

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOW

ANNEXURE

INDEX SHEET

CAUSE TITLE OA 70 OF 1988

NAME OF THE PARTIES Mohd Shamim

Applicant

Versus

U.O. I.B.M.

Respondent

Part A, B & C

Sl. No.	Description of documents	Page
1.	Check list	A - to A1
2	order sheets	A2 to A6
3	Final judgment dt. 21-5-92	A7 to A9
4	Copy of Petition / measure / power	A10 to A80
5	CM. NO-18/89 C/A application	A81 to A89
6	objection	A90 to A94
7	Rejoinder	A95 to A103
8	MA. NO. 50/92 Suppl. Affidavit	A104 to A115
9	Counter Affidavit	A116 to A126
10	Rejoinder	A127 to A142
11	Notice, Power	A143 to A145
12	order copy, Notice, Power	A146 to A151
13		

CERTIFICATE

Certified that no further action is required to taken and that the case is fit for consignment to the record room (decided) Part. B/C Weeded out / destroyed

Dated 13-2-13

Counter Signed.....



Section Officer / In charge

Signature of the  
Dealing Assistant

22/7  
A  
CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No.

70

of 1980

APPLICANT (s)

Mohd. Shami

RESPONDENT(s)

G.M. N.E. Rly. & others.

Particulars to be examined

Endorsement as to result of Examination

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

no

yes

yes

7 Complete sets of the application have been filed.  
no. A fresh application for condoning the delay has also been submitted.  
Delay of about 7 months.

yes

yes, but the stamp is from B. D. only instead of B. D.

yes, DD 828460 dt. 20/4/80

yes

yes

yes

Order Sheet.

Edo (L)

mohd. Shemi vs. U. of S.

A 2

(1)

on the request of Counsel for the applicant, the case is adjourned to 22/8/88, put up before Division Bench for admission on 22/8/88

32  
A.M.  
Q22  
7

(2)

22.8.88 for Admission

22.8.88. Hon. A. Johri, A.M.

List this case on 25.8.88 for hearing on admission.

32  
A.M.

7

(3)

25.8.1988

Hon. Ajay Johri, AM  
Hon. G. S. Sharma, JM

Heard Sri S.K. Tripathi, learned Counsel for the applicant.

Issue notice to the respondents to show cause as to why the petition be not admitted and delay condoned, within a month. Put up on 26.10.1988 for admission.

Notice issued  
for 26.10.88

JM

32  
AM

25.8.1988  
KUP

Notice issued to respondents No 1 to 5-  
1000 Regd. Post. dated 26.10.88 for admission  
for 26.10.88

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH AT LUCKNOW.

A3

\*\*\*\*

O.A./T.A. No. 70 1988(1-)

Mohd Shemi

Applicant(s)

Versus

Union of India

Respondent(s)

Sr. No.	Date	Orders
(7)	27/1/89	No sitting. Adjourned to 21/2/89 for admission. <div style="text-align: right;">Am 27/1</div>
(8)	21/2	No sitting. Adjourned to 9-3-89 for admission. <div style="text-align: right;">Am 21/2</div>
(9)	9/3/89	<p>Hon. Justice Kamleshwar Nath, V.C. Hon. Ajay Joshi, J.</p> <p>The learned counsel for the respondents files objections on the application under Section 5 of the Limitation Act. On the request of the learned counsel for the applicant he is allowed an opportunity to file rejoinder and list for admission on 3/4/89.</p> <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div> <p>3/5</p> <p>Am.</p> <p>The learned counsel for the applicant has not been filed rejoinder, Submitted for admission</p> </div> <div style="text-align: right;"> <p>V.C.</p> <p>16/3</p> </div> </div>



CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. 70 of 1988

A 4

APPELLANT  
APPLICANT

Mohd. Sham

VERSUS

DEFENDANT  
RESPONDENT

002

Date of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
3/8/89	<p><u>Hon Justice K. Nath, V.C.</u></p> <p>No one has made appearance on behalf of opposite parties. The application was admitted on 17-4-89 after condoning the delay in its institution. The opposite parties were required to file counter on merits of the case which they have not done. <sup>claiming to be</sup> <del>Shri Narendra Nath</del> <sup>law</sup> Assistant of Opposite party No 2, however, requests for time to file counter and says that in the matter of T.C. of the applicant some fraud appears to have been committed which is under investigation. The opposite parties will have four weeks time to file reply on the merits of the case and list for further orders on 31-0-89.</p> <p style="text-align: right;">M V.C.</p>	<p>OR</p> <p>No reply filed submitted for on</p>
<p>31/0/89</p>	<p><u>Hon Justice K. Nath, V.C.</u></p> <p>Counter has not been filed. list for ex parte hearing on</p> <p style="text-align: right;">M V.C.</p>	<p>30/10</p> <p>No # reply filed submitted for ex parte hearing</p>

Hon' Mr P.C. Jain, A.M.

Hon' Mr J.P. Sharma, J.M.

31/5/90

Shri S.K. Tripathi counsel for the applicant and  
Shri Lalji Srivastava, Law Assistant of the Department  
are present. Learned counsel for the applicant  
prays for time for making submissions. List this  
case on 24.7.90. for hearing.



J.M.

(sns)

Clerk  
A.M.

OK

No CA filed.  
S.F.H.

L  
20/6/90

24.7.90

Due to Condolence of Sr S.M. Yusuf  
Adv. Case is adjourned. List the case  
before D.R. on 13.9.90 fixing  
the next date

Q  
Poe

29.10.90

No sitting Adj to

4.12.90

13/9/90

List this 29/10

Case for hearing

on 29/10/90

before the Hon'ble

Bench



13.9.90

11.12.90

No sitting Adj to 11.2.91

11.2.91

No sitting Adj to 25.4.91

Q

Am  
17/9/90

SKG to  
DS

No CA filed at the  
main application

25.4.91

D.R.

Applicant's side is

present. O.P. is absent

today. Respondent to file

Counter by 17/7/91

not filed



A.6

D. R.

applicant is present.

No appears for the O.P.

CA/RA have been  
exchanged. Hence,  
this case is listed  
for final hearing  
on 25/2/92.

25.2 92 No. Sling adjn 27.3 92

27.3 SL No 8. Aug 20. B. 20/20  
7.8' 92

7.5.82  
 NW. S. King of D. M. Appleton  
 21.5.82

CA, RA Love  
Gen-ed and  
SPH  
Lap

Judgment - dictated  
separately

22.6.92

Hon. Mr. Justice U. C. Sinhasawa - w.c.  
Hon. Mr. K. obayya - A.M.

No body is present. List again this case on 26.6.92 for hear orders.

ALM

V. C.

A7

CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH LUCKNOW.

Registration O.A. No. 70 of 1988 (L)

Mohd. Shamir ... Applicant.

Versus

General Manager, N.E. Railway,  
and others ... Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.  
Hon'ble Mr. K. Obayya, Member (A)

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

The applicant was appointed as Engine Cleaner in the year 1971. It was brought to the notice of the respondents that he has submitted a forged School Certificate showing to have passed Class-VIII from the 'Rashtriya Vidyalaya, Alambagh Lucknow and thereby succeeded in securing employment of Substitute Engine Cleaner from 30.10.1971 and Engine Cleaner from 17.8.1973 in the pay scale of Rs. 196-232 which has been alleged to be irregular. Accordingly, a charge-sheet was given to the applicant stating therein that he has violated the provisions of Rules 3(1)(i)(ii) & (iii) of the Railway Conduct Rules. An enquiry officer was appointed. The applicant's complaint is that he was not permitted to submit relevant documents in the office of the General Manager, Vigilance Gorakhpur. But, according to the respondents, he himself did not avail the facilities for the reasons best known to him. He did not inspect the relevant records, although he was spared and released for this very purpose. In this connection, three letters dated 29.8.1985, 3.10.1985 and 10.11.1985 were sent to him. Copies of which have been annexed with the counter affidavit. This matter was reported to the enquiry officer. The applicant was spared along with the defence assistant

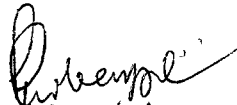
Contd ... 2p/-


for inspecting the documents, but he himself did not avail the same. The enquiry officer fixed various dates i.e. 19th February, 24th February, and 17th February. The applicant vide his applications dated 4.2.1986, 19.2.1986 and 24.2.1986 requested the enquiry officer for postponement of the enquiry to some other date and the same was acceded to on 17.3.1986 and thereafter despite intimation having been given to him, he did not attend or submit any formal request. Earlier he was asked on 4.2.1986 to submit his defence statement under rule 9(19) on 19.2.1986 but he did not do so. The applicant did not attend the enquiry or even informed about his whereabouts. When number of dates having been fixed and due intimation served and the applicant failed to attend or inform otherwise, the enquiry officer decided not to give further opportunity and has concluded ex-parte enquiry. It was thereafter, the disciplinary authority passed the dismissal order. The applicant, thereafter, filed an appeal. The appellate authority gave a personal hearing to the applicant and has given yet another opportunity to bring the documents. The applicant, thereafter did not avail the opportunity and the appeal was also dismissed.

2. According to the applicant, he was not given reasonable opportunity to defend himself and there were various documents which clearly prove that as a matter of fact The Rashtriya Vidyalaya, Alambagh existed and the applicant was a student of the same. Although, this was the matter for enquiry, but there was a great doubt that infact, no such institution existed and the certificate so filed was forged, therefore, it was the duty cast upon the applicant to prove the same. The complaint of the applicant that he was not given reasonable opportunity

A 9

to defend himself does not stand in as much as opportunities after opportunities were given to him but the applicant, it appears, himself avoided the same. The appellate authority has also given him an opportunity which he did not avail. The contention of the learned counsel for the respondents is that he never wanted to face the oral enquiry or to produce any document which may land him, yet in another difficulty to support his earlier document and infact, such an institution existed and he got the certificate issued by this institution appears to be forged. Any how, the applicant has failed to make out any case for interference, the application deserves to be dismissed. Accordingly, the application is dismissed with the above observations. Parties to bear their own costs.

  
Member (A)

  
Vice-Chairman.

Dated: 21.5.1992

(n.u.)

8/3

Registered

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

\*\*\*

P 206

6 to 240

No. CAT/CB/LKO/

Dated : 7/9/44

Registration No. 70 of 1938 (4)

\_\_\_\_\_ Applicant

Versus

\_\_\_\_\_ Respondent's

To

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please take notice that the applicant above  
named has presented an application a copy whereof is enclosed  
herewith which has been registered in this Tribunal and the  
Tribunal has fixed \_\_\_\_\_ day of \_\_\_\_\_ 1938 for

\_\_\_\_\_  
\_\_\_\_\_.

If no, appearance is made on your behalf, your  
pleader or by some one duly authorised to Act and plead on  
your in the said application, it will be heard and decided in  
your absence.

Given under my hand and the seal of the Tribunal  
this \_\_\_\_\_ day of \_\_\_\_\_ 1938.

For DEPUTY REGISTRAR

dinesh/

# VAKALATNAMA

THE CENTRAL ADMINISTRATIVE TRIBUNAL. AT ALLAHABAD  
CIRCUIT BENCH, GANDHI-BHAWAN, LUCKNOW  
Registration No. 70 of 1988 (L)

Mohd. Shami

Applicant

Versus

General Manager North Eastern Railway And others Respondent

Mr. R.K. Singh Dir. Railway Manager Add. Dir. Ry

Manager Vindhachal Singh Dir. Mech Engineer (Loco) S.M. Prasad M.M.E (Loco) N.E.R. Lucknow

do hereby appoint and authorise Shri. Umesh Chander, Krishna Chandra  
Yashovardhan Swarnup.

Railway Advocate, Lucknow to appear, act apply and prosecute the above described Writ/Civil Revision/Case/Suit/Application/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. Umesh Chander  
K. Chander Yashovardhan Swarnup Railway Advocate, Lucknow

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

(Vindhachal Singh)

198. 17/8/88  
R.K. Singh  
Add. Divisional Railway Manager  
N.E. Railway, Lucknow

(S.M. Prasad)

Chandra  
Advocate

NER-84850400-8000-4 7 84

Shri Umesh Chander & Advocate will appear on behalf of us



A/US

4.12.90

C283

# VAKALATNAMA

Central Administrative Tribunal Bench  
Lucknow

No. OA 70/88 (L)

Plaintiff  
Defendant

Mohd Shami

Claimant  
Appellant

Petitioner  
Respondent

Defendant  
Plaintiff

Versus  
Union of India

The President of India do hereby appoint and authorise Shri.....

Railway Advocate Lucknow

Anil Srivastava

..... 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 abandon wholly or partly the suit/appeal/claim/defence/proceeding against all or any defendants/respondents/appellants or 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 to arbitration PROVIDED THAT in exceptional circumstances when there is not sufficient time such appropriate Officer of the Government of India and an omission to settle or compromise definitely prejudicial to the interest of the Government of India and said Pleader/Advocate or Counsel 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.....

Railway Advocate Lucknow

in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed

India this the ..... day of ..... 198 .....

Dated ..... 198 .....

Accepted  
Anil Srivastava  
Adv

NER-84850400-8000-4 7 84

A10

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH : LUCKNOW

Registration No. of 1938

List the cases  
22.08.88  
for hearing for finalisation  
22788  
S.K. 22/88  
(18/)

I N D E X

IN

Application No. of 1938

District Lucknow

Mohd. Shami ... Applicant

Versus

General Manager N.E. Railway

and others ... Respondents

1-	Application (Petition)	1 to 15
2-	Annexure A-1	16 to 19
	Charge Sheet dated 4-3-1935	
3-	Annexure A1-1 and A2	20
4-	Annexure - 3	21
5-	Annexure - 4	22
6-	Annexure - 5	23

Letter No. M/CON/SS-51-25

dated 20.11.85 Meenagheh appointed  
as Enquiry officer.

-----2/-

S.K. Datta

- 7- Annexure - 6 24  
letter No. M/Com/SS-51/85  
dated 8/9-1-86 intimation of  
enquiry for 27-1-86.
- 8- Annexure - 7 25  
letter dated 12-5-86 to report  
DMO Aishbagh within 3 days.
- 9- Annexure - 8 26  
Appointment of Mr. O.P. Chaudhari  
and ulfat Rai as defence Counsel  
by the applicant.
- 10- Annexure - 9 27  
Covering letter for Annexure-10
- 11- Annexure - 10 28  
Counsel of Ulfat Rai to act  
as defence Counsel for  
applicant dated 28-11-85.
- 12- Annexure - 11 29  
Notice dated 17-11-86 to vacate  
the premises in applicant's  
possession No. L/15/F
- 13- Annexure - 12 30  
Show cause Notice u/s 4 and 7  
of P.P. Act 1/12/86
- 14- Annexure - 13 31  
Reply of Notice dated 1/12/86  
by the applicant.
- 15- Annexure - 14 32 to 36  
Enquiry proceeding made of  
enquiry officer Miss. Meena Shah.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

Lucknow-BENCH

Lucknow

CAUSE TITLE O. A. Review 527/ OF 1992 (L)  
T. A. (T)

Name of parties Mohd Shami Applicant's.

VERSUS

Union of India G. M. N. R. Respondents.

Sl. No.	Particular of Documents	No. of page
---------	-------------------------	-------------

Part - A

Check list.....to.

Order Sheet.....A to.

Final Judgment Dated.....(29-4-93) A1 to A2

Petition copy with power.....A3 to A6, A10

Annexure.....A7 to A9

Counter with power.....to.

Rejoinder with Annexure.....to.

Supplementary counter

Supplementary Rejoinder

Part - B

~~B. H~~ ~~BP~~

Part B - Deleted out / Destroyed

Rg

on

80(5)

Part - C

Review Application No. 527 of 92

Dated: 17.11.92

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

Hon'ble Mr. K. Ojaya, Member (A)

Issue notice to the parties returnable  
at an early date.

A.M.

V.C.

10/2

OK

Notice issued  
on 22-1-93  
R

Issue Notice to  
the Parties for  
10-2-93

OK

Applicant & of No 3  
have been served  
Admission record  
SLY

10.2.93

No summons adj to 29.3

29.3.93

Due to Sudden death of Sr  
Ex 32 Adv Commission to  
19.4.93

Dated: 19.4.93

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

Hon'ble Mr. V.S. Se A.M.

The learned Counsel want some sh  
time. List this case on 29.4.93. No fur  
adjournment shall be granted.

A.M.

V.C.

(rka)

37899

S.L.P. 17659/92 has been

OR

Dismissed. Order record

25.1.94. Place by  
Mr. V.K. Seth

the H  
W 33 94

A1

CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW.

...

Review Application No. 527 of 1992

In

O.A.No. 70 of 1988

Mohd. Shami ... .. Applicant.

Versus

General Manager, N.E. Railway,  
Gorakhpur and others ... .. Respondent.

...

Hon. Mr. Justice U.C.Srivastava, V.C.  
Hon'ble Mr. K.O Bayya, Member (A)


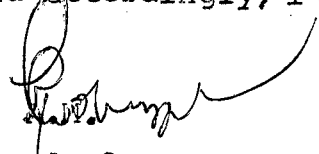
(By Hon. Mr. Justice U.C.Srivastava, V.C.)

In this review application, notices were issued to the counsel for the respondents. This review application is directed against our judgment and order dated 21.5.1992 passed in O.A.No. 70 of 1988. The case was heard and disposed of after hearing the counsel for both the parties. The review application has been sought on the ground that after dictation of the judgment, the further opportunity was sought by the applicant and the Hon'ble Tribunal had directed the applicant to file documents to indicate that Rastriya Vidyalaya, Alambagh did exist within 15 days and the judgment shall not be signed till then, and he has filed an affidavit for hearing of the case. The application was dismissed on the ground that full opportunity of hearing was given to him. According to the applicant there is no evidence on record to prove that the Rashtriya Vidyalaya was not in existence and certain material had

A2

- 2 -

ignored by the court. The scope of review application is limited and it does not mean rehearing of the case. Along with the review application, no such affidavit has been filed. If a party is not satisfied with the judgment, he should approach the superior court. The contention of the learned counsel for the applicant is with reference to certain documents which only indicates that at least there were certain un-registered Vidyalaya, is difficult to accept. Merely because it was mentioned that there was no such recognised institution, it cannot be taken to mean that infact, the institution is in existence and it was not registered. We have already considered all the relevant point but we do not find any force in the review application and accordingly, it is hereby rejected.

  
V.C.

Dated: 29.4.1993

(n.u.)

BENCH COPY

A3

In the Central Administrative Tribunal, Circuit Bench,  
Lucknow

Review Application No. 527 of 1992.

Central Administrative Tribunal

Circuit Bench Lucknow

Date of Filing 22/6/92

Date of Receipt by Registry

5118  
Deputy Registrar (U)

Mohd. Shani, aged about 43 years, son of Sri  
Mohd. Shafi, resident of quarter No. L 15 F,  
N. E. Railway Loco Colony Mawaiya, Lucknow.

.... Applicant.

Versus

1. General Manager, North Eastern Railway,  
Gorakhpur.
2. Divisional Railway Manager,  
North Eastern Railway, Lucknow.
3. Additional Divisional Railway Manager,  
North Eastern Railway, Lucknow.
4. Senior Divisional Mechanical Engineer  
(Loco) Northern Eastern Railway, Lucknow.
5. Assistant Mechanical Engineer,  
North Eastern Railway, Lucknow.

.... Respondents.

Application U/S 21 of the Central Administrative Tribunal  
Act, 1985 for review of the judgment dated 21/5/92 passed  
in Registration O. A. No. 70 of 1988 (L).

Filed today

cyf

22/6/92

The humble applicant states as under:-

1. That the judgment was dictated after hearing on  
21/5/92. Immediately thereafter the Counsel for the  
applicant made a request for further opportunity and  
the Hon'ble tribunal had directed the applicant to  
file documents to indicate that Rastriya Vidya aya  
Ambagh did exist within 15 days and the judgment  
shall not be signed till then.

meant

meant



Lucknow was not a recognised institution in January, 1981. Thus the conclusion arrived at by the enquiry officer, the Disciplinary authority and the Appellate Authority is legally vitiated. The similar is the fate of other two certificates dt. 19/8/82 and 26/8/82 mentioned at Serial No. 4, 5 and 6; and

(d) That there is no evidence on record to prove that Rastriya Vidya aya Ambagh, Lucknow was not in existence in 1961. The respondents did not discharge their burden of proof and the onus did not shift on the applicant.

4. That the respondents ignored the material evidence on record. Sri Y.N. Shukla, Chief Vigilance Inspector has stated in reply to question No. 1 by the Enquiry Officer as under -


"To the best of my knowledge, the recognition or non recognition of a school, does not have any effect in lower classes regarding the educational qualification."

This part of the statement remained un rebutted.

5. That the documents already filed by the applicant alongwith the application dt. 29/5/92 if taken into consideration would materially affect the finding of this Hon'ble Tribunal.

It is, therefore, most respectfully prayed that the judgment dt. 21/5/92 be reviewed and recalled and the entire matter be reheard on merits.

Lucknow,  
Dated: 22-6-92

  
Applicant.

2. That accordingly the applicant filed an affidavit on 29/5/92 alongwith an application for rehearing of the case. The applicant had submitted a copy of the bye-laws of the Society known as A Ambagh Shiksha Prasar Samiti which was running Rastriya Vidya aya A Ambagh, Lucknow. The applicant had also filed with the affidavit a copy of the registration form of the said society and an affidavit of Sri Tirath Singh who was one of the signatory on the registration form. These documents could not be placed earlier despite best efforts made by the applicant. It appears that the application dated 29/5/92 alongwith the affidavit was not placed before this tribunal immediately. This fact was disclosed to the applicant when he got the copy of the judgment on 5/6/92.

3. That the Hon'ble Tribunal <sup>ad</sup> dismiss the application of the applicant (O. A. No. 70 of 1988 (L) solely on the ground that sufficient opportunity of hearing was offered to the applicant and that the existence of Rastriya Vidya aya A Ambagh of which the applicant claimed to be a student was a matter for enquiry but there was a great doubt that in fact no such institution existed and the certificate so filed was forged, therefore, it was the duty cast upon the applicant to prove the same. This part of the finding recorded by the Hon'ble Tribunal is not supported by the material on record as detailed below:-

- (a) That the charge framed against the applicant was as under -

"Whereas Sri Mohd. Shami s/o Sri Mohd. Shafi functioning as Engine Cleaner from 1971 to 1978 submitted a forged school certificate shown to have passed class VIII from Rastriya Vidya aya, A Ambagh, Lucknow to the office of DM (P)/LJN and got

*Handwritten signature*

employment as Substitute Engine Cleaner on 30/10/71 and Engine Cleaner with effect from 17/8/73 in grade Rs. 196-232 on the basis of this school certificate, making him eligible for appointment as Engine Cleaner in an irregular manner for which he was otherwise not eligible.

The above act of Sri Mohd. Shami shows lack of absolute integrity, his failure to maintain devotion to duty and an act unbecoming of a Railway servant which tantamounts to misconduct. He thereby, contravened Rule 3 (1) (i), (ii) and (iii) of Rly. Services (Conduct) Rules, 1966."

There is no mention of the allegation that the Rastriya Vidya aya Ambagh, Lucknow did not exist in 1961 and this fact has resulted in miscarriage of justice,

- (b) That the onus was on respondents to prove that the certificate submitted by the applicant was forged one and this burden of proof cannot be shifted on the applicant;
- (c) That in support of the charge against the applicant, one of the main document was the letter dated 1/1/81 sent by the Basic Shiksha Adhikari (Mahila) Lucknow stating that in connection with your letter dt. 13/12/80 it is pointed out that Rastriya Vidya aya Ambagh Lucknow is not a recognised institution. In the list of documents this document is described at Serial No. 3 as under -
- "Letter dt. 1/1/81 of Additional District Basic Shiksha Adhikari, Lucknow, mentioning that the institution name Rastriya Vidya aya Ambagh is not recognised." The authorities have committed mistake in interpretation of this document which is apparent on the face of record. This document does not mention that Rastriya Vidya aya Ambagh, Lucknow was not in existence in 1961; <sup>all that</sup> ~~although~~ it makes out is that Rastriya Vidya aya Ambagh-

Lucknow was not a recognised institution in January, 1981. Thus the conclusion arrived at by the enquiry officer, the Disciplinary authority and the Appellate Authority is legally vitiated. The similar is the fate of other two certificates dt. 19/8/82 and 26/8/82 mentioned at Serial No. 4, 5 and 6; and

(d) That there is no evidence on record to prove that Rastriya Vidyalaya Ambagh, Lucknow was not in existence in 1961. The respondents did not discharge their burden of proof and the onus did not shift on the applicant.

4. That the respondents ignored the material evidence on record. Sri Y.N. Shukla, Chief Vigilance Inspector has stated in reply to question No. 1 by the Enquiry Officer as under -

"To the best of my knowledge, the recognition or non recognition of a school, does not have any effect in lower classes regarding the educational qualification."

This part of the statement remained unrebutted.

5. That the documents already filed by the applicant alongwith the application dt. 29/5/92 if taken into consideration would materially affect the finding of this Hon'ble Tribunal.

It is, therefore, most respectfully prayed that the judgment dt. 21/5/92 be reviewed and recalled and the entire matter be reheard on merits.

Lucknow,  
Dated: 22-6-92

*[Signature]*  
Applicant.

(S) A7

CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH LUCKNOW.

Registration O.A. No. 70 of 1988 (L)

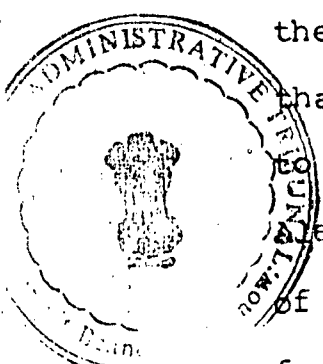
Mohd. Shamir ... Applicant.

Versus

General Manager, N.E. Railway,  
and others ... Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.  
Hon'ble Mr. K. Obayya, Member (A)

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



The applicant was appointed as Engine Cleaner in the year 1971. It was brought to the notice of the respondents that he has submitted a forged School Certificate showing to have passed Class-VIII from the 'Rashtriya Vidyalaya, Alambagh Lucknow and thereby succeeded in securing employment of Substitute Engine Cleaner from 30.10.1971 and Engine Cleaner from 17.7.1973 in the pay scale of Rs. 196-232 which has been alleged to be irregular. Accordingly, a charge-sheet was given to the applicant stating therein that he has violated the provisions of Rules 3(1)(i)(ii) & (iii) of the Railway Conduct Rules. An enquiry officer was appointed. The applicant's complaint is that he was not permitted to submit relevant documents in the office of the General Manager, Vigilance Gorakhpur. But, according to the respondents, he himself did not avail the facilities for the reasons best known to him. He did not inspect the relevant records, although he was spared and released for this very purpose. In this connection, three letters dated 29.8.1985; 3.10.1985 and 10.11.1985 were sent to him. Copies of which have been annexed with the counter affidavit. This matter was reported to the enquiry officer. The applicant was spared along with the defence assistant

for inspecting the documents, but he himself did not avail the same. The enquiry officer fixed various dates i.e. 19th February, 24th February, and 17th February. The applicant vide his applications dated 4.2.1986, 19.2.1986 and 24.2.1986 requested the enquiry officer for postponement of the enquiry to some other date and the same was acceded to on 17.3.1986 and thereafter despite intimation having been given to him, he did not attend or submit any formal request. Earlier he was asked on 4.2.1986 to submit his defence statement under rule 9(19) on 19.2.1986 but he did not do so. The applicant did not attend the enquiry or even informed about his whereabouts. When number of dates having been fixed and due intimation served and the applicant failed to attend or inform otherwise, the enquiry officer decided not to give further opportunity and has concluded ex-parte enquiry. It was thereafter, the disciplinary authority passed the dismissal order. The applicant, thereafter, filed an appeal. The appellate authority gave a personal hearing to the applicant and has given yet another opportunity to bring the documents. The applicant, thereafter did not avail the opportunity and the appeal was also dismissed.

2. According to the applicant, he was not given reasonable opportunity to defend himself and there were various documents which clearly prove that as a matter of fact The Rashtriya Vidyalaya, Alambagh existed and the applicant was a student of the same. Although, this was the matter for enquiry, but there was a great doubt that infact, no such institution existed and the certificate so filed was forged, therefore, it was the duty cast upon the applicant to prove the same. The complaint of the applicant that he was not given reasonable opportunity

to defend himself does not stand in as much as opportunities after opportunities were given to him but the applicant, it appears, himself avoided the same. The appellate authority has also given him an opportunity which he did not avail. The contention of the learned counsel for the respondents is that he never wanted to face the oral enquiry or to produce any document which may land him, yet in another difficulty to support his earlier document and in fact, such an institution existed and he got the certificate issued by this institution appears to be forged. Any how, the applicant has failed to make out any case for interference, the application deserves to be dismissed. Accordingly, the application is dismissed with the above observations. Parties to bear their own costs.

Member(A)

Vice-Chairman.

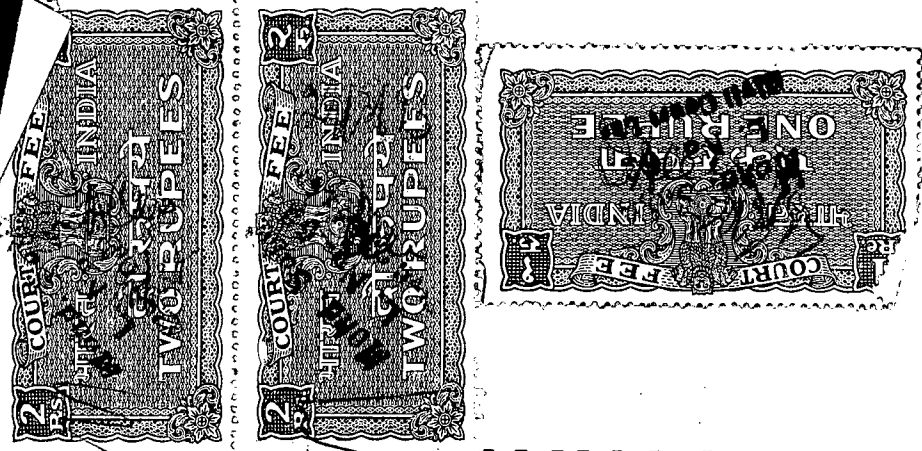
Dated: 21.5.1992

(n.u.)

*et*  
*11/5/92*  
Deputy Registrar

Central Administrative Tribunal  
Lucknow Bench.  
Lucknow

*in case*



210

# VAKALATNAMA

Before  
in the Court of

Central Administrative Tribunal bench Lucknow  
Review No. 527/92 in OA 70/88

Plaintiff  
Defendant

Md. Shami

Claimant  
Appellant

Versus

Defendant  
Plaintiff

Union of India

Petitioner  
Respondent

The President of India do hereby appoint and authorise Shri... If. I. Khar. Ali Khan...  
Rly. Adv. 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... If. I. Khar. Ali Khan...  
Rly. Adv. 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 .....29.3.....1983

S.M.N. Islam  
Designation of the Executive Officer,  
Sr. Divisional Personnel Officer,  
G. E. Railway, Lucknow.

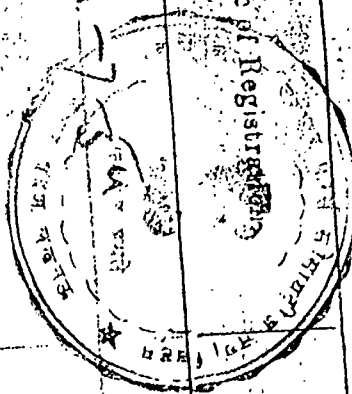
Accepted  
29/3/83



OFFICE OF THE REGISTRAR, JOINT STOCK COMPANIES, UNITED PROVINCES  
 Registrar of Charitable Societies registered under the Societies Registration Act, XXI of 1860

5694

Name of Society: *Alam Singh Shiksha Prami Samith Lucknow*



Date of Registration

Serial number of document filed

Description of document filed

By whom filed

When and to whom certificate granted

*Memorandum*

*Sd/-*

*21-7-34*

महाराष्ट्र  
 प्रजासत्ताक

*सत्यमेव जयते*

*23.5.42*

*21-7-34*

- 16\_ Annexure - 15 37 to 41  
Enquiry report and findings  
made by Miss. Meena Shah.
- 17\_ Annexure - 16 42  
Punishment order dated  
16-7-86 (Penalty order)
- 18\_ Annexure - 17 43 to 54  
Appeal preferred by Mohd. Shami  
Applicant.
- 19\_ Annexure - 18 55  
Information of hearing fixed  
for 18-11-86.
- 20\_ Annexure - 19 56  
Application for ~~adjournment~~ adjournment  
the applicant dated 18-11-86.
- 21\_ Annexure - 20 57  
Information for hearing to  
attend on 8-12-86.
- 22\_ Annexure - A 21 58  
Final order of rejection of  
appeal which was preferred by  
the applicant rejected on  
2-1-87.

S.K. Singh  
B.S.

A13

- 4 -

- 23\_ Annexure - 22 59  
T.C. from Rastriya Vidyalaya  
dated 11-7-61
- 24\_ Annexure - 23 60  
letter dated 1-1-81 send by  
Basic Shiksha Adhikari (Mahila)  
to Vigilence Inspector.
- 25\_ Annexure - 24 61  
Certificate about existence of  
the Rashtriya Vidyalaya issued  
by Secretary/Manager, Bappe  
Sri Narain dated 19-8-82.
- 26\_ Annexure - 25 62  
Certificate issued by the  
Principal of Railway Higher  
Secondry School dated 26-8-82.
- 27\_ Annexure - 26 63  
Certificate issued by O.P. Singh  
The Manager of Barkha Primary  
School dated 26-8-82.
- 28\_ Annexure - 27 64  
A Card
- 29\_ Annexure - 28 65  
Statement of Atam Prakash  
Sr. Clerk of Record dated 23-1-82

S.K. Singh

-----5/-

A 14

- 30- Annexure - 29 66  
Service Card
- 31- Annexure - 30 67  
Affidavit of Ram Autar  
dated 4-2-88.
- 32- Annexure - 31 68  
Certificate issued Head Master  
Rashtriya Vidyalaya that Ram  
Autar Misra was Assistant  
teacher in this school dated  
9-7-61.
- 33- Annexure - 32 69  
Affidavit of Navmi Ram dated  
4-2-88 who was teacher in  
1961-1962 in Rashtriya  
Vidyalaya.
- 34- Annexure - 33 70  
Certificate issued by Head  
Master that Navmi Ram was  
Assistant teacher in Rashtriya  
Vidyalaya in the 1961 dated  
14-5-62.

S.K. Jaiswal  
Hdms

A 15

- 35\_ Annexure - 34 71  
Certificate issued by Head  
Master of Railway Higher  
Secondary School rectifying his  
mistake about Annexure A - 25.
- 36\_ Annexure - A 35 72  
Certificate issued by Manager  
O.P. Singh rectifying his  
mistake about Annexure A -26.
- 37\_ Postal order
- 38\_ Vakalat Nama

Dated.  
June 20-6-1988

*S.K. Tripathi*  
S.K. Tripathi  
Advocate  
Counsel for Applicant

2. Particulars of the Respondents:

i) Name and designations  
of the Respondents.

1. Sri  
General Manager
2. Sri A. Mithal  
D.R.M.
3. Sri R.K. Singh  
Addl. Divl. Rly Manager
4. Sri Vindhachal Singh  
Sr. D.M.E. (Loco)
5. Sri S.M. Prasad  
Asstt. Mech. Engineer

ii) Official Address of: N.E. Rly Ashok Marg,  
Respondents. Hazaratgunj, Lucknow.

iii) Addresses for service  
of all notices

\_do-

3. Particulars of the orders against which  
application is made :-

(a) i) Charge sheet No. M/Con/SS-51/85 dt. 4.3.85  
(Annexure A-1)

ii) Dismissal Order no. M/Con/SS-51/85 dt. 16.7.86  
(Annexure a-16)

iii) Letter no. M/Con/SS-51/85 dt 2.1.87  
(Annexure -A.21 )

(b) Passed by:-

1. Sr. D.M.E., N.E. Rly Lucknow
2. Addl. D.R.M., N.E. Rly Lucknow

(c) Subject in brief:

Dismissal from service with effect  
from 16.7.86.

4. Jurisdiction of Tribunal:

The applicant declares that the subject matter of the  
order against which he wants redressal is within the  
jurisdiction of this Hon'ble Tribunal.

5. Limitation:

Due to myself sickness I could not come up before the  
Tribunal within due date. I seek condonation of delay  
about 6 months in filing my application for which condo-  
nation application also filed alongwith this application.  
I pray that my condonation may kindly be granted for  
natural justice.

S.K. Jaiswal  
A.L.S.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH : LUCKNOW

Registration No. \_\_\_\_\_ of 1988

A16

Md. Shami,  
Ex-Fireman 'C' Loco Shed,  
Charbagh, N.E.Rly  
Lucknow

...

Applicant

Versus

1. General Manager,  
N.E. Railway, Gorakhpur
2. Divisional Rly Manager  
N.E. Rly Lucknow
3. Addl. Divl. Railway Manager,  
N.E. Railway, Lucknow
4. Sr. D.M.E. (Loco) N.E.Rly  
Lucknow.
5. Asstt Mech. Engineer  
N.E. Rly Lucknow

...

Respondents

1. Details of the application :-

- |  |   |
|--|---|
| i. Name of the applicant                         | : Md. Shami   |
| ii. Name of father                               | : Sri Md. Shafi   |
| iii. Designation and Office<br>in which employed | : Fireman 'C' Loco Shed,<br>N.E.Railway, Charbagh<br>Lucknow. |
| iv. Office address                               | : As above.   |

S.K. Singh  
Plus

contd..2

A 12

6. Facts of the case:

1. That the A.M.E. (Loco) vide his Chargesheet No. M/Con/SS-51/85 dated 4-3-1986, Annexure I charged the applicant that while the applicant was functioning as Engine Cleaner from 1971 to 1975 he had submitted a forged School Certificate showing to have passed Class VIII from the Rashtriya Vidyalaya, Alambagh, Lucknow and thereby succeeded in securing employment of Substitute Engine Cleaner from 30-10-71 and Engine Cleaner from 17-8-73 in the pay scale Rs 196-232 (RS) which has been alleged to be irregular. The applicant has been further charged that in the circumstances above he has violated the provisions of Rules 3(1)(i)(ii) & (iii) of the Railway Conduct rules. Copies of Annexures I & II of the Charge Sheet are Annexed herewith as Annexures A.1 & A.2 of this application.

2. That the Railway has relied upon the documents mentioned in Annexure III of the Charge Sheet. A copy of the Annexure III aforesaid is attached herewith as Annexure A.3 for ready reference of the Hon'ble Tribunal.

3. That the Railway had presented two Railway witnesses i.e. S/Shri Y.N. Shukla, Ex-Chief Vigilance Inspector N.E.Railway and one Atam Prakash Vij Sr. Clerk, N.E.Railway, Lucknow according to Annexure IV of the Charge Sheet. A copy of the Annexure IV of the Charge Sheet is also attached herewith as Annexure A.4 to this application for ready reference of the Hon'ble Tribunal.

4. That the applicant, as per extent rules, requested vide his application dated 18/8/1985 to

S.K. [Signature]  
[Signature]



A19

supply the authenticated copies of the documents relied upon by the Disciplinary authority against the applicant and referred to in the charge sheet aforementioned. But the Railway and the Disciplinary authority did not supply copies of the document relied upon by them as to enable the applicant to prepare his defence against the charges contained in Annexure A.1 mentioned above.

5. That the Sr. D.M.E., N.E.Railway, Lucknow vide his letter No. M/Con/SS-51/25 dated 20-11-1985 appointed one Miss Meena Shah as the Enquiry Officer to inquire into the charges levelled against the applicant. A copy of the said letter is also attached herewith as Annexure A.5 to this application for ready reference of this Hon 'ble Tribunal.

The Sr. D.M.E. in the endorsement of his letter has categorically admitted that the relied upon copies of the documents mentioned in the chargesheet, copy of which is at Annexure A.4, were not supplied to the applicant. Further, the applicant was entitled to have the 'authenticated' documents which the Railway authorities had attempted not to supply with some malafide motives. That action of the Railway and the Disciplinary Authority was perhaps not to rely on any other document except those mentioned in the Charge Sheet (Annexure A.3 of this application). This design of the Railway authority was adopted to let the lawful authorities believe that the applicant was extended all reasonable opportunities to take extracts from all the documents, and further the extracts taken by the applicant could not be relied before the

S.K. S. & C.

Hon'ble Tribunal, not being authenticated. Further, they could easily hide the original documents and produce the forged and tampered documents as to keep the applicant in darkness and mislead. Hence, authenticated documents for the applicant were essential and unavoidable. Despite repeated verbal and written requests the Disciplinary Authority did not give the authenticated documents. The Disciplinary Authority relied upon at his back at the time of contemplating the charges against the applicant.

6. That the Enquiry Officer in the meantime had served the applicant first notice vide his letter No.M/Con/SS-51/85 dated 8/9-1-86 intimating the date of enquiry i.e. 27-1-86. A photo copy of the said letter is also attached herewith as Annexure A.6 for ready reference. It is worth mentioning at this juncture that the Enquiry Officer had again fixed the date of 27-1-86 for preliminary hearing and again fixed the date of 4-2-86 for inspection of the "relied upon document" vide her letters dated 8/9-1-86 and 27-1-86.

7. That Sr. DME - Q.No.3, in the meantime advised the applicant vide his letter dated 12-5-86 to report to the DMO/Aishbagh within 3 days of receipt of his letter. He also intimated vide the same letter regarding Enquiry Officer's fixing the next date of enquiry on 27-5-1986. He had also threatened of the exparte enquiry proceeding in case the applicant failed to report to the DMO/Aishbagh within his stipulated date. A copy of the same is Annexure A.7 to this application.

8. That as required under the extent rules, the applicant had nominated S/Shri O.P. Choudhuri, Retired

S K Datta  
HCO

Clerk Gr.I and Ulfat Rai, WI/Lucknow to act as his Defence Counsel and Shri SVH Rizvi, Sr. Clerk, Divisional Office, Lucknow for taking extracts of the Relied upon Documents vide his application dated 5-9-85, under acknowledgement of the O.P's Agent in the Loco Shed. The O.P. No.3 had accepted Shri Ulfat Rai's nomination. In compliance with Sr. DME's letter dated 20-11-85, the applicant's Defence Counsel's consent etc. were submitted to the Sr. DME (Loco) along with application dated 5-12-1985. These documents are Annexures A.8 to 10 to this application.

9. That in the meantime the Opp: Party No.2 got instituted a proceeding under Public Premises (Eviction of unauthorised occupation Act, 1971, although the applicant's case was pending before the Appellate Authority for decision in his case. A copy each of their notices are annexed hereto as Annexure A.11-12. Copy of the reply to the Eviction Notice aforesaid is also attached herewith as Annexure A.13 to this application for ready reference and as a token of proof of the Opp: Party's being prejudiced against the applicant.

10. That as per instructions of the Disciplinary Authority and in compliance with the nomination of the Enquiry Officer, the latter had held inquiries on 27-1-86 and recorded the statements and proceeding of the said date. Copies of these proceedings in five pages from 1-5 are submitted herewith as Annexure A.14 to this application.

11. That the ~~En~~ Enquiry Officer had prepared her Inquiry Report and finding based on the evidences

contd..7

S.K. Dandekar  
A.C.S.

adduced during the enquiry proceeding, and submitted the same to the Disciplinary Authority, who in return furnished a copy of the same to the applicant along with his Punishment Order No.M/Con/SS-51/85 dated 16-7-1986. Copies of the Enquiry Report and findings of the E.O. are submitted herewith as Annexure A.15 and the Punishment Order aforesaid as Annexure A.16.

12. That the Disciplinary Authority had granted a personal hearing on 8-12-1986 vide his letter No.M/Con/SS-51/85 dated 19-11-1986. The applicant accordingly appeared before the ADRM/LJN for personal hearing on his appeal against the Punishment Order. In this respect, a copy each of the appeal and the grant of personal hearing and other related documents are filed herewith as Annexure A.17-20.

13. That the Appellant Authority directed the applicant verbally during his personal hearing that he should produce a certificate from the Basic Siksha Adhikary confirming that the Rashtriya Vidyalaya was a recognised school of this area within 10 days failing which his appeal would be rejected. The applicant could not present the confirmation letter from the B.S.A. within the stipulated period and thus the applicant's appeal has been rejected by the Appellate Authority vide his letter No.M/Con/SS-51/85 dated 2-1-1987, copy of which is also attached herewith as Annexure A.21 for ready reference of the Hon'ble Tribunal.

14. That the applicant also has filed herewith a copy of the impugned Transfer Certificate No.139 issued by the Pradhanadhyapak, Rastriya Vidyalaya,

Alambagh, Lucknow for perusal and record and convenience of the Hon'ble Tribunal as Annexure A.22. In addition to the above, a copy each of the documents relied upon by the Rly Administration against the applicant in establishing the charges contained in the Charge Sheet are also submitted herewith as Annexure A.23-29 for the convenience of the Tribunal.

15. That the charges levelled against the applicant were denied in full during the proceeding of enquiry held by the E.O. on 7-1-86 and he had also denied the documents relied upon by the Railway Administration during the proceedings of the same date. It is worth mentioning that the Railway Administration did not supply copies of the documents mentioned at S.No.1 & 9 of Annexure-III of the Charge sheet aforesaid. The applicant was denied of the reasonable opportunities as far as the relied upon documents are concerned as mentioned in earlier part of this paragraph.

16. That it is mentioned that the Railway had the following charges against the applicant, as it is contained in the Enquiry Report of the E.O.

1. The applicant submitted a forged transfer certificate from one false Pradhanadhyapak, Rastriya Vidyalaya, Alambagh, Lucknow showing the date of birth is 8-9-1949 and Class VIII passed.

2. The production of the alleged false certificate according to Railway Administration was aimed to cover his maximum age limit of 21 years and

S.K. Singh  
H.S.D.

to his having requisite qualification of Class VIII passed as per R & P rules for Class IV service.

3. The above acts of the applicant is alleged to be in violation of the service Conduct Rules No. 3(1)(i), (ii) & (iii)

17. That in respect of charge (1) above, it was denied that the T.C. produced by the applicant was not a forged one, but is a genuine certificate obtained from the very School he had studied. Against the claim of the applicant, the Railway Administration trusted the letters obtained by personal contacts by then Chief Vigilance Inspector of N.E. Railway, Gorakhpur. These documents are mentioned at S.Nos.3-6 of the Annexure III of the Charge sheet. Those copies may kindly be seen at Annexures <sup>23-26</sup> A. ~~23-26~~ of this application for ready reference.

18. That it is pertinent to mention here that none of the documents at Annexures <sup>23-26</sup> A. ~~23-26~~ are authentic documents and are not acceptable for the reasons mentioned below in seriatim.

(a) Regarding Annexure A. <sup>23</sup> ~~24~~ - (UD-3), this letter from the B.S.A. of the Mahila Section. The applicant did not study in any Mahila School, nor was the Rashtriya Vidyalaya was a Mahila School. It is therefore not acceptable that the B.S.A. of the Girls Section should have any knowledge of the Boys' Schools. The B.S.A. of the Girls Wing had certified about existence of any Girls School recognised by them of the name Rashtriya Vidyalaya. Again, the B.S.A. was not existing at the relevant time

S.K. Jaiswal

A25

when the applicant studied i.e. in the year 1959-1961; the B.S.A. of Mahila Wing was created some times in the year of 1972. Further, prior to the formation of the B.S.A., there was one District Inspector of Schools and he had the records with him. Those old records of the then D.I.O.S are no more available with the B.S.A. of the Education Department. Hence, the certificate issued by the B.S.A. of Mahila Wing is neither a reliable document, nor can the same be taken cognizance. Again added here that by the year 1981 i.e. the year of issue of the certificate by the B.S.A. (Mahila Wing, the said Rashtriya Vidyalaya was winded up and not existing at all. But the said School existed in the years the applicant studied i.e. during 1959-1961.

(b) Regarding Annexure A-<sup>24</sup>~~23~~ (HUD-4), the Secretary-Manager of the Bappa Narain Kanya Kumbh School's certificate is also not a reliable and cognizable document to disprove the claim of the applicant that he had not studied in the impugned Rashtriya Vidyalaya in the years 1959-1961, because the certificate is silent of the existence of the impugned School in the years 1959-1961. He talked about the existence of the year of 1989 only. It is reiterated that the said Rashtriya Vidyalaya had already been closed long before of 1989 due to some reasons which is not known to the applicant. So, it is no document to prove the existence of the said school in the years 1959-61 and it has got no weight before the law.

S.K. *[Signature]*

and has no legal authority, except their prejudice against the applicant.

Regarding other documents relied upon by the Railway Administration i.e. the 'A' Card, Service Record, Statement of Shri A.P. Vij, Extract of Booklet of Rules for the recruitment of Class IV staff - Para 2(b) Note 2, copy of TC and the Seizure Memo of the prejudiced C.V.I. are no material to disprove the facts that the applicant studied in the impugned Rashtriya Vidyalaya in the years 1959-61, or about forged date of birth and qualificates as alleged in the Charge Sheet. Hence, it is not felt necessary to remark against those documents.

19. That it is further respectfully stated that the said Rashtriya Vidyalaya, Alambagh, had been very much existing during the year 1959-61 when the applicant studied in the said School. In support of the facts claimed by the applicant, a photo copy of the affidavit of Sri Ram Avtar Mishra, dated 4-2-88, a photo copy of the certificate issued by then Pradhanadhyapak of the said School to Shri Ram Avtar Mishra, A photo copy of the Affidavit of Shri Navmi Ram, dated 4-2-88, A photo copy of the Service Certificate issued by the Pradhana-dhyapak of the impugned School to Shri Naumi Ram are also submitted herewith as Annexure A.30-33 for ready reference of the Hon'ble Tribunal. It is further added that both the teachers of the impugned School has categorically affirmed in their Affidavits that the said School was a Recognised Institution of the relevent time.

S.K. Kripal

20. That in the circumstances mentioned in the



foregoing paragraphs of this application, it is stated that the entire acts of the Chief Vigilance Inspector, the Enquiry Officer and the Disciplinary authority and also of the Appellate Authority in the matters of holding applicant guilty of violation of the service rules mentioned in the chargesheet, the findings of the enquiry officer were all hypothetical, imaginary, baseless and presumptive and thus illegal. Accordingly the punishment order passed by the Disciplinary Authority is also prejudicial, and illegal because of his relying on the presumed documents and contentions of the C.V.I. and the E.O. Similarly, the ADRM (Appellate Authority's rejection of the appeal of the applicant is also illegal being based on the presumed documents and hypothetical findings of the E.O.

21. That the applicant has been harassed to the maximum extent during the period from 16-7-1986 to the date of this application. The applicant has been left with no source of survival because of his illegal dismissal from services on the presumed grounds and false documents. As a result of his illegal dismissal from service, he along with his family members consisting of 11 members suffered inhuman sufferings. The applicant, is therefore, entitled to payment of compensation to make good of the losses and sufferings in the shape of an order for payment of full wages plus other admissible allowances of the entire period from the date of his dismissal to the date of his reinstatement to services, and also other benefits as admissible to the working railway servant for all purposes.

S.K. Gupta  
pdt

A30

7. The applicant most respectfully prays for the following reliefs :-

- (a) The charge sheet aforesaid (Annexure A.1) Dismissal order (Annexure A.16) and letter dated 2-1-87 (Annexure A.21) may be quashed.
- (b) The applicant may be deemed as continued in service without any break for all purposes including seniority, promotion, wages of this period etc.

8. In the circumstances narrated in the foregoing paragraphs, pending final decision on this application, the applicant prays for the following relief :-

- i) The applicant may be permitted to perform duties from immediate effect, .or  
  
the applicant may be deemed to be under suspension till the time final decision of this Tribunal is passed so that the applicant can contest his illegal dismissal with his survival.
- ii) The dismissal orders aforesaid may be declared inoperative till final decision on this case.
- iii. Any other relief or reliefs the Tribunal considers fit and proper in the interest of natural justice.

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

S.K. Datta

10. The applicant further declares that the matter,

contd..15

regarding which this application is made, is not pending before any other Court of law or any other authority or any other Bench of this Tribunal.

11. Particulars of the postal orders in respect of the application fee paid :-

- (a) I.P.O. No. <sup>DD</sup>828468 dated 20.6.88 for Rs 50/-  
4
- (b) Name of the issuing *High Court Lucknow* Post Office.
- (c) Date of issue of the I.P.O. 20.6.88
- (d) P.O. at which payable: G.P.O. Allahabad

12. That an index in duplicate containing the details of the documents relied upon in this case are enclosed.

13. That the documents mentioned in this case are also attached herewith as shown in the Index aforesaid.

Verification

I, Md. Shami S/o Shri Md. Shafi, aged 39 years, Ex-Fireman 'C' Loco Shed N.E.Rly Charbagh, R/o Qtr.No.L-15/F, N.E.Rly Loco Colony, Mawaiya, Lucknow do hereby verify that the contents of facts in paras 1 to 13 are true to my knowledge and documents, and that I have not suppressed any material facts.

Dated, Lucknow:

20.6.1988

*[Signature]*  
Applicant

To  
The Registrar,  
Central Administrative Tribunal  
23, Thorn Hill Road,  
Allahabad 211 001.

*S.K. Subedi*  
*Adv*

पूर्वोत्तर रेलवे  
NORTH EASTERN RAILWAY

354  
N.E.—G. 354

मानक फार्म नं० 5  
STANDARD FORM No. 5

आरोप—पत्र का मानक फार्म  
STANDARD FORM OF CHARGESHEET

(रेल कर्मचारी अनुशासन और अपील नियम, 1968 का नियम 9)  
(Rule 9 of the Railway Servants Discipline and Appeal Rules, 1968).

नं० M/Con/SS-51/85  
No.....

.....N.E. Railway..... (रेल प्रशासन का नाम)  
(Name of Railway Administration)

निर्गम स्थान  
Place of issue

Lucknow

दिनांक 4th March, 1985  
Dated

ज्ञापन  
MEMORANDUM

Mohd. Shami s/o

.....Sri Mohd. Shafi..... के विरुद्ध जांच करने की प्रस्थापना की गई है। अविचार या कदाचार के लक्षणों का सार, जिनके सम्बन्ध में जांच करने की प्रस्थापना है, आरोप के अनुच्छेदों के विवरण (अनुबन्ध एक) में दिया गया है। आरोप के प्रत्येक अनुच्छेद के समर्थन में अविचार या कदाचार के लक्षणों का विवरण संलग्न है (अनुबन्ध II)। जिन प्रलेखों और साक्षियों द्वारा आरोप के अनुच्छेदों के सिद्ध किये जाने की प्रस्थापना है उनकी भी एक सूची संलग्न है (अनुबन्ध III और IV)।

The President/Railway Board/undersigned propose (s) to hold an inquiry against Sri Mohd. Shami s/o under Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968. The substance of the imputations of mis-conduct or mis-behavior in respect of which the inquiry is proposed to be held is set out in the enclosed Statement of articles of Charge (Annexure I). A Statement of the imputations of mis-conduct or mis-behavior in support of each article of charge is enclosed (Annexure II). A list of documents by which and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure III & IV).

Mohd. Shami s/o Sri Mohd. Shafi

2 श्री..... को एतद्द्वारा सूचित किया जाता है कि यदि वह चाहे तो इस ज्ञापन की प्राप्ति के \*पांच दिन के भीतर कार्यालय काल में किसी भी समय प्रलेख-सूची (अनुबन्ध III) में वर्णित प्रलेखों का निरीक्षण कर सकता है, और उससे उद्धरण ले सकता है। यदि वह ऐसे किसी अन्य लेखों तक अपनी पहुंच चाहता है, जो रेल प्रशासन के पास हों, लेकिन जिनका संलग्न प्रलेखों की सूची (अनुबन्ध III) में उल्लेख न किया गया हो, तो निरीक्षण के लिए अपेक्षित प्रलेखों की सुसंगति बताते हुए स ज्ञापन की प्राप्ति के \*दस दिन के भीतर उसे निम्नहस्ताक्षरी महा प्रबन्धक..... को सूचना देनी चाहिए। अनुशासन प्राधिकारी उन सभी या किसी ऐसे प्रलेखों के निरीक्षण की अनुमति देने से इनकार कर सकता है, जो उसकी राय में, मामले से सुसंगत न हो या जिन तक पहुंच की अनुमति देना जनहित या राज्य के सुरक्षा के विरुद्ध हो। उसे चाहिए कि अतिरिक्त प्रलेख उपलब्ध किये जाने के पांच दिन के भीतर उनका निरीक्षण पूरा कर ले। जिन अतिरिक्त प्रलेखों के निरीक्षण की उसे अनुमति दी जायेगी उनसे उद्धरण लेने की उसे अनुमति होगी।

2. Shri Mohd. Shami s/o Sri Mohd. Shafi hereby informed that if he so desires, he can inspect and take extracts from the documents mentioned in the enclosed list of documents (Annexure III) at any time during office hours within \*five days of receipt of this Memorandum. If he desires to be given access to any other documents which are in the possession of Railway Administration but not mentioned in the enclosed list of documents (Annexure III), he should give a notice to that effect to the undersigned/General Manager,..... Railway within \*ten days of the receipt of this Memorandum, indicating the relevance of the documents required by him for inspection. The disciplinary authority may refuse permission to inspect all or any such documents as are, in its opinion, not relevant to the case or it would be against the public interest of security of the State to allow access thereto. He should complete inspection of additional documents within five days of their being made available. He will be permitted to take extracts from such of the additional documents as he is permitted to inspect.

Mohd. Shami s/o Sri Mohd. Shafi

3 श्री..... को सूचित किया जाता है कि जांच के बाद के प्रक्रमों में प्रलेखों की प्राप्ति करने के लिए किया गया अनुरोध तब तक स्वीकार नहीं किया जायेगा जब तक ऊपर विनिर्दिष्ट समय-सीमा के भीतर विलम्ब से अनुरोध करने का पर्याप्त कारण न बताया जाये और उन परिस्थितियों से स्पष्ट रूप से प्रकट न हो जाये कि अनुरोध इससे पहले के प्रक्रम में नहीं किया जा सकता था। जांच पूरी हो जाने के बाद अतिरिक्त प्रलेख प्राप्त करने के सम्बन्ध में कोई अनुरोध तब तक स्वीकार न किया जायेगा, तब तक जांच पूरी न होने से पहले अनुरोध न कर सकने का पर्याप्त कारण न बताया गया हो।

Atto  
S.K. Jaiswal

Annexure III

List of documents by which the articles of charge framed against Sri Mohd. Shami s/o Sri Mohd. Shafi, Engine Cleaner, Charbagh shed are proposed to be substantiated. A-35

\*\*\*\*\*

- x 1. Seizure memo of CVI dt. 27/9/80 demanding the school certificate/TC of Mohd. Shami, Engine Cleaner CB shed on the basis of which he was engaged as Engine Cleaner.
- A-22 ✓ 2. Attested copy of the TC File No. 139 dated 11/7/81 purported to have been issued by Pradhanadhyapak, Rastriya Vidyalaya Alambagh, Lucknow, which was given by Sri Mohd. Shami to the Folder Clerk for record.
- A-23 ✓ 3. Letter dated 1/1/81 of Addl. Distt. Basic Siksha Adhikari, Lucknow, mentioning that the institution named Rastriya Vidyalaya, Alambagh, is not recognised.
- ✓ 4. Certificate dated 19/8/82 issued by Secretary, Manager, Bappa Sri Narain Kanyakubja School, Alambagh, mentioning that there is no institution named Rastriya Vidyalaya in Alambagh, Lucknow, to his best of knowledge.
- ✓ 5. Certificate dated 26/8/82 issued by the Principal, Railway Higher Secondary School, Charbagh, Lucknow, stating that there is no institution/nor there was any by name Rastriya Vidyalaya, Alambagh.
- A-26 ✓ 6. Certificate dated 26/8/82 issued by the Manager, Barha Primary School, Alambagh, Lucknow stating that to the best of his knowledge there is no such institution like Rastriya Vidyalaya in Alambagh nor it was in existence.
- A-27 ✓ 7. A card (for pensionable staff) in favour of Sri Mohd. Shami prepared by Sri Atam Prakash Vij, Sr. Clerk, DIM (P)'s office/LJN on 30/8/75 duly signed by Sri Mohd. Shami endorsing his date of birth 8/9/49 in his own handwriting on the basis of T.C. No. 139 issued by Pradhanadhyapak, Rastriya Vidyalaya, Alambagh, Lucknow.
- ✓ 8. Statement dated 23/1/82 of Sri Atam Prakash Vig, Sr. Clerk DIM (P)'s office/LJN who prepared the 'A' Card of Sri Mohd. Shami and got the attested copy of the TC issued by the Pradhanadhyapak, Rastriya Vidyalaya, Alambagh, Lucknow.
- x 9. Extract of Booklet of Rules for the recruitment of Class IV staff- Para 2 (b) note 2.
- A-29 ✓ 10. Service Book of Sri Mohd. Shami s/o Sri Mohd. Shafi.

af.  
Asstt. Mech. Engr/Loco  
~~Asstt. Mech. Engr/Loco~~ (Loco)  
M.E. Railway, Lucknow

Attested  
[Signature]

S.K. [Signature]  
[Signature]

( 3 )

जाता है, जिसके अंतर्गत कोई रेल कर्मचारी सरकार के अधीन अपनी सेवा से संबन्धित मामलों के सम्बन्ध में अपने हितों को भागे बढ़ाने के लिए किसी बरिष्ठ प्राधिकारी पर कोई राजनीतिक या अन्य प्रभाव न डालेगा अथवा न डालने का प्रयत्न करेगा। यदि इन कार्यवाहियों से सम्बन्धित किसी मामले में उसकी ओर से किसी अन्य व्यक्ति से कोई अभ्यावेदन प्राप्त होता है तो यह प्रकल्पना की जायेगी कि श्री..... को उस अभ्यावेदन की जानकारी है और वह उसके कहने पर दिया गया है और उसके विरुद्ध रेल कर्मचारी (आचरण) नियम, 1966 के नियम 20 का उल्लंघन करने के लिए कार्यवाही की जायेगी।

8. The attention of Shri Mohd. Shami s/o Sri Mohd. Shafi is invited to Rule 20 of the Railway Services (Conduct) Rules, 1966, under which no railway servant shall bring or attempt to bring any political or other influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from any other person in respect of any matter dealt with in these proceedings, it will be presumed that Shri Mohd. Shami s/o Sri Mohd. Shafi is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the Railway Services (Conduct) Rules 1966.

9. इस ज्ञापन की पावती भेजें।

9. The receipt of this Memorandum may be acknowledged.

\* (राष्ट्रपति के आदेश और उनके नाम से)

समक्ष प्राधिकारी का नाम और पदनाम  
\*By order and in the name of  
the President.

(Y. S. Sahni)

Asst. Mach. Inspectr.,  
Nam. Railway, Lucknow,  
authority.

संलग्न : Encls : Annexure I to IV

सेवा में,  
To

Cl- LF CS for service and  
Sending the acknowledgment  
memo to the gpo.

श्री ✓ Mohd. Shami s/o Sri Mohd. Shafi

पदनाम : Engine Cleaner/Charbagh  
Designation

स्थान आदि : c/o LF /Charbagh.  
Place, etc.

@ प्रतिलिपि श्री..... उधारदाता (प्राधिकारी का नाम और पदनाम) को सूचनाार्थ  
रेपित।  
(a) Copy to Shri..... (name and designation of the lending  
authority) for information.

\* यदि आदेश का राष्ट्रपति के नाम से दिया जाना अभिव्यक्त किया जाय।

\* यह समय-सीमा समक्ष प्राधिकारी के निदेश से दस दिन तक बढ़ाई जा सकती है।

\* This time limit may be extended upto ten days at the direction of the competent authority.

Attested &  
S.K. Singh  
[Signature]

A-1-I

Annexure I

Article of charge framed against Sri Mohd. Shami s/o Sri Mohd. Shafi, Engine Cleaner now officiating as Fireman II/Charbagh.

A 34

\*\*\*\*

Whereas Sri Mohd. Shami s/o Sri Mohd. Shafi functioning as Engine Cleaner from 1971 to 1975 submitted a forged school certificate shown to have passed class VIII from Rastriya Vidyalaya, Alambagh, Lucknow to the office of DRM (P)/LJN and got employment as Substitute Engine Cleaner on 30/10/71 and Engine Cleaner with effect from 17/8/73 in grade Rs. 196-232 on the basis of this school certificate, making him eligible for appointment as Engine Cleaner in an irregular manner for which he was otherwise not eligible.

The above act of Sri Mohd. Shami shows lack of absolute integrity, his failure to maintain devotion to duty and an act unbecoming of a Railway servant which tantamounts to misconduct. He, thereby, contravened Rule 3 (1) (i), (ii) and (iii) of Rly. Services (Conduct) Rules, 1966.

*af*  
Asstt. Mech. Engineer, (Loco)  
N.E. Railway, Lucknow

Annexure II

A.2

Statement of imputations of misconduct/misbehaviour in support of the articles of charge framed against Sri Mohd. Shami s/o Sri Mohd. Shafi, Engine Cleaner/CB shed (now officiating as Fireman II).

\*\*\*\*

Sri Mohd. Shami submitted forged transfer certificate of class VIII issued by Pradhanadhyapak, Rastriya Vidyalaya, Alambagh, Lucknow, and secured employment as Engine Cleaner in an irregular manner covering the age limit of maximum 21 years and minimum qualification as class VIII passed.

For the post of Engine cleaner, the maximum age limit was 21 years and the minimum qualification was "passed class VIII standard."

Sri Mohd. Shami to make himself eligible for the employment submitted the above certificate to the office of DRM (P)/N.E. Railway, Lucknow, on the basis of which he filled his date of birth 8/9/1949 in his own handwriting with his signature in the 'A' card prepared by the folder clerk. He also gave an attested copy of the above forged & transfer certificate to the folder clerk for record.

The above act on the part of Sri Mohd. Shami exhibits lack of absolute integrity, devotion to duty and unbecoming of a Rly. servant which tantamounts to misconduct contravening Rule 3(1)(i) (ii) & (iii) of the Rly. Services (Conduct) Rules, 1966.

*af*  
Asstt. Mech. Engr/Loco  
Asstt. Mech. Engineer, (Loco)  
N.E. Railway, Lucknow

Attested  
*af*  
S. K. Singh  
*af*

Annexure III

List of documents by which the articles of charge framed against Sri Mohd. Shami s/o Sri Mohd. Shafi, Engine Cleaner, Charbagh shed are proposed to be substantiated. A-35

\*\*\*\*

- × 1. Seizure memo of CVI dt. 27/9/80 demanding the school certificate/TC of Mohd. Shami, Engine Cleaner CB shed on the basis of which he was engaged as Engine Cleaner.
- A-72 ✓ 2. Attested copy of the TC File No. 139 dated 11/7/81 purported to have been issued by Pradhanadhyapak, Rastriya Vidyalaya Alambagh, Lucknow, which was given by Sri Mohd. Shami to the Folder Clerk for record.
- A-73 ✓ 3. Letter dated 1/1/81 of Addl. Distt. Basic Siksha Adhikari, Lucknow, mentioning that the institution named Rastriya Vidyalaya, Alambagh, is not recognised.
- ✓ 4. Certificate dated 19/8/82 issued by Secretary, Manager, Bappa Sri Narain Kanyakubja School, Alambagh, mentioning that there is no institution named Rastriya Vidyalaya in Alambagh, Lucknow, to his best of knowledge.
- ✓ 5. Certificate dated 26/8/82 issued by the Principal, Railway Higher Secondary School, Charbagh, Lucknow, stating that there is no institution/nor there was any by name Rastriya Vidyalaya, Alambagh.
- A-26 ✓ 6. Certificate dated 26/8/82 issued by the Manager, Barha Primary School, Alambagh, Lucknow stating that to the best of his knowledge there is no such institution like Rastriya Vidyalaya in Alambagh nor it was in existence.
- ✓ 7. A card (for pensionable staff) in favour of Sri Mohd. Shami prepared by Sri Atam Prakash Vij, Sr. Clerk, DRM (P)'s office/LJN on 30/8/75 duly signed by Sri Mohd. Shami endorsing his date of birth 8/9/49 in his own handwriting on the basis of T.C.No. 139 issued by Pradhanadhyapak, Rastriya Vidyalaya, Alambagh, Lucknow.
- A-27 ✓ 8. Statement dated 23/1/82 of Sri Atam Prakash Vig, Sr. Clerk DRM(P)'s office/LJN who prepared the 'A' Card of Sri Mohd. Shami and got the attested copy of the TC issued by the Pradhanadhyapak, Rastriya Vidyalaya, Alambagh, Lucknow.
- × 9. Extract of Booklet of Rules for the recruitment of Class IV staff- Para 2 (b) note 2.
- A-28 ✓ 10. Service Book of Sri Mohd. Shami s/o Sri Mohd. Shafi.

af  
Asstt. Mech Engr/Loco  
~~Asstt. Mech. Engineer, (Loco)~~  
S.E. Railway, Lucknow

Attested

*[Signature]*

S.K. S. P. S.

*[Signature]*



H-5

A37

STANDARD FORM OF ORDER RELATING TO APPOINTMENT OF INQUIRY OFFICER/BOARD OF INQUIRY.

\*\*\*\*\*

Rule 9 (2) of Ry. Servants (Discipline & Appeal) Rules, 1968.

\*\*\*\*\*

No: M/Con/SS-51/85  
North Eastern Railway,  
Lucknow.

Lucknow. dt. the 20th. Novr., 1985.

O R D E R

Whereas an inquiry under Rule 9 of the Railway Servants (Discipline & appeal) Rules, 1968, is being held against Sri ~~XXXXXXXXXXXXXXXXXXXX~~ Mohd. Shani s/o Sri Mohd. Shafi, Fireman II, Loco shed/Charbagh shed

AND WHEREAS the undersigned considers that an Inquiry Officer should be appointed to enquire into the charges framed against him.

NOW, THEREFORE, the undersigned in exercise of the powers conferred by sub-rule (2) of the said Rule, hereby appoints -

Miss Meena Shah, EO(DA)/Gorakhpur, as Inquiry Officer to inquire into the charges framed against the said Sri Mohd. Shani s/o Sri Mohd. Shafi, Fireman II, Loco shed/Charbagh shed.

( A. Swami )  
Sr. Divl. Mech. Engineer,  
Lucknow.

Copy forwarded for information & necessary action to:-

1. Miss Meena Shah, EO(DA)/Gorakhpur along with this office Case No. M/Con/SS-51/85 containing 30/C & 1/N.
2. Sri Mohd. Shafi s/o Sri Mohd. Shafi, Fireman II/CB Through Loco Foreman, N.E. Railway, Charbagh, for information & necessary action. Despite having been spared to inspect documents & take extracts thereof from the office of GM(Vig)/GKP, you have failed to do so and also failed to submit your defence ~~xx with xx~~ Your request vide representation dt. 5/9/85 for Sri Ulfat Rai, WI/LJN to act as defence counsel is accepted. However, you should bring a certificate from your defence counsel that he has ~~not been appointed as defence counsel~~ agreed to defend your case.

( A. Swami )  
Sr. Divl. Mech. Engineer,  
Lucknow.

Attested

*[Signature]*

S.K. *[Signature]*

List of witnesses by whom the articles of charge framed against Sri Mohd. Shami, Engine Cleaner CB shed are proposed to be substantiated.

\*\*\*\*\*

1. Sri Y.N. Shukla, ex-CVI, N.E. Railway now SPI/Gonda who seized 'A' card and attested copy of TC from DRM(P)/LJN.
2. Sri A tam Prakash Vij. Sr. Clerk, DRM(P) office/LJN who prepared the 'A' Card of Mohd. Shami in whose presence Sri Shami filled his date of birth in the 'A' Card affixing his signature and also to whom Sri Shami handed over a copy of the attested T.C. issued by Pradhanadhyapak, Rastriya Vidyalaya, Alambagh, Lucknow.

Attested  
on 2/11/74  
S.K. [Signature]  
[Signature]

af.  
Asstt. Mech. Engr/Loco  
Asstt. Mech. Engineer, (Loco)  
N.E. Railway, Lucknow

A-6

- पूर्वोत्तर रेलवे -

कार्यालय महाप्रबन्धक (सतकर्ता)  
(विभा. गेय कार्यवाही, जांच अनुभाग)

संख्या : M/COU/SS-5/185

गोरखपुर, दिनांक - 8.1.86

श्री - मोहम्मद सली, Fireman (r) चा (वाग) 215

क्रिया :- श्री - 314

के विरुद्ध अनुशासनिक कार्यवाही/

सन्दर्भ :- दिनांक 4.3.85

का अनुशासन प्राधिकारो द्वारा जारी  
किया गया समसंयक आरोप-पत्र/

2- उक्त क्रिया पर आपका ध्यान अनुशासन प्राधिकारो के दिनांक 26.11.85 के समसंयक आदेश को और आकृष्ट किया जाता है जिसके अन्तर्गत अधोहस्ताक्षरो को आपके विरुद्ध लगाए गए आरोप को जांच के निमित्त जांच अधिकारो के रूम में नियुक्त नियम 9 के अन्तर्गत को जायेगा।

2- ऊपर लिखित आरोप के परिच्छेद 3 में आप से एक रेल सेवक को नामांकित करने को कहा गया था जिसको सहायता इस जांच के दौरान आप लेना चाहते हैं, परन्तु आपने अभी तक नामांकन को सूचना नहीं दी है। यदि आप इस प्रकार की सहायता से लाभ उठाना चाहते हैं, तो नामांकन करें। इस सूचना के साथ नामांकित रेल सेवक जिसको सहायता आप जांच के दौरान लेना चाहते हैं, को लिखित स्वीकृति तथा घोषणा के जिसमें इसका उल्लेख अनिवार्य रूप से किया गया हो कि इस व्यक्ति के पास दो से अधिक केस नहीं हैं जिसमें वह जांच के दौरान सहायता कर रहे हैं और जो मामले न्यायाधीन हैं।

3- इस केस को प्रारम्भिक सुनवाई/ जांच की तिथि दिनांक 27.1.86 At officer Rest House for statement of PWS.

को निश्चित को गई है जो अधोहस्ताक्षरो के गोरखपुर स्थित कार्यालय में 10:30 प्रातः से प्रारम्भ होगी। आप स्वयं तथा रेल सेवक जो जांच के दौरान आपको सहायता करेगा उक्त समय, निर्धारित तिथि तथा स्थान पर उपस्थित हों। आवश्यकता पड़ने पर उपर्युक्त तिथि से आगे भी रकना पड़ सकता है। अतः आप ऐसा ही व्यवस्था करके आवें।

4- इसे भलो-भाँति तथा स्पष्ट रूप से समझ लिया जाना चाहिए कि यदि आप निर्धारित तिथि से बताए हुए स्थान या निर्दिष्ट समय पर उपस्थित नहीं हुए तो जांच कार्य आपका अनुपस्थिति में (स्मार्ट) किया जायेगा।

प्रतिलिपि निम्नलिखित को वॉकित - कार्यालय के लिए प्रेषित:-

1-

2-

(कृपया फूट - पलटिए)

जांच अधिकारो

L. G. M.  
जांच अधिकारो

Arrested

m. 20/8

S.K. Gupta

18/1/86

25-  
A-7  
North Eastern Railway

No:M/Con/SS-51/85

Office of the  
Divl. Railway Manager/Mech.  
Lucknow.dt. the 12th. May, 1986. A39

Sri Mohd. Shami,  
Qr. No. L/15,  
Loco Colony,  
Charbagh.

Sub: DAR enquiry


Ref: Your representation dt. Nil received  
on 5/5/86.

\*\*\*\*

You are advised to report to DMO/ASH for  
certification and treatment within 3 days of the receipt  
of this letter.

2. EO/HQ/GKP has fixed 27.5.86, the next date for  
enquiry to be held in the Officers Rest House at Lucknow Jn.  
commencing from 09.30 hours.

3. You are, therefore, in your own interest advised  
to report to DMO/A SH within 3 days as mentioned above fail-  
ing which it will be presumed that you are trying to evade  
the DAR enquiry by hook or crook and the DAR enquiry will  
in that event be held ex-parte.

  
(Vindhychal Singh)  
Sr.Divl. Mech. Engineer,  
Lucknow.

Attested  
m/28/86  
S.K. [Signature]  
A39

सेवा में,

श्रीमान लीकौ फौरमैन,  
पू030 रेलवे, चारबाग,  
लखनऊ ।

संदर्भ:- म०रे०पू०।या०।/लखनऊ का पत्र संख्या सम/कान/  
स०रे०स०/51/85, दिनांक 29.8.85

उक्त संदर्भ में प्राचीन निम्न कर्मचारियों की डिफिन्स काउन्सिल हेतु  
नामित करता है:-

1. श्री औ०पी० चौधरी सेवा निवृत्त सी०जी० प्रथम- मीथि/ इज्जत नगर  
मंडल ।

2. श्री उत्पल राय हित निरीक्षक, म०रे० पू०।का०।/लखनऊ, मंडल ।

आप के पत्र द्वारा सूचित अभिलेखों की नकल हेतु प्राचीन श्री स०बी०  
एच० रिजवी पर्वर लिपिक।का०।/लखनऊ मंडल को नामित करता है ।

अतः आप से निवेदन है कि इस सम्बन्ध में आवश्यक कार्यवाही करें  
तथा प्राचीन को महा प.बन्धक।सर्तकता।/गोरखपुर कार्यालय उपस्थित होने  
हेतु कार्य मुक्त करें ।

धन्यवाद ।

5-9-85

5-9-85

प्राचीन,

म०रे०पू०।

। म०० समी ।

फौरमैन/द्वितीय/चारबाग श्रेड,  
पू०३० रेलवे, लखनऊ ।

प्रतिलिपि:-

1. लीकौ फौरमैन, पू०३० रेलवे, चारबाग, लखनऊ ।

Recd  
5/9

Attested

म०रे०पू०।

S.K. [Signature]

No

To

The DRM/M/1/1

Off of Mr. Loojawan  
CB Dated 5/12/85

AH

Sub: Regarding Defence Council.  
Ref: your letter no M/Con/SS/51-85  
Dated 20.11.85

Sir,

In compliance to your letter cited  
above, I am nominating - Sam Uppa Rai, Sr.  
C welfare Inspector as my defence Council.  
His written Consent is enclosed herewith.

DA/Con.

Yours faithfully  
m g m t

Mohd Sami  
FMC/CB Secy  
Dated 5/12/85

5/12/85

Arrested  
m g m t  
S.K. D. P. Ch.  
A.H.

A-10

A42

To

The Sr. DOR/LTN  
N. E. Railway

Sr. DOR inquiry note  
no M/Con/SS-51/85  
dt 28.11.85

Sir

I agree to defend  
the case of the insured. Same  
from II/1-85. There is no DOR  
case pending with me at  
present.

Ch

28.11.85

Attested  
signature

S.K. Dey  
Adv

(VHAT RAI)  
Sr. Personal Inceptor  
N. E. Railway  
Lucknow

पूर्वाञ्चल रेलवे

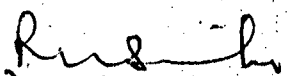
A - 11

पं/258/जी/5/ इन्फार्म - चारकाज २४

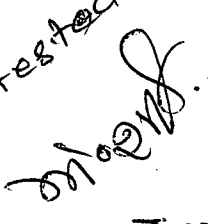
कार्यालय मंडल रेल प्रबंधक(याँ)  
लखनऊ दिनांक 17/11/76

A43

सेवा में,

श्री - मु. शमी - मेन्डर फार्म ५ - चारकाज २४  
आवास सं० एल/157/एल जेम्स I  
कलानी - चारकाज लोकोविषय: - चारकाज - - - - - स्टेशन पर रेलवे आवास संख्या एल/157/एल  
पर अनाधिकृत कब्जा।  
= = =आपने उपरोक्त आवास को अनाधिकृत रूप से दिनांक 17-7-76 से रोक  
रखा है। मौखिक तथा लिखित नोटिसों के बाद भी आपने उक्त आवास पर कब्जा अभी तक  
नहीं छोड़ा।अतः आपको अन्तिम बार सूचित किया जाता है कि आप इस नोटिस के प्राप्त  
होने के एक सप्ताह के अन्दर उपरोक्त आवास खाली करके कब्जा हटा लें। अन्यथा आपके  
विरुद्ध पब्लिक प्रमिसेज (इविक्रान आफ अन-अथोराइज्ड) ऐक्ट-1971 के अन्तर्गत आवश्यक  
कार्यवाही आवास खाली करवाने तथा बाजार दर से किराया वसूल करने की कार्यवाही की  
जायेगी तथा इस कार्य की पूरी जिम्मेदारी आपकी होगी।  
मंडल रेल प्रबंधक(याँ)लखनऊ।प्रतिलिपि लोको फोरमैन/समाधि अधीक्षक - चारकाज - की सूचना एवं  
उचित कार्यवाही हेतु। कृपया सात दिनों में आवास खाली किये जाने की सूचना भेजें।  
यह अति आवश्यक है।

मंडल रेल प्रबंधक(याँ)लखनऊ।

Attested  
  
S.K. Jaiswal



Notice U/S 4 & 7 of the Public Premises (Eviction of Unauthorised occupants).

Act 1971.

No. W/538/1/LJN/W-4 (

Lucknow, dated

1-12-86

Shri 50 वन, 4040 बगान/11, -02 बगान 223

P/o 28/15 एफ. 1 लोदी बगान, बाराबाग,

Distt. लखनऊ ।

Whereas I, the undersigned, am of opinion of the grounds specified below that you are in unauthorised occupation of the public premises mentioned in the schedule below and that you should be evicted from the said public premises.

GROUND S

The प्रजा मंडल धर्मिक एजेंसिया N.E. Railway, Lucknow has filed an application on behalf of the Union of India in the court of the undersigned alleging that you are in unauthorised occupation of Railway Quarter/land 28/15 एफ. 1 at बाबाबाग and that inspite of notice served on you by the applicant you still continue to occupy the said premises and have not paid up arrears of damages for use and occupation thereof amounting to Rs. 246-00 being damages calculated for the period from 17-7-86 to 16-10-86 and onward damages @ Rs. 82-00 P.M. till the date of restoration of possession of the public premises in question to the Assistant Engineer, N.E. Railway, लखनऊ for unauthorised and wrongful use thereof.

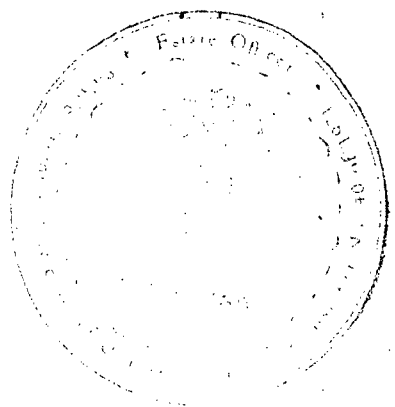
Now, therefore, in pursuance of sections 4 & 7 of the Act, I hereby call upon you to show cause on or before 8-12-86 why such an order of eviction and recovery of rent and damages be not made.

SCHEDULE

Boundaries of the public premises Railway Quarter/Bungalow No. 28/15 एफ. 1 Railway land measuring 22 Sft. in बाबाबाग लखनऊ under :-

- North : 50 वन 4040 बगान 71/एफ. 1
South : बगान जो लोदी रोड की दीवाल
East : 4040 28/15 जो टावर
West : 4040 28/15 व टावर

MW/161086



ESTATE OFFICER, N.E. RAILWAY, LUCKNOW.

Attested S.K. ...

A-13

To,

The Estate Officer &amp; Sr. DEN/HQ/LJN.,

Through: Loco Foreman/CB. Shed.

Sir,

Ref: Your Notice U/S 4,7 of the Public Premises (Eviction of un authorised occupants) No. W/533/1/LJN/W-4.  
Dt. 1.12.86 and DRM (M) LJN Notice No: M/258/5/Eviction CB/Shed Dt. 10.11.86.

\*\*\*\*\*

The above notices have been received by me and in explanation to that I have to request that my appeal against the dismissal order from service is under consideration with ADRM/LJN, as such till the finalisation of appeal at the various level I may please be allowed to retain Rly. Qr. under my possession. Moreover my dues over the Rly. administration are still alive which are to be decided at the end of judgement by the last appealant authority.

With regards,

Yours faithfully,

Dated: 10-12-86

( Mohd. Shafi )

Ex. Faresan/ II.

CB/Shed.

Copy to:-

Address: L/15-F. N.E. Rly. Loco colony  
Mawaiya, Lucknow.

1. DRM. (M) LJN.

2. Loco Foreman/CB/Shed.

Received  
Dwivedi  
11/12/86  
JPC  
CB/Shed

Attested

Mohd Shafi  
S. K. Singh  
A.S.O.

DRM. (M) LJN  
11/12/86  
JPC  
CB/Shed

LUCKNOW - 7.1.1986

RECORD OF PROCEEDINGS

IN CONNECTION WITH CHARGE MEMORANDUM  
NO. V/CON/SS-51/85 DATED 4.3.1985 ISSUED  
BY AWE(LOCO)/N.E. RAILWAY, LUCKNOW  
AGAINST SHRI MOHD. SAMI, FIREMAN 'C'.

Shri Mohd. Sami, F/man 'C'/CB, and his D.C. Shri Ulfat Rai Srivastava, S.P.I./LJN, are present. The SPS states that he had gone to inspect the RUDs at Gorakhpur Vigilance Office on 13.9.85. But the documents were not made available to him by the Vigilance Office, and he was spared without the inspection thereof. This fact has also been personally confirmed from the Vigilance Office by the undersigned. The SPS has been told that if he so wishes, he can inspect and take the extract of the RUDs today. RUD No. 1 as listed in the Annexure III of the charge memorandum is not available with the E.O. at present. So is the case with RUD No. 9. Both these documents should be procured and a copy thereof given to the SPS on the 20th January, 1986, at Lucknow.

The SPS admits to have received the charge sheet alongwith the usual enclosures and have understood the charges. The

The SPS denies the charges intoto.

As because the extracts of the RUDs are being taken today, the question of his submission of defence to the disciplinary authority, in reference to the charge memorandum, has not arisen.

The SPS states that he has no bias against the Enquiry Officer.

The SPS has been assured of all the reasonable opportunities during the course of enquiry.

Admission/Denial of the documents is as under:

RUD - 2-	Not admitted.
RUD - 3 -	Not admitted.
RUD - 4 -	Not admitted.
RUD - 5 -	Not admitted.
RUD - 6 -	Not admitted.
RUD - 7(A Card)	Accepted to the extent that it bears my signature against the column (declaration by the employee).
RUD - 8	Not admitted.
RUD - 10	Not admitted.

P.C.

SPS

E.O./HQ

Attested  
 m-2nd  
 S.K. Gupta

07-1-86

A-14

LUCKNOW - 27.1.1986:DAB ENQUIRY AGAINST SHRI MOHD.SAMI  
FIRMAN 'C'/CB.STATEMENT OF SHRI Y.N.SHUKLA, Ex.CVI NOW SR.WLI/BONDA( PW):

The certificate as mentioned in RUD2 is before me and it is the same certificate, and marked as PEI.

2. RUD No.3, is also before me and it is the same as mentioned in item 3 of the listed documents by which the article of charge is proposed to, be proved. It is marked PEII.

3. I also prove RUD No.4, marked PEIII.

4. RUD no.5, is before me and it is the certificate issued by the P rincipal, Railway Higher Secondary School Charbagh as mentioned against RUD no.8. It is marked PE-IV.

5. RUD no.6, is before me and it is the same certificate as mentioned in item 6 of Annexure III. It is marked PE-V.

6. It is the same 'A' Card as mentioned in RUDVII of Annexure III. This 'A' card to the best of my knowledge and memory was seized by me.

7. The statement dated 23.1.82 of Shri Atma Prakash Vij, Sr.Clerk, DRM(P)'s office LNJ, was recorded by me and it is in the handwriting of Shri Atma Prakash Vij. It is marked PE-VI.

8. To the best of my knowledge and memory service book of Shri Mohd.Sami, which is before me, was seized by me.

I have nothing to state except for what has been given in the documents.

ON QUESTION BY E.OI

To the best of my knowledge, the recognition or its non-recognition of school, does not have any effect in lower classes regarding the educational qualifications.

2. The certificates as listed in item no.4,5, and 6 were source contacts to locate the institution named Rashtriya Vidyalaya Alambagh, Lucknow, which was not being located or traced by contacts.

3. I do not remember whether I asked for the attested copy of the certificate or the original from the DRM(P)'s office.

4. The certificate of the Basic Shiksha Adhikari is important to the extent that it says that the Rashtriya Vidyalaya, Alambagh, is not recognised.

Attested  
m-2st  
S.K. Subhakar

20/1/86

DAR ENQUIRY AGAINST SHRI MOHD. SAMI,  
FIREMAN 'C'/CB.

A 49

STATEMENT OF SHRI ATMA PRAKASH VIJ., SR. CLERK DRM(P)'s OFFICE/  
LJN( PW):

The statement marked PE-VI, is in my hand-writing, and bears my signature.

2. The 'A' card of the SPS has also been prepared by me, and I have signed it. It is marked PE-VII. The 'A' card was prepared by me in the capacity of the then Folder Clerk and was witnessed by my the then Incharge Shri G.C. Saxena, HC. The SPS has declared his date of birth in his own hand-writing on the 'A' card. In support of his age, he submitted a certificate issued by a school. (Rashtriya Vidyalay, Alambagh, Lucknow). The certificate submitted, was an attested one.

I conclude my statement.

Atam Prakash Vij  
Office Rypda II

ON CROSS EXAMINATION BY D.C.

He has submitted the <sup>said</sup> certificate, which was in his folder showing his date of birth as 8.9.1949. I do not recollect at this distant date, whether any covering letter was also there alongwith this certificate or not.

2. The employee submitted the attested copy of the certificate and the original was also shown to me. The attested copy was kept in the folder.

3. Whether the attested <sup>copy</sup> was compared with the original or not is not required to be mentioned anywhere because there is no column provided in any of the documents.

ON QUESTION BY E.O.

The certificate marked PE- I, was personally handed over to me by the employee.

2. On the 'A' card, the portion 'declaration by the employee' has been filled by the SPS.

3. I worked as a Folder Clerk for nearly 5-6 years, in the Mech. cadre.

4. Generally the ~~employees~~ persons come personally alongwith the certificates and they hand over the same. I have not come across during my tenure as a Folder Clerk wherein any candidate handed in the certificates alongwith the covering letter saying as to what effect the certificates were attached. Certificates were simply handed over.

Atam Prakash Vij  
Office Rypda II

Attested  
M. G. N.  
S. K. Gupta  
A. S. D.

27-1-86

27-1-86

5. The RUDs 4, 5, and 6 are connoting that there is no school named Rashtriya Vidyalay in the locality of Alambagh.

as an E.O.  
Q.No.6: Supposing I issued a certificate to your son regarding his date of birth saying that 'to the best of my knowledge the child was born on the 31st of Jan. 79'. Will this ~~same~~ certificate had any value if it is produced as a proof of age and date of birth?

Ans: No

7. The various schools which I contacted and obtained the certificates from them are not the authorities to say whether a school exists or not. But I collected these certificates from these schools because they were situated in the same locality and it was ~~practically~~ expected that they would have the knowledge of any school if situated in the same locality. This was done to confirm the ~~actual~~ existence of school if at all it was in that locality.

N.B: D.C. who had earlier said that he will not cross examine in absence of RUD no.1 and 9, changed his mind and wanted to cross examine the Prosecution witness. Allowed.

#### ON REKIND CROSS EXAMINATION BY D.C.

The certificate marked PE-I, is the certificate which was given by the DRM(P)'s office, which I tendered the seizure memo.

2. There was no covering letter of any sort with the document.

3. I could not take the ~~statement~~ statement of the SPS as he did not make himself available for the same.

4. I had contacted the IF many a times for making the SPS available for recording of his statement but I do not remember if I had given any memo to him.

5. I have already stated that the SPS's statement could not be recorded as he did not make himself available.

#### On question by E.O.

I do not remember whether any proceedings were drawn by me to the effect that the Loco Foreman was contacted by me or efforts were made to obtain the statement of the SPS but due to his non-availability it could not be done. But I confirm the fact that attempts were made for obtaining of SPS's statement.

Attested  
27-1-86  
S K. [Signature]  
[Signature]

27-1-86

ASO

5. The statement marked PE- VI, is based on facts and has not been given on any pressure, duress or promptings from any corner.

6. I do not recollect on what source, the SPS was appointed in the Railways.

7. I also do not remember on whose orders, as the case is very old.

27/1/86

Atam Parkash Singh  
Officer Super II  
27/1/86

Attested

27/1/86

S.K. Singh

# Report of Enquiry and Findings

Under R. S. ( D & A ) Rules, 1968.

.....

Case No. M/Con/SS-51/85 Lucknow Division.  
 Suspect Public Servant - Shri Mohammad Sami, Engine Cleaner  
 now officiating as Fireman ILCB.  
 Memorandum of Charge No. - M/Con/SS-51/85 dt. 4.3.1985.  
 Disciplinary Authority - A.M.E. /Loco, Lucknow  
 Enquiry Officer - Miss Meena Shah.  
 Defence Assistant - Sri Ulfat Rai, WI/LJN  
 (Nomination withdrawn subsequently)

.....

- I. The article of charge against Shri Mohammad Sami, Engine Cleaner now officiating Fireman ILCB (SPS) is as under:

Whereas Sri Mohd. Sami s/o Sri Mohd. Shafi functioning as Engine Cleaner from 1971 to 1975 submitted a forged school certificate shown to have passed class VIII from Rastriya Vidyalaya, Alambagh, Lucknow to the office of DRM (P)/LJN and got employment as Substitute Engine Cleaner on 30/10/71 and Engine Cleaner with effect from 17/8/73 in grade A.196-232 on the basis of this school certificate, making him eligible for appointment as Engine Cleaner in an irregular manner for which he was otherwise not eligible.

The above act of Sri Mohd. Sami shows lack of absolute integrity, his failure to maintain devotion to duty and an act unbecoming of a Railway servant which tantamounts to misconduct. He, thereby, contravened Rule 3(1) (i), (ii) and (iii) of Railway Services (Conduct) Rules, 1966.

Statement of Imputations is reproduced below:

Shri Mohd. Sami submitted forged transfer certificate of class VIII issued by Pradhanadhyapak, Rastriya Vidyalaya, Alambagh, Lucknow, and secured employment as Engine Cleaner in an irregular manner covering the age limit of maximum 21 years and minimum qualification as class VIII passed.

For the post of Engine cleaner, the maximum age limit was 21 years and the minimum qualification was "passed class VIII standard."

*Ulfat Rai*  
 28.2.86/AB

Attested

*SK*  
*28.2.86*



## II. Orders to hold enquiry:

ii. Sr. DME/NER/Lucknow, being the disciplinary authority, appointed me to inquire into the charges levelled against Shri Mohd. Sami, Fireman II/CB, vide his letter of even no. dated 20.11.85( 31/C of the DAR file). A copy of this letter has also been endorsed to the charged employee.

## III. Prosecution - Documents and witnesses.

The charge against Shri Mohd. Sami, Fireman/II/CB is as under:

" Whereas Sri Mohd. Sami S/O Shri Mohd. Shafi functioning as Engine Cleaner from 1971 to 1975 submitted a forged school certificate shown to have passed class VIII from Rastriya Vidyalaya, Alambagh, Lucknow, to the office of DME(P)/LJN and got employment as Substitute Engine Cleaner from 30.10.71 and Engine Cleaner w.e.f. 17.8.83, in grade Rs 196-232 on the basis of this school certificate, making him eligible for appointment as Engine Cleaner in an irregular manner for which he was otherwise not eligible.

The above act of Mohd. Sami shows lack of absolute integrity, his failure to maintain devotion to duty and an act unbecoming a Railway servant which tantamounts to misconduct. He, thereby, contravened Rule 3(1)(i), (ii) and (iii) of Railway Services( Conduct) Rules, 1966.

To prove the above charge, prosecution has relied upon 10 documents and 2 witnesses. All the documents have either been admitted by the charged employee or proved by the prosecution witness during the course of enquiry. All the PWs turned up and gave their statements.

## IV. Defence case - Documents and witnesses.

The charged employee pleaded not guilty at the very outset on the date of preliminary hearing held on 7.1.86. He has not submitted his defence statement to the charge sheet. 3 dates viz. on 19.2.86, 24.2.86 and 17.3.86, were fixed for submission of defence brief, which he did not do. 27.5.86, was fixed for examination of the charged employee under rule 9(21) of the DAR by the E.O. He did not turn up on that date too. Hence the defence case was closed and 16.5.86 was fixed for submission of written brief. He did not submit the same.

*Perme*  
27/5/86

Attested  
27/5/86  
SK. Jafar

V. Appreciation of evidences.

1. The charge against Shri Mohd. Sami Fireman II is that while functioning as a Engine Cleaner from 1971 to 1975, he submitted a forged school certificate showing himself as Class VIII passed from one Rashtriya Vidyalaya, Alambagh, Lucknow. The certificate shows his date of birth as 8.9.49 and that he passed class VIII. The prosecution has put forward the plea that there was no such institution as Rashtriya Vidyalay, Alambagh, Lucknow and as such the question of issue of certificate by the authorities of a school, which is non-existence, does not arise. In this connection, there were 2 PWs viz. S/Shri Y. N. Shukla, the then CVI and Shri A.P. Vij, the then Folder Clerk dealing with the Mechanical staff.
2. The PW Shri Vij, in his statement in chief has mentioned that the charged employee declared his date of birth in his own handwriting in the 'A' Card and that in support of his age, he submitted the certificate in question. On being questioned by the E.O., this P.W. has also mentioned that the said certificate which is marked as PE - I, was personally handed over to him by the charged employee.
3. At the time of preliminary hearing and during admission/denial of the documents, RUD-7, which is 'A' card was shown to the charged employee, who has accepted it to the extent that it bears his signature against the column "DECLARATION BY THE EMPLOYEE". The signature is in token of some declaration, which was given by the employee. And as such, the various items such as name, date of birth, designation, dx signature etc. are all part and parcel of the column "DECLARATION OF THE EMPLOYEE". The P.W. Shri Vij has also mentioned that the 'A' card was prepared by him and that the charged employee declared his date of birth in his own handwriting therein (in his statement-in-chief). Keeping in view the discussion in the current para and also in the foregoing para, the fact is firmly established that 8.9.49, was declared as the date of his birth by the employee. 8.9.49 is also shown in the school certificate issued in favour of Mohd. Sami. The date declared in the 'A' card by the employee and the date shown in the school certificate tally. Shri A. P. Vij PW has deposed during the course of enquiry that Shri Mohd. Sami submitted a certificate issued by the school by the name of Rashtriya Vidyalay, Alambagh, Lucknow, in support of his age. This can be seen on ROP 4. In the same ROP, on being questioned by the E.O., in reply to Q. No. 1 he has mentioned that the said certificate was personally handed over to him by the charged employee. Further in reply to Q. No.4 on the same ROP, he mentioned that the practice was that the persons came and handed over the certificates personally and that he had not come across in his tenure as a Folder clerk wherein any candidate handed the certificate alongwith covering letters. Shri A.P. Vij also stated that the charged employee submitted an attested copy of the certificate and the original was also shown to him and that the attested copy was kept in the folder.

Attested

S. K. [Signature]  
[Signature]

[Signature]  
27/5/86

4. Now the question comes in whether this document was a genuine one or not. In this connection, Shri Y. N. Shukla, and ex. CVI and also a P.W. has submitted certificates as mentioned against RUD 3, 4, 5 and 6. In his statement in chief, he has proved these documents against item no. 2, 3, 4 and 5. On being questioned by the E.O. in ROP 2, against item no. 2 he has mentioned that the various certificates as indicated against RUD 4, 5, and 6 were his efforts to locate the institution named Rashtriya Vidyalaya. These letters will show that in Alambagh, there was no such institution by this name.

5. At this juncture, I would like to revert to the proceedings held during the preliminary hearing with a special reference to RUD-7 ('A' card), at the time of admission/denail of the documents. A perusal of 'A' card will show that there is a column which mentions in capital DATE OF BIRTH. In the same column, it is written DECLARATION BY THE EMPLOYEE. The said declaration is signed by Shri Mohd. Sami. The question arises if he signed it, then in token of what? It has to be in token of date of birth, the name, the designation which are the parts of the information required to be declared by the employee. As such, Shri Mohd. Sami can not only accept his signatures and deny the rest. This kind of answer, which he gave during the preliminary hearing leads me to a safe conclusion that everything is not above board where the date of birth is concerned because had it been so, he would have boldly come out and accepted his date of birth as 8.9.49. This demeanour and the evasive reply also ~~lack~~ my confidence in the certificate submitted by him, which is marked as PE - I (if the certificate was not submitted by him, then this point could have been thrashed out during the cross examination of the PW, when he mentioned that the said certificate was personally handed over to him by the employee). As the certificate wherein it has been mentioned that his date of birth was 8.9.49, was submitted by the employee, it can safely be concluded that the date of birth mentioned therein was very much within his knowledge. This coupled with the fact that the PW has submitted various documents wherein it has been mentioned that no such school exist in Alambagh, leads me to believe in a conclusive fashion that the certificate in question is the net - result of some kind of a racket where people have made it their business to issue false certificates on printed forms. It is not important that age and educational qualification for engine cleaners that the school in which they studied should be recognised institutions. In other words, the clause of recognition has not been insisted upon and as such normally I would not have given any importance to PE II, which says that Rashtriya Vidyalaya is not a recognised school. But

Attested  
by 27/6/86

S.K. Subbarao  
D.D.

*[Signature]*  
27/6/86

But keeping in view PE III, PE IV and PE V, read with PE II, I come to a conclusion that the school by this name i.e. Rashtriya Vidyalay Lucknow is non existent.

6. Keeping in view the totality of evidence as discussed in the above paras, I come to a conclusion that the certificate is not a genuine one.

7. Shri Mohd. Sami was given a chance to submit his statement of defense under rule 9(19) on 19.2.86, 24.2.86 and 17.3.86. He did not turn up on any of the dates.

8. Sr. DME/NER/LJN, vide his letter dated 22.4.86 informed that Shri Sami was under RM from 17.2.86 to 20.3.86 and thereafter he had been absenting himself in an unauthorised manner. On receipt of this letter 5.5.86 was fixed for this purpose and the letter informing him about this date and also that if he did not turn up on 5.5.86, ex-parte proceedings will be conducted against him, was pasted at his residence. This was duly witnessed by two persons. The said letter and the certificate of its pasting duly witnessed by 2 persons can be seen at C/49 and C/63 respectively of the DAR file. Sri Sami did not turn up even on 5.5.86. Another date was fixed on 27.5.86 on which his examination by the M.O. under rule 9(21) of the DAR was fixed. Notice dated 8.5.86 vide which this information was sent to Mohd. Sami was received on 15.5.86 vide C/67 of the case. The DMO/Polislinic/ASH has advised that Shri Mohd. Sami was recommended hospitalisation but after that he did not turn up at the N. E. Railway Polislinic at Aishbagh and that his whereabouts was also not known to the DMO/Aishbagh. The date for submission of the written brief was fixed on 16.6.1986 and even to this no response was given by the charged employee. In view of Sr. DME's letter dated 23rd April, ex-parte proceedings were resorted to as it was established that Shri Sami was avoiding the enquiry. This has been confirmed by the DMO/ASH's letter dated 19.6.86 at C/70 of the DAR file. In view of the facts mentioned in the foregoing paras and also action of Shri Mohd. Sami of making attempts to avoid facing the enquiry the point of the prosecution that Shri Sami submitted a forged certificate to get the employment is established beyond doubt. But for this certificate at PE I, the employment might not have been procured. The submission of a certificate of this kind for employment gives a sad reflection on his integrity. And as such I find him guilty of contravening sub Rule 3(1) (i) of the Service Conduct Rule 3 (1).

#### Finding.

Charge is established for contravening the provisions of para 3(1) (i) of the Service Conduct Rule 3(1).

( Miss ) Meena Shah  
Enquiry Officer/HQ.

27/6/86

Attested  
mlog  
SK

- 42

A-16

A56

North Eastern Railway

Orders of imposition of penalty of removal/dismissal from service under Rule 6 (i) (vii) (viii) of Part III of the Railway Servants (D&A) Rules, 1968.

\*\*\*\*

No: M/Con/SS-51/85

dated. the 16th. July, 1986.

Name: Sri Mohd. Shami Designation: Fireman II  
Father's Name: Sri Mohd. Shafi Deptt: Mech. (Loco)  
Scale of pay: Date of appointment: 30.10.1971  
Ticket No:  
Station: Lucknow.

\*\*\*\*

Sri Mohd. Shami is informed that the Inquiry Officer appointed to enquire into the charges against him has submitted her report. A copy of the Report of the Inquiry Officer is enclosed.

2. On a careful consideration of the enquiry report aforesaid the undersigned agrees with the findings of the Inquiry Officer and holds that the articles of charges are proved.

3. The undersigned has, therefore, come to the conclusion that the penalty of ~~removal from service~~ dismissal from service may be imposed on Sri Mohd. Shami with immediate effect.

4. Under Rule 18 of the Railway Servants (D&A) Rules, 1968, an appeal against these orders lies to ADM/LJN provided:-

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

5. Please acknowledge receipt of this letter.

Encls: Enquiry Report in  
Five pages.

*(Signature)*  
(Vindhychal Singh)  
Sr. Divl. Mech. Engineer,  
N.E. Railway, Lucknow.

Copy forwarded to:-

1. LF/CB in duplicate. He will please serve the aforesaid NIP after obtaining acknowledgement on the duplicate copy. In case the employee is not available the same may be pasted on the Notice Board in presence of two independent witnesses and such witnessed copy sent to this office for record.
2. Sri Mohd. Shami s/o Sri Mohd. Shafi, Fireman II, Rly. Qr. No. L/15 F Type I, Loco Colony, N.E. Railway, Maiwaya, Lucknow-226004, for information.
3. OS (Bills)/Mech. DRM(M)'s office/LJN.
4. OS (P)/Mech Cadre

*(Signature)*  
(Vindhychal Singh)  
Sr. Divl. Mech. Engineer/LJN

*Attested*

*27-2/87*  
*S.K. Singh*  
*27/2/87*

Registered

(43)

A-17

A57

To:  
The Additional Divisional Railway Manager,  
N.E. Railway, Lucknow.

THROUGH PROPER CHANNEL

Sir,

Subj: Appeal against the penalty of  
dismissal from service.

Ref : Sr DME, N.E.Rly LCN's NIP No. M/  
Con/SS-51/85 dt. 16th July, 1986.

Aggrieved by the penalty of dismissal from service imposed on me by the learned Sr. D.M.E./LCN vide NIP cited above, most respectfully I beg to submit this appeal to your goodself for favour of your honour's kind and sympathetic consideration.

That AME(L)/LCN issued me a C/Sheet under No.M/Con/SS-51/85 dated 9-3-85 on the charge that I secured employment as substitute Engine Cleaner on the basis of a forged school certificate.

That, by my application dated 18/8/85, I requested AME/LCN to supply me photostat copies of the relied upon documents as mentioned in Annexure III and Annexure IV to the C/Sheet. But, DRM/LCN vide letter No.M/Con/SS-51/85 dated 29-8-85 informed me as under :-

"There is no provision of supplying photostat copies of documents as demanded by you."

That, relevant extract of para 9 of Ministry of Home Affairs O.M. No.F.30/5/61-AVD dt. 25/8/1961 forwarded under Board's letter No. E(D&A)61 RG 6-45 dated 10/10/61 is reproduced below in this connection:-

"It, however, the documents of which photostat copies are sought for, are so vitally relevant to the case

contd..2

Attested  
M. S. S. S. S.  
S. K. S. S. S.

Recd  
29/8  
लोदी कोरवेन  
पूर्वोक्त रेलवे  
आरक्षण, वृत्तन

(e.g.- where the proof of the charge depends upon the proof of handwriting or a document, the authenticity of which is disputed), the Government should itself make photostat copies and supply the same to the Government Servant."

Photostat copies are also admissible in terms of Rly Bd's letter No. E(D&A)83 RG6-14 dated 29-3-85. Therefore, the above order communicated under DRM/LJN's letter No. M/Con/SS-51/85 dated 29/8/85 is bad in law being contrary to rules. All proceedings following thereafter based on such order is illegal and ab initio void and may kindly be set aside.

That as per direction of Loco Foreman/CB Shed contained in his letter No. M/Con/CB/85 dated 12/9/85, I attended the office of GM(Vig)/GKP but no document was supplied to me and I was spared from that office on the same date. A Photostat copy to this effect is enclosed herewith.

That, but without supplying me the documents and without consideration of my written statement of defence, which could not be submitted as a result of denial to supply the relied upon documents, Sr DME/LJN vide his order No. M/Con/SS-51/85 dated 20/11/85, appointed an Inquiry Officer, erroneously contending that despite being spared to inspect document from the office of GM(Vig) GKP and alleged failure of submission of defence, I failed to do so. But the conditions precedent to submission of written statement of defence was not fulfilled. The Sr. DME/LJN's order ~~dated~~ appointing an Inquiry Officer is, therefore, in violation of Sub-rule (7), (8), (9) of Rule 9 of the Rly servants (Discipline and Appeal) Rules, 1968. All proceed-

contd..3

ings based on order which violated the Rly Bd's instructions on the subject, are bad in law, illegal and abnitiio void and may kindly be set aside. ASQ

That, however, in compliance with the order, I attended the DAR inquiry the first date of which was fixed for 7-1-86. At this inquiry I was shown the RUD Nos. 2 to 8 and 10. Although, the Inquiry Officer assured to give me copies of RUD No.1 and 9 on 20-1-86 as recorded in the proceedings dated 9-1-86. The documents as shown to me on 7-1-86 had no authenticity and I demanded that authenticity of these documents should be verified by the authors of these documents during the inquiry as such the documents were not admitted by me.

That on 27-1-86 only 2(two) witnesses were produced on behalf of the department viz. Shri Y.N. Shukla Ex-CVI and(now SWI) and Sri Atma Prakash viz. Sr. Clerk DRM(P) office. Sri Y.N. Shukla was produced to prove the documents although he was not the author of any of the documents except perhaps document No.1 i.e. seizure memo dated 27/9/80 But, even the seizure memo was not verified by Sri Shukla as the same was not produced in the inquiry on 27/1/86 i.e. the date on which his evidence was recorded. Further his evidence vide para 8 of his statement-in-Chief that he seized the service book of Sri Mohd Sami, is not borne out from the contents of seizure memo. Therefore, his evidence is based on presumptions, conjectures and surmises and cannot be relied upon.

That, the evidence of Sri Atam Prakash viz that I handed over the school certificate personally to him is baseless. From this preliminary statement dt. 23/1/82 it is evident that he prepared my 'A' card on 30/8/75.



But from the attested copy of School certificate said to have been handed over personally to him by me, it is A63 evident that the said certificated was attested by Sri D.N. Mathur, DME/LJN on 31/7/73 i.e. over 2 years before the preparation of 'A' card by Sri viz. since the school certificate was attested by Sri D.N. Mathur DME/LJN, this ~~was~~ must have been done by office from the original certificate as I had no access to Sri D.N. Mathur, DME/LJN, being a lowly placed substitute Eng. Cleaner. Thus, the said school certificate with its original must have been available in office of DRM(P)/LJN from a period much ahead of preparation of 'A' card. Moreover, from the charge memorandum itself it is evident that I got employment as as substitute Engine Cleaner on 30/10/71. Whether, it is to be believed that my qualification, age etc. were not verified and school certificate not submitted before my securing the employment in 1971 and I was appointed without such verification and such contingency was permitted under the rules, instructions and procedure laid down for appointment to Rly service? Therefore, the evidence of Sri Atam Prakash viz. is totally false, malafide and unreliable and must be struck down for the sake of justice, good conscience and impartiality.

That without verifying the authenticity of the letter dated 1/1/81 of Addl. Distt. Basic Siksha Adhikari, Lucknow (Sr.No.3 of RUB), certificate dated 19/8/82 issued by Secretary, Manager, Bappa Sri Narain Kanyakubja School, Alambagh (Sr.No.4 of RUB), certificate dated 26-8-82 issued by the Principal, Railway Higher Secondary School, Charbagh, Lucknow (Sr.No.5 of RUB) and certificate dated 26/8/82 issued by the Manager, Barha Primary School, Alambagh, Lucknow (Sr.No.6 of RUB) and without affording me any opportunity of cross examining the authors of these documents, I was asked to submit my defence statement.

That, unfortunately, I was fallen seriously ill and remained under the treatment of Rly Medical Officer upto 20/3/86 and thereafter under the treatment of Dr. S. Ali, an eminent physician and Surgeon who recommended me complete rest from 21-3-86 to 25/5/86. A certificate to this effect along with my application was sent to Sr. DME, N.E. Rly, Lucknow, Miss Meena Shah, Inquiring Officer and Loco Foreman, CB Shed through Regd. Post on 3/5/86. Photostat copies of the same are enclosed herewith. Sr. DME/LJN vide his letter No. M/Con/SS-51/85- Dt. 12/5/86 asked me to report to DMO/ASH within 3 days presuming that I was evading the inquiry by hook or crook and threatening to hold the inquiry ex-parte. In compliance with Sr. DME's above order I reported to DMO/N.E. Rly/ASH who vide his letter No. H/184/1 dated 17/5/86 reported to Sr DME/LJN that DMO/ASH attended me at my residence and that I was under the treatment of Dr. S. Ali and as per Dr. Ali's certificate, I was suffering from neuralgia. DMO/ASH in his above letter further stated that I have been recommended for hospitalisation dt. 18/5/86 sent through Regd. post, I also informed Sr. DME/LJN about my state of health after examination of DMO/N.E. Rly/ASH and assured that I was not evading the inquiry on any pretext, that I was really very sick and that I will attend the inquiry on being well. Photostat copies are enclosed.

That, from the Inquiry Officer's Report and the NIP issued by Sr DME, it is evident that the inquiry was closed without giving me opportunity to cross-examine the authors of some of the relied upon documents, without taking my defence statement and without submission of defence brief even though I was on sick list and this fact was known to them and duly certified by DMO/ASH. and I have been dismissed from services without even the DAR inquiry being completed even from the prosecution side.

That, in the appreciation of evidence, the Inquiry Officer has relied upon only 2(two) prosecution witness viz Sri Atam Prakash viz. Sr. Clerk who prepared the 'A' card and Sri Y.N. Shukla, CVI (Now SWI) who is stated to have procured the documents mentioned in Sr. No.3,4,5 and 6 of Annexure III to the C/Sheet. AB2

That, Sri Atam Prakash viz's contention that I personally handed over to him a certificate issued by the school by the name of Rashtriya Vidyalaya, Alambagh, Lucknow in support of my age at the time of preparation of my 'A' card by him is false baseless and malafide. I was appointed as substitute Engine Cleaner on 30/10/71 and my appointment order was issued after verification my age and qualification by the authorities. Therefore, the school certificate showing my age and qualification was submitted before entering Rly Service. But this certificate has not been produced or mentioned while framing the charges, or during preliminary enquiry or at any time during DAR inquiry Shri Atam Prakash viz. in his preliminary statement recorded on 23-1-82 stated that he prepared my 'A' card on 30/8/75, and attested copy of school certificate was personally handed over to him by me on that date i.e. 30-8-75. If I handed over the school certificate to him only on 30/8/75, how I was appointed on 30/10/71 has not been explained. Further Sri Atam Prakash viz's statement is based only on presumption as he prepared 'A' card on 30/8/75 and his preliminary statement was recorded on 23/1/82 after about 4 years of preparation of my 'A' card. How he remembered that I personally handed over the school certificate on 30/8/75, an occurrence said to have happened about 7 years ago. From the attested copy of the school certificate as produced in the DAR inquiry, it was observed that the said certificate was attested by Sri D.N. Mathur DME/LJN on

contd..7

31/7/73. From this date recorded by DME/LJN, it is further established that the said certificate was available in the office on 31/7/73, if not from a date prior to this, and was not certainly handed over personally by me to Sri Atam Prakash viz on 30/8/75. Therefore, no reliance can be placed on the statement/evidence of Sri Atam Prakash viz.

That the Inquiry Officer has erred in concluding that I gave a vague and evasive reply in regard to 'A' card i.e. RUD-7 in the preliminary hearing. The Preliminary hearing was for admission/denial of documents and cannot be taken as an answer to the charge or my defence. The stage of my defence statement did not come at the preliminary hearing and unfortunately, the opportunity of submission of my defence statement was denied throughout, firstly by denial of access to the documents by the Disciplinary Authority and lastly by the Inquiry Officer who chose to conclude the inquiry even during my sickness without recording defence statement and defence evidence. The 'A' card was prepared by the office clerk. No declaration was obtained from me at the time of preparation of 'A' card. The word DECLARATION by THE EMPLOYEE is printed in the 'A' card. All entries in the 'A' card was made by the clerk concerned in his own handwriting and I was merely asked to put my signature in the said 'A' card. I was a semi-literate employee. I could not read and write in English. The 'A' card was in English language. It is, therefore, not fair and just to conclude that all the entries made in the 'A' card including date of birth was in my knowledge and made with my consent. The observations of the Inquiry Officer are, therefore, based on misappreciation and mis-apprehension of the facts and procedure without any evidence in support.

That the learned Inquiry Officer has based her appreciation of evidence about the non-existence of the Institution named Rastriya Vidyalay, Alambagh, Lucknow on the sole evidence of Sri Y.N. Shukla Ex-CVI (now SWI). Sri Y.N. Shukla in his evidence stated that he procured RUD No.2, 3, 4, 5 and 6 etc. as given in Annexure III to the C/sheet. A6u

That RUD No.2 is an attested copy of T.C. file No.139 dated 11/7/61 issued by Rastriya Vidyalaya, Alambagh, Lucknow which was allegedly given by me to the folder clerk for record. I have already proved that Sri Atam Prakash viz.'s statement and evidence are false, baseless, malafide and motivated in that without submission of School certificate in support of my age and qualifying before my appointment on 30/10/71, it could not have been possible for me to secure my employment as substitute Engine Cleaner. This certificate has not been produced either at the stage of preliminary investigation, or while framing the charge against me or even during DAR inquiry. The alleged certificate was attested by DME/LJN on 31/7/73 and therefore was available in office prior to preparation of my 'A' card by the said Sri Atam Prakash viz. on 30/8/75. Neither the Disciplinary Authority nor the Inquiry Officer ever gave any consideration to the question as to how I could secure my employment on 30/10/71 without furnishing school certificate prior to my appointment and how the said certificate was submitted by me to the folder clerk only on 30/8/75 after about 4 years of securing such employment. They also failed to consider the question as to whether there was any such provision under rules, procedure and instructions that such certificate was neither necessary nor called for before securing employment and that verification of age, date of birth and academic qualification

was a needless exercise before giving employment on the railway and that such verification could be deferred for 4 (four) years after giving the employment. A 65

That GUD 3 (Sr.No.3 of Annexure III to C/sheet) as alleged to have been issued by Addl. District. Basic Siksha Adhikari, Lucknow on 1/1/81 mentioning that the institution named Rastriya Vidyalaya, Alambagh, Lucknow is not recognised. The said letter does not in any way deny the existence of the institution in question. It only says that the said institution is not recognised. On a close scrutiny of the letter in question, it is seen that the said letter is purported to have been issued by Addl. District Basic Shiksha Adhikari (Mahila) Lucknow. Thus the letter is in respect of recognition of a Girls Institution in the same and style of Rastriya Vidyalaya, Alambagh, Lucknow. It is surprising that neither the Disciplinary Authority nor the Inquiry Officer gave any thought over the matter as to how I was expected to study in a Girls Institution. Further, the Addl. District Basic Shiksha Adhikari (Mahila) Lucknow was not produced in the DAR inquiry to verify the authenticity of the letter nor I was given any opportunity to cross examine the said Adhikari. There was, therefore, denial of reasonable opportunity of defence in violation of the principle of natural justice and Article 311(2) of the constitution.

That, reliance was placed on certificate dated 19/8/82 said to have been issued by Secretary, Manager, Bappa Sri Narain Kanyakubja School, Alambagh (Sr.No.4 of RUB/Annexure III), certificate dated 26/8/82 issued by the Principal, Railway Higher Secondary School, Charbagh, Lucknow (Sr.No.5 of RUB/Annexure III) and certificate dated 26/8/82 issued by the Manager, Barba Primary School,

Alambagh, Lucknow to prove that there is/was no existence of such institution in the name of Rastriya Vidyalaya in Alambagh, Lucknow. A 66

That on a close scrutiny it is evident that the alleged certificates issued on 26/8/82 by the Principal Rly Higher Secondary School, Charbagh, Lucknow and Manager, Barba Primary School, Alambagh, Lucknow ~~and~~ is one and the same institution. Whereas one certificate dated 26/8/82 has been allegedly issued under the designation of Principal the other has been allegedly issued by Shri O.P. Singh, Manager, Railway Higher Secondary School, Lucknow under the designation of Prabandhak, Barha Primary School, Alambagh, Lucknow. Thus, the CVI who procured the said certificates, manipulated to get two certificates from one and the same institution. Thus it is established beyond doubt that the CVI Sri Y.N. Shukla acted malafide, with motive and in an illegal manner. The Disciplinary Authority as well as the Inquiring Authority therefore, erred in placing reliance on such manipulated documents leading to failure of justice.

That, further, as in the case of Addl. Distt Basic Siksha Adhikari (Mahila), so also in respect of (i) Secretary, Manager, Bappa Sri Narain, Kanyakubja School, (ii) Principal, Railway Higher Secondary School and (iii) Manager, Barha Primary School, whose alleged certificates have been relied upon in proving the charge against me, were not produced in the DAR inquiry to verify the authenticity of the certificates allegedly issued by them nor I was given any opportunity of cross-examining them which constituted absolute denial of reasonable opportunity of defence in violation of the principles of natural justice and Article 311(2) of the constitution of India as also rules, procedure and instructions issued in the matter.

That, unless the authors of the RUD from Sr.No. 3,4,5 & 6 (Sr.No.3,4,5 & 6 of Annexure III to the C/Sheet) were made witnesses in support of the charge, failure to record their evidence in the DAR inquiry and unless an opportunity was given to me to cross-examine them, no reliance could be placed on the letters/certificates allegedly issued by them as the authenticity of the letters/certificates could not be established and contents in their letters/certificates could not be tested or proved, as these materials and documents were collected behind my back. AB

That, neither the Inquiry Officer nor the Disciplinary Authority applied their minds properly. There has been denial of reasonable opportunity to me at each and every stage of the proceedings, that the report and findings of the inquiry are perverse, bad in law, in violation of principles of natural justice and Article 311(2) of the constitution, that I am totally innocent in this case and that the penalty imposed on me is illegal and void ab initio for failure to afford reasonable opportunity of defence, failure to record the evidence of the authors of the relied upon material documents and opportunity to cross examine them, erroneous reliance placed on false, mala fide and motivated evidence of Sri Atam Prakash viz and Sri Y. N. Shukla, failure to give me opportunity to submit my defence statement, produce defence witness and defence brief and abruptly closing the inquiry in mid-stream while I was on sick list duty certified by DMO/ASH all the violation of principles of natural justice and Article 311(2) of the Constitution of India.

I, therefore, most humbly and respectfully pray to your goodself to kindly bestow your justice, equity



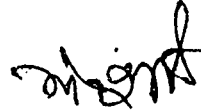
ABD

and good conscience by setting aside the penalty and  
by reinstating me in service at your earliest convenience.

I also request your honour to grant me a personal  
hearing along with my defence counsel, before the disposal  
of my appeal.

Thanking you,

Yours faithfully,




( MOHD SHAMI )

Ex-F/M-II CB Shed/NER/LJN

Dated: 22/8/1986  
Lucknow.

Address:  
L/15F N.E.Rly Loco Colony  
Mawaiya, Lucknow.

Attested  
  
S.K. Sanyal

(S-S)

North Eastern Railway

No:M/Con/SS-51/85

Office of the  
Divl. Railway Manager/Mech.  
Lucknow.dt. the 6th. Novr., 1986.

Sri Mohd. Shami,  
ex-Fireman II,  
L/15F, N.E. Rly. Loco Colony,  
Mawaiya, Lucknow.

Sub: Appeal against the penalty of dismissal  
from service.

Ref: Your representation dated 22/8/86

\*\*\*\*

ADRM/LJN has granted you personal hearing on  
18/11/86. You are, therefore, ~~kindly~~ required to please  
attend along with your defence counsel on the date fixed.

for Divl. Rly. Manager,  
Lucknow.

Copy forwarded to Loco Foreman, N.E. Railway, Charbagh,  
who is required to please serve the above letter on the staff  
after obtaining his acknowledgement and send the same to this  
office for record.

for Divl. Rly. Manager,  
Lucknow.

Attested

S.K. Zafar

सेवा में

'56'

A-19

महल रेल प्रबंधक महोदय,  
पूर्वोत्तर रेलवे,  
लखनऊ ।

A70

आदरणीय महोदय,

विषय: - सेवा से निकाल दिये जाने के सम्बंध में ~~अर्द्ध~~ अध्यावेदन ।

संदर्भ: - आपका पत्र संख्या एम/कान/एस०/एस-६१/८५ दिनांक  
६-११-८६ ।

उपरोक्त के सम्बंध में प्रार्थी को पिछले डिफेंस काउंसल नहीं आये हैं जिससे  
अपनी अपील के सम्बंध में कुछ बताने में पूर्णतया असमर्थ हूँ ।

अतः श्रीमानजी से प्रार्थना है कि प्रार्थी को कोई अन्य सुनवाई की तिथि देने  
की कृपा करें । आपकी महान दया होगी ।

कष्ट के लिए धन्यवाद ।

*Recd*  
*CA RABDRA 1990*  
दिनांक 18-11-86 18/11/86

*Attested*  
*mk*  
*S.K. Gupta*

प्रार्थी,  
*mk*  
( मोहम्मद खोसरो )  
भू०पू० परामर्श/११,  
एल/१५ एफ, पूर्वोत्तर रेलवे,  
लोको कोलोनी, मकिया,  
लखनऊ ।

North Eastern Railway

No: M/Con/SS-51/85

Office of the  
Divl. Railway Manager/Mech. A71  
Lucknow.dt. the 19th. Novr., 1986.

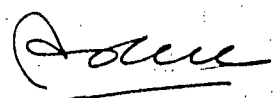
Sri Mohd Shami,  
ex-Fireman II,  
L/15 F, Loco Colony,  
Mawaiya, Lucknow.

Sub: Appeal against dismissal from service

Ref: Your representation dt. 18/11/86

\*\*\*\*

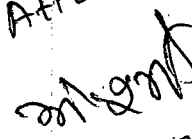
The next date for personal hearing in the aforesaid case is now fixed for 8.12.86. You are, therefore, required to please attend the same with your defence counsel, if any on the date fixed.



for Divl. Railway Manager,  
Lucknow.

23 (B)  
7/12/86

Copy forwarded to LF/CB who will please get the above letter delivered to the employee after due acknowledgement.

Attested  
  
S.K. Gupta

for Divl. Railway Manager,  
Lucknow.

( 58 )  
A-22  
A-21  
North Eastern Railway

No: M/Con/SS-51/85

Office of the  
Divl. Railway Manager/Mech.  
Lucknow, dt. the 2nd Jany., 1987.

✓ Sri Mohd. Shami,  
ex-Fireman II,  
L/15-F, Loco Colony,  
Mawaiya, Lucknow.

Sub: Appeal against dismissal from service

Ref: Your representation dt. 18/11/86 and  
personal hearing on 8/12/86.

\*\*\*\*\*

ADM/LJN has passed the following orders on  
your appeal.

" Despite opportunity being given to Sri Mohd.  
Shami to prove the genuineness of the documents,  
he has not done so. The charges against him have  
been conclusively proved. The appeal is rejected."

*[Signature]*  
for Divl. Ry. Manager,  
Lucknow.

Attested  
meant  
SK [Signature]  
AD

Admission No. ....

Withdrawal File No. ....

Transfer Certificate No. 139

# SCHOLARS REGISTER & TRANSFER CERTIFICATE FORM

छात्रलेखापत्रक-परिवृत्ति-पत्र

Name of the Scholar with caste if Hindu, otherwise religion छात्र का नाम तथा धर्म Mohammad Shami (Islam)	Name, occupation and address of parent or guardian संरक्षक का नाम, व्यवसाय तथा पता Shri. Mohammad Safi (Service) N. E. Railway, Colony	Date of birth of the scholar छात्र की जन्म तिथि 8.9.1949 8th September	The last institution, if any, which the scholar attended before joining this institution अन्तिम विद्यालय का नाम जहाँ छात्र ने शिक्षा प्राप्त की हो Private
---	--	---	--

Class कक्षा	Date of admission प्रवेश तिथि	Date of promotion उत्तीर्ण तिथि	Date of removal त्याग तिथि	Cause of removal e.g. non payment of dues, removal of family, expelled त्याग-कारण जैसे शर्क न देना, कुटुम्ब प्रस्थान विद्यालय से निःसारण आदि	Year वर्ष	Conduct and work चरित्र और कार्य
I १						
II २						
III ३						
IV ४						
V ५						

TRUE COPY

VI ६						
VII ७	13.7.59	14.5.60			1959-60	Good & satisfactory Passed cvii
VIII ८	8.7.60	13.5.61	30.6.61	End of the session	1960-61	Good & satisfactory Passed cviii
IX ९						
X १०						
XI ११						
XII १२						

प्रधानाध्यापक

Any other

specified अन्य श्रेणी की अभिव्यक्ति

Class कक्षा

IX ९

X १०

XI ११

XII १२

No. of School meeting held मीटिंग संख्या जो हुई हो

No. of School meeting at which present उपस्थिति की मीटिंग संख्या

Certified that the above Scholar's Register has been posted up-to date of Scholar's leaving as required by the Departmental Rules.

बहुरूपीय किया जाता है कि उपर्युक्त छात्र-लेखा-पत्रक शिक्षा विभाग के विधानानुसार त्याग-तिथि तक यथोचित लिखा गया है।

Note:—If the boy has been among the first five in the class his should be mentioned in the Column of work.

टिप्पणी:—यदि छात्र कक्षा के प्रथम पाँच छात्रों में योग्यता क्रम के अनुसार हो तो कार्य-कोष्ठक में बिबरण दे देना चाहिये।

Dated 11.7.1961

दिनांक

Principal

प्रधानाध्यापक

राष्ट्रीय विद्यालय

पालमबाग, जलन

प्रेम .

जिना बेसिक शिक्षा अधिकारी ॥ महिला ॥  
लखनऊ ।

सेवा में,

वीक विजनेन्स एन्सपेक्टर ,  
प्रबोधिनी इलेक्ट्रिकल ।

पत्रांक : सा/647/80-81

दिनांक : 1-1-81

विषय:-

राज्यीय विद्यालय आलमबाग लखनऊ की मान्यता  
के लिए सम्बन्ध में ।

महोदय,

आपके पत्रांक दिनांक 13-12-80 के संदर्भ में सूचना है  
कि राज्यीय विद्यालय आलमबाग लखनऊ मान्यता प्राप्त विद्यालय  
नहीं है ।

भारतीय,  
हस्ताक्षर/अपठनीय

अतिरिक्त शिक्षा अधिकारी,  
महिला ॥

लखनऊ ।

1-1-81

Handwritten signatures and notes at the bottom right of the page.

प्रिय महोदय,

जहाँ तक इस आलमबाग क्षेत्र के विषय में मुझे ज्ञात है ।  
राष्ट्रीय विद्यालय नाम की कोई संस्था आलमबाग लखनऊ में नहीं  
है ।

सील -

19-8-82

हस्ताक्षर/ अपठनीय

मंत्री प्रबन्धक ,

लम्पा श्री नारायण कान्फुब्ज

स्कूल आलमबाग लखनऊ ।

Attested

Mr. R. S.

S. K. Jaiswal



65 A 28

STATEMENT OF SRI ATAM PRAKASH SR. CLERK RECORDED  
ON 23.1.82

I Atam Prakash viz. Sr. clerk DRM/P office stated that I was dealing with preparatilm of folder and A Card of Running staff including Engine Cleaner of LUN Divn. in 1975 and I was in this seat for about 5 yrs, but I can not give exact date in which period I was working as folder clerk as I don't remember the same at present I was seen the A Card of Sri Mohd. Shami S/O Sri Mohd. Safi Engine cleaner C.B. Shed I confirm that I have prepared this A Card of Sri Mohd. Shami on 30.8.75 and I have put my signature in this Card on the place provided for the same in respect of Card prepared by. This Card was entered by Sri G.K. Saxena, HC of D.S. (P) LUN dealing with the above work. Sri Mohd. Shami in column date of birth filled in in his own hand writing dt. 8.9.49 and signed this Card in my presence. Sri Mohd. Shami filled his date of birth in A Card as 8.9.49 on the basis of T.C. (item 139) issued by Pradhan Adhyapak, Rashriya Vidyalaya, Alambagh Lucknow and gave it in attested copy of the former to me. While filling up this A Card in this T.C. his date of birth is recorded on 8.9.49 and he has been shown as class VIII passed.

Sd/-

Atam Prakash  
23.1.82

Attested  
MAGNT  
SK-2-10-11  
1980

'66'

A-99

SERVICE CARD

( PENSIONABLE STAFF )

AS SUBSTITUTE ENGINE CLEANER-

30.10.71

REGULAR-

17. 8.83

DATE OF BIRTH-

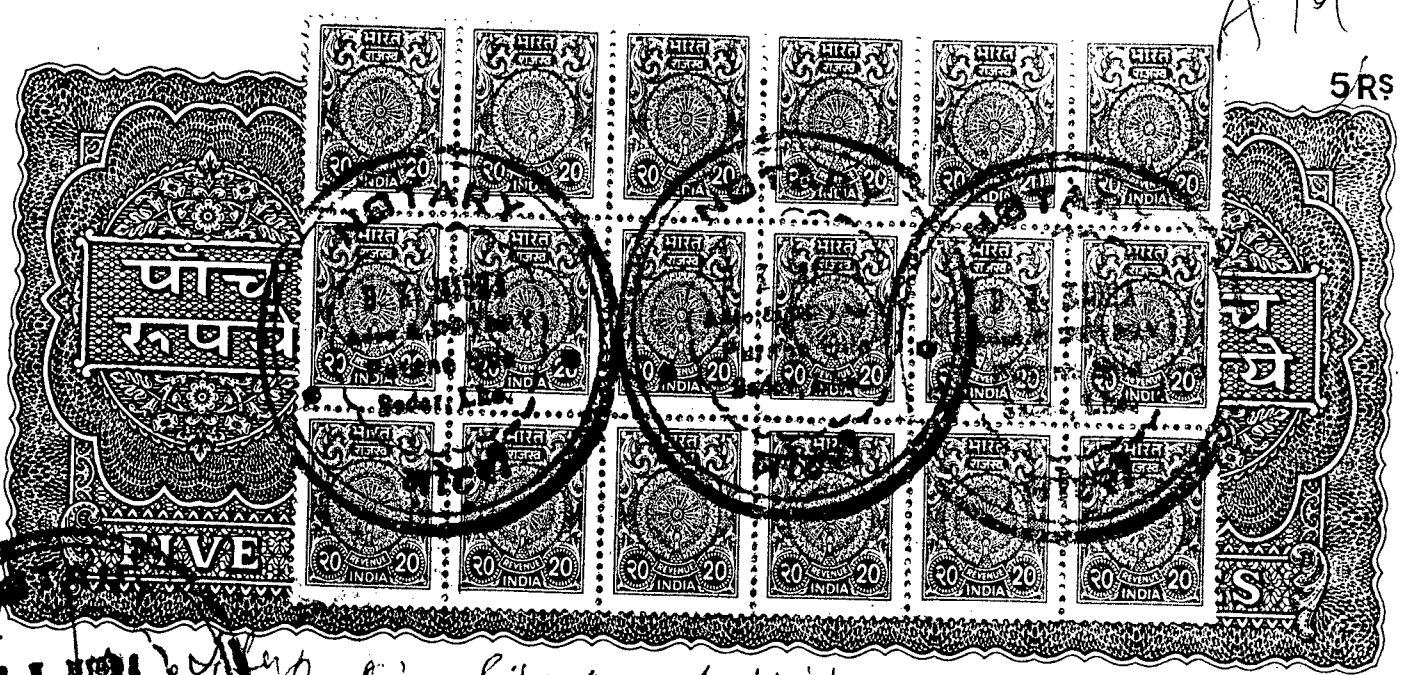
8. 9.49

Attested  
on 2nd

S.K. Jadhav  
M.A.

A 76

5RS



Babu Laksar Adhikan Lko

Affidavit

Shri Anwar Misra aged about 40 years of Shri Anwar Misra of Block Bux Lucknow solemnly affirms on oath as follows:-

1. That the deponent was Asst. Teacher in Rashtriya Vidyalaya Alam Bagh Lko in the year 1960-61.
2. That Shri Anwar Singh was principal of the College at that time.
3. That aforesaid Vidyalaya was recognised institution, Senior High School.

Verified before me  
**DINESH KUMAR MISHRA**  
Advocate & Notary  
Shri Anwar Misra  
Purana Qila, Lucknow

Verification

The above named deponent verify that contents of Para 1 to 3 is true & correct to my knowledge. Nothing has been concealed. Signed today in court compound May 60 at Lucknow.

Anwar Misra  
Deponent

Identify  
deponent  
Shri Anwar Misra  
14/5/81  
4/2/88

Attested  
S.K. Mishra

Anwar Misra  
Deponent

Attended  
Sikandar  
Mansoor

19/10/64  
Thang

TRUE COPY  
ATTACHED  
Mansoor  
Sikandar

19/10/64

19/10/64

19/10/64

19/10/64

19/10/64

19/10/64

19/10/64

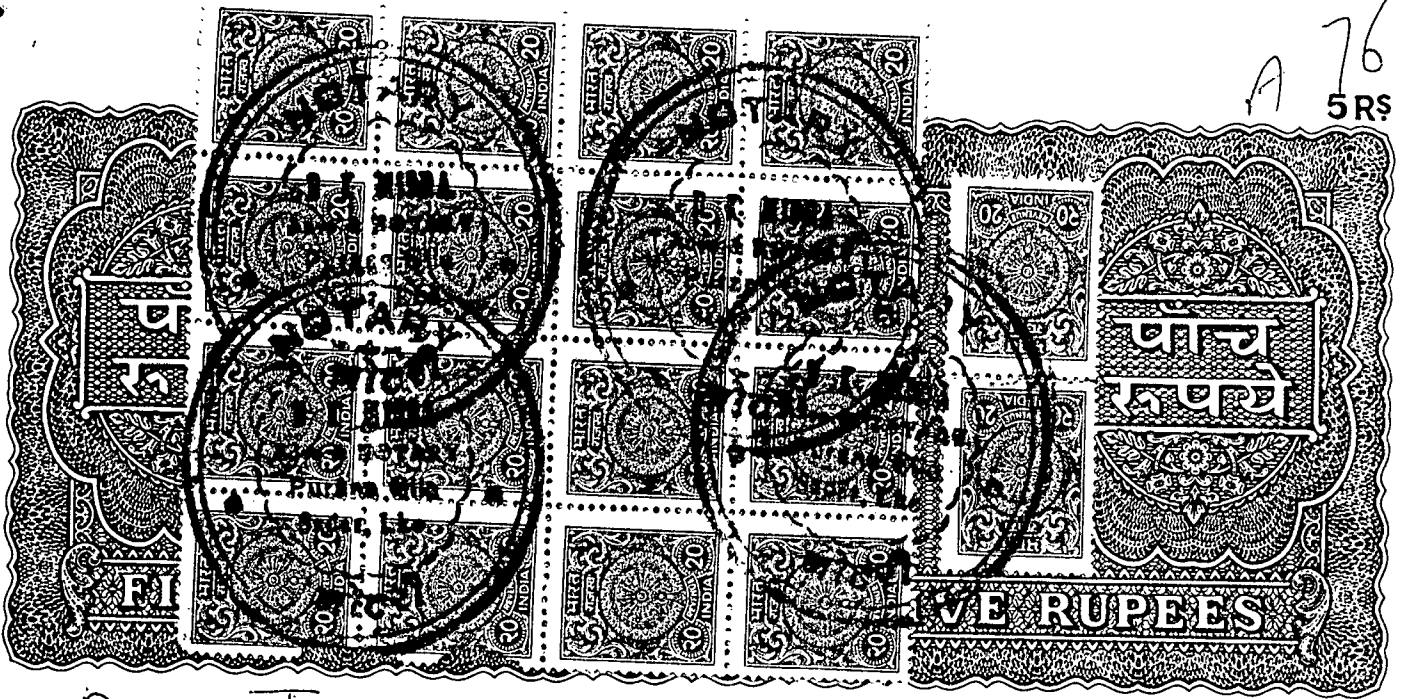
19/10/64

19/10/64

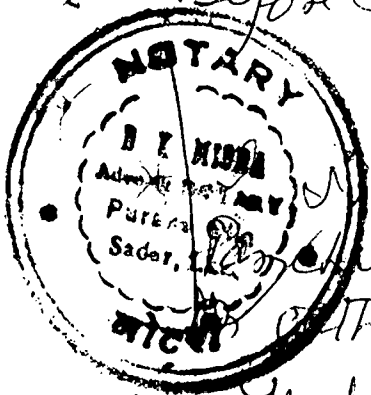
19/10/64

75

18-11



Before Jila Basir Gikela Adhikari Lucknow



Affidavit

Deponent Ram aged about 45 years S/o Shri. Ram 270 28/1/43 Lucknow affirms as under:-

1. That the deponent is Principal of Sidhulaya junior High School Taluk Pur Lucknow.
2. That the deponent was All Teacher in Rastriya Sidhulaya Alam Bagh Lucknow 1961-62 for 3 years.
3. That the above said Sidhulaya was recognised institution senior high school.

Rs 4.200/-  
Lucknow

*[Signature]*  
Deponent

Verification  
the above named deponent says that contents of para 1 to 3 are true & correct to my personal knowledge & nothing has been concealed. Signed & verified today in Court  
May God help me.

Sworn & verified before me  
**DINESH KUMAR MISHRA**  
Advocate & Notary  
Shakti Sadan  
Purana Qila, Sadar, Lucknow

Attested  
*[Signature]*  
S. K. Mishra

*[Signature]*  
Deponent

राजस्थान संख्या ४६८/१-६००४ जुलाई १९६४

❀  
**राष्ट्रीय विद्यालय**  
❀

३१-७-१९६५

( आलमबाग विद्या प्रसार समिति द्वारा मंचालित )

क्रमांक R.B./11.7.

आलमबाग,  
लखनऊ.....14.....5.....1962

This is to certify that Sri Premal Kumar has been serving  
as Assistant teacher in this Institution since August 3, 1961.  
He has keen interest in Games and Sports.

He bears good moral character.

I wish him success in his life.

Attested  
S.K. Sharma  
Principal

R. S. Singh  
प्रधानाध्यापक 14.5.62  
राष्ट्रीय विद्यालय  
आलमबाग, लखनऊ



समस्त मन्दिर

दिनांक

# रेलवे हायर सेकेंड्री स्कूल

जेल रोड, चारबाग लखनऊ

A-34

A 78

दिनांक २८.१२.१९८६

विषय - राष्ट्रीय विद्यालय, आलमबाग, लखनऊ के सम्बन्ध में।

प्रमाणित करता हूँ कि उपरोक्त विद्यालय के

- सम्बन्ध में पूर्ण जानकारी न होने के कारण मैंने जो पूर्व प्रमाणित पत्र दिया था, वह असत्य है। वह प्रमाण पत्र दिनांक २८.८.८२ को दिया गया था। उपर्युक्त मुझे उक्त विद्यालय के विषय में कुछ जानकारी नहीं थी। किन्तु अब पर्याप्त जाँच-पड़ताल करने पर सत्यता का ज्ञान हो चुका है कि सम्बन्धित विद्यालय 'राष्ट्रीय विद्यालय' आलमबाग का शिक्षा समिति द्वारा संचालित था जिसका रजि. नं. ४७४/१-६०७५ दिनांक ३१.७.१९८५ है। अतः मैं पूर्व विश्वास और पूर्णज्ञान के साथ प्रमाणित करता हूँ कि 'राष्ट्रीय विद्यालय, आलमबाग, लखनऊ' एक मान्यता प्राप्त शिक्षण संस्था के रूप में चल रहा था किन्तु अज्ञान कारणों से वह बंद कर दिया गया।

(समाप्त)

(गुणधर हिन्द)

उपस्थित

- प्रधानाचार्य

रेलवे हा. से. स्कूल,

चारबाग लखनऊ

Attested

महेश

S.K. Jaiswal

A-79

दूरभाष नं० 50114

(हिन्दी साहित्य सम्मेलन प्रयाग)

(संचालित केन्द्र : भारतीय कला परिषद मुजफ्फर नगर विश्वविद्यालय)

## बरहा जूनियर हाई स्कूल आलमबाग, लखनऊ

केन्द्र व्यवस्थापक Manager

C. P. Singh

राम औतार मिश्र, प्रधानाचार्य

एम०ए० हिन्दी संस्कृत  
(एल० टी०) एल० एल० बी०

पत्रांक.....

दिनांक... 12/8/82...

सेवा में—

Ref:- Recognition of Bherha  
Middle School Alambagh Lucknow

Reference to my note of  
26.8.82 following an enquiry, I  
have to say that now I was  
not in knowledge whether above  
school was in existence...

Now through reliable sources  
it was told to me that above school  
was in existence from 1954 to 1963 and  
discontinued

S. K. Singh  
Mamers

Attested

Signature  
S. K. Singh



ब अदालत श्रीमान्

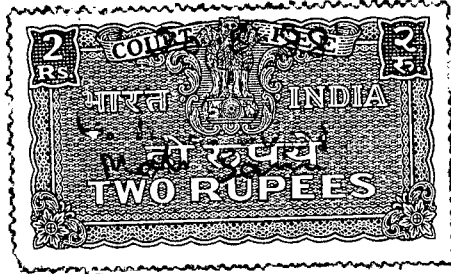
[ वादी ] अपीलान्ट

Central Administrative Tribunal

महोदय

प्रतिवादी [ रैस्पान्डेन्ट ]

वकालतनामा



वादी (अपीलान्ट)

Mand Sam

General Manager

प्रतिवादी (रैस्पान्डेन्ट)

नं० मुकद्दमा

सन्

पेशी की ता०

१६८ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री Satish Kumar Jaiswal

Advocate

वकील

महोदय

एडवोकेट

नाम अदालत

मुकद्दमा नं०

नाम फरीकान

को अपना वकील नियुक्त करके प्रतिज्ञा ( इकरार ) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाब देही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सबैथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक 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 नि० अ०

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १६८ ई०

Accepted  
S.R. Jaiswal  
20-6-88  
18-7-89

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CM. A. 70/89 (C)  
CIRCUIT BENCH : LUCKNOW  
Registration No. 70 of 1938 (C)



Md. Shami,  
Ex-Fireman 'C' Loco Shed  
Charbagh, N.E. Rly  
Lucknow

Applicant

Versus

1. General Manager,  
N.E. Railway, Gorakhpur
2. Divisional Rly Manager  
N.E. Rly Lucknow
3. Addl. Divl. Railway Manager  
N.E. Railway, Lucknow
4. Sr. D.M.E. (Loco) N.E. Rly  
Lucknow
5. Asstt Mech. Engineer  
N.E. Rly Lucknow

Respondents

S.K. Gupta  
per

List of  
cases on  
22.07.38  
18/7

A 812

- 2 -

Application u/s 5 of Limitation Act  
for condoning the delay 6 months

Sir,

The above named applicant most respectfully  
submits as under:-

- 1- That the applicant was working as <sup>Fireman C</sup> engine cleaner in N.E. Railway at Charbagh, Lucknow.
- 2- That the applicant was dismissed from the service on 16.7.86 against which he preferred a departmental appeal which was finally rejected on 2 January, 1987.
- 3- That against the final departmental order of rejection of appeal the applicant had to file the application/petition in this Hon'ble Tribunal.
- 4- The applicant has eleven members in his family and he has to look after the whole, such a big family and the applicant is the only earning member of his family.
- 5- When his appeal was rejected then the applicant started to collect some money to engage a counsel and to meet out the expenses of the petition.

S.K. Jaiswal  
for

-----3/-

Ad 3

- 6- That he has to pull on such a big family of eleven members so he could not arrange the money earlier.
- 7- That in the month of December 1987 unfortunately the applicant suddenly fell ill on 10/12/87 and since then he remain ill upto June 18, 1988.
- 8- That when the applicant recovered and became fit on 19th June, 1988 he engaged a Counsel and prepare the petetion and came to file it on 20-6-88 the medical certificate of the applicant is attached herewith this application. When the applicant came in the office of this Hon'ble Court than by a clerk of the office came to know that vacation judge is sitting and only urgent matters can be taken up the regular tribunal will work from 18.7.88 so the applicant is filing this application today.
- 9- That due to the poverty and sudden illness of the applicant the applicant could not file the petetion in time.
- 10- That the aforesaid circumstances were beyond control of the applicant.
- 11- That the applicant has no fault in filing of the petetion so late.
- 12- That it is necessary that the delay in filing of the petetion may be condoned.

S.K. Gupta  
ASg

.....4/-

A84

13- That if delay is not condoned the 11 members' family of the applicant be ruined because the applicant is the only earning member and source of livelihood of his family.

14- That for ends of natural justice and just disposal of the case it is necessary that delay be condoned.

Wherefore it is most respectfully prayed that in view of the facts and circumstances stated above the delay of 5 months 20 days in filing this petition may very kindly be condoned.

*[Handwritten signature]*

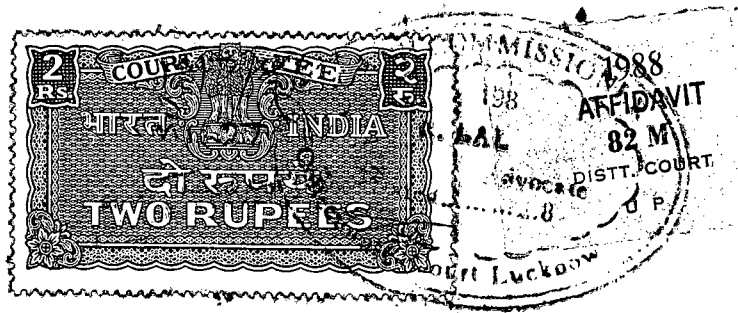
Applicant

*S. K. Singh*  
*[Handwritten signature]*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH : LUCKNOW

Registration No. \_\_\_\_\_ of 1988



Md. Shami

..... Applicant

Versus

General Manager, N.E. Railway, Gorakhpur

and others

..... Respondents

Affidavit

I, Mohd. Shami aged about 39 years S/O Mohd. Safi  
R/O Q.N. L. 15/F.N.E. Railway Loco Colony, Maviya Lucknow  
do hereby solemnly affirm and state on oath as under:-

- 1- That the deponent was working as Fireman 'C'  
in N.E. Railway at Charbagh, Lucknow.
- 2- That the deponent was dismissed from the service  
on 16.7.86 against which he preferred a  
departmental appeal which was finally rejected  
on 2 January, 1987.

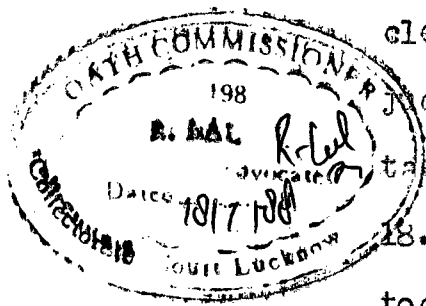


.....2/-

*Handwritten signature*

A 86

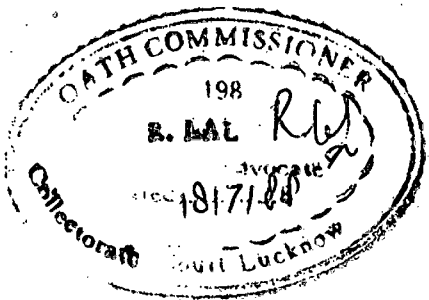
- 3- That against the final departmental order of rejection of appeal the deponent had to file the application/petition in this Hon'ble Tribunal.
- 4- The deponent has eleven members in his family and he has to look after the whole, such a big, family and the deponent is the only earning member of his family.
- 5- When his appeal was rejected then the deponent started to collect some money to engage a Counsel and to meet out the expenses of the petition.
- 6- That he has to pull on such a big family of eleven members so he could not arrange the money earlier.
- 7- That in the month of December 1987 unfortunately the deponent suddenly fell ill on 10/12/87 and since then he remain ill upto June, 18, 1988.
- 8- That when the deponent recovered and became fit on 19th June/ 1988 he engaged a Counsel and prepare the petition and came to file it on 20-6-88 the medical certificate of the deponent is attached herewith this affidavit. When the deponent came in the office of this Hon'ble Court then by a clerk of the office came to know that vacation Judge is sitting and only urgent matters can be taken up the regular Tribunal will work from 18.7.88 so the deponent is filing this affidavit today.



ment

~~medical certificate of the deponent is attached~~  
~~herewith this application~~ h

- 9- That due to the poverty and sudden illness of the deponent the deponent could not file the petition in time.
- 10- That the aforesaid circumstances were beyond control of the deponent.
- 11- That the deponent has no fault in filing of the petition so late.
- 12- That it is necessary that the delay in filing of the petition may be condoned.
- 13- That if delay is not condoned the 11 member's family of the deponent be ruined because the deponent is the only earning member and source of livelihood of his family.
- 14- That for ends of natural justice and just disposal of the case it is necessary that delay be condoned.



*Deponent.*



AD 8

Verification

I, the above named deponent do hereby verify that the contents of para 1 to 14 of the affidavit are true to my personal knowledge.

Signed and verified this 18th day of July, 1988 in the Court compound at Lucknow.

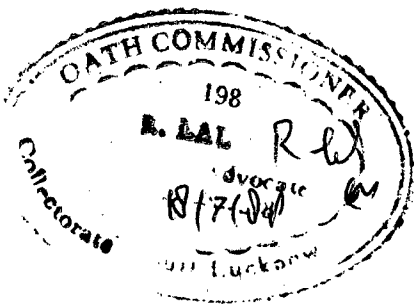
*[Signature]*

Deponent

Lucknow.

Dated: 18/7/88

*I know and certify  
- the deponent - who has  
signed before me.  
S.K. Jaiswal  
18/7/88*



C.N. 824

solemnly affirmed before me in office to-day

at 11-05 AM by *M. Sharma*

who is identified by *S.K. Jaiswal*

Clerk to the Court *[Signature]*

I have satisfied myself by examining the deponent that he/she understands the contents of the affidavit and has explained the same to me. Fee charged Rs. 100/-

*R.L.*

Date 18/7/88  
Collectorate

Dr. R. P. Agarwal

M.B.B.S., M.S., D.O.M.S., D.M.R.E., D.T.C.D., F.C.G.P., F.I.A.M.S.

[Regd. No. 7257]

Phones [ Clinic : 50034  
Resi. : 51133

CLINIC : MAVAIYA

RESI. : 554, ARJUN NAGAR,  
ALAMBAGH, LUCKNOW.

Dated.....10.6.....1980

Let this be read Shami (Sri. 2000)

was suffering from Hepatitis B virus

10.6.80 and was advised to take up to 10.6.80

He is to remain in  
distress from 19.6.80

R.P. Agarwal  
10.6.80

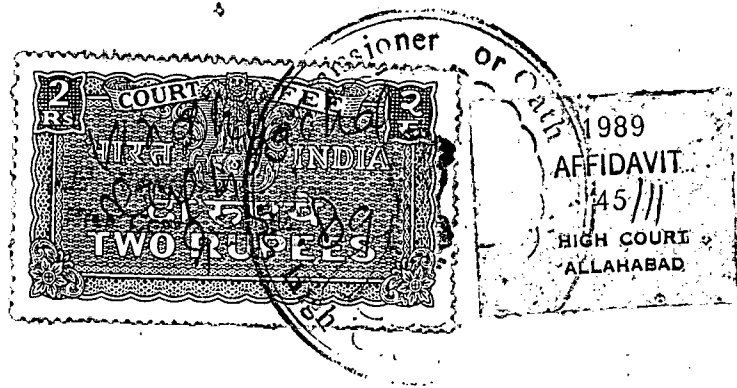
Dr. R. P. Agarwal  
10.6.80

DR. R. P. AGARWAL  
M.B.B.S., M.S., D.O.M.S.,  
D.M.R.E., D.T.C.D.,  
F.C.G.P., F.I.A.M.S.  
REGD. No. 7257  
MAVAIYA, LUCKNOW.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
CIRCLE Bench: LUCKNOW.

In re :-

REGISTRATION NO. 70 of 1980.



Mohammad Shami, ... Applicant.

Versus:

The General Manager,  
N.E. Railway, Gorakhpur & Others ... Opp. Parties.

OBJECTION TO THE APPLICATION UNDER SECTION -V,  
OF THE LIMITED ACT.

A F F I D A V I T.

I, Vindhychal Singh, aged about 37 years,  
son of Sri Satya Narain Singh, resident of 3, Egerton  
Road, Lucknow, <sup>u</sup>the Senior D.M.E., North Eastern -  
Railway, do hereby solemnly affirm and state on oath  
as under :-

1. That the deponent is the Senior D.M.E. in the Office  
of the D.R.M., North Eastern Railway, Ashok Marg,

Contd....2....

Lucknow, and is well conversant with the facts  
deposed hereunder.

2. That the contents of paragraphs 1 and 2 of the application under section 5 of the Limitation Act are not denied. The application under section 5 of the Limitation Act will be referred to as - hereinafter referred as Application.

3. That in reply to the contents of paragraph 3 of the application, it is stated that an employee aggrieved by the decision of the appellate authority may file a revision petition under rule 25 of the Discipline and Appeal Rule, 1968 to the next higher authority. The applicant has not availed the - available remedy of revision petition before the Competent Authority under rule 25 of the Discipline and Appeal Rule, 1968.

The petition before this Hon'ble Court may be filed by an employee aggrieved by a decision of any of the authority of the railway administration within the period of 1 year as prescribed under section 21 of Administrative Tribunal Act, 1985.

4. That the contents of paragraphs 4, 5 and 6 of the applications are denied for want of knowledge by the deponent.

Contd....3...

A 12

5. That in reply to the contents of paragraphs 7 and 8 of the application, it is stated that the appellate order was made by the Additional Divisional Railway Manager, vide order dated 2-1-1987. The applicant ~~xxxx~~ should have filed the petition before this Hon'ble Court within one year from the date of order dated 2-1-1987 passed by the Appellate - Auth-ority. The applicant fell ill on 19-12-1987 and he recovered from illness on 18th. June, 1988, as per his averment made in the paragraph under reply. It is further submitted that the applicant fell ill much after the time allowed for filing a petition before this Hon'ble Court against the order dated 2-1-1987. Thus, it appears the applicant has taken a very ~~vague~~ vague pretention to overcome the delay caused by his negligence for filing this petition before this Hon'ble Court.

It is further submitted that the petition is liable to be dismissed as no bonafide and genuine delay was caused in filing of the petition by the applicant.

6. That the contents of paragraphs 9 and 10 of the application are denied. It is further submitted that the remedy available before this Hon'ble -

Contd....4....



A 93

Court by filing a petition is a very cheaper -  
remedy.

7. That the contents of paragraph 11 of the application are denied. It is further submitted that the applicant has negligently and deliberately filed the petition in this Hon'ble Court after a lapse of more than 9 months.
8. That in reply to the contents of paragraph 12 of the application, it is stated that the delay of about 9 months is not an ordinary delay and the applicant has not disclosed any bonafide or genuine reasons by means of which he was prevented to file petition in this Hon'ble Court within time, allowed under the rules.
9. That in reply to the contents of paragraphs 13 and 14 of the application, it is stated that the delay for about <sup>10</sup>6 months may not be condoned for want of any bonafide and genuine reasons.

That it will be in the interest of justice that the application under section 5 of the Limitation Act should be dismissed for want of any bonafide and genuine reason.

Contd.....5....



*Handwritten signature*

*Handwritten signature*

भवर मण्डल यांत्रिक इंजीनियर (लोको)  
पूर्वांचल रेलवे, लखनऊ

10. That it is submitted that the applicant has not availed the remedy of revision available to him under Rule 25 of Discipline and Appeal Rules, 1968. Thus the petition filed by the applicant is liable to be dismissed on the ground of non-exhausting the statutory remedy available to him under the rules.

Lucknow.

9th March 1989

Dated. 17th Jan 1989

*Force*

DEPONENT  
वर मण्डल, लखनऊ (लोको)  
पूर्वांतर रेलवे, लखनऊ

### VERIFICATION

I, Vindhyachal Singh Designation: Senior Divl. Mech. Engineer, N.E. Railway, Lucknow, do hereby verify that the contents of paragraph Nos. 1, 2 & 3 of this affidavit are true to my personal knowledge and the contents of paragraphs 4 to 10 of this reply are based on perusal of official records and legal advice received.

Verified on this 9th March 1989 at Lucknow.

*Force*

DEPONENT  
वर मण्डल, लखनऊ (लोको)  
पूर्वांतर रेलवे, लखनऊ

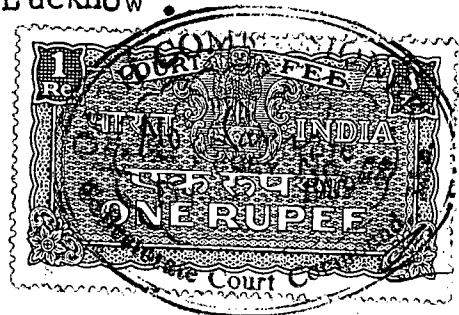
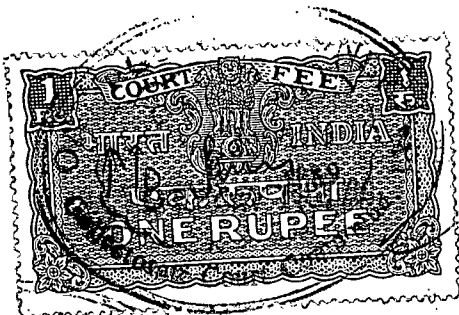
I identify the deponent who has signed before me. He is personally known to me.

*Pramod Kumar*  
Advocate

Solemnly affirmed before me on 9.3.89 at 9.00 A.M. by Sri Vindhyachal Singh the deponent who is identified by Sri Pramod Kumar Advocate, High Court, Lucknow BENCH LUCKNOW.

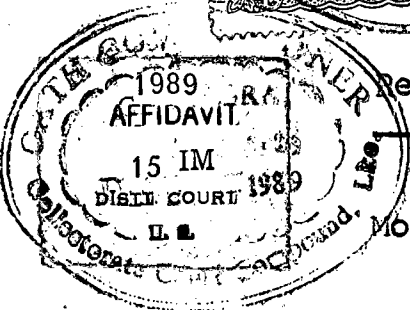
Before ; The Central Administrative Tribunal

Circuit Bench, Lucknow .



In re

Registration No. 70 of 1988.



Mohd. Sami ..... Applicant.

Vs.

The General Manager,

N.E. Railway and others ..... Opp. Parties.

Rejoinder Affidavit

I Mohd . Sami aged about 39 years s/o Mohd. Safi R/o

Q.No. L. 15/B- N.E. Railway Loco colony Mawaiya Lucknow do

hereby solemnly affirm and state on oath as under :-

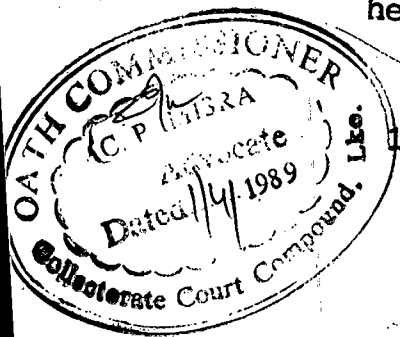
1. That the deponent is the applicant to this case and he is well conversant with the fact deposed here as under :

2. That the deponent reiterates the contents of para 1 to 14 of his affidavit and denies the all contents of counter affidavit which are against his case.

3. That the para 1 of counter affidavit are not denied.

4. That contents of para 2 of the counter affidavit needs no reply.

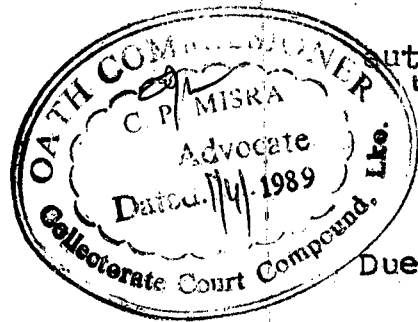
5. That the contents of para 3 of counter affidavit are wrong hence denied . In the counter affidavit the





opposit party has him self asserted that the appeal may  
file to the next higher authority But in fact it is not  
necessary.

The appeal was preferred by the applicant to A.D.R.M.  
N.E. Railways but it was rejected. The power of D.R.M. ~~was~~  
~~of~~ N. E. Railways was deligated to A.D.R.M. for the pur-  
pose of appointment and deciplinary proceedings when higher  
higher authority has deligated his power to the lower  
authority e.g. A.D.R.M. <sup>that the deponent filed a revision on 8-2-87 which</sup>  
<sup>is not decided till now, the copy of U.P.C and revision is annexure 1 and 2 of this affidavit</sup>  
Thus there was no use of going in revision against A.D.R.M.



Due to the reason disclosed in the affidavit the deponent  
could not file the petition in time. So application u/s 5 of  
limitation Act has been moved ;

6. That the contest of para 4 of counter affidavit are denied  
the contest of para 4,5 and 6 are ~~retriated~~ correct as drafted  
in the affidavit.
7. That the contst of para 5 of counter affidavit are false and  
wrong as alleged hence denied. The deponent was working on  
class IV post with small salary when he was dismissed from  
the service. The deponent has to feed 11 members of his  
family he could not arrange the money to file the petition  
earlier when any how he could ~~xxxxx~~ prepare himself to file

the petition the deponent suddenly fell ill when recovered  
the deponent file the petition.

8. That the contents of para 6 of the counter affidavit are wrong hence denied. When the deponent could not find any other way only then the deponent filed this petition.
9. That contents of para 7 of the counter affidavit are wrong hence denied. The deponent filed the petition as early as possible. the time which was taken by the deponent is fully described in affidavit and medical certificate is also presented.
10. That contents of para 8 of the counter affidavit are false and wrong hence denied. That there is no delay of 9 month's as alleged. The reason of delay is illness of the deponent. The reason of delay is bonafied and genuine and delay is liable to be condoned.
11. That the contents of para 9 of the counter affidavit are wrong hence denied. It is necessary that delay in filing petition which is less than 7 months may be condoned and if the delay is not condoned on the ground of the humanity and natural justice the family of the deponent will suffer irreparable loss and injury.

12. That the statements of the Respondents is para 10 of A98  
their C.A. are denied in full being illegal. It is stated  
that the Rule 25 for 'Revision' is not compulsory but optional  
for the employee. Again, there is a limitation of 6 months  
provided in the Administrative Tribunals Act, 1985 is the main  
factor, it is not matter whether the employee prefers a Revision  
application or not. Further, the claims of the Respondents is or  
only a presumed one and the application before the Hon'ble  
Tribunal is maintainable from all angles. It is binding on  
the applicant. that he files and starts preparing for filing  
an application before the Hon'ble Tribunal withing the  
limitation prescribed in the law, except in cases of in-  
escapable delays due to reasons not in the control or the  
applicant. Therefore, the impugned application is well maintain-  
able before the Hon'ble Tribunal for imparting justice to  
the applicant under the principles of natural justice.

13. That in every dismissal and removal order at the foot of  
the order it is always written that against order the aggrieved  
person may file an appeal within 45 days the language of  
appeal shall not be defamatory.

But When appeal is ~~re~~jected then no such type of infor-  
mation is given that revision lies against it to any authority  
withing such and such period.

It is further submitted that it means the authority knows  
that appeal is the final legal course open to the employee.

date :

*mbent*  
Deponent

( 5 )

A 99

VERIFICATION

I Mohd. Sami the above named deponent do hereby verify that the contents of paragraph 1 to 4, 6 to 11 of this affidavit are true to my personal knowledge and the contents of paragraphs 5, 12, 13 of this affidavit are believed to be true.

signed and verified this 1st day of April 1989 within court compound of LUCKNOW.

*Mohd. Sami*

Deponent.

Lucknow

Date :

I know and identify the deponent who has signed before me.

*S.K. Tripathi*

*Adv.  
1/4/89*



*Im, C. NO 151 M*  
solemnly affirmed before me in office to-day at... 11:00 AM... by... *Mohd. Sami* who is identified by Shri... *S.K. Tripathi* clerk to Shri... *Adv.*  
I have satisfied myself by examining the deponent that he is the person who has made the contents of this affidavit true and correct and explained by him.

*C.P. MISRA*  
Date... *1/4/89* Oath Commissioner  
Collectorate Court, Lucknow

Before the Central Administrative Tribunal Lucknow

Mohd. Samir

Sy. M. M. B. Railway U

Annexure - 1

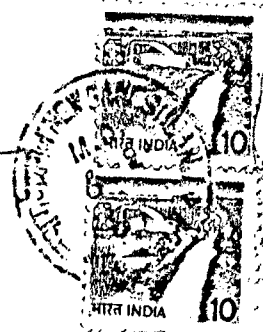
चौ. नं. सी

सेवा के

उच्चतर नवंबर

राज. नं. ई. नं. सेवा

गोरखपुर (30/11)



Attested S.K. Singh  
Adv

Handwritten signature/initials



Before the Central Administrative Tribunal New Delhi

Mahesh Sami

vs  
G. M. NE Railway

The General Manager,  
North Eastern Railway,  
Gorakhpur

Annexure - 2

A/01

Sir,

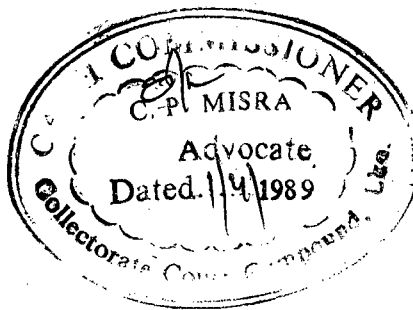
Sub:- Revision under rule 25 of D & A.R.-1968

....

The appellant being aggrieved with the decision of A.D.R.M. On my appeal dated 2.1.1987 against the order of removal imposed by the Sr.D.M.E., N.E.Rly., Lucknow beg to appeal for revision on the following grounds:-

G R O U N D S

1. That the appellant did not submit the forged school certificate.
2. That the detailed defences/evidences were adduced during the enquiry proceedings and also elaborated the grounds and pleas in my appeal to the A.D.R.M./LKO but the A.D.R.M. has rejected the appeal and maintained the punishment on some undisclosed extraneous consideration which is illegal.
3. That the removal of the appellant is based on all imaginations presumptions, prejudices, unfair practices and illagalties.
4. That the authorities did not supply the copy of the documents which they have relied against the appellant.
5. That the appellant never filed a forged school certificate the T.C. produced by the appellant was not a forged one, but is a genuine certificate obtained from the very school he studied. Against the claim of the appellant, the railway Administration trusted the letters obtained by the personal contacts of Vigilance Inspector of N.E. Railway, Gorakhpur these documents are mentioned at S.Nos. 3-6 of the Annexure III of the Charge Sheet.
6. That regarding other documents relied upon by the Railway Administration i.e. the 'A' Card, Service Record,



Statement of Shri A.P.Vig, Extract of Book-let of Rules for recruitment of Class IV staff Para 2 (b) Note copy of T.C. and seizure ~~memo~~ Memo of the prejudiced Chief Vigilance Inspector are no material to disprove the facts that the appellant studied in the impunged Rastriya Vidyalaya in the year 1959-61 or about forged date of birth and qualifications as alleged in the Charge Sheet. A/62

7. That it is further respectfully stated that the said Rastriya Vidyalaya, Alambagh had been very much existing during the year 1959-61 when the appellant studied in the school the said school was a recognized Institution of the relevant time.

8. That in the circumstances mentioned in the above paragraphs it is stated that the entire acts of the Chief Vigilance Inspector the Enquiry Officer and the Disciplinary Authority and also the appellate authority in the matter of holding appellant guilty of violation of service rules mentioned in the Charge Sheet, the findings of the Enquiry Officer were all hypothetical, imaginary, baseless and presumptive and thus illegal. Accordingly the punishment order passed by the Disciplinary Authority is also prejudicial and illegal because of his relying of the presumed documents and conditions of the Chief Vigilance Inspector and the Enquiry Officer. Similarly, the A.D.R.M. appellate authority's rejection of ~~an~~ appeal of the appellant is also illegal being based on the presumed documents and hypothetical findings of the Enquiry Officer.

Contd...3



9. That the appellant is harassed very much since 16.7.86 to the date of this revision. 183

10. That the appellant has been left with no source of survival because of his illegal dismissal from Service on the presumed grounds on false documents. As a result of his illegal dismissal from service he along with his 11 family members suffer in human sufferings.

10. That revisionist, is, therefore, entitled for payment of compensation to make good of the losses and sufferings in the shape of order for payment of full wages plus other admissible allowances of the entire period from the date of his dismissal to the date of his re-instatement to services and also other liabilities as admissible to the working railway servant for all purposes.

I, therefore, pray to your goodness to kindly set-aside the illegal order made extraneous consideration and reinstate me to my services for which acts of your kindness I shall remain ever thankful to you.

Yours faithfully,

(Mohd. Sami)  
Ex. Fireman 'C'  
Loco Shed, Charbagh,  
N.E. Railway, Lucknow.

Dated:- 6.2.1987.

S.K. Tripathi  
A.S. No.  
1/5/89

m/smt





A104

In the Central Administrative Tribunal Circuit Bench,  
Lucknow.

Mohd. Sami.....Applicant.

Versus

General Manager, N.E.Rly, Lucknow....Opposite Party.

M.P. No. 500/92

O.A. 70 of 1988(L)

Dismissed on 21-5-92.

Sir,

In the aforesaid case the applicant most respectfully states as under:-

1. That on 21-5-92 when the case was listed for hearing and the ~~judg~~ judgment was dictated, at the request of the Counsel for the deponent, the Hon'ble Tribunal has directed the deponent to file documents to indicate that Rashtriya Vidyalaya did exist in 15 days and the judgment shall not be signed till then.
2. That the applicant is filing documents in respect that the Rashtriya Vidyalaya did exist, along with the supplementary affidavit.

Wherefore it is most respectfully prayed that the case may very kindly be heard again in the light of above documents.

Lucknow:

S.K. Tripathi  
(S.K. Tripathi) A.

Advocate.

Dated: 29-5-1992

Counsel for the Applicant.

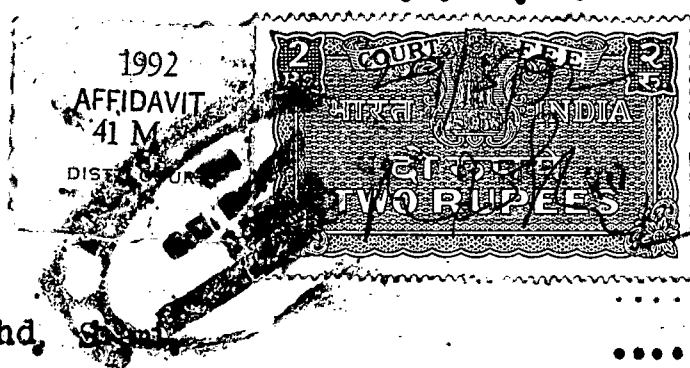
Recd duplicates  
Shruti  
29/5/92

Filed today

copy  
29/5/92

In the Central Administrative Tribunal, Circuit Bench,  
Lucknow.

O. A. No. 70 of 1988



Mohd. Shami

....

Applicant.

Versus

General Manager, N. E. Railway & others Respondents.

Supplementary Affidavit

I, Mohd. Shami, aged about 43 years, son of Shri Mohd. Shafi resident of Quarter No. L <sup>15</sup> F, N. E. Railway Loco Colony, Mawliya, Lucknow do hereby state on oath as under.

1. That the deponent is the applicant in the above noted case and he is fully conversant with the facts of the case deposed to in this supplementary affidavit.

2. That on 21/5/92 when the case was listed for hearing and the judgment was dictated, at the request of the counsel for the deponent the Hon'ble Tribunal has directed the deponent to file documents to indicate that Rashtriya Vidya aya did exist within 15 days and the judgment shall not be signed till then.

29/5/92  
m. shami

3. That Rashtriya Vidya aya was run by Ambagh Shiksha prasar Samiti which was a registered society. A photo copy of the bye-laws of the said society obtained from the office of the Registrar of Societies is Annexure No. S-1 to this affidavit.

4. That a photo copy of the Restriction form Ambagh Shiksha prasar Samiti is being filed as Annexure No. S-2 to this affidavit. Among the name of members in this form Tirth Singh S. No. 12 has also sworn his affidavit to the

effect that Ambagh Shiksha Prasar Samiti was a registered Society bearing Registration No. 498/16074 dated 21/7/54 and Rashtriya Vidya aya was being run as a recognised school by the said Society till 1963 when the Rashtriya Vidya aya was closed and that Sri Anrez Singh was the pradhanacharya of the Rashtriya Vidya aya in 1961. A photocopy of this affidavit is being filed as Annexure No. S-3.

5. That a photo copy of the Registration Certificate of the Ambagh Shiksha Prasar Samiti is being filed as Annexure No. S-4.

6. That bylaws of the Society as contained in Annexure No. S-1 mentions the name of the institution as Rashtriya Vidya aya. Sri Tirth Singh who was given his affidavit Annexure No. S-3 was a member of the Ambagh Shiksha Prasar Samiti and he had signed the registration form.

7. That Sri Y.M. Shukla Chief Vigilance Inspector was examined as a witness against the deponent and in reply to question No. 1 by the inquiry officer he stated as under:-

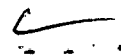
"To the best of my knowledge, the recognition or non recognition of a School, does not have any effect in lower classes regarding the educational qualification."

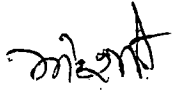
This piece of evidence was not taken in to consideration by the inquiry officer, disciplinary authority and the appellate authority.

8. That the appellate authority has not given a reasoned finding.

9. That the certificate/letter of the Basic Shiksha Adhikari have been wrongly interpreted and relied upon. It is significant to point out that this letter was issued by the Basic Shiksha Adhikari (Mahila), Lucknow who had

no concern with the boys school. This letter further relates to non-existence of Rastriya Vidyalaya in 1980/1981. Similarly other certificates indicate about the existence of Rastriya Vidyalaya in 1982. There is no evidence on record that Rastriya Vidyalaya was not in existence in 1961.


Lucknow,   
Dated: 29/5/92.

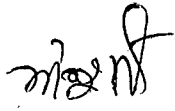
  
Deponent.

Verification

I, the abovenamed deponent do hereby verify that the contents of paras 1 to 9 of this supplementary affidavit are true to my own knowledge.



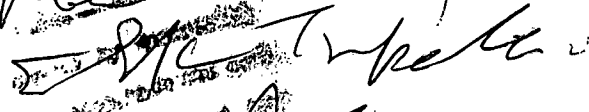
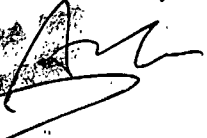
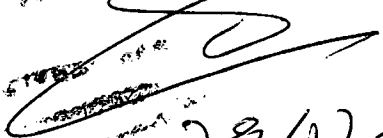
Signed and verified the above this the 29th day of May 1992, at Lucknow.

Lucknow,   
Dated: 29/5/92.

  
Deponent.

I, identify the deponent who has signed before me,

S.K. Gupta  
Advocate  
29/5/92

  
  
  
  
  
290292

S-1

In the Central Administration of the Government of India  
Post Office Vs G. M. Railway Post Office S-1

3RS



समिति

समिति

समिति

समिति

आलम्बित शिखर

6074

समिति



समिति  
22.5.92

समिति  
22.5.92

समिति

आलमबाग शिवा प्रसार समिति, लखनऊ

की

नियमावली ।

A 189

## १. कार्यालय

इस संस्था का नाम आलमबाग शिवा प्रसार समिति तथा इसका रजिस्टर्ड कार्यालय लखनऊ में होगा ।

## २. सदस्य

इस संस्था की महासमिति में निम्न तीन प्रकार के सदस्य होंगे ।

१- साधारण सदस्य ५ रा० वार्षिक कदा दें ।

२- आज्ञम सदस्य जो १०१ रा० कदा दें ।

३- संरक्षक जो कम से कम ५०० रा० कदा दें ।

३. महा समिति की सदस्यता के लिये सभी आवेदन पत्रों पर कार्य कारिणी समिति विचार करेगी और उसे आवेदन पत्रों की बिना कोई कारण बतलाए स्वीकृत अथवा अस्वीकृत करने का पूर्ण अधिकार होगा ।

४. कार्यकारिणी समिति किसी ऐसे व्यक्ति को जो उचित धन न दे सकता हो, उसकी संस्था के प्रति की गई सेवाओं के विचार से बिना किसी प्रकार का कदा लिये आज्ञम सदस्य अथवा संरक्षक चुन सकती है ।

५. इस संस्था को १५ सदस्यों की एक कार्यकारिणी समिति होगी जिसमें निम्न आठ व्यक्ति जो कि इस संस्था के संस्थापक सदस्य हैं आजीवन सदस्य रहेंगे । शेष सात सदस्य प्रति तीन वर्ष महा समिति द्वारा उस के सदस्यों में से चुने जायेंगे । महासमिति द्वारा चुने हुए सदस्यों का कार्यकाल १ वर्ष रहेगा ।

आठ संस्थापक सदस्यों के नाम निम्नलिखित हैं :-

१- श्री कुंवर बाबू सिंह जी

२- श्री बालकृष्ण शुक्ल

३- श्री राम पात तिवेदी

४- श्री तुलसी भाटिया सरल

५- श्री गंगा राम शर्मा

६- श्री जेठा नरेश जी

७- श्री चेत राम सिंह पात

८- श्री महावीर प्रसाद वर्मा

६. इस संस्था के निम्नलिखित पदाधिकारी होंगे जो प्रति तीन वर्ष कार्यकारिणी समिति द्वारा उसके सदस्यों में से चुने जायेंगे ।

१- प्रधान

२- उप प्रधान

३- व्यवस्थापक

४- मंत्री

५- सहायक मंत्री

६- कोषाध्यक्ष

ग प्रति निधि

१. कुंवर बाबू सिंह

२. तुलसी भाटिया सरल

३. राम पात तिवेदी

५०० रु० प्रति तथा सोसायटी

22.5.12

मोहर

## १६ कार्यकारिणी समिति के कर्तव्य तथा अधिकार :-

- (क) समिति द्वारा संचालित संस्थाओं पर पूर्ण नियंत्रण रखना ।
- (ख) समिति के लिये धन एकत्रित करना तथा उसे समिति के कार्य के लिये व्यय करना और आवश्यकता पड़ने पर समिति के कार्य सम्पन्नार्थ ऋण लेना ।
- (ग) समिति का हिसाब किताब ठीक ढंग से रखवाना और उसे मद्रास समिति के सामने रखना ।
- (घ) समिति के नियमानुसार उसकी संस्थाओं के स्टाफ की नियुक्तियों पृथकीकरण तथा मुअतलिया करना और उन पर नियंत्रण रखना । पृथकीकरण के समय कार्यकारिणी समिति के उपस्थित सदस्यों के भी तिहाई गतों का होना आवश्यक है । मत गुप्त वेलट द्वारा लिये जायेंगे ।
- (ङ) स्टाफ के वेतन वृद्धि, पारितोषिक अधिकार कर्तव्य तथा उसकी नौकरी की शर्तें निश्चित करना ।
- (च) समिति के धन की सरकारी अथवा मान्य सिन्डिकेटों तथा बैंकों में लगाना बेचना बदलना सीला करना, रेहन अथवा बैंक करना ।
- (छ) समिति के लिये चल और अचल सम्पत्ति प्राप्त करना तथा बदल, चिकनी रेहन अथवा बैंक करना ।

## १७ मंत्री के कर्तव्य तथा अधिकार

- (क) मद्रास समिति तथा कार्यकारिणी समिति की बैठक प्रधान के परामर्श से बुलाना ।
- (ख) प्रत्येक बैठक की कार्यवाही को लिखना और स्वीकृत प्रस्तावों को सम्बन्धित व्यक्तियों के पास कार्य में परिणित कराने के हेतु भेजना ।
- (ग) कार्यकारिणी समिति के सदस्यों को सलाह से वार्षिक रिपोर्ट तैयार करना ।

## १८ सहायक मंत्री के अधिकार तथा कर्तव्य

सहायक मंत्री मंत्री की सति तथा उसकी संस्थाओं के कार्य में सहायता एवं सहयोग देना तथा उसकी अनुपस्थिति में उसका कार्य गार सम्हालेगा ।

## १९ व्यवसायिक के अधिकार

व्यवसायिक शिक्षा विभाग द्वारा निर्धारित एजुकेशनल कोर्स में उल्लिखित कर्तव्यों की पालना एवं अधिकारों का उपयोग करेगा ।

## २० बोर्डिंग के कर्तव्य तथा अधिकार

- (क) समिति का धन समिति द्वारा निर्दिष्ट संस्था में जमा रखना उस धन के अतिरिक्त किसी गपने पास रखने का अधिकार उसे कार्यकारिणी समिति ने दिया

१- अतिरिक्त २- अतिरिक्त ३- अतिरिक्त ४- अतिरिक्त ५- अतिरिक्त ६- अतिरिक्त ७- अतिरिक्त ८- अतिरिक्त ९- अतिरिक्त १०- अतिरिक्त

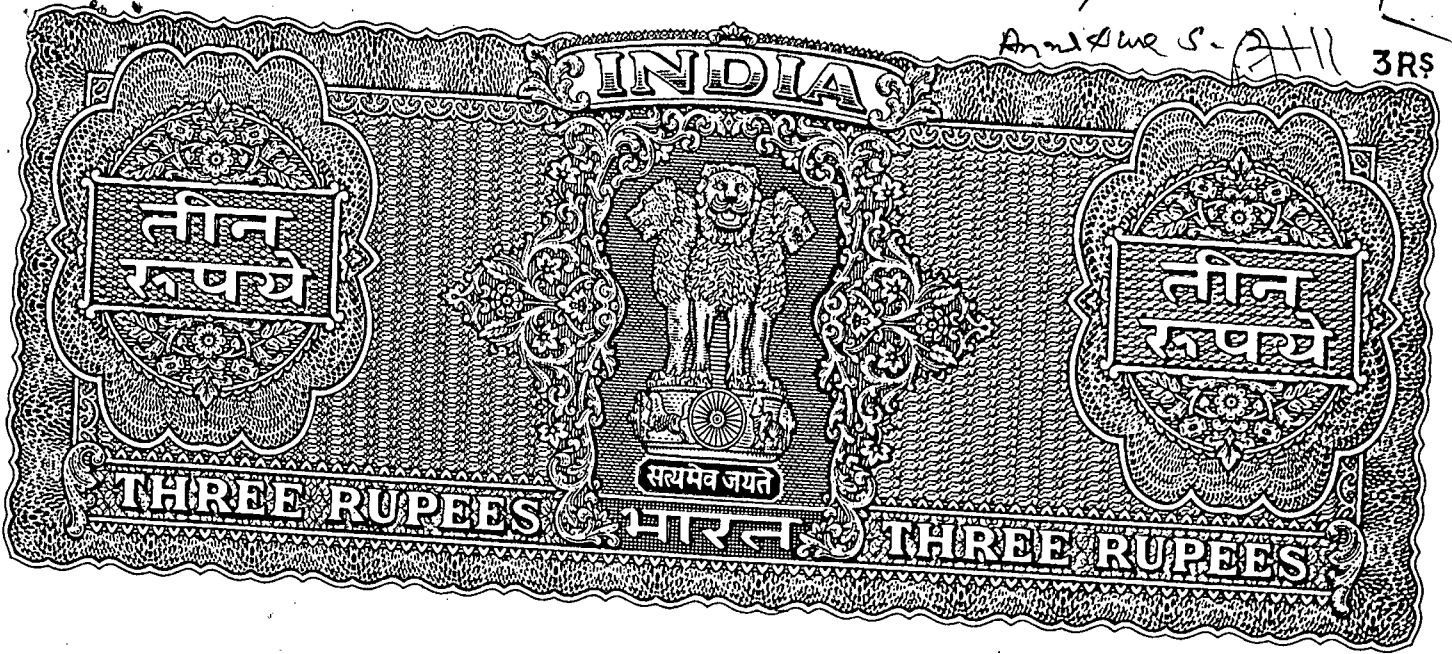
महानिदेशक  
राजस्व  
२२/६/५९

मो. १९९९



In the Central Administration Eastern District  
Held Same No. by M. N. E. Railway

Amount Rs. 211 3RS

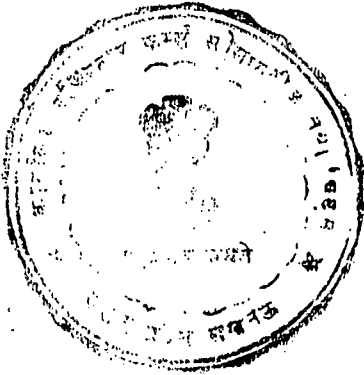


आरम्भ  
लक्ष्मि  
विश्व लक्ष्म  
सम्पत्ति पत्र

आरम्भ विभाग

6074

आरम्भ



विश्व लक्ष्मि  
विश्व लक्ष्म  
सम्पत्ति पत्र  
22.5.92

29/11/92

Signature



A/12

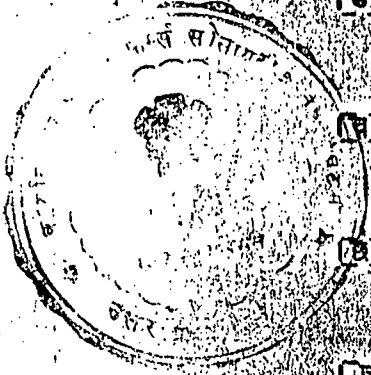
मेमोरोन्डम आफ एसोसिएशन

इ. रा. म. व. ल. नि. वे. दे.  
प्रसार प्रसार

1. नाम :- इस संस्था का नाम आलमबाग शिक्षा प्रसार समिति तथा इस का रजिस्टर्ड कार्यालय लखनऊ में होगा।

2. उद्देश्य :- इस संस्था के उद्देश्य निम्नलिखित होंगे :-

- [क] बालक बालिकाओं को शिक्षा के लिये प्रबंध करना और उन के लिये पाठशाला तथा छात्रावास सोलना।
- [ख] विद्यार्थियों के लिये खेल कूद का प्रबंध करना तथा व्यायाम शाला दंगल तथा अन्य मनोरंजन आदि का आयोजन करना।
- [ग] शिक्षा प्रसार के लिये प्रदर्शनी करना, (मेले लगाना) पुस्तकालय और वाचनालय सोलना, पत्र पत्रिकाएं निकालना (और कृषि फार्म तथा अनुसंधानशाला आदि का प्रबंध करना)
- [घ] प्रौढ शिक्षा (आदि) का प्रबंध करना।
- [ङ] समिति के उद्देश्यों की पूर्ति के लिये धन एकत्रित करना, उसको ठीक से रखना व्यय करना और आवश्यकता पड़ने पर ऋण लेना।
- [च] समिति के उद्देश्यों की पूर्ति के लिये जमीन खरीदना, इमारत बनवाना इमारत मोल लेना, जायदाद खरीदना और उसे रेहन करना।
- [छ] विद्यार्थियों की शिक्षा के लिये ट्रेनिंग शिविर, स्काउट कैम्प, मैजिक लेटर्न तथा सिनेमा और रिफ्रेशर कोर्स आदि की व्यवस्था करना।
- [ज] शिक्षा प्रसार के लिये समाजों का आयोजन करना।
- [झ] अन्य ऐसे सभी कार्य करना जो उपरोक्त उद्देश्यों की पूर्ति के लिये आवश्यक हों तथा जो सोसाइटीज़ रजिस्ट्रेशन एक्ट जो धारा २० के अन्तर्गत आते हों।



कार्यकारिणी समिति के सदस्यों के नाम पते तथा पेशा, जिन के सुपुर्द समिति के नियमानुसार समिति के मामलात सौंपे गये हैं।

प्रतिलिपि

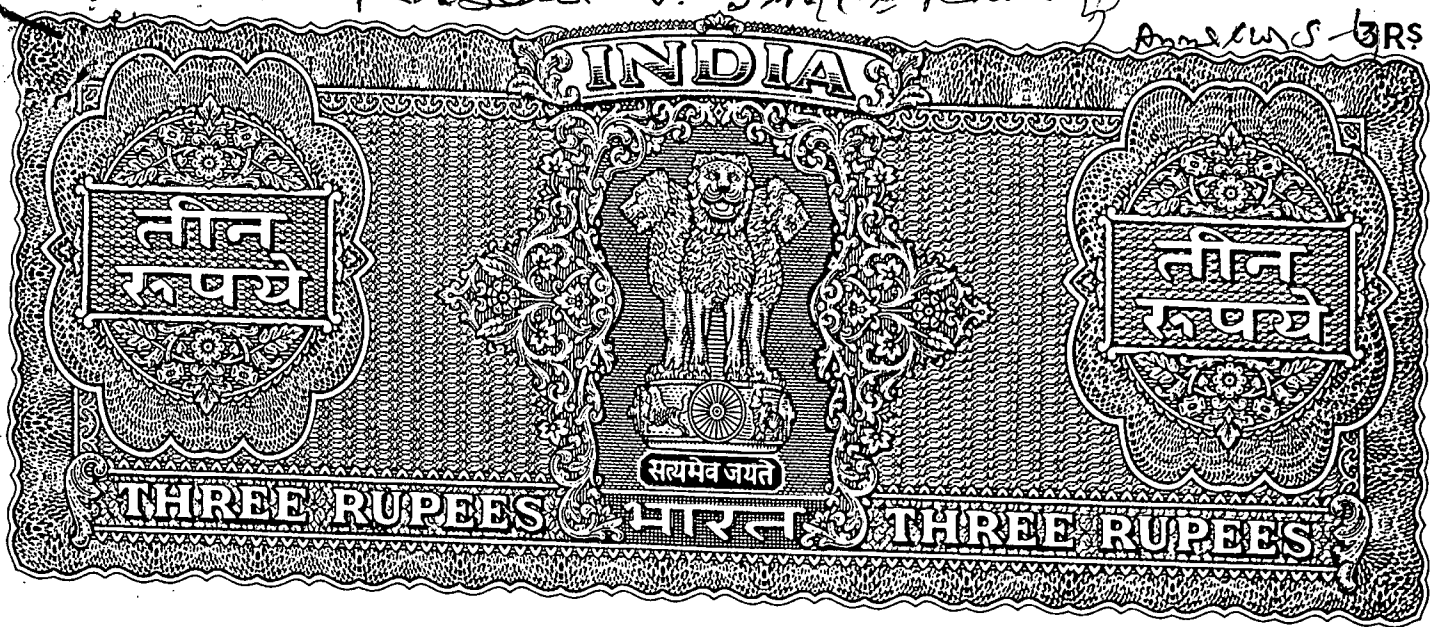
नाम	कार्यकारिणी समिति	व्यवसाय	पता
1	कुर्बेर बाबू सिंह जी	प्रधान	कृषि
2	चेतराम सिंह पाते जी	उप-प्रधान	स्थान बरगवा, लखनऊ

कुर्बेर बाबू सिंह जी प्रधान कृषि  
चेतराम सिंह पाते जी उप-प्रधान स्थान बरगवा, लखनऊ



5-4

In the Central Government Treasury  
Messrs V. S. & M. B. Reddy  
Amalwars-ORS



पुनः प्राप्तः आरम्भकाग शिक्षा पसार  
समिति  
विश्व लखनऊ 6074  
रेजिस्टर आफ इन्ट्री 3 लाख पंचमन 1



सत्य प्रतिनिधि  
महाबल रविन्द्रा  
विश्व लखनऊ तथा लोणाश्री  
23.5.42

29/5/42

मोहम्मद

26/5/92

~~Sworn before me on~~  
15 A.P. by the deponent

Shri. Teerath Singh S.K. Tripathi Adv.

who is identified by me as  
Advocate High Court Allahabad  
I have satisfied by examining  
the deponent in the understanding  
the contents of this affidavit which  
have been read out and explained  
to him.



A.R. KHANAM  
OATH COMMISSIONER  
High Court Allahabad  
Lucknow Bench Lucknow  
No. 11359  
Date 26/5/92

Seal  
Depot

29/5/92

Index

OFFICE OF THE REGISTRAR, JOINT STOCK COMPANIES, UNITED KINGDOM

Regimes of Oscillatory Sources required under the Soviet law.

Date of Registration

Serial number of document filed

Description of document filed	Date	Page	Folio	Volume	Sheet	Index
[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]
[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]
[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]
[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]
[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]
[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]
[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]
[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]
[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]
[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]
[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]
[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]
[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]
[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]
[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]
[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]
[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]
[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]
[Illegible]	[Illegible]	[Illegible]				

B7

五

RECEIVED  
JUL 21 1964

महाराष्ट्र

**THE UNIVERSITY OF CHICAGO**

बिना प्रश्न कालीं वाता एविविवादि

23.5.22

17/7/91

In re:

Registration No. 70 of 1988 (T).

Mohammad Shami

Versus

General Manager,  
North-Eastern Railway, Gorakhpur  
and Others.

Opp. Parties.

COUNTER - AFFIDAVIT

I, S. C. Baidya aged about

2 years, s/o S. D. Baidya working as

S. D. M. E. In the Office of the Divi-

sional Railway Manager, N. E. Railway, Lucknow (deponent),  
do hereby solemnly affirm and state on oath as under:-

1. That the deponent is S. D. M. E. in

the Office of Divisional Railway Manager, N. E.

Railway Ashok Marg, Lucknow and is well conversant

with the facts of the case and also with the

facts deposed hereunder.

That the contents of paras 1 to 4 of the applica-

tion need no reply.

3. That the contents of paragraph 5 of the application

2. That the contents of paras 1 to 4 of the applica-  
tion need no reply.



( 2 )

are not admitted. The opposite parties have already<sup>117</sup> ready filed detailed objections to the application under Section 5 of the Limitation Act by the applicant. It is further stated that the date of appellate order under challenge is 2.1.87 and the applicant has filed the present application on 20.6.88, that is a time-barred application. The detailed objections filed by the opposite parties are already on record of this Hon'ble Court.

4. That the contents of paragraph 6(1) to 6(3) of the application need no reply.

5. That the contents of paragraph 6(4) of the application are wrong, hence denied. In reply to this paragraph it is essential to point out that Sri Mohd. Shami was permitted and inspect and take extracts from the relevant documents in the Office of the General Manager (Vigilance), Gorakhpur vide D.R.M ( M/L.J.N's ) letter No. M/ Con/SS-51/85 dated 29.8.85, but Sri Mohd. Shami did not make himself available for the facilities for reasons best known to him. It is necessary to point out there that he did not inspect the relevant records even though he was spared and released for this purpose. Photostat copies of the letters dated 29.8.85<sup>3.8.85</sup> and 10.11.85 are being annexed as Annexure Nos CA-1 & CA-2<sup>CA-3</sup> to this counter-affidavit.

Annex CA-1 &  
CA-2 & CA-3

प्रवर मण्डल धौविक इंजीनियर,  
पुणे-२०, लखनऊ

6. That the contents of paragraph 6(5) of the application

Contd...P 3/

( 3 )

are admitted to the extent that Miss Meena Shah was appointed as Enquiry Officer. Rest of the contents of the para under reply are wrong, hence denied. In reply to this paragraph it is stated that Senior D.M.E. / L.J.N. vide his letter dated 20.11.85 has clearly written about the failure of the applicant to inspect the documents and take extracts thereof in the Office of the General Manager, (Vigilance), Gorakhpur. It is wrong on the part of the applicant to allege that <sup>had</sup> he has taken copies of documents and opp. parties would have denied the same or tampered with them as the whole enquiry would be based on only these documents.

7. That the contents of paragraph 6(6) of the application are only partly admitted. It is essential to point out here that despite the applicant having been spared along with his Defence Assistant for inspecting and taking extracts of documents, he did not avail of the same. Hence another opportunity was afforded to him by the Enquiry Officer in order to give him all reasonable opportunities.

8. That the contents of paragraph 6(7) of the application are not admitted. It is stated that after 4.2.86 the Enquiry Officer had fixed 19th February and 24th February and 17th Feb etc. The applicant, Mohd. Shami vide his applications at 4.2.86, 19.2.86 and 24.2.86 requested the Enquiry Officer for postponement of the enquiry to some other date, and the same was acceded to. However, on 17.3.86

प्रवर मण्डल यंत्रिक इंजीनियर,  
पू.उ.रे.०, लखनऊ

Contd...P 4/



and thereafter despite intimation having been served on the applicant, he did not attend or submit any formal request intimating about his illness or otherwise. Previously on 4.2.86 the applicant was clearly asked to submit his defence statement under Rule 9(19) on 19.2.86. He did not do so at any stage. Since Sri Mohd. Shami did not attend the enquiry or even informed about his whereabouts, or requested for postponement, or informed about his illness, the proceedings were drawn up as per Rules. When a number of dates having been fixed and due intimation served and the applicant failed to attend or inform otherwise, the Enquiry Officer decided not to give further opportunity and completed the proceedings as provided in D.A.R. 1968. It clearly shows that the fault is only that of the applicant, as he himself abstained from the enquiry proceedings.

9. That the contents of paragraph 6(8) of the application need no reply.
10. That in reply to paragraph 6(9) of the application it is stated that as per Rule a railway employee can retain the railway premises allotted to him till he is a railway employee. On retirement / removal / dismissal he can retain the official premises only upto two months against specific request. The applicant did not comply with the aforesaid Rule Rule, hence there was no option left open to opp. parties except to initiate action

ब्रजर भण्डल यांत्रिक इंजीनियर,  
पु.उ.रे.०, लखनऊ

against the applicant for vacation of the Railway premises.

11. That the contents of paragraph 6(10) of the application are not admitted. In reply to this paragraph it is essential to point out here that different dates of enquiry viz. 27.1.86, 4.2.86, 24.2.86, 17.3.86, 5.5.86 and 27.5.86 were fixed, but the applicant did not attend the enquiry proceedings, except on two dates. He also failed to inform otherwise.
12. That the contents of paragraphs 6(11) & 6(12) of the application are not disputed.
13. That the contents of paragraph 6(13) of the application are not admitted. In reply to this paragraph it is essential to point out here that it is wrong on the part of the applicant to allege that the Appellate Authority directed the applicant verbally during personal hearing on 8.12.86 that he has to produce a certificate from Basic Shiksha Adhikari confirming that Rashtriya Vidyalaya was a recognised school of this area, within a period of ten days, failing which, his appeal would be rejected. Actually it was the applicant, who had sought 10 days' time to prove the authentic record to support his contention that the certificate by the school was genuine. In this connection a copy of the note recorded by the Appellate Authority

ब्रह्म नन्दल यांत्रिक इंजीनियर,  
प.उ.नं.०, लखनऊ

( 6 )

A 121

on the date of personal hearing ( 8.12.86 ) is reproduced below:-

"Personal hearing granted. The employee sought 10 days' time to produce authentic record to support his contention that the certificate issued by the school was genuine and that the school at the material time when he attended was a genuine Institution. The request of the employee keeping in view his young age and the fact that he belongs to minority community has been acceded. He may report for another hearing on 18.12.86."

It is further submitted that the Appeal of the applicant was rejected on merits and on the ground that the applicant had failed to keep up his promise till 30.12.86 when the Appellate Authority had to take a decision in order to dispose of the pending Appeal.

14. That the contents of paragraph 6(15) of the application are not admitted. In reply to this paragraph the reply already given for para 6(4) is reiterated. It is further submitted that the applicant has seen the documents as would be evident from his note dated 4.2.86.
16. That the contents of para 6(16) of the application are not disputed.
17. That the contents of 6(17) of the application are wrong, hence denied. In reply to this paragraph it

ब्रह्मर मण्डल यांत्रिक इंजीनियर,  
पू०उ०रे०, लखनऊ

Contd....P 7/

( 7 )

A/22

is stated that on receipt of the complaint the matter was enquired into by the Vigilance Organisation and, during the course of enquiry it came to light that no such institution existed from where the Transfer Certificate is supposed to have been issued.

18. That the contents of paragraphs 6(18) and 6(19) of the application are not admitted. In reply to these paragraphs it is stated that all the documents are authentic documents and they are relied upon. It is generally believed that schools in the nearby vicinity are always in knowledge of other existing schools. As such, that Sree Bappa<sup>Jai</sup> Narain <sup>higher secondary</sup> Kanya~~Kohj~~ School or the Principal of Railway/School Charbagh have denied the existence of institution without any knowledge does not seem correct. However, the certificate now produced seems to have been obtained after they have been won over either due to intimidation, or otherwise. The documents now produced cannot be relied upon.

19. That the contents of paragraph 6(20) of the application are wrong, hence denied. In reply to this paragraph it is stated that the applicant never participated in the enquiry proceedings but produced forged documents. After giving him reasonable opportunity the competent authority removed him from service and later on the Appellate Authority rejected his appeal after giving him personal hearing.

प्रवर मॉडल यांत्रिक इंजीनियर,  
प० उ० रे०, लखनऊ

A123

20. That the contents of paragraph 6(21) of the application are wrong, hence denied. In reply to this paragraph it is stated that there has been no harassment to the applicant or violation of existing Rules by any Authority, either during or after the enquiry, and even by the Appellate Authority.

21. That in reply to the contents of para 7 of the application it is stated that the applicant was removed from service after detailed enquiry and after being afforded reasonable and personal hearing, he cannot be deemed to have continued in service without any break. He should not be given any seniority, promotion and wages for that period.

22. That in reply to the contents of paragraph 8 of the application it is stated that the reliefs claimed by the applicant are baseless. He is not entitled to any relief. He was removed from service after giving him reasonable opportunity.

Contd. P 9/

23. That the contents of paragraph 9 of the application are not admitted. In reply to this paragraph it is essential to point out here that the applicant after the decision of the Appellate Authority may file a Revision Petition under Rule 25 of the Discipline and Appeal Rules 1968 to the next higher authority. The applicant has not availed the available remedy of revision petition before the competent authority under Rule 25 of the Discipline and Appeal Rules 1968.
24. That the contents of paragraphs 10 to 13 of the application need no reply.

Lucknow,  
Dt. <sup>Nov.</sup> October , 1989.

Deponent.  
श्वर मण्डल यांत्रिक इंजीनियर (लोको)  
पूनांतर रेलवे, लखनऊ

### V E R I F I C A T I O N

I, the above named deponent do hereby verify that the contents of paragraphs 1 of this counter-affidavit are true to my personal knowledge, paragraphs 5 to 8, 10, 11, 13 to 15, 17 to 21 and 23 are based on the records and paragraphs 2 to 4, 9, 12, 16, 22 and 24 are based on legal advice, no part of it is false and nothing material has been concealed. So help me God.

Lucknow,  
Dt. <sup>Nov.</sup> Octr , 1989.

Deponent.  
श्वर मण्डल यांत्रिक इंजीनियर (लोको)  
पूनांतर रेलवे, लखनऊ

CA-1  
26

A125

North Eastern Railway

51  
No:M/Con/SS-43/85

Office of the  
Divl. Railway Manager/Mech.  
Lucknow. dt. the 24 August, 1985.

Sri Mohd. Shani,  
Fireman II/CB

Through: LF/CB

Sub: Major memorandum

Ref: Your representation dt. 13/8/85.

\*\*\*\*

You are hereby permitted to inspect and take extract of the documents listed from serial No. 1 to 10 in Annexure III of this office memorandum of even No. dt. 4/3/85. You can take the help of another railway servant ~~or~~ who satisfies the requirements of Rule 9 (9) of Rly. Servants (Discipline & Appeal) Rules, 1968. Item No. 11 as mentioned in your representation is not relevant to the case.

2. There is no provision of supplying photostate copies of documents as demanded by you.

3. You have also not submitted the names of two staff in order of preference who will act as defence counsel. Please do it now.

4. LF/CB is being asked to spare & direct you to GM(Vig)/Gorakhpur where the above records are available. You are required to submit your written statement to the memorandum for major penalty within 5 days of the inspection of documents.

for Divl. Rly. Manager,  
Lucknow.

Copy forwarded to:-

1. The General Manager (Vig)/N.E. Railway, Gorakhpur, for information. This connects his Case No. Z/13/C/LJH/Dy.CVO(A)/8-80/322/Comp.
2. Loco Foreman, N.E. Railway, Charbagh who will please spare & direct Sri Mohd. Shani, Fireman II/CB to GM(Vig)/GKP immediately on receipt of this letter for inspection of documents & taking extracts thereof. He will issue necessary Duty pass for the purpose for the accused employee and for the railway staff who may help him in taking extracts in case the same is demanded by the accused staff.

Certified True Copy

for Divl. Rly. Manager,  
Lucknow.

Confidential

North Eastern Railway

24  
CA-2

No: M/Con/88-51/85

Office of the  
Divl. Railway Manager/Mech.  
Lucknow, dt. the 3rd. Octr., 1985. A/R

The General Manager (Vig),  
N.E. Railway, Gorakhpur.

Sub: Sri Mohd. Shami s/o Sri Mohd. Shafi, Engine  
Cleaner/CB now working as Fireman II/CB

Ref: Your case No. Z/13/C/LJN/Dy.CVO(A)/8-30/322/Comp

\*\*\*\*

Confidential Copy

Vide this office letter of even No. dated 29/8/85  
Sri Mohd. Shami s/o Sri Mohd. Shafi, Engine Cleaner now Fireman II  
/CB shed was permitted to inspect documents in your office  
and it is reported that he had inspected the same on 13/9/85.  
Kindly confirm.

2. It is proposed to nominate RI/EO (DAY) as R.O. in this  
case. Kindly propose the name of RI/EO(DA) to enable this office  
to nominate him as R.O. in the above case.

3. An immediate reply is requested.

for Divl. Railway Manager,  
Lucknow.



CA-3

Confidential.

N. E. Railway.

Office of the:  
General Manager/Vig.  
Gorakhpur.

No.2/13/M/LJN/Dy.CVO(A)/  
5-85/77/Vig.

Dated 6 -10-35.  
11

✓ The Divl. Rly. Manager(Mech.),  
N.E.Rly./Lucknow.


Sub: DAR action against Sri Mohd. Shami  
S/O Sri Mohd. Shafi, Engine  
Cleaner/CB now working as Fireman-II  
/CB.

Ref: Your letter No.M/Con/SS-51/35 dated  
3-10-35 and 29-8-35.

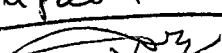
.....

SDGM has nominated Miss Meena Shah,  
JC/DA, N.E.Rly./Gorakhpur as Enquiry Officer  
for conducting the DAR enquiry against the  
above named employee. The relevant papers may  
please be sent to her for proceeding of DAR  
enquiry.

Sri Mohd. Shami has not attended this  
office for inspecting and taking extracts of  
the documents so far.

  
for General Manager/Vig.

Copy to Miss Meena Shah, JC/DA, N.E.Rly.  
Gorakhpur for information and necessary action  
in the matter.

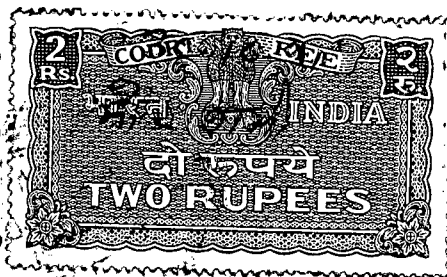
Certified True Copy.  


for General Manager/Vig.

स्वर मन्त्र यन्त्रि रं विविध (लोको)

IN THE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL,  
CIRCUIT BENCH, LUCKNOW.

1991  
AFFIDAVIT  
74 IM  
DISTT. COURT  
U. P.



Mohd. Shami

... Petitioner.

Versus

General Manager , N.E. Railway & Ors. ... Respondents.

Application No. 70 of 1988(b).

REJOINDER - AFFIDAVIT

I, Mohammed Shami , aged about 42 years, Son of  
Shri Mohammad Shafi resident of Quarter No. L 15 F ,  
N.E. Railway Loco Colony, Mawaiya , Alambagh, Lucknow ,  
do hereby solemnly affirm and state on oath as under :-

1. That deponent is the petitioner in the aforesaid case and is well conversant with the facts and circumstances deposed here and after.
2. That the deponent reiterates the contents of para 1 to 13 of his petition as correct and denies the Counter affidavit so far they are against the deponents case.
3. That the contents of para 1 and 2 of the Counter affidavit needs no reply .
4. That the contents of para 3 of the Counter Affidavit are not correct as alleged hence denied. The fact is that this Hon'ble Court has condoned the delay in filing of the petition so once the issue is decided by this Hon'ble Tribunal that can not be agitated again.

(2)

A 128

again & the objections which are on record against Section-5 of the Limitation Act, can not read and considered herein the main petition.

(5). That the contents of para 4 of counter affidavit needs no reply.

(6) That in reply of para No. 5 of Contents of affidavit only this much is admitted that the applicant was permitted to inspect the documentary -s rest is denied being false and misconceived. In fact the applicant was spared by letter dated 12.9.85 and with this letter the applicant went to General Manager 's Office at Gorakhpur. Applicant reported thereon 14.9.85. But no papers were shown or given to the applicant and Photostat copy of this reporting is attached herewith and / as Annexure No. R.A.-1 to this Rejoinder.

7. That on reply to the contents of Para 6 it is stated that the applicant as stated & earlier went to inspect and take authenticated copies of the document being relied upon by the Railway on 14.9.85 but neither the ~~authorities~~ <sup>Authorities</sup> shown. The document relied upon by them.

8. That the contents of para 7 of the Counter Affidavit it is only partly admitted the applicant went to take the authenticated Copies of the documents from the authorities of G.M. Office, Gorakhpur but neither they

30/10/91

msmk

(3)

A 129

supplied the copies nor show the file.

9. That only this much of contents of para 8 of the Counter Affidavit is admitted that the applicant gave applications for adjournment rest are false hence denied. It is wrong to say that the applicant neither informed his illness nor his whereabouts as fact is that the applicant send the information by an application alongwith a Medical Certificate saying that the applicant remain upto 20.3.86 under the treatment of Railway Doctor but when he could not be cured then he went under the treatment of a Private Doctor. A photocopy of the application and Medical Certificate is attached herewith as Annexure R.A.-2 and R.A. -3 with this Rejoinder

Affidavit in the application. It was also mentioned that the applicant is living in Railway Quarters No. L-15 allotted by the Railway.

That it is also worth to say here that the deponent never avoided the enquiry whenever he could not reach to attend the enquiry <sup>he</sup> send applications. He also sent an application alongwith the Medical Certificate <sup>of</sup> Railway Doctor in which the Railway Doctor advised to the deponent to be hospitalized for ready

(4)

ASB

reference of it . A photostat copy of application dated 18.5.86 Medical Certificate of Railway Doctor dated 17.5.86 and postal receipt and acknowledgement is also accompanied with this Rejoinder Affidavit as Annexure No. R.A. - 4 , R.A. - 5 , & R.A. - 6 to this Petition.

10. That contents of para 9 of the Counter Affidavit needs no reply.

11. That contents of para 10 of the Counter Affidavit are wrong hence denied . The applicant has filed his case in this Tribunal and unless and until the case is disposed off finally , he has a right to retain his allotted quarter . The railway authorities have not paid his gratuity and G.P.F. etc. and they are withholding so the claim is due against the Railway Govt. . It also shows that Railway authority also thinks that the case is yet to be disposed of finally and in such condition the applicant has a right to retain the quarter .

12. That in reply to contents of para 12 of the Counter

5...

(5)

A/B

-er affidavit it is wrong to say that the applicant not attended the enquiry the fact is that the applicant either attended the enquiry or <sup>gave</sup> ~~gave~~ applications and informed that he was ill and not in a position to take part in the proceedings.

13. That the contents of para 12 of the Counter affidavit are need <sup>no</sup> reply.

14. That the contents of para 13 of the Counter Affidavit are not correct as alleged. In fact the appellate authority directed the applicant verbally to produce a certificate from B.S.A. confirming that Rashtriya Vidyalay was a recognized Institution at that time but when the applicant could not produced with document in time, from B.S.A. then <sup>biased</sup> ~~biased~~ authorities rejected the appeal of the applicant the paper of proceedings are with the authorities so they can write on it whatever they wants and this was the reason for which the applicant was always demanding authenticated copies of documents relied upon and the authorities did not supply the document because they had an idea to tamper the document.

15. That the contents of para 14 of the Counter Affidavit

(6)

A 132

are not correct as alleged hence denied the authorities did not supply the copy of documents relied upon.

16. That the contents of para 16 of the Counter Affidavit needs no reply.

17. That in reply to para 17 of the Counter affidavit it is to say that the applicant has no knowledge that whether any complaint was there <sup>or</sup> ~~are~~ not but the enquiry was wrongly done by the Vigilance Inspector it is true that the Vigilance Inspector obtained the Certificate on his personal contact which have no force. And on the basis of these certificates a wrong conclusion had been drawn that there was no Institution Rashtriya Vidyalaya while the fact is that there was the institution existed from where the T.C. obtained. The school later on closed due to unavoidable circumstances.

The School Rashtriya Vidyalaya was running under the Alambagh Shiksha Prasar Samiti whose registration Number is 498 /1 - 6074 July, 1954 (21.7.54). Alambagh Shiksha Prasar Samiti was the registered body the applicant inspected the file of the registration in the office of the Firms,

(7)

A 133

Societies and Chits on 6.2.88 where he found that there is a list of members and Office bearers of Alambagh Shiksha Prasar Samiti . The Photocopy of receipt of inspection list of Office bearers is made as Annexure Annexure No. R.A. -7 and R.A. -8 to their Rejoinder for the perusal of this Hon'ble Court.

18. That the contents of paras 18 of the Counter Affidav -t are wrong as stated hence denied . The applicant in his petition in para No.6 (18) and 6(19) already stated that why the documents are not authenticated the person who issued wrong certificate earlier due to lack of knowledge when came out at the conclusion that they have issued wrong Certificate corrected themselves and issued correct Certificate which are Annexure No.A- 23 to A- 26 of this Petition . At present there is no existence of Bappa Jai Narain School in Alambagh , Lucknow which may create doubt on the genuineness of the document issued by it's Principal.

19. That the contents of para 19 of the C.A. are wrong hence denied the applicant reiterates the contents of paras 6 (20) of this petition as correct the findings of Enquiry Officer is hypothetical , imaginary and

39/79

shant



baseless . The punishment orders passed by disciplinary authority is illegal and rejection of appeal is also illegal .

20. That the contents of para 20 of the Counter affidavit are wrong hence denied . The applicant reiterates the contents of para 6( 21) to this petition as correct . The applicant has been harrassed very much from 16.7.86 to the date of application.

21. That the contents of para 21 of Counter affidavit are wrong hence denied . The applicant again reiterates the contents of para 7 of the ~~para~~ Petition are correct.

22. That the contents of paras 22 of the Counter Affidavit are wrong hence denied . The applicant is entitled for all the reliefs claimed in the petition.

23. That the contents of para 23 of the Counter Affidavit are wrong hence denied . The applicant exhausted all the departmental remedies coming before this

Hon'ble Court.

24. That the Contents of para 24 of the Counter Counter Affidavit needs no reply.

Lucknow ; L

De ponent

Dated ; 30 October, 1991.

Respondents

Annexure No RA.

Use both side if required.		N. E. BANGALAY		N. E. B. 10 RD. CL. 10	
To (To):		From (From):		Date (Date):	
Subject (Sub.):		Reference (Ref.):		Remarks (Remarks):	

Ref. - 2 pages, yr. letter 11/24/55. 5/1/56  
of 2/3/55

[illegible]

Sri M. S. Shani,  
reports to this office  
on Sat (13.9.85) +  
Spends 12 p.m. to 4 p.m.  
in the office in the afternoon.

12/10/71  
12/10/71

05/05

32/1991

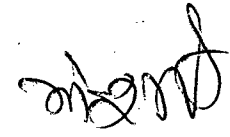
(9)

A 135

VERIFICATION :

I, the abovenamed deponent do hereby verify that the contents of paras 1 to 24 of this Rejoinder Affidavit are true to my personal knowledge and documents and that I have not suppressed any material facts.

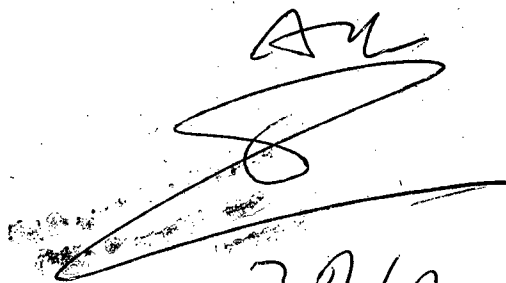
Iucknow ;

  
Deponent.

Dated 30.10.91.

I know and identify the  
deponent who has signed  
before me. S.K. Tripathi  
A.S.V.  
30.10.91

C-743  
1/A m/s. S.K. Tripathi

  
30/10/91

In the Court of Central Administrative Tribunal  
Circuit Bench Lucknow.  
Application No 70 of 1985(L)

Mahd Shami

Petitioner

Vs.

A137

General Manager N.E. Railway and  
others

Respondents

Annexure No R R - 2

मेरा भू.

सुश्री मीना शर्मा  
जॉय अधिकारी  
महाप्रबंधक कार्यालय । मयूरगढ़ ।  
पुष्पतर रेलवे गोरखपुर

महोदय,

तन्दर्भ: सम/कान/एस. एस. -51/85

दिनांक:- 23-4-86

तनिय निवेदन है कि मैं लम्बी बीमारी के कारण काफी समय तक  
अस्थिर रहा हूँ, पहले 20/3/86 तक रेल चिकित्सा में रहा परन्तु जब  
लाभ न पहुँचा तो 21/3/86 से निजी चिकित्सा में चला गया जो अब भी जारी  
है, इस प्रकार मैं न तो अनुशासनिक कार्यवाही की टाल रहा हूँ और न ही  
रेल की ई इरादा है बीमार व्यक्ति प्रत्येक स्तर पर लाचार होता है।

अतः आपसे साग्रह निवेदन है कि अभी कार्यवाही स्थगित रखें  
मेरा वादा करता हूँ कि स्थिर होते ही मैं प्रत्येक तिथि जो प्रशासन द्वारा  
तय होगी उस पर हाजिर हूँगा और सम्बन्धित कागजातों में अपने को  
आबद्ध रखूँगा।

मुझे जानकर आश्चर्य हुआ कि मुझे किसी प्रकार की सूचना भी न  
दी गई और अचानक नोटिस चिन्ता कर दी गई जो अन्तिम स्तर  
का कार्य था। मैं आबंटिक रेल आवास स्ल/15 में रहता हूँ और बिना  
इजाजत के बाहर नहीं जाता हूँ।

आपसे पुनः प्रार्थना है कि मामला की इतराफ़ तुम्हारी न करे  
जो नियम के विरुद्ध होगा और समस्त मानवीय मूल्य समाप्त हो जायेंगे।

सादर

भवदीय

सुश्री मीना शर्मा

कायदे में

कार्यालय शोध

संलग्नक

=====

बीमारी का फॉलो स्टेटप्रमाणपत्र

संपूर्ण रूप से प्रेषित

=====

1-प्रथम में रेल प्रबंधक कार्यालय लखनऊ मण्डल पश्चात्तर रेलवे ।

2-लॉकी फोरमैन कार्यालय शोध पुष्पतर रेलवे

In the Court of Central Administrative Tribunal

Circuit Bench Lucknow.

Application No 70 of 1985(L)

Mahd Shami

Petitioner

Vs.

General Manager N.E. Railway and  
others

A/36  
Respondents

Annexure M AA - 3

Dr. S. Ali

B.Sc., B.U.M.S. (Lko.)

Regd. No. 5414

PHYSICIAN & SURGEON

Ex. H.O. State T.I. College & Hospital, Lko.

Ex. H.O. Distt. Hospital, Unnao

HEALTH CENTRE

HARCHANDPUR GARHI KANAURA  
LUCKNOW.

Phone No.

CLINIC HOURS

Morning - 9 a.m. to 1 p.m.

Evening - 5 p.m. to 9 p.m.

Sunday Evening Closed

Dated. 21-3-86

Cert. by that Mr Mahd Shami  
Und. S/o Mr Mahd Shaf, R/o Loco Colony  
Nawaya, Lko. whose signature is given  
below is suffering from (Neuralgia).  
I advise him complete rest for  
Two Months & four days i.e. 21-3-86  
to 25-5-86 to restoring his health.

attested sign

Dr. S. Ali

B.Sc., B.U.M.S.  
Regd. No. 5414

Dr. S. Ali

B.Sc., B.U.M.S.  
Regd. No. 5414

टी० बी० असाध्य नहीं

घुघणान स्वास्थ्य गिरता है।

20/10/91

In the Court of Central Administrative Tribunal  
Circuit Bench Lucknow.  
Application No 70 of 1988(L)

Mahd Shami

Petitioner

Vs.

General Manager N.E. Railway and  
others

A 129  
Respondents

Annexure No - RA - 4

मेरा मु.

प्रवर मंडल पॉन्ट्रिक अभियन्ता  
पूर्वोत्तर रेलवे,  
गोरखपुर.

महोदय

विषय :- आपके पत्र सं०एम/कान/सा.स्त.-51/85 दिनांक 12.5.86  
तत्पश्चात् निवेदन यह है कि प्राचीन लम्बी बिमारी के कारण काफी समय से  
आवस्थित रहा है। प्राचीन जिसकी सूचना आप की आपके पत्र सं०एम/सा/  
कान/स्त.-51/85 दिनांक 23.4.86 के जवाब में दे चुका है। (रजिस्ट्रार डाक द्वारा)  
आपके पत्र के अनुसार प्राचीन ने माननीय मंडल रेलवे चिकित्सा अधिकारी सैलान  
के द्वारा अपनी बीमारी की जांच करा ली है तथा माननीय मंडल रेलवे  
चिकित्सा अधिकारी महोदय के पत्र की फोटो स्टेट काफी साथ में संलग्न कर रहा  
हूँ। इस प्रकार न तो प्राचीन अनुसंधानिक कार्यवाही में बाध रहा है न  
ही कोई ऐसा इशारा रहता है अतः आप से प्रार्थना है कि कृपया कि रजिस्ट्रार  
सुनवाई न करें। क्योंकि प्राचीन का इलाज अभी भी चल रहा है। प्राचीन स्वस्थ  
होते ही प्रत्येक तिथि जो प्रशासन द्वारा तय होगी उस पर हाजिर होगा।।

अतः श्री मान जी से अनुरोध है कि अभी प्राचीन की जांच की कार्यवाही  
स्थगित रहे।

आप की महान कृपा होगी।

धन्यवाद

प्रतिलिपि

1. मंडल रेलवे चिकित्सा अधिकारी  
का पत्र

श्री 0 श्री 0  
का 0 श्री 0 श्री 0  
कारवाग शेड

In the Court of Central Administrative Tribunal

Circuit Bench Lucknow.

Application No 70 of 1985

Mahd Shami

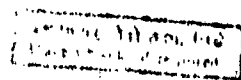
Petitioner

vs.

General Manager M.E. Railway and  
others

A/110  
Respondents

Annexure No - 5-



पुनर्निर्देश  
IN P-HATWAY

17-5-85

Page (Dated) 17-5-85  
Page (To) Sr. D in E/...

17-5-85  
17-5-85  
17-5-85

17-5-85  
17-5-85  
17-5-85

17-5-85  
17-5-85  
17-5-85

As requested by Sh. Mahd. Shami Hyman II 4/15 Loco Colony, I attended him at his residence. He is under the treatment of Dr S Ali and as per Dr Ali's certificate he is suffering from neuralgia.

Sh. Mahd. Shami has been recommended for hospitalization.

17-5-85

30/1/91

In the Court of Central Administrative Tribunal  
Circuit Bench Lucknow.  
Application No 70 of 1985(L)

Mohd Shami

Petitioner

vs.

General Manager N.E. Railway and  
others

Respondents

Annexure No RA - 6

ACKNOWLEDGMENT

Received Registered Letter/Postcard/Packet/Parcel

Addressed to (name) ...

Amount for Rupees ...

Date of delivery ... 197 ...

Signature of addressee ...

No. 340 R.P. 51 (a)

Stamps affixed except in case of business. No. P.S. 5

red letters of not more than the initial four-stroke weight prescribed in the Post and Telegraph Guide on which no acknowledgment is due.

Received a V.D. registered\* ...

addressed to ...

To be filled in only when the article is to be insured. To be crossed out by means of two diagonal lines.

Insured for Rs. (in figures) ... (in words) ...

मोहरी

37/1991



In the Court of Central Administrative Tribunal  
Circuit Bench Lucknow.  
Application No 70 of 1955/6

Mahd Shami

Petitioner

Vs.

General Manager M.E. Railway and  
others

Respondents

Annexure 16 A-7

Try. Form no. 385

(P)

RECEIPT FOR PAYMENT TO GOVERNMENT

(Form no. 1, Chapter III, Paragraph 26 of Manual and book,  
Volume V, Part 1)

442186

Place Lucknow Receipt No. 85  
Department and office General Manager M.E. Railway  
Received from General Manager M.E. Railway  
the sum of Rupees Rs. 413.00  
on account of Salary & allowances

Signature of Government Servant

Examining the receipt.

Cash Counter

Cashier or Accountant.

Designation

Lucknow.

Signature

39/99

In the Court of Central Administrative Tribunal  
Circuit Bench Lucknow.  
Application No 70 of 1988/L

Mahd Shami

Petitioner

Vs.

General Manager N.E. Railway and  
others

Ally  
Respondents

Annexure No RA - 8

॥ रजिस्ट्रेशन नं० 493/1-6074 दिनांक 21-7-1954 ॥

आलमबाग शिक्षा पुस्तक समिति के पदाधिकारी एवं सदस्यों की सूची -

क्रमांक	नाम	पद	पता
1-	श्री कृतर बाबू सिंह	प्रधान	बरगवा लखनऊ
2-	" चैतराम सिंह बाल जी	उप प्रधान	बनौली लखनऊ
3-	" राम बाल त्रिवेदी	मंत्री	रामनगर आलमबाग लखनऊ
4-	" लाल कृष्ण शुक्ला	उपस्थायक	राम नगर आलमबाग लखनऊ
5-	" तुलसी भाटिया सरल	सहायक मंत्री	सेवा भवन मधेया लखनऊ
6-	" जेठानन्द	कोषाध्यक्ष	आलमबाग लखनऊ
7-	"		

सदस्य

- |    |                          |                       |
|----|--------------------------|-----------------------|
| 1- | श्री गंगा राम            | राम नगर आलमबाग लखनऊ   |
| 2- | " रामनारायण श्रीवास्तव   | रामनगर आलमबाग लखनऊ    |
| 3- | " प्यारे लाल बाल         | बनौली लखनऊ            |
| 4- | " महाबीर पुषाद बर्मा     | बरगवा लखनऊ            |
| 5- | " श्याम लाल              | रामपुषाद सेवा लखनऊ    |
| 6- | " तीरथ सिंह              | अमरसहीबाग आलमबाग लखनऊ |
| 7- | " लालता पुषाद श्रीवास्तव | माडल हाऊस लखनऊ        |
| 8- | " श्री मंगू राम          | जाफर मेडा बनौली लखनऊ  |
| 9- | " हुब लाल                | बरगवा लखनऊ            |

