

ANNEXURE - A

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE T.O. 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. General Index sheet	A1 to A3
2. order sheet	A4 to A7
3. Judgment dt. 15-02-92	A8 to A9
4. Petition	A10 to A43
5. Affidavit with evidence	A744 to A98
6. Vakalatnama	A.99
7. Counter	A100 to A124
8. Vakalatnama	A125
9.	
10.	

CERTIFICATE

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

Date :

Countersigned

23/6/11

Section officer/Court officer.

17/8/11
Signature of the
Dealing Assistant.

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

FORM OF INDEX

D.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	:- 1
4.	Judgement	:- 10 to 11 - subject at
5.	S.L.P.	:- 1579 L.H.K.R.

D.Y. Registrar

Supervising Officer

Dealing Clerk

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

Dealing Clerk

V.K. Mishra

2

DISTRICAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

No. of 1993

Date: 10.01.1993 of 1993

Part No. of 1993

C E R T I F I C A T E

ad that no further action is required to be taken in this case and that the case is fit for consignment in the office of the Court.

Court signed

Signature of the dealing Assistant

Officer/ Court Officer

25-6-93

1

A
2

Central Administrative tribunal
Lucknow Bench

Cause Title IA 1919

19837(T)

Name of the Parties P. K. Bhattacharya Applicant.

ERGUS
Union of India Respondents

Part A.P.C.

	Description of Documents	Page
1.	Check list	A1 - A2, A97
2.	Order sheet	A3 - A4
3.	Final Judgement at 15-7-92	A5 - A42
4.	Joint Petition Copy	A43 - A95
5.	Annexure	A96
6.	Power	A98 - A122
7.	Counter Affidavit	
8.	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. Bhattacharya

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
1		W.P. with affidavit and Answer	89.		102.00			
2		Power	10		5.00			
3		Arch. Seal	1-					
4		Back Copy	1-					

I have this day of 1988, 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. 102.00 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

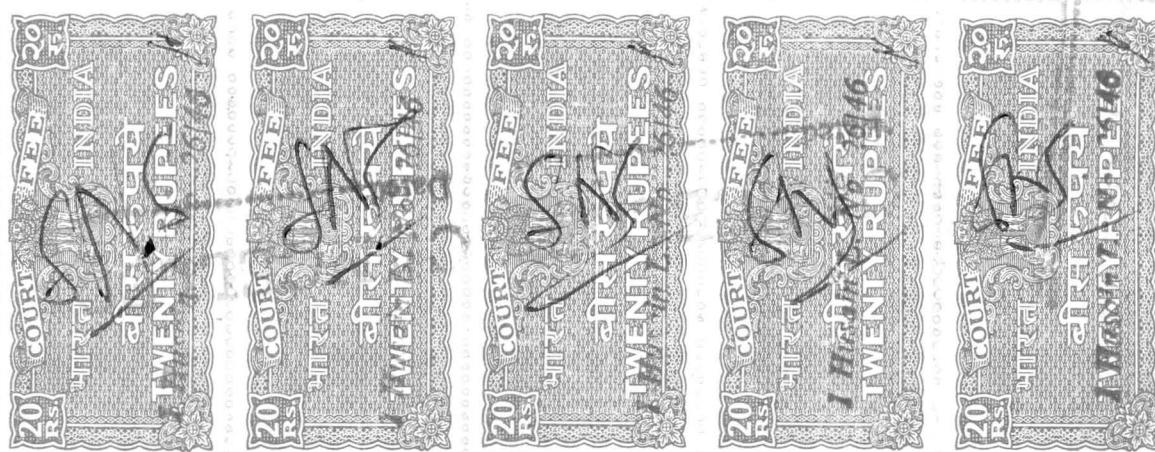
Clerk

(A8)

BEFORE THE HON'BLE HIGH COURT OF JUDICATURE AT
ALLAHABAD

LUCKNOW BENCH, LUCKNOW.

Civil Misc. Writ Petition No. 4045 of 1985.



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

Sett. P. 100/-
 fee
 8/8/85

----- 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.



15

Impressed
5 Adhesive Receipts
Total

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

Court record

In time up to

Papers filed, ~~copy of W.~~
should also be filed.

single - ~~copy~~

Last day orals due 10
= 28-7-23

ultimo.

Begun 90 days by
1 year, 285 days as
8-8-05

Indict

~~8-8-05~~

2

8/05/05

Hon. K. S. Varma, J

Hon. S. S. Ahmed, J

dict in delivery.

Course.

*Shri K
(4885)*

65

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P.

No.

4068

of 1985

VS.

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

X

①

A

10/5/90 Hon. Mr. K. J. Kumar, A.M.

Hon. Mrs. D. K. Agarwal, T.A. learned Counsel

Shri S. Sharma, ^{not} present on behalf of the petitioner. No one is present on behalf of the respondents inspite 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.

Notice given
on
16/5/90

SD

J.M.

L.M.

A

A.M.

BR

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

Sri Anil Singh files his application. 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.

M. M. Singh
(A.M.)

9
(V.C.)

Notices were issued on 16.5.90 to the respondents.

No unserved resp. case can be set down back. Acknowledgement can be read.

S. F.O.

L
SD/KA

SD

No setting down to 22.11.90

22.10.90

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, if joined may be filed within 2 weeks thereafter went to final hearing on 24.1.91.

M. M. Singh
A.M.

GR

No case filed
S. F.O.L
16/10/90
20/11R
V.C.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

(OB)

REGISTRATION No. 1919 of 1987 (T)

APPELLANT
APPLICANT

P. K. Bhattacharyya

DEFENDANT
RESPONDENT

VERSUS

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 14-12-89 for orders.</p> <p>DL J.M.</p> <p>(sns)</p> <p>14/12/89</p> <p>No Sittui. Adj. to 5-3-90. Both the Counsel are present on the request of the LJC for the applicant the case is fixed on 5-3-90.</p> <p>14/12</p>	<p>Case has been recd from CAT, And. on 14-9-89.</p> <p>Case is not adjourned No CA/RA filed.</p> <p>Date was fixed from CAT, And, but the case was not attacked.</p> <p>Submitted for list</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. List for orders on 10/3/90.</p> <p>DL J.M.</p> <p>14/3/90</p> <p>Notice was issued on 24-3-90. Neither reply nor any unsworn affd copy has been return back.</p> <p>0-5-0</p>	<p>OR Notice was issued on 24-3-90. Neither reply nor any unsworn affd copy has been return back.</p> <p>0-5-0</p>

1919/87

9
42

24.1.91 - No sitting Adi to 26.2.91.

26.2.91 - No sitting Adi to 3.5.91.

3.5.91

No sitting Adi to 31.5.91

certified

31.7.91

No sitting Adi to 4.10.91

4.10.91

No sitting Adi to 5.12.91.

5.12.91

No sitting Adi to 3.1.92

3.1.92

No sitting Adi to 14.2.92

14.2.92

No sitting Adi to 9.4.92

9.4.92

No sitting of D.B. Adi to
7.5.92

7.5.92

No sitting of D.M.
Adi to 15.7.92

certified
SPT
WPA

Decided on
15.7.92
d

A/B
AB
10

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH.

....

Registration T.A. No. 1919 of 1987

(W.P. No. 4045 of 1985)

P.K. Bhattacharya Petitioner.
 Versus Applicant.

Union of India

and others Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. K. Obayya, Member (A)

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

The applicant who is charge^{man} Grade-A in the pay scale of Rs. 550-750 was charge-sheeted for certain Acts of Omission and commission. An enquiry officer was appointed and proceeded with the enquiry. The grievance of the applicant is that due opportunity of hearing was not given to him. But from the counter affidavit filed by the respondents, it appears that the applicant himself has avoided for participation in the enquiry. The applicant's further grievance is that he was not given the copy of the documents and also he was not given the opportunity of hearing but the same was refuted by the respondents. After the conclusion of the enquiry, the disciplinary authority punished the applicant by reverting him. Against the reversion order, the applicant filed an appeal but the appellate authority also dismissed the same. The applicant has challenged the entire proceedings as well as the appellate order. He has challenged the appellate order on the ground that it is a non-speaking order and also it was passed without giving an opportunity of hearing to the applicant. But it is a settled position of law that the appellate authority should have given personal hearing to

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.)

D
In the Hon'ble High Court of Judicature at

ALLAHABAD

Lucknow Bench, Lucknow.

Writ Petition No. 4045 of 1985.

P.K. Bhattacharya

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 suspensim order Dt. 14.9.81.	38
5.	Annexure No. 2. True copy of Charge Sheet Dt. 28.9.1981.	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

Sl. Particulars
No.

Page.

10. Annexure No. 7. True copy

72-75

Copy of application dated

28.12.1982.

11. Annexure No. 8. True copy

76-85

of Enquiry Officer's Report

dated 30.10.

12. Annexure No. 9. True copy

86-88

Letter Dt. 24.1.1983.

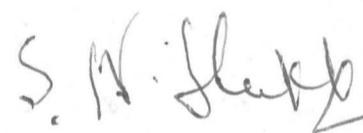
13. Annexure No. 10. True copy

89-90

of letter Dt. 28.7.83.

14. Vakalatnama

91


(S.N. Shukla)

Dated

Advocate.

Dt. 8.1985.

Counsel for Petitioner.

✓ (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.



✓ AIO

dated 12.2.1981 and on 28.2.1981 stating therein that Sri K.N. Kapoor Shop Superintendent Foundry & 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.



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.



SC

AP

AI2

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 application on 11.9.1981 to Additional 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



(A13)

16

Y6

-8-

13. 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) N.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



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.N. 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.N. Kapoor Shop Superintendent Foundry and Pattern by exercising undue influence on Mr. S.C. Saha, Assistant Shop Superintendent Foundry and Pattern hurriedly 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 -



SW

AIS
X
Y
10

That while functioning as Chargeman 'A' Foundry and Pattern maker, grade Rs.550-750 (RS) Shri P.K. Bhattacharya 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 Bhattacharya 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. *

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



19

AI6

YII

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 18.2.1981/28.2.1981, 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



SM

APR
20APR
20V
12

- 10 -

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-



SMR

A/21

A/8

Y/3

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.



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 complainant.
31. That in his statement, the petitioner stated that his statement is to be recorded at

A/22

A19

14

- 12 -

the conclusion of enquiry proceedings after the cross examination of the prosecution witnesses. He was compelled by the Enquiry Officer to reveal the relevency 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.

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



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 reopen the Enquiry when the Enquiry Officer has informed the petitioner vide his office letter of 28.8.1982 that the proceedings in



SLW

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



Swy

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 the report of the Enquiry Officer and by an order reduced the petitioner from the rank of Charge-man Grade 'A' to Charge-man grade 'B' vide his order dated 24.1.1983. He also with held 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

SLW



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



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.



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

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 provey 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

A
A26
Y

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



Shy

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 complainant 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.

54. Thus it is proved beyond any shadow of doubt



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 Chargeeman 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



Sh.

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



See

X
35 A30

Y
35

- 23 -

career of the petitioner. Further, the order is bad because it imposes double penalties on the appellant, one is reduction in the rank while the other is withholding 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.

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.
See
70. That the contractor, picking the auctioned heaps of Brass Foundry clinker, was allowed

A32
35

27

to segregate, 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 occurred in the month of June/July, 1981 the report of theft of Copper plates was never made to Railway Protection Force. Sri Mushtaq Ahmad took the onus of paving the facts. The request was turned down by the Rev. Additional Chief Mechanical Engineer (W) Charbagh Lucknow.

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



Sby

A23

K30

27

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 ~~xx~~ 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



Shy

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 root 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



Sir

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



Sly

ASB
F/9 130

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.



Shy

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 ~~re~~ reversion 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 condine punishment of reversion has illegally been inflicted upon the petitioner without giving him full opportunity to defend the case.



SMY

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.

G R O U N D 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 petitioner 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.

A31

A
M2

Y33

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

(AHC)
A/3
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.

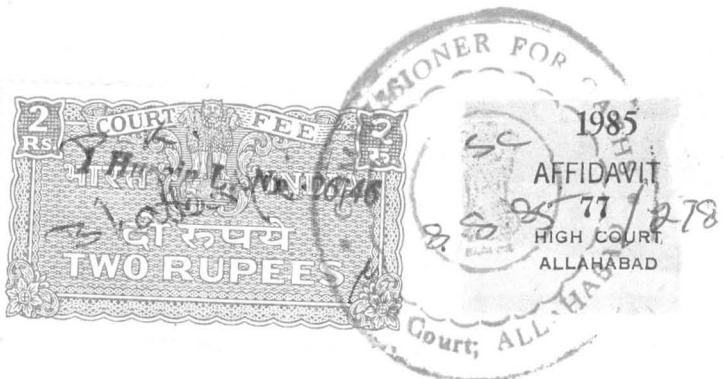
A/WA -36-
AU 35

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.

AFFIDAVIT

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 -

X (A42) 36

2. I, the 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, 62-70, 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.

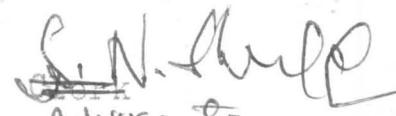

I, the above named deponent do hereby verify that the contents of paras 1 and 2 of this affidavit are true to my own knowledge. No part of it is false and nothing material has been concealed, so help me God.

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 9.30 a.m./p.m. by the deponent Sri P.K. Bhattacharya who is identified by Sri Ramdev 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. N. Shukla

Advocate Oath Commissioner
Allahabad High Court
Lucknow Bench, Lucknow
No. 27, 278/120
Date 8.8.85

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. 4.

Northern Railway

No. PC/PKB

Dated 14.9.81.

ORDER

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

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

It is further ordered that during the period this order shall remain in force the said Sri P.K. Bhattacharya 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. Bhattacharya C/man A (Fdy/PM)

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



4/2
4/11
38

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 अब्दुशास्त्र और अपील बियम 1968 का बियम 9

संख्या PC/PKB.

प्रशासन का बाम Locomotive Works Charbagh

LUCKNOW.

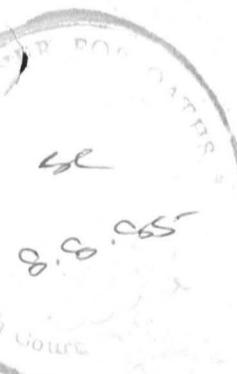
दिनांक 23.9.1981.

शापन

बिम्ब हस्ताक्षरी द्वारा दे० स० । य० और आ० । बियम 1968 के बियम 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 क्षदाचार बांधनों के सार जिसके संबंध में जांच करने की प्रत्यापनी है आरोप के अबुद्धेद के विवरण । अबुबन्दा । में दिया गया है । आरोप के अबुद्धेद के समर्थन में बपचार या सदाचार के लांधनों का विवरण सत्त्वन है । अबुबन्दा -2 । जिन प्रलेषां और सदियों द्वारा आरोप के अबुद्धेद संदृत किये जाने की प्रत्यापना है । उसकी शारी सूची संलग्न है अबुबन्दा 3 और 4 ।

2nd श्री P.K. Bhattacharya E-2 C/man 'A' (Fdy. / P.M.) को एत द्वारा सूचित किया जाता है कि वह चाहे तो इस आँखा की प्रतिति के पांच दिन के शारीर का यात्रिय समय में किसी शारी समय प्रत्येक सूची । अबुबन्दा । में चर्चित प्रलेषां का बिरीदाण कर सकता है और इसके अवहरण ले सकता है । यदि वह ऐसे किसी अन्य प्रलेषां तक पहुंच चाहता है जो रेल प्रशासन के पास हों तो किंवद्दन का सलग्न प्रलेषां की सूची । अबुबन्दा । में उत्तरेषां के किये आया हो तो बिरीदाण के लिए अपेक्षित प्रलेषां की सूचिति



SM

8/18

Ans

39

- 2 -

जिनका सुन्न ग्रन्थों की सूची अनुबन्धा । मैं उल्लेख न किया गया हो तो बिरीदाण के लिए उपेक्षित ग्रन्थों की सुसंतरित बताते हुए । 2 इस शापन की प्राप्ति के दस दिन के फारीतर इसे बिन्न हस्ताक्षरी को इसकी सूची देनी चाहिये । अनुशासन प्राप्तिकारी उब सड़ी या किसी ऐसे ग्रन्थों के बिरीदाण की अनुमति देने से इकार कर सकता है जो उसकी राय में मामले के सहमत न हो सा जिन बक पहुँचने की अनुमति देना जब हीत सा राज्य की सुलक्षणा के विरुद्ध हो । उसे चाहिये कि अतिरिक्त ग्रन्थ उपलब्धा किये जाके के पार्थ दिन के फारीतर उबका बिरीदाण पूरा कर लें । जिन अतिरिक्त ग्रन्थों के बिरीदाण की उसे अनुमति दी जावेगी उससे उदाहरण लेने की उसे अनुमति होगी ।

3- श्री

को सूचित किया जाता है कि जांच के बरद के ग्रन्थान्तर में ग्रन्थों की प्राप्ति करके के लिए किया गया अनुरोदा तब स्वीकार बही किया जायेगा जब तक उपर बिविट समय सीमा के फारीतर विभिन्न से अनुरोदा करके उपरापत फारणा न बताया जाय और उब परिणामों से स्पष्ट न हो जाये कि अनुरोदा ब इससे पहले के ग्रन्थों में बही किया जा सकता था । जांच पूरी हो जाके के बाद अतिरिक्त ग्रन्थ प्राप्त करके के सम्बंध में अनुरोदा तब तक स्वीकार बही किया जावागा जब तक जांच पूरी हाके से पहले अनुरोदा न कर सके उपरापत फारणा न बताया ज्या हो ।

4- श्री

को यह फारी सूचित किया जाता है कि यदि वह चाहे तो मानिक जांच होके की दिशाति में ग्रन्थों का बिरीदाण फरके तथा जांच अदिकारी के सम्बन्ध अपना मामला प्रस्तुत करके में सहायताकरके के लिए किसी अन्य रेल कर्म्मारी, रेल व्यवसाय संघ के किसी पदाधिकारी की रेल सेवा अनुशासन और नियम 1968 के नियम 9 । 19। और, तथा दिशाति उबके टिप्पणी और टिप्पणी 2 की अपेक्षाओं को पूरा करके की सहायताले सकता है । इस प्रयोजन के लिए और मान्यता क्रम में उसे एक या अदिक व्यक्तियों का वाम्ब फरका चाहिए । सह सहाय रेल कर्म्मारी । कर्म्मारी । अदावा रेल व्यवसाय संघ के पदाधिकारियों का मामले करके से पहले फारी

व्याधित व्यक्ति । व्यक्ति तयों से

बदल ले लेका चाहिये कि वहाँ वै । अनुशासनिक कार्यवाही के दौरान



श्री पी० कौ० बटारिया ई 2 । काउन्डी एन्ड पै० म०० बदारा
बामित व्यक्ति व्यक्तियों से जावन के लिए लेना चाहिये कि वह वे
अबुशास निक फार्मवाही के दौरान उसकी बहायता करने के लिए तैयार
हैं । - जिसमें आमित व्यक्तियों द्वारा बहायता करने का अन्तर्भूत
वर्चन है ऐसे अन्य मामले । मामलों । तो यदि कोई हो विवरणी मारी
दिया जाना चाहिये । जिसमें आमित व्यक्ति व्यक्तियों द्वारा
बहायता करने का पहले मारी बचब दिया जा चुका हो आमित व्यक्ति
व्यक्तियों । बदारा दिया गया बचब नामक पत्र के आदि बिन्दु
हस्ताक्षारी रेकर्ड को मौजा जाना चाहए ।

5 - श्री पी० कौ० बटारिया ई 2 । काउन्डी एन्ड पै० म०० ।
को एत बदारा ब्रिफ़ेश दिया जाता है कि यदि उस अपबा प्रतिवाद
तैयार करने के लिए किसी प्रतेषा का बिरीदाण करनी अपेक्षित ब
हो तो इस जापन की प्रेपित के दस दिन के मात्र और यदि वह
प्रतेषा को का बिरीदाण करना चाहे तो प्रतेषा को का बिरीदाण पूरा
होने से दस दिन के अन्दर बिन्दु हस्ताक्षारी । अपने प्रतिवाद का
लिखित फॉर्म । जो उक्त महा प्रबन्धाफ के पास पहुंचना चाहिए ।
प्रस्तुत करें और ,

फ- बताएँ कि क्या वह व्यक्ति बत रप्त कुछ कहनी चाहता है और
उन्हें उब सांचियों के यदि कोई हो, नाम और पता बतायें जिन्हें
वह अपने प्रतिवाद के समर्थन में बुलाना चाहता है और
ग- उब प्रतेषा की सूची, यदि कोई हो, तो पेश करें जिन्हें वह
अपने प्रतिवाद के समर्थन में प्रस्तुत करना चाहता है ।

6- श्री पी० कौ० बटारिया ई-2 । काउन्डी एन्ड पै० म०० । को
सूचित किया जाता है कि आरोप के केवल उब अबुच्छेदों के बारे में जांच
की जयगी जो स्वीकार बहीं किये गये हैं । इसलिये उन्हें चाहिये कि
आरोप के प्रत्येक अबुच्छेद को या तो विबिद्वाटतः स्वीकार करें या
इनकार करें ।

7- श्री पी० कौ० बटारिया, काउन्डी एन्ड पै० म०० । तो आगे यह
मारी सूचित किया जाता है कि पैरा 5 से बिक्किट अवधि के मात्र तर
वह अपने प्रतिवाद का लिखित फॉर्म प्रस्तुत बहीं फरता है या जांच



X/40
- 4 -

A/P

VII

प्रादिकारी के सामने व्यक्तिगत उप से हाजिर बही या रेल सेवकों अबूशासब और अपील नियम 1968 के नियम 9 के अबूबन्दाों या उद्दत नियम के अबूसरण में जारी आदेशाओं / निकेशाओं का अबूपालब फरबे में अन्यथा अस्वल रहता है या इन्हार फरता है तो जांच अदिकारी एक पक्षीय जांच फर सकता है ।

8 - श्री पी० क० बटारिया ई-2 । फाउन्डी एण्ड पौ० मौ० । फा० द्याब रेल कर्मचारी आचरण नियम 1966 के नियम 29 की ओर आर्फित किया जाता है जिसके अन्तर्गत फोई रेल कर्मचारी सरकार के अदानीब सेवा से सम्बन्धित मामलों के सम्बन्धा में अपने हितों को आगे बढ़ावे के लिए किसी वरिष्ठ प्रादिकारी पर फोई रजिस्ट्रितिक या अन्य प्रश्नाव ब तों डालेगा न डालवे फा प्रयास करेंगा । यदि इन कर्मचारियों से यन्मुदित किसी मामले में उसकी ओर सेविसी अन्य व्यक्ति से फोई अन्यावेदन प्राप्त होता है तो यह प्रकल्पबा की जायगी कि श्री पी० क० बटारिया ई-2/2 । फाउन्डी एण्ड पौ० मौ० । फा० उस अन्यावेदन की जाबनारी है और वह उसके फूहवे पर दिया गया है और उसके विस्तृ कर्मचारी । आचरण । नियम 1966 के नियम 20 अन्तिक्रमण फरबे के लिए फार्मवाई की जायगी ।

9 - इस ब्रापन की प्राप्तरीश्वरी ।

1 राज्यपति भौमि के आदेशाओं और उसके बाम से

(KBL. Wadhwa)

हस्ताक्षर Add. Encl (V)

N.Rly. Locality B/42

सदम प्रादिकारी - फारछाबा चारबाग

लडाकू ।

सेवा में

श्री पी० क० बटारिया ई-2 । फाउन्डी एण्ड पौ० मौ० ।

याजमेल "ए(Fly/PML) पदबाम आदि ।

Qnt No E/39 Punjab Nagar Colony, Chorbagh Lucknow
प्रतिलिपि श्री फोईएण्ड पौ० मौ० अदार दाता ।

प्रादिकारी फा बाम और पदबाम को सूचबाथ प्रेषित

यह समय सीमा सदाम अदिकारी के विवेक से दस दिन तक बढ़ाइ

5

जा सफरी १८ ।

यह समय सीमा सदाम अदित्यारी के विवेठ के बीस दिन तक
बढ़ाइ जा सकती है।

जहों कहीं राष्ट्रपति या रेलवे बोर्ड सदाम छिपाफारी हो
वहां उसे रहने दिया जाये जो राष्ट्रपिति अंशुशासन अदित्यारी
हो ।

जो लावू ब हो उसे फाट दें ।

यदि फ्रॅम्चारी इस आदेश का अनुपालन नहीं करता, तो इस प्रक्रिया में ऐसी सूची प्रस्तुत करने पर जो बैंकों की आवश्यकता नहीं है।



AUG

AUG

मार्ग नं ५ रो ८० । अ० और अ०। नियम १९६६ के नियम ९ के
अंतर्गत आरो- पत्र फा ज्ञापन

अनुबन्ध।

श्री P.K. Bhattacharya E-2 C/man 'A' (Fdy/Pat Maker)
। रेल अधिकारी फा बाम और पदबाम। के विरुद्ध विरणित आरोपों
के अनुच्छेदों फा विवरण।

अनुच्छेद - ।

श्री P.K. Bhattacharya E-2

श्री अवधिकारी C/man 'A' (Fdy/P.M. के अपार्टमेंट में

फा म फरते समय See Annexure I (On reversal)

यहाँ विशिष्ट और स्पष्ट रूप से आरोप
अनुच्छेद तिलों।



Sd/- K.B.L.Wadhwa

23.9.1981

(K.B.L. Wadhwa)

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

ASO 45
ASO
Y
X

ANNEXURE - I

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

That while functioning as Chargeman 'A' Fdy/Pat Maker Grade B.550-750 (RS) Sri P.K. Bhattarya 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 Bhattarya 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.



X/54 Y/45
अनुबन्ध 1 + 1

(AS1)

श्री

का नाम और उसके विरुद्ध विरणित आरोपों के अनुच्छेदों
के नाम और समर्द्द उप के अपचार या अपवाद के लाभों
का विवरण ।

अनुच्छेद ।

अनुच्छेद ॥

अनुच्छेद ॥॥

That while functioning as C/man 'A'
Fdy/Pat Maker Grade N.550-750 (RS) Sri
P.K. Bhattacharya 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 Bhattacharya 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.

Shy

Sd/- K.B.L. Wadhwa

23.9.81

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



AS/5

V/6

अनुबन्धा III

AS/2

प्रेषां फी सूची जिसके द्वारा श्री P.K. Bhattacharya C/man 'A'

(Fdy & PM) T.No E-2 रेल फर्मारी का नाम और पदबाम के विशेष विद्वारित आरोपों के अनुच्छेद में संदर्भ फर्के का व्यापार 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.

आंदिया फी सूची जिसके द्वारा श्री P.K. Bhattacharya C/man 'A'

(Fdy & PM) T.No. E-2 रेल फर्मारी का नाम और पदबाम के विशेष विद्वारित आरोपों के संदर्भ फर्के का व्यापार 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.



SN

- 485

C O P Y

(AS3)

To

The Addl. Chief Mech.Engineer (W)

N.Rly. Loco ,/Charbagh

Lucknow.

SUB:- Assault by C/man Shri

P.K. Bhattacharya.

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. Bhattacharya 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.

Smy Yours faithfully,

Sd/- S.C.Saha

Dt. 14.9.1981 Asstt. Shop Supdt.
Fdy & Pattern Shop
NR/Loco/CB/LKO.



8/57

ASU

V/S

विद्वतीय प्रतिलिपि

स्टैम्प शाबा आलमबाग लडाकु

शाबा आलमबाग लडाकु

610

दिनांक 14-9-81 समय 14-10 बजे

श्री एस० सी० सहा पुत्र श्री स्व० जे० एब० शाहा
और / औ ।।। 38 सी० रेतवे डीजल फालोबी शाबा आलमबाग
मुलाजिम ए० एस० एस० कुडिल्डी लोको शाप चारबाग लडाकु ।

1 - श्री प्रेम कुमार मटारिया पुत्र । अटाब । रेतवे फालोबी
पूंजाब लगर फालोबी मुलाजिम चार्जमैन फाउन्डी लोको
चारबाग, शारा 323/ 506 आई० पी० सी०
594

14-9-81 समय 9-20 ए०एम० मरे द्वास फाउन्डी के
दृष्ट तर के अन्दर

2 - श्री के० एब० क्षूर पुत्र श्री टदारिका बादा क्षूर आर /
औ सी 26 ए क्तेह आली तालाब शाबा आलमबाग जिला
लडाकु तथा अन्य लोग मौके पर पेशा क्षेत्र ।

वादी द्वितीय पर आख्ल सूचबा बीजवाबी बूँझित कराये कि मैं
ए९एस०एस० पढ़ पर फाउन्डी लोको शाप में पद पर नियुक्त हूँ पर
वर्दत बकूआ मुलाजिम उपरोक्त जो मेरे वर्कशाप में चार्जमैन के पद पर
फाम करता है । मुझसे आकर फहने लगा तु मेरी डियूटी फाउन्डी में
लगागै । मैं फहा इस का मालिक मैं बही हूँ इसके मालिक प्रौद्योगिकी
इन्डस्ट्री नियर है । ठसी बात एर बारांज होकर मुझे एक शापड़ मारा
तथा बंरी बंरी गालियां दीं । और जान माल की दामफी दिया ।
मुझे बवाह तथा अन्य लोगों के आकर बवासा । इतला देने आया हूँ ।
जो बोला तिछा गया सब ठीक है । हस्ताक्षर बबाता हूँ ।

६० एस०सी० साहा

दिनांक 14-9-81



- 50 -
ASS *W.G.*

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. 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,

S.

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.

1/59

(AS6)

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.KnN.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. Bhattacharya E-2
5.10.81.

C/man M.C. Cell.



✓
60
ASR

YJ

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. 4.

Northern Railway

No. PC/PKB RAD dated 17.12.1981

Sh.P.K. Bhattacharya 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.

Commissioner for Patents
High Court, Allahabad
8.8.85
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

X
61
52

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 Mech. Eng. (W)

CB/LKO.



SMW

ASQ-
62

Y53

-3-

Enclosure to Letter Dt. 17.12-81.
1.

True Copy

S.O.No. 63

Since clinker reclamation Section of B/Fdy. has been closed down for a temporary period till such time Sri P.K. Bhattacharya C/men 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 Bhattacharya has been informed verbally accordingly.

Sd/- K.N. Kapoor

28.8.1981.

Shr



- SS-
A/63
Abc
SM

-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.

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 Mech. 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 -
X6
(A61) 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 --- 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



SMW

X6 (A62) 34

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



Shw.

16

163

15

- 3 -

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.



Shy

~~ABY~~

ABY

JS

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.



Sh

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

~~68~~ (A65) 251
- 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. Bhattacharya

E- 2
17.5.1982.
Sr. C/man M.C. Cell.

8m



X
69

A66

60

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. 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.

Swy



A/X

A/67

61

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. P/6/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.

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



A/X

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 Charhabagh 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 & Patt 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

SMY

-64
A69
63

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 P.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 P.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 ASS/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

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) Shr K.N. Kapoor's evidence having thus being proved biased concocted and therefore, not at all maintainable and another 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 Alambagh Police Station is also a proof of there being no material behind his allegations of being slapped abused and threatened with dire consequences.



Shy

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

~~471~~ 471 165
- 6 -

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. Charge man M.C. Cell.

D.A.

Copiew of the two
letters Dt. 13.2.81

28.2.81

and 11.9.1981.



Shy

X/2

APD

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 skilled post wanted his designation to be changed from skilled carpenter to skilled wood machinist (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 Locb Shops & in the office of the Charge-man Pattern Shop in the presence of the undersigned.



Shy

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/NRMU/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.N. 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.

Sly
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

~~AK~~

A74

68

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, 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 Charge man Patt Shop.
13.2.81

~~AP~~

(AP)

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.



Shy

- 2 -

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.

Sir 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. Bhattacharya

DA one leave
application form

11.9.1981.

C/mn E - 2.



- 72 -
X/60
APR

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. 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 in-
formed 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 prose-
cution witness etc. You have also been given
enough opportunity and time to submit the



S. S. S.

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 finalisation 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 18.9.1982 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



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.f. 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



✓
83

✓
Add
74

- 4 -

with a request that before you proceed with the enquiry any more by reopening it, the suspending authority is requested to ~~an~~ 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.

Sw



76
X EM AD ✓ 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.

ANEXURE 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.



43

76

430

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



Shy

40

-3-

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 alongwith 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 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

76

76 184

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 Bhattacharya 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 Bhattacharya 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.

✓
✓
- 5 -

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



✓
✓
Shy

X
89Y
90
(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 Bhattacharya, 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-



Shy

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



Shy

- 8 -

✓ 82/100

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



9 ANSWER

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 his 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 . SriBhattacharya failed to submit the same on one pretext or other simply to prolong 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

AB

PAO
SY

of proceedings.

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

FINDING

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

✓/AU

VSS
RHM

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. 9.

NORTHERN RAILWAY LOCOMOTIVE SHOP CHARBAGH LUCKNOW

No. PC/PKB

Dated 24.1.1983.

Sri P.K. Bhattacharya,

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

SC
8.8.82

High Court of Judicature at Allahabad

- 2 -

Chargeman '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.

S. H. S.

8/80

Y 87 (AB)

Enclosure to Annexure No. 9

Disciplinary Authority's
Findings.

I had issued orders vide my noting dated 13.12.82 at PP-18 that Sri P.K.Bhattarya C/man 'A' (Fdy/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 Bhattarya'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 Bhattarya has not availed of on his own accord.

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

Shri Bhattariya 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.



In the Hon'ble High Court of Judicature at

ALLAHABAD

Lucknow Bench Lucknow.

Writ Petition No. of 1985.

P.K. Bhattarya

Petitioner

Ver sus

Union of India & others --- Opposite Parties.

ANNEXURE No. 10

NORTHERN RAILWAY LOCOMOTIVE WORKS CHARBAGH,

L U C K N O W

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 10.8.1983

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 addressed to the Additional Chief Mechanical Engineer (W) Charbagh Lucknow is given below for your

S. K.



✓/as

-2-

information.

SUB:- Appeal of Sri P.K. Bhattacharya 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. Bhattacharya 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. Bhattacharya. Action may be taken accordingly and Sri Bhattacharya may be advised of the decision.



Shy

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

(91)

W. P. No.

of 1985

91

(96)

व अदालत श्रीमान्

[वादी] अपीलान्ट

श्री
प्रतिवादी [रेस्पाडेन्ट]



महोदय

गलतनामा

1985
रामेश्वर
petitioner

P. K. Bhattacharya

टिकट vs.

वादी (अपीलान्ट)

Union of India and others

opp. Parties

बनाम

प्रतिवादी (रेस्पाडेन्ट)

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 फरीकेन नाम
मुकद्दमा नं०

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 प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या मुलहनामा 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 को 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 हूँगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह बकालेतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १६

ई०

स्वीकृत

X/100
(P)

In the Hon'ble Central Administrative Tribunal

Circuit Bench, Lucknow.
M. P. No. 195/91 (L),
Civil Misc. Application No. of 1991 (L)

In Re:

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

Ex for 3-S-91

Sri P.K. Bhattacharya

...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.

*R
Filed today
S
11 Jul 91*

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: 14.91

Anil Srivastava
(ANIL SRIVASTAVA)

Advocate,
Counsel for the Respondents.

*Received one
copy on date
11/10/91
(P.K. BHATTACHARYA)*

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

Amrit Sivash
Adv

11/4/91

A/101
ADM

In the Central Administrative Tribunal,
Circuit Bench, Lucknow.

T.A. No. 1919 of 1987

(W.P. NO. 4045 of 1985)

Sri P.K. Bhattacharya 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, do hereby solemnly affirm and
state ~~as above~~ 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.

22/7/91
मुख्य अधिकारी अधिकारी
द्वारा दे इन कार्रवाना
चार्चगढ़, लखनऊ
Dy. C.M.E. (W)
N.R./Loco/C.B./Lko.

Contd....

2. That the contents of para 1 of the writ petition do not call for any reply.
3. That the contents of para 2 of the writ petition are misleading ~~xxxk xke xxkkizant~~ and as such denied. It is further submitted that the applicant was working as Charge man M.C.C. and not in Pattern shop.
4. That the contents of para 3 of the writ petition are denied. It is further submitted that any alleged remark without any proof has got no authenticity. Also there is no evidence on record that the applicant drew attention regarding alleged irregularities.
5. That the contents of para 4 of the writ petition are wrong and as such denied. It is submitted that Sri B.D. Sharma appeared in the test and he passed the trade test for the post of Machinist. The complaint of the applicant was considered by the competent authorities and they found no substance in it. As such mere assumption of the applicant cannot be given any credit.
6. That the contents of para 5 of the writ petition are not admitted. It is further clarified here that inter-section transfers a

[Handwritten signature]
S. C. S. K. S. A. M. S. T. A.
Chittaranjan Locomotive Works
N.E.Loco/C.B.Loco
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 ~~harming~~ 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.

महाराष्ट्र राज्य विधान सभा
मंडल से इन कार्रवाना
चारवांग, लखनऊ
By C.M.F. (W)
N.R./Loco/C.B./Lko.

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

A
104

102

22/5/91
नियमित अभियन्ता
उद्देश्य का इनका कारणाना
चारतारा, लखनऊ
R.Y.A.M.I. (W)
N.K./Loco/C.B./Lko.

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 Charge man 'A' is JA Grade Officer and not the General Manager as alleged by the petitioner.

[Signature]
संस्कृत विद्यालय
प्र० रे इन्हें अभियन्ता
मान्यता
By / M. P. (W)
N.R./Loco/C.B./Lko.

Atoe

Atoe

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 record 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

22/3/91
महाराष्ट्र राज्य अधिकारी
कारबाहा
चारवाहा, लखनऊ
Iy / M.F. (W)
N.R./Loco/C.B./Lko.

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.

मा. महान् योगीकार समियन्ता
उत्तरोत्तर राज्य विधानसभा
चालागां, लखनऊ
By C.M.F. (W)
N.F./Loco/C B./Lko.

Contd.....8

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 respond, 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

22/3/91
जा मर्यादा अधिकारी
उत्तर प्रदेश रेलवे
कालांग, लखनऊ
By C.M.F. (W)
N.R./Loco/C.B./Lko.

Contd.....9

Ann. C-1

13.12.82 for giving his statement. 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.

[Signature]
27/3/91
राज्य पर्यावरण विभाग
सरकारी राज्य पर्यावरण
मंत्रालय, नवाद
By M.P. (W)
N.K./Loco/C.B./Lko.

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

Contd.....10

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 1.5.82 which are enclosed herewith as Annexure No. C-2 and C-3 to the present reply 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.

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.


चा.प्रा.गोवक अधिकारी
उ.रे.रे.इन्स्पेक्टर
सिपाही, लोक
By C.M.F. (W)
N.R./Loco/C.B./Lko.

Contd.....11

- 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

II मानव संविकास अभियान
कोर्ट रोड, कुमाऊ

लैटर, लैटर
N.R. Hocco/C.B./Lko.

Contd....., 12

Allot

X
111

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 begining 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 Sahay, 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 Sahay, the complainant, but the petitioner did not do this. There is no procedural flaw in allowing Sri S.C. Sahay, the complainant to be present during the entire enquiry.

27/7/82
S. C. Sahay
S. C. Sahay
P. Y. C. M. F. (W)
N. B. / Loco/C. B. / Lko.

Amendment No C-1

बी.एल. 19/G.L. 19
बतरा 99-वा/Genl. 99-Large

उत्तर रेलवे/NORTHERN RAILWAY

(6)
A129

Office of the
Addl. Chief Tech. Engineer (W)
Locomotive Workshop,
Charbagh, Lucknow.

No. PC/PKB

dt/- 13.12.1982.

Sri P.K. Bhattacharya,
Chargeman 'A' (Fdy/PM)
under Suspension,
Qr. No. E/5D,
Punjab Nagar Colony,
Charbagh,
Lucknow.

Reg:- Enquiry under P & A Rules.

Ref:- Your application dt. 13.9. 82 / Smt. 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.

10
C. H. D. (H.D.)
Production Engineer
Charbagh, Lucknow.

A
122

(22)

Amritsar Mo. C-2

14-3-1947 5.50 P.M.
1. 12th Avenue, 92 Street

(22)

THE NORTHERN RAILWAY

No. 82/0 KB

Letter 10-682

Re: The Amritsar, The 22

Chowk B (Guru Nanak) under construction.

Govt. E-3/D,

English Mys Colony,

Off. Deodars.

Sub: Building under Double.

Re: Your application dt. 17-5-47

NORTHERN RAILWAY
उत्तर
प्रभाग

As the application enclosed
with form 3 (1) and (3) to (VII) ^{is}
above lines do not appear to ^{be}
been received in this office, ^{so}
Please copy of the same immediately
to enable me to consider your
application.

With Kind regards
Engineering Office
(Guru Nanak Nagar),
Amritsar, 102.
16-6-47.

7/2/22

A122

Annexure No C-3.

मुद्रा रेल नॉर्थर्न रेलवे नं २०२
नॉर्थर्न रेलवे नं २०२

(38)

No. PC/32B Date 20-6-52

Sri P. L. Bhatnagar, Tivra E/2

Chandigarh (Punjab) - under suspension,

Gr. No. E/3D, Puniyak Nagar Colony,

CB/ Suspension.

Enc: Enquiry under D.J.A. Rule,

Ref: Your application dt. 12.5.52 / S.no 33

Please refer to this office letter

of this no. dt. 16.6.52. It is observed

that you have not yet submitted

the copies of the your application

asked for therein.

It is therefore desired that
the same may be submitted by
21st Oct 1952 failing which the case
is functioning again.

Very truly yours

Colonial Officer

(Colonial Officer)

Colonial Officer

Colonial Officer