

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOW

ANNEXURE

CAUSE TITLE *TA 866/87* INDEX SHEET *W.P. No. 5602/81*  
OF

NAME OF THE PARTIES... *Kitabulloh Khan*

Applicant

Versus

*V. O. I. P. S.*

Respondent

Part A, B & C

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CERTIFICATE

Certified that no further action is required to be taken and that the case is fit for consignment to the record room (decided) *Decided out / File destroyed*

Dated. *7-2-12*

Counter Signed.....

Section Officer / In charge

Signature of the  
Dealing Assistant

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOW

ANNEXURE

INDEX SHEET

CAUSE TITLE T.A. 866 OF 1987 (W.P. No. 5602/81)

NAME OF THE PARTIES.....

*Kitaleullah Khan*

Applicant

Versus

*V. O. J. 8029*

Respondent

Part A, B & C

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8	<i>Vakalat name BY O.P.s Counsel</i>	<i>78 to 84</i>
9		<i>85 &amp; 86</i>
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)

Dated *22-3-2011*

Counter Signed.....

*Vdm*

Signature of the  
Dealing Assistant

Section Officer / In charge

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH

A/2

FORM OF INDEX

~~O.A./T.A./R.A./C.C.P./~~ No.

866/1987

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Lko Bench
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92/20/149  
DY. Registrar

Supervising Officer  
(Kulbir Singh)

Dealing Clerk  
(V.K. Mishra)

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

Dealing Clerk

V.K. Mishra

1

ANNEXURE A

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH LUCKNOW

INDEX SHEET

Cause Title A. 866/87 of 13 (WP. 5602/01)

Name of the parties Kitabullah Khan Applicants.

Versus

Union of India

Respondents.

Part B.C.

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3

1/4

4

Mr. K. S. Varava, J  
Mr. S. S. Alwad, J

Admit.

Notice on behalf of  
the opposite parties  
has been taken  
by Mr. Nareesh  
Chandra.

10/11/01 }  
0203 } [Signature] KS

AS (4) (2) 1/5 54

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

w.p.

No.

5602

of 1981

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
18-11-81	<p>Hon. F.S. Varma J.            Hon. S.S. Ahluwalia J.            Admit.            Notice on behalf of the opposite parties has been taken by Mr. Umesh Chandra.            Sd. D.S.V.            Sd. S.S.A.            10-11-81</p> <p><u>P A Report</u>  <del>learned Counsel for the petitioner has not taken steps for service on pt. No</del></p>	
11-7-82	<p>to            Service Report            of 1103. voice heard. represented by Sri Umesh Chandra, Adv. May voice proceed?            Yes            26/7/82</p>	<p>4/5/82</p>

g BLC  
 WZ

(A)

(8)

CAT/J/11

1/6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

O.A./T.A. No. 866 1987

Kitobullah Khan Applicant(s)

Versus

Union of India 2013 Respondent(s)  
N.E. Rly

Sr. No.	DATE	Orders
1.9.08	<u>Office report</u>	<p>W.P. No. 5602/81 has been received in this Tribunal from Hon'ble High Court Uo. It is admitted w.p. against the order of removal from service. C.A. not filed.</p> <p>Sri A.K. Gaur Advocate files his vakalatnama on behalf of Union of India.</p> <p>An application has also received in this Tribunal for the case to be Circuit Bench.</p> <p>Notice has been issued to the parties and counsel respondents fixing 21.9.08 by registered post.</p> <p>Submitted for orders.</p>
<u>J.S.M.</u>	1.9.08	

T.A. 866/8715

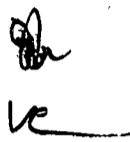
(113) (9/11) (7)

23-2-90

Hon Justice K. Malu - K  
Hon Mr. K. Obayya AM

On the ~~reg~~ ground to illness of  
Sr. B.C. Saxena Adv. Learned Counsel  
The application in case is adjourned  
to 22-3-90 for hearing

  
A.M.

  
K.

OR  
No RA filed -  
S.F.H  
2113

~~Hon' D.K. Agrawal F.H.~~  
~~Hon' K. Obayya A.M.~~

~~Case not reached due to some part  
heard case. The case is adjourned to  
22-3-90 for final hearing.~~



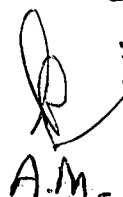


B.C.

2-23-90

Hon' D.K. Agrawal J.M.  
Hon' K. Obayya A.M.

Shri B.C. Saxena, for the Applicant  
and Shri A.K. Gaur, for the Respondent are  
present. The case is adjourned to 25/7/90  
The Learned Counsel for the respondents is  
directed to keep ready the original  
document referred to in the petition.  
The Learned Counsel for the respondent may  
also note that supplementary affidavit,  
if any ~~may~~ be filed with in four weeks  
here of. No adjournment in any event shall  
now be granted to the parties. Do

  
A.M.

J.M.

for the adv.  
+ filed S.  
cont.  
:- P.H. -  
254

4.1.91

D.R.

Perused the file, Counter and Rejoinder have been exchanged much before. But this fact has not been brought to notice by the either by parties nor by office. Now the case is ripe for final hearing. Put up before Honble Bench a 30.1.91

B.C.

Noted  
M/mtg  
4/1/91

(A.S.)

(11) (9)

(S)

30.1.91 - No sitting Adj to 7.3.91

13.7.91 - case not reached. case is adj to 15.4.91

15.4.91 No sitting Adj to 22.7.91

2.7.91 - No sitting Adj to 30.9.91

30.9.91 No sitting adj to 14.11.91

14.11.91 No sitting adj to 16.1.92

16.1.92 No sitting of D.B. adj to 29.1.92

29.1.92

Hon. Mr. Justice C.C. Srivastava, VC.  
Hon. Mr. A.B. Verma, AM

A notice may be issued to the applicant that his Counsel has been activated to the Bench. So he should be arranged another Counsel otherwise his case will be disposed of in absence of his Counsel. Put this case a 16.4.92 for hearing.

Am.

VC.

O.R. Noted Issued 16/12

sure on 14.2.92  
case has  
been adj  
for hearing  
S.P.H.

15-4

(M)

(AS)

1/10

(12) (10)

A - No. 866/1957(T)

16/4/92

Hon. Mr. Justice U. C. Srivastava, v. e.  
Hon. Mr. B. B. Guothi, Member (A)

---

~~order~~

Judgement reserved. <sup>10/4/92</sup>  
~~dictated~~

A-M.

v. e.

(13)  
(11)

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH  
LUCKNOW

T.A. No.866/1987(T)  
(W.P.No.5602/81)

Kitabulla Khan ; ; ..... Applicant  
Vs.  
Union of India & Others ... Respondents

Hon.Mr.Justice U.C. Srivastava, V.C.  
Hon. Mr. A.B. Gorthi; Member (A)

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

The applicant was appointed as a Signaller in the N.E. Railway. On 27-3-79 a charge sheet was served upon him. The charge against him was while he was working as a booking clerk at Babhan Station, Booking Office he failed to maintain absolute integrity and devotion to duty inasmuch as he allegedly realised Rs.1.05 excess on sale of a second class printed Card Ticket No.12204. An Enquiry Officer was appointed and the Enquiry Officer found the applicant to be guilty, and the disciplinary authority removed the applicant from service. The applicant filed an appeal and the appeal was dismissed on the ground that the same was barred by time. It was a departmental appeal and against the removal order, which was not disposed off on merit. The appellate authority should have entertained the appeal, more so, <sup>when</sup> the explanation for delay was there. It was not a case in which the appeal should have <sup>been</sup> thrown out, which was an error committed by the departmental authority. They should have applied

(A)

(14)

(12)

A/2

section 5 of the limitation Act. Accordingly the appellate order dated 17-7-81 (Annexure 11) deserves to be quashed and it is quashed. The appellate authorities are directed to dispose of the appeal taking into consideration the pleas taken by the applicant including the fact that the order passed by the appellate authorities is not a speaking order and the punishment awarded to him is so harsh and excessive. The Appellate Authorities should dispose of the appeal within a period of 3 months from the date of communication of this order. In case the copy of the appeal is not found in the office file, the applicant can file a duplicate copy of the appeal, which he has filed earlier.

*Manoj Kumar*  
Member (A)

*U*  
Vice-Chairman

Dated: 01 <sup>May</sup> ~~April~~, 1992, Lucknow.

2

(tqk)

Group A 13 (E)

8789

17  
A9

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

Writ Petition No. 5602 of 1981

Kitabullah Khan

--Petitioner

Union of India and others

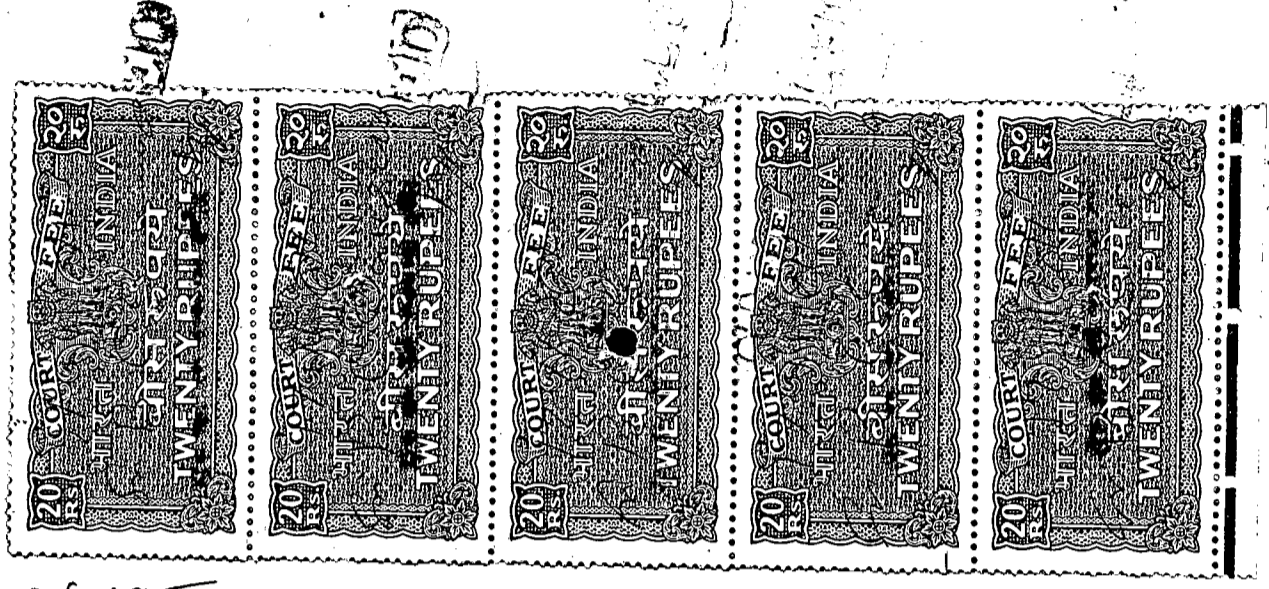
--Opp-parties

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*B. C. Sakse na*  
(B. C. Sakse na)  
Advocate

15  
A



Scf 2 100  
12.11.81

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

---  
Petition under Article 226 of the Constitution of  
India

Writ Petition No. 5602 of 1981

Kitabullah Khan, aged about 43 years, son of Sri  
Rahimullah Khan, resident of village Kurāri Grant,  
post office Titri Bazar, district Basti

Petitioner

versus

1. The Union of India through the General Manager,  
N.E. Railway, Gorakhpur
2. The Divisional Railway Manager, N.E. Railway,  
Divisional Offices, Ashok Marg, Lucknow
3. The Divisional Railway Manager (safety) (formerly  
known as Divisional Safety Officer), N.E. Railway,  
Divisional Offices, Ashok Marg, Lucknow

Opposite-parties

203/11/81

92  
28/11/81  
132-299-32

15  
R12

Annexure no.1 to this petition.

3. That a perusal of the statement of articles of charge framed against the petitioner would show that the allegation against the petitioner therein was that on 8.8.1978 while he was working as a booking clerk at the Babhnan Station booking office failed to maintain absolute integrity and devotion to duty inasmuch as he allegedly realised Rs. 1.05 excess on the sale of a second class printed Card Ticket no. 12204 ex- Babhnan to Delhi. The allegation was that the petitioner realised Rs. 31.00 against the actual fare of Rs. 29.95 (Rs. 29.70 fare plus paise .25 reservation charges).

4. That on 8.8.1978 at the time of the departure of train no. 47 UP one Chandra Bali, Vigilance Khalasi appeared at the booking window and demanded a ticket from Babhnan to Delhi. A second class PCF no. 12204 was issued to him, which was for Rs. 29.95. Since the said train was about to leave, the petitioner handed over the ticket to the said Chandra Bali and took the money given by him. The petitioner found that he had given Rs. 31.00 though the fare was Rs. 29.95 only. The petitioner called out the said Chandra Bali to take back the balance money but he hurriedly left the booking window. The petitioner indicated the fact about the excess money having been left to the Station Master Sri I.S.Dwivedi immediately.



16  
A13

5. That it later transpired that the said Chandra Bali was being used as a decoy by the Vigilance party consisting of Sri V.L. Srivastava, Vigilance Inspector and Sri U.N. Singh, Vigilance Inspector. After some time the said team appeared at the booking window. On the checking of the cash a shortage of Rs. 14.10 was detected. It may be stated that preliminary proceedings were held in the presence of Sri I.S. Dwivedi, the Station Master, amongst other persons. The proceedings were drawn up on 8.8.1978, at the time of the recovery of G.C. notes from Government cash which were signed by the said Station Master, Vigilance Inspectors and the said Chandra Bali. A true copy of the same is being annexed as Annexure no.2 to this petition. A perusal of the same would show that in the presence of the said Chandra Bali the petitioner had stated that he (Chandra Bali) had paid Rs. 31/- and had left behind the balance amount. The said Chandra Bali did not contest that statement, as would be evident from a perusal of the endorsement made by Sri I.S. Dwivedi, the then Station Master.

6. That from the documents detailed in annexure 3 to the charge-sheet it transpired that the Vigilance party had drawn up a Panchnama in the train wherein the numbers of Govt. Currency notes of the value of Rs. 45/- were noted and it was decided to send Chandra Bali as a decoy followed by one Ram Nath Vigilance Khalasi to hear and witness the talk and transaction at the booking window.

10/11/78

COMMISSION  
10/11/78

7. That by an order dated 30.5.1979 passed by opposite party no. 2 one Sri A.K.Mukherjee, Enquiry Inspector/DA/Gorakhpur was appointed as an Inquiry Officer to inquire into the charges framed against the petitioner. The said order was subsequently superseded and one Sri K.N.Chaturvedi, EI/DA/Gorakhpur was appointed as an Inquiry Officer in place of Sri A.K. Mukherjee. It may be stated that EI/DA is also an officer of the Vigilance Department.

8. That the said Sri K.N.Chaturvedi recorded the statements of Sri Chandra Bali Vigilance Khalasi, Ram Nath Vigilance Khalasi, V.L.Srivastava Vigilance Inspector, Sri U.N.Singh, Vigilance Inspector and Sri I.S.Dwivedi Station Master as witnesses in support of the allegations made against the petitioner. The petitioners statement was also recorded.

9. That the said Sri I.S.Dwivedi in his statement, inter alia, had deposed about the fact that the petitioner before the appearance of the Vigilance Inspector on the scene had told him that a Delhi passenger had left behind his excess money and the petitioner was told to deposit the same as EB if the same passenger does not turn up. With a view to bring on record the statement made by the said Sri I.S.Dwivedi, a true copy of the same is being annexed as Annexure no.3 to this petition.

10. That during the course of inquiry it was established and proved that at the time the said

(18) A/S

-6-

Chandra Bali came to the booking window there was rush and about 10-12 people were at the window. It was also proved that none of the passengers who had purchased the tickets on that date and were waiting for boarding the trains at platform for undertaking journey had made any complaint against the petitioner.

11. That the petitioner had denied the allegation that he had failed to maintain integrity and devotion to duty and with ulterior motive realised Rs. 1.05 as excess. The petitioners defence can be gathered from a perusal of his statement before the Inquiry Officer a true copy of which is being annexed as Annexure no.4 to this petition.

12. That from the facts stated above it would be apparent that no independent witness was produced or cited in support of the allegations made against the petitioner. Departmental witnesses were witnesses of the vigilance department of the N.E. Railway. Even the Panchnama wherein it is alleged that the numbers of the G.C. notes were noted down beforehand of the value of Rs. 45/- was signed by the Vigilance Inspectors and the Vigilance Khalasis. The Vigilance Inspectors in their statements during the inquiry had accepted that no independent person was associated with the entire proceedings. The Vigilance Inspectors also could not cite any official authority for employing his own subordinate a khalasi, as a decoy for purposes of laying a trap.



13. That the petitioner on 11.2.1980 was served with a notice of imposition of penalty bearing no. LD/SS-C/Vig./ 13/79 dated 30-11.1979 issued by opposite-party no. 2. By the said notice the petitioner has been directed to be removed from service. A true copy of the said notice along with opposite-party no.3's own finding which was enclosed to the said notice is being annexed as Annexure no.5 to this petition.

14. That being aggrieved by the said order dated 30.11.1979 the petitioner had preferred a writ petition in this Hon'ble Court seeking a writ of certiorari quashing the inquiry proceedings culminating in the issuance of the notice of <sup>imposition of</sup> penalty dated 30.11.1979 . The said writ petition came up for orders as regards admission finally on 10.3.1980 before a Bench of this Hon'ble Court consisting of Hon. T.S.Misra, J and Hon. K.N.Goyal, J. and their Lordships were pleased to take the view that the petitioner had an alternative remedy of a departmental appeal before the Divisional Railway, Manager, Lucknow.



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15. That since the petitioner unfortunately suffered from a stroke of jaundice and could not contact his counsel after 25.2.1980 till 13.4.1980, the petitioners counsel sent a communication to the petitioner informing him of the requirement to file an appeal before the Divisional Railway Manager. The petitioner preferred an appeal before opposite-party no.2 on 15.4.1980. With a view to place on record the facts stated therein, a true copy thereof is

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A/12

being annexed as Annexure no. 6 to this petition.

16. That receiving no response to the said appeal, the petitioner sent a representation by way of reminder on 2.5.1980 requesting for an early disposal of his appeal. The petitioner sent another reminder on 25.5.1980.

17. That on 23.7.1980 the petitioner had received by post letter no. LD/SS-C/vig/13/79 dated 19.6.1981/17.7.1980 from the Divisional Office, N.E.Railway, Lucknow sent by the Divisional Safety Officer, N.E. Railway, Lucknow. A copy of the said letter as served on the petitioner is being annexed as Annexure no. 7 to this petition.

A perusal of the same would show that by the said communication the petitioner was informed that his appeal dated 15.4.1980 was time-barred since he received the orders on 11.2.1980 and the time for appeal was 45 days.

18. That upon receipt of the said communication the petitioner submitted a representation dated 28.7.1980 to opposite-party no.2 through opposite-party no.3. A true copy of the said representation is being annexed as Annexure no. 8 to this petition.

A perusal of the said representation would show that the petitioner therein pointed out which fact is herein again reiterated that the notice of imposition

For all of COMK 292



(21)  
A10

of penalty dated 30.11.1979 passed by opposite-party no. 3 had been served on the petitioner on 11.2.1980. Aggrieved by the said order of penalty, the petitioner had preferred a writ petition in this Hon'ble Court after giving prior notice of the same to the learned counsel for the N.E.Railway, Sri Umesh Chandra. The petitioner, therefore, requested that the period of limitation for purposes of filing the appeal may be counted from 10.3.1980 the date when this Hon'ble Court accepting the plea of the learned counsel for the railway administration had refused to entertain the writ petition on the ground of the alternative remedy being of an appeal being available .

The petitioner further indicated that he had suffered from the stroke of jaundice and had been confined to bed from 25.2.1980 to 11.4.1980 and had been under the treatment of <sup>a</sup> Doctor. The petitioner filed a copy of the medical certificate given by the Dr. S.A.Mahmood Hashmi as annexure to his representation dated 28.7.1980.

19. That the petitioner submitted the following representations by way of reminders seeking early disposal of his appeal on merits:

- Representation dated 11.8.1980
- Representation dated 1.9.1980
- Representation dated 27.10.1980
- Representation dated 8.11.1980.

The petitioner was on 25.11.1980 served with a copy of the memo. no. LD/SS-C/Vig./13/79 dated 5/18-11-1980 issued on behalf of opposite-party no.3 cryptically stating that the petitioners appeal dated 28.7.1980

Handwritten notes and stamps in the bottom left corner, including a circular stamp with the number 22/18/81 and other illegible markings.

(27) BGA

had been rejected by opposite-party no.2. A copy of the said order as served on the petitioner is being annexed as Annexure no. 9 to this petition.

20. That since the said letter was cryptic and did not contain the order passed by the Divisional Railway Manager rejecting the petitioners appeal, the petitioner preferred an appeal dated 29.12.1980 requesting to be furnished with a copy of the order passed by the Divisional Railway Manager, N.E.Railway, Lucknow. With a view to place on record the contents of the said representation dated 29.12.1980 a true copy thereof is being annexed as Annexure no.10 to this petition. The said representation had evoked no response despite the petitioner having submitted the following representations by way of reminders:

- Representation dated 11.1.1981
- Representation dated 26.1.1981
- Representation dated 12.2.1981
- Representation dated 26.2.1981
- Representation dated 5.5.1981.

By the said representations the petitioner requested that he may be furnished with a copy of the order passed by opposite-party no.2 rejecting his appeal.



27/12/1981

21. That ultimately the petitioner on 31.7.1981 was served with a copy of an order bearing no. LD/SS-C/Vig/13/79 dated 13.7.1981/17.7.1981. Copy of the said order as served on the petitioner is being annexed as Annexure no. 11 to this petition while a true copy of the representation dated ~~29.12.1980~~ and 12.2.1981 referred to in the said order ~~are~~ being annexed as Annexures nos. 12 and 13 to this petition. ~~respectively~~ and a copy of the representation dated 29.12.1980 is Annexure 10.

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1820

22. That from the facts stated above it would be evident that opposite-party no.2 had not considered the points raised in the petitioners representation dated 28.7.1980 and appears to have by a cryptic order rejected the said representation seeking consideration on merits of his appeal dated 15.4.1980.

The petitioner had not sought a reconsideration of the appeal by opposite-party no.2 but had sought to be furnished with a copy of the order which opposite-party no.2 is said to have passed and which was communicated to the petitioner by means of memo. dated 5/18-11-1980. A perusal of the said order would also show that opposite-party no.2 appears to be under the impression that the petitioners earlier writ petition is pending and therefore he could not interfere in the normal course of justice. Further, the said opposite-party no.2 appears to have been irked by reason of the fact that a writ petition had been filed in this Hon'ble Court challenging the same and has, therefore, declined to entertain the appeal on a technical ground of its being barred by limitation though the proviso to rule 20 of the D & A Rules, 1968~~0~~ lays down that "provided that the appellate authority may entertain the appeal after the expiry of the said period if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time."

COM.  
28/8/80  
1432-255-22

207 BILLS FILED

23. That in the circumstances detailed above and having no other equally effective and speedy alternative

24 (121)

remedy the petitioner seeks to prefer this writ petition and sets forth the following, amongst others,

GROUNDS:

(a) Because opposite-party no.2 in the circumstances of the case erred in holding that the appeal preferred by the petitioner against the order of punishment passed by opposite-party no.3 was time-barred.

(b) Because opposite-party no.2 by an order which was communicated by means of letter dated 17.7.1980 by opposite-party no.3 had taken the view that the appeal dated 15.4.1980 was barred by time. The detailed circumstances were brought to his notice by means of representation dated 28.7.1980 supported by a medical certificate. Despite the same, opposite-party no.2 appears to have passed a cryptic order rejecting the petitioners appeal. In reference to the said order the opposite-party 3 had sent the memo. dated 5/18-11-1980. The petitioner's further representations seeking to be furnished copy of the order said to have been passed by opposite-party no.2 by the said communication appeared to have irked the opposite-party 2 and, therefore, the impugned order dated 17.7.1981 has been passed on extraneous considerations and in colourable and mala fide exercise of power.

(c) Because if opposite-party no.2 had in fact rejected the petitioners appeal read with his representation

*in city m1980*

(25) B22

dated 28.7.1980 as was indicated to him by the communication dated 5/18-11-1980, opposite-party no.2 has acted wholly without jurisdiction in passing a fresh order.

(d) Because opposite-party no.2 appears to have passed the order dated 17.7.1981 under the misconception that the petitioners earlier writ petition was pending and he was not required to consider the appeal preferred by the petitioner on merits and in his opinion it would have amounted to interference in the normal course of justice.

(e) Because in view of the fact that no independent person was associated with the trap proceedings and only officers of the Vigilance Department were associated makes the said proceedings a sham and an empty formality.

(f) Because the statement of the only witness or a witness not belonging to the Vigilance Department, viz. the Station Master Sri I.S.Dwivedi clearly supports the defence version and as such the findings of the Inquiry Officer and the Disciplinary Authority are perverse.

(g) Because the departmental trap laid by the Vigilance Inspectors and their subordinates was wholly without authority of law and had no sanction of any statutory rules. The entire proceedings based on the said departmental trap are thus void ab initio

REPORT DATED 20/11/81

for

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and deserve to be quashed.

(h) Because the Vigilance Inspectors did not follow any recognised procedure of recovery and seizure of articles.

(i) Because the fact that an officer belonging to the Vigilance Department acted as an Inquiry Officer vitiates the inquiry proceedings.

(j) Because in view of the fact that the notice of imposition of penalty has been endorsed to the General Manager, Vigilance, Gorakhpur by the disciplinary authority is clear proof of the fact that the petitioner cannot get justice at the hands of the disciplinary authority or even any other departmental authority.

Wherefore, it is respectfully prayed that this Hon'ble Court be pleased :-

(i) to issue a writ of certiorari, or a writ, order or direction in the nature of certiorari to quash the inquiry proceedings culminating in the issuance of the notice of imposition of penalty dated 30.11.79 contained in annexure 5 to the writ petition, orders dated 17.7.1981 (Annexure 11), dated 5/18-11-1980 (Annexure 9) and the order dated 19.6.1980/17.7.1980 (annexure 7) to the writ petition.

*such other*  
(ii) to issue a writ, direction or order including

*for all annexures*

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an order as to costs which in the circumstances of the case this Hon'ble Court may deem just and proper.

Dated Lucknow  
October , 1981

B.C. Saksena  
( B.C. Saksena )  
Advocate  
Counsel for the petitioner

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पुस्तक संकलन

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16/01/81

1981  
AFFIDAVIT  
32  
HIGH COURT  
ALLAHABAD  
16/01/81

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



Affidavit

in

Petition under Article 226 of the Constitution of  
India

Writ Petition No. of 1981

Kitabullah Khan

--Petitioner

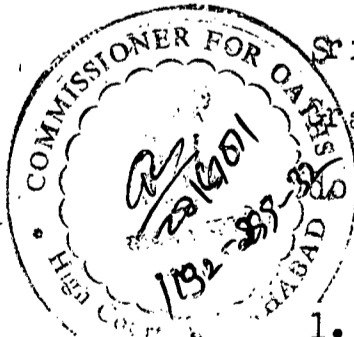
versus

Union of India and others

--Opp-parties

--

I, Kitabullah Khan, aged about 43 years, son of  
Sri Rahimullah Khan, resident of village Kundri  
Grant, post office Titri Bazar, district Basti,  
do hereby solemnly take oath and affirm as under:-



1. That I am the petitioner in the above-noted writ  
petition and am fully acquainted with the facts of the  
case.

2. That the contents of paras 1 to 22 of the  
accompanying petition are true to my own knowledge.

16/01/81

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3. That annexures 1 to 6, 8, 10 and 12 have been compared and are certified to be true copies.

Dated Lucknow  
28.8.1981

*[Signature]*  
Deponent

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

Dated Lucknow  
28.8.1981

*[Signature]*  
Deponent

I identify the deponent who has signed in my presence.  
*[Signature]*  
(Clerk to Sri B.C. Saksena, Advocate)

Solemnly affirmed before me on 28-8-81 at 10 a.m. by *[Signature]* the deponent who is identified by Sri *[Signature]* Clerk to Sri B.C. Saksena, Advocate, High Court, Allahabad. I have satisfied myself by examining the deponent that he understands the contents of the affidavit which has been read out and explained by me.



*[Signature]*

1132-289-32  
28/8/81

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18/12/79

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

Writ Petition No. of 1981

Kitabullah Khan --Petitioner

versus

Union of India and others --Opp-parties

Annexure no.1

Standard form of charge-sheet (Rule 9 of the Railway  
Servants Discipline and Appeal Rules, 1968)

Standard form no. 5

No. LD/SS-C/Vig/13/79

North Eastern Railway

Dated 23.3.1979

Divisional Officer,  
Lucknow

MEMORANDUM

The undersigned proposes to hold an inquiry against Sri K.U.Khan, s/o Shri Rahimullah, Signaller/Babhnan under rule 9 of the Railway Servants(Discipline and Appeal ) Rules, 1968. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge(annexure I). A statement of the imputation of misconduct or misbehaviour in support of which article of charge is enclosed (Annexure II). A list of documents by which and a list of witnesses by whom the articles of charge are proposed to be sustained are also enclosed Ann.III and IV).



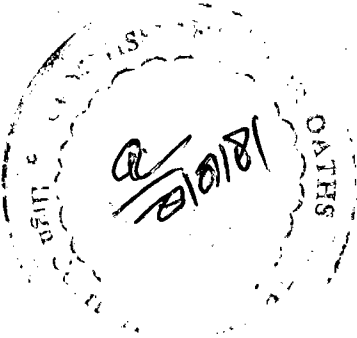
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2. Sri K.U.Khan , Sigr. is hereby informed that if he so desires, he can inspect and take extracts from

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the documents mentioned in the enclosed list of documents (Annex. III) at any time during office hours within 5 days ( this time limit may be extended up to 10 days at the discretion of the disciplinary authority) of receipt of this memorandum. If he desires to be given access to any other documents which are in the possession of the Railway Admn. but not mentioned in the enclosed list of documents (Ann. III) he should give a notice to that effect to the undersigned within 10 days of the receipt of this memorandum, indicating the relevance of the documents required by him for inspection. The disciplinary authority may refuse permission to inspect all or any such documents as are, in its opinion, not relevant to the case or it would be against the public interest or security of the State to allow access thereto. He should complete inspection and additional documents within five days of their being made available. He will be permitted to take extracts from such of the addl. documents as he is permitted to inspect.

3. Sri K.U.Khan Sigr: is informed that request for access to documents made at later stages of the inquiry will not be entertained unless sufficient cause is shown for the delay in making the request within the time limit specified above and the circumstances show clearly that the request could not have been made at an earlier stage. No request for access to additional documents will be entertained after the completion of the inquiry unless sufficient cause is shown for not making the request before the completion of the inquiry.



for all 9/1/1921

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4. Sri K.U.Khan, Sigr. is further informed that he may, if he so desires, take the assistance of any other railway servant/an official of a Railway Trade Union (who satisfied the requirement of rule 9(9) of the Railway Servants ( D&A) Rules, 1968 and Note I and /or Note 2 thereunder as the case may be) for inspecting the documents and assisting him in presenting his case before the inquiry authority in the event of an oral inquiry being held. For this purpose, he should nominate one or more persons in order of preference . Before nominating the assisting railway servant(s) or Railway Trade Union Official(s). Sri K.U.Khan, Signaller should obtain an undertaking from the nominee (s) that he (they) is(are) willing to assist him during the disciplinary proceedings. The undertaking should also contain the particulars of other cases, if any, in which the nominee(s) had already undertaken to assist and the undertaking should be furnished to the undersigned along with the nomination.

5. Sri K.U.Khan , Sigr. is hereby directed to submit to the undersigned a written statement of his defence within ten days of receipt of this memorandum, if he does not require to inspect any documents for the preparation of his defence and within ten days after completion of inspection of documents if he desires to inspect documents and also:-

- (a) to state whether he wishes to be heard in person, and
- (b) furnish the names and addresses of the witnesses, if any, whom he wishes to call in support of the defence and,



*for all the matters*

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(c) to furnish a list of documents, if any, which he wishes to produce in support of his defence.

5. Sri K.U.Khan, Sigr. is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should therefore, specifically admit or deny article of charge.

7. Sri K.U.Khan, Sigr. is further informed that if he does not submit his written-statement of defence within the period specified in para 5 or does not appear in person before the inquiring authority or otherwise fails or refused to comply with the provision of rule 9 of the Railway Servants (D&A) Rules, 1968 or the orders/directions issued in pursuance of the said rule. the inquiring authority may hold the inquiry ex-parte.

8. The attention of Sri K.U.Khan, Sigr. is invited to rule 20 of the Railway Services (Conduct) Rules, 1966 under which no railway servant shall bring or attempt to bring any political or other influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt within these proceedings it will be presumed that Sri K.U.Khan Sigr. is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of rule 20 of the Railway Services (Conduct) Rules, 1968.

9. Receipt of this memorandum should be acknowledged.

Encls. Annexures I, II, III  
and IV

Signature ( K.K.Sarkar )  
Designation Divisional Safety  
Officer, N.E. Railway, Lucknow

To  
Sri Kitabullah Khan,  
Signaller,  
Babhan.



12/11/81

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Annexure I

Statement of Article of charge framed against Sri K.U.Khan, s/o Rahmutlah Khan, Signaller, Babhna.

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On 8.8.1978 while Shri K.U.Khan, Signaller was working as BC/BV booking office failed to maintain absolute integrity and devotion to duty inasmuch as he realised Rs. 1.05 excess on the sale of IInd class PCT no. 12204 ex-Babhnan to Delhi. He realised Rs.31.00 against the actual fare of Rs.29.95 (Rs.29.70 fare plus 00.25 paise reservation charge of Shama Audh Express) as printed in the ticket.

The above act of Shri K.U.Khan tantamounts to misconduct in contravention of rule 3(1)(i) and (iii) of Railway Services Conduct Rules of 1966.

Sd. Illegible  
(K.K. Sarkar)  
Divl. Safety Officer, Lucknow

Annexure II

Statement of imputation on the basis of which article of charge has been framed against Sri K.U.Khan, signaller Babhnan.

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1. "Panchnama" dated 8.8.1978 between BST and Babhnan in 47 UP Train under the signature of members of the Vigilance party will show that the number of GC Notes of Rs.45.00 in denomination of 4 GC notes of Rs. 10p-, one GC note of rupee two and 3 GC notes of rupee one were handed over to the decoy for the purchase of a IInd class PCT for foreign railway.

2. Statement of Shri Chandra Bali dated 8.8.1978 will show that Rs. 1.05 was realised excess in booking

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IInd class PCT no. 12204 ex. BV to DLI by Shri K.U.Khan, signaller working as BC at BV.

3. Endorsement dated 8.8.1978 of Shri K.P. Singh Rly. ASM/ BV will show the recovery of GC notes of Rs. .14/- which were balance of Rs. 45/- with decoy Shri Chandra Bali.

4. Endorsement dated 8.8.1878 by SM/BV Shri I.S. Dwivedi on the statement of Shri Chandra Bali will show Chandra Bali identified Shri K.U.Khan. Signaller BV before him and said that he purchased the said PCT from him. SM/BV also endorsed that Rs. 14/- in denomination of one GC note of rupee ten, one GC note of rupee two and 2 GC notes of rupee one total Rs.14/- and PCTno. 12204 M/Exp. ex-BV to DLI with the RT no. 21029 showed to him and gave the statement in his presence. His endorsement will show that Shri K.U.Khan admitted the statement of Shri Chandra Bali as true and also realisation of Rs. 31.00 by Shri K.U.Khan has been admitted by him before Shri Chandra Bali decoy.

5. Endorsement of Shri K.U.Khan on the statement of Shri Chandra Bali will show that he sold IInd PCT no. 12200 M/ Exp . ex-BV to DLI and RT no.21029 on 8.8.1978.

6. Declaration of Shri K.U.Khan on the statement of Chandra Bali on 8.8.1978 that sale proceeds of his duty period from 6th to 18 hrs. of 7.8.1978 (19.40 plus 306.60) total 326.00 were included in the total cash of 8.8.1978.



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7. Joint proceeding dated 8.8.1978 will show the recovery of Rs. 31.00 GC Notes from the Govt. cash of Shri K.U.Khan bearing the same number which were included in Panchnama' drawn before the purchase of POT in 47 UP train between BST and Babhna.

8. The endorsement on the joint proceeding drawn on 8.8.1978 regarding recovery of GC notes from Govt. cash by S.M. Babhnan duly signed by GGC/BV Shri Ram Shanker Pandey and R.S.Khanna will show that Shri K.U.Khan refused to sign the joint proceeding.

9. A sealed cover kept under custody by Dy.CVO(T) will show that the GC notes recovered from the Rly. cash seized from the earning of Babhnan station after proceedings.

10. Envelope containing IInd POT no.12204 M/ Exp. BV to DLI and RT no. 21020 of 25 paise will show the date of issue and its cancellation on 8.8.1978.

Sd. Illegible  
( K.K.Sarkar )  
Divl. Safety Officer/Lucknow



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Annexure III

List of documents by which the article of charge framed against Shri K.U.Khan signaller/Babhnan are proposed to be sustained.

1. A Panchnama dated 8.8.1978.
2. Statement dated 8.8.1978 of Shri Chandra Bali and endorsement made thereon by S/Shri K.P.Singh, BASM/M, K.P.Singh Sig/ ASM/ BV, I.S.Dwivedi, SM/ BV
3. The check proforma of cash and account dated 8.8.1978.
4. The Joint proceeding drawn dated 8.8.1978 prepared at the time of recovery of GC Notes from Government cash signed by SM/ BV . Vis and Decoy Shri Chandra Bali.
5. A sealed cover containing recovered and sized GC Notes of Rs. 31/- kept in custody of Dy. JVO(T).
6. An envelope containing second class PCT no. 12204 ex. BV to DLI and RT no. 21029.
7. FIR dated 16.8.1978 by Vis.
8. DIC book of Babhnan station commencing from 1.8.1978 to 10.8.1978.
9. Cash declaration of K.U.Khan regarding sale of cash of 7.8.1978 as Rs. 306.60 plus 19.40 which he declared on 8.8.1978.

Annexure IV

List of witnesses by whom the article of charge framed against Sri K.U.Khan Signaller/Babhnan are proposed to be sustained.

1. Shri Chandra Bali , Khalai
2. Shri RamNath Khalasi
3. Shri R.S.Khanna, IC/ GD
4. Shri I.S.Dwivedi, SM/BV

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5. Shri S.K.P. Singh R-12. ASM/ BV
6. Shri K.P. Singh, BASM/ BSU
7. Shri V.K. Srivastava, V.I.
8. Shri U.N. Singh V.I.

Sd. Illegible

(K.K. Sarkar)

Divil. Safety Officer/Lucknow  
N.E. Railway



12/12/19



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दे दे। श्री चन्द्रक्ली के पीछे श्री राम नाथ खलासी को लगाया गया जिससे कि वह टिकट बाबू द्वारा किराये की मांग तथा श्री चन्द्रक्ली द्वारा दिये गये अये को सुन तथा देख सके।

1- दस अये के चार नोट नम्बर - डब्ल्यू 0/31-243827, डब्ल्यू 0/32-494379, डब्ल्यू 0/32-124614, ई 0/24 - 722930

2- दो अये का एक नोट नम्बर - 09/- 920757

3- एक अये के तीन नोट नम्बर - 43 ए 0-001203, ए 10 - 291575, 65 ए 0-327267।

योग:- पैतालिस अया।

अरोक्त पैतालिस अया धनराशि के अलावा श्री चन्द्रक्ली के पास कोई धन राशि नहीं है।

ह 0 रणधीर सिंह खान्ना

ह 0 - 8-8-72

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वी 0 0 47 अप

ह 0 चन्द्रक्ली  
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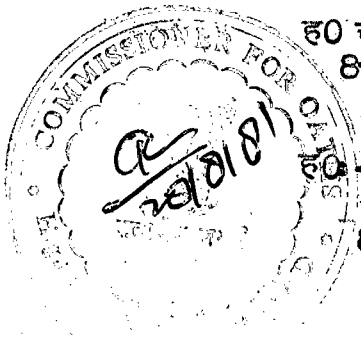
वी 0 0 सिन्हा

ह 0 - रामनाथ

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रामनाथ

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श्री चन्द्रबली ने बयान किया कि आज दिनांक 8-8-78 को 47 अप गाड़ी से गोरखपुर से बर्भनान तक आया । बस्ती और बर्भनान के बीच में मुझे 45/- पचास पैतालिस रुपया सतर्कता निरीक्षक द्वारा दिया गया और कहा गया था कि जालन्धर या दिल्ली का एक टिकट इस रुपये में से जितना टिकट बाबू मांगे देकर एक टिकट खरीद लेना । 47 अप गाड़ी बर्भनान रुकने पर मैं दौड़कर बुकिंग खिडकी पर गया और जो टिकट बाबू सामने छाड़े है उसे एक टिकट दूसरा दर्ज जालन्धर का मांगा टिकट बाबू ने कहा कि जालन्धर का टिकट नहीं है । इसके बाद मैं दिल्ली का टिकट मांगा और किराया पूछा । टिकट बाबू किराया 30/50 पैंसा तीस रुपया और पचास पैसा रुपया में उनको तीन नोट दस रुपये का और एक नोट एक टिकट बाबू ने टिकट नं० 12204 को बर्भनान से दिल्ली व आरक्षण रुपये का दिया । टिकट नं० 21029 दिया टिकट बाबू से पचास पैसा ब वापस मांगा तब उन्होंने कहा कि हो गया । 45/- रु रुपया जो सतर्कता निरीक्षकों द्वारा टिकट खरीदने के लिये दिया गया था उन नोटों का नम्बर पंचनामा में बस्ती और बर्भनान के बीच में एक कागज पर पर लिया गया था और उस पर मैं अपना हस्ताक्षर किया था टिकट खरीदने के बाद मेरे पास दस रुपये का एक नोट दो रुपया का एक नोट तथा एक रुपया का दो नोट बचा है जिसे मैं स्टेशन मास्टर के सामने दिखा रहा हूँ

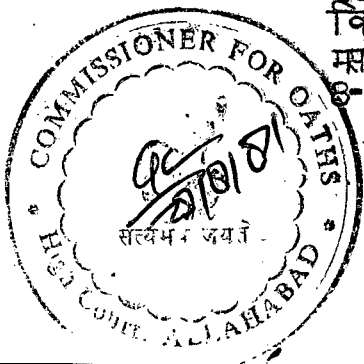
उपरोक्त बयान मैंने  
लिखा  
ह० - के० पी० सिंह  
वि०ए०ए०ए०एम०  
मसकनवा - बर्भनान  
8-8-78

ह० चन्द्रबली  
श्री चन्द्रबली के पास जो 14/- रुपया बाकी  
बचा था उसका नम्बर निम्न प्रकार है ।  
1- 10- 1 नं० 14/24-722930  
2- 2- 1 नं० 00/एच-920757  
3- 1- 2 नं० एच 10/291575, न०  
-----435-001203

टो० 14/-

उपरोक्त बयान श्री चन्द्रबली ने मेरे सामने दिया दस रुपये का एक नोट, 2 रुपये का 1 नोट और 1 रुपये का 2 नोट कुल 14 रुपया बाकी तथा टिकट नं० 12204एम/ई एक्स बी०एक्स टू खाली तथा सिविलेशन टिकट नं० 21029 दिखाया ।

ह०/- के० पी० सिंह  
आर० जी० ए० एच०एम०  
8-8-78  
बी०एन०



दिनांक 9/8/78

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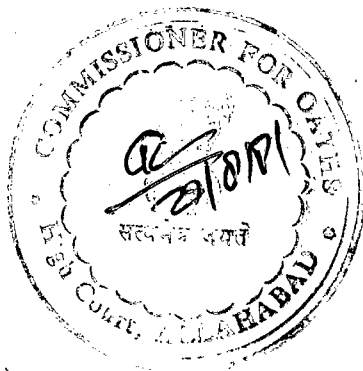
श्री चन्द्रबली ने टिकट बाबू श्री के० यू० खान को पहचाना और कहा कि इन्हीं से दोनों अरोक्त टिकट खरीदा, श्री चन्द्रबली ने यह भी बताया कि टिकट खिाकी पर भरे पीछे श्री रामनाथ छाडे थे जो टिकट बाबू द्वारा किराये की मांग तथा भरे द्वारा दिये गये अये को देखा ।

ह० ईश्वर शरण द्विवेदी,  
स्टेशन मास्टर बभनान ।

श्री के० यू० खान ने कहा कि अर की बात सही है इस यात्री ने रु० 31/- दिया था बाकी पैसा लीकर क्ला गया । जैसा कि श्री खां ने अरोक्त बातें चन्द्रबली के सामने कहा ।

ह० ईश्वर शरण द्विवेदी ।  
स्टेशन मास्टर, बभनान ।

8-8-78



सत्यमेव जयते

43 No 31

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

Writ Petition No. \_\_\_\_\_ of 1981  
Kitabullah Khan --Petitioner  
versus  
The Union of India and others --Opp-parties

Annexure no. 3

Stats. of Shri I.S.Dwivedi, Retd. SM/ BV ( P..4

Ext. 5 is before me. It is the cash declaration dated 8.8.1978 by Shri K.U.Khan the then Sigr./ BV and this my endorsement under my signature dated 8.8.1978 on it.

Ext. P3 which is before me, has been written by me. It is the Jt. proceeding drawn on 8.8.1978 prepared at the time of the recovery of the G.O. Notes and these are my three signatures of 8.8.1978 on it.

Ext. P4 is before me. It is the check proforma of cash and account dated 8.8.1978 prepared by Shri K.U.Khan and this my signature dated 8.8.1978 on it.

Ext. P2 which is the statement of Shri Chandra Bali and endorsement of Shri K.P.Singh RG ASM on it. These are my endorsements which run on the reverse side also under my signatures at two places dated 8.8.1978.

Ext. P.1 which is the Parchnama is before me. This is my endorsement under my signature dated 8.8.1978 on it.

Handwritten initials and date: 8/10/78

Handwritten signature: *[Signature]*

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I have seen the aforesaid endorsements made by me and confirm them.

On being cross-examined by the defence:

I was on duty at BV on 8.8.1978 during the shift 08.00 to 16.00 hrs. while the check was being made by the VIs. I was attending to my duties (operating duties)..

While the train (47 UP) was moving Shri K.U. Khan, Sigr. doing book work on 8.8.1978 told me that a certain passenger had left behind his excess money. I told Shri Khan to return him the amount if he comes and, if not, then deposit it as EB. This was told by Shri Khan before the appearance of the VIs. at the scene (booking office). Shri Khan had stated that he was a Delhi passenger. When Chandra Bali appeared later after the arrival of the V.I.s. Sri Khan repeated the same thing and confirmed that he was the man who had left behind the excess amount of money. Accordingly, I made this endorsement (the second endorsement) on Ext. P-2. While Shri Khan repeated the said thing before Chandrabali ( he Chandrabali ) kept quiet and did not say anything.



Shri Khan and I have worked together at BV for about six years and during the period I have not had any occasion to make a report against him regarding excess realisation of money in booking nor did I ever receive any complaint to this effect against him. As a supervisor of Shri Khan, I can say that

For all of CM 1924

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his dealings have been fair but, because he happens to be a Pathan, he is somewhat rough and blunt some times (Akshar).

Cross-examination continued on being questioned by the Inquiry Officer.

At this stage I do not remember if Shri Khan had also told me the specific amount of money left by the Delhi-bound passenger when he reported the matter to me before the arrival of the V.Is. This is my writing under my signature on Ext. P-9 (envelope).

Examination concluded.

Sd. Kitabullah Khan  
7.8.1979

Sd. Illegible  
7.8.1979

Sd. I.S.Dwivedi  
Retd. SM/ BV

Sd. K.N.H.  
7.8.79

Inquiry Officer at BV.



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

Writ Petition No. of 1981

Kitabullah Khan

--Petitioner

versus

The Union of India and another

--Opp-parties

Annexure no.4

Statement of Defence made orally by Shri Kitabullah Khan, accused and recorded by the Inquiry Officer, at BV on 7.8.1979.

I totally deny the charge levelled against me. The evidence on record does not establish the charge against me. It is correct that Chandra Bali paid Rs. 31/- instead of Rs. 29.95. He had come at the last moment when 47UP had already arrived and was about to leave. He hurriedly asked for the ticket for Delhi. I took out the PCT for Delhi and RT (Nos. 12204 and 21029 respectively) and gave them to Shri Chandrabali with one hand and accepted the amount simultaneously with the other hand. This I did only with the intention that the passenger is not left behind due to delay in booking and transaction. Then I saw that Shri Chandrabali had paid Rs. 31/-. I told him to wait rather I gave a call. to take back Rs. 1.05. There was rush at the counter which has been accepted by Shri Chandrabali also. Shri Chandrabali left the counter. So, I turned with a .....(sic) that one Delhi-bound passenger had left his money which was in my hand but the train

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had left. S.M. Shri I.S.Dwivedi, who was inside the office on duty at that moment was also made known of the fact then and there which he has confirmed in his statement today. He advised me to wait and return the money if he comes. If not, then deposit it as E/B. he advised me. After some time VIs. appeared in the office and desired to check the cash. I gave all the cash to the said S.M. who made the memo and afterwards I copied it on the statement of cash and accounts ( Ext. P4).

After some time, say at about 11.00 hrs. Shri Chandrabali, whose name I came to know later on, came and I pointed out immediately that he was the Delhi-bound passenger who had left Rs. 1.05 and who had taken the tickets in hurry. This happened before all the witnesses cited in the charge memorandum. Shri Chandrabali did not rebut the above facts.

I was busy in booking work but when I saw the statement being dictated by Shri Vidya Lal, I became perturbed and somewhat felt angry over the fact of dictation by a V.I. All the endorsements made by Shri I.S.Dwivedi and Shri R.P.Singh were the words and versions of Shri Vidya Lal. S.M. was pre-occupied with his operational work. He was not applying his active mind over what he was being dictated. When I saw all these things and felt apparent victimisation for malafide intention or transaction I could not control my feeling and your honour will appreciate that in that very situation I refused to sign over the seizure note (Ext. P-3). As a result of my protest Shri I.S.Dwivedi

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V/S

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had to write the endorsement on the reverse of the statement of Chandra Bali (Ext. P-2) which I have admitted on 12.7.1979 as endorsed by me at the relevant place. Shri Vidya Lal did not like the above remarks of the S.M. to appear on the record. Though S.M. curtailed the fact of Rs. 1.05 because he wrote the above endorsement under the coercion of the V.I. Shri Vidya Lal. Your honour, I was honest. Therefore, I did not like to become a witness against myself. The V.Is. were making me victim of the charge of excess realisation which was not correct. If I had any malafide intention I would have straight forward told the hurried passenger that the fare for Delhi was Rs. 31/- but I had no malafide intention. My conscience was clear and had Chandra Bali waited a bit I would have returned Rs. 1.05. But since he was a decoy whose primary intention and duty loaded with instructions to stretch the net. So, to hit and run away and leave the mark an artificial mark of a concocted commission of an excess realisation.

I request the Enquiry Officer to make that the members of the raiding party were the Panches of the Panchnama who were all the members of the vigilance party. The truth has been explained by me and the truth which I have explained today was known to me and S.M. (Shri I.S. Dwivedi) and none else. Therefore, before leaving towards the evidence of the VIs I hope you will give greater weight to the persons evidence in whom the truth resided and he is Shri I.S. Dwivedi.

I conclude my defence statement.

Sd. Illegible Sd. Kitabullah Khan recorded by  
Sd. Illegible  
7.8.1979  
Inquiry Officer

*for file, 17/8/79*



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

Writ Petition No. of 1981  
Kitabullah Khan --Petitioner  
versus  
Union of India and others --Opp-parties

Annexure no.5

North Eastern

Notice of imposition of penalty under rule 6(viii)  
Part III of Discipline and Appeal Rules, 1968

No. ID/SS-3/Vig/14/79  
Dated 30.11.1979

Divisional Office  
Lucknow

To

Name	Sri Kitabullah Khan
Fathers name	Sri Rahmullah Khan
Designation	Signaller
Department	Operating
Date of appointment	8.10.1954
Date of birth	2.7.1933
Station of Posting	Campierganj.

Sri K.W.Chaturvedy, Enquiry Officer, who was nominated to hold the DAR inquiry, has submitted his report. A copy of the same is enclosed in seven pages.

2. The charge that you realised Rs. 1.05 excess on the sale of IInd class PCT no. 12204 ex-Babhanan to Delhi on 8.8.1978 has been proved in the inquiry beyond all doubts.

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al/20/10/79

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3. I agree with the findings of the Enquiry Officer as detailed in the annexure to this order. Therefore, I have decided that you are not a fit person to be retained in service and should be removed from service. You are hereby removed from service with immediate effect.

4. Under rule 18 of the Railway Servants (D&A) Rules, 1968 an appeal against these orders lies to Divl. Railway Manager/Lucknow provided:

- i. the appeal is submitted through proper channel within 45 days from the date you receive the orders; and
- ii. the appeal does not contain improper or disrespectful language.

5. Please acknowledge receipt of this letter.

Sd. K.K.Sarkar

Divisional Safety Officer,  
Lucknow

copy to:-

- 1. DPO/LJN in duplicate one for cadre and the other for bills for necessary action.
- 2. G.M. Vig/Gorakhpur for information in ref. to his case no. 79/24/Vig.
- 3. SM/Campiarganj for information and n/action. He will ensure that these orders are implemented.
- 4. TI/ Gorakhpur. He will ensure that the enclosed order is served on Khan and his ack. sent to this office early.



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I have carefully gone through the inquiry proceedings and the report submitted by the Enquiry Officer.

It has been proved in the inquiry that on 8.8.1978 while working as BC/ BV Sri Kitabullah Khan Signaller failed to maintain absolute integrity and devotion to duty inasmuch as he realised Rs. 1.05 excess on the sale of IInd Class PCT no. 12204 ex-Babhan to Delhi.

I agree with the findings of the Enquiry Officer. The seriousness of the guilt deserved severe punishment. It therefore find that Sri Kitabullah Khan is not a fit person to be retained in service and should be removed from service. He is removed from service with immediate effect.

Sd. K.K. Sarker

Divisional Safety Officer,  
Lucknow

पुस्तक संख्या ११११२०६



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

Writ Petition No. of 1981

Kitabullah Khan --Petitioner  
versus  
Union of India and others --Opp-parties  
Annexure no. 6

To

The Divisional Railway Manager,  
North Eastern Railway,  
Lucknow

Sub: Appeal against the order of removal from  
service

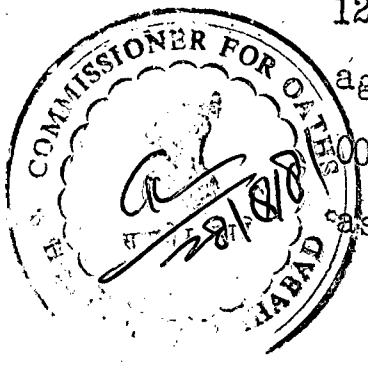
Ref: ID/SS-C/Vig/13/79 dated 20.11.1979

Sir,

Respectfully I beg to showeth as under:-

1. That I was served with major charge memorandum alleging against me the following charges:-

i. On 8.8.1978 while Shri K.U. Khan, Signaller was working as BC/BV booking office failed to maintain absolute integrity and devotion to duty inasmuch as he realised Rs.1.05 excess on the sale of IInd class PCT 12204 ex-Babhanan to Delhi. He realised Rs. 31.00 against the actual fare of Rs. 29.95 (29.70 fare plus 00.25 paise reservation charge of Shane-Audh Express) as printed in the ticket.



The above act of Shri K.U.Khan tentamounts to misconduct in contravention of rule 3(1)(i) and (iii) of Railway Service Conduct Rules, 1966.

2. That Shri K.N.Chaturvedi, E.O. gave the following findings :-

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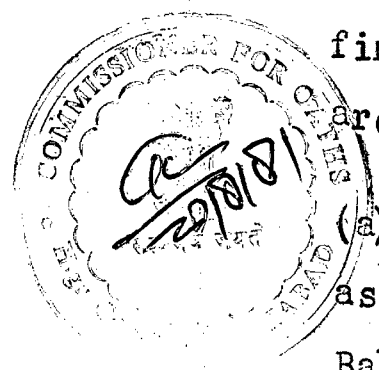
"The charge of contravening rule 3(1)(i) of the Railway Service Conduct Rules, 1966 as levelled against Shri K.U.Khan Signaller has been proved."

3. That DSO/LJN without considering the various evidences on record, agreed with the finding of the Enquiry Officer and passed removal order against me, thus appeal.

GROUND OF APPEAL

1. That Shri K.N.Chaturvedi, E.O. was biased in that he worked under pleasure and administrative control of Sr. Dy. G.M./N.E.Rly / GKP designated also Chief Vigilance Officer exercising control over the Vigilance Inspectors and on one hand and on the other handhand appointing inquiry inspectors and maintaining confidential reports of Inquiry Officer including that of Shri K.N.Chaturvedi.

Thus the E.O. has not free from bias which reflected in his reasons of finding which is arbitrary and capricious. The reasons of finding is ill-disposed and against fact . E.O. has taken feeble material vaguely referred by him for building such a state finding against me. The reasons in rebuttal of finding are reproduced for prudent consideration.



(a) I had spoken the truth at the earliest opportunity as endorsed by SM/ BV on the statement of Shri Chander Bali which is reproduced:

"Shri K.U.Khan ne kaha ki oopar ki baat sahi hai. Is yatri ne 31/- diya tha. Baqi paisa chhor kar chala gaya. Sri Khan ne uprokta batain Chandra Bali ke samne kaha."

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The above endorsement as written then and there by SM/BV was my statement before VIs and decoy Shri Chander Bali admitted by me and confirmed by SM/BV in inquiry proceedings.

Thus the argument of E.O. on para 4.4 and 4.5 is an attempt to pervert the evidence at the cost of imprudent finding against evidences and facts. The E.O. has given probabilities for not relying Shri I.S. Dwivedi, SM/BV that SM/BV should have told "the VIs immediately that there was no substance in the allegation," being a direct witness of fact.

The E.O. did not consider the fact that Shri I.S. Dwivedi was a prosecution witness and had written the above endorsement before VIs and that whatever remained hidden, came out as a result of cross-examination by me during course of proceeding and SM/BV confirmed the short coming of fact that I had informed the SM/BV that some Delhi bound passenger had left behind the money. Shri Dwivedi confirmed that he had advised me to return if he comes otherwise deposit as E.B.

My above actions show my bona fide and good conscious.

(b) The bias of E.O. is apparent on the face that Shri Chanderbali had admitted during course of inquiry that somebody had spoken his statement EP-2 and somebody else had written it. Such type of evidence needs serious consideration when a trap is being laid by Vigilance Inspectors deploying the decoy who is also a vigilance man. Naturally Shri Chander Bali



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cannot remain independent and will lose the character of independent witness. He was more interested to save his bread by showing loyalties to his vigilance department. The E.O. found himself in a hot water in declaring Shri Chander Bali an untrustworthy witness failed to react when SM/ B.V gave the relevant endorsement of leaving behind the amount with me because both E.O. and Chander Bali was working under administrative control of Sr.Dy. G.M./ N.E.Railway designated also as Chief Vigilance Officer.

(c) The bias of E.O. is evident from the fact that he did not care to call Shri K.P. Singh an independent P.W. and R.S.Pandey and R.S.Khanna when he feared the collapse of the vigilance case by the true evidence of Shri I.S.Dwivedi, SM/BV. The order sheet dated 7.8.1979 will prove his bias in para 2 that he declined to call Shri K.P.Singh and R.S.Khanna P.Ws. on the ground that sufficient evidence for the prosecution has been recorded."

Thus E.O. apparently shaken by advent of true fact that may come from Shri K.P.Singh and R.S.Khanna beside the evidence of Shri I.S.Dwivedi hurriedly closed the case for the disciplinary authority on 7.8.1979. Thus whole proceeding started on 6.8.1979 and ended on 7.8.1979.

Thus I have been reasonably denied valuable opportunity of cross-examination of independent witness. This denial is not only in contravention of Railway Boards letter no. D(D&A)59RG-6-12 May 1960 but the instruction of G.M. Vigilance

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laying down three dates for the examination of prosecution witnesses. The above witnesses were easily within the reach of disciplinary authority whose attendance could have been arranged easily. The right of an employee cannot be snatched under the pretext of lingering the inquiry when there was no such fact thereon record.

(d) The bias of E.O. is further evident from the fact that I had moved an application dated 6.8.1979 as admitted by E.O. in his order sheet dated 6.8.1979 requesting the E.O. for the production of all G.C. Notes of Panchnama whereby G.C. Notes no. E/24-722930, 2-00 N 920757 and S10 291575 were not produced by prosecution during course or proceeding. E.O. instead of making Dy. C.V.O./T/ N.E. Railway/Gorakhpur the custodian of G.C. Notes to produced it for my perusal asked me how my case has been prejudiced so that my view point could be appreciated.

I had complied with his order as laid down in order sheet dated 6.8.1979 in my defence brief dated 20.8.1979 in para 1.2. But the E.O. did not consider it because of the fact that he had made up his mind to victimise me in collusion with Vigilance Inspectors therefore he made no mention of the above in his finding



(e) The bias of the E.O. is evident from the fact that he placed reliance over the statement of Shri Ram Nath who gave no statement on 8.8.1978 before SM/BV to the effect that he heard the transaction nor he appeared before me to deny the fact of endorsement on 8.8.1978.

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Thus your honour shall feel convinced that DSO/ L J N passed a severe punitive order against one though in similar case more serious in nature, he took a different actions for reasons best knownt to the administration.

Sir, I had been always loyal to railway administration and discharged my duties devotedly and never issued any charge memorandum during my service period. There has been no public complaint against me. There has been no adverse entries against me during my service period.

I pray your honour to please be considerate and pass orders for setting aside the order of removal and put me on duty. For this act of kindness I shall be obliged.

So help me God.

Yours faithfully,

(K.U.Khan)  
Ex -Signaller,  
Village Kundragrant, P.O.Tetri  
Bazar, Distt. Basti

Dated 15.4.1980



पत्र 31/10/1980

In the Honble High Court of Judicature <sup>(58) R.S. 46</sup> At Allahabad  
Lucknow Bench Lucknow  
WP No of 1981

Kitobulla Khan ————— Petitioner  
vs

The Union of India & others — — App. Parties

Annexure No 7

By DAIC →

North Eastern Railway  
Divisional office  
Lucknow.

No. D/SS-C/Vig/13/79

Dated : 19.6.80  
17-7-80 ✓

Sri Kitabullah Khan,  
Ex. Signaller  
Vill: Kundragrant,  
P.O. Tetri Bazaar  
Distt: Basti.

Sub : Your appeal against removal from service  
dated 15.4.80 to DRM/Lucknow.

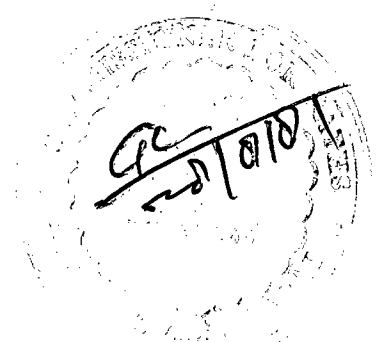
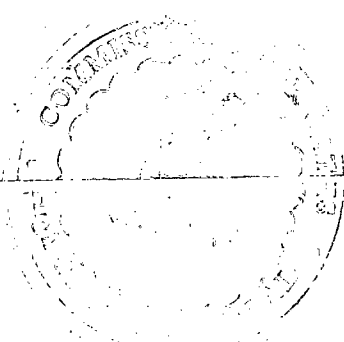
.....

In reference to your above appeal, you are hereby  
informed that your appeal dated 15.4.80 is time-barred  
as you recieved the orders on 11.2.80 and the time for  
appeal was 45 days.

This is for your information.

Recd on  
23/7/80

Divl. Safety Officer  
Lucknow.



23/7/80

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

Petition under Article 226 of the constitution of India

Writ Petition No. of 1981

Kitabullah Khan --Petitioner

versus

The Union of India and others --Opp-parties

Annexure no. 8.

To

The Divisional Railway Manager,  
N.E. Railway,  
Lucknow

Through DSO/ N.E. Railway/Lucknow

Ref: LD/SS-C/Vig/13/79 dated 19.6.1980

Sir,

1. That by a notice of imposition of penalty No. LD/SS-C/Vig/13/79 dated 30.11.1979 issued by your honour, I was directed to be removed from service. The copy of the said notice was served on me on 11.2.1980. As you are already aware, I had filed a writ petition in the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench on 19.2.1980 after serving a copy of writ petition and giving prior notice of its being filed to Shree Umesh Chandra Advocate who is the Standing Counsel for the railway administration. Copy of the writ petition was also received in your office. The said writ petition was numbered as Writ Petition no. 388 of 1980.

2. That on 19.2.1980 the counsel for Railway

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administration desired time for seeking instruction and the writ petition was directed to be listed after ten days. It was, however, listed on 10.3.1980. In view of the objection of the counsel for Railway Administration that a right of appeal was available, the writ petition was not pressed. Since these facts were within your knowledge, the rejection of the appeal dated 15.4.1980 on the ground of its being time-batted needs to be reconsidered. It is respectfully submitted that limitation for preparing the appeal should be counted from 10.3.1980 when the High Court accepted the plea of the counsel for Railway Administration that a right of appeal was available.

3. That the appellant untimely suffered from a stroke of jaundice and had to be confined to bed from 25.2.1980 to 11.4.1980 and remained under the treatment of doctor. The necessary certificate of the said Doctor is being enclosed.

In the circumstances it is respectfully prayed that the appeal dated 15.4.1980 informed to me as time-barred by the letter referred to above should be recalled and the appeal may be considered on merits.

Dated 28.7.1980  
Enclo - One PMC

Yours faithfully,  
Sd. Kitabullah Khan  
Ex. signaller,  
Vill. Kondra Grant  
P.O. Tetri Bazar,  
District Basti (U.P.)

1/20/80



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In The Honble High Court of Judicature At Allahabad  
Lucknow Bench Lucknow (61)  
WP No of 1981

Kitobullah Khan - - - - - Petitioner  
vs 0

The Union of India & others - - - - - opp. Parties

Annexure No 9

9


No. LD/SS-C/Vig/13/79  
Dated : 5.11.1980.

North Eastern Railway  
Divisional Office  
Lucknow.

Sri Kitabullah Khan  
ex. Signaller/N.E.Rly  
Village & P.O.: Kondra Grant  
P.O. TETRI BAZAR  
Distt: Basti (UP)

Sub : Your appeal dated 28.7.80.  
.....

Reference your above appeal dated 28.7.80,  
you are hereby informed that the Divl. Railway  
Manager/N.E.Rly/Lucknow has rejected your appeal.

  
for Divl. Rly. Manager/Safety  
Lucknow.

Recd on  
25/11/80  
25-11-80



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

Writ Petition No. of 1981

Kitabullah Khan

--Petitioner

versus  
The Union of India and others

--Opp-parties

Annexure no. 10

To

The Divisional Railway Manager,  
N.E. Railway,  
Lucknow Jn.

Sir,

Sub:- My appeal dated 28.7.1980 against the  
penalty of removal from service

Ref: Your order communicated under DRM/S/LJNI's  
letter no. LD/SS-C/Vig/13/79 dated  
5/18-11-1980.

7 Respectfully I beg to state that I have been  
informed by DRS/S LJN's letter under reference that  
my appeal dated 28.7.1970 has been rejected by your  
honour.

The grounds on which and the reasons for which  
my appeal has been rejected have not been given in  
the communication.

It is not a speaking order. As per Railway  
Board's extant rules every order in respect of  
disciplinary action is required to be a speaking  
order.

I submitted the appeal in question to your  
honour on the direction of Hon'ble High Court of  
Lucknow Bench.

It was, therefore, necessary that my appeal be  
considered in a judicious manner and myself communi-  
cated your esteemed order in speaking terms giving



*For all the above*

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the grounds on which my appeal has been rejected so that I can seek relief and remedy from concerned quarters if and as necessary.

I, therefore, request your honour to kindly communicate me with your full order upon my appeal specifying the detail grounds upon which my appeal has been rejected.

Looking for an early communicated.

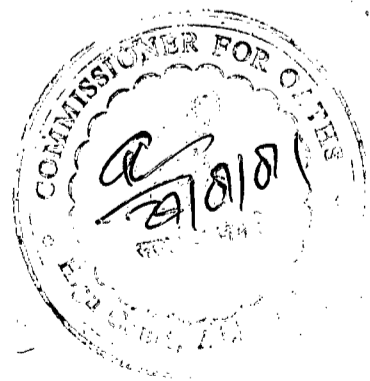
Your faithfully,

Sd. Kitabullah Khan  
Ex. Signaller  
29.12.1980

Dated 29.12.1980

Home Address:

Kitabullah Khan,  
Village and post Kondragrant,  
District Basti (U.P.)



*For the Commissioner (u)*

In the Honble High Court of Judicature At Allahabad

Lucknow Bench Lucknow

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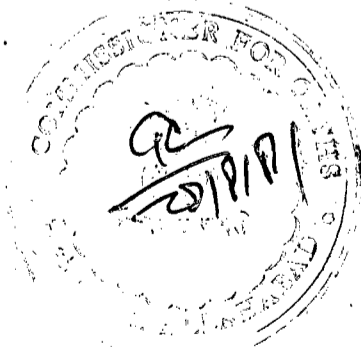
WP No of 1981

Kitabulloh Khan - - - - - Petitioner

vs

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

Annexure No 11



20/11/81

By post.

North Eastern Railway  
Divisional Office  
Lucknow.

No. LD/SS-C/Vig/13/79  
Dated : 13-7-1981.

✓  
Sri Kitabullah Khan,  
+ Ex. Signaller/N.E.Rly,  
Vill. & P.O. : Kondra Grant  
P.O. Tetri Bazar  
Distt: Basti (UP).

17-7-81

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Sub : Your appeal against the order  
of removal from service.

In connection with your applications  
dated 29.12.80 and 12.2.81, you are hereby informed  
that the D.R.M. has passed the following orders :-

"I have considered the representation  
of Sri Kitabullah Khan, ex Signaller for consi-  
deration of his appeal, in view of Rule 20 of the  
DAR 1968. I find that no tangible ground exists  
for reconsideration of the appeal which has already  
been rejected by me.

The N.I.P. for removal from service  
dated 30.11.1979 could only be served on the ex. E  
employee on 11.2.1980 in office since he was not  
available having reported sick. Soon after the  
service of removal order the ex. employee rushed  
to a Court of Law and filed a writ petition in  
the High Court on 19.2.80 without availing the  
normal channel of appeal laid down under the rules.  
When the Writ Petition was heard on 10.3.80, and  
the Counsel for the Railways had put forth the  
plea that he had not exercised his normal right  
of appeal, the ex. employee who did not exercise  
this right earlier had put forth an appeal only  
on 15.4.80 which was obviously time-barred. The  
Private Medical Certificate enclosed in his  
letter dated 28.7.80, is not relied upon and as  
such his request for treating the appeal within  
time is not accepted and cannot be reconsidered now.

Since his Writ Petition is pending in  
the Hon'ble High Court, it is not considered  
necessary to interfere at the moment in the normal  
course of justice."

  
for Divl. Rly. Manager  
Lucknow.

Received on 31/7/81

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

Writ Petition No. of 1981.  
Kitebullah Khan --Petitioner  
versus  
The Union of India and others --Opp-parties

Annexure no.12

To

The Divisional Rail Manager,  
N.W. Railway, Lucknow

Sub: Consideration of my appeal dated 15.4.1980  
in view of rule 20 of Railway Servants  
Discipline and Appeal Rules, 1968

Ref:- My appeal dated 15.4.1980 and application  
dated 28.7.1980 in response to your  
letter no. LD/SS-C/Vig/13/79 dated  
19.6.1980 and 5/18-11-1980

Sir,

Respectfully I beg to state as under:-

1. That I had preferred an appeal dated 15.4.1980 against the removal order passed by DSO/ L.J.N.
2. That instead of judicious consideration of my appeal in question which was well in time was neither considered nor any speaking order was passed.
3. That I had convinced you by my application dated 28.7.1980 that my appeal dated 15.4.1980 was well in time on reasons given in the application dated 28.7.1980. But your honour did not consider my appeal judiciously being appellate authority though under the provisions of rule 20 of the DAR. 1968 my appeal may be considered.



15/7/1980

The rule 20 is reproduced-

Rule 20.

"No appeal preferred under this part shall be entertained unless such appeal is preferred within a period of forty five days from the date on which a copy of the order appealed against, is delivered to the appellants.

Provided that the appellate authority may entertain the appeal after the expiry of the said period, if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time."

Thus my case comes within the exception laid down in rule 20 of DAR 1968 I had given you sufficient cause in my application dated 28.7.1980 that my appeal is well in time.

Therefore, I request for speaking order showing judicious consideration over my appeal dated 15.4.1980 against the removal order of DSO/LJN.

I solicit for early decision.

Dated 12.2.1981

Yours faithfully,  
Sd. Kitabullah Khan  
Ex. Signaller,  
12.2.1981

*Handwritten signature*



In the Honble High Court of Judicature At Allahabad.  
Lucknow Bench Lucknow

ब अदालत श्रीमान

महोदय

वादी (मुद्दे) For Petitioner का वकालतनामा  
प्रतिवादी (मुद्दालेह)



CAN

10/2 5  
12.11.81

Kitabullah Khan

934/1

वादी (मुद्दे)

बनाम

Union of India & others

प्रतिवादी (मुद्दालेह)

नं० मुकद्दमा सन् १९८१ पेशी की ता० १९ ई०  
ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

Sri B. C. Saxena Advocate <sup>फेडवोकेट</sup> महोदय  
वकील

को अपना वकील नियुक्त करके प्रतिज्ञा [इकरार] करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी [फरीकसानी] का दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त [दस्तखती] रसीद से लेवें या पंच नियुक्त करें - वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

Accepted

B. C. Saxena हस्ताक्षर

10/11/81

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

१९ ई०

नाम अदालत  
नं० मुकद्दमा  
नाम फरीकस

Handwritten marks: "A68" and circled numbers "57" and "69".

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL ADDL. BENCH,  
AT ALLAHABAD.

REGISTRATION NO. 866 OF 1987 (T)

Kitabullah. *Khan* ----- PETITIONER

Versus

Union of India and others. ----- RESPONDENTS.

INDEX

Sr. No.	Particulars of Papers.	Page Nos.
1.	Reply of the Respondents.	01 to 08

Received copy on  
dated 24/1/89  
*[Signature]*  
24/1/89 ndv

DATED: 1988.

*[Signature]*  
( A.K. GAUR )  
ADVOCATE  
COUNSEL FOR THE PETITIONER

169 (70)  
58

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL ADDL.  
BENCH, AT ALLAHABAD.

REGISTRATION NO.866 OF 1987 (T)

Kitabullah. *Khan* ----- PETITIONER

Versus

Union of India and others. ----- RESPONDENTS.

The humble Reply of the Respondents

MOST RESPECTFULLY SHOWETH AS UNDER:-

1. That the contents of Paragraph Nos.1 to 3 of the Writ Petition are not a disputed.
2. That with regard to the contents of Paragraph No.4 of the Writ Petition, only this much is admitted that one Chandra Bali, a decoy of the Vigilance Department purchased one Second Class Ticket No.12204 Ex-Babnnan to Delhi on 8-8-1978 from the petitioner on payment of Rs.31/- against the payable amount Rs.29/95 and rest of the contents of Paragraph is denied as being not correct.
3. That the contents of Paragraph No.5 of the Writ Petition are <sup>not</sup> denied except the concluding line of

*D. S. Mishra*  
प्रवर मंडल संरक्षा अधिकारी,  
पूर्वोत्तर रेलवे, लखनऊ

Paragraph. The decoy Shri Chandra Bali in the course of departmental enquiry stated in the presence of the petitioner that he demanded the balance of the amount of money paid by him but was replied, "HO GAYA" meaning thereby that there was nothing to be refunded by the petitioner.

4. That the contents of Paragraph No.6 of the Writ Petition are not disputed.

5. That the contents of Paragraph No.7 of the Writ Petition are not disputed except that Shri K.N.-Chaturvedi, Enquiry Inspector(EI/DA) was an Officer of the Vigilance Department. Shri Chaturvedi belongs to the cadre of Personnel Branch of the Railway but with a view to facilitate the conduct of disciplinary enquiry properly and quickly he was attached with Senior Dy.General Manager cum Chief Vigilance Officer. This does not in any way mean that he was an Officer of the Vigilance Branch.

6. That the contents of Paragraph No.8 of the Writ Petition are admitted.

*Pravara*  
प्रवर मंडल संरक्षा अधिकारी,  
पूर्वोत्तर रेलवे, लखनऊ

ART-72  
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7. That in reply to the contents of Paragraph No.9 of the Writ Petition, it is stated that the statement made by the Station Master in respect of the fact that the petitioner had informed him of leaving behind the amount at the Booking Counter by the Delhi bound Passenger was not accepted by the Enquiry Officer who considered it to be an after thought in the circumstances of the case. The finding of the Enquiry Officer is final.

8. That the contents of Paragraph 10 of the Writ Petition are not admitted as having no bearing on the charge, besides there is no substantial evidence to this effect.

9. That the contents of Paragraph No.11 of the Writ Petition are denied. It is, further stated that the report of the departmental enquiry conducted based on the evidence recorded before the Enquiry Officer contains contrary findings holding the petitioner guilty of the charges.

*B. K. Swastika*  
प्रवर मंडल संरक्षा अधिकारी,  
पूर्वोत्तर रेलवे, लखनऊ

10. That the contents of Paragraph No.12 of the

12/13  
6/13

Writ Petition are not admitted. There is no bar to deploy an employee of the Vigilance Branch as a decoy. The non-citation of witnesses from outside the Vigilance department does not Pre-judice the interest of the petitioner when payment of Rs. 31/- against Rs.29-95 was admitted by him and he could not account for and prove the realisation of excess amount in the course of departmental enquiry where he was afforded full opportunity to prove his innocence.

11. That the contents of Paragraph No.13 of the Writ Petition are admitted. It is stated that the Annexure No.5 to the Writ Petition has been served upon the petitioner and it had direction of giving immediate effect.

12. That the contents of Paragraph No.14 of the Writ Petition are admitted.

13. That in reply to the contents of Paras 15 to 21 of the Writ Petition, it is stated that the petitioner submitted appeal dated 15-4-1980 (Annexure No.6 to the Writ Petition) and as the

*B. K. K. K.*  
प्रवर मंडल संरक्षा अधिकारी,  
पूर्वोत्तर रेलवे, लखनऊ

AFB 74  
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same was time barred having been submitted much after the time prescribed in the Discipline and Appeal Rules, 1968 and contained in the Notice of Imposition of penalty. A copy of which is Annexure No.5 to the Writ Petition, the petitioner was ~~informed~~ informed that it was time barred under Divisional Safety Officer Lucknow's Letter No.LD/SS-C/vig/13/79, dated 19-6-1980/17-7-1980(Annexure No.7 to the Writ Petition).

The petitioner, thereafter, submitted representation dated 28-7-1980(Annexure No.8 to the Writ Petition) which was considered by the Divisional Railway Manager, opposite Party No.2 and he rejected his appeal. The petitioner was accordingly informed under Divisional Railway Manager(Safety), Lucknow's Letter No.LD/SS-C/vig/13/79, dated 5/18-11-1980 (Annexure No.9 to the Writ Petition).

The petitioner again submitted his representation dated 29-12-1980(Annexure No.10 to the Writ Petition) to the Divisional Railway Manager/ Lucknow, opposite Party No.2, who considered the

*P. Tewari*  
प्रवर मंडल संरक्षा अधिकारी,  
पूर्वोत्तर रेलवे, लखनऊ

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63

petitioner's representation and rejected the stand taken by the petitioner that his appeal was within time. The petitioner was accordingly reply <sup>red</sup> ~~under~~ under Divisional Railway Manager/Lucknow's Letter No.LD/SS-C/Vig/13/79, dt:13/17-7-1981(Annexure no.11 to the Writ Petition).

The statements contrary to the above submission are denied being devoid of any substance.

14. That the contents of Paragraph No.22 of the Writ Petition as stated by the petitioner are not admitted. It is stated that the petitioner himself in his representation dated 28-7-1980(Annexure No.8 to the Writ Petition) requested that his case required re-consideration. The Divisional Railway Manager, the appellate authority had considered the points raised by the petitioner and thereafter passed orders as contained in Annexure No.11 to be Writ Petition. The petitioner since himself had mentioned in his representation that the earlier Writ Petition was disposed of by this Hon'ble Court, the question of having an impression that the same

*B. S. J. S. J.*  
प्रवर मंडल संरक्षा अधिकारी,  
पूर्वोत्तर रेलवे, लखनऊ

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61

was ~~pending~~ pending did not arise and the mentioned  
in the order of the Divisional Railway - Manager in Annexure  
Nb.11 to the Writ Petition that the Writ Petition was  
pending is not material as the appeal of the petitioner  
was considered and decided by the competent Authority.

15. That the contents of Paragraph No.23 of the  
Writ Petition and grounds taken there under are not  
admitted. The petitioner had the effective and speedy  
departmental remedy by way of further representation  
to the next higher authority, if he was aggrieved with  
the order of the Divisional Railway Manager,  
Lucknow.

16. That all the grounds taken by the petitioner  
are not tenable in law.

17. That the grounds taken by the petitioner  
deals with factual aspects and cannot be looked into  
in the writ Jurisdiction.

18. That the disciplinary departmental enquiry  
was conducted under the Statutory provisions of the  
rule. This Hon'ble Court will not sit in appeal

*B. S. Jaiswari*  
प्रवर मंडल संरक्षा अधिकारी,  
पूर्वोत्तर रेलवे, लखनऊ

KP76 (77)  
(65)

against the findings of the departmental proceedings and enquiry.

19. That the petitioner is not entitled to any relief as sought for by way of any direction, order or writ of certiorari and the Writ Petition is liable to be dismissed.

20. That the petitioner is frivolous, vexatious and as such the ~~Proceedings~~ <sup>petition is</sup> are liable to be dismissed.

VERIFICATION

*Deponent*

प्रवर मंडल संरक्षा अधिकारी

I, V.K. Tiwari, s/o Late Shri J.P. Tiwari, aged about 38 years, working as Sr. Asst. Safety Officer, NER, Lucknow do hereby verify that the contents of Paragraph Nos. 1 to 20 are

based on perusal of Official Records and legal advise received.

Verified this      th day of November 1988

at

Dated : 27.12.88

Lucknow.

*Deponent*

प्रवर मंडल संरक्षा अधिकारी,  
पूर्वोत्तर रेलवे, लखनऊ

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In the Central Administrative Tribunal, Circuit  
Bench, Lucknow

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T.A. no. 866 of 1987 (T)

Kitabullah Khan

-Applicant

versus

Union of India and others

-Respondents

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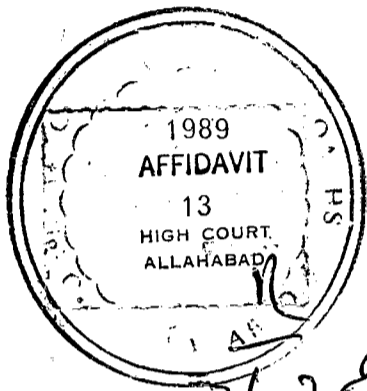
*B.C. Saksena*

(B.C. Saksena)  
Advocate

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67

In the Central Administrative Tribunal,  
Circuit Bench, Lucknow

--



Rejoinder-affidavit in reply to the  
written-statement of the respondents

--

26-2-90

T.A. No. 866 of 1987 (T)

Kitabullah Khan

-Applicant

versus

Union of India and others

-Respondents

--



26-2-90, EXHIBIT

I, Kitabullah Khan, aged about 51  
years, son of Sri Rahimullah Khan, resident of  
village Kundri Grant, post office Titri Bazar,  
district Basti, do hereby solemnly take oath  
and affirm as under:-

1. That I am the petitioner in the above-  
noted petition. I am fully acquainted with  
the facts of the case. The written-statement  
has been read out and explained to me by my  
counsel and I have understood the contents  
thereof.

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2. That the contents of para 1 do not call for any reply.

3. That the contents of para 2 in so far as they are contrary to the assertions made in para 4 of the petition are denied and the said assertions are hereinagain reiterated.

4. That the contents of para 3 in so far as they admit the assertions made in para 5 of the petition call for no reply. The rest of the allegations in so far as they are contrary to the specific assertions made in para 5 of the petition are denied and the said assertions are hereinagain reiterated.

5. That the contents of para 4 do not call for any reply.

6. That the contents of para 5 in so far as they are contrary to the assertions made in para 7 of the petition are denied and the said assertions are hereinagain reiterated. The applicant craves indulgence of this Hon'ble Tribunal to appreciate for itself that the parent department to which Sri K.N. Chatunvedi

~~Red~~  
FAMILY CASE



44-21  
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belonged is wholly irrelevant once it is admitted that Sri K.N.Chaturvedi was appointed as the Enquiry ~~Officer~~ Inspector /DA and was attached with the Senior Deputy General Manager-cum- Chief Vigilance Officer. The said Sri K.N.Chaturvedi for all intents and purposes while working in the office of the Senior Deputy General Manager-cum- Chief Vigilance Officer came to be borne on the cadre of the Vigilance Department and was thus an officer of the Vigilance Department.

7. That the contents of para 6 do not call for any reply.

8. That in reply to the contents of para 7 the assertions made in para 9 of the petition are reiterated and anything to the contrary is denied. The finding of the Inquiry Officer that the statement of Sri I.S.Dwivedi was an afterthought is wholly baseless since the statement of Sri I.S.Dwivedi, Station Master, was made before the appearance of the Vigilance Inspector on the scene. The findings of the Inquiry Officer are perverse and against the weight of the evidence on the record.

9. That the denial contained in para 8 is wholly

*For 11/9/2012*



88/82  
70

baseless and the assertions made in para 10 of the petition are reiterated. Chandra Bali the decoy has himself admitted that when he went to the booking window, there was rush and about 10-12 people were at the window. The other assertions made in para 10 were also deposed to by the witness during the departmental inquiry.

10. That the contents of para 9 do not in any manner controvert the specific assertions made in para 11 of the petition. Nevertheless, the said assertions are hereinagain reiterated. The finding of the Inquiry Officer is wholly perverse and against the weight of the evidence on record.

11. That the contents of para 10 do not in any manner controvert the specific assertions made in para 12 of the petition. Nevertheless, the said assertions are hereinagain reiterated. The petitioners defence was that the decoy immediately after ticket was given to him had rushed off and the applicant immediately had brought to the notice of the Station Master, Sri I.S.Dwivedi the fact that a passenger had

*ididid, 26/2/90*

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26-2-90

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left Rs. 1.05 . It is further relevant to highlight that the ~~decoy~~ was a subordinate of the Vigilance Inspector and no independent person was associated with the entire proceedings.

12. That the contents of para 11 in so far as they admit the assertions made in para 13 of the petition call for no reply.

13. That the contents of para 12 do not call for any reply since the assertions made in para 14 of the petition have been admitted.

14. That in reply to the contents of para 13, the assertions made in paras 15 to 21 of the petition are reiterated and anything to the contrary is denied.

*10/11/80*

15. That the contents of para 14 in so far as they are contrary to the assertions made in para 22 of the petition are denied and the said assertions are hereinagain reiterated. The

*26-290*

applicants representation dated 28.7.1980 is already on record as Annexure 8. A perusal of the same would belie the allegations made in para 14. ~~of~~ <sup>of</sup> ~~the~~ <sup>written statement</sup> ~~petition~~. The allegation in

(84) 103  
(72)

the later part of paragraph 14 are clearly belied by the last part of Annexure 11 to the writ petition, wherein it has not only been indicated that the writ petition is pending but it was also accordingly observed that it is not considered necessary to interfere in the normal course of justice.

16. That the plea in para 15 is wholly baseless and is legally untenable and is, therefore, denied.

17. That the pleas in paras 16, 17, 18, 19 and 20 are, to say the least, highly presumptuous and are based on incorrect assumption of facts and mistaken notion of law. They are denied.

Lucknow Dated

*[Signature]*  
Deponent

February 26, 1990

I, the deponent named above, do hereby verify that contents of paras 1 to 17 are true to my own knowledge. No part of it is false and nothing material has been concealed; so help me God.

*[Signature]*  
Deponent

Lucknow Dated  
February 26, 1990

I identify the deponent who has signed in my presence *[Signature]* is Clerk to Sri B.C. Saksena, Advocate

*present to me personally*



For Govt use

T.A No. 866 of 87(T)

73 25

W.P. No. 5602/81

866

NS/CCS  
64

वकालतनामा

केन्द्रीय प्रशासनिक आधिकारण के समक्ष

इलाहाबाद के न्यायालय में  
पेश किया गया नं० — 181 उच्च न्यायालय इलाहाबाद कास्य नं० 1987(T)  
Regn. No. श्री किशोर प्रसाद

वादी  
प्रतिवादी

दावेदार  
अपीलाधी

प्रतिवादी  
वादी

बनाम

भारत संघ एवं अन्य

अर्जीदार  
प्रत्यार्थी

भारत के राष्ट्रपति इसके द्वारा श्री १० के० गांधी एवं अन्य के प्रतिवादी

इलाहाबाद  
को उपर्युक्त वाद/अपील/कार्यवाही में भारत संघ की ओर से उपसंजात होने, कार्य करने, आवेदन करने, अभिवचन करने और आगे कार्यवाही करने के लिए दस्तावेज दाखिल करने और वापस लेने, न्यायालय की आदेशिका स्वीकार करने, काउन्सेल, अधिवक्ता या प्लीडर नियुक्त करने और उन्हें अनुदेश देने, रूपा वापस लेने और उसका निशेप करने तथा उपर्युक्त वाद/अपील/कार्यवाही में भारत सरकार का साधारण तिनिधित्व करने और भारत संघ के लिए इस प्रकार उपसंजात होने, कार्य करने, आवेदन करने, अभिवचन करने और आगे कार्यवाही करने की अनुवांगिक सभी बातें करने के लिए नियुक्त और प्राधिकृत करते हैं। किन्तु यह इस शर्त के अधीन रहते हुए होगा कि जब तक भारत सरकार के समुचित प्राधिकारी से उस निमित्त पहले ही स्पष्ट प्राधिकार प्राप्त नहीं कर लिया गया है, तब तक उक्त काउन्सेल/अधिवक्ता/प्लीडर या उसके द्वारा नियुक्त काउन्सेल/अधिवक्ता/प्लीडर सभी या किसी प्रतिवादी/प्रत्यार्थी/अपीलाधी/वादी/विरोधी पक्षकार के विरुद्ध उस वाद/अपील/दावा/प्रतिरक्षा/कार्यवाही को पूर्णतः या भागतः न तो वापस लेगा, न उसका अधिस्त्रजन करेगा, न ऐसा कोई करार करेगा या समझौता करेगा जिसके द्वारा वाद/अपील/कार्यवाही पूर्णतः या भागतः समायोजित की जाए और न उससे उद्भूत या उसमें विवादग्रस्त सभी या किसी विषय को मध्यस्थ को निर्देशित करेगा, परन्तु आपवादिक परिस्थितियों में जब भारत सरकार के समुचित प्राधिकारी से परामर्श करने के लिए पर्याप्त समय नहीं है और वाद में समझौता करने में लोप करना निश्चित रूप से भारत सरकार के हित के प्रतिकूल होगा तो उक्त प्लीडर/अधिवक्ता/काउन्सेल ऐसा कोई करार या समझौता कर सकेगा जिसके द्वारा उक्त वाद/अपील/कार्यवाही पूर्णतः या भागतः समायोजित हो जाय और ऐसे प्रत्येक मामले में काउन्सेल/अधिवक्ता/प्लीडर करार या समझौता करने के विशेष कारण बताते हुए उक्त अधिकारी को तत्काल संसूचित करेगा।

राष्ट्रपति इस प्राधिकार के अनुक्रम में श्री १० के० गांधी एवं अन्य के प्रतिवादी

इलाहाबाद द्वारा किए गए सभी कार्यों का अनुसमर्थन करने को सहमत हैं।

इसके साक्ष्यस्वरूप भारत के राष्ट्रपतिके लिए और उनकी और से इस विलेख को आज तारीख.....को सम्यक् रूप से निष्पादित किया जाता है।

तारीख..... 19

निष्पादित करने वाले प्राधिकारी का नाम  
प्लीडर रंजने, कलकत्ता

36/79

Plot

NS/CCS

# VAKALATNAMA

Before  
in the Court of

The Central Administrative Tribunal  
Circuit Bench, Lucknow

TAM. 866 of 87 (T)

Plaintiff	Kutabullah Khan	Claimant
Defendant		Appellant
Versus		
Defendant	Government of India	Petitioner
Plaintiff	and others.	Respondent

F.T.  
15/3/79

The President of India do hereby appoint and authorise Shri. B.K. Shukla  
Railway Advocate, Lucknow

.....to appear, act, apply, plead in and prosecute the above described suit/appeal/proceeding on behalf of the Union of India to file and take back documents, to accept processes of the Court, to appoint and instruct Counsel, Advocate or Pleader, to withdraw and deposit moneys and generally to represent the Union of India in the above described suit/appeal/proceedings and to do all things incidental to such appearing, acting, applying, Pleading and prosecuting for the Union of India SUBJECT NEVERTHELESS to the condition that unless express authority in that behalf has previously been obtained from the appropriate Officer of the Government of India, the said Counsel/Advocate/pleader or any Counsel, Advocate or Pleader appointed by him shall not withdraw or withdraw from or abandon wholly or partly the suit/appeal/claim/defence/proceeding against all or any defendants/respondents/appellant/plaintiff/opposite parties or enter into any agreement, settlement, or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted or refer all or any matter or matters arising or in dispute therein to arbitration PROVIDED THAT in exceptional circumstances when there is not sufficient time to consult such appropriate Officer of the Government of India and an omission to settle or compromise would be definitely prejudicial to the interest of the Government of India and said Pleader/Advocate or Counsel may enter into any agreement, settlement or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted and in every such case the said Counsel/Advocate/Pleader shall record and communicate forthwith to the said officer the special reasons for entering into the agreement, settlement or compromise.

The President hereby agree to ratify all acts done by the aforesaid Shri. B.K. Shukla  
Railway Advocate, Lucknow

in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of India this the .....day of.....198 .

Dated .....198

Accepted  
B.K. Shukla  
Adv.

Smt. Uley  
25/6  
(S.M.H. Islam)  
Designation of the Executive Officer  
प्रवर मंडल कार्यालय अधिकारी,  
पूर्वोत्तर रेलवे, लखनऊ  
Sr. Divisional Personnel Officer,  
W. E. Railway, Lucknow

for Union of India

Registered  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
Circuit ~~Allahabad~~ BENCH, ~~Allahabad~~ Lucknow  
Post Bag No. 013  
26A, The ~~Enhill~~ Road, Allahabad - 211 001

07  
C/156

Gandhi Bhawan\*\*\*\* Lucknow.

No. CAT/Alld/Jud/32633 Dated the 5/9.

Registration T.A.No. 866 of 1987 (T)

Kitabullah Khan Applicant's

Versus

Union of India & others. Respondent's

Kitabullah Khan, s/o Sri Rahimullah Khan,  
R/o Village Kandi Rampant P.O. Titri Bazar  
District Basti.

The Union of India through the General Manager  
N.E. Railway, Gorakhpur.

Whereas the marginally noted cases has been  
Transferred by High Court Lucknow. under the provision  
of the Administrative Tribunal Act 13 of 1985 and registered  
in this Tribunal as above.

Writ Petition No. 5602  
of 1981  
of the High Court Lucknow.  
Court at High Court Lucknow.  
of High Court Lucknow.  
arising out of order dated High Court Lucknow.  
passed by High Court Lucknow.  
in High Court Lucknow.

The Tribunal has fixed date  
of 21-9-88 1988.  
For the hearing of the matter.  
If no appearance is made  
on your behalf by you or some  
one duly authorised to Act

on your behalf, the matter will be heard and decided in  
your absence.

Given under my hand and seal of the Tribunal  
this 1-9-88 day of 1-9-88 1988.

Adv. 5 Ghormara Road  
Allahabad

Regd. Office  
69.00  
for A.K. Gaur

The Divisional Railway Manager N.E. Railway,  
Divisional offices, Ashok Mangal Lucknow.

Dinesh  
DEPUTY REGISTRAR (J)

dinesh/  
The Divisional Railway Manager (Safety),  
formerly known as Divisional Safety officer  
N.E. Railway Divisional offices, Ashok  
Mangal Lucknow, through Sri A.K. Gaur, Adv  
1 to 3

To,

T.A. No - 866-87

C157

The Registrar  
Central Administrative Tribunal  
Subj: - W.P. No 562/81 at Allahabad  
Kilabullah Khan  
vs U.O. 9 and others.

Sir, I am the petitioner in the above case through my advocate shri B.C. Saxena of Lucknow bench and he is my counsel of the above case.

I request that my case should be heard by tribunal circuit bench at Lucknow.

I may be informed regarding the date of entering of the case along with information to shri B.C. Saxena advocate of Lucknow. for this act. of kindness I shall be obliged.

Yours faithfully,  
Kilabullah Khan  
V + Post - Koudra grant -  
via Tetre Bazar  
Distt Barli  
14. 7. 88

Notice issued for  
12/19/88  
AKS  
11/9/88

1 c/ forwarded to shri B.C. Saxena advocate Lucknow for information please.

A.K. Gaur Counsel  
for Respondent

O/C  
159

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH : LUCKNOW  
Opp. Residency Gandhi Bhavan, Lucknow.

142

No. CAT/CI/1KO/JUDL/396

Date :

T.A.  
REGISTRATION NO 866 OF 1987(T) (L)

Kikabullah Khan

Applicant.

VERSUS

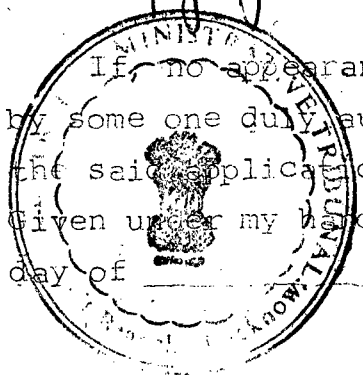
U.O.F. & others

Respondents.

① Sri Kikabullah Khan s/o Raheem Ullah Khan  
Village - Kundri  
P.O. Titari Bazar  
Dist. Basti

Please take notice that the applicant above named has presented an application a copy \_\_\_\_\_ thereof is enclosed herewith which has been registered in this Tribunal and the Tribunal has fixed 16 day of 4/92 for \_\_\_\_\_.

A Copy of Court's order dt. 29.1.92 Enclosed herewith



If no appearance is made on your behalf, your pleader or by some one duly authorised to Act and plead on your behalf in the said application, it will be heard and decided in your absence. Given under my hand and the seal of the Tribunal this 13 day of 2 199 2

[Signature]  
For Deputy Registrar.

M.Panda./

Central Administrative Tribunal  
Lucknow Bench

2159

T.A.No. 866 of 87(T)

~~1/6~~

Kitabullah Khan  
Union Of India  
.....  
-VS-  
.....  
Applicant.  
Respondents.

29.1.92  
Hon. Mr. Justice U.C.Srivastava-V.C.  
Hon. Mr. A.B.Gorthi  
A.M.

A Notice may be issued to the applicant. That his counsel has been allotted to the Bench. So he should be arranged another Counsel otherwise his case will be disposed of in absence of his counsel.

List this case on 16.4.92 for hearing.

Sd/  
A.M.

Sd/  
V.C.



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Deputy Registrar  
Central Administrative Tribunal  
Lucknow Bench,  
Lucknow