

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

INDEX SHEET

CAUSE TITLE Regd. No. 30 OF 1983 (L)

Name of the Parties Gopal Saxena

Versus

Sri. B. S. Commercial
Superintendent and others

Part A, B & C

S.No.	DESCRIPTION OF DOCUMENTS	PAGE
A1	General Index - - - - -	1
A2	Order sheet - - - - -	1
A3	Time given int. dated 20.10.83	2
A4	Notification along with annexures dated 22/10/83	11
A5	Written statement - - - - -	5
B1	Vakalatnama - - - - -	1
B2	Nature - - - - -	1
B3	Order sheet - - - - -	1

Chaque

27/12/2011

Carb. H. 11 for ready at
2/12/11

CENTRAL ADMINISTRATIVE TRIBUNAL

C.A.T. ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Gandhi Bhawan, Lucknow

Registration No.

80

of 1987(C)

APPLICANT (s)

Gopalji Saxena

RESPONDENT(s)

Sr. Divisional Commercial Supt.

Particulars to be examinedEndorsement 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 ? | Yes (3 sets have been filed) |
| 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 (IPO No DD 019008) dt. 19.01.10. |
| 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 Advocate) |

5

Gopalji Saxena Applicant

vs.

Sr.Divisional Commercial
Superintendent and others Respondents.

Hon. D.S. Misra, AM
Hon. G.S. Sharma, JMI

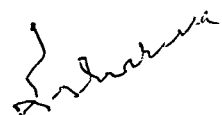
(By Hon. G.S. Sharma, JM)

This petition u/s.19 of the Administrative Tribunals Act XIII of 1985 has been filed by the applicant for the only relief that the Tribunal should decide the charge sheet dated 6.4.1985 served on the applicant under the Railway Servants (Discipline and Appeal) Rules, 1968 for minor penalty. It is alleged that after the service of the charge sheet on him, the applicant submitted his statement of defence on 7.7.1987 but since then the disciplinary authority has not taken or communicated any decision thereon and on account of this the gratuity of the applicant ^{is likely to be withheld} has been withheld with a mala-fide intention.

2. A notice was issued to the respondents to show cause why the petition be not admitted. In the reply filed on behalf of the respondents it has been stated that the action on the charge sheet dated 6.4.1985 served on the applicant was already taken on 29.7.1985 and the applicant was awarded the penalty of withholding his increment for one year but the applicant did not prefer any departmental appeal and the punishment order has already been implemented. The respondents have also taken the plea that the Union of India is a necessary party and this petition is not maintainable in its absence.

A3
2

3. On the date fixed for hearing none appeared on behalf of the applicant. The learned counsel for the respondents produced before us the service record of the applicant in which the penalty of withholding of increment for one year is shown to have been recorded on 30.7.1985. The contention of the respondents taken in their reply thus finds support from the service record of the applicant and his petition ~~has~~^{is} accordingly ~~become~~^{is} infructuous. As a matter of fact, it was not maintainable even in May 1985 when it was filed. There is no other point for adjudication. The petition is accordingly dismissed at the admission stage.



MEMBER (J)



MEMBER (A)

Dated: 28.10.1988
kkb.

Am. Dec 22, 1987

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
LUCKNOW CIRCUIT.

Gopal ji Saxena.

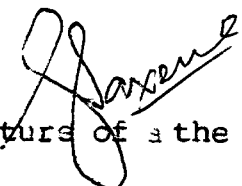
..... Applicant.

VERSUS.

SENIOR DIVISIONAL COMMERCIAL SUPERINTENDENT Respondent.

INDEX.

Sl.no.	Particulars	Page no.
1.	Application.	1 to 5
2.	Annexure no. A-I Photostate copy of Chargesheet no.C/309-56-85/BKS dt.6.4.85 Memorandum for minor penalty.	6
3.	Annexure no.A-2 Photostate copy of the reply dated 1.7.85	7 to 8
4.	Annexure A-3 Photostate copy of representation dt.7.7.87	9, 9A
5.	Vakalatnama	10


Signature of the applicant.

Lucknow.

Dated. 21/11/88.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNALS

ADDITIONAL BENCH ALLAHABAD, CIRCUIT LUCKNOW.

Gopal Ji Saxena, Chief Coaching supervisor,
Northern Railway, Prayag. Applicant.

Versus

1. Senior Divisional Commercial Superintendent,
Northern Railway, Hazratganj, Lucknow.

..... Respondent.

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNALS
ACT 1985.

Details of Applicant:

1. Particulars of the applicant.

i) Name of the applicant.	Gopal Ji Saxena.
ii) Name of father.	Sri B.P. Saxena.
iii) Designation & Office in which employed.	Chief Coaching Supervisor Northern Railway, Prayag under D.R.M., N.Rly., Lucknow.
iv) Office Address.	Chief Coaching Supervisor Northern Railway, Prayag.
v) Address for service of all notices.	Chief Coaching Supervisor, Northern Railway, Prayag.

2. PARTICULARS OF THE RESPONDENT:

i) Designation.	Senior Divisional..
ii) Office address of the Respondent.	Commercial Superintendent, Northern Railway,
iii) Address for service of all notices.	Hazratganj, Lucknow.

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

i) Order No.	Issue of direction to
ii) Date.	Respondent to decide the
iii) Passed by.	the case i.e. Charge sheet
iv) Subject in brief.	issued by Respondent vide his No.C/309-56-85/VKS dated 6.4.1985 (Annexure-A-1

- iv) Subject in Brief
- 1) The respondent Senior Divisional Commercial Superintendent, issued Charge sheet for Minor Penalty vide his letter No.C/309-56-85/VKS dated 6.4.85 (Annexure No. A-1).
 - 2) The applicant replied the Chargesheet and submitted to the respondent under clear signature on 1.7.1985 vide applicant's letter dated 1.7.1985 (Annexure No A-2).
 - 3) The applicant further represented to the respondent on 7.7.87 to decide the case but nothing has been done by the respondent. (Annexure No: A-3).

4. Jurisdiction of the Tribunal

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

5. Limitation.

- 1) The applicant further declares that the application is within the limitation prescribed in section 21 of the Administrative Tribunals Act 1985.

6. Facts of the case:

The applicant begs to submit the facts of the case as under:-

1. That the applicant while working as Chief Parcel Clerk, Northern Railway, Charbagh, Lucknow, was issued Charge sheet of Minor Penalty vide Memorandum No.C/309-56-85/VKS

dated 6.4.1985. The photo-stat copy of the Charge sheet is filed as Annexure No. 2-1.

2. That the applicant submitted a suitable representation against the aforesaid Charge sheet for minor penalty on 1.7.85 challenging the validity of the Charge sheet. The said reply to the Charge sheet was received in office on 1.7.85. A photo-stat copy of the said reply to the Charge sheet dated 1.7.85 is being filed herewith as Annexure No: 2-2, to this application.

3. That the applicant again represented to the respondent to cancel the charge sheet keeping in view the reply given by the Applicant on 7.7.1987. The said representation was received by Office on 7.7.1987. A photo-stat copy of the representation is being filed as Annexure No: 2-3 to this application.

4. That inspite of the reply the respondent is not deciding the case nor communicated any decision thereon to the applicant.

5. That the applicant has to retire after a year and the respondent has a malafide intention to withhold the gratuity etc. of the Applicant after his retirement.

7. Relief sought.

That this Honourable Tribunal may be pleased to direct respondent to decide the charge sheet as per Annexure No. 2-1 (Letter No. C/309-56-85/VKS dated 6.4.85.) issued by the Respondent.

G R O U N D S.

1. Because the charge sheet of Minor Penalty issued by Respondent No. 1 is without any evidence.

2. Because the promotion of the applicant is held up ~~due to non-finalisation of the charge sheet.~~ ~~and the respondent has not decided the case nor communicated any reply to the applicant.~~ ~~and the respondent has not decided the case nor communicated any reply to the applicant.~~

3. Because if the charge sheet is not decided the applicant will be put to great hardship.

8. Interim order if prayed for: NIL.

9. Details of the remedies exhausted: The applicant declares that he had availed all the remedies available to him under the relevant service rules. The representations were made as per Annexure No.2-3. but the respondent did not decide the case nor communicated any reply to the applicant.

10. MATTER NOT PENDING WITH ANY OTHER COURT:-

The applicant further declares that the matter regarding which the application has been made is not pending in any Court of Law or any other authority or any other Branch of the Tribunal.

11. (1) Number of Indian Postal Order: *one DD 019888*
 2) Name of the Issuing Post Office: *4, P.O Lucknow*
 3) Date of issue of Postal order. *19.8.88*
 4) Post office at which payable. *Head Post Office Allahabad*

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

13. List of Enclosures: Annexure Nos.A-1 to A-3.

14/5

IN VERIFICATION.

I Gopal Ji Saxena, son of ~~late~~ ~~maam~~ Sri B.P. Saxena, aged about 50 years, working as Chief Booking Clerk, Northern Railway, Prayag, do hereby verify that the contents of paras No.1 to 13 of the Application are true to my personal knowledge and belief, and that I have not suppressed any material fact.

Place: Lucknow.

signature of the Applicant.

Date: 27/8/88

To

The Registrar,
Central Administrative Tribunals,
Additional Bench,
Allahabad
Circuit Lucknow.

Before Central Adm Tribunal Allahabad (6)
Gopalji Saxena VS DRM LKO and another (24/7)

Defendant

11
Anwar #1

STANDARD FORM 11(c).

Standard Form for taking disciplinary action under rule 9.7(a)(iv)
of the Railway Servants (Discipline and Appeal) Rules, 1968.

NORTHERN RAILWAY.

Divisional Office,
Lucknow. Dt. 6.4.85.

No: C/309-56-85/VKS

WHEREAS the article of charge was communicated to Shri
Gopalji Saxena under this office Memorandum of even number
dated 1-2-85 and whereas a written statement of defence was
submitted by him on 4-2-85.

Now, therefore, the undersigned has carefully considered
the said written statement of defence and holds, without prejudice
to his right to impose any of the minor penalties not attracting
the provisions of sub rule (2) of rule 11 of Railway Servants
(Discipline & Appeal) Rules, 1968 that the imposition of a major
penalty including the minor penalty attracting the provision of
sub rule (2) of rule 11 of the said rule, is not necessary.

The undersigned has, therefore, dropped the proceedings
already initiated under rule 9 of the said rules and has decided
to initiate proceedings, under rule 11(1) of the said rules on the
article of charge already communicated to Shri Gopalji Saxena vide
this office Memorandum No. even dated 1-2-85.

Shri Gopalji Saxena is hereby given an opportunity to make
such representation as he may wish to make against the proposal
to take action against him under rule 11(1) of the Railway
Servants (Discipline and Appeal) Rules, 1968. The representation,
if any, should be submitted to the undersigned within 10 days of the
receipt of this Memorandum.

If Shri Gopalji Saxena fails to submit his representation,
within the period specified above, it will be presumed that he
has no representation to make and orders will be liable to be
passed against Shri Gopalji Saxena ex parte.

The receipt of this Memorandum should be acknowledged
by Shri Gopalji Saxena.

Shri KVMY

(S.M.S. BIGHT)
SENIOR DIVISIONAL COMMERCIAL SUDT.,
LUCKNOW.

27/6/85
at Lucknow.

Kash
Advocate
Kash
Advocate

Office Central Secy. Board Allahabad (7)
Gupta vs Secy. vs PMS Lt. in charge

To

The Sr. Divl. Commercial Superintendent,
NORTHERN RAILWAY,
LUCKNOW.

SUB: SF-5 CONVERTED INTO SF-11.

REF: YOUR NO. C/309-56-85/VKS DATED 6.4.1985.

Sir,

With due respect I have to draw your kind attention for the following facts for due consideration in the name of justice.

That I have to state regarding the conversion of SF-5 to SF-11 is self proved that how I have been dragged for no fault of mine but only due to the annoyance of CCS/NDLS for the reasons best known to all and after a gap of two months the Administration himself realised the facts and changed the mind to issue SF-11 although it is also based on Prestige not only facts which are explained as under :

That the charges from No. 1 to No. 3 do not concern to me as I have been working as CPC LKO responsibility for Arms and Ammunitions packages only as per para 16 of duty list enforced (Annexure-I(a)-I(b) attached). The general packages are being dealt with by the Local ~~Foreman~~ and Foreign Shed clerks as per para No. 3 of duty list (Annexure No II(a)-II(b) attached). In the view of the above I cannot be held responsible in anyway.

That the charges item No. 4 directly concerned to the outward dealing clerks as such I have nothing to say in this regard.

Since the charges as levied have no direct or indirect concern to me as per Documentary proof such as the CPS/LKO being supervisory staff has been punished and the labour supervisor of parcel has also been fined with Rupees Five Hundred (Rs. 500/-) by the learned CCS/NDLS on his inspection on 25.1.1985 for not handling the Inward Package properly, as such I cannot be considered responsible.

Further I have to draw your attention for the following short coming attacking my integrity by issuing a letter by CPS/LKO No. III Staff/12/85P dated 28.1.1983, there after Sr. DCS/LKO Letter No. C/309-56-85/VKS dated 29.1.85 for putting me under suspension on and from 26.1.85 as I had been allowed to work upto 28.1.1985 as per (Annexure II-B-V attached), the suspension has been treated and effected on and from 26.1.85 vide Pay sheet P/E 15.2.85 No. 1118E dt. 28.2.1985.

48

.....2

Before Central Adm Tribunal Allahabad
Gopal ji Saxena VS DRA LKO and another

(2)

Since the wage Act do not permit the Administration to put the staff under suspension in minor charges as such the salary may kindly be paid to me on and from 26.1.1985 till now at the earliest possible, I have been put in a great inconvenience during these hard days to carry on the family expenses.

SIR, IT IS BEYOND THE DOUBT THAT THIS SORT OF WRONG AND LONG SUSPENSION BADLY EFFECTED MY PRISTIGE AND SOCIAL AS WELL AS FAMILY LIFE ONLY BECAUSE THE LEARNED CCS/JDLS WAS ACTUALLY ANNOYED WITH THE DEMONSTRATION MADE BY THE UNION LEADERS WHICH DO NOT CONCERN TO ME AS I AM NOT ANY OF THE UNION OFFICE BEARER.

It is, therefore, requested that the suspension may please be Revoked and the period may be treated as Duty by setting the charges a side under the Reasons and facts given above and the Payment may please be made at the earliest possible to enable me to carry on my duties smoothly and oblige.

Thanking you,

Yours faithfully,

DATED: 17.85

ENCLS: AS ABOVE. (7)

(GOPALJEE SAXENA)
CHIEF PARCEL CLERK, LKO
(UNDER SUSPENSION)

Krd
Harvada K. Saxena

9

Am 10 (9)

Regd. Ack. due

to

The Senior Divl. Comm. Supdt.,
Northern Railway,
Lucknow.

Am. A-3

Through:- Proper Channel.

Sub:- SF-II(C) vide your letter No.C/309-56-85/VKS
dated 6.4.85.

.....

Sir,

With reference to your above I have already replied to the Chargesheet for minor penalty on 01.7.85 which was received in the office of Chief Parcel Supervisor, Charbagh, Northern Railway, Lucknow under clear signature, but sorry to point out that the case is pending with you and has not been decided nor any reply or order has been communicated to me, though one and half (1½) years since elapsed.

I, therefore, request you kindly arrange to cancel the ~~Chargesheet~~ C/Sheet keeping in view the reply given by me for which I shall be thankful.

Yours faithfully,

Dated: 7/7/87

(Gopal Jee Saxena)
Chief Coaching Supervisor,
Northern Railway
Prayag.

Advance copy to Senior Divisional Commercial
Superintendent, Northern Railway, Lucknow for early action.

de
Lodged
on 07/7/87
by
Mr. J. K. Saxena

(Gopal Jee Saxena)
Chief Coaching Supervisor,
Northern Railway,
Lucknow.

Kor
Harvachit

91

GA

Am 1-1-1

Insurance fee Rs. 1.00 (in words) one rupee

R. P. 51 (2)

NO. 24711 Stamps affixed except in case of unregistered letters of not more than the initial weight prescribed in the Post and Telegraph Guide on which no acknowledgment is due. 5 to

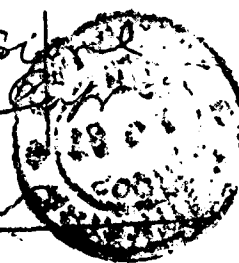
Received a V. P. Registered no

addressed to Senior Division

Comptroller

H. R. Ly

Signature of Receiving Office [Signature]



Insured for Rs. (in figures) 50

(in words) 50

weight 50 grams

(in words) 50 grams

R. P. 51

Kad
Howar.

Before Central Adm. Tribunal
~~Allahabad~~
Lucknow Bench महोदय
वकील अपीलान्त
वादी अपीलान्त
प्रतिवादी (रिस्पॉण्डेंट)

वकालतनामा

Agree to this
VS



(अपीलान्त)

Senior Divisional
C. S. Gupta N. R. Lucknow
नं० मुकद्दमा सन्

प्रतिवादी (रिस्पॉण्डेंट)

पेशी की ता०

१६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

K. P. Sivas Lata Advocate वकील
Lucknow महोदय
एडवोकेट

नाम वकालत	मुकद्दमा नं०	दिनांक

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पेशी व जवाब देही व प्रश्नोंत्तर करें या कोई कागज दाखिल करें या तीर्थावे या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या मुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारा या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा खठावे या कोई रुपया जमा करें या हमारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (वस्तुखती) रसीद से लेवे या पंच नियुक्त करें—वकील महोदय द्वारा की गई यह सब कार्यवाही हमको सर्वथा 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 पेशी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आये।

हस्ताक्षर

साक्षी (गवाह) साक्षी (गवाह)

दिनांक महीना सं० १६ ई०

Acceptance

Baro C. S.

ML 123 Block 'C',
Main gate colony
Lucknow

In the Central Administrative Tribunal, Circuit Bench
Lucknow.

O.A. No. 30 of 1985 (A)

Gopal Ji Saxena

Applicant

versus

Senior Divisional Commercial Supdt.

Respondent

REPLY OF APPLICANT TO ORDER OF THE TRIBUNAL:

Para 1 (i) Not denied.

Para 1 (ii) Not denied.

Para 1 (iii) Not denied.

Para 1(iv) Not denied.

Para 1 (v) Not denied.

Para 2 (i) In reply to the contents of paragraph 2(i) to
to
(iii) (iii) it is submitted that Union of India has
not been made a party and in the absence of
Union of India, the Senior Divisional Commercial
Superintendent is not the proper party
arrayed as respondent.

Para 3 (i) In reply to the contents of para 3(i) to (iii),
to
(iii) it is submitted that no directions are
required to be issued in view of the fact that
the decision on basis of the charge sheet
dated 3.4.1985 has been already taken by
awarding AT one year valid office order No. C
309/83-85 /MS dated 31.7.85.

[Handwritten signature]
26/11/85

[Handwritten mark]

As
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- 2 -

Para 3(iv) (1) Not denied.

Para 3(iv) (2) Submission of the reply by the applicant is not denied.

Para 3(iv) (3) The contents are denied. It is submitted that no such letter is available with the respondent, in view of the fact that the record pertaining to charge sheet is not traceable at the present moment.

Para 4. Jurisdiction of the Hon'ble Tribunal is not denied.

Para 5. The contents are denied. It is submitted that the application is barred by limitation.

Para 6 (1) The contents are not denied.

Para 6 (2) In reply to the contents, only this much is not denied that the applicant submitted a reply to the charge sheet dated 6.4.'85 (Annex. No. A-1 to the application). Rest is denied. It is submitted that no reply to the contents of Annexure No. A-2 can be given in view of the fact that the file pertaining to the charge sheet is not traceable at the present moment.

Para 6 (3) That the contents of paragraph 3 of the application are denied. It is submitted that no such letter is traceable in office of the respondent. It is also submitted that in view of the order having been passed vide NOC/309 56-85/VK3 dated 29.7.'85, the submission of the alleged letter dated 7.2.'87 was unwarranted.

Para 6 (4) That the contents of paragraph 5(4) of the application, are incorrect, hence denied. It is submitted that after receipt of reply to the charge sheet, the case was decided and a punishment was awarded of WIT one year vide order NOC/309-56-85/VKS dated 29.7.'85, as is evident by endorsement in the service record maintained for the applicant by the administration. The record relating to the case pertaining to the charge sheet is not traceable at the present moment. Since admittedly no appeal was filed by the applicant against the aforesaid order dated 29.7.'85, it is possible that the record pertaining to the charge sheet has been weeded out due to age limit under rules. It is also submitted that after the aforesaid order dated 29.7.'85, the increment which fell due on 1.3.'86 was not released, thus the order was implemented and on account of withholding of the increment due, the said implementation is also within the knowledge of the applicant.

Para 6 (5) In reply to the contents of paragraph 5(5) only this much is not denied that applicant is to retire on 30.4.1989. Rest is denied. The allegations about bonafide intention to withhold the gratuity etc- of the applicant after his retirement is specifically denied.

... 4

Para 7: Contents are denied. None of the grounds are tenable in view of the fact that the case stands decided vide NOC/309-56-85/VKS dated 29.7.'85 imposing penalty of WIT one year.

Para 8: Needs no reply.

Para 9: Contents are denied. It is submitted that the case was disposed off vide order NOC/309-56-85/VKS dated 29.7.'85. The remedy by way of appeal against the said order 29.7.'85 has not been availed of with the result that the said order dated 29.7.'85 imposing penalty of WIT one year has become final and now not open to challenge. It is also submitted that the said order has also been also implemented.

Para 10: No reply can be given to the contents for want of knowledge.

Para 11: Needs no reply.

Para 12: Needs no reply.

Para 13: Needs no reply.

14. That the case initiated by issue of the charge sheet dated 3.4.'85 was finalized vide order NOC/309-56-85 dated 29.7.'85 imposing penalty of WIT one year.

15. That appeal provided for against the said order dated 29.7.'85 has not been availed of by the applicant. As such the order has become final and not open to appeal before the Hon'ble Tribunal. Even otherwise the applicant cannot approach the Hon'ble Tribunal without exhausting the available remedy.


13. That the applicant being in the know of the fact that the record pertaining to the charge sheet is not available in the office of the respondent, has filed the present application on incorrect facts, that the charge sheet is still pending and the case is not decided.

17. That after the order dated 29.7.'35 imposing penalty of Rs 1000 per year the same has been implemented and pay accordingly released without allowing the increment when it fell due.

18. That on the facts and circumstances stated above, the application being misconceived is liable to be dismissed with costs to the respondent.

Lucknow


Dated: 5.10.1938


Respondent.

VERIFICATION

I, *Vikram Singh* Dy Comm Officer Northern Railway do hereby verify that the contents of paras 1 to 18 of this reply are true to my best of knowledge based on information derived from record and legal advice received.

Signed and verified this 5th day of October 1938 at the office of Dy. Northern Railway Lucknow.


Respondent.