

CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE NO. 267/89

CAUSE TITLE. OF

NAME OF THE PARTIES S.N. Thar.....Applicant

Versus

..... O.O. I. Respondent

Part A.

Sl.No.	Description of documents	Page
1	Check List	A1 to A2
2.	Index sheet	A3
3	Order sheet	A4 to A7
4	Jud. Index	A8
5	Jud. orders dt. 15-7-91	A9 to A11
6	Writ Petition	A12 to
7	Power	A12 to A24
8	Anscre	A25 to A118
9	Amendment Applications	A119 to A129
10	Em. No. 60/90 with C.A.	A130 to A138
11	Rejoinder Affidavit	A139 to A146
12		
13		
14		
15		
16		
17		
18		

CERTIFICATE

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

Dated

Counter Signed.....


Section Officer/In charge

Signature of the
Dealing Assistant

ANNEXURE - A

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW.

INDEX SHEET

CAUSE TITLE O.A. 267 of 1987 C

Name of the parties.

S. N. Jha

Applicant.

Versus.

Zonal of Delhi

Respondents.

Part A.B.C.

Sl No.	Description of documents	Page
1.	Check List	A1 - A2
2.	Order Sheet	A3 - A6
3.	Judgment dt. 15-7-91	A7 - A8
4.	Relition	A10 - A22
5.	Power	A23
6.	Answerers	A24 - A25
7.	Amended application	A26 - A28
8.	Counter-Affidavit	A29 - A32
9.	Rejoinder	A33 - A35

Final copy.
O. copy

B1 - B13 S
C1 - C5

Check
(N) 24/6/2011

56 ID
R. T. O.

(P)

CENTRAL ADMINISTRATIVE TRIBUNAL
DIRECT BENCH, LUCKNOW

21/9/29

Registration No. 267 of 1989(L)

APPLICANT(S) Shyam Narain Tha

RESPONDENT(S) UNION OF India & others

<u>Particulars to be examined</u>	<u>Endorsement as to result of examination</u>
1. Is the appeal competent ?	yes
2. a) Is the application in the prescribed form ?	yes
b) Is the application in paper book form ?	yes
c) Have six complete sets of the application been filed ?	yes
3. a) Is the appeal in time ?	yes
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/ Vakalatname been filed ?	yes
5. Is the application accompanied by B.D./Postal Order for Rs.50/-	yes
6. Has the certified copy/copies of the order(s) against which the application is made been filed ?	yes
7. a) Have the copies of the documents relied upon by the applicant and mentioned in the application, been filed ?	yes
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	—
c) Are the documents referred to in (a) above neatly typed in double space ?	yes
8. Has the index of documents been filed and paginating done properly ?	yes
9. Have the chronological details of representation made and the outcome of such representation been indicated in the application ?	yes
10. Is the matter raised in the application pending before any court of law or any other Bench of Tribunal ?	—

(K2)

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19

Particulars to be Examined

Endorsement as to result of examination

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

—

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. 6 of the application?

yes

a) Concise?

yes

b) Under distinct heads?

yes

c) Numbered consecutively?

yes

d) Typed in double space on one side of the paper?

yes

18. Have the particulars for interim order prayed for indicated with reasons?

yes

19. Whether all the remedies have been exhausted.

yes

anush/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION NO. 267 of 1989.

(A3)

APPELLANT
APPLICANT

S. N. Dka

DEFENDANT
RESPONDENT

VERSUS

C.A. & others.

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
27/9/89	<p>Non. Justice K. Nati, VC. Non. K. Obayya, Am.</p> <p>One of the grounds taken against the validity of the termination order is that the Enquiry Officer Ram Das Basad was involved in laying the trap and had lodged the F.I.R. against the applicant. The applicant's learned counsel Srin H.A. Hussain admits that this statement is incorrect and he says that the person who lodged the F.I.R. was Zakir Ali, the decoy. He will apply for suitable amendment in the petition accordingly and will also provide the complete address of opposite party No. 4 within two weeks. List for admission on 11-10-89.</p> <p>OK</p> <p>Non-amendment application has filed so far.</p> <p>Neither amend nor any complete address of O.P.N. 4 has been filed so far submitted for ad</p>	
11/10/89	<p>No setting. Adj to 10 X 04.</p> <p>h</p> <p>17/10/89</p>	

(A) Order-sheets

OA No. 267/89

29.1.90

Hon. Justice K. Nalk, V.C.
Hon. K. J. Raman, A.M.

On the request of the
applicant's counsel, list this case
for admission on 23.2.90.

M.

A.M.

DR
V.C.

23.2.90

Hon Justice K. Nalk, V.C.
Hon Mr. K. Obayya A.M.

Counsel for the applicant, was not
present. List the case on 10.4.90
for admission.

DR

A.M.

DR
V.C.

10.4.90

Hon. P. S. Habib Mohammad, A.M.
Hon. S. P. Sharma, T.M.

On the request of the
applicant's counsel, list this
case for admission on 25.5.90.

T.M.

DR
Master(A)

OR
Submit
admission

(A5)

10

18-9-89

Applicant - appeared
through his Ld. counsel.

O.P. failed to file Counter
Pet. w/c + order al-
1.00 P.M.

18-9-89

18.10.90

Applicant is present. O.P.
has also not filed Counter, so far.
Hence, the case is listed before the
Hon. Bench on. 10.10.90 for orders.

18/10/90

10.10.90

No setting Adt to 8.11.90

8.11.90

Hon. Mr. M. K. Privalier A.M.
Hon. Mr. D. K. Agarwal J.M.

Due to resolution of Bar Association
Case is adjourned to 17.12.90

B.O.C

O.A. No. 267/89 (L)

5.4.91

D.R.

No appearance has
been made on behalf
of the applicant. D.P.
is present today.

Applicant is directed
to file Rejoinder
by 28.6.91.

✓
R.A. filed
5/4/91

28.6.91

D.R.

Both the parties
are present. In this
case C.A.R.A. have
been exchanged.
Hence, this case is
ready for final hearing.
So, this case is to be
listed before the

Hon. Bench on
15/7/91.

④ Recd copy of Judgment ^{1/1}
D.P. filed ^{2/1}
26/6/91 (Applicant)
L. S. Bhandari

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
LUCKNOW CIRCUIT BENCH.

O.A. NO. 267/89(L).

1990 (L)

Case No.

DATE OF DECISION 15.7.91.

Shyam Narain Jha

PETITIONER

Mr. L.P. Shukla Advocate for the Petitioner(s)

VERSUS Union of India & ors.

RESPONDENT

Mr. Anil Srivastava Advocate for the respondent(s)

CORAM:

The Hon'ble Mr. Kaushal Kumar, Vice Chairman

The Hon'ble Mr. D.K. Agrawal, Judl. Member

1. Whether Reporters of local papers may be allowed to see the Judgment? Yes
2. To be referred to the Reporter or-not? Yes
3. Whether their Lordships wish to see the fair copy of the Judgment? No
4. Whether to be circulated to other Benches? No

(D.K. Agrawal)

J.M.

(Kaushal Kumar)

V.C.

15-7-91

(AP)

In the Central Administrative Tribunal, Allahabad,
Circuit Bench, Lucknow.

Date of Order: July 15, 1991.

O.A. No. 267/89.

Shyam Narain Jha ...Applicant.
Mr. L.P. Shukla ...Counsel for Applicant.

V.

Union of India & ors. ...Respondents.
Mr. Anil Srivastava ...Counsel for Respondents.

CORAM:

The Hon'ble Mr. Kaushal Kumar, Vice Chairman

The Hon'ble Mr. D.K. Agrawal, Judl. Member

MR. KAUSHAL KUMAR, VICE CHAIRMAN:

In this application filed u/s 19 of the Administrative Tribunals Act, 1985, the applicant who was employed as a Booking Clerk at Puranpur Railway Station, North-Eastern Railway, has challenged the order dated 28.2.89 filed as Annex. 15 with the application imposing upon him the penalty of removal from service under rule 6(viii) of Part III of the Railway Servants (Discipline & Appeal) Rules, 1968 and the order dated 27.6.89 passed by the appellate authority (filed as Annex. 18 with the application) by which his appeal dated 27.3.89 against the said penalty was dismissed. The articles of charges framed against the petitioner run as follows :-

15/7/89

"Sri S.N. Jha Head Booking Clerk while on duty in the Booking office, Puranpur on 15.6.87 from 00.hrs. to 08 Hrs. shift, has committed serious misconduct in as much as that he being a habitual offender of realising excess money from the passengers on booking the tickets deliberately realised Rs. 110/- (One hundred and ten) against the actual fare of Rs. 108/- (One hundred and eight) on the sale of two tickets ex. Puranpur to Siwan from the decoy with ulterior motive for his private gain and when detected, he took aibi of returning the same to the decoy purchaser alongwith the tickets sold to him although the fact was far off from the truth.

The above act of Sri Jha shows his failure to maintain absolute integrity, devotion to duty and an act unbecoming of a railway servant, which tantamounts to misconduct. He, thereby, has contravened the Railway Services (Conduct) Rules No. 3(1) (i), (ii) & (iii) of 1966."

2. At the time of hearing of the case, the learned counsel for the applicant raised the plea that a copy of the enquiry report had not been furnished to the applicant before imposing the penalty and that the principle of natural justice had been violated. Annex. 15 by which the penalty of removal from service was imposed on the applicant clearly indicates that a copy of the report of the Enquiry Officer was enclosed with the order imposing the penalty on the applicant. Apparently a copy of the enquiry report was not furnished to the applicant nor was he given an opportunity to make a representation or show cause against the imposition of penalty before the disciplinary authority passed the order imposing the penalty. In the case of Union of India v. Mohd. Ramzan Khan (AIR 1991 SC 471), the Supreme Court observed as follows :-

*joined
15/7/81*

"We make it clear that wherever there has been an Inquiry Officer and he has furnished a report to the disciplinary authority at the conclusion of the inquiry holding the delinquent guilty of all or any of the charges with proposal for any particular punishment or not, the delinquent

3.

is entitled to a copy of such report and will also be entitled to make a representation against it, if he so desires, and non-furnishing of the report would amount to violation of rules of natural justice and make the final order liable to challenge hereafter."

In view of the law as laid down by the Supreme Court, the imposition of penalty of removal from service in the present case cannot be sustained.

3. Accordingly, the order dated 28.2.89 passed by the disciplinary authority and the order dated 27.6.89 passed by the appellate authority are hereby quashed. However, we make it clear that the respondents will be at liberty to proceed afresh in the matter in accordance with Rules and law on the subject from the stage after ~~the~~ furnishing of the copy of the enquiry report to the applicant and giving him an opportunity to represent and show cause against it. The parties to bear their own costs.

DK Agrawal
(D.K. Agrawal)
J.M.

h. kumar
(Kaushal Kumar) 15.7.91
V.C.

Thanvi.

Central Administrative Tribunal
Circuit Bench, Lucknow
Date of Filing 21/9/89
Date of Receipt by Past

Deputy Registrar(J)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,
LUCKNOW.

ORIGINAL APPLICATION NO. 267 OF 1989 (L)

Shyam Narain Jha - - - - - Applicant

Versus

Union of India and others - - - - - Opp. Parties

I N D E X

Sl. No.	Description of Papers	Page Nos.
1.	Memo of Application Annexure file II	1 - 11
2.	Annexure No. 1: F.I.R. dated 23.6.87	1 - 11
3.	Annexure No. 2: Charge sheet	12 - 13
4.	Annexure No. 3: Memorandum dated 27.4.88	14 - 18
5.	Annexure No. 4: Statement of Nk. Girraj Pd.	19 - 2
6.	Annexure No. 5: Statement of Zakir Ali	22 - 2
7.	Annexure No. 6: Statement of G.N. Misra	26 - 2
8.	Annexure No. 7: Statement of S.N. Prasad	30 - 3
9.	Annexure No. 8: Statement of L.E. Khare	35 - 3
10.	Annexure No. 9: Statement of R.K. Misra	38 - 4
11.	Annexure No. 10: Statement of S.N. Jha- Applicant (Self)	42 - 4
12.	Annexure No. 11: Statement of Virendra singh (Application)	46 -
13.	Annexure No. 12: Statement of R. Kishan Khandelwal (Application)	47 - 47
14.	Annexure No. 13: D.A.R. Inquiry Report dated 27.4.1988	
15.	Annexure No. 14: Reply to the above dated 27.10.1988	48 -
16.	Annexure No. 15: Removal Order 28.2.1989	64 -

File today
V.C. VERMA
Steno for 14.
H.A. Hussaini
Advocate 15.
Noted for 27/9
High Court 16.

(All)

13

Index-contd.

27.	Annexure No.16	Appeal filed by the applicant.	70 - 89
18.	Annexure No.17	Reminder of the above appeal filed by the applicant.	90 - 90
19.	Annexure No.18	Rejection order of the appeal dated 27.6.1989	91 - 92
20.	Vakalatnama		
21.	Affidavit		

Dated:

Lucknow.

Applicant

through

H.A. Husaini
(H. A. HUSAINI)
Advocate
Counsel for the Applicant.

**CENTRAL
BEFORE THE HON'BLE/ADMINISTRATIVE TRIBUNAL,LUCKNOW CIRCUIT
LUCKNOW.**

ORIGINAL APPLICATION NO. 267 OF 1989(4).

SHYAM NARAIN JHA, aged about 55 years,
son of late Sri Mahamaad Jha, resident
of Puranpur district- Pilibhit.

.....APPLICANT.

VERSUS

1. Union of India through the Secretary (Railways), New Delhi.
2. Additional Divisional Railway Manager, N.E. Railway, Izatnagar, Bareilly.
3. General Manager, N.E. Railway, U.P., Lucknow.

Amritsar 4.
Incorporated on 8/12/89 Shri Ram Das Prasad, /Enquiry Officer,
with reference to Assistant Personal officer (work Shop), Gizzat Nagar,
Northern Railway, District Bareilly.
On parties

.....Opp. Parties.

For use of office:

Date of receipt:

Date of receipt of the application filed in the C.A.T.
Allahabad (Lucknow Bench) Lucknow on behalf of Sri S.N.Jha
son of Late Sri Mahanand Jha, aged about 55 years, resident
of Puranpur district-Pilibhit.

~~24th June 1911~~
The signature of the
affidavit are very
anywhere in this case

1. particulars of the orders against which the application is made:

Removal order dated 28.2.1989 vide its

Number : G/SS/Vig./27/87/Major .

2. JURISDICTION

The applicant declares that the subject matter of the order against which he 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 Tribunals, Act, 1985.

4. FACTS OF THE CASE

The facts of the case are given below:-

(1) That a trap was laid by the Vigilance Inspectors. The Vigilance party consisted of one Vigilance Inspector and 2 Vigilance Khalasis. One of the Vigilance Khalasi became the decoy. The decoy went to purchased 2 tickets from Puranpur to Siwan. The decoy enquired from the applicant regarding the second class fare from Puranpur to Siwan. The applicant told him that the fare of one ticket of second class from Puranpur to Siwan is of Rs.54/- . The decoy gave Rs.110/-

*to identify the petitioner
who has signed before me*

[Signature]

AM

3

A
To

-3-

to the applicant. One G.C. Note of Rs.100/- and the other G.C. Notes of Rs.5/- each to the applicant and to gave 2 tickets from Puranpur to Siwan and the applicant gave 2 tickets and returned Rs.2/- to the decoy, but the decoy deliberately left it at the booking table booking counter. In the meantime the S.S./PP Sri R.K.Misra and saw Rs.2/- note lying on the booking table counter and the SS/PP Sri R.K.Misra enquired what why Rs.2/- note is lying on the counter, the applicant informed him that one passenger had come to purchase 2 tickets from Puranpur to Siwan and Rs.2/- were returned to him by the applicant which he had left on the counter. The SS/PP called the decoy who was going and asked the decoy to take the note of Rs.2/- back.. The SS/PP has given this statement before the Enquiry Officer. In the mean time the ~~Vigilance Inspector (Opp. Party No.4)~~ entered into the booking office and received Rs.2/- from the counter and a Panchnama was prepared and

24/6/1987 *S.N.*
the F.I.R. was also lodged on 23.6.1987 by Sri ~~Ram~~ ~~Prasad~~ ~~Srivastva, Chief Vigilance Inspector~~ ~~Dass Prasad, Enquiry Officer (Opp. Party No.4)~~.

The true copy of the F.I.R. dated 23.6.1987 is being annexed herewith as ANNEXURE No. I to this application.

(i)(a) - incorporated at the back of Page 2 of the edition

I : *Identify the petition
which has been filed up.*

MM

(ii)

On the report of Sri S. H. Prasad Srivastva, Chief
Vigilance Inspector
That the charge sheet was issued to the applicant
levelling the charges that the applicant has
committed misconduct under Rule 3(1)(i)(ii)(iii)
of the Railway Service Rules, 1966. The true copy
of the charge sheet is being annexed herewith as
Annexure No. 2 to this application, and a memorandum
was also issued to the applicant on 27.4.1988
The true copy of the memorandum is being annexed
herewith as Annexure No. 3 to this application.

(iii)

That Sri Ram Dass Prasad was appointed as Enquiry
Officer who recorded the statements of the decoy
(Zakir Ali), Girraj Prasad, G. N. Misra, S. N. Prasad
L. B. Khare and R. K. Misra, of Vigilance Department.
The true copies of the statements of Girraj Prasad
Zakir Ali, G. N. Misra, S. N. Prasad, L. B. Khare and
R. K. Misra are being annexed herewith as Annexure-
nos. 4 to 9 to this application.

(iv)

That the applicant gave his defence and his
defence of Alibie has not been accepted and
the punishment of removal from services are recom-
mended. The true copy of the defence of the appli-
cant is being annexed herewith as Annexure-10 to
this application.

(v)

That 2 persons of the public besides the Zakir

I am enclosing the petition
which has been signed by [unclear]

[Signature]

Ali were standing in the queue who saw and heard that the decoy asked for 2 tickets for Siwan and the applicant received Rs.110/- and the applicant received Rs.110/- and the applicant returned a G.C. Note of Rs.2/- and left by the decoy on the counter. The true copies of the applications sent to the General Manager are being annexed herewith as Annexure No.10 & 12 to this application.

(vi) That on the recommendations of the enquiry officer the applicant has been removed from service of DAR enquiry 28.2.1989 and true copy of the same/is being annexed herewith as Annexure No.13 to this petition.

(vii) That the applicant has submitted his reply to the aforesaid D.A.R. Enquiry dated 27.4.1988. The true reply to the copy of the D.A.R. Enquiry is being annexed herewith as Annexure No.14 to this petition.

~~24/12/1989~~ (viii) That the statements of the decoy and other Vigilance Khalasis are contradictory in themselves and the order for removal from the service of the petitioner dated 28.2.1989 is being annexed herewith as Annexure No.15 to this petition.

*I identify the petition
as the sign for me*

ix) That the applicant has preferred an appeal

against the order of removal which is being annexed herewith as Annexure No. 16 to this petition.

(x) That the applicant gave a reminder dated 29.5.1989 for the disposal of the appeal at an early date but till 26.6.1989 the authorities has not considered upon the appeal of the petitioner. The true copy of the reminder dated 29.5.1989 is being annexed herewith as Annexure No. 17 to this application.

(xi) That the D.R.M. Izatnagar has decided / rejected the appeal of the applicant without giving any reasons. The order of rejection of the appeal is non-speaking order. The true copy of the rejection order of the appeal dated 27.6.1989 is being annexed herewith as Annexure No. 18 to this application.

(xii) That the false trap was laid against the applicant by the Vigilance Department of the railways in which there is no independent witnesses which is very essential for trap.

(xiii) That the applicant is not a habitual offender as stated in the charge sheet. There is no previous incident of charging excess fare from any passenger.

Did not lay trap by me
Not laid by me
Not laid by me

5-

GROUND FOR RELIEF

- 1) Because the false trap was laid against the applicant by the Vigilance department of the Railways in which there is no independent witnesses which is very essential for trap.
- ii) Because the statement of the witnesses are contradictory to each other for which the benefit of doubt should be given to the applicant.
- iii) Because the prosecution story is entirely baseless, based on surmises and conjectures and whole story on the defence version.
- iv) Because the enquiry has been conducted by the same person who was involved in the trap, which is against the principle of natural justice. The prosecuting authority and the enquiry authority should not be the same against the legal norms established by the Hon'ble High Court and the Hon'ble Supreme Court of India.
(iv) Substituted ground(iv) incorporated at the back of Page 6.
Because the order of removal is too harsh and the removal from services is a harsh punishment.
- v) Because the order of removal is illegal, erroneous,

pervasive, arbitrary and liable to be set aside.

vii) Because the show cause notice is regarding to the punishment has not been given to the applicant.

viii) Because the applicant has preferred an appeal against the removal order stating all the facts on record and the applicant has also given a reminder to decide the appeal as early as possible and the authorities has rejected the appeal on 27.6.89 without showing any reason. The order of rejection of the appeal is non-speaking order.

ix) Because the applicant is not a habitual offender as stated in the charge sheet. There is no previous incident of charging excess fare from any passenger.

x) Because no adverse entry has been awarded or communicated to the applicant. The record of the applicant remained unblemished.

27/6/89 xi)
xi) Because the enquiry has been held in a malafide, manner and the defence version has been totally ignored by the enquiry authority.

27/6/89 xii)
xii) Because the appellate authority is delaying has illegally rejected the appeal of the applicant.

6. DETAILS OF THE REMEDIES EXHAUSTED :

The applicant declares that he has availed of all the remedies available to him under the relevant service rules etc. The applicant has no alternative remedy is left except to file this application before this Hon'ble Tribunal.

7. MATTER NOT PENDING WITH ANY OTHER COURT ETC.

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

8. RELIEF SOUGHT

- 1) That an order may kindly be passed whereby the order of removal dated 28.2.1989 may kindly be quashed which is Annexure No. 15 to this petition.
- 2) That a direction may be issued to the parties to allow to perform his duties on the post of Booking clerk Puranpur district-Pilibhit.

9. INTERIM ORDER IF ANY PRAYED FOR :

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

- (1) That the operation of impugned removal order dated 28.2.1989 contained in Annexure No. 15 may kindly be stayed till the pendency of

A21

A22

-10-

application and the applicant may be allowed to resume his duties on his post from when he was removed.

10. APPLICATION BY POST Etc.

Through counsel Sri H. A. Husaini, Advocate,
High Court,
Verandah near Post Office High Court
Lucknow.

11. PARTICULARS OF BANK DRAFT/POSTAL ORDER
in receipt of the application.

1. Name of the Bank :

2. Postal Order :

12. LIST OF ENCLOSURES:

1. Memo of application
2. Annexure Nos. 1 to 18
3. Vakalatnama
4. Additional copy of the memo of application alongwith the B. Copy of the application.
5. Receipt slip filed separately.

Dated

19-9-89.

SIGNATURE OF APPLICANT

VERIFICATION

I, Shyam Narain Jha, aged about 55 years, son of late Sri Mahanand Jha, (Head Booking Clerk) resident

of 249, I fully know the applicant who has signed before me. H. S. Jha.

of Purnapur district- Pilibhit, do hereby verify that the contents of paras from 1 to 12 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Lucknow, dated
, 1989

Signature of the applicant

To

The Registrar,

24/2/1989

I identify the petition
which has been signed before me.

In the before the central Admin.
Tribunal. Lucknow Bench Lucknow

बायदालत श्रीमान

महोदय



वादी (मुद्दई)
मुद्दई (मुद्दालेह)

का

वकालतनामा

Shyam Narain Lyha. V/S

Union of India and other — . opp.

नं० मुद्दमा

बनाम

प्रतिवादी (रेस्पान्डेन्ट)

सन् पेशी की ता०

१९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री H. A. Husaini

Advocate High Court Lucknow वकील

एडवोकेट महोदय

को इस वकील नियुक्त करके (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रूपया वसूल करें या सुलहनामा या इकबाल दावा तथा अपील व निरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकद्दमा उठावें या कोई रूपया जमा करें या हमारे हस्ताक्षर-युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें वकील महोदय द्वारा गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी। मैं यभी स्वीकार करता हूं कि मैं हर पेशी स्वयं या किसी अपने पैर को भेजता रहूंगा। अगर मुकद्दमा अदम खिलाफ फैसला हो जाता है उसकी जिम्मेदारी इसलिए यह वकालतनामा लिख दिया कि मेरे वकील पर न प्रमाण रहे और पर काम आवे।

हस्ताक्षर श्रीमान रामचंद्र

साक्षी (गवाह)

महीना सितम्बर सन् १९ ई०

साक्षी (गवाह)

दिनांक

(A24)
1/5

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
KUCKNOW BENCH LUCKNOW.

Original Application No. _____ of 1989

S.N.Jha - - - - - Application

versus

Union of India - - - - - Opp. Parties.

INDEX OF ANNEXURES

Page No

Annexure No.1	First Information report dated 23.6.1987 .	1 - 11
Annexure No.2	Charge sheet.	12 - 13
Annexure No.3	Office Memorandum dated 27.4.1988	14 - 18
Annexure No.4	Statement of Nk. Girraj Pd.	19 - 21
Annexure No.5	Statement of Zakir Ali (the Decoy)	22 - 25
Annexure No.6	Statement of G. N. Misra	26 - 29
Annexure No.7	Statement of S. N. Prasad	30 - 34
Annexure No.8	State of Mr. L. B. Khare	35 - 37
Annexure No.9	State of Ramakant Misra	38 - 41
Annexure No.10	Statement of applicant S. N. Jha (Self)	42 - 45
Annexure No.11	Statement of Virendra singh (in favour of the applicant)	46 -
Annexure No.12	Statement of R. K. Khandelwal (in favour of the applicant)	47
Annexure No.13	D. A. R. Enquiry report dated 27.4.1988	48 - 62

27/04/1989 2/1
HAW

Annexure No.14 Reply to the above dated
27.10.1988

64 - 67

Annexure No.15 Removal order dated 28.2.1989

68 - 69

Annexure No.16 Appeal filed by the applicant.

70 - 89

Annexure No.17 Reminder of the above appeal
filed by the applicant.

90 -

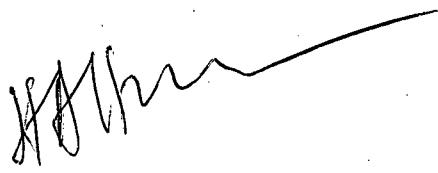
Annexure No.18 Rejection order of the appeal
dated 27.6.1989

91 - 92

Lucknow, dated

APPLICANT

24/6/89 M



BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD, CIRCUIT BENCH, LUCKNOW.

CLAIM PETITION NO. OF 1989

versus

ANNEXURE NO. I

F I R

There was a source information that the Booking clerks working at Puranpur Railway station used to realise excess money over and above the actual fare on the sale of long distance tickets for their personal gain. To verify the authenticity of the source information, The undersigned vigilance inspectors decided to conduct a decoy check at Puranpur Booking office on 15.6.87 at the

time of 7 Up Express which leaves Puranpur at 0.35 hrs.

2. At the very outset of decoy check, a Panchnama was prepared at Puranpur on 14.6.87 incorporating in the same the details of G.C. Notes amounting Rs. One hundred twenty only. Vigilance inspectors assisted by two vigilance Khalasis arrived Puranpur by 143 Up Sri Gorakhnath Misra,
24/06/1987

APX

1/1

-2-

Vig. Khalasi was given the said amount at Puranpur, who was to act as decoy and was instructed to purchase two second class M/E tickets for Sewan from Puranpur Booking window at the time of 7 Up. Sri Zakir Ali another Vig.

Khalasis was instructed to act as witness to hear the conversation and money transaction between the booking clerk and the decoy Sri Misra in purchase of the said tickets.

Sri Gorakh nath Misra decoy disposed his personal money which was insured by Sri L.B.Khan CVI by taking search of his person. All these facts were also incorporated in the Panchnama before putting signatures by individual members of the vigilance team.

3. When line clear for 7 Up was heard Sri Gorakh nath Misra and Zakir Ali went to the booking window of Puranpur Railway station and the is also took position near the booking office Sri Gorakhnath Misra when asked for two second class tickets for Sewan was called in inside the booking office and both went inside the booking office, where Sri Gorakhnath Misra decoy confirmed the fare of two second class M/E tickets for Sewan and paid on demand by the booking clerk on duty Rs. One hundred and ten @ of Rs. Fifty five per tickets and purchased two tickets for Sewan. The Booking clerk who

*signed the petition
also his sign before
me*

24/1/14 27/1

had sold two second class tickets no. 45015/45016 on Puranpur to Lucknow and attended then to Sewan under EFT No. 113494 was in duty paid as Sri S.N.Jha Head Booking clerk Puranpur Sri Zakir Ali as absorbed by the Vig. was standing in left side of Sri Gorakhnath Misra inside the booking office near the threshold.

4. As soon as the deal was over and Gorakhnath Misra with Sri Zakir Ali came out from the Booking office Sri S.N. Prasad CV I followed by other two vig. S/Sri S.D.Rajput and L.B.Khare entered into the booking office and after disclosing their identifies asked the booking clerk on duty to stop the booking and to signatte all the G.C.Notes of the Govt. cash in his charge, wh ich he did and tied all the G.C.Notes in a bundle and kept the same in the ticket tube seperately After that Sri Jha was asked to continue the booking of the passengers.

Sri R.K.Misra acting Station Superintending was called into associate vigilance check Sri Misra attended the Booking office and all the proceedings were done in his presence.

5. In the meantime Sri Gorakhanath Misra decoy appeared in the Booking office with written s tatement, in which he stated that he had purchased twosecond

-4-

(A9) 89

class M/E tickets for Sewan No. 45015 and 45016 on Puranpur to Lucknow and EPT No. 113494 and paid on demand by the booking clerk on duty as one hundred and ten only Sri Zakir Ali also was standing with him.

The written statement of Sri Gorakhnath Misra was put up for before Sri S.N.Jha Booking Clerk for his clarification Sri Jha in his clarification denied the allegations of Sri Misra decoy. He further clarified that the passenger had given him Rs. 110/- but he returned him Rs. 2/- The same for one tickets was Rs. 54/- only.

When the attention of Sri Misra was drawn towards the clarification of Sri Jha he reacted sharply and told on his face that the booking Babu demanded Rs. 110/- as the fare for two tickets and he had paid him Rs. 110/- and had left the booking office with the tickets only and nothing else. He also recognised Sri S.N.Jha and ~~the~~ booking clerk from whom he purchased two tickets for SV His saying that he returned him Rs. Two was false and fictitious, his statement added.

*Identify the letter
written on you*

Sri Jha in a further clarification stated that he demanded Rs 108/- only as fare for two tickets but the passenger had paid him Rs. 110/- and he returned him one

2100 0110 211

(A30)

-5-

G.C. Note of Rs. 2/- with the tickets. He might have left the G.C. Note on the table which station master found lying there and he gave the same G.C. Note to the passenger back his clarification added.

On this Sri Gorakhnath Misra stated he had been instructed that he would purchase two second class tickets for Sewan and would pay exactly the same amounts to the booking babu would demand. He demanded Rs. 108/- he would have paid Rs. 108/- since the booking babu demanded Rs. 110/- so he paid Rs. 110/- only. His saying that he had returned him Rs. 2/- was baseless.

Sri R.K. Misra station supdt. was asked to tell whether he got Rs. 2/- lying on the counter when he came into the booking office with Sri L.B. Khare. His reply was that he had no knowledge regarding this.

Sri S.N. Jha was asked to take search of the person Sri Gorakhnath Misra, decoy which he took and recovered Rs. 10/- from his possession. Sri Jha recorded the numbers of all the G.C. Notes with tallied with recorded from Sri Misra on the proceeding papers which

24/12/1949 231

Identified by
S. N. Jha
S. N. Jha

tallied with number of G.C.Notes incorporated in the
Panchnama. The numbers of G.C.Notes are as under:-

The G.C.Notes of Rs.2/- each No.	760904792	6-1/2
	264166877	
	47T827478	

Four G.C.Notes of Rs. one each No.	28T 570803	4
	99C 423696	
	48A 920837	
	15H 840426	

After that Sri Gir Raj Verma RPF Nayak Puranpur
also took search of the person of Sri Misra decoy and
ensured that no money was found available with him.

Sri S.N.Jha asked Sri Gorakhnath Misra decoy to
produce the G.C.Notes of Rs.2/- which he left on the
table during the course of purchase of tickets and was
handedover to him by the station master.

In reply to this Sri Misra emphatically denied
to hear either received Rs-2/- from Booking clerk from
Booking Baby on return of fare or to have left Rs 2/-
on the table. He further disclosed that Bara Baboo when
25/10/1979

A32

A
33

he came twice in the booking office turned to give him a folded G.C. Note of Rs. 2/- which he passed on the to Sri Zakir Ali.

Sri R.K. Misra Station Supdt. also recorded the numbers of all the G.C. Notes amounting of Rs 20/- which were recovered from Sri Misra decoy on the proceeding papers-.

6. Sri Zakir Ali another Vig. Khalasis also entered entered into the booking office and stated that he had witnessed the deal under which Sri Jha demanded and accepted Rs. 110/- as fare for two tickets for Sewan he had sold to Sri Gorakhnath Misra. He also recognised the booking clerk on duty who issued the tickets in question.

Sri Jha was asked to go through the statement of Sri Zakir Ali and to give his comments.

*1st July 1949 P.M.
Sri Jha
Sri Jha*
Sri Jha repeated the same story which he narrated earlier.

PGB

A
1/3

-8-

When the attention of Sri Zakir Ali was drawn towards the statement of Sri Jha he reacted sharply and stated that the Booking Baboo was speaking lies he had demanded and accepted Rs.110/- from Sri Gorakhnath Misra in his presence and no money was returned to him. When Sri Gorakhnath Misra appeared in Booking office alongwith his written statement then Bara Baboo Baboo had given him Rs.2/- which he gave him and the same was handedover to the Bara Baboo immediately.

Sri Jha was again allowed an opportunity to cross examination Sri Zakir Ali which he availed the same. He wanted to know from Sri Gorakhnath Misra as to why did he accept Rs.2/- from Barababoo and with what motive.

Sri Gorakhnath Misra replied that Barababoo while giving him Rs.2/- had not told him that the amount was the balance money of the fare he had paid to the booking clerk. Who did he give him that money he could not understand which he passed on to Sri Zakir Ali to return to Barababoo.

*Identical but below
and by
H.M.*

In the end, Sri Jha stated that he had nothing to ask. *24/12/1940-21*

(P34)

AS

7. Second class PET no. 45015/16 in PP to LJN and EFT No. 118494 under which the journey was intended to Sewan were produced before Sri Jha and Sri Jha admitted that he had sold the above noted tickets and extended the journey to Sewan under the said EFT No.

8. After the departure of the trains, Sri Jha was asked to close his DTC Book for the purpose of checking, which he did and a shortage of Rs. 25/- was found in Govt. cash, which he himself had mentioned in the surprise check programme. The reason for shortage he explained was an error in money transaction.

9. The Panchnama referred in foregoing para was produced before Sri Jha in presence of Sri R.K. Misra, acting SS PP Girraj Prasad Verma RPF Nayak and the VIS. He was asked to go through it and to short out the G.C. Notes from his Govt. cash in his possession, which were paid by Sri Misra decoy in purchase of two second class tickets for Sewan and also to record the numbers thereof. Sri Jha sorted out the G.C. Note from his Govt. cash and is also recorded their numbers on the reverse of the Panchnama in his own hand writing which are as under:-

Signature

27/7/1949 9 AM

A 15
25

-10-

One G.C. Note of Rs.100/- denomination No.8BF 045370

Two G.C. Notes of Rs.5/- denomination No.32V 222708

11S 773443

One hundred and ten rupees were recovered from his Govt. cash numbers of which are tallied with Panchanama.

Sri R.K.Misra SS PP was also requested to note down the numbers of G.C.Notes amounting to Rs.110/- which were recovered from the Govt. cash of Sri Jha Sri Misra, noted down the numbers of G.C.Notes on the reverse of the Panchanam, a.

10. Sri R.K.Misra SS PP was asked to seal in an envelope all the G.C.Notes amounting to Rs.110/- which were paid as fare of the two tickets for Sewan by the decoy and latter on recovered from the Govt. cash of Sri

S.N.Jha HBC in his charge which he did and the sealed envelope containing Rs.110/- was seized for vigilance exhibit.

11. Refund of fare on both the tickets which were purchased by the decoy, was also taken without deducing clerkage charges and later on both the tickets No.4015/16 and EFT NO. 113494 for Siwan were seized for Vigilance exhibit.

24/12/1977 22/12/1977

Signature Verified
J. H. Jha

Since the actual fare for two second class M/E tickets ex.Puranpur to Siwan was Rs.108/- i.e.Rs.54/-for a ticket, whereas Sri S.N.Jha demanded and realised Rs.110/- i.e.Rs.2/- in excess over and above the actual fare from the decoy. Which reflects malafide on his part. His plea that the decoy had left Rs.2/- on the table which was later on found by the Station Master and handed over to the decoy was after thought to save his skins because as soon as the deal was over vis entered in the booking office and no money was found lying on the table. When the station suptd.came to know regarding decoy check he very shroudly gave Rs.2/- to Sri Misra decoy which he passed to Sri Zakir Ali to return back in order to cover his guilt.Later on, he denied to have any knowledge regarding this and as such his plea is not at all acceptable.

From the above facts, a prima facie case of corruption stands against Sri S.N.Jha HBC Puranpur which needs registration of a vigilance case against him for further probe.

sd. Sharananand Prasad

CVI 23.6.87

Signature with a line

23/6/87 23/6

837

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH
LUCKNOW.

O.A.NO. OF 1989

ANNEXURE NO. 2

Articles of charges framed against Sri S.N.Jha
Head Booking clerk, Puranpur working under
Divisional Railway Manager(Comml.) N.E.Railway
Izatnagar.

// Sri S.N.Jha Head Booking Clerk while on duty in the Booking office, Puranpur on 15.6.87 from 00.hrs. to 08 Hrs. shift, has committed serious misconduct in as much as that he being a habitual offender of realising excess money from the passengers on booking the tickets deliberately realised Rs.110/- (One hundred and ten) against the actual fare of Rs.108/- (One hundred and eight) on the sale of two tickets ex. Puranpur to Siwan from the decoy with ulterior motive for his private gain and when detected, he took alibi of returning the same to the decoy purchaser alongwith the tickets sold to him although the fact was far off from the truth.

Signature verified
H. H. H.

(A30)
K/9

-2-

The above act of Sri Jha shows his failure to maintain absolute integrity, devotion to duty and an act unbecoming of a railway servant, which tantamounts to misconduct. He, thereby, has contravened the Railway Services (Conduct) Rules No.3(1)(i), (ii) & (iii) of 1966.

sd.

Prakhar Mandal Vanijya
Aadhikshak,
Purvottar Railway
Izatnagar.

20/2/1997 M/T

Signded wifd
JHA

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW CIRCUIT LUCKNOW.

O. A. NO. OF 1989

S.N.Jha - - - - - Appellant.

Versus

Union of India and others - - - - - Opp. Parties.

ANNEXURE NO. 3

NORTH EASTERN RAILWAY

STANDARD FORM OF CHARGE SHEET

(Rule 9 of the Railway Servants Discipline and Appeal Rules, 1968).

No. C/SS/Vig/27/87/Major

D.R.M. (Commr.) (Name of Railway Admn.)

Place of issue - Izatnagar Date 27.4.88

M E M O R A N D U M

The undersigned propose(s) to hold an inquiry against Shri S.N.Jha, Hd. EC/PP under Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968. The substance of the imputations of mis-conduct or mis-

Signature
behaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure No.1). A statement of the imputations of mis-conduct or mis-behaviour in support

24/5/1987

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 and IV).

2. Shri S.N.Jha 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 within ten days of the receipt of the 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.

245-2149-21

Signature

*(Recd)**8/2*

-3-

3. Shri S.N.Jha is informed that request for access to documents made at later pages 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 can not have been made at an earlier stage. No request for access to additional documents will be entertained for completion of the inquiry unless sufficient cause is shown for not making the request before the completion of the inquiry.

4. Shri S.N.Jha 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) Sri S.N.Jha should obtain an undertaking from the nominee(s), that he (they) is(are) willing to assist him

24/11/1997

Signature

(AP2)

(A3)

-4-

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, alongwith the nomination.

5. Shri S.N.Jha is hereby directed to submit to the undersigned ... (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-

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

24/10/1949 2015

AB

18

AM

-5-

7. Shri S.N.Jha 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 refused 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. The attention of Shri S.N.Jha 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 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 S.N.Jha 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.

The receipt of this Memorandum may be acknowledged.

*By order and in the name of the President

sd. Signature

(S.D.N.Tandon)

Name and designation of competent Sr. DCS / IAN

24/11/1974

To Sri S.N.Jha, Hd. Booking
Clerk, Puranpur

(19)
KUS

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNOW.

APPLICATION NO. OF 1989

Shyam Narain Jha ---

Applicant.

versus

Union of India and others --

Opp. Parties.

ANNEXURE No. 4

Case no. C/SS/Vig/27/87/Major

GK Ps dated 12.10.88

Statement of Naik Gir Raj Prasad, RPF

I was on duty from 18 hrs. of 14.6.87 to 8 hrs. of 15.6.87 at Puranpur station, at about 24 hrs. of 14.6.87 a memo was served to me by the Vigilance party available there, after getting the memo I went to the booking office, I saw the vigilance party and SM available there. When I arrived there I heard that Sri Misra SM was telling that how the two rupees note was lying there Mr. Jha was telling that somebody who had come to take ticket would have left his note. After that Sri Jha loudly asked as who had left his two rupees note, may come and take away. In the mean time I was asked by the Vigilance Inspector to take search of the man who had taken the ticket. I had taken his search and did not find any money in his pocket. Only 2 tickets were recovered. I conclude my statement.

sd. Gir Raj Prasad
PW

Cross examination by defence counsel

1. The search was taken of only one man and not of two.

2475-A15031

2. Only personal search was taken and not of his luggage search.

3. The handing over of two rupees note had already taken place before I entered in the room, that was not done in my presence.

4. Shri Jha was calling somebody to take the money which I heard from outside.

5. The written interrogation of Sri Jha SS Sri Misra and person who purchased the ticket was done in my presence

6. DURING course of interrogation there was a talk of Rs.2/- but V.I.s. were telling the SS Sri Misra not to say this thing thereupon Sri Misra said that he knew nothing about that note.

On Question by E.O.

7. When Sri Jha was ~~loudly~~ asking the passenger as to who had left two rupees note I was standing at the exit gate about 10-12 feet away from the booking office.

8. From the exit gate I saw a man coming out from the booking office whether he had taken two rupees note from inside booking office or not but I remember that I had taken search of that very man.

9. During course of search I have already taken that no money was found in possession of the man but I can not say that what happened to two rupees note which he had taken from booking office.

24/3/1974

-3-

10. While I was present during course of proceeding Sri Misra SM was telling that I had just given two rupees note to him I don't know that what he has done with it whether he had given any body else or kept some where.

11. So far as I remember that man was telling that he had taken two rupees note but he was unable to say as to what happened to that note.

12. I saw my statement dated 15.6.87 and confirm that the same is mine.

sd.

SPS

sd

SC

sd

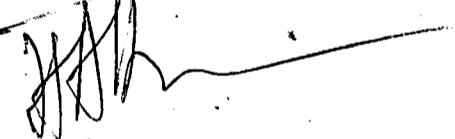
EO

sd

PW

Subhramanyam

Signature



A.M.
1/8

तमक्ष माननीय सेन्ट्रल ईडमिनिस्ट्रेटिव ट्रिब्युनल सर्किट बैन्च लखानऊ

सच्चाई केशान नं 0-----/1989

श्याम नारायण झा

--

बादल

बनाम

यूनिखन आफ इन्डिया आदि---

प्रतिवादकागण

अनेकजर नं ५

सं० सी/स० स०/वि०/27/87 x/मेजर

श्री एस०स०झा के विरुद्ध अनुग्रामिक जाँच कार्यबाही
दिनांक 12.9.88
गोरखापुर।

श्री जाकिर अली सरकारी गवाह का बयान

दिनांक 14-6-87 को पूरनपुर स्टेशन का पंचनामा सीतापुर में
बना। वह पंचनामा 120/- रु का था। सीतापुर से पूरनपुर स्टेशन को
हम लो आये वहाँ परनिरीक्षकगण के द्वारा यह आईर हुआ दो टिकट
मेल का पूरनपुर से सीवान का लेने के लिये हम लोग श्री गोरखानाथ मिश्रा
बुकिंग डिप्लोमी परआये वहाँ बुकिंग बाबू से पूरनपुर से सीवान का
किराया पूछा बुकिंग बाबू ने किराया 55/- रु बताया हम लोगों ने दो
टिकट का किराया 110/- रु बुकिंग बाबू को दिये और बुकिंग बाबू
दो टिकट और रसीद बना कर दिये। टिकट और सीद लेकर बुकिंग के अंदर
अंदर से चले आये टिकट अन्दर मिला था। बुकिंग बाबू ने एक पैसा वापस
नहीं किया। गोरखानाथ मिश्रा ने हमको दो रु दिये और वह रु ८० रु
मिश्रा बाबू है उनकी तुरन्त ले जाकर लौटा दिये। मेरायहु बयान
समाप्त हुआ।

८०

जाकिर अली
सरकारी गवाह।

श्रमान्तरामन झा।

बदाव सहायक द्वारा पूछे गये प्रश्न व उत्तर :-

उ01 श्री गोरखानाथ मिश्र ने मुझे 2/- रु. देते समय सिर्फ यही कहा था कि वह रु. 50 स्टेशन के मिश्रा बाबू को दे दो ।

उ02 जब गोरखानाथ मिश्र ने मुझे 2/- रु. दिया तो उसने बताया कि स्टेशन के बाबू श्री मिश्रा मुझे वह समया दिये थे।

उ03 श्रीगोरखानाथ मिश्र ने यह नहीं बताया कि यह रु. 50 मुझको किस बात के लिये दिये थे।

उ04 मैंने बी0आई0 लोगों से यह बड़ों पूछा कि यह 2/- रु. गोरखानाथ मिश्र ने मुझे स्टेशन के बाबू मिश्रा को देने के लिये दिया है।

उ05 मैंने मिश्रा बाबू को 2/- रु. के मोट बाहर बुकिंग्हाइकी के बगल में वापस कर दिया ।

उ06- इस बात का कोई गवाह नहीं है कि मैंने श्री मिश्रा को 2/- रु. वापस किया था क्योंकि वहां कोई दूसरा आदमी मौजूद नहीं था।

उ07- प्रोसी डिंग के दौरान मेरा बयान होने के बड़े ही मैंने यह 2/- मिश्राजी वापस कर दिया था।

उ08- ब्रेकिंग के दौरान हमारे इन्चार्ज बी0आई0 लोग थे।

उ09. मुझे याद नीं है कि सीतापुर से हम लोग किस गाड़ी से पूरनपुर जे। लेकिन यह बात है कि सीतापुर से लगभग 8 या 9 बजे रात को चले थे।

उ0-10 रात होनें के बजाए से मुझे यह छाल नहीं है कि सीतापुर से पुरनपुर के बीच कौनक्षता बड़ा स्टेशन पड़ा था।

उ0-11 जब पूरनपुर बहुधे तो पूरनपुर के मुसाफिर खाने में बिजली नहीं थी।

उ012- जब स्टेशन के बाबू मिश्र ने श्री गोरखानाथ मिश्र को 2/- रु. दिया था तो मैंने नीं देखा था।

उ013- वह 2/- ₹0 का एक नोट था ।

उ014- मैंने स्टेनान के बाबू मिश्रा जो देने वाली बात की 10 आर्डो लोगों को बता दिया था ₹0 वापस करने के बाद ।

उ015- जब मैं बुकिंग आफिस के अंदर टिकट लेने गया तो वहाँ और कोई बाहरी आदमी मौजूद नहीं था ।

उ016- मैंने गोरख नाथ मिश्रा से 2/- ₹0 इस लिये ले लिया क्योंकि उन्होंने कहा कि वह स्टेनान के मिश्रा बाबू को छोटे परन्तु नहीं मिले । इसलिये मैं छूट कर उन्हें देंगे ।

उ017- मैं मिश्रा बाबू को पहले से नहीं पहचानता हूँ ।

उ018- मैंने मिश्रा बाबू को पहले तब देखा जब हम और गोरखनाथ बुकिंग आफिस से निकल रहे थे ।

जाँच अधिकारी द्वारा पूछे गये प्रश्न व उत्तर :-

उ019- श्री गोरखनाथ मिश्रा को पंचनामा का पैसा 120/- ₹0 जब पूरनपुर में दिया गया तो मैंने देखा था ।

उ020- जब हम तथा गोरखनाथ मिश्रा बुकिंग छिड़की पर पहुँचे तो पहले से ही लाइन में आगे दो तीन आदमी छाँड़े थे ।

उ021- जब गोरखनाथ का नम्बर आया तो उन्होंने टिकट बागू से सीधा का किराया पूछा तो टिकट बाबू ने कहा कि एक टिकट का किराया 55/- ₹0 बताया जिसको मैंने सुना इसके बाद टिकट बाबू ने कहा कि अंदर आकर के टिकट ले जाएं अंदर जाने पर बाबू ने दो टिकट तथा एक रसीद दिया इसके उपलक्ष्य में गोरखनाथ ने 110/- ₹0 लिकाल कर मेरे सामने ही दिया।

Signature verified
H.K.H.

रमामृणन

110

25
1/3

-4-

उ022- टिकट बाबू ने दो टिकट तथा एक रसीद गोरखानाथ के हाथ में दिया वहाँ मेज पर कोई पैसा नहीं था और न ही टिकट बाबू ने यह कहा कि यह 2/- ₹० भी लेते जाओ ।

उ023- हम और गोरखानाथ मिश्रा टिकट कटाने के बाद लगभग 10 मिनट तक साथ ही रहे उस समय तक किसी ने गोरखानाथ को भेरे सामने कोई पैसा नहीं दिया उसके बाद मेरे थोड़ी देर के लिये पानी पीने चला गया हो सकता है उसी समय गोरखानाथ मिश्रा को किसी ने दिया होगा ।

ह0 जाकिर अली

ह0

ह0

माननीय जी

Signature

ਤਸਥਾ ਮਾਨਨੀ ਥੁ ਸੇਨਕੁਲ ਏਡ ਮਿਨਿਸਟ੍ਰੇਟਿਵ ਟ੍ਰਿਬੂਨਲ ਸਾਂਕਿਟ ਬੈਨਚ ਲਹਾਨਤਾ

एप्लीकेशन नं0-----/1989

इयाम नारायण इा

वाटी

ଅନାମ

यनिधन आफ इन्डिया आर्टिस्ट

प्रतिवादीगण

अनेकजर - नं० ६

तं०सी/एस एस/विज/27/८७/मेजर

श्री एस० एन० झा प्रधान छुकिंग बाबू/ पूरनपूर/ के विरुद्ध अनुभासनिक जांच कार्यवाही ।

दिनांक 12-9-88

स्थान- गोरखापुर।

श्री गोरखनाथ मिश्रा सतर्कता खालासी । सरकारी गवाह । का बधान

दिनांक 15-6-87 को सतर्कता निरीक्षकों के आदेशानुसार पूरनपुर बुकिंग छाइकी से तारीख 15-6-87 को दूसरे दर्जे का डाक गाड़ी का टिकट पूरनपुर से सीवान तक का छारीदा जिसका नम्बर 450 15/-/16 पूरनपुर से लछानऊ रसीद नं० ।। 3494 है बुकिंग बाबू से पूछने पर कि एक टिकट का किराया पूरनपुर से सीवान तक का दूसरे दर्जे का डाक गाड़ी से एक टिकट का किराया 55/- ₹० बताया तथा दो टिकटों का किराया ।। १०/- ₹० बताया और मांगा भेने ।। १०/- ₹० बुकिंग बाबू को दिया बुकिंग बाबू ने दूसरे दर्जे का पूरनपुर से सीवान तक का दो टिकट दिया । टिकट मुझे बुकिंग आपिर के अन्दर से दिया । मेरा बयान समाप्त हुआ ।

८० गोरखानाथ मिश्रा
सुरकारी गवाह

बचाव सहायक द्वारा पछे गये प्रश्न व उत्तर :—

उ०। मैंने टिकट बाबू से पूरनपुर से सौवान द्वितीय श्रेणी डकगाड़ी का एक टिकट का दाम पछा था।

২৫১৭-২৫১৮-২৫১

उ02 इसके साथ साथ मैंने टिकट बाबू से दो टिकटों का दाम भी पूछा था ।

उ03- टिकट बाबू ने एक आदमी का किराया 55/- रु बताया मैंने तीव्रान के दो दो टिकटों का किराया पूछ कर कुछ बुरा नहीं किया ।

उ04 मैं एक आदमी का किराया 55/- रु के हिताब से दो टिकटों का किराया जोड़ कर सकता था कि 110/- रुआ फिर भी टिकट बाबू से दो टिकट का पूछा ।

उ05 मैं नहीं जानता हूँ कि एक टिकट का से अधिक टिकट छारीदाने मे कुछ सन्सेशन मिलता है किन्तु वी0आई0 ने ऐसा मुद्रांकित दिया वैसा ही मैंने पूछा ।

उ06 मैंने पूरनापुर स्टेशन मास्टर के आरोके 0मिश्रा को पहले से नहीं जानता हूँ ।

उ07 श्री मिश्र बड़े बाबू से मेरी मुलाकात पहली बार पूरनपुर स्टेशन पर 15-6-87 को टिकट कटाने के बाद हुयी ।

उ08 श्री मिश्र बाबू ने मुझे 2/- रु टिकट कटाने के बाद दिये और अभी कहे नहीं ।

उ09 मैंने मिश्र बाबू से नहीं पूछा कि वह 2/- रु उन्होंने किस उपलक्ष मे दिये है वह रु देकर तुरन्त चले गये ।

उ010 मैंने 2/- रु जाकिर अंगी को यह कहा कर दिये कि छोज कर मिश्र बाबू को दे दो क्योंकि मैं शारदा बाबू के पीछे था इसलिये मैं छुट न जाकर जाकिर अंगी को दे दिया कि तुम दे दो ।

उ011- जब मिश्र बाबू ने स्पष्ट दिये तो मैंने यह जरूर कहा कि स्पष्ट क्यों दे रहे हैं किन्तु शारदा गुल नहीं मवाया ।

उ012- क्योंकि मैं शारदा बाबू मैं साथ चल रहा था और वे आगे की ओर बढ़ते चले जा रहे थे इसलिये नहीं कह सकता कि 2/-

नोट कि अदान प्रदान की बात और मिश्रा बाबू वह मेरी बात उन्होंने देखी सुनी अथावा नहीं ।

उ 13- मैं अपना बयान दिनांक 15-6-87 देखा और प्रमाणित करता हूँ कि इसमें उपरोक्त 2/- रु के क्षियों में जिकर नहीं किया है।

उ 14 मैंने शारदा बाबू को भरे इस 2/- रु के क्षिय में कुछ न बताया क्योंकि जब 2/- रु वापस कर दिये तो बताने कि आवश्यकता नहीं समझी ।

उ 15- मैंने जाकिर अली को 2/- रु मिश्रा बाबू को वापस करने के लिये दिया और जाकिर अली ने बताया कि उसने दे दिया किन्तु मैंने वह 2/- रु जाकिर अली द्वारा मिश्रा जी को देते नहीं देखा ।

उ 16 मिश्रा जी मुझे 2/- रु दिये और मैंने अन्जान में ले लिया ।

उ 17 मिश्रा जी ने यह रु हमको उस समय दिया जब हम स्टेशन सेबुकिंग आफिस कि ओर जा रहे थे प्लेट फार्म पर अंधोरा था मैंने अन्दाज से यह समझलिया कि वह 2/- रु का नोट था।

उ 18 दिनांक 15-6-87 को समुखीकरण के समय मुझे ज्ञात हो गया था कि टिकट बाबू ने मुझसे 2/- रु अधिक लिये ।

उ 19 हम लोगों के पाटी में दो वी ० आई ० और थे जिनका नाम श्री छारे श्री राजपूत था ।

उ 20 छब टिकट बाबू और मेरे मध्य समुखीकरण हो रहा था तब तीनों वी ० आई ० बुकिंग आफिस के अन्दर ही मौजूद थे ।

जांच अधिकारी द्वारा पूछे गये प्रश्न व उत्तर :-

उ 21 मैं बुकिंग आफिस के अन्दर पहुँचने पर टिकट बाबू को 110/- दे दिया उसके बाद टिकट बाबू ने टिकट तथा एक रसीद बना कर मुझको दिया।

उ 22 टिकट देते समय टिकट बाबू ने 2/- रु का नोट भी दिया था नहीं या भेज पर रखा दिये छो मैंने नहीं देखा ।

-4-

उ023 बत्ती बार बार जल रही थी व छुझ रही थी मैंने एक बयान लिखा। वह रारदा बाबू ने बताया कि गलत हो गया इसलिये वह फाड़ कर फेंक दिया गया फिर दूबारा बयान लिया गया।

उ024 बयान लिखने के बाद ही मिश्रा जी स्टेनान मास्टर आये और उन्होंने मुझे 2/- रु ० दे दिया मैंने बिना सोचे समझे ही ले लिया किन्तु थोड़ी ही देर मेरे ही मेरे समझ मे आ गया कि यह पैसा लेना नहीं चाहिये इसलिये मैंने तुरन्त जाकिर अली को वह 2/- रु ० का नोट दे दिया और कहा कि इसे मिश्रा जी स्टेनान मास्टर को दे आओ।

उ025 समुच्छीकरण के दौरान इश्वरा जी ने कभी नहीं कहा कि उन्होंने 2/- रु ० वपस किया।

उ026 मुझे याद नहीं है कि पंचनामा का पैसा मुझे देने के पहले मेरी तलाशी मिलने लिया था इतना मुझे याद है कि वी०आ०५० लोगों ने आदेश दिया था कि आप के पास अपना जितना पैसा हो उसे जाकिर अली को दे दी थी और मैंने जाकिर अली को दे दिया।

उ027 समुच्छीकरण के दौरान मेरी तलाशी एक आर० पी०एफ० के सिपाही ने लिया था और उस दौरान 10/- रु ० मेरे पाकेट से निकला था।

रु०

आर०क०कम्बारी

रु०

बचाव सहायक

रु०

सरकारी गवाह जांच अधिकारी

रु०

२५०-८०८०८०

AES 30
P/S

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNOW.

APPLICATION NO. OF *(1989

Shyam Narain Jha Applicant
versus
Union of India & others.. Opp. Parties.

ANNEXURE No. 7

Statement of Shri S.N.Prasad ex.V.I. now working as CMS/LJN

There was a source information that the booking clerk working at Puranpur Rly. station used to take excess money over and above the actual fare on the sale of long distance tickets. It was decided by a team of V.I.s. that a decoy test check was to be conducted at Puranpur to verify the authenticity of source information. A decoy test check was conducted at Puranpur Railway station on 15.6.87 at the time 7 Up-Nainital Express which leaves Puranpur at about 04.35 hrs. In which two tickets for Siwan were proposed to be purchased through decoy. For this a Panchnama was prepared in which 120/- were kept in a plan Nos. of which were incorporated in which Panchnama dated 14.6.87 which were prepared at Pilibhit. Sri Gorakhnath Misra, Vig. Khali was deputed to set as decoy and Sri Zakir Ali another vig. Khalisis was to set as witness to hear the conversation and also to watch the transaction between booking and the decoy Sri Gorakhnath Misra. Shri Gorakhnath Misra was instructed to purchase two tickets for Siwan for which he was given 120/- with instructions that he would pay the exactly the same amount which the booking baboo would demand and Sri Zakir Ali was instructed to watch

Signature

(ASG)

31

PAK

-2-

the transaction and to hear the conversation between booking clerk and the decoy Sri Gorakhnath Misra. Before giving the said money of Rs.120/- Sri Gorakhnath Misra was dispossessed with his personal money which was ensured by Sri L.B.Khare, CVI by taking his search of his person. Accordingly Sri Gorakhnath went to the booking counter on 15.6.87 at the time 7 Up and asked the booking clerk for two tickets for Siwan after confirming the fare of one ticket of Siwan. When Sri Misra and Zaki Ali went on the booking counter and asked for the tickets the booking clerk on duty who was later on identified as Sri S.N.Jha called him inside the booking office where they purchased two tickets for Siwan after paying Rs.110/- and Sri Zakir Ali another Khalasi as observed by me was also standing by him side. As soon as the deal was over the V.Is. Sri S.N.Pd. followed by other two V.Is. S/Sri S.D.Rajpoot and L.B.Khare entered into the booking office and asked the BC on duty after disclosing their identity to aggregate all the G.C.notes and to make bundle which he did and kept in the tube then after he was told to continue his booking. After the departure of the train the cash and accounts of Sri S N Jha was checked up and Rs.25/- were found short in his Govt. cash. During confrontation Sri Gorakhnath Misra stated that the BC on duty which he identified Sri S N Jha demanded and realised Rs.110/- against the actual fare of Rs.108/- i.e. two rupees in excess. Later on the Panchnama money of Rs.110/- which the decoy had paid in purchase of two tickets of Siwan were also recovered from the Govt. cash of Sri S N Jha. This fact of realising 110/- against the sale of 2 tickets for Siwan to Gorakhnath Misra was also confirmed by

24/7/1987

Sri Zakir Ali during the course of confrontation. Since he has realised Rs.2/- in excess in an irregular manner so a case of a Vigilance case against Sri S.N.Jha was registered. Thus I conclude my statement.

sd.

P.W.

Cross examination by defence counsel.

1. It is incorrect that statement of Sri Gorakhnath Misra decoy was torned by me and an other statement was got written by him.
2. I did not witness transaction between the decoy and the booking clerk.
3. During the purchase of the tickets none of the V.I.s were present in the booking office but as soon as the deal was over and the decoy alongwith witness came out of the booking office entered into the booking office and remained during the whole proceeding.
4. Shri Gorakhnath Misra before his statement did not point out that he was given Rs.2/- by Sri Jha, or by anybody.
5. After giving his statement Sri Gorakhnath Misra did tell me that Sri R.K.Misra had given him Rs.2/- outside the booking office which he gave to Sri Zakir Ali to return him.
6. The Vigilance Khalasis do have the instructions not to accept any money from any outsider at the time of duty.

-4-

7. The disposal of the note as explained by Sri Gorakhnath Misra was that he handed over to Sri Zakir Ali to return the G.C. note to Shri R.K. Misra which Sri Zakir Ali did as Sri Zakir Ali stated.

8. The search of Sri Zakir Ali was not taken during the course of proceeding on 15.6.87.

9. During the course of proceeding Sri R.K. Misra, denied to have given any money to Sri Gorakhnath Misra.

10. Out of proceeding I did not ask any thing from Sri R.K. Misra.

11. It is remained still mystery where Rs.2/- note vanished.

On question by E.O.

12. After purchasing the ticket when the decoy and overhearer came out of the booking office we immediately entered into the booking office and we did not find any note either lying on the counter, table or floor and Sri S.N.Jha never pointed out that a note of Rs.2/- was left by the passenger.

13. When we entered in the booking office just after taking ticket by the decoy none other was available in the booking office except Sri S.N.Jha.

14. When Sri R.K. Misra SM/PP handed over two rupees note to Sri Gorakhnath Misra he did not indicate its purpose as to whey he paid and for what he gave that two rupees note. Sri Gorakhnath Misra stated this fact during

A/C

B/C

-5-

course of interrogation.

15. Sri R.K.Misra never admitted during the course of proceeding that he had paid Rs.2/- note to Sri Gorakhnath Misra from his pocket.

16. When Sri S.N.Jha was asked about the shortage of Rs.25/- in the Govt. cash he had stated to be a transaction of error Sri Jha had made good the above shortage.

17. First search of Sri Gorakhnath Misra decoy was taken by Sri S.N.Jha and Rs.10/- were recovered from his person the balance money of Panchnama and the second search was taken by Sri Girraj Pd.Verma, Naik RPF to ensure whether he had any money left with him or note. Since Rs.2/- was not recovered by from the person of Sri Gorakhnath Misra during the search by Sri S.N.Jha but Girraj Pd. also did not recovered Rs.2/- from Sri Gorakhnath Misra.

sd.

P.W.

SD. S.P.S.

sd. D.C.

sd. E.O.

24/7-27/7/2011

Signature verified
J.P.Th

35
४/१

समक्ष माननीय सेन्ट्रल एडमिनिस्ट्रेटिव दिव्युनल, स्क्रिट बैच, लखनऊ

स्प्लीकेशन नं 0---/1989

श्याम नारायण मिश्ना ---

बादी

बनाम

यूनियन आफ इन्डिया आदि ---

प्रतिवादीगण

अनेकजर नं 0 8
=====

संसी/ससस/विज/27/87/मेजर

श्री एस०न०झा प्रधान छुकिं बाबू पूरनपुर के विरुद्ध अनुसार निक
जांच कार्यवाही ।

दिनांक 12-9-88

स्थान: गोरखापुर।

श्री एस०बी०खारे मुसतानि गोरखापुर का बधान। सरकारी

दिनांक 14 जून 87 को विवसत सूत्रों से पीलीभीत में ज्ञात
कि पूरनपुर स्टेशन स्टाफ सीबान के टिकटों पर उचित मूल्य से अधिक
पैसा लेकर टिकट बेच रहे हैं इस तथ्य कि पुष्टि हेतु पीलीभीत में सक
पंचनामा बनाया गया है जिसके अनुसार श्री गोरखानाथ मिश्ना पूरनपुर
रेलवे स्टेशन की टिकट छिड़की पर लाईन में लग कर दो टिकट सीब
जे० के छारीदाने के लिये कहा गया है और इनके पीछे टिकट छिड़की
बुकिंग बाबू और श्री गोरखानाथ के बीच होने वाली बात चीत को
और स० टिकट के अदान प्रदान को देखाने हेतु श्री जाकिर अली को
गधा। श्री गोरखानाथ कि जमा तलाशी लेकर यह सुनिश्चित किय
कि उनके पास उनका कोई चयकितगत धन नहीं है और उसके बाद
विभिन्न मूल्यों के क्रेन्सी नोट दिये गये जिनका कुल मूल्य 120/-
स० था और उनको यह भी मोहिक आदेश दिये गये कि बुकिंग ब
जितना पैसा मार्गें टिकट का उतना ही पैसा आप देंग। दिनांक

Signature

मिश्रा ने टिकट छिड़की पर छाड़े होकर छारी दना चाहा परन्तु बुकिंग बाबू ने उन दोनों को अन्दर बुला कर टिकट बना कर दिया उनके बुकिंग आपिस से निकलते ही सतर्कता निरीक्षक श्री शारदा नन्द प्रसाद श्री-स० डी० राजपूत रंव मैं बुकिंग आपिस मे गये बुकिंग बाबू को अपना परिचय बताने के बाद उनसे अनुरोध किया कि अभी तक के टिकट बेचने पर उनके पास जितने २० आये हैं उसको एक और अलग रुक्त दें और उसके बाद ही आगे के टिकट बेचे जैसा उन्होंने किया । मेरा बयान समाप्त हुआ ।

ह० ल० ब० छारे

सरकारी गवाह

बयाव सहायक द्वारा पूछे गये प्रश्न व उत्तर :-

उ०१- समुदीकरण की कार्यवाही मेरे सामने हुयी परन्तु कागजों के देखाने पर यह पता चलता है कि उस पर मेरे हस्ताक्षर नहीं हैं।

उ०२ जब गोरखानाथ मिश्रा ने बुकिंग आपिस के अन्दर टिकट छररीदा त तब उस समय कोई भी सतर्कता निरीक्षक नहीं था ।

उ०३ समुचिकरण से पूर्व जाकिर अली ने मुझे यह नहीं बताया था कि उसको २/- का नोट गोरखानाथ ने दिया जिसे उसने स्टेशन मास्ट को वापस कर दिया ।

उ०४ क्या यह सत्य है कि पंचनामे पर विजिलेंस स्टाफ के अतिरिक्त किसी अन्य गवाह का हस्ताक्षर नहीं है।

उ०५ पंचनामा की देखा कर मैं यह सुनिश्चित करता हूँ कि इस पर सतर्कता विभाग के स्टाफ के अलावा इस पर किसी अन्य का हस्ताक्षर नहीं है।

उ०६ मैं इस केस के आई०ओ० नहीं था।
जांच अधिकारी द्वारा पूछे गये प्रश्न व उत्तर :-

उ०७ टिकट बाबू ने टिकट का किराया सिवान से कितना मांगा मैं नहीं सुन पाया क्योंकि टिकट बाबू की आवाज मुझे सुनाई नहीं देती थी ।

उ07 मेज के ऊपर कोई भी रिकार्ड रहा ही परन्तु जब हस्त लोग पहुँचे तो उस रिकार्ड को छिटवाया और उस पर कोई 2/- रु का नोट नहीं देखा।

उ08 आर0के0 मिश्रा स्टेशन मास्टर ने 2/- रु गोरखनाथ को दिये था नहीं मैंने इस प्रकार का कोई आदान प्रदान नहीं देखा।

उ09 समुचिकरण के पूर्व मुझे यह पता ही नहीं था कि आर0के0 मिश्रा स्टेशन मास्टर ने कोई 2/- रु का नोट गोरखनाथ को दिया था या नहीं यह मेरे पूछने पर पूछन ही नहीं था।

उ10 एस0एन0झा ने समुचिकरण के दौरान जब यह बताया कि मैंने 2/- रु का नोट वापस किया है जिसका नकरात्मक उत्तर गोरखनाथ ने देते हुए यह भी कहा कि हूँकिंग बाबू इूठ बोल रहे हैं।

उ11 गोरखनाथ मिश्रा ने बड़े बाबू से 2/- रु पाने को स्वीकारोक्ती अपने बयान में समुचिकरण के समय दी है इससे यह निश्चित होता है कि बड़े बाबू ने मिश्रा को 2/- रु दिये हैं।

उ12 2/- रु के विषाय में राजपूत ही ने पूछताछ कर लिया था इसलिये मेरे पूछने का कोई सवाल ही नहीं उठता है।

₹0

₹0

₹0

₹0

आर0के0कर्मचारी बचाव सहायक सरकारी गवाह जांच अधिकारी

शपान्तरामन ज्ञा

Signature

AKH

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH LUCK NOW.

APPLICATION NO. OF 1989

versus

Union of India and others - - - - - - - - - Opp. Parties.

ANNEXURE No

Case No.C/SS/Vig/27/87/Major.

Gorakhpur Dat. 12.10.88

DAR enquiry against Sri S.N.Jha HBC/PP

Statement of Shri Rama Kant Misra SM/PP

On 14.6.87 I was on duty from 16 hrs. to 24 hrs. Before arrival of 7 UP train I went to booking office to know about loading of any parcel packages in that train. When I reached near the table of HC I saw two rupees note lying on the table. I asked Sri Jha, BBC on duty about that note. Sri Jha stated that some passenger would have left while taking the ticket from inside. While coming out from the booking office I saw one man going inside and he picked up that two rupees note. I was not aware as to who was the man. After some time when I was relieved from the duty and was going to my residence I saw some rush of persons inside booking office. One man from that rush asked me as to who is SS of this station I told him that myself is the station Master of this station I told him that myself is the station master of this station. He asked me whether I

୨୪୭୮-୮୨୪୭୯ ୨୭୮

(A64) 39
8/65

-2-

am aware about two rupees note. I replied him that some passenger had entered in the booking office and took away two rupees note. I conclude my statement.

sd.

Rama Kant Misra
(P.W.)

Cross examination by defence counsel

1. The man who had taken two rupees note from the booking office was present during course of proceeding but I do not know his name or destination. He was one of the member of the vigilance party wearing Kurta and dhoti.

sd. Rama Kant
(P.W.)

On question by E.O.

1. When I first entered in the booking office it was about 24 hrs.

2. While I was returning from booking office and reached at the gate one man entered and picked up two rupee note from the table.

3. Though I was going towards my office yet intentionally saw the man to know as to why he was entering the booking office and in the moment I saw him picking up two rupees note from the table.

sd. Rama Kant
PW

5. During course of proceeding I was also interrogated and had replied in one line.

22/11/1949 2/1

6. I saw my statement recorded on 15.6.87 at Puranpur and confirm that the same is mine.

7. Due to pressure from V.I.s. I had replied that "I have got no knowledge regarding this" but the truth is the same what I have stated above today.

8. It is not the fact that today I am stating under the pressure of Sri S.N.Jha but it is the fact I am speaking freely without any pressure from any corner.

9. That my statement was also recorded in GM(Vig.)'s office on 21.8.87 and I have given replies of some question asked by Sri S.N.Prasad V.I.

10. What ever statement I had given on 21.8.87 in GM/ VI's office are wrong. I had given that statement under pressure.

11. When I entered in the booking office I saw two rupees note lying on the table without any paper weight.

12. I did not ask the man who was taking out the note from the table as to why he had taken that note, because the man hurriedly taken that note and dis-appeared in the darkness at platform.

13. *Carry the note*
Nobody gave me two rupee note after that incident

14. So far as I remember I did not ask any body to

take away his two rupees note lying in the booking office.

15. None of the passenger had taken ticket from inside the booking office in my presence.
16. I had not given two rupees note to any body from my pocket or from booking office on that day.

sd.

sd.

sd.

sd.

SPS

D.C.

E.O.

P.W.

22/11/1979 m/

signals v/f
H.H.

समक्ष माननीय सेन्ट्रल ईमिनिस्ट्रेटीव ट्रिब्युनल लखनऊ सक्रिट लखनऊ

सचिवीकरण नं 0-----/1989

श्याम नारायण शर्मा

--

वादी

बनाम

यूनियन आफ इन्डिया आदि --

प्रतिवादीगण

अनेकजर नं 0 10

मेरे विरुद्ध मुख्य अभियोग है कि मैंने 15-6-1987 को जब मैं पूरनपुर

ब्रुकिंग आफिस में कार्यरत था सतर्कता विभाग के एक खालासी डिकॉयी से सीबान के दो टिकट पर दो स्मया अधिकालिया अर्थात् 108/ स्मया के बजाय 110/- रु. लिया। मैंने ज्ञापन दिनांक 27-4-88 के उत्तर में इसी अभियोग को अस्वीकार किया था और 12-9-88 के प्रारंभिक जांच के समय भी मैंने विजिलेंस की प्राथमिक सूचना रपट दिनांक 23-6-87 को गलत बताया।

2- जांच के दौरान उपरोक्त दो स्मये के आदान प्रदान का मामला एक और आशयर्जनक स्मय में सामने आया जबकि इसका जिक्र पूरनपुर में 15-6-87 को ही सम्मुखी जांच में आ चुका था अतः विद्वान जांच अधिकारी का अधिक समय नष्ट न करते हुये मैं अपना बचाव बाक्ष इसी दो स्मये पर क्रेन्ट्रिट करना चाहता हूँ।

3- 15-6-87 को पूरनापुर में श्री गोरखनाथ मिश्रा ने बहुत ही लाहवाली करने के पश्चात दो स्मये के नोट का अस्तित्व स्पौकार करते हुये नाट-कीय मोड़ देकर ये कहा कि बड़े बाबू इस्टेशन मार्टरा ने उसे दो स्मये का

-2-

एक मुझा हुआ नोट देने का प्रयत्न किया जो श्री गोरखानाथ मिश्रा ने अपने साथी द्वारे छालासी जाकिर अली को दे दिया । जाकिर अली ने अपने बयान में कहा कि वह नोट उसने बड़े बाबू को वापस कर दिया में की बात थी कि महोदय स्टेशन मास्टर से यह लिखावाकर संकुट हो गये कि इस विषय में उन्हें कुछ नहीं मालूम और ऐसा स्टेशन मास्टर ने स्वेच्छापूर्वक नहीं कहा बल्कि उनसे जबरन ऐसा कहलवाया गया ।

4- श्री रमाकान्त मिश्रा के बयान दिनांक 12-10-88 से स्पष्टतया देता स्मये के नोट का अस्तित्व प्रकाश में आ ही गया और यह भी कि उन्होंने वह दो स्मये का नोट डिकॉय को अपनी जेब से नहीं दिया था बल्कि वह नोट ब्रूकिंग आप्स के काउन्टर पर था अतः लेलेवे छाजाने का ही भाग था । स्टेशन मास्टर ने यह भी कहा कि दो स्मये का नोट उन्हें वापस नहीं मिला । प्रश्न सात के उत्तर में स्टेशन मास्टर ने जबाब दिया कि वी0आइ0 के प्रेशर के कारण उन्होंने 15-6-87 को यह कहा था कि उन्हें कुछ नहीं मालूम ।

5- जब 15-6-87 को ही दोनों विजीलेन्स छालासी के बंधाव में दो स्मये के नोट का जिक्र आया तो केवल एक छालासी श्री गोरखानाथ मिश्रा को तलाशी हेतु पुरनपुर के कार्यरत आर0पी0एफ0 नायक को बुलाया गया जबकि इसके पहले ही उसकी तलाशी का नाटक समाप्त हो चुका था आश्चर्यजनक थे हैं कि श्री जाकिर अली को तलाशी ली ही नहीं नहीं गई जबकि गोरखानाथ मिश्रा के कथनानुसार दो स्मये का नोट उसने जाकिर अली को दे दिया और और जाकिर अली के इस बयान की पुष्टि स्टेशन मास्टर ने नहीं किया कि उनको जाकिर अली ने कोई नोट दिया था ।

7- वास्तविकता तो यह है कि मैंने गोरखानाथ छालासी से केवल 108 स्मये ही मारी थे किन्तु उसने जानबूझकर 100 के नोट के साथ पांच पांच स्मये के दो नोट दिये और मेरे वापस किये गये दो स्मये के हक

के एक नोट को जानबूझकर काउन्टर पर छोड़कर जेसे ही बाहर जा रहा था स्टेशन मास्टर बुकिंग आपिस के अन्दर दाखिल हुये और दो स्मये के नोट के विषय में जो काउन्टर पर था, मुझसे जानकारी पूछत करके ही डिकॉय श्री गोरखनाथ मिश्रा को आवाज देकर बुलाया और वह दो स्मये का नोट श्री गोरखनाथ मिश्रा ले गया। इसके बाद की कहानी धुमाव फिराव तथा हाइड संड सीक का तमाज़ा उमर आ ही दुका है। और क्योंकि पूरा केस इसी छक दो स्मये के नोट के चारों ओर धूमता है अतः विजिलेन्स की कहानी गलत साबित होती है। मैं इस केस में बिलकुल निरोष्ट हूँ और मुझे पंसाने में तिल का ताङ बनाया गया है।

8- जहाँ तक 15-6-87 को केस में 25 स्मये कम होने का प्रश्न है ज्ञापन के साथ संलग्न। मैं ऐसा कोई आरोप मेरे विरुद्ध नहीं लगाया गया है। संलग्न ॥ मैं इसका जिक्र पैरा 14 में किया गया है। इस्पृष्ठेशान में वर्णित घटनाक्रम स्वयं में कोई अभियोग नहीं है बल्कि यह संलग्न। मैं वर्णित अभियोग को सिद्ध करने हेतु साधान मात्र है अतः मुझे किसी ऐसे आरोप के विरुद्ध सफाई देने की आवश्यकता नहीं है जिसका जिक्र आटी किल आप चार्जेंज में न किया गया हो। जाँच के दौरान भी ये आरोप प्रेम नहीं किया गया है फिर भी सूचनार्थ अर्ज करता हूँ कि टिकटों की बिक्री के समय धान का तेजी से आदान पूदान करने के कारण कैश में अधिक या कम होने की संभावना से इंकार नहीं किया जा सकता। कैश अधिक होने की संभावना नहीं के बराबर होती है क्योंकि एक यात्री को केवल अपना ही हिसाब देखना होता है किन्तु बुकिंग बाबू को सैकड़ों या त्रियों से लेन देन करना होता है यदि पोस्ट आपिस काउन्टर की तरह जहाँ पैसा और पोस्ट कार्ड पांच दफे गिना जाता है बुकिंग कलर्क भी ऐसा करके तो नयालूम कितने की देन छूट जायेगी उपरोक्त तथ्यों को ध्यान में रखते हुये प्रश्नासन ने कैश में कमी या खेती के लेखाक्रम का प्राविधान किया है जिसके

-4-

कालैम देनिक रोकड़ वहाँ मे बने हुये हैं वी.ओआई.0 श्री शारदा नन्द प्रसाद ने अपने बयान मे स्पष्ट किया है कि यह 25 रम्या उसी दिन जमा हो गया।

9- उल्लेखनीय है कि वी.आई. बारह बजे रात से प्रातः ४: बजे तक जाँच पड़ताल करते रहे, पूछताछ बयान जारी रहा इसाथ ही साथ समुचित प्रकाश के अभाव में मैं टिकट भी बैठता रहा, साथ ही साथ इतने सारे वी.आई. की उपस्थिति एवं प्रत्येकक्षरा जाँच की कायबाही में भाग लेने के कारण यात्रियों के धन के लेनदेन में भूल हो जाना स्वाभाविक था। फलस्वरूप कैश में 251 रुपया कम हो गया जो प्रातः ५ बजे कैश मिलाने के बाद ब्रात हुआ।

८०

८०

श्यामनारायन
प्रधान टिकटबाबू,
पुरनपुर,

27-10-88

अमरप्रभा २८८

Shyamnaranayana

समृद्ध माननीय सेन्ट्रल इंसिनिस्ट्रूटिव ट्रिब्युनल सर्किट बैन्च लखनऊ
स्प्लीकेशन नं०-----/1989

श्याम नारायण झा

वादी

बनाम

यूनियन आफ इन्डिया आदि

प्रतिवादी गण

अनेकजर नं० ॥

श्रीमान महाप्रबंधक सतीकता।

पूर्वोत्तर रेलवे
गोरखापुर।

महोदय

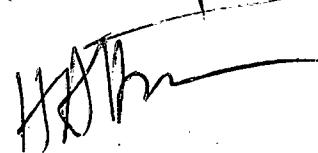
निवेदन है कि दिनांक 15-6-87 को मैं पूर्वनपुर रेलवे स्टेशन के टिकट घार की छिड़की पर करीब 12.15 बजे पीलीभीत का टिकट लेने के लिये छाड़ा था मैंने बाबू जी से टिकट मांगा तो बाबू जी ने कहा कि अभी एक ज्ञाओं बे एक आदमी से जो अन्दर टिकट बनवाने के लिये छाहा था उससे बात कर रहे थे वह दो टिकट सीधान का बनाने के लिये बाबू जी से कह रहा था बाबू जी ने उससे 108/- समये किराये के मार्ग उसने 110/- समये दिये टिकट बनाने के बाद उसे 2/- और टिकट दे दिया वह सभी बातें मैं छिड़की से देखा और सुन रहा था इसके बाद मैंने पीलीभीत का टिकट जिसका नं० १३०२९ यह था लेकर चला गया।

भवद्वीप

८०

वीरेन्द्र सिंह
मो० साहूकारा पूर्वनपुर

श्याम नारायण झा।



समक्ष माननीय सन्दूल एडमिनिस्ट्रेटिव ट्रिब्युनल सर्किट बैन्च लखानऊ
एस्टलीकेश्वर नं० 1989

श्याम नारायण झा

--

वादी

बनाम

घूनिधन आर्फ़ इन्डिया आदि --

प्रतिवादीगण

अनेकजर नं० ।

त्रीमान महापृष्ठाक महोदय
सतर्कता पूर्वोत्तर रेलवे
गोरखपुर ।

महोदय

निवेदन है कि दिनोंक 15-6-1987 को सेविन अप० 17 अप० से
लखानऊ जाने के लिये मैं पुरनपुर रेलवे स्टेशन पर रात को 12 बजे टिकट
लेने के लिये सबसे आगे छाइकी परखाड़ा था बाबू जी से लखानऊ
का टिकट मांगा वे एक आदमी अन्दर से टिकट बनवाने के लिये छाड़ा था
उससे बात कर रहे थे मुझसे कहा कि अभी जराएक जार्थे वह सीवान का
दो टिकट बनाने के कहा रहा था बाबू जी ने उससे 10/- किराया का
बताया और उसने 110/- समये दिये । टिकट बनाने के बाद उसे
टिकट और 2/- वापस कर दिये वह बाक्या मैं छाइकी से देखा व
सुन रहा था उसके बाद मुझे टिकट दिया और मैं टिकट लेकर स्टेशन चला
गया इसके अलावा जो और लोग मेरे पीछे छाड़े हुये था उन लोगों ने मैं
देखा था ।

मेरा टिकट नं० पुरनपुर से लखानऊ का जिसका
नम्बर ५६०१७ था ।

भवदीय
रामचिन छान्डेलवाल
मो० बौक पुरनपुर

श्याम नारायण

(Signature)
HMT

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNOW.

APPLICATION NO. 08-1989

versus

ANNEXURE NO.

11

REPORT OF D.A.R. ENQUIRY AND FINDING

IN CASE AGAINST SHRI S.N.JHA, RBC/PP.

1. i) Case no. - C/SS-Vig/27/87/Major
ii) Name of suspect Sri S.N.Jha, HBC/PP
iii) Charge memo no. - C/SS-Vig/27/87/Major dt.
iv) Name of E.O. - R.D.Prasad, EI/DA
v) Name of defence helper - Shri P.C.Khare, ex.SCI
vi) Disciplinary authority- Sr.D.C.S/IZB.

2. i) Article of Charges.

Sri S.N.Jha, Head Booking clerk, while on duty in the Booking Office, Puranpur on 15.6.87 from 00 hrs. to 8 hr shift, has committed serious misconduct in as much as that he being a habitual offender of realising excess money from the passengers on booking the tickets, deliberately realised Rs.110/- (One hundred and ten only) against the actual fare of Rs.108/- (One hundred and eight) on the sale of two tickets ex Puranpur to Siwa

ପ୍ରମାଣନ୍ଦାମଣି

A74

A74

-2-

from the decoy with ulterior motive for his private gain and when detected, he took alibi of returning the same to the decoy purchaser alongwith the tickets sold to him although the fact was far off from the truth.

The above act of Sri Jha shows his failure to maintain absolute integrity, devotion to duty and an act unbecoming of a railway servant, which tantamounts to misconduct. He thereby has contravened the railway services (Conduct) Rules No.3(1)(i) (ii) & (iii) of 19661

ii) Statement of imputations

Whereas Sri S.N.Jha Head Booking Clerk, Puranpur, has committed misconduct as under:

i) On a source information that the Booking Clerks working at Puranpur Railway station were in habit of realising excess money over and above the actual fare from the passengers on the sale of long distance tickets, a decoy check was conducted on 15.6.87, Sri Gorakh Nath Misra, Vigilance Khalasi was deputed to purchase two second class M/E tickets for Siwan and for this purpose a sum of Rs.120/- (GC Notes of various denominations) was given for the purpose, Sri Zakir Ali Vig. Khalasi was deputed to act as a witness to the deal between the booking clerk and the decoy Sri Misra. All the preliminaries such as search of decoy, preparation of Panchnama etc. were completed before hand. On purchase of the tickets by the decoy Sri Jha realised Rs.120/- (One hundred and ten) against the actual fare of Rs.108/- (One hundred and eight) viz. Rs.2/- in excess for his private gain.

227-0049-241

-3-

ii) Panchnama dt.14.6.87 will show that Sri Gorakhnath Misra Vig. Khalasiwas deputed to purchase two second class M/E tickets for Siwan from Puranpur Railway Booking window. And for this purpose, G.C. Notes of different denominations amounting to Rs.120/- number of which were enumerated in the Panchnama, were given to him after taking search of his person and leaving no private cash with him. Sri Misra was also instructed to make payment of the fare exactly the same amount what the booking clerk on duty would demand.

It will further show that Sri Zakir Ali another Vig. Khalasis was deputed to act as an overhearer and to witness to the deal between the booking clerk on duty and decoy Sri Misra by staning in the queue of passengers just behind Sri Gorakh Nath Misra decoy, at Booking window, Puranpur.

iii) Statement dated 15.6.87 of Sri Gorakh Nath Misra, will prove that as per instructions of the vigilance inspectors he, after confirming the fare of one second class M/E ticket for Siwan, purchased two tickets for Siwan No. 46015 & 46016 ex. Puranpur to Lucknow and KPT No. 113494 from Puranpur booking window on 15.6.87 and paid Rs.110/- to the booking clerk on duty on demand as fare of two tickets. It will also prove that the tickets in question were sold to Sri Misra from inside the booking office. It will further show that Sri Zakir Ali was standing with him in the booking office and also witnessed the whole deal.

iv) Statement of dt.15.6.87 of Sri Zakir Ali will prove that he witnessed the transaction of tickets and fare which took place between Sri S.N.Jha HBC and Sri Gorakh Nath Misra. This will also prove that for two tickets ex. Puranpur to

2017-12-14 2023

126

51

-4-

Siwan SriJha demanded and realised Rs.110/-@ Rs.55/-for a ticket ex.Puranpur to Siwan.

v) Endorsements dt.15.6.87 by S /Sri S.D.Rajput SVI and S.N.Prasad CVI on the statements and reverse of the statements of Sri Gorakh Nath Misra and Sri Zakir Ali will prove that reasonable opportunity was given to Sri S.N. Jha HBC to clarify his position regarding excess realisation of Rs.Two from the Vig.decoy on the sale of tickets ex Puranpur to Siwan.These endorsement will further prove that the decoy and witness were confronted with Sri Jha.

vi) Endorsements dt.15.6.87 by Sri S.N.Jha HBC on the reverse side of the statements of Sri Gorakanath Misra will prove that in course of confronted enquiry Sri Jha admitted to have realised Rs.110/- but he stated to have returned Rs.2/- which was contradicted by the decoy.

vii) Endorsement dt.15.6.87 made by Sri S.N.Jha on the reverse side of Panchnama dt.14.6.87 will show that according to the instructions to him by Sri S.D.Rajput CVI he sorted our from the Govt.cash in his possession the following G.C.Notes numbers of which were the same as were noted in the Panchnama :

One G.C.Note of Rs.100/- 8SF 045370 =	100/-
Two C. C.notes of Rs.5 Each Nos.32V 242708	
11S 7734443	10/-

10/-

Sri S.N.Jha
The above recovery has been recorded by Sri S.N.Jha

his own handwriting which shows that he demanded and realised Rs.110/-i.e. @ Rs.55/-per ticket ex Puranpur to

-5-

Siwan against the actual fare of Rs.108/-@ Rs.54/-per ticket.

viii) In reply to a question, vide his reply dated 15.6.87 Sri S.N.Jha has taken the personal search of Sri Gokaran Nath Misra, Decoy and recovered Rs.10/-numbers of which he recorded in his own handwriting on the proceeding paper dt.15.6.87.

Three G.C.Notes of Rs.2/-each nos.76 D 200792

26 U 166377 and 47 T 827476

Four G.C.Notes of Rs. One each No. 28T 670803

29 L 423696 48A 920037 15 H 840426

Total Rs.10/-.

A recovery of Rs.10/- from the possession of the decoy will prove that he was given Rs.120/-out of which he paid Rs.110/- to the Booking clerk on duty Sri Jha in purchase of two second class tickets for Siwan.

ix) Proforma showing surprise check of cash and accounts duly filled in by Sri S.N.Jha on 15.6.87 will show that there was a shortage of Rs.25/- in his Govtcash. This shows that he made an artifical shortage in his Govt.cash in order to cover his middeed of excess realisation on the sale of tickets.

Signature - R.K. Misra
 x) Statement dt.21.8. 87 of Sri R.K.Misra, SS/Furanpur is contradictory to his earlier statement dt.15.6.87 which will prove the story of Rs.2/-lying on the counter the balance money left by the decoy and subsequently returned to the decoy is concocted story to save his guilt of excess realisation 2411-14149 02/1

178

53

1/9

-6-

xi) Statement dt 10.8.87 of Sri S.N.Jha HBC is contradictory to his earlier statement dt.15.6.87 which will prove the story of returing Rs.2/- the balance money to the decoy which he left on the table and subsequently returned to the decoy by SS/Puranpur is an after thought story to save his misdeed as the SS Sri Misra denied to have handedover the same to the decoy.

xii) F.I.R dated 23.6.87 will show that Sri S.N.Jha committed misconduct by realising Rs.2/- in excess on the sale of two second class tickets ex PP to SV from the decoy.

xiii) Cancelled second class M/E PCTs No.46015 and 460-16 aex Puraupur to Lucknow J. & EFT No.113494 upto Siwan will prove that while ticket was for Rs.25/- the EFT was issued for extending both the PCTs to Siwan was for Rs.54/- only i.e. actual fare ex. Puranpur to Siwan was Rs.108/- but the same were issued by Sri Jha for Rs.110/-@ Rs.55/- for a ticket.

xiv) DTC Book dt.15.6.87 of Puranpur Railway station will prove the sale of the above noted tickets were done in the duty of Sri Jha. It will further prove the fare of PCT for Lucknow was Rs.25/- only.

xv) Endorsement dt.15.6.87 made by Sri Girraj Prasad Verma, RPF/Naik, Puranpur on page no.4 and on the reverse side of the Panchnama dt.14.6.87 will show that he stood as witness to the Proceedings.

xvi) Envelope sealed with Station Seal of Puranpur

2011-11-17 2011

179

54

X
A/0

-7-

station bearing signature of V.I.s. Sri R.K. Misra SS and Sri S.N. Jha will prove on opening that Rs.110/- of the Panchnāma money was the same which was given by that Rs.110, of the Panchnāma money was the same which was given by decoy as fare for two tickets aex PP to SV to the BC Sri Jha and was subsequently recovered from the Govt. cash ex. held by Sri Jha.

3. Authority to hold the enquiry:

The disciplinary authority has nominated the undersigned to hold the enquiry under their letter No.C/SS/Vig/27/87/ Major dt. 8.7-88 on the basis of which enquiry has been held by me.

4. Prosecution and evidences

Oral evidences of the following prosecution witnesses have been recorded:

- i) Sri S.D. Rajput CVI ROP 2 to 4
- ii) Sri Zakir Ali Vig. Khalasis 5 to 6
- iii) " L.B. Khare CVI " 7 to 8
- iv) " Gorakhnath Misra Vig. Kh. 9 to 11
- v) " R.K. Misra SM/PP " 12 to 13
- vi) " Girraj Pd. RPF Naik/PP" 14 to 15
- vii) " S. N. Prasad, Ex CVI " 16 to 18

Apart from the above documentary evidences available on records were also examined and taken into consideration.

5. Defence and evidence

- i) Written statement of defence RCP 19 to 24.
- ii) No defence witness

24/7/88 - 211

(R20)

X/81

-8-

iii) examination under rule 9(21) ROP 25 to 27.

iv) No written statement of defence brief was produced.

6. The relied on proceedings are available from page 1 to 27 and order sheets from page 1 to 2.

7. Appreciation of evidences and finding

The charges in brief against Sri S.N.Jha HBC/PP is that while he was on duty from 10 to 6 hrs. on 14/15.76.87 in booking office Puranpur, he realised Rs.110/- against the actual fare of Rs.108/- on the sale of two tickets ex. PP to SV cfrom the decoy and took alibi of returning Rs.2/- to the decoy alongwith tickets.

(i) S/Shri S.D.Rajput DVI LB Khare and S.N.Pd.PWs have stated that on getting source information that the booking clerk of Puranpur is realising excess money over long distance tickets a decoy check was proposed to be conducted given for this purpose a Panchnama was prepared at Pilibhit station on 14.6.87. The Vigilance team reached Puranpur by 153 Up and according to the fixed programme Sri Gokaran Nath Misra Vig.Khalasi went to the booking counter at the time of 7 Up train and asked for two tickets of Siwan after asking the fare of one ticket. Sri Zakir Ali another Vig.Khalasi was also standing behind the ~~xomx~~ Sri Misra. The booking clerk on duty asked them to come inside the room and take their tickets. Both Sri G.N.Misra and Zakir Ali went inside the room and paid Rs.110/- for two tickets of Siwan. The booking clerk gave them two PCTs and one EPT. On getting signal from the Khalasi the V.I.s. immediately entered in the booking office and after giving their identity, they

(P)

56

8/6/

-9-

ordered the BC to bundle all the G.C. Notes and kept separately and start booking from available coins. Thereafter all proceedings were started.

(ii) (a) Sri Gokaran Nath Misra (decoy) has stated that as per scheduled programme he went to the booking counter of Puranpur station on 15.6.87 and asked for fare of one ticket of SV. The BC on duty told the fare as Rs.55/- for one ticket and Rs.110/- for two tickets, he demanded two tickets of Siwan. The booking clerk asked him to take ticket from inside booking office Sri G. N. Misra and Sri Zakir Ali went inside booking office and took tickets after giving Rs.110/- to the BC(ROP 9 statement-in-chief) Sri Zakir Ali (over hearer) has repeated the same thing and he has confirmed that booking clerk told the fare of one ticket of SV as Rs.55/- and he saw that Sri Misra gave Rs.110/- to the booking clerk for two tickets of Siwan and the BC did not return any balance money with the tickets(ROP 5 statement-in-chief).

(ii)(b) Shri S.N.Jha HBC on duty at that time has stated that he had returned Rs.2/- alongwith tickets (ROD-3 back page). While recognising Shri G.N.Jha from whom he has taken tickets and given Rs.110/- Shri G. N. Misra has stated that the BC had never returned Rs.2/- to him. On further interrogation Sri Jha has clarified the the position and stated that he (G.N.Misra) would have left Rs 2/- at the table which Sri R.K.Misra DM had seen lying at the table and he(SM) had returned to the passenger (decoy). In continuation of interrogation Sri R.K.Misra SM has stated that he had no knowledge of Rs.2/-

2015-12-14 2021

(RUD-3). On further interrogation Sri G.N.Misra(decoy) has clarified that when next time he was called by the V.U.s. in the booking office, Sri R.K.Misra SM had tried to pay him Rs.2/- which he immediately transferred to Sri Zakir Ali ((over hearer) .But the BU never returned Rs.2/- to him. Shri S.N.Jha has stated in his statement dated 10.6.87 in reply No.18 that he had returned Rs.2/- to Sri G.N.Misra alongwith tickets but he had left the G.C.Note of Rs.2/- on the parcel register lying on the table while he(decoy) was going out of the room, Shri R.K.Misra SM got in and saw the G.C.note of Rs.2/- on the table and asked him(Jha) about that Shri Jha pointed out that one passenger who had taken ticket of Siwan would have left that G.C.Notes of Rs.2/-. Shri R.K.Misra immedately called the passenger and asked about the GC Note who took out that note and went outside. He has further reiterated in reply No.22 that Shri R.K.Misra SM had given the GC Note of Rs.2/-to Shri G.N.Misra (decoy) he had not given him.

(ii)(c) Shri R.K.Misra SM/PP has stated in his statement dated 21.8.87 that when he first entered in the booking office on 15.6.87 at about 00 hrs. he saw Vigilance team available there. When second chance went inside booking office he saw a GC Note of Rs.2/-lying on the counter below one register when he asked HBC told that the same might be of some passenger (Ann.2) on question no.3 that when he asw Vigilance checking why he did not point out to the members of Vigilance party about that G.C.Note Sri R.K.Misra had re-lied that he did not point out as he was in hurry to give line clear of 7 Up train and went away. He has further stated in Ann.no.7 that he hurriedly went away from the booking office and could not see as to who had taken away the GC.

S. G. Jha

-11-

note of Rs.2/- as such he had stated on 15.6.87 that he did not knowledge of it. At last he had stated in reply no.9 that he had not paid Rs-2/- to Shri G.N.Misra (decoy) how he got the same he did not know. During course of enquiry Shri R.K.Misra SM/PP was stated that whatever he stated on 21.8.87 in Vigilance office was wrong and had stated that when he entered in the booking office he saw two rupees note lying on the table without any paper weight and he saw a man hurriedly coming inside and taken two rupees note and disappeared in the darkness at platform (SN 11 and 12). He has denied giving two rupees note to any body on 15.6.87 from his pocket nor anybody returned him two rupees note after that incident.

(ii) (d) Shri Gir Raj Prasad, Naik, RPF/PP now in WS/LZN has stated during course of enquiry that when he entered in the booking office on receipt of a memo from Vig. team, he heard that Shri R.K.Misra SM was telling that how two rupees note was lying on the table. Shri S.N. Jha HEC was telling that some passenger had left his money. After that Sri Jha was loudly asked as to who had left his two rupees note (Statement in chief ROP 14). But in cross examination Sri Prasad has sharply reacted and stated that when Shri Jha was loudly asking about two rupees note from passengers, he was standing at the exit gate 10-12 feet away from booking office and he heard the voice from there (ROP 14 SN 7). He has further pointed out that during course of introgation in his presence, Shri Misra SM was telling that he had just given him two rupees note he did not know what he (decoy) had done with it (ROP 15 SN 10).

(ii) (e) Shri Zakir Ali Vig.Khallas (over hearer) has stated on 15.6.87 during course of confronted enquiry

-12-

at Puranpur that the booking coerk told the second class fare of ex PP to SV Rs.55/- Sri G.N.Misra asked for 2 ticke s of SV for which booking clerk demanded and accepted Rs.110/- for two tickets Sri G.N.Misra had paid Rs.110/- to the HC in his presence and the clerk had given two tickets and one receipt (EPT) but he had returned no other money to Sri Gorakh Nath Misra (written statement dt.15.6.87). In this context on going through the statement of Sri Zakir Ali ,Sri S. N. Misra Jha has stated that he had told the fare of two tickets as Rs.108/- (and the he (decoy)had paid him Rs.110/Rs After giving the tickets he (HBC) had returned Rs.2/- which was left at the table. The station master got that note of Rs.2/Rs and returned to Shri Gorakh Nath Misra who gave that note to Sri Zakir Ali- In reply to next question Sri Zakir Ali had cclarified about Rs 2/-and had stated that the booking never returned Rs.2/- along with tickets. But when Shri Gorakh Nath was coming inside booking office with his statement f or concronted enquiry, the SM gave him a note of Rs.2/-which he (G.N.Misra) returned to him (Sri Zakir Ali) and he had accepted Rs.2/- from SM,he had replied that the SM (Bara Babu) did not indicate that he was returning Rs.2/- on account of balance money from the fae of tickets already paid. However he had returned the same to Shri Zakir Ali and who had returned to the SM(Bara Babu) RUD-3 statement of Shri Zakir Ali) During course of DAR enquiry Sri Zakir Ali has stated that the booking clerk had not returned any money along with tickets. Sri Gorakh Nath Misra had paid him RsRs2/- which he had immediately returned to one Sri Misra (Bara Babu)

Signature

(ROP-5) statement-in-chief). In reply to a question Shri Ali has clarified that Sri G.N.Misra had asked him to returned Rs.2/- to Sri Misra SM(Barababu) and he had immediately to Barababu(ROP-5) SN 1 & 2) and he had pointed out the same to the V.I.s. before giving his statement (ROP-6 SN-14).

iii) During course of confronted enquiry Shri S.N.Jha HBC/PP has accepted that he had sold two PCT and one EFT for Siwan (RUD-3 statement of Shri G.N.Misra) During examination under rule 9(21). Shri Jha has accepted that he had issued tickets of Siwan to the passengers from the inside booking office(ROP25 SN 13), so it has been proved that Shri S.N.Jha, HBC/PP had issued tickets of SV on 15.6.87 to the decoy.

iv) During course of confrontation proceedings Sri S.N. Jha had taken search of Sri G.N.Misra (decoy) and a sum of Rs.10/- was recovered from his pocket the numbers of which had been written by Sri Jha on the proceeding paper and these were the same notes which were mentioned in the Panchnama (Back page of RUD-27) on further search by Sri Gir Raj Prasad, NK, RPF/PP of Sri Gorakh Nath nothing was recovered from the possession of Sri Misra which goes to prove that Rs.2/- was not available with him, Sri S.N.Jha, HBC had shorted out the G.C.note from the sale proceeds (Govt. cash) the number of which were mentioned in the Panchnama and had written the those numbers and total amolments at the back page of Panchnama which goes to prove that he had taken Rs.110/- from the decoy. From the very beginning of the investigation and enquiry he had every where accepted

24/7/1987

[Handwritten signatures and marks are present on the left side of the page, including a large 'X' and a signature that appears to be 'S.N.Jha' with a date below it.]

REB

61

8/8

-14-

that the decoy had paid him Rs.110/- for two tickets of SV.

v) From para 7(ii) (b) it is cleared that Sri S.N.Jha HBC had not paid Rs.2/- to Sri Gorakh Nath Misra (decoy). It was Sri R. K. Misra SM/PP who had first seen one GC note of Rs.2/- lying at the table in the booking office and he had seen somebody taking away that note (Para 7(ii)(c) . Sri G.N.Misra (decoy) and Sri Zakir Ali (over hearer) had stated that HBC had never returned Rs.2/- but Sri R. K. Misra had tried to give two rupees note to Sri Gorakh Nath who returned to him (Sri Ali) and Zakir Ali immediately returned the same to Sri R.K.Misra SM (Para 7(ii)(c)). It was a drama created by Sri R.K.Misra SM to get the decoy check unsuccessful. Sri R.K.Misra is a responsible man of a station but he has changed his statement in a childish way at every time and rather he has blamed the whole Vigilance Organisation that his statement dated 21.8.87 was taken under pressure and it was wrong as such his statement cannot be taken as authentic and believable. Since Sri S.N.Jha has accepted that the decoy had paid him Rs.110/- and he had not returned him Rs.2/- by his hand and the G. V. note of same amount have been recovered from the Govt. cash, Sri Jha is held responsible for realising excess money of Rx.2/- from the decoy on two tickets of Siwan.

Signature

Special Report

It has been gathered from the whole story of the case that on 15.6.87 when Sri Gorakh Nath Misra (decoy) and Sri Zakir Ali (over hearer) purchased two second class tickets of Siwan from booking office,

2023-11-14, 2023

62
X
62

-15-

Puranpur at the time of 7 Up train Sri R.K.Misra was on duty upto 24.00 hrs. of 14.6.87. The tickets were purchased after 24.00 hrs. when he was off duty and was going to his residence he saw some known persons (V.I.s.) at the platform. He got information that Sri S.N.Jha HBC has realised Rs.2/- on two tickets of Siwan from the Vigilance decoy, as such he played an enigmatic role and contacted the decoy Sri Gorakh Nath Misra at the platform when he was writing his statement and given him Rs.2/- without indicating its intention. When this matter of Rs 2/- came to the knowledge of Sri SN Prasad, CI he admonished Sri Gorakh Nath and asked him to give the same to the S.M immediately, Sri S N Misra gave that note to Sri Zakir Ali to return the same to Sri R.K.Misra SM which was done by him. The plot was created in a very clever manner that Sri Jha had returned the G.C. Note. of Rs.2/- to the decoy but the decoy intentionally left the same at it what other numbers of the Vigilance team were alert on their job and his riddle can be easily solved. It is understood that he would have endeavour much to get his mission he stated in reply to a question that "when you enter in the booking office with SI Sri L.B.Khare CVI had you got the rupee at the counter or not" he had written. I have got no knowledge regarding this. In his statement dated 21.8.87 in reply to question two. he has stated that when he first entered in the booking office, he saw three men sitting in the booking office and when next time came he saw a note of rupees two was lying at the table below Register. It is strange that the

Signature

the three Investigating officials were not seeing it. However he has stated during course of enquiry that the statement given by him on 21.8.87 was wrong and under pressure of Vigilance. He has stated that when he first entered in the booking office he saw a G.C. Note of Rs. 2/- lying at the table without any paper weight and a man hurriedly came inside and took away the note. Can it be believed that a Vigilance Khallasi (decoy) will take that money in a manner stated by Sri R.K. Misra. Sri R.K. Misra being in charge of a station has not displayed his duty like a man of sound integrity as such his conduct is questionable.

FINDING

The charges framed against Sri S.N.Jha HBC/Puranpur is contravention of R.S.(Conduct) Rule 3(i)(i)(3(i)(ii) and 3(i)(iii) are proved.

sd.

(R.D.Prasad)
EI/DA

22/7/1987

Signature

A29
64
100

समक्ष माननीय सन्देश इंडियन इंस्ट्रिटिव ट्रिब्युनल सर्किट बैन्च लखनऊ

रणनीति केशान नं 0-----/1989

श्याम नारायण झा

घुटदी

बनाम

यूनियन आफ इन्डिया आदि

--

प्रतिवादीगण

अनेक्षर नं ० ५ १५

संसी/सस/विज/27/87/मेजर

श्री एस०एन०झा प्रधान ब्रुकिंग बाबू/ पूरनपुर के विरुद्ध अनुशासनिक जांच कार्यवाही ।

दिनांक 27-10-88

स्थान: गोरखापुर ।

श्री एस०एन०झा प्रधान ब्रुकिंग बाबू/ पूरनपुर का निष्म ११२। के अन्तर्गत स्पष्टीकरण ।

301 मैं दिनांक 25-5-55 मेरी आरोपी०एफ० रक्षक के पद पर नियुक्त हुआ ।

32 मैं सन 1970 मेरी ब्रुकिंग बाबू के पद पर आये ।

33 सन 1985 मेरी पूरनपुर रेलवे स्टेशन पर प्रधान ब्रुकिंग ब्रुकिंग मेरी बाबू के पद पर कार्य कर रहा हूँ ।

उ०४ मेरी डियूटी 14/15-6-87 को पूरनपुर स्टेशन पर ब्रुकिंग आफिस मेरी टिकट और परसल ब्रुक करने के लिये 18 बजे से सुबह 6 बजे तक थी ।

305 7 अप्रैल 0-30 बजे के लगभग पूरनपुर पहुँचती है ।

306 दिनांक 15-6-87 को 12 बजे के बाद 1 रात के बाद एक सतर्कता बैक हमारे स्टेशन पर हुआ था ।

श्याम नारायण झा

उ०७ यात्रियों को टिकट देने के लिये कोई वार्ड और पास्ट नियम नहीं है कि उनको अन्दर से टिकट न दिया जाये उनके सुविधा के लिये अगर वे अन्दर आ जाते हैं तो अन्दर से भी टिकट दिया जा सकता है।

उ०८ मैं ज्योंहीं 7 अप का टिकट बांटने के लिये दरवाजा छोला मेरे पीछे ही दो आदमी बुकिंग आफिस मे छुत आये इसके पहले दरवाजा बंद करके मैं पारसल आफिस गया था।

उ०९ रात के :12 बजे अगर कोई आदमी अपने लगेज या पेरिसेब्ल पारसल की डिलीवरी लेने आता है तो उसको डिलीवरी दी जाती है।

उ०१० दिन मे एरसल लिपिक अलग अपने आफिस मे काम करता है और बुकिंग बांबू बुकिंग आफिस मे काम करता है किन्तु रात मे बुकिंग लिपिक हो पारसल और टिकट बुकिंग दोनों का अकेले ही करता है।

उ०११ जब दो आदमी जबरदस्ती मेरे पीछे कमरे मे छुत आये तो मैंने उनसे बाहर जाने के लिये कहा किन्तु मैं बाहर नहीं गये और अन्दर से ही टिकट लेनाचाहा।

उ०१२ उस दिन जहाँ तक मुझे याद है कि सभी यात्री बाहर से ही टिकट लिये थे। केवल ये ही दो आदमी अन्दर से टिकट लिये थे।

उ०१३ उक्त दो आदमी पहले पहले मुझसे सीबान के दो टिकट का किराया पूछा सोमैने उनसे 108/- रु बता दिया। तब वे आदमी पास में खड़ा था और टिकट का किराया पूछा था उसने 100/- रु का एक नोट और 5/- रु के दो नोट कुल 110/- रु का किराया दिया। मैंने दो पी सी टी और एक ई०४५०टी० बना करके दे दिया तथा साथ मे 2/- रु का नोट भी दे दिया।

उ०१४ उक्त दोनों आदमी कब चले गये थे मैंने नहीं देखा मैं बाहर के लोगों को टिकट देने मे च्याप्ट था।

. 3.

उस समय छिड़की पर बाहर दो ट्रेनों के यात्री । 7 अप्रैल 26 डि
के लगभग 10-15 यात्री छाँड़े थे जिनको मैंने टिकट दिया ।

इन दोनों यात्रियों के जाने के बाद स्टेशन मास्टर अन्दर आ गये
परसल के लोडिंग के बारे में पूछताछ करने लगे ।

स्टेशन मास्टर ने मुझे बताया कि ये ट्रेन्स पर 2/- रु. का नोट
किसका पड़ा हुआ है तो मैंने बताया कि किसी यात्री का पड़ा हुआ
होगा तो उन्होंने आवाज दिया कि यह किसका नोट पड़ा हुआ है
ले जाये तो वही यात्री जो अन्दर से टिकट कटाया था आकर के वह
नोट ले गया ।

दो चार मिनट बाद ही कुछ सतर्कता निरीक्षक अन्दर आये और
उन्होंने आदेश दिया कि जो सरकारी छाजाना है नोटों को अलग
बांध करके रखा दीजिये बैंकिंग की जायेगी ।

सतर्कता निरीक्षकों ने एक कागज सामने रखा और कहा इस कागज में
जो नोट के नम्बर लिखो हूँये है उनको छांट करके अलग हर दो जिये
मैंने उन नम्बरों के नोटों को छांटा जिसमें 100 का एक नोट तथा
5/- रु. के दो नोट निकले ।

सतर्कता निरीक्षकों ने उस खालीसी को बुलाया और जिसने टिकट
लिया था और कहा कि हनकी तलाशी ले ली जिये, मैंने उसकी
तलाशी नहीं लिया बल्कि उससे कहा कि आपके पाकेट में जो कुछ
भी हो उसको निकाल कर बाहर रखा दें ।

उसने कुछ टूटे हुए नोट अपने पाकेट से निकाल कर सामने रखा दिया।
कुछसे रुपाल नहीं है कि वे कितने थे।

मुझे याद नहीं पड़ रहा है कि कितने नोट आप आदमी के पाकेट में
निकले और मैंने किसी कागज पर लिखा था नहीं ।

मैंने मोरछानाथ मिश्रा के बयान के संदर्भ में युछे गये प्रश्नों के उत्तर देख

A22

67

A/3

-4-

कर बता रहा हूँ कि यह मेरे हाथ का लिखा हुआ है जो दिनांक

15-6-87 को लिखा है जिसमें मैंने लिखा है कि हनकी तलाशी लेने पर निम्न नोट पाये गये जिनका नम्बर मैंने लिखा दिया है और कुल

10/- ₹ 0 थे।

उ024 मैंने 2/- ₹ 0 के नोट दो टिकट तथा एक हौंसफ०टी०एक ही सार्थ उसके सामने टेब्ल पर रखा दिया था ये मुझे नहीं मालूम कि वह आदमी 2/- ₹ 0 का नोट उसकी नहीं दिया था बल्कि वह स्वयं अपने हाथ से मैज पर नोट उठा ले गया।

उ025 जब दुबारा बुलाया गया कि ये किसका नोट पड़ा है तो वह आदमी मेरे सामने ही आया था किन्तु मैंने उसकी अपने हाथ से उठा कर 2/- ₹ 0 का नोट उसकी नहीं दिया था बल्कि वह स्वयं अपने हाथ से मैज पर नोट उठा ले गया।

उ026 श्री गिरराज प्रसाद वर्मा आर०पी०एक० ने मेरे सामने ही श्री गोरखनाथ मिश्रा खालासी जिसने टिकट कटाया था कि तलाशी ली थी किन्तु उसके पाकेट से कुछ नहीं निकला था।

उ0 27 श्री गोरखनाथ मिश्रा के तलाशी लेने के बाद कुछ नोट निकले थे जिसमें 2/- ₹ 0 के भी नोट थे किन्तु यह मैं नहीं कह सकता कि ये मेरे द्वारा बापस किये गये नोट उसमें थे या नहीं क्योंकि उस 2/- ₹ 0 के नोट का नम्बर जो मैंने बापस किये थे वह मेरे जानकारी में नहीं था।

ह०

ह०

ह०

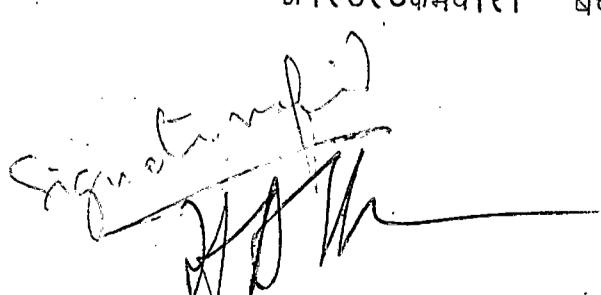
ह०

आर०पी०कर्मचारी

बयाव सहायक

जांच अधिकारी

श्रीमान-प्राप्त नाम



(X) 68
A/9

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH,
LUCKNOW.

APPLICATION NO. _____ OF 1989

Satya Narain Jha Petitioner/
Applicant.

versus

Union of India and others Opp. Parties.

ANNEXURE No. 15

NORTH EASTERN RAILWAY

ORDERS REGARDING IMPOSITION OF PENALTY OF REMOVAL FROM SERVICE
UNDER RULE 6(viii) OF PART III OF THE RAILWAY SERVICE (D&A)
RULES, 1968.

No. C/SS/Vig./27/87/Major

Dated 28.2.89

To

Name	-	Sri Shyam Narain Jha
Father's name	-	Sri Mahanand Jha
Designation	-	Head Booking Clerk.
Department	-	Commercial
Station	-	Puranpur
Scale of pay	-	1400/-2300/-.

Sri Shyam Narain Jha, Head Booking Clerk, Puranpur
is informed that the enquiry officer appointed to enquire
into the charges against him has submitted his report. A
copy of the report of the enquiry officer is enclosed.

2. On a careful consideration of the enquiry report
aftersaid, the undersigned agrees with the findings of the

28th Feb 1989

Enquiry Officer in so far as it relates to Imputations nos. (i) to (ix) (xvi).

3. The undersigned has, therefore, come to the conclusion that Shri Shyam Narain Jha, HBC is not a fit person to be retained in service and has decided to impose upon him the penalty of removal from service. Shri Shyam Narain Jha is, therefore, removed from service from the date he receives this notice.

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

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

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

Please acknowledge receipt.

sd.

28/2

(O.P.GUPTA)

Divl. Comml. Supdt,
N.E. Railway Izatnagar.

DA: Findings of E.O.
in 8 pages.

Copy to:-

1. OS/Bills and Cadre in DPO's office for inf. and n.a.
2. SS/Puranpur for information
3. SCI/Izn.

2017-2018-201

S. P. D. V. V.
H. H.

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD LUCKNOW CIRCUIT LUCKNOW.

CLAIM PETITION NO. OF 1989

VERSUS

ANNEXURE NO. 17

16

By Regd. Post / AD

To

The Addl. Divl. Railway Manager,
North Eastern Railway
IZATNAGAR.

Through The Divil Commi. Supdt.
N.E. RAILWAY
IZATNAGAR

Respected Sir,

Sub: Appeal under Rule 18 of R.S.(D & E)
Rules, 1968.

Ref: NIP No.C/SS-Vig./27/87/Major dt.28.2.89
(Received on 03.3.89) issued by the
learned DCS/IZN removing the appellant
from services.

The humble appellant begs to prefer this appeal
against the order of Disciplinary Authority referred to
above.

(A) BRIEF HISTORY OF THE CASE

1- A trap was laid by the team of Vigilance Inspectors,

N.E.Railway Gorakhpur at Station Puranpur on 15.6.87 at about 00-15 hrs. through Decoy. when the appellant was on duty in the booking office. The vigilance team comprised of three vigilance Inspectors and two Vigilance Khalasis, one utilised as decoy and the other as a witness.

2- One of the Vigilance Khalasi named Sri Gorakhnath Misra who acted as Decoy accompanied by another vigilance Khalasis named Sri Zakir Ali as a witness or over hearer, whose identity was known to me later, came inside the booking office behind me at about 00-15 hrs. of 15.6.87, when I refuned from Station Platform after checking the parcels received by 76Dn and 173 Up trains. The passengers for 7 Up train had already been b8oked by me but during the gap I was out for checking the parcels, a few had assembled at the booking window, I asked them to come at the tickets, window but they insisted for the tickets from inside. The decoy enquired about the second class fare for Siwan by Mail train, I told him that the fare for one passenger was Rs.54.00. He gave me one G.C. Note of Rs.100/- + two G.C.Notes of Rs.5.00 each i.

FACTS
WITHOUT
RESER-
VATION.

ile. total Rs.110/- I put the tickets and one G.C. Note of Rs.2/- on the counter and turned my face towards ticket's window for issuing the tickets to other passengers.

3- **E** simultaneous with the exit of above passengers from booking office, Shri R.K.Misra SS/PP on duty entered saw one Rs.2/- G.C. Note on the counter, asked me about the same and having been told that it was left by the two passengers of Siwan, who were just going out, he saw the passengers standing outside and called them to take their money, I did observe that the man who purchased the tickets came inside and took the note of Rs.2/-. I did not however see whether the note was picked up by the passenger or it was handedover to him by S.S. because I was attending to other passengers waiting for tickets.

4- In para 2 and 3 above, I narrated the facts, But in order to frame the case, version of Vigilance is different, Prosecution story is that at first the two vigilance Khalasis went to the booking counter and asked for two tickets of Siwan after confirming

Signature
CONCOCTION
BY VIGILANCE

24/11/2014 02:30

the fare, which the booking clerk told Rs.110/- for two passengers, The booking clerk called the decoy inside the booking office, who obtained the tickets on payment of Rs.110/- It is said that Sri Gorakh Nath Misra Decoy had enquired about the fare and said Rs.110/- and the witnesses Sri Zakir Ali heard the conversation and saw the transaction. After getting the tickets, signal was given to the Vigilance Inspectors , who rushed inside the booking office and then the other paraphernalias of identification, confrontation search and checking of cash etc. started.

FALSE
CHARGES

5- Thus the charges against the appellant vide charge Memo. of even no. dated 27.4.88 was that he overcharged Rs.2/- from the decoy on two tickets f of Siwan for his personal gain and therefore he violated Rule 3(1)(i)(ii)(iii) of Railway Services Conduct) Rules 1966.

FINDINGS
& NIP

6- The I.O. observed in his findings that the charge was proved and the learned DCS/IZN issued the NIP under reference which is appealed against.

(E) GROUNDS FOR APPEAL

7- Nowmrs/rules for laying of trap (departmental test

check) have not been gollosed in as much as :-

MERE ONE PARTY'S SHOW

(a) The checking party comprised of only the staff of Vigilance Branch i.e. 3 Vigilance Inspectors and 2 Vigilance Khalasis. So it was only one party's show.

TRAP PLANNED WITHOUT INDEPENDENT WITNESSES

(b) Two Gazetted officers were not arranged as independent witnesses at Puranpur on 15.6.87 In case it was not possible, the services of two NGO's should have been utilised. The witnesses selected should have been responsible persons, but Shri Zakir Ali Vigilance Khalasi is neither independent witnesses, nor a Gazetted Officer nor NGOs and nor even a responsible person equal to two or more witnesses who ought to have been utilised to hear the conversation. What to say of two or more witnesses only one was utilised in this case and that too was not an independent one.

BY LAWS OF VIGILANCE MANUAL VIOLATED.

VIG KHALASIS UTILISED AS WITNESSES.

(c) Shri Zakir Ali Vigilance Khalasi directly working under the instructions of Vigilance Inspectors and on roll in Vigilance department, would say what the vigilance Inspectors would ask him to say. The object of Independent witnesses is that they should not be the staff of Vigilance organisation and may not be under the influence of Vigilance Inspectors so that they may tell only what they actually heard and saw.

(d) Influencing the Vigilance Khalasis by Vigilance

Inspectors needs no proof but for example, kind

attention is invited to the statement of decoy

Shri Gorakhnath Misra dt. 12.9.1977 vide pageli

Ang. 23 Vis-a-vis the statement of VIS/10 Sri

S.N.Prasad dt. 12.10.88 vide page 17 Ans 1

The decoy stated that he wrote one statement but

Shri S.N.Prasad VI told that it was wrong and

therefore torn and thrown away. Then another

statement was written. The V.I. stated that nothing

of the sort happened. It is proved that first

Shri Gorakhnath Misra had written about Rs. 2/-

given to him by C.S. but it was not relished by

the V.I. and he, therefore, suppressed the facts

apparently in the spot enquiry.

Signatures
SPN

8- One of the V.I. of the checking team on 15.6.87
and the person who lodged the F.I.R. on 23.6.87

VIZ Shri S.N.Prasad CVI assumed the role of
I.O. or was appointed as I.O. which is illegal.

The person lodging the F.I.R. can not function
as I.P. defeating the intents and purposes of
natural justice. Shri S.D.Rajput CVI confirmed
vide his statement dated 12.9.87 (Page 2 Ans. 15) that

LODGER OF FIR
BECOMES I.O.

Shri S.N.Prasad was I.O. in this case. This is

further confirmed from the statements of appellant and S.S.Puranpur recorded in Vigilance office Gorakhpur by Shri S.N.Prasad C V I on 10.8.87 and 21.8.87 respectively.

9- The Panchnama dated 14.6.87 was not signed by any independent witness. Kindly refer to the statement of Shri S.D.Rajput C VI dt.12.9.88 (Page 3 Ans 13) wherein the CVI admitted that there was no independent witness.

ADMITTED FACTS

10- In order to be concise and to the point, the appellant would like to represent about disputed facts only and therefore the admitted facts as under are eliminated :-

a) It is a fact that appellant sold two tickets for Siwan by 7 Up train to one passenger, who was later known to be a Vigilance Khalasi uti-lised as decoy.

b) It is a fact that the decoy gave Rs.110/- to the appellant. (But only the refund of Rs.2/- is disputed).

11- The only disputed fact is the refund of Rs.2/- which is the gist of whole case and therefore in the forthcoming paras, the appellant has

8102 77
8/03

-8-

WHAT IS
DISPUTED.

been able to prove that an amount of Rs.2/- was refunded to the decoy which he had left deliberately at the counter inside the booking office.

12- It is merely filling up of the gap and narration of the modus operandi in the trap that evidence of demand of Rs.110/- was created by the VIs because the second class M/E fare of Siwan was not confidential. The general public and especially illiterates may not know it but the Vigilance Inspectors already knew that the fare for one passenger was Rs.54.00 only because the purchase of tickets for Siwan was preplanned. They were certainly not knowing what the booking clerk would demand. For sake of argument, but not admitting even if I had demanded Rs.110/- the point of taking refund should have been eliminated by the Vigilance Inspectors but it was not done with sole intention to make out a case even if the refund of Rs.2/- was made by the B.C. That is why the provision of independent witnesses has been made who would not only witness the conversation but also the payment and the refund if any. Because the point of refund was not eliminated, the Vigilance decoy and Vig. witness

24/11/1947 (contd)

78
R/103

- 9 -

FACT TO
DENY
REFUND.

REFUND
OF RS. TWO
IGNORED.
AND CONCEALED.

witness both can deny the refund and because the refund had to be made in coins or G.C. notes not mentioned in panchayama, there will be no proof of refund at one hand and on the other hand all the G.C. Notes of amount paid and noted in panchayama will be recovered from the cash. This is what happened in this case. GC Notes of Rs-110/- (one hundred and ten) paid by the decoy were found in the cash but the refund of Rs. 2/- was safely denied in absence of any independent witness. Had there been independent witnesses, this would have not happened.

13. (i) The denial of refund by the decoy is one aspect which he can easily do by passing on the refunded amount to his coworker, also a vigilance Khalasi disputed with him, knowing that he will not be subjected to search. Dropping the refunded amount is another aspect and thus the amount refunded would vanish. The third aspect is to ignore the refunded amount and leave it on the counter without the knowledge of B.C. AND THIS ACTUALLY HAPPENED IN THIS CASE. From now the factual position of refund of Rs-2/- to the decoy begins, which I will explain in the forthcoming paras.

Signature

(ii) Here the question arises naturally why the VIs would do so and ask the decoy and witnesses to deny.

24/11/1995, 24/11

drop, ignore or cause the refund to disappear. The clear and straight forward answer is that they are paid only for detection in the manner conviction is ensured. In order to stop/eliminate/refuse corruption, they do not adopt other measures like educative, reformative preventive and purposive.

They believe only in punitive action for which the encasement of independent witness is considered to be an hindrance.

14. All the three possibilities of ignoring/denying/falsifying of the refund could have been eliminated

ELIMINATION
OF POINT
OF REFUND
WAS NECESSARY.

if only the point of refund out of the amount paid was eliminated. The decoy had the following G.C. Notes interest in panchnamas:

One G.C. Notes of Rs-100. = 100

Two " " " 5 = 10

Three " " " 2 = 6

Four " " " 1 = 4

Ten G.C. Notes Total = 120

Tendered for the tickets by decoy.

Balance with the decoy.

(ii) For the sake of argument but not admitting

even if I demanded Rs.110/- for two tickets of siwan

Signature

the decoy could have paid in the shape of following

G.C.Notes:-

I	One G.C.Note of Rs.100=100)	Total Rs.110/-
	One " " " 5= 5)	
	One " " " 2= 2)	
	Three " " " 1= 3)	
II	One G.C.Note of Rs.100= 100)	
	Three " " " 2 = 6)	Total Rs.100
	Four " " " 1= 4)	

(iii) As such in case an amount of Rs.110/- was paid in smaller denomination of G.C.Notes comprises G.C.Notes of Rs.2/- & Rs.1/- as well, the recovery of such notes from the cash would have established clear now refund of Rs 2/- intention not to refund Rs.2/- and also the demand of Rs.110/- because in case only an amount of Rs.108/- was demanded, the balance of Rs.2/- paid in excess should not have been accepted after counting the G.C.Notes and before issue of tickets.

(iv) Tendering the G.C.Notes of higher denomination necessitating the refund, proves that it was done so with an intention to ignore/conceal/disprove the refund as it has been done in this case.

Signature required

FIRST AND
SPONTA
NEOUS
STATEMENT
OF DECOY
DESTROYED
BY CVI.

15. Now because the whole case is based on the question of refund of Rs.2/- it will kindly be judged from the proceedings of spot enquiry at Puranpur on

15.6.87 that the VIs took the bright gist of refund very lightly and later made mountain of a mole:

(i) The fact was that the decoy deliberately left the G.C. Note Rs.2/- on the counter and picked up the tickets only. When the same note (which was given by me from the Railway's cash) was accepted by the decoy from S.S.Puranpur who happened to be there and noticed the abandoned note. The CVIs/IO Sri S.N. Prasad did not accept the first and spontaneous statement of decoy mentioning about Rs.2/- G.C. Note towards refund and another statement was written as per the statement of decoy on 12.9.88 vide page 12 An.23. Why this fact was concealed is a serious matter for consideration.

(ii) When during confrontation the decoy was cornered to state the truth, he took the ~~defendant~~ (and not the appellant as mentioned in the article of charge) of handing over Rs.2/- to Sri Zakir Ali (also a Vigilance Khalasi) for returning to S.S.Puranpur. Because the note disappeared between the decoy Sri Gorakhnath Misra and witness Sri Zakir Ali the CVI to

S. S. M. -
J. M.

UNSOLVED
MYSTERY

Shri S.N.Prasad had to admit in the enquiry "It is remained still mystery where 2/- note vanished (Page 17 Ans. 11).

(iii) Shri Girraj Prasad Verma RPF/NK was produced as prosecution witness. He stated that the VIs told

S.S.Puranpur Shri R.K.Misra not to tell about G.C note of Rs.2/- and therefore Shri Misra showed ignorance about the same. (Page 14 Ans.6) Because the question of the refund of Rs.2.00 was vital aspect to this case and the decoy Shri Goraknath Misra admitted to have taken Rs.2/- from the S.S. which he passed on to Shri Zakir Ali and Shri Zakir Ali stated to have returned the same to S.S., the CVI

IQ. should not have spared S.S.Puranpur so lightly when he showed ignorance about the note. Why S.S.

SS PP PRESSURISED
TO TELL A LIE &
DEMONALISED TO
DEVIATE FROM HIS
STATEMENTS AT
EVERY STAGE.

Puranpur was not questioned further by CV I In the spot enquiry at Puranpur on 15.6.87 is a matter for consideration. When the S.S. was asked to say that what the CVI desired no scope was left for examining him further with the sole intention

to compel him to resort to deviations at every stage to the benefit of prosecution and this actually happened with the SS in Vigilance office at

Gorakhpur on 21.8.87 and again in the enquiry on 12.10.88.

(iv) When Shri Goraknath Misra decoy stated that

Ans

83

109

-14-

Rs 2/- was give by him to Shri Zakir Ali who stated that it was returned to SS and SS showed ignorance about the same, search of Shri Zakir Ali and Shri R.K.Misra SS by R.P.F.NK was imminent and not the search of decoy who had already been searched by me. Moreover, the decoy's search was a mere drama. After purchasing the tickets both the decoy and witnesses went outside, remained there for some time to write and rewrite their statement and then came in the booking office. In such circumstances personal search was only a drama. Again I may reiterate the necessity of utilising independent witnesses, whose search was out of question because they are considered to be responsible persons and would not have done as Sri

WHY ZAKIR
ALI VG
KHALASIS
& SS PP LEFT
WITHOUT
PERSONAL
SEARCH

MOKERY OF
PERSONAL
SEARCH

Zakir Ali did in this case by taking Rs.2/- in his hand.

(v) The enquiry by CVI/IO was over on 21.8.87 but it took about 2 months to frame the charges. Because there was no prima facie case against me and the refunded amount of Rs.2/- vanished between the two Vigilance Khalasis, it took time to circumvent the truth by distorting the facts using the glossary of words like 'alibi'.

16- The learned E.O. in this case only in order to defend the misconduct of vigilance Khalasis has not appreciated the vital defence points and on

Signature

2007/2147 21

DEFENCE
IGNORED
BY E.O.

that part of evidence adduced by the prosecution in
the enquiry has been relied upon which suited to
the prosecution leading to conviction

(i) For the transaction between the appellant and decoy
none of the VIs was an eye witness. They were quite
unmindful of what was happening because the motto of
making out a case was preconceived.

a) Statement of Shri S.D.Rajput CVI Page 3 Ans.4

"This is also a fact that neither I nor any V.I. was
an eyewitness to sale of tickets and money transac-
tion."

NO VI
WITNESSED
MONEY
TRANSACTION

b) Statement of Shri L B Khare CW page 7 Ans.2.

"When Gorakhnath purchased the tickets inside the
booking office no VI was there at that time.

c) Statement of Shri S.N.Pd.CVI/I0 Page 17 Ans.2.

"I did not witness transaction between the decoy
and the B.C."

(ii) Shri S.B.Prasad CVI/I0 stated (Page 17 ans.4 to

ii) that Shri Gorakhnath Misra did not point out before

his statement that he was given Rs.2/- by Shri Jha

or anybody. After giving his statement Shri Gorakh-
nath Misra did tell him that Shri R.K.Misra had
given him(decoy) Rs-2/- outside the booking office

which he gave to Sri Zakir Ali to return him. Sri

R.K.Misra denied to have given any money to Sri
Gorakhnath Misra.

Pls

85

100

-16-

On the clear confession of Shri Zakir Ali that he returned Rs.2/- to S.S. and denial of SS on the spot, Shri Zakir Ali was not searched. The I.O. further went to say that still it remained a mystery where Rs.2/- note vanished. Such statement of DVI/IO falsifies the prosecution theory and the 'alibi' so alleged against the appellant.

CHARGE
OF ALIBI
NOTE
PROVES.

CW KHARE
REGARDING
REFUND

(iii) Shri L.B. Khare CW has confirmed that Shri Gorakhnath Misra admitted in his statement during confrontation that he got Rs.2/- from Babu which confirms that Babu gave Rs.2/- to Misra (page 8 Ans.11).

(iv) The prosecution theory is based on slipshod enquiry to conceal the facts, which is manifest from the following statement of Shri S.D. Rajput CVI at page 3.

Ans.9 It is evident from the statement of Sri Gorakhnath that he took Rs-2/- in his HAND from SM but immediately he learnt something and handed over that note to Shri Zakir Ali who immediately gave it to SM (But none saw it not even the decoy Sri Gorakhnath Misra).

Ans.10. I verbally asked Sri R.K. Misra SM whether Shri Zakir Ali gave him Rs-2/- or not. Shri Misra SM said that as stated earlier he had no knowledge about it. I did not ask any question in writing.

Signature
DDH

24/11/1977

CVI RAJPUT
SPEAKS
ABOUT
REFUND.

Ans. 11 I did not ask Zakir Ali what he did of Rs.2/- which Gorakhnath Misra gave him. Shri Sharda Pd. (CVI) may be asked this.

Ans. 12. It is a fact that the matter of Rs.2/- was raised by Shri Jha in the preliminary enquiry which has been enquired into in detail by Shri Sharda Pd. (CVI) .

(v) The conduct of Shri Gorakhnath Misra decoy (Vigkhalas) is proved to be suspicious from his own statement that :-

(13) Ans. 13. I did mention about Rs.2/- in my statement dated 15.6.87 (This is wrong. He had to admit this fact on questions by appellant).

Ans. 14. I did not tell Sharda Babu about Rs.2/- because when Rs.2/- were returned, it was not considered necessary to tell him.

Ans. 15. I gave Rs.2/- to Zakir Ali to return to Misra Babu and Zakir Ali told that he had returned it but I did not see Zakir Ali giving that to Misra Babu.

Ans. 16. Misraji gave me Rs.2/- and I took ignorantly. The important point for consideration is that Sri Gorakhnath Misra passed on Rs.2/- to Zakir Ali who would not be subjected to personal search and before

Signature

24/10/1987

his own search he (decoy) may not get an opportunity to whisk away the money.

SUSPICIOUS
CONDUCT
OF ZAKIR
ALI VIG
KHALASI
WITNESS
OF TRAP.

(vi) Besides the misconduct of Shri Zakir Ali Vigilance Khalasi(utilised unlawfully a witness) in accepting Rs.2 from Shri Gorakhnath Misra decoy, his statement will show that he was neither a responsible nor reliable witness. He acted more like a vigilance Khalasi but nothing like an impartial witness. Like Shri Gorakhnath Misra, decoy, he also did not tell anything to the VIs regarding the deal of Rs.2. Shri Gorakhnath told that he had been searching Shri Misra SM but could not find and therefore he gave the money to me (Zakir) for returning to SM He did tell the VIs about this after returning the money. Summarising the statements of all the vigilance staff., none saw Shri R.K.Misra SM giving Rs.2/- to Shri Gorakhnath Misra decoy giving Rs.2/- to Sri Zakir Ali. None saw Sri Zakir Ali giving Rs.2/- to Sri S.M. whose deviations from statement to statement was created by Sri S.N.Prasad CVI/IO to take an advantage for the prosecution. Sri Girraj Prasad Verma RPF/NK also appeared as P. W. and stated how the VIs pressurised Shri Misra S.M. to give false statement in the preliminary enquiry so that the truth if he dared to tell after wards may be if not avail for the defence.

RI3

88

4/12

-19-

ALIBI
NOT
CREATED
BY SS
OR THE
APPELLANT.

17- Summoning up the evidence I may submit that the refund of Rs.2/- to decoy who left it on the counter by appellant or S.S.Puranpur. It was by chance that the S.S.happened to be there otherwise Rs-2/- when found by me at the counter would have been deposited in Railways' cash under the head "EB" (Excess in booking) as left by passenger on the counter.

18- During 15 yrs. of my services as B.C.etc there is not a single case of corruption against me. I have been trusted by Govt. for cash, stock of tickets and parcels valing several lacs of rupees and I have always been maintaining absolute intergrity and devition to duty and always acted in a manner re-fitting for a railway servant.

BUT

only on the feable evident of Khalasis, I have been removed from service. Even the benefit of doubt has gone to the prosecution, which, as the natural justice demands, should go to the person charged.

Signature required

JAH

(C) PRAYER

On the grounds aforesaid and also keeping in view the old age of handicapped employee having

24/7/97 11:49 AM

unblemished services, it is requested that the appellant may kindly be exonerated from the charges, NIP under reference be cancelled and the undersigned appellant be restored to status quo.

With best regards, and praying to be heard in person alongwith the defence counsel.

Puranpur

Yours faithfully

Dated

(SHYAM NARAIN JHA)
Ex. Hd. Booking Clerk
N.E. Railway Puranpur

By Regd. Post A/D

Copy to The Divl. Commr. Supdt.

N.E. Railway Izatnagar with
the request to please forward the appeal to
appellant authority.

Puranpur

(SHYAM NARAIN JHA)
Ex. Hd. Booking clerk
N.E. Railway
Puranpur.

Dated

22/12/1974, 25

Signature

ਸਮਝ ਮਾਨਨੀ ਧ ਸੇਨਟ੍ਰਲ ਇੰਡੀਆਨਿਸਟ੍ਰੇਟਿਵ ਟ੍ਰਿਬਿਊਨਲ ਸਕਿੰਟ ਬੈਨਚ ਲਖਾਨਤੁ

एप्लीकेशन नं 0- - - - /1989

इयाम नारायन मिष्टि

卷之三

बादी

શુનિષન આપ, ઇન્દ્રિયા આદિ

प्रतिवादीगण

अनेकज्ञर + न

17

त्री मान रु०४०.०० आर०४०४०
मंडल रेल प्रबंधाक आ॒पि॒स
पू०३०४० इजतनगर

विषय: एन.आई.पी.नं० एस.एस./ विजी.१/२७/८७

मेजर दिनांक २८-२-८९ रिसीवड आर्ने ३.३.८९ रु०८०

महोदय,

निवेदन है कि प्राथी ने उपरोक्त स्न0आई0षी0 के संबंध में आपके कायांलिय को दिनांक 21.3.89 को अपील की थी लेकिन आज तक उसका कोई उत्तर न प्राप्त हो सका। अतः श्रीमान जी से प्रार्थना है कि प्राथी को बताया जाये कि उसकी अपील पर क्या कार्यवाही हुयी जिससे प्राथी आमे न्यायालय की शारण ले सके।

अति कृष्ण होगी ।

भवदी य

श्याम नारायण झा
एक्स- हे ० बु० कलक्ष्मी/धी० प०
29.5.89

Signature required

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD,
CIRCUIT BENCH AT LUC NOW.

ANNEXURE NO. 18

No.C/SS/Vig/27/87/Major

Registered AD

Office of the
Divl. Railway Manager,
Izatnagar Dt- 27.6.1989

Shri Shyam Narain Jha,
Ex. Booking clerk.
Village CJHAWAN(Barari)
Post- Mukhlispur
Distt. Lakhimpur Kheri.

Ref: Your appeal dated 27.3.1989 against removal from service.

8

On your appeal dated 17.3.1989 the ADRM(Appellate authority) has passed the following orders :-

" Personal hearing was granted to Sri S.N.Jha on date (20/6) . During personal hearing Sri Jha did not bring out any new point and repeated the arguments already given in his appeal. He also pleaded that the punishment is too harsh.

I have gone through the appeal of Sri Jha, as well as DAR proceedings and case file. There is nothing to substantiate the arguments given by Shri Jha and all he has tried to do is to twist the facts so that they may appear to be in his favour which unfortunately is not the case. Shri Jha has tried to play up the myst

ଦେଖିବାରେ କିମ୍ବା

4/12

A
118

of Rs.2/- as well as tried to say that he has been made a victim by the Vigilance Organisation. Whereas on certain vital aspects Shri Jha has chosen to remain silent such as why the decoy were called instead the booking had Shri Jha asked for the correct fare Rs.108/- instead of Rs.110/-etc. Considering all these aspects, I have come to the conclusion that Shri Jha has been correctly punished by the disciplinary authority and the appeal stands rejected. The punishment imposed on Shri Jha will stand.

sd. R. N. Aga
ADRI

You are, therefore informed accordingly.

sd.
for Divl. Railway Manager/Commr
Izatnagar.

Copy for information and action to:-

1. DPO/IZ N
2. DAO/IZN
3. Station Sudpdt. NER/Puranpur.

for Divl. Railway Manager/
Commr. Izatnagar.

Signature w/f-3

22/11/1997-22/11

BBH

P.M.D
A/19

AMENDED APPLICATION

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOWBENCH, LUCKNOW

Original application No. 267 of 1989

Shyam Narain Jha, aged about 55 years,
son of late Sri Mahanand Jha, resident
of Puranpur, district Pilibhit.

..... Applicant

Versus

1. Union of India through the Secretary
(Railways), New Delhi.
2. Additional Divisional Railway Manager,
N.E. Railway, Izatnagar, Bareilly.
3. Divisional General Manager, N.E. Railway, U.P.,
Lucknow.
4. Shri Ram Das Prasad, Enquiry Officer,
A.P.O. Workshop, Izatnagar, Bareilly.

..... Opposite Parties

For use of office :

Date of receipt :

RECEIVED
Date of receipt of the application filed in the
C.A.T. Allahabad [Lucknow Bench] Lucknow on
behalf of Sri S.N. Jha, son of late Sri Mahanad
Jha, aged about 55 years, resident of Puranpur,
district Bareilly.

118

4/120

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

Removal order dated 28.2.1989 vide its
Number : G/SS/Vig./27/87/Major.

2. Jurisdiction

The applicant declares that the subject matter of the order against which he 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 Tribunals Act, 1985.

4. Facts of the case

The facts of the case are given below:-

(i) That a trap was laid by the Vigilance Inspectors. The Vigilance party consisted of three Vigilance Inspectors and 2 Vigilance Khalasis. One of the Vigilance Khalasi became the decoy. The decoy went to purchase 2 tickets from Puranpur to Siwan. The decoy enquired from the applicant, regarding the second class fare from Puranpur to Siwan. The applicant told him that the fare of one ticket of second class from Puranpur to Siwan is of Rs.54/- . The decoy gave Rs.110/- to the applicant. One G.C. Note of Rs.100/- and

A120

A21

the other G.C. Notes of Rs.5/- each to the applicant and asked to give 2 tickets from Puranpur to Siwan and the applicant gave 2 tickets and returned Rs.2/- to the decoy, but the decoy deliberately left it at the booking table. In the meantime the Station Superintendent/PP Sri R.K. Misra entered and saw Rs.2/- note lying on the booking table and the SS/PP Sri R.K. Misra enquired that why Rs.2/- note is lying on the booking table. The applicant informed him that one passenger had come to purchase 2 tickets from Puranpur to Siwan and Rs.2/- were returned to him by the applicant which he had left on the table. The SS/PP called the decoy who was going and asked the decoy to take the note of Rs.2/- back. The SS/PP has given this statement before the Inquiry Office. In the meantime the Vigilance Khalasi entered into the booking office and received Rs.2/- from the table and a Panchnama was prepared and the F.I.R. was also lodged on 23.6.1987 by Sri S.N. Prasad Srivastava, Vigilance Inspector. The true copy of the F.I.R. dated 23.6.1987 is being annexed herewith as Annexure No.1 to this application.

gurukul

Annexure-1

(i)(a) That Sri S.N. Prasad Srivastava, Chief Vigilance Inspector, conducted a trap at Puranpur station and recorded the statements of the Khalasis and the applicant and prepared the spot note. Copies of the statements recorded on the spot were not given to the applicant. After about

A/21

A/22

two months the applicant was called to the Chief Vigilance Inspector's Office at Gorakhpur where his statement was again recorded by Sri S.N. Prasad Srivastava. Similarly the two Khalasies, whose statements were recorded at the time when the trap was laid at Puranpur, were also called separately on different dates and their statements were recorded subsequently at Gorakhpur under pressure in order to modify and improve upon their earlier statements to falsely implicate the applicant. Thus the entire proceedings of laying the trap were illegal and void and render the chargesheet on the basis thereof against the applicant as false and baseless.

24/4/88

(ii) That on the report of Sri S.N. Prasad Srivastava, Chief Vigilance Inspector, the charge sheet was issued to the applicant lavelling the charges that the applicant has committed misconduct under Rule 3(1)(i)(ii)(iii) of the Railway Service Rules, 1966. The true copy of the chargesheet is being annexed herewith as Annexure No.2 to this application and a memorandum was also issued to the applicant on 7.4.1988. The true copy of the memorandum is being annexed herewith as Annexure No.3 to this application.

Annexure-2

Annexure-3

(iii) That Sri Ram Dass Prasad was appointed as Inquiry Officer who recorded the statements of the

AP22

X/93

decoy (Zakir Ali), Girraj Prasad, G.N. Misra, S.N. Prasad, L.B. Khare and R.K. Misra, of Vigilance Department. The true copies of the statements of Girraj Prasad, Zakir Ali, G.N. Misra, S.N. Prasad, L.B. Khare and R.K. Misra are being annexed herewith as Annexure Nos. 4 to 9 to this application.

Annexure-4 to 9

(iv) That the applicant gave his defence and his defence of alibi has not been accepted and the punishment of removal from services are recommended. The true copy of the defence of the applicant is being annexed herewith as Annexure-10 to this application.

Annexure-10

(v) That 2 persons of the public besides the Zakir Ali were standing in the queue who saw and heard that the decoy asked for 2 tickets for Siwan and the applicant received Rs.110/- and the applicant returned a G.C. Note of Rs.2/- and left by the decoy on the counter. The true copies of the applications sent to the General Manager are being annexed herewith as Annexure Nos. 11 & 12 to this application.

Annexure-11 & 12

QUTUB KHAN
(vi) That on the recommendations of the inquiry officer the applicant has been removed from service on 28.2.1989 and true copy of the same DAR enquiry is being annexed herewith as Annexure No.13 to this petition.

Annexure-13

(vii) That the applicant has submitted his reply to the aforesaid DAR enquiry dated 27.4.1988. The true copy of the reply to the DAR enquiry is being annexed herewith as Annexure No.14 to this application.

Annexure-14

(viii) That the statements of the decoy and other Vigilance Khalais are contradictory in themselves, and the order for removal from the service of the petitioner dated 28.2.1989 is being annexed herewith as Annexure No.15 to this application.

Annexure-15

(ix) That the applicant has preferred an appeal against the order of removal which is being annexed herewith as Annexure No.16 to this application.

Annexure-16

(x) That the applicant gave a reminder dated 29.5.1989 for the disposal of the appeal at an early date but till 26.6.1989 the authorities have not considered upon the appeal of the petitioner. The true copy of the reminder dated 29.5.1989 is being annexed herewith as Annexure No.17 to this application.

Annexure-17

gurum
(xi) That the D.R.M. Izatnagar has decided/rejected the appeal of the applicant without giving any reasons. The order of rejection of the appeal is non-speaking order. The true copy of the rejection order of the appeal dated 27.6.1989 is being annexed herewith as Annexure

Annexure-18

No. 18 to this application.

(xii) That the false trap was laid against the applicant by the Vigilance Department of the Railways in which there is no independent witnesses which is very essential for trap.

(xiii) That the applicant is not a habitual offender as stated in the chargesheet. There is no previous incident of charging excess fare from any passenger.

5. Grounds for relief :

i) Because the false trap was laid against the applicant by the Vigilance Department of the Railways in which there is no independent witnesses which is very essential for trap.

ii) Because the statement of the witnesses are contradictory to each other for which the benefit of doubt should be given to the applicant.

gmt/tdt/m
iii) Because the prosecution story is entirely baseless, based on surmises and conjectures and whole story on the defence version.

iv) Because the trap proceedings were wholly illegal and void and no misconduct on the basis thereof is established against the applicant and the statements recorded on the spot while laying the trap were not supplied

to the applicant and the Chief Vigilance Inspector subsequently modified and improved upon the earlier version by re-recording the statements of the two khalasies in order to falsely implicate the applicant and as such the chargesheet issued on the basis of the basis/^{of the} aaid trap is false and baseless.

- v) Because the order of removal is too harsh and the removal from service is a harsh punishment.
- vi) Because the order of removal is illegal, erroneous, perverse, arbitrary and liable to be set aside.
- vii) Because the show cause notice is regarding the punishment has not been given to the applicant.
- viii) Because the applicant has preferred an appeal against the removal order stating all the facts on record and the applicant has also given a reminder to decide the appeal as early as possible and the authorities has rejected the appeal on 27.6.1989 without showing any reason. The order of rejection of the appeal is non-speaking order.
- ix) Because the applicant is not a habitual offender as stated in the charge sheet. There is no previous incident of charging excess fare from any passenger.

x) Because no adverse entry has been awarded or communicated to the applicant. The record of the applicant remained unblemished.

xi) Because the enquiry has been held in a malafide manner and the defence version has been totally ignored by the enquiry authority.

xii) Because the appellate authority has illegally rejected the appeal of the applicant.

6. Details of the remedies exhausted :

The applicant declares that he has availed of all the remedies available to him under the relevant service rules etc. The applicant has no alternative remedy left except to file this application before this Hon'ble Tribunal.

7. Matter not pending with any other court etc.

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

8. Relief Sought :

1) That an order may kindly be passed whereby the order of removal dated 28.2.1989 may kindly be quashed which is Annexure No.15 to this application.

2) That a direction may be issued to the parties to allow to perform his duties on the post of Head Booking Clerk Puranpur district Pilibhit.

9. Interim order if any prayed for :

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

(1) That the operation of impugned removal order dated 28.2.1989 contained in Annexure No.15 may kindly be stayed till the pendency of application and the applicant may be allowed to resume his duties on his post from when he was removed.

10. Application by post etc.

Through counsel Sri H.A. Husaini, Advocate,
High Court,
Verandah near post office High
Court Lucknow.

20/2/1989
11. Particulars of the Bank Draft/Postal Order in receipt of the application.

1. Name of the Bank :

2. Postal Order :

12. List of enclosures:

1. Memo of application

2. Annexure Nos. 1 to 18

3. Vakalatnama

AI20

8/9

-11-

4. Additional copy of the memo of application alongwith the 8. Copy of the application.

5. Receipt slip filed separately.

Dated _____

Signature of applicant.

Verification

I, Shyam Narain Jha, aged about 55 years, son of late Sri Mahanand Jha, (Head Booking Clerk) resident of Puranpur district-Pilibhit, do hereby solemnly verify that the contents of paras from 1 to 12 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Lucknow Dated:

, 1989.

Signature of the applicant.

Shyam Narain Jha

To

The Registrar,

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH
LUCKNOW

Civil Misc. Petition No. 64 of 1990(L) X
120

In Re:

Registration (O.A.) No. 267 of 1989(L)

Fix for 12-3-91

S.N. Jha

Applicant.

versus

Union of India & others

Respondents.

APPLICATION FOR CONDONATION OF DELAY
FILING COUNTER REPLY.

That delay in filing counter reply is not intentional or deliberate but due to administrative and bonafide reasons which deserves condoned.

P R A Y E R

Wherefore, it is most respectfully prayed that in the interest of justice, delay in filing counter reply may kindly be condoned and counter reply may be taken on record.


(ANIL SRIVASTAVA)
ADVOCATE.

Lucknow

Dated: 7.2.91

Counsel for Respondents.

*Filed today
S.S.
7/2/91*

Before the Hon'ble Central Administrative
Tribunal, Allahabad,
Circuit Bench, Lucknow.

O.A. No. 267 of 1989(L)

S.N. Jha

Applicant.

versus

Union of India & others Respondents.

Counter Reply on behalf of
Respondents.

I, F. R. Arya working as Apolm

North Eastern Railway, Izatnagar, Bareilly
do hereby solemnly state and affirm as under:

1. That the official above named is working as
APD 112N North Eastern Railway,
Izatnagar, Bareilly and has been fully authorised to file the present counter reply on behalf of the respondents. The official above named has gone through the averments made in the present application and as such is fully conversant with the facts and circumstances of the case.
2. That before giving parawise comments(reply) to the present application, it is pertinent to

**Assistant Personnel Officer
N. E. Railways, Itzatnagar**

contd...2

mention the brief history of the case. There were complaints that the Booking Clerks at Furapur Railway Station demand extra money from the long distance passengers. It is further stated that on a source information that the booking clerks working at Puranpur railway station were in the habit of realising excess money over and above the actual fare from the passengers on the sale of long distance travel. Accordingly, a decoy check was conducted on 15.6.1987. A Panchnama dated 14.6.1987 was prepared involving Sri Gorakh Nath Misra, Vigilance Khallasi to Purchase two tickets (second class Mail/Express) for Siwan from Puranpur Rly Station and for this purpose G.C. currency notes of different denominations amounting to including Rs 1/- and Rs 2/- notes Rs 120/- were given to Sri G.N. Misra after search of his person ^{so that he may have} and fearing no private cash with him. He was also under instructions to pay exactly the amount what the Booking Clerk on duty demands. Sri Zakir Ali, another Vigilance Khallasi was deputed to act as an over hearer and to witness the deal between the booking clerk Sri Jha (applicant) and the decoy. Since Sri Misra was under instructions to pay exactly the amount demanded by the booking clerk, he gave one hundred rupee note and two five rupees notes i.e. rupees one hundred and ten in toto for two tickets as demanded by the applicant.

This transaction ^{was} witnessed by Sri Zakir Ali.

21311987
Assistant Personnel Officer
N. E. Railway, Patna

contd....3

AI32

K
137

He also heard that Sri Jha (applicant) demanded Rs 110/- as fare of two tickets from Puranpur to Siwan. By this trap of vigilance department of Railway the applicant was caught red handed and accordingly chargesheeted and finally removed from service.

3. That the contents of para 1 of the Original Application are admitted. It is further stated that the said order of removal has been passed by Divisional Commercial Superintendent, N.E. Railway, Izatnagar, Bareilly. i.e. by the competent authority after due procedure as per rules.

4. That the contents of para 2 of the Original Application need no comments.

5. That the contents of para 3 of the Original Application need no comments.

That in reply to para 4 of the Original Application, the same is given as under:

5.(1) That in reply to para 4(i) of the Original Application it is submitted that a trap was laid by the vigilance Inspector as there were complaints that the booking clerks of Puranpur Railway Station demand extra money from the long distance passengers. During the trap it was found that Shri S.N. Jha, Booking Clerk demanded Rs 110/- from Sri Gorakh Nath, one of the Vigilance

M/21/2010
Assistant Manager (Commercial)
N.E. Railway, Bareilly

contd....4

AI33

AM

Khalasi who became the decoy, instead of rupees ~~54~~ 108/- for two tickets of second class from Puranpur to Siwan at the rate of Rs 54/- each. It is further stated that this was over heard by Sri= Zakir Ali, another vigilance Khalasi. The applicant did not return Rs 2/- to the decoy. It is wrong to allege that the decoy deliberately left Rs 2/- at the booking table as a person will never to pay extra money over and above demanded from him. Also Sri Gorakh Nath was under instructions of the Vigilance Inspector ~~was~~ to pay exactly the amount demanded by the applicant for which he was given notes of different denominations amounting to Rs 120/-. It is also important to state here that Sri R.K. Misra, the then Station Master Puranpur at one stage stated before the Vigilance Inspector that he had no knowledge of the said Rs 2/- while at other stage he stated that he saw Rs 20/- lying on the counter therefore, his different statement at different stages were not treated as reliable. The ~~most~~ ^{rest} of the contents of para 4(1) are misleading and as such denied.

5.(1)(a) That in reply to the contents of para 4 i(a) of the Original Application it is admitted that the ^{Chief} Vigilance Inspector Sri S.N. Prasad conducted trap at Puranpur Station and F.I.R. was lodged by him on applicant being caught red handed. The rest of the contents of the para

13/11/90
Assistant Personnel Officer
N.E. Railway, Patna

contd....5

A134

185

are misleading and as such denied.

5.(ii) That the averments made in para 4(ii) of the application are admitted.

5(iii) That the averments of para 4(iii) of the Original Application are admitted.

5(iv) That in reply to the averments made in para 4(iv) of the Original Application it is stated that applicant was removed from service after conducting a thorough enquiry strictly as per rules. By the Enquiry Officer, in which it was established and confirmed that the applicant did not return Rs 2/- to Sri Gorakh Nath. The Enquiry Officer while concluding his enquiry report has stated that "the charges framed against S.N. Jha Head Booking Clerk, Puranput is in contravention of Railway Servants Conduct Rules 3(1)(1) (ii) & (iii) and stood proved against the applicant.

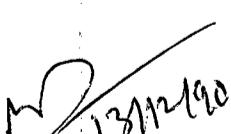
5(v) That in reply to the averments made in para 4(v) of the Original Application it is stated that they are misleading and wrong as such denied. It is submitted that this story is unbelievable as the tickets to Sri Gorakhnath were given inside the Booking office cannot be heard outside ~~xxx~~ and therefore, the Enquiry Officer did not give any significance on two outsider who were produced after thought to save the applicant.

W2 13/12/90
Assistant Personnel Officer
N. E. Railway, Izatnagar

5 (vi) That in reply to averments made in para 4(vi) of the Original Application it is submitted that on the basis of records submitted by the enquiry officer before the disciplinary authority, the charges framed against the applicant were found true and as a consequence, he was removed from service by the disciplinary authority. Here it may be stated that the Enquiry Officer submitted his report before the disciplinary authority who after carefully perusing the entire records, takes a decision on his own accord, as had been done in this case.

5(vii) That the contents of para 4(vii) of the original application need no comments.

5(viii) That the contents of para 4(viii) of the original application that the statements of the decoy and other vigilance Khalasi are contradictory is wrong and as such not admitted. It is further submitted that as per scheduled programme, Sri Gorakhnath (decoy) went to booking counter of Puranpur Railway Station on 15.6.1987 and enquired about the fare of second class ticket from Puranpur to Siwan. The applicant told the fare as Rs 55/- per ticket and charged Rs 110/- for two tickets from Sri Gorakhnath by asking him to take tickets from inside booking office. Sri Zakir Ali (over-hearer) has repeated and confirmed that booking clerk told the fare of Siwan @ Rs 55/- each ticket and charged Rs 110/- for two tickets, and did not return the balance amount of Rs 2/-.


Assistant Personnel Officer
N. E. Railway, Izatnagar

AI3b

AI3a

5(ix) That the contents of para 4(ix) of the Original Application are admitted.

5(x) That in reply to the contents of para 4(x) of the Original Application it is admitted that the applicant gave reminder to appeal. It is further submitted that for disposal of appeal certain process has to be completed i.e. comments of disciplinary authority and then only it is being sent to appellate authorities. It takes time while the applicant submitted a quick reminder.

5(xi) That the contents of para 4(xi) of the Original application are wrong as such not admitted. It is further submitted that the appellate authority of the applicant was Adml. Divisional Railway Manager, Izatnagar and not the Divl. Rly. Manager, Izatnagar as alleged. It is further stated that the order of rejection of appeal of the applicant is a speaking, just and legal order and has been passed after due application of mind.

5(xii) That the contents of para 4(xii) of the application are wrong and as such denied. It is stated that on the basis of facts stated in preceding paras of this counter reply the circumstances itself speak about the position of the applicant. Vigilance department of the Railway is ~~authentic department and as such Railway~~ is authentic department and as such question of false trap cannot arise. besides they had no

Assistant Personnel Officer
N. E. Railway, Izatnagar

13/12/90

4132
A/38

enmity with the applicant to falsely trap
xxxx him.

5(xiii) That the contents of para 4(xiii) of the Original Application is wrong and as such denied. It is further submitted that the applicant during his service period of last 3 years was punished thrice. Once with stoppage of PTOs, second time he was censured and the third time his increment was stopped for six months. Thus the applicant was the habitual offender and the trap was not false.

6. That on the basis of facts and circumstances, stated in the preceding paras of the counter reply, present application is liable to be dismissed against applicant and in favour of the opposite parties with costs.

7. That the contents of para 6 & 7 of the application need no comments.

Lucknow, Batalnagar

Dated: 13/12/90

Verification

M2/1312190
Assistant Personnel Officer
N. E. Railways, Batalnagar

I, the ~~dependent~~^{official} named above do hereby verify that the contents of paras 1 to 3 are true to my personal knowledge and those of paras 4 to 7 are xxxx believed to be true based on legal advice and record. No part of it is false. Nothing material has been concealed. So help me God.

Lucknow 12ATM

Dated. 13-12-90

xxxx
M2/1312190
Assistant Personnel Officer
N. E. Railways, Batalnagar

(P13D)
B/29

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
CIRCUIT BENCH, LUCKNOW

O.A. No. 267 of 1989

24/7.8.89

S.N. Jha Applicant

Versus

Union of India & others Respondents

Rejoinder to the counter

1. That para 1 of the counter needs no comment.
2. That the contents of para 2 of the counter are vehemently denied. It is denied that the applicant received extra money from the long distance passengers. It is submitted that Sri G. Nath Mishra and Zakir Ali, Vigilance Khalasi, came inside the booking office and enquired about the fare from Puranpur to Siwan and demanded 2 tickets for the same. They gave Rs.110/- to the applicant and the applicant gave them 2 tickets from Puranpur to Siwan and also returned a note of Rs.2/-. It may be pointed out that Sri Mishra deliberately and with ill intention left the note of Rs.2/- returned to him. Meanwhile Station Master Sri R.K. Mishra came to the Booking Office and enquired about the note left by Sri Mishra. Since the applicant was busy in dispersing the tickets, he did not notice the note lying on the window. But as soon as the Station Master enquired about it, the applicant called on

*Filed today
SJM
Sulay*

24/7.8.89

(A139) 8/140

Sri Mishra and Zakir Ali and told them that they had left the note of Rs.2/- and the Station Master gave the note of Rs.2/- to Sri Mishra.

3. That para 3 of the counter is admitted.
4. That para 4 of the counter needs no comment.
5. That para 5 of the counter also needs no comment.
6. That the contents of para 5(1) of the counter are denied and the averments made in para 4(1) of the application are reiterated. It is evident from Annexure 9 to the application, i.e., the statement of SS/PP, Sri R.K. Mishra, that the earlier statement given by him was made under pressure of the Vigilance Inspector whereas the reality is that the said note of Rs.2/- was received by Sri G.N. Mishra himself which was left by him on the booking window.
7. That para 5(1)(a) of the counter as stated is denied and the averments made in para 4(1)(a) of the original application are reiterated. It is denied that the applicant was caught red handed. In fact the applicant was implicated falsely, deliberately and with ill intention though the said note of Rs.2/- was left by Sri Mishra which was taken back by him later. This fact was admitted by Sri G. Mishra in his statement, i.e., Annexure No.6 to the appli-

cation.

8. That para 5(ii)(iii) of the counter need no comments.

9. That the contents of para 5 (iv) of the counter as stated are denied and the averments made in para 4(iv) of the application are reiterated. It may, however, be pointed out that the Decoy was the member of the Vigilance and the enquiry officer as well as witnesses were also from the Vigilance Department ; as such they acted at their own sweet will. Since the defence of the applicant was not accepted by the enquiry officer, it amounts to the violation of natural justice. It is, ipsofacto, evident on the facts and circumstances stated above that the whole enquiry was in contravention of the Railway Servants Conduct Rules and as such the punishment awarded to the applicant is illegal and liable to be quashed.

10. That para 5(v) of the counter as stated is denied and the averments made in para 4(v) of the application are reiterated. In reality the two persons, who were in the queue, saw and heard the words exchanged between the applicant and decoy. Since the two persons were standing before the window and the window was open they saw and heard the activities and conversation between the applicant and

মুন্দুর পুরুষ

the decoy. It, *ipsofacto*, proves that the enquiry officer deliberately did not consider these two witnesses who were telling the truth and factual position.

11. That the contents of para 5(vi) of the counter as stated are denied and the averments made in para 4(vi) of the application are reiterated. Actually the whole enquiry was conducted in violation of natural justice and in contravention of the Railway Conduct Rules and as such the decision of the disciplinary authority automatically becomes wrong and against the law.
12. That para 5(vii) of the counter needs no comments.
13. That para 5 (viii) of the counter as stated is denied and the averments made in para 4(viii) of the application are reiterated.
14. That para 5(ix) of the counter needs no comments.
15. That para 5(x) of the counter is denied and the averments made in para 4(x) of the application are reiterated.
16. That para 5(xi) of the counter as stated is denied and the averments made in para 4(xi) of

the application are reiterated. It may, however, be submitted that since the rejection order passed by the Ad. D.R.M. was without assigning any reason, the same is nonspeaking, illegal and unjust.

17. That para 5(xii) of the counter as stated is denied and the averments made in para 5(xii) of the application are reiterated.
18. That the contents of para 5(xiii) of the counter as stated are denied and the averments made in para 4(xiii) of the application are reiterated. It is submitted that the applicant was on sick leave from 9.10.1986 to 13.5.1987. Thus during this period the question of any mistake in work and conduct does not arise. Moreover, the applicant was given only one punishment during his service period of last 3 years. The applicant filed his appeal against the stoppage of 6 months increment before the Divisional Commercial Superintendent and he reduced the penalty into stoppage of 1 set pass, PTOs. Photostat copies of the sick certificate given by the Chief Medical Officer/ Railway Izzatnagar and the order dated 1.5.1987 passed by the Divisional Commercial Superintendent are filed as Annexures 1 and 2 to this rejoinder.
19. That para 6 of the counter is denied and para 7

Annexures- 1 & 2

SMTI DUTT

of the counter needs no comment. In the light of the facts and circumstances stated in this rejoinder and in the original application, the applicant is liable to be given the relief claimed in the application.

Verification

I, Shyam Narain Jha, aged about 55 years, son of late Sri Mahanand Jha, resident of Puranpur, district Pilibhit, do hereby solemnly verify that the contents of paras are true to my personal knowledge and those of paras are believed to be true on legal advice and that I have not suppressed any material fact.

Date : 5/4/1991

Shyam Narain Jha
Applicant.

Place : Lucknow.

In the Central Administrative Tribunal Lucknow Bench
O.A.N. 267 of 1987

S.N. Jha
O.P. Singh

Plaintiff
Respondent

ANNEXURE NO. 1

जाहरत पर दोनों तरफ लिखे
Use both sides if required.

पूर्वोत्तर रेलवे
N.E. RAILWAY

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

संख्या (No.) वा/8248/87/14 पौष्टी/86

दिनांक (Dated) 1-5-87

सिवान (From) मुडल रेज यु० (वा)

सिवान (To) श्री श्याम नारायण चौहा

इंदौर नगर

प्रबंध एकार वा०

विषय (Sub.) इस माह की वर्तमान बौद्ध पर

कारा रेसिंग साधीहा०

संदर्भ (Ref.)

प्रबंध एकार के बिराद में आपदी आपदा०

दिनांक 28.4.87

अपदी अपावृत्ति पर बिचार कर प्रबंध एकार वा०

प्रदीप्ति, इंदौर नगर में निम्न आदेश पारित किया

है। "इनकी अपावृत्ति पर बिचार किया/अनकी
सजा कम कर एक से १८० (1987) बना किया
जाता है।"

कृत मा० रेज यु० (वा)
इंदौर नगर

माननीय राज्यपाल

(Plus) १०

In the Central Administration Tribunal Lucknow Panel Lucknow
Date 267 of 1989

S.N. Jha
as
001 & other

Applicant
Respondent

ANNEXURE NO 2

प्रबंधन दस्तावेज़ No 1400

N. E. R. Y. तिथि १० दिसंबर १९८९ एवं ३
N. E. M 1 & 3.

प्रबंधन दस्तावेज़ No 1400
R. B. Med./C/2

चिकित्सा विभाग
MEDICAL DEPARTMENT
"धारोग्यता-प्रमाण-पत्र" (Fit Certificate)
7948 क्रम संख्या १०२
Serial No.

आवेदक के हस्ताक्षर या दाये अंगठे का निशान
Signature or L. T. I. of Applicant

चिकित्सा विभाग
HOSPITAL
शोषणालय
DISPENSARY

मैं एलडे डायर प्रमाणित करता हूँ कि मैंने निम्नलिखित कर्मचारी
को भवी-भावि शरीरकाण कर दिया है:—

नाम S.N. Jha
Name

पद ५ बी
Designation

शाखा अधिकारी विभाग C
Branch or Department

नियुक्ति का स्थेश्वर
Station where employed P.P.

इनका हस्ताक्षर ऊपर दिया है और ये (तिथि)
..... (तिथि) तक बीमार थे और
उपचार के अवधारण थे और (तिथि)
..... (तिथि) तक डाक्टरी अभियांत्रिका के
अनुसार छुट्टी पर रहे हैं। ये अब अपनी दृश्यता करने के योग्य हैं।
Whose signature is given above and who was sick and under
treatment from (date) १०/१०/८९ to (date) ३०/१२/८९
and on leave on medical recommendation from
(date) to (date)
is now fit to attend to his duties.

कार्यालय की मुहर
Office Seal

रेलवे डाक्टर के हस्ताक्षर
Signature of Railway Doctor

तिथि १३/१२/८९ पद
Date Designation

*यदि लागू न हो तो काट दीजिए।
*Strike out if inapplicable.

टिप्पणी:—इस प्रेसार्ड पर्याप्ति की गई अभियांत्रिका रेल-कर्मचारी
को उसके करार की शर्तों या उस पर लागू नियमों
के अन्तर्गत किसी प्रकार की अस्वीकार्य छुट्टी के
दावे का प्रमाण न होगी।

Note.—No recommendation contained in this certificate shall
be evidence of a claim to any leave not admissible
to the Railway servant under the terms of his contract
or of the rules to which he is subject.