

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

CAUSE TITLE O.A. 1375 OF 88

NAME OF THE PARTIES M. L. Bhatia

Applicant

Versus

Union of India Respondent

Part A, B & C

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CERTIFICATE

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

Dated.. 28/12/2011..

Counter Signed.....

Section Officer / In charge

Signature of the
Dealing Assistant

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, MOTI MAHAL, LUCKNOW.

DATED: -----

Case Title OANO 1375/88 19

Name of Parties.

Manohar Lal Bhaliya Applicant

U.O. 2 & ors versus Respondents.

PART -A

<u>Sl.No.</u>	<u>Description of Documents</u>	<u>Page</u>
1-	Check List <u>A</u>	<u>A1</u>
2-	Order Sheet <u>A2</u>	<u>A4</u>
3-	Final Judgement <u>26.2.93</u>	<u>A5</u>
4-	Petition Copy <u>A7</u>	<u>A43</u>
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PART -B

B185

B 356

~~For signature of the Court Officer Incharge, Lucknow Bench, Central Administrative Tribunal, Lucknow.~~

Part -C

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

Section Officer

Court Officer

Incharge

27.1.94

Signature of Deali Assistant.

P. Narayan
2/1/94

3/1/89

Reduction of pay

CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No. 1375 of 1988

APPLICANT (s) Manohar Lal Bhatia

RESPONDENT(s) U.O.I. through Secy. Min. of Defence

P

New Delhi & 5 others

<u>Particulars to be examined</u>	<u>Endorsement as to result of Examination</u>
1. Is the appeal competent ?	Yes
2. (a) Is the application in the prescribed form ?	Yes, according to old form
(b) Is the application in paper book form ?	Yes
(c) Have six complete sets of the application been filed ?	8 sets filed.
3. (a) Is the appeal in time ?	Yes
(b) If not, by how many days it is beyond time ?	-
(c) Has sufficient case for not making the application in time, been filed ?	-
4. Has the document of authorisation/Vakalat-nama been filed ?	Yes
5. Is the application accompanied by B. D./Postal-Order for Rs. 50/-	Yes
6. Has the certified copy/copies of the order (s) against which the application is made been filed ?	Yes
7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	Yes
(b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	Yes

2

Particulars to be Examined

191

Endorsement as to result of Examination

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

19. Whether all the remedies have been exhausted.

Photo Copies as well as typed copies filed.

Yes

Yes

No

Two Copies signed

Yes

Yes

-

-

No

Yes

Yes

N.A

Yes

Yes

Yes

Yes

No

Yes

Submitted by
Chandrasekhar
14/12/08

If approved, the case may be listed

On 03.12.08

20/12

ORDER SHEET

Registration No. 1375 of 1938

Appellant
Applicant

M. L. Bhatia

Versus

Respondent

U. O. S. & ors.

Serial number of order and date	Brief Order, mentioning reference, if necessary	How complied with and date of compliance
5-1-89	<p><u>OIR.</u> Today notices issued to all the respondents fixing 3-2-89 for filing reply.</p> <p align="right">Res 5-1-89</p>	
23.09	<p><u>Heard</u> On the request of appellt counsel, counsel may be filed by 20.4.89</p> <p align="right">maha Raja Heard</p>	
20.4.89	<p><u>OIR</u> <u>अभिलेखित न्यायिक आदेश</u> <u>द्वारा उक्त न्यायिक</u> 10.4.89</p> <p><u>for</u> counsel have already been filed. Counsel may be filed by 24.7.89</p> <p align="right">[Signature]</p>	

001375188

A3

29.1.83

Hom. Mr. Justice 12.2.83
Sub. Mr. K. Chayya Am.

On the receipt of 4c to
appl. at. Can. coll. to 5.2.83

Am

ve

OK
SAH
A
out/1/83

5.2.83

Can. coll. receipt ady
0026.2.83

more

OK
SAH
G
25/4/83

26/2/93

Hon.Mr.Justice U.C.Srivastava,V.C.
Hon.Mr. K. Obayya, A.M.

After hearing the Counsels for the parties, the case is disposed of as the pleadings are complete.

Judgement has been dictated in the open Court.

(tgk)


A.M.


V.C.

AG

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
(ALLAHABAD BENCH) ALLAHABAD.

Registration No. 1375 of 1988
OF 199

~~C.A. No.~~
~~PA. No.~~

Date of decision---26/2/93

Manohar Lal Bhatia
.....Petitioner

Shri N.K. Nair
.....Advocate for the petitioner

Versus
U.O. 1 of 1988
.....Respondent

Shri K. P. Sinha
.....Advocate for the Respondents

xxxxxxxxxxxx

CORAM :-

The Hon'ble Mr. Justice U.P. Srivastava, V.C.
The Hon'ble Mr. K. Bhargava, A.M.

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

W
Signature

NAQVI/

AG

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW.

Registration No.1375 of 1988

Manohar Lal Bhatia ::::: Applicant

Vs.

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

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

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

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

The applicant who was employed as L.D.C. in the office of the Garrison Engineer, M.E.S., Kanpur, where he came on transfer from Talbehah. According to the applicant as he has pointed out various irregularities, he was served with charge sheet. On the basis of the charge sheet enquiry took place. The applicant apprehended danger to his life and that is why he made various requests that protection may be given to him. The applicant's requests were not granted. He could participate in the enquiry only in the initial stage and he did not participate in the enquiry thereafter. The Enquiry Officer held him guilty. The Disciplinary authority agreeing with the report of the Enquiry Officer, passed the punishment order imposing the punishment of reduction of pay by two stages for two years. Thereafter the applicant preferred an appeal which was dismissed.


2. The learned Counsel for the applicant Mr. N.K. Nair vehemently contended that the charges against the applicant cannot be said to have covered any mis-conduct as the charge itself was not for any mis-conduct committed during the service, but the mis-conduct is said to have been

committed subsequently in the matter of enquiry which was to take place and he was not given any opportunity to defend himself and even he was not given an opportunity to cross-examine the witnesses. He detailed various circumstances of denial of opportunity to him and he pointed out the discrepancy in the finding of the Enquiry Officer and the disciplinary authority. The circumstances were also narrated.

3. The appellate authority dismissed the appeal without giving him an opportunity of hearing.

The appellate order cannot be sustained on this ground and all the pleas which have been raised by the applicant can even now be considered by the appellate authority. Accordingly this application is allowed and the appellate order dated 23/8/1988 is quashed and the Appellate Authority is directed to decide the appeal after giving a personal hearing to the applicant. The Appellate Authority shall pass a speaking order and the punishment given to the applicant may be modified or cancelled taking into consideration all the pleas and grievances raised by the applicant. Let this be done within a period of 3 months from the date of communication of this order. No order as to the costs.


Member (A)


Vice-Chairman.

Dated: 26th February, 1993, Lucknow.

(tgk)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH.

Registration No. of 1988.

Manohar Lal Bhatia Applicant.

Versus

Union of India and Others Respondents.

I N D E X

S1. No.	Description of Documents.	Date of Document	Annexure No.	Pages Nos.
1.	Application Under Section 19 of the Administrative Tribunals Act, 1985.			1-33
2.	True Copy of the Letter of the Applicant dt. 6.8.83, addressed to the CE Jabal-pore Zone, forwarding documents in proof of submissions dated 28.2.83.	6.8.83	A-1	34-35
3.	True Copy of the GE (Fy), Kanpur letter dt. 29.7.83.	29.7.83	A-2	36-37
4.	True Copy of the letter dated 6.8.83 from GE (Fy), Kanpur, communicating Extract of CE CC Lucknow letter dated 27.8.83.	6.8.83	A-3	38
5.	True Copy of the Representation of the Applicant dt. 9.8.83.	9.8.83	A-4	39-41
6.	True Copy of the Movement Order dated 9.8.83.	9.8.83	A-5	42
7.	True Copy of the Applicant's letter dated 13.8.1983.	13.8.83	A-6	43

Manohar

INDEX Contd. (ii)

Sl. No.	Description of Documents.	Date of Document	Annexure No.	Pages Nos.
8.	True Copy of the GE (Fy) letter dated 31.10.1983.	31.10.83	A-7	44
9.	True Copy of the Representation of the Applicant dated 14.11.83.	14.11.83	A-8	45-46
10.	True Copy of the Letter of the GE (Fy), Kanpur, dated 2.12.83, along with the Movement Order.	2.12.83	A-9	49-50
11.	True Copy of the Part II Order No.50 dated 19.12.83, issued by the GE (Fy), Kanpur, sanctioning Medical Leave.	19.12.83	A-10	51
12.	True Copy of the Representation of the Applicant dt. 12.12.83.	12.12.83	A-11	52
13.	True Copy of the Memorandum of Charges dated 10.2.1984.	10.2.84	A-12	53-58
14.	True Copy of the Reply of the Applicant dated 18.2.1984.	18.2.84	A-13	59
15.	True Copy of the Letter of the Acting GE (Fy), Kanpur dated 27.2.84.	27.2.84	A-14	60
16.	True Copy of the Movement Order dated 28.2.1984.	28.2.84	A-15	61
17.	True Copy of the Letter of Applicant dated 29.2.84.	29.2.84	A-16	62
18.	True Copy of the GE (Fy) letter dated 1.3.1984.	1.3.84	A-17	63
19.	True Copy of the Representation of the Applicant dated 9.3.84.	9.3.84	A-18	64-65

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(contd.....iii)

INDEX Contd. (iii)

Sl. No.	Description of Documents.	Date of Document	Annexure No.	Pages Nos.
20.	True Copy of the GE (Fy) Kanpur, letter dated 14.3.1984.	14.3.84	A-19	66
21.	True Copy of the Order of the Commander Works Engineers, Kanpur, dated 14.3.1984 appointing Enquiry Authority.	14.3.84	A-20	67
22.	True Copy of the Letter of the GE (Fy) Kanpur dated 9.4.1984.	9.4.1984	A-21	68
23.	True Copy of the Movement Order from the GE (Fy) Kanpur, dated 9.4.1984.	9.4.1984	A-22	69
24.	True Copy of the Letter of the Applicant dt. 10.4.84.	10.4.84	A-23	70
25.	True Copy of the Letter of the GE (Fy), Kanpur, dated 7.5.1984.	7.5.1984	A-24	71
26.	True Copy of the Letter of the Applicant dt. 14.5.84.	14.5.1984	A-25	72
27.	True Copy of the Letter of the Applicant dt. 8.5.1984, addressed to the XXXX CE CC Lucknow.	8.5.1984	A-26	73
28.	True Copy of the Letter of the Officiating GE (Fy), Kanpur, dated 17.5.1984.	17.5.84	A-27	74
29.	True Copy of the Letter of the Officiating GE(Fy), Kanpur dated 18.5.1984.	18.5.84	A-28	75
30.	True Copy of the Letter of the GE (Fy), Kanpur, dated 12.6.1984.	12.6.84	A-29	76
31.	True Copy of the Representation of the Applicant, addressed to the Enquiry Officer.	8.7.1984	A-30	77

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(contd....)

INDEX....Contd...(iv)

S1. No.	Description of Documents.	Date of Document	Annexure No.	Pages Nos.
32.	True Copy of the CE CC Lucknow, Order dated 22.11.1986, imposing Penalty on the Applicant.	22.11.86	A-31	80
33.	True Copy of the Report of the Enquiry Officer dated 25.8.1984.	25.8.84	A-32	81-83
34.	True Copy of the Appeal of the Applicant dated 29.1.1987.	29.1.87	A-33	84-103
35.	True Copy of the Order of the Appellate Authority dated 23.8.88	23.8.88	A-34	104-107
36.	Vakalatnama			
37.	Bank Draft.			

Dated: 20.11.1988.

SIGNATURE OF THE APPLICANT.

Mandur Lal Bhatia

 (N.K. NAIR)
 Advocate.

N.K. Nair
N.K. Nair
 ADVOCATE,
 KANPUR.

FOR USE IN TRIBUNAL'S OFFICE

Date of Filing :

Registration No. :

Signature
 for REGISTRAR.

Control Administrative Tribunal:
Additional Bench At Allahabad
Date of Filing.....12/12/88

Date of Receipt
by Post

By Registrar

12/12/88

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH.

Registration No. of 1988.

BETWEEN

Manohar Lal Bhatia Applicant.

AND

Union of India and Others Respondents.

DETAILS OF APPLICATION:

1- PARTICULARS OF THE APPLICANT:

- (i) Name of the applicant. : MANOHAR LAL BHATIA
- (ii) Name of Father. : Late Parmanand Bhatia.
- (iii) Age of the applicant. : 49 Years.
- (iv) Designation and Particulars of Office in which employed. : Lower Division Clerk, Office of the Garrison Engineer (Project) Factory, Kanpur-9.
- (v) Office Address : As above.
- (vi) Address for Service of Notices. : 66/5, Vijay Nagar, Kanpur.

File under
L.P. Bhatia
3-4-78

San
12/12/88

2- PARTICULARS OF THE RESPONDENTS:

- Names, Designations, Office Addresses and Addresses for service of Notices. : (i) Union of India, Through The Secretary, Ministry of Defence, Government of India, New Delhi.

W. Bhatia

(contd....2)

(2)

- : (ii) Engineer-in-Chief,
Army Head Quarters,
Kashmir House,
DHQD New Delhi-11.
- (iii) Engineer Branch,
Head Quarters, Central Command,
Lucknow-2.
- (iv) Chief Engineer,
Lucknow Zone,
Lucknow-2.
- (v) Commander Works Engineer,
Kanpur Cantt. 4.
- (vi) Garrison Engineer
Factory, Kanpur-9.

3- PARTICULARS OF THE ORDERS AGAINST WHICH
APPLICATION IS MADE:

The Application is against the following
Orders:

- (i) Order No. 90060//1003/134/EI(Con) dated
22.11.1986, passed by the Chief Engineer,
Engineer Branch Hd Qrs, Central Command,
Lucknow, imposing on the applicant the
penalty of reduction of pay by two stages
in the Time-Scale of Pay of the present post,
for a period of two years, with immediate
effect, with further direction that the
applicant will not earn increment, of pay
during the period of reduction and on expiry
of the said period of two years, the reduction
will have the effect of postponing the appli-
cant's future increments of Pay (Annexure A-3).

M. B. Chakraborty

(contd....3)

(3)

- (ii) Order No. 78655/824/87/EID dated 23.8.1988, passed by the Engineer-in-Chief, Army Hd Qrs, Engineer-in-Chief's Branch/EID, DHQ P.O. New Delhi, rejecting the appeal of the applicant dated 29.1.1987, against the aforementioned Punishment Order. (Annexure A34)

4- JURISDICTION OF THE TRIBUNAL:

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

5- LIMITATION:

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

6- FACTS OF THE CASE:

The facts of the case are given below:

- (1) That the applicant is employed as Lower Division Clerk (Permanent), in the Office of the Garrison Engineer (Project) Fy, Kanpur (M.E.S.). The applicant was initially appointed as L.D.C. on probation in the Office of the Commander Works Engineer, Kanpur Cantt.-4 (M.E.S.), in the year 1963, on probation. After successfully completing period of probation, the applicant was absorbed

M. M. Chel

(contd....4)

(4)

as a regular temporary L.D.C. On the appointing authority, being satisfied with the work and conduct of the applicant, the applicant was duly declared Quasi Permanent (Q.P.) in due course and in the year 1974, the applicant was made permanent L.D.C.

(2) That in July, 1978, the applicant was transferred and posted at the Office of the AGE (MES), Talbehat, under the CWE, Jhansi and the applicant remained posted there, up to June, 1981.

(3) That while posted at Talbehat, a large number of cases of irregularities, bunglings, corrupt practices, resulting in undue loss to Government Exchequer, false and frivolous Work Orders, Electric and Building and Road repairs, in which some Officers and staff of the Establishment were involved in collusion with some unscrupulous contractors and suppliers, were noticed by the applicant and the applicant had collected cogent documentary evidences thereof. As a conscientious and loyal Government Servant, and with a view to help the Government in eradicating corruption, mal-practices and bunglings in the Department, the applicant deemed it proper and desirable to bring such irregularities and bunglings to the notice of the departmental authorities,

M. B. Mehta

(contd.....5)

(5)

but, since the matter was very serious and would have resulted in danger to the life and property of the applicant, in case the applicant dared to make submissions to the authorities in the matter, while posted at Talbehat, the applicant deemed it proper to make such submissions after his transfer from Talbehat. The applicant was transferred to the Office of the G.E. Fy, M.E.S., Kanpur, in July 1981. While posted at Kanpur, the applicant made a written submission regarding the matter, addressed to the Chief Engineer, Jabalpure Zone, Jabalpure, dated 28.2.83, pointing ^{out} many serious irregularities, procedural lacunae in procurement of stores, On carrying out job works on exorbitantly high rates, with intention to embezzle and misappropriate public money, by unfair means by some Officers and staff of the AGE, Talbehat.

(4) That the serious irregularities pointed out by the applicant in the said written submission in the hope that the matter would be properly investigated by the authorities concerned and necessary remedial steps would be taken in the National Interest, were not given due weightage by the authorities concerned and the Officers and Staff concerned, about whom the submissions were made with documentary proof, have not so far been given any punishment and instead, some of the concerned officers have been given further promotions. The applicant has every

W. B. Singh

(contd.....6)

(6)

reason to believe that the irregularities pointed out in the submission made by the applicant, might have been proved on investigation. By a Confidential letter dated 6.8.1983, sent by Registered Post to the Chief Engineer, Jabalpure Zone, Jabalpure, the applicant had forwarded certain documents which were available with the applicant and related to the irregularities pointed out by the applicant in the written submissions dated 28.2.1983. In the said letter itself, the applicant ~~was~~ had requested that since the applicant was pointing out certain irregularities, which were likely to involve some Officers and suppliers and contractors, the applicant be given adequate shelter. The true copy of the said letter dated 6.8.1983 is annexed herewith as Annexure A-1.

ANNEXURE A-1

(5) That by a confidential letter No. C-109/ GEN/81/E1(Con) dated 29.7.1983, issued by the Garrison Engineer (Fy), Kanpur, the applicant was supplied a copy of the CE HQ CC Lucknow letter No. 900601/1003/2/E1(Con) dated 13.7.1983. The true copy of the said communication dated 29.7.1983, containing the copy of the letter of the CE dated 13.7.1983, is annexed herewith as Annexure A-2.

ANNEXURE A-2

It was mentioned therein that the applicant should be made available to CE Jabalpure Zone, Jabalpure on temporary attachment or on temporary duty, as and when required by the Departmental Court of Enquiry, ordered in the matter of the written

M. B. Mehra

(contd.....7)

(7)

submissions dated 28.2.1983 made by the applicant in regard to the mal-practices, embezzlement of Public Money, procedural lacunae in procurement of Stores, repairs as well as carrying out of Job Works on exorbitantly high rates at the AGE (I), Talbehat. Earlier, by a letter No. C-109/GEN/85/E1(Con), dated 6.8.1983, issued by the GE (Fy), Kanpur, the applicant was communicated an extract of CE CC Lucknow letter No. 900601/1003/4/E1(Con) dated 27.7.1983, addressed to CE Lucknow Zone, Lucknow and others, and the applicant was advised to keep himself ready for move on temporary attachment/duty to CWE, Jhansi at short notice, for the purpose of the said enquiry. The true copy of the said letter is annexed herewith as

ANNEXURE A-3Annexure A-3.

(6) That since the applicant had submitted to the Department a large number of examples of irregularities, committed by the AGE, Talbehat, duly supported by documentary proofs of photostat copies of letters/documents available with the applicant in support of the matter for perusal by the Chief Engineer, Jabalpure Zone, under Registered Post, along with the applicant's letter dated 6.8.83, the applicant had no further documents/evidence or proof within his knowledge for being submitted before any enquiry. The documents having already been furnished by the applicant, which included all the evidence within the knowledge and approach of the applicant, the entire facts would have come to lime-

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(contd.....8)

(8)

light to prove the applicant's submissions, regarding the misuse of powers and irregularities made by the departmental authorities at Talbehat, which resulted in undue financial loss to the Government as well as National Loss. The personal presence of the applicant at Jhansi/Babina/Talbehat/Jabalpore would not have served any purpose and the same would have only entailed undue expenditure to the Government Exchequer in the form of T.A./D.A. etc., required to be given to the applicant. The marriage of the applicant's eldest daughter had been negotiated and was fixed for 10.9.1983. Since the applicant was the only male member of his family, he could not afford to be away for six weeks from Kanpur. Moreover, the applicant had every apprehension that his life will be in danger, in case he dared to go to Talbehat/Jhansi/Babina etc., where the guilty persons were functioning and since the matter involved unscrupulous contractors who had been threatening the applicant with dire consequences, it would have been highly risky for the applicant to go to Jhansi/Talbehat/Babina/Jabalpore, in connection with such an enquiry into the matter of the bunglings pointed out by the applicant. Without assurance of safety and protection to the life of the applicant, it would not have been advisable to associate with the enquiry at Jhansi/Jabalpore/Babina/Talbehat. It was also a fact that the father-in-law of the AGE, Talbehat (Shri A.K. Sharma), who was mainly involved in the cases of irregularities, was posted as the D.I.G. Police in that area. The applicant

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(contd.....9)

(9)

had every apprehension that he would be subjected to much risks, in case he dared to associate with the enquiry in the area concerned. The applicant, therefore, requested that he be not forced to associate himself with the enquiry to be conducted within the Jhansi Area, or at least, the detailing of the applicant be postponed till the authorities consider the matter in the light of a representation submitted by the applicant on 9.8.1983. The true copy of the said representation of the applicant dated 9.8.1983 is annexed herewith as Annexure A-4.

ANNEXURE A-4

(7) That the applicant did not receive any reply to the said representation and all of sudden, by a Movement Order No. 1007-C/1350/E1 dated 9.8.83, issued by the Garrison Engineer (Fy), Kanpur, the applicant was ordered to be detailed to proceed on temporary duty/attachment to CWE, Jhansi, with effect from 16.8.1983 (F.N.), for probable stay of six weeks, for attending the departmental court of enquiry. The true copy of the Movement Order dated 9.8.1983 is annexed herewith as Annexure A-5.

ANNEXURE A-5

With reference to the said Movement Order dated 9.8.1983, received by the applicant on 11.8.1983, the applicant had submitted a letter dated 13.8.83, addressed to the GE (Fy), Kanpur, stating that the applicant had already explained the full facts of the case to CE CC Lucknow, vide his representation dated 9.8.1983, through Proper Channel and that pending decision on the said representation, the applicant requested that he be not attached to CWE, Jhansi. The applicant requested that the

W. B. Singh

(10)

ANNEXURE A-6

Movement Order dated 9.8.1983 be cancelled. The true copy of the said letter of the applicant dated 13.8.83 is annexed herewith as Annexure A-6. The GE (Fy), Kanpur, vide a letter No. C-109/GEN/131/E1(Con) dated 31.10.1983, an extract of the CE Lucknow Zone, Lucknow letter No. 122066/1/217/E1(Con) dated 21.1.1983, addressed to the CWE, Kanpur, was communicated to the applicant, stating that the same had disposed off the applicant's representation dated 9.8.1983. It was further mentioned that under the circumstances, in compliance with the directions of the CE LZ Lucknow letter dated 21.10.1983, necessary Movement Order was being issued to the applicant separately. The true copy of the said letter dated 31.10.1983 is annexed herewith as Annexure A-7.

ANNEXURE A-7

(8) That with reference to the aforesaid letter of the GE (Fy), Kanpur and the decision of the CE LZ Lucknow, virtually rejecting the earlier representation of the applicant dated 9.8.1983, the applicant submitted a further representation, addressed to the CE CC, Lucknow, stating that the applicant had already submitted whatever documentary proofs were available with him, in support of the case under investigation, based on the submissions made by the applicant dated 28.2.83/6.8.83, there was no further proof available with the applicant and since the irregularities had been pointed out by the applicant against Officers/suppliers/contractors belonging to Jhansi/Babina/Talbehat Region, the said persons would be after the applicant and would cause physical and mental torture to the applicant. The applicant requested that under



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(11)

such circumstances, the applicant be not attached to CWE Jhansi for the purpose of the proposed investigation. The applicant requested that the decision communicated by the CE LZ Lucknow be reviewed and the Order directing that the applicant be sent on temporary duty to CWE, Jhansi, be cancelled and the enquiry be conducted on the basis of the proof already furnished by the applicant and the further investigations be made by the enquiring authority. The applicant had also brought to the notice of the CE CC Lucknow that certain representatives of AGE, Talbehah and the staff involved directly or indirectly in the irregularities, had threatened the applicant and asked him not to pursue the matter with the court of enquiry and the investigating body and that it was threatened that in case the applicant persists in helping the investigating agency, the applicant shall be put to severe harm, which might even result in murder of the applicant. The applicant further submitted, inter alia, that ^{instead} ~~inspite~~ of a departmental court of enquiry as was being conducted, a Staff court of enquiry ~~be~~ set up in the matter, so that the matter could be properly investigated and that in case association of the applicant was felt unavoidable for the purpose of such an enquiry, necessary security arrangements be made and confirmed in writing for the protection of the life and property of the applicant and/or arrange for adequate compensation to the family of the applicant, in case any mishappeningm occurred to the applicant while remaining under CWE Jhansi, in connection with such investigation/enquiry. The true copy of the said representation dated 14.11.1983,

M. N. Mahesh

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(12)

ANNEXURE A-8

is addressed to the Chief Engineer, CC Lucknow, is annexed herewith as Annexure A-8.

(9) That by a letter No. C-109/GEN/143/E1(Con) dated 2.12.1983, issued by the GE (Fy), Kanpur, the applicant was informed that his representation dated 14.11.1983, addressed to the CE CC Lucknow, had been considered by the CE CC Lucknow and rejected and that it had been directed to detail the applicant to proceed on temporary duty to GE, Babina, to attend the enquiry on 5th December, 1983 and, as such, an Office Movement Order No. 1204-S/939/E1 dated 2.12.1983, was being attached therewith for compliance. The true copy of the said letter dated 2.12.1983, along with the Movement Order dated 2.12.1983 is annexed herewith as ANNEXURE A-9. In the Movement Order, the applicant was directed to attend ~~at~~ a departmental court of enquiry being held in GE Babina on 5.12.1983. The applicant was directed to move out on 3.12.1983 (A/N) and to stay on such temporary duty at GE, Babina, till completion of the duty, which was likely to be for a duration of six weeks.

ANNEXURE A-9

(10) That the applicant was already on sick leave on 2.12.1983 and remained sick up to 7.12.1983. On 3.12.1987, the Movement Order was deliberately served on the applicant at his residence, while the applicant was on sick bed, through Shri Charan Singh, Office Superintendent Grade II of GE (Fy), Kanpur. It may be mentioned that earlier on 2.12.1983, when the said Shri Charan Singh went to the applicant's residence for serving the Movement Order, the applicant was not present at his residence as he had gone to his Doctor and Shri

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Charan Singh was informed accordingly by the applicant's wife. It may be mentioned that by Part II Order No. 50 dated 19.12.1983, issued by the GE (Fy), Kanpur, the applicant's medical leave for six days, from 2.12.83 to 7.12.1983 was duly sanctioned as commuted leave. The true copy of the said Part II Order No. 50 dated 19.12.1983, is annexed herewith as Annexure A-10.

ANNEXURE A-10

(11) That since the applicant was sick and was on sanctioned medical leave upto 7.12.1983, it was not possible for the applicant to comply with the Movement Order and to reach Babina on 5.12.1983, as orderd. In fact, the applicant having been granted medical leave between 2.12.1983 and 7.12.1983, there was no point in serving the Movement Order on the applicant on 3.12.1983 for proceeding to Babina on temporary duty and for reporting at Babina on 5.12.1983.

(12) That on being declared medically fit by the Physician under whom the applicant was getting treatment during illness, the applicant reported for duty at the GE (Fy), Kanpur, on 8.12.1983. The Movement Order was not amended and the direction contained in the Movement Order dated 2.12.1983, served on the applicant during the medical leave at his residence on 3.12.1983 for reporting at Babina on 5.12.1983, was not amended and no further directions were given to the applicant. The applicant continued to perform duties in the Office of the GE(Fy), Kanpur and on 12.12.1983, the applicant submitted a representation, addressed to the CE CC, Lucknow, bringing to the notice of the CE CE, Lucknow that since the applicant was continuously threatened

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from the side of the AGE and Staff as well as the suppliers and contractors concerned, not to pursue the cases of irregularities of CWE Jhansi Area before the Investigating Body, it would be highly risky and dangerous to the applicant, who is the only earning member of his family, to go to Jhansi Area and associate himself with the said investigation. The applicant had requested that the applicant be not forced to remain attached to GE, Babina, or any of the places under the CWE Jhansi Area, in connection with the said investigation. Alternately, it was suggested that the applicant be provided adequate security arrangements for the protection of his life and adequate insurance for compensation to the family, in case anything untoward happened with the applicant on his associating with the investigations in the CWE Jhansi Area. The said representation of the applicant dated 12.12.1983, ANNEXURE A-11 is annexed herewith as Annexure A-11.

(13) That on 13.12.1983, the applicant was told by the GE (Fy), Kanpur that he had just received a Telegram dated 10.12.1983 from the Investigating Officer, to the effect that the enquiry will be held at CWE, Jhansi/Babina on 13th & 14th December, 1983 and the GE had advised the applicant verbally to move to the CWE, Jhansi/Babina Area. The applicant having already submitted his representation in the matter, dated 12.12.1983, requested the GE (Fy), Kanpur, not to force the applicant to report at the CWE, Jhansi Area, pending a decision on the representation. The applicant expressed his apprehension that ~~he would~~ there would be every possibility of danger to the life of the applicant,

M. Patel

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in case the applicant was forced to proceed to CWE, Jhansi Area, in connection with the investigation.

The applicant had also pointed out that it was already known to the GE (Fy), Kanpur, CWE, Jhansi and the CE Lucknow, that Shri A.K. Sharma, AGE, Talbehahat, who was mainly involved in the cases of irregularities pointed out by the applicant, is the son-in-law of the D.I.G. Police, posted and placed in position in the concerned Area of the CWE, Jhansi/Babina and that was an added reason why it was not advisable for the applicant to undertake the risk of associating himself with the investigation in the said area.

The applicant was never given any order in the matter and no fresh Movement Order was issued, nor the earlier Order dated 2.12.1983 was amended. The applicant remained under the impression that his representation dated 12.12.1983 was under consideration and that he would be communicated a reply thereof in due course. The applicant continued to perform duties in the Office of the GE (Fy), Kanpur, accordingly, in the normal course. The applicant was not communicated the decision on his representation dated 12.12.1983 for several months. The applicant was under the impression that the request of the applicant might have ^{been} conceded.

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^{was}
misbehaviour[^] mentioned in the Annexures 1 and 2 attached to the Memorandum. In paragraph 5 of the Memorandum, the applicant was prohibited from bringing or attempting to bring any political or outside influence to bear upon any superior authority to further his interest, in respect of matters pertaining to his service under the Government and it was further mentioned that if any representation was received on his behalf from any other person in respect of any matter ^{dealt} ~~and~~ within the disciplinary proceedings, ~~the~~ action would be taken against the applicant for violation of Rule 20 of the C.C.S. (Conduct) Rules, 1964. It may be mentioned that Rule 20 of the C.C.S. (Conduct) Rules, 1964, was not applicable to the case of the applicant at that time, since the applicant was drawing pay of less than Rs. 500/- per month. The prohibition mentioned in the said paragraph of the Memorandum resulted in miscarriage of justice, inasmuch as the applicant was prevented from seeking help of Trade Union and other sources, to which he remained entitled. The applicant was charged with misconduct in not complying with the orders of his Head of Office of his higher authorities, in that he had allegedly disobeyed the orders of GE (Fy), Kanpur, served on him in writing, to proceed on temporary duty to attend the departmental court of enquiry in connection with investigations of a complaint dated 28.2.1983 made by the applicant, about certain irregularities, which was to be held in August, 1983, on 5th December and 8th December, 1983 and 13th/14th December 1983 in the Office of the CWE, Jhansi/GE Babina respectively.

W. N. Mehra

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(15) That it was alleged in the Memorandum of Charges that by the alleged non-compliance/disobedience of orders, the applicant had failed to perform his duty and had shown conduct unbecoming of a Government servant and thus contravened the provisions of Rule 3(1) (ii) and (iii) of the C.C.S. (Conduct) Rules, 1964.

(16) That the Garrison Engineer (Fy), Kanpur, being not the competent appointing or disciplinary authority of the applicant, was not competent to issue the Memorandum of Charges and to initiate disciplinary proceedings against the applicant. The proceedings were vitiated on that account also. It may also be mentioned that Maj. S.S. Dhanoa, the then Garrison Engineer (Fy), Kanpur, who issued the charge sheet under his signature, was also cited as the first witness against the applicant, in Annexure IV of the Memorandum of Charges. Under the existing Rules and Instructions of the Government, he could not have issued charge sheet and initiated disciplinary proceedings against the applicant. The disciplinary proceedings were vitiated on this account as well. The true copy of the Memorandum of Charges dated 10.2.1984 is annexed herewith as Annexure A-12.

ANNEXURE A-12

(17) That by a reply dated 18.2.1984, the applicant denied the charges and pointed out the discrepancies of the charge sheet having been issued by an incompetent authority. The applicant requested that he be heard in person before the Enquiry Officer, if any, is appointed by the competent appointing and disciplinary authority. The true copy of the said reply is annexed herewith as Annexure A-13.

ANNEXURE A-13

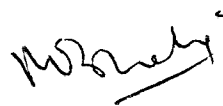
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(18) That even after the disciplinary action was initiated against the applicant by issuing a Memorandum of Charges dated 10.2.1984, the applicant was again sought to be harassed by compelling the applicant to report to CWE, Jhansi on 1.3.1984, in connection with the court of enquiry. The true copy of the said letter No. C-109/MLB/80/E1C dated 27.2.1984, issued by the Acting GE (Fy), Kanpur, is annexed herewith as Annexure A-14. A Movement Order No. 1204-S/961/E1 dated 28.2.1984, was issued by the Officiating GE (Fy), Kanpur, mentioning the date of commencement of journey as 29.2.1984, the duration of stay as one week or till completion of duty and the purpose of duty as attending a departmental court of enquiry, being held in CWE, Jhansi on 1.3.1984 and onwards. The true copy of the said Movement Order is annexed herewith as Annexure A-15.

ANNEXURE A-14ANNEXURE A-15

(19) That by a letter dated 29.2.1984, addressed to the GE (Fy), Kanpur, the applicant requested that it be confirmed that proper security arrangement, as requested by the applicant in para 4 of his representation dated 12.12.1983, had been made. The applicant expressed his willingness to immediately move for the enquiry in CWE, Jhansi, on receipt of such confirmation. The true copy of the said letter of the applicant, dated 29.2.1984, is annexed herewith as Annexure A-16. By a letter No. C-109/MLB/85/E1(Con), dated 1.3.1984, issued by the GE(Fy), Kanpur, with reference to the applicant's representation dated 29.2.1984, it was mentioned that the

ANNEXURE A-16


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representation of the applicant dated 12.12.1983 had already been forwarded to CUE, Kanpur, for onward transmission and that the applicant's demand for security arrangement was beyond the action of the authorities. It was also mentioned that the applicant's appeal dated 14.11.1983 was forwarded to the CUE, Kanpur and that, after consideration it was rejected by the CE CC, Lucknow. The true copy of the said letter is annexed herewith as as Annexure A-17.

Annexure - A17.

(20) That by a subsequent representation dated 9.3.1984, addressed to the Chief Engineer, Central Command, Lucknow, through Proper Channel, the applicant referred to his earlier representation dated 12.12.1984 and requested that his case ~~was~~ ^{for} moved to CUE, Jhansi Area, may be reconsidered sympathetically. The applicant re-iterated his willingness already expressed earlier in his letter dated 28.2.1983, to move to the Zonal Office, Jabalpure, to make any further submissions in support of his ^{contentions} ~~complaint~~ regarding the irregularities. The applicant further submitted that due to compelling circumstances created by affected officers/staff in league ^{with} ~~and~~ the suppliers/contractors of the CUE, Jhansi Area, the applicant had every fear that his life would be in danger and he wanted adequate security arrangement for the protection of his life, in case he was forced to go and remain in that area of the CUE, Jhansi, for associating with the enquiry. The applicant

M. B. Mehta

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re-iterated that he was threatened with dire consequences by the concerned persons, in case the applicant dared to persist any further associating with the investigations. It was mentioned that being the only earning hand in his family consisting of 5 members, the applicant could not afford to risk his life by going to CWE, Jhansi Area. The applicant requested that his statement, if needed, may be taken at Bhopal, the Hd. Qrs. of the Presiding Officer of the enquiry, that is, at the CWE, Bhopal, or at Jabalpure Zonal Office of the Chief Engineer or any other place, except the CWE, Jhansi/Babina/Talbehat Area. The applicant expressed his readiness and willingness to move to such places on the appointed dates, if it was so required ~~by the investigating officer~~ by the investigating officer, so that the applicant could associate with the enquiry proceedings, free of fear. The applicant requested for an interview being granted to him by the Chief Engineer to explain the facts in person. The true copy of the said letter of the applicant dated 9.3.1984 is annexed herewith as Annexure A-18.

ANNEXURE A-18

(21) That by a letter No. C-109/MLB/93/E1 (Con) dated 14.3.1984, the GE (Fy), Kanpur, communicated a relevant extract of an alleged CE LZ Lucknow letter No. 122040/8/E1(Con) dated 2.3.1984, addressed to the CE CC Lucknow, stating that the Presiding Officer may be advised to dispense with the presence of the applicant in the court of enquiry, since the applicant had expressed his inability

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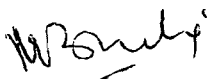
for the same, and that intimation of disciplinary proceedings against the applicant had already been directed ~~against~~ the applicant. In paragraph 2 of the said letter of Garrison Engineer, however, the applicant was still advised to review his intention/ decision and proceed to attend the court of enquiry at Jhansi in the applicant's own interest. The true copy of the said letter dated 14.3.1984 is annexed herewith as Annexure A-19.

ANNEXURE A-19

(22) That by an Order No. C/106/MLB/21/E1(Con) dated 14.3.1984, issued by the Commander Works Engineers, appointed Shri S.K. Sadhu, E.E. of GE (P) Fy, Kanpur as enquiry authority to enquire into the charges. The true copy of the said letter is annexed herewith as Annexure A-20. It may be mentioned that the Chief Engineer CC Lucknow being the appointing authority of the applicant, the lower authority could not have appointed Enquiry to enquire into the charges. The disciplinary proceedings were vitiated on this account also. By a letter of the same date, the CWE appointed Shri O.P. Sharma, AE BM/R of GE (Fy), Kanpur, as presenting officer.

ANNEXURE A-20

(23) That even after the enquiry was constituted, the Garrison Engineer (Fy), Kanpur, by letter No. C-109/MLB/107/E1 C dated 9.4.1984, informed the applicant that it had been intimated by the CWE, Bhopal, Presiding Officer of the enquiry being conducted into the irregularities pointed out by the applicant of CWE, Jhansi/Babina/Talbehat Area



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vide a letter dated 5.4.1984 that the applicant be directed to report to CWE, Jhansi on 10.4.1984 in connection with the said enquiry being assembled with effect from 11.4.1984 to 13.4.1984 at CWE Jhansi/GE Babina/AGE Talbehat. The GE (Fy), Kanpur further informed that the Movement Order was being issued separately. The true copy of the said letter is annexed herewith as Annexure A-21. The true copy of the Movement Order No. 1204-S/973/E1 dated 9.4.1984 is annexed herewith as Annexure A-22. By a letter dated 10.4.1984, the applicant drew the attention of the GE (Fy), Kanpur, to the fact that the applicant's representation/appeal dated 12.12.1983 and 9.3.1984 were still pending disposal and that the same should ^{be} brought to the notice of the higher authorities concerned. The true copy of the said letter is annexed herewith as Annexure-A 23.

ANNEXURE A-21

ANNEXURE A-22

ANNEXURE A-23

(24) That by a letter No. C/109/MLB/116/E1C dated 7.5.1984, issued by the GE (Fy), Kanpur, the applicant was informed that the applicant's appeal and request for interview with the Chief Engineer, Central Command, Lucknow, had been considered and rejected by him vide CE CC Lucknow letter No. 900601/1003/54/E1(Con) dated 26.4.1984 and the GE (Fy), Kanpur advised the applicant to proceed to the place where the applicant was ordered to move. The true copy of the said letter is annexed herewith as Annexure A-24. In reply to the said letter, the applicant wrote to the GE (Fy), Kanpur, that the applicant had never refused to attend the enquiry and that he could not comply with the Movement Order only on account of the apprehension of danger to his

ANNEXURE A-24

M. S. S.

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life as stated in his previous letters. The applicant submitted that if there was no apprehension of any untoward happening, he would be prepared to move to attend the enquiry, as and when ordered, but it was categorically stated that the responsibility for any kind of untoward happening would rest with the Administration. The applicant accordingly requested the GE (Fy), Kanpur, to intimate him about the date of movement to the place of enquiry through Proper Movement Order to be issued in terms of the letter of the GE (Fy), Kanpur dated 7.5.1984. The true copy of the said letter is annexed herewith as Annexure A-25.

ANNEXURE A-25

(23) That the applicant had earlier ^{sent} ~~addressed~~ a reminder dated 8.5.1984, addressed to the CE CC Lucknow through Proper Channel, requesting him to decide the representations of the applicant dated 12.12.1983 and 9.3.1984, after considering them sympathetically, so that the applicant might act accordingly. The true copy of the said letter is annexed herewith as Annexure A-26. By a letter dated 17.5.1984, written by the GE (Fy), Kanpur, No. C-109/MLB/120/E1(Con), with reference to the said letter of the applicant dated 8.5.1984, the applicant was informed that his application was forwarded to the CWE, Kanpur for further disposal and that the CWE, Kanpur had returned the same with the remark that the decision of the CE CC, Lucknow had already been forwarded vide letter dated 26.4.1984, which ought to have been communicated to the applicant by letter dated 7.5.1984. It may be mentioned that in the letter dated 7.5.1984 and

ANNEXURE A-26

W. B. Singh

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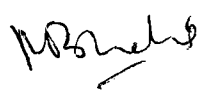
in the aforesaid letter dated 17.5.1984, the decision rejecting the representation dated 9.3.1984 alone was communicated and not the other appeal dated 12.12.83. The representation of the applicant was returned accordingly. The true copy of the said letter dated 17.5.1984 is annexed herewith as Annexure A-27.

ANNEXURE A-27

(24) That by a letter No. C-109/MLB/122/EI (Con) dated 18.5.1984, issued by the Officiating Garrison Engineer (Fy), Kanpur, the applicant was informed that his demand about security arrangement was beyond the action of his Office and hence the responsibility for any kind of untoward happening would not rest with the Administration. The applicant was asked to state categorically if he was prepared unconditionally to proceed to the place where he was ordered to move in connection with the enquiry into the irregularities, so that the Presiding Officer of the enquiry could be requested to fix the next date of enquiry. The true copy of the said letter is annexed herewith as Annexure A-28.

ANNEXURE A-28

(25) That by a letter dated 23.5.1984, addressed to the CE CC Lucknow, the applicant had stated that he was prepared to proceed to attend the enquiry being conducted under the area of the CWE Jhansi, provided adequate safety arrangements or insurance for any untoward happening in regard to the life of the applicant is arranged. By a letter No. C-109/MLB/13/EI(Con) dated 12.6.1984, issued by the GE (Fy), Kanpur, the applicant was informed that the decision of the Chief Engineer



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(25)

CC Lucknow on the letter of the applicant dated 23.5.1984 has not yet been received. The applicant was also informed that it had been intimated by the CWE, Bhopal, as communicated by the CWE, Kanpur, to the Office of the GE (Fy), Kanpur, that the proceedings of the court of enquiry ordered on the submissions made by the applicant in regard to the irregularities had already been finalised and forwarded to the Chief Engineer concerned. The true copy of the said letter is annexed herewith as Annexure A-29.

ANNEXURE A-29

(26) That the Enquiry Officer, Shri S.K. Sadhu, who was appointed to enquire into the Memorandum of Charges issued to the applicant had fixed the initial date of enquiry on 27.4.1984 and at the first meeting, held on the said date, the Enquiry Officer adopted a novel method of directing the parties to submit written brief, which was against the procedure and rules for conducting enquiry under Rule 14 of the C.C.S.(C.C. & A.) Rules, 1965. The question of submission of written brief could arise only after the conclusion of the oral evidence from both the sides. The enquiry was adjourned to 1.5.1984 and the Enquiry Officer accepted the alleged written brief of the Presenting Officer. There was no question of submission of any written brief by the applicant at that initial stage. The Enquiry Officer did not comply with the mandatory requirement of preparing ² day to day Minutes of the enquiry/Daily Order sheet of the enquiry, -so as to enlighten the applicant about the proceedings of the enquiry and to keep a record of the proceedings, which could ~~alone~~ have proved that the enquiry was



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(26)

conducted properly in accordance with the Rules and in compliance with the principles of natural justice.

(27) That on 2.7.1984, vide a letter No. C-106/MLB/9/ELC dated 2.7.1984, a copy of the Presenting Officer's written brief was supplied to the applicant. With reference to the said written brief, the applicant submitted a reply dated 6.7.84, rebutting the false contentions of the Presenting Officer and stating the facts. A true copy of the said reply to the written brief of the Presenting Officer, submitted by the applicant, is annexed herewith as Annexure A-30.

ANNEXURE A-30

(28) That no witness was examined before the Enquiry Officer on 2.7.1984 in the presence of the applicant. It is reported that in the absence of the applicant the Enquiry Officer got some witnesses examined, such as, Shri U.S. Bhatia, Supdt E/M Gr.I and Shri Y.R. Chawla, Officating AGE E/M. The applicant was never intimated anything about their evidence, nor was the applicant allowed opportunity to cross examine the said witnesses. No other witness, such as, Shri Charan Singh Gr.II and Maj. S.S.Dhanoo, GE(Fy), Kanpur, were examined by the Enquiry Officer in the presence of the applicant and the applicant was never afforded any opportunity to cross examine any of the witnesses. One of the important witnesses, namely Subedar Major R.B. Singh, Office Superintendent, in whose presence the applicant was reported to have refused to move to the area of the CWE, Jhansi as per the oral directions of Maj. S.S. Dhanoa, GE (Fy), Kanpur, was not summoned/examined.

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(27)

The said witness was also cited in the Annexure to the Memorandum of Charges. In the absence of any opportunity having been given to the applicant, the so called enquiry was a sheer farce. The principles of natural justice as well as the provisions of the C.C.S.(C.C.& A.) Rules, 1965, were violated. The Enquiry Officer did not afford opportunity to the applicant to adduce any defence witness, nor was the applicant allowed opportunity to submit any written brief after the close of the enquiry, which was also violation of the Rules. Before the ~~prosecution~~ *prosecution* witnesses, the Enquiry Officer started cross examining the applicant on 1.5.1984, without having allowed opportunity to the applicant to make any written or oral statement, after the close of the prosecution evidence, as was required. The Enquiry Officer acted as though he was the judge and prosecutor both.

(29) That in the absence of any Daily Order Sheet/ Minutes of the enquiry have been prepared, the enquiry turned out to be a sheer farce.

(30) That thus, there ~~was~~ *was* no enquiry worth the name and the Enquiry Officer misconducted himself and the enquiry. The enquiry was highly vitiated and against all norms and prescribed procedure. The principles of natural justice were violated and the applicant was not afforded any opportunity of defending himself.

(31) That by an Order No. 900601/1003/134/E1 (Con) dated 22.11.1986, issued by the Chief Engineer, Central Command, Lucknow, the applicant was supplied a copy of the

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alleged report of enquiry dated 25.8.1984 and it was held that on a careful consideration of the Enquiry Report and the documents on record, the Chief Engineer agreed with the findings of the Enquiry Officer that the charges against the applicant were established. The Chief Engineer accordingly imposed on the applicant the penalty of reduction of pay by two stages in the Time Scale of Pay of the present post, for a period of two years with immediate effect, with further direction that the applicant will not earn increment of pay during the period of reduction and on the expiry of the said period, the reduction will have the effect of postponing the applicant's future increments of pay. The true copy of the punishment order is annexed herewith as Annexure A-31. It will be seen that the Chief Engineer had not at all applied his mind to the facts and the circumstances of the case and did not assess the evidence at all. The Chief Engineer did not even care to look into the fact that the enquiry was not at all conducted in the manner provided under the Rules and that the applicant was not at all afforded opportunity to defend himself. The Punishment Order was imposed by a non-speaking order and the same was illegally, mala fide, perverse and unwarranted.

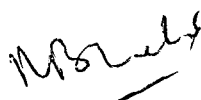
ANNEXURE A-31

(32) That ^{on} a perusal of the report of the enquiry, it will be proved that the findings of the Enquiry Officer are perverse and the enquiry was not at all conducted in accordance with the Rules and in compliance ^{with} of the principles of natural justice.

(contd.....29)

(29)

It may, however, be noted that in the findings, the Enquiry Officer himself had accepted that there was no refusal as such from the side of the applicant to attend the court of enquiry being held at Jhansi/Babina/Talbehat. The Enquiry Officer concluded that it was not established that the applicant's apprehension of danger to his life in attending the court of enquiry at Jhansi/Babina/Talbehat was ~~xxxxxx~~ an excuse merely to avoid the applicant's presence in the court of enquiry, or it was a fact. The Enquiry Officer also concluded that the applicant did not categorically refuse the Order of GE to proceed to court of enquiry at Jhansi/Babina/Talbehat, but, at every time ^{he} was asking for assurance for protection against any danger to his life and that the applicant had finally expressed his willingness to attend the court of enquiry, if held at a place other than Jhansi/Babina/Talbehat. Hence, there was no justification in the conclusion of the Enquiry Officer that the charge against the applicant was partly established. There was no justification for the observation of the Chief Engineer, CC Lucknow in the punishment order that the charge against the applicant has been established. The Chief Engineer went a step ahead of the Enquiry Officer in holding that the charge has been proved and that too without disagreeing with the findings of the Enquiry Officer and without making his own assessment of the evidence. The applicant has been illegally and wrongfully punished under such circumstances. The true copy of the findings of the Enquiry Officer is annexed herewith as Annexure A-32.

ANNEXURE A-32


(Contd.....30)

440

(30)

(33) That being aggrieved by the illegal and wrongful punishment order, the applicant preferred an appeal, addressed to the Engineer-in-Chief, Army Hd. Qrs., New Delhi, stating the facts and the circumstances and the grounds, on the basis of which the illegal, mala fide and unwarranted punishment order ought to have been quashed. A true copy of the appeal is annexed herewith as Annexure A-33. *dated 29-1-1987*

ANNEXURE A-33

(34) That the appellate authority did not appreciate the salient, legal and factual points raised in the appeal and did not care to look into the legal infirmities of the enquiry and the punishment order. By an Order No. 78655/824/87/ ELD dated 23.8.1988, issued by the Engineer-in-Chief, Army Hd Qrs, New Delhi, the appeal of the applicant was rejected. The true copy of the appellate Order is annexed herewith as Annexure A-34. The appellate Order is also illegal, arbitrary, perverse and untenable and is liable to be quashed. The respondents are liable to be directed to restore the reduced pay of the applicant, along with all arrears and other benefits. *non-sensical*

ANNEXURE A-34

7- DETAILS OF THE REMEDIES EXHAUSTED:

The applicant declares that he has availed of all the remedies available to him under the relevant Service Rules etc., inasmuch as the applicant had preferred an appeal dated 29.1.1987 (Annexure A-33), addressed to the Appellate Authority, against the punishment order

MB

(contd.....31)

dated 22.11.1986 (Annexure A-31), served on the applicant on 17.12.1986, through the GE (P) Fy, Kanpur. The appellat authority passed order dated 23.8.1988 (Annexure A-34) rejecting the appeal, which was served on the applicant through the GE (P) Fy., Kanpur on 27.9.1988.

8- MATTERS NOT PREVIOUSLY FILED OR ~~PENDING~~
PENDING BEFORE ANY OTHER COURT:

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

9- RELIEFS SOUGHT:

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

- (i) The Punishment Order No. 900601/1003/134/E1(Con) dated 22.11.1986, passed by the Chief Engineer, Engineer Branch, Hd Qrs Central Command, Lucknow, imposing on the apolicant the penalty of reduction of pay by two stages in the Time Scale of Pay of the present post of L.D.C., for a period of two years with immediate effect, with further directions that the applicant will not earn increment of pay during the period of reduction and on expiry

of the said period, the reduction will have the effect of postponing the applicant's future increments of pay; AND the appellate Order No. 78655/824/87/E10 dated 23.8.1988, passed by the Engineer-in-Chief, Army Hd Qrs, New Delhi, rejecting the appeal dated 29.1.1987, preferred by the applicant against the punishment order, be quashed and the respondents be directed to restore the pay of the applicant and to pay all the arrears arising therefrom, along with due increments and other benefits.

The Grounds for the relief and the legal provisions relied upon have already been mentioned in paragraph 6 above.

10- INTERIM ORDER, IF ANY, PRAYED FOR:

N O N E

11- PARTICULARS OF THE BANK DRAFT IN RESPECT OF THE APPLICATION FEE:

- (i) Name of the Bank on which drawn. : Allahabad Bank, Vijay Nagar
IC anpr
- (ii) Demand Draft No.: B/A 287062 Dt. 27.10.88

12- LIST OF ENCLOSURES:

A list of enclosures, being the documents relied upon by the applicant, has been given at serial nos. 2 to 35 of the Index annexed to this Application.

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

I, Manohar Lal Bhatia S/O Late Parmanand

Manohar

(contd.....33)

143

(33)

Bhatia, aged 49 years, working as L.D.C. in the Office of the GE (P) Fy., Kanpur, do hereby verify that the contents of paras 1, 2, 3, partly 4, partly 5, partly 6, 7, 8, 9, 10, 11 and 12, are true to my personal knowledge and paras partly 4, partly 5 and partly 6 are believed to be true on legal advice and that I have not suppressed any material fact.

Manshu Lal Bhatia

SIGNATURE OF THE APPLICANT.

Date : *20-11-1988*

Place : KANPUR.

N.K. Nair

(N.K. NAIR)
Advocate.

N.K. Nair
ADVOCATE,
KANPUR.

To

The Registrar,
Central Administrative Tribunal,
ALLAHABAD BENCH.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL.

ALLAHABAD BENCH.

Registration No. of 1988.

Manohar Lal Bhatia Applicant.

Versus

Union of India and Other Respondents.

ANNEXURE A-1

CONFIDENTIAL

REGISTERED

To,

The Chief Engineer - Kind attention of Brig
Jabalpur Zone Dipankar Ray,
JABALPUR (M.P.) CE

Respected Sir,

COMPLAINT REGARDING IRREGULARTEES BY MES OFFICERS
AT TALBEHAT

Please refer to your HQ letter No. 150055/A2/1386/
E1 (Con) dt. 7.6.1983 and my confirmation dt 15.6.1983 on
the appeal dt 28 Feb, 1983 (through GE Fy Kanpur).

2 In continuation to my appeal dt 28 Feb 83 I am for-
warding herewith certain examples of irregularities on A
Annexure 'A' containing page 1 to 18 and Annexure 'B' the
list of documents with 19 Nos photostat copies in support
of the cases enumerated in Annexure 'A'. All the pages of
the cases have been initialed by me.

3 The cases enumerated on Annexure 'A' (are certain
examples of white corruptions of MES officers at Talbehat
and do not cover all the irregularities and entire
embezzlement.

[Handwritten signature]

Contd.....2.....

- ४४ 2 ४४ -

4 On the basis of exemplary cases if all the connected documents of stores including Baby Indents/Vouchers/Job Card/Gate pass with Site/Bldgs pertaining to Talbehat station for the period Oct 80 to Sep 82 are impartially investigated/checked large numbers of serious natures cases of irregularities will come to light.

5. I am sure that if impartial enquires of the entire cases are made, your H'ble sir will find that MES officers at Talbehat/Babina/Jhansi did not fear of the Govt and his orders/instruction and rules/regulation for exeuction of Defence works/Maintenance and procedure for purchase of Govt stores through local traders. The Officers have worked to their own whim and disrrgarded Govt policies with intantion to earn extra money in lakhs for increasing their properties.

6 I am forwarding these cases 'A' 'B' to your HQ direct due to the only purpose that secracy/importance of the cases may be maintained in the interest of Nation.

I hope your H'ble Sir will excuse me and give me shelter.

Thanking you Sir,

Yours faithfully,

6.8.83
Kanpur

SA-
(ML Bhatia)
LDC Pt
C/o GE (Fy) Kanpur-9

Wms

True Copy
Attested
N.K. Hair
ADVOCATE,
KANPUR.

pus

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD BENCH.

Registration No. .. of 1988.

Manohar Lal Bhatia Applicant.

Versus

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

ANNEXURE A-2

CONFIDENTIAL

REGISTERED

Tel: 20126

GARRISON ENGINEER (FY)
ARMAPORE POST
KANPUR-9

C-109/GEN/81/EI (Con)

29 JUL 83

Shri ML Bhatia,
LDC
Thro AGE E/M

COMPLAINT FROM SHRI ML BHATIA, LDC AGAINST
AGE (I) TALBHET/

1. Copies of CE HQ CC Lucknow letter No 900601/1003/2/E1 (Con) dated 13 Jul 83 and CE Jabalpur Zone signal No 07983 dated 21 Jul 83 on the above subject are reproduced below for your information and to remain/keep yourself ready for move on temporary attachment/duty as and when required by departmental C of I.

Sel -
(SS DHANOA)
MAJOR
GARRISON ENGINEER (FY)

CONFIDENTIAL

Copy of CE HQ CC Lucknow letter No 900601/1003/2/E1 (Con)
dt 13 Jul 83.

M. M. M.

Contd.....2.....

- 2 -

AS ABOVE

1. Reference to your letter No 150055/A2/1407/E1 (Con) dated 28 Jun 83.

2. The case has been seen by Command CE who directs that departmental C of I may be ordered by Zonal CE immediately to investigate the allegations contained in the Written complaint dated 28 Feb 83 made by Shri ML Bhatia, LDC of GE(Fy) Kanpur. Shri Bhatia should be associated with the investigating who will be made available to the departmental C of I on temporary attachment with your office or on Ty duty as and when required by the departmental C of I.

3. The Presiding Officer of the above departmental C of I should be Lt Col/SE.

4. The departmental C of I should be ordered and investigation started immediately. C of I proceedings duly completed alongwith the comments/recommendations of Zonal CE may be forwarded to this HQ Aug 83.

5. The Complaint dated 28 Feb 83 received under your letter at reference is returned herewith.

(Jagan Nath)

SAO/SO 2

For Chief Engineer

Encls (5 Sheets)

Copy to:-

Chief Engineer - Shri ML Bhatia, LDC is now with
Lucknow Zone GE(Fy) Kanpur. He should be made
Lucknow-2 available to CE Jabalpur Zone,
Jabalpur on ty attachment or on
ty duty as and when required for
CWE Kanpur- similor action.

Copy of CE Jabalpur signal No 07083 dated 21 Jul 83 addsd to CE Cettcom and copy to GE (Fy) Kanpur with others.

- -

ATTACHMENT ML BHATIA LDC. REF YOUR 900601/1003/2/E1 (Con) JUL 13. REQUEST ATTACH ML BHATIA LDC GE FY WORKS KANPUR TO CNE JHANSI ENABLE C OF I INVESTIGATE COMPLAINT IMMEDIATELY. LIKELY DURATION SIX WEEKS.

- -

Mme

True Copy
Att. st. 11
N.K. Nair
ADVOCATE,
KANPUR.

Aug

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD BENCH.

Registration No. of 1988.

Manohar Lal Bhatia Applicant.

Versus

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

ANNEXURE A-3

CONFIDENTIAL

REGISTERED

Tel: 20126

C-109/GEN/85/E1 (Con)

Shri ML Bhatia, LDC
Thro AGE E/M

GARRISON ENGINEER (FY)
ARMAPORE POST
KANPUR-9
06 Aug 83

COMPLAINT FROM SHRI ML BHATIA, LDC AGAINST
AGE (I) TALBHET

1. Reference in continuation to this office letter
No. C-109/GEN/81/E1 (Con) dated 29 Jul 83.

2. An extract of CE CC Lucknow letter No. 900601/1003/4/
E1 (Con) dated 27 Jul 83 addsd to CE Lucknow Zone Lucknow and
copy to others is reproduced below for your information and
keep yourself ready for move on temporary attachment/duty to
CWE Jhansi at short notice for the purpose:-

"MES-450035 Shri ML Bhatia, LDC of GE (FY) Kanpur is
bereby attached with CWE Jhansi with immediate effect.
The likely duration of attachment will be six weeks.

3. Shri ML Bhatia may be directed to report to CWE
Jhansi immediately.

Copy to Internal (E1C) (I) of their HQ
Shri ML Bhatia, LDC is attached with CWE Jhansi in
Connection with investigation of complaint by a depart-
mental Court of Inquiry which Shri Bhatia had made in
Writing.

2. Please issue necessary temporary duty move
sanction."

Copy to
E-1 Sec

Sd/-
(SS DHANOA)
MAJOR
GARRISON ENGINEER (FY)

CONFIDENTIAL

Wmg

*True Copy
Attested
M.K. Nair
ADVOCATE,
KANPUR.*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD BENCH.

Registration No. of 1988.

Manohar Lal Bhatia Applicant.

Versus

Union of India and Others Respondents.

ANNEXURE A-4

CONFIDENTIAL

REGISTERED

To

The Chief Engineer (through CE JZ Jabalpur)
Central Command
Lucknow

(Through proper channel)

COMPLAINT FROM SHRI ML BHATIA, LDC AGAINST AGE (I)
TALBEHAT

1. Reference your HQ letter No 900601/1003/4/E1 (Con) dt 27 Jul 83 contents thereof intimated vide GE (Fy) Kanpur letter C-109/GEN/85/E1(Con) dt 06 Aug 83 (received by me on 9.8.83)
2. In response to your HQ letter cited in para 1 above, the following facts are enumerated in succeeding paras for your sympathetic consideration and favourable orders please.
3. In continuation to my complaint dt 28 Feb 83 I have since submitted large numbers of examples of irregularities committed by AGE Talbehat alongwith documentary proofs on Photostat available with me in support of the cases to Chief Engineer Jabalpur Zone Jabalpur under registered letter dated 06 Aug 83. There are no more further documents/evidentiary proofs are known and available with me to highlight in the cases of irregularities. If the proper and impartial enquires based on these exemplary cases furnished by me are made, it is definite that large number of further cases will come out in the light from which it can be evident that MES Officers at Talbehat Station have misused their financial powers vested under Table 'B' and others and earned money like anything in mixing with suppliers/contractors of their choice during the period Oct 80 to Sep 82.
4. In view of the position explained in para 3 above, it is felt that my presence at Jhansi/Babina/Talbehat will not serve any purpose and may not be considered necessary as this will entail extra expenditure to the State by paying TA/DA etc. It is a matter of consideration at your level that the purpose for which my presence is required for six weeks at Jhansi may also be looked into.

MB

Contd.....2.....

5. It is further submitted that marriage negotiation of my eldest daughter has been completed and the marriage date has been finally fixed on 10 Sep 83. Since I am the only male member in the family I have to make all the arrangements for the marriage ceremony and other formalities relating to them. So it will be very difficult for me to leave the Station upto 30 Sep 83 in any circumstances.

6. Since I have put a complaint against the officers/suppliers of Talbehat/Babina/Jhansi for the irregularities of the Govt assets, it is feared that these concerns whom the motive is to earn extra money for their own family, sake, may try to put me mental and physical torture. I am very much afraid for my life in their area. In view of the these circumstances I may not please be attached with OWN Jhansi and his area as proposed by chief Engineer Jabalpur Zone Jabalpur. In case it is forced order and your honour at all consider that my presence is extremely necessary at Jhansi area I will obey your orders for which the department may ensured me full protection of my life during the entire period of the enquiry proceedings in the Area. On the other side it will be convenient for me as well as saving to the State if the questions of the Court of Inquiry are sent to me, I will give proper replies to them to the best of my knowledge and will co-operate to the maximum extent in the interest of State.

7. In this last para I have to pointed out with painful that the authorities of the department have harassed me mentally and financially altogether to their maximum. I have been made disrupted due to length of correspondence in connection with my payments amounting to Rs. 1500/= towards Pt TA/DA & LTC claims. This case is being persued by me for the last four years with higher authorities but even then my payments towards Pt TA/DA claim from Kanpur to Saugor (Dhana) submitted on 20 Oct 78 and LTC Claim for the 4 years block of year 1974-77 from Saugor to Vaisnu Devi (Katra Jammu) submitted on 9 Jun 79 alongwith relevent documents have not been made to me to-date by GE Saugor. A deprtmental C of I was ordered by CE JZ Jabalpur in Nov/Dec 1980. The proceedings of the Court were finalised in the favour of defaulters and CE JZ Jabalpur awarded me punishment under his letter No 150033 (255)/86/E1 (Con) dt 13 Sep 82. Here I have to link my representation dt 03 Aug 82 and appeal dt 10 Feb 83 both addressed to CE JZ Jabalpur requesting for payments of TA/DA and LTC claims as well as information/clarifications on certain points but neither the payment has been made so far nor replies to above referred rep/appeal have been given by him despite of my regular reminders in the case. Due to non-furnishing of clarifications sought for in my above referred appeals in connection with Pt TA/DA & LTC claims it is assumed that Departmental Court of Inquiry proceedings were got finalised under pressure to put me financial loss and mental torture and officers/staff who misplayed with financial documents of the individual were saved. I request the respected Chair that the payments towards my Pt TA/DA & LTC claims pending with the deprtment/audit may please be finalised and payment may please be made to me at your earliest.

Wmms

(Contd.....3.....)

-:: 3 ::-

P_R_A_Y_E_R

1. Since I have already been penalised just to harassment due to Departmental Court of Inquiry regarding my Pt TA/DA & LTC claims as enumerated in para 7 above for no fault of me rather giving the punishment to the officers/staff misplaced/ destroyed my claims, I feel that the further departmental C of I at Jhansi area in connection with irregularities committed by MES Officers may not be impartial so I pray you rhonour that the irregularities as pointed out and information/ documents furnished to CE JZ Jablapur should be enquired by Staff authorities (Interligence Branch) so that the culprits are pin pointed and penalised with cash recovery under rules enforceable.

2. My attachment order as proposed may not be orderd till the facts finding position comes into the knowledge of H'ble chief Engineer CC Lucknow.

Thanking you in anticipation sir,

Yours faithfully,

Sd/-
(ML Bhatia)
LDC Pt

C/o GE (Fy) Kanpur

Station : Kanpur

Dated the 09 Aug 83

MSB

*True Copy
attested*
[Signature]
M.K. Mohr
ADVOCATE,
KANPUR.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH.

Registration No. of 1988.

Manohar Lal Bhatia Applicant.

Versus

Union of India and Others Respondents.

ANNEXURE A-5

CONFIDENTIAL

REGISTERED

MOVEMENT ORDER

1. MES/450035 Shri ML BHATIA, LDC of this office is here by detailed to proceed on temporary duty/attachment with CWE Jhansi.

Date of Commencement 16 Aug 83 (FN)

Purpose of duty attachment - For attending a Departmental - Court of Inquiry.

Probable Stay Six weeks Approx.

Authority CE CC Lucknow letter No 900601/1003/4/E1 (Con) dated 27 Jul 83

SA
(SS DHANOA)
MAJOR
GARRISON ENGINEER (FY)

1007-C/1350/E1
OFFICE OF GARRISON ENGINEER (FY)
Aramapore Post, Kalpi Road,
KANPUR-208009

09 AUG 1983.

DISTRIBUTION

1. MES/450035 Shri ML BHATIA, LDC - for compliance. Through AGE E/M (Fy)
2. CE CC LUCKNOW
3. CE Lucknow Zone, Lucknow
4. CE Central Zone, Jabalpur
5. CWE Jhansi
6. CWE Kanpur - Formal sanction of the move may please be obtained from higher authorities.
7. AGE E/M (Fy) Kanpur
8. UA GE (Fy) Kanpur

W.D.

*True Copy
Attested*
N.K. Noida
ADVOCATE,
KANPUR.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH.

Registration No. _____ of 1988.

Manohar Lal Bhatia Applicant.

Versus

Union of India and Others Respondents.

ANNEXURE A-6

To

GE(Fy) Kanpur
Through AGE E/M (Fy)

Movement Order on ty. duty/
attachment with CWE Jhansi.

Sir,

Ref your MD No. 1007-C/1350/E1 dt 09 Aug 83.

2. In this connection it is submitted that I have already explained full facts of the case to CE CC Lucknow vide my appeal dt 09 Aug 83 through Proper Channel. As such it is requested that I should not be attached to CWE Jhansi till the final decision of the addressee viz CE CC Lko communicated to me.

3. It is therefore requested that cancellation order to the above referred MD may please be issued.

Thanking you,

Yours faithfully,

Sd/-
(M.L. Bhatia)

Dt. 13.8.83.

M. L. Bhatia

*True copy
Attested*
N.K. Nair
ADVOCATE,
KANPUR.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD BENCH.

Registration No.

of 1988.

Manbhar Lal Bhatia Applicant.

Versus

Union of India and Others Respondents.

ANNEXURE A-7

CONFIDENTIAL

REGISTERED

Tel: 20126

GARRISON ENGINEER (FY)
ARMAPORE POST
KANPUR-9

C-109/GEN/131/E1 (Con)

31 Oct 83

MES/450035

Shri ML BHATIA

LDC

Thro AGEE/M

COMPLAINT FROM SHRI ML BHATIA, LDC
AGAINST AGE (I) TALBEHAT/

1. Reference your representation dated 09 Aug 83 addsd to CE CC Lucknow on the above subject.
2. An extract of CE Lucknow letter No 122066/1/218/E1 (Con) dated 21 Oct 83 addsd to CWE Kanpur is reproduced below for your information.

"2. It has been intimated by CE Central Command that Shri ML Bhatia LDC made a written complaint alleging certain irregularities of AGE (I) Talbehat. As already directed by them vide their letter No 900601/1003/2/E1 (Con) dated 13 Jul, 83, Shri ML Bhatia may be made available to chief Engineer Jabalpur Zone on temporary duty or on attachment to be associated with the investigation, since it has been decided to investigate the allegation through a Departmental Court of Inquiry by Command CE.

3. In view of the above please issue necessary movement order for proceeding Shri ML Bhatia to CWE Jhansi under CE Jabalpur Zone under intimation to all concerned.

4. This disposes of the individual's representation dtd 09 Aug 83 who should be informed accordingly."

3. As such, in compliance with para 3 of CE LZ Lucknow letter referred to above, necessary movement order is being issued separately.

(SS DHANOA)

MAJOR

GARRISON ENGINEER (FY)

- to issue necessary movement order for proceeding Shri ML Bhatia, LDC to CWE Jhansi as mentioned above.

CONFIDENTIAL

*True copy
Attested by
N.K. Nair
ADVOCATE,
KANPUR.*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH.

Registration No. of 1988.

Manohar Lal Bhatia Applicant.

Versus

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

ANNEXURE A-8

CONFIDENTIAL

REGISTERED

From:- M L Bhatia, LDC Pt
C/o GE (FY) Kanpur

To

The Chief Engineer
Central Command
LUCKNOW CANTT

Through - proper channel

Respected Sir,

PETITION

1. The petitioner begs leave to invite the references of chief Engineer Lucknow Zone letter No 122066/1/218/E1 (Con) dated 21 Oct 83 the contents of which have been noted through GE (FY) Kanpur letter No C-109/GEN/131/E1(Con) dt 31 Oct 83 and his confidential appeal dated 09 Aug 83 under which examples of irregularities committed by GE Talbehat alongwith documentary proofs/photostats were given in support of the cases.
2. That the petitioner in his appeal dated 09 Aug 83 as referred to above, already clarified that whatever documentary proofs were available with him in support of the cases, were highlighted. It was further defined in para 3 thereof that by way of enquiry into the matter lot of other cases may also come to light where the MES officers at TALBEHAT Station have misused their financial powers as well as their daring attitude to uncare very knowingly the laid down procedure.
3. That despite of the facts already deposed to light vide para 6 of the Appeal dated 09 Aug 83 that since the complaints has been put against Officers/Suppliers/Contractors belonging to Jhansi/Babina/Talbehat region, they shall be very much after the petitioner to incur any mental torture and physical hurt. Under these circumstances it was requested that the petitioner be not attached to CWE JHANSI for the purpose of the proposed Departmental Court

me

(Contd.....2.....)

-:: 2 ::-

of Inquiry. Vide CE L2 LUCKNOW letter quoted in Para 1 above, it has been felt that the petitioner's so called request has not been conceded to and again it has been pointed out therein that he shall be required to be made available to CWE Jhansi on temporary duty/attachment to associate with the investigation. The petitioner protests it altogether strongly and desires from your H'ble Sir to review this decision in favour of the petitioner and an order be kindly passed to cancel his move to CWE Jhansi and Staff Inquiry be allowed to proceed on without further loss of time.

4. That the petitioner also submits that certain reps of AGE Talbehat/Staff involved directly or indirectly have threatened him for not persuing with the Court of Inquiry and also not highlight the irregularities before the Investigating body. If he shall do so, he shall be put to sever harm which may amount to loss of his life of self and family as well as to put loss to the property.

5. That the petitioner once again stresses upon that in his earlier cases also the Departmental Court of Inquiry have not given the justful decision and extremely tried to favour the responsible officers/administration although it was vehemently proved through documentary evidences for the misuse of powers and violation of fundamental rules. The provision of CCS (Conduct Rules) are equally applicable to all Central Government employees/Officers in the same manner. The petitioner cites the examples that number of cases for the misuse of power/irregularities by the defuncted CWE (P) KANPUR and his subordinate offices were pointed by the petitioner vide letters 08 Feb 78 and 02 Mar 78 and those case were ordered to investigate through a Departmental C of I. The cases were proved in toto but instead of penalising the officers/staff involved therein, the department harassed the petitioner by way of posing out from KANPUR to DHANA (SADGOR) while violating all Standing Government policy/rules enforceable for the same. In this connection his petition dated 29 Jun 78 once again refers. Thus the financial implications as well as mental torture was attributed to the petitioner and he was compelled to move to DHANA.

6. That the Departmental Court of Inquiries how ~~may~~ much supports to the Administration, the petitioner encloses a copy of his appeal dated 10 Feb 83 addressed to CE Jabalpur Zone Jabalpur and its para 3 particularly will reveal to support the version of the petitioner. It would be visusilised that Departmental C of I was finalised even in the state of already lost permanent TA/DA claim and as per the need/forcement of the administration responsible for the loss, the Inquiry investigations were finalised just to make responsible to the petitioner for his claim. Lot of correspondence have been exchanged with the ~~Jabalpur~~ Jabalpur Zone on the querries raised but so far the proper and convincing reply to the querries have not been furnished and the matter is being dealth with by them to safegaurd the administration only by hook or by crook.

Wme

Contd.....3.....

-:: 3 ::-

7. That the very objects of the petitioner to cite the above examples is that, that investigation through Departmental C of I cannot bring fruitful and just results and are also helpless to initiate suggestions to eradicate the corruption/to penalise the involved officers/staff and thus as already requested the Staff C of I authorising with powers by the Government be only set up with your efforts in the matter so that the country can be saved from peril. Atleast the petitioner has lost faith from the Departmental Court of Inquiries which have been appointed from your H'ble Sir to investigate several cases.

8. That the petitioner discloses one case of class I Officer Shri K L Kakar, DCME in office of CE (P) Itarisi who did not bring his family and luggage at all on his permanent move from DEHRADUN to ITARSI station on the dates as shown in his Pt TA/DA claim submitted during Sep/Oct 82. He claimed for first class railway fare and luggage as entitled. The claim was countersigned for its correctness and passed for payment by the audit authorities. This requires investigation by your H'ble Sir as the officer can do/claim anything even if the entitlement was not availed of. But in the case of petitioner his pt TA/DA claim from Kanpur to Dhana (Saugor) during 1978 for self a family and LTC claim for the block year 1974-77 were termed as false claims by GE Saugor/CE JZ Jabalpur and did not progress to audit authorities only because to put the petitioner to financial loss and mental torture. The petitioner still avers the correctness of these claims. In para 7 of the Appeal dt 09 Aug 83 an example has been set up by the petitioner and it was prayed to finalise the issue as well as making the payment due from the Government.

8. The petitioner feels it relevant that in order to justify his Pt TA/DA & ETC Claims amounting to Rs. 1500/= which are yet to be paid to him and which have not been progressed by GE Saugor to audit authorities on the plea of the false claims because the petitioner is a subordinate staff whereas the officers/department can play any type of game for their self interest. As an instance to purchase coarse sand @ Rs. 22.88 per bag of 50 Kg each and to play with the public money fearlessly is undoubtedly a case of established corruption. This coarse sand was purchased through traders M/S Jawahar Lal Sharma vide GE E/M (P) Itarsi supply order No. 3003/SO/3120/E3 dt 4.11.82 for 400 bags and 400 bags through a repeat order violating the existing procedure of issuing the quotations to the local dealers of sand. The petitioner has every right as a loyal Government servant to raise a query to know about the basis of accepting the rates of 22.88 per bag of 50 Kg of the coarse sand as a reasonable one since all over India coarse sand is available @ Rs. 2/- to Rs. 3/- (maximum) per bag of 50 Kg. each.

M. M.

Contd.....4....

-:: 4 ::-

P R A Y E R

It is therefore prayed that in view of the cited examples and circumstance explained aforesaid, the decision for holding the Departmental Court of Inquiry be dispensed with and a Staff Court of Inquiry be arranged to set up in the interest of proper investigation of the cases. In case the association of the petitioner ~~is~~ is felt unaboidable, all security arrangements be kindly made and Confirmed in writing for such arrangements for the protection of life and property of the petitioner. The department shall also liable to pay compensation amounting to Rs. 2.00 lakhs to the family of the petitioner in case of any otherwise happenig occurs to the petitioner.

May this patition please be acknowledge by return of mail.

Thanking you in anticipation Sir.

Yours faithfully,

Sd/-

(ML BHATTA)
LDC Pt

Dated the 14 Nov 83

Station: KANPUR

Copy to:-

The Secretary, -
Ministry of Defence
New Delhā

Through CE CC Lucknow

for an advance information
in the matter, Sir.

CONFIDENTIAL

*True Copy
Attested*
N.K. Mair
ADVOCATE,
KANPUR.

M34

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH.

Registration No. of 1988.

Manohar Lal Bhatia Applicant.

Versus

Union of India and Others Respondents.

ANNEXURE A-9

REGISTERED

CONFIDENTIAL

Tel: 20126

GARRISON ENGINEER (EY)
ARMAPORE POST
KANPUR-9

C-109/GEN/143/E1 (Con)

02 DEC 83

Shri ML Bhatia
LDC
119/268 DARSHAN PURWA
KANPUR

COMPLAINT FROM SHRI ML BHATIA, LDC
AGAINST AGE (I) TALBEHAT/

1. Reference your appeal dated 14 Nov 83 addsd to CE CC Lucknow.
2. Your above referred appeal has been considereed by Chief Engineer Central Command Lucknow and rejected. He has directed to detail you to proceed on temporary duty to GE Babina to attend the inquiry on 5th Dec 83.
3. As such, this office Movement order No 1204-S/939/E1 dated 02 Dec 83 is attached herewith for compliance.

Sd /
(SS DHANOA)
MAJOR
GARRISON ENGINEER (FY)

Encl:- As above.

*True copy
attested
N.K. Naip
ADVOCATE,
KANPUR.*

N.K. Naip

-:: 2 ::-

MOVEMENT ORDER

1. MES/450035 Shri ML Bhatia, LDC of this office is hereby detailed to proceed on temporary duty/attachment to GE Babina and back.

(a) Date of commencement: 3rd Dec 83 (AN)

(b) Probable Stay : Till completion of duty (duration likely six Weeks)

(c) Purpose of duty : To attend a Departmental Court of Inquiry being held in GE Babina on 5th Dec 83 in Connection with investigating a complaint made by Shri ML Bhatia, LDC against AGE (I) Talbehat.

(d) Authority : (i) CE CC Lucknow letter No 900601/1003/2/E1 (Con) dt 13 Jul 83 and further their Signal No 07759 dt 15 Nov 83 (ii) CE LZ Lucknow letter No 122066/1/218/E1 (Con) dt 21 Oct 83 (iii) CE Jabalpur Zone letter No 150055/A2/MLB/24/E1 (Con) dt 7 Nov 83. Further CE CC Sig No 07796 dt 01 Dec 83.

Sd/-

(SS DHANOA)

MAJOR

GARRISON ENGINEER (FY)

1204-S/939/E1
GARRISON ENGINEER (FY)
ARMAPORE POST
KANPUR-208009

02 Dec 1983

DISTRIBUTION

1. MES/450035 Shri ML Bhatia, L.D.C -for compliance.
2. Chief Engineer Central Command, LUCKNOW
3. Chief Engineer Lucknow Zone, LUCKNOW
4. Chief Engineer Jabalpur Zone, JABALPUR
5. CWE Kanpur - Wrt their letter No C/103/I/243/E1 (Con) dt 16 Nov 83. Formal sanction of the above move may please be obtained. and Tele Conversation between AO and GE on 02 Dec 83.
6. CWE Jhansi
7. CWE Bhopal
8. CE Babina
9. AAO CDA CC Lucknow
10. UA GE (Fy) Kanpur
11. AGE E/M (Fy) Kanpur
12. Case No C-109/GEN/E1 (Con)

True Copy
Attested
N.S.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH.

Registration No.

of 1988.

Manohar Lal Bhatia Applicant.

Versus

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

ANNEXURE A-10

CONFIDENTIAL

REGISTERED

PART. II ORDER

UNIT : GARRISON ENGINEER (FY)

SERIAL NO. 50 Dt 19.12.83

STATION: KANPUR

SHEET No. 1 of one

(LIST PART II ORDER NO. 49 Dt. 12.12.83)

Sl NO.	MES NO.	NAME	CATEGORY	DATE wef	CASUALTY	Particulars
1	2	3	4	5		6

PART I : CIVILIAN OFFICERS SUBORDINATES
HOLDING PT CLASS III SELECTION GDE POST

NIL

PART II: CLASS III SELECTION GDE POST (TY/OPT/PT)

NIL

PART III BASIC NON INDUSTRIAL NON SELECTION
GDE PARSONN L OF CLASS III & IV SERVICES

1. MES/450035 LDC 02-12-83 Gtd 6 days commuted leave
Shri ML BHATIA 08-12-83 upto 7-12-83
RESUMED DUTY

PART IV (a)

- NIL

PARTIV (b)

- NIL

PART V (a) & (b) : CLASS III AND IV (TY/OPT/PT)
INDUSTRIAL PERSONNEL WHO HAVE OPTED FOR PENSION SCHEME

2. MES/102868 Mazdoor 01-11-83 - Gtd FPL for 1 day
Shri SHARDA PRASAD 02-11-83 - Gtd EOL for 7 days upto
08-11-83 w/o pay & allces
3. MES/454862 Mazdoor 01-11-83 - Gtd sick leave for 10 days
upto 10-11-83.
11-11-83 - Gtd EOL for 7 days upto
17.11.83 w/o pay & allces

Sd/-
(SS DHANOA)
Major
Garrison Engineer (Fy)

DISTRIBUTION:+

- | | |
|-----------------------------|---------------------|
| 1. CE CC Lucknow (3 Copies) | (6) AGE/B/R I (FY) |
| 2. CE LZ Lucknow (2 Cppies) | (7) AGE B/R II (FY) |
| 3. AAO (CDA CC Lucknow) | (8) AGE E/M (FY) |
| 4. HQ CWE Kanpur | (9) Pay group |
| 5. UAGE (FY) Kanpur | (10) PTO Folder |

MDY

*True Copy
Attested
M.K. Nair
ADVOCATE
KANPUR.*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH.

Registration No. of 1988.

Manohar Lal Bhatia Applicant.

Versus

Union of India and Others Respondents.

ANNEXURE A-11

CONFIDENTIAL

REGISTERED

To

The Chief Engineer
Central Command
Lucknow

Through proper Channel

Respected Sir,

REVISION OF PETITION

1. It has been intimated to the petitioner vide GE (Fy) Kanpur letter No C-109/GEN/143/E1 (Con) dated 02 Dec 83 that his petition dated 14 Nov 83 has been considered and rejected by Chief Engineer Central Command Lucknow.
2. The petitioner again invites kind attention of the H'ble Chief Engineer to his petition referred above and request for reconsideration of his prayer sympathetically.
3. The petitioner is continuously receiving threatening from the AGEs/staff Talbehat and suppliers/contractors through their reps for not pursuing/highlighting the cases of irregularities pertaining to CWE Jhansi area before Investigating body. In these circumstances the petitioner cannot take risk of his life as he is the only earning hand in his family. Therefore the petitioner requests that he may not be forced to move on temporary duty/attachment to Babina or enquiry places of CWE Jhansi area.
4. In view of the petitioner's petition dated 14 Nov 83 and para 3 above, the petitioner cannot move to BABINA untill all security arrangements are made for protection of his life and confirmed in writing for such arrangements with compensation to his family in case of any otherwise occurs to the petitioner at Babina or enquiry places under CWE Jhansi Area.
5. The Petitioner may please be confirmed that his petition dated 14 Nov 83 endorsed to the Secretary Ministry of Defence through your office has been forwarded to them.

Thanking you in anticipation Sir,

Yours faithfully,

Sd -

(ML Bhatia)

LDC Pt

C/o GE (FY) Kanpur

MSB

dated the 12 Dec 83

CONFIDENTIAL

*True copy
Att. to
N.K. Maip
ADVOCATE,
KANPUR.*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH.

Registration No. of 1988.

BETWEEN

Manohar Lal Bhatia.....Applicant.
AND

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

CONFIDENTIAL

ANNEXURE A-12

Tel:20126

GARRISON ENGINEER (FY)
ARMAPORE POST
KANPUR-9

C-109/MLB/71 /E1(Can)

10 FEB 84

MEMORANDUM

The undersigned proposes to hold an inquiry against MES/450035 Shri ML Bhatia, LDC (Pt) under Rule 14 of the Central Civil Services (Classifications Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure I). A statement of the imputations of misconduct or 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 charge are proposed to be sustained are also enclosed (Annexure III & IV).

2. MES/450035 Shri ML Bhatia, LDC (Pt) is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

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

4. MES/450035 Shri ML Bhatia, LDC (Pt) is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 14 of the C.C.S. (CC&A) Rules, 1965 or the orders/directions issued in pursuance of the said Rules, the inquiring authority may hold the inquiry against him ex-parte.

5. Attention of MES/450035 Shri ML Bhatia, LDC (Pt) is invited to Rule 20 of the Central Civil Services (Conduct) Rules, 1964 under which no Government servant shall bring or attempt to bring any political or outside 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 MES/450035 Shri ML Bhatia, LDC (Pt) 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 C.C.S. (Conduct) Rules, 1964.

The receipt of this Memorandum may be acknowledged.

(SS DHANOA)
MAJOR
GARRISON ENGINEER (FY)

MES/450035
Shri ML Bhatia,
LDC (Pt)

CONFIDENTIAL

True Copy
Attested
N.K. Moha
ADVOCATE
KANPUR

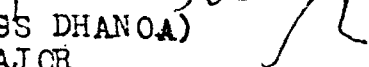
CONFIDENTIAL(ANNEXURE I)Statement of article of charge framed against
MES/450035 Shri ML Bhatia, LDC (Pt) /Article I

That the said MES/450035 Shri ML Bhatia while functioning as LDC in the office of GE (Fy) Kanpur during the period from 28 Jun 82 to-date has committed Misconduct inasmuch as he did not comply with the orders of his head of the office and of his higher authorities as well, in that he disobeyed the orders of GE (Fy) Kanpur served on him in writing through the following letters to proceed on temporary duty to attend a departmental court of inquiry in connection with investigations of a complaint dated 28th Feb 83 made by Shri ML Bhatia alleging therein certain irregularities which was to be held in Aug 83, on 5th Dec & 8th Dec 83 and 13/14 Dec 83 in the office of CWE Jhansi, GE Babina and CWE Jhansi/GE Babina respectively.

- (a) GE (Fy) Kanpur Movement Order bearing No 1007-C/1350/E1 dated 09 Aug 83 ;
- (b) GE (Fy) Kanpur Movement Order bearing No 1204-S/939/E1 dt 02 Dec 83 ;
- (c) GE (Fy) Kanpur telegram dt 6 Dec 83 and subsequent confirmatory letter No G-109/GEN/153/E1 dated 6 Dec 83 and
- (d) Verbal order of GE (Fy) Kanpur on 13 Dec 83.

2. Since Shri ML Bhatia had made himself the aforesaid complaint dated 28 Feb 83 alleging therein certain irregularities at AGE (I) Talbehat and for which investigations through departmental court of inquiry were ordered by Chief Engineer Central Command and consequently detailed by the GE (Fy) Kanpur, it was obligatory and mandatory on him to attend the inquiry. Instead of complying with the orders he failed to proceed to attend the court of inquiry and submitted appeals repeatedly to Chief Engineer Central Command Lucknow protesting against the departmental inquiry and expressing his desire for a staff court of inquiry and for affording him protection against any apprehended dangers to his life. Appeals of Shri ML Bhatia were considered and rejected by the Command Chief Engineer and he was informed accordingly to proceed for attending the departmental court of inquiry. Further, on being advised verbally also by his head of the office, Shri ML Bhatia expressed his inability and verbally refused to move on temporary duty to attend the departmental court of inquiry.

3. The said Shri ML Bhatia by non-compliance/disobedience of orders has failed to perform his duty and has shown his conduct unbecoming of a Govt servant and thus has contravened the provisions of Rule 3(1)(ii) & (iii) of CCS (Conduct) Rules, 1964.


(SS DHANOA)
MAJOR
GARRISON ENGINEER (Pt)

CONFIDENTIAL

M264

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(ANNEXURE II)

Statement of imputations of misconduct in respect of MES/450035 Shri ML Bhatia, LDC (Pt)/

Article I

MES/450035 Shri ML Bhatia while employed as LDC in the office of GE (Fy) Kanpur made a complaint dt 28th Feb 83 alleging therein certain irregularities at AGE (I) Talbehat where he was previously serving.

2. The said complaint was seen by Chief Engineer Central Command Lucknow and it was decided by them that departmental court of inquiry be ordered by Chief Engineer Jabalpur Zone Jabalpur to investigate the allegations contained in the aforesaid complaint and Shri ML Bhatia be made available on temporary duty/attachment with CWE Jhansi with immediate effect and the likely duration of attachment was to be six weeks for this purpose vide CE CC Lucknow letters No 900601/1003/2/E1(Cen) dt 13 Jul 83 and No 900601/1003/4/E1(Cen) dt 27 Jul 83. Accordingly, GE (Fy) Kanpur issued Movement Order bearing No 1007-C/1350/E1 dt 09 Aug 83 directing Shri ML Bhatia to proceed on 16th Aug 83 on temporary duty/attachment to CWE Jhansi for attending the departmental court of inquiry. Meanwhile, Shri ML Bhatia submitted an appeal dated 09 Aug 83 addsd to CE CC Lucknow against departmental court of inquiry and his attachment on temporary duty as proposed. The said appeal was considered by Chief Engineer Central Command Lucknow and was rejected as communicated by Chief Engineer Lucknow Zone Lucknow vide their letter No 122066/1/218/E1(Cen) dt 21 Oct 83. Shri ML Bhatia was informed accordingly by GE (Fy) Kanpur under his letter No C-109/GEN/131/E1(Cen) dt 31 Oct 83 and was also informed thereby that movement order was being issued separately.

3. Shri ML Bhatia made again an appeal dated 14 Nov 83 to CE CC Lucknow protesting against departmental court of inquiry and requesting for staff court of inquiry and also laying down certain pre-condition for his move. Meanwhile, CE Jabalpur Zone informed that as court was reassembling at GE Babina on 5th Dec 83, Shri ML Bhatia be directed to attend inquiry vide their signal No 07084 dt 07 Nov 83. In the meantime, the aforesaid appeal dated 14 Nov 83 was considered and rejected by the Command Chief Engineer vide their signal No 07796 dated 01 Dec 83 and directed thereby that Shri ML Bhatia be detailed to report to GE Babina on 5th Dec 83. Accordingly, GE (Fy) Kanpur issued further Movement Order bearing No 1204-S/939/E1 dt 02 Dec 83 detailing Shri ML Bhatia to proceed on 3rd Dec 83 (AN) on temporary duty/attachment to GE Babina to attend inquiry which was being held on 5th Dec 83. Since Shri ML Bhatia had not attended office on 2nd & 3rd Dec 83 but had submitted an application dt 2nd Dec 83 applying for medical leave for 5 days from 2nd Dec 83 onwards, the aforesaid movement order as well as GE (Fy) Kanpur letter No C-109/GEN/144/E1(Cen) dt 3 Dec 83 intimating thereby inter alia rejection of his appeal dt 14 Nov 83 by the Command Chief Engineer were delivered to him at his residence on 3rd Dec 83.

Contd.....2

Wm.

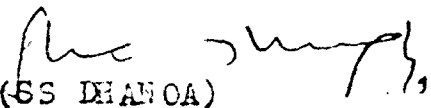
-: 2 : -

(ANNEXURE II..... Ccntd)

4. Further, as Chief Engineer Jabalpur Zone informed that CWE Bhopal (who was Presiding Officer of the inquiry) was to hold inquiry on 8th Dec 83 at 1000 hrs at GE Babina vide their signal No 07066 dt 3rd Dec 83, Shri ML Bhatia was informed by GE (Fy) Kanpur vide his telegram dated 6th Dec 83 and subsequently through letter No C-109/GEN/153/E1 dt 6 Dec 83 (sent to Shri ML Bhatia at his residence by Regd post) and was directed thereby to proceed, in case he has not already moved, to attend inquiry on 8th Dec 83 at 1000 hrs at GE Babina but still he did not proceed.

5. Further, as CWE Bhopal (Presiding Officer of the inquiry) informed for assembly of inquiry on 13th and 14th Dec 83 at CWE Jhansi/GE Babina vide his telegram dt 10 Dec 83 (received on 13 Dec 83) Shri Bhatia was immediately called by Maj SS Dhanoo, GE (Fy) Kanpur and advised & asked verbally to move but Shri Bhatia expressed his inability and verbally refused to move in the presence of his Offg AGE E/M and Office Supdt who were present in the office of GE (Fy) at that time.

6. Later, Shri ML Bhatia had again submitted a revised petition dated 12 Dec 83 to CE CC Lucknow protesting and laying down the same pre-condition for move.


(SS DHANOO)
MAJOR
GARRISON ENGINEER (FI)

CONFIDENTIAL



CONFIDENTIAL

(ANNEXURE III)

List of documents by which the articles of charge framed against MES/450035 Shri ML BHATIA, LDC(Pt) are proposed to be sustained

- (1) GE (Fy) Kanpur Movement Order bearing No 1007-C/1350/E1 dated 09 Aug 83 ;
- (2) GE (Fy) Kanpur letter No C-109/GEN/131/E1(Con) dt 31 Oct 83 ;
- (3) GE (Fy) Kanpur Movement Order bearing No 1204-S/939/E1 dated 02 Dec 83 ;
- (4) GE (Fy) Kanpur letter No C-109/GEN/144/E1(Con) dated 03 Dec 83 ;
- (5) GE (Fy) Kanpur telegram dated 06 Dec 83 and subsequent confirmatory letter No C-109/GEN/153/E1 dated 06 Dec 83 (by Regd post).

[Signature]
(SS DHANOA)
MAJOR
GARRISON ENGINEER (FY)

CONFIDENTIAL

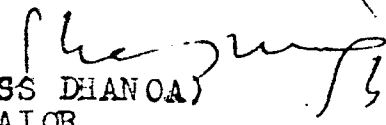
[Signature]

CONFIDENTIAL

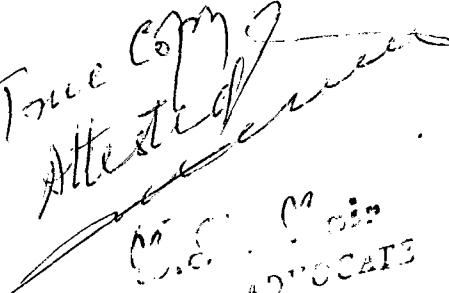
(ANNEXURE IV)

List of witnesses by whom the article of charge framed against MES/450035 Shri ML Bhatia, IDC (Pt) are proposed to be sustained /

- | | |
|-----------------------|--------------------------------|
| (1) Major SS Dhanoo | GE (Fy) Kanpur |
| (2) Shri YR Chawla | Supdt E/M Gde I (Offg AGE E/M) |
| (3) Sub Maj RB Singh | Office Supdt |
| (4) Shri Charan Singh | Office Supdt II |
| (5) Shri US Bhatia | Supdt E/M Gde I |


(SS DHANOO)
MAJOR
GARRISON ENGINEER (FY)

CONFIDENTIAL

True Copy
Attested

Advocate
AMRER.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH.

Registration No. of 1988.

Manohar Lal Bhatia Applicant.

Versus

Union of India and Others Respondents.

ANNEXURE A-13

CONFIDENTIAL

REGISTERED

To

Garrison Engineer (Factory)
Kanpur

through AGE E/M (Fy) Kanpur

Sir,

1. Reference your memorandum vide No C-109/MLB/71/E1 (Con) dated 10 Feb 84 together with statement of article Annexure I to IV.
2. The alleged charges in the above memorandum are not acceptable and denied.
3. Incidentally it is pointed out that respondent is a Lower Division Clerk (Pt) and as such the aforesaid chargesheet issued by you being neither appointing nor disciplinary authority in my case is contrary to the existing rules which may please be clarified. kindly also refer to Article 311 of the Constitution of India.
4. In response to para 2 of the aforesaid memorandum it is submitted that I desire to hear in person before the Inquiry Officer appointed by competent appointing/disciplinary authority as per CCS (CC&A) Rules 1965.

Thanking you,

Yours faithfully,

Dated the 18 Feb 1984

Sd/-
(ML BHATIA)
MES/450035 LDC PT

CONFIDENTIAL

*True Copy
Att. Sec. & Records
see Advocate*

*N.K. Nair
ADVOCATE,
KANPUR.*

WBY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD BENCH.

Registration No. of 1988.

Manohar Lal Bhatia Applicant.

Versus

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

ANNEXURE A-14

CONFIDENTIAL

REGISTERED

Tel: 20126

GARRISON ENGINEER (FY)
ARMAPORE POST
KANPUR-9

C-109/MLB/80/E1C

27 FEB 84

MES/450035
Shri ML BHATIA, LDC
Thro AGE E/M

INQUIRY REGARDING COMPLAINT FROM SHRI ML BHATIA
LDC

1. It has been intimated by CWE Bhopal (Presiding Officer) vide his letter No VND/INQ/MLB/38/E1 (Con) dated 20 Feb 84 that Shri ML Bhatia, LDC be directed to report To CWE Jhansi on 01 Mar 84 in connection with the subject court of inquiry.

Movement Order is being issued separately.

Sd -
(SS SAMYAL)
Capt

Actg GARRISON ENGINEER (FY)

Copy to:-

E-1 Sec for issue of movement order.

*True copy
Attested
M. P. Mair
ADVOCATE,
KANPUR.*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD BENCH.

Registration No.

of 1988.

Manohar Lal Bhatia Applicant.

Versus

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

ANNEXURE A-15

CONFIDENTIAL

REGISTERED

MOVEMENT ORDER

1. MES/450035 Shri ML BHATIA, LDC of this office is hereby detailed to proceed on temporary duty to CWE Jhansi and back.

- (a) Date of commencement : 29th Feb 84 (AN)
(b) Probable Stay : One week (or till completion of duty)
(c) Purpose of duty : To attend a Departmental Court of inquiry being held in CWE Jhansi on 1st Mar 84 at 1000 hrs and onwards in connection with investigation of a complaint made by Shri ML Bhatia, LDC.

Sd/-

(SS SAMYAL)
CAPT

1204-S/961/E1
GARRISON ENGINEER (FY)
ARMAPORE POST
KANPUR-208009

Offg GARRISON ENGINEER (FY)

28 FEB 84

DISTRIBUTION

1. MES/450035 Shri ML BHATIA, LDC - for compliance.
2. Chief Engineer Central Command LUCKNOW.
3. Chief Engineer Lucknow Zone, LUCKNOW.
4. Chief Engineer Jabalpur Zone, Jabalpur.
5. CWE Bhopal - wrt their letter No VNK/INQ/MLB/38/E1 (Con) dt 20 Feb 84
6. CWE Jhansi
7. CWE Kanpur - formal sanction of the above may please be obtained.
8. CE Babina
9. AAO CDA CC Lucknow
10. UA GE (Fy) Kanpur
11. AGE E/M (Fy) Kanpur

my

*Total copy
Att. Secy
M. K. Nair
ADVOCATE.
KANPUR*

A72

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD BENCH.

Registration No. of 1988.

Manohar Lal Bhatia Applicant.

Versus

Union of India and Others Respondents.

ANNEXURE A-16

CONFIDENTIAL

REGISTERED

To

GE (FY) Kanpur

Through AGE E/M (Fy) Kanpur

MOVEMENT ORDER FOR TEMPORARY DUTY : SUBORDINATE

Sir,

1. Reference your MO No 1204-S/961/E1 dated 28 Feb 84 received through AGE E/M (Fy) on 28 Feb 84 at 1530 hours.
2. Please confirm that security arrangements requested in para 4 of my revision petition dated 12 Dec 83 have been made.
3. I shall move immediately to the enquiry places of CWE Jhansi area on receipt of the confirmation.
4. The confirmation sought for in para 5 of my above referred petition has not been given to me so far. This may please be given to me for my guidance and further action in the matter.

Thanking you,

Yours faithfully,

Dated the 29 Feb 84

Sd -

ML BHATIA)
LDC Pt

*True copy
Attested
[Signature]*

AD
KANPUR

was

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH.

Registration No. of 1988.

Manohar Lal Bhatia Applicant.

Versus

Union of India and Others Respondents.

ANNEXURE A-17

CONFIDENTIAL

REGISTERED

Tel: 20126

GARRISON ENGINEER (FY)

C-109/MLB/85/E1 (Con)

ARMAPORE POST

KANPUR-9

01 MAR 84

MES/450035

Shri ML BHATIA, LDC

Thro AGE E/M

MOVEMENT ORDER FOR TEMPORARY DUTY: SUBORDINATE

1. Reference this office Movement Order No 1204-S/961/E1 dt 28 Feb 84 and your application dated 29 Feb 84.
2. Your revision of petition dt 12 Dec 83 as referred to in para 2 of your above mentioned application has already been forwarded to CWE Kanpur for onward transmission. Your demand about security arrangement by this office is beyond our action.
3. As regards para 4 of above referred application, it is informed that your appeal dated 14 Nov 83 (as mentioned in para 5 of your revision of petition dt 12 Dec 83) was forwarded by us to CWE Kanpur which was the proper channel.. After consideration it was rejected by CE CC Lucknow which was communicated to you vide this office letter No C-109/GEN/ 143/E1 (Con) dt 02 Dec 83.
4. Please confirm receipt of this letter.

Sd -
(SS DHANOA)
MAJOR
GARRISON ENGINEER (FY)

*True Copy
Attested*
N.K. Mishra
ADVOCATE
KANPUR.

CONFIDENTIAL

nm

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH.

Registration No. of 1988.

Manohar Lal Bhatia Applicant.

Versus

Union of India and Others Respondents.

ANNEXURE A-18

CONFIDENTIAL

To

The Chief Engineer,
Central Command,
Lucknow.

Through Proper Channel

COMPLAINT FROM ML BHATIA, LDC AGAINST AGE (I) TALBEHAT :
REVISION OF PETITION.

Respected Sir,

1. The applicant most respectfully invites kind attention of H'ble Chief Engineer to his revision appeal dated 12 Dec 83 and request that his case for move to CWE Jhansi area may please be reconsidered sympathetically.
2. The applicant intimated the cases of corruptions to Brig Dipankar Rai, Chief Engineer Jabalpur Zone under his letter dt 28 Feb 83 wherein MES officers of CWE Jhansi area misappropriated lakhs of rupees in short duration of two to three years, with the moto that that these cases will be personally investigated by the respected chair and therefore the applicant vide his para 18 of his letter dt 28 Feb 83 requested the Chief Engineer Jabalpur Zone that in case he desires the applicant on person for explaining the briefs of points or required documentary evidences the applicant is ready to highlight on the cases and also ready to move to their Zonal Office at Jabalpur at own expense of the applicant on the required dates/times. The applicant in support of the above statement reproduces the contents of para 18 of his letter dt 28 Feb 83 for ready reference and information please:-

"The facts of the cases enumerated in above paras are not merely allegations but are 100% true. There are certain exemplary proofs with documents and references are available with me in support of above statements. On investigation of cases based on exemplary proof many more irregularities will come to light and I assure you Sir, that your H'ble Sir will find misappropriation of lakhs of rupees. I am ready at your disposal to send the

(contd....)

MB

(2)

exmplary proof duly typed alongwith photostat copies of manuscripts as and when called for by your goodself. In case your honour desire me in person to explain the briefs of the points I am ready to move to your H'ble office on the date and time given at my cost."

3. From the contents of above para your goodself may conclude that the applicant was fully prepared for association to highlight the cases and ready to move to Zonal Office of Jabalpur at own cost for country sake. Due to compelling circumstances created by involved officers/staff and suppliers/contractors of CWE Jhansi area the applicant feared and therefore requested for security arrangement for protection of applicant's life at CWE Jhansi area

4. As regards the applicant's request for security arrangement for protection of his life, in this connection it is once again pointed out that certain unknown reps of AGE Talbehat/Babina & Jhansi and Suppliers/Contractors threatened the applicant that in case he tries to disclose the facts before the investigating body he will be put severe damages to his body. Due to threatening by BUNDA reps the applicant feared of his life and therefore could not take risk of his life as he is the only earning hand in his family members consisting of 5 numbers.

5. The applicant has risk of his life at CWE Jhansi area therefore he may not be forced to move there for attending enquiries. The applicant request the H'ble Chair of the Command that applicant statement may please be taken/heard at Bhopal the HQ office of the Presiding Officer of the Enquiry i.e. CWE Bhopal or at Jabalpur Zonal Office of the Chief Engineer or any other places except CWE Jhansi (Babina/Talbehat) area. The applicant is ready to move those places on the dates/times he is required by Presiding Officer/Investigating officer. The applicant can freely associate the enquiry proceedings.

6. In view of the circumstances enumerated above, the poor low paid applicant pray to the respected Chair that his request may please be considered sympathetically with mercy attitude and he may not be forced to move to CWE Jhansi area where he has risk of his life.

7. The applicant desire to explain his grievances in the matter to H'ble Chief Engineer, it is therefore requested he may please be granted an interview of the Chief Engineer at his own cost.

Thanking you in anticipation Sir,

Yours faithfully,

Sd/-
(ML Bhatia)
LDC Pt
MES/450035
C/O GE (Fy) Kanpur.

Dated the 09 Mar 84.

CONFIDENTIAL

*True Copy
Attested
N.K. Mehta
ADVOCATE,
KANPUR.*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD BENCH.

Registration No. of 1988.

Manohar Lal Bhatia Applicant.

Versus

Union of India and Others Respondents.

ANNEXURE A-19

CONFIDENTIAL

REGISTERED

Tel: 20126

C-109/MLB/93/E1/ (Con)

MES/450035

SHRI ML BHATIA, LDC

Thro AGE E/M

GARRISON ENGINEER (FY)

ARMAPORE POST

KANPUR-9

14 MAR 84

COMPLAINT FROM SHRI ML BHATIA
AGAINST AGE (I) TALBEHAT/

1. A relevant extract of CE LZ Lucknow letter No 122040/8/E1 (Con) dated 02 Mar 84 Co CE CC Lucknow is reproduced below for your information.

" The presiding Officer may please be advised to dispense with the presence of Shri ML Bhatia, LDC in the Court of Inquiry since he has already shown his inability for the same and which the initiation of disciplinary proceedings against him has already been directed vide your above referred letters."

2. In view of the above, you are still advised to review your intention/decision and proceed to attend court of inquiry/in your own interest.

at Jhansi

Sd /
(SS DHANOA)
MAJOR
GARRISON ENGINEER

CONFIDENTIAL

*True copy
Attested
N.R. Nair
ADVOCATE,
KANPUR.*

Mdy

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH.

Registration No. of 1988.

Manohar Lal Bhatia Applicant.

Versus

Union of India and Others Respondents.

ANNEXURE A-20

CONFIDENTIAL

REGISTERED

Tel: 68451

Headquarters
Commander Works Engineer
No 1 Wheeler Barrack
Kanpur Cantt-208004

C/106/MLB/21/E1 (Con)

14 Mar 84

O R D E R

WHEREAS an inquiry under rule 14 of the Central Civil Service (Classification, Control and Appeal) Rules, 1965 is being held against MES-450035 Shri ML Bhatia, LDC Pt.

AND WHEREAS the undersigned considers that an Inquiring Authority should be appointed to inquire into the charges framed against him.

NOW, THEREFORE, the undersigned, in exercise of the power conferred by sub-rule (2) of the said rule, hereby appoints MES-200113 Shri SK Sadhu, EE of GE (P) Fy Kanpur as Inquiring Authority to inquire into the charges framed against the said Shri ML Bhatia, LDC Pt.

(NK GOYAL)
Lt Col

Commander Works Engineers

To

MES-450035
Shri ML Bhatia, LDC Pt
(Through GE Fy Kanpur)

MES-200113
Shri S K Sadhu, EE
GE (P) Fy Kanpur

MES-465182
Shri O P Sharma, AE B/R
GE Fy Kanpur

GE Fy Kanpur

True Copy
Attended
N.C. Nair
ADVOCATE,
KANPUR.

CONFIDENTIAL

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD BENCH.

Registration No. of 1988.

Manohar Lal Bhatia Applicant.

Versus

Union of India and Others Respondents.

ANNEXURE A-21

REGISTERED

CONFIDENTIAL

Tel: 20126

C-109/MLB/107/E1C

MES/450035

Shri ML BHATIA, LDC

Thro AGE E/M

GARRISON ENGINEER (FY)
ARNAPORE POST
KANPUR-9

09 APR 84

DEPARTMENTAL INQUIRY BEGARDING COMPLAINT
FROM SHRI ML BHATIA, LDC/

1. It has further been intimated by CWE Bhopal (Presiding Officer of the inquiry) vide his letter No VND/INQ/MLB/42/E1 (Con) dated 5 Apr 84 that Shri ML Bhatia, LDC be directed to report to CWE Jhansi on 10 Apr 84 in connection with the subject inquiry being assembled wef 11 Apr 84 to 13 Apr 84 at CWE Jhansi/GE Babiba/AGE sub-~~ED~~Divn Talbehat.

2. Movement order is being issued spearately.

SA.

(S S DHANOA)

MAJOR

GARRISON ENGINEER (FY)

Copy to:-

E-1 (Sec) for issue of movement order.

*True Copy
Attested
M.S. Nair
ADVOCATE.
KANPUR.*

Wdy

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH.

Registration No. of 1988

Manohar Lal Bhatia Applicant.

Versus

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

ANNEXURE A-22

CONFIDENTIAL

REGISTERED

MOVEMENT ORDER

1. MES/450035 Shri ML Bhatia, LDC of this office is hereby detailed to proceed on temporary duty to CWE Jhansi and back.

(a) Date of Commencement: 10th Apr 84

(b) Probable stay : One week

(c) Purpose of duty : To attend a Departmental court of inquiry being held at EWE Jhansi/GE Babina/AGE sub Divn Tal-behat wef 11 Apr 84 to 13 Apr 84 at 1000 hrs onwards in connection with investigation of a complaint made by Shri ML Bhatia, LDC

1204-S/973/E1
GARRISON ENGINEER (FY)
ARMAPORE POST
KANPUR-208009
09 APR 84

(S S DHANOA)
MAJOR
GARRISON ENGINEER (FY)

DISTRIBUTION:↓

1. MES/450035 Shri ML Bhatia, LDC - for compliance.
2. Chief Engineer Central Command LUCKNOW
3. Chief Engineer Lucknow Zone, LUCKNOW
4. Chief Engineer Jabalpur Zone, JABALPUR
5. CWE Bhopal - wrt his letter No VND/INQ/MLB/42/E1 (Con) dated 5 Apr 84.
6. CWE JHANSI
7. CWE Kanpur - Formal sanction of the abovementioned move may kindly be obtained.
8. GE Babina
9. AAO CDA CC Lucknow
10. UA GE (FY) Kanpur
11. AGE E/M (FY) Kanpur
12. Case No C-109/MLB/E1 (Con)

ms

*True copy
Attested
M. C. Nair
ADVOCATE,
KANPUR*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD BENCH.

Registration No. of 1988.

Manohar Lal Bhatia Applicant.

Versus

Union of India and Others Respondents.

ANNEXURE A-23

CONFIDENTIAL

REGISTERED

To

Garrison Engineer (Factory)
Kanpur

through AGE/ E/M (Fy) Kanpur

MOVEMENT ORDER : TEMPORARY DUTY

Sir,

1. Reference your movement order No 1204-S/973/
E1 dated 09 Apr 84.

2. In this connection attention of the higher authorities may please be invited to my revision appeals dated 12 Dec 83 and 09-3-84. Decision of the above said appeals has not been received by me so far.

Yours faithfully,

sd.

(ML BHATIA)

LDC Pt

C/o AGE E/M (Fy) Kanpur

Dated the 10 Apr 84.

CONFIDENTIAL

WDR

*True Copy
Hte. Ste. 4*
N. S. Mair
ADVOCATE,
KANPUR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD BENCH.

Registration No. of 1988.

Manohar Lal Bhatia Applicant.

Versus

Union of India and Others Respondents.

ANNEXURE A-24

REGISTERED

CONFIDENTIAL

Tel: 20126

GARRISON ENGINEER (FY)
KALPI ROAD
KANPUR-208009.

C-109/MLB/116/EIC

07 May 84

Shri ML Bhatia, LDC

COMPLAINT : SHRI ML BHATIA, LDC

1. Reference your appeal dt 09/3/84.
2. Your appeal for interview with Chief Engineer Central Command Lucknow has been considered and rejected by him Authority CE CC Lucknow Letter No 90060/1003/54/E1 (Con) dated 26/4/84).
3. You are hereby advised for your own Interest to proceed to the place where you were ordered to more.

Copy to:-

(SS DHANOA)
MAJOR
GARRISON ENGINEER (FY)

CWE kanpur for information please.

CONFIDENTIAL

True Copy
Attended
recd
may
N.S. Nair
ADVOCATE,
KANPUR,

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH,

Registration No. of 1988.

Manohar Lal Bhatia Applicant.

Versus

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

ANNEXURE A-25

CONFIDENTIAL

REGISTERED

To

Garrison Engineer (Fy)
Kanpur

COMPLAINT : SHRI ML BHATIA, LDC

1. Reference your letter No C-109/MLB/116/E1C dt. 7 may 8 1984.

2. In compliance with order in para 3 of your letter cited in para I above, it is submitted that I had never refused to attend the Inquiry in the past. I could not move on account of apprehence of danger to my life as stated in my pervious letters.

3. It is however submitted that if there is no apprehension of any untoward happenings, I am prepared to move to attend the Inquiry as and when ordered but the responsibility of any kind of untoward happenings will rest with the Administration.

4. In view of the facts enumerated above and your order in para 3 of your letter under reference for proceeding to Inquiry place, I may please be intimated the date of move to the Inquiry place through proper movement order.

Thanking you,

Yours faithfully,

Sd/-

(ML BHATIA)
LDC PE

Dated the 14 May 84.

CONFIDENTIAL

*True copy
Attested
N.K. Nair
ADVOCATE
KANPUR.*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH.

Registration No. of 1988.

Manohar Lal Bhatia..... Applicant.

Versus

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

ANNEXURE A-26

CONFIDENTIAL

REGISTERED

To

The Chief Engineer
Central Command
Lucknow

Through : Proper channel

COMPLAINT FROM ML BHATIA LDC AGAINST AGE (I) TALBEHALI

Respected Sir,

1. Reference applicant's revision of petition dated 12.12.83 and appeal dated 09 Mar 84.
2. The applicant most respectfully invites the kind attention of the H'ble Chief Engineer to his above referred appeals and request for early decision from the respected chair.
3. The applicant's ~~XXXX~~ appeals may please be considered sympathetically with mercy attitude and your decision please be given so that the applicant may made himself accordingly.

Thanking you in anticipation sir,

Yours faithfully,

Dated the 8 May 84

Sd -
(ML BHATIA)
LDC Pt

C/o GE (Fy) Kanpur-9

CONFIDENTIAL

102M

True copy
Attested by
N.K. Nair
ADVOCATE
KANPUR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH.

Registration No. _____ of 1988.

Manohar Lal Bhatia Applicant.

Versus

Union of India and Others Respondents.

ANNEXURE A-27

CONFIDENTIAL

Tel : 20126

GARRISON ENGINEER (FY)
ARMAPORE POST
KANPUR-9

C-109/MLB/120/E1(Con)

17 MAY 84

Shri ML Bhatia,
LDC (Pt)
Thro AGE E/M

COMPLAINT FROM SHRI ML BHATIA, LDC
AGAINST AGE (I) TALBEHAT /

1. Reference your application dated 8th May 84 added to CE CC Lucknow.
2. Your above mentioned application was forwarded to CWE Kanpur for further disposal who has returned the same with the remarks that decision of the Chief Engineer Central Command has already been forwarded vide their letter No 900601/1003/54/E1(Con) dated 26 Apr 84, which has been communicated to you vide this office letter No. C-109/MLB/116/ELC dated 07 May 84. Full extract of para 2 of CE CC Lucknow above referred letter No. 900601/1003/54/E1(Con) dt 26 Apr 84 is reproduced below for your information.

"Representation dated 09 Mar 84 of Shri ML Bhatia, LDC regarding interview with Command Chief Engineer and regarding his statement at Bhopal or Jabalpur, has been considered by Command CE and rejected. Command Chief Engineer directs that Shri ML Bhatia must proceed to a place where he was ordered to move in connection with inquiry or face disciplinary action. Shri Bhatia has been delaying this for long time."

3. Your above referred application dated 8th May 84 is returned herewith in triplicate.

Sd/- (SS SANYAL)
Capt
Offg GARRISON ENGINEER (FY)

Encl :- As above.

CONFIDENTIAL

May

True Copy
Attested
N.K. Maio
ADVOCATE,
KANPUR.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH.

Registration No. of 1988.

Manohar Lal Bhatia Applicant.

Versus

Union of India and Others Respondents.

ANNEXURE A-28

Tel: 20126

GARRISON ENGINEER FY)
ARMAPORE POST
KANPUR-9

C-189/MLB/122/E1(Con)

18 MAY 84

Shri M.L. Bhatia
LDC (Pt)
Thro AGE E/M

COMPLAINT: SHRI ML BHATIA, LDC

1. Reference your application dated 14th May 84 addsed to this office.
2. In this connection your attention is drawn to para 2 of CE CC Lucknow letter No. 900601/54/E1(Con) dt 26 Apr 84(extract reproduced under this office letter No C 109/MLB/120/E1(Con) dt 17th May 84) under which it has been directed inter alia by Command Chief Engineer that you must proceed to a place where you were ordered to move in connection with inquiry or face disciplinary action. Hence, if you have to say anything against this decision/directive of Command Chief Engineer, the application/representation may be made to CE CC Lucknow.
3. However, it is stated that you were repeatedly ordered to proceed to CWE Jhansi/GE Babina/AGE Sub Divn Talbehat to attend the inquiry but you did not comply with the orders submitting appeals on one reason/ground or other. This office last Movement Order No 1204-S/973/E1 dt. 09 Apr 84 also refers.
4. As regards para 3 of your above application, please refer to last line of para 2 of this office letter No C-109/MLB/85/E1 (Con) dt 01 Mar 84 under which it was mentioned that your demand about security arrangement by this office is beyond our action. Hence, the responsibility of any kind of untoward happenings does not rest with the administration. As such, please state categorically if you are prepared unconditionally to proceed to the place where you are ordered to move in connection with the inquiry, in question, so that the Presiding Officer of the inquiry may be requested to fix the next date of inquiry.

Sd/= (SS SAMYAL)
Capt
Offg GARRISON ENGINEER

*True copy
Attested*
M.R. Moha
ADVOCATE
KANPUR
CONFIDENTIAL

MY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH.

Registration No. of 1988.

Manohar Lal Bhatia Applicant.

Versus

Union of India and Others Respondents.

ANNEXURE A-29

CONFIDENTIAL

Tel: 20126

GARRISON ENGINEER (FY)
ARMAPORE POST
KANPUR-9

G-109/MLB/131/E1(Con)

12 JUN 84

Shri ML Bhatia,
LOC
Thro AGE E/M

COMPLAINT FROM SHRI ML BHATIA, LOC
AGAINST AGE (I) TALBEHAT /

1. Reference your application dated 23rd May 84 added to GE CC Lucknow.
2. It has been intimated by CWE Bhopal, as communicated by CWE Kanpur to this office, that the proceedings of the C of I ordered on the subject have already been finalised and forwarded to Chief Engineer.
3. Decision of Chief Engineer on your above referred application has not yet been received. This is for your information.

Sd/= (SS DHANOA)
MAJOR
GARRISON ENGINEER

CONFIDENTIAL

*True copy
Attested
M. K. Bhatia
ADVOCATE.
KANPUR.*

MBS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH.

Registration No. of 1988.

Manohar Lal Bhatia Applicant.

Versus

Union of India and Others Respondents.

ANNEXURE A-30

CONFIDENTIAL

To

Shri SK Sadhu, EE
Inquiry Officer
GE (P) Fy No 1 Kanpur

Thro : GE (P) Fy No 2 Kanpur.

INQUIRY UNDER RULE-14 OF CCS (CC&A) RULES 1965
AGAINST SHRI ML BHATIA LDC (Pt)

Sir,

1. Reference your letter No. C-105/MLB/9/ELC dated 02 Jul 84 under which a copy of Presenting Officer's Written Brief has been received.

2. The contention of the Inquiry Officer that theaforesaid "Written Brief" was shown to me during the course of hearing is not agreed to. The fact brings out that on my request vide letter dated 30 Jun 84, the Written Brief vide your above quoted letter has only been supplied to me on 02 Jul 84.

3. I, delinquent respondent do hereby affirm and state in response to aforesaid Presenting Officer's Written Brief on the basis of facts as under:-

Para 1 - No comments

Para 2 - No comments

Para 3 - No comments except the Presenting Officer contention that I "did not move to attend departmental court of enquiry with one or other pretext" cannot be agreed to. The facts remain on the records that I requested for security arrangements as there was every likelyhood to put my life an end to by the suppliers/staff involved directly or indirected in the cases. To request for security arrangements from the concerned authorities should not be taken as refusal or pretext unnecessarily.

Para 4(a) - Movement Order No 1007-C/1350/E1 dt 9 Aug 83 was received through AGE E/M (Fy) Kanpur on 11 Aug 83 (date of move 16.8.83). Since an appeal dt 9 Aug 83 was already made to CE CC Lucknow for security arrangement explaining some other difficulties I have to wait for its decision. My appeal dt 13 Aug 83 addressed to GE (Fy) Kanpur against the above said MO dt 9 Aug 83 also refers. The department is still at liberty to pin point the culprits and to take suitable action against them on the basis of the cases informed to higher authorities with proper documentary evidences/references. I never avoided move to attend departmental Court of Inquiry as contemplated by the

M. S. S.

(contd.....2)

(2)

Presenting Officer but the facts remain on the records that the marriage of my daughter performed on 10 Sep 83 for which I was busy for about two months completely because I was the only male member in my family to arrange all negotiations, rites, receptions etc. So far as linking of my old TA/DA & LTC claims are concerned, the department i.e. GE Sa gor as well as CE CA Jabalpur (now CE (P) Jabalpur) did not extend co-operation rather well tried to harass and harm financially to me. Since advances have been drawn to perform journeys against the so called TA/DA & LTC, I had to correspond regarding my legitimate rights for the same unless and until the demands noted at ODA's level are liquidated and confirmed. As regards my request for Staff C of I instead of Departmental C of I for investigations of the irregularities committed by AGE(I) Talbehat and CWE Jhansi, please refer to para 5, 6 and 7 of ~~the~~ my Petition dated 14 Nov 83 addssd to CE CC Lucknow. No movement order was issued by the GE (Fy) Kanpur upto 3.12.83 in accordance with the contention of para 3 of his letter No C 109/GEN/131/ELC dt 31 Oct 83 hence the question for non-compliance does not arise at all. In this connection my Petition dt 14 Nov 83 addssd to CE CC Lucknow refers. The decision of my Petition dt 14.11.83 was received only on 3.12.83 vide GE (Fy) Kanpur letter No C 109/GEN/144/ELC dt 3 Dec 83 while on medical leave wef 2.12.83 to 7.12.83 (resumed the duties on 8.12.83 F/N alongwith MC Fitness). It is also added that GE (Fy) Kanpur letter dated 31 Oct 83 does not prove any of the rejection of my representation dated 9 Aug 83 and as such contention of the Presenting Officer is absolutely a step to sight-tract the issue.

Para 4(a)(i) - It is absolutely denied that I avoided move to attend the Department C of I and disobeyed the orders of my superiors. The Presenting Officer has not correctly brought to light the facts on the case. The facts have been explained in the proceedings paragraphs:

Para 4(a)(ii) - The petitioner has never imposed allegations on AGE (1) Talbehat/suppliers/contractors as alleged herein by the Presenting Officer only. The respondent has only informed certain exemplary cases of irregularities at AGE (I) Talbehat with reference to documentary evidences in the best interest of State being a loyal subordinate for which the department ought to have consideration for investigations as well suitable action against the liables. The term imposition of certain allegations as alleged by the Presenting Officer tantamounts his emotional actions beyond the jurisdiction of these Inquiry Proceedings. So far as to prove those cases are concerned, the departmental/staff investigations are only can do so. The Presenting Officer be asked to clarify/cite the authority on which he has presented before the Inquiry Officer in his Written Brief about the statement "which he cannot prove now". I feel that Presenting Officer is much interested to pressurise the Inquiry Officer for gaining undue favour beyond the rights to present this case. The cases of irregularities informed are self explanatory based on documentary evidences/information.

Para 4(a)(iii) - Being a Govt servant I approached the department for security arrangements as I was to move on Govt duties. It is the action of the department to write to Police Force/Civil Authorities for the same. Therefore the charge of Presenting Officer has no weight on this account. I was never advised by the department that such security arrangement can be made by me by direct correspondence/approaches with the Police/Civil authorities.

Para 4(b) & (c) - Movement Order No. 1204-S/229/El dt 2 Dec 83 mentioning the date of move as 3.12.83 was served on the same day i.e. 3.12.83 at 1400 hrs at my residence through the Board detailed as I was on sick bed. I resumed the duties along with Medical-Cum-Fitness certificate on 8.12.83 and medical leave

Abha

(contd.....3)

(3)

from 2.12.83 to 7.12.83 was sanctioned and published vide GE(Fy) Kanpur PTO No 30/1/81. Hence the allegations of the so called refusal does not stand reason any way. No deliberate delay has been made by the respondent in receiving alleged letter No. C-109/GEN/144/E1 (Con) dt 3.12.83 alongwith movement order dt 2.12.83. I was on sick bed from 3.12.83 to 7.12.83 and accordingly leave sanctioned and published by GE (Fy) Kanpur. Telegram dt 6 Dec 83 was received on 7.12.83 through postal authorities during my sick period. Since I resumed the duties on 8.12.83 alongwith Medical-cum-Fitness certificate and that too was accepted and sanctioned by the GE and accordingly the leave was regularised. As such Inquiry Officer is requested to judge impartially that I never showed the lack of devotion to my duties and conduct unbecoming of Govt servant as well disobedience of the order. I had/have been very faithful and loyal on all occasions.

Para 4(d) - Admittedly that GE called me on 13.12.83 and told that he just received telegram from Presiding Officer of the Inquiry for holding enquiries on 13 & 14 Dec 83. GE asked me to move to Jhansi immediately for attending enquiries. In this context I requested GE that I have already submitted a revision application on the petition dt 12.12.83 addressed to CE CC Lucknow which have been forwarded to your office by AGE E/M (Fy) Kanpur on the same date i.e. 12.12.83 and therefore I may not please be forced to move to Jhansi until the decision of CE CC Lucknow is conveyed thereon. After the decision of Chief Engineer I shall made myself accordingly for move to Jhansi.

Additional grounds

It is relevant to enclose the copies of the undermentioned correspondence for the perusal and to arrive at a decision impartially by the Inquiry Officer that the respondent has never refused to attend the inquiry in the past but he was only insisting upon that he apprehended for danger of life for which the security arrangements was requested. The allegation as presented before the Inquiry Officer regarding the refusal to attend the Court of Inquiry are baseless and lacking facts altogether. The respondent is still setting his hands to attend the Court of Inquiry if properly ordered for by the respective authorities:-

- a) Photostat copy of GE (Fy) Kanpur letter No. C-109/MLB/120 (Con) dt 17.5.84 which was received by me on 22.5.84 thro AGE E/M (Fy) Kanpur.
- b) Copy of respondent letter dt 23.5.84 addressed to CE CC Lucknow in response to para 2 of his letter dt 26.4.84 reproduced in GE (Fy) Kanpur letter (a) above.

4. It is therefore prayed that in the interest of justice, the enquiry proceedings be kindly decided in favour of the respondent who has been always loyal to the Government and has never refused to move to attend the Court of Inquiry as alleged by the ~~Respondent~~ Presenting Officer in his Written Brief.

Thanking you,

Yours faithfully,

Sd/=
(ML Bhatia)
Respondent.

Dated the 8 Jul 84

CONFIDENTIAL

MLB

*True copy
Attested
M.R. Moir
ADVOCATE,
KANPUR.*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH.

Registration No. of 1988.

Manohar Lal Bhatia Applicant.

Versus

Union of India and Others Respondents.

ANNEXURE A-31

CONFIDENTIAL

Tele Mily : 283

Engineers Branch
Head quarters
Central Command
Lucknow-2

900601/1003/134/E1(Con)

22 Nov 86

ORDER

WHEREAS, a Charge Sheet under rule 14 of CCS (CC&A) Rules, 1965 bearing GE(Fy) Kanpur Memorandum No C-109/MLB/71/E1(Con) dated 10 Feb 84 was served on MES-450035 Shri ML Bhatia, LDC for the charge that he committed misconduct in as much as he did not comply with the orders of his head of the office and of his higher authorities as well, in that he disobeyed the order of GE (Fy) Kanpur served on him in writing to proceed to Jhansi and Babina on temporary duty to attend a Departmental Court of Enquiry in connection with investigation of a complaint made by him.

AND WHEREAS, the said Shri ML Bhatia, LDC submitted his defence statement dated 18 Feb 84 and denied the charges.

AND WHEREAS, Shri SK Sadhu, EE was appointed as Inquiry Officer to enquire into the charges framed against the said Shri ML Bhatia, LDC.

AND WHEREAS, the Inquiry Officer submitted his report, and a copy of Inquiry Report is enclosed.

AND WHEREAS, on careful consideration of aforesaid Inquiry Report and other documents on records the undersigned agrees with the findings of Inquiry Officer that the charges against the said Shri ML Bhatia, LDC are established.

NOW, THEREFORE, the undersigned hereby imposed on the said Shri ML Bhatia, LDC the penalty of 'Reduction of pay by two stages in the time scale of pay of present post for a period of 2 years with immediate effect with further direction that he will not earn increment of pay during the period of reduction and on expiry of this period, the reduction will have the effect of postponing his future increments of pay.'

The receipt of this order should be acknowledged.

Sd/= (JM Rai)
Maj Gen
Chief Engineer.

MES-450035
Shri ML Bhatia, LDC
Through : Chief Engineer
Lucknow Zone
Lucknow.

*True copy
Attested
G.K. Noir
ADVOCATE,
KANPUR.*

CONFIDENTIAL

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH.

Registration No. of 1988.

Manohar Lal Bhatia Applicant.

Versus

Union of India and Others Respondents.

ANNEXURE A-32

-18-

INQUIRY REPORT ON MEMORANDUM OF CHARGES BEARING NO. C-109/MLB/71/E1 (Con) DATED 10/2/84 AGAINST MES/450035 SHRI ML BHATIA, LDC UNDER RULE 14 OF CCS (CC&A) RULES 1965.

of
charges

1. The undersigned was appointed Inquiry Officer to inquire the charges framed against MES/450035 Shri ML Bhatia, LDC in memorandum/bearing No. C 109/MLB/71/E1 (Con) dated 10/2/84 vide CWE, Kanpur Order No. C/106/MLB/21/E1 (Con) dated 14 March 1984.

2. The Inquiry hearings were held on the following dates:-
27 Apr 84, 01 May 84, 30 Jun 84, 02 Jul 84,
06 Jul 84, 09 Jul 84 and 31 Jun 84.

The following witnesses were examined by me:-

1. Major S.S. Dahnoa, GE(FY) Kanpur
2. Shri Y.R. Chawla, Supdt E/M Gde I (Offg. AGE/200 E/M)
3. Shri Charan Singh, Office Supdt Gde II
4. Shri U.S. Bhatia, Supdt E/M Gde I

3. CHARGES FRAMED AGAINST SHRI M.L. BHATIA, LDC

Article I

That the said MES/450035 Shri ML Bhatia, while functioning as LDC in the Office of GE (Fy) Kanpur during the period from 28 Jun 82 to-date has committed Misconduct in as much as he did not comply with the orders of his head of the office and of his higher authorities as well, in that he disobeyed the orders of GE (Fy) Kanpur served on him in writing through the following letters to proceed on temporary duty to attend a departmental court of inquiry in connection with investigations of a complaint dated 28th Feb 83 made by Shri ML Bhatia alleging therein certain irregularities which was to be held in Aug '83, on 5th Dec & 8th Dec 83 and 13/14/Dec 83 in the office of CWE Jhansi, GE Babina and CWE Jhansi/GE Babina respectively.

- (a) GE (Fy) Kanpur Movement Order bearing No. 1007-C/1350/E1 dated 09 Aug 83.
- (b) GE(Fy) Kanpur Movement Order bearing No. 1204-939/E1 dated 02 Dec 83;
- (c) GE (Fy) Kanpur telegram dt 6 Dec 83 and subsequent confirmatory letter No. C-109/GEN/153/E1 dt. 6/12/83 and
- (d) Verbal order of GE (Fy) Kanpur on 13 Dec 83. *Agree*

(contd...)

-19-

Since Shri ML Bhatia had made himself the aforesaid complaint dated 28th Feb '83 alleging therein certain irregularities of AGE (I) Talbehat and for which investigations through departmental court of inquiry were ordered by Chief Engineer Central Command and consequently detailed by GE (Fy) Kanpur, it was obligatory and mandatory on him to attend the inquiry. Instead of complying with the orders he failed to proceed to attend the court of inquiry and submitted appeals repeatedly to Chief Engineer Central Command Lucknow protesting against the departmental inquiry and expressing his desire for a staff court of inquiry and for affording him protection against any apprehended dangers to his life. Appeals of Shri ML Bhatia were considered and rejected by the Command Chief Engineer and he was informed accordingly to proceed for attending the departmental court of inquiry. Further, on ~~being~~ being advised verbally also by his head of the office, Shri ML Bhatia expressed his inability and verbally refused to move on temporary duty to attend the departmental court of inquiry.

That said Shri M.L. Bhatia by non-compliance/disobedience of orders has failed to perform his duty and has shown his conduct unbecoming of a Govt servant and thus has contravened the provisions of Rule 3(1)(ii) & (iii) of CCS (Conduct) Rules, 1964.

4. Shri ML Bhatia, LDC denied all the charges mentioned in the memorandum of charges.

5. All the charges mentioned in the memorandum of charges were enquired into.

6. POINTS FOR DETERMINATION

Whether Shri M.L. Bhatia, LDC disobeyed the orders of GE (Fy) Kanpur, served on him in writing to proceed on temporary duty to attend a departmental Court of Inquiry at CWE Jhansi/Babina/Talbehat in connection with investigations of a complaint dated 28 Feb 83 made by Shri M.L. Bhatia, LDC alleging therein certain irregularities.

7. FINDINGS:-

- (a) Shri M.L. Bhatia, LDC had accepted the movement orders served on him time to time, through some of them after prolonged efforts/persuasions but he never indicated his willingness to move to Jhansi/Babina to attend court of inquiry.
- (b) On 13 Dec 83, when Shri ML Bhatia was verbally advised by his GE, Maj. SS Dhanoa, in presence of his Offg. AGE E/M, he expressed his inability to proceed on this Temp. Duty stating that he was feeling great danger to his life at the place of C of I, as MES officials and some civilians were hostile to him there and that he was prepared to proceed on T.D. provided adequate protection to his life is assured to him.
- (c) The individual had subsequently given an undertaking that he was prepared to attend the C of I if it was held at Jabalpur or Bhopal or any other place except the CWE, Jhansi (Babina/Talbehat) area.

(contd....)

MBS

= 20 =

- (d) From the evidences of the witnesses and the delinquent Govt. servant it transpires that Shri ML Bhatia did not categorically refuse the orders of his GE to proceed to attend the C of I at Jhansi/Babina/Talbehat but had been verytime asking for assurance for protection against any danger to his life which he feared at these places and finally he had expressed his willingness to attend C of I if held at a place other than Jhansi/Babina/Talbehat. On the other hand Shri ML Bhatia did not proceed on T.O. to attend the C of I despite the M.O's having been served on him. But from the available evidence it is not established that Shri M.L. Bhatia's apprehension of danger to his life to attend C of I at Jhansi/Babina/Talbehat was an excuse merely to avoid his presence at the C of I or it was a fact.
- (e) The charge against Shri M.L. Bhatia is partly established in that he did not proceed to attend the C of I at Jhansi/Babina/Talbehat despite the Movement Orders having been served on him, expressing apprehension of danger to his life if he attended C of I at any of these places and further he expressed his willingness to attend the C of I if it was held at Jabalpur or Bhopal or any other places except Jhansi/Babina/Talbehat.

Station : Kanpur-9.

Sd/= (S.K. SADHU)
EE

Dated : 25 Aug '84.

GARRISON ENGINEER.

True Copy
Attested
M.R. Bhatia
ADVOCATE.
KANPUR.

18/8/84

- 84 -
In the Central Administrative Tribunal AGM
Allahabad Bench A
Regn No 71988
CONFIDENTIAL ML Bhatia is living in Delhi
Annexure - A - 33

To

The Engineer-in-Chief
Army Headquarters
Kashmir House DHQ
NEW DELHI-11

(Through: Proper Channel)

APPEAL UNDER RULE 23 AND 25 OF CCS (CC&A) RULES 1965

Respected Sir,-

1. With due apology, submission and regards I beg to submit that while serving in the office of GE (FY) KANPUR, I was served upon with the Charge Sheet under Rule 14 vide Memorandum No. C-109/MLB/71/E1(Con) dated 10 Feb 84 and departmental inquiry was instituted for the sake of formality which was conducted as such with irregular, unprocedural planned manner to victimise and with vindictive object as per directions and pressurisation by the higher authorities. I have been imposed with the penalty under Engineer Branch Headquarter Central Command Lucknow Order bearing No.900601/1003/134/E1(Con) dated 22 Nov 86 (received by me on 17 Dec 86 through GE (P) FY Kanpur which is reproduced hereunder for your ready information and perusal:-

"WHEREAS a Charge Sheet under rule 14 of CCS (CC&A) Rules, 1965 bearing GE (FY) Kanpur Memorandum No. C-109/MLB/71/E1 (Con) dated 10 Feb 84 was served on MES-450035 Shri ML Bhatia, LDC for the charge that he committed misconduct in as much as he did not comply with the orders of his head of the office and of his higher authorities as well, in that he disobeyed the orders of GE (FY) Kanpur served on him in writing to proceed to Jhansi and Babina on temporary duty to attend a Departmental Court of Inquiry in connection with investigation of a co-mplaint made by him.

AND WHEREAS, the said Shri ML Bhatia, LDC submitted his defence statement dated 18 Feb 84 and denied the charges.

AND WHEREAS, Shri SK Sadhu, BE was appointed as Inquiry Officer to enquire into the charges framed against the said Shri ML Bhatia, LDC.

AND WHEREAS, the Inquiry Officer submitted his report and a copy of Inquiry Report is enclosed.

AND WHEREAS, on careful consideration of aforesaid Inquiry Report and other documents on records the undersigned agrees with the findings of Inquiry Officer that the charges against the said Shri ML Bhatia, LDC are established.

ML Bhatia

Contd...P/2.

- 2 -

NOW, THEREFORE, the undersigned hereby imposes on the said Shri ML Bhatia, LDC the penalty of 'Reduction of pay by two stages in the time scale of pay of present post for a period of 2 years with immediate effect' with further direction that he will not earn increment of pay during the period of reduction and on expiry of this period, the reduction will have the effect of postponing his future increments of pay."

2. Having been aggrieved with the above mentioned impugned penalty order, I beg strongly to protest and to appeal for seeking redressal/justice on the basis, grounds and facts deposed hereunder in succeeding paras for your kind consideration and impartial decision.

2. That while serving as Lower Division clerk in the office of GE (Fy) Kanpur, I made a submission dt 28 Feb 83 pointing out certain serious irregularities, procedural lacunas in procurement of stores as well carrying out job works on exorbitant high rates with an intention to embattle the public money by unfair means by the officers and staff of AGE Talbela t. Such submission was made by me being a loyal Govt servant and with the expectation th at the deptt shall hold the opinion in proper perspective for eradicating the corruption and will ensure faith to the Govt for betterment of the country. But I am aggrieved here to point out that such submission was not given due weightage and it was termed as allegation contained in the written complaint dated 28 Feb 83" under CECC Lucknow letter No.900601/1003/2/E1(Con) dated 13 Jul 83 (Exhibit I). Furthermore it was considered by CE CC Lucknow out of the way and requirement that I should associate with the Investigating Officer while on the occasion of proceeding the Departmental Court of Inquiry and for the purpose temporary attachment in the vicinity of CWF Jhansi was enforced.

3. That an extract of CECC Lucknow letter No.900601/1003/4/E1(bq) dated 17 Jul 83 was reproduced under GE (Fy) Kanpur letter No.C-109/GEN/85/E1 (Con) dt 6 Aug 83 (Exhibit II), according to which it was intimated that I should be remained attached with CWF Jhansi with immediate effect and likely duration for such attachment would be six weeks.

Contd....P/3.

M Bhatia

[Signature]

- 3 -

4. That under the authority of GE CC Lucknow letter No.900601/1003/4/E1 (Con) dated 27 Jul 83 I was served with the Movement order by GE (FY) Kanpur No.1007-C/1530/E1 dated 09 Aug 83 mentioning the date of commencement as 16 Aug 83 assigning the purpose of the duty/attachment with CWE Jhansi for attending departmental Court of Inquiry. The distribution of copies was made to CE CC Lucknow, CE LZ Lucknow, CE CZ Jabalpur, CWE Jhansi amongst others but there was no mention to the investigation officer as well as no copy was endorsed to the formation concerned of Investigating officer.

5. That referring to CE CC Lucknow letter ibid dt 27 Jul 83 and GE (FY) Kanpur letter ibid dt 6 Aug 83 I made an appeal dt 09 Aug 83 (Exhibit III) elucidating the position that large number of irregularities committed by AGE Talbehalat alongwith documentary proofs on photostat available in support of these cases was sent under Registered letter dt 6 Aug 83 to CE JZ Jabalpur and it was also disclosed that no more/further documents/evidences and proofs are known and available with me to highlight in the cases of irregularities. It was also made very clear that the officers/suppliers and contractors of Talbehat/Babina/Jhansi directly or indirectly concerned in the said submission dt 28 Feb 83 may try to put me mental physical torture and as such there was every likelihood to endanger my life there. My said application dt 09 Aug 83 is self explanatory in contents and being a Government Servant I was holding full entitlement to get proper consideration by the Department on the same.

6. That till Nov 83 it was not apprised anything by GE (FY) Kanpur or any authority concerning or keeping in relation with the aforesaid matter for the purpose of inquiry. Suddenly the Movement order vide GE (FY) Kanpur No.1204-S/939/E1 dt 19 Nov 83 by cutting down the said figure and made dated 02 Dec 83 was (Exhibit IV) issued/to proceed on duty/attachment for the purpose of Departmental Court of Inquiry stated to be scheduled in GE Babina on 5th Dec 83 in connection with investigating the matter submitted by me. I was on sick leave on 2nd Dec 83 and subsequent

W.B. Bhat

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- 4 -

days upto 7 Dec 83. During myself on sick leave, it was understood that Shri Charan Singh, Office/Supdt Gde II was detailed to deliver this MO at my residence. Accordingly Shri Charan Singh visited my home on 02 Dec 83 at 1640 hrs and 2000 hrs and 2130 hrs and he was all the time specifically told by my wife that I had gone to Doctor for receiving the medical treatment. On 3rd Dec 83 it was understood that Shri Charan Singh O/Supdt Gde II visited my residence at about 0930 hrs but he was told by my family about the sickness and he was also told that I had gone to Doctor for medical treatment. At about 1230 hrs when he again visited my residence he found me suffering from fever and lying on bed. The movement order was served upon me and I receipted the same in the same sick condition being a loyal Government Servant. The contents of para 3 of GE (Fy) Kanpur letter No. C-109/GEN/144/E1 (Con) dated 03 Dec 83 so far as reproduced below are concerned, the version differs from the actuality:-

"he was again informed that you are neither present in the house nor your whereabouts were known to the members of your family"

The statement of Shri Charan Singh O/Supdt Gde II on page 16 on the Inquiry proceedings reads as under:-

"After that on 3/12/83 at 0930 hrs I visited his house, I was told by his family members that Shri ML Bhatia has gone to Doctor"

The statement of Sh Charan Singh O/Supdt Gde II as recorded by the Inquiry Officer in the proceedings on page 6 reads as below:-

"on 02/12/83 to deliver the movement order to enable him to attend the C of I at GE Babina on 5th Dec 83 but when I visited his house at 1640 hrs, 20.00 hrs and 21.30 hrs on that day, I did not find him in house. His family members stated that he had gone to Doctor. Next day i.e. 03/12/83 I again went to Shri Bhatia's house at 0930 hrs but he was not available in the house. Again I went to his house at about 1230 hrs with Shri US Bhatia, Supdt E/M Gde I. At that time he was suffering from fever and lying on his bed"

MSBhatia

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The contents of para 3 Annexure II on the Memorandum are also reproduced in this concern as under:-

" Since Shri ML Bhatia had not attended office on 2nd & 3rd Dec 83 but had submitted an application dt 2nd Dec 83 applying for medical leave for 5 days from 2nd Dec 83 onwards"

7. That it will be evident from comparative study of these aforesaid statements which vary to the adopted basis of the charge sheet Memorandum and it can be easily adjudged that this was a conspired motivation of GE (Fy) Kanpur to put me on charge somehow or the other. Otherwise there was no reason with them having well knowledge that I was on sick bed wef 2nd Dec 83 and the application for 5 days leave lying with him on medical grounds, the method as planned to serve the movement order was absolutely unlawful and illegal. The leave was regularised under GE (Fy) Kanpur PTO Sl No. 50/1/83 wef 2nd Dec 83 to 7 Dec 83 as commuted leave on medical grounds (Exhibit V). Hence it will be kindly asserted from the averments in para 6 & 7 that GE (Fy) Kanpur made concocted and malafied efforts in framing the structure of the Memorandum.

8. That after obtaining fitness certificate from the Doctor under whom I was undergoing medical treatment wef 2nd Dec 83 to 7 Dec 83, I attended the office on 8th Dec 83. In response to GE (Fy) Kanpur letter No. C-109/GEN/143/E1 (Con) dated 2nd Dec 83 I had submitted the revision Petition dt 12 Dec 83 through proper channel which was received by the SDC of AGE E/M Fy Kanpur on 12 Dec 83 requesting CECC Lucknow that since I was continuously threatened from the AGES and staff as well as suppliers/contractors through their reps for not persuing/highlighting the cases of irregularities pertaining to CWE Jhansi area before investigating body. Under exorbitant threats it was quite impossible for me to take the risk of life being the only earning member in family. It was therefore requested in the said revision Petition that the authority should adopt sympathetic attitude for not enforcing to move/attachment to GE Babina or any of the places under CWE Jhansi Area. In para 4 of the said Petition it was vehemently stressed upon with utmost submission that untill all security arrangements to protect

Contd...F/6.

- 6 -

my life are made and confirmed in writing for such arrangements with the proper compensation to the family, he would be unable to move to CWF Jhansi Area for association as such.

9. That it is admitted that the GE called me on 13 Dec 83 and told that he had just received telegram dated 10 Dec 83 from the Presiding Officer for assembling the inquiry on 13 and 14 Dec 83 at CWF Jhansi/Babina. It is also admitted that the GE told me verbally to move to the aforesaid stations. In this context I requested the GE that I had already submitted revision Petition dated 12 Dec 83 which was receipted by the SDC of AGE E/M Fy and forwarded to your office under AGE E/M Fy Kanpur letter No C-107/362/F1C dt 12 Dec 83. This revision Petition was addressed to CE CC Lucknow through proper channel and on the basis I beseeched him for not enforcing movement to Jhansi Area until the decision of CE CC Lucknow is conveyed thereon. I furthermore highlighted him that there was every possibility of danger to my life. It can be well adjudicated that being a loyal Government Servant I had/have always imparted preference for devotion to the duty and proved myself worthy of appointment/assignments. It was well known to the GE, CWF and CE that Shri AK Sharma, AGE Talbehath who was mainly involved in the cases of irregularities pointed out by me, a son-in-law of DIG Police posted and placed in position in that area. AGE could have also gained the influence for putting my life into peril and devastation.

10. That I once again truly submit that I had never refused on any occasion verbally or in writing that I would not obey the orders of superior authorities to proceed and to associate the Investigating Officer. I had only requested to the authorities that proper and adequate arrangements kindly be ensured so that my life could be saved from any sort of damage. The refusal as alleged by the GE in the Charge Sheet is totally baseless, frivolous and with ulterior motivation to put me harm on one or the other pretext. No amendment to movement order ibid dated 02 Dec 83 was made by the GE for implementing the move as such.

None

None

Contd...P/7

- 7 -

11. That the GE took the concocted and fabricated shelter of the grounds particularly the expression of inability and verbal refusal to move in the presence of Offg AGE E/M and Office Supdt, and accordingly framed the structure of charge sheet memorandum and served upon me rigorously under No. C-109/MLB/71/E1 (con) dt 10 Feb 84. It is very relevant to point out here that no show cause Notice was issued by the GE and thus reasonable opportunity to submit the defence was ignored. Straightway taking the law in hand the GE served the Charge Sheet under his own signatures. It is also mentioned that no preliminary inquiry into the matter was conducted for establishing any of the charges as levelled in the Charge Sheet.

12. That the Memorandum as served on me was supported with Annexure -I Article-I Statement of article of charge framed narrating therein that it was obligatory and mandatory to attend the inquiry and instead of complying with the orders and failing to proceed to attend Court of Inquiry repeated appeals were submitted to GE CC Lucknow protesting against the departmental inquiry. It was also added that I also expressed desire for Staff Court of Inquiry and for affording me protection against any apprehended danger to my life. In para 3 thereof the Article was termed under the contravention of provision 3 (i) (ii) & (iii) of CCS (Conduct) Rules 1964. The Memorandum was also supported with Annexure-II Article-I Statement of imputations misconduct as described in para 2,3,4,5 and 6 thereof and Annexure-III mentioning the list of documents by which the charges were framed and Annexure -IV indicating the list of witnesses by whom the article of charges were framed. In para 5 of Annexure-II Article I, the GE fabricated and alleged inability and verbal refusal to move in presence of Offg AGE E/M and Office /Supdt. The facts have already been enlightened in preceding paras that neither such refusal was ever made nor inability was expressed as alleged and concocted with ulterior motive by the GE.

10/2/84

Contd...P/8. 12/2/84

13. That the alleged charges in the memorandum were denied and not accepted at all by me. It was pointed out incidentally that myself permanent Lower Division Clerk, the charge sheet issued by the GE was legally improper. It was contrary to the existing rules to serve the charge sheet upon me and therefore a clarification to the effect was requested keeping in view the Article 311 Constitution of India. It was responded by the GE under his letter No C-109/MLB/75/ E1(Con) dt 20 Feb 84 (Exhibit VI) that he was empowered to serve the memorandum under Rules 12(2) and 13(2) of CCS (CC&A) Rules 1965. The Rule 13(2) reads as under:-

"A disciplinary authority competent under these rules to impose any of the penalties specified in clause (i) to (iv) of Rule 11 may institute disciplinary proceedings against any Govt servant for the imposition of any of the penalties specified in clause (iv) to (ix) of Rule 11 notwithstanding that such disciplinary authorities is not competent under these rules to impose any of the latter penalties."

It is very salient feature to point out that Rule 13(2) does not empower Major SS Dhanoa, GE (Fy) Kanpur in the instant case to sign the charge sheet as he was himself one of the witnesses in Annexure-IV through whom the articles of charges framed and those were required to be proved before the Inquiry Officer. GE was also liable to be cross examined as such. It is therefore averred that GE being a sole party in the instant case, he was not holding the powers under Rule 13(2) at all to frame the structure of the charge sheet at his own accord/sweet-will and to issue the same under his own signatures. Thus the Memorandum was/is liable to be vitiated on this ground itself. Had Major SS Dhanoa, GE (Fy) Kanpur was so much interested to entangle me under the conduct Rules as alleged, Preliminary Inquiry in the manner laid down under Rule 14 was to be initiated for the purpose of establishing the charges and if at all the charges were established, the question of serving the memorandum only could have been arisen. Thus the Natural Justice had/nas been violated. The purpose of Preliminary Inquiry under the said Rule 14

is reproduced below:-

"Generally, a preliminary enquiry is held to determine whether a prima facie case for a formal departmental enquiry is made out, and it is very necessary that the two should not be confused"

In short, a preliminary enquiry is for the purpose of collection of facts in regard to the conduct and work of Govt servant in which he may or may not be associated so that the authority concerned may decide whether or not to subject the servant concerned to the enquiry necessary under Article 311 for inflicting one of the three major punishments mentioned therein. Such a Preliminary Enquiry may even held ex-parte, for it is merely for the satisfaction of Government, though usually for the sake of fairness, explanation is taken from the servant concerned even at such an enquiry. It has already been held by the H'ble Court in case of AR Mukherjee v. Deputy Chief Mechanical Engineer, (A.I.R. 1961 Cal.40) that preliminary enquiry is to enable the authorities to apprise themselves real fact and to decide whether an employee to be charge sheeted under Rule 14.

14. That the GE's contention that he was empowered under Rule 13(2) to sign and to serve upon the charge sheet does not stand lawful within the coverage of the said rule at all. Thus the charge sheet was/is illegal, faulty and violating the provisions of Natural Justice basically and fundamentally. It is also averred that the status of the alleged delinquent was not defined in this Memorandum as in what capacity he was required to associate with the Inquiry so instituted under CE CC Lucknow orders. Whether the alleged delinquent was to join the Inquiry Officer as a witness or informer or dignified person? But unfortunately I was issued the charge sheet as an accused although who had pointed out the irregularities in the National interest as a loyal Govt. Servant. My sincerity has been staked and devotion to duty has been immolated. The AGE against whom the irregularities were mainly pointed out, has since been awarded promotion as Executive Engineer. Is it true Justice? Is it true administration?

The Lordship has already held in the case of S. Krishan Nair v. Kerala Public Service Commission 1982 (2) SLJ 170 : 1983 Lab IC 24 that the memo of charges having been drawn up by an authority not competent in that behalf, the entire proceedings based on such charge memo deserve to be quashed.

The Lordship has also held in the in the case of Surendra Chandra Das v. State of West Bengal, 1982 Lab IC 74 : 1981 (3) SLR 737 and 681 that the charges against the delinquent must be clear and unambiguous but at the same time charge sheet not be issued by biased and closed mind.

Contd....P/10

- 10 -

15. That the Written Brief submitted by Shri OP Sharma, Presenting Officer during the inquiry proceedings, was received by me under letter No. C-105/MLB/9/FIC dt 02 Jul 84. I strongly responded the aforesaid Written Brief vide confidential letter dt 06 Jul 84 photostat copy attached as (Exhibit VII) addressing to Shri SK Sadhu, EE Inquiry Officer GE (P) Fy No 1 Kanpur. My explanation therein was self-explanatory and putting up the correct and factual position. In response to the allegations in para 4 of the Written Brief by the Presenting Officer, it is requested to refer para 4(a)(i), 4(a)(ii), 4(a)(iii), 4(b)&(c) and 4(d) of my letter dt 06 Jul 84. Inquiry Officer being much influenced with the GE did not give the proper evaluation to my submissions and allowed all the preferences to the Disciplinary Authority to entangle me somehow or the other.

16. That I am enclosing herewith photostat copy of my Petition dated 14 Nov 83. (Exhibit VIII) requesting CE CC Lucknow for reviewing the decision and granting justice in the matter. The Petition was self-explanatory in contents and it was to be given proper consideration. Instead of granting the desired justice it was intimated as turned down under GE (P) Fy No 2 Kanpur letter No C-109/MLB/138/EI(Con) dt 03 Aug 84 (Exhibit IX). The predominant object to refer this GE's letter ibid dt 03 Aug 84 is that the application dt 12 Dec 83 for which GE called me on 13 Dec 83 and had alleged for refusal to move. The said application dt 12 Dec 83 has only been turned down and intimated under GE's letter ibid dt 03 Aug 84.

17. That I also enclose the photostat copy of undernoted appeals which are pertinent and to be relied upon to the case and fully highlighting the irregularities committed by the Inquiry Officer during the course of inquiry under Rule 14:-

- i) Appeal dt 12 Jan 85 addssd to CWF Kanpur (Exhibit X)
- ii) Appeal dt 15 Jan 85 addssd to CWF Kanpur (Exhibit XI)
- iii) Appeal dt 28 Jan 85 addssd to CE CC Lucknow (Exhibit XII)
- iv) Appeal dt 25 Mar 85 addssd to CE CC Lucknow and CE LZ Lucknow with copy to CWF Kanpur (Exhibit XIII)

ADDITIONAL GROUNDS OF THE APPEAL

18. That the provisions of Natural Justice as contemplated under Article 311(2) of the Constitution of India were altogether violated in the instant case by the Inquiry Officer Shri SK Sadhu, EE because he was much influenced and pressured by the Disciplinary Authority.

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The Lordship has already held in the case of AK Das vs. Senior Superintendent of Post Offices, A.I.R. 1969 A & N 99 that the procedure as laid down in the rules warrants the maintenance of order sheet showing the various order passed by the Inquiry Officer from time to time. In the absence of an order sheet it is difficult to know whether at various stages the Inquiry Officer had violated the procedure without prejudicing any of the rights of the Govt. Servant. Your H'ble Sir will find that no order sheet was maintained during the course of the inquiry by the Inquiry Officer. Thus the requirement of Natural Justice was violated in this case. In clarification to Article 311 (2) of Constitution of India the Lordship has also held in the case of Khem Chand v. Union of India (1958) SLR 1081 : AIR 1958 SC 300 ; Narain Misra v. State of Orissa 1982 (2) SLR 506 ; Krishan Chand Tandon v. Union of India 1974 SLJ 415 : 1974 (2) SLR 178 ; Ghirao Srivastva v. State of UP 1975 (1) SLR 323 ; 1975 Lab IC 1033 that the necessary requirements of Natural Justice is a reasonable opportunity to defend. The delinquent must be given reasonable opportunity to have the evidence recorded in his presence and to cross-examine the witnesses examined.

Due to non-maintenance of Daily Order Sheet by the Inquiry Officer the various stages of the inquiry could not be known to me and all the steps have been taken by the Inquiry Officer ex-parte and at each and every step Natural Justice was violated. Thus the proceedings are liable to be vitiated.

19. That it has been ruled out vide DG P&T letter No 6/66/60-Disc dt 14 Apr 1961 that the statement of witnesses to be authenticated by the signature of the witnesses, the accused and the Inquiry Officer. The normal practice that is being followed in all departmental inquiry is the statement of witnesses are countersigned by the witnesses concerned, the accused officials and the Inquiry Officer so that the validity of the documents is not questioned by anyone at a later date. In the instant case your H'ble Sir will find that the statement of witnesses were not recorded by the Inquiry Officer in my presence as would be evident from the photostat copies of the statement of Major SS Dhanoo, GE (Fy) Kanpur (Exhibit-XIV), Statement of Shri US Bhatia, Supdt E/M Gde I (Exhibit XV), Statement of Shri YR Chawala, Offg AGE E/M (Exhibit XVI) and statement of Sh Charan Singh, Office Supdt Gde II (Exhibit XVII). It is also very specifically mentioned that although I was not informed by the Inquiry Officer to be present on such dates, time and place for the purpose of recording the statements of witnesses adduced in the Annexure -IV of the charge sheet yet my name has ^{been} wrongfully put in there as a reference to my presence on said date.

W. Bhatia

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In case I would have been actually present on the date, time and place for recording the statements, the Inquiry Officer would have definitely chanced me to sign the statements as per the requirement of the said rule of Natural Justice. Thus you will adjudicate that the procedure as laid down as well as Natural Justice have been violated by the Inquiry Officer and therefore the entire proceedings should be vitiated.

20. That the ~~DEPRIVATION~~ provision of Natural Justice also guarantees as ruled out under DG, P & T letter No.20/26/25-DISC dt 17 Sep 66 that the copy of oral statement of witnesses recorded from day to day in departmental Court of Inquiry should be furnished to the delinquent official by the Inquiry Officer at the close of the day's proceedings and before the delinquent official himself called upon to make his own statement before the Inquiry Officer. This Natural justice to get copy of day-to-day proceedings was ignored by the Inquiry Officer and thus I was deprived off my legitimate right as provided under Article 311 Constitution of the India. Thus the proceedings are liable to be vitiated. (Swamy's compilation of CCS (CC&A) Rules 1965- Fourteenth Edition page 90).

The Lordship has also held in the case of State of UP Vs. Mohd Nooh, (1958) SCR 595 AIR 1958 SC 86; & Parthasarathi Vs. State of A.P. (1973) II SCWR 464 : AIR 1973 SC 2701 that if Inquiry Officer adopts procedure which is contrary to rules of natural Justice the ultimate decision based on his enquiry is liable to be quashed.

21. That the Lordship has also held in the case of K.Sundara Rajan Vs. Dy Inspector General of Police, 1973 SLJ 100 : 1972 SLR 723, Brindaban Vs. State of UP, 1973 (1) SLR 111 : Balwant Rai Mahajan Vs. V.P.Khosla, 1979 (1) SLR 391. that the function of an Inquiry Officer is that of judge dealing with a case. Such an officer should not be personally interested in the matter. He should be a person having a open mind, a mind which is not biased

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against the charged officer. In a departmental inquiry if the delinquent individual reasonably apprehended that the Inquiry Officer was biased against him the entire proceedings are required to be vitiated.

In the instant case the Inquiry Officer was so much so interested and pressured by the Disciplinary Authority and prejudiced from the delinquent that he did not allow the statements of witnesses to be recorded in my presence. The date, time and place of such recording the witnesses were also not informed for presenting myself there for the purpose. Since no order sheet was maintained which is a must requirement to proceed with the inquiry authentically, at this belated stage, there is no such instrument with the department to satisfy me that the proper inquiry within the provision/requirement of Rules was conducted. The Lordship has already held in the case of Union of India Vs. Chintaman Sadashiva Waishanpyam, AIR 1961 SC 1623; Sashi Bhusan Mohanty State of Orissa, 1969 SLR 63; Amar Nath Vs. The Commissioner, 1969 Cur LJ 484; Ghirrao Srivastava Vs. State of UP 1975 (1) SLR 323; 1975 Lab IC 1033; Narayana Mishra Vs. State of Orissa, 1982 (2) SLR 506 that the statement of witnesses in the support of the charge should be recorded in the presence of Government servant.

The deliberate biased statement of Inquiry Officer cannot be regarded at this belated stage that the delinquent was not present at his own accord at the time of recording the statement when the fact was/is that he was not informed of the same.

22. That the rules of Natural Justice stipulates that the Govt servant has right to ask for copies of witnesses mentioned in the list referred to in Annexure IV of the charge sheet. The Inquiry Officer due to non-maintenance of daily order sheet had deprived of this fundamental right of at least asking the statement of witnesses. In this connection the case law, Union of India Vs. Ravi Dutt, 1973 (1) SLR 1222 (Delhi) is referred to. Due to non-supply of copies of the statement mean the denial of right to defend by effecting cross examination by using the previous statement. It is pertinent to mention Annexure IV of the Charge Sheet showing the list of undernoted witnesses by

whom the article of charge framed against me is as under:-

- | | | |
|-------|-------------------|--------------------------------|
| (i) | Major SS Dhanoo | GE (Fy) Kanpur |
| (ii) | Shri YR Chawla | Supdt W/M Gde I (Offg AGE E/M) |
| (iii) | Sub Maj RB Singh | Office Supdt |
| (iv) | Shri Charan Singh | Office Supdt Gde II |
| (v) | Shri US Bhatia | Supdt E/M Gde I |

The extract of para 5 of Annexure II of Article I is reproduced as under:-

"Shri Bhatia explained his inability and verbally refused to move in the presence of his Offg AGE E/M and Office Supdt who were present in the office of GE at that time"

The version of Memorandum confirms after having perusal to Annexure IV i.e. list of witnesses that Sub Major RB Singh Office Supdt was the main eye witness to prove the Article of charges framed. This eye witness was not put up and examined by the Inquiry Officer. The Lordship has held in the case of Sheo Kumar Tiwari Janpada Sobha, 1968 SLR 86 (MP), Jadship Prasad Vs. State of MB. AIR 1961 SC 1070; State of Punjab Vs. Dewan Chunilal, (1970) 1 SCWR 413 : AIR 1970 SC 2086; Antonio Redrigues, Vs. I.G.P 1978 (2) SLR 364; Thotapalli Radhakrishna Murthy Vs. D.M United India Insurance, 1982 Lab IC 1745 that failure to record evidence of witnesses in support of the charges deprived delinquent of an opportunity of cross examining these witnesses. In the instant case Sub Maj RB Singh Office Supdt who was the material witness was neither produced by the Presenting Officer before the Inquiry Officer nor summoned even nor enforced by the Inquiry Officer to be produced for examination as well as cross examination and thus the proceedings are liable to be vitiated being violation of Natural Justice.

23. That the fundamental right provided under Rule of natural justice require that the Inquiry Officer should fix up the date for cross examination of the witnesses. This opportunity was not granted by the Inquiry Officer to me. The Lordship has held in the case of Banchchanidhi Patnaik Vs. State of Orissa, AIR 1970 Orissa 56 : Narayan Misra Vs. State of Orissa, 1982 (2) SLR 506 that due to non-fixing of date by the Inquiry Officer for cross examination of the

witnesses by the delinquent, the proceedings are liable to be vitiated altogether.

The rules of natural justice require the delinquent must be given reasonable opportunity to cross examine witnesses produced against him. Sukhendra Chandra Das vs. U.T. Tripura AIR 1962 Tripura 15; State of Punjab Vs. Dewan Chummi Lal, AIR 1963 Punjab 503; Basant Kumar Jain Vs. Union of India, 1969, 1969 DLT 509 (Delhi); Daljit Singh Sandhu Singh Vs. Union of India, AIR 1970 Delhi 52; State of A.P Vs. Mohammed Sarwar 1971 (1) SIR 507; Gajendra Singh Vs. State of Punjab, 1972 SLR 432; Ghrrao Lal Srivastava Vs. State of UP 1974 ALJ 694 : 1975 (1) SIR 323 : 1975 Lab IC 1033 ; V.K. Paramashwaram Vs. Union of India, 1982 Lab IC 383; 1982 (1) SLJ 516 ; 1981 (3) SLR 164.

Neither the witnesses were produced by the Inquiry Officer for the purpose of cross examination by me nor any such date was fixed for cross examination of the witnesses enumerated in the list of Annexure IV of the Memorandum, the proceedings are not tenable under law and thus liable to be vitiated altogether.

24. That the Inquiry Officer during the course of Inquiry did not allow me the opportunity to produce the defence witnesses. Had such an opportunity been provided by the Inquiry Officer I would have given the list of witnesses to be examined and cross examined in my defence. To produce defence witness was my right and I was deprived off as such during the course of Inquiry. The Lordship has already held in the case of State of UP Vs. CS Sharma, (1967) II SCWR 648: (1967) 3 SCR 843: AIR 1968 SC 158: Kesho Rai Vs. State of Bihar, AIR 1967 Patna 184 : Mohinder Singh Vs. State of Punjab 1968 Cur LJ 476 that the delinquent officer has not been given opportunity to lead evidence. Inquiry cannot be said to comply with elementary principles of natural justice. Had the opportunity been given to me I would have definitely given the name of Sub Maj RB Singh, Office Supdt amongst others as defence witness to be examined as such. Thus the natural justice was ignored and therefore the proceedings are liable to be vitiated.

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25. That the Lordship has held in the case of Union of India vs Col JN Sinha, (1970) II SCWR 393 : AIR 1971 SC 40 : 1970 SLR 748 that the aim of rules of natural justice is to secure justice or to put it negatively to prevent miscarriage of Justice. These rules do not supplant the law but supplement it.

The Lordship has also held in the case of State of UP v. Om Prakash Gupta, (1970) I SCWR 139 : AIR 1970 SC 679 ; AK Kraipak v. Union of India, AIR 1970 SC 150 : (1969) I SCWR 1122 ; Chandra Bhawan v. State of Mysore, (1969) 11 SCWR 750 : AIR 1970 SC 2042 that inquiry must be conducted in accordance with the principles of natural justice. What principle of natural justice should be applied in a particular case depends on the facts and circumstances of that case. All that the courts have to see is whether the non-observance of any of these principles in a given case is likely to have resulted in deflecting the course of justice.

Your H'ble Sir will find that at every step and occasion I have been victimised with the vindictive object of the authorities and natural justice as provided under Article 311 Constitution of India was violated altogether. Thus the proceedings are liable to be vitiated.

26. That your kind attention is invited towards the opinion/ findings given by the Inquiry Officer Shri SK Sadhu, vide Inquiry Report dt 25 Aug 84 in that in para 7 (d) the opinion has been given as under:-

"Shri ML Bhatia did not categorically refused the order of his G^o to proceed to attend the Court of Inquiry at Jhansi/Babina/Talbehat but had been asking for assurance for protection against any damage to his life" "It is not established that Shri ML Bhatia's apprehension of danger to his life to attend C of I at Jhansi/Babina/Talbehat was an excuse merely to avoid his presence at the C of I or it was a fact"

In para 7 (e) of the findings the Inquiry Officer mentioned "the charge against Shri ML Bhatia is partly established"

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M. Bhatia

M. Bhatia

would thus transpire from the findings of the Inquiry Officer that from the evidences produced and adduced it could not be established that at any occasion I had refused to obey the orders to proceed to attend the Court of Inquiry. The Inquiry Officer was also of opinion in his findings that none of the charges had/had been established against Shri ML Bhatia. The contention of the Inquiry Officer in para 7 (e) of the findings for establishing the charges partly is ambiguous and cannot be maintained under law. The Lordship has held in the case of Gian Singh v. State of H.P., 1974 (2) SLR 226 : 1975 Lab IC 73 that the mind of the Inquiry Officer and the Disciplinary Authority should be applied with scrupulous regard to the material on the record and that it should be followed by a clear and definite finding. A weak and inconclusive finding cannot serve in law as the basis for taking action against the delinquent official.

The Lordship has also held in the case of Nand Kishore Prasad vs State of Bihar AIR 1978 SC 1270; 1978 (2) SLR 46, 1978 SLJ 591 that the minimum requirement of the rule of natural justice is that a tribunal should arrive at its conclusion on the basis of some evidence i.e. evidential material which with some degree of definiteness points to the guilt of the delinquent in respect of the charge against him. Suspicion cannot be allowed to take the place of proof in such enquiries.

The Lordship has also held in the case of Prakash Chandra Suar v. State of Orissa, 1981(3) SLR 323 that where there is no evidence to support to charges penalty imposed should be quashed.

Thus your H'ble Sir will adjudicate impartially that the findings dt 25 Aug 84 are liable to be vitiated being ambiguous, unlawful, indefinite, incomplete, malafied, prejudicial, unwarranted, vindictive and ulterior motivated.

27. That your H'ble Sir will also adjudicate that the object of CF CC Lucknow, CWF Kanpur and GE (Fy) Kanpur was to support on one or the other pretext to AGF Talbehath and his staff knowingly and understandingly that they were involved in causing the

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irregularities pointed out by me and thereby they had adopted the course^{of} suppression, vindictive attitude, humiliation, financial and mental torture through concocted and malafied charge sheet, ambiguous, weak, improper inquiry proceedings as well as untenable and impugned penalty order. Their object was mainly to suppress me to such an extent that I should bend down before them and to withdraw submission dt 28 Feb 83 in which the gross irregularities were pointed out. They adamented to crush the truth and my feelingsto serve the Nation honestly, reliably and true subordination. Non-granting the justice will otherwise mean to develop the corrupt activities by the officers responsible to undertake the assignments in true sense of the National integration.

28. That the findings on the Inquiry was given by Shri S K Sadhu Inquiry Officer on 25 Aug 84 but the decision thereupon has been abnormally delayed and the penalty order vide CE CC Lucknow letter No.900601/1003/134/E1(Con) dated 22 Nov 86 was received by me on 17 Dec 86. It is ~~being~~ ruled out vide GI CS (Deptt of Personnel) OM No 39/43/70-Estt (A) dated 8 Jan 1971 that the cases which do not require consultation with the Central Vigilance Commission or the Union Public Service Commission, it should normally be possible for the disciplinary Authority to take a final decision on the Inquiry report within a period of 3 months at the most (refer page 110 sub rule 11 Swamy's compilation CCS CC & A rules 1965) . Thus you will fairly adjudicate that the decision was abnormally delayed with the ulterior motivation. I understand that Maj Gen J M Rai Chief Engineer Central Command Lucknow who had signed and pronounced the penalty order has since been retired from service. The standing time limit for passing final orders on the Inquiry report as contemplated in aforesaid OM No. ^{looked} ibid dated 08 Jan 1971 and thus the authorities have violated the rules.

29. That the penalty order so imposed upon me vide CE CC Lucknow letter No.900601/1003/134/E1(Con) dated 22 Nov 86 is not in order and does not comply with the fundamental rule 29.

Subj The order is defective and thus liable to be quashed. The

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Lordship has already held/C Veera Chowdaiah Vs. State of Mysore 1973 (I) SLR 241; 1973 SLJ 700 that where the petitioner was ordered to suffer three increments having the effect of postponement of future increments, if the effect of the order is the reduction of petitioner to a lower stage, in the time scale, it means the imposition of major penalty and the imposition of such a penalty contrary to rules framed under the proviso to article 309 of Constitution is liable to be quashed.

30. That the Lordship has held in the case of Union of India Vs. B S Misra 1973 (2) SLR 430 (Raj) Nathaniel Ghosh Vs. Union Territory Arunachal Pradesh 1980 (2) SLR 733 that it is not competent for the authority which made the order appealed against to make such comments or remarks on the appeal which might tend to influence the mind of the appellate authority. The very object of putting the aforesaid legal authority is that the Authorities ~~esse~~ shall offer their ~~comments~~ impartial comments on this appeal to meet the end of justice.

31. That nothing material has been concealed in this appeal and all the facts have been put in there for consideration and impartial judgement.

32... That your Hon'ble 'Sir' shall be kind enough to pass an order to hold in abeyance the operation of penalty order vide CE CC Lucknow letter No. 900601/1003/134/E1(Con) dated 22 Nov 86 till final decision on this appeal by you is communicated. ~~is ~~immediately~~~~ In case the injunction is not granted it will cause irreparable loss on account of financial embarrassment to the family.

33. That the appeal is under your jurisdiction to hear and ^{to} arrive at an impartial judgement in the matter.

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P R A Y E R

It is respectfully prayed that in the interest of justice and equity, my appeal is sympathetically considered and decided on merits and the penalty order vide CE CC Lucknow letter No.900601/1003/134/E1 (Con) dated 22 Nov 86 kindly be quashed and set aside in my favour at the earliest under intimation to me.

Thanking you in anticipation, 'Sir'.

Encls: 30 Sheets

Yours faithfully

KANPUR

Dated 29 Jan 87

M L Bhatia
(M L BHATIA LDC (Pt)
MES/450035
Office of GE (P) Fy Kanpur

CONFIDENTIAL

Manish
True copy
Attested
see enclosed
M.K. Noor
ADVOCATE.
KANPUR.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH.

Registration No. of 1988.

Manohar Lal Bhatia Applicant

Versus

Union of India and Others Respondents.

ANNEXURE A-34

Tele: 3012246

Army Headquarters
Engineer-in-Chief's Branch/EID
DHQ PD NEW DELHI-110011

78655/824/87/EID

23 Aug 88

O R D E R

Whereas MES-450035 Shri M.L.Bhatia, LDC was charge sheeted under rule 14 of CCS(CC&A) Rules 1965 on the charge of disobedience of orders and punishment of "reduction in pay by two stages for two years with direction that he will not earn increment during the period of reduction and on expiry of the period, the reduction will have the effect of postponing his future increments of pay" was awarded by CE Central Command vide order No 900601/1003/134/EI(Con) dated 22 Nov 86.

And whereas the said Shri Bhatia has preferred an appeal dated 29 Jan 87 against the aforesaid punishment raising following points for consideration:-

(a) He had represented to CE Central Command vide his letter dated 8 Aug 83 stating no documents/evidence and proof other than those mentioned in his complaint are known or available with him to highlight the irregularities and he apprehended danger to his life from the officers and suppliers/contractors involved in the complaint. CE Central Command went out of way to require him to be associated with the Investigating Officer during proceedings of the department C of I and attach him temporarily with the CWE Jhansi for six weeks for the purpose vide letter dated 27 Jul 83.

(b) Copy of the movement order dated 9 Aug 83 detailing him for temporary duty for the purpose attending Board proceedings was not endorsed to Investigating Officer or his unit.

(c) Till Nov 83 he was not apprised anything regarding the inquiry. The date of second movement order dated 19 Nov 83 was hurriedly amended to 02 Dec 83 and it was served on him on 3rd Dec 83 at his residence when he was bed ridden suffering from fever and was sanctioned medical leave upto 7 Dec 83 and thus was unable to attend the inquiry proceedings on 5 Dec 83. The framing of charges was mala fide due to conspired motivation by GE (Fy) Kanpur. The method adopted for serving of movement order was unlawful and illegal under the circumstances.

M. Bhatia

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(d) He had never disobeyed any orders. On 13 Dec 83 he had requested GE (Fy) Kanpur not to enforce his movement to Jhansi till the receipt of decision of CE Central Command on his representation dated 12 Dec 83 in which he had brought out that his life will be in danger at Jhansi/Babina as he was being threatened by supplier/contractor for highlighting the irregularities and it was not possible for him to take the risk of life in moving to Babina unless adequate security or compensation in case of any ~~xxx~~ mishappening, is assured. But no amendment to movement order was issued and inquiry was fixed for 13/14 Dec 83 by the Presiding Officer.

(e) The officer complained against was Son-in-law of DIG Police of the area and could influence in putting his life into peril and devstation.

(f) No show cause notice was issued by the GE before issuing charge sheet, denying him the reasonable opportunity to submit the defence. Also preliminary inquiry was not conducted to establish any of charges before issue of charge sheet under Rule 14.

(g) He is Pt LDC and GE is not competent authority to issue charge sheet in his case. Also the GE who has signed the charge sheet, is one of the witnesses as per Annexure IV and therefore, he is debarred to frame the charge sheet under Rule 13(2) of CCS(CC&A) Rules 1965. He has referred to a Supreme Court decision in support of his plea.

(h) The brief of Presenting Officer dated 1 May 84 does not give true picture. The IO was influenced by GE and did not give proper evaluation to his submission and allowed all the preferences to the disciplinary authority to entangle him.

(i) No daily order sheet was maintained by IO and all steps taken exparte. Natural justice was violated at every step. Copies of the day to day proceedings were not given to him as required in the rules.

(j) The statement of witness Maj SS Dhanoa, Shri US Bhatia, Supdt E/M Gde I, Shri YR Chawla, Offg AGE E/M and Shri Charan Singh Office Supdt Gde II were not recorded by the IO in his presence. These are required to be signed by all the parties included him. No notice was issued by IO to him for the purpose of attending regular hearing, yet his name has been wrongfully put in there, as a reference to his presence, also denying him opportunity to cross-examine the witnesses.

(k) The main eye witness Sub Maj RB Singh, Office Supdt was not summoned or produced by the PO & IO for examination. He was also denied for the opportunity to call his defence witnesses by the IO.

(l) As per IO report charges have not been established but in his findings the charges have been held as partly established which is ambiguous.

(m) The inquiry report was submitted by the IO on 25 Aug 84 but punishment order was issued on 22 Nov 86. The time taken is more than specified period of 3 months as per Deptt of Personnel OM dated 8 Jan 71. The delay was motivated to harass him.

(n) The punishment order does not comply with fundamental rule 29 and is defective.

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And Whereas on examination of appeal and connected documents I find that the factual position in respect of the points raised in the appeal is as under:-

(a) Presence of Shri Bhatia was required in the Board of Officers proceedings to substantiate the allegations made in the complaint by him and as such action of GE Central Command is requiring him to be associated with the proceedings is correct and logical.

(b) Not endorsing copy of movement order to the Investigating Officer does not condone the failure on the part of appellant to obey the same.

(c) Appellant was not to be apprised separately about progress of the enquiry. He failed to obey the movement order and did attend the Board proceedings which had to be finalised without recording evidence of Shri Bhatia. He could have proceeded on temporary duty after reporting back for duty on 8 Dec 83 after sick leave. He was evading to comply with the movement order on one pretext or the other. There was no conspired motivation to charge sheet him as alleged. Charge sheet was issued on account of his apparent misconduct.

(d) No amendment to the movement order was required to be issued. His precondition for move that suitable security arrangements be made for his stay at Jhansi in view of apprehended danger from contractors/suppliers there, was correctly rejected by CE Central Command.

(e) His plea of DIG Police of Jhansi exercising his influence to put his life in peril being Son-in-law of officer complained against, is only hypothetical. The plea cannot be viewed as an alibi for disobeying the movement order.

(f) Preliminary inquiry and issue of show cause notice were not necessary in this case before issue of charge sheet as the misconduct for which the appellant was charged were quite apparent.

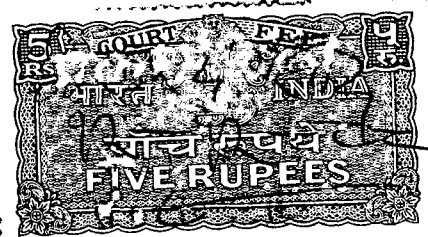
(g) FE is one of the disciplinary authorities empowered to impose minor penalty on an LDC as per Presidential Order No 5(14)/79/D(Lab) dated 19 Aug 79. GE is, as such, authorised under rule 13(2) of CCS (CC&A) Rules 1965 to issue a major penalty charges sheet also. Supreme Court judgment quoted by him is not relevant to this case.

(h) Contention that Inquiry Officer did not give proper evaluation to submission of appellant, being under influence of GE, is not correct. Findings of inquiry report flow from the assessment of evidence on record.

(i) Daily order sheet were maintained by Inquiry Officer and nothing has been recorded behind the back of the appellant. While signing the proceedings for last day of regular hearing on 31 Jul 84 appellant has mentioned that he has nothing more to add in connection with this oral inquiry. No violation of natural justice has occurred.

(j) Examination-in-chief of Maj Dhanoa only, bears signatures of appellant. Not obtaining signature of appellant on statement of other three prosecution witnesses appears to be an oversight on part of the Inquiry Officer. The evidence has been recorded in presence of the appellant. Since the hearing were being

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अभिभाषक पत्र (वकालतनामा)

समक्ष न्यायलय : केन्द्रीय प्रशासनिक आधिकारण
अतिरिक्त बेंच इलाहाबाद

रजिस्ट्रेशन/वाद संख्या

सन् १९८८

Manohar Lal Bhatia

वादी/प्रतिवादी
अपीलान्त

Union of India & others

वादी/प्रतिवादी
रेस्पान्डेंट

मैं/हम *Manohar Lal Bhatia & late
Ramanand Bhatia, of 66/5 Vijay Nagar, Kanpur*

उपरोक्त प्रकरण में हम अपनी ओर के पक्ष समर्थन हेतु

N. K. Nair, Advocate

112/274A Swaroop Nagar, Kanpur

&

Sharda Prasad Kesarwami, Advocate

25, Sammelan Marg, Allahabad.

को निश्चित शुल्क (मेहनताना) नियत करके अपना अभिभाषक एवं (वकील) नियुक्त करते हैं और यह स्वीकार करते हैं कि उक्त सज्जन हमारी ओर से वाद-पत्र (अर्जीदावा), प्रतिवाद-पत्र (बयान तद्दरीरी), वाद स्वीकार पत्र, विवाद पत्र, पुनरीक्षण एवं परिशोधन प्रार्थना-पत्र (रिव्यू/रिवीजन) शापथिक कथन (हलफनामा), प्रवर्तन पत्र (दरखास्त इजराय), मुजवात अपील निगरानी इत्यादि हर प्रकार के अन्य प्रार्थना पत्रादि, लेखादि की प्रतिलिपियां अपने हस्ताक्षर करके न्यायालय में प्रस्तुत करें अथवा किसी पत्र पर आवश्यकतानुसार शापथिक पुष्टिकरण करें और आवश्यक सवाल जवाब करें और लेखादि की प्रतिलिपियां एवं हमारे प्राप्य धन को अपनी हस्ताक्षरी पावती देकर प्राप्त करें, हमारी ओर से किसी को मध्यस्थ तथा साक्षी (गवाह) माने और उससे सम्बन्धित प्रार्थना-पत्र प्रस्तुत करे तथा उसका समर्थन करे तथा तसदीक करे, वाद-पत्र उठावें छोड़ें अथवा समझौता करें तथा मुलहनामा दाखिल करे तथा उसके सम्बन्ध में प्रार्थना-पत्र दाखिल करके उसका समर्थन करे अर्थात् प्रकरण से सम्बन्ध रखने वाली कुल कार्यवाही डिग्री के भर पाई होने के समय तक स्वतः अथवा सयुक्त करे। आवश्यकता होने पर किसी अन्य वकील महोदय को वकील कर।

उक्त सभी कार्यवाही जो उक्त सज्जन करेंगे प्रत्येक दशा में अपने किये की भाँति हमको सर्वथा स्वीकार होगी। अगर निश्चित शुल्क अथवा किसी अन्य रकम का कोई भी अंश किसी समय भी हमारी ओर पावना रहे, तो उन्हें अधिकार होगा कि वह हमें कोई नोटिस दिये बिना ही हमारी ओर से मुकदमें की की पैरवी न करें। वैसे दशा में उनका हमारे प्रति कोई उत्तरदायित्व न होगा। यदि वे किसी अन्य कार्य में व्यस्त रहने के कारण मेरे मुकदमें की समय पर पैरवी न कर सकें और मुकदमा एकतरफा हो जाय तो भी उनका उत्तरदायित्व न होगा। उक्त सज्जन को जब और जितनी फीस अदा करूँगा/करेंगे उसकी पक्की रसीद प्राप्त कर लेंगे और पक्की रसीद के अभाव में उक्त सज्जन की फीस की कोई अदायगी न समझी जायगी।

अतएव यह अभिभाषक-पत्र लिख दिया और अपने पास इसकी एक प्रति रख लिया जिससे कि समय पर काम आये।

स्वीकृत

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स्वीकृत

स्वीकृत

Accepted
दिनांक

N.K. Nair
ADVOCATE,
KANPUR.

Sharda Prasad Kesarwami
Advocate

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In the Central Administrative Tribunal, Allahabad Bench
at Allahabad

Index
in
Counter-affidavit

In

Registration No 1375 of 1983

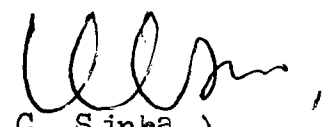
Shri Manohar Lal Bhatia Applicant

Versus

Union of India and others..... Respondents

S.No.	Description of documents	Annexures	Page
1.	Counter-affidavit		1-2 ²⁴ 54
2.	Letter dated 13.7.83	C.A. 1	
3.	Letter dated 27.7.83	C.A. 2	
4.	Order dated 21st Oct, 1983	C.A. 3	
5.	Signal No 07084 dated 7.11.83	C.A. 4	
6.	Letter dated 3.12.83	C.A. 5	
7.	Telegram dated 6.12.83	C.A. 6	
8.	Confirmation letter dated 6.12.83	C.A. 7	
9.	Telegram dated 13.12.83	C.A. 8	
10.	Letter dated 5.1.84	C.A. 9	
11.	Letter dated 20.2.84	C.A. 10	
12.	Letter dated 16.3.79	C.A. 11	
13.	Vakalatnama		

Dated: 10 Mar-89


(K.C. Sinha)
Counsel for the Respondents.

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attended by the appellant the next date fixed by IO were known to him and requirement of issue of notice was not necessary. In the proceedings for date 31 Jul 84, appellant has stated that he has nothing more to add in connection with this inquiry. As such his contention that no opportunity for cross examination of witnesses was provided, appears to be an afterthought.

(k) As Sub Maj RB Singh, Office Supdt was not summoned by the presenting officer being not considered necessary, the appellant was free to call him as his defence witness, if he considered his evidence to be useful to him. At no stage did appellant submit his list of defence witnesses.

(l) Findings of inquiry report flow from assessment of evidence and there is no contradiction or ambiguity.

(m) Delay of nearly two years in issue of punishment order after completion of oral inquiry, although inordinate, is due to examination of the case by intermediate authorities which was not intended to cause harassment to appellant, as contended by him.

(n) Punishment order is a speaking order and is in conformity with the provisions in vogue.

And Now Therefore, in exercise of powers under rule 27 of CCS (CC&A) Rules 1965 I hereby reject the appeal of Shri Bhatia as the punishment is based on an established charge after following the laid down procedure.

Sd/= (P.S. Roy)
Lt Gen
Engineer-in-Chief.

To

MES-450035
Shri ML Bhatia, LDC

Through

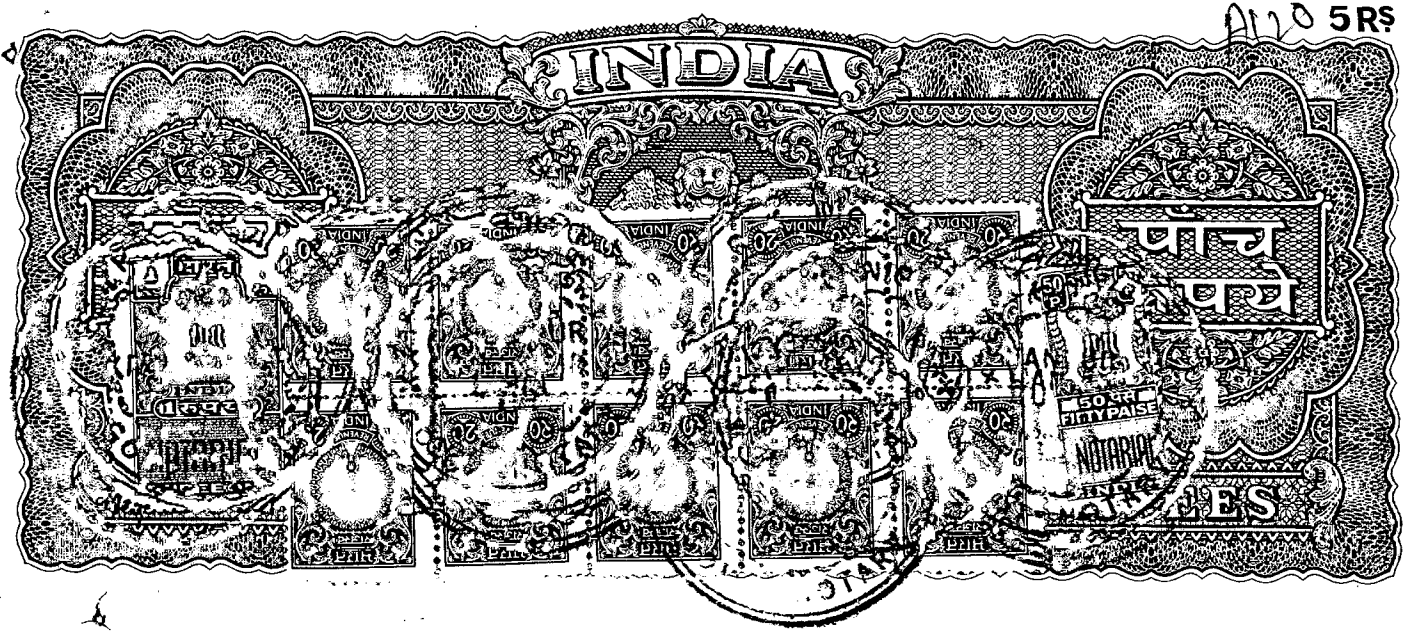
Chief Engineer
HQ Central Command - 2 copies.
Lucknow.

CONFIDENTIAL

*True Copy
Attested
M.R. Mehta
ADVOCATE
KANPUR.*

M.R.

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In the Central Administrative Tribunal, Allahabad Branch
at Allahabad

Counter-affidavit

in

Registration No 1375 of 1988

Manchar Lal Bhatia

--- Applicant

Versus

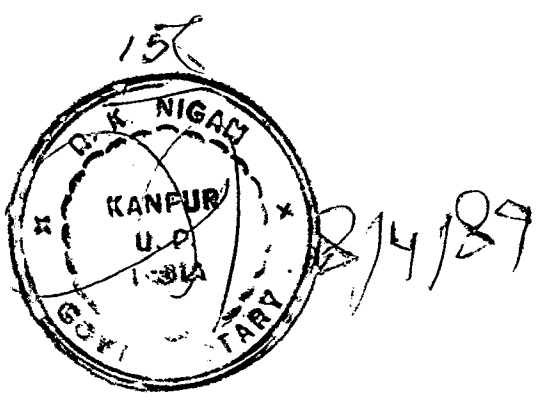
Union of India and others

..... Respondents

Handwritten:
10/4/89
advocate

Affidavit of Major V.S. Dabas
aged about 40 years,
son of Shri Riskal Singh Dabas
Resident of Puth Khurd,
Post Office - Puth Khurd,
Distt -Delhi-39.

(Deponent)



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In the Central Administrative Tribunal, Allahabad Branch
at Allahabad

Counter-affidavit

in

Registration No 1375 of 1988

Manchar Lal Bhatia Applicant

Versus

Union of India and others Respondents

Affidavit of Major V.S. Dabas

aged about 40 years,

son of Shri Rishal Singh Dabas

resident of Puth Khurd,

Post office- Puth Khurd,

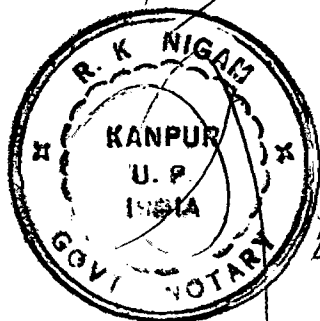
Distt - Delhi-39.

(Deponent)

I, the deponents aforesaid, do hereby solemnly
affirm and state on oath as under: -

1. That the deponent is posted as Garrison
Engineer (Fy) Kanpur and as such is fully conversant
with the facts deposed to below.

2. That the deponent has read the contents
of the Application and its annexures. He has fully



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understood the contents thereof and his para wise reply thereto is as under:-

3. That before giving para wise reply to the Application, the following facts are asserted in order to facilitate the Hon'ble Tribunal in administering the justice:-

4. That the applicant has been working as Lower Division Clerk under the control of respondent no.5 since 9.3.63 and he was declared permanent on the said post by respondent no. 3

5. That while the applicant was posted in the office of the Assistant Garrison Engineer (I) Talbhat under the control of the Commander Works Engineer, Jhansi, he was transferred to the office of Garrison Engineer (Factory) Kanpur on 28.6.82. The applicant made a complaint on 28.2.83 alleging therein that certain irregularities have been committed by the Assistant Garrison Engineer (I) Talbhat and the said complaint was sent by the applicant directly to the Chief Engineer, Jakhapur Zone, Jakhapur, who in his turn sent the same to respondent no. 3.



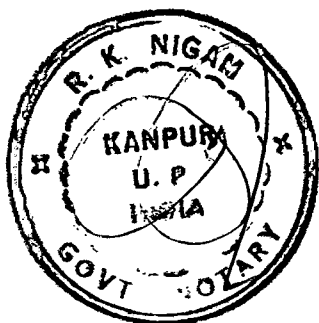
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6. That the said complaint dated 28.2.83 was scrutinized by respondent no 3 and a direction was issued that Departmental Court of Inquiry be ordered by the Chief Engineer, Jabalpur Zone, Jabalpur to investigate the allegations and the applicant be made available on temporary duty with the Commander Works Engineer, Jhansi vide letters dated 13.7.83 and 27.3.83. Photostat copies of the letters dated 13.7.83 and 27.7.83 are annexed herewith and are marked as Annexures nos. C.A.1 and C.A.2, respectively, to this affidavit.

Accordingly a movement order dated 9.8.83 was issued to the applicant directing him to proceed on 16.8.83 on temporary duty to the office of Commander Works Engineer, Jhansi for attending the Departmental Court of Inquiry.

7. That the applicant submitted an appeal on 9.8.83 which was addressed to respondent no 3 against the aforesaid Departmental Court of Inquiry and also his attachment on temporary duty as mentioned above and the said appeal was considered by respondent no 4 but was rejected by his order dated 21st October, 1983. Photostat copy of the order dated 21st October, 1983 is annexed herewith and is marked as Annexure C.A.3 to this affidavit.



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8. That the applicant was informed accordingly intimating that the movement order was being issued separately vide his letter dated 31st October, 1983.

9. That the applicant made another appeal on 14.11.83 which was addressed to respondent no 3 protesting against the Departmental Court of Inquiry. Meanwhile, the Chief Engineer, Jabalpur Zone Jabalpur sent a letter instructing that the applicant may be directed to attend the inquiry which was to be held at Garrison Engineer, Bhabina on 5.12.83 vide their signal dated 7th November, 1983. Photostat copy of the signal dated 7.11.83 is annexured herewith and is marked as Annexure no.C.A.4 to this affidavit.

It is also pertinent to be mentioned here that the appeal dated 14.11.83 adverted to above, was also rejected by respondent no 3 vide letter dated 2.12.83. The rejection order has been filed by the applicant as Annexure A-9 to the application, which was communicated to the applicant by the office of the Garrison Engineer (Factory) Kanpur.

10. That the applicant did not attend the office on 2nd and 3rd December, 1983 and submitted an application on 2.12.82 applying for medical leave for five days from 2.12.83 onwards. The said application was not supported by any medical

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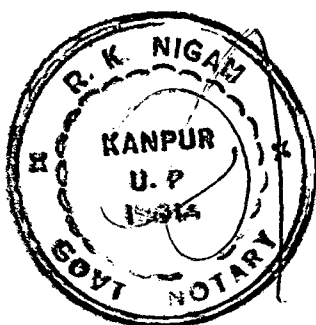


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certificate. Moreover, the aforesaid movement order dated 2.12.83 was delivered along with the letter dated 3.12.83 intimating thereby, inter-alia, the rejection of his appeal dated 14.11.83 by the Command Chief Engineer at his residence on 3rd December, 1983. Photostat copy of the letter dated 3.12.83 is annexed herewith and is marked as Annexure C.A. 5 to this affidavit.

11. That it is also pertinent to be mentioned here that the Chief Engineer, Jabalpur Zone, Jabalpur informed that the Commander Works Engineer Bhopal (who was the President Officer of the said Inquiry) shall be holding the Court of Inquiry on 8.12.83 at Garrison Engineer, Babina vide their signal dated 3.12.83 and the applicant was informed accordingly through telegram dated 6.12.83 and subsequently a confirmation letter dated 6.12.83 was sent at his residence thereby to proceed in case the applicant has not already moved to attend the inquiry but still he did not proceed. Photostat copy of the telegram dated 6th December, 1983 and the confirmation letter dated 6.12.83 are annexured herewith and are marked as Annexure C.A. 6 and C.A. 7 to this affidavit.



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12. That the Commander Works Engineer, Bhopal, the Presiding Officer, informed for assembly of inquiry on 13th and 14th December, 1983 at CWE Jhansi vide telegram dated 10.12.83 which was received on 13.12.83. Since the applicant had already been informed about attending the court of inquiry which was to be held at Jhansi, no further letter was issued to him except that he was verbally asked by the Garrison Engineer, Major S.S. Dhanca, to move and attend the inquiry proceedings at least on 14.12.83 but the applicant expressed his inability and rather he refused to move and accordingly an information was given to the higher authorities vide telegram dated 13.12.83 followed by a confirmatory letter dated 13.12.83. Photostat copy of the telegram dated 13.12.83 is annexed herewith and is marked as Annexure C.A. 8 to this affidavit.

13. That the applicant again submitted a revised petition dated 12.12.83 to respondent no 3 which was received on 13.12.83 reiterating his previous grievance which had already been put at rest by rejecting the same. The Command Chief Engineer, Lucknow, i.e., respondent no.3 issued a letter dated 5.1.84 for initiation of disciplinary proceedings against the applicant for disobedience of the orders since he failed to move to Bahina

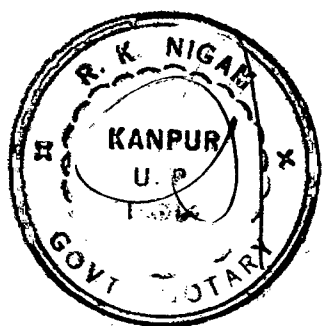


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to attend the Court of Inquiry. Photostat copy of the letter dated 5.1.84 is annexed herewith and is marked as Annexure C.A.9 to this affidavit and accordingly a charge sheet dated 10.2.84 was issued to the petitioner by respondent No. 6 being one of the disciplinary authority.

14. That the applicant submitted his reply to the said charge sheet on 18.2.84 pleading not guilty and denied the charges. In the said reply it has also been agitated that since the applicant is a permanent Lower Division Clerk, the Garrison Engineer, i.e., respondent no 6 has got no jurisdiction to initiate the disciplinary action as neither he is his appointing authority nor disciplinary authority. In fact the contention of the applicant regarding jurisdiction of the Garrison Engineer was baseless as the applicant was drawing a sum of Rs. 400/- in the scale of Rs. 260-400 at the time of initiation of the disciplinary proceedings and as such the Garrison Engineer was competent to issue charge sheet under rule 13(2) of the CCS (CC&A) Rules, 1965. In this connection a letter dated 20.4.84 was also issued to the applicant. Photostat copy of the letter dated 20.2.84 is annexed herewith and is marked as Annexure No C.A. 10 to this affidavit.



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It is also pertinent to be mentioned here that the Garrison Engineer is one of the Disciplinary Authorities empowered to impose minor penalty on Group 'C' posts maximum of whose pay in the scale does not exceed Rs. 700/- per month and all penalties (major and minor) whose pay in the time scale does not exceed Rs. 430/- in the schedule of the CDS (Revised Pay) Rules, 1973 as per Government of India, Ministry of Defence Order, dated 16.8.79. Photostat copy of the order dated 16.8.79 is annexed herewith and is marked as Annexure C.A. 11 to this affidavit.

15. That accordingly as per rules, the inquiry proceeded, which was held on 27.4.84, 1.5.84, 30.6.84, 2.7.84, 6.7.84, 9.7.84 and 31.7.84 and the applicant actively participated in the said inquiry.

16. That after going through the facts as well as the evidence the Inquiry Officer finalised the report and submitted it to respondent no 5 for onward transmission to respondent no 3 for his decision and finalisation of the case, on 25.8.84.

17. That after receipt of the inquiry proceedings as well as the report, the disciplinary authority i.e., respondent no 3 considered the case and imposed a penalty of "Reduction of pay by two stages in the time scale of pay of present post for a period of two years with immediate effect with a further direction that the p



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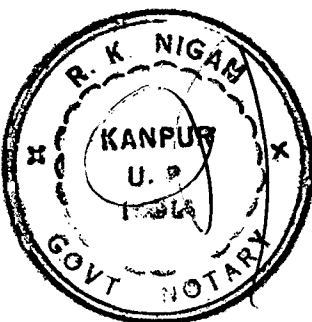
direction that he will not earn increment of pay during the period of reduction and on expiry of this period, the reduction will have the effect of postponing his future increments of pay vide order dated 22.11.86.

18. That the applicant filed an appeal against the aforesaid punishment order dated 22.11.86 under the provisions of rules 23 and 25 of the CCS (CCA) Rules, 1965. The said appeal was considered by respondent no.2, being appellate authority, and the same was rejected on 23.8.88. A perusal of the said order dated 23.8.88, filed as Annexure A 34 to the application, would go to show that the appellate authority had recorded reasons for disposing of the appeal.

parawise reply

19. That the contents of paragraph nos 1,2,3, 4, 5 and 6(1) of the application need no comments.

20. That in reply to the contents of paragraph no. 6(2), (3), (4) and (5) of the application, it is submitted that the applicant remained posted in the office of Assistant Garrison Engineer (I) Talbhat upto June 1982 and not upto June, 1981 as mentioned the paragraph under reply.

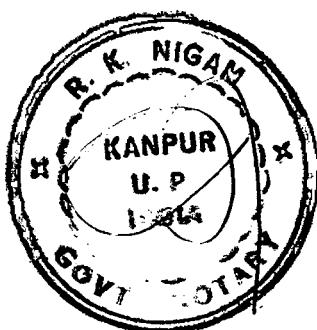


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21. That the contents of paragraph No. 6(6) of the application are not correct and as such are denied. It is further submitted that since the applicant had made complaint alleging certain irregularities at A.G.E.(I) Talbehata and the inquiry was ordered, he was required to be associated with the investigation. It is obligatory duty of a Government servant, who makes the complaint, to get the allegations proved; otherwise in case of those allegations being found false, disciplinary action can be taken against him. Moreover, it is discretion of the authorities ordering the inquiry and also of the Court of Inquiry to call any person whose presence and evidence is considered necessary, which should not be questioned/challenged but be complied with.

22. That the contents of paragraph no.6(7) of the application are not correct as stated. It is further stated that as per direction of the Chief Engineer, Central Command, Lucknow, vide their letter No 900601/1003/4/E1(Ccn) dated 27th July 1983 (contents/extract of which was communicated to Shri M.L. Bhatia vide GE (Fy) Kanpur letter No C-109/GEN/85/E1(Ccn) dated 06th August, 1983 detailing Shri M.L. Bhatia to proceed on temporary duty/attachment with CWE Jhansi to attend departmental court of inquiry was issued. Meanwhile, Shri Bhatia submitted



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a representation dated 9th August 1983 (addressed to CE CC Lucknow) which was forwarded to them for their consideration, the decision of which received was communicated to Shri Bhatia under GE (Factory) Kanpur letter No C-109/GEN/131/E1 dated 31st Oct 1983.

23. That in reply to the contents of paragraph no. 6(8) of the application, it is submitted that the representation of the applicant dated 14th Nov, 1983 addressed to CE CC Lucknow was forwarded to them by GE (Fy) Kanpur through CWE Kanpur for their consideration.

24. That the contents of paragraph no. 6(9) of the application are denied and it is submitted that the decision received from CE CC Lucknow on his representation dated 14th November, 1983 was communicated to Shri M.L Bhatia under GE (Fy) Kanpur letter No. C-109/GEN/143/E1 (Cm) dated 02.12.1983 and also Movement Order No. 1204-S/939/E1 dated 2nd December, 1983 detailing him to proceed on temporary duty/attachment to GE Babina to attend inquiry on 5th December, 1983 was issued.

25. That the contents of paragraph no. 6(10) of the application are denied and it is submitted that the Chief Engineer Jabalpur Zone, Jabalpur informed telegraphically that Shri Bhatia be directed to attend

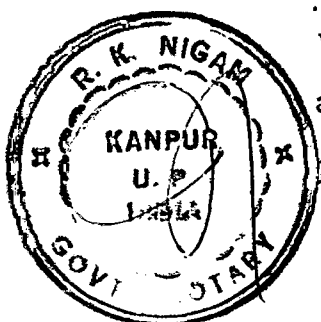


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the inquiry to be held at GE Babina on 5th December, 1983. Meanwhile, CE CC Lucknow intimated vide their signal No. 07796 dated 1st December, 1983 that the appeal dated 14th November, 1983 of Shri Bhatia was considered and rejected by Command Chief Engineer and it was also simultaneously directed that he be detailed to report to GE Babina on 5th December, 1983. Accordingly, GE (Fy) Kanpur issued further Movement Order no. 1204-S/939/E1 dated 2nd December, 1983. His application dated 2nd December, 1983 applying for five days medical leave from 2nd December, 1983 onward (without attaching therewith medical certificate in support of his sickness) was received in his office on 3rd December, 1983. As such, Shri Charan Singh, Office Superintendent was sent to his residence on 2nd December, 1983 and the aforesaid Movement Order along with GE (Fy) Kanpur letter no. C-109/GEN/144/E1(Con) dated 3rd December, 1983 intimating rejection of his appeal dated 14th November, 1983 by the Command Chief Engineer was got delivered to him by Shri Charan Singh, Office Superintendent and Shri U.S. Bhatia, Superintendent E/M Gde I at his residence on 3rd December, 1983. The medical certificate was submitted by applicant on resuming his duty and as such his leave was regularised under GE(Fy) Kanpur part II Order no. 50 dated 19th December, 1983, in question.

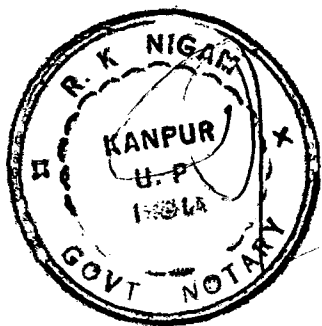


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26. That the contents of paragraph no. 6(11) of the application are denied. His leave application dated 2nd December, 1983 applying leave for five days from 2nd December, 1983 was received in office of respondent no. 6 on 3rd December, 1983. Movement Order no. 1204-S/939/E1 dated 2nd December, 1983 was issued on 2nd December, 1983.

27. That the contents of paragraph nos. 12 and 13 of the application are denied. The Presiding Officer of the court of inquiry(CWE Bhopal) informed telegraphically dated 10th December, 1983 (received in GE (Fy) Kanpur on 13th December, 1983 EN) for assembly of inquiry on 13th and 14th December, 1983 at CWE Jhansi, GE Babina. As such, Shri M.L. Bhatia was called immediately by the GE, Major S.S. Dhanoo and asked him verbally to proceed to attend the Inquiry but applicant expressed his inability and refused to move in the presence of his officiating AGE E/M and Office Superintendent who were present in the office of GE at that time. Higher authorities (Command and Zonal Chief Engineers and others) were informed accordingly. His representation dated 12th December, 1983 addressed to GE CC Lucknow, in question, was received in the office of GE (Fy) Kanpur through his AGE E/M office on 13th December, 1983, i.e. after applicant having been called by the then GE, Major SS Dhanoo and asked to proceed to CWE Jhansi/GE Babina. The said



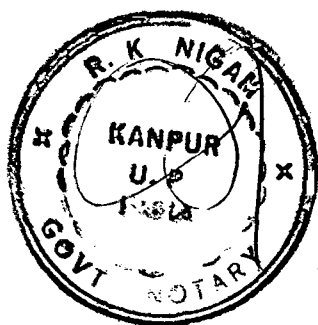
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representation was immediately forwarded to CE CC Lucknow on the same day of receipt i.e. 13th Dec 1983.

28. That the contents of paragraph no. 6(14) of the application are denied and it is submitted that since Shri Bhatia failed to proceed on temporary duty to attend departmental court of inquiry as being detailed and thus he disobeyed the order contravening the provision of Rule 3(1) (ii) and (iii) of Central Civil Service (Conduct) Rules, 1964, disciplinary action under Rule 14 of CCS (CC&A) Rules, 1965 was initiated by GE (Fy) Kanpur vide his Memorandum bearing no. C-109/MLB/71/E1(Ccn) dated 10th February, 1983(84) following receipt of directive from Command Chief Engineer in this regard. As regards rule 20 of CCS (Conduct) Rules, 1964 quoted by Shri Bhatia, it stipulated that "No Government 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". In the said rule there is no such mention that the same is not applicable to the Government servant drawing pay less than Rs.500/- per month, as contended by him. The questioned form is standard form of charge sheet under Rule 14 of the CCS (CC&A) Rules, 1965 standardised by the Government of India in consultation with the Ministry of Law for use in cases relating to proceedings for imposing of



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major penalties and nothing else has been added therein.

29. That the contents of paragraph no. 6(15) of the application need no comments.

30. That the contents of paragraph no. 6(16) of the application are denied. Garrison Engineer is one of the disciplinary authorities empowered to impose minor penalty on Group 'C' posts maximum of whose pay in the scale does not exceed Rs. 700/- per month and all penalties (major and minor) whose pay in the time scale does not exceed Rs. 430/- in the Schedule to the CDS (Revised Pay) Rules 1973 as per Government of India, Ministry of Defence Order No.5(14)/79/D(Lab) dated 16th August, 1979.

Shri Bhátia was drawing Rs. 400/- in the scale of Rs. 260-400 at the time of initiation of disciplinary action. Also under Rule 13(2) of CCS (CCA) Rules, 1965 GE is competent authority to issue charge sheet under Rule 14 of the aforesaid rules. Citing of Major SS Dhanca, GE as one of the witnesses mentioned in Annexure IV of the charge of Memorandum who has also issued charge sheet, does not vitiate the proceedings because final punishment order has been issued by a different authority i.e. respondent no. 3.



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- 16 -

31. That in reply to the contents of paragraph no.6(17) of the application; it is submitted that on receipt of the said defence statement dated 18th February, 1984, the applicant was informed by GE (Fy) Kanpur letter no. C-109/MLB/76/E1(Cm) dated 20th February, 1984 to refer Rule 12(2) and 13(2) of CCS (CC&A) Rules, 1965 in respect of his contention raised in para 3 of his defence statement.

32. That the contents of paragraph no.6(18) of the application are denied. CWE Bhopal(Presiding Officer of the Departmental Inquiry) informed GE (Fy) Kanpur and other concerned vide his letter No. VND/INQ/MLB/38/E1 dated 29th Feb 1984 that inquiry would assemble wef 1st Mar, 1984 to 3rd March, 1984 at CWE Jhansi/GE Babina/AGE Balbehata and asked the applicant to report to CWE Jhansi on 1st March, 1984 in connection with the subject court of inquiry. Accordingly, GE (Fy) Kanpur informed the applicant under his letter no. C-109/MLB/30/E1C dated 27th February, 1984 and also issued movement order no. 1204-S/961/E1 dated 28th February, 1984 mentioning therein the date of commencement of journey as 29th February, 1984. There was no point of harassment, as contended by the applicant.

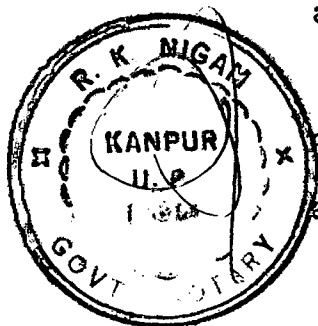
33. That the contents of paragraph no.6(19) of the application need no comments.



34. That in reply to the contents of paragraph no. 6(20) of the application, it is submitted that the representation of the applicant dated 9th March, 1984 addressed to GE CC Lucknow was forwarded to them through CWE Kanpur by GE (Fy) Kanpur under his letter no. C-109/MLB/91/E1 (Ccn) dated 10th March, 1984. Decision of GE CC Lucknow rejecting his request vide their letter no. 900601/1003/54/E1C dated 26th April 1984 was communicated to Shri Bhatia by GE (Fy) Kanpur under his letter no. C-109/MLB/116/E1C dated 7th May 1984 and also no. C-109/MLB/120/E1C dated 17th May 1984.

35. That the contents of paragraph no. 6(21) of the application need no comments. However, it is stated that the extract of CE LZ Lucknow letter no. 122040/8/E1(Ccn) dated 2nd March, 1984 was communicated to Shri Bhatia by GE (Fy) Kanpur under his letter no. C-109/MLB/93/E1(Ccn) dated 14.3.84. The advice given in para 2 thereof was well intended in his interest.

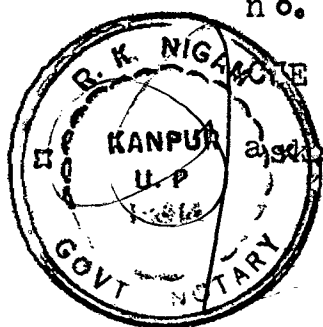
36. That the contents of paragraph no. 6(22) of the application are denied. As mentioned in sub para 16 above, in terms of Rule 13(2) of CCS (CC&A) Rules, 1965 a disciplinary authority is competent to impose any of the penalties specified in clauses (i) to (iv) of Rule 11 aforesaid may institute disciplinary proceedings against a Government servant for imposition of any of the penalties specified in clauses (v) to (ix) of Rule 11 notwithstanding



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Rule 11 notwithstanding that such disciplinary authority is not competent under these rules to impose any of the latter (i.e. major penalties). Major penalties under rule 14 of CCS (CCA) Rules, 1965 are to be imposed by the competent disciplinary authority who is the appointing authority of the Government servant. Such competent authority to issue/institute disciplinary action under Rule 14 may itself inquire into such of the article of charge as are not admitted or may appoint any inquiry authority for the said purpose. The Inquiry Authority, if considered necessary may be appointed by the higher authority of the competent disciplinary authority (i.e. who has instituted disciplinary action). As such, Shri S.K.Sadhu, EE of Garrison Engineer of GE (Project) Fy Kanpur was appointed as Inquiring Authority by Commander Works Engineer, Kanpur (who is higher authority than Garrison Engineer) vide their order no C/109/MLB/21/E1 (Ccn) dated 14.3.84 which was quite in order. Shri O.P.Sharma, AE B/R of GE (Fy) Kanpur was appointed as Presenting Officer by CWE Kanpur which was also in order.

37. That in reply to the contents of paragraph no. 6(23) of the application, it is submitted that Shri Bhopal (Presiding Officer of the court of inquiry) directed GE (Fy) Kanpur to direct Shri M.L. Bhatia



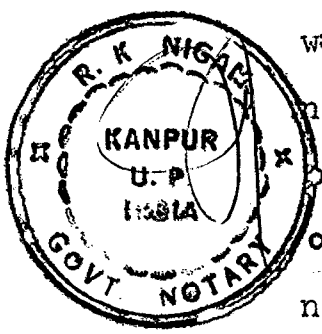
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A139

to report CWE Jhansi on 19th April, 1984 in connection with subject inquiry. Shri Bhatia was informed by GE (Fy) Kanpur vide his letter no. C-109/MLB/107/E1C dated 9th April, 1984 and movement order no. 1204-S/973/E1 dated 9th April, 1984 was also received by him but he did not proceed.

38. That in reply to the contents of paragraph no. 6(24) of the application, it is submitted that as mentioned by the applicant, decision of CE CC Lucknow contained in their letter no. 900001/1003/54/E1 (Cen) dated 26th April, 1984 was communicated to Shri Bhatia vide GE (Fy) Kanpur letter no. C-109/MLB/116/E1 (Cen) dated 7th May, 1984 and also letter no. C-109/MLB/120/E1 (Cen) dated 17th May, 1984. In response to his letter dated 14th May, 1984, in question, Shri M.L. Bhatia was informed by GE (Fy) Kanpur under letter no. C-109/MLB/122/E1 (Cen) dated 18th May, 1984 that his demand about security arrangement by his office is beyond his action. Hence, the responsibility of any kind of untoward happenings does not rest with the administration.

39. That in reply to the contents of paragraph no. 6(23) of the application wrongly repeated, it is stated that the decision of CE CC Lucknow vide letter no. 900001/1003/54/E1 dated 26.4.84 on his appeal dated 9th March, 1984 was communicated by GE (Fy) Kanpur under his letter no. C-109/MLB/116/E1C dated 7th May, 1984 and again on receipt of his application dated 8th May, 1984 full extract of para 2 of CE CC letter was communicated to him under letter no. C-109/120/E1 (Cen) dated 17th May, 1984.

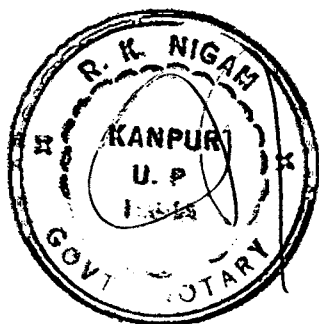


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- 20 -

40. That the contents of paragraph no. 6(24) of the application (wrongly repeated) are denied. It is further submitted that it was also informed to the applicant by GE (Fy) Kanpur vide his letter no. C-109/122/E1(Cen) dated 18th May, 1984 (para 2 thereof refers) that Chief Engineer Central Command had directed, inter alia, that he must proceed to a place where he was ordered to move in connection with inquiry or face disciplinary action. It was also added that if he had anything against the decision/directive of concerned Chief Engineer, the application/representation may be made to CE CC Lucknow.

41. That the contents of paragraph no. 6(25) of the application are denied. The application dated 23rd May, 1984 addressed to CE CC Lucknow was forwarded by GE (Fy) Kanpur through CWE Kanpur and Chief Engineer Lucknow Zone Lucknow for onward transmission to CE CC Lucknow with a copy to CWE Bhopal (Presiding Officer of Departmental Court of Inquiry) to intimate fresh date and time for holding court of inquiry so that Shri M.L. Bhatia (who expressed his willingness to proceed to CWE Jhansi to attend the inquiry) may be despatched accordingly. In response to this, CWE Kanpur intimated to GE (Fy) Kanpur that CWE Bhopal (Presiding Officer) informed them vide his letter no. VND/INQ/MLB/168/E1(Cen) dated 4th June, 1984 that the proceedings of



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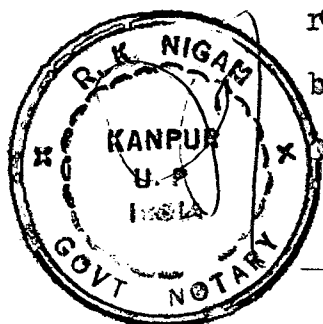
- 21 -

Court of Inquiry ordered on the subject had already been finalised and forwarded to CE (P) Jabalpur. Accordingly, GE (Fy) Kanpur informed Shri M.L. Bhatia vide his letter no. C-109/MLB/131/E1(Cen) dated 12th June, 1984 adding therein that the decision of Chief Engineer on his application dated 23rd May, 1984 had not yet been received.

42. That in reply to the contents of paragraph no. 6(26) of the application, it is submitted that the inquiry was conducted by the Inquiry Officer (Shri S.K.Sadhu, EE, GE (P) Fy Kanpur) in accordance with the procedure and the ~~rule~~ rules for conducting inquiry under Rule 14 of CCS (CC&A) Rules, 1965. Daily order sheet of the inquiry was maintained by the Inquiry Officer.

43. That the contents of paragraph no. 6(27) of the application need no comments. As per instruction, a copy of the written brief submitted by the Presiding Officer at the end of oral inquiry was to be supplied to the applicant for preparation and submission of his written brief which was done by the Inquiry Officer.

44. That the contents of paragraph no. 6 (28) of the application are denied. The applicant could have raised such points during the process of inquiry or before concluding the inquiry, if any. Sub Major R.B. Singh, Office Superintendent was not summoned by the Presiding



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- 22 -

Officer being not considered necessary. The applicant was free to call him as his defence witness, if he considered his evidence to be useful to him. At no stage the applicant submitted his list of defence witnesses.

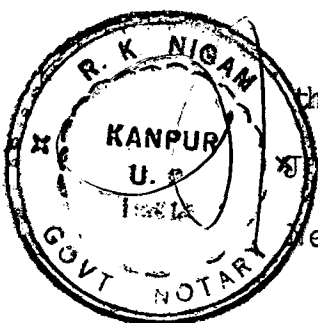
45. That the contents of para 6(29) of the application are denied being false.

46. That the contents of paragraph no. 6(30) of the application are absolutely incorrect and unfounded. The applicant was afforded all facilities/opportunities of defending himself.

47. That the contents of paragraph no. 6 (31) of the application are also incorrect and unfounded. The decision to impose the punishment was given by Command Chief Engineer after a careful consideration of the inquiry report and the documents on record and the charge being established against Shri M.L. Bhatia vide Engineer Branch HQ Central Command Lucknow Order No. 9006/1003/134 E1 (Con) dated 22nd November, 1986.

48. That the contents of paragraph no. 6(32) of the application are denied. The findings of the Inquiry Officer flow from assessment of the evidence and there is no contradiction or ambiguity.

49. That the contents of paragraph no. 6(33) of the application need no comments. An appeal dated 29th January, 1987 addressed to the Engineer-in-Chief, AHQ New Delhi was preferred by Shri Bhatia.



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- 23 -

50. That the contents of paragraph no. 6(34) of the application are denied. It is submitted that his appeal dated 29th January, 1987 referred to above was carefully examined and after due consideration of all factual position, the appeal was rejected by the Engineer-in-Chief, New Delhi vide his Order no. 78653/824/87/E1D dated 23rd August, 1988.

51. That the contents of paragraph no. 7 of the application need no comments.

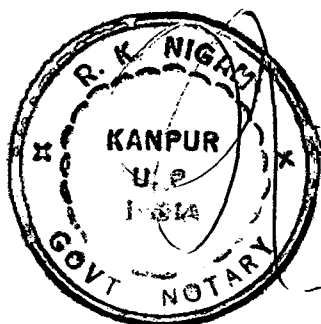
52. That in reply to the contents of paragraph no. 8 of the application, it is submitted that the answering respondents have no positive information and as such no comments are being offered.

53. That in reply to the contents of paragraph no. 9 of the application, it is submitted that in view of the facts and circumstances stated above, the applicant is not entitled to any relief referred to in the paragraph under reply.

54. That the contents of paragraphs nos. 10, 11 and 12 of the application need no comments.

(Deponent)

On Behalf of the Respondents



VERIFICATION

I, the deponents aforesaid, do hereby declare

A144

- 24 -

that the contents of this affidavit are true
to the best of my knowledge and an information
received from the records believed to be true.
No part of this affidavit is false and nothing
material has been concealed or suppressed.

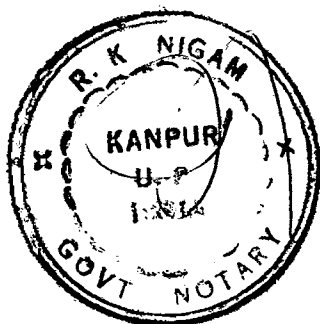
So help me God.

Date: 18 April
08 March 1989

(Deponent)
On Behalf of the Respondents:

To

The Registrar
Central Administrative Tribunal
Allahabad Bench.



AIUS

I,

Clerk to

Shri

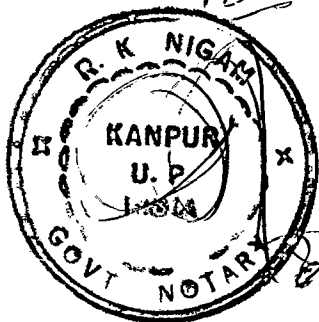
do hereby declare that the person making this affidavit
and alleging himself to be Major V.S. Dabas
is known to me from a perusal of papers which he
produced before me in this case.

Shri

solemnly affirmed before me on this day of 25 March 1989
at 4.30 A.M./P.M. by the deponent, who is identified
by the aforesaid Clerk.

I have satisfied myself by examining
the deponent that he fully understands the contents
of this affidavit, which have been read over and
explained to him by me.

08/4/89 156



On the Commission

Sworn before me today by Shri May V.S. Dabas
to whom the contents of this affidavit have been
read over and explained and who is duly
Identified by Shri R. K. Nigam

R.K. NIGAM
GOVT. NOTARY
KANPUR (U.P.)
INDIA

R. K. NIGAM, Advocate
Govt. Notary, KANPUR.

4-89 2-8-4-89
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Annexure C. A. 1

CONFIDENTIAL

(13)

(29)

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Tele : 53142

HQ Commander Works Engineers
No 1 Wheeler Barracks
Kanpur Cantt-208004

C/106/Fy/218 /B4

28 Jul 83

GE (Fy) Kanpur

COMPLAINT F. O. L. R. L. B. BHATIA, LDC AGAINST A. C. E. (I)
TALBHAT

1. A copy of Chief Engineer HQ Central Command Lucknow letter No 900601/1003/2/E1 (Con) dated 13 Jul 83 is forwarded herewith for your compliance.

(MU Khan)
Offg AO II

Annexure C. A. 1

for Commander Works Engineers

Copy of CE HQ CC Lucknow letter No 900601/1003/2/E1 (Con) dt 13 Jul 83.

AS ABOVE

1. Refer to your letter No 150055/A2/1407/E1 (Con) dt 23 Jun 83.
2. The case has been seen by Command CE who directs that departmental C of I may be ordered by Zonal CE immediately to investigate the allegations contained in the written complaint dated 23 Feb 83 made by Shri ML Bhatia, LDC of GE (Fy) Kanpur. Shri Bhatia should be ~~xxx~~ associated with the investigating who will be made available to the departmental C of I on temporary attachment with your office or on Ty duty as and when required by the departmental C of I.
3. The Presiding Officer of the above departmental C of I should be Lt Col/SE.
4. The departmental C of I should be ordered and investigation started immediately. C of I proceedings duly completed along with the comments/recommendations of Zonal CE may be forwarded to this HQ 31 Aug 83.
5. The complaint dated 23 Feb 83 received under your letter at reference is returned herewith.

Sd/-xxxxxx

(Jagan Nath)
SAO/SO2

Chief Engineer

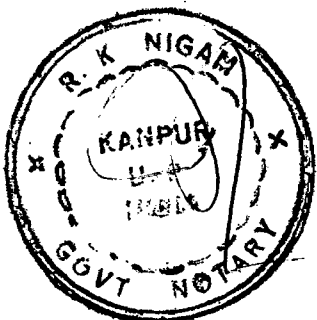
Encls(5 sheets)

Copy to :-

Chief Engineer - Shri ML Bhatia, LDC is now with GE (Fy)
Lucknow Zone Kanpur. He should be made available to
Lucknow - 2 CE Jabalpur Zone, Jabalpur on ty attachment
or on ty duty as and when required by
departmental C of I.

CWE Kanpur - For similar action.

CONFIDENTIAL



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discussed

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CONFIDENTIAL

Tele No. 000

Chief Engineer
Headquarters Central Command
Lucknow -2

000001/1003/

/21(Con)

27 Jul 83

Chief Engineer
Lucknow Zone
LucknowCOMPLAINT FROM SHRI M. BHATIA, IAS (P) Kanpur (1) TAMIL

1. Refer to this HQ letter No. 000001/1003/2/21(Con) dated 13 Jul 83.
2. MRS-450035 Shri M. Bhatia, IAS of GE (P) Kanpur is hereby attached with CSE Jhansi with immediate effect. The likely duration of attachment will be six weeks.
3. Shri M. Bhatia may be directed to report to CSE Jhansi immediately.

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Copy to:-

(Signature)
(Jagan Nath)
S.M./802
Chief Engineer

Chief Engineer
Jabalpur Zone
Jabalpur

- With reference to this HQ letter quoted at vo and your signal No. 0723 dated 21 Jul 83.

CSE Kanpur

for immediate actions

GE (P) Kanpur

CSE Jhansi

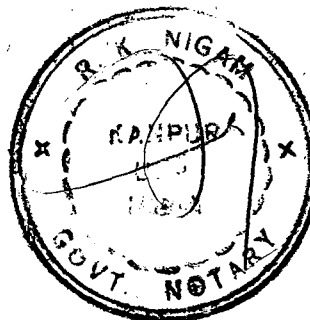
for information

Internal

B16(1)

Shri M. Bhatia, IAS is attached with CSE Jhansi in connection with investigation of complaint by a departmental Court of Inquiry which Shri Bhatia had made in writing.

2. Please issue necessary temporary duty leave sanction.

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S. S. S. S.
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Annexure-CA. 3

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Tele Mil 632

Office of the Chief Engineer
Lucknow Zone
Lucknow -2

122066/1/213/E1(Con)

21 Oct 83

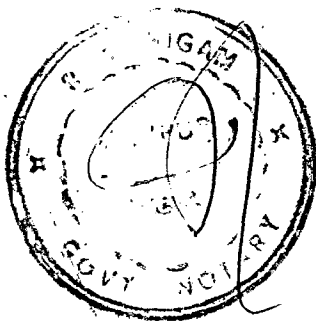
Commander Works Engrs
Kanpur

COMPLAINT FROM SHRI ML BHATIA, LDC AGAINST
AGE (I) TALBEHAT

1. Reference further to this office letter No 122066/11/184/E1C dated 22 Sep 83 addressed to CE Central Command and copy endorsed to your office.
2. It has been intimated by CE Central Command that Shri ML Bhat LDC made a written complaint alleging certain irregularities of AGE (I) Talbehat. As already directed by them vide their letter No 900601/1005/2/E1(Con) dated 13 Jul 83, Shri ML Bhatia may be made available to Chief Engr Jabalpur Zone on temporary duty or on attachment to be associated with the investigation, since it has been decided to investigate the allegation through a Departmental Court of Inquiry by Command CE.
3. In view of the above please issue necessary movement order for proceeding Shri ML Bhatia to CWE Jhansi under CE Jabalpur Zone under intimation to all concerned.
4. This disposes of the individual's representation dated 09 Aug 83 who should be informed accordingly.

Sd/- x x x x x x x x .
(N Samuel Mathew)
AO I
for Chief Engineer

CONFIDENTIAL



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CONFIDENTIAL

Tele : 53142

Priority

HQ Commander Works Engineers
No 1 Wheeler Barracks
Kanpur Cantt -208004

C/106/Fy/227/E1(Con)

27 Oct 83

GE (Fy)
Amapore Post
Kanpur-9

COMPLAINT FROM SHRI ML BHATIA, IDC AGAINST AGE(I) TALJEHAT

1. Reference our letter No C/106/Fy/227/E1(Con) dt 06 Sep 83 addressed to CB Lucknow Zone and copy to you.
2. A copy of CELZ Lucknow letter No 122066/1/218/E1(Con) dt 21 Oct 83 is forwarded herewith for your information and necessary action.
3. Please issue necessary movement order for proceeding of Shri ML Bhatia to CWF Jhansi Under ~~CB Jabalpur Zone~~ under intimation to all concerned.

Encl : One

Copy to

CELZ
Lucknow

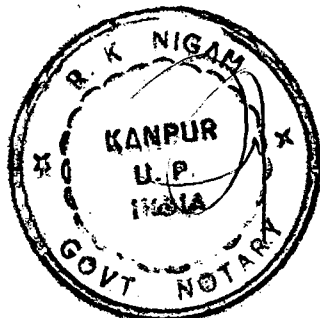
CONFIDENTIAL

for information please

(BN Gupta)

AO II

for Commander Works Engineers



CFN O 7081

BT

REASSIGNING GE BABINA ON DEC 05

NOV 03 (.) M L BHATIA READ AT GE BABINA DEC 05 AS COURT

COMPLAINT FROM M L BHATIA LDC (.) YOUR SIG O 7793

UNCLAS O 7081

BT

GE BABINA

GE FY KANPUR

CEW BHOPAL

CWE JHANSI

CWE KANPUR

INFO CE LZ LUCKNOW

TO CE CENT COMD

FM CE JABALPUR ZONE

DT 071400

085223

Am-24-24-14-4-4

Extract No. C. 44

34

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AFSO

IN LIEU OF MESSAGE FORM

DTG - 071400

FROM : CE JABALPUR ZONE

TO : CE CENTCOM

UNCLAS

07081

INFO : CE LZ LUCKNOW
CWE KANPUR
CWE JHANSI
CWE BHOPAL
GE FY KANPUR
GE BABINA

complaint from ml bhatia ldc (.) your sig 07793 nov 03 (.)

ml Bhatia read at ge babina dec 05 as court reassembling
ge babina on dec 05.

BD JHANS

AO I

CE JZ

Tele Mil : 313

[Signature]

(BD Jhanb)
AO I.

Case No 150055/A2/MLB/ 24 /E1(Con)

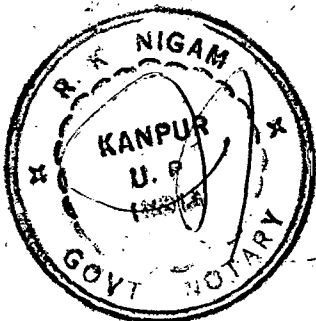
TOR -

Dated : 7 Nov 83

Copy by post in confirmation to:-

1. CE CC Lucknow
2. CE Lucknow Zone, Lucknow
3. CWE Kanapur
4. CWE Jhansi
5. CWE Bhopal
6. GE Babina
7. GE (Fy) Armapore post Kanapur

- Reference your letter No C-109/GEN/130/E1(Con) dt 31 Oct 83. The court will reassemble at GE Babina on 05 Dec 83. Please ensure Shri ML Bhatia, LDC is present on 05 Dec 83 at GE Babina.



Tel: 20126

GARRISON ENGINEER (FY)
 ARMAFORE POST
 KANPUR-9
 03 DEC 83

C-109/GEN/WM/E1 (Con)

Shri ML BHATIA, IDC
 119/268 Darshan Purva,
 Kanpur

COMPLAINT FROM SHRI ML BHATIA, IDC
AGAINST AG (I) TALISHAT

1. Reference your Appeal dated 14 Nov 83 addsd to CE CC Lucknow.

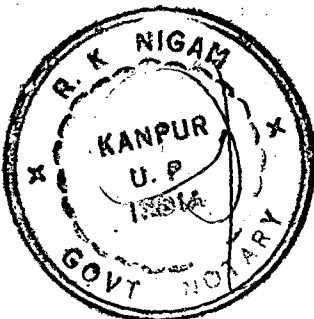
2. Your appeal has been considered by CE CC Lucknow and has been ~~rejected~~ rejected. CE CC Lucknow has further directed us to direct you to report to CE Bahina on 5th Dec 1983 to attend the court of inquiry. We had received this information from CME Kanpur on 2nd Dec 83 at about 1400 hrs.

3. It was found that you were present in the office at that time. Shri Charan Singh, Office Supdt was deputed by the undersigned, to deliver this office Movement Order No 1204-S/939/E1 dated 02 Dec 83 to you at your residence. Shri Charan Singh visited your house on 2nd Dec 83 at about 1640 hrs, 2000 hrs and 2130 hrs and every time he was informed by the members of your family that you were not present in the house and your whereabouts were not known to them. Again on 3rd Dec 83 Shri Charan Singh visited your house for the same purpose at about 0930 hrs and ~~he was again~~ informed that you are neither present in the house nor your whereabouts known to the members of your family.

4. As a last resort, the movement order referred above, has been forwarded to you by registered post vide our letter No C-109/GEN/143/E1 (Con) dated 02 Dec 83.

5. You are again advised in your own interest to collect the movement order from Shri Charan Singh from this office or from the residence of Shri Charan Singh (Ar No 118/143 Kaushal Puri, Kanpur) on 3rd Dec/4th Dec 83 during non-working hours as 4th Dec 83 happens to be Sunday. You are further advised to present yourself before the court of inquiry on 5th Dec 83 at CE Bahina.

6. Since you have deliberately avoided to accept the movement order, this letter is, therefore, being pasted in your house by a board detailed by me.



(SS DHANOA)
 MAJOR
 GARRISON ENGINEER

Page 1

Annexure C.A.E

(33A) (153)

IN LIEU OF TELEGRAM

STATE

MIL

TELEGRAM

AIS2

ML BHATIA

LDC

119/268 DARSHAN PURWA
KANPUR

CHIEF ENGINEER
CENTRAL COMMAND LUCKNOW

CHIEF ENGINEER
LUCKNOW ZONE LUCKNOW

CHIEF ENGINEER
JABALPUR ZONE JABALPUR

CWE KANPUR (By Hand)

CWE BHOPAL

CWE JHANSI

GE BANINA

COMPLAINT FROM ML BHATIA AGAINST AGE (I) TALEHAT AAA
REFER THIS OFFICE MOVEMENT ORDER No 1204-S/939/E1 DEC TWO
AAA GE JABALPUR ZONE HAS INTIMATED VIDE THEIR SIGNAL
O 7066 DEC THREE THAT CWE BHOPAL HOLDING INQUIRY
DEC EIGHT 1000 HRS AT GE BANINA AAA ML BHATIA LDC
DIRECTED HEREBY ATTEND INQUIRY GE BANINA ON DEC EIGHT
1000 HRS

GARRISON (FY)

NOT TO BE TELEGRAPHED

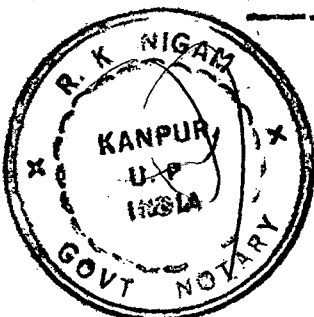
KANPUR

DATED 06 DEC 83

(SS DHANOA)

MAJOR

GARRISON ENGINEER (FY)



F/ 152
1-11

IN LIEU OF TELEGRAM

Annexure C. A. 7

STATE

MIL

TELEGRAM

ML BHATIA

LDC

119/268 DARSHAN PURWA
KANPUR

CHIEF ENGINEER
CENTRAL COMMAND LUCKNOW

CHIEF ENGINEER
LUCKNOW ZONE LUCKNOW

CHIEF ENGINEER
JABALPUR ZONE
JABALPUR

CWE KANPUR (By Hand)

CWE BHOPAL

CWE JHANSI

GE BABINA

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A153

COMPLAINT FROM ML BHATIA AGAINST AGE (I) TALBEHAT AAA
REFER THIS OFFICE MOVEMENT ORDER No 1204-S/939/E1 DEC TWO
AAA GE JABALPUR ZONE HAS INTIMATED VIDE THEIR SIGNAL
O 7066 DEC THREE THAT CWE BHOPAL HOLDING INQUIRY
DEC EIGHT 1000 HRS AT GE BABINA AAA ML BHATIA LDC
DIRECTED HEREBY ATTEND INQUIRY GE BABINA ON DEC EIGHT
1000 HRS

WARREN GER (FY)

NOT TO BE TELEGRAPHED

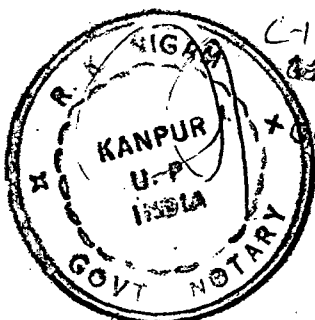
KANPUR

DATED 06 DEC 83

(SS DHANOA)
MAJOR
GARRISON ENGINEER (FY)

Tel: 20126

2054
GARRISON ENGINEER (FY)
ARMAPORE POST
KANPUR-9
06 DEC 83



C-109/654/1531
119/268
E1

Copy by post in confirmation to:-

1. Shri ML Bhatia LDC - Chief Engineer Jabalpur Zone
119/268 Darshan Purwa
KANPUR
Jabalpur has intimated that

P. T. O.2

under their signal No 07066
dt 3rd Dec 83 (received in this office today) that CWE Bhopal is holding inquiry in GE Babina on 8th Dec 83 at 1000 hrs.

A154

2. Accordingly, he is hereby directed to proceed to GE Babina now, in case he has ~~already~~ not already moved, to attend inquiry on 8th Dec 83 at 1000 hrs.

N.O.O.

2. Chief Engineer - wrt their HQ letter No 900601/1003/
Central Command E1(Can) dt 01 Dec 83. In this
LUCKNOW-2 connection this office letter
No C-109/GEN/147/E1(Can) dt 03 Dec
3. Chief Engineer 83 and subsequent telegram dated
Lucknow Zone 03 Dec 83 may please be referred to
LUCKNOW-2 under which it was intimated that
4. Chief Engineer our Movement Order No 1204-S/939/E1
Jabalpur Zone dt 2nd Dec 83 (copies to them)
JABALPUR detailing Shri ML Bhatia, LDC to
proceed GE Babina to attend inquiry
5. CWE Kanpur on 5th Dec 83 was delivered to him
6. CWE Bhopal on 3rd Dec 83 at about 1330 hrs at
his residence since he is on
7. CWE Jhansi medical leave for 5 days wef 2nd
8. GE Babina Dec 83. It is, however, not known
to this office whether or not
Shri Bhatia proceeded to GE Babina
on 3rd Dec 83 to attend inquiry
on 5th Dec 83. This is for
information.

- 2 -

Copy to:-

CWE Kanpur

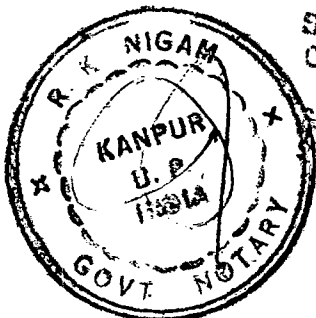
- for information;

N.O.O.

Shri Ujjal Singh Bhatia,
Su dt B/M Cde, I

Shri Charan Singh,
Office Supdt

Shri SK Bhatia,
K I



B2 / 42, 43
P2

Summary C. M. 8

56

MISS

IN LIEU OF TELEGRAM

STATE

MIL

TELEGRAM

CHIEF ENGINEER
CENTRAL COMMAND LUCKNOW

CHIEF ENGINEER
LUCKNOW ZONE LUCKNOW

CHIEF ENGINEER
JABALPUR ZONE JABALPUR

CWE KANPUR (By Hand)

CWE BHOPAL

CWE JHANSI

GE BABINA

COMPLAINT ML BHATIA LDC AGAINST AGE (I) TALEEHAT AAA
REFERENCE THIS OFFICE MOVEMENT ORDER 1204-S/939/E1 DEC TWO
DIRECTING ML BHATIA ATTEND INQUIRY DEC FIVE GE BABINA AND
FURTHER OUR LETTER C-109/GEN/153/E1 DEC SIX DIRECTING HIM
ATTEND INQUIRY DEC EIGHT AAA - FURTHER REFER CWE BHOPAL
TELEGRAM DEC TEN INTIMATING ASSEMBLY OF BOARD THIRTEEN AND
FOURTEEN DEC AT COMMENGER JHANSI/GARRENGER BABINA RECEIVED
THIS OFFICE DEC THIRTEEN AT 1045 HRS AAA ML BHATIA WHO JOINED
DUTY DEC EIGHT SUBMITTING MEDICAL FITNESS CERTIFICATE FROM
DEC TWO TO DEC SEVEN WAS CALLED BY GARRENGER IN PRESENCE HIS
AGE E/M AND OTHER STAFF MEMBERS DIRECTING/ADVISING ML BHATIA
TO PROCEED AND ATTEND BOARD BUT HE REFUSED TO PROCEED AAA

ADVISE FURTHER ACTION

GARRENGER (FY)

NOT TO BE TELEGRAPHED



Station: KANPUR

13 Dec 82

Shanmug
(SS DHANOA)
MAJOR

1 to 11y : 000

00001/0107 W/ /1.1(Con)

Chief Engineer
Inchmou, 1000
Inchmou

Chief Engineer
Headquarters Central Command
Inchmou - 2

65
C> JAN 84

AISb

CONFIDENTIAL

Reference to (P1) Kanpur letter No C-109/001/153/81(Con) dated 15 Dec 83, C-109/001/153/1.1(Con) dated 15 Dec 83 and your letter No 1220/001/153/81(Con) dated 23 Dec 83.

2. Since Shri N. L. BHATTIA, 111 has failed to prove ~~direct~~ ^{disciplinary} proceedings may be initiated for disobedience of orders.

steno/05
Please discuss on
priority with rules
position 11/1

Tril
(Japan with)
SAD/002
Chief Engineer

Copy to :-

Chief Engineer

(FY) Kanpur

Annexure C.A. 10

CONFIDENTIAL

Tel: 20126

C-109/MLB/76 /E1(Con)

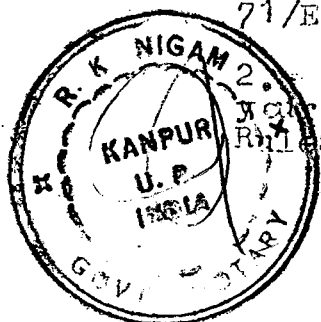
MES/450035
Shri ML BHATTIA
LDC (Pt)
Thro ACE E/M(Fy)

GARRISON ENGINEER (FY)
ARMAPORE POST
KANPUR-9
10 FEB 84

DISCIPLINE

1. Reference your defence statement dated 18 Feb 84 in response to this office Memorandum bearing No C-109/MLB/71/E1(Con) dated 10 Feb 84.

2. In respect of your contention raised in para 3 of your above cited defence statement, you are advised to refer Rules 12(2) and 13(2) of CCS (CCA) Rules 1965.



(SS DHAN OA)
MAJOR

157

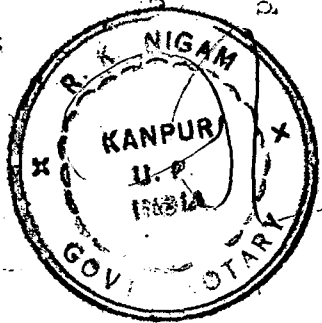
21.9.79

No. 5161/79/Defence
Government of India
Ministry of Defence.
New Delhi, the 16th August, 1979

Annexure C. A. 11

In exercise of the power conferred by clause (d) of Sub-rule (2) of Rule 12 of the Central Civil Services (Classification Control & Appeal) Rules, 1963, the President hereby empowers the following authorities to impose the penalties specified in Sub-rule (1) to (ix) of Rule 12 of the Rules ibid, as shown against the respective authorities, on Groups 'C' & 'D' Defence Civilian employees of Engineer-in-Chief's Branch, under their control and within their jurisdiction.

Sl. No.	Description of Service/Post	Authority competent to impose penalties and the penalties it may impose	Appellate authority
(1)	(2)	(3)	(4)
1. All Group 'C' Posts including Office Budget Code 2 and 1.	(a) CE Command (b) Comdt CME (c) Comdt Engr Gp and Centre (d) Officer i/c Records Engr Gp and Centre	All All All All	Engineer-in-Chief
	(e) CE Zone (f) CE Project/DCE (v)	All All	CE Command
	(g) CME/Comdr 14 Sigs Engr (h) OC ESD (Lt Col) (i) Col Admn (C/3) (k) OC Unit (Lt Col)	(1) to (iv) (1) to (iv) (1) to (iv) (1) to (iv)	(g) CE Zone/CE (v) (h) CE Command (i) Comdt CME (k) CE Command
2. Group 'C' Posts maximum of those pay in the time scale does not exceeds 700/- in the schedule to DCS (Revised Pay) Rules 1973, 1) except Office Budgets (Code 2 and 1)	(a) CE/Comdr 14 Sigs Engrs (b) OC ESD (Lt Col) (c) Col Admn (C/3) (d) OC Unit (Lt Col)	All All All All	(a) CE Zone/CE (v) (b) CE Command (c) Comdt CME (d) CE Command
	(e) CE/OC Sigs Section (Maj/lt)	(1) to (iv) (e)	CE/Comdr 14 Sigs Engrs



- (1) (2) (3) (4) (5)
3. Group 'C' posts (a) GE/OC Wks Section (a) CME/Comdr Wks Engr
 pay in the scale does not exceed Rs. 430/-pm in the Schedule to the CDS (Revised Pay) Rules, 1973. (b) for minor penalties mentioned at (1) to (iv) for major penalties mentioned at (v) to (ix).

DELEGATION OF POWERS UNDER SUB TITLE 2 OF TITLE 10 OF CCS (CCA) EFFECT 1965

GROUP 'D' POSTS

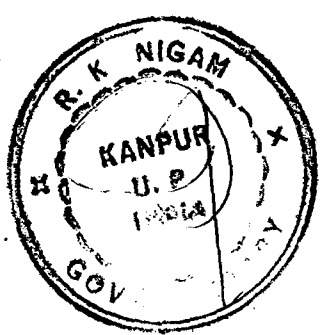
1. All Group 'D' posts under Engr

(a) OE Command	(b) Comdt CME	(c) Comdt Engr G and Centre	(d) Officer e/c records Engr G and Centre	(e) C Zone	(f) CE Project/DCE (?)	(g) CME/Comdr H & Wks Engr	(h) OC ESD (Lt Col)	(j) Col Adm (CME)	(k) OC Unit (Lt Col)	(l) GE/OC Wks Sec (Maj/EE)	(m) OC ESD (Maj)
ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL
Engineer-in-Chief					CE Command	CE Zone/CE Project	CE Command	Comdt CME	CE Command	Major penalties ie, penalties mentioned at (v) to (ix)	CE Zone/CE Project Minor penalties ie, penalties mentioned at (1) to (iv) CME/Comdr Wks Engr. CE Command

By order and in the name of the President.

Copy to :- Engr-in-Chief's Branch (EID).

Sd/- (S. N. MONTANA)
 Under Secretary to the Gov of India



(Copy)

TELE 372337

Coord aur Karmik Nideshalaya (E1D)
Pramukh Engineer Shakh
Coord and Pers Directorate (E1D)
Engineer-in-Chief's Branch
Army Headquarters -
DHQ PO New Delhi - 110011
31 Aug 79

27304/E1D

E-in-C's List 'A' to 'F' less 'D'

EXERCISE OF POWERS : DISCIPLINARY/APPELLATE AUTHORITIES

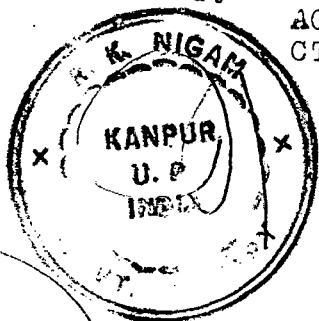
1. Engineer-in-Chief is the original appointing authority in respect of Group 'C' and 'D' posts. Under the provisions of Rule 9(1) of CCS(CC&A) Rules 1965, powers were delegated to lower authorities vide this HQ letter No 27304/E1D dated 07 Jun 74.
2. Such authorities, to whom these powers had been delegated are known as 'Delegatee Authorities' and these 'Delegatee Authorities' cannot further delegate their powers even to the officiating incumbents working on their behalf. Officiating incumbents will exercise the powers as explained in para 2 of this HQ letter dated 07 Jun 74 referred to above.
3. Under the provisions of Rule 12(2) of CCS(CC&A) Rules 1965, lower authorities in MES have now been delegated powers to impose the penalties specified in Sub Rule 1 to IX of Rule 11 of the rules ibid by the President. In this connection a copy of order bearing Ministry of Defence No5/14/79/D(Lab) dated 16 Aug 79, is forwarded herewith.
4. Appellate authorities against each case have also been specified in Column 5 of the above order, and the said stipulation supersedes para 2 of this HQ letter No 78987/E1D dated 12 Feb 73.
5. Your attention is again invited to para 21.1 of Chapter 9 of Vigilance Manual, Vol I, 3rd Edition and para 4 of Government of India Memo No 93792/100/Org-4(Civ)(a)/7420/D(Lab) dated 03 Dec 73 which provides that major penalties should in no case be imposed by any authority lower than the authority who actually appointed the accused Government servant. Only minor penalty can be imposed in such a case by a delegatee authority.
6. Please ensure that the above orders are brought to the notice of all concerned, and also ensure disciplinary cases/appeals are dealt with in future strictly according to the revised orders. The appeals which are required to be decided by E-in-C in accordance with these revised orders, will continue to be forwarded to this Headquarters as per procedure laid down in para 5 of this HQ letter No 78987/E1D dated 12 Feb 73.

Encl : One

Copy to :-

AG's Branch/Org-4(Civ)(a)
CTE QMG's Branch (5 copies)

Sd/- x x x
(JP Sharma)
Brig
Karmik Nideshak/DOP
Pramukh Engineer/E-in-C
DGBR(Coord)
E Coord 3 copies
EIR, EIB, EIC



09160

(400-A)

Telephone Mil 632

122005/851/El(Con)

Commander Works Engineers
Allahabad
Kanpur
Rangarh
(Project) Lucknow

Office of the Chief Engineer
Northern Zone
Lucknow - 2
10 Oct 79

EXERCISE OF POWERS : DISCIPLINARY/APPELLATE
AUTHORITIES

1. A copy of E-in-C's Branch, Army HQ letter No 27304/ElD dated 31 Aug 79 along with its enclosures, is forwarded herewith for information and guidance.

2. Please acknowledge.

28/11/10

AR
Devi

Copy to :-

ALA Garrison Engineer

Kanpur

Internal

E-1 C(2)
E-1 D
E-1 O(Adm)

R2

572 1026

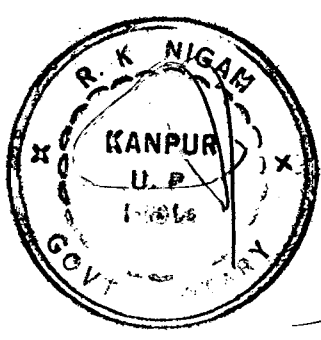
(KR Swami)
AO I

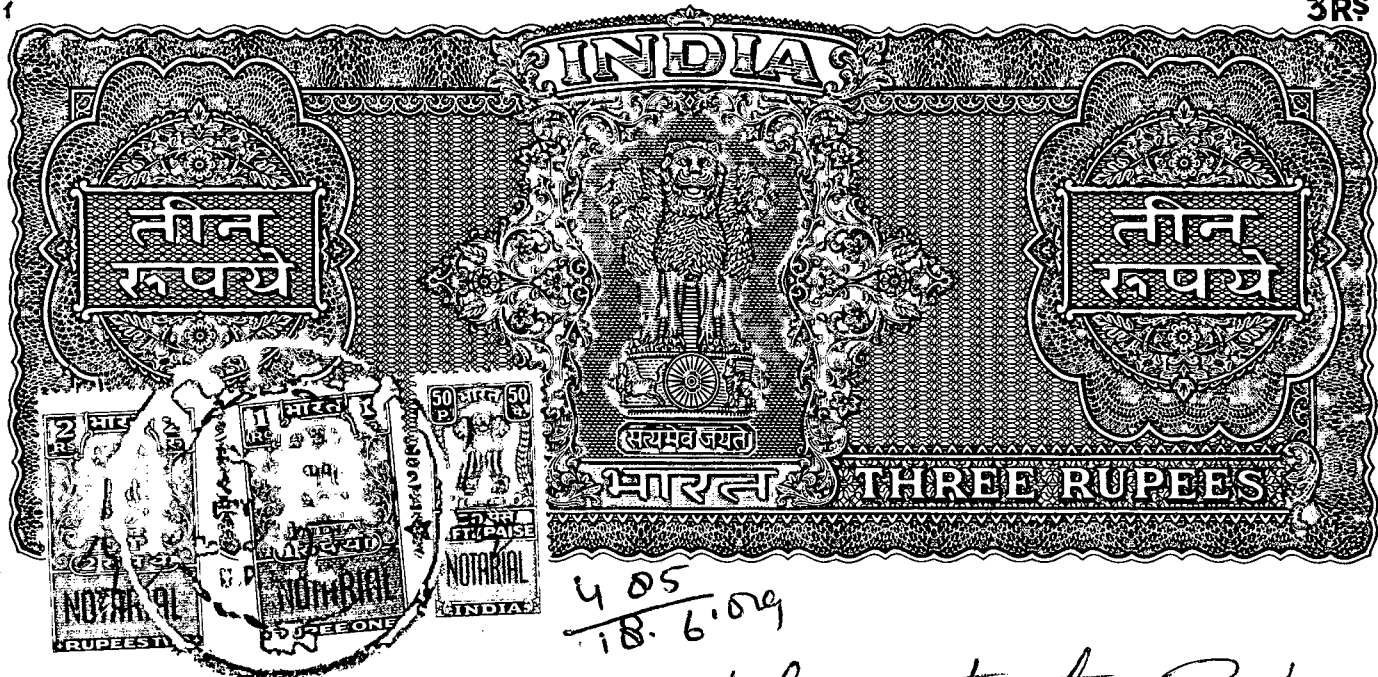
For Chief Engineer

572 1004/10/79

Taken from

File No. 1042/10/79





In the Central Administrative Tribunal
Allahabad Bench.

Rejoinder Affidavit
IN

Registration no 13757/1988

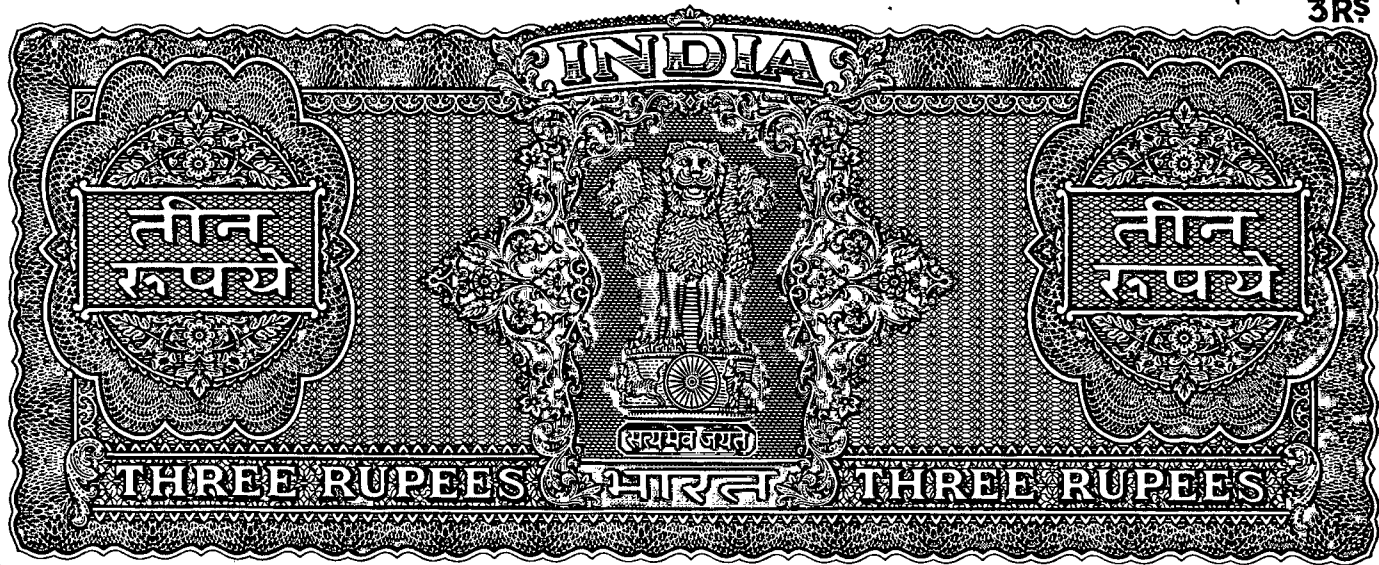
Manohar Lal Bhatia — Applicant
versus

Union of India & others — Respondents

Received copy
Shankar
Clerk to Shri K. C. Sinha
Adv.
3/7/89

Signature

A162
3RS



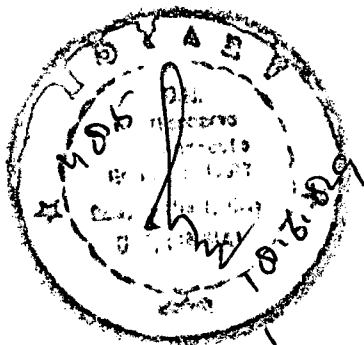
In the Central Administrative Tribunal
Allahabad Bench

Rejoinder Affidavit

101

Registration No. 1375 of 1988
Manohar Lal Shata
Versus Applicant

Union of India & others - Respondents



M. B. Singh

A163

Filed today
for
3/7/89

SO(J)

Keep on record

03-7-89

DR(J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH.

REJOINDER AFFIDAVIT

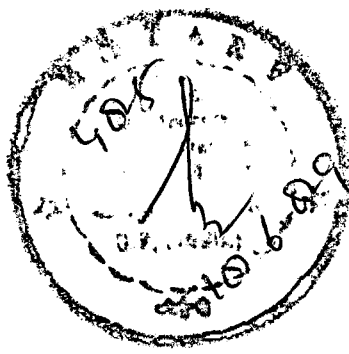
IN

Registration No. 1375 of 1988.

Manohar Lal Bhatia Applicant.

Versus

Union of India and Others Respondents.



AFFIDAVIT OF MANOHAR LAL BHATIA, AGED
ABOUT 49 YEARS, SON OF LATE PARMANAND
BHATIA, RESIDENT OF 66/5, VIJAY NAGAR,
KANPUR, EMPLOYED AS LOWER DIVISION CLERK,
IN THE OFFICE OF THE GARRISON ENGINEER,
(PROJECT) FY, KANPUR.

.....(DEPONENT)

I, the abovenamed deponent, do hereby
solemnly affirm and state on oath as under:

(1) That the deponent is the applicant
in the above case and as such, is fully conversant
with the facts of the case deposed to below.
The deponent has read and understood the contents
of the Counter Affidavit of Major V.S. Dabas,
Garrison Engineer (Fy), Kanpur, filed on behalf
of the respondents.

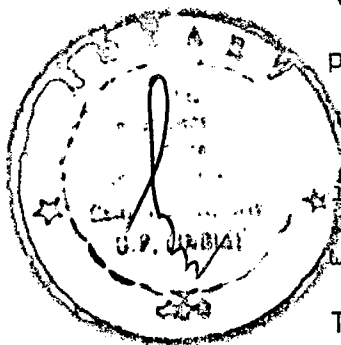
(contd.....2)

(2)

(2) That the contents of paragraphs 1, 2, 3, 4 and 5 of the Counter Affidavit need no comments. It is submitted that all those averments contained in the Counter Affidavit, which have not been specifically admitted in this Rejoinder Affidavit as well as in the Application under Section 19 of the Administrative Tribunals Act, 1985, hereinafter referred to as 'the Application', are not admitted and are denied. *lu*

(3) That the contents of paragraph 6 of the Counter Affidavit, being more or less the re-iteration of the facts mentioned by the deponent in paragraphs 4 and 5 of the Application, are not disputed. *lu*

(4) That regarding the contents of paragraphs 7 and 8 of the Counter Affidavit, it is submitted that the averments contained in paragraphs 6 and 7 of the Application, which are re-iterated, may be referred to. The averments made in paragraphs 7 and 8 of the Counter Affidavit are not disputed. *lu*



(5) That the contents of paragraph 9 of the Counter Affidavit are not disputed. It is further submitted that the averments contained in paragraphs 8 and 9 of the Application are correct and are re-iterated. *lu*

Amro

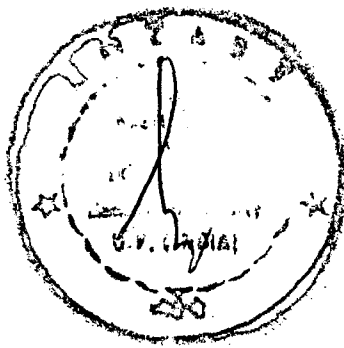
(contd.....3)

(3)

(6) That regarding the contents of paragraph 10 of the Counter Affidavit, the averments contained in paragraphs 10, 11 and 12 of the Application, which are reiterated, may be referred to. *h*

(7) That the contents of paragraph 11 of the Counter Affidavit are not disputed. The averments contained in paragraphs 11 and 12 of the Application, are correct and are re-iterated. *h*

(8) That regarding the contents of paragraph 12 of the Counter Affidavit, it is submitted that the deponent never refused to move, as alleged. There were valid reasons for the deponent in not proceeding to Jhansi. The deponent was not aware of the alleged Telegram dated 13.12.1983, issued by the G.E. (Fy), Kanpur, addressed to the Chief Engineer, Central Command, Lucknow and others, copy of which is annexed as Annexure CA-8. In any case, the averments contained in the said Telegram that the deponent refused to proceed, was not correct. The averments contained in paragraph 13 of the Application are correct and are reiterated. *h*

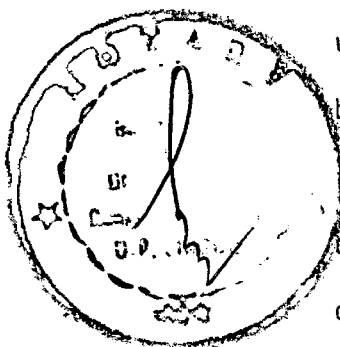


(9) That regarding the contents of paragraphs 13 and 14 of the Counter Affidavit, it is submitted that the Revision Petition *h*

MS

(4)

dated 12.12.1983 was submitted with bona fide intentions and due to genuine grounds. The deponent was not aware of the fact that the Chief Engineer, Central Command, Lucknow, had issued any letter recommending initiation of disciplinary proceedings against the deponent for alleged disobedience of Orders. The deponent was not issued any copy of the said letter. In any case, there arose no question of initiation of disciplinary proceedings against the deponent, as the deponent was not guilty of any misconduct. The deponent did not disobey any orders. The deponent never refused to move to attend the court of enquiry. The deponent has only been requesting that adequate security arrangements be made, so as to enable him to attend the Court of Enquiry and there were genuine reasons for such request made by the deponent. It is further submitted that since the Respondent No. 6 was also one of the witnesses, cited in the Memorandum of Charges, ~~and hence~~ he was not competent to draw the charge-sheet and to initiate disciplinary action against the deponent. The disciplinary proceedings were vitiated. In Annexure-4 of the Memorandum of Charges, issued by Major S.S. Dhanoa, GE (Fy) Kanour, the self-same Major Dhanoa, GE (Fy), Kanour was cited as the witness No. 1. It is further

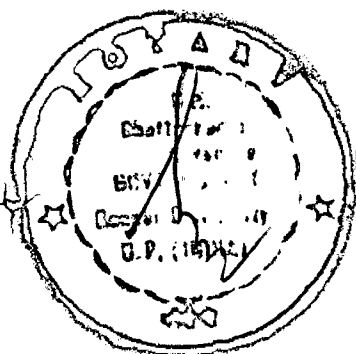


MB

(contd.....5)

(5)

submitted that the deponent was appointed by the Commander Works Engineer, Kanpur, who is a superior authority than the GE(Fy), Kanpur. Hence, any delegation of power to the lower authority would not have given jurisdiction to such lower authority ~~of~~ ^{for} initiating disciplinary action, or to issue charge-sheet against the deponent. The averments contained in paragraphs 16 & 17 of the Apolication are correct and are re-iterated. The deponent having been appointed in the year ¹⁹⁶³ ~~1983~~ by the Commander Works Engineer, Kanour, a higher authority than the Garisson Engineer (Fy), Kanpur, ^{the} alleged delegation of power/Ministry of Defence Order dated ^{16.8.1983} ~~8.5.1981~~, delegating the disciplinary power to the GE (Fy) Kannur, does not apply to the case of the deponent.



(10) That regarding the contents of paragraph 15 of the Counter Affidavit, it is submitted that the ~~xxx~~ enquiry was not conducted properly. The proceedings/Minutes of the Enquiry/Daily Order-Sheet were not supplied to the deponent. No Daily Order-Sheets were prepared, hence, the enquiry was not properly conducted. Statements of the witnesses were not recorded in the presence of the deponent, as can be seen from the Annexures RA-1, RA-2 and RA-3. Had the deponent been present during such statements,

ANNEXURES RA-1
RA-2 & RA-3

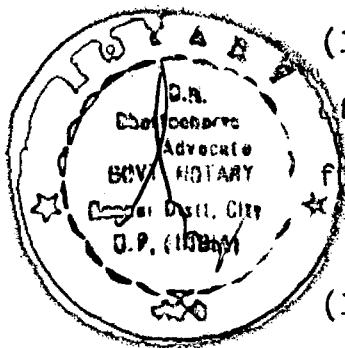
(contd.....6)

(6)

his signature would have appeared on the statement along with the other persons who had signed on RA-1, RA-2 and RA-3. On such occasions when the enquiry was conducted and proceedings drawn/recorded in the presence of the deponent, the deponent's signature was obtained along with the other persons, as can be seen from Annexures RA-4 and RA-5.

ANNEXURES
RA-4 & RA-5

The enquiry was thus conducted in the most prejudiced manner, behind the ~~back~~^{the} of the deponent and it is not correct that the deponent actively participated in enquiry on the several dates, mentioned in para-15 of the Counter Affidavit.



(11) That the contents of paragraph 16 of the Counter Affidavit are not admitted for want of knowledge to the deponent.

(12) That regarding the contents of paragraph 17 of the Counter Affidavit, it is submitted that the disciplinary authority did not properly consider the case and the penalty was imposed on untenable grounds.

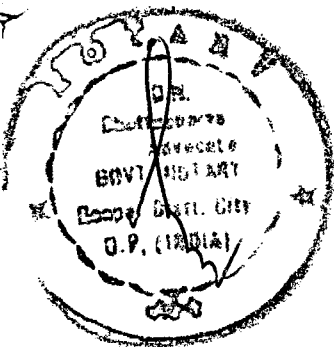
(13) That regarding the contents of paragraph 18 of the Counter Affidavit, it is submitted that the Appeal was not properly considered by the appellate authority and no speaking Order was passed. The appeal was illegally and wrongfully rejected.

(7)

(14) That the contents of paragraph 19 of the Counter Affidavit, need no comments. *W*

(15) That the contents of paragraph 20 of the Counter Affidavit are not disputed. Typographical error in mentioning the year wrongly as 1981, instead of 1982, is regretted. *W*

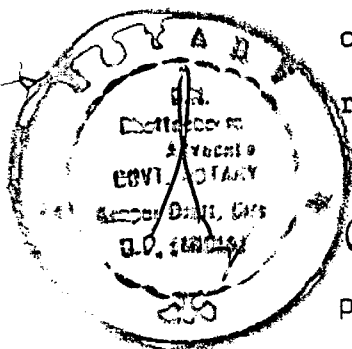
(16) That the contents of paragraph 21 of the Counter Affidavit are not admitted. The averments contained in paragraph 6(6) of the Application are correct and are reiterated. The deponent never refused to be associated with any investigation. As a matter of fact, the deponent had sent ^{all} documentary proof available with him, in respect of the allegations and he only wanted that adequate safety/ security arrangements be made for the deponent to depose in the Court of Enquiry, to be held at ^{Bahin} Bina/Jhansi/Talbehat. There arose no question of the allegations being found false. The deponent had made submissions, based on facts and the deponent had furnished relevant documentary proof available with him. The deponent had no further proof and it was for the department to have made enquiries in the light of the submissions made by the deponent and the documents examined. The deponent made submissions in regard to the bungalows in the Department, purely in the interest of the Nation and there was no occasion for causing harassment to the *W*



(8)

deponent and seeking to put the life of the deponent in danger. Had there been adequate safety arrangements for the deponent, as requested by the deponent, the deponent would have definitely gone to participate in the enquiry. There arose no question of initiating any disciplinary action against ^{the deponent.} The deponent never ~~challenged~~/questioned the ^{author} authority of the enquiring authority to take evidence of any person as considered necessary.

(17) That the contents of paragraph 22 of the Counter Affidavit are not admitted. The contents of paragraphs 6 and 7 of the Application are correct and are re-iterated. The submission/communication by the deponent and the replies received thereon, are not disputed.



(18) That regarding the contents of paragraph 23 of the Counter Affidavit, it is submitted that the whole of the averments contained in paragraph 6(8) of the Application, are correct and are re-iterated.

(19) That the contents of paragraph 24 of the Counter Affidavit are not admitted. The averments contained in paragraph 6(9) of the Application are correct and are re-iterated. The ^{letters} ~~was~~ referred to in the said paragraph of the Counter Affidavit, are not disputed.

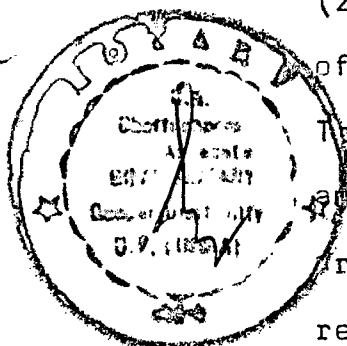
(contd....9)

(9)

(20) That the contents of paragraph 25 of the Counter Affidavit are not admitted. The averments contained in paragraph No. 6(10) of the Application are correct and are reiterated. It is submitted that the medical leave, applied for by the deponent from 2.12.83 to 7.12.83, was duly sanctioned as commuted leave. *h*

(21) That the contents of paragraph 26 of the Counter Affidavit are not admitted. The averments contained in paragraph 6(11) of the Application are correct and are reiterated. *h*

(22) That the contents of paragraph 27 of the Counter Affidavit are not admitted. The averments contained in paragraphs 6(12) and 6(13) of the Application are correct and are re-iterated. The deponent had genuine reason for not being in a position to attend the Court of Enquiry, as directed. The letters and representations referred to in paragraphs 6(12) and 6(13) of the Application, are correct and are re-iterated. *h*



(23) That the contents of paragraph 28 of the Counter Affidavit are not admitted. The averments contained in paragraph 6(14) of the Application are correct and are reiterated. *h*

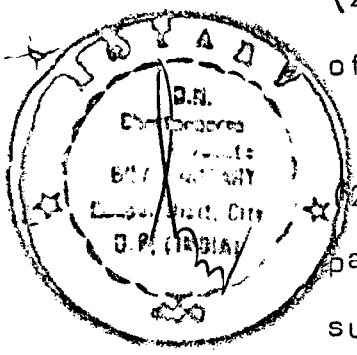
h

(contd...10)

(10)

It is not correct to say that the deponent failed to proceed on temporary duty. The deponent was not guilty of contravening the provisions of Rule 3(i), (ii) or (iii) of the C.C.S.(Conduct) Rules, 1964. By the very admission of the respondents, the deponent was drawing pay of less than Rs. 500/- per month at that time, hence the deponent was wrongfully prevented from availing the services of ~~the~~ Trade Union and other sources, to which he remained entitled. It is a fact that Rule 20 of the C.C.S.(Conduct) Rules, 1965 did not apply to the deponent. The averments contained in paragraph 6(14) of the Application are correct and are re-iterated.

(24) That the contents of paragraph 29 of the Counter Affidavit need no comments.



(25) That regarding the contents of paragraph 30 of the Counter Affidavit, it is submitted that the averments contained in paragraph 6(16) of the Application are correct and are re-iterated. Since Major S.S. Dhanoa was also a witness mentioned in the Charge-Sheet, he was not competent to issue/sign ^{the} charge-sheet under Rule 14 of the C.C.S. (C.C.& A.) Rules, 1965. It is also submitted that since the deponent was appointed in the year 1963 by the Commander Works Engineer, Kanpur, a higher authority than the GE (Fy), Kanpur, the alleged subsequent

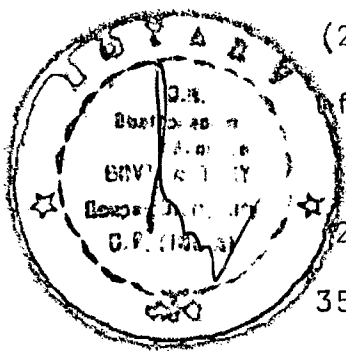
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(11)

delegation of disciplinary power to the latter authority, does not help the respondents. The lower authority could not assume the role of the disciplinary authority of the deponent and the disciplinary proceedings were illegal and without jurisdiction. *h*

(26) That regarding the contents of paragraph 31 of the Counter Affidavit, it is submitted that the averments contained in paragraph 6(17) of the Application, are correct and are re-iterated. *h*

(27) That the contents of paragraph 32 of the Counter Affidavit are not admitted. The averments contained in paragraph 6(18) of the Application are correct and are re-iterated. *h*



(28) That the contents of paragraph 33 of the Counter Affidavit need no comments. *h*

(29) That the contents of paragraphs 34, 35, and 36 of the Counter Affidavit are not admitted, as alleged. The averments contained in paragraphs 6(20), 6(21) and 6(22) of the Application are correct and are reiterated. *h*

(30) That regarding the contents of paragraph 32 of the Counter Affidavit, it is submitted that the whole of the averments contained in paragraph 6(23) of the Application, are correct and are re-iterated. *h*

M. B. Singh

(contd....12)

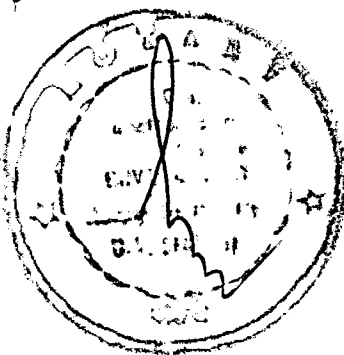
(12)

(31) That regarding the contents of paragraph 38 of the Counter Affidavit, it is submitted that the whole of the averments contained in paragraph 6(24) of the Application are correct and are re-iterated. *h*

(32) That the contents of paragraph 39 of the Counter Affidavit are not admitted. The averments contained in paragraph 6(25), wrongly numbered as 6(23) of the Application, are correct and are re-iterated. *h*

(33) That the contents of paragraphs 40, 41, 42, 43 and 44 of the Counter Affidavit are not admitted. The averments contained in paragraphs 6(26), wrongly numbered as 6(24) of the Application, are correct and are re-iterated. The respondents are put to strict proof ^{*of the assertion*} that Daily Order Sheet of the Enquiry was maintained by the Enquiry Officer. *A*

The enquiry was also vitiated, inasmuch as the Enquiry Officer demanded written brief from the deponent on the very first date of the enquiry. The contents of paragraphs 6(26), 6(27), 6(28) and 6(29) of the Application, wrongly numbered as 6(25), 6(26), 6(27), and 6(28), are correct and are re-iterated. In Annexure RA-4, it can be seen that on the first date of hearing the Enquiry Officer called written brief from the deponent. *h*



(13)

(34) That the contents of paragraphs 45, 46, 47, 48, ~~and~~ 49 and 50 of the Counter Affidavit are not admitted. The averments contained in paragraphs 6(30) 6(31), 6(32), 6(34) and 6(35) of the Application, wrongly numbered as paragraphs 6(29) to 6(34), are correct and are reiterated. It is not admitted that the deponent was offered reasonable and adequate opportunity of defending himself.

(35) That the contents of paragraph 50 of the Counter Affidavit need no comments.

(36) That regarding the contents of paragraph 52 of the Counter Affidavit, it submitted that the whole of the averments contained in paragraph 8 of the Application, are correct and are re-iterated.

(37) That the contents of paragraph 53 of the Counter Affidavit are not admitted. The reliefs claimed in paragraph 9 of the Application, are liable to be granted to the deponent, after rejecting the false and frivolous pleas raised by the respondents. The deponent is entitled to the reliefs claimed.

(37) That the contents of paragraph 54 of the Counter Affidavit need no comments.

Manjunath Bantia
DEPONENT.

(14)

VERIFICATION:

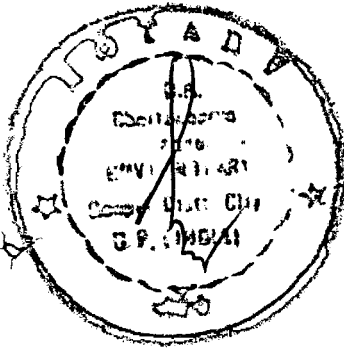
I, Manohar Lal Bhatia, do

hereby verify that the contents of

✓ paras 1, 2, 3, 4, 5, 6, 7, 8, partly 9, 10, 11, 12, ✓
13, 14, 15, 16, 17, 18, 19, 20, 21, 22, partly 23,
24, partly 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36 & 37 ✓
are true to my personal knowledge;

those of paras partly 9, partly 23 and
h. partly 25

are true on the basis of legal advice,
received from my counsel, which I verily
believe to be true. Nothing contained
herein is false, nor has anything material
been concealed, so help me God. ✓



Verified on this the 18th day
of June, 1989, at Kanpur. ✓

DEPONENT.

Seen before me this day of 18.6.89 at 12 Am
by Sri... Manohar Lal Bhatia
who is duly identified.
Received the Fee of Rs. 40

18.6.89
Advocate & Notary
Kanpur Distt

Identified By...

advocate

N.K. Nair
ADVOCATE,
KANPUR.

Statement of Major S.S. Dhanea, GE (Py) Kanpur.

JG-22367-A Major S.S. Dhanea, having been duly warned states that :-

GE CC HQ, Lucknow had intimated CHLZ, Lucknow vide their letter No.900601/1003/4/E1 (Con) dated 27/7/83 with a copy to my unit amongst others that HES/450035 Shri ML Bhatia, LDC of my office was attached with CWE, Jhansi with immediate effect for a likely duration of 8 weeks in connection with C of I to be held there in connection with investigations of certain irregularities alleged by the above named individual against certain officers/staff of AGE, Talbehat. On direction of CWE, Kanpur vide their No.C/106/Py/XXX/E1 dt. 08 Aug '83, Movement Order dated 9/8/83 was issued to Shri ML Bhatia, LDC to commence his Ty duty move to CWE, Jhansi with effect from 16 Aug '83.

Shri ML Bhatia, LDC had submitted an appeal to GECC Lucknow through Proper channel praying that the C of I at Jhansi area will not be impartial and that the enquiry by ~~examined~~ staff authority be ordered. The individual however, did not proceed on this Ty duty. Again, CWE Kanpur on 27/10/83 directed me to again issue Movement Order to Shri ML Bhatia, LDC to proceed to CWE Jhansi. In the meanwhile GE Jabalpur Zone had intimated that Shri ML Bhatia, LDC be directed to report to GE Babina on 5th Dec '83 through their signal dated 07/11/83. Shri ML Bhatia, LDC had again submitted an appeal dated 14/11/83 to GE CC in which he had requested for staff C of I to provide him necessary security against any mishappening during enquiry. Again Shri ML Bhatia, LDC was issued Movement Order on 02/12/83 to attend the Enquiry. At the same time the individual was informed through a letter dated 02/12/83 that his appeal dated 14/11/83 had been considered by GE CC, Lucknow and rejected. Since Shri ML Bhatia, LDC was not available in the office at about 16.00 hrs. The M.O. could not be served on him and Shri Charan Singh made three efforts at about 16.40 hrs, 20.00 hrs and 21.30 hrs to contact Shri Bhatia at his residence but everytime he was informed by the family members of Shri ML Bhatia, LDC that he was not at his residence and they did not know his whereabouts. Again on 3rd Dec '83 Shri Charan Singh, O/S Gde-II went to the residence of Shri ML Bhatia, LDC at about 09.30 hrs and got the same reply from his family members as above. One copy of the Movement Order was simultaneously forwarded to the individual by Regd. Post on 02nd Dec '83. On 03 Dec 83, leave application on medical grounds for 5 days or upto the date of fitness was received from Shri ML Bhatia, LDC. As a final resort, I had detailed Shri Charan Singh, O/S and Shri US Bhatia, Supdt E/M Gde -I to deliver the Movement Order to Shri ML Bhatia, LDC at his residence and that if the M.O. is not delivered due to any reasons the same should be pasted at the door of his residence. However, the Movement order was accepted by Shri ML Bhatia, LDC at his residence and 13.40 hrs on 03 Dec 83.

Contd.P/9-



Again on 05 Dec '83, CWB directed me through an official letter that Shri M.L. Bhatia, LDC be directed to report to GE, Babina to attend the C of I on 08 Dec '83 at 10.00 hrs. Since the individual was on medical leave for 5 days with effect from 02 Dec '83, and our Movement Order for him to attend C of I at GE, Babina on 05 Dec '83 had already been served, we did not know whether he had proceeded already to Babina or not. This fact was intimated to all concerned by me on 06th Dec '83. The presiding officer again intimated through a telegram received by me on 13/12/83 that the C of I was to assemble at CWE, Jhansi/GE, Babina on 13/14th Dec '83 at 11.00 hrs. Accordingly Shri ML Bhatia was summoned by me in my office and was advised in presence of offg. AGE E/M and my O/S that he should proceed to attend the said C of I in his own interest but he verbally refused to do so. This fact was intimated to all concerned by me through a telegram dt 13/12/83. On 13 Dec '83 another appeal entitled "Revision of petition" dt. 12/12/83 from Shri Bhatia was received by me. In this appeal (addressed to CE CC) Shri ML Bhatia had brought out that he was continuously receiving threats from AGE/Staff of Talbet and suppliers/contractors through their reps. and that under the circumstances he could not take the risk of his life and as such he should not be forced to move to Babina. This appeal was forwarded to the addressee through proper channel.

Finally, CE CC Lucknow vide his letter No.900601/1003/41/E1(Con) dated 05/1/84 addressed to CELZ, Lucknow and copy to CWE, Kanpur and us had directed that disciplinary proceedings against Shri M.L. Bhatia, LDC for disobedience of orders be initiated. I had intimated to CWE, Kanpur on 18/1/84 that I intended to initiate disciplinary action under rule 14 of CCS (CCA) 1965 against Shri M.L. Bhatia and had requested confirmation to this effect. CWE, Kanpur vide his letter No.C/106/Py/273/E1 (Con) dated 28/1/84 had intimated to me that CELZ, Lucknow had intimated to them that Shri ML Bhatia, LDC was permanent in his grade and competent disciplinary authority was CE CC, Lucknow for him and that disciplinary proceedings under Rule 14 of CCS (CCA) Rules 1965 be initiated in terms of Rule 13 (2) and finalised upto and including the stage of enquiry. Accordingly the disciplinary proceedings were initiated with effect from 10/2/84.

Having given the above sequence of events, I would like to highlight the following points:-

- (a) Although Shri M.L. Bhatia? LDC had accepted the Movement Order's, some of them after prolonged efforts/ persuasions, but he never indicated his willingness to move to Jhansi/Babina to attend the C of I.
- (b) Even on verbal advise in presence of his offg. AGE E/M and my O/S, Shri M.L. Bhatia, LDC did not agree to move to Jhansi/Babina to attend the C of I.

Contd.P/10-



(d) Shri M.L. Bhatia, LDC had expressed apprehensions of danger to his life from AGE/Staff of Talbehat as well as from local contractors/suppliers at Talbehat but he had never produced before me any material/documentary evidence to that effect. I, as head of the office, however had approached CWF vide my office letter No.C-190/MLB/110/E1 (Con) dated 14/4/84 that the individual's request for assembly of the enquiry at Bhopal or Jabalpur may be considered in order to afford him chance to attend the C of I.

Q.1. Has Shri M.L.Bhatia ever put up in writing that he will not proceed to ty duty to attend C of I as detailed by you?

Ans. No. He had accepted the M.O's as stated by me already but did not physically move and had submitted some appeal(s) through me expressing his inability not to proceed to attend the C of I.

Q.2. Why did you not advise Shri M.L. Bhatia, LDC earlier to 13 Dec '83 to proceed on Ty duty for attending C of I ?

Ans. After issue of Movement Order for first time when I found that the individual had not physically moved, I had asked his offg. AGE E/M to advise him to move on ty duty in his own interest, when he still did not move, I considered it necessary to advise him myself in the presence of his offg. AGE E/M and my O/S and I did the same on 13 Dec '83.

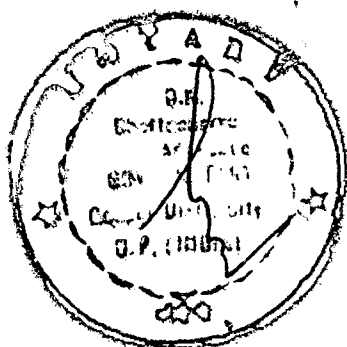
Q.3. Whether Shri M.L. Bhatia, LDC accepted the Movement Order's with a pre-condition for full protection of his life before moving on ty duty?

Ans. No. He accepted Movement Order's without any pre-condition.

Q.4. Whether Shri ML Bhatia, LDC expressed his willingness to attend the C of I at any other place except CWF, Jhansi area and if so, at what stage?

Ans. Shri M.L. Bhatia, LDC in his appeal, dated 09/3/84 has stated in para 5 that he is ready to attend the enquiry at Bhopal or Jabalpur in view of his apprehension of danger of his life at Babina/Jhansi/Talbehat.

Contd. 2/11-



Q.5. Has Shri M.L. Bhatia expressed to you that he is not willing to attend C of I at Jhansi/Babina as he apprehended danger to his life at these places?

Ans. In his appeals submitted to higher authority through my office Shri M.L. Bhatia has been bringing in these appeals that he should be assured of providing protection to his life and assurance of payment of compensation to his family in the event of any mishappening to him if he attends C of I at Jhansi/Babina/Talbehat. His appeals dt. 9/8/83, 14/11/83, 12/12/83 may be referred in this connection.

Q.6. Has Shri M.L. Bhatia ever produced any documentary evidence to prove that there is danger to his life if he goes to Jhansi/Babina/Talbehat to attend the C of I?

Ans. No. He has not put up any such evidence. He has only verbally expressed before me that he fears such dangers and further he has put up this point in his appeals as already stated by me.

" Road over to the witness in the presence of the accused and admitted correct/objective of witness recorded".

Sd xxx.
(S.S. Dhanea)
Major

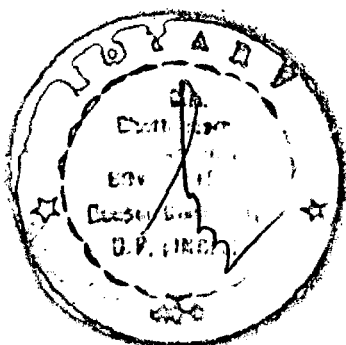
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Jayanam
AB
AGE BJR No 1

Mair

Attested
[Signature]
B.K. Mair
ADVOCATE,
KANPUR.



INQUIRY UNDER RULE 14 OF CCS (CC&A) RULES 1965 AGAINST
MES/450035 SHRI M.L. BHATIA, LDC (Pt) OF GE (FY) KANPUR

The oral inquiry reassembled on 02/7/84, following were present :-

1. Shri O.P. Sharma, Presenting Officer
2. Shri M.L. Bhatia, Delinquent Govt. servant
3. Shri Y.R. Chawla, Supdt E/M Gde-I (Offg AGE E/M)
4. Shri U.S. Bhatia, Supdt E/M Gde-I.

2. Shri U.S. Bhatia, Supdt E/M Gde-I having been duly warned states that:-

I was deputed by GE, Factory to handover the Movement Order to Shri M.L. Bhatia, LDC alongwith Shri Charan Singh and Shri Bhatia, SK Gde-I. On our persuasion he took over the Movement Order.

Q.1. Is it a fact that Shri M.L. Bhatia, LDC received the Movement Order from you without any protest or without any pre-condition?

Ans. He accepted the Movement Order without any protest.

Q.2. Have you pasted GE Fy letter No.C-109/GEN/144/E1(Con) dated 03/12/83 on the house of Shri M.L. Bhatia, LDC?

Ans. No, since the individual accepted the Movement Order, the question of pasting does not arise.

" Read over to the witness in the presence of the accused and admitted correct/objection of witness recorded".

Sd/-
U.S. BHATIA,
SUPDT E/M GDE-I

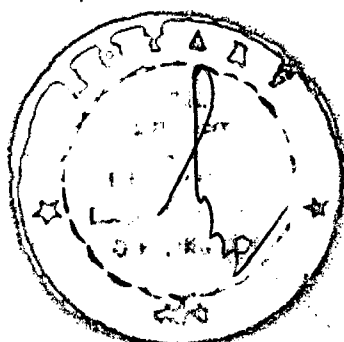
Sd/-
O.P. SHARMA
PRESENTING OFFICER

Sd/-
S.K. SADHU
INQUIRY OFFICER.

Contd.2/13-

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AE
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M/S



Attested
M.K. Mair
ADVOCATE,
KANPUR.

A182

RA3

- 13 -

STATEMENT OF SHRI Y.R CHAWLA, OFFG. AGE E/M 6

Shri Y.R. Chawla, Offg. AGE E/M having been duly warned states that :-

Mr. M.L. Bhatia, LDC is working under my Sub-Division. The Movement Order was served to him by GE, Fy in his room on 13 Dec 83 in my presence but Mr ML Bhatia, LDC refused to receive the Movement Order with the plea that until and unless security arrangements for protection of his life is given, he is not in a position to move.

Q.1. Whether Shri M.L. Bhatia, LDC accepted the Movement Order served on him in your presence in the room of GE, Fy on 13 Dec 83?

Ans. He did not accept the Movement Order on the plea that he is not in a position to move on T.D. till protection to his life is assured by the Department.

" Read over to the witness in the presence of the accused and admitted correct/objection of witness recorded".

Sd / x x x
Y.R. CHAWLA?
SUPDT E/M GDE-I
OFFG. AGE E/M

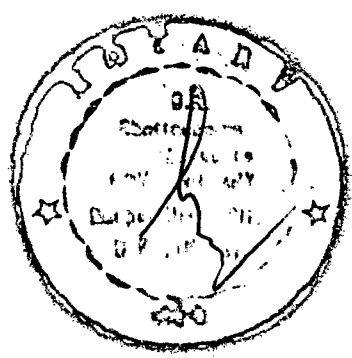
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O.P. SHARMA
PRESENTING OFFICER

Sd / x x x
S.K. SADHU
INQUIRY OFFICER

Contd. P/14-

CTC
Dayanand
AGR BIR NOI

Attested
ADVOCATE
KANPUR



RAY

A183

INQUIRY UNDER RULE 14 OF COB (CC&A) RULES 1965 AGAINST
MB3/450035 SHRI HL BHATIA, LDC (Pt) OF GE (FY) KANPUR

First meeting held on 27 Apr 1984, following were present:-

1. Shri O.P. Sharma, AE B/R, Presenting Officer
2. Shri M.L. Bhatia, LDC

2. Both the presenting officer and Shri HL Bhatia, LDC are given an opportunity to submit written briefs for the purpose of further progressing the hearing of the case, for which both the parties have agreed. On having been asked by the Inquiry Officer, Shri HL Bhatia, LDC requested the Inquiry Officer to give him 2 days time to submit the brief.

3. The Inquiry Officer accepted the prayer of the delinquent officer Shri HL Bhatia, LDC and adjourned the inquiry to re-assemble on 30.4.84 at 10.00 Hrs.

81
M.L. BHATIA,
LDC Pt.

501
O.P. SHARMA
PRESENTING OFFICER

501
S.K. SADHU
INQUIRY OFFICER

Contd.P/2-

CTC
Dagaram
AE
ACR BIR

Attested
ADVOCATE
KANPUR



RA5

A184

- 15 -

INQUIRY UNDER RULE 14 OF CCS (CC&A) RULES 1965 AGAINST
MES/450035 SHRI ML BHATIA, LDC (Pt) OF GE (FY) KANPUR

The oral Inquiry reassembled on 06/7/84 at 15.00 hrs following were present :-

- 01 Shri O.P. Sharma, Presenting Officer
2. Shri M.L. Bhatia, LDC, Delinquent Govt. Servant

2. Shri ML Bhatia, LDC has given parawise written reply to the written brief of Presenting Officer given to him on 02/7/84. The Presenting Officer wanted a copy Mr. Bhatia's written reply for his perusal and further action. Accordingly a copy of the reply is given to the Presenting Officer on 06/7/84. The Inquiry Officer adjourned the enquiry to re-assemble on 09/7/84. at 1500 hrs.

Sd x x x
M.L. BHATIA,
LDC Pt.

Sd x x x
G.H. SAHU
INQUIRY OFFICER

Sd x x x
O.P. SHARMA
PRESENTING OFFICER

Contd. P/16-

C T C
Dayanand
AG
HGR BIR NO 1

Attested
[Signature]
Advocate,
KANPUR.

M. S. S.

