

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

A/2

FORM OF INDEX

O.A./T.A./R.A./G.E.P./ No.

1940-1987

D.P.O. NR. Lko. Vs. U.O.I

PART - I

1. Index Papers :- 1
2. Order Sheet :- 2 to 6
3. Any other orders :- —
4. Judgement :- 7 to 9 dt 4/8/92
5. S.L.P. :- —

22/11/12
DY. Registrar

Supervising Officer
(Kulbir Singh)

Dealing Clerk
(Girish Srivastava)

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

- 1- Index sheets. A1 to A2.
2- order sheets A3 to A6.
3- Judgement order dt. 4-8-92 A7 to A9.
4- writ Petition/Annexure A10 to A34
5- Power A35
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8- C.A. No. 2. A38 to A41
9- Notices/Power/others Apper.

Dealing Clerk
(Girish Srivastava)

V.K. Mishra

Recheer
on 21-3-12

20/5/12

File B/C destroyed on 09-5-12.

CIVIL

SIDE

CRIMINAL

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case

WS. 4821-85

Name of parties

Divisional Personnel Officer, vs. Central Govt Labou et

Date of institution

20-9-85

Date of decision

File no.	Serial no. of paper	Description of paper	Number of sheets	Court-fee		Date of admission of paper to record	Condition of document	Remarks including date of destruction of paper, if any
				Number of stamps	Value			
1	2	3	4	5	6	7	8	9
					Rs. P.			
	1-	Imp with Assign and affidavit	27		162.00			
	2-	Power.	1-		5.00			
	3-	Comd 10874(10) of 85 Jo by	1-		00			
	4-	ack sent-	1-					

(626)

CA //

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

Munsarim

Clerk

Date

Honble K. S. Varma, I

Admit Notice on
behalf of opposite party no. 1
has been taken by
the learned Standing
Counsel. Issue notice
to opposite party no. 2

In case the petitioner
deposits a sum of Rs. 5790. ~~tot.~~
within one month the
execution proceedings
~~relating to the said~~
~~amount~~ shall remain
stayed. The amount may be
deposited in the office of
opposite party no. 1.

GV

20th 9.1985

ORDER SHEET

REGISTRATION No. 1940 of 1987.6

APPELLANT
APPLICANT

DPO

(3)

VERSUS

DEFENDANT
RESPONDENT

C. Govt Liban

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
30/10/89	<p><u>Hon' Mr. D.K. Agrawal, J.M.</u></p> <p>None appears for the parties. List this case on <u>9.1.90 for orders.</u></p> <p><i>D.M.</i></p> <p>(sns)</p>	<p>OR</p> <p>re</p> <p>from 30 Oct for order</p>
9/19	<p>No sitting Adj. to</p> <p>Notices were issued to the counsel by the office at Alld. None is present. Let notice be issued again to the parties as well as counsel as directed by Hon'ble Mr. D.K. Agrawal J.M.</p> <p><i>h</i></p> <p>9/11/90</p>	<p>on</p> <p>not for 19</p>
9.3.10	<p>No sitting adjourn to 16.5.90 at order</p> <p><i>ch</i></p> <p>Proc</p>	
16.5.90.	<p>No sitting Adj. 21/8/90</p> <p><i>B.O.C.</i></p>	
21/8/90	<p>No sitting Adj to 30-10-90</p> <p><i>ch</i></p>	

31.1.92

Case no. 1. received by to
5.3.92

2

NOCA/RA
5 Filed
SPO

5.3.92

Hon Mr Justice V.C.S., VC

Hon Mr D.B. Gough, DM

5.3.92

No counter has been filed
so far. It appears that the
respondents are not interested
in filing a response. but
for final hearing on 18.5.92

B
DM

VC

on
NOCA to
8
13.5

18.5.92

Hon Justice V.C.S., VC

Hon Mr H. Gough, DM

Mr K. C. Trenchard, Counsel
for applicant states that
he has received copy of
counter today. Response may be
filed within 2 weeks. but this
case for hearing on 23.7.92

B
DM

VC

23.7.92

No S. King of D. M. G. M.

3.8.92

2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW

O.A. NO. 1940/87 199 (L)

T.A. NO.

Date of Decision 4, 8, 92

Divisional Personnel Officer, PETITIONER.
Northern Railway.

Shri K.C. Johri Advocate for the Petitioner(S)

V E R S U S

Central Govt. Labour Court, Kanpur. RESPONDENT.

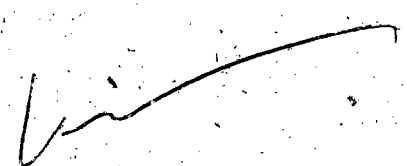
Shri Farooq Ahmed Advocate for the RESPONDENT(S)

CORAM

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

The Hon'ble. Mr. R. Ubayya, Jm. Member.

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


Vice-Chairman/Member

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

②

T.A. No.1940/87

(Writ Petition No.4821/85)

Divisional Personnel Officer,
Northern Railway.

Applicant.

versus

Central Govt. Labour Court,
Kanpur.

Respondents.

Shri K.C. Johri-Counsel for Applicant.

Shri Farooq Ahmad-Counsel for Respondent No.2.

CORAM

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, Adm. Member.

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

The above case has come on transfer to this Tribunal from High Court, where it was instituted in the year 1985. The o.p. No.2 was placed under suspension on 22.2.1976 as he was involved in a criminal case which ended in conviction and he was removed from service on 13.2.1980 w.e.f. 20.2.80. The suspension order was revoked and the period of suspension was treated as not spent on duty. The opposite party No. 2 was acquitted by the appellate court on 24.6.1980 and he was reinstated on 27.10.80. Then he filed a claim under section 15 of the Payment of Wages Act. The prescribed authority under Payment of Wages Act dismissed the claim of the applicant on 21.7.81 on the ground that it was barred by time. The o.p. No. filed appeal before

the District Judge, Lucknow under Section 17 of the Payment of Wages Act. The appeal was partly allowed and it was held that the o.p. No. 2 was entitled for wages for the period of 22.2.80 to 26.10.80 but he dismissed the claim for suspension period i.e. from 20.2.1976 to 19.3.77. Thereafter, it appears that the o.p.No. 2 did not take any action and did not challenge regarding the suspension period i.e. 20.2.76 to 19.3.77 and thus, he was not awarded the compensation for the dismissal period i.e. 22.2.80 to 26.10.80. He filed appeal under section 17 of the Payment of Wages Act which was allowed by the IV Additional District Judge vide order dated 10.5.83. It was thereafter the o.p. No. 2 moved an application under section 33(C-2) of the Industrial Disputes Act, 1947. The said application was allowed against which the Union of India filed writ petition in the High Court which has come on transfer to this Tribunal, being the present T.A.

2. The learned counsel for the petitioner contended that when the applicant had earlier submitted the case under Payment of Wages Act it was not open for the applicant to raise the said contention again. Proceedings under section 33(C-2) are not maintainable. He has referred to the case of P.K.Singh and others versus Presiding Officer and others (1988 Supreme Court (L&S) 817 in which it has been held:


"Labour Law-Industrial Disputes Act, 1947-
Section 33-C(2) and 19(1)-Where workman's claim under section 33-C(2) cannot be disposed of unless his right to such claim is first adjudicated on a reference under section 19(1)

his application under Section 33-C(2) not maintainable."

There cannot be any dispute regarding proposition of law. The question here is very crystal clear. No relief could be granted. The respondent No. 2 was acquitted and if a party is exonerated by the criminal court for any reason whatsoever the period will be treated as if he was on duty and will be treated as on duty and will be entitled for full salary for the suspension period even if there are certain flaws. The respondent's claim was barred by ~~the~~ time. It is open for the Railway Administration, which is a model employer, to make payment to the respondent No. 2 and should not shelter behind the limitation and technicalities and the factual position is quite clear. In the case of Brahm Dutt Gupta vs. State of Haryana (AIR 1972 Supreme Court 2472) it has been stated that if order affects employee financially, it must be passed after giving him full opportunity to make out his case.

3. Accordingly, the applicant is directed to pay full salary to the respondent No. 2 during the period the respondent No. 2 was placed under suspension and the applicant should not take shelter behind the Law of Limitation.


Adm. Member.


Vice Chairman.

Lucknow: Dated: 4.8.92.

Shakeel/

Group: A - 13 (K) ^A/₁₀

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

LUCKNOW BENCH, LUCKNOW.

WRIT PETITION NO. 4821 OF 1985

1. Divisional Personnel Officer (M),
Northern Railway, Lucknow Division,
Lucknow and another. --- Petitioners.

Versus

Central Government Labour Court, Kanpur
and another. --- Opp. parties.

I N D E X

S.No.	Description	Pages
1.	Writ Petition	1 - 6
2.	Annexure No.1 (True copy of order dated 10.5.83 passed by IVth Addl. District Judge, Lucknow.)	7 - 11
2.	Annexure No.2 (True copy of application dated April, 82, regarding claim for wages of the suspension period).	12 - 15
3.	Annexure No.3 (True copy of the Written Statement)	16 - 19
4.	Annexure No.4 (Certified copy of the order dated 23.5.85 along with application dated 26.7.85).	20 - 24
5.	Affidavit	25 - 26
6.	Stay Application	27 -
7.	Power	28 -

Lucknow;

Dated: September 20, 1985

(K.C. Jauhari)
Advocate

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

Writ Petition No. 4821 of 1985.

1. Divisional Personnel Officer (M), Northern
Railway, Lucknow Division, Lucknow.

2. Union of India through General Manager,
Northern Railway, Baroda House, New Delhi.

... Petitioners

सुप्रीम कोर्ट
नया
Versus

1. Central Government Labour Court, Kanpur.

2. Abdul Gafoor Khan, aged about 55 years,
son of Sri A.S. Khan, resident of Bashi-
ratganj, P.S. Naka Hindola, Lucknow.

... Opposite-Parties

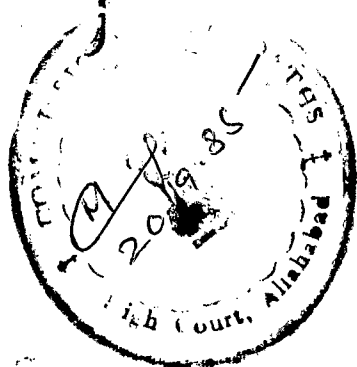
WRIT PETITION UNDER ARTICLE 226

OF THE CONSTITUTION OF INDIA

The abovenamed petitioners respectfully
state as under :-

1. That the present writ petition arises
against the order passed by the opposite-party
no.1 in a proceeding under Section 33 (C-2)
of the Industrial Disputes Act, 1947.

2. That the opposite-party no.2 is an
employee of the petitioner no.2 and has been



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period from 20.2.80 to 28.10.80 with compensation which was registered as case no.112 of 1981.

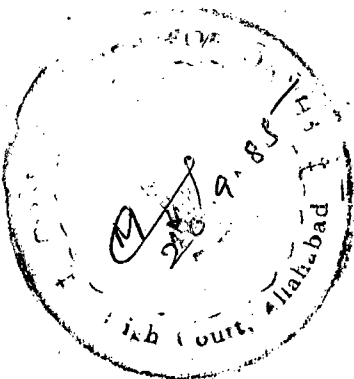
8. That the Prescribed Authority vide his judgment dated 21.7.81 dismissed the claim as time barred.

9. That the opposite-party no.2 being aggrieved of the aforesaid order went in appeal under Section 17 of the Payment of Wages Act before the learned District Judge, Lucknow which was registered as M.C.A. NO.265 of 1981.

10. That the learned District Judge, Lucknow vide his judgment dated 2.3.1982 partly allowed the appeal. He held that the opposite-party no.2 was entitled to wages for the period of 22.2.80 to 26.10.80 but he dismissed the claim for suspension period i.e. from 20.2.76 to 19.3.77 (the period in dispute).

11. That the opposite-party no.2 did not challenge the aforesaid dismissal order regarding the suspension period i.e. of 20.2.76 to 19.3.77 which stands as confirmed.

12. That the opposite-party no.2 was not awarded the compensation for the dismissal period i.e. of 22.2.80 to 26.10.80. Being aggrieved he preferred an appeal under Section 17 of the Payment of Wages Act which was allowed by the IV Additional District Judge vide his order dated 10.5.83 the true copy of which



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is marked as Annexure 1 to this writ petition.

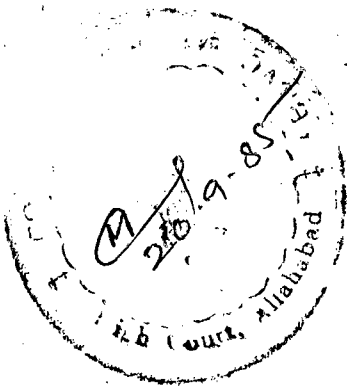
13. That the opposite-party no.2 then in April 1982 moved an application under Section 33 (C-2) of the Industrial Disputes Act, 1947 before the opposite-party no.1 making a claim for the wages of the suspension period i.e. 20.2.86 to 19.3.1977 which was rejected by the Prescribed Authority as confirmed by the appellate Authority under Payment of Wages Act. The true copy of the application is marked as Annexure 2 to this writ petition.

14. That the petitioner contested the aforesaid application on several grounds, the true copy of the written statement is marked as Annexure 3 to this writ petition.

15. That the learned Presiding Officer after hearing the arguments of the parties reserved the judgment.

16. That the opposite-party no.2 gave an application dated 26.7.1985 along with a photostat copy of the order dated 23.5.85 which was received by the Litigation Cell of the opposite-party no.1 on 31.7.85. Here to mention that the certified copy was issued on 12.7.85. The said copy is marked as Annexure 4 to this writ petition.

17. That being aggrieved of the aforesaid order and there being no other alternate



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remedy left the petitioners prefer this Writ
Petition on the following amongst other grounds :-

G R O U N D S

(A) Because the learned opposite-party no.1 committed an illegality in ignoring the specific provision of Section 22 of Payment of Wages Act which bars the suit for recovery of wages in so far as the sum so claimed has been adjudged in the proceedings under Section 15 of the Payment of Wages Act which was not only rejected by the Prescribed Authority but was confirmed by the appellate authority as well.

(B) Because the learned opposite-party no.1 committed an illegality in ignoring the fact that the opposite-party no.2 is not entitled for any benefit of claim sought for when it was decided by the competent authority which remained unchallenged.

(C) Because the learned opposite-party no.1 acted beyond the jurisdiction vested by Section 33 (C-2) of the Industrial Disputes Act ignoring the fact that since a proceeding under Section 33 (c) (2) of the Industrial Disputes Act is in the nature of an execution proceeding it should follow that an investigation of the nature of determination to the right of the opposite-party no.2 and corres-

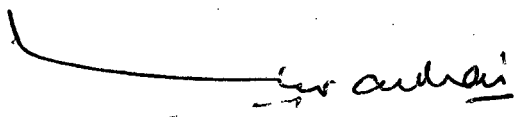
pending liability of the petitioner is outside the scope of Section 33 (C-2) of the Industrial Disputes Act.

WHEREFORE the petitioners pray for the following reliefs :-

- (i) That a Writ, Order, Direction or Command in the nature of Certiorari be issued directing the opp. party no.1 to produce the record in original quashing the order dated 23.5.85 passed by him and embodied as Annexure 4 to this writ petition;
- (ii) That a writ, order, direction or command in the nature of Mandamus be issued directing the opp. party no.1 to execute the impugned order dated 23.5.1985.
- (iii) That any other that be just and proper in the circumstances of the case be also passed;
- (iv) That entire costs of the petition be also awarded to the petitioners.

Lucknow, dated :

September 20, 1985


(K.C. Jauhari)
Advocate

Counsel for the Petitioners

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

W.P. No. of 1985

Divisional Personnel Officer (M),
Northern Rly., Lucknow Division,
Lucknow and another. --- Petitioners.

Versus

Central Govt. Labour Court, Kanpur,
and another. --- Opp. Parties.

ANNEXURE NO. 1

In the Court of the IVth Additional District Judge, Z
Lucknow.

Present :- Sri S.P. Agarwal, Judge.

M.C.A.No. 137 of 1983

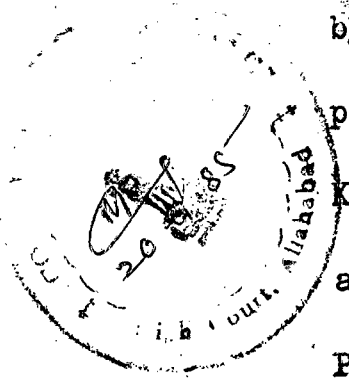
Abdul Gaffoor Khan --- Appellant.

Versus

D.P.O. Northern Railway and another --- Respondent.

COPY OF JUDGEMENT

This appeal is against the order dated 5.5.1984
(Wrongly typed as 15.5.82 in the ground of appeal) passed
by Sri D.P. Sharma prescribed authority V/S 15 of the
payment of wages act. in Case No.112/1982 Abdul Gaffoor
Khan Vs. Divisional Personal Officer, Northern Railway
and another. Whereby he granted the payment of Rs.7053.85
Paise as wages for the period 20.2.1980 to the appellant
Abdul Gaffoor Khan and did not grant to relief towards
compensation.



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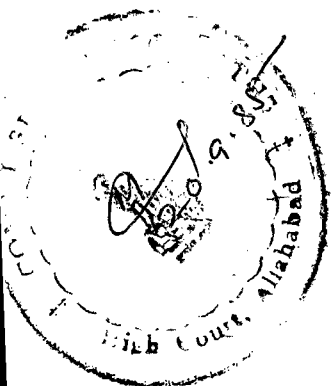
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Here in this appeal, the appellant Abdul Gaffoor Khan does press only the point of Compensation. Before proceeding further I may lay that Sri Abdul Gaffoor Khan was a diesel assistant in Loco Running Shed of the Northern Railway, Lucknow. Whose salary is to be paid by the Divisional Personal Officer. It is also on the record that Abdul Gaffoor Khan faced WS Criminal Trial during which he was placed under suspension on 20.2.76 and was paid half of his wages as subsistence allowance. Later on suspension order was withdrawn on 20.3.77 but on his being convicted by the Judicial Magistrate on 16.5.79, Abdul Gaffoor Khan was dismissed from services administratively on 13.2.80, with effect from 20.2.80. In appeal he was acquitted of the Criminal charge on 24.6.80 and was then reinstated on 27.10.80. During the period of dismissal from 20.2.80 to 6.10.80 he was not paid any wages.

Shri Abdul Gaffoor Khan made a claim on 5.5.1981 before the prescribed Authority for recovery of wages in respect of two periods.

- (I) the suspension period from 20.2.76 to 19.3.77 and
- (II) the dismissal period from 20.2.80 to 29.10.80 with compensation.

The prescribed authority vide judgment dated 27.7.81 dismissed the claim as time barred Abdul Gaffoor Khan went in appeal giving rise M.C.A. No.1981, that appeal was allowed by the learned District Judge on 2.3.82 in the manner that the appellant Abdul Gaffoor Khan was held



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entitled to wages for the period 20.2.80 to 26.10.80 and the matter was sent back to the prescribed authority to make payment to the Abdul Gaffoor Khan in accordance with law.

After this remand of the case the prescribed Authority again decided it vide judgement dated 5.5.1982 thereby granting payment of wages for the period 20.2.80 to 26.10.80 and nothing more. Aggrieved by this judgement, Abdul Gaffoor has preferred the present appeal being M.C.A. No. 137 of 1982.

As stated above the appellant did not press his claim for the wages of the days i.e. 26.10.80. Hence the grant of wages by the prescribed Authority for the period 20.2.80 to 26.10.80 is hereby confirmed.

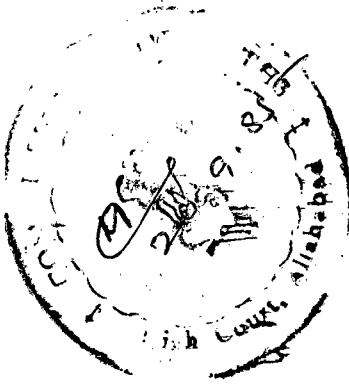
Now the point arises whether the appellant is entitled to any compensation. On this point to finding has been recorded by the prescribed Authority despite the fact that the learned District Judge in the Judgment in the appeal No.265/1981 has directed that the payment should be made in accordance with law and also that Abdul Gaffoor Khan appellant has demanded Compensation besides wages. This fact is not disputed from the side of respondent that it is a case of "amount deducted and sub-section (3) of Sec. 15 of the payment of wages Act, 1936 is applicable to the present case also so far as the grant of compensation is concerned and the amount of compensation may be

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max upto 10 times of the amount deducted. No guidelines are given. However this much is clear that the amount of wages for the period 20.2.80 to 26.10.80 was deducted for the reasons that the appellant has been convicted and his matter was pending in appellate Court before the Additional Sessions Judge. This amount was not paid to him despite request made from his side. Naturally he must have suffered not only financial losses but also, mental agony because of the non-payment of wages to him. The Judgement dated 24.10.80 passed by Additional Sessions Judge. Shri Dinesh Chandra in appeal No. 125 of 1979 whereby the appellant Abdul Gaffoor was acquitted of the Criminal charge of theft of the Railway property does show that it is a case of clear acquitted for want of independent evidence. This fact is also worth noticing that Railway is a big organisation and apparently there could have not been any case of personal grudge and .. on the part of any of the Authorities against the appellant Abdul Gaffoor. Thus giving due consideration to all the facts and circumstances and also to this fact that in case of remand of the case to the Prescribed Authority for deciding on the point of compensation, the case would further linger on. I think that ends of justice would fairly be met if the amount deducted is further granted by way of compensation the amount so deducted for the period 20.2.80 to 26.10.80 is



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(Rs.7053.85P.). The amount of compensation thus also comes to Rs.7053.85 paise. The appeal succeeds substantially, no doubt in part.

O R D E R

The appeal is allowed and the impugned order of the prescribed Authority is modified in the manner that Abdul Gaffoor appellant is also entitled to compensation to the June of Rs.7053.85 paise. Cost of the appeal shall be borne by the parties.

Sd/-

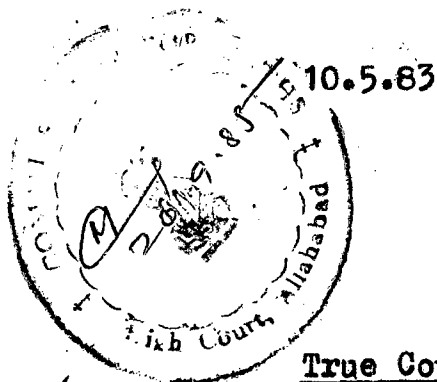
10.5.83.

(S.P. Agarwal)
IVth Addl. District Judge,
Lucknow.

Judgment signed dated and pronounced in open court, today.

Sd/-

(S.P. Agarwal)
IVth Addl. District Judge,
Lucknow.



True Copy

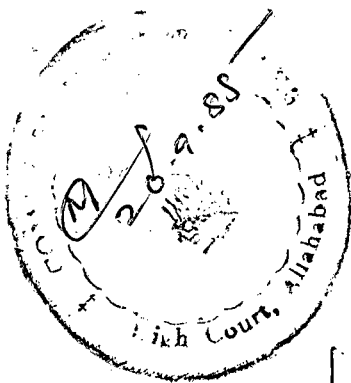
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The applicant aforementioned begs to submit as under :-

1. That the applicant is a shunter Gr. Rs. in Loco Shed Lucknow, Northern Railway.
2. That the applicant was suspended on and from 22.2.1976 due to a criminal case against him. He was convicted by the trial court and he was removed from service with effect from 20.2.80. Prior to this suspension was removed on and from 20.3.1977.
3. That the applicant went in appeal against the order of the trial court under Section 374 Cr.P.C. and his appeal was allowed by Additional Sessions Judge, III Lucknow on 24.6.80.
4. That the applicant having been acquitted honourable from the Sessions Court, he was re-instated on duty but the opposite-parties failed to pay his dues for the intervening period.
5. That the applicant went against this under Section 15 of the payment of Wages Act in which the learned Prescribed Authority of the Lucknow Area dismissed his application.
6. That the applicant went in appeal to Distt. Judge, Lucknow from where his appeal was allowed in part i.e. in respect of removal period, but his money due for suspension period was held time barred.
7. That the applicant is entitled to receive his wages for the suspension period under



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do hereby verify that the facts as described
in paras 1 to 10 of this application are
true to my knowledge. Nothing material
has been concealed.

Sd/-

(Abdul Gafoor Khan)

Applicant

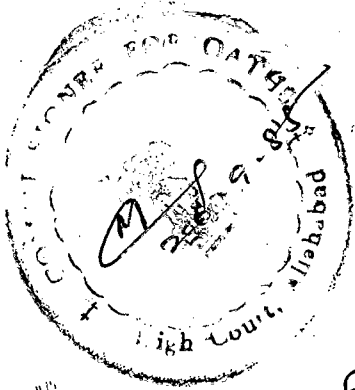
AUTHORISATION

I, Abdul Gafoor Khan, applicant, do
hereby authorise the B.D. Tewari, office
bearer of Railway Trade Union (Regd.) to
represent me in the above case.

Sd/-

(Abdul Gafoor Khan)

Applicant

TRUE COPY

Banaji

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

W.P. No. of 1985

Divisional Personnel Officer (M), Northern
Railway, Lucknow and another. --- Petitioners
Versus
Central Govt. Labour Court, Kanpur and
another. --- Opp. parties.

ANNEXURE NO. 3

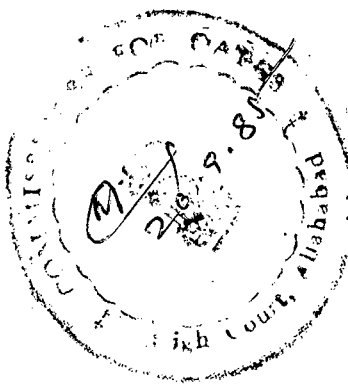
Before the Hon'ble Presiding Officer, Labour Court No. II,
Sarvodayanagar, Kanpur.

Abdul Gafoor Khan --- Petitioner

Versus

Divisional Personnel Officer & others --- Opp. parties.

Written Statement on behalf of the Opp. parties
against the application dated 7.4.82 under section
33(C-2) under Industrial Dispute Act XIV of 1947
moved by the applicant.



Para 1. Para 1 needs no reply.

2. Para 2 only this much admitted that suspension
of applicant was revoked on 17.3.2977 rest is
denied.

3. Para 3 can not be replied because no proper
pleading are given as such opp. parties

Amirji

reserves the right of reply when proper pleading is made by the ~~plea~~ applicant. YCB

4. Para 4 is wrong and denied please see additional pleas.
5. Para 5 can not be replied because no proper pleading were made hence opp. parties also reserve the right for reply when proper pleading is made.
6. Para 6 can not be replied properly please see additional pleas.
7. Para 7 is wrong and denied please see additional pleas.
8. Para 8 is wrong and denied please see additional pleas.
9. Para 9 has wrongly estimated value of the claim hence denied please see additional pleas.
10. Para 10 only this much is admitted that Railway is industry rest is denied please see additional pleas.
11. That the applicant is not entitled any relief claimed as such his application is liable to be dismissed with cost.

Additional Pleas

12. That the claim of the applicant is based by times as such his claim is not maintainable.

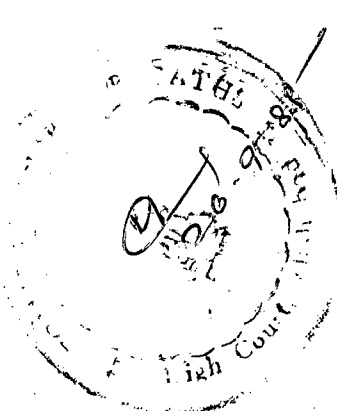
13. That the Hon'ble Court has no jurisdiction to entertain his claim because it does not come within the proview of section 33(C-2) of the Industrial Dispute Act-1947.



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14. That the wages claimed by the applicant does not come under the definition of wages in the Industrial disputes Act 1947 as such his application is liable to be rejected on this ground above.
15. That the applicant is estopped by plea of estopped that his claim for demanding suspension money as already been decided by the Hon'ble District Judge Lucknow, and held to be time barred as such he can not be entitled to claim of suspension money in this Hon'ble Court.
16. That the applicant is barred for claim of suspension amount before this court because he has appropriate remedy before the competent authority under Railway Servant Discipline & Appeal Rules - 1968.
17. That the applicant has not exhausted remedy in the Department as provided under Rule 2044 Vol.II of Railway Establishment Code as such his application is not maintainable.
18. That the applicant always try to harass the opposite parties.
19. That the applicant own case is that he lost the case of suspension period from District Judge, Lucknow as such he is not entitled for the claim amount.
20. That the judgment passed by the Hon'ble District Judge, Lucknow between the present parties has become final regarding this the suspension period wages. As



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the applicant has not challenged the order passed by the Hon'ble District Judge, Lucknow.

21. That the applicant has not come with clean hand as such he is not entitled for the relief claimed.
22. That the claim of the applicant is not maintainable and rejected with cost and special costs.

Lucknow, dated

Jan.21, 1985.

Sd/-
21-2

Union of India
Opp. Party No.2
through the Sr. DME, N.Rly.Iko.

Sd/-
Divl. Personnel Officer,
N. Rly., Lucknow,
Opp.No.1.

V e r i f i c a t i o n

I the above named opp.party no.1 do hereby verify that the contents of para 1 to 12, 15, 18 to 22 are true to my personal knowledge while the contents of para 13, 14, 16 and 17 are believed by me to be true.

Signed and verified above this on the 21st day of Feb. 1983 in office of D.R.M. (N.R.) Lucknow.

Sd/- 21-2
Opp.party No.1
through the Sr. DME, N.Rly,
Lucknow.

True Copy



Signature

In the Honble High Court of Judicature at Allahabad

Lucknow Bench - Lucknow ^{A 28} (20)

✓

W. P. No. - - - 1985

Divisional Personnel Officer, Mother's Reg.

Lucknow & others

Petitioners
Applicants

V.S.

Caribat Gout, Labour Court & others - Respondent
Off. Parties

Annexure No 4 ✓

①

To,

The Divisional Personnel Officer,
Northern Railway, Lucknow.

Sir,

Rg: Pay from 22-2-76 to 17-3-77.

Central Labour Courts decision on L.C.A.

No. 48 of 1982 in connection with the above case is
herewith enclosed for your kind perusal and compliance.

It is requested that the payment may kindly
be arranged as early as possible preferably within
next 15 days.

Yours faithfully

Dt; 26-7-1985

Attached: Judgement Photo-

Stat Copy .

A.G.Khan
(A.G.Khan)
Driver-C-Locoshad,
Lucknow.



(22)
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V3

BEFORE SHRI R B SRIVASTAVA PRESIDING OFFICER
CENTRAL GOVERNMENT LABOUR COURT, K A N P U R

L C A NO.48/1982

Shri Abdul Gafoor:

Workman

Versus

Divisional Personnel Officer
Northern Railway, Lucknow.

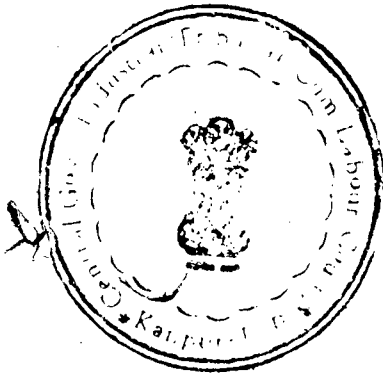
O r d e r

Applicant Shri Abdul Gafoor has moved this application under section 33(C-2) ID Act for computation of Rs.5790.10 paisa at the rate of Rs.450.80 paisa p.m. for the period 22.2.76 to 20.2.80.

Briefly narrated the case of the applicant is that he is Shunter Gr.B under the Railway management in Loco Shed Lucknow. The applicant was suspended on and from 22.2.76 on account of a criminal case against him and he was convicted by the trial court and as such he was removed from the service of the opposite party management w.e.f. 20.2.80 and prior to this his suspension was revoked on 20.3.77. The applicant went in appeal against his conviction and his appeal was allowed by the Additional Sessions Judge, Lucknow, on 24.6.80. The applicant having been acquitted was reinstated in service but the opposite party management failed to pay his dues for the intervening period. The applicant filed an appeal against this under sec. 15 of the Payment & Wages Act, which was dismissed by the Prescribed Authority. The applicant again went in appeal before the District Judge, Lucknow, against the order of the Prescribed Authority, and his appeal was partly allowed in respect of the suspension, but the money ~~xxx~~ due was held time barred. Lastly it is averred by the applicant that the interest on the money due be also computed.

The management has contested the application on the ground that the claim of the applicant is not tenable under section 33(C-2) ID Act; that his claim was held time barred; that proper remedy was before the competent authority, Northern Railway under Railway Servant Deciplinary Rules and lastly it is averred by the management that the applicant has not claimed under rule 2044, hence, it is prayed that the application is not maintainable.

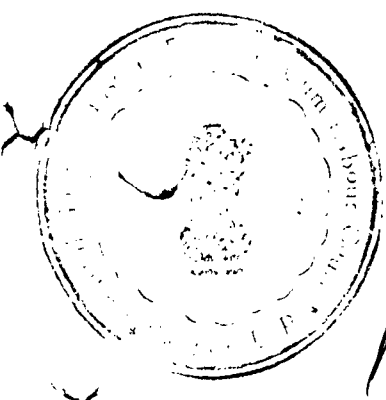
The workman has filed original letter dated 26.2.76 from Loco Foreman, Lucknow, that in view of massage recieved the workman should see Divisional Mechanical Enginer Lucknow on that very day. The workman filed copy of the application addressed to Sr.D.M.E. regarding his suspension order dated 10.3.76. He has requested that while of iciating as shunter he was placed under suspension as deciplinary proceeding was likely to come up. That ever since 22.2.76 he was under suspension and subsistance allowance at the rate of half pay was given to him without payment of admissible milage and that despite waiting for a considerable period under suspension no charge sheet was served on him and he is innocence in the matter. This application is dt. 1.5.76.



Signature

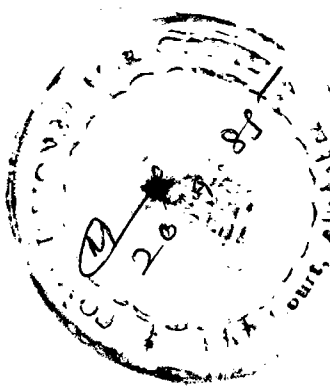
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The applicant was served with another order by call book dated 17.3.77 which was served on 20.3.77. That the suspension of the workman have been revoked with immediate effect. The workman has filed Ext.I, order of the Mech.Engineer Lucknow that on account of his acquittal it was decided to reinstate him in service with immediate effect, he may be fherefore, taken in the duty and orders regarding intervening period will be followed later on. The workman has filed the copy of the judgment of the Sessions Judge, Lucknow, acquitting the workman of the charge under section 3 of the Railway Protection Act.



The workman examined himself and has deposed that for the suspension period Rs.5790 is due as he was getting only 50 per cent suspension allowance during the suspension period. This amount comes at the rate of Rs.444/- and paisa 80 every month.

From the above averments it is clear that the workman while working as shunter Northern Railway Loco Shed Lucknow was suspended on 26.2.76 in connection with additional goods pilot no 5930 when the Senior DME called him in his office verbally. This suspension was revoked on 17.3.76 after the applicant submitted an appeal on 1.5.76. The management has not filed anything on record to show that this suspension was at all justified. Under rule 2044 B para 5 of the REC a competent authority i.e. Senior DME in the instant case was bound by the mandatory provisions to record a ruling as to how the payment of the suspension period was to be regularised and whether the suspension was being part wholly or partly justified. In case 50 per cent wages during the suspension period were ordered to be withheld further the competent authority had to show cause and accord an opportunity of being personally heard before passing the orders of withholding the increments.



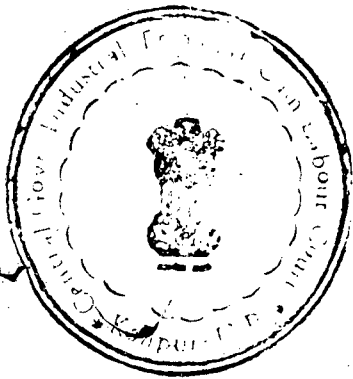
In the absence of this the payment so withheld would be deemed unauthorised deduction. The workman was also involved in a criminal case in which he was given benefit of doubt by the appellate court the judgment of which is on record. . The payments for the dismissal period have already been decreed against the railway management in the payment of wages act by the prescribed authority. The management has failed to show any justifiable reasons for withholding of balance of suspension allowances. If a man after suspension is reinstated and the allegations against him are not proved, on his reinstatement he should be treated on duty and not on leave. The Labour Court can go between any question whether the applicant has existing claim and right to receive such benefits. In AIR 1964 page 743 in the case of Central Bank Of India Versus P.S.Rajagopalan and others it was held:

Labour court can go into the question where the applicant had right to receive such benefits. Sub. sec. of section 33C under which the Labour Court can appoint A commissioner to take evidence for compute the benefits postulates that it has jurisdiction to decide whether the workman claiming the benefit was entitled to it when such a right is disputed by the employer.

Sd/-

The management having failed to show that the workman was paid the balance amount during the suspension period i.e. beside fifty per cent of the pay given to him as subsistence allowance, consequently calculating the rate supplied in his deposition and for the period claimed he is entitled to recover the amount from the opposite party / railway management.

I accordingly compute this amount i.e. 5790.10p at the rate of Rs.450.80 p.m. in favour of the applicant against the management / opposite party.



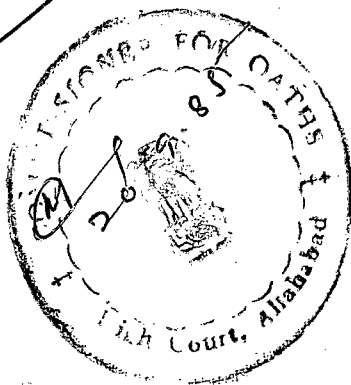
Dated : 12th June, 1985/

Sd/- 23.5.85
(R B SRIVASTAVA)
PRESIDING OFFICER
CENTRAL GOVERNMENT
LABOUR COURT, KANPUR.

CERTIFIED COPY

S. S. Sharma
(S. S. SHARMA) 12.7.85
Secretary

Central Government Industrial Tribunal
• Cum Labour Court • Kanpur



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

V/L

W.P. NO. of 1985.

Divisional Personnel Officer (M),
Northern Rly., Lucknow Division, Lucknow,
and another ... Petitioners

Versus

Central Govt. Labour Court, Kanpur,
and another ... Opp. Parties

AFFIDAVIT

1. ✓ S. C. Banerjee, aged about 48 years
✓ Son of K. C. Banerjee, Working as Asstt Personnel
Officer, in the office of Divisional Railway Manager, N. Rly,
✓ Lucknow, do here by solemnly affirm and state on oath,
✓ as under:-

1. That the petitioners have filed
Writ Petition which is pending before this
Hon'ble Court.

2. That the writ petition paragraphs
1 to 12 are true to my knowledge.

3. That Annexures 1 to 4 are true copies
of the originals.

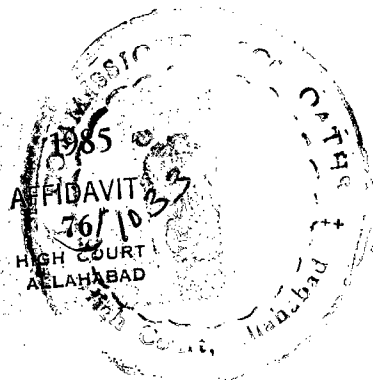
Banerjee
Deponent

20.9.85

Verification

I, the deponent named above, do hereby
verify that the contents of paragraphs 1 to

...2...



(26)

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.2.

3 of this affidavit are true to my personal knowledge. No part of it is false and nothing material has been concealed; so help me God.

✓ 20.9.85

Banerji
Deponent

I identify the deponent named above,

who has signed before me. He is personally known to me.

K.C. Jauhari
(K.C. Jauhari)
Advocate

Solemnly affirmed before me on 20.9.85

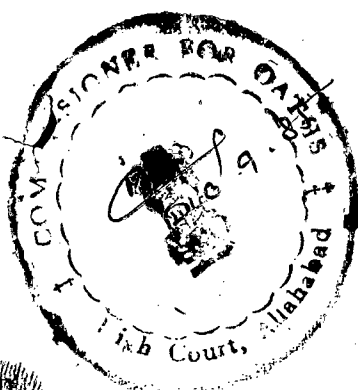
at 10.00 a.m./p.m. by S.C. Banerji

the deponent, who is identified by

Shri K.C. Jauhari, Advocate, High Court,

Allahabad, Lucknow Bench, Lucknow.

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



Meena Pandey
OATH COMMISSIONER
High Court, (Lucknow Bench)
LUCKNOW.
No.....76...1/10/33.....
Date...20.9.85...

Meena Pandey

76/1033
20/9/85

In THE HON'BLE High Court Judicature at Allahabad
Lucknow Bench, Lucknow

अदालत श्रीमान - - - - - महोदय

वकालतनामा

Divisional Personnel Officer + others

वादी/अपीलेंट

बनाम

Abdul Gafoor

प्रतिवादी/रेस्टाडेन्ट

संख्या मुकदमा

सं

पेशी की तारीख

अपर मुकदमा में अपना और से श्री Srs. K. C. Tanshan. Pky. Advocate
Prem. A. Lok. Anwar Nagar, Lucknow

एडवोकेट/वकील महोदय को अपना वकील नियुक्त करके इफ्तार करता हूँ
और लिखे देता हूँ कि मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील
द्वारा जो कुछ पैरवी व जवाब व प्रश्नोत्तर करें या कोई कागज दाखिल करें
या लौटावा या हमारी ओर से डिग्री जारी करा दें और खर्चा वसूल करें
या सुलहनामा या इफ्तानु दावा तथा अपील व निगरानी हमारी ओर से
हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक रकबा मुकदमा उठावें
या कोई खर्चा जमा करें या हमारी विपक्षी परीक्षागी का दाखिल
किया हुआ खर्चा अपने या हमारे हस्ताक्षर मुक्त दस्तखती रसीद से लेने का
व नियुक्त करें वकील महोदय द्वारा की गई वह
जब कार्यवाही हमको सर्वथा स्वीकार है और होगी इसलिये यह वकालत

हस्ताक्षर

साक्षी/गवाह

दिनांक 26th Aug 1985

सं 19 50

साक्षी/गवाह

साक्षी/गवाह

LUCKNOW

For Petitioner No 42

Accepted

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

10874

CM An No. of 1985
in re :
W.P. No. 462 of 1985

Divisional Personnel Officer (M),
Northern Rly., Lucknow and another ... Petitioners-
applicants

Versus

Central Govt. Labour Court and
another ... Respondents-
Opp. Parties

STAY APPLICATION

In the abovenoted writ petition the petitioners
respectfully state as under :-

1. That the petitioners have challenged the
order embodied as Annexure 4 in the abovenoted
writ petition which is pending in this Hon'ble
Court and the petitioners are hopeful of their
success.

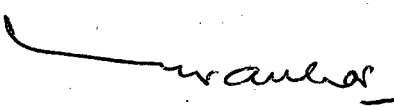
2. That the impugned order has so far not
been executed.

3. That the petitioners will suffer an
irreparable loss if the execution is not stayed.

4. That the balance of convenience lies in
staying the implementation and execution of the
impugned order.

It is therefore prayed that the opposite-parties
be restrained to get the impugned order dated
23.5.85 (Annexure 4) implemented or executed till
the pendency of the abovenoted writ petition.

Lucknow, dated :
September 20, 1985


(K.C. Jauhari)
Advocate
Counsel for the Petitioners

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W.P. No. 4821 of 198 85

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
209-85	<p><u>Sen K.S. Varma,</u></p> <p>Admit Notice on behalf of opp party No. 1 - opp party No. 1.</p> <p>Sd. K.S. Varma 209-85</p> <p>com. An No 10 874 as 85</p>	
209-85	<p><u>Sen K.S. Varma,</u></p> <p>For orders, see our my order of del. on the petition.</p> <p>Sd. K.S. Varma 209-85.</p>	

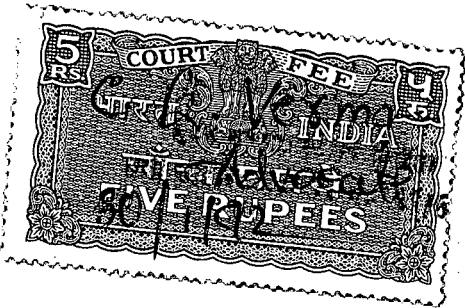
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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUT BENCH,
LUCKNOW.

Civil Misc. Application No. of 1992

In re :

T.A. No. 1940 of 1987 (T)



1. Divisional Personal Officer (M), Northern Railway,
Lucknow Division, Lucknow.
2. Union of India through General Manager, Northern
Railway, Baroda House, New Delhi.

..... Petitioners

Versus

1. Central Government Labour Court, Kanpur.
2. Abdul Gafoor Khan, aged about 55 years, son of
Sri A.S. Khan, resident of Bashiratganj, P.S.
Naka Hindola, Lucknow.

..... Opposite Parties.

APPLICATION FOR VACATION OF STAY ORDER DATED 20.1.89

For the facts and reasons stated in the Counter Affidavit
it is necessary in the interest of justice to vacate the
stay order dated 20.1.1989 and the applicant/respondent No.2
be allowed to withdraw the amount Rs. 5790.10 Paise which
was deposited by the petitioner/Management with the
respondent No. 1.

Lucknow :

Dated : 29.1.1992

C.B.V.
(C.B. VERMA)

Advocate

COUNSEL FOR THE RESPONDENT NO.2

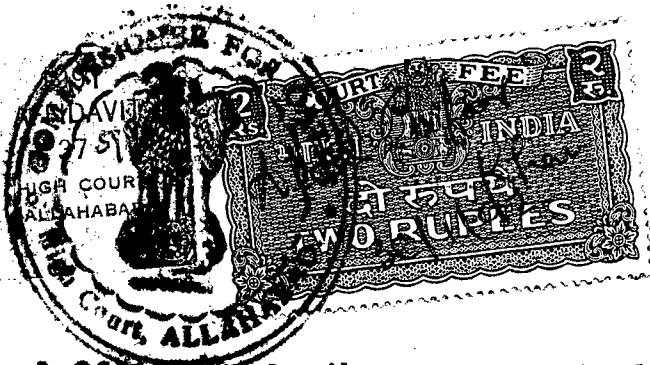
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18/5/92

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH,
LUCKNOW.

T.A. No. 1940/87 (T)



Divisional Personal Officer & Another. Applicants

Versus

Central Govt. Labour Court, Kanpur

& Others.

.... Respondents

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT NO. 2

I, Abdul Gafoor Khan, aged about 63 years, son of Sri A.S. Khan, resident of Bashiratganj, Police Station Naka Hindola, Lucknow, the deponent, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is the respondent No. 2 in the aforesaid case as such he is fully conversant with the facts of the case and facts deposed hereinunder :
2. That the deponent has read and understood the contents and is giving the reply to the application.
3. That before giving parawise comments it is pertinent to give certain facts/brief history of the case are as under :-

- (a) That the deponent was working on the post of diesel assistant in Loco Running shed of the Northern Railway, Lucknow, whose salary was to be paid by the applicant No. 1. The deponent suspended on and from 22.2.1976 due to a Criminal case against him and was paid half of his wages as subsistence allowance. Later on the suspension

Contd...2-



: 2 :

Order was withdrawn on 20.3.1977 but on his being convicted by the Judicial Magistrate on 16.5.1979 the deponent was dismissed from service administratively on 13.2.1980, with effect from 20.2.1980. In appeal the deponent was acquitted of the Criminal charge on 24.6.1980 and was then reinstated on 27.10.1980.

- (b) That on the basis of the order dated 10.5.1983 passed by Additional District Judge, Lucknow in an Appeal the wages/compensation for the period of 20.2.1980 to 26.10.1980 was paid to the deponent but the rest wages for the period of 22.2.1976 to 20.3.1977 (Suspension period) was not paid and illegally deducted without notice or opportunity of hearing.
- (c) That the deponent moved an application Under Section 33(C-2) I.D. Act for computation of Rs. 5790.10 P. It is necessary to point out here that after hearing the both parties and perusing the entire records Hon'ble Labour Court compute this amount in favour of the applicant against the Management on 23.5.85 but the order was not complied by the management for which a recovery proceeding was initiated.
- (d) That the present case was filed against the order dated 23.5.1985 in the Hon'ble High court bearing writ petition No. 4821 of 1985 and the paper book had already been transferred from Hon'ble High Court to Central Administrative Tribunal in the year 1987 but the applicants having all knowledge moved an application for stay and succeeded to obtain the same without paper book on 20.1.1989 which is liable to be rejected on this ground alone.



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4. That the contents of para 1 to 3 need no comments.
5. That the contents of para 4 of the writ petition are denied. It is submitted that the suspension order was revoked by the authority and while passing the order that the suspension period be treated as not spent on duty the authority/management was bound to give the finding as how the suspension was justified in part and it was necessary to give the show cause notice or opportunity of hearing before passing the order.
6. That the contents of paras 5 to 12 are incorrect as stated and in view of the facts stated in para 3 above, hence denied.
7. That the contents of para 13 of the writ petition are admitted to the extent that the deponent moved the application for the wages of suspension period i.e. 20.2.1976 to 19.3.1987.
8. That the contents of paras 14 to 17 are need no comment. The management is unnecessary harrassing the deponent by way of filing this case. The grounds taken are not tanable in eye of law as such the same is liable to be dismissed with costs.

Lucknow :

Dated : 30.1.1992

Md. Ghafur Khan
DEPONENT

VERIFICATION

I, the above named deponent do hereby verify that the contents of paras 1 to 8 of this affidavit are true to my personal knowledge. No part of it is false and nothing material has been concealed. So help me God.

Lucknow :

Dated : 30.1.1992

Md. Ghafur Khan
DEPONENT

I, identify the deponent who has signed before me.

Advocate
Advocate.



4/12

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUT BENCH,

LUCKNOW.

Civil Misc. Application No. of 1992

In re :

T.A. No. 1940 of 1987 (T)

1. Divisional Personnel Officer (M), Northern Railway,
Lucknow Division, Lucknow.
2. Union of India through General Manager, Northern
Railway, Baroda House, New Delhi.

..... Petitioners

Versus

1. Central Government Labour Court, Kanpur.
2. Abdul Gafoor Khan, aged about 55 years, son of
Sri A.S. Khan, resident of Bashiratganj, P.S.
Naka Hindola, Lucknow.

..... Opposite Parties.

APPLICATION FOR VACATION OF STAY ORDER DATED 20.1.89

For the facts and reasons stated in the Counter Affidavit it is necessary in the interest of justice to vacate the stay order dated 20.1.1989 and the applicant/respondent No.2 be allowed to withdraw the amount Rs. 5790.10 Paise which was deposited by the petitioner/Management with the respondent No. 1.

Lucknow :

Dated : 29.1.1992

cmr
(C.E. VERMA)

Advocate

COUNSEL FOR THE RESPONDENT NO.2

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18/5/92

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH,

LUCKNOW.

T.A. No. 1940/87 (T) —

Divisional Personal Officer & Another. Applicants

Versus

Central Govt. Labour Court, Kanpur

& Others.

.... Respondents

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT NO. 2

I, Abdul Gafoor Khan, aged about 63 years, son of Sri A.S. Khan, resident of Bashiratganj, Police Station Naka Hindola, Lucknow, the deponent, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is the respondent No. 2 in the aforesaid case as such he is fully conversant with the facts of the case and facts deposed hereinunder :
2. That the deponent has read and understood the contents and is giving the reply to the application.
3. That before giving parawise comments it is pertinent to give certain facts/brief history of the case are as under :-
 - (a) That the deponent was working on the post of diesel assistant in Loco Running shed of the Northern Railway, Lucknow, whose salary was to be paid by the applicant No. 1. The deponent suspended on and from 22.2.1976 due to a Criminal case against him and was paid half of his wages as subsistence allowance. Later on the suspension

Contd...2-

Order was withdrawn on 20.3.1977 but on his being convicted by the Judicial Magistrate on 16.5.1979 the deponent was dismissed from service administratively on 13.2.1980, with effect from 20.2.1980. In appeal the deponent was acquitted of the Criminal charge on 24.6.1980 and was then reinstated on 27.10.1980.

- (b) That on the basis of the order dated 10.5.1983 passed by Additional District Judge, Lucknow in an Appeal the wages/compensation for the period of 20.2.1980 to 26.10.1980 was paid to the deponent but the rest wages for the period of 22.2.1976 to 20.3.1977 (Suspension period) was not paid and illegally deducted without notice or opportunity of hearing.
- (c) That the deponent moved an application Under Section 33(C-2) I.L. Act for computation of Rs. 5790.10 P. It is necessary to point out here that after hearing the both parties and perusing the entire records Hon'ble Labour Court compute this amount in favour of the applicant against the Management on 23.5.85 but the order was not complied by the management for which a recovery proceeding was initiated.
- (d) That the present case was filed against the order dated 23.5.1985 in the Hon'ble High court bearing writ petition No. 4821 of 1985 and the paper book had already been transferred from Hon'ble High Court to Central Administrative Tribunal in the year 1987 but the applicants having all knowledge moved an application for stay and succeeded to obtain the same without paper book on 20.1.1989 which is liable to be rejected on this ground alone.

4. That the contents of para 1 to 3 need no comments.
5. That the contents of para 4 of the writ petition are denied. It is submitted that the suspension order was revoked by the authority and while passing the order that the suspension period be treated as not spent on duty the authority/management was bound to give the finding as how the suspension was justified in part and it was necessary to give the show cause notice or opportunity of hearing before passing the order.
6. That the contents of paras 5 to 12 are incorrect as stated and in view of the facts stated in para 3 above, hence denied.
7. That the contents of para 13 of the writ petition are admitted to the extent that the deponent moved the application for the wages of suspension period i.e. 20.2.1976 to 19.3.1987.
8. That the contents of paras 14 to 17 are need no comments. The management is unnecessary harrassing the deponent by way of filing this case. The grounds taken are not tenable in eye of law as such the same is liable to be dismissed with costs.

Lucknow :

Dated : 29.1.1992

DEPONENT

VERIFICATION

I, the above named deponent do hereby verify that the contents of paras 1 to 8 of this affidavit are true to my personal knowledge. No part of it is false and nothing material has been concealed. So help me God.

Lucknow :

Dated : 29.1.1992

DEPONENT

I, ³⁰ identify the deponent who has signed before me.


Advocate.

LUCKNOW.

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46

Civil Misc. Application No. of 1992

In re :

T.A. No. 1940 of 1987 (T)

1. Divisional Personnel Officer (M), Northern Railway,
Lucknow Division, Lucknow.
2. Union of India through General Manager, Northern
Railway, Baroda House, New Delhi.

..... Petitioners

Versus

1. Central Government Labour Court, Kanpur.
2. Abdul Gaffoor Khan, aged about 55 years, son of
Sri A.S. Khan, resident of Bashiratganj, P.S.
Baka Hindola, Lucknow.

..... Opposite Parties.

APPLICATION FOR VACATION OF STAY ORDER DATED 20.1.89

For the facts and reasons stated in the Counter Affidavit
it is necessary in the interest of justice to vacate the
stay order dated 20.1.1989 and the applicant/respondent No.2
be allowed to withdraw the amount Rs. 5790.10 Paise which
was deposited by the petitioner/Management with the
respondent No. 1.

Lucknow :

Dated : 29.1.1992

(C.B. VERMA)

Advocate

COUNSEL FOR THE RESPONDENT NO.2

LUCKNOW.

T.A. No. 1940/87 (T)

A/
47

Divisional Personal Officer & Another. Applicants

Versus

Central Govt. Labour Court, Kanpur

& Others. Respondents

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT NO. 2

I, Abdul Gafoor Khan, aged about 63 years, son of Sri A.S. Khan, resident of Bashiratganj, Police Station Naka Hindola, Lucknow, the deponent, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is the respondent No. 2 in the aforesaid case as such he is fully conversant with the facts of the case and facts deposed hereinunder :
2. That the deponent has read and understood the contents and is giving the reply to the application.
3. That before giving parawise comments it is pertinent to give certain facts/brief history of the case are as under :-
 - (a) That the deponent was working on the post of diesel assistant in Loco Running shed of the Northern Railway, Lucknow, whose salary was to be paid by the applicant No. 1. The deponent suspended on and from 22.2.1976 due to a Criminal case against him and was paid half of his wages as subsistence allowance. Later on the suspension

Contd...2-

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Order was withdrawn on 20.3.1977 but on his being convicted by the Judicial Magistrate on 16.5.1979 the deponent was dismissed from service administratively on 13.2.1980, with effect from 20.2.1980. In appeal the deponent was acquitted of the Criminal charge on 24.6.1980 and was then reinstated on 27.10.1980.

- (b) That on the basis of the order dated 10.5.1983 passed -d by Additional District Judge, Lucknow in an Appeal the wages/compensation for the period of 20.2.1980 to 26.10.1980 was paid to the deponent but the rest wages for the period of 22.2.1976 to 20.3.1977 (Suspension period) was not paid and illegally deducted without notice or opportunity of hearing.
- (c) That the deponent moved an application Under Section 33(C-2) I.L. Act for computation of Rs. 5790.10 P. It is necessary to point out here that after hearing the both parties and perusing the entire records Hon'ble Labour Court compute this amount in favour of the applicant against the Management on 23.5.85 but the order was not complied by the management for which a recovery proceeding was initiated.
- (d) That the present case was filed against the order dated 23.5.1985 in the Hon'ble High court hearing writ petition No. 4821 of 1985 and the paper book had already been transferred from Hon'ble High Court to Central Administrative Tribunal in the year 1987 but the applicants having all knowledge moved an application for stay and succeeded to obtain the same without paper book on 20.1.1989 which is liable to be rejected on this ground alone.

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4. That the contents of para 1 to 3 need no comments.
5. That the contents of para 4 of the writ petition are denied. It is submitted that the suspension order was revoked by the authority and while passing the order that the suspension period be treated as not spent on duty the authority/management was bound to give the finding as how the suspension was justified in part and it was necessary to give the show cause notice or opportunity of hearing before passing the order.
6. That the contents of paras 5 to 12 are incorrect as stated and in view of the facts stated in para 3 above, hence denied.
7. That the contents of para 13 of the writ petition are admitted to the extent that the deponent moved the application for the wages of suspension period i.e. 20.2.1976 to 19.3.1987.
8. That the contents of paras 14 to 17 are need no comments. The management is unnecessary harrassing the deponent by way of filing this case. The grounds taken are not tenable in eye of law as such the case is liable to be dismissed with costs.

Lucknow :

Dated : 29.1.1992

DEPONENT

VERIFICATION

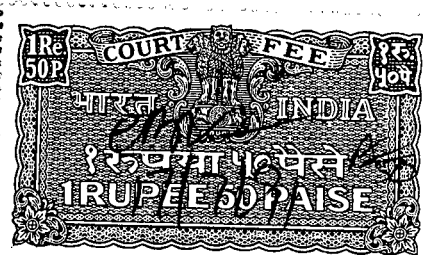
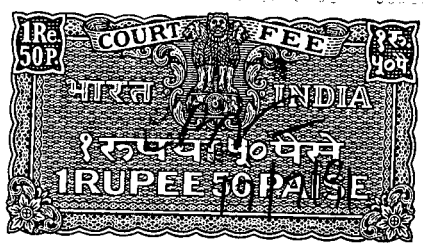
I, the above named deponent do hereby verify that the contents of paras 1 to 8 of this affidavit are true to my personal knowledge. No part of it is false and nothing material has been concealed. So help me God.

Lucknow :

Dated : 29.1.1992

DEPONENT

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न्यायालय

इलाहाबाद लखनऊ पीठ लखनऊ

Central Administrative Tribunal LKO.

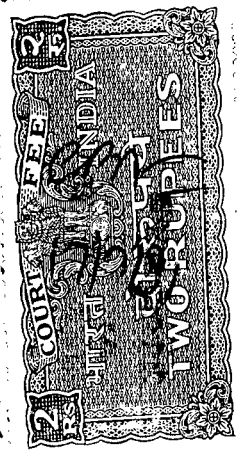
In The Hon'ble High Court of Judicature at Allahabad

LUCKNOW BENCH, LUCKNOW

T. ANO 1940/87 (7)

Divisional Personnel Officer टिकठ

Central Govt Industrial Establishment



बासी (

(प्रतिवादी रेस्पॉण्डेंट)

मुकद्दमा

व

पेशी की ता०

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ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

व C. B. Verma High Court LKO Bench महोदय एडवोकेट

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ इस मुकद्दमा में महोदय स्वयं या अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करे या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिप्री जारी करावें और रुपया वसूल करें या मुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करे और बसदफा करे मुकद्दमा उठावें या कोई रुपया जमा करे या हारी विपक्षी (फरीकस्तानो) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करे—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसको जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर Abdul Ghaffar Khan

सक्षी (गवाह)

सक्षी (गवाह)

दिनांक

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17/7/41

न्यायालय



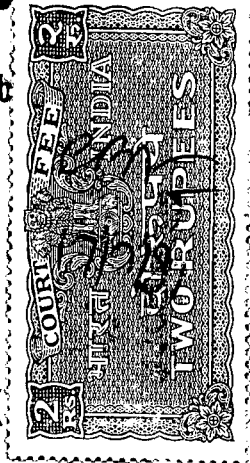
इलाहाबाद लखनऊ पीठ लखनऊ
Central Administrative Tribunal LKO.

In The Hon'ble High Court of Judicature at Allahab

LUCKNOW BENCH, LUCKNOW

T. A No 1940/87 (7)

Division Person and Officer टिकट



Central Grant Industrial

बनास

(प्रतिवादी रेस्पाडेन्ट)

मुकद्दमा

सन्

पेशी की ता.

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ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

C. B. Verma

Adv

High Court LKO Bench

महोदय

एडवोकेट

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नाम अदालत

मुकद्दमा नं०

नाम फरीकन

हस्ताक्षर Abdul Ghafar Khan

सक्षी (गवाह)

सक्षी (गवाह)

17/7/87

दिनांक

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स्वीकृत

Amir

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17/7/87

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

No. CAT/ALLD/Transfer/3453 Dated the 19/2/90

D. P. C. APPLICANT'S

VERSUS

Central Govt. Labour
Union of India RESPONDENT'S

- ② To Central Government Labour
Court Lucknow
- ③ Abdul Gafar Khan S/o A. S. Khan
The Beshwalganj P. O. near
Mendola & Co.

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

Writ Petition No. 11821/90 The Tribunal has fixed date of
of 1990. of the Court of 4-3-90 1990. The hearing
H. C. K. K. of the matter.

arising out of order dated
passed by

in

If no appearance is made on your
behalf by your some one duly authorised
to Act and plead on your behalf.

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

dinesh/

DE
DEPUTY REGISTRAR