

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH (WICKNOOL)

INDIA GOVERNMENT

Cause Title: T.A-1073 of 1987

W.P. No 3884/82

Petitioner: V. S. Pandey

Applicant.

Versus

Union of India & ors.

Respondents.

Part A, B, C:

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File Part B/C needed after destroyed.

S. (S) 10/10/12

A-1

21.1.92

D.R.

counsel for the applicant is present
CA/RA have been exchanged. Now this case is to be listed for final hearing on 21/2/92
before the Hon. Bend

(✓)

21.2.92 Nursing of D.B.
ad f 30 2-3-92

or

Counter, Rejoice have been entirely submitted for hearing

S.P.H

2
272

3-3-92

Hon. Mr. Justice L.C. Silvester, V.C
Hon. Mr. A.B. Carter, A.M.

Heard the learned counsel for the parties. Judgment dictated separately

(✓)

(✓)

(b) T.M.

V.C.

T.A no 1073 of 87

1

A-2

Vidya Shankar Senality is (CCS)

Serial
number
of
order
and dateBrief Order, Mentioning Reference
if necessaryHow complied
with and
date of
compliance

27/6/87

Hon Mr. Justice K. Hall. VC
Hon Mr. K. Chayya AM.

Sir Sri Amrit Singh, lawyer, brief
holder of Shri P.N. Verma, counsel
for respondent ~~filed~~ regards
a day's time to file counter
written which, he says, is ready.
Rejoinder may be filed within
2 weeks thereafter and the case
be listed for final hearing
on 27/8/90. The respondent
will keep the petitioner's service
record ready on that date.

R/

X
VCNote
ad 8
23/3/90

on

Notices were
given to the parties
as well as his
counsel (Applicant).

Notice of O.P. No
4 has been served
together with postal
remark "प्रति दिन
प्रति दिन देखते हैं
लाल संग्रहालय - 1 - एवं
प्रधान निदेशक द्वारा दिनांक
8.7.90" S. F.O.

OR 25/6

27-8-90.

Division Bench is not available

Advt to 29/10/90

①

No Sittif Advt to 7.11.90

26/10/90

Hon Mr. M.N. Patelkar : AM.

Hon Mr. D.K. Agarwal : JM.

Due to resolution of Bar Association
case is Advt to 6.12.90

②

No reply filed

③

7.11.90

Hon Mr. M.N. Patelkar : AM.

Hon Mr. D.K. Agarwal : JM.

Due to resolution of Bar Association
case is Advt to 6.12.90

③

B.O.C. S. F.H.

④

8.12.90

No Sittif Advt to 18.1.91

L 6/4 2/1/91

A - 3

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH.

T.A.No.1073 of 1987.

Vidya Shanker PandeyApplicant.

Versus

Union of India & 3 othersRespondents.

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

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

(By Hon'ble Mr.Justice U.C.Srivastava,VC)

This case has been transferred to this
Tribunal under section 29 of the Administrative
Tribunals Act.

2. The applicant filed a writ petition
before the Lucknow Bench of High Court praying
that a certiorari writ quashing the impugned
orders dated 7.12.81 and 14.7.82 by which the
applicant has been dismissed from service, be
issued .

3. The applicant was appointed on 7.11.54 as
Breakman in the N.E.Railway. He was served with
a show cause notice dated 18.11.81 issued by
the opp.party no.3 in which it was alleged that
on 7.11.81, the applicant entered the chamber
of opp.party no.4 and assaulted him and tried to
drag the opp.party no.4 out of the office and
further threatened him and his family. The
other allegations made in the show-cause notice
were relating to about one year back i.e. 10.1.81
and 8.9.81 that on both these occasions, the
applicant threatened the opp.party no.4 and his
family and the applicant had also tried to assault
them. The applicant submitted his reply denying
all the allegations levelled against him. After

receipt of reply of the applicant, the opp. party no.3 dismissed the applicant from service on 7.12.81 misusing his unwarranted powers under Rule 14(ii) of the Railway Servants(Discipline and Appeal) Rules, 1968. Feeling aggrieved with the same, the applicant filed an appeal before the departmental authority which was also dismissed

4. The respondents submitted their written statement denying the claim of the applicant. They have stated that the applicant was given opportunity to explain his misconduct vide letter dated 18.11.81 which was received by the applicant. The reasons were recorded in writing by the Disciplinary Authority in invoking provisions of Rule 14(ii) of the Rules, 1968 and for dispensing with the enquiry.

5. Learned counsel for the applicant stated that without/full-fledged enquiry the applicant can not be dismissed from service and Rule 14(ii) of Rules, 1968 is not applicable in this case. No reasons have been recorded by the opp. parties as to why it is impracticable to hold an enquiry in the matter which has been decided by the opp. party no.3 in an arbitrary manner. The applicant was never given any opportunity to forward his case. He was also not supplied the documents relied by the opp. parties which is violative of the provision of section 311 of the Constitution of India. The applicant has been dismissed from the service without giving an opportunity of being heard. The applicant was also not given the documents relied by the opp. parties, as such the provisions of Rule 14(2) of the Rules, 1968 are not applicable in this case. Accordingly, the application deserves

to be allowed. The application is allowed and the orders dated 7.12.81 and 14.7.82 are quashed. However, it will be open for the respondents to hold an enquiry in accordance with law. No order as to cost.

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MEMBER (A)

hs
VICE CHAIRMAN.

Dated: 3.3.1992

(ug)

CIVIL

SIDE

GENERAL INDEX

1073/0773 A-6

COURT OF RECORD

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case..... W.P. 3884-82

Name of parties..... Videsha Shukla Pandey vs. Union of India

Date of institution..... 18.8.82.....

Date of decision.....

| File no. | Serial no. of paper | Description of paper | Number of sheets | Court-fee | | Date of admission of paper to record | Condition of document | Remarks including date of destruction of paper, if any |
|----------|---------------------|---------------------------------|------------------|------------------|--------|--------------------------------------|-----------------------|--|
| | | | | Number of stamps | Value | | | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
| | | | | | Rs. P. | | | |
| | | 1. W.P. with Annex and affidat | 42 | - | 102-00 | | | |
| | | 2. Power | 1 | - | 5-00 | | | |
| | | 3. Contd 2947 (W) 0682 party | 2 | - | 5-00 | | | |
| | | 4. order sheet | 2 | - | - | | | |

I have this

day of

198

examined

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

Date.....

Munsarim

Clerk

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
SITTING AT LUCKNOW

WRIT PETITION NO. 3004 OF 1982

Vidya Shanker pandey Petitioner

VERSUS

Union of India and others ... Opp. Parties.

I N D E X

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| 3. | ANNEXURE - 2 EXPLANATION OF THE PETITIONER DATED 30.11.1981. | 21 - 22 |
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(O.P. SRIVASTAVA)
ADVOCATELUCKNOW: DATED,
AUGUST 17 1982.

18

COUNSEL FOR PETITIONER.

IN THE HON'BLE HIGH COURT OF JUDICATURE AT A LAHABAD
SITTING AT LUCKNOW

WRIT PETITION NO. 30004 OF 1982

Vidya Shanker Pandey Petitioner

VERSUS

Union of India and others Opp. Parties.



100.00
100/0

LUCKNOW DATED
august 17, 1982.

ADVOCATE.

A-9

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
SITTING AT LUCKNOW

WRIT PETITION NO. 6304 OF 1982

Vidya Shanker Pandey, aged about 46 years, son of Sri V.N. Pandey, resident of Village and Post Daulatbagh, district Azamgarh working as Guard 'C' N.E. Railway at Headquarters, Aishbagh, Lucknow.

..... PETITIONER.

VERSUS

1. Union of India, through its General Manager, N.E. Railway, Gorakhpur.
2. Divisional Railway Manager, Ashok Marg, Lucknow.
3. Sr. Divisional Operating Superintendent (Sri A.K. Das) N.E. Rly., Ashok Marg, Lucknow.
4. Station Superintendent (Sri Nand Lal) N.E. Railway, Station Lucknow Junction, Lucknow.

..... OPPOSITE PARTIES

Call in circuits

WRIT PETITION UNDER ARTICLE 226 OF
THE CONSTITUTION OF INDIA.

To

The Hon'ble Chief Justice and his companion Judges of the aforesaid Court.

The above named petitioner most respectfully submits as under:-

1. That the petitioner through this Writ Petition challenges the very illegal and unwarranted order of the dismissal which has been passed by the Opposite Party No. 3 dismissing the Petitioner from the post of Guard 'C' in the scale of Rs.330-530 without application of mind in a very colourable exercise of powers with malafide intentions with the result the petitioner has not only become out of employment but also become disqualified for the future employment.
2. That the petitioner was initially appointed as Breaksman as a permanent employee in the scale of Rs.260-308 (as revised upto date) on 7.11.1954 in the N.E. Railway and since his appointment he is continuing in the services of the Railway with full devotion and dedication.
3. That on account of the petitioner's excellent work and conduct he was promoted to the post of Guard 'C' in the scale of Rs. 330-530 in the year 1979 and since his promotion to the aforesaid post he is still performing his duties on the same post to the entire satisfaction of his superiors with unblemished record.

4. That since the promotion to the post of Guard 'C' in the scale of Rs.330-530 the petitioner was posted at the Headquarters, Aishbagh from where he was carrying out his duties with full devotion although he was not allotted any Railway quarter for which he was entitled under Rules. So, the petitioner was residing with one of his colleague Sri V.N. Pandey, Guard in the Railway quarter which was allotted to him. When Sri V.N. Pandey Guard was transferred to Gonda the petitioner requested for the allotment of the said quarter in his name to Opposite Party No.4. who was the competent authority to allot the said quarter. As the palm of the Opposite Party No. 4 could not be greased by the petitioner, the Opposite Party No. 4 refused to allot him the said quarter, although the petitioner was entitled for and was permissible under the Rules. The petitioner was in great need of the quarter, so he contacted the Addl. Divisional Manager in connection to, and explained the whole of the circumstances who having looked into the matter pleased to allot him the said quarter. On the allotment of the said quarter in the name of the petitioner by a higher authority the Opposite Party No. 4 felt insulted and conspired to take a revengeful action against the petitioner.

8/18/62

For 6/21 and 6/25

A-12

5. That while the petitioner was performing his duties with full satisfaction and devotion he was served with a show cause notice No.DOS/SS-2/81 dated 18.11.1981 issued by the Opposite Party No. 3 in which it was alleged that the petitioner on 7th of November, 1981 about 12.00 hours entered into the chamber of Opposite Party No.4 while the Opposite Party No. 4 was discussing with one Sri R.P. Shukla and there the petitioner assualted the Opposite Party No. 4. It was also alleged that the petitioner tried to drag the Opposite Party No. 4 out of the office and threatened him and his family. The other allegations which were made in the aforesaid show cause notice were relating to, about one year back i.e. 10th of January 1981 and 8the of September, 1981. It was also alleged that on both the aforesaid occasions the petitioner threatened Opposite Party No. 4 and his family unnecessarily as well as the petitioner had also tried to assault them. The petitioner was asked for the explanation in respect of the above allegations with in seven days from the date of receipt of the aforesaid notice showing the reasons why the disciplinary action should not be taken against him. A true copy of the aforesaid show cause notice dated 18.11.1981 is being filed herewith as Annexure-1

ANNEXURE - 1

• • •

to this Writ Petition.

6. That the petitioner submitted his explanation intime to the aforementioned show cause notice dated 18.11.1981 on 30th November, 1981 in which he had denied all the allegations levelled against him and he demanded a fair enquiry of the facts and a proper opportunity to put forward the real picture; in order to prove the contention which had been made by the petitioner while denying the allegations. Since all the aforementioned allegations were raised against the petitioner in a concocted manner unnecessarily merely taking the quarter allotment in favour of the petitioner on prestigious issue by the Opposite Party No. 4. Hence the petitioner also submitted in his explanation that he being a peacloving person settled a compromise with the Opposite Party No. 4 assuring him that he got allotted the said quarter in his favour only on account of bare need and there were no intention prevailing to insult the the Opposite Party No. 4. A true copy of the aforesaid explanation dated 30.11.1981 is being filed here-with as Annexure-2 to this Writ Petition.

17/11/81
10 AM 21 NOV 1981

ANNEXURE-2

&. That having submitted the aforesaid explanation the petitioner had solicited the justice, but he was shocked to know that he has been dismissed from the services vide impugned order of dismissal

No. SOS/SS/2/81 dated 7.12.1981 by the Opposite Party No. 3 misusing his unwarranted powers enshrined in Rule 14 (ii) of the Railway Servants (Discipline and Appeal) Rules 1968. (Here in after called as Rules of 1968). The impugned order of dismissal dated 3.12.1981 was issued to the petitioner in disregard of the statutory provisions without assigning any reason thereto containing proforma language that the explanation to the show cause notice, which was submitted by the petitioner was found unsatisfactory by the Opposite Party No. 3 and it was not practicable for him to hold an enquiry as provided in Rules 9 to 13 of the Rules of 1968. Although there were no reason given in the impugned order dated 7.12.81 for dispensing with the enquiry yet an averment to the effect that the same has been recorded in writing else where was made therein. A true copy of the aforesaid impugned order dated 3.12.1981 is being filed herewith as Annexure-3 to this Writ Petition.

8/2/18/82

8. That aggrieved by the impugned order of dismissal the petitioner preferred an appeal under Rule 18 of the Rules of 1968. In his appeal dated 31.12.1981 the petitioner submitted that he had been punished ~~merely~~ merely on the basis of statement of imputation made by the Opposite Party No. 3.

1/1/21/82

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No. 4 without even any preliminary enquiry altogether to ascertain the truth. Moreover untill and unless the petitioner is permitted to access the material relied upon which led to constitute the petitioner guilty and without considering the facts of the case otherwise there can be no fair foundation before the disciplinary authority to impose such a grave penalty on the delinquent. Petitioner in his ~~opinion~~ memorandum of appeal also requested that he had neither been permitted to access the material relied upon nor he was allowed to be heard personally even after demand, so he may be allowed for both as aforesaid in pursuance of the principles of natural justice. The aforesaid memorandum of appeal dated 31.12.1981 against the impugned order is being filed herewith as Annexure-4 to this Writ petition.

9. That it would not be out of place to mention that a FIR of the occurrence was also lodged in Government Railway Police by one Shri R.B.Singh, Station Master, Lucknow Junction and a case under crime No. 841 under section 101 of Railway Act and 323/506 of Indian Panel Code was registered against the petitioner. The enquiry proceedings are going on and no chargesheet has been submitted so far.

1/12/1982
1/12/1982

The case is pending in the Court of Shri S.P. Shukla, Munsif Magistrate, Lucknow. A true copy of the FIR lodged by Shri R.B. Singh is being filed herewith as Annexure-5 to this Writ Petition.

10. That after submitting the appeal against the impugned order of dismissal dated 3.12.1981 the petitioner kept silent waiting for permission to look into the documents relied upon, and for personal hearing then suddenly he received a letter from the Opposite Party No. 3 dated 14.7.82 by which the petitioner was intimated that the appeal dated 3rd December, 1981 presented before the Opposite Party No. 2 by the petitioner challenging the validity of the impugned order of dismissal dated 3.12.1982 was rejected. It appears from the Appellate order which was conveyed to the petitioner through Opposite Party No. 3 that the appellate authority has rejected the appeal of the petitioner without application of mind in a mechanical manner with a view to uphold the order of Opposite Party No. 3. The operating portion of the order of the Opposite Party No. 2 ^{rejecting} repeating appeal of the petitioner shows that the merits of the case has not been looked into and a cryptic, unreasoned and non speaking order has been passed. The petitioner does not know the contents of the remaining order of the Opposite Party No. 2 except the operating

3/12/82

14.12.1982

portion as only operating portion has been communicated to him. It is also mentioned here that the petitioner while submitting the appeal had requested the Opposite Party No. 2 for a personal hearing in order to put forward his case clearly before the considering authority but it was denied to him without assigning any reason thereto. The aforesaid order dated 14.7.1982 through which the petitioner has been intimated regarding rejection of his appeal is being filed herewith as Annexure-6 to this Writ Petition.

11. That a perusal of the impugned order of dismissal (Annexure-3) and the order rejecting the appeal (Annexure-6) reveals that the petitioner have been dismissed from service taking the shelter of Rule 14(ii) of the Rules of 1968 with some ulterior motive in order to teach a the petitioner a lesson. It is strange that such a major ^{penalty} ~~on the basis of~~ certain statements of imputation, which even do not constitute 'a misconduct' in master and servant relationship. ~~has been imposed by an incompetent authority having no jurisdiction at all to pass the order~~ Actually there is even no preliminary enquiry held ex parte to ascertain the truth in to the imputation and there is no material before the disciplinary authority and the appellate authority which held the petitioner guilty of a fault which would constitute misconduct in

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17/7/82

1st Writ and 415

master-servant relationship and which make such a foundation to impose major penalty of dismissal upon the petitioner. The very jurisdiction of the disciplinary authority to dismiss a Railway Servant concerned is guilty of a fault which could constitute a misconduct in the service jurisprudence. Hence the impugned orders are unwarranted non-jurisdictional against the principle of fair play and natural justice, are untenable in the eye of law and are liable to be quashed by this Hon'ble Court.

12. That the petitioner was never supplied with any sort of documents papers or any material, even on demand, relied upon so it was very difficult for him to give any reply specifically of the charges levelled against him. Moreover the petitioner has neither been convicted by a criminal court nor is a victim of misconduct, nor violated any provision of Railway Servants conduct Rules nor misappropriated nor found neglect of duty nor acted or omitted in such a manner which resulted in trains collision nor participated in any violent action (tor-phor) as such he cannot be held responsible for such a major penalty, hence the dismissal of the petitioner is unjust, bad in law and has been passed in revengeful manner which is liable to be set aside by this Hon'ble Court.

17/1/82

1st April 1982

13. That the opposite parties have abused and misinterpreted the provisions of Rule 14(ii) of the Rule of 1968 by not holding any enquiry altogether. The disciplinary authority and the appellate authority do not have the jurisdiction and the condition precedent would not exist if the disciplinary authority is merely possessed of impulsion against the Railway servant and nothing more. As a matter of fact Rule 14(ii) does not repeal the enquiry altogether but it provides a special procedure in cases where enquiry in the manner provided in Rule 9 to 13 of the Rules of 1968 are not practicable in the circumstances of the case. It is obligatory on the part of disciplinary authority to record the reasons for not following the provided procedure under law with the reasonings for the conclusion arrived at for dispensing with the enquiry ~~under their own seal~~ ^{and signature}.

14. That the perusal of the impugned order also shows that the opposite parties are taking the concept of Article 311(2)(b) of the Constitution, similar to the provision of Rule 14(ii) of the Rules of 1968. Actually Rule 14(ii) is not in para materia to the provision of Article 311(2) of the Constitution. Provisions of Article 311(2) has been construed with the purpose to confer a statutory protection on a Government servant except under

J2
17/8/82

14/11/81 and 11/5

-: 12:-

certain circumstances. The purpose of proviso of sub clause (2) of the Article 311 of the Constitution does not exclude a Government Servant from the right to seek protection of principles of natural justice like other citizens.

15. That the petitioner has been dismissed from service in an arbitrary ~~and~~ manner for insufficient and undisclosed grounds and it deserves to be set aside by this Hon'ble Court because the petitioner has not committed any offence in the eye of law so that imposing upon him such a major penalty of dismissal will not be only unjustified but it also cast slur on the career of the petitioner by rendering him disqualified for service in future.

16. That the petitioner has not been given any notice proposing the penalty to be imposed as required under the provision of Rule 19(5) of the Rules of 1968.

17. That since an enquiry in the matter is going on, on the basis of the report loaded in G.R.P. hence the petitioner cannot be punished holding illegally that the enquiry in the matter is impracticable. The disciplinary authority could have waited for the judgment of the Court in the said

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case which is subjudice and could have suspended the petitioner despite dismissing him in a very straight way. But as the disciplinary authority was in a mood to take the revenge and to see the petitioner down, hence he decided on his own accord immediately, so that the very opportunity which the authority got in his hand may not go away and as such with a fear that the petitioner may not establish his case in enquiry, the Opposite Parties thought it wise to misuse the provisions of Rule 14(ii) of the Rules of 1968 by abusing the delegated power conferred therein. In other words the executive have challenged the power of judiciary in guise of delegated power and such exercising of power are the quite juxtaposition of the professor Larkey's view. So the impugned orders are not only bad in law but is also oppressive and are against the nexus of socio-economic policy.

18. That the concept of U.A.R. Rules 1968 has been so framed with a view to punish a delinquent for committing the offences against the Railway is quite different and any delinquent cannot be punished until and unless he has been given reasonable opportunity to explain his position and contradict the evidence and allegations levelled against him but the Opposite Parties unwarantly avoided all the provisions of enquiry given under

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Rules 9 to 13 of the Rules of 1968 merely with a fear that the petitioner may not become able to establish his case and a chance which the Opposite Parties got to take revenge from the petitioner may escape from their hands.

19. That the petitioner had not been supplied with the full judgment passed by the Opposite Party No. 2 under his own seal and signature in the appeal submitted by the petitioner, and whatever operating portion has been supplied to him discloses no reason for rejecting the appeal and it is most cryptic and un-reasoned order. Under the provisions of Rules of 1968 any order or judgment both original and appellate by which a penalty has been imposed upon a delinquent employee must contained the complete statements, facts and the reasons thereof, conclusions arrived at and the findings. But the very important concept of law has not been followed so it makes the impugned order of dismissal invalid and void ab initio and the order rejecting the appeal is untenable and quashable in the eyes of law.

20. That the petitioner is a permanent employee and he has been dismissed from the services in a very illegal manner without following the provisions of law which is apparent from the impugned

-: 14 :-

order itself hence under these circumstances he cannot be treated as out of service and he may be treated as continued regular employee during the pendency of the Writ - etition. The petitioner having a large burden of family and is facing starvation in these hard days due to wrongful and revengeful action of the Opposite Parties for his no fault and as such in these circumstances it would be justified that the petitioner should be paid at least some subsistence allowance during pendency of the case so that he may become able to solicit the justice from this Hon'ble Court otherwise the circumstances may take turn in such a manner that may not remain alive to fight his case in this Hon'ble Court throughout.

21. That the petitioner has already exhausted the alternative remedy of appeal available to him under Rule 18 of Rules of 1968 and there left no alternative & efficacious and expeditious remedy except to invoke the writ jurisdiction of this Hon'ble Court under Article 226 of the Constitution of India. Having aggrieved from the illegal order of dismissal and order of rejecting the appeal the petitioner challenging the same inter alia amongst

the following:-

...

G R O U N D S

- i) Because the order of dismissal has been passed in a revengeful manner with a motive to teach the petitioner a lesson without following the provisions of law enshrined in the Rules of 1968.
- ii) Because no reasons have been recorded by the ^a as Opposite Parties /to why it is impracticable to hold an enquiry in the matter and it has been decided by the Opposite Parties in a very arbitrary manner without applying the judicial mind.
- iii) Because the petitioner was never given any opportunity to put forward his case and rebuked the allegations levelled against him.
- iv) Because the petitioner has never been supplied the documents, records or the material relied upon by the Opposite Parties which make the very foundation of imposing such a major penalty which is violative of the provision of Article 311 of the Constitution of India.
- v) Because the petitioner has not committed any offence in the eyes of law and a FIR to the same effect has already been lodged

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against which an enquiry is going on hence under these circumstances before completion of the enquiry it is unwarranted and illegal to declare the petitioner as delinquent and impose upon him such grave penalty of dismissal which cast stigma on the petitioner and disqualifies him from future employment.

vi) Because the petitioner asked for personal hearing of the case and he was denied, which is against the principles of natural justice as well as it hits the fundamental rights ~~of~~ conferred upon the petitioner under part II of the Constitution of India.

vii) Because the impugned proforma orders dismissing the petitioner and rejecting the appeal ^{non-jurisdictional and passed by incompetent authority} is arbitrary ^{and has been effected to xx} to teach him a lesson and is violative of provisions of part III of the Constitution of India.

viii) Because the impugned order of dismissal has been passed and the appeal has been cancelled in colourable exercise of power without giving any reason for the conclusion arrived at and the penalty has been imposed in straight way without proposing the penalty to be

imposed as required under law.

ix) Because the order of dismissal cannot be passed by invoking the provision of Rule 14(ii) of the Rule of 1968 which is ultra vires in the circumstance of the case.

P R A Y E R

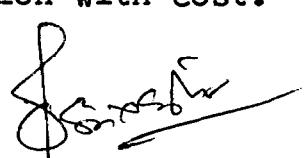
WHEREFORE it is most respectfully prayed that this Hon'ble Court may graciously be pleased :

a) to issue a writ or order in the nature of certiorari quashing the impugned orders dated 7.12.81 and 14.7.1982 (Annexures Nos. 3 and 6) by which the petitioner has been dismissed from the service.

b) to issue a writ, order, direction or command in the nature of mandamus to treat the petitioner in continued service.

c) to issue such other order, writ, direction or command which this Hon'ble Court may deem fit, just and proper in the circumstances of the case.

a) to allow the Writ Petition with cost.


(O.P. SRIVASTAVA)

ADVOCATE

COUNSEL FOR THE PETITIONER.

LUCKNOW: DATED
AUGUST 17, 1982.

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

WRIT PETITION NO. _____ OF 1982

Vidya Shanker Pandey Petitioner

VERSUS

Union of India, and others Opp. Parties.

ANNEXURE- 1

NORTHERN EASTERN RAILWAY

No. DOS/SS-2/81

Civl. Railway Manager's Office
Lucknow, Dated 18.11.1981.

Shri V.S. Pandey,
Guard 'C',
N.E. Railway,
Lucknow.

It is reported that on 17.11.1981, at about 12.00 hrs. you entered the chamber of Shri Nand Lal, Station Supat., N.E. Railway, Lucknow Jn., while he was discussing with Shri R.S. Shukla, Chief Reservation Supervisor/LJN, and assaulted Shri Nand Lal. You also tried to drag Shri Nand Lal, out of the office and threatened Shri Nand Lal that you would not leave him and his family.

It is learnt that on earlier occasion, on the mid-night of 1/1/81, you had trespassed into the residence of Shri Nand Lal, abused him and also threatened him and his family. Again on 8/9/81, at about 20.00 Hrs. you had abused Shri Nand Lal in his chamber and had tried to assault him.

3/11/81
1st all 21 and 1/2

- 2 -

Please offer your explanation within seven days from the date of receipt of this letter as to why disciplinary action should not be taken against you.

Please acknowledge receipt of this letter.

Sd/ (A.K. Was)
Sr. Civl. Optg. Supdt.,
N.E. Railway, Lucknow.

TRUE COPY.

Fauzil and 419

2/5/6

A-29 21

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

WRIT PETITION NO. OF 1982.

Vidya Shanker Pandey Petitioner

Versus

Union of India and others Opp. Parties.

ANNEXURE-2

To

The Sr. Divl. Optg. Supat.,
N.E. Railway,
Lucknow.

Ref:- Your office No. DOS/SS-2/81 dated 18.11.81
received by me through postal registered
cover on 28.11.1981.

Sir,

Respectfully I beg to explain as under:-

That it is quite incorrect that I entered in
the chamber of Shri Nand Lal, SS/LJN on 19.11.81
at 12.00 hrs, abused, assaulted and threatened him.

It has been my bad luck that my immediate superior
SS/LJN Shri Nand Lal has been in habit of reporting
something against me right from allotment of a
quarter which was ultimately allotted to me by the
DRM/LJN against the report of SS/LJN to this report
as alleged in your aforesaid letter reason best known
only to the reporting agency. I totally deny the
charges. For your information Shri Nand Lal S^D/LJN
has also lodged F.I.R. against me in G.R.P. Lucknow
based on which a court case is pending against me.

27/11/82
1st Bell 2nd Bell 3rd

As alleged in your second para of the above letter that on 1.1.81 and 8.9.81 I trespassed into the residence of Shri Nand Lal abused and tried to assault at both occasions is totally incorrect as such it is denied in toto with a demand of high power inquiry which can reveal the real fact of motivated false reporting made against me.

Last but not least it is very humbly stated to you that misunderstanding existing between SS/LJN and myself have now been removed on 21.11.81. where I have convinced him about my innocence to which he has agreed. Thus it is prayed that in light of compromise made, case may kindly be dropped. I hereby assure you to remain always disciplined in future.

Thanking you,

Faithfully yours,

Sd/- V.S. Pandey
(V.S. Pandey)

Guard 'C'/ASH
Wkg at LJN.

Dated 30.11.1981.

TRUE COPY

Original U/S

718

P-31
23

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

WRIT PETITION NO. OF 1982

Vidya Shanker Pandey Petitioner

VERSUS

Union of India and others Opp. Parties.

ANNEXURE - 3

Registered A/D.

NORTH EASTERN RAILWAY.

Notice under Rule 14(II) of the Discipline and Appeal
Rule 1968.

No. LOS/SS-2/81

Dated 3.12.1981

Name : V.S. Pandey

Father's name : Shri Bishwa Nath Pandey

Designation : Guard 'C'

Department : Operating

Date of appointment : 7.11.1954

Station : Lucknow Jn.

Scale of pay : Rs. 330-530.

7/12/81
7/12/81 and 4/12/81
Vide this office letter No. LOS/SS-2/81 dated
18.11.81, you had been given an opportunity to explain
your misconduct about the incidents on 1.1.81 and 8.9.81
1981 and the alleged assault on Shri Nand Lal, SS/LJN
on 17.11.1981 I have carefully considered your
explanation vide your letter dated 30.11.81, and I
find it unsatisfactory.

I, the undersigned, have the ~~now~~ powers to
dismiss or remove you from service, am fully satisfied

ANNEXURE-3 Contd.

that for the reasons which have been recorded in writing, it is not reasonably practicable to hold an enquiry on the manner provided under Rule 9 to 13 of the Discipline and Appeal Rules, 1968 and in exercise of the powers vested in me under Rule 14(II) of these Rules read with proviso (b) to Article 311(2) of the Indian Constitution of and considering the circumstances of your case, I have, therefore, decided to dismiss you from service from the post of Guard 'C' in scale of Rs.330-530 (R.S.). Accordingly you are hereby dismissed from service with effect from 4.12.1981 (F.N.).

2. Under Rule 18 of the Railway Servants (W&A) Rules, 1968, an appeal against these orders lies to the Divisional Railway Manager, N.E. Railway, 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.

Please acknowledge receipt of this letter.

Sd/- (A.K. Das)
Sr. Divisional Operating Supat.
N.E. Railway, Lucknow.

TRUE COPY

14/12/1981

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

WRT PETITION NO. OF 1982

Vidya Shanker pandey Petitioner

VERSUS

Union of India & others Opp. Parties.

ANNEXURE-1

To

The Divisional Railway Manager,
North Eastern Railway,
Lucknow

Through :- Proper Channel

Sub: An appeal against the penalty of
dismissal from service under Rule 14(II)
of Rly. Servants ("isciplinary and
Appeal) Rules, 1968.

Ref:No. DOS/SS-2/81 dated 3.12.1981 issued
by Sr.Divl. Optg. Supat., N.E.Rly/
Lucknow.

Sir,

Aggrieved by the arbitrary penalty of summary
dismissal from the service under Rule 14(II) of
Disciplinary and Appeal Rules, 1968, imposed by the
learned Sr. Divl. Optg. Supdt., North Eastern
Railway, Lucknow, I beg to submit the appeal to your
honour on the following grounds amongst others for
your kind and judicious consideration.

That, by a letter No. DOS/SS-2/81 dated 18.11.81
issued by Sr. Divl. Optg. Supat., N.E. Rly./Lucknow,
I was asked to offer my explanation on the baseless

17/8
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17/11

allegations that on 17.11.1981, at about 12-00 Hrs. I entered the chamber of Shri Nan Lal, Station Supat./ N.E.Rly./Lucknow Jn. while he was discussing with Shri R.P. Shukla, Chief Reservation Supervisor/LJN and assaulted Shri Nand Lal, and also tried to drag him out of his office and threatened him that he and his family would not be relieved. Further it was learnt that on the mid-night of 1.1.1981, I trespassed into the residence of Shri Nand Lal, abused him and threatened him and of his family. And again on 8.9.81, at about 20.00 Hrs. (20-00 Hrs) I had abused Shri Nand Lal in his chamber and had tried to assault him.

That the basis on which the said allegations were levelled against me, and the documents, materials and evidence by which the said allegations were proposed to be sustained were never disclosed to me, nor I was given access to them.

That, however, in compliance with the orders of the learned Sr.Divl. Optg. Supat., N.E. Rly., Lucknow, I offered my explanation and denied the allegations categorically and in toto by my letter dated 30.11.81 I also refuted the allegation of assault, trespass, abuse and threatening in my letter cited above, I did never trespass and threatened his family at any occasion what-so-ever.

17/18

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That, in my explanation dated 30.11.1981, I submitted that I did not enter the chamber of SS/LJN on 17.11.1981 at 12-00 Hrs. nor I assault, abuse, nor I threatened him and his family. It was a bad luck for me that SS/LJN, Shri Nand Lal, was in the habit of reporting against me off and on since I approached DRM/LJN for allotment of a Rly. Quarters in favour of me while SS/LJN, Shri Nand Lal, refused to allot the said quarters in favour of me. DRM/LJN very kindly allotted the said quarters in favour of me and Shri Nand Lal, SS/LJN became annoyed with me and made false complaints against me. He also made a F.I.R. lodged against me in the G.R.P. Station/ Lucknow on 17.11.1981. A court case is thus pending against me on that issue.

That, further I did neither trespass on 1.1.81 into the residence of Shri Nand Lal, SS/LJN, nor abuse nor threatened him and his family. It was simply a false allegation and there was no iota of truth. It was also a false allegation that I tried to enter the Chamber of Shri Nand Lal, SS/LJN on 8.9.1981 and had tried to assault him at about 20-00 Hrs. Because of the facts that both the allegations were not based on any materials proof; and were based on hearsay as it was already stated in the Sr. Divl. Optg. Supdt/Lucknow letter dated 18.11.1981 as "it was learnt". In this

17/18

1st all 21 and 41/5

connection I again called on your attention in the para cited above that SS/LJN, Shri Nand Lal, started in a habit of reporting against me off and on a dispute of allotment of a Rly. Quarters in my favour and which was done by the honourable DRM/LJN subsequently.

That, I have convinced Shri Nand Lal, SS/LJN, on 21.11.1981 and the misunderstanding existed in between was removed, and SS/LJN, Shri Nand Lal was also convinced.

That, while calling for my explanation the learned Sr. Divl. Optg. Suput./N.E. Rly/Lucknow Jn. by his letter No. DOS/SS-2/81 dated 18.11.1981 asked as to why disciplinary action should not be taken against me, but no such disciplinary action was taken, and a final order of imposition of penalty of dismissal from service arbitrarily was issued in malafide and colourable exercise of powers against which the appeal is submitted.

That, I have been dismissed from service straightway summarily and arbitrarily shortcircuiting the procedure contained in the Rly. Servants (Discipline and Appeal) Rules, 1968, violating Article 14 and 311(2) of the Constitution of India without affording me any read and effective reasonable opportunity of being heard. The documents, materials and eviuence upon which the allegations were based

17/8

17/11/1981

and the witnesses by whose the same were proposed to be sustained have never been disclosed; nor I have ever been given access to the material documents, nor afforded opportunity of examination of witness in support of the allegations in my presence, nor even an opportunity of cross examining them. I have also not been afforded opportunity of marshalling evidence in my support in a proper D.A.R. inquiry and right of being represented by a Defence Counsel of my choice. On the contrary, the learned Sr. D.O.S/L.J.N in his order dated 3.12.1981 imposing penalty of dismissal from service has observed that "it is not reasonably practicable to hold an inquiry in the manner provided under rule 9 to 13 of Discipline and Appeal Rules, 1968 and in exercise of the powers vested in me under Rule 14(II) read with proviso (b) to Article 311(2) of the Constitution of India and considering the circumstances of your case", he has decided to dismiss me from service.

That, the impugned orders are wholly illegal and without any basis, discriminatory, bad in law and without jurisdiction. The purported order has been passed malafide, arbitrarily and illegally with a view to victimise me.

That, the impugned order does not disclose the real state of affairs and the circumstances of the

case on the basis of which the learned Sr.DOS/LJN has taken recourse to extra-ordinary powers in dispensing with the whole process of Disciplinary action including dispensing with the statutory DAR ~~inquiry~~ inquiry. This should have been recorded on the fact of the dismissal order itself. These have not been recorded, my right of appeal against the penalty has been abridged and stultified. An order without any reason recorded in the order itself cannot be tested on the ground of malafide as in the absence of reason it is impossible to ascertain whether the authority acted arbitrarily, capriciously, with malice, or not. It is inconceivable to think that a decision would be without any reason and the reasons for that action are to be found elsewhere. Application of mind is to be seen from order itself. Lack of reasons in the order of a quasi-judicial nature cannot be remedied by looking into the departmental file in support of the order.

That, it has been well settled that Rule 14(II) can be exercised by a Disciplinary Authority when it is not reasonably practicable to hold an inquiry and the state of affairs and circumstances under which holding of such inquiry is not practicable should be recorded on the fact of the order. The words "for reasons to be recorded" postulates that

satisfaction arrived at upon consideration of relevant materials that it is not reasonably practicable to hold an inquiry in the manner (manner) provided in the rules. There must be existence of objective facts as for example when the delinquent is absconding his whereabouts are not known; or or prevailing circumstances are such that no officer at the risk of his life could hold an inquiry; or for fear of life no witness would come forward to depose. No such circumstance and state of affairs prevailed in the present case, as I was working, was available for inquiry, and there was no fear, or risk of life on an officer, or any witness as I have always espoused the cause of workers peacefully, non violently and in a persuasive manner. I have always acted constructively and co-operated with the Railway Administration in crucial times. Hence the deviation regarding impracticability of holding an inquiry arrived at by Sr.DOS/LJN is arbitrary, capricious and it was not arrived at in a fair, judicious and bonafide manner.

That, the impugned order is a nullity in as much as it is not a speaking Order both from the standpoint of dispensing with the inquiry in the purported exercise of powers under Rule 14(II), as also from the standpoint of the punitive order imposing penalty of dismissal. The impugned order exhibits total non-application of mind and has been passed in violation

of the principles of fairplay and natural justice. The impugned dismissal order is more dumb than a dump person and deserves to be quashed by your honour.

That, what is meant by "inquiry" appearing in Rule 14(II) is the examination of witness and hearing of arguments in defence. The very work "inquiry" cannotes an investigation, or search of truth. In the context of the Rules 'inquiry' means an inquiry proper at which witnesses are examined. There is nothing in Rule 14(II) which would justify the conclusion that Rule 14(II) operates as repeal of Rule 9(1) to 9(19) and Rules 10 to 13 of Rly. Servants (Discipline and Appeal) Rules, 1968, even as regards matters other than holaing of an inquiry.

That, the scheme of the rules under Rules 9 of D.A.R. 1968, clearly shows that the inquiry proper commences at the point of time when the stage of filling of the written statement of defence is completed after issue of Memorandum, inspection of documents, nomination of Defence Counsel and consideration of written statement of defence. Sub_Rules 7 to 10 of Rules 9 of D.A.R., 1968, clearly shows that it is after receipt of written statement of defence that steps have to be taken in regard to holaing of an inquiry. Rules 9(10) refers to "steps preliminary

17/10
14/11/2011

to the inquiry" and provides that inquiry may take place within one month after those steps are complied with. The said Rules may be quoted.

"9(10) after the nomination of assisting Railway Servant, or a Railway Trade Union Officials, and the inspection of documents and other necessary steps preliminary to inquiry are completed, a date ordinarily not exceeding one month shall be fixed for inquiry and the Railway Servant informed accordingly".

That, it is absolutely clear from the above Rules that all the proceeding steps outlined in Rules 9(1) to 9(10) are steps leading to the inquiry proper. All are steps of a staircase which lead to what one may call the hall of inquiry. Thus in regard to the interpretation of the word 'Inquiry' appearing in Rule 14(II), it can scarcely be contended that the rule making authority has referred to some other concept of inquiry. If it is realised that the expression "inquiry" has been used in this strict sense, i.e. inquiry proper, in Rule 9(7) and 9(10) no room of doubt remains that it is in this sense that the expression 'inquiry' has been employed in Rule 14(II). That is to say, Rule 14(II) at the highest may authorise dispensing with an inquiry in the sense of examination of witness and hearing of defence. The requirements of Rule 9(1) to 9(10)

✓ 178
14(12) and 14(15)

oblige the disciplinary authority to furnish to the Railway Servant a memorandum under Rule 9 containing the Article of charges, statement of imputations, list of documents by which the list of witness, by whom the Article of charges and the statement of imputations are based and proposed to be sustained. They also obliged the disciplinary authority to allow the Railway servant to have access to the documents, materials and evidence to enable him to file his written statement of defence. These fundamental requirements are not dispensed with by Rule 14(II); but these essential requirements have not been complied with by the learned Sr. Civl. Optg. Supdt., Lucknow Jn., hence the impugned order of dismissal deserved to be nullified and quashed.

That, neither Article 311(2) of the Constitution of India, nor Rule 14(II) of Rly. Servant (Discipline and Appeal) Rules, 1968, can be construed as singling out Railway servant to deprive him of the rights of being treated fairly and equitably of claiming the enforcement of principle of fairplay and natural justice. Article 14, 15 and 16 of the Constitution of India guaranteed a person equality before law prohibits discrimination and guarantees equality of opportunity for all citizen in matter relating to employment. The purpose of Article

✓ 116

10/421 and 115

311(2) read with proviso is to extend limited constitutional guarantee to the Government servant. It cannot be construed as singling out the Govt. Servant as a class for being denied the right to claim the enforcement of principle of natural justice and fairplay in relation to which even other citizen including those indulge in anti-social activities are so entitled.

In the circumstances stated above, I must humbly and respectfully pray to your gracious honour to kindly cancel, withdraw and/or rescind the dismissal order and reinstate me in service with full benefits, so that, justice fair and impartial and good conscience may prevail. I also request your honour to grant me a personal hearing before disposal of my appeal,

and the appellant as in duty bound shall ever pray.

Thanking you,

Yours faithfully,

Dated, Lucknow, Aishbagh, Guard 'C' Aishbagh, working at Lucknow Jn.
the 31st December, 1981.

TRUE COPY.

7/4/21/1981 4/18

अ. वि. वारेन्ट १०६ न्यू टॉर्क हाउसरेट इलावावाद,
लैंसिंग, न्यूयॉर्क

रिट्रिवर्सल नाम

आ. १९८२.

विद्या रंद्र वाण्डेर ---

,,, विटोनर

दर्शन

दूनिंग आफ़ इचि था आदि

,,, अपो०-पाटो०

दैन जर नाम - ५

लो. एक ३४१ यू० रस्ता १०१, आर० रेट, / ३२३/ ५०६ आ० वो०
लो. १२ बी.

ला० एटा १७०११०३१० लाय १४०२० बजे,

दिप० दूचना १७०११०३१० लाय १४०१० बजे जो० आर० पी०, लैन्सि

नायसो पुण्ड्रा १७०११०३१० लाय २१०३० बजे "

प्रादो० एस० एम० आन चिपूडे० एस० ई० झार० लैन्सि

अमित० जो० वो० रस० वाण्डेर गाँ० ई० लैन्सि।

आर० जो० श्री वो० एन० उमाध्याय० एस० गाँ० ई० लैन्सि।
इन० ई० आर० लैन्सि।

श्रीमान् जो०

निवेदन हेति जी० दू० ता० श्री श्री वो० एस०

वाण्डेर चादो पुण्ड्रा० एस० एम० आन चिपूडे० एस० ई० आर० लैन्सि
दैनान के ग्र० फ्र० मैं दूना दर दुरो लाई पर बोट किया तथा
नहीं गतौष दैर बला था।नहल मुलाचिल्ल० असल है। लैन्सि एन० श्री० आर०
राम प्रसाद जारी।लैन्सि एन० श्री० आर० वो०
17.11.81.

१७८

कल्पना वित्तीया
17.11.81.

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

WRIT PETITION NO. OF 1982

Vidya Shanker Pandey Petitioner

VERSUS

Union of India and others Opp. parties.

ANNEXURE - 6

NORTH EASTERN RAILWAY CONFIDENTIAL

NO. DOS/SS-2/81 DIVL. RAILWAY MANAGER'S OFFICE
LUCKNOW, DATED 14.7.1982.

Sri V.S. Pandey
Guard 'C', N.E. Railway,
Lucknow Jn.

THROUGH: STATION SUPLT./LJN

Sub: Disciplinary action against Shri V.S. Pandey
Guard 'C', N.E. Rly., Lucknow Jn.

Ref: Your appeal against the penalty of
dismissal dated 30th December 1981 to
DRM/LJN.

17/6
The appeal preferred by you against the orders
of dismissal has been carefully considered by the
DRM/LJN. The operative portion of the DRM's order is
given below:-

"Having gone through the papers, I am satisfied
that the Disciplinary Authority has applied his mind and
satisfied himself that it is not reasonably practicable
to hold an enquiry in the manner provided in the rules
and has recorded the reasons for coming to this conclu-
sion in his speaking order dated 3.12.81. According

1st M. 21/12/81 and 4/1/82

-: 2 :-

to provisions of Rule 14(ii) and Article 311(3) of the Constitution, the decision of the competent Authority as to the reasonable impracticability to hold an enquiry is final.

Shri Pandey has asked for a personal hearing to explain his conduct. After considering the circumstances of the case, I do not feel any useful purpose will be served by granting him any personal hearing.

After fully considering various points raised by Shri Pandey in his appeal and the relevant papers, I am satisfied that the penalty imposed is commensurate with the gravity of the offence committed.

The appeal is, therefore, rejected."

Please acknowledge receipt.

Sd/- A.K. DAS
14.7.82
(A.K. DAS)
SR. DIVL. OPERATING SUPNT.
LUCKNOW.

TRUE COPY

14/7/82
A.K. DAS

7/8

2 RS



1982
AFFIDAVIT
23
HIGH COURT
ALLAHABAD

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

WRIT PETITION NO. OF 1982

Vidya Shanker Pandey Petitioner

VERSUS

Union of India and others Opposite
Parties.

3
17/8/82

LUCKNOW DATED:
AUGUST 17, 1982.

DEPONENT.

1982/21/416

A-48 - 39

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

WRIT PETITION NO. OF 1982

Vidya Shanker Pandey Petitioner

VERSUS

Union of India and others Opp. Parties.

AFFIDAVIT

I, Vidya Shanker Pandey, aged about 46 years, son of Sri V.N. Pandey, resident of village and post Daultabagh, District Azamgarh working as Guard 'C1, N.E. Railway at Headquarters, Aishbagh, Lucknow do hereby solemnly affirm and state as under:-

1. That the deponent is the Petitioner in the above Writ Petition and as such he is fully conversant with the facts of the case.

2. That the contents of paras 1 to 21 of the Writ Petition are true to my own knowledge, except the legal averments which are believed to be true on the basis of legal advice.

3. That the Annexures to the Writ Petition are

...

A-49 WR
TO

true copies of the originals.

14/11/1982

LUCKNOW DATED:
AUGUST 17, 1982.

DEPONENT.

VERIFICATION

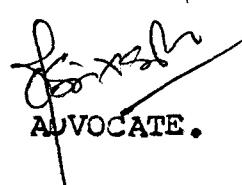
I, the abovenamed deponent do hereby verify that the contents of paras 1 to 3 of this Affidavit are true to my own knowledge. Nothing material has been concealed and no part of it is false. So help me God.

LUCKNOW: DATED,
AUGUST 17, 1982.

DEPONENT.

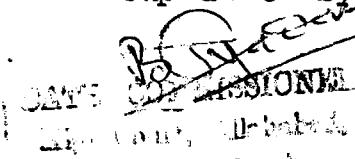
14/11/1982

I identify the deponent who has signed before me.


Advocate.

Solemnly affirmed before me on 17.8.1982 at 9.20 AM/AM by the deponent who has been identified by Sri O.P. Srivastava, Advocate, Allahabad High Court, Lucknow Bench, Lucknow.

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


NOTARY PROFESSIONAL
SRI O.P. SRIVASTAVA
Advocate, Allahabad High Court

398123

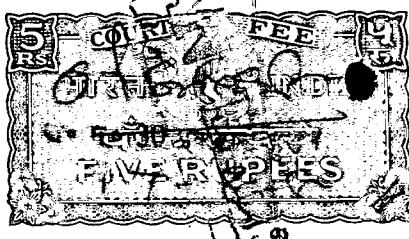
17-8-82

In the Monroe High Cut of Ind. with
Linton Bemis, March 2/

ब अदालत श्रीमान

महोदय

वादी(मुद्दी) Petition No. ८८८०-१९८२
 प्रतिवादी (मुहायलेह) का वकालतनामा



1 C F. Rs 5.00
18/8

V.  Pandey
(Vidya Shankar) बनाम Tel

वादो (सुहृद्दी)

Union of India राष्ट्रवादी (मुहालेह)

नं० मुकद्मा सन् १६ पेशी की ता० १६ ई०
ऊपर लिखे मुकद्मा में अपनी ओर से श्री

O. f. संवादी नव एडवोकेट
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 जनाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रूपया वसूल करें या सुलहमामा 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 रूपया जमा करें या हमारी या विपक्ष (फरीकसानी) का दाखिल किया रूपया अपने या हमारे हस्ताक्षर-युक्त (दस्तखती) रसोद से लेवें या पंच नियुक्त करें - वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी स्वयं या किसी अपने पैरो-कार को भेजता रहूगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी में वकील पर नहीं होगी । इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे ।

हस्तान्तर

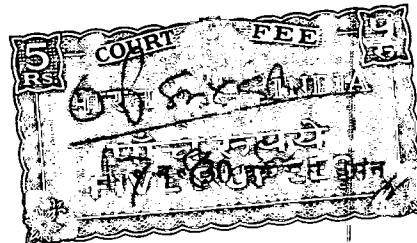
साक्षी (गवाह) 17 साक्षी (गवाह) १७ दिनांक महीना १५८

A-5/3

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
SITTING AT LUCKNOW

C.M. AN. NO. 79678 (W) OF 1982

IN RE: SC/204
WRIT PETITION NO. 1982



Vidya Shanker Pandey, aged about 46 years, son of Sri V.N. Pandey, resident of Village and post Daultabagh, District Azamgarh working as Guard 'C', N.E. Railway, at Headquarters, Aishbagh, Lucknow. Petitioner - Applicant.

VERSUS

1. Union of India, through its General Manager, N.E. Railway, Gorakhpur.
2. Divisional Railway Manager, Ashok Marg, Lucknow.
3. Senior Divisional Operating Superintendent (Sri A.K. Das), N.E. Railway, Ashok Marg, Lucknow.
4. Station Superintendent, (Sri Nand Lal), N.E. Railway Station Lucknow Junction, Lucknow

..... Opp. Parties.

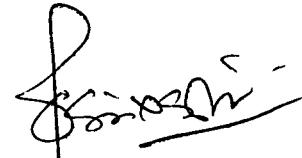
STAY APPLICATION

The abovenamed Petitioner-Applicant most respectfully begs to submit as under:-

...

A. S2
3
2

That for the facts, circumstances and reasons disclosed in the accompanying Writ Petition it is most respectfully prayed that this Hon'ble Court may graciously be pleased to stay the dismissal of the petitioner and direct the Opposite Parties to treat him in service during pendency of the Writ Petition. Further the Hon'ble Court may also be pleased to pass any such order ^{other} order which is found just, proper in the circumstances of the case, for this act of kindness the applicant shall ever pray.


(O.P. SRIVASTAVA)
ADVOCATE
COUNSEL FOR THE PETITIONER-
APPLICANT.

LUCKNOW DATED:
AUGUST 17, 1982.

18

A-53

In the Central Administrative Tribunal, Circuit Bench,
Lucknow.

T.A.No.1073 of 1987. (T).

Vidya Shanker Pandey. -----Petitioner
Versus
Union of India and others. -----Respondents.

Written Statement on behalf of Respondents.

I, S.K. Budhalakoti aged about 38
years, son of Sri G.D. Budhalakoti
Working as Sr. Divl. Ofc. Supdt. in the Office
of Divisional Railway Manager, N.E.Railway, Lucknow,
do hereby solemnly affirm and state as under :-

*filed today
S.K.
17/1/91*

1. That the deponent above named is working as Sr. Divl. Ofc. Supdt. N.E.Railway, Lucknow, and as such he is fully conversant with the facts and circumstances of the case and he has been authorised by the respondents to file this written statement on their behalf.
2. That in reply to para 1 of the writ petition, it is stated that the orders of dismissal from service contained in Annexure No.2 to the writ petition are only admitted. Rest of the allegations as alleged by the petitioner are denied. The orders of dismissal

गवर्नमेंट प्रिवेलन अधीक्षक,
पूर्वोत्तर रेलवे, लखनऊ

are legal, valid and were passed without prejudice.

3. That in reply to para 2 of the writ petition, it is only admitted that the petitioner was appointed on 7.11.1954. The rest of the contents of this para are denied.

4. That in reply to para 3 of the writ petition, it is stated that the petitioner was promoted as Guard (C)(330-530) on his turn according to quota of brakesman fixed for promotion as Guard (C) and continued as Guard (C) till his dismissal upto 4.12.1981. Statement contrary to it are denied.

5. That in reply to para 4 of the writ petition, it is stated that the petitioner was posted at Aishbagh Station as Guard (C). He was allotted a Railway Quarter No.71(C) at Aishbagh out of turn by Addl.Divisional Railway Manager/N.E.Railway, Lucknow, who was the competent authority to allot railway quarter out of turn. Rest of the allegations are denied.

6. That in reply to para 5 of the writ petition, it is stated that the contents of Annexure No.1 of the writ petition are admitted.

7. That the contents of para 6 of the writ petition are admitted to the extent that the

प्रवर मंडल परिवालन अधीक्षक,
पूर्वोत्तर रेलवे, लखनऊ

petitioner had submitted his explanation dated 30.11.1981 to the show-cause notice dated 18.11.1981. Rest of the contents of para are denied.

8. That in reply to para 7 of the writ petition, it is stated that the petitioner's explanation dated 30.11.1981 was considered by the disciplinary authority who having considered the circumstances of the case issued a speaking order for petitioner's dismissal from service. The orders of dismissal contained in Annexure No.3 of the writ petition are legal, valid and in accordance with the rules and law. The statements contrary to it are denied. A true copy of the order dated 3.12.1981 containing the reasons recorded by the disciplinary authority before arriving at the decision to dismiss the petitioner is annexed to this written statement and is marked as Annexure No.A-1.

9. That in reply to para 8 of the writ petition only petitioner's appeal dated 30.12.1981 (not 31.12.1981) against the order of dismissal is admitted. The rest of allegations made thereunder are denied.

४/८/१९८०
प्रवर मंडल परिचालन अधीक्षक,
पूर्वोत्तर रेलवे, लखनऊ

10. That the contents of para 9 of the writ petition, lodging of F.I.R. and pendency of the case are admitted.

11. That in reply to para 1C of the writ petition, it is admitted that the petitioner's appeal dated 30.12.1981 against the order of dismissal from service was rejected by the appellate authority and the same was communicated to the petitioner vide letter No.DOS/SS-2/81 dated 14.7.1982 which has been annexed as Annexure No.6 to the writ petition. The statements contrary to it are denied.

It is further stated that the appellate authority had fully considered the petitioner's appeal dated 30.12.1981 against his dismissal from service and having considered the circumstances of the case, he was satisfied with the penalty imposed on the petitioner by the disciplinary authority.

12. That the contents of para 11 of the writ petition are denied. It is stated that the petitioner was charged for assaulting Shri Nand Lal, Station Supdt./Lucknow Jn. on 17.11.1981 at about 12 hrs. and also on earlier occasions, the petitioner had trespassed into the residence of Shri Nand Lal, Station Supdt./Lucknow Jn. on 1.1.1981 and 8.9.1981 and abused him and also threatened him and his family. The statements of witnesses, Shri R.P.Shukla, Chief Reservation Supervisor/N.E.Rly., Lucknow, Sri R.B.Singh, Asstt.Station Master, N.E.Railway, Lucknow, and Shri B.K.Mehta, Fireman working as

प्रवर मंडन प्रा. १९/८/१९८१
पूर्वोत्तर रेलवे, लखनऊ
अधीक्षक,

Loco Supervisor, Lucknow Jn., were recorded which prove the petitioner's misconduct for assaulting the Station Supdt., who was on duty. The records will be produced at the time of hearing of the case.

13. That the contents of para 12 of the writ petition are denied. It is stated that the petitioner was given opportunity to explain his misconduct vide office letter No.DOS/SS-2/81 dated 18.11.1981 which was received by the petitioner, who had also submitted his representation dated 30.11.1981. It has been admitted by the petitioner in para 9 of the writ petition that a F.I.R. was lodged by the GRP/Lucknow and criminal case No.641 under Section 101 of Indian Railway Act and Section 323/506 I.P.C. is still pending in the Court of Munsif Magistrate, Lucknow. A true copy of the aforesaid letters dated 18.11.1981 and 30.11.1981 are annexed to this counter affidavit and are marked as Annexure No.A/2 and A/3 respectively.

14. That the contents of para 13 of the writ petition are denied. The statements given in foregoing paras 13 and 14 of this counter affidavit are reiterated. The reasons were recorded in writing by the disciplinary authority in invoking provisions of Rule 14(ii) of D.A.R. and for dispensing with the enquiry.

क्षेत्र मंडळ परिकल्पना अधीक्षक,
पुरोत्तर रेलवे, लखनऊ

15. That in reply to para 14 of the writ petition, it is stated that the disciplinary authority had passed a speaking order dated 3.12.1981 in which he had come to the conclusion that the action under Rule 9 of D.A.R. was not possible in the instant case. The petitioner had submitted his representation dated 30.12.1981 against the orders of disciplinary authority to the appellate authority who having carefully considered the same, came to the conclusion that the penalty of dismissal from service imposed on petitioner was commensurate with the gravity of the offence committed.

16. That the contents of para 15 of the writ petition are denied. The petitioner had committed a serious misconduct and penalty of dismissal from service was imposed on the petitioner in accordance with the statutory rules. The statements contrary to it are denied.

17. That in reply to para 16 of the writ petition, it is stated that the petitioner has no right to the notice proposing the penalty to be imposed upon the petitioner. The Rule 10(5)(b) of D & A Rules, 1968 has been modified vide Railway Board's Circular No. E/D & A/78 RG6-54 dated 24/29.11.1978.

प्रकर मंडल परिषद्वालन अधीक्षक,
पूर्वोत्तर रेलवे, लखनऊ

18. That the averments made in para 17 of the

writ petition are denied. It is well settled law that pending trial of criminal case against an employee, the disciplinary authority can initiate departmental enquiries and impose punishment. The petitioner's misconduct has led to invoke the provisions of Rule 14(ii) of Rules, 1968 which has become inevitable in the present case. Statements contrary to it are denied.

19. That the averments made in para 18 of the writ petition are denied. The petitioner was given reasonable opportunity to explain the charges levelled against him vide Sr.Divil.Optg.Supt., Lucknow Jn. letter No.DOS/SS-2/81 dated 18.11.1981 to the petitioner. It had become inevitable to take recourse to Rule 14(ii) of DAR 1968. The statements contrary to it are denied.

20. That the contents of para 19 of the writ petition are not admitted as alleged by the petitioner. The appellate authority had considered the circumstances of the case and recorded his reasons for upholding the decision of the disciplinary authority.

प्रवर्मन परिवर्तन अधीक्षक,
पूर्वांतर रेतवे, लखनऊ

21. That the contents of para 20 of the writ petition are denied. The petitioner has been dismissed from service, he is not entitled for any subsistence allowance.

22. That the contents of para 21 of the writ petition are admitted to the extent that the petitioner has exhausted the alternative remedy of appeal available to him under Rule 18 of DAR, 1968. The statements contrary to it read with the grounds thereunder are not admitted. The grounds taken by the petitioner are not tenable in law.

23. That the petitioner is not entitled to the directions prayed from this Hon'ble Court and the writ petition is liable to be dismissed.

Lucknow, dated,
18.7.90

Verification.

I, the deponent above named do hereby verify that the contents of para 1 of this written statement are true to my personal knowledge and those of paras 2 to 23 are believed by me to be true on the basis of records and legal advice.

Signed and verified this

10th July
day of June,

1990 at Lucknow.

प्रत्र मंडल परिचालन अधीक्षक,
पूर्वोत्तर भारतीय लखनऊ

A/61

Sub:- Disciplinary action against
Sri V.S.Pandey, Guard 'C'/LJN.

Shri V.S.Pandey, Guard 'C' Lucknow Jn. was served with a notice vide this office letter No. DOS/SS-2/81 dated 18.11.81, to explain his misconduct. He was charged for entering into the chamber of SS/LJN on 17/11/81 at about 12.00 hrs. and assaulting Shri Nand Lal, SS/LJN in the presence of Shri R.P.Shukla, Chief Reservation Supervisor. On an earlier occasion on 1/1/81, Shri V.S.Pandey had trespassed into the residence of Shri Nand Lal and abused him and threatened him. Shri Pandey had also abused Shri Nand Lal on 8/9/81 at about 21.00 hours in the latter's chamber.

Shri V.S.Pandey in his reply dated 30.11.81 has denied the charges.

I have given serious thought to the action that should be taken against Shri Pandey about his misconduct on 8/9/81 and 17/11/81. Shri Pandey from time to time has threatened and even assaulted Shri Nand Lal, a Gazetted Officer. It is imperative that such conduct should be put down with a heavy hand. Action under Rule 14(2) of the DAI has become inevitable in this case as Shri Pandey is not likely to participate in the enquiry under Rule 9 of the DAR 1968.

Taking a dispassionate view of misconduct and other charges levelled against Shri V.S.Pandey, as mentioned in this office letter No. DOS/SS-2/81 dated 18/11/81, I have come to conclusion that action under Rule 9 is not possible. There is no alternative but to deal him under Rule 14(2). Reasonable opportunity has already been extended to Shri V.S.Pandey. Under the circumstances he should be dismissed from the service with immediate effect. N.I.P. should be issued to Shri V.S.Pandey, Guard 'C' accordingly.

(Signature)
Sr. DOS/LJN.
3.12.81

प्रवर मंडल परिवार अधीक्षक
पूर्वांतर सिलवे, लखनऊ
18/12/81

NORTH EASTERN RAILWAY

A-62

No. DOS/33-2/81

DIVL. RAILWAY MANAGER'S OFFICE
LUCKNOW, DATED 18/11/1981

Shri V.S. Pandey,
Guard 'C',
N.E.Railway,
Lucknow.

It is reported that on 17/11/1981, at around 12.00 Hrs. you entered the chamber of Shri Nand Lal, Station Supdt., N.E.Railway, Lucknow Jn., while he was discussing with Shri R.P. Shukla, Chief Reservation Supervisor/LJN, and assaulted Shri Nand Lal. You also tried to drag Shri Nand Lal, out of the office and threatened Shri Nand Lal that you would not leave him and his family alive.

It is learnt that on earlier occasion, on the mid-night of 1/1/81, you had trespassed into the residence of Shri Nand Lal, abused him and also threatened him and his family. Again on 8/9/81, at about 20.00 hrs. you had abused Shri Nand Lal in his chamber and had tried to assault him.

Please offer your explanation within seven days from the date of receipt of this letter as to why disciplinary action should not be taken against you.

Please acknowledge receipt of this letter.

Officer
(A.K. DAS)
St. DIVL. OPTG. SUPDT.?
N.E. RAILWAY
LUCKNOW.

11/11/81
ल परिचालन अधीक्षक
निवार रेलवे, लखनऊ

10/c

To

The Sr. Divl. Optg. Supdt,
N.E. Railway
Lucknow.

Annexure No. 3

A-63

Ref:- Your office No. DOS/SS-2/81 dated 18.11.81
recieved by me through postal registered
cover on 28.11.81.

Sir,

Respectfully I beg to explain as under:-

That it is quite incorrect that I entered in the chamber of Shri Nand Lal, SS/LJN on 17.11.81 at 12.00 hrs, abused, assaulted and threatened him. It has been my bad luck that my immediate superior SS/LJN Shri. Nand Lal has been in habit of reporting something against me right from allotment of a quarter which was ultimately allotted to me by MYSELF the DRD/LJN against the report of SS/LJN to this report as alleged in your aforesaid letter reason best known only to the reporting agency. I totally deny the charges. For your information Shri. Nand Lal SS/LJN has also lodged F.I.R. against me in G.R.P. Lucknow based on which a court case is pending against me.

As alleged in your second para of the above letter that on 1.1.81. and 8.9.81 I trespassed into the residence of Shri. Nand Lal abused and tried to assault at both occasions is totally incorrect as such it is denied in toto with a demand of high power inquiry which can reveal the real fact of motivated false reporting made against me.

Last but not least it is very humbly stated to you that misunderstanding existing between SS/LJN and myself have now been removed on 21.11.81. where I have convinced him about my innocence to which he has agreed. Thus it is prayed that in light of compromise made case may kindly be dropped. I hereby assure you to remain always disciplined in future.

Thanking you.

Faithfully yours,

V.S. Pandey

(V.S. Pandey)

Guard 'C'/ASF
Wkg at LJN.

30.11.1981.

Dated.....

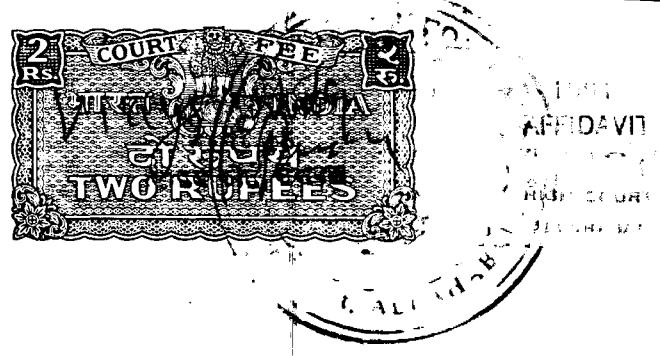
प्रवर मंडल परिचालन अधीक्षक
पूर्वोत्तर रेलवे, लखनऊ
18/7/90

A-64

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH,
LUCKNOW

T.A. NO. 1073 OF 1987(I)

21.11.92



Vidya Shankar Pandey

... Petitioner

Versus

Union of India & others

... Respondents

REJOINDER ON BEHALF OF THE PETITIONER

*Filed today
Shri
12/12/92*

I Vidya Shankar Pandey aged about 55 years son of Shri VN Pandey, resident of Village and Post Daulatbagh, District Azamgarh do hereby solemnly affirm state as under:-

1. That the petitioner has read the contents of written statement submitted on behalf of the respondents and understood the same.
2. That the contents of para 2 of the written Statement are denied and those of para 1 of the Writ Petition are reiterated.



12/12/92 and 412

3. That the contents of para 3 of the Written Statement are denied and those of para 2 of the Writ Petition are reiterated.
4. That the contents of para 4 of the Written Statement are wrong and are denied and those of para 3 of the Writ Petition are reiterated.
5. That the contents of para 5 of the Written Statement are wrong and are denied and those of para 4 of the Writ Petition are reiterated.
6. That the contents of para 6 of the Written Statement needs no reply.
7. That the contents of para 7 of the Written Statement are wrong and are denied as alleged and those of para 6 of the Writ Petition are reiterated.
8. That the contents of para 8 of the Written Statement are wrong and are denied and those of para 7 of the Writ Petition are reiterated. The order of dismissal is illegal, invalid and against the statutory provisions. The copy of the order dated 3rd Dec., 1981 was not served on the petitioner and the order dated 3rd Dec., 1981 sent by Shri AK Singh, Senior Divisional Operating Superintendent was served on the petitioner, ~~as-answ~~ which is annexed as Annexure 3 to the Writ Petition.



1981/2121/413

9. That the contents of para 9 of the Written Statement are wrong and are denied and those of para 8 of the Writ Petition are reiterated.
10. That the contents of para 10 of the Written Statement as stated are wrong and are denied and those of para 9 of the Writ Petition are reiterated. Criminal case is still pending against the petitioner and the same is liable to be quashed as sufficient time has expired and nothing has been done so far.
11. That the contents of para 11 of the Written Statement are wrong and are denied as stated and those of para 10 of the Writ Petition are reiterated. The impugned order is without jurisdiction and against the Principle of natural justice.
12. That the contents of para 12 of the Written Statement are wrong and are denied as stated and those of para 11 of the Writ Petition are reiterated. The impugned order is without jurisdiction and against the principle of natural justice.
13. That the contents of para 13 of the Written Statement are wrong and are denied and those of para 12 of the Writ Petition are reiterated.
14. That the contents of para 14 of the Written Statement are wrong and are denied and those of para 13 of the Writ Petition are reiterated.



14/12/2014/15

The unreasoned order passed by the disciplinary authority has got no legal sanctity and it deserves to be quashed.

15. That the contents of para 14 and 15 of the Written Statement are wrong and are denied and those of para 13 and 14 of the Writ Petition are reiterated. The petitioner has not committed any mis-conduct as alleged and the order of dismissal imposed upon the petitioner is illegal and invalid.
16. That the contents of para 16 and 17 of the Written Statement are wrong and are denied and those of para 15 and 16 of the Writ Petition are reiterated.
17. That the contents of para 18 to 21 of the Written Statement are wrong and are denied and those of para 17 to 20 are reiterated. The Opposite Parties/respondents have failed to follow the legal procedure and awarded the punishment which against the statutory requirement and the petitioner is not at all guilty and the order of dismissal is bad in law.
18. That the contents of para 22 of the Written Statement are ~~reiterated~~ wrong and are denied and those of para 21 of the Writ Petition are reiterated. The Writ Petition is quite maintainable and deserves to be allowed.



14/12/2018

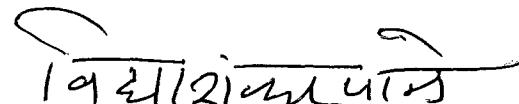
A. (c)

5.

19. That the contents of para 23 of the written Statement are wrong and are denied the Writ Petition is liable to be allowed with cost. Further the written Statement submitted by the Senior Divisional Operating Superintendent cannot be read for deciding the controversy between the parties as said Shri SK Budhlakoti has got know right or authority to send and verify the Written Statement and he is not conversant with the facts.

Lucknow, dated;

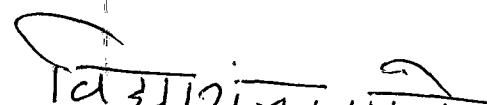
22 Nov., 1991


Vidya Shankar Pandey
PETITIONER

VERIFICATION

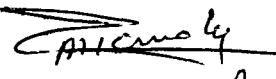
I, Vidya Shankar Pandey, the above named petitioner do hereby verify that the contents of para 1 to 19 of the Rejoinder are true to my knowledge and those of paras 19 are believed to be true by me.

Signed and verified this 22 th day of November, 1991, at Lucknow.


Vidya Shankar Pandey
PETITIONER

I identify the deponent who has signed before me and he is personally known to me.

On 22-11-91
at 12.56 P.M.
I, M.P. Pandey, Advocate
High Court Lucknow
do solemnly declare that the contents of the affidavit
of this affidavit with regard to the facts
stated by me is true and correct.


(M.P. Pandey,
Advocate)

C. P. RISKA
Advocate Court of Session
High Court Lucknow
22-11-91

29-11-91

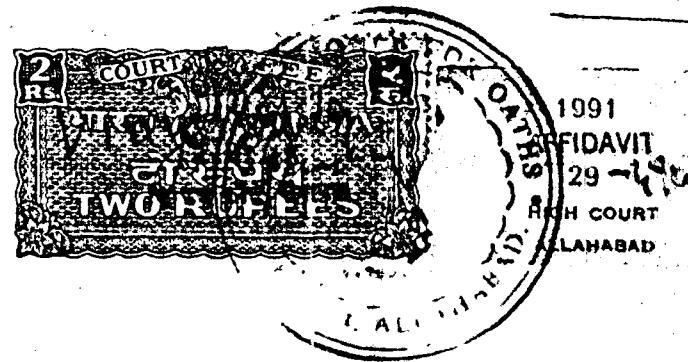
22-11-91

A-69

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH
LUCKNOW

T.A. NO. 1073 OF 1987(T)

21.11.92



Vidya Shankar Pandey

... Petitioner

Versus

Union of India & others

... Respondent

REJOINDER ON BEHALF OF THE PETITIONER

I Vidya Shankar Pandey aged about 55 years son of Shri VN Pandey, resident of Village and Post Daulatbagh, District Azamgarh do hereby solemnly affirm state as under:-



1. That the petitioner has read the contents of written statement submitted on behalf of the respondents and understood the same.
2. That the contents of para 2 of the Written Statement are denied and those of para 1 of the Writ Petition are reiterated.

17/21/2013

AFC

3. That the contents of para 3 of the Written Statement are denied and those of para 2 of the Writ Petition are reiterated.
4. That the contents of para 4 of the Written Statement are wrong and are denied and those of para 3 of the Writ Petition are reiterated.
5. That the contents of para 5 of the Written Statement are wrong and are denied and those of para 4 of the Writ Petition are reiterated.
6. That the contents of para 6 of the Written Statement needs no reply.
7. That the contents of para 7 of the Written Statement are wrong and are denied as alleged and those of para 6 of the Writ Petition are reiterated.
8. That the contents of para 3 of the Written Statement are wrong and are denied and those of para 7 of the Writ Petition are reiterated. The order of dismissal is illegal, invalid and against the statutory provisions. The copy of the order dated 3rd Dec., 1981 was not served on the petitioner and the order dated 3rd Dec., 1981 sent by Shri AK Singh, Senior Divisional Operating Superintendent was served on the petitioner, ~~as-answ~~ which is annexed as Annexure 3 to the Writ Petition.

9. That the contents of para 9 of the Written Statement are wrong and are denied and those of para 8 of the Writ Petition are reiterated.
10. That the contents of para 10 of the Written Statement as stated are wrong and are denied and those of para 9 of the Writ Petition are reiterated. Criminal case is still pending against the petitioner and the same is liable to be quashed as sufficient time has expired and nothing has been done so far.
11. That the contents of para 11 of the Written Statement are wrong and are denied as stated and those of para 10 of the Writ Petition are reiterated. The impugned order is without jurisdiction and against the Principle of natural justice.
12. That the contents of para 12 of the Written Statement are wrong and are denied as stated and those of para 11 of the Writ Petition are reiterated. The impugned order is without jurisdiction and against the principle of ~~that xxxxx~~ natural justice.
13. That the contents of para 13 of the Written Statement are wrong and are denied and those of para 12 of the Writ Petition are reiterated.
14. That the contents of para 14 of the Written Statement are wrong and are denied and those of para 13 of the Writ Petition are reiterated.



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The unreasoned order passed by the disciplinary authority has got no legal sanctity and it deserves to be quashed.

15. That the contents of para 14 and 15 of the Written Statement are wrong and are denied and those of para 13 and 14 of the Writ Petition are reiterated. The petitioner has not committed any mis-conduct as alleged and the order of dismissal imposed upon the petitioner is illegal and invalid.
16. That the contents of para 16 and 17 of the Written Statement are wrong and are denied and those of para 15 and 16 of the Writ Petition are reiterated.
17. That the contents of para 18 to 21 of the Written Statement are wrong and are denied and those of para 17 to 20 are reiterated. The Opposite Parties/respondents have failed to follow the legal procedure and awarded the punishment which against the statutory requirement and the petitioner is not at all guilty and the order of dismissal is bad in law.
18. That the contents of para 22 of the Written Statement are ~~misconstrued~~ are wrong and are denied and those of para 21 of the Writ Petition are reiterated. The Writ Petition is quite maintainable and deserves to be allowed.

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19. That the contents of para 23 of the written Statement are wrong and are denied the Writ Petition is liable to be allowed with cost. Further the written Statement submitted by the Senior Divisional Operating Superintendent cannot be read for deciding the controversy between the parties as said Shri SK Budhlakoti has got know right or authority to send and verify the Written Statement and he is not conversant with the facts.

Lucknow, dated;

22 Nov., 1991

Vidya Shankar Pandey
PETITIONER

VERIFICATION

I, Vidya Shankar Pandey, the above named petitioner do hereby verify that the contents of para 1 to 19 of the Rejoinder are true to my knowledge and those of paras 19 are believed to be true by me.

Signed and verified this 22 th day of November, 1991, at Lucknow.

Vidya Shankar Pandey
PETITIONER

I solemnly declare that the document who has signed before me and he is personally known to me.

22-11-91
Vidya Shankar Pandey
M. P. Pandey A.A.
High Court Lucknow

Parimally
(M. P. Pandey)
Advocate

12.56 P.M.
Date of birth
of the petitioner
excluded by the
undersigned
of

C. P. MISRA
Adv. Commisioner
29-4-90
Date 22-11-91

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 2387 of 1982 C-21

vs.

| Date | Note of progress of proceedings and routine orders | Dated of which case is adjourned |
|---------|---|---|
| 1 | 2 | 3 |
| 18.8.82 | <p><u>Hukum Singh v. Ram</u>, Petition filed 21/4 S. 1111 Sivastava 18.8.82</p> | |
| 14.8.82 | <p><u>Dinabandhu Singh v. C. P. D.</u> Petition for Judgment</p> | |
| | <p><u>S. 1111 Sivastava</u> 10.8.82</p> | |
| 18.8.82 | <p><u>Caran Singh v. C. P. D.</u> Petition filed 21/4 S. 1111 Sivastava 10.8.82</p> | |
| 14.8.82 | <p><u>Hukum Singh v. Ram</u>, Petition filed 21/4 S. 1111 Sivastava 10.8.82</p> | |
| | <p><u>Caran Singh v. C. P. D.</u> Petition filed 21/4 S. 1111 Sivastava 10.8.82</p> | |

ORDER SHEET
IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD
No. 2554

— of 198

No. 5259

-Y.S.

| Date | Note of progress of proceedings and routine orders | Dated of which case is adjourned |
|---------|---|---|
| 1 | 2 | 3 |
| 22-1-89 | <p><u>Report</u></p> <p>19/1/89. Notice served to file in Chancery, Alvecode, Malayalee Proceedings</p> <p>7-2- 22/1 22-1-89</p> <p><u>7-2-89</u></p> <p>On 22-1-89</p> | 3 |

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Circuit Bench, Lucknow. 6/80

No. CAT/AKC/Jud/ 1676 date the 21-3-90

T.A.No. 1676/1.....of 1990 (T)

.....V.M.Applicants.

Versus.

.....Respondents.

To

Whereas the marginally noted cases has been transferred by6.1.6.....under the provision of the Administrative Tribunal Act 13 of 1935 and registered in this Tribunal as above.

Writ petition No. 1676/1.....
of 19.....
of the Court of.....
.....arising out of
of order dated.....
passed by.....in
.....

The Tribunal has fixed date
of 27.3.1990. The
hearing of the matter.
If no appearance is made
on your behalf by your some one
duly authorized to act and Plead
on your behalf.

The matter will be heard and decided in your
absence. Given under my hand seal of the Tribunal this
.....day of3.....1990.

DEPUTY REGISTRAR

Bhartiya

Atulya Shukla

11/11/90

③ Shri o P Srivastav Adv

667 Cid. Nidha Mayer Noida-2

AKC

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Circuit Bench, Lucknow.

No. CAT/AKO/Jud/ 327 date the 23-3-90

T.A. No. 1.073/87 of 1990 (T)

.....V. S. Panday.....Applicants.
Versus.

.....Union of India.....Respondents.

(3) Divisional Railway Manager Ashotra Marg
Uttarakhand

Whereas the marginally noted cases has been transferred
byunder the provision of the Adminis-
trative Tribunal Act 13 of 1985 and registered in this Tri-
bunal as above.

Writ petition No. 3884/82
of 19.....
of the Court of N.C. Lucko...
.....arising out of
of order dated.....
passed by in
.....

The Tribunal has fixed date
of 27/4/90.....1990. The
hearing of the matter
if no appearance is made
on your behalf by our some one
duly authorised to Act and Plead
on your behalf.

The matter will be heard and decided in your
absence. Given under my hand seal of the Tribunal this
21 day of 23.....1990.

16/2/90
DEPUTY REGISTRAR

Bhartiya

(4) Divisional ~~the~~ operating Superintendent
(A.K. Das) N. E. Railway Ashotra Marg Lucknow

(5) Station Superintendent (Nand Lal)
N. E. Railway station Lucknow
Junction Lucknow

NS, CCS

VAKALATNAMA

Before
in the Court of

In The Central Administrative Tribunal
Circuit Bench, Lucknow
TAN. 10730-87(T)

Plaintiff
Defendant

Defendant
Plaintiff

V. S. Pandey

Versus

Union of India & Others

Claimant
Appellant

Petitioner
Respondent

The President of India do hereby appoint and authorise Shri..... A. N. Verma,.....
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..... A. N. Verma
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

NLR-84850400-000-4764

(C. K. K. Shrivastava)

Designation of the Executive Officer,

Sr. Div. Personnel Officer

MERLY

Lucknow -

For Union of India

Accepted
R. S. Pandey
For Union of India

VAKALATNAMA

Before
In the Court of

In The Central Administrative Tribunal
Circuit Bench, Lucknow.

TAT No. 1073 of 1987 (I)

V. S. Pandey

Versus

Union of India & others.

I/We K.P. Singh, Dir. Rly. Manager, NERly, Lucknow

A. Lal Sr. Dir. Optg. Subdt., NERly, Lucknow

do hereby appoint and authorise Shri A. N. VERMA

Railway Advocate, Lucknow to appear, act apply and prosecute the above described Writ/Civil Revision/Case/Suit/Applicaion/Appeal on my/our behalf, to file and take back documents, to accept processes of the Court, to deposit moneys and generally to represent myself/ourselves in the above proceeding and to do all things incidental to such appearing, acting, applying, pleading and prosecuting for myself/ourselves.

I/We hereby agree to ratify all acts done by the aforesaid Shri A. N. VERMA

Railway Advocate, Lucknow

.....in pursuance of this authority.

IN WITNESS WHERE OF these presents are duly executed by me/us this.....

...../..... day of..... 198...

(Amitabh Lal)
Sr. Dir. Optg. Subdt.
N.E.Rly
Lucknow

Accepted
A. Lal

NER-84850400-8000-4784

(K.P. Singh)

Accepted 4/4
K.P. Singh

ब अदालत शीमान On the Central Administrative Tribunal.
 [वादी अपीलान्ट] महोदय
 [श्री... Applicant] का वकालतनामा
 प्रतिवादी [रेस्पाइन्ट]



वादी (अपीलान्ट)

V. S. PANDY

UNION OF INDIA वनाम

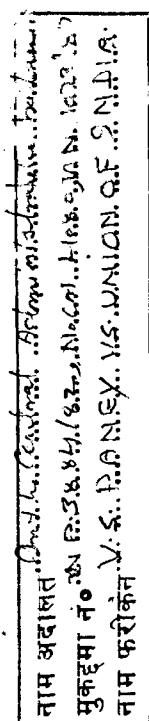
प्रतिवादी (रेस्पाइन्ट)

W.P. नं० मुकदमा ३४४५ सन् १९४२- पेशी की ता० २७/६ १६१० ई०
 NO. C.A.T. ५०४०
 T.A.N. १०७३१८७
 ऊपर लिखे मुकदमा में अपनी ओर से श्री Vijai Krishna Srivastava

वा० M. P. Pandey

Hyderabad, Andhra

वकील
महोदय
एडवोकेट



को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया लसूब करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करे मुकदमा उठावे या कोई रुपया जमा करे या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करे—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा से यह भी स्वीकार करता हूं कि हर पेशी पर स्वयं या किसी अपने परोक्तार को मेजता रहेंगा अगर मुकदमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर २८/६/१९४२ द्वारा

साक्षी (गवाह) साक्षी (गवाह)

दिनांक महीना — — — — सन् १६ ई०
 स्वीकृत

Accepted
M. P. Pandey
Vishnu A.