

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

2
ANNEXURE

INDEX SHEET

CAUSE TITLE 04/21/88 OF

NAME OF THE PARTIES R.N. Pravastava

.....Applicant

Versus

.....Union of India andRespondent

Part A, B & C

Sl. No.	Description of documents	Page
1	Order Sheets	A1 to A13
2	Final order dt 07-11-91.	A4 to A5
3	Copy of petition, annexure	A6 to A34
4	Power	A35
5	C.A.	A36 to A47
6	CM 189/89 summing document	A48
7	Rejoinder affidavit	A49 to A73
8	Notices / Power	A74 to A78
9		
10		
11		
12		
13		

CERTIFICATE

Certified that no further action is required to be taken and that the case is fit for consignment to the record room (decided)

Dated 05/6/12

Counter Signed.....

Rajiv
Section Officer / In charge

B/G weeded out / destroyed

m
Signature of the
Dealing Assistant

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNOW.

O.A./I.A. No. 121 1988(L)

R. N. Srivastava

Applicant(s)

Versus

U.O. & ORS.

Respondent(s)

Sr. No.	Date	Orders
	<u>26.12.88</u>	Hon. D.S. Mitali, A.M. <u>Admit</u> Issue notices. One month for C.A. two weeks thereafter for R.A.
		Sd/- A.M.
	<u>27/12/88</u>	(SR) Notices issued to the respondents No. 1, 2 & 3 through Regd. Post, fixing 20.12.88 for hearing.
	<u>20.12.88</u>	No sitting adjourned to 25.1.89. Power filed by Adv. Srivastava, on behalf of opp. parties.
		Att/Lic/Law Council S/ present: Reply on Mtg. on 21.2.89. Reply date 25/1/89
<u>21/2</u>		No sitting. Adjourned to 9-3-89

Res.

OA 121/88 (4)

Hon' Mr. Justice K. Nath, M.C.
Hon' Mr. K. G. Ramam, A.M.

5/7/89

The learned counsel for respondents says that departmental proceeding inquiry referred is not presently traceable in the office. Therefore, he requests for some time to file counter. last opportunity to file a counter within three weeks from today. The applicant may file rejoinder within two weeks thereafter. List this case for final hearing on 17-8-89 on which date the O.P. will also produce the disciplinary inquiry proceeding record.

W.R.
A.M.

*De
ve.*

(sns)

17/8/89

No Sitting. Adj to 10. x. 89.

Both the counsels are present.

*h
17/9*

Hon' Mr. D.K. Agrawal, J.M.

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

GR
No reply filed
order
submitted for hearing

18/10/89 Shri S.P. Sinha counsel for the applicant and Shri Anil Srivastava counsel for the respondents are present. Counter affidavit has been filed today. However, the annexures annexed to counter affidavit are not legible. Counsel for the respondents undertakes to file legible copies of the annexures within one week hereof. Let the rejoinder if any, be filed within 3 weeks by the applicant. Counsel for the respondents shall supply legible copy of the annexures to the office and to the counsel for the applicant. List this case on 15-12-89 for orders hearing as the case may be.

Shri S.P. Sinha
A.M.

(sns)

*De
J.M.*

19/10/89

No sitting. Adj to 21.2.90.
Both the parties are present.

SN
No RA filed
S for hearing

*h
19/10/89*

121/99 (1)

—25/10/90

No sitting adj. to 9.11.90

(3)

OR
Case is ready for
hearing

S. P. H.
7/11/90

9.11.90

Hon. Mr. M. V. Bhandarkar - AM

Hon. Mr. V. K. Agarwal - JM

On the request of both
the parties case is adjourned
to 20.12.90

Def
JM

by
AM

20.12.90

No sitting adj. to 28.1.91

(3)

28.1.91

No sitting adj. to 20.2.91.

(3)

20.2.91

No sitting adj. to 27.3.91.

(3)

27.3.91

No sitting adj. to 21.5.91

(3)

21.5.91

No sitting adj. to 1.8.91

(3)

1.8.91

No sitting adj. to 23.9.91

(3)

23.9.91

No sitting adj. to 14.11.91

(3)

OR
This case is fixed
today by the order of
Hon. V. C.

4/11/91

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH

LUCKNOW

O.A. 121/1988

R.N. Srivastava

Applicant

versus

Union of India & others

Respondents.

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

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

The applicant was working as Head Goods Clerk under Senior Divisional Commercial Superintendent between 1974 to 1977. A chargesheet was served upon the applicant for major punishment by the Divisional Operating Superintendent, Izatnagar. The chargesheet was not accompanied by any document and the applicant raised his voice against the same. The enquiry proceeded. The applicant challenged the enquiry and was punished by reducing him in rank. He filed departmental appeal. One of the grounds taken by the applicant was that the applicant had already been transferred from Izatnagar to Lucknow and was under the jurisdiction of Divisional Commercial Superintendent, Lucknow and not under the control of D.C.S. Izatnagar, as such Divisional Commercial Superintendent, Izatnagar, had no jurisdiction. The appellate authority order dated 29.11.77 quashed the punishment order with a direction that I.I.P. should be cancelled and the changes made over to Divl. Supdt/LJN for appropriate action. The Divisional

Superintendent issued charge sheet again, which, according to the applicant was not in the same terms as the previous one, and it has been stated that there was only one charge. There is no denial of the fact that there is no reference in respect of previous enquiry and no enquiry took place this time and the evidence which was taken into the previous enquiry by the disciplinary authority and on the basis of the same the penalty was awarded. The applicant filed appeal against this which was dismissed.

2. The contention on behalf of the applicant is that the appeal was allowed and the competent authority was directed to deal with the charge-sheet in the manner than the authority could have proceeded with the disciplinary proceedings in case he so desired. It was a case of major penalty. The authority could not have relied on the evidence which was recorded in the previous enquiry and which had come to an end. The applicant was not called upon ^{for defense}. No opportunity was given to the applicant this time by the disciplinary authority. The punishment order is cryptic, without discussion of the evidence and is a non-speaking order and is no order in the eye of law. Thus, the facts make it clear that not only the punishment order but the appellate order is liable to be quashed. Accordingly we quash the punishment order dated 18.2.1984 and the appellate order dated 19.11.1987. It has been stated that the applicant is retired from service, he will be entitled to all the consequential benefits. No order as to costs.

transcript
Member (A)

l
Vice-chairman

filed to day
b/s
19/9

In the Central Administrative Tribunal,
Additional Bench, Allahabad,
(Circuit Bench at Lucknow).

.....

Registration No. _____ of 1988.

Ram Narain Srivastava ... Applicant.

Versus

Union of India and others ... Respondents.

I N D E X

<u>Sl. No.</u>	<u>Particulars</u>	<u>Pages</u>
1.	Application under Section 19 of the Administrative Tribunals Act, 1985.	... 1 to 22
2.	Annexure No.1 (Order of the Appellate Authority dated 29.11.1977)	... 23
3.	Annexure No.2 (Memorandum of chargesheet prepared under Rule 9 of the Railway Servants (Discipline and Appeal Rules, 1968)).	... 24
4.	Annexure No.3 (Copy of the enquiry proceedings written by the Enquiry Officer in the matter of disciplinary enquiry conducted on 12.5.83)	... 25

<u>Sl. No.</u>	<u>Particulars</u>	<u>Pages</u>
5.	Annexure No.4 (Copy of the impugned order dated 18.2.84 passed by the Senior Divisional Commercial Superintendent, N.E.Railway, Lucknow withholding next annual increments of the applicant for a period of 2 years temporally)	... 26
6.	Annexure No.5 (Order dated 19.11.87 passed by the appellate authority, namely, Divisional Railway Manager, N.E.Railway, Lucknow rejecting the appeal of the applicant)	... 27
7.	Vakalatnama	... 28

Ram Narain Sinha
Applicant.

Dated: Lucknow:
September 19th, 1988.

In the Central Administrative Tribunal,
Additional Bench Allahabad,
(Circuit Bench at Lucknow.)

.....

Registration No. _____ of 1988

Ram Narain Srivastava

... Applicant.

Versus

Union of India and others

... Respondents.

DETAILS OF APPLICATION

1. Particulars of the applicant:

(i) Name of the

Ram Narain Srivastava

applicant

Ram Narain Srivastava

(ii) Name of

Late Sri Jagat Narain

father

Verma

2.

(iii) Designation and
office in which
employed.

Chief Accounts Clerk,
N.E.Railway, Aishbagh.

(iv) Office address

Chief Accounts Clerk,
N.E.Railway, Aishbagh.

(v) Address for
service of all
notices.

House No. 53, Mohalla
Phoolwali Gali,
Aminabad, Lucknow.

2. Particulars of the respondent:

(i) Name and/or
designation of
the respondent.

1. Union of India,
through Secretary,
Ministry of Railway
Rail Bhawan,
New Delhi.

2. The Divisional
Railway Manager,
North Eastern
Railway, Lucknow.

3. Senior Divisional
Commercial

3.

(iii) Address for
service of all
notices.

1. Union of India,
through Secretary,
Ministry of Railways,
Railway Bhawan,
New Delhi.

2. The Divisional
Railway Manager,
North Eastern
Railway, Lucknow.

3. Senior Divisional
Commercial
Superintendent,
N.E.Railway,
Lucknow.

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

The application is against
the following order:

(i) Order No.

(i) C316/RNS/G/81 da-
18.2.84 passed by

Senior Divisional
Commercial
Superintendent,
N.E.Railway, Luck
(punishing author)

Ram Nandan Sinha

(ii) E/RNS/50/G.C./87

dated 19.11.87

passed by Divisional
Railway Manager,
N.E.Railway, Lucknow.
(appellate authority).

(ii) Date

As stated above.

(iii) Passed by

As stated above.

(iv) Subject in
brief.

The respondent No.3
without holding a proper
and reasonable enquiry,
and without giving the
applicant any reasonable
opportunity of being
heard contrary to the
Railway Servants
(Discipline and Appeal)
Rules, 1968 passed the
punishment order
dated 18.2.84 withholding
the next annual
increments for 2 years
and the respondent
No.2 also dismissed the
appeal preferred by
the applicant against
the said order of
punishment vide
order dated 19.11.87.

Ram Narain Shastri

5.

4. Jurisdiction of the Tribunal:

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

5. Limitation:

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 facts of the case are given below:-

- (1) That the applicant during the year 1974 to 1977 was working as Head Goods Clerk at ~~five~~ Sahamatganj under Senior Divisional Commercial Superintendent Izzatnagar.
- (2) That on the basis of totally irrelevant, perverse and extraneous material, the Divisional Operating Superintendent Izzatnagar served a chargesheet for major punishment to the applicant. It may be stated that under the Railway Board's Circulars the Railway

Ram Narayan Choudhary

establishment was divided in Commercial and Operating staff. The competent administrative authority for the Commercial staff was Senior Divisional Commercial Superintendent, N.E.Railway, Izzatnagar, while in respect to the Operating staff, the competent authority was Divisional Operating Superintendent, N.E.Railway, Izzatnagar.

(3) That however, the Divisional Operating Superintendent, N.E.Railway, Izzatnagar without any jurisdiction and without complying the provisions of the Discipline and Appeal Rules, and without giving the petitioner proper and reasonable opportunity of being heard proceeded to pass an order of punishment reverting the petitioner to the next lower grade.

(4) That the applicant being aggrieved preferred an appeal against the aforesaid order of punishment passed by the Divisional Operating Superintendent, N.E.Railway, Izzatnagar, which was allowed and the order of punishment was set aside. The true copy of the order dated 29.11.77 passed in appeal is enclosed with this application as Annexure No.1.

Ram Narayan Shastri

(5) That the respondent No.3 in a most arbitrary and perverse manner prepared a fresh chargesheet under Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968 for major punishment which contained a single charge. The true copy of the chargesheet as stated above is enclosed with this application as Annexure No. 2.

(6) That none of the evidence or documents to support the charge contained in the memorandum of chargesheet was cited as evidence in the list of documents, on the basis of which the article of charge is alleged to have been framed against the applicant.

(7) That the only evidence and the x documents which is alleged to be the basis of the article of charge framed against the applicant, is the order passed by the appellate authority (Divisional Superintendent, N.E.Railway, Izzatnagar) on the earlier appeal of the appellant and which was communicated to the applicant vide office memorandum dated 29.11.77 passed by the Divisional Superintendent, N.E.Railway, Izzatnagar.

(8) That a perusal of the aforesaid appellate order shows that the order of reversion to the lower post passed against the applicant was set aside and the charges in the enquiry proceedings were transferred to Divisional Superintendent, N.E.Railway, Lucknow for appropriate action.

(9) That the perusal of the appellate order further shows that the competent authority to whom the charges were made over was further directed to decide the quantum of punishment on the basis of the reasoned performance of the applicant and present situation.

(10) That it appears that firstly the respondent No.3 committed an error in framing fresh memorandum of charge and consequently he has again fallen in error in preparing the memorandum of charge without any application of mind to the observations made in the earlier appellate order. Thus, the subsequent chargesheet framed against the applicant was arbitrary and was illegal as being contrary to the appellate order which was

Ram Narain Sinha

binding in the matter of second enquiry, if any.

(11) That it may further be stated that apart from the evidence referred in Annexure No.3 to the memorandum of charge to support the alleged imputation against the applicant, the respondent No.3 committed yet another manifest error in holding the second enquiry supplying by not/any document or evidence which was to be relied upon in support of the article of charge. Neither such opportunity was subsequently afforded to the applicant during the course of enquiry, if any, conducted by the respondent No.3.

(12) That after the framing of the article of charge and after its service on the applicant the only enquiry done by the Enquiry Officer, Chief Commercial Inspector, N.E.Railway, Lucknow was conducted on 12.5.1983. In the said enquiry proceedings held on 12.5.1983, at the very beginning it was pointed out that there was no document or evidence to support the article of charge

Ram Nath Sontak

~~remarking~~

contained in the memorandum of charge.

It was further pointed out that the order passed by the appellate court contained as evidence of the charge as Annexure No.3 to the memorandum of charge did not relate to the merit of the case. In these circumstances the Enquiry Officer referred the matter to the Divisional Railway Manager (Commercial), N.E.Railway, Lucknow for supply of necessary documents on the basis of which the charge was framed and accordingly the enquiry proceedings were adjourned. The true copy of the enquiry proceedings written by the Enquiry Officer on 12.5.83 is enclosed to this application as Annexure No.3.

(13) That to the best knowledge of the applicant, no further enquiry proceedings were conducted by any Enquiry Officer in the notice or information of the applicant. It may further be stated that in spite of the enquiry report written by the Enquiry Officer on 12.5.83, neither the necessary documents supporting the article of charge were supplied to the applicant nor they were made available for inspection to him.

Ram Narain Bhastarkar

11.

(14) That thus without holding any proper and reasonable enquiry and without giving the applicant a proper and reasonable opportunity of being heard in the enquiry proceedings, if any, conducted by the Enquiry Officer, a punishment order dated 18.2.1984 was passed against him, by which the next annual increment of the applicant has been stopped for a period of 2 years temporarily. The impugned order of punishment dated 18.2.84 passed by the respondent No.3 is enclesed to this Application as Annexure No.4.

(15) That the applicant being aggrieved then preferred an appeal dated 10.4.84 to the Divisional Railway Manager, N.E. Railway, namely, the respondent No.2. The respondent No.2 also did not apply his mind to the facts and the grounds taken in the appeal nor considered the entire facts and circumstances of the case and proceeded to dismiss the appeal by a cryptic, summary and non-speaking order. The order passed by the appellate authority, namely, the Divisional Railway Manager, N.E.Railway, dated 19.11.87 is enclesed with this application as Annexure No.5.

Ram Navami Shastri

(16) That on the basis of the impugned order of punishment the applicant is being constantly discriminated in the matter of his next promotion to the post of Goods Superintendent Grade I. A large number of juniors to the applicant working on the post of Chief Goods Clerk have already been promoted to the next higher post of Goods Superintendent in Grade I and Grade II. This action of the respondents is arbitrary and discriminatory and is violative of Articles 14 and 16 of the Constitution of India.

(17) That for the facts and the reasons stated above, the impugned order of punishment dated 18.2.84 as well as the order passed by the appellate authority dated 19.11.87 both are manifestly arbitrary, illegal and are without any jurisdiction as marking they have been passed in utter disregard of the Rules of natural justice as well as the statutory Rules regulating the disciplinary proceedings.

(18) That the applicant is also advised to state that the respondent No.3 prepared a memorandum of charge for major punishment

Ram Narain Sostha

and on the basis of which the disciplinary enquiry was started but subsequently the respondent No.3 has imposed a minor punishment against the applicant. Thus, the imposition of minor punishment against the applicant in a disciplinary proceeding for major punishment without prior notice or information to the applicant is illegal. The disciplinary enquiry for major penalty as well as for minor penalty are 2 different types of enquiries and the principle of natural justice as well as the service rules provide that the delinquent servant has to be given a clear and positive notice as to under what category of enquiry he has been charged and proceeded with.

(19) That thus the impugned order of punishment dated 18.2.84 passed by the respondent No.3 as well as the appellate order dated 19.11.87 passed by the respondent No.2 are liable to be set aside on the following grounds:-

G R O U N D S

(A) Because the impugned order of punishment dated 18.2.1984 as well as the appellate

Ram Nandan Srivastava

order dated 19.11.87 are illegal and without jurisdiction, inasmuch as they have been passed without any application of mind to the memorandum of charge, the reply of the applicant, other relevant evidence and documents and other attending facts and circumstances of the case.

(B) Because the impugned order of punishment as well as the appellate order both are manifestly illegal and without jurisdiction as the applicant has not been given the proper and reasonable opportunity of being heard in the alleged disciplinary enquiry conducted in respect to the memorandum of charge.

(C) Because the respondents No. 2 and 3 both have committed the manifest error of law and jurisdiction in not looking to the fact that the disciplinary enquiry for major penalty cannot be converted into the disciplinary enquiry for minor penalty without proper notice to the delinquent servant and consequently the impugned order of punishment imposing minor punishment on the applicant in an


P. Narasimha Rao

enquiry initiated for major penalty is totally illegal and without any jurisdiction.

(D) Because the respondents No. 2 and 3 both have committed a manifest error of law and jurisdiction in not appreciating the law that if the punishing authority was of the opinion that no major penalty could be imposed upon the applicant on the basis of the disciplinary enquiry initiated for major penalty, then the enquiry should have been dropped and the applicant ought to have been exonerated.

(E) Because the respondents No. 2 and 3 have committed a manifest error of law and jurisdiction in not appreciating the law that the impugned order of minor punishment without prior notice to the applicant about the ^{law} version of disciplinary enquiry for major punishment into the disciplinary enquiry for minor punishment could not be legally imposed.

(F) Because manifestly no charge as contained in the memorandum of charge is made out against the applicant on the basis of the evidence and the documents relied upon


Ram Narayan Sisodia

in support of such charge and contained in Annexure No.3 of such memorandum of charge.

(G) Because the respondents No.2 and 3 both have committed a manifest error of law and jurisdiction in not looking to the fact that if they decided to punish the petitioner on the basis of evidence and documents other than those mentioned in support of the imputation contained in the memorandum of charge, then it was mandatory for them to supply all such relevant evidence and documents to the applicant and he should have been given all reasonable opportunities to defend himself against such evidence.

(H) Because the impugned order of punishment as well as the appellate order both are totally illegal and without jurisdiction, inasmuch as they do not contain any reasons whatsoever to support the punishment. Both the impugned orders are cryptic and non-speaking and have been passed without containing any reasons.

(I) Because the respondents are acting arbitrarily and illegally in discriminating


Ramu Narasimha Rao

the applicant in the matter of his promotion to the next higher post of Goods Superintendent (Grade I and Grade II) in spite of the fact that a large number of persons junior to him have already been promoted to those posts which is violative of Articles 14 and 16 of the Constitution of India.

7. Reliefs sought:

Thus, in view of the facts and the grounds taken above in para 6 of this application, the applicant prays for the following reliefs:-

- (i) That after summoning the entire record of the disciplinary enquiry conducted against the applicant from the possession of the respondents, and after making a perusal of the same, the impugned order of punishment dated 18.2.84 passed by the respondent No.3 as well as the appellate order dated 19.11.87 passed by the respondent No.2 both be set aside and quashed.
- (ii) That by means of consequential reliefs,


Ramu Narayan Shrivastava

the respondents be further commanded to treat the applicant to be entitled to entire service benefits applicable to him irrespective of the impugned order of punishment dated 18.2.84 withholding the annual increment of the applicant for a period of 2 years temporarily and also to direct the respondents to give the applicant such ~~max~~ arrears of salary on account of stoppage of increments and also not to create any hindrance or obstacle in further promotions of the applicant on the basis of impugned order.

(iii) That any other appropriate order or direction to which the applicant is deemed entitled under the entire facts and circumstances of the case, may also be allowed.

(iv) That costs of the application be also awarded to the applicant.

8. Interim order, if prayed for:

The applicant is also entitled to the following interim order during the pendency and decision of the instant application:-

Ram Narayan Shukla

That for the facts, circumstances, grounds, and the reliefs claimed in this application and stated in paras 6 and 7 above, the respondents be directed to promote the applicant to the next higher post of Goods Superintendent, Grade I irrespective of the impugned order of punishment dated 18.2.84 passed by the respondent No.3 and not to create any hindrance or obstacle in the matter of such promotion on the basis of the impugned order. Such other orders or direction in the nature of interim relief to which the applicant is held entitled, be also passed in his favour.

9. Details of the remedies exhausted:

The applicant declares that he has availed all the statutory departmental remedies available to him under the Railway Servants (Discipline and Appeal) Rules, 1968. Under these Rules he had preferred an appeal to the Divisional Railway Manager, N.E.Railway, Lucknow which was rejected by means of his order dated 19.11.87. Thus, under the aforesaid service rules, no further appeal is provided to the applicant.

Paru Narayan Shrivastava

11. Particulars of Postal Order
in respect of the Application Fee:

1. Number of Indian Postal
Orders

2. Name of the issuing
Post Office

3. Date of issue of Postal
Orders

4. Post Office at which
payable

12. Details of Index:

An index in duplicate containing
the details of the documents to be
relied upon is enclosed.

13. List of Enclosures 1. Annexure No.1
(Order of the Appellate
Authority dated
29.11.1971.

2. Annexure No.2
(Memorandum of charge
sheet prepared
under Rule 9 of the
Railway Servants
(Discipline and Appeal
Rules, 1968).

WJ
Ranjanan Shastri

3. Annexure No.3
(Copy of the enquiry proceedings written by the Enquiry Officer in the matter of disciplinary enquiry conducted on 12.5.83.)

4. Annexure No.4
(Copy of the impugned order dated 18.2.84 passed by the Senior Divisional Commercial Superintendent, N.E. Railway, Lucknow withholding next annual increments of the applicant for a period of 2 years temporarily.)

5. Annexure No.5
(Order dated 19.11.87 passed by the appellate authority, namely, Divisional Railway Manager, N.E.Railway, Lucknow rejecting the appeal of the applicant.)

Verification

I, Ram Narain Srivastava, aged about 57 years, son of Late Sri Jagat Narain Verma, working as Chief Goods Clerk, N.E.Railway, Aishbagh

Ram Narain Srivastava

22.

resident of House No. 53, Mohalla Pheelwali Gali,
Aminabad, Lucknow, do hereby verify that the
contents of paras 1 to 13 of this application
are true to my personal knowledge and belief
and that I have not suppressed any material fact.

From Neeram Frontawar

Applicant.

Lucknow: Dated:

19th Sept 1988.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDL. BENCH AKAHABAD
(CIRCUIT BENCH) LUCKNOW
REGISTRATION NO. 1988
Ram Narain Srivastava ... APPLICANT
VERSUS
Union of India and others ... RESPONDENTS
ANNEXURE NO. 1

23-

N.E.Railway.

No. T/221/MG/75/Complaint.

To: Shri R. N. Srivastava,
Head Goods/Clerk.
Sahjanwa,
Through Divisional Supdt(C),
N.E.Railway/Lucknow.

Office of the
Divisional Supdt (P),
Izatnagar Dt. 24-11-77.

Sub:- Appeal Dated. 13.6.77 against the orders
of imposition of Penalty of reduction to
lower Post Passed by D.O.S. vide NIP No.
even of 12 April 1977.

On considering your above appeal, Appellate Authority
(Divl. Supdt/LJN) has passed the following orders:-

"In my opinion, it would be incorrect to consider the
appeal of an employee, not working within my jurisdiction,
as the degree of Punishment has sometimes to be decided in the
context of recent performance and present situation.
Similarly it was incorrect to impose punishment under the same
situation. The N.I.P. should be cancelled and the charges
made over to Divl. Supdt/LJN for appropriate action."

Divisional Supdt (P),
Izatnagar.

- 1) The DPO/NER/Lucknow for n/action please.
- 2) The Divl. Supdt(C)/NER/LJN for information.
- 3) The BC/E (DPO)'s office/LJN for information.
- 4) S.M./Sahjanwa/N.E.Rly for information.

Divisional Supdt(P),
Izatnagar.

Ram Narain Srivastava.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDL. BENCH ALLAHABAD

(CIRCUIT BENCH) LUCKNOW

REGISTRATION NO. _____ /1988

Ram Narain Srivastava ...

APPLICANT

-24-

VERSUS

Union of India and others ...

RESPONDENTS

ANNEXURE NO. 2

Annexure to standard form No.5.

Memorandum of charge sheet under Rule 9 of the Railways Servant (D&A) Rules, 1968.

Annexure I

Statement of article of charges framed against Shri R.N.Srivastava, Hd. GC SMG/IZN Division now working as HGC/ASH.

That the said Shri R.N.Srivastava while working as Hd.GC at SMG in IZN Division is charged with gross neglect of duty and misconduct as detailed below in the statement of imputation.

Sd/-
(A.K.Das)
Sr. Divl. Comml. Supdt.
Lucknow

Annexure II

Statement of imputation of gross neglect of duty and misconduct in support of the article of the charges framed against Shri R.N.Srivastava, HGC/SMG now at ASH.

"Shri R.N.Srivastava Hd.GC while working at SMG on 29.4.75, 24/4 to 27.4.75, 3.12.74, 6/6 and 12/6/74, committed the following irregularities.

1. On 29.4.75 CRS No.13330 NE & 27442 NE (Return date 6/75), were allotted for leading RNB to KGG under serial No.10 & 11(ODR 28.4.75) whereas record shows that on 29.4.75 ODR in Rab was 17.3.75 (for N.F.Rly). ~~17.3.75~~

2. Wagon No.13296 was received at your on 24.4.75 and this was loaded with smalls on 27.4.75 after detaining for 3 days.

3. Inward empties were not allotted for leading when the same 22 were received en line No.1 i.e. on platform line at 14/30" hrs. on 24.4.75.

4. The number of wagons loaded with smalls on 24/4, 25/4, 26/4 and 27.4.75 shows that leading of smalls was not done promptly and wagons were detained for day together.

5.(a) Wagon No.27004 book Ex.Tulsipur to Shahmatganj arrived loaded on 24.4.75 was sent back as empty on 25.4.75 without any reasons.

(b) Wagon No.13896 arrived empty as side broken on 24/4 and sent back empty on 26.4.75.

(c) Wagon No.13864 arrived loaded on 24/4 released on 27/4 and allotted on same day at 9/1 hrs. for N.F.Rly.

contd...2

Ram Narain Srivastava.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDL. BENCH ALLAHABAD
(CIRCUIT BENCH) LUCKNOW
REGISTRATION NO. 1988
Ram Narain Srivastava ... APPLICANT
VERSUS
Union of India and others ... RESPONDENTS
ANNEXURE NO. 3

-25-

Proceedings of DAR enquiry under Rule 9(2) Rs (D& A)
Rule 1968 against Sri R.N.Srivastva H.D.C. now
working as E.F.R.C. / L.J.N. vide DRM/C/ L.J.N.
latter No., C/ 316 R.N.S./90/81 dt., 8-3-83 on
12/5/1983.

The following were present -

1. Sri R.N.Srivastva H.D.C. charged employee
2. Sri J.P.Upadhyaya D/C

The charge memorandum was read over and explained to the employee in presence of the D/C and was asked whether he admits or not. The employee Sri R.N.Srivastva denied the charge in toto hence enquiry started.

At the very outset the D/C of Sri R.N.Srivastva pointed out that there is no document to support the articles of charge and the statement of imputation annexed to the charge memorandum. The letter relied upon inframing the charges is a letter communicating the decision of the DS/IZN or the appeal of Sri R.N.Srivastva referred against the order of Sr., DOS/IZN.

The letter does not discuss the merit of the case and as such has no relevance to the charge memorandum. In absence of any oral or documentary evidence the charge memorandum can not be sustained and should be cancelled without prejudice.

The matter is being referred to DRM(C) L J N for supply of necessary documents on the basis of which the charges are framed and the proceedings are adjourned at this stage.

Sd

R.N.Srivastva

Sd D/C

J.P.Upadhyaya

Sd

E.O.

Dt., 12-5-83

Ram Narain Srivastava.

NOTICE

NOTICE OF IMPOSITION OF PENA LTY OTHER THAN
FOR DISMISSAL/REMOVAL/FROM SERV. ICE COMPULSARY RETIREMENT & REDUCTION
(UNDER DAR, 1968-II)

No.C/316/RNS/Ge/81
From Divisional Supdt.(C)
N.E.Railway, Lucknow.

Dated 18-2-84

To

Shri R.N Srivast
S/o Shri Jagat Narain

Through ssf

No.E/RNS/Ge/80 With reference to your explanation to the above th
under signed dated 19-1-84 you are directed that the
has passed the following orders:-

I have carefully gone through the
defence of the employee. There is
no doubt that he is responsible for
the imputations. He is imposed with
(N.C) for two years.

Signature _____
Shri Jagat Narain Srivast
Designation _____

18-2-84

INSTRUCTIONS

1. An appeal against these orders lies to DRM (next superior to the authority passing orders)
2. The appeal may be withheld by an authority not lower than the Authority from whose order it is preferred it:-

(i) It is a case in which no appeal lies under rules.

(ii) It is not preferred within 45 days of the date on which the appellant was informed of the orders appealed against and no reasonable cause shown for the delay.

(iii) It does not comply with the provisions of Rule 21 of DAR.

1 X Copy to Sir & P.O./G.O. for information and N.I.A.

Ram Narain Srivastava.

ब अदालत श्रीमान् ^{लखनऊ} ^{महोदय} ^{Central Administrative Tribunal}
 [वादी] अपीलान्ट Additional Bench, ^{लखनऊ का} ^{उत्तर प्रदेश}
 श्री ^{उत्तर प्रदेश का} ^{लखनऊ} ^{उत्तर प्रदेश}
 प्रतिवादी [रेस्पान्डेन्ट]

वकालतनामा

Ram Narain Srivastava

vs

बनाम

वादी (अपीलान्ट)

Union of India and others

प्रतिवादी (रेस्पान्डेन्ट)

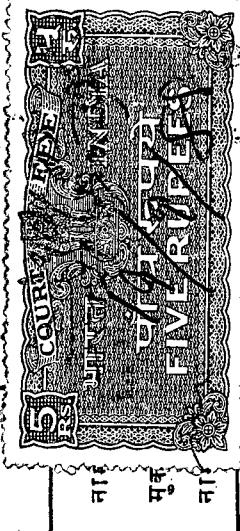
नं० मुकद्दमा

सन्

पेशी की ता०

१६८ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री उमेश कमरूर श्रीवास्तव, एडवोकेट द्वारा
 राजीव अग्रवाल, कुमार लक्ष्मी कर्मचारी
 गहन रोड (पुल झाउलाल) लखनऊ कानून नं० ४५६४३० नं० ४५६४३० महोदय



को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाब देही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रूपया बसूल करें या सुलहनामा व इकबाल दावा तथा अपील तिगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या कोई रूपया जमा करें या हमारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रूपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूँगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ कंसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर नि० अ० Ram Narain Srivastava

साक्षी (गवाह) साक्षी (गवाह)

दिनांक 19 महीना 9 सन् १६८ ई०

स्वीकृत

Accepted

W. K. Srivastava

एडवोकेट (UMESH KUMAR SRIVASTAVA)
 ADVOCATE

Accepted
 L. Sub
 Adv. Sub

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

Registration No. 121 of 1988 (L)

R.N. Srivastava Applicant

Versus

Union of India & Others Respondents

Fixed for 18-10-89

COUNTER REPLY ON BEHALF OF RESPONDENTS

Fixed today
I, V.K. Tewari working as ~~San Dukh Clerk~~
~~Subj~~ in the office of Divisional Railway Manager, North-Eastern Railway, Ashok Marg, Lucknow do hereby solemnly affirm and state as under:-

10/10/89

1. That the official above named is working under the respondents and is well conversant with the facts of the case and has been authorised by the respondents to file this counter reply on their behalf.
2. That before giving para-wise reply to the averments made in the application, the answering respondents beg to state the following brief facts of the case.
3. That while working as Head Goods Clerk in the Izatnagar Division, the applicant was served a Memorandum of Charge-Sheet for major punishment. Accordingly disciplinary proceedings started against him and an Enquiry Officer was appointed. The applicant was also afforded all reasonable opportunities available under the rules to defend himself. The enquiry was subsequently completed

and the same was submitted before the competent authority in which charges stood proved against the applicant beyond doubt.

4. That pursuant to the aforesaid proceedings, the applicant was served with the Memorandum of Show Cause Notice dated 29.12.76 by the competent authority.
5. That to the aforesaid Show Cause Notice dated 29.12.76, the applicant duly submitted his representation dated 4.1.77.
6. That after carefully considering the facts of the case and defence of the applicant, the competent authority vide its order dated 12.4.1977 imposed upon the applicant the penalty of reduction to lower post for a period of two years. A copy of order dated 12.4.77 is being filed herewith as Annexure No. C-1 to this reply.
7. That against the said order of punishment dated 12.4.77 the applicant preferred an appeal dated 13.6.77.
8. That it may be not out of place to mention here that during the aforesaid enquiry proceedings and on the request of applicant himself on the ground of his wife's illness the applicant was transferred from Izzatnagar division to Lucknow division.
9. That the appellate authority while considering the appeal dated 13.6.77 of the applicant observed that since the applicant is no more working under their jurisdiction, hence it would be incorrect to impose

any punishment upon the applicant at their end and therefore, while cancelling the said punishment imposed upon the applicant vide order dated 12.4.77 he preferred to send all the charges pertaining to the enquiry proceedings against the applicant to the Lucknow division for appropriate action at their end.

10. That accordingly on the said charges which otherwise stood proved against the applicant beyond all doubts by the previous enquiry officer, a fresh charge-sheet dated 19.1.80 was issued to him.
11. That it is further not out of place to mention here that somehow, the complete disciplinary proceedings file of the applicant mysteriously disappeared from the Commercial Department and the applicant is well aware of this fact even from much before of filing of this application. The appropriate action has already been initiated for the same. Because of the facts instead of major punishment he was only given a minor punishment.
12. That the contents of paras 1 to 5 of the application do not call for comments as they are only matter of records except that the applicant is holding the post of Chief Goods Clerk and not as Chief Accounts Clerk as wrongly mentioned in para 1 of this application.

That reply to the contents of para 6 of the application is as below:-

13. That the contents of para 6(1) of the application are not disputed.

14. That the contents of para 6(2) of the application are not admitted as stated. In fact, both the officers mentioned in the para are of equal rank and are competent to take disciplinary actions.
15. That the contents of para 6(3) of the application are categorically denied. The said order was passed strictly as per rules and the applicant was provided with all reasonable opportunities available under the rules to defend himself.
16. That the contents of paras 6(4) and 6(5) of the application so far it is a matter of record are admitted but rest of the contents are denied. The applicant has not filed the complete charge-sheet thus concealed the material fact from this Hon'ble Tribunal. Copy of complete charge-sheet is being filed herewith as Annexure No. C-2 to this reply.
17. That the contents of para 6(6) of the application are misleading hence denied. The Memorandum of fresh charge-sheet contained all the charges against which a major punishment had already been awarded to the applicant after holding the disciplinary proceedings against him by his previous superiors.
18. That the contents of paras 6(7), (8) and (9) of the application, so far it is a matter of record are admitted but rest of the contents are denied.
19. That the contents of para 6(10) of the application are categorically denied. There was no error made or any

illegality committed in framing the fresh charge-sheet as alleged. In fact, the charges are exactly the same against which a major penalty of reversion for two years was awarded against the applicant after holding the disciplinary enquiry against him as per rules. But since above orders could not be implemented due to transfer of the applicant to another division, the previous division transferred the very same charges, which otherwise stood proved against the applicant after proper enquiry, to the division where the applicant was transferred for necessary action at their end.

20. That the contents of para 6(11) of the application are categorically denied. It may be clarified here that all the relied upon documents and all the reasonable opportunity available under the rules were duly provided during his previous enquiry proceedings against the same charges, hence there was no necessity to give him the relied upon documents or other evidence once again. However, on his request he was given an opportunity to go and inspect the documents once again in his previous division.
21. That no comments can be offered at this stage on the contents of para 6(12) and 6(13) of the application as D.A. & R file of the applicant mysteriously disappeared from the office and the applicant has knowledge of the same since even much before filing of this application and the applicant is trying to take advantage of the same.

contd...6

However, as stated in para 20 of this reply the applicant was given an opportunity to go and inspect the documents himself.

22. That no comments can be offered at this stage in respect of the contents of first half of the para 6(14) of this application, due to non-availability of D.A. & Rfile of the applicant. However, looking into the grave nature of charges which otherwise stood proved against the applicant beyond doubt after holding the proper disciplinary proceedings against the applicant and the major punishment imposed upon the applicant by the previous division, this punishment seems to be very minor, hence do not call for any interference from this Hon'ble Tribunal.
23. That the contents of paras 6(15) of the application are not admitted as stated. After proper appreciation of the complete circumstances of the case, the appellate authority passed the said order dated 19.11.87.
24. That the contents of para 6(16) of the application are denied as vague. The applicant has not specified the names of his juniors who were allegedly promoted superseding him. Contrary to it, the applicant was duly promoted from Head Goods Clerk to Chief Goods Clerk on 2.8.85 itself and accordingly his pay was fixed and there appears to be no arbitrariness or discrimination in the matter of the applicant's promotion. It may also be clarified that the alleged impugned order dated 18.2.84 i.e. imposition of W.I.T. for two years (with non-cumulative effect) has long ceased to have any

effect as the said period has already expired and it has now practically no effect upon the present salary of the applicant as he would otherwise be getting if the aforesaid punishment would not have been awarded to him.

25. That the contents of para 6(17) of the application are categorically denied.

26. That in reply to the contents of para 6(18) of the application it is stated that the applicant has also admitted this fact that instead of major punishment he was only given a minor punishment. Rest of the contents of the para cannot be verified at this stage because of non-availability of the D.A. and R file of the applicant but the applicant be put to strict proof for the allegations made in this para.

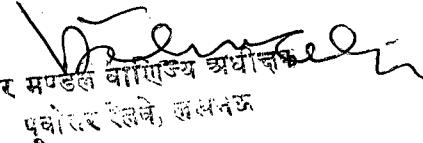
27. That the contents of para 6(19) of the application are categorically denied as this application itself is liable to be rejected.

28. That in reply to the contents of paras 7 and 8 of the application it is stated that in view of the facts mentioned hereinabove the applicant is not entitled to any such relief and this application is fit to be dismissed as such.

29. That the contents of paras 9 to 13 of this application do not call for comments.

Lucknow :

Dated : 18-10-89


प्रबिर माजुमदार चौधुरी
पूर्वोत्तर रेलवे, लखनऊ

VERIFICATION

I, the official above named do hereby verify that the contents of para 1 of this reply are true to my personal knowledge and those of paras 2 to 29 of this reply are believed by me to be true on the basis of records and legal advice. Nothing material has been concealed.

Lucknow :

Dated : 18-10-89

प्रधार मण्डल वाणिज्य अधिकारी
पूर्वोत्तर रेलवे, लखनऊ

Annexure No. 1

1984/04/12 17:17:13/000101

July 13, 1917.

total pay = 125000 + 125000 * 12%
total pay = 125000 + 15000
total pay = 140000
total pay = 140000 * 12%
total pay = 140000 + 16800
total pay = 156800

1. The ship shall operate without loss of personnel.

20. Under what conditions does the older type of *Trichinella* affect the human body?

(1) The capital, 2nd largest city, and a major port in the state of California is San Francisco.

(11) *Geplante und bestehende
durchschnittliche*

Copy to: 1. Mr. John W. Ladd, Jr.
2. Mr. George W. Ladd, Jr.
3. Mr. George W. Ladd, Jr.
4. Mr. George W. Ladd, Jr.

2. *Chlorophytum Topiary*

प्रवर मण्डल दार्शनिक व्याख्या

X/5

Annexure No C-2

STANDARD FORM NO. 4
ST. RAIL POA OR CHARTERED
Rule 9 of the Railway Servants Discipline Rules, 1968

(Name of Railway Administration)
(Place of Issue) CR/CE/1/474 dated 10/10/1988

The undersigned propose(s) to hold an inquiry against

Shri R. K. [redacted] (Name) under Rule 9 of the Railway Servants Discipline and Appeal Rules, 1968. The substance of the proposed imputation of mis-conduct or mis-behaviour in respect of which the inquiry is proposed to be held is set out in the following statement of articles of charge (Annexure I). A statement of the imputations of gross negligence or duty mis-conduct or mis-behaviour in respect of each article of charge, is enclosed (Annexure II). A list of documents by which each a list of witnesses by whom the articles of charge are proposed to be sustained are also enclosed as Annexures III & IV).

8 further copies of documents mentioned in the list of documents per Annexure III are enclosed.

2. Shri [redacted] is hereby informed that he has the right to inspect and to extract from the documents mentioned in the enclosed list of documents (Annexure III) at any time and for 10 days within 10 days of receipt of this Memorandum. For this purpose he should contact [redacted] immediately on receipt of this memorandum.

3. Shri [redacted] is further informed that he may, if he so desires, take the assistance of any other railway servant/an official of a Railway Trade Union (who satisfies the requirements of rule 9(2) (13) of the Railway Servants Discipline and Appeal) Rules, 1968 and Note 1 and/or Note 2 thereunder as the case may be) for inspecting the documents and assisting him in presenting his case before the Inquiring Authority in the event of an oral inquiry being held. For this purpose, he should nominate one or more persons in order of preference. Before nominating the assisting railway servant(s) or Railway Trade Union Official(s) Shri [redacted] should obtain an undertaking from the nominee(s) that he(s) will be willing to assist him during the disciplinary proceedings. The undertaking should also contain the particulars of other cases if any, in which the nominee(s) had already undertaken to assist and the undertaking should be furnished to the undersigned.

4. Shri [redacted] is hereby directed to submit to the undersigned (through his office which should reach the undersigned within 10 days of receipt of this Memorandum) in a single copy any documents for the preparation of documents for inspection, etc. also

(a) to state whether he wished to be present at the inspection, etc.

(b) to furnish his name and address, etc. only, which he wishes to be kept confidential.

प्रबंधन वालिंग रेलवे
प्रबंधन रेलवे, भौतक

X/100

Annexure to standard form No.5.

Memorandum of charge sheet under Rule 9 of the Rail Servant (D&A) Rules, 1963.

Annexure I

Statement of article of charges framed against Shri R.N.Srivastava, Hd. GC SNG/I2B Division now working as RCO/AS

That the said Shri R.N.Srivastava while working at SNG at I2B Division is charged with gross neglect of duty and misconduct as detailed below in the statement of imputation.

Sd/-
(A.K.Rao)
Sr. Divt. Comt. Supdt.
Lucknow

Annexure II

Statement of imputation of gross neglect of duty and misconduct in support of the article of the charges framed against Shri R.N.Srivastava, RCO/ASU law No. ASU

"Shri R.N.Srivastava Hd.GC while working at SNG on 29.4.75, 24.4.75, 27.4.75, 3.12.74, 8/6 and 12/6/74 committed the following irregularities.

1. On 29.4.75 CHS No. 13330 NE & 27442 NE (return date 6/75) were allotted for loading 1N 1/20 under serial No. 10 & 11 (ODR 22.4.75) whereas record shows that ODR in Ram was 17.3.75 (for H.F.Hly).

2. Wagon No.13296 was received at your M. 21.4.75 and this was loaded with smalls on 27.4.75 after detaining for 3 days.

3. Inward empties were not allotted for loading whereas the same 22 were received on line No. 1 1/20 on 24.4.75 on line at 14/30" hrs. on 24.4.75.

4. The number of wagons loaded with smalls on 26.4.75 and 26/4 and 27.4.75 shows that loading of smalls was not done promptly and wagons were detained for day together.

5.(a) Wagon No.27604 booked by RCO/ASU law No. ASU 8/6/74 loaded on 24.4.75 was sent back as empty on 26.4.75 without any reasons.

(b) Wagon No. 13896 arrived empty on 24.4.75 and sent back empty on 26.4.75.

(c) Wagon No. 13864 arrived loaded with smalls on 26.4.75 and allotted on same day at 1/20 hrs. for H.F.Hly on 27/4.

भवर मण्डल वाणिज्य वायोव्य
पूर्वोत्तर रेलवे, लख

6. Wagon No. 68327 was allotted on 3/12/74 under S.No. 62 of 26.11.74 with G/Hut for Baliganj, 11NED and S/No. 991 of 25.11.74 to HGC.

7. Wagon No. 18018 was allotted on 6/6/74 under S.No. 585 of 8.4.74 for DJG but this wagon was loaded in smalls on 12.6.74 after detaining for days together for leading smalls.

This statement is to gross neglect of duty and misconduct on the part of Shri R.N. Srivastava Hd. G.C.

SD/-

A. K. Das
Sr. Divl. Compt. Supdt.
Lucknow

Annexure III

list of documents on the basis of which the articles of charges/imputation are framed against Shri R.N. Srivastava HGC/HMG now at ASH are prepared to be sustained.

1. Divl. Supdt.(P)/Igatnagar letter No. 1/221/Prd/74 dated 28.11.77

SD/-
A. K. Das
Sr. Divl. Compt. Supdt.
Lucknow

प्रधार मण्डल अधिकारी अध्यक्ष
पूर्वोत्तर

Before The Central Administriv Tribunal at Allahabad.

Circuit Bench at Lucknow.

C.M. An. No. 109/09(CS)

Registration No. OA 121 of 1988

R.N.Srivastava ... Applicant

versus

Union of India and others... Respondants

Application for Summoning the
documents.

The applicant most respectfully beg to submit
as under : -

1. That the above noted case filed in this hon'ble Tribunal in the month of October, 1988. The said case has been admitted on 26-10-88 and the notices were issued to the respondants on the very same day.
2. That the respondants have not submitted their counter affidavit as yet. The case has been fixed for 6-7-89 for orders.
3. That the respondants are the custodian of the D.A.R ^{of the applicant (R.N.Srivastava)} ^{Enquiry} case, and other relevant papers and the D.A.R/ case along with all the papers are most necessary for proper adjudication of the case.

It is, therefore, prayed that directions may very kindly be issued to the respondants for the production ^{very early} of the documents as summoned ^{earlier} and the case may kindly be fixed for ex-parte final hearing.

Lucknow:

Dated : 6-7-89

S. P. Sinha
(S.P.SINHA) Advocate
Counsel for the Applicant.

Reed duplicate
R.N.Srivastava
6/7/89
12:00 a.m.

In the Central Administrative Tribunal
Additional Bench Allahabad
(Circuit Bench at Lucknow) X

....

Registration No. O.A.121 of 1988 (L)

R.N. Srivastava

... Applicant.

versus

Union of India and others

... Respondents.

Rejoinder Affidavit to the Counter Affidavit/

Reply of the Respondents

....

J.T.
21/2
I, Ram Narain Srivastava, aged about 59 years, son of Late Sri Jagat Narain Verma, resident of House No. 53, Mohalla Phool wali Gali, Aminabad, Lucknow, the deponent, do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the applicant in the aforesaid Registration No. O.A.121 of 1988 (L). He has himself read the contents of the

R

counter reply filed on behalf of the respondents, as well as he has also been explained about the averments stated therein. Thus, the deponent is in a position to submit the following parawise reply to the aforesaid counter reply of the respondents.

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

3. That in reply to the contents of para 3 of the counter reply, it is stated that the Divisional Operating Superintendent, N.E. Railway, Izzatnagar without any jurisdiction and without complying the provisions of Discipline and Appeal Rules and without giving the applicant proper and reasonable opportunity of being heard proceeded to pass an order of punishment reverting the petitioner to the next lower grade. In reply to this para, it is further stated that as provided under the Discipline and Appeal Rules, 1968, no prior preliminary enquiry was done in respect to the alleged imputations before preparing a chargesheet, and even on this ground the initiation of the disciplinary enquiry by serving a memorandum of chargesheet for major punishment to the applicant was improper, unjust and was in breach of rules.

3.

15

4. That in reply to the contents of para 4 of the counter ~~xx~~ reply, it is stated that no show cause notice was ever served to the applicant by the competent authority before passing the order of punishment. In reply to this para, it is further stated that the ~~respondeute~~ applicant ~~hase~~ failed to annex any copy of such show cause notice dated 29.12.76 alongwith their reply.

5. That in reply to the contents of para 5 of the counter reply, it is stated that since no show cause notice dated 29.12.76 was ever given to the applicant, the question of submitting any representation by the applicant dated 4.1.77 did not arise. In reply to this para, it is further stated that even no enquiry whatsoever was done after serving the memorandum of chargesheet to the applicant. Neither documents referred in respect to charges mentioned in the chargesheet were supplied to the applicant, nor any evidence was recorded during ~~xx~~ the alleged enquiry and the order of punishment was passed without holding any enquiry.

6. That in reply to the contents of para 6 of the counter reply, it is stated that the competent authority without holding any enquiry

h

✓✓✓

4.

whatsoever in respect to the charges framed in the chargesheet and without recording any evidence to substantiate the charges and without giving the applicant any opportunity of leading evidence or opportunity of being heard passed an order of punishment dated 12.4.77 reducing the applicant to the lower grade for a period of two years.

7. That in reply to the contents of para 7 of the counter reply, it is stated that the applicant preferred an appeal against the order of punishment dated 12.4.77 which was allowed, and the order of punishment was set aside under the orders of the appellate authority dated 29.11.77.

8. That the contents of para 8 of the counter reply are not relevant to the matter in dispute. In any case only the competent authority could hold the disciplinary enquiry against the applicant and could pass a final order of punishment.

9. That in reply to the contents of para 9 of the counter affidavit/reply, it is stated that the order of punishment dated 12.4.77 was set aside by the appellate authority, and the

✓

enquiry proceedings were remanded to the competent authority who did not ^{comply} ~~comply~~ the directions of the appellate authority and proceeded to prepare a fresh chargesheet.

10. That in reply to the contents of para 10 of the counter affidavit/reply, it is stated that the competent authority to whom the enquiry proceedings were transferred by the appellate authority, was not empowered to prepare a fresh chargesheet as contemplated under Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968, but the competent authority was only required to hold the disciplinary enquiry in respect to the memorandum of chargesheet afresh. Thus, the action on the part of the respondent No.3 in preparing a fresh chargesheet was totally arbitrary and perverse and was contrary to the directions contained in the order of the appellate authority. In reply to this para, it is further stated that for the reasons stated hereinabove the entire disciplinary proceedings initiated by the respondent No.3 by framing a fresh chargesheet was vitiated and rendered the entire proceedings as well as the ultimate order of punishment as arbitrary and illegal.

11. That in reply to the contents of para 11 of the counter reply, it is stated that the respondents are the custodia legis of their records. Thus, the defence set up by the respondents that the complete disciplinary proceedings file of the respondents has been lost, cannot be accepted. It cannot be accepted that the Government files are lost in the hands of the respondents. In reply to this para, it is further stated that the loss of disciplinary proceedings file in the hands of the respondents cannot give them any jurisdiction to impose a minor punishment on the applicant instead of major punishment. Such a discretion has not been conferred under the Railway Servants (Discipline and Appeal) Rules, 1968, or in any other service rules applicable to the government servants. In reply to this para, it is further stated that in such a situation the proper course for the enquiry officer or the punishing authority was either to reconstruct the disciplinary proceedings file, or to start the disciplinary proceedings de novo.

12. That in reply to the contents of para 12 of the counter reply, it is stated that in para 6(1) of the application, it is clearly stated that the applicant during the year 1974 to

1977 was working as Head Goods Clerk at Sahamatganj under Divisional Commercial Superintendent Izzatnagar.

13. That the contents of para 13 of the counter reply need no comments.

14. That in reply to the contents of para 14 of the counter reply, it is stated that the competent administrative authority for the commercial staff was the Divisional Commercial Superintendent N.E.Railway Izzatnagar.

The applicant was working in commercial staff and thus the Divisional Commercial Superintendent Izzatnagar who had served the chargesheet for major punishment to the applicant, was the punishing authority/competent authority to impose any punishment. Thus, the Divisional Operating Superintendent, N.E.Railway Izzatnagar had no jurisdiction to pass any punishment order in the disciplinary enquiry initiated and proceeded against the applicant. It is totally immaterial that the Divisional Commercial Superintendent, N.E.Railway, Izzatnagar and the Divisional Operating Superintendent, N.E.Railway, Izzatnagar were the persons of equal rank. Under the service rules only the competent authority could hold any disciplinary enquiry and ultimately pass any punishment order. The true photostat copy

8.

Boards
of the Railway/Circular No.E(DTA)72R66-13 dated 16/11/1973
is filed to this rejoinder affidavit as Annexure No.R-1.

15. That in reply to the contents of para 15
of the counter reply, it is stated that the
Divisional Operating Superintendent, N.E.Railway
Izzatnagar had no jurisdiction to pass an order
of punishment reverting the petitioner to the
next lower grade. He was not the competent
authority of the applicant. Apart from this,
the Enquiry Officer did not record any oral or
documentary evidence to establish the charges
contained in the memorandum of chargesheet and
consequently there was no material before the
Divisional Operating Superintendent, N.E.Railway,
Izzatnagar to pass an order of punishment.

16. That in reply to the contents of para 16
of the counter reply, the contents of para 6(4) and
~~xx~~ 6(5) of the application are reasserted to be
correct. In reply to this para, it is further
stated that Annexure No.2 filed by the applicant
is the copy of the chargesheet as served to the
applicant. In reply to this para, it is further
stated that the opposite parties disputing the
correctness of the chargesheet contained in
Annexure No.2 can always file the true copy of
the chargesheet as alleged by them.



17. That in reply to the contents of para 17 of the counter reply, it is stated that as directed in the order of the appellate authority, the competent authority was not obliged or required under the service rules to prepare a fresh chargesheet. The fresh chargesheet contained in Annexure No.2 was merely prepared with a ~~mala~~ fide intention. In reply to this para, it is further stated that no list of witnesses was given to the applicant alongwith the memorandum of fresh chargesheet. In reply to this para, it is further stated that under the Railway Servants (Discipline and Appeal) Rules, 1968 in respect to disciplinary enquiry for major punishment it is necessary to give a list of witnesses alongwith the memorandum of chargesheet.

18. That in reply to the contents of para 18 of the counter reply, the contents of para 6(7), 6(8) and 6(9) of the application are reasserted to be correct.

19. That in reply to the contents of para 19 of the counter reply, it is stated that the appellate authority while setting aside the order of punishment has also observed that the degree of punishment has to be decided



10.

in the context of the recent performance and present situation. In reply to this para, it is further stated that a perusal of the enquiry report dated 12.5.83 contained in Annexure No.3 to the application also shows that no oral or documentary evidence was recorded to substantiate the charges contained in the chargesheet. In reply to this para, it is further stated that no enquiry whatsoever has been done subsequent to the framing of the fresh chargesheet. Neither any witnesses were examined, nor any documentary evidence was recorded. In reply, it is further stated that as directed in the order of the appellate authority, the competent authority was duty bound to apply its mind to hold the disciplinary enquiry afresh and accordingly it was incumbent for the Enquiry Officer to hold the enquiry proceedings afresh and to record oral and documentary evidence in support of the charges, and also to give opportunity of adducing evidence and of cross-examination to the applicant. Thus, no enquiry was at all done and the respondent No.3 passed the order of punishment without any material to support such order.

20. That the contents of para 20 of the counter reply are denied and in reply to the



11.

same, the contents of para 6(11) of the application are reasserted to be correct.

In reply to this para, it is further stated that neither/the documents and other evidence relied upon in support of the chargesheet was earlier given to the applicant at the time of the preparation of the earlier chargesheet, nor such documents or other evidence was made available to the applicant while preparing the second chargesheet.

In reply to this para, it is further stated that none of the documents as alleged in the counter reply and which were relied upon in support of the subsequent chargesheet which were relevant to the enquiry proceedings, were made available to the applicant for inspection.

21. That in reply to the contents of para 21 of the counter reply, it is stated that the respondents are ~~not~~ the custodia legis of the departmental file and they cannot be permitted to take such lame defence that the disciplinary enquiry file has been lost. In reply to this para, it is again stated that none of the evidence relied upon in support of the chargesheet or otherwise relevant to the disciplinary enquiry was made available to the applicant for inspection.

In reply to this para, it is further stated that no further enquiry proceedings were conducted by any Enquiry Officer in the notice or information of the applicant subsequent to the framing of the second chargesheet, nor any enquiry was earlier done. In reply to this para, it may further be stated that in spite of the enquiry report written by the Enquiry Officer on 12.5.83, neither the necessary documents supporting the articles of charges were supplied to the applicant, nor they were made available to him for personal inspection.

22. That the contents of para 22 of the counter reply are denied and in reply to the same, the contents of para 6 (14) of the application are reasserted to be correct. In reply to this para, it is further stated that the alleged charges were never proved by any evidence whatsoever, neither any enquiry was ever done in respect to charges framed under the earlier chargesheet or framed under the subsequent chargesheet, nor any evidence oral or documentary was recorded during such enquiry, nor the applicant was ever given any opportunity to cross-examine any such evidence



recorded during enquiry proceedings, nor opportunity to adduce his own evidence was ever given to the applicant.

23. That in reply to the contents of para 23 of the counter reply, the contents of para 6(15) of the application are reasserted to be correct.

24. That the contents of para 24 of the counter reply as written are denied and in reply to the same, the contents of para 6(16) of the application are reasserted to be correct. In reply to this para, it may be stated that Sardul Singh was junior to the applicant who was promoted from Head Goods Clerk to Goods Superintendent Grade I which is a post of higher pay scale. The applicant could not be promoted to the post of either Chief Goods Clerk or to the post of Goods Superintendent Grade I.

25. That in reply to the contents of para 25 of the counter reply, the contents of para 6(17) of the application are reasserted to be correct.

26. That the contents of paras 26 and 27 of the ~~xx~~ counter reply are legal and argumentative

h

14.

and in reply to the same, the applicant is advised to reassert the legal position as stated in para 6(18) and para 6(19) of the application.

27. That the contents of para 28 of the counter reply are denied and in reply to the same, it is stated that for the facts and the grounds taken in the application, the applicant is entitled to the reliefs prayed for and is ~~also~~ also entitled to interim relief as prayed for in para 8 of the application.

28. That the contents of para 29 of the counter reply need no comments.

Deponent

Dated: Lucknow:
January 19, 1990.

Ram Narain Srivastava

Verification

I, Ram Narain Srivastava, aged about 59 years, son of Late Sri Jagat Narain ~~Srivastava~~ Verma, retired Chief Goods Clerk, N.E.Railway, Aishbagh, resident of House No. 53, Mohalla Phool



15.

Wali Gali, Aminabad, Lucknow, the deponent do hereby verify that the contents of paragraphs 1 to 28 of this rejoinder affidavit are true to my personal knowledge and belief and that I have not suppressed any material fact.

Deponent

Dated: Lucknow:

January 19, 1990.

Ram Narain
Sunderlal

I identify the above named deponent who has signed before me.

S. R. Rao
Advocate

Serial No.6047 - Circular No.52-E/0/26 E(D&A), dated 19-1-1974.

Sub. Disciplinary authorities for imposition of penalties for various types of irregularities under the Railway Servants (Discipline and Appeal) Rules.

A copy of Railway Board's letter No. E(D&A) 72RG6-13, dated 16/10/1973 is forwarded for information and guidance. The Board's letter dated 28-7-72 was circulated under this Office letter No.52-E/0/19 E(D&R), dated 26-8-62 (Personnel Branch F.No.1753).

Copy of Railway Board's letter No. E(D&A)72RG6-13, dated 16-10-7

Sub. As above.

In Board's circular letter No. E(D&A) 60RG6/130, dated 28-7-62, it had, inter-alia, been indicated that it would be procedurally wrong for an authority to initiate and finalise the disciplinary proceedings against an employee who is not under its administrative control.

2. It has, however, been brought to the notice of the Board that some difficulties are being experienced in initiating and finalising the disciplinary proceedings against the staff involved in irregularities concerning personnel matters such as misuse of Passes/PTOs unauthorised occupation/retention of quarters, unauthorised absence from duty etc. and it has been suggested that the instructions referred to above may be so amended as to provide for initiation/finalisation of disciplinary proceedings by the officers of the Personnel Department such as APOs, DPOs even against the staff who may be working in Departments other than the Personnel Department and thus be not under their administrative control. It has been also mentioned that in respect of the category of Assistant Station Masters/Station Masters, the disciplinary action is initiated and finalised both by the Divisional Safety Officer and Divisional Commercial Superintendent depending upon the department to which the irregularity committed, pertains despite the fact that the Assistant Station Masters and Station Masters belong to the Operating Department.

3. The matter has been carefully considered by the Board and in consultation with their Legal Adviser, it is clarified that a Railway Servant essentially belongs to only one department even though, in the course of the performance of his day to day duties, he may violate certain rules/regulations administered by some other department. The Assistant Station Masters and Station Master belong to the Operating Department even though they may have to perform the duties pertaining to the Commercial Department at from time to time. The disciplinary authorities, in their cases, would thus belong only to the Operating Department and none else. If any other practice is being followed, that is irregular and should be stopped forthwith. Disciplinary action should be initiated and finalised by the authorities under whose administrative control the delinquent

P.T.O.

employee may be working as any other procedure would not be in keeping with the instructions referred to in Para 1 above. X

(For General Manager/Central Railway only. This disposes of his letter No.HPB/CON/309/RII, dated 24-2-73 and 30-8-73).

True copy
Attested
S. S. S. S.
Advocate

Annexure No C-7

22

Orders of imposition of penalty of reduction to lower post/
grade/service under Rule 6(1)(VI) of Part III of the Railway
Servant (R.S.) Rule 1953.

No. 2/221/SMG/25/Complaint

Dated April 12, 1977.

ID

Name - Shri R.N. Srivastava, Deptt. Commercial.
Father's Name - Shri Jagat Narain
Designation - Head Goods Clerk.
Station - S.M.A - Thro. D. S./Lucknow.
Date of Appointment - 3-6-1951.
Scale of pay - Rs. 425-640 - Present Pay Rs. 470/-

I have carefully considered your representation dated 4/1/77 in reply to the Memorandum of Show Cause Notice No. 29/12/76. I do not find your representation to be satisfactory. The charges have been proved beyond all doubt to have decided to impose upon you the penalty of reduction to lower post. You are, therefore, reduced from the post of Head Goods Clerk in scale 425-640 on Rs. 470/- to the post of Goods Clerk in scale 330-560 on Rs. 452/- P.M. for a period of 2 years. It shall operate without loss of seniority.

2. Under Rule 18 of the Railway Servant (R.S.) Rules an appeal against these orders lies to Divl. Supdt./I.C. P.M.

(i) the appeal is submitted through proper channel within 45 days from the date you received the orders and

(ii) the appeal does not contain improper or disrespectful language.

Please acknowledge receipt of this letter.

Signature - (S. Mitter)
Designation: Divl. Optg. Supdt.
N. R. N., Izzatnagar

Copy to: 1. D.C.S./Lucknow.
2. D.P.O./N.E.R./Lucknow for information and info
3. D.S./N.E.R., Lucknow.
4. D.P.O./N.E.R., Izzatnagar.

Attested

S. Clew
Divisional Supdt (O)
Izzatnagar

सहायक कार्यालय अधिकारी
पूर्वी रेलवे, जलनड़

Annexure No C-2

STANDARD FORM NO. 5

STANDARD FORM OF CHARGE SHEET

(Rule 9 of the Railway Servants Discipline and Appeal Rules 1968)

No. T/524/RNS/GC

(Name of Railway Administration) N.E. Railway

(Place of issue) D.R.M. Office, Lucknow Dated... 19.1.80

MEMORANDUM

The undersigned propose(s) to hold an inquiry against Shri R.N. Srivastava. Hd.G.C. under Rule 9 of the Railway Servants (Discipline and Appeal) Rules 1968. The substance of the imputations of gross negligence of duty/misconduct/misbehaviour in respect of which the enquiry is proposed to be held is set out in the enclosed statement of article of charge (Annexure I). A statement of the imputations of gross negligence of duty/misconduct/misbehaviour in support of each article of charge, is enclosed (Annexure II). A list of documents by which and a list of witnesses by whom, the articles of charges are proposed to be sustained are also enclosed as Annexure III.

Further copies of documents mentioned in the list of documents as per Annexure III, are enclosed.

Shri R.N. Srivastava. Hd.G.C. is hereby informed that if he so desires, he can inspect and take extracts from the documents mentioned in the enclosed list of documents (Annexure III) at any time during office hours within 10 days of receipt of this memorandum. For this purpose he should contact....., immediately on receipt of this memorandum.

Shri R.N. Srivastava. Hd.G.C. is further informed that he may, if he so desires, take the assistance of any other Railway servant/an official of a Railway Trade Union (who satisfies the requirements of Rule 9(13) of the Railway Servants (Discipline and Appeal) Rules, 1968 and Note 1 or Note 2 thereunder as the case may be) for inspecting the documents and assisting him in presenting his case before the inquiring Authority in the event of ~~approach~~ an oral inquiry being held. For this purpose, he should nominate one or more persons in order of preference, before nominating the assisting railway servant(s) of a Railway Trade Union official(s), Shri should obtain an undertaking from the nominee(s) that he (they) is (are) willing to assist him during the disciplinary proceedings. The undertaking should also contain particulars of other case(s) if any, in which the nominee(s) had already undertaken to assist and the undertaking should be furnished to the undersigned alongwith the nomination.

Shri is hereby directed to submit to the undersigned (through.....) written statement of his defence which should reach the undersigned within 10 days of receipt of this memorandum, if he does not require to inspect any documents for the preparation of his defence and within 10 days after completion of inspection of documents, if he desires to inspect documents, and also

..... (2).

~~STRIKED OUT WHICH IS NOT APPLICABLE.~~

Attested

.....
प्रशासक कार्मिक प्रमिता
रामेन्द्र शेषने लालनाथ

(a) State whether he wished to be heard in person, and
 (b) to furnish the names and addresses of the witnesses, if any, whom he wished to call in support of his defence.

5. Shri is informed that an inquiry will be held only in respect of these articles of charges as are not admitted. He should, therefore, specifically admit or deny each articles of charges.

6. Shri is further informed that if he does not submit his written statement of defence within the period specified in para 2/ or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 9 of the Railway Servants (Discipline and Appeal) Rule 1968 or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry ex parte.

7. The attention of Shri is invited to Rule 20 of the Railway Services (Conduct) Rules 1968, under which no railway servant shall bring or attempt to bring any political or other influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Shri is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the Railway Services (Conduct) Rules 1968.

8. The receipt of this memorandum may be acknowledged.

Enclosures:

Signature
 (Name and designation of
 competent authority)

To,

Shri Designation.....

Sen/cf Shri

Place of working.....

Through.....

ACKNOWLEDGEMENT

To, Civil Rly. Manager (Safety), N.E.Rly., Lucknow:

Received Memorandum No. Dated.....

alongwith Annexure I to IV and inquiry report in..... pages

Witness.....

Signature

Date

[Signature]
 अधिकारी का दस्तावेज
 प्रधान सचिव, रेलवे

216/

Annexure to standard form No.5.

Memorandum of charge sheet under Rule -9 of the Railways
Servant (D&A) Rules, 1968.

Annexure I

Statement of article of charges framed against Shri
R.N.Srivastava, Hd. GC SMG/IZN Division now working as HGC/ASH.

That the said Shri R.N.Srivastava while working as Hd.GC
at SMG in IZN Division is charged with gross neglect of duty
and misconduct as detailed below in the statement of
imputation.

Sd/-
(A.K.Das)
Sr. Divl. Comml. Supdt.
Lucknow

Annexure II

Statement of imputation of gross neglect of duty and
misconduct in support of the article of the charges
framed against Shri R.N.Srivastava, HGC/ASH now at ASH.

"Shri R.N.Srivastava Hd.GC while working at SMG
on 29.4.75, 24/4 to 27.4.75, 3.12.74, 6/6 and 12/6/74,
committed the following irregularities.

1. On 29.4.75 CRS No.13330 NE & 27442 NE (Return date 6/75),
were allotted for leading RNB to KGG under serial No.10
& 11(ODR 28.4.75) where as record shows that on 29.4.75
ODR in Rab was 17.3.75(for N.F.Rly). ~~17.3.75~~

2. Wagon No.13296 was received at your on 24.4.75 and
this was loaded with smalls on 24.4.75 after detaining for
3 days.

3. Inward empties were not allotted for leading when
the same 22 were received on line No.1 i.e. on platform
line at 14/30" hrs. on 24.4.75.

4. The number of wagons loaded with smalls on 24/4, 25/4,
26/4 and 27.4.75 shows that leading of smalls was not done
promptly and wagons were detained for day together.

5.(a) Wagon No.27004 book Ex.Tulsipur to Shahmatganj arrive
loaded on 24.4.75 was sent back as empty on 25.4.75 without
any reasons.

(b) Wagon No.13896 arrived empty as side broken on 24/4
and sent back empty on 26.4.75.

(c) Wagon No.13864 arrived loaded on 24/4 released on
27/4 and allotted on same day at 9/- hrs. for N.F.Rly.

Attested

contd...2

Attested
Date: 20/6/75

Annexure No C-1

Orders of imposition of penalty of reduction to lower post/grade/service under Rule 6(1)(VI) of Part III of the Railway Servant (D&A) Rules 1968.

No. 1/221/SMG/75/Complaint

Dated April 12, 1977.

To

Name - Shri R.N. Srivastava, Deptt. Commercial.
 Father's Name - Shri Jagat Narain
 Designation - Head Goods Clerk.
 Station - DWA - Thro. D.S./Lucknow.
 Date of Appointment - 3-6-1951.
 Scale of pay - Rs. 425-640 - Present Pay Rs. 470/-

I have carefully considered your representation dated 4/1/77 in reply to the Memorandum of Show Cause Notice No. eve dated 29/12/76. I do not find your representation to be satisfactory. The charges have been proved beyond all doubt. I have decided to impose upon you the penalty of reduction to a lower post. You are, therefore, reduced from the post of Head Goods Clerk in scale 425-640 on Rs. 470/- to the post of Jr. G. Goods Clerk in scale 330-560 on Rs. 452/- P.M. for a period of 2 years. It shall operate without loss of seniority.

2. Under Rule 18 of the Railway Servant (D&A) Rules 1968 an appeal against these orders lies to Divl. Supdt./I.C. provi

- (i) the appeal is submitted through proper channel within 45 days from the date you received the orders and
- (ii) the appeal does not contain improper or disrespectful language.

Please acknowledge receipt of this letter.

Signature - (S. Mitter)
 Designation: Divl. Optg. Supdt.
 N. L. R., Izzatnagar

Copy to: 1. D.C. S./Lucknow.
 2. D.P.O./N.L.R./Lucknow for information and action.
 3. D.S./N.L.R., Lucknow.
 4. D.P.O./N.L.R., Izzatnagar.

Attested

S. Mitter

Divisional Supdt. (Optg)
 Izzatnagar

Shri R.N. Srivastava
 Head Goods Clerk
 DWA, Lucknow

Annexure No. C-2

STANDARD FORM NO. 5

STANDARD FORM OF CHARGE SHEET

Rule 9 of the Railway Servants Discipline and Appeal Rules 1968)

No. T/524/RNS/GC

Name of Railway Administration) N.E. Railway

(Place of issue) D.R.M. Office, Lucknow Dated 19.1.80

MEMORANDUM

The undersigned propose(s) to hold an inquiry against Shri R.N. Srivastava, Hd. Q.C. under Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968. The substance of the imputations of gross negligence of duty/misconduct/misbehaviour in respect of which the enquiry is proposed to be held is set out in the enclosed statement of article of charge (Annexure I). A statement of the imputations of gross negligence of duty/misconduct/misbehaviour in support of each article of charge, is enclosed (Annexure II). A list of documents by which and a list of witnesses by whom the articles of charges are proposed to be sustained are also enclosed as Annexure III and IV.

Further copies of documents mentioned in the list of documents as per Annexure III are enclosed.

Shri R.N. Srivastava, Hd. Q.C. is hereby informed that if he so desires, he can inspect and take extracts from the documents mentioned in the enclosed list of documents (Annexure III) at any time during office hours within 10 days of receipt of this memorandum. For this purpose he should contact....., immediately on receipt of this memorandum.

Shri R.N. Srivastava, Hd. Q.C. is further informed that he may, if he so desires, take the assistance of any other Railway servant/an official of a Railway Trade Union (who satisfies the requirements of Rule 9(13) of the Railway Servants (Discipline and Appeal) Rules, 1968 and Note 1 and Note 2 thereunder as the case may be) for inspecting the documents and assisting him in presenting his case before the inquiring Authority in the event of ~~appeal~~ an oral inquiry being held. For this purpose, he should nominate one or more persons in order of preference, before nominating the assisting railway servant(s) of Railway Trade Union official(s), Shri should obtain an undertaking from the nominee(s) that he (they) is (are) willing to assist him during the disciplinary proceedings. The undertaking should also contain particulars of other case(s) if any, in which the nominee(s) had already undertaken to assist and the undertaking should be furnished to the undersigned alongwith the nomination.

Shri is hereby directed to submit to the undersigned (through.....) written statement of his defence which should reach the undersigned within 10 days of receipt of this memorandum, if he does not require to inspect any documents for the preparation of his defence and within 10 days after completion of inspection of documents if he desires to inspect documents, and also

..... (2).

STRIKE OUT WHICH IS NOT APPLICABLE.

Attached

प्रधायक कामिक दाखिली
प्रधान रेलवे, लखनऊ

(a) State whether he wished to be heard in person, and
(b) to furnish the names and addresses of the witnesses, if any, whom he wished to call in support of his defence.

5. Shri is informed that an inquiry will be held only in respect of those articles of charges as are not admitted. He should, therefore, specifically admit or deny each articles of charges.

6. Shri is further informed that if he does not submit his written statement of defence within the period specified in para 2/4 or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 9 of the Railway Servants (Discipline and Appeal) Rules 1968 or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry ex parte.

7. The attention of Shri is invited to Rule 20 of the Railway Services (Conduct) Rules 1968, under which no railway servant shall bring or attempt to bring any political or other influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Shri is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the Railway Services (Conduct) Rules 1968.

8. The receipt of this memorandum may be acknowledged.

Signature
(Name and designation of
competent authority)

Enclosures:

To,

Shri Designation

Sen/cr Shri

Place of working

Through

ACKNOWLEDGEMENT

To, Civil Rly Manager (Safety), N.E.Rly., Lucknow.

Received memorandum No Dated

alongwith Annexure I to IV and inquiry report in pages

Witness

Signature

Date

Shri
N.E.Rly, Lucknow

Memorandum of charge sheet under Rule -9 of the Railways Servant (D&A) Rules, 1968.

Annexure I

Statement of article of charges framed against Shri R.N.Srivastava, Hd. GC SMG/IZN Division now working as HGC/ASH.

That the said Shri R.N.Srivastava while working as Hd.GC at SMG in IZN Division is charged with gross neglect of duty and misconduct as detailed below in the statement of imputation.

Sd/-
(A.K.Das)
Sr. Divl. Comml. Supdt.
Lucknow

Annexure II

Statement of imputation of gross neglect of duty and misconduct in support of the article of the charges framed against Shri R.N.Srivastava, HGC/ASH now at ASH.

"Shri R.N.Srivastava Hd.GC while working at SMG on 29.4.75, 24/4 to 27.4.75, 3.12.74, 6/6 and 12/6/74, committed the following irregularities.

1. On 29.4.75 CRS No.13330 NE & 27442 NE (Return date 6/75), were allotted for leading RNB to KGG under serial No.10 & 11 (ODR 28.4.75) whereas record shows that on 29.4.75 ODR in Rab was 17.3.75 (for N.F.Rly).

2. Wagon No.13296 was received at your on 24.4.75 and this was leaded with smalls on 27.4.75 after detaining for 3 days.

3. Inward empties were not allotted for leading when the same 22 were received on line No.1 i.e. on platform line at 14/30" hrs. on 24.4.75.

4. The number of wagons loaded with smalls on 24/4, 25/4, 26/4 and 27.4.75 shows that leading of smalls was not done promptly and wagons were detained for day together.

5.(a) Wagon No.27004 book Ex.Tulsipur to Shahmatganj arrived leaded on 24.4.75 was sent back as empty on 26.4.75 without any reasons.

(b) Wagon No.13896 arrived empty as side broken on 24/4 and sent back empty on 26.4.75.

(c) Wagon No.13864 arrived leaded on 24/4 released on 27/4 and allotted on same day at 9/2 hrs. for N.F.Rly.

Attested

contd...2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH, LUCKNOW

No.CAT/LKO/Jud/CB/

2257 Gandhi Bhawan, Opp. Residency

Lucknow -

2264 to 2257 Dated the : 11/12/85

T.A.No. of 1720 1987 (T)

1725

Sri Nath Srivastava

APPLICANT'S

Versus

Union of India

RESPONDENT'S

1. Sri Nath Srivastava S/o Ganga Prasad Srivastava C/o R.N.Dhusia
5 Chheti Lal Kurti Cantt Lucknow
2. Union of India. through the secretary to the ministry of communication
Government of India, New Delhi.

Whereas the marginally noted cases has been transferred by

H.C. L.K.O. Under the provision of the Administrative
Tribunal Act 13 of 1985 and registered in this Tribunal as above.

Writ Petition No. 1606/85
of 198 _____
of the Court of H.C.LKO
arising out _____
of Order dated _____
passed by _____

The Tribunal has fixed date of
198 . The hearing
of the matter. 18.12.89 for order
If no appearance is made
on your behalf by your same
one duly authorised to Act
and plead on your behalf

the matter will be heard and decided in your absence.

Given under my hand seal of the Tribunal this

day of 11 1989.

3

11

dinesh/

The secretary to the ministry of communication Union of India, New Delhi.
DEPUTY REGISTRAR

4. the General Manager (Addmn) o/o G.M.T. Lucknow.
5. the Dy General Manager
6. Shri K.H.Khan, Dy General Manager (Addmn) o/o G.M.T. Lucknow.
7. the Assistant General Manager (Staff) o/o G.M.T. Lucknow.
8. Shri S.N. Mukerjee, A.G.M. (Staff) o/o G.M.T. Lucknow
9. the Director Telecom (Central) Area) U.P. Lucknow.

Registered

A
74

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

No.CAT/CB/LKO/ 43820 Dated : 21/11/2011

Registration No. 121 of 1936. (C)

Applicant

Versus

Respondent's

TO

- ①. The Dept. of Justice
- ②. The D. R. P. - D. R. P. - D. R. P.
- ③. Supplementary Commercial Report - D. R. P. - D. R. P.

Please take notice that the applicant above named has presented an application a copy whereof is enclosed herewith which has been registered in this Tribunal and the Tribunal has fixed 20 day of 12 1988 for

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

Given under my hand and the seal of the Tribunal
this 2 day of 11 1903.

For DEPUTY REGISTRAR

dinesh✓

15/2/90
A
In the Central Administrative Tribunal Allahabad.

Registration No 1720 of 19.8.7(7)...

..... S. N. Srivastava vs. U.O. & others Petitioners

Appellant

Applicant

VERSUS

The Cenac of Police & others Respondent
Opposit Party

1. Ram Lal P.O to C.M.T. U.P. Circle - Deoband
in the above matter hereby appoint and retain
SHRI KRISHNA CHANDRA SINHA, Advocate High Court

to appear, act and plead for me/us in the above matter and to conduct/prosecute and defend the same in all interlocutory or miscellaneous proceedings connected with the same or with any decree or order passed therein, appeals and or other proceedings there from and also in proceedings for review of judgment and for leave to appeal to Supreme Court and to obtain return of any documents filed therein, or receive any money which may be payable to me/us.

2. I/We further authorise him to appoint and instruct any other legal practitioner authorising him to exercise the powers and authorities hereby conferred upon the Advocate whenever he may think fit to do so.

3. I/We hereby authorised him/them on my/our behalf to enter into a compromise in the above matter, to execute any decree order therein, to appeal from any decree/order therein and to appeal, to act, and to plead in such appeal or in any appeal preferred by any other party from any decree/order therein.

4. I/We agree that if/we fail to pay the fees agreed upon or to give due instruction at all stages he/they is are at liberty to retire from the case and recover all amounts due to him/them and retain all my/our monies till such are paid.

5. And I/we, the understand do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my own acts, as if done by me/us to all intents and purposes.

Executed by me/us this

day of

19

at

Deoband
P.O to C.M.T. U.P. Circle
Deoband
Signature

Executant/s are personally known to me he has/they have/signed before me

Satisfied as to the identity of executant/s signature/s.

(where the executant/s is/are illiterate blind or unacquainted with the language of vakalat).

Certified that the content were explained to the executant/s in my presence in the language known to him/them who appear/s perfectly to understand the same and has/have signed in my presence.

Accepted

K. C. SINHA

Advocate

High Court, Allahabad

Counsel for Appellant/Respondents

No.....

Filed today

20/12/88
L.R.S.
54

F.F. 20/12/88
S.N. 8

A
77

VAKALATNAMA

Before
In the Court of

THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH GANDHI BHAWAN, LUCKNOW
Registration No. 121 of 1988(L)

.....R.N. Srinivasa.....

Versus

Union of India and others.....

I/We ... A. Mithal ... Divisional Railway Manager and Jai Narayan
... for Divisional Commercial Superintendent N.E. Railway, Lucknow

do hereby appoint and authorise Shri Anil Srinivasa

Railway Advocate ... Lucknow to appear, act apply and prosecute the above described Writ/Civil Revision/Case/Suit/Application/Appel on my/our behalf, to file and take back documents, to accept processes of the Court, to deposit moneys and generally to represent myself/ourselves in the above proceeding and to do all things incidental to such appearing, acting, applying, pleading and prosecuting for myself/ourselves.

I/We hereby agree to ratify all acts done by the aforesaid Shri Anil Srinivasa

..... Railway Advocate, Lucknow

..... in pursuance of this authority.

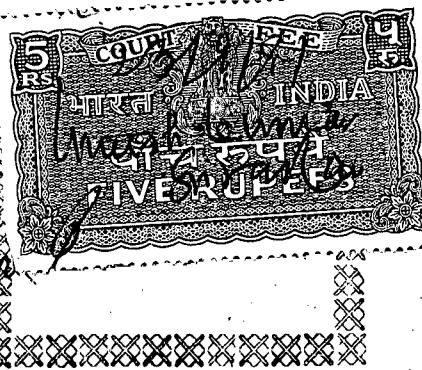
IN WITNESS WHERE OF these presents are duly executed by me/us this

..... day of 1988
M/s
(Jai Narayan.)

Accepted
Anil Srinivasa
Adv.

..... (A. Mithal)
Divisional Railway Manager
Divisional Railway Manager
N.E. Railway Lucknow

ब्र अदालत श्रीमान In the Central Administration
 (बादी अपीलान्ट) R. N. Srivastava का वकालतनामा
 प्रतिवादी [रेस्पाइट]



(बादी अपीलान्ट)

Union of India Advocate वकाल

(प्रतिवादी रेस्पाइट)

नं. मुकद्दमा 121 सन् ८८ | पेशी की ता० २३२९/१९९१ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

Advocate, 83, Guyne Road, India वकील
 महोदय
 एडवोकेट

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटाव या हमारी ओर से डिगरी जारी करावे और रुपया बसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करे मुकद्दमा उठावे या कोई रुपया जमा करें या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (हस्ताक्षरी) रसीद से लेवे या पंच नियुक्त करे—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे लिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिवा प्रमाण रहे और समय पर काम आवे ।

Ram Narayan Choudhury
 हस्ताक्षर

साक्षी (गवाह) साक्षी (गवाह) — — — — —
 दिनांक २३ महीना ९ सन् १९९१ ई०

स्वीकृत

Accepted
 R. N. Srivastava
 93/9/9