

Central Administrative Tribunal
Lucknow Bench

Cause Title DA 75 of 1988

Name of the Parties A. Sebastian Applicant

Versus

Union of India Respondents.

Part A . P.C.

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~~ET~~

Part B - check stamp / destroyed

for

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25/8
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No. 75 of 198 (11)

APPLICANT (s) A. Sebastian

RESPONDENT(s) U. J. J. through the Principal Secy, Miny. of
Rlys. ex officio chairman, Rly. Board, Rail
Bhawan, New Delhi & 4 others

Particulars to be examined	Endorsement as to result of Examination
1. Is the appeal competent?	Yes
2. (a) Is the application in the prescribed form?	Yes
(b) Is the application in paper book form?	Yes
(c) Have six complete sets of the application been filed?	7 complete sets have been submitted.
3. (a) Is the appeal in time?	Yes
(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?	Yes
5. Is the application accompanied by B. D. /Postal-Order for Rs. 50/-	Yes, DD 067811 dt. 14/7/88
6. Has the certified copy/copies of the order (s) against which the application is made been filed?	Yes
7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed?	Yes
(b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly?	Yes

Hon'ble D.K. Agrawal, J.M.
Hon'ble K. Dhayya, J.M.

16-10-89

Shri Abdul Mateen & C.A. Baseer counsel for the applicant desires time to file rejoinder affidavit. Allowed. Let the rejoinder affidavit be filed within two weeks. List this case on 8-12-89

(AS)

for hearing

[Signature]
A.M.

[Signature]
J.M.

(S.H.S.)

OK
No rejoinder filed
Submitted to
hearing
7/12

8/12/89

Hon. Justice K. Nath, V.C.
Hon. K. J. Roman, J.M.

Shri C.A. Baseer appears on behalf of the applicant and requests for adjournment on the ground of illness of the applicant himself.

The case be listed for rejoinders on 2/2/90.

[Signature]
A.M.

[Signature]
V.C.

Re filed by
C
2/2/90

pa

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCULAR BENCH AT LUGANO

O.A./T.A. No. 75 1988(4)

A Sabartan

Applicant(s)

Versus

U-02

Respondent(s)

Sr.No.	Date	Orders
③	24.10.88	L. CA Basheer Advocate & Officer re L. Argun Blunfer Advocate & respondent are present. FIP & reply 21.11.88. L. CA 24.10.88
	21.11.88	No sitting. Adjourned to 22.12.88 for filing reply at the request of counsel for reply. fish 21/11
	22/12	No sitting. Adj. to 27.1.89 h
	27-1-89	No sitting. Adj. to 28/3/89 24/12 Rm 27/1

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
2.2.90	Hon. Justice K. Math. U.C. Hon. Mr. K. J. Ramani A.M.	
	On the request of both the parties case is adjourned to 23.3.90 A.M. U.C.	
23-3-90	Hon' Mr. D.K. Agarwal J.M. Hon' Mr. K. Chayya A.M.	
	On the request of both the parties case is adj. to 24.4.90 A.M. J.M.	
<u>24.9.90</u>	No sitting Adj to 14.12.90	
<u>14.12.90</u>	Case not reached Adj to 18.2.91 for hearing	OR CA/RK 13/12
<u>18.2.91</u>	No sitting Adj to 17.5.91	
17.5.91	No sitting Adj to 23.8.91	
<u>23.8.91</u>	No sitting adj to 13.10.91	
<u>13.10.91</u>	No sitting adj to 18.12.91	

(12)

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH, LUCKNOW

O.A.No.75 of 1988.

A.SebastianApplicant.

Versus

Union of India & othersRespondents.

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

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

(BY Hon'ble Mr.A.B.Gorthi,A.M.)

The claim of the applicant Shri A.Sebastian in this application is for payment of interest to the tune of Rs.83,657-95P on account of delayed payment of the various pensionary benefits due to him.

2. The applicant, who was working as Permanent Way Inspector (PWI) at Lucknow was promoted and posted as Assistant Engineer, Northern Railway, Faizabad on 12.12.81. He retired from service w.e.f. 31.1.82, i.e., soon after his promotion and transfer to Faizabad. Payment of pensionary benefits to which he was entitled, was unduly delayed by the respondents on the untenable plea that the applicant during his tenure as PWI at Lucknow mis-managed his official duties so badly that there was a discrepancy/deficiency reflected in the records of Engineering Stores to the extent of 4.5 lacs. The applicant also alleged to have refused to handover the relevant official records to the respondents. After his retirement, the matter was enquired into and after prolonged enquiry and correspondance, the respondents finally came to the conclusion that only a sum of Rs.945-95P was recoverable from the applicant. Although the applicant

6

AG

retired on 31.1.82, payment of his pensionary benefits was delayed as shown below:-

<u>ITEMS</u>	<u>DATE</u>
a) Provident Fund	May, 1982
b) Provisional Pension	August, 1983.
c) Leave encashment	September, 1984.
d) D.C.R.G.	June, 1987.
e) Commuted value of pension.	September, 1987.

3. The applicant contended that the respondents were not justified in delaying payments as shown above and hence he is entitled to interest on the delayed payments.

4. The respondents while admitting that various pensionary benefits were paid to the applicant as shown above, have contended that the delay was primarily on account of the fact that the applicant refused to handover relevant and important records pertaining to the office of PWI, Lucknow. Since there was an allegation of discrepancy/deficiency to the extent of 4.5 lacs, the concerned department did not give clearance -certificate for the payment of pensionary benefits to the applicant. A joint enquiry was conducted and its proceedings were considerably delayed mainly on account of non-co-operative attitude of the applicant. When the enquiry concluded, it was found that a sum of Rs. 945-95P was recoverable from him. Notwithstanding the pendency of the enquiry, the applicant was allowed to draw provisional pension which was sanctioned

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
LKO ALLAHABAD BENCH, ALLAHABAD. Lucknow.

O.A. NO. 75/88
T.A. NO.

~~199~~

DATE OF DECISION _____

A. Sebastian

PETITIONER

Shri A. Mateen

Advocate for the Petitioner(s)

Versus

Union of India & others

RESPONDENT

Shri A. Bhargava

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice U.C. Sinha, V.C.

The Hon'ble Mr. A.B. Chatterjee, A.M.

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether to be circulated to all other Benches ?

GHANSHYAM

[Signature]

(A2)

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH, LUCKNOW

O.A.No.75 of 1988.

A.SebastianApplicant.

Versus

Union of India & othersRespondents.

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AB

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to him on 30.4.83. Under the circumstances, the respondents contend that the delay in payment of the pensionary benefits to the applicant was not on account of any negligence or fault on the part of the respondents and hence the applicant is not entitled ^{to} ~~for~~ any interest on the delayed [&] payments.

5. We have heard the learned counsel for both the parties. The very fact that despite prolonged enquiry, the respondents came to the conclusion that a sum of Rs.945-95P only was recoverable from the applicant, would clearly indicate that initial apprehension of the ^{Respondents &} ~~applicant~~ that the applicant was involved in a [&] serious case of financial embezzlement, turned out to be unfounded. In any case, the respondents should have acted swiftly and even prior to the applicant's retirement. In view of this, we find that there is justification in the applicant's claim for interest on the delayed payment of his pensionary benefits.

6. In 'State of Kerala Vs. M. Padmanabhan Nair' AIR 1985 Supreme Court 356, it was held by the Hon'ble Supreme Court that;

"Pension and gratuity are no longer any bounty to be distributed by the Govt. to its employees on their retirement but have become under the decisions of this court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment."

7. Further we find that in the case of 'O.P. Gupta Vs. Union of India' AIR 1987 S.C. 227

411

as to costs.

[Signature]
MEMBER(A)

[Signature]
VICE CHAIRMAN.

DATED: 26 May 1992

(ug)

In the Central Administrative Tribunal, Additional
Bench, Lucknow.

Application under Section 19 of the Administrative
Tribunal Act.

Between:

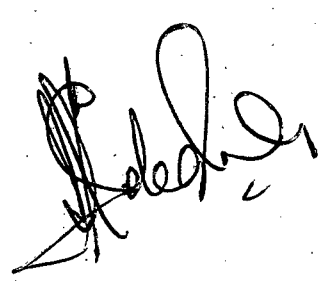
1. A. Sebastian, aged about 64 years, son of Late
B. Sebastian, Resident of 4 -B, Prag Narain Road, Lucknow.
...Applicant/Petitioner

Versus:

1. Union of India and Others
...Respondents.

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DRM for payment of settlement dues to the
applicant.
 3. Letter dated 10.1.84 pertaining to Gratuity to 26-28
the Applicant addressed to the DRM.
 4. Letter dated 6.2.84 of the Applicant to the DRM 29-30
Lucknow for payment of retirement dues to the
Applicant.
 5. Letter dated 12.4.84 of the Applicant to the 31
DRM, ~~North~~ Northern Railway, Lucknow for payment
of settlement dues.
- 

Annex No.	Particulars	Page No.
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File

Annex.No. Particulars

Page No.

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8.7.87

52

III Serial No.3.- Vakalatnama

53

Applicant/Petitioner

A. Sebastian.

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List this case
on 25.08.88

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24/7

(A/S)

In the Central Administrative Tribunal, Additional Bench, Lucknow.

Application under Section 19 of the Administrative Tribunal Act, 1985.

Between:

1. A. Sebastian, aged about 64 years, son of Late Shri B. Sebastian, Resident of 4-B, Prag Narain Road, Lucknow.

.... Applicant/Petitioner

Versus:

1. Union of India through the Principal Secretary, ~~Minis~~ Ministry of Railways, ex Officio Chairman, Railway Board, Rail Bhawan, New Delhi.

2. General Manager, Northern Railway, Baroda House, New Delhi.

3. Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow.

4. Divisional Superintending Engineer, (Co-Ordination) Northern Railway, Hazratganj, Lucknow.

5. Divisional Accounts Officer, Northern Railway, Hazratganj, Lucknow.

.... Respondents

Details of the Application:

1. (i) Particulars of the Applicant:

A. Sebastian, aged about 64 years, Resident of 4-B, Prag Narain Road, Lucknow.

Shahin

AK6

(ii) Name of father:

Mr. B. Sebastian.

(iii) Designation and Office:

Retired as Assistant Engineer, Northern Railway,
under Divisional Railway Manager, Northern Railway,
Lucknow on 31.1.82.

(iv) Office Address:

Care of Mr. Abdul M. Mateen, Advocate, 152,
Ghasiari Mandi, Lucknow.

(v) Address for serving of all notices:

Care of Mr. Abdul Mateen, Advocate, 152,
Ghasiari Mandi, Lucknow-1.

2. Particulars of the respondents:

(i) Union of India through the Principal

Secretary, Ministry of Railways, ex Officio
Chairman, Railway Board, Rail Bhawan, New Delhi.

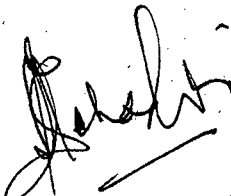
(ii) General Manager, Northern Railway, Baroda House,
New Delhi.

(iii) Divisional Railway Manager, Northern Railway,
Hazratganj, Lucknow.

(iv) Divisional Superintending Engineer, (Co-Ordination)
Northern Railway, Hazratganj, Lucknow.

(v) Divisional Accounts Officer, Northern Railway,
Hazratganj, Lucknow-1.

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

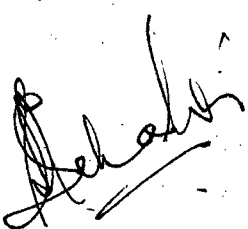


Air

This application is being filed for non payment of settlement dues along with the interest on abnormally delayed payments which despite reminders filing of writ for orders of the same in this regard in the Hon'ble High Court, Allahabad, Lucknow Bench and breach of statutory rules framed by the Railway Board for prompt payment of the settlement dues to the employees immediately on retirement by the opposite parties who have not only failed to pay the dues promptly but also made deductions illegally and made wrong calculations of the amount of settlement dues paid to the applicant in utter disregard of the rules.

The applicant retired on 31.1.82 and as per rules and instructions of the Railway Board, payment of his settlement dues should have been made within two months of his retirement and in case of delay, payment of interest had to be made which the opposite parties failed to pay. The dates of release of settlement dues to the applicant are as under:

- a) Provident Fund was released in May 1982 and that too after constant pleadings without payment of interest that accrued due i.e. from 1.2.82 to May 1982.
- b) Pension: Although the applicant retired on 31.1.82, the Provisional Pension was sanctioned only on 30.4.83 after filing of Writ Petition in the



(A/B)

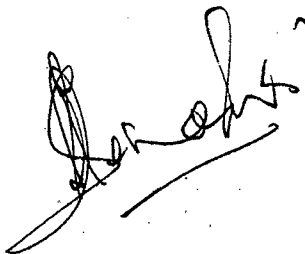
Allahabad High Court, i.e. 1 year and 4 months after retirement, and the pension with arrears was paid in August 1983 instead of February 1982 and despite abnormal delay, the interest accrued was not paid which comes to Rs. 4,800/- for 1.5 years @ 18% per annum.

c) Leave Encashment amount was paid in September 1984 i.e. after more than 3 years without payment of interest that had accrued on the delayed payment.

d) DCRG was paid in June 1987 after repeated reminders i.e. after more than 5 years without payment of any interest that had accrued on the same. (Annexes 1, 2, 3, 4)

e) Commutation of Pension amount was paid in September 1987. The applicant had made personal approaches to the Divisional Railway Manager (P) office settlement section immediately after retirement but was told that no commutation was possible till a clearance from the Engineering Department was obtained. (Annexes 1, 2, 3, 6, 7, 8, 9)

The applicant submitted an application dated 12.8.82 (Annexure No. 1) but got no reply. Another application dated 23.1.83 was submitted (Annexure No. II) but still no reply was given. Finally, in 1986, the forms were given and filled by the applicant immediately and the Commutation was sanctioned to the applicant vide DRM/LKO/No. P.P.O/P/078311411/Sr. D.A.O. - NR/LKO dated 8.7.87 vide Annex 17



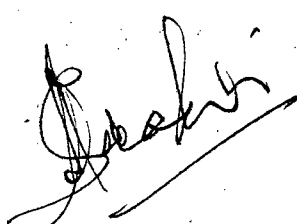
AK

The applicant was entitled to commute 1/3rd of his pension of Rs.634/- = Rs.211 @ 129/- being the value per rupee at the age of 58 years but the Opposite parties delayed the commutation till 1987 when the applicant was about 64 years and therefore, the commutable amount came to Rs.105.84 per rupee. The commutated amount should have been Rs.211 x 129 = Rs.27,220 whereas the applicant was only paid Rs.22,332.24 due to the deliberate delay by the opposite parties to harass him.

As such, the applicant is entitled to the commutated amount of Rs.27,220/- and interest @ 18% where compounded works out to Rs.29,498/-, the total being Rs.27,220/- + Rs.29,498/- = Rs.56,718/- less Rs.22,332/- already paid = Rs.34,386 ~~(Rs.34,386)~~ (Rs.Thirty Four Thousand Three Hundred and Eighty Four Only)

Further, as per rules, the applicant's full pension should have revived after 15 years from 1982/January i.e. in January 1997, but due to this abnormal delay, he may never receive his full pension which has caused a further loss of Rs.211/- x Rs.12 = Rs.2532 x 5.5 years = Rs.13,926/-. Hence, he seeks reimbursement of the above amount of Rs.13,926/- also.

That if DCRG would have been paid in February 1982, the applicant would have earned interest on Rs.22,449/- @ 18% amounting to Rs.24,990/- upto



ADG

June 1987 which was denied and for this abnormal delay, the opposite parties are responsible.

f) Deduction of Rs. 945.95 was made illegally from the amount of DCRG without any charge sheet or Show cause notice and appeal in this regard was rejected illegally on 10.11.1987. Enquiry in this regard was made more than 5 years after reitement which was illegal.

4. Jurisdiction of the Tribunal :

The applicant declares that the subject matter of the order and the subject matter of the claim against which he wants redressal is within the jurisdiction of the Tribunal.

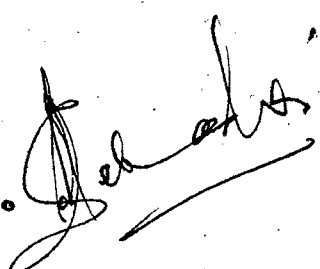
5. Limitation:

The applicant further declares that the application is within the limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985.

6. Facts of the Case:

a) That the applicant is a retired Railway Servant having retired on 31.1.82 from the post of Assistant Engineer, ~~Morikern~~ Northern Railway, which he held in a substantive capacity.

b) That the applicant was not paid his post retirement dues including Provident Fund, Leave Encashment, DCRG and monthly pension and commutation of pension and for sufficiently long time and the



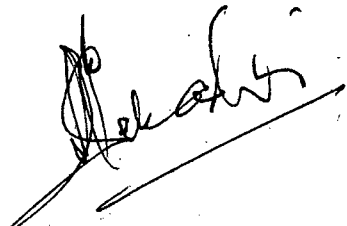
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payments were made without interest on the delayed payments.

c) That the applicant after frantic efforts on his part succeeded in getting his Provident Fund released in the month of May, 1982 after more than 4 months and the amount of Interest that accrued on this till the date of payment i.e. May 1982 is still due.

d) That despite several representations made to the Opposite Parties 1 to 5, the applicant was not paid his gratuity amounting to Rs. 23,532/- which was paid after 5 1/2 years and that too without interest. The applicant was being paid a provisional monthly pension @ Rs. 634/- + other allowances admissible thereon. Leave ~~ex~~ encashment and the amount of commutation was however not paid. (Annex 1, 2, 3, 4, 5, 6, 7, 8, 9, 10)

e) That aggrieved by the inaction in making payment of the said post retirement ~~benefits~~ benefits, the applicant preferred a Writ Petition in the Allahabad High Court, Lucknow Bench, No. 667 of 1983. In the said Writ Petition, the present opposite ~~parties~~ parties were impleaded ~~as~~ as opposite parties. The opposite parties filed a counter affidavit in reply to the said Writ Petition and a rejoinder affidavit was filed in reply thereto and the said Writ Petition came up for final orders before a Division Bench consisting of Hon'ble Mr. Justice U.C. Srivastava and Hon'ble Mr. Justice K.N. Goyal.



122

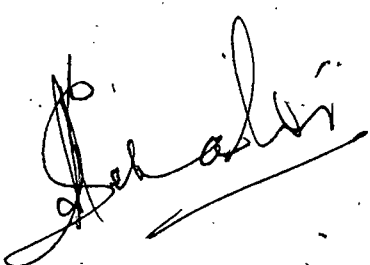
By a judgement dated 15.12.83, their Lordships were pleased to dismiss the Writ Petition as premature.

The judgement of the Lordships reads as under:

" Learned counsel for the opposite parties has placed before us the records of the case which indicate that a preliminary enquiry has been going on with a view to taking action against the petitioner under Para 2308 of the Indian Railway Establishment Code. The petitioner's provisional pension and the provident fund have already been released. The claim about the release of final pension is premature in view of the contemplated action. However, any amounts due to him in respect of leave encashment and also subject to any rules and action thereunder, any amounts relating to gratuity also may be released likewise subject to this, the writ petition is dismissed as premature. "

f) That rule 2308 of the Indian Railway Establishment Code Volume II reads as under:

" 2308 (C.S.R. 351 - A) Recoveries from pension - The President further reserves to himself the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specified period, and the right of



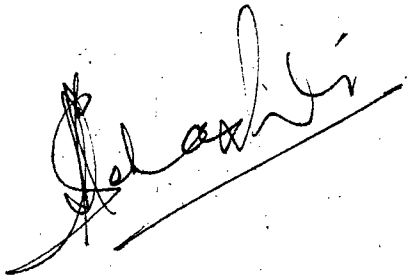
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~~order for the recovery of a pension or gratuity or any pecuniary loss caused to the Government, if the pensioner is found in departmental or judicial proceedings to have been guilty of grave misconduct, or negligence during his service including his service rendered on re-employment after retirement.--~~

ordering the recovery from a pension of the whole or part of any pecuniary loss caused to the Government, if the pensioner is found in departmental or judicial proceedings to have been guilty of grave misconduct, or negligence during his service including his service rendered on re-employment after retirement.--

Provided that -

- (a) such departmental proceedings if not instituted while the officer was on duty either before retirement or during re-employment ;
 - (i) shall not be instituted save with the sanction of the President ;
 - (ii) shall be in respect of an event which took place not more than four years before the institution of such proceedings ; and
 - (iii) shall be conducted by such authority in such place or places as the President may direct and in accordance ~~xi~~ with the procedure applicable to proceedings on which order of dismissal from service may be made ;
- (b) such judicial proceedings, if not instituted while the officer was on duty either before retirement or



A224

during re-employment shall have been instituted in accordance with sub clause (ii) of clause (a) and (c), the Union Public Service Commission shall be consulted before final orders are passed.

Explanation for purposes of this Rule ---

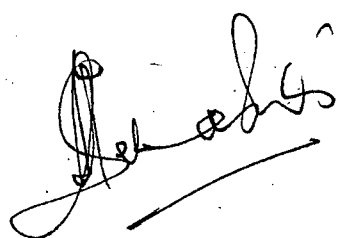
(a) departmental proceedings shall be deemed to have been instituted when the charges framed against the pensioner are issued to him or if the officer has been placed under suspension from an earlier date, on such date and

(b) Judicial proceedings shall be deemed to have been instituted --

(i) In the case of criminal proceedings, on the date on which a complaint is made, or a charge sheet is submitted to a criminal court; and

(ii) in the case of civil proceedings on the date on which the plaint is presented or as the case may be, an application is made, to a civil court. "

g) That no departmental proceeding was instituted against the petitioner while he was in service. It is stated that no statement of charges was issued to the petitioner at any time with regard



225

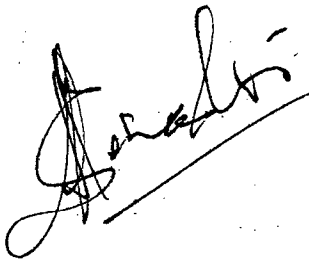
to any allegation or outstanding debits.

h) That in the counter - affidavit filed in reply to the said writ petition no. 667 of 1983, it was stated in paragraph 4 thereof :

" Taking into view the huge amounts of debits standing against the petitioner and for speedy finalisation of clearance of debits an Enquiry Committee of Assistant Officers, viz. Assistant Engineer (II), ADAO (I) has been constituted to enquire into ~~the matter~~ the matter and finalize the overhauling/outstanding stock sheets accounts as mentioned in para 2 of the counter affidavit (XXXX (A, B, C and D) outstanding against the petitioner. The payment of retirement benefits of the petitioner outstanding with the railways will be finalised on receipt of findings duly accepted by the competent authority on the report submitted by the Enquiry Committee. "

i) That the constitution of the said Committee for finalisation of the overhauling/outstanding stock sheets accounts cannot be said to have been in terms of the aforementioned rule 2308. No departmental proceeding was instituted with the constitution of the said Committee since as per Explanation.:-

' a departmental proceeding for purposes

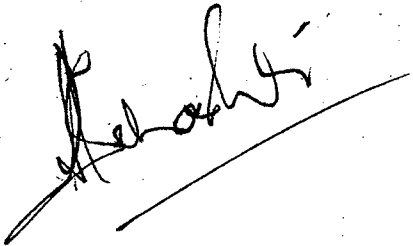


126

of the said rule shall be deemed to be instituted on the date on which the statement of charges is issued to the railway servant or 'Pensioners' (the petitioner is advised to state that the term " statement of charges " has to be given the same meaning which the said term carries under the Discipline and Appeal Rules for the railway servants) As stated above, no statement of charges were issued to the petitioner while he was in service.

j) That the petitioner was promoted to the post of Assistant Engineer a few months earlier to his retirement. The ~~is~~ said promotion was made in November, 1981. Prior to the said date, the petitioner was working as a Permanent Way Inspector (for short P.W.I?) In para 2 of the counter affidavit, it was indicated that the outstanding stock sheets were as follows :

- " (a) Stock sheets 1 to 27 Excess Rs. 494550/- and of 19.5.1982. shortage of Rs. 470239/-
- (b) Stock sheets Shortage of approx. 27(A) of 19.5.1982 Rs. 500/-
- (c) Accounts note no. 78/ SVL 17 of 31.5.70 in the ~~170600/-~~ Shortage of Rs. stock sheet of PWI(I) 170600/-



127

LKO pertaining to Excess of Rs. 87370/-

Shri A. Sebastian.

(d) Outstanding report

No. 82/SU/LKO/PSF/2/2/

17 of 28.6.82.

This report pertains

to 87 paras which

have not been replied

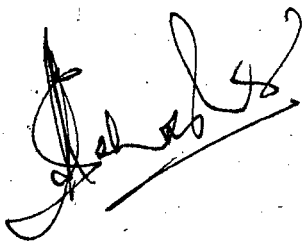
by the petitioner

for which he was

answerable."

k) That items (a) and (b) are of a date later to the petitioner's date of retirement. Item (c) wrongly mentions the number of the said accounts note and its date. It should read Account No. 78/SV/17 dated 31.5.1979. It is stated that the stock sheets were replied to by the petitioner before the account note was prepared. The account note appears to have been prepared on 31.5.1979 but the same was at no time furnished to the petitioner nor was he apprised of the same. For the first time, the said account note was brought to the notice of the petitioner in May 1982 after he had retired. Item (d) is also of a date subsequent to the petitioner's retirement.

1) That the petitioner was as P.W.I. was issued on an indent being placed by him certain railway stock. After utilisation of the same, the stock sheet is prepared indicating the stock issued and its utilisation. The stock



128

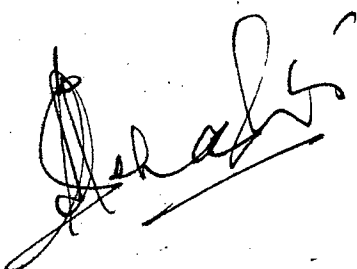
sheets are there~~as~~ after verified and an account note is prepared to indicate the excess or shortage of various items which had been issued and have not been shown in the stock sheet as having been utilized.

Items (a), (b) and (d) pertain to stock sheets of the said year 1982 while item (c) pertains to stock sheets in the year 1978.

On xverification of the stock sheets, the petitioner wasx required to indicate the shortages and excess worked out before the account note is prepared. The petitioner had duly submitted his reply.

m) That opposite parties unwarrantedly proceeded to constitute a Committee to finalise the overhauling/stock sheet account in respect of the said four items which were referred to in para 2 of the counter affidavit. The Committee started its deliberations in January 1983 and submitted its report in December 1983. The said Committee was constituted after the petitioner had filed the earlier writ petition in this Hon'ble Court raising the grievance with regard to non payment of his various dues with a prayer for direction to the opposite parties to pay him his leave encashment amount, gratuity and pension.

n) That ultimately, the opposite parties vide their letter dated 10/13.1.86 finally conceded that in spite of best efforts, the



A29

finalization of the fact finding enquiry has been abnormally delayed mainly because of old and complicated case, non production of relevant records by the Operation A/c Section and Non - Co operation and rigid attitude of the serving subordinates of the Division who had received the material from P.W.I., Lucknow under clear acknowledgement. This clearly demonstrated the harassment caused to the Petitioner by the levelling of false charges which could not be substantiated and the opposite parties themselves admit the lacunae and delay which were solely due to opposite parties own latches.

o) That the petitioner submitted a number of representations both before the enquiry and after the enquiry for culpable abnormal delay in payment of any settlement dues (vide annexures) ultimately the pension provisional was sanctioned on 30.4.83 i.e. 1 year and 4 months after retirement vide General Manager(P) letter No. 726-E/1/1235 and pension with arrears was paid in August 1983 instead of February 1982 without payment of interest that accrued on the same. Leave encashment amount was paid in September 1984 instead of January 1982 without payment of interest. The Petitioner received all the payments under protest.

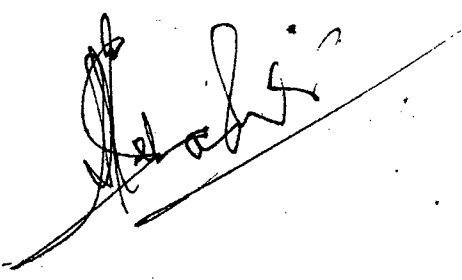
Annex's 1, 2, 3, 4,
5, 6, 7, 8, 9, 10,
11, 12, 13, 14, 15,
16

[Handwritten signature]

A30

DCRG was paid in June 1987 after repeated reminders without interest. Commutation of pension amount was paid in September 1987 without interest. It is thus amply evident that there was culpable delay in the payments and the same being without interest and highly belated, no action was taken despite the orders of the Hon'ble High Court, ignoring the rules of the subject that settlement ^{papers} ~~dues~~ are to be finalised 1 year in advance and in any case ^{payment is to be made} on the date of retirement or within 2 months ⁴⁸ of retirement, and the interest is to be paid for delay in payment.

p) That the opposite parties falsely implicated the applicant for misappropriation of railway materials to the fantastic sum of Rs. 4.5 lacs and the same was the subject ~~was~~ matter of enquiry against him after his retirement and it was also stated before the Hon'ble High Court that the opposite parties misreably failed to establish the charge either prior to his retirement or thereafter and therefore, is guilty of withholding his retirement benefits without any justifiable reasons as well as harassment has caused mental and financial hardships to the applicant. It was also incumbent and the administration was legally bound to pay interest at the rate



(131)

of 18% which they failed to do.

q) That legally in terms of the rules, gratuity, leave encashment and Provident Fund was to be paid forthwith to the applicant at the time of retirement which is his legal right under law. But, the abnormal and culpable delay in the payment of settlement due, liability of government to pay interest at the market rate is a must which the opposite parties have not paid despite demand (vide Annexure Numbers 1 to 16)

r) That the Hon'ble Supreme Court having observed in their decision - State of Kerala Versus Padmanathan as under :

" The necessity for prompt payment of the retirement dues to a government servant immediately after his retirement cannot be overemphasized and it would not be unreasonable to direct that the liability to pay penal interest on these dues at the current market rate would commence at the expiry of 2 months from the date of retirement, the interest being payable to the employee from the date of retirement upto the date of payment. "

Shashi

s) That it has been held by many High Courts that DCRG cannot be directed to be a

132

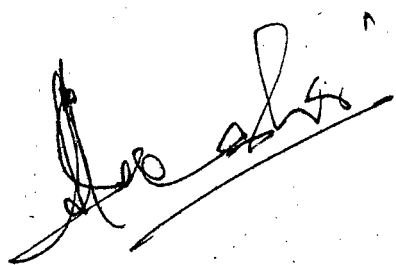
adjusted for any liability which is got fixed after retirement and the recovery of the amount due to the government after retirement and is not possible unless the liability is fixed before retirement and therefore the recovery of the amount of Rs.945.95 from DCRG is illegal.

7. Relief sought:

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

The applicant therefore prays that the Hon'ble Tribunal may be pleased to order the payment of Rs.945.95 on account of deductions made from Gratuity and the interest on account of culpable delay in the payment of settlement dues as per details given below. It is further prayed that the Hon'ble Court may be pleased to order the payment of interest from the ~~date of payment of settlement dues~~ date payments of settlement dues become due till the date of payment and also fixing a time limit for the ~~pr~~ payment of the amount.

The amount has been worked out on the following page:-



(123)

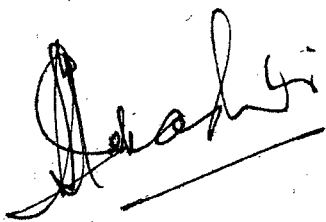
1. Interest on DCRG	Rs. 24,990
2. (a) Interest and arrears on computation of pension.	Rs. 34,586
(b) Loss accruing due to delay of 5.5 years in the revival of full pension.	Rs. 13,926
3. Interest on pension paid late after 18 months.	Rs. 4,800
4. Interest on leave encashment.	Rs. 4,600
5. Interest on deduction from DCRG	Rs. 945.95
	<hr/>
	Rs. 83,657.95
	<hr/>

Total: Rupees Eighty Three Thousand, Six
Hundred and Fifty Seven and Paise Ninety Five
Only.

8. Interim order if prayed for :
NIL

9. Details of the remedies exhausted:

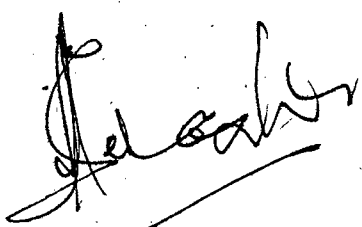
The applicant declares that he has
availed of all the remedies available under



(134)

the relevant service rules. The applicant had submitted the representations to the Railway authorities as per details given below:

- i. Representation dated 12.8.82 to the Divisional Railway Manager, Lucknow for the payment of pension, DCRG, etc.
- ii. Representation dated 23.1.83 to the Divisional Railway Manager, Lucknow for the payment of pension, DCRG, etc.
- iii. Representation dated 6.2.84 to the Divisional Railway Manager, Northern Railway Hazratganj, Lucknow for the ~~pr~~ payment of pension, DCRG, etc.
- iv. Representation dated 12.4.84 to the Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow for payment of settlement dues.
- v. Representation dated 27.6.84 to the Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow for payment of settlement dues.
- vi. Representation dated 4.8.85 to the Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow for the payment of settlement dues.
- vii. Representation dated 22.8.86 to Hon'ble Rajiv Gandhi, Prime Minister of India, Delhi



The Divisional Railway Manager
Northern Railway (Hazratganj)
Lucknow.

D/12-8-82.

Sub: Retirement dues to
Sri A. SEBASTIAN. Ex AEN (FD)

Dear Sir,

I am sorry to call to your attention to my five previous appeals since my retirement in Jan '82. I have been repeatedly asking for my settlement dues but nobody has given me a reply.

I draw your kind attention to the fact that I have not been paid my Pension, ACRG and leave encashment.

On enquiries from the Divisional Office, I was told that no money can be released until such time that the Engineering branch does ^{not} give me a clearance.

I enquired from the settlement branch about my commutation of Pension but was told that I cannot commute my pension till a clearance is obtained. I even asked for the requisite forms for commutation of Pension and was told that on order from the D.P.O the forms will be sent to me.

[Signature]

True copy
C.A. - *[Signature]*
Advocate

The Divisional Railway Manager,
Northern Railway,
Buckingham.

(A/c)

5/10-Jan., '86.

Sub: Payment of Gratuity to Sri Alfred
Sebastian, No. 177-77.

Dear Sir,

I have made several appeals to you to kindly release all my money due to me on my retirement on 31.1.82. My gratuity is still pending as well as leave encashment.

Leave encashment is my legitimate due as it is my earned salary and not gratia given by the Administration. The Administration is morally bound to pay this to me.

As regards my Gratuity, it is being held up due to alleged shortages which the Administration had failed to detect from 1974 to June 1982.

Now Sir, the Administration had every thing at its disposal to comply with the Store Code regarding Stock Verification and the subsequent over hauling etc. According to the code, Stock verification has to be done once in two years and over hauling immediately by thereafter, but although the former was done in 1975 and 1978, no overhauling was done. This is no fault of mine as the

[Handwritten signature]

True copy
C. A. Brown
Adv.

103

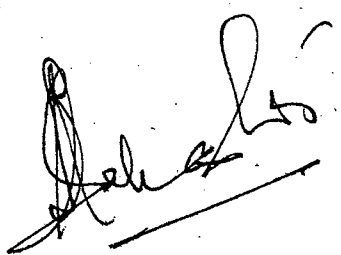
- viii. Representation dated 13.9.85 to Hon'ble Shri Madho Singh Ji Sindhia, Hon'ble Railway Minister of Railways, Government of India, New Delhi.
- ix. Representation dated 29.1.86 to the General Manager, (P), New Delhi.
- x. Representation dated 29.1.86 to the Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow.
- xi. Representation dated 15.8.86 to the Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow and copy to the Minister of Transport, ~~Minister~~ Minister of Railways and the Prime Minister by name and also to the F.A. & C.A.O. and representatives dated 29/x/87 and reminder dated 22/6/88

10. The applicant further declares that the matter ~~is~~ regarding which this application has been made is not pending before any Court of Law or any other authority or any other bench of the Tribunal.

11. Postal Order No. 667811 dated 16.7.88.

Name of issuing Post Office: High Court.
Lucknow Post Office.

12. Details of the Index and Index in duplicate containing the details of the documents to be relied upon is enclosed.

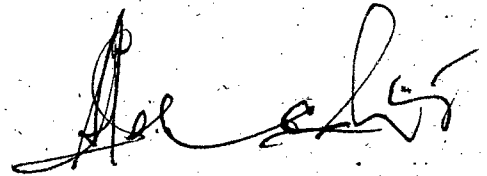


A36

13.

List of enclosures:

I, A. Sebastian, son of Late B. Sebastian,
Resident of 4-B, Prag Narain Road, Lucknow,
retired A.E.N., Northern Railway, Lucknow do
hereby verify that the contents from para
1 to 13 are ~~in~~ true to my personal knowledge
and belief and that I have not suppressed
any material facts.



Signature of the Applicant.

Place:

Lucknow.

Date:

18th July 1988

copy of this letter is being sent to the

copy of this letter is being sent to the

-2-

27

aim behind this is to trace out errors and omissions for the Stock holder to rectify. Then again I had asked for my stock verification and overhauling to be done as early as Jan. 81 so that I would be given enough time to trace the omissions etc but at the same time, I asked for a competent WOC as I virtually never had one. This humble and genuine request fell on deaf ears till I had only two months left to retire and even then no WOC was given to me and Stock verification and overhauling was taken up and completed 6 months after I had retired. And the overhauling been taken up after such stock verification things would have been easier for me.

Now you expect me to reply to my objections dating back as far as 1974 when I have no concern with staff, etc. I am only being harassed for reasons best known to the Administration because in terms of the Payment of Gratuity Act 1972 vide Notification No. 200 412(2) dated 16th Sept. 1972 published in the Gazette of India, Extra Ordinary part II section 3(1) pages 1115-1138/8, the Administration has no justification in withholding my dues because under Rule 7 of the above act, "the

Copy
A. P. S.
A. V.

*For O. H. Brown
Atty.
[Signature]*

done. This is no fault of mine as the
was done in 1975 and 1978, no overhauling was
by the doctor, but although the former was
once in two years and over handling immediately
to the code, stock verification has to be done
the subsequent over handling etc. According
Stock Code regarding stock verification and
thing at its disposal to comply with the
Now Sir, the Administration had every

to June 1982.
Administration had failed to detect from 1974
held up due to alleged shortages which the
As regards my gratuity, it is being
is totally bound to pay this to me.
Given by the Administration. The Administration
due as it is my earned salary and not gratia
I have no objection to my gratuity
pending as well as leave encashment.
My retirement on 31.1.82. My gratuity is still
to kindly release all my money due to me on
I have made several appeals to you

Dear Sir,

Sebastian, 22 Jan-84.

Sub: Payment of gratuity to Sri Alfred

5/10-Jan., '84.

Unknown.

Northern Railway,

The Divisional Railway Manager,

Enc

Annex III

26
2

Under C.O. of Commutation of Pension

The Divisional Railway Manager (P)
Northern Railway
(Hagratguri) Lucknow

Sub: Settlement dues of Sir A. Seb
EXTENDED

Dear Sir,

I have again to appeal to you to please arrange to pay me my retirement dues as it is almost one year since my retirement on 31-1-1982.

I am not even receiving my Pension which should have been paid to me immediately. I cannot carry on increasing debts to live. I also request you to please commute 1/3rd of my Pension and I am dire need of money for my children's further education and marriage of my daughter. Kindly send me whatever forms are necessary for formalities required for Commutation of Pension under the rules. I am pleased with you to release my Pension and other benefits.

Thanking you
Yours faithfully
A. Sebastian

Sr. A. SEBASTIAN
C/o Sr. V.M. Kapoor
84 Kanpur Road
Lucknow

(A SEBASTIAN)

True copy
A. Sebastian
A.S.

A359

Moreover since final Pension has not been decided filling up of any forms is of no use.

I now request you to please accept this appeal as an application for Commutation of Pension applicable to retired employees and as and when I am required to fill up such forms as may be issued to me at my address below, I shall do so.

Kindly intimate me as to what is further required of me.

Thanking you
Yours faithfully
[Signature]

From

Sri. A. SEBASTIAN
of Mrs. V. M. Kapoor
84, Kanpur Road
Lucknow

[Signature]

True copy
Q. A. Bani
AIV

22489
945.95
21513-05

-3-

(AM)

gratuity of an employee whose services have
been terminated for any act, wilful omission
 or negligence ~~intentionally~~ causing any damage
 or loss to, or destruction of property belonging
 to the employer shall be forfeited to the
 extent of the damage or loss so caused. "

I do not in any way stand governed
 by this rule.

By withholding of my Gratuity and
 leave encashment, the Administration has also
 violated Railway Board's letter No. 2(1) 111/
 69/11 P. - 1/9 dated 19.11.80 addressed to all
 G.O./A & S.O.'s of All Indian Railways wherein
 amendments have been made to the Indian Railway
 Establishment ^{Code} ~~Rules~~ Volumes I and II.

An enquiry was started 1 year after
 I retired, in Feb. '83 and it took the
 Committee one year again to come to some
 conclusion.

The findings of the Enquiry Committee
 if I may say so is matter of fact
 and no in-depth enquiry has been made.

I request you again to please release
 all my dues.

Yours faithfully

31/- A. Sebastian

Mr. A. Sebastian,
 c/o Mr. V. V. Rao,
 C4, Lampar Road, Madurai.

[Handwritten signature]
 True copy
 E. A. Rao
 AV

Final Appeal after High Court Award.

The Divisional Railway Manager,

Northern Railway Office,

Barotganj,

Lucknow.

Dated: 6.2.63

Sub: Payment of Retirement dues as per Case
No. 667/63.

Dear Sir,

I had requested you earlier vide a registered acknowledgment due letter in January 1961 to please arrange to pay me my Leave encashment as per orders of the Hon'ble High Court orders issued on 15th December, 63. It is surprising that a period of over fifty days have elapsed and no cognizance has been taken of these orders. I have now no other ~~other~~ alternative but to file a contempt of court appeal against you for which you alone are responsible.

2. You had ordered an enquiry against me much after I retired i.e. one year after I retired and it has taken your enquiry officer to submit their report after another year. I had requested that the findings of the Committee be given to me but I have not been answered.

Deloach

*True to
P. A. Basu
Adv.*

R.A.D.

⑦

07/12/4/84

The Divisional Railway Manager
Northern Railway (Huzratgunj)
Lucknow

Sub: Payment of Retirement dues
to Sri A. Sebastian Ex
ASN Faizabad

Dear Sir,

I have to remind you for the third time regarding payment of Leave encashment as ordered by the Hon'ble High Court in writ petition No 667/83 date 15-12-83. I am enclosing a photostat copy of the said orders for your kind perusal. I also request you to please commute 1/3rd of my pension as per rules as I have to arrange the marriage of my daughter which is being abnormally delayed due to my bad financial status.

Thanking you
Yours faithfully
A. Sebastian

SRI. A. SEBASTIAN
C/o Sri K.M. Kapoor. 84 KANPUR ROAD
Lucknow

True copy
@ A. Sebastian
ASD

The Divisional Railway Manager
Northern Railway
Hazratganj Lucknow

Sub: Payment of Retirement due
to Mr. A. Sebastian ex
AE & D

Dear Sir,

Despite repeated appeals and personal requests to you and your officers, my payment of Leave Encashment, Gratuity and commutation of Pension is being delayed even in the face of the Hon'ble High Court order in case No 667 of 1983 D/16-12-83, a copy of the judgement attached. Under the ~~circumstances~~ prevailing circumstances it is evident now that despite your personal assurance none of my dues are contemplated to be paid, and I am now left with no other alternative but to seek legal action against the Railway Administration for bonafide Law proceedings.

Yours faithfully

[Signature]

Mr. A. Sebastian
of Mr. V. M. Kapoor

D/27-6-84

84 Kapoor Road
Lucknow

True copy
E. A. Bank
AD

Avt

33

The Divisional Railway Manager(Pers),
Northern Railway,
Hazratganj,
LUCKNOW

Dated: 4th August '85.

- Sub: 1. Settlement dues of Sri A. Sebastian, Ex AEN PD.
2. Commutation of Pension
Ref: 1. Your No:720E/Pen/1A dt.29.6.84/10.7.84
2. My letter dated 6.2.84

Dear Sir,

I have been repeatedly requesting for the release of my settlement dues since early '82 but, except for my own contribution to P.F., nothing was paid.

I started getting my pension from June, 1983 one and a half years after my retirement which was a violation of Government orders. I requested for my pension to be commuted in May, 1982 but was told that since I had not received any clearance this could not be done. My several appeals got me no redress and on 12/4/84 I proffered an appeal with a photostat copy of the judgement of the High Court. I still got no reply. Again vide my letter dated 27.6.84 I met ADRM Mr M.R.Metha and vide his letter quoted above, my request was stayed till finalization of enquiry.

The enquiry has come to an end, after ^{four} (three) and a half long years mainly due to Administrative lapses as may be seen from official letters. It will be seen that I have been exonerated of all the charges against me. Since I am not responsible for this undue delay I request that in terms of Railway Board letter

.....2.

True copy sent
P.A. Basu
A/V

34

- 2 -

reproduced below, I be permitted to commute 1/3 pension.

" Commutation of Pension."

Rly Board's letter No:F(E)1117F PN-1/7 dated 17.11.81.

Referenc-e to para 3 of the Ministry of Railways letter of even number dated 11.2.81 in which it was inter alia provided that a Railway servant who on the conclusion of the departmental or judicial proceedings initiated while-he was in service is granted pension in whole or part will be eligible to commute a portion of that pension without a medical examination. For the purpose of commutation of Pension without medical examination the period of one year (prescribed for submission of application for commutation of Pension) is to reckon from the date of the order issued on the conclusion of the proceedings.

It is clarified that orders contained in Para 3 of the Ministry of Rlys letter of even number dated 11.8.81 are applicable only to those Railway servants who on the date of their retirement were entitled to the benefit of commutation of Pension without medical examination in terms of Ministry of Rlys letter No:F(E)11176 PN.1-24 dated 27.1.78.

I am herewith resubmitting my application forms for commutation of pension and request that orders be issued accordingly.

Thanking you,

Yours faithfully,

Alfred Sebastian
(ALFRED SEBASTIAN)
C/o. Mr V.M. Kapoor,
84, Kanpur Road,
Lucknow

Copy to: GM(P)
2: FANCO

Northern Rly.
HQ. Office,
Baroda House,
New Delhi.

*copy sent
C.A. Ravi
1/11/81*

(11)

The Divisional Railway Manager,
Northern Railway,
Hazratganj,
LUCKNOW

Sub: Pensionary Benefits to Shri Alfred
Sebastian, Ex-AEN ED.

Dear Sir,

On my retirement my pension was fixed at Rs.634(Provisional)
This, I presume may have been done on the presumption that a
huge amount of Railway dues were pending against me and to
safeguard the interests of the Administration a lesser amount
than what I should have been fixed at was made out.

I wish to elucidate my claim, Calculation of Pension as
per extant rules $\frac{1}{2}$ 10 months of average pay plus 27% DA or
Rs.275 which ever is less as per directive from Settlement Section

1. Rate of Pay from 1/4/81 to 31.11.81 = 8 months
@ Rs.1040 per month = Rs.8320.
2. From 1.12.81 to 12.12.81 = 12 days @ Rs.1040 = Rs.33.55 x
12 days = Rs.402.60
3. From 13.12.81 to 31.1.82 = 50 days @ Rs.1120 per
month - Rs.36.23 x 50 - Rs.1811.50

Total - Rs.10534.10

Average of 10 months - Rs. 1053.40

DA @ 27% - Rs 284.00

which has to be fixed at Rs 275.00

Total - Rs.1328.40

1053.40

.....2.

[Signature]
True copy
C.A. - Band
AH

- 2 -

Ant on which to be calculated Rs 1328.40

On 1st Rs.1000 - 50% - Rs.500

On 328 - 45% - Rs 147.15

Actual Pension - Rs 647.15

Rs fixed by Administration-Rs 634.00

Less: Rs 13.15 P.M.

1328.40
664.00
634.00
30.00
634
6
640

36

This reduction in pension will also effect my commutation of 1/3rd pension

A) Rs. 634 as fixed by the Administration

1/3rd 211.30 x 125 - Rs.26415.50

B) As worked out above Rs.647

1/3rd of Rs 647 - Rs.215.60 x 125 - Rs.26,912.50

Difference - Rs.500.

Apart from this I am suffering a recurring loss of Rs.13 per month which accrues to Rs-156 x 4 - Rs 624.00 till date.

DCRG:- I shall be grateful if you will please work out my DCRG and also let me know as to how the figure of Rs.22489 has been arrived at.

Thanking you,

Yours faithfully,

(Signature)
(ALFRED SEBASTIAN)
C/o. Mr. V.M. Kapoor,
84, Kanpur Road,
Lucknow

Dated: 6th August '85.

(Signature)
True copy
C.A. - Band
ASV

Annex 9-A

ASV
PS
37B

Sri. Madho Singhji Scindia
Minister of State for Railways
Rail Bhavan
New Delhi.

forwarded on
20-9-85

Dated 13th. Sept. 1985.

Subject: Non Payment of Settlement Dues to
Sri. Alfred Sebastian Ex Assistant
Engineer of Northern Railway LUCKNOW.

Dear Hon'ble Minister,

Having knocked on all doors for my "Settlement Dues from the Railway Administration" since 31st. Jan. 1982, I am now forced to seek your help as my last and only hope because it is too evident that a person of your stature and of the world renowned House of Scindia, who is above self and knows the greatest virtue of Righteousness and Justice can only show benevolence to the downtrodden.

Your Honour, I am a retired Railway servant having retired on 31st Jan. 1982. I have to this day not been settled up with my retirement dues. I was at first paid only my own contribution to my Provident Fund after six months of my retirement. My constant appeals for my Pension, Gratuity, Leave Encashment and Commutation of Pension fell on deaf ears of the Railway officers and in desperation I was forced to seek redress in the Hon'ble High Court which ordered release of my Pension, Leave Encashment and other dues. I then only started getting my Pension from July 1983 and after several appeals, my Leave encashment was released in Sept. 1984. This too was not paid in full to which I was entitled.

A false and malicious case for misappropriation of Railway Property was fabricated against me and an Enquiry instituted by the Administration, the final result has proved beyond all reasonable doubts that I am innocent.

This deprivation has caused me untold misery and has reduced us to Penury as living on a meagre Pension with the soaring costs of House ^{rent} and food etc is a nightmare. I am not even been able to secure a small job for want of my clearance. This is also having an adverse effect on my children.

Sir, I plead with you to take some action on this appeal or else I too like many others may have to face an ignoble death without money even for my funeral.

[Handwritten signature]
C. A. B. S.
ASV

153 38

-2-

The first enquiry committee failed miserably in bringing out the facts and that too after toying with the case for one whole year.

The second enquiry committee had gone into the whole case and it has been proved that out of 200 accusations, 195 were fictitious. The remaining five also, if justice is done, are not tenable. Further the Railway Administration has violated rules 3208(CSR 351A)R11 and 3208(CSR-351B)-(1) Claus (b)/2 by delving into events which were more than four years old, reckoning the date as Jan. '83. They have tried to fish out shortcomings as far back as 1974, and here also they have failed.

Depriving me of my hard earned money has reduced me and my family to pauperism and also closed the doors to my daughter's marriage.

I beg you Mr. Prime Minister to visualise how a man is to exist on a paltry pension of Rs.1000/- per mensem with the living conditions as they are as house rent and electry alone account for Rs650. Even your peon is better off than I having put in 38 years of meritorious service.

This false allegation against me tantamounts to character assassination. Moreover I have been deprived of investing my money in National Interests as also some monetary gain for myself.

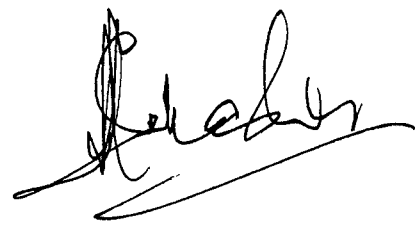
I beg you to come to our rescue and save us from the "Begging Bowl". You have heard the prayers of so many, please include us who are in the evening of our lives.

My prayer to God is to preserve such a wonderful Prime Minister for our country and let no one bring any harm to you and your lovable family.
Yours devotedly,


Alfred Sebastian.

From
Sri. Alfred Sebastian
C/O Sri. V.M.Kapoor
84. Kanpur Road

LUCKNOW. 226001.



True
C. A. Rani
A.V.

Office of the

Divisional Railway Manager,

N. Ry., Lucknow. Dt. 10th Jan '86.

No. Enquiry/Sebastian/85-86

The Divisional Railway Manager (Engg)
Northern Ry.,Lucknow.

Re: Enquiry into the alleged shortages
of materials under the custody
of Sri Sebastian while holding the
charge of Stores of NRI(I)/77.

Ref: Your letter No. 48/34/371/372-2/
NRI-I-77/1/17 dt. 26.2.85

The Joint enquiry report consisting
of nine pages, duly signed by Sri S. S. Manchanda,
312/5/85-LD and the undersigned on each
page, is submitted herewith for your information
and further disposal please.

In spite of my best efforts, the final-
isation of the enquiry has abnormally delayed
mainly on account of the following:-

- (i) An old and complicated case,
- (ii) Non-production of relevant records
by the Sd/- Section to the C/Committee.
Even now, records for various items have not
been produced to the C/Committee.

- (iii) Non cooperative and rigid attitudes
of the serving subordinates of the Division

[Signature]

True
C. A. Rao
AV

Annex 11-A

AST

41B

Sri. Rajiv Gandhi
Prime Minister of India.
Prime Minister's Residence.
NEW DELHI.

January 21st. 8
1986.

Copy to.

Sri Madho Rao Singhji Scindia
Hon'ble Minister State for Railways
Rail Bhavan
NEW DELHI.

The General Manager
Northern Railway Head Quarters Office
Baroda House
NEW DELHI.

The Divisional Railway Manager
Northern Railway (Hazratgunj)
Lucknow.

Subj: Non payment of Retirement/ Settlement
Dues to Sri. ALFRED SEBASTIAN, EX
Assistant Engineer Northern Railway
Faizabad.

Dear Mr. Rajiv Gandhi,

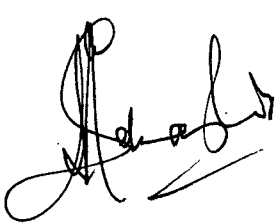
Forgive me the liberty I have taken to address this letter to you personally. The extenuating circumstances have compelled me to resort to this desperate step.

I have knocked on the doors of the Railway Administration for four long years but redressal is not what a Retired man is entitled to. All my pleadings have fallen on deaf ears and I feel that I too may be forced to emulate the action of the unfortunate army man who immolated himself due to non payment of Pension.

Here is my case history for your kind perusal and if you condescend to read through it you will feel that I have been victimised by the Railway Administration.

I retired on 31st. January 1982. and was paid my Provisional Pension, only after I moved an appeal the Hon'ble High Court, in July '83. I have not been paid my Gratuity and Commutation of Pension as yet because the Administration levied charges to the tune of Rupees Five Lakhs.

I was holding charge of stores as Permanent Way Inspector (1). Lucknow from 1974 to 1981. According to Railway Rules Stock Verification is to be done every two years, and Over hauling of Accounts thereafter. My stocks were verified thrice during my tenure, the last being done in October '81. and overhauling was undertaken simultaneously. Both these undertakings were completed six months after I had retired. I was therefore given no opportunity to detect the errors, which in Railway parlance were losses amounting to Rs 5 lakhs and thus holding me to ransom. This preposterous figure has all heads reel and as was imperative an enquiry was ordered in Jan. 1983.



True copy
@ A. Sebastian
AS

With

With absolute confidence and faith in you I am hoping for some redressal the Railway Administration.

Thanking you

Yours faithfully

Alfred Sebastian
(ALFRED SEBASTIAN)

C/o

Mr. V.M. Kapoor

84. KANPUR ROAD

LUCKNOW. 226001.

Alfred Sebastian

*Forwarded by
C.A. - Bank
ABV*

Annex 12 A

438 A

(59)

✓
To certify that the
following letters addressed
to



✓
D. J. L. S.

1. The General Manager, (P)
Northern Railway Station
Bancroft House, Newcastle
2. The Associated Railways
Manager, (P)
Northern Railway Station
Newcastle

✓
These have been posted at Newcastle
Post Office on 29.1.86.

✓
T. J. L. S.
(P. A. B. S.)
R. J.

9

The General Manager (Pers)
Northern Railway Head Quarters
Barada House
New Delhi

D/29-1-86

Sub: Settlement dues of
Sri. A. SEBASTIAN EX AMN (FR)

Dear Sir,

I regret to draw your attention repeatedly to my several appeals requesting for early payment of my Settlement dues which are outstanding since Feb. 1982.

Vide your orders conveyed in letter No 726-E/1235 (Eia) dated 30/4/83 to DM, N.Rly. Lucknow.

I was to be paid DCRG = Rs 22,489.50.

Further I have been requesting for Commuting my Pension of $\frac{1}{3}$ of the amount - this amounts to Rs 634 $\div \frac{1}{3}$ = Rs 211 and assuming that I am paid @ Rs 125 per Re the value amounts to Rs 26,375. The total amount works out to Rs 48,864.50.

By delaying me these legitimate dues I am losing interest thereon at the rate of 15% per annum amounting to Rs 14,120/- and by investing in National Saving Certificates my money would have doubled by 1988.

I ask you Sir, must I be victimised any further?

Yours
C. A. Bhandari

The Divisional Railway Manager
Northern Railway
Lucknow

Jan 29-86

Sub: Settlement due of Sri. Alfred
SEBASTIAN Ex A.E.N. F.D. N.Ry.

Dear Sir,

Despite my constant appeals to you I have had no redressal. My settlement dues have been held up since Feb 1982 till date on the false allegations of shortages in my charge while working at FWD E LKO.

The enquiry against me has been completed wherein I have been exonerated in 99.9% cases which is proof in itself that persons concerned sought vendetta against me.

I have also requested ADRN to grant me a personal hearing to plead against a few points of which I am still innocent to which he has very kindly agreed but I hope that this date is not too distant away.

I request you to please issue orders for my Commutation of Pension in terms of Rly Board's letter No F(E) 117-PN-1/7 dated 17-11-81 a copy of which has been sent to you with my appeal dated Augth 1985. I also request early payment of my D.C.R.G. as early as possible as the enquiry is now over.

Yours faithfully.

Sd/-
Sri. A. SEBASTIAN Ex A.E.N. F.D.
of Mr. V. M. Kapoor 84 Kankpur Rd
Lucknow

True copy
C A Bhandari
AD

From: Sri A. Sebastian, Ex. ARN FD.
o/o Mr. V.M. Kapoor,
84, Kanpur Road,
Lucknow.

AUG 15 '86

To,

Sri B.A. Khan,
Divisional Railway Manager,
Northern Railway,
Haridwar,
Lucknow.

Sub: Non-payment of DCSG and Commutation of Pension.

- less payment of Leave Encashment.
- Wrong fixation of Pension.

Dear Sir,

I had retired as ARN Faizabad on 31-1-1982 and have not been finally settled up because the Administration framed unwarranted charges against me for non accountal of materials under my charge during my tenure of service as P.W.I. Lucknow.

The amount shown against me was to the tune of Rs. 4.5 lacs as per the overhauling report of your accounts branch. The allegation was nothing short of prejudice to malign me with ulterior motives by the man (ISA) deputed on the job. My statement stands fortified by the fact that the over hauling of my accounts started in October 1981 and was actually completed in August 1982 but submitted by the ISA Sri Mahendra Singh after back dating the same on 22-6-82 just two days before he retired. My stock verification was started in September 1981 and completed in 1982. From these facts you will observe that much after my retirement I was asked to explain the discrepancy thereby violating Rule 2308 of the Rly. Establishment Code.

An enquiry was held to ascertain the facts and it is noteworthy to mention that your officers failed miserably to wear out the facts.

Thereafter a second enquiry was conducted and in this it has been established beyond all reasonable doubt that 95% of the allegations were made out with bias.

The enquiry report was submitted in January 1986 and I asked for a personal interview to explain the five or six points that remained but nothing has come of this.

My several appeals to the Administration has borne no fruit and have received no replies to my appeals.

You had advertised in the papers advising all that a special grievance cell to deal with penal benefits was set up under the name of Pension Adalat.

Comd....

[Handwritten signature]
True copy
C. A. B. S.
AN

Annex B 13

Box A

45

762

Shah

100
100
100

बीमा नहीं NOT INSURED

क्रमांक/No.

31371

भुगताने गये डाक टिकटों का मूल्य रु. 25.00

P.

तारीख मोहर

Date Stamp

एक रजिस्ट्री

411 R

एक किता

Received & Registered

पानेवाले का नाम

Shah

Addressed to

18-8-86

पानेवाले अधिकारी के हस्ताक्षर

Signature of Receiver Officer

$$\frac{223}{45} A$$

Rehder

11

ACKNOWLEDGMENT

RECEIVED BY REGISTERED LETTER POSTCARD/PACKET PARCEL

MRS. CHOLISHAN KIDWAI
SARVATEE TRANSFERT
Office No. 2501

298 AUG 1986

DY. No. ... of India

Signature of addressee

A65

- 2 -

I had preferred an appeal to the Senior D.P.C. nominated for this appeal but almost a month has gone by and here again I have had no reply let alone being called to be given a hearing.

I now, feel that the administration desires that I too, like hundreds of other retired employees go to the GREAT DIVID leaving my life time hard earned money to fill the Railway Coffers which are already bursting to the seams with such money of departed Railway employees.

Finally I request you to give me a personal hearing because my appeals to your predecessors went unheard.

Yours faithfully,

Sebastian
(A SEBASTIAN)

Copy to 1. Smt. Koshina Midwai,
Minister of Transport.

2. Sri Mahadev Rao Seindia,
Minister of Railways,
Rail Bhawan,
New Delhi.

3. Sri Rajiv Gandhi,
Prime Minister of India,

Sebastian
4. Smt. F.A.C.C.,
Northern Railway, Road Quarter Office,
Baroda House,
New Delhi.

True copy: Bar
C.A. Bar
A.C.

(966)

~~27~~
 Certified that the following 12
 letters have been posted
 in the Gokhale Mail post
 Office Lucknow on 30th 97

1. Divisional Railway Manager
 Northern Railway Headquarters
 Lucknow



The General Manager.
 Northern Railway Head Quarters
 office

Baroda House New Delhi

2. The Financial Advisor and
 Controlling Officer
 Northern Railway Head Quarters
 office Baroda House
 New Delhi.



Mr. Mahadeo Rao Scindia
 Railway Minister.

Lail B. Hanam. New Delhi

Deb Singh

Trn 106 Bar
 C. A. Bar
 22/9

Annex 14 A

12/17/83

12/17/83

The Divisional Railway Manager,
Northern Railway (Hazratganj),
Lucknow

Dear Sir,

Sub:-Settlement dues of Sri ALFRED SEBASTIAN
Ex.AEN F.D.
-Payment of Interest on Delayed Payments.

I have made several representations regarding payment of my settlement dues to you and everybody concerned since March 1982, after my retirement on 31-1-1982. It is disheartening to note that all my appeals fell on deaf ears. Railway Board letter No. E(W)69PF2/1 dt.27-6-69 NR-SN-4720 lays down that payments of all dues to a Retiring Railway Servant must be made within two months after his retirement but I was singled out to become a victim of circumstances and a scape goat.

My settlement dues were only processed after I preferred a writ in the Hon'ble High Court on 17th Jan. 1983, when all my pleadings fell on deaf ears.

1. My own contribution to I.F. was released in May 1982, and that too after constant pleading.
2. Pension (Prov.) was only sanctioned on 30-4-83 i.e. 1 year and four months after retirement vide G.M.(P) letter No. 726-E/1235(E11) and Pension with arrears paid in Aug. '83. instead of Feb. '82.
3. Leave Encashment in Sept. 84.
4. DCRG in June 87.
5. Commutation of Pension in Sept. '87.

It is amply evident that action was taken after the High Court had issued orders on the subject and not before. It was incumbent on the Administration to have processed all this 6 months prior to my retirement where all formats were to be complied with but this was not done.

The Administration falsely implicated me for the appropriation of Railway Materials to the fantastic sum of Rs. 4 - 5 lacs and which charge was levied against me in the Hon'ble High Court which was subjudice and Malafide. The administration failed to establish this charge either prior to my retirement or thereafter and therefore, withheld my Retirement Benefits without any justifiable reasons and therefore invokes the judgement of the Supreme Court which has emphatically laid down that delay in payment of settlement dues to

Contd.....

True copy
@ A. P. S.
ASU

27
49
459

- 3 -

I shall be grateful for an early reply and hope you will be kind enough to sanction the same.

Thanking you,

Yours faithfully,


(A. SEBASTIAN)

Dt. 29-10-87.

A. Sebastian,
4-B, Prag, Narain Road,
Lucknow, 226 001.

Copy to : The General Manager,
Northern Railway Head Quarter Office,
Baroda House,
New Delhi.

2. The F.A & C.O.,
Northern Railway,
Head Quarters Office Head Quarter Office,
Baroda House,
New Delhi.

3. The Hon'ble Railway Minister,
Sri Madhav Roa Scindia,
Rail Bhawan,
New Delhi.


(A. SEBASTIAN)

Truely
C. A. Qasim
ASV

Page 15

APR

28
50 B

RETD. RAILWAY ENGINEER

LUCKNOW.

The Divisional Railway Manager
Northern Railway (Hazaratganj office)
Lucknow.

13

22-6-'88

Sub: Payment of Interest on
Settlement Dues of Sir. Alfred
Sebastian ex AEN F.D.

Dear Sir,

This is to draw your attention to my appeal
dated 29-10-87 addressed to you and
all concerned regarding Interest lost
on my dues due to late payment of
DECG, Leave Encroachment, Commutation
of Pension etc. I had given details of
amounts of Interest accruing and which
as per prevailing market rates
I am again tabulating the Interest
accruing against money due.

- 1 DECG Rs 25,274.00
- 2 Commutation Rs 27,220.00
- 3 of Pension
- 4 Leave Encroachment Rs 2,385.00
- Pension Arrears Rs 2,400.00
- Total Rs 57,279.00

Express Fifty Seven thousand, two hundred
and seventy nine only.

I kindly appreciate the financial losses
I have undergone and give me a
definitely reply

I thank you

Yours
C A Das
ADV.

INDIAN RAILWAY

No. 48/WA/A/Cs No. 10/FWI-I-LKO

DIVISIONAL OFFICE,
LUCKNOW Dtd 24-3-87The Sr. Divl. Personnel Officer (Settlement)
N. Rly. Lucknow.

Re:- Settlement dues of Mr. A. Sebastian Ex. AEN/PD.

Ref:- This Office letter of even no. dated 25.3.87.

Kindly refer to above the settlement dues of Shri A. Sebastian Ex. AEN/PD which is held up for want of clearance from the Officer may be released and paid to the retired Officer by making a total recovery of Rs. 95.45 only (Rupee ^{ninety} Ninety five and paise forty five only) from his DCRO.

Statement showing T&F and other items, cost of which is to be recovered from settlement dues of Mr. A. Sebastian duly vetted (in two pages) by Sr. Accounts Officer (Gen) N. Rly. Alambagh, Lucknow is enclosed for ready reference.

DA

1 in two pages.

L.S.E. (C)

N. Rly. Lucknow.

(1) Copy to Sr. Accounts Officer (Gen) N. Rly. Lucknow for information in reference to his letter No. 82/54/LKO/DCR-II/1/17 dated 23.3.1987. The cost of stores against para No. 26/7 of the OMR under reference has been written off by the Competent Authority and intimated to you vide this Office letter of even No. Lt. 13.4.87.

(2) Copy to Sr. Accounts Officer, N. Rly. Lucknow for information and necessary action please.

(3) Copy to AEN(1)/Lucknow and FWI/I/LKO for information and necessary action.

(4) Copy to Shri. A Sebastian Ex. AEN-PD, C/o Dr. V.M. Kapoor.

DA/1 in two pages.

84 Kanpur Road, Lucknow

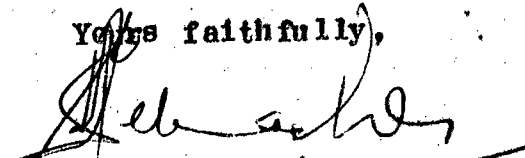
True copy
A. A. Bairi
AIV

- 3 -

I shall be grateful for an early reply and hope you will be kind enough to sanction the same.

Thanking you,

Yours faithfully,


(A. SEBASTIAN)

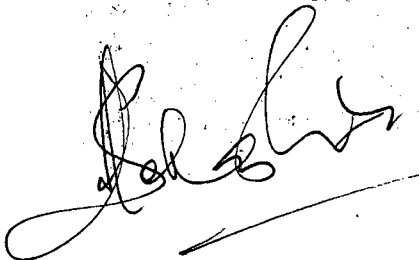
Dt. 29-10-87.

A. Sebastian,
4-B, Prag, Narain Road,
Lucknow. 226 001.

Copy to : The General Manager,
Northern Railway Head Quarter Office,
Baroda House,
New Delhi.

2. The F.A & O.O.,
Northern Railway,
Head Quarters Office Head Quarter Office,
Baroda House,
New Delhi.

3. The Hon'ble Railway Minister,
Sri Madhav Rao Scindia,
Rail Bhawan,
New Delhi.



(A. SEBASTIAN)

True copy
C. A. Q. S. in
ADV

a Retired Railway Employee is viewed with serious concern and payment of interest accrues as per Market rate on money so withheld as Gratuity and other legitimate dues are no more a "Bounty" but an Employee's Right.

Under such circumstances I plead with you to pay me the Interest on all moneys due to me from Feb. '82 to the dates of payment because had I been paid up in time this money would have fetched me Interest from various saving schemes. By such undue delay you have denied me the opportunity of getting a daughter married. I hope you will visualise the plight of a retired man without any means of livelihood for 1½ years having to pay house rent, electricity and maintain a family without a paise being earned.

I am therefore, putting forth the following for your kind consideration and just action.

1. Had I been paid my DCRG in Feb. 1982 I would have earned this amount as interest on Rs. 21,504/- @ 18% (Market rate) compounded = Rs. 25,274/- (Rupees twenty five thousand and two hundred and seventy four only).
2. Commutation of Pensions: By delaying my payment for 5 yrs. I have been deprived of evaluation @ Rs. 129/- per ~~year~~ which works out to Rs. 27,220/- and Int @ 18% there on amounts to Rs. 27,167/- ~~Not~~ only this, I should have qualified to receive my full pension after 15 years i.e. in 1998 but now I may never receive this benefit so I have suffered a further loss of Rs. 12,660/- apart from the loss of Rs. 25/- as difference of age valuation amounting to Rs. 5,000/- approx.
3. Int. on Leave Encashment Rs. 10,600/- @ 9% for 2.5 years = Rs. 2,385/-
4. Int. on Pension arrears of Rs. 16,000/- for 1.5 yrs @ 9% = Rs. 2,400/-

Therefore the total Interest on moneys due to me is:-

1. DCRG	=	Rs.	
2. Commutation of Pension	←	Rs.	25,274.00
3. Leave Encashment	Rs. 2,385/-	Rs.	27,220.00
4. Pension Arrears	Rs. 2,400/-	Rs.	2,400.00
Total :			<u>Rs. 57,279.00</u>

(Rupees fifty seven thousand and two hundred seventy nine only).

Contd....3.

True copy
P. A. Ram
ASV

Annex

A. SEBASTIAN
SECTY. RAILWAY ENGINEER

4-B, PRAG NARAIN ROAD,
LUCKNOW.



12

12/11/88

Certified that an-14 and
letter addressed to the
Divisional Railway Manager
North Western Railway Lucknow.
has been posted in the
lock at any post office on
24-6-88

Sebastian
C. A. Sebastian

True copy
O. H. Bhat
ASD

N.R.P./M. Rd. (Pb. Bd.) Delhi-35-2, 352/17-01-1984-38,000 R.

F.A. & Chief A/c Officer (General)

[Signature]

11/1/84

By, Kanpur Road dekho

Alfred Sebastian

Shri/Smt.

Copy to -

F.A. & Chief A/c Officer (General)

Enclosure : One Photograph

Kindly acknowledge receipt

All payments of pension of Rs. 634/- P.M. made on the date of payment of commuted value to the pensioner or three months after the date of this authority may be adjusted accordingly at the time of making first payment of the pension authorized now. Relief @ Rs. 634/- P.M. is also admissible in this case.

His monthly Pension of Rs. 634/- (Rupees) authorized vide this Office letter of even No., dated 04.06.1987 may be reduced to Rs. 423.00 (Rupees) only per month from the date of payment of three months from the issue of this letter, which ever is later.

This amount is debitable to Grant No. 13 through F.A. & C.A.O., Northern Railway, Baroda House, New Delhi.

Pensioner informed accordingly.

Payment of the above amount is to be arranged from P.O. Post Office/Bank/Treasury and the Pensioner.

The competent authority of Northern Railway has accorded sanction to the payment of Rs. 423.00 (Rupees) only per month from the date of payment of three months from the issue of this letter, which ever is later.

Ref.—This Office Pension Payment authority letter of even No. dated 04.06.1987

Reg.—Commutation of Pension of Sh. Alfred Sebastian

By, Kanpur Road dekho

Manager, Treasury Officer/Dy. Director, Postal (Accounts)

Date 11.1.84

Northern Railway
Headquarter Office,
B. House, New Delhi.

COMMUTATION AUTHORITY

REGISTERED

Answer 1817

52

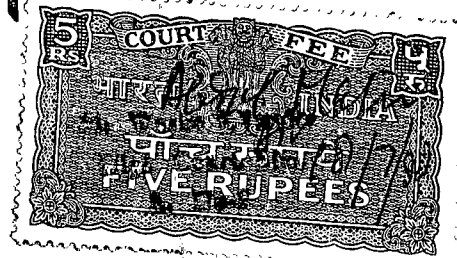
53

In the Central Administrative Tribunal, Lucknow

वादी
प्रतिवादी

का

वकालतनामा



A. Sebastian

बनाम

Union of India

ABDUL BASIR ADVOCATE &
ऊपर लिखे मुकदमे में अपनी ओर से श्री ABDUL MATEEN, Advocate
152, Ghasyari Mandi, LUCKNOW-226 001, Ravi Srinivasan
Advocate & C. A. Basir, Advocate - महोदय,

मैं अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ
इस मुकदमे में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी
व जवाब देही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या
हमारी ओर डिंगरी जारी करावें और रूपया वसूल करें या सुलहनामा या
इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने
हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकदमा उठावें या कोई रूपया
जमा करें या हमारी या विपक्षी (फरीकसानी) का दाखिल किया हुआ रूपया
अपने या अपने हस्ताक्षर युक्त (दस्तखती) रसीद से लेवें या पक्ष नियुक्त करें
वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है
और होगी इसलिये यह वकालत नामा लिख दिया कि प्रमाण रहे और समय
पर काम आवे।

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

१९ ६०

Accepted

Counsel For...

Accepted
C. A. Basir

The Director Railway Maroon
 Northern Railway (Mograjy office)
 Lucknow.
 Sub: Payment of interest on
 Government Road of Sr. Officer
 Lucknow or AFR/ FD
 2/22-6-'88

This is to draw your attention to my appeal
 dated 29-10-87 regarding interest lost
 on my dues due to hold payment of
 of interest at a had given details of
 in a for providing marked rate
 I am again tabulating the interest
 according against money due.
 1. Bids - Rs 25,274.00
 2. of interest - Rs 27,220.88
 3. of interest - Rs 27,220.88
 4. of interest - Rs 27,220.88
 Total Rs 1,140.00
 Less Rs 2,385.00
 Rs 2,385.00
 I have under gone and give me a
 kindly appreciate the financial losses
 I have under gone and give me a
 definitely reply

In
 C A Khan
 22/11

LUCKNOW.

RETO. RAILWAY ENGINEER

LUCKNOW.

RETO. RAILWAY ENGINEER

Page 15

11/11

50 B

NORTH IN RAILWAY

No. 42/WA/A/Ca Memo/FWI-I-LKO

DIVISIONAL OFFICE,
LUCKNOW Dtd 24-3-87The Sr. Divl. Personnel Officer (Settlement)
N. Rly. Lucknow.

Re: Settlement dues of Mr. A. Sebastian Ex. AEN/PD.

Ref: This Office letter of even no. dated 25.3.87.

Kindly refer to above the settlement dues of Shri A. Sebastian Ex. AEN/PD which is held up for want of clearance from the Officer may be released and paid to the retired Officer by making a total recovery of Rs. 95.45 only (Rupee Ninety five and paise forty five only) from his DCRO.

Statement showing TAF and other items, cost of which is to be recovered from settlement dues of Mr. A. Sebastian duly vetted (in two pages) by Sr. Accounts Officer (Sd/-) N. Rly. Alambagh, Lucknow is enclosed for ready reference.

DA

1 in two pages.

L.S.R. (C)

N. Rly. Lucknow.

(1) Copy to Sr. Accounts Officer (Sd/-) N. Rly. Lucknow for information in reference to his letter No. 82/SV/LKO/DSE-II/1/17 dated 23.3.1987. The cost of stores against para No. 86/7 of the OIA under reference has been written off by the Competent Authority and intimated to you vide this Office letter of even No. Lt. 13.4.87.

(2) Copy to Sr. Accounts Officer, N. Rly. Lucknow for information and necessary action please.

(3) Copy to AEN(1)/Lucknow and FWI/I/LKO for information and necessary action.

(4) Copy to Shri. A Sebastian Ex. AEN-PD, C/o Dr. V.M. Kapoor, 84 Kapoor Road, Lucknow.

Lt/1 in two pages.

[Signature]

True 20/7
A A Bain
AVU

175

In the Central Administrative Tribunal, Allahabad
Circuit Bench Lucknow.

O.A.No. 75 of 1988

A Sabastian

....

Applicant

Versus

U.O.I. and others

.....


Respondents.

Reply on behalf of the Respondents:

Before giving parawise reply to the application, it is necessary to give brief history of the case:-

Brief History of The Case:

- FT
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16/
1. That the applicant held the post of P.W.I. from which he was promoted as A.E.N. Faizabad on 12.12.1981.
 2. That while working as P.W.I. Lucknow the applicant was in custody of all the records Engineering stores from 1974-1981(12-12-'81) and he without handing over the charge, joined the post of A E N at Faizabad.
 3. That ~~xxxx~~ the applicant was issued office order No. W/DSE-II/Mosc.-AEN-II/LKO/81 dated 15.12.'81.
 4. That the applicant retired from service on ~~31.12.1982~~ 31.11.1982.


Asstt. Personnel Officer
N. R. Lko.

5. That another letter dated 9.3.'82 was issued to the applicant to return the old records, as they could not remain in his custody after retirement. A true copy of the said letter dated 9.3.'82 is annexed to this reply as Annexure No. C-1
6. That the applicant requested for release of his dues vide letter dated 5.7.'82. admitting therein that drastic action was taken to safeguard the anticipated and imaginary loss to the administration due to his not handing over charges as PWI(I) Lko to the present encumbant. A true copy of the said letter dated 5.7.'82 is annexed to this reply as ANNEXURE NO. C-2.
7. That inspite of admitting that the applicant failed to hand over charge, he neither cooperated in handing over charge nor handed over the old records in his custody.
8. That consequently overhauling report was prepared with the help of whatever record available in the Stores Department. The report disclosed irregularities noticed.
9. That to the overhauling report , the applicant submitted his reply dated 24.8.'82. A true copy of the said reply dated 24.8.'82 is annexed to this reply as Annexure No. C-3.


Asstt. Personnel Officer
N. R. Lko.

15. That a counter affidavit was submitted in the High Court in reply to the W.P.No.667 of 1983, in which it was specifically averred:

1. Provident fund dues of the applicant amounting to Rs. 9,976/- was paid to the applicant after completion of necessary formalities, and taking necessary orders in May 1982.
2. As regards payment of death-cum-retirement gratuity, pension and leave encashment efforts were made to obtain necessary clearance in respect of outstanding debits (pertaining to engineering branch) which was necessary before arranging payment of the dues to the retired employee and it had come to light that the following items in which the heavy amounts were involved as indicated against each outstanding against the petitioner, the then PWI Lko (I), retired as Asst. Engg. for shortage of railway material from his custody while he was working as P.W.I.(I) Lko.

(A) Stock Sheets: 1 to 27 of 19.5.82 (i) Excess of Rs. 4,94,550 and shortage of Rs. 4,70,239/-

(B) Stock Sheets: 27(a) of 19.5.82 Shortage of approx. Rs. 500/-

(C) Accounts note No. 78/SUL-17 (i) Shortage of Rs. of 31.5.70 in the stock 1,07,600/- sheet of PWI(I) Lko pertain (ii) Excess of Rs. 87370/- ing to shri A Sabastian

(D) Outstanding report No. 82/ SU/Lko/PSF/2/1/17 of 28.6.1982.

This report pertains to 87 paras which has not been replied by the petitioner for which he was answerable.

[Signature]
Asstt. Personnel Officer
N. R. Lko.

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It was also mentioned in the counter to the writ petition that the petitioner had already been informed to clear the above outstanding items vide office letter No.W/DSE /2/Misc./AEN/2-Lko/81 dated 15.12.'82 followed by reminders from time to time and lastly on 9.3.'83, but he did not make efforts to clear the deficiencies resulting in non-issue of claim and debit clearance certificate concerning the engineering branch regarding the payment of death cum-retirement Gratuity, leave encashment and pension etc.

It was further mentioned in the counter affidavit that provisional pension papers have been put up to the competent authority for sanction at the rate of 634/- plus 275/- D.A. relief.

The applicant filed his rejoinder affidavit and thereafter after hearing the counsel for the petitioner and counsel (Shri C.A. Bashir) for the respondents, the Hon'ble High Court was pleased to pass the judgement dated 15.12.83 whereby the writ petition was dismissed as premature. A copy of the writ judgement dated 15.12.'83 is annexed to this reply as ANNEXURE NO. C-5.

16. That the Joint Enquiry committee submitted its preliminary report on 14.12.'83.

17. That a final report was submitted by the Joint Enquiry Committee vide letter No. Enquiry/Sabastian/85-86 dated 10/13.1.'86, with a copy endorsed to the applicant.

18. That vide letter dated 18.1.1986, the applicant submitted further clarification parawise to the said enquiry report dated 10/13.1.1986. A true copy of the said letter dated 18.1.1986 is marked ANNEXURE NO. C-6
Assn. 28
N. Lko
this reply.

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ADD

19. That on the same day i.e. 18-1-1986 the applicant submitted another letter dated 18.1.1986 requesting therein to fix a early date so that he may be not denied justice and fair play.

20. That the applicant vide letter dated 4.3.'86 requested for personal hearing to plead his case and clear certain items which had been left out by the Enquiry Committee. A true copy of the said letter dated 4.3.'86 is annexed to this reply as Annexure No. C-7.


21. That the applicant with its letter dated 16.5.'86 enclosed the accepted copies of Issue Note No.86 dated 24.4.1980 duly verified by PWI Rae Bareilly and requested for fixing an early date so that he may plead his case.

22. That vide letter dated 26.7.'86, the applicant submitted further clarification. A true copy of the said letter dated 26.7.'86 is annexed to this reply as Annexure No. C-8.

23. That through letter dated 15.9.'86, the applicant further submitted clarification to the various items of shortages. A true copy of the said letter dated 15.9.'86 is annexed to this reply as Annexure No. C-9.

24. Thereafter some time was taken to finalise the enquiry and ultimately Senior Stores Account Officer gave clearance to release DCRG after making a recovery of Rs. 945-95 p. on 20.4.'87.

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Asstt. Personnel Officer
N R Lko

25. That after the claims and debit clearance had been given the D.C.R.G. was released in June. 1987. The delay in making payment of D.C.R.G. was due to non-cooperative attitude of the applicant and his clarifications being submitted piecemeal till 15.9.'86. Thereafter whatever dues remained of the applicant they were paid without any further delay except the time taken for releasing the same.

26. That in the circumstances, no interest was payable to the applicant by the respondents and the application is liable to be dismissed.

PARAWISE REPLY.

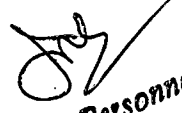
Para 1: Needs no reply

Para 2: Needs no reply.

Para 3: Detailed reply as to the circumstances in which payment was delayed has been well explained in Brief History given and any thing contrary to it said in para 3 is denied.

3(a) It is not denied that provident fund was released in May 1982 after the formalities were completed by the applicant and after obtaining sanction of the competent authority.

3(b) Pension: In reply it is submitted that the applicant submitted the pension form on 1.3.'82 for payment through Punjab National Bank. The form was amended on 2.7.'82 for payment through G.P.O.


Asstt. Personnel Officer
N. R. Lko.

It is also not denied that the provisional pension was released on 30.4.'83. Since the claim and debit clearnace was pending against the applicant, he was entitled to provisional pension only. It may also be stated that pension is payable as per Rule 1101(1) and the pension is payable from the date on which the pensioner ceased to be borne on the establishment or from the date of his application, which ever is later. Inspite of the rule that the later date is to be taken and as already stated above the application itself was submitted on 1.3.'82 and later on ammended on 2.7.'82, the provisional pension was paid from the date the applicant ceased to be borne on the extablishment. After submission of papers some time i.e adminstra-tive time is taken for finalising the papers and taking sanction etc. of the competent authority. Hence there was no delay in payment of provisional pension. No interest is thus payable to the applicant.

- (e) Leave encashment: The amount was released with the progress in the enquiry. Hence no interest is payable.
- (d) DCRG: As already stated in the brief history the amount of DCRG could not be released due to pending enquiry in regard to the claim and debit clearance which kept on henaging due to non cooperative attitude of the applicant. The enquiry was finalised on 20.4.'87. In these circumstances no interest is payable on the amount.

Asstt. Personnel Officer
N. R. Lko.

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(e) Commutation of pension: It is not denied that the amount was paid in September 1987. The delay, if any was on account of enquiry in regard to claims and debit clearance, which due to non cooperative attitude of the applicant could not finalised till 20.4.'87 and amount due in regard to commutation was sanctioned vide order dated 8.7.'87. The allegations about deliberate delay by the opposite parties to harass the applicant is specifically denied. The applicant himself has to be blamed in not cooperating in finalising the claims and debit clearance which admittedly remained pending due to not handing over charge of the post of PWI (I) Lko by the applicant from where he was transferred as A.E.N? It is submitted that the applicant is not entitled to any alleged difference in the matter of commuted pension or any interest thereon. It is also submitted that the applicant is also not entitled to any alleged amount on account of revival of pension. The applicant is also not entitled to any alleged interest on the amount of D.C.R.G. paid to the applicant.

(f) Only this much is not denied that Rs. 945.95 was legally deducted on account of the amount found due on settlement of claims and debit clearance. The appeal was rightly rejected on 10.11.1987. It is wrong for the applicant to allege that the enquiry was made more than 5 years after retirement. The applicant worked on the post of PWI(I) Lko till he was transferred as A.E.N. and he without handing over charge of the material and record concerning the Engineering Stores took up the post of A.E.N. and letter to that effect N. B. Lko. was sent and served upon the applicant vide letter

Assn. Personnel Officer
N. B. Lko.

ADW

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dated 15.12.'81 much before the retirement and thereafter followed by several letters.


Para 4: Needs no reply.

Para 5: Contents are denied. The application is clearly barred by limitation. Admittedly the pension amount, leave encashment, D.C.R.G. and commutation amount became due as per allegations of the applicant on or about Feb. '82, but no action was initiated to recover the same or the alleged interest within the limitation period by filing a suit for recovery in Civil Court. Even as per the own admission of the applicant, he received pension on 30.4.'83, leave encashment in Sept. '84 and D.C.R.G. in June 1987 and commuted amount pension in Sept. '87, but no claim was made for interest prior to the receipt of the said amounts. The D.C.R.G. Amount was paid soon after the claims and debit clearance was finalised. The claim is thus barred by time as a whole.

Para 6(a) Is not denied.

Para 6(b) In reply it is submitted that the amount of Provident fund was made along with interest after the formalities were completed by the applicant and time taken for payment. On account claims ~~clearance~~ and debit clearance pertaining to engineering stores pending in view of charge not handed over by the applicant while working

as P.W.I.(I) Lko, the provisional pension was

 Personnel Officer
n Lko

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released after the formalities were completed by the ~~applicant~~ applicant. In fact the applicant himself submitted his application for pension on 1.3.'82 and thereafter ammended on 2.7.'82 for payment through G.P.O. Some time was taken for sanction etc. and the payment was released on 30.4.'83, which the applicant received without any objection. Leave encashment was released with the progress of enquiry in olaims and debit clearance. Thereafter DCRG and commutation amounts were released after the completion of enquiry into claims and debit clearance which was completed on 20.4.'87 due to non- cooperative attitude of the applicant. Since the enquiry was delayed on account of the applicant no question of payment of interest arises.

Para 6(c) In reply it is submitted that the amount of provident fund was made on May 1982 alongwith interest as per rules.

Para 6(d) In reply it is submitted that amount pwtaining to D.C.R.G. and commutation of pension was with-held due to pending enquiry in regard to claims and debit clearance, which due to non-coopperative attitude was finalised on 20.4.'87. Detailed facts about the enquiry are contained in the Brief history stated above. Since the claims and debit clearance was pending, the

Assit. Personnel Officer
N. R. Lko.

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provisional pension was paid to the applicant, which he received without any protest, as he very well knew that the pension cannot be finalised till the pendency of claims and debit clearance. It is incorrect for the applicant to state that leave encashment was not paid. In fact after the writ petition was disposed of by the Hon'ble High Court and also looking to the progress in the claims and debit clearance. The amount of leave encashment was made in Sept. '84 and admitted in paragraph 3(c) of petition. The amount of commutation of pension was sanctioned vide order dated 8.7.'87 soon after the debit and claims clearance was finalised on 20.4.'87.

Para 6(e) That the contents of paragraph 6(e) of the application are not denied.

Para 6(f) That the contents of paragraph 6(f) relate to extracts from rules initially framed and amended from time to time. The said rule will be met at the time of arguments.

Para 6(g) In reply it is submitted that before the payment of terminal benefits, ^{claims and debit} clearance and no dues has to be obtained. It is submitted that the applicant while working as P.W.I.(I) Lko and transferred as A.E.N. on promotion, did not handover charge of the engineering stores, as well as old record in his custody, with the result that inspite of best efforts, the claims

Assn. N. R. L.

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and debit clearance could not be finalised. This finalisation could not be done due to non-cooperative attitude of the applicant in having the same finalised, which was done on 20.4.'87. The proceeding to hand over charge and records started w.ef. 15.12.'81 when a letter dated 15.12.'81 was issued to the applicant and received by him.

Para 6(h) That the contents of paragraph 6(h) are not denied.

Para 6(i) In reply to the contents of para 6(i) of the application, it is not denied that the constitution of the said committee was made for finalisation of the overhauling /outstanding stock sheets account. The object of the constitution of the committee was to fix responsibility on the applicant or clear him, regard to his holding the post of P.W.I., which amounted to holding proceedings against the applicant. These proceedings were necessary for deciding claims and debit clearnace, thereby fixing responsibility or clear the applicant to enable the administration to release his terminal benefits.

Para 6(j) Contents of paragraph 6(j) of the application are not denied.


Asstt Personnel Officer
N. R. Lko.

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Para 6(k) In reply to the contents of paragraph 6(k) of the application, it is submitted that after the preparation of overhauling report from whatever records available in the absence of the applicant and reply received to the said overhauling report from the applicant, the committee was constituted to hear the objections/clarifications of the applicant and thereafter submit their findings. The points raised in the para under reply were to be considered by the committee constituted for that purpose.

Para 6(l) In reply, it is not denied that replies to the overhauling report dated 28.6.'82 and other reports were submitted by the applicant on 24.8.1982. Thereafter the applicant in piecemeal continued to submit clarifications/vouchers etc; to explain the pending items, the last clarification being made on 15.9.'86.

Para 6(j) In reply it is not denied that the warranted by facts and circumstances, a committee was constituted to finalise the overhauling/stock return accounts vide order dated 29.1.1983 and the committee went into action soonafter and submitted its final report on 20.4.'87. It is also not denied that a writ petition was filed by the applicant in the Hon'ble High Court, Lucknow Bench Lucknow and for its contents, the writ petition may kindly be looked into.

Assn. Secretary
N. R. Lko.

Assist. Personnel Officer
N. R. Iko.

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date on which the pensioner ceases to be borne

1101(1) and the pension is payable from the

be stated that pension is payable as per rule

and the payment was made on 30.4.83. It may also

for the purpose of claims and debit clearance

enquiry on the overhauling report/stock report

was taken in clearance due to condony of

payment through G.P.O. Thereafter some time

after the form was amended on 2.7.82 for

payment through Punjab National Bank. There-

himself submitted pension form on 1.3.82 for

Para 6(o) In reply, it is submitted that the applicant

part of the applicant.

taking over as A.E.N. was not correct on the

as well as not handing over charge prior to

accounting at proper time. Keeping them pending

applicant was himself responsible for not

denied. It is further submitted that the

harassment to the applicant are specifically

was not cooperative. The allegations of

his letter dated 15.9.86. As such the applicant

and last clarification submitted/made was vide

not disclosed/clarified all the matter/details

enquiry shows that the applicant had

choose one letter only. The sequence of the

submitted that the applicant cannot pick and

it is

the applicant must be the one to be

extended to the applicant in the

Para 6(n) In reply, it is submitted that the applicant

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- 16 -

on the establishment, or from the date of his application, which ever is later. However the applicant was paid the provisional pension from the date he retired, which itself was against rules. It is also not denied that leave encashment amount was paid in Sept, '84. The delay in payment of leave encashment amount was due to non finalisation of the enquiry on the overhauling report/stock report accounts for the purpose of claims and debit clearance and the payment was released with the progress in the enquiry. The allegations about the payment having been received under protest are not verifiable at present due to old record not available. However it is submitted that receiving payment under protest, itself gave a cause of action to the applicant to challenge the same before proper forum within the limitation prescribed and claim in the present application and that too for interest only, is highly belated, though the claim itself is not maintainable.

It is not denied that D.C.R.G. was paid in June 1987 and commutation of pension in Sept. '87, but the same was paid within reasonable time after the finalisation of enquiry which was finalised on 20.4.'87. The enquiry could not be finalised due to non cooperative attitude of the applicant, in supplying details/matter/clarifications/verifications, the last being made over vide letter dated 15.9.'86. As such

there was no delay in making payment as alleged and no interest is payable to the applicant.


Asstt Personnel Officer
N. R. Eko.

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Para 6(p) In reply it is submitted that due to charge not having been made over by the applicant, before joining as A.E.N. , he was responsible to finalise the charge as well as hand over the records in his custody for which the action was initiated prior to his retirement. Thereafter, due to no cooperative attitude of the applicant, over-hauling report was prepared in June '82, to which the applicant replied in August 1982. After August '82 the applicant did not cooperate. To finalise , a committee was constituted in Jan'83 and with piecemeal clarifications submitted by the applicant, last being submitted vide letter dated 15.9.'86, the enquiry could be finalised on 20.4.'87. In the circumstances the allegations of the applicant that he was falsely implicated are totally incorrect and vehemently denied. Till such time the claim and debit clearance were not finalised, the applicant was not entitled to terminal benefits and as such the action in withholding the amounts was justified. The amounts were released within reasonable time after the enquiry was finalised. In these circumstances, the administration is not^{at} all liable to pay interest. At any rate , the claim of 18% interest is highly excessive.

Para 6(q) Contents are denied. There was no delay on the part of the administration to pay the dues, as already explained above in the reply. No interest is legally payable in the circumstances of the

case
Assit. Personnel Officer
N. R. Lko.

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- 18 -

Para 6(r) The contents of para 6(r) of the application are ~~denied~~ denied. It is stated that the facts of the case stated are not at all applicable present case. Further reply will be advanced at the time of arguments.

Para 6(s) Contents of para 6(s) are denied. Amounts found due under claims and debit clearance are always admissible for deduction out of gratuity. The amount of Rs. 945-95 has thus rightly been deducted from the amount of gratuity.

Para 7: Denied. The applicant is not entitled to the relief claimed. At any rate the amount worked out is not admitted and none of the amounts are payable. The application is liable to be dismissed with costs.

Para 8: Needs no reply.

Para 9: Not admitted. The representations made is no remedy.

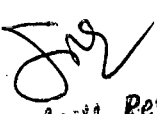
Para 10: Needs no reply.

Para 11: Needs no reply.

Para 12: Needs no reply.

Para 13: Needs no reply.

14. That on the facts and circumstances stated above the application is liable to be dismissed as barred by time and also on merits, as well.


Asstt. Personnel Officer
N R. Lko

Assit. Personnel Officer
N. R. Lko.

do hereby verifies that the contents of this reply are
based on information collected from the record and legal
advice which is believed to be true.

I, J. N. Juvonars & J. O.

Verification.

Respondent's Office
Assit. Personnel Officer
N. R. Lko.

dated: 12.10.89

Lucknow

The Respondents are entitled to cost from the applicant.

153

Asstt. Personnel Officer
N. R. Lko.

[Handwritten signature]

(R.L. Aggarwal 1/9)
For Divl. Railway Manager,
Lucknow.

xxxx-
Your attention is invited to this office letter of even number dated 15-12-81 and various other letters issued by AEM-II/LKO and this office on the above subject. It has been brought to my notice that all the records of stores from 1974 to 1981 are in your personal custody. It is requested that immediate action should be taken to return the old records to the office of PWI-I/LKO. Whatever work is required to be done by you should be done in the office of PWI-I/LKO. Store records are important documents and can not be allowed to remain at the residence of any individual.

Subj:- Special Stock Verification & Special overhauling of accounts of PWI-I/LKO.

Shri A. Sebastian,
Retired AEM/ED,
Quarter No-L-3, Alambagh Road,
Lucknow.

Dated: 25.2.1982.
Lucknow:
Divl. Office.

No. W/DSE-II/Misc/AEM-II/LKO/81

Northern Railway-

Confidential

(16)
16/4/82

Annexure No C-1
20

Annexure No C-2 ²¹
178
(23)
P95

Registered i/d.
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To
The Divisional Railway Manager,
Northern Railway,
Lucknow.

Sub : Settlement dues of Sri Alfred Sebastian
ex A.E.N. Northern Railway Faizabad.

Dear Sir,

I have retired from service on 31.1.82 and am pained to state that I have been put to extreme hardship due to the following reasons :-

1. Deprivation of salary from 15.12.81 to 31.1.82 due to a secret order No. dated issued by D.S.E. II Lucknow Sri R.L. Agrawal.
2. With holding of my provident fund dues both compulsory and voluntary vique the same secret order s thereby violating all rules pertaining to Provident Fund I was eventually paid my P.F. in May 82.
3. By the same impugned orders my case for final settlement was to be with held . This has resulted in my family having to undergo untold hardship and has brought me on the brink of beggary as you can visualise what it costs to maintain a family when one has to live in an exhorbitant rented flat and all the expences that go with it.
4. I have been confidentially told that this drastic action was taken to safe-guard the anticipated and a imaginary loss to the Administration due to my ~~not~~ handing over charge as R.P.W.I. (I) Lko to the present

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D.P.O.T.
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S.E.
for
D.S.E.
14/3/82
1000
encan bl
5th
8/17/82
654
654
244
The any
Contd.
Assn. Personnel Office
N. R. Lko.

Please contact encumbant
Rivof case to
M. Th. 2. Seal
Line to Settlement
enclosed by OS above
M. Masr

2.

Sir, let me clarify the disillusionment of the powers that be by facts and figures from the special stock verification conducted, the results of which project a great travesty of what was anticipated.

Deficits

Tools and plant items
Rs. 800/- approximately

Track stores Items
Timber scrap
Rs. 1500/- (Loss is due to
non-return of timber scrap
by P.W.I. Gr. II in -charge
Shri R.S. Tiwari.

Total Rs. 2300/-.

Excesses

Tools and plants Items
Rs. 2200/- approx.

Stealscrap Rs. 9,623/-
W.I. scrap Rs. 29,300/-
C.I. scrap Rs. 28,000/-
Total Rs. 69,123/-

From the above figures it is quite evident that
in
I have/no manner caused any loss to the Administra-
tion either by wilful neglect or otherwise and as
such all dues accruing from my date of retirement
till the date I am finally settled as well as those
monies as may fall due to me on orders from the
Government be reimbursed without any further delay,
failing which I will have no other alternative but
to seek redress in a court of law.

I trust my humble request is meted with justice.

I am yours hopefully.

Alfred Sebastian
(Alfred Sebastian)
Ex.- Assistant Engineer,
Northern Railway,
Faizabad.

C/o Mr. Ashok Kapoor
84 Kanpur Road, Lucknow.

27th July 82

Assn Personnel Officer
N. B. Lko.

Over hauling Note No. 82/SV/Lwo DSE-I/
1/17 dt. 28.6.82 of P.W. I. Lko.

Para I. (a) As per agreement 50 kg. Cinders was being supplied to P.W. I. Store which was being used for Smithy as there was no fixed supply of Steam Coal and due to the frequency (daily) accidents these cinders were being used. These Cinders were not meant for Sale hence no money receipt was made or necessary.

(b) There is no clause in the agreement wherein the P.W. is to maintain a record of sales of 355.6 kg. Cinders to Rly Employees. The Contractor was to sell the above amount to the Employees which was being done and he was the receipt receipt of the sale proceeds. I S H wanted to know if there was any lapse on the Contractors part for less sales of to staff and a concrete case was given. The matter was reported to D.R.M. office for action against the Contractor.

Para (2) Sale of Ashes: A Register is being maintained showing names of Employees, date of sale cost and gate pass no etc. The non posting of issue of Ashes to other Subordinates mainly due to breaches was not being maintained due to spontaneous demands and supplies and this was not possible due to shortage of staff and continued absence of my store clerk.

L.N. Misra,

Para (3) The issue note as and when available were being regularly sent to DRN.

Para (4) The P-way note book prevalent on this and ex. E1 Rly discussions are being maintained in MA note book SRC 1716 and ISA was shown the same. The accountal of all issues and releases of P-way material is being done through these books.

Para (5) The wagons registers are being maintained showing all details and are self explanatory.

Para (6) Accepted. It is not possible for me to attend to an average of 52 accidents a day in ~~use~~ using 6 hrs working time plus day to day maintenance, officers ~~exp~~ inspections and what have you.

(7) This is purely a clerical error and has been rectified. The work was done by Electrical branch.

Para (8) Noted. explained in para 5.

(9) This is a clerical error and has been corrected.

(b) As above.

Para (10) The is to be expected as the ledgers are over 10 years old.

Para (11) This has been corrected. It was a purely clerical error. Trn Coby

Para (12) Not concerned.

Assn. Personnel Officer
N. R. Lko.

Para (13 a) This was a Clerical error and has been corrected.

(b) This is unavoidable due to paucity of Stationary.

Para 14 (A) I have explained that my permanent M.C. was continuously absconding and numerous Report were sent against him. To maintain some semblance of accounts new hands were utilised and hence the Mistakes.

(b) This was an inadvertent omission which was regretted.

(c) ——— Do ———

Para 15 (A & B) This was Clerical Error and has been corrected.

Para 16. The gang equipment Boxes are still with the gangs but may have been destroyed being over 13 years old and subjected to rough handling by gangmates. The Omission is regretted.

Para 17. Empty Drums. We are called upon by DCOs and other Subordinates to bring our own ~~drum~~ receptacles for various items specially Oils. The general tendency was to take delivery in our own drums hence it appears that drums were not accounted for. Even issue notes are very clear because only the quantity of oil was mentioned and examples were shown to ISA. His statement is mainly an assumption.

Drums Empty
58 nos were
on books (ledger)

Thur Cuff

Asstt. Personnel Officer
N. R. Lko.

Could have (24) more use if heavy loads with greater intensity hence more damage to handles. The issues are quite genuine considering the extenuating circumstances.

Para(25) My reply to Para 23 will cover Para 25, 26, 27, 28 29.

Para 30 and 31, Verified Copies have since been received. I am giving a clarification or excuse put forward by Mr. TDSLH which may please be passed. The Consignor loads Scrap materials covered with rust and earth or ashes and in the process some rust and ashes/mud are released while dropping the materials in the wagon. The wagon is then sent to SH and en route more rust and earth is loosened due to vibrations.

At destination the wagon is unloaded and thrown haphazardly (which cannot be helped) by already inadequate labor and this is further denudation of rust and earth. The materials are further weighed after a complete over haul hence the shortage and for this the

Consignor should not be made responsible.

Para(32) This was a clerical error and has been corrected.

Para(33 to 38) During S.V. the hand receipts for the above items as well as other items were shown to SV who accepted their veretability and he was also.

Asstt. Personnel Officer
(N. R. Iko)

(15)

28
A102

Cont'd Para (33 & 38) During SV. The hand receipt
~~for the above items as well as~~
 Shown the list of Those items earmarked
 to making out issue notes for those
 materials not returned there and then.
 The issue notes have subsequently been
 prepared and accounted for.

Para. 39. This has been done.

40. Explained in Para 33 & 38.

41. This has since been done.

42. This items were checked the S.V. not
 (A & B) have signed the ledger by mistake.

43. This has now been done.

44(A) — Do — Duplicate
 accounts become necessary when
 materials are received under different
 allocations.

(b) as explained in Para 43.

45. PWI TD above can explain this. He has
 a great excess of WJ Scrap.

46. Explained vide Para 23 & 31.

47. Already explained vide Ac/Note on
 Stock Sheets of 1977 & 78.

48. The Shortage may be adjusted against
 excess in like items in Stock Sheet
 1977 & 78 against items 21 to 28.

49. The advice note have been verified.

50. The wagon Register is being maintained
 as per norms prevalent CES-B&B

May please be contacted for these wagon
 Assn Personnel Office
 N. R. Iko.

114
4103

The receipt of 150 CST/9 Plates from Police Station does not have any bearing with theft under my Charge. The Plates were Seized by the Police and offered to the Rly. and an order from DSE-II they were taken on books.

Para 51. This was the outcome of a man Standard layout of 11 in 6 being replaced by 11 in 8 1/2 and further extension to track in the loco shops.

Para 52. Rectise and Precept are poles apart. Cher & Douglas fir Sleepers released in big yards never yield more than 15 to 18 kg as the timber is subject to ~~timber~~ termite rot on the under side while the top looks untouched. Then again burning cinders dropped from engines caused more than 60% of loss in timber scrap. This is a cause of constant ~~be~~ bickering loco ~~shop~~ and Pway Department.

Para 53 & 54. Pertains to Shri V T Keswani now DEN DLI.

Para 55. As was explained to ISA Buffers are broken during shunting operations and caused to splinter. The retrieving of the entire sleeper is not possible because 1/3 length which is buried in the ground is already destroyed by termite and a huge quantity of wooden sleepers are stolen by various staff hence the loss. Released taken to keep on the safer side.

Personnel Officer
N. R. Lko.

Side to avoid Serious Criticism from accounts branch.

CE(T)
Sr JS. Munday
Insp notes of
May 1980 may
be perused.

Para 56. Anchors weigh between 1.20 to 1.50 kg each according to local manufacturing Conditions. They were actually fabricated and put into Steel Trough Shipure and exist in thousands in the yard. The non-accoutal is regretted as the demand out weighed the supply in the interest of track safety. DSB-W and even the CE track also appreciative of this fact.

Para 57. This was reduced from Holding Register which is independent of T&P Register.

58. See my remarks from Paras 25 to 31 Please

59. The appendix is not attached

60. See my remarks from Paras 25 to 31 Please

61. The Vouchers are sufficient evidence of Correct accountal.

62. This has been done.

63. The copies of Issue notes and acceptance thereof may please be produced.

64. All the rounds have been used for manufacturing Sabastian Anchors and their genuine use is very much in the field. The omission of accountal through Vouchers is regretted. The assumption

that the issues may be fictitious is very much uncalled for.

N. B. Lko.

Para 65. See Last Page.

66. Handles of sorts are a consumable items and practices vary on various demerions. No such practise was in vogue here.

Para 67. MS. Rounds 5/8" were very much available in store and was seen by SN as a matter of fact there was a huge quantity of ms rounds of various size in the store which was shown to him. This remark is presumptuous.

Para 69. Non preparation of vouchers are regretted.

Para 70. As above. The ISA was personally shown the work done with these planks.

Para 71. The omission is regretted.

72. The table was one and the same.

73. Ledger posting has been done.

74. The advise notes were wrongly made out and there was a ~~containing~~ ~~one~~ over the acceptance of the Coats as Dcos/Amv. wanted to give Scrap Value Credit only hence the Advise note should have been cancelled.

75. The materials intended to be sent to Dcos/Amv were to be sent by truck but when the truck arrived some materials were with the staff and could not be sent.

Asslt. Personnel Officer
N R Lko

Para 76. The Issue Ticket has been correctly accepted only the nomenclature has been changed according to Reels obtaining in Track Depot.

77. Same as above.

78. The quantity was dropped from my ledger.

79. These Shippers were ~~utilised~~ utilised on two accidents cases but as the original Receipt Vouchers were not available the Issue note could not be made out then.

80. Since the records were not available and the Issue notes were not traceable then the account was made later.

81. The grinders 3 nos were all found by SV. or else he ~~would~~ would have brought out the same in the Stock sheet.

82. I have scrutinised my accounts from 1977 to 1981 and the irregularities found were corrected which is quite in order. There is no false correction as assumed by ISA. This many worded paragraph is nothing short of a prejudicial and biased attitude of the ISA for reasons only known to him as he has found fault with

Assn Personnel Officer
N. R. Lko.

the entire gamut of the accounts
Branch in work Section.
Para 83. Noted.

- 84(a) Shri R. S. Tiwari Can explain this.
- (b) This has been done.
- (c) This may be adjusted against
excess in Steel Scrap.
- 85. No records are available as
explained above. Supplementary
Returns M & S June 77 was made
out for SV and Stock Shuts down.
- 86. These may please be chased by
the present PWD as all receipts
etc. are with him in office.
- 87. No Remarks.

Dt. 24.8.82

Sol -
Ex. PWD I. Lko

Para 65. Empty drums Scrap of m-xaphelt
were cut to cover Bridge Timbers to
save them from burning Cinders.
43 ~~to~~ drums were cut and beaten
flat and kept in the stores which
were shown to ISA and SV and
there sheets can be seen at various
sites. The omission of vouchers is
regretted.

Asst. Personnel Officer
N. R. Lko.

Sol.

Professional Supply Engineer (II)

N. B. Lko.

Enquiry about other outstanding items i.e. stock-sheets and account note.d.t. 31.5.78 is under process of finalization, it is therefore in your own interest to co-operate with the Railway Administration as advised to you by the Railway Officials from time to time. In case nothing is heard from your side within a week's time, action will be initiated against you as permissible under rules to make good the loss from your concerned and gratuity etc., due to you.

handling report dt. 28.6.82 only.

Please note that as per joint report of departmental officers, the enquiry committee has concluded that due to your lapses, misconduct and negligence huge pecuniary loss has been caused to the Railway Administration for which you are fully responsible. This report pertains to overhauling Report dt. 28.6.82 only.

More over the reply given by you against the shortages/ excesses through the stock sheet dt.29.5.82 and the A/Cs.Note No.78/80/KO/DEN-HQ/1/17 dt. 31.5.78 are also not to the point.

The stock verification and over hauling of a/c. was delayed and not completed before your retirement due to non-production of relevant records and non-cooperation from your side. After great persuasion you submitted para wise remark against various paras of Over Hauling Report dt. 28.6.82. These remarks were not specific and compounding and in view of this a fact finding enquiry committee was nominated which has held you responsible for the losses reported vide para 7, 9, 13, 17, 27, 47, 48, 51, 57, 63, 67, 80, 82, 83, 84 and 86 of the over hauling report. Further a large number of issue note as reported by ISA vide para 19 and 86 of the above over hauling report are also outstanding. The approximate cost of the store for which the enquiry held you responsible comes to Rs. 2,56,981-80-04px.

You were holding the charge of PWI-I-I-Lucknow from 30.11.73 to 13.11.81 and you retired from Railway Service as Offg. AEN-Ratnabad on 31.1.82 against adhoc arrangement, you avoided to give charge to Shri N.C. Tripathi posted vice you as PWI - I - IKO, who reported for duty on 18.8.81 and with much persuance you handed over the charge to Shri Tripathi on 13.11.81. The stock verification of Railway stores with you for the above period was completed on 29.5.82, you signed the concerned stock sheets on 29.5.82, in token of your acceptance of the shortages/excesses of the Railway material pointed out by stock verifier. The over hauling report for the above period was issued by Sr. DAO on 28.6.82 bearing No.82/SV/IKO/DSE II/1/17 dt. 28.6.82.

• MOUNT

Shri A. Sebastien Ex-Offg.
S/o. Late Shri B. Sebastien,
resident of 84 Kanpur Road,

Shrt. A. Sebestien Ex-offr. ALEN.

No. 48/WA/S/S/DSE-2/PWI-I-KO/82

NORTHWESTERN RAILROAD

REGISTRED ACK. DUE.

Divisional Office,

Black now Lt. 23rd July '85,

Amesbury No C-4

Health

 h_{E_3}

(3)

36
A10

Inventory of Un-ventilated Dues and Note of Pw. J. New

Sl. No.	Mo. No.	Date	From	To	Description of Material	Qty	Remarks
1.	21	27-5-76	Pw. J. New	Pw. J. New	Rails 90 R BS 30' 0" SS	4 No.	Despatch below Pw. J. New
					" " 33' 0" "	14 No.	
					" " 36' 0" "	1 "	
					" " 42' 0" "	3 "	
					" " 48' 0" "	1 "	
2.	33	27-5-76	do	do	Rails 90 BS 27' 0" SS	85' 2" 3 No.	Pw. J. New 2/24/76 2/24/76 2/24/76
					" " below 27' 0" "	2' 24" 3 "	
					" 90 R 27' 0" "	2' 24" 3 "	
					" 90 R 27' 0" "	2' 24" 3 "	
3.	92	31-1-79	do	do	Beats Steel New	20 No.	
					Phenol Steel MS	10 "	
					Rails Ballast MS	6 "	
					Crane Steel MS	1 "	
4.	11	9-6-79	do	do	Level Spirit	1 "	
					Stock - Rail New 90 R	2 sets	
					in 10' 1" x 1" 9 m	= 4 No.	
5.	25	14-7-79	do	do	X-ray 90 R in 12 (Red)	1 No.	
6.	26	14-7-79	do	do	X-ray 90 R in 12 (Red)	1 No.	
7.	27	14-7-79	do	do	Bolts & Nuts 1 x 10"	4 No.	
					1 x 12"	4 "	
					1 x 13"	4 "	
					1 x 18"	2 "	
					1 x 20"	2 "	
					1 x 22"	2 "	
8.	28	14-7-79	do	do	X-ray 90 R in 12 (Red)	1 No.	2/21/81
9.	29	14-7-79	do	do	Switches in 12 90 R	1 No.	2/22-81
10.	45	30-10-79	do	do	X-ray 90 BS RBS in 12 SH	1 Set	2/23-81
11.	51	16-11-79	do	do	Shelving	1 No.	2/23-81
12.	52	16-11-79	do	do	Portion 90 R	255 Lbs	
13.	53	16-11-79	do	do	X-ray 90 R in 12 90 R	85 No.	
14.	73	6-3-80	do	do	Portion 90 R	1 No.	2/23-81
					Closing Pin	14 No.	
					Signature Matches	50 "	
15.	125	6-10-80	do	do	Portion 90 R	50 "	
					Closing Pin	41 "	
					Matches Signature	5 "	
					Portion 90 R	5 "	
					Closing Pin	63 "	
					Matches Signature	63 "	
16.	31	17-6-81	do	do	Rails 75 lbs 915 m	63 "	
17.	161	19-8-81	do	do	Wooden Sleepers 10 x 10 x 5	4 No.	2/23-81
18.	195	2-9-81	do	do	Bolts & Nuts 1 x 10"	150 No.	2/23-81
					do 1 x 13"	2 No.	2/23-81
					Key Thicker New	2 "	2/23-81
19.	199	3-9-81	do	do	Tensar Rail 75 lbs 1312 3' 65 m	30 "	2/23-81
20.	200/33	25-9-81	do	do	Rail 90 R SH 12' 80	1 No.	2/23-81
21.	208	1-10-81	do	do	Coiler Split New	10 No.	2/23-81
22.	212/30	20-10-81	do	do	Bolts & Nuts 1 x 7	300 No.	2/23-81
					do 1 x 14	15 No.	2/23-81
23.	441	18-11-81	do	do	Bolts & Nuts 1 x 12	3 "	2/23-81
					Sphenol washer	4 "	2/23-81

उत्तर रेलवे/NORTHERN RAILWAY

78

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

Writ Petition No. 667 of 1983

A. Sebastian petitioner.

Versus

Union of India and others OPP. Parties.

Writ Petition Under Article 226 of the Constitution of India.

Lucknow dated. 15.12.83.

Hon'ble U.C. Srivastava, J.

Hon'ble K.N. Goyal, J.

Learned counsel for the opposite parties has placed before us the ~~reference~~^{record} of the case which indicate that a preliminary inquiry has been going on with a view to taking action against the petitioner under para 2308 of the Indian Railways Establishment Code. The petitioner's provisional pension and provident fund have already been released. The claim about release of final pension is premature in view of the contemplated action. However any amounts due to him in respect of leave encashment and also, subject to any rules and action there under, any amounts relating to gratuity also may be released likewise -subject to this the writ petition is dismissed as premature.

Sd/- U.C. Srivastava.

Sd/- K.N. Goyal.

15-12-1983.

Assn. Personnel Officer
N. B. Lko.

The Divisional Railway Manager (Engg) ¹⁰⁶
 Northern Railway
 Lucknow

No. AS/prof/86.

Sub: Enquiry into alleged shortages
 of materials under the custody
 of Sri. A. Sebastian while holding
 charge of stores of FWD (I) LKO
 Ref: AEN (G)/LKO No Enquiry/Sebastian
 85-86 5/10/13-Jan 1986 and others.

Dear Sir,

The Enquiry mentioned above has been completed after a period of four years. From the enquiry report I have been held directly responsible for certain items mentioned below. I request you to please now give me a personal hearing to plead my case so that whatever lacuna remains may be cleared and my RLG etc be paid up. I also desire that I be heard in the presence of Sr. Accounts Officer LKO and Sr. Accounts Officer (Stores) AMV and also both the Enquiry Committee Officers.

Annexure A. ~~Shares~~ Para 62. ⁵¹⁰⁵ 103/1
 C Para 80 100/4
 D Para 86 Item 7 95/9
 D Para 86 Item 14
 D Para 86 Item 28
 C Para 86 Item 2 99/5

Assn. Personnel Officer
 N. B. Lko.

Assn. Personnel Officer
 N. B. Lko.

39
106
2
A13

Annexure C. Para 86 Item 54 - SNB 97/7.

I request that a very early date
may please be fixed for this
so that I may not be denied
justice and fair play

Thanking you

Yours faithfully

Sebastian

A. SEBASTIAN

EX ARN FID

18/86

C/ MR. V. M. Kapoor

84 Kanpur Road

Lucknow

C/ to Sr. Accounts Officer & Dy. Secy.

W. B. Lko.

ASST

W. B. Lko.

105/1

40

A/14

The Divisional Railway Manager (Engg)
Northern railway (Hazratgunj)
Lucknow.

Dated Jan 18th. '86.

Ref; Payment of Retirement dues of Sri.A.Sebastian Ex A.E.N.
Faizabad.

Subj. Enquiry into the alledged shortages of materials under
the custody of Sri A.Sebastian while holding charge of
stores of P.W.I.(1) Lucknow.

Ref A.E.N.(G)/LKO. No. Enquiry/Sebastian/85-86. dated 10/13
Jan. 1986.-----

Dear Sir,

In response to the findings submitted by the second Enquiry
committee comprising of Sarva Sri D.R.Manchanda S.A.O./W.CB.
LKO. and Sri Kesho Prasad AEN(G) LKO. I hereby offer my
parawise remarks.

AEN(G) has very aptly brought out the actual reasons for the
abnormal delay in finalising this enquiry which has taken over
three years. But on page 1 I am sorry to see an accusation against
me wherein I have been wrongfully accused of not giving
my home address which was with the Rly Administration from the
day I retired. Secondly that I did not attend the sittings on
2.2.'83, 7.2.'83, and 9.9.'83. These accusations have been
motivated by the Member Accounts and are incorrect. Here is
a clarification. On 2.2.'83 I attended the AEN (1) office and
requested that my statement be taken, but was told that I would
have to wait till all the people to be examined were finished
with. I was given the letter for the next date 7.2.'83.

ON 7.2.'83 Sri R.B.Gupta and myself went to the A.D.A.O's
office and waited till 11.35hrs for Sri. Manchanda. When he did
come he asked for all the documents but these were not available
nor was there a typist available, and the enquiry was postponed
for 21.3.'83. On this date the A.D.A.O.himself was not present.
On 5.9.'83 I arrived at the P.W.I's office at 11.00hrs. and was
told that the enquiry was postponed due to an objection from
Sr.Accounts Officer who had objected to the appointment of a
new Enquiry Officer Sri K.K.Misra AEN.1. Here too it will be
seen that the E.C.did not think my presence of much importance.

Annexure 'A'.

Para. 12 (62). Shortage of 6,951Kg Timber scrap.
This shortage is due to non accountal of wooden sleepers put
into the track during accidents as this is the quickest media
for restoring track after releasing C.I. sleepers. This is a
common failure of the staff ie, the A.P.W.I or P.W.Mistry who
attends the accidents. This also accounts for the huge excess
of C.I. and W.I. scrap with almost all P.W.Is. Another very
genuine reason is that here at LKO. the P.W.I. has to issue Scrap
wood to staff on payment and otherwise. It is impossible to be
very accurate in these transactions as in 100% cases some excess
is always given. Moreover according to Store Code para. 3263
2% allowance is given to the stock holder to balance these
shortages accruing from one S.V. to the next. I, therefore request
you to adjust the shortage with the excesses in C.I. and W.I.
Scrap in the Stock Sheets of PWI.(1) LKO. in 1977/78 the period
to which this relates or give me the benefit as per para 3263
which covers the discrepancy due to issues of 412 M.T. of Timber
Scrap from 1975 to 1977.

1977/78

C9: 5,770kg

W1: 9,000kg

Assst. Personnel Officer
N. R. Lko.

ASSISTANT

Annexure (C).
Para. No. (80). Posting of Electrodes - 3240 nos.
Here the accusation was basically "Non accountal in the Welding Register on page 33. The member Accounts had an objection to the issue of some electrodes during a certain period where the portion of the page was torn off due to the age of the paper. He wanted me to produce some documentary evidence showing the day to day issues of this particular period which was maintained by me as there was no other form of document ever being maintained in the P.W.I.'s workshop for the original is uncalled for and rather unfortunate as there never has been any other document. Moreover the E.C. has very kindly consented to corroborate the utilisation of these electrodes from the P.C.D.O. being issued every month. Had this been the intention of the E.C. I should have been advised as I have been attending every sitting and also on other dates. X

Para 86. (36). Buffer Springs 33

$$105\frac{1}{2}$$

415

Annexure 'D'

Para 86/7. Materials to S.R.W.GZB.

These materials were booked to GZB in Wagon No.36890 and not 36696 on R.M.C.No.653231 dated 26-12-'74 and accepted by C.IC Fatchali Sidings on 31-12-74. The issue note was made out at a much later date due to the continued absence and indifferent attitude in the working of my M.C. Sri L.N.Misra. I presume that since the wrong date was inadvertently being referred as well as the wrong wagon number no, no proper trace could be made especially when the case is over ten years old.

I now request that the materials which were obsolete and scrap be adjusted with the excesses in Stock Verification of 1975 where these materials figure in the stocksheets and which are attached for your perusal.

Materials concerned are; Jaws 'G' type -398nos @ .5Kg= 260Kg. Angle Junction Plates-398nos-@ 4Kg= 1592 Kg. total-1852 Kg W.I. scrap. Against this shortage of W.I.scrap there is an excess of 3192 Kg W.I.scrap for which there is no source of receipt.

Para 86/17. Xings 90R 1in 12- 3 sets and Switches 90R -3 sets. sent to PWI/EM at ABP. in BFR No. 49729 S.E. This BFR was actually booked vide R.M.C. No.653248 dated 6.2.76 and again as explained above due to the carelessness of the M.C. mentioned the Issue Note was made out very late. Although the BFR could not be traced due to incorrect information, the RMC is the only and tangible proof that the BFR was booked in Feb.'76 and not April'77. This is further corroborated by the fact that in the Stock Verification of PWI/SHG in April'76 there are excesses of Xings and Switches for which no source of receipt is forthcoming. this is proof that he did receive these materials and utilised them but inadvertently did not show the source of receipt.

Excerpts of the Surplus Returns of PWI/SHG for APR/76.

Page 64.item 115. Tongue Rails 90R 15'-6" -- one excess.

" 116. ---Do---75 lbs two excess.

Page.165 Tongue Rails 90R 25'-0" one excess.

" 166 Tongue Rails 90R 15'-6" one excess.

" 167 Tongue Rails 90lbs two excess.

Total 7 nos Tongue Rails excess.

Page 163 Xing 90R 1in 12 - one excess.

" 164 Xing 90R 1in 12- eleven excess.

Page 65 item 118 Stock Rails 90R 10.98. one excess.

" 65. " 119 Stock Rails 90R 9.15 M. one excess.

As regards four other Stock Rails, these must have been accounted as rails as is the practise everywhere. I had asked for the StockSheets of PWI/SHG for April 1976 vide my letter dated 11th Nov.'65.to substantiate my remarks but these have not been produced so far,as such I request you to exonerate me of this charge.

Para 86/28. Ashes 125.40 cums.

These ashes were used by the Construction Department for the extension of Goodshed Platform vide C.E. Plan No. 25264-4 and AEN(C) LKO demand letter quoted and AEN(11) LKO letter also quoted. I am being held responsible for this shortage without giving me a chance to prove the correct utilisation. I request you Sir to please consider these points before taking action against me. These ashes were lying along side the Platform to be extended, Both the AENs must have seen these ashes to have requisitioned for them, hence the demand from the Construction Department.

Assu Personnel Officer
N. R. Lko.

In reply to being questioned by the D.O. Sri S.K. Chopra IOW

construction at that time stated that the platform was built up of earth brought from some distance outside the goods shed. It is feasible that material, lying at a stones throw, which is Railway property and the most suitable material for filling of a platform, and which has been requisitioned by Superior authorities be discarded and an unnecessary expenditure be incurred by transporting earth from some distance away? I therefore request that this platform be dug up and my statement be verified before a final decision is taken to penalise me.

Sir, from the whole episode you will see that I was made a victim of circumstances and have to undergo not only monetary losses but mental torment, deprivation, and character assassination for four long years which has left me and my family in very great financial distress.

Yours faithfully,

A. Subastian. Ex AM. PD. C/O Sri V.M. Kapoor

84, Kanpur Road

Kanpur.

Asstt. Personnel Officer
M. R. Lko

105/4

43

Extract of Stock Sheet of PWI. (1) IRO 1975.

105/5

4 (A181)

S.S. S.L. Description	Short.	Excess.	Remarks.
3. 26. CST/9 Plates	2332	---	2052 nos were used by PWI (11) vide voucher no. 149676, 80, 83. balance 276 short.
17. 164. CST/9 Plates	222	800	Adjusted with 276 short balance 524 excess.

20. 193. Tie Bars Long		3557	
20. 194. ---DO---	4384		1026 nos issued along with Cst/9 plates in item 26 leaving a balance of 3358 which is adjusted with 3557 excess

19. 135. D&O Plates	62		
24. 234. CST/9 sleepers		5	10 plates + 5 tiebars.
24. 235. ---DO---U/S		52	104 plates - 52 tiebars.
24. 236. D&O Mod Sleepers		65	
24. 237. Pot sleepers		118	236 plates + 118 tiebars.
24. 238. ---DO---		13	26 plates + 13 tiebars.
24. 239. Fowler Box Sleepers		87	174 plates + 87 tiebars.

Nett Result.

C.I. Scrap of C.I. Plates 524 @ 10 + 10 + 104 + 65 + 236 + 26 + 174
Total ---1139 @ 35 Kg ea. = 39.865 Kg Excess.

W.I. Scrap of Tie bars --- 5 + 52 + 118 + 13 + 87 = 275 @ 8Kg = 2200 Kg Excess.

3. 21. Gibs Gtype	112		@ 10Kg = 1.12Kg short.
3. 22. Keys F. Type	173		@ 5Kg = 8.65Kg Excess.
3. 23. Jaws G. Type	116		@ 5Kg = 5.8Kg Excess.

The excess of the above may please be adjusted with 595 nos which have become short due to non receipt of Wagon No 36620 sent to GZB.

Balance of 402 nos @ .5Kg = 201 Kg short W.I. Scrap.

3. 24. Locking Bolts	3	@ .5 Kg = 1.5 kg excess.
3. 25. Cotter 75lbs	15	@ .5 Kg = 7.5 Kg "
3. 27. W.I.B. Plates	129.	
3. 28. Spl. B. Plates	113.	
12. 131. ---DO---	117.	
12. 132. ---DO---	212	
14. 135. ---DO---	124	
14. 137. ---DO---	5	
20. 191. W.I.B. plates	27	
15. 143. M.S. B. Plates	487.	
26. 251. W.I.B. Plates	322.	
14. 136. M.S.B. plates	176.	
19. 190. W.I.B. Plates	450.	
20. 239. ---DO---	239.	
24. 244. W.I. Scrap	170Kg	

these items = 359 nos may please be adjusted with items 134 135 137 of S.S. No. 14 = 323 excess.

Set off with each other above

Note the total W.I. scrap so far is 2200 + 275 + 170 = 2,645 Kg. Adjusting the shortage of 595 - 116 = 479 Jaws G Type @ 0.5 Kg the balance is 2,338 Kg Excess. This covers Para 86 item 7 of O.H. report.

As regards Junction Plates - 398 nos. These are just 60lbs fish plates bent at Rt. Angles for the Square Xings in the Loco and C&W workshop tracks. These may be adjusted as under.

1. 3. Fish Plates 90x	168	excess	Total excess = 134 nos
1. 4. ---DO---	6	"	383 nos.
1. 5. ---DO---	90BS.	103	"
27. 256. ---DO---	90 lbs	30	"
1. 1. ---DD---	75lbs	76	"
2. 15. ---DO---	90lbs	105	short.
2. 16. ---DO---	90lbs	9	"
26. 247. ---DO---	90lbs	96	"

Total Shortage 207 nos. Adjusting both balance 176 @ 8Kg = 1408 Kg Excess.

Assst. Personnel Officer
N. R. Lko.

The Divisional Superintendent Engr.
(Coordination)
Northern Railway
Lucknow.

107
A/4.3.86

Sub: Settlement dues of Sr. A. SEBASTIAN
Ex AEM - F.D.

- Ref: 1. Your No Enquiry / Sebastian / 85-86. of 13/1/86
2. Your No 48/WA/CHR/55E-2/PWJ-I-LKO/1/17
3. My letter No AS/20/26. of 18th Jan. 86.

AEV
Recd by me
on 19/3/86

Dear Sir,

I had requested to you vide my letter
quoted above as well as personally to
please give me a personal hearing to
clear my case and clear certain
items which had been left outstanding
by the Enquiry Committee. I also requested
that the Sr. Accounts Officers TKG and AMV
(Stores) be present to hear my plea
so that my case which has been pending
for over 4 years. I am sure you can
visualise the financial straits I am
under, going through my retirement.
You had appreciated my difficulties and
assured me that you will move
in the matter and see that my case
is finalised.

Thanking you.
Yours faithfully
A. Sebastian

88
10/1/86
A/4.3.86

46
APR 20

from

Sri A. SEBASTIAN
C/ Mr. V. M. Kapoor
84 Kapoor Road
Lucknow

अन्तर्राष्ट्रीय पत्र कार्ड
INLAND LETTER CARD
1314



Sri. Buck Prasad
Divisional Superintendent Engrs
Northern Railway S.D. Office
Agra
Agra
Lucknow

दिन PIN

2 2 6 0 0 1

पिना मीठे THIRD FOLD

पिना मीठे FIRST FOLD

इस पत्र के भीतर कुछ न शक्ति NO ENCLOSURES ALLOWED
एने में दिनांक लिखें WRITE PIN CODE IN ADDRESS
प्रेषक का नाम और पता — SENDER'S NAME AND ADDRESS :—

Sri A. Sebastian
C/ Mr. V. M. Kapoor
84 Kapoor Road
Lucknow

दिन PIN

2 2 6 0 0 1



असह्यता ईश्वर और मानवता
के प्रति अपराध है।
UNTOUCHABILITY IS A CRIME
AGAINST GOD AND MAN

दूसरा मीठे SECOND FOLD

HERE TO OPEN CUT HERE

Northern Railway Hazratganj
Lucknow

110
D/25/7/86

Sub: "Finalization of Settlement dues of Sri
A. SEBASTIAN Ex ARMY E.D.

2. Enquiry / SEBASTIAN / 85-86 D/10 Jan 1986.

3. My appeal dated 30-5-86 and 9/7/86

Dear Sir,

In continuation of my several appeals since 1982, there seems to be no replies coming forward to any of them. The enquiry committee have submitted their final report in which I have been exonerated of 98% of the charges framed against me.

You gave me your assurance that you would delve into the case and finalise the same by giving me an opportunity to explain the outstanding issues. Back in April this year but as circumstances did not allow, I met you again on 22/7/86 and you assured me that you would finalise the case and accede to my request. I again gave a brief account of the outstanding issues.

Annexure A, Para 17 - accepted, Para 86/33 accepted, Para 62. Shortage of 93361kg Timber Scrap explanation given. Para 80 Annex "C". No further comments for Rly. Adm. There is actually no shortage and no loss to Adm.

Annexure "C" Para 86 - No rebuttal from Adm (Optg) on EC's remarks. 84. Annexure "C" Para 86/57. Verified I/Note handed over to ARMY (G) in May 86.

Annexure (C) Para 86/35. EC has failed to get the non account of these materials although they emphatically believe that the materials have been accounted for, hence the exonerated

48
222



अन्तर्देशीय पत्र कार्ड
INLAND LETTER CARD

Shri Budhkar Prakash
Divisional Engineer (C)
Northern Highway, Civil Office
Hagari, ...
Lucknow 226001

आपका पत्र मिला है। इस पत्र के भीतर कुछ न लिखें। NO ENCLOSURES ALLOWED

पत्र में सिर्फ कोड लिखें। WRITE PIN CODE IN ADDRESS

पत्रक का नाम और पता: — SENDER'S NAME AND ADDRESS: —

Sr. A. SEBASTIAN
C/O B. V. M. Kapoor
84 Kumbhar Road
Lucknow 226001

पत्रक का पहला फोल्ड FIRST FOLD

Annexure "D" Para 86/7: Remarks of the whole case are hinged on the wrong wagon no and date of despatch. The wagon no was 36896 D/26-12-74 and not 36696 D/5-11-75. I request this shortage to be adjusted with excesses - Moreover the case is more than 10 years old hence not tenable.

Annexure "D" Para 86/17: Adm failed to produce records. Moreover my explanation shows clear receipt of these materials due to excesses of these items in Stock Sheets of PWD SHG during this period. Again PWR No is 49728 SH dated 6-2-76 RMC No 653248. The date on 2/1 Note was wrong hence the case could not be traced correctly.

Annexure "D" 26/28: This is a case of carrying load to Kew Cagle by the Construction Dept. Sir, the whole case is before you in a nutshell and I am sure everything is crystal clear. I finally exhort you to please finalise my case and alleviate my suffering, physically & mentally.

Thanking you faithfully,
Yours faithfully,
A. SEBASTIAN
C/O V. M. Kapoor 84 Kumbhar Road Lucknow

ms

Dated: 15th Sept. '86.

To,

The Divisional Superintendent
Engineering (Coard),
Northern Railway,
Lucknow.

Sub: I- Q.H. Report No. 48/WA/OHR DSE-2/PWI-I-LKO/1-17
dated 6-2-1985.

II- Enquiry / Sebastian/85-86 dt. 10/13th Jan. '86.

Dear Sir,

In continuation of my letter dated Aug. 6th, 1986 I regret that no replies are forth coming. To facilitate the finalisation of the paras remaining as per Enquiry Officers/letters II above I am giving further clarifications parawise.

Annexure 'A'

Para 17 : One Empty drum 45 gallons scrap value accepted.

Para 62 : Shortage of 93361 kg. scrap Wood after adjusting with excesses leaves a balance of 6,951 kg. (S.V. 1977-78).

This shortage may please be further adjusted with excesses in CI&WI scrap in stock sheet of 1977-78 where there is an excess 5,770 Kg. CI scrap and 9,000 Kg. WI scrap of sleepers etc. These analogous items are justified keeping in view that these huge excesses are mainly due to using wooden sleepers to restore traffic during accidents in the yard and releasing metal sleepers. The account is inadvertently omitted by the staff. Then again according to the Store code para 3263 . 2% margin is allowed on desoripenoles from one stock verification to the next. In this case issues of scrap wood in the form of sales to staff as also issues for railway usage accrued to 418 M.T. from April 1975 to Sept. 1978 and 2% of this comes to 8 M.T. which also covers the shortage of 6,951 kg. It is therefore in the ends of justice that I be absolved of this item.

Para 86 : Item 33 Issue Note No. 92 dt. 31-1-79
Zhouzha's Steel = 10 nos and
Spirit level 1 No. accepted.

Since these are scrap as per the verdict of the AEN II LKO the scrap value may please be deducted.

Para 80 : Of annexure "C" Posting of electrodes - 3240 Nos. against Issue Note No. 36-04-1088 dated 7-6-78 and 36-04-1933 dt. 19-5-79

The posting of these electrodes have been seen by the Enquiry Committee in the respective ledger hence the allegation is nullified. Further posting has been done as per norms in force and there is no loss to the administration. Here too, I may please be absolved. The EC had asked for verification of these electrodes as maintained vide PCDO records but nine months have passed and no records have been produced as such I may please be exonerated.

Contd....2.

Assn. Personnel
N. R. Lko.

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A124

Para 86 : Item 56 Annexure "C".
Daffar Springs 22 Nos.

These springs were actually received by CTXR LKO and posted in his ledger on 13-9-77 as scrutinised by the Enquiry Committee. The stipulation that CTXR must certify this for me to be exonerated is still holding this point too far. It was for the administration to have righted the wrong done by making the CTXR verify the Issue Note. Here too I should be exonerated en toto please.

Para 86 : Item 57 . Issue Note No. 86 of 24-4-80 for Portions 908-50 nos.

The issue note has since been verified and handed over to E.O. in May 86.

Para 86 : Item 35 Issue Note No.11/PWI I Lko. Dated 9-6-79
The issue note has been verified and copy handed over to the dealing clerk Sri Viskarma is account Branch.

Para 86 : Item 7 Annexure "D"

Issue note No.21/PWI-I-Lko. dt. 12-11-75 to ASKP
GZB for Jaws G Type = 520 nos A
Angle Junction plates = 398 nos.

The materials were actually loaded in wagon No. 36690 NR on 26-12-74 and not in wagon No. 36696 dt. 5-11-75. The relevant RIC No. 653231 dt. 26-12-74 is available for perusal. More the whole case has been wrongly projected. Then again the Railway administration has no records to confirm or deny this aspect, hence my version may please be accepted. The materials which were absolute and scrap weight as under :-

1. Jaws G Type = 520 nos @ 0.5kg each.
= 260 kg.
2. Angle Junction fish plates = 398 kg. @ 4 kg.
each = 1592 kg. Total B. 1852 kg. WI scrap which may please be adjusted with 3,198 kg. WI excess in 1975 stock sheets. A copy of this item of the Stock sheet has been submitted in Jan. '86.

Para 86 : Item 17 Issue Note No.100 Dt. 1-4-77 for
Kings/in 8 1/2 = 3 sets } PWI SHG
Switches 90 Lbx=3 sets }

Since the administration has failed to produce any record to prove non receipt of these materials, I may please be exonerated as suggested by the Enquiry Committee. Further the Ledgers of PWI SHG show Re excess did receive them and for which he has no explanation for source of receipt for the excesses of these items.

Assn Per. Secy
N. R. Lko

Contd....3.

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A125

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Para 86 : Item 26 . Issue Note No. 37/dated 15-7-78 to
IOW(C) Lko. for 125 cum of ashes.

Evidence is on record to show that the demands for this commodity by AEN(C) fortified by the order of AEN II LKO for handing over these ashes for these extension of Goddshed Flat-form No.1 at Lucknow. These ashes were lying atleast 30 ft. away and were the ~~anahst~~ best material for this work yet utilization of the same has been denied. It is a case of "Carrying Coals to New Castle" because the man who did the job (IOW)(C) LKO states that he brought mud from the Running Shed area through a contractor and for which ~~an~~ a bill has been paid to the latter. There seems to be a "fly in the ointment" so I request that the platform be dug up at places to verify my statement. ~~xxxx~~ Moreover the work has been executed as per a sanctioned plan of the construction department. As such the Construction Department may please be asked to accept the debit and I be exonerated.

From the above explanations it is evident that there are no grounds for holding up my legitimate dues i.e. D.C.R.G. and Commutation of Pension. I request that all moneys due to me be now paid without further delay as 4 years and 9 months is too long a period for a retired man to be persecuted in small degrees.

Yours faithfully,

Im ay
[Signature]
(A. SEBASTIAN)
c/o Mr. V.M. KAPOOR,
84, Kanpur Road,
Lucknow.

[Signature]
Asstt. Personnel Officer
N. R. Lko.
W

(A126)

In the Hon'ble Central Administrative Tribunal
Lucknow Bench, Lucknow.

C.A.T. Case No. 75 of 1988

A. Sebastian ... Applicant

Versus

Union of India and others ... Opp. parties.

Rejoinder Affidavit in reply to the counter
affidavit dated nil, received on 16.10.1989

F.T.
L
25/11/90

I, A. Sebastian, the applicant in the
above noted case, having gone through the counter
submitted before the Hon'ble Court by the opposite
parties, have to respectfully submit as under :-

1. That the opposite parties have given
brief history of the case in 26 paragraphs.
These are against rules of procedure, as the
counter should have controverted the averments
of the application only, and therefore they should
be discarded as these paras are the versions of
the opposite parties not in reply to averments
of the applicant in rebuttal, but for putting
their case which is not warranted under any
or C.P.C.

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[Signature]

A127

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2. That para 1 needs no comments.

3. That in reply to para 2 it is stated that the charge of not handing over charge and keeping the records in the applicant's custody is baseless as the opposite parties themselves admit in their letter vide Annexure C-4 (copy) that 'you handed over charge to Shri Tripathi on 13.11.1981. This letter was addressed by Divisional Supdt. Engineer on 23.7.1983 to the applicant and. Therefore, this charge is baseless. This is further to state that the Vigilance Department of the Railway had, with the orders of the D.R.M., taken away every record pertaining to stores accounts in February, 1978 and it was after personal chasing of the applicant that the same was returned in 1980. These records contained all receipts of tools and plant and materials issued to various subordinates in the interest of railway working alongwith the issue vouchers and daily material transactions register. During this period of 3 years, the materials stores clerk was absconding. The staff to whom materials were issued were transferred and they deliberately or inadvertently failed to account for the material taken by them and this fact is proved by the repeated letters sent by the applicant to them, which were ignored, vide Annexures R/1, R/2, R/3, R/4/R/5

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4. That in reply to para 3 it is stated that the office order referred in this para is merely a letter of complaint from Senior D.A.O. to the D.S.E. II pertaining to records for the period 1974 to 1977. This is not an office order. However, a photo copy of the reply to this letter sent to D.S.E.II and copy to Senior D.A.O., which is annexed as Annexure ⁴R/6, R/7, reveals the eagerness and anxiety of the applicant to get the matters finalized before applicant's retirement.

5. That in reply to para 4 it is stated that the applicant retired on 31.1.1982 and not on 31.11.1982.

6. That in reply to para 5 it is stated that with regard to not returning old records, a letter dated 9.3.1982 was despatched, vide copy at Annexure ⁴R/8, 9, which shows that all the records were in P.W.I's office and were not with the applicant. This fact was also apprised to D.S.E.II personally on 18.3.1982 also, vide Annexure .

7. That in reply to para 6 it is stated that the averments made therein are false and imaginary. The applicant had only pointed out his difficulties due to non-payment of his settlement dues and their illegal detention. The remark of

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A130

9. That in reply to para 8 it is stated that no irregularities have been pointed out nor any evidence or documents in support thereof filed. It is categorically denied as baseless. No irregularity was found by the Enquiry Committee.

10. That the contents of para 9 need no reply. *Annex's R/16, R/17 and R/18 show that applicant furnished reply to stock sheets and all overhauling reports.*

11. That in reply to para 10 it is stated that it does not concern the applicant. This appears to be a fact finding enquiry only and was ~~found~~ *framed* after filing of the writ petition by the applicant in the Hon'ble High Court for payment of pensionary benefits.

12. That in reply to para 11 it is stated that remarks and reply indicated in this para do not show to what matter they relate nor any copy of the same has been annexed. No such letter was given to the applicant.

13. That the contents of para 12 do not concern the applicant.

14. That in reply to para 13 it is stated that full cooperation was extended to the Railway Administration and reply of the letter referred in,

Debarshi

A131

this para was also given by the applicant.

15. That the contents of para 14 need no comments.

16. That in reply to para 15 it is stated that this para contains the reproduction of the counter affidavit filed by opposite parties in the writ petition case no.667 of 1983 filed by the applicant in the Hon'ble High Court, Lucknow, which was decided on 15.12.1983. Annexure C-5 is the copy of the order which indicates the patent hallowness of the charge. That action under para 230 of the Indian Railway Establishment Code was contemplated which was never taken as there was no shortage and ^{rather} ~~neither~~ it was excess. The judgement shows that the Hon'ble Judge directed for release of pensionary benefits, on 15.12.1983, which were finally released after a delay of 4 years to 6 years. It may be mentioned here that no action under para 2308 was initiated nor any charge sheet, criminal trial or D.A.R. proceedings were initiated and the enquiry report put the blame entirely on railway employees and their non-cooperation etc. This shows the harassing tale of the applicant.

vide Annexures R/10, R/11, R/12

17. That in reply to para 16 it is stated that the preliminary enquiry report has been struck down by the competent authority vide his letter No.

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48/WA/DHQ/DSEII/PWII/Lko/1/M dated 19.12.1984
vide Annexure R-10/R-11. The reasons for striking
down the report show the faulty procedure adopted
by the administration in not associating the
applicant in the enquiry. These faulty dealings
and rough shod action caused delay for which the
entire blame goes to the opposite parties. *Vide Annexure's*
R/10, R/11, R/12
4

18. That in reply to para 17 it is stated
that the report dated 10/13.1.1986 exonerates the
applicant completely and puts the entire responsibi-
lity on the railway administration and the working
subordinates for non-cooperation and delay and this
amply proves that it was the subordinates of the
railway who did not cooperate and not the applicant,
as the enquiry committee has nowhere blamed the
applicant for delay in finalization of the enquiry,
vide Annexure *R-10*
2

19. That the contents of para 18 need
no comments.

20. That the contents of para 19 are
admitted. It confirms the fact that the applicant
had cooperated at every stage whenever called upon.

21. That the averments made in para 20
are admitted.

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22. That the averments made in para 21 are admitted. This indicates that how actively the applicant cooperated with the administration.

23. That the averments made in para 22 are admitted. The Enquiry Committee was requested to dig up the platform to see the fraudulent payment of the bills to the contractor for using mud brought from a distance of 3 kms. when the ashes demanded by A.E.W.(C) Lucknow was lying 50 ft. away and were actually used for filling up, but the applicant's request was ignored to implicate him falsely and shield the *real culprit*. The other items were passed by the applicant and were accepted as correct by the Enquiry Committee. Thus the cost debitted was unwarranted, vide Annexure A-13, R/14

24. That the contents of para 23 are admitted. It speaks of bonafides of the applicant and urgency to release the pensionary benefits without deductions.

25. That the averments made in para 24 are arbitrary. They speak of abnormal delay as time lag offinalization of enquiry and release of pensionary benefits is too long. Recovery of Rs.945.95 on 20.4.1987 was illegal as it is on record that the material for which recovery is

Shahid

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being made was in the custody of persons named, properly accounted for by applicant and the men being in service and yet they were not called up to pay or return the material. D.S.E. himself wrote to all officers to ensure that the material taken be returned or accounted for, so that the applicant may be exonerated. This letter of D.S.E. was ~~known by~~ ignored by senior subordinates. Annexure R- 15, R/15 A

26. That the averments made in para 25 are not admitted. The sitting of Enquiry Committee was belated due to faulty functioning of 2 Enquiry Committees which were quashed and the third committee was set up, vide Annexures R/11, R/12. The charge of non-cooperation⁴ of the applicant is thus baseless and mischievous, as explained in previous paragraphs. It has been adopted as a device to hide the delays of the administration, but the action of opposite parties stands exposed being arbitrary and against rules, instructions of the Railway Board

27. That interest is payable in case payment is delayed after 2 months. This is as per rules and circulars of the Railway Board, provisions of the Establishment Code and Pension Manual. After all it was applicant's money and not a bounty or charity detained by opposite parties illegally, and interest has to be paid as

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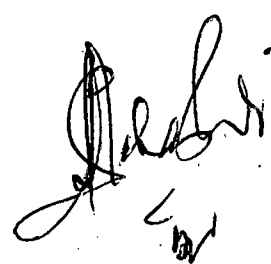
held by Hon'ble Supreme Court, Hon'ble High Court and Hon'ble Central Administrative Tribunal in many cases and when there was abnormal delay in release of pensionary benefits.

Parawise reply

1. That paras 1 and 2 of the counter need no reply.

2. That in reply to para 3 it is stated that the reply furnished is vague and not to the point. The reasons adduced for delay in payment are not cogent. The Railway Circulars for prompt payment and payment of interest in case of delay have been ignored. Averments made in para 3 of the application are reiterated as correct and averments made in para 3 of the counter are denied.

3.(a) That in reply to para 3(a) it is stated that the opposite parties admit release of Provident Fund in May, 1982 but state that this was done after formalities were completed and obtaining sanction of the competent authority. As per provisions of the Railway Establishment Code, it should have been paid on termination of service and normally within 2 months, but there was delay of 3 months and it has been held by the Hon'ble Supreme Court, Hon'ble High Court and Hon'ble Central Administrative Tribunal in many cases vide 1985 LIC 664



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State of Kerala Vs. Padmanathan that "the liability of to pay these dues at the current market rate of interest would commence at the expiry of 2 months from the date of retirement, the interest being payable to the employee from the date of retirement upto the date of payment." Thus the claim is perfectly justified.

3.(b) That in reply to para 3(b) - Pension, it is submitted that the opposite parties admit that the pension was released on 30.4.1983, which is in breach of instructions of the Railway Board which provides that the payment of superannuation pension should in all cases commence from the 1st of the month in which they are due. For attaining this objective, detailed instructions have been issued by the Board ordering that it should be ensured that payment of pension in all cases commences from the 1st of the month in which due, vide Railway Board's letter No.E(G)34 FM 1 A/8 dated 18.6.1984.

Railway Board's letter No.F(E)III 76 EX/ 1/3 dated 8.4.1976. The Board have already framed a time table which is intended to be followed strictly, ordering for payment of provisional pension and gratuity by the 1st of the month in which it is due. None of these rules were followed despite reminders, vide Annexure R-A 15 M/2 There was no justification to withhold gratuity, pension, leave encashment

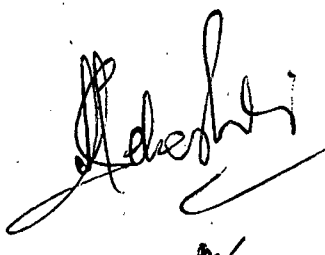
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or commutation of pension, as no departmental or judicial proceedings were instituted or pending or continuing against the applicant. Even in these cases, 100% pension admissible should be authorised as provisional pension as in case of normal retirement, even this was ignored in clear breach of Railway Board's letter No. F(E) III/78 PN 1 11 dated 17.5.1978. The averments made by the applicant in para 3 (b) of the application are reiterated as correct.

3(c). That leave encashment is admitted to have been paid after 3 years without payment of interest accrued due to delayed payment. There is no provision anywhere in any rule for withholding this amount, as no deduction can be made from this. Thus, the applicant is fully entitled for claim of interest for delayed payment of more than 3 years at the current market rate as the action of the opposite parties was vindictive, harassing and against rules and against the directions of the Hon'ble High Court. It was the applicant's money with the administration which was due for payment on the date of retirement, but was delayed for more than 3 years.

3(d). D.C.R. (Gratuity) - That this was paid after more than 5 years despite repeated reminders vide Annexures A/1 to A/12 without payment of any interest that had accrued on the same. This was vindictive, harassing and against the



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the instructions of the Railway Board which provide that interest @ 10% per annum may be allowed on the delayed payment of gratuity for the period beyond 3 months after it becomes due and would be payable till the end of the month preceding the month in which the payment is actually made, vide GOI - MOH (DPAR) Office Memorandum dated 28.7.1984. As stated in preceding paragraphs, the Hon'ble Supreme Court in its judgement reported in AIR 1985 at page 356 has held that "pension and gratuity are no longer bounties to be distributed by the Government to its employee on their retirement but has become under the decision valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till the date of actual payment".

E Even in case of a Railway servant against whom disciplinary or judicial enquiry have been instituted and on conclusion of the proceedings they are fully exonerated, the interest on delayed payment of D.C.R. (Gratuity) may be allowed in their cases in accordance with the above instructions. In other words, gratuity in such cases will be deemed to have fallen on the date following the date of retirement for the purpose of payment of interest on the gratuity". There was neither any judicial proceedings or criminal proceedings against the applicant and the abnormal delay,

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actually done, by the opposite parties and payment arranged accordingly comes to Rs.22,332.24 against the amount due Rs.27,220/-. As such, the applicant is entitled to the commuted amount of Rs.27,220/- plus interest at the rate of 18% per annum within 2 months from the date of retirement and it works out to Rs.29,498/- i.e. total of Rs.56,718 - 22332 (already paid) i.e. due amount comes to Rs.34,386/-.

This delayed payment has unnecessarily been done which has illegally thrown a load on the pension inasmuch as the revival after 15 years will now be delayed and will be in the year 2002. It is obvious that the payment of the amount delayed could have been invested by the applicant elsewhere which could have given interest, but which was delayed due to illegal act of the opposite parties. It is further submitted that as per directives of the Railway Board the payment of pensionary benefits to the railway employees are automatic and cannot be withheld unless the railway employee is found guilty after holding departmental or judicial proceedings, vide Railway Board's letter No.F(E)/III-80-PN 1/9 dated 8.6.1983. This not having been done, the applicant is fully entitled to claim as preferred.

3(f). That in reply to para 3(f) it is stated that the averments made in this para are denied. It has been held vide 1972 SCR 836 SC that Government is not entitled to reduce the

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therefore, warrants payment of interest at the current market rate, as held by the Hon'ble Supreme Court, Hon'ble High Court and Hon'ble Central Administrative Tribunal and the Railway Board's instructions.

That the charge of non cooperation levelled against the applicant is totally baseless and wrong and is denied.

3(e). That in reply to para 3(e) it is stated that the opposite parties admit to the payment of commutation amount in September, 1987 i.e. after more than ²6 years of retirement. The delay is attributed to alleged non-cooperation of the applicant in the enquiry in regard to the claims and debit clearance. These allegations are baseless, mischievous and false and have been replied in detail in preceding paragraphs. As per rules, commutation value of Re.1/- at the time of retirement of the applicant was Rs.129/- at the rate of Rs.10.78 x 12 and as the applicant's commutation took place after 6 years, the value of Re.1/- at ~~that~~ ⁴64 years of age payable was Rs.8.82 x 12 i.e. Rs.104.84. Thus it is apparent that despite repeated reminders the opposite parties deliberately, in order to harass and harm the applicant, took the illegal decision to withhold payment and thus delayed the commutation of pension which is apparent from the facts of the loss of the rupee when commutation was due and was

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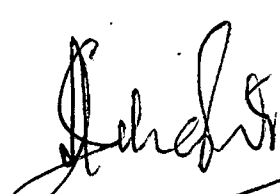
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actually done, by the opposite parties and payment arranged accordingly comes to Rs.22,332.24 against the amount due Rs.27,220/-. As such, the applicant is entitled to the commuted amount of Rs.27,220/- plus interest at the rate of 18% per annum within 2 months from the date of retirement and it works out to Rs.29,498/- i.e. total of Rs.56,718 - 22332 (already paid) i.e. due amount comes to Rs.34,386/-.

This delayed payment has unnecessarily been done which has illegally thrown a load on the pension inasmuch as the revival after 15 years will now be delayed and will be in the year 2002. It is obvious that the payment of the amount delayed could have been invested by the applicant elsewhere which could have given interest, but which was delayed due to illegal act of the opposite parties. It is further submitted that as per directives of the Railway Board the payment of pensionary benefits to the railway employees are automatic and cannot be withheld unless the railway employee is found guilty after holding departmental or judicial proceedings, vide Railway Board's letter No.F(E)/III-80-PN 1/9 dated 8.6.1983. This not having been done, the applicant is fully entitled to claim as preferred.

3(f). That in reply to para 3(f) it is stated that the averments made in this para are denied. It has been held vide 1972 SCR 836 SC that Government is not entitled to reduce the


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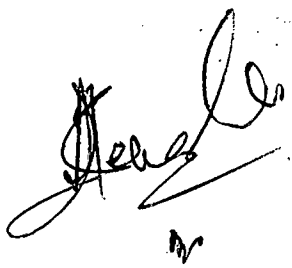
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amount of pension and gratuity without giving a reasonable opportunity to show cause against the proposed reduction, this not having been done in this case. Besides, recovery for loss, viz. material issued to railway employees duly accounted for, employees still working, and instead of issuing notice to them/recovering the amount from them, recovery has been done from the gratuity of the applicant. This recovery is not authorised in law, particularly when it is disputed. It has been held vide 1970 SLR 382 SC in re. General Manager Versus Devabandhan Chakravarti that such recoveries are not authorised in law, the same being disputed, the same can only be decided in Civil Court because Government cannot be the judge on its own cause.

4. That the contents of para 4 need no reply.

5. That the averments made by opposite parties in para 5 are denied and it is stated that the applicant filed a writ petition before the Hon'ble High Court viz. Writ Petition No.667 of 1983 for pensionary benefits, which was decided on 15.12.1983 and the Hon'ble High Court was pleased to order "however, any amount due to him in respect of leave encashment and also subject to any rules and action thereunder, any amounts relating to gratuity also may be released likewise". Despite these orders, the payment of leave encashment was made in 1984, gratuity and commutation



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in 1987, with abnormal delay. Reminders issued in this regard are many which may kindly be perused.

With regard to the limitation it is stated that it has been held by the Hon'ble Supreme Court vide 1974(1) SLR page 1 - Dilbagh Rai ^u Jerry Versus Union of India - that it is unfair of Government to resist its action on technical plea against its own employee who is a small man. In the present case, the railways callously and cantankerously tried to resist an action by its own employee, a small man, by urging mere technical plea which has been pursued right upto the summit court here and has been negatived by the judgement just announced. It is not just and fair for the Government that while formulating the humanist project of legal aid to the poor, contest the claim of poor employee under its plea limitation and the like. It must be remembered that the State is not ordinary party trying to win a case against its own citizen by hook or by crook for the State interest is to keep honest claims to vindicate a substantial evidence".

It has been held in 1973(2) SLR Delhi High Court/DB Page 7 - Moti Ram Versus Municipal Corporation of Delhi - Limitation Act - Pay and allowances - Limitation Act - dues of a retired Government servant - limitation begins when the Government settles dues - it thus appears that no question of limitation arises. All the amounts due

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to him have to be settled by the Government. Until such settlement takes place, it would be idle to regard any portion of such claim becoming barred by such limitation".

1986(1) SLR 631 - Beneficial legislation does not prohibit the court in condoning the delay even though there may not be specific provision".

Representations undecided for about 3 years despite reminders - petition filed in the High Court - petition is maintainable - Babu Gram Pradhan Versus Union of India.

1989 LIC NOC 79 Cal HC Div. Bench - petitioners claim etc. representations as to respondent authorities not taking action - W.P. filed after 10 years - no delay - petition maintainable".

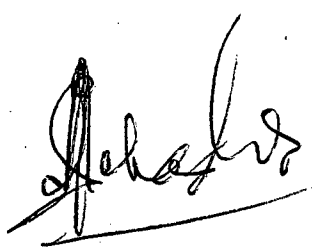
Besides, the representation of applicant dated 30.8.1987 in regard to wrongful deduction was disposed off by letter of D.R.M. dated 10/14.9.87 rejecting the appeal of applicant. Thus applicant's case is in time - Annexures R/13, R/14

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6(a). That the contents of para 6(a) need no reply, as it has not been denied.

6(b). That the averments made in this para by opposite parties are denied. Provident

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fund with accumulated interest due upto the date of retirement was partly paid and not the interest due after retirement. This has to be paid in view of rules of railway and rulings of the Hon'ble High Court quoted in previous paragraphs. The plea of compliance of formalities is baseless as it was the duty of opposite parties to comply the formalities before the date of retirement. For clearance of debits and delay the opposite parties are responsible as is evident from the findings of the Enquiry Committee, vide Annexure . Opposite parties admit that despite receipt of pension application on 1.3.1982 payment was released on 30.⁸.1983 i.e. after 13 months on 30.4.1983, but it was actually paid in August, 1983. Leave encashment was delayed for 4 years and no deductions could be made from this, and the enquiry proceeding being a fact finding enquiry only and not a departmental enquiry in terms of rule 2308 (C.S.R. 351A). Thus, withholding of pensionary benefits was illegal and arbitrary and totally unjustified as no departmental proceedings with specific charge sheet was ever issued against the applicant. The enquiry report throws the entire blame on the staff of the Division, vide Annexure ^{R/10} findings of the Enquiry Committee. ~~vide A~~ _u

6(c). That in reply to para 6(c) it is stated that it is again reiterated that interest accrued upto the date of retirement was paid and not the interest accrued thereafter, and so the applicant's entitled for undue delay in payment of interest.

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6(d). That replies furnished by opposite parties are false and baseless. The averment that "DCR Gratuity and commutation of pension were withheld due to pending enquiry in regard to claims and debit clearance". This withholding was illegal as it has resulted in reduction of amount causing financial loss in payment of commutation amount and gratuity.

Commutation became due to applicant at the age of 58 years, it should have been done at this age. Power of withholding commutation is not provided anywhere. This delay of 6 years is thus punitive in payment of commutation and gratuity. The applicant was agitating since February, 1982 for commutation of 1/3 pension, but no heed was paid and not only this the administration passed illegal order as is averred in reply that due to pending enquiry no dues to be paid till enquiry is finalized. vide Annex R/19

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The applicant retired in January, 1982 and at the age of 58 years the value of Re.1/- of pension was Rs.129.36 at the rate of 10.78 x 12, and after commuting Rs.211/- the amount comes to Rs.27,219/-. But in compliance of the decision taken illegally by opposite parties it was calculated after six years when the rate of Re.1/- of pension was Rs.8.82 i.e. 8.82 x 12 i.e. Rs.104.84 being the rate at 64 years. Thus the applicant was arbitrarily denied 129 - 105 i.e. Rs.24/- for one rupee per year, which comes to a loss of

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Rs.5064/- per year. As such, the applicant is entitled to the amount claimed for commutation and interest on gratuity as per his application.

6(e). That the averments made in para 6(a) need no reply.

6(f). That the averments of para 6(f) by opposite parties are useless, indicating no amendments of the rules and as such the averments made by the opposite parties applicant in para 6(f) are reiterated as correct.

6(g). That the averments made by opposite parties are denied. The charge of not handing over charge is baseless which has been fully explained in preceding paragraph.

6(h). That the contents of this para need no reply.

6(i). That the averments made in para 6(i) are not admitted and averments made in

the application

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Rs.5064/- per year. As such, the applicant is entitled to the amount claimed for commutation and interest on gratuity as per his application.

6(e). That the averments made in para 6(e) need no reply.

6(f). That the averments of para 6(f) by opposite parties are useless, indicating no amendments of the rules and as such the averments made by the opposite-parties applicant in para 6(f) are reiterated as correct.

6(g). That the averments made by opposite parties are denied. The charge of not handing over charge is baseless which has been fully explained in preceding paragraph.

6(h). That the contents of this para need no reply.

6(i). That the averments made in para 6(i) are not admitted and averments made in para 6(i) of the application are reiterated as correct. The applicant retired on 3.1.1982 and he had made requests many times to start handing over of stock sheets which was not done for reasons best known to the administration - Annexure R/3 R/4, R/5

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vide Railway Board No. F(E)/1178 PN-1-11 17/5/78/
NR SN 7008. The circular of Railway Board further
provides payment of gratuity also in cases where
departmental proceedings have been started for
imposing any penalty under clause (1)(ii), (iii)
and (iv) of Rule 6 of D.A. Rules, the payment of
gratuity will be authorized to be paid to railway
servant - Railway Board No. F/E/111-83 PN 1/18
dated 27.8.1983 NR 8388.

Regarding the issue of limitation raised
by opposite parties, the same is baseless for
reasons and rulings quoted in preceding paragraphs
and averments made by applicant are reiterated as
correct.

6(p). That the averments made in this para
by opposite parties are denied and those made in
the application are reiterated as correct. Charge
of not handing over of charge is vehemently denied.
Charge of non-cooperation is not supported by the
enquiry report which lays blame on railway staff
and want of record. *vide Annex R18*
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6(q). That in reply to this para it is
stated that delay in payment of dues is patently
manifest without sufficient cause and against rules
and instructions. Averments made in para 6(q) of
the application are reiterated as correct.

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6(r). That the averments made in this para

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6(j). That the contents of this para need no reply as the opposite parties have accepted the same.

6(k). That no reply has been given to para 6(k) by opposite parties, as such it should be deemed to have been accepted by opposite parties.

6(n). That the reply of opposite parties is baseless. Clarification is necessary when something remains after ^{setting} facts. Want of unwarranted clarification cannot make a man guilty. The charge of non-cooperation has not been upheld against the applicant in the enquiry. Averments made in para 6(n) of the application are reiterated as correct.

6(o). That in reply to averments of para 6(o) it is stated that the averments made by opposite parties are not admitted. Pension disbursing authority being the Division, Bank/Post Office being in Lucknow, delay of 9 months is abnormal. Opposite parties have not quoted the rule which bans payment of provisional pension; on the contrary the Railway Board's directions provide payment of provisional pension in cases where departmental or judicial proceedings have been instituted or/are continued against the retiring railway servant. In such cases also, 100% pension which is otherwise admissible to the railway servant should be authorized as provisional pension as in case of normal retirement

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are denied. This being a Supreme Court ruling fully applicable in this case, no reasons have been assigned as to how it is not applicable.

6(s). That the averment made in this para are denied and those made in para 6(c) of application are reiterated as correct. It has been held in 1972 SLR SC 836 that "Government is not entitled to reduce the amount of pension and gratuity without giving notice and opportunity". This not being having been given to the applicant, it cannot be recovered. Regarding recovery for the material lost from gratuity, it is stated that it has been held in 1970 SLR 382 SC in re. General Manager versus Deva Bhusban Chakravarti that such reasons are not authorized in law, the same being disputed, the same can only be decided by Civil Court because Government cannot be a judge in its own cases.

7. That the applicant reiterates that the reliefs prayed for are just. Opposite parties' reply shows that while they do not admit the amount worked out by the applicant is payable to him.

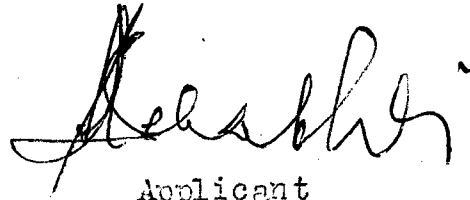
8. That the contents of this para need no reply.

9. That the contents of this para are not admitted. The remedies indicated in application are sufficient and detailed.

10. That the contents of this para need no reply.

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11, 12 & 13. That the contents of these paragraphs need no reply.

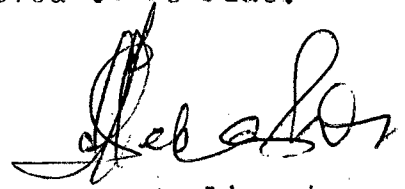


Lucknow: Dated
January 20, 1990.

Applicant

Verification

I, A. Sebastian, applicant, do hereby verify that the contents of paras 1 to 13 of this rejoinder affidavit are true to my personal knowledge and belief and based on records and legal advice which is believed to be true.



Lucknow: Dated
January 20, 1990.

Applicant

Annexure-R1

26

Northern Railway.

Confidential.

No. ENCG/CON/HQ/81.

Shri A. Sebastian,

P.W. I./N.Rly.,

Lucknow.

Divl. Office,

Lucknow:

Dated: 5.2.1981.

Reg:- Finalisation of Stock Verification.

It has been brought to my notice by the Accounts Branch that the stock verification which was started some time in Jan. or Feb. '80 has not been completed so far due to non-cooperation from your side. You are advised in your own interest to finalise the stock verification and after that overhauling of accounts also immediately. All records which were in possession of the Vtg. branch have also been made over to you long back and therefore there is no ~~financial~~ reason why this should not be completed.

It is pointed out that your retirement is quite near and non-finalisation of stock verification etc. can only delay your settlement dues.

Copy to AEN-II/IKO for inf. and necessary action.

(Budh Prakash)
For Divl. Rly. Manager,
Lucknow.

12/2/81

certified to be true copy

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Annexure 2 - Confidential

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Photo From Sri A. Sebastian
I.W.D. I LKO

12-11-81

To DSE / Hd Qrs. LKO

Sub: Handing over Charge

Ref: Your Conf. Letter No W/DSE
-11/Miscell/AEN II/LKO/81
D/ 10-11-81.

Sir,

- I have been appealing to all about the very difficult position I am in regarding proper accountal of my stores and bringing my records up to date
1. I have repeatedly asked for a proper man to replace my M.C. Sri H. N. Misra who is not only absconding frequently but is also deliberately hiding issue notes and important documents.
 2. My Accounts and other records were taken away by the Vigilance Branch in Feb 1978 and after repeated chasing I got them back in Oct 80. This has caused a severe set back to me to bring everything up to date.
 3. I have only one A.W.D. who does not make out the vouchers for over 6 months resulting in delay to my returns.
 4. Huge quantities of material are being received only after Mar 80 and renewals are being done on a war footing.
 5. The released materials are

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to be true
copy
Sebastian
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Annexure R-3

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NR-1726-17-Aug-72-250000 P.

जी. एल. 10-7/GI, 19-A.
नरत 99 छोटा, Genl. 99-Small.

उत्तर रेलवे

NORTHERN RAILWAY

संख्या No. 11/5

दिनांक/Dated 10-12-1980.

प्रेषक/From:

Sr. A. Sebastian
S.W.I. LKO.

प्रेषण/To:

D.S.E. II
LKO.
Through AEN II
LKO

विषय/Subject:

संदर्भ/Reference:

Finalization of Stock Verification
and Over Hauling of Accts

Sir,

I wish to draw your kind attention to the fact that I am due to retire on 31.1.82. Since huge stocks of materials are piling in for yard renewals, I request you to please arrange for my final stock verification and Overhauling of Accts so that I may be in a position to clear everything before I retire.

I may also point out that I need one M.C. as Sr. M. Miora (M.C.) is closing and accounts are lying incomplete. Further it is requested to give me some extra labour to stock materials which are lying unaccountable.

Yours faithfully
A. Sebastian

Copy to be
done copy
A/S

Annexure R4

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N.R. - 197 17 - August, 1964 - 50,000 P.

NORTHERN RAILWAY

G.L. 10-A

Gen. 99-Small

No. 11/S Date: 18-2 1981.
From: Sri A. Sebastian
RWD I LKO
To: AKN II LKO
of DSE II LKO

Subject: My NO 11/S and 3/AS/81 of
10/12/80 and 12/2/81 regarding
Reference: DSE Conf. No Engg/Conf/MA/81 5/5/81-12-81

Please arrange for my stock verification and Overhauling to be completed in April or May 81 and I want to clear these before I retire on 31-1-82. I have been repeatedly requesting for a proper MC as my MC Sri L. R. Meera is not doing any work and has misplaced a lot of records. His constant absconding from duty has crippled my accounts and since I am too busy with yard work I cannot attend to this vital job. The S.V. who had started stock verification is not coming.

*Delayed to be
true copy
in*

Annexure 25

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No 3/AS/81 Photo 2 D/12-2-81

Sub. Finalization of Stock
Verification
Ref. Your Conf. No Egg/Con
149/81 D/57-2-81
Through an X [illegible] LKO

Sir,
I have to inform you
that the Stock Verifier
took some inventories
but he has since been
shifted to work in the
Doko Shops and with
C & W Supdt LKO.
Under these circumstances
my stock verification
is at a standstill

Yours faithfully

In

Debarshi

PW 2 LKO

Copy to be
made copy
Debarshi

Annexure R/L Adm. has failed to maintain records since 1972. They are

R.L. Agarwal,
DSE-II

Northern Railway.

Divl. Office,
Lucknow :

Confidential.

D.O.No.W/DSE-II/Misc/AEN-II/IKO/81

Dated: 15-12-1981.

My dear Sabastian,

Sub:- Stock Verification of PWI(I)/IKO and Spl. Overhauling of accounts of PWI(I)/IKO.

.....

A copy of Sr.DAO/IKO's confidential letter No.81/SV/IKO/SV/Prog. dated 30.11.81 is reproduced below for your information and ~~an~~ immediate necessary action.

DA/As above.

Yours sincerely,

Shri A. Sabastian,
AEN/FD.

R.L. Agarwal
(R.L. Agarwal)

Copy of Sr.DAO/IKO's confidential letter No.81/SV/IKO/SV/Prog. dated 30.11.81 addressed to ACE/IKO.

Sub:- Spl. Stock Verification of PWI(I)/IKO & Spl. Overhauling of accounts of PWI(I)/IKO.

Ref:- Your Confl. letter No.W/DSE(II)/Misc./AEN(II)/IKO/81

In continuation of this office letter of even number dated 23.10.81 it is brought to your notice that the inventory of entire ground balances of P.Way material has since been taken by the S.V. A new ledger of P.Way material is ~~being~~ under preparation for the purpose of handing over to Shri N.C. Tripathi by Shri A. Sabastian as Shri Sebastian has failed to prepare his supplementary M.A.S. Account for the period ending 12th Nov. 1981. In fact he has not yet started the preparation of return with upto date book balances.

Conditions of book balances of other material viz. consumable, petty stores, tools & Plant & Welding material etc. is still worst as in certain cases the ledger posting has not been done from 1974 to 1981.

In the meantime it has been given to understand that Shri Sabastian has been transferred to FD as AEN/FD.

He may not be relieved on transfer because shortages or excesses against him can only be worked if he prepared his return upto date and also completes ledger posting of other material in his custody.

over 4000
He has failed to produce MAS Account returns from 1974 to 1977 before the ISA, for the purpose of O.H. of accounts. Now a days he is not available in his office, but remains at his

Copy sent to Mr. S. K. Singh
A. Chandra

Annexure 27

[Signature]

32

NORTH HERN RAILWAY

No. W/DSB-II/M180/AEN-II/LKO/81

DIVL. Office, Lko know.
Dated. 12.5.1982.

Shri A. Sebastian, Regd. A.D.
Retired AEN/PD.
Quarter No. I-3, Alambagh Road,
Lko know.

Sub:- Speed stock verification & Special over hauling of
accounts of PWI/I/LKO.

....
Please refer to this office letter of even no. dated
9.3.82 and return all the duly verified old records by the
stock verifier to the present PWI/I/LKO Shri Tripathi. This
will enable ISA/LKO to complete remaining work of Special
over hauling of accounts speedily after completion of stock
verification on 30.4.1982.

Please treat this as urgent.

Sd:-
(B.L. Agarwal)
For Divl. Rly. Manager/LKO.

- Copy to:-
1. Sr. DAO/LKO in ref. to his D.O. No. 81/SV/LKO/Prog/ Dated.
27-4-1982.
 2. AEN-II/LKO for information and necessary action. Please let
this office know the latest position in connection with the
above.

Received & file
One copy to file
[Signature]
4/4

Ames R8
Northern Railway-

No. W/DSE-II/Misc/AEN-II/LKO/81

Divl. Office,
Lucknow.

Dated: 25.2.1982.

Regd. A.D.

Shri A. Sebastian,
Retired AEN/ED,
Quarter No-L-3, Alambagh Road,
Lucknow.

Sub:- Special Stock Verification & Special overhauling of
accounts of PWI-I/LKO.

Ref:-

Your attention is invited to this office letter of even number date 15-12-81 and various other letters issued by AEN-II/LKO and this office on the above subject. It has been brought to my notice that all the records of Stores from 1974 to 1981 are in your personal custody. It is requested that immediate action should be taken to return the old records to the office of PWI-I/LKO. Whatever work is required to be done by you should be done in the office of PWI-I/LKO. Store records are important documents and can not be allowed to remain at the residence of any individual.

*I met with Mr. A. Sebastian (3/3)
and Mr. R.L. Aggarwal (R.L. Aggarwal)
and they are in a For Divl. Railway Manager,
Lucknow.
all the records are office
outside the office
in*

*certified to be
true copy of the
original*

Annexure R9

34

154

No. A5/12/15/Box

18

To,

Shri R.E. Agarwal,
Divl. Suptg. Engineer.-II,
M. Aly., Luc Now.

Sub:- Special stock verification and special
over hauling of accounts of PWI/I/LAO.

Dear Sir,

With reference to your letter No. W/
DSE-II/Lao/ALE-II/LAO/31 Dated. 12/5/1982 and
Sr. LAO/LAO letter No. 31/5V/LAO/2003, dt. 27.4.82.

I have already handed over stock sheet
No. 1 to 27 on 24/5/82 in two copies to ALE-II
Luc Now for your scrutiny. All records pertaining
to P. ay materials and EAP are in the office of
PWI/I/LAO and are being checked and handed over
to the present PWI Shri N.C. Tripaldi through
ISA Shri Ashendra Singh as I have been informed
in PWI/I/LAO office on date.

I have no records except documentary
evidence of articles taken by various staff so
that Photo stat copies of the acknowledgement
can be taken and sent to you for necessary
action against the defaulters.

With kind regards,

Yours Faithfully,

(Signature)
(A. SEBASTIAN) 31/5/82
Ex. ALE/Trizabad.

Copy to the Sr. LAO/LAO and ALE-II/LAO for
information.

*Continued to be
file copy*
(Signature)
(A. SEBASTIAN)

36 (161)

A Committee comprising ADAO-LKO, Shri D.R. Manohanda and AEM, Shri R.B. Gupta was constituted on 29.1.83 to investigate into the alleged shortages of material and non-availability of record under custody of PWI-LKO, as pointed out in G.H. Account report No. 82/37/LKO/LKO 11/1/79 of 28.6.82 with the following terms of reference.

1. To ascertain the actual loss of stores for which Sh. A. Sebastian was responsible as per overhauling report in question.
2. To ascertain the details of missing record as per G.H. Report dated 28.6.82 referred to above and to fix the responsibility therefor.
3. To ascertain the actual loss of stores and records pertaining to other PWIs as per above G.H. Report.
4. In addition to above, the enquiry committee may go into the details of discrepancies of any other material which may come into their notice as a result of scrutiny of other relevant record like Issue Notes/Advice Notes/Receipt Issue Note and vouchers etc., available in PWIs office.

*x There reports in this connection were submitted on 18/7/83, 18/7/83, 14/12/83 and 5.9.84. Before the start of enquiry on 1983, Shri Sebastian was in the chamber of ADAO and in presence of Shri R.B. Gupta, Shri Sebastian was requested to attend the enquiry in PWI Office on 2.2.83. His home address was also sought to send the official letter which he hesitated to give. Next sitting was proposed in ADAO's room on 7.2.83 for which he was also requested to attend the same. Again a letter was sent on 23.8.84 to Shri Sebastian to attend enquiry on 5.9.84 but he still did not attend. Sitting was held without his presence with the thinking that availability of record is more important as such whatever the record was produced that was examined and items cleared. Since the progress of production of record was slow as such the delay in finalisation has occurred. Even now record for various items is not forthcoming.

Virtually this enquiry had to finalise the items on the basis of records to be submitted by the Engrg. Department and whatever the record was presented, items were cleared. Now the final report for the remaining items submitted, duly analysed in four Annexures as under:-

Annexure 'A'

showing the items for which Shri Sebastian has accepted the responsibility

- - -

Para 17: One empty drum 45 gallons.

Para 62: Out of shortage of 93361 Kg. wood, 86410 Kg. wood adjusted on request of Shri Sebastian and for the balance of 6951 Kg. Shri Sebastian accepted responsibility.

3 Part = Steel Phawrah = 10 | Shri Sebastian accepted
Level Spirit = 1 | responsibility.

Note 92. PWI-LKO of 31.1.79

for the above is to be arranged by Engrg. Dep

to be true copy
[Signature]

35 (A160)

Re. Enquiry/Sebastian/85-86.

H. Rly., Lucknow. Dt. 10th Jan '86.

21

13



**Regt-Enquiry into the alleged shortages of materials
Under the Custody of Sri Sebastian while
holding the charge of Stores of PWI (I)/LKO.**

Ref:- Your letter No.48/WA /OER/DSE-2/PWI-I-LKO/1/17
dt.06.2.1985

The Joint enquiry report consisting of nine pages, duly signed by Sri D.R. Manchanda, SAO/W/CB-LKO and the undersigned on each page, is submitted herewith for your information and further disposal please.

Inspite of my best efforts, the finalisation of the enquiry has abnormally delayed mainly on account of the followings:-

- (1) An old and complicated case,
- (ii) Non-Production of relevant records by the Optg. A/C. Section to the E/Committee. Even now record for various items have not been produced to the E/Committee ~~XXXXXXXXXXXXXXX~~
- (iii) Non-cooperative and rigid attitudes of the serving subordinates of the Division who had received the materials from PNI(I)/LKO under clear acknowledgement.

The Optg. A/Cs. Section may please be ordered to have a watch on the following action in case of various items.

Referred to his
Solicitor General

13.1.86

(Keshava Pd.)
AEN/G/LKO.- EO

- Copy forwarded to:- (i) Sr. DAO/Lucknow.
(ii) Ho. Accounts Officer (Store)/AMV-LKO.
(iii) AEN (I)/LKO.
(iv) PNI (I)/LKO.
(v) Sri A. Sebastian ex. AEN C/o. Sri V. M. Kapoor
IOW/AMV.
(vi) Sri D. R. Manchanda SAO(W)/CB LKO.
for information and necessary action.

Annexure 11

NORTHERN RAILWAY

Divisional Office,
Lucknow Dt. 19 Dec '84,

No.48/WA/OHR/DSE-II/PWI-I-LKO/1/17

To,

1. Shri R.B.Gupta, Member of the Enquiry Committee,
(AEN - Track - Cell, Drawing Office in Hd.Qrs.Office,
Baroda House, New Delhi.
2. Shri D.R.Manchanda, Member of the enquiry committee,
(Senior Accounts Officer (W) Loco Shop Charbagh
N.Hly., Lucknow.

Sub:-Enquiry into the alleged shortages of
materials under the Custody of
Shri Sabastian while holding the charge
of Stores of PWI-I-Lucknow.

Ref:- This office letter No.48/WA/OHR/DSE-II/
PWI-I/LKO, dt. 6.3.84.

Member of the above enquiry committee, but
you were in complete and technically not
the case was referred back to you vide
on No. dt.6.3.84 (copy enclosed for
Shri A.Sabastian and to submit the
report giving full opportunity to him

Joint enquiry Report is still awaited, you are
requested to fix a date for enquiry at an early date
and submit the final report within thirty day's
certain, and a

Shri R.B.Gupta AEN will fix the date and advise to all
concerned of the date and place of the meeting early.

In this connection a copy of registered letter dt.6.11.84
from Shri A.Sabastian is enclosed herewith for necessary action
by the Enquiry Committee with the association of Shri A.Sabastian.

DAF
as above

D.S.E. LKO

Divl.Railway Manager,
N.Hly., Lucknow.

Copy To:- 1) Shri A.Sabastian Ex. AEN-Faizalad
C/o. V.M.Kapoor, 84-Kanpur Road, 84, KANPUR Lucknow.
In reference to his letter No. Nil dt. 6.11.84 and
23.11.84, with the request he should associate the
enquiry in his own interest which he had been
avoiding since the formation of Enquiry Committee.
He should further also explain the discrepancies/
shortages contained in Accounts Note No.-83/SV/LKO/
Engg./DSE-2/1/17, dt.16.12.83, which contains the
outstanding items pertaining to stock sheet for
his period.

Copy to be
sent to
Shri A.Sabastian

Annexure R12
NORTHERN RAILWAY

38
A/63

No.48/WA/OTR/DSE-II/PWI-I/LKO/I/17

Divisional Office,
Lucknow Dt. Feb'84,
6-3-84

The AEN II/LKO?
N.Rly., LKO
(Enquiry Officer)

Sub:-Joint Enquiry Report dt.14.12.83,
in connection with Over-hauling
A/C. Report No.82/SV/LKO/DSE-2/1/17
dt.28.6.82

Above Joint Enquiry Report dt.14.12.83 submitted by you and ADAO/LKO is in complete and technically not acceptable. The party concerned i.e. Sebastian has not been associated and his statement and remarks have not been taken for the shortages. In other words it is established that Enquiry Committee has not given full opportunity to the Sebastian Ex. PWI to explain the shortages. In fact finding enquiry report, the committee has no power to close any point unless and until the same is accepted by the competent authority. The committee is required only to give findings on each item after examining the party concerned and recording his statements. Hence the enquiry report is not acceptable.

It is necessary that Enquiry Committee should Associate Shri A. Sebastian and submit the findings a fresh early after giving full opportunity to him through Registered letters at his following address.

Shri A. Sebastian Ex. AEN-FD,
C/o. Shri V.M. Kapoor,
84, Kanpur Road, Lucknow.

Final Joint enquiry Report must be submitted within a period of one month.

[Signature]
D.S.E. LKO.

Copy to:- 1) Shri D.R. Manohanda ADAO I/LKO,
Enquiry Officer for information please.

2) Shri A. Sebastian Ex. AEN/FD,
C/o. V.M. Kapoor, 84 Kanpur Road, LKO,
in ref. to his letter No. Nil dt. 9.1.84,
with the request that he should associate
the enquiry in his own interest. He should
for the above explain the discrepancies/shortages
contained in A/c's Note No. 83/SV/LKO/Enqg/DSE-II/
1/17 dt 16-12-83, which is lying with AEN-II - LKO
unreplied.

Registered
A.D.

Certified to be true copy
[Signature]

39

Annexure No. 48/WA/A/Cs-Note/FWI-I/LVO
R.13

Recd

DIVISIONAL OFFICE
LUCKNOW Dt. 10-9-57



SRI A. Sebastian (Ex. AEN-EP),
C/O Mr. V. M. K. Rao,
24, Vignar Road, Lucknow.

[Handwritten signature]



Sub:-Settlement dues of Sri A. Sebastian Ex. AEN-EP.

Ref:-Your letter No. N11 dated 9.9.57.

6

In reference to your representation case has been reviewed and it is noticed that there is no any reason to justify write-off the amount Rs. 045.05 which was accepted by this office and advised to settlement section as per below:-

As you were responsible for proper accountal during your service period. In case the material was issued to the railway employee you should have taken it back or ensured an amount equal to cost of the material from recovered from them, similarly in case of ash it was your responsibility to get the Issue Note verified, but you failed in both above cases, so the recovery of Rs. 045.05 p. is holds good.

[Handwritten signature]

For Divisional Rly. Manager,
N. Rly. Lucknow.

certified to be true
[Handwritten signature]

[Handwritten mark]

Annexure R14 42
The Divisional Railway Manager
Northern Railway
Meerutgunj Lucknow.

Under
C.O.F.

Aug 30th '87

Sub: Final payment of Settlement dues
to Sri H Sebastian Ex A.M. F.D.

Rq: 1. Your letter No 49/WA/Account Date
27.10.86

2. My representation on the above
dated 7.11.86.

Dear Sir,

I am receiving my final payment of Gratuity
under protest because of the unjustified
attitude taken by you as mentioned below.

1. That I have been held responsible for
not retrieving the following articles from
those staff who took them on loan, under
dear acknowledgements, and who are still
in service. The enquiry has lasted four
years and the Administration failed to take
any action against them, yet it is prepared
to victimise me which is tantamount to
sheer victimisation of a retired employee.
Again at the very onset I had written to
the concerned authorities about these
employees refusing to return these articles
but no action was taken.

2. During the course of enquiry the committee
accepted in principle that where acknow-
ledgements of receipts were produced
I was to be absolved of all responsibility,
then why go back on their commitment
in these cases also?

Here are the persons from whom the cost
should be recovered for articles taken
by them.

Certified to be true copy
Jehd
M

that after levying a charge against me first for causing a loss of Rs 4.5 lakhs to the Administration they went on to add further injury to my character by charging me in the High Court for a loss of nearly Rs 2.56 lakhs in 1983.

The Administration has finally accepted that the charges framed against me ~~were~~ were of a magnitude created by them, as the result of the Enquiry by itself shows. Therefore the Administration is legally and morally bound not to deduct any money for losses incurred by Staff as pointed out by me, four years ago.

Thanking you
yours faithfully
Jee ~~only~~

A Sebastian

Sr A. SEBASTIAN Ex Adm. FD
of Mr V. M. Kapoor
St. Xavier's College
Lucknow

Certified to be true copy
Jee ~~only~~

W

NORTH RN RAILWAY

No. 48/WA/A/Cs No. 10/FWI-I-LKO

DIVISIONAL OFFICE,
LUCKNOW Dtd 2/4-87

The Sr. Divl. Personnel Officer (Settlement)
N. Rly. Lucknow.

Re:- Settlement dues of Sr. A. Sebastian Ex. AMN/ED.

Ref:- This Office letter of even no. dated 25.3.87.

Kindly refer to above the settlement dues of Shri A. Sebastian Ex. AMN/ED which is held up for want of clearance from the Officer may be released and paid to the retired Officer by making a total recovery of Rs. 95.45 only (Rupee a ^{ninety} hundred forty five & paise forty five only) from his LCRG.

Statement showing T&F and other items, cost of which is to be recovered from settlement dues of Mr. A. Sebastian duly vetted (in two pages) by Sr. Accounts Officer (S&W) N. Rly. Alambagh, Lucknow is enclosed for ready reference.

DA

1 in two pages.

L.S.R. (C)
N. Rly. Lucknow.

- (1) Copy to Sr. Accounts Officer (S&W) N. Rly. Lucknow for information in reference to his letter No. 82/87/LKO/DEP-II/1/17 dated 23.3.1987. The cost of stores against para No. 86/7 of the OMR under reference has been written off by the Competent Authority and intimated to you vide this Office letter of even No. 1 t. 13.4.87.
- (2) Copy to Sr. Accounts Officer, N. Rly. Lucknow for information and necessary action please.
- (3) Copy to AMN(1)/Lucknow and FM/I/LKO for information and necessary action.
- (4) Copy to Shri. A. Sebastian Ex. AMN-ED, C/o Dr. V.M. Kapoor, 84 Kanpur Road, Lucknow.

Copyied to be
frug copy
Shri. A. Sebastian

RIS

को. एल. 19, G.I. 18
सं. 99-नदी, Genl. 99-Large

43
AICD

उत्तर रेलवे/NORTHERN RAILWAY

No. 17/5/Pm-2/82

Office of the AEN
Lko Sahar 01082

The SEN/C/LKO, Pmt. CN. Spl/Lko
DPO/LKO DEN. MB and Shri
Kundan Lal, Ex Pmt. D/LKO.

Sub: Stock Sheet NO 1 to 27 of Pmt. 3. LKO

Shri A Sebastian ex Pmt. D/LKO has pointed out the Rly materials were issued to your staff and details given below which has not been received back so far in his stores. Your personal attention is invited to take back the materials as DPM/LKO is pressing hard for the same.

Details —

1 Shri RK Dubey	AEN D/LKO Issued to DEN. MB	Tarpelime 1 MO
2 Shri AK Singh	Pmt. Spl. LKO	Touch Tarpelime 1 MO
3 " TK Aggarwal	Pmt. C LKO	— DO — 1 MO
4 " Rami Prasad	materials. Pmt. C LKO	Terrace 3000 1 MO
5 " RR Singh Yadav	Pmt. D LKO	Steel top 15 mtr 1 MO
		Tarpelime 1 MO
		Imp. by DEN. 1 MO
6 " Kundan Lal	Pmt. C LKO	Tarpelime 1 MO
7 " V P Singh	Pmt. C LKO	Steel top 1 MO
8 " Ram Sulech	Ex. claster order DPO LKO	Tarpelime 3 MO
9 " L. N. Misra	Pmt. Spl. LKO	Steel top 3 mtr 1 MO
		Touch 1 MO
10 " Ram Sulech	materials. Pmt. D LKO	Terrace 1 MO

— Sel —

Asst. Engineer II

① The DPM/LKO has information in the letter 6/8/82
Stock Sheet 1 DSI II/Pmt. 122 Dalia 15 082

② The Pmt. D LKO has information in the letter 6/8/82
letter no 28/5 Dalia 15 082

Certified to be true
[Signature]
[Signature]
[Signature]

K-1028

19-11-85

A169

Annexure R15A

NORTHERN

RAILWAY

A.K.YOG,
D.S.E. (COORD.)DIVISIONAL OFFICE,
LUCKNOW. DT. 08-11-85

D.O.No.48/WA/OHR/DSE-2/PWI-1/1/17.

(Copy) 3EN SEN - 710

My dear Sharma, Gupta, Tanwar, Agarwal, Jain, Alok Ranjan,
Misra and Tripathi.

RBL *** LKO

Sub:- OH Report No.82/EN/LKO/DSE-2/1/17 Dt. 28.6.82
Para No.80-Verification of I/note of PWI(I)/LKO
pertaining to Mr. Sebastian, Ex. AEN/ED.

Ref:- (i) This Office letter of even No. Dt. 10.6.85.
(ii) This Office letter No.48/WA/Account Note/PWI(i)/LKO
Dt. 01.6.85 and 05.8.85.

The following staff working under you have taken materials and tools etc. UNDER THEIR CLEAR SIGNATURES from PWI(I)/LKO (Sri A. Sebastian since retired) on issue notes or on loans. The accountal of the same at the receiving ends could not be located so far. Verified copies of I/note are also not available. In spite of several reminders from the E.O. and from this office, the receiving subordinates are silent and neither they are accepting nor denying the receipt of the received items. The finalisation of enquiry against Sri A. Sebastian for so called shortages of materials in his charge as PWI(i)/LKO- Since reflected in OH and Account notes is being abnormally delayed mainly because of indifferent attitudes of the receiving subordinates and because they are silent. In their own interest, they are given one more chance- either they should deny the receipt in writing or they should produce the proof of return of the received items failing which they will be finally held responsible for the shortages and Mr. Sebastian will be exonerated from the charge.

You are, therefore, requested to spare them on due dates noted against each to appear before the Enquiry Committee in this office in the Chamber of AEN/G/LKO and to explain their position in person. Kindly see that they are spared in time and they should be taken back to duty only on clearance certificate of the E.O.

With Good Wishes,

Sincerely Yours,

DA/One.

Copy forwarded to

Sri A. Sebastian, ex AEN

C/O Sri VM Kapoor IDW/AMV for information

and to please attend on 25.11.85, 26.11.85, 28.11.85
and 29.11.85 for enquiry & cross-questioning etc.Certified to be true copy
in Deliberation

A170

45
H5

STAFF TO BE SPARED FOR ENQUIRY IN THE CHAMBER OF AEN(G)/LKO
IN DRM/LKO's OFFICE.

Under DSE(Coord)/ALD	Sri Rajnarani PWI(Spl:)/ETW (the then PWI(TPP/LKO)	26.11.85
Under Dy.C.E. (Br.W.Shop/LKO)	S.S.Bridge W.Shop/LKO Dealing Clerk of Br.W.Shop.	29.11.85
Under Dy.C.E.(C)/LKO	i) Sri S.K.Chopra-IOW(C) ii) Sri T.K.Agarwal PWI(C)/ED iii) Sri Satya Prakash SCM Under PWI(C)/LKO. iv) Dealing Clerks of IOW(C) and PWI(C)/LKO.	26.11.85.
Under SEN(C)/LKO	i) Sri Narain Dass IOW ii) Sri Ranveer IOW	29.11.85
Under DEN(G)/LKO	i) Sri Kundan Lal PWI ii) Sri R.R.Singh Yadav PWI iii) Sri V.P.Sinha PWI iv) Sri Puttoo Ali H.C. v) Sri Triveni Pd. M.C. vi) Sri Ram Pati G/man	28.11.85.
Under AEN/PBH	i) Sri S.K.Chopra IOW(PBH)	26.11.85.
Under AEN/RBL	i) Gurudin MC/PWI/RBL. ii) Sri Ram Pd Hd.T/Man/PWI/RBL iii) Sri Hanumant Pd.C/PWI/LKO.	25.11.85.
Under AEN(2)/LKO	i) Sri A.K.Singh(PWI) ii) Sri G.C.Srivastava (IOW-Retd) iii) MCs MCs of PWI/ON and PWI(Spl:)/LKO	25.11.85.

Certified to be true copy
[Signature]

am

Annexure 16

7
46
A171

JP-75.81-1,10,000 Pds.

वी० एल० 19-ए/GL 19-A
जनरल 99 छोटा Genl. 99 Small

उत्तर रेलवे NORTHERN RAILWAY

NO 48/WA/Store Sheet/DSE II/PW1/1/14/02

DI 2.0.02

See
Revised 20

To the PW 1

N. Dy Ludhiana

Re: Store Sheet's OTR, A/c No 48
Pertaining to period of
or A. Subsalin ex PW1/1/14/02

Please direct Smt. V. N. B. to
Gen. M. of your office to attend
this office on 3.0.02 together
with connected records. Pertain-
ing to the period of A. Subsalin
mentioned in the store sheet dt 19.5.02
A/c No 70/SV/Engg/De N 48/1/17
DI-31.5.70 & OTR NO 02/SV/14/02
DSE II/1/17 DI 20/6/02 etc.

to be kept in the file of
19/02/02

Copy to S. A. Subsalin by PW1/1/14/02 of
S. V. M. before 01/1/14/02
for reference

Certified to be true copy
W
Dehobor

Annexure V

47

#8
472

24/8/82

To

DSE II LKO

26

Sub: Clearance of Stock
Sheets Account Note
& CH Reports

Dear Sir,

As per your letter No 48/WT
Stock Sheet/DSE II/Mod II/LKO 82 dated
3-8-82 I attended your office
from 5-8-82 to 24-8-82
regularly and have cleared
all the following

1. Stock Sheets for 1977 and
2 A/c Note No 78/SV/Eng/Mod II Hqs
1/17 dated 31-5-78.
2. Stock Sheets No 1 to 27 of
1982. No 48/WT/Stock Sheet/DSE II/Mod II LKO
4. Overhauling report
No 82/SV/LKO/DSE II/1/17 D
28/6/1982.

I request to you to please
release all my dues which
are being withheld since 31-1-82

Yours faithfully

J. S. S.

Ex AEN FD.

Certified to be true copy

J. S. S.

W

Annexure
A/2 in required
affidavit.

48 (A173)

Annexure 18

AS/12/82

⁶
17/24th May 82

To Asst Engr II LKO
C/D.A. Rky LKO
DSE II LKO

211

Sir Sub: Stock Sheets for 1981-82 pertaining to PW I LKO.

I am herewith handing over Stock Sheets No 1 to 27 with replies pertaining to Special Stock Verification and handing over of change as PW I LKO.

Yours faithfully

[Signature]
Ex PW I LKO

Recd ^{24/5/82}
JMP
24/5/82

DA
2 Stock Sheets + replies

Confirmed to be true
copy *[Signature]*
in

Annexure 19

Surat Road
Northern Railway

41

APW

Divisional Officer
N.R. - - - - -

No. 720 E/Pent 1A

27.2.6.84

Recd.

Mr. A. Sebastian

C/o S. V. N. Kapoor

84, Kaper Road

Mumbai

Req. Granting of retirement dues.

Ref. - Your application dated 14.6.82.

In reference to your above application your case was checked and it has been found that there are heavy shortages of store items against you. You are therefore requested to contact DSE-II to get the outstanding store items finalized and to enable the Govt to release your DOR dues.

G. Prasad
DSE-II, Mumbai
N.R.

Copy to -

For DSE II for information. A copy of the judgement received for the court in the case of the above named is sent herewith for necessary action. He is requested to get the store items outstanding items of stores finalized early. Necessary charge sheet / show cause may please be issued to Mr. Sebastian, if required, to avoid further litigation by him.

Certified to be true copy
Dehaide

W

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

M.P. No. 722/90 (L)
O.A. NO. 238 of 1990(L)

4175

Fixed for date 18/1/91

Avtar Singh

... Applicant

-versus-

Union of India and others .. Opposite parties

APPLICATION FOR CONDONATION OF DELAY.

The opposite parties beg to submit as under:-

1. That due to some inadvertance and oversight, counter affidavit could not be filed within the stipulated time on behalf of the opposite parties.
2. That now the counter affidavit is ready for filing and is being filed herewith along with this application which may be taken on record in the interest of justice after condoning the delay in filing the counter affidavit in time.

Wherefore it is most humly prayed that the accompanying counter affidavit may very ki dly be taken on record after condoning the delay in filing the counter affidavit.

(VK Chaudhari)

Addl Standing Counsel for Central Govt
(Counsel for Opp parties.

Lucknow,

Dated:

Filed today
5/2/91
10/12

A176

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

O.A. NO.238 of 1990(L)



Avtar Singh

.. Applicant

-versus-

Union of India and others

.. Opposite parties

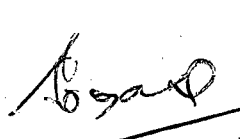
COUNTER AFFIDAVIT ON BEHALF OF OPPOSITE PARTIES

I, Suraj Parkash

aged about 51 years, son of late Chanan Ram
at present posted as Regional Administrative Officer
in the office of Dy. Director General Northern
Region, Geological Survey of India, Lucknow do
hereby solemnly affirm and state as under:-

1 That the deponent is the pairokar of the
Respondents and he has been authorised to file this
counter affidavit on behalf of all the opposite
parties.

2. That the deponent has read and understood
the contents of the application and he is well
conversant with the facts of the case.


Regional Administrative Officer
Northern Region
Geological Survey of India
LUCKNOW

23/11

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3. That the contents of para 1 of the application are admitted being facts.

4 That in reply to the contents of the facts mentioned in para (i) of the application it is submitted that the Selection Committee held on 9.6.1972 recommended the following candidates for recruitment to the post of Surveyor (Junior) now redesignated as Surveyor in the Norther Region GSI, Lucknow as under:-

(a) Scheduled Caste.

- 1 . Shri Jamma Das
2. Shri Nirmal Das Rajiv
3. Shri Ajit Singh
4. Shri Preetam Singh
5. Shri Maharaj Singh

(b) ~~Ex-servicemen~~ Ex-servicemen.

- 1 . Shri SK Chibber
2. Shri JN Singh

(c) Un-reserved.

- 1 . Shri Kamal Prasad
2. Shri Vinod Kumar
3. Shri Nirankar Sharma
4. Shri Avtar Singh



Board
Regional Surveyor, Northern Region
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LUCKNOW

APD

As there were only 6 vacancies, offers of appointment were issued to the following candidates:-

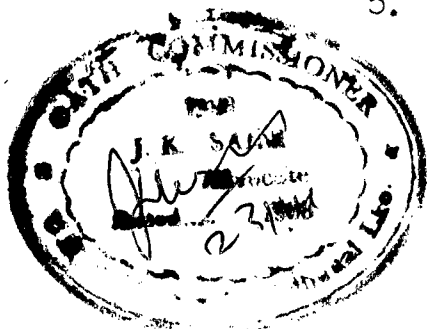
1. Shri Jamuna Das .. Joined on 9.11.72
2. Shri ND Raju .. Not joined
3. Shri Preetam Singh .. Joined on 8.12.72
4. Shri Maharaja Singh .. Joined on 27.11.72
5. Shri Kamal Prasad .. Not joined
6. Shri M inod Kumar .. Not joined

Offers of the appointments were not issued to S/Shri Ajit Singh, SK Chibber and JN Singh as they did not fulfill the Recruitment Rules. Thereafter offer of appointments were issued to S/Shri Nirankar Sharma and Avtar Singh the applicant and were appointed as Surveyor (Jr.) in the Northern Region, GSI, Lucknow with effect from 22.6.73 and 23.6.73 respectively.

Therefore, the relative seniority of S/Shri Nirankar Sharma and Avtar Singh in the NR, GSI are as follows:-

1. Shri Jamna Das .. Joined on 9.11.72
2. Shri Preetam Singh " on 8.12.72
3. Shri Maharaja Singh " on 27.11.72
4. Shri Nirankar Sharma " on 22.6.73
5. Shri Avtar Singh " on 23.6.73

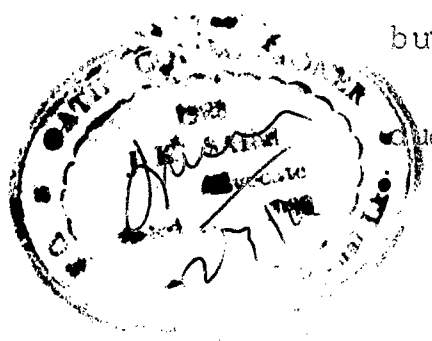
5. That in reply to the contents of para (ii) of the



A. S. Rao
Regional Administrative Officer
Northern Region
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facts of the case it is submitted that at the time of D.P.C. held in March 1976 (18th and 19th March 1976) the applicant did not complete the qualifying period of three years service in the grade of Surveyor(jr.) as required under the provision of Recruitment Rules for promotion to the post of Surveyor (Sr.). - Now redesignated as JTA(Survey). At the time of preparation of All India Gradation list of Surveyor (Jr.) as on 31.5.1976 the name of the applicant was inadvertently omitted and was not shown in the above list. In the D.P.C. held on August 1976 (23rd and 24th)- August 1976) the above gradation list as on 31.5.1976 was placed before the DPC for consideration for promotion to the post of Surveyor (Sr.). As a result the applicant was not considered for promotion. This omission came to the notice of the Department after the DPC was over. To rectify this omission at the time of issue of offers of promotion to the candidates recommended by the DPC held on August 1976 one post was kept reserved for the applicant with the remarks that though he was eligible for promotion but could not be included in the proposal for promotion due to omission. The above applicant has been



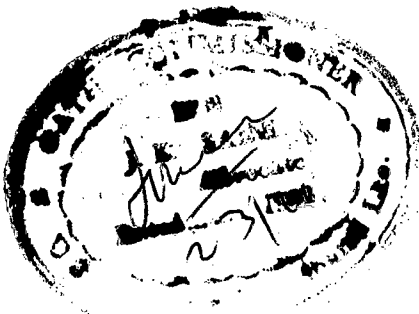
Regional Administrative Officer
Northern Region
Geological Survey of India
LUCKNOW

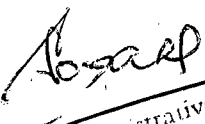
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-4-

promoted to the post of Surveyor(Sr) now redesignated as JTA(Survey) with effect from 27.11.78 on the recommendation of the DPC held on 24.5.78 to 1.6.78 and his seniority has been restored in the higher grade of Surveyor(Sr.) as per seniority in the lower grade of Surveyor (Jr.).

6. That in reply to the contents of para (iii) of the ~~fact~~ of the application, it is submitted that the pay of the applicant in the promotion grade has been ~~fix~~ fixed from the date of his promotion in the grade of Surveyor(Sr.) now redesignated as JTA(S). The next below rule is not applicable in his case. The next below rule is applicable in respect to those officers who are on deputation/foreign service in public interest, and recommended by the DPC for promotion but could not be promoted to the higher grade as those are on deputation / foreign service and their juniors have been promoted. These officers may be promoted under next below rule

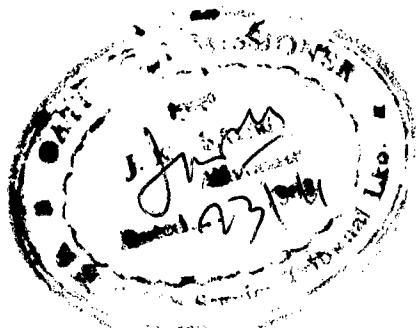



Regional Administrative Officer
Northern Region
Geological Survey of India
LUCKNOW

(101)

on their return to the cadre for regaining their temporarily lost seniority in the higher grade.

7. That in reply to the contents of para (iv) of the application it is submitted that the contents of this para are incorrect as stated hence denied and in reply it is stated that three years qualifying service is essential as per provision in the Recruitment Rule for promotion to the post of Surveyor (Sr.) grade. Therefore at the time of first DPC held in March 1976 the applicant was not eligible for promotion to the post of Surveyor (Sr.) hence he was not promoted. As regards to his confirmation to the post of Surveyor (Jr.) it is submitted that the confirmation case to the post of Surveyor (Jr.) was taken up before the DPC in the month of May 1978 i.e. long after completion of probation of two years in the grade by the applicant but the effect of confirmation was given to the applicant from the date of availability of permanent post with effect from 17.5.1975. Therefore the applicant was not actually confirmed before completion of stipulated period of two years probation. The confirmation order was issued on 4.8.1978.



B. S. A. P.
Regional Commissioner
Northern Region
Survey of India

9/8/78

8. That the contents of para 2 & 3 of the application needs no comments.

9. That the contents of para 4 of the application are partly admitted and partly denied and in reply it is submitted that the applicant was appointed in the grade of Surveyor (Jr.) In Northern Region, Lucknow on ~~22~~ 23.6.1973 in the scale of Rs.150-240. As stated in the foregoing paras the applicant was not eligible at the time of first DPC held in March 1976. Hence his recommendation for promotion in the above DPC does not arise. Inadvertently the applicant's name could not be placed before the next DPC held ⁱⁿ ~~on~~ August 1976 but when this omission came to notice of the department one post was kept reserved for the applicant with the remarks that though he was eligible for promotion but could not be included in the proposal for promotion due to omission. He was promoted to the post of Surveyor (Sr.) with effect from 27.11.1978 on the recommendation of the next DPC held on 24.5.1978 to 1.6.78 and his seniority has been restored in the higher grade of Surveyor (Sr.) as per seniority of lower grade Surveyor (Jr.). His pay has been fixed in the grade of Surveyor (Sr.) as per



[Signature]
Regional Administrative Officer
Northern Region
Geological Survey of India
LUCKNOW

10. That the reliefs sought by the applicant are not tenable in the eyes of law and the applicant is not entitled to get any reliefs as sought in view of the facts mentioned above.

Dependent.
Regional Authority
India
Geology
LUG

Verification.

9/24

10 & 11 of the affidavit are also believed to be true on the basis of legal advice. No part of this affidavit is false and nothing material fact has been concealed.

Asw
Deponent.
Regional Administrative Officer
Northern Region
Geological Survey of India
LUCKNOW

Lucknow,

Dated: 23 Nov. 1990.

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

Chaudhary
23/11/90
(VK Chaudhari)
Addl Standing Counsel for Central Govt
(Counsel for the Opp parties)

Solemnly affirmed before me *by the deponent*
this 23rd day of Nov 90 at 10.05 am/pm
by the deponent who has been identified by Shri VK Chaudhari
Advocate, High Court, Lucknow Bench, Lucknow. I have
satisfied myself by examining the deponent that he under-
stands the contents of this affidavit which have been
read over and explained to him by me.

Joint Commissioner.
Jugesh Kumar Saini
23/11/90

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Registered

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

No. CAT/CB/LKO/

Dated :

11/9/4

Registration No. of 193

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 24 day of 10 1938 for hearing.
To file counter affidavit within one month from 25-10-41.
4 15 days for file rejoinder affidavit

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 1 day of 9 1938.

For DEPUTY REGISTRAR

dinesh/