

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

ANNEXURE

INDEX SHEET

CAUSE TITLE *MA No 2553/94 in*
T A No 703/02

NAME OF THE PARTIES *Alok Kumar for Saxe*

Applicant

Versus

Respondent

Part A, B & C

Sl. No.	Description of documents	Page
1	<i>order sheet (CAT) order dt. 03.5.99</i>	<i>A1 to A6</i>
2	<i>Copy of Petition / Annexure, Paves</i>	<i>A7 to A34</i>
3	<i>MA No. 2560/95 Amendment to Petition No. 397/98, Copy</i>	<i>A35 to A52</i>
4	<i>Receipts</i>	<i>A53 to A58</i>
5		
6		
7		
8		
9		
10		
11		
12		
13		

CERTIFICATE

Certified that no further action is required to taken and that the case is fit for consignment to the record room (decided) *Not B. We did not destroyed*

Dated... *26.2.12*...

Counter Signed.....

Section Officer / In charge

Signature of the
Dealing Assistant

MP 2553/94

IN TN 703/87

①

① 12-1-95

Hon Mr V.K. Sekh, AM
Hon Mr DC Narsing, J.M.

अ. 301

मूला पत्रावली TN 703/87

संलग्न पत्रावली MP 2553/94

की 215

आदेशानुसार उत्तर

11/1

That it learned counsel
for applicant Sri Arun
Srinivasan. Some notice to
the opposite parties. copy of
the M.P. has been served
to Sri A.K. Chattervedi.
Objection if any may be filed
within 4 weeks.

list for orders on 9.3.95

Received
1703
14/1/95

Jm

AM

B

② 9.3.95

OK

Subscribed for

4/8/1

No ruling a.D.M. order
19.4.95

me

③ 19.4.95

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

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

AM

AM

B

Bd

VC

(4)

30-5-95

Hon Mr. V. K. D. A. M.
Hon Mr. D. C. W. J. M.

Note for applicant. Hon
Amil Swastika seeks and is
allowed 3 weeks time to file C.A.
The applicant is granted one
week thereafter to file R.A.

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

JM

V. K.
D. M.

(5)

19-7-95
DR.

Note for the parties.
Wait on 01-8-95 for
filing C.A. before me.

DR

DR

(6)

01-8-95
DR.

Note for the parties. No C.A.
filed yet it be filed by 01-9-95.

DR

DR
A. M. M. M.
20/5

M.P. 2553/94
~~M.A.~~ T.A. 703/82

7) 01-9-95
DL

Due to sudden death of Sr.
B. Singh, C.M. Punjab, case
adj. to 08-9-95 for filing
C.A. before me.

OK
C.M. Punjab
6/5

AC

DL
D.F.

8) 08-9-95
DL

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

OK
Not Jt. lot
by 19/11

Not to be issued on
09.95 in absence of Mr.
Bh 19/12

AC

DL
D.F.

MP 2553/94
T.A. 703/87

(u)

9/ 30-10-95
DL

Noted per 30/10/95
R.K. Lalit
for Ail Singh
14/11/95 R.V.

Applicant present in person.
Notices not issued till today.
Office is directed to move
careful about the listing &
reports & 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./R.A.
before me. Otherwise case
will be listed for ex-parte after
seeing the position on 30-11-95
when the RA. next listed before
me.

10/

Dr

30-11-95
DL

Dr
D.L.

Applicant present in person.
None for the respondents.
W.C.A. filed till today.
Place before the three
bench on 05-1-96 for
ex-parte orders. Letter
Clerk of Sr. Ail Sivasatana
is present.

OK
MP 3560/95 R. Lalit
Submitted for order
2/1

Dr

Dr
D.L.

M.P. 2553/95

in
G.A. 703/87

(S)

Am

(11)

05-1-96

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

Sr. Anurag Srivastava, learned
counsel for the applicant, Sr.
Anil Srivastava, for respondents.
M.P. 3560/95 is allowed. Necessary
corrections may be carried out
within a week.

list for orders on 16-2-96 by
which time the respondents
may also file the reply of the
M.P. No. 2553/95.

OK

No p.p.s filed in ch on
dt. 5.1.96

L

J.M.

1.15
A.M.

(12) 16.2.96

No filing at D. Mahajan
N 20.3.96

Boe

(13) 20-3-96

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

learned counsel for appli-
cant prays for 2 weeks time to
file R.A. which is granted.

list on 15-4-96 for
hearing.

Boe

V.C.
A.M.

V.C.

OK

Submitted for hearing
11/4

Boe

(14) 15.4.96

OK
C.A. reply 21/4.

Submitted for hearing

Core mt. reached court on 10

17-5-96

2
Boe

6

(15) 17.5.96

No singing at D.M. office
04.6.96

Buc

(16) 4.6.96

No singing at D.M. office
to 11.7.96

Buc

(17) 11.8.96

No singing at D.M. office
29.8.96

Buc

OK

Submitted for hearing

26/8

(18) 29-9-96

Hon. Mr. V. K. Seth, A.M.

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

OK

Submitted for hearing

19.9.

None for parties.

will on 24-9-96 for

hearing.

J.M.

in k
A.M.

[Signature]

(19)

24-9-96

OR
Submitted for
hearing

↑ 6/10

Applicant is present in person.
None for respondents. Appropria-
te bench is not available. Place
before the Hon'ble bench on
23-10-96 for hearing

[Signature]

[Signature]
D.R.

(20)

28.10.96

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

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.

OK
RA 2121.
Submitted for
hearing on m.p. 2553/94
13/1

J.M.

V.K.
B.M.

(21) 17.1.97

OK.
Submitted for hearing
on m.p. 2553/94
10/3/97

No. 101 m.p. 2553/94
17.3.97
J.M.

17-3-97

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

Li. A. Srivastava, learned counsel for applicant. Li. Anil Srivastava, for respondents.
List on 22-4-97 for hearing.

J.M.

V.K.
A.M.

M.L. 2553/94

TA 703/87

(8)

(22)

22-4-97

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

Li. Anurag Srivastava,
Learned Counsel for appli-
cant. None for respondents.
Wrongly listed for hearing.

List on 08-5-97 for orders
on M.L. 2553/94.

J.M.

J.M.

A.M.

And

(23)

08-5-97
D.R.

L. S. Jain, brief holder for
L. A. Srivastava, L.C. for appli-
cant. None for respondents.

Appropriate Bench is not avail-
able. Please refer Hon'ble
Bench on 20-5-97 for order
on M.L. 2553/94.

OK

Submitted for order on M.L.
2553/94

OK

Submitted for
hearing

9/7/92

(24)

20-5-97

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

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

J.M.

A.M.

(a) T.A. 703/87 12703/87

OK 21.10.97
submitted for
hearing.
25/9/97

11/10/97 M. Colfax
OG 10 45
Doc

(20) 13.10.97

Lawyer absent for 2nd time
off 08.12.97 03.12.97
Doc

OK
submitted for
hearing.
21/11/97 (25) 3-12-97

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

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

V
A.M.

Doc
V.C.

OK.
submitted for
hearing. (20)
23/12/97

6-1-98 Honble Mr V. K. Seth A.M.
Honble Mr D. C. Verma J.M.
Advocates have resolved, not
to work today after lunch. Case
is adjourned to 26-2-98 for
hearing.

Shool
Rou

(29) 26-2-98 Case not reached adj.
to 26-3-98 for order.

(30) 26-3-98

V
Doc

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

B. J. [Signature]

(10)

T.A. 703/87

OK
Submitted
for hearing.

(31)

01-7-98

No sitting of D.B. case is
adj. to 01-9-98 for hearing.

V. A.
Boc

(32)

01-9-98

No sitting of D.B. case
is adj. to 24-11-98 for hearing.

V. A.
Boc

(33)

24-11-98

No sitting of D.B. case is
adj. to 22-3-99 for hearing.

V. A.
Boc

(35)

22-3-99

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

None for applicant.

Shri Anil Srivastava for applicant has
sent an agreement application.
List for orders on 03-5-99.

A.M.

J.M.

copy prepared on
11-5-99 and the
sent to court per on
11/5/99 with origi
nal. suggest
11/5/99

Submitted for
hearing. order
dated 13/9/97
50657, 19.1.99.

92 2553/94

TA 703/87

2/0

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.3566/90) 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.

Execution Application No. ²⁵⁵³ 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 order on 12-1-95

[Signature]
Dy. Registrar

File today

[Signature]
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 desi-
gnated as *Deputy* Controller of Stores) Northern
Railway, Alambagh, Lucknow.

.....Opposite-Parties.

The Petitioner, named-above, most
(contd.2/-....)



[Signature]

Hon'ble Mr. Justice U.C. Srivastava vs.
Hon'ble Mr. A.B. Gorthi A.M.

Date of Judgment 18-9-91

Date of Receipt 22-11-94

Date of Filing 21-12-94

Register as M.P. 2553/94 ~~as~~
in T.A. and list the Case before Hon'ble
Bench on 12-1-95 for order
~~admission.~~

[Handwritten signature]
19/12/94

[Handwritten signature]
22/12/94

[Handwritten signature]
D.R.
24/12

1 to 3

Ashil Chaturvedi

respectfully submits as under:-

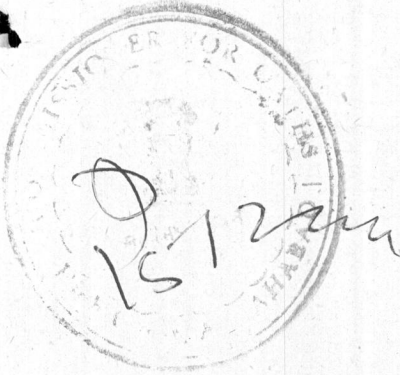
1. That the Petitioner had filed the above-noted case originally in the Hon'ble High Court of Allahabad at Lucknow as Writ Petition No.3566 of 1980. This was transferred to the Hon'ble Central Administrative Tribunal at Lucknow as T.A. No. 703 of 1987. The said case was decided on 18.9.1991. A true copy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



ad. S. S. S.

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

(contd.4/-..)



as per

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

(contd.5/-....)



as Annexure

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

(contd.6/-.....)



airfax

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
per order dt 5.1.96
Akhilendra
Adv.
9.1.96

Lucknow, dated:
December 19, 1994.

Akhilendra
(Akhilendra Murari Lal Saxena.)
Petitioner.

Akhilendra
(ANURAG SRIVASTAVA.)
Advocate
Counsel for the Petitioner.

7
A/10

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.

Klokh 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).

galsena



ANNEXURE-1.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH

LUCKNOW

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

Alok Kumar Lal Saxena

Applicant

V. ISUS

Union of India and others

Respondents.

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

Hon. Mr. A.B. Gorthi, A.M.

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

This application has a chequered history and the order is instinct 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. After he filed the writ petition against the removal order, which by operation of the Administrative Tribunal 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 charge-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 without any prior intimation. The applicant was charged with failure to maintain full devotion to duty and thereby contravening Rule 3(ii) of the Railway Service Conduct Rules, 1966.

arbox

(A21)

2. The second charge which is a vague charge as a consequence of charge No. 1. The applicant states that ~~all this~~ ^{his} history of this agony, ~~that~~ as a matter of fact the foundation, is that the alleged guilt committed by him ~~was~~ ^{was} if history is traced, ~~that it is~~ ^{un-} because of ^{on} fairness ~~of~~ he exposed, certain date of embezzlement of 60 brass bushes under P.L No. CP910 of the department, of which respondent No. 4 was also involved. ^{that} was the foundation of the total ~~fine~~ ^{of} punishment. According to him the entire proceedings against him are mala fide. 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 reply 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 he got 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.



allegations

10
X/6

A 84

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 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



as per

11
A/17

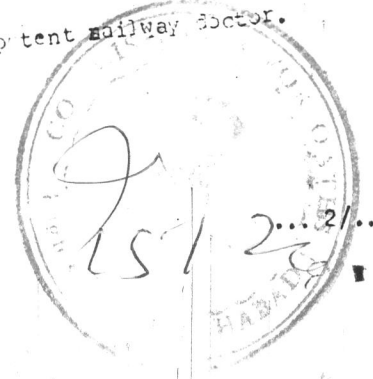
223

-4-



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, 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. ~~and~~ A reference has been made by the respondents to rule (iii) which provides "A railway ~~employee~~ 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."

carbrens





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.

for A.M.
Lucknow dt. 18.9.91

for V.C.

प्रमाणित प्रति

भारी न्यायिक अनुभाग
न्याय प्रशासनिक अधिकरण
लखनऊ न्यायपीठ, लखनऊ

22/11/94

Central Administrative Tribunal
Circuit Bench, LUCKNOW
(Copying Section)

- (A) Serial number of the application... *946/94*
- (B) Name of the applicant... *A.M. Dal*
- (C) Date of receipt of application for... *22/11/94*
- (D) Date of receipt of... *22/11/94*
- (E) Date of receipt of... *22/11/94*
- (F) Date of receipt of... *22/11/94*
- (G) Date of receipt of... *22/11/94*
- (H) Date of receipt of... *22/11/94*
- (I) Date of receipt of... *22/11/94*
- (J) Date of receipt of... *22/11/94*
- (K) Date of receipt of... *22/11/94*
- (L) Date of receipt of... *22/11/94*
- (M) Date of receipt of... *22/11/94*
- (N) Date of receipt of... *22/11/94*
- (O) Date of receipt of... *22/11/94*
- (P) Date of receipt of... *22/11/94*
- (Q) Date of receipt of... *22/11/94*
- (R) Date of receipt of... *22/11/94*
- (S) Date of receipt of... *22/11/94*
- (T) Date of receipt of... *22/11/94*
- (U) Date of receipt of... *22/11/94*
- (V) Date of receipt of... *22/11/94*
- (W) Date of receipt of... *22/11/94*
- (X) Date of receipt of... *22/11/94*
- (Y) Date of receipt of... *22/11/94*
- (Z) Date of receipt of... *22/11/94*

Section Officer/Lucknow
Copying Section

22/11/94



airfreng

13
10/10

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.

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).

carstens



(5)

307

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

No. 104/834 Dated 4.2.93

Shri Akhli Murali Lal
 Zamra Ex 104/834 Handed over
 Hmo. 295/15 Dhandayal
 Road, Ashta bad
 2 unknown

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. G. Rs. 655.700 (Rs.)
 was a Selection post.

Annexure

1 उत्तर रेलवे निदेशक
 उत्तर रेलवे, जयपुर
 लखनऊ



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.

Alexh 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).

as per



ANNEXURE-3

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

Sir,

Reg:- Retirement benifites.

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 benift, Gratuity & pensionary benifts 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 pensione 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 more over such binding can not be applied in case of an employee who was not present on duty as my ~~xxxxx~~ 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 ~~XXXXXX~~ & pensionary benifts etc, to save my family from starvation.

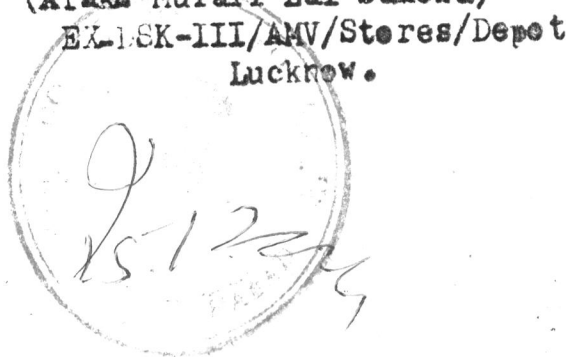
Thanking You

Yours Faithfully

Dated: 19-7-1993.

Alakh Murari Lal Saxena
(Alakh Murari Lal Saxena)
EX-1SK-III/AMV/Stores/Depot
Lucknow.

as Annex



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.

Mokh Murari Lal Saxena.Petitioner.

Versus

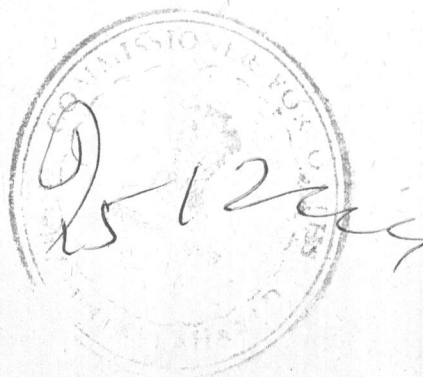
The Union of India and others.

.....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).

ar/saxena



Letd AP (157) 18

उत्तर रेलवे
NORTHERN RAILWAY

ANNEXURE
-4

No R/S/823

dt. 10-9-93

M/24

Sri Mahesh Murare Lal Saxena
House No 295/15.
Din Dayal Road
Ashrafabad, Lucknow

Sub- Payment of Settlement dues.
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 Narain (in 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 / G.M. for consideration.

copying



15/9/93
107515

19

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.

Alexh 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).

as per



Ans

ANNEXURE-5

To,

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

Sir,

Reg:- Retirement benefits.

Ref:- My application dated 19.7.93.

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 ~~be~~ pay your special attention to words my grievances and instruct the concerned staff for adequate action, otherwise I will ~~be~~ again ^{be} compelled to seek shelter in the court of law.

With kind regards,

Yours faithfully,

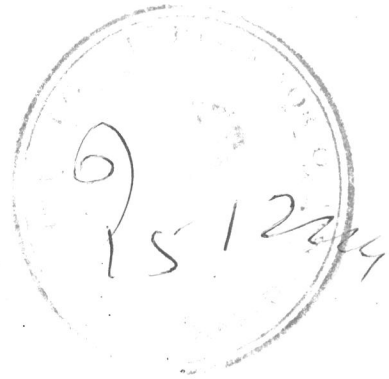
Alakh Murari Lal Saxena

(ALAKH MURARI LAL SAXENA)

Ex. DSK-III/AMV/LKO

Dated 05.8.93.

A/c
50-
FY 93
48
16/8/93
in Case pl
Sd/- A/c/E.H.
5/8
and C.D.
3-5/8/93
as per



21
2/2

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 per



(92)

उत्तर रेलवे
NORTHERN RAILWAY

ANNEXURE-6

No E/S/023

Dated 17.8.93

Shri Alakh Murad Lal
Supt. Engr, Ex WK/Anr
Hno. 295/15 Deen
Dayal Road, Ashrafabad
Lucknow

Sub: Promotional benefit &
fixation of pay

Ref: your application dt 5-8-93

Reference above, it is intimated that the grade of WK Re 425-600 and ASKP. Re 455-700 was merged into one grade Rs 425-700 (Rs) as a result of upgradation in the non-ministerial cadre, which was applicable from 1-8-82.

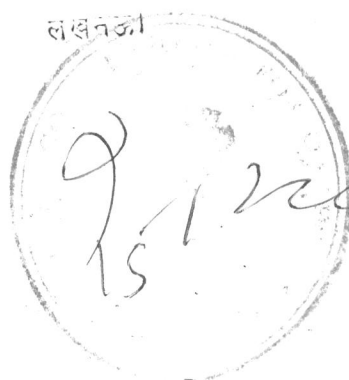
Since you have already retired from Service on 30.9.01 Anr, the above benefit is not applicable to you.

17-8-93

निर्वाहक निदेशक
उत्तर रेलवे, आननवाग

लखनऊ

अवलोकित



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.

~~Alokh~~ Murari Lal Saxena.Petitioner.

Versus

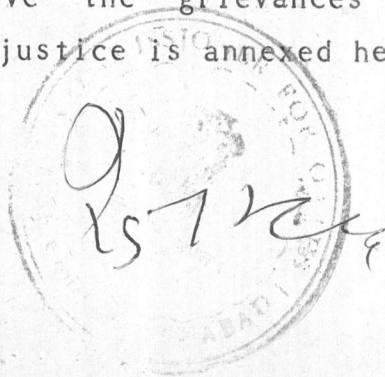
The Union of India and others.

.....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-7

To,

The Railway Minister,
Ministry of Railways
New Delhi,

Sub:- Denial of Pensionary Benifits 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.F.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 superannuation 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 allownces for the above period in question, but has not granted pensionary benifits 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.

answering



.....2/-

25

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

alshens



IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD

Circuit Bench at Lucknow.

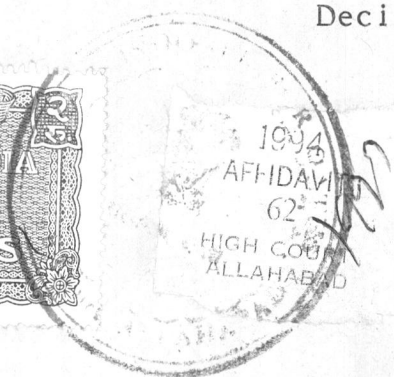
Execution Application No. of 1994.

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

In re:

T.A.No.703 of 1987.

Decided on 18.9.1991.



~~Alakh~~ Murari Lal Saxena.Petitioner.

Versus

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

AFFIDAVIT.

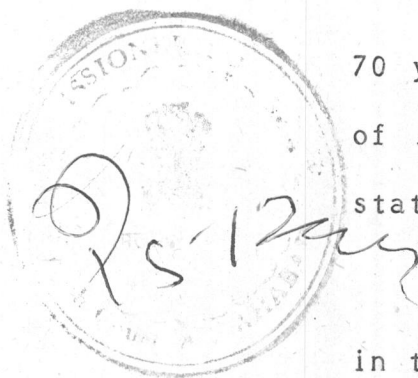
Alakh.

I, ~~Alakh~~ 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 2, 10, 11, 12 of the application are true to my own knowledge, con-
(contd.2/-,,,,,))

Alakh



-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 18, 1994.

carboxeng
.....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 18, 1994.

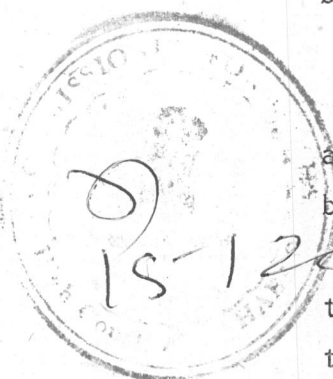
carboxeng
.....DEPONENT.

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

Advocate
.....Advocate.

Solemnly affirmed before me on 18.12.94 at 10.10 a.m./p.m, by the deponent, who is identified by the Advocate Shri *Advocate*

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.



Advocate
OATH COMMISSIONER
18-12-94

28

4/11/94

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



Exe Case No.

of 1994

Alakh Murari Lal Saxena

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 19 94

Accepted


Advocate for the Petitioner

Date :

Address :

Office-cum-Residence :

C-1110, Sector-A,

Mahanagar, Lucknow-226006

Phone : (0522) 73511

Chamber :

7, Lawyers' Chamber,

High Court, Lucknow.

as Exens

19.12.95

3746

JL

By Registrar (J)

Before the Central Administrative Tribunal, Lucknow Bench,
Lucknow.

Misc. Petition No. 3560 of 1995.

In Re :-

P.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 inadvertantly 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

- 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 Saxena
Applicant.

E.F. 20/3/96

Central Administrative Tribunal

Lucknow Bench

Date of Filing

Date of Receipt by Post

19/2/96

u76

Dy. Registrar (1)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH LUCKNOW

C.M.P. NO. 31/96.

Inre;

EXECUTION APPLICATION NO. 25 OF 94.

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

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

R

उप मंडार नियंत्रक

Dy. Controller of Stores

उ.रे. आलम्बाग, लखनऊ


N. Rly. Alambagh, Lucknow

Dy. Registrar (7)

(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.


उप भंडार नियंत्रक
Dy. Controller of Stores
उ० रे० आलमबाग, लखनऊ
N. Rly. Alambagh, Lucknow

LUCKNOW: DATED:
6/2/1996.


(ANIL SRIVASTAVA)
ADVOCATE.

COUNSEL FOR THE RESPONDENTS.

Central Administrative Tribunal

Lucknow Bench

Date of Filing

Date of Receipt by Post

Dy. Registrar (2)

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.

(ANIL SRIVASTAVA)
ADVOCATE.

COUNSEL FOR THE RESPONDENTS.

u.i.
डा. निरंजन निरंजन
Dy. Controller of Stores
उ.रे. वा.वा.वा.वा., लखनऊ
N. Rly. Alambagh, Lucknow

Dy. Registrar (7)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH LUCKNOW

C.M.P.NO. 388/95.

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

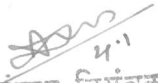
It is most respectfully submitted on behalf of the respondents:-

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 ϕ dismiss the aforesaid case in favour of the respondents and against the applicant.

LUCKNOW: DATED:
6/2 /1995.


(ANIL SRIVASTAVA)
ADVOCATE.

COUNSEL FOR THE RESPONDENT S.


उप निरीक्षक
Dy. Controller of Stores
उ.र. अ.ल.म.स. अ.स.न.उ.
N. Rly. Alambagh, Lucknow

By, Registrar (1)

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.Saxena ---

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 निदेशक

Deputy Controller of Stores

उप निदेशक, उत्तर

N.Ry. 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.

डा. नंदार नियंत्रक
Dy. Controller of Stores
उ. र. अलम्बाग, लखनऊ
N. Rly. Alambagh, Lucknow

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

Dy. Registrar (J)

(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 ar-e admissible to non pensionable staff.

Dy. Registrar (J)

(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 ~~as~~ 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 pay scales 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

2/5

Dy. Registrar (1)

(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^{S.P. No 3} 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. uptill 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 over to pension scheme is not within the competency of the answering respondents hence his such request can not

उप निरीक्षक
Dy. Controller of Stores
उ.रे. आलम्बाग, लखनऊ
N. Rly. Alambagh, Lucknow

(7)

Dy. Registrar (J)

be ^{accepted} ~~exceeded~~ to.

13. That the contents of para 13 of the execution application are categorically denied. A perusal of judgement would itself ~~xx~~ clarify the entire controversy in dispute. In compliance of the judgement passed by this Hon'ble Tribunal, the applicant was entitled for post retiral 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 ~~xx~~ 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. Registrar (1)

(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 pursuant 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: 9/1 /1996.

VERIFICATION

उप निदेशक
Dy. Controller of Stores
उ.रे. आलम्बाग, 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

A/49

Dr. 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:

4/1 /1996.

 4.1

उप सचिव नियंत्रक

Off. Controller of Stores

को-६ आलम्बाग, लखनऊ

N. Rly. Alambagh, Lucknow

In The Central Administrative Tribunal
Lucknow Bench - Lucknow

A.M.L. Saxena

Applicant

Union of India & others

Respondents

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

Annexure - C-1

Dy. Registrar (1)

8.28

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 Seed,

Sub: Grant of Pensionary benefits to Shri Alakh Murari
Lal Saxena, Retd. DSK/Alambagh, Lucknow.
Ref: Your D.O. letter No. 145E/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 DOOS/N.Rly/AMV
on 15.2.45. 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 30.9.81AN
was treated to be in service vide his Judgement dt. 18.9.91.
Accordingly he was paid salary and allowances i.e. 96,622.75
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 30.9.81AN 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,

(Moti Lal)

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

उप निरीक्षक
Dy. Controller of Stores
उप निरीक्षक, भंडार
N. Rly. Alambagh, Lucknow

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

A.M.L. Saxena Applicant
Union of India & other Respondents
Execution Application No 25 of 1994
(Under T.A. 703 of 1988)
Annexure - C-2

MURARI LAL
BY, DIR. SST. (RAI)

D.O. NO. R(RFP) III/94/5-14 (M-1)

Dear Shri Rana,

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

Ref:- Your Railway's letter No. 145E/C/59730/store/LNO/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 Murari Lal Saxena has also come forward to refund his settlement dues under the SSF 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 MB immediately, it is requested that required clarification may kindly be furnished without further delay.

With regards,

Yours sincerely,

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

(M.L.L.)

Shri M.L.L. (20/6/95)
SSC (20/6/95)
26/6/95
159
26/6
20/6
20/6
29-6-95
SP/SSB
28.6.95

29/6

N. Rly. Alambagh, Lucknow

In The Central Administrative Tribunal
Lucknow Bench - Lucknow

A.M.L. Saxena

Central Administrative Tribunal

Lucknow Bench Applicant

Union of India & other

vs

Date of Filing - Respondents

Date of Receipt by Post

Execution of Court Order No. 25 of 1994
(in T.A. No. 3 of 1987)

Annexure - C - 3

Dy. Registrar (J)

उत्तर रेलवे
NORTHERN RAILWAY

प.नं. E/S/823

3)

दिनांक 30-8-95

श्री अलख मशरी लाल सक्सेना

म.नं. 295/15

दीनदयाल रौड उत्तरकाशी

लखनऊ

विकल्प पेंशन लाभों को प्राप्त करने हेतु SC & PF द्वारा
प्राप्त धन को व्यय सहित वापस करने के सम्बन्ध में।

आप अपने प्रार्थना पत्र दिनांक 21-4-94 में पेंशन
का विकल्प देने हेतु निवेदन किया है, परन्तु यह नहीं
बताया है कि क्या आप SC & PF के कर्तव्य-पाये धन को
व्यय सहित वापस करेंगे? अथवा नहीं।

कतः L.W. द्वारा यह पत्र भेजा जा रहा है, हृदयपूर्वक
बताइये कि पेंशन विकल्प का अवसर प्राप्त हुआ क्या आप
SC & PF के धन को व्यय सहित वापस करेंगे? अथवा नहीं
उत्तर आने पर मामलों प्रधान को सूचित कर फाइल में
रखा जायेगा। इसके अति-आवश्यक समझे।

कलम
पत्र लिखे से इन्कार किया।
दिनांक 30/8/95

श्रीमान
अधीक्षक
नियंत्रक
लखनऊ

अधीक्षक
4-1
उप निरीक्षक नियंत्रक

Dy. Controller of Stores
उ०रे० आलमबाग, 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.
28/10/76

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 Murari Lal
Secy

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.

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:
29.10.1996

Alakh Murari Lal Saxena
Applicant.

Verification

I, the above named applicant do hereby verify that the contents of paras 1, 5, 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

Alakh Murari Lal Saxena
Applicant.