

(See rule 114)

OA/~~TA~~/~~RA~~/~~CP~~/~~MA~~/~~PT~~ 153/88.....of 20.....

S.N. Subhakar .....Applicant(S)

*Versus*

Union of India.....Respondent(S)

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Certified that the file is complete in all respects.

B. & C. Weeded & diseng.

Signature of S.O.

Signature of Deal. Hand

CAT

INDEX SHEET

CAUSE TITLE C.A. 153 of 1988

NAME OF THE PARTIES S. N. Sahrawat

Applicant

Versus

Union of India (N.R.) Respondent

Part A, B & C

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filed on 6.12.06

D.B. Reversion

(A1)

# CENTRAL ADMINISTRATIVE TRIBUNAL

Circuit ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

known

Registration No. 153 of 1980(L)

APPLICANT (s) S. N. Sabharwal

RESPONDENT(s) W. O. & ors

.....

Particulars to be examined	Endorsement as to result of Examination
1. Is the appeal competent ?	Yes
2. (a) Is the application in the prescribed form ?	Yes
(b) Is the application in paper book form ?	Yes
(c) Have six complete sets of the application been filed ?	No (two sets)
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 (I.P.D. No. DD 065151) Rs 50/- dt. 6.10.06
6. Has the certified copy/copies of the order (s) against which the application is made been filed ?	Yes (by)
7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	Yes
(b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	Yes (by Counsel)

Particulars to be Examined

Endorsement as to result of Examination

- (c) Are the documents referred to in (a) above neatly typed in double space ? Yes
8. Has the index of documents been filed and paging done properly ? Yes
9. Have the chronological details of representation made and the outcome of such representations been indicated in the application ? No - representations have been made against the order of revision. dt. 20-9-01.
10. Is the matter raised in the application pending before any Court of law or any other Bench of Tribunal ? No.
11. Are the application/duplicate copy/spare copies signed ? Yes
12. Are extra copies of the application with Annexures filed ? No (two copies)
- (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 ? No
14. Are the given addresses, the registered addresses ? Yes
15. Do the names of the parties stated in the copies tally with those indicated in the application ? Yes
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ? N.A
17. Are the facts of the case mentioned in item No. 6 of the application ? Yes
- (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 ? Yes
19. Whether all the remedies have been exhausted. No.

Let case be listed on 7-10-01 Reu 6/1/80

ORDER

7.10.88 - Hon. K.S. Puttaswamy, V.C.  
Hon. A. John, A.M.

Applicant by Sri L.P. Shukla.

Admit

Emergent notices on the main & interim prayer to file their reply.

Call on 25.10.88 to consider the interim prayer.

Sd/-

A.M.

Sd/-

V.C.

fish

10.10.88

OR

Notices issued to respondents No 1 & 2 through Regd. Post. Fixing 25.10.88 to consider the interim prayer & on the main petition.

fish  
10/10

25/10/88

Hon. D.S. Misra, A.M.

Sri L.P. Shukla for the applicant.

Sri Arjun Bhargava files his Vakalatnama on behalf of respondent.

Put up this case tomorrow as prayed by the learned counsel for the respondents.

fish

A.M.

fish

26/10/88

Hon. D.S. Misra, A.M.

Sri L.P. Shukla for applicant.

Reply has been filed by the learned Counsel for the respondents Sri Arjun Bhargava. On the request of the learned Counsel for the applicant he is allowed time to file rejoinders to the reply. List this case for hearing on interim matters on 28-10-88.

fish

A.M.

fish

(AU)

QA. 153/88

23/2/89

Hon. D. S. Misra, Am.  
Hon. T. S. Sharma, Jm.

Sri Arjun Bhargava for  
the respondents requests  
further time to file  
detailed reply. The same  
is allowed. Let it be  
filed within four weeks.  
Put up on 28-4-89 for  
hearing.

SV

Jm.

Am.

None

OK

In spite of time  
granted for filing  
regular reply, Sri  
Arjun Bhargava,  
counsel for respondents  
has not filed any  
reply so far.  
Submitted for order

Hon' Mr. D.S. Misra, A.M.  
Hon' Mr. D.K. Agrawal, J.M.

28/4/89

None is present for the applicant.  
Shri A. Bhargava, learned counsel for the  
respondents request for further time to file  
reply. He is given last opportunity to file  
reply within 2 weeks, failing which the case will  
be heard ex-parte. The applicant may file rejoinder,  
if any, within two weeks on the receipt of the reply  
of the respondents. List this case for final  
or ex-parte hearing on 7-8-1989.

J.M.  
(sns)

A.M.

As directed by the Court  
order dt. 20.4.89, no reply  
has been filed.  
Case is submitted for  
ex-parte hearing

:: Hx ::

A5

Serial  
number  
of  
order  
and date

Brief Order, Mentioning Reference  
if necessary

How complied  
with and  
date of  
compliance

9/11/89

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

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

Shri L.P. Shukla counsel for the applicant  
and Mr. Arjun Bhargava counsel for the respondents  
are present. No counter affidavit has been  
filed today. Respondents have not availed of  
opportunity granted to them. Therefore, we hereby  
order that no counter affidavit will be accepted  
from them. List this case for hearing as the  
first case on 4-12-89.



A.M.

(sns)



J.M.

OR  
Case is  
submitted to  
learn without  
counter

3d 11/09

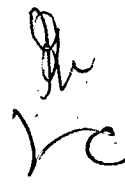
4/12/89

Hon Dootee K. Nath, vc.

Hon K. D. Raman, Am.

Arguments of both the  
parties heard. Judgment  
reserved.

Am.



VC



Dinesh

(A6)

0 A 153/80

Hon. J. P. Sharma J<sub>1</sub>

6-3-90

No sitting to Division Bench  
even in adjourn to 11.5.90 for order

*[Signature]*  
J M

11/5/90

Hon. Mr. K. J. Ramani, A-M.  
Hon. Mr. D. K. Agrawal, J<sub>1</sub>M

OR

Arguments of  
both the parties heard.  
Judgement reserved on  
4.12.89 by the bench  
of Hon. Justice K. Nath, V.C.  
and Hon. K. J. Ramani, A.M.  
No paper has been  
filed by the 4c to  
O.P.

Shri O.M.P. Tripathi, brief  
holder of Shri L.P. Shukla, appears  
for the applicant. Shri A. Bhargava  
is present on behalf of the opp.  
In pursuance of the order dated  
20/12/89, Shri A. Bhargava was  
given time to file some papers. The  
same have not been filed. He  
wants 2 days time. Allowed. Let  
paper be filed on or before 15/5/90.

Put up on 12/5/90 for orders.

sd

*[Signature]*  
J-M-

*[Signature]*  
A-M.

17/5/90

Hon. Mr. Justice K. Nath, V.C.  
Hon. Mr. K. J. Ramani, A-M.

OR

No Paper has  
been filed.  
S. P. O

Shri A. Bhargava carries  
a set of papers, which he wants  
to file, to show ~~with~~ <sup>that</sup> compliance of the  
Railway Board circular, which the petitioners  
filed before the Tribunal on 8/12/89 has already  
been made. We think that the respondents should  
also file a statement of facts in reply to the application  
along with the document sought to be filed. This may  
be done by 22/5/90. The case shall not be ~~tried~~ <sup>tried</sup>  
tied with this Bench. The case be put up for order on 30-5-90

*[Signature]*  
A-M.

Pr

1/1

CA filed today  
by

sd



(A7)

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

....

JUNE 1, 1990

Registration O.A. No. 153 of 1988(L)

S.N. Sabharwal ... Applicant

vs

Union of India and ors ... Respondents

Hon' Mr P.C. Jain, Member (A)

Hon' Mr J.P. Sharma, Member (J)

(By Hon' Mr J.P. Sharma, J.M.)

Present:

Counsel for the applicant : Mr L.P. Shukla

Counsel for the respondents: Mr A.Bhargava

The applicant moved this application under section 19 of the Administrative Tribunals' Act No. XIII of 1985, aggrieved by the order No. 940/E/IA/Civil Engineer Officers dated 28-9-88 issued by the D.R.M., Lucknow, in term of General Manager, Planning, New Delhi, Notice No. 940-E/14/XXXX/E IA dated 21-9-1988 by which the applicant was ordered to be posted to the substantive post of Chief Permanent Way Inspector (PLG), Lucknow (Annexure-A-7).

2. The applicant claimed the following reliefs:

(a) the impugned order dated 28-9-88 (Annexure-A-7) reverting the applicant from the post of Assistant Engineer in Group 'B' to the post of CPWI in Group 'C' be quashed.

(b) to allow the applicant to continue in service on the post of Assistant Engineer with all consequential benefits".

3. The facts of the case, as given out in the application, are that the applicant was working as Chief Permanent Way Inspector since November, 1982. He appeared in the test for selection to the post of Assistant Engineer for the panel of 1986, and having passed the written and interview test was declared successful and placed at Sl.No.1 in the

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panel declared on 15-2-1987 (Annexure No.A-1). The applicant was given the appointment order dated 4.3.1987 and was posted at Sultanpur (Annexure-A-2). The applicant had undergone training also at Chandausi and awarded a Merit certificate after successful completion of Officer Orientation Training (Annexure-A-3). In 1985, the applicant was served with a minor penalty charge-sheet, which is not relevant for the purpose of this case, as the impugned order is not based in any way on that charge-sheet. The applicant further alleged that he was on sick leave from 19-8-88 to 20-9-88 and again fell ill on 26-9-88 and had to be taken for treatment at K.G.M. College, Lucknow. During this period of sickness on 28-9-88, the applicant learnt about a notice circulated by the Divisional Railway Manager, Lucknow reverting the applicant from the post of Assistant Engineer Grade-I Group 'B' to the post of C.P.W.I. (PLG) in Group 'C'. The applicant has challenged this order of reversion.

4. The respondents contested the application and stated that the impugned order was issued by D.R.M., Lucknow in terms of notice of the General Manager, Northern Railway, New Delhi. The notice dated 21-9-88 is referred to in the impugned order. The reversion of the applicant, according to the respondents, has been made by the General Manager, New Delhi on the basis of the assessment of the performance of his Work during the period of the officiating appointment as A.E.N. Group 'B'. Unsatisfactory performance of the applicant is attributed to a number of facts given out in para 4 of the reply from a to j. The applicant was informed about his shortcomings in writing. The respondents have also, by certain documents annexed to the reply illustrated the shortcomings of the applicant during the

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tenure of working as A.E.N., Sultanpur by filing the memo dated 21-3-88 (Annexures A-1, A-2 and A-4).

5. The applicant filed the rejoinder to the above reply and reiterated the contents of the application. The applicant has further stated that the shortcomings pointed out were never communicated to the applicant. As regards the non inspection of the points, the applicant admitted that he did not inspect them monthly, as there was a provision of inspecting them bi-monthly. The respondents again filed a reply to the above rejoinder and filed the performance review of the applicant which page no.20 attached to the supplementary reply of the respondents. Alongwith this reply the respondents also filed certain documents which show that the applicant, from time to time was informed about his failings in the discharge of his duties as A.E.N. of Sultanpur. According to documents, it is also clear that the signature of the applicant in token of having received the said direction addressed to him, are there.

6. The respondents also filed a copy of the letter No.E(DEA) 85 RG 6-9 dated 20-4-85, from Railway Board addressed to the General Managers regarding reversion, on the grounds of general unsuitability, of staff officiating in a higher grade or post. The respondents have also filed a copy of G.M.(P) & DLS Circular No.E-142/0/3-III dated 11.6.82/28-6-82. It deals with the reversion of employees promoted after selection within a period of 18 months without following the discipline and appeal procedure on the basis of general unsuitability. The most important part of this 1982 Circular is that the reversion will take place only after watching performance after warning.

7. In reply to the aforesaid circular filed by the respondents the applicant stated in written reply that the procedure prescribed in the said Circular of 1982 has not been followed. In this connection he also placed reliance on the authority in A.I.R. 1964 S.C.C. page 426 P.C. Wadhwa vs. Union of India and 1989 U.P. Local Bodies Educational Cases (U.P.L.B.E.C.) page 125 Dr. (Mrs) P. Sechre vs. Union of India. The applicant also filed further reply on 30-5-1990.

8. We have heard the learned counsel for both the parties at length and have gone through the record of the case. The main point involved in the case is whether a person who has been once promoted after selection and being placed in the panel and allowed to continue on the promoted post, can be reverted to his substantive post unceremoniously. According to the applicant, it amounts to punishment and the respondents have to take recourse to Railway Servants (Discipline & Appeal) Rules, 1968. According to the respondents, the person who is promoted after being empanelled, has no automatic lien on the promoted post and his working is in an officiating capacity; and that according to the various circulars of the Railway Board, he can be reverted to the substantive post on the ground of unsuitability. No formal enquiry is required to be held. It is further contended that the panel notified on 19-2-1987 was provisional and that continuance on the panel was subject to satisfactory performance (Annexure-A-1). The contention of the applicant is that he was appointed by an order dated 4-3-1987 (Annexure A-2) which does not show that the applicant has been appointed in an officiating capacity.

9. The panel prepared on 19-2-1987 was for promotion

to 75% vacant Class II posts of 1986, in Civil Engineering Department. Under F.R.-9(19), a government servant 'officiates' in a post on which another person holds a lien. A government servant can also be appointed to officiate in a vacant post on which no other government servant holds a lien. Moreover, there can be temporary appointment even against a substantively vacant post. Unless a promoted government servant is specifically confirmed or is deemed to be confirmed in his appointment in accordance with the Rules applicable to that post, he cannot be taken to have a lien on it. The applicant has not placed anything before us to show that he was confirmed or deemed to have been confirmed on the promoted post. Further there is nothing to show that no other employee had a lien on the post to which he was promoted. Thus, in view of the clear stipulation in the panel dated 19-2-1987 and what has been stated above, we have to hold that the applicant's appointment/posting vide order dated 4/5-3-1987 (Annexure-A-2) was in an officiating capacity.

10. Rule 6 of the Railway Servants (Discipline and Appeal) Rules, 1968, lists penalties which can be imposed on a Railway servant. Explanation (iv) to this Rule states that, "reversion of a Railway servant officiating in a higher service, grade or post to a lower service, grade or post, on the ground that he is considered to be unsuitable for such higher service, grade or post or any administrative ground unconnected with his conduct" shall not amount to a penalty within the meaning of Rule 6 *ibid*. This Rule has not been assailed in the case before us. It has a statutory force. The respondents case is that the

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~~the~~ applicant was reverted on the grounds of unsuitability in accordance with the above provision read with Railway Board's letter dated 20-4-1985. As regards the applicant's contention that the aforesaid letter of the Railway Board has to be read along with Railway Board's letter dated 28.4.1982, it should suffice to state that he had been frequently warned of the lapses/deficiencies in his work on the upgraded post.

11. The learned counsel for the applicant relied on a Full Bench Judgment of the C.A.T. in Shri Jetha Nand and others vs. Union of India and ors (Full Bench Judgments (C.A.T.) page 353), and argued that since the applicant has been empanelled after a selection test and then promoted, he acquired a statutory right to hold the promotion post and could not have been reverted from that post except after going through the procedure prescribed in D.A.R., 1968. His contention is not tenable as the applicant did not work for a period of 18 months or more on the higher post before he was reverted. He was appointed /posted to the higher post w.e.f. 4-5-1987 (para 5 of the counter) vide order dated 4/5-3-1987 and reverted vide order dated 28-9-1988 w.e.f. 21-9-1988.

12. The reliance has also been placed by the learned counsel for the applicant on the case of P.C. Wadhwa (Supra) which pertains to the Indian Police Service Pay Rules, 1954, as well as, Cadre Rule of the same year and also All India Services (Discipline and Appeal) Rules, 1951, where in those Rules there was no such analogous as is in the D.A.R. Rule 6(iv). So, the authority is not applicable to the present case.

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However, in that reported case also there were no details available on the unsatisfactory performance of the petitioner. In view of this the Hon'ble Supreme Court observed that there was a violation of Article 311 of the Constitution of India. In the present case a large number of documents have been filed alongwith the supplementary reply by the respondents (Annexures-A to E), which go to show that from time to time the applicant was duly informed and warned to improve the working. Due to dereliction of duty and carelessness on the part of the applicant in not inspecting the Rail points, a derailment was also caused in the section under the charge of the applicant when he was working on the higher post. An inquiry was also conducted in that derailment and the applicant cannot in any way be said to have been taken by surprise and opportunities and time again were given to him to improve himself but with no effect.

13. The learned counsel for the applicant also relied on A.I.R. 1990, S.C.C. page 1431 Dr. (Mrs) Sumati P. Shera vs. Union of India and ors. Reliance has been at para 5 which is reproduced below:

" We must emphasize that in the relationship of master and servant there is a moral obligation to act fairly. An informal, if not formal, give-and-take, on the assessment of work of the employee should be there. The employee should be made aware of the defect in his work and deficiency in his performance. Defects or deficiencies; indifference or indiscretion may be with the employee by inadvertence and not by incapacity to work. Timely communication of the assessment of work in such cases may put the employee in our opinion, it would be arbitrary to give a movement order to the employee on the ground of unsuitability".

14. In the present case the applicant has been duly informed and his denial in rejoinder of not having received Annexures A-1 and A-2 cannot be accepted, as the respondents have placed the whole record before the Tribunal at the time of arguments, in the notice of the applicants' counsel, which contains whole file and the despatch book of the peon.

AM

xxx. From the Peon Book of despatch of letters there are signature of receipt of these Annexures <sup>1 & 2</sup> by the Applicant. Confidential file/placed before the Tribunal and it goes to show that the applicant was informed from time to time for improving his work. In this confidential file, the following document which has also been filed as Annexure as a reply to the rejoinder by the respondents goes to show the performance of the applicant during the period and is reproduced below:

"D.R.M./LKO has recommended, vide S.No. 1, that Shri S.N.Sabbarwal, AEN-I/LKO, may be reverted from his officiating appointment in Group 'B' to Group 'C' service. Shri Sabbarwal on his promotion to Group 'B' service was posted as AEN/Suptanpur w.e.f. 29.4.87 Later he was shifted to a much lighter sub-division and posted as AEN-I/LKO where he joined on 25.1.88.

2. D.S.E.(C)/LKI Divn. has in note at S. No. 1/1 commented upon the performance of Shri Sabbarwal during his posting as AEN/Sultanpur and later as AEN-I/LKO, as detailed below:

a) Shri Sabbarwal was held responsible for failure to maintain devotion to duty in as much as he failed to mobilise staff from Sultanpur in time to attend a rail fracture on 27.7.87 on Lucknow-Sultanpur Section. A letter of displeasure was issued to Shri Sabbarwal by D.R.M., Lucknow vide S. No. 1/2

b) Shri Sabbarwal was verbally warned by D.R.M./LKO and D.S.E. (C)/LKO, when he failed to attend at site on 19.10.87 the detailment of 13 Wagons of Goods Train in Sultanpur Yard.

c) During his stay at Sultanpur for 8 months, he did not inspect even a single point and crossing for which letter of displeasure was issued to him by D.R.M./LKO, vide S.No. 1/3.

d) In his posting as AEN-I/LKO w.e.f. 25.1.88, he hardly inspected any points and crossing in the Section of PWI-II/LKO as found out during the inspection of Chief Engineer(East) on 27.7.88, Also, the condition of track was found unsatisfactory.

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e) In the Section of AEN-I/LKO under the charge of Shri Sabharwal there have been three derailment during July & August, 88, due to expansion of gauge under moving load.

xx f) During inspection of track by DEN/Hqrs./LKO between Lucknow and Alam Nagar on 17.8.88, it was found that track is in a very bad shape, vide his report at S. No. 1/4

g) Shri Sabharwal has been found napping in the AEN's monthly meetings and DSE(C)/LKO s stated (S. No. 1/1) that he had on two occasions pointed it out to him.

h) On 17.8.88 while trolleying with DEN/Hqrs./LKO, he slept on the push trolley itself, vide DEN/Hqrs./LKO's note on S. No. 1/5.

i) D.S.E.(C)/LKO has stated, vide S. No. 1/1, that Shri Sabharwal is very poor in Office Management and correspondence and he had brought it to Shri Sabharwal's notice, vide S. No. 1/6. It has further been stated that Shri Sabharwal had not given his self-appraisal for the C.R. for the period ending 31.3.88 inspite of repeated verbal and written reminders.

3. D.S.E.(C)/LKO has stated, vide S. No. 1/1, that Shri Sabharwal has been ineffective as AEN/Manitenance and is considered to be a safety hazard for travelling public as well as for himself. He has, with the approval of D.R.M./LKO, recommended that Shri Sabharwal may be reverted from his officiating appointment as AEN in Group 'B' to Group 'C' appointment.

4. Shri Sabharwal was empanelled in 1987 for promotion to Group 'B' service as AEN. On his first appointment, he was posted at Sultanpur w.e.f. 4.5.87. Railway Board's extant policy instructions, it is permissible to revert a Railway servant from his officiating appointment to a lower post within a period of 18 months, due to unsatisfactory performance in the officiating appointment.

5. The C.Rs file of Shri Sabharwal is linked. Only 1 C.R. on Shri Sabharwal became due in Group 'B' service, i.e. for the year 31.3.88. D.S.E.(C)/LKO has stated in S. No. 1/1 that Shri Sabharwal has not

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submitted his self-appraisal in spite of verbal and written reminders. It is in these circumstances that his C.R. for the year ending 31.03.88 is not available. DRM/LKO's letters dated 21.3.88 addressed to Shri Sabharwal communicating his displeasure are available in the C.R. File.

6. General Manager may kindly consider the recommendation of DRM /LKO for reverting Shri Sabharwal from his officiating appointment as AEN to group 'C' post and pass orders."

15. In view of the above discussions, we are of the opinion that the reversion of the applicant to the substantive post of P.W. I does not amount to a penal action. The reversion has been effected not as a punishment, but only on the unsuitability of the applicant for the upgraded post of A.E.N. in group 'B'. The track is maintained by the whole staff including the Engineering service of the Railway and A.E.N. has a responsible post. If a person who is not suited to the job, is allowed to work, then besides causing financial loss to the Railways on account of avoidable derailments, there is every danger to human life and safety. So, the action of the respondents cannot be said in any way unjust, unfair or against the principle of natural justice.

16. The attack of the learned counsel for the applicant is also about the illegality and arbitrariness of the said order and also that it is in violation of principles of natural justice because the applicant was not afforded any opportunity to make representation against the same. In fact, if a person is made to officiate on higher post <sup>which</sup> includes

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the posting of empanelled incumbent and such incumbent has been duly informed, then in that case, if the person has been informed from time to time the failings or dereliction of duties, or slackness in work, or non performance of duty making the life of the public hazardous and risky, then such an incumbent cannot complain of any arbitrariness or that he was not afforded the opportunity because his promotional appointment was subject to fitness and suitability to the promoted post.

17. The learned counsel for the applicant also attacked the impugned order on the ground that it does not disclose the reason for reversion, as the impugned order is very short worded and to quote "Shri S.N. Sabharwal, Assistant Engineer I Lucknow is reverted from Group B to Group C with immediate effect. The above orders are issued with the approval of General Manager." It is a fact that this order does not disclose any reason but when the administrative orders are passed, and there is a basis for passing that order, then this court has to see whether there was any reasonable occasion to issue that order or not. The court always has power to probe into the cause which led to the passing of such an order.

18. We, therefore, find that the said order has a reasonable basis and mere non-disclosure of details should not make the order in any way infirm. This order can be equated with an order which is passed in the case of probationers who have not completed successfully the probationary period and no reason whatsoever are necessary to be communicated which can only be scanned if the order is challenged. Similarly, when there is sufficient material on record to justify the passing of the order we do not find any reason to declare such an order though cryptic as illegal or arbitrary when it has not been

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held so.

19. We are therefore, of the view that the above application is devoid of any merit and the same is dismissed with costs on parties.

JUDL. MEMBER.

1/6/90

ADM. MEMBER.

(sha/ sns)

JUNE 1, 1990

Lucknow.

(A19)

Filed under  
Jnsz  
6/10/00

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

Registration No. 153 /1988 (L)

S.N. Sabharwal ..... Applicant

Versus

Union of India & another ..... Respondents

Details of Index

*Application*

1 to 8

1. Copy of the panel of Asstt. Engineers for the year 1986. ANNEXURE No 1 — 9 - 10
2. Applicant's appointment letter dated 4.3.1987 on the promotion post of Asstt. Engineer. ANNEXURE No 2 — 11 - 14
3. Certificate of merit awarded to the applicant on successfully completing Officers Orientation Training. ANNEXURE No 3 — 15 - 16
4. Minor penalty chargesheet dated 6.5.1988. ANNEXURE No 4 — 17 - 20
5. Applicant's reply to the chargesheet dated 1.7.1988 along with the annexure. No 5 — 21 - 29
6. Doctor's certificate dated 26.9.1988. ANNEXURE No 6 — 30 - 32
7. Notice dated 28.9.1988 of reversion of the applicant. ANNEXURE No 7 — 33 - 34

Noted  
7/10/88

Attested/True Copy

L. P. SHUKLA  
Advocate

सत्यमेव जयते

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Filed on 6/10/89

Application under Section 19 of the Administrative  
Tribunals Act, 1985.

Date of filing :

Registration No. *OA 153 of 88(L)*

Signature

Registrar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

S.N. Sabharwal ..... Between Applicant  
And

1. Union of India  
2. Divisional Railway Manager ..... Respondents

DETAILS OF APPLICATION

I. Particulars of the applicant :

S.N. Sabharwal,  
Son of late Sri Lachman Das Sabharwal  
Assistant Engineer No.1  
Northern Railway, Charbagh, Lucknow  
L 30 B Railway Colony, Church Road  
Lucknow.

II. Particulars of the respondents :

- श्री श्री सभरवाल*
1. Union of India through the General  
Manager (Personnel), Northern Railway,  
Baroda House , New Delhi.
2. Divisional Railway Manager,  
Northern Railway, Hazratganj,  
Lucknow.

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

Attested True Copy

*L.P. SHUKLA*  
Advocate

The application is directed against the  
order of reversion of the applicant order No.940 E/  
1A/Civil Engg. Officers dated 28.9.1988 issued by

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the Divisional Railway Manager, Lucknow, in terms of G.M.(P) New Delhi notice No.940 E/14/XXXX/EiA dated 21.9.1988.

IV. 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.

V. Limitation :

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

VI. Facts of the Case :

The facts of the case are given below-

1. That the applicant was appointed on <sup>Way</sup> 15.2.1954 as apprentice permanent <sup>Way</sup> Weigh Inspector after being selected by the Railway Service Commission, Calcutta. After successfully undergoing training at the Permanent <sup>Way</sup> Weigh Inspector Training School at Ghaziabad the applicant was posted as Permanent <sup>Way</sup> Weigh Inspector on 13.12.1956 at Moradabad.

सुर-२ समस्त

2. That the applicant was promoted as Chief <sup>Way</sup> Permanent Weigh Inspector in the grade of Rs.2375-3500 in November 1982 and posted as such at Roza in Moradabad Division.

Attested Copy

L. P. SHUKLA  
Advocate

That the applicant appeared for selection to the post of Asstt. Engineer for the panel of 1986.

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He appeared in the written test held on 27.12.1986. On passing the written test, the result of which was declared on 13.1.1987, he was called to appear in the interview on 3.2.1987. The applicant was selected and placed on the panel of successful candidates declared on 19.2.1987. The applicant was placed at serial No.1 in order of merit in the aforesaid panel of selected candidates for the post of Asst. Engineer. A photostat copy of panel of Asstt. Engineers for the year 1986 as notified on 19.2.1987 is filed as Annexure No.1 to this application.

• Annexure-1

4. That the applicant was the senior most person on the panel of Asstt. Engineers among the successful candidates. He shall also be deemed senior in the panel on the basis of being placed first in order of merit. The applicant was given appointment letter dated 4.3.1987 on the promotion post of Asstt. Engineer and posted at Sultanpur. A photostat copy of the applicant's appointment letter dated 4.3.1987 is filed as Annexure No.2 to this application.

• Annexure-2

5. That the applicant was required to undergo Officers Orientation Training at Zonal Training School Chandausi. The applicant passed the training with ~~merit~~ <sup>Credit</sup> and was posted as Asstt. Engineer I at Lucknow. The certificate of merit awarded to the applicant on successfully completing the Officers Orientation training is filed as Annexure No.3 to this application.

अतिरिक्त प्रमाण

Annexure-3

6. That the applicant was served with the minor penalty chargesheet dated 6.5.1985 which was received

Attested by me Copy

L. P. SHUKLA  
Advocate



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on 28.5.1988. The alleged charge was not replying to the letter dated 18.8.1987 within 3 days despite reminders upto 5.10.1987. The aforesaid chargesheet was wholly baseless, misconceived and malafide inasmuch as the applicant had actually submitted his reply on the very next day, that is, 19.8.1987. The said reply is on record in the office of the Divisional Railway Manager at Lucknow in file No.W/13/87 serial No.37. The applicant in his reply dated 1.7.1988 to the aforesaid chargesheet pointed out the above fact of having submitted his <sup>reply</sup> ~~letter~~ to the letter dated 18.8.1987 on 19.8.1987 and also annexed a photostat copy of the same along with the reply. A photostat copy of the minor penalty chargesheet dated 6.5.1988 is filed as Annexure No.4 to this application and a photostat copy of the applicant's reply dated 1.7.1988 alongwith the annexure is filed as Annexure No.5 to this application.

Annexure-4

Annexure-5

7. That after the applicant's reply dated 1.7.1988 to the chargesheet, no action was taken.

8. That the applicant is a heart patient which is further complicated by hypertension and asthma. The applicant went on the sick list of the railway doctor from 19.8.1988 to 20.9.1988 forenoon. The applicant again became sick on 26.9.1988 and had to be taken for treatment to Dr. Arvind Kumar, Reader in Medicine, King Georges Medical College, Lucknow. A photostat copy of the doctor's certificate dated

सुखद समस्त

Annexure-6

26.9.1988 is filed as Annexure No.6 to this application.

Attested/True Copy.

L. P. SHUKLA  
Advocate

That during the period of his sickness the applicant became aware of the order dated 28.9.1988

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circulated by notice from the office of the Divisional Railway Manager, Lucknow, reverting the applicant from the post of Asstt. Engineer I Group 'B' to the post of Chief Permanent Weigh Inspector (PLG) in Group 'C' against a work charge post in grade Rs.2375-3500 (RPS) in terms of GM (P) New Delhi notice dated 21.9.1988. A true copy of the notice dated 28.9.1988 reverting the applicant is filed as Annexure No.7 to this application.

Annexure-7

10. That the aforesaid order of reversion of the applicant from Group 'B' post of Asstt. Engineer to Group 'C' post of Chief Permanent <sup>Way &</sup> Weigh Inspector (PLG) is a major penalty under Railway Servants (Disciplinary and Appeal) Rules. In terms of the aforesaid Rules, Rule 6 of part III provides penalties. Sub rule (v) and Sub rule (vi) of Rule 6 are major penalties of reversion. The procedure for imposing major penalties is provided in Rule 9 according to which no order imposing any of the penalties specified in clauses (v) to (ix) of Rule 6 shall be made except after an enquiry is held, as far as may, in the manner provided in this rule and Rule 10 or in the manner provided by the Public Servants (Enquiries) Act 1815 (XXXVII of 1815) where such enquiries are held under this Act.

प्रति सहायक

11. That the procedure prescribed under the aforesaid Discipline and Appeal Rules as applicable to the applicant was not followed before passing the order of his reversion from the post of Asstt. Engineer.

Attested/True Copy

L. P. SHUKLA  
Advocate

12. That the applicant was not afforded any opportunity whatsoever to show cause against the proposed

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reversion. The applicant has also not been communicated any adverse entries in his confidential report on the post of Asstt. Engineer.

13. That in the aforesaid circumstances the order of reversion of the applicant dated 28.9.1988 is wholly illegal, arbitrary and without jurisdiction and in violation of principles of Natural Justice by not affording him any opportunity whatsoever against the proposed reversion.

14. That the order of reversion does not indicate any reasons whatsoever and is a cryptic non speaking order.

15. That persons junior to the applicant on the post of Asstt. Engineer are continuing in service while the applicant alone has been singled out for reversion which amounts to discrimination under Articles 14 and 16 of the Constitution of India.

VII. Reliefs sought :

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

- (i) The order dated 28.9.1988 reverting the applicant from the post of Asstt. Engineer I in Group 'B' to the post of Chief Permanent <sup>Way</sup> ~~Weigh~~ Inspector in Group 'C' (Annexure No.7) be quashed after summoning the record.

सुख समस्त

Attested/True Copy

L. P. SHUKLA  
Advocate

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- (ii) To allow the applicant to continue in service on the post of Asstt. Engineer and entitled to all the benefits of the same.

VIII. Interim order, if prayed for :

Pending final decision on the application, the applicant seeks issue of the following interim order :-

The operation of the order of reversion dated 28.9.1988 (Annexure No.7) be stayed.

IX. Details of the remedies exhausted :

The order of reversion dated 28.9.1988 is wholly illegal, void and without jurisdiction and the same has been passed without affording any opportunity whatsoever to the applicant to show cause against the proposed action. The same is liable to be stayed in the interest of justice. As the matter is urgent, the alternative remedy is neither efficacious nor speedy and as such the applicant is filing this application.

X. Matter not pending with any other court, etc.:

The applicant declares that the matter regarding which this application has been made is not pending before any court of law or any other authority or any other Bench of the Tribunal.

श्री ल. प. शुकला

XI. Particulars of Bank Draft/Postal Order in respect of the application fee:

1. Number of Indian Postal Order DP 065151
2. Name of the issuing Post Office High Court Bhandu  
Lalpur

Attested/True Copy

L. P. SHUKLA  
Advocate

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3. Date of issue of Post Order 6/10/88  
4. Post Office at which payable

XII. Details of Index :

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

In verification :

I, S.N. Sabharwal, son of late Sri Lachman Das Sabharwal, working as Asstt. Engineer I , Northern Railway , Lucknow, resident of L30B Railway Colony, Church Road, Lucknow, do hereby verify that the contents from paras I to XII are true to my personal knowledge and belief and that I have not suppressed any material facts.

शुद्ध सकारक

Place - Lucknow.

Signature of the applicant.

Date - 6.10.1988.

Attested/True Copy

L. P. SHUKLA  
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
Circuit Bench, Lucknow

Registration No. /1988

S. N. Sakharwal ..... Applicant

versus

Union of India & another ..... Respondents

ANNEXURE No 1

सही सहायता

Attested True Copy

L. P. SHUKLA  
Advocate



In the Central Administrative Tribunal  
Circuit Bench, Lucknow

Registration No. . . . . /1988  
S. N. Saharwal . . . . . Applicant  
Versus

Union of India & another . . . . . Respondent

ANNEXURE NO 2

सुरेन्द्र सारवाल

Attested/True Copy

L. P. SHUKLA  
Advocate



उत्तर रेलवे

धना:

आर.नं.: 87/मिविल इंजीनियरिंग

निम्नलिखित नियुक्ति तथा स्थानांतरण आदेश जारी किये जाते हैं:-

1. श्री एस.एन. सबरवाल, मुख्य बेल पथ निरीक्षक-मुरादाबाद को मुम्बई में पदोन्नति करके स्थायक अभियन्ता, मुल्तानपुर श्री एस.एन. श्रीवास्तव के स्थान पर लगाया जाता है।
2. कार्यमुक्त होने पर श्री एस.एन. श्रीवास्तव को स्थानांतरित करके स्थायक अभि० (बैलेस्ट) लखनऊ, श्री पी.डी. सिंह के स्थान पर लगाया जाता है जिसको स्थायक अभि० फैजाबाद के स्थान पर लगाया जा चुका है।
3. श्री लक्ष्मण चन्द्र मुखर्जी, मुख्य निर्माण निरीक्षक-बाराबर को मुम्बई में पदोन्नत करके स्थायक अभि० जलन्धर कैण्ट के रिक्त पद पर लगाया जाता है।
4. श्री ए.एन. वर्मा, मुख्य लक्का बन्दीश (निर्माण) कम्प्रीरी गेट-दिल्ली को मुम्बई में पदोन्नत करके स्थायक अभियन्ता/डी.ओ.पी./कम्प्रीरी गेट-दिल्ली के रिक्त पद पर लगाया जाता है।
5. श्री हरजीत सिंह, मुख्य पुल निरीक्षक, जलन्धर कैण्ट, जो रेलवे कौच कैटरी में कार्यरत है, के नियुक्ति आदेश बाद में जारी किये जायेंगे।
6. श्री आर. पी. सिंह, मुख्य पुल निरीक्षक (पुल कां०) लखनऊ को मुम्बई में पदोन्नत करके स्थायक अभि० टी.टी. मशीनस पी.पी.ओ.एच/इलाहाबाद को एक नये पद पर, जो रेलवे बोर्ड के पत्र क्र० 85 ई(जी.सी.) 3-16 डुप्लीकेट दि० 23.2.83, द्वारा स्वीकृत हुआ है लगाया जाता है।
7. श्री रामचंद्र, मुख्य रेल पथ निरीक्षक-दिल्ली को मुम्बई में पदोन्नत करके स्थायक अभि०/मुल्तानपुर, श्री आर.के. महमूद के स्थान पर लगाया जाता है।
8. स्थायक अभि० (स्वेजल)/डिल्ली का पद को दिल्ली में वापस लेकर स्था० अभि० (एस.एन.पी)/प्र.का./दिल्ली का पद प्राप्त दिया जाता है।  
कार्यमुक्त होकर श्री आर.के. महमूद को स्थायक अभियन्ता (एस.एन.पी)/प्र.का./दिल्ली नियुक्त किया जाता है।
9. श्री के.के. दुआ, स्थायक अभि०/डिल्ली, को स्थानांतरित करके श्री एच.एस.गुप्ता के स्थान पर स्थायक अभि० (यू.एस.एक.डी)/प्र.का.-आई दिल्ली लगाया जाता है।
10. कार्यमुक्त होने पर श्री एच.एस.गुप्ता को स्थानांतरित करके स्थायक अभियन्ता सूरत गढ़, श्री एस.बी. हजेला के स्थान पर लगाया जाता है। श्री एस.बी. हजेला पुना में ट्रेनिंग पर भेजे हुए हैं।
11. श्री आर.पी. खत्री, मुख्य रेल पथ निरीक्षक (टी.टी.) जलन्धर सीटी को मुम्बई में पदोन्नत करके स्थायक अभियन्ता (टी.टी.) प्र.का./दिल्ली, महाप्रबन्धक (का.) का पत्र क्रमां: 303ई/6503/ईआई.ए.दि०: 1.7.86 द्वारा स्वीकृत पद पर लगाया जाता है।

श्री एस.एन. सबरवाल

Attested True Copy

L. P. SHUKLA  
Advocate

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1-3.

करके स्थापक अभियन्ता/निर्माणा. मुख्य अभियन्ता/निर्माण के अपील लमाया जाता है ।

अपरोक्त आदेशों को मद क्रमा-1, 3, 4, 6, 7, 11, 14, 16 से 18, 21 से 23 को महाप्रबन्धक का अनुमोदन प्राप्त है। मद क्रमा: 4, 14, 15 एवं 23 में स्थापनाकरण आदेशों का मुख्य अभियन्ता/निर्माण-ए.ए.ए. का भी अनुमोदन प्राप्त है ।

मद क्रमा-8, 12 एवं 13 में पदों का स्थापनाकरण/अवकाश करने के आदेशों को अपर महाप्रबन्धक (टी.एस) का अनुमोदन प्राप्त है ।

इस नोटिस में मद क्रमा:-1, 3, 4, 6, 7, 11 से 14, 16 से 18, 21 से 23 में उल्लिखित कर्मचारियों की पदोन्नति इस कार्यालय के पत्र सं: 807ई/391/ईए दिनांक: 20.5.1972 के अनुसार विचारित डाक्टरी परीक्षा पास करने पर निर्भर है ।

राजेश लाल धवन  
(राजेश लाल धवन)

उत्ते महाप्रबन्धक (काओ)  
11/4/73

पत्र सं: 807ई/14-xxxix/ईए

दि: 4.3.87

प्रतिलिपि, मार्ग एवं आवश्यक कार्यवाही हेतु:-

1. मॉडेल डिप्टी डिप्टी, लखनऊ, मुरादाबाद, जोधपुर, बीकानेर, इलाहाबाद ।
2. मॉडेल डिप्टी डिप्टी, लखनऊ, मुरादाबाद, जोधपुर, बीकानेर, इलाहाबाद ।
3. अपर महाप्रबन्धक (परि०) व (टी०एस), अपर मु० सहायक अधिकारी, परि० उप-महाप्रबन्धक (सहाय्य)
4. स्टा० उप-मु० का० अधिकारी (राज०) गोपनीय स्टा०/मु० ई० जी०
5. स्थापक सचिव/गोपनीय (6) स्थापक अभि० (जी) प्र. का.
6. मु० का० अधि०, ओ० एस० डी० (आई०एस०), अपर मु० का० अधिकारी
7. स्त्री विभागाध्यक्ष को उनके वै० स्थापकों द्वारा ।
8. मॉडेल (आई०एस०, आर) (9) अपर मु० का०, रेल विद्युत्तिकरण, इलाहाबाद ।
10. रेल सुरक्षा आयुक्त वाराणसी लखनऊ (11) उपमह. अभि०/वी.एस.पी/इलाहाबाद
12. सी. ए. आर. ओ/स्टेट एंटी बर्डिगली । (13) मु० अभि०/निर्माण-ओर-ग
14. मैनेजिंग डाइरेक्टर, राईट्स 27-वाराणसी रोड, वाराणसी

सुरेश समरवाल

Attested/True Copy

L. P. SHUKLA  
Advocate

(A33) (15)

In the Central Administrative Tribunal  
Circuit Bench, Lucknow

Registration No. /1988  
S. N. Saharwal ..... Applicant  
Versus  
Union of India & another ..... Respondents.

ANNEXURE No 3

सुरेन्द्र समरवाल

Attested/True Copy

  
L. P. SHUKLA  
Advocate

A34

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S.No. 10



GOVERNMENT OF INDIA

NORTHERN RAILWAY

ZONAL TRAINING SCHOOL, CHANDAUSI

CERTIFICATE

Shri/Smt./Kum. S.N. Sabharwal

AEN/SLN

has completed

ORIENTATION COURSE

No. OC-4 conducted from 7.12.87 to 8.1.88

and secured Passed with Credit.

Date : 8.1.88.

Course Director

Principal

सुरक्षित सहायता

Attested/True Copy

L. P. SHUKLA  
Advocate

A35

(17)

In the Central Administrative Tribunal  
Circuit Bench, Lucknow

Registration No 1988

S. N. Saliharwal . . . . . Applicant

versus

Union of India & another . . . Respondents

ANNEXURE No 4

सुरेन्द्र समरवाल

Attested/True Copy

L. P. SHUKLA  
Advocate

Northern railway.

V.K.SAN  
DSE/Co-

Divisional Office.  
Lucknow. Dt:25.5.1988.

Confidential.

D.O.No: DSE/C-Conf/AEN-SLN/88.

My dear Sabbarwal,

Sub:- DAR action against Shri S.N.Sabbarwal, AEN.

I am sending herewith Memorandum No.E/141/640/Deptt./E(D&A) dated 6.5.1988, ~~memorandum from~~ along with statement of imputations of misconduct or misbehaviour against Sri S.N. Sabbarwal AEN/SLN/Lucknow Division, received from C.E./NDLS. Please acknowledge receipt.

Yours sincerely,

(V.K.San)

Shri S.N.Sabbarwal,  
AEN-I/Lucknow.

DA: Two.

सुरेश सारवाल

Attested/True Copy

L. P. SHUKLA  
Advocate

Northern Railway

Headquarters Office  
Baroda House/New Delhi.

No. E-141/64 /Deptt./E(DSA)

Dated: 6-5-88.

M E M O R A N D U M

Shri S.N. Sabarwal, AEN/LKO-Divn. is hereby informed that the undersigned proposes to take action against him under Rule 11 of the Railway Servants (Discipline and Appeal) Rules, 1968. A statement of the imputations of misconduct or misbehaviour on which action is proposed to be taken as mentioned above, is enclosed.

2. Shri S.N. Sabarwal is hereby given an opportunity, to make such representation as he may wish to make against the proposal. The representation if any, should be submitted to the undersigned (through proper channel) so as to reach the undersigned within ten days of receipt of this Memorandum.

3. If Shri S.N. Sabarwal fails to submit his representation within the period specified in para 2, it will be presumed that he has no representation to make and orders will be liable to be passed against Shri S.N. Sabarwal ex.parte.

4. The receipt of this Memorandum should be acknowledged by Shri S.N. Sabarwal.

Encl: Statement of Imputations  
of misconduct/misbehaviour.

Chief Engineer.  
LKO

To,

Shri S.N. Sabarwal,

A. E. N./LKO-Divn.

(Through DRM/LKO)

Attested/True Copy

L. P. SHUKLA  
Advocate

ASB

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Statement of imputations of misconduct or  
misbehaviour against Shri S. N. Sabarwal,  
.../Lucknow Division.

...

That the said Shri S. N. Sabarwal while working  
as such during the period from August, 1937 to  
October, 1937, failed to maintain devotion to duty  
inasmuch as he delayed submission of information  
called for from him regarding passenger amenities  
at ...hat station, inspite of issue of MEM  
nos. ... dated 11.3.37, 18.3.37, 1.9.37, 7.3.37,  
22.3.37, and 5.10.37. Consequently, submission of  
information by .../Co-ordination/Lucknow to the  
Chief Engineer got delayed. Shri Sabarwal is thus  
held responsible for contravention of Rule 3(1)(ii)  
of Railway Services Conduct Rules, 1966.

Chief Engineer

सुरेन्द्र सारकाल

Attested/True Copy

L. P. SHUKLA  
Advocate



(A39)

(21)

In the Central Administrative Tribunal  
Circuit Bench, Lucknow

Registration No. /1988  
S. N. Salharwal ..... Applicant  
Versus  
Union of India & another .... Respondent

ANNEXURE NO 5

सुरेन्द्र समरवाल

Attested/True Copy

L. P. SHUKLA  
Advocate

उत्तर रेलवे  
NORTHERN RAILWAY

जनरल 99/बडी  
Genl. 99/L

S.H. Sabharwal  
A.E.N.-I/N.R./LKO.

Office of the A.E.N.-I/LKO,  
Dated. 01.07.1988.

Confid. Letter No. AEN-I/LKO, AEN/SLN/88

Most respected & Honorable Mr. Y.P. Anand Sahib,  
(Through Proper channel)  
Sub:- No. 8/141/640/Dopt/E(D&A) dt. 6.5.1988.

....

In reference to your honour, above I most respectfully,  
humbly and with folded hands beg to submit as under:-

1. That information regarding passenger amenities at Khajurhat station was called from AEN/SLN vide JRM/LKO Letter No. W/SLN/LC/Misc. dated. 18.8.1987 (Photostate copy of original letter attached for ready reference), by an ordinary letter addressed to AEN/SLN as above in which I was asked to submit my *दिप्ता तीन दिन के अन्दर जवाब देने की व्यवस्था करे*  
*मामने की व्यवस्था करे*
2. I submitted my reply to JRM/LKO vide *AEN/SLN* office letter No. W/13/87 dated. 19.8.1987, Photo copy of reply attached herewith, which is self explanatory.
3. *time* It is not understood how I failed to maintain devotion to duty when the reply was sent on next day instead of three days *पहले* given by JRM/Lucknow.
4. Regarding MIS messages dated 11.8.87, 18.8.87, 1.9.1987, 7.9.1987, 22.9.1987 and 6.10.1987 I do not understand how MIS has given a false position to *किसी* JRM/Lucknow for which he should be taken up under *DRH* rules when the reply to letter of 18.8.1987 was sent by me on 19.8.1987.
5. Under the circumstances I humbly submit that I may kindly be exonerated of the charges.

With respects and regards and praying for your honour long life and prosperity.

Sd/- Y.P. Anand Sahib,  
Chief Engineer/N.R.Ly.,  
Baroda House, New Delhi.

Yours Respectfully

*सुरेन्द्र समरवती*  
S.H. Sabharwal  
A.E.N.-I/N.R. Lucknow

*सुरेन्द्र समरवती*

Attested/True Copy

L. P. SHUKLA  
Advocate

Ag

23

NOV 19 1971

सह, क आभयता कायालय  
मुन्तानपुर दि. 19-8-67.

07-03011-W/13/30

संस्कृत-प्रवक्तृ  
म. ल. क.

वि. ११- रत्नरहस्य रेवने व रेवने व राजा जी।  
रत्नरहस्य

क-स-36/ सं. 1: राजका पत्र संख्या W/P/L/100/1000  
दिनांक 18-8-87.

[illegible]

सुरेन्द्र समरवाल

**Attested/True Copy**

**L. P. SHUKLA**  
**Advocate**

442

24

आदि आवश्यक : 36

जी.एन. 19-A/जनरल 99 छोट  
G.L. 19-A, Genl 99 Small

उत्तर रेलवे NORTHERN RAILWAY

No. W/SLN/LE/मांके

मंडल कार्यालय

2. मंडल कार्यालय

लखनऊ

3. रेल सुलतानपुर

दिनांक 18-8-87

विषय :- रवजूरहर रेलवे स्टेशन पर पानी की समस्या ।

उपरोक्त सन्दर्भ में प्रमाण कार्यालय द्वारा प्राप्त पत्र सं. 1007 डबल्यू 1848 वकर्स दिनांक 1-8-87 के साथ सलतनो के पत्रों की फोटो आदि भेजी जा रही है ।

आप से अनुरोध है कि उक्त विषय के सम्बन्ध में आप अपनी दिखड़ी चीजें दिते के अन्तर्ग शीघ्र भेजवा करती व्यवस्था करें । ताकि प्रमाण कार्यालय को दे दिया जा सके ।

सलतन 5 पृष्ठ

18/8/87

मंडल रेलवे प्रमुख  
लखनऊ

शुभ सहायक

Attested/True Copy

L. P. SHUKLA  
Advocate

स सोमन  
र अधि/वर्त

12 11 8 82

क्रमांक 1007 डब्ल्यू/848/वर्त

मुद्रा प्रकाश

विषय: ① खजूर दह रेलवे स्टेशन पर पानी की समस्या  
② सोहावल स्टेशन पर पीने के पानी की व्यवस्था  
वि. को. वि. ज. वा. निर्माण

संदर्भ:-

उप महाप्रबन्धक सा.वा. का 88जी/1374/मुद्रा प्रकाश 82

मे, उप महाप्रबन्धक के उक्त संदर्भित फा. की एक प्रतिलिपि प्राप्त

श्री सा.वा. प्राप्त होने पर निम्न स्वी संसद सचिव के

दि 15.7.87 के पत्र की प्रतिलिपि प्राप्त होने पर निम्न स्वी संसद सचिव के

उप महाप्रबन्धक सा.वा. द्वारा इस सम्बन्ध में विचार 14.8.87

को प्राप्त है

अपने अनुभव है कि उक्त विषय के सम्बन्ध

में विचार शीघ्र ही शीघ्र कार्यालय में भेजें ताकि

उप महाप्रबन्धक सा.वा. सत्र पर जवाब देना जो सिद्ध

है इसी आशयक संगत

संगत प्रतिलिपि

मुद्रा प्रकाश

डिल को.वा. क्रमा. 1007

उत्तर देलें

10/8/87  
15/8

भवदीय

(आर. एस. सोमन 7/8/87)

Extract to be given to  
Concerning clearing  
Cham 23.

सुरन्द सोमवाल

Attested True Copy

L. P. SHUKLA  
Advocate



(27)

18. उत्तर नं० दिनांक  
उत्तर दिनांक (उत्तर)  
 नं० (दिनांक - 306011)  
 (दिनांक - 2528)

दिनांक 15-7-87.

पु. मा. एलन वरिष्ठ वरिष्ठ विद्यार्थी मनाविधि से  
कमलीका

पैसा १०० रु १२ पचास  
रुपया १२

॥ श्री गणेशाय नमः ॥  
 श्री गणेशाय नमः ॥  
 श्री गणेशाय नमः ॥

८०/-  
( मूल्य )

सुन्दर शागरेवाल

**Attested/True Copy**

**L. P. SHUKLA**  
**Advocate**

उपस्थित,

माननीय रीत श्री मन्त्रि,  
आत वाय, दिल्ली ।

373

A46

द्वारा

माननीय श्री  
सचिव  
कैब्रिट (3090)

आयवा

नियम है कि कैब्रिट अलगाव रीत मरी पर रीत के  
अनुवर्त के पती पती के हेतु एक मर हुंया है, जिससे यादीया पती पोते  
हैं । तथा एक समय से हुए म पती पती आत ही हुंया है वो स्वयं  
के लिए रहने है । पती के पती के यमिया की बहुत यदी अनुवर्त है ।

अतः निवेदन है कि विधवा द्वारा उप हुए समय का दो पत  
जिससे हुए पती पती पती । पती पती के अनुवर्त हुए की पती ।  
मरत हुआ पती ।

आयवा

प०/

मरत हुआ पती

उपस्थित

मरत हुआ पती

कैब्रिट

दिनांक 30-6-77

सुरेन्द्र सकशकाल

Attested/True Copy

L. P. SHUKLA  
Advocate



पान... की  
पान... की  
की...

A47

29

करीब

जो कानून बनाकर सुप्रीम कोर्ट की शक्ति को बढ़ा  
के ताफ के अनुसार कानून में देली कोर्ट की शक्ति को ताफ निम  
मीनी के साथ कानून बनाया गया है।

नोट 1 - यह कि विधायी 2 कोर्टों के समानान्तर स्वरूप की आवश्यकता  
व्याप्त है, केवल के अनुसार कोर्ट 3 से 4 कोर्ट बनाकर दे  
कर रही है। इसी विधि कोर्टों, बन्धन, कानून व दीन के अनुसार  
वनी जनी वही कानून यहाँ की परिसरों में उठनी पड़ रही है। जिससे  
हिन के समान लोग में बर्ताव बना हुआ है। इससे कानून नीचे है कि  
हरे सुप्रीम कोर्ट के अनुसार बना।

नोट 2 - यह कि कोर्टों के अनुसार कोर्टों पर एक ही कोर्ट में बनाया जा रहा है  
यहाँ नोट 1 के अनुसार है नोट 2 कोर्ट कोर्ट पर बनाती है जो जो वही  
समय ही समय यहाँ की है कानून बनाने के लिए कोर्टों को बनाया जा रहा है  
कोर्टों के अनुसार बनाया है कानून बनाया गया है।

नोट 3 - कोर्टों के अनुसार कोर्टों के अनुसार कोर्टों के अनुसार कोर्टों के अनुसार  
कोर्टों के अनुसार कोर्टों के अनुसार कोर्टों के अनुसार कोर्टों के अनुसार  
कोर्टों के अनुसार कोर्टों के अनुसार कोर्टों के अनुसार कोर्टों के अनुसार

रहने

विश्वी वही सुप्रीम

कोर्ट सुप्रीम कोर्ट (४)

कोर्ट सुप्रीम - कोर्ट

सुरेन्द्र समरवात

Attested/True Copy

L. P. SHUKLA  
Advocate


(AUG) (30)

In the Central Administrative Tribunal  
Civil Bench, Lucknow  
Registration No. /1988  
S. N. Sahharwal Applicant  
Union of India & another versus Respondents

ANNEXURE No 6

सुरेन्द्र समरवाल

Attested/True Copy

  
L. P. SHUKLA  
Advocate

Dr. ARVIND KUMAR

M.B.B.S., M.D.

READER IN MEDICINE  
K.G. MEDICAL COLLEGE,  
CONSULTANT PHYSICIAN,  
G. M. & A. HOSPITALS  
LUCKNOW.

Ph: 77177

Res:  
53/511, Old Badshah Nagar  
'KAMLA BHAWAN'  
(Near Indira Bridge)  
LUCKNOW 226007

Mr. S.N. Sabharwal

54y/M

Bronchial Asthma - Ac. Exacerbation  
with Pain in chest (Angina)  
2 chesty with D. Mellitus  
with Hypertension

Rest for one week  
Diet as advised  
Went to hospital

Tab. Theistan - CR.

0.5 tab 4 times daily

0.5 tab 1.5 mg. 4 times daily  
1.5 tab 4 times daily

Tab. Ildamen - 24

0.5 tab 4 times daily

Tab. Valium - 5

1 tab 4 times daily

0.5 tab at bedtime  
continuing

26/9  
Breathlessness - 27yrs  
increased on lying

Chest pain - 1 month

Headache

Inability to sleep

Known Hypertensive

2. diastolic 90 mm

taking medicine

Chest pain - 1 month

accompanied by

choking sensation

no 1/2 pain

no other symptoms

Appetite poor

Weight 60 kg

BP 160/90 mm

HR 100/min

ECG - normal

PP - 160/90 mm

Medication -

1.5 tab 4 times daily

0.5 tab 4 times daily

0.5 tab 4 times daily

0.5 tab 4 times daily

0.5 tab 4 times daily

0.5 tab 4 times daily

0.5 tab 4 times daily

0.5 tab 4 times daily

सुरेन्द्र सारवाल

Attested True Copy

L. P. SHUKLA  
Advocate

A  
15

A50

52

Lab Sample (10 mg)  
1/2 tab in 100 ml. on a di.

Report after 1 wk

Invert

1. Urine exam
2. Blood urea
3. Blood - P<sub>1</sub>  
(2 hr after)  
fast
4. Serum cholesterol  
(fast)

Tab Prednisone  
1 tab 4 times a day  
& 1 tab stop

सुरेन्द्र समरवाल

Attested/True Copy

L. P. SHUKLA  
Advocate

AS

33

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
CIRCUIT BENCH, LUCKNOW.

REGISTRATION NO. OF 1988

S. J. Sabharwal - - - - - Applicant

Versus

Union of India and others - - - Respondents..

ANNEXURE No. 7

सुरेन्द्र समरताल

Attested/True Copy

L. P. SHUKLA  
Advocate

(132) 34

Northern Railway

No.940E/14/Civil Engrs.Officers.

Divisional Office,  
Lucknow Dt. 28.9.1988.

NOTICE

In terms of G.M.(P) New Delhi Notice No.940E/14 XXXX/E1A dated 21.9.1988, Shri S.N.Sabharwal, Asstt. Engineer-I, Lucknow Group 'B' has been reverted to Group 'C' with effect from 21.9.1988. He is posted as CPWI(Plg.) Lucknow against a work charge post in grade Rs.2375-3500(RPS).

sd.  
for Divisional Railway Manager  
Lucknow,

Copy forwarded for information and necessary action to:-

1. G.M.(P)/N.Rly.Hd.Qrs.Office,Baroda House,New Delhi.
2. C.E.B./N.Railway -do- -do-
3. DSE/C/LKO.
4. DSE(I) & (II) /LKO.
5. DEH/G & III Hd.Qrs.
6. DRM/N.Rly,ALD MB BKN FZR JU DLI & UMB
7. Sr.DAO/LKO.
8. Suptt.Pay Bill & Pass.
9. All Officers on LKO Division.
10. Shri S.N.Sabharwal, Ex.AEN-I Lucknow now CPWI/Plg.DRM Office,N.Rly,Lucknow.

सुरेन्द्र समरवाल

Attested/True Copy

L. P. SHUKLA  
Advocate

In the Central Administrative Tribunal  
Circuit Bench Lucknow.

बिनादालत श्रीमान

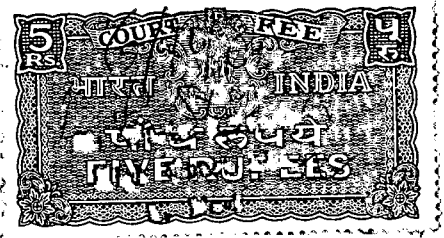
महोदय

वादी (मुद्दे)  
प्रतिवादी (मुद्दे)

का वकालतनामा

Registration - 10

1/1980



S. N. Babharwal - Applicant

Union of India - Respondent

वादी (मुद्दे)

वनाम

प्रतिवादी (मुद्दे)

नं० मुकद्दमा सन १६ पेशी की ता० १६ ई०  
ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

L. P. Shukla

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 जवाबदेही व उत्तर करें या अन्य  
कोई कागज दाखिल करें या लौटावे या हमारी ओर से डिगरी  
जारी करावे और रुपया वसूल करें या सुलहनामा या इकबाल  
दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने  
हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकद्दमा उठावे  
या कोई रुपया जमा करें या हमारी या विपक्ष (फरीकसानी) का  
दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त (दस्तखर्ती)  
रसीद से लेवे या पंच नियुक्त करें। वकील महोदय द्वारा की  
गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह  
भी स्वीकार करता हूँ कि मैं हर पेशी स्वयं या किसी अपने  
परोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक  
तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी  
मेरे वकील पर न होगी। इसलिए यह वकालतनामा लिख  
दिया कि प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर समरपाल

साक्षी (गवाह) ..... साक्षी गवाह .....

दिनांक ..... महीना .....

In the Central Administrative Tribunal,  
Circuit Bench Lucknow.

O.A. 153 of 1988

S. M. Sabharwal

Applicant

Versus

Union of India and another

Respondents.

Reply on behalf of the respondents on the interim  
prayer made by the applicant.

It is submitted on behalf of the respondents as under:-

1. That Order No. 940 D/14/Civil Engr. Officers dated 28.9.'83 issued by the Divisional Railway Manager Lucknow, in terms of G.M. Rly. New Delhi notice no. 940 D/14/ACM/MA dated 21.9.'88 has been challenged in the present application.
2. That the applicant has wrongly connected the aforesaid order to charge sheet dated 6.5.'88 (Annexure no. 4 to the application) issued by Divisional Railway Manager. In fact the reversion has been made by G.M. Rly, New Delhi on the basis of the assessment of the performance of the applicant during the period of his officiating appointment as AM Group 'B' and has nothing to do with the charge sheet dated 6.5.'88.
3. That as a matter of fact and in accordance to extent policy instructions issued by Railway Board, it is permissible to revert a railway servant from his officiating appointment to the lower post within a period of 18 months, due to unsatisfactory performance in the officiating appointment.



4. That the unsatisfactory performance is attributed on the following facts:-

- a) The applicant was held responsible for failure to maintain devotion to duty in as much as he failed to mobilise staff from Sultanpur in time to attend a rail fracture on 27.7.'87 on Lucknow-Sultanpur section. A letter was issued to the applicant by the D.R.M. Lucknow, a copy of which is filed with this reply as Annexure No. Res/1.
- b) The applicant was verbally warned by D.R.M. Lko and D.S. E (C) Lko when he failed to attend ~~at~~ at site on 19.10.'87 the derailment of 13 wagons of goods train in Sultanpur Yard.
- c) During the applicant's stay at Sultanpur for 8 months, he did not inspect even a single point and crossing for which a letter ~~of~~ was issued to the applicant by D.R.M. Lko, of which a copy is filed with this reply as Annexure No. Res/2.
- d) In his posting as AMN-1/Lko w. ef. 25.1.'88, the applicant hardly inspected any points and crossing in the section of PWI-II/Lko as found out during the inspection of Chief Engineer (East) on 27.7.'88. Also the condition of track was found unsatisfactory.
- e) In the section of AMN-I/Lko under the charge of the applicant, there have been three derailments during July and August '88, due to expansion of gauge under moving load.
- f) During inspection of track by DEN/Hqrs/Lko between Lucknow and Alamnagar on 17.8.'88, it was found that track is in a very bad shape.

- 3 -

- g) The applicant was found napping in the AEM's monthly meeting and D.S.E. (C) Lko has stated that he had on two occasions pointed it out to the applicant.
- h) On 17.8.88 while trolleying with DEN/Hors. Lko the applicant slept on the push trolley itself, vide notings made by DEN/Hors/Lko and a letter has been issued to the applicant of which a copy is filed as Annexure No. 14.
- i) D.S.E. (C) Lko has stated in his notings that the applicant is very poor in office management and correspondence and he had brought it to the applicant's notice. It has further been stated that the applicant has not given his self appraisal report for the ~~CR~~ C.R. for the period ending 31.3.'88 inspite of repeated verbal and written reminders.
- j) D.S.E. (C) Lko has stated in his notings that the applicant has been ineffective as AEM/ Maintenance and is considered to be a safety hazard for travelling public as well as for himself. He has with the approval of D.R.M. Lko recommended that the applicant may be reverted from his officiating ~~post~~ appointment as AEM Group 'B' to Group 'C' appointment.

5. That the applicant was empanelled in 1987 for promotion to Group 'B' service as AEM. On his first appointment he was posted at Sultanpur w. ef. 4.5.'87. Later he was posted as AEM-I/Lko.

6. That after considering the facts leading to the applicant's unsatisfactory performance, the G.M.

8/10/88  
80/20/88

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Northern Railway New Delhi passed the order dated 20.9.'88 to the effect "Shri Sabharwal may be reverted" on the office file.

7. That in pursuance to order dated 20.9.'88 passed by G.M. N.Rly., a notice No. 940/E/14/XXX/EIA dated 21.9.88 was issued informing about the applicant having been reverted with immediate effect from Group 'B' to Group 'C'. A copy of the said notice dated 21.9.'88 is filed with this reply as Annexure No. RES/3

8. That consequent on receipt of the aforesaid notice dated 21.9.'88 issued from H.Qr. the D.R.M. N. Rly & issued another notice No. 940/E/1A/Con. Engr Officers dated 23.9.'88 and posted the applicant as CPWI (Planning Lucknow.

9. That on the facts and circumstances stated above, the order reverting the applicant from the officiating appointment of AMN Group 'B' to Group 'C' is perfectly in order and legal.

10. That the applicant is therefore misconceived and is liable to be dismissed outright. In the circumstances, the applicant is not entitled as well for any interim order.

11. That detailed reply could not be drafted due to lack of time available at the disposal of the respondents and the same will be filed as soon as all material has been collected.

Wherefore it is prayed that the application itself being misconceived is liable to be dismissed and the applicant is not entitled to any interim order

...5

8/5/88  
20/9/88

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- 5 -

prayed for.

Lucknow

dated 24.10.'08

Opposite party.

VERIFICATION.

I, *Budh Prakash D.S.C - C / Lko*  
M.M. Railway do hereby verify that the contents of  
this reply are true to the best of my knowledge based  
on information derived from the record and advice received  
from the counsel.

Opp. party.

E.A.KHAN.

CONFIDENTIAL.

D.O. DISE/C-REN/SLV/07.

Dated: 21st March, 1998.

My Dear Subbarval.

Re: POOR RESPONSE TO EMERGENCY.

A rail fracture was detected at KM 027/10-11 on 27.7.1997 on Lucknow-Gulmohar section. You were advised about this fracture at 20.15 hours. Your reaction to the rail fracture was very poor and this resulted into detection of train. Neither you made proper arrangements for movement of your staff from Gulmohar to site nor you moved yourself in spite of the fact that there is a motor trolley available with you. It became necessary for DSI/Co-ord., Lucknow and DSI-III/Lucknow to intervene to make you move.

This action of yours has been viewed seriously and I convey my displeasure to you.

A copy of this letter is being kept in your Service Record.

Please acknowledge receipt.

Yours sincerely,

*E.A.Khan*

(E.A.KHAN)

Shri S.H. Subbarval,  
Assistant Engineer-I,  
Dorhara Railway,  
Lucknow.

Copy to: Chief Engineer,  
Northern Railway, Baroda House,  
New Delhi,  
for information.

Deputy C.P.O./Gaz., N.Rly., Baroda House, New Delhi.  
Spere copy of the letter is sent for placing  
in S.R. of the above named officer.

May kindly sign.

*E.A.Khan*  
D.R.M.

*21/3/98*  
DSE/C  
21.3.88

*21/3/98*  
21/3

Annexure II

B. A. KHAN

Annexure-2

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Annexure-3

ENO 6/3

D.O. DSE/Co-ord/MLV/07.

My dear Subbimal,

Re: POOR PERFORMANCE IN RESPECT  
OF FIELD INSPECTIONS.

It has been brought to my notice that in your eight months stay as AS-Sultagar you have not inspected any points and crossings. You were supposed to inspect atleast 2/3rd of the Points and Crossings of the passenger running lines existing on Sultagar sub-division during this period.

This is a serious lapse on your part and I convey my disapproval for the same.

A copy of this letter is being kept in your service Record.

Please acknowledge receipt.

Yours sincerely,

EM

O/C (B. A. KHAN)

Shri S. N. Subbimal,  
Assistant Inspector-I,  
N. Railway,  
Lucknow.

Copy to Chief Engineer, N.Rly., Baroda House, New Delhi, for information.

Deputy C.P.O. (Gaz.), N.Rly., Baroda House, New Delhi.  
Spare copy of the letter is sent for placing in the S.R. of the named officer.

May kindly sign. The Officer has badly failed in carrying out scheduled inspections.

D.R.M.

DSE/Co-ord.  
21.3.88.

उत्तर देते

प्रधान कार्यालय पञ्जाब राज्य

पत्र नं.

नं. 38/243. पत्र सं. 3/38

स व प

जी.एस.एस. वसुधात सहायक अधिकारी (1) लखनऊ को मुप. की  
से मुप. की : में तत्काल पत्रव्यवस्था किया जाता है ।

उपरोक्त आदेशों को मक्ष प्रपत्रों के अनुमोदन प्राप्त है ।

(सचिव सचदेव)

पञ्जाब राज्य महा प्रबन्धक (का 0)

दिनांक. 3/9/1988

सं 0940 ई/140000/ई।ए

प्रतिलिपि सूचना एवं आदेशों के संबंध में :-

मंडल रेल प्रबन्धक लखनऊ

2. मंडल लेखाधिकारी लखनऊ ।

3. मुख्य अभियंता प्रमुख लखनऊ ।

4. जी.एस.एस. वसुधात सहायक अधिकारी (1) लखनऊ ।

5. सहायक कार्यालय प्रमुख लखनऊ ।

प्रतिलिपि सूचना :- 1. सभी विभागों के अधिकारी उक्त 10 सहायकों द्वारा

2. उपर महा प्रबन्धक (तक) स(परि.) प्रमुख कार्यालय 3. जी.एस.एस. वसुधात सहायक अधिकारी (1) लखनऊ

सचिव महा प्रबन्धक 4. सहा. उप महा प्रबन्धक 5. जी.एस.एस. वसुधात सहायक अधिकारी (1) लखनऊ

6. जी.एस.एस. वसुधात सहायक अधिकारी (1) लखनऊ

7. मुख्य प्रमुख सचिव जी.एस.एस. वसुधात सहायक अधिकारी (1) लखनऊ

8. मंडल रेल प्रबन्धक उत्तर रेलवे दिल्ली, लखनऊ, मुरा बाबाद, इलाहाबाद, बीका बेर,

जी.एस.एस. वसुधात

9. मुख्य परिवहन (जी.एस.एस. वसुधात सहायक अधिकारी (1) लखनऊ

10. उपमुख्य अभियंता (जी.एस.एस. वसुधात सहायक अधिकारी (1) लखनऊ

2000 2-9-1956  
 6000 11-11-56  
 1000 10-10-56

9

100-369614-100

2. RESEARCH DESIGN

04-10010-10010-10010

5. NAME OF THE PERSON

[illegible]

7-2-2008

47 DECEMBER 21, 1974

CONFIDENTIAL

Original released under the provisions of the Access to Information Act /  
Document divulgué en vertu de la Loi sur l'accès à l'information

9/13/12

3/1/1



Annexure no 10/4.

उत्तर रेलवे  
NORTHERN RAILWAY

SN<sup>o</sup> 1/5  
जनरल 99/बदा  
Genl. 99/L

Sari Sabharwal.

A.E.N./I/LKO.

Annexure 'D'

On 17.3.83. when I was inspecting track on trolley with you and PWI sh. Kundan Lal, between LKO-AMG UP/Line, You had been sleeping on trolley which speaks of your alertness and interest in the Railway working.

You are requested to improve your working.

In the last 2 AENs meeting with DSE(C) your were found snapping when he pointed the same there.

Divl. Engineer/H.Q.  
Lucknow.

C/- D.S.E.(C) for kind information.

A64

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH , LUCKNOW

O.A. 153 of 1988

S.M.Sabharwal ..... Applicant

Versus

Union of India & another ..... Opp. Parties

Rejoinder to the opposite parties  
reply/objections to the prayer for  
interim relief by the applicant.

---

The applicant most respectfully begs to state  
as under :-

1. That para 1 needs no reply.
2. That para 2 as stated is denied. It is denied as alleged that the applicant has wrongly connected the impugned order dated 28.9.1988 with the chargesheet dated 6.5.1988 (Annexure No.4). The aforesaid chargesheet was malafide issued to the applicant on wholly false and baseless charge and when it was realised that no action is possible on the basis of the said false charge against the applicant, the applicant was arbitrarily referred by order dated 28.9.1988 without any notice or affording him any opportunity whatsoever against the proposed action to which he was entitled under the law. The alleged assessment of performance of the applicant has been done by way of after thought and in a wholly arbitrary and malafide manner at the back of the applicant on wholly false and irrelevant grounds.

सुप्रीम अदालत

1465

-2-

3. That para 3 is denied. The alleged extant policy instructions to revert a railway servant from his officiating appointment to a lower post within a period of 18 months is not applicable in the case of the applicant; firstly because no notice was issued to the applicant to show cause against the proposed reversion on the basis of the aforesaid extant policy instructions and secondly the order of reversion itself is a non speaking order giving no reasons whatsoever nor even mentioning the said policy instruction on the basis of which the applicant was sought to be reverted. In any case the said policy instructions are not applicable as the applicant was sought to be reverted beyond the period of 18 months.

4. That the averments made in para 4 are incorrect, misleading and malafide. They have been stated in order to prejudice this Hon'ble Tribunal against the applicant by substituting the reasons of alleged unsatisfactory performance by way of an after thought for the first time in their reply and without confronting the applicant with the same before the order of his reversion dated 28.9.1988. The applicant is advised to state that the opposite parties cannot supplement grounds of his unsatisfactory performance for the first time in their reply before this Hon'ble Tribunal without confronting the applicant by way of show cause notice before passing the order of his reversion.

अुरर सभवा.

1) The alleged letter (Annexure No.R/1) was not served on the applicant. In any case it is wrongly alleged in the said letter that neither

the applicant made arrangements for movement of his staff from Sultanpur to site nor he moved himself. On the contrary, the applicant went to the site. He also urgently tried to mobilise the PWI under him for the purpose.

- b) Averments made in this sub para are incorrect. The applicant was not verbally warned by the DRM and DSE (C) Lucknow as alleged. There was no occasion for such verbal warning as the applicant had gone to attend the office of DEN III Lucknow on 19.10.1987 where he became aware of the said derailment and in fact attended the site of derailment alongwith the DEN III Lucknow.
- c) No such letter (Annexure No.R/2) was received by the applicant. The averments made in the said letter are, however, denied. According to para 107(5) of the Indian Railway Permanent Way Mannual the points and crossings are to be inspected once a year by the AEN. In any case during this period of applicant's stay at Sultanpur for 8 months, the applicant was sent for Officers Orientation Training and prior to that the applicant had to go on leave on account of his monther's death. As this was a place of new posting, the applicant in the earlier period was busy in other urgent work in connection with this posting.
- d) The sub para under reply is incorrect. The applicant inspected 70% points and c/crossings

सुरेन्द्र समरका

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of passenger lines of PWI I Lucknow and some points and crossings of PWI II also. As already stated above, in terms of para 107(5) of the Indian Railway Permanent Way Manual all the points of the passenger lines are required to be inspected once a year by the AEN. The averments regarding the condition of the track being found unsatisfactory are vague and misleading inasmuch as the applicant was not confronted with any report to this effect.

- e) It is incorrect that the said derailments during July and August 1988 were due to expansion of gauge under moving load as alleged. This is an assessment based on mere conjectures and is denied.
- f) Averments made in sub para under reply are incorrect. The DEN Hqrs. Lucknow during the inspection was using a non standard gauge which had been attached with the trolley moving at a speed of 15 to 20 kms. per hour. This was an incorrect method adopted by the DEN and was pointed out by the applicant and when the correct method was applied by stopping the trolley and measuring by standard gauge, the flaw became negligible and within permissible limits. This, however, annoyed the DEN Hqrs. Lucknow.
- g) Averments made in this sub para are wholly false and incorrect and have been made more out of malice. In any case it was not pointed out to the applicant as alleged.

सुद्धे समरवाले

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- h) The alleged averment in sub para under reply relates to the incident mentioned in sub para (f). As already stated in sub para (f) the DEN concerned became annoyed with the applicant when he pointed out the incorrect method of measuring the gauge. In any case it is not possible for anyone to sleep on the push trolley and averments to this effect are malicious and false. This was pointed out by the applicant in his reply dated 20.9.1988 to the letter Annexure No.R/4.
- i) Averments made in sub para under reply are incorrect. It is stated that the applicant was not allowed to go to Sultanpur despite request in order to enable him to submit his self appraisal report after consulting his record at Sultanpur, the last place of his posting. The said permission was granted as late as 21.9.1988. The averments made in para under reply are deliberately misleading and by way of after thought. So far as the averment regarding the applicant being very poor in office management and correspondence is concerned, this was made the basis of the false charge levelled against the applicant in the chargesheet dated 6.5.1988. This explains the link between the chargesheet dated 6.5.1988 and the order of applicant's reversion dated 28.9.1988.
- j) The averments made in sub para under reply are incorrect. The applicant was not made aware of the said notings of the DSE(C) Lucknow. The said

सुदेश सरकार

notings were relied upon at the back of the applicant and without confronting him with the same and the order of his reversion is consequently illegal and arbitrary.

5. That in reply to para 5 it is stated that the applicant was selected for promotion and placed at serial No.1 in order of merit in the panel of AEN. On the basis of his merit position, the applicant was the senior most AEN. He was given appointment letter dated 4.3.1987 and his posting on the basis of the said appointment letter was deliberately and malafide delayed while persons junior to him were allowed to join their posts. Thus it is evident that the applicant was being unfairly treated right from the beginning of his selection and empanelment as AEN.

6. That para 6 as stated is denied. The alleged consideration of applicant's unsatisfactory performance was, if at all, done at the back of the applicant without confronting him with the same or affording him any opportunity to show cause against the proposed action of reversion on the basis thereof. The order of reversion is, therefore, vitiated as being in violation of the principles of natural justice.

7. That in reply to para 7 it is submitted that the applicant for the first time became aware of his reversion order dated 28.9.1988 during the period of his illness.

8. That in reply to para 8 it is stated that the order of reversion was passed during the period of the applicant's illness. The applicant is still confined to

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bed on account of fracture and is under treatment of the Railway Doctor. Consequently the applicant has not handed over charge of the post of AEN.

9. That para 9 is denied. The order of reversion is arbitrary, discriminatory and in violation of the principles of natural justice.

10. That para 10 is denied. The applica<sup>in</sup>tion/the facts and circumstances of the case is maintainable and is liable to be allowed and the reversion order is also liable to be stayed.

11. That para 11 is denied. The opposite parties were allowed sufficient time for filing the reply. But still the reply was deliberately delayed and the same is by way of an after thought. The opposite parties have thus deliberately avoided filing a detailed reply to the application and as such the applicant is entitled to the interim relief by way of staying the order of his reversion.

Lucknow Dated:  
October 28, 1988.

सुभाष साठवर्वा  
Applicant.

Verification

I, S.M. Sabharwal, do hereby verify that the contents of this reply are true to the best of my knowledge and advice received from the counsel.

Lucknow Dated :  
October 28, 1988.

सुभाष साठवर्वा  
Applicant.



(A-71)

I hereby certify that the following is a true and correct copy of the original document.

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

D. . 153 of 1928

.....

.....

Union of India, Mother ..... 1928

.....  
rejoinder to the opposite parties  
reply/objections to the prayer for  
interim relief by the applicant.

The applicant most respectfully begs to state  
as under :-

1. That para 1 needs no reply.
2. The para 2 as stated is correct. It is alleged as alleged that the applicant has wrongly connected the impugned order dated 28.9.19-8 with the charge sheet dated 1.5.1983 (in para 2.4). The said charge sheet was validly issued to the applicant on daily fines and bonuses charge on which it was realized that no action is possible on the basis of the said false charge against the applicant, the applicant was arbitrarily reverted by order dated 28.9.19-8 without any notice or offering him any opportunity whatsoever against the proposed action to which he was entitled under the law. The alleged misconduct of performance of the applicant has been done in way of after thought and in a wholly arbitrary and unfounded manner at the behest of the applicant on wholly false and irrelevant grounds.

(472)

the applicant made arrangements for movement of his staff from Sultanpur to site near he moved himself. On the contrary, the applicant went to the site. He was urgently tried to mobilise the rail under him for the purpose.

b) Verments made in this sub para are incorrect. The applicant was not verbally warned by the IIT and IIT (C) Lucknow as alleged. There was no occasion for such verbal warning as the applicant had gone to attend the office of IIT IIT Lucknow on 19.10.1987 where he became aware of the civil servant and in fact attended the site of civil servant along with the IIT IIT Lucknow.

c) The such letter (Annexure 10/2) was received by the applicant. The averments made in the said letter are, however, denied. According to para 107(5) of the Indian Railway Recruitment Manual the points of crossings are to be inspected once a year by the IIT. In any case during this period of applicant's stay at Sultanpur for 2 months, the applicant was sent for officers orientation training and prior to that the applicant had to go on leave on account of his mother's death. As this was a place of new posting, the applicant in the earlier period was busy in other urgent work in connection with this posting.

d) The sub para under reply is incorrect. The applicant inspected 70 points and after

A72

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the subject of the letter in the first and second  
pages of the letter. The letter in the first (1)  
page of the letter in the first (1) page of the letter  
was printed out with the letter in the first  
page of the letter in the first (1) page of the letter  
the letter. In any case it is not possible for  
anyone to sleep on the letter truly and honestly  
to this effect are malicious and false. This  
was printed out by the applicant in his reply  
dated 28.9.1977 to the letter in the first (1) page of the letter.

11

[illegible]



1874

14. The order of procedure and the order of the court of appeals is correct. Consequently the order of the court of appeals is correct.

9. The order of procedure is correct. The order of the court of appeals is correct. The order of the court of appeals is correct.

10. The order of procedure is correct. The order of the court of appeals is correct. The order of the court of appeals is correct.

11. The order of procedure is correct. The order of the court of appeals is correct. The order of the court of appeals is correct.

Respectfully,  
October 23, 1970.

Declaration

I, J. L. [Name], do hereby certify that the contents of this reply are true to the best of my knowledge and belief received from the original.

Respectfully,  
October 23, 1970.

A75

In the Central Administrative Tribunal Allahabad  
Circuit Bench Lucknow.

O.A.No. 153 of 1988

S.N. Sabharwal

....

Applicant

Versus

Union of India and another ....

Opposite Parties.

Reply to the application dated .12.1989 made by  
the applicant during the period Judge-ment Reserved.

....

Para 1: Issue Circulars referred to in para 1 are not  
denied.

Item1: Denied. The procedure was followed, where the  
self appraisal report was not submitted.

Item2: Denied. The procedure was followed. Special report  
was received before the impugned orders were  
passed. A copy of Special report is annexed to  
this reply as Res/5.

Item3: Denied. The procedure as laid down was duly  
followed. It is submitted that The letters as  
contained in Annexure no. 1 and 2 were duly served  
upon the applicant. It is further stated that  
all <sup>opportunities</sup> ~~opportunities~~ were duly provided to the  
applicant as per requirement of law. No show cause  
against proposed action is provided. It is stated  
that the performance report would show that the  
applicant had been warned for unsatisfactory per-  
formance and it was only after watching his subse-  
quent performance, the impugned action was taken.

- 2 -

Para 2: Denied. It is specifically denied that reversion made on account of unsatisfactory performance amount-s to punishment or in any way violated Article 311 (2) of the Constitution of India.

Para 3: Only the <sup>e</sup> ~~r~~ving of charge sheet is not denied. Rest is ~~not~~ denied. It is submitted that the applicant has not <sup>been</sup> reverted on account of the charge sheet served. The applicant has been reverted on account of unsatisfactory performance and after performance report was submitted. The impugned action was taken on basis of the performance report. The action taken cannot be termed as violative of Article 311 (2) of the Constitution of India. It is also stated that the question of junior or senior in the present case does not arise. Any person who is reverted on unsatisfactory performance does not attract the provisions of last come first go principle. In these sort of cases only that employee goes who does not give satisfactory performance. Other facts relate to argumente-s and will be suitably replied when the application is taken up for arguments.

Para 4: Denied. Every action taken is legal and according to rules. No part of the action taken can be termed as arbitrary, unfair and unjust. Arguments placed in the said para will be duly met at the time this application is heard.

1. On 27.7.87 a rail fracture at Km 927/10-11 on LKO-SLN Sec. took place and Shri S.N. Sabbarwal, was advised of the same by the S.M./Sultanpur. He failed to mobilise staff from Sultanpur in time resulting in heavy detention to train. In addition to verbal counselling a letter of dis-pleasure was issued by DRM/Lucknow. A copy of the same is enclosed as Annexure 'A'.
2. On 19.10.1987, 13 wagons of Dn.Hindon Spl. derailed in Sultanpur yard. Shri Sabbarwal was advised of the same by the S.M. He even after knowing of the derailment proceeded to Lucknow instead attending to the site of accident. He was warned verbally by DRM as well as DSE/Co-ord. Lucknow.
3. During his stay at Sultanpur for 8 months, he did not inspect even a single points and crossing. A letter of displeasure was issued by DRM/Lucknow to this effect. A copy of the same is enclosed as Annexure 'B'.
4. At Lucknow in his stay of 5 months he hardly inspected any points and crossing in the section of PWI-II/Lucknow as found out during inspection by C.2/East on 27.7.88. Also the condition of track was found unsatisfactory.
5. In the section of AEN-I/Lucknow there have been 3 derailment due to expansion of gauge under moving load. The details are as under:-
  - i) 14.7.88- Derailment of Dn.Gomti Goods between Pt.No.24 & 40 near west cabin, Lucknow.
  - ii) 26.7.88- Derailment of shunting train on Pt.No.28 Cross over leading to LIA siding near West Cabin-Lucknow.
  - iii) 11.8.88- Derailment of 505 Goods while running through Alamnagar yard.
6. Shri Sabbarwal, has inspected the line between Lucknow and Alamnagar on 3.9.88 and during a detailed inspection of track by DEW/HQ on 17.9.88, it is found that track is in a very bad shape where the gauge has been found to be slack upto 40mm under floating conditions. A copy of DEW/HQ's report is enclosed as Annexure 'C'.
7. Shri Sabbarwal, has been found napping in the AEN's monthly meetings and I had two occasions to point it out to him.
8. On 17.9.88 while trolleying with DEW/HQ he slept on the push-trolley itself. A letter of DEW/HQ is enclosed as Annexure 'D'.
9. He is very poor in Office management and correspondence. A copy of latest letter is enclosed as Annexure 'E'. Further it can be judged from the fact that he has not given his self-Appraisal for the confidential report for period ending March, 88 inspite of verbal and written reminders.

From the above it can be concluded that Sri Sabbarwal has been in-effective as AEN/Maintenance and is considered to be a safety hazard for travelling public as well as himself and it is recommended that his reversion to Group 'C' may be considered.

(Rudh Prakash)

Divl. Superintending Engineer/Co-ord.



E.A.KHAN.

CONFIDENTIAL.

D.O.No: DSE/C-AEN/SLN/87.

Dated: 21st March, 1988.

My dear Sabharwal,

Re: POOR RESPONSE TO EMERGENCIES.

A rail fracture was detected at KM 927/10-11 on 27.7.1987 on Lucknow- Sultanpur section. You were advised about this fracture at 20.15 hours. Your reaction to the rail fracture was very poor and this resulted into detention of trains. Neither you made proper arrangements for movement of your staff from Sultanpur to Dito nor you moved yourself inspite of the fact that there is a motor trolley available with you. It became necessary for DSE/Co-ord., Lucknow and DEB-III/Lucknow to intervene to make you move.

This action of yours has been viewed seriously and I convey my displeasure to you.

A copy of this letter is being kept in your Service Record.

Please acknowledge receipt.

Yours sincerely,

  
(E.A.KHAN)

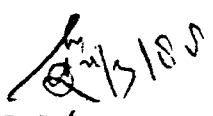
Shri S.K. Sabharwal,  
Assistant Engineer-I,  
Northern Railway,  
Lucknow.

Copy to: Chief Engineer,  
Northern Railway, Paroda House,  
New Delhi,  
for information.

Deputy C.P.O./Gaz., N.Rly., Paroda House, New Delhi.  
Spere copy of the letter is sent for placing  
in S.R. of the above named officer.

May kindly sign.

  
D.R.M.

  
DSE/C  
21.3.88

  
21/3/88

Annexure 'A'

(A79)

(69) (21)

E. A. KHAN

ARQ

68 1-17(20)  
Annexure 0

D.O. No: DSE/C-AEK/SLN/87.

My dear Sabbarwal,

Re: POOR PERFORMANCE IN RESPECT  
OF FIELD INSPECTIONS.

It has been brought to my notice that in your eight months stay as AEK-Sultampur you have not inspected any points and crossing. You were supposed to inspect atleast 2/3rd of the Points and Crossings of the passenger running lines existing on Sultampur sub-division during this period.

This is a serious lapse on your part and I convey my disapproval for the same.

A copy of this letter is being kept in your service Record.

Please acknowledge receipt.

Yours sincerely,

EM

O/C (E. A. KHAN)

Shri S.N. Sabbarwal,  
Assistant Engineer-I,  
D. Railway,  
Lucknow.

Copy to Chief Engineer, N.Rly., Baroda House, New Delhi, for information.

Deputy C.P.O. (Gaz.), N.Rly., Baroda House, New Delhi.  
Spare copy of the letter is sent for placing in the S.R. of the named officer.

May kindly sign. The Officer has badly failed in carrying out scheduled inspections.

EM  
D.R.M.

21/3

DSE/Co-ord.  
21.3.88.

ADN

1) The gauge readings, in rear of end of bog at 2 metres after bog:

Sl. No.	Flange position	Loaded bog
0	+20 mm	Not taken
1	+20 mm	+24 mm
2	+20 mm	+14 mm
3	+20 mm	+12 mm
4	+12 mm	+29 mm
5	+5 mm	+23 mm
6	+2 mm	+3 mm
7	+7 mm	0

Due to heavy outward thrust of rail, the sleepers under bearing plates had sheared off upto 25 mm. The shearing marks on sleepers were fresh and seen by all officers who attended the site. The thrust is also apparent on sleepers due to shearing on sleepers between bog nos. 0 to 5.

Deducting the space sheared off by 25 mm, the actual stock gauge comes to  $4-25=19$  mm, under load. which is a very narrow point of view.

Wagon of the LKO Rlys have fixed the safety calorimeter wider gauge never caused derailment, but contribute to it due to increase of lateral force, in the same way as increased lateral clearances in rolling stock affect the lateral force. (Look at derailments by Inder Singh page 69 supplied free by H. Rly.).

The track gauge, under loaded condition at POD is  $5'-3\frac{3}{4}$  44 mm or  $1\frac{1}{2}$ " slack =  $5'-27\frac{1}{2}$ ".

Deducting the wheel gauge + 2 flange thickness, the gap between one flange & track rail would be  $5'-7\frac{1}{2}$ " -  $(5'-3\frac{3}{4} + 1\frac{1}{2} + 1\frac{1}{2}) = 2\frac{1}{2}$ " where as the tyre width is 5" and thus the slack - gauge  $1\frac{1}{2}$ " at POD can not cause derailment but will contribute to greater angular movement/ lateral thrust only. This derailment is definitely due to some wagon defects which is being stated as effect of derailment. Reading not yet completely recorded.

23 wgs seen  
be one which  
derails first

I am enclosing my inspection charts of gauge on 17.8.88 between LKO - JG line. These readings were taken under floating condition by a travelling gauge indicator. It would be seen that gauge was slack by 39 mm, 40 mm 20 mm + 20 mm, 25 mm 37 mm, 25 mm 25 mm 20 mm at Km. 1075/7-8 to 1075/14-15 and trains were moving at full speed safely.

Submitted to enquiry committee nominated for accident.

W

PEN-HQ-LKO.

DA/1

उत्तर रेलवे  
NORTHERN RAILWAY

उत्तर 99/271  
Genl 98/L

Sri Sacharwal.

A.E.N./I/LRO.

Annexure 'D'

On 17.3.88. when I was inspecting track on trolley with you and PWI sh. Kundan Lal, between LKO-ANG UP/Line, You had been sleeping on trolley which speaks of your alertness and interest in the Railway working.

You are requested to improve your working.

In the last 2 AEMs meeting with DSE(C) your were found snapping when he pointed the same there.

Divl. Engineer/E.C.  
Lucknow.

C/- D.S.E.(C) for kind information.

Annexure E  
17  
78  
62  
Northern Railway.

BUDH PRAKASH.  
DSE/Co-ord.

Divisional Office.  
Lucknow. Dt: 3.8.88.

D.O.NO: DSE/C-AEN-I/LKO/87.

My dear Sabbarwal,

THROUGH DEN/HQR.

Sub:- Delay in correspondence.-  
1.-Safety Drive Report.  
2. PCDO for the month of July, 88.

a/c copy  
The Division's reply to the Headquarters in both the cases has gone without your reply. This has been taken as positive failure on your part. It may please be noted. I hope there will be improvement in future.

Yours sincerely,

*Q 318*  
(Budh Prakash)

Shri S.N.Sabbarwal,  
Asstt.Engineer-I,  
Northern Railway,  
Lucknow.

NORTH

RAILWAY

CONFIDENTIAL


Headquarters Office,  
Baroda House, New Delhi.  
Dated 14/9/87

No. W/219/G/Pt. I  
Shri S.N. Sabharwal,,  
AEN/Sultanpur.

Subj:-Non completion of scheduled  
inspections.

During the month of July '87 you have not  
completed the scheduled trolly inspections on  
important branch lines. The shortfall was 7%.

2. It has already been impressed and reiterated  
in directions issued from ECRS that officers must  
complete their scheduled track inspections. In this  
background no shortfall shall be acceptable.
3. I am sure, you will take this as a forewarning  
and ensure that the scheduled inspections are completed in  
full, failing which stricter action may have to be  
taken.

  
for General Manager (Engg.) 14/9/87

*Handwritten notes and signatures:*  
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100. 14/9/87

Confidential.Budh Prakash,  
DSE/Ce-ord.

D.O.No: DSE/C-Genl/88.

My dear Sabbarwal,

Reg:- Very poor involvement in work.

-----

Yesterday i.e. on 1st February, 88 there was a derailment in Lucknow yard in front of west cabin. You left the site on the plea that you had punctuality duty from 0.00 hrs. to 3.00 hrs. on 2nd February, 88. You failed to discern the correct priority. Punctuality duty could be entrusted to some other officer had you intimated the same to DSE/C or ADRM/OP.

2. At 6.30 hrs. on 2.2.88 when I talked to you on telephone in control office, I was shocked to find that inspite of having been in the control office for the whole night, you had not bothered to find out the latest position about the accident. This was on my telling only that you checked up the position.

This non-involvement in Railway work has been viewed seriously and you are advised to be careful about your work.

Please acknowledge receipt.

Yours sincerely,

(Budh Prakash)

Sri G.A. Sabbarwal, AEN-I/LKO

DEN/HQR may please see.

Sub: Enquiry inconnection with the Detention to  
428 DN on 27.7.87.

.....

Ref: DSE/C's note No. DSE-C/AEN-SLN/87 dt. 28.8.87.

....

An enquiry into above detention has been conducted by the undersigned.

BRIEF DETAILS :

A rail fracture was detected at Km. 927/10-11 between SHNG and BDKN on Lucknow-Sultanpur section on 27.7.87. The Gangman Shri Jan-Mohd. who detected the fracture stopped 174DN Himgiri Exp. and allowed it to pass at Stop Dead and 8 Kmph, and sent words to PWI/SLN through the Driver of 174 DN to attend the Rail Fracture.

PWI/I/SLN and AEN/SLN were informed of the rail fracture at 19.45 and 20.15 hrs. respectively. PWI/I/SLN Shri Farhat Husain alongwith his Asstt. PWI Shri T.K. Shukla reached the station master's Office at 20.00 hrs. 428 DN was detained at site from 20/40 to 23/40 when AEN/SLN & PWI/SLN reached site.

The following facts are clear from the statement of the staff which have been recorded during the course of the Enquiry.

1. PWI/I/SLN asked for line clear for his push trolley to go to site which was not agreed to by the S/CKI, Dy. CML because of the excessive time required for the push trolley to reach the site and in the face of several DN trains which were being allowed at SD and 8 KMPH.
2. Shri T.K. Shukla, PWI Gr. II PWI/I/SLN did not find out the actual details of the rail fracture but still imposed a caution of Stop Dead and 8 KMPH, while sitting at Sultanpur.
3. Shri T.K. Shukla and Shri Farhat Husain PWI-I/SLN did not realise the urgency of carrying out temporary repairs of the rail fracture and did not impress upon the section controller, the urgency for him to reach the site.



4. Although Shri Farhat Hussain has mentioned in his statement that he requested the AEN to allow him to use the Motor Trolley to reach the site but this is not acceptable.

5. There has been slackness on the part of AEN/SLN in taking prompt action in the case. He has in his note dt. (Un-dated) received on 18.11.87, accepted that he was informed at 20.15 hrs. about the rail fracture and he asked PWI/I/SLN to proceed to site but he did not remain in contact with the PWI or the ASM on duty to ensure that the PWI proceeds to site by any means. He also failed to take out his Motor Trolley and either make the PWI to go to site or should have gone personally to the site on the Motor Trolley when no up train was available.

It was only after the Driver of 428 DN did not pass over the rail fracture and after the receipt of instructions from DEN/III/LKO at 21.33 hrs. that the AEN realised the urgency of going to the site and he went to the site, by the Power of WBSO/Spl. which was available at SLN.

6. Shri Sahib Singh, PWI/ FMA did not go to site on the plea that in any case P/smith will come from SLN and so PWI/SLN will also come. Had he gone to site by any DN Train/428DN this situation would not have arisen.

*[Signature]*  
D.T.V. (G) Lucknow

*[Signature]*  
D.T.V. (G) Lucknow

Ref SMO 48

ACB

(12)

An enquiry has been conducted by DOSI/UCO and DEN/SLD in the detention to 428DN Varuna Express on 27.7.87. The details and report in connection with the above are placed at SMO S& SS. The statements etc of the staff are placed from SMO 1 to 53.

Talpeemool pl.

~~DS (Coor.)~~

18/7/87  
DEN/SLD

A paper enquiry into the detention of 428DN dt 27.7.87 has revealed that

① Shri T. N. Shukla imposed a restriction of S.D. & sleep while sitting at SLN without having any knowledge of site conditions in details.

② Shri T. N. Shukla pushed & Shri Farhat Hussain did not express any urgency to reach the site. Only a gangman was left to permit the train to pass. A gangman is not competent to do so. This is an act of carelessness or passivity. Shri Farhat Hussain passed on Shri Shukla. Corrected on 18/7/87

ADG

Contd from PPI

3. Shri Mohip Singh Pargam F&A also did not come to the site. This is an act of irresponsibility.

4. The Enquiry Committee has printed out four response by and four organisations by Shri S.N. Sahasrabhusan in the case.

This case is a bad case and paper the following action -

1. A letter of displeasure from DPM to the AEW.
2. SF-5 to Shri T.N. Ghosh.
3. SF-11 to Shri Farhat Hussain & Shri Mohip Singh.

There may kindly see. In case of any further action to be taken.

~~DPM~~

Appd. E.A.M.

3/2

by 29/1/88  
DSE

Action item no 1 taken with D/E C/P, S/LY  
2 & 3 to be ptd.  
21/3  
CB  
DSE

(10)

(ACC)

ACCIDENT ENQUIRY

Proceedings of official enquiry held at SLN and LKO to enquire into the particulars of accident which occurred at SLN on 19.10.1987.

COMMITTEE

	Name.	Designation	Headquarters.
President	1) Sri Devosh Misra	DOS	LKO
Member	2) Sri C.P.N. Singh	DEN-III	LKO
	3) Sri K.L. Dhingra	DPE-I	LKO

Also Present

Name	Designation	Headquarters.
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Documents Accompanying.

1. Statement of Naib Subedar 1st Light Infantry Sri. R.R. Kobra, Kobra Himachal.
2. Joint Tr of reading of II/SLN, 1-11 SLN, C.I.L.O.
3. Joint Note of SS/SLN, MI/SLN and CMI/L O.
4. Statement of I/C Guard Sri. V.R. Privastav.
5. Accident Report of SS/SLN.
6. Accident Wire to all concern.

Agg

- 7) Joint Track observations by E/Committee.
- 8) Track Gauge Recorded on 21.11.87
- 9) Track Reading of L. No.6 of SLN Yd. taken on 22/23.10.87
- 10) Track reading in rear of Point of Drop and ahead of affected sleeper.
- 11) Special Feature of 19.10.87 on which Sr. Scale Enquiry ordered by DRM/LKO.
- 12) Statement of Driver 'C' LKO. Shri. Som Dutta.
- 13) Statement of Asstt. Driver Ram Dhani.
- 14) Statement of Sri. Sukh Lal FIC Gr-'A'/APT Hq. LKO.
- 15) Statement of Officiating SS/SLN Sri. M.K. Mishra
- 16) Statement of Mr. Kishan Singh Director Hq. MB.
- 17) Statement of Guard S i. V.K. Srivastwa.
- 18) Statement of Sri. M.Singh COWI/LKO.
- 19) Joint Inspection of Wgn. No. 50467 CR by HDEXR/N O of Stn. and FVI/SLN.
- 20) Joint re-weighment report of Wgn. CR 50507 by FVI/TP officiating JRC-141/SLN-TI/SLN.
- 21) Statement of Sri. A.A. Ansari FVI Hq. to MH.
- 22) Statement of FVI/SLN Sri. Farooq Hussain.
- 23) Statement of Sri. Gopal Mali Gang No. 16.
- 24) Statement of Sri. K. Kazmi APT Incharge/TL.
- 25) Statement of Sri. Jagdish Nayyar Gang No. 16.
- 26) Statement of FVI Gr-II/SLN Shri. ... Shukla.

9/2

Cont.....

- (8)
- A-12
1. Class B-4      2. Date 19.10.87      3. Time 5.15 a.m.
  4. At SLN Yard (Line No.6)      Station SLN.
  5. Number and description of train Hindon Spl.
  6. Engine No. and Class 17192 WDM-2
  7. Number of persons killed. NIL.      Injured NIL.
  8. Number of vehicles on train 60      Coaching NIL      Goods 68

#### DESCRIPTION OF SITE OF ACCIDENT.

Dr. Hindon Spl. derailed in SLN yard while being received on line No. 6. Line No. 6 is laid with 90 lbs raised on wooden and ST-9 slippers at H+3 density and is unballasted at 3° curve.

#### DESCRIPTION OF ACCIDENT.

Dr. Hindon Spl. while entering line No. 6 derailed at 5.15 hrs. on 19.10.1987. In all 14 wagons i.e. 31 to 37, 43 to 44 and 47 to 51 from Engine h-o derailed. Sr. Subordinates reached the site and gave the details of the accident as under:

1. SR.15341/CL : Left side both wheels derailed inside the track.
2. SB.36132/CL : Slack hanging on the track.
3. ER.5636 /CL : Left side both wheels derailed inside the track.
4. NR.41803/CL : Left side both wheels derailed inside the track.
5. NR.6269/CL : Left side leading wheel derailed inside the track.
6. 5 wagons on track SB 35700/CL left side leading wheel derailed inside the track.
7. SR.1077/CL : on track.
8. ER.1077/CL 1 ft leading wheel derailed inside the track.
9. SR.36112/CL and SR.27053/KCE both hanging on track. Thus three wagons on track.
10. ER.1363/CL : right leading wheel derailed inside the track.
11. Left leading wheels of wagons No. WD 674-7/CL, SC.39412/CL, NR.2276/CL, CR.15077/CL, CR.63649/CL, NR.2246/CL and ER 447.5/CL.

Break power of the load is examined by the Sr. Subordinate was 81.7%. Total vacuum Cylinders found to be in working order were 5 out of 71.

Cont.....

(7)

AAS

PARASILE

There was heavy rain since 15hrs. of 18.10.37. The bed of track of line No. 6 in the vicinity of point of drop has become slushy and was pumping. The sleepers at the joints were decayed. The sleepers were pumping therefore, under the movement of Wagons, the track gave way resulting in sinkage of track and widening of gauge. The left hand side of wagon No. 50407/CR first dropped but it was entangled between the rails and continued movement, rubbing against the left. The track ahead the point of drop did not give way and, therefore wheels did not drop as there was no dragging marks on the sleepers. The derailed wheels of 50407/CR damaged the track and therefore trailing wagons derailed, re-railed and then derailed and this process continued till the train came to halt.

Wagon No. 50407/CR was 11 from Engine and was found on track. The track gauge recorded at 9 mtr. behind the point of drop showed slackness of 25 ml. mtr. which is excessive. In this area gauge was slack beyond the limit of 6 ml. mtr.

Probable causes acting singly or in combination may be; i) Sudden shifting of load; ii) improper loaded vehicles; iii) wagon defects; iv) failure of track component and variation of track parameter; v) excessive speed.

Probable causes were discussed here below:

Sudden Shifting of Load:- The wagons were examined and wagon No. 50407/CR/CL was slightly over loaded. The load was found to be evenly distributed. Moreover not only one but a number of wagons were involved including engine and the wheels of all had derailed inside the track only, therefore, this possibility is ruled out.

1. Improper loaded vehicles:- Wagon No. 50407/CR/CL was not weighed and was found to be weighed at 35.5 Hrs. Ton. Although with tare of 1.6 and net load of 32.4 and with over loading of 2 Tons have not been permitted by Railway Board, it should have been 25 tons. Thus, it was overloaded by 1.3 tons. But since the wagon was coming all the way from Ferozpur and after examination there was no defect found in that wagon and the fact that loco is much more heavier than the wagon loaded by 1.3 tons, rules out the possibility that the track gave way and derailed to a place because of over loading.

Agu

111) Joint examination of Sr. Subordinate of the wagons involved has not discovered any serious wagon defect which could have led to such a derailment hence, this is also ruled out.

1v) Failure of track components and variation of track Para meter:

Reading of the track taken reveals that the gauge was excessively slack near point of derailment. Enquiry Committee visiting on the site of accident found that a number of wooden sleepers were unserviceable and Keys and Dog Spikes were found missing. Also at the point of derailment there was pumping and low joint. Besides this, Gangman has also said in his statement that he and his Gang had not attended this particular line of SLN/Yard for the last one year. Although all Gang Charts showing maintenance of this line have been fraudulently filled up by PWI. This is also an indication that adequate attention was not being paid to the Yard especially line No. 6. Thus derailment occurred due to track failure caused by poor maintenance and lack of foresight displayed by PWIs in taking preventive measures in view of rain fall.

v) Excessive Speed: As informed by escort, travelling in wagon No. NR.31832/CL containing live-stock, speed was not excessive and neither was break applied very suddenly. Therefore, this cause is also ruled out.

2) AEN SLN, Sri. S.N. Sabar al was informed about the accident but he failed to take stock of the situation and converse himself fully about the accident. He did not visit the site of accident but came to LHO by Varuna Exp. although he had been informed xxxxx by the SS/SLN about the accident.

3) It was found that reading of the site of the accident after the accident had not been properly taken by the Sr. Subordinates.

Example:

That a number of sleepers were unserviceable and a number of dog spikes were found missing but no mention has been made and no effort made by the Sr. Subordinates about mentioning this in the Joint Note.

4) There was inordinate delay in seizing and submitting the relevant documents like Gang Chart and Gang Diary. Till date JI Sri T.K. Shukla's diary has not been received by the Enquiry Committee. It is so, inspite of several xxxxxxxx reminders by Enquiry Committee to I-I & II. Beside this

Cont.....



(5)

A95

dilatory tactics of reporting sick and on one occasion not coming to LKO. even though available at SLN by PWI Gr-2 Sri F.N. Shukla, prolonged enquiry unnecessarily.

### FINDINGS

We the undersigned after careful consideration of all the findings do find as follows:

1. Sri F.N. Shukla PWI/Gr. II/SLN under PWI-I/SLN is responsible for not maintaining line No. 6 in safe and satisfactory condition and has violated para 1, 3, 6 (a) and 224 (e)(v) of Indian Railways Permanent Way Manual.
2. Officiating mate of Gang No. 16 is responsible for not carrying out gang patrol during heavy rain fall and thus violated Para 1(3) of Indian Railway Permanent Way Manuals.

*G. N. Singh*  
DME-I

(Member)

*[Signature]*  
DEN-III

(Member)

P. R.

1. AEM SLN Sri. S.N. Sabarwal failed to attend the site .. accident for organising purposes.
2. 1. SLN Sri Purhat Hussain failed as a Sr. Supervisor to carry out his schedule inspection (once in a fortnight) and ensure proper maintenance of line No. 6.

*G. N. Singh*  
DME-I

(Member)

*[Signature]*  
DEN-III

(Member)

Agc

4

Name.

Estimated Cost.

To Permanent-Way

Rs. 20,000/-

Total

To Locomotive

Nil.

To Rolling Stock

Total

Nil.

To Other Ely. Property.

Total

Nil

Grant Total . . 20,000

*G. N. M. W.*

D 1-1  
(Member)

*[Signature]*

~~SEN-11~~  
(Member)

resident.

1. Accidents which have taken place in Lucknow yard from April to June, 1986 attributable to P.Way were reviewed. The details are given below:

Month	Reported/ Total (P.Way A/C)	Spread gauge	Burrs	Bad joint	Unload- ing of DMT	Frac- ture	Trist
-------	-----------------------------------	-----------------	-------	--------------	--------------------------	---------------	-------

June	2/ 4	2	-	-	-	-	-
May	2/ 3	1	-	-	1	-	-
April	6/ 6	1	3½	1½	-	-	-
March	3/ 4	½	1½	-	-	½	1

It seems that there is a practice of not reporting all the accidents over the Division. DRM may please like to see

2. From the above, it can be seen that the maximum number of accidents have taken place due to spread gauge and the burrs on the gauge face of the rail. Accidents due to spread gauge indicate that the track maintenance is not upto the mark. Instructions have been issued by the Railway Board that responsibility in the case of spread gauge should be fixed at the level of officers in addition to the concerned supervisor. This may be done in the above cases.

Inspected the yard along with DSE/Co-ord. Lucknow at the following locations which are critical for passenger train operation, receipt and despatch of goods trains and humping operation.

- Between East Central and East cabin.
- Yard near F Cabin
- West Cabin
- West Central cabin
- Point No.28 near west cabin where accident had taken place yesterday only and the point had been attended to yesterday.

The following discrepancies were observed every where at these locations; the difference is only of the degree:

- Fittings and fastenings were incomplete at all points and crossing. They were also loose.
- Fittings and fastenings on joints were incomplete and their condition far from satisfactory.
- The stretch of track between two sets of points and xing had deficient fittings and had pumping/blowing joints.
- Alignment of track in the points and crossing zones was bad. At almost all the locations visited, alignment was out by more than even 25 mm.
- General condition of track was far from satisfactory. There are excessive cases of blowing joints, bad track alignment, loose packing etc.
- Drainage in the yard is bad.
- Non-standard fittings have been used not only at points and Xings and joints but also at other locations. It seems that the concerned Inspectors had no proper knowledge about the use of fittings.

498

2

- (viii) Wooden sleepers although their condition otherwise seemed to be fairly alright were spike killed. No where an attempt had been made to plug the spike killed holes and use the sleepers properly. Not even a single location was found where spike killed sleepers were used by shifting them laterally and drilling new holes.
- (ix) At several locations it was found that consecutive 3 to 4 unserviceable sleepers were existing in tracks even in the zone of joints of points and crossing.

All the above indicate the deteriorated track maintenance in Lucknow yard. DSE/Co-ord. should depute DEN/HQ to make out a detailed list of all the deficiencies existing in the above zones which are critical for train operation and put it up to DSE/Co-ord. PWIs Incharge of all these critical zones should be taken up under D&AR for allowing such deficiencies to exist in track.

Further DEN/HQ confirmed that no points and crossing inspections have been carried out by AEN I/Lucknow for the last six months in the section of PWI-II/Lucknow, while he should have inspected atleast 20 turn outs so far. I was informed by DSE/Coord. Lucknow that Shri S.N. Sabbar was given a letter of displeasure by DRM for similar lapse while he was working at Sultanpur where he did not inspect even a single turn out during his stay at Sultanpur.

4. It is very necessary that a drive should be launched to bring the yard to safe standards. Immediate action should be taken on the following lines:-

- (i) Fittings and fastenings in the points & xing zone, joints, should be completed and tightened.
- (ii) Non-standard fittings and fastenings in the above zone should be removed and replaced by standard ones.
- (iii) The joints in the yard should be provided with proper drainage and packed properly.
- (iv) The length of track between two consecutive points and xing should be given more attention. It should be packed well and aligned properly.
- (v) There should be no two consecutive unserviceable sleepers over any points and crossing zone or in between two consecutive points and crossing or approaches of points and crossing or near the joints.
- (vi) Spike killed wooden sleepers which otherwise are in good condition should be provided with wooden plugs and used with proper fittings and fastenings.
- (vii) Drainage of the yard should be improved forthwith.
- (viii) Joints in the yard should be packed from one end to the other.
- (ix) Cross level in the above critical zones should be set right.

A99

1

After the above emergent measures have been taken and yard brought to reasonably safe standards, the following action should be taken:

- i) It should be ensured that no permanent gangmen are put on any other duty except track maintenance.
- ii) Any failure on this account would be viewed seriously and inspector concerned should be taken up under D&AR. Permanent gangman should not even be used for bringing stores from PWI's store. The stores should be transported by trolley as and when required by PWI. The only duty which a permanent gangman is allowed to perform is vice a gatekeeper or keyman.
- iii) The area of the gang should be well demarcated and this should be indicated on the ground as well. The tool boxes should be located within the beat of each gang. Where the beat of the gang is less and the gang strength of the gang is not reasonable, two gangs should be combined, and placed under the charge of a P.Way Mistry. There should be only two levels of supervisors i.e. P.W.Mistry/PWI Gr.III or Gr.II and PWI Incharge.
- (iv) Attendance of the gangs should be taken at the start of the day at an appointed time and the person checking/ taking attendance should put the time of such a check.
- v) Gangs in the yard should attend their beat from one end to other end and the gang charts should be filled accordingly while setting the work. Whenever they are asked to do other special work like change of points and crossing etc. a mention should be made in their gang chart.
- (vi) Few gangmen from each combined gang should be taken out to form a gang for e-mergencies. This should be available for attending any emergency during night. The gangmen working during night, should be rotated. Such gangmen should also be provided work like leading material, cleaning of yard etc. when there is no emergency.
- (vii) All the gangs should attend to their work from one end to another, remove all the deficiencies in track structure, provide standard fittings and fastenings, provide efficient drainage system etc.
- (viii) Ballasting in the yard where there is no/insufficient ballast should be planned after the monsoons.

B.R. Sharma

(B.R. Sharma),  
Chief Engineer(East).

2/8/88

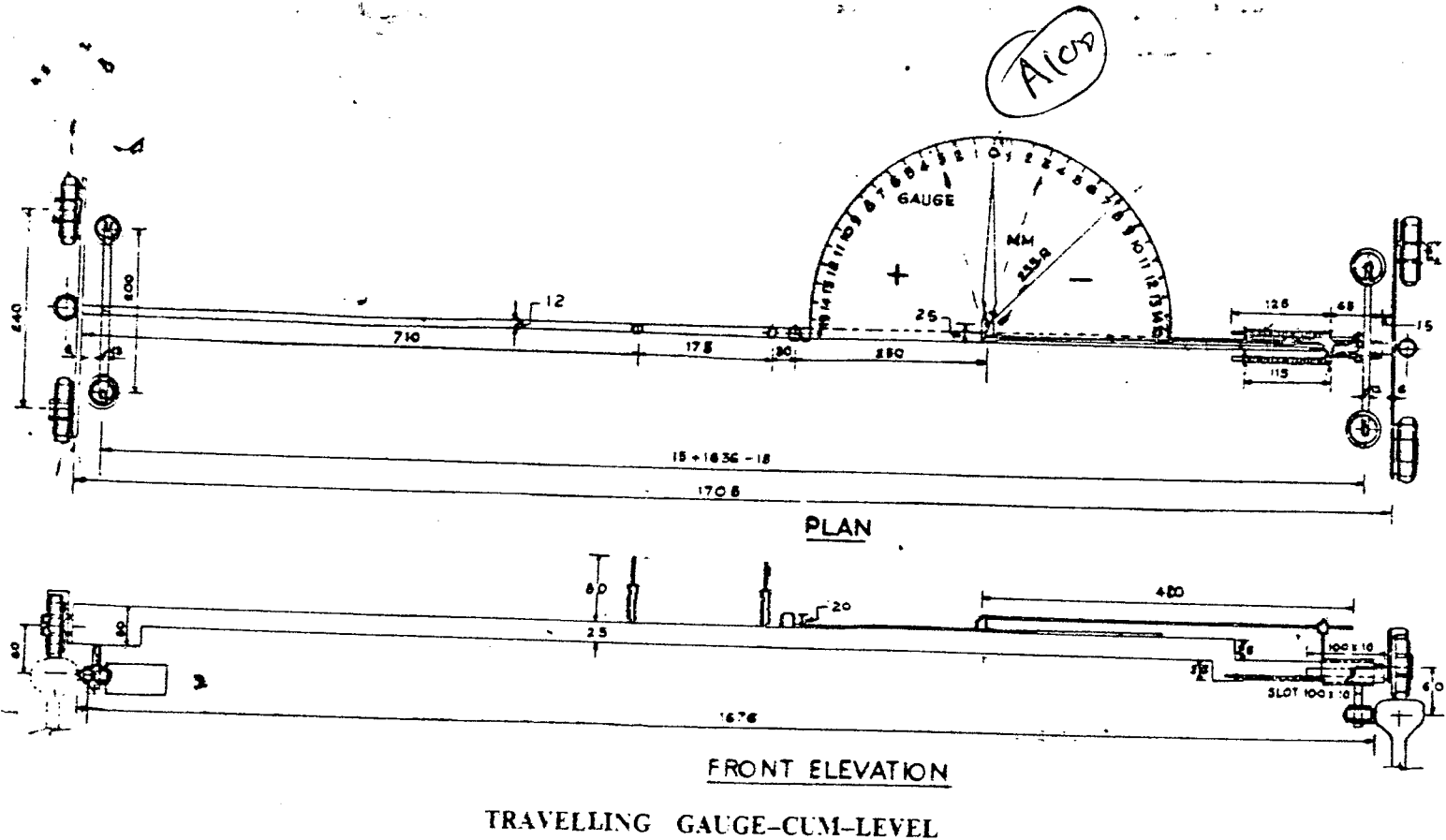
Dated 3rd August, 1988

STH

No. 167W/20/CE/E/88 (11)

Copy to:

- 1) DSE (C) / LKO.
- 2) DRI / LKO
- 3) Spare copy to CA/CE (E).



#### 40. TRAVELLING GAUGE-CUM-LEVEL

Developed by :

J. P. Budholia, PWI, Northern Rly

Sketch  
H & S Office NO. 6 Stan NO 22  
07.17.1.7

The device consists of 4 wheels with ball-bearings, fixed 250 mm apart running centrally on the head of the rails. There are two wheels of 45 mm dia with ball bearings, which function as gauge feelers and are fixed 150 mm apart on one side only. On the other side, two ball bearing wheels used as gauge feelers are fixed to a box and these adjust themselves to gauge variation in track with the help of springs. The gauge is measured 16 mm below the top table of the rail. Any variation in the gauge is indicated on the dial fixed centrally, by a pointer which gives a magnification of 1:30. The gauge pointer adjustments are simple as the same can be done with the help of screws fitted on the device. The spirit level is fitted in the centre with springs and screws for setting the level to zero at exact track. The accuracy of the instrument is within  $\pm 0.5$  mm in respect of gauge.

The travelling gauge is insulated and is suitable for use in track circuited areas.

The gadget saves labour and time and is ideally suited to rapid continuous measurement of gauge and cross level. This can be used by an Inspector by attaching it to the trolley or by a mate PWM by moving it on the track.

Approximate weight : 10 kg

Approximate cost : Rs 200/-

A101

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

O.A. No. 153 of 1988

S.N. Sabharwal ..... Applicant

Versus

Union of India & another ..... Opposite Parties

Rejoinder to the reply of opposite  
parties dated 21.5.1990 received on  
22.5.1990 to the applicant's appli-  
cation dated 8.12.1989.  
-----

1. That in reply to para 1 of the reply, averments made in para 1 of the application are reiterated. It is stated that no mention of Railway Board's circular dated 28.4.1982 was made in the short counter affidavit submitted by the opposite parties. It was also not stated that the applicant's reversion was in accordance with the aforesaid circular dated 28.4.1982 after full compliance with the requirements of the circular specified as items 1, 2, 3 & 4. The opposite parties deliberately suppressed this circular in their short counter affidavit as they had not complied with the requirements of the same. Contrary averments made in the reply dated 21.5.1990 are, therefore, denied.

Item 1. Item 1 of the reply is denied and averments made in item 1 of the application are reitera-

A102

-2-

tod.

Item 2. Item 2 of the reply is denied and the averments made in item 2 of the application are reiterated. It is stated that a special report is required to be called for as per the Railway Board's circular which was not done. It is denied as alleged that the special report is annexed to the reply. It is reiterated that the special report is not in conformity with the requirement of item 2. The special report was required to be called from the Divisional Engineer who has to initiate the confidential report of the applicant. No special report has been annexed as stated in para under reply.

Item 3. Item 3 of the reply is denied and the averments made in the corresponding para referred to item 3 of the application are reiterated. It is reiterated that the applicant was not warned regarding his unsatisfactory performance leading to his reversion. Reference to Annexures 1 and 2 in the short counter affidavit is wholly misconceived as the same were not in accordance with the requirement of item 3 of the circular. It is reiterated that Annexures 1 and 2 filed with the short counter affidavit were never served upon the applicant. Contrary averments



made in the corresponding para of opposite parties' reply are denied. It is stated that the applicant was never warned about his unsatisfactory work which may lead to his reversion in accordance with the Railway Board's circular dated 28.4.1982. There is nothing to indicate that any such warning or show cause notice regarding unsatisfactory work was given. The said warning being condition precedent to the applicant's reversion in terms of the circular dated 28.4.1982 the impugned reversion becomes illegal, arbitrary and without jurisdiction.

2. That para 2 of the reply is denied and the averments made in para 2 of the application are reiterated. It is stated that due to non fulfilment of the requirements of the circular dated 28.4.1982 the unsatisfactory conduct stated in the short counter affidavit forms the basis or foundation of the applicant's reversion and amounts to punishment in violation of Article 311 (2) of the Constitution of India.

3. That para 3 of the reply as stated is vague and is denied and the averments made in para 3 of the application are reiterated. It is denied that any performance report was submitted as required in the Railway Board's circular dated 28.4.1982. It is

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-4-

stated that there is no material to indicate that the applicant's work was found unsatisfactory. Contrary averments are contradictory, mala fide and motivated.

4. That para 4 of the reply is denied and the averments made in para 4 of the application are reiterated.
5. That in reply to para 5 of the reply averments made in para 5 of the application are reiterated. It is reiterated that no salary has been paid to the applicant since 21.9.1988 in spite of the fact that the applicant has been on the sick list of the Railway Doctor and is, therefore, entitled for payment of his salary regularly. No salary bill of the applicant was prepared despite various representations.
6. That para 6 of the reply is denied and the averments made in para 6 of the application are reiterated.
7. That the Hon'ble Tribunal had directed the opposite parties to file their reply/objections to the application, if any, by 17.12.1989. No reply was filed by 17.12.89 by the opposite parties and even thereafter. The reply was deliberately delayed till 22.5.1990 when a copy of the same was served on the applicant's counsel.

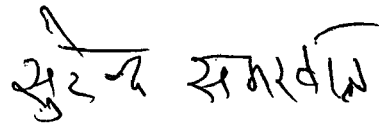
8. That the documents annexed along with the reply dated 21.5.1990 by the opposite parties are misleading, mala fide and with oblique motive. These documents have been annexed as an after thought and were deliberately omitted to be filed along with the short counter affidavit of opposite parties. These documents are filed to prejudice the applicant's case ☐ without confronting the applicant with the same by way of warning that his work is being recorded unsatisfactory and he is liable to be reverted in terms of the Railway Board's circular dated 28.4.1982.

Verification

I, S.N. Sabharwal, aged about 57 years, son of Sri L.D. Sabharwal, resident of L-30-B Church Road, Charbagh, Lucknow, applicant in the above case, do hereby verify that the contents of this rejoinder are true to my personal knowledge and belief and that I have not suppressed any material fact.

Date : 30/5/1990.

Place : Lucknow.

  
Sig. of the applicant.

A/c

In the Central Administrative Tribunal

Circuit Bench, Lucknow

O. A.No. 153 of 1988

S. N. Sa bhawani

Applicant

Vs.

Union of India & others

Opp. Parties

REJOINDER TO OPPOSITE PARTIES REPLY TO THE  
APPLICANTS APPLICATION DATED 12-89

The applicant most respectfully beg to state as under:-

Item No. 2.

That a special report is required to be called as per  
Rly. Board's circular given by the applicant in his  
application dated 12-89.

This has not been done. No special report was called  
from the Divisional Engineer who had to initiate the  
confidential report of the applicant. There is no  
special report has been enclosed as Res-5 as stated by  
opposite party in their reply.

contd..2

ITEM NO. 3:

<sup>Warning</sup>  
No ~~warning~~ is required as per procedure that the  
applicant's performance is unsatisfactory and the  
applicant will be reverted if there is no improvement  
was given.

Annexure 1 & 2 were not received by the Applicant  
as already stated by the applicant in his application  
dated -12-89 and his rejoinder dated 28.20.88.

Moreover the order of reversion to cryptic non  
speaking order and no reason whatsoever has been given  
for reversion.

-13:-

A108

Para

ECM NO. 5:

It was already stated by the applicant in his application dated 12-89 that no salary has been paid since 21.9.88 doopito the fact that the applicant has been on sick report and is entitled for his salary.

contd..4

Alog

As already stated vide para 4 of my rejoinder dated 28.10.88 to opposite party reply/objections dated 24.10.88 the averments made are in correct, misloading and malafide.

The Hon'ble Tribunal had passed orders that opposite party should file objections if any by 17.12.89 in reply to application filed by applicant dated 12-89 but was not done and deliberately delayed till 22/5/90.

Different reasons have been given for unsatisfactory performance given vide para 4 of opposite party reply dt. 24.10.88 and that given now on 25.05.90.

Detailed reply to para 4 of opposite party reply dated 24.10.88 has already <sup>been</sup> given by the Applicant in his rejoinder dated 28.10.1988.

Vide para (f) of opposite party reply dated 24.10.88 it was stated that DEN/HQ on 17.08.88 found track in bad shape whereas para 6 of reply submitted now on 25.5.90 shows gauge has been found slack upto 40 mm under <sup>in</sup> static conditions. A perusal of DEN/HQ's report now submitted on 22.5.90 as Annexure (C) will show that DEN/HQ is justifying gauge slack and saying trains were running at full speed. If the gauge was really slack upto 40 mm the DEN/HQ should have imposed a speed restriction immediately and have not allowed trains to pass at full speed till defects were removed. The very fact that DEN/HQ did not impose a speed restriction shows that he has made a false report.

Again vide para 4 (i) of opposite party's reply dated 24.10.88 it was mentioned that DSE (c)/LKO has stated in his

notings that the applicant is very poor in his office management and correspondence but now in para 9 of reply submitted by opposite party on 22.5.90 Annexure (E) has been mentioned which was not done in their reply of 24.10.88. The letter referred to in Annexure (E) has already been replied by me vide AEN/I/LKO letter No. AEN/I/DSE/C/LKO dated 18.8.88.

A copy of reply sent is enclosed as Annexure (A).

Whereas DSE/C has stated that Division's reply to Head Quarters, has gone without my reply it was replied by me that PCDO register was submitted well in time. A photocopy of P.C.D.O. reply of Div. Pages 2, 5 and 16 (Annexure: T 1A, T 2/C and T 5/D) is enclosed herewith as Annexure (B), which proves that report contains items of PWIS I and II/LKO under me when working as AEN/I/LKO.

Again a copy letter No. 2/219/G/ Pt I of GN/Engg. which does not form part of any reply has been enclosed for the first time.

The letter was replied to by the applicant while working as AEN/SLN vide AEN/SLN letter No. W/PCDO dated 4.10.87 which is enclosed as Annexure (C). In the reply I had stated that Inspection of Branch line was not done as it was required to be done once in two months as per CE circular No. 98 (P. Way) but assured that it will be done every month as desired by GM (Engg.) and has been adhered to.

Again a letter No. DSE/C-/C.Gonl./88 dated 2.2.88 of DSE/C/LKO which does not part of any reply has been enclosed for the first time.



-:6:-

The letter in question was never received by me.

No doubt on that day I was performing punctuality duty in Control office from 0.00 hours to 8.00 hours on 02.0.88 as per specific orders.

Para 2 of the said letter is not correct as no such telephonic talk took place.

Place: Lucknow

-05-1990.

Applicant

VERIFICATION

I, S. N. Sabharwal, do hereby verify that the contents of this reply are true to the best of my knowledge and advice received from the counsel.

Place: Lucknow

Applicant

Dated: . 05.1990.

A/12

Annexure A

No. AEM-1/DSR/C/LKO/88

Office of the AEM-1/LKO,  
Dated. 12.8.1988.

The Divl. Suptg. Engineer/C,  
Northern Railway, Lucknow.

Through DEN/HQ/LKO.

Subj:- Delay in correspondence.

1. Safety drive report.
2. PCDO for the month of July 1988.

...

Ref:- Your No. DSR/C/AEM-1/LKO/87 dt. 3.8.1988 Received through  
DEN/HQ/LKO.

...

In reference your above I beg to clarify and put the  
record straight as under.

Item No. 2- PCDO for the month of July 1988. The PCDO register  
was sent through DEN/HQ well in time and there  
was no delay at this end. ~~As per report~~  
~~of DEN/HQ to you dated 12.8.1988~~  
~~intimation for the section~~

Item no. 1:- Safety drive report.

Agenda for safety meeting to be held on 15.7.88  
in DEN chamber after punctuality meeting.  
Letter No. RIL dt. 14.7.88 from Sr. DSO/LKO addressed  
to DEN/HQ was received through DEN/HQ on 6.8.88  
and was immediately deputed to P I-I, II and III  
and IO/LKO vide T/C No. 11/P dt. 6.8.88 for  
compliance and report.

The delay in reply is registered and the reply is  
being sent within two days after collecting from inspections.

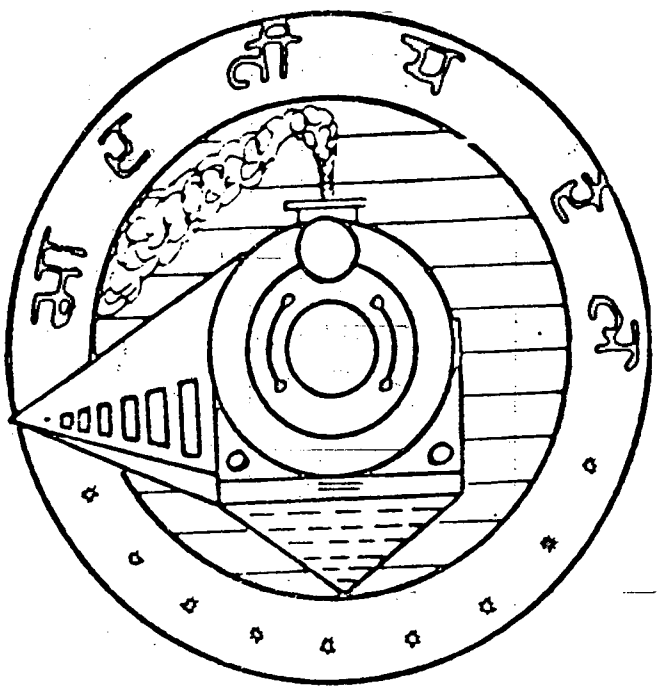
सुख समसदा

Asstt. Engineer.-I,  
N.Rly., Lucknow.

A/113

✓ Annexure B

LUCKNOW DIVISION  
D.S.E.(C)'s P.C.D.O. TO C.E.  
FOR JULY 1988



COPY TO :-

C.B.E.	C.T.E.	C.E.(G)	D.R.M.
A.D.R.M.(T)		C.E.(EAST)	
D.S.E.-I	D.S.E.-II	DEN-III	DEN-(G)

Amu

Budh Prakash,  
DSE (Co-ord).

Divisional Office,  
Lucknow.

D.O.No. 737-W/PCDO/83-89.

Dated: 5 - 8 - 1983.

Dear Shri Anand,

Sub:- Monthly PCDO of Engineering Department  
for the month of July, 1983.

\*\*\*\*

As desired, vide your D.O. letter No. 672-W/3/Pt. XVI (Performance), dated 6.7.83, the P.C.D.O. of July, 1983 is sent herewith containing new annexures instead of old ones. For want of time, item-wise progress on the 27 Special Drives for long term improvement could not be included in this month. The same will be included on and from August, 1983.

1. ACHIEVEMENTS:

i) Progress of Track Renewal Works:

- a) Progress during the month - 02.64 KMs.
- b) Reasons for less progress - Mainly due to heavy rains. Work will be taken in hand in full swing after monsoon season w.e.f. Oct/1983.

ii) Training out of Ballast:

- a) Proportionate target upto the month - 50,000 Cum.
- b) Progress during the month. - 2,216 Cum.
- c) Cumulative progress upto the month - 21,320 Cum.

iii) Training and Development:

- a) Staff trained during the month.  $\frac{\text{(Sr. G/Men.)}}{35} + \frac{\text{(G.K.)}}{13} = 48$
- b) Staff trained during the year upto current month.

184 Nos.

iv) Computerisation:

The work is progressing satisfactorily except that Electrical work is not keeping pace with our work.

2. ASSISTANCE REQUIRED FROM HEADQUARTERS OFFICE:

- i) One rake of 52Kg/20 Rail Panels was to be received from F&E Plant/MUT in the month of July, 1983 for 7.27 Km CTR under PNI/JNH. The same may please be got despatched early.
- ii) PRC sleepers for 1.487 KMs TSR under PNI/BSL are awaited from SEN/CSP.
- iii) 3000 PRC sleepers second quality may kindly be given to Lucknow yard track circuited lengths.

With regards,

DA/PCDO on new  
prescribed proforma.  
Shri Y.P. Anand,  
Chief Engineer, N.Rly.,  
Baroda House, New Delhi.

Yours sincerely,

8/8/83  
(Budh Prakash)

Annexure - 7/1-A

## LUCKNOW DIVISION

Progress Report of Track Renewal Works for the month of July, 1988.

Sl. No.	Line of work	P.N.I. Year	Target for 1988-89	Progress achieved upto last month (KM)	Progress during the month (KM)	Progress since month position (KM)	Remarks
1.	7.271 KM CTR (P)	JNH	84.85	7.27	7.27	7.27	Supply of 7.271 KM 88 Kg. Rails & fittings awaited from Hd. Qrs. Office. Work will start from 1/10/88.
2.	9.767 KM CTR (P)	PBH	84.85	7.77	6.77	6.77	Arrangement of material rails, fittings fastening awaited from Hd. Qrs. Office. 8555 Nos. S.T. sleepers recd. Work will start from 1/10/88.
3.	6.433 KM CTR (P)	FD	85.86	6.43	2.43	2.43	Work completed.
4.	1.296 KM TRR (P)	FD	86.07	1.21	-	-	Arrangement of material awaited from Hd. Qrs. Office.
5.	1.87 KM TRR (P)	FD	86.87	-	1.41	-	Material to be arranged by Hd. Qrs. Office. PRC sleepers awaited from Hd. Qrs. Office.
6.	1.1 KM CTR (P)	FD	88.89	6.41	1.41	-	Supply of rails 90R 88 Kg. awaiting from Hd. Qrs. Office. Fittings awaited from Hd. Qrs. Office. Work will start from 1/10/88.
7.	12.047 KM CTR (S)	FD	82.83	6.00	3.15	1.85	KM-wise details will be furnished next month. Rail renewal in progress.
8.	10.783 KM CTR (S)	SHG	86.87	2.88	2.70	0.18	Target completed KM-wise details will be given from next month.
9.	9.287 KM TRR (P)	JNU	84.85	9.29	-	-	Supply of 9.29 KM 82-KG rails, matching fittings arrangement awaited from Hd. Qrs.
10.	17.186 KM TRR (P)	RDL	85.86	17.180	5.50	5.50	Rails have been received. S.R. in progress.
11.	1.945 KM CTR (P)	RDK	87.88	1.945	1.950	1.950	Material to be arranged by Hd. Qrs. Office.
12.	2.980 KM TRR (P)	ON	87.88	2.980	2.980	2.980	Work completed.
13.	5.984 KM CTR (S)	SHG	88.89	5.984	5.984	5.984	Rails 90R(88) & C&T/9 sleepers from ADP, LKO Division.
14.	7.332 KM CTR (S)	CIL	86.87	2.23	2.23	2.23	Supply of Rails & Fittings awaited. Work to expedite supply of rails & fittings.
15.	10.499 KM CTR (S)	CIL	87.88	5.00	5.00	5.00	
16.	8.420 KM TRR (P)	IAI/LKO	85.86	6.42	-	-	
Total: Primary Renewal.				52.29	23.77	6.00	10.93
Secondary Renewal.				15.28	15.28	8.08	4.93
Grand Total:				68.57	39.05	14.08	15.86

## LUCIFER DIVISION.

## NORTHERN RAILWAY.

Joggled Fish Plating/Renewal of D-1 and D-2 welds for the month of July 1988.

ANNEXURE - P-2/C.

Sl. No.	DML	In track at the start of the month.				No. detached No. fish during the month.				No. removed during the month.				No. in track at the end of the month.				Remarks.		
		Fish plated Not fish plated.				Fish plated during the month.				Fish plated during the month.				Fish plated at the end of the month.						
		4 bolts.		4 bolts.		month.		month.		month.		month.		2 bolts.		2 bolts.				
		D-1	D-2	D-1	D-2	D-1	D-2	D-1	D-2	D-1	D-2	D-1	D-2	D-1	D-2	D-1	D-2			
1.	2	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	16.	17.	18.	19.	20.	21.
1.	BCN	189	200	183	136	-	278	-	-	-	-	03	-	186	200	183	136	-	278	52 Kg. joggled fish plate available.
2.	116	89.	82	298	-	293	-	-	-	-	-	03	-	113	89	82	298	-	293	-do-
3.	DMW	44	75	49	71	-	-	-	-	-	-	-	-	44	75	49	71	-	-	-
4.	PBH	30	120	-	-	-	-	-	-	-	-	-	-	30	120	-	-	-	-	-
5.	JNH	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
6.	BOY	48	115	-	-	-	-	-	-	-	-	-	-	48	115	-	-	-	-	-
7.	SKNR	-	-	109	276	-	-	-	-	-	-	-	-	-	-	109	276	-	-	-
8.	LI-I	45	106	14	80	-	-	-	-	-	-	-	-	45	106	14	80	-	-	-
9.	NTH	112	102	58	111	-	-	-	-	-	-	-	-	112	102	58	111	-	-	-
10.	PRG	14	42	-	-	-	-	-	-	-	-	-	-	14	42	-	-	-	-	-
11.	UCR	10	126	-	-	-	-	-	-	-	-	-	-	10	126	-	-	-	-	-
12.	CIL	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
13.	FD	25	30	-	-	-	98	-	-	1	2	-	-	24	48	-	-	-	78	-
14.	JNU	-	-	89	336	-	-	-	-	-	-	-	-	-	-	89	336	-	-	-
15.	SHG	-	-	18	13	-	20	-	-	-	-	-	-	-	-	18	13	-	20	-
16.	RDL	66	157	-	-	-	156	-	-	-	-	-	-	66	157	-	-	-	156	-
17.	BSB	12	-	3	111	-	-	-	-	-	-	-	-	12	-	33	111	-	-	-
18.	ON	-	-	443	388	-	-	-	-	-	-	-	-	-	-	443	388	-	-	-
19.	BBK	20	206	36	120	-	165	8	55	8	55	-	-	20	206	-	-	8	220	90 R
20.	LKO-I	4	20	-	-	-	-	-	-	-	-	-	-	4	20	-	-	-	-	-
21.	LKO-II	18	28	-	-	-	12	-	-	-	-	-	-	18	28	-	-	-	12	-
TOTAL:		743	1406	1114	1940	-	1022	08	55	18	01	08	-	742	1424	1124	1940	08	1067	-

Align

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