

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

INDEX SHEET

CAUSE TITLE 142 of 19 88(U)NAME OF THE PARTIES Krishan Kumar

Applicant

Versus

Union of Indes RespondentPart A, B & C

Sl. No.	Description of documents	PAGE
1.	Check list	A 1 to A 2 ✓
2.	Index sheet	A 3 to A 4 ✓
3.	Judgment	A 5 to A 10 ✓
4.	Index	A 11 to 12 ✓
5.	Petition	A 13 to A 21 ✓
6.	Annexure	A 22 to A 40 ✓
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10.	B file	A 1 to A 42
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50 (55)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

OA. 142 of 198 .
REGISTRATION No. 142 of 198 .

(A3)

APPELLANT
APPLICANT

VERSUS

DEFENDANT
RESPONDENT

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
24/10/89	<p><u>Hon Justice K. Math, vs.</u></p> <p>An application for implementation of Union of India as opposite party No. 4, moved by the learned counsel for the applicant, is allowed. Sri G. P. Agarwal takes notice who is appearing for other opposite parties and says that the comtes already filed on behalf of other opposite parties may be treated to be the comtes on behalf of Union of India. Records has already been filed.</p> <p style="text-align: right;">Dr. K.C.</p>	
24/10/89	<p><u>Hon Justice K. Math, vs.</u></p> <p>Arguments of both the parties heard. Judgement reserved for 26-10-89.</p> <p style="text-align: right;">Dr. K.C.</p>	

Advocate

T. Riyad
D. Clerk / Registrar
C. no. stops Anupke

C.A.T., Circuit Bench, Uko

ORDER SHEET

O.A. No. 142 of 00(L)

ORDER

(Signature)

6.10.00

Hon. K. S. Puttapuamy, V.C.
Hon. A. John, J.A.

Applicant by Sr. R. P. Srivastava
Admit

Issue notices. One month for C.A.
day thereafter for R.A.
Call this case for hearing on 22.

Sd/- A.M. Sd/- V.C.

Acknowledgement received of no. 3.
L
21/12

STR

Notices issued to Respondents.
1, 2 & 3 through Regd. Post. Fix
22.11.00 for hearing.

22.11.00

D.R

Sr. G. P. Agarwal files his Vakalatnama on behalf of respondents. On the request of counsel for respondents he is allowed to file reply by 21.12

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21/12

See
D.R

21/12

No sitting. Adjourned to 23.1.09 for filing reply.

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21/12

23/1

OR

No reply filed. Reply can be filed by 20/3/09

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OR Can be filed for final submission hearing

(15)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Circuit Bench at Lucknow.

Registration O.A. No.142 of 1988

Krishan Kumar Applicant

Versus

Deputy Chief Mechanical Engineer,
Carriage and Wagon Shop, Northern Rly.,
Alambag, Lucknow & Others Opposite Parties.

Hon. Justice Kamleshwar Nath, V.C.

This application under Section 19 of the Administrative Tribunals Act XIII of 1985 is for a direction to the opposite parties to give the benefit of the Family Pension Scheme to the applicant from the date of his retirement on 7.4.1970.

2. The applicant was working as a Carpenter in the Carriage and Wagon Workshop of the Northern Railway at Lucknow when on 6.8.65 he received injuries while repairing a coach. He remained under medical treatment upto 1970 but appears to have been disabled by the injury. The Medical Board found him unfit for further employment and therefore the applicant was discharged by way of compulsory retirement on medical grounds on 7.4.70 after he had completed twentythree years of service.

3. It is admitted that after some litigation, the applicant was granted compensation under the the Workmen's Compensation Act sometime in the year 1980. He had also received certain amounts of Contributory Provident Fund. However the applicant was not given any pension.

4. The applicant's case is that he had opted for

(17)

grant of pension in the year 1965 but the opposite parties wrongly deprived him thereof. The opposite parties case is that the applicant never opted for benefit of pension but, on the contrary, had opted for Provident Fund Scheme in respect of which he had received money. It is further said that on 22.2.69 a circular was issued requiring employees to opt for pension in lieu of Contributory Provident Fund Scheme, but the applicant opted for Provident Fund Scheme and not for pension. He was therefore not entitled to any pension.

5. The basic question for consideration is whether the applicant had opted for grant of pension or for Provident Fund Scheme. The applicant had not filed any document to show that he had opted for pension scheme. The contention of the learned counsel for the applicant is that the documents are with the opposite parties and that they have not even cared to produce the documents of option in favour of Provident Fund Scheme. He has referred to the case of National Insurance Co. Ltd., New Delhi Vs. Jugal Kishore and Others (1988) 1 SCC 626 in this connection. However, the learned counsel for the opposite parties points out that it is admitted in the applicant's own documents that he had received Provident Fund amount, had been given an opportunity to opt for pension and had not opted therefor. There is substance in the contention of the learned counsel for the opposite parties.

6. In ground 'M' at page 5-6 of the application it is clearly said that the applicant had been

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grant of pension in the year 1965 but the opposite parties wrongly deprived him thereof. The opposite parties case is that the applicant never opted for benefit of pension but, on the contrary, had opted for Provident Fund Scheme in respect of which he had received money. It is further said that on 22.2.69 a circular was issued requiring employees to opt for pension in lieu of Contributory Provident Fund Scheme, but the applicant opted for Provident Fund Scheme and not for pension. He was therefore not entitled to any pension.

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6. In ground 'M' at page 5-6 of the application it is clearly said that the applicant had been

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- 3 -

" wrongly paid the amount of the Contributory Provident Fund at the time of settlement of all dues". In para 9 of his letter dated 26.6.80 addressed to Deputy Chief Mechanical Engineer (page 13 of the application), the applicant had stated that he did not receive pension because he had ^{been} given the double of the Provident Fund amount, signifying payment of Contributory Provident Fund as distinguished from General Provident Fund.

7. However, the case of the applicant further, in the above mentioned papers, is that when the payment of Provident Fund amount was made to him, he had been assured by the Head Clerk that on refund of the Govt's share of the Provident Fund Contribution he will be given pension. There is nothing on the record to establish any such assurance. On the face of it, a subordinate authority like a Head Clerk could not be competent to make such assurance.

8. In the matter of exercise of option, the applicant has produced a letter dated 15.1.1981 of the Deputy Chief Mechanical Engineer, addressed to him (paper 14 of the application) in reply to the applicant's representation dated 23.6.80 addressed to the Minister for Railways which mentions that no orders were passed at the time of his retirement to give him the benefit of pension and that during the time of his active service options were invited under office letter dated 22.2.1969 to enable the employees to obtain the benefit of pensions but till the date ~~is~~ fixed i.e. 31.3.69 no such option was received from the applicant. Again in his letter dated 12.2.81

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addressed to the Minister for Railways (page 16 of the application), the applicant had said that during the period when options were required to be exercised for pension he was under treatment in the Railway Hospital and was hovering between life and death. It is urged by the learned counsel for the applicant that there is nothing to show that the requirement of exercise of option was communicated to the applicant. It is difficult to accept the bare word of the applicant in this direction particularly when he admitted that at the time of final settlement of his account, when he was paid the entire Provident Fund amount, ^{and} he was told that on surrendering the Government portion of the Provident Fund, pension would be granted to him. Even in his letter dated 27.3.84, again addressed to the Minister for Railways (page 17 of the application), he mentioned that at the time of final payment he had requested the Head Clerk of the office for an option form but the Head Clerk advised him to apply later. There is presumption that official business has been performed in a regular manner. On the totality of the facts and circumstances, therefore, the reasonable conclusion is that the applicant had an opportunity of opting for pension but instead of doing so he opted for receiving Contributory Provident Fund and ultimately he did receive Contributory Provident Fund. The failure of either party in these circumstances to produce the document of option does not affect the inferences which flow from the applicant's admissions and documents referred to above and the applicant cannot draw benefit from the decision in the case of National Insurance Co. Ltd. Versus Jugal Kishore and Others (supra).

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9. The learned counsel for the applicant has referred to the applicant's representation dated 9.12.85 at page 23 of the application addressed to the Minister for Railways stating that the applicant was prepared to deposit the single fund amount (i.e. the Govt. Contribution of the Provident Fund) and on that basis pension might be sanctioned to him. In that connection it was added by the applicant that pension had been sanctioned similarly to Mohd. Ahmad, Scale Fitter, Mohd. Yusuf, Fitter Khalasi and Munna Lal, Fitter Running Shed. The learned counsel's contention is that revival of pension to these three persons on refund of the Government share of Contributory Provident Fund with a refusal of the same facility to the applicant constitutes hostile discrimination and therefore the applicant must be given the benefit of pension. There is no worth in this contention because no such case was set up in the application itself and therefore the opposite parties have no opportunity to meet it. The case of a person aggrieved by an act must be contained in the application; it is not enough that ^a ~~the~~ vague allegation is made in one of the Annexures to the application.

10. The learned counsel for the applicant has lastly urged that a pension scheme is a benefit conferred by the Government on its employees as a measure of social security and that it is very unfair that benefit thereof may not be given to a person who served the railways for more than 23 years and was incapacitated in the discharge of his duties as such employee. The argument misses the fact that retirement benefits

consists not only of pension but also of Contributory

(No)

Provident Fund and where the Rules provide for a ^{person} ~~pension~~ to opt for either of these two schemes and he does opt for the Provident Fund Scheme and gets financial benefit thereof, he cannot be permitted to reverse the position and demand benefit of pension by surrendering of the Government's contribution to the Provident Fund. The decision in the case of Krishna Kumar Versus Balbir Singh and Others 1989 I&IC 1371 (SC) does not decide the question whether a person is entitled to opt for a pension scheme irrespective of the cut off date of option. The question has only been referred to a larger Bench of the Hon'ble Supreme Court. The upshot is that the law as it stands today, does not entitle the applicant to claim pension in view of the Provident Fund. As and when the law undergoes change by any decision of the Supreme Court, the Government/Railway Administration would undoubtedly reconsider the situation and pass suitable orders. Nothing ^{need} more be said at this stage in this regard.

11. In the result the application is dismissed. Parties shall bear their costs.



Vice Chairman

Dated the 26th October, 1989.

RKM

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BRANCH AT ALLAHABAD
CIRCUIT BENCH AT LUCKNOW

(A11)

Shri Krishna Kumar Applicant

Versus

The Deputy Chief Mechanical Engineer
Carriage and Wagon Shop, Northern Rly.

Alambagh, Lucknow and Others Respondents

I N D E X

Sl. No.	Description of paper	Page No.
1.	Claim Petition	1-9
2.	Internal Index with the documents 1 to 10	Internal page Nos. 8-9, 10-39
3.	VAKALATNAMA	39

Lucknow :

Dated : 5-10-1988

Krishna Kumar
APPLICANT

Date
6/10/88
M. S. J. Singh
5/10/88

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(APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNALS ACT, 1985)

DATE OF FILING -----

OR

DATE OF RECEIPT
BY POST -----

REGISTRATION NO. -----

Signature of Registrar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BRANCH AT ALLAHABAD
CIRCUIT BENCH AT LUCKNOW

(A/B)

OA 142 of 1991 (C)

Shri Krishna Kumar son of late Sri Ram Asrey
Srivastava, resident of House No. 230,
Bashiratganj, Lucknow Applicant

Versus

1. The Deputy Chief Mechanical Engineer,
Carriage and Wagon Shop, Northern Railway,
Alambagh, Lucknow.
2. The General Manager, Northern Railway,
Baroda House, New Delhi.
3. The Deputy Chief Personnel Officer,
Northern Railway, 323, Annexe No. 1,
Baroda House, New Delhi. Respondents

DETAILS OF APPLICATION

1. Particulars of the applicant:

- (1) Name of the applicant : Krishana Kumar
- (2) Name of Father : Sri Ram Asrey Srivastava
- (3) Designation and office : Retired Carpenter,
in which employed : Ticket No. 96-A,
Previous Ticket No. 57-A,
C&W Shop, Alambagh,
Lucknow.
- (4) Office address : Retired from C&W Shop,
Northern Railway,
Alambagh, Lucknow.
- (5) Address for service : 230, Bashiratganj,
of all notices : Lucknow.

Krishna Kumar

contd...2

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2. Particulars of the Respondent:

Respondent No.1

- (1) Name and designation of the Respondent No.1 : Dy.Chief Mechanical Engineer, C&W Shop, Northern Railway,
- (2) Office address of the Respondent No. 1 : Dy.Chief Mechanical Engineer, C&W Shop, Northern Railway, Alambagh, Lucknow.
- (3) Address for service of all notices : Dy. Chief Mechanical Engineer, C&W Shop, Northern Railway, Alambagh, Lucknow.

Respondent No.2

- (1) Name and designation of the Respondent No.2 : General Manager, Northern Railway, New Delhi.
- (2) Office address of the Respondent No.2 : General Manager, Northern Railway, Baroda House, New Delhi.
- (3) Address for service of all notices : General Manager, Northern Railway, Baroda House, New Delhi.

Respondent No.3

- (1) Name and designation of the Respondent No.3 : Dy..Chief Personnel Officer, Northern Railway New Delhi.
- (2) Office address of the Respondent No.3 : Dy. Chief Personnel Officer, Northern Railway 323, Annexe, 1, Baroda House, New Delhi.
- (3) Address for service of all notices : Dy. Chief Personnel Officer, Northern Railway 323, Annexe, 1, Baroda House, New Delhi.

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

- (i) Order No. : SET/4/Mar/70
- (ii) Date : 12.10.1987.
- (iii) Passed by : The Dy. Chief Personnel Officer, Northern Railway New Delhi conveyed through the Dy. Chief Mechanical Engineer, C&W Shop, Northern Rly., Alambagh, Lucknow in continuation with the order No, C.M.E/1154/ME dated 29.3.86.
- Krishna Kumar*

HS

(iv) Subject in brief : Denial of pensionary benefits to the applicant available by virtue of Family Pension Scheme of 1964 and also available under the order No. 1(II)/85 Pension Unit dated 18th June, 1985.

4. Jurisdiction of the Tribunal:

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

5. Limitation:

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

6. Facts of the case:

The facts of the case are given below:-

- (A) That the date of birth of the applicant is 3rd Devember, 1931.
- (B) That the applicant joined the Railway Department under the Dy. Chief Mechanical Engineer, Carriage and Wagon Shop, Northern Railway, Lucknow on the 21st November, 1947 and was allotted Ticket No. 57-A to work as carpenter at C&W Shop, Northern Railway, Alambagh, Lucknow in the Mechanical Department and his Ticket No. was changed as No. 96-A later on.
- (C) That while working on duty on 06-08-1965, was admitted in Railway Hospital. He sustained permanent disability on account of the injuries caused due to the accident on 06.08.1965 while wotking on duty.

Krishna Kumar

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- (D) That the applicant continued under the medical treatment ultimately the D.M.O. declared the applicant to be unfit for duties on 07.03.1970 and he issued a certificate to that effect bearing No. 23901 dated 07.03.1970.
- (E) That on the basis of the certificate given by the D.M.O., Lucknow dated 07.03.1970, the applicant was discharged from duties by the Dy. Chief Mechanical Engineer, C&W Shop, Northern Railway, Lucknow vide No. 2E4/3A dated 7th April, 1970.
- (F) That while still in service, the Ministry of Railway issued a circular in the year 1964 for Family Pension Scheme, which was received in the office of the Dy. Chief Mechanical Engineer, C&W Shop, Northern Railway, Lucknow and all the employees were required to give their declaration for opting the Family Pension Scheme and in pursuance of the same, the applicant submitted his declaration opting for the Family Pension Scheme.
- (G) That having filled the declaration for Family Pension Scheme, the applicant became entitled for the benefit of the Family Pension Scheme on retirement from service.
- (H) That on being retired from service with effect from 07.04.1970, on being declared to be unfit for service, the applicant demanded all his claims of Provident Fund, Gratuity etc.

Krishan Kumar

- (I) That the applicant claimed ^{AD} compensation under the Workmen Compensation Act that was decided by the court and has received the same.
- (J) That the other claims arising out of the service employment were settled by the Dy. Chief Mechanical Engineer, C&W Shop, Northern Railway, Lucknow and at the time of the payment, the applicant was assured that the benefit of the Family Pension Scheme will be given when the matter is finally decided by the Railway authorities.
- (K) That the applicant has been constantly demanding the benefit of the Family Pension Scheme from the authorities and has been making the representations to them, which has been ultimately refused by the Respondent No. 3 and conveyed through the order dated 12.10.1987.
- (L) That the applicant is entitled for the benefit of the Family Pension Scheme, 1965, consequent to his opting for the Family Pension Scheme and submitting the same in the office of the Dy. Chief Mechanical Engineer, C&W Shop, Alambagh, Lucknow alongwith the other employees of the department.
- (M) That the applicant has been wrongly paid the amount of the contributory Provident Fund at the time of the settlement of all dues, and on the pointing of the applicant, the applicant was assured that on the sanctioning of the

Krishan Kumar

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pension, the applicant will have to return the share of contribution made by the government in the payment of the Provident Fund amount.

(N) That inspite of the assurances given by them, the applicant has not been sanctioned the pension admissible to him by the virtue of the declaration by him in pursuance of the Government Notification of 1965 for Family Pension Scheme and other Notification issued in this regard from time to time.

(O) That the applicant is a retired poor Railway employee and has to support his family and has practically no income on being discharged from services on being medically declared to be unfit in the year 1970.

7. Relief sought:

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

(A) That the applicant be declared to be entitled to get the Family Pension Scheme Benefit with effect from 07.04.1970, the date of compulsory retirement on account of being declared unfit for duties on the advice of D.M.O., Lucknow.

Krishan Kumar

contd...7

(A2)

Sl. No.	Particulars of order and subject in brief	Passed by	No. of pages	Serial No. of application
10.	Letter to Chief Personnel Officer, Northern Railway, New Delhi dated 15.9.87		2	26-27 28-29 NM
12.	Order of Dy.C.M.E., refusing the request dated 12.10.87	Dy.C.M.E., C&W Shop, N.Rly., Alambagh, Lucknow.	1	28 NM
13.	Office Memorandum No. 1(11)/85, Pension Unit dated 18.6.1985	Dy. Secretary Government of India	4	29-32 NM

13. List of Enclosures: 12 Nos.

VERIFICATION

I, Krishna Kumar, son of late Ram Asrey Srivastava, aged about 57 years, retired as Carpenter, Ticket No. 96-A, C&W Shop, Northern Railway, Mechanical Department, Alambagh, Lucknow resident of 230, Bashiratganj, Lucknow do hereby verify that the contents of paras 1 to 13 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Lucknow :

Dated : 4.10.1988

Krishna Kumar

SIGNATURE OF THE APPLICANT.

422

Genl 60 A GC. 9
SRG-R 1620

NORTHERN RAILWAY SERVICE CERTIFICATE

51

Sl. No. _____

Issuing office _____

10-9-70 Date of Issue

1. Name Shri Krishna Kumar T. no. 86A
2. (i) Father's name Ram Arsey
- (ii) Caste Kayast (Hindoo)
3. Date of birth (in words) Third December Nineteen thirty one
4. Identification marks (if any) Boil mark on right thigh (3-12-31)
5. Department in which employed Mechanical
6. Period of service :- From 21-11-47 To 6-3-70
7. Appointment when leaving service Carpenter
8. Rate of pay on leaving service 163/-
9. Reason for leaving service Declared medically unfit
10. Time-keeping _____

11. Employee's signature or thumb print Krishna Kumar

Signature _____

Designation Dy Chf Mch Engineer
W Shop, N. Ry. Amv. Lucknow.

True copy attested
Krishna Kumar
M. Wasava
HDU

R. P. Subastava
ADVOCATE
Lucknow, Lucknow.

BRANCH

63.15 STATION 251 30 31 93

List of Appointments, Dismissals, Discharges and resignations during the month of..... 196

1	2	3	4	5		6	7	8	9
				RATE OF PAY					
No.	Name	Father's Name	Designation	Per month	Per day	Appointment dismissal or resignation	Actual date from which to take effect fore or afternoon	Reason for Appointment Dismissal or re:ignation	Remarks
	7-3-70								
Hd -	Sri Krishna Kumar	Sri Ram Asrey	Carpenter	163/-		Discharged from service w.e.f. 1.3.70 as he has been declared medically unfit vide unfit certificate No. 23901 dt. 7.3.70 issued by the DMO/CH/LKO.		7.3-21	
	2E4/3A No. 2E4/3A								
			DE. APRIL 7, 1970.						
			CI- to CMO, CH, H.C.M.I.(B), (H.B.), (M/P.A.S.S), SE (Roads), Secy. Social Ltd. LKO.						
			CI to Sri Krishna Kumar 96A for information						

Note: In column 8 give the name of the incumbent to whom the new employee is taken on

A.P. Delhi 1968 17-575A 00,060 F

Recd. on date. 7/4/70

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True copy attested
Krishna Kumar.

[Signature]
R. P. Sinastava

ADVOCATE

Lawsonganj, Chaurahat

LUC 140 7

(2)

12

सेवा में

माननीय उप मुख्य प्रौद्योगिक अधिकारी,
सवारी एवं माल डि० का कारखाना,
आलमबाहा, लखनऊ।

(A2u)

क्रिय----- वैधान

प्रार्थी निम्न शीर्षक करता है :-----

- 1- यह कि प्रार्थी केरल एवम् केन शाप उत्तर रेलवे लखनऊ में बढई के पद पर 21-11-1947 से कार्यरत रहा था कि करीब डेढ़ बने दिन में 6-8-1965 को जब कि प्रार्थी डिस्ट्री पर था और रेल ठिब्बे के छत की मरम्मत कर रहा था कि गिर पड़ा और उसके रीढ़ की हड्डी में चोट आ गई और अन्त में वह अपाहिज होगया यदपि वह रेल के डाक्टरों द्वारा अपना इलाज कराता रहा था ।
- 2- कि अन्त में 6-3-1970 तक प्रार्थी का इलाज रेल के डाक्टर करते रहे । 7-3-1970 को रेल डाक्टरों ने प्रार्थी को अयोग्य घोषित कर दिया और प्रार्थी को नौकरी से रिटायर करके निकाल दिया गया परन्तु क्षति पूर्ति नहीं दिया यदपि डाक्टरों ने 100 प्रतिशत प्रतिकर के लिखा था ।
- 3- यह कि 28-3-1973 को प्रार्थी ने प्रतिकर के लिए मुकदमा दायर किया और वह मुकदमा 23-4-1979 को डिग्रि हुआ और 31-7-79 को प्रार्थी को प्रतिकर मिला परन्तु 6-8-1965 से 31-7-79 के बीच प्रार्थी के ऊपर इतना कर्ज हो गया था कि जो भी स्या मिला वह कर्ज अदा करने में समाप्त हो गया ।
- 4- यह कि प्रार्थी के इलाज के लिए पैसे की जरूरत पड़ती है तो वह भीष माँगकर दवा माँगता है ।
- 5- यह कि प्रार्थी का एक लड़का शादी करके अलग हो गया है और जो सहायता उस से मिलती थी वह भी समाप्त हो गई है ।
- 6- यह कि प्रार्थी के छोटे-छोटे नाबालिग बच्चे है और वह हफ्ते में कमसे कम दो दिन भूखे रहते है और प्रार्थी एक धारपाई पर लारा की तरह से पडा रहता है और आने सामने अपने बीबी बच्चों को भूखा देखाता रहता है ।
- 7- यह कि चोट लगने की तिथि से अयोग्य घोषित होने की तिथि तक अर्थात् 6-8-65 से 7-3-1970 तक कुछ समय के लिए अर्थात् जितने दिन प्रार्थी अस्पताल में भरती था केन प्रार्थी को दिया गया और बाकी समय का केन रेल द्वारा नहीं दिया गया ।

Keishan Kumar

A25

12/

8- यह कि डिग्री चीफ मैकेनिकल इन्जीनियर उत्तर रेलवे आलम बाग, लखनऊ को एक प्रार्थना पत्र प्रार्थी ने दिया तो मालूम हुआ कि केवल क्षेत्रीय रेल मंत्री, ही बेखान दे सकते है ।

9- यह कि प्रार्थी को बेखान नहीं मिलती है क्योंकि दसको दुगना फन्ड दे दिया गया है, प्रार्थी यह समझता था कि उसे बेखान मिलेगी । फन्ड मिलने के समय प्रार्थी ने अपने दफ्तर के बड़े बाबू से यह कहा कि यह बेखान लेना चाहता है तो बड़े बाबू ने कहा कि आधा फन्ड का समय बाद में जमा करके बेखान से लेना ।

साक्षी जी से प्रार्थना है कि उपरोक्त परिस्थितियों को देखते हुए प्रार्थी को परिवार बेखान देने का आदेश जारीकरके एक अपाहिज के परिवार को भूख रहने से बचाये ।

Keisha Kuman Srivastava

कृष्ण कुमार श्रीवास्तव

टिकट नं० 96-ए

अधकारा प्राप्त आई, कोच एवं -
बेगम हाथ

उत्तर रेलवे, लखनऊ । मोहरी साट्टीफिकेट
नं० 5 ।

लखनऊ
दिनांक - 26-06-1980

True copy attested

Keisha Kuman

R. P. Srivastava
Adv

R. P. Srivastava
ADVOCATE
Lakmanganj, Charbagh
LUCKNOW

A26

उत्तर रेलवे

कार्यालय उप मुख्य यांत्रिक इंजीनियर, (कर्मो) सवारी एवं गाल डिब्बा कारखाना, आलमबाग, लखनऊ
पत्र संख्या डी० सी० एम० ई०/१६ए दिनांक : जनवरी, १५ १९८१

श्री कृष्ण कुमार श्रीवास्तव,
मकाल नम्बर २३०, बशीरतगंज,
लखनऊ।

विषय :- पेन्शन

संदर्भ :- आपका रेल मन्त्री महोदय को संबोधित आवेदन दिनांक २३.६.८०.

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आपके उपरोक्त आवेदन पत्र के संदर्भ में सूचित किया जाता है कि जिस समय आप सेवा निवृत्त हुए थे उस समय से-मा कोई आदेश नहीं था कि आपको पेन्शन का लाभ मिल सकता। इसके पूर्व आपके सेवा काल में ही डी० सी० एम० ई०/२ दिनांक २२.२.६९ द्वारा आदेश दिया गया था कि जो पेन्शन लाभ के उद्देशित माना जाये, अपना विकल्प दे दे। यह पत्र दिनांक ३१.३.६९ तक लागू था परन्तु यह आदेश पत्र बाद में निरस्त हो गया।

उप मुख्य यांत्रिक इंजीनियर (कर्मो)
सवारी एवं गाल डिब्बा कारखाना, आलमबाग,
लखनऊ।

प्रतिलिपि - महाप्रबन्धक (कर्मो) रेल मन्त्री को रेल मन्त्री कार्यालय-१२९९/८० दिनांक २६-६-८० के संदर्भ में सूचना के अर्थ प्रेषित।

True copy attested
Krishan Kumar

R. P. Srivastava
ADVOCATE
Lokmandani, Charbagh
LUCKNOW

सेवा में,

व्यक्तिगत

माननीय रेल मंत्री श्री. के. ए. बालगुण
रेल भवन,
नई दिल्ली,

A22

विषय - पेंशन

महोदय,

प्राणी कृष्ण कुमार श्रीवास्तव टिकट नम्बर 96 ए, अक्कासा प्राप्त
कई केरिज एवं बैंगन शायम उत्तर रेलवे लखनऊ, में दिनांक 23/6/80 को एक
प्रार्थना पत्र दिया था कि प्राणी को परिवार पेंशन देने के आदेश जारी करने
क्या की जाये ताकि प्राणी का अशक्त परिवार जो इस भीषण महंगाई में
सूखे मरने की स्थिति में गुजर रहा है, से बच सके उपरोक्त आदेश पत्र के तदर्थ
में कृते उस मुख्य यात्रिक, इन्जीनियर [कर्म] सवारी एवं मान टिक्का कारखाना
जालमबाग लखनऊ के पत्र दिनांक 12/1/81 द्वारा प्राणी को निम्न प्रकार से
सूचित किया गया कि:-

- 1- जिस समय प्राणी सेवा में रूकृत किया गया था उस समय ऐसा कोई
आदेश नहीं था कि प्राणी को पेंशन का लाभ मिल सकता है।
- 2- दूसरे प्राणी को भी सूचित कर दिया गया कि प्राणी के सेवा काल
में, प्राणी के द्वारा पेंशन क्लेम नहीं करा गया था। इस कारण प्राणी
को पेंशन लाभ से वंचित बताया है जिसकी प्रतिलिपि आपकी भी पत्र सं०
1298 दिनांक 26/6/80 द्वारा सूचनाय प्रेषी गयी है।

उपरोक्त आइटम नम्बर -1 और 2 के संदर्भ में निम्न निवेदन है:-

- क- प्राणी को सेवा निवृत्त उन परिस्थितियों में नहीं किया गया है जैसा
कि अन्य कर्मचारियों को सेवा निवृत्त किया जाता है अधिकांश उनकी अवस्थायें
सेवा निवृत्त करने की तिथि तक 55 वर्ष आयु पूरी होता है।
- ख- प्राणी 21/11/47 से निरन्तर कार्यरत होते हुए दिनांक 6/8/55 कार्य
काल की अवधि में। कार्यकाल के दिनांक टिक्के की छत की मरम्मत करते समय
गिर पड़ा, रीठ की छुड़ी में चोट खा गई दिनांक 6/3/70 तक रेल के डाक्टरों
द्वारा इलाज हुआ कोई लाभ न हो सका इस आशय से दिनांक 7/3/70 को दैत
डाक्टरों द्वारा अयोग घोषित करने के फलस्वरूप प्राणी को रिटायर कर दिया
गया तथा डाक्टरों ने 100 प्रतिशत प्रतिकर के लिए लिखा था।

दिनांक 7/3/70 से दिनांक 28/3/73 तक की अवधि के बीच में प्राणी
को विभाग द्वारा कोई प्रतिकर न मिल सका, जिसके कारण तथा अन्य कोई
बाध न होने के कारण प्राणी का अशक्त परिवार सूखे मरने की स्थिति में आ
गया तथा किस होकर प्राणी ने दिनांक 28/3/73 को प्रतिकर के लिए मुकदमा
दायर किया। दिनांक 28/8/79 को सिग्री हुई तथा दिनांक 31/7/79
को अदालत के निर्णय के आधार पर प्राणी को प्रतिकरमिला जो उक्त लम्बी
अवधि के बीच में उदर प्रति हेतु कर्ज लिया था मिले प्रतिकर को दे दिया।

उक्त परिस्थितियों के आधार पर प्राणी को पेंशन नियमानुसार मिलना

Krishna/Kumar

A22

-2-

बाह्य क्योकि प्रार्थी की सेवाये नियुक्ति तिथि से निरन्तर रही है तथा यदि कार्य के दिन कार्य करते समय प्रार्थी को चोट न लगी होती तो प्रार्थी अपनी सेवाओं को निरन्तर करते हुए नियमित वायु पूर्ण करने के उपरान्त रिटायर्ड होता लेकिन ठियूनी में चोट लगने के कारण तथा इलाज से कोई लाभ न होने के कारण बोर्ड ने रिटायर्ड कर दिया (जहाँ तक पेशान चिकित्स करने का या न भरे जाने का प्रश्न है पेशान चिकित्स उस अवधि में कराये गये थे जिस समय प्रार्थी का इलाज रेलवे हास्पिटल में रेलवे के डाक्टरों द्वारा चल रहा था तथा अफेन अवस्था में होत हुए काल के माल में फसा था ।)

निष्मानुसार पेशान चिकित्स करा गया या नहीं माना जायेगा तथा प्रार्थी अपनी पेशान व 100 प्रतिशत प्रतिफल बस्ता का पूर्ण हकदार है ।

मुझे मान्य नहीं है यदि प्रार्थी को बोर्ड अफेन का भुगतान कर दिया गया होते निष्मानुसार उसे बोर्ड अफेन का फन प्रार्थी को ग्रेजुवटी अथवा पेशान परिक्षा देने के समय काट कर रोक धन प्रार्थी को दिया जाये प्रार्थी इस उपबन्ध से तैयार है ।

अतः निवेदन है कि प्रार्थी की पेशान शीर्षि पास कर दी जाये जिससे प्रार्थी अपने इलाज व इलाज के साथ ही साथ अपने वारिष्ठ परिवार की उच्च प्रति कर सके ।

पिनकोड:-
230 आरिस्त गरी,
कानपुर ।

दिनांक
12.2.81

प्रार्थी,

Krishan Kumar, Srivastava

कृष्ण कुमार श्रीवास्तव,

टिकट नम्बर 96 ए,

बज्जारा प्राप्त अदर्श,

कौरज एच केमन हाप,

उत्तर रेलवे, कानपुर ।

True copy attested

Krishan Kumar

R. P. Srivastava H-20

R. P. Srivastava

ADVOCATE

कानपुर, उत्तर प्रदेश

5
To,

Hon'ble Union Minister for Railways,
Union Government of India,
New Delhi.

Subject: Pensionary benefits.

Sir,

I have the honour to draw your kind attention to the following few lines for favourable consideration please:

That I am an employee of the Carriage and Wagon Shop, Northern Railway, Lucknow designated as Carpenter and had been working since 21.11.1947.

That on 6.8.1965 while working on a machine, I unfortunately fell down from the roof of a bogie while repairing the same. I was declared "Hurt on duty" and was admitted at the Northern Railway's Hospital, Charbagh, Lucknow. I was x-rayed for my back bone and fracture was detected in the x-ray. I remained in the hospital for few months and later on was being treated as outdoor patient till March 1970 and declared me finally unfit for duty on 7.3. 1970.

Sir, I, later on, approached the authorities of Carriage and Wagon Shop for merciful decision for my pensions but everybody turned deaf ear to my requests and thus myself and my family are starving during these hard days.

Sir, pension rules were enforced in 1969 and option was being collected by Heads of the section but no information was communicated to me either by the office or the Head of the Section. Even at the time of my final payment I requested the Head Clerk for an option form for the pension who cheated and advised me to apply later on. Had the learned Head Clerk got the option form filled up by me, I would have hence been drawing some pension at this critical stage when I am totally disabled due to Hemiplegia.

I shall be thankful if you kindly have mercy upon my present disabled condition and issue orders of some pensions permissible under the rules.

Contd. --- 2

Krishan Kumar

(A30)

EXAMPLE:

Some persons have already getting pension after retirement from service, their names and addresses are given below:-

(1) S/Sri Mohd. Ahmad, Scale Fitter F.I.O.W.B. C&W shop, retired on 31.8.60,

House No.205, Bashiratganj, Lucknow.

(2) Mohd. Yusuf, T.No.563 Fitter Khalasi Running Shed. Indira Nagar, Lucknow.

(3) Manna Lal, T.No. 323, Fitter Running Shed .

Thanking you,

Yours faithfully,

Krishna Kumar Srivastava
Kumar
(Krishna Srivastava)

Address:230, Bashiratganj,
Lucknow.

Copy to the General Manager, Railways, Baroda House, New Delhi for favourable consideration and orders please.

2.Copy to Hon'ble Prime Minister of India, New Delhi.

3.Copy to Dy, Dy. C.M.E,

(Krishna Kumar Srivastava)
230, Bashiratganj,
Lucknow.
P.R.T.N. 96A

16-11-84
27-3-84

31-1-85
31-1-85

True copy attested

Krishna Kumar

R. P. Srivastava
ADVOCATE
Lohmanganj, Charbagh
LUCKNOW

4

The Hon'ble Union Minister for Railways,
Union Government of India,
New Delhi.

7731

Subject:- Pensionary benefits.

Sir,

I have the honour to draw your kind attention to the following few lines for favourable consideration please:-

That I am an employee of the carriage and shop, Northern Railway, Lucknow designated as Carpenter and had been working since 31.11.1947.

That on 6.8.1968 while working on a machine, I unfortunately fell down from the roof of a bogie while repairing the same. I was declared "Hurt on duty" and was admitted at the Northern Railway's Hospital, Charbagh, Lucknow. I was x-rayed for my back bone and fracture was detected in the x-ray. I remained in the hospital for few months and later on was being treated as outdoor patient till March 1970 and declared as finally unfit for duty on 7.3.1970.

Sir, I, later on, approached the authorities of Carriage and Wagon Shop for merciful decision for my pensions but everybody turned deaf ear to my requests and thus myself and my family are starving during these hard days.

Sir, pension rules were enforced in 1969 and option was being collected by Heads of the section but also no information was communicated to me either by the office or the Head of the section. Even at the time of my final payment I requested the Head Clerk for an option form for the pension who cheated and advised me to apply later on. Had the learned Head Clerk got the option form filled up by me, I would have been drawing some pension at this critical stage when I am totally disabled due to Hemiplegia.

I shall be thankful if you kindly have mercy upon my present disabled condition and issue orders of some pensions permissible under the rules.

Thanking you,

Yours faithfully,

Address: 230, ...

(Krishna Kumar Srivastava)

True copy attested
Kaushey Kumar
S. R. D. ...
Sri ...
Advocate
Vijay Chandra
U.A.N.C.

उत्तर देतवे
=====

RAD

21

कार्यालय उप मुख्य यांत्रिक अभियंता (कर्म०) सवारी एवं मात्र डिब्बा नगरबाबा, आलमबाग लखनऊ।
दिनांक :- 31.10.85/ 1154 (मिस्) दिनांक :- 10.85.

श्री कृष्ण कुमार शीवास्तव,
मूलपत्रिका सं० 19 / ए
सं० 230 वहीरत मंत्र ।
लखनऊ ।
=====

4-11-85
AS2

विषय :- बेंचब के संबंध में ।

आपके प्रार्थना - पत्र दिनांक मित . ओ मासकीय रेल मंत्री भारत सरकार की
विधि को संबोधित है तथा जिसकी एक प्रतिलिपि इस कार्यालय को भेजी गयी है. के
संबंध में आपको सूचित किया जाता है कि आप द्वारा बेंचब नियम उपबन्धों के लिए बेंच
विषय इस कार्यालय में दर्ज किया गया . इस कारण अपेक्षित कर्मचारी नहीं थे । अतः
नियमानुसार इस समय आपके प्रार्थना पत्र पर बेंचब संबंधी कार्यवाही करना सम्भव नहीं है ।

उप मुख्य यांत्रिक अभियंता (कर्म०)
आलमबाग - लखनऊ ।

प्रतिलिपि :-

महाप्रबन्धक (कर्म०) उ०रेतवे. प्रधान कार्यालय . बड़ीदा हाउस. बई दिल्ली
को उसके पत्र सं० । 45 ई/एम०आर०पी/ एम०पी०सी० दिनांक 6.9.85 तथा
पत्र सं० । 45 ई/ एम०आर०पी०/एम०पी०सी०/ 263 दिनांक 1.9.85 के संबंध
में सूचनाएं प्रेषित ।

3099/ 31.10.85.

Recd. on date 11/11/85
True copy attested
Kushman Kumar

R. P. Sivastava
ADVOCATE
Lokmanganj, Charbagh
LUCKNOW.

Regd / AD ✓

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उत्तर रेलवे

कार्यालय उप मुख्य यंत्रिक अभियंता(कर्म०) मता सी एम प्रान्त डब बा कारखाना आ लखनऊ लखनऊ
पत्रिका डीसीएमई/1154 मिस दिनांक 29.3.86.

श्री कृष्ण कुमार श्रीवास्तव भू.पू.नि.नं०96/ए
म०नं० 230 बशीरत भंज.लखनऊ ।

विषय:- पेंशन के सम्बन्ध में ।

आपका ध्यान इस कार्य लय के सम-सिद्ध पत्र दिनांक 4.11.85 को ओर आकर्षित करते हुए सूचित किया जाता है । कि आप के प्रार्थना पत्र पर नियमावली के अन्तर्गत सम्बन्धी कार्यवाही करना सम्भव नहीं है। ऐसा कि पहले ही सूचित किया जा चुका है ।

दौरसिया/24.3.86.

श्री उप मुख्य यंत्रिक अभियंता(कर्म०)
आलखनऊ लखनऊ

प्रतिलिपि:- महा प्रबन्धक(कार्मिक) उ०रे० प्रधात कार्यालय बसोदा हाउस वई दिल्ली को
उदके पत्र सं० 145ई/सी/जीएम/सी/पीओ/मिस/एस.एस.जी./ 6.3.86
के सम्बन्ध में सूचना प्रेषित ।

Handwritten note: Pl. see chart at 3-20 P.M.

True copy attested *K.K. Kumar*
07/4/86
Krishna Kumar.

Handwritten signature: R. P. Siivastava
A-20

R. P. Siivastava
ADVOCATE
Lokmanganj, Charbagh
LUCKNOW.

Dy. Chief Personal Officer (Grievances)
Northern + Railways,
222 323, Annexe-1 Baroda House,
New Delhi.

(Handwritten initials)

Subject. PENSIONERY BENEFITS

**THOUGH PENSION ADALAT

Sir,

I have the honour to draw your kind attention to the following few lines for favourable consideration please.

That my husband was an employee of the carriage and Wagon shop Northern Railway, Lucknow designated as Carpenter and had been working since 21.11.1947.

That on 6.8.1965 while working on a machine, he unfortunately fell down from the roof of a bogie while repairing the same. He was declared ' Hurt on duty ' and was admitted at the Northern Railway's Hospital Charbagh Lucknow, He was xrayed for his back bone and fracture was detected in the X-ray. He remained in the hospital for few months and later on was being treated as outdoor patient till March 1970, and declared him finally unfit for duty on 7.3.1970.

Sir, later on he has approached the authorities of carriage & Wagon Shop for mervifgl decision for his pension but every body turned deaf ear of his requests and thus myself and my family are starving during these hard days.

Sir, pension rules were inforced in 1969 and option was being collected by Heads of the section but no information was communcated to him either by the office or the Head of the section. Even at the time of final payment he requested the Head Clerk for an option form for the pension who cheated and advised him to apply later on. Had the learned / hence been drawing some pension at this critical stage when

Head Clerk got the option form filled up by him. he would have

Keishan Kumar.

he is totally disabled due to Hemiplegia

I shall be thankful if you kindly have mercy upon my husband's present disabled condition and issue orders of some pensions permissible under the rules. If necessary we are ready to complete other formalities, if any.

I am giving example of some persons who are getting pension already after retirement from service their names and addresses are given below:-

- 1. S/Sri Mohd. Ahmad Scale Fitter F.I.O.W.B.C. & W shop, retired on 31.8.60 House No, 205, Bashiratganj, Lucknow.
- 2. Mohd. Yusuf T.No. 563 Fitter Khalasi, Running Shed Indira Nagar, Lucknow.
- 3. Manna Lal T. No. 323 Fitter Running Shed.

For this kindness. I will be grateful to you sir.

Thanking you.

Yours faithfully

रामेश्वरी श्रीवास्तव
(RAME SHAWARI SRIVASTAVA)
W/o Sri Krishna Kumar Srivastava
Ex. T. No, 96 A.
230 Bashiratganj Lucknow.

Date 15.9.1987

True copy attested

Keishan Kumar.

R. P. Srivastava
A-20

R. P. Srivastava
ADVOCATE
Lokmanganj, Charbagh
LUCKNOW.

कार्यालय उत्तर मुख्य कार्यालय प्रविष्टता [कर्मचारी एवं भात विभा] उत्तरका, उत्तरका ।

पत्रांक:- डेट/4 मार्च/70,

दिनांक:- 12.10.87.

श्रीमती एम.ए.ए. श्रीवास्तव,
बसती श्री कृष्ण कुमार श्रीवास्तव
दुर्गापुर टिकट नंबर 96 ए०,
बसता: न नं० 230 बसोपन भंय.

A-38

विषय:- वैयक्तिक मामलों हेतु वैयक्त प्रशासन में पेश करके वाता उत्तरका प्रार्थना-पत्र
दिनांक 15.9.87 के सम्बन्ध में ।

उत्तर मुख्य कार्यालय प्रविष्टता [विभागत] उत्तर रेलवे, प्रशासन कार्यालय, बड़ीवा
हाउस बड़ दिल्ली को सम्बोधित आपके उत्तर विषय के प्रार्थना-पत्र पर विचार करके के
उत्तराहत यह सूचित किया जाता है कि आपका प्रार्थना पत्र सीति के संबंधित है जो
वैयक्त प्रशासन में विचारणीय नहीं है । इसी संबंध में इस कार्यालय के पत्र संख्या डी०
सी०एस०/1154 दिनांक 29.3.86 द्वारा आपके पत्र श्री कृष्ण कुमार श्रीवास्तव
दुर्गापुर टिकट नं० 96 ए० को सूचित किया जा चुका है ।

[Signature]
उत्तर मुख्य कार्यालय प्रविष्टता [कर्मचारी
प्रशासन - उत्तरका ।

प्रतिलिपि:-

उत्तर मुख्य कार्यालय प्रविष्टता [विभागत] को उनके क्रमांक पत्र सं० 145-ई/सी/1
वैयक्त प्रशासन / 1-एस०एस०बी दिनांक 28.9.87 के संबंध में सूचनाएं एवं
आवश्यक कार्यवाही हेतु प्रेषित । तथा इस संबंध में श्री सरपाल सिंह महाबत
कार्यालय प्रविष्टता [विभागत] बड़ीवा हाउस, बड़ दिल्ली के क्रमांक पत्र सं०
145-ई/सी/46751/पत्र, प्रशासन / 240बी०/एस०एस०बी० दिनांक 16/21.5.86
के संबंध में इस कार्यालय के क्रमांक पत्र सं० डेट/4 मार्च 70 दिनांक 16.6.86
द्वारा पहले उत्तर दिया जा चुका है ।

दिनांक/10.10.87.

True copy attested
Kunshan Kumar

[Signature]
R. P. Srivastava
ADVOCATE
Lokmanganj, Charbagh,
LUCKNOW.

IMMEDIATE

No.1(11)/85-Pension Unit
Government of India
Ministry of Personnel and Training, Administrative
Reforms and Public Grievances and Pension
(Department of Pensions and Pensioners' Welfare)

(Handwritten initials)

New Delhi, the 18th June, 1985

OFFICE MEMORANDUM

Subject:-GRANT OF FAMILY PENSION TO FAMILIES OF GOVERNMENT EMPLOYEES WHO RETIRED OR DIED BEFORE 1.1.1964 OR ARE OTHERWISE NOT COVERED BY THE FAMILY PENSION SCHEME OF 1964 - IMPLEMENTATION OF THE JUDGEMENT OF THE SUPREME COURT -

The undersigned is directed to say that there are at present two family pension schemes (1950 and 1964) incorporated in rules 54 and 55 of the CCS (Pension) Rules, 1972. The 1950 Scheme was of a restricted nature. In accordance with the provisions of rule 54 of the Central Civil Services (Pension) Rules, 1972, Family Pension Scheme, 1964, applies :-

- (a) to a Government servant entering service in a pensionable establishment on or after the 1st January, 1964; and
- (b) to a Government servant who was in service on the 31st December, 1963, and came to be governed by the provisions of the Family Pension Scheme for Central Government employees 1964, contained in the Ministry of Finance Office Memorandum No. 9(16)-EV(A)/63, dated the 31st December, 1963, as in force immediately before the commencement of these rules.

2. Initially, the Family Pension Scheme, 1964, was a contributory one and employees eligible for the benefits of the Scheme were required to contribute two months' emoluments out of the D.C.R.G. However, with effect from 22.9.1977, this pre-condition was done away with.

3. A section of widows of erstwhile Government servants who were not covered by the Family Pension Scheme, 1964, had filed writ petitions (Nos.5870-93/81, 13181/84, 8446-51/83, 1001/84 and 12707/84 with Civil Appeal No.2225/85) in the Supreme Court of India claiming that the benefits of the scheme may also be extended to them.

Keisho Kumar

...2/-

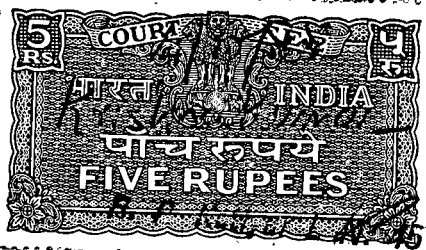
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व अदालत श्रीमान् Before the Central Administrative Tribunal... महोदय
Branch Allahabad Circuit Bench Lucknow

[वादी] अपीलान्त

प्रतिवादी [रिस्पॉण्डेंट]

वकालतनामा



वादी (अपीलान्त)

Krishna Kumar

बनाम

The Dy Chief Mechanical Engineer C & W Shop N.R.L. + Others

प्रतिवादी (रिस्पॉण्डेंट)

नं० मुकद्दमा

सन्

पेशी की ता०

१९ ई०

उपर लिखे मुकद्दमा में अपनी ओर से श्री P. P. Srivastava, Advocate, Lokmanganj Charbagh, Lucknow

Sr. K. K. Srivastava, Advocate, Hyderabad & C. M. Srivastava, Advocate, Lucknow

महोदय एडवोकेट

नाम अदालत	नाम फरीकेन
मुकद्दमा नं०	

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पंरबी व जवाब देही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या सुलहनामा व इकबाल दाबा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखली) रसीद से लेवे या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पंरौकार को भेजता रहूंगा अगर मुकद्दमा अदम पंरबी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नही होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर Krishna Kumar

साक्षी (गवाह) साक्षी (गवाह)

दिनांक महीना सन् १९ ई०

स्वीकृत

Handwritten signature
P. P. Srivastava
ADVOCATE
Lokmanganj, Charbagh
LUCKNOW.

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4/10/88
Adv.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH AT ALLAHABAD.
CIRCUIT BENCH AT LUCKNOW.
Reg. No. 142 of 1988 (L)

ALLAHABAD

Shri Krishna Kumar --- Applicant.

Va.

The Dy. Chief Mechanical Engineer and others - Respondts

filed today
by
25/5/88

COUNTER on behalf of the Respondents is as under :-

Before submitting the parawise reply, the Administration put forth its case as under :-

1- That the application is not maintainable as Union of India has not been impleaded as a party which is sine quonon for maintainability of the petition.

2- That the petition is grossly barred by time. It has been finally adjudicated by the Tribunal that the matter preceding 3 years from the enforcement of Central Tribunal Act the same cannot be entertained. As it has been held in 1987 A.T.C. Volume 2 - page 508.

3- That since the entire matter has already been finally rejected by the Administration on 15.1.1981 and the matter has already been also adjudicated by Pension Adalat, so no further adjudication is required.

Recd copy
M. N. S. S. S. S.
25/5/88

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उप मुख्य शक्ति कर्मचारी (न मं०)
सवारी एवं माल उद्योग कर्मशाला,
र० रे०, आलमबाग, लखनऊ

Parawise comments of the petition is as under :-

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1- That paras 1 to 4 of the petition need no

243

5- That in reply to the contents of para 6(C) of the petition it is stated that while working as Carpenter on 6.8.1965, he was fitting ceiling ventilators standing on the stool type small tressel his leg slipped and he fell down with that stool and the upper planks of the stool injured his back on the same day at 13.30 Hrs. Thereafter the petitioner was provided the medical facility by the management immediately. The accident report on U.C.A.4 under workman's compensation Act, 1923 was prepared and another report of his accident required u/s 88 of the Indian Factories Act, 1948 on Form No. Mech/A-4 Genl. 86-A was also prepared on the same day, in which it was mentioned that "He was fitting the ventilator plate in Coach No. 7976 RZ, his foot slipped from the stool he fell down and got injury on his back", and after sending to the authorised Medical attendant of N.Rly, a XXR/Wire was also issued on the very same day to the concerned authorities required under the rules.

6- That in reply to para 6(d) and (e) of the petition, it is submitted that the petitioner was examined by Medical Board on 15.1.1970 at N.Rly. Hospital, Lucknow, and the said Board had recorded their findings as under - "The Medical Board are of opinion that Sri Krishna Kumar Srivastava has developed this present disability due to the post Traumatic Neurosis, although no clinical or radiological evidence exists. The Board are of the further opinion that he shall never be able to discharge effectively any duties in the Railway and he

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एव मुख्य यान्त्रिक दफ्तरियता (कर्मो)
सवारी एवं माल डिप्टी कर्मशाला,
ब० रे०, आलमबाग, लखनऊ

अपने

445

all the payments were made to him in accordance with that rules. In this regard it is relevant to mention here that an application for refund to deposit was prepared and forwarded to the F.A. & C.A.O. vide No. Sett/4-March/70 dated 23.4.1970, in which it was clearly mentioned that he is not a Pension Optee. Later on the petitioner was called vide letter No. Sett/4-March/70 dated 13.7.70, which was sent under R.A.D., to attend the respondent No.1's Office in connection with the payment of special contribution for Provident Fund and on 17.7.70 an application for special contribution to Provident Fund was filled in and was sent to the S.A.O.(W)/Alambagh/Lucknow, vide No. Sett/4-March/70, on which Shri Krishna Kumar, Ex.T.No. 96-A/57-A affixed his left thumb impresson and was attested by the competent authority.

9- That the contents of para 6(H) of the petition as stated are incorrect and denied. It is further submitted that the applicant was examined by the Medical Board and on the basis of his invalid Certificate No. 23901 dated 7.3.1970, issued by the D.M.O., N.R. Charbagh, Lucknow, he was discharged from service w.e.f. 7.3.1970 (F.N) vide letter No. 2E4/3-A of 7.4.1970 and as per rules all the settlement dues were paid to him as already stated

उप मुख्य यांत्रिक अभियंता (कर्मो) in para (G) above.
सवारी एवं भात डिब्बा कर्मशाला,
ब. रे. आलमबाग, लखनऊ

10- That para 6(1) of the petition needs no comments being not disputed.

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11- That in reply to the contents of para 6(J) of the petition, it is stated that all the settlement dues of the applicant were paid to him in accordance with the S.R.P.F. rules as he had specifically opted the S.R.P.F. Scheme and nothing is due to him now. It is further submitted and specifically stated that he did not opt for pensionary benefits at any time. It is totally wrong to say that at the time of payments, he was assured by the respondent No.1 or any other staff working under him that the benefit of the family pension scheme will be given when the matter is finally decided by the Rly. Authorities, hence vehemently denied.

12- That in reply to the contents of para 6(K) of the petition, it is submitted that the petitioner was finally informed by the respondent no.1 vide letter No. DCME/96-A dated 15.1.81 that he is not entitled to get the benefits of pension scheme, because he has never submitted or exercised his option for pension scheme. The applicant's representations were always replied by saying that he was not entitled because he never opted the family pension scheme. It is further submitted that the petitioner's version that his claim was ultimately refused by the respondent no.3 and conveyed through the order dt. 12.10.87, is wrong to that extent that he was finally informed. In 1987, actually he was informed and finally replied in 1981 as stated above, hence no cause of action accrued to him from 1987.

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एव मुख्य चान्दिक अधियता (कर्मो)
सवारी एवं माल डिब्बा कर्मशाला,
ब० रो०, आलमबाग, लखनऊ

A. J. 2

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13- That the contention of the applicant is absolutely baseless, false and bogus, hence strongly denied. The petitioner was a S.R.P.F. optee and not a Pension optee and he received all the payments under the S.R.P.F. Rules. It is pertinent to point out that the petitioner did not mention the date on which he had opted for pension, and rightly in fact, as he had not given any such option in the office of the D.C.M.E. Alambagh, Lucknow. The allegations of making such an option in the office of the respondent no.1 are absolutely bogus and false. Thus he is not at all entitled to pensionary benefits, having not opted for that and having availed of the S.R.P.F. option and he is not at all covered under the Pension Scheme as submitted in detail above.

14- That in reply to para 6(M) of the petition it is submitted that the contention of the applicant is wholly wrong, false and hence denied. The averments made in the foregoing paras are reiterated.

15- That the contents of para 6(N) of the petition is totally baseless, false and bogus hence strongly denied. Actually he never opted for the pension scheme. The averments made in para (L) above are reiterated.

मुख्य शानिक अधियता संसो.
सवारी एवं भास डिब्बा कर्मशाला,
सं. रे०, आलमबाग, लखनऊ

SPR
A. P. 2

748

16- That the para 6(0) of the petition needs no reply.

16- That in view of the detailed submissions made above, the petitioner is not entitled to any of the reliefs prayed for and has even remotely no legal, valid or moral case to seek any relief.

17- That the petition is liable to be dismissed with costs.

Signature

उप मुख्य यान्त्रिक अभियन्ता (कर्मो)
सवारी एवं माल डिब्बा कर्मशाला,
इ० रे०, आलमबाग, लखनऊ

Signature

, I, Shakeel Ahmed, Dy. C.M.E. 'U' C&W
Shops, Alambagh, Lucknow, do hereby verify that
the contents of paras 1 to 17 of this Counter
are based on perusal of the record which I believe
to be true. Signed and Verified on this
day of Jan.1989 at Allahabad.

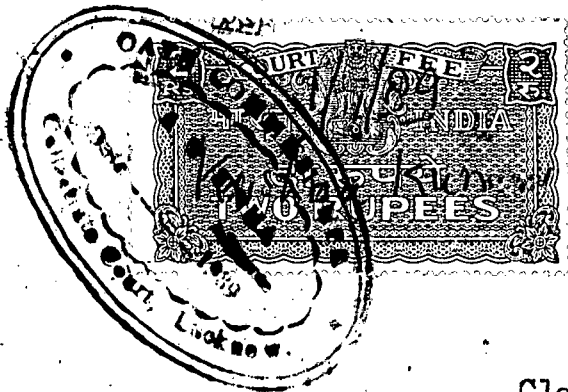
Signature

उप मुख्य यान्त्रिक अभियन्ता (कर्मो)
सवारी एवं माल डिब्बा कर्मशाला,
इ० रे०, आलमबाग, लखनऊ

Before the Central Administrative Tribunal
Allahabad Bench, Circuit Bench

L U C K N O W.

(Handwritten initials)



Krishna Kumar

.. Claimant

Versus

The Dy. Chief Mechanical Engineer,
C&W Shop, N.Rly., Alambagh,
Lucknow and others

... Opp. Parties.

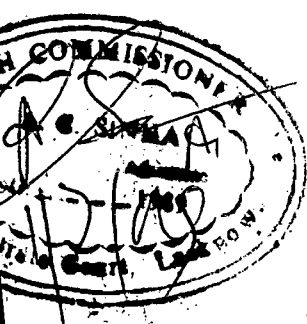
REJOINDER AFFIDAVIT

I, Krishna Kumar aged about 57 years and six months, son of Late Sri Ram Asrey Srivastava, resident of House No. 230 Bashiratganj, Lucknow, do hereby solemnly affirm as under:-

1- That the deponent is the claimant-Petitioner in the above noted claim petition and is fully conversant with the facts and circumstances of the case.

2- That in reply to para 1 of the Counter Affidavit it is submitted that the opposite party no. 2, the General Manager, Northern Railway Baroda House has been impleaded as a party as such the

Kumar Srivastava



ASO

formality of impleading union of India as a party is not necessary.

3- In reply to para no.2 it is submitted that the petitioner has been constantly representing the matter to the authorities and at their instance the matter was referred to Railway Pension Tribunal and the final reply has been given and conveyed through letter dated 12-10-1987, the annexure no. 10 of the Petition. As such it has not been delayed and the cause of action has not become time barred. The ruling cited is that is A.T.C. 1987 vol. 2 page 508 is not applicable in the present case.

4- That in reply to para no.3 of the counter affidavit, it is submitted that the reference upto the pension Adalat has been made under rules and also at the instance of the opposite parties. The matter has been rejected by the Pension Adalat only on technical grounds that the matter of policy is involved, but has not been decided on merits. The final cause of action has accrued to the petitioner on 12-10-1987, when the order of the Pension Adalat has been communicated through Annexure No. 10 of the petition. As such the Claim petition before this Tribunal is maintainable, in the interest of Justice.

5- That the petitioner reiterates the contents of para no.5 of the claim petition and denies the contents of para no.2 of the counter affidavit made on the parawise comments of the petition. The



Amay Srivastava

AS1

representation to the pension Adalat was incontinuity of the representations made by the petitioner which have been finally rejected through annexure no. 10 the letter no. Sett/4- March/70 dated 12-10-1987.

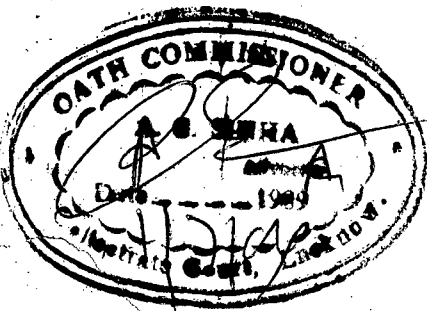
6- That the contents of para 4 of the counter affidavit as narrated by opposite party, needs no reply.

7- That the contents of para no. 5 and 6 of the Counter Affidavit need no comments

8- That the petitioner reiterates the contents of para 6 (F) and denies the contents of para no. 7 of the Counter Affidavit.

9- The petitioner reiterates the contents of para no. 6(G) of the Claim petition and denies the contents of para no. 8 of the counter affidavit as alleged by the opposite party. The petitioner was kept under false notions that his claim for the family pension will be decided later on after the settlement of the other dues. The petitioner has never forgone the Claim for family pension for which he had already opted.

10- That the petitioner reiterates the contents of para no. 6 (H) of the Claim petition and denies the contents of para no. 9 of the counter affidavit in so far as the payment of all the settlement dues.



Krishan Kumar Sinhasina

ASD

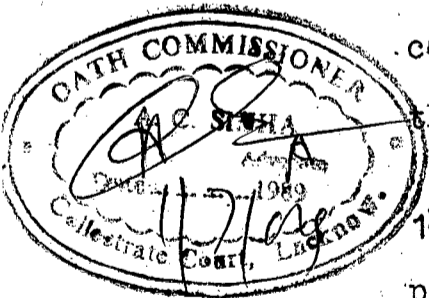
11- That the petitioner reiterates the contents of para no.6 (J) and denies the contents of para no.11 of the counter affidavit.

12- That the petitioner reiterates, the contents of para no.6(K) and denies the contents of para no. 12 of the counter affidavit as alleged by the opposite parties in so far as the point of cause of action has been stated by the opposite party to be the 15th of January 1981, the date of issue of letter by the Respondent no.1, but as a matter of right the petition has been representing the matter to the authorities which has been finally rejected on technical ground and conveyed through the letter dated 12-10-1987, the annexure no. 10 of the claim petition. Thus the claim petition is within the prescribed limitation and cannot be claimed to be time barred.

13- That the petitioner reiterates the contents of para no.6 (L) of the Claim Petition ~~and~~ and denies the contents of para no. 13 of the counter affidavit filed by the opposite party.

14- That the petitioner reiterates the contents of para no.6 (M) of the Claim Petition and denies the contents of para no. 14 of the counter affidavit filed by the opposite party.

15- That the petitioner reiterates the contents of para no.6 (N) and denies the contents of para no. 15 of the counter affidavit filed by the opposite party.



Krishan Kumar Srivastava

(153)

16- That the petitioner denies the contents of para no. 16 and 17 of the counter affidavit filed by the opposite party and ascertes that the claim of the petitioner is legally and morally maintainable before this Hon'ble Tribunal and the reliefs claimed are liable to be granted by this Hon'ble Tribunal, considering the circumstances in which the petitioner was made to retire from the services these hard days of crises in maintaining himself and his family.

Krishan Kumar Sinvastava
Deponent.

Verification

I, the deponent named above do hereby verify that the contents of paras 1,2,5 to 15 are true to my own knowledge and those of paras 3,4 and 16 are believed by me to be true.

Signed and verified on this 1st day of July 1989 within the court compound at Lucknow.

Krishan Kumar Sinvastava
Deponent

562

Solemnly affirmed before me in office to day
on 1/7/89 at Lucknow by Krishan Kumar
who is identified by me
Clerk to the Court
I have read over and explained the contents of
the affidavit and the contents of
the counter affidavit and both of them
have been read out and explained
to the deponent and he has acknowledged
the same to be true and correct
and has signed the same in my presence
at Lucknow on 1/7/89
A. SINGH
Clerk to the Court
District Court, LUCKNOW

I identify the deponent who has signed before me.

M. R. P. Srivastava
Advocate

(R. P. Srivastava)
Advocate.

AC
11/7/89

N.R.

VAKALATNAMA

(C3)

A/54

G.V. 3

Before
In the Court of

the Central Administrative Tribunal, Circuit Bench,
LUCKNOW

Registration No. 142 of 1988 (L)

Plaintiff
Defendant

Krishna Kumar

Claimant
Appellant
Petitioner

Fixed for 22-11-88

Versus

Defendant
Plaintiff

The Union of India and
Others.

Respondents

The President of India do hereby appoint and authorise Shri. G.P. Agarwal, Presenting
Officer, Allahabad

to appear, act, apply, plead in and prosecute the above described suit/appeal/proceedings on behalf of the Union of India to file and take back documents, to accept processes of the Court, to appoint and instruct Counsel, Advocate or Pleader, to withdraw and deposit moneys and generally to represent the Union of India in the above described suit/appeal/proceedings and to do all things incidental to such appearing, acting, applying Pleading and prosecuting for the Union of India SUBJECT NEVERTHELESS to the condition that unless express authority in that behalf has previously been obtained from the appropriate Officer of the Government of India, the said Counsel/Advocate/Pleader or any Counsel, Advocate or Pleader appointed by him shall not withdraw or withdraw from or abandon wholly or partly the suit/appeal/claim/defence/proceedings against all or any defendants/respondents/appellant/plaintiff/opposite parties or enter into any agreement, settlement, or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted or refer all or any matter or matters arising or in dispute therein to arbitration PROVIDED THAT in exceptional circumstances when there is not sufficient time to consult such appropriate Officer of the Government of India and an omission to settle or compromise would be definitely prejudicial to the interest of the Government of India and said Pleader/Advocate of Counsel may enter into any agreement, settlement or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted and in every such case the said Counsel/Advocate/Pleader shall record and communicate forthwith to the said officer the special reasons for entering into the agreement, settlement or compromise.

The President hereby agrees to ratify all acts done by the aforesaid Shri. G. P. Agarwal, Presenting
Officer, Allahabad

in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of India this the.....

For & on behalf of the
Union of India.

Accepted
10/11/88

Dated.....198

Signature

(SHAKEEL AHMED)
Designation of the Executive Officer

N.R.—149/1—June, 1981—75,00 F.

एव मुख्य यांत्रिक अभियन्ता (कर्मो)
सचारी एवं मान दिव्या कर्मशाखा,
ब. रे. २०, ज्ञानमबाग, लखनऊ

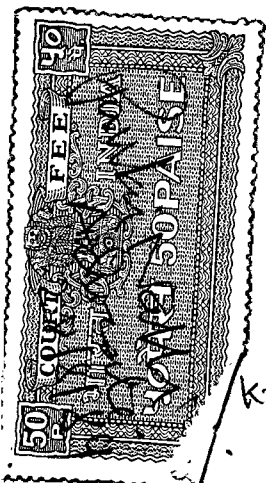
एव मुख्य यांत्रिक अभियन्ता (कर्मो)
सचारी एवं मान दिव्या कर्मशाखा,
ब. रे. २०, ज्ञानमबाग, लखनऊ

In The Central Administrative Tribunal, Circuit Bench,
At Lucknow.

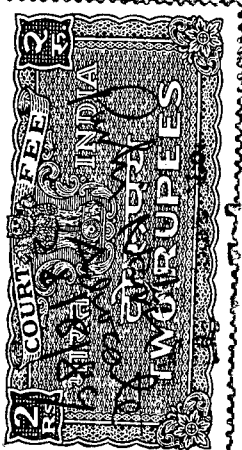
Registration No 142 of 1988 (4)

(CG)

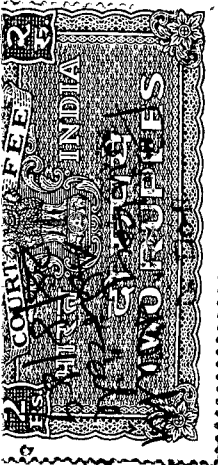
1/55



Krishna Kumar Srivastava



Chief Mechanical Engr.
Shop, N.A.Y. Lko. & others.



Accepted

Pankaj Nath
Advocate
28.8.89

PANKAJ NATH
ADVOCATE

महोदय

Power on behalf of
The Petitioner.

वकालतनामा

वादी (मुद्दा)

बनाम

प्रतिवादी (मुद्दाबलेह)

नं मुकद्दमा सन १९ पेशी की ता १९ ई०
ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

Pankaj Nath, Advocate

एडवोकेट

महोदय
वकील

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोंत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें या कोई वकील महोदय द्वारा की गई वह सब कार्यवाही हमको हर्बदा स्वीकार है और होगी इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर Krishna Kumar Srivastava

साक्षी (गवाह) _____ साक्षी (गवाह) _____

दिनांक 27 महीना 8 सन् १९८९ ई०

Before the Central Admn. Tribunal,
Lucknow.

My Lords,

O.A. 42 of 1988 (L)

(CS)

Kaishra Kumar Srivastava .
vs.

Dy. Chief Mechanical Engr., & Workshop
N.Rly. LKO. & ORS.

P.K.
to
20/11

In the above noted case I am
filing power on behalf of the petitioner.
The same may kindly be taken on
record. However, since I am down
with viral fever, I am unable to
attend the Honble Tribunal today.
I request that my case may kindly
be adjourned to some other date
whichever is convenient to the
Honble Tribunal.

LUCKNOW:

DATED:

Pankaj Nath

(PANKAJ NATH)
Advocate

Counsel to the petitioner.

se. no. 4.

(C)

SC No 12
2/2
A/W
27/11

Central Administrative Tribunal
ALL INDIA

(Circuit Bench)

OA. Reg. No 142/88

Krishna Kumar

vs.

et al.

Respondent submits as under:-
That in the aforesaid
Case, Complaint is a nullity
hence Complaint could
not be filed.

It is therefore prayed
one month time be all on
for the Complaint.

C. P. Hooda

15/11/88

11/58
AL

Registered

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

No. CAT/CB/LKO/ 34870350

Dated : 11/11/88

(24)

Registration No. _____ of 1988.

_____ Applicant

Versus

_____ Respondent's

To

Please take notice that the applicant above named has presented an application a copy whereof is enclosed herewith which has been registered in this Tribunal and the Tribunal has fixed 22 day of 11 1988 for

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

Given under my hand and the seal of the Tribunal this 11 day of 11 1988.

For DEPUTY REGISTRAR

dinesh/