

FORM NO. 21

(See rule 114)

R.L.A-229/87  
R.P.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ..... BENCH

OA/TA/RA/CP/MA/PT..... of 20-88

U. O. J. Baber ..... Applicant(S)

Versus

A. R. Khan ..... Respondent(S)

INDEX SHEET

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| 3-         | Order Sheet              | BA-23  |
| 4-         | Sumit                    | 24-A62 |
| 5-         | C.A                      | 63-69  |
|            |                          |        |
|            |                          |        |
|            |                          |        |
|            |                          |        |
|            |                          |        |
|            |                          |        |

Certified that the file is complete in all respects.

B. L. C. Ount Widya/distrayed

Signature of S.O.

Signature of Deal. Hand

R. J. 16/12/87

26-6-12

A4

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
CIRCUIT BENCH  
LUCKNOW

T.A. 7/88  
(R.C.A. No. 229/82)

Union of India

Applicant.

versus

A.R. Khan

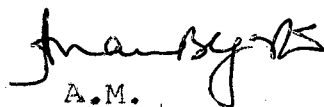
Respondent.

Hon. Mr. Justice U.C. Srivastava, V.C.  
Hon. Mr. A.B. Gorthi, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava)

Against minor punishment awarded to the applicant withholding 3 passes, the applicant filed the Civil Suit which decreed. Against the Suit, the Railway Administration filed appeal before the District Judge, which, because of the change of law, has been transferred to this Tribunal. During the pendency of this case, the opposite party who was the plaintiff, has retired, with the result that he can no longer utilize those three passes.

2. In view of these subsequent developments, not only the appeal as well as the relief which was granted to the applicant who succeeded in establishing his case before the Civil Court, has become infructuous. Accordingly, with the above observation regarding the success and failure of the parties, the application is dismissed as infructuous. No order as to Costs.

  
A.M.

  
V.C.

Lucknow Dated: 5.3.91.

## ANNEXURE -A

CAT

CENTRAL ADMINISTRATIVE TRIBUNAL  
Circuit Bench, Lucknow.  
Opp. Residency, Gandhi Bhawan, Lucknow.  
\*\*\*\*\*

## INDEX SHEET

CAUSE TITLE T A 17/88 of 19NAME OF THE PARTIES V. C. I

Applicant

Versus

Respondent

Part A, B &amp; C

| Sl. No. | Description of documents | PAGE      |
|---------|--------------------------|-----------|
| 1-      | order sheet              | A1-A3     |
| 2-      | Judgement                | A41-A42   |
| 3-      | petition copy            | A43-A44   |
| 4-      | Relief                   | A45-A46   |
| 5-      | swift                    | A47-A48   |
| 6-      | counter                  | A49-A50   |
| 7-      | Misc paper               | A51-A52   |
| 8-      | B- file copy             | B41-B42   |
| 9-      | C- file copy             | C142-C148 |

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH AT LUCENO.

\*\*\*\*

D.A./T.A. No. 7 1988 (T.L)

U.O. 17

Applicant(s)

Versus

Respondent(s)

| Gr.No. | Date    | Orders                                                                                                                                                                                                                  |
|--------|---------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| ①      | 7/14/09 | <u>D.R.(J)</u><br><br>R.C.A. No 229/02 has been received from the District Judge, Luceno as transferred case we will be listed before D.R.(J) on <del>28</del> 25/1/09 for attendance.<br>Submitted<br><br>Jish<br>7/12 |
|        | 7/12/09 | <u>OR</u><br><br>Notices issued to both the party through Regd Post from <del>28</del> 25-1-09 for attendance before D.R.(J)<br>Submitted for order.<br><br>Jish<br>7/12                                                |
| ②      | 25-1-09 | <u>D.R.</u><br><br>None is present. The case is adjourned to 21-2-09.<br><br>l                                                                                                                                          |
| ③      | 21-2-09 | No sitting, Adjourned to 9-3-09 D.R.<br>before D.R.J<br><br>Amy<br>21/2.                                                                                                                                                |

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

A 2

REGISTRATION No. 7 of 1988 (T.L)

(R.C.A. 229/82)

APPELLANT  
APPLICANT

Union of India

VERSUS

DEFENDANT  
RESPONDENT

A.R. Khan

| Serial<br>number<br>of order<br>and date | Brief Order, Mentioning Reference<br>if necessary                                                                                                                                                                                                               | How compli<br>with and<br>of compli                                                             |
|------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|
| 15-5-89                                  | <p><u>Hon. K.J. Raman. AM</u></p> <p>Due to sudden death of Sri Jagdish Swaroop, Ex. Solicitor General of India. The lawyers have abstained from attending court.</p> <p>The case is accordingly by Adjourned to 12-7-89 for orders.</p> <p><i>h</i><br/>AM</p> | <p>of<br/>Noun delivered<br/>has been<br/>from back<br/>Sri Jagdish<br/>for orders<br/>11/5</p> |
| 12-7-89                                  | <p><u>Hon. D.K. Agrawal - Jm</u></p> <p>None appears for the applicant Sri B.H. Siddiqui Counsel for the respondents is ill, therefore, adjournment has been prayed, allowed. Fixed 07.08.89 for orders.</p> <p><i>h</i><br/>Member (J)</p>                     | <p>As direct<br/>the cant's ord<br/>12-7-89<br/>Case is<br/>for order</p>                       |
| 70-49                                    | <p>No sitting Adj. to 7.9.09.</p> <p><i>h</i><br/>BAC</p>                                                                                                                                                                                                       |                                                                                                 |

7/88/14

A<sub>3</sub>

29/5/90

Mon. Mr. P.C. Jain, A.M.  
Mon. Mr. J.P. Sharma - J.M.

Proxy counsel for Mr. K.C. Johri  
present for the applicant. Shri B. Habib  
Siddiqui as ~~proxy~~ counsel for the respondent  
has requested in writing for adjournment due  
to indisposition. The ~~proxy~~ case is  
adjourned to 30.5.90 for hearing.

le  
J.M.

Am.  
A.M.

30.5.90

Hearable Mr. P.C. Jain A.M.  
Hearable Mr. J.P. Sharma J.M.

Learned Counsel for the respondent  
has prayed in writing for adjournment  
for a week due to indisposition.  
Sri. K.C. Johri, Counsel for the  
appellant, has no objection. List. on  
2.7.90.

le

le  
A.M.

Am.  
A.M.

21/8/90

No sitting adjourn to  
21/8/90  
J

21/8/90

No sitting Adj to 31/10/90

31.10.90

Due to Holiday case is  
Adjourned to 31.12.90.

OK

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
CIRCUIT BENCH  
LUCKNOW

T.A. 7/88  
(R.C.A. No. 229/82)

Union of India

Applicant.

versus

A.R. Khan

Respondent.

Hon. Mr. Justice U.C. Srivastava, V.C.  
Hon. Mr. A.B. Gorthi, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava)

Against minor punishment awarded to the applicant withholding 3 passes, the applicant filed the Civil Suit which decreed. Against the Suit, the Railway Administration filed appeal before the District Judge, which, because of the change of law, has been transferred to this Tribunal. During the pendency of this case, the opposite party who was the plaintiff, has retired, with the result that he can no longer utilize those three passes.

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Accordingly, with the above observation regarding the success and failure of the parties, the application is dismissed as infructuous. No order as to costs.

Attested

True Copy

AKOP  
S/BH

Central Administrative Tribunal,  
Circuit Bench, Lucknow.

C.T.C.

113

WATER

In the Court of Adm Cl. Judge (J. Sec) <sup>Alb</sup>

O.C.A. No. 229 of 82

Union of India

vs  
Mukul Dhanu

16/11/03:

~~20/12~~

~~18/1~~

~~13/2~~

~~17/3~~

~~16/5~~

~~20/7~~

~~20/9~~

15/11

①  
Court of the District Judge, Lucknow.

RCA No. 229 of 02 51

Union of India vs. Abdul Rehman <sup>46</sup>

|    |                         |   |          |
|----|-------------------------|---|----------|
| 21 | 1 Fly List              | 1 | 19/1/02  |
| 22 | 2 O rder Sheet          | 1 |          |
| 23 | 3 <del>sub</del>        | 3 |          |
| 24 | 4 Address               | 1 |          |
| 25 | 5 Copy of o rder        | 5 |          |
| 26 | 6 Copy of decree        | 2 |          |
| 27 | 7 <del>to file</del>    | 2 |          |
| 28 | 8 <del>प्रतिपत्र</del>  | 2 | 18.11.02 |
| 29 | 9 <del>प्रतिपत्र</del>  | 1 | 20.1.03  |
| 30 | 10 <del>प्रतिपत्र</del> | 1 | 20.1.03  |
| 31 | <del>प्रतिपत्र</del>    | 1 |          |
| 32 | 11 <del>प्रतिपत्र</del> | 1 |          |
| 33 | 12 <del>प्रतिपत्र</del> | 1 |          |
| 34 | 13 <del>प्रतिपत्र</del> | 1 | 6.1.03   |
| 35 | 14 <del>प्रतिपत्र</del> | 1 | 16/01/03 |
| 36 | 15 <del>प्रतिपत्र</del> | 1 | 20.1.03  |
| 37 | 16 <del>प्रतिपत्र</del> | 1 | 16/1/03  |
| 38 | 17 <del>प्रतिपत्र</del> | 2 |          |
| 39 | 18 <del>प्रतिपत्र</del> | 2 | 1/3      |

13/9 4/10 18/11 20/1 27/1

In the court of the District Judge, Lucknow.

Reg. Civil Appeal No. 229 of 82

Union of India vs. Abdul Rehman

20782 Appeal Under Section 96 C & D

is being put up with Kuncarin's report.

ORDER

Admit. Issue notice fixing 13-9-1982 for hearing.

Distt. Judge  
20-7-1982.

13.9.82

रेस्पॉण्डेन्ट पर नॉटीस नहीं दी

आदेश

अपीलान्ट एक सप्ताह में स्टैप ले।  
रेस्पॉण्डेन्ट को नोटिस 4.10.82 को फुल वाई देना जारी हो।

जि० अज

4.10.82

उक्त का प्रकाश मिला

कोई हाजिर नहीं है अपीलान्ट ने स्टैप नहीं लिपे है।

आदेश

वकील अपीलान्ट को सप्ताह की जाति कि वह एक सप्ताह में स्टैप ले।

रेस्पॉण्डेन्ट को नोटिस 18.11.82 को फुल वाई अपील के लिपे जारी हो।

जि० अज

18.11.82

पृ-8

वकील अपीलान्ट ने स्टैप

लेते के लिपे एक सप्ताह का सप्ताह मिला।

आदेश

स्टैप एक सप्ताह में लिपे जाये।

रेस्पॉण्डेन्ट को नोटिस 20.1.83 को

फुल वाई के लिपे जारी हो।

जि० अज

5 cc  
16/11  
20/12

Ref sent  
21/7  
steps in a week  
4/10

steps in a week  
18/11  
6/10

steps in a week  
20/1  
steps not taken  
20/1/83

In the court of the district judge, Dacca.

R.C.A. No. 229 of 82

Union of India

vs. Abdul Rehman

(3)

(4M)

6.8.83 JT-13

Put up before counsel concerned

*[Signature]*  
dist. judge.

10.8.83

Heard the counsel. Let complete steps for service by registered post be taken by 16.8.83 and then issue notice fixing 5.10.83 for disposal.

*[Signature]*  
dist. judge.

Dir.  
AD mit recd  
4/10

57003

Rep is presumed to be served as his notice sent by registered post has been received back. Name appears as husband. On request of Counsel for cost fix 16 11/00 in despt.



5

49

24

Form No. 100. Part VI

प्रपत्र संख्या-2  
आदेश-पत्र  
(अध्याय 5, नियम 143)

प्रारम्भिक कद

संख्या

मामता

सन् 19

ई 0

बनाम

| की<br>-ग | आदेश का<br>दिनांक | आदेश, अध्यासीन न्यायाधीश के संक्षिप्त<br>हस्ताक्षर सहित                                                                                                                                                | निर्देश उस प्रार्थना-<br>पत्र अथवा पत्र का<br>जिस पर मूल आदेश<br>लिखा गया | आदेश के प्रि<br>में किये गये<br>की संख्या तथा<br>का निर्दे |
|----------|-------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|------------------------------------------------------------|
|          | 2                 | 3                                                                                                                                                                                                      | 4                                                                         | 5                                                          |
|          | 15-11-84          | Committee are on high cot<br>who<br>Prin 6-2-85 for information                                                                                                                                        |                                                                           |                                                            |
|          | 6/1/85            | पुनः प्रत्यक्ष गवाह प्रार्थना एवं विचार<br>उपलब्ध है कि 23 दस्तावेज प्रार्थना<br>वर्ग में है। उक्त प्रार्थना<br>आदेश<br>दस्तावेज में उक्त प्रार्थना उक्त प्रार्थना 11-4-84<br>वर्ग में है।             |                                                                           |                                                            |
|          | 11/5/85           | पुनः प्रत्यक्ष गवाह प्रार्थना एवं विचार<br>उपलब्ध है कि 28 दस्तावेज प्रार्थना<br>वर्ग में है।<br>आदेश<br>पुनः प्रत्यक्ष गवाह प्रार्थना एवं विचार<br>उपलब्ध है कि 28 दस्तावेज प्रार्थना<br>वर्ग में है। |                                                                           |                                                            |
|          | 10/5/85           | पुनः प्रत्यक्ष गवाह प्रार्थना एवं विचार<br>उपलब्ध है कि 28 दस्तावेज प्रार्थना<br>वर्ग में है।<br>आदेश<br>पुनः प्रत्यक्ष गवाह प्रार्थना एवं विचार<br>उपलब्ध है कि 22-2-84 का वर्ग<br>है।                |                                                                           |                                                            |

11/5  
Meeta  
Neha

10/5/85

## कमबद्ध आदेश-पत्र

(अध्याय 4, नियम 3)

A10

⑧

न्यायालय

स्थान

मामला संख्या

सन् 19 १०

सरकार

प्रादे 289/1910

21-25

निवासी

| आदेश संख्या | दिनांक | आदेश अथवा आदेश का संक्षेप                                                                                                                                                                         | सीजन्ट के हस्ताक्षर                                              |
|-------------|--------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|
| 4-3-86      |        | पुकार कराई गई।<br>पुकार कराई। 24-3-86 तक<br>वहाँ के कुत्ते को लगे हुए पेश हुई<br>जो स्वीकार की गई।<br>आदेश<br>मुकामा 24-3-86 को बहस हेतु<br>पेश हो।<br>लेख                                        | 24.3.86<br>ary                                                   |
| 25-3-86     |        | 24-3-86 को हाईकोर्ट<br>इस आवकाश घोषित होने से तदनुसार<br>पेश हुआ। पुकार कराई गई।<br>कोर्ट हाकिम नहीं हुआ। P.O. कारकिर्द का मालूम<br>होना है।<br>आदेश<br>मुकामा 30-4-86 को बहस हेतु पेश हो।<br>लेख |                                                                  |
| 30-4-86     |        | पुकार कराई गई। कोर्ट<br>हाकिम नहीं है। इसका मामला<br>होना है।<br>आदेश<br>मुकामा 17-7-86 को बहस हेतु<br>पेश हो।<br>लेख                                                                             | No time left<br>17<br>कहल,<br>Shub<br>No L-lyp<br>19/9/86<br>ary |

सी. एम्. ए. वी. (आर. आर.) 10 30 का 500

R.C.A. no 229/82

पो ० एस ० यू ० पो ० - ए ० पो ० ०३ मार्च १९८३ - २३-१-८६ ३३३३३३ - ५,००,००० (रो०)

१८८८

~~19/3/87 noted~~  
29/4

Ref 229182 28  
(8)  
(A12)

1-4-88

पञ्जाब की निचली विधि परख  
लिखित द्वारा उत्तुत न हो सकी  
काम उत्तुत हुई

आदेश

पञ्जाब की दिनांक 20.4.88  
को ED. Leasing देवपुरा हो

*[Signature]*  
जवाबदार

20.4.88 मुकदमा उकारा सप्त  
उपस्थिति का नही  
हमारे पास

मुकदमा दिनांक 23.5.88 रास्ता ex. Hmf  
पेशा गोदी के अतिरिक्त के सारा  
किया जाय/

23/5/88  
5

23.5.88

मुकदमा उकारा नया  
उपस्थिति अपीलाने के अतिरिक्त के  
गुनिपडे उन्ने सूचना दी गयी।  
हमारे  
मुकदमा दिनांक 6.7.88 रास्ता हमारे पास  
जुनकोर देव पेश है

6/8/88  
7/7  
23/5/88  
for 6/8  
Counselor  
Appellant

47 C29 Application by respondent  
for scheduling record to  
the Central administrative  
tribunal.

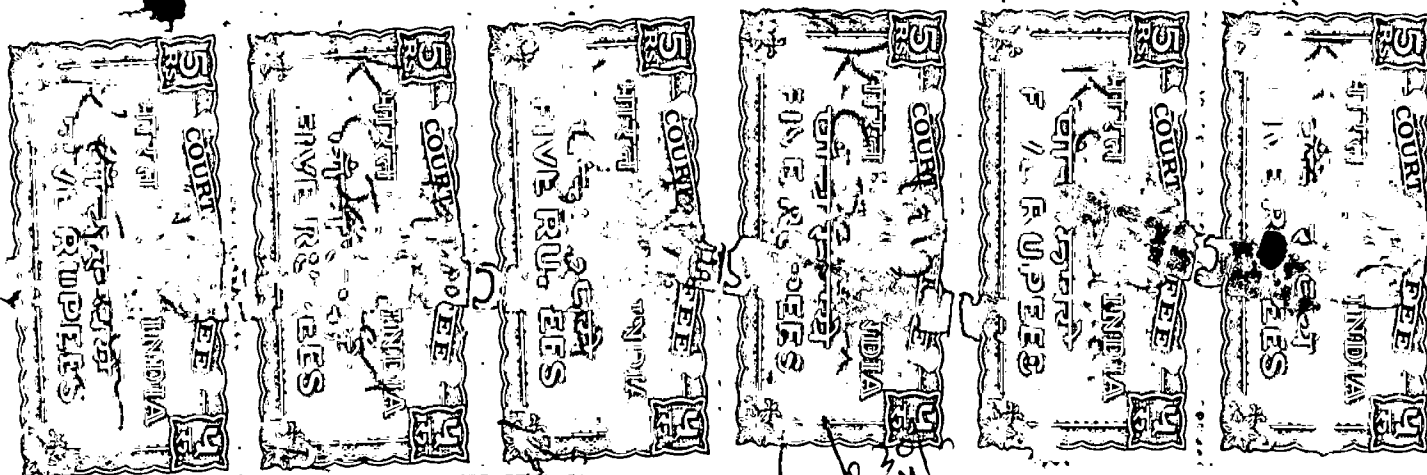
*[Signature]*  
6/8/88  
Serve copy 6/8  
Inte Object. Ar 23/5/88  
R-8

(14)

R.A. No. 229/82

8 m/1  
A13

IN THE COURT OF DISTRICT JUDGE LUCKNOW.



C.C. 11  
Abdul Rehman

(P)

ugh General Manager, Northern Railway,  
elhi. -- Defendant-Appellant

Versus

ajor son of late Abdul Sattar Khan  
o.129 Bashiratganj, Lucknow.

---Plaintiff-Respondent

R.A. No. of 1982

suit : Suit for Declaration

of suit : Rs.1000/-

aid : Rs.30/-

II. (a) Nature of Appeal : Appeal against the decree and judgment dated 30.3.82 passed by IIIrd Addl. Munsif in n.S. No.541/79 entitled 'AbdulRahman Khan Vs. Union of India.'.

(b) Valuation of Appeal : Rs.1000/-

(c) Court fee paid : Rs.30/-

CIVIL APPEAL UNDER SEC.96 of the Code of Civil

Procedure against the decree and judgment dated 30.3.82

ry. Form no 385

RECEIPT FOR PAYMENT TO GOVERNMENT

(Form no. 385, Chapter III, Paragraph 26 Financial Handbook, Volume V, Part I)

Receipt No. 770777  
Date 19/11/82  
Department and office L. K. Gahar  
Received from L. K. Gahar  
The sum of Rs. 1/50  
In account of 2875/1000 = 575  
Signature of Government Servant granting the receipt.  
Designation  
Cashier or Accountant.

007 21/11/82

N. D.

passed by Sri R. Kumar IIIrd. Addl. Munsif in R.S. No.541/79 entitled Abdul Rehman Khan Vs. Union of India on the following amongst other grounds:-

G R O U N D S :

- A) Because the learned Munsif acted illegally and contrary to the facts of the case in decreeing the suit.
- B) Because the finding of the learned Munsif is perverse.
- C) Because the learned Munsif acted illegally in holding that the stoppage of Passes is illegal ignoring the fact that it is not justifiable.
- D) Because the learned Munsif acted illegally in not holding that the suit is bad for want of notice u/s 80 C.P.C. ignoring the fact that the paper produced does not show to whom it was addressed.
- E) Because the learned Munsif acted illegally in ignoring the fact that the suit is bad for non-joinder of the party whose orders were challenged.
- F) Because the suit is illegal and bad.

WHEREFORE it is most respectfully prayed that the appeal be admitted and after hearing the parties,

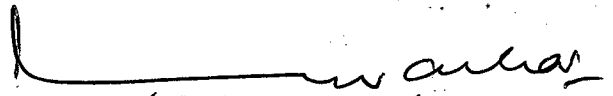
N. Py A

10

A.5

5/3

the appeal be allowed and the plaintiff's suit be  
dismissed with costs throughout.



( K.C. Jauhari)

Northern Railway, Advocate

Counsel for the Appellant

N.B. My vakalatnama is on lower court's  
file.



( K.C. Jauhari)

Northern Railway Advocate

Counsel for the Appellant.

Urgent

In the court of the District Judge, Lucknow

A.C.A. 229/82

(11)

Union of India vs. Abdul Rehman

A.H.

TO

Mr. K. C. Jambhai Advocate.

You are required to appear  
before the District Judge, Lucknow  
today at 2.30 P.M.

Wm. J. J.  
9/8

By order

Raw-chand

Reader

District Judge's court  
Lucknow.

9.8.82

Urgent

In the court of the district judge, Lucknow

R.C. A. No. 229/82

Union of India vs. Abdul Rehman

4/17

To

Sri K. C. Garghavi Advocate.

You are required to appear before  
the district judge, Lucknow today  
at 2.30 P.M.

By Order

Ro Choudhary

Reader

district judge's court  
Lucknow

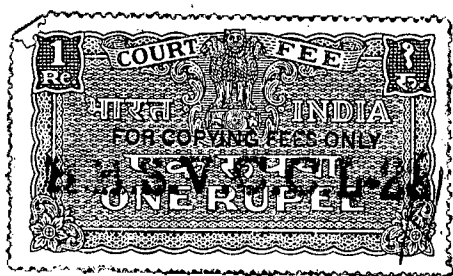
9.8.82

(13)

14/8

19

15/11



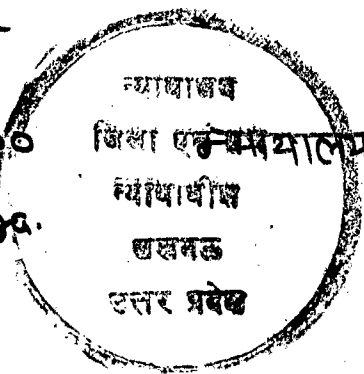
12-12-07

Ordinary - 37

12-4-82

USRs - 2600

Sd/- S. K. Mishra



तृतीय अतिरिक्त मुन्सिफ लखनऊ  
पीहानी अधिकारी - रा० कुमार  
क्र० सं० 541/79

अबुल रहमान — वादी

पति

भूनिग्र आफ इंडिया — प्रतिवादी

प्रतिनिधि निशाय

प्रस्तुत वाद वादी ने घोषणा हेतु  
मांशित किया है।

वादी का कथन संक्षेप में निम्न है

वादी Shunter Grade 'A' के पद

पर लोको पोरमैन आत्मबलाग लावनक में employed  
है। वादी जब DSL. Ash. Driver के पद पर  
था तब 2-9-75 को उसके foreman के  
सूचित किया कि उसे 16-8-75 से suspended

Handwritten notes on the left margin, including 'प/डीका' and other illegible text.

उक्त Charge Sheet के साथ annexure III व IV भी वा  
वाद पत्र के खण्ड 10 में वरीति गवाहों का नाम भी वादी  
को बताया गया था। उक्त Charge Sheet के साथ  
सम्बन्धित साक्ष्य वादी को नहीं सुप्लाय किया गया। वादी  
ने 18.4.76 को एक प्रार्थनापत्र दिया जिसमें उसने वादपत्र  
के खण्ड 11 में वरीति अभिलेख माँगे। वादी को Call  
book का R. S. Sharma driver के स्टेशन का  
अतिरिक्त अन्य सभी अभिलेख दे दिये गये। 2.7.76 को  
एक प्रार्थनापत्र द्वारा वादी ने अन्य अभिलेख वही उत्तर  
देने हेतु माँगे। उक्त अभिलेखों को देने की जगह  
SR. D.M.E ने श्री मोहिन्दर राज को Enquiry Officer  
नियुक्त किया। 6.6.77 को वादी ने SR DME को  
एक प्रार्थनापत्र उक्त अभिलेखों को देने के सम्बन्ध में  
लिखा। 23.7.77/2.9.77 के पत्र P. 64/LCO/2/76  
के द्वारा SR. DME ने वादी को सूचित किया कि  
आवेदक विकट नियम 9 के अन्तर्गत की Enquiry  
वर्क कर रही है और R. 11 (1) के अन्तर्गत  
कारवाही शुरू की गई है। 25.11.77 को वादी  
ने प्रार्थनापत्र द्वारा यह सूचित किया कि 'बिना'  
अभिलेख के वह मजबूर है 25-10-77 के प्रार्थनापत्र  
को SR DME ने वादी का defence समझ लिया  
15.1.78 को वादी ने D.S. Rly. LCO को एक  
अपील की मि. होरी तीन सेट पास कर देने के  
अपील को आदेश E/Appendix/16617 को 18.4.78  
पारित किया। वादी ने अपने विकट पारित Suspension  
आदेश को वादपत्र में वरीति द्वारा 19 के अन्तर्गत  
challenge किया है। प्रतिवादी को चार्ज 80 पर

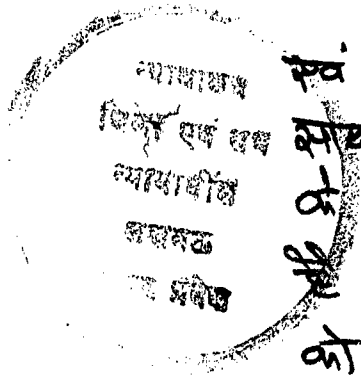
so etc. as alleged in para 23 of W.S? 15/3

5) whether the suit is liable to be dismissed as suspension is not a punishment as alleged in para 24 of the W.S?

6) whether the suit is bad for non-joinder of the parties as alleged in para 25 of W.S?

7) To what relief if any is the plaintiff entitled?

विवादग्रह सं० 5



मैंने पक्षपक्षों के विद्वान् अधिवक्ताओं को सुनाने पर उपलब्ध समस्त मौखिक अभिलेखीय दस्तावेजों का अवलोकन किया। वादी ने सीनियर डी० एम० ई० के ऑफिशल कार्ड में पारित आदेश को challenge किया है जो सीनियर डी० एम० ई० के निजी कार्ड में कोई पुष्टि नहीं है। अतः उसे पक्षकार नहीं बनाया है क्योंकि डी० एम० ई० आनंद गुप्ता का एम्प्लॉय है और उसका ऑफिशल अक्शन challenge किया गया है। अतः आनंद गुप्ता को पक्षकार बनाने में कोई त्रुटि नहीं है। डी० एम० ई० को पक्षकार न बनाने से कर में कोई दोष नहीं है।

अतः विवेचना के आधार पर उक्त विवादग्रह वादी के पक्ष में तथा प्रतिवादी के विरुद्ध निर्णीत किया जाता है।

विवादग्रह सं० 6

मैंने पक्षपक्षों के विद्वान् अधिवक्ताओं को सुना। प्रतिवादी के विद्वान् अधिवक्ता ने निवेदन कोई ऐसा प्राविधान न्यायालय को नहीं दिखाया जिससे

यह तब भी विधि का यह सुनिश्चित सिद्धान्त है कि  
नोटिस ७५ का नोटिस को अवधि नहीं माना  
जायगा।

उपयुक्त विवेचना के आधार पर विवादपत्र सं० ४  
को वादी के पक्ष में ही निर्णित किया जाता है।

विवादपत्र सं० २

इस विवादपत्र के संबंध में वादी प।  
अब्दुल रहमान की स्वीकारोक्ति है कि उसे order for  
suspension & order of revocation of suspension order  
दोनों साथ-साथ मिले थे।

उपयुक्त स्वीकारोक्ति के आधार पर यह  
यथानुसार निर्णित किया जाता है।

आध्यात्मिक विवादपत्र  
विवाद एवं न्याय  
न्यायाधीश विवादपत्र सं० १  
सहमत  
पुनर प्रवेश

इस विवादपत्र के अंतर्गत न्यायालय को  
suspension order की reply पर कोई भी comment  
नहीं देना है। क्योंकि वादी प। अब्दुल रहमान  
ने अपने सहायक मौखिक साक्ष्य में यह स्वीकार  
किया है कि उसे 11.2.76 के आदेश के द्वारा  
suspended किया और 11.2.76 के आदेश द्वारा ही  
उसका suspension order revoked किया गया।  
इन परिस्थितियों में यह स्पष्ट है कि वादी का  
कोई suspension नहीं हुआ अतः इसकी  
वैधानिकता को scrutinizing करने का कोई  
औचित्य नहीं उठता।

पञ्चावली पर उपलब्ध साक्ष्य (मौखिक  
एवं अभिलेखीय) का अवलोकन किया गया। इस

that rules of natural justice require that a party should have opportunity of adducing all relevant evidence on which he relies that the evidence ~~of which~~ of opponent should be taken in his presence, and that he should be given the opportunity of cross-examining the witnesses examined by that party and that no material should be relied on against him without his being given an opportunity of explaining them". इसके अतिरिक्त A.I.R. 1963 S.C. 375 में माननीय न्यायालय ने निम्न विचार व्यक्त किए हैं: "जिनसे कादी के जजमें को ~~वि~~ बना-मिलता है:-

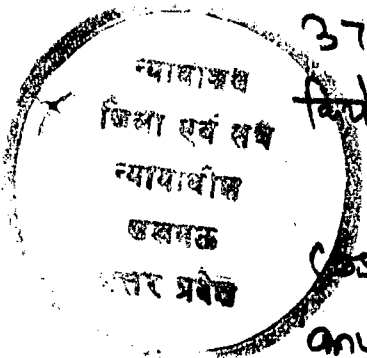
"The only obligation which the law casts on them is that they should not act on any information which they may receive unless they put it to be used and give him a fair opportunity to explain it".

उपरोक्त विवेचना के आधार में इस निष्कर्ष पर पहुँचता हूँ कि S.R. D.M.E द्वारा 6 सेट पास होकर एवं अपील में 6 सेट के स्थान पर 3 सेट पास होकर का आदेश उपरोक्त धारणा के आधार पर अवैध है।

उपरोक्त विवेचना के आधार पर विवादस्थल सं० 1 कादी के पक्ष में निर्णित किया जाता है।

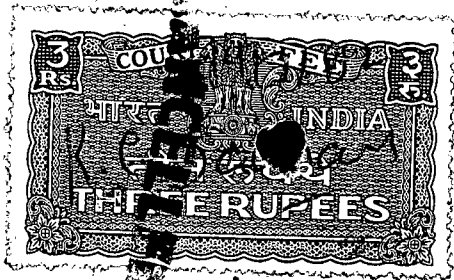
विवादस्थल सं० 3

कादी वि०। अब्दुल रहमान ने अपने



A24

18



C6/

1-1331-

18/7/82

In The court of III Addl. Municipal Magistrate No.

न्यायालय  
जिला एवं सत्र  
न्यायाधीश  
दफतरी

Rs no 541/79

Abdul Rahman

versus Union of India.

copy of decree

Decree in original suit

Date of Institution 14-11-79.

Abdul Rahman Khan aged about 30 son of late Sri  
Abdul Sattar Khan Resident of H.N. 129 Bashirat Colony  
Lucknow

Plaintiff

Union of India Through The General Manager  
Northern Railway, Baroda house, New Delhi

Defendant

Claim for:- Suit for declaration.

Valuation of suit Rs 1000/-

Court fee paid Rs. 30/-

Reliefs:-

① That a decree declaring that the order of the  
plaintiff's suspension and the order of as  
punishment as modification appeal ~~is~~ void  
illegal and unconstitutional, be passed in favour  
of the plaintiff and against the defendant.

② That the costs of the suit be awarded to the

Ord - 37  
12/4/82

Wadd - 4/10

S.K. Mulla

3/7/82

1-7-82  
श्री लाला हरि  
वाराणसी

12-4-82  
वाराणसी  
वाराणसी

A25

(19)

16/2

## वाद के खर्चे

| वादी                             | प्रतिवादी     |
|----------------------------------|---------------|
| १) वाद पत्र के लिख भुत्ताक       | रु. प 30 - 00 |
| २) शक्ति पत्र के लिख भुत्ताक     | 1 - 50        |
| ३) प्रार्थना पत्र के लिख भुत्ताक | 1 - 50        |
| ४) आदेशिका की लगविल              | 1 - 25        |
| योग                              | Rs 34 25      |
| NIL                              |               |

न्यायालय  
जिला एवं सत्र  
न्यायाधीश  
महोदय

Prepared by - Sd. Illegible.  
checked by - 20/4/82

मुंसिफ को दस्तावेज submission to proceed  
w/o 21 rule 20 of CPC.

Sd. Illegible  
21-4-82

III Addl. Munsif  
Jalgaon.

Explied by Raj Kumar  
Campus.

14-8-82

सत्य प्रतिलिपि

20/4/82  
प्रमाणित  
जिला एवं सत्र न्यायाधीश  
महोदय

1-7-82

426 (20) W  
IN THE COURT OF DISTRICT JUDGE LUCKNOW.

UNION OF INDIA

--- APPELLANT

VERSUS

ABDUL REHMAN KHAN

--- RESPONDENT.

REGISTERED ADDRESS OF THE APPELLANT

UNION OF INDIA THROUGH GENERAL MANAGER,  
N. RLY. BARODA HOUSE, NEW DELHI.

REGISTERED ADDRESS OF THE RESPONDENT.

ABDUL REHMAN KHAN MAJOR SON OF LATE  
ABDUL SATTAR KHAN, RESIDENT OF HOUSE NO.129  
BASHIRATGANJ, LUCKNOW.

LUCKNOW DATED  
JULY 19, 1982

  
COUNSEL FOR THE APPELLANT

Reg. Civil Appeal No. 229/82. 13.9.82

इतिनामा बनाम रसमिन्द मुखर्जी वरिष्ठ  
जो समाजत अपील के लिए मुद्रा की जाय  
Dabudstadar जिला Lucknow अपीलान्त

Union of Andes vs Abdul Rehman Khan

Abdul Rehman Khan Stole the Abdul बनाम Sallah Khan  
P10 House No 129 Badshahatgarh, Lucknow  
अपील बनारजी बख्तलत रसमिन्द

मुबारका माह र १८८ ई० रसमिन्द  
बनाम

मुसलमान है कि अपील बनारजी डिगरी ने पेश किया और  
मुद्रमा मुद्रजा बनाम में इस क्रिया और  
हस बख्तलत में दर्ज हुआ और बख्तलत ने तारीख वास्ते 13.9.82  
समाजत हस अपील के मुद्रा की है। अगर खुद आप या  
अपका कपील या कोई और शख्स जो कानून आपकी तरफ  
से अपील हाजा में वह समाज करने का मजान हो हाजिर न  
आदिगा तो उसी समाजत और तजबीज गिरहाजिरों में को  
कानूनी।

अन बतारीख 20 माह १८८२ ई० में  
दस्तावेज और मोहर बख्तलत से जारी किया गया।

for the Union of Andes vs Abdul Rehman Khan  
तजबीह अगर हमारा डिगरी के मुलतबी होने का हुक्म हुआ  
हो तो उसी हाजिरा हस में लिखना चाहिए।

BY Commission  
MUMSARIN  
Distt. Judge's Court  
LUCKNOW

Reg. Civil Appeal No. 229/82-13.9.82

इतिनामा बनाम रसमिन्द मुखर्जी वरिष्ठ  
जो समाजत अपील के लिए मुद्रा की जाय  
Dabudstadar जिला Lucknow अपीलान्त

Union of Andes vs Abdul Rehman Khan

Abdul Rehman Khan Stole the Abdul बनाम Sallah Khan  
P10 House No 129 Badshahatgarh, Lucknow  
अपील बनारजी बख्तलत रसमिन्द

मुबारका माह र १८८ ई० रसमिन्द  
बनाम

मुसलमान है कि अपील बनारजी डिगरी ने पेश किया और  
मुद्रमा मुद्रजा बनाम में इस क्रिया और  
हस बख्तलत में दर्ज हुआ और बख्तलत ने तारीख वास्ते 13.9.82  
समाजत हस अपील के मुद्रा की है। अगर खुद आप या  
अपका कपील या कोई और शख्स जो कानून आपकी तरफ  
से अपील हाजा में वह समाज करने का मजान हो हाजिर न  
आदिगा तो उसी समाजत और तजबीज गिरहाजिरों में को  
कानूनी।

अन बतारीख 20 माह १८८२ ई० में  
दस्तावेज और मोहर बख्तलत से जारी किया गया।

for the Union of Andes vs Abdul Rehman Khan  
तजबीह अगर हमारा डिगरी के मुलतबी होने का हुक्म हुआ  
हो तो उसी हाजिरा हस में लिखना चाहिए।

BY Commission  
MUMSARIN  
Distt. Judge's Court  
LUCKNOW

A28

(22)

1943

In the Court of the District Judge, Lucknow.

Re: Civil Appeal No. 229 of 1942

Union of India vs. Abdul Rahman

Dated 18.11.42

By

Sri K. C. Sankari

Advocate

Learn that notice filed in the above case

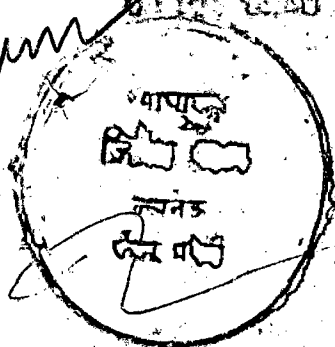
on 18.11.42 is filed for hearing of appeal.

Please take steps in 7 days

to enter my name and the case of the

case on 4th day of Oct, 1943.

Am



1943

1943

32 A-29  
In the Court of District Judge, Lucknow  
Lucknow M-0

Union of India ——— Appellant

VS

Abdul Rehman Khan ——— Respondent

F.F. 18/11/82

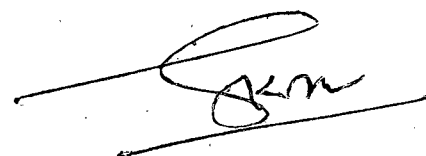
Application 151 C.P.C.

On the above noted case, the Appellant states as under:-

1) That in view of unavoidable circumstances the Appellant Counsel could not file steps today.

Wherefore it is most respectfully prayed <sup>one week</sup> ~~one month~~ time allow for filing steps.

Lucknow  
18/11/82

  
J. S. K. Jaiswal  
Counsel for Appellant

on the Court of District Judge Lucknow  
Lucknow

(24)

4-9  
A30

Union of India \_\_\_\_\_ Appellant

VS

Abdul Rehman Isha \_\_\_\_\_ app. Party

R.C.A. 229/82

E.F. 20-1-83

Application u/s 151 C.P.C.

on the above noted case The  
Appellant respectfully ~~states~~ states  
as under.

1) That some unavoidable circumstances  
the Appellant could not filed steps with  
in-time.

wherefore it is most respectfully  
prayed that one week time  
allowed for filing steps.

Lucknow

20/11/83

\_\_\_\_\_  
Counselor Appellant

on the Court of District Judge Lucknow  
Lucknow

75  
A-24  
ST-6

25/3

Union of India ————— Appellant

vs

Abdul Rehman Khan ————— opp Parties

R.C.A. 229/82

F.F. 27-1-83

Application u/s 151 C.P.C.

on the above noted case the Appellant  
is filing steps along with registered  
envelope No 4/ = co-sending to the  
Respondent.

SRM

Lucknow  
27/11/83

Counsel for Appellant

In the Court of District Judge (26)  
Lucerna (A32)  
ST-12

Union of India — Appellant

VS

Abdul Rehman — app Party  
12 han

P.P. - 19/5/83

In the above noted case  
the Appellant's expert fully states  
a under -

1) That due to some  
unavoidable circumstances the  
Appellant Counsel could not take  
steps.

whereas it is most expert fully  
proven one week time allowed  
for filing steps.

— James 2  
12

Lucerna  
19/5/83

Counsel for Appellant

Appellant

Union of India

vs.

Respondent

Abdul Rehman Khan

R.C.A 229 of 1982  
7.7.6.8.1983

Application u/s 151 CPC

In the above-named case the appellant  
respects fully states as under:-  
1) That the appellant due to mistake  
and inadvertently could not take  
steps which is being done to-day.  
2) That the duplicates of memorandum  
of grounds of appeal are in file.  
Acknowledgement

no duplicate.  
no steps taken yet

Proof before the court envelope, Acknowledgement  
of the court & notice duly filed in are  
filed here with.

It is therefore prayed  
that the delay in taking steps  
be condoned & the case  
be directed to proceed.

Widened  
August 6, 1983

Advocate  
R.V. Advocate  
Counsel for the  
Appellant

(30)

In the Court of District Judge Lucknow

C14

(A33)

(10)

Appellant

Union of India

vs.

Respondent

Abdul Rehman Khan

R.C.A.

7.7.5-10-83

In the above-noted appeal  
the appellant is filing herewith  
her copy of memorandum of grounds  
of appeal.

For DUT

For Appellant

Abdul Rahman

in the Court of J S C. e. Lucke

(A34)

C 75

Union of India ——— Appellant

vs

Abdul Rehman ——— Respondent

F.F. - 20/12/83

On the above noted case  
the Appellant respectfully states  
as under —

(1) That due to some unavoidable  
circumstances the Appellant could  
not take steps to  
in time.

Wherefore it is most respectfully  
prayed that the Appellant  
may be granted relief.

Lucke  
20/12/83

For  
Counsel

In the Court of Judge S.C.C. Lucknow.

(52)  
e-16

(A35)

Union of India

Appellant

vs.

Abdul Rehman Khan

Respondent

R.C.A 229 of 1982

J.Y. 16.1.84

Application u/s 51 C.A.C

In the above-noted case the appellant respectfully states as under:-

- 1) That the appellant took the steps against the respondent through his officer, and by way of registered post in the court of Learned District Judge Lucknow.
- 2) That, <sup>needs</sup> registered letter was addressed as it has been received by the Hon'ble Court.
- 3) That the Hon'ble Court on 20-12-83 for from steps which could not be taken.

It is therefore prayed that the office be kindly directed to place the appellant's registered letter as received and same order should be kindly fixed.

W.D. Dated  
Jan 16, 1984.

For and on behalf of  
Counsel & in support

1000 Stamp Short 13/2 in the Court of Judge S.C.C. Leicestershire. (33) C-17

(436)

12  
21.84

Union of India  
vs.

Appellant

Abdul Rehman Khan

Respondent

R.C.A 229 / 82

22.13.2.1984

In the Court of Judge S.C.C.  
U.P. India V/S Abdul. Rahman Khan  
R.C. No 229/82  
22.13.2.1984

In the above noted appeal  
the appellant is filing herewith  
an envelop with postal stamps worth  
Rs 37.05 also with duplicate of  
memorandum of appeal, same  
duly filed in & Acknowledgment Receipt  
duly filed in for summary her-  
reproduced

Witness  
J. B. D. (K. S. Ganesan)  
Jan 2, 1984  
Court for  
H.M.

on the Court of Judge Small Causes Court  
Lucknow

(94)

D-18

(A-317)

Union of India ————— Appellant

VS

Abdul Rehman Khan ————— opp. Party

FF. 1-3-84

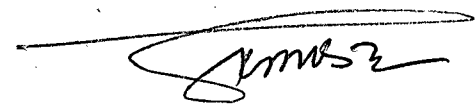
On the above noted case the Appellant  
respectfully states as under:-

1) That my Counsel Sri K.C. Jauhari  
Advocate has gone out of Station for  
his personal work. So he is not in  
a position to attend the Honble  
Court today.

Wherefore it is most respectfully  
prayed that case may be kindly  
adjourned any other date.

Not opposed  
Judge Abdul Kader  
1/3/84

Lucknow  
1/3/84



Counsel for Appellant

Alim

Ry 16/1/83

Pr agy

Noted  
16/5

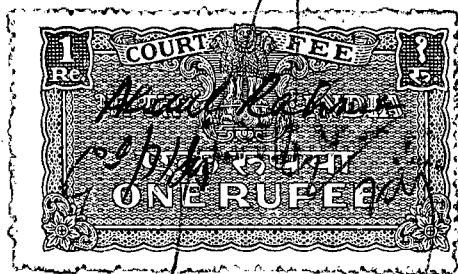
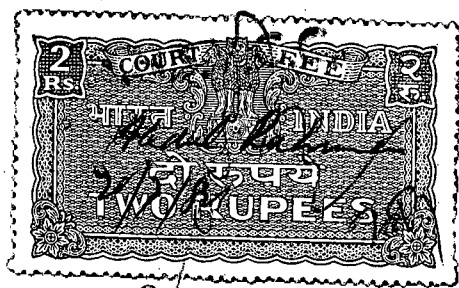


  
1/3

Noted  
16/5



In the Court of the Judge Small Causes, Ahmedabad  
R.C.A. No 229 of 1982



C-19  
A38  
✓ 2 ✓ 2  
20/7

Union of India vs Appellant  
Abdul Rahman Respondent  
7.7.20.7.1984

The applicant-respondent begs to submit as under: -

1. That owing to his indisposition the applicant's Counsel is not in a position to come to the Court today and argue the above appeal.
2. That in the ends of justice it is necessary and expedient that the above appeal be adjourned to some other date.

Wherefore it is prayed that the above appeal be adjourned to some other date.

7/20/7/84

Be in Shanti Borge  
Counsel for the respondent  
Applicant

Not appeared  
Borge

प्राप्ति स्वीकृति (रसीद) ACKNOWLEDGMENT

रजिस्ट्री / पत्र/पोस्टकार्ड/पैकेट/पार्सल प्राप्त हुआ  
 Received a Registered Letter/Postcard/Packet/Parcel insured

{ क्रमांक  
 No.

पाने वाले का नाम

Delivered to (name)

मूल्य (रुपयों में)

Value in Rupees

वितरण तारीख

Date of delivery

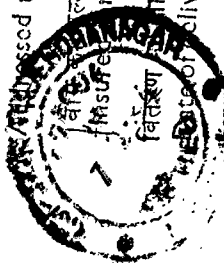
Sri Abdul Rahman Khan  
 Late Abdul Jilani Khan  
 Resident of House No 129 Badliatganj  
 Lucknow-4

196

पाने वाले की हस्ताक्षर/Signature of addressee

\* Score out the matter not required.

† For insured articles only.



vt. of Judge Small Causes Court  
 Lucknow

(36)

220

(A39)

India Appellant

VS

Rehman Kha Respondent

F.F. 19.9.84

Application u/s 151 C. P. C.

On the above noted case The  
 Appellant respectfully states as under:-

1) That Appellant Counsel is not feeling  
 well due to Throat Trouble. so not in  
 a position to conduct the case today

wherefore it is most respectfully  
 prayed that case may be kindly  
 adjourned for any other date.

Not opposed  
 by  
 Respondent

Lucknow  
 19.9.84

(Juniar Sri KC. Sankar)  
 Counsel for Appellant

On the Court of Judge Small Causes Court  
Lucknow

(30)

523

(A40)

Union of India ————— Appellant

VS

Abdul Rehman Khan ————— Opp Party

R.C. A. 229/82

E.F. 6-2-85

On the above noted case the Appellant respectfully states as under:-

Allowed

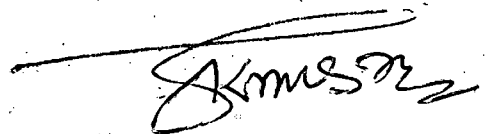
Judge  
6/4/85

1) That Appellant Counsel has gone out of station for his personal work. So not in a position to attend the Honble court today.

Wherefore it is most respectfully prayed that case may be kindly adjourned any other date

No objection  
M. S. S.  
6/2/85

Lucknow  
6/2/85



Counsel for Appellant

on the Court of Judge Small Causes.  
Lucknow (30)

528

(1441)

Union of India ————— Appellant

VS

Abdul Rehman Khan ————— Respondent

R.C.A. 229/82

F.F. 11-4-85

Application 4/5151 C.P.C.

On the above noted case the Appellant respectfully states as under:-

1) That Appellant Counsel has gone out of station for his personal work. So, <sup>he is</sup> not in a position to attend the movable Court today.

Wherefore it is most respectfully prayed that case may be kindly adjourned any other date.

Liceman  
11/4/85

  
(San S. K. Sanyal)  
Counselor Appellant

In the Court of Judge Small Cause Court Lucknow

RCA 229/1982

F.F. 4.3.06

Union of India

Appellant

vs

A. R. Khan

Respondent

Application under Sec. 151. CPC.

In the above noted appeal the appellant respectfully states.

1. That the appellant's Counsel is not feeling well and as such is not in a position to conduct the case.

It is therefore prayed that the above noted appeal be adjourned and some other date in second week of April/06, may kindly be fixed if possible please.

Undersigned

4/31/06

(K. C. Jankharia)  
Barling Advocate  
Counsel for the  
appellant

Allowed  
4/3

In the Court of the Judge Small C  
(Civil Judge) (40) Lucknow

R.C.A No 229 of 1982 ST 29



Union of India ——— Appellant

Abdul Rahman ——— Respondent

7.7.6.7.1988

Application u/s 151 Cr.P.

The applicant - respondent begs to submit as under:—

1. That the above appeal arises out of a suit relating to the service matter of the respondent who is a Railway Employee.
2. That under the Central Administrative Tribunals Act all the cases relating to the service matters of the Central Govt employees stood transferred to the Central Administrative Tribunal and the jurisdiction of the Civil Court has ceased. The files of
3. That almost all the case pending in various Civil Courts relating to the aforesaid matter have been sent to the Tribunal but unfortunately the file of the above case is still lying in this Honble Court
4. That unfortunately on the last date of hearing this Honble Court by inadvertence passed an order of expedite hearing of the above appeal and fixed 6.7.88 for the same.

5. That since this Honble Court has  
ceased to have jurisdiction in respect of  
the above appeal the order for expedite  
hearing is without jurisdiction. (41)  
(41)

Wherefore it is prayed that in the  
ends of justice the order for expedite hearing  
passed in the above appeal be ~~reversed~~  
re-called and the file of the case be  
sent to the Central Administrative  
Tribunal, District Bench, Lucknow  
at Gandhi Bhawan.

Abdul Rehman Khan  
Respondent - Appellant

Abdul Wahid Hameed  
Advocate

7

| नम्बर सिल<br>विशेषदार<br>कागज | किस्म कागज    | नत्थी<br>(अलिफ)<br>नत्थी<br>(वे) | तादाद औराक<br>बशमूला<br>कागज | रसूम अदालत       |      | तारीख कागज वे<br>मिस्ल में शामिल<br>होने की | कैफियत |
|-------------------------------|---------------|----------------------------------|------------------------------|------------------|------|---------------------------------------------|--------|
|                               |               |                                  |                              | तादाद<br>स्टाम्प | कीमत |                                             |        |
| 21                            | Application   | 1                                | 2                            | 2                | 9.50 | 14/4/81                                     |        |
| 22                            | आदेशपत्र      | 2                                | 8                            | —                | —    | —                                           |        |
| 22                            | बेपाना        | 2                                | 4                            | —                | —    | —                                           |        |
| 22                            | कालीकेश       | 2                                | 2                            | —                | —    | 20/5/81                                     |        |
| 23                            | दरखास्त       | 1                                | 1                            | 1-3              | —    | 28/8/81                                     |        |
| 24                            | डिडी          | 2                                | 2                            | —                | —    | 21/4/82                                     |        |
| 25                            | कालीकेश       | 2                                | 2                            | —                | —    | 6/4/81                                      |        |
| 20A                           | दरखास्त       | 1                                | 1                            | 1-3              | —    | 27/3/81                                     |        |
| 20B                           | कालीकेश       | 1                                | 1                            | —                | —    | —                                           |        |
| 26                            | बलवाना        | 1                                | 1                            | —                | —    | —                                           |        |
| 27                            | कालीकेश       | 1                                | 1                            | —                | —    | —                                           |        |
| 28                            | गन्तव्यसंवादा | 1                                | 2                            | 2                | 1    | —                                           |        |
|                               |               | 89                               | —                            | 21-6850          |      |                                             |        |

certified that the file is correct and complete. It bears 89 papers and 21 stamps worth Rs - 68/50 p.

Munsarim

| आदेश की संख्या | आदेश का दिनांक | आदेश, अध्यासीन न्यायाधीश के संक्षिप्त-हस्ताक्षर सहित                         | निर्देश उस प्रार्थना पत्र प्रथवा पत्र का जिस पर मूल आदेश लिखा गया | आदेश प्रतिपालन में दिनांक तथा निर्देश |
|----------------|----------------|------------------------------------------------------------------------------|-------------------------------------------------------------------|---------------------------------------|
| 1              | 2              | 3                                                                            | 4                                                                 | 5                                     |
| 5 प्रेरित<br>प | 15.3.80        | Summons were sent to no defendant, not received back. Award till 5.4.80.     |                                                                   |                                       |
|                | 5.4.80         | Summons not received. P.H. to take fresh steps by both ways by 8.4.80.       |                                                                   |                                       |
|                | 10.5.80        | fix 10.5.80 for W.S.                                                         |                                                                   |                                       |
|                | 15.5.80        | for issues                                                                   |                                                                   |                                       |
|                | 8.4.80         | Steps have not been taken. Put up on 10.5.80.                                |                                                                   |                                       |
| 12.5.80        | 12.5.80        | 10.5.80 was holiday hence case is later up today.                            |                                                                   |                                       |
|                | 15.5.80        | No WS filed till up on 10.5.80.                                              |                                                                   |                                       |
|                | 15.5.80        | Summons not received back. P.H. to take fresh steps by both ways by 19.5.80. |                                                                   |                                       |
|                |                | fix 11.7.80 for W.S.                                                         |                                                                   |                                       |
|                |                | 15.7.80 for issues                                                           |                                                                   |                                       |

25 21/1

HAG

19.5.80 C.D. steps taken

Done for date fixed

W B

11.7.80 No ass filed.

Put up on the date fixed

W B

Sw.

Stamp on envelope is required.  
C.D.  
14/7

15.7.80

Plaintiff is directed to supply the stamps required. Steps be completed ~~by~~ within 3 days.

order

Fixing 29.7.80 for W.S.  
30.7.80 for replication  
1.8.80 for issues

W B

15/7

29.7.80 No ass filed.

Put up on the date fixed

30.7.80

W B

Pltff is directed to supply the copy of the plaint to deft. counsel within a week.

D.S by deft. counsel seeking time for filing W.S. Allowed

order

Fixing 5.9.80 for W.S.  
12.9.80 for issues

Need not to put up on 1.8.80

W B 30/7

Lincoln

221  
25 2

149

28.10.80

D12 is the application on behalf of  
Ad. counsel for deft. Allowed on the  
cost of Rs. 20/-

order

Fixing 27.11.80 for W.S.  
5.12.80 for Issues ~~4~~

अल्लु  
रेमना चन्द्रा

27/11/80. No. W.S. filed to clear  
cases

Put up on new date fixed

~~for appeal, adj~~  
Hoo

5.12.80

D C13 is the application for  
Condonation of delay in filing  
replication. Allowed on the cost  
of Rs 15/-

All W.S. filed on behalf of deft.  
Admit. keep on record.

Pltff. present with his Ad. counsel  
Shri Badre Habib.  
Deft. present through his counsel  
Shri K.C. Jauhari.

Read the pleadings. The  
following issues are framed for  
decision.

- 1) Whether the order for suspension of  
the pltff and confirmation of the said  
order in appeal was illegal as alleged  
in para 19 of the plaint?

18 12  
00

221  
3

(44)

(450)

P.O. is on leave today

C15 is the application 4035 B.C.P.R.

Put up on 0.1.81 for disp.

4C W.D.M.

0.1.81

C16 is the list of documents filed by deft. containing 6 documents as shown in the list.

Let arrears of cost be paid within by the date of next hearing.

Order

Ux m  
purg  
Fixing 22.1.81 for F.H. ~~4~~

22.1.81

Case called over

Plff. present-

Deft. present-

D17 is the application by plff.

Counsel for adjournment. Allowed.

Order

Fixing 27.1.81 for F.H. ~~4~~

27.1.81

D18 is the application for adjournment by deft.

Recorded & of P.W.I.

Contd.

Order

D18 Allowed

Fixing 31.1.81 for F.H. ~~4~~

21/4

A 51

27.3.81

D 20 is the application for adjournment by counsel for deft. Not opposed. Allowed.

Order

Fix 6.6.81 for F.H. ~~(4)~~

27/3/81

Mr 27/3/81

6.4.81

Needed evidence of PW)  
Grant

Fix 14.4.81 to PW

~~(4)~~  
LVR

16.6.81

A 21 is the application of PW R17.  
C.R.C. by Plff.

The Ad. counsel for deft. says that he wants to file objections. I feel that when the Deft. shall be offered opportunity for filing W.S. ~~then~~ the deft. would get sufficient opportunity of raising this objection in add. W.S.

A 21 has force & is liable to be allowed.

2-21  
5 5

1452

served with a notice up  
80 C.P.C. of so its effect?

No other issue  
pressed.

Fix 14-5-81 for F.H.  
AB

14.5.81

D-20 is the adjournment application  
filed on let by the counsel for deft-  
not-opposed.  
Allowed.

20.5.81  
Fix ~~16.5.81~~ for F.H.

14/5 14/5 14/5  
14/5 14/5 14/5  
14/5 14/5 14/5

AB  
IV sad. mf  
Luo

20.5.81 recorded 81. opt. w. l.  
Plff. & closes his evidence  
ords

Fix 28.5.81 for deft's evid.

28.5.81  
D is the application by  
def. Allowed.

Fix 3.7.81 for Deft's Evid.  
AB

14/5

12.8.81

22/5

Case is being taken (453) transferred.

Fixe 25-8-81 for FN

Noted  
25/8/81  
ALM

Noted.  
9/2/81  
12/8/81  
for Union of India.

L.  
W.D.

12/8/81  
for Abdul Rahman.

25.8.81

Transferred to u can 2  
III to Addl. Mf. lco u'de Dp case  
Dr to d d, parties are directed to  
appe ten to

25.8.81

De All

Case called on.  
Parties present  
The file has been recd. by  
transfer from the Court of 6th  
Addl. Mf. vide D.S.'s order

or

Fix 28.8.81 for M. 4

Page  
मेरा

RS 541/29

(48)

~~25~~ <sup>21</sup>/<sub>7</sub>

2.11.87

As 1/11/87 was holiday Case takes up today Parts present through Counsel D 12 is in adjournment application by plaintiff Counsel Vets order passed thereon allowed. Fix 25/11/87 for Arg

(454)

25<sup>11</sup>/<sub>8</sub>

Case called on Parts present D-13 by plaintiff Vets order passed thereon allowed. Fix 21.12.87 for Arg

21.12.87

Case called on Parts present D-14 by plaintiff Counsel Vets order passed thereon allowed. Fix 18/1/82 for Arg

18.1.82

DTS by plaintiff for adjournment. Note orders passed thereon allowed. Fix 30.1.82 for argument

30.1.82

Case called on D 16 adj. application by plff Allowed

Order

Fix 15.2.82 for Arg

15.2.82

Case called on Parts present D-17 by defendant. Counsel Vets order passed thereon allowed. Fix 17/2/82 for Arg

minutes

~~15~~ <sup>17</sup>/<sub>2</sub>

21/8

(49)

29.3.82

Case called on

445

The issue no 1 is being recasted as follows :-

1. Whether the order for suspension and order for punishment and its confirmation in appeal was illegal as alleged in para 19 of the plaint?

Parties informed that they have to lead no evidence in view of recasting of issue no 1.

ord  
Fix 30.3.82 for judg. ~~for~~

Plus

Miss on 30.3.82

Case called on

judg. signed dated 2

pronounced in open court

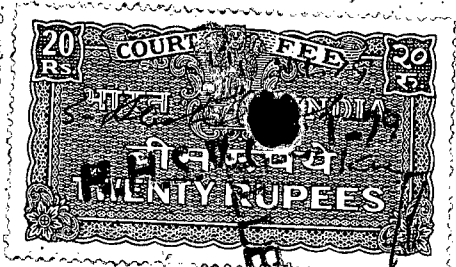
આવેશ  
આવેશ નો 13 સવચ્ચ હવે આગળ નો આગળ  
દેવે આગળ (18/12/77) બેચો નાતા હો આ આવેશ  
સે P X / 6A / 2K / 2 / 76 ડી 5.12.77 આગળ હો  
C 7 / 13 દેવે આવેશ હો E / Appeal / 6617  
ડી 18.4.78 આગળ હો C 7 / 14 દેવે 2 નો અપાલ ન  
આવેશ આવેશ અવેશ હો 18/12/77 નો આગળ

30.3.82

IN THE COURT OF THE MUNSIF SOUTH LUCKNOW.

50

A 56



वेरल

2 = 30.00  
2  
14.11.75

Reg 541/79

Abdul Rahman Khan aged about S/O Late Sri  
Abdul Sattar Khan R/O H.No. 129, Bashirat-  
Ganj Lucknow .....Plaintiff

Versus

Union of India through the General Manager  
Northern Railway, Baroda House, New Delhi.  
.....Defendent.

SUIT FOR DECLARATION.

The Plaintiff begs to state as under:-

1. That the plaintiff is employed as Shunter Grade 'A' under the Loco Foreman, Alambagh, Lucknow in the Northern Railway.
2. That while the plaintiff was working on the post of DSL A-sstt. Driver he was all of a sudden informed by his Loco Foreman, Northern Railway Alambagh, Lucknow on 2.9.75 that he was placed under suspension with effect from 16.8.75 as per orders of the Senior Divisional Mechanical Engineer Northern Railway Lucknow. He was further informed that proper order of suspension will follow.

*Abdul Rahman Khan*

.....2

Mr. G. Smith, Lucknow  
Sd/- Abdul Rahman Khan  
17.5.11.79

A 57

(51)

23/2

3. That after awaiting a long the plaintiff by way of an application dated 6/8.11.75 requested the Loco Foreman Northern Railway, Alambagh, Lucknow to furnish the proper order of his suspension and let him know his fault to enable him to prefer an appeal as required under Departmental Rules but that yeilded no result.

4. That thereafter on 17/18.12.75 the plaintiff preferred a representation to the Senior Divisional Mechanical Engineer, Northern Railway, Lucknow Complaining that no charge sheet was served on him and that he was not being paid his subsistance allowance but that too yeilded no result.

5. That after a long time the plaintiff was served with an order No. PX/6A/LKO/2/76 dated 10/11.2.76 passed by the Senior Divisional Mechanical Engineer, Northern Railway Lucknow whereby he was placed under suspension with effect from 12.8.75.

~~6. That on the same date i.e. 11.2.76 the Senior Divisional Mechanical Engineer, Northern Railway, Lucknow by his order No. PX/6A/LKO/2/76 dated 11.2.76 renoked the said order whereby he was placed under suspension with effect from 12.8.75.~~

6. That on the same date i.e. 11.2.76 the Senior Divisional Mechanical Engineer, Northern Railway, Lucknow by his order No. PX/6A/LKO/2/76 dated 11.2.76 renoked the said order of plaintiff's suspension.

7. That thereafter the plaintiff was served with a Memorandum of charge sheet bearing No. PX/6A/LKO/2/76 dated 13/16.2.76 issued by the Senior Divisional Mechanical

Shail Kumar

The J. S. H. M.  
in Deval K. H. M.  
in J. S. H. M.  
7.5.79 J. 79

(458)

(52)

2/2

Engineer, Northern Railway, Lucknow for major penalty and in that a charge of misconduct for putting the wrong time in the call book of 12.8.76 served by Shri A. Joseph call Man was levelled against the plaintiff. By this charge sheet the plaintiff was called upon to submit the written statement of his defence.

8. That in the said charge, sheet it was mentioned that an enquiry was proposed to be held into the charge under Rule 9 of the Railway Servants Discipline and Appeal Rules 1968.

9. That along with the aforesaid memorandum charge sheet there was a list of documents (Annexure III) by which and a list of witnesses (Annexure IV) by whom the said charge was proposed to be substantiated in the enquiry.

10. That the report of the Senior Loco Inspector, Lucknow bearing No. P/Loco Diesel/LKO/76 dated 5.2.76 was the document by which and S/Shri R.S. Sharma driver Loco Shed, LKO and Anthony Joseph, Call Man Loco Shed Lucknow were the witnesses by whom the aforesaid charge was proposed to be substantiated in the enquiry.

11. That since the aforesaid charge sheet was not accompanied by the evidence relied upon, the plaintiff was handicapped in submitting the written statement of his defence and as such he by way of an application dated 18.4.76 demanded access to the following documents:-

- (1) S.L.I. LKO'S letter as mentioned in Annexure III of the charge sheet dated 13/16.3.76.
- (2) Statement of Sri R.S. Sharma, driver Loco Shed Lucknow.
- (3) Statement of Shri A. Joseph, Call Man Loco Shed Lucknow.
- (4) Call Book dated 12.8.75 served by Shri A. Joseph Call Man.

The n of Sen H, Lucknow  
in Shri R.S. Sharma  
and J. Joseph  
17.5.76  
J.S.

against the said charge.

16. That since in the absence of documents asked for the plaintiff was handicapped in submitting <sup>the</sup> written statement of his defence, he informed the Senior Divisional Mechanical Engineer N.R. Lucknow about the same vide his application dated 25.10.77.

17. That the Senior Divisional Mechanical Engineer N.R. LKO treated the aforesaid application dated 25.10.77 as defence reply of the plaintiff and relying upon the documents not supplied to the plaintiff passed final order PX/6A/LKO/2/76 dated 5.12.77 where by six sets of his passes were withheld without holding any enquiry. In the said order the Senior Divisional Mechanical Engineer N.R. LKO mentioned that no document has to be shown to the plaintiff in the charge sheet issued for the minor penalty.

18. That aggrieved by the above order the plaintiff preferred an appeal dated 15.1.78 to the Divisional Superintendent Northern Railway Lucknow and challenged the validity of the punishment order on various grounds but that authority without taking a judicious view of the points raised held the plaintiff guilty of charge but reduced the punishment of withholding of six sets of passes to three sets vide his order No. E/Appeal/16617 dated 18.4.78.

19. That the order of the plaintiff's suspension and the order of punishment as confirmed in appeal are illegal, for the following reasons:-

(a) At all the stage the appellant, despite his repeated requests, was not afforded reasonable opportunity of defence to meet the charges and to prove his innocence.

(b) The allegations and the contention of Sr. Anthony Joseph call man has been accepted as correct at the back of appellant without affording him a reasonable opportunity of rebuttal, which fact is not only

The Senior Mechanical Engineer N.R. Lucknow  
in the charge sheet issued for the minor penalty  
on 5.12.77  
N.R. LKO/2/76  
25.10.77

xxxxx

against the principles of natural justice but also against the instructions contained in Railway Board Circular No. E(D&A) 62 RG-68 dated 27.7.63.

- (c) It has wrongly been accepted as correct that Sri ~~A.S. Sharma~~ Joseph R.S.Sharma, who allegedly resides at a distance coverable by a Cyclist within 1/2 hrs., gave the same timings in the Call Book as was given by the appellant and no opportunity to rebut this fact was given to him.
- (d) No material was available on record to show that as to whose residence (R.S.Sharma) or the appellant the Call Man (Sri Anthony Joseph) visited first for the service of the Call Book. It can also be said that Sri Anthony Joseph visited the residence of Shri Sharma first and thereafter to appellant's residence.
- (e) It has wrongly been held by the learned Sr.DME LKO that in cases where the charge sheets for minor penalty have been issued, it is not obligatory to grant an access of the documents relied upon to the delinquent. In this connection, it is submitted that rule 11(a) of D&A Rules 1968 itself provides that the disciplinary authority is bound to give to the Railway servant a reasonable opportunity of making representation against the proposal. The word reasonable opportunity as used in the rules means and imply that the opportunity of defence is to be given on the principles of Natural Justice, which covers the inspection of documents also by the delinquent Railway servant.

17A - that the order dated 5.2.1979 was served on the appellant which has been served.

Amended as per  
order of the court dt  
14/4/81.  
Done Home Page  
14/4/81

Shri R.K. Sharma

20. That the cause of action accrued to the plaintiff against the defendant at Hazrat Ganj, ward Hazrat Ganj LKO where the impugned orders were passed, on 2.9.75 when the plaintiff was <sup>suspended, on 10/11.2.76 when the plaintiff was</sup> placed under suspension, on 13/16.2.77 when the charge sheet was issued, thereafter on various dates when the illegalities and irregularities were committed in the enquiry and lastly on 18.4.78 when the order in appeal against the punishment order was passed.

21. That the valuation of this suit for the purposes of jurisdiction as court fee is Rs. 1000/- on which the requisite court fee of Rs. 30/- has been paid.

22. That the plaintiff prays for the following reliefs:-

- That a decree declaring the order of the plaintiffs' Suspension and the order of punishment as modified in appeal are void, illegal and unconstitutional, be passed in favour of the plaintiff and against the defendant.
- That the costs of the suit be awarded to the plaintiff against the defendant.
- That any other relief which this Hon'ble court may deem fit the circumstances of the case be also awarded to the plaintiff against defendant.

Dated: - 14.11.79

*Abdul Kharan*  
Plaintiff

VERIFICATION

I the above named plaintiff do hereby verify that the contents of paras 1 to 18 are correct to my knowledge & those of paras 19 to 22 are correct to my belief.

Signed & verified on 14/11/79 within the civil Court premises at Lucknow.

Dated. 14.11.79

*Abdul Kharan*  
Plaintiff.

*The above is a true copy of the original as per order of the court dated 14/4/81.*  
*Abdul Kharan*  
*14/4/81.*

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R

IN THE COURT OF IV ADDITIONAL MUNSHI-LUCKNOW

Sri Abdul Rahman Khan - - - - - Plaintiff.

Versus

Union of India through the  
Genl. Manager, N.R.,  
Baroda House,  
New Delhi. - - - - - Defendants.

R.S. No. 541 of 1979  
F.F 27.11.80  
5.12.80

Written Statement on behalf of the defendant:-

- Para 1 : The Contents of para 1 are not denied.
- Para 2 : The contents of para 2 are not admitted as alleged. It is admitted that the plaintiff was put under suspension which took effect from 16.8.75.
- Para 3 : Denied.
- Para 4 : Denied.
- Para 5 : The contents of the para 2 are not admitted in the way they are alleged. Please see the additional pleas.
- Para 6 : The contents of the para 6 of the plaint are not clear and as such <sup>Can</sup> not be replied.
- Para 7 : The contents of para 7 are not denied.
- Para 8 : The contents of para 8 are not denied. ....2/-

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( 2 )

Para 8 : (As written in the copy of the plaint by the plaintiff.)

The contents of para 8 under reply are not denied.

Para 9 : The contents of para 9 are not denied but it is submitted that there were IV Annexures along with the charge sheet.

Para 10. : The contents of para 10 are not denied.

Para 11 : The contents of para 11 are denied.

Para 12 : The contents of para 12 are denied subject to the Additional pleas.

Para 13. : The contents of para 13 are denied.

Para 14. : The contents of para 14 are denied.

Para 15. : The contents of para 15 are denied.

Para 16. : The contents of para 16 are denied.

Para 17. : The contents of para 17 are denied.

Para 18. : It is not denied that the plaintiff preferred an appeal.

Para 19. : Denied.

Para 20. : Denied.

Para 21. : Denied. The plaintiff has intentionally undervalued the suit.

Para 22. : Denied. The plaintiff's suit is liable to be dismissed with costs.

ADDITIONAL PLEAS.

Para 23. : That the plaintiff's suit is bad and not maintainable on a/c of the fact that the defendant was not served with notice under section 80C.P.C.

.....3/-

(59)

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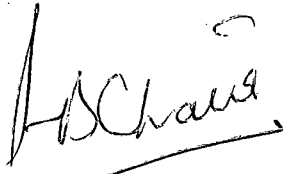
( 3 )

- Para 24. : That the plaintiffs' suit is liable to be dismissed on a/c of the fact also that the suspension is not a 'punishment'.
- Para 25. : That the plaintiffs' suit is liable to be dismissed for non-joinder of the necessary parties i.e. Senior Divisional Mechanical Engineer whose order is sought to be set aside.
- Para 26. : That the order impugned was passed according to the statutory provisions laid down in rules.
- Para 27. : That the plaintiff was given all the reasonable facilities for the preparation of his defence.
- Para 28. : That the statement of Sri R.S. Sharma Driver-Lucknow was not obtained and as such the question of not supplying the same does not arise at all. All the relied upon documents were supplied to the plaintiff.
- Para 29. : That the Senior Divisional Mechanical Engineer-N.R.-LKO after considering all the documents including defence reply took a lenient view and awarded a minor penalty of Stoppage of 6 sets of Passes which was reduced by the appellate authority to the three sets of passes.
- Para 30. : That the plaintiffs' suit is not maintainable and illegal.

Contd....4/-

( 4 )

Para 31. : Under the circumstances stated above, the plaintiff's suit is liable to be dismissed with costs.

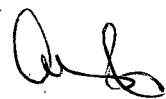
  
Divisional Railway Manager,  
Northern Railway,  
Lucknow.

for and On behalf of Union of India.

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

I, Ajit Kishore, Senior Divisional Mechanical Engineer, Northern Railway, Lucknow do hereby verify that the contents of this written Statement are based on the information derived from official records maintained in due course of business and legal advice believed by me to be true.

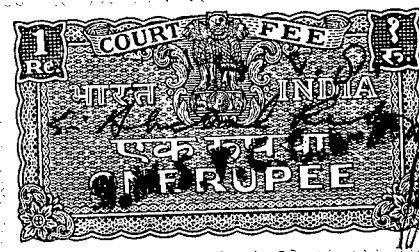
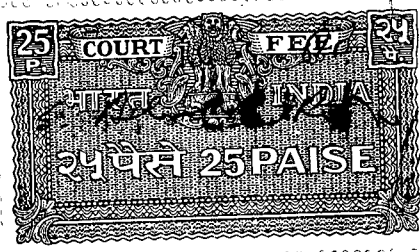
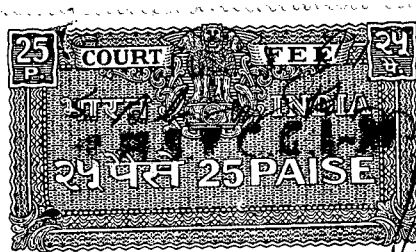
Signed and Verified on 26<sup>th</sup> day of November 1980  
in my Office, at Lucknow.

  
( AJIT KISHORE )  
Senior Divisional Mechanical Engineers  
Lucknow.

(61) A 21

IN THE COURT OF THE IV-H. ADDITIONAL MUNSIF, LUCKNOW.

(A67) SUI NO. ~~541~~ 541 of 1979.



Abd-ul Rahman Khan . . . . . Plaintiff

Versus

Union of India . . . . . Defendant

FILED FOR 14.4.1981

APPLICATION U/36 R 17 C.P.C.

The Plaintiff - applicant begs to state as under :-

1. That by inadvertence the applicant omitted to mention in the plaint that the notice U/180 C.P.C. was sent to the Defendant and that it was served.
2. That in the interest of justice it is necessary that the following amendment be allowed to be made in the plaint.

AMENDMENT

(a) the following para be added as para 19-A in the Plaint.

19-A. That the notice dated 5.2.1979 U/S 80 C.P.C. ~~was~~ was sent to the defendant, which has been served.

*Abdul Rahman Khan*

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A-68

21/2

- 2 -

(b) the verification in the plaint be al-so allowed to be amended accordingly.

WHEREFORE, it is prayed that the above amendment be allowed to be made in the plaint.

LUCKNOW:

DAIED : 14.4.1981.

*Abdul Khamar Khan*

PLAINTIFF - APPLICANT

*Abdul Khamar Khan*

VERIFICATION

14/4/81

I, the abovenamed Plaintiff-applicant do hereby verify that the contents of paras 1, 2 and amendments (a) and (b) are correct to my knowledge.

Signed and verified this 14th. day of April, 1981 within the Civil Court Premises at Lucknow.

LUCKNOW:

DAIED : 14.4.1981.

*Abdul Khamar Khan*

PLAINTIFF - APPLICANT

P.W. B-69

22

મી મેસર (એનિ રૂમ ૫૭ બાઉ ડ્રમી)  
મીસર (૫૫૫) ઉં. જિ એસી. ટી. મેસર ૧  
દાખ ૫૫ એનિ રૂમ)

રૂમની ને ૨૧૨ Grade  
A of loco foreman Alambagh  
કે મેસર દાખલ છે.

જાને suspension ડ્રમી  
રૂમની ને diesel Asst. Driver  
દાખલ

રૂમ suspension  
information લોકો foreman ને લેતા  
રૂમ 2.9.75 ને suspension ને  
information મેલેલ

રૂમ લોકો foreman  
ને Temporary suspension letter  
ને દાખલ મેસર મેલેલ છે  
"proper suspension letter would  
follow" / રૂમ કોર્ટ proper order  
ને લેતા મેસર ૫૫૫ દાખલ રૂમ  
મેસર રૂમ suspend મેસર  
રૂમ proper suspension order  
દાખલ રૂમ ૫૫૫ દાખલ  
મેસર suspension order ને લેતા

AKA



(65)

B-11

22/3

નેરે દરખાસ્ત સુધારા receive  
clerk ને endorsement દે/   
(subject to objections & not.)

C 7/2 ને 18-4-76 નો  
નેરે કોપી લેવામાં આવી રહી રહી  
ગ્રાન્ટમાં દે/ રજીસ્ટર receive ને  
દાખલ ને endorsement દે/

C 7/3 ને 1-7-76 SR.  
Mech. Engrg. કોલોનિસ્ટ ને રજીસ્ટર  
નેરે signature ને original ને  
નેરે લેવામાં ને/ ને/ ને લેવામાં  
Loco foreman કોલોનિસ્ટ ને/

C 7/4 ને ને/ (25.10.77)  
કો/ ને/ representation ને/ રજીસ્ટર  
ને/ original ને/ દરખાસ્ત (દે/)

C 7/5 ને રજીસ્ટર ને/ ને/   
દે/ રજીસ્ટર original ને/ લેવામાં  
દે/ રજીસ્ટર clerk ને endorsement  
ને/ દરખાસ્ત દે/

Shaul Reisman

-7- B-12 PW1

22  
1

3- એક Suspension Order  
Divisional Mechanical Engineer  
ને pass થિયુરુ

4- એક 3 set ને suspension  
on નો challenge થિયુરુ/ 3 set  
pass નો withhold નો નો નો  
ન. ભાગ નો 6 set withhold  
D.M.E ને થિયુરુ નો મુલો નો નો  
D.R.M/ kuchnow ને 3 set  
નો નો withhold થિયુરુ

5- ~~એક~~ નો D.M.E નો  
નો ખાતે charge sheet major  
penality નો નો (Call book  
નો 21st Time નો નો નો)  
નો 21st નો નો suspension order  
D.M.E ને થિયુરુ/ નો charge  
sheet નો 21st નો

6- 12.8-1975 નો નો  
નો નો Call book નો  
નો નો નો નો નો

સાદક મુનિયર

13-73

कॉ 20 (67)

न्यायालय तृतीय अपरीक्त मुंसिफ लावन अ.

पोस्टमैन अधिकारी रा. कुमार

मुं. सं.

541/79

अब्दुल रहमान

वादी

प्रति

यूनियन आफ इण्डिया

प्रतिवादी

निर्णय

प्रस्तुत वाद वादी ने खोजा हेतु  
संस्थित किया है।

वादी का कथन संक्षेप में निम्न है:-

वादी Shunter grade 'A' के पद

पर लोको जोरमैन आलगवाग लावन अ में employed  
है। वादी जब DSL-Asst. Driver के पद पर था

तब 2.9.75 को उसके foreman ने सूचित किया  
कि उसे 16.8.75 से suspend किया गया है।

6/8-11-75 को वादी ने लोको जोरमैन से अचित  
suspension आदेश देने एवं उसके दोष के बारे में

जानकारी हेतु एक पार्थना पत्र दिया। 17/18-12-75  
को वादी ने एक representation SR.D.M.E.

N.Rhy. Lucknow को इस बात का किया कि उसे  
कोई chargesheet भी नहीं दी गई एवं नहीं उसे

B-7A

के 20  
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(68)

- 3 -

साक्ष्य वादी को नहीं supply किया गया।  
 ने 18.6.76 को एक प्रार्थनापत्र दिया जिसमें उसे  
 वादपत्र के खण्ड 11 में वर्णित अभिलेख माँगे।  
 वादी को Call book एवं R.S. Sharma driver  
 के Statement के अतिरिक्त अन्य सभी अभिलेख  
 दे दिये गये। 2.7.76 को एक प्रार्थनापत्र द्वारा वादी  
 ने अन्य अभिलेख सहित उत्तर देने हेतु माँगे। उक्त  
 अभिलेखों को देने की जगह SR.D.M.E. ने श्री मोहिब  
 राज को Enquiry Officer नियुक्त किया। 6.6.77  
 को वादी ने SR.D.M.E. को एक प्रार्थनापत्र उक्त  
 अभिलेखों को देने के सम्बन्ध में लिखा। 23.7.77/  
 2.9.77 के पत्र Px/6A/LKO/2/76 के द्वारा SR.  
 D.M.E. ने वादी को सूचित किया कि उसके विरुद्ध  
 नियम 9 के अन्तर्गत की Enquiry वर्क का की  
 गयी है। और R 11(1) के अन्तर्गत कावाही शुरू की गई है।  
 25.10.77 को वादी ने प्रार्थनापत्र द्वारा यह सूचित  
 किया कि बिना अभिलेख के वह मजबूर है। 25.10.77  
 के प्रार्थनापत्र को SR.D.M.E. ने वादी का defence  
 समझ लिया। 15.1.78 को वादी ने D.S. N.Ryu, LKO को  
 एक अपील की जिन्होंने तीन सेट पास बरकाले को  
 अपील में आदेश E/Appeal/16617 dt. 18.6.78 पारित किया।

B-75

दि 20/3 (69)

उभयपक्षों के आभिकथनों के  
प्राचार पर निम्न विवादक निर्णय हेतु बनाए  
गये :-

- 1) Whether the order for suspension of plff. and confirmation of the said order in appeal was illegal as alleged in para 19 of the plaint?
- 2) Whether the order for suspension of the plff. and order for revocation of suspension were served upon the plff. on the same date as alleged in para 6 of the plaint?
- 3) Whether the Enquiry Officer was appointed in utter disregard to the departmental rules as alleged in para 13 of the plaint? If so effected?
- 4) Whether the suit is bad for want of notice up to C.P.C. as alleged in para 23 of W.S.?
- 5) Whether the suit is liable to be dismissed as suspension is not a punishment as alleged in para 24 of the W.S.?
- 6) 5) Whether the suit is bad for non-joinder of the parties as alleged in para 25 of W.S.?
- 7) To what relief if any is the plff. entitled?

जाता है।

### विवादक सं० 6

मैंने पक्षकारों के विद्वान अधिवक्ताओं को सुना। प्रतिवादी के विद्वान अधिवक्ता ने विधि का कोई ऐसा प्राविधान न्यायालय को नहीं दिखाया जिसके आधार पर इमानिक्चर पर पहुँचा जा सकता कि 'suspension' कोई (punishment) 603 विधि की दृष्टि में नहीं है। इसके अतिरिक्त मुझे विद्वान वादी के अधिवक्ता के इस तर्क में बल मालूम होता है कि suspension 603 है क्योंकि यह किसी भी कर्मचारी के लिए discredit की बात है।

उपर्युक्त विवेचना ~~सं~~ के आधार पर यह विवादक प्रतिवादी के विरुद्ध निर्णित किया जाता है।

### विवादक सं० 4

मैंने पक्षकारों के विद्वान अधिवक्ताओं को सुना एवं पत्रावली पर उपलब्ध साक्ष्यों का अवलोकन किया। प्रतिवादी के विद्वान अधिवक्ता ने यह तर्क प्रस्तुत किया कि नोटिस किसी को 5/5. 806 रिक. प्रतिवादी को न हो मिली।

उपपुक्त विवेचना के आधार पर विवाद्यक सं० ६ को वादी के पक्ष में निर्णीत किया जाता है।

### विवाद्यक सं० २ -

इस विवाद्यक के संबंध में वादी P.W.1 अब्दुल रहमान की स्वीकाराति है कि उसे Order for suspension & Order of revocation of suspension order दोनों साथ-साथ मिलें थे।

उपपुक्त स्वीकाराति के आधार पर यह विवाद्यक पथानुसार निर्णीत किया जाता है।

### विवाद्यक सं० १

इस विवाद्यक के अन्तर्गत न्यायालय को suspension order की legality पर कोई भी opinion नहीं देना है। क्योंकि वादी P.W.1 अब्दुल रहमान ने अपने सशपथ मौखिक साक्ष्य में यह स्वीकार किया है कि उसे 11.2.76 के आदेश के द्वारा suspend किया और 11.2.76 के आदेश द्वारा ही उसका suspension order revoke किया गया। इन परिस्थितियों में यह स्पष्ट है कि वादी का कोई virtual suspension नहीं हुआ अतः इसकी वैधानिकता को scrutinize नहीं हुआ।

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B-18/ an 20/6

एवं उक्त अभिलेखों को ~~को~~ दावे को <sup>नहीं</sup> दिये गये जिससे वह उनके सम्मुख में अपने conduct एवं उन अभिलेखों को explain करने में असफल (हा/ अतः यह denial of principles of natural justice है। दावे को इस प्रकार reasonable opportunity of hearing नहीं दी गयी। प्रतिवादी के विरुद्ध अखिलेश्वर ने तर्क में यह स्वीकार किया है कि Call book/R.S. Sharma का ~~अभि~~ office में available नहीं है इसलिए उक्त अभिलेखों की प्रतियाँ नहीं दी जा सकीं। उक्त प्रतीतिधियों में A.I.R. 1957 S.C. 882 Union of India V. T.R. Verma में किये गये observations से भी दावे के कथन को बल मिलता है जो निम्न है:- Stating it broadly and without intending it to be exhaustive it may be observed that rules of natural justice <sup>require</sup> that a party <sup>1st</sup> should have opportunity of adducing all relevant evidence on which he relies, that the evidence of opponent should be taken in his presence, and that he should be given the opportunity of cross-examining the witnesses examined <sup>by</sup> that party and that no material should be relied on against him without his being given an.

किया है कि punishment के पूर्व कोई Enquiry नहीं की गई। इस परिस्थिति में इस विवादक पर pending देने की कोई आवश्यकता नहीं रह जाती है।

उपर्युक्त विवेचना के आधार पर विवादक सं० 3 यथानुसार निर्णित किया जाता है।  
विवादक सं० 7

उपर्युक्त निष्कर्षों के आधार पर मैं इस निष्कर्ष पर पहुंचता हूँ कि वादी माँ से गये अनुमोल को पाने का अधिकारी है।

### आदेश

वादी का वाद मुख्य इस आशय की धोखा है कि आदेश सं० Px/6A/LKO/2/76 dt. 5.12.1977 कागज सं० C-7/13 Ex 1 एवं आदेश सं० E/Appeal/6617 dt. 18.6.78 कागज सं० C-7/14 जो अपील में पारित आदेश अवैध है।

निर्णय आज बुले-यायालय में दस्तावेजों  
दिनांकित एवं उदघोषित  
30.3.82

(कम)

30.3.1982

(कम)

30.3.82

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14. That yesterday the defendant no.1 has passed possession of the shop to defendant no.2 and 3.

15. That the plaintiff is entitled to possession of the shop.

16. That the cause of action accrued on 24th December 1975 when the defendant no.1 forcibly dispossessed the plaintiff from the shop in question at Aminabad, Ward Yahaganj, Lucknow, within the jurisdiction of this Hon'ble Court.

17. That the valuation of the suit for the purpose of court fee and jurisdiction is Rs.607/32 being on year's rent, on which a court fee of Rs.50/- has been paid being one half of Rs.89.75 i.e. fee payable on Rs.607.32.

18. That the plaintiff prays that a decree be passed in favour of the plaintiff and against the defendants for the shop in suit u/s 9 of specific Relief Act with costs.

Dated: 29/30th May, 1975.

Plaintiff.

Counsel for the plaintiff.

Verification:

I, the plaintiff do hereby verify that the contents of paragraphs 1 to 13 are true to my personal knowledge and those of paras 14 to 17 are believed by me to be true. Signed and verified this 29/30th day of May, 1975 in the Court compound at Lucknow.

Plaintiff.