

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ~~Lucknow~~ BENCH~~OA/TA/RA/CP/MA/PT~~ ..216/88 of 20.....

A.P. Srivastav.....Applicant(S)

Versus

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

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Certified that the file is complete in all respects.

BSC Meedoo & Chetay ..18/6/2014

Signature of S.O.

Signature of Deal. Hand

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, MOTI MAHAL, LUCKNOW.

DATED: -----

Case Title CA NO 216/8010 19Name of Parties.A.P. Sri Vasava ApplicantV.O.2 (A.L.R.R) Respondents.PART-A

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For record and reference only. Not to be cited as authority for or against any party to any cause.

Part-CC385 — C394

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

Section OfficerCourt OfficerIncharge10/05/94Signature of Deal
Assistant.

(RN)

Prorayan
25/01/94

Q/B / Removal

CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

A

Registration No. 216 of 1988 (4) (4)

APPLICANT (s) Amruth Prasad Srivastav

RESPONDENT(s) Union of India & others

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 — in old Roform.
(b) Is the application in paper book form ? — yes —
(c) Have six complete sets of the application been filed ? — 2 sets filed .
3. (a) Is the appeal in time ? — yes —
(b) If not, by how many days it is beyond time ? — X
4. Has the document of authorisation, Vakalat-nama been filed ? — yes —
5. Is the application accompanied by B. D./Postal-Order for Rs. 50/- — yes —
6. Has the certified copy/copies of the order (s) against which the application is made been filed ? — yes —
7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ? — yes —
(b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ? — yes (By Advocate)

<u>Particulars to be Examined</u>	<u>Endorsement as to result of Examination</u>
(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 ?	- N.A.
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 ?	- yes 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 ?	yes
18. Have the particulars for interim order prayed for indicated with reasons ?	- Nil
19. Whether all the remedies have been exhausted.	- yes -

List on 24-11-08 before
Court.

Int. - 100

(H) b A2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL.
CIRCUIT BENCH AT LUCKNOW.

O.A./T.A. No. 216 1988(C)

A. P. Srivastava Applicant(s)

Versus

U. O. 5 Respondent(s)

Sl. No.	Date	Orders
1	<u>24/11/09</u>	Hon. C.J. S. Misra, A.M Hon. G. S. Sharma, J.M
		<u>Admit</u> Issue notice. One month for C.A. & A.M. fortnight thereafter for R.A.
		sd/- J.M
		sd/- A.M
		<u>GR</u> Notice issued to respondents Nos. 1 to 4 through regd. Post. fixing 23.1.09 for hearing.
2	<u>23/11/09</u>	<u>OR</u> No reply filed. Reply can be filed. 27/3/09.
3	<u>27/3/09</u>	<u>DR</u> Reply has not been filed so far. It can be filed by 28/4/09.
4	<u>10/4</u>	<u>OR</u> An application d/l. 20/3/09 received is placed for information of the Com

8.3.90

No sitting of D/B Court adjourned
to 22.5.90. *(Signature)*

Date 8/

A.G.

Court is adjourned

for hearing

22/5/90Hon. Mr. B.C. Mathur, V.C.
Hon. Mr. D.K. Agrawal, J.M.

A request has been made on behalf of the learned counsel for the applicant for adjournment. The learned counsel for the opposite parties have no objection.

The case is adjourned to 24/9/90.

Deo
T.M.*D.K. Agrawal*
V.C.24.9.90

No sitting Adi to 3.11.90

OR
R.P. NO 5881
has been read
the 4th to the 6th
S. for Order for
by the order of D.R.

3.11.90

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

" M. M.Y. Bhandarkar. A.M.

Due to dissolution of Bar
Association Case is adjourned
to 6.12.90.

6.12.90

No sitting Adi to 24.1.91.

D

B.O.C.

ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD/C.B., LUCKNOW

M.P. 1075/92

OA 216 No.

OF 1988

AB

A.P. Srivastava Vs. U.O.I.

Sl.No.	Date	Office Report	Orders
		M.P. 1075/92 has been filed by applicant. S.F.O. 21/11/92	

(15)
CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH

LUCKNOW

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(1) O.A.216/88

A.P. Srivastava

Applicant

versus

Union of India & others

Respondents.

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

Hon. Mr. A.B. Gorthi, A.M.

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

The applicant was working as Assistant Station Master at Aishbagh Railway Station. Thereafter, on 31.5.86 Kanpur-Lucknow Express Train met with an accident and 7 persons died. The applicant and some other were suspended and the departmental enquiry started. The enquiry officer was appointed who completed the enquiry and recorded his findings. On the basis of the findings of the Enquiry Officer, the disciplinary authority removed the applicant from service. The applicant filed appeal which was also dismissed. The applicant has challenged this order on variety of grounds including that the enquiry proceedings has many flaws. One of the grounds is that the report of the enquiry officer was not given to him and that is why he could not make any effective representation. Thus, the respondents have violated the principles of natural justice. The applicant became handicapped in the absence of copy of enquiry report.

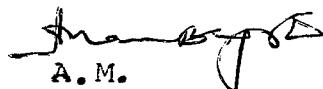
In the case of Union of India vs. Mohd.

Ramzan Khan (AIR, 1991, Supreme Court, 471) wherein

it has been held that whenever the enquiry takes place and the enquiry officer records finding against the

delinquent employee, the non-furnishing ^{of} the report by
of enquiry officer the applicant violates the principles
vitiated the entire
of natural justice and/enquiry proceedings. The same
position arises in this case. Accordingly, the entire
disciplinary proceedings are vitiated. The application
is allowed and the order of removal dated 7.4.88
and the appellate order dated 28.6.88 are quashed.

The applicant will be ^{deemed to be} continued in service and he
will be entitled to consequential benefits. However,
this judgment will not preclude the respondents to start
the enquiry
beyond the stage of giving him the enquiry officer's
report and give him opportunity to make representation
against the same. The application is disposed of
in the above terms. No order as to costs.


A.M.


V.C.

Lucknow Dt. 4.11.91.

Shakeel/-

THE VICTORIAN ADMINISTRATIVE CRIMINAL
LAW AND PRACTICE
COMMISSION

C.A. NO. 100, dated 10th June 1990 (1)

C.A. NO. 100, dated 10th June 1990 (TL)

Date of Sesssion 15.6.1990

Honible Mr. Justice U.C. Girishwar, VC

Honible Mr. A. Chary, J. Member (1)

1. Whether Reporters' official papers may be allowed to see the Judgment ?
2. To be referred to the reporter or not ? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement ? ✓
4. Whether to be circulated to other benches ? ✓

Ud
Lia-Chairman / Member

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 216 of 1988(L)

Versus

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

Hon'ble Mr. K. Obayya, Member (A)

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

The applicant who started his service on the post of clerk in the Loco and Carriers Superintendent, N.E.Railway Gorakhpur in the year 1948. Later on he was selected for the post of Signaller and given appointment by the General Manager. In the year 1955, he was promoted to the post of Assistant Station Master. On 10.6.1963, he was promoted to the post of Assistant Station Master in the scale of Rs. 150-280/-. On 31.5.1986, 24 Dn. Kanpur-Lucknow Express train met with an accident near Aishbagh Railway Station, as a result of which seven persons died. The commissioner of Railway Safety, Gorakhpur conducted an enquiry into the matter and submitted his report to the General Manager and it is said that the applicant and Sri Sukhdev Singh Yadav Cabin Man and G.S. Bisht Electrical Signaller Maintener were held responsible for the accident. After completion of the said enquiry, it is said that few persons whose statement was recorded, stated that the applicant was not responsible for it. The charge-sheet was served upon the applicant and it appears that against the applicant other persons also, and enquiry took place. In the enquiry, the applicant had to withdraw from enquiry and according to the applicant, he was not given opportunity to have defence assistant. The enquiry officer submitted his report to the disciplinary

Contd... 2/-

Ag

:: 2 ::

authority who passed an order removing the applicant from service. The applicant filed an appeal against the same, which was also dismissed, whereafter, he filed this application. This application was initially allowed on the ground that the copy of the enquiry report was not given to the applicant relying on the Mohd. Ramzan Khan's case, but the Supreme Court set aside the order and send back the application for decision on the other point. On behalf of the applicant, not only the competent officer who passed the order, but the enquiry proceedings have been challenged and it has been stated that the opportunity of hearing was not given to the applicant and even he was not allowed to cross-examine the witness and statement of the witnesses whom he had no opportunity to cross-examine and although, the copy of the preliminary enquiry report was not given to him, but the same too was taken into consideration and in the circumstances, in case, he was compelled not to participate in the enquiry after a particular stage and that itself was violative of the principle of natural justice. All these matters which were to be taken into consideration by the disciplinary authority. The disciplinary authority passed a telegraphic short order agreeing with the report of the enquiry officer, removing the applicant from service. The applicant filed an appeal before the appellate authority. The appellate authority holding the applicant responsible, dismissed the appeal. Although, the case of the applicant is that he has some, it was none of his duty and he was not at all responsible. The appellate authority did not touch the other part including that of denial of the reasonable opportunity to defend himself.

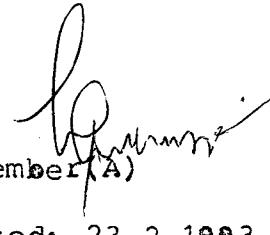
2. As the appellate authority did not consider all the

Ur

Contd... 3/-

:: 3 ::

pleas raised by the applicant and the disciplinary authority did not pass an speaking order which it should have done more so, when the applicant with due from enquiry, and the enquiry officer report was not given to him, these two orders can not sustain and accordingly, this application is allowed and the removal order dated 7.4.1988 and the appellate order dated 29.4.1988 are quashed. The disciplinary authority now will pass a fresh order taking into consideration the pleas raised by the applicant including the deprivation from the opportunity to defend himself etc. and as the matter is old, it is for the disciplinary authority to take the version from the applicant in this behalf. The disciplinary authority as for as possible shall pass an order within a period of two month from the date of communication of this order. It is for the disciplinary authority ~~to~~ ^{to} either ~~to~~ ^{to} punish the applicant or ~~to~~ ^{to} exonerate the applicant or to award a minor punishment, but no observations in this behalf can be made. No order as to the costs.


Member (A)
Vice-Chairman

Lucknow Dated: 23.2.1993.

(RKA)

filed today
22/11/88

APJ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

Additional Bench at Lucknow

Application No. 216 of 1988 (L)

Anirudh Prasad Srivastava ..

APPLICANT/
PETITIONER

V/s.

Union of India & ors. ..

OPP. PARTIES

I N D E X

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Dated, Lucknow,
the November, 1988.

P.K. Srivastava
(P.K. Srivastava)

Advocate

MS-151 Sector D, Aliganj Extn
Lucknow-226 020

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

Additional Bench at Lucknow

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AIV

CA 216(00)(C)

Anirudh Prasad Srivastava
son of Sri Mangal Prasad Srivastava,
555 Kha 2/4 Bholi Khera,
Alambagh, Lucknow

...

PETITIONER

v/s.

1. Union of India

through the Secretary,
Ministry of Railways (Railway Board,
Government of India,
Rail Bhawan, New Delhi;

2. North Eastern Railway,

through its General Manager,
Gorakhpur;

3. The Divisional Safety Officer,

North Eastern Railway,
Ashok Marg, Lucknow

...

OPP. PARTIES

APPLICATION UNDER SECTION 19 OF CENTRAL
ADMINISTRATIVE TRIBUNALS ACT

The petitioner abovenamed most respectfully
submits as under:-

A. Srivastava

DETAILS OF APPLICATION

1. Particulars of the applicant:

(i) Name of the applicant - ANIRUDH PRASAD
SRIVASTAVA

(ii) Name of father - Sri Mangal Prasad
Srivastava

(iii) Designation and office in which employed - Asstt. Station Master
N.E. Railway, Aishbagh
Lucknow

(iv) Office address - N.E. Railway, Aishbagh
Lucknow.

(v) Address for service of all notices - 555/Kha 2/4 Bholakheda
Alambagh, Lucknow-5

2. Particulars of the respondent:

(i) Name and/or designation of the respondent - 1. Union of India through the Secretary
Ministry of Rly.
Govt of India
Rail Bhawan
New Delhi

(ii) Office address of the respondent - 2. North Eastern Rly
Through its
General Manager
Gorakhpur

(iii) Address for service of all notices - 3. The Divisional
Safety Officer
North Eastern Rly
Ashok Marg, Lucknow

3. Particulars of the order against which application is made

The application is against the following order

(i) Order No.

1. Suspension order
No.T/537/TA/3/86

2. Memorandum of Chargeshee
(Under Rule 9 DAR)
No.T/537/TA/3/86

3. Order of removal from Service
No.T/537/TA/3/86

4. Order of rejecting appeal
No.T/537/TA/3/86

(ii) Date 4.9.1986, 8.9.1986, 7. 4. 1988 and
28.6.1988

(iii) Passed by Assistant Operating Superintendent(G)
Senior Divisional Safety Officer
Additional Divisional Rly. Manager

APPROVAL

(A)

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(iv) Subject matter : Removal from service

4. Jurisdiction of the Tribunal:

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

5. Limitation:

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

6. Facts of the case:

The facts of the case are given below:-

(1) That the petitioner was initially appointed on the post of Clerk by the then Loco and Carriers Superintendent, N. E. Railway, Gorakhpur and he joined as such on 20. 9. 1948.

(2) That the post of Loco and Carriers Superintendent is now known as Chief Mechanical Engineer in the Zonal Railways of the Indian Railways.

(3) That however on 27. 7. 1951, the petitioner was selected for the post of Signaller and given appointment by the General Manager, North Eastern Railways under Rule 215 of Indian Railways Establishment Code Vol. I. For convenience of this Hon'ble Tribunal, Rule 134 is being reproduced hereunder:

"215. Authorities competent to make first appointment

The authorities competent to make first appointment to non-gazetted posts in the offices detailed below shall be as shown against each-

APG:as/ln

- 4 -

- » (a) Office of the Railway Board - Secretary to the Railway Board
- (b) Other offices, Project, Factory directly under the control of the Railway Board - Head of Office/Project/Factory.
- (c) Indian Railway and other Railway Administrations eg Chittaranjan Locomotive Works, lower authority to whom he Integrated Coach Factory etc. may delegate the power.

Provided that-

- (1) No appointment shall be made unless a sanctioned post exists against which it can be made;
- (2) The authorities empowered by or under this rule to make first appointments, may, subject to such candidates as they may impose, re-delegate to a lower authority the power to appoint Class IV servants;
- (3) That on 20th May 1955 due to ~~excellent~~ excellent work and conduct, the petitioner was given promotion on the post of Assistant Station Master by the then District Traffic Superintendent, Izzatnagar, N.E. Railway in the then scale of Rs.80-170/-.
- The petitioner was also confirmed in this Grade with effect from 20th May 1955 vide order dated 16.4.1958 by then District Traffic Superintendent, Izzatnagar.
- (4) That on 10. 6. 1963, the then ~~Divisional~~ ^{District} Operating Superintendent, N.E. Railway, Lucknow passed an order No. E/293/SM/TPT-III dt 16.10.63 and further promoted the petitioner on the post of Assistant Station Master in the then scale of Rs.150-280/-.
- Upon such promotion, the petitioner's pay was fixed by the District Operating Superintendent, Lucknow Junction vide his letter No.-E/4/104/Asm dt, 28.11.83/3.12.1983.

A. Srinivasan

- 5 -

(5) That the petitioner joined as Assistant Station Master at Aish Bagh Railway Station on transfer from Mailani in District Kheri sometimes in 1965.

(7) That the petitioner continued to work with devotion and there has been no negligence on his part ever since he was given initial appointment and, therefore, in recognition of his meritorious service the petitioner was awarded merit certificate and Rs. 1500/- cash award by General Manager for rendering 32 years accident free service. A photo copy of the certificate dated 16.4. 1986 is annexed as Annexure-1 to this application.

(8) That, however, on 31. 5. 1986, 24 DN Kanpur-Lucknow Express train met with an accident near Aishbagh Railway Station in which 7 persons died. The casualties had occurred not due to the damage to the coaches but due to the passenger jumping out and getting crushed under the derailed coach.

(9) That on 3/4. 6. 1988, the Commissioner of Railway Safety, Gorakhpur himself conducted an enquiry into the matter under Rule 2 of Statutory Investigation Into Railway Accident Rules 1973. The Commissioner of Railway Safety submitted a report to the General Manager as required under Rule 4 and reportedly held the petitioner and S/Sri Sukhdev Singh Yadav, Cabin Man and G.S. Bisht, Electrical Signall Maintener of Aish Bagh Junction primarily responsible for the accident. The officers of the Construction Organisation who completed the additions and alterations to the metre gauge signalling system of

(AII)

A17

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Aishbagh Junction alongwith officers of maintenance organisation who failed to rectify the deficiencies were also held responsible.

(10) That after the completion of the aforesaid enquiry conducted by C.R.S. S/Sri Munna Lal and Abdul Mazid, Inter-locking Khalasis gave statement ^{at} Gorakhpur on 2. 7. 1988 in which these persons stated that they saw Electric Signal Maintener Sri G.S. Bisht releasing lever lock of ~~lever~~ No.12 on the call of Shri Sukhdeo Singh Yadav, Lever man working as Cabin Man. Though the statement of Munna Lal and Abdul Mazid was recorded in the C.R.S. enquiry dt. 3/4. 6. 86 but they were not produced before O.R.S. as stated by them in the statement dated 2. 7. 1986, a true copy of statement is annexed as Annexures-2 and 3 to this application.

(11) That it would not be out of place to mention that prior to aforesaid accident on 31. 5. 1986, two other accidents had already taken place on 15.5.84 and 20. 5. 986(10 days before the accident of 24 Down) in this very route due to defect in inter-locking.

(12) That on both occasion while engines from Kanpur and Loco shed respectively ^{to} commissioning to Aishbagh, though the Correct Route were set, Proper signals were taken off to off aspect by pulling proper lever yet the points leading to Aishbagh automatically reset leading to by pass and the engines took the route over by-pass instead of Aishbagh. Such automatic movement of ^{points} ~~points~~ when the signals are in off aspect is against the essentials
A.P.S.R.S. Kanpur

of Inter locking system. Yet it happened due to non-standard bad installation of Inter locking system. The essentials of Inter locking as under Rule 151 of Indian Rly. Signal Engineering manual is produced below:-

"151. Essentials of Interlocking - Lever frames and other apparatus provided for the operation and control of signals points, etc., must be so interlocked and arranged as to comply with the following essentials:-

- (i) It must not be possible to take 'off' a fixed signal, unless all points including isolation are correctly set, all facing points are locked and all interlocked level crossings are closed and locked against the public road, for the line on which the train will travel including the overlap.
- (ii) After the signal has been taken 'off', it must not be possible to move any points or locks on the route, including isolation, not to release any interlocked gates until the signal is replaced to the 'on' position.
- (iii) It must not be possible to take 'off' at the same time, any two fixed signals which can lead to any conflicting movement.
- (iv) Where feasible, points must be so interlocked as to avoid any conflicting movement."

(13) That in view of above, it is very clear that the accident on 31.5.86 also occurred due to Bad installation with worn out gear ^{or inter locking} and ~~special~~ system for which the officials of the APSrons/An

- 2 -

B.G. construction and ~~operating~~^{open line} Maintenance were responsible and the petitioner being a non-technical man has nothing to do with the maintenance or construction of inter-locking system and he was never even reported that inter locking system was defectively founded with worn out gears ^{with} and many deficiencies and lapses as observed during the course of C.B.S. enquiry.

(14) That further as it was the duty and responsibilities of the officers of B.G. Construction and open line maintenance to provide standard safety equipment and failure to provide it is the failure of the employer himself. It is also noteworthy that Safety Circular No.105 also speaks about the responsibilities in the case of accident which ~~is to be~~ fixed at higher level Clause (F) of Item 11 of said circular reads as under "Responsibility in regard to accident will be fixed at higher level. For instance in a derailment case attributable to Track defect, the permanent way inspector(if not the Assistant Engineer in short AEN) will be held responsible and not the Gang Mate as is being done at present. The mate should also be punished but primary responsibility will be of the Permanent Way Inspector."

(15) That further, as in the instant case of derailment reason are attributable to the defective ^{Installation} and ill maintained with wornout gear of the Inter locking system as such the higher authorities of the ~~Dept~~ Signal and communication department(B.G. construction and ~~operating~~^{open line} Maintenance) cannot be let ~~go~~ by ~~affirmation~~ shifting the responsibilities on the head of the

(A10)

A20

- 9 -

applicant. The similar para 1107 of the Indian Railway Financial Code Volume-I also says that in case of laxity in supervision the superior officer must be strictly dealt with. The para 1107 is reproduced below for ready reference -

"PARA 1107 LAXITY ON CONTROL where loss is due to delinquencies of the subordinate officials and where it appears that this has been facilitated by laxity of supervision on the part of the superior officer, the later should also be called strictly to account and his personal liability in the matter be carefully examined."

(16) That the C.Rs Gorakhpur has clearly fixed the responsibility of the occurrence on the head of the officers of B.G. Construction and ~~open~~ ^{line} maintenance of the Tele communication Department as they failed to provide standard safety equipment within the scope of Indian Railway Signal Engineering manual but no action has yet been taken against any of the officer of the above said department.

(17) That one among the officer similarly situated as the applicant in matter of responsibilities and filing of charges, Shri S.S.Uppal, Signal Inspector Grade-III Aishbagh, who was although suspended vide order No.224/32/139 dt 6.6.86 and charge sheet No.N/224/32 dt. 30.7.86 issued but later on he was absolved with all the charges by cancelling the Memorandum of charges vide even number dated 9.1.87 and rest the officers responsible for lack of supervision and laxity have been allowed to enjoy their conduct and only poor person who ~~derailed~~ ^{derailed} and
 Abniruddhan

dedicated for their lives have been crushed. For such discrimination, the applicant got recorded his objection in the enquiry of disciplinary proceeding on 16. 2. 1987 followed by several reminders but no reply is received till last.

(18) That further after the said accident on 31.5.86, interlocking system at Aishbagh junction station complex was entirely changed with effect from 2.6.86 to 13.6.86 clearly establishes that the accident occurred due to defect in interlocking system and that the system was faulty for which the petitioner cannot be held to be responsible as he was neither informed of any lapses, deficiencies and defect nor he has any duty towards such lapses, deficiencies and defect in interlocking system.

(19) That even after it came to notice of Railway Administration that the accident occurred only due to defective interlocking system, yet on 4.9.1986, the Assistant Operating Superintendent(General) who is subordinate in rank to the authority who appointed the petitioner to the grade i.e. the District Operating Superintendent now known as Senior Divisional Operating Superintendent placed the petitioner under suspension. A true copy of the order dated 4.9.86 is annexed as Annexure-4 to this application.

(20) That it is submitted that the Assistant Operating Superintendent(General) was not only subordinate
to the
Administrator

in rank to senior Divisional Operating Superintendent but he belongs to a different Branch and, therefor, was incompetent to place the petitioner under suspension.

21- That to make it clear it is asserted that the Assistant operating Superintendent(General) belongs to safety Branch of the Railway while the petitioner belongs to operating Branch of the Railway Administration and these two branches are under the control of different head of Departments at Board, Zonal level and Divisional level.

22- That the set up of concerned Department from Board level to Divisional level are given below to ~~to~~ show that operating commercial and Safety are separate entities:-

Rly Board	Director Traffic Transportation	Director Safty Coaching	Director Traffic Commer- cial and genral
Zonal Rly	Chief operating Sup. Level I	Chief Trafic Safty Supdt. level I.	Chief Commercia Supdt (Level I)
Divisional Rly	Sr. Div. Optg Supdt. Astt Optg Supdt. (M)	Sr. Div. Safty Officer Asstt. Optg Supdt. (G)	Sr. Div. Com. Supdt. Asst. Com. Supdt.
Expenditure on above Divisional & Zonal set -up chargeable under A/C head under demand No - 03,09 (a) D03 Officers Salary			
A 910-A 911			
(b) Office sta- ff salary			
A 910-A 912			
(c) Office Establishment			
A 919-A 919			
D. No. 09:			
E 110-G 113			
A 930-A931			
A 930-A932			
A 930-A933			
G 600 G 610			
G 120 - G123			

23- That as already atated operating (traffic transportation) and sefety and commercal are

After 10/07

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two separate and distinct branches of Railway Administration and each department has separate administrative hierarchy and each department is independent of the other in the matter of administration. In view of this, the suspension order, the charge sheet, the removal order and the order in appeal are without jurisdiction and, therefore, bad in law. Rule 210 and 211 of Indian Railways Administration and Finance ~~exchanging~~ and Railway Board letter dated 16.10.73 and 10.1.1979 showing separation of two departments are produced below for convenience of the Hon'ble Tribunal:-

"210. Technical Directors- The Board are assisted by a Technical staff of Directors, Additional/Joint Directors, Deputy Directors and Assistant Directors who are in direct charge of the work of the various branches of the Ministry and are responsible for disposal of all the work except major technical questions and questions of policy. The Directors are responsible for issuing instructions direct to the Railway Administrations and receive and deal with references from them direct. They are the heads of their respective branches and keep liaison with the Railway Administrations, the general public and the other Ministries of the Government of India within their respective spheres."

"211. At present the Railway Board has the following Directors:-

- (1) Accounts
- (2) Civil Engineering
- (3) Efficiency Bureau
- (4) Electrical Engineering
- (5) Establishment

- (6) Finance
- (7) Health
- (8) Intelligence
- (9) Law
- (10) Mechanical Engineering
- (11) Mechanical Engineering (Workshops)
- (12) Metropolitan Transport Projects
- (13) Official Language
- (14) Pay Commission
- (15) Public Relations
- (16) Railway Act Revision
- (17) Railway Electrification
- (18) Rail Movement (Coal Planning)
- (19) Railway Planning
- (20) Railway Stores
- (21) Safety and Coaching
- (22) Security
- (23) Signalling and Tele-communication
- (24) Statistics and Economics
- (25) Traffic (Commercial and General)
- (26) Traffic Transportation
- (27) Vigilance)"

"In Board's circular letter No. E(D&A) 60 RG 6-30 dt 28.7.62 it had, inter-alia, been indicated that it would be procedurally wrong for an authority to initiate and finalise the disciplinary proceedings against an employee who is not under its administrative control.

2. It has, however, been brought to the notice of the Board that difficulties are being experienced in initiating and finalising the disciplinary proceedings against the staff involved in irregularities concerning

Affairs

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purely personnel matters such as misuse of passes/PTOS, unauthorised occupation/retention of quarters, unauthorised absence from duty etc. and it has been suggested that the instructions referred to above, may be so amended as to provide for initiation/finalisation of disciplinary proceedings by the officers of the Personnel Department such as APOS, DPOs even against the staff who may be working in Departments other than the Personnel Department and thus be not under their administrative control. It has been also mentioned that in respect of the category of Assistant Station Masters/Station Masters, the disciplinary action is initiated and finalised both by the Divisional Safety Officer and Divisional Commercial Supdt. depending upon the department to which the irregularity committed pertains despite the fact that the Assistant Station Master and Station Masters belong to the Operating Department.

3. The matter has been carefully considered by the Board and in consultation with their Legal Adviser, it is clarified that a railway servant essentially belongs to only one Department even though, in the course of the performance of his day to day duties, he may violate certain rules/regulations administered by some other department. The Assistant Station Masters and the Station Masters belong to the Operating Department even though they may have to perform the duties pertaining to the Commercial Department ^{also front time} and none else. If any other practice is being followed

to time the disciplinary authorities in their cases would thus belong to the operating staff

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that is irregular and be stopped forthwith.

Disciplinary action should be initiated and finalised by the authorities under whose administrative control the delinquent employee may be working as any other procedure would not be in keeping with the instructions referred to in para 1 above."

(Rly. Board's letter No. E(D&A) 72RG 6-13 dated 16.10.1973 and No. E(D&A) 78 RG 6-15 dated 10th January, 79).

3. Disciplinary authorities for imposition of penalties for various types of irregularities under the Railway Servants (Discipline and Appeal) Rules, 1968.

Reference confidential D.O.No.E/74/2(iv) dated 9th February 1979 on the above subject.

2. The Board have carefully considered the proposal contained therein in consultation with their Legal Adviser and they are of the definite opinion that an employee cannot be treated as under the administrative control of more than one department. Therefore, there is no necessity of making any amendment in the Railway Servants (Discipline and Appeal) Rules, 1968. The instructions as contained in Board's letter No. E(D&A) 72 RG 6-13 dated 16.10.73 and reiterated in their letter of even number dated 10.1.79 should, therefore, continue to be followed.

(Railway Board's letter No. E(D&A) 28 RG 6-13 dated 6th July 1979)

(24) That in view of the aforesaid provisions, the Assistant Operating Superintendent was not competent to initiate proceedings and to suspend the petitioner from his duties. The ~~other~~ order dated 4.9.86 passed by the Assistant Operating Superintendent is without any authority of law.

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(25) That it is a well settled law that an authority who has no administrative control over an employee cannot initiate any action including disciplinary proceedings against such an employee and if such action has been taken place then it becomes without jurisdiction.

(25) That on 12.9.1986 the petitioner received 3 orders simultaneously i.e. the order of suspension, the charge sheet and an order of ~~promoting~~ ^{appointing} the Enquiry Officer. True copies of charges sheet and also the order appointing the Enquiry Officer are annexed as Annexures-5 and 6 to this application.

(26) That as would appear from the order dated 9.9.86 Sri G.C.Bhatnagar, Assistant Operating Superintendent (General) who had placed the petitioner under suspension was appointed to enquire into the matter by the Divisional Safety Officer. It is submitted that both Sri G.C.Bhatnagar and the Divisional Safety Officer belonging to Safety Department of the Indian Railway Administration and none of them have any administrative interconnection or administrative control over the petitioner.

(27) That the fact that Sri G.C.Bhatnagar was appointed to act as Enquiry Officer by the Divisional Safety Officer at least clearly prove that Sri G.C. Bhatnagar, the Assistant Operating Superintendent (General) was not the competent authority to initiate action against the petitioner otherwise

A/Srivastav

there was no necessity of appointing Sri G.C. Bhatnagar and he would have himself been competent to enquire into the matter. In view of this submission, the Assistant Operating Superintendent(General) was clearly not the authority to place the petitioner under suspension to initiate enquiry.

(28) That further the appointment of Sri G.C.Bhatnagar was not competent in view of the fact that Sri G.C.Bhatnagar while placing the petitioner under suspension had already prejudiced the matter and appointment of Sri G.C.Bhatnagar violated the provisions of natural justice and merely prejudice the case of the petitioner.

(29) That in view of the aforesaid submissions, the Divisional Safety officer was not competent to initiate proceedings against the petitioner as he lacked administrative control over the petitioner and belonged to a different department.

(30) That it is worthwhile to note that Sr. Divisional Safety Officer had neither appointed nor confirmed the applicant at any stage of ^{his} service and grade as narrated under para 6.1 to 6.5 of this petition.

(31) That though the Officer subordinate to General Manager have been delegated with the power to appoint Group C and D Railway servant yet the General Manager had not delegated the power to take disciplinary proceeding even to one whom he had delegated the power to appoint Group C and D Railway Servant at certain stages. However power

not delegated by the General Manager against an item continue to be vested and exercisable only by the General Manager, as such by virtue of the delegation of power to appoint at certain stage one cannot assume the power to ^{disciplinary} take proceeding. The concerning rules in this regard are produced below:-

"Rule 7 of the Railway Servants (Discipline and Appeal) Rules, 1968 specifies the authorities that may impose any of the penalties in the following words:-

"7. Disciplinary authorities.

(1) The President may impose any of the penalties specified in Rule 6 on any Railway servant.

(2) Without prejudice to the provisions of sub rule (1), any of the penalties specified in Rule 6 may be imposed on a Railway servant by the authorities as specified in Schedule I, II and III.

(3) The disciplinary authority in the cases of a Railway Servant officiating in a higher post, shall be determined with reference to the officiating post held by him at the time of taking action.

"Disciplinary Authority" is defined under clause (c) of Rule 2(1) as under:-

(c) "Disciplinary Authority" means

(i) in relation to the imposition of a penalty on a Railway Servant, the authority competent, under these rules, to impose on him that penalty;

(ii) in relation to rule 9 and clause (a) and (b) of sub-rule (1) of Rule 11 in the case of any

Officers for

Gazetted Railway servant an authority competent to impose any of the penalties specified in Rule 6.

(iii) in relation to rule 9 in the case of any non-gazetted Railway servant, an authority competent to impose any of the major penalties specified in rule 6.

(iv) in relation to clauses (a) and (b) of sub-rule (i) of Rule 11, in the case of a non-gazetted Railway servant, an authority competent to impose any of the penalties specified in Rule 6".

While disciplinary authorities which may impose penalties are specified in rule 7. Rule 8 specifies the authorities which may institute disciplinary proceedings.

Rule 8 reads as under:-

"8. Authority to institute proceedings:-

(1) The President, or any other authority empowered by him, by general or special order, may -

(a) institute disciplinary proceedings against any Railway servant;

(b) direct a disciplinary authority to institute disciplinary proceedings against any Railway Servant on whom that disciplinary authority is competent to impose, under these rules, any of the penalties specified in rule 6.

(2) A disciplinary authority competent under these rules to impose any of the penalties specified in clause (i) to (iv) of Rule 6 may, subject to the provisions of clause (c) of sub-rule (1) of rule 2, institute disciplinary proceedings

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against any Railway servant for imposition of any of the penalties specified in clauses (v) to (ix) of rule 6, notwithstanding that such disciplinary authority is not competent under these rules, to impose any of the latter penalties".

(32) That under Rule 8(2) the Disciplinary authority competent to institute disciplinary proceedings against Group C and D Railway Servants is subject to provision of Rule 2(1)(c)(iii) i.e. if the authority is competent to impose penalty specified under ^{Clause} Rule V to IX of Rule 6 of Railway Servant(D&A) Rule 1968 only then that authority can institute disciplinary proceeding and impose penalty against Group C and D Railway servants. This is further clarified by the Railway Board letter No. E(DA)70/RG/6-36 dated 4.2.71 produced below for ready reference:-

"7) Authority competent to impose major penalty:-

It is clarified that there is no contradiction in the provision of Rule 2(1)(c)(iii) and that of Rule 8(2). The words subject to provision of clause(c) of sub-rule(1) of rule 2' used in Rule 8(2) simply means that only an authority competent to impose any of the major penalties can initiate disciplinary proceedings for imposition of a major penalty in relation to Rule 9, in respect of non-gazetted staff.

2. It may be mentioned that while framing the Railway Servants(Discipline and Appeal) Rules 1968, a deliberate decision was taken to the effect that only an authority competent to impose

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any of the major penalties should initiate disciplinary proceedings for imposition of such a penalty on non-gazetted staff. As such, the authority for all purposes of institution of disciplinary proceedings and issue of charge memorandum for imposition of major penalty is the authority competent to impose any of the major penalties."

Schedule II to the said rules referred to in sub-rule (2) of rule 7 lays down that an order of compulsory retirement, removal and dismissal from service may be ordered in the case of a Group C or a Group D Railway Servant by the "appointing authority or an authority equivalent in rank or any higher authority.

The term 'Appointing Authority' defined in Rule 2(1) (a) as under:-

"In these rules, unless the context otherwise requires:

(a) 'Appointing Authority' in relation to railway Servant means:-

(i) the authority empowered to make appointments to the service of which the railway servant is, for the time being, a member or to the grade of the service in which the railway servant is, for the time being included, or

(ii) the authority empowered to make appointments to the post which the Railway servant, for the time being holds, or

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(iii) the authority which appointed the Railway Servant to such service, grade or post, as the case may be, or

(iv) where the Railway Servant having been a permanent member of any other service or having substantively held any other permanent post, has been in continuous employment under the Ministry of Railways, the authority which appointed him to that service or to any grade in that service or to that post whichever authority is highest authority".

(33) That, it is in the context of this definition of Term "appointing authority" and the specific power to impose penalty being vested under rule 7 read with Schedule II of Railway Servant(D&A) Rule discloses an intention that higher among the several authority competent to make appointment to particular railway servant can only have jurisdiction in this behalf. Such intention is further clarified by the Railway Board letter No.E(DA)63/PG/6-8 dated 27.4.63 produced below for ready reference:-

"Copy of Railway Board's letter No.E(DA)63/PG/6-8 dated 27th April, 1963, addressed to General Manager, all Indian Railways and others.

Sub:- Discipline and Appeal Rules- Appointing authority in relation to a Railway Servant.

"A case has come to the notice of the Board which reveals that the definition of the term "Appointing Authority" was not correctly understood by the concerned Railway Administration inspite of the clear definition given in

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Rule 1702 (i)- RI read with Rule 1705-RI. In this case, a Railway Servant was initially appointed by a Senior Scale Officer. Subsequently he was promoted to a higher post by a Head of Department. While working in the higher post, the Railway servant was dismissed from service for serious misconduct by a Senior Officer. The dismissed Railway servant filed a writ petition in Mysore High Court and the High Court quashed the order of dismissal on the ground that it had been made by an authority subordinate to the authority who had appointed the petitioner to the post from which he was dismissed and thus contravened the provision of Article 311(1) of the Constitution. "With a view to avoiding a recurrence of such cases, the Board desire that it should be impressed upon all concerned officers that the "appointing authority" should be determined under Rule 1702(i) and 1705-RI whichever is the highest authority""

(34) That in the charge sheet several documents were cited in support of the charges including statements of several witnesses as would appear from the charge sheet but these statements so cited were not taken in presence of the petitioner.

(35) That it is asserted that S/Sri S. Shafard, S.C. Dhar, Balram Singh, Sukhdev Singh Yadav, Badri, the petitioner, Munna Lal, Abdul Mazid gave statements before the C.R.S. in June/July 1986 and their statements were cited in support of charges but as already state, the statements were not recorded by the C.R.S. in presence of the petitioner nor the Enquiry Officer ever tried to get these persons reiterate their statements before him and in petitioner's presence.

Afternoon for

(36) That in view of above submissions in preceding paragraphs, the petitioner has no opportunity to cross-examine the witnesses who gave statement before the C.R.S. or before any other authority.

(37) That it is submitted that though the charge sheet was almost based upon the preliminary enquiry of the C.R.S. but neither the extract of the report was ever produced for cross-examination nor his report was made available or shown to the petitioner at any stage of the enquiry.

(38) That feeling aggrieved the petitioner approached this Hon'ble Tribunal in February 1987 and on 16.4.1987, this Hon'ble Tribunal passed an order in Registration case No. 36/87 A.P. Srivastava v/s. Union of India and others and directed the Railway Administration to modify the charge sheet so as to remove its vagueness and to make it more specific and after giving reasonable opportunity to the petitioner in respect of specification made in the charge sheet.

(39) That this Hon'ble Tribunal also directed the Railway Administration to supply either the whole report of the Commissioner, Railway Safety or at least its relevant extract before the arguments before the Safety Enquiry proceedings are concluded.

(40) That this Hon'ble Tribunal reached the aforesaid conclusion about the vagueness of the charges as in the opinion of this Hon'ble Tribunal, charges were vague on account of the following reasons:-

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(a) "There is no doubt that the act of failing to ensure correct set of route may have resulted with the applicant not observing and obeying of the rules and special instructions but nothing specifically has been mentioned as to which Rule or special instructions or which lawful order given by the applicant's superior was not obeyed by the applicant.

(b) the imputation of misconduct was that the applicant failed to ensure correct setting of route. Now he failed to set the route correctly should have been indicated and if the defendants felt that either the interlocking had failed or the signals were not getting lower by the pulling of levers and were taken up by pulling of the wire then they should have been specific in their charge and not vague when he failed to ensure correct setting of the route.

(c) It has not been mentioned in the charge sheet as to what the applicant violated or in what way he violated the rules. The general statement that he violated rule will definitely tilt towards being vague rather than specific. A bare reading of the statement of imputation of misconduct would give an impression that the charges were also not clear in the sense as to how the applicant was alleged to have manipulated the setting of the route or lowering of the signals alongwith other sister departments and holding difficulty for the applicant to meet a charge of this nature. If these charges are

Adviser

to be proved by the evidence of witnesses a clear mention should have been made as to how the charge is meant to be established or on what charges was based.

(41) That instead of complying the aforesaid order of this Hon'ble Tribunal, the Divisional Safety Officer without any authority of law again served a charge sheet on 13.5.1987 and besides specifying old vague charges, built up new story that the petitioner had asked Sri Bist to make operation in a certain way although as stated earlier this has never been an imputation against the petitioner and the Cabin Man Sri Sukhdeo Singh never informed the petitioner about fault/difficulty felt in the operation of interlocking system. A true copy of the charge sheet dated 13. 5. 1987 is annexed as Annexure-7 to this application.

(42) That the petitioner was supplied with no documents in support of the new charges under Memorandum dated 13.5.87 so the petitioner asked for the documents/material/evidence on which the charges are based and are to be sustained vide letter dated 3.6.87 and followed by reminder dated 22.11.87 but the respondents had refused to supply the asked for document on the plea that the documents had already been supplied alongwith Memorandum dated 8.9.86. It will not be out of place to say that the said documents do not speak a single iota of the new charge. Having aggrieved the petitioner sent the fact on record under annexure numbering 1 to 6 for certificate of correctness or incorrectness but such certificate

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was also not granted to the petitioner, hence the petitioner became handicapped bothways.

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(30) That in the revised charge sheet also there is no material to show as to how the petitioner was found to be negligent and on what material he has been held to be guilty. It is asserted that even from the statement given in petitioner's absence it cannot be proved that the petitioner was negligent in his duties or due to has lapse, the accident was caused.

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(31) It worth mentioning that the petitioner was performing his duties at West Cabin, Aishbagh where one cabin man and one lever man are also posted for the operational work of train passing duties. Their duties and responsibilities are assigned in the operating circular No.9. On 31.5.86 Sri Sukhdeo Singh Yadava, working as ^{Cabin Man} Leverman and Sri Badri working Leverman were assigned to performance of operational work as assigned under the said circular.

(35)

That the only requirement of operation for reception of 24 down was pulling off lever No.13, 14, 47, 34, 7 in order subject to lever no.12 normal and these lever were correctly pulled by Cabin man, lever man for setting route and taking off signal without communicating any difficulty or defect in operation of the lever to the petitioner. The lever position recorded just after the accident at present confirms the correct pulling.

(46)

That it is also noteworthy that lever No.5 and 6 of Loco cabin from where the train took the route over loco line and met with accident was free from the control of lever no.12 at West cabin which is of serious concern with every chances of operation of lever nos 5+6 with out knowledge of the petitioner.

Affidavat

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(47) That the allegation that the petitioner failed to ensure correct setting of route for reception of 24 Dn Express train before taking up the concerned respective signals and ultimately got the respective signals cleared by foul means. With the help of Sri G.S. Bisht is baseless in view of the fact that setting of route as also lowering signals or seeking clearance was not the job of the petitioner but the job of cabin man and lever man as would appear from the operating Circular No.9. A copy of which is produced below:-

CIRCULAR NO.9

Item 30(5) It must be clearly understood by each member of the staff that he is directly responsible for the work allotted to the post on which he is working. Existence of a supervisory staff does not in any way exempt him from the responsibilities which he is required to shoulder for the post occupied by him. The staff are answerable for all deficiencies, slackness, inattention or lapses in the work assigned to their posts. Every member of the staff must do his utmost to prove his worth for the job allotted to him and give perfect working to the satisfaction of his immediate supervisors.

Item 37(4) The staff responsible for working points, signals, etc must inform the station Master, where any defect or deficiency in working of points and signals comes to their notice. Station Masters also must frequently inspect and test the points and signals to see that they are properly working.

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If the points, signals or interlocking at any time fails to work properly, the Station Master must take immediate steps to resort to the alternative method of working according to the extent rules and must also arrange repairs as early as possible.

40(16) Cabinman (a) Where a Cabin Assistant Station Master is not posted the Cabinman is responsible for the working of the Cabin under his charge. He will work under the direction of the Station Master on duty. All Cabin staff provided to assist him must work under his orders and directions. His duties inter-alia includes -

- (i) ensuring that the route is set correctly and timely and for the reception of the trains;
- (ii) ensuring that the route is set correctly and timely for the despatch of the trains;
- (iii) personally ascertaining the arrival and departure of complete trains by observing the Tail board by day and Tail light by night and giving information in regard to the Station Master on duty;
- (iv) ensuring that a proceed signal is displayed from the cabin to all incoming and outgoing trains (see General Rule 63.)
- (v) ensuring that Level Crossing Gates within the jurisdiction of his cabin are closed timely and also that road traffic is not unduly held up.

Afternoon

(vi) advising the station Master on duty about any defects in the working of the signals and the cabin.

(vii) conducting safe entry and exit of the engines to and from the area in the jurisdiction of his cabin and advising the Station Master of all shunting permitted outside the Home signal or on the running lines controlled by his cabin.

(viii) Cleaning, lighting and extinguishing lamps of signals, points indicators and other station lamps, when required to do so (For Cabinman/leverman only).

40(b) At stations where a cabin Assistant Station Master is posted, the duties of the Cabinman (posted at such a cabin) will normally be the same as described under para (a) above except that he will work under the directions of the Cabin Assistant Station Master on duty and be responsible to him for the duties assigned."

(48) That likewise imputation of misconduct in Annexure-2 of Memorandum is also baseless as it is not the job of Assistant Station Master to pull the lever and release control for setting. It was also not the duty of the petitioner as Assistant Master to see as to why the lever was not coming in normal position unless communicated by the Cabin Man for such defect felt in operation of levers, as provided in the circular No.9. It is also asserted that the Cabin man never informed any problem or difficulty in the operation of lever or setting of lines to the petitioner but it was between the Cabin Man Sukhdev Singh Yadav and

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G.S. Bisht, E.S.M. on duty and the petitioner has nothing to do with it until informed. As stated by Sri Abdul Mazid and Munna Lal. The statements are already annexed as Annexures-2 and 3.

(49) *That none of the witnesses whose statements were taken by the C.R.S. ever said that the petitioner was informed about failure/difficulty felt in operation of inter-locking system, nor they deposed any role of the petitioner in the said manipulation/foul means as narrated in the charge sheet.*

(50) *That in this way, none of the charges against the petitioner have anything to do with the duties assigned to Assistant Station Master but he has been charged for negligence of others.*

(51) *That further the alleged act of operation and violation of Rule are pertaining to Interlocking/signal failure(when points and signals ceases to function during the course of operation). But no communication was made to the applicant by the Cabin Man and leverman who operated the levers and while it is on record that there was no interlocking failure at the time of occurrence. The following are the fact which speaks of no Interlocking failure at that time:-*

(a) *Deposition of Divisional Safety Officer, the disciplinary authority in reply to case No.36/87 Anrirudh Prasad Srivastava V/s. Union of India and others before the CAT Allahabad under para 42 of counter reply(the contents of para 6/74 of the petition are not admitted and are denied. The accident had accurred due to non-observation of rule by the petitioner and not*

Abdul Mazid

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for any interlocking failure.

(b) The statement of Sri Bhojraj, Senior Divl. Tele-communication Engineer

"on 30.5.86 all relevant routes were checked alongwith Chief Signal Telecommunication ^{Engineer} Officer, N.E.Rly. Gorakhpur, Deputy C.R.S(Signal), Deputy CRS(Traffic) and Divl.Safety Officer, Lucknow at Loco Cabin and Aishbagh West cabin and found interlocking perfect. The basement of West cabin was opened and all lever locks are found sealed. At loco cabin lever lock no.5 and 6 which are just behind the lever were found unseald.)

(52) That under the above said fact there is no possibility of releasing lever lock No.12 and as narrated in the charge and in the statements of Sri Munnalal and Sri Abdul Mazid. Rather unsealed lever lock at loco cabin is of serious concern.

(53) That further Sri Abdul Mazid and Sri Munna Lal relied upon witnesses by the Enquiry Officer ^{deposed} before that there was no interlocking failure at that time and also deposed that there was no role of the petitioner in the said manipulation/foul means. Their answering questions before you E.O. is produced below:-

Abudl Majid

Q.1 You remained there upto 8 hours during this period. Did you hear from any body about the failure of signal or points.

Ans: No

Q.5 Did you hear A.P.Srivastava or Sukhdeo Singh calling Shri Bisht that lever No.12 is not coming to normal?

Abdul Majid

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Ans. I heard only Sukhdeo Singh calling that lever No.12 is not coming to normal.

Q.6 Did you see Sukhdeo Singh leverman trying to take off signal by pulling up wire or by any other means for reception of 24 DN?

Ans. No

Munna Lal

Q.1 You attended at 7.30 and remained there upto 8.30. During this period did you hear from anybody about the failure of signals and points?

Ans. No

Q.2 Please state, did you also see sri A.P. Srivastava in the cabin calling Sri G.S. Bisth or any interlocking staff that lever no.12 is not coming to normal?

Ans. I heared only Sri Sukhdeo Singh calling that lever no.12 is not coming to normal. I did not see sri A.P. Srivastava.

Q.3 Did you see Sri Sukhdeo Singh Leverman trying to take off signal by pulling up wire or by any means for reception of 24 DN?

Ans. No

(54) That under such prevailing facts the rule said to be violated were not to be obeyed as the rules are for the particular occasion of points/signals failure and there was no point/signal failure as fact referred to above. So at this stage also the charge s against the petitioner cannot be sustained.

Afterwards

(55) That on 28. 3. 1988, the petitioner addressed a letter to the Enquiry Officer and demanded cross-examination of those witnesses whose statements have been relied in the charge sheet but the petitioner was never given any such opportunity.

(56) That it would not be out of place to mention that the statements of S/Sri Sukhdeo Singh, Balram Singh, Abdul Mazid, S.C.Dhar, Munna Lal, Badri and S. Shefard were recorded on 11.1.88, 31. 12. 87, 11. 1. 1988, 31.12.87, 11.1.88, 12.1.88 and 11.1.88 respectively but these statements were not recorded before the petitioner and the Enquiry Officer recorded these statements in petitioner's absence, though the petitioner presented himself for inquiry on 31. 12. 1987.

(57) That further the date of Enquiry on 12.1.88 for recording the statements of Sri Badri, Liverman was never intimated to the petitioner and further the statement of Sri G.S.Bisht, E.S.M. neither recorded nor supplied to the petitioner making it more clear that the statements of Badri were recorded even without the knowledge of the petitioner and the statement of Sri G.S.Bisht at all not recorded. Therefore, the petitioner could not present himself.

(58) That on 12.1.88 and 17.3. 1988, the Enquiry Officer addressed a letter to the petitioner and asked to attend the Enquiry on 22.1.88 and 28.3.88 and

Affidavit

submit the names of the defence witnesses, if any, so that their attendance may be arranged in time. A true copy of this letter dated 12.1.88 and 17.3.88 are annexed as Annexures- 8 & 9.

(59) That on 21.3.1988 the petitioner submitted a list containing names of persons whom the petitioner wanted to produce in defence and requested the Enquiry Officer to ensure attendance of the following defence witnesses S/ Sri B.R. Vasudevan, the then C.R.S., Gorakhpur, Bhoj Raj, the then Senior D.S.T.E., Lucknow Junction, R.S. Agarwal, D.S.T.E Lucknow Junction, R.S. Nirmal ^{the then} ~~the then~~ S.I. 1st, Aishbagh, U.K. Singh, D.S.O., Lucknow junction, R.S. Srivastava, A.S.R., Lucknow City and S.S.Uppal, S.I.III. A true copy of the letter dated 21.3.1988 is annexed as Annexure- 10.

(60) That on 22.3.1988, the D.R.M. Safety, Lucknow junction addressed a letter to the petitioner and asked him to present himself on 28.3.1988 for enquiry but except the petitioner none of the prosecution and defence witnesses were called in the enquiry and, therefore, the petitioner could not get any opportunity to examine defence witnesses or to cross-examine the witnesses whose statements were recorded by the Enquiry Officer. A true copy of the letter dated 22.3.88 is annexed as Annexure- 11.

(61) That it is thus clear that the petitioner was not provided either the opportunity to examine his witnesses and he was also denied cross-examination of prosecution witnesses named in the charge sheet.

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Affidavit

(62) That in this way the petitioner was handicapped in bothways although in the letter dated 17.3.88 the names of defence witnesses were invited with the promise that their attendance would be arranged by them in time.

(63) That due to aforesaid denial of examination of defence witnesses and cross-examination of prosecution witnesses, the petitioner's case was greatly injured and he was denied reasonable opportunity of defence as required under the Rules.

(64) That it is further submitted that the favourable portion of statement of witnesses were not considered by the Enquiry Officer though it would not be further out of place to mention that on 16.10.88 the Divisional Railway Manager, Lucknow addressed a letter to the petitioner and ^{again} refused the supply of report of C.R.S. and the petitioner was not permitted to even take extract of this report on the ground that this report was a confidential document although under Rule 5 of statutory investigation into Railway Accidents Rules 1973 there is a provision of publication of such report. A true copy of the letter dated 16.10.86 is annexed as Annexure-12.

(65) That when the petitioner could not even get the extract of the records submitted by C.R.S., he sent certain extracts which were already in his possession for certification so that he may rely upon these extracts but even then vide order dated 25.1.87 the D.R.M. refused to supply the

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said report on the ground that the same was a confidential document and cannot be given to the petitioner. For convenience of this Hon'ble Tribunal, the relevant portion is being reproduced hereunder:-

"You have already been advised that C.R.S. report is a confidential document and cannot be given to you."

- (66) That in view of the aforesaid submissions, the petitioner could not get the copy of the report submitted by C.R.S. although this report formed the basis of the enquiry against the petitioner. Even the statements recorded by C.R.S. during his enquiry were cited as evidence in the charge sheet.
- (67) That the petitioner could not submit any reply to the charge sheet as he was awaiting supply of documents including report of C.R.S. as also fixation of date for examination of defence witnesses and cross-examination of prosecution witnesses.
- (68) That the Enquiry officer has input the statement of Shri Abdul Majid and Munna Lal which they have not deposed and interpreted the witness assaying what they have actually stated. As there was a missing link between the line of deposition of S/Sri Abudal Mazid and Munna Lal as to reach to the petitioner to fit the responsibility. Hence the C.R.S. Gorakhpur as well as the Enquiry Officer completed the missing link of chain by assumption, *Afterwards* presumption and suspicion and brought the missing link completed and thus implicated the petitioner

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- 38 -

and made him responsible.

(69) That, however, on 7. 4. 1988 without giving any show cause notice to the petitioner and without prior supply of report of the Enquiry Officer, the Senior Divisional Safety Officer - opposite party No. 3 - passed an order and removed the petitioner from service. The order was passed in a cyclostyled form which shows non-application of mind to the facts and circumstances of the case. A true copy of the order dated 7.4.1988 is annexed as Annexure to this application.

(70) That it is asserted that no material against a charged employee can be considered by the punishing authority until the charged employee is given opportunity to rebut or to produce his defence against such a document or material and, therefore, keeping this bare principle of justice in view the petitioner ought to have been supplied a copy of the Enquiry Officer's report prior to passing final order annexed.

(71) That in view of the aforesaid non-supply of Enquiry Officer's report prior to order of removal, the petitioner could not get any opportunity to rebut the findings reached by the Enquiry Officer although these findings greatly influenced the mind of the Senior Divisional Safety officer while removing the petitioner from service.

(72) That it is respectfully submitted that even by 42nd Constitutional amendment, the requirement of a show cause notice has not been taken away but

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only an opportunity to show cause against the quantum of punishment has been taken away with the result that opportunity to show cause against the findings of an enquiry officer remains there.

(73) That further the order dated 7.4.88 passed by the Senior Divisional Safety Officer is a non-speaking order which shows that even the Senior Divisional Safety officer failed to apply his own mind to the facts and the circumstances of the case and accepted findings of the Enquiry Officer. Further the charge of non-cooperation with the Enquiry Officer was levelled afresh without giving any opportunity to the petitioner.

(74) That on 29. 4. 1988 the petitioner preferred an appeal to the Additional D.R.M., N.E.Railway, Lucknow against the order dated 7.4.88 passed by the Senior Divisional Safety Officer. The petitioner took all the ground mentioned in this petition and ~~attacked~~ ^{affracted} the order of removal on factual as well as legal grounds annexed as Annexure-14 to this application.

(75) That on 28. 8. 1988, the D.R.M (Safety) N.E.Railway, Lucknow passed an order and rejected the appeal preferred by the petitioner although the appeal was preferred to Additional D.R.M. as indicated in the order of removal and address of appeal as such the appeal was also not considered by the Addl. Divisional Railway Manager. Rather the appeal was considered by D.S.O. and communicated by the Assistant operating superintendent(H) in the name of D.S.O. The order rejecting the appeal annexed as Annexure-15

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(76) That it is further submitted that the Additional D.R.M. is much higher in rank than the D.R.M. (Safety) and, therefore, even the order in appeal is without jurisdiction.

(77) That now, therefore, feeling aggrieved and finding no remedy the petitioner challenges the legality, validity and correctness of the impugned orders on the following amongst other grounds:-

G R O U N D S

- I) Because the opposite parties have violated the provisions of Article 311 of the Constitution of India.
- II) Because the opposite parties have also violated the provisions of Article 21 of the Constitution of India as the petitioner has no other means of livelihood.
- III) Because even on facts, no charge against the petitioner have been met out.
- IV) Because the petitioner was not given reasonable opportunity of defence against as much as the statement of witness were not recorded in his presence.
- V) Because the report of the C.R.S. though formed the basis for enquiry against the petitioner but was not supplied to the petitioner.

Ans

VI) Because no show cause notice was given to the petitioner.

VII) Because the petitioner was not given any opportunity to contradict or to rebut the findings reached by the Enquiry Officer.

VIII) Because the petitioner was also denied opportunity of examining his own witnesses and to cross-examine the witnesses of the department.

IX) Because the entire enquiry has been onesided affair and deserves to be cancelled.

X) Because the work and conduct of the petitioner throughout his service career has been of a high order.

XI) Because the impugned order of removal as also the appellate order are without jurisdiction and cannot be sustained in law.

XII) Because even the charge sheet and the order of suspension were without jurisdiction.

XIII) Because removal from service is a major punishment and extreme step against an employee which cannot be imposed without following the principles of natural justice and fair play.

XIV) Because the impugned orders are thus non-speaking order and, therefore, bad in law and liable to be quashed.

XV) Because even the Senior Divisional Railway Officer and the D.R.M(Safety) who passed the orders acted *Abhivindan*

acted arbitrarily on the report of the Enquiry Officer and dittoed its findings without application of their own mind to the facts and the circumstances of the case.

XVI) Because the punishment is too severe as the past service rendered by the petitioner has not been taken into account.

7. RELIEF(s) sought:

In view of the facts mentioned in para 6 above, the applicant prays for the following relief(s):-

WHEREFORE, it is most respectfully prayed that the Hon'ble Tribunal be pleased to quash the orders dated 4.9.86, 7.4.88 and 28.6.88 contained in Annexures 4 13 15 respectively with a declaration that the petitioner continues in service all along on the post of Assistant Station Master holding him entitled for all the benefits of service including pay and allowances for which he would have been entitled had he not been punished and removed from service. Any other order or direction appropriate in the circumstances of the case and deem just and proper may also kindly be passed alongwith the costs of the instant application.

8. Interim order, if prayed for:

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

Abstention

- 43 -

- Nil -

9. Details of the remedies exhausted:

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

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

The applicant further 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.

11. Particulars of Bank Draft/Postal order in respect of the Application Fee:

1. Name of the Bank on which drawn:

2. ~~Maxxaffix~~ Demand Draft No. :

OR

1. Number of Indian Postal Orders : DD 829769

2. Name of the issuing Post Office: ~~High Court~~ Post Office Lucknow

3. Date of issue of Postal orders : 5-11-88

4. Post office at which payable : G.P.O - Allahabad.

12. Details of Index:

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

Abdullah

(Pua)

- 44 -

13. List of enclosures:

In verification:

I, Anirudh Prasad Srivastava, son of Sri Mangal Prasad Srivastava, aged about 58 years, working as Assistant Station Master, N.E. Railway, Aishbagh, Lucknow resident of 555 Kha 2/4 Bhola Khera, Alambagh, Lucknow do hereby verify that the contents from 1 to 13 are ~~are~~ true to my personal knowledge and belief and that I have not suppressed any material facts.

Place: Lucknow

Dated: November, 1988.

AP. Srivastava
SIGNATURE OF THE APPLICANT

To

The Registrar
Central Administrative Tribunal at Allahabad
Additional Bench at Lucknow
Lucknow


Anirudh Prasad Srivastava
AD


Anirudh Prasad Srivastava

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बुद्धोत्तर रुद्राय



Annexure No. 1

इकतीसवां रेल सप्ताह - 1986 योग्यता प्रसाण-पत्र

• 32 वर्षों के कार्यकाल में दुर्घटना-रहित रेल सेवा हेतु सम्मानित
एवं पुरस्कृत

श्री अनिलद्व प्रसाद श्रीवास्तव

सहायक स्टेशन मास्टर, ऐश्वर्यग
लखनऊ, मण्डल

गोरखपुर 16 अप्रैल, 1986

TRUE COPY
ATTESTED

P. K. Srivastava

Adv.

(वाई० बी० एल० माधुर)
महाप्रबन्धक

Abhishek

(A51)

(A5)

Railway Maintenance

8. Name	Munna Lal.
Designation	Attendant.
Date of birth	4.4.43.
9. Date of appointment.	4.10.43.
Place of posting	Alibagh.
Appointed on	10/10/43.
Pay	Rs. 200/-.
10. Scale	Rs. 210-220.
Do. Length of service	10 years.
20. Length of service in present grade	19 years.
11. Previous service	Nothing.
12. By night I was examined	
13. Date of last P.M.D.	
14. Date of last refresher course	

I have been warned that I shall be subjected to disciplinary action if I do not tell the truth or for attempting to conceal facts.

3/3/11 PM
(Munna Lal)
Signature.

I came on duty on 31.5.46 from 7.30 hrs onwards for maintenance works at Alibagh West Cabin. When I came on duty, Shri Farid, Electrical Signal Maintainer, was on duty. After a Japse of few minutes, Shri Bish, Electrical Signal Maintainer came over to the West Cabin where I was in attendance. Shri Farid handed over his car to Shri Bish.

3/3/11 PM

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and Ift. Mysalf and Smt. Aishai Majid were the Dials, normally attached to Electrical Signal Maintainer. Similarly, we worked either with Shri J.K. Pant or with Shri L.V. Mehta, Electrical Signal Maintainer. Myself and Smt. Majid were to go to West Cabin where we met Shri Bicht, Electrical Signal Maintainer. Shri Bicht stated that he would be in the West Cabin and that both of us should go ahead and do cleaning operations. When those instructions were given to us, Shri Bicht was inside the basement of the West Cabin. Myself and Shri Majid went out of the Cabin to attend to a detector which was about 10 mtrs. away from the West Cabin of Akashganga. After a lapse of about 10 mtrs., I heard Cabinman Shri Gulchand shouting to Shri Bicht, Electrical Signal Maintainer, that lever No.12 was not getting restored to normal position. Shri Gulchand was shouting from the Cabin and since I was in proximity to the Cabin, I could overhear him. At that time, Shri Bicht, also, Signal Maintainer, was in the basement of the West Cabin. On hearing this shouting, myself and Shri Majid reached the door-step of the Cabin basement. I found Shri Bicht restoring the lever No.12 to the normal position. He found the cover of the lever-lock was open and Shri Bicht manipulating the cover No.12. At that time, he asked us not to wait near the Cabin and that we should proceed to do our assigned duties. As soon as we came out of the Cabin, we heard Shri Gulchand again shouting to Shri Bicht that the signal lever is not getting restored. I am unable to say which signal lever was not restored. I am unable to say which signal lever was not restored. However, after a lapse of about 8 mtrs., I heard Shri Gulchand shouting, if the signal lever was not restored, then the lever should be taken off. The ringer, which was attached to the lever, should be taken to another place.

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AS9

Shri Mata was still in the basement of Alibagh Motel Cabin when we left. Thereafter, we heard people shouting that an accident had occurred, and running towards Lucknow Bazaar. We also went towards that direction, and while proceeding we found that the basement of Alibagh Motel Cabin was looted. We did not see where Shri Mata was at that time. I conclude my statement.

29/7/61 (v)

(Munir Lal)
Shaleen (S.T) / Alibagh
2.7.1961.

Q.1) What was the reason for your staying near the Motel Cabin after you had been directed to proceed to attend to your duties ?

A.1) I was assigned duties to clean up the 'dustbin' which was in close proximity to Alibagh Motel Cabin. While I was completing this work that I heard the shouting from Shri Sukhdeo. Thereafter, while coming from the office of work, I came near the doorstop of the Motel Cabin when I noticed Shri Mata effecting some operations for rooting the lever No. 12 to the normal position.

Q.2) What is the procedure adopted for releasing a lever which does not get restored to normal ?

A. The lever lock cover is opened and lock is manually released so that the lever can be put back to normal position.

Q.3) Did you notice the cover of the lever-lock No. 12 in open condition at the time when you were near the doorway of the Cabin basement ?

A. No, I was near the entrance of the basement of the

29/7/61 (v)

A. S. S. S.

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ASW

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(29/11)

Pat Gauri, I witness that the lever of the lever-bank of lever No. 12 was in open condition. I also saw Shri Bist manually operating the lever lock thereby releasing lever No. 12.

Q.4) Have you ever worked with Shri Bist at any time in the past ?

A) Occasionally I have worked under Shri Bist, whenever he used to come for soliciting duties.

Q.5) Has he ever marked absent or ill-treated you on any occasion in the past ?

A) There was no occasion when Shri Bist has marked me absent or ill-treated me in the course of my duties.

Q.6) Do you have any enmity with Shri Bist for any reason whatsoever ?

A) I have no enmity with Shri Bist, whatsoever.

Q.7) What are the various 'detectors' which you were engaged in cleaning on that day ?

A) Initially I had been engaged in cleaning detector of the Metre Gauge, when I heard Shri Sukhadoo shouting for lever No. 12, to be released. After noticing Shri Bist releasing the lever lock of lever No. 12, I went for attending to the cleaning of detector on the 100. track and at that time I heard Shri Sukhadoo again shouting for the signal not coming off.

Q.8) Did you hear Shri Sukhadoo specifically advising Shri Bist, the signal number which was not coming off ?

19/11/1979

Alfrin

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a) Dr. Jagat Singh gave my signal number. After a lapsed of 3 or 4 mcs. Shri Jagat Singh Sakhoo, 28 ho would take off the signal, to which the latter replies in affir-

affirmative

11/11/1986

(Anna Lal)
Khaleesi (L.I.) / Aching

2.7.1986.

TRUE COPY
ATTESTED

km
P. K. Srivastava
Adv. cato

RAILWAY WITNESS.

1. Name Abdul Majid
2. Designation... Khalasi
3. Date of birth .. 01.12.40
4. Date of appointment.. 16.02.62
5. Place of posting ... HER Gang/Aishbagh
6. Appointed as ... Khalasi
7. Pay ... Rs. 246/-
8. Scale ... Rs. 200-250
9. Length of service ... 23 years.
10. Length of service in present grade ... 23 years.
11. Previous service ... -
12. Eye sight last examined. ... -
13. Date of last P.M.E ... -
14. Date of last Refresher course. ... -

I have been warned that I shall be subjected to disciplinary action if I do not tell the truth or for attempts to conceal facts.

Sd/-.
(Abdul Majid)
Signature.

Statement of Shri Abdul Majid, Khalasi (S&T) / Aishbagh.

I was on duty at Aishbagh West Cabin at about 7.30 hrs. on 31.5.86. I am a Khalasi who is utilised to assist wherever additional manpower is needed. (I am considered to be a 'floating Khalasi'). I am assigned jobs at various locations, but for the last 10 days prior to this accident, I had been specially assigned to attend to the signalling and interlocking installations in and around Aishbagh area. On 31.5.86, when I reported for duty, Shri Munna Lal, another Khalasi who is also given the assignment of maintaining the S&T installations was present. He noticed that Shri Farid, Elec. Signal Maintainer had handed over the charge to Shri Bist and the latter was inside the basement of the Cabin where there is a diary maintained. Both myself and Shri Munna Lal reported to Shri Bist who directed us to clean the 'detectors' both on the BG as well as on the MG section between West Cabin and station. Myself and Shri Munna Lal began to attend to the detector close to the Cabin on

Contd....2.

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Metre Gage. While nearing completion, we heard Shri Sukhdeo, Cabinman shouting to Shri Bist (who was in the basement) that lever No.12 was not getting normalised. At this stage, we had just completed our work and had crossed near the door-way of the basement of the West Cabin when we noticed Shri Bist releasing the lever lock. I noticed the cover of the lever lock kept on the ground. Shri Bist later asked the Cabinman if the lever could not back. The Cabinman confirmed that the lever was released. I had personally seen Shri Bist manipulating manually the lever lock to enable the lever getting released.

Thereupon, both myself and Shri Munna Lal proceeded towards the B.G. track to clean up the detectors which was located close to the West Cabin. After a lapse of a few minutes, Shri Sukhdeo again was shouting that the signal was not coming off. After a lapse of about 5 minutes Shri Bist asked if the signal lever could then come off. Whereupon, Shri Sukhdeo replied that the signal lever came off and signal aspect appeared. Myself and Shri Munna Lal then proceeded towards Aishbagh station side attending to various points enroute. After sometime, we noticed that the basement of Aishbagh West Cabin was locked.

Sd/-.

(Abdul Majid)

Khelaasi (S&T) Aishbagh

2.7.86.

Q. 1 ✓ Did Shri Bist ever use any wire for giving a feed to any of the relays or lever locks, when you observed him releasing lever?

Ans. ✓ He did not have any wire in his hand when he was releasing the leverlock.

Q. 2. Did you recognise the voice of Shri Sukhdeo when he should that the lever No.12 was not getting released? And how do you conclude that it was Shri Sukhdeo who was shouting?

Ans. I saw Shri Sukhdeo on the top of the cabin and I am quite sure that it was Shri Sukhdeo, Cabinman.

Q. 3. Again how were you sure that it was Shri Sukhdeo, who was shouting that the signal lever was not coming off subsequently?

Ans. We saw Shri Sukhdeo shouting for the signal not having come off when we came to the B.G. track.

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- 3 -

✓ Q.4. From what location did Shri Sukhdeo shout to Sri Bist?

✓ Ans. Shri Sukhdeo was near the balcony from where he should to Shri Bist in the basement.

✓ Q.5. Are you quite sure that Shri Sukhdeo shouted on both the occasions from the balcony of the Cabin and not from inside?

✓ Ans. Yes, I am quite sure that on both the occasions it was Shri Sukhdeo who shouted from near the balcony and we could see him and hear him shouting.

Q.6. After the release of the signal, where was Shri Bist?

Ans. He was inside the basement of the cabin.

✓ Q.7. Did you hear the shouting of Shri Sukhdeo while you were engaged on the cleaning of the BG detector?

Ans. Yes, We were engaged in cleaning of a detector of the BG when heard Shri Sukhdeo shouting and also the response from Shri Bist and subsequent confirmation from Shri Sukhdeo that signal had been taken off.

Q.8. Did you see Shri Bist inside the office of the Signal Inspector or was he still inside the Cabin?

Ans. Shri Bist ~~was~~ was inside the basement of the cabin till we left towards Aishbagh station.

Q.9. Did you observe as to what manipulation Shri Bist did in releasing the signal?

Ans. Since we did not go inside the basement of the Cabin, I did not notice as to what precisely Shri Bist did in releasing the Signal.

AT THIS STAGE SHRI MUNNA LAL, KHALAS I (S&T) WAS CALLED IN AND ALSO SHRI SUKHDEROA CABIN WAS CONFRONTED WITH BOTH SHRI MUNNA LAL AND SHRI MAJID.

*but
All day*
Shri Sukhdeo, Cabinman stated that his lever was normal/without being questioned, on his own, volunteered to state that he never shouted for normalisation of any lever.

NOTE BY C.R.S. "C.R.S. recorded observation that Shri Sukhdeo, Cabinman had on his own voluntarily stated that he did not shout which ~~these~~ perhaps indicate his guilty conscience of having shouted, and this evidently process that he has suppressed some information before the commission."

AT THIS STATE SHRI MUNNA LAL & SHRI MAJID, KHALASIES (S&T) WERE CALLED IN AND CONFRONTED WITH SHRI SUKHDENO.

S/ Shri Munna Lal and Majid maintained their earlier statements regarding the manipulations effected by Shri Bist for releasing lever lock of lever No. 12 as well as of signal being taken off. Shri Sukhdeo, Cabinman, however, stoutly

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(23)

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- 4 -

denied of any such situation prevailing and stated that all his levers were normally and he had no difficulty in taking off reception signals for 24 Dn train.

Shri Majid and Shri Munna Lal at this stage stated that their statements had been got signed by them earlier under pressure of Shri Dixit and Shri A.P.F.Singh, Signal Inspectors and both Shri Munna Lal and Shri Majid were not aware of the contents of the statements signed by them. Both of them, however, reiterated that they had spoken the truth as deposed before the Commissioner. Since they were illiterate, they had signed the statements assuming the factual position as stated by them.

At this stage Shri A.P.Srivastava, Asstt. Station Master Aishbagh was called for confrontation with Shri Sukhdeo, Sri Munna Lal and Shri Majid. Shri Srivastava was not available as he had reported sick under a private Medical Practitioner.

At this stage, Shri Bist was called in and confronted with Cabinman Shri Sukhdeo and Khalasi S/Shri Munna Lal and Shri Majid. Shri Bist, Elec. Signal Maintainer maintained that he did not effect any manipulation on either lever No.12 or gave any direct feed to H.P. Relay 34. Shri Munna Lal and Shri Majid, Khalasis however, maintained that they did observe Shri Bist releasing lever lock of lever No.12 on Shri Sukhdeo's shouting regarding signal not coming off and later signal came off as advised by Shri Sukhdeo during the conversation. Shri Sukhdeo maintained that he found all the levers in the normal position. He maintained his original statement to be correct.

At this stage, Shri Bist, Elec. Signal Maintainer stated that the statements made by Shri Munna Lal and Shri Majid now before the Commissioner has been under pressure from higher authorities. He could not, however, identify the authorities under whose pressure they are making the statements now given.

Sd/- (G.S. Bist) DIX	Sd/- (Sukhdeo Singh)	Sd/- (Munna Lal)	Sd/- (Abdul Majid)
E.S.M./ Aishbagh, 2.7.86.	Cabinman/West Cabinman/ East Aishbagh, 2.7.86.	Khalasi(S&T) Aishbagh. 2.7.86	Khalasi(S&T) Aishbagh. 2.7.86.

TRUE COPY
ATTESTED

P. K. Srivastava
Adv. C.I.T.C.

Abdul Majid

‘नलम्बन आदेशा का मानक फार्म, रेल लेवल ट्रान्सोफरर और अस्ट्रीलिया

नियम, १९६८ का नियम ५ ४१६

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रेल पृष्ठासन का नाम है पूर्वोत्तर रेलवे

निर्गुण स्थानमण्डल कार्यालय दिनांक

二
四三

यतः श्री कृष्ण श्री वान्मुख से इमां यतः श्री

४ रेल कर्मचारी का नाम और पद नामै के वित्त अनुशासनिक कार्यपादी अपेक्षित/ अनिर्णीत है ।

४ रेल कर्मचारी का नाम और पद नाम७ के विस्तृ अद्युशासनिक कार्यवाही अपेक्षित/ अनिर्णीत है ।

४९५८ साधा संलग्न अनुसूची ।, ॥, और ॥॥ की शार्तों के अनुसार रेल नर्मदारी को

प्राप्ति ग्रह छरने वाला सहाम प्राधिकारी । रेंटेंट और अप्रैल नियम 1968 के नियम

३४।४ के प्रत्यनुष्ठान में उल्लिखित प्रार्थकारों, र०३०४३० और अ०४ नियम, १६४ विनाशकीय ५।१६ के प्रत्यनुष्ठान में प्रार्थक द्वारा पढ़त्व शास्त्रों पर प्रधान वर्तमान स्तर का विवरण

4/ नियम 5/ के परन्तु द्वारा प्रदत्त हालावा का अन्तर्गत ही — नियम 5/ के अन्तर्गत हालावा का अन्तर्गत ही —

निलम्बनार्थीन् रहते हैं ।

यह भी आदेश दिया जाता है कि जिस अदीधा में यह आदेश प्रभावी रहेगा।

उसमें उपत थ्री - ८८८
सख्यालय नहीं लोड्ये

क्षतादार ।

ଶିଖିତାରେ କାହାରିବାକିମୁକ୍ତି

चिलस्त्रुप्राणाशुद्धी ला नाम

मेरी विवाहित व्यक्ति का नाम और पद नाम
—विवाहित व्यक्ति की अपरीक्षा में उसे स्वीकार्य निर्माण भारत के सम्बन्ध
में जल्द से आदेश जारी किये जायेंगे ।

२०. प्रृष्ठान् र्हापक अल्प फैटर

३. स्टॉटी/हार्डि सेक्युरिटीज बुगापक

1) \Rightarrow cut on 17/9/20

TRUE COPY
ATTESTED

P. K. Srivastava
Advocate

STANDARD FORM NO. 5

A67

STANDARD FORM OF CHARGE S H E L T
(Rule 9 of the Railway Servants Discipline and Appeal
Rules 1968).

NO. T/537/TA/3/86

(Name of Railway Administration) N.P.E. Railway
(Place of issue) D.R.M. office, Lucknow Dated 8.9.86.

MEMORANDUM

The undersigned propose(s) to hold an inquiry against

Shri A.P. Srivastava ASM/ASH under Rule 9 of the Rly. Servants' (Discipline and Appeal) Rules, 1968. The substance of the imputations of misconduct in respect of which the enquiry is proposed to be held is set out in the enclosed statement of article of charge (Annexure I). A statement of the imputations of misconduct in support of each article of charge, is enclosed (Annexure-II). A list of documents by which and a list of witnesses by whom, the articles of charges are proposed to be sustained are also enclosed as Annexure III and IV.

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

**2. Shri ~~is hereby informed that if he so desired, he can inspect and take extracts from the document mentioned in the enclosed list of documents (Annexure III) at any time during office hours within 10 days of receipt of this memorandum. For his purpose he should contact.... immediately on receipt of this memorandum.~~

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

4. Shri A.P. Srivastava is hereby directed to submit to the undersigned (though) GS/ASH) written statement of his defence (which should reach the undersigned within 10 days of receipt of this Memorandum, if he does not require to inspect any documents for the preparation of his defence and within 10 days after completion of inspection of documents if he desires to inspect document and also

.....(2)

** STRIKE OUT WHICH IS NOT APPLICABLE.

Allo 20/9

(a) to state whether he wish to be heard in person and to furnish the names and addresses of the witnesses which he wishes to call in support of his defence.

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

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

7. The attention of Sri A.P.Srivastava is invited to Rule 20 of the Railway Services (Conduct) Rules 1968, under which no railway servant shall bring or attempt to bring any political or other influence to upon any superior authority to further his interests in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Shri A.P. Srivastava is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the Railway Service (Conduct) Rules 1966.

8. The receipt of this memorandum may be acknowledged.

Signature Sd/- Illegible
Name and design. R.N. Aga

Competent authority. Dvl. Safety Officer
Lucknow.

Encl: 56 Pages.

Shri A.P. Srivastava Designation ASM/ASH under
suspension son of Sri Mangla Prasad Place of working -
Aishbagh, through SS/ASH.

TRUE COPY

TRUE COPY
ATTESTED

R. K. Srivastava
P. K. Srivastava
Adv. Cate

A. Srivastava

STATEMENT OF ARTICLES OF CHARGES FIXTURED AGAINST
SRI A.P. SRIVASTAVA, ASST/WEST CABIN/ASH &/O SRI
KANGLA PD.

ARTICLE - I.

That the said, Sri A.P. Srivastava, while functioning as Asst/West Cabin/ASH on 31.5.86 in 08.00 hrs to 16.00 hrs shift failed to ensure correct setting of route for reception of 24 A.M. Express train Ex 1591 to Lucknow, as a result of which the train took the route of loco line instead of main line while the signals were taken off for main line by manipulation in West Cabin/ASH by the combined efforts of operating and signal staff causing derailment of train engine no. 2581 YP with 4 coaches over diamond crossing no. 101-101A (10-10). Thus, Sri A.P. Srivastava, ASH violated SR 2.06(a), SR 3.68 (1) (a), SR 3.68(1) (1) SR 3.68 (2) (ii), SR 5.01(2) and para 6(c) of Alchbagh Page 6(c) (iii), Page No. 11, and Rule no. 3(1) (ii) and (iii) of Railways Services (Conduct) Rules 1966 which amounts to misconduct on his part.

Sd/-

(R.N. Aga)
Dr. Divisional Safety Officer
RSP/LUCKNOW.

ANNEXURE - II

List of documents by which the articles of charges fixed against Sri A.P. Srivastava, Asst/West Cabin/ASH proposed to be sustained.

1. All concerned accident files.
2. Accident Report on form 2/3.
3. Statement of Shri S. C. Shephered, Fireman/B.
4. Statement of Shri S. C. Haz, Guard.
5. Statement of Shri Balram Singh, Cabinman.
6. Statement of Shri Jukhdeo Singh, Yadav, Leverman.
7. Statement of Shri Badi Pointman.
8. Statement of Shri A.P. Srivastava, ASH
9. Statement of Shri S. C. Ghosh, ASH
10. Statement of Shri Munna Lal Khalasi, ASH
11. Statement of Shri Abdul Majid Khalasi, ASH
12. A Position of lever of West Cabin/ASH after accident jointly checked by 1st and 2nd, Alchbagh.

Sd/- (R.N. Aga)
Dr. Divisional Safety Officer,
RSP/Lucknow.

TRUE COPY

ATTESTED

from (m)

P. K. Srivastava
Advocate

Statement of Imputation of misconduct in support of the Article of charges framed against Shri. P. Srivastava sub/ West Cabin/ No. 4/1 at Nangla Rd.

AO

Article - I

On 31.5.66 while 24 on a 50000 ton train was coming from Amritsar to Lucknow Jn. Station it took the route of loco line instead of main line while the signals were taken off for mainline by manipulation in Nangla West Cabin by the combine efforts of Operating and Signal staff as a result of which the train engine No. 2581 IV with four coaches No. SWAM 8707, SW 7262, SW 7290 and SW 7202 got derailed over dead end crossing (SC-MG) No. 101-101 due to wrong setting of route. Shri Asst. Srivastava, who was working as SW/West Cabin/ A.M. had to ensure correct setting of route and thus violated CR 2.68(a), CR 3.68(1)(a), CR 3.68(1)(i), CR 3.68(2)(ii), CR 3.61(2) and 3rd of Nishatbagh para 6(c) (iii) Page no. 11 and Rule No. 3(1)(ii) and (iii) of Railway Services (Conduct) Rules 1966 viz which amounts to misconduct on his part.

.../- (Mr. Asst. S. I.)
Dr. Divisional Safety Officer
N.W. Lucknow.

ANNEXURE - II

List of witnesses by whom the Article of Charges framed against Shri Asst. Srivastava, SW/West Cabin/ No. 4/1 are proposed to be sustained.

1. Shri H. K. Shephered, Fireman/ P
2. Shri S.C. Dhar, Guard.
3. Shri Balram Singh, Cabinman
4. Shri S.C. Dhar, P.M.
5. Shri Kunwar Lal, Kheledi/ Jaff
6. Shri Abdul Majeed, Kheledi - 60
7. Shri Asst. D. P. Pintyzen.
8. Shri Pukhdeo Singh Yadav, Levezhan.

.../- (Mr. Asst. S. I.)
Dr. Divisional Safety Officer,
N.W. Lucknow.

TRUE COPY

TRUE COPY
ATTESTED

Pr. K. Srivastava
P. K. Srivastava
Adv. C.I.C.

Abdul Majeed

Annexure 7

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N.E. RAILWAY.

No. T/537/TA/3/85

DIVL. RLY. MANAGER(SAFETY)'S OFFICE
LUCKNOW: DT. 13-5-87

To,
Shri A.P. Srivastava,
A.S.M/ASH
(Under suspension).

A27

Sub: Derailment of 24Dn. at LJM on 31.5.86.

In compliance of directive of the Central Administrative Tribunal, Allahabad Bench, in Registration No. 36/87 - A.P. Srivastava V/S Union of India and Others ~~as the office Memorandum Annexures I & II of this office Memorandum No.~~ even dated 8.9.86 containing charges and imputations are hereby amended as under so as to make the charges more specific:-

ANNEXURE-I

Statement of Article of charges framed against Shri A.P. Srivastava, ASM/West Cabin/Aishbagh s/o Shri Mangla Pd.

That the said Sri A.P. Srivastava while functioning as Asstt. Station Master, West Cabin/Aishbagh on 31.5.86 in 0800 hrs. to 1600 hrs. shift, is charged of misconduct inasmuch as he failed to ensure correct setting of route for reception of 24Dn. Express train ex-Amausi to Lucknow Jn. before taking of the concerned reception signals and ultimately got the reception signals cleared by foul means with the help of ESM Sri G.S. Bisht on duty of West Cabin/Aishbagh, as a result of which the train 24Dn. took the route of loco line instead of main line, for which the signals were cleared causing derailment of train engine No. 2581 YP alongwith 4 coaches over diamond cross-over No. 101-101A (BG-MG) and causing death to 7 passengers and injuries to 9 passengers.

Sri A.P. Srivastava ASM/West Cabin/Aishbagh is thus charged of violation of G.R. 2.06(a), G.R. 3.68(1)(a), S.R. 3.68(i), S.R. 3.68(2)(ii), S.R. 5.01(2) and provisions of Station Working Rules of Aishbagh para 6(c)(iii) page 11 thereby contravening sub-rule 1(ii) and (iii) of Rule 3 of Railway Services (Conduct) Rules 1968 which tantamounts to misconduct on his part.

ANNEXURE-II

Statement of imputation of misconduct in support of the Article of charges framed against Sri A.P. Srivastava Asstt. Station Master/West cabin/Aishbagh s/o Sri Mangla Pd.

Shri A.P. Srivastava while working as A.S.M on duty at West cabin of Aishbagh station on 31.5.86 is 0800 to 1600 hrs. shift arranged reception of a light engine at 9.00 hrs. from LCB cabin to Aishbagh station for which he pulled

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Aishbagh

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lever No. 12 in reverse position and thus released control to Cabinman/LCB for setting cross-over No.5-5/6 in reverse position. The Down light engine came to Aishbagh station via this cross-over set in reverse position. After the reception of this light engine, Sri Srivastava granted line clear at 9.07 hrs. to 24Dn. Express train coming from Amausi station and going to LJN station over by-pass line. He then tried to arrange the reception of this train by setting the appropriate route for which he tried to first put back the lever No. 12 in normal position before asking Cabinman/LCE to normalise cross-over No.5-5/6. As this cross-over was still in reverse position, Sri A.P. Srivastava could not get lever No. 12 in normal position. Instead of ascertaining the cause as to why this lever was not coming in normal position, he sought the assistance of ESM on duty Sri G.S. Bisht who was present in the basement of the cabin and got lever No. 12 released to normal by adopting foul means. After putting lever No. 12 in normal position, Sri Srivastava pulled signal lever No. 34 but the concerned signal did not assume the off aspect. He then did not follow the procedure prescribed in General & Subsidiary Rules to be followed in the event of Signal failures, and again sought the assistance of ESM Sri Bisht and got the signal cleared by foul means. The result was that the signals were cleared for 24Dn. for main line to LJN whereas the route remained set for Loco line. The train 24Dn. ultimately went on loco line and derailed over diamond cross-over No. 101/101-A(BG-MG) resulting into derailment of Engine No. 2581 Y.P. alongwith 4 coaches causing death of 7 passengers and injuries to 9 passengers.

2. Thus Sri A.P. Srivastava violated G.R. 2.06(a), G.R.3.68(1)(a) S.R. 3.68(1)(i), SR 3.68(2)(ii), SR 5.01(2) and provisions of Station Working Rules of Aishbagh para 6(c)(iii) page 11 thereby contravening sub-rule 1(ii) and (iii) of Rule 3 of Railway Services(Conduct) Rules 1966 which tantamounts to misconduct on his part."

Please acknowledge receipt and submit your defence within 10 days of the receipt of this letter.

U.K. Singh
(U.K. Singh)
Sr. DIVL. SAFETY OFFICER
N.E.RLY. LUCKNOW

ACKNOWLEDGEMENT.

To,
The Sr.D.SO/LJN

Received your letter No. T/537/T/4/3/86 dated 13.5.87.

A. Srivastava

P. K. Srivastava
Advocate

Signature.....
Date ...?.../.../...)

TRUE COPY
ATTESTED

ACB

A) BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

Additional Bench at Lucknow

Appln. No. of 1988

A. P. Srivastava .. Applicant

V/s.

Union of India & ors. .. Opp. Parties

ANNEXURE - 1

N. E. RAILWAY

No. T/537/TA/3/86

Office of the
Divisional Rly. Manager(S)
Lucknow, dt 12.1.88

Shri A. P. Srivastava
ASM/ASH (Under suspension)
Through SS/ASH

Sub: Derailment of 24Dn at Ljn on 31.5.86.

Ref: Major penalty Memorandum of even no. dated 8.9.86
issued to Sri A. P. Srivastava, ASM/ASH (under suspension)

The statement of all the prosecution witnesses as mentioned in
the above charged Memorandum is over. Next date for cross examination
of all the prosecution witnesses by you is fixed on 22.1.88 at 10.00 hrs
in the chamber of AOS(G)/Ljn.

It is, therefore, requested to please attend the enquiry on the
above mentioned date and place at 10.00 hrs for cross examination of
prosecution witnesses by you. You are also requested to submit
a list of defence witnesses, if any, so that their attendance may be
arranged and statements recorded.

Sd/- G. C. Bhatnagar

AOS(G)/Ljn

Enquiry Officer

A. P. Srivastava

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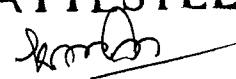
- 2 -

Copy to:-

1. SS/ASH. A copy of this letter is enclosed for service on Shri A.P. Srivastava, ASM/ASH(under suspension). He will also please spare Sri Balram Singh, Cabinman/LCB to attend the enquiry.
D/A/I.
2. SS/LJN. He will please spare and direct Sri S.C. Dhar, Guard to attend the enquiry.
3. LF/CB to spare Shri S. Shepherd, Fireman/I to attend the enquiry.
4. SM/GAW to direct Sri Sukhdeo Singh, Pointsman to attend the enquiry.
5. SM/MIN to spare and direct Shri Badri, Pointsman to attend the enquiry.
6. Sr. DSTE/LJN, SI/LJN may kindly direct Sri Minna Lal and Abdul Majeed, Khalasis(Signal)/BNZ to attend the enquiry.

TRUE COPY
ATTESTED

(G.C. Bhatnagar)


P. K. Srivastava
Adv. c ate

AOS(G)/LJN

Enquiry Officer

Al Srivastava

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

Additional Bench at Lucknow

Appln. No. of 1988

Amirudh Prasad Srivastava, , Applicant

V/s.

Union of India & ors. , Opp. Parties

ANNEXURE-9

No. T/537/TA/3/56 Pt III Dated : 17. 3. 88

From: Enquiry Officer To Shri A. P. Srivastava
AOS(G) 4N ASM under suspension

Thro: SS/ASH

Derailment of 24 Down at LM on 31.5.86

Ref: Your letter dated Nil

The copies of the statement of following staff recorded during
DAR enquiry are enclosed as desired:-

1) Shri Abdul Majeed Khalasi	Signal	2 pages
2) " S. C. Dhar	Guard	2 pages
3) " Badri	P. Man	1 page
4) " Balram Singh	C/Man	1 page
5) " Sukhdeo Singh	Lever Man	1 page
6) " Munna Lal(Khalasi)		2 pages
7) " S. Shepherd		1 page

Please attend enquiry on 28.3.88 and submit the name of defence
witnesses if any so that their attendance may be arranged in time.

Sd/- G. C. Bhatnagar
Enquiry Officer
Asstt. Optg. Supdg(G)
Lucknow

Abdul Majeed Khalasi
C to SS/Asstt

TRUE COPY
ALLEGED

P. K. Srivastava
Adv. Cate

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

Addl. Bench at Lucknow

Appln. No. of 1988

A. P. Srivastava	..	Applicant
V/s.		
Union of India & ors.	..	Opp. Parties

ANNEXURE- I

To,

The E/o(AOS/G)

N.E. Railway

Aishbagh

Reference your letter T367/TA/3/86 Dated 17.3.88

Sir,

Out of eight PWS listed in Annexure IV to the Memorandum in question, I have received the statement of only 7 PWS and that too appears to be recorded before the III party. Please arrange to supply the statement of rest one PWS Shri G. S. Bhist.

By going thro the statement of PWS it has because compelling necessity to arrange copy of the following. Out of those documents mentioned below some are required copy prior to the date of enquiry on 28.3.88 for study and some are required to be available with the E/O W he produced at the time of enquiry.

I Document required prior to the Date of enquiry 28.3.88 to study for cross examination of the PWS.

1) Certificate on Annexure-I III IV V and VI submitted several time but last submitted during the course of enquiry on 22.1.88 and 14.3.88.

2) Specified charge sheet on the time of direction issued by the CAT/AID submitted several times lastly submitted during course of enquiry on 22.1.88.

Afternoon/Am

3) Certificate on relevant portion of the CRS report submitted to you vide my letter 5.12.87.

4) Statement of Shri Aslam Wahdi ASM/Astt main on the said accident before CRS.

5) Statement of Gopal Singh gatekeeper Gate No.2 Asstt -do-

6) Statement of gatekeeper RDSO gate -do-

II Documents required to be produced in the enquiry for cross-examination of the PWS.

1) Attendance Register of I/L staff at Asstt West cabin on 31.5.86.

2) Safety circular No.8 GI (File progressive No. T/518/O Pt VI dt 25.6.84

3) Disconnection Register from 22.1.86 to 13.7.86

4) Disconnection Memo 250533 (File progressive No. S/12/84) dt 2.6.86 and its reconnection memo.

5) Reconnection Memo No. 231623 (File progressive No. RK/6107 dt 13.7.86 and its disconnection Memo

6) Telegram No. PN/10/86 dt 31.7.86 by SII Asstt

7) Cabin Register Asstt West cabin & Aishbagh main

Sir,

I hereby submit the name of the defence witnesses. Please arrange attendance accordingly.

1) Shri V.R. Vasudevan the then CRS/GRP

2) Shri Ehojraj the then Sr DSTE/LJN

3) Shri R.S. Agarwal -do- DSTE/4N

4) Shri R.S. Nirmal -do- ASI I at Astt

5) Shri U.K. Singh -do- DSO/Ljn

6) Shri R.N. Srivastava ASM Lucknow city

7) Shri S.S. Uppal SI III then at Astt

Abdul Karim

APB

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It is further requested that before putting them to state before the E/O the following copy should be made available to me for cross examination of the above said persons.

- 1) CRS/GRP report on the subject matter or the relevant portion of the CRS report put forward by me under my letter dated 5.12.87 duly certified as required.
- 2) Fact on your record through submitted several times lastly submitted as Annexure I during the course of enquiry dt 22.1.88 and Annexure III IV V and VI submitted on 14.3.88 duly certified as required.
- 3) Specify the charges as per direction of the CAT attached asked several time but lastly submitted as Annexure II during enquiry dated 22.1.88.
- 4) Reply of my representation dated 6.2.87
- 5) Statement of Item 2,3,4,5,7 before the CRS

That further the following documents be made available with you at the time of cross-examination. Following records are pertaining to Asstt/WC.

- 1) Safety Circular No. 109, 107 alongwith certificate to CRs sent by Sr DSTE 105 and 36 dated 28.8.86, 25.9.86, 20.5.86, 2.4.80.
- 2) Disconnection Memo No. 250555 (File progressive No. S/12/86) dated 2.6.86 and its reconnection Memo.
- 3) Reconnection Memo No. 231623 (File progressive No. RK/610) dated 13.7.86 and its disconnection Memo.
- 4) Disconnection register from 22.1.86 to 13.7.86.
- 5) SWR Asstt inforced at the time of accident.
- 6) Taking over and making over pager after installation of B.G. construction.
- 7) Safety certificate issued before opening the BG & MG for Passenger Traffic after installation of B.G. construction.
- 8) Testing record of cable and interlocking gears by DSTE & SI prior to 31.5.86,
- 9) Periodical inspection of DSTE & Sr DSTE DSO, SII and SS/Asstt prior to 31.5.86.

Affidavit

APR 1

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ASD

- 34 -

10) Telegram No. BN/10/86 dated 13.7.86

11) Book of G.S.R, signal and engineering manual,
Financial Code Volume II dated 20.3.88.

Yours faithfully, .

Sd/- A.P. Srivastava

ASM/Astt U/s

TRUE COPY
ATTESTED

Signature
P. K. Srivastava
Adv. c. te

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

Additional Bench at Lucknow

Appln. No. of 1988

Anirudh prasad Srivastava .. Petitioner

v/s.

Union of India & ors. .. Opp. Parties

ANNEXURE- 11

N. E. Railway

No. T/537/TA/3/86

Dated: 22. 3. 88

From: DRM/Safety/LJN

To Sri A.P. Srivastava

ASM/Astt under suspension

through SS/Astt

Sub: Derailment of 24 Dn

at LJN on 31.5.88

Ref: Your application dated 18.3.88 and 20.3.88

With reference to your application dated 5.12.87, it has already been advised to you vide this office letter of even number dated 15.12.87 that whatever documents you want to produce, you may produce it before the enquiry officer during the course of enquiry. The enquiry is now fixed on 28.3.88 in the chamber of AOZ/G7/LJN.

Please attend enquiry on the above date at 10.00 hrs.

Sd/- Illegible

for DRM/Safety/LJN

C/ SS/Astt to Sserve it and

send his acknowledgement

TRUE COPY
ATTTESTED

Anirudh

km
P. K. Srivastava
Adv. c ate

(A76)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

Additional Bench at Lucknow

Appn. No. of 1988

Anirudh Prasad Srivastava .. APPLICANT
V/s.
Union of India & ors. .. Opp. Parties

ANNEXURE 12

No. T/537/TA/3/86 Dated: 16. 10. 1986

From: Divisional Rly. Manager(S) To (1) A.P. Srivastava, ASM
Lucknow under suspension ASH
(2) Sukhdeo Singh Yadav
Lever Man/MLN under
suspension as Asstt
thru SS/Asstt

Sub: Derailment of 24 Down

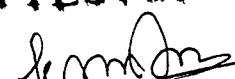
Ref: This office letter of even no. dated 3.10.86 and 9.10.86
letter dated 7.10.86 to Sri Sukhdeo Singh Yadav

You are given one more chance to attend office on any working
day at once to take extract of documents required by you other than
CRS report which is a confidential document.

Sd/- G.C. Bhatnagar
for Divisional Rly. Manager(S)
Lucknow

A.P. Srivastava

TRUE COPY
ATTTESTED


P. K. Srivastava
Adv. Cate

M.E.R.V.

FORM NO. 1

A83

ORDERS OF IMPOSITION OF PENALTY OF DISMISSAL/REMOVAL/COMPULSORY RETIREMENT FROM SERVICE UNDER RULE 6 (VII), (VIII) AND (IX) OF THE RAILWAY SERVANTS (D/A) RULES. 1968.

No. ILS321T A13186

Date 14-88

To

Name Sri A. P. SrinivasaraoFather's name Sri Mangal BrossadDesignation Asst. Engineer Supervisor Department OperatingTicket No. nil Date of appointment 20-7-1968Station Aizawl Scale of pay 100/- 2300Shri A. P. Srinivasarao Asst. Engg.

(Name, designation & office in which he is employed)
 (* Under suspension) is informed that the
 Inquiry Officer/Board of Inquiry appointed to Enquiry into
 the charge(s) against him has/have submitted his/their report.
 A copy of the report of the Inquiry Officer/Board of Inquiry
 is enclosed.

2. On a careful consideration of the enquiry report
 aforesaid, the undersigned agrees with the finding(s) of the
 Inquiry Officer/Board of Inquiry and holds that the Article(s)
 of charge is/are proved. Orders are attached as Annexure I
 OR

* On a careful consideration of the enquiry report
 aforesaid, the undersigned agrees with the finding(s) of the
 Inquiry Officer/Board of Inquiry if so far as it relates to
 Article(s) of charge No. (s) _____ and for
 reasons stated in the attached Memorandum holds that Article(s)
 of charge No. (s) _____ which the Inquiry
 Officer/Board of Inquiry has / have held as not proved/ proved,
 is also proved/ not proved.

3. The undersigned has, therefore, come to the conclusion
 that Sri A. P. Srinivasarao _____ is not a fit
 person to be retained in service and has decided to impose
 upon him the penalty of Dismissal/Removal/Compulsory Retirement
 from service. Shri A. P. Srinivasarao _____ is, therefore,
 dismissed/removed/compulsory retired from service with effect
 from immediate effect.

(Contd.)

A.P.Srinivasarao

2
 4. Under rule 18 of the Railway Servant (D. & A) Rules, 1968 an appeal against these orders lies to D.D.Railway provided:-

i) the appeal is submitted within 45 days from the date of receipt of these orders; and

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

5. Please acknowledge receipt of this letter.

* Strike out where not applicable.

Signature V.K. Tewari

DA/15 nos

Name & Design.
of the disciplinary authority

C.V.K. Tewari
Co-D & A L.T.M.

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* * * *

To
Divl. Rly. Manager (Safety),
N.E. Railway,
Lucknow.

Received your N.I.P. No. 7/521/25/86
dated 7-4-86 alongwith 2 enclosures.

WITNESS:

A.P. Sondan

SIGNATURE:

DATE 7/4/86

A.P. Sondan

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Annexure I of N.I.P No. 2/537/TA/3/86 dated 4-4-1988
issued to Sri A.P. Srivastava ASW/ASH under suspension. A.D.S

O R D E R S.

I have gone through the full case, and agree with the findings given by the Enquiry Officer. Charged employee has deliberately non-cooperated with Enquiry Officer to delay the completion of enquiry.

I, therefore, order him his removal from service with immediate effect.

(V.K. TWAREK)
Sr. DIVL. SAFETY OFFICER
N.E.R.LY. LUCKNOW.

7/4/88

TRUE COPY
ATTESTED

P. K. Srivastava
Adv. c. te.

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A86

Annexure 16

To,

The Additional Divisional Rly., Manager,
N.E.Rly., Lucknow.

Through: Station Supdt.,
Aishbagh, NER.

Ref: Order of removal from service under NIP No.T/537/TA/3/86
dated 7.7.88.

The appellant begs to appeal the following for favour and kind consideration and doing Justice to the appellant under signed.

(1) That I was issued a Charge Sheet vide charge sheet No.T/537/TA/3/86 dated 8.9.86, with the following charges:-

" Failed to ensure correct setting of route for reception of 24 down express train ex AMAUSI to Lucknow Jn. while signals were taken off by manipulation in West Cabin Aishbagh by combined efforts of signal and operating staff. I have been alleged that the appellant there by violated certain provisions of G.R., S.R. & SWR of Aishbagh. It has been charged there in that it attracted the provisions of Rules 3.1(II) (III) of conduct rule 1966.

(2) The appellant had sought direction of CAT/Allahabad against there ambiguous charges and the Hon'ble CAT had passed specific directions to deciplinary authority (onward D/A) for ~~reparin~~ the charge mentioning as to how the rules are said to be violated, from what document what is to be proved and on what evidence and documents charges are based and so many, reproduced as under:-

(a) " There was no doult that the act of failing to ensure correct setting of route may have resulted the applicant not observing and obeying all rules and special instructions but nothing specifically has been mentioned as to which rule special instruction or which lawful order given by the applicants supervisor was not obeyed by the applicant, similarly other rules".

(b) " The imputation of misconduct was that the applicant failed to ensure correct setting of route. How he failed to set the route correctly should have been indicated and if the respondent felt that either the interlocking had failed or signals were not getting lowered by pulling of lever and were taken off by pulling of ^{the} lever they should have been specific in their, charge and not vague that he failed to ensure correct setting of route".

(c) It has not been mentioned in the charge sheet what the applicant had violated or in what way he violated the rules. The general statement that he violated the rule

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will definitely tell towards being vague rather than specific".

(a) "Fair reading of statement of Imputation of misconduct would give an impression that the charge were also not clear in the sense how the applicant alleged to have manipulated the setting of route and lowering of signals alongwith other sister departments and it will be difficult for the applicant to meet the charges of this nature."

(b) "If the charges are sought to be proved by the evidence of witnesses a clear mention should have been made as to how the charges are meant to be established even on what the charges are based".

(3) That I had been served fresh charges not fresh charge-sheet by D/A letter No. T/537/TA/3/86 dated 13.5.87. The communication is alleged to have been served in compliance with the judgment in registration case No. 36/87 by CAT/Allahabad. It is worth mentioning that this communication does not tantamounts to issuing fresh chargesheet.

(4) That the revised charges issued does not specify the charges in the manner prescribed by the cat in the aforesaid case reproduced under para 2 (a)(b)(c)(d)& (e). They have only replaced the word "manipulation" with word "Foulmeans".

(5) That the article of charges and imputation of misconduct though not indicated on what the charges are based as per direction of the CAT/ALD yet a plain reading can make one to understand that the said charges are based on interlocking failure/failure of signals and points.

(6) ^{at issue} As point of is such that whether DSO/Lucknow in memorandum, EO in his finding or at any stage of proceeding PWS Manna Lal, Abdul Majeed Khalasis, Sukhdeo Singh Yadav C/Man and others in their statement ever deposed interlocking/points and signals failure and any role of mine in the said foulmeans at the crucial time on 31.5.86. But instead the following are the statement of DSO/Sr. DSTE/CSTE/Dy. CRS/Dy. CRS(Sig)/ Dy. CRS(T&C) Manna Lal, Abdul Mazid Khalasis, Sukhdeo Singh Yadav C/Man which speaks of No. interlocking points. & signals failure and no role of mine in the said foulmeans and at the crucial time on 31.5.86 as under-

(a) Reply of the DSO and other under para 42 of counter

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of Counter reply before CAT/ALD, Case No.36/87.

" The contents of para 6.74 of the petition are not admitted and are denied. The accident has occurred due to ~~non interlocking failure accident has occurred~~ due to non observation of rules. by the petitioner and not for any interlocking failure.

(b) Observation of the CAT/Allahabad.

" He has not observed the rules, ~~there was no interlocking failure".~~

(c) Certificate of Sr. DSTE Shri Bhoi Rai.

" On 31.5.86 all the relevant routes were checked along- with CSTE/Dy. CRS(Sig)/Dy. CRS(Traffic) and DSO Lucknow at Loco cabin and at Aishbagh W/Cabin and found inter- locking arrangement ~~arrangement~~ perfect. The basement of Aishbagh W/Cabin was opened and all the lever locks including the lever lock No.12 were found sealed. At loco cabin the lever lock of lever No.5 & 6 which are just behind the locking frame were found ~~on sealed~~.

(d) Statement of Abdul Majeed Khalasi (PW).

While answering question No.1 before E/O you attended cabin at 07 ~~AM~~ and remained there upto 8 hrs. During this period did you ~~hear~~ from any body about failure of signal and points".

ANS — No.

(e) Statement of Sukh Deo Singh Yadav C/Man while answering question No.2 before E/O" was there any interlocking defect while pulling the concerned lever ~~for~~ ^{for} perception of 24 Down".

ANS- No, there was No defect".

(f) Statement of Munna Lal Khalasi (PW) while answering question No.2 before E/O " You attended cabin at 07/30 and remain there upto 08/30. During this period did you hear from any body about the failure of signals and points.

ANS. — NO.

(g) Statement of Abdul Majeed Khalasi (PW) while answering Question No.5 before E/O

" Did you hear Sri A.P. Srivastava ASM or Sukh Deo Singh C/Man calling Shri G.S. Bhist that lever No.12 is not comming to normal.

ANS- " I heared only Sukh Deo Singh calling that lever No.12 is not comming to Normal.

(h) Statement of Munna Lal Khalasi (PW) while answering Question No.3 before E/O

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Ans- " I only heard Sri Sukhdeo Singh calling that Lever No.12 is not coming to normal. I did not see shree A.P. Srivastava ASM nor heard him calling Shree Bhist/ESM.

(7) That a plain reading of the charges speaks as if the Physical act of operation of levers was assigned duty of A.P. Srivastava/HE ASM West Cabin when the said act of operation of the levers is attached to the assigned duty of leverman/Cabinman Sec. Para 40(16)(a) read with 40(16)(b) and 40(17) of operating circular No.9 The act of operation of levers narrated in the charges in the name of A.P. Srivastava a ASM/He are the assigned duty of Cabinman /Leverman and in fact the operation was done by them and only by them. As such the appellant can not be made responsible by shifting the act done by others. Further it is the assigned duty of cabinman to communicate any defect in operation of signal & points of the Cabin to ASM on duty in terms of para 40(16)(a)(BI) and 37(4) read with para 30(5) of optg. circular No.9.

(8) That as there was no interlocking Paras & signal failure and such communication was ever not deposited by any evidence material/ statements, hence the charges are baseless false and fabricated so the appellant can it be made responsible on such charges.

(9) That, as stated is the imputation of misconduct" for which he tried to put back lever No.12 in normal position before asking cabin man/LCB to normalise cross over No.5 5/6 As this cross over was still in ~~reverse~~ position.

It most humbly submit that on completion of movement of Down light engine the point No.5-6/6 were to properly normalised by the cabin man LCB as stated by him before the E/O as prosecution witness which reads as under.

After reaching the engine at Aishbagh the line was set in normal position". As soon as the line was set in normal position by cabin man LCB. the lever No.12 at West cabin released and was properly put back to normal.

Hence the portion of the charge as this cross over was still in reverse position. is false in the light of the statement of the cabin man LCB. It is mere presumption to the cook d story hence the allegation is baseless and fabricated for which the appellant cannot be made responsible It is point of consideration that the cabinman LCB is the only man to express his opinion on this charge.

(10) That as stated in the imputation of misconduct "Instead of ascertaining the cause as to why this lever was not coming in normal position, he sought the assistance of ESM on duty

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Sri G.S. Bhist and got lever No.12 released normal by adopting foul means".

I most humbly submit that the DSO had failed to indicate in the charges as per direction of the CAT is indicated in the earlier Paragraph 2 (d) anyway the portion of the charge is well explained in the para graph above. Further any manipulation on any lever of the W/C was impossible as lever locks of the lever found sealed on one hand and there was no inter locking failure on the other hand as explained in the earlier para 6 above as whole. Under the prevailing facts asking assistance from ESM Sr. G.S. Bhist for releasing lever No.12 finds no place, so this portion of the charge is also baseless.

(11) That as stated in the imputation of misconduct "After putting lever No.12 is normal position, Sri A.P.Srivastava pulled signal No. lever No.34 but the concerned signal did not assume the off aspect".

It is most humbly submitted that it is incorrect and bex and truth to say that Sri A.P.Srivastava pulled lever No.34 After normalling lever No.12 because of the fact the interlocking does not permit pulling of lever no.34 alone. For pulling lever No.34 lever No.13, 14 & 47 were must to be pulled first only than lever No.34 could be pulled.

So far as the assuming the concerned signal to off aspect, it is submitted that this signal no.34 never assumes off aspect by mere pulling of lever No.34 because this signal no.34 was an approach lit signal and could assume off aspect only when a moving train torches the pre-determined point and the true circuit located on the track actuates.

It is matter of great surprise that DSO the frame of the charges and the E/O the Judge to find out the truth of the charges are not aware of the facts in the sense they are not aware of the functioning of interlocking system at Aishbagh and fundamental and basic principle of inter locking system and be pleased to frame the charge in the air. The learned DSO treated the non assumption of the off aspect of signal No.34 as defective signal so he took the shelter of cooked story of signal failure followd by ^{for me} ~~for me~~ This portion of the charge is basically & principally incorrect. In presence of such a naked truth to falsify the charge the appellant can not be made responsible.

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(12) That as stated is the imputation of misconduct, "Then the did not follow the procedure prescribed in C&S rules to be followed in the event of signal failure and again soughts the assistance of ESM shree G.S.Bhist and got the signals cleared by foulmeans".

It is submitted that procedure prescribed in the C&S rules read to be obeyed at the time of signal failure, was at all not to be obeyed/followed when there was no interlocking failure. The facts on the subjects have already been reproduced under para 6 as a whole.

That further DSO has failed to produce material/evidence/or statement on the subject matter of interlocking failure, also failed to specify the work foulmeans (Placed in place of manipulation) as per direction of the CAT/Allahabad indicated in the earlier para 2 are whole, as such its explanation can not be submitted and the charges can not be faced effectively. Only this much can be said that the question of adopting foulmeans in absence of interlocking failure and impresence of Seal on the lever locks at west cabin does not arise as per certificate produced under para 6(c) above.

(13) That as stated in the imputation of misconduct. "The result was that the signals were cleared for 24 dn for main line to LTN whereas the route remained set for Loco line".

I here by submit as stated in the earlier paragraph that cross over point no.5-5/6 was properly normalised by cabinman LCB and only then the route for 24 Dn. could be set and signals taken off properly through their proper levers. The statement of C/man LCB as reproduced again.

"After reaching the engine at Aishbagh the line was set in normal position.

That for the rest of the charge the route remain set for the Loco line I here by submit that the lever position at LCB recorded at the time of accident reveals that the route was re-set from normal to Loco line (Reverse position).

After lowering of signals for 24Dn and point No.14 being in reverse position the cross over point no.5-5/6 ought not to be in reverse position but by virtue of bad installation of interlocking followed by bad maintenance with worn out gear such reversing of points could be possible due to following reasons:-

(a) Lever lockes on lever no.5 & 6 were found unsealed as per certificate of DSTE Sri Bhoj Raj alongwith Senior High Official as produced under para 6(c) earlier.

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(b) Lever No.5 & 6 were found free from the control of lever no.12 of W/Cagin and could be operated without pulling lever No.12 at west cabin. This defect was noticed twice by CRS/GKP on 2.6.86 and again on 5.6.86 as fact deposed by CRS under para 6.1.4 of his report on this accident of 24 Dn.

It will not be out of place to mention that the point no.14 and 5 could not be set in reverse position at one and the same time against the fundamental of interlocking system of Aishbagh as pointed out by DRM/LJN in his letter to Director Safety Rly. Board (letter No.T/537/TA/3/86 dt. 2.6.86)

In presence of such interlocking fundamental one accident had happened on 20.5.86 on the same route as of 24 Dn when an engine was despatched from LCB to ASH. Over cross over No.5-5/6 set in reverse position and point no.14 in normal position, proper signal were taken off. But inspite signal in off aspect the point no.14 moved automatically and got set for reverse position and engine took the route for AMOUSI site.

Leaving aside the above there were hundred of lapses and deficiencies of the interlocking installation at Aishbagh as incorporated in the CRS/GKP report under para 6.13 to 5.17 and read with chapter VI & IX as such it is incorrect to say that point no.5 & 6/6 still remained in reverse position but it could be reset to reverse position due to bad installation of interlocking for which the appellant can not be made responsible.

(14) That the allegation that the derailment took over diamond cross over No.101-101A is totally incorrect. A derailment never takes place over diamond crossover. There could be accident of other type either head on or side collision which requires two objects passing at the one and the same time over the diamond cross.

Cross over No.101-101A is not a diamond cross over. Accordingly happening of accident over diamond cross is totally false in incorrect.

(15) That as stated in the imputation of misconduct for the violation of certain General & subsidiary rules. As the DSO&EO have failed to specify the charges and they have further failed to indicate in the imputation of misconduct as per direction of the CAT/ACD reproduced in the earlier paragraph no.2 (as a whole) that what the appellant had violated and in what way he violated the rule. Such vague charges can not be faced by the appellant effectively. Though the rules as mentioned in the charges were not to be obeyed by the appellant as the crucial time

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on 31.5.86 yet I submit my explanation, the rule reads.

GR 2.66 Nothing is indicated in the violation as to what rule or special instruction were disobeyed by the appellant as directed by the Hon'ble CAT/AID in the judgment of the case No. 36/86 reproduced in earlier para 2 (a), (c) and further it contains the General instruction to obey the law.

GR. 3.68(1), (a) Nothing communicated to me by the cabinman in respect of the signal failure instead there was no signal/interlocking failure existing at crucial time on 31.5.86 as reproduced in earlier para No. 6 (a) (b) ~~as well~~

(ii) This rule is not applicable as the Aishbagh yard is equipped with electro-chemical signalling and fundamental of such signalling system is "failure to ^{saf} for side", Thus ~~as~~ if any signal would have failed the concerned signal would have automatically assumed to danger aspect.

(iii) More over in the imputation of misconduct the D/A has already accepted that signal No. 34 had not assumed the off aspect. i.e. it was still in ON position and what more on aspect could be restored. It was the only requirement of this rule to be complied by the appellant.

(iv) It is an established fact under fundamental of inter locking provision of Aishbagh that any defect of signal No. 34 can not be ascertained even if the lower No. 34 is pulled to Off, being approach lit signal. This signal assumes off aspect only when the pre-determined point is pressed by the moving train.

Due to the reasons stated above neither this rule was applicable nor this rule was to be obeyed. Hence the appellant can not be made responsible for its violation.

S.R. 3.68 (1)(1) I humbly submit that this rule was at the not to be obeyed being not applicable to Aishbagh signalling system as Aishbagh is equipped with Electro Mechanical signalling and under such signalling there is no rewiring connection between levers and the signals. So levering of signal by pulling of wire by hand or any other means does not arise. When the rules are not applicable with the working of Aishbagh the question of violation is the question of remote. For such non applicable rules and for its violation the appellant can not be held responsible.

S.R. 3.68(2) (ii).

It is submitted that neither any communication regarding signal failure was made to me nor there was any

AB Series 1/2

interlocking failure as referred earlier in the para 6 (as whole) more over D/A had no where indicated in the memorandum and not even produced any material/evidence in respect of interlocking failure so the question of treating signal as defective does not arise. Under the circumstances narrated above the rules ^{were} not to be obeyed so the appellant can not be made responsible for the same.

SR 5.01 (2) This rule is applicable at a station where both outer and Home ^{signals} are provided for reception of train. But at Aishbagh station no outer signal is provided. More over 2⁴ down was non stopping while passing over cross over is such that the pulling of levers for 2⁴ Down will be in the order of departure signal and therefore ^{after} reception signal at one and the same time. As such this rule is also not applicable hence it's obeying and violation is incorrect.

SWR 6(c)(iii) I humbly submit that proper private number was exchanged with relevant agencies C/man LCB gatekeeper gate No.2 gate men RDSO gate and ASM main as the rule speaks.

Further nothing has been mentioned in the imputation of misconduct ~~on~~ about any act of mine in reference to this rules.

My humble submission is that a rule cannot be said to be violated whose narration is nowhere indicated in the article of charges and imputation of misconduct.

(16) That the E/O Sri G.C. Bhatnagar AOS/G. did not function as an ^{impartial} and unbiased E/O. His acts were all directed and aimed to sustain the allegation in one way or the other. He had not mentioned any thing about the denial of reasonable opportunity to the appellant as regard to supply of relevant documents. He has also not ensured getting copies of the documents supplied to the appellant before he set on the enquiry.

Details are given below:-

- (1) Documents in support of charges were not supplied along with memorandum dated 8.9.86. What so ever documents were supplied speaks not a single iota of the charge.
- (ii) Fresh charges supplied on 31.5.87 but no documents supplied in support of fresh charges.
- (3) Charges being vague not specified as per direction of the CAT/Adl as indicated in the earlier para 2 (as a whole)

(iv) Having aggrieved by the non-supply of the documents appellant ~~had put~~ ^{had put} forward facts on ~~his~~ ^{the} record as Annexure No. I, II, III, IV, V & VI (annexure No. 1&2 reproduced earlier ^{as} para 2 & 6) alongwith relevant portion of CRS/GKP report for certificate of its correctness or in-correctness but no certificate was issued.

(v) Statement of PWS recorded by 3rd party behind my back and cross examined by ~~3rd~~ ^{2nd} party on 31.12.87, 11.1.88 & 12.1.88. On 31.12.87 I was present in the enquiry but I was not allowed to cross examine the PWS.

(vi) Statement of Badri reviels to be recorded on 12.1.88 behind my back without any intimation of the date to me.

(vii) Shri S.C.Dhar was not accepted as defence helper prior and after he completed his role as prosicution witness.

(viii) I submitted the names of defence witnesses vide my letter dt. 20.3.88 but ^{was} ~~not~~ called for

(ix) On 28.3.88 I submitted my consent in writing to cross examine the prosicution witnesses and defence witnesses but E/O had ~~called now~~ ^{not summoned} them

(x) The documents for the cross examination of the PWS and DWS required vide my letter dated 20.3.88. were not supplied and PWS & DWS were even not summoned ^{to} enquiry on 28.3.88. Inspite of all these the E/O had submitted his report and finding on 31.3.88. From enquiry report and findings it is evident that the E/O has no knowledge of DA rules.

(17) That the E/o has no knowledge of operational duties in respect of Train passing as his comment for the appellant, taking off the signal from the cabin and seeking assistance of ESM Sr. G.S. Bhisti is totally imazinaing and wishfull and aimed to support his master DSO and the CRS report duly conformed by the GM/NER vide alteration memo No.15 of the accident manual. (See Earlier para 6 (g))

He lacks of the basic knowledge that a cabin ASM does not operate the levers of points and signals, He also does not posses the meaning of knowledge regarding signals and points. Had the appellant succeeded in taking off aspect of the signal there would not have occurred any accident.

As regards to the pilting of this train it is submitted that in case the appellant had the knowledge of defective signal or any body would have informed him the question of piloting would have arisen.

(18) His contention about the ESM, not given any opportunity the E/O is the best gauge for deriving conclusion that from could the ESM not have the opportunity. See earlier para 6(7A)

The E/O has no documents, in support of his contention. On the basis of the documents supplied to me alongwith the removal order which is under appeal. To substantiate his contention that Shre Munna Lal and Sri Abdul Majeed had heared the appellant calling ESM Sr. G. S. Bhist and seen the appellant manipulating the wire. In this respect contradictory facts may be seen in answers to the question nos 3 & 5 of Sri Munna Lal and Sr. Abdul Majeed respectively. See earlier para 6(6A)

(19) The E.O. has not brought out the facts about my reasons about my non appearing in the enquiry proceeding. The E/O has also not mentioned the question no. etc of Shree Munna Lal & Sri Abdul Majeed in support of his contention about hearing me calling the ESM, and the question No where they have confirmed having seen me manipulating the wire. See para 6(9A)

Further he lacks totally about electro mechanically operated points and signal because there was no wire provided for the same.

(20) That it is submitted further that there were no lapses on the part of the appellant in any respect of the allegation. Again it has to be corroborated by the statement of prosecution witnesses that the assistance sought was not by me but by the C/man on duty on the relevant date and time. In this respect answer to question no.5 of Sri Abdul Majeed S/Kh and answer to question No.3 of Sri Munna Lal S/Kh. may be seen. See earlier para 6(9A)

The whole charges have been framed against me, are without any evidence and authority in respect of my involvement is any act of misconduct.

That having festuated with the harassment of the employee Railway since last 19 year the appellant had served with a notice of voluntary retirement & vide letter dated 3.4.88, but the DSO instead of considering my voluntary retirement passed the order of removal from services beyond the Jurisdiction of Law to cause injury and damage to my livelihood and put me to forced starvation for the cause the official of safety and ST department as evident from the CRS/GKP Report.

Therefore, I appeal to you, on the grounds brought out above to set aside the punishment of removal from service. The punishment imposed is very serious and unwarranted and not based on any evidence against the

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appellant. It is also added that this punishment after putting is continuous 38 years of service appears to me a bush blow and also this caused as situation to forced starvation. I am sure that I will get Justice from your hand in setting aside the order of Disciplinary authority dated 07.04.88 and passing appropriate order will full back wage.

Yours faithfully,

Dated: 29.4.88

A.P. Srivastava
(A P. Srivastava)
Ex. ASM
Aishbagh.

TRUE COPY
ATTESTED


P. K. Srivastava
Adv. c. 10

Abdullah

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW

ACO 3

Reg. No. 216 of 1988

A.P. Srivastava

.....Petitioner.

Versus

Union of India
and others.

....Opposite parties.

Reply on behalf of opposite parties no. 2 & 3.

I, Jai Narain, Sr. Divisional Safety Officer,
N.E. Railway, Ashok Marg, Lucknow do hereby solemnly
affirm and state as under :

1. That I have been duly authorised on behalf of
the respondent to file the instant written statement
and is fully conversant with the facts.

2. That I have gone through and understood the
contents of application alongwith the annexures under
reply.

3. That in reply to the contents of paragraph 1
to 5 the application being matters of records needs no
comments.

प्रधान देवेश सरला अधिकारी;
प्रियोत्तर देवेश, लखनऊ

....2/-

(Ans)

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4. That in reply to para 6(1) of the petition it is ~~xx~~ admitted that the petitioner was appointed as a Clerk on 20.9.1948.

5. ^{in reply to} ~~xx~~ the contents of para 5(2) ^{and 6(3) it is} ~~xx~~ are only admitted that the petitioner was promoted as Signaller in the scale of Rs. 60-150 (RS on 27.7.1951). It is specifically denied that he was given appointment on promotion by CW. The contents of Rule 215 of Establishment Code Vol. I are not relevant in the petitioners case.

6. That in reply to the contents of para 6(4) & (5) of the application, it is submitted that the petitioner was promoted as Asstt. Station Master as per ^{avenue} ~~Annexure~~ of Channel of promotion in the scale of Rs. 60-170 on 13.1.1955 and he was further promoted in the next scale of Asstt. Station Master that is in scale of Rs. 205-250 (PS) w.e.f. 29.6.1963. The above said grade of Rs. 205-280 was revised in the scale of Rs. 425-540 w.e.f. 1.1.1973. The petitioner was confirmed as A.S.M. w.e.f. 1.4.1964 in the scale of Rs. 425-540.

It is denied that services of petitioner was excellent and satisfactory. It is submitted that the services of petitioner was not satisfactory/efficient and excellent throughout. He was awarded punishment a number of time and an annexure of the punishment is being annexed herewith marked as Annexure No. 1.

7. That the contents of paragraph 6(6) are admitted.

पंजाब सरकारी अधिकारी:
मुख्यमंत्री रेलवे, लखनऊ

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8. That in reply to the contents of paragraph 6(7) of the petition it is stated that the petitioner was working as Asstt. Station Master at Aishbagh, Lucknow and though there was no ^{case} of train accident against the petitioner upto 30.5.1956, his working was not otherwise satisfactory.

9. That in reply to the contents of paragraph 6(8) of the application it is submitted that while the petitioner was working as Asstt. Station Master(ASM)/ Aishbagh, W/Cabin on 31.5.1956 in 8 to 6 hrs. ~~the~~ ^{he} shift failed to ensure correct setting of route for reception of 24 Dn. Express Ex-AMS to Lucknow Jn. resulting in derailment of 24. Dn. causing 7 deaths.

10. That in reply to the contents of paragraph 6(9) & 10 of the application ^{it is submitted that the} ~~petitioner was held responsible~~ alongwith others staff, Shri G.S. Bhist has been removed from service and Shri Sukdeo Singh Yadav ~~xx~~ has been reverted to the lower grade after D.A.R. proceedings. ~~The contents of para 6(10) of the application are not admitted as stated and the same should be suitably dealt with at the time of hearing of the case.~~

11. That in reply to the contents of paragraph 6(11) (12)(13) of the petition it is submitted that the accident as referred in para under reply has got no relevance with the merit of the present case. It is further submitted that on 20.5.1956 at about 9.30 hrs. it was reported by Asstt. Station Master, West Cabin, Aishbagh that while shunting engine no. 3498 was being received from Loco Shed into Aishbagh yard over proper shunting signal, indication for Motor Point no. 14 disappeared on the Board. On an enquiry it was found that no apparent fault in the gears could be detected. In fact there has been a failure on the part of Asstt. Station Master and Station Superintendent, Aishbagh in as much as they had ~~locked~~ ^{backed} the shunting engine by use of Crank handle and as a result of

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which the cause of the said unusual occurrence could not be found out.

The reference of rule 1.51 in paragraph under reply has no relevance with the merit of the present case.

12. That the contents of paragraph 6 (14) of the application call for no comments as the matter under reply has already been mentioned in para 11 above.

13. That the contents of paragraph 6(15) of the application are not applicable in the present case hence the same is denied.

14. That the contents of paragraph 6(16) are denied.

15. That in reply to the paragraph ~~6~~ 6(17) of the application it is submitted that allegations made in paragraphs are denied. The responsibility of accident has been fixed on the applicant as well as on the staff of signal department.

16. That the contents of paragraph 6(18) are denied.

It is stated that the accident took place not due to defect in interlocking system but due to negligence on the part of the applicant who was working as Asstt. Station Master, West Cabin, Aishwagh failed to enquire correct setting of route and thus violated ~~Central~~ ^{General &} Subsidiary Rules(C.S.R.), Subsidiary Rules(S.R.) and Station Working Rules(S.W.R.).

गृहर मंडल संरक्षा अधिकारी
मुद्रांतर रेलवे, लखनऊ

17. That in reply to the contents of paragraph 6(19) of the application it is submitted that the petitioner was placed under suspension by Asstt. Operating Sudtt. (G) on 4.9.1986 on the telephonic order of Sr. Divisional Safety Officer/Lucknow JN from Gorakhpur which was confirmed in writing by him on 5.9.1986 on return to Lucknow.

18. That in reply to the contents of paragraph 6(19) of the application it is pertinent to state here that the Sr. Divl. Safety Officer is the Competent authority to place the petitioner under suspension and to initiate a disciplinary proceeding under contemplation.

19. That in reply the contents of paragraphs 6(20)(21) and (22) are denied. It is submitted that the Asstt. Operating Supdtt. (G) is an officer of the Operating Department. It is further submitted that the safety organisation is part of Operating Department to facilitate and for effective control of working at zonal level.

The Chief Operating Supdtt. (COPS) is the head of the Operating Department. He is assisted by Sub-Head viz. Chief Freight Traffic Supdtt., Chief Passenger Traffic Supdtt., Chief Safety Supdtt. at Divisional level, Sr. Divisional Operating Supdtt., is the head of the Optg. Department. He is assisted by Sr. Divl. Safety Officer and Asstt. Operating Supdt. thus the Sr. Divisional Safety Officer (Sr. DSO) is competent authority to exercise control over working of all transportation staff for the purpose of Disciplinary Action. The Railway Board vide

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their letter No. EO&A)64.RG.6.67 dt. 22.10.1984 has clarified that Safety Officers as distinct from Commercial Officer belong to Operating side and there should be no objection to their taking disciplinary action against Operating Staff like Station Master(ASM) etc. who perform train passing duties. A copy of Railway Board letter dated, 22.10.1984 is annexed as Annexure exx no. 2.

20. That in reply to the contents of paragraph 6(23) of the application the contents of Railway Board circulars and the provision of Establishment Manual are admitted and it is reiterated that Safety Organisation is a part of Operating Department as explained in paragraph 6(20) above.

21. That in reply to the contents of paragraph 6(24) of the application marks as already given in paragraph 6(19) above are reiterated.

22. That the contents of paragraph 6(25) of the application are admitted. It is submitted that Sr. PSO is a competent authority to take disciplinary action against the applicant.

23. That the contents of paragraph 6(25-II) of the application are admitted.

24. That in reply to the contents of paragraph 6(26) of the application it is admitted that Shri G.C.Bhatnagar, Asstt. Operating Supdt.(General) AOS(G) was appointed as a Enquiry by Sr. Divisional Safety Officer/Lucknow JN. It is however denied that they had no administrative control over the petitioner. As already explained in

पुर्वोत्तर रेलवे, लखनऊ

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paragraph 6(20)(21) and (22) above Safety Officers belong to Operating Department and there is no illegality to their taking disciplinary action against Operating staff like the petitioner.

25. That in reply to the contents of paragraphs 6 (27) and (28) of the application it is submitted that a petitioner was placed under suspension by Asstt. Operating Supdtt. (G) on 4.9.1986 on the telephonic order of Sr. Divl. Safety Officer/Lucknow JT from Gorakhpur which was confirmed by him on 5.9.1986 on return to Lucknow. It is pertinent to state here that the Sr. Divisional Safety officer is the competent authority to place the petitioner under suspension and to initiate disciplinary action against the applicant. A photostat copy of the suspension order dated 4.9.1986 as bearing the endorsement of confirmation of Sr. DSO is annexed hereto as Annexure No. 3. Rest is denied.

26. That the contents of paragraph 6(29) are denied. Remarks are given in paragraph 6(20)(21) and (22) above.

27. That in reply to the contents of paragraph 6(30) of the application it is submitted that the petitioner was confirmed on 1.4.1964 by Distt. Traffic Supdtt. now the post of P.T.S. has converted as Divisional Safety Officer (DSO) after formation of Divisional system.

28. That in reply to the contents of paragraph 6(31) of the application the reference of Rules is only admitted. It is, however, reiterated that Sr. Divisional Safety Officer (Sr. DSO) is competent authority to exercise power to take disciplinary action against the applicant.

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29. That in reply to the contents of paragraph 6(32) reference of Rules mentioned in the paragraph under reply are only admitted.

30. That in reply to the content of paragraph 6(33) reference of Railway Board circular in the paragraph under reply is admitted. Sr. Divisional Safety Officer is the competent authority to take D.R action against the applicant.

31. That in reply to the contents of paragraph 6(34) of the application it is submitted that the applicant was given complete opportunity to submit his defence against him but the applicant failed to avail of the same.

32. That the contents of paragraph 6(35) of the application are wholly misconceived and are vehemently denied. The CIS enquiry was conducted after recording the statement of petitioner also.

33. That the contents of paragraph 6(36) are denied. The Commissioner Railway Safety (Safety) (CRS) enquiry was a fact finding enquiry. As such the cross examination of the witness by the applicant was not required.

34. That the contents of paragraph 6(37) are denied. The allegation regarding supply of Commissioner Railway Safety report have already been considered by Hon'ble Tribunal, alluded in an earlier case filed by the applicant in case no. CA/26 of 27/C.R./ALD. A.P. Srivastava v/s Union of India. The Hon'ble Tribunal held the

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW

ACO 3

Reg. No. 216 of 1980

A.P. Srivastava

.....Petitioner.

Versus

Union of India
and others.

.....Opposite parties.

Reply on behalf of opposite parties no. 2 & 3.

I, Jai Narain, Sr. Divisional Safety Officer,
F.E. Railway, Ashok Marg, Lucknow do hereby solemnly
affirm and state as under :

1. That I have been duly authorised on behalf of
the respondent to file the instant written statement
and is fully conversant with the facts.

2. That I have gone through and understood the
contents of application alongwith the annexures under
reply.

3. That in reply to the contents of paragraph 1
to 5 the application being matters of records needs no
comments.

प्रत्यक्ष संस्कारित
मुख्यमंत्री, लखनऊ

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4. That in reply to para 6(1) of the petition it is ~~xx~~ admitted that the petitioner was appointed as a Clerk on 20.9.1948.

5. ^{in reply to} ~~xx~~ ^{and 6(3) it is} That ~~the contents of para 6(2) /xx xx~~ are only admitted that the petitioner was promoted as Signaller in the scale of Rs. 60-150 (RS on 27.7.1951). It is specifically denied that he was given appointment on promotion by CM. The contents of Rule 215 of Establishment Code Vol. I are not relevant in the petitioners case.

6. That in reply to the contents of para 6(4) &(5) of the application, it is submitted that the petitioner was promoted as Asstt. Station Master as per avenue of Channel of promotion in the scale of Rs. 60-170 on 13.6.1955 and he was further promoted in the next scale of Asstt. Station Master that is in scale of Rs. 205-250 (PS) w.e.f. 29.6.1963. The above said grade of Rs. 205-280 was revised in the scale of Rs. 425-540 w.e.f. 1.1.1973. The petitioner was confirmed as A.S.M. w.e.f. 1.4.1964 in the scale of Rs. 425-540.

It is denied that services of petitioner was excellent and satisfactory. It is submitted that the services of petitioner was not satisfactory/efficient and excellent throughout. He was awarded punishment a number of time and an annexure of the punishment is being annexed herewith marked as Annexure No. 1.

7. That the contents of paragraph 6(6) are admitted.

प्रधान सचिव अधिकारी
पुस्तकालय, लखनऊ

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8. That in reply to the contents of paragraph 6(7) of the petition it is stated that the petitioner was working as Asstt. Station Master at Aishbagh, Lucknow and though there was no ^{case} of train accident against the petitioner upto 30.5.1956, his working was not otherwise satisfactory.

9. That in reply to the contents of paragraph 6(8) of the application it is submitted that while the petitioner was working as Asstt. Station Master (ASM) / Aishbagh, W/Cabin on 31.5.1956 in 8 to 6 hrs. ~~the~~ ^{the} shift failed to ensure correct setting of route for reception of 24 Dn. Express Ex-AMS to Lucknow Jn. resulting in derailment of 24. Dn. causing 7 deaths.

10. That in reply to the contents of paragraph 6(9) & 10 of the application ^{it is submitted that the} petitioner was held responsible alongwith others staff, Shri G.S. Mist has been removed from service and Shri Sukhdeo Singh Yadav ~~xx~~ has been reverted to the lower grade after D.A.R. proceedings. ^{The contents of para 6(10) of the application are not admitted as stated and the same should be suitably dealt with at the time of hearing of the case.}

11. That in reply to the contents of paragraph 6(11) (12)(13) of the petition it is submitted that the accident as referred in para under reply has got no relevance with the merit of the present case. It is further submitted that on 20.5.1956 at about 9.30 hrs. it was reported by Asstt. Station Master, West Cabin, Aishbagh that while shunting engine no. 3498 was being received from Loco Shed into Aishbagh yard over proper shunting signal, indication for Motor Point no. 14 disappeared on the Board. On an enquiry it was found that no apparent fault in the gears could be detected. In fact there has been a failure on the part of Asstt. Station Master and Station Superintendent, Aishbagh in as much as they had ^{backed} ~~locked~~ the shunting engine by use of Crank handle and as a result of

(P.W.D)

A106

which the cause of the said unusual occurrence could not be found out.

The reference of rule 1.51 in paragraph under reply has no relevance with the merit of the present case.

12. That the contents of paragraph 6 (14) of the application call for no comments as the matter under reply has already been mentioned in para 11 above.

13. That the contents of paragraph 6(15) of the application are not applicable in the present case hence the same is denied.

14. That the contents of paragraph 6(16) are denied.

15. That in reply to the paragraph ~~fax~~ 6(17) of the application it is submitted that allegations made in paragraphs are denied. The responsibility of accident has been fixed on the applicant as well as on the staff of signal department.

16. That the contents of paragraph 6(18) are denied. It is stated that the accident took place not due to defect in interlocking system but due to negligence on the part of the applicant who was working as ~~asstt.~~ Station Master, West Cabin, Aishwagh failed to enquire correct setting of route and thus violated ~~Central Subsidiary~~ General & Service Rules(C.S.R.), Subsidiary Rules(S.R.) and Station Working Rules(S.W.R.).

पुस्तक संचय विभाग
मुख्यमंत्री, लखनऊ

(P.M)

A107

17. That in reply to the contents of paragraph 6(19) of the application it is submitted that the petitioner was placed under suspension by Asstt. Operating Sudtt. (G) on 4.9.1986 on the telephonic order of Sr. Divisional Safety Officer/Lucknow JN from Gorakhpur which was confirmed in writing by him on 5.9.1986 on return to Lucknow.

18. That in reply to the contents of paragraph 6(19) of the application it is pertinent to state here that the Sr. Divl. Safety Officer is the Competent authority to place the petitioner under suspension and to initiate a disciplinary proceeding under contemplation.

19. That ~~in resp~~ the contents of paragraphs 6(20)(21) and (22) are denied. It is submitted that the Asstt. Operating Supdtt. (G) is an officer of the Operating Department. It is further submitted that the safety organisation is part of Operating Department to facilitate and for effective control of working at zonal level.

The Chief Operating Supdtt. (COPS) is the head of the Operating Department. He is assisted by Sub-Head viz. Chief Freight Traffic Supdtt., Chief Passenger Traffic Supdtt., Chief Safety Supdtt. at Divisional level, Sr. Divisional Operating Supdtt., is the head of the Optg. Department. He is assisted by Sr. Divl. Safety Officer and Asstt. Operating Supdt. thus the Sr. Divisional Safety Officer (Sr. DSO) is competent authority to exercise control over working of all transportation staff for the purpose of Disciplinary action. The Railway Board vide

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their letter No. EO&A)64.RG.6.67 dt. 22.10.1984 has clarified that Safety Officers as distinct from Commercial Officer belong to Operating side and there should be no objection to their taking disciplinary action against Operating Staff like Station Master (AS) etc. who perform train passing duties. A copy of Railway Board letter dated, 22.10.1984 is annexed as Annexure Exhibit no. 2.

20. That in reply to the contents of paragraph 6(23) of the application the contents of Railway Board circulars and the provision of Establishment Manual are admitted and it is reiterated that Safety Organisation is a part of Operating Department as explained in paragraph 6(20) above.

21. That in reply to the contents of paragraph 6(24) of the application marks as already given in paragraph 6(19) above are reiterated.

22. That the contents of paragraph 6(25) of the application are admitted. It is submitted that Sr. DSO is a competent authority to take disciplinary action against the applicant.

23. That the contents of paragraph 6(25-II) of the application are admitted.

24. That in reply to the contents of paragraph 6(26) of the application it is admitted that Shri G.C. Bhattacharya, Asst. Operating Supdt. (General) LOS(G) was appointed as a Enquiry by Sr. Divisional Safety Officer/Lucknow JN. It is however denied that they had no administrative control over the petitioner. As already explained in

माना आवकासिक
पुर्वोत्तर रेलवे, लखनऊ

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paragraph 6(20)(21) and (22) above Safety Officers belong to Operating Department and there is no illegality to their taking disciplinary action against Operating staff like the petitioner.

25. That in reply to the contents of paragraphs 6 (27) and (28) of the application it is submitted that a petitioner was placed under suspension by Asstt. Operating Spdtt. (G) on 4.9.1986 on the telephonic order of Sr. Divl. Safety Officer/Lucknow II from Gorakhpur which was confirmed by him on 5.9.1986 on return to Lucknow. It is pertinent to state here that the Sr. Divisional Safety Officer is the competent authority to place the petitioner under suspension and to initiate disciplinary action against the applicant. A photostat copy of the suspension order dated 4.9.1986 as bearing the endorsement of confirmation of Sr. DSO is annexed hereto as Annexure No. 3. Rest is denied.

26. That the contents of paragraph 6(29) are denied. Remarks are given in paragraph 6(20)(21) and (22) above.

27. That in reply to the contents of paragraph 6(30) of the application it is submitted that the petitioner was confirmed on 1.4.1964 by Distt. Traffic Spdtt. now the post of D.T.S. has converted as Divisional Safety Officer (DSO) after formation of Divisional system.

28. That in reply to the contents of paragraph 6(31) of the application the reference of Rules is only admitted. It is, however, reiterated that Sr. Divisional Safety Officer (Sr. DSO) is competent authority to exercise power to take disciplinary action against the applicant.

महाराष्ट्र संरक्षा बचिकारी
पुर्वोत्तर रेलवे, लखनऊ

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29. That in reply to the contents of paragraph 6(32) reference of Rules mentioned in the paragraph under reply are only admitted.

30. That in reply to the content of paragraph 6(33) reference of Railway Board circular in the paragraph under reply is admitted. Sr. Divisional Safety Officer is the competent authority to take D.R action against the applicant.

31. That in reply to the contents of paragraph 6(34) of the application it is submitted that the applicant was given complete opportunity to submit his defence against him but the applicant failed to avail of the same.

32. That the contents of paragraph 6(35) of the application are wholly misconceived and are vehemently denied. The CRS enquiry was conducted after recording the statement of petitioner also.

33. That the contents of paragraph 6(36) are denied. The Commissioner Railway Safety (Safety) (CRS) enquiry was a fact finding enquiry. As such the cross examination of the witness by the applicant was not required.

34. That the contents of paragraph 6(37) are denied. The allegation regarding supply of Commissioner Railway Safety report have already been considered by Hon'ble Tribunal, Allahabad in an earlier case filed by the applicant in case no. C.A/65 of 27/C.R/ALD. A.P. Pravastava v/s Union of India. The Hon'ble tribunal held that-

" Regarding the grievance of the applicant that he had not been given the report of the Commissioner of Ry. Safety for defence , we feel that the applicant has already quoted extensively from the said report in his petition and he seems to be aware of the whole report. He can rely on the relevant extract in his defence."

35. That ~~in supply~~ ~~in~~ the contents of paragraph 6(38) of the application are admitted.

36. That in reply to the contents of paragraph 6(39) of the application it is submitted that the Hon'ble Tribunal has held that the applicant was aware of the whole report of Commissioner of Ry. Safety and as such he could rely on the relevant extract in his defence. It was, however, further directed by Hon'ble Tribunal that in case the respondents(Rly. Administration) dispute the correctness of the said extracts of the CRS report they shall supply either the whole report of the Commissioner Railway Safety(CRS) or ~~not~~ at least its relevant extracts to the applicant. It is submitted that the extract quoted by the applicant in his claim petition no. 36 of 1987 were not disputed by the respondents. Therefore as per CAT directives it was not obligatory on the part of the administration to supply the report of the Commissioner Ry. Safety(CRS) to the applicant.

37. That in reply to the contents of paragraph 6(40) of the application it is submitted that Hon'ble Tribunal has observed that the charges should have been specific and not vague. It was however directed by the Hon'ble Tribunal that the applicant could be taken up under DAP after given him a amended charge-sheets and after

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affording reasonable opportunity to the applicant in respect of the amendments made in the charge-sheet, the enquiry may be concluded according to the rules and it was further observed by the CAT that it was not necessary to quash the charge-sheet altogether.

38. That the contents of paragraph 5(41) of the application except the annexure 7 containing the charge memorandum dated ,13.1.1987 are denied.

39. That in reply to the contents of paragraph 5(42) of the application it is submitted that the charge-memorandum dated 8.9.1986 was amended in compliance of the directives of Tribunal. A Annexure I and II of said charge memorandum containing the article of charges and imputation of misconduct were so amended as to make charges more specific. It is submitted that the charges were made more specific as the directive of the Tribunal.

It is further submitted that a reply was sent to the applicant in reference to his representation dated 3.6.1987 regarding supply of documents. It was made clear to him that the relied upon documents as required were already supplied to him.

It was further mention that the applicant may attend office to take extract/copies of the documents except Commissioner Fly. Safety(CFS) report as desired by him . a copy of the letter No. T/387/Tu/7/26 dated 8.6.1987 is Annexed and marked Annexure No. 6 . The statements containing to it are denied.

40. That the contents of paragraph 6(43) of the application are denied. The revised charge memorandum dated 13.5.1987 is self explanatory. The perusal of said charge memorandum would reveal that the specific charges regarding his failure to ensure the correct setting of route were levelled against the applicant.

41. That in reply to the contents of paragraph 6(44) of the application it is submitted that the petitioner has violated the General and Subsidiary rules and as such he has been held responsible.

42. That the contents of paragraph 6(45) of the application are denied and the same shall be suitably dealt with at the time of hearing of the case.

43. That the contents of paragraph 6(46) of the application are denied and the same shall be suitably dealt with at the time of hearing of the case.

44. That in reply to the contents of paragraph 6(47) of the application the contents of circular no. 9 are not disputed. It is, however, denied that the applicant was not responsible for the accident. The accident of 24 Dn. Express train occurred due to non-observance of Safety Rules by the petitioner.

45. That the contents of paragraph 6(48) of the application are denied.

46. That the contents of paragraph 6(49) of the application are denied. In reply to the contents of paragraph 6(49) of the application it is submitted that after recording the statements of the witness, a confronted enquiry between the applicant and others

एवर मैडल संस्का अधिकारी
पूर्वोत्तर रेलवे, लखनऊ

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witnesses was held by Commissioner Rly. Safety(CRS) and after full and careful consideration of the factual material and circumstances evidence, the applicant was held responsible for wrong setting of route for reception of 24 Dn. Express Train, the applicant alongwith other staff of Signal Department was found responsible.

47. That the contents of paragraph 6(50) of the application are denied. It is submitted that the applicant has violated GR 2.05(a) GR 3.68(i)(a), SR 3.68 (2)(i), SR 3.68(2)(ii), SR 5.01(2) and the station working Rule of Aishbagh.

48. That the contents of paragraph 6(51) of the application are denied. The applicant has been held responsible alongwith staff of Signalling Department.

49. That the contents of paragraph 6(52) of the application are denied.

50. That in reply to the paragraphs 6(52) and (54) it is submitted that the applicant has been held responsible for wrong setting of route for reception of 24 Dn. after a fact finding enquiry conducted by Commissioner Rly. Safety(CRS) under statutory provisions.

51. That in reply to the contents of paragraph 6(55) of the application it is submitted that prior to 27.3.1983 several dates i.e. 23.6.1987, 1, 7, 1987, 13/14.7.1987, 3.3.1987, 20.10.1987, 12, 11.1987, 30.11.1987, 21.12.1987, 31.1.1987, 5.1.1988, 11, 1.1988 and 21.1.1988. It is submitted that in all the above mentioned dates for enquiry, the applicant either did attend the enquiry or submitted his defence. The applicant even did not give the name of defence.

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level for which he was given reasonable opportunity/time
counsel for which he was given reasonable opportunity/time
and he avoided the DAR enquiry.

52. That in reply to the contents of paragraph 6(56) of the application it is submitted that on 31.12.1987 the applicant attended DAR enquiry as Scheduled and submitted a representation dated 31.12.1987 to the Enquiry Officer. He stated in his representation that he would not cooperate with the DAR proceedings unless he gets the certificate of correctness or incorrectness of facts and material on records. He also refused to give the name of any other defence counsel except Shri S.C. Dhar, Guard/Lucknow JN. In this connection it is submitted that the applicant was informed by means of letter No. T/537/TA/3/P6 dated 31.12.1987 that Shri S.C. Dhar being prosecution witness could not act as a defence counsel. A photo copy of the ~~representation~~ letter dated 31.12.1987 is annexed hereto as annexure No 6-5.

53. That in reply to the contents of paragraph 6(57) of the application it is submitted that the applicant did not attend the enquiry on 12.1.1988 at his own accord hence the statement of Shri Badri, Points man was recorded by the Enquiry Officer.

54. That the contents of paragraph 6(58) of the application are admitted.

55. That in reply to the contents of paragraph 6(59) of the application annexure 10 of the application is admitted. It is however, submitted that Annexure 10 is dated, 20.3.1988 and not 21.3.1988 as stated.


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56. That ~~inxx~~ reply to the contents of paragraph 6(50) of the application it is only admitted that a letter dated 22.3.1980 by the D.R.M./Safety/LJN was issued to the applicant fixing date of enquiry on 20.3.1988. The rest allegation are denied.

It is submitted that applicant attended enquiry on 20.3.1988 but he submitted an application dated 20.3.1988 demanding certain documents and did not cross examined the prosecution witnesses. It is relevant to point out here that all the relied upon documents were already supplied to the applicant but he was adopting the delaying tactics on one pretext or ~~an~~ other. ~~xxx~~ A copy of application dated 20.3.1988 is annexed and marked as Annexure C6.

57. That the contents of paragraph 6(61)(62) and (63) are denied. It is submitted that the sufficient reasonable opportunity was given to the applicant to defend his case but he did not avail the same and did not cooperate the enquiry proceedings.

58. That the contents of paragraph 6(64) of the application are not admitted. The controversy regarding supply of Commissioner Rly. Safety report has already been set at rest by the Honourable Tribunal in case no. no. 36 of 1987-1.P.Srivastava v/s Union of India decided on 16.4.1987. It has been held by the Honourable Tribunal that "we feel that the applicant has already quoted extensively from the said report in his petition and he seems to be aware of the whole report. He can rely on the relevant extracts in his defence."

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59. That in reply to the contents of paragraph 6(68) (69)(67) ~~xxx~~ of the application it is submitted that Hon'ble Tribunal in registration no. 36/97 A.S.Srivastava v/s Union of India has held that the petitioner seemed to be aware to be whole report of the CRS and he can rely on the relevant extract in his defence. It was, however, directed to the Railway Administration to supply the whole report of Commissioner Rly. Safety(CRS) or atleast its relevant extracts to the applicant in case the respondents that is the Railway Administration dispute the correctness of the extracts which the applicant has already quoted extensively from the said report in his ~~xxx~~ application.

In this connection it is submitted that the extracts of the CRS report quoted by the applicant in his application were never disputed by the Railway Administration hence in view of Tribunal direction dated 16.4.1997, it was not obligatory on the part of the Railway Administration to give the extracts of the CRS report or to issue a certificate of correctness in connection of the same. Rest allegations are denied.

60. That the contents of paragraph 6(68) are not admitted.

61. That in reply to the contents of paragraph 6(69) the order dated 7.4.1999 is only admitted. Rest allegations are denied.

62. That in reply to the contents of paragraph 6(70) the enquiry report was supplied to the applicant alongwith NIP dated 7.4.1999 under rules. There is no provision to supply the enquiry report before passing the final order.

कर्तव्य संस्था अधिकारी
मुद्रोर्ज रेजवे, लखनऊ

(P10)

All

63. That the contents of paragraph 6(71) of the application are denied.

64. That in reply to the contents of paragraph 6(72) it is respectfully submitted that the provision of show cause notice for the proposed punishment has since been deleted amendment by 42 of Constitution the statement contrary to ~~it~~ are denied.

65. That ~~imply~~ the contents of paragraph 6(73) of the application are denied. It is submitted that the impugned order dated 7.4.1988 was passed by the competent authority after having been carefully consideration and proper application of mind.

66. That in reply to the contents of paragraph 6(74) it is ~~sub~~ admitted that the ~~impugned~~ applicant preferred an appeal to Additional Divisional Rly. Manager against the order dated 7.4.1988.

67. That the contents of paragraph 6(75) of the application are not admitted as stated. It is submitted that the appeal of the applicant was considered and decided ^{by} Additional Divisional Rly. Manager/Lucknow JN on 16.6.1988 and same was communicated to the applicant vide letter dated 28.6.1988. There is no illegality in issuing the order dated 28.6.1988.

68. That the contents of paragraph 6(76) are denied. Additional Divisional Rly. Manager(ADM) is competent authority.

लोक संरक्षा अधिकारी
मुख्यमंत्री, उत्तर प्रदेश

.....17/-

(AII)

AII9

69. That in reply to the contents of paragraph 6(77) the grounds alongwith relief are denied.

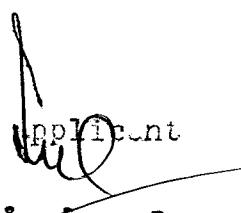

M

V. R. R. I. F. I. C. शहर मुक्ति संरक्षण परिषद
कूर्त्तर रेन्डर, लखनऊ

I, above-named do hereby verify that the contents from 1 to 6(77) are true to my personal knowledge and belief and that I have not suppressed any material facts.

Lucknow, Dated,

3 - 9. 1979.


applicant

शहर मुक्ति संरक्षण परिषद
कूर्त्तर रेन्डर, लखनऊ

A12

A120

The following punishment awarded to:

Shri A.P. Srivastava, A.S.M./ASH During service.

CEN MT III/62/2 dt. 7.5.52.
 CEN MT-Inen.SSC/52/1 dt. 19.11.52.
 CEN MT /49/55/28/25.7.55.
 CEN MT/12/55/2 dt. 25.7.55.
 CEN MT/61/55/3 dt. 5.8.55.
 Passes & P.T.O. stopped for 2 years.
 CEN MT/69/8 dt. 21.9.56.
 CEN MT/30/BEP/56/3 dt. 7.10.56.
 CEN T/61/1/LN dt. 15.11.56.
 CEN TRG/61/T-76 dt. 29.3.57.
 WIP one year E ASM/13/1/138/IZN dt. 26.8.57.
 CEN T/Signal/58 dt. 17.10.59.
 CEN TD/61/CS/63 dt. 19.2.60.
 CEN TD/61/HA dt. 22.6.60
 CEN TD/61/HA dt. 27.6.60.
 WIT -6 months TD/61/CS/60/112 dt. 2.8.60.
 WIT -6 Months T/134/ASH/110/57 dt. 1.11.60.
 CEN TD/61/HA dt. 4.11.60.
 CEN T/134/11/HA/60 dt. 4.1.61.
 WIP-6 Months with loss of seniority T/134/11/HA/60 dt. 23
 23.2.61.

CEN TD/61/CS/63/69 dy. 7.3.63.
 CEN C/316/T-19/62 dt. 6.4.63.
 WIT 6 Months TD/61/SS/63/234 dt. 29.7.63.
 WIT 1 month TD/61/CS/63/232 dt. 29.7.63.
 CEN TD/61/CS/63/167 dt. 30.4.63.
 CEN TD/61/CS/63/167 dt. 18.4.63.
 WIP 6 Months TD/61/Memo/63/26 dt. 25.1.64.
 CEN TD/61/Memo/64/53 dt. 18.5.64.
 CEN TD/61/Memo 64/18 dt. 26.6.64.
 CEN TD/61/Memo/64/145 dt. 11.9.64.
 WIP - 3 months TD/61/Memo/64/138 dt. 4.9.64.
 CEN TD/61/Memo/64/123 dt. 28.11.64.
 CEN T/134/D/ASM/66 dt. 15.6.66.
 CEN TD/61/Memo/67/111 dt. 12.3.68.
 CEN T/532/SC/ABI/31/75 dt. 30.3.76.
 Break in service w.e.f. 17579 vide memo No.E/II/283/1
 Strike/79 dt. 19.5.79.

Reduced to ASM/ 330-560 at Rs.560/- for month for a
 period of 3 years T/190/Optg/LN dt. 9.7.83.

प्रधानमंत्री का द्वारा
 प्रतीतर रेखा, लखनऊ

Ameruze No c-2

(A113)

A121

Copy of Railway Board's /New Delhi's L/No.E(O&A)8406-47
dated 22.10.1984 to the General Manager/N.R.Rly/Gorakhpur.

Sub:-Disciplinary authority under Railway
Railway Servant (O&A)Rules, 1968-staff
of Operating Department.

Reference your letter No.E/44/2/Pt.4/IV/
dated 24/25.7.84 on the above subject. The Board desire that
your Railway should forcefully contest the writ Petitions
challenging exercise of disciplinary powers by the Divisional
Safety Officer in the case of Operating staff and point out
to the High Court that Safety Officers, as distinct from
Commercial Officers, ~~maxxxg~~ belong to Operating side and
there should be no objection to their taking disciplinary
action against operating staff like SIs, ASIs, etc. performing
train passing duties.

Please acknowledge receipt.

[Signature]
मार्ग विभाग संचालन
कार्यालय विभाग

निलम्बन आदेशाना का प्राप्तकर्ता राम, रेत ऐसा है जो अद्वितीय है।

નિવસ, ૧૯૬૪ ફા નિવસ, ૫ ૪૧૬

३० २१४३३ २१०३१४६

४ रेल प्रशासन का नाम ४ पूर्वीतर रेलवे

निर्गय स्थानमण्डल कार्यालय दिनांक

4-8-86

आदि शब्द

१०४

यतः श्री श. दी. शिक्षा नित्या रस २०८० यतः श्री (प्रेषित)

रेल कर्मचारी का नाम और पद नामै के विस्त्र अनुशासनिक कार्यपादी अपेक्षित अनिर्णीत है।

४ रेल कर्मचारी का नाम और पद नामै के विरुद्ध एक दिनकर अपराध के सम्बन्ध में जाँच/पूछतांछ की जा रही है/ मुकदमा चल रहा है।

अतः शब्द राष्ट्रपति/रेत्वे द्वौर्ध/निम्न हस्ताक्षारी ४००४०॥ ३००४००४०॥ ३००४००४०॥ नियम,

1968 के साधा संलग्न अनुसूची 1, 11, और 14 की पार्टों के अनुसार रेल नियमार्थी को

निलीभत करने वाला सहाम प्राधिकारी । रेंटेंशन और अप्रैल नियम 1968 के त्रियम्

5818 के प्रृथम न्यूक में उल्लिखित प्राधिकारी, रेसोर्स्स और अधीक्ष नियम, 1968 के नियम

४/ नियम ५४। के परन्तु कदमारा प्रदत्त शाकियों का प्रयोग करते हुए, सतादू कदमारा उक्त श्री उपायी वारन्तवा स्वामी अभियानों तत्काल परमेश्वर ०५.९.८६

यह श्री आदेशा दिया जाता है एवं जिस अवधि में यह आदेशा प्रभावी रहेगा
उसमें उक्त श्री ए.पी. श्रीकाल्पना सरकारी मुख्यमन्त्री प्रांधाजारी की अनुमति के बिना
मुख्यालय नहीं होंगे।

हस्ताक्षार

जीसी २२०१७
१२०१७-१८ ला० १२

४. प्रतीलिपि श्री श्री वास्तु एवं वेष्टन विद्या का नाम और पद नाम।

५ नितम्बन की अधीक्षा में उपर स्वीकार्य निर्माण भारत के सम्बन्ध निर्माण भारत के सम्बन्ध गैंग द्वारा आदेश द्वारा प्राप्त हो जायेगे।

• इनाह रिंपैच लॉर

२. स्टोरी योर्स स्टोरी लोडी मुणापक

Telegraph orders at a later date have been implemented for approval of the
order.

संस्कृत वाचना

नहर पर दोनों तरफ लिखें
Use both side if required.

पूर्वोत्तर रेलवे
N. E. RAILWAY

Answered 8/3/87 - H

N. E. C. 40A
RB-GL-19

संख्या (No.) ८/३३७ ITA/१२/८६

दिनांक (Dated)

8-6-87

8/3

प्रक्रिया (From) Divisional Rly Manager (S)
by train

केवा में (To) Shri. H. P. Srivastava IAS
and Secretary, ASTH.

निषय (Sub.) Derailedment of DC Pn at Lgn on 31.5.86

संदर्भ (Ref.) Your representation dated 3-6-87

On your above representation
of DSO/Lgn has passed the following
order:-

66 documents have already been
supplied to Shri Srivastava on the
basis of which charges have been
formulated. The charges have only been
formulated on the directive of the
tribunal. However to give reasonable
opportunity to Shri Srivastava he
may be allowed to attend this office
on any working day and take extract
1 copy of documents he desires except
CRS report to make out his defense
which should reach us in next
10 days or else E.O. will be requested
to conduct an enquiry. ~~copy~~

Copy to 881 ASTH, for information and necessary
action
order 14/52 D. D. No. 2112 Divisional Rly Manager (S),
Chennai

Amendment 10325
P124

N.B.D.A.Y.

Office of the
Divisional Mly. Manager (Safety)
Lucknow, dt. 31.12.87

No. T/537/T/4/3/86

Shri A.P. Srivastava,
ADM/ASR (under suspension)
Through SS/ADM.

Sub:- D.R. enquiry against Shri A.P. Srivastava,
ADM/ASR (under suspension) in connection
with Memorandum of even no. dated
2.12.86.

Ref:- Your representation dated 31.12.87.

I have gone through your above representation
and reply to your objections is as under:-

1. Sri S.C. Dhar, Guard/LJM is a prosecution witness
and prosecution witness can not act as Defence
Counsel in the same case, as on one side pleading
your case and at the same time replying to the
queries made during the course of enquiry. As such
you are required to give the name of another Defence
Counsel.
2. As regards correctness or incorrectness of the
extracts of the report of CRS, it has been
pointed out to you earlier that CRS report is
confidential document and can not be supplied
or certified. Whatever relevant evidences/
materials/documents were required to be made
available to you have already been handed over
to you.
3. Regarding other queries, which you have made
can only be sorted out during the course of
enquiry.
4. You are, therefore, being given one more chance
to attend the enquiry on 5.1.88 at 10.00 hrs in
my chamber otherwise enquiry will be proceeded
ex-parte.

See
(S.C. Bhattacharya)
ADM(G)/LJM
Enquiry Officer.

See
श्री एस.सी. भट्टाचार्य
गृहोपर रूपदेव, लखनऊ

Amritsar 10/3/88

To
The E/o (AOs(a))

NE Rly

Lucknow.

AI 26

Sub:- Attendance in enquiry:-

6/6/

I have presented my self for enquiry as the Date 20.3.88
is fixed by you via your letter Dated 23.3.88.

Though the other charges under Memorandum in question had
not reached to the enquiry stage yet the statement of PWS are said
to be recorded in the enquiry and copy of the same is supplied to me
when asked for and further I am asked to cross examine the PWS.

As you have placed the enquiry at the cross examination
stage so I am ready to cross examine the PWS provided following
are made available to me:-

1) Reply of my representation (Dt 16.2.88) followed by
several reminders.

2) Specified Charge as per direction of the CAT/ALD
Painted out several times lastly submitted before
the E/o in enquiry Dated 22.1.88 as Annexure II

3) Either Certificate on the relevant extract of the Report
Sent under my letter Dt 5.12.87

4) Either Certificate on Annexure I Dt 22.1.88 and II³⁴⁵ Y
Dated 14.3.88

5) Material / evidences as indicated in my letter Dated 20.3.88

6) Statement of Shri T. S. Bhat as P.W.

Thanks

Yours faithfully

A.P. Srivastava

Asstt. ASI

Under Suspension Since
4.9.86

Dated
28.3.88

पुरुष विवाह संस्कार दाताराजी
मुर्वातर रेलवे, लखनऊ

S. No.	Content	Annexure No.	Page
1.	Rejoindor Affadivat	-	1-35
2.	Award letter Dt. 11.6.59	1	36
3.	Appreciation letter for Marutori- ous work dated 19.6.69	2	37
4.	Certificate of accident free Service	3	38
5.	Rly. Board letter No. 1475 B(G) 82 AW/1/12 dt. 19.8.88	4	39
6.	Extract of Rule 1234 & 1235	5	40
7.	Relevant portion of CRS Report	6	41-48
8.	Rly. Board letter dt. 5.5.89	7	49
9.	South Central Rly. letter Dt. 30.4.85	8	50
10.	Conformation letter dt. 16.4.58	9	51
11.	Option letter dt. 20.7.60	10	52
12.	Pay fixation letter dt. 28.11.63/ 3.12.63	11	53
13.	Rly Board letter No. 63/TT/V/ RAC/3 dt. 1.5.63	12	57-58
14.	Letter dt. 3.6.87 for document 13		56-62
15.	True copy of para 6.45 of application & Para 29 of W.S. in case No. 36/87	14	63
16.	Full year position recorded at the time of accident	15	64
17.	True copy of para 6.58 of application & Para 34 of W.S. in case No. 36/87	16	65

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

Lucknow

O. A. No. 216 of 1989

(A18)

(A12)

A.P. Srivastava .. *Applicant*
V/s.

Union of India & ors. .. *Respondents*

REJOINDER AFFIDAVIT ON BEHALF OF THE

PETITIONER IN REPLY TO THE COUNTER AFFIDAVIT

SUBMITTED ON BEHALF OF THE OPPOSITE PARTIES

2 AND 3

I, Mirudh Prasad Srivastava, aged about 58 years,
late
son of Sri Mangal Prasad Srivastava, resident of
555 Kha 2/4 Bholanhera, Alambagh, Lucknow, do hereby
solemnly affirm and state on oath as under:-

1) That the deponent is the petitioner in the above noted application and is, therefore, fully acquainted with the facts of the case deposed to hereinunder. The deponent has read the written statement submitted by the opposite parties 2 and 3 and understood the contents thereof.

2) That the contents of paragraphs 1 to 4 of the written statement need no reply.

3) That the contents of paragraph 5 of the written

A.P. Srivastava

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D.

- 2 -

statement as are contrary to the averments of paragraphs 6(2) and 6(3) are incorrect, hence denied. The contents of relevant paragraphs are reiterated to be true. The post of Signaller is not within the avenue of promotion of the Clerks Cadre. There is no channel of promotion from the post of Clerk to the post of Signaller. Hence, it cannot be said that deponent's appointment on the post of signaller was a promotion. Further the appointment of the applicant was made on the post of Signaller after open competitive selection against the vacancies. In view of this, the appointment on the post of signaller cannot be termed as promotion as the same was through appointment under Rule 215 Railway Establishment Code Volume-I.

4) That the contents of the first paragraph of paragraph 6 of the written statement need no reply and the second paragraph of paragraph 6 are incorrect, hence denied. It is further submitted that the reversion order dated 9.7.82 is under stay order of High Court vide order dated 2.8.82 in writ petition No.3335 of 1982 T.A. 1165/87(T) and the break in service had already been condoned by the President of India vide letter dated 19.5.79. Hence, it is ~~not~~ ^{non-} cause and could not have been considered while awarding of removal the punishment/ from service under challenge. So far as the service record and adverse material which the respondents have referred to

A.P.Singh

- 3 -

in the para under reply. It is submitted that the said material outlived its utility and would be deemed to be washout after confirmation of the applicant after considering of his past services. Further, the applicant ~~after~~ has no knowledge of all the adverse material because the respondents have never awarded a single opportunity within a span of 40 years of service rendering to verify the entries of the service record as required under rule 1234 and 1235 of the Indian Railway ~~Establishment~~ Administration and Finance Year 1976. no adverse material of the character roll was ever communicated within such period.

Further, the respondents brought adverse material on record against the applicant; then the justice and fair play required that favourable material should not be intentionally hidden by the opposite parties. The adverse material pointed out by the respondents have been washed out when the General Manager, N.E. Railway Gorakhpur after carefully considering the past service records awarded the following meritorious service certificate to the applicant:-

(1) Award roll and Rs. 25/- cash award vide letter dated 11.6.59.

(2) Certificate of meritorious service dt 19.6.69.

AP. Srinivasar

(AP1)

A136

- 4 -

(3) A certificate and Rs. ~~3500~~ 1500/- cash award for 32 years accident-free service on 16.6.1984.

The railway Board under letter No. E(G)82/ANI/12 dated 19.8.88 clearly outlined the policy to ascertain the meritorious service for the grant of the award. So it is needless to emphasise that a Railway employee whose meritorious service were duly recognised after microscopic scrutiny of service record and awarded by General Manager would be ~~desirous~~ deemed to be efficient and the services are unblemished for all purpose without any if and but. The copies of the merit certificates and Railway Board letter are filed herewith as Annexures, R1, R2 and R3 and R4 and the copy of the rule No. 1234 and 1235 referred to above are annexed as Annexure-R5 to this rejoinder affidavit.

- 5) That the contents of paragraph 7 of the written statement need no reply.
- 6) That the contents of paragraph 8 of the written statement are incorrect, hence denied. It is incorrect to say that applicant's working was not otherwise satisfactory as explained in the paragraph preceding above para. The work and conduct of the applicant cannot be said to be unsatisfactory.
- 7) That the contents of paragraph 9 of the written statement are incorrect, hence denied. It is incorrect that the applicant failed to ensure

Afzal Ansar

A12
A13

correct setting of route for reception of 24-down express Ex-AIS to Lucknow junction which resulted in the alleged accident. It is further submitted that it was not duty of Assistant Station Master to ensure correct setting of route but the duty of Cabin Man/ Lever Man as per operating Circular No.9 Rule 40(16)1(b) read with para 30(5) and 37(4) produced in the application at page No.28, 29 and 30.

- 8) That the contents of paragraph 10 of the written statement are incorrect, hence denied and the contents of paragraphs 6(9) and (10) of the application are reiterated to be true. The fact that S/Sri G.S. Bisht and Sukhdeo Singh Yadav were punished is not enough to uphold the punishment awarded to the applicant who was not at all at fault in any way and, therefore, he should not have been punished by the authorities and the officers responsible for the accident due to their laxity should ^{not} have been let free. Such discrimination is not permissible under law.
- 9) That the contents of paragraph 11 of the written statement as are contrary to the averments of paragraphs 6(11) and (12) and (13) of the application are incorrect, hence denied and the contents of relevant paragraphs of the application are reiterated to be true. It is submitted that the said accident was not an unusual occurrence but one of the kind of accident as "indicative accident" under para 1.09 of Accident Manual Chapter I and thus falls under the Classification of Accident Clause E/4 under

- 6 -

heading 'Breach of Block Rules", as such para II of Rule 151 reproduced at page 7 of the application was violated due to ill maintained and defectively installed interlocking system as defects indicated in CRS report contained in Annexure-R6 enclosed herewith.

For convenience of this Hon'ble Tribunal, para 1.09 and Accident Class E-4 are reproduced hereinunder:-

"Para 1.09 - "INDICATIVE" :- Accident is i.e. mishap generally not resulting in casualties, but which are indicative of unsafe Act or unsafe condition of work or defective railway equipment."

"Accident Glass E-4:-

Class	Description	Advise to fly other than Enquiry official	fly. offi- cial	by cial
Accident	Train received on or entered on wrong line at station or catch siding or sand hump etc.	COPs, CTSS, DRM, TI, LI, P#I, ESM and so on.	AIGRP SRP	Assistant Officer
Class E4				

It will not be out of place to mention that the said accidents were even not reported under the obligation of Section 83 of Indian Railway Act 1890.

10) That as regards the contents of paragraph 12 of the written statement, it is submitted that the officers were responsible in the enquiry conducted by CRS in

accordance with the ~~xxx~~ provision of para 8.08 IV of the Accident Manual due to the laxity of working, supervision and maintenance as pointed out in Annexure-6. Para 8.08 reads as under:-

"Para 8.08 OBJECT OF ENQUIRY

To ascertain whether there has been any general laxity of working, supervision or maintenance or other direct or indirect cause or causes which may have contributed to the accident."

As such, finding reached by the CRs under para 8.3 of his report is reproduced below:-

"8.3 - It is unfortunate that both the Broad Gauge Construction Organisation and the open Line maintenance Organisation had not taken adequate and effective steps to instal and maintain the S&T installations to the required standards. The Railway Administration may take such action as it considers appropriate in this regard."

11) That the contents of paragraphs 13 and 14 of the written statement are incorrect, hence denied and the contents of paragraphs 6(15)(16) of the application are reiterated to be true. It has been pointed out under paragraph 8.3 of CRs report as reproduced in the preceding paragraph.

12) That the contents of paragraph 15 of the written statement as stated are incorrect, hence denied and the contents of paragraph 6(17) of the application are reiterated to be true. The applicant is in no

A. Srinivasan

way responsible for the accident.

13) That the contents of paragraph 16 of the written statement are incorrect, hence denied and the contents of paragraph 6(18) of the application are reiterated to be true. To ensure/enquire correct setting of route is not the duty of Assistant Station Master but the duty of Cabin Man/Lever man as pointed out in the operating circular No.9 at page 28, 29 and 30 of the application. In presence of the fact deposed under para 6.51 to 6.54 the rules were not operative. More so the said rule does not pertain to the correct setting of route. Hence the applicant did not, therefore, violated any subsidiary rule and station working rule. The accident, as already stated, had occurred due to defectively founded and ill maintained interlocking system as confirmed in the report of the CRS. Relevant portion of the report in support of the averments is annexed as Annexure-R6 to this affidavit.

14) That the contents of paragraphs 17 and 18 of the written statement are contrary to the averments of paragraph 6(19) of the application are incorrect, hence denied. The alleged approval of Senior Divl. Safety Officer, Lucknow junction is an afterthought as it is a question as to why the D.S.O. himself did not pass the order though he was in Lucknow on 5.9.86. Further the alleged approval from the Sr Divisional Safety Officer was never mentioned in the order of suspension and that it is also

A. Srinivasan

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a question as to why the Senior Divisional Safty Officer failed to sign the order of suspension especially at time when he signed the charge sheet and the letter of appointment of Enquiry Officer and all these three orders were simultaneously served on the applicant on 12.9.86, that further the confirmation/approval of suspension has no meaning when he is not competent to initiate disciplinary proceedings at all.

15. That the contents of paragraph 19 of the written statement are incorrect, hence denied and the contents of paragraph 6 (20) and (21) and (22) of the application are reiterated to be true. Safety organisation looks after the safety in operation of six departments. Operating, Engineering, Loco, Carriage & Wagon, S & T Communication and electrical department and with in the sprit of Para 1,II of Annexure R-12, Six Safety Counsellors had been drawn from each Department for assisting the Divisional Safety Officer. It has nothing to do with the administrative control of the operating department as pointed out in the order dated 5.5.1989, a copy of which is annexed as Annexure R7 to this rejoinder. The letter dated 30.4.1985 in respect of South Central Railway is also annexed herewith as Annexure- R8 which will prove that the employee belonging to operation department never worked under the administrative control of Safety Department of the Railways.

Further there is a distinction between the Officer cadre and the employees, as in the former case the cadre is combined and an officer can be sent to operating, safety, commercial organisation in the cadre of officers as such the persons are interchangeable but the post is not interchangeable.

maintaining thereby that an officer when working in the operating cadre cannot be controlled or administered by the officers belonging to Safety Organisation or Commercial Organisation and vice versa. However, the Chief Operating Superintendent is head of the department of the Operating Department and Chief Safety Superintendent is also heads of the Department of Safety. Further Annexure-C2 annexed with the written statement has no force of law as the same was not been issued under rule 157A ^{Indian} Railway Establishment Code Vol. I.

- 16) That the contents of paragraphs 20 and 21 of the written statement are incorrect, hence denied and the contents of paragraph 6(23)(24) of the application are reiterated to be true. The Safety Organisation is a separate organisation headed by an independent head of the department and Divisional heads whereas the operating department is headed by another head of the department and Divisional Head independent of Safety Organisation. The two organisations are different and having different administrative hierarchy and duties and functions.
- 17) That the contents of last sentence of paragraph 22 of the written statement are incorrect, hence denied. The competent authority to take disciplinary action against an employee like the applicant was the Senior Divisional Operating Superintendent and not Senior Divisional ^{Safety} Officer. It is submitted

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that at the time of appointment of the applicant on the post of ASI in the grade of Rs.425-640/- in the year 1963 being the operating department and at the time there was no such organisation like safety in the Railways as it was constituted subsequent to applicant's appointment by the then District Operating Superintendent now known as Senior Divisional Operating Superintendent.

- 18) That the contents of paragraph 23 of the written statement need no reply.
- 19) That the contents of paragraph 24 of the written statement are incorrect, hence denied and the contents of paragraph 6(26) of the application are reiterated to be true. The safety officers belonging to Safety department of the Railways headed by a Senior Divisional Safety Officer and he is Divisional head of the Department of Safety while as already stated the Operating Department is a separate department headed by Senior Divisional Operating Superintendent being Divisional head of the department. The Senior Divisional Safety Officer, Lucknow junction, therefore, acted without jurisdiction.
- 20) That the contents of paragraph 25 of the written statement are incorrect, hence denied and the contents of paragraphs 6(27) and (28) of the application are reiterated to be true. As already stated, the Sr. Divisional Safety Officer was not competent to initiate proceedings against the applicant nor he was competent to appoint the

Asst. Secy.

Enquiry Officer. Further, the Senior Divisional Safety Officer was also not competent to suspend the applicant and he acted without jurisdiction in doing all these acts. The confirmation of suspension order by the Sr Divisional Safety officer has no meaning when he himself was incompetent to suspend the applicant.

- 21) *That the contents of paragraph 26 of the written statement are incorrect, hence denied and the contents of paragraph 6(29) of the application are reiterated to be true.*
- 22) *That the contents of paragraph 27 of the written statement are incorrect, hence denied and the contents of paragraph 6(30) of the application are reiterated to be true.*

It is no doubt that the applicant was confirmed on 1.4.64 by the then District Operating Superintendent, Lucknow (DOS) in the scale of Rs.150-280 now revised to Rs.425-640/- and it is also not incorrect that the applicant was confirmed in previous promotion in the scale of Rs.80-170/- from 20.5.1955 by the then District Traffic Superintendent, Izatnagar (DTS) vide his letter No. EM/132/A/58 dated 16.4.1958. The respondent by saying that the post of Dist. Traffic Supdt had been converted as Divisional Safety Officer (DSO) after introduction of the Divisional System on and from 1.5.1969 are incorrect and they mean to cover the confirmation

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dated 16.4.58 and 1.4.64 by the Divisional Safety Officer(DSO) so as to fit the Divisional Safety Officer(DSO) as appointing authority to justify the punishment under challenge.

The respondent has very nicely concealed on the change of the nomenclature prior to the introduction of the Divisional system on and from 1.5.1969. The fact is as under:-

"Since the very origin of the Railway, the present operating department was known as Traffic Department and their zonal head and district head were traffic manager and the District Traffic Superintendent respectively. Much earlier to the last appointment of the applicant in Grade 150-280/- now 425-640/- on 10.3.1963 and confirmation on 1.4.64 the post of the Traffic Manager and the District Traffic Superintendent had already happened to be casted as Chief Operating Superintendent and District operating Superintendent. Again by virtue of the change of the traffic department as operating department. As such, the then District Operating Superintendent had actually appointed the applicant on last appointment in the scale of Rs.150-280/- now 425-640/- and further on introduction of the Divisional System on N.E.Rly. on and from 1.5.1969 vide Rly board letter No.E/B-68/NEF/Division dated 25.2.69, the word district has been replaced as Division, thus the District Operating Superintendent happened to be known as Divisional Operating Superintendent and the post of the Chief Operating Superintendent remained unaffected by the said

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system, hence no change.

As regards to the post of the Divisional Safety Officer, this post had come into existence as District Safety Officer, in early in 1964 by virtue to the recommendation of the accident committee 1962 circulated by Railway Board under his letter No.63/TT/RAC/3 dated 1.5.1963 much earlier to the introduction of the Divisional system on and from 1.5.1969 and by virtue of the introduction of the Divisional system the word district had been changed as Division and thus the District Safety Officer happened to be known as Divisional Safety officer. Due to the upgradation of the officer cadre in the year 1978-79, the Divisional Officers post have been placed in Senior scale, hence they took the place as Sr Divisional Operating Superintendent and Sr Divisional Safety Officer and after such upgradation the set up is changed and narrated under para 22 and 23 of the application.

Such an incorrect narration of the respondent being is clear indication of the malafide prejudice and the act of unfair labour practice.

The letter No.EM/524/58 dated 16.4.58 confirming the applicant in grade 80-170/- and letter no. E/283/ASM Part-II dated 20.7.60 inviting the option of the Station Master and Asstt Master Group by the District Traffic Superintendent and letter No. EA/104/ASM dated 28.11.63/3.12.63 fixing the pay of the applicant on

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on promotion to Grade 150-280/- now 425-640 by the Dist Operating Supdt and Rly Board letter No.63/TT/RAC/3 dated 1.5.63 recommending the composition of the Safety Organisation and their duties and responsibilities are annexed as Annexures-R9 and R10, R11 and R12 to this rejoinder

23) That the contents of paragraph 28 of the written statement are incorrect, hence denied and the contents of paragraph 6(31) of the application are reiterated to be true. The Senior Divisional Safety Officer was not competent to exercise the power of Disciplinary authority ^{which} who is vested in the Sr Divisional Operating Superintendent.

24) That the contents of paragraph 29 of the written statement as are contrary to the averments of paragraph 6(32) of the application are incorrect, hence denied and the contents of para 6(32) of the application are reiterated to be true.

last sentence of
25) That the contents of/paragraph 30 of the written statement are incorrect, hence denied. The competent authority to take DAR action was the Senior Divisional operating Superintendent i.e. the head of the operating Department.

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26) That the contents of paragraph 31 of the written statement are incorrect, hence denied and the contents of paragraph 6(34) of the application are reiterated to be true. The applicant was denied reasonable opportunity of defence.

27) That the contents of first sentence of paragraph 32 of the ~~application~~ written statement are incorrect, hence denied. In the enquiry conducted by CRS the deponent was not given the opportunity of cross-examination nor the copies of the written statement of others were supplied to him. Only the written statement was recorded in isolation.

28) That the contents of paragraph 33 of the written statement are incorrect, hence denied and the contents of paragraph 6(36) of the application are reiterated to be true. When the findings recorded by CRS was being heavily relied upon to punish the applicant, then it was all the more necessary to give opportunity to the applicant as required in the conduct of ~~fulfilled~~ enquiry. Further the enquiry conducted by CRS against has been relied upon ~~xxuadxx~~ the applicant, hence it was necessary to produce all those whose

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statement was recorded in the enquiry conducted by CRS. Moreover, the CRS was not produced in the enquiry conducted against the applicant although it was all the more required as his findings were being heavily relied upon against

the applicant, though all those including CRS had been named as defence witnesses, yet they had not been invited in the enquiry. The names take place in annexure-10 of the application.

29) That the contents of paragraph 34 of the written statement as stated are incorrect, hence denied and the contents of paragraph 6(37) of the application are reiterated to be true. However, the portion quoted under paragraph 34 is not denied. It is, however, submitted that when the ~~unauthenticaed~~ report was sent by the applicant for authentication, the opposite parties denied and claimed that the report ^{confidential} submitted by the CRS was an ~~official~~ document and could not be authenticated, and supplied as the paragraph 2 of annexure C-5 reads.

30) That the contents of paragraph 35 of the written statement need no reply.

31) That as regards the contents of paragraph 36 of the written statement, it is submitted that the copy of the report of CRS was sent by the applicant to the authorities for certification but they refused to do so making it clear that

A.P. Srinivasan
S/o

they did dispute the report which was in possession of the applicant.

32) That the contents of paragraph 37 of the written statement as are contrary to the averments of paragraph 6(40) of the application are incorrect, hence denied. The Tribunal clearly held that the charges were vague and unspecified.

33) That the contents of paragraph 38 of the written statement are incorrect, hence denied and the contents of paragraph 6(41) of the application are reiterated to be true.

34) That the contents of paragraph 39 of the written statement are incorrect, as stated. The charges remained unspecified and vague and for this view of the matter, the direction of the Tribunal has not been followed. It is incorrect that the applicant was supplied the documents mentioned in his representation dated 3.6.1987. It was incorrect to say that the documents required were already supplied to the applicant. It is further stated that the charges were not specified as per line of specification drawn by the Tribunal as produced under para 6(40) of the application. That further as no document

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was supplied in support of the charges under memorandum dated 13.5.87, hence the applicant pointed out the material/evidence/document on which the charges were to be sustained and asked for the same. The letter dated 3.6.87 is annexed as Annexure-R13 to this rejoinder.

Having no way to get the fact/material/evidence/document from the respondent, the applicant had sent facts on their record available with the applicant in 6 Annexures vide his letter dated 20.1.88 and 14.3.88 for certificate of correctness or incorrectness but the said certificates were also not made available to the applicant. As such, neither the document supplied along with the memorandum nor the fact certified more so CRs report had also not been supplied and not certified, thus, the applicant was given no reasonable opportunity to face the charges.

35) That the contents of paragraph 40 of the written statement are incorrect, hence denied and the contents of paragraph 6(43) of the application are reiterated to be true. As already stated, the charges were not specified as per the directions issued by this hon'ble Tribunal as reproduced

Affidavit as

in paragraph 6(40) of the application. The CRS has worked out the cause of accident as "route being wrongly set, and not the cause as 'failed to ensure correct setting of route'. It is pointed out that as Assistant Station Master, it is not the duty of the applicant to set the route or to ensure the correct setting of the route, but it is the duty of the Cabin Man/Lever Man as per duty assigned in operating Circular No.9 at page 28, 29 and 30 of the application.

36) That the contents of paragraph 41 of the written statement are incorrect, hence denied and the contents of paragraph 6(44) of the application are reiterated to be true. The deponent never violated the general and subsidiary rules. The opposite parties have again failed to specify ^{in what way the} as to which rule was violated by the applicant. It is further submitted that in the light of the fact deposed under para 6(49) (50) (51) (52) (53) and (54) of the application, the general rule and subsidiary rule were not to be obeyed as these rules were operative at a particular occasion of interlocuting failure or when the signal is defective; whereas the deposition under paras

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cited above does not speak any interlocking failure or signal defect at that time. That furthermore that the Aishbagh Yard is equipped with electro-mechanical upper ~~co-ordinate~~ quadrant signalling and the rules were not applicable to the working of Aishbagh Yard.

Rules are produced below for perusal of the Hon'ble Tribunal:-

Duties of Station Master generally when the signal is defective

1. As soon as a Station Master becomes aware that any signal has become defective or has ceased to work properly, he shall:-

"Immediately arrange to place the signal at 'ON'. if it is not already in that position"

Subsidiary Rules (SR)

3.68(1)(ii) Signals shall only be lowered by their proper levers and shall be treated as out of order if they do not respond to movement of their levers. If a signal cannot be lowered by means of its lever, it is not to be taken 'off' by pulling the wire by hand or any other means.

3.68(3)(ii) When interlocking fails or

Aishbagh

becomes defective at an interlocked station,
the relevant signals shall be treated as
defective.

5.01(2)

Station Master responsibility for the working of Signals

The Station master is directly responsible for the working of the signals. The home signal must not be taken off without the personal order of the station master on duty. When the home signal has been taken off by the Station master's orders, the outer signal will then be taken off by the Railway Servant deputed to work it.

Station working rules:

The ASH/ West Cabin will inform the Gatekeeper of Level Crossing No.2 and the Cabinman/Loco Cabin giving them the train number, its description, Station from and to under exchange of private number for closing and locking of gates against road traffic."

37) That as regards the contents of paragraph 42 of the written statement, it is submitted that the averments of the application were admitted by the opposite parties in their written statement under paragraph 29 in O.A.No.36 of 1987. A true copy of the averment made in such paragraph of O.A.No.36/87

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as well as the reply of the para by the opposite parties are annexed as Annexure-RQ 14 ~~and R15~~ to this rejoinder affidavit. It appears that the opposite parties are shy of clearly admitting the averments of the applicant in their reply. Further full lever position noted just after the accident are annexed as annexure R-15 to this rejoinder affidavit in support thereof.

38. That as regards the contents of paragraph 43 of the written statement as stated are incorrect, hence denied and the contents of paragraph 6 (46) of the application are reiterated to be true. The contents of paragraph 46 of the application relate to ^{factual} position as deposed under para 6.1.4 of CRS report placed as Annexure R 6 at page no. and further the averment of application were not disputed by the respondents in the written statement under para 34 in case No. 36/87. Para 6.58 and its reply under para 34 in case No. 36/87 are Annexed as Annexure 16 to this rejoinder affidavit, and by not replying specifically to these averments, the opposite parties have clearly evaded the reply.

39. That the contents of paragraph 44 of the written statement except the first sentence are incorrect, hence denied. It is vehemently denied that the accident had occurred due to non-observance of safety rules by the applicant. It is further submitted that when the respondent in presence of the para of operating circular No. 9 at page 28, 29 and 30 of the application felt that the charge of, "Failed to ensure correct setting of route" could not be sustained then they took the shelter of "non-observance of safety rules". Certainly, general rule as well.....

as subsidiary rule are being framed by Aly Board and Chief Operating Superintendent respectively under the authority of Section 47 of the Indian Aly Act 1890 and Rule 1 of the General and Sub-sidiary rule respectively for the purpos of effective operation of train movement whose violation has already been well explained in the preceding paragraph.

As regards non-observation of safety rule, it is stated that neither safety department has framed any such rule as safety rule, nor its violations are ^{OR} disobedience of any safety rule was ever indicated in either memorandum dated 8.9.86 and 13.5.87 annexed as Annexure-5 and 7 of the application.

40) That the contents of paragraph 45 of the written statement are incorrect, hence denied. The opposite parties have not given reasons as to why and how they have denied the averment in paragraph 6(48) of the application.

41) That the contents of paragraph 46 of the written statement are incorrect, hence denied and the contents of paragraph 6(49) of the application are reiterated to be true.

A. S. Sivaram

The CRS has indicated the cause of accident "route being wrongly set" not necessarily by the applicant whereas the respondent has interpreted as the route wrongly set by the applicant when it is not the duty of the applicant as Assistant Station Master to set the route and ensure correct setting of route but it is the duty of the Cabinman/ Lieverman as per operating circular No.9 on page 28, 29 and 30 of the application.

42) That the contents of paragraph 47 of the written statement are incorrect, hence denied and the contents of paragraph 6(50) of the application are reiterated to be true. Here also, the respondent in presence of the duties assigned in operating circular No.9 at page 28, 29 and 30 of the application felt failing to sustain the charges of 'failed to ensure correct setting of route' then they again took the shelter of violation of rule in their reply under this para. The violation of rule is well explained and replied in/para 47 of the written statement under ^{reply to} just preceding paragraph 36 of rejoinder affidavit.

43) That the contents of paragraph 48 of the written statement has no relevance with the contents of paragraph 6(51) of the application, hence denied and the contents of paragraph 6(51) of the application are reiterated to be true.

Appendix A

44) That the contents of paragraph 49 of the written statement has no comment on the contents of para 6(52) of the application, hence para 6(52) of the application are reiterated to be true.

45) That the contents of paragraph 50 of the written statement are contrary to para 6(53) ^{and 6(54)} of the application, hence denied and the contents of the relevant paragraphs of the application are reiterated to be true.

It is further submitted that when the respondent in the presence of the fact deposed under para 6(51) to 6(54) of the application felt that the violation of general rule and subsidiary rule could not be sustained then they took the shelter of 'wrong setting of route'. Setting of route was not the duty of the applicant as Asst Station master as but the duties of the Cabinman/ Liver man as per duties assigned in operating circular no.9 at pages 28, 29 and 30 of the application.

46) That the contents of paragraph 51 of the written statement have no relevancy with the deposition made out in paragraph 6(55) of the application, hence denied. That further the question of defence counsel is not the subject matter of the relevant paragraph of the application.

Affidavit

47) That the contents of paragraph 52 of the written statement are denied. What is deposed in para 6(56) of the application are not replied by the respondent. It is further submitted that the ~~exaggerated~~ non-cooperation was from the respondent side because they have not acted within the scope of disciplinary appeal rule 1968 by not supplying the document alongwith the memorandum and also by not supplying the CRS report and even not certifying the relevant extract of the CRS report as correct or incorrect. After the direction of the hon'ble tribunal in case No. 36/87 and even not certified the facts on their record put forward by the applicant for the certificate of correctness or incorrectness. The question of defence counsel is not the subject matter of the application. The applicant was denied reasonable opportunity of defence as Sri S.C. Dhar was prepared to defend the applicant in the enquiry. It is not necessary that a prosecution witness would always depose against a charged official as the purpose of the enquiry is to bring the truth.

48) That the contents of paragraph 53 of the written statement are incorrect, hence denied and the

Affidavit

contents of paragraph 6(57) of the application are reiterated to be true. It is further submitted that the date 12.1.88 for recording the statement of dadri, Liverman was never communicated to the applicant. If the respondent had communicated the said date for the said purpose, they should be put to strict proof. The deponent was never informed about the alleged date 12.1.88 and, therefore, attending there was no question of ~~approximating~~ the said enquiry on the date fixed.

49) That the contents of paragraph 54 of the written statement need no reply.

50) That as regards the contents of paragraph 55 of the written statement, it is submitted that the letter Annexure-10 is not dated 20.3.88 but it was received by the Station Superintendent Aishbagh on 21.3.88 and the same was later sent to the appropriate authority.

51) That the last line of the first paragraph of paragraph 56 of the written statement are denied and the contents of paragraph 6(60) of the application are reiterated to be true. It is further submitted that Annexure-11 of the

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application clearly reads that except the applicant none of the prosecution witness and defence witness were even invited to attend the enquiry. If the respondent had invited the prosecution and defence witness, then they should be put to strict proof.

That the contents of second paragraph of paragraph 56 of the written statement are incorrect hence denied. It is submitted that in the letter annexed as Annexure-06 of the written statement had very clearly read that applicant had appeared in the enquiry fixed on 28.3.88 and was also ~~to~~ ready to cross-examine the prosecution witness and examine the defence witness provided the paper needed for the cross-examination would have been made available. The letter under Annexure-06 of the written statement never speak that the applicant was not ready to cross-examine. The delay was attributable to the respondent No.3 as he failed to supply any document relied upon by the applicant for the purpose of preparation of defence as well as cross-examination and even not certified the fact on record and the relevant portion of the C.R.S report put forward by the applicant for

Annexure-06

certificate of correctness or incorrectness.

52) That the contents of paragraph 57 of the written statement are incorrect, hence denied and the contents of paragraph 6(61) to (63) of the application are reiterated to be true. It is incorrect that the applicant was given reasonable opportunity to defend his case but he did not avail. It is further incorrect to say that the applicant did not co-operate with the enquiry proceedings. The opposite parties have only to say that the applicant has refused to co-operate with the enquiry proceedings which is not correct.

53) That the contents of paragraph 58 of the written statement as stated are incorrect, hence denied and the contents of paragraph 6(64) of the application are reiterated to be true. The decision of the Hon'ble Tribunal is, however, not disputed but it is asserted that the order passed by this Hon'ble Tribunal in O.A. No. 36 of 1987 has not been followed and complied by the opposite parties.

54) That the contents of paragraph 59 of the written

H. Srinivasan

statement are incorrect, hence denied and the contents of paragraph 6(64) (65) (66) and (66) of the application are reiterated to be true.

The said narration under para 59 of the written statement is repetition of paras 34 and 36 of under Para 29 & 31 the written statement and its reply holds good as¹ of para 59 of the written statement. It is, however, submitted that the administration never informed the applicant that the report in possession of the applicant was not being disputed by them. On the contrary they refused to certify the copy of the CRS report. It is incorrect that it was not obligatory on the part of the Railway Administration to give CRS report or to issue a certificate of correctness.

55) That the contents of paragraph 60 of the written statement need no reply.

56) That the contents of paragraph 61 of the written statement as are contrary to the averments of paragraph 6(69) of the application are incorrect hence denied and the contents of paragraph 6(69) of the application are reiterated to be true in full.

A. Srinivasan

57) That as regards the contents of paragraph 62 of the written statement, it is submitted that the enquiry report must have been supplied to the applicant prior to imposition of punishment which was never done. The enquiry report forms extraneous material and the applicant had no opportunity to assail the enquiry report before he was awarded punishment. The report of the Enquiry Officer ought to have been given to the applicant as provided in notification dated 10.2.1961 in which it is clearly mentioned under para VIII that the person concerned shall be supplied with the report of the findings as well as a notice stating the action proposed to be taken.

Moreover even now issue of show cause notice prior to imposition of punishment is obligatory on the part of the management and since this show cause notice was denied to the applicant, the impugned order cannot be sustained in law.

58) That the contents of paragraph 63 of the written statement are incorrect, hence denied and the contents of paragraph 6(71) of the application are reiterated to be true.

Alphonse Lazar

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59) That the contents of paragraph 64 of the written statement are incorrect, hence denied and the contents of paragraph 6(72) of the application are reiterated to be true. Even after 42nd constitution amendment, issue of show cause notice giving a copy of the report of the Enquiry Officer is necessary in view of the fact that no extraneous material can be considered by the punishing authority until the charged official is given an opportunity to rebut the same before final order is passed. In the present case though the report of the Enquiry Officer was considered by the authority who awarded the punishment but this report was not made available to the applicant before a decision to punish the applicant was taken by the authority.

60) That the contents of paragraph 65 of the written statement are incorrect, hence denied and the contents of paragraph 6(73) of the application are reiterated to be true. It is denied that the competent authority passed the order. It is further incorrect that full consideration was given after application of mind.

A. Srinivas Ia

61) That the contents of paragraph 66 of the written statement need no reply.

62) That the contents of paragraph 67 of the written statement as stated are incorrect, hence denied and the contents of paragraph 6(75) of the application are reiterated to be true. The appeal was not considered by the Additional Divisional ~~Railway Manager~~ Railway Manager but it was considered by the Divisional Safety Officer and communicated by the Assistant Operating Superintendent Sri K. R. Ahirwar in the name of the D.S.O. under the rule appeal would have been considered by the Additional Divisional Railway Manager and would have been communicated under his seal and signature.

63) That as regards the contents of paragraph 68 of the written statement it is submitted that the order in appeal has not been communicated by the A.D.R.M. which was necessary under the Rules.

64) That the contents of paragraph 69 of the written statement are incorrect, hence denied and the contents of paragraph 6(77) of the application are reiterated to be true. The

A. P. J. A. N. I. A.

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application deserves to be allowed with costs.

Dated, Lucknow,

the November, 1989.

A.P.Srivastava
DEPONENT

VERIFICATION

I, the deponent named above, do hereby verify that the contents of paragraphs 1 to 64 above are true to my personal knowledge and personal of records. No part of it is false and nothing material has been concealed, so help me God.

Signed and verified this the day of November 1989 at Lucknow.

A.P.Srivastava
DEPONENT

I identify the deponent Anirudh Prasad Srivastava who has signed before me and personally known to me

from my side
(P.K. Srivastava)
Advocate

A.P.Srivastava

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Annexure R/

N. E.-G. 40
R. P.-G. L. 19A
N. E. Railway
SIPF
Date: 11/6/1959
SF/C-3/10000/59
8/1/59/59

FROM: SIPF

R. J. H.

TO: ASM - BJKP

Sub: Theft of 9 Axle brasses from BJKP
yard on 9-11-58

R.H.

A copy of Asst. SIC's letter no. 8/14/1
dated 1/6/59 dated 8-6-59 addressed to
Security Officer - Gorakhpur and copy to
me is annexed below for your the
information of the employee concerned.

Ed. 11/6/59
SIPF/ R. J. H.

" A regard Roll in favour of Shri
A. P. Srivastava ASM/BJKP and others relating
to the above noted case is herewith sent
for favour of consideration and sanction
please.

sd/
Asst-

TRUE COPY
ATTESTED

P. R. Srivastava
Adv. C. I. C.

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Annexure R2

गोपी च. र. ल. न.
N. E. RAILWAY



100-दिवसीय अभियान

(1 जनवरी से 10 अप्रैल तक)

1969

कार्य - कुशलता - शुद्धि के लिये

उत्कृष्ट सेवा - प्रशासित पश्च

100-DAYS DRIVE FOR EFFICIENCY

(JANUARY, 1 TO APRIL, 10)

Appreciation Letter for Meritorious Work

Mr. D. M. Duttar, General Manager
Shri D. D. Bhattacharya, M.C. Section Officer, Shillong.

गोपी च. र. ल. न.
N. E. RAILWAY
Shillong, 19 मई, 1969.

गोपी च. र. ल. न.
N. E. RAILWAY
Gorakhpur, May 19, 1969

महाप्रबन्धक
GENERAL MANAGER

TRUE COPY
ATTESTED

Adv. C.R.C.

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Annexure R 3

(वाई. बी. एन. साहू)
सहायक

इकलौ सचिवां रेल सर्टाफ - 1986



प्रो.प्रतीक्षा-प्रद

32 चर्षों के कार्यकाल में दृष्टिना-रहित रेल सेवा हेतु सम्मानित
एवं पुरस्कृत

श्री अनिल प्रसाद श्रीवास्तव
महायक नियन्त्रण मार्गर, गोपनीय
लक्ष्मण मण्डल

गोपनीय 16 अप्रैल, 1986

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Rly. Board Letter No. 1475 No. E(G)82 AW1/12 dt. 19.3.88

Sub:- Rewards and Awards to Railway staff for accident free service.

A Scheme of granting awards for accident free service to meritorious Railway employees was initiated in 1973. In terms of the latest liberalised scheme circulated vide Railway Board's Letter No. E(G) 82/AW1-12, dated 26.3.87 the accident free service awards are given on completion of specified number of years of excellent, accident free service.

2. In view of clarifications sought by certain Zonal Railways regarding eligibility criteria for the grant of Accident free Service Award, the matter has been reviewed by the Board.

3. The Board have directed that besides an accident free service record, only such of the employees who have an excellent service profile should be considered for such awards. The underlying principle is that a generally careless, negligent, indisciplined or remissive worker should not be considered for an award even if he has an accident free record. On the other hand an otherwise outstanding employee, who may have undergone minor punishment for an honest lapse not connected with safety in train operations, may not be debarred from consideration outright.

4. Thus, the employee's overall assessment in terms of character, integrity, diligence and contribution to building the Railway's image should be an important guiding factor in addition to an accident free service record. However, as it is not feasible to legislate for each variant, the Zonal Railways should exercise constructive judgement and discretion in determining the eligibility of employee for the grant of the award.

TRUE COPY
ATTESTED

[Signature]

Annexure R 5 40
P.S.T. A 166

Abstract of Rule 1234-1235 of Indian Rly. administration & Finance

T.A. No. 11 5/87(T) WP 5741/83)

A.P. Srivastava

Vs.

Union of India & others.

1234. Scrutiny by Employees.- It shall be the duty of every Head of Office to initiate action to show the Service Books to railway servants governed by pension rules under his administrative control every year and to obtain their signature therein in token of their having inspected the Service Books. A certificate to the effect that he has done so in respect of the preceding financial year shall be submitted by him to his next superior officer by the end of every September. The Railway servants shall inter alia ensure ~~ms~~ before affixing their signature that their services have been duly verified and certified as such. In the case of a railway servant on foreign service, his signature shall be obtained in his service Book after the Accounts Officer has made therein necessary entries connected with his foreign service.

1235. The scrutiny of his Service Book by the Railway servant concerned must be made in the presence of a responsible official. As a token of his scrutiny and acceptance of entries in the service book, the railway servant should sign in the relevant column of the Service Book and the official who supervised the scrutiny will also endorse his signature as evidence that scrutiny was conducted under proper supervision and the supervising officer is satisfied that it was bonafide and no un-authorised changes were made in the entries in the Service Book in the course of such scrutiny.

TRUE COPY
ATTESTED

P. K. Srivastava
Advocate

Affidavit

29. Responsibility

Annexure R6

41

4150

4167

- 1) Shri A.P.Srivastava, Assistant Station Master, West Cabin, Aishbagh Junction.
- 2) Shri Sukhdeo Singh Yadav, Cabinman, Aishbagh Junction.
- 3) Shri G.S. Bisht, Electrical Signal Maintainer, Aishbagh Junction.

SECONDARY

The officials of Construction Organisation, who completed the additions and alterations to the Metre Gauge signalling system at Aishbagh Junction and also the officials of Maintenance Organisation, who failed to rectify the deficiencies thereafter are also responsible.

The Railway Administration may take appropriate action for fixing responsibility in this regard.

20. ~~Important~~ Recommendations

1)

Additions and alterations to existing worn out installations should not be carried out unless the worn out assets are also replaced simultaneously.

✓5.13 Evidence of Shri E.A. Khan, Electrical Signal Maintainer, Grade-I.

He had deposed the following:-

Levers 5 and 6 of loco cabin had failed on nine occasions and disconnection memoos were given for their rectification. He did not replace the lever locks since none was available.

Note:-

On a subsequent date after the initial deposition, when he was transferred from Lucknow Junction after the accident, he came out and deposed afresh in which he stated the following:-

He was initially afraid of his superiors and therefore could not state the details which he became aware after the accident. According to him, the Down shunting engine left for Aishbagh and the cross over 5-5/6 remained set in the reverse position. 79 Up had arrived at Aishbagh Junction and its loco was to be sent to the shed. Assistant Station Master/Main, Aishbagh however decided to receive 24 Down in the first instance and thereafter send the loco of 79 Up to the shed Master, West Cabin.

The Assistant Station Master, West cabin was unaware that the cross over 5-5/6 was in reverse position. He directed the cabinman/leverman to set the route and take off the signals for 24 Down; the said train had by then came to a halt near the Engineering restriction. Since the slot lever No. 12, could not be normalised, the assistance of Shri Bisht, Electrical Signal Maintainer was sought and subsequently when signal No. 34 could not be taken off, Shri Bisht again assisted in getting the signals being taken off.

5.14 Evidence of Shri S.S. Upal, Signal Inspector, Grade III
Aishbagh

He attended his office at 07.45 hours on 31.5.86. (Note: His office is in close proximity to Aishbagh west cabin). He met Shri Bisht, Electrical Signal Maintainer, whom he directed to be on the day shift vice E.A. Khan who had been directed to proceed for training. Thereafter, Shri Upal left for Lucknow Junction station to accompany Senior Divisional Signal Telegraphic Engineer in his inspection.

Answering questions, he admitted that there had been short fall of his inspections of Aishbagh west cabin and he had no satisfactory explanation for the same. Lever 5 and 6 of loco cabin were known to be failing. According to him, there were several deficiencies left behind by Broad Gauge Construction Organisation.

He stated that there had been one unsafe failure on 20.5.86, when a Loco to be despatched to Aishbagh took the route towards Kanpur Anwarganj.

5.15 Evidence of Shri R.S. Nirmal, Signal Inspector, Grade-I Lucknow Junction.

He took over charge of the maintenance work from 23.11.85. He could not complete the schedule of his normal inspections due to himself being busy with the S&T works at Rawatpur. No cable testing of Aishbagh complex was carried out. Circuitry was not checked due to lack of drawings; he was aware of a core of cable failing and still no tests were carried out by him.

At loco cabin, there were 7 failures. He however never found any unsafe conditions during his inspections. The lever locks (which failed on levers 5 and 6) were, according to his opinion were in a satisfactory condition.

He did not find any unsafe features in S&T installation in Aishbagh complex and nothing was also reported to him. He was aware that the Tokenless Block Instrument between Aishbagh and Lucknow Junction did not have the cancellation circuit and that the normalisation of the instrument was being effected by his staff ~~without~~ ^{and} the issue of disconnection memo.

He knew the various wires leading to the relays were left undressed but he did nothing except to report verbally to his superiors.

5.16 Evidence of Shri R.S. Agrawal, Divisional Signal and Tele-communication Engineer, Lucknow Junction.

He is Divisional Signal and telecommunication Engineer (upgraded post of Assistant Signal and Telecommunication Engineer) having the S&T installations of Aishbagh within his overall jurisdiction assigned to his charge. He took over as Divisional Signal and Telecommunication Engineer, Lucknow on 27.10.84.

The alterations to Metre Gauge signalling installations (arising out of Broad Gauge Conversion) had been completed by the Construction Organisation and these were handed over to on-line staff for maintenance on 3.9.1984.

The Divisional Signal and Telecommunication Engineer had carried out 3 station inspections of Aishbagh complex since his resumption till the date of accident.

:- 25 :-

There were several deficiencies in the execution of these alterations by the Construction wing and some of them were as under:-

- i) Cables were not terminated properly through A.R.A terminals but directly connected to the PVC wires through adhesive tapes.
- ii) All the PVC wires ^{were} left hanging loose in a bunch without being properly dressed.
- iii) Anti-tilting device for shelf type relays were not provided.
- iv) Old and obsolete cables/wires were not removed causing utter confusion.
- v) On west cabin 292 relays had been installed as against 172 as per circuity.
- vi) Route cabling plan had not been made out and supplied.
- vii) Completed circuit diagram was not made out and handed over.
- viii) Cancellation track circuit for tokenless block instrument had not been provided.
- ix) Back locking of crank handle has not been catered for.

No testing of cables was ever carried out due to lack of identification of cable terminals at either end.

None of the circuits had also been tested due to want of completion diagram.

There were in total 322 failures in Aishbagh West complex alone from 8.8.84 to 31.5.86.

The details are as under:-

	Total	<u>Failures attributable to S&T Department</u>
Aishbagh West Cabin	297	79
Loco Cabin	25	7
	<u>322</u>	<u>86</u>

contd....26/-

The performance of Signal Inspector "de I of the
tion has been average and he is being mostly controlled by
Senior Divisional Signal and Telecommunication Engineer.

The driver of 24 Down had entered the loco line due
to route having been set for the same and he had proceeded ahead
ignoring shunt signal No.11 of Loco cabin and shunt signal No.8
of Lucknow Junction.

5.17 Evidence of Shri Bhoj Rai, Senior Divisional Signal and
Telecommunication Engineer, Lucknow Junction.

He jointed Lucknow Division on 12.1.1984. He is assisted
by one Divisional Signal and Telecommunication Engineer and two
Assistant Signal and Telecommunication Engineers and each of
the three have their own independant jurisdiction directly
accountable to him.

The last phase of S&T alterations of Metre Gauge area
(Alteration No.E) was handed over to open line maintenance
organisation on 3.9.1984 at inspector's level.

The replacement, (on age cum condition basis) of worn
out signalling gear had not been effected by Broad Gauge
organisation nor any intimation of such a course of action
given to open line organisation; consequently these had to be
planned now, after the completion of the needful alterations
to the existing installations.

The Senior Divisional Signal and Telecommunication
Engineer has indicated the deficiencies in the S&T installation
as completed by Broad Gauge organisation. These have been
elaborated in the evidence of Shri R.S.Agrawal, Divisional Signal
and Telecommunication Engineer.

Senior Divisional Signal and Telecommunication Engineer
has not inspected the S&T installation at Aishbagh during his
tenure.

There has been heavy shortage of maintenance staff,
and added to this, adequate number of posts, for the New
assets, had not been sanctioned, despite protracted correspondence.

The maintenance of the S&T installation in Aishbagh
complex suffered set back due to limited man power and
resources available; since the construction organisation was
to take up the completion of the remnant works, no inputs were
effected by maintenance organisation to avoid duplication.
Further, to set right the conditions prevailing was next to
impossible task. These were brought to the notice of
Construction Engineers periodically.

The performance of Divisional Signal and Telecommunication
Engineer and Signal Inspector of this area have not been upto
the mark, as opined by SR Dsre.

-: 27 :-

VI.

TRIALS AND OBSERVATIONS.

6.1

Observations.

6.1.1 There were no seals on lever locks of levers 5 and 6 of loco cabin. These locks could be operated by any official for manipulation, as these are fitted near the lever handle. The levers are for double wire operation.

6.1.2 It has been observed on 31.5.86 that the relay room of the Aishbagh West cabin was in a locked condition after the accident. The Electrical Signal Maintainers stay in the relay room round the clock and hence the same is kept locked as required by the Electrical Signal Maintainer on duty and the key remains with the Electrical Signal Maintainer only.

6.1.3 Examination by Divisional officers of the lever lock of lever No.12 and other lever locks of Aishbagh west cabin after the accident revealed that they were sealed. It is not known whether any seal existed on the lever lock of lever 12 earlier and prior to the accident.

6.1.4 Lever locks on lever No.5 and 6 of loco cabin were found to be defective. Lever No.5 which is for setting the cross over from main to loco line, could be operated even without the slot(reverse operation of lever 12 of west cabin) being transmitted. This failure was noticed on 2.6.86 as well as again on 5.6.86 during tests conducted by me.

6.1.5 i) Signal No.47 is the Advanced Starter of Aishbagh. This is a three aspect colour light signal and interlocked with Tokenless Block Instrument of Aishbagh-Lucknow Junction Section.

ii) Signal No.34 is Starter signal of Aishbagh. This is an approach lit three aspect colour light signal.

The release of the 'Off' aspect of this signal is controlled through electrical circuity of the cross over position 5-5/6 apart from Mechanical interlocking with slot lever No.12.

iii) Signal No.7 is a Routing Home of Aishbagh and is a three aspect colour light signal and is released by signal No.34.

iv) Lever No.12 is a slot of Aishbagh West cabin and the normal position of this lever confirms that the cross over 5-5/6 is normal and set for the main line. The normal position of cross over is indicated by a white light on the panel of Aishbagh west cabin and there is no indication for its reverse position.

Additional

-: 41 :-

Note:-

- (i) Extract of Rules are given in Annexure 'B'.
- (ii) Bio-data of staff held responsible are given in Annexure 'C'.

8.4 Relief Arrangements and Medical Attention.

Relief arrangements and medical attention were quite satisfactory.

IX. REMARKS AND RECOMMENDATIONS.

9.1 The additions and alterations in the Metre Gauge system Aishbagh complex had been carried out by the Construction Organisation in connection with Broad Gauge conversion project from Malhaur to Lucknow Junction. There were six alterations in various stages during the execution of this work. Though the sanction of the Commissioner had been obtained for each of the stages, the Safety Certificates for some of them have not yet been sent even though the opening messages had been issued and the entire scheme has been opened to passenger traffic.

It is also observed that under the sanction given for one alteration, the works pertaining to subsequent alterations have been carried out without any sanction. These irregularities will have to be set right and officials concerned may be advised to avoid such statutory infractions.

9.2(a) The execution of the additions and alterations to the Signal and Telecommunication installations at Aishbagh complex have been found to be not entirely satisfactory. There have been several lapses which have come to notice as under:-

i) Cross protection has not been provided in some of the circuits.

ii) Double cutting which requires provision of relay contacts both in the positive and negative wires have not been catered for.

iii) Tokenless Block bell circuits have not been provided.

iv) Crank handle lock circuit has not been incorporated with the result there is no back locking of the crank handle.

v) Cancellation track circuit has not been provided for the Tokenless Block Working with the result the assistance of Electrical Signal Maintainer is being sought for normalising the Block Instrument for each cancellation and this is being carried out without any disconnection memo being given.

vi) Cables have not been terminated through ARA terminals and instead they are directly connected to the PVC wires through adhesive tapes.

contd.... 42/-

APG, 8/1

vii) All the PVC wires have been left hanging loose in a bunch without being dressed properly.

viii) Old and obsolete cables and wires were found mixed up with new cables and there is utter confusion in identifying those which are required to be tested.

ix) No testing of cables had been done due to lack of identification of cable terminals.

x) 292 relays have been provided in the West Cabin at Aishbagh as against 171 shown in circuitry and no completion diagram for the circuitry had been supplied with the result no one is aware of the functioning of each of the relays and to test the circuitry.

xi) The route cabling plan has not been made out so far and cable location markers do not exist...

xii) Anti tilting device for the shelf type relays have not been provided.

9.2(b) It is, however, gratifying to observe that after the above accident, the Railway Administration had swung into action and rectified the above lapses within a short span of 3 weeks.

9.3 It has been reported that the lever locks on double wire levers are failing frequently. During the trials conducted by me at the Loco Gomti, Aishbagh it was observed that the lever lock on lever No.5 had failed, in the first instance on 2.6.86 and even after repairs, it again failed on 5.6.1986.

It is, therefore, necessary that the causes of the failure of the lever locks should be analysed and if necessary the assistance of RDSO be taken for evolving a fail-safe design.

9.4 It is preferable that this cross over 5-5/6 is operated from the West Cabin itself and directly interlocked with other relevant levers of the same cabin.

9.5 The existing mechanical levers in the cabins at Aishbagh are worn out and are due for replacement. It is observed that the Broad Gauge Organisation had effected additions and alterations to the same, and the Open Line Organisation has also not taken up their replacement so far. It is, therefore, necessary that certain guide lines should be laid down so that whenever Construction Organisation proposes to carry out any modifications to the existing installations, which are already worn out and need replacement on condition basis, such modifications are not carried out unless the whole system is reviewed and a comprehensive scheme is drawn up incorporating both the replacement of the existing assets and the modifications required to be carried out so as to avoid additional expenditure later on and allow unsafe conditions to continue.

contd... 43/-

A. Srinivasan

-: 43 :-

In the present case, the replacement of electro mechanical signalling by panel interlocking would be desirable since it would meet both the requirement of safety and efficiency in operation from a central place.

9.6 There is no indication in the panel of Assistant Station Master/West Cabin for the reverse position of the cross over which should be provided. / 5-5/6

9.7 It is observed that the inspections of Officers and officials of S&T Department have to be oriented towards proper appreciation of signal failures and the correct course of action to be taken to remedy/rectify repeated failures so that unsafe conditions may not be allowed to prevail. It is also necessary that these inspections should bring forth any short cut methods adopted by the staff and curb such tendencies on their part apart from imparting necessary education to them in these aspects.

9.8 It is observed that the Engineering Department had imposed a stop dead speed restriction between the Distant and the Home Signal of Aishbagh Junction station in order to rebuild a bridge just in proximity of the Home Signal. During the course of inspection of the site for conducting this Inquiry it was noticed that the green aspect of the Distant Signal was functioning and was being taken off as and when required.

It the past, whenever a speed restriction had been imposed within the station limits, the Distant/Warner was normally kept at its most restrictive aspect. When this matter was referred to North Eastern Railway Administration for clarification during the above Inquiry, I was given to understand that in terms of Board's letter No.69/Safety/29/7 dated 22.9.70 the Distant need not be kept in restrictive aspect, provided Caution Order had been served to the train at the station in rear.

In this connection it may be pointed out that both South Central and Western Railways have issued Subsidiary Rules to ensure that in all cases of stop dead restrictions or other speed restriction within station limits the Warner/Distant signal should be fixed at "ON/CAUTION" position.

The Board is, therefore, requested to review the above and issue unified Subsidiary Rules for adoption by all the Indian Railways.

Yours faithfully,

V. R. Vasudevan

(V. R. Vasudevan) 22-8-1986

Commissioner of Railway Safety,
North Eastern Circle, Gorakhpur.

Encl: Annexure A, B, C, D,
E, F-1 & F-2.

GORAKHPUR: 22nd JULY, 1986.

TRUE COPY
ATTESTED

AP/-

Annexure R7

Date 1989

2000

1989

IMPORTANT LETTER

GM. (P) N.E. Rly's No. E/74/2/Pt. 6(IV)

Date: 5-5-89

Subject:- D&A Rules 1968-Schedule II.

A copy of Railway Board's letter No. E(DGA)83 RG6-45/Pt. dated 25.4.1989 is sent herewith for information, guidance and necessary action.

Copy of this Railway's letter No. E/74/2/Pt. 6(IV) dated 3.3.1989, as referred to in Board's letters mentioned above, is also enclosed.

D.A./As above:

Copy of the Railway Board's letter No. E(D&A)83 RG6-45/Pt. dated 25.4.1989 addressed to the General Manager, N.E. Railway/Gorakhpur.

Subject:-D&A Rules 1968-Schedule II.

Please refer to your railway's letter No. E. 74/2/Pt.6(IV) dated 3.3.1989 on the above subject.

The incumbents of the erstwhile SAG Level II posts which are now in the SAG Grade are HODs for the purpose of application of Co 1.6 of Schedule II. Which authority will constitute the functional HOD for this purpose will depend on the departmental functions of the Charged Officer. For example, in the case of C&W staff, the functions of Head of Department can be 'the Chief Rolling Stock Engineer'; in the case of a Traffic Inspector working on purely safety aspects, the functional Head of Department will be the Chief Safety Superintendent and so on. It may be noted that the disciplinary authority can only be the one under whose administrative control the charged officer may be working and such disciplinary authority should be the one who is working under the functional HOD to whom the appeal/revision is to be sent for disposal. The Principal HODs being on overall charge of the Department can also exercise powers under Co 6 of Schedule II. For example in the case of the Carriage and Wagon staff, in addition to the Chief Rolling Stock Engineer, the Chief Mechanical Engineer can also exercise the powers. It is hoped that this will clarify the position.

No. E/74/2/Pt. 6(IV)

Dated: March 3, 1989

Subject: Discipline & Appeal Rules-1968.

Note No. 1 under Schedule II to the D&A Rules-1968 states that the appellate authorities in the case of authorities mentioned in this schedule shall be as shown in the next column. Since the ADRM/DRM have been given the same powers under Column 5 of the Schedule, the next higher authority for the purpose of appeal/revision, where the ADRM/DRM takes action, happens to be the Head of Department. This has been confirmed also vide Railway Board's letter No. E(A&A)83/RG6-45 dated 20.8.87. However, Column 6 reads as follows:-

"Head of the Department in Level 1, other than General Manager, including the functional Head of the Department."

In absence of any definition or classification as to the term "Functional Head of the Department" it is not clear whether the SAG Grade Officers, who were in erstwhile level II Grade and now in the same grade of SAG can also consider the appeals/revisions over the cases decided by ADRM/DRM.

The Board are, therefore, requested to kindly advise on the subject.

अपने कान अपना शासन जितना ज्यादा होगा उतना ही दूसरे के शासन की बहरत कम होगी।
- यथप्रकाश नारायण

TRUE COPY
ATTESTED

H. S. S.

L. V. C. 100

SOUTH CENTRAL RAILWAY

Divisional Office,
Personnel Branch,
Hubli,
Dt: 30.1.1985.

No. H/T. 305/ASM/SHIV/GDJ.

A176

To:

Sri. Joseph Jacob,
ASM/GDJ.
(Through SM/GDJ)

Sub:- Memorandum No. H/T. 305/ASM/SHIV dated
11.1.1985 (SF.5) issued by DOS/Hubli.

(2). Your representation dated 1.2.1985.

Your were issued with SF.5 for Major Penalty for leaving Head Quarters without prior permission, displaying objectionable and defaming posters on Compound Walls of Divl. Offices, and also participating in illegal demonstrations in front of Divl. Offices, Hubli, on 15.11.1984 as from the Divl. Operating Supdt/Hubli as a Disciplinary Authority in your case.

2. You have refused to receive and acknowledge the said Charge Sheet vide your application quoted above on the plea that the DOS, the Disciplinary Authority is biased against you since he is one amongst the affected parities in the said charge sheet. This charge that the Disciplinary Authority biased against his own staff is not acceptable, since no other Authority can function as Disciplinary Authority other than DOS in respect of Operating Staff. Similarly, there is very likelihood of your taking objections to receive Charge sheets issued as from DSO/Hubli on the same grounds now raised in your above application.

3. It is specially mentioned here that DOS is always connected with all the Incidents that are happening on the Div. under his control and hence there can be no Official bias as such against staff under his control and he can always act as Disciplinary Authority without any exception.

4. The Charge Sheet returned under your application quoted above are returned herewith, which may be received and acknowledged receipt.

Please acknowledge.

(This has been issued with the approval of competent authority)

Encl: As above.

Sd/-
Sri. Divl. Personnel Officer,
S.C.Railway, Hubli.

Copy to SM/GDJ for information and needful action. The above SF.5 should be served on the party and acknowledgement submitted to this Office.

TRUE COPY
..... ATTESTED

A. S. Jacob

Amrit
P.D.

Annexure R 9/6/51
A 12

N.E. RAILWAY.

DISTT. TRAFFIC SUPDT'S OFFICE
DATED IZATNAGAR 16/4/58.

No. EM. 132/4-58.

OFFICE ORDER.

Re: Confirmation of Asstt. Station Masters.

The following ASMs in scale Rs. 80-170 are confirmed provisionally from the dates shown against each.

Sl. No.	Name	Stat. ion	Date of confirma- tion.	Sl. No.	Name	Stat. ion	Date of confirma- tion.
1. 1.	Servasri S. S. Ghosh.	20.5.55.		36. 36. Amar Nath Jaitly	NRY	27.12.55	
2. 2.	Malipal Singh	BKT	"	37. Virender Singh.	BTRI	"	
3. 3.	Mo. Raj Ni. am	"	"	38. Tota Ram	BHI	"	
4. 4.	Dhram Prakash	Died	"	39. Munawar Hussain	CKK	"	
5. 5.	Brahma Din	ARX	"	40. S.P. Srivastava	BNSA	"	
6. 6.	O.N. Pandey	RZJ	"	41. J.N. Bhati	SZN	19.5.56.	
7. 7.	C.D. Gulathi	KKW	"	42. Sushil Kumar	GUB.	"	
8. 8.	D.N. Mallik	RZJ	"	43. V.N. Srivastava	KMP	"	
9. 9.	Rahend Singh	KJC	"	44. Raja Ram Lal	Relg.	"	
10. 10.	M.N. Shukla	ZNP	"	45. R.N. Paruthi	RR	"	
11. 11.	Jag Dayal	HA	"	46. S.P. Mazumdar	DOX	"	
12. 12.	Hakim Rai	EPU	"	47. S.R. Kar	BPR	"	
13. 13.	K.K. Saxena	PLK	"	48. C.L. Sharma	KPV	21.6.56.	
14. 14.	K.L. Bali	BJV.	"	49. Brajangi Singh	SG	"	
15. 15.	O.N. Trivedi	KCU	"	50. V.D. Dubey	PUF	21.7.56.	
16. 16.	Hari Chand Mittra	KRYA	"	51. Jagendra Perdhan	PD.	"	
17. 17.	I.S. Srivastava	AA	"	52. V.S. Srivastava	KGU	"	
18. 18.	K.G.K. Batra	KHM	"	53. J.P. Dhir	UJI	"	
19. 19.	O.P. Yadav	KPV	"	54. M.K. Mittra	KGM	"	
20. 20.	Kameshwari Singh	JKP	"	55. S.S. Sharma	PBE	"	
21. 21.	A.P. Srivastava	BJLP	"	56. S.K. Chatterjee	SRN	"	
22. 22.	Ganga Pd.	SE.	"	57. Ajit Rangan	PP	"	
23. 23.	Tapeshwari Chaudhary	DRN	"	58. R.R. Gandostra	KR.	"	
24. 24.	Hari Ram Paryani	KRYA	"	59. Bhagwan Dass	TRJ	"	
25. 25.	Hari Ram	SKW	"	60. Radha Krishan	FLS	"	
26. 26.	Swaran Singh	SKX	"	61. Said Ahmad	BFR	"	
27. 27.	Hari Shanker Dayal	BJLP	"	62. Jagdish Singh	TPU	"	
28. 28.	Saiyidnoor Alam	BEM	"	63. Kashi Ram	BIK	"	
29. 29.	Beasant Lal Khatri Oel	"	"	64. Ram Kirpal Lal	DDW	21.12.56,	
30. 30.	S.K. Sen Gupta	JKP	"	65. Raj Kumar	"	"	
31. 31.	A. Dutta	BMY	"	66. R.N. Upadhyay	"	"	
32. 32.	A.C. Dev	RHN	"	67. H.K. Dara	Relg.	"	
33. 33.	S.N. Chaudhri	SSC	"	68. Thaulkri Singh	"	"	
34. 34.	A.K. Sarker	DEO	"				
35. 35.	Jagendra Lal Bhat Mala		27.12.55.				

Sd/- x x x
For Distt. Traffic Supdt.,
Izatnagar.

Copy forwarded for information and necessary action

1. Staff concerned.
2. Hd. Clerk Bills.
3. Index Clerk.
4. Distt. Traffic Supdt., Lucknow.
4. Station Master BJLP.

For Distt. Traffic Supdt.
Izatnagar.

Affidavit TRUE COPY
ATTESTED

N.E.RLY.

Office of the
DISTT. TRAFFIC SUPDT./LJN.
Date: 20.7.60.

No. E/283/ASM Pt. II.

The SMs, BKT, BNZ, HA, CD, IED, KTHL, BJLP,
JKP, ASH, PPE, LJN, JBR, SUJ, LC, GHT,
BUR, IJ, STP, BUW, LMP, PD, AIK, SD& DAL.

2) SS/LJN.

Reg: Election of Channel of Promotion for SM or ASM Group.

It has been decided to fill up some vacancies of ASMs in scale Rs. (100-185) immediately.

Please obtain option from the under-noted ASMs on the attached prescribed form in duplicate and send the same to this office by 28.7.60 to take further action.

Names are arranged according to seniority. Those who fail to exercise their option within target date will not be further allowed to exercise any further option for the same. If no option is received by 28.7.60, it will be assumed that the staff concerned had refused to opt for ASMs Group Rs. 100-185.

1. Sri Mahipal Singh	BKT
2. M.R. Nigam.	BKT
3. " O.N. Pandey.	BNZ under order of transfer to CPA
4. " Jag Dayal Kalra,	HA.
5. " K.K. Saxena.	SD.
6. " L.S. Srivastava.	LGR.
7. " B.P. Srivastava.	HA
8. " Kalashwari Singh.	LCB
9. " T.P. Chaubey.	KTHL.
10. " Hari Shanker Dayal.	BJLP
11. " S.K. Sen Gupta.	JKP
12. " A.K. Sarkar.	Alambagh Cabin.
13. " S.P. Srivastava.	PPE.
14. " Kishan Lal Chug.	LJN.
15. " G Suraj Narain Tewari.	JBR
16. " Hari Manday Singh.	JBR
17. " Mhd. Yusuf.	SUJ
18. " Jagdish Singh.	JKP
19. " Ran Gopal.	LJN.
20. " Aliusul Haq Khan.	LJ
21. " A.K. Paul.	GHT.
22. " Raja Ram Lal.	ASH under order of transfer to BUR
23. " Shushil Kumar Singh.	LJ
24. " V.N. Srivastava.	Alambagh Cabin.
25. " R.T. Sharma.	Rtg. ASM H.Q. ASH.
26. " Abdul Mannan	" " STP
27. " R.P. Kulshrestha.	" " BUW
28. " I.B. Khare.	" " ASH.
29. " G.L. Yadava.	" " LMP
30. " Rama Shanker.	" " LMP
31. " A.K. Misra.	" " STP
32. " Jogendra Pradhan.	" " PD.
33. " V.S. Srivastava.	AIK
34. " R.R. Gondatra.	SD
35. " Kashi Ram.	BUW under order of transfer to L.L.

Applied for scale 100-185
Date 20.7.60 Sent under
Ref. 1/HA/13
Wt. 1.00 gm

TRUE COPY
ATTESTED

K. Srivastava
P. K. Srivastava
Adv. Date 19/7/60
Distt. Traffic Supdt./LJN

A/68/10

19/7/60

(A169)

A129

N.E. Ry My Office

The Distt opf Jhansi

Recd now & 28.11.63

Consequent upon the promotion 3.12.63A.P. Srivastava Asm (130-225) issued with this
order no E/2837 dated 28.11.1963
as Asm (150-280), his pay is revised as under:

eno	Name	Designation	Pay	Date	Pay
		last increment in Scale	as pay		
		130-225	fixed		
			as Asm		
			150-280		

(i) Saw A.P. Srivastava Asm 14.6.63 150 29.6.63 167
new

Sd/-

Distt opf Jhansi

M.E/A/104/ Asm & 28.11.63
3.12.63

Copy forward for information & facts to

(1) Office chofm.

(2) Jtcl Bch

(3) Folder chm.

(4) Staff Comit through Ltr m/s

sd/-

Distt opf Jhansi

TRUE COPY
ATTESTEDRanjan
SrivastavaP. K. Srivastava
Adv. c/o

Copy of Letter No. 63-IT/V/RAC/3 dated 30/4, 1/5/1963
from the Director, Traffic Deptt. (AII), Railway Board,
New Delhi to the General Managers, All Indian Railways.

AI 80

sub:- Safety Organisation on Railways - Recommendation
No. 59 of the Railway Accidents Committee 1962.

The Railway Accidents Committee in Part I of their Report have recommended the setting up on an ad hoc safety Organisation on the Railways for the effective implementation of their recommendations. The composition of the Organisation will be as follows:

- 1) A Divisional Safety Officer in the senior or junior scale on each division or district or group of district.
- ii) A team of specially selected Safety Counsellors drawn from different branches of the Divisions for assisting the Divisional Safety Officers.
- iii. Transportation Superintendent (Safety) in the Intermediate Administrative grade on Railways under Divisional system and the Junior Administrative Grade on the North-Eastern and Northeast Frontier Railways at the Headquarters office for co-ordinating and directing the safety working on the divisions.

The Board have already conveyed their sanction for the creation of the gazetted posts in respect of items (i) and (ii) above. In this connection attention is invited to Board's letter No. E (GC) 62P07-69 dated 22-2-62 and 5-3-63. Separate instructions will be issued to Railways in respect of item (iii) above.

3. The Board's outline of the setup of the organisation and the duties of the safety officers and safety counsellors have been indicated by the Railway Accidents Committee in paragraphs 77-79 of their Report. The organisation will be especially concerned with carrying out instructional and educational propaganda as detailed by the Committee with a view instilling in staff a constant consciousness about the importance of safe working. The Transportation Superintendents (Safety), Safety Officers and Counsellors forming the Safety Organisation should travel widely and meet the men frequently individually as well as collectively and carry on educational propaganda on a man-to-man basis through talks.

Affidavit

and discussions and b. arranging seminars and also through
t media of films posters etc.

(A71) A181

The Safety organisation should in the earlier stages concentrate on observance by staff of rules which are disregarded commonly and failure to observe which frequently results in consequential accidents.

5. In this connection, it is important that nothing should be done by way of burdening the new set-up at the Hd. quarters office with routine work of dealing with the day-to-day accident and enquiry reports etc. which is likely to detract them from concentrating their efforts on the main objective of the safety organisation.

6. The subject of the duties of the new set-up of safety Organisation also came up for discussion in the operating meeting held at Bombay early this month. The minutes of the meeting on this subject may also please be carefully studied for implementation of the directives laid therein.

7. In the light of what has been stated above, the duties of various officials connected with the Safety Organisation on your Railway should be specially laid down taking into consideration the views expressed by the Railway Accidents Committee in their report as also the directives given in the Operating Meeting referred to in para 6 above.

8. In order to enable the Board to have a proper appreciation of the work of Safety Organisation on your Railway and also with a view to seeking that experience gained by one Railway is fruitfully utilised by the others, it will be appreciated if arrangements are made to send to Board a quarterly progress report indicating the activities of the Railway Safety Organisation during the previous quarter. The first quarterly report to cover the quarter ending June 30 may be sent so as to reach this office by the middle of July 1963.

1/ True Copy //

Affidavit
This is Ext. (E4) a referred to in the counter affidavit.

TRUE COPY
ATTESTED

Advocate

1d/-

Reuben Paul
Solicitor
Advocate

To

The Senior Divisional Safety Officer,
N.E. Railway,
Lucknow.

Ar72

Ar72

Sub : Memorandum No. T/537/TA/3/86 dated 13.5.1987.

Sir,

The subject Memorandum has been issued to me containing statement of Article of Charges as Annexure No.I and the statement of imputation of misconduct in support of Article of charges as Annexure No.II. It has purported to have been issued in compliance of the direction of the Hon'ble Central Administrative Tribunal, Allahabad Bench in registration No. 36/87 - A.P. Srivastava Versus Union of India and others. It has further been indicated in the subject Memorandum that the earlier Memorandum of even number dated 8.9.1986 containing charges and imputations have been amended with a sheer view to make the charges more specific.

2. Having gone through the subject Memorandum I found that the charges levelled against me through it are altogether new charges and are not only perverse and contrary to the directions issued by the Hon'ble Tribunal in the said case but is also entirely in anti thesis to the contents of the counter reply filed before the Hon'ble Tribunal in the above noted case on behalf of respondents which is duly signed and verified by one Sri K.R. Ahirwar, Assistant Operating Superintendent, N.E. Railway, Lucknow to be correct on the basis of record. Senior Divisional Safety Officer, N.E. Railway has also been arrayed as Respondent No. 2 in the said case. In case the contents of the counter reply are correct, as has been verified on the basis of record, then the contents of subject Memorandum are obviously based on conjectures and surmises or are based on some other records which has never been disclosed to me. It also appears that either a false statement of facts has been furnished by the Respondents in the aforesaid case before the Hon'ble Tribunal with a view to mis-lead the Hon'ble Tribunal or the subject Memorandum is altogether imaginary without any basis and is a sheer eye-wash. The contrary statements made by the Railway Administration at different occasions itself belie the veracity of the allegations. Any way in view of the subject Memorandum and the directions issued by the Hon'ble Tribunal in the above noted case I hereby demand the following:-

*Recd &
Forwarded &
Translat
SS (ASW)
3/6/87
AFM*

- i) No document or the material relied upon, has been supplied to me along with subject Memorandum on the basis of which the charges levelled have been proposed to be established, hence I am not in a position to rebut the charges effectively and forcefully. Indeed the story narrated is *de facto* concocted, imaginary and perverse to the material available on record. So the entire material on the basis of which the Article of charges and the statement of imputation of misconduct in support thereof has been proposed to be established and sustained may kindly be supplied to me to enable me to submit my written statement.
- ii) Again in the statement of Article of Charges it has been alleged that I failed to ensure the correct setting of route for the exception of 24 Down Express

Train Ex-Amausi to Lucknow Jn. before taking of the concerned reception signals and ultimately got the reception signals cleared by foul means with the help of ESM Sri G.S. Bisht on duty of West Cabin/Aishbagh which resulted in the said occurrence. SoI may be supplied with the following documents:-

- a) On the basis of which it has been proposed to be established that I failed to ensure correct setting of route for reception of 24 Down Express Train.
- b) On the basis of which it has been proposed to be established that I got the reception signals cleared by foul means.
- c) On the basis of which it has been alleged that I sought help of ESM Sri GS Bisht on duty of the West Cabin.

3. In Annexure-1 of the subject memorandum, ultimately I have been held responsible for the violation of the various G.R., S.R., SWR Aishbagh and the conduct rules. The facts narrated in support of the alleged violation of Rules are altogether different from the Rules as the Rules are for the different circumstances. So the following documents may further be supplied to me:-

- a) On the basis of which it has been alleged that I disobeyed the orders in terms of G.R. 2.06. The document/material may also be supplied indicating as to which lawful order has not been obeyed by me.
- b) The document/material on the basis of which it has been proposed to be established that I was in the knowledge of the fact that signal had become defective and I failed to act in terms of G.R. 3.68(i) (a).
- c) The documents/material on the basis of which it has been proposed to be established that the signals were not lowered of through proper levers in terms of G.S.R. 3.68(1) (i).
- d) The documents on the basis of which it has been proposed to be established that the signals were out of order in terms of the above noted S.R.
- e) The documents/material on the basis of which it has been alleged that the wire of the signal has been pulled without pulling the proper levers in terms of the above said S.R.
- f) The documents/material on the basis of which it has been proposed to be established as to which wire of the signal has been pulled without proper lever.
- g) The document/material on the basis of which the charge of foul means has been levelled indicating the nature of the foul means.
- h) The document/material on the basis of which it has been alleged that the interlocking was failing or defective at interlocked station at the relevant time on the basis of which the relevant signals should have been treated to be defective in terms of S.R. 3.68(2) (ii).

A103

APR 4

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APR 4

- i) The document/material on the basis of which it has been proposed to be established that the Home-signal was not properly taken off or anything like it as nothing has been indicated to show as to how SR 5.01(2) has been violated.
- j) The document/material on the basis of which it has been proposed to be established that I acted not in terms of SWR Aishbagh para 6(c) (iii) page 11.
- k) The document/material on the basis of which it has been alleged that I contravened the Rule 1(ii) and III of Rule 3 of Railway Service (Conduct) Rules 1968.

2. In Annexure-II of the subject Memorandum an imaginary and concocted story has been narrated and no material/documents/statement has been furnished in support of the facts narrated therein. So the following documents/materials may kindly be supplied to me on the basis of which the story narrated under the Head Annexure-II has been proposed to be established:-

- a) The document/material/statement on the basis of which it has been alleged that I pulled the lever No. 12 in reverse position for reception of a light engine at 9.08 hours from LCB Cabin to Aishbagh Station.
- b) The document/material on the basis of which it has been proposed to be established that pulling of the said lever No.12 in reverse position has released control to Cabinman/LCB for setting cross-over No. 5-5/6 in reverse position.
- c) The document/material on the basis of which it has been proposed to be established that I after reception of the said engine tried to arrange the reception of 24 Down by setting appropriate route FOR WHICH I TRIED TO FIRST PUT BACK THE LEVER NO. 12 IN NORMAL POSITION & TOOK ASKING CABINMAN/LCB TO NORMALISE CROSS-OVER NO.5-5/6 AND THE MATERIAL ON THE BASIS OF WHICH IT HAS BEEN STATED THAT THE SAID CROSS-OVER WAS STILL IN REVERSE POSITION.
- d) The document/material on the basis of which it has been alleged that I instead of ascertaining the cause of the said defective lever, sought assistance of ESM on duty Sri GS Bisho who was present in the basement ~~or~~ of the Cabin.
- e) The document/material on the basis of which it has been proposed to be established that said Sri GS Bisho had released lever No. 12 to normal by adopting foul means.
- f) The document/material on the basis of which it has been proposed to be established that the lever lock in the basement of the West

Annexure

A173

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HC

A105

Cabin was not properly locked and sealed at the relevant time and any foul means could have been adopted by the said Sri G.S. Bisht (as it has been acceded that the lever locks in the West Cabin basement were found properly sealed and locked and there were no possibility of doing any wrong with them).

g) The document/material on the basis of which it has been proposed to be established that I after putting lever No.12 normal pulled the lever No. 34 but the concerned signal did not assume the off aspect.

h) The document/material on the basis of which it has been proposed to be established that the signal failure was there yet I did not follow the procedure prescribed in General and Subsidiary Rules (Although it has been acceded that there was no signal failure at the time of the said occurrence).

i) The document/material on the basis of which it has been proposed to be established that I again sought assistance of the said Sri G.S. Bisht and got the signal cleared by foul means.

5. In the said Memorandum I have been charged for wrongly taking of the signals to their proper aspect, besides I failed to ensure correct setting of route which was never spoken earlier. So I may be supplied the material on the basis of which the additional charge pertaining to taking of the signals by wrong means has been alleged.

6. Whether any preliminary enquiry or the fact finding enquiry was made before framing the charges against me and am held responsible for the alleged charges. If yes, the report of the said Preliminary enquiry/fact finding enquiry may kindly be supplied to me to enable me to know the real foundation on the basis of which the charges have been levelled and have been proposed to be sustained against me. In case the charges have been levelled against me on the basis of the enquiry carried out by the Commissioner Railway Safety and the report submitted by the Commissioner Railway Safety is the only foundation for holding me guilty of the charges, the same position may be intimated to me, so that I may prepare my defence accordingly.

7. I am entitled for the above noted documents in view of the observations/directions of the Hon'ble Tribunal in the said case which is being reproduced herein below for the sake of ready reference and to go through at a glance. Since the arguments placed before the Hon'ble Tribunal were based on different footings to the allegations levelled through the said subject memorandum, hence it is also worthwhile to point out the same.

8. i) In para 2 of the judgment of the Hon'ble Tribunal at page 5 of the certified copy supplied to me in the last line it has been said as under:

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A 106

"He had not observed the rules and there was no interlocking failure and therefore the petition being frivolous and vexatious is liable to be dismissed".

While in the said ~~new~~ subject memorandum it has been asserted that there was signal failure yet I did not follow the procedure required to be followed in the event of signal failure. The relevant line of the subject Memorandum is given as under:-

"He then did not follow the procedure prescribed in General & Subsidiary Rules to be followed in the event of signal failure and".

So the document showing that there was a signal failure may kindly be supplied to me.

8. In para 5 of the said judgment at page 9 of the certified copy supplied to me the Hon'ble Tribunal has been pleased to observe that as to how the charges should be specific and precised which is being reproduced as under:-

"There is no doubt that the act of failing to ensure correct setting of route may have resulted in the applicant not observing and obeying all the rules and special instructions but nothing specifically has been mentioned as to which rule or special instruction or which lawful order given by the applicant's superior was not obeyed by the applicant".

(Underlined by me to highlight the observations).

Again the Hon'ble Tribunal clarified the situation as under:-

"Similarly general rules 3.68 deals with the action to be taken in case of a defective signal. The subsidiary rule 3.68(i) lays down that signal shall only be lowered by their proper levers and shall be treated as out of order if they do not respond to movement of their Levers. It is not to be taken off by pulling the wire by hand or by any other means. The subsidiary rule 3.68(ii) lays down that when interlocking fails or becomes defective the relevant signals shall be treated as defective. The imputation of misconduct was that the applicant failed to ensure correct setting of route. How he failed to set the route correctly should have been indicated and if the defendants felt that either the interlocking had failed or the signals were not getting lowered by pullings of Levers and were taken off by pulling of the wire they should have been specific in their charge and not vague that he failed to ensure correct setting of the route".

(underlining made by me)

Aftermath

9. The Hon'ble Tribunal while exploring the charges levelled against me has been pleased specifically to observe as to how the charges should be made specific and clear. It has been observed as under:-

"It has not been mentioned in the chargesheet what the applicant had violated or in what way he violated the rules".

(Underlined by me to supply emphasis on the observations of the Tribunal).

10. Further the Hon'ble Tribunal has observed that the charges should not only to be distinct, specific and clear in support of the charges sought to be sustained. The Hon'ble Tribunal observed as under:-

"If these charges are sought to be proved by the evidence of the witnesses a clear mention should have been made as to how the charge is meant to be established or on what the charge was based".

11. That while going through the complicated facts the Hon'ble Tribunal observed in para 7 as under:-

"This is however a subject which can only be concluded upon and proved after a thorough enquiry is conducted".

Hence for conducting a thorough enquiry the facts are required to be thoroughly established and proved either with the help of the documents or with the help of statements, witnesses etc. Unless the material is not supplied a thorough enquiry cannot take place.

12. The Hon'ble Tribunal was further pleased to direct as under:-

"We accordingly direct that the respondents will suitably amend it so as to make it more specific and after affording a reasonable opportunity to the applicant in respect of the amendments made in the chargesheet, the enquiry may be concluded according to the rules".

13. I have asked reasonable opportunity only with regard to the amendments made in the earlier Memorandum of charges (although the entire charges have been made afresh). The indication given to me to the effect that the enquiry shall be concluded ex parte in case I demanded the documents and the reasonable opportunity to cross examine the witnesses and to produce the witnesses candidly, and illegally intimidation, besides being contemptuous, tantamounting to lowering the esteem of the Hon'ble Tribunal in the public eye.

14. I am scrupulously submitted to the enquiry and to your Honour (Senior Divisional Safety Officer) and

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A 188

I hope that I shall not be discriminated and the documents asked for shall be supplied to me at the earliest enabling me to assail the charges establishing the truth. I may attract your honour's attention towards the fact that certain false fabrications are being prepared in order to snare me in the false case. I crave leave to state that in case the same is not prevented I would be constrained to resort to Chapters IX and XI of the I.P.C. individually responsible for.

I am awaiting the reply to this letter pertaining to documents and no sooner I am supplied the documents I shall furnish my written statement.

Thanking you,

Yours faithfully,

A. P. Srivastava

(A.P. SRIVASTAVA)
assistant Station Master,
Aishbagh (under Suspension)

Lucknow Dated:
June 3, 1987.

TRUE COPY
ATTESTED
P. K. Srivastava
Adv. c ate

6.45 That a perusal of the chart of the west cabin further reveals that it contains two series of indications. One has been marked as 'N' which denotes for the normal while the other has been marked as 'R' which denotes the levers. Below it the levers have been shown through straight line which has been numbered as 12, 13, 14, 7, 34 and 47 while counting from the left side. By pulling of the levers the points are set which ultimately permit the signal to get the position according to the lever pulled. Such joint of the lines where the train converse or diverse is termed as point. In the said Map marking B, C, D and K are the points. It is very much obvious that from point 'B' the train can go either toward 'C' or towards 'K' similarly from the point 'C' either the train can go towards 'B' or towards 'K' as well as from the point 'D' either the train can go towards 'C' or towards 'E'.

Reply of Para 6.45 in under para 29 of the written statement

(29) The content of Paragraph 6.44 to 6.50 are not disputed and call for No comments.

Reply of the Para 29 of written statement under Para 31 of

Rejoinder Affidavite

(31) That the contents of Para 29 of the counter need no comment. the contents of paragraphs 6.44 to 6.50 of the application have been admitted.

TRUE COPY
ALLEGED
P. K. Srivastava
Advocate

Affidavit

Annexure R15

A190

~~215~~

Position of Levers at West Cabin Attockhali
in connection with accident of 24 Dec.
entered in Loco Lines PT 10.35 17.12.76
31.5.86

- ① Lever No. 7, 13, 14, 16, 27, 30, 34, 47 in Reverse position.
- ② Point No. 5 & 5/6 having no indication on Picture.
- ③ Tokenless Panel SNR no indication.
- ④ Indication of Point No. 13 & 14 in Reverse position.
- ⑤ Cabin Basement locked.
- ⑥ Last Slip Signal No. 31 in danger position.
- ⑦ Staff on duty -
 - ① ASM in A.P. Srivastava
 - ② Driver " Lekhda "
 - ③ Lernam Badri
 - ④ Catenary Gopal

S. J. Mitt

Date 1986
SS/ASH

TRUE COPY
ATTESTED

P. A. Srivastava
by date

Annex R 16

(A16)

A191

6.58 Para of original application in case 36/87.

That the said Commissioner Railway Safety boldly spell out in para 6.1.4 that the lever locks on lever No. 5 and 6 of loco cabin were found to be defective, lever No. 5 which is for setting the cross over from main to Loco Line, could be operated even without the slot (reverse operation of lever 12 of West Cabin) Transmission. This failure was noticed on 2.6.86 as well as again on 5.6.86 during tests conducted by him after the said assurances.

Reply of Para 6.58 of Application under para 34 of U.S

34.50

That with regard to the contents of paragraph No. 56 to 58 of the petition it is submitted that Commissioner of Rly. Safety Enquiry Report being a confidential Report, and hence the same cannot be given to the petitioner, as the said Report was not in the list of relied upon document for framing to charges again the applicant.

TRUE COPY

A. T. S. S.

P. K. S. S.
Adv. Cuse

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

Central Administrative Tribunal

Circuit Bench, Lucknow

CIRCUIT BENCH, LUCKNOW.

Date of Filing 21.11.92

Date of Receipt by Post

A192

Misc. Application No. 1075/1992

7/11 Case No. O.A. 216/88 (Decided on 4.11.91)

Duly Deemed by Post

In the Matter of :-
Anirudh Prasad Srivastava aged 62 years
S/o Late Mangala Prasad Srivastava,
R/o 555/Kha 2/4 Bhola Khera, Alambagh,
Lucknow.

Versus

Union of India & Others.

1. That the Union of India and Others filed a Special leave petition (Civil) No. 11849 of 1992 (Civil appeal No. 4525 of 1992) before the Hon'ble Supreme Court of India, New Delhi against the Judgement Dated 4.11.91, in the above said case No. 216/88. Anirudh Prasad Srivastava V/s Union of India & Others, pronounced By this Hon'ble Tribunal.

2. That the Hon'ble Supreme Court was pleased to pass the order setting aside the said Judgement Dt: 4.11.91 and was further pleased to ~~remain~~ ^{remain} the matter to the Tribunal for Decision on merit on other points.

3. Hon'ble Supreme Court order Dt: 19.10.92 passed in SLP (CIVIL) No. 11849 is annexed as Annexure I to this Misc. Application.

3. That the Hon'ble Supreme Court has not fixed any date for appearance of the applicant before this Tribunal.

4. Therefore, it is most respectfully prayed that any Sitting Bench Date may very kindly be fixed for the final disposal of the case with Notice to the parties.

Lucknow,

Dated: 17.11.92

19

A.P. Srivastava
Applicant.

15-10-97
Certified to be true copy

[Signature]
Assistant Registrar (Judi.)

.....24-10-1997

Supreme Court of India

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

406026 A193

CIVIL APPEAL NO. 14525 OF 1992

[Arising out of SLP (Civil) No. 11849 of 1992]

Union of India & Ors.

...

Appellants

Versus

Anirudh Prasad Srivastava

...

Respondent

O R D E R

Delay condoned. Special leave granted.

The Tribunal allowed the application of respondent-employee only on the ground that the inquiry report was not furnished to him. For this purpose, the Tribunal relied upon the decision of this Court in Union of India vs. Mohd. Razman Khan [AIR 1991 SC 471]. Unfortunately, the Tribunal has not noticed the operative part of the judgment in the above case where

Al94

it is made clear that the law laid down there will apply prospectively. Admittedly, in the present case, the order of dismissal was passed prior to the said decision. Hence the impugned decision of the Tribunal is set aside and the matter is remanded to the Tribunal for decision on merits on other points.

The appeal is allowed accordingly. There will be no order as to costs.

.....SPL
I P.B. Sawant J.

.....SPL
I G.N. Ray J.

New Delhi,
19th October, 1992.

195

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

Misc. Application No. 1075 / 1992

Case No. O.A. 216/88 (Decided on 4.11.91)

In the Matter of :-

Anirudh Prasad Srivastava aged 62 years
S/o Late Mangala Prasad Srivastava,
R/o 555/Kha 2/4 Bhola Khera, Alambagh,
Lucknow.

Versus

'Union of India & Others.'

1. That the Union of India and Others filed a Special leave petition (Civil) No. 11849 of 1992 (Civil appeal No. 4525 of 1992) before the Hon'ble Supreme Court of India, New Delhi against the Judgement Dated 4.11.91, in the above said case No. 216/88. Anirudh Prasad Srivastava V/s Union of India & Others, pronounced By this Hon'ble Tribunal.
2. That the Hon'ble Supreme Court was pleased to pass the order setting aside the said Judgement Dt: 4.11.91 and was further pleased to ~~remand~~ ^{remand} the matter to the Tribunal for Decision on merit on other points.
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3. That the Hon'ble Supreme Court has not fixed any date for appearance of the applicant before this Tribunal.
4. Therefore, it is most respectfully prayed that any Sitting Bench Date may very kindly be fixed for the final disposal of the case with Notice to the parties.

Lucknow
Dated 17.11.92
Taq

At Srivas/ao
Applicant

15/10/92
Certified to be true copy
S/No. 20
Assistant Registrar (Judi.)

1992
A96

.....21-10-1992
Supreme Court of India

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

405026

CIVIL APPEAL NO. 4525 OF 1992
(Arising out of SLP (Civil) No. 11849 of 1992)

Union of India & Ors.

...

Appellant

Versus

Anirudh Prasad Srivastava

...

Respondent

O R D E R

Delay condoned. Special leave granted.

The Tribunal allowed the application of respondent-employee only on the ground that the inquiry report was not furnished to him. For this purpose, the Tribunal relied upon the decision of this Court in Union of India vs. Mohd. Razman Khan (AIR 1991 SC 471). Unfortunately, the Tribunal has not noticed the operative part of the judgment in the above case where

1197

it is made clear that the law laid down there will apply prospectively. Admittedly, in the present case, the order of dismissal was passed prior to the said decision. Hence the impugned decision of the Tribunal is set aside and the matter is remanded to the Tribunal for decision on merits on other points.

The appeal is allowed accordingly. There will be no order as to costs.

.....S. J.
[P.B. Sawant]

.....S. J.
[G.N. Ray]

New Delhi,
19th October, 1992.

All communications should
be addressed to the Registrar,
Supreme Court, by designation,
NOT by name.
Telegraphic address :-
"SUPREMECO"

D. No. 2962/92/SC/11

SUPREME COURT
INDIA

Dated New Delhi, the 4th December, 1992. A 190

From: The Registrar (Judicial),
Supreme Court of India,
New Delhi.

To: The Deputy Registrar,
Central Administrative Tribunal,
Allahabad (Circular Bench),
Lucknow.

CIVIL APPEAL NO.4525 OF 1992.

Union of India & Ors.

...Appellants.

Versus

Unirudh Prasad Srivastava

...Respondent.

Sir,

In continuation of this Registry's letter of even number dated the 8th/10th September, 1992, I am directed to transmit herewith for necessary action a certified copy each ^{of the} ~~of the~~ Order and Decree dated the 19th day of October, 1992 of the Supreme Court in the said appeal.

Please acknowledge receipt.

Yours faithfully,

J.S / Record Room
for Registrar (Judicial)

Institution
clerk

Put up
with file
18/11/92

4
10/11/92
R. No. 780/92

IN THE SUPREME COURT OF INDIA

CRIMINAL/CIVIL APPELLATE JURISDICTION

Certified to be true copy

414841

Assistant Registrar (Judi.)
.....199

Supreme Court of India

Date.

Page

CIVIL APPEAL NO.4525 OF 1992.

(Appeal by special leave granted by this Court by its Order dated the 19th October, 1992 in Petition for Special Leave to Appeal (Civil) No.11849 of 1992 from the Judgment and Order dated the 4th November, 1991 of the Central Administrative Tribunal, Allahabad (Circuit Bench), Lucknow in O.A.No.216 of 1988).

1. Union of India through the Secretary, Ministry of Railways(Railway Board), Government of India, Rail Bhawan, New Delhi.
2. North Eastern Railway, through its General Manager, Gorakhpur.
3. The Divisional Safety Officer, North Eastern Railway, Ashok Marg, Lucknow.Appellants.

Versus

Anirudh Prasad Srivastava,
S/o Sri Mangal Prasad, Srivastava,
555 Kha, 2/3 Bhola Khera, Alambagh, Lucknow.Respondent.

19th October, 1992.

CORAM:

HON'BLE MR. JUSTICE P.D.SAWANT
HON'BLE MR. JUSTICE G.N.RAY

For the Appellants: Mr. V.R.Reddy, Additional Solicitor General of India.
(Mr. Vijay Kumar Verma, Advocate with him).

For the Respondent: Mr. Raja Ram Agarwal, Senior Advocate.
(Mr. Shambhu Prasad Singh and Mr. Irshad Ahmad, Advocates with him).

The Appeal above-mentioned being called on for hearing before this Court on the 19th day of October, 1992, UPON perusing the record and hearing counsel for the parties herein, THIS COURT while clarifying that the law laid down by this Court in Union of India Vs. Mohd. Razman Khan(AIR 1991 SC 471), ^{will apply prospectively} _{DO} in allowing ^h the Appeal ORDER:

2. THAT the Judgment and Order dated 4th November, 1991 of the Central Administrative Tribunal, Allahabad(Circuit Bench), Lucknow in O.A.No.216 of 1988 be and is hereby set aside and the matter be and is hereby remanded to the aforesaid Tribunal with a direction

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that the said Tribunal Do restore to its file - O.A.No.216 of 1988 and
Do dispose of the same on merits on other points;

2. THAT there shall be no order as to costs of this appeal
in this Court;

AND THIS COURT DOTH FURTHER ORDER that this ORDER be
punctually observed and carried into execution by all concerned;

WITNESS the Hon'ble Shri Madhukar Hiralal Kania, Chief
Justice of India, at the Supreme Court, New Delhi, dated this the
19th day of October, 1992

Sd/-
(G.K.BATRA)
ADDITIONAL REGISTRAR



414842

Certified to be true copy

Assistant Registrar (Jdly)

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Supreme Court of India

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4525 OF 1992
(Arising out of SLP (Civil) No. 11849 of 1992)

A 201

Union of India & Ors.

Appellants

Versus

Anirudh Prasad Srivastava

Respondent

ORDER

Delay condoned. Special leave granted.

The Tribunal allowed the application of respondent-employee only on the ground that the inquiry report was not furnished to him. For this purpose, the Tribunal relied upon the decision of this Court in Union of India vs. Mohd. Razman Khan [AIR 1991 SC 471]. Unfortunately, the Tribunal has not noticed the operative part of the judgment in the above case where

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A 207

it is made clear that the law laid down there will apply prospectively. Admittedly, in the present case, the order of dismissal was passed prior to the said decision. Hence the impugned decision of the Tribunal is set aside and the matter is remanded to the Tribunal for decision on merits on other points.

The appeal is allowed accordingly. There will be no order as to costs.

Sd/- J.
(P B Sawant)

Sd/- J.
(G. M. Ray)

New Delhi,
19th October, 1992.

12/11/93

Dated : 7.1.1993

To

The Registrar (Judicial)
The Supreme Court of India,
Now Delhi.

CIVIL APPEAL No. 4525 OF 1992

Union of India & Ors Applicant.

V e r s u s

Anirudh Prasad Srivastava Respondents.

Sir,

Kindly refer to your letter D.O. No. 2962/92/SC/XI, dated 14th December, 1992. In this context, it may be mentioned that this Tribunal has listed this case on 28.1.93 after Restoration as per the direction.

Yours faithfully,

(Gaur Chandra)
DY. REGISTRAR
O/C *AKW*
7/11/93