

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

(Circuit Bench)
Lucknow

B/1

INDEX-SHEET

CAUSE TITLE Reg. no. 193 OF 1938. (L)

Name of the Parties Chandra Bhan

Versus

Union of India and others

Part A, B & C

S.No.	DESCRIPTION OF DOCUMENTS	PAGE
A1	General Index - - - - -	1
A2	Order sheet - - - - -	1
A3	Judgment dated 24/1/1989	4
A4	Petition alongwith annexures dated 27/x/80	22
B1	Vakalatnama (Ramery)	1
B2	Office memo - - - - -	1
(A+B)		
So (T) <i>[Signature]</i>		
D/C <i>[Signature]</i> 04/07/2012		

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUGANO.

O.A./T.A. No. 193 1988(L)

Chandra Bhan

Applicant(s)

Versus

O. A. L.

Respondent(s)

Or.No.	Date	Orders
	21.11.00	No sitting for admission. Adjourned to 20.12.00
	20/12/00	No sitting. Adjourned to 23.12.00 for admission. <i>hish</i> 21/11 <i>h</i> 20/12
	23/12	No sitting, Adjourned to 27/1/01 for admission. <i>Rem</i> 23/12
	13-1-01	Hon. A. J. S. A. M. In this application a prayer is being made for the execution of Judgements dt. 19.10.05. Given by the IVth Addl. Civil Judge, Lugano allowing the appeal of the plaintiff in suit no. 102 of 1902. The application is the nature of execution proceedings. The learned Counsel wants time to study law in regard to jurisdiction of the Tribunal for entertaining as well also maintainability of such application. This application is allowed. Put up this case for hearing on admission on 23.1.01. <i>h</i> <i>A.M.</i>

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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH AT LUCKNOW.

Registration O.A.No.193 of 1988(L)

Chandra Bhan

....

Applicant

Vs.

Union of India and another

.....

Respondents

Hon. D.S.Misra, AM

Hon. G.S.Sharma, JM

(By Hon. G.S.Sharma, JM)

The only relief claimed by the applicant in this petition under Section 19 of the Administrative Tribunals Act (XIII of 1985) (hereinafter referred to as the Act) is that the respondents be directed to implement and comply with the judgment dated 19.10.1985 passed by the IVth Additional Civil Judge, Lucknow in Civil Suit No.18 of 1985 within the time allowed by this Tribunal with all consequential benefits of seniority, promotion and arrears of pay. The question arising for consideration before us is whether such a petition is contemplated u/s.19 of the Act or is maintainable.

2. The learned counsel for the applicant was heard at length and his contention is that it is yet doubtful whether this Tribunal can initiate action against the contemner under the Contempt of Court Act read with S.17 of the Act for the disobedience of the decree passed by the Civil Court and placing reliance on Baldeo Singh Vs. Chabi Shyam Tripathi (1988 Local Bodies and Educational Cases-411) and Ram Lal Kapoor Vs. Union of India (2 (1988) A.T.L.T. (CAT)-203) it was urged that as conflicting

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views have been expressed on this point by a Bench of this Tribunal and the Lucknow Bench of the High Court of Judicature at Allahabad, this matter should be thrashed out after issuing notice to the respondents.

3. We have very carefully considered the contentions raised before us and have also gone through the two decisions cited above. In our opinion, it is not necessary to decide the question posed on behalf of the applicant before us in this case as the application before us is not an application for action under the Contempt of Court Act but is an application u/s.19 of the Act. Whatever may be the views of the Tribunal and the High Court regarding the contempt proceedings in the event of the disobedience of the orders passed by the Tribunal, High Court or other Civil Courts, the simple question before us is that the present petition is in the nature of an application for execution and it has to be seen whether such an application is maintainable under any provision of the law. The relevant provision is contained in S.27 of the Act, which runs as follows :-

"27. Execution of orders of a Tribunal- Subject to the other provisions of this Act and the rules, the order of a Tribunal finally disposing of an application or an appeal shall be final and shall not be called in question in any court (including a High Court) and such order shall be executed in the same manner in which any final order of the nature referred to in clause (a) of sub-section

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(2) of Section 20 (whether or not such final order had actually been made) in respect of the grievance to which the application relates would have been executed."

4. Section 27 provides that the orders passed by the Tribunal are not to be executed by it and they are to be executed in the same manner in which any final order passed by the concerned competent authority would have been executed. Thus, there is no doubt about the fact that the Tribunal is not required under any provision of law to execute even its own orders and we are of the view that on this ground alone, the Tribunal cannot be asked to execute the orders or decrees passed by the Civil Courts. This Bench while sitting at Allaha-bad has repeatedly taken the view that execution applications contemplated by O.XXI of the Code of Civil Procedure could neither be transferred by the Civil Courts to the Tribunal u/s.29 of the Act nor can such applications be filed afresh before the Tribunal. A careful study of the provisions of Ss.14 and 28 of the Act will go to show that there is no bar ^{to} the jurisdiction of the Civil Courts to execute their decrees passed in service matters before the establishment of the Tribunal and the remedy of the applicant, if at all, lies before the Court passing the decree sought to be implemented and not before this Tribunal. Assuming for the sake of argument, this petition is entertained and a

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final order is passed by the Tribunal directing the respondents to implement the decree of the Civil Court and if the respondents still fail to comply with the same, the Tribunal has no machinery of its own for executing its order and the ultimate remedy will lie only under the Contempt of Court Act. It is needless to consider the scope of the powers of this Tribunal under that Act for the disposal of this petition. We are clearly of the view that such a petition is not contemplated by S.19 of the Act and is not maintainable.

5. The petition is accordingly dismissed in limine.



MEMBER (J)



MEMBER (A)

Dated: 24.1.1989
kkb.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD,
CIRCUIT BENCH, LUCKNOW.

Chandra Bhan

...

Applicant.

Versus

Union of India & another ..

Respondents:

FORM - I
(See rule 4)

APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNALS ACT, 1985.

For use in Tribunal's Office:

Date of filing -----

or

Date of receipt -----
by post.

Registration No. -----

(14)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD,
CIRCUIT BENCH, LUCKNOW.

Chandra Bhan

...

Applicant.

Versus

Union of India & another

...

Respondents.

INDEX:-

Sl. No.	Particulars	Page nos.
1.	Application	1- 10
2.	<u>Annexure No. A-1.</u> Photo stat copy of judgment dated 19.10.1985 passed by IVth. Additional Civil Judge, Lucknow in Regular Civil Appeal No. 18 of 1985 (Chandra Bhan Versus Union of India).	11- 17
3.	<u>Annexure No. A-2.</u> Representation dated 24.12.1987 (photo stat copy).	18- 19
4.	<u>Annexure No. A-3.</u> Postal Receipt (Photo stat Copy).	20
5.	<u>Annexure No. A-4.</u> Photo stat copy of reminder dated 24.5.1988.	21
6.	Vakalatnama	22

Chandra Bhan

Signature of the Applicant:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD,
CIRCUIT BENCH, LUCKNOW.

O. A. No. 193 of 1988.

Filed on 27.X.88

To be listed 24.11.88
on 27/11/88
DRG

Chandra Bhan

...

Applicant.

Versus

Union of India & another ..

Respondents.

APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNALS ACT, 1985.

DETAILS OF APPLICATION:

1. PARTICULARS OF THE APPLICANT:

- (i). Name of the applicant : Chandra Bhan.
- (ii). Name of father : Sri Setu.
- (iii). Name & official address in which employed: and designation. Fireman grade 'C' under Loco Foreman, Northern Railway, Alambagh, Lucknow.
- (iv). Office address : as given above.
- (v). Address for service of : r/o L.D. 7F, Running - all notices. Shed Colony, Alambagh, LUCKNOW.

...2.

Chandra Bhan

Filed today
Noted for
24/11/88
H.S.L.
27/11/88

(By)
32. PARTICULARS OF RESPONDENTS:

- | | | |
|--------|-------------------------|--|
| (i). | Name/or designation :) | 1. Union of India,
through the General -
Manager, Northern -
Railway, Baroda -
House, <u>NEW DELHI</u> . |
| | of respondents.) | |
| (ii). | Office address of :) | |
| | respondents.) | 2. The Divisional -
Railway Manager,
Northern Railway,
Hazratganj,
<u>LUCKNOW</u> . |
| (iii). | Address for service :) | |
| | of all notices.) | |

3. BE PARTICULARS OF ORDERS AGAINST WHICH APPLICATION IS MADE.

Since the applicant's representation dated 24.12.1987 has not been decided and the judgment dated 19.10.1985 passed by the IV th. Additional Civil Judge has not been implemented, there is no impugned order.

4. SUBJECT IN BRIEF:

For implementation of judgment and decree dated 19.10.1985 passed by the IV th. Additional Civil Judge, Lucknow in Regular Civil Appeal No. 18 of 1985 (Chandra Bhan Versus Union - of India) decreeing the suit of the applicant.

5. JURISDICTION OF THE TRIBUNAL:

Chandra Bhan
The applicant declares that the subject matter against which he wants redressal is within the

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jurisdiction of this Hon'ble Tribunal.

5. LIMITATION:

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

6. FACTS OF THE CASE:

(i) That in the year 1982, the applicant had filed a Regular Suit (Suit No. 102 of 1982 Chandra Bhan Versus Union of India) in the Court of Munsif - Haveli, Lucknow for the reliefs re-produced below :-

- " (a). A decree declaring the imposition of para 410 of the Northern Railway Medical Manual on the plaintiff in terms of Letter No. 99 Med./O/M dt. 4.3.1971 issued by DMO/LKO as illegal, unconstitutional, void and in-operative in law and that the plaintiff is entitled to full benefits of promotion, seniority, pay and allowances etc which would have accrued to him had he not been declared a case of schizomphina under para 410 of the Northern Railway Medical Manual be passed in favour of

Chandra Bhan

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the plaintiff and against the defendant.

(b). Cost of the suit be awarded to the plaintiff and against the defendant.

(c). Any other relief which this Hon'ble court may deem fit and proper in the circumstances of the case be awarded to the plaintiff and against the defendant."W

(ii). That under the orders of the District Judge, Lucknow, the aforesaid suit was transferred in the Court of VIII th. Additional Munsif, Lucknow, who by his judgment and decree dated 17.12.1984, dismissed the suit.

(iii). That aggrieved by the judgment and decree mentioned above, the applicant, in the year 1985, filed Regular Civil Appeal (R.C.A. No. 18 of 1985- Chandra Bhan Versus Union of India) in the Court of District Judge, Lucknow and the same, under the orders of the District Judge, Lucknow, was transferred in the Court of IV th. Additional Civil Judge, Lucknow for decision.

(iv). That the aforesaid appeal was contested by the respondent no. 1 and after hearing the parties, the learned IV th. Additional Civil Judge, Lucknow, by his judgment and decree dated 19.10.1985, allowed the appeal and quashed the orders dated 17.12.1984 passed by the learned Munsif. Accordingly the plaintiff

Chandra Bhan

was also made entitled to all consequential benefits of promotions, seniority and arrears of pay. A true photo stat copy of judgment dated 19.10.1985 of the learned IV th. Additional Civil Judge, Lucknow is being filed herewith as ANNEXURE NO. A-1 to this application.

Annexure A-1.

v). That after awaiting a long when no orders were passed by the respondents implementing the judgment dated 19.10.1985 (Annexure No. A-1), the applicant contacted the office of the respondent no. 2 and other concerning authorities several times, but all the times, he was told that a second appeal had already been filed by the Railway Administration in the higher court and the applicant placed reliance thereon.

when
vi). That/no notice for second appeal alleged to have been filed was received from any court for a considerable period, the applicant, by means of a representation dated 24.12.1987 sent under registered on 25.12.87 post, requested the respondent no. 1 to pass orders for implementation of judgment dated 19.10.1985, but no action was taken thereon. A true photo stat copy of the said representation dated 24.12.1987 and postal receipt are being filed herewith as ANNEXURE NO. A-2 and A-3 respectively to this application.

Annexure nos.
A-2 and A-3.

vii). That thereafter, the applicant also gave a reminder dated 24.5.1988 to the respondent no.2

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alongwith a photo stat copy of the judgment dated 19.10.1985 for implementation. A true photo stat copy of the said reminder received in the office of the respondent no. 2 on 25.5.1988 is being filed herewith as ANNEXURE NO. A-5 to this application.

Annexure A-5.

(viii). That till today, the respondents have neither implemented the judgment dated 19.10.85 (Annexure no. A-1) nor decided the applicant's representation dated 14.12.1987 followed by reminder. They have been maintaining complete silence over the matter and are continued in disobeying and disregarding the court's orders without any ground or justification.

(ix). That no notices/^{for second appeal}alleged to have been filed by the respondents have yet been served on the applicant nor any such appeal is pending in any court as per information of the applicant. The delay on the part of the respondents is deliberate and motivated.

(x). That the applicant has still been utilised as Fireman on open lines and no promotions, seniority and arrears of pay as ordered by the Hon'ble Court have yet been given to him by the respondents.

(xi). That the applicant had already suffered substantial loss and further losses are continued due to non implementation of the courts orders.

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(xii). That the acts of the respondents in not implementing the Court's Judgment/Orders contained in Annexure no. A-1 are wholly illegal rather arbitrary and contemptuous.

7. RELIEF SOUGHT:

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

- (a). That this Hon'ble Tribunal be pleased to direct the respondents to implement and comply with the judgment dated 19.10.1985 (Annexure No. A-1) faithfully within a reasonable time of one month from the date of such order as sought for with all consequential benefits of seniority, promotions, and payment of arrears of pay as ordered by the Hon'ble Court.
- (b). Cost of this application may also kindly be awarded to the applicant.

G r o u n d s:

- (1). That the acts of the respondents in not implementing the judgment (Annexure

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No. A-1) are wholly illegal, without authority and arbitrary in law.

- (ii). That the acts of the respondents are also contemptuous of the Court's orders contained in Annexure No. A-1.

8. INTERIM ORDER, IF PRAYED:

In the facts and circumstances of the case, no interim order is prayed for.

9. DETAILS OF THE REMEDY EXHAUSTED:

The applicant declares that he has availed of all remedies available to him under the relevant service rules.

10. OTHER
MATTER NOT PENDING IN ANY COURT e.t.c.

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

11. PARTICULARS OF THE POSTAL ORDERS
IN RESPECT OF THE APPLICATION FEE.

- (1) Indian No. of/Postal Order (s) DD 822092
- (2) Name of issuing post - G.P.O. Lko
Office.

check BL

(9)

By
10

(3). Date of issue of Postal ** 24/10/88
Order.

(4) Post office at which _____
payable.

12. DETAILS OF INDEX:

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

13. LIST OF ENCLOSURES:

- (1). Photo stat copy of judgment dated
19.10.1985 passed by IV th. Additional
Civil Judge, Lucknow in Regular Civil
Appeal No. 18 of 1985 (Chandra Bhan
Versus Union of India).
- (2) Photo stat copy of representation dated
24.12.1987.
- (3) Photo stat copy of Postal Receipt.
- (4) Photo stat copy of reminder dated
24.5.1988 with acknowledgment of
respondent no. 2.

Verification :

I, Chandra Bhan, aged about 49 years ,

...10.

Chandra Bhan

(10)

11

son of Sri Shetoo, resident of LD, 7F,
Running Shed Colony, Alambagh, Lucknow,
do hereby verify that the contents of
para 1 to 13 of this application are
true to my knowledge and belief and that
I have not suppressed any material fact.

Chander Shekhar

Place: Lucknow.
Dated: -10-1988.

Signature of the applicant:

To,

The Registrar,
Central Administrative Tribunal,
Allahabad, Circuit Bench, Lucknow.

Copy of Judgement ^{ANNEXURE NO A-1}
dated 19.10.85 — passed by Sri
C.B. Pandey, J. Secy, Uo in R.A. No. 18/85
Chandra Bhan vs Union of India
— eo —

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Urgent
No. 1
19/10/05

Folio Cancelled
Copy enclosed

24/10/05

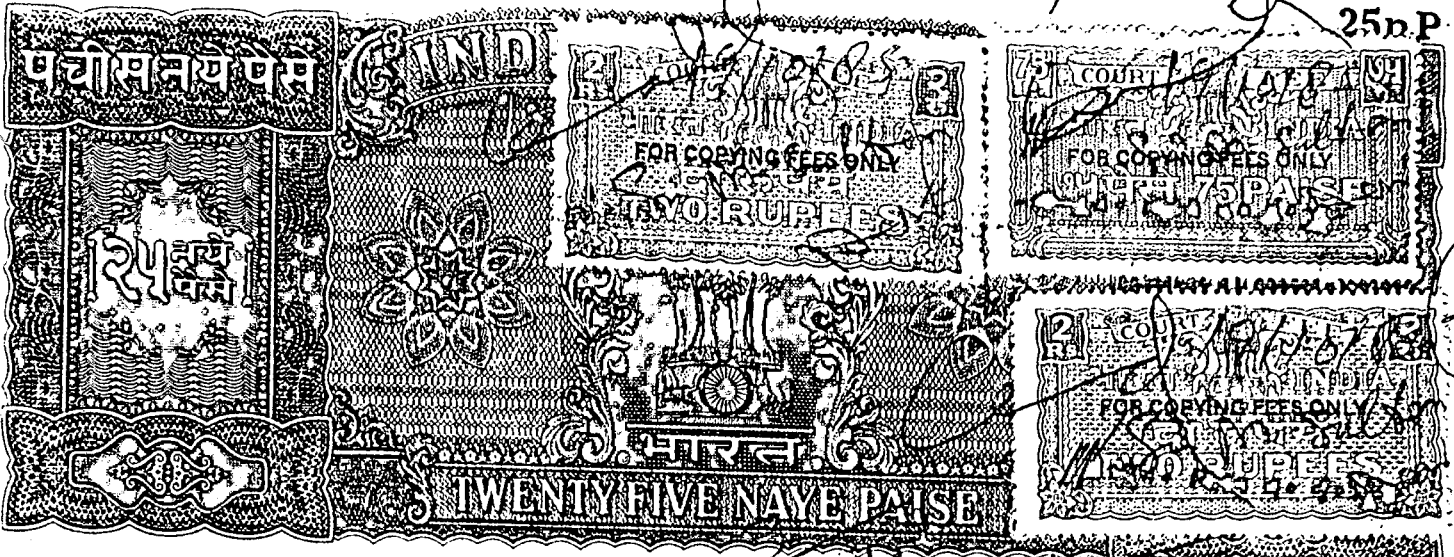


Chandra Bhan

Attested/True Copy

(Signature)

L. P. SHUKLA
Advocate



Date of application for the copy.	Date fixed for notifying the requisite number of stamps and folios.	Date of delivery of the requisite stamps and folios.	Date on which the copy was ready for delivery.	Date of making over the copy to the applicant.
17.10.85	24.10.85	24.10.85 Rs. 4-85 P.	24.10.85	24.10.85

12

Chandhi Bha

Attested/True Copy

(Signature)

L. P. SHUKLA
Advocate

P.50

~~न्यायालय निवृत्त प्राध्यापक, जयपुर~~ attached.

KLA
State

L. P. SHUKLA
Advocate

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13-12-71 से 16-4-75 तक उसे ओपेन लाइन का काम करने के लिए, द्वितीय कायर मेन के पद पर नियुक्त करके काम लिया गया लेकिन सन् 75 के बाद उसे पुनः आदेश दिया गया कि वह ओपेन लाइन में काम न करे क्योंकि उसके विस्तृत क्षमता 410 का बन्धन है।

इसके विस्तृत अपीलार्थी ने अपना अभ्यावेदन डिबोजनल सुपरिस्टेण्ड उत्तरी रेलवे, लखनऊ के समक्ष प्रस्तुत किया और क्षमता-410 के प्रतिबन्धों को देखते हुए चुनौती देते हुए कहा कि उसका सेन्ट्रल कोन्सिल मेडिकल बोर्ड के द्वारा चिकित्सकीय परीक्षा कराया जाय और उसने डिबोजनल सुपरिस्टेण्ड से व्यक्तिगत रूप से सुनवाई के लिए भी अभ्यावेदन दिया।

इस व्यक्तिगत रूप से सुनवाई के समय डिबोजनल सुपरिस्टेण्ड, उत्तरी रेलवे, लखनऊ ने उसको सुनवाई की स्थिति उन्होंने उसे सुनाइ दिया कि वह

अपने मेडिकल कालेज से अपने स्नातक के संबंध में चिकित्सकीय प्रमाण

पत्र प्राप्त करके प्रस्तुत करें, फलस्वरूप बादो मेडिकल कालेज के साइकेट्रिक

विभाग से अपना परीक्षा कराया और परीक्षा में डाक्टर ने उसे फिटकूल

उत्तीर्ण कराया और कहा कि उसे लीजो फर्निया की बीमारी नहीं है। वह

अपना प्रमाण पत्र डिबोजनल सुपरिस्टेण्ड, उत्तरी रेलवे, लखनऊ के यहाँ प्रस्तुत

किया तो डिबोजनल सुपरिस्टेण्ड, उत्तरी रेलवे, लखनऊ ने उसे चीफ मेडिकल

ऑफिसर, नई दिल्ली के यहाँ परीक्षा के लिए भेज दिया। अपीलार्थी

यहाँ उपस्थित हुआ तो चीफ मेडिकल ऑफिसर ने उसका परीक्षण किया

लेकिन उन्होंने कोई परीक्षण रिपोर्ट नहीं भेजी। इस प्रकार बादो के

विस्तृत लागू हुआ क्षमता 410 का प्रतिबन्ध समाप्त नहीं हुआ, फलस्वरूप

उसने बाद प्रस्तुत करके यह घोषणा चाही कि उसके विस्तृत लगाये गये

प्रतिबन्ध अबेध, अवैधानिक और शून्य घोषित कर दिया जाय। प्रश्नों-प्रत्युत्तर

ने अपने लिखित ज्ञान में को प्रस्तुत करके कहा है कि अपीलार्थी ने लुद

ही अनुपस्थिति के कारण एक प्रमाण पत्र प्रस्तुत किया, जिसमें भी

लीजो फर्निया दर्शाया गया था जो कि एक मानसिक बीमारी है। चूंकि

वह प्रमाण पत्र एक प्राइवेट डाक्टर का था इसलिए उसे चीफ मेडिकल

ऑफिसर के पास टेस्ट के लिए भेजा गया। डिबोजनल मेडिकल सुपरिस्टेण्ड

ने भी उसे लीजो फर्निया से ग्रस्त मर्ज बताया, फलस्वरूप क्षमता-410 के

अन्तर्गत उसे प्रतिबन्ध लगा दिया गया। बादो के द्वारा यह भी कहा

गया कि उसे चीफ मेडिकल ऑफिसर, नई दिल्ली के समक्ष परीक्षा के लिए

भेजा गया तो यहाँ भी उसे लीजो फर्निया की बीमारी पायी गयी।

इसके लिए उसे 410 के अन्तर्गत लगाये गये प्रतिबन्ध को समाप्त नहीं

किया जा सकता।

Attested/True Copy

L. P. SHUKLA

Advocate

Attested/True Copy

L. P. SHUKLA
Advocate

इण्डियन रेलवे मैजिस्ट्रल मैनुअल के पैरा 587 से 593 तक मानसिक

2/ ~~क्या जाता है तो वह सावधानी~~
पूर्ण किया जायेगा और सभी सुसंगत बिन्दुओं को स्पष्ट रूप से अनेकवार-
31.8.18 में दिए गये प्रोफार्मे पर अंकित किया जायेगा।

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रोग से बीमार कर्मचारियों के परीक्षण के संबंध में प्रमाण-पत्र देने का
प्राविधान है। दोनों पक्षों के बिहान अधिकृतियों के स्वीकार किया
कि वाद पत्र या लिखित कथनों में जो पैरा-410 नार्दन रेलवे में डिकल
मेनुबल का उल्लेख आया है, वह इण्डियन रेलवे में डिकल मेनुबल के पैरा-
593 है तथा पैरा-587 से 592 ही चिकित्सकीय प्रमाण पत्र जारी करने
के लिए नार्दन रेलवे कर्मचारियों के लिए भी लागू होते हैं। पैरा-589(2)
में अगर कोई बयान ~~कर्मचारी~~ बीमारी का चिकित्सकीय प्रमाण पत्र
प्रस्तुत करे तो यह सम्बन्धित विभाग के अग्रतिभर है कि वह उसे
माने या ~~रेलवे~~ चिकित्सकीय विभाग की राय ले। पैरा-590(1) के अधीन
यह प्राविधान है कि यदि सम्बन्धित विभाग नहीं जानता है तो ऐसे
मामलों में मेडिकल बोर्ड का गठन कराये। यदि यह संभव नहीं है तो
डिवाजनल मेडिकल अधिकारी के समक्ष प्रस्तुत करें। इण्डियन रेलवे में डिकल
मेनुबल के पैरा-587 के अन्तर्गत यह प्राविधान है कि मानसिक बीमारी
का परीक्षण यदि रेलवे अक्टर द्वारा किया जाता है तो वह सावधानी
पूर्ण किया जायेगा और सभी सुसंगत बिन्दुओं को स्पष्ट रूप से अनेकवार-
31.8.18 में दिए गये प्रोफार्मे पर अंकित किया जायेगा।
8- अपीलार्थी के मामले में उनके विभाग ने प्रादेशिक चिकित्सकीय रिपोर्ट
को न मानकर रेलवे अक्टर से उसका परीक्षण कराया, तब देखा है कि
रेलवे अक्टर द्वारा किया गया परीक्षण कहां तक नियमानुसार है। प्रतिवादी-
प्रत्यर्थी की ओर से सी-30 का गज दाखिल किया गया है। यह कागज
डिवाजनल मेडिकल अधिकारी द्वारा डिवाजनल सुपरिटेण्डेंट को लिखा गया
पत्र है, जिसमें यह उल्लिखित है कि अपीलार्थी चन्द्रभान का उन्होंने परीक्षण
किया और पाया कि वह सौजोशितया का मरीज है, अतः वरुण यह नार्दन
रेलवे में डिकल मेनुबल के पैरा-410 के अन्तर्गत डिकल करने के लिए रिष्ट हैं।
इस पत्र से यह बिंदित नहीं होता कि अपीलार्थी का परीक्षण इण्डियन
रेलवे में डिकल मेनुबल के अनेकवार 33 के प्रोफार्मे के अनुसार किया गया है।
इस पत्र के अलावा चिकित्सकीय परीक्षण के संबंध में वह कोई दस्तावेज
प्रतिवादी-प्रत्यर्थी की ओर से दाखिल नहीं किया गया है। इस प्रकार
पैरा-587 इण्डियन रेलवे में डिकल मेनुबल का प्रालन होना प्रतीत नहीं
होता। इसके अतिरिक्त प्रत्यर्थी-प्रतिवादी की ओर से लिखित कथन के
पैरा-28, 29, 30 में यह स्वीकार किया गया है कि अपीलार्थी के द्वारा

Attested/True Copy

L. P. SHUKLA
Advocate

51

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परीक्षण कराने के लिए भेजा गया। लिखित कथन में यह कहा गया है कि चौक मेडिकल आफीसर ने पाया कि अपीलार्थी को लीजोफर्निया की बीमारी है। चौक मेडिकल आफीसर के द्वारा किये गये परीक्षण की रिपोर्ट प्रतिवादी-प्रत्यर्था की ओर से दाखिल नहीं की गयी है। यह रिपोर्ट अत्यन्त ही महत्वपूर्ण रिपोर्ट थी और इससे चौक मेडिकल आफीसर के द्वारा किये गये परीक्षण की सही जानकारी हो सकती थी लेकिन ऐसे महत्वपूर्ण दस्तावेज की प्रतिवादी द्वारा न प्रस्तुत करने से उपधारणा उसके विरुद्ध ही जाती है। विशेषतः तब जबकि अपीलार्थी ने मेडिकल कालेज की एक चिकित्सकीय रिपोर्ट प्रस्तुत की, जिसमें उसे लीजोफर्निया का मरीज नहीं पाया गया, फलस्वरूप में बिद्वान मुन्तसक की इस राय से कि अपीलार्थी का चिकित्सकीय परीक्षण अजीजनल मेडिकल आफीसर के द्वारा कराया गया है और उनके द्वारा लीजोफर्निया की बीमारी पायी गयी इसलिए उसकी झूट्टी पर पैरा-410 इण्डियन नार्दन रेलवे मेडिकल मैनुअल का प्रतिबन्ध लगाना ठीक है, में सहमत नहीं हूँ तथा इस विचार का हूँ कि इण्डियन रेलवे मेडिकल मैनुअल के अनुसार अपीलार्थी का चिकित्सकीय परीक्षण नियमानुसार न कराने के कारण उस पर लगाया गया नार्दन रेलवे मेडिकल मैनुअल के पैरा-410 का प्रतिबन्ध निरस्त होने योग्य है।

9- उपरोक्त के आधार पर मैं इस निष्कर्ष पर पहुँचता हूँ कि पैरा-410 उत्तरी रेलवे मेडिकल मैनुअल जो इण्डियन रेलवे मैनुअल के पैरा-593 के साथ कि उभय पक्षों के बिद्वान अधिकारताओं ने स्वीकार किया है का प्रतिबन्ध नियमानुसार नहीं लगाया गया, फलस्वरूप वह अवैध एवं शुन्य घोषित करने योग्य है।

आदेश

अपीलार्थी वन्दर भूत को अपील सव्यय स्वीकार की जाती है और बिद्वान मुन्तसक के निर्णय एवं आदेश दिनांक 17-12-84 को निरस्त किया जाता है। विपक्षी द्वारा पैरा-410 नार्दन रेलवे मेडिकल मैनुअल जो अब पैरा-593 इण्डियन नार्दन रेलवे मेडिकल मैनुअल का है, के अन्तर्गत लगाये गये प्रतिबन्ध को अवैधानिक एवं शुन्य करार दिया जाता है। तदनुसार अपीलार्थी को लेखा में प्रोन्नति, बरिष्ठता एवं वेतन का अधिकार होगा।

दिनांक: 19-10-85.

निर्णय आज बुले न्यायालय में दिनांकित, हस्ताक्षरित एवं उद्घोषित।

दिनांक: 19-10-85.

19-10-85
सी०जी०पी०
चतुर्थी अति० सिविल जज,
लखनऊ

TRUE COPY
Attested/True Copy
P. SHUKLA
Advocate

ANNEXURE NO A-2

Registered:
24.12.1987.

By
(10)

18

The General Manager,
Northern Railway,
Baroda House,
New Delhi:

Reg: Regular Civil Appeal No. 18 of 1985
(Chandra Bhan Versus Union of India)
decided by the IV th. Additional Civil
Judge, Lucknow on 19.10.1985..

Representation for implementation
of Court's judgment/Orders mentioned
above.

Sir,

I have to bring your kind notice that the above-mentioned appeal has been decided in my favour and your counsel has also received the copy of judgment from the court.

In terms of the judgment mentioned above, I am entitled to all promotions, seniority and arrears of pay etc etc over and above my juniors already promoted, which have still have not been given to me.

I, several times, contacted the Office of the Divisional Railway Manager, Northern Railway, Lucknow and other concerning authorities and also delivered a photo stat copy of the judgment for implementation. All the times, I have been told by that office that some appeal had been filed in the higher court against the said judgment. Even till today, I have not received any notice of the higher court regarding the said appeal which is said to have been filed.

I have also made enquiry and have come to know that no such appeal is pending in any court. Thus the court's orders are being flouted and I am made to suffer.

Sir, I am a very poor man and do not think it better to start further litigations. I have already suffered because of the wrong orders of the DMO/Lko declaring me unfit for the post.

Sir, like before, I am still being taken duty on

Attested/True Copy

...2.

Chandra Bhan

(Signature)

L. P. SHUKLA
Advocate

(2)

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open lines as Fireman, which is self explanatory that the order of DMO/LKO was wrong.

Sir, many persons junior to me, because of the said wrong order, have superceeded and they have even been promoted as Driver. Thus they are getting more pay, but I am still a fireman despite the court's verdicts.

You are, therefore, requested to kindly look into the matter and necessary orders for implementing the Court's judgment may kindly be issued directing the Divisional Railway Manager, Lucknow to promote me above my juniors with retrospective effect giving me seniority over them and also the arrears of pay as per orders of the court.

Thanking your.

Yours Sincerly,

Chandra Bhan
(Chandra Bhan),
Fireman 'C' under LF/LKO.

Dated 24.12.1987.

Chandra Bhan

Attested/True Copy

L. P. Shukla

L. P. SHUKLA
Advocate

ANNEXURE NO A-3

20

नोटा नहीं NOT INSURED

570

क्र. 4936



Hy 21

समाये गये डाक टिकटों का मूल्य रु० P.
Amount of stamps annexed Rs. P.

एक रजिस्ट्री..... फरवरी 1970 प्राप्त किया

Received & Registered

पानेवाले का नाम

Addressed to

पानेवाले अधिकारी के हस्ताक्षर
Signature of Receiving Officer

Charan Bhan

Attested/True Copy

L. P. Shukla

L. P. SHUKLA
Advocate

25/5/88

The Divisional Railway Manager,
Northern Railway, Hazratganj,
Lucknow.

H4
22

Through : The Proper Channel.

Subject : Implementation of Judgment & decree
dated 19.10.1985 passed by IV Addl.
Civil Judge, Lucknow in Regular Civil
Appeal No. 18 of 1985. Chandra Bhan
Versus Union of India.

ooo

Sir,

I regret to write that a considerable period
of more/2 years and 7 months has passed but no action
has yet been taken at your end to implement the jud-
gment and decree of the Hon'ble Court with the result
I have been still suffering.

In the circumstances mentioned above, I will have
no option but to start execution proceedings besides
contempt proceedings as the orders of the Hon'ble
Court are still being disobeyed and flouted.

It is, therefore, requested that your goodself
may kindly look into the matter and make arrangements
to get the orders of the court implemented without
delay so, to avoid un-necessary litigations.

A photo stat copy of the judgment is again being
sent herewith for your perusal and necessary action.

Thanking You.

Enc/Photo stat copy
of judgment.

Yours faithfully,

Dated 24-5-1988.

Chandra Bhan
(Chandra Bhan), F/Mem. c.
under IF/IKO.

Chandra Bhan

Attested/True Copy

(Signature)

L. P. SHUKLA
Advocate

In the Central Administrative Tribunal
Allahabad Circuit Bench Lucknow

22

पदावली की जाति

1 मही 1 पदीय

पतिपाती (रिप्लाय)

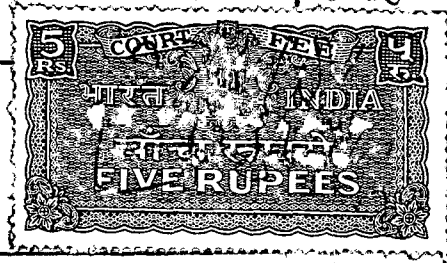
जी

C.A. No.

41988

वकालतनामा

61



सोपाष्ट)

Chandra Bhan

Union of India

पदावली

पतिपाती (रिप्लाय)

पं० मुफद्दा

सम्

वेणी की ल०

१० ६०

उपर लिखे मुफद्दा में पक्षी जोर से थी

Dr. L.P. Shukla, Advocate

पतील

महीदय

6700 Mahanagar Lucknow

एपकोकेट

नाम अदावत	पनाम
मुफद्दा नं०	
नाम करेलेम	

जो पक्षी पतील निधुपत करे। प्रसिद्धा (इपरा) करता हूं और लिखे
देता हूं इस मुफद्दा में पतील महीदय स्वयं अक्षय पक्ष पतील
हारा जो कुछ पैरवी प पदावली वेही प प्रश्नोंतर करें या कोई पक्ष पतील
करे या लीटावे या हमारी ओर से टिपरी पारी करावे और पक्ष पतील
करे या मुलहनामा प पदावली बाया सपा अपील निगरानी हमारी ओर
से हमारी या अपने हस्ताक्षर से पतिपाती करें और सलवीत करें मुफद्दा
उठावे या कोई पक्ष पतील करें या हमारी पतिपाती (करीफसाती) का
पतिपाती पिया हुआ पक्ष अक्षय या हमारे हस्ताक्षर युक्त (पक्षपती)
रसीद से लेवे या पं० निधुपत करें—पतील महीदय द्वारा की गई पक्ष
सप पक्षवाही हमको सपपा स्वीकार है और होना है यह पती स्वीकार
करता हूं कि मैं हर वेणी पर स्वयं पतिपाती अक्षय वेरोपार को मेजता
एहंता अगर मुफद्दा अक्षय पैरवी में एक तरफ मेरे पतिपाती फंसला हो
जाता है उसकी पतिपाती मेरे पतील पर नहीं होनी इसलिए यह
पदावलीपाया लिख विद्या प्रमाण रहे और सपक्ष पर पाज आये।

हस्ताक्षर Chandra Bhan

साजी (पदावली)

साजी (पदावली)

पिनीप

पहीपा

सम्. १०

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स्वीपत

Chandra Bhan

Registered

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Br

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

No. CAT/CB/LKO/625

Dated : 25/1/09

OFFICE - MEMO

Registration No. O.A. ~~198~~ 193 of 1938(L)
T.A.

Chandra Bhan Applicant's

Versus

Union of India Respondent's

A copy of the Tribunal's Order/Judgement
dated 24/1/08 in the abovenoted case is forwarded
for necessary action.

h

For DEPUTY REGISTRAR (H)

Encl : Copy of Order/Judgement dated 24/1/08 Tribunal

To.

Chandra Bhan - Applicant

Received on copy.

Chandra Bhan

dated 25th January 1909

dinesh/

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH AT LUCKNOW.

Registration O.A.No.193 of 1988(L)

Chandra Bhan

....

Applicant

Vs.

0

Union of India and another

Respondents

Hon. D.S.Misra, AM

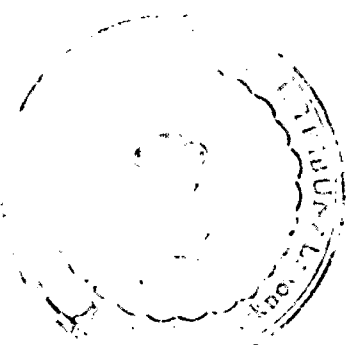
Hon. G.S.Sharma, JM

(By Hon. G.S.Sharma, JM)

The only relief claimed by the applicant in this petition under Section 19 of the Administrative Tribunals Act (XIII of 1985) (hereinafter referred to as the Act) is that the respondents be directed to implement and comply with the judgment dated 19.10.1985 passed by the IVth Additional Civil Judge, Lucknow in Civil Suit No.18 of 1985 within the time allowed by this Tribunal with all consequential benefits of seniority, promotion and arrears of pay. The question arising for consideration before us is whether such a petition is contemplated u/s.19 of the Act or is maintainable.

2. The learned counsel for the applicant was heard at length and his contention is that it is yet doubtful whether this Tribunal can initiate action against the contemner under the Contempt of Court Act read with S.17 of the Act for the disobedience of the decree passed by the Civil Court and placing reliance on Baldeo Singh Vs. Chabi Shyam Tripathi (1988 Local Bodies and Educational Cases-411) and Ram Lal Kapoor Vs. Union of India (2 (1988) A.T.L.T. (CAT)-203) it was urged that as conflicting

0 views have been expressed on this point by a Bench of this Tribunal and the Lucknow Bench of the High Court of Judicature at Allahabad, this matter should be thrashed out after issuing notice to the respondents.



3. We have very carefully considered the contentions raised before us and have also gone through the two decisions cited above. In our opinion, it is not necessary to decide the question posed on behalf of the applicant before us in this case as the application before us is not an application for action under the Contempt of Court Act but is an application u/s.19 of the Act. Whatever may be the views of the Tribunal and the High Court regarding the contempt proceedings in the event of the disobedience of the orders passed by the Tribunal, High Court or other Civil Courts, the simple question before us is that the present petition is in the nature of an application for execution and it has to be seen whether such an application is maintainable under any provision of the law. The relevant provision is contained in S.27 of the Act, which runs as follows :-

"27. Execution of orders of a Tribunal- Subject to the other provisions of this Act and the rules, the order of a Tribunal finally disposing of an application or an appeal shall be final and shall not be called in question in any court (including a High Court) and such order shall be executed in the same manner in which any final order of the nature referred to in clause (a) of sub-section

(2) of Section 20 (whether or not such final order had actually been made) in respect of the grievance to which the application relates would have been executed."

4. Section 27 provides that the orders passed by the Tribunal are not to be executed by it and they are to be executed in the same manner in which any final order passed by the concerned competent authority would have been executed. Thus, there is no doubt about the fact that the Tribunal is not required under any provision of law to execute even its own orders and we are of the view that on this ground alone, the Tribunal cannot be asked to execute the orders or decrees passed by the Civil Courts. This Bench while sitting at Allaha-bad has repeatedly taken the view that execution applications contemplated by O.XXI of the Code of Civil Procedure could neither be transferred by the Civil Courts to the Tribunal u/s.29 of the Act nor can such applications be filed afresh before the Tribunal. A careful study of the provisions of Ss.14 and 28 of the Act will go to show that there is no bar to the jurisdiction of the Civil Courts to execute their decrees passed in service matters before the establishment of the Tribunal and the remedy of the applicant, if at all, lies before the Court passing the decree sought to be implemented and not before this Tribunal. Assuming for the sake of argument, this petition is entertained and a

final order is passed by the Tribunal directing the respondents to implement the decree of the Civil Court and if the respondents still fail to comply with the same, the Tribunal has no machinery of its own for executing its order and the ultimate remedy will lie only under the Contempt of Court Act. It is needless to consider the scope of the powers of this Tribunal under that Act for the disposal of this petition. We are clearly of the view that such a petition is not contemplated by S.19 of the Act and is not maintainable.

5. The petition is accordingly dismissed in limine.

Deputy Registrar
Central Administrative Tribunal
Lucknow Bench
Lucknow

MEMBER (J)

MEMBER (A)

Dated: 24.1.1989
kkb.

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CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH,

24/11/88
23-A, Thornhill Road, Allahabad-211001

Promotion &
Seniority

Registration No.

193 of 1988 (L)

APPLICANT (s)

Chandra Bhan

RESPONDENT(s)

U.O. & another (N. Rly.

Lucknow)

Particulars to be examined

Endorsement as to result of Examination

1. Is the appeal competent ?
2. (a) Is the application in the prescribed form ?
(b) Is the application in paper book form ?
(c) Have six complete sets of the application been filed ?
3. (a) Is the appeal in time ?
(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 ?

5. Is the application accompanied by B. D. /Postal-Order for Rs. 50/-

6. Has the certified copy/copies of the order (s) against which the application is made been filed ?

7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?

- (b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?

yes

yes

yes

Two sets only.

yes

-

-

yes

yes - 9 P.O. no. DD 822092
4 dt. 24.10.88

yes

yes

yes by the advocate.

Particulars to be ExaminedEndorsement 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? *yes*
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.*
- (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? *—*
17. Are the facts of the case mentioned in item No. 6 of the application? *yes*
- (a) Concise? *yes*
- (b) Under distinct heads? *yes*
- (c) Numbered consecutively? *yes*
- (d) Typed in double space on one side of the paper? *yes*
18. Have the particulars for interim order prayed for indicated with reasons? *No.*

19. Whether all the remedies have been exhausted. *yes.*

If approved, be listed before Court on 24.11.88.

Delivered 27/X/88

D.R. (J)

D.S.D. (J)

27/X/88

S.O. (J)