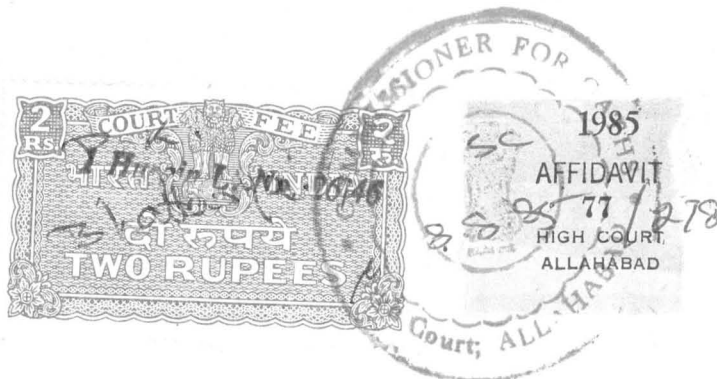
A 36-
431
A41
35

In the Hon'ble High Court of Judicature at

ALLAHABAD

Lucknow Bench, Lucknow.

Writ Petition No. of 1985.



P.K. Bhattarya

Petitioner

Versus

Union of India & others --- Opposite Parties.

A F F I D A V I T

I, the deponent P.K. Bhattarya aged about 44 years son of Late Pt. Badri Nath, resident of C-3-d, Punjab Nagar, Railway Colony, Alambagh Lucknow do hereby solemnly affirm and state on oath as under :-

1. That the deponent is petitioner in the above noted writ petition and as such he is fully conversant with the facts and circumstances of the case deposed hereunder.



2. I That deponent above named do hereby verify that the contents of paras 1 to 42, 49-61, 70-85 of the accompanying writ petition are true to my own knowledge, those of paras 48, 62- to 70, 86-98 are based on legal advice and those of paras 43, 44, to 46, 47, 48 are based on record.

Lucknow

Dt. 8.8.1985.

Deponent.



I, the above named deponent do hereby verify that the contents of paras 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

Dt. 8.8.1985.

Deponent.

I identify the deponent who has signed before me.

S.N. Shukla
Advocate

Colemnly affirmed before me on 8.8.85 at 3.35 a.m./p.m. by the deponent Sri P.K. Bhattacharya who is identified by Sri Ramdeo clerk to Sri S.N. Shukla Advocate High Court Lucknow Bench Lucknow. I have satisfied myself by examining the deponent that he understands the contents of the affidavit which have been read over and explained to him by me.

S. Chh. Bha
Advocate

Advocate Oath Commissioner
Allahabad High Court
Lucknow Bench, Lucknow
No. 27/278/85
Date 8.8.85

A/40
A43
37

In the Hon'ble High Court of Judicature at

ALLAHABAD

Lucknow Bench, Lucknow.

Writ Petition No. of 1985

P.K. Bhattarya ----- Petitioner

Versus

Union of India & others --- Opposite Parties.

ANNEXURE NO. 1.

Northern Railway

No.FC/PKB

Dated 14.9.81.

ORDER

Whereas in disciplinary proceeding against Sri P.K. Bhattarya C/man 'A' (Fdy/PM) T.No.E-2 is contemplated.

Now therefore, the undersigned hereby place the said Sri P.K. Bhattarya E-2 under suspension w.e.f. 14.9.81 AN.

It is further ordered that during the period this order shall remain in force the said Sri P.K. Bhattarya shall not leave the Headquarter without obtaining the previous permission of the competent authority.

Sd/- Production Engineer(loco)

C/- The AS/TO CB/LKO.

The SS/MCC

Sri P.K. Bhattarya C/man A (Fdy/PM)

T.No. E-2 c/o SS/MCC.

Sw



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

Writ Petition No. of 1985.

P.K. Bhattacharya --- Petitioner

Versus

Union of India and

others.

--- Opposite Parties.

ANNEXURE NO. 2.

रेल सेवक अनुश्रुति और अपील नियम 1968 का नियम 9

संख्या PC/PKB.

प्रश्रुति का नाम Locomotive Works Charbagh

LUCKNOW.

दिनांक 23.9.1981.

ज्ञापन

निम्न हस्ताक्षरों द्वारा रेओ सो । यो और आओ । नियम 1968 के नियम 9 के अंतर्गत श्री P.K. Bhattacharya E-2 C/man 'A' (Fdy&Pat) के विरुद्ध जांच करने की प्रत्यापना की गई है ।

अपचार या कदाचार बांछनों के सार जिसके संबंध में जांच करने की प्रत्यापनी है आरोप के अनुच्छेद के विवरण । अनुबन्ध 1 । में दिया गया है । आरोप के अनुच्छेद के समर्थन में अपचार या सदाचार के तांछनों का विवरण संलग्न है । अनुबन्ध -2 । जिन प्रलेखों और सक्षियों द्वारा आरोप के अनुच्छेद संहृत किये जाने की प्रत्यापना है उसकी भी सूची संलग्न है अनुबन्ध 3 और 4 ।

2^म श्री P.K. Bhattacharya E-2 C/man 'A' (Fdy. / P.M.) को एतद्वारा सूचित किया जाता है कि वह चाहे तो इस आख्या की प्रपिती के पांच दिन के भीतर कार्यालय समय में किसी भी समय प्रत्येक सूची । अनुबन्ध 1 में वर्णित प्रलेखों का निरीक्षण कर सकता है और इसके अवहरण ले सकता है । यदि वह ऐसे किसी अन्य प्रलेखों तक पहुंचन चाहता है जो रेल प्रशासन के पास हों लेकिन जिनका संलग्न प्रलेखों की सूची । अनुबन्ध 1 में उल्लेख न किया गया हो तो निरीक्षण के लिए अपेक्षित प्रलेखों की सुसंकीर्ण



Sw

A/8

AUS

39

- 2 -

जनिका संलग्न प्रलेखाओं की सूची अनुबन्ध 1 में उल्लेख न किया गया हो तो निरीक्षण के लिए अपेक्षित प्रलेखों की सुसंति बताते हुए 12 इस ज्ञापन की प्राप्ति के दस दिनों के भीतर इसे निम्न हस्ताक्षरी को इसकी सूचना देनी चाहिये। अनुशासन प्राप्तिकारी उन सच्ची या किसी ऐसे प्रलेखों के निरीक्षण की अनुमति देने से इनकार कर सकता है जो उसकी राय में मामले के सड़मत न हों सा जिन तक पहुंचने की अनुमति देना जन हीत सा राज्य की सुवृत्ता के विरुद्ध हों। उसे चाहिये कि अतिरिक्त प्रस्ताव उपलब्ध किये जाने के पांच दिनों के भीतर उनका निरीक्षण पूरा कर लें। जिन अतिरिक्त प्रलेखों के निरीक्षण की उसे अनुमति दी जावेगी उससे उदाहरण लेने की उसे अनुमति होगी।

3- श्री

को सूचित किया जाता है कि जांच के बरद के प्रकरणों में प्रलेखों की प्राप्ति करने के लिए किया गया अनुरोध तब स्वीकार नहीं किया जायेगा जब तक उपर निदिष्ट समय सीमा के भीतर विभिन्न से अनुरोध करके का पर्याप्त कारण न बताया जाय और उन परिस्थितियों से स्पष्ट न हो जाये कि अनुरोध न इससे पहले के प्रलेख में नहीं किया जा सकता था। जांच पूरी हो जाने के बाद अतिरिक्त प्रलेख प्राप्त करने के संबंध में अनुरोध तब तक स्वीकार नहीं किया जावेगा जब तक जांच पूरी होने से पहले अनुरोध न कर सकने का पर्याप्त कारण न बताया गया हो।

4- श्री

को यह भी सूचित किया जाता है कि यदि वह चाहे तो मौखिक जांच होने की स्थिति में प्रलेखों का निरीक्षण करने तथा जांच अधिकारी के समक्ष अपना मामला प्रस्तुत करने में सहायता करने के लिए किसी अन्य रेल कर्मचारी, रेल व्यवसाय संघ के किसी पदाधिकारी की रेल सेवा अनुशासन और नियम 1968 के नियम 9 191 और, तथा स्थिति उनके टिप्पण और टिप्पण 2 की अपेक्षाओं को पूरा करने की सहस्यता ले सकता है। इस प्रयोजना के लिए और मान्यता क्रम में उसे एक या अधिक व्यक्तियों का वासन करना चाहिए। सह सहायक रेल कर्मचारी कर्मचारियों। अथवा रेल व्यवसाय संघ के पदाधिकारियों का मनन करने से पहले भी

व्यक्ति वांछित व्यक्ति। व्यक्तियों से

बचन ले लेना चाहिये कि वह वे। अनुशासनिक कार्यवाही के दौरान



Sh

श्री पी० के० बटारिया ई 2 । फाउन्डी एण्ड पै० मे० । द्वारा
 नामित व्यक्ति व्यक्तियों से बचन ले लिख लेना चाहिये कि वह वे
 अनुशासनिक कार्यवाही के दौरान उसकी सहायता करने के लिए तैयार
 हैं । - जिसमें-आमित-व्यक्तियों-द्वारा-सहायता-करने-का-पहले-भी-
 बचन में ऐसे अन्य मामले । मामलों । का यदि कोई हो विवरणी भी
 दिया जाना चाहिये । जिसमें आमित व्यक्ति व्यक्तियों द्वारा
 सहायता करने का पहले भी बचन दिया जा चुका हो नामित व्यक्ति
 व्यक्तियों । द्वारा दिया गया बचन नामन पत्र के आद बिम्ब
 हस्ताक्षरी रेलवे को भोजा जाना चाहए ।

5 - श्री पी० के० बटारिया ई 2 । फाउन्डी एण्ड पै० मे० ।
 को एत द्वारा निर्देश दिया जाता है कि यदि उस अपना प्रतिवाद
 तैयार करने के लिए किसी प्रलेखा का निरीक्षण करनी अपेक्षात न
 हो तो इस आपन की प्रोप्ति के दस दिन के भीतर और यदि वह
 प्रलेखाओं का निरीक्षण करना याहे तो प्रलेखाओं का निरीक्षण पूरा
 होने से दस दिन के अन्दर बिम्ब हस्ताक्षरी । अपने प्रतिवाद का
 लिखित कथान । जो उक्त महा प्रबन्धक के पास पहुंचना चाहिए ।
 प्रस्तुत करें और ,

क- बतए कि क्या वह व्यक्ति बत रुप में कुछ कहनी चाहता है और
 छ- उन साधियों के यदि कोई हो , नाम और पता बतायें जिन्हें
 वह अपने प्रतिवाद के समर्थन में बुलाना चाहता है और
 ग- उन प्रलेखाओं की सूची , यदि कोई हो , तो पेश करें जिन्हें वह
 अपने प्रतिवादक के समर्थन में प्रस्तुत करना चाहता है ।

6- श्री पी० के० बटारिया ई-2 । फाउन्डी एण्ड पै० मे० । को
 सूचित किया जाता है कि आरोप के केवल उन अनुच्छेदों के बारे में जांच
 की जयगी जो स्वीकार नहीं किये गये हैं । इसलिये उन्हें चाहिये कि
 आरोप के प्रत्येक अनुच्छेद को या तो विनिर्दिष्टतः स्वीकार करे या
 इनकार करें ।

7- श्री पी० के० बटारिया । फाउन्डी एण्ड पै० मे० । का आगे यह
 भी सूचित किया जाता है कि पैरा 5 से निर्दिष्ट अवधि के भीतर
 वह अपने प्रतिवाद का लिखित कथान प्रस्तुत नहीं करता है या जांच



Sw

42-
41

प्राधिकारी के सामने व्यक्तिगत रूप से हाजिर नहीं या रेल सेवक।
अनुशासन और अपील नियम 1968 के नियम 9 के अनुबन्धों या उक्त
नियम के अनुसरण में जारी आदेशों / निर्देशों का अनुपालन करने
में अन्यथा असज्ज रहता है या इन्कार करता है तो जांच अधिकारी
एक पक्षीय जांच कर सकता है।

8 - श्री पी० के० बटारिया ई - 2 । काउन्डी एण्ड पै० मे० । का
द्वारा रेल कर्मचारी आचरण नियम 1966 के नियम 29 की ओर
आर्क्षित किया जाता है जिसके अन्तर्गत कोई रेल कर्मचारी सरकार
के अद्वितीय सेवा से सम्बन्धित मामलों के सम्बन्ध में अपने हितों
को आगे बढ़ाने के लिए किसी वरिष्ठ प्राधिकारी पर कोई राजनितिक
या अन्य प्रभाव न डालने का प्रयास करेगा। यदि इन
कर्मचारियों से सम्बन्धित किसी मामले में उसकी ओर से किसी अन्य
व्यक्ति से कोई अन्यायेदन प्राप्त होता है तो यह प्रकल्पना की जायगी
कि श्री पी० के० बटारिया ई - 2 । काउन्डी एण्ड पै० मे० । को
उस अन्यायेदन की जानकारी है और वह उसके कहने पर दिया गया है
और उसके विरुद्ध कर्मचारी । आचरण । नियम 1966 के नियम 20 'T'
अतिक्रमण करने के लिए कार्यवाई की जायगी।

9 - इस आपन की प्राथमिकताओं ।

। राष्ट्रपति और के आदेशों और उसके
नाम से

(KBL. Wadhwa)

Add. Comr (V)

हस्ताक्षर N. R. Ly Loe CB / LK

सहम प्राधिकारी - कारखाना चारबाग

लुहाबऊ ।

सेवा में

श्री पी० के० बटारिया ई - 2 । काउन्डी एण्ड पै० मे० ।

चारुमैत्र "ए" (Fly/PM) पदनाम आदि ।

Dist No E/30 Punjab Nagar Colony, Chorbajr Lucknow
प्रतिलिपि श्री कठिएण्ड पै० । अद्वितीय दाता ।

प्राधिकारी का नाम और पदनाम को सूचनाएं प्रेषित

यह समय सीमा सहम प्राधिकारी के विवेक से दस दिन तक बढ़ाई



Sh

जा सकती है ।

यह समय सीमा सक्षम अधिकारी के विवेक के बीस दिन तक बढ़ाई जा सकती है ।

जहाँ कहीं राष्ट्रपति या रेलवे बोर्ड सक्षम अधिकारी हो वहाँ उसे रहने दिया जाये जो राष्ट्रपति अनुशासन अधिकारी हो ।

यह पृष्ठांकन अपेक्षात हाने पर किया जाये । देखाये रे० सेक्क ॥ अनुशासन और अपील नियम, १९६८ का नियम १६ ॥ ॥ रेल कर्मचारी को भीजी जाने वाली प्रतिलिपि में इसे शामिल न किया जाये ।

जो लाभ न हो उसे काट दें ।

यदि कर्मचारी इस आदेश का अनुपालन नहीं करता , तो इस प्रक्रय में ऐसी सूची प्रस्तुत करने पर जोन देने की आवश्यकता नहीं है ।



-44-
AUG 143
52

मानक कर्म सुं 5 रे 0 से 0 । ओ और ओ नियम 1966 के नियम 9 के
अंतर्गत आरोप पत्र का स्थापन

अनुबन्ध.।

श्री P.K. Bhattarya E-2 C/man 'A' (Fdy/Pat Maker)
। रेल कर्मचारी का नाम और पदनाम । के विरुद्ध विरणित आरोपों
के अनुच्छेदों का विवरण ।

अनुच्छेद - 1

कि श्री P.K. Bhattarya E-2

की अवस्था में C/man 'A' (Fdy/P.M. के उप में

काम करते समय See Annexure I (On reverse side)

। यहाँ निश्चित और स्पष्ट उप से आरोप

अनुच्छेद लिखें ।



Sd/- K.B.L. Wadhwa

23.9.1981

(K.B.L. Wadhwa)

Addl.C.M.E. Loco CB/LKO.

Sh

A/S (ASO) - 45-
4h

A N N E X U R E - I

State of articles of charges on the basis of which action is to be taken against Sri P.K.Bhattacharya C/man 'A' Fdy/Pat. of M.C.C. Loco Shops Charbagh Lucknow.

That while functioning as Chargeman 'A' Fdy/Pat Maker Grade Rs.550-750 (RS) Sri P.K. Bhattacharya M.C.C. Section entered into the room of Shop Superintendent Foundry/Pattern Maker Sri K.N. Kapoor at about 9.20 hours. on 14.9.1981 and started arguing with Sri S.C. Saha Assistant Shop Superintendent Foundry Shop who was sitting there. When Sri Saha showed his inability to concede to his arguments, Sri Bhattacharya slapped him and hurled abuses on him also threatened to harm and kill him in the presence of Sri K.N.Kapoor, resulting in serious misconduct and violation of the Service Conduct Rule Para 3 (i) (iii) of Railway Service Conduct Rules 1966.

Sd/- K.B.L. Wadhwa

23.7.1981

Addl. C.M.E. (W)

N.Rly. Loco CB, LKO.



अनुबन्ध 1 + 1

(AS)

श्री

का नाम और उसके विरुद्ध विरिणित आरोपों के अनुच्छेदों
 के नाम और समर्थन के अपचार या अपवाद के तांछों
 का विवरण ।

अनुच्छेद ।

अनुच्छेद ॥

अनुच्छेद ॥॥

That while functioning as C/man 'A' Fdy/Pat Maker Grade Rs.550-750 (RS) Sri P.K. Bhattarya M.C.C. Section entered into the room of SS/Fdy Pattern Sri K.N.Kapoor at about 9.20 hrs on 14.9.81 and started arguing with Sri S.C. Saha ASS/Fdy. Shop who was sitting there. When Sri Saha showed his inability to concede to his arguments, Sri Bhattarya slapped him and hurled abuses on him and also threatened to harm and kill him in the presence of Sri K.N.Kapoor, resulting in serious misconduct and violation of the Service Conduct Rule Para 3 (i) (iii) of Railway Services Conduct Rules 1976.

Sd/- K.B.L. Wadhwa

23.9.81

Add. C.M.E. (W) Loco CB/LKO.



-47-
46
A52

अनुबन्ध 111

प्रलेखा की सूची जिनके द्वारा श्री P.K. Bhattacharya C/man 'A'
(Fdy & PM) T.NoE-2 रेल कर्मचारी का नाम और
पदनाम के विरुद्ध निर्धारित आरोपों के अनुच्छेद में
संशुद्ध करने का प्रस्ताव है :-

Application dated 14.9.1981 from Sri S.C.Saha
Assistant Shop Superintendent Foundry and Pattern
with copy of F.I.R.

Sd/- K.B.L. Wadhwa
23.9.81.

Addl.C.M.E. (W) N.Rly. Loco
CB, Lucknow.

आशिया की सूची जिसके द्वारा श्री P.K. Bhattacharya C/man 'A'
(Fdy & PM) T.No. E-2 रेल कर्मचारी का नाम और
पदनाम के विरुद्ध निर्धारित आरोपों के संशुद्ध करने का
प्रस्ताव है

1. Sri K.N. Kapoor SS/Fdy & Patt.
2. Sri S.C. Saha ASS/Fdy & Patt.

Sd/ K.B.L. Wadhwa,
23.9.81

Addl. C.M.E. (W)
N.Rly. Loco CB, LKO.



485
56
47
A53
C O P Y

To

The Addl. Chief Mech.Engineer (W)
N.Rly. Loco ,/Charbagh
Lucknow.

SUB:- Assault by C/man Shri
P.K. Bhattarya.

Respected Sir,

I beg to inform you that on date at about 9.20 hrs when I was sitting in the SS/Fdy and Pattern Sri K.N.Kapoor's room Shri P.K. Bhattarya entered inside the room and started arguing with me, when I showed my inability to concede to his argument point he slapped and hurled abuses on me when Shri K.N. Kapoor was present and threatened to harm and kill me.

I have also lodged an F.I.R. in the Amv. Police Thana on date and am enclosing a copy of the FIR for your kind information and necessary action please.

Submitted for information please.

Yours faithfully,

Sd/- S.C.Saha

Dt. 14.9.1981

Asstt. Shop Supdt.
Fdy & Pattern Shop
NR/Loco/CB/LKO.



5/9

AS4

1/18

विदतीय प्रतिलिपि

स्टैम्प छाता आलमबाग लखनऊ

छाता आलमबाग लखनऊ

610

दिनांक 14-9-81 समय 14-10 बजे

श्री एस० सी० सहा पुत्र श्री स्व० जे० एन० शाहा
और / ओ 111 38 सी रेलवे डीजल कालोनी छाता आलमबाग
मुलाजिम ए० एस० एस० फाउन्ड्री लोको शटप चारबाग लखनऊ ।

1 - श्री प्रेम कुमार मटारिया पुत्र । अछाता । रेलवे कालोनी
पंजाब नगर कालोनी मुलाजिम चार्जमैन फाउन्ड्री लोको
चारबाग , छाता 323/ 506 आई० पी० सी०
504

14-9-81 समय 9-20 ए०एम० मो ब्रास फाउन्ड्री के
दब तर के अन्दर

2 - श्री के० एन० कपूर पुत्र श्री वटारिका बाथ कपूर आर /
ओ सी 26 ए फतेह आली तालाब छाता आलमबाग जिला
लखनऊ तथा अन्य लोग मौके पर पेश करेगा ।

वादीबानि पर आकर सूचना बीजवाबी बंकिट कराये कि मैं
ए०एस०एस० पद पर फाउन्ड्री लोको शटप में पद पर नियुक्त हूँ। पर
वक्त बकूआ मुलाजिम उपरोक्त जो मेरे वर्कशॉप में चार्जमैन के पद पर
काम करता है । मुझसे आकर कहने लगा तु मेरी डियूटी फाउन्ड्री में
लगाओ । मैंने कहा इस का मालिक मैं नहीं हूँ इसके मालिक प्रोडक्शन
इन्जीनियर हैं । उसी बात पर बाराज होकर मुझो एक टाप्पड़ मारा
तथा बुरी बुरी गालियां दीं । और जान माल की हानि दीया ।
मुझे गवाह तथा अन्य लोगों ने आकर बचाया । इतना देने आया हूँ ।
जो बोला लिखा गया सब ठीक है । हस्ताक्षर बनाता हूँ ।

ह० एस०सी० साहा

दिनांक 14-9-81



- 50 -
ASS
Wg

In the Hon'ble High Court of Judicature at

ALLAHABAD

Lucknow Bench, Lucknow.

Writ Petition No. of 1985.

P.K. Bhattarya ----- Petitioner

Versus

Union of India & others --- Opposite Parties.

ANNEXURE No. 3

To

The Addl. Chief Mech. Engineer (W)

N.Rly. Locomotive Workshop

Charbagh Lucknow

Through :- SS/M.C. Cell.

SUB:- Demand of documents and inspection of
records.

REF:- Your Office Charge sheet No. PC/PKB 13
of 23.9.1981.

Sir,

Kindly oblige me with the attested copies
of the under noted documents to enable me to
submit my explanation to your above mentioned
charge sheet.

1. Copy of the statement of Sri K.N. Kapoor
SS/Fdy & Patt. the prosecution witness
as per charge sheet.



Sh

59

A56

1/10

2. Names of the so called "other" witnesses as quoted by Sh. S.C. Saha, ASS/ Fdy & Patt. in the F.I.R. lodged by him with the police and copies of their statement.
3. Copy of the proceedings of the preliminary enquiry held prior to my suspension as per P.E's letter No. PC/PKB of 14.9.1981 and the findings of the same.
4. Copy of the order on which I was transferred from Pattern Shop to M.C. Cell.
5. Copy of the staff order issued by Sh. K.N. Kapoor SS/Fdy & Patt. in his staff order Register indicating my posting to white metal Section/ Brass Foundry.

Further I would like to inspect the files related to my letters to your Honour dated 12.2.1981/ 28.2.81, 7.3.1981 and 11.9.1981.

Thanking you.

Yours faithfully,

05.10.81.

Sd/- P.K. Bhattarya E-2
5.10.81.

C/man M.C. Cell.

Sw



A/60 (AS7)

1/51

In the Hon'ble High Court of Judicature at

ALLAHABAD

Lucknow Bench, Lucknow

Writ Petition No. of 1985

P.K. Bhattarya --- Petitioner

Versus

Union of India & others --- Opposite Parties.

ANNEXURE NO. 4.

Northern Railway

No. PC/PKB RAD dated 17.12.1981

Sh.P.K. Bhattarya T.No. E-2,

C/man 'A' (Fdy/Patt.) under suspension

Qr. No. E/3D Punjab Nagar Colony,

Charbagh, Lucknow.

SUB:- Memorandum of even no. Dt.23.9.81

REF:- Your application Dt. 30.11.81.

A copy of Sri S.C. Saha's complaint as well as a copy of F.I.R. lodged by Sri Saha has been supplied to you alongwith Memorandum. As per other documents required, it is remarked that :-

1. Copy of State of Sri K.N. Kapoor SS/Fdy.:-

No such statement is available in the file, hence question of supplying a copy does not arise.

2. Names of so called other witnesses :-

Such names are not available in the file and therefore, cannot be given. Accused will have the opportunity to cross examine all the witnesses during D&AR Enquiry. Names of witnesses will be



SW

given before or during the enquiry.

3. Copy of proceedings of Preliminary enquiry :-

No such enquiry was held in writing and therefore, no copy can be supplied.

4&5. Copies of transfer orders :-

These are enclosed herewith.

6. Inspection of files :-

Inspection of file cannot be permitted. You can obtain only copies of relevant documents which have already been supplied /are being supplied to him now.

You are directed to submit the explanation to the Memorandum now within seven days of the receipt of this letter, failing which D&AR enquiry will be set up.

Encl. Two

Sd/-

Addl. Chief Mechl.Eng.(W)

CB/LKO.



Sw,

Enclosure to Letter Dt. 17.12-81.
1.

True Copy

S.O.No. 63

Since clinker redamation Section of B/Fdy.
has been closed down for a temporary period
till such time Sri P.K. Bhattarya C/man Gr.'A'
attached to Bronze Clinker Reclamation Section
will look after white Metal Ingotting and white
Metal Section till further orders.

Sd/- K.N. Kapoor

20.8.1981.

SS/Fdy. & Patt.Shop.

Since Sri Chandrika Prasad has
already reported for duty hence
the orders are pended as per verbal
order of P.E. on shop floor or he
has to work in MCC as such he should
report to SS/MCC hence Sri Bhattarya
has been informed verbally accordingly.

Sd/- K.N. Kapoor

28.8.1981.



- 55-
A60
SM

A
63

-4-

Enclosure - 2 to Annexure No. 4. letter

Dt. 17.12.81

Northern Railway Locomotive Works Charbagh
Lucknow.

S.O.No. 207

Dated 7.3.1981.

The following transfers and postings are
ordered w.e.f. 9.3.81 F.N.

1. Sri P.K. Bhattacharya C/man 'A' (Fdy/Patt) grade Rs.550-750(RS) of Patt. shop is transferred in the same capacity to M.C.C. and posted vice Sri Mustafaq Ahmad.
2. Sri Mustafaq Ahmad C/man 'A' (Fdy/Patt) grade Rs.550-750 (RS) of M.C.C. is transferred in the same capacity to Fdy/Patt Shop and posted vice Sri P.K. Bhattacharya.
3. Sri V.K. Dhir C/man 'A' (Fdy/Patt) grade Rs. 550-750 (RS) of Pattern Shop is transferred in the same capacity to R.F. Section and posted vice Sri V.L. Lawrence.
4. Sri V.L. Lawrence C/man 'B' (Fdy & Patt) grade Rs.425-700 (RS) of R.F. Section is posted in the same capacity to Pattern Shop and posted vice Sri V.K. Dhir.



SM

Item 1 & 3 are allowed to draw 10% Spl. pay (P.C.O. Allowance) from the above date and the 10% Spl. pay (P.C.O. allowance) in respect of items 2 and 4 stopped from the same date.

Sd/- For Addl. Chief Mechl.Engineer (W)

N.Rly. Charbagh Lucknow.

Copy to:- forwarded for information and necessary action. The AS/TO & PS, SAo(W) CB/LKO SS/RF MCC & Fdy/Patt. shops Loco Charbagh, Lucknow.

2. The AWM (M)

sd/- for Addl.C.M.E.(W)

N.Rly Charbagh Lucknow.

- 56 -
A61

X
64

In the Hon'ble High Court of Judicature at

ALLAHABAD

Lucknow Bench, Lucknow.

Writ Petition No. of 1985.

P.K. Bhattarya --- Petitioner.

Versus

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

ANNEXURE NO. 5

To

The Enquiry Officer (Prod. Engineer)
N.Rly. Locomotive Workshops
Charbagh, Lucknow.

SUB:- D&AR enquiry against the undersigned.

Sir,

Most respectfully, the applicant begs
to submit as under :-

1. That the above noted enquiry is fixed for 18.5.1982 and on that date, the prosecution case, according to departmental rules will start and the witness will be examined in support of the charge levelled against the applicant.
2. That according to the list of witnesses annexed with the memorandum of the charge-sheet, Sh. K.N. Kapoor and Sh.S.C. Saha are



Sir,

the only witnesses proposed to be examined in support of the charge and no further list, despite applicant's repeated requests, has yet been furnished to him.

3. That no effective cross examination of the aforesaid prosecution witnesses could be possible and the case of the applicant could suffer serious prejudice, if the following documents are not produced in the enquiry at the time of examination/ cross examination of the aforesaid prosecution witnesses.

- (i) Application dated 13.2.81 moved by the applicant to Additional C.M.E. (W) through Shop Superintendent Fdy. and Pattern (Sh.K.N. Kapoor through)
- (ii) Applicant's resignation dated 07.3.81 submitted through S.S/Fdy and Pattern (Sh. K.N. Kapoor).
- (iii) Application dated 14.5.1981 moved by the applicant to SS/Fdy & Pat. (Sh. K.N. Kapoor.)
- (iv) Application dated 13.8.81 moved by the applicant to SS/Fdy & Patt. (Sri K.N. Kapoor.
- (v) Application dated 20.8.1981 moved by the applicant to SS/Fdy and Patt. (Sh.K.N. Kapoor)
- (vi) Application dated 11.9.1981 of the



Sh.

applicant to Addl. C.M.E.(W) submitted through Shop Superintendent Fdy & Patt. (Sh. K.N. Kapoor).

(vii) Application of 14.9.1981 moved by the applicant to Shop Superintendent (Sh. K.N. Kapoor).

(viii) All documents showing the action taken by the administration on the aforesaid applications of the applicant.

4. That the production of the aforesaid documents in the enquiry and at the time of examination of the prosecuting witnesses is absolutely necessary as by these documents, it would be proved by the defence that Sh. K.N. Kapoor as well as Sh. S.C. Saha were prejudiced because of the facts mentioned therein by the applicant.

It could be further proved from the said documents that Shri K.N. Kapoor with the help and connivance of his friend Shri S.C. Saha has made out a false and fabricated case against the applicant with an ulterior motive, because biased and revengeful attitude and under a deep rooted conspiracy and plan to save his own skin for his acts detrimental to the interest of the Railway administration to which the applicant had mentioned in some of his aforesaid applications.



A
67

A64

1
58

5. That the non production of the aforesaid documents in the enquiry will not only cause a serious prejudice to the defence case, but it will also amount to denial of reasonable opportunity to defence and as such the proceedings of the enquiry if any held in the absence of the above mentioned documents will be against the principles of Natural Justice and in violation of the instructions contained in Rly. Bd's letter No. E-55-RG6-20 of 04.2.1956.
6. That for the reasons and circumstances mentioned above, the production of the aforesaid documents in the enquiry prior to cross examination of the prosecution witnesses in the enquiry is necessary and expedient in the interest of justice.

It is, therefore, respectfully prayed that your goodself may be pleased to look into the matter with a judicious view and in order to meet the ends of justice, the afore mentioned documents may be ordered to be produced in the enquiry on the date fixed so as to enable the applicant to make an effective cross examination of the prosecuting witnesses to be examined in support of the charge.

It is further submitted that a great deal of injustice would be inflicted on the applicant and the applicant would not be in a position to cross examine the witnesses



Sm

~~68~~

ACS

59

- 5 -

to his entire satisfaction as provided under the law and rules if the aforesaid documents are not made available in the enquiry at the time of cross examination of the prosecution witnesses.

Thanking you.

Yours faithfully,

Sd/- P.K. Bhattarya

E- 2

17.5.1982.

Sr. C/man M.C. Cell.

Sm



69

466

-61-

60

In the Hon'ble High Court of Judicature at

ALLAHABAD

Lucknow Bench, Lucknow.

Writ Petition No. of 1985.

P.K. Bhattarya

Petitioner

Versus

Union of India & others ---

Opposite Parties

ANNEXURE NO. 6.

To

The Enquiry Officer /Production Engineer,
N.Rly. Loco Shops, Charbagh, Lucknow.

SUB:- Enquiry under duress/Defence Note

Sir,

The following are the defence pleas in the case against me vide your office memorandum of chargesheet No. PC/PKB of 23.9.1981 in consequence of D&AR enquiry held from 23.4.1982 to 10.8.82.

1. Procedural flaws :-

The enquiry was held without providing reasonable facilities of self defence as under:-

- (a) Because even on demand the file was not made accessible in order to produce my letters of 13.2.1981/28.2.1981, 07.3.81 and 11.9.1981 so that the pre-existent malice and prejudice may be exposed and the reason might be clarified as to why Sh. K.N. Kapoor SS/Fdy & Patt.



Sm,

had agreed to appear as a prosecution witness against me. In the absence of this facility, not only my defence was prejudiced but also the facility of cross - examining the prosecution witnesses was adversely affected. It can be concluded on sound basis of all said above and through your office letter no. PP/PKB of 28.8.1982, that the virtual facility of cross examination of prosecution witnesses was not provided to me during the course of enquiry. In any case it was a material irregularity vitiating the entire proceedings of the D&AR enquiry.

- (b) Statement of the party charge i.e. me was recorded under duress; in the absence of my defence helper and in the presence of Sh. S.C. Saha ASS/ Fdy. & Patt. the main prosecutor and was not recorded in full as desired by me. An objection to this respect was overruled by the Enquiry Officer stating that only that much could be recorded which was permitted by him. The learned Enquiry Officer made an error apparent on record in this respect because he was not permitted to interfere in the statement of the delinquent under the extant D&A Rules. This has meant complete denial of facility of self defence.



SW

- (c) Even an unquestionable opportunity of searching the misplaced documents in my possession at various places of my relatives residences was

denied to me on my request made through my letter of 09.8.82. Thus the facility of producing documentary in my self defence was also denied to me which is strictly forbidden under case law on Article 311 (2) of the Indian Constitution.

The enquiry was not duly carried out in its legal sense as proved by the above contentions.

- (d) No fact finding enquiry - as such this enquiry is unfounded and illegal because no prima facie was proved against me which may have formed the basis of article of charge.

2. On merits

- (a) A complaint of Sh. S.C. Saha ASS/Fdy & Patt. of 14.9.1981 to Additional Chief Mechanical Engineer(W) Loco Shops Charhabgh Lucknow is not in his own handwriting though he is a literate person. It has been written by Sri K.N.Kapoor SS/Fdy. & Patt. in his own handwriting which debars Sh. K.N.Kapoor SS/Fdy & Pat from appearing as a prosecution, witness.

- (b) The first information report lodged by Sri S.C. Saha ASS/Fdy. & Patt. at police station alambagh, Lucknow lacks the names of all the witnesses who witnessed the alleged incident to have a full and good support to his case, because it was very easy for him to recollect their names as there had not been significant



SM

63
A60
62

loss of time to forget their names as alleged by Sh. S.C. Saha in his statement of the enquiry proceedings of 18.5.82.

As such the F.I.R. of Sh. S.C. Saha ASS/Fdy. & Patt. itself becomes immaterial and the entire proceedings connected with the complaint of Sh. S.C. Saha / ASS/Fdy & Patt. (along with a copy of F.I.R.) submitted to Addl.C.M.E. (W)/ Loco Shops CB, Lucknow on 14.9.1981 is completely vitiated and unlawful and also biased.

(c) Sh. K.N. Kapoor also otherwise ~~had~~ not an independent witness because I had reported against him in my letters dated 13.2.81 /28.2.81 and 07.3.1981 accusing him of materially irregular and fraudulent practices. Sh. K.N.Kapoor SS/Fdy. & Patt. was thus a naturally biased and practically prejudiced witness against me and his evidence could not form basis of any decision of a statutory inquiry proceedings. A kind perusal of the documents mentioned above is therefore, solicited. A copy of letter of 13.2.81/28.2.81 is herewith enclosed.

(d) In my letter of 11.9.1981 I have solicited personal interview with the Addl.C.M.E. (W) Loco Shops CB/LKO. This request has not been acceded to, but the same looks to have accelerated administrative machinery to proceed against me in the manner of a summary trial



Sw

64
A69
63

which contravenes statutory provisions on the matter. A copy of my letter of 11.9.1981 is also, herewith enclosed for your kind perusal. Delivery of these two letters shall be proved by me if need be.

(e) Shri K.N. Kapoor's evidence having thus being proved biased concocted and therefore, not at all maintainable and no other witness has been nominated by Sh. S.C.Saha, ASS/Fdy. & Patt. A clerk of Fdy. & Patt. Shop office referred to in the evidence of Sh. K.N. Kapoor SS/Fdy and Patt. has not been produced and examined in spite of my insistence. It comes to this that there is no impartial and independent witness to corroborate the statement of Sh. S.C. Saha ASS/Fdy & Patt. as mentioned in the article of charge.

(f) Absence of any legal action by Shri S.C.Saha Ass/Fdy & Patt. on his F.I.R. lodged at Alam-bagh Police Station is also a proof of there being no material behind his allegations of being slapped abused and threatened with dire consequences.



SC

It is thus clear that there is no substance behind the allegation of Sh. S.C. Saha ASS/Fdy. and Patt. and there is no reliable evidence in the enquiry to prove the article of

A
74
1471

-66-

1
65

charge against me.

It is requested that the whole thing may be viewed in light of the above as also extant Rules bearing on the case.

Thanking you.

Yours faithfully,

Sd/- P.K. Bhattacharya, E-2

13.9.1982.

Sr. Chargeman M.C. Cell.

D.A.

Copiew of the two

letters Dt. 13.2.81
28.2.81

and 11.9.1981.



SL

67-
A72
66

Enclosure 1 copy of letter Dt. 13.2.81
to ANNEXURE No. 6

To

The Addl. Chief Mechanical Engineer,
N.Rly. Locomotive Shops,
Charbagh, Lucknow.

SUB:- Filling up of one post in Pattern Shop
of Wood Machinist Turner (Sk.)

Sir,

With due respect, I beg to lay down the
following few facts for your consideration and
necessary action please

1. One post of Wood machinist (Turner) skilled
has been lying vacant since 1.9.80 due to
retirement of the worker.
2. At that time, a skilled carpenter Sh. B.D.
Sharma Pat-54 and a khallasi Pat-73 of the
same shop applied for the post.
3. Sh. B.D. Sharma Pat-54 being already on skill-
ed post wanted his designation to be changed
from skilled carpenter to skilled wood mach-
inist (Turner) and as such he was asked by
the establishment to pass the trade test first
4. Trade test of Sh. B.D. Sharma Pat-54 was
conducted by Sh. K.N. Kapoor SS/Pdy. & Patt.
at the instance of Sh. S.R. Bajpai, President
NRMU Loco Shops & in the office of the Charge-
man Pattern Shop in the presence of the under
signed.



Sh

A
76

A73 - 68-
1/6

- 2 -

5. No test job was given by SS/Fdy-& Patt. to Sh. B.D. Sharma Pat-54 and as such he was passed in the test and the marks and remarks were entered in the trade test form by SS/Fdy-& Patt. on the verbal orders of Sh. S.R. Bajpai President/WRMU/Loco who was sitting in the office of C/man Patt.
6. Inspite of all this, the application of Sh. B.D. Sharma Pat-54 was regretted by the then Dy.C.M.E. (W).
7. Later on, the only semi skilled available in Pattern Shop Sh. R.K. Bajpai Pat- 47 was called for trade test for the above mentioned post and he too failed.
8. Sh. R.K. Bajpai being the son of Head Clerk establishment Sh. S.M. Bajpai applied against the result which was turned down by the authorities.



In order to give promotion to the son of his colleague, the dealing clerk of Pattern Shop started manipulations, though A.P.O. and A.W.M. (M) had cleared the way for the call of applications from the khallasies of Pattern Shop.

In the mean time Sh. R.K. Bajpai Pat-47 was called for the test of Skilled Carpenter. According to my knowledge there is no post of skilled carpenter lying vacant in Pattern Shop

~~A74~~

A74

1/68

- 3 -

and inspite of all this, the dealing clerk wants to make the pannel when already we have got one surplus man to whom we are unable to absorb though he has passed the trade test and interview of skilled carpenter for the last 14/2 years.

10. It has come to the notice of the undersigned through reliable sources, that establishment is now trying to deal afresh the case of Sri B.D. Sharma Pat-54 and send him to wood machinist trade so as to make room for the son of their colleague and to cover up their own fault which is totally against the rules.
11. All written above had already been brought to the notice of Shop Superintendent Fdy & Patt. and Assistant Works Manager (M) many a time but of no avail and both the person have to truck with NRMU. Both the persons are furiated at my interference as these are the orders of NRMU for them as I suppose.



Sir

Sir, having full faith in you I hope that only the suitable man will be given to Pattern Shop and justice and truth will not be allowed to bow down before injustice, union pressure and other lie tactics. Not only this I hope due punishment will be provided to the guilty as an example to others.

Thanking you.

Recd. on 28.2.81

Yours faithfully,
Sd/- P.K. Bhattacharya E-2
Sr Chargeman Patt Shop.
13.2.81.

~~X~~

APD 1/69

ENCLOSURE No.2 to Annexure No. 6

Copy application Dt. 11.9.81.

To

The Addnl. C.M.E.(W)
N.Rly. Locomotive Workshops,
Charbagh, Lucknow.

SUB:- Assignment of work.

Sir,

With due respect I beg to state the following few lines for your kind consideration and orders.

I was working in Bronze Clinker Reclamation Section which was closed under the verbal orders of Production Engineer on 13.8.81 and the casual workers were directed to work under Shop Supdt./Fdy. & Patt. I was told by Production Engineer to take instructions from Shop Supdt./Fdy. & Patt. for further assignment of work.

Since that date I am regularly requesting Shop Supdt./Fdy. & patt. for assignment of any Section to me. After a gap of ten days I was asked to look after White Metal Section in the presence of ASS/Fdy-& Patt. through his staff order. As the chargeman who was previously looking after that section was on leave for a week so after his resumption, I was told by Asstt. Shop Supdt. /Fdy and Patt. that I need not look that section since then I am attending the workshops without any work assigned to me by SS/Fdy. & Patt. inspite of my daily requests.



Sw

Under such circumstances, I feel myself guilty in receiving my salary without doing any positive work for my employer.

There are other facts too connected with this plan of keeping me in abeyance and thus putting me in mental tension and torture which I cannot dare to pen down in this letter for fear of physical assault by some bad elements.

Si I, therefore, request your Honour kindly to give me the opportunity for a personal hearing at the earliest as I have been compelled by the prevailing circumstances to take leave for a week w.e.f. 14.9.1981.

Hoping for an early and kind consideration.

Yours faithfully,

Sd/- P.K. Bhattarya

DA one leave
application form

11.9.1981.

C/ma E - 2.



- 72 -
1/71 (A77)
8/80

In the Hon'ble High Court of Judicature at

ALLAHABAD

Lucknow Bench, Lucknow.

Writ Petition No. of 1985.

P.K. Bhattarya --- Petitioner

Versus

Union of India & others --- Opposite Parties.

ANNEXURE NO. 7

To

The Production Engineer / Enquiry Officer,
N.Rly. Locomotive Workshop,
Charbagh, Lucknow.

SUB:- D & AR enquiry.

REF:- Your letter No. PC/PKB of 13.12.1982.

Sir,

In reference to your above quoted letter,
I beg permission to pen down the following few
lines for your kind and just consideration.

1. That vide your office letter No. PC/PKB of 28.8.82 received by me on 2.9.1982, you informed me as follows :-

* The enquiry proceedings in the above said case have already been completed and you have already been given all sorts of opportunities and relevant documents required in your above said case including the statements of prosecution witness etc. You have also been given enough opportunity and time to submit the



Sir,

documents , if any in support of your defence vide this office letter of even no. dated 27th July 1982 in reference to your application dated 21.6.1982.

As such now it is desired that you should submit your defence note within 10 days from the date of receipt of this letter for inalisation of the enquiry".

2. In compliance to your order under Para (2) of your letter of 28.8.1982, I submitted my defence note, as required under rules on 13.9.1982 which is on record with the file.

As per rules of the enquiry after submission of my defence note, you should have recorded your findings and submitted the same to proper authority for further action in the matter.

That peculiarly enough, instead of proceeding according to the rules, you vide your letter under reply, asked me to attend the enquiry along with my defence council on 28.12.1982 at 14.30 hrs. to give my statement.

It so transpires that by doing so you want to fill up the gaps in the enquiry proceedings and to regularise your illegal action which would have been sufficient to exonerate me from the charges.

That from your letter dated 28.8.1982, it is more than clear that the enquiry was complete and



Shr

74
A79
73
X/42

that to recall me to give my statement again would amount to reopening of enquiry afresh.

That I, respectfully, ask if you are authorised to reopen the enquiry at this stage when the defence note has already been submitted by me explaining out the irregularities committed by you in the departmental proceedings.

That it is very much important to note that I am under suspension w.e.from 14.9.1981 and if this inquiry is not concluded at an early date I will have to remain suspended for a further long time and till the enquiry is completed.

That you will not deny that it is the policy of the Government that a charged official as far as possible should not be allowed to remain under suspension for a very long time in vain.

That you will also not deny that I have been cooperating the departmental proceedings so that they may be concluded at the earliest.

That if you want to reopen the enquiry, it could be in the interest of justice that I should be reinstated forthwith and only then the enquiry should be prolonged.

According to your order dated 13.12.1982
I am present before you at the directed time



Sw,

83

-75-
1/74
Add

with a request that before you proceed with the enquiry any more by reopening it, the suspending authority is requested to re-instate me first and only then you may proceed with the reopen enquiry.

Submitted for your favourable and just consideration.

Thanking you.

Yours faithfully,

Sd/- P.K. Bhattarya ,

E- 2,

Sr. C/man M.C. Cell

N.Rly. Loco Shops CB /LKO.

Delivered to E.O.

on 28.12.1982 at the
time of enquiry.

Sd/- P.K. Bhattarya.

Sm



-76-
1/75

In the Hon'ble High Court of Judicature at

ALLAHABAD

Lucknow Bench, Lucknow.

Writ Petition No. of 1985.

P.K. Bhattacharya --- Petitioner.

Versus

Union of India & others --- Opposite Parties.

ANNEXURE No. 8

Enquiry Report in connection with S.F. 5 no.
PC/PKB dated 23.9.1981 issued to Sri P.K. Bhattacharya
Chargeman 'A' MCC Section for arguing with
Sri S.C. Saha ASS/Fdy and giving him slap etc.

Preamble :

An enquiry has been set up against Sri P.K. Bhattacharya, Chargeman 'A' MCC while working as C/man 'A' Fdy/Patt. grade B.550-750 (RS) for a serious misconduct and violation of Service Conduct Rule Para 3 (i) (iii) of Railway Service Conduct Rules, 1966.

Brief History of the case :

That while working as Chargeman 'A' Fdy/Patt Section grade B.550-750 (RS) Sri P.K. Bhattacharya of MCC Section entered the room of S.S. Fdy and Patt Shop Sri K.N. Kapoor at about 9.20 hrs. on 14.9.1981 and started arguing with Sri S.C. Saha Ass/Fdy. who was sitting there. When Sri Saha showed his inability to concede to his argument Sri Bhattacharya slapped him and hurled abuses on him.



Sw

4/8 1/76 -77-
(A82)

and also threatened to harm and kill him, in the presence of Sri K.N. Kapoor.

Appointment of Enquiry Officer :

Consequently, in exercise of the power conferred by Sub rule (2) of the Rule 9 of the Railway Servants (D&A) Rules, 1968, the Addl.C.M.E.(W) has appointed the Production Engineer, Loco Shops Charbagh, Lucknow as the Enquiry officer to enquire into the charges framed against Sri P.K. Bhattarya Chargeman 'A' Fdy/Patt in terms of Order No.PC/PK Bhattarya dated 15th Feby. 1982 for major Punishment (S.F.5) dated 23.9.1981.

Enquiry Proceedings :

There upon the said Enquiry Officer H.D. Mall, Production Engineer Loco Charbagh Lucknow has asked Shri P.K. Bhattarya, Chargeman 'A' Fdy to submit the names of two Defence Helpers to assist him, if he so desired by 15th of March 1982 and fixed 29th of March, 1982 at 14.30 hrs as the date and time of the first sitting of the Enquiry Committee.

Sri P.K. Bhattarya vide his letter dated 29th March 1982 has requested for fixing a fresh date of enquiry as he alleged to have not received the documents asked for vide his letter dated 24.12.1981, which he needed for submitting his reply to the Chargesheet. But copies of all the relevant documents, which could be supplied had already been given to him under this office letter dated 17.12.1981 and all the points raised by him



Shr

-78-
77 (AB)

were duly replied vide the same letter of 17.12.1981. He was also advised to reply the Charge sheet within seven days failing which D & A.R. enquiry will be set up. He failed to attend the enquiry on 29th March 1982 and as requested by him another date for 23rd April 1982 was fixed for the enquiry at 14.30 hrs. in terms of letter dated 7.4.1982 wherein he was clearly told that every opportunity will be provided to him to defend his case during the course of Enquiry and what ever he has to say he may depose before the Enquiry Officer.

In terms of this office letter of 7.4.1982 Mr. Bhattacharya attended the enquiry fixed for 23.4.1982 above without any Defence Counsel/ Helper with the request to postpone the date of enquiry at least 15 days. His request was acceded to and the next date of enquiry was fixed on 18th May, 1982 at 11.00 hrs. when he may come along with his defence Helper. He was clearly told to submit the names of Defence Counsel by 30th April, 1982 so that arrangements to get them relieved from their respective offices may be made well in time. He was also told that no further postponement of the enquiry proceedings would be allowed.

Mr. Bhattacharya vide his letter of 17.5.1982 has submitted that only ~~two~~ two prosecution witnesses S/Shri K.N. Kapoor SS/Fdy and S.C. Saha ASS/Fdy were proposed to be examined in support of the charges levelled against him. Vide the said application Mr. Bhattacharya has stated that no effective cross examination of the prosecution witness is

SW



X/67 1/78 -79- (884)

possible for want of certain documents stated therein, which are not produced in the enquiry at the time of cross examination. He stated that both Shri Kapoor and Shri Saha were prejudiced with him and these documents are essential at the time of cross examination. The Enquiry fixed for 18.5.1982 was attended by him along with his Defence Counsel and the charges levelled against him were read over to him and he totally denied the charges as "framed". Thereafter the Enquiry Officer made questions to Shri K.N.Kapoor, SS/Fdy and Sri S.C. Saha, ASS/Fdy. who were the prosecution witnesses. After this the defence Counsel was asked to cross examine the two prosecution witnesses but the Defence helper endorsed a note stating that the defence is handicapped to cross examine the witnesses at this stage for want of the documents asked for vide application dated 17.5.1982, which were not made available to them.

Shri Bhattarya was asked vide letter of 10.6.82 to submit the copies of the documents stated in para 3(1) and iii to vii of his application dated 17.5.82 as they were not available in this office, so that his demand may be considered and the case is finalised soon.

Shri Bhattariya vide his letter dated 21.6.82 has intimated that he could not find out the original copies of the documents asked for to submit vide this office letter dated 10.6.1982 and requested to collect the same from Shri K.N.Kapoor SS/Fdy to whom these were submitted earlier.



Sh

A/C

179 (AOS)

As no documents asked for vide this office letter of 10.6.1982 were forth coming from Sri Bhattarya, the Enquiry Officer has fixed up the next date of enquiry on 10.8.1982 and he was asked to produce any documents in support of his defence at the time of enquiry on 10.8.1982, alongwith his Defence Counsel.

The enquiry fixed for 10.8.1982 was attended by Sri Bhattarya without his Defence Counsel, to defend his case himself. He was asked to give his statement.

He stated that he was being compelled by the E.O. to give his statement in presence of Sri S.C.Saha, who is the main prosecution. This is against the norms of Enquiry. As regards submission of documents stated in his letter of 17.5.1982 he has shown his inability to furnish the same vide his letter dated 21.6.1982, 29.7.82 and 9.8.82 and has stated that in absence of these documents it would not be possible for him to defend the case. He was given the opportunity to cross examine both prosecution witnesses as the copies of the statements of both these witnesses were made available to him on 18.5.82. But he stated that in absence of the documents asked vide his letter of 17.5.82 the Defence was handicapped for cross examining the witnesses. He was asked to state the relevancy of those documents with the case to which he replied that it would jeopardise his case to reply to this question in presence of Shri Saha. He was asked if he would reveal the relevancy of



Sm

~~89~~

1/80 (Add)

these documents in absence of Sri Saha to which he replied positively if insisted. At this stage he was made to learn that there is no question of insistence from the E.O. It is at his own accord, if he wish to speak in clear terms. At this stage he wanted to question the E.O. to which the E.O. did not agree, though he was given all opportunities to record his statement and cross examine the prosecution witness.

He was again given 10 days time to submit documents if any in support of his defence vide letter dated 28.8.82 as all sorts of opportunities and relevant document were given to him.

Defence Note - 1 A defence Note dated 13.9.82 was submitted by Sri Bhattarya, stating that the enquiry was held under duress. He has stated the procedural flaws on the ground that no reasonable facilities were provided for self defence. The relevant documents were not made available, which handicapped the Defence in Cross Examination of witnesses. The statement of the party were recorded in duress, in the absence of defence helper and in the presence of Sri Saha, the main prosecution. An objection to this effect was recorded by E.O. Opportunity for searching the misplaced documents was not given. Thus the facility for producing documentary evidence in self defence was denied. The Enquiry was not duly carried out. No fact find-



Sh

ing enquiry was done.

On Merit :- Complaint of Sri Saha is not in his own writing though he is a literate person. It is written by Sri Kapoor SS/Fdy. So he cannot appear as a prosecution witness. The F.I.R. lacks the name of other witnesses, who witnessed the alleged incident on 14.9.82. The F.I.R. of Sri Saha is immaterial. Shri Kapoor is not an independent witness and cannot be relied upon as he is practically prejudiced to him.

No personal interview was allowed to him to see the Additional C.M.E. (W)/LKO as requested vide his letter dated 11.9.1981 stating that no work has been allotted to him by SS/Fdy.

Sri Kapoor's witness is immaterial being prejudiced and no other witnesses were nominated by Sri Saha. A clerk of Fdy. shop referred to in the evidence was not produced and examined inspite of his insistence. There is no important and independent witnesses to support the statement of Sri Saha.

Absence of any legal action by Shri Saha on his F.I.R. lodged with police is the proof that the whole incidence is a fabricated one, and the charges are false.

Discussion on defence note and point.

The plea that no reasonable facility was provided for self defence does not hold good as the documents



Sh

asked for by him were all provided to him vide letter of 17.12.1981. The facility for cross-examining the witnesses were also provided but he did not avail this facility thereby on the ground that the relevant documents have not been given to him, though these were supplied vide letter of 17.12.1981. The statement of the party that his statement was recorded under duress was also not based on truth. He was also given the opportunity to submit the copies of his letter as given in his letter Dt. 17.5.1982 as the same were not appearing in the file as intimated by this office vide letter of 10.6.1982, but he failed to submit the same even after the lapse of a month's time. He also applied vide his letter dated 9.8.1982, that he may be permitted to go out station at Delhi and Ambala to search out the papers in question. But the request was not conceded at that time. Any how he has submitted the same at the time of submitting his defence note dated 13.9.1982. It clearly indicates that these letters were lying with him at Lucknow and he deliberately did not submit at the time of enquiry proceedings. He was given opportunity to nominate the defence counsel and at one stage his defence counsel appeared in the enquiry proceedings.

At the final stage when he appeared for enquiry on 10.8.1982 without any Defence Counsel he was asked about his defence counsel, but he himself volunteered to give his statement in absence of his



Shy

defence counsel . He was given enough time to bring the defence helper. Even letter to Divisional Railway Manager, Lucknow was issued on 23.7.1982 to spare his defence counsel. But he failed to bring this Defence counsel due to the reasons best known to him.

He was given the chance by the Enquiry Officer to speak about the relevancy of the documents in absence of the prosecution witness Sri Saha to which he stated that he was compelled to do so by Enquiry Officer. There was no compulsion and it was for his own, if he desires to speak in clear terms. At one stage he even question the Enquiry Officer in spite of giving sufficient time to submit the reply to the charge sheet . SriBhattarya failed to submit the same on one pretext or other simply to prlong the proceedings.

During the entire proceedings he never asked to produce the independent witness Sri Sai though his name was mentioned by Sri Saha on 18.5.1982 at the time of enquiry proceedings, who was present at the time of occurrence of this incidence. The copy of the same was given to him at the time



Sh

-85-
93
81
A90

of proceedings.

It clearly shows that he was not at all interested & even to produce that independent witness.

F I N D I N G

From the above facts it is very much clear that he was only lingering the enquiry on one pretext or the other and is responsible for assaulting Sri S.C. Saha Assistant Shop Superintendent Foundry on 14.9.1981.

Sd/- H.D. Mall

20/10.

Enquiry Officer Production
Engineer.

Locomotive Works Charbagh, Lucknow.



Sh

X/94

185
(R91)

In the Hon'ble High Court of Judicature at
ALLAHABAD

Lucknow Bench, Lucknow.

.....

Writ Petition No. of 1985.

P.K. Bhattarya ----- Petitioner

Versus

Union of India & others - --- Opposite Parties.

ANNEXURE No. 9.

NORTHERN RAILWAY LOCOMOTIVE SHOP CHARBAGH LUCKNOW

No. PC/PKB

--/ Dated 24.1.1983.

Sri P.K. Bhattarya,

C/Man (Fdy/PM)

Q.R. No. E/3D Punjab Nagar,

Colony Charbagh Lucknow.

The Enquiry Officer appointed to enquire into the charges framed against you vide memorandum (SF-5) of even no. dated 23.9.1981 has submitted his report, a copy of which is enclosed herewith.

On a careful consideration of the aforesaid enquiry report, I agree with the enquiry Officer's verdict that you are guilty in this case of the charges levelled against you and have decided to impose upon you the penalty of reduction in rank with effect from 25.1.1983 forenoon to the lower post, grade service of

Sh



Chargemen 'B' in the scale of Rs. 425-700 (RS) with postponing future increments for a period of three years. Your seniority would also be affected as a result of this punishment. The period of suspension is treated as such.

Under Rule 18 of the Railway Servants Discipline and Appeal Rule 1968 an appeal against these orders lies to C.W.E./NDLS provided :-

1. The appeal is submitted through proper channel within 45 days from the date you received the orders.
2. The appeal does not contain improper or disrespectful language.
3. Please acknowledge receipt of this letter.



Sd/- K.B.L. Wadhwa,

Addl. C.M.E. (W)

Northern Railway Loco Shop

DA

Charbagh Lucknow.

1. Copy of the findings by PE
in four sheets
2. Disciplinary Authority's findings.

Copy forwarded for information and necessary action to OS /Time Office PB SAO (W) and SS/MCC Loco Charbagh Lucknow.

Shr

-88-
1/87 (A93)
A/ao

Enclosure to Annexure No. 9

Disciplinary Authority's
Findings.

I had issued orders vide my noting dated 13.12.82 at PP-13 that Sri P.K.Bhattacharya C/man 'A' (Pdy/PM) should be given another opportunity to give his statement as he had objected to the presence of Sri Saha while the inquiry was in process. It appears from Sri Bhattacharya's letter at S.No.62 that he is not prepared to avail of this opportunity. The administration had given him this opportunity in the interest of imparting justice to him which opportunity Shri Bhattacharya has not availed of on his own accord.

After going through the case, I agree with the Enquiry Officer's verdict that Shri Bhattacharya is guilty in this case.

Shri Bhattacharya should be reduced to the post of Chargeman 'B' for a period of three years. The reduction in rank would affect his future increments after the penalty is over. His seniority would also be affected as a result of this punishment.

His suspension may be revoked. The period of suspension to be treated as such.

Sd/- Addl. CME (W)/CB
22.1.83.

Shr



87

82
894

In the Hon'ble High Court of Judicature at

ALLAHABAD

Lucknow Bench Lucknow.

Writ Petition No. of 1985.

P.K. Bhattarya

Petitioner

Versus

Union of India & others --- Opposite Parties.

ANNEXURE No. 10

NORTHERN RAILWAY LOCOMOTIVE WORKS CHARBAGH ,

LUCKNOW

No. PC/PKB

Dated 28.7.1983.

Sri P.K. Bhattarya,

Chargeman 'B' (Fdy/ PM)

C/o SS/MCC/Loco Shops CB,

Lucknow.



SUB:- Punishment notice of even no.
dated 24.1.1983.

REF:- Your Appeal dated 10.3.1983
addressed to the C.W.E./NDLS.

Your appeal was forwarded to C.W.E. and
a copy of G.M. (P)'s Letter No. 48E/736 (D&A)
dated 14.7.1983 containing decision of Chief
Workshop Engineer's order on your appeal add-
ressed to the Additional Chief Mechanical Engineer
(W) Charbagh Lucknow is given below for your

Shr

information.

SUB:- Appeal of Sri P.K. Bhattarya C/man
Fdy/CB/Lucknow.

REF:- Your Letter No. PC/PKB dated 26.3.83.

In terms of rule 22 (2) of RS (D&A) Rules, 1968 the Chief Workshop Engineer has carefully considered the appeal of Sri P.K. Bhattarya C/man against the penalty of reduction in rank to the lower grade of Chargeman 'B' in scale Rs. 425-700 (RS) for three years imposed upon him by Additional Chief Mechanical Engineer (W) Charbagh Lucknow vide N.I.P. No. PC/PKB dated 24.1.83 and has decided that :-

- (a) The procedure laid down in D&A rules has been correctly followed.
- (b) The findings of the disciplinary authority are warranted by the evidence on the record and
- (c) The penalty imposed is adequate

The Chief Workshop Engineer has accordingly rejected the appeal of Sri P.K. Bhattarya. Action may be taken accordingly and Sri Bhattarya may be advised of the decision.



Sh

In the Honorable High Court of Judicature at Allahabad.
Muzam (Bench) Muzam.

(91)

W. P. No.

of 1985

2

1985

व अदालत श्रीमान्

[वादी] अपीलान्त

प्रतिवादी [रेंस्पाडेन्ट]



महोदय

गलतनामा

14/2/85
P. K. Bhatnagar
Petitioner

टिकट vs.

वादी (अपीलान्त)

Union of India and others

opp. Petus

बनाम

प्रतिवादी (रेंस्पाडेन्ट)

नं० मुकद्दमा

सन्

पेशी की ता०

१६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर श्री

SHRI NIVAS SHUKLA

वकील
महोदय
एडवोकेट

नाम अदालत
मुकद्दमा नं०
नाम फरीकान

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 पेरवी व जवाब देही व प्रश्नोंत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या सुलहनामा व इकबाले दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या कोई रुपया जमा करें या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूँगा अगर मुकद्दमा अदम पेरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १६

ई०

स्वीकृत

A/100

1991

In the Hon'ble Central Administrative Tribunal

Circuit Bench, Lucknow.

Civil Misc. Application No. ^{M.P. No. 195/91(L)} of 1991 (L)

In Re:

Registration T.A. No. 1919 of 1987 (T)

Ex for 3-5-91

Sri P.K. Bhattarya

...Applicant

Versus

Union of India and others

..... Respondents.

APPLICATION FOR CONDONATION OF DELAY IN FILING THE
COUNTER REPLY

That the delay in filing counter reply is not intentional or deliberate but due to the administrative and bonafide reasons, which deserves to be condoned.

P R A Y E R

Wherefore, it is most respectfully prayed that in the interest of justice, delay in filing counter reply may kindly be condoned and counter reply may be taken on record.

Lucknow:

Dated: 1.4.91

(ANIL SRIVASTAVA)

Advocate,
Counsel for the Respondents.

Filed today
11/4/91

Received one
copy on date
31/10/91

(P.K. BHATTARYA)

Despite efforts, the counsel for
the applicant could not be traced.
An additional copy is being
filed herewith for his
service.

Amrteivash
Adw

11/4/91

A/101

299

In the Central Administrative Tribunal,
Circuit Bench, Lucknow.

T.A. No. 1919 of 1987

(W.P. NO. 4045 of 1985)

Sri P.K. Bhattarya

... Petitioner/Applicant

Versus

Union of India and others

..... Opposite Parties/
Respondents.

Counter Reply on behalf of all the Respondents

I, Hemant Kumar

working as

Dy. Chief Mech. Engineer (W) in the office of ~~Additional Chief~~
Works Manager
~~Mechanical Engineer~~ (W), Northern Railway, Loco Shops,
Charbagh, Lucknow, & hereby solemnly affirm and
state ~~as under~~ as under:-

1. That the official above named is working as
Dy. Chief Mech. Engineer (W) in the office of ~~Additional Chief~~
Works Manager
~~Mechanical Engineer~~ (W), Northern Railway, Loco
shops, Charbagh, Lucknow and has gone through
the averments made in the present case and
as such fully conversant with the facts and
circumstances of the cases and has been authorised
by all the respondents to file this reply on
their behalf.

Contd.... 2

महोदय को
चार्ज, लखनऊ
N.R./Loco/C.B./Lko.

- 6.
- ५३१/
- अभियन्ता
- इति

N.R./Loco/C.B./Lko.

Contd....3

are routine matter. Also transfer of the applicant to M.C.C. was with a benefit of 10% additional P.C.O. allowance. Therefore allegation regarding ^{him} handling the applicant is entirely out of question.

7. That the contents of para 6 of the writ petition are wrong and as such denied. It is submitted that the applicant was transferred from Foundry shop to M.C.C. on 9.3.81 on administrative ground and not under the control of Mr. K.N. Kapoor, as alleged.
8. That the contents of para 7 of the writ petition are denied. It is stated that the applicant's new assignment was neither under the control of Sri K.N. Kapoor nor Sri Kapoor was concerned with the Foundry clinker contract.
9. That the contents of para 8 of the writ petition are denied. It is further submitted that there is nothing on record to give support to applicant's allegation.
10. That the contents of para 9 of the writ petition are denied. It is further clarified that Shri K.N. Kapoor was neither concerned

उत्तराखण्ड अभियन्ता
उ.रे. रे. इ.न. कारखाना
चारवाग, लखनऊ
By C.M.F. (W)
N.E./Loco/C.B./Lko.

Cont'd. on page 77

A/105

A/103

15. That the contents of para 16 of the writ petition are wrong and as such denied. It is further submitted that the Production Engineer was the competent authority and fully empowered to pass such orders.
16. That the contents of para 17 of the writ petition needs no comments.
17. That the contents of para 18 of the writ petition are wrong and as such denied. It is stated that these averments are mere presumptions and based on after thought. The applicant has a record of fighting with his superiors quite often and there are several instances to prove the same.
18. That the contents of para 19 to 21 of the writ petition are admitted.
19. That the contents of para 22 of the writ petition are wrong and as such denied. It is submitted that the appointing authority of the post of Chargeman 'A' is JA Grade Officer and not the General Manager as alleged by the petitioner.

[Signature]
27/3/71
उपस्थित अभियन्ता
उ.रे. रेलवे विभाग
महाराष्ट्र, मुंबई
By C.M.F. (W)
N.R./Loco/C.B./Lko.

20. That in reply to the contents of para 23 and 24 of the writ petition, it is submitted that the applicant demanded copies of certain irrelevant documents, while the relevant documents, were already been supplied to him as is evident from Annexure No. IV to the writ petition. It is pertinent to mention here that copy of other papers which applicant demanded were not on records and also these documents had no relevancy with the Discipline and Appeal Rules enquiry.
21. That the contents of para 25 of the writ petition are misleading and as such denied. It is submitted that the applicant had already been supplied all the relied upon documents but the applicant did not bother to answer the same.
22. That the contents of para 26 of the writ petition are admitted.
23. That the contents of paras 27 to 29 of the writ petition are misleading and as such denied. It is further submitted that the petitioner's application dated 17.5.81 is not available on record. Otherwise also the cause of action of the petitioner started

22/8/91
उत्तर प्रदेश अधिवक्ता
उ.रे. रे. कारखाना
चारवाग, लखनऊ
1 y / M F (W)
N.H./Loco/C B./Lko.

Contd.....7

only on 14.9.81. However an application dated 17.5.82 is on record. The said application of the petitioner given by him in connection with his day to day working had no relevance to the Discipline and Appeal Rules case. The relied upon documents had already been supplied alongwith the chargesheet, but the other papers demanded by him vide application dated 17.12.81 had no relevance with the Discipline and Appeal Rules case. The petitioner had deliberately not submitted his defence inspite of having given numerous opportunity, as he was responsible for his mis-conduct for man-handling senior subordinate while on duty. He adopted every dialatory tactics to delay the proceedings of the enquiry committee on one pretext or the other, without submitting his defence and had been un-cooperative in the proceeding of the enquiry. The documents asked by him had absolutely no relevancy with the Discipline and Appeal Rules case hence his this request was rejected by the enquiry officer.

24.

That the contents of para 26 of the writ petition are admitted.

24/9/91
उप महा अधिवक्ता
उ.रे. के. ए. नगरपालिका
चरमपु. लखनऊ
By (M.F. (W)
N.F./Loco/C B./Lko.

Contd.....8

A
107

A106

25. That the contents of paras 31 and 32 of the writ petition are categorically denied. It is submitted that the enquiry officer had given ample opportunity to the petitioner to give statement of defence many times and finally on 28.12.82 in terms of Letter No. P.C./P.K.B. dated 13.12.82 but the same was also not availed by the petitioner and instead of submitting his defence he moved yet another application for revoking his suspension as a condition. Thus petitioner did not like to co-operate with the enquiry officer and adopted every possible tactics to delay the enquiry proceedings.
26. That the contents of para 33 of the writ petition are admitted.
27. That the contents of para 34 and 35 of the writ petition are not admitted. It is further submitted that after giving him all facilities to cross examine the witnesses, the petitioner did not responded, ultimately the enquiry officer had asked him to give his defence statement. Moreover in response to his defence note, the enquiry officer had given him more opportunity vide letter No. PC/PKB dated

27/3/91
उप मुख्य सचिव अभियन्ता
उ.रे. रेलवे विभाग
चारवाग, लखनऊ
Dy C.M.F. (W)
N.R./Loco/C.B./Lko.

Contd.....9

1050

A107

Ann. C-1

13.12.82 for giving his statemnt. A photo copy of this letter has been filed herewith as Annexure No. C-1 to present counter reply. The petitioner was called to attend enquiry on 28.12.82 at 14.30 hrs. alongwith his defence helper. Thus, the petitioner has been given very sympathetic attitude by the administration by providing ample opportunities to defend, inspite of his insubordinative attitude and suspicious nature, but ^{he} did not avail any opportunity given to him by the administration.

28. That the contents of para 36 of the writ petition are not admitted. It is pertinent to mention here that the petitioner attended the enquiry on 28.12.82 but did not give any defence statement. He had however, submitted another application on 28.12.82 without producing any evidence in his defence.

29. That the contents of para 37 of the writ petition are admitted.

30. That the contents of paras 38 and 39 of the writ petition need now comments.

22/3/91
उत्तर प्रदेश मंत्रिक/अभियन्ता
उ.रे. रे इरन कारवाला
सुपरीम, लखनऊ
15 M.F. (W)
N.K./Loco/C.B./Lko.

A
109

Alod

31. That the contents of para 40 of the writ petition are misleading and as such denied. It is pertinent to mention here that the Enquiry Officer wrote two letters dated 10.6.82 and 21.6.82 to the petitioner in reply to applications of petitioner dated 17.5.82 and 25.5.82 which are enclosed herewith as Annexure No. C-2 and C-3 to the present reply ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ by which the petitioner was asked to submit copies of application, so that the case may be finalised earlier. The disciplinary authority had passed orders after the conclusion of the enquiry and giving enough opportunity of defence to the petitioner. Thus all the relevant factors were taken into consideration before passing the orders in the Discipline and Appeal Rules case by the competent authority.

Ann. C-2 & C-3

32. That the contents of para 41 of the writ petition are denied. It is further submitted that the petitioner has been given every reasonable opportunity to defend his case.

[Signature]
24/3/91
उप महा सचिव असियन्ता
ल.रे-रे इन्स. भा. वि.
आ.स.स. लोको.
Dy C.M.F. (W)
N.R./Loco/C B./Lko.

A
110

Alc9


- 11 -

33. That the contents of para 42 of the writ petition are denied but the contents of para 23 of the present counter reply are reiterated.

34. That the contents of para 43 of the writ petition are absolutely false and as such denied. It is further stated that the petitioner's contention in this para is an after-thought to side-track the facts of the case of man -handling his superior by slapping him in public place while on duty in the office premises. As the petitioner was working in M.C.C., he had no concern with Sri S.C. Saha, the then Assistant Shop Superintendent with whom he misbehaved.

35. That the contents of para 44 of the writ petition needs no comments.

36. That the contents of para 45 of the writ petition are denied. It is stated that every time he had been asked to cross examine the witnesses on the basis of relied upon documents already supplied, the petitioner took excuse by insisting upon the reply of


22/3/91
उत्तर प्रदेश न्यायिक अभियन्ता
द.रे. के. इ.प्र. न्यायिक
N.B./Deco/C.B./Lko.

Contd.....12

of his letter dated 17.5.82. It is incorrect for the petitioner to say that everyone in the workshop from senior subordinate to superiors, including enquiry officer were biased against him. It seems that whosoever did not concede the request of the petitioner, was declared biased by the petitioner. Similar was the situation, when the petitioner mis-behaved and slapped his superior, in the beginning of the cause of this Discipline and Appeal Rules Case.

37. That in reply to the contents of paras 46 and 47 of the writ petition it is submitted that Sri Sahai, being the complainant and as such he was allowed to sit during the course of enquiry.

38. That the contents of para 48 of the writ petition are not admitted ~~allowed~~. It is stated that the petitioner was given ample opportunity to give his evidence in the presence as well as in absence of Sri Sahai, the complainant, but the petitioner did not do this. There is no procedural flaw in allowing Sri S.C. Sahai, the complainant to be present during the entire enquiry.

[Signature]

27/3/91

By P.M.F. (W)
N.B./Loco/C.B./Lko.

12/1
Annexure No C-1

जी.एल. 19/GL. 19
नं. 99-एच/जन. 99-लाइ

उत्तर रेलवे/NORTHERN RAILWAY

Office of the
Addl. Chief Mech. Engineer (V)
Locomotive Workshop,
Charbagh, Lucknow.

No. PC/PKB

dt/- 13.12.1982.

Sri P.K. Bhattacharya,
Chargeman 'A' (Fdy/PK)
under Suspension,
Gr. No. E/3D,
Punjab Nagar Colony,
Charbagh,
Lucknow.

Reg:- Enquiry under D & A. Rules.

Ref:- Your application dt. 13.9.82 / 80/57

As you have objected to give your statement in the presence of prosecution witness, you are, therefore, given a chance to give your statement in absence of the same.

Please, therefore, attend the enquiry in this respect alongwith your defence counsel on, 28.12.82 at 14.30 hrs. in the room of the undersigned.

(H.D. Hall)
Production Engineer
Charbagh, Lucknow.

A
122

(A12)

American No 2

(76)

UNITED NORTHERN RAILWAY

No. 10/10 KB Date 10/10/22
In the presence of Mr. E. J.
Chambers (Genl. Mgr.) and Mr. J. W. Brown.
Genl. Mgr. E. J. D.,
British North Colony,
Cape Town.

Sub: Enquiry under No. 10/10 KB.
Re: Your application of 10/10/22.

As the applications numbered
under para 3 (D) are (III) to (VII) and
also have not yet been received in this office,
been received in this office, please
submit copies of the same immediately
to enable me to consider your
application.

Yours faithfully,
J. W. Brown
General Manager
(British North Colony)
Cape Town.

UNITED NORTHERN RAILWAY

4/12/24

A122

Annexure No C-3

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 10/12/24 BY 1045/UCAL/VK/SK/AL

उत्तर रेलवे NORTHERN RAILWAY

38

No. PC/PAB

Date: 10-6-22

Sri P. K. Bhattacharya, Tiro E/2

C/Manager (F&P) - under Suspension,

Gr. No: E/30, Punjab Refractory Colony,

CB/Amritsar.

Re: Enquiry under D.J.A. Rules.

Ref: Your application dt. 12.5.22 / Senc 33

Senc 36

Please refer to this office letter of Enq. No. dt. 10.6.22. It is observed that you have not yet submitted the copies of the your applications asked for therein.

It is therefore desired that the same may be submitted by 22.6.22. Informing you that the case is pending.

Yours faithfully,
11/04/24
General Manager
(General Manager)
Punjab Refractory Colony,
CB/Amritsar.