

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE O.A. 1008 OF 1987

NAME OF THE PARTIES Ashok Kumar Singh Applicant

Versus

Union of India Respondent

Part A.

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18		

CERTIFICATE

Certified that no further action is required to be taken and that the case is fit for consignment to the record room (decided)

Dated 06-6-11

Counter Signed.....

Sheet no
2/12/12
m

Signature of the
Dealing Assistant

Section Officer/In charge

Reduction to lower post / Forms.

CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

A/

Registration No. 1080 of 1987

APPLICANT (s) Ashok Kumar Singh

RESPONDENT(s) Union of India through G.M., N.Rly,

New Delhi & 4 others

Particulars to be examined	Endorsement as to result of Examination
1. Is the appeal competent ?	Ys
2. (a) Is the application in the prescribed form ?	Ys
(b) Is the application in paper book form ?	only In copy is in paper book form
(c) Have six complete sets of the application been filed ?	6 sets filed (one set short)
3. (a) Is the appeal in time ?	Ys
(b) If not, by how many days it is beyond time ?	-
(c) Has sufficient cause for not making the application in time, been filed ?	-
4. Has the document of authorisation/Vakalat-nama been filed ?	Ys
5. Is the application accompanied by B.D./Postal-Order for Rs. 50/-	Ys
6. Has the certified copy/copies of the order (s) against which the application is made been filed ?	Ys
7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	Ys
(b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	Ys

आदेश पत्रक
ORDER SHEET

अपील
निर्देश आवेदन रजिस्टर में सं०

(६०२८/३)

No. in Reference Application
Appeal Register

अपील अनिकरण
Appellate Tribunal

अपीलार्थी
आवेदक

Appellant
Applicant

अपीलार्थी
आवेदक द्वारा

बनाम

प्रत्यक्षी

Appellant
Applicant

Vs.

Respondent

प्रत्यक्षी द्वारा
Respondent

आदेश की क्रम संख्या
और तारीख
Serial number of
order and date

संक्षिप्त आदेश, निर्देश देते हुए, यदि आवश्यक हो
Brief order, mentioning reference, if necessary

पालन कैसे हुआ और पालन
करने की तारीख
How complied with and
date of compliance

(६.१.८६)

See circle in the black pen line

4.12.8

Hon D. S. Misra (APL)
Hon G. S. Sharma (JM)

Shri A.K. Gaur for the respondents requests for time to file reply. Rejoinder affidavit if any may be filed within a month, thereafter. Adjourn to 14.1.88. The interim orders passed earlier shall continue till this date.

AM — JM

14/1/88

A/3

OA 1088 | 1987

A/5

3-6-88

Hon D.S. Misra - A.M
Hon G.S. Sharma - J.M

Applicant in person and
Shri A.K. Chauhan for Respondents
are present. On request
of both the parties, the Case
is adjourned to 20-7-88
for hearing.

A.M.

J.M.

23-2-89

17/10/2019

19. Whether all the remedies have been exhausted.

Sh

18. Have the particulars for interim order prayed for indicated with reasons?

Sh

19. Whether all the remedies have been exhausted.

Sh

(a) Concise?

Sh

(b) Under distinct heads?

Sh

(c) Numbered consecutively?

Sh

(d) Typed in double space on one side of the paper?

Sh

20. Are the facts of the case mentioned in item No. 6 of the application?

Sh

21. Are the translations certified to be true or are they supported by an affidavit affirming that they are true?

Sh

22. Do the names of the parties stated in the application tally with those indicated in the application?

Sh

23. Have file size envelopes bearing full addresses, of the respondents been filed?

No

24. Are the given addresses, the registered addresses?

Sh

25. Nos. /Pages Nos.?

—

26. Are extra copies of the application with Annexures filed?

Sh

27. Are the application/duplicate copy/spare copies signed?

Sh

28. Has the index of documents been filed and paginated properly?

Sh

29. Have the chronological details of representations made and the outcome of such representations been indicated in the application?

Sh

30. Is the matter raised in the application pending before any Court of law or any other Bench of Trial?

No

31. Are the application/duplicate copy/spare copies signed?

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32. Are extra copies of the application with Annexures filed?

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33. Have file size envelopes bearing full addresses, of the respondents been filed?

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88. Are the facts of the case mentioned in item No. 6 of the application?

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89. Whether all the remedies have been exhausted.

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90. Is the matter raised in the application pending before any Court of law or any other Bench of Trial?

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100. Is the matter raised in the application pending before any Court of law or any other Bench of Trial?

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117. Are the facts of the case mentioned in item No. 6 of the application?

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118. Are the facts of the case mentioned in item No. 6 of the application?

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119. Whether all the remedies have been exhausted.

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Particulars to be Examined

Endorsements as to result of Examination

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b

ORDER SHEET

OFFICE REPORT

An application has been filed in this Tribunal for transferring the case No. 1088... of 87.....to the Circuit Bench, Lucknow.

If approved, 23.7.88 may kindly be fixed for hearing at Circuit Bench Lucknow. In this regard the notices may be sent to the parties counsel.

Shri Karmal
23-6-88

20.7.88. Hon' Ajay John, A.M.
Sri R. C. Banerjee is present on behalf of Sri A. K. Taur for respondents. The applicant files rejoinder today. List this case for final hearing on ~~20.7.88~~ 23-8-88.

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Mon 23/7/88 Hon' A. John, A.M. A.M.
Sri V. K. Prakash for applicant and Sri A. K. Taur for respondent is present. Case is adjourned to 22.11.88 for hearing.

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A.M.

22.11.88 No sitting adjourned to 27.1.89
for hearing.

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O.A. No. 1088/87

From Mr. D.S. Misra, A.M.

From Mr. D.K. Agarwal, J.M.

30-3-89

Shri UK. Subrata, learned counsel
for the applicant and Shri A.K. Guer,
learned counsel for the respondents are
present. Argument heard. Judgment
reserved.

lz

J.M.

A.M.

88

Registered

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH, GANDHI BHAWAN
LUCKNOW

No. CAT/CB/LKO/

Dated : 25-4-89

OFFICE - MEMO

Registration No. O.A. 1088 of 1937 A.D.
T.A.

Ashok Kumar Singh Applicant's

Versus
Union of India Respondent's

A copy of the Tribunal's Order/Judgement
dated 24-4-89 in the abovenoted case is forwarded
for necessary action.

D. Dubey
For DEPUTY REGISTRAR (H)

Encl : Copy of Order/Judgement dated 24-4-89

To.

D. V. K. Singh, A.O.A. (H)
Yashpal Kumar Adw. (H)

dinesh/

Recd
M
28-4-89
28-4-89

A2
A8

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

CIRCUIT BENCH AT LUCKNOW.

Registration (O.A.) No. 1088 of 1987

Ashok Kumar Singh Applicant.

Versus

Union of India & others Respondents.

Hon'ble D.S. Misra, A.M.
Hon'ble D.K. Agrawal, J.M.

(Delivered by Hon. D.K. Agrawal, J.M.)

This application under Section 19 of the Administrative Tribunals Act, 1985 has been filed by the applicant, Ashok Kumar Singh, who is posted as Assistant Goods Clerk (AGC), Ayodhya Goods Shed, Northern Railway, Ayodhya Railway Station, District Faizabad, seeking an order quashing the impugned order dated 14.10.1987 passed by the Additional Divisional Railway Manager (ADRM), Lucknow reverting the applicant from the post of Goods Clerk (GC) to the lower post of AGC at the initial pay of Rs. 975/-. He further sought cancellation of the order of transfer dated 3.11.1987.

2. The brief facts in this case are that a vigilance check was conducted in Ayodhya Goods Siding and number of irregularities were detected by the Vigilance Inspector (VI). Therefore, the applicant was served with a memo dated 11.6.1986 proposing to hold an enquiry against him under the Railway Servants (D&A) Rules, 1968. The Commercial Superintendent, (HQ) Northern Railway, Lucknow, was appointed as Enquiry Officer (EO), who vide order dated 20.7.1987 held the applicant guilty of charges no. 3, 4 and 5. Charge no. 3 was to the effect that Ashok Kumar Singh did not maintain unloading book properly with the

JKC:sgm

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intention to give benefit of non-payment of wharfage charges by the parties. Charge no. 4 was to the effect that Ashok Kumar Singh did not obtain signatures of the parties in WTR on some dates. Charge no. 5 was to the effect that indemnity bonds were not correctly and properly executed. The Enquiry Officer proposed reduction of rank, i.e. from the post of GC to the post of AGC in the grade of Rs.975-1540 at the initial pay of Rs.975/- with a stoppage of increments for a period of 10 years. It was also proposed in the enquiry report that the applicant be given a non-public dealing seat. The applicant filed an appeal under Rule 18 of the Railway Servants (D&A) Rules, 1968 to the Senior Divisional Commercial Superintendent (Sr.DCS), who vide his order dated 12.8.1987 reduced the penalty from 10 years to 3 years and also allowed the applicant to work as AGC at Ayodhya. On a review of the order of penalty by ADRM, Lucknow under Rule 25(i) of the Railway Servants (D&A) Rules, 1968, vide order dated 14.10.1987, reduced the punishment of reversion to 18 months from 3 years. The order of transfer of the applicant from Ayodhya to Phoolpur, passed meanwhile on 22.9.1987, was cancelled by the aforesaid reviewing authority. However, on administrative grounds the applicant was transferred vide order dated 3.11.1987 from Ayodhya to Phoolpur. He reported sick and filed the present application on 19.11.1987. On the aforesaid date the application was admitted and an interim order was also granted to the applicant to the effect that "meanwhile status quo shall be maintained". Therefore, the applicant continues at Ayodhya. It may be mentioned at this very stage that the period of 18 months has also elapsed. Thus the applicant

D.K.Singh

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has undergone the penalty imposed on him and continues to be posted at Ayodhya.

3. The first point for consideration is whether the order of the reviewing authority dated 14.10.1987 (vide Annexure '7') is or is not legally maintainable. There is no material on record to rebut the findings of the Enquiry Officer or the appellate authority or the reviewing authority that lapse was ~~not~~ committed by the applicant in discharge of his duties. It is true that the reviewing authority has come to a conclusion that there was no mala fide intention on the part of the applicant, yet it has not been held that charges no. 3, 4 and 5 were not proved against the applicant. In the circumstances, we do not find any justification for setting aside the order of penalty. We are of the view that the reviewing authority has already taken a lenient view by modifying the penalty order for a period of 18 months only. Therefore, to our mind, no interference is called for.

4. As regards the order of transfer, the applicant got the final relief at the stage of interim order, i.e. status quo was maintained, with the result that he continues to work at Ayodhya and, therefore, no further orders are called for in this regard. However, we want to make it clear that no bar will operate on the discretion of the competent authority to transfer him from Ayodhya hereinafter. The interim order passed earlier is hereby discharged.

5. The petition is accordingly dismissed. We make no order as to costs.

DK Agarwal
MEMBER (J). 24.4.89

Bh
MEMBER (A).

Dated: 26th April, 1989.

Ref. No. 1080 of 1987
Central Administrative Tribunal
Additional Bench At Allahabad
Date of Filing..... 16/11/87
OR
Date of Receipt
by Post *Hand* for Dy. Registrar
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

ADDITIONAL BENCH, ALLAHABAD.

Between

Ashok Kumar Singh, Applicant.

And

Union of India and others. Respondents.

INDEX.

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4-	Appeal	Annexure - 3	20 to 22
5-	Appellate Order dated 12/8/1987.	Annexure - 4	23 to 24
6-	Transfer Order dated 21/9/1987.	Annexure - 5	25
7-	Transfer Order dated 22/9/1987.	Annexure - 6	26
8-	Review Order dated 14/10/87.	Annexure - 7	27
9-	Transfer cancellation Order dated 16/10/1987.	Annexure - 8	28
10-	Transfer Order dated 3/11/1987.	Annexure - 9	29
11-	Power.		30

Dated:- 16/11/1987.

Noted for

19/11/87

A2 16/11/87

Ashok Kumar Singh
(Ashok Kumar Singh)
Applicant.

Through
Sharma
(Vinay Sharma)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
 PRINCIPAL BENCH, NEW DELHI
 ADDITIONAL BENCH, ALLAHABAD

Between

Ashok Kumar Singh aged about 36 years s/o
 Shri Ranjeet Singh, Asstt. Goods Clerk, Ayodhya
 Railway Station, Northern Railway, Distt. Faizabad.

.... Applicant

And

1. Union of India, through the General Manager,
 Northern Railway, Baroda House, New Delhi.
2. ~~XXXX~~ Divisional Railway Manager, Northern
 Railway, Hazratganj, Lucknow.
3. Addl. Divisional Railway Manager, Northern
 Railway, Hazratganj, Lucknow.
4. Senior Divisional Commercial Superintendent,
 Northern Railway, Lucknow.
5. Divisional Commercial Superintendent, Northern
 Railway, Hazratganj, Lucknow.

.... Respondents

DETAILS OF APPLICATION

1. Particulars of the applicant :

a) Name of the applicant - Ashok Kumar Singh

b) Name of Father - Sri Ranjeet Singh

c) Designation & office in which employed - Asstt. Goods Clerk
 Ayodhya Goods Shed
 Northern Railway,
 Ayodhya Railway Station
 Distt. Faizabad

d) Office Address - Goods Shed, Ayodhya
 Railway Station,
 Northern Railway,
 Distt. Faizabad.

Ashok Kumar Singh

2. Particulars of the respondents :-

a) Name and/or designation of the respondents :-

i) Union of India, Through General Manager

Northern Railway

ii) Addl. Divisional Railway Manager,

Northern Railway, Hazratganj, Lucknow.
/Sr.

iii) Divisional Commercial Superintendent,

Northern Railway, Hazratganj, Lucknow.

iv) Divisional Commercial Superintendent,

Northern Railway, Hazratganj, Lucknow.

b) Office address of the respondents :

As above.

c) Address for service of all notices :

As above.

3. Particulars of orders against which application is made.

The application is against the following orders.

a) Orders no. Veg/16/C/86/LCS & 941 E6/6GCS

b) Dates - 14.10.87 & 3.11.87

c) Passed by - Addl. Divisional Railway Manager

d) Subject in brief - Applicant was reverted in

scale of Rs. 975-1540 at the initial pay of

Rs. 975.00 per month affecting his increment for a period of 10 years cumulatively from

the post of Goods Cler and was barred from

public dealing seat vide order dated 20.7.87

passed by Divisional Commercial Superintendent, Northern Railway, Lucknow. In appeal the

punishment of reversion was reduced from

10 years to 3 years without effecting seniority

and pay on restoration and also was allowed

to continue on his same seat of Ayodhya vide

order dated 12.8.87 passed by Sr. Divisional

Commercial Superintendent, Northern Railway,

Lucknow.

Ashok Kumar Singh

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The matter was reviewed by the Addl. Divisional Railway Manager, Lucknow and vide his order dated 14.10.87 punishment of reversion to the post of Asstt. Goods Clerk was reduced from 3 years to 18 months and his transfer from Ayodhya was also cancelled. Again vide order dated 3.11.87 passed by Addl. Divisional Railway Manager, Northern Railway, Lucknow, the applicant was transferred from Ayodhya to Phoolpur on the same charges.

3. Jurisdiction of the tribunal :

The applicant declared that the subject matter of the orders against which he wants redressal is within the jurisdiction of the Tribunal.

5. Limitation :

The application further declares that the application is within the limitation prescribed in section 21 of the Administrative Tribunals Act, 1985.

6. Facts of the case :

The facts of the case are given below :

a) That the applicant is at present working on the post of Asstt. Goods Clerk at Ayodhya Goods Shed, Northern Railway, Distt. Faizabad, under the control of opposite party no. 2.

b) That the applicant while working as Goods Clerk at Goods Shed Ayodhya was served with a memorandum bearing no. SES Vig/16/6/86/LCS dated 11.6.86. The said memorandum was on standard form of charge sheet being standard form no. 5 for purpose of proceedings under Rule 9 of the Railway servant (D&A) Rules

Shukt Kumar Singh

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1968. By the said memorandum the applicant was informed of a proposal to hold an enquiry against him under Rule 9 of the said D&A Rules 1968. A copy of the said memorandum is filed herewith as Annexure I.

c) That the applicant vide his ~~expressant~~ reply dated 22.6.86 denied all the charges of the said memorandum and requested that the said charge-sheet be withdrawn.

d) That Commercial Supdt. (HQ) Northern Railway, Lucknow was appointed as Enquiry Officer to enquire into the allegations and charges levelled against the applicant. The enquiry proceedings against the applicant were initiated in the following circumstances.

On the basis of a vigilence check conducted in Ayodhya Goods Siding the following irregularities were found by the Vigilence Inspector.

i) That the applicant while working as Goods Clerk allowed unloading of 31 Wagons Cement on 28.3.86 from 10 hrs. instead of from 6 hrs. giving benefit to the party on non-payment of demurrage charges, in contravention of IRCM para 1705 Vol. II.

ii) That the applicant while working as Goods Clerk failed to enter 2 Wagons nos. ECR59589 & SC/C-2760 in the WTR on 28.3.86 giving benefit to the party to save demurrage charges in contravention of IRCM para 1703 of Vol. II.

iii) That the applicant while working as Goods

Shakti Kumar Singh

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Clerk did not maintain unloading book properly favouring the parties in non-payment of wharfage charges.

- iv) That the applicant while working as Goods Clerk failed to get the signatures of the parties in WTR and also did not sign himself in the relevant columns of WTR as required vide IRCA para 1706 Vol. II.
- v) That the applicant while working as Goods Clerk allowed delivered an indemnity bonds which were not properly executed. No caution money was collected by him from the parties in absence of RRs.
- vi) That the applicant while working as Goods Clerk was found having Rs. 66/- in his Private Cash which was more than the limit of Rs. 50/- as required vide General Manager (Commercial) instructions.
- vii) That during the enquiry proceedings the applicant denied from all the charges levelled against him and has pleaded not guilty before the enquiry officer. The applicant further submitted before the Enquiry Officer that there was no documentary evidence to substantiate the charges and thus the whole story is mere concoction and he has been involved by twisting the facts.
- viii) That at the conclusion of enquiry proceedings the Enquiry Officer has not found guilty of the charges no. 1, 2 & 6 which were very severe nature, but failed to appreciate the evidence and circumstances regarding the charges

Ashok Kumar Singh

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nos. 3, 4 & 5 and given his finding holding the applicant guilty of the charges nos. 3, 4 & 5 vide his report dated 12/17.3.87.

An attested copy of the said Enquiry Report is filed herewith as Annexure I.

ix) That on the basis of the report and finding of the Enquiry Officer, the Divisional Commercial Superintendent, Lucknow, vide order dated 20.7.87 held the applicant guilty of charges nos. 3, 4 & 5 of the charge-sheet and imposes the penalty of reduction to lower post of Asstt. Goods Clerk in lower grade of Rs. 975 - 1540 at the initial pay of Rs. 975.00 affecting his increment for a period of 10 years affecting his future pension etc. and also shifted to a non-public dealing seat. A attested copy of order dated 20.7.87 is filed herewith as Annexure II.

x) That by looking the order of the penalty, it is clear that the said order is not normal, But the ~~said~~ same is very unnatural.

xi) That in pursuance to the said order of Divisional Commercial Superintendent, Lucknow, the applicant was reverted to lower grade of Rs. 975 on the post of Asstt. Goods Clerk from his post of Goods Clerk.

xiii) That against the order of reduction in rank dated 20.7.87 passed by Divisional Commercial Superintendent, Lucknow, the applicant had filed an appeal under rule 18 of the Railway Servants (DRA) Rules 1968 to the Sr. Divisional Commercial Superintendent, Lucknow. A true

Ashok Kumar Singh

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copy of the same is filed herewith as

Annexure III.

xiii) That the Sr. Divisional Commercial Superintendent vide his order dated 12.8.87 reduce the penalty from 10 years to 3 years and also allowed the applicant to work as Asstt. Goods Clerk at Ayodhya. A true copy of the said order is filed herewith as Annexure IV.

xiv) That it is noteworthy to mention here that inspite of appellate authority order dated 12.8.87, the applicant was shifted from his post of Asstt. Goods Clerk to the non-public post of Accounts Clerk vide order of Divl. Commercial Superintendent. On the next date i.e. 22.9.87 he was again transferred from Ayodhya to Phoolpur vide order of Addl. Divisional Railway Manager, Lucknow. A true copy of the both the orders are filed herewith as Annexures V & VI.

xv) That the case was reviewed by the Addl. Divisional Railway Manager, Lucknow under Rule 25(i) of the Railway Servants (D&A) Rules 1968 and the reversing authority vide order dated 16.10.87 having found not guilty for any ulterior motive, reduced the punishment of reversion for 18 months from 3 years and also transfer order of the applicant from Ayodhya to Phoolpur dated 22.9.87 was cancelled. A true copy of the said order is filed herewith as Annexure VII.

xvi) That the transfer of the applicant from Ayodhya to Phoolpur passed as a punishment

Ashok Kumar Singh

was cancelled by Addl. Divisional Railway Manager on review vide order dated 16.10.87.

A true copy of the same is filed herewith as Annexure VII.

xvii) That the applicant while on granted leave received information through some of his official friends that the Addl. Divisional Railway Manager has again issued his transfer order from Ayodhya to Phoolpur vide order dated 3.11.87. A true copy of the said order is filed herewith as Annexure X.

7. Reliefs sought :

In view of the facts mentioned in para 6 above the applicant prays for the following reliefs :-

a) That the basis of the grounds mentioned hereinafter it is most respectfully prayed that this Hon'ble Tribunal may kindly be pleased to quash the impugned order dated 14.10.87 (Annexure VIII) reversion from the post of Asstt. Goods Clerk to the lower post of Goods Clerk at the initial pay of Rs. 975.00 and also the impugned order dated 3.11.87 (Annexure X) of the applicant from Ayodhya to Phoolpur passed by the Addl. Divisional Railway Manager, Lucknow.

b) To pass any other order in favour of the applicant, which this Hon'ble Tribunal may deem fit and proper in the case.

c) Cost of the case be also awarded.

Ashok Kumar Singh

G R O U N D S

1. Because the enquiry officer has failed to give ~~co~~sent reasons for holding the applicant guilty of charges and as such the finding of the Enquiry Officer is quite baseless and cannot be relied upon for imposing any penalty upon the applicant.
2. Because neither any finding of guilt based nor any evidence of legal value has been recorded by the Enquiry Officer nor by the Punishing Authority i.e. Divisional Commercial Superintendent and in absence of the same the penalty imposed upon the applicant is wholly untenable and unjustifiable.
3. Because the punishing authority has committed an error of law in punishing the applicant even without recording any finding of guilt and also no show cause notice was given to the applicant, thus the same is contrary to Rule 10 Sub-Rule 5 of the Railway Servants (D&A) Rules 1968.
4. Because as per rule 6 of the D&A Rules 1968, the punishment may be awarded to any employee only for good and sufficient reasons but not on mere surmises and conjecture; but in the present case the opposite party no. 4 has punished the applicant without any foundation or basis.
5. Because the appellate authority i.e. opposite party no. 3 has himself admitted that the applicant was not guilty for any charges levelled against him, even then inspite of exaggerating the applicant from the charges, only reduces the punishment, which clearly shows that he has passed an ~~mathamatical~~ mathematical

Ashok Kumar Singh

order without giving any reason for not accepting the appeal of the applicant.

6. Because the Reviewing Authority i.e. opposite party no. 2 has committed manifest error of law in not exaggerating the applicant from the charges when he has admitted that there is no ulterior nature involve in the case and as such failed to exercise the jurisdiction and power vested in him.

7. Because the opposite party no. 2 has acted beyond its powers to review its own orders by passing the impugned transfer order of the applicant dated 3.11.87 and thus have violated the provisions of clause (1) of Sub-Rule C of Rule 25 of D&A Rules 1968, which debarred the same authority to re-review its own decision.

8. Because as there is no provision of 2nd review by the same authority, the opposite party no. 2 has committed error in law by passing transfer order of the applicant as a major of punishment.

9. Because the present transfer order is passed by way of punishment, without giving any opportunity of hearing and thus the same is in violation of Article 311 (2) of the Constitution of India.

10. Because the transfer order is punitive in nature and the same has not been passed in ordinary course or in exigencies of service rather the same has been passed for other purposes under colourable exercise of power.

11. Because as per the Railway Board's various circulars transfer in mid-term education sessions is prohibited to avoid any adverse effect upon the

Ashok Kumar Singh

studies of the School-going children.

INTERIM ORDER

Pending final decision on the application
the applicant seeks issue of following interim
order :-

To pass ad-interim order staying the operation
and enforcement of the impugned transfer order dated
3.11.87 passed by Addl. Divisional Railway Manager,
transferring the applicant from Ayodhya to Phoolpur
till the pendency of the case on the following grounds.

- a) That the order is punitive in nature by
way of punishment.
- b) That/in the mid-term of Educational Session
will adversely effect the applicant's
School-going children.
- c) That the order passed by the authority is
beyond his jurisdiction.
- d) That no opportunity of hearing was provided
to the applicant before passing impugned
transfer order.
- e) That neither any transfer order is yet
served upon the applicant nor any reliever
is deputed to take over the charge.

9. Details of the remedies ~~are~~ exhausted :

The applicant declares that he has availed of all
the remedies available to him under the relevant
service rules, etc.

Ashok Kumar Singh

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10. Matter not pending with any other court, etc.

The applicant further declares that the matter regarding which this application has been made is not pending before any court of law or any other authority or any other Bench of the Tribunal.

11. Particulars of Bank Draft/Postal Order in respect of the application fee :

1. Name of the bank on which drawn. State Bank of India
2. Demand draft no. AY88-663183 dt 10-11-87

12. Details of index :

An index in duplicate containing the details of the documents to be relied upon is enclosed.

13. List of enclosures : ① Demand draft
② Valletatnama.IN V E R I F I C A T I O N

I, Ashok Kumar, s/o Shri Ranjeet Singh, aged about 36 years, working as Asstt. Goods Clerk, Adyodhya Railway Station, Northern Railway, Distt. Faizabad, do hereby verify that the contents from 1 to 13 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Place :


Signature of the applicantDated : 11/11/87

Dated 17/03/87

No 184/MC/2-111/20/140-87

from: Inquiry Officer,
 Commercial Insp. No 1101
 N. RAILWAY,
 LUCKNOW.

To,
 The Divisional
 Railway Manager,
 N.Rly, Lucknow.

Subject: D.A.R. Inquiry against Sri A.K. Singh, G.C./AY.
 Reference: your letter No. Ig/16/c/86/145 dt 17/1/86.

(a) D.A.R. proceeding against Sri A.K. Singh, G.C./AY in case referred above was conducted by the writer signed at Ayodhya itself on 12/03/87.

(b) Before starting D.A.R. proceeding all the formalities as required under rules were completed and he was given all the opportunities as required under rules. Further he was explained the charges levied against him in amende I.II & II against which he commented that he is not responsible for the charges levied against him.

(c) He was given opportunity for inspection of records, nominating any defence council and for getting cross-examined by the witness Sri P.D. Malik, VI. N.Rly and in his reply he stated that he has seen the records/documents, doesn't want to nominate any defence helper and also denied to be cross-examined by the witness pleading that he was not guilty, having no bad intention.

(d) Before starting D.A.R. proceeding GM's Warning was given to him.

(e) He was given full opportunity for giving voluntary statement before inquiry proceeding and he stated that it is a reply given in respect of

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Page No(2)

Indian Railways

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memorandum No S.F.S. vig/16/6/86/CS dt 11/06/86 given by him on 26/06/86 may be treated as his voluntary statement. (See page No 2).

It was agreed to proceed with the D.A.R. inquiry hence proceedings were started putting several questions on all the charges levied against him (Kindly refer page No 3 to 9 of D.A.R. proceedings).

Charge No 1

On inspection of W.T.R. and other documents of Ayodhya it was observed that coal rakes of 12 BCXT and 7 CRT¹⁵ were placed in line No 1 on 26/3/86 at 17 hrs.

12 BCXT¹⁵ and 11 CRT¹⁵ were placed in line No 2 on same date and time unloading of which was done upto 17 hrs of 28/3/86. Rs 33,696/- was found raised as damage charges which was checked and found correctly raised.

A cement rake was found placed on 26/3/86 in 21 wagons in line No 1 and 10 wagons in goods shed. Working hours being 06 to 18 the unloading was found completed on 27/3/86 at 11 hrs (within four hours).

On 28/3/86 21 wagons were found placed in line No 1 and 10 wagons in goods shed. The goods clerk SAI T. K. Singh showed placement time as 6/10 hrs instead of showing 10 hrs only on the plea that a riment of previous rake was already on the ground. The S.S./A¹⁶ allowed unloading of this rake after completion of removal of previous consignment.

The W.T.R. was checked and found signed by the S.S./A¹⁶

P.T.O

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Sharma
- D. M.

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Page (3)

Charge No 2

When questioned about charge No 2 regarding placement of wagon No^t ERC 59589, sc/c 2760 he replied that the previous wagon was placed at foulung mark and the second one was on the bridge. Hence both the wagons were not shown in WTR on 27/3/56 and after when placed in goods shed at 15/10hrs on 28/3/56 it was taken in the VTR. WTR was checked and found verified by the SS/AY after repositioning.

The G.C. should have entered all the 31 wagons in the W.T.R. in the same sequence as placed and if at all they were not in unloading position necessary remarks would have been given which he failed to do. However these wagons were taken in W.T.R. on same date on 28/3/56 at 15/10hrs and verification of SS/AY was found.

He agreed that these remarks were passed by SS/AY later on.

Charge No 3

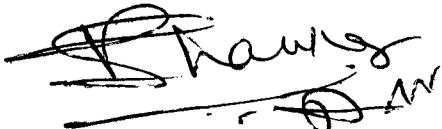
As for not maintaining unloading book properly he agreed that unloading book was not properly maintained on the plea that unloading book and delivery book contain same columns and the delivery book was complete in every respect.

Charge No 4

For not taking signature of the parties in the relevant column and for not signing himself he pleaded that signatures are always taken and he is only the goods clerk posted at AG and due to wants of work in some cases signatures are taken later on.

P.T.O

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Charge No 5.

All the forty-four bonds as reported in charge No 5 were checked and it was observed that they were not correctly and properly executed. Out of these forty-four I-bonds, three I-bonds of 26/3/85 were found absolutely blank, training papers of un stamped I-bonds which were also not correctly filled in which is highly objectionable. Many of I-bonds were also seen not signed by the S.S. Rly and the witnesses and the other required columns were also found blank which were not witnessed crossed by the S.S. Rly.

This reflects gross-negligence on the part of GIC/Ay SAI K Singh.

It was also found that he failed to collect certain money from the parties in the absence of RR's which he must have collected as per rules. At this he replied that he was ignorant of the rule and no such instructions were received by him which can't be ignored.

~~Charge No 6 :-~~

Regarding private casts of Rs 66/- exceeding maximum limit of Rs 50/- he replied that he had declared correct amount which he had i.e. Rs 66/- as the maximum limit in his knowledge of was Rs 75/-.

FINDINGS

Charge No (1) 62) As the goods clock Sri A K Singh have
tried. demands are charges Rs 33, 76/- on cost value
and his remarks regarding placement are also
satisfied by the SSI/AV. His compensation is Rs 10/-
to 1.2. 3.3. July However:

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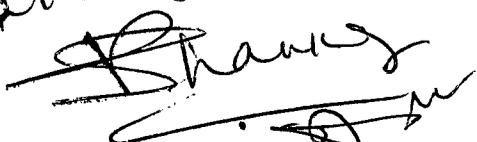
for not recording wagon No" ERG 59589, S/No 2761 in the WTR on 28/3/86 in proper sequence which he must have done. As the entire remarks in the WTR were found signed by the SS/AY and verification in the application of the party was also found.

As for unloading of 31 wagon cement on 28/3/86 from 10-trs instead of 6-trs i. concession record shows that consignment were lying on the ground duly verified by the SS/AY but the GC must not have written 6/10 trs, he should have clearly written 10-trs only.

Charge No(3) Unloading book was found not properly maintained. However, the columns of delivery book were found properly maintained. Non-maintenance of unloading book cannot lead to non-payment of value of goods charges when all the columns of delivery book are complete. However GC is responsible for negligence for improper maintenance of unloading book.

Charge No 4- I.P.C.A para 1706 vol II speaks that signature of the consignee or his authorised agent should be obtained immediately after placement and release of the wagon in token of his acceptance of the correctness of the terms of which the goods clerk failed to comply. However this cannot be said to be a grievous charge.

Charge No 5 - The I-bonds were found not correctly and properly executed. This is a legal document and improper execution of I-bonds without witness and signature of the SS can lead the Railways to be liable in the case of loss of any damage P.T.U.

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1. रेल वाहन
Northam Railway

This is a gro's negligence on the part of goods
clock Sri A. K. Singh. He is also responsible for not
collecting collection money from the parties in the
absence of RR's and his showing simple ignorance
of the rule cannot exonerate him from the lapses.

Charge No 6 - As he had declared private cash on 28/3/88 as Rs 66/- in the private cash declaration register and was in possession of the same amount and he pleaded that maximum limit in his knowledge was Rs 75/- This is not a serious charge. Had he declared incorrect amount, he would have been more responsible. After V.I. check it was observed that he never exceeded Rs 5/- as his private cash.

Inquiry Officer
Commercial Inspector (HQ)

N. RAILWAY
LUCKNOW.

Dr. Ingwey proceeding in triplicate
trating (89) zinc papers each

attested

Shaw

ANNEXURE N. II

NO. 2071
NORTHERN RAILWAY

Re VIG/16/C/66/LCS

Divl. Office,
Lucknow.

July 20, 1967.

Sri A.K.Singh,
G.C./N.R.R., A.Y.

A D.S.R. enquiry into the charges contained in the memorandum of even no. dated 11.6.66 was conducted by the GM/HQ/LKO (E.O.) who submitted his findings. I agree with the findings and have decided your case as under :-

"Report of the E.O. is accepted. Sri A.K.Singh, G.C./A.Y. was responsible for ..

Charge No.3: Improper maintenance of unloading book.

Charge No.4: For not taking the signature of the party after placement and release.

Charge No.5: Accepting 'I' Bonds from the party without the signature of witness and S.S.

These charges are very serious and prove the ulterior motives of the Goods Clerk who has exceeded his authority. He has tried to bypass the Station Supdt. by accepting 'I' Bonds without his knowledge and granting delivery without taking caution money from the parties in the absence of R.M.

Hence Sri A.K.Singh, G.C./A.Y. is found guilty. He should be reduced to lower grade of Rs.975-1540 at his initial pay of Rs.975/- per month affecting his increment for a period of 10 years cumulatively. In other words this will affect his future pension, gratuity, etc. He should also be shifted to a non-public dealing seat.

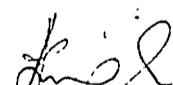
I, therefore, hold you guilty of the charges levelled against you and have decided to impose upon you the penalty of reduction to a lower grade. You are, therefore, reduced with immediate effect to the lower grade of Asstt. Goods Clerk in the scale of Rs.975-1540 at the initial pay of Rs.975/- per month affecting your increment for period of ten years cumulatively. In other words this will affect your future pension, gratuity etc.

2. Under rule 18 of the Rly. Servants (D&A) Rules, 1963, an appeal against these orders lies to Sr. Divl. Commr. Supdt., N.Rly., Lucknow provided :-

i) the appeal is submitted within 45 days from the date you receive the orders; and

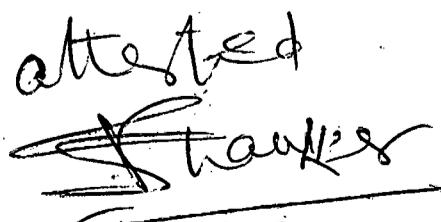
ii) the appeal does not contain improper or disrespectful language.

3. Please acknowledge receipt of this letter.


(ASHIMA SINGH)
Divl. Commr. Supdt., Lucknow

Copy to : GA(VIG)MLL for information in re. to his letter No.11-VIG/4071/66 dt.
17.4.66.

'E' Branch.


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ANNEXURE No. III

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The Sr. Divi. Commr. Supdt.,
N. Rly., Lucknow.

Sub: Appeal against the imposition of penalty of reduction to lower grade Rs. 975-1540 affecting increment cumulatively for 10 years and also seniority, pension and gratuity etc.

Ref: Punishment order No. Vig/16/C/86/LCS dated July , 1987.

...

Respected Sir,

Having faith in your benign-self, I beg to prefer the present appeal against the decision of the learned DCS/LKO, imposing the penalty of reduction to lower grade of Rs. 975-1540 at the initial pay of Rs. 975-p.m. affecting increments cumulatively for a period of ten years vide punishment order, referred to above, which has completely ruined the entire career of the appellant and axing his future prospects on the following submissions :-

1. On the basis of a vigilance check conducted in Ayodhya Goods sidin- a major penalty chargesheet levelling the following charges was served on the appellant :-

- 1. He allowed unloading of 31 wagons cement on 28.3.86 from 10 hrs. instead of from 6 hrs. giving benefit to the party in non-payment of demurrage charges, in contravention of IRCM para 1705 Vol.II.
- 2. He failed to enter 2 wagons No. ERG59589 and SC/C-2760 in the WTR on 28.3.86 giving benefit to the party to save demurrage charges in contravention of IRCA para 1703 of Vol.II.
- 3. He did not maintain unloading book properly favouring the parties in non-payment of wharfage charges.
- 4. He failed to get the signatures of the parties in WTR. Also he did not sign himself in the relevant columns of WTR as required vide IRCA para 1706 Vol.II.
- 5. He allowed deliveries on indemnity bonds which were not properly executed. No caution money was collected by him from the parties in absence of RRs.
- 6. He was found having Rs. 66/- as his private cash which was more than the limits of Rs. 50/- as required vide GM(Commr) instructions.

2. The applicant submitted his defence to the above c/sheet pleading not guilty. The learned DCS did not consider my defence and nominated CMI/HQ/LKO to hold D&A enquiry into this case.

3. After considering the findings of the E.O. the learned DCS held the appellant responsible for :-

Charge No.3 : Improper maintenance of unloading book.

Charge No.4 : For not taking the signature of the party after placement and release.

Charge No.5 : Accepting 'I' bonds from the party without the signature of witness and S.S. "

4. From para 1 above it may kindly be seen that the main charge was for giving benefit to the parties of non-payment of demurrage charges in contravention of para 1703 of IRCA, save demurrage charges on 2 wagons No. ERG59589 and SC/C-2760

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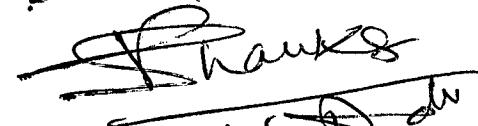
and for favouring the parties in non-payment of wharfage charges. The learned E.O. did not find any truth in these allegations during the course of his D&AR finding enquiry, and therefore, no further submission in this regard is made.

5. Regarding charge no. 3 which was to the effect that unloading book was not maintained properly and thus favouring the parties in non-payment of wharfage charges, the applicant most respectfully submit that the Delivery Book which is an allied document of U/L book, was properly maintained and therefore, no benefit could be accrued to the party and therefore, the question of favouring the parties to save them from non-payment of wharfage charges does not arise. So far U/L Book is concerned, it is submitted that all the columns except the removal column in some cases were properly and completely filled in and, therefore, it cannot be said that the U/L book was maintained in an improper way. It was only the one column and that too in some cases which remained unfilled in a/c of heavy rush being posted single handed at Ayodhya.

6. In respect of charge no. 4 i.e. for not obtaining signature of the parties in WTR on certain dates it is most respectfully submitted that AY Goods siding is situated away from the station premises where all the records are kept and maintained. The signature of the consignee or his authorised agent are obtained invariably in the goods office immediately after placement and release of the wagons. Being posted single handed at AY station I have to remain awfully busy in supervising the placement and release of the wagons in the siding. The parties or their authorised agent does not remain present all the time at the goods siding. As and when they come at the station their signatures are obtained and for this reason the placement and release of wagons is not made to suffer. In such constrain circumstances the signature of those parties, which are well reputed and regular customers are obtained later on. There has been no discrepancy found in regard to the timings of the placement and release in the WTR and as such no benefit can be derived by the parties if their signatures are obtained later on. The learned DCS has considered this trifling lapse as a mountain out of the mole. The E.O. also did not find it a previous charge.

7. Regarding charge no. 5, it is respectfully submitted that the 'I' bonds were correctly and properly executed. There was, however, some discrepancy in respect of few 'I' Bonds. This discrepancy was on account of non-availability of the accepting authority i.e. SS/AY. It has been the experience that SS/AY who has multifarious duties is not always available in his office and sometime it is co-incidence that when I am in goods office, SS is not there and when SS is there I was not in goods office. ~~So I used to take the help of other officers in the office~~ There was no ~~other~~ Goods office. In such cases, the signatures of SS is subsequently taken after satisfying him of the correctness/genuineness of the 'I' bonds as initially these documents are produced before the i.e. who ensure their correctness. Moreover certain 'I' Bonds were received daily un-signed and signed by the authorities of other posts i.e. Sales Tax Officer and D.M. They sign them on behalf of SS ensuring their correctness. Immediately after it was signed by the above authorities it becomes a legal document of a particular set

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any discrepancy by a petty employee like a G.C. in such an authenticated document may cause embarrassing situation as it will result in non-delivery / delay of the consignments. Moreover, non-delivery of consignments in such cases will cause congestion in the goods siding/AY. The parties are permanent regular, valued and known customers and, therefore, the question of any fraud subsequently is not possible.

8. So far as non-collection of caution money is concerned it is most humbly submitted that there was no practice prior to my taking over at AY or at the places where I had previously worked. No circular or orders on the subject were in my knowledge. The inspecting officials including i.e. TIA, GMI & SS and various officers of the division also never pointed out this. This has caused no revenue loss to the Rly. Admin. There has been no malafide behind it.

9. No submission is made in respect of charge No.6 as the learned disciplinary authority was convinced about the explanation of the applicant submitted in this regard.

10. It is worth mentioning here that the learned E.O. has concluded its findings with his observation that the work of AY cannot be carried out smoothly without providing another hand on a/c of the multifarious duties of the GC involved in handling the heavy traffic at a place like AY and under these circumstances some minor lapses are likely to occur inspite of taking all precautionary measures.

11. The above punishment of reduction to lower grade R.975-1540 permanently for 10 years, affecting seniority etc. and also debarring the appellant for public dealing seat has completely ruined the past career and has marred the future prospects. The punishment is heaviest one for the minor irregularities which were unintentional and gave no pecuniary benefit to the consignees or caused no loss of revenue to the Rly. Admin.

In ~~view~~ view of the above it is respectfully prayed that the punishment imposed by the learned DCS may kindly be set aside and the appeal allowed. The appellant also request for a personal hearing to explain my case more explicitly before your kind honour.

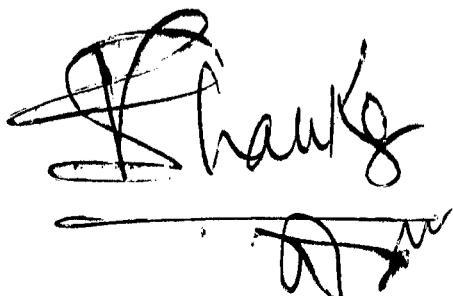
Thanking you, Sir;

Yours obediently,

(A. K. SINGH)
GC/AY

Dated: _____

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STATE RAILWAY
NORTHERN RAILWAY

No. 71g/16/C/86/LCS

Divl. Office,
Lucknow.

Sri A.K. Singh,
GC/Ayodhya.

Aug. 1987.

Thr:SS/AY

Ref: Your appeal against the punishment notice of even no.
dated 20.7.1987.

In terms of Rule 22(2) of the Rly. Services (D&A) Rules, 1968, the Sr. Divl. Comml. Supdt., N.Rly., Lucknow, the appellate authority modifying the punishment has observed as under :-

"" I find that the vigilance levelled six charges against Sri A.K. Singh, GC/AY. Charge no. 1 & 2 which were of very grave nature have not been found established during the D&AR enquiry and the disciplinary authority has also accepted the findings of the EO in respect of these two charges.

"" The charge no. 3 which was to the effect that Sri A.K. Singh did not maintain the U/L book properly with the intention to give benefit of non-payment of wharfage charges by the parties, the findings of the EO says that on the face of delivery book which has almost the same columns as those columns having been found complete, no benefit can be taken by the parties, if U/L book was incomplete and as such, I am convinced that this part of the charge is not proved against the delinquent employee. So far as non-completion of unloading book is concerned Sri AK Singh was supposed to ensure its completion though delivery book was properly maintained. In view of the observations made by the EO in the concluding para, I feel that proper documentation including handing heavy cash for a single man, may not be possible. However, this is a negligible lapse in the face of delivery book having been complete.

"" So far as charge no. 4 is concerned, the plea advanced by the appellant in his appeal appears to be convincing in view of the fact that the Goods siding is situated away from the station building at a distance of about 1 1/2 Kms and obtaining signature of the parties it is not feasible promptly for the same reason that only one GC is posted at AY who has not only to ensure documentation, handling cash etc. but has to supervise unloading and removal process. Non-obtaining signature of the parties in the WTR in the event when placement/release timings are given in it, gives no undue advantage to the consignee and as such his malafide does not prove.

"" In regard to charge no. 5, I have seen the 'I' bonds available in the file. In some cases Shri A.K. Singh has failed to obtain SS's signature and in some cases, names of witnesses were not available. The GC is supposed to ensure completion of 'I' Bonds in all respects before accepting them and to take SS's signature immediately when he is available in his office. The abnormal delay in taking signature of the SS speaks of his dereliction towards his duties. Moreover, he cannot be allowed to take the shelter of ignorance of rule for not getting caution money deposited by the parties.

"" From the foregoing, it is obvious that through his negligence and dereliction towards his duties did not result in any undue advantage to the parties and consequently warrant loss to the

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the administration, but he cannot escape his responsibility.

" In view of the above and also the recommendation of the EO that looking into the traffic at AY and multifarious duties of G.C. at least two hands are essentially required, I am of the view that the penalty imposed by the disciplinary authority is harsh and on higher side keeping in view the lapse on his part which did not reflect on his malafide intention and therefore, in exercise of the powers conferred by rule 22(2) of D&A Rules, I modify the above penalty of reduction to the extent that Shri A.K.Singh stands reverted from grade Rs.1200-2040 to grade Rs.975-1540 and his pay is fixed at Rs.75/- for a period of three years. This will not effect his seniority and pay on restoration. Further, since his intentions were not malafide, he may continue to perform his normal duties of AGC. "

for Divl.Hallway Manager,
Lucknow.

Copy to: GH(Vig)NCLS for information in reference to his letter
No.11-Vig/4071/86 dt. 17.4.1986.

Suptd. 'E' Branch/DRD Office/LKO.

attested

Shawar

D.W.

25

25
AUT EXC E NO 5

WESTERN RAILWAY

No. 416/16/C/86/LCS

Divl. Office,
Lucknow.

Sept. 21. 1987

Station Superintendent
H.Rly., A.Yodhyा.
C.M.I., H.Rly.,
A.Yodhyा, F.D.
Sri A.K. Singh,
GC/A.Yodhyा.

Sri A.K. Singh, GC/AM should immediately be shifted from the
post of Goods Clerk. He should be used in accounts work and should not be
given a public dealing charge.

(Ashutosh Singh)
Divl. Comt. Superint.
Lucknow.

Noted

Signature

26.

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10/1142-16. GCS

ANNEXURE NO. 1

Notice

DAK Office,
Lecow
Dt 22.9.87

Q. AIC Singli 35st Goods class AY scale
R 175-1540 is transferred to PLF on the
same pay and grade against vacancy.
This moves with the approval of DMRN(T)
Movement be advised promptly.

DAK Office
22/9
J. DAK Personnel Section

2.10

Copy to

1. The DAK Support AY and PLF
2. The SDAO/110
3. The Exptl (PB)
4. The DAK Secy URM of Information

attdg'd
Shawd
S

A3
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34ANNEXURE No VII

No. 11-Vig/16/C/P6/LCS

Divl. Office,
Lucknow
Oct. 14, 1987Shri A.K. Singh,
A.O.C., N.Rly.,
Ayodhya.

Thru. SS/AY

The undersigned, the authority competent to review the case in terms of powers vested by rule 25(1) of Railway Servants (D&A) Rules, 1968 has reviewed your case including that of debarring you from public dealing seat and transfer from Ayodhya.

2. After having gone through the entire case carefully, the undersigned has passed the following orders :-

"As the Sr DCS has found him not guilty of having any ulterior motive, His punishment of reduction to lowest grade temporarily for three years is further reduced to only 18 months. He should neither be debarred from public duties (Goods Clerk) nor transferred on this account."

3. Accordingly the punishment of reduction from grade Rs.1200-2040/RP to lower grade of Rs.973-1540/PP at your initial pay of Rs.973/-p.m. affecting your increment for 10 years cumulatively awarded by DCS/LKO vide EME order No. even dated 20.7.87 which was reduced on appeal by the Sr DCS/LKO to three years without affecting his seniority and pay on restoration vide order no. even dated 12.8.87 is further reduced to only 18 months. You are not debarred from public dealing seat nor transferred from AY on this account.

16/10
(RAM DEO)
Addl. Divl. Railway Manager,
Lucknow.

Copy to:- GM(VIG), DLS for information in reference to his letter No. 11-Vig/4071/8 dated 14.9.1987.

Supdt. *E* /DLM Office/LKO for information.

attested
Shankar

28-

ANNEXURE NO VI

Northern Railway

No. 4136/6-GCS 5

Divl. Office,
Lucknow

Oct 4/7/1987

N. O. T. I. C. E.

Sr. A.K. Singh, Asstt. Goods Clerk/AY scale Rs. 975-1540/RP who has been transferred to PLP vide this office notice of even d'ated 22.9.87 is retained at AY.

This is as per orders of ADMM(O) on review of his case.

for Civil Personnel Officer,
Lucknow.

Copy to:

1. The Station Suptt./AY & PLP
2. The Sr. DAO/LKO
3. Suptt. (PE)
4. CA/DCS in office

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
 PRINCIPAL BENCH, NEW DELHI
 ADDITIONAL BENCH, ALLAHABAD.

BETWEEN

Ashok Kumar Singh. -----Applicant.

And

Union of India, through the General
 Manager, Northern Railway, Baroda
 House, New Delhi. -----Respondents.

ANNEXURE No. IX.

No. 941 E 6/6 G C 5

Divl. Office
 Lucknow
Dt. 3.11.87

Notice

On reconsideration of the case A.D.R.M(O.P.)
 has decided that transfer order of Shri A.K.
 Singh AGC/AY to Pholpur should stand. He is not
 to be retained as earlier ordered vide this office
 notice of even number dated 16/10/87.

Sd:-

For Divl. Superintendent Officer
 Lucknow

Copy to

- 1- The Chief Supdt. Ay. and P.S.P.
- 2- The Sr. D.A.O/Lko,
- 3- The Supdt. (P.B.).

*attd
Sharma
D.S.P.*

ब अदालत श्रीमान

Central Administrative Tribunal
लखनऊ Allahabad महोदय

(B)

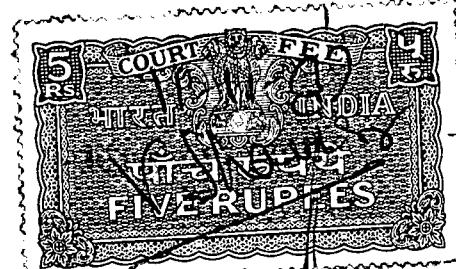
वादी अपीलान्ट

Applicant का

प्रतिवादी रेस्पान्डेन्ट

वकालतनामा

A
40



A. Singh

वादी (मुद्र्दा)

वनाम

Union of India प्रतिवादी (मुद्रालेह)
Claim No. १९०
न० मुकद्दमा सन् १९ वे १९० पेशी की ता० १९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री विनय शंकर श्रीवास्तव एडवोकेट

टी-४१/बी, हैदर कैनाल कालोनी, चारबाग, लखनऊ महोदय

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं 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 रूपया बसूल करें या सुलहनामा व इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रूपया जमा करें या हमारी या विषय (फरीकसानी) का दाखिल किया हुआ रूपया अपने या हमारे हस्ताक्षर युक्त (दस्तखत) रसीद से लेवें या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिसमेदारी मेरे वकील पर नहीं होगी। इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

Accepted
Signature

14/11/87

साक्षी (गवाह)

हस्ताक्षर

Ashok Kumar Singh

14/11/87

साक्षी (गवाह)

दिनांक

१५

महीना

११ सन् १९८७

W. S.

① Reg. No 1088 987

A. K. Singh

vs

U. O. G.

Recd on 21/6/89
W.S.

६० के मोड
पठानेट हाई कोर्ट
नंबरा नं० ५ यानीज रोड
रेडियो स्टेशन के बगड़ में
हाईकोर्ट

recd
contd
to 100

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH AT ALLAHABAD.

I N D E X

IN

REGISTRATION NO. 1088 OF 1987.

Shri A.K.Singh -----Petitioner.

Versus

The Union of India and others -----Respondents.

S.No.	Particulars of papers.	Page Nos.
1.	Written Statement.	1 to 8
2 -	Annexure No - I	9
3 -	Annexure No - II	10

A.K.Gaur
(A.K.Gaur)
Railway Advocate
Counsel for the Respondents.

Dated: Dec. , 1987.

AY
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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH AT ALLAHABAD.

WRITTEN STATEMENT

On behalf of Respondents.
The Union of India and others-----~~xxx~~xxxxxxxx.

IN
REGISTRATION NO. 1088 OF 1987.

Shri A.K.Singh - - - - - Petitioner.
Versus
Union of India and others-----Respondents.

The ~~xxx~~ humble reply to the aforesaid
petition on behalf of the ~~xx~~ abovenamed respondents
Most Respectfully Showeth as under:-

1. That the contents of paragraph no.1 to 4 of
the petition call for no comments.
2. That the contents of paragraph nos. 6(a), 6(b)
and 6(c) of the petition call for no comments. In para
6(c) the reply is dated 26.6.86 and not 22.6.86.
3. That the contents of paragraph no.6(d) of

YJ
वरिष्ठ मंडल वाणिज्य विभाग
कृष्ण रेलवे, बहुचर

the petition are not admitted and are denied. It is wholly incorrect to allege that the Commercial Superintendent, Northern Railway, Lucknow was appointed as Enquiry Officer. In fact the Commercial Inspector (Enquiry Officer) Northern Railway Lucknow was appointed (Head Quarters) Northern Railway Lucknow was appointed as Enquiry Officer and all other averments made in para 6(d) (i) to 6(d)(vi) refers to the various charges against the petitioner. In para (ii) the correct wagon number is ERC 59589 and not wagon No. ECR 59589.

4. That the contents of 6(d)(vii) of the petition ~~xxx~~ call for no comments.

5. That the contents of paragraph no.6(d)(viii)

of the petition are not admitted and are denied. The petitioner was exonerated in respect of charge no.1

only Regarding charge no.2 the Enquiry Officer observed

that however the petitioner is responsible merely for

not recording wagon number in the wagon transfer

register on 28.3.86 ⁱⁿ the proper sequence which he must have

done. With regard to charge charge no.6 the

~~xxx~~

विराज मंडल वाणिज्य अवधिकारी
उत्तर देल्ही, लखनऊ

the petitioner ~~xxxxxx~~ declared Rs.66/- in private cash but the ~~xxxxxx~~ maximum limit prescribed in present case of Rs.50/- as private cash. The enquiry Officer has fully considered the evidence and the circumstances for arriving at a ~~diff~~ definite conclusion with regard to the guilt of the petitioner in respect of the charges 3 to 5.

6. That the contents of paragraph no.6(d)(ix)

to 6(d) (xiv) of the petition call for no comments.

7. That the contents of paragraph no.6(d)(xv)

of the petition are not disputed as they refer to the

order of revising authority i.e. Addl. Divisional

Railway Manager(O) which read as under:-

"As the Sr.DCS has found him not guilty of having any ulterior motive, his punishment of reduction to lower grade temporarily for three years is further reduced to only 18 months.

He should neither be debarred from public duties (Goods Clerks) nor transferred on this account."

8.

That the contents of paragraph no.6(d)(xvi)

वरिष्ठ मंडल वाणिज्य अधीक्षण
कच्च रेलवे, लखनऊ

of the petition are not admitted and are denied. On the basis of the order given by ADRM(O) the petitioner was retained at Ayodhya. A copy of the order has already been filed as Annexure no.8 to the petition.

9. That the contents of paragraph no.6(d)(xvii) of the petition are not admitted and are denied. The transfer ~~xx~~ order was approved by the Divisional Railway manager on the views given on considering his case of transfer given by ADRM and accordingly the personnel branch was advised to issue necessary orders in this connection. The photostat copy of the ~~xx~~ ^{same} shall be ~~xx~~ filed in this Hon'ble Tribunal at the time of hearing of the case.

10. That it will not be out of place to mention here that a check in the Goods Shed at Ayodhya where the petitioner was posted, was conducted by the Vigilance. During the said check, the petitioner was found involved in serious irregularities committed

[Signature]
रेल मंडल वाणिज्य अधीक्षण
कर्तव्य देलवे, लखनऊ

by him warranting his suspension but for the administrative convenience he was not put under suspension.

11. That the Divisional Commercial Superintendent Lucknow issued a memorandum for major penalty on prescribed standard form no.5(bearing No.Vig/16/C/86/LCS dated 11.6.1986) with which the petitioner was supplied statement of articles of charges(Annexure-I), statement of imputations of misconduct (Annexure-II), list of documents (Annexure-III) and list of witnesses (Annexure-IV). The articles of charges/ were to the following effect:-

" Shri A.K.Singh, GC/Ayodhya while working as such committed misconduct inasmuch as that"

1. He allowed unloading of 31 wagons cement on 28.3.1986 from 10 hours instead of from 6 hours giving benefit to the party in non-payment of demurrage charges, in contravention of I.R.C.M. para 1705 Vol.II.

2. He failed to enter 2 wagons No.ERC59589 and SC/C-2760 in the WTR on 28.3.1986 giving

राजस्थान वाणिज्य अधीक्षण
कर्तव्य रेलवे, लखनऊ

benefit to the party to save demurrage charges in contravention of IRCA para 1703 of Vol.II.

3. He did not maintain unloading book properly favouring the parties in non-payment of wharfage charges.

4. He failed to get the signatures of the parties in Wagon Transfer Register. Also he did not sign himself in the relevant columns of Wagon Transfer Register (W.T.R.) as required vide I.R.C.A. para 1706 Vol.II.

5. The petitioner allowed deliveries on indemnity bonds which were not properly executed. No auction money was collected by him from the parties in absence of RRs.

6. The petitioner was found having Rs.66/- as his private cash which was more than the limits of Rs.50/- as required vide GM(Comm) instructions.

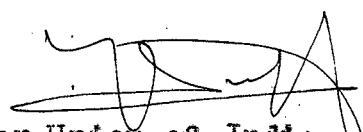
Thus, the ~~sixth~~ petitioner by his above acts of omission and commission failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of a Railway servant thereby he violated Rule 3.1(i)(ii) and (iii) of Railway

राष्ट्रीय मंडल वाणिज्य अधीक्षण
उत्तर रेलवे, लखनऊ

Services Conduct Rules, 1966."

12. That after getting the knowledge of the decision of Addl. Divisional Railway Manager the Divisional Railway Manager called the case file back and the same was put up to him and after ~~going~~ giving his anxious thought ordered that the petitioner ~~sixxx~~ should be transferred out of Ayodhya as per recommendation of Chief Vigilance Officer, New Delhi. The petitioner in order to ~~sixxx~~ avoid the service of order however reported sick and meanwhile he approached this Hon'ble Tribunal with unclean hands and obtained ex parte stay order by concealing material fact from the notice of this Hon'ble Tribunal.

13. That the petitioner's petition is frivolous vexatious and liable to be dismissed with cost.


For Union of India.
वरिष्ठ मंडल वायिष्य अधीक्षण

उत्तर रेलवे, लखनऊ

I, Y. SINGH

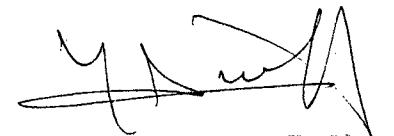
Designation Senior

~~Ex~~ Divl. Commr. Superintendent, Northern Railway,
Lucknow

Lucknow do hereby verify that the contents of paragraph nos. 1 to 13 of this reply are based on perusal of official record and legal advice received which all I believe to be true that no part of it is false and nothing material has been suppress in it.

Verified on this day of December, 1987

at Allahabad.


For Union of India.
मिल्ट मंडल वाणिज्य अधीक्षक,
मुम्बई रेलवे, घस्सवान

उत्तर रेलवे
Northern RailwayA.Y.
to Ed P
ADM(OR)case & transfer of Mr. A.K. Singh for
Mr. Singh has already been transferredDtd -
23.9.87

As the S.D.O.S has found him
not guilty of having any ulterior
motive. His punishment of reduction
to lowest grade temporarily for 3 years
is further reduced to only 18 months. He
should neither be debarred from ^{public duties} (Goodsclerk) nor
transferred on this account.

After
12/10/87

Ref- ADM's orders above.

S.H. 43 alongwith S.O. of the employee
are put up to S.H. as desired.

S.Y.
CVO/Reg
14/XDDGM(OP) A.K.
14/10/87

Kindly once again peruse S.N. 41, CVO(T)'s D.O. letter to
D.C.S. While asking for the review and thorough probe de novo, it
is also mentioned that Shri A.K. Singh should also be transferred
out of Ayodhya and debarred from public dealing seat. His cancellation
of transfer orders and debarring from public dealing seat needs to be
re-considered in view of the D.O. as review of the transfer orders
has not been asked for nor is called for.

① I had written S.D.O. - But since CVO has
ADM(OP) ordered otherwise, the latter's orders
should be complied with. 26/10/87
D.R.M. ② Procedure should also be corrected
and DCS should not override S.D.O.

Sr. DCS/LKO

26/10/87

(10)

Annexure No. II

A4

PD

A52

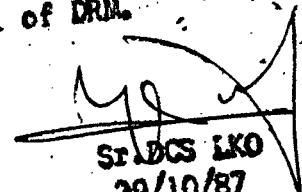
44
20/10/87
Gen 99/Small

30/10/87
NORTHERN RAILWAY

No: Vig/16/C/86/LCS
Dated: 29.10.1987

On re-consideration of the case, ADRA (OP) has decided that transfer orders of Shri A.K. Singh, AGC/AY to Phulpur should stand. He is not to be retained at Ayodhya as earlier ordered. Necessary orders to this effect be issued immediately.

This has the approval of DRM.

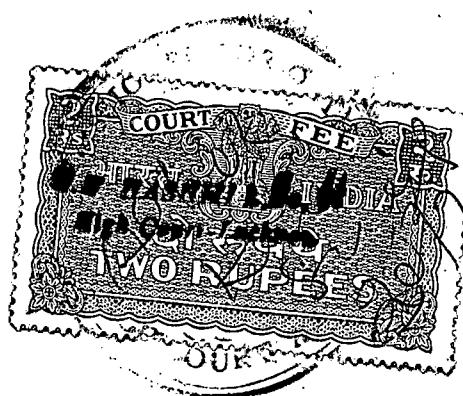

Sr.DCS LKO
29/10/87

D.P.O.

Before Central Administrative Tribunal, Allahabad,
Camp At Lucknow.

AS
R.A. I Copy

C.A.T. Case No. 1088 of 1987



Ashok Kumar Singh Applicant.

Versus

Union of India and others Opposite Parties.

REJOINDER AFFIDAVIT ON BEHALF OF THE
APPLICANT.

I, Ashok Kumar Singh, aged about 37 years, son of Sri Ranjeet Singh, Asstt. Goods Clerk, Ayodhya Railway Station Northern Railways Distt. Faizabad, do hereby solemnly affirm as under :-

1. That the deponent is himself applicant in the above noted case and as such he is fully conversant with the facts of the case deposed herein.

Ashok Kumar Singh



AS
SY

-2-

2. That the contents of para 1 to 4 of the written statement under reply call for no comments and contents of paras 1 to 6 of the petition are reiterated.

3. That the contents of para 5 of the written statement under reply are ~~not~~ denied. The deponent was exonerated by the enquiry officer from charges 1, 2 & 6 as evident from Annexure no. I of the petition.

4. That the contents of paras 6 and 7 of the written statement under reply call for no comments.

5. That the contents of para 8 and 9 of the written statement under reply call for no comment and paras XVI and XVII of para 6 (d) of the petition are reiterated.

6. That the contents of para 10 of the written statement are denied, charges ~~of~~ simple nature and based on procedural irregularities. There was no charge about financial misconduct and as such the deponent was exonerated by the enquiry officer in his enquiry report.

7. That the contents of para 11 of the written statement under reply are denied. The deponen

Ashok Kumar Singh



was never supplied the relevant materials on which the railway administration was going to place reliance in the enquiry proceedings. The contents of para 1 to 11 of the grounds of the petition which are legal and factual are reiterated.

8. That the contents of para 12 and 13 of the written statement ~~are~~ ~~xxx~~ are wrong, hence denied. The impugned transfer order dated 3.11.1987 was passed again after the orders of the ~~revenue~~ ^{Revenue} authority only to harass the deponent.

9. That the impugned transfer order dated 3.11.1987 is being illegal, urgent and arbitrary is liable to be quashed and the claim petition is liable to be allowed with cost to the deponent.

Lucknow Dated:

22-7-1988

Ashok Kumar Singh
Deponent.

Verification

I, the abovenamed deponent do hereby verify that the contents of paras 1 to 11 of this rejoinder affidavit are true to my knowledge and no part of it is false. So help me God.

Signed and verified this the 20 day of July 1988 at Lucknow.

Lucknow Dated:

20/7/1988

Ashok Kumar Singh
Deponent.

AS
4
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-4-

I identify the deponent who has signed
before me.

J. S. Shanker
(J. S. Shanker)
Advocate,

J. S. Saceen

Km. Karan

Out.

Att. by

Lucknow

Q. No.

23. 20-7/88

For Govt. Use

A-6 ~~100~~

In the Administrative Tribunal at Allahabad
व अदालत श्रीमान महोदय

॥वादी॥ अपीलान्ट श्री
प्रतिवादी ॥रेस्पान्डेन्ट॥

Ashok Kumar Singh

વાદી ॥ અપ્રીલાંટ ॥

બનામ

Union of India & others प्रतिवादी | रेप्पार्ट

०.४
मुक्तिमान सं० 1088 of 1987

S. A. K. gen.

अपर मुकदमा में अपनी ओर से श्री ~~A. S. S. Varadava, Advocate~~
एडवोकेट

महोदय
वक्तीत

फो अपना वकील नियुक्त करके ॥ इकरार ॥ करता हूँ और लिखो देता हूँ
 कि इस मुकदमा में वकील महोदय सवंय अदावा अन्य वकील द्वारा औ कुछ
 पेरवी व जवाबदेही व प्रश्नोत्तर करे या फोई फारज दाखिल करें या
 लोटावें या हमारी ओर से डिग्री जारी करावें और उपया वसूल करें या
 सुलहनामा या इक्बाल दावा लेता अपील व बिगरानी हमारी ओर से
 हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीफ करें या मुकदमा
 उठावें या फोई उपया जहा करें या हमारी विपक्षी ॥ फरीकसानी ॥ फा
 दाखिल किया हुआ उपया अपने या हमारे हस्ताक्षर युक्त ॥ हस्ताती ॥
 रसीद से लेवें या पंच नियुक्त करें ----- वकील महोदय द्वारा की
 गई वह सब फार्यदाही हमको सवंय सवीकार है और होगी इस लिये यह
 वकालतनामा लिखा दिया कि प्रमाण रहे और समय पर काम आवे ।

Admath 26/1/87
minor as India
ESTATE through Dwl. Personnel off cor,

साहारी गवाह

- संतोषी। गव. ~~Die~~ Ass't. Personnel Officer,
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