

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOW

ANNEXURE

CA No 358/89 INDEX SHEET

CAUSE TITLE ..... OF .....

NAME OF THE PARTIES... *Abdul Rashid* .....

Applicant

Versus

*Union of India & Ors* ..... Respondent

Part A, B & C

Sl. No.	Description of documents	Page
1	<i>Check list</i>	<i>91 to 102</i>
2	<i>order sheets</i>	<i>A3 to A5</i>
3	<i>Judgement order of 8-1-93</i>	<i>A6 to A7</i>
4	<i>Copy of Petition</i>	<i>A8 to A23</i>
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6	<i>Annexure</i>	<i>A25 to A28</i>
7	<i>Counter Reply</i>	<i>A29 to A41</i>
8	<i>Amendment applr. MP No 209/92</i>	<i>A42 to A59</i>
9	<i>Other any letter / verbal communication / notice</i>	<i>A60 to A66</i>
10		
11		
12		
13		

CERTIFICATE

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

Dated *17-4-12* *File B/C destroyed on 09-5-12*

Counter Signed.....

*[Signature]*

Section Officer / In charge

*[Signature]*  
Signature of the  
Dealing Assistant

18/6

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 350 of 1989(L)

Abdul Rashid . . . . . Applicant

Versus

Union of India & Others . . . . . Respondents

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

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

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

As the pleadings are complete, the case is being disposed of finally.

2. The applicant was appointed as Bhisty on 26.6.1963 in the Commercial Department of North Eastern Railway in the scale of Rs. 75-80. Thereafter, he was transferred to Electric Department of North Eastern Railway vide order dated 27.11.1970. He remained absent for five years from 27.7.1983 to 5.3.1989. According to the applicant, he applied for sanction of Earned Leave for a period of 40 days w.e.f. 14.6.1983 to 23.7.1983 for the purposes of going to Haj pilgrimage, which was duly sanctioned, but he could not leave for Haj because of certain procedural problems and on 1.8.1983, he moved an application for grant of 200 days further leave for proceeding for Haj Pilgrimage. According to the applicant, he was never informed of any action that may have been taken on the application. Meaning thereby, as per his own case, he gave an application for grant of 200 days leave and thereafter, he never cared to ascertain that such a leave has been sanctioned or not and application has been reached to the proper authority or not. There is no denial of the fact that


Contd..2/-


lu

A/X

:: 2 ::

and during this period he was in Saudi Arabia. He came back ,/ on 3.3.1989, he moved an application that he may be allowed to join the duty. It was thereafter, a charge-sheet was served to him on 19.5.1989, the substance of that charge sheet levelled against him was that he was unauthorisedly absent from duty for all this period without any authority and as such he contravened the provisions of Rule 3(1)(ii) and(iii) of the Railway Servants(Conduct) Rules 1966. The applicant submitted a reply to the said charge-sheet and enquiry proceeded. According to the applicant, he only received removal order, but from the counter-affidavit filed by the respondents it has been stated that efforts were made to see that applicant for participating the enquiry, but there being no option, of course, the enquiry proceeded and thereafter, being a clear case the finding was recorded. There was no provision for 200 days leave and more so, no such leave was ever sanctioned and the entire period was unauthorisedly/leave and the applicant was not explained after 200 days whether he cared to ascertain and whether he moved any application thereafter. It was not also stated any where what was he doing during all these years and whether he was in any gainful employment or not after having slipped out of the country and staying there for years together, the applicant is now claiming his right, although he has none. The enquiry was held and thereafter, he was removed from service. There is no fault and flaw in the enquiry or the action taken against the applicant. Accordingly, the application deserves to be dismissed and it is dismissed. No order as to costs.

  
Member (A)

  
Vice-Chairman

Lucknow Dated: 8.1.1993

(RKA)

20-12-1989

CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

V. L. ...

Registration No. 350 of 1989 (C)

APPLICANT(S)

Abdul Rashid

RESPONDENT(S)

U.O.C.

<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 ?	is
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 ?	yes
5. Is the application accompanied by B.D./Postal Order for Rs.50/-	yes
6. Has the certified copy/copies of the order(s) against which the application is made been filed?	yes
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	yes
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	yes
c) Are the documents referred to in (a) above neatly typed in double space ?	yes
8. Has the index of documents been filed and paging done properly ?	yes
9. Have the chronological details of representation made and the out come 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?	No

Particulars to be Examined

Endorsement as to result of examination

Are the application/duplicate copy/spare copies signed ?

Y

A ✓

12. Are extra copies of the application with Annexures filed ?

Y

a) Identical with the Original ?

b) Defective ?

c) Wanting in Annexures

No. \_\_\_\_\_ page Nos \_\_\_\_\_ ?

13. Have the file size envelopes bearing full addresses of the respondents been filed ?

Y

14. Are the given address the registered address ?

Y

15. Do the names of the parties stated in the copies tally with those indicated in the application ?

Y

16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ?

NA

17. Are the facts of the case mentioned in item no. 6 of the application ?

Y

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 ?

Y

19. Whether all the remedies have been exhausted.

Y

dinesh/

P/2

1  
per  
of  
order  
and date

Brief Order, Mentioning Reference  
if necessary

How complied  
with and  
date of  
compliance

2.1.90

Hon'ble Mr. Justice K. Nath, V.C.  
Hon'ble Mr. K. Obayya, A.M.

Shri Amit Bose counsel for the  
applicant heard.

Issue notice to opposite parties to  
show cause as to why the petition be not  
admitted.

List this case for admission on 5.2.1990.

A.M.

V.C.

rrm/

No Sitting. Adj to 13.3.90  
4c for the applicant is present

L  
S.C.

Hon Mr. D.K. Agarwal, J.M  
Hon. Mr. K. Obayya, A.M

None is present for the applicant.  
Anil Srivastava files vernal name  
on behalf of the applicant. Her request for  
week's time to file reply. Allowed.  
but for further orders on 1.6.90

Am

J.M

OR

Notices were  
issued on 19-1-90  
Neither reply  
nor any urgency  
sept. could have  
been return back

S.P.A.

L  
13/3/90

OR

No reply filed  
S.P.O.

L  
30/3

inosh/

O. A. 350/89

S. 2. 91

D. R.

Both the parties

are present today.

Mr. Anil Srivastava,

Id. C/R files

counter supply

along with ~~an~~ application

M. P. No. 59/91 (C)

for condonation

of delay in filing

counter. Now this

case is listed

before the Hon.

Bench, on 14.3.91

for orders.

14.3.91

Both the parties

are absent today

case is adjourned

to 4.4.91 for

orders.

No RA filed

23/4

4/4/91

Hon. Mr. A. B. Gosthi, Jm.

Hon. Mr. S. N. Prasad, Jm.

The learned Counsel  
for the applicant is not  
present. Sri Anil Srivastava  
for the respondents is  
present. Put up for  
orders on 9/7/91.

Jm.

Jm.

9.7.91

No Sitting adj to 8.8.91

J

8.8.91

No Sitting adj to 24.10.91

J

8/5  
O.A. 35/89.

19.5.92.

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

This is an application for amendment of the application. The respondent seeks time to file objection. Three weeks time is granted to file objection to the amendment application thereafter the amendment application may be considered. List this case on 14.7.92 for order.

(DPS)

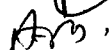
  
A.M.

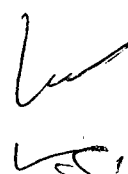
  
V.C.

14.7.92

Hon. Mr. Justice U.C. Srivastava, vs.  
Hon. Mr. K. Obayya. Am.

No objection to the amendment application has been filed although the time for filing the same has been given to the Counsel for the Respondents. The amendments sought for are connected and interlinked with the facts of this case and accordingly this application is allowed. Let amendment be incorporated within 2 weeks and copy of the amended petition be given to the learned Counsel for the Respondents and the Counter applicant. The amended petition be filed within 4 weeks. Rescinder, if any, may be filed within 2 weeks more. List this case on 28.9.92 for order.

  
A.M.

  
V.C.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH  
LUCKNOW

1.A. NO. 350 1989 (L)

A. NO. 199 (TL)

Date of Deceaseion 8.1.93

Avdul Rashid ----- Petitioner.

----- Advocate for the  
Petitioner(s).

V E R S U S

Union of India & Others ----- Respondent.

----- Advocate for the  
Respondents

C O R A

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

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

1. Whether Reporter of local papers may be allowed to see the Judgment .
2. To be referred to the reporter or not ? ☒
3. Whether their Lord Ships wish to see the fair copy of the Judgement ? ☒
4. Whether to be corculated to other benches ? ☒

Vice-Chairman / Member

Deputy Registrar (I)

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

C.A. Case No. 350 of 1989

ABDUL RASHID

Petitioner

Versus

THE UNION OF INDIA & OTHERS

RESPONDENTS

I N D E X

Sl. No.	Description of documents Relied upon	Page No.
1.	Application <u>Annexure No.1</u>	1 to 11
2.	True copy of Charge sheet dated 19.5.1989	12-15
3.	<u>Annexure No.2</u> True copy of Joining Report dated 3.3.1989	16
4.	<u>Annexure No.3</u> True copy of statement of Articles of Charges	17
5.	<u>Annexure No.4</u> True copy of application dated 28.7.1989	18-19
6.	Postal Order for Rs.50/- No. 402728 dated 18.12.88	

Signature of the Applicant

Through

(AMIT BOSE)

Advocate

Counsel for the Applicant

Dated: 18th December, 1989

Place: Lucknow.

FT  
20/12/89  
Amit Bose  
Counsel

Deputy Registrar (I)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH

ALLAHABAD

CIRCUIT BENCH AT LUCKNOW.

CA 350 / 14 (1)

ABDUL RASHID, aged about 45 years

son of Shri Abdulla, at present posted

as Khallasi (Train) Lighting, North Eastern

Railway, Lucknow, Resident of 69 Fatehganj

Kasai Bara, Lucknow

...

Petitioner

VERSUS

1. Union of India through the Secretary

Ministry of Railways, Government of India,

New Delhi.

2. The Deputy Regional Manager, North Eastern

Railway, Lucknow.

3. The Assistant Electrical Engineer, North Eastern

Railway, Lucknow.

....

Respondents

1. Particulars of the orders

against which the application

is made:

The Application is directed against the in-action of the respondents, specially respondent No.2 hereto in allowing the applicant to join his duty with effect from 4.3.1989 and non-payment of his pay and allowances with effect from that date. The Applicant is also challenging the charge sheet dated 19.5.89

By order of 22/12/89

(2)

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issued against him by the Assistant Electrical Engineer North Eastern Railway, Lucknow under Rule 9 of the Railway Servants (Discipline and Appeal) Rules 1968. A true copy of the Charge sheet concerned is annexed hereto as ANNEXURE NO.1.

2. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter of the reliefs claimed by him 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 the petitioner was initially appointed as a Khalasi in the North Eastern Railway Lucknow and ever since then he is serving as such without any break whatsoever till date.
- ii) That the applicant while serving as a Khalasi (Train Lighting) North Eastern Railway Lucknow on 1.8.1983 applied for sanction of Earned Leave for a period of 40 days with effect from 14.6.83 to 23.7.1983 for the purposes

3106 C 72/114

(3)

of going to Haj Pilgrimage which was duly sanctioned by the authorities concerned and the petitioner proceeded on leave for the aforesaid pilgrimage on being sanctioned the aforesaid leave.

iii) That, however, the petitioner could not leave for performing the Haj Pilgrimage as due to some procedural problems and as such he submitted an application to the Foreman North Eastern Railway Lucknow on 1.8.1983 praying for grant of 200 days further leave for proceeding for Haj Pilgrimage. However, the petitioner was never informed of any action that may have been taken on the aforesaid application submitted by him and with the impression that the leave prayed for by him had been sanctioned, proceeded for Haj Pilgrimage, but on his returning from the said pilgrimage, he could not rejoin his duties due to serious illness of his wife, who was ailing with mental problems and it was only on 3.3.1989 that he submitted his joining report to the

STG 22/11/89

(4)

Electrical Foreman (Train Lighting )  
North Eastern Railway, Lucknow on  
3.3.1989 praying for being allowed  
to join his duties. A true copy of  
the concerned Joining Report  
is Annexed hereto as ANNEXURE NO.2.

iv) That, however, the applicant was not  
allowed to join his duty and instead  
he was served with a charge sheet  
dated 19.5.1989 issued against him  
by the Assistant Electrical Engineer  
North Eastern Railway, Lucknow  
under Rule 9 of the Railway Servants  
(Discipline & Appeal) Rules and  
according to the statement of Articles  
of Charge accompanying the aforesaid  
Charge Sheet, the substance of the  
charges levelled against the  
applicant was that he was absent  
from duty with effect from 24.3.1983  
to 5.3.1989 without any authority  
and as such he had contravened the  
provisions of Rule 3(1) (ii) and (iii)  
of the Railway Servants (Conduct)  
Rules 1966. A true copy of the  
statement of Articles of Charges  
framed against the applicant is  
annexed hereto as ANNEXURE NO.3.

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v) That the applicant duly submitted a

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(5)

reply to the charge sheet issued against him and the enquiry is at present proceeding against him.

vi) That the petitioner has not been allowed duty by the respondents, neither he has been given any salary for the period he remained on leave nor he has been placed under suspension and as such the action of the respondents in not allowing the petitioner to join duty, in not paying his salary and allowances for the period he remained on leave without placing him under suspension is arbitrary and illegal.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:

- 3104 229 NC
- i) Because the action of the respondents in not allowing the applicant to join his duties and in not accepting his joining report with effect from 6.3.1989 amounts to termination of services of the applicant and since it is apparent from the facts of the instant case as well as the subsequent action of the respondents in issuing the charge sheet against the applicant relating to his alleged absence from duty it is obvious that the services of the applicant

8/14

(6)

have been terminated on the ground of his being absent from duty and as such the said action of the respondents hereto is apparently punitive in nature.

ii) Because the applicant has neither been placed under suspension nor paid his pay and allowances for the period he remained on leave the action of the respondents in not allowing the applicant to join his duty on producing/presenting his joining report, is punitive in nature.

iii) Because in view of the above and in view of the fact that the applicant was not afforded any opportunity of hearing prior to his termination of services as aforesaid, the impugned action of the respondents hereto is apparently illegal and without jurisdiction.

iv) Because besides above, ~~ix~~ once the respondents have not allowed the applicant to join his duty and thereby terminated his services, they have no authority or jurisdiction to conduct any disciplinary proceedings against the applicant on any charge

31 Dec 29/11/9



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(7)

much less the charge of his having been absent from duty.

v) Because in view of the above the impugned charge sheet issued against the applicant is also illegal and without jurisdiction.

vi) Because the Respondents hereto could conduct an enquiry against the applicant in respect of his alleged misconduct for remaining absent from duty only after he was allowed to join his duty and not otherwise.

vii) Because even according to the statement of imputations of charges levelled against the applicant he has been charged as being absent from duty with effect from 24.3.83 to 5.3.1989. In other words according to the respondents hereto the applicant is performing his duties with effect from 5.3.1989 and yet infact neither has the applicant been allowed to join his duties with effect from the aforesaid date nor has he been paid any salary with effect from that date.

3104 22719

viii) Because the applicant has no other

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(8)

alternate, adequate and equally efficacious remedy available except to file this application before the Honble Tribunal.

6. DETAILS OF THE REMEDIES EXHAUSTED:

That the applicant besides submitting his joining report dated 3.3.1989 also submitted an application dated 28.7.1989 addressed to the Senior Divisional Electrical Engineer North Eastern Railway Lucknow praying for being allowed to join and perform his duties but till date the said application has not been disposed of nor has the applicant been allowed to join his duty. A true copy of the concerned application is annexed hereto as ANNEXURE NO.4.

31 Dec 22/89

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT:

The applicant further declares that he has not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

(9)

8. RELIEFS SOUGHT :

In view of the facts mentioned in para 4 above, the applicant prays for the following reliefs:

i) To quash the impugned charge sheet dated 19.5.1989 issued against the applicant by the Assistant Electrical Engineer North Eastern Railway, Lucknow as contained in Annexure No.1 hereto; and

ii) to direct the respondents here to to immediately allow the applicant to join his duties and to pay him his salary and allowances of the post held by him with effect from 5.3.1989 and keep on paying the same as and when the same falls due;

iii) to direct the respondents hereto specially respondent No.3 not to conduct any disciplinary proceedings against the applicant without allowing him to join his duties and without paying him his salary and allowances with effect from 6.3.1989; and

iv) To grant any other relief deemed fit and proper in the case including an order awarding cost of this application to the applicant against the respondents.

37/6C 22/10

(10)

9. INTERIM ORDER, IF ANY, PRAYED FOR:

Pending final disposal of the application, the applicant seeks the following reliefs/Interim Reliefs

i) to direct the respondents hereto to allow the applicant to immediately join his duties and to pay him his salary and allowances as and when the same falls due and also direct the respondents hereto not to conduct any disciplinary proceedings against the applicant during the pendency of the instant application before this Hon'ble Tribunal or, in the alternative, pass any other order deemed fit and proper in the circumstances of the case.

10. IN THE EVENT OF APPLICATION BEING SENT BY REGISTERED POST, IT MAY BE STATED WHETHER THE APPLICANT DESIRES TO HAVE ORAL HEARING AT THE ADMISSION STAGE NAD/IF SO, HE SHALL ATTACH A SELF-ADDRESSED POST CARD OR INLAND LETTER, AT WHICH INTIMATION REGARDING THE DATE OF HEARING COULD BE SENT TO HIM.

NOT APPLICABLE.

11. PARTICULARS OF BANK DRAFT /POSTAL ORDER FILED IN RESPECT OF THE APPLICATION FEE :

Postal Order No. 402728  
Dated 18.12.89  
for Rs.50/- enclosed

12. LIST OF ENCLOSURES:

1. True copy of Charge sheet dt. 19.5.89
2. True copy of Joining Report dt. 3.3.89
3. True copy of Statement of Articles of Charge
4. True copy of application dated 28.7.89

~~5. Bank Draft No. xxxxxxxxxx~~

5. Postal Order No. dt.

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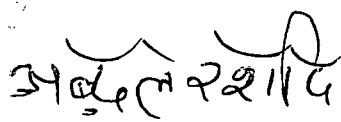
(11)

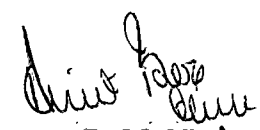
VERIFICATION

I, Abdul Rashid, son of Shri Abdulla, aged about 45 years, working as Khalasi in the office of the Train Lighting Department North Eastern Railway, Lucknow, resident of 69 Faqehganj Kasai Bara, Lucknow, do hereby verify that the contents of paras (1) to (vi) are true to my personal knowledge and that I have not suppressed any material fact.

Dated: 18<sup>th</sup> December 1989

Place : Lucknow

  
Signature of the Applicant

Through   
( AMIT BOSE )  
Advocate  
Counsel for the Applicant

12  
K/20

IN THE HON. BLE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH

ALLAHABAD

CIRCUIT BENCH AT LUCKNOW.

Case No.

Of 1989

Abddl Rashid

...

...

Petitioner

Versus

Union of India & others...

... Respondents

ANNEXURE NO. 1

STANDARD FORM NO. 5  
STANDARD FORM OF CHARGE SHEET.

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

No. T/537/

xxxxxxxxx Vi/kamp/14/89/1333 Dated 19/5/89

(Name of Railway Administration ) N.E. Railway

(Place of issue) D.R.M. Office, Lucknow Dated

MEMORANDUM

The undersigned propose (s) to hold an inquiry against Shri Abdul Rashid Khalasee under Rule 9 of the Railway Servants (Discipline an Appeal) Rules, 1968. The substance of the imputations of grass negligence of duty/ misconduct/ misbehaviour in respect of or which the enquiry is proposed to be held is set out in the enclosed statement of article of charge (Annexure I). A Statement of the imputations of gross negligence of duty/mesconduct/miebehaviour in Support of each article of charge, is enclosed (Annexure II). A list of documents by which and a list of witnesses by whom, the articles of Charges are proposed to be sustained are also enclosed as Annexure III and IV.

31 Oct 2014

T. C.  
D. K. Bose  
Secy

(2)

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

2. Shri Abdul Rashid Khalasee 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 10 days of receipt of this memorandum. For this purpose he should contact S.V.E./Lucknow immediately on receipt of this memorandum.

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

4. Shri Abdul Rashid is hereby directed to submit to the undersigned (through.....) Written Statement of his defence which should reach the undersigned within 10 days of receipt of this Memorandum, if he does not require to inspect any documents for the preparation of his defence

31/06/22/10

T.C.

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Babu

and within 10 days after completion of inspection of documents if he desires to inspect documents, and also

\*\* STRIKE OUT WHICH IS NOT APPLICABLE.

- (a) State whether he wished to be heard in person, and
- (b) to furnish the names and addresses of the witnesses, if any, whom he wished to call in support of his defence.

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

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

7. The attention of Shri Abdul Rashid is invited to Rule 20. of the Railway Services (Conduct) Rules 1968, under which no Railway servant shall bring or attempt to bring any political or other influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any

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Matter dealt with in these proceedings, it will be presumed that Shri Abdul Rashid is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the Railway Services (conduct) Rules 1966.

8. The receipt of this memorandum may be acknowledged.

Enclosures:

Signature. R.C. Sinha  
SD/xxx 19.5.89  
(Name and designation of  
competent authority)  
Stp. Asst.E.E.  
N.R., Lucknow.

To,

sahayak Viddhut Fourman/Lucknow  
Shri Abdul Rashid Designation Vi. kh./Lucknow .

Son of Shri Abdulla place of working E.FO./T.L./LJH.

Through E.FO./T.L./Lucknow.

3106 22/11/89

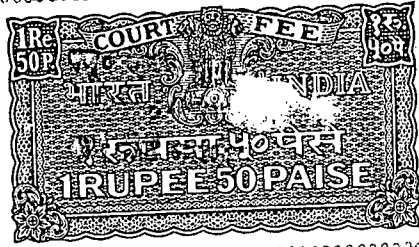
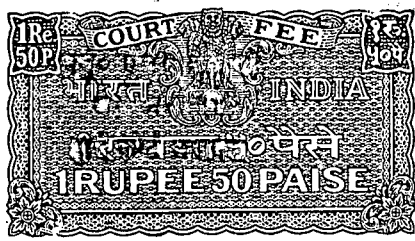
T. C.  
Dint Singh  
am

ब अदालत श्रीमान

The Central Administrative Tribunal Additional Bench  
Allahabad Circuit Bench at Lucknow महोदय

[वादी] अपीलान्त

प्रतिवादी [रेस्पान्डेन्ट] Abdul Rashid का वकालतनामा



Se. No.

1988

1/4

Abdul Rashid

बनाम

प्रतिवादी (रेस्पान्डेन्ट)

मुकदमा नं०

सन

1988

पेशी की ता०

18.12.1988 ई०

ऊपर लिखे मुकदमा में अपनी ओर से श्री

Anil Bose

वकील

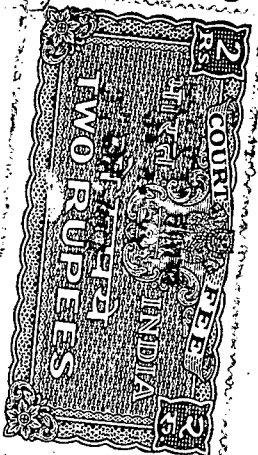
महोदय

एडवोकेट

नाम अदालत

मुकदमा नं० नाम

फरीकन बनाम



को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवें या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा ऊपर मुकदमा 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

अब्दुल रशीद

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन 1988 ई०

कम है कम

8/2

सेवा में,

श्रीमान् विद्युत फोरमैन (गाइड)

पू030 रे0, लखनऊ

विषय:- कार्य ग्रहण करने हेतु ।  
= = = = =

सहोदय,

○ सविनय निवेदन यह है कि उपरोक्त सम्बन्ध में प्राई मिस्त्र निवेदन करता है :-

- 1- यह कि प्राई तोई बाड़ा के लिए 40 दिन का अर्जित अवकाश दिनांक 4-6-83 से 23-7-83 तक लिया था जो कि मंडल रेल प्रबन्धक (द्वारा स्वीकृत था)।
- 2- यह कि तोई यात्रा से लौटने के पश्चात् प्राई की पत्नी मानसिक परेशानियों से ग्रस्त हो गई। जिसके फलस्वरूप प्राई ने अवकाश सौत्तरों के लिए दिनांक 18-7-83 को प्रशासन को रजिस्टर्ड सूचना देज दिया, जिसको फेदो कपों साइ में संलग्न है।
- 3- यह कि पत्नी के बोझों की हलत में देखभाल एवं बच्चों को देख-रेख एवं शिक्षा की व्यवस्था में इतना व्यस्त हो गया कि अपने कार्य पर नहीं आ सका परन्तु सूचना साक्षरण डाक से देजता रहा।
- 4- यह कि प्राई अब घरेलू परेशानियों से मुक्त हो गया है।

अतः श्रीमान् जी से प्रार्थना है कि प्राई को ड्युटी देने को कृपा करें। इस कृपा के लिए प्रार्थी जीवन भर आभारी रहेगा।

आपका विश्वासो,

ह0 अब्दुल रशीद

दिनांक 3-3-89

( अब्दुल रशीद ) खलसी

अधीन विद्युत फोरमैन (गाइड)  
लखनऊ।

सत्य प्रतिलिपि

31/05/2011

T. e.  
Anur Lodh  
Benn

ANNEXURE-II

Statement of imputation of misconduct misbehaviour  
in support of article of charges framed against  
Shri Abdul Rashid, Electric Khalasi (TL)/ LNJ under  
EFO (TL)/LJN.

\*\*\*\*

श्री अब्दुल रशीद, विद्युत खलासी गा0प्र0 लखनऊ जं0 ।  
अधीन विद्युत फोरमैन गा0प्र0 लखनऊ जं0 । बिना सक्षम अधिकारी  
अनुमति प्राप्त किये 24/7/83 से 5/3/89 तक ड्रियुटी से अनुपस्थित  
रहे जोकि एक गम्भीर सदाचार है । इस बीच कर्म चारी ने प्रशासन  
को पांच साल से अधिक दिनों तक अनुपस्थित रहने की सूचना  
नहीं दी जो उक्त श्री अब्दुल रशीद को निष्ठापूर्वक ड्रियुटी करने  
में असफलता को दर्शाता है और उनका यह आचरण रेल कर्मचारी  
के लिये अशोभनीय है । उनका यह अनुत्तरदायित्वपूर्ण आचरण रेल  
सेवा आचरणसंहिता 1966 नियम 3॥1॥ के उन नियम ॥1॥ ॥1॥  
एवं ॥1॥ के अनुरूप नहीं है जो कि गम्भीर कदाचार  
को आरोपित करता है ।

एस0डी0/19.5.89.

आर0 सी0 सिन्हा॥

सहायक विद्युत इन्जीनियर / लखनऊ ।

अ. र. रशीद

T. C.  
Miss Bera  
Bera

18

XX

IN THE HONBLE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH

ALLAHABAD

CIRCUIT BENCH AT LUCKNOW.

Case No. of 1989

Abdul Rashid ... Petitioner  
Versus  
Union of India & others... Respondents

ANNEXURE NO. 4

To  
The Senior Divisional Elec.Engineer  
N.E.Railway,  
Lucknow.  
Thro.Proper Channel

SUB,

Sub: Prayer for giving me duty.

Ref.Sr.E.F.O. (T L) /LJN's letter No. E/LJN/1/  
12 dated 6.3.1989.

With propound respect I beg to State that  
I was directed by E.F.O. /T.L./L.J.N. to your Kindself  
vide his letter dated 6.3.89. under reference for your  
permission to allow we duty. But so far no orders have been  
received for my duty.

3104 22/14  
That, a memorandum has been issued against me  
by respected A.E.E./L.J.N. under D&A Rules on 19.5.89. in  
which Shri B.D. Srivastava, Sr. E.F.O. (T.L.)/L.J.N.  
has been appointed as Inquiring Officer and I Nominated Shri  
M.H.R. Thair, Guard/L.J.N. as my Defence Counsel.

T.C.  
That, the dated of Inquiring was fixed for  
20.7.89. but to my Utter misfortune, my defence Counsel

(2)

15

Shri M.H.R. Tahir, Guard/LA J.N. died of sudden heart failure on 19.7.89. The Inquiry Officer has very kindly allowed me 15 days five more for nominating another Defence counsel and I am searching for another suitable defence Counsel.

That, I am facing chaotic days and acute financial hardship as I have not been paid any salary and wages since my reporting for duty.

On 6.3.1989, I have at present no other source of livelihood and family members are facing starvation.

I, therefore, most humbly and respectfully pray to your kindness to bestow your mercy, compassion and benevolence on the members of my family by allowing me to perform my duties so that I can earn bread for them, while the DOR inquiry may take its own course and time.

And for this act of your kindness and favour to a poor Class IV employee under your kind control I along with my entire family will remain ever grateful to your goodness.

Thanking you,

Yours faithfully,

Abdul Rashid  
Elec. Khalasi (TL) L.J.N.  
(In Office)

Dated Lucknow-w  
28.7.1989

TRUE COPY

31.07.1989

T. C.  
Dated 31.07.89  
D. C.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH

LUCKNOW

Civil Misc. Petition No. 59 of 1990 (2)

In Re

Registration (O.A. ) No. 350/89

Abdul Rashid

Applicant

versus

Union of India & others

Respondents.

APPLICATION FOR CONDONATION OF DELAY IN  
FILING COUNTER REPLY

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

PRAYER

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*  
(ANIL SRIVASTAVA)  
ADVOCATE

Lucknow

COUNSEL FOR RESPONDENTS

Dated: 25-01-91

*Filed today*  
*5/2/91*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH

LUCKNOW

8/29

Registration No. (O.A. ) 350/89

Abdul Rashid

Applicant

versus

Union of India & others

Respondents.

COUNTER REPLY ON BEHALF OF RESPONDENTS.

---

I, R.C. Sinha working as

in the office of Divisional Railway Manager (P)  
North Eastern Railway, Divisional Office, Ashok  
Marg, Lucknow do hereby solemnly affirm and state  
as under:

1. That the official above named is working  
as *Asstt Elec. Engr* in the office of  
Divisional Railway Manager (P), North  
Eastern Railway, Divisional Office, Ashok  
Marg, Lucknow, as such he is fully conver-  
sant with the facts and circumstances of  
the case and has been authorised by other  
respondents to file this counter reply on  
their behalf.

*MB*  
Asst. Electrical Engineer,  
N. E. Railway, Lucknow.

contd....2



2. That the contents of para 1 of the Original Application are denied. Even after issuance of the said charge sheet dated 19.5.89 the enquiry was duly completed by the Enquiry Officer and submitted before the disciplinary authority and who, after applying his mind and carefully considering the enquiry report, issued the penalty of removal from service. However, the applicant was avoiding the service of the said removal order.
3. That the contents of para 2 of the Original Application are denied in view of the facts stated in reply to para 1 of the Original Application. This Application has become infructuous, as such this Hon'ble Tribunal has no jurisdiction to entertain the same.
4. That the contents of para 3 of the Original Application do not call for any reply.
5. That the contents of para 4 of the Original Application are as below:
5. That in reply to the contents of para 4(i) of the Original Application it is stated that the petitioner was appointed as Bhisty in the scale of Rs 75-80 on 26.6.1963 in Commercial Department of North Eastern Railway

MB/  
Asst. Electrical Engineer,  
N. E. Railway, Lucknow.

contd.....3

4/3/

Lucknow. He was subsequently transferred to Electric Department of North Eastern Railway vide order No. E/AR /B/Med/70 dated 27.11.70. The applicant remained absent unauthorisedly for more than five years from 27.7.83 to 5.3.89, for which he was issued charge sheet and eventually removed from service.

6. That in reply to the contents of para 4.(ii) of the Original Application only this much is admitted that the applicant was granted 36 days of LAP from 14.6.83 to 19.7.83 and 4 days LHAP from 20.7.83 to 23.7.83 for going to Haj pilgrimage.
7. That in reply to the contents of para 4(iii) of the Original Application, it is stated that they are not admitted as alleged. The applicant ~~had~~ at no point of time did apply for 200 days of leave vide his alleged application dated 1.8.83. Moreover, there is no provision to grant 200 days of leave at a time. <sup>+</sup>The applicant remained absent unauthorisedly for more than five years from 27.7.83 to 5.3.89 without informing anything to the respondents.
8. That the contents of para 4 (iv) of the

*Ata*  
Asst. Electrical Engineer,  
N. E. Railway, Lucknow.

contd.....4

Original Application are admitted. The applicant was not allowed to join duty. He remained absent unauthorisedly for a period of more than five years that is with effect from 27.7.83 to 5.3.89 for which <sup>he</sup> was issued a charge sheet for major penalty memorandum N<sup>o</sup>. VI/ Comp/14/89/1333 dated 19.5.89 by Assistant Electrical Engineer, North Eastern Railway, Lucknow under rule 9 of the Railway Servants (Discipline & Appeal) Rules, 1968.

9. That the contents of para 4 (v) of the Original Application are admitted. The applicant submitted his written statement dated 28.5.90 during the course of D.A.R. enquiry against him. Now, no enquiry is pending against him, as the same has since been finalised. As a result of such enquiry an order No. VI/Comp/14/89 /9110 dated 23.11.89 for removal from Railway service was issued against the applicant. It is also relevant to mention here that the applicant avoided to receive the said removal order, hence the authorities had no other option but to paste the same on the notice Board at the place of the applicant's working in presence of two witnesses. This was done on

mb/  
Asst. Electrical Engineer,  
N. E. Railway. Lucknow.

Cohtd.....5

8/27

16.1.90. A copy of the order dated 23.11.89 and the pasting of said order on the notice board in presence of witnesses on 16.1.90 are being filed herewith as Annexures R-1 and R-2 to this counter reply.

10. That in reply to the contents of para 4 (vi) of the Original Application it is stated that for the reasons hereinabove the applicant was not allowed to join his duty. The applicant remained absent unauthorisedly for a period more than five years without any application or information to the department, as such the question of <sup>payment of</sup> salary or placing him under suspension does not arise. The applicant was removed from service as a result of full-fledged legal railway/D.A.R. enquiry.

11. That in reply to the contents of para 4.5 of the Original Application it is stated that grounds mentioned are vague, irrelevant, illegal, malafide, mischievous, misconceived and not applicable to the instant case.

12. That in reply to the contents of para 6 of the Original Application, it is stated that since an order of removal of service dated 23.11.89 has already been passed against the

*MA*  
Asst. Electrical Engineer,  
N. E. Railway, Lucknow

contd....6

1/3

applicant, hence any application submitted before that date has now no relevancy with the subject matter.

13. That the contents of para 7 of the Original Application & do not call for any reply.

14. That in reply to the contents of para 8 and 9 of the Original Application it is stated that the applicant has sought relief in respect of the charge sheet dated 19.5.89 only while in pursuance of the said charge-sheet the enquiry has been duly completed, and a penalty of removal from service has also been passed against the applicant on 23.11.89.

Therefore, this application has become infructuous and the applicant is not entitled to any relief claimed in this petition.

15. That this application is devoid of merit, as such deserves to be dismissed with costs in favour of the answering respondents against the applicant.

Lucknow

Dated: 25-01-91

*MB*  
Asst. Electrical Engineer,  
M. E. Railway, Lucknow.

Contd.... 7

Annexure No R-1

FORM NO.1

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

NO. 64/274/14/89

Date 93 11

TO

Name मधुसूत राव

Father's name

Designation विद्युत क्लर्क/गा070/सबनर Department विद्युत

Ticket No. 2 Date of appointment 26-6-63

Station सबनर Scale of pay 800-1150

Shri मधुसूत राव, विद्युत क्लर्क/गा070/सबनर वर्ग विद्युत निरीक्षक/गा070/सबनर

(Name, designation & Office in which he is employee)

(\*) Under investigation is informed that the Inquiry Officer/Board of Inquiry appointed to enquire into the charge(s) against him has/have submitted his/their report. A copy of the report of the Inquiry Officer/Board of Inquiry is enclosed.

2. On a careful consideration of the enquiry report aforesaid, the undersigned agrees with the finding(s) of the Inquiry Officer/Board of Inquiry and holds that the article(s) of charge is/are proved.

OR

\* On a careful consideration of the enquiry report aforesaid, the undersigned agrees with the findings of the Inquiry Officer/Board of Inquiry in so far as it relates to article(s) of charge NO.(s) 1 and for reasons stated in the attached Memorandum holds that article(s) of charge NO.(s) 1 which the Inquiry Officer/Board of Inquiry has/have held as not proved/proved, is also proved/not proved.

3. The undersigned has, therefore come to the conclusion that Shri मधुसूत राव is not a fit

person to be retained in service and has decided to impose upon him the penalty of dismissal/removal/compulsory retirement from service, Shri मधुसूत राव is, therefore

(Name of the Railway Servant) मधुसूत राव dismissed/removed/compulsory retired from service with effect from 11/11/93

Contd.... 2/-

Under Rule 18 of the Railway Servant (D & F) Rules,  
1968 an appeal against these Orders lies to  
provided:-

प्रतिवाद/समर

X/S

1) the appeal is submitted within 45 days from the  
date of receipt of these Orders; and

2) the appeal does not contain improper or  
ill respectful language.

5. Please acknowledge receipt of this letter.

\* strike out where not  
applicable.

(1) Enq. Report in 3 pages  
& one order sheet.

(दो दो पन्ना)

Name & Designation  
of the disciplinary  
authority.

प्रमुख विद्युत इंजिनियर  
सहजद विद्युत इंजीनियर/सहजद  
पूर्वोत्तर रेलवे

Copy forwarded for  
information & action to:-  
1) DM(P)/LJN (Elec. Cadre)  
2) WFO/TL/LJN

To

Divl. Rly. Manager (Mech.)  
N. E. Railway  
Lucknow.

Elce  
XXXX

Received your A. L. P. No.

Dated

along with

enclosures.

WITNESS:

SIGNATURE:

DATE:

Asst. Electrical Engineer.  
N. E. Railway, Lucknow.

verification

I, the official named above do hereby verify that the contents of para 1 of the counter ~~xxx~~ reply is true to my personal knowledge and those of paras 2 to <sup>15</sup> ~~23~~ of the counter reply are believed to be true by me on the basis of record and legal advice.

Lucknow

*My* Date *25-01-91*  
Asst. Electrical Engineer,  
E. Railway, Lucknow.  
*Counter signed*  
*[Signature]*  
Sr. Divisional Electrical Engineer,  
E. Railway, Lucknow.



Asst. Electrical Engineer  
N. E. Railway, Lucknow.

DATE:

SIGNATURE:

WITNESS:

Received your A. E. No.

XXXX

Divl. Rly. Manager (Mech.)

Elc

TO:

Copy forwarded for  
Information & action to:  
1) DM (P)/LIR (Mech. Code)  
2) DM (P)/LIR

Name & Designation of the person to be contacted  
of the person to be contacted  
of the person to be contacted

(Date of receipt)

1) The appeal is submitted within 15 days from the date of receipt of the order and

Strike off where not applicable.

5. Please acknowledge receipt of this letter.

6. The appeal does not contain improper or irrelevant allegations.

7. The appeal is submitted within 15 days from the date of receipt of the order and

Received by

1968 The appeal against these orders is to be filed in the office of the Railway Secretary (D & R) Rules.

Annexure No R-1

FORM NO.1

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

No. 61/974/14/89

Date 93 11 11

To

Name श्री. मधुसूत राय

Father's name

Designation विद्युत कलसी/गा030/सबनड वे0 Department विद्युत

Ticket No. 2 Date of appointment 26-6-63

Station सबनड Scale of pay 100-1150

श्री. मधुसूत राय, विद्युत कलसी/गा030/सबनड वे0 कपीन वि०कोरमेन/गा030/सबनड  
(Name, designation & Office in which he is employee)

(\*) Under section 10 is informed that the Inquiry Officer/Board of Inquiry appointed to enquire into the charge(s) against him has/have submitted his/their report. A copy of the report of the Inquiry Officer/Board of Inquiry is enclosed.

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

OR

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

3. The undersigned has, therefore come to the conclusion that श्री. मधुसूत राय is of a fit

person to be retained in service and has decided to impose upon him the penalty of dismissal/removal/compulsory retirement from service, श्री. मधुसूत राय is, therefore,

(Name of the Railway Servant) dismissed/removed/compulsory retired from service with effect from

Contd.... 2/-

ORDER OF COMPETENT AUTHORITY

20 1/39

In view of the enquiry report submitted by the Enquiry Officer, the following facts came to light:-

- i) That Shri Abdul Rashid remained absent without proper authority for more than 5 years.
- ii) That he left India and remained during his absence in Saudi Arabia upto 2.3.80 without taking permission from railways to leave India.
- iii) He gave two contradictory statements viz. -
  - (1) That he extended his leave for 200 days after his return from Saudi Arabia on 18.7.83 (vide his application dated 8.3.80)
  - (2) Whereas in his statements dated 25.8.80 he has stated that he extended his leave while leaving India at Bombay for Saudi Arabia.

Therefore, following orders is passed:-

"The services of Shri Rashid is terminated henceforth and he is removed from railway services with immediate effect."

(R. C. SINHA)  
ASST. MLEC. ENGINEER  
H. E. RLY. / IN CHARGE  
RAILWAY ZONE OFFICE  
RAILWAY ZONE OFFICE

66

Reg:- Memorandum No. 12/454/14/89/1335 dt. 1958  
in favour of Shri Abdul Rashid Khatun/LTN

x x x

19

1.0 History of the case.

- 1.1. Shri Abdul Rashid was granted 36 days LHP from 14.6.83 to 19.7.83 and 4 days LHP from 20.7.83 to 23.7.83. There after, as he says, he had extended his leave for 200 days and in support he produced postal receipt filed at C/30. However no such application is available in record.
- 1.2. Shri Abdul Rashid proceeded for Hajj with out taking permission from competent authority of the Railway to leave India.
- 1.3. He remained absent from duty with out any authority from 24.7.83 to 5.3.89.
- 1.4. Even if his 200 days leave application is considered (which is not available with the Railway) he remained absent with out information from 9.2.84 to 5.3.89 i.e. more than five years.
- 1.5. He reported for duty in the office of EFOCTD/CON on 6.3.89 while his letter filed at C/1A and was directed to D.M.C.P./LTN on the same date.
- 1.6. A memorandum was served to him, copy filed at C/11817.
- 1.7. The undersigned has been nominated the enquiry officer while letter filed at C/4.
- 1.8. The first date for enquiry was fixed on 20.7.89 but the same could not be conducted as the defence <sup>complaint</sup> Shri M.H.R. Tahir expired on 19.7.89 while letter at C/27.
- 1.9. Shri Abdul Rashid while his letter at 24/2 requested to attend the enquiry with out any defence counsel.
- 1.10. The enquiry has been concluded after ~~transit~~ on 21.9.89.

Continued

3.0

Conclusion

17

- Shri Abdul Rashid remained absent-  
with out any authority for more than  
five years and as such failed to  
maintain devotion to duty and  
committed serious misconduct.
- 3.2. He remained out side India  
from 19.7.83 to 2.3.89 with out  
proper permission.
- 3.3. He has stated in his statement  
at 31/c that he suffered from mental  
disorder at Saudi Arabia. This aspect  
may also be seen.

For further action please.

26.9.87

L.B.D. Srivastava  
Enquiry officer

Attested

सहायक विद्युत इंजिनियर  
पूर्वोत्तर रेलवे जलपान

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH ALLAHABAD

CIRCUIT BENCH LUCKNOW.

O.A.No.350 of 1989

M.P. No. 209/92 (2)

May

Abdul Rashid

...

Applicant

Versus

Union of India & others

...

Respondents

APPLICATION FOR AMENDMENT OF THE APPLICATION

The above named petitioner/applicant  
most respectfully sheweth as under:

1. That the petitioner had filed the  
aforesaid application under section 19 of the  
Administrative Tribunals Act praying for  
quashing of the charge sheet dated 19.5.89  
issued against him by the Assistant Electrical  
Engineer North Eastern Railway Lucknow as  
contained in Annexure No.1 ~~to~~ to the above  
application and also for a direction to be  
issued to the respondents to allow him to join  
his duties and pay him his salary and

allowances with effect from 5.3.89  
on paying the same

Filed today

over

6/3/92



(2)

removed from service under the provisions of Railway Servants (Discipline & Appeal) Rules. A true copy of the concerned order is annexed hereto as ANNEXURE NO. 1.

3. That in view of the above order, passed against the petitioner which, till date has not been served on the petitioner and he came to know of the same only through the Counter Affidavit, it has become necessary for the petitioner to amend his aforesaid application in order to challenge the aforesaid order passed against him.

4. That in view of the aforesaid facts and circumstances the petitioner/applicant craves indulgence of this Hon'ble Tribunal to permit him to amend his application in the following manner.

(a) That after the figure (I) in para 1, the following may be added :

" The petitioner by means of the instant application is also challenging the order dated 23.11.1989 passed by the Assistant Electrical Engineer North Eastern Railways, Lucknow whereby he has been removed from service. A true copy of the said order is annexed hereto as ANNEXURE NO.2. #.

(b) That after the contents of para 4(vi) the following paras may be added:



31 DEC 22/14

X/14

(3)

"(vii) That it was in view of the aforesaid facts and circumstances that the applicant filed the instant application under section 19 of the Administrative Tribunals Act challenging the charge sheet dated 19.5.1989 issued against him by the Assistant Electrical Engineer North Eastern Railway, Lucknow as contained in Annexure No.1 hereto and also prayed for a direction to be issued to the respondents to allow him to join his duties and pay him salary and allowances of the post held by him with effect from 5.3.89 and keep on paying the same as and when the same falls due.

(viii) That a counter affidavit has been filed in the application wherein an order dated 23.11.89 has been annexed which is said to have been issued by the Assistant Electrical Engineer North Eastern Railway Lucknow whereby the petitioner has been removed from the service. A copy of the aforesaid order has already been annexed hereto as ANNEXURE NO.2.

at

(ix) That since the petitioner had/no stage before the filing of the counter affidavit by the respondents before the Hon'ble Tribunal was ever served with an order dated 23.11.1989 nor was he informed in any manner about the passing of the said order, immediately

64/37/89

31.01.89 22/11/89



X/S

(4)

on receipt of the copy of the counter affidavit the petitioner addressed a representation dated 2.4.91 addressed to the Assistant Electrical Engineer North Eastern Railway, Lucknow praying therein that he be supplied with a copy of the order dated 23.11.89 whereby he has been removed from the service together with the copy of the enquiry report if any submitted by the Inquiry Officer. A true copy of the aforesaid representation is annexed hereto as ANNEXURE NO.2 hereto.

(x) That, however till date no response has been received by the petitioner to his aforesaid application and as such the petitioner has no other alternative but to challenge the order dated 23.11.89 on the basis of the copy supplied to him alongwith the counter affidavit, filed by the respondents

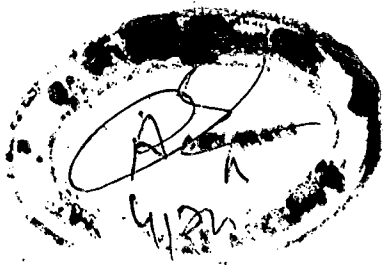
(xi) That ~~the petitioner~~ the petitioner after/submitting a reply to the charge sheet issued against him the Inquiry Officer fixed 20.7.89 as the date of conducting enquiry. However, on that date an adjournment was sought by the petitioner on account of the fact that his defence assistant Shri MHR Tahir had expired. The Inquiry

31/07/91  
22/11/91

(5)

Officer granted the adjournment and thereafter it appears that the Inquiry Officer fixed 25.8.89 as the date of the enquiry. On the aforesaid date the statement of the petitioner was recorded ~~with~~ with regard to the charges levelled against him and thereafter proceedings were adjourned.

(xii) That after 25.8.89 the petitioner did not hear anything from the Inquiry Officer or from the disciplinary authority till filing of the Counter Affidavit by the respondents before the Hon'ble Tribunal whereby the order dated 23.11.89 was passed by which the petitioner is said to have been removed from the service.



(xiii) That no enquiry whatsoever was conducted by the Inquiry Officer into the charges levelled against the petitioner in as much as no witnesses were examined nor was the petitioner ever given any opportunity to lead evidence in his defence. As such the impugned order passed on the so called enquiry is apparently illegal as the enquiry itself has been conducted in the gross violation of the principles of natural justice.

(vix) That a perusal of the enquiry report accompanying the order dated 23.11.89 would

Blade 22/11/89

8/11/89

(6)

show to the Hon'ble Tribunal that the Inquiry Officer has also relied on the statements of the petitioner and on the basis of the so called contradictions in his statement has held him guilty of the charges levelled against him. The aforesaid approach of the Inquiry officer is apparently illegal as even in the departmental enquiries the onus of proving the charges lies on the prosecution and it never shifts to the defence and therefore, the question of the petitioner proving his innocence do not arise at all. It was the duty of the Inquiry Officer to have first examined the evidence either in support of the charges and thereafter could he have considered the defence of the petitioner for holding him guilty or otherwise of the charges levelled against him.




3/10/89 22/11/89

(xx) That since the petitioner was not allowed to join his duties with effect from 5.3.89 and consequently he was not paid any salary, ~~xxxxxx~~ during the course of enquiry conducted against him, the enquiry is rendered illegal on this ground alone, as non-payment of salary during the course of a departmental enquiry amounts to denial of reasonable opportunity to defend the delinquent Govt. Servant .

X/6

(7)

(xxi) That besides the above, the petitioner was also not served with the Inquiry Officer's report before the Disciplinary Authority acted on the same and as such also the impugned order passed against the petitioner is illegal and contrary to the judgement and order of the Hon'ble Supreme Court of India in the case of Union of India Versus Mohammad Ramjan Khan-1991 (1) SCC page 588 as well as the decision of this Hon'ble ~~Supreme~~ Tribunal in the case of Prem Nath Sharma Versus Union of India (1988) Vol.6 ATC page 904 and as such also the impugned order passed against the petitioner is illegal."



(c) That after ground No.(vii) the following grounds may be added:

"(viii) Because no inquiry whatsoever was conducted against the petitioner in support of the charges levelled against him and as such the impugned order of removal passed against the applicant is violative of Principles of Natural Justice as well as Article 311(2) of the Constitution of India.

(ix) Because no evidence was ever led before the Inquiry Officer in support of the charges and the Inquiry Officer acted illegally in holding the petitioner

31 Dec 22/11/16

D/a

(8)

guilty of the charges levelled against him only on the basis of the statement made by the petitioner during the course of enquiry and before it.

(x) Because even in a departmental enquiry the onus of proving the charges does not shift from the prosecution to the defence and even in such enquiries it is only after the prosecution proves the charges that the question of considering the defence of the petitioner arises.

(xi) Because the petitioner was also not served with the copy of the enquiry report before the order of punishment was passed against him and as such also the impugned order passed against him is illegal.

xxx (xii) Because the petitioner/applicant was not allowed to join his duty with effect from 5.3.1989 and consequently he was not paid any salary during the course of enquiry conducted against him, the enquiry is rendered illegal on this ground alone as non-payment of salary during the course of departmental enquiry amounts to denial of reasonable opportunity to defend himself to a delinquent Government servant."

(d) That ground No. "(viii)" of the application may be re-numbered as ground No. "(xiii)".

(e) That Annexures No. 2 and 3 to the application may be re-numbered as ANNEXURES No. 3 & 4 and 5.

3106/2215ce

14/10

(9)

(f) That in para 8(i), the following may be added after the words 'and' :

"together with the order dated 23.11.89 passed by the Assistant Electrical Engineer North Eastern Railway, Lucknow as contained in Annexure No.2 hereto "

(g) That prayer No. (iii) may be deleted and the prayer No. (iv) may be re-numbered as prayer No.(iii).

(h) That paragraph No.9 of the application may be deleted and the same may be substituted as under : -

"Pending final disposal of the application the applicant seeks the following Interim Relief :

An order staying the operation implementation and enforcement of the order dated 23.11.1989 passed by the Assistant Electrical Engineer, North Eastern Railway Lucknow as contained in ANNEXURE NO. 2 hereto."

(i) That para 12 may be deleted in the application and the same may be substituted as under :

" 12. LIST OF ENCLOSURES:

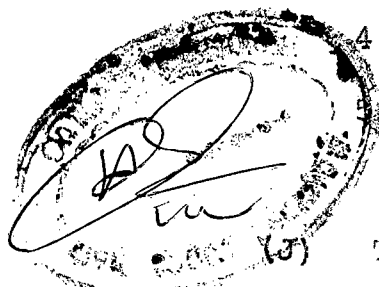
1. True copy of the charge sheet dated 19.5.89
2. True copy of the impugned order dated 23.11.89



346/22110

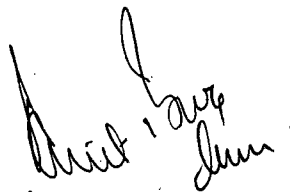
(10)

3. True copy of Joining report dated 3.3.89
4. True copy of statement of Article of charges
5. True copy of application dated 28.7.89



That Annexure No. 1 annexed with this application may be inserted after Annexure No.1 and before Annexure No.3 in the original application and the same may be renumbered as Annexure No.2

Wherefore it is most respectfully prayed that the Hon'ble Tribunal may be pleased to permit the applicant to amend his original application in the manner indicated herein above.

  
(AMIT BOSE)  
Advocate

Counsel for the petitioner/Applicant

Lucknow, dated  
24th Feb 1992

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH

ALLAHABAD

CIRCUIT BENCH AT LUCKNOW.

O.A.No. 350/1989

Abdul Rashid ... Applicant

Versus

Union of India & others ... Respondents

ANNEXURE NO.1

FORM -No.1

ORDERS OF IMPOSITION OF PENALTY OF REMOVAL FROM  
SERVICE UNDER RULE 6 ~~XXXX~~ (VII), (VIII) AND (IX)  
OF THE RAILWAY SERVANTS (DA) RULES 1968.

.....

No.E/Comp/14/ 89/411 0 dated 23-11-1989

To

Name : Abdul Rashid

Father's name

Designation : Electrical Khalasi/Gra.Pra./Lucknow Jn

Deptt.Electric

Ticket No. X Date of Appointment 26.6.63

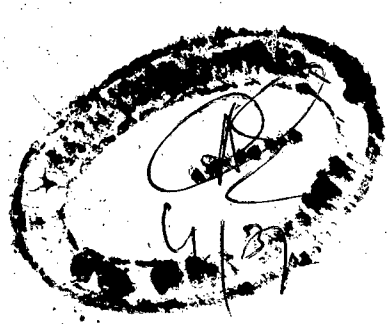
Station Lucknow scale of pay 800-1150

Shri Abdul Rashid Electric.Khalasi/Gra.Pra./Lucknow

Jn. ADHIN Vi.Foreman/Gra.Pra./Lucknow  
(Name, designation & Office in which he is employed)

is informed that the Inquiry Officer/Board of Inquiry  
appointed to enquire into the charge(s) against  
him has/have submitted his/their report. A copy of report  
of the Inquiry Officer/Board of Inquiry is enclosed.

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



*galew 22/11/89*



(2)

3. The undersigned has, therefore come to the conclusion that Shri Abdul Rashid is not a fit person to be retained in service and has decided to impose upon him the penalty of/removal/ from service, Shri Abdul Rashid is, the refore/ removed from service with immediate effect

Under rule 16 of the Railway Servantes (D.A) Rules 1968 an appeal against these orders has to Pra.Ma.Vi.Kha./Lucknow provided

- i) the appeal is submitted within 45 days from the date of receipt of the orders; and
- ii) the appeal does not contain improper or disrespectful language.

5. Please acknowledge receipt of this letter

like out where not

applicable.

ac. Report in 3 pages  
@ one order sheet

Signature

Sd/XXX

R.D.Bhinda

Name & Designation Asstt. Elect.  
of the Disciplinary Engineer  
authority.

Lucknow

North-Easter Railway

Copy forwarded for information & N/action  
to:

1. DRM(P)/LJN (Elec.Cadre)
2. RFO/TL/LJN

To

Divl. Ray. Manager (Elec)  
N.E. Railway, Lucknow

Received your N.I.P. No. \_\_\_\_\_

Dated \_\_\_\_\_

alongwith \_\_\_\_\_ enclosures

Witness:

Signature

Date:

ANNEXURE NO 2

ORDERS OF COMPETENT AUTHORITY

In view of the enquiry report submitted by the Enquiry Officer, the following facts come to light:-

- i) That Shri Abdul Rashid remained absent without proper authority for more than 5 years.
- ii) That he left India and remained during his absence in Saudi Arabia upto 2.3.89 without taking permission from Railways to leave India.
- iii) He gave two contradictory statements viz:-
  - (1) That he extended his leave for 200 days after his return from Saudi Arabia on 18.7.83 (vide his application dated 6.3.89)
  - (2) Whereas in his statements dated 25.8.89 he has stated that he extended his leave while leaving India at Bombay for Saudi Arabia.



Therefore, following orders is Passed :-

"The services of Shri Rashid is terminated henceforth and he is removed from Railway Services with immediate effect."

Sd/-xxx  
23.11

(R.C. SINHA)  
ASSTT.ELEC.ENGINEER  
N.E.RLY/LUCKNOW.

30.11.89 23/11

4/5

Reg:- Memorandum No. B/Comp./14/891335 dt. 19.5.89  
in favour of Shri Abdul Rashid, Kh CTD/ LTN

1.0. History of the case.

- 1.1 Shri Abdul Rashid was granted 36 days LAP from 14.6.83 to 19.7.83 and 4 days LHAP from 20.7.83 to 23.7.83. Thereafter, as he says, he had extended his leave for 200 days and in support he produced postal receipt filed at C/30. However no such application is available in record.
- 1.2 Shri Abdul Rashid proceeded for "Huj" without taking permission from competent authority of the Railway to leave India.
- 1.3. He remained absent from duty without any authority from 24.7.83 to 5.3.89.
- 1.4 Even if his 200 days leave application is considered (Which is not available with the Railway) he remained absent without information from 9.2.84 to 5.3.89 is more than five years.
- 1.5 He reported for duty in the office of EFOCTD/ LTN on 6.3.89 vide his letter filed at C/1A and was directed to DRMP/ LTN on the same date
- 1.6 A memorandum was served to him, copy filed at C/16817.=
- 1.7 The undersigned has been nominated the enquiry officer vide letter filed at C/4.
- 1.8 The first date for enquiry was fixed on 20.7.89 but the same could not be conducted on the defence Shri MHR Tahir expired on

*AB*  
*17.7*

*3106/2210*

8/5/80

19.7.89 vide letter at, C/27.

1.9 Shri Abdul Rashid vide his letter at 2V/K requested to attend the enquiry without any defence Council.

1.10 The enquiry has been concluded ~~after~~ on 21.9.89.

2.0 observations:-

2.1 The statements during the enquiry seems to be fabricated for the reasons indicated below:

2.1.1 In his application dated 6.3.89, filed at C/1A, he had stated that after his return from pilgrimage he had extended his leave on 18.7.83 for 200 days due to the sickness of his wife, whereas in his statement dated 25.8.89 (C/31) he stated that he extended the said leave while leaving Bombay for Saudi Arabia.

2.1.2 In his application dated 6.3.89 he stated that he extended leave for the treatment of his wife where as in his statement dated 25.8.89 ~~(C/31)~~ he extended the said leave for 200 days as he anticipated delay for return to India. This statement is unbelievable.

2.1.3 In his statement dated 25.8.89 he stated that he landed India on 2.3.89 and thereafter he joined his wife seriously ill and he arranged for her medical treatment and reported for duty on 6.3.89.

To cover only 4 days i.e. from 2.3.89 to 5.3.89 he gave so much explanation which indicates that his statement is fabricated.

349  
22/11/89

2.1.4.

In his answer to Q.No.7 at 33/C he stated that his application dated 6.3.89 might be wrong.

2.2.

He remained outside India from 19/24-7-83 to 2.3.89 without proper permission from the competent authority of Railway.

2.3.

His answer to Q.No.8 at 32/C for informing about his illness to Railway by his relatives in India is not acceptable being vague and not supported by facts.

3.1.

CONCLUSION

Shri Abdul Rashid remained absent without any authority for the more than five years and as such failed to maintain devotion to duty and committed serious misconduct.

3.2.

He remained outside India from 19.7.83 to 2.3.89 without proper permission

3.3.

He has stated in his statement at 31/C that he suffered from mental disorder at Soudi Arabia. This aspect may also be seen.

For further action please.

Sd/-XXX

26.9.89

(B.D.Srivastava)  
Enquiry Officer

TRUE COPY OF THE PHOTOSTAT COPY

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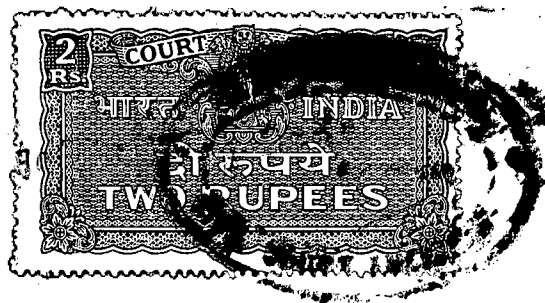
IN THE HONBLE CENTRAL ADMINISTRATIVE TRIBUNAL

Additional Bench Allahabad

Circuit Bench at Lucknow

O.A.No.

of 1989



Abdul Rashid

...

Applicant

Versus

Union of India & others ...

Respondents

AFFIDAVIT

IN SUPPORT OF APPLICATION FOR AMENDMENT

I, Abdul Rashid, aged about 47 years son of Shri Abdulla, ~~markingxxxx~~ resident of 69 Fatehganj, Kasai Bara, Lucknow, the deponent do hereby make oath and state as under:

1. That the deponent is the applicant himself in the above mentioned O.A. and as such he is fully conversant with the facts deposed to herein after.

2. That the contents of paragraphs 1 to of the accompanying application for Amendment are true to the knowledge of the deponent.

3. That the annexure No.1 annexed to the



Sto 22116

(2)

accompanying application is true copy of its original which the deponent has compared with its original.

31/06/2016

Lucknow, dated

Deponent

4/3/1992

VERIFICATION

I, the above named deponent do hereby verify that the contents of paragraphs 1,2 and 3 of this affidavit are true to my personal knowledge. No part of this affidavit is false and nothing material has been concealed. So help me God.

31/06/2016

Deponent.

I identify the deponent who has signed before me.

Amit Bose  
(Amit Bose) 4/3/92  
Advocate

Solemnly affirmed before me on 4/3/92  
230 a.m./p.m. by the deponent  
who is identified by Shri Amit Bose, Advocate.

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

26/3  
Amit Bose  
Advocate  
5/1/92

**ANIL SRIVASTAVA**  
M. Sc., LL.B.  
**ADVOCATE**

Phone : 77831  
Chamber : CHAMBER No. 29, 2nd FLOOR,  
HIGH COURT BENCH, LUCKNOW.

Residence : B-9, SACTOR-H  
NEAR SANGAM CROSSING,  
(OPP. L. I. C. COLONY IN SECTOR-I)  
ALIGANJ EXTENSION  
LUCKNOW-226 020

Bench Secretary,

13-3-90

As I have to go to the hospital for my eyes check up, I will not be able to attend the Hon'ble Tribunal today.

Therefore, please request their lordships to kindly adjourn my following two cases, granting 3 weeks time to file counter. I am filing Vakalatnama, ~~the~~ which may also kindly be taken on record.

1. O.A. No 154 of 1988(L); Bhagwan Das Vs U.O.G. — No 19
2. O.A. No 350 of 1989(L); Abdul Rashid Vs U.O.G. — No 5

Lucknow  
Dated 13.3.90.

*Anil Srivastava*  
(ANIL SRIVASTAVA)  
ADVOCATE

Counsel for Union of India.



A  
60

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW

O.A. NO.350 of 1989 (L)

Abdul Rashid

.....

Applicant.

Versus

Union of India & Others .....

Respondents.

2.1.1990

Hon'ble Mr. Justice K. Nath, V.C.

Hon'ble Mr. K. Obayya, A.M.

Shri Amit Bose counsel for the applicant heard.

Issue notice to opposite parties to show cause as to why the petition be not admitted.

List this case for admission on 5.2.1990.

Sd/-

Sd/-

A.M.

V.C.

// True Copy //

*hsh 19/1/90*  
Deputy Registrar  
Central Administrative Tribunal  
Lucknow Bench,  
Lucknow

rrm/

*checked  
8/1/91*

# VAKALATNAMA

7/6

Before Central Administrative Tribunal Bench Lucknow  
In the Court of

O A No. 350 of 1989 (L)

Abdul Rashid

FF 13/3/90

Versus

Union of India and others

I/We K. P. Singh Divisional Railway Manager  
North Eastern Railway Lucknow

do hereby appoint and authorise Shri. Anil Srivastava

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

I/We hereby agree to ratify all acts done by the aforesaid Shri. Anil Srivastava  
..... Railway Advocate, .... Lucknow

..... in pursuance of this authority.

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

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

Accepted  
Anil Srivastava  
Adv  
13/3/90

(K. P. Singh)  
मंडल रेलवे प्रबन्धक,  
पूर्वोत्तर रेलवे, लखनऊ

Central

Lucknow

Review No 67/93

Abdul Rasheed — Applicant

vs  
U O I & others — a/s

Application for adjournment

In the above case I am  
Counsel for Petitioners and  
due to viral fever I am  
unable to attend the Co  
today

It is Prayed that the  
Hon'ble Tribunal may  
kindly be pleased to  
adjourn the case  
today.

Lucknow

Date 2/9/94

He →

(Farooq Ahmad)

Advocate

Counsel for Petitioners

S No 23

NS/CCS  
64

# VAKALATNAMA

A  
64

Before  
In the Court of

Central Administrative Tribunal Bench  
Lucknow

No. 350 of 1989 (L)

Abdul Rashid

Versus

UOI & others.

I/We: R. C. Sinha Asst. Elec. Engin  
NE Rly. Lucknow.

do hereby appoint and authorise Shri. Anil Srivastava

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

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

Railway Advocate, Lucknow in pursuance of this authority.

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

day of 1989.

Accepted

Anil Srivastava  
Adv.

29/1/89  
(R. C. Sinha)  
प्राधिकृत विद्युत इंजिनियर  
पूर्वोत्तर रेलवे

वकालतनामा

..... Central Administrative Tribunal Bench ..... के समक्ष  
..... O.A. 357/89 (L) Lucknow ..... के न्यायालय में

वादी  
प्रतिवादी

Abdul Rashid

दावेदार  
अपीलाधी

प्रतिवादी  
वादी

U.O. India & others

अर्जोदार  
प्रत्यार्थी

भारत के राष्ट्रपति इसके द्वारा श्री

Anil Smaranda Rly. Adv. Lucknow

को उपर्युक्त वाद/अपील/कार्यवाही में भारत संघ को और से उपसंज्ञात होने, कार्य करने, आवेदन करने, अभिव्यक्त करने और आगे कार्यवाही करने के लिए दस्तावेज दाखिल करने और वापस लेने, न्यायालय की आदेशिका स्वीकार करने, काउन्सेल, अधिवक्ता या प्लीडर नियुक्त करने और उन्हें अनुदेश देने, रुपया वापस लेने और उसका निक्षेप करने तथा उपर्युक्त वाद/अपील/कार्यवाही में भारत सरकार का साधारण प्रतिनिधित्व करने और भारत संघ के लिए इस प्रकार उपसंज्ञात होने, कार्य करने, आवेदन करने, अभिव्यक्त करने और आगे कार्यवाही करने की अनुषांगिक सभी बातें करने के लिए नियुक्त और प्राधिकृत करते हैं। किन्तु यह इस शर्त के अधीन रहते हुए होगा कि जब तक भारत सरकार के समुचित प्राधिकारी से उस निमित्त पहले ही स्पष्ट प्राधिकार प्राप्त नहीं कर लिया गया है, तब तक उक्त काउन्सेल/अधिवक्ता/प्लीडर या उसके द्वारा नियुक्त काउन्सेल/अधिवक्ता/प्लीडर सभी या किसी प्रतिवादी/प्रत्यार्थी/अपीलाधी/वादी/विरोधी पक्षकार के विरुद्ध उस वाद/अपील/दावा/प्रतिरक्षा/कार्यवाही को पूर्णतः या भागतः न तो वापस लेगा, न उसका अधिपत्य करेगा, न ऐसा कोई करार करेगा या समझौता करेगा जिसके द्वारा वाद/अपील/कार्यवाही पूर्णतः या भागतः समायोजित की जाए और न उससे उद्भूत या उसमें विवादग्रस्त सभी या किसी विषय को मध्यस्थ को निर्देशित करेगा, परन्तु आपवादिक परिस्थितियों में जब भारत सरकार के समुचित प्राधिकारी से परामर्श करने के लिए पर्याप्त समय नहीं है और वाद में समझौता करने में लोप करना निश्चित रूप से भारत सरकार के हित के प्रतिकूल होगा तो उक्त प्लीडर/अधिवक्ता/काउन्सेल ऐसा कोई करार या समझौता कर सकेगा जिसके द्वारा उक्त वाद/अपील/कार्यवाही पूर्णतः या भागतः समायोजित हो जाय और ऐसे प्रत्येक मामले में काउन्सेल/अधिवक्ता/प्लीडर करार या समझौता करने के विशेष कारण बताते हुए उक्त अधिकारी को तत्काल संसूचित करेगा।

राष्ट्रपति इस प्राधिकार के अनुक्रम में श्री

Anil Smaranda Rly. Adv. Lucknow

द्वारा किए गए सभी कार्यों का अनुसमर्थन करने को सहमत हैं।

इसके साक्ष्यस्वरूप भारत के राष्ट्रपति के लिए और उनकी और से इस विलेख को आज तारीख.....को सम्यक् रूप से निष्पादित किया जाता है।

तारीख..... 19

NER-84850400-8000- 4 7 84

Accepted  
Shri. Srivastava  
Adv.

(M.M.C. Joshi)  
निष्पादन करने वाले अधिकारी का पदनाम  
प्रवर मजुमदार विभूत इन्जानियर  
पूर्वोत्तर रेलवे, लखनऊ

Me

1/6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL SEATED AT LUCKNOW  
CIRCUIT Bench at Lucknow.

Candhi Bhawan, Opp. Railway Lucknow.

Registration No. 354 1987 (L)  
NO. CIT/LTO/JUD/CD/ 3204 to 3206

Dated: 19/1/90

A/did R/did

APPLICANT'S

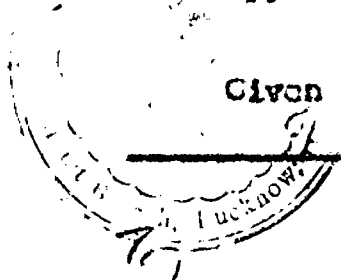
Yashraj

RESPONDENT'S

Please take notice that the applicant above named has presented an application a copy whereof is enclosed herewith which has been registered in this Tribunal and has fixed 2 day of 1987

If, no appearance is made on your behalf, your pleader or by some one duly authorized to act and plead on your behalf in the said application, it will be heard and decided in your absence.

Given under my hand and the seal of the Tribunal this 1 day of 1987



- 1) ... of ... through the Secretary ...
  - 2) ... by ...
  - 3) ...
- ... 1987 ...

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOW

ANNEXURE

INDEX SHEET  
Petition A No 67/93 in OA 856/89

CAUSE TITLE ..... OF .....

NAME OF THE PARTIES..... Abdul Rashid .....

Applicant

Versus

..... Union of India & Ors. .... Respondent

Part A, B & C

Sl. No.	Description of documents	Page
1	Order sheet A1 to A6	
2	Judgment dated 9-2-2000 A7 to A9	
3	Copy of Petition Petition A10 to A13	
4	Affidavit A14 to A17	
5	Power A18	
6		
7		
8		
9		
10		
11		
12		
13		

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.. 17/4/12 .....

Counter Signed.....

*[Signature]*

Section Officer / In Charge

*[Signature]*  
Signature of the  
Dealing Assistant

Revised 27/83  
in  
O.A No. 350/89

15/9/93

Hon. Mr. Justice R.K. Varma, V.C.  
Hon. Mr. V.K. Seth, A.M.

List this case before Division Bench to be constituted in view of transfer of Hon. Mr. B.K. Singh, A.M. List this case in Chamber for constitution of Bench.

A.M.

RKV  
V.C.

16-9-93

Hon. Mr. Justice R.K. Varma, V.C.

As Hon. Mr. B.K. Singh Member (A) has been transferred to Delhi, Hon. Mr. V.K. Seth Member will replace him for the purpose of constitution of Bench in this case.

RKV  
V.C.

21

23

Fix 20-9-93 for the preliminary hearing

21-9-93

Hon. Mr. Justice R.K. Varma, D.R.  
Hon. Mr. V.K. Seth, A.M.

List this case on 21-9-93 before D.R. of Hon. V.C. & Hon. Mr. V.K. Seth, A.M.

M.S.  
A.M.

RKV  
V.C.



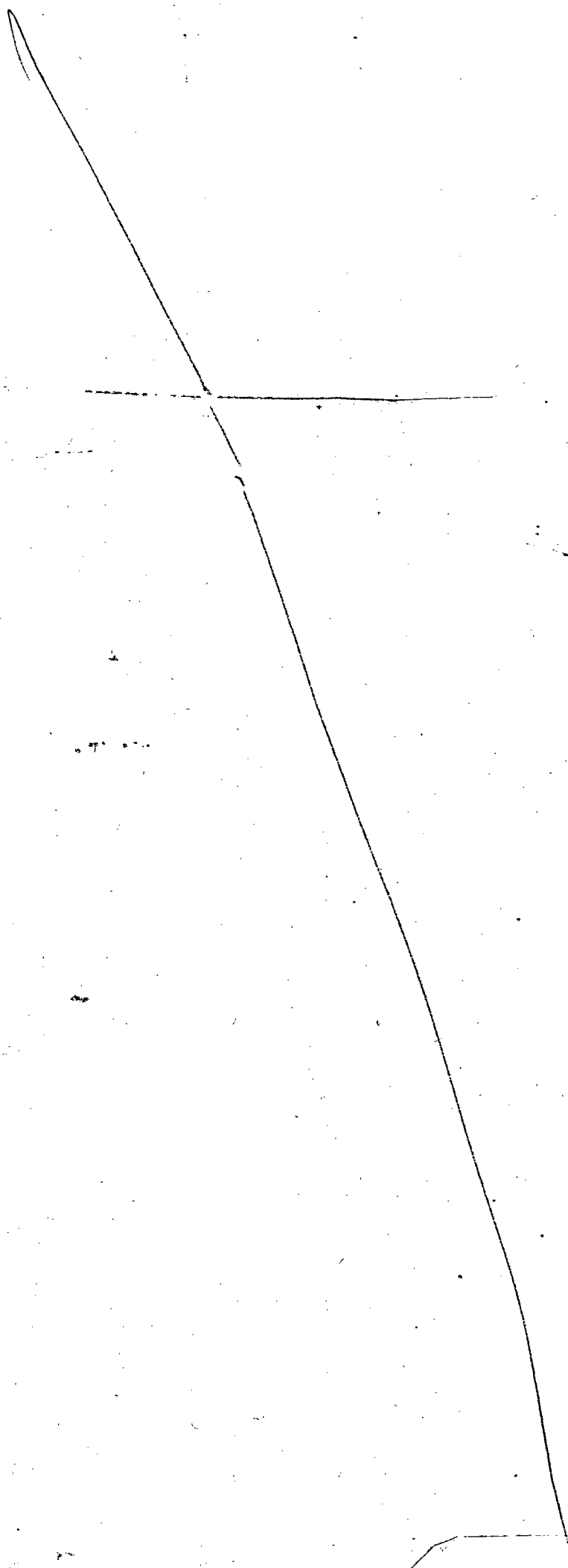
Rev 67/93 <sup>8/2</sup>

⊕ 10.9.93

No. salimg of D.B. only  
to 15.9.93

Done

OR  
S. A. O.  
b3/9



ORDER SHEET

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

X/3

Rev - 67 No. \_\_\_\_\_ OF 1993  
Abdul Resheed Vs. B.O.F.

Sl.No.	Date	Office Report	Orders
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① 19.4.94 Lawyers absent from J. all.  
with adjourn to 11.7.94  
SBC

OR  
8/11/94 by SBC  
② 11.7.94 Lawyers absent from J. all.  
adj. w. D.  
meo

OR  
MP 2108/96 Hld.  
10/10

OR  
Submitted for representation  
VC for hearing date on  
no. 2108/96  
L  
18/12

⑬ 10-2-297

OR  
Submitted for preliminary  
hearing

Hon. Mr. Justice B.C. Saxena, VC.  
Bri G. Kalwani earlier representing  
the applicant, after his death M.P. V  
no. 2108/96 has been filed through  
Mr. Paroo Ram madadvocate but he  
does not seem to file any  
Vakalat nama. List the records  
petition no 63/93 before a D.B  
consisting of Mr. V.C. Seth, M.A. &  
Mr. D.C. Verma, J.M. on 5-3-77.  
M.P. no. 2108/96 stands disposed of  
accordingly.  
BSC

(19)

18-12-97

Hon. Mr. V. K. Seth, A.H.  
Hon. Mr. D. C. Verma, J.H.

None for parties.

List on 10-2-98 for orders.

J.H.

U.S.  
A.H.

Az

(18)

10-2-98

Hon. Mr. V. K. Seth, A.H.  
Hon. Mr. D. C. Verma, J.H.

None for applicants.  
Notice be issued to respondents  
& the petition be listed for  
orders on 31-3-98.

O.P.  
Notice allowed  
by 26-2-98

J.H.

U.S.  
A.H.

Az

(17)

31-3-98

No sitting of D.B. Case  
adj'd to 21-7-98.

Ben

OR

Submitted for  
orders.  
25/9/98

(20)

21-7-98

No sitting of D.B. Case is  
adj'd to 9-9-98 for orders.

46

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Review 67/83

(25) 25/1/88

Hon. Mr. D.C. Verma, J.M.  
Hon. Mr. A.K. Mishra, A.M.

None for the applicant Kank.  
Kapoor for respondents has sent  
an application for adjournment  
the respondents have not filed any  
C.A. so far though the R.A. was filed  
in the year 1983. In case C.A. is not  
filed by the next date, the case to  
proceed ex-parte against the respondents.

List for orders on 22/12/88.  
Copy of this order be sent to  
the respondent.

A.K.M.  
A.M.

J.M.

(26) 22/12/88

Hon. Mr. D.C. Verma, J.M.  
Hon. Mr. A.K. Mishra, A.M.

None for the applicant Kank. Kapoor  
is on leave today.

List for orders on 8/2/2000.

A.K.M.  
A.M.

J.M.

OR  
order dt-14-2-2000  
prepared on 20-2-2000  
21-2-2000

A/K

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH  
.....

Review Application No.67 of 1993.

In

Original Application No.350 of 1989.  
this the day of 9th, Feb. 2000.

HON'BLE MR. D.C. VERMA, MEMBER JUDICIAL.

HON'BLE MR. A.K. MISRA, MEMBER ADMINISTRATIVE.

Abdul Rashid, aged about 50 years, son of,  
Shri. Abdulla, r/o House No.69, Fatehganj,  
Kasai Bara, Lucknow.

... Applicant.

By Advocate:-Sri. F. Ahmad.

Versus.

Union of India, through the Secretary,  
Ministry of Railways, Govt. of India,  
New Delhi.

2. The Deputy Regional Manager, North Eastern,  
Railway, Lucknow.

3. The Assistant Electrical Engineer, North,  
Eastern Railway, Lucknow.

... Respondents.

By Advocate:- Km. Kiran Kapoor.

O R D E R (Oral)

BY D.C. VERMA, J.M.

This application is for review of the order  
passed by this Tribunal on 8.1.1993 in O.A.No. 350/1989  
inre Abdul Rashid Vs. Union of India and Others.

2. Due to unauthorised absence<sup>2</sup> for five years w.e.f 27.7.1983 to 5.3.1989 the services of the applicant was terminated after serving the applicant with the charge-sheet. The applicant challenged the order of termination by filing the above O.A.350/89. The Tribunal found that there was not ~~any~~ <sup>in</sup> fault and flaw ~~and~~ the enquiry and action taken against the applicant. Accordingly, the O.A. was dismissed by the above order.

3. This Review Petition was filed on 6.7.1993 i.e. after expiry of the period of limitation prescribed for filing review application. The applicant therefore filed an application for condonation of delay in filing the review application. Heard, delay is condoned.

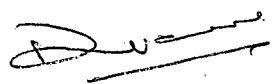
4. We have heard counsel for the parties on merit of the review application. The submission of the Learned counsel for the applicant is that the applicant was not served with the copy of Enquiry Officer's report before an order of punishment was passed by the Disciplinary Authority. The submission of the Learned counsel has no merits. Apparently this argument is based on the decision of the apex Court in the case of Union of India & Others Vs. Ramzan Khan AIR-1991 / <sup>page-471.</sup> That decision was delivered in November, 1990 and was prospective in effect whereas the punishment order was passed on 23.11.1989 i.e. prior to the decision of Ramzan Khan's case.

5. The other submission of the learned counsel for the applicant is that the applicant was not given any show-cause. This argument too has no merits. The order of the Tribunal dated 8.1.1993 shows that when the charge-sheet <sup>was</sup> served on the applicant on 19.5.1989 the applicant submitted his reply and thereafter the

Enquiry proceeded against him. There is a clear finding of the facts in the order dated 8.1.1993 to the above effect. We therefore find no ground in the review application and the same is rejected. Costs easy.



MEMBER (A)



MEMBER (J).

Dated:-9.2.2000.  
Lucknow.  
Ak/.



A  
10

✓

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

m.p.No 825/93

Review Application No. **67** of 1993(L)

In re:

O.A. No. 350 of 1989 (L)

Abdul Rashid, aged about 50 years, son of  
Shri Abdulla, r/o House No.69, Fatehganj Kasai  
Bara, Lucknow.

...Applicant/Pet.

Vrs.

1. Union of India, through the Secretary, Min.  
of Railways, Govt of India, New Delhi.
2. The Deputy Regional Manager, North Eastern  
Railway, Lucknow.
3. The Assistant Electrical Engineer, North  
Eastern Railway, Lucknow.

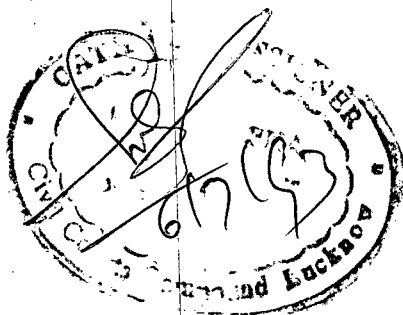
... Respdt's/OPs.

APPLICATION UNDER SECTION 5 OF INDIAN  
LIMITATION ACT FOR CONDONATION OF DELAY  
IN FILING REVIEW APPLICATION

The applicant/petitioner named above most  
respectfully begs to state as under:

1. That the applicant is filing a review petition  
against the judgment and order dated 8.1.1993 passed  
by this Hon'ble Tribunal in O.A.No.350 of 1989 in  
which he has fair chances of success.

2. That the petitioner has engaged his counsel  
namely Sri Amit Bose, Advocate who has argued the case  
before this Hon'ble Tribunal. The Hon'ble Tribunal has  
pronounced the judgment and order dated 8.1.1993 but  
the applicant was not aware of it.



STG 22/1/94  
AW

3. That the applicant contacted his counsel during the month of June, 1993 on 25th June 1993 and then he was told that in his case the judgment and order has already been passed and his application has been dismissed.

4. That on coming to know, the petitioner contacted another counsel Sri G. Kalwani, Advocate for further advise who advised the petitioner to move review application in the case.

5. That the said counsel has prepared the review application and the same is being filed today without any further delay.

6. That the consultation with the counsel was made on 4th July, 1993 and thereafter the applicant arranged for funds for two days and as such he is filing the review application without any delay on his part.

7. That there was no intentional or deliberate delay on the part of the applicant but on account of the fact that he was not informed about the decision earlier by his counsel, nor the Hon'ble Tribunal has sent the copy of the decision on his address.

8. That the petitioner will suffer irreparable loss and injury in case the delay in filing the review application is not condoned and the review petition is not heard and decided on merits.

#### P R A Y E R

It is, therefore, humbly prayed that the delay in filing the review application may very kindly be condoned and the same be decided on merits.

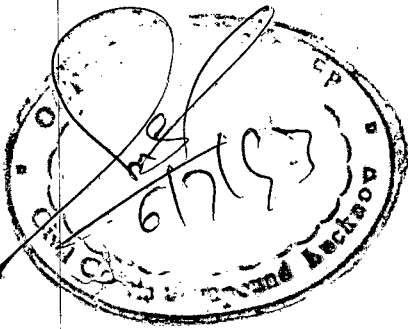
31/7/93

Applicant  
Through:

(G. Kalwani) Adv.

Lucknow, dated  
6.7.1993.

Counsel for the Applicant/Petc.



Rev. No 67/93

## CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 350 of 1989(L)

Abdul Rashid . . . . . Applicant

Versus

Union of India &amp; Others . . . . . Respondents

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

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

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

As the pleadings are complete, the case is being disposed of finally.

The applicant was appointed as Bhisty on 26.6.1963 in the Commercial Department of North Eastern Railway in the scale of Rs. 75-80. Thereafter, he was transferred to Electric Department of North Eastern Railway vide order dated 27.11.1970. He remained absent for five years from 27.7.1983 to 5.3.1989. According to the applicant, he applied for sanction of Earned Leave for a period of 40 days w.e.f. 14.6.1983 to 23.7.1983 for the purposes of going to Haj pilgrimage, which was duly sanctioned, but he could not leave for Haj because of certain procedural problems and on 1.8.1983, he moved an application for grant of 200 days further leave for proceeding for Haj Pilgrimage. According to the applicant, he was never informed of any action that may have been taken on the application. Meaning thereby, as per his own case, he gave an application for grant of 200 days leave and thereafter, he never cared to ascertain that such a leave has been sanctioned or not and application has been reached to the proper authority or not. There is no denial of the fact that

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:: 2 ::

and during this period he was in Saudi Arabia. He came back on 3.3.1989, he moved an application that he may be allowed to join the duty. It was thereafter, a charge-sheet was served to him on 19.5.1989, the substance of the charges levelled against him was that he was unauthorisedly absent from duty for all this period without any authority and as such he contravened the provisions of Rule 3(1)(ii) and (iii) of the Railway Servants (Conduct) Rules 1966. The applicant submitted a reply to the said charge-sheet and enquiry proceeded. According to the applicant, he only received removal order, but from the counter-affidavit filed by the respondents it has been stated that efforts were made to see that applicant for participating the enquiry, but there being no option, of course, the enquiry proceeded and thereafter, being a clear case the finding was recorded. There was no provision for 200 days leave and more so, no such leave was ever sanctioned and the entire period was unauthorisedly <sup>leave</sup> and the applicant was not explained after 200 days whether he cared to ascertain and whether he moved any application thereafter. It was not also stated any where what was he doing during all these years and whether he was in any gainful employment or not after having slipped out of the country and staying there for years together, the applicant is now claiming his right, although he has none. The enquiry was held and thereafter, he was removed from service. There is no fault and flaw in the enquiry or the action taken against the applicant. Accordingly, the application deserves to be dismissed and it is dismissed. No order as to costs.

Certified Copy

Behauds

Incharge

1512

Judicial Section

C A T.

LUCKNOW.

15/4/93

Lucknow Dated: 6.1.1993

(RKA)



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

Review Application No. 67 of 1993

In re:

O.A. No. 350 of 1989 (L)

Abdul Rashid

... Applicant

Vs

Union of India & others

... Opp. Parties.

AFFIDAVIT

In re:

APPLICATION FOR CONDONATION OF DELAY

I, Abdul Rashid, aged about 50 years, son of  
Shri Abdulla, r/o House No. 69, Fatehganj Kasai  
Bara, Lucknow, the deponent, do hereby solemnly  
affirm and state as under:

1. That the deponent is sole applicant in the  
abovenoted case and as such he is fully conversant  
with the facts and circumstances of the case.

2. That the contents of paragraphs 1 to 8 of  
the accompanying application for condonation of delay  
in filing review petition are true to my own knowledge.

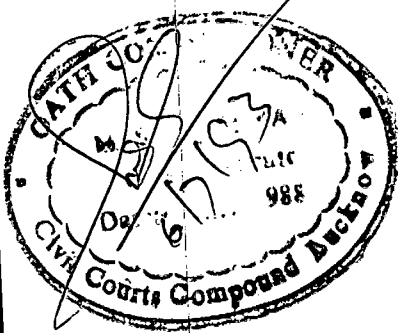
Lucknow, dated  
6.7.1993

Verification: - I, the abovenamed deponent, do hereby  
verify that the contents of paras 1 and 2 of this  
affidavit are true to my own knowledge. No part of it  
is false and nothing material has been concealed,  
so help me God.

Lucknow, dated  
6.7.1993.

I identify the deponent who has  
signed before me.

Advocate.



3766 22116

Deponent

3766 22116

Deponent

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

Review Appln. No. 67 of 1993

Arising out of

O.A. No. 350 of 1989

Abdul Rashid, aged about 50 years, son of Shri  
Abdulla, resident of 69, Fatehganj, Kasaibara  
Lucknow.

...Petitioner

Versus

1. Union of India, through the Secretary, Ministry  
of Railways, Govt. of India, New Delhi.
2. The Deputy Regional Manager, North Eastern  
Railway, Lucknow.
3. The Assistant Electrical Engineer, North  
Eastern Railway, Lucknow.

...Respondents.

Review application against the judgment and  
order dated 8.1.1993 passed in O.A.No.350  
of 1989 (L) by Hon'ble Bench consisting of  
Mr. Justice U.C. Srivastava, V.C. and Mr. Justice  
K. Obayya, Member(A), amongst others on the  
following

GROUND

1. Because it is admitted position of the case  
that the petitioner was not informed as to whether  
or not his leave for 200 days has been sanctioned or  
not and hence without information, it cannot be termed  
that the petitioner was unauthorised leave.

Shri Ravi  
Adv.

2. Because the alleged disciplinary proceedings were initiated when the petitioner had reported for duties but no opportunity whatsoever was afforded to the petitioner, this Hon'ble Tribunal has failed to observe that non-affording an opportunity clearly tantamounts the violation of the principles of natural justice. The disciplinary proceedings were taken behind the back of the petitioner and final order of removal was received without any show-c-ause notice or supply of the Inquiry Report etc.

3. Because the petitioner has explained about his absence while submitting his reply to the charge sheet. Therefore the opp. parties were fully aware about the address of the petitioner. The petitioner could have been informed about the departmental inquiry but he was not informed to participate thus there was clear violation of the principles of natural justice.

4. Because the rights of the petitioner were existing but the same have come to an end after the alleged removal orders were passed, this Hon'ble Tribunal has failed to observe that the rights were not extinguished merely because the petitioner was absenting from his duties.

5. Because even if the petitioner was absenting, his absence could be regularised by granting leave without pay and allowances.

6. Because no copy of enquiry report was supplied and hence the petitioner did not aware about the findings so recorded against him, this Hon'ble Tribunal has

34/11/76  
 22/11/76  
 10/12/76

failed to observe that the petitioner was not supplied the copy of the inquiry report and hence the removal order passed on the basis of such report was illegal and not sustainable in the eye of law.

P R A Y E R

It is, therefore, most respectfully prayed that this Hon'ble Tribunal may be pleased to allow this review petition, recall the judgment and order dated 8.1.1993 and consequently allow the application moved by the petitioner for setting aside the impugned removal orders and reinstate the petitioner into service.

3/06/2016  
Petitioner  
Through:

Lucknow, dated

6.7.1993.

(G. Kalwani)  
Advocate

Counsel for the Petitioner.



ब अदालत श्रीमान

Central Administrative Tribunal  
Circuit Bench Lucknow महोदय

[वादी] अपीलान्ट

प्रतिवादी [रेस्पान्डेन्ट]

श्री Peppiner का

वकालतनामा

Ln No 67/93

Abdul Rashid

(टिकट)

वाद

Union of India

Review Appar

मुकदमा नं०

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बनाम

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पेशी की ता०

ऊपर लिखे मुकदमा में अपनी ओर से श्री

S. Kalwan

Adv. High Court Compound  
Lucknow.

नाम अदालत	मुकदमा नं० नाम	फरीकन	बनाम
.....	.....	.....	.....

को अपना वकील नियुक्त करके प्रतिज्ञा (इ देता हूँ कि इस मुकदमा में वकील महोदय द्वारा जो कुछ पैरवी व जबाबदेही व प्रश्नोत्तर करें या लौटावें या हमारी ओर से डिगरी करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारे से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवें या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और हमी मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा छपर मुकदमा 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।

Accepted.

Mar

Adv.

हस्ताक्षर

अलम रशीद

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

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महीना

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सन १९९३ ई०

W.D

MP No - 2108/96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH, LUCKNOW

REVIEW PETITION No. 67/93

In

O.A. No 350/89

Place before the

Hon'ble

for order a/c

By

Registrar

218

Central Administrative Tribunal

Lucknow Bench

Date of Filing

8/10/96

Date of Receipt by Post

By Registrar ( )

Abdul Rashid

.....

Petitioner

Versus.

Union of India & Others

.....

Opp. parties.

APPLICATION FOR FIXING DATE IN THE CASE

The applicant most respectfully submits as under :-

- 1- That the applicant filed the above noted Review petition for reviewing the order and judgement dated 8/1/1993 passed by the Division Bench consisting Hon'ble Mr. U.C. Srivastava ( V.C. ) and Hon'ble Mr. K. Obayya ( A.M.).
- 2- That the above noted Review petition is pending before the Hon'ble Tribunal for hearing on admission and the above noted case has been without date.
- 3- That the applicant filed the O.A. No. 350/89 against his termination from service and since 1989 the applicant is out of job.

/2/

4- That now it is expedient in the interest of justice that the above noted case is liable to be listed for hearing on admission as early as possible.

P R A Y E R

WHEREFORE, it is most respectfully prayed that this Hon'ble court may kindly be pleased to list/fix a date for hearing on admission in the above noted case.

Lucknow.

Dated : 8/10/1996

( Farooq Ahmad )

Advocate  
counsel for the applicant.