

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE O.A. 347 OF 89

NAME OF THE PARTIES S.C. Agarwal Applicant

Versus

Union of India Respondent

Part A.

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CERTIFICATE

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

Dated 10/6/11

Counter Signed.....

Section Officer/In charge

Signature of the  
Dealing Assistant

A5

CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH LUCKNOW.

....

Registration O.A. No. 347 of 1989

S.C. Agrawal ... .. Applicant.

Versus

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

Hon. Mr. Justice U.C. Srivastava, V.C.  
Hon<sup>ble</sup> Mr. A.B. Gorthi, Member (A)

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

The applicant, who has retired from service, was working as Chief Controller in the office of Divisional Railway Manager Northern Railway Hazratganj, Lucknow. <sup>in the CR.</sup> ~~An~~ Adverse Entries for the period 31.3.1988 were communicated to the applicant on 14.2.1989. The applicant preferred a representation against the said adverse entries but the said representation/appeal is still pending as has not been decided.

2. According to the applicant, the adverse remarks are not in conformity with the rule 1608 R.I. Read with Rule-1619(i) P-1 and are vague as the opportunity during the course of the year has not been given to the applicant and that he was not apprised during this period regarding his work.

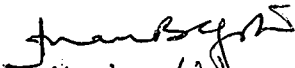
3. The respondents have contested the claim of the applicant. According to them, the entry has been given to him in accordance with law. Although, the applicant has retired from service but his representation is still pending. As a matter of fact, it should be disposed of and it can now even be disposed of. In case, it is decided in favour of the applicant, the applicant may be given some benefits.

4. Accordingly, the respondents are directed to dispose of the representation/appeal filed by the applicant against the adverse remarks taking into consideration his plea.


(46)

- 2 -

The representation/appeal of the applicant shall be disposed of by a speaking order. Let it be done within a period of 2 months from the date of communication of this order. The application is disposed of with the above observations. Parties to bear their own costs.

  
Member (A)

Dated: 31.1.1992  
(n.u.)

  
Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

\*\*\*

Registration No. 347 of 1989

APPLICANT(S) S C Agarwal  
RESPONDENT(S) U

Filed on 19-12-89

19/12

(4)

Particulars to be examined

Endorsement as to result of examination

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

yes  
yes

yes

yes

yes

yes

yes Rs 50/-

yes

yes

yes by counsel

yes

yes

yes

(A2)

Particulars to be Examined

Endorsement as to result of examination

- Are the application/duplicate copy/spare copies signed ?
12. Are extra copies of the application with Annexures filed ?
- a) Identical with the Original ?
- b) Defective ?
- c) Wanting in Annexures
- Nos \_\_\_\_\_ pages Nos \_\_\_\_\_ ?
13. Have the file size envelopes bearing full addresses of the respondents been filed ?
14. Are the given address the registered address ?
15. Do the names of the parties stated in the copies tally with those indicated in the application ?
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 ?
- a) Concise ?
- b) Under distinct heads ?
- c) Numbered consecutively ?
- d) Typed in double space on one side of the paper ?
18. Have the particulars for interim order prayed for indicated with reasons ?
19. Whether all the remedies have been exhausted.

No

ys

ym

NA

ys

No

ys

gineshy

1253476  
347/196

AS

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
---------------------------------	--	--

20/12

Hon<sup>o</sup> Justice K. Nalwa VC  
Hon<sup>o</sup> Mr. K. Odayya, AM

List for admission on 28.1.50

A.M.

Sh  
V.C.

OR  
This case has been read by CAT. And on 20.12.50  
Case is not admitted  
No CA / RA file  
Notices were issued to CAT. And  
OR of attaching  
and submitting for  
1574

29-1-50

Hon. Justice K. Nalwa VC  
Hon. Mr. K. J. Rama AM

Admit

List for hearing on 28.2.50

A.M.

V.C.

OR  
Sh. A. May has  
tendered notice on  
behalf of respondent  
but no reply  
filed  
Submitted  
29/1/50

26/2/50

Hon. Justice K. Nalwa VC  
Hon. Mr. K. J. Rama AM

Shri Arjun Bhargava appearing on behalf of opposite parties says that the records relating to the adverse remarks in question are pending with the Appellate Authority at Delhi considering the representation against the remarks. He requests for two weeks time to produce the record. Last opportunity to do so is given and the case is directed to be listed on 15/3/50. On that date the opposite parties' counsel must produce the record & file reply, if any.

OR  
No CA filed.  
S. P. order  
26/2/50

Dinesh

AM

VC

OR  
No CA filed  
S. P. H.

14/3

6A 347/8917

(All)

27-8-90 Hon. Mr. Justice K. Makh, V.C.  
Hon. Mr. K. Chagga AM

Shri D. Bhargava files court. Shri K. P. Srivastava, appearing on behalf of the Petitioner and says that Shri D. Bhargava is not entitled to appear for want of process. But the case for final hearing on 29/8/90. In the meantime Shri D. Bhargava may file process and the petitioner may file rejoinder within 3 weeks!

AB

AM

Dr  
V.C.

29-8-90

Hon. Mr. D. K. Agrawal J.M.  
Hon. Mr. K. Chagga AM.

OR  
R.A. P. 13/8/90

OR

On the request of Sri K. P. Srivastava, Counsel for Applicant case is adjourned to 19.10.90, none for respondents.

Case is ready to hear  
CA/RA have been exchanged.

S. J. H.

28/8/90

AM

Dec  
J.M.

19/8/90

No sitting Adj. to 17/12/90

19/8/90

Filed on 19-12-09

h  
19/12

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNALS ALLAHABAD  
CIRCUIT LUCKNOW.

(A7)

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE  
TRIBUNALS ACT 1985.

BETWEEN

S.C. Agrawal

.....

Applicant.

AND

UNION OF INDIA AND OTHERS.....

Respondents.

REGISTRATION NO.

347/wps

INDEX.

Compilation No.1.

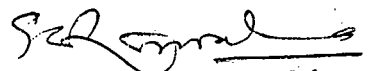
S.No: Description of documents relied upon. Page Nos.

- |    |   |        |
|----|---|--------|
| 1. | Application.  | 1 to 9 |
| 2. | annexure No: A-1.<br>Photo-stat copy of General Manager/<br>Operating, N.Railway, Baroda House,<br>New Delhi Confidential No.E-108/T/<br>S-163 dated 27.1.1989. | 10.    |
| 3. | vakalatnama.  | 11.    |

Lucknow.

Dated:

Date of filing.

  
Signature of the Applicant.

Filed today  
19/12

noted for  
20-12-09  
Koh  
19/12



(10)

IN THE CENTRAL ADMINISTRATIVE TRIBUNALS, ALLAHABAD  
CIRCUIT LUCKNOW.

BETWEEN

Sushil Chandra Agrawal ..... Applicant.

AND

UNION of India and others ..... Respondents.

DETAILS OF APPLICATION:

1. Particulars of the applicant.

- (i) Name of the applicant. : Sri Sushil Chandra Agrawal.
- (ii) Name of father. Sri S.L. Agrawal.
- (iii) Age of the applicant. About 56 years.
- (iv) Designation & particulars: Chief Controller,  
of office in which Divisional Office,  
employed. Northern Railway,  
Lucknow.
- (v) Office Address : Chief Controller,  
Control Section,  
Divisional Office,  
Northern Railway,  
Hazratganj, Lucknow.

2. Particulars of respondents:

- (i) Union of India through General Manager,  
Northern Railway, Headquarters Office, Baroda House,  
New Delhi.
- (ii) The General Manager (Operating), Northern Railway,  
Headquarters Office, Baroda House, New Delhi.

3. Particulars of the order against which  
the application is made.

- 1. Adverse Remarks communicated by General Manager/  
Operating, vide his letter No (Confidential)  
E-108/T/S-163 dated 27.1.1989 for the period ending  
31.3.1988. (Annexure No: A-1.)

2. Subjects in brief:

- (i) That the applicant is working as Chief -  
Controller in the Office of Divisional Railway Manager,  
Northern Railway, Hazratganj, Lucknow.

Contd....2.

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(ii) That the adverse Entries for the period ending 31.3.1988 were communicated to the applicant on 14.2.1989 vide General Manager/Operating, Northern Railway, Baroda House, New Delhi ~~vide~~ Confidential letter No.E-108/T/s/163 dated 27.1.1989.

(iii) That the applicant preferred an appeal to the General Manager/Operating, Northern Railway, Baroda House, New Delhi well in time ~~that~~ is on 8th March, 1989 under clear signature. The Photo-stat copy of the representation dated 8.3.89 is enclosed as Annexure No.A-2.

(iv) That it is evident from the Annexure No.A-1 that the Confidential Report is for the period ending 31.3.1989 embodied in the body of the letter that is well advance and before completion and closing of the assessment year 1989.

(v) That the confidential report is vague and of non-committal nature thereby making the remarks ambiguous. Every remark in the Confidential Report should be definite and meaningful.

(vi) That the adverse Remarks are not in conformity with the rule 1608 R.I. Read with Rule 1619(i) R-1 as the opportunity during the course of the year has not been given to the applicant.

(vii) That during the course of the year no warning or specific directions were given to the applicant in regard to these <sup>adverse</sup> remarks.

(viii) That the Reporting Officer was biased against the applicant as is evident from the adverse Remarks shown in Annexure No: A-1.

(ix) That as per extant rules framed by the Railway Board as well as the General Manager, Northern Railway, Baroda House, New Delhi, the Reporting Officer shall give the reasons, the facts on which adverse remarks are based and it should also be stated whether the defects reported if any, have been already brought to the notice of the subordinate concerned and this was not done in the applicant's case.

(x) That as per extant rules the substance of the favourable remarks should also be communicated to enable the applicant to explain his position, which has not been done in the applicant's case.

(xi) That as per extant rules framed by the Railway Board as envisaged in Printed Serial No: 8863 the Confidential Report for the year ending 31.3.1988 should have been written ordinarily within one month of the close of the said year ~~that~~ and the same ~~and~~ should have been accepted and countersigned by the reviewing/ accepting authority within one month of its receipt by him and the same was communicated to the applicant just one month before the close of the another financial year that is 31.3.1989, and in this way the Confidential Report for the next year that is 31.3.1989 also become biased.

(xii) That the appeal/~~xx~~ representation against the adverse remarks is pending with respondent no 2 from 8.3.1989 to this date that is nine months have passed and as per Printed Serial No.8863 the representation should have been decided as far as possible within three months from the date of timely

*for annex*

submission of representation which in the case of the applicant has been done and rules observed by the applicant.

(xiii) That in view of the facts mentioned above the adverse remarks are to be set-aside as the remarks are only oral assessment and are of casual nature and are not based on actual failures or facts. Moreover, the adverse remarks, its preparation and communication are all against the statutory rules framed by the Railway Board and the General Manager, Northern Railway, Baroda House, New Delhi .

(continued)

4. JURISDICTION OF THE TRIBUNALS:

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

5. LIMITATION:

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

6. FACTS OF THE CASE:

1. That the applicant is working as Chief Controller, in the office of Divisional - Railway Manager, Northern Railway, Hazratganj, Lucknow.

2. That the adverse entries in the Confidential Report for the period ending 31.3.1988 were communicated to the applicant on 14.2.1989 vide General Manager/Operating, Northern Railway, Baroda House, New Delhi Confidential letter No.E-108/T/s/163 dated 27.1.1989.

Contd...5

*Amale*

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Photo-stat copy of the letter is enclosed as Annexure No. A-1.

3. That the applicant preferred an appeal/representation to the General Manager/Operating, Northern Railway, Baroda House, New Delhi, on 8.3.1989 under clear signature and the same is still pending. Photo-stat copy of the representation dated 8.3.1989 is enclosed as Annexure No: A-2.

4. That it is evident from the Annexure No: A-1 that the Confidential Report is for the period ending 31.3.1989 as embodied in the body of the letter itself which has also prejudiced the Confidential Report for the period ending 31.3.1989 which was still to be written by the Reporting officer.

5. Adverse Remarks of the That the/confidential report as shown in Annexure No: A-1 is dated 27.1.1989 and is for the period ending 31.3.1988 as given in the subject.

6. That the adverse remarks are vague, non-committal in nature, indefinite and ambiguous and not based on facts supported by documents.

7. That the adverse remarks are not in conformity with the Rule 1608 R.I. read with Rule 1619(1) R.I. as the opportunity during the course of the year has not been given to the applicant nor any personal hearing was afforded to.

8. That during the course of the year nor warning nor specific directions on the above subjects so far as the adverse remarks are concerned were given to the applicant for improvement in

Contd.....

*Sd/-*

A13

= 6 =

the working as there was no time left for the next ensuing year.

9. That the Reporting Officer was biased with the applicant so the adverse remarks in the Confidential Report were not most objective. ~~and~~

10. That no opportunity was given during the course of the year to serve a warning on the applicant advising him to improve his working in specific directions as envisaged in Rule 1619(1) R.I. and Confidential letter No.E-108/0/74/LCS dated 1st March, 1978. The photo-stat copy of the letter is enclosed as Annexure No A-3.

11. That while communicating the adverse remarks the substance of the favourable entries in the Confidential Report were not communicated to the applicant.

12. That while mentioning the faults or defects of the applicant in his Confidential Report the Reporting Officer must also give an indication of what efforts he has made by way of guidance, admonition etc. to get the defects removed and with what result, as envisaged in Confidential letter No.E-108/0/74/LCS/Policy dated 13.6.1984 and these Rules were not observed strictly in the case of the applicant.

*photo stat is enclosed as Annexure A-4*

13. That the representation is pending with the General Manager/Operating, the respondent No.2 for the last eight months and the respondent did not bother about it though the same should have been decided within three months as laid down in printed serial No.8863.

*SB Gmwal*

Contd....7.

AM

Photo-stat copy of the P.S. is enclosed as  
Annexure No: A-5.

14. That it is evident from the representation made by the applicant to the respondent No.2 that the applicant worked as a disciplined employee and shared even extra burden and worked even long hours, given good out put and discharged duties successfully in achieving hundred percent punctuality in the short span on several occasions. In this way the remark as adverse is untenable and unmaintainable and needs to be scrapped.

15. That the applicant remained devoted, vigilant, active, obedient during his service for the period mentioned in the confidential report.

16. That there is no degree in adjudging the applicant by the Reporting Officer except this that the Reporting Officer was made biased by some other interested persons for their ulterior motive, and that is why the adverse remarks were not supported by the facts accompanied by the Official documents.

7. DETAILS OF THE REMEDIES EXHAUSTED:

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

(a) That the applicant made a representation against the adverse remarks on 8.3.1989 as per Annexure A-1.

(8) (a) The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any

Contd...8.

*Sd/-*  
*Amr*

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court of law or any other authority or any bench of the Tribunals and nor any such application, writ petition or suit is pending before any of them.

8.

9. RELIEF SOUGHT:

In view of the facts mentioned in para 6 above the applicant prays that the Honourable Tribunals may be graciously pleased to quash the adverse remarks contained in Annexure No. A-1. issued by the General Manager/Operating, N. Railway, Baroda House, New Delhi as the same is against the statutory Rules framed by the Railway Board and the General Manager and is not based on documentary evidence and the applicant has also been denied the reasonable opportunity in this way there was complete violation of principles of natural justice.

GROUND.

1. Because the adverse remarks are not based on any documentary evidence and biased.
2. Because the Confidential Report was not written within the scheduled period mentioned in the Statutory Rules.
3. Because the adverse remarks are of casual nature, ambiguous, indefinite and devoid of Rules.
4. Because the representation is pending for the last eight months and has not been decided within three months as per Rules.
5. Because the applicant was not given

Contd...

*SD [Signature]*



A16

the reasonable opportunity or given any personal hearing during the assessment year.

6. Because the adverse remarks were communicated in the month of February, 1989 pertaining to the year 1987-88 ending 31.3.1988, which badly prejudiced the Confidential Report of the next assessment year that is 1988-89.

7. Because neither warning nor any specific directions nor any guidelines were given to the applicant during the assessment year.

8. Because the adverse remarks were not very objective but these were of casual nature.

10. INTERIM ORDER IF ANY PRAYED FOR: NIL.

11. Particulars of the postal order in respect of the application fee:

- (i) No of Indian Postal Order: *B 02 402869*  
*Dr B.S.Y.*
- (ii) Name of the Issuing Post Office: *General Post Office Lucknow*
- (iii) Date of issue of Postal Order: *19.12.1989*
- (iv) Post Office at which payable: *Head Post Office Allahabad.*

12. LIST OF ENCLOSURES: A-1 to A-5.

Verification.

I, S.C. Agrawal, son of Sri S.L. Agrawal, aged about 56 years, working as Chief Controller in the Office of Divisional Railway Manager, N. Railway, Lucknow, do hereby verify that the contents of paras 1 to 12 of are true to my personal knowledge and on legal advice and that I have not suppressed any material fact.

Lucknow.

Dated:

*S.C. Agrawal*  
Signature of the  
Applicant.

New Delhi.

CONFIDENTIAL.

No. E-108/T/S-163

Dated 27-1-1989.

Shri Sushil Chandra Agarwal

CHC

Through : DRM/N.Rly. Lucknow

Sub: Confidential Report for the period ending 31.3.1988  
 - communication of adverse remarks.

The following observations made in your confidential report for the period ending 31.3.1989 are communicated to you in the hope that you will try to effect an improvement in the direction/s indicated:-

Part III

15. Has his work been satisfactory? If not, in what respect.....

" No. He has not been able to supervise and chase the movements and identify the factors effecting operations. "

2. The communication is sent to you in duplicate, a copy of which, duly acknowledged, may please be returned to this office immediately.

3. The time limit allowed for submission of representation is upto one month from the date of the communication of the adverse remarks.

DA/in duplicate as above

for General Manager (Optg.)

ACKNOWLEDGEMENT BY THE EMPLOYEE

The receipt of the above letter is hereby acknowledged.

Signature of employee

Date ...../...../..... Designation ..... Station .....

True Copy  
 attested -  
 K. H.  
 P. H. S. Ch.

In the Central Administrative Tribunal Allahabad  
Luknow circuit

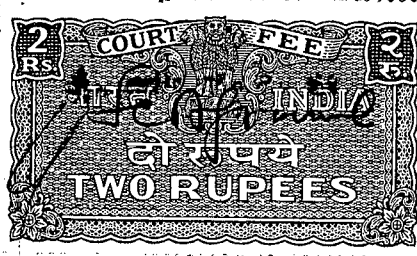
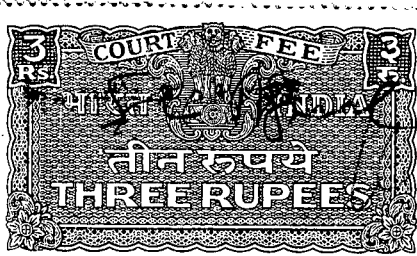
ब अदालत श्रीमान्  
[वादी अपीलान्त]

महोदय

प्रतिवादी [रेस्पाडेंट]

का

वकालतनामा



(अपीलान्त)

S. C. Agrawal

Union of India बनाम प्रतिवादी (रेस्पाडेंट) and others

न० मुकद्दमा

सन्

पेशी की ता०

१६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

Advocate Moti Ghosh Luknow

वकील

महोदय

एडवोकेट

नाम अदालत

मुकद्दमा नं०

नाम फरीकन

को अपना वकील नियुक्त करके प्रतिज्ञा (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 कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील विगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करे मुकद्दमा उठावे या कोई रुपया जमा करे या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करे—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकर को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १६

ई०

स्वीकृत

(AP)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNALS ALLAHABAD  
CIRCUIT LUCKNOW.

347/464

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE  
TRIBUNALS ACT 1985

BETWEEN

S.C. Agrawal ..... Applicant.

AND

UNION OF INDIA AND OTHERS ..... Respondents.

Registration No \_\_\_\_\_

INDEX.

Compilation No. 2.

S.No:	Description of documents relied upon	Page No.
1.	<u>Annexure No: A-2.</u> Photo-stat copy of the representation of the applicant dated 8.3.1989, to the General Manager/Operating, Northern Railway, Baroda House, New Delhi.	12 to 15.
2.	<u>Annexure No: 3:</u>  Photo-stat copy of Divisional- Superintendent, N.Rly., Lucknow confidential No. E-108/0/74/LCS dated 1st March, 1978.	16 to <sup>19</sup> 18.
3.	<u>Annexure No: A-4.</u>  Photo-stat copy of D.R.M., N.Rly., Lucknow confidential No: E/108/0/74/ LCS/Policy dated 13.6.1984.	<sup>20</sup> 20 to 22.
4.	<u>Annexure No: A-5.</u> Photo-stat copy of printed serial No. 8863 issued by the General Manager, Northern Railway, Baroda House, New Delhi.	23 to <sup>25</sup> 25

Lucknow..  
Dated:

*S. Agrawal*  
signature of the Applicant.

Date of filing.

To,

The General Manager (Opig)  
N. Railway, Baroda House  
New Delhi.

Amr. A-2

(A20)

Sir,

Ref:- Gm(Opig) Confidential letter No E-108/Tfs-163 D/- 27.1.89  
delivered on 14.2.89 A.N.

Sub:- Representation against adverse entry at Column 15 - prayer  
to expunge the remarks.

Respectfully, I beg to lay down the following facts and grounds  
of representation for expunging the remarks at column 15, of the afore-  
mentioned document, intimated to me after a lapse of ten and half  
months (on 14.2.89 A.N.) of the period and has pained shockingly.  
I, therefore, prefer this representation/appeal against the confidential  
report under reference on the following among other grounds:-

(A) That, the above mentioned letter was delivered to the appellant  
on 14.2.89 A.N. and that the desire in the letter quoted above viz, 'the  
time to make improvements upon has been curtailed drastically'. The  
date of endorsement of draft of this document viz 27.1.1989 itself indicates  
a sequel to spoil next CR. for 1988-89 also -

(B) That, the letter itself carries endorsement; period ending  
31.3.1988 in its headings and 31.3.1989 in its contents of its  
applicability which makes it confusing and void.

(C) That, taking into account the period, ending 31.3.88,  
I have worked as Cte (Punctuality) for a brief period, of 3 months  
and have worked in obedience, with full zeal and devotion  
observing all instructions and orders conveyed to me from time  
to time.

(D) That, I maintained the punctuality at the highest  
percentage, kept superiors informed of the short-falls in advance  
that may occur and sought their advices to act self and  
guidance to my colleagues, managed powers in case of failures  
quickly in consultations with other Cte(s) and superiors available,  
managed the running of summer specials efficiently and their  
records in such a way that every thing became smooth for  
every one and thus extra seasonal burden could not be  
burdensome for any one. I have on days attained even  
100% punctuality through my chase, supervision and monitoring  
and advance advice to my colleagues, and my loggings were  
never changed latter on. I kept good cooperation and  
liason with sister divisions, sister Railways and HQ also.  
I, have kept all trains with highest possible speed and %  
during my duties. I, supervised, the diversions of days  
together about trains in case of accidents or blockades and  
maintained their most informative records.

(E) That, the insertions are not in accordance  
with extant circulars and rules and no notice issued  
to the effect ever. This clearly shows that this is under  
suggestions from vested interests who are against me  
since long, who have moved the opinions of my superiors  
against me for such an insertion at column 15, which  
should be an objective assessment in terms of Home Ministry's  
office Memo No 51/5/54-Est 3 (A) D/- 27.1.55 and adhering  
(Contd 2)

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attached  
K. S. S.  
Advocate

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A21

to the instructions contained in the aforementioned Memo, nothing in this direction has ever been done and are not indicated which should have been done.

(F) Integrity, Tact & Temper, Conduct, Attendance, Initiation & Direction, General Intelligence, Capacity to do hard work, supervising ability, Reliability, Relations with others (viz below, above, public), Amenability to discipline etc, are none of them in negative direction and produced good output, power to draft also never lapsed ever and remained unobjectioned. Thus this remark is self contradictory and un-maintainable.

### GROUND OF REPRESENTATION

① That, the basis of remarks at Col. 15 is of casual nature and not objective i.e. not specific as is not based on facts and thus is in contravention of Rly Bd's directives contained in letter Nos E(NG) 57 CR 1/4 D/- 8.12.55; E(NG) II-67 CR 1/4 D/- 17.2.69; E(NG) 157 CR 3/4 D/- 6.11.69; E(NG) II-68 CR 3/1 D/- 6.11.70 & E(NG)-II-68 CR 1/1 D/- 10.1.77; according to which confidential reports should be based on certain facts and proper conveyance to the employee in time which has never been done.

(2) That, the undersigned worked as a disciplined employee and shared even extra burden, worked even long hours, show good output, and discharged duties successfully in achieving 100% punctuality in this short span on several occasions (in coordination with his colleagues), and diligently so that loggings were never latter changed. Thus the remark at Col. 15 is untenable and un-maintainable and needs be scrapped.

(3) That, the appellant remained, devoted, vigilant, active, obedient and has been taking initiative based on experience and with confidence during the entire period in question that adds dimensions to his qualities. Thus the remarks at Column 15 are required to be expunged, as the output and earnestness remained unquestioned as the remarks are self contradictory, untenable, un-maintainable, vague and void.

There is no degree of experience and output that may satisfy a Superior but his personal factors of tolerance, good guidance and an unbiased mind are the need.

(4) That, the adverse entries of Confidential reports are required to be conveyed to a subordinate by April end every year under rules, so as one may make improvements in next eleven months. This report has been conveyed to me. This report has

Truly  
affected  
A21

been conveyed to me in the middle of Feb 1989, leaving no chance for further improvements. This carries confusing entries of dates at to different places, In the first leaving no chance of further improvements thus shows tactical preparation to spoil the next CR for period ending March, 31, 1989, and in the other making the entire confidential conveyed void. Thus, these remarks be expunged on this ground alone.

(5) That, the para 5 of Model Instructions for preparing & Maintaining the Confidential reports of 'C' class Subordinates of Railways, documented under GM(P) NRI, NO 2 S.P.S. 7951 and in view of the provisions of the Sec II of Chapter XVI of the I.R. Establishments Code Vol I (1974) have been ignored by the learned reporting authority.

(6) That, this remark is wholly in disregard and in violation of Rule 1607 which inter-alia provides that reports must not be confined to more general remarks and off hand impressions, so brief and casual so as to convey with or no real meaning and assessment, must be based on actual failures or excellence. Since, the remarks are of casual nature, off hand, without mention of lapses thus are unwarranted.

(7) That, in view of the facts brought out in the foregoing paragraphs, the adverse remarks in the Confidential report are void being in utter disregard of provisions contained in Rule 1608 RI which inter-alia provides that a Rly servant shall not ordinarily be given an unfavorable CR before an opportunity is taken, preferable at a personal interview or if that is not practicable, by means of a personal letter pointing to him the direction in which his work would have proceeded and thus was unsatisfactory or the faults of character or temperament etc which need to be remedied. The manner and method of conveying in certain ~~cases~~ direction must be such that the advice given orally or in written shall regard to the temperament of the Rly servant, be most beneficial to him. If, in spite of this, there is no appreciative improvement and adverse confidential report has to be made, the facts on which the remarks are should be clearly brought out, and this was never afforded by respected reporting authority at all.

One copy  
attached  
as per  
order

Thus on examination of the adverse entries in the light of the facts brought out in the foregoing paras judiciously it would be revealed that the adverse remarks entered in Confidential report conveyed to me and under reference are unfounded, arbitrary, untenable, in violation of extant rules and violations and thus void and un-maintainable, conveyed after a lapse of major part of the year, next, not providing chance to improve as desired. Thus the remarks are expungible.

### PRAYER

In the afore-mentioned circumstances, I request your honour to judicious and extend me kind and judicious hand, by expunging the remarks in CR-1987-1988. Communicated to me after lapse of ten and half months of year 1988-89, and are without following normal rules.

A request for personal interview is made to convince your honour.

Yours faithfully

S. C. Agarwala

(S. C. Agarwala)

CITC / LKO

D/- March 8<sup>th</sup>, 1989

B. Singh  
8/3/89

True copy  
attested  
K. S. Singh  
Adv.



(16)

Ann A-3

A24

NORTHERN RAILWAY

CONFIDENTIAL  
No.E.208/0/74/LCS.

Divl. Supdt.'s Office,  
LUCKNOW.  
Dated 1st March, 1978.

All Officers of Lucknow Division,  
All Senior Subordinates Gr. 700-900(RS) and above,  
NORTHERN RAILWAY.

**Sub.:- General Guide-lines for compilation of Confidential Reports on Non-Gazetted staff - 1977-78.**

The Railway Board have revised the Confidential Report form last year. As such, it is necessary to lay down broad guide-lines so that Confidential Reports are filled up by the reporting / reviewing authorities in accordance with the directions of the Railway Board.

i) The revised C.R. forms are based on those issued by the Department of Personnel consequent upon the decision taken on the recommendations of the Administrative Reforms Commission.

ii) In the previous C.R. form, there was a column of "General Classification - outstanding, good, average, below average". This has been deleted in the new form. The general classification of an employee is now to be adjudged on the basis of CRs in their entirety. It is, therefore, necessary that the authorities who fill up the C.Rs., take great care to see that the CRs depict a realistic image of the employees reported upon.

iii) The Code Rules provide that the authority who writes the CRs should not be biased against or in favour of the employee on personal considerations. It is, therefore, to be ensured that the employee's performance is recorded in the Confidential Reports most objectively.

iv) Remarks regarding integrity of a subordinate can only be on "general lines - for example, no reason to doubt, unless something specifically can be recorded against an individual". This certificate should state whether the subordinate can be fully relied upon with regard to his integrity. In case the reporting officer has doubts for which ordinary standards for judging integrity would not hold - for example, the subordinate living beyond his means with no private source of income, persistent complaints against him which do not appear to be a result of his general reputation gleaned from other officers or any other conclusion that may be drawn from his work-method of supervision - should be brought out.

OVER strictness or harshness or tactlessness,...../2.

True Copy  
after  
K. R. Narasimhan

Amr A-3

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18  
A-3

If in previous column in the Confidential Reports the employee under report has been commented upon satisfactorily, it would not be correct to say "NO" against column of the report relating to fitness for confirmation particularly when the employee concerned has also completed 2 months' officiating or probation period.

The initiation, review and acceptance of Confidential Reports of staff working in group 10 categories may now be done at the levels indicated below:

Category of staff in grade	Initiation	Review	Acceptance
Rs. 330-560	Sr. Subordinates	Asstt. Officer / Sr. Scale	Asstt. Officer / Sr. Scale
425-700	Asstt. Officer	Sr. Scale	Asstt. Officer / Sr. Scale
425-640		Officer	Asstt. Officer / Sr. Scale
455-700			Asstt. Officer / Sr. Scale
& Equivalent grades			Asstt. Officer / Sr. Scale

550-750	Asstt. Officer	Sr. Scale	Asstt. Officer / Sr. Scale
800-900		Officer	Asstt. Officer / Sr. Scale

A subordinate shall not ordinarily be given an unfavourable Confidential report before an opportunity has been taken, preferable at a personal interview, or if that is not practicable, by means of a personal letter, of pointing out to him the direction in which his work has been unsatisfactory or the faults of character and temperament which require to be remedied. If there is no appreciable improvement as a result of this warning and an adverse report has to be made, the reporting officer shall give the reasons and, as far as possible, the facts on which reports are based. He shall specifically state whether the defects reported have been already brought to the notice of the subordinate concerned.

It is reiterated that all adverse remarks should be communicated in writing irrespective of whether they are considered remediable or not. While doing so, the substance of the favourable entries may also be communicated. Care should, however, be taken to ensure that the remarks are communicated in such a form that the identity of the officer making particular remarks is not disclosed.

Tom Coy  
attested  
Kob [signature]

256/1  
(20) (18)  
Annex A-4  
(126)

NORTHERN RAILWAY.

CONFIDENTIAL.  
No. F-108/0/74/LCS/Policy.

Divisional Office,  
Lucknow.  
Dated \_\_\_\_\_ 6\_1984

ALL OFFICERS ON LUCKNOW DIVISION

ALL SENIOR SUBORDINATE IN GRADE 700-900(RS).

Sub: WRITING OF CONFIDENTIAL REPORTS.  
-----

Various instructions regarding writing of Confidential Reports have been issued from time to time by this office. In order to ensure that these instructions are correctly followed, extracts of ~~extreme~~ important instructions are enclosed for guidance and compliance by all concerned.

Annex A-4  
for Divl. Rly. Manager, 13/6/84  
Lucknow.

DA-as above.

Done by  
attested  
K. H. S. S. S.  
S. S. S. S.

22/12/78  
B.N.S. A-4  
A27

If any of the items of the C.R. are inapplicable to the minutes reported upon, the remarks 'not applicable' should be recorded. No item of the C.R. should be left blank.

When the C.R. forms are initiated by the office, necessary information with regard to substantive/officiating post held by employee and punishment/commendation, if any, awarded during year are indicated. The reporting officer should take care his recommendation for confirmation against an appropriate is made only if the employee is officiating. Otherwise the 'already confirmed' should be written.

If the reporting/reviewing authorities have recorded any adverse remarks, they must record against item 27 of the C.R. whether provisions of Rule 1008 R-1 read with Rule 1619(I) R-1 are complied with by him or not. These rules enjoin that opportunity must be given during the course of the year to serve a warning on the employee advising him to improve his working in specific directions; if the employee, despite such a warning, fails to show improvement in the indicated directions, the reporting/reviewing authorities have the option of recording adverse remarks in the CR against appropriate items. The punishments shown in the CR are meant only for guidance and do not serve the purpose of automatic compliance of the above-mentioned rules.

(1) In case of operational staff, it has been decided that they should be awarded negative or positive remarks in their CRs. If there was a major accident involving the employee reported upon, a negative remark bringing out this fact should be recorded. If there was no major accident involving the employee, a positive remark to the effect should be recorded.

(2) CRs are consulted before taking any important step in the career of an employee, like efficiency-bar, promotion, confirmation, or any other recommendation. For this purpose, CRs records are required to be maintained upto-date. This can only be possible if strict adherence to the time schedule prescribed for the purpose is observed. CRs for the year ending 31-3-1978 are required to be finalised by 15-5-1978. As such the reporting authorities are required to complete the CRs given to them latest by 30-4-1978. Reviewing officers are required to complete them by 15-5-1978 and counter-signing/counter-approval by 31-5-1978. Great concern has been shown by the Railway Board/Headquarters office in this respect. As such, this is required to be given due priority.

True copy  
attested  
Kalyan  
Advocate

(V.K. AGARWAL)  
Sr. Divisional Per. Officer,  
LUCKNOW.

No 384E/O-IV-EIIV

Dt. 19-11-81

S. No. 8863

Sub:—Instructions for preparation & Maintenance of confidential reports on Non gazetted Rly. servants.

The N. R. M. U. vide their PNM item No-517, have pointed out various discrepancies being made while filling up Annual confidential reports of the Rly. employees working under them as well as by the Reviewing/Appellate authority, which is causing under harassment to the staff concerned.

In this connection it is stated that detailed instructions have been issued from time to time to the officers under confidential letters & when the discrepancies were pointed out earlier by one of the Unions the same were reiterated under this office letter of even No. dt. 21-2-81 (PS No. 7951).

The said instructions are again repeated as an Annexure 'A' for guidance of the officers & they are to keep them abreast with the instructions & guide lines being issued by this office from time to time to avoid discrepancies and consequent harassment to the staff under them.

#### MODEL INSTRUCTIONS FOR PREPARATION AND MAINTENANCE OF CONFIDENTIAL REPORTS OF NON-GAZETTED RAILWAY SERVANTS

In exercise of the powers vested in him under para 1619 of the Indian Railway Establishment Code Volume-1, the General Manager frame and notifies for general information the following instructions for the preparation and maintenance of the confidential reports on non-gazetted railway servants working on .....Railway.

2. Under these instructions, unless the context otherwise required :

(a) 'Reporting Authority' means the authority who was during the period for which the confidential report is written immediately superior to the railway servant whose confidential report is written or such other authority as may be specifically empowered in this behalf by the General Manager or any other officer authorised by him.

(b) 'Reviewing Authority' means the authority who was during the period for which the confidential report is written immediately superior to the reporting authority or such other authority as may be specifically empowered in this behalf by the General Manager or any other officer authorised by him.

(c) 'Accepting Authority' means the authority who was during the period for which the confidential report is written immediately superior to the reviewing authority or such other authority as may be specifically empowered in this behalf by the General Manager or any other officer authorised by him.

3. Confidential report shall be written by the reporting authority on every Non-gazetted railway servant working under him for every financial year or calendar year as the case may be in the manner specified in Paras 4, 5, & 6 below :

Provided that it shall not be necessary to write a confidential report on :

- (a) Grade 'D' Railway servants,
- (b) Railway servants in grade Rs. 260-400 (Rs.)
- (c) Railway servants whose initial grade is higher than Rs. 260-400, provided the next higher grade is a non-selection grade, except in the case of Highly skilled Artisan staff for whom confidential reports shall be written for those in two grades below the selection grade.

*Can be altered  
Hofman*

Copy of Railway Board's letter No. E (NG) 1/81/QR/5

dated 26-3-1981

Sub:—Instructions for preparation and maintenance of confidential reports on non-gazetted Railway servants.

As you are aware para. 1619 of the Indian Railway Establishment Code Volume-I envisages that General Managers may frame detailed rules for the preparation, submission and disposal of confidential reports of non-gazetted railway servants in general conformity with the principles laid down in the rules preceding this para.

2. In the PNM meeting held with the NFIR on 16th July, 1981, the representatives of the Federation requested that general instructions should be issued to the railways about preparation, submission and disposal of confidential reports so that the staff are in a position to know that their cases are being dealt with in accordance with the extant instructions of the Railway Board.

3. Various instructions have been issued by the Board from time to time on the preparation and maintenance of confidential reports of non-gazetted railway servants. Most of these instructions were issued in confidential form, with the result that they may not have been communicated to the generally of railway servants. However, in view of the provision contained in the Establishment Code Volume-I that rules shall be framed for preparation, submission and disposal of confidential reports on non-gazetted railway servants, it is necessary and also appropriate that every railway notifies certain general instructions for regulating the preparation and maintenance of confidential reports on non-gazetted railway servants. A model for these instructions has been framed and is enclosed for your information with the request that you may take action to circulate them either in the same form or with such modifications as you consider necessary. These instructions should be notified for the general information of all non-gazetted railway servants working on your railway organisation, in the same manner in which other orders concerning

conditions of railway services on non gazetted staff are notified.

4. Confidential reports shall be written for each financial year or calendar year as may be specified by the General Manager appraising performance, character conduct and qualities of the concerned Railway servant, in the form prescribed for the purpose either by the Railway Boards or by the General Manager.

5. In writing and preparing a confidential report, the Reporting Authority, Reviewing Authority and Accepting Authority shall generally keep in view the provisions contained in Section II of Chapter XVI of the Indian Railway Establishment Code R Volume-I.

6. (a) The confidential report for each financial year or calendar year as the case may be shall be written ordinarily within one month of the class of the said year.

(b) The confidential report shall be reviewed and countersigned by the reviewing Authority ordinarily within one month of its receipt by him from the Reporting Authority.

(c) After review the confidential report shall be accepted with such modifications as may be considered necessary and countersigned by the Accepting Authority ordinarily within one month of its receipt by him.

(d) No authority shall either a report, review, or accept the confidential report of any non-gazetted railway servant unless he has been acquainted with the work of such railway servant at least for three months during the period for which the report is written.

(e) Where the Reporting Authority, Reviewing Authority or Accepting Authority retires or departs office, he shall report review or accept as the case may be the confidential reports of

*For copy  
attached  
K. J. A. A. A.*

all railway servants working under him ordinarily within a period of one month from the date of such retirement or demission of office.

7 (a) Were the confidential report of any railway servant contains an adverse or critical remark either on his performance or on his basic qualities or potential, it shall be communicated to him together with the substance of the favourable remarks in the confidential report either by the Accepting Authority on by the Reviewing Authority as may be specified by the G. M. or any other officer by him in this behalf within one month of the acceptance of the confidential report and a record to this effect shall be kept in the file containing the confidential reports of the railway servant concerned.

(b) For the purpose of clause (a) an entry in the confidential report that the Railway servant concerned is not fit for promotion shall be deemed to be an adverse remark and the whole entry including the reasons for the remark shall be communicated to the Railway servant concerned.

(c) For the purpose of Clause (a) any remarks describing as "average" either the performance or any other quality of the railway servant shall not be treated as an adverse remark.

8. The Railway servant who has received a communication of an adverse or critical remarks entered in his confidential report may represent to the Accepting Authority against the remark communicated to him within one month of the receipt of the communication by him

Provided that the Accepting Authority may entertain the representation received upto a period of six months from the date of receipt of the communication by the railway servant if it is satisfied that the railway servant had sufficient cause for not submitting the representation in time.

9. (a) The Accepting Authority shall and if it is considered necessary in consultation with the Reporting Authority or the Reviewing authority consider the representation made by the railway servant and pass orders on the representation as for as possible within three months from the date of submission of the representation :

- (i) rejecting the representation;
- (ii) toning down the adverse or critical remark; or
- (iii) expunging the adverse or critical remark.

(b) The orders so passed on the representation shall be final and the railway servant concerned shall be informed suitably and a copy of the order shall also be kept in the file containing the confidential reports of the railway servant.

10. No memorial or appeal against the rejection of the representation shall be allowed after six months after such rejection.

संख्या-831ई/332-II(ई-4)

दिनांक 22-1-85

म.क.सं. 8864

भारतवासी रेल कर्मचारियों का पब्लिक सेक्टर बंदरेंट क्रिग के साथ प्रति-निधित्व के समय में 3 वर्ष तक की बढ़ोतरी।

रेल बंदरेंट के पत्रांक ई(एन बी) I-85/बीपी/12 दिनांक 25-10-85 की प्रति-लिपि सूचना मार्ग दर्शन हेतु प्रेषित की जा रही है। उसमें उल्लिखित रेलवे बोर्ड के पत्रांक ई(एनबी)II/77(बीपी)/3 दिनांक 7-5-77 की प्रतिलिपि इस कार्यालय के पत्र सं. 831ई/332(ई-4) दिनांक 31.5.77 (म.क.सं. 6) के अन्तर्गत भेजी जा चुकी है।

Copy of Rly. Bd. letter No. B (NG) I-85/DP/12

dated 25-10-85

*Concluded*  
*Kodh*  
*Forward*

B3  
PSI

In the Central Administrative Tribunal Allahabad  
Circuit Bench Lucknow.

O.A.No. 347 of 1989

S. C. Agarwal

Applicant

Versus

Union of India and others

Opposite Parties

Reply on behalf of the Opposite Parties:

Para 1: Needs no reply.

Para 2: Needs no reply.

Para 3: Needs no reply.  
(1)

Para 3:2(i) Not denied.

Para 3:2(ii) Not denied.

Para 3:2(iii) Only the submission of representation dated  
March 8, 1989 to the General Manager, Baroda  
House New Delhi is not denied. The applicant  
is put to strict proof that the appeal was  
preferred and in time.

Para 3:2(iv) In reply only this much is not denied that  
the confidential report is for the period  
31.3.1988 as embodied and communicated in  
the letter dated 27.1.'89 as contained in  
Annexure A-1 to the petition. The allegations  
contrary to this are incorrect.

अपार  
उत्तर दे. प्र. नं. ३४७



A32

- 2 -

Para 3: 2( v ) That the contents of paragraph 3:2( v ) of the application are denied. The confidential report is neither vague nor ambiguous. The remark is definite and meaningful.

Para 3: 2( vi ) The adverse remark is in conformity with the rules. The remarks in the confidential report is given <sup>over all</sup> on/assessment of the whole year 1987-1988. *He was warned / counselled several times for better performance, but in spite of this, he did not improve, as is also evident from the sheets have been given. Charge sheets given to him.*

Para 3: 2( vii ) In reply it is stated that verbal warnings , as well as through correspondance and charge sheets have been given for lapses of the petitioner.

Para 3:2( viii ) Denied. The reporting officer was not bias as alleged. Neither any biasness can be imputed from Annexure A-1 to the petition.

Para 3:2( ix ) In reply, it is submitted that extent rules have been complied with by the reporting officer. It is supported by evidence on record.

Para 3:2( x ) In reply it is submitted that ~~thereby~~ the extent rules have been complied with. However, it is submitted that the action of the reporting officer is justified.

*Again*  
REPT OF PETITION  
DTC 10/11/83

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- 3 -

Para 3:2(xi) In reply it is submitted that the confidential record will be placed at the time of argument for the perusal of the Hon'ble Tribunal. The extent rules have been complied with as far as possible. However it is submitted that the extent rules are for guidance of the officers and as far as possible they should adhere to them.

Para 3:2(xii) It is not denied that a representation dated 8.3.'89 is pending for decision. However no appeal has been preferred by the applicant, as alleged.

Para 3:2(xiii) The contents are denied. The adverse remarks are based on material and cannot be called an oral assessment or of casual nature. The adverse remarks have been given in accordance to extent rules so far as possible. It is stated that the adverse remarks are not liable to be set aside.

Para 4: Needs no reply.

Para 5: Needs no reply.

Para 6:(1) Needs no reply.

6:(2) On reply, it is not denied that letter dated 27.1.'89 containing the adverse entry was issued by the General Manager/ Operating Northern Railway New Delhi.

*W. J. J.*  
W. J. J.

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- 4 -

It is submitted that the confidential report was for the period ending 31.3.1988.

Para 6:(3) In reply it is not denied that representation dated 8.3.1989 was submitted by the applicant addressed to the General Manager /Operating Northern Railway New Delhi and the same is still pending but likely to be decided in a short time.

Para 6:(4) It is stated in reply to the contents of paragraph 6(4) of the application, that a bare perusal of annexure A-1 would show that the Sub: shows confidential report for the period ending 31.3.1988- communication of adverse remarks. However in the body of the letter the figure '9' put in the second line in the year is a typographical mistake. It should have been actually 1988 and not 1989, which on reading the entire annexure makes it clear that it is for the period ending 31.3.1988.

Para 6:(5) Not denied.

Para 6:(6) The contents of paragraph 6(6) are denied. The adverse remarks are neither vague nor ambiguous. The remarks are definite and meaningful.

Para 6:(7) The adverse remark is in conformity with the rules. The remarks is given on over all assessment of the whole year 1987-1988. Opportunity have been given to the applicant both oral and

*Reliance*

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- 5 -

in writing, <sup>but in spite</sup> ~~Some~~ of the opportunities given in ~~total he did not improve which is evident from the~~ writing ~~are in shape of~~ charge sheets; details below

- a. Charge sheets dated 1-6-'87 (SF-11) Punishment awarded finally of WIT 6 months without any cumulative effect.
- b. Charge Sheet dated 23.7.87 (SF-11) Punishment awarded finally of 2 years WIT without the effect of postponing future increment.
- c. Charge sheet dated 7.8.'87 (SF-5) Punishment awarded finally of WIT 1 year temporarily.

Para 6:(8) In reply every chance was given to the applicant, by given warnings, as well written/charge sheets etc.

Para 6(9) Denied. The reporting officer was not biased as alleged. Neither any biasness reflected in the adverse remark given. The adverse remark is most objective.

Para 6:(10) Every opportunity was given to the applicant in all ways both oral and documentary. Some of the instances are the issue charge sheets as stated above. All directions have been followed while giving adverse remarks.

Para 6:(11) In reply it is stated that communication has been done in accordance to extent rules.

*Relain*

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- 6 -

Para 6:(12) In reply it is stated that every action has been done by the reporting officer in accordance with extent rules so far possible. It is worthwhile mentioning that issuing of charge sheets and punishment awarded are sufficient within themselves to the applicant to improve his work.

Para 6:(13) In reply, it is not denied that a representation dated 8.3.1989 is pending with the General Manager, Northern Railway for decision. It will take some more time to decide the same, in view of the fact that CR has been recalled for placing it before the Hon'ble Tribunal.

Para 6:(14) That mere mentioning a fact in the representation is not sufficient. Work on spot is assessed by reporting officer and it is only after assessing the work for whole of the period 87-88 that an adverse remark is given in the confidential report. In the facts and circumstances, the adverse remark given is tenable and maintainable and has to be kept intact.

Para 6:(15) Denied. It is stated that the applicant cannot call himself to remain devoted, vigilant, active or obedient.

Para 6:(16) In reply it is stated that the reporting officer cannot be termed as biased or pressurised by some interesting persons. The adverse remarks have

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been given by the reporting officer and accepted reviewing authority and accepting authority, after assessing the over all work of the applicant for the whole period 1987-88. The facts are supported by documents.

Para 7: Needs no reply.

Para 8: No reply , as the paragraph is missing.

Para 9: Denied. The applicant is not entitled to any relief. The ground mentioned are not tenable under law. The application is liable to be dismissed with costs.

Para 10: Needs no reply.

Para 11: Needs no reply.

Para 12: Needs no reply.

Lucknow

dated: 30.3.1990

*Myan*  
Respondents.

Verification.

I, N. K. Jain working as ASST Personnel officer in the D.R.M.'s Office and competent to sign and verify do hereby verify that the contents of paras 1 to 12 are based on my own knowledge derived from record and legal advice.

*Myan*

(A28)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD  
LUCKNOW BENCH LUCKNOW.

M.P.No. 490/90(4)

O.A.No: 347 of 1989.

Central Administrative Tribunal

Circuit Bench, Lucknow

S.C.Agrawal

..... Date of Filing Applicant 13/8/90  
Date of Receipt by Post.....

Versus

Deputy Registrar (J)

Union of India and others ..... Opposite parties.

REJOINDER TO COUNTER REPLY ON BEHALF OF THE APPLICANT.

I, S.C.Agrawal, aged about 57½ years son of Shri S.L.Agrawal, working as Chief Controller, D.R.M.Office, N.Railway, Lucknow, most respectfully showeth as under:-

1. That the deponent has gone through the paras of the counter reply and has carefully perused the relevant records relating to the case and understood the contents thereof and the deponent thus is acquainted with the facts of the case deposed below:-

2. That in reply to ~~para 2 (ii) (iii) (iv)~~ para 3 of the counter, its contents are denied. The appeal was preferred in time which was received on 8.3.1989 under clear signature i.e. within 30 days of the receipt of the adverse remarks, which is very clear from the Annexure No: A-2 page 12 of the application.

3. That in reply to ~~para 2 (ii) (iii) (iv)~~ para 3:2(A) (iv) of the counter, its contents are denied and contents of para 4 of the application are reiterated.

Contd....2.

Filed today  
S.P.  
13/8/90

S.P. Agrawal

4. That in reply to para 3:2(v) of the counter, its contents are denied and contents of para 2(v) of the application are reiterated.

5. That in reply to para 3:2(vi) of the counter its contents are denied and same are misleading, because no letter for better performance or improvement in the work as indicated in the Confidential Report in question has been received by the applicant/depoent.

6. That in reply to para 3:2(vii) of the counter, its contents are misleading hence denied because the charge sheet was issued for certain and specific allegation and the applicant was punished for that and it has no bearing with the Confidential Report in question. It is submitted that the purpose of communicating adverse entries to the Government servant is to inform him regarding his deficiency in work and conduct and to afford him an opportunity to make, amend and improve his work and further if the entries are not justified then the communication of C.R. affords him an opportunity to make representation.

7. That in reply to para 3:2(viii) of the counter, its contents are denied and misleading.

8. That in reply to para 3:2(ix) of the counter, its contents are vague hence denied and contents of para 3:2(ix) of the application are reiterated.

9. That in reply to para 3:2(x) of the counter, its contents are indefinite, unspecific hence denied and contents of para 3:2(x) of the application are reiterated.

*S. G. Annale*



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10. That ~~the~~ in reply to para 3:2(xi) of the counter, its contents are denied being vague and the contents of para 3:2(xi) of the application are reiterated.

11. That in reply to para 3:2(xii) of the counter, its contents are not denied because the representation is pending before the General Manager for decision for a very long time.

12. That in reply to para 3:2(xiii) of the counter, its contents are denied being vague and misleading and contents of para 3:2(xiii) of the application are reiterated.

13. That in reply to paras 6(4) of the counter, its contents are denied and contents of para 6(4) of the application are reiterated.

14. That in reply to para 6(6) of the counter, its contents are denied and contents of para 6(6) of the application are reiterated.

15. That in reply to para 6(x7) of the counter, its contents are denied and contents of para 6(7) of the application are reiterated. It is further submitted that the punishment on the charge-sheets for specific incidents have no bearing with the Confidential Reports. As regards C.R. nothing in writing <sup>or verbally</sup> has been served to the applicant on the subject mentioned in the Confidential Report.

16. That in reply to para 6(8) <sup>& 6(9) & 6(10)</sup> of the counter, its contents are denied, and contents of paras 6(8), 6(9) and 6(10) of the application are reiterated. It is further submitted that no directions laid down in the Rules have been followed by the respondents.

*Shamlee*

APN

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17. That in reply to para 6(11) of the counter, its contents are denied and the contents of para 6(11) of the application are reiterated.

18. That in reply to para 6(12) of the counter, its contents are denied and ~~par~~ contents of para 6(12) of the application are reiterated. It is further submitted that the punishment on the basis of charge-sheet has no connection with the Confidential Report.

19. That in reply to para 6(14) of the counter, its contents are denied being vague and against the Rules laid down by the General Manager. as is evident from the Annexures files by the Applicant.

20. That in reply to para 6(15) of the counter, its contents are denied and contents of para 6(15) of the application are reiterated.

21. That in reply to para 6(16) of the counter, its contents are denied and contents of para 6(16) of the application are reiterated. It is further submitted that the assessing officer as well as the Reporting Officer ~~xxx~~ have not followed the Rules laid in the Establishment Code in true sense, but they have inflicted their own personal whims on the applicant. On the basis of grounds given in the application the applicant is entitled to relief with cost to the applicant.

Lucknow.

  
Applicant/Deponent.

Dated: 5<sup>th</sup> August 1980

Manifestation

Contd...5.

(APR)

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Verification.

I, the above named deponent, do hereby verify that the contents of paras 1 to 21 of the rejoinder affidavit are true to my personal knowledge and legal advice.

Verified and signed this 5th day of August, 1990 at Lucknow.

Lucknow.

Dated: 5.8.90

  
Applicant/Deponent.