

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE O.A. 265 OF 89

NAME OF THE PARTIES R.G. mishra Applicant

Versus

Union of India Respondent

Part A.

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CERTIFICATE

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

Dated 10/6/11

Counter Signed.....

Signature of the  
Dealing Assistant

Section Officer/In charge

P1

CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

20/4/87

Registration No. 265 of 1989 (L.)

APPLICANT(S) Ram Lalal Mehta

RESPONDENT(S) UNION OF INDIA & OTHERS.

Particulars to be examined

Endorsement as to result of examination

1. Is the appeal complete?	Y
2. a) Is the application in the prescribed form?	Y
b) Is the application in paper book form?	Y
c) Have six complete sets of the application been filed?	Y
3. a) Is the appeal in time?	Y
b) If not, by how many days it is beyond time?	
c) Has sufficient cause for not making the application in time, been filed?	
4. Has the document of authorisation/ Vakalatnama been filed?	Y
5. Is the application accompanied by B.O./Postal Order for Rs.50/-	Y
6. Has the certified copy/copies of the order(s) against which the application is made been filed?	Y
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed?	Y
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly?	
c) Are the documents referred to in (a) above neatly typed in double space?	Y
8. Has the index of documents been filed and pageing done properly?	Y
9. Have the chronological details of representation made and the outcome of such representation been indicated in the application?	Y
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal?	

	<u>Particulars to be Examined</u>	<u>Endorsement as to result of examination</u>
11.	Are the application/duplicate copy/spare copies signed ?	Yes
12.	Are extra copies of the application with Annexures filed ?	Yes
	a) Identical with the Original ?	Yes
	b) Defective ?	
	c) Wanting in Annexures	
	Nos. _____ pages Nos. _____ ?	
13.	Have the file size envelopes bearing full addresses of the respondents been filed ?	
14.	Are the given address the registered address ?	Yes
15.	Do the names of the parties stated in the copies tally with those indicated in the application ?	Yes
16.	Are the translations certified to be true or supported by an Affidavit affirming that they are true ?	
17.	Are the facts of the case mentioned in item no. 5 of the application ?	Yes
	a) Concise ?	Yes
	b) Under distinct heads ?	Yes
	c) Numbered consecutively ?	Yes
	d) Typed in double space on one side of the paper ?	Yes
18.	Have the particulars for interim order prayed for indicated with reasons ?	Yes
19.	Whether all the remedies have been exhausted.	Yes

dinesh/

268/OP/5

AB

8/3/90

Hon. J. P. Sharma, I.M.

The learned Counsel for the ~~reps~~  
parties are present. The learned  
Counsel for the ~~reps~~ ~~party~~ prays three  
weeks time to file reply & is allowed  
Re-order, if any, may be filed.  
Within two weeks thereafter list for  
hearing order on 22.5.90.

J.M.

22/8/90

Hon. Mr. B. C. Mathur, V.C.  
Hon. Mr. D. K. Agrawal, J.M.

OR

No CA filed

S. F.O.

18/8

No one appears.

List is for orders on 22/8/90.

See  
J.M.

Baruwa  
V.C.

22-8-90

No sitting Adj to 25.9.90

Mr.  
22/8/90

25.9.90

No sitting Adj to 14.11.90

14/11/90

Hon. Mr. Justice K. Prath, V.C.  
Hon. Mr. M. Y. Prakash, A.M.

Smti B. C. Shukla files ~~vakalatnam~~  
on behalf of all the respondents OR  
last opportunity to file a counter  
within three weeks is given to  
which the applicant may file a  
rejoinder within two weeks thereafter.  
List for final hearing on 16/11/90.

No CA filed  
S. F.O.

13/11/90

Mr.  
Amy

VC

AS

16.1.91 - No sitting adj to 2.4.91.

8.4.91 No sitting adj to 10.7.91.

10.7.91 - No sitting adj to 23.9.91.

23.9.91 No sitting adj to 17.12.91.

17.12.91 - No sitting adj to 13.2.92.

13.2.92 - No sitting adj to 22.4.92.

22.4.92 - No sitting adj to 7.7.92.

7.7.92 - No sitting adj to 27.8.92.

OB  
S.F.t!  
OB 882  
26.8.92

27.8.92

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

Put up tomorrow.

R V.C.  
A.M.

28.8.92

Case not reached.  
Adjourned to 11/11/92.

On motion

No R.A has 11.11.92  
been filed.  
S.F.O. 8

No sitting of D.P. adj  
to 21.11.92

d

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CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

O.A.No. 265/89

R.G. Mishra

Applicant

versus

Union of India & others

Respondents.

Shri T.N. Gupta, Counsel for applicant.

Shri B.K. Shukla, Counsel for Respondents.

Coram:

Hon. Mr. Justice U.C. Srivastava, V.C.  
Hon. Mr. K. Obayya, Adm. Member.

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

The applicant who was a Khalasi in the Railway, was faced with a disciplinary enquiry because of his unauthorised absence for two months. An enquiry proceeded and a finding was recorded that his absence was unauthorised. The appeal filed by the applicant was also dismissed. The applicant took a plea before the respondents that he sent the medical certificate from private Practitioner and sent it by U.P.C. and himself posted it.

2. From the appellate order it is clear that the application was sent but not the certificate. From the appellate order it is also revealed that the applicant was unable to resume his duties due to

sickness for one month and in his application dated 4.2.86 he mentioned that one month more may be granted for recovery. The private medical certificate which was filed by the applicant, recommends for rest for two months from 3.2.86 to 2.4.86. From this the appellate authority concluded that in case this application dated 4.2.86 might have been posted by the applicant, it must have mentioned period 2 months and not one month. While applying for regularisation of period vide his application dated 4.4.86, the applicant has not mentioned anything regarding his sickness that he was in private treatment. Thus, it was concluded that no certificate was filed by him. But it appears that some intimation was given by the applicant and may be because of ignorance and illiteracy he went to the extent of giving a statement which is not correct. As it is not justified setting aside the removal order but it does indicate that the applicant was absent for two months. Accordingly, the respondents will consider his case for re-employment in the circumstances, if they cannot give him continuity. It will be open for the respondents to treat the continuity of service of the applicant without giving any monetary benefit.

3. But for the above observations, the application is otherwise dismissed. No order as to costs.

*A.M. Karimzai*

*U*  
V.C.

Shakeel/-

Lucknow: Dated: 21.11.92.

Before : THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,  
( An Application U/s 19 of the Central Tribunal Act, 1985)

O.P. NO. 265/89(L)

Central Administrative Tribunal

Circuit Bench, Lucknow

Date of Filing 20/9/89

Date of Receipt by Post

Ram Gopal Misra ...

Deputy Registrar (J) Applicant.

Versus

Union of India, through its General Manager, N.E. Rly.

Gorakhpur & Others. ...

... Opp. Parties.

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Lucknow ;  
Dated ; 9:1989.

Applicant / Petitioner.

Titled to day  
Noted for  
13/10/89  
S.K. Aggarwal  
S.K. Aggarwal

( RAM GOPAL MISRA )

A8

Before : THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL  
( An application Under section 19 of  
Central Administrative Tribunals  
Act, 1985 ).

6A 265/rel(v)

Ram Gopal Misra , aged about 35 years , Son of Sri  
Mishri Lal Misra , resident House No. 173, Shahganj,  
Chowk, Lucknow.

.... Applicant.

Versus  
Union of India through its  
1. General Manager , N.E.Railway, Gorakhpur.  
2. Divisional Railway Manager, N.E.Railway, Lucknow.  
3. A.D.R.M. , N.E.Railway, Lucknow.  
4. Senior D.M.E. (LOCO) N.E.Railway, Lucknow.  
5. Assistant Mechanical Engineer, N.E. Railway,  
Lucknow.

... Respondents.

DETAILS OF APPLICATION

\*1. Particulars of the Order against which the Application is made.

(a) Charge Sheet dated 21.4.86 Annexure No.-A-1

(b) Order of removal from service dated 18.7.86 -  
31.7.86 ANNEXURE NO.-A-2

Cont'd on 2,....

AG  
(2)

(c) Order of the rejecting of the Appeal of the Appellant dated 5.7.89 Annexure A-3

(d) Order of the rejecting of revision of the Applicant 24.2.89 Annexure A-4.

**2. JURISDICTION OF THE TRIBUNAL.**

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

**3. LIMITATION.** - The applicant further declares that the application is within the limitation prescribed in Section 21 of the Administrative Tribunal.

**4. FACT OF THE CASE.** The fact of the case are given asunder :-

4.1. That by way of instant application the applicant seeks to challenge the impugned Memorandum of charges, dated 21.4.86 for alleged charge of unauthorised absence and the order of removal from services dated 18.7.86 received by the applicant 26.8.86 as well as the orders of Appellate Authority dated 5.2.87 rejecting Appeal of the Applicant the abovesaid orders under challenge are being filed herewith as Annexure No.1, 2 and 3 and rejection of revision Annexure No. -

A-4.

4.2. That the applicant was working as Fitter Khallas

Contd.on 3..

21.11.1989

(3)

ATO

Under LOCO Foreman, N.E.Railway, Charbagh, Lucknow  
till 17.7.86.

4.3. That while the applicant was functioning as Fitter Khallasi served with the Memorandum of Charges dt. 21.4.86 issued by the Asstt. Mechanical Engineer, N.E.Railway, Lucknow Respondent No. 5. Indeed the said Authority has no jurisdiction to initiate Disciplinary Proceedings & issue Memorandum of charges in relation to Rule 9 of R.S.(D.A.) Rule filed as Annexure A to this Application.

4.4. It was to utter surprise of the applicant that simultaneously alongwith the said Memorandum of charges dated 21.4.86 served to the applicant, an order of appointment of Sri O.P.Saxena, LOCO ~~Foreman~~, Inspector, as Enquiry Officer was also served vide letter dated 21.4.86 under the provision of Law the Enquiry Officer could not have been appointed at this stage, which affects the service of Charge Sheet itself as it tentaments to the applicant's presumed guilt, further the appointment of Enquiry Officer is subject to consideration of the defence of the applicant. It has also been stated that in para -6 of the said standard form of the Memorandum dated 21.4.86 that the

(4)

AII

Enquiry will be held in respect of these Articles of charges which are not admitted. It is in-confirmation with the provisions of Sub-Rule 7(a) of Rule -9 of R.S.(D.A) Rule , 1968 ( hereinafter referred to as D.A.R. ). The act of the respondent No. 5 is obviously showing malafide and biased mind towards the applicant . A true copy of the aforesaid order dated 21.4.86 appointing the respondent No. 5 as Enquiry Officer is being filed herewith as Annexure No.5.

4.5. That thereafter the applicant moved an application dated 15.5.86 asking for various documents relied upon by the respondent for the purposes to prepare reply to the Charge Sheet and prepare his defence. A true copy of the said Letter dated 15.5.86 for the document is being filed as Annexure No. 6 to this Application . That the applicant received no reply of his letter dated 15.5.86 . Further, the applicant was also not supplied the basic documents listed in Annexure -III of the said Memorandum dated 21.4.86 by which the charges were meant to be based /proved sustained such act of Respondent No. 5. This is denial of reasonable opportunity and violative of on 5...

21/11/1992

Article 311(2) of Constitution of India . Thus the applicant was deprived of submitting his defence ( as well as before the charges effecting).

4.6. That the applicant was allowed to avail rest on 2.2.86 , and further , he under the circumstances beyond his control , applied leave on Medical ground and submitted his Medical Certificate from Registered Medical Practitioner and intimated to LOCO Foreman, N.E. Rly. Charbagh, Lucknow regarding his sickness under postal Certificate of Posting dated 4.2.86 and again on 4.3.86 . The submission of such Medical Certificate and Intimation of the Sickness of the applicant is well within the Railway Rules so framed.

4.7. That applicant resides beyond the jurisdiction of the Railway Doctor . The jurisdiction is well defined under Note to para 1472 of IREM . Hence , the act of the applicant in requesting for leave on Medical Certificate from a Registered Medical Practitioner ( Non -Rly. -Doctor ) and going under treatment of his choice is well within Rules. The Respondent have not acted within the direction of Rule and treated the applicants absence

A13

(6)

on Medical Certificate as unauthorised absence.

4.8. That while accepting the Medical Certificate of the applicant from a Non -Rly. Doctor the respondent is having any doubt might have referred the case was to D.M.O. for advice and investigation and would have dealt with according to the circumstances. Further, the request of such leave on Medical Certificate have been accepted by the Respondents without refering to the D.M.O. and also sanction of Leave so applied for and forwarded by the LOCO Foreman, Charbagh, N.E.Rly. , Lucknow under his letter No. U/CLIV / Maint./ 86 dated 5.4.86 . This recommendation of the immediate controlling Superintendent to the D.R.M. (P ) to be deemed to have been sanctioned on the basis of the Fit Certificate granted by the Competent Rly. Doctor.

4.9. That the D.M.O. N.E. Rly. had also accepted the Medical Certificate submitted by the Applicant for the said Medical Leave and issued the Duty Fit Certificate under the Authority of para 1478(1) of I.R.E. M. •

4.10. That as per Railway Rules , workment Continuous

absent for 5 years are only liable to be taken up under order D.A.R. for removal from service. But that Rules is not applicable in this case. Further, the applicant did not remain absent on the date of issue of the Charge Sheet later he had reported for duties after being medically fit by the Competent Authority and therefore he is eligible for continuity in service.

4.11. That as per Annexure III of the Memorandum dt.21.4.86 the charges are based and to be sustained on LF / C.B.'s Letter No. M / CLIV / Maint / 86 dated 5.4.86. And as per Annexure IV to the said Memorandum LOCO Foreman Charbagh, was the only Rly. witness to sustain the charges. It is of great surprise that the LOCO Foreman's Letter stated above had not been supplied alongwith Memorandum dated 21.4.86. An order for not supplying the relevant document when asked for by the applicant vide Item -4 of Letter dated 15.5.86 is attached herewith as Annexure No.6 to this application.

4.12. That further the LOCO Foreman, the prosecution witness, listed in Annexure IV of the Memorandum dated 21.4.86 was annexed by the E/O, but the E/O had called up other witnesses Sri Bhowmick and Munir Ahmad not mentioned

in the Memorandum relied upon witness. Such act of the E/O was wishful and malafide. Hence, had in Law.

4.13. That applicant is charged for unauthorised absence which tends to violative of Rule 3(1), (ii) (iii). That the unauthorised absence is willful absence without any authority for such absence. So request of Leave on the Authority of Medical Ground can not be said to be unauthorised absence and as such there is no violation of Rule 3(1) (ii) (iii) of Conduct Rule, 1966.

4.14. That Rule 3 of 1965 Rule is general in nature for followed by specific conduct to be described by the Rly. Administration Rules 3 of 1966 Rule which have been alleged to have been violated by the applicant is being reproduced asunder :-

(3) General (i).

4.15. That it is well settled principles of Law that the conduct which is incorporated in conduct Rule can not be said to be misconduct. Hence, there is no question of violation of Rule 3(1), (ii) (iii) of RS(Conduct) Rule 1966 which does not spell out any conduct of the applicant.

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(9)

4.16. That the Enquiry Report and finding of the Enquiry Officer is not based on Rule and Evidence on Record. He is by ignoring all rules on the subject and also all facts on record made the applicant responsible on presumption and assumption and acted in the manner to any way establish the charge. He has not discussed the prosecution witness, LOCO Foreman, as he was the only witness to sustain the charges listed in Annexure IV to the said Memorandum. The copy of report and finding is being filed as Annexure No. 7 to this application.

4.17. That the Respondent No. 5 the disciplinary Authority had drawn no finding of his own on the report submitted by the Enquiry Officer but he straight away issued the standard form No. 1 passing the order of removal from services of the applicant. Further more, the Disciplinary Authority had not applied his mind and had not considered the facts on record and rules on the subject matter. The copy of the order of removal from service is filed as Annexure No. 2 of the Application.

Contd.on 10.

4.18. That the applicant had submitted a details of Appeal against the order of the removal passed by the Respondent No. 5 to the Senior D.M.E. (LOCO) . It is of great surprise that the Authority had also not considered the facts put forward by the application in his appeal, and passed the Non-Speaking order without any comment on the facts pointed out in the Appeal and rejected the appeal of the applicant. Thereafter the applicant preferred a revision to D.R.M. (P) Lucknow which was rejected on 24.2.89 and this rejection communicated to applicant on 17.3.89.

4.19. That the Respondent No. 3 (AME) have no jurisdiction to initiate disciplinary proceeding as well as improving penalty in relation to Rule -9, of RS (DA) Rule , 1968 as he is not delegated with the power of Disciplinary Authority . To impose penalty on group C & D Railway Servant Under Rule 6 (V) to IX .

4.20. That the impugned removal of the applicant is as such illegal Inter-alia on the following

## Grounds

G R O U N D S

(i) Because the absence of the applicant is not willful but under the circumstances beyond his control and on the authority of Medical Certificate permissible under Rule, Hence, can not be taken up for unauthorised absence in Disciplinary Proceedings.

(ii) Because the Applicant has made necessary communication as required under Rule while requested the leave on Medical Certificate.

(iii) Because the applicant was given no reasonable opportunity to face the charge by no supplying the documents for the purpose of his defence, hence, it is violative of Article 311(2) Constitution and Principle of Natural Justice.

(iv) Because there is no *prima facie* facts in the case and as respondent has failed to supply documents listed in Annexure III of Memorandum dated 21. 4.86 and P.W. LOCO Foreman listed in Annexure No. 4 of the said Memorandum has not been examined in Enquiry Proceedings.

(V) Because the impugned charge Sheet does not show Commission of any misconduct or the alleged misconduct as such no Disciplinary Proceedings could be made against the applicant, nor is the proceeding is maintainable.

(VI) Because the E/O has not relied upon the facts on record as well as the Rules on the subject matter and submitted his report, on presumption and assumption.

(vii) Because the D.A. having no jurisdiction to initiate Disciplinary Proceedings as well as to impose major penalty on Group C & D Rly Servants as he is not delegated with the Disciplinary Power in relation to Rule 9 as well as to imposed penalty under Rule(6) ( V to IX ) .

5.

GROUNDS OF RELIEF WITH LEGAL PROVISIONS :

(1) That the Asstt. Mechanical Engineer N.E.Rly. Lucknow Respondent No.5 has no jurisdiction to initiate disciplinary Proceedings and issue Memorandum of charges in relied on to Rule 9 of R.S. (DA ) Rule , 1968.

A20

(13)

(2) That according to rules made by the Railway Board the Department was bound to supply the copy of documents, findings etc. to the applicant to prepare his defence which the Department did not do.

(3) That para 1472 of I.R.E.M. well defined the jurisdiction of Railway Doctor and the treatment of Applicant with his own choice Doctor within Rules and his absence is authorised.

( 6 ) DETAILS OF THE REMEDIES EXHAUSTED

The applicant further declares that he has availed of all remedies available to him under the relevant services Rules.

( 1 ) That applicant preferred an appeal against the order of removal from services dated 12.9.89 which was rejected by the Divisional Mechanical Engineer on 5.2.87. A photostat copy of that appeal is being filed herewith as Annexure No. A --- 8 for the perusal of this Hon'ble Court.

( 2 ) That against the rejection of the appeal

*Contd. on 14*

(14 )

the applicant preferred a revision . A photostat copy of that revision is being filed herewith as Annexure No.A.21 Ex-4/1 and that ~~the~~ too was rejected by the Divisional Rly . Manager, on 24.2.89 and its <sup>intimation</sup> ~~direction~~ was communicated to the applicant on 7.3.89.

**(7) MATTERS PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT.**

The applicant further declares that he had not previously filed any application, Writ Petition or Suit regarding the matter in respect of in this application made before any Court or any other Authority or any other ~~Ban~~ Bench of the Tribunal ~~not~~ any such application or suit is pending before any of them.

**8. RELIEF SOUGHT**

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

- (A) That Charge Sheet dated 21.4.86 Annexure No.A.21 Ex-1 may very kindly be set -aside.
- (B) That the order of removal of service dated 18.7.86 / 31.7.86 Annexure No.A.21 - 2 be cancelled all back wages from the date of removal to the date of reinstatement may be awarded to the applicant and all the benefits may also be given to the applicant.
- (C) That order of the rejection of Appeal also be set-aside.

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(15)

(D) That order of rejection of revision dated 24-2-89 be also set-aside.

(E) The cost of petition may also be awarded to the applicant against the Opposite Parties.

(F) That any other relief may also be awarded to the applicant against the Opposite Parties which the Hon'ble Tribunal deems fit and proper to the circumstances of the petition.

(9)

10) PARTICULARS OF THE POSTAL ORDER IN RESPECT OF THE APPLICATION FEE PAID.

(a) I.P.O. No. DD 777123 dated 13-9-89

for Rs.50/- .

(b) Name of the Issuing Post Office High Court  
Branch Lucknow.

(c) Date of the issue of I.P.O. 13-9-89

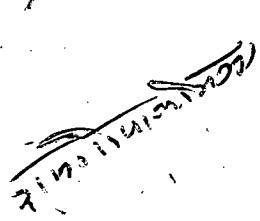
(10) That an Index in Duplicate containing the details of the documents relied upon in this case are enclosed..

(11) In the documents mentioned in this case are also attached herewith as shown in the Index aforesaid.

Lucknow  
Dated ; 15. 9. 1989.

APPLICANT.

  
( Ram Gopal Misra )

  
Contd.on 16.....

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(16)

VERIFICATION

I, Ram Gopal Misra, son of Sri Mishri Lal Misra

aged about 35 years, was working as Fitter Khasi  
in the Office of LOCO SHED, CHARBAGH, Lucknow  
do hereby verify that the contents of para 1, 4 and 6

to 11 are true to my own

knowledge and those of paras 2, 3

and 5 are believed

be me to be true on legal advice and that I have not  
suppressed any material fact.

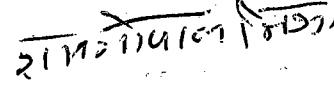
Signed and verified on this the 11th day of  
15

September, 1989 at Tribunal, Lucknow.

Lucknow

Dated ; 11.9.89.

Signature of the Applicant.



( Ram Gopal Misra )

Before : THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,  
( An Application U/s 19 of the Central Tribunal Act, 1985)

RAM GOPAL MISRA ... .. Applicant.

Versus

Union of India, through its General Manager, N.A. Aly.

Gorakhpur & Others. ... .. Opp. Parties.

I N D E X

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Lucknow ;  
Dated ; 9.1989.

Applicant / Petitioner.

( RAM GOPAL MISRA )

पूर्वोत्तर रेलवे  
NORTH EASTERN RAILWAY

पू० ३०—आ० 354  
N. E.—G. 354  
मानक फार्म स० 5  
STANDARD FORM NO. 5

**आरोप—पत्र का सालक फॉर्म**  
**STANDARD FORM OF CHARGESHEET**

(रेल कर्मचारी अनुशासन श्रौर अपेल नियम, 1968 का नियम 9)  
(Rule 9 of the Railway servants Discipline and Appeal Rules, 1968).

सं. दृष्टिपात्रालय राजगोपनि / विष्णुपुरा / ४६  
No.

No.

# रेल प्रशासन (रेल) | अधिकारी (रेल प्रशासन का नाम) (Name of Railway Administration)

निर्गम स्थान ..... १८९७८ ..... दिनांक ..... २१-४-८६  
Place of issue ..... Date .....

ज्ञापन  
**MEMORANDUM**

The President/Railway Board/authorised person(s) propose(s) to hold an inquiry against Shri..... under Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968. The substance of the imputations of mis-conduct or mis-behaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of Charge (Annexure I). A Statement of the imputations of mis-conduct or mis-behaviour in support of each article of charge is enclosed (Annexure II). A list of documents by which and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure III & IV).

2. Shri.....is hereby informed that if he so desires, he can inspect and take extracts from the documents mentioned in the enclosed list of documents (Annexure III), at any time during office hours within \*five days of receipt of this Memorandum. If he desires to be given access to any other documents which are in the possession of Railway Administration but not mentioned in the enclosed list of documents (Annexure III), he should give a notice to that effect to the undersigned/ General Manager,.....Railway within \*\*ten days of the receipt of this Memorandum, indicating the relevance of the documents required by him for inspection. The disciplinary authority may refuse permission to inspect all or any such documents as are, in its opinion, not relevant to the case or it would be against the public interest of security of the State to allow access thereto. He should complete inspection of additional documents within five days of their being made available. He will be permitted to take extracts from such of the additional documents as he is permitted to inspect.

3. श्रीराम धूपाल्पुरुष गुरुजी नियम जाता है कि जांच के बाद के प्रकारों में प्रवेशों को एक करने के लिए किया गया अनुरोध तब तक स्वीकार नहीं होता तब तक ऊर विनिश्चित भवन सीमा के भीतर विनाश से अनुरोध करने का पर्याप्त कारण न बनाया जाय और उन परिस्थितियों से स्वतंत्र रूप से प्रवृट नहीं जाये कि अनुरोध इससे पहले के प्रकार में नहीं किया जा सकता था। जांच पूरी हो जाने के बाद अनिश्चित प्रवेश प्राप्त करने के सम्बन्ध में कोई अनुरोध तब तक स्वीकार न किया जातेगा, जब तक जांच पूरी न होने से पहले अनुरोध न कर सकने का पर्याप्त कारण न बनाया गया हो।

Attested  
S. K. S. *[Signature]* *[Signature]*

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3. Shri..... is informed that request for access to documents made at later stages of the enquiry will not be entertained unless sufficient cause is shown for the delay in making the request within the time limit specified above and the circumstances show clearly that the request could not have been made at an earlier stage. No request for access to additional documents will be entertained after completion of the inquiry unless sufficient cause is shown for not making the request before the completion of the inquiry.

4. श्री रामगोपाल उमड़ा-एतद्वारा यह भी सूचित किया जाता है कि यदि वह चाहे तो मौखिक जांच होने को विधि में प्रतिवाद करने वाला जांच प्राधिकारी के समक्ष अपना मामला प्रस्तुत करने में सहायता करने के लिए किसी अन्य रेल कर्मचारी/रेल व्यवसाय संघ के किसी प्रदाधिकारी जैसे रेल कर्मचारी (अनुशासन और अपील) नियम 1968 के नियम 9 (9) और व्यवसाय-विधि उनके टिप्पणी एक और/व्यवसाय टिप्पणी दो की अपेक्षाओं को पूरा करते हों, की सहायता ले सकता है। इस प्रयोगन के लिए अधिमान्यता क्रम में उसे एक या अधिक अधिकारीयों को पूरा करते हों, की सहायता ले सकता है। यहांपर रेल कर्मचारी (कर्मचारियों) अधिवास के व्यवसाय संघ के प्रदाधिकारी/प्रदाधिकारियों का नामा करने से पहले श्री रामगोपाल उमड़ा-एतद्वारा, नामित व्यक्ति (व्यक्तियों) से बचत ले लेना चाहिए कि वह (वे) अनुशासनिक कार्यवाही के बारे में सहायता करने के लिए तैयार है। बचत में ऐसे भव्य मामले/मामलों का, यदि कोई हो, विवरण भी देना चाहिए, जिसमें नामित व्यक्ति (व्यक्तियों) द्वारा सहायता करने का पहले ही बचत दिया जा चुका हो और नामित व्यक्ति (यों) द्वारा दिया गया बचत नामन-पत्र के साथ नियम हस्ताक्षरी/महाप्रबन्धक के साथ एक अद्वितीय रूप से जारी करना चाहिए।

4. Shri..... 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 (9) 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..... 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 the 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/General Manager, f..... Railway alongwith the nomination.

5. श्री रामगोपाल उमड़ा-एतद्वारा निर्देश दिया जाता है कि यदि उसे अपना प्रतिवाद तैयार करने के लिए किसी प्रलेख का निरीक्षण करना अप्रक्षित न हो, तो इस जापन की प्राप्ति के लिए दस के भीतर और यदि वह प्रलेखों का निरीक्षण करना चाहे तो प्रलेख का निरीक्षण पूरा होने वे दस दिन के भीतर निम्नहस्ताक्षरी के पास (महाप्रबन्धक\*\* स्पष्टपात्र एवं अधिकारी के भाष्य के भाष्य) अपने प्रतिवाद का निर्धारण (जो उक्त महाप्रबन्धक के पास पहुंचना चाहिए) प्रस्तुत करें और—

(क) बताएं कि क्या वह व्यक्तिगत रूप में कठूलू करना चाहता है, और

(ख) उन साक्षियों के, यदि कोई हो, नाम और पता बताएं जिन्हें वह जपने प्रतिवाद के समर्थन में बुलाना चाहता है, और

(ग) उन प्रलेखों की मूर्छी, यदि कोई हो, पेश करें जिन्हें वह अपने प्रतिवाद के समर्थन में प्रस्तुत करना चाहता है।

5. Shri..... is hereby directed to submit to the undersigned (through General Manager..... Railway) a written statement of his defence (which should reach the said General Manager)\*\* within ten days of receipt of this Memorandum, if he does not require to inspect any documents for the preparation of his defence; and within ten days after completion of inspection of documents if he desires to inspect documents, and also—

(a) to state whether he wishes to be heard in person; and

(b) to furnish the names and address of the witnesses, if any, whom he wishes to call in support of his defence; and

(c) to furnish a list of documents, if any, which he wishes to produce in support of his defence.

6. श्री रामगोपाल उमड़ा-एतद्वारा सूचित किया जाता है कि आरोप के केवल उन अनुच्छेदों के बारे में जांच की जाएगी, जो स्वीकार नहीं किये गये हैं। इसलिए उन्हें चाहिए कि आरोप के प्रयोक्ता अनुच्छेद को खास तौर से स्वीकार करें या इनकार करें।

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

7. श्री रामगोपाल उमड़ा-एतद्वारा आगे यह भी सूचित किया जाता है कि पैरा 5 में विनिर्दिष्ट व्रवक्ति के भीतर यदि वह अपना लिखित बयान प्रस्तुत नहीं करता या जांच प्राधिकारी के सामने व्यक्तिगत रूप से हाजिर नहीं होता या रेल कर्मचारी (अनुशासन और अपील) नियम, 1968 के नियम 9 के उपवच्यों या उक्त नियम के अनुसरण के जारी आदेशों/निर्देशों का अनुपालन करने में अव्यवस्था आयी रहता है, या इनकार करता है तो जांच प्राधिकारी एक प्रदीप्त जांच कर सकता है।

7. Shri..... is further informed that if he does not submit his written statement of defence within the period specified in para 5 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) Rules, 1968 or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry ex parte.

8. श्री रामगोपाल उमड़ा-एतद्वारा कर्मचारी (आचरण) नियम, 1966 के नियम 20 को ओर दिलाया

RECORDED  
S.K. SINGH  
PART 1

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जाता है, जिसके बांत त कोई रेल कमंचारी सरकार के अधीन अपनी सेवा से सम्बन्धित मामलों के संबंध में अपने हितों को दाखिल के लिए किसी वरिष्ठ प्राधिकारी पर कोई राजनीतिक या अन्य प्रभाव न तो डालेगा अथवा न छासने का प्रयत्न करेगा। यह इस कार्यवाहियों से सम्बन्धित किसी मामले में उसकी और से किसी अन्य व्यक्ति से कोई अभ्यावेदन प्राप्त होता है तो यह प्रकल्पना की जायेगी कि श्री रामेश्वर मिशन विश्वविद्यालय, उस अभ्यावेदन की जानकारी है और वह उसके बहते पर दिया गया है और उसके विश्वविद्यालय कमंचारी (शाचरण) नियम, 1966 के नियम 20 का उल्लंघन करने के लिए कार्यवाही की जायगी।

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

9. इस शाखन की पादती भेजें।

9. The receipt of this Memorandum may be acknowledged.

\* (राष्ट्रपति के आदेश और उनके नाम से)

लक्ष्म प्राधिकारी का नाम और पदनाम

\*By order and in the name of  
the President.

(संखा. संखा. दस्तावेज़).....

हस्ताक्षर Signature  
राष्ट्रपति के पात्र का नाम/पदनाम  
Name and designation of Competent  
authority.

संलग्न :

Encls :

सेवा में  
To

धी ..... श्री रामेश्वर मिशन  
Shri

पदनाम ..... नियम विभाग  
Designation

स्थान आदि ..... दिल्ली, भारत  
Place, etc.

(a) प्रतिलिपि श्री रामेश्वर मिशन, नियम विभाग का नाम और पदनाम) को सूचतार्थ प्रेषित।  
(b) Copy to Shri ..... (name and designation of the lending authority) for information.

\*यदि आदेश का राष्ट्रपति के नाम से दिया जाना अनिवार्य किया जाय।

\*यह समय-सीमा संघर्ष प्राधिकारी के निर्देश से दस दिन तक बढ़ाई जा सकती है।

\*This time limit may be extended upto ten days at the direction of the competent authority.

Attested

S. K. Chatterjee

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( 4 )

\*\* यह समय सीमा संधारी के निर्देश से बीन दिन तक बढ़ाई जा सकती है।

\*\* This time limit may be extended upto twenty days at the direction of the competent authority.

† जहाँ कहीं राष्ट्रपति या रेलवे बोर्ड संधारी प्राधिकारी हो वहाँ इसे रहने दिया जाय।

† To be retained wherever President or the Railway Board is the competent authority.

‡ जहाँ राष्ट्रपति अथवा राजनिक प्राधिकारी हो।

‡ Where the President is the disciplinary authority.

(@) जहाँ कहीं लागू हो वहाँ इस्तेमाल किया जाये। देखिये रेल कर्मचारी (ग्रन्तीसन और अपील) नियम, 1968 का नियम 16 (1) रेल कर्मचारी को भेजी जाने वाली प्रतिलिपि में इसे शामिल न किया जाय।

(@) To be used wherever applicable—See Rule 16 (1) of the Railway Servant (Discipline & Appeal) Rules, 1968—Not to be inserted in the copy sent to the Railway Servant.

§ जो लागू न हो उसे काट दें।

Strike out whichever is not applicable.

£ यदि कर्मचारी इस अपेक्षा का ग्रन्तीसन नहीं करता, तो इस प्रक्रम में एसी मूली प्रस्तुत करने पर जोर देने की आवश्यकता नहीं है।

£ Submission of such list at this stage need not be insisted upon if the employee does not comply with this requirement.

NER—81820861—10,000 F.—Aug. 82

Attacted  
S.K. [Signature]

Answer to Statement Form NO 53 in accordance of charge  
Sheet under Rule 9 of the A.P. (W.R.) Rule 1968

Statement 1 (of article of charge found against)

Sri Ram Gopal this 25th January 1986, Form a/Ch. 10/10  
Sheet, Sri Ram Gopal alias a white functioning as filter khalasi  
under A.P. (W.R.) Rule 9 of Form 3.2.86 to 3.4.86  
mainly : that failed to render timely and  
in a manner befitting duty of rendering services thereby  
violating Para 3.4.6 (m) of Poly Bar and Control Rule 1968.

(S. M. Poosod)  
4/1/86 P.T.A.

Answer to

Statement of imputation based on which article of charges  
CB sheet, made against Sri Ram Gopal this 25th Jan.

That Sri Ram Gopal alias a white functioning  
as filter khalasi in Sec. 10 (196-234) C.A. and under A.P.  
absent from duty without any leave from 3.2.86 to 3.4.86  
without any intimation of A.P.C. This is unbecoming of the  
part of Sri Ram Gopal alias a white functioning as filter  
khalasi under A.P. (W.R.) Rule 9 of Form 3.2.86 to 3.4.86

(S. M. Poosod)  
4/1/86 P.T.A.

Answer to

Documents on the basis of charge have been framed  
D/1/86/234/20/34/86 = 15.5.86

(S. M. Poosod)  
4/1/86 P.T.A.

Answer to

List of witnesses by whom the article of charges found  
against Sri Ram Gopal alias a white functioning as filter khalasi under A.P.  
are reported to be sustained  
F/86.

(S. M. Poosod)  
4/1/86 P.T.A.

Attested  
S. K. Gopal  
Adv.

STAMPED

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ANNEXURE A-2

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

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No. सूची राम गोपाल मिश्रा / राम गोपाल मिश्रा

Date 18/7/86  
8/7/86

To Name SRI RAM GOPAL MISRA

Father's name SRI MISRI LAL

Designation Attendant Department MECH

Ticket No. \_\_\_\_\_ Date of appointment 24-2-76

Station CB SHED Scale of pay (196-232)

Shri RAM GOPAL MISRA, Attendant, CB SHED, under (Name, designation & Office in which he is employee)

LAIER (\* Under suspension) is informed that the

Inquiry Officer/Board of Inquiry appointed to enquire 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.

OR

\* On a careful consideration of the enquiry report aforesaid, the undersigned agrees with the findings of the Inquiry Officer/Board of Inquiry in 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 RAM GOPAL MISRA, Attendant, CB SHED (Name of the Railway servant)

person to be retained in service and has decided to impose upon him the penalty of dismissal/removal/compulsory retirement from service, Shri RAM GOPAL MISRA, Attendant, CB SHED, therefore, dismissed/removed/compulsory retired from service with effect from 18-7-86.

Contd...2

26-8-86

10 दिसंबर 1986

21/11/1986

26-8-86

21/11/1986

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- 2 -

4. Under Rule 18 of the Railway Servant (D & A) Rules 1968 an appeal against the orders lies to S.R. DMSLN provided:-

- 1) 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.

copy of REPORT of ~~Comptroller~~ Officer

SRI RAM GOSAL MISRA  
(Fitter)  
EB Shed, N.C.Rly  
THROUGH L.F. EB SHED  
N.C.Rly

Signature

(S.M. PRASAD)

Adm.Officer

N.G.Rly, LUCKNOW

Name & Designation  
of the disciplinary  
authority.

Attested  
S.K. Tripathi  
A.D.O.

21/11/1981

24-  
ANNEXURE A-3

N.E.Railway

No. E/PC/RGM/F-Kha.

Office of the  
Divl. Rly. Manager (P)  
Lucknow: Dt. 5-2-1987

Shri Ram Gopal Misra,  
Fitter Khalasi,  
Through Loco Foreman,  
Charbagh Shed/Lucknow.

Sub:- Appeal against removal from service.

Ref:- Your appeal dated 12-9-86.

I have gone through the proceedings of the case and the appeal and find no reason to alter the punishment already awarded to Shri R.G. Misra by AME/LJN.

*Signature*  
Sr. Divl. Mech. Engineer/Loco  
Lucknow.

Copy forwarded for information and necessary action to Loco Foreman/CB.

for Divl. Rly. Manager(P)  
Lucknow.

*21/2/1987*  
*Attested*  
*S.K. Tripathi*  
*PSVO*

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ANNEXURE A-4

NORTH EASTERN RAILWAY

AB2

OFFICE OF THE  
DIVISIONAL RLY. MANAGER(P),  
LUCKNOW,  
DATED: 24-2-1989.

NO. E/PC/RGM/FKha.

Shri Ram Gopal Misra,  
Ex. Fitter Khalasi      THROUGH

Loco Foreman,  
Charbagh Shed.  
N.E.Railway.

Sub:- Appeal of Sri Ram Gopal Misra for  
Revision under Rule 26 of DAR 1968  
dated 9-3-1987.

====

On the above appeal ADRM has passed the following  
orders:-

" I have gone through the entire case including  
revision petition dated 9-3-87 of Sri Ram Gopal Misra  
ex Fitter Khalasi/ CB Shed. The points brought out by  
Sri Misra to prove that he had send timely intimation to the  
railway administration about the periods of his absence and  
his contention that he was not on unauthorised absence during  
the said period as per extent rules, are not convincing.  
In this connection I have also gone through the proceedings  
of the DAR enquiry as well as the various documents submitted  
by Sri Misra in connection with this enquiry. It is apparent  
from the papers on record that Sri Ram Gopal Misra in his  
application dated 4-2-86 and 4-3-86 had mentioned that due  
to his sickness he was unable to resume his duties. In this  
application dated 4-2-86 he had mentioned that one month  
time will be required for his recovery and likewise in his  
application dated 4-3-86 he had again alleged to have  
intimated that one month more will be required for his  
recovery. But Private Medical certificate bearing the date  
3-2-86 produced by Sri Misra recommends the period of leave  
for complete rest for two months with effect from 3-2-86 to  
2-4-86. Had the application dated 4-2-86 been actually posted  
by Sri Ram Gopal Misra, it must have borne the period of two  
months and not one month. Not only that, Sri Misra while  
attending LF's Office on 3-4-86 with his sick and fit certifi-  
cates and applying for regularisation of the period of his  
absence vide his application dated 4-4-86 has not mentioned  
anything that he had intimated regarding his sickness to LF/CB  
pre-hand by two applications, except that he was in private  
treatment. If the so claimed application had been a fact, in  
the first information so as to emphasis his innocence and  
claims for regularisation of the period covered under PMC,

He must  
have mentioned  
this fact

Contd... 2

24/2/1989

A33

- 2 -

From the above it is established beyond doubt that Sri Ram Gopal Misra Ex Fitter Khalesi/CB Shed was on unauthorised absence from 3-2-86 to 3-4-86 and no intimation from him in respect of his periods of absence was received by the Aly. Administration the charges levied against him are, therefore proved beyond doubt and the punishment given to him in this case is considered just and adequate, and the same is upheld"

*S. K. S. Rao*  
For Divl. Aly. Manager (P.),  
Lucknow.

Attested  
*S. K. S. Rao*

*21/10/1986/1991*

To,

ANNEXURE A-4

27  
A34

The Divisional Railway Manager,  
N.E. Ry.,  
LUCKNOW.

Sub: Revision under Rule 25 of DAR, 1968.

Sir,

The appellant, being aggrieved with the decision of Sr. DME. (Loco) on my appeal dt. 12.9.86 against the order of removal imposed by the AME (Loco), beg to appeal for revision inter alia on the following grounds:-

1. That the appellant did not absent unauthorisedly w.e.f. 3.2.86 to 3.4.86 as alleged by the AME (Loco) in his Chargesheet.
2. That the detailed defences/evidences were adduced during the enquiry proceedings and also elaborated the grounds and please in my appeal to the Sr. DME. (Loco) but the Sr. DME. (L) has rejected the appeal and maintained the punishment on some undisclosed extraneous consideration which is illegal, his letter is not a speaking order.
3. That the removal of the appellant is based on all imaginations, presumptions, prejudices, unfair labour practice and illegalities.
4. That not accepting valid documents and government evidences adduced during proceedings against the allegations is arbitrariness and illegal before law. Despite my pointing out all these factors, neither Sr. DME (L), nor has the AME (L) accepted them. Nothing can satisfy them because they acted predeterminedly not to accept any evidence what so ever whether genuine or ingenuine and they have arbitrarily acted in imposing and in maintaining the punishment.
5. That I did not absent from 3.2.1986. The facts remained that I had been sanctioned compensatory leave on 2.2.1986 and due to sudden severe incapacitation of the appellant for unanticipated and unforeseen illness I was forced to be on leave in continuation of compensatory leave. Again, I had sent the concerned authority the required

information and that also through the government agency, who have certified the fact of my genuine acts of sending information to the Railway authority.

6. That I had been on leave, in continuation of my sanctioned leave on 2.2.1986. Again, I had sent the intimation of my being on extended leave within 3 days i.e. on 4.2.86 as required under the extant rules.

7. That in accordance with the rules 2114R-II the Railway employees proceeded on sanctioned leave, in case proceeds on extended leave, would automatically be deemed to be on leave. ~~and half pay regularization~~. Hence the question of the humble appellant's being absent from duties did not arise. All acts repugnant to the statutory rules are arbitrary, malafidus and prejudicial.

8. That in view of the positions explained above, the humble appellant did not absent himself from duties, but he had been made to continue on leave, in continuation of sanctioned leave, by the sudden physical incapacitation under influence of the nature. It is needless to stress that the powers of nature on human bodies are universally accepted to be unpredictable and uncontrollable. The appellant's suddenly falling sick and being on continued leave was not in his hand. The only thing in his hand was to inform the employer railway about his inability to report for duties within 3 days and that part I have complied with as per rules.

9. That as far as the second charge of my failure to maintained devotion to duties in a manner unbecoming to a railwayman is concerned, I respectfully beg to clarify that this charge is not applicable on me in the instant case, because in the absence of any evidence of not devoting my services on any allotted job while on duty, this charge becomes invalid. Further, during the charged period, I had been on leave on self sickness and no work was allotted to me. Hence, the question of not being devoted on the allotted job does not arise. Further, being on leave and that also on self sickness is neither an offence, nor can the same be an offence. Alleging this as an offence is certainly unfair and arbitrariness.

(3)

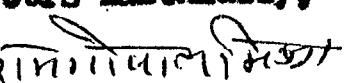
10. That in view of the positions explained above, this humble appellant is innocent in all respects. The punishment imposed on the appellant is, therefore, totally unfair, prejudicial and illegal.

11. That, over and above, the appellant is a young man of about 32 years and he has still to serve the nation through this railway service for very long years. His removal from service at this early age would cause a serious disability in his securing a fresh service in other government departments. The appellant has a big family consisting of five members, out of them are <sup>Two</sup> three school going students, ~~and~~ <sup>and</sup> revealing two other children.

12. That this untimely removal of the appellant has caused serious debacle to the appellant's survival in these hard days and we all family members have reached to a stage of starvation.

I, therefore, pray to your goodness to kindly set aside the illegal orders, made on extraneous consideration and reinstate me to my service for which acts of your kindness I shall remain ever thankful to you. I shall also pray to condone any delay in the matter of settling this revision application, if any.

Yours faithfully,



( RAM COPAL MISRA )

Fitter Khallasi, T.No. 166

Loco Shed, Charbagh,

Lucknow.

Lucknow

Date : 9.3.1987.

\*\*\*\*\*

Attached  
S.K. Tripathi  
MELVA

21/3/1987 (S)

सेवा भै

सहायक यांत्रिक इंजीनियर लोको।

पूर्वोत्तर रेलवे, लखनऊ।

द्वारा: लोको फोरमैन, चारबाग।

सम्माननीय महोदय,

सन्दर्भ: ज्ञापन संख्या ई/पी०सी०/रामगोपाल/पि०ख/86  
दिनांक 21-4-86।

उपरोक्त ज्ञापन भै विनिर्दिष्ट आरोप सादर अमान्य करता हूँ साथ ही साथ गुजारिश करता हूँ कि निम्न लिखित दस्तावेज जो बयाव देने के लिए वरमावश्यक हैं और केस से सीधा तालुक रखते हैं देने का कष्ट करें जिससे सम्पर्क न्याय मिल सके।

11। सर्विस कन्डक्ट रुल 1966 के बैरा 3 (i) (ii) ~~xxx~~

सर्व (iii) के उद्धरण प्रमाणित करते हुए उपलब्ध कराने का कष्ट करें जिसकी जानकारी प्राप्ति को नहीं है और ना ही सेवानियोजन के दौरान जिस तंत्रिका का निर्माण हुआ प्राप्ति को उसकी प्रति, शर्त के रूप में दी गई जिससे स्पष्ट हो तके कि उनका उल्लंघन किस सीमा तक हुआ है अथवा नहीं।

12। अनधिकारी इंजिनियर अब्सेन्ट की रेल सेवा भै क्या प्रमाणित क्षमापरिभाषा होती है रूपष्ट करने का कष्ट करें क्या मात्र सूचना दें देने से अनुपस्थिति को वैधानिक आधार मिल जाता है या तूचना की स्वीकृति कर्मचारी को दी जाती है प्रचलित विधि स्पष्ट को जाय।

13। साइप्र सूची के तहत लोको फोरमैन, चारबाग का लिखित बयान यदि कोई हो प्रस्तुत किया जाय।

14। दस्तावेज की प्रति जिसके आधार पर आरोप अधिरोपित किये गये रिपोर्ट या चतुर्थ श्रेणी/अनु-86 दिनांक 5-4-86 दी जाय।

15। मेरे द्वारा दी गई ई/पी०सी० व साथ मैं प्राप्ति पत्र टोने को ही अवलोकनार्थ प्रस्तुत करने का कष्ट करें। उस पर यदि लोको फोरमैन की टिप्पड़ी हो तो उसे भी बताया जाय।

16। तथा कथित अनुपस्थिति के मामलों में अन्य कर्मचारियों के बारे में लिए गए निर्णयों की संक्षिप्त रिपोर्ट जहाँ भारी

1 2 1

सख्या में लोको कर्म्मारियों को अवैतनिक अवकाश स्वीकृति किया गया, छोड़ दिया गया या पिर माझनर भेजो दिया गया अतम्यक कार्यवाही भेरे प्रति यदि किसी द्वेष की भावना से किया गया है त्सष्ट करने का कष्ट करें।

✓ 18। १५० ३/४/४/८६, ४/४/८६, ५/४/८६ एवं ६/४/८६ को हाजिरी रजिस्टर भेजे कहाँ दर्शाया गया है बताया जाय।

19। जब पी०४०४०४००० से वापस आने के बाद मुझे मण्डल चिकित्सा-धिकारी के पास अन्तम पिटनेश के लिए भेजा गया वापसी पर दूयूटी पर ले लिया गया जो सिद्ध करता था कि मेरी अनुष्टिथति वैधानिक थी कालान्तर में मुझे मण्डल कार्यालय अवकाश के नियम देते भेजा जाना व्यवहारिक था या ऐसा होता आया था।

20। यदि अन्य कोई पत्रावार हुए हों उसकी प्रति दी जाय।

21। रेलवे चिकित्सा नागरिक के लिए धूथमिक स्वास्थ्य ईकाई नहीं है उनीष्क है अतः रेल कर्म्मारी रेल के अलावा चिकित्सा लाभ प्राप्त कर सकता जहाँ उनके जीवन को लात हो।

उपरोक्त पुलेजों को प्राप्ति पर हम अपना बचाव प्रस्तुत करें।

आपसे सादर निवेदन है कि अविलम्ब सूचनाएँ संकेत करवाने का कष्ट करें।

सादर।

भवदीय  
राम गोविल मिश्र

पिटर छलाती, वारदाग पेड़,  
लखनऊ।

दिनांक 15-5-86

Attested  
S.K. चौधरी  
P.D.A.

राम गोविल मिश्र

33

A.Y.O

P N N E X U R E - A - 7

In connection with unauthorised absence w.e.f. 3-2-86 to 3-4-86.

The delinquent employee Shri Ram Gopal Misra, Fitter Khalasi under Locoforeman Charbagh is facing DAR proceeding in case No. E/PC/Ram Gopal/F.Kh/86. The case in brief as embodied in the memorandum is that he remained unauthorised absent from duty w.e.f. from 3-2-86 to 3-4-86 and thus he violated "The Railway Services(Conduct) Rules 1966, Para 3.1(i)(ii)(iii).

The term "unauthorised absent" denotes that a man either absents himself from his normal duty without pre-sanction of leave by his controlling authority or over stays the period of his authorised leave without a legitimate intimation with sufficient reasoning of his over staying on or just after the date of his due resumption on his duty.

The failure of an employee (Railway servant) in the above manner tantamounts to lack of integrity and devotion to duty and is unbecoming act of a railway servant.

While refuting the article of charges and its imputation Sri Ram Gopal Misra with the aid of his defence counsel represented that he was on rest on 3-2-86, and due to sickness he became unable to attend his normal duty with effect from 3-2-86 to 3-4-86. He was under the treatment of a private local doctor, Vaidya Poaray Lal Gupta, 7- Sidhmath Market, Madan Mahal Road, Lucknow, (P.M. certificate at C/185).

He also stated that he had informed Loco Foreman, Charbagh twice during the period under reference under certificate bearing vide his applications dated 4-2-86 & 4-3-86 (copy of the applications annexed at C/208 C/209 and a certificate at C/210, C/211).

He has also adduced some other references of his attendance of 7-4-86 and 8-4-86 and later on, but since these do not relate to period under reference in the memorandum, hence do not concern to this case and are beyond jurisdiction of this proceeding.

The scrutiny of the documents submitted by the delinquent employee in support of his statement, and the way they have been claimed to have been submitted to Loco Foreman/Charbagh Shed, is therefore of great importance to assess the facts of the case.

Shri Ram Gopal Misra in his application dt. 4-2-86 and 4-3-86 has mentioned (C/208 & 209) that due to his sickness that he is unable to resume his duty. In application dt. 4-2-86 he has maintained that one month time will be required for his recovery, and likewise in application dt. 4-3-86 he has again alleged to have intimated that one month more time shall be required for his recovery. But Private Medical certificate produced by him bearing that date 3-2-86 recommends the period of leave for complete rest for two months with effect from 3-2-86 to 2-4-86. Had the application dt. 4-2-86 been actually posted by Shri Ram Gopal Misra, it must have been

borne the period of two months and not one month.

Not only that, he while attending LF office on 3-4-86 with sick and fit certificate and applying for regularisation of his period of absence vide application dated 4-4-86 (C/183) has not mentioned any thing, that he had intimated regarding his sickness to LF/CB pre-hand by two applications, except that he was in private treatment. If the so claimed application would have been a fact he must have mentioned this fact in the first information (written application dt. 4-4-86) so as to emphasize his innocence and gain legitimate favour for regularisation of his period of P.M.O.

He has also not brought out this fact to the timekeeper even while attending office for duty as will be clear from reply to Q. 2 & 4 of Shri Munir Ali. Sri Munir Ali has also clarified in reply to Q. 3 that no intimation as alleged to have been sent by Sri Ram Gopal Misra, has been received by him. Sri Munir Ali in reply to Q. 15 has stated that the extention applications of the employee are received in office directly by hand by registered post and ordinary daks. There seems no reason that why Sri Munir Ali would deny the receipt of application of Sri Ram Gopal Misra, had it certainly been posted by him (Sri Misra) and received in office of LF/CB.

Shri Munir Ali has also confirmed by replying to Q. 6 that Sri Ram Gopal Misra was unauthorised absent, if any intimation at any stage could have been received by Sri Munir Ali, he would have clarified it.

This leads to establish that the applications dated 4-2-86 and 4-3-86 are after thought of the employee and have been concocted to cover up his folly. Actually neither he sent any application nor had any such intention to do so. In reply to Q. 11, he has stated that he had gone to DRM office to know about his salary and regarding leave application which he alleges to have been sent to LF/CB through Post office. If connecting his reply of Q. 4 to his reply of Q. 10, where he has stated that he posted the application in GPO (General Post Office) letter box personally when he went to DRM office (Reply 11) it will be found that the first application was posted by him (as alleged by him) on the very day (4-2-86) and the very day he reached the DRM office for knowing its receipt in DRM office after being forwarded from LF/CB office (a wonderful gesture of Ram Gopal Misra).

Any way if he could have gone to DRM office which is far away from Chawki in comparision to Loco Shed/CB from Chowk, and DRM office is not his place of working or controlling office too, why he could not go to LF/CB's office and submitted his application of leave alongwith P.M.O. Not only that, he had gone to Loco Foreman office on 1-8-86 (Reply to Q. 12) to receive his salary and even then neither he enquired of his so called posted application, nor he submitted any fresh application so that the authorised intimation of his reasons being away from duty could have been available with the Loco Foreman. In reply to Q. 6 & 7 he has stated that neither he tried nor he considered necessary to know that the leave application have been received in Loco Foreman office or not, as he had sent the applications under certificate of posting, and that was

sufficient.

This all is unbecoming of a railway servant and re-establishes that Ram Gopal Misra neither sent any application and nor he had any intention to do so.

Sri A.C. Bhawnik while replying Q.2 confirmed from records that Ram Gopal Misra has been shown absent from 3-2-86 to 3-4-86. Sri Ram Gopal Misra submitted his sick and fit both on 3-4-86 (Reply to Q.3) which is confirmed by Ram Gopal Misra as well.

Shri Ram Gopal Misra was sick under Private doctor and unable to move the hospital (Railway), he must have sent his sick certificate along with application to the Loco Foreman (application dt. 4.2.86) as medical certificate was issued by the doctor on 3.2.86, and must have arranged its posting to Loco Foreman/Charbagh in a fool proof manner i.e. by registered post or atleast with recorded delivery whose delivery is undoubted if he did not consider it important to go to DF/CB's office and submitted in person.

In all the cases, the responsibility of arranging intimation of reasons of absence from duty to Loco Foreman Charbagh rests with him (Ram Gopal Misra) as Loco Foreman will only entertain the applications received and not the applications which alleged to have been posted but not received in office.

Since there is no record of certificate of posting at any stage in the post office, so its correctness can not be verified in the manner as in case of registered post so the certificate of posting cannot essentially be taken as a fool proof evidence documents. I am sure that with a little intimacy/obligation the certificate of posting can be got stamped for back dates from same or the other postal unit. In this particular case, Shri Ram Gopal Misra while replying Q-1, has stated:

This leads to establish that the certificate of posting as produced by Ram Gopal Misra (c/210-211) have later on been forged as while granting certificate of posting, the dealer keeps the letters with him, and not makes them over to the sender to post them in the letter box by sender himself.

Shri Ram Gopal Misra was under the treatment of a local private doctor. He neither reported to railway doctor to whom he must have reported in case of sickness for R.M.C. nor he gave any intimation to Rly. Doctor although there are a number of units of Rly. Hospitals at Lucknow. The departmental health units and indoor hospital are there only to treat ~~rank~~ railway servants, and under normal rules a railway servant must report sick in the departmental units only.

If necessary the Doctor(Rly) refers the case to bigger units or better hospitals such as medical College. If any how, the sick man wants to take out side treatment during his sick period, he may do it so with the due permission of Rly. doctor attending on them.

As regards, certificate of posting, if at all Shri Ram Gopal Misra maintains that the certificates of posting are correct; he may better ask postal authorities to redress the damages caused to him, whom who failed to deliver this letters(envelops) to the correct addressee.

#### SUMMARY:

1. Shri Ram Gopal Misra was unauthorisedly absent from duty w.e.f. 3.2.86 to 3.4.86 to which he submitted P.M.C.
2. Shri Misra neither reported to Railway doctor for treatment while he was sick nor he intimated the Rly. doctor where as there are so many units of Rly. Hospitals in Lucknow.
3. Shri Misra misconducted the alleged applications on 4.2.86 & 4.2.86 to cover up his folly of neither reporting to railway doctor nor intimating to Loco Foreman regarding reasons of his absence.
4. Shri Misra forged the certificate of posting and managed to get them stamped in the dates suiting to his convenience.
5. Shri Misra failed to send his application/intimation of his sickness and inability to resume duty by registered post, a guaranteed delivery to the correct addressee.

#### FINDING:

The evidence on record and circumstances of the case leads to establish that :-

Shri Ram Gopal Misra, Fitter Khalasi working under Loco Foreman/Loco Shod, CR is responsible for the charges of unauthorised absence from duty w.e.f. 3.2.86 to 3.4.86 as referred to in the memorandum No. E/PC/Ram Gopal/F Kh/86 dt. 21-4-86. He failed to maintain integrity, devotion to duty and acted in a manner unbecoming of a railway servant and is responsible for violating Rule 3.1(i)(ii)(iii) of Railway Services (Conduct) Rule/1966 beyond a reasonable doubt.

*SJ*  
Loco Inspector(DSL)  
N.E.Rly/Lucknow.

Attested  
S.K. Jayapathra  
Advo

20/11/1986

AMY

## ANNEXURE A. 8

To.

The Senior Divl. Mech. Engineer(Loco),  
N.E.Railway,  
Lucknow.

Sub:-Appeal against punishment under Rule 18 of the  
R.S.(D&A) Rules, 1968.

Sir,

The appellant undersigned begs to lay before you the following facts for favour of your kind consideration and setting aside the punishment imposed by the Disciplinary authority:-

1. That the appellant was served a Charge Sheet No. E/PC/Ram Gopal/F. Khellasi/86 dated 21.4.1986. An Enquiry Officer was also appointed on the same date.

2. That the appellant was removed by the Disciplinary Authority from service w.e.f. from 18.7.1986 after noon vide his order No. E/PC/Ram Gopal/F. Kh/86 dated 18/31.7.86 on the basis of the enquiry report dated nil received from the Enquiry Officer in the instant case.

3. That the appellant was charged with the following as per Annexure-I to Charge Sheet:

- (a) Unauthorisedly absented w.e.f. from 3.2.86 to 3.4.86 (2.2.86 being statutory rest day).
- (b) Failed to maintain devotion to duty and in a manner unbecoming of a Railway Servant.
- (c) Violated para 3(1), (ii) & (iii) of Rly. Services (Conduct) Rules, 1966.

4. That as per Annexure-III to the Charge Sheet, the charges framed were based on LF/CB's letter No. M/GI.IV/Maint/86 dated 5.4.86 and as per Annexure-IV to the Charge Sheet, the LF/CB was the only Rly. witness to substantiate the charges.

5. That the Inquiry & Proceedings were conducted on 7.6.86, 13-14/6/86 and 2-3/7/86.

6. That after receipt of the Charge Sheet the appellant had asked for some relevant documents mentioned in the Charge Sheet and also clarifications on some important points relevant to the charges vide his application dated 15.5.86. But neither the appellant was supplied the documents nor had he been given any clarification on the points raised therein.

7. That in terms of Rules 9(4) of the R.S.(D&A) Rules, 1968, the Rly. servant is required to submit a written statement in defence within 10 days of the receipt, if he does not require to inspect any documents; otherwise after 10 days of the last date of inspection.

8. That the Disciplinary authority did not comply with this provision of the rule, because he appointed the enquiry officer on the same date of the issue of the Charge Sheet and he did not provide me this opportunity of Written defence statement.

9. That the disciplinary authority, ought to have considered first the written defence statement of the appellant against the charges framed and ought to have formed his opinion on the basis of the defence statements whether there were grounds for enquiring into the truth of any imputation of misconduct against the appellant, or whether the appellant accepted all the charges contained in the Charge Sheet.

10. That had the appellant accepted all the charges as per Charge Sheet, the question of holding any inquiry did not arise. But where the accused employee denied the charges, only in that case the disciplinary authority is required to sit to form his opinion if any inquiry is a must as per para 9 above.

✓ 11. That in my case the appellant has been denied of the opportunity of giving his representation against the charges, by not supplying the relevant documents mentioned in the charge sheet as per "Note" below Rule 9(5)(ii) at page 31 of the DAR Brochure to enable me to submit my defence statement statutorily required under Rules 9(4). This act of denial of the reasonable opportunity under the "Principles of Natural Justice" is an exposure of prejudice and vindictiveness of the disciplinary authority against the appellant and also established that the statutory provision of the rules framed by the President was violated by the Disciplinary authority in the appellant's case.

12. That the appointment of an enquiry officer on the very date of the charge sheet, without waiting for 10 days from the date of supply of the documents and completion of the inspection of the documents and forming an opinion for holding an enquiry without seeing the defence statements and without a communication to the accused employee of his failure to submit his defence statements within the period permissible under statutory rules, is a clear malafide, violation of rules, illegal and unsustainable.

13. That the appellant after working upto 01.2.86 proceeded on statutory rest on 2.2.86. He could not join his duties from 3.2.86 onwards due to his sudden severe illness. As the appellant has not been provided with any railway quarter, he resides in Chowk area. So, the appellant had taken treatment from a registered private medical practitioner.

14. That the appellant has sent the requisite intimation of his sudden sickness, requesting for doing the needful, was sent to Loco Foreman, Charbagh by post under Postal Certificate vide his application dated 4.2.86. Thereafter again I sent the second intimation under the same above mentioned procedure to the LF/CB vide his application dt. 4.3.1986 stating therein about the advised duration of treatment and rest for full recovery from sickness.

✓ 15. That the appellant after being recovered from self illness, reported for duty, on 4.4.86 Forenoon alongwith sick and fit certificate to LF/CB, who sent me to DMO/ASH with a C-89 Memo for a "Fit for duty" Certificate. The D.O/ASH also issued me the requisite certificate and accordingly I resumed my duties w.e.f. 4.4.86 F/N.

✓ 16. That the appellant had also applied for regularisation of my sick period by sanction of leave as due and admissible on the authority of sick and fit certificates issued by a competent registered medical practitioner, and the LF/CB had also recommended sanction of the leave for regularisation of my sick period from 3.2.86 to 3.4.86 vide his letter No. M/Cl.IV/Maint/86 dt. 5.4.86, alongwith the facts of my case, to DRM(P)/N.E.Rly.LKO. This recommendation of the immediate controlling supervisor to the DRM(P) ought to be deemed to have been sanctioned in terms of Rly. Board's letter dt. 14.6.1978.

17. That I have been sanctioned leave by the competent authority on my personal file and regularised my entire sick period from 3.2.86 to 3.4.86 without pay as per information I have been given to know from the dealing section of the Personnel Branch. Hence, my entire sick period now stands regularised as leave without pay, which has entailed imposition of a punishment of without pay and thus the absence on self sickness from 3.2.86 to 3.4.86 is no more unauthorised for any purpose.

18. That as per provision of the Constitution, imposing two punishments i.e (i) leave without pay, despite my having leave in my credit, (ii) removal from service w.e.f. 18.7.86 is totally illegal and unsustainable in law of this land.

19. That the appellant had also performed his duties during the period from 4.4.86 to 4.86, after resumption of my duties from self sickness. Accordingly the allegation of my unauthorised continued absence does not arise after my resumption and deemed sanction of leave.

20. That the appellant was sanctioned Rest on 2.2.86 and as such absence on self sickness in continuation of leave from duties is automatically required to be deemed to be on leave on half average pay as per extent statutory rules contained in I.R.Ett. Code Vol.II. Therefore, the allegations in the Charge Sheet and the removal order both are illegal, malafide, unfair labour practice, vindictive and unsustainable. The order of removal as such ought to be set aside and the appellant deserve to be re-instated to his service from 19.7.86 with full wages for the entire period.

21. That the I.O. in his report has cited the definition of the term "unauthorised absence" presumably from some authentic railway documents either in his personal possession or in the possession of the Railway Administration. According to the same, read with the rules mentioned above and the facts aforementioned, the appellant was not in unauthorised absence. The appellant is exempted from production of any certificate of inability to attend duties for three days in the case of self sickness while under treatment of a private Medical Practitioner as per Rly. Board made rules. Hence, my absence of first three days leave is permissible as per statutory rules.

22. That for extended period of my absence on self sickness beyond three days, I had sent the intimation to the immediate controlling officer through appropriate Government Agency i.e. Post & Telegraph Department and I have been issued a certificate of their receipt of my intimation to the competent authority for delivery of the same to the addressee. I have also adduced a copy each of my applications dated 4.2.86 and 4.3.86 and the certificates issued by the appropriate Government Agency during the course of enquiry proceeding. The I.O. has also admitted this fact in para 5 of his report.

23. That the I.O. in para 8 of his report he has presumed facts and contended that the appellant's first intimation dated 4.2.86 to LF/CE should have carried the recommendations of the Doctor for two months, not for one month and he has expressed a defamatory aspersions doubting the appellant against his actual dropping of his application dt. 4.2.86, which means that the Central Government Agency is a corrupt body and the certificate issued by the Govt. Agency is a corrupt one. Further, the I.O. is totally void of the knowledge that the letters received by the Govt. Agency, for which they issue a receipt, are not dropped in my any letter box. Those are received by them and the senders are issued receipts. Thereafter, they arrange its deliveries the addressees through their own machineries. The I.O. for his written defamatory statements deserve being pulled up for actions against him. However his contentions only a presumption and baseless. It is reiterated that the appellant's application dated 4.2.86 was delivered to the appropriate authority for doing the needful and I have since adduced an evidence in its support during enquiry proceeding.

24. That the wishful presumption of the I.O. in para 8 of his report about the attending Doctor's advising rest for two months in the first instance itself is having no leg to stand before law, because the Doctors also presume a likely period for recovery from the ailments as per symptoms. They are measured by any measuring gauge. The period of rests advised to the patient can be less or more subsequently after commencement of the treatments and it often experienced by every body in practice. The ~~XXX~~ I.O.'s contentions are only imaginary, presumptive, prejudicial, malafide, wishful and illegal. His all contentions clearly expose that he cooked his report in a manner to present the facts of his report to give a look of his avoidable long exercise in cooking the design to please his immediate officer and my disciplinary authority.

to establish my guilt. He has not the least acted in compliance with Board's letter No. E(D&A)78 GSI-9 dated 14.12.1978. He has acted under the influence of the disciplinary authority and thus he was partial, biased and prejudiced against me.

25. That the I.O.'s wishful suggestion in para 9 of his report has no basis under the circumstance explained above. In addition, it is pertinent to mention here that he has exposed his mind and conduct that he is certainly not a fair and honest person. He in every matter presented facts according to his nature and conducts. It is never expected of an honest man of sense of self respect to repeat any fact and foresee to cover future planning against an invisible and unexpected conspiracy against him. Because, when any man has sent an intimation through the Govt. agency for delivery to its addressee, every common man expects its correct delivery, except the corrupts and criminals who always move anti-clockwise and suspects every body and every acts of others. As a common man, in the absence of any written or verbal direction from the Rly. Administration for resumption to duties or otherwise for any other actions whatsoever, the question of suspecting an unusual thing before hand and attempt to cover the suspected unusual happening the I.O. wished that I should have made a mention of my letters sent through appropriate Govt. agencies to LF/CB. It was expected and believed in good faith that those two letters already sent through the correct Govt. agencies had reached the addressee within reasonable time.

26. ~~xxxxxxxxxx~~ That as per wishful contention of the I.O. mentioned in para 9, he wished that the appellant must have mentioned of the fact of his sending two intimations and he attempted to project that fact, a very big issue so as to justify his subsequent submission all about the charges having been established. In this respect it is worth pointing out that in that case it would have rather been an attempt of an hardened criminal aimed to cover the fact of lapses where practically no intimation was sent. But in this case the story is totally opposite. The appellant did sent two intimations on two different date, for which I was issued authenticated certificates by the competent authority of the appropriate Govt. agency, and as such it is assumed that these intimations have certainly reached. Had I not done the same, I should have mentioned those two facts only with criminal intents as for covering the lapse of "not sending" intimation. It is, therefore, submitted that the wishful suggestion of the I.O. should have not been mentioned in his enquiry report and he ought to have relied only on those documents or evidence adduced during the enquiry proceeding. All his imported story, presumptions and suggestions have no leg to stand before law, nor the disciplinary authority accepted these presumptions, suggestions, wishes etc. in the case. These acts of the I.O. is a naked acts of his being prejudiced, biased, under influence of the disciplinary authority, who is in turn his controlling officer and the I.O.'s future service career prospects is dependent on the disciplinary authority. The I.O. nakedly attempted to please the Disciplinary authority-cum-controlling officer of the I.O. It is as such proved enough that the finding/Report of the I.O. was neither fair, nor had been based on facts.

27. That the I.O. had tried to establish in para 10 of his report that the appellant did not send the intimation by referring to those questions what he believed to be helpful to his ill desires. He did try to take out truths to the effect of whereabouts or availability of those intimations. He mentioned of the answers to Q. 2,3,4 & 15 which related to the points whether the appellant told the fact of his sending intimations to Sri Mumir Ahmad, T.K. and the procedures of receipt of the intimations. The exercise of the I.O. done in this respect is useless and futile and not contributive to the fact of receipt of my two intimations.

28. That Sri Mumir Ahmad, Time Keeper, examined in this case, was not a Rly. witness as per Annexure-IV of the Charge Sheet. Accordingly, Sri Ahmad was not to be called as a Rly. witness. LF/CB was the only witness and he alone was enough because he was the Incharge of the Charbagh Shed and he could have

given these replies. He was the person brought into the proceeding by the I.O. only to fill up the gaps in meeting his unfair desire. This act of the I.O. is uncalled for, unwarranted, unfair and illegal ~~xx~~ in terms of the "Note" under Rule 9(12) of the D&A Brochure.

29. That in terms of extant rules quoted in the foregoing para, the portion of the proceeding pertaining to Sri Mumir Ahmed and others who are not included in the list of Rly. witnesses mentioned in Annexure-IV are warranted to be deemed deleted as they were called into the proceeding by the I.O. at his own to fill up the gaps and being illegal as per extant rules.

30. That further, Sri Mumir has since confirmed that letters received from staff through P & T Deptt. are received by three agencies like he himself, receipt and despatch section and the office Supdt. Out of those letters received, registered letters only are diarised in the receipt section and sent through receipt register, other letters are not registered/entered in the receipt register (Ans. to Q. 16-17). Accordingly, the following facts stands proved:-

- (a) Appellant's letters were received by LF himself and sent to OS for further action, but lost in transit from the shed; or
- (b) Intimations were received in Receipt Section or by OS and these were either lost in transit or Mumir Ahmed and others came to give witness have under fear or influence of their controlling officer (AME/Loco) have displaced these intimations from records or torn off so as to prove the fabricated charges.
- (c) Both the intimations were received by Sri Mumir and now he has removed them from records and destroyed them to help sustaining the charges against the appellant framed by AME(Loco), because there is no record with LF office and all incoming letters are not registered in the Receipt Section Register. This lapse of the Rly. Administration is a violation of the rules made by the Central Govt. in this respect. As per statement of Sri Mumir Ahmed, there is total absence of a system to establish "non-receipt" of my intimations sent to the Railway, whereas the appellant is having an authenticated document to establish the fact of my posting of the intimations.

31. That the I.O.'s presumption of my not sending the intimation and assuming Sri Mumir's not receiving the intimation sent by the appellant as final in the absence of a full proof system has no leg to stand before law. Quite possible that those intimations were sent to AME(L) or DME(L) for sanctioning of leave, the duration of leave being beyond LF/CB's powers. The I.O.'s presumption and creation of new facts to fill up gaps are not at all a valid evidence in the matter.

32. That I.O.'s presumption and suggestion in para 11 of his report is no evidence against the appellant and thus ultravires.

33. That I.O.'s imagination and presumption contained in para 12 of his report claiming to have established the fact that the appellant did not drop those two intimations dt. 4.2.86 and 4.3.86 are the clear and ambiguous exposure of his being prejudiced against the appellant and his acting at the behest of AME(Loco). His presumptions and imaginations have no validity before law. His those contentions are also proof of his being doubtful integrity because he has claimed the Govt. Officers to be corrupt and impliedly claimed that the Govt. Officers are contributive to the corruptions and they have contributed in concocting false evidence in this case. This act of the I.O. is also an exposure of his corrupt conduct and his having the knowledge from his own deeds how the evidence can be corrupted. He has

certainly no knowledge that there are still persons opposite to his conduct and his imaginations and presumptions. Before commenting on any body's conduct etc., he should have peeped first in himself and his family members how far they are honest and to what extent they are corrupt and chit. An inveterate sinner is always the loudest in denunciation

34. That the I.O. has corruptly attempted to fabricate a tale to give a leek to the same to have established his claim. But truth remained truth and his corruptious remained exposed, which has been explained in the few words in the next para.

35. That the I.O. asked the appellant whether the "Leave extension" letter addressed to LF/CS was dropped in the letter box by meself or through some other man. In reply I said that I myself had posted that in the GPO and delivered the same to the officer at the Counter, who after that gave me the receipt of posting. In the same context the I.O. asked me the reasons why I did not post the intimation letter in the post office of my home area and I had replied him the facts. The I.O. nakedly twisted the facts to fulfil his corrupt desire and he contended the leave extension letter dated 4.2.86 as of 4.2.86 (first letter) whereas the letter of 4.2.86 was a prayer for sanction of one month's leave and the second letter of 4.3.86 was for extension of leave. It is reiterated that I went to enquire about receipt of my first letter of 4.2.86 and drawel of my pay for the Feb/86. My reply pertains to the date 4.3.86, not 4.2.86 as the I.O. has corruptly contended. I had been to DRM Office after about one month of the first letter of 4.2.86. He has passed unwarranted comments like a mad <sup>dog</sup> to show his ever smartness and stock of few English words. Empty vessels sound much.

36. That the suggestion and wishful contention of the I.O. has no leg to stand before law. He wishes to his choice of many "Shoulds" which are only his wishful thinking and no bearing to the facts. No common man carry any doubt in his acts, only the criminals, chits and anti-socials. Carry a doubt in their acts whether any clue has been left behind for their apprehensions. They, therefore, go on doing acts to cover up their misdeeds, whereas the general persons do a thing firmly and take that granted that their doings have reached the goal. The I.O. has proved him to be a hardened criminal and chit by his comments. Accordingly he considered the appellant alike. As he does, he also presumes others doing the same. As I had sent the written intimation by post and that also under postal certificates, in which case the appellant look it granted to its having reached to the addressee. Had I not dropped, I would have a criminal doubt like the I.O. and I would have tried to enquire about the receipt of my application, nor had the question of giving a fresh application arisen. It is affirmed that neither I tried to know whether the same had reached the addressee, nor had I felt necessary about the same, as I sent the communication through appropriate Govt. agency for the purpose.

37. That in case the intimations sent to the LF/CS did not reach to the Loco shed, I should have been called back to duties, or had there been any doubt about genuineness of my sickness, the Rly. ought to have advised me with a memo to report to the assigned Doctor. But there was total absence of any direction for me and thus it is the absolute choice of the Railway servant whether to avail of prolonged free Railway treatment for recovery or to undertake treatments from Private Medical Practitioners for early ~~recovery~~. Railways business is only to ascertain through Rly. Doctors whether I was honestly ill or pretended only and for this purpose I ought to have been directed in writing. But I was not issued any sort of direction either in writing or verbally and also that my PMC for the entire period of illness i.e. from 3.2.86 to 3.4.86 has been accepted and I had resumed my duties after being declared fit for duty by the Rly. Doctor. Hence, issuance of the Charge Sheet after resumption to my duties smacks malafide, prejudice, vindictiveness and unfair labour practices with me.

38. That the contention of the I.O. in para 15 of his report that as per Sri A.C. Bhawnic I was shown absent from 3.2.86 to 3.4.86 has no meaning in my case, because till the time the sick period is regularised as leave due by competent authority, that period ought to be shown as absent as per extant rules. The I.O. here has attempted to show his over smartness due to mere prejudice. A statement of demerited.

39. That the wishful thinking and contentions of the I.O. in para 16-18 of his report is baseless, ultravires in my case and irrelevant on the charges before law.

40. That the I.O.'s contention in paras 19-22 is only his madness and without any backing or authority of rules. Those are only a mad person's personal wishes, which has no weight before the eyes of law in the instant case.

41. That the appellant most respectfully submits that the I.O. appears to have gone mad and he needs to be referred to the Medical College or any lunatic asylum for his treatment and recovery, failing which the Railway is bound to incur severe losses and his family also to suffer lots. He has over enthusiastically gone far beyond his jurisdiction as an I.O. which are all illegal.

The charges against the appellant were violation of (a) devotion to duties (Rule 3(1) (ii)) (b) obligation of not doing any thing unbecoming of a railway servant. The I.O. over enthusiastically imported one additional charge of failure to maintain integrity at his own accord and here he acted above disciplinary authority in much excess jurisdiction. None of the charges have been proved by any valid evidence adduced during the inquiry proceeding as per charge sheet. None of the imaginations, presumptions, naked prejudicial wishes, wishful expectations of the I.O. is valid before the eyes of the law. Nor I have violated the provision of 3(1)(ii) or 3(1) (iii). Taking earned leave on self sickness or taking treatment of a registered medical practitioner for quick relief and curative treatment does not come within the definition of any of the provisions of the rules quoted in the charge sheet. My documents in support of me sending the intimation of leave asked for is valid as per law of this land. For her, the appellant is a confined Railway Employee and as such he is entitled to getting 5 years period for going back to my duties as per extant Rly. Rules. This act of removal from service without waiting for 5 years and without asking the workman to join his duties is totally illegal and not maintainable before Law.

I, therefore, pray to your kindself to set aside the order of removal from services, with full back wages till the date of joining duties, for which act of yours I shall remain ever thankful to you.

Yours faithfully,

Lucknow Dated: 12-9-86

(RAM GOPAL MISHRA)  
Fitter Khalasi, Loco Shed,  
N.E.Rly., Chanciagh.

Copy forwarded ~~to~~ for further necessary actions as per Rule 21(2) of the R.S. 'D&A' Rules, 1968 to AME(Loco) N.E.Rly., Lucknow.

Lucknow Dated: 12-9-86.

21/10/1986 (S)  
(RAM GOPAL MISHRA)  
Fitter Khalasi, Loco Shed,  
N.E.Rly., Chanciagh.

Attested  
S.K. Jaiswal  
P.W.D.

ब अदालत श्रीमान् Central Administrative Tribunal  
 [वादी अपीलान्ट] महोदय  
 प्रतिवादी [रेस्पाडेन्ट] श्री ... Ram Gopal Mehta A51  
 का वकालतनामा



वादी (अपीलान्ट)

नं० मुकदमा

सन्

पेशी की तात्त्विकता

१९ ई०

Ram Gopal Mehta  
 Union of India Attorney

प्रतिवादी (रेस्पाडेन्ट)

ऊपर लिखे मुकदमा में अपनी ओर से श्री Satish Kumar Tripathi Advocate  
 H.N. 551 K/331 Kha, Bhilawal जनरल  
 Alambagh Lucknow-5 महोदय  
 एडवोकेट

अदालत	नं०	फरीदन
मुकदमा	नं०	तात्त्विकता

को अपना वकील नियुक्त करके प्रतिज्ञा ( इकरार ) करता हूँ और लिखे देता हूँ इस मुकदमा में वकील महोदय इवयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी ज्ञारी करावे और रुपया बसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकदमा उठावें या कोई रुपया जमा करें या हारी बिपक्षी ( फरीदसानी ) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त ( दस्तखती ) रसीद से लेवे या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सवंथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकर को भेजता रहूँगा अगर मुकदमा अदम पैरवी में एक तरफ मेरे लिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और सस्य पर काम आवे ।

हस्ताक्षर (Signature)

साक्षी (गवाह) ... साक्षी (गवाह) ...

दिनांक ..... महीना ..... सन् १९६७ ई०

स्वीकृत

S.K. Tripathi  
 Advocate  
 15/9

AS2

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

S.N. 59

CIRCUIT BENCH, LUCKNOW

27/8/92

O.A. No. 265 of 1989

*R.G.M.* Ram Gopal Misra ..... Applicant

Versus

*27/8/92* Union of India & Others ..... Opposite Parties

COUNTER REPLY ON BEHALF OF OPPOSITE PARTIES

I, S M N Delam aged about 34 years,  
son of S M Delam do hereby solemnly  
affirm and state on oath as under :

That the Official named above is working as  
So. Div. Person of Officer in the Office of Divisional Railway  
Manager, North Eastern Railway, Ashok Marg, Lucknow,  
and as such he is fully conversant with the facts and  
circumstances of the case. He has been duly authorised  
to file this Counter reply on their behalf.

1. That the contents of para 1 of the application  
need no comments.

*S. Delam*  
एवर सेन्ट्रल कॉर्पोरेट विभाग  
नेशनल रेलवे, लखनऊ

2. That the contents of para 2 of the application need no comments.

3. That the contents of para 3 of the application need no comments.

4. That the reply of para 4 of the application is being given as under :

4.1 That the contents of para 4.1 of the application need no comments.

4.2 That the contents of para 4.2 of the application need no comments.

4.3 That in reply to para 4.3 of the application, it is stated that the contents therein are not accepted, and in reply thereof it is stated that the applicant was posted as a fitter khallasi in the pay scale of Rs.196-232 by the orders of Assistant Mechanical Engineer, Loco, Lucknow, vide office letter No. E/M/227, dated 14/15-6-84, ~~with retrospective effect~~, ~~with~~ ~~with~~ As such the Appointing Authority is very much competent to issue a major memorandum and awarding punishment regarding removal, dismissal, termination and compulsory retirement.

4.4 That the contents of para 4.4 of the application are not accepted, and in reply thereto it

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is stated that in terms of Railway Board's letter No. E/D&A-83 RSG-14, dated 29-3-85, appointment of Enquiry Officer should invariably be made simultaneously with the issue of Charge-sheet. As such the instructions were correctly followed. Any allegation contrary to it is denied.

4.5 That in reply to para 4.5 of the application, it is stated that the applicant gave an application, dated 15-5-86 in defence to charge-sheet, asking for certain documents and clarifications. The relevant documents i.e. the copy of the report of Loco Foreman, Cherbagh No. Ya/Chaturth Shraini/Anu-86, dated 5-4-86, on which the charge was based, was supplied to him along with the charge-sheet. The rest relevant documents were shown and explained to the applicant during the course of enquiry as desired by his defence Assistant, on which the order dated 6-6-86 was passed, by which the applicant was allowed to inspect the relevant record. A true photo copy of the order, dated 6-6-86, based on the application of the applicant, is being annexed as Annexure No. R-1 to this Counter reply.

At the closure of enquiry, the applicant never his note of defence under Rule 9(22), and did not say anything regarding dissatisfaction with the enquiry proceedings whatsoever including reasonable opportunity and facilities. Any allegation contrary to it is denied.

*Sudarshan*

वर मठन कामिक अधिकारी  
पूर्वोत्तर रेलवे · लखनऊ

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4.6 That the contents of para 4.6 of the application are wrong, hence denied, and in reply thereof it is stated that the applicant sent no intimation regarding his unauthorised absence from 3-2-86 to 3-4-86 was given by the applicant before 3-4-86. The private medical certificate covering the period from 3-2-86 to 2-4-86 and duty fit certificate (Fitness certificate) from Divisional Medical Officer, Aishbagh, Lucknow, were submitted by the applicant on 3-4-86 in the office of Loco Foreman, Charbagh, Lucknow. Had the applicant actually given or posted any application as submitted during DAR Enquiry to Enquiry Officer, the first application, dated 4-2-86 must have borne the period of sickness of 2 months, as the Medical Certificate issued by Vaid Pearey Lal Gupta (Dated 3-2-86), 7, Sidhanath Market, Nizam Mahal Road, Lucknow, bears the period of sickness of two months and not one month. A true copy of the Medical Certificate submitted by the applicant is being annexed as Annexure No. R-2 to this Counter Reply.

Actually, the applicant concocted the alleged applications, dated 4-2-86 and 4-3-86 to cover up his folly of neither reporting to Railway Doctor nor intimating to Loco Foreman, regarding the reasons of his absence. The applicant has submitted in his reply to question No. 10, asked during the course of enquiry,

S. N. U. L. A.  
मण्डल कामिक अधिकारी  
रीति रेतवे · लखनऊ

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like "Maine swayam G.P.O. Lucknow main lifafe main  
letter rakhkar letter box main post kiya." The true  
copy of the extract of the said statement of the applicant  
is being annexed as Annexure No. R-3 to this Counter reply.  
Whereas the letters sent under Certificate of Posting are  
not posted in letter box, but given to the counter clerk  
who grants the Certificate of Posting, and keeps the  
letters with him for further disposal.

4.7 That the contents of para 4.7 of the  
application are not accepted. In reply thereof, it is  
submitted that the applicant remained absent without  
any authentic information from 3-2-86 to 3-4-86 unautho-  
risedly as detailed in previous para's of this reply.  
The rest of the allegations contained in para under reply  
are denied as those are false.

4.8 That the contents of para 4.8 of the  
application are not accepted, and in reply thereof, it is  
stated that the private medical certificate was deposited  
by the applicant in the office of Loco Foreman on 3-4-86.  
The applicant was directed to obtain duty fit certificate  
from Divisional Medical Officer, Aishbagh, Lucknow, and  
applicant was allowed duty on 4-4-86 by Loco Foreman,  
Charbagh, on that basis. The Duty Fit Certificate by  
a railway doctor is neither the sanction of period as

Shri Shivnani  
एवर कॉर्डल कार्मिक अधिकारी  
रेंटीतर रेलवे - लखनऊ

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leave due nor directs the controlling officer to do so.

The privilege of leave cannot be claimed as a right in all the cases, but is discretionary.

4.9 That in reply to the contents of para 4.9 of the application, it is stated that the Duty Fit Certificate issued by the Divisional Medical Officer, Aishbagh, Lucknow, is only a certificate of declaration that the person to whom it has been given is fit to perform his duties, but it does not recognise the period of alleged illness, as during that period the applicant never contacted the Divisional Medical Officer or never consulted any railway medical officer.

4.10 That the contents of para 4.10 of the application are not accepted. In reply thereof it is stated that the applicant was issued major memorandum on the grounds of remaining unauthorisedly absence from 3-2-86 to 3-4-86, which is a serious misconduct, thereby violated the Railway Service Conduct Rule 1966. The applicant was removed from service after a duly conducted DAR enquiry under the rules in which he was found guilty of the charges levelled against him. As such there is no such limitation of 5 years under DAR Rules.

4.11 That the contents of para 4.11 of the application

are not accepted. In reply thereof it is stated that the copy of the report of Loco Foreman, Charbagh, was supplied to the applicant along with the charge memorandum. The applicant made no such objection during DAR enquiry even, and all the documents available on record were also shown to the applicant and his defence assistant as per their request (Annexure No. R-1 verifies the same). Nothing contrary to it is denied.

4.12 That the contents of para 4.12 of the application are wrong, hence denied. In reply thereof it is stated that the statement of Loco Foreman and prosecution witnesses were recorded first in presence of the applicant and his defence assistant (Statements recorded has been signed by both of them). The other witnesses were examined in relation to the Loco Foreman's statement, to which the applicant or his defence assistant raised no objection.

4.13 That the contents of para 4.13 of the application are not accepted. In reply thereof it is stated that the applicant did not send any request during his wilful absence. Later on he submitted a private medical certificate and request for leave on 4-4-86 after his unauthorised

absence, which is under the competent authority to consider on the basis of its genuinity. Anything contrary to it is denied.

4.14 That the contents of para 4.14 of the application are not accepted. In reply thereof it is stated that the employees covered by Railway Service Conduct Rules as well as ~~as~~ is expected to maintain his conduct accordingly. Anything contrary to it is denied.

4.15 That the contents of para 4.15 are not accepted. In reply thereof it is stated that the rules are pious and to be followed by the employee and not to be violated. In the instant case the applicant has violated the rules. Anything contrary to it is denied.

4.16 That the contents of para 4.16 of the application are not accepted. In reply thereof it is stated that the report of the Enquiry Officer contains the detailed facts, by which he concluded his findings. The finding recorded by the Enquiry Officer is based on proper appreciation of the facts. Anything contrary to it is denied.

4.17 That the contents of para 4.17 are wrong, hence

S. M. S. U. L. A.  
पर्वत रेलवे लखनऊ  
रेलवे अधिकारी

Abd

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denied. In reply thereof it is stated that the disciplinary authority recorded its finding in detail before passing the order of removal on 18-7-86. Only thereafter the applicant was removed from service. If this Hon'ble Tribunal would require the finding recorded by the disciplinary authority on the personal file of the applicant, would be produced before this Hon'ble Tribunal.

4.18 That the contents of para 4.18 of the application are wrong, hence denied. In reply thereof it is stated that the appeal of the applicant was rejected by the Divisional Mechanical Engineer, Lucknow as well as Divisional Railway Manager, Lucknow, after due consideration and proper appreciation of the facts and circumstances. A true copy of the order passed by the Divisional Railway Manager on 24-2-89 is being annexed as Annexure No. R-4 to this counter reply.

4.19 That the contents of para 4.19 of the application are wrong, hence denied. In reply thereof it is stated that the Assistant Mechanical Engineer is the Disciplinary Authority of the applicant, as he is the Appointing Authority also. As such there is no violation of any rule and provision meant thereof.

*S. M. S. W. L. A.*  
इवा कार्ड कार्यालय अधिकारी  
पूर्वीतर रेलवे - लखनऊ

4.20 That in reply to the contents of para 4.20 of the

application, it is stated that the grounds which have been taken by the applicant, are false, frivolous, concocted and baseless. As such those are not sustainable in the eyes of law, and the applicant deserves to be dismissed throughout.

5. That in reply to para 5 of the application, it is stated that the grounds for relief and legal provisions mentioned therein are based on misrepresentation and misconception of the facts. Those are false, frivolous and concocted, and as such not sustainable in the eyes of law. The applicant does not deserve any relief, and the application deserves to be dismissed.

6. That the contents of para 6 of the application  
need no comments.

7. That the contents of para 7 of the application  
need no comments.

8. That in reply to the contents of para 9 of the application, it is stated that the applicant does not deserve any relief as prayed. In view of the facts and mentioned in the above para 9 of t.

AF 2

-11-

application as such deserves to be dismissed throughout.

9. That the contents of para 9 of the application need no comments.

10. That the contents of para 10 of the application need no comments.

11. That the contents of para 11 of the application need no comments.

Date 12-4-91

Sudul  
( श्वर मण्डल कार्मिक अधिकारी  
पूर्विक रेलवे लखनऊ )

VERIFICATION

I, S. M. N. Islam, Sr. Div. Personal Officer

North Eastern Railway, Lucknow, do hereby verify that the contents of paras 1 to 11 are true to my personal knowledge, and on knowledge derived from perusal of records relating to the instant case kept in the official custody of the answering respondents. Nothing has been concealed, and nothing stated therein is false.

Sudul  
( श्वर मण्डल कार्मिक अधिकारी  
पूर्विक रेलवे लखनऊ )

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW  
O. A. No. 265 of 1989

Ram Gopal Misra ..... Applicant  
Union of India & Others ..... Opposite Parties  
Annexure No. R- Vs.

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## The enquiring citizen

Sir

B. P. Tripathi  
D/ Counsel

Shri 2 Mr  
दिव्यर महात्मा कामेश्वर अधिकारी  
द्वारा दिव्यर रेलवे - लखनऊ

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW  
O.A. No. 265 of 1989

Ram Gopal Misra ..... Applicant

vs.  
Union of India & Others ..... Opposite Parties

Annexure No. R-2

Ably

Vaid Pearly Lal Gupta

Ayurved Bhishag, R.A.M.P. (B.I.M.)  
Regd. No. 21577

Phone Resi. : 47772  
.. Clinic PP : 49036

7, Sidhnath Market  
Nadan Mahal Road,

(85)

Lucknow, 3...1986

Copy of this letter to Ram Gopal  
Misra whose signature  
is given below has been  
suffering from abdominal  
Pain, fever & Vomiting. He  
is therefore admitted to me  
for 2 months from  
3.2.86 to 2.4.86 to restore  
his normal health. He  
is under my treatment.

21577

Regd No 21577

Vaid Pearly  
Regd No 21577  
Ayurved Bhishag

sig w/ regards  
Vaid Pearly  
Regd No 21577  
Ayurved Bhishag

Swastha

एवर स्वास्थ्य कामिक अधिकारी  
कूर्चीतर रेलवे - लखनऊ

Ram Gopal Misra ..... Applicant  
Vs.  
Union of India & Others ..... Opposite Parties  
Annexure No. R-3

Abd

Contra Case of Ram Gopal Misra (Re-called) on 2.7.86.

Q. 10- on the action for arrest of and quashing of order  
of High Court of Uttar Pradesh on 21.6.86 on order  
of High Court of Uttar Pradesh on 21.6.86 on order  
of High Court of Uttar Pradesh on 21.6.86 on order  
of High Court of Uttar Pradesh on 21.6.86 on order

(212)

Note- Enquiry of DIC regarding 10 20  
order of High Court of Uttar Pradesh on 21.6.86 on order  
of High Court of Uttar Pradesh on 21.6.86 on order  
of High Court of Uttar Pradesh on 21.6.86 on order  
of High Court of Uttar Pradesh on 21.6.86 on order  
of High Court of Uttar Pradesh on 21.6.86 on order

Q. 11- on quashing of order of High Court of Uttar Pradesh  
on 21.6.86 on order of High Court of Uttar Pradesh on 21.6.86  
on order of High Court of Uttar Pradesh on 21.6.86 on order  
of High Court of Uttar Pradesh on 21.6.86 on order  
of High Court of Uttar Pradesh on 21.6.86 on order

Q. 12- on order of High Court of Uttar Pradesh on 21.6.86  
on order of High Court of Uttar Pradesh on 21.6.86

Q. 13- on order of High Court of Uttar Pradesh on 21.6.86  
on order of High Court of Uttar Pradesh on 21.6.86

Q. 14- on order of High Court of Uttar Pradesh on 21.6.86  
on order of High Court of Uttar Pradesh on 21.6.86  
on order of High Court of Uttar Pradesh on 21.6.86  
on order of High Court of Uttar Pradesh on 21.6.86

Subsidiary Question No. 105

Q. 15- on order of High Court of Uttar Pradesh on 21.6.86

A66

5- 12. अम 31 अ 1. 2. 86 दोन अंदां येत  
संवाद दिले गेते

30- दृष्टि, अंदा दृष्टि 13 मी 10. 2. 86 अंदा दृष्टि  
मिंदा दृष्टि दृष्टि दृष्टि दृष्टि दृष्टि दृष्टि  
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Mot - At this stage the delinquent employee +  
defence counsel were informed that the  
proceedings are being closed. As regards  
witness of Mr. M. L. Dwivedi H/Clerk CB  
shed is concerned, it relates to certain  
policies of dealing with the unauthorised  
employees in general, and such policy questions  
have already been asked from Mr. Dwivedi  
hence witness of Mr. M. L. Dwivedi drafted  
his profile of misfeasance by the D/C.

The copies of above proceedings have been  
made over to delinquent employee.

21/11/1986

3-7-86 ज्युलै 1986

Shivkumar  
ठवर मंडळ नामक अधिकारी  
कूर्सितर रेखवे - बद्धनक

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW  
O.A. No. 265 of 1989

Ram Gopal Misra ..... Applicant

vs.  
Union of India & Others ..... Opposite Parties

Annexure No. R- 4

A67

NORTH EASTERN RAILWAY

OFFICE OF THE  
DIVISIONAL RLY. MANAGER(P),  
LUCKNOW.

DATED: 24-2-1988.

Re. E/PC/RGM/FKna.

Shri Ram Gopal Misra,  
Ex. Fitter Khalasi THROUGH

Loco Foreman,  
Cherbagh Shed.  
N.E.Railway.

24-2

Sub:- Appeal of Sri Ram Gopal Misra for  
Revision under Rule 26 of DAR 1982  
dated 9-3-1987.

====

On the above appeal ADMR has passed the following  
orders:-

" I have gone through the entire case including  
revision petition dated 9-3-87 of Sri Ram Gopal Misra  
ex Fitter Khalasi/PCB Shed. The points brought out by  
Sri Misra to prove that he had send timely intimation to the  
railway administration about the periods of his absence and  
his contention that he was not on unauthorised absence during  
the said period as per extent rules, are not convincing.  
In this connection I have also gone through the proceedings  
of the DAR enquiry as well as the various documents submitted  
by Sri Misra in connection with this enquiry. It is apparent  
from the papers on record that Sri Ram Gopal Misra in his  
application dated 4-2-86 and 4-3-86 had mentioned that due  
to his sickness he was unable to resume his duties. In this  
application dated 4-2-86 he had mentioned that one month  
time will be required for his recovery and likewise in his  
application dated 4-3-86 he had again alleged to have  
intimated that one month more will be required for his  
recovery. But Private Medical certificate bearing the date  
3-2-86 produced by Sri Misra recommends the period of leave  
for complete rest for two months with effect from 3-2-86 to  
2-4-86. Had the application dated 4-2-86 been actually posted  
by Sri Ram Gopal Misra, it must have borne the period of two  
months and not one month. Not only that, Sri Misra while  
attending LF's Office on 3-4-86 with his sick and fit certifi-  
cates and applying for regularisation of the period of his  
absence vide his application dated 4-4-86 has not mentioned  
anything that he had intimated regarding his sickness to LF/PCB  
pre-hand by two applications, except that he was in private  
treatment. If the so claimed application had been a fact, in  
the first information so as to emphasis his innocence and  
claim for regularisation of the period covered under P.M.C.

contd.... 2

Sanjulani  
कर्मकालीन अधिकारी  
संतर शेर, एम्स

(25)

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From the above it is established beyond doubt that Sri Ram Gopal Misra Ex Fitter Khalasi/CB Shed was on unauthorised absence from 3-2-86 to 3-4-86 and no intimation from him in respect of his periods of absence was received by the Aly. Administration the charges levied against him are, therefore proved beyond doubt and the punishment given to him in this case is considered just and adequate, and the same is upheld"

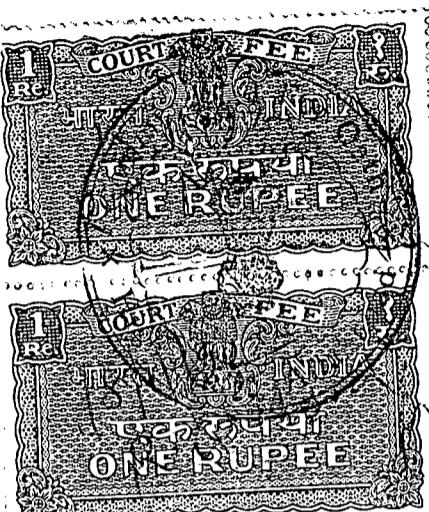
*Shyam*  
For Divl. Bly. Manager (P).,  
Lucknow.

orders at  
2/36&N/37  
Please sign  
J. May  
23/2/89

*Shyam*  
24/2  
for Sir & G. S. M.

*Shyam*  
प्रबंद्ध कामिक अधिकारी  
पूर्वीतर रेतवे - लखनऊ

A69



BEFORE THE HONOURABLE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW.

O.A. No. 265 of 1989

Ram Gopal Misra ..... Applicant  
Versus  
Union of India and ..... Opp. Parties.  
others.

P.T  
8/1/11

REJOINDER AFFIDAVIT ON BEHALF OF THE APPLICANT  
TO THE COUNTER AFFIDAVIT FILED BY SRI S.N.M. ISLAM  
ON BEHALF OF OPP. PARTIES.

I, Ram Gopal Misra, aged about 37 years s/o  
Sri Misri Lal Misra, r/o House No. 173, Shahganj, Chowk,  
Lucknow do hereby solemnly affirm and state on oath as  
under:-

That the deponent is applicant himself in the  
above mentioned case as such he is fully conversant with  
the facts of the case. He has also been read out and  
explained the contents of the counter affidavit filed on  
behalf of opp. parties by Sri S.N.M. Islam which has been  
understood by him and its parawise reply is as under:-

-2-

(1) That the contents of para 1 of the C.A. needs no reply.

(2) That the contents of para 2 of the C.A. needs no reply.

(3) That the contents of para 3 of the C.A. needs not reply.

(4) That the contents of para 4.1 and 4.2 of the C.A. needs no reply.

(4.3) That the contents of para 4.3 of the C.A. are Denied being incorrect in para 4.3 of the application are re-stated.

(4.4) That the contents of para 4.4 of the C.A. are also denied being incorrect and wrong and the facts stated in para 4.4 of the application are re-stated.

(4.5) That the contents of para 4.5 of the C.A. as stated are not correct hence denied and the facts stated in para 4.5 of the application are re-stated.

(4.6) That the contents of para 4.6 of the C.A. as stated are denied and the diversion made in para 4.6 of the application are re-stated.

(4.7) That the contents of para 4.7 of the C.A. as



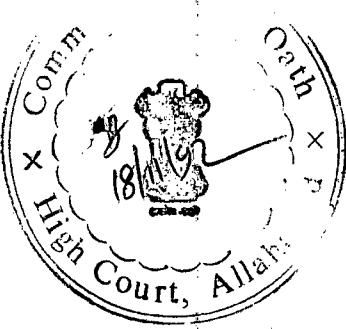
-3-

stated are denied and the contents of para 4.7 of the application are re-~~g~~isterated.

It is further stated that under Chapter XI Medical Attendance and Medical Assistance Rules of the Railway Establishment Rules and it has been specifically prescribed that a Railway Servent residing beyond the jurisdiction of a Railway Doctor must, if he requires leave on medical certificate, submit without delay the medical certificate issued by a registered medical practitioner.

It has again been clarified that private medical certificate issued by registered Medical practitioners, whether Allopath, non-Allopath, Vaid, Hakims etc. may also be accepted for the purpose of grant of leave to non-gazatted staff (Railway Boards No. E-54 ME/Medical of 4.05.57 and 60/MSH/7/29 of 29.11.60.

(4.8) That the contents of para 4.8 of the C.A, are denied and the contents of para 4.8 of the claim petition are re-~~g~~isterated.



A72

-4-

(4.9) That the contents of para 4.9 of the C.A. as alleged are denied and the facts stated in para 4.9 of the application are re-iterated. It is further stated that during the alleged period of absence the deponent was seriously ill and was under the treatment of a private Medical Practitioner whose medical certificate has been submitted to Opp. parties. It is further stated that as per the orders of Railway Board (referred in para 7) the Medical Certificate regarding the illness of a Class IV Railway employee issued by registered Vaidas, Hakims etc. may also be accepted.

(4.10) That the contents of para 4.10 of the C.A. as stated are denied and the facts stated in para 4.10 of the application are re-iterated. It is specifically denied that deponent remained un-authorisedly absence from 3.02.86 to 3.04.86 but in fact he was ill and was under medical treatment of a private medical practitioner. It is denied that the deponent has violated any provision of Railway Service Conduct Rules, 1966 but the applicant has been illegally ordered to be removed from his services in most illegal



21/07/1986

and arbitrary manners.

(4.11 to 4.20)

That the contents of para 4.11 to 4.20 of the C.A. as stated are specifically denied and the contents of para 4.11 to 4.20 of the application are re-iterated.

(5) That the contents of para 5 of the C.A. are denied and it is stated that the grounds for relief and Legal provisions mentioned in the application are sound, legal and just and the application deserves to be allowed with cost.

(6) That the contents of para 6 of the C.A. needs no reply.

(7) That the contents of para 7 of the C.A. needs no reply.

(8) That the contents of para 8 of the C.A. are denied and it is stated that the application bears merits as such is deserves to be allowed with Costs.

(9) That the contents of para 9 of the C.A. needs no reply.

(10) That the contents of para 10 of the C.A. needs



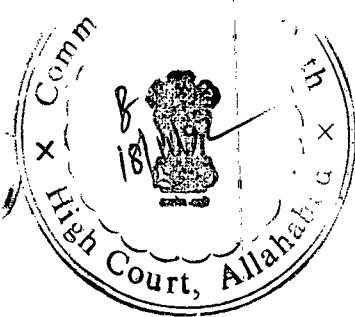
AR4

-6-

no reply.

(11) That the contents of para 11 of the C.A. needs  
no reply.

21/11/91 (H.S.)



LUCKNOW: 18th Nov. 1992  
DATED: OCTOBER: 1992

DEPONENT.

VERIFICATION

I, Ram Gopal Misra, the deponent do  
hereby verify that the contents of para 1 to 11  
of this affidavit are true to my own knowledge  
of the case and legal advice received from

Counsel which all I believe to be true and no material  
has been concealed. So help me God.

21/11/91 (H.S.)

LUCKNOW: 18th Nov. 1992  
DATED: OCTOBER: 1992

DEPONENT

I identify the deponent who has signed  
before me.

T.N. GUPTA  
Advocate.

A75

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Solemnly affirmed before me on ... 18/11/92  
..... at 10.30 AM/PM by Sri... Ram Gopal  
Misra the deponent who is identified by Sri T.N. GUPTA  
Advocate, High Court, Lucknow Bench.

I have satisfied myself by examining the  
deponent that he understands the contents of this  
affidavit which have been read out and explained by  
me.

LUCKNOW: 18th Nov.  
DATED: OCTOBER, 1992

B. N. Misra, Advocate



OATH OF LIONEK  
High Court, Allahabad  
Lionek  
No. 94 | 1069  
Date 18/11/92

**VAKALATNAMA**

Before  
In the Court of

**Central Administrative Tribunal Bench Lucknow**

OA No. 265 of 1989 (C)

..... Ram Gopal Misra .....

Versus

..... Union of India and others .....

¶/We. R.P. Singh, Divl. Rly. Manager, NERly, Lucknow and

..... R.K. Singh, Addl. Divl. Rly. Manager, NERly, Lucknow

do hereby appoint and authorise Shri Umesh Chandra & Akhilesh Pandey

..... Krishna Chandra Adly

Railway Advocate, Lucknow to appear, act apply and prosecute the above described Writ/Civil Revision/Case/Suit/Application/Appeal on my/our behalf, to file and take back documents, to accept processes of the Court, to deposit moneys and generally to represent myself/ourselves in the above proceeding and to do all things incidental to such appearing, acting, applying, pleading and prosecuting for myself/ourselves.

¶/We hereby agree to ratify all acts done by the aforesaid Shri.

..... Umesh Chandra, Railway Advocate, Lucknow

..... in pursuance of this authority.

IN WITNESS WHERE OF these presents are duly executed by me/us this.....

..... day of ..... 198..

..... 5.1.80

..... (R.K. Singh)

अपि संडल रेलवे प्रबन्धक,  
पूर्वोत्तर रेलवे, लखनऊ

..... (R.P. Singh)

संडल रेलवे प्रबन्धक,  
पूर्वोत्तर रेलवे, लखनऊ

NER-84850400-8000-4784

NOTE 1. This Case will be Argued by  
..... Sr. Adv. Chaudhary for the Plaintiff

**VAKALATNAMA**

Before Central Administrative Tribunal Bench Lucknow  
In the Court of

At No. 265 of 1989 (L)

..... Ram Gopal Misra .....

*Versus*

..... Union of India and others .....

\*We. Keshav Deo. Sr. Dirl. Mech. Engr. NERly Lucknow  
and S.M. Praesad, Asstt. Mech. Engr. NERly Lucknow

do hereby appoint and authorise Shri. B.K. Shukla .....

Railway Advocate. Lucknow ..... to appear, act apply and prosecute the above described Writ/Civil Revision/Case/Suit/Application/Appeal on my/our behalf, to file and take back documents, to accept processes of the Court, to deposit moneys and generally to represent myself/ourselves in the above proceeding and to do all things incidental to such appearing, acting, applying, pleading and prosecuting for myself/ourselves.

\*We hereby agree to ratify all acts done by the aforesaid Shri. B.K. Shukla .....

..... Railway Advocate, Lucknow .....

..... in pursuance of this authority.

IN WITNESS WHERE OF these presents are duly executed by me/us this .....

..... day of ..... 198 .....

30/7/80

..... (S.M. Praesad)

Accepted  
B. Shukla

..... Keshav Deo .....

..... (Keshav Deo) .....

## VAKALATNAMA

Before  
in the Court ofCentral Administrative Tribunal Bench Lucknow  
OA 265/88 (L)Plaintiff  
Defendant

Ram Gopal Misra

Claiment  
Appellant

Versus

Defendant  
Plaintiff

Union of India and others

Petitioner  
Respondent

The President of India do hereby appoint and authorise Shri..... B.K. Shukla.....

Rajkumar Advocate Lucknow.....

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

✓ The President hereby agree to ratify all acts done by the aforesaid Shri. B.K. Shukla.....

Rajkumar Advocate Lucknow.....

in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of India this the ..... day of ..... 198.....

Dated ..... 198.....

NER-84850400-8000-4784

Accepted  
B.K. Shukla  
Advocate

Reshawedoo  
(Keshav Deo)

Designation of the Executive Officer,

**VAKALATNAMA**

Before  
In the Court of

Central Administrative Tribunal Bench Lucknow

OA No. 265 of 1989 (L)

Ram Gopal Mehta

*Versus*

Union of India and others

¶/We: K. P. Singh, Dist. Rly. Manager, NERly, Lucknow

and R. K. Singh, Addl. Dist. Rly. Manager, NERly, Lucknow

do hereby appoint and authorise Shri B. K. Shukla

Railway Advocate, Lucknow to appear, act apply and prosecute the above described Writ/Civil Revision/Case/Suit/Application/Appeal on my/our behalf, to file and take back documents, to accept processes of the Court, to deposit moneys and generally to represent myself/ourselves in the above proceeding and to do all things incidental to such appearing, acting, applying, pleading and prosecuting for myself/ourselves.

¶/We hereby agree to ratify all acts done by the aforesaid Shri B. K. Shukla

Railway Advocate, Lucknow

in pursuance of this authority.

IN WITNESS WHERE OF these presents are duly executed by me/us this

..... day of ..... 198 ..

*1/1/80*  
(R. K. Singh)

अपर्य मंडल रेलवे प्रबन्धक,  
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