



CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, MOTI MAHAL, LUCKNOW.

DATED: -----

Case Title OA 79/88 (U) 19

Name of Parties.

Krishan Swaroop Dixit Applicant

U.O. 2 & ors versus Respondents.

PART -A

| <u>Sl.No.</u> | <u>Description of Documents</u>         | <u>Page</u> |
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| 2-            | Order Sheet                             | A 2 18      |
| 3-            | Final Judgement <u>10.3.93</u>          | A 7 18      |
| 4-            | Petition Copy                           | A 9 133     |
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| 6-            | Power                                   | 156         |
| 7-            | Counter Affidavit                       | A 57 120    |
| 8-<br>(10)    | Rejoinder Affidavit<br><u>OBJECTION</u> | A 71 - A 72 |

PART -B

B 73 - B 134

~~for consignment to record room.~~

Part -C

C 135 - C 140

Certified that no further action is required. The case is fit  
for consignment to record room.

Section Officer

Court officer

Incharge

Signature of Dealing  
Assistant.

(RN)

P. Narayan  
24/01/94

Filed on 27.2.88  
27/2/88

# CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No. 79 of 1984

APPLICANT (s) Krishan Suresh Dixit

RESPONDENT(s) G. D. Haryal S.M. N.S.R. Dites

## 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 ?  | Only 2 sets filed  |
| 3. (a) Is the appeal in time ?  | Pre-mature   |
| (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 (220. No. DD 067825<br>5<br>D. 21.2.88 for Rs. 50/-) |
| 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 (By D. D. Dites)                                     |

Particulars to be ExaminedEndorsement as to result of Examination

- 0 (c) ☒ the documents referred to in (a) above neatly typed in double space? Yes
8. Has the index of documents been filed and paging done properly? Yes
9. Have the chronological details of representation made and the outcome of such representations been indicated in the application? Yes
10. Is the matter raised in the application pending before any Court of law or any other Bench of Tribunal? No
11. Are the application/duplicate copy/spare copies signed? N A
12. Are extra copies of the application with Annexures filed? N A
- (a) Identical with the original?
- (b) Defective?
- (c) Wanting in Annexures
- Nos...../Pages Nos.....?
13. Have file size envelopes bearing full addresses, of the respondents been filed? N A
14. Are the given addresses, the registered addresses? Yes
15. Do the names of the parties stated in the copies tally with those indicated in the application? Yes
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true? N A
17. Are the facts of the case mentioned in item No. 6 of the application? Yes
- (a) Concise?
- (b) Under distinct heads?
- (c) Numbered consecutively?
- (d) Typed in double space on one side of the paper?
18. Have the particulars for interim order prayed for indicated with reasons? Yes

19. Whether all the remedies have been exhausted.

Pro. McTone

Check List is prepared only after the file is returned from Court

24/8

Let the case be listed on 22/08/88

Lucknow Bench

①

Order sheet

OA No. 79/88

22.8.88 Hon. A. John, A.M.

The application appears to be premature. List this case before the Division Bench on 25.8.88.

A.M.

25.8.88

Hon'ble A. John, A.M.  
Hon'ble G.S Sharma, J.M.

Admit. Issue notices. One month for C.A. 15 days. There after for R.D. fix on 22.11.88  
to hear

Sd/-  
A.M.

Sd/-  
G.M.

frsh

OR

Notices issued to the respondents.  
through Regd. post.

16.9.88

frsh

22.11.88

Sri Ashok Nigam files his vakalatnama on behalf of respondents No 1, 2 & 3. On the request of counsel for respondents, he is allowed to file reply. 27.1.89.

27/1/89

No sitting, Adjourned to 25/3/89 for Reply.

frsh  
22/11

Am

27/11

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

O.A. No. 79/88 (L)  
REGISTRATION No. \_\_\_\_\_ of 198

APPELLANT  
APPLICANT

K.S. Dixit

VERSUS

DEFENDANT  
RESPONDENT

Union of India & ors

| Order<br>of order<br>and date | Brief Order, Mentioning Reference<br>if necessary  | How complied<br>with and date<br>of compliance  |
|-------------------------------|--|---|
| 11/5/89                       | <p><u>Hon' Mr. K.J. Ranan, A.M.</u></p> <p>The brief holder of the learned counsel for the applicant is present. None is present for the respondents. The learned counsel for the applicant points out that, no reply has been filed by the respondents, even though the application was admitted in August, 88 and sufficient time have been given to file counter reply. One more opportunity is being given to the respondents to file their reply. The reply may be filed within one month. In case the counter reply is filed, the applicant may file rejoinder, if any, within 2 weeks thereafter. Put up this case for orders/hearing on 10/8/89.</p> <p style="text-align: right;">A.M.</p> <p>(sns)</p> |   |
| 10/8/89                       | <p><u>Hon' Mr. D.K. Agrawal, J.M.</u></p> <p>Shri D.P. Srivastava, brief holder of Shri O.P. SRivastava learned counsel for the applicant and Shri Kailash Chand Saxena, briefholder of Shri Ashok Nigam, Learned counsel for respondents are present.</p> <p>No reply has been filed on behalf of respondents. <del>In this</del> A preliminary objection has been made, that the application is pre-matured, because the applicant after imposition of the punishment order did not file an appeal. The contention of the applicant is that the</p>  | <p>OB In spite of one more opportunity given to respondents for filing reply they have failed to file the same submitted for order</p> <p style="text-align: right;">9/10</p> |

....contd....

ON 79/04/11  
 :: 2 :: (5)

AM

Serial  
 number  
 of  
 order  
 and date

Brief Order, Mentioning Reference  
 if necessary

How complied  
 with and  
 date of  
 compliance

1-12-07

No Sitting - Adj to 21-2-90  
 Both the Parties are present -

L  
 1/12

OR

No CA filed  
 S.F. heard

21/2/90

Hon Justice K. Pruthi, VC  
 Hon K. Obayya, AM.

Shri O.P. Srivastava appearing  
 for the applicant requests for  
 and is allowed two weeks  
 time to file rejoinder. The case  
 be listed for final hearing  
 on 14/3/90.

OR  
 No RA  
 S.F. H

AM

VC

14.3.1990

Hon. Mr. D.K. Agrawal, J.M.,  
 Hon. Mr. K. Obayya, A.M.

Shri. O.P. Srivastava, for the applicant  
 is present. No one for the respondents is  
 present. The learned counsel for the applicant  
 wants 3 weeks time to file rejoinder affidavit.  
 Allowed. Let, the rejoinder affidavit be filed  
 within 3 weeks, here of.

List it for hearing on 31.7.1990.

A.M.

J.M.

Dinesh

31-7-90

No sitting Adj to 4-7-90

4.10.90

No sitting Adj to 19.12.90

(3)

(15) (7) 79/880

29.5.91 AS

D.R.

None is present  
from the applicant  
side. Rejoinder has  
not been filed today.  
Sri B.K. Shukla is  
present. List for filing  
Rejoinder by 5.8.91

5.8.91

D.R.

Sri B.K. Shukla is  
present for the O.P.  
Sri D.P. Srivastava  
Ad. counsel for the  
applicant desires  
to file Rejoinder  
by 11/9/91.

11.9.91

D.R.

Both the parties  
are present today.  
Applicant to file  
Rejoinder by 14/11/91.



20.7.93

AB

No sitting C.D. M. adj  
to 4.2.93

4.2.93

21000. Mr Justice U.C. Srivastava  
21001 Mr K. Obayya AM

8P

Hand filed

Def's

02/4/93

On the request of learned  
Counsel for appl. Ctl. Court  
adjourned to 5.3.93 for  
hearing

AM

✓

OR

5.3.93

RA not filed

SAH not dated

though the  
charges not appear to  
have been admitted

4/3/93

Due to Court. Boy call of  
lawyer Court adjourn to  
10.3.93

✓

10/3/93. Hon.Mr.Justice U.C.Srivastava,V.C.  
Hon.Mr.K. Obayya, A.M.

After hearing the counsels for the  
parties, the case is disposed of.  
Judgement has been dictated in  
the open Court.

AM.

✓

V.C.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUDHIANA BENCH.

LUDHIANA

Case No. 7/30

C.A. No. 199 (L)

C.A. No. 199 (TL)

Date of Decision 10/3/53

----- Petitioner.

----- Advocate for the  
Petitioner(s)

RESPONDENTS

----- Respondent.

----- Advocate for the  
Respondents

C 2 3 1

Hon'ble Mr. Justice G. D. Dhillon, V.C.

Hon'ble Mr. K. L. Dhillon, J.

1. Whether Reporter of local papers may be allowed to see the document.
2. To be referred to the reporter or not ?
3. Whether their Lordships wish to see the fair copy of the document ?
4. Whether to be circulated to other benches ?

Vice-Chairman / Member

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH  
LUCKNOW.

O.A.No.79/88.

K.S. Dixit : : : : : Applicant.

Vs.

Union of India &  
Others. : : : : : Respondents.

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

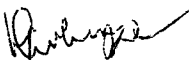
Hon.Mr. K. Obayya, A.M.

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

The applicant was performing his duty as Station Master in Gola Gokarannath Railway Station. A charge-Sheet was issued to him on 7/12/87. The main charge was that a derailment of Train took place and damage was caused due to his negligence when he was on duty. The applicant submitted his reply and denied the charges stating that there was no negligence of duty on his part. The enquiry proceedings went ahead and the witnesses were examined and punishment of stoppage of 3 years' increment was awarded temporarily for a period of 3 years.

2. According to the applicant he has filed his representation/appeal against the same before the divisional Manager. But the respondents have denied the receipt of any such appeal. It appears that the appeal of the applicant was not properly placed on record. It is difficult to accept that the applicant has not filed any appeal. Accordingly the respondents are directed to dispose of the appeal filed by the applicant taking into account the grievances raised by the applicant. They shall pass a speaking order and the applicant shall be given a hearing. The applicant shall supply another copy of the application along with a copy of this order to the respondents within a period of three weeks from the date of communication of this order. The respondents shall

dispose of the application within a period of two months from the date of receipt of the copy of the application along with a copy of this order. The application stands disposed of in the above terms. No order as to the costs.

  
Member (A)

  
Vice-Chairman.

Dated: 10th March, 1993, Lucknow.

(tgk)

22/11/88  
A9

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH  
CIRCUIT BENCH, LUCKNOW

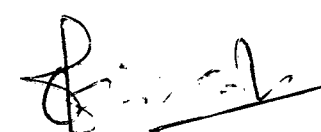
79/00015

Krishna Swarup Dixit ..... Applicant  
Versus  
Union of India and others ..... Respondents.

I N D E X

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Lucknow Dated.  
July 22, 1988.

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

*Copy recd. to Secy  
16/8/88*

110

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH

CA 79/0069  
BETWEEN

Krishna Swarup Dixit                      ...                      Applicant

AND

Union of India and others                      .....                      Respondents.

DETAILS OF APPLICATION.-

1. Particulars of the applicant .

- |  |  |
|--|--|
| i) Name of the applicant   | . Krishna Swarup Dixit   |
| ii) Name of Father   | . Sri R.P. Dixit   |
| iii) Age of the Applicant  | . About 50 years   |
| iv) Designation and particulars of office (name and station) in which employed or was last employed before ceasing to be in service. | . Working as Station Master, North Eastern Railway, Gola Gokarannath.                      |
| v) Office address  | . As above   |
| vi) Address for service of notice  | . Railway Quarter No.T8/B, Railway Colony, Gola Gokarannath, N.E. Railway, district Kheri. |

2. Particulars of the Respondents

- |   |   |
|---|---|
| i) Name of the Respondent   | . 1. Union of India through the   |
| ii) Name of the Father  | } the General Manager, NER  |
| iii) Age of the Respondents   | } Gorakhpur.  |
| iv) Designation and particulars of office (Name and station) in which employed. | } 2. Additional Divisional Rly. Manager, N.E.R., Divl. Manager's Office, Ashok Marg, Lucknow.                               |
| v) Office address.  | } 3. Sr. Divl. Safety Officer (Also known as D.R.M. safety), N.E.R., Divisional Rly. Manager's Office, Ashok Marg, Lucknow. |
| vi) Address of service of Notice.   | } 4. Enquiry Officer (Divl. Traffic Inspector Sri Bhagwan Misra), NER, Divl. Rly. Manager's Office, Ashok Marg, Lucknow.    |

All

3. Particulars of the order against which application is made.

The application is against the following orders.-

- i) Order No. with reference to Annexure. . T/537/NVA/Lucknow/31/87 Annexure No. 1.
- ii) Date . 15.3.1988
- iii) Passed by . Sr. Divl. safety Officer, N.E.R., Lucknow.
- iv) subject in brief

A memorandum of chargesheet imposing a major punishment under the Railway Servants (Discipline and Appeal) Rules 1968 was issued against the applicant for the alleged misconduct pertaining to non-compliance of the general Rule No. 3.69(2)(III). The applicant submitted his reply and while the witnesses were being examined, the enquiry proceedings were abruptly closed by serving the impugned order of punishment imposing the punishment of stoppage of three years' increments temporarily for the period of 3 years. The applicant preferred a departmental appeal on 21.3.1988 before the Respondent No. 2 which has not yet been disposed of, but the Respondent Nos. 2 and 3 are going to implement the impugned order of punishment by depriving the applicant from the increments due to him in the month of August 1988 and the request of the applicant for staying the implementation of the impugned order has been kept aloof. Hence the instant application.

4. Jurisdiction of the Tribunal .

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

*[Handwritten signature]*

5. Limitation .

The applicant further declares that the application is within the limitation prescribed in section 21 of the Administrative Tribunal's Act 1985.

6. Facts of the case :

The facts of the case are given below:-

6.1 That by way of the instant application the applicant seeks to challenge the most illegal and arbitrary order imposing punishment of stoppage of three increments of the applicant temporarily for a period of three years. This punishment ~~has been~~ has been imposed in the mid of the disciplinary proceedings without any rhyme or reason while indeed the applicant is not responsible at all for the alleged misconduct. A true copy of the aforesaid order dated 15.3.1988 is being filed herewith as Annexure-1 to this application.

ANNEXURE-1

6.2 That while the applicant was performing his duties as Rest Giver Station Master, N.E.R. station Pardhan, he was issued with a chargesheet dated 7.12.1987 under the seal and signature of Senior Divisional Safety Officer, Lucknow Junction under Rule 9 of Railway Servants (Discipline and Appeal) Rules 1968 (hereinafter referred to as 1968 Rules). Along with the memorandum of the chargesheet the applicant was also supplied the statements of imputation of charges and the list of the witnesses

*[Handwritten signature]*



relied upon for the purpose to prove the charges.

A true copy of the aforesaid chargesheet dated 7th December, 1987 is being filed herewith as Annexure-2 to this Application.

ANNEXURE-2

6.3 That vide the aforesaid chargesheet the applicant was required to submit his written statement of defence within a period of 10 days of the receipt of the aforesaid memorandum of chargesheet and as such the applicant submitted his reply to the charges on 12.12.1987. In his written statement the applicant while denying the charges levelled against him the applicant also demanded that the site of the occurrence be inspected in presence of the applicant and the applicant be shown the Sleepers which have been damaged owing to the said occurrence and were replaced over night without any enquiry or inspection. The applicant also stated that wrong information has been passed on to the higher authorities intentionally for the purpose to shift the responsibility on the shoulder of the applicant. A true copy of the aforesaid written statement dated 12.12.1987, filed by the applicant, is being filed herewith as Annexure-3 to this Application.

ANNEXURE-3

6.4 That on the same day i.e. 12.12.1987 the applicant also moved an application indicating the names of

the witnesses required to be cross examined for the purpose to assail the charges. The applicant also requested that the sleepers which were replaced after the accident immediately over night without any inspection or enquiry be also shown to him as the applicant was interested to know the reasons for. A true copy of the aforesaid letter dated 12.12.1987 is being filed herewith as Annexure-4 to this application.

ANNEXURE-4

6.5 That thereafter an Enquiry Officer was appointed vide the aforesaid chargesheet contained in Annexure-2 to this application to conduct the departmental enquiry into the matter. On 9th January 1988 the Enquiry Officer made a sketch plan of the site in presence of the Permanent Way Inspector, Gola Gokarannath (Sri Baldev Singh) and Traffic Inspector, Lakhimpur Kheri (Sri C.B. Singh) along with the Assistant Station Master on duty. The copy of the said site plan was not supplied to the applicant inspite of repeated requests/demands. The applicant lastly demanded the copy of the said site plan on 5th of March 1988, but this too remained unyielded.

6.6 That 9th January 1988 was also fixed as first date of enquiry proceedings and on that date Sri C.P. Singh, Permanent Way Inspector, Lakhimpur Kheri

*[Handwritten signature]*

was to be cross examined, but as Sri Singh did not turn up hence the proceedings were adjourned to next date i.e. 15th January 1988.

6.7 That on 15th January 1988 again Sri C.P. Singh, Permanent Way Inspector, Lakhimpur Kheri did not turn up. However, Sarvashri C.P. Verma, Signal Inspector, Lakhimpur Kheri, Madan Lal Sharma, Mechanical Signal Maintainer Mailani, Mukti Nath Verma, Mechanical Signal Maintainer Khalasi, Naseem-ul Haq, Electrical Signal Maintainer (III) Gola and Ram Priti Sharma Khalasi to Electrical Signal Maintainer (III) Gola ~~ha~~ were produced. The statements of the aforesaid persons were recorded and the applicant was given opportunity to cross examine the witnesses. All the witnesses unanimously stated that the derailment took place much away from the Point No. 1 X at line No. 2 and the point No. 1X as well as the point no. 1 were found properly set and locked. As the Station Master or the points man is responsible for setting and locking of the points hence the applicant cannot be said to be responsible ~~for~~ in any manner whatsoever in the instant derailment as it was neither on the point No. 1-X nor because of the ~~failure~~ in setting and locking of the point No. 1X as in case the point no. 1X could not have been properly set and locked the engine would have been derailed

*[Handwritten signature]*

on the point itself as the wheels of the Engine cannot cross an incorrectly set point. But in the instant case only the front wheels of the Engine were derailed, <sup>at a fair distance from point 1. X.</sup> while back wheels of the Engine along with the wheels of the Break Van attached with the Engine were found on track and therefore the derailment cannot be attributed to the functioning of the Station Master or the Point-man or with the point in any manner whatsoever. A true copy of the Examination-in-Chief and cross examination recorded during the enquiry proceedings are being filed herewith as Annexure-5 to this Application.

ANNEXURE-5

- 6.8 That thereafter the applicant was sent to Muzaffarpur for Station Masters' Refreshers course on 23.1.1988 from where he could come back on 15th February 1988 after completing the course successfully.
- 6.9 That thereafter the applicant received the letter dated 11.3.1988 from the Enquiry Officer. By this letter the applicant was informed regarding the next date of departmental enquiry proceedings as 19.3.1988. By the same letter the Assistant Engineer, Sitapur was also requested to spare Sri C.P. Singh, Permanent Way Inspector to attend the enquiry on 19.3.1988. A true copy of the aforesaid

EX-55X

ANNEXURE-6

letter dated 11.3.1988 is being filed herewith as Annexure-6 to this application.

- 6.10 That when the applicant reached to attend the enquiry proceedings on 19.3.1988 he was infoemed by the Traffic Inspector, Lakhimpur Kheri that the disciplinary proceedings have been postponed under the orders of the competent authority and the copy of the order has already been despatched to the applicant at his address.
- 6.11 That thereafter the applicant came back and found a letter lying on his office table dated 15.3.1988 by dint of which the impugned punishment was imposed on the applicant. A true copy of the impugned order dated 15.3.1988 has already been been filed as Annexure-1 to this Application.
- 6.12 That thereafter the applicant filed an appeal against the impugned order of punishment on 21st March, 1988 to the Uppar Mandal Rail Prabandhak requesting that the punishment be not imposed during pendency of the enquiry proceedings which have been postponed on 19.3.1988. The applicant further requested that the statements recorded during the enquiry proceedings clearly indicate that the applicant cannot be held responsible for the incident as it was neither on account of defect in the Engine or the Railway ~~line~~ line and

*[Handwritten signature]*

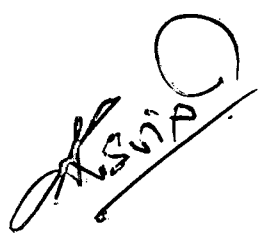
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therefore the responsibility for the accident comes on the head of some other staff. A true copy of the aforesaid appeal dated 21.3.1988 is being filed herewith as Annexure-7 to this application.

ANNEXURE-7

6.13 That thereafter the applicant has been replied nothing, although he made repeated requests for the disposal of his appeal contained in Annexure-7 to this Application. No date of enquiry has yet been informed after 19th of March 1988.

6.14 That the increment of the applicant has fallen due with effect from 1st of August 1988 and the Respondents are going to deprive the applicant from it by implementing the impugned order of punishment as contained in Annexure-1 to this Application without disposing of the applicant's appeal/representation dated 21.3.1988 contained in Annexure-7 to this application. No date of enquiry proceedings has been informed to the applicant. In case the impugned order of punishment is implemented the applicant will suffer irreparable loss for his no fault. The applicant will be deprived of from the financial benefits arbitrarily and illegally for the accident for which actually the other staff is responsible. Once the impugned order is implemented it would be difficult for the applicant to get its operation stayed and thus the occasion arose for the

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applicant to proceed further to take the shelter of the Law.

6.15 That so far as the facts of the case are concerned the Diesel Engine alongwith a Break Van was to go from the line No. 2 to line no. 1 at Pardhan Railway Station. A sketch plan of the Pardhan Railway Station showing the passage of the aforesaid diesel Engine is being filed herewith as Annexure-8 to this application.

ANNEXURE-8

6.15 That a perusal of the aforesaid site plan contained in Annexure-8 obviously reveals that for going from line no. 2 to line no. 1 the said Diesel Engine was to cross point No. 1X shown at 'B' in the site plan and then from there the said Engine was to cross the point no. 1 shown at 'F' of the site plan. The applicant being the Station Master of the Railway Station Pardhan was responsible for setting and locking the point no. 1 and point no. 1-X making a route as 'A', 'B', 'C', 'F' and 'G' indicating in the site plan.

6.16 That the said Diesel Engine crossed the facing point No. 1-X shown as 'B' in the site plan without any difficulty and proceeded further. All the wheels of the Engine alongwith the Break Van attached therewith have crossed the point No. 1-X at 'B' of the site plan successfully. When the

*[Handwritten signature]*

Engine reached at 'C' of the site plan only two front wheels of the Engine got derailed while rest of the back wheels of the Engine alongwith its attachment remained intact on the track.

6.17 That it would not be ~~difficult~~ out of place to mention that the point no.1-X was neither damaged nor anyway disturbed and all the wheels have successfully crossed this point without any difficulty. As the point shown as 'B' in the site Plan was properly set and locked and clamped the wheels successfully crossed it. If the point could not have been properly set and locked the wheels could not have crossed it and the derailment could have taken place at this very juncture on the point No. 1-X shown as 'B' in the site plan. Simultaneously the point shown as 'B' in the site Plan would have been damaged, but in the instant case neither the point shown as 'B' was damaged nor any of the wheels derailed at this point and therefore it cannot be said that the point No. 1-X shown as 'B' in the site plan was not properly set, locked and clamped.

6.18 That the derailment took place on the line which palpably indicates that the cause of derailment may be owing to some defect in the Engine itself or in the track for which the staff maintaining

*Ansix*



the track is responsible. If the point would have been damaged and the derailment could have been taken place on it then certainly the operating staff, like the applicant could have been said to be responsible for it.

6.19 That the point No. 1 and point No. 1-X are the couple points. The point No. 1 is fitted with motor and is therefore known as motor-point. By operating this motor-point, point no. 1.X at 'B' is set and locked first and then the point no. 1 is automatically locked. There is no separate provisions for operating the point No.1.X. The line no. 2 goes straight after point no. 1.X and comes to an end at point No. 'D'. No load is allowed to go beyond the point 'D'. The distance of the track between 'B' and ~~to~~ 'D' is known as stock rail. It is pertinent to point out that in case the route 'A', 'B', 'F' 'G' is set the load cannot go on the stock rail and therefore the stock rail cannot give any indication of passing of the said load unless it is alleged that the said route A,B,F,G was not properly set.

6.20 That it has not been disputed that the <sup>was set and</sup> the track route ABF, ~~but~~ front wheels of the Engine derailed at point 'C' after crossing point 'B' and therefore any mark or indication taken from the stock rail for supporting the cause of

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derailment is irrelevant and inadmissible in the eye of Law in as much as it has got no connection with the incident.

6.21 That the facts stated in the joint note on the basis of which the impugned punishment has been imposed upon the applicant is irrelevant and perverse to the material available on the record. A true copy of the joint note has been filed along with the chargesheet as Annexure-2 to this Application. A perusal of this joint note reveals that it has been alleged that all the six wheels of the front bogie of the Engine derailed because of being two roads at point No. 1X because the point no. 1.X was neither correctly set nor clamped and pad-locked. It has further been stated in the joint note that the mounting marks were found at Switch Rail. It is relevant to state that when the point No. 'B' is open the route available is ABD and in those circumstances the point No. 'B' is known as Switch Rail which functions as derailing switch for preventing the passage of the route from 'B' to 'D'. It has further been stated in the said joint note as under.-

"There is clear Wheel marks available on the stock rail of derailing switch upto 8.00 Meter (Eight Meter) length from the top of the switch".

It is very much evident from the aforesaid facts

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stated in the joint note that according to the joint note the point no. 'B' was indicating two routes at a time and therefore the derailment took place. It is entirely arbitrary and against the provisions of the Law as in case the point 'B' was giving two routes the derailment ought to have <sup>occurred</sup> ~~been found~~ at Point No. 'B' and in case the Wheels are dragged further towards 'B' to 'D' then only the mounting marks will be available on the stock rail. But in the instant case it is well admitted that the derailment took place at point no. 'C' after crossing the point no. 'B' on the route ABFG meaning thereby the only route ABFG was set and therefore the load did not go on ABD Road. Thus there cannot be any mounting mark on the stock rail 'B', 'D' which can be connected with the cause of the incident.

6.22 That all the witnesses have clearly stated that only two front wheels of the Engine were derailed and none else. This derailment took place much away from the point No. 'B'. Once the wheels have been allowed to go on the track from 'B' to 'F' it is very much evident that the route ABFG was correctly set and locked otherwise the wheels could not have been allowed to cross the point No. 'B'. It appears that the joint note has been

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prepared without inspecting the site arbitrarily on the basis of some wrong information or purposely for ~~xxxxif~~ sacrificing the applicant on the altar of wrong facts.

6.23 That it is also worthwhile to mention that the point No. 1X shown as 'B' in the site plan is the notable point for the purpose to arrive at a conclusion. It is also relevant to point out that the operation of this point 1X is coupled with the operation of point no. 1 which is the motor-point. When the point No. 1 is operated, the point No. 1X being the couple point automatically comes into operation and functions according to the operation. Once the point No. 1X is allowed to remain open the load cannot travel on the route ABFG and in those circumstances the incident of derailment must have taken place at point no. 'B'. The joint note gives a different picture of the incident as according to this note the incident took place at some place between 'B' and 'D', while as a matter of fact the incident took place on the passage marked as B & F. The incident at point no. 'C' itself indicates the correct setting of route at ABFG.

6.24 That it is further stated that the point No. 'B' was properly set, locked and clamped according to Rules and there was no defect in it. This gave

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passage to the route ABFG and consequently the Diesel Engine travel on this route after crossing the facing point at 'B'.

6.25 That it would not be out of place to mention that prior to it similar incident has also taken place because of the defect ~~of~~ in the system. The Pardhan Railway Station contains the inter locking panel system for the purposes of operation of the points and signals. There was no disconnection memo issued by the C.I.S. Lakhimpur Kheri before the incident took place and the system was declared to be fully inter-locked and in proper order. Any way when the applicant found the motor inoperative from the electrical switch he operated it mechanically in accordance with the provisions contained in paragraph 9.5 of the Station Working Rules and thereby the applicant inserted Crankhandle into the socket provided for and moved it to the extent it automatically came to stop. According to the Rules at this juncture the point no. 1X and 1 are treated to have been properly set and locked. Thereafter the applicant got both the points properly checked and pad/clamped locked. Even after the incident the route was found properly set and locked.

6.26 That the sleepers available on the passage B to C could have been able to tell the story of the

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wheels as to whether the wheels themselves went out of order, but as the sleepers were got replaced over night without any inspection or the enquiry, the important evidence was washed off.

6.27 That the impugned punishment order dated 15.3.1988 contained in Annexure-1 to this application has been passed without issuing any show cause notice to the applicant as required under 1968 Rules and without following the procedure contemplated therein. Hence the order is wholly illegal and arbitrary.

6.28 That a perusal of the chargesheet issued to the applicant obviously reveals that the applicant has been held responsible for violation of the General Rules No. 3.69(2)(III) read with the provisions of Rule 3(I),(II) and (III) of the Railway Service Conduct Rules 1966 (hereinafter referred to as 1966 Rules). It is pointed out that the general rule no. 3.69 bears to the caption as .-

Duties of Station Master when an approach stop signal is defective".

This does not contain the Rule No. 3.69(2)(III). Rule 3.69(2) of the general rule (samanaya Niyam) has not been framed so far and it appears that some other provisions might have been quoted in the Article of charges and as such obviously the

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applicant has not violated any such general rule as alleged.

6.29 That the general rules have been framed under section 47 of the Indian Railways Act 1890 for the purpose to provide a Rule for working of the Railways and regulating the mode in which, and the speed at which the rolling stock used on the railway is to be moved or propelled and according to the provisions of sub-section (a) of section 101 of the aforesaid Act a railway servant is ~~responsibi~~ responsible for the punishment for disobeying any general rule made, sanctioned, published and notified under this Act in accordance with the provisions subsequently referred under section 101 of the Indian Railways Act 1890 read with the provisions contained in Chapter IX of the aforesaid Act 1890 and thus the applicant has not committed any misconduct even if it is found that some general Rule has been disobeyed by him and therefore no action under Rule 9 of the 1968 Rules could be taken against the applicant.

6.30 That similarly the applicant has not violated any provisions of 1966 Rules. He has always devoted and dedicated to the work entrusted to him and has always functioned according to law.

6.31 That a further perusal of the chargesheet reveals

2/10/68

that the same has been issued by the Divisional Safety Office, N.E.R., Lucknow. It is most respectfully submitted that the Divisional Safety Office has neither any administrative control on the applicant nor is a disciplinary or punishing authority in case of the applicant under rules and hence the Divisional Safety Officer can neither institute any disciplinary proceedings against the applicant nor impose any punishment under 1968 Rules and thus the impugned punishment order contained in Annexure-1 to this application is wholly without jurisdiction, null and void in the eye of Law. The proceedings are void abinitio and cannot be taken to be a foundation to punish the applicant.

6.32 That the enquiry proceedings have been abruptly stopped while the statements and cross examination of the witnesses were going on. If the entire enquiry proceedings could have been completed the applicant would have been exonerated as there is no material/evidence is available on record on the basis of which the applicant may be held responsible for the incident.

6.33 That the increment of the applicant is due to fall on 1-st of August, 1988 and in case the operation of the impugned order is not stayed the applicant will have to suffer irreparable

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loss and will have to face difficulties in these hard days without any rhyme or reason.

7. Details of the remedies exhausted.

The applicant declares that he ~~wa~~ has availed of all the remedies available to him under the relevant service Rules etc.

8. Matters not previously filed or pending with any other court.

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any court of law or any other authority or any other Bench of the Tribunal and nor any such applications, writ petition or suit is pending before any of them.

9. Relief(s) sought .

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

- a) That this Hon'ble Tribunal may kindly be pleased to set aside the impugned order dated 15.3.1988 contained in Annexure-1 to this application imposing the punishment of stoppage of three years' increments temporarily.
- b) That this Hon'ble Tribunal may further be pleased to direct the Respondents to pay the increments to the applicant and when they fall due ignoring the impugned order of punishment dated 15.3.1988 contained

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in Annexure-1 to this application.

- c) to issue any other order which this Hon'ble Tribunal deems just and proper in the circumstances of the case.
- d) to award the cost to the applicant.

G R O U N D S

- i) Because the impugned order is without jurisdiction.
- ii) Because the impugned has been passed stopping the enquiry proceedings abruptly.
- iii) Because there is no material available on record on the basis of which the ~~impugned~~ punishment can be imposed upon the applicant.
- iv) Because the joint note prepared by the authorities concerned is wholly irrelevant and perverse to the matter available on record.
- v) Because the applicant has not committed any misconduct and he has properly locked, clamped and pad-locked the point after crank handling.
- vi) Because the points were found properly set and locked even after the accident.
- vii) Because the applicant has not violated any general rule as alleged.  
not
- viii) Because the applicant is responsible for the derailment which occurred owing to the mistake of other staff.

*[Handwritten signature]*

- ix) Because no incident took place on the point set by the applicant.
- x) Because the impugned order has been passed arbitrarily and illegally without properly affording the opportunity to the applicant to assail the charges to establish his innocence.
- xi) Because the impugned order has been passed without affording the applicant any opportunity as available under 1968 Rules.
- xii) Because no opportunity has been afforded to the applicant before imposing the punishment vide impugned order contained in Annexure-1 to this application.
- xiii) Because the impugned action ~~has~~ is wholly unwarranted against the provisions of Law and natural justice and in grave transgression of the principles of fair play and equity Besides infringing the provisions of Part III of the Constitution of India.
- xiv) Because the applicant has taken all the care which is expected from an ordinary prudent man for passing the trains and setting the points.

10. Interim Order, if any prayed for .

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

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1. The Hon'ble Tribunal may kindly be pleased to stay the operation of the impugned order dated 15.3.1988 contained in Annexure-1 to this Application and direct the Respondents to not to stop paying the increment falling due from 1st of August 1988
2. to issue any other order which this Hon'ble Tribunal deems just and proper in favour of the applicant.

G R O U N D S .

same as has been given in para above.

11. In the event of application being sent by Registered post, it may be stated whether the applicant desires to have oral hearing at the admission stage and if so, he shall attach a self-addressed Post Card/Inland Letter, at which intimation regarding the date of hearing could be sent to him.
12. Particulars of Bank Draft/Postal Order in respect of the applicant fee.

1. No. of Indian Postal Order : 5 067825
2. Name of the issuing Post Office : HIGH COURT BENCH LUCKNOW
3. Date of issue of Postal Order : 21-7-88
4. Post Office at which payable: LUCKNOW

13. List of enclosures. same as given in Index.

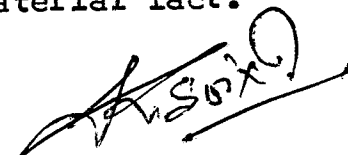
...

VERIFICATION

I, Krishna Swarup Dixit, son of Sri R.P. Dixit  
aged about 50 years, working as Station Master,  
Northern Eastern Railway, Gola Gokarannath, do hereby  
verify that the contents of paras to  
are true to my personal knowledge and paras  
to believed to be true on legal advise and that  
I have not suppressed any material fact.

Dated. July , 1988

Place: Lucknow.



Signature of the Applicant.

Annexure 1

Annexure - 1

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पूर्वोत्तर रेलवे

अनुशासन एवं अपील नियम 1968 के नियम 11 के अधीन वर्गीकृत सेवा पृथकता तथा अनिवार्य सेवा निवृत्त एवं (हिस्सा) प्रदावनाति के मामलों को छोड़कर) दण्ड अभिरोधन सूचना ।

संख्या-डी 537/ जेडीए/लखनऊ/31/87

दिनांक-15-3-88

प्रेषक मंडल रेलवे प्रबन्धक,  
पूर्वोत्तर रेलवे,  
लखनऊ ।

सेवा में श्री ~~जे. एस. दीक्षित~~ ~~रस्तेमा~~ ~~जमरदखन~~  
द्वारा ~~रस्तेमा~~ ~~जमरदखन~~

इस कार्यालय दायन संख्या- ~~रस्तेमा~~ ~~जमरदखन~~ दिनांक-2-12-87

उत्तर में आपके स्पष्टीकरण के संदर्भ में आपको रस्तेमा द्वारा सूचित किया जाता है कि अधोदस्तावेज कल ने निम्न आदेश पारित किये हैं ।

"आदेश पारित किये हैं"

अनुशासन एवं अपील नियम 1968 के नियम 11 के अधीन वर्गीकृत सेवा पृथकता तथा अनिवार्य सेवा निवृत्त एवं (हिस्सा) प्रदावनाति के मामलों को छोड़कर) दण्ड अभिरोधन प्रतिलिपि प्रमकाधि/लखनऊ

1. इन आदेशों के विस्तृत अपील ~~जमरदखन~~ ~~लखनऊ~~ हो सकती है (आदेश पारित करने वाले अधिकारी से आसन/डीडीयट जेडी अधिकारी) ।  
2. यह अपील उस प्राधिकार द्वारा रोका जा सकता है जो आदेश देने वाले प्राधिकारी से निम्न न हो यदि

(ब) यह मामला ऐसा हो जिसमें नियमाधीन कोई अपील न होती हो ।  
आदेश जिसके विस्तृत अपील की जा रही है, की अपील कर्ता द्वारा प्राप्त के तारीख से 45 दिनों के अंदर न प्रस्तुत किया गया हो और देरी के लिये समुचित कारण न बताया गया हो ।  
(स) अनुशासन एवं अपील नियम 1968 के नियम 21 के प्राविधान का अनुपालन न किया गया हो ।

प्र. मंडल संस्था अधिकारी,  
लखनऊ  
आपकी दण्ड अभिरोधन सूचना संख्या डी 537/जेडीए/लखनऊ/31/87 दि. 15-3-88 प्राप्त किया ।  
हस्ताक्षर  
दिनांक

आदेश

आदेश को प्राप्त आता अध्ययन ASMI PD व  
p.man / PD का आरोप पत्र लघु दंड आरोप पत्र से बदला

जाता है। p.man के statement व point note से  
साफ़ जाहिर है कि उन्होंने Crank Handle करने को

बाद इसको Clamp व pad lock जहाँ किया और point  
को Clamp न करने पर दंड दंड से point चल  
जाने का खतरा बना रहता है अब जी के एस  
दोस्त का तीन वर्ष की बतन दंड अस्थायी तौर  
पर शर्की जाती है।"

(वी. के. तिवारा)

ग्रुप सप्लाय वरका अधिकारी,  
पुणे जेल, पुणे

recd. Attached

Kant

Shw

अनुबन्ध: -

जी के०एस०दीक्षित स्टेमा/फरदहन के विरुद्ध विरचित आरोप के अनुबन्ध का विवरण

अनुबन्ध I

दिनांक 23-10-87 को जब श्री के०एस०दीक्षित फरदहन स्टेशन पर स्टेशन मास्टर के पद पर कार्यरत थे तो उस समय 22/10/87 को 12/45 बजे से इन्टरलाकिंग फेलोव चल रहा था। आप कवर्ड डम्पट्री के इन्जन न० 6609 वार्ड ही एम-4 को फरदहन देवकली ब्लाक सेक्शन <sup>साफ</sup> स्टाफ करने के लिए भेजते समय यह सुनिश्चित नहीं किया कि कांटा न० 101X को क्लेम्प बन्धे के कारके ताला लगा दिया गया है जिसके परिणाम स्वरूप स्वयं उक्त इन्जन कांटी न० 101X पटरी से <sup>उपर</sup> हल गया। श्री के०एस०दीक्षित ने सामान्य नियम 3.69(2) (III)

GR Page no 63

का उल्लंघन किया ~~अव्यवस्था~~ जो कि अवचार का आरोप है। इस प्रकार की श्री दीक्षित ने रेल सेवा आचार नियम 1966 के नियम 3(1)(II)व (III) का पालन नहीं किया।

प्रमसधि/लखनऊ  
(बी०के०सिवारी)  
11/12

अनुबन्ध - II

श्री के०एस०दीक्षित स्टेमा/फरदहन के विरुद्ध विरचित आरोप के अनुबन्ध के समर्थन में अवचार के आरोप का विवरण

दिनांक 23-10-87 को फरदहन तथा देवकली के बीच हाउन मैलानी सेक्शन का इन्जन न० 6452 वार्ड ही एम-4 फेलो <sup>अव्यवस्था</sup>

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फेल हो गया था अतएव ब्लाक सेक्शन साफ़ करने के लिए फरदहन स्टेशन से <sup>अप</sup> क्वार्टर स्मॉटी सेक्शन के इन्जन न० 6609 को जाना था । फरदहन स्टेशन पर 22-10-67 को 12/45 बजे से इन्टरलाकिंग फेलोर चल रहा था तथा 23-10-67 को 8 बजे से श्री के०एस० दीक्षित स्टेमा डिप्टी पर थे /उन्होंने इन्जन न० 6609 को भेजने के लिए यह सुनिश्चित नहीं किया कि कीच न० 10 को ब्लॉक करके उस पर ताला लगा दिया गया है जिसके परिणाम स्वरूप उक्त इन्जन न० 6609 काटों न० 10 पर दो रास्ता होने के कारण पट्टी से उतर गया । श्री के०एस० दीक्षित ने सामान्य नियम 3.69(2)(111) का उल्लंघन किया जिसमें जो कि अवधार का आरोप है। इस प्रकार श्री दीक्षित ने रेल सेवा अधिनियम 1966 के नियम 3(1) (11)व(111) का पालन नहीं किया ।

वि. वि. तिवारी  
(बी०के० तिवारी)

प्रमसधि/लखनऊ 7/12/67

T.C. Registered

Signature

Signature

अनुबन्ध III

प्रलेखों की सूची जिनके द्वारा श्री कै०एस०दीक्षित स्टेमा/फरदहन  
के विरुद्ध विरचित आरोप के अनुच्छेद <sup>संयुक्त</sup> स्मृत करने व प्रस्ताव है

- (1) संयुक्त अधिका निष्कर्ष
- (2) संयुक्त नोट जो दुर्घटना स्थल पर बनाया गया
- (3) श्री कै०एस०दीक्षित स्टेमा का बयान
- (4) श्री मुन्ना लाल <sup>कोटी</sup> का बयान
- (5) श्री लाल बहादुर चालक का बयान
- (6) श्री बी०के० सक्सेना <sup>गार्ड</sup> का बयान
- (7) श्री नसीमुल हक ई०एस०एम का बयान

(वी०के० तिवारी)

प्रमसधि

7/12/07

अनुबन्ध III

साक्षियों की सूची जिनके द्वारा श्री कै०एस०दीक्षित स्टेमा  
फरदहन के विरुद्ध विरचित आरोप के अनुच्छेद स्मृत करने का  
प्रस्ताव है।

- (1) श्री लाल बहादुर चालक
- (2) श्री बी०के० सक्सेना गार्ड

(9)

(वी०के० तिवारी)

प्रमसधि

7/12/07

T.C. Attached

*[Signature]*

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-: निष्पत्ति:-

दिनांक 23.10.87 का परधान स्थान पर 10/57 बजे होने वाली दुर्घटना श्रेणी बी/5 के दुर्घटना के जांच का निष्पत्ति:-

दुर्घटना-स्थल का निरीक्षण करने तथा गवाहियों पर विचार के पश्चात् स्पष्ट होता है कि:-

- 1- श्री के. एस. टी. दीक्षित वि. दा. स्थान मास्टर/परधान दिनांक 23.10.87 को जंटा नं. 1x पर क्लैम्प तथा ताला लगा होना अनिश्चित नहीं कि जिसके लिए श्री. के. एस. टी. दीक्षित वि. दा. स्थान परधान इस दुर्घटना के लिए जिम्मेदार है।
- 2- श्री मुन्ना लाल जंटा वाला/परधान दिनांक 23.10.87 को प्लाइन्ट नं. 1x पर क्लैम्प तथा ताला न लगाने के कारण जिम्मेदार है।
- 3- श्री लाल बहादुर झाड़वर 6609 वाई. डी. एस. 0/141 अधिक गति से इंजन चला कर "विना" श्रृंखला आगे बढ़ने के साथ मिले आगे चलते गये और प्लाइन्ट नं. 1x पर क्लैम्प तथा ताला न लगा होने से बसने लाइने बन गई जिससे इंजन अपनी अगली टूली के समस्त छः पहियों से दुर्घटनाग्रस्त हो गया जिसके लिए श्री. लाल बहादुर झाड़वर पूरा उत्तरदायित्व न पूर्ण करने के कारण जिम्मेदार है।

*[Signature]*  
T.C. H. Patel

*[Signature]*  
T.C. H. Patel

निष्पत्ति

श्री नसीमुल्लाह के. एस. टी. एस. परधान को अपने कार्य एवं उत्तरदायित्व की जानकारी नहीं है। जिस से 35 घण्टे तक परधान स्थान पर इन्टर लॉकिंग फैल्योर बना रहा जो दुर्घटना का सह कारण है।

*[Signature]*  
T.C. H. Patel

*[Signature]*  
T.C. H. Patel

*[Signature]*  
T.C. H. Patel

*[Signature]*

JOINT NOTE (3) (6) 5/

We the undersigned have inspected the site of derailment of Engine no. 6609 YDM 4 at Phardhan on point no. 1X (derailing switch) derailed at 10/57 hours on 23.10.1987, while going to pick up the loads of Iron Malasri spl failed in the block section between PD - DEO at KM 147/8.

The Engine no. 6609 YDM 4 derailed with all its six wheels of front bogie due to being too roads ~~at~~ the point no. 1X (facing point for this Engine) was neither correctly set nor clamped and padlocked. There is no mounting mark on switch rail, whereas there is clear wheel mark, available on the stock rail of derailing switch up to 8.00 meters (Eight meter) length from the toe of the switch. Shri Munna Lal Dointy, as on duty at Phardhan is responsible for this lapse and derailment.

1. Sign PD = Sh. K.S. Dixit
2. Guard = Sh. V.K. Saxena
3. Driver = Sh. Lal Bahadur

(Signature)  
T1/LMF  
at PD.

(Signature)  
PWI-LMF  
at PD.

(Signature)  
SI/LMF  
at PD.

(Signature)  
SI/LMF  
at PD.

(Signature)  
SI/LMF  
at PD.

F.C. Attended  
(Signature)

(Signature)



Aug

सी

No. KS 5/07

मान मंडल से, रक्षा अधिकारी  
लाइन 3 दि. 0-12-12-87

विषय :- Defence ऑफिसर को जानकारी

संदर्भ :- आपका आदेश पत्र संख्या नं० T/537/NTA/LJN/31/07  
दिनांक 7-12-07

सेवा में :- सविनय प्राथना आती है कि मेरे संलग्न पत्र संख्या नं० KS 5/07 दि. 0-12-12-87 को आप अगल मानते नहीं प्रदान करते हैं। निम्न में अपने case को हमें ही Defence Council रहता और आप DAR Enquiry को तारीख निश्चित करने में सक्षम नहीं आते और तथ्या निम्न लिखित अन्यायों को cross question करते हैं कि मेरे DAR Enquiry में उपस्थित होना चाहिए :-

- ① PwI/LMP सी सी पी सिंह (इन्क्यूअर को अद्यतन को Jant nah देने वाले थे)
- ② ASI/LMP तथ्या एस एल ए
- ③ CIS/GK में स्टेशन के लॉकर

- ① सी भद्रन लाल MSM
- ② सी भुविता निवा वंश
- ③ " भगवान सिंह (कलारी)
- ④ " रमेश प्रसा
- ⑤ " नसीमूल हवाल ESM III

④ material में पुराने 16 साल के फ्लॉपर में जो कि नॉर्मल नं० 1X को प्राप्त होने के नये (च) फ्लॉपर को बांध निशान बनते आकरते चले गए थे। उनका जगह उसी रोल नये फ्लॉपर 1987 को बदले गए वगैरह Enquiry हमें इनमें कभी खबर नहीं थी और कभी बदले गए जिसे मौके पर DAR Enquiry में मुझे पाना था आप।

आशा है कि मुझे अपने case को अपने आप ही हमें Defence Council बनाने में आपका कोई आपत्ति नहीं होगी तथा मुझे आपका उत्तर देने की कृपा करें।

T.C. Attached  
Ad

आपका प्रार्थी  
R. S. Dixit  
Rg. Stn. Master  
Phardham.

वर्षान श्री नारायण एम एम श्री अमल एम एसएम लखनपुर  
 वर्ष ५५ रामेश्वर लखनपुर एसएम लखनपुर  
 दिनांक २३-१०-८७ कोड-डायन नं० ६६०९ यडिग-५ के सचन धर्म।

मैं रेल करधान स्टेशन पर रिले रूम में २३-१०-८७ को Lock  
 Light की बिलबलता को ठीक करने के लिए उपस्थित था  
 Diagram चैन कर रहा था लगभग ११ बजे स्न. Master  
 on duty ने बताया कि कोटा संख्या १४ पर Diesel engine  
 का Drailment हो गया है मैं Relay Room बंद करके  
 Side पर गया तो मैं इंजन को देखकर कि १४ संख्या वाली  
 ओवर लाइन Drail है हमारा लाइन नं० १४ का बिच स्ट्रोक  
 रिले से बिलबलता सटा हुआ था और कोटा कोई शांत  
 नहीं पड़ने की फिर स्टेशन आकर अपने सचन धर्म सटा  
 को सूचित किया।

प्रश्न नं० १ - जिस वकत करधान में दुर्घटना हुई उस वकत आप कहां थे

उत्तर - रिले रूम में डायग्राम चैन कर रहा था।

प्रश्न-२. जब आपकी दुर्घटना की सूचना मिली तो क्या आप  
 दुर्घटना स्थल पर पहुंचे?

उत्तर - जी हां।

प्रश्न-३. दुर्घटना के समय कोई आप के बिभाग का आदमी  
 वहां दुर्घटना स्थल पर मौजूद था?

उत्तर - ३ नहीं।

प्रश्न-४. जब आप दुर्घटना स्थल पर पहुंचे तो आपने क्या-क्या  
 देखा?

उत्तर - वहां मैं अपने उपरोक्त वर्णन में वर्णन की चुका हूँ।

प्रश्न-५. आप अपने पहले लगान में ऑयल लेवलिंग के साथ  
 क्या कहा है कि हराक रेल और स्वीच रेल में लगभग  
 १/४" डिफरेंस थी और आज वहां १६ है कि स्वीच रेल  
 संख्या १४ पर स्वीच रेल हराक रेल से बिलबलता सटा  
 हुआ था।

उत्तर - ऐसा मैंने कभी नहीं कहा है। मैंने कहा था कि  
 लेवेलिंग में १/४" डिफरेंस लाइन करने में रह गया  
 था न कि स्वीच रेल में १/४" डिफरेंस रह गयी थी।

प्रश्न ६. आप के अनुसार दुर्घटना का कारण क्या हो सकता है?

उत्तर - स्वीच रेल ही गलत था। इसके आगे मैं नहीं जानता  
 कि दुर्घटना किस कारण से हुई।

23/10/87  
 नारायण लखनपुर  
 नारायण

अमल एम एसएम  
 15/11/88

दिनांक-२  
 15/11/88  
 अमल एम एसएम

नारायण लखनपुर  
 इ. प्रस. प्रस. श्री

T. C. Attested

प्रश्न-7 क्या प्वायंट पर ~~कैलैस~~ कैलैस एवं ताले लगे थे ?  
 उत्तर - प्वायंट नं० 17 पर कैलैस एवं ताले लगे लगे थे  
 किन्तु प्वायंट नं० 1 पर कैलैस एवं ताले लगा हुआ था

प्रश्न 8 क्रैंक हैंडिल से प्वायंट चलाने पर पहले सैन  
 सा प्वायंट जाक होगा 17 या 1 ।

उत्तर - पहले 17 जाक होगा कि ।

प्रश्न-9 दुर्घटना के तुरंत बाद आपने किसी प्रकार के रंगड  
 का चिन्ह हाक रेल या स्विच रेल पर पाया था ?

उत्तर - लगभग 3 मीटर दूरी के बाद हाक रेल पर  
 इंजिन के चक्के की रंगड का निशान था ।

प्रश्न - 10 इंजिन और ब्रेकभान की स्थिति दुर्घटना के  
 तुरंत बाद किस स्थिति में था ।

उत्तर - इंजिन के अगले तीन चक्के 8 पटरी से नीचे था  
 एवं पीछे के तीन चक्के और ब्रेकभान के सभी  
 चक्के 8वीं पटरी पर था ।

मसीमुल्लह  
 ई. एस. प्रमोद

जो व्यापक और मसीमुल्लह के मा. ला है वही व्यापक मीराही

*[Signature]*  
 MC 8m  
 15/1/88

*[Signature]*  
 15/1/88  
 DT/Un

रामप्रताप (व्यवसायी)  
 गोला  
 दिनांक - 15-1-88

*[Signature]*  
 T.C. Affected  
*[Signature]*







दिनांक - 15.1.88

दिनांक 23-10-87 को फरधान स्टेशन पर इंजिन नं० 6609 आई.डी.एल-1 के पटरी से उतरने के समय श्री मुक्तिनाथ वर्मा एम.एस.एम. रेलवे का वरमान।

दिनांक 23-10-87 के सुबह 9.00 बजे रजा गंज के तरफ आगुरक्षण कार्य कर रहे थे आगुरक्षण उस तरफ का सुरावर के बाद में तथा मेरा रेलगाड़ी श्री मुक्तिनाथ वर्मा स्टेशन पर पहुँचे तो पता चला कि काँटा नं० 1X पर जीतल इंजन गिर गया है। काँटे को विफलता पटल से चला रहा था, मैं खिलो No 1X पर गया तो देख कि काँटा नं० 1X पुनितया सेट था इंजन का सामना तीन घूरा फाउलिंग भाग के बजदाल गिरा जा काँटे के ऊपर गाड़ी के बाग को चाल चोरा पहिया सही लाइन पर था ख इंजन को पटि के सभा पहिया सही लाइन पर था। इंजन के से गिरा जांच कोता गेहापम जात।

msm/MLN व PD

मेराफरी थही वयाग है जो msM/गाहव ने दिया है।

मुक्तिनाथ वर्मा

1 प्रश्न:- आप फरधान स्टेशन पर कब से और किस उद्देश्य से आये थे ?

उत्तर - फरधान स्टेशन पर 213 अप से आगुरक्षण कार्य का निर्धारित दिन होने के कारण आगुरक्षण कार्य के लिए आये थे।

2 प्रश्न - आप का हाथ आगुरक्षण कार्य के लिए कहां से कहां तक है ?

उत्तर - उस समय सिगनल निरीक्षक के निर्धारित करने पर भीरवमपुरा से लेकर फरधान तक था।

3 प्रश्न:- फरधान स्टेशन पर किस इंटरलॉकिंग निकलना कब से चल रहा था ?

उत्तर - इसकी कोई सूचना हमें नहीं थी।

4 प्रश्न:- जब आप वहां पहुँचे तो आपको इंटरलॉकिंग की क्या स्थिति मिली ?

7-2-88  
msm/MLN  
15.1.88

(2)

उत्तर- जहाँ हम वहाँ पहुँचें तो कंटा नं० 1 से सम्बंधित विजली-  
की स्वरशी- चल रही थी जिसे ठीक करने के लिये  
ESM जोला गोराम नाथ के द्वारा ठीक किया जा  
रहा था। इलेक्ट्रिकल विफलता के सम्बंध में मुझे कोई  
~~किसी~~ - जानकारी नहीं है।

5. प्रश्न - दुर्घटना के समय रिले रूम खुला था या बन्द।

उत्तर- उस समय मैं रजा गंज साइड के प्वायंट पर था  
अनुरक्षण कर रहा था।

6. प्रश्न - जब आप दुर्घटना स्थल पर पहुँचें कंटा नं० 1X  
पर क्लैम्प लगा हुआ मिला था ?

उत्तर- नहीं।

7. प्रश्न - कहीं डध-उधर कंटे से दूर भी क्लैम्प दिखायी  
पड़ा था ?

उत्तर- मुझे नहीं दिखायी पड़ा था।

8. प्रश्न - आपके दृष्टिकोण से दुर्घटना का क्या कारण हो  
सकता है ?

उत्तर- लाइन में स्वरशी हो सकती है या किसी प्रकार  
का अवरोध हो सकता है।

9. प्रश्न - माटर प्वायंट के संयन्त्र के सम्बंध में आप  
कोई प्रकाश डाल सकते हैं ?

उत्तर- जी हाँ।

10. प्रश्न - दुर्घटना के बाद माटर प्वायंट में कोई स्वरशी आपसे  
दिखाई पड़ी थी ?

उत्तर- नहीं।

11. प्रश्न :- क्या यह सम्भव है कि अगले तीन घुरी  
इंजिन का हो लाइना करके निकल जाने  
के बाद फिर कंटा रही स्थान पर पहुँच जाय।

उत्तर- ऐसा हो नहीं सकता है क्योंकि कंटा नं० 1 के फुल  
प्वायंट है।

12. प्रश्न - जब रेल हंडिल से प्वायंट छूट किया जाता है  
तो यह प्वायंट लाक हो जाता है या फ्री रह जाता है ?

उत्तर- प्वायंट नं० 1 के लॉक रेल से बंद हो- 1 नं० की  
दूरी- चाल स्वतः हो जाती है। इसी लीच प्वायंट को  
Economic होने के कारण अनलॉक एवं लाक की  
पद्धति रक्कम हो जाती है।

MSM/MLL  
15.11.88

मुद्रित/ययय

MSM 15/11/88

DTI/MLL/E/O

(3)

13. प्रश्न - जब एकाग्रता केन्द्र हटिजल से ही लागू हो जाता है तो फिर कानूनन व्यवस्था लगाने की आवश्यकता क्यों की जाती है ?

उत्तर - 1. क्योंकि बिकलता के समय उच्च अधिकारियों द्वारा यह नियम बनाया गया है ताकि संरक्षण सुनिश्चित रहे।

✓ 13. प्रश्न - आपके अनुसार इसकी कोई आवश्यकता नहीं है ?

उत्तर - प्लायंट के लॉक हो जाने के बाद मुझे कोई आश्वपक्वता महसूस नहीं होती है। जब तक साटा प्लायंट का कोई नुचलावा अनुलोक नहीं हो सकता है।

14 प्रश्न - न चलावे अचलाक नही हो सकता है।  
अब मैं हेन्डिल चलाते वकन पूरी चाल चलाने  
वाला न चलाय ओ। प्वायोट पूरी तरह से न  
सेट हो ओ। इंजिन का चक्का दो लाइना वकाने  
दुप चला जाय तो वकन प्वायोट डैमेज होजा या  
नही ?

✓ उत्तर - प्लाथेंट ड्रेमेज हो जायगा ।

प्रश्न- प्लाथेट नं० १ से फ्रैक हेमिडल चलाने पर पहले डीन सा प्लाथेट लाक होता है १

✓उत्तर - 1 म पहल कार होजा दि नं 1.

16. प्रश्न - मोटर जल स्वयंसेवक केन्द्र हेन्डल से चलाया जायगा कि  
ज्यायदात न० 1. 2 पर मिश्री होने से सम्भावना है या नहीं।

उत्तर - जस मोटर खायेर सेन्टर में देखा जस अनहथा में  
गिरी रहे लकरी है।

प्रश्न - दुर्घटना के कारण जब आप प्लागंटर पर पहुंचे तो प्लागंटर नं० 1 पर बल्लेबाज लगा था या नहीं? हां।  
 जवाब - हाँ प्लागंटर फिट लाइन के लिये सेट था तथा ताला लगा था या नहीं।

371- नह प्याथर लाइन नं० दो के लिखे सेट था आ उसमें  
कैम्प लगा था एवं ताला लगा था ।

✓ 18. प्रश्न - जल प्यामेंट नं० १ पर क्लैन्स एवं ताले लगे थे तो क्या १५ पर दो लाइना बन सकता है?

उत्तर - बिना प्लायमेंट को ड्रेमेज किचे ऐसा नहीं हो सकता है।

प्र. ११. प्रश्न - क्वाथेंड नं० १। पा इंजिन के छि पट्टी से उठाने का कोई निम्न उपाय बंदूक पड़ा था ?

उत्तर - एवाचर के मुँह पर जिह्वे का कोई निशान नहीं था किन्तु  
पश्चन आगे जाकर ओंघे या पांचवे हलीया पर चक्के का निशान

Q20 प्रश्न - आगे जाकर जोधे या पानके हलीया पर चक्के का निशान था।  
आपने किसी पत्र में देह रंगड़ का विधान लिखे थे या  
फिरकें लिखे या था या १

उत्तर - तृतीय रेल और हवाई रेल के उपाय किसी प्रकार के गड़का निराकरण नहीं पाया !

5/12/77, 2011

~~Asm~~ sm 15/180

15/1/80  
DT/lyn

15/1/20

DT/4m

~~ms 2/2000~~  
ms 5m/mlw  
15.1.00

Annexure-6

जहरत परे दोनो तरफ लिखे  
Use both side if required.

पुबोत्तर रेलवे  
N. E. RAILWAY

N. E.-G. 40  
RB-GL. 19

संख्या (No.) T/537/NTA/LSN/31/87 दिनांक (Dated) 11-3-88.  
 प्रेषक (From) Permisra सेवा में Si K.S. Dixit  
DTI/LSN (E.O.) RG/SM PD  
 विषय (Sub:) DAR enquiry at- LMP minna lall  
on 19-3-88 in connection P. Man PD.  
 मदर्थ (Ref:) with detailment of X.D. Yadav  
Engine No. 6609 YDM-4 PD/LMP  
at- phardhan on 23-10-87 Si e. P. Singh  
AEN/STP.  
TI/LMP.

The DAR enquiry in connection with detailment of engine NO 6609 YDM-4 at- PD on 23-10-87 is fixed on 19-3-88 at- LMP AEN/STP to please spare Si e. P. Singh PD/LMP who was e/o at- PD and TI/LMP to spare all concerned staff to attend enquiry at- 10/4 at- LMP on 19-3-88. certain so that the enquiry may be completed at- an earliest.

*[Signature]*

*[Signature]*  
T.C. A. A. A. A.

*[Signature]*  
DTI/LSN.  
E.O.



सही का कहना है। उनका statement को copy में भेजें DTA/DAV  
 की जगह काका है Defence Counsel को भेजें। अतः  
 जब तक पूरा proceedings न समाप्त हो जायें तब तक मेरी  
 धृष्टि वहाँ बाँधे जायेंगी जो सीका गई है उसे स्थगित रखें।  
 इस सम्बन्ध में मैं आपको इस दया पर आपका बहुत  
 बहुत आभारी रहूँगा। अतः उचित आदेश दिया जाय और  
 DADR सम्पूर्ण का तारीख निश्चित करने का आदेश  
 दिया जाय।

आपका प्रार्थी  
 कृष्ण स्वराय प्रेरित  
 विशाल पाल स्टेशन -  
 - गाँव गीला गीलापामि

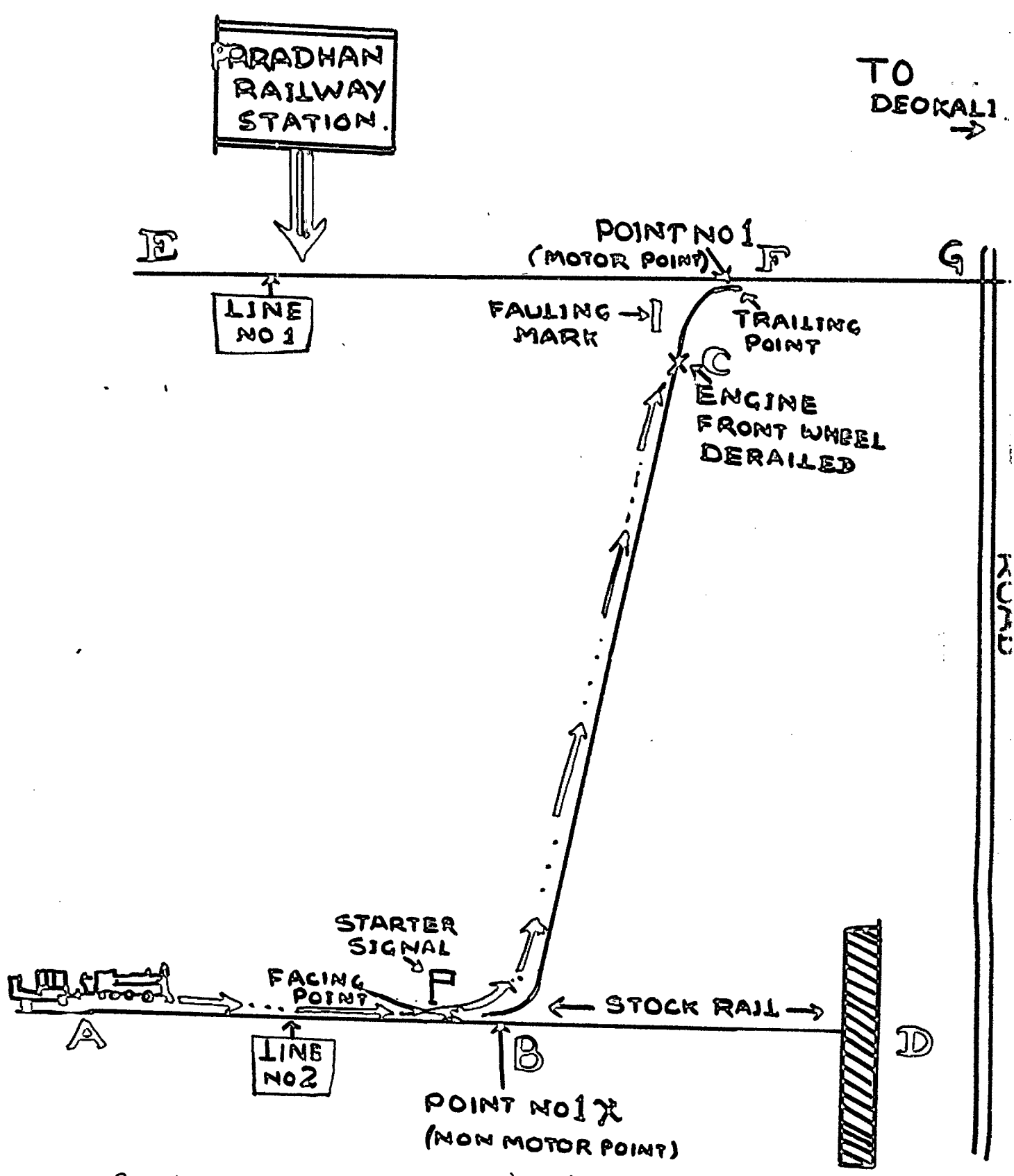
T. G. H. H. H. H.  
 T. G. H. H. H. H.  
 T. G. H. H. H. H.

10/10/2019 11:19  
 10/10/2019 11:19



ASS

# ANNEXURE - 8



- Point 1X. open. become derails switch
- Point 1x set - route set.

## SITE PLAN.

*Handwritten signature/initials*

*Handwritten signature/initials*

Before Central Administrative Tribunal, Allahabad

ब ब्रह्मालत धीमान्

~~A Lucknow!~~

## सहोदय

Asb

वादी अपीलान्त Applicant :-

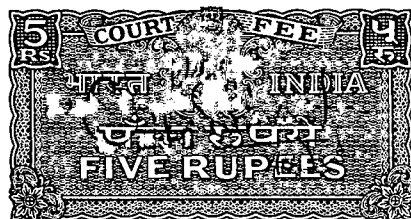
श्री

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## बकालतनामा

प्रतिवादी { रेंस्पाडेन्ट

Krishna Suresh, District - Applicant



**पाणी (अधीनस्थ)**

V/S एनाम

**प्रतिवादी (रिस्पॉण्डेंट)**

Union of India 20th Nov - Res. Products

୩୦ ସୁଦୃଢ଼ା

**सम**

**पेणी फी सा०**

११३

O.A. No. - - - 1700

कथर लिखे मुजदम। में अपनी ओर से श्री ओ० पी० श्रीवास्तव एडवोकेट

उपनाम डी० पी० श्रीवास्तव (इसको केर

द६७, पुराना महानगर निफ्ट फासिमा अस्पताल, लखनऊ-२२६००२ महोदय

|             |         |        |
|-------------|---------|--------|
| नाम अदास्त  | नाम     | अदास्त |
| गुरुदमा नं० | गुरुदमा | नं०    |
| नाम फरीफिन  | नाम     | फरीफिन |

तो अपना बकील नियुक्त करके प्रतिज्ञा ( इच्छा ) करता हूं और लिखे देता हूं इस मुकद्दमा में बकील महोदय स्वयं अथवा अन्य बकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोंत्तर करें या कोई कागज दाखिल करें या लीटावें या हमारी ओर से टिगरी जारी करावे और रुपये वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या जोड़ें बयान दमा करें या हमारी बिपक्षी (फरीकसानी) का दाखिल किया हुआ रुपये अपने या हमारे हस्ताक्षर युक्त (वस्तुस्थिति) रसीद से लेवे या पंच नियुक्त करें—बकील महोदय द्वारा की गई वसूल कार्यवाही हमको सचचा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे बकील पर नहीं होगी इसलिए यह पक्षालतनामा लिख दिया प्रमाण रहे और समय पर फासू आवे ।

## हुस्ताक्षर

**साक्षी (नवाह)**

**साक्षी (गवाह)**

## हिनाद

**पट्टीजा**

सन १९

10.

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,

Circuit Bench, Lucknow.

O.A. No. 79 of 1988

Krishna Swaroop Dixit ..... Applicant  
Versus  
Union of India and others. .... Respondents.

COUNTER REPLY ON BEHALF OF  
OPPOSITE PARTIES.

I, S. K. Budhlakoti aged about 39 years  
son of Sn'g. D. Budhlakoti working as Sr Divl oftg Subdt  
in N.E. Railway, duly authorised by opposite parties, do  
hereby solemnly affirm and state as under : -

I have read the contents of the application and  
have understood the same well and as such I am conver-  
sant with the facts and circumstances of the case de-  
posed to here in under : -

1. That the contents of para 1 of the Application  
need no comments.
2. That the contents of para 2 of the application  
need no comments.
3. That in reply to para 3 of the application, it is

S. K. Budhlakoti

प्रतिवादी पक्षी  
पूर्वीचर रेलवे, लखनऊ

T.T.  
30/3/92

- 

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मै S.K. Bulbake  
मुख्य निदेशक  
पूर्वोत्तर क्षेत्र, लखनऊ

Lakhimpur, the applicant was held responsible for not ensuring in his presence fixing of clamps by the Pointsman which was his primary duty and he violated the General Rule 339, SR 3.69(2)III and the instructions contained in the Station Working Rules of Pradhan Station.

6.3. That in reply to para 6.3 of the application it is stated that the applicant has requested to show the condition of railway sleepers which were changed owing to the said occurrence which is quite irrelevant.

It is stated that since the main line was blocked and the operation was suspended, it was the primary duty of the Railway administration to restore the communication to avoid further inconvenience to the travelling public after formal enquiry made by the Sub-Inquiry Committee.

Further, since the occurrence took place in the duty of the applicant, it was his duty to inspect the site and the conditions of the sleepers and raise objections. Anything contrary to it is denied.

6.4. That in reply to para 6.4 of the application it is stated that the same has been replied in the above para of this counter reply. However, it is stated that the witnesses were summoned by the Enquiry Officer on receipt of the nomination

S. K. Chakraborty

A 61

of defence counsel by the applicant on 9-1-1988 after receiving the nomination by Sri Munna Lal Pointsman on 2-1-1988. Anything contrary to it is denied.

6.5. That the contents of para 6.5 of the application are denied to the extent that no sketch plan was drawn by the Enquiry Officer in the presence of Permanent Way Inspector, Gola and the Traffic Inspector, Lakhimpur, but simply a survey was conducted by the Inquiry Officer; hence the question of making over the copy of the Site Plan doesnot arise. Anything contrary to it is denied. .

6.6. That the contents of para 6.6 of the application need no comments.

6.7. That the contents of para 6.7 of the application are denied as stated and in reply thereto it is stated that enquiry proceedings were held on 15-1-1988 and except Mr. C.P. Singh, Permanent <sup>n</sup> ~~Way~~ <sup>Works</sup> Inspector, Lakhimpur, all others attended. Those who attended the inquiry, their statements were recorded and they were cross-examined. However, it cannot be confirmed ~~on~~ on the basis of witnesses' statements that the points were properly set and locked.

6.8. That the contents of para 6.8 of the application need no comments.

SK. *[Signature]*

6.9. That the contents of para 6.9 of the application need no comments.

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6.10 That the contents of para 6.10 of the application need no comments.

6.11. That the contents of para 6.11 of the application need no comments.

6.12. That the contents of para 6.12 of the application are wrong, hence denied and in reply thereto it is stated that the applicant has not filed any appeal before the Additional Divisional Railway Manager. It is further stated that no such appeal as alleged by the applicant was received in the office.

6.13. That the contents of para 6.13 of the application are wrong, hence denied as stated. It is stated that there was no question of information to the applicant as the appeal was not received in the office. The applicant should have sent reminder after a lapse of considerable period for which he failed. Anything contrary to it is denied.

6.14. That the contents of para 6.14 of the application are wrong, hence denied as stated and in reply thereto it is stated that since major memorandum was converted into minor memorandum, hence the Inquiry Officer was compelled to suspend the enquiry proceedings of major memorandum. It is further stated that no appeal of the applicant

S. K. Abdullah  
प्रवर परिवाहन अधिकारी  
1/11/72



was received in the office, hence there is no question of consideration of the same.

6.15. That the contents of para 6.15 of the application are admitted except that the Point No. 1 ~~X crossing~~ <sup>✓</sup> shown as Non-Motor Point is denied as it is a couple point of Point No. 1 and operated by the same motor fixed at Point No. 1.

6.16. That in reply to para 6.16 of the application it is stated that there was inter-locking failure at the station and signal seized functioning, and hence it was declared non-interlocked/as per GR 3.39 and SR 3.69(2)III it was the primary duty of the Station Master on duty to <sup>ensure</sup> ~~enquire~~ correct setting and locking of facing points for which he failed. Since the point was not locked there remained every possibility of jumping points and caused derailment after passing the front portion of the engine. Anything contrary to it is denied.

6.17. That in reply to para 6.17 of the application it is stated that Point No. 1 ~~X crossing~~ <sup>✓</sup> was facing <sup>✓</sup> ~~for the~~ <sup>purpose of</sup> train to move and it should have been clamped and pad locked, but it was not done so as mentioned in the joint note prepared by the Sub-<sup>✓</sup> ~~Inquiry~~ <sup>Committee</sup> Report. Anything contrary to it is denied.

6.18. That in reply to para 6.18 of the application it is stated that if there was any defect in the engine, the engine would have again derailed, but it did not happen so. How far the question of damage is concerned; the engine stopped itself after derailling from the track and could not proceed further and so the question of damage in the track does not arise. So far as the defect in the track is concerned, it was not proved by the Enquiry Committee at the site of the accident. <sup>✓</sup> The site plan <sup>was prepared ✓</sup> by the sub-Joint Enquiry Committee ~~was prepared~~; the track measurement of floating condition in rear portion of the derailed engine No. 6609 Y.D.M.<sup>4</sup> at Pradhan on 23-10-1987 <sup>✓</sup> was also conducted. The same may be produced before this Hon'ble Tribunal if required. Anything contrary to it is denied.

6.19. That in reply to para 6.19 of the application it is stated that the charges framed against the applicant are not for setting the point correctly but for not clamping <sup>✓ and</sup> pad locking facing points <sup>in</sup> his presence and there was every chance of jumping the point - being not pad locked. Anything contrary to it is denied.

6.20. That the contents of para 6.20 of the application are wrong, hence denied, and in reply thereto it is stated that the point was not clamped and pad locked, hence the derailment occurred.

6.21. That the contents of para 6.21 of the application are wrong, hence denied and in reply thereto it is

S.K. Bhatnagar  
10/11/87  
10/11/87

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stated that the joint note was prepared by the Permanent Way Inspector, Traffic Inspector, Signal Inspector, Loco Inspector and Loco Foreman - all technical hands on the spot; hence it has been concluded that the accident occurred due to the negligence of the applicant.

6.22. That the contents of para 6.22 of the application are wrong, hence denied and in reply thereto it is stated that the motor point was operated and clamped fixed on Point No. 1 which was trailing instead of Point No. 1 ~~crossing~~ which was facing Point No. 1 ~~crossing~~ for the purposes of movement of train. It proves that the point was not clamped and pad locked in the presence of the applicant who is ~~who~~ quite experienced having served for more than 20 years as a Station Master. Anything contrary to it is denied.

6.23. That the contents of para 6.23 of the application are not admitted as stated and in reply thereto it is stated that there remains some flexibility in the gauge for the smooth movements of the wheels. The point was not correctly set. Every possibility remained to shift from one place to another by the pressure of rolling stock since the point was not clamped and pad locked. Anything contrary to it is denied.

6.24. That the contents of para 6.24 of the application

S.K. Buddhi

प्रवर परिचालन अधीक्षक

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are wrong, hence denied as stated and in reply thereto it is stated that the clamp and pad lock were not found at the site after the occurrence.

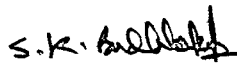
6.25. That the contents of para 6.25 of the application are wrong, hence are denied as stated and in reply thereto it is stated that in the absence of the specific date and time, it cannot be ascertained that similar accident had taken place.

In regard to other contentions of the para under reply it is reiterated that the point was not clamped and pad locked, that is why the accident took place.

6.26. That the contents of para 6.26 of the application are wrong, hence are denied as stated and in reply thereto it is stated that it was the duty of the applicant to sieze the sleepers after their replacement by serving a memo to Permanent Way Inspector for further examination, but the applicant failed to do so. Anything contrary to it is denied.

6.27. That the contents of para 6.27 of the application are wrong, hence are denied as stated and in reply thereto it is stated that the disciplinary authority was very much competent to take action after going through the mode of the case.

6.28. That in reply to para 6.28 of the application it is stated that the rule 3.69 (2)III is SR and not

S.K.   
प्रवर परिचालन अधीक्षक  
पुणे रेल्वे, लखनऊ

GR which has been wrongly written.

6.29. That in reply to para 6.29 of the application it is stated that the General Rules have been framed under section 47 of the Indian Railways Act, 1890 by the Railway Board and Subsidiary Rules and amendments thereto have been issued by the Zonal Railways concerned for which the Chief Traffic Safety Superintendent / Chief Operating Superintendent is authorised and competent officer. Every Railway servant is bound to obey the Rules. Since the applicant has disobeyed the Rules contained under GR 3.39 and SR 3.69(2)III, the applicant has been found responsible for his deeds.

6.30. That the contents of para 6.30 of the application are wrong, hence are denied as stated and in reply thereto it is stated that the applicant has also violated the Railway Servants' Conduct Rules, 1966 and rule No.3(I) (II) and (III).

6.31. That the contents of para 6.31 of the application are wrong, hence denied as stated and in reply thereto it is stated that the Senior Divisional Safety Officer is a junior Administrative Officer in the Operating Branch. As such he is competent to pass the order.

6.32. That the contents of para 6.32 of the application are wrong, hence denied as stated and in reply thereto it is stated that the Disciplinary authority went through the case, including the reply of the

मं. S.K. Bhatnagar  
अधीक्षक  
प. व. बलनरु

applicant, and he was satisfied enough to reduce the memorandum from ~~major~~ major to minor and impose the punishment under the purview of the minor penalty cases.

6.33. That in reply to para 6.33 of the application it is stated that the applicant has been correctly punished for his negligence and as such he does not deserve any interim relief from this Hon'ble Court.

7. That in reply to para 7 of the application it is stated that the applicant has not availed of the departmental channel by way of filing an appeal before the competent authority. Therefore, the instant application deserves to be dismissed ~~xxx~~ on this ground alone.

8. That the contents of para 8 of the application need no comments.

9. That in reply to para 9 of the application it is stated that the applicant does not deserve any relief as prayed in the para under reply in view of the facts and circumstances mentioned in the above paras of this counter reply

It is further stated that the Grounds taken ~~therein~~ <sup>in</sup> ~~under~~ the para under reply are false, frivolous and fabricated and not sustainable in the eyes of law and they deserve to be rejected throughout.

S.K. Anandhakar

10. That in reply to para 10 of the application it is stated that the applicant does not deserve any interim relief in view of the facts and circumstances mentioned in above paras of this counter reply.
11. That the contents of para 11 of the application need no comments.
12. That the contents of para 12 of the application need no comments.
13. That the contents of para 13 of the application need no comments.

Dated Lucknow :

1.4.1991.

S.K. Bhattacharya

For the opposite parties

Verification

I, ~~the~~ S.K. Bhattacharya & the above named, do hereby verify that the contents of paras \_\_\_\_\_ of this counter reply are true to my personal knowledge and those of paras 1 to 13 of this counter reply are true on the basis of knowledge derived from the perusal of records relating to the instant case kept in the official custody of the answering respondents except legal averments which are believed by me to be true on the basis of legal advice. No part of this counter reply is false and nothing material has been concealed.

Dated Lucknow.

1.4.1991.

Through

(B.K. Shukla)

Counsel for the Opposite Parties.

S.K. Bhattacharya

For the opposite parties

In the Court of Central Administrative Tribunal at  
Allahabad Lucknow Bench Lucknow.

K. S. Dixit - - - - - Applicant  
Claimant

V/S

Union of India & others — opposite parties

Reg. No. 79 of 1988

F.F. 10/8/89

In the above noted case I am filing  
preliminary objection against the Application  
of the applicant herewith.

Lucknow dated  
10/8/89

Asok Nigam  
Counsel for the opposite parties

Filed today

L  
10/8/89



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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT  
ALLAHABAD, LUCKNOW BENCH, LUCKNOW  
REG. NO. 79 of 1988

K.S.Dixit ... Applicant/Claimant  
Versus  
Union of India and others .. Opposite parties.

PRELIMINARY OBJECTIONS AGAINST THE  
APPLICATION OF THE APPLICANT :

The opposite parties above-named most respectfully submits as under:-

1. That the above-noted application challenges the minor punishment order as contained in Annexure No.1.
2. That against such an order imposing minor punishment, a statutory appeal lies under rule 22(2) of Disciplinary and Appeal Rules, 1968 applicable to the applicant.
3. That no such appeal has been filed/received by the competent authority.
4. That the application before the Hon'ble Tribunal itself is, therefore, not maintainable for want of <sup>not</sup> exhausting <sup>the</sup> statutory and departmental remedy available to the applicant.

VERIFICATION

I, Jai Narain  
aged about 46 years working on  
N.E.Rly., Lucknow, the opposite party No. 3

*hio*  
मुख्य नंडल सेवा अधिकारी,  
पूर्वोत्तर रेलवे, लखनऊ  
S/O Mangilal

Contd...2

in the instant application/petition do hereby verify  
that the contents of paras \_\_\_\_\_ are true  
to my personal knowledge and those of paras 1 to 3  
are true on the basis of records and those of paras  
- 4 - are believed to be true on legal advice.  
I have not suppressed any material fact.

Dated Lucknow:

Aug. 9, 1989.

प्रवर मंडल संरक्षा अधिकारी,  
पूर्वांचल रेलवे, लखनऊ