

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

ANNEXURE

INDEX SHEET

CAUSE TITLE : M.A. NO 2553/94 in
T.A.I.O 703/87

NAME OF THE PARTIES : Alokumar Meena, Satyendra

Applicant

Versus

P.D.T. Govt

Respondent

Part A, B & C

Sl. No.	Description of documents	Page
1	order of the C.A.T. dated 03-5-99	A1 to A6
2	copy of Petition/Answer, P.W.D.	A7 to A34
3	M.A. NO. 2569/95 Amend. and reply. P.W.D. No. 397/98, reply	A35 to A52
4	Rejected	A53 to A56
5		
6		
7		
8		
9		
10		
11		
12		
13		

CERTIFICATE

Certified that no further action is required to be taken and that the case is fit for consignment to the record room (decided) *Not Decided but forwarded*

Dated.....26-2-12

Counter Signed.....

Section Officer / In charge

m
Signature of the
Dealing Assistant

MP 2553/94

16 TN 703107

① 12-95

Hon Mr V.K. Sekh, AM
Hon Mr - DC - Namo, J.M.

261, 301
TANJORE AT TA 703107
RECD ON 2553/94 (16 TN 703107)
AT 9.35

RECD BY
11/1

Notified & learned annual
for applicant & for Among
members. Some notice to
be opposite parties. Copy of
the M.P. has been forwarded
to Hon V.K. Sekh & others.
Objection if any may be filed
within 4 weeks.

last for orders on 9.3.95

J.M.

V
AM

②

9.3.95

No filing of D.M. adjourned
19.4.95

DMU

OR
Substitution for all
4/3/11

③

19.4.95

Hon Mr Justice B.C. Saksena, VC
Hon Mr V.K. Sekh, AM

last before some
other panel of which one of
us (Hon V.C.) is not a
Member on 30-5-95.

B

V
AM

B.C.

VC

①

30-6-95

②

Non ~~reg~~ V.R. 30th. A.M.
Non Mr. DC. Morris. JM

None for applicant. Non
that inventor's seeds and is
allowed 3 weeks time to file CA.
The applicant is granted one
week thereafter to file RA.

Non for completion of
pleadings in respect of MP 2553/93
on 19-7-95 before DR.

✓
JM

✓
DR.

③ 19-7-95
DR.

None for the parties.
List on 01-8-95 for
filing C.A. before me.

✓

✓
DR.

④ 01-8-95
DR.

None for the parties. No C.A.
filed. Let it be filed by 01-9-95.

OK
Ans. filed
no/3

✓

✓
DR.

(3)

M.L. 2553/94
~~07.10.~~ T.A. 703/87

7) 01-9-95
Df.

Re to sudden death of Mr.
B. Singh, C.M. Panjab, case
adj. to 08-9-95 for filing
C.A. before me.

OK
Opposite
L
6/9

AC

Df.

8) 08-9-95
Df.

Applicant present in person.
None for the respondent.
No C.A. filed till today.
Notices to be issued again to
the respondents for filing
C.A. within 4 weeks and
this should be treated
as a last opportunity &
& A if any, may be
filed within 2 weeks
thereafter otherwise, case will be
listed before the Hon'ble
Bench for ex-parte order
after seeing the position on
30-10-95 before me for
filing C.A.

Order not issued on
8.9.95 in absence of MR.
B.L. 19/10

AC

Df.

PL 2553/94
T.A. 703/87

(u)

9) 30-10-95
D.R.

Malta & Pergola Ltd
R.K. Patel
for Anil Chitrabhan
Tulsidas

Applicant present in person.
Notices not issued till today.
Office is directed to more
careful about the listing &
report & compliance of the
orders. Notices be issued
again to the respondents
to file c.A. within 4 weeks
& this should be treated as
a last opportunity. R.A. if
any may be filed within 2
weeks thereafter, viz on
30-11-95 for filing c.A/t.t.
before me. Otherwise case
will be listed for disposal after
seeing the position on 30-11-95
when the c.A. need be listed before
me.

10) 30-11-95

D.R. DR
Applicant present in person.
None for the respondent.
No c.A. filed till today.
Please before the hearing
suech on 05-12-95 for
Ex parte orders. Letter
clerk of Smt. Anil Srivastava
is present.

OL
MP 3560/95 filed.
Submitted for DR
2/1

DR

DR
DR

M. 2553/95
in
T.A. 703/87

(3)

8/9

(11)

00
05-1-96

Honble Mr. V. K. Seth, A. M.
Honble Mr. D. C. Verma, J. M.

Sri. Anup Singh Srivastava, learned
counsel for the applicant. Sri.
Anil Srivastava, for respondents.
B.P. 3560/95 is allowed. Necessary
corrections may be carried out
within a week.

Notice for order on 16-2-96 by
which time the respondents
may also file the reply of the
B.P. No. B 2553/95.

OR
Motors of Melichond
dt. 5.1.96

J. M.

A. M.

✓

(12) 16.2.96

No hearing at D. M. office
on 20.3.96
B.C.

(13) 28-3-96

Hon. Mr. Justice B. C. Saksena, V.C.
Hon. Mr. V. K. Seth, A. M.

Learned Counsel for applicant
is given 2 weeks time to
file R.A. which is granted.

Notice on 15-4-96 for
hearing.

V.C.
A. M.

B.C.
V.C.

✓

(14) 15.4.96

OR
CRA 26/96
Submitted for hearing

Case on record referred to
17-5-96
B.C.

(15) 17.5.96

No hearing at D. m. adjourned
04.6.96
Buc

(16) 4.6.96

No hearing at D. m. adjourned
to 11.7.96
Buc

(17) 11.7.96

No hearing at D. m. adjourned
29.8.96
Buc

OK

Submitted for hearing

26/8

(18) 29-8-96

Hon'ble Mr. V. K. Seth, AM
Hon'ble Mr. D. C. Verma, JM

Notice to parties

fix on 24-9-96 for

hearing

DR

AM

OR

Submitted for
hearing
+ 6/10

(19)

24-9-96

Applicant is present in person.
Notice for respondent. Appropriate bench is not available. Please
fix the hearing before the Hon'ble bench on
23/10/96 for hearing

DR

DR.

(20)

20-10-96

Hon. Mr. V.K. Seth, A.M.
Hon. Mr. D.C. Verma, I.M.

(7)

8/2
O.A. 703/97

Sri Anurag Srivastava, learned counsel for applicant.

Sri Anil Srivastava, learned counsel for respondents.

As prayed for by Sri Anil Srivastava the case is adjourned to enable him to file supplementary counter in respect of m.p. no. 2553 of 1994.

list for 17-1-97. The cause list should indicate the m.p. number.

The learned counsel stated that by the next date a decision is likely to be taken regarding the request of the applicant for pension in place of provident fund, which was already paid to him earlier.

OR
RA filed.

submitted for
posting on m.p. 2553/94

J.M.

W.M.
B.M.

13/1

(21) 17-1-97

No. 501/97 D.B. adjourn
17-3-97
B.M.

17-3-97 Hon. Mr. V.K. Seth, A.M.
Hon. Mr. D.C. Verma, I.M.

Li. A Srivastava, learned counsel for applicant. Li. Anil Srivastava, for respondents.

list on 22-4-97 for hearing.

OR

J.M.

A.M.

B.L. 2553/94
in
T.A. 703/87

8

(22)

22-4-97

Hon.ble. Mr. V.K. Seth, A.I.

Hon.ble. Mr. D.C. Verma, J.H.

Li. Anurag Srivastava,
Learned Counsel for applic-
ant. None for respondents.
Aponly listed for hearing.

Listed on 08-5-97 for orders
on B.L. 2553/94.

J

v 56

J.H.

A.I.

Ans

(23)

08-5-97
DR.

L. S. Jain, brief holder for
Li. A. Srivastava, LC for applic-
ant. None for respondents.

Appropriate Bench is not avail-
able. Please before Hon'ble
Bench on 20-5-97 for orders
on B.L. 2553/94.

OR
Submitted on 20-5-97
B.L. 2553/94

OR
Submitted for
hearing
19/7/97

(24)

20-5-97

Hon. Mr. V.K. Seth, A.I.
Hon. Mr. D.C. Verma, J.H.

+ DR

Li. S. Jain, brief holder for
Li. A. Srivastava, learned counsel
for applicant prays for adjourn-
ment. List on 21-7-97 for hearing.

J

v

J.H.

A.I.

(a)

T.A.703/8762703/98
15

OR (28) 21.10.97
Submitted for
hearing.
25/10/97

Mr. Salim (27) - M. wiffah
06.10.97
B.M.

(20) 13.10.97

Lawyer absent for D.M. work
adjourned 08.11.97
B.M.

OR
Submitted for
hearing.
21.10.97 (27) 3-12-97

Hon. Mr. Justice B.C. Saksena, J.C.
Hon. Mr. V.K. Seth, A.M.

Applicant in person
List before some other Bench
on 6-1-98.

V.L.
B.M.

B.M.
V.C.

Acc

OR
Submitted for
hearing. (28)
22/10/97

6-1-98

Hon'ble Mr. V.K. Seth A.M.
Hon'ble Mr. D.C. Verma J.M.

Advocates have resolved, not
to work today after lunch. Case
is adjourned to 26-2-98 for
hearing.

Sholn
B.M.

(29) 26.2.98

case not reached adj.
to 26.3.98 for order.

(30)

26.3.98

V.L.
B.M.

No sitting at D.B. after lunch
Case is adj. to 01-7-98.

B.M.

10

T.A. 703/87

6 R
Submitted
for hearing

31

01-7-98

No sitting of D.G. Case is
adj to 1-9-98 for hearing.

B. Vay

42

01-9-78

No sitting of D.R case
is adjl to 24-11-98 for hearing.

Very
Boc

39

24-11-28

LR

Submitted for

uring order
d. 18/3/97 on 18/3/97
SOL 19-3-97

No bill in at D.B. case is
due to 22.3.99 for hearing.

W. H. G.

33

22-3-99

Hon'ble Mr. D. C. Verma, I.M.
Hon'ble Mr. A.K. Misra, A.M.

Name of firm applicant

None - for applicant.

None for applicant.
Smt. Anil Srivastava for applicant has
Sent an acknowledgement application.
Listy for Orders on 03-5-99.

John
A. M.

✓
T.M.

96 2553/94

T.A. 703/87

Xo

3.5.99.

Hon'ble Mr. D.C. Verma, J.M.

Hon'ble M-r.A. K. Misra, A.M.

For Applicant:-Sri. A. Srivastava.

For Respondents:-Sri. Anil Srivastava.

M.P.2553/94 is Under Section-27 of C.A.T. Act,1985. T.A.No.703/87 (W.P.No.3566/80) was filed by the applicant to challenge the removal order. The punishment order was quashed by the Tribunal vide it's order dated 18.9.1991. The Tribunal further directed that " The applicant will be entitled to be in service upto the date of superannuation." No further direction was given by the Tribunal. However by this application the applicant has claimed that opposite parties may be fixed the pension of the applicant from the date of his retirement on 30.9.1981. The amount of pension payable from the date may be released to the applicant after deducting such amount as may have been paid by way of Provident Fund in lieu of pension. There was no direction in the Tribunal's order dated 18.9.1991 for grant of pension. A relief which was not granted cannot be given by an application u/s-27 of C.A.T., Act,1985. The present application for grant of pension is not maintainable. The learned counsel for the applicant however submitted that ^{for} the grant of pension as per the recital made in para-14 of the C.A. the matter has been referred by the General Manager, Northern Railway, Baroda House to the Railway Board. Even if it be so, it will be open for the respondents to take a decision in the said matter. It will also be open to the applicant to file fresh O.A. in respect of pension as a separate subject matter, if so advised.

As the present application is not maintainable for the claim made therein, the same is rejected.


MEMBER (A)


MEMBER (J).

AMIT..

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD.

Circuit Bench at Lucknow.

2553
Execution Application No. of 1994.

APPLICATION UNDER SECTION-27, ADMINISTRATIVE
TRIBUNAL ACT, 1985.

In re:

T.A.No.703 of 1987.

Decided on 18.9.1991.

Place before the
Hon'ble Bench
for orders on 12.1.95
By Registrar

File today

22/12/94

Alakh Murari Lal Saxena, aged about 70 years, son of Shri Sunder Lal Saxena, resident of 15, Din Dayal Road, Asharfabad, Lucknow.

.....Petitioner.

Versus



1. The Union of India, through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Additional Controller of Stores, Northern Railway, Baroda House, New Delhi.
3. The Deputy Controller of Stores (formerly designated as District Deputy Controller of Stores) Northern Railway, Alambagh, Lucknow.

.....Opposite-Parties.

CCS
The Petitioner, named-above, most

(contd. 2/-....)

Hon'ble Mr. Justice U.C Srivastava V.C.
Hon'ble Mr A.B. Gorathi A.M. 5

Date of Judgment 18-9-94

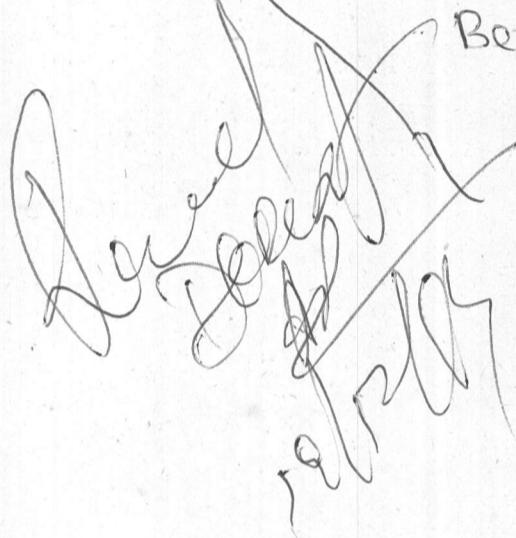
Date of Receipt 22-11-94

Date of Filing 21-12-94

Register as M.P. 2553/94 ~~for~~

in T.A. and list the case before Hon'ble
Bench on 12-1-95 for order

~~admission~~


L
22/12/94

th
D.R.
R
22/12

1 to 3
Astil Chaturvedi

respectfully submits as under:-

1. That the Petitioner had filed the above-noted case originally in the Hon'ble High Court of Allahabad at Lucknow as Writ Petition No.3566 of 1980. This was transferred to the Hon'ble Central Administrative Tribunal at Lucknow as T.A. No. 703 of 1987. The said case was decided on 18.9.1991. A true copy of the Judgement of the Hon'ble Tribunal dated 18.9.1991 is Annexure No.1 with this application.

2. That the operative portion of the Judgement provided for the following relief:-

"In this view the entire proceedings ^{are} tainted with malice and bias and illegalities, and as such, the punishment order deserves to be quashed. The application is allowed and the punishment order dated 18.9.1972 and the Appellate Order dated 4.10.1972 are quashed. The applicant will be entitled to be in service up to the date of superannuation."

3. That the petitioner retired from service on reaching the age of superannuation on 30.9.1981. The effect of the judgement was that when the order of punishment was quashed, the petitioner would be deemed to have been reinstated in service with effect from 18.9.1972 until he reached the age of retirement. Thus, the

(contd.3/-....)

petitioner became entitled to salary and other emoluments admissible to him from 18.9.1972 to 30.9.1981. He was also entitled to consequential pensionary and terminal benefits.

4. That the Petitioner submitted an application dated 9.1.1993 in which he claimed back wages for the period that he would be deemed to have been in service. He also claimed that he would have been promoted to the post of Assistant Store Keeper (which is now designated as Depot Store Keeper). He also claimed pensionary benefits. A reply to that application was received by the petitioner on 4.2.1993 in which it was mentioned that he could not be given promotional benefits because the post of Assistant Store Keeper was a selection post. A true copy of the letter of the Deputy Controller of Stores dated 4.2.1993 is Annexure No.2 to the application.



5. That thereafter the petitioner sent another letter dated 19.7.1993 to the Deputy Controller of Stores, Northern Railway, Lucknow, requesting that retirement benefits may be given to him. A true copy of the said letter dated 19.7.1993 is Annexure No.3 to the application.

6. That in reply to the aforesaid application, the Deputy Controller of Stores sent a reply dated 10.9.1993, in which the petitioner was required to produce the acknowledgement of the option form. A true copy of the letter dated

10.9.1993 is Annexure No.4 with this application.

7. That the petitioner then submitted an application dated 5.8.1993 to the Deputy Controller of Stores, requesting him to do justice to the petitioner, failing which he would be compelled to seek the assistance of Court. A true copy of the said application dated 5.8.1993 is Annexure No.5 with this application.

8. That a reply dated 17.8.1993 was received by the petitioner in which it was mentioned that nothing could be done in the case of the petitioner as he had already retired from service. A true copy of the letter dated 17.8.1993 is Annexure No.6 with this application.

9. That the petitioner, thereafter, had been writing letters including a memorial to the Hon'ble Minister of Railways with copy to the General Manager, Northern Railway, Baroda House, New Delhi. A true copy of the memorial dated 21.4.1994 is Annexure No.7 with this application.

10. That during the period that the petitioner's service had been terminated, and his petition was pending in Court, the Railways introduced Pension Scheme, and it was provided that railway servants could also get pension, if they opt for the same. The petitioner had sent an option, but could not follow it up because he had at that time no legal right to get pension as his

services already stood terminated, and against which the petition in Court was pending. Even if there has been delay in making an option due to the aforesaid special circumstances, the petitioner had a right to opt for the Pension Scheme when he was ordered to be reinstated.

11. That unfortunately the writ petition, which was transferred to the Hon'ble Tribunal could come up for decision only in the year 1991, while the petitioner had reached the age of superannuation in the year 1981. His service had been terminated in 1972, but the fact remains that the Pension Scheme came before his ordinarily having reached the age of superannuation. Thus, the petitioner was, in any case, entitled to the benefit of the Pension Scheme.

12. That in innumerable cases where the option was delayed, pension was given as a retirement benefit, and the amount of Provident Fund commutable in lieu of pension was deducted from the arrears of pension themselves. The petitioner could also have been asked to deposit such an amount to give him the benefit of pension.



13. That under the circumstances, full effect could be given to the Judgement of the Hon'ble Court only when all terminable benefits were also given to him, as a result of the judgement. Pension being one of such benefits, may

air force

be given by the Opposite-Parties.



:PRAYER:

Wherefore, it is prayed that the Opposite-Parties may be required to fix the pension of the Petitioner from the date of his retirement on 30.9.1981. The amount of pension payable from that date may be released to the petitioner ^{alongwith interest @ 18% per annum} after deducting such amounts as may have been paid by way of Provident Fund in lieu of pension; and pension may be continued to be paid to the petitioner at the usual rate at which it is fixed, even thereafter.

Amended as
for order at 5.1.96
Anurag Srivastava
d.1.96

Lucknow, dated: (Alokh..Murari Lal Saxena.)
December 19, 1994. Petitioner.

Anurag Srivastava
(ANURAG SRIVASTAVA.)
Advocate
Counsel for the Petitioner.

7

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD.

Circuit Bench at Lucknow.

Execution Application No. of 1994.

In re:

T.A.No.703 of 1987.

Decided on 18.9.1991.

Allok Murari Lal Saxena.Petitioner.

Versus

The Union of India and others.

.....Opposite-Parties.

ANNEXURE No.1.

(Photostat copy of the Judgement of the Hon'ble Central Administrative Tribunal at Lucknow dated 18.9.1991 is annexed herewith).

A. A. Saxena



ANNEXURE-1.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH

LUCKNOW

T.A. NO. 703/87
(N.P.No. 3566/80)

Alok Murari Lal Saxena

Applicant

VERSUS

Union of India and others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. A.B. Gorathi, A.M.

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

This application has a chequered history and the order is instant and bad. The applicant who attained the age of superannuation during the pendency of the case, approached the High Court and was sent to the appellate authority who dismissed the appeal whereafter he filed the writ petition against the removal order, which by operation of the Administrative Tribunals Act, 1985 came on transfer to this Tribunal. Proceedings against the applicant were initiated in the year 1972 when the applicant was Ward Keeper in the office of District Controller of Stores, Northern Railway, Lucknow and he was charged-sheeted on 6.4.72. The charges against him were that he remained away from duty with effect from 3.2.72 to 24.2.72 without prior sanction. He again absented from duty with effect from 1.3.72 to date ^(S-4-72) without any prior intimation. The applicant was charged with failure to maintain full devotion to duty and thereby contravening Rule 3(iii) of the Railway Service Rules, 1966.

advised

... 2/..



(A81)

- 2 -

2. The second charge which is a vague charge as a consequence of charge No. 1. The applicant states that ~~all this~~ history of this agony, that as a matter of fact the foundation is that the alleged guilt committed by him ~~was~~ if history is traced, ~~that it is~~ because of ^{un-} ~~fairness of~~ he exposed certain case of misappropriation of 60 brass bushes under P.L No. CP910 of the department, of which respondent No. 4 was also involved, was the foundation of the total ^{trial} ~~trial~~ & punishment. According to him the entire proceedings against him are malafide. The total cost of the above material detected was Rs 12235.40 and the weight of the material was 3520 Kgs. having market value of Rs 52,000. The petitioner brought the case to the notice of the Asstt. Controller of Stores Charbagh, Sri R.C. Mehta verbally but he did not respond. Then he reported the matter to Shri S.N. Pandey the opposite party No. 4 who instead of appreciating the petitioner took the petitioner to be a trouble creator. Then the petitioner reported the matter to the Vigilance Directorate of the Railway Board by means of his letter dated 4.5.71. His reporting the matter to the Vigilance Directorate has not been ruled out by the respondent No. 4 and the applicant who was in the mean time hospitalised resumed his duty on 30.8.84. No counter-^{ply} on behalf of the respondent No. 4 denying the averments made by the applicant has been filed. The applicant submitted reply to the chargesheet. According to the applicant he was ill. He submitted proper medical certificate for this period for which he was being charged. The full pay and allowances were also paid to him. After the applicant submitted his reply the enquiry officer was appointed and the date was given to the applicant.

aloverang

and the applicant requested by means of a letter that the leave clerk may be directed to be present along with relevant leave record but on that date leave clerk did not attend the enquiry and the leave record which the applicant wanted could not be produced. The documents were also not produced. The applicant did not examine any witness and the enquiry officer proceeded. The applicant was also cross-examined. The enquiry officer found the applicant ~~found~~ guilty and submitted a report and show cause notice was issued to the applicant who submitted explanation to show cause and thereafter the applicant was removed from service.

The applicant challenged the said order on the ground that his absence is ~~the~~ case of minor penalty only and major penalty of removal from service could not have been awarded. It is true that the charge was not grave enough which should have entailed dismissal or removal in as much as the charge was only that during the absence he was under the treatment and the certificate was also countersigned by Medical Officer. Even otherwise, the entire proceedings ~~itself~~ are vitiated and the application deserves to be allowed on that ground. There is no denial to that effect that the applicant was cross examined by the enquiry officer himself who after examination and cross examination relied upon the document (Annexure No. 4) and the punishment has been awarded by the respondent No. 4 against whom the applicant had made complaint and the allegations have not been denied by the respondent No. 4 and he has gone to the extent of removing the applicant from service. The contention of the applicant that such a drastic order has been passed as a result

Asking

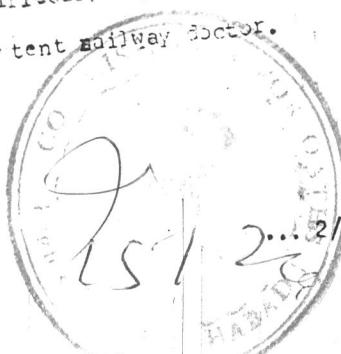


-4-

AB3

of malafide cannot be ruled out. Any how this application deserves to be allowed with the enquiry proceedings are tainted with irregularities and are violative of principles of natural justice. After taking into consideration whatever record is before him the enquiry officer submitted his report. The report indicates that according to the enquiry officer, if the applicant ^{wanted} to proceed on leave he could have approached his superiors and got the leave sanctioned and should have taken care to abide by the official rules and regulations, and that he has been managing his own private affairs i.e. agricultural land which he owns. It is on the basis of the report of the enquiry officer who only drew the inference that the applicant was managing his own private affairs ignoring the medical certificate filed by the applicant. When the matter was very clear the enquiry officer took into consideration irrelevant matter for which there was no evidence. Even the disciplinary authority passed the order relying on the report of Enquiry Officer. If a person suddenly ^{falls} ill how can he approach railway doctor and abide by the rules. A reference has been made by the respondents to rule (iii) which provides "A railway ~~servant~~ servant is, however free to take treatment of illness from the medical practitioner of his own choice and if he so desires, it is not incumbent on him to place himself under the treatment of a competent railway doctor. It is, however, essential that if leave of absence is required on medical certificate a request for such leave should be made to the competent authority within 48 hours of the employee's falling ill and it should be specifically supported by a sick certificate from the competent railway doctor."

22/1/2021



084

-5-

In this view the entire proceedings are tainted with malice and bias and illegalities and as such the punishment order deserves to be quashed. The application is allowed and the punishment order dated 18.9.72 and the appellate order dated 4.10.1972 are quashed. The applicant will be entitled to be in service upto the date of superannuation. No order as to costs.

9/2
A.M. —

9/2
V.C.

Lucknow dt. 18.9.91



प्रमाणित प्रति

भारी स्थायिक अनुभाग
द्वय प्रशासनिक अधिकरण
लखनऊ न्यायपीठ, लखनऊ

22/10/1991

Central Administrative Tribunal
Circuit Bench, LUCKNOW
(Copying Section)

(A) Serial number of the application ... 946/94

(B) Name of the applicant S. N. S. M. / Km.

A. M. das / S. A. D.

Date of filing of application for

22/10/1991

Number of copy ... 2/2

Requesting for delivery agent or ordinary ... 1/ —

Date of presentation of copy ... 22/10/1991

Date of delivery of the

copy to the applicant ... 22/10/1991

Section Officer/Liaison
Copying Section

22/10/1991

ARFeng



IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD.

Circuit Bench at Lucknow.

Execution Application No. of 1994.

In re:

T.A.No.703 of 1987.

Decided on 18.9.1991.

.....
N. Lokh Murari Lal Saxena.Petitioner.

Versus

The Union of India and others.

.....Opposite-Parties.

ANNEXURE No. 2.

(Photostat copy of the letter dated 4.2.1993 sent to the petitioner by the Dy.Controller of Stores in reply to the petitioner's application dated 9.1.1993 is annexed herewith).

ca/bskens



(3)

307

E/S/823 उत्तर रेलवे ANNEXURE No. 2
NORTHERN RAILWAY

No. T/47634 Dated 4.2.93

Shri Akbar Musani Lal
 Sarpanch Ex. 106, Hawaldar
 Hm. 295/15 Deendayal
 Road, Asst. hawaldar
 2 o'clock

Sub:- Promotional benefits &
 fixation of pay

Ref:- Your application dt. 9.1.93

Reference above, it is intimated
 that the case has been examined
 and it is stated that no
 promotional benefits can be
 given to you as the post
 of Asst. q. 1s. 65/- 700 (Rs)
 was a Selection post.

Ans

15/2
उत्तर रेलवे, एम्बरपाल
लखनऊ



15
C/1

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD.

Circuit Bench at Lucknow.

Execution Application No. of 1994.

In re:

T.A.No.703 of 1987.

Decided on 18.9.1991.

Alok Murari Lal Saxena.Petitioner.

Versus

The Union of India and others.

.....Opposite-Parties.

ANNEXURE No.3.

(Photostat copy of the petitioner's letter dated 19.7.1993 sent to the Dy.Controller of Stores, Lucknow, requesting him to render the retirement benefits to him is annexed herewith).

answering



ANNEXURE-3

B.W.

The Dy. Controller of Stores
H.Rly.Alambagh/Lucknow.

Sir,

Re:- Retirement benefits

With due respect I have to bring the following facts for your kind consideration & orders.

That I had been removed from service w.e.f 18.9.72 after contesting in the court the judgement has been given in my favour ordering that " I may be treated as in service till retirement".

In compliance to the above order I am entitled for all benefits ie promotional benefit, Gratuity & pensionary benefits etc which is not being given to me except fixation in the post of W.K. & leave encashment.

In this respect I beg to state that during pendency of my case in the court I given option my option for pension also which was kept in my personal file in absence of S/book by Shri Jai Narain the then Record Clerk. This was done within the period when the option was open were ever such binding can not be applied in case of an employee who was not present on duty as my case has been decided by the court on 18.9.91.

It is therefore requested that all the facts may please be considered by your honour and order issued in my favour for grant of promotional benefits & pensionary benefits etc, to save my family from starvation.

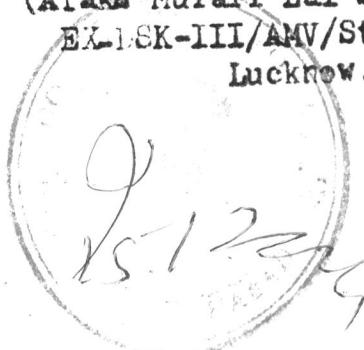
Thanking You

Yours Faithfully

Alakha Murari Lal Saxena
(Alakha Murari Lal Saxena)
EX-18K-III/AMV/Stores/Depot
Lucknow.

Dated: 19-7-1993.

A.L.Saxena



17
4/97

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD.

Circuit Bench at Lucknow.

Execution Application No. of 1994.

In re:

T.A.No.703 of 1987.

Decided on 18.9.1991.

Aliokh Murari Lal Saxena.Petitioner.

Versus

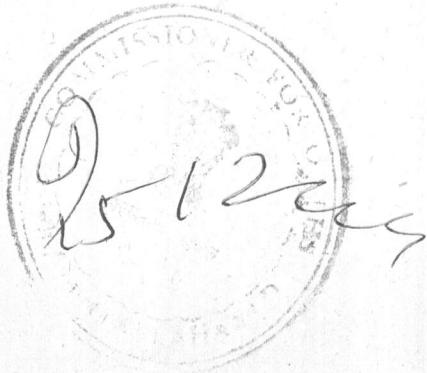
The Union of India and others.

.....Opposite-Parties.

ANNEXURE No. 4.

(Photostat copy of the letter dated 10.9.1993 sent to the petitioner by the Dy.Controller of Stores, Northern Railway, Lucknow, requiring the petitioner to produce the acknowledgement of the option form is annexed herewith).

as Saxena



No B/S/823

उत्तर रेलवे
NORTHERN RAILWAY

Letter AP

(15) 18
ANNEXURE

-4

dt. 10-9-93

1/21

Sri Nalini Narayan Lal Saxena

House No 295/15.

Din Dayal Road

Aligarhabad, Lucknow

Sub- Payment of Settlement due.
Ref. your ~~letter~~ application dt. 19-7-93

In para 4 of your application cited above you have mentioned that during pendency of your case in the court you ~~have~~ gave your option for pension which was kept in your personal file in absence of service book by Sri Jai Narayan Lal then Record Clerk.

You are therefore required to produce the acknowledgement of the option form to establish your statement as stated above.

In case you desire to give option for pension now you may apply for option to competent authority and the same will be forwarded to Railway Board / E.M. for consideration.

W.S.P.S.



J. T. B.

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Y
v

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD.

Circuit Bench at Lucknow.

Execution Application No. of 1994.

In re:

T.A.No.703 of 1987.

Decided on 18.9.1991.

~~Alok~~ Murari Lal Saxena.Petitioner.

Versus

The Union of India and others.

.....Opposite-Parties.

ANNEXURE No. 5.

(Photostat copy of the application dated 5.8.1993 submitted by the petitioner to the Dy.Controller of Stores, requesting him to do justice, otherwise the petitioner is bound to seek redressal of the Hon'ble Court is annexed herewith).

arrested



To,

The Dy. Controller of Stores,
N.Rly. Alambagh Lucknow.

Sir,

Reg:- Retirement benefits.

Ref:- My application dated 19.7.93.

本章你将学到

With due respect I beg to bring to your kind notice that your honour have passed orders on my application dated 19.7.93 to forward the case to Hd.Qrs for clarification and necessary orders, but no action in this regard has been initiated so far.

I would therefore, again request your honour to very kindly pay your special attention to words my grievances and instruct the concerned staff for adequate action, otherwise I will again be compelled to seek shelter in the court of law.

With kind regards,

Yours faithfully,

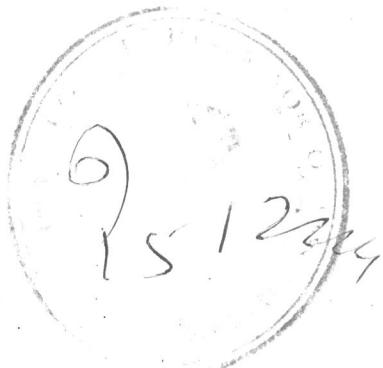
Alcock Murari Lal Sivana

(ALAKH MURARI LAL SAXENA)

Ex. DSK-III/AMV/LKO

dated 05.8.93.

as Greg



21

P/A

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD.

Circuit Bench at Lucknow.

Execution Application No. of 1994.

In re:

T.A.No.703 of 1987.

Decided on 18.9.1991.

Alok Murari Lal Saxena.Petitioner.

Versus

The Union of India and others.

.....Opposite-Parties.

ANNEXURE No.6.

(Photostat copy of the reply dated 17.8.1993 received by the petitioner from the Dy.Controller of Stores, intimating that nothing could be done in the case as he had already retired from service is annexed herewith).

as Saxena



(92)

ANNEXURE-b

NORTHERN RAILWAY

No. E/S/023 Dated 17.02.93

Sri. Hatch Munsal
 Savan Ex Wk/Anv
 Hno. 295/15 Deen
 Dayal Road, Astarfabad
 27 ucknow

Sub:- additional benefits & fixation of pay

Re:- your application dt 5-2-93

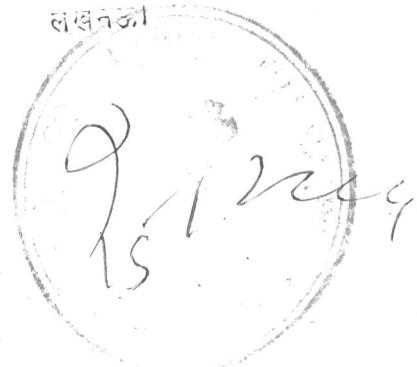
Reference above, it is intimated that
 the grade of Wk. Rs. 425.600 and ASR.
 Rs. 425.700 this may be linked to our grade
 Rs. 425.700 (Rs.) as a result of up-gradation
 in the non-ministerial cadre, which
 was applicable from 1-8-92.

Since you have already retired
 from Service on 30.9.81 the
 above benefit is not applicable
 to you.

17-02-93

उत्तर रेलवे, अस्सनवार

संस्कृता

answrs

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD.

Circuit Bench at Lucknow.

Execution Application No. of 1994.

In re:

T.A.No.703 of 1987.

Decided on 18.9.1991.

~~Alodh~~ Murari Lal Saxena.Petitioner.

Versus

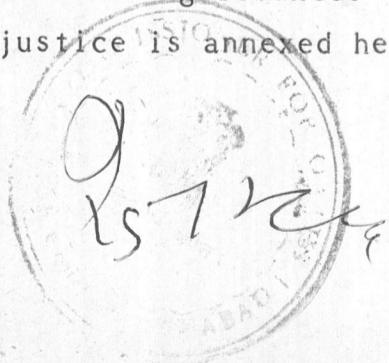
The Union of India and others.

.....Opposite-Parties.

ANNEXURE No.7.

(Photostat copy of the memorial dated 21.4.1994 sent by the petitioner to the Hon'ble Railway Minister with copy to the General Manager, Northern Railway, New Delhi requesting them to intervene in the matter and remove the grievances of the petitioner and render justice is annexed herewith).

as-Saxena



ANNEXURE-4 Page

To,

Amrit

The Railway Minister,
Ministry of Railways
New Delhi,

Sub:- Denial of Pensionary Benefits including family pension.

Respected Sir,

I most respectfully bring the following facts for your kind consideration and orders.

I was appointed in Railway Service under Deputy Controller of Stores, Northern Railway Alambagh, Lucknow on 15-2-1945. I have served the administration for about 28 years. I was issued a wrong S.R.S. and was removed from service with effect from 18-9-1972. Against the above decision, I had filed a writ petition in the High Court of Judicature at Allahabad (Lucknow Bench) Lucknow and my case was later on decided by The Central Administrative ^{Tribunal} Allahabad Circuit Bench Lucknow on 18-9-91 and in the aforesaid Judgement (copy enclosed) the Hon'ble Court has quashed the order of removal from service and further ordered that the period of removal up to the date of super-annuation that is the period upto 30-9-1981 be treated as in service. The Deputy Controller of Stores Northern Railway Alambagh Lucknow has accordingly paid the salary and allowances for the above period in question, but has not granted pensionary benefits from the date of retirement that is from 30-9-81. In this connection it is stated that since I was not in service from the year 18-9-1972 to 30-9-1981, question of my giving option for pension including family pension does not arise, though the instructions were issued from time to time when I was not in service.

answens



..... 2/-

It is therefore requested that in view of the judgement I may kindly be given opportunity for opting pension including family pension or it may automatically treated deemed to have opted for pension, so that

I am an old man and all of my family members are wholly and solely dependent upon the earning of my son, who is also married now.

I hope your honour will consider my case sympathetically.

With kind Regards.

Date:- 21-1-94

Yours faithfully.

Alakh Murari Lal Saxena

Alakh Murari Lal Saxena.
ex DSK DY COS office
N. Railway, Alambagh,
Lucknow.

Advance copy forwarded to The General Manager, Northern Rly, Baroda House New Delhi ~~for~~ with request that my case may kindly be considered in view of my grievances as explained in this application and necessary orders issued under advice to the Deputy Controller of stores, N. Rly, Alambagh, Lucknow for further needful action at an early date.

Dtd 21/4/1994

Alakh Murari Lal Saxena
295/15, Din Dayal Road,
Ashrafabad, Lucknow.

yours faithfully
Alakh Murari Lal Saxena

Ans



26

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD

Circuit Bench at Lucknow.

Execution Application No. of 1994.

APPLICATION UNDER SECTION-27, ADMINISTRATIVE
TRIBUNAL ACT, 1985.

In re:

T.A.No.703 of 1987.

Decided on 18.9.1991.



Akash Murari Lal Saxena.Petitioner.

Versus

The Union of India and others. ...Opposite-Parties.

AFFIDAVIT.

Akash

I, Akash Murari Lal Saxena, aged about 70 years, son of Shri Sunder Lal Saxena, resident of 15, Din Dayal Road, Asharfabag, Lucknow, solemnly state on oath as under:-

1. That the deponent is the petitioner in the above-noted case, and is acquainted with the facts of the case.

2. That the contents of paras 3, 10, 11, 12 of the application are true to my own knowledge, con-

(contd. 2/-, , , , ,)

AKASH

-2-

tents of paras 1, 2, 4 to 9 are believed by me to be true on the basis of records, while the contents of paras 13 are believed by me to be true on the basis of legal advice.

3. That annexures No.1 to 7 annexed with the application are photostat copies of their originals which are believed by me to be true copies.

Lucknow, dated: December 15, 1994. carrying
.....DEPONENT.

Verification.

I, the deponent, above-named, do hereby verify that the contents of paras 1 to 3 of this affidavit are true to my own knowledge. No part of this affidavit is false and nothing material has been concealed. So help me God.

Lucknow, dated:
December 15, 1994.

carrying
.....DEPONENT.

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

A. N. Basawar
.....Advocate.

Solemnly affirmed before me on 15.12.94
at 10.10 a.m./p.m. by the deponent, who is identified
by the Advocate Shri D. N. Basawar

I have satisfied myself by examining the deponent that he has understood the contents of this affidavit which have been read over and explained to him by me.

M. D. AMUL
OATH COMMISSIONER

625927
15-12-94

20

Central Administrative Tribunal
In the High Court of Judicature at Allahabad.
Sitting at Lucknow.



File Case No. of 1994

Alakh Narayan Lal

PETITIONERS
APPELLANTS
APPLICANTS

VERSUS

Union of India

RESPONDENTS
OPPONENTS

I/We the undersigned in the above matter do hereby appoint Shri ANURAG SRIVASTAVA, Advocate and _____ to act, appear and plead for me/us in the above matter and in all proceedings that may be taken in respect of any application connected with the same or any application for Review, to file and obtain return of documents to accept the process of the court and to deposit and receive money on my/our behalf in the said matter and in applications for Review and to compromise, settle and/or withdraw or to agree to the withdrawal of the said matter or any proceedings arising therein to represent me/us and to take all necessary steps on my/our behalf in the above matter, to ask another Advocate to hold this brief on my/our behalf if required and to do all things incidental to such acting for me/us. I/We agree to ratify all acts done by the aforesaid Advocates in pursuance of this authority.

Dated this the 19th day of December 1994

Accepted

Anurag Srivastava
Advocate for the Petitioners

Date :

Address :

Office-cum-Residence :
C-1110, Sector-A,
Mahanagar, Lucknow-226006
Phone : (0522) 73511

anurag

Chamber :

7, Lawyers' Chamber,
High Court, Lucknow.

Central Administrative Tribunal
Lucknow Bench
Date of Filing 19.12.95
Date of Receipt by Post 3766

Before the Central Administrative Tribunal, ^{By Registrar (1)} Lucknow Bench,
Lucknow.

Misc. Petition No. 3560 of 1995.

In Re :-

T.A. No. 703 of 1987.

Fixed for 5.1.1996

Alakh Murari Lal Saxena. Applicant.

Versus,

Union of India and others. Respondents.

APPLICATION FOR AMENDMENT IN
MISCELLANEOUS PETITION NO. 2553
OF 1994.

The applicant submits as under :-

1. That in the Miscellaneous Petition No. 2553 of 1994, in the prayer clause, the claim for interest on arrears of pension has been inadvertently left out.
2. That the applicant became entitled for pension on attaining the age of Superannuation in the year 1981 which has not been paid to him till date as such the Respondents are liable to pay interest on the arrears of pension which is payable to the applicant.
3. That the following line is proposed to be added in the prayer clause after the words 'Release to the Petitioner' in the fifth line :-

Alakh Murari Lal
Saxena

Central Administrative Tribunal
Lucknow Bench
Date of Filing _____
Date of Receipt by Post _____

15/10

- 2 -

Dy. Registrar (J)

' alongwith interest @ 18% per annum'.

P R A Y E R

Wherefore, it is respectfully prayed that the amendment proposed in paragraph-3 above may be allowed to be incorporated in Miscellaneous Petition No.2553 of 1994.

Lucknow; dated;
December , 1995.

Alakh Murari Lal Baxera
Applicant.

EF.20/3/96

Central Administrative Tribunal

Lucknow Bench

Date of Filing

Date of Receipt by Post

9/12/96

W76
J. S. Registrar (11)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH LUCKNOW

C.M.P. NO. 317 /96.

Inre;

EXECUTION APPLICATION NO. 25 OF 94.

(T.A.NO. 703 OF 1987).

Reb to Dr. Jay
Central Administrative Tribunal
16/12/96 Delhi

A.M.L.Saxena ---

APPLICANT.

vs.

Union of India and others --

RESPONDENTS.

APPLICATION FOR CONDONATION OF DELAY

It is most respectfully submitted on behalf of respondents:-

1. That some delay has been occurred in filing counter reply on behalf of the respondents due to want of necessary records and instructions.
2. That now the counter reply is ready and is being filed herewith.
3. That the delay in filing counter reply is bonafide, and inadvertently and without intention and as such the same is liable to be condoned.
4. That it is expedient in the interest of justice that this Hon'ble Tribunal may kindly be

AS
u-1
उप मंडार नियंत्रक
Dy. Controller of Stores
उ०रो० आलमगढ़, लखनऊ
N. Rly. Alambagh, Lucknow

Central Administrative Tribunal
Lucknow Bench
Date of Filing
Date of Receipt by Post

By, Registrar ()

(2)

pleased to condone the delay in filing counter
reply on behalf of the respondents.

WHEREFORE, it is most respectfully prayed that
this Hon'ble Tribunal may kindly be pleased
to condone the delay in filing counter reply on
behalf of the respondents.

Signature
उप भवार नियंत्रक
Dy. Controller of Stores
उ०र० आलमबाग, लखनऊ
N. Rly. Alambagh, Lucknow

LUCKNOW: DATED:
6/2/1996.

AS
(ANIL SRIVASTAVA)
ADVOCATE.
COUNSEL FOR THE RESPONDENTS.

Central Administrative Tribunal
Lucknow Bench
Date of Filing
Date of Receipt by Post

Dy. Registrar (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH LUCKNOW

C.M.P.NO. 398 /96.

Inre;

EXECUTION APPLICATION NO. 25 3 OF 94
(T.A.NO. 703 OF 1987).

A.M.L.Saxena---

APPLICANT.

Vs.

Union of India & others-- RESPONDENTS.

APPLICATION FOR TAKING ON RECORD THE
COUNTER REPLY ON BEHALF OF RESPONDENTS.

It is most respectfully submitted on behalf of
respondents:-

That for the facts and circumstances disclosed
in the accompanying counter reply, it is most
respectfully prayed that this Hon'ble Tribunal may
kindly be pleased to take on record the counter
reply filed on behalf of respondents.

LUCKNOW: DATED:

6/2/1996.


Dy. Collector of Stores
उ.प्र. अम्बारी, लखनऊ
N. Rly. Alambagh, Lucknow


(ANIL SRIVASTAVA)
ADVOCATE.

COUNSEL FOR THE RESPONDENTS.

Central Administrative Tribunal
Lucknow Bench
Date of Filing
Date of Receipt by Post

Dy. Registrar (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH LUCKNOW

C.M.P.NO. 389 /96.

Inre;

EXECUTION APPLICATION NO. 25 3 OF 94.

(T.A.No. 703 OF 1987).

A.M. L.Saxena --

APPLICANT.

Vs.

Union of India & others --

RESPONDENTS.

APPLICATION FOR DISMISSAL

It is most respectfully submitted on behalf of the respondents:-

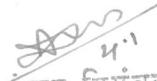
That for the facts and circumstances disclosed in the accompanying counter reply, it is most respectfully prayed that this Hon'ble Tribunal may kindly be pleased to not dismiss the aforesaid case in favour of the respondents and against the applicant.

LUCKNOW: DATED:

6/2/1996.


(ANIL SRIVASTAVA)
ADVOCATE.

COUNSEL FOR THE RESPONDENT S.


Dy. Controller of Stores
उपर्युक्त अ.लम्बार, लखनऊ
N. Rly. Alamsagh, Lucknow

Central Administrative Tribunal
Lucknow Bench
Date of Filing
Date of Receipt by Post

By, Registrar ()

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH LUCKNOW

EXECUTION APPLICATION NO. 25 3 OF 94.

Inre:

T.A. NO. 703 OF 1987.

A.M.L.Sexena ---

APPLICANT.

Vs.

Union of India and others --

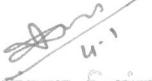
RESPONDENTS.

COUNTER REPLY ON BEHALF OF ALL THE RESPONDENTS.

I, V. P. Pathak, at present working as Deputy Controller of Stores, Northern Railway, Alambagh, Lucknow, do hereby solemnly affirm and state as under:-

1. That the official above named is working under the respondent no.1 and has been impleaded as respondent in the above noted case and as such he is fully conversant with the facts of the case stated here-in-after. He has gone through the averments made in the aforesaid T.A. No. 703 /1987 and having understood the contents thereof he is in a position to submit the following parawise reply to the same.

2. That the contents of paras 1 and 2 of the execution application so far they are matter of record


उप नियंत्रक
As Controller of Stores
रेलवे मंत्रालय, लखनऊ
Raj. Alambagh, Lucknow

Dy. Registrar (J)

(2)

are admitted.

3. That in reply to the contents of para 3 of the execution application it is submitted that in compliance of the judgement dated 18.9.91 passed by this Hon'ble Tribunal, the applicant was paid his due pay allowance for the period from 18.9.72 (the date of his removal) to 30.9.81 (the date of his superannuation under normal age limit) to which he was found entitled. Accordingly his settlement dues were also prepared on the basis of his last pay to which the applicant was found entitled to. It may be pointed out here that during his entire service period the applicant never opted for pension scheme. As per pension rules one ^{to} has opted for pension to have become entitled for pension. An employee ~~can~~ without exercising his option can not automatically be governed by the pension rules. The applicant was governed by SRPF Rules and all his settlement dues were paid to ~~him~~ him, according to the said rules. As a result of judgement dated 18.9.91 passed by this Hon'ble Court the applicant was treated to be on duty with effect from 18.9.72 to 30.9.81 but applicant exercised his option for pension only on 24.7.92, which is not admissible to him.

4. That in reply to the contents of para 4 of the

Central Administrative Tribunal
Lucknow Bench
Date of Filing
Date of Receipt by Post

By, Registrar ()

(3)

execution application it is submitted that in compliance of the judgement passed by this Hon'ble Tribunal, the applicant was paid all his pay and allowances treating him to be in service during the said period. However, he has not been given promotional benefit because next post being the selection post, without qualifying the said selection one can not be given regular promotion against the said post. The contents of letter dated 4.2.93 contained in annexure no.2 to the applicant are admitted.

5. That in reply to the contents of para 5 of the execution application, it is submitted that the applicant has been paid his due retirement benefits including special contribution to provident fund (SRPF), As per SRPF Rules, which are admissible to non pensionable staff because till date of his retirement he never opted for pension.

6. That the contents of para 6 of the execution application are admitted as alleged. It is not true that applicant has exercised his option for ~~being~~ pension during his service period. He was treated as non pension optee as his settlement dues were paid to him including special contribution to provident fund as are admissible to non pensionable staff.

U.I.
S. M. Jaiswal
I.C. Controller of Stores
C.S.C.C.T., C.R.E.S.
N. Rly. Alambagh, Lucknow

Central Administrative Tribunal
Lucknow Bench
Date of Filing
Date of Receipt by Post

Dy. Registrar ()

(4)

The applicant has not mentioned any date for submission of option nor he could produce any acknowledgement for the same.

7. That the contents of para 7 of the execution application are admitted. It is further submitted that the applicant has been paid all his post retiral benefits as per rules applicable to non pension optee.

8. That the ~~up~~ contents of para 8 of the execution application ~~xxx~~ are denied. It is submitted that applicant was treated as retired from service with effect from 30.9.81. The payscales of Rs. 425-640 and Rs. 455-700 were merged in one scale of Rs. 425-700 with effect from 1.8.82 as a result of upgrading of Singal designation as DSK GRADE-III.

9. That in reply to the contents of para 9 of the execution application it is submitted that since the applicant did not opt for pension during his entire service period before and after his removal from service till the date of his retirement under normal age limit hence he is not entitled for pension. His period for exercising the option for pension has already been over. However, on the

Dy. Registrar (11)

(5)

representation of the applicant the matter was referred to the competent authority. A photostat copy of letter dated 24.11.94, is being filed herewith as ANNEXURE NO.C-1 to this counter reply.

10. That the contents of para 10 of the execution application are not admitted as alleged. From time to time various opportunities were provided to the employees for exercising their option for pension since 16.11.57 i.e. the date of introduction of pension scheme in the railways. The applicant was in service upto 18.9.72 but he did not exercise his option for pension from 16.11.57 to 18.9.72 even thereafter till date of his retirement (in compliance of the orders of this Hon'ble Tribunal) he did not exercise his option for pension . The applicant has also received his post retiral benefits including SC to PF as per SRPF Rules. Since the applicant has not opted for pension scheme during the eligibility period i.e. when the option was open, accordingly his settlement dues has been cleared as admissible to those who are not governed by pension scheme.

The settlement dues have been duly paid by the applicant which have been duly received by the applicant.

Acceptance of the option for pension by the applicant at this stage is not within the competency of the

Dy. Registrar ()

(6)

answering respondents.

11. That in reply to the contents of para 11 of the execution application so far it is matter of record are admitted but rest of the contents of para are denied. The pension scheme was introduced in the railways with effect from 16.11.57 and several opportunities were given to the employees to opt for the pension scheme upto 1972 i.e. till the applicant was in active service but applicant did not opt upto for the pension scheme. Even till date of his normal retirement as per directions of this Hon'ble Tribunal i.e. in the year 1991, the applicant did not exercise his option for pension. Now at this stage, the answering respondents are not competent to accept the option for pension from the applicant or to grant pension to him.

12. That the contents of para 12 of the execution application are not admitted as alleged. The opportunity of changing over to pension scheme by ~~the~~ refunding the provident fund contribution could have been admissible only during the period when the option for pension was open. Since the period has already expired hence

now at this stage any request by the applicant for changing

Dy. Controller of Stores over to pension scheme is not within the competency of
उपरोक्त अलम्बान, लखनऊ

N. Rly. Alambagh, Lucknow the answering respondents hence his such request can not



उपरोक्त अलम्बान
Dy. Controller of Stores

Central Administrative Tribunal
Lucknow Bench
Date of Filing
Date of Receipt by Post

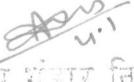
(7)

Dy. Registrar (1)

be ~~exceeded~~
be ~~exceeded~~ to.

13. That the contents of para 13 of the execution application are categorically denied. A perusal of judgement would itself ~~be~~ clarify the entire controversy in dispute. In compliance of the judgement passed by this Hon'ble Tribunal, the applicant was entitled for post retirement benefits as per rules. Since during his service period upto the date of his retirement under normal age limit the applicant did not opted for pension. Even just after the pronouncement of the said judgement, the applicant did not opt for pension. Accordingly, as per rules, the applicant was found entitled to post retirement benefit as per SRPF Rules and the same was paid to him.

14. That it may also be submitted that since the answering respondents are not competent to accept the option for pension of the applicant at this stage, hence, the matter regarding acceptance of option of the applicant for pension has been referred ~~be~~ by the General Manager, Northern Railway, Baroda House, to the Railway Board seeking permission for allowing the applicant an opportunity for exercising option for pension. In this connection


Dy. Controller of Stores
राज. भवान, लखनऊ
N. Rly. Alambagh, Lucknow

Central Administrative Tribunal
Lucknow Bench
Date of Filing
Date of Receipt by Post

108

Dy. Registrar ()

(8)

it is asked from the applicant whether he is prepared to refund the amount of special contribution to provident fund i.e. SC to P.F. alongwith interest. The said letter was sent to the applicant through the special messenger a copy of said letter is being filed herewith as Annexure No. C-1 to this counter reply. The applicant refused to receive said letter. A copy of said letter from alongwith the endorsement of the staff member/whom the applicant refused to take this letter, is being filed herewith as Annexure No. C-2 to this counter reply.

Accordingly the applicant was sent a registered letter no. B/5/823 dated 30.8.95. Neither the said registered letter was returned to the answering respondents as unserved nor any reply on behalf of the applicant was received in pursuance to the said letter.

15. That in view of the above mentioned facts and circumstances the applicant is not entitled to any relief from this Hon'ble Tribunal.

LUCKNOW:

DATED: 4/1/1996.

VERIFICATION


उप नियंत्रक
Dy. Controller of Stores
उ.परो. आलमबाग, लखनऊ
N. Rly. Alambagh, Lucknow

I, the above named official do hereby verify that the contents of paragraph 1 of this

Central Administrative Tribunal

Lucknow Bench

Date of Filing

Date of Receipt by Post

Dy. Registrar (2)

(9)

counter reply and those of paras 2 to 15 are
based on legal advice and records.

No part of it is false and nothing
material has been concealed. So help me God.

LUCKNOW: DATED:

6/1/1996.

अप्र० ५१
लष्ट रेडार नियंत्रक
Dy. Controller of Stores
प०८० आलमबाग, लखनऊ
N. Kly. Alambagh, Lucknow

In The Central Administrative Tribunal
Lucknow Bench - Lucknow

A.M.L. Saxena _____ Applicant

VS
Union of India & other _____ Respondents

Execution Application No 25 of 1994
(in re T.A. 703 of 1987)

Annexure - e-1 Dy. Registration (D)

P.28

NORTHERN RAILWAY

OFFICE OF THE
DY.COS/AMV/LKO

MOTI LAL
DY.COS/AMV/LKO

D.O. No. E/S/823
Dt. 24-11-94

My dear Sood,

Sub: Grant of Pensionsary benefits to Shri Alakh Murari
Lal Saxena, Retd. DSK/Alambagh, Lucknow.
Ref: Your D.O. letter No. 145 E/C/89733/Stores/L/RB/SSB
dt. 14.11.94.

Your attention is invited to the application of Shri Alakh Murari Lal Saxena dt. 21.4.94 addressed to Railway Minister, Ministry of Railways, New Delhi which was forwarded by Shri Moti Lal Vera to Shri C.K.Jaffar Sharif, Minister for Railways.

In this connection it is to state that Shri Alakh Murari Lal Saxena was appointed in Rly. Service under DCOS/N.Rly/AMV on 15.2.75. He was removed from service from 18.9.72. Central Administrative Tribunal, Allahabad quashed the orders of removal from service and the period from the date of removal to the date of superannuation i.e. from 18.9.72 to 30.9.81 AN was treated to be in service vide his Judgement dt. 18.9.91. Accordingly he was paid salary and allowances i.e. Rs. 622.75 for the period in question and leave encashment for 180 days unutilized LAP amounting to Rs. 6,426.00.

He was governed by SRPF rules and as such was paid SC to PF Rs. 5,354.95 on 22.1.74. He submitted application for pensionary benefits alongwith family pension under F.P. rules 1964 vide his application dt. 24.7.92 which was not granted by this office as he has not come over pension rules although several opportunities were given during his service period from time to time by the Railway Board.

Now his request for grant of pension including family pension can only be accepted by the Rly. Board as he has not opted for pension till the date of his removal i.e. 18.9.72. He has been treated in service as a result of CAT Judgement dt. 18.9.91 upto 30.9.81 AN and applied for grant of pension on 24.7.92.

In case it is decided to grant him pensionary benefits in view of his application dt. 21.4.94 to Rly. Minister, Kindly convey necessary sanction of competent authority so that his payment may be made accordingly.

With best wishes,
Yours sincerely,

h.w.f.
(Moti Lal)

Shri S.K. Sood,
A.P.O. (Complaints)
N.Rly. Bareda House,
New Delhi.

4/1
Dy. Convenor of Stores
उत्तरोत्तर रेलवे एसेस्मेंट
N. Rly. Alambagh, Lucknow

In The Central Administrative Tribunal
Loktantra Bhawan, New Delhi
Date of Filing.....
Date of Receipt by Post.....

A.M.L. Saxena, _____ Applicant
Union of India & other _____ Respondents
Execution Application No 25 of 1994
(in re T.A. 703 of 1987)
Annexure - C-2

भारत सरकार GOVERNMENT OF INDIA
रेल मंत्रालय MINISTRY OF RAILWAYS
(रेलवे बोर्ड RAILWAY BOARD)
RECEIVED
रेल भवन, नई दिल्ली-110001, तिथि
Rail Bhawan, New Delhi-110001, dated
D.C. NO. B(RPF) III/94/5-14 (M-1)

Most Immediate

Dear Shri Rana,

Smt:- Grant of pensionary benefits to Shri Alakh Murari Lal Saxena, Retd. DSB/ Alambagh, Lucknow.

Ref:- Your Railway's letter No. 145E/C/59731/
store/LMC/RB/SSB dt. 8-5-95.

Your Railway's letter under reference does not clarify as to whether simultaneously with his request for pension option, Shri Alakh Narari Lal Saxena has also came forward to refund his settlement dues under the EPF Scheme with interest thereon or with a request of amount being adjusted against gratuity due under the pension scheme.

Since the papers in this case are required to be submitted to MR immediately, it is requested that required clarification may kindly be furnished without further delay.

With regards,

Yours sincerely,

64

(二.三)

Shri K.N.S.Rana,
Chief Personnel Officer,
Northern Railway
New Delhi.

मुख्य विद्यालय के 8 शत
दार्शक विद्यालय, लखनऊ
N. Rly. Almora, Lucknow

In The Central Administrative Tribunal
The Benoi Bench - Lucknow

A. M. L. Saxena

Central Administrative Tribunal
Lokanw Beach ^{Applicant}

Union of

Union of India & other Date of Filing Respondents
Date of Receipt by Post Execution Application No. 25 of 1994
(In re T.A. 703 of 1987)

Annexure - e- 3

By, Registrar

उत्तर रेलवे NORTHERN RAILWAY

प-८८ E/S/823

3)

Aug 30-895

ਸ੍ਰੀ ਅਲੋਕ ਸ਼੍ਰੀ ਲਾਲ ਸ਼੍ਰੀ ਕਾਨਾਂ
ਮ. ਨੰ. ੨੯੫/੧੫
ਦੀ ੧੮ ਅਕਤੂਬਰ ੨੦੧੩ ਅੰਦਰ ਕਾਨਾਂ
ਲਾਲ

विषय- पूर्ण लाभों के प्राप्त करने के लिए SC to PF तक
प्राप्त धन को व्योग सहित काप्त करने के लिए दर्शा।

3715 बिहार राज्यकाल पत्र - दिनांक 21-4-96 अंक 1216
एवं विनाश-काल लूट-पैदल भिक्षा है, प्रत्यु वहां
जरायग है विषया आप ए RPF के कानून दाखि देंगे तो
यहां राहिं वापर रह जाएगा तथा काल नहीं ।

क्रमांक ११२८६२३३
पंचांग संवत् १५८८२ शुक्रवार ११२८६२३३

ମନ୍ଦିର
ପାତା
ପାତା

उप भारत नियंत्रक

Dy. Controller of Stores
उ०रे० आलमदार, लखनऊ
N. Rly. Alambagh, Lucknow

Before The Central Administrative Tribunal,
Lucknow Bench, Lucknow.

M.P. No. 2553 of 1994.

in

T.A. No. 703 of 1987.

P.T
20/10/76

A.M.L.Saxena.

Applicant.

Versus

Union of India and others

Opp. Parties.

Rejoinder to the Counter Reply.

I, Alakh Murari Lal Saxena, aged about 72 years, son of Shri Sunder Lal Saxena, resident of 15 Deendayal Road, Asarfabad, Lucknow, the applicant do hereby solemnly affirm and state as under:-

1. That the applicant is petitioner in the T.A. case and the above noted M.P. and as such he is well acquainted with the facts of the case. He has read the copy of Counter Reply to which this Rejoinder is being filed.

2. That the contents of paras 1 and 2 of the counter reply need no comment.

Alakh Murari Lal
Saxena

Contd...2.

3. That the contents of para 3 of the counter reply are denied as stated, and the contents of para 3 of Misc.Petition are reiterated. It is submitted that the petitioner has opted for pensionary benefit and as such the opposite parties are duty bound to consider his option and grant him pension accordingly.

4. That the contents of paragraphs 4 and 5 of the counter reply are denied as stated, and contents of paragraphs 4 and 5 of misc.petition are reiterated. It is submitted that immediately after the pronouncement of the judgment, the applicant sent several reminders but the opposite parties are delaying grant of pension on one pretext or the other.

5. That the contents of paragraph 6 of the counter reply are denied. It is submitted that by means of annexure no.4 to the misc. petition the opposite parties had required that a fresh option be given which would be forwarded to the Railway Board, but inspite of the option the opposite parties did not do anything in matter and have not forwarded the option of the applicant for pension to the Railway Board.

6. That the contents of paragraph 7 of the counter reply denied as stated. The applicant submits that he has opted for pensionary benefits and is entitled for the same.

7. That the contents of para 8 of the counter reply are denied as stated, and those of para 8 of the Misc. Petition are reiterated.

Alakh Nandan Deo

8. That the contents of paragraph 9 of the counter reply are denied, and those of para 9 of misc. petition are reiterated. It is submitted that during the pendency of the case the applicant had given his option for pensionary benefit and the same was kept on his personal file by the then record clerk Shri Jai Narain, but it appears that the same was not traceable and accordingly after the pronouncement of judgment in applicant's favour, he again submitted an option for pensionary benefits, but till date no decision has been taken in this regard.

9. That the contents of paragraph 10 of the counter reply are denied as stated, and contents of para 10 of the misc. petition are reiterated. It is submitted that the fact that the services of the petitioner were pensionable subject to his opting for pension is undisputed. In the special circumstances of the case that the petitioner had been removed from service in the year 1972 and the final judgment came in 1991, the petitioner would be entitled for pensionary benefit even if he opts for pension after the judgment.

10. That the contents of paragraphs 11 and 12 of the counter reply are denied, and those of para 11 and 12 of the Misc. Petition are reiterated. It is submitted that it is strange that on the one hand the respondents are stating that now pension cannot be granted to the applicant on the other hand they are again and again asking for option for pensionary benefit, which would be evident from letter dated 30.8.1995 already on record as Annexure no.C-3.

-4-

11. That the contents of paragraph 13 of the counter reply are categorically denied, and those of para 13 of Misc. Petition are reiterated. It is submitted that the applicant has submitted his option for pension several times, but no decision has been taken on the same by the opposite parties.

12. That the contents of paragraph 14 of the counter reply are denied. It is submitted that the petitioner received letter dated 30.8.1995 and sent a reply to the same on 16.12.1995 under registered post giving his consent to deduct the amount of SRPF from the pensionary dues and release the balance amount of pension alongwith interest. The letter dated 16.12.1995 is already on record filed alongwith supplementary dated 18th Jan. 1996.

13. That the contents of paragraph 15 of the counter reply are denied. It is submitted that the applicant is entitled for the reliefs claimed in the Misc. Petition.

Lucknow, Dated :
20.10.1996

*Malkh Muranil
Saxena*
Applicant.

Verification

I, the above named applicant do hereby verify that the contents of paras 15, 8, 9, 11 of this rejoinder are true to my own knowledge, and paras 6, 7, 10, 12 are true on the basis of records, and paras 13 are true on the basis of legal advice, that no part of it is false or concealed.

Lucknow, Dated :
28.10.96

*Malkh Muranil
Saxena*
Applicant.