

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

6/6/85

Registration No. 128 of 1989

U V

APPLICANT(S)

N. Ahmad

RESPONDENT(S)

S.O.C

Particulars to be examined

Endorsement as to result of examination

1. Is the appeal competent ? **Y**
2. a) Is the application in the prescribed form ? **Y**
b) Is the application in paper book form ? **Y**
c) Have six complete sets of the application been filed ? **Y**
3. a) Is the appeal in time ? **Y**
b) If not, by how many days it is beyond time ? **Y**
c) Has sufficient cause for not making the application in time, been filed ? **Y**
4. Has the document of authorisation/ Vakalatnama been filed ? **Y**
5. Is the application accompanied by B.D./Postal Order for Re.50/- **Y**
6. Has the certified copy/copies of the order(s) against which the application is made been filed ? **Y**
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ? **Y**
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ? **Y**
c) Are the documents referred to in (a) above neatly typed in double space ? **Y**
8. Has the index of documents been filed and paging done properly ? **Y**
9. Have the chronological details of representation made and the outcome of such representation been indicated in the application ? **Y**
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal ? **NO**

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH LUCKNOW

INDEX SHEET

O.A. 129/89

Cause Title of 199

Name of the parties Niaz Ahmad Applicants.

Versus

C.O.T.

Respondents

Part B.C.

| Sl. No. | Description of documents | Page |
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|---------|--------------------------|------|

| | | |
|---|-------------|------------------------------------|
| 1 | check list | A ₁ to A ₂ |
| 2 | Order sheet | A ₃ to A ₈ |
| 3 | Judgement | A ₉ to A ₁₁ |
| 4 | Petition | A ₁₂ to A ₂₁ |
| 5 | Power | A ₂₂ |
| 6 | Annexure | A ₂₃ to A ₂₄ |
| 7 | W.S. | A ₂₅ to A ₃₀ |
| 8 | R.A. | A ₃₁ to A ₃₅ |

B. File

| | | |
|----------|----------|------------------------------------|
| Petition | Annexure | B ₅₆ to B ₉₄ |
| W.S. | R.A. | |

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

Check

PTO

24/6/2011

Lok

S.O (J)

A2

Particulars to be ExaminedEndorsement as to result of examination

11. Are the application/duplicate copy/spare copies signed ? *Y*

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

13. a) Identical with the Original ? *Y*

b) Defective ? *Y*

14. Wanting in Annexures
No. _____ pages Nos. _____ ?

15. Are the file size envelopes bearing full addresses of the respondents been filed ? *No*

16. Are the given address the registered address ? *Y*

17. Do the names of the parties stated in the copies tally with those indicated in the application ? *Y*

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

19. Are the facts of the case mentioned in item no. 6 of the application ? *Y*

a) Concise ? *Y*

b) Under distinct heads ? *Y*

c) Numbered consecutively *Y*

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

20. Have the particulars for interim order prayed for indicated with reasons ? *Y*

21. Whether all the remedies have been exhausted. *Y*

dinesh/

O.A. 129/89 (L)

(A7)

10.7.89

Hon. D.K. Agrawal - FM

The applicant is present in person. On the request of the applicant, the case is adjourned to 05/9/89 for admission.

Dp
T.M

10/89

5.9.89

Hn. Justice K. Nath, V.C
Hn. K. J. Raman, A.M

Admit
Issue notice to O.P. to file reply within four weeks. List for final hearing on 24.9.89 by which date the applicant may file rejoinder.

A.M

V.C

24/9/89. Hon. Justice K. Nath, V.C

Smt. G. Saxena makes appearance on behalf of all the opposite parties, requests that and is allowed a month's time to file a reply. List for further orders on 8.12.89.

OR
Notices were issued on 0/9/89.
Neither reply nor any unsworn affid. ever has been return back.

Submitted for order.

28/9

D
V.C.

OR
No reply filed.
Submitted for order.

7/10

Pr

(AS)

OA 1291

28/5/90

Hon. Mr. P.C. Jain, A.M.
Hon. Mr. J.P. Sharma, O.M.

Shri A.K. Dixit, advocate, for the applicant.
Shri B.C. Lawrence, advocate, for the respondents.

The applicant has not filed rejoinder even though, the time allowed to him by the same, expired about 2 months back.

Last opportunity is allowed. Rejoinder may be filed by 24/6/90 with a copy to the other side. If, rejoinder is not filed within the stipulated time, the pleadings may be taken as complete and the case may be listed for final hearing on 3/7/90.

SD

J.P.M.

Gen.
A.M.

3/7/90 No sitting adj. to 23/8/90

RP filed today
25/6

23-8-90 - No Sittings Adj to 30/11/90

30.11.90

No sitting Adj to 1.2.91.

191-

No Sittings Adj to 13.3.91.

3.91

No Sittings Adj to 14.5.91

5.91

No Sittings Adj to 9.8.91

91-

No Sittings Adj to 26.9.91.

(A7)

of affidavit or to produce relevant record which contained the receipt and envelope containing replies of two dated. List the case for orders/^{hearing} on 28-4-92.

d
A.M.

l/c
V.C.

(Aug)

28-4-92 No filing of O.M. adjd to 25-5-92

OR
PO
S
J
22/8
(S)

25-5-92 Hon Justice V.C. S, V.C.
to Mr A B Gururaj, Am

Guru A K Chalimudi states that he was not aware of the order otherwise order would have been complied with. He further requests that applicant who is present at hearing may give name of the Clerk who receives envelopes. Applicant states that the name of the person who signs delivery registered A K Sadeva. Reply may be filed within 3 weeks. Reference record to be filed on next date. Not for orders on 23-7-92.

✓
VR

J
Am.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW

O.A. NO. 129/89 199 (L)
T.A. NO. _____

Date of Decision 24/8/92

Niaz Ahmed PETITIONER.

Vik Khan

Advocate for the Petitioner(s)

VERSUS

M. O. I. & C.I.A.S. RESPONDENT.

D. E. Sazan

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. Justice M. S. Srivastava V.P.

The Hon'ble Mr. K. Obayya A.N.

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 Lordships wish to see ~~the~~ fair copy of the Judgment?
4. Whether to be circulated to other benches?

Vice-Chairman/Member

A9

CENTRAL ADMINISTRATIVE TRIBUNAL,
CIRCUIT BENCH, LUCKNOW.

Registration No. 129 of 1989 (L)

Niaz Ahmed Applicant

Vs.

Union of India & Others Respondents.

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

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

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

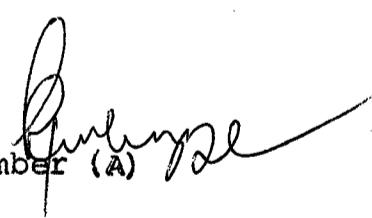
This application is directed against the order passed by Chief Operating Superintendent, Northern Railway dated 7-6-88 reducing punishment of with-holding of increment from two years to one year without affecting future increments. The order passed by the Divisional Railway Manager, 31-3-1987 rejecting both the appeals of the applicant for stoppage of 3 sets of passes and W.I.T. for two years on exparte decision is also the subject matter of this application along with the punishment order dated 18-12-86 passed by Senior D.O.S. Northern Railway, Moradabad, for stoppage of two years (W.I.T. (withholding of increments for two years without affecting future increments). At the relevant point of time the applicant was working as Traffic Inspector, Northern Railway, Chandausi. According to him he detected certain irregularities against the Station Masters. The result of this ultimately was that two charge-sheets were issued to the applicants allegedly on the basis of one Inspection Report of A.O.S., Moradabad.

2. The applicant submitted his reply to both the charge-sheets vide his representations dt. 28-10-86 (two). According to the applicant, they were given to the Railway Free Service Clerk/Chandausi, who also issued acknowledgements in respect of the same a copy of which has been produced by the applicant. The applicant has alleged that the disciplinary authorities did not connect both the replies of the applicant against the charge-sheet and passed an exparte order without giving any opportunity of hearing to the applicant. The applicant has filed an appeal against the same. The appellate authorities rejected both the appeals in the same way. He submitted a review petition to the respondent No.1 who directed to reduce the punishment of W.I.T. from two years to one year and did not pass any order for setting aside the punishment of stoppage of 3 sets of passes.

3. The applicant has approached this Tribunal contending that the exparte action against him has been taken and reasonable opportunity of hearing to defend him was not given.

4. The respondents have opposed the application and contended that no reply whatsoever was filed by the applicant and as a matter of fact whenever the applicant filed a document, the same was duly noted. He filed an appeal before the proper authority and review application was also filed before the proper authority and the copy of the representation given in two envelops to the clerk was nothing to do with the matter in question. We have summoned the records and in the records we have found the statement of the clerk. According to the clerk he did receive two envelops. From his statement it appears that the contents of the envelops were not known to him, and he in turn has given them to the concerned official.

According to the applicant these two envelops contained the replies to the said two charge-sheets and in the last April, these were not in existence and it might have been added subsequently. The clerk concerned was not the authorised person, but it appears that he did receive two envelops. What has happened to those two envelops is still not known because the record does not contain the same. This aspect was also not seen by the reviewing authority as well as the appellate authorities who has disposed of the appeal and the review application. It appears that the appellate authorities have not given any personal hearing to the applicant. Accordingly this application deserves to be allowed ~~to the extent that~~ that the orders passed by the appellate authorities dated 31-3-86 and the order passed by reviewing authorities on 7-6-88 are quashed. The appellate authorities are directed to re-hear the appeal after giving reasonable opportunity to the applicant and decide the matter within a period of two months from the date of receipt of the copy of this judgment, taking into consideration the pleas raised by the applicant and also going through the records. No order as to the cost.


Member (A)


Vice-Chairman.

Dated: 25th August, 1992, Lucknow.

(tgk)

No. 129/89 (C)

Hon. Mr. Justice L. S. Swanson, V.C.

29/8/92 Wan-Ms. 16. Abangga A.M.

Judgment delivered in
the open Court

L.T(GK)

6
Perry



V-e

joysements
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD/LUCKNOW.

REGISTRATION NO 129 OF 1989(L)

NIAZ AHMED APPLICANT.

VERSUS

UNION OF INDIA AND OTHERS (N.Rly!) RESPONDENTS.

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| 6. | ANNEXURE NO 5, Punishment Order of Sr DOS/MB, IN CASE NO 11-T/411/86 at 5.1.87. | 11 | to | 11 |
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| 8. | VAKALAT NAMA | | | |

10.7.89 FA
5.9.89 PD
FOR INDEX-B, PLEASE SEE PART-B.

CIA N.U. Khan

Dated 06-6-1989

N.U. Khan
Adv 616189
Riaz Ahmed
(NIAZ AHMED.)
APPLICANT.

Complete file
CIA/PD

A 12

Central Administrative Tribunal
Circuit Bench, Lucknow
Pt. of Petition 6/6/89
Date of hearing 10/7/89

V. City Register

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW.

REGISTRATION NO 129 OF 1989 (L)

NIAZ AHMED, aged about 37 years, son of Late Shri Moinuddin working as Traffic Inspector/Northern Railway Chandausi, now as Traffic Inspector, N.RLY. Hardoi, resident of Quarter NO T-4-A, N.RLY./COLONY Hardoi, District Hardoi. APPLICANT.

VERSUS.

- 1- THE UNION OF INDIA, THROUGH GENERAL MANAGER, NORTHERN RAILWAY, BARAUDA HOUSE/NEW DELHI.
- 2- THE DIVISIONAL RAILWAY MANAGER, N.RLY./MORADABAD.
- 3- THE SENIOR DIVISIONAL OPERATING SUPERINTENDENT, N.RLY./MORADABAD

RESPONDENTS.

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE,
TRIBUNAL ACT, 1985.

1- DETAILS OF APPLICATION :-

Particulars of the orders against which the application is made.

THE APPLICATION IS AGAINST THE FOLLOWING ORDERS :-

- 1- Chief Operating Superintendent, Northern Railway, Barauda House NEW-Delhi, order passed on behalf of General Manager, N.Rly./ NEW-Delhi, communicated by DIVISIONAL RAILWAY MANAGER, N.Rly./ MORADABAD Vids his Order NO 11 T/408/86 dated 7-6-88, reducing punishment of with holding of increment from two years to one year with out affecting future increments. Annexure No 1
- 2- Divisional Railway Manager, N.Rly./Moradabad Order NO 11 T/408/86 dated 31-3-87 and NO 11 T/411/87 dated 31-3-87, rejecting both the appeals for stoppage of 3 sets of passes and W.I.T. two years on ex parte decisions of Sr. D.O.S./Moradabad.

Annexure No 2 + 3.

- 3- Senior D.O.S./N.Rly./Punishment Orders N.

P.T.O. Naz Ahmad

Filed today
on 6/6/89
Noted
by
10/7/89
M.M. (A/C)
10/7/89
D.O.S.
10/7/89

PAGE NO 2

3- Senior D.O.S./N.Rly./Moradabad, Punishment Orders NO 11-T/408/86 dated 18-12-86 for stoppage of two years W.I.T. (Withholding of increments for two years without effecting future increments ANNEXURE NO 4 and also Punishment Order NO 11-T/411/86 dated 5-1-87 for stoppage of 3 sets of passes Annexure No 5, both Ex-parte punishment orders.

2- Jurisdiction of the Tribunal:-

That the applicant declares that the subject of the orders, against which he wants redressal is within the jurisdiction of the Tribunal.

3- Limitation:-

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

4- "acts of the case :-

1- That the applicant was working as Traffic Inspector/N.Rly./Chandausi during 1986. He learned A.O.S.(G)/N.Rly./Moradabad inspected Safpur and Dubtra stations on 19-8-1986, where some irregularities were alleged to have been detected by him against Station Masters, Safpur and Dubtra stations by not properly pasting correction slips delivered by the applicant to them under their clear signatures ETC. and there after the learned A.O.S.(G)/N.Rly./Moradabad submitted his report through Inspection report dated 19-8-86.

II- That the learned Senior D.O.S./N.Rly./Moradabad issued two Memorandum Charge Sheets No 11-T/408 dated 10/10/86 and No 11-T/411/86 dated 21/10/86 on the basis of one inspection, report of A.O.S.(G)/Moradabad.

ANNEXURE NO 6 & 7.

P.T.O.

hahed

(A18)

PAGE NO 3

III- That applicant submitted reply of both the Memorandum Charge Sheets Vide his representations dated 28/10/86 and 28/10/86 under clear acknowledgements of the Railway Free Service Clerk/Chandausi, copies of the both representations are Annexures No 8 and 9 to this petition and acknowledgements of Railway Free Service Clerk/Chandausi dated 28/10/86 are marked as Annexures No 10 ~~and~~ to this petition.

IV- That the learned S.R.D.O.S./Moradabad, the Disciplinary Authority did not connect the reply of the applicant, s both Charge Sheets ~~replies~~ and passed Ex parte punishment orders on both the cases Vide his punishments orders No 11-T/408/86 dated 18-12-86 for stoppage of increments for two years temporarily and NO 11-T/411/86 dated 5-1-87, copies of both the punishment orders are Annexures NO 11 and 12 to this petition.

V- That the applicant submitted his appeal dated 10-12-86 and 10-12-86 for both the cases to the learned D.R.M./Moradabad copies of which are marked as Annexures 14 and 15 to this petition.

VI- That the learned D.R.M./Moradabad, Respondent NO 2, rejected both the appeals Vide his orders dated 31-3-87 and 31-3-87 on the same date which are marked as Annexures No 16/17/18/19/20/21/22/23 and 3 to this petition.

VII- That the applicant submitted his Review Petition to the Respondent NO 1, who directed the C.O.P.S./N.R.LY./New Delhi to pass orders who reduced the punishment of W.I.T. two years to W.I.T. One year and did not pass any order for setting aside punishment of stoppage of 3 sets of passes. Copy of Review Petition is marked as Annexure NO 16 to this petition which was ^(19&20 and 21) _{one} dated 15/5/87.

P.T.O.

dated 15/5/87.

handed

5- Grounds for Reliefs with legal provisions :-

- 1- That the applicant was issued two Charge Sheets for one dated Inspection report of A.O.S.(G)/Moradabad 19/8/86 .on prejudicial basis on the fault of Station Masters "saf pur and Dubtra against whom the applicant had already reported but Respondents did not take any action against them and resultantly they were encouraged by the Respondents and thus they did not paste the correction slips delivered by the applicant to them under their clear acknowledgements which is filed as Annexure NO 15 to this Petition.
- 2- That the Ex-parte Punishment orders are bad in law when the applicant had already submitted the same under clear acknowledgement of the "lly. staff on duty deputed for this work.
- 3- That the rules of natural justice and reasonable opportunities guaranteed under Article 311(2) of the Constitution of India were violated intentionally.
- 4- That both the Station Masters were in Higher Grades than the applicant and as such the applicant had submitted his reports against them for necessary action, but Respondents took no actions which caused encouragements to those Station Masters.
- 6- Details of the Remedies Exhausted :-

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

- 1- That he submitted his appeal to the D.R.M./Moradabad Annexure Nos 17 and 18.
- 2- That the applicant submitted his review Petition to the Respondent NO Vide his review Petitions Annexures NO 19 and 20 which were considered and punishment of 4.I.S.T. Two years was reduced to one year but

PAGE NO. 5

7- Matter not previously filed or pending with any other courts.

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of 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.

8- Reliefs sought :-

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

1- That the impugned punishment orders passed by S.O.O.S./ Moradabad Annexure No 4 and 5 be declared inoperative together with appeal rejected by R.M./Moradabad Annexures No 8 and 9 as well as punishment of W.I.T. One year reduced by Respondent No 1, Annexure No 1

2- The amount of Rs 550/- deducted in respect of punishment for W.I.T. One year be paid with interest of 18 % p.a. till the date of its actual payments.

3- That the 3 sets of passes stopped by Respondents, amount of which should be awarded to the applicant amounting to Rs 1152/- with 18 % p.a. interest till the date of its actual payments.

9- Interim order if any prayed for :-

No interum order is needed in this case.

10- The application is presented in person before the C.M.L.
Lucknow.

10- Particulars of Bank draft filed in respect of application for
handed

(A 21)

PAGE NO 6

Bank Draft NO OT/ 57 A 029011 dated 02-6-89 in respect of the application fees payable to the Registrar Central Administrative Tribunal Lucknow for Rs 50/- issued by State Bank of India Subhash Nagar Bareilly is enclosed.

12- List of enclosures attached.

Verification.

I, Niaz Ahmed, son of Shri Meinuddin aged about 37 years, working as Traffic Inspector Northern Railway Hardoi, Resident of Quarter NO 2-4A N.Rly. Colony Hardoi District Hardoi, do hereby verify that the contents of paras no 1 to 12 of this petition are true to my personal knowledge and belief and that I have not suppressed any material fact.

Niaz Ahmed

Signature of the applicant.

Date 06-6-1989

Place Lucknow

Sh. Niaz Ahmed has signed in my presence

Kamalpur

AEMHRI

दायक अमितस्ता

उत्तर रेलवे, इटावा

Asstt. Engineer

N. Rly. Hardoi

Before central tribunal before me

ब अदालत श्रीमान दाम प्रेसनो १९८९ महोदय

(वादी) अपीलांट
प्रतिवादी (रेस्पान्डेन्ट) श्री

वकालतनामा

A 23



Nuzay Ahmed - applicant

VS

union of India and
others

वादी (अपीलांट)

बनाम

प्रतिवादी (रेस्पान्डेन्ट)

नं० मुकदमा सन् १९

पेशी की तारीख १९ ई०

ऊपर मुकदमा में अपनी ओर से श्री

N.U. Khan Adv एडवोकेट/वकील

महोदय

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पंरवी व जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहानामा वा इकबाल दावा तथा अपील व निगरानी हमारी और से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने वा हमारे हस्ताक्षर युक्त (दस्तखत) रसीद से लेवे या पंच नियुक्त कर वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी इसलिए यह वकालतनामा लिख दिया किया कि प्रमाण रहे और समय पर काम आवे।

Nuzay Ahmed
हस्ताक्षर

साक्षी गवाह साक्षी (गवाह)

दिनांक महीना सन् १९८ ई०

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW.

REGISTRATION NO 129 OF 1989 (Ch)

NIAZ AHMED APPLICANT.

VERSUS

UNION OF INDIA AND OTHERS RESPONDENTS.

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| 12. | ANNEXURE NO 17, Appeal to DRW/MB in case NO 11-T/ 408/86 | 20 | to 21 |
| 13. | ANNEXURE NO 18, Appeal to DRW/MB in case NO 11-T/ 411/86 | 22 | to 23 |
| 14. | Annexure NO 19, appeal to G.M./NDCS in case NO 11-T/408/86 | 24 | to 25 |
| 15. | Annexure NO 20, appeal to G.M./NDCS in case NO 11-T/411/86 dated 06-6-1989 | 27 | to 28 |

(NIAZ AHMED)
APPLICANT.

A 23

ANNEXURE NO 1

PAGE NO 7

NO 11-F/408/86.

D.R.M. S Office/MB.
7.6.88.

Shri Niaz Ahmad L.R/I.I./ CH.

Reg :- Your Review Petition against the N.I.P. of even no dt.
18.12.86.

C.O.P.S. has passed the following Orders :-

" I have gone through the case of this employee ~~in~~ parte action
was taken by the ~~Divisional~~ Authorities in the absence of
any defence.

Apparently he had no defence to offer while disposing off the
charge sheet, speaking order was necessary if the employee
had given the defence and raised objections. There is thus
no irregularity in following the procedures

The appellate Authority maintained the order of the ~~Disciplinary~~
Authority. It appears he was satisfied with the orders
passed by the ~~Disciplinary~~ Authority.

How ever on compassionate grounds only I am reducing the
Punishment to W.I.T. One Year with the hope that he will
improve in his work.

"d. Illegible.

For D.R.M./MB 8/6/88.

C/- G.M. (P)/NIDS in reference to his Letter NO 52 E/ 1174/
EDVA dt 20.5.88 Case NO 11-F/408/86 is here by acknowledged.

T.C.

N.U.Buray
Adv
6/6/89

A 24

ANNEXURE NO 2

PAGE NO 0

D.R.M., S Office/MB.

31.3.87.

NO 11-II/408/86

Shri Niaz Ahmed I.R/T.I./CH.

Re: Your appeal against the N.I.P. of even no dt. 18.12.86

D.R.M. has considered your appeal very carefully and has rejected the same.

Sd. Illegible.

For D.R.M./Moradabad. 31/3

Served on 3.4.87..

Niaz
T.C. N. U. Khan
Adv
6/6/89

Order of imposition of Penalty Rule 6(IV) of the Railway servants (Discipline and Appeal Rules 1968).

NO 11-T/408/86.

Place of issue Moradabad.

To,

Dated 18.12.86.

Shri Niaz Ahemad LR/T.I./CH.

THROUGH T.I./CH.

Since you failed to submit the reply of the Memorandum Charge Sheet No even dated 10.10.86. EX PARTE action has been taken against you

1, there fore hold you guilty of the charge as per charges maintained in the memorandum of even dated 18.10.86 and have decided to impose upon you the penalty of with holding of increment. Your increment raising your pay from RS 1520/- to RS 1560/- in the grade RS 1400-2300 normally due on 1.6.87 is there fore withheld for a period of two years with out postponing your future increment.

2- Under Rule 18, of the railway servants discipline and appeal rules 1968, in appeal against these orders lies to D.O.S./MB provide

1- The appeal is submitted within 45 days from the date you receive the orders, and

2- The appeal does not contain improper or disrespectful language.

3- Please acknowledge receipt of this letter.

D. Devi Pandey,

Br D.O.S./MB.

Disciplinary Authority.

T.C.

N.U. Bham
Par

6/6/89

A 25

ANNEXURE NO 3

PAGE NO 9

D.R.M., S Office/MB.

No 11-F/41186.

31.3.87.

Shri Wiaz Ahemad LR/T.I./CH.

Re: - Your Appeal against stoppage of 3 sets of passes.
of even no dated 18.12.86.

D.R.M. has considered your appeal very carefully and has
rejected the same.

sd. Illegible.

For D.R.M./MB 31/3

Wiaz Ahemad
T.C. M.U. Qureshi
6/6/89

A 27

ANNEXURE NO 5

PAGE NO 11

Order of imposition of penalty rule 6(iv) of the railway servants discipline and appeal rules 1968.

NO 11-T/411/86

Place of issue Moradabad.
Dated 5-1-87.

To,

Shri Miaz Ahmad L.R./T.P./CH. Copy to S.M./T.I./CH C/PASS.

Since you have not submitted the reply of the Memorandum Charge Sheet no even dated 21.10.86 Ex-parte action has been taken against you.

I, therefore hold you guilty of the charges as per Memorandum Charge Sheet no even dated 21.10.86 and have decided to impose upon you the penalty of with holding of the privilege passes and accordingly your three sets of privilege passes are withheld with immediate effect.

2- Under rule 18, of the railway servants discipline and appeal rules 1968, in appeal against these orders lies to MR/MB, provided :-

1- The appeal is submitted within 45 days from the date you receive the orders and

1.1- The appeal does not contain improper or disrespectful language.

3- Please acknowledge receipt of this letter.

Sd. Devi Pandey,
Sr.D.C.S./MORADABAD.
Disciplinary Authority.

Miaz Ahmad
T.C. M.I.D.C.
P.D.V.
6/6/89

(A28)

ANNEXURE NO 6

PAGE NO 12

Statement of Imputation for Charge Sheet NO 11-T/408/86 dt.
10.10.86.

Shri Niaz Ahmed T.I./CH is slack supervision as is evident from the fact that officer's inspection register at ASR was not maintained properly and no action was indicated there on. As a T.I. he failed to get this rectified although he inspected this station on 23/8/85, 11/1/85 and 16/2/86. T.I. should have not stated further inspections with out completion of following action on his previous inspections and in such way he lost the importance and spirit of his inspections. He is not only supposed to give such remarks but is also supposed to get things done by SM in his presence.

Inspection Register of T.I. was also not maintained properly and the inspection notes were not found pasted there in last detailed inspection by T.I. of November 85, 16.2.86 and night inspection of 26.2.86 were available in the register but neither any action taken was indicated nor the same were properly pasted. T.I. has failed to check this register in accordance to its importance. This was observed by AOS(G) during his surprise inspection of AFR on 19.8.86 and violated clause (11) of Sub Rule 1 of page 3 of Rly. service conduct rules 1966.

Sd. Devi Pandey,
Sr. D.O.S./N.Rly./MB.

Niaz
T.C. N.I.U. Deonar,
D.O.M.
6/6/89

A29

ANNEXURE NO 7

PAGE NO. 13

Statement of Imputation for Charge Sheet NO 11 -1/411/86 dt 21.10.86.

Shri Miaz Ahmad T.I./CH. is slack in supervision as is evident from the fact that he has not conducted any casual night inspection of DUB station in the year 1986 which is very serious. Safety literature was not found complete assurance of Divl Bulletin and safety circulars of 1985-86 was not taken at all and T.I. has not pointed out this irregularity in the inspection notes. It is not understood when T.I. takes all literature from office why he failed to supply the same to the station. This clearly reflects on the quality of inspection by T.I.

He has also failed to point out the irregularities regarding incomplete rule books in his inspection order as the correction slips were found kept in the books and were not pasted. This was observed by the AOS(G) during his surprise road-inspection of DUB station on 19.8.86.

He thus violated clause (11) of sub rule 1 of page 3 of Army services conduct rules 1966.

Sd. Devi Pandey,

Sr. D.O.S./MB.

Lahed

T.C. M.I. Dhan
ADM
6/6/89

A 30

THE SP, D.O.S.,
N.RLY./MORADABAD..

Dated 28.10.86.

Sub:- Reply of memorandum no 11-1/408/86 dt 10.10.86.
received on 21.10.86.

Respected Sir,

Before pointing out about the reply of the above noted memorandum, I want to apprise your kind honour that Shri Narresh-Singh is the station master at Asafpur station. His previous history of working at Aonla station is well known to your honour where you have booked off this station master several times while he was at Aonla as SM/Aonla during your working as AOS/MB.

now in reply to this memorandum I want to clarify that I have made several reports to my worthy Sr A/S A/S/MB as regards the working of SM-ADR who is very careless in maintaining any record at the station. As pointed out in your charges that officers-inspection register was not complete when my worthy AOS(G) inspected at this station. What to say of this particular register, he is not maintaining any register correctly and when pressed he is destroying the same register and keeping afresh after the month ending. No muster Roll or over time register or ASM Relief diary can be made available if asked for.

I am at a loss to understand what action can be proposed by the Inspectorial staff when a person is bent upon not to do his work and legitimate duty especially when the office is not taking any cognisance of his short comings on my reports and comments.

Hence considering the circumstances within the limits of T.A. your honour can well decide the action which is to be taken against the undersigned. I may also be granted personal interview to explain the facts in details. However the copy of the comments of Inspection report of AOS(G) is enclosed for ready reference pl. DA/CNE Dated 28.10.86.

Sd. Niaz Ahmad,
T.I./CH.

Niaz Ahmad T.C.

TO,

THE S^r. D.O.S.,
N.Rly./MORADABAD.

Dated 28.10.86.

Sub:- Reply to Memorandum NO 11-T/411/86 dt 21.10.86.

Respected Sir,

With reference to above charges, I want to draw your kind attention towards my quarterly and several inspections in which I had pointed out the serious lapses committed by station staff at JWW, APK, DUB, NSU, BBA, RG and AUR etc. stations respectively where the staff is involved in committing the serious irregularities like leaving stations daily, absentees, remaining underrest and committing gross irregularities in train passing work and changing irregular over time, but it is a matter of great regret that no action has yet been taken against the defaulters where as the neck of the poor T.I. has been caught for a very minor point that at one time i have not pointed out about taking assurance for the safety literature by staff at DUB station on the verbal assurance of the SM/DUB that he will take the assurance from the staff, for this lapse and negligence of the station master DUB for not taking assurance from the staff, T.I. has been issued charge sheet instead of taking up SM-DUB and charge sheeting him for this lapse and negligence.

Secondly I have got all the acknowledgements which i had taken from SM/DUB for supplying him the safety literature. In case he is lacking in showing the required literature to my worthy AOS(G) what is the fault of the T.I. in this regards.

As regards quality of inspections, my inspections are not insuffice (IE Equally Good) as compared to others T.I. for which I am in bad name for pointing out even a very less important irregularity I have already inspected DUB Station almost every month in the year 1986 and reported the irregularities.

Under the circumstances it is requested that the charges may kindly be withdrawn and I may please be exonerated from the charges and personal interview may kindly be granted to explain the desired things in details and the copies of the relied upon documents be supplied.

Dated 28.10.86.

DA/CNE.

Sd. Miaz Ahmed

Y.O.

T.C.
Lahed

28-10-86.

Please receive two envelops containing Letter NO 11-T/408/86 and 11-T/411/86 addressed to Mr DOS/MB for delivery containing reply of Charge Sheets.

(2).

Sd. K.K.SAXENA,
PARCEL CLERK WORKING AS FREE
SERVICE CLERK AT CHANDRAUSTI.

7-25 Hours Of 29.10.86

Nahed

26.10.86.

Circular Safety NO 18

| | | |
|---------|------|-------------------------------|
| Siserka | 1 | 2 " received 2 sd. illegible |
| Asafpur | 1 .. | 2 " received 2 " d. illegible |
| Dabtara | 1 .. | 3 " received " d. illegible. |
| Karengi | 1 .. | 2 " received 3 " d. illegible |
| Reoti | 1 .. | 2 " received " d. illegible. |
| Aonla | 1 .. | 3 " received 3 " d. illegible |

T.C.
Nahed

*M.M.G.
Asl
60/89*

(A 33)

ANNEXIRE NO 12

PAGE NO 17

Letter NO 11-T/411/86,
Dated 14.11.86.

D.R.M.-Office,
N.RLY./MORADABAD.

Shri Niaz Ahmed T.I./CH.

Sub:- Office Memorandum dated 21.10.86.

Please refer to this office Memorandum dated 21.10.86,
which was already received by you, but its reply has not
been received in this office as yet..

Please submit your reply within 3 days else ex-parte action
shall be taken against you.

S.d. Illegible.
For D.R.M./MORADABAD.

Received on 10.12.86,
through T.I./CH,
Shri Sudershan Kumar.

Dated

ANNEXIRE NO 13

PAGE NO 17

Letter NO 11-T/411/86
Dated 25.11.86.

D.R.M.-Office,
N.RLY./MORADABAD.

Shri NIAZ AHMED T.I./CH.

Second reminder.

Sub:- Office Memorandum dated 21.10.86 and reminder dt
14.11.86.

Please refer to this office Memorandum dated 21.10.86,
which was already received by you, but its reply has not
been received in this office.

Please submit your reply within 3 days else ex-parte
action shall be taken against you.

S.d. Illegible.
For D.R.M./MORADABAD.

Received on
10.12.86, through,
T.I./CH Shri Sudershan Kumar.

Dated
T.C. N.U. Khan
6/6/89

A34

ANNEXURE NO 14

PAGE NO 18

12.12.86.

Please receive one envelop containing reply of Letter NO
11-F/411/86 addressed to D.R.M./MB for delivery.

One. Sd. Illegible.

Free Service Clerk/N.Rly./CH.

12.12.86.

Nahed

ANNEXURE NO 15

Page No 18

Circular Slips NO 9 & 10

23-7-86.

| | |
|-------|--------------------------|
| SSKA | 2 Sd. Illegible. |
| AFR | 2 --- 2 Sd. Illegible. |
| DUB | 2 --- 2 Sd. Illegible |
| KEG | 2 --- 2 Sd. Illegible. |
| RBK | 2 --- 2 Sd. Illegible |
| AC | 2 --- 2 Sd. Illegible |
| Nisoi | 2 ----- 2, Sd Illegible. |

Nahed

F.C. N.V. Quam
Ach
6/6/86

(A35)

Stoppage of 3 Sets of Passes during 1987.

Second Class Tickets Purchased EX CH to Ajmer and back for wife, Dependent Mother and two children aged about 8 years and 6 years. respectively. Rs 366 - 00

2- Chandausi to Howrah and Back for the above Members of my family. = Rs 576 - 00

3- Chandausi to Lucknow and back for the above members of my family. Rs 210 - 00

Total fares sent amounting to Rs 1152 - 00

NIAZ AHMED.

T.I./HARDOI.

Niaz
R.C. N.U. Khan
6/6/89

A36

To,
THE Divl. Rly. Manager,
N.Rly./MORADABAD.

Sub:- Appeal against the impugned illegal and unconstitutional punishment EX-Parte order NO 11-R/408/86 dated 18.12.86, for stoppage of increment for two years with out postponing future increment passed by Sr. DOS/Moradabad.

Sir, our humble Petitioner begs to submit the following appeal against the illegal, impugned and unconstitutional EX-Parte Punishment order noted above as under :-

1. That in the first instance charge sheet of even no dt 10.10.86 served on the appellant under rule 3(D) Sub rule (11) of the said rules of 1966 was forceless under the said rule as it stood modified long before the service of the SF-11, as afore said.
2. That the petitioner on receipt of the memorandum charge sheet NO 11-R/408/86 dt 10.10.86 served to the petitioner on 21.10.86 submitted its reply vide his representation dated 28.10.86, copy of which is enclosed for ready reference please duly acknowledge by Free Service Clerk on 29.10.86.
3. That the learned Disciplinary Authority on account of non-connecting of the reply of the petitioner passed above noted punishment order EX-Parte with out affording facility for adducing his defence statement.
4. That the rules of natural justice and reasonable opportunities guaranteed under Article 14, 16, 21 and 25 of the Indian Constitution have been totally ignored by the learned D.A.
5. That no witness was either mentioned in the Memorandum charge Sheet nor was produced or his statement was recorded before the Petitioner and no facility for cross examination of the witness was afforded to the petitioner even the copy of the Inspection report which was relied upon by the D.A. was neither provided along with the charge sheet and nor before issuing the punishment order.
6. That the list of relied upon documents was also not mentioned in the memorandum charge sheet nor any intimation for relying upon the documents to prove the allegations against the petitioner was supplied or informed to the petitioner before passing the punishment order.
7. That the petitioner had requested the D.A. for a personal interview before passing final order in this case, but this facility too has not been granted by the D.A.
8. That the D.A. before passing punishment order, did not issue any show cause notice for arriving to such ex-Parte punishment as noted above.
9. That regarding the charges levelled by the D.A. the petitioner begs to submit the following :-
- (A) - That regarding Inspection of Petitioner 23.8.85, 11.11.85 and 16.2.86 as mentioned in the allegations, the petitioner had already submitted his reports and comments vide his.

Comments on inspection notes of AGS(G)/MB of AFR Station dt 19.8.86 previously and there after along with the reply of the Memorandum Charge sheet submitted on 28.10.86, a copy of the same is also enclosed for ready reference please. This clearly shows that the petitioner had submitted his explanation to the D.A. which by chance could not be connected in this case, though the same is still available in the file which can be perused if so desired please.

B. That the petitioner was further charged that no action was taken for the irregularities which was already taken and report was submitted in periodical inspection notes and the same was also endorsed in the register in question which are available at station also.

10. That on seeing the record available in the file, your honour will conclude that the petitioner was not at all lacking in taking up the matter and reporting the irregularities to the concerning authorities.

11. That Petitioner took all steps for compliance of irregularities which could have been taken by the petitioner but the concerning authorities did not take any action as was considered necessary. Had the action been taken on the reports and comment submitted by the petitioner, the concerning official (SM/AFR) would have not been encouraged for such irregularities.

12. That the petitioner further requests that he may be granted personal interview to your honour to ventilate so many other things which can not be mentioned in this appeal along with his defence counsel before passing final order in this case.

13. That the D.A. was kept ignorant for all the actions taken by the petitioner to eradicate the irregularities through his inspection reports as well as through his comments submitted in this connection and thus the D.A. can also not be blamed for this ex-parte action of illegal punishment and thus the orders passed by D.A. in absence of the petitioner's reports and comments are liable to be quashed to meet end of justice.

14. That the D.A. failed to mention or to open his mind as guaranteed under Rule 1713, that the D.A. will explain the whole reason for reaching to the conclusion of this punishment order which was complied with by the D.A. while punishing the Petitioner and thus Rule 1713 which have been also lacking in this case and the Hon'ble Allahabad High Court in many decisions has cautioned all the D.A. to open their mind for explaining the reasons for reaching to the conclusion of punishment order. As per Special Appeal NO 103 of 1967 Laj Pat Rai Malhotra VERSUS F.A. & C.A.O./N.R.L.Y./Baraoud House NEW DELHI.

PRAYER.

In view of the above, your honour is requested to very kindly cancel the above noted ex-parte punishment order passed by Sr DCS/MB with out connecting the proper record available in the files. The Petitioner also requests for personal interview as already mentioned above before any decision on this appeal DA/ONE Reply of Charge Sheet dated 28.10.86. and comments of inspection reports.

Yours faithfully,
Sd. Niaz Ahmed
F.I./LB/CH.

F. C. Niaz Ahmed
N. V. Oommen
Bell
669

A38

To,
THE D.R.M.,
N.F.LY./MORAD BAGH.

Sub:- Appeal against the impugned, illegal and unconstitutional
Ex parte Punishment Order passed by Mr. D.O.S./MB for stop-
page of 3 sets of passes vide his punishment order No
11-7/411/86 dated 5.1.87.

Sir,
Your humble Petitioner begs to submit the following appeal
for your honour's kind perusal and judicious orders please :-

- 1- That the Petitioner's served memorandum charge sheet no 11-7/411/86 dt 21.10.86 and the petitioner submitted its reply on 28.10.86 along with the comments on inspection note of D.O.S(G)/MB of DUB station at 19.8.86, copy of which is enclosed for ready reference please.
- 2- That the petitioner has been served this memorandum charge sheet on the old rules which were already revised much before the issue of this memorandum as such no punishment can be awarded on the memorandum charge sheet which has been issued to the petitioner on the old rules and not on current rules enforced.
- 3- That the petitioner was not informed or supplied the copies of the relied upon documents and the names of the witnesses through whom the alleged allegations were required to be proved and the statement of the witnesses was not recorded in presence of the petitioner and the petitioner was not allowed to cross examine the witnesses and thus the rules of natural justice and reasonable opportunities guaranteed under Article 311, 14, 162 and 25 of the Indian constitution were violated by the disciplinary Authority and as such the defence of the petitioner was gravely prejudiced.
- 4- That the petitioner's reply and comments submitted at 28.10.86 were not connected in this case and thus the D.A. could not appreciate the reply submitted by the petitioner and passed Ex parte punishment order which is illegal and unconstitutional as well as all the rules framed by the N.F.LY Board in this connection.
- 5- That the Petitioner also referred regarding safety literature under his comments in reply to the charge sheet on 28.10.86 under item no 4 which may kindly be perused, the copy of which is also enclosed for ready reference. His comment is available in the register but was unfortunately not connected with this case and so the D.A. instead of appreciating his working issued this ex parte punishment order which is illegal.
- 6- That regarding the charges levelled by the D.A. the Petitioner begs to submit the following :-

 - A- That the Petitioner supplied all the safety literatures to the Station Master DUB under his clear signatures and acknowledgement which can be shown if so desired.
 - B- That the petitioner has conducted casual inspections of DUB station in the year 1986 almost in every month viz dt 19.1.86, 1.2.86, 12.3.86, 20.4.86, 8.5.86, 29.6.86, 13.7.86 and 27.8.86. The Petitioner had also pin-pointed verbally the SM/DUB to get the correction slips pasted in the rule books, who in turn promised and assured the petitioner for compliance of instructions.

P.T.O.

Wahed *T.C.*
N. V. D.
Adv.
1/1/86

still if he failed to paste them in the rule books, is the utter failure on the part of the SM/DUB for which he should have been taken up and charge sheeted-not the T.I. (Petitioner) vide his inspection note of 27.9.86 item no 41, 42, 43 and 44 and no action has been taken by the learned concerned authority.

8- That all the allegations brought about by the D.A. were duly replied through the comments of the inspection notes of AOS(G) of DUB station dt 19.8.86, on 29.10.86. mere perusal of these notes will clarify the position of the petitioner that he has been punished illegally.

10- That the petitioner craves for a personal interview along with his defence helper before decision of this appeal to ventilate his grievances against the illegal ex-parte punishment order. The Petitioner also wants to explain so many other things which were already reported and explained to the D.A. which can not be mentioned here in this appeal.

9- That the petitioner was not served any show cause notice before passing this ex parte punishment order which is illegal.

11- That the D.A. while passing ex parte punishment order failed to open his mind in the punishment order for reaching on such conclusion of punishment and thus violated rule 1713 which was mandatory on the part of the D.A. as envisaged by so many judgements of the Hon'ble High Court Allahabad who cautioned all the D/Authorities through their Judgements that D/Authority must open their minds for reaching such conclusion and in this case D.A. thus violated rule 1713 and thus punishment order is also illegal on this account ref SLP Appeal NO 103 of 1967 Lajpat Rai Malhotra VS F.A. & C/o N.R.L.Y. Barauda House New-Delhi.

12- That AOS(G) Inspected two stations AFR & DUB on 19.8.86 and pointed out alleged irregularities of both the stations through his one inspection report dt 19.8.86 but the D.A. issued two Memo-random Charge Sheets and punished the Petitioner through two punishments in one inspection note which clearly indicates that the authority was prejudiced with the petitioner which too is illegal and is not in accordance with the rules framed by the My. Board.

PRAYER.

In view of the above facts and circumstances, the Petitioner prays that he may be granted personal interview along with his Defence-Counsel on any date suited to your honour before passing final order on this appeal to explain the circumstances under which this ex-parte punishment order in two punishments have been awarded to the Petitioner. The Petitioner also hopes that judicious views shall be taken by your honour by cancelling ex-parte punishment order to meet the end of justice in this case.

Yours Faithfully,
DA/One Reply of Charge Sheet dt 28.10.86 with enclosures I./CH.
with enclosures copy of the comments,
of inspection report of AOS(G) dt 19.8.86.

Sd Niaz Ahmad,
T.I./CH.

*handed T.C.
N.U.B.
Doh
6/6/86*

A 40

Annexure - No - 19

Annexure No 19

To,

The Chief Operating Supdt./ General Manager,
Northern Railway, Headquarters Office,
Baroda House, N E W - D E L H I.

Through proper channel to forward the case with concerning case file.

Advance copy by Post.

Page No - 24

Respected Sir,

Reg:-Revision under Rule 25 of the R.S.(D&A) Rules, 1968.
Ref:-D.R.M./MB's letter No.11-T/408/86, dated 31.3.1987
rejecting my appeal against stoppage of Increment
for two years consequent of ex-parte proceedings.

19 MAY ^{2nd} What shall be spared by the mad efforts of one, highly
despised mercilessly crushed", with this conviction and all the
profound reverence which the heart of a subordinate is capable of
feeling towards his high official authority and anticipated saviour,
I hesitatingly submit that my worthy D.R.M./MB has not imparted
justice to me. My humble submission is :-

1. That the Estimate committee in Chapter VI of their 24th
Report discussing about the discipline of staff on Railways, circulated
under Railway Board's letter No. E 56 RG-622, dated 11.1.1957, have
observed as under:-

"A SENSE OF DISCIPLINE CAN NOT BE IMPOSED ON A
PERSON MERELY BY THE SEVERITY OF LAW OR BY THE AMOUNT OF PUNISHMENT
IMPOSED. IT HAS TO BE INculcated BY THE UNDERSTANDING AND APPRECIATING
THE HUMAN VALUES. AT ALL STAGES ATTEMPTS HAVE TO BE MADE TO MOULD THE
CHARACTER OF A PERSON SO AS TO MAKE HIM RESPONSIVE TO THE SENSE OF
DISCIPLINE."

The Committee have, therefore, recommended that "THE STRESS
SHOULD BE MORE ON CREATING A FRAME OF MIND THAT WILL VOLUNTARILY
FOLLOW THE RECOGNISED RULES OF CONDUCT THAN ON ENFORCING SUCH RULES BY
CREATING A FEAR-COMPLEX." The Disciplinary authority, my Sr.D.O.S./MB
has acted quite contrary to the recommendation of the Estimate Committee.

2. That the procedure as laid down in the Discipline and
Appeal Rules has not been followed and this non-observance of the rules
has resulted in failure of justice to me as crystal clear, besides all
other, from the following evidences on record :-

(a) As per Railway Board's Order No. E(D&A)70 RG 6-58,
dated 18.11.1970, orders passed in a disciplinary case, being of
statutory nature must be communicated over the signature and designation
OF THE AUTHORITY COMPETENT to pass the order. In the present case the
ORDER has been signed by some one for D.R.M./MB and therefore, I am
definitely deprived to know from the exact order passed by the D.R.M./MB.

(b) To know the exact order of the Appellate Authority, ~~EVERY~~
D.R.M./MB, an application dated 5.4.1987 was submitted, after receipt
of the decision signed for D.R.M./MB, to furnish me the verbatim copy
of the orders passed by the Appellate Authority, for understanding the
order in its true perspective and then to submit appeal but all in vain.

(c) According to the orders of the Railway Board No.E(D&A)78
RG 6-11, dated 8.8.1978, P.S.No. 6966, "THE AUTHORITY PASSING THE FINAL
ORDERS MUST APPLY ITS MIND TO ALL THE FACTS AND RECORD OF THE CASE AND
SHOULD THEN PASS THE ORDER GIVING REASONS THEREFOR." A kind perusal of
the letter No. 11-T/408/86, dated 31.3.1987, where in no reasons have
been recorded for rejection of my appeal, manifestly proves that the
orders passed by D.R.M./MB are not a "SPEAKING ORDERS."

Contd. page 2.

J.C.
N.Y.B.
D.G.
dated 07/08/88

Page 2.

(d) It is a basic principle of Jurisprudence that no one should be punished without being heard and affording a reasonable opportunity of submission of his defence. The very fact as evident from the Notice of Imposition of Penalty of Sr. D.O.S./MB, who has taken ex-parte action, that I have been deprived of the elementary opportunity of submission of my defence reply. Therefore, the punishment awarded on me is illegal, unjust, void and against the principles of Natural Justice.

(e) I am a senior subordinate, and our every day movement is available with the Dy. Chief Controller (Operation). In case my reply, which I did submit and its acknowledgement available in my Dak Book, had not been connected with the relevant file, he could call me in office and obtained a reply on the spot, as is done every day in so many cases. It is my sheer bad luck that my worthy Sr. D.O.S./MB by past the procedure, proves beyond any shadow of doubt that he did take ex-parte action being misguided, influenced and persuaded to save the actual culprits, closely connected with A.O.S.(G)/MB, being of Scheduled Cast. THIS FACT IS CRYSTAL CLEAR FROM THE FACT THAT THE STATION MASTER, AFR AT WHOSE STATION THE OFFICERS INSPECTION REGISTER WAS NOT MAINTAINED PROPERLY AND NO ACTION WAS INDICATED THEREIN, HAS NOT BEEN EVEN ISSUED ANY CHARGE SHEET ONLY BECAUSE THEY ARE SCHEDULED CAST AND CONNECTED WITH A.O.S.(G)/ MB. STRANGE JUSTICE AND WAYS TO WEED OUT INEFFICIENCY.

(f) In terms of the Department of Personnel and Administrative Reform's (Cabinet Secretariat) O.M. No. 11012/10/76-Estt.(A), dated 6.10.1976, circulated under Railway Board's letter No. E(D&A) 81 RG 6-22, dated 18.8.1981, "THE DISCIPLINARY AUTHORITY WHILE TAKING EX-PARTY ACTION CAN NOT OVER LOOK THE CONCERNING RECORD AND OTHER EVIDENCES." Had the Disciplinary Authority taken the trouble of examining the relevant Inspection Notes of mine wherein I have every time adversely commented against the Station Master, AFR (Asaf Pur) and even the imputations framed against me, no one would have taken any action against me and would have definitely initiated action against S2M./AFR. It is, therefore, established that the Disciplinary Authority had not acted as per instructions of the Railway Board and the punishment so awarded is not only malicious but entirely illegal null and void.

(g) Vide para 12 of my appeal, I had requested the Appellate Authority for a personal hearing which he did not grant. Thus violated Supreme Court orders, in Nageshwar Rao Vrs. A.P.E.R. Transport co-operative all K.I.R. 1959, S.C. / 308, emphasising its utility the Supreme Court observed

"PERSONAL HEARING ENABLES THE AUTHORITY CONCERNED TO WATCH THE DEMEANOUR OF A WITNESS AND CLEAR UP HIS DOUBT DURING THE COURSE OF ARGUMENTS AND TO THE PARTY APPEARING TO PERSUADE THE AUTHORITY BY REASONING ARGUMENTS TO ACCEPT HIS POINT OF VIEW." Had it been done the appellate authority had no grounds to reject my appeal against the malicious punishment imposed to save Station Master a close associate of AOS(G)MB. H./1

3. That the punishment imposed on me is not warranted by the evidence on record as manifestly clear, besides all other, from the following salient facts on record :-

(i) A kind perusal of the imputation framed against me will satisfy your goodself that it proves that Station Master, Asaf Pur, was not maintaining various registers and records properly. THE STATION MASTER ASAF PUR IS OF HIGHER GRADE THAN MYSELF. MORE ALSO HE BELONGS TO SCHEDULED CAST COMMUNITY AND IS CLOSELY CONNECTED WITH A.O.S.(G)/MB. I HAD IN MY EACH AND EVERY INSPECTION OF ASAF PUR HAD COMMENTED ADVERSELY ABOUT THE PERFORMANCE OF THE STATION MASTER WHOM THE AUTHORITIES NEVER QUESTIONED FOR THE IRREGULARITIES AND AGAINST ALL CANONS OF JUSTICE I HAVE BEEN MADE A SCAPe GOAT FOR THE ONLY REASn THAT I HAD DONE MY DUTY HONESTLY AND HAD HIGH LIGHTED THE IRREGULARITIES OF THE PERSON WHO

CONTD. PAGE 3.

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FOR WHATEVER OR UNFORTUNATELY HAPPENS TO BE A PERSON OF AOS(G)/MB, AS PER IMPUTATIONS THE AUTHORITIES WANTED ME TO DO THE WORK OF THE S.M. WHO IS KEPT AND PAID TO ENJOY AND NOT TO WORK.

(ii) As luck would have it, the punishment has been awarded on the inspection report of AOS(G)/MB, who was annoyed with me because of repeated adverse comments in my each and every inspection report about the working of S.M. Asaf Pur and I dare submit that the imputations as framed against me does not warrant issue of any Memorandum which had been signed in routine and the punishment on such a ground only magnify the abuse of official authority and malafied intention.

(iii) The ex-parte action taken against against me is itself wrong, erroneous and vexatious since the acknowledgement of its despatch is available in my Duk Book which can be produced if so desired. In face of this documentary evidence, it is established beyond any shadow of doubt that there was no justification in ex-parte action and the punishment so awarded is not supported by the facts on record. I am in no way responsible and required to get a particular paper connected in a particular case file.

(iv) Consequent of this inspection report of AOS(G)/ MB and on his approaching Sr.D.O.S./ MB, I was transferred from Chandausi as Leave Reserve T.I.(M) and a junior person posted vice me against the policy and the decision arrived at in the P.N.M. Meeting of NRMU held with the G.M. on 15th and 17th September, 1966 in respect of item 27 (a), circulated under G.M./N.Rly circular No. 940-E/0-111(Eiv), dated 30.12.66. Such a treatment will definitely encourage inefficiency and corruption.

4. That the Article 20/(I) of the Constitution of India guarantees protection from ex post facto law. G.M./N.Rly had also vide his circular No. 52-E/0/26-IV(Loose), dated 18.10.68 issued orders that violation of Rule for which the accused Railway Servant is taken up should invariably be quoted in the Memorandum Charge Sheet. I have been charged for violation of clause (ii) of sub-rule (I) of Rule 3 of the Railway Servants Conduct Rules, 1966. The Railway Board vide their letter No. E(D&A) 86 GS 1-5, dated 14.7.1986 has clarified this clause which reads as, " A RAILWAY SERVENT WHO HABITUALLY FAILS TO PERFORM THE TASK ASSIGNED TO HIM WITHIN THE TIME SETFOR FOR THE PURPOSE AND WITH THE QUALITY OF PERFORMANCE EXPECTED OF HIM SHALL BE DEEMED TO BE LACKING IN DEVOTION TO DUTY WITHIN THE MEANING OF CLAUSE (ii) OF SUB RULE (I)." In view of the clarification the charge sheet is against the Article 20/(I) of the constitution of India and the punishment so awarded is illegal and stands to be quashed.

5. That before I close, it will not be out of point to mention recommendation No. 109 of the Railway Corruption Enquiry Committee which is as under:-

" 109- OFFICERS SHOULD BECOME LEADERS OF MEN WORKING UNDER THEM BY SETTING EXAMPLE OF EFFICIENT AND HONEST HANDLING OF THE TASK ALLOTTED TO THEM AND BY THEIR ABSOLUTE FAIRNESS AND IMPARTIALITY IN THEIR DEALINGS WITH THEIR SUBORDINATES."

It is, therefore, most humbly requested that the illegal, unjust, erroneous and vexatious punishment imposed on me, may very kindly be set a side. It is further requested that a personal hearing be also granted, in case your graciousself is not satisfied with any of the point mentioned above, so that I may explain the same to your satisfaction.

With hope of justice, I cherish towards you.

Yours Faithfully,

Niaz Ahmad

(Niaz Ahmad)
Relieving T.I.(M)/Chandausi.

Dated 15th. May, 1987.

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N.U.
D.O.P
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Niaz Ahmad

Annexure No-20.

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To

Page No 27

Annexure No-20

(pg No 27)

The Chief Operating Supdt/The General Manager,
Northern Railway, Headquarters Office,
Baroda House, NEW DELHI.

Through proper channel with the request to forward the case early.

Respected Sir,

Advance copy by post

Reg: Revision under Rule 25 of the RS(D&A)Rules, 1968.

Ref: D.R.M./MB's order No.11-T/411/87, dated 31.3.1987
rejecting my appeal against with holding three sets of privilege passes.

Having been gravely aggrieved by the above captioned order, the humble appellant most respectfully begs to submit his revision petition for reconsideration and cancellation of the punishment order No.11-T/411/86, dated 5.1.1987 of my worthy Sr. D.O.S./MB. My humble subission is:-

1. That I had in my revision petition dated 15th May, 1987 in the co-related case No.11-T/408/86, dated 31.3.1987. rejecting my appeal against stopage of Increment for two years, copy enclosed for perusal and ready reference, in detail explained the non-observance of rules, grounds and reasons of punishment and cogent reasons for cancellation of the impugned, erroneous and vexatious ex-parte punishment order which equally apply in the present case as well, except that that was pertaining to Asafpur station and this is concerned with Dubtra(DUB) station, where Shri R.R. Verma, station master whose son is an IRTS Officer well known to Sr. DOS is posted, who has been delivered prior to the inspection of AOS(G), all the safety circular and correction slips under clear acknowledgement in my possession, which can be shown on personal hearing granted. It is not understood that in face of these documentary evidences I have been punished for the negligence of the Station Master who is not only a father of an IRTS Officer but also higher in grade than myself, who has not been even charge-sheeted for his lapses, while on his fault Sectional TI has been charge-sheeted and ex-parte punishment of SOP 3 sets of privilege passes imposed by the worthy Sr. DOS.

2. That both the punishment orders are the resultant of AOS(G)/MB inspection dated 19.8.1986 of CH-BE section. Since the both cases are part of the same inspection of the same officer of the same day and the gravity warranting Minor penalty in both the cases, only one minor penalty Memorandum Charge Sheet ought to be issued. The issue of two Memorandum Charge Sheet undoubtedly substantiate the malafide intention of the disciplinary authority to impose double punishment which he has done by imposing W.I.T. two years in respect of Asaf Pur station and with holding of three sets of privilege passes. Such a action is violative of Article 20/(2) of the Constitution of India which guarantees protection from double jeopardy.

⑤ Constitution of India which guarantees protection from double jeopardy.

dated

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Since the punishment imposed are violating Articles 20/(1) & (2) of the constitution of India, it has no legal force and the same stands to be quashed.

Submitted for your honour's justiciable and compassionate consideration and kind orders please. Because my service record is quite neat and clean and without any punishment except these Ex-Parte punishment for no fault of mine, it is my begining of the career and I have endeavoured to save it from being spoiled always and this is why I have been working sincerely, enthusiastically and honestly.

It is therefore respectfully prayed to your kind honour that kindly cancell these ex-partre illegal punishment and save my starting career from being spoiled so that I could improve my working further more and give better output.

With regards.

D.A./One Revision petition
in three sheets.

Yours faithfully,

Niazi Ahmed
(Niazi Ahmad)
R/T.O.(M)
CHANDAUSI.

May 15, 1987.

Abdul

T-C
N.U.O.M
Abdul
6/6/89

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CIRCUIT BENCH, LUCKNOW.

WRITTEN STATEMENT ON BEHALF OF THE RESPONDENTS.

In

REGISTRATION CASE No. 129(L) of 1989.

Niaz Ahmad.....Petitioner.

Versus

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

Written Statement of D. P. Pandey
Serving as Senior D.O.S.
Northern Railway, Moradabad.

1. That I am Serving as Sr Divl. Optg. Supdt
Northern Railway, Moradabad. I have been deputed to
file this Written Statement on behalf of the respondents.

Read copy for file.

5/3/90
D.P.P.

2. That I am fully acquainted with the facts stated
below.

3. That I have read and understood the contents
of the above noted Registration case and am in a
position to give a parawise reply.

4. That paras 1 and 2 of the petition need no
comment.

5. That para 3 of the petition is not admitted.

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The petition is highly belated.

6. That in reply to para 4(1) of the petition it is stated that on 19.8.1986, Assistant operating Superintendent (General), Northern Railway, Moradabad made Surprise inspection of Asafpur and Dubtara Railway Stations (both of these Stations were under the beat of petitioner).

The irregularities detected in both the aforesaid Railway Stations were of a different nature, for the irregularities at Asafpur Railway Station, the Station Master Asafpur as well as the petitioner Niaz Ahmad were responsible and this being so the Station Master Asafpur and Traffic Inspector (Petitioner) were both taken up and both were awarded punishments. For irregularities at Dubtara Railway Station the petitioner Niaz Ahmad was solely responsible and consequently he was taken up and punished accordingly. It is pertinent to mention that most of these irregularities were on account of slackness, negligence and lack of devotion to duty on the part of petitioner. Station Master Asafpur has also been punished with stoppage of 3 sets of passes.

7. That in reply to para 4(II) of the petition it is stated that it is misleading to State that on the basis of one inspection report two charges were issued to the petitioner. The facts have been distorted by the petitioner. The correct factual position is that the Inspecting Authority was one i.e. Assistant

प्रबंधन परिचालन अधीक्षण
उत्तर रेलवे, मुरादाबाद
Sr. Divl Optg. Supdt.
N. Rly, Moradabad

operating Superintendent (General) Northern Railway Moradabad. Who Inspected both the Railway Stations (Asafpur and Dabtara) on the same day irregularities detected were of different nature and in respect of different Railway Stations and as such two charge sheets relating to different charges in respect of these Railway Stations were issued separately to the petitioner.

It is further clarified that Shri Niaz Ahmad was issued charge Sheet No. 11-T/408/86 dated 20.10.1986 as he failed in his duties as Traffic Inspector to ensure the action taken on inspection notes at Asafpur Station where he kept on visiting the Station without caring for follow up action etc. on officer's Inspection Register as well as T.I. Inspection register maintained separately for the Station.

Shri Niaz Ahmad was also served with charge sheet No.11-T/411/86 dated 21.10.1986 as he failed to conduct either casual Inspection or night Inspection during the whole of 1986, of Dabtara Station where safety records were found incomplete and haphazard.

8. That in reply to para 4(III) of the petition it is stated that inspite of reminders no defence reply was received from Shri Niaz Ahmad, and as such the matter had to be proceeded ex-parte. It is further relevant to point out that Shri Niaz Ahmad, the then Reserve Traffic Inspector, Chandausi had

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been coming to Divisional Railway Manager's Office, Moradabad every week on his nominated day. Under these circumstances it is apparent that the plea of sending reply in Free Railway Service is wholly untenable. Moreover the Free Service Daks are meant for use of Railway Administration only and the same cannot be utilised by a Railway employee in his own interest.

It is further relevant to mention that Shri Niaz Ahmad acknowledged the charge sheets on 21.10.1986. As per rules Shri Niaz Ahmad should have submitted his representation within 10 days of the receipt of charge sheet. However in the expiry of 10 days time, ex parte action was not taken. In view of the principles of natural justice Shri Niaz Ahmad's defence reply was awaited, and for which he was given reminders. Ex parte action was taken after 2 months when Shri Niaz Ahmad did not care to submit his reply.

9. That in reply to para 4(IV) of the petition it is stated that replies being ^{not} available there was no question of connecting the same. Under these circumstances Senior D.O.S. was perfectly justified in passing the orders in question.

10. That in reply to para 4(V) of the petition it is stated that Shri Niaz Ahmad preferred the appeals to Divisional Railway Manager, Moradabad on 28.1.1987 against the orders of punishment. It is wrong to allege that the appeal ^{was} dated 18.12.1986. Shri Niaz Ahmad preferred appeals along with defence

संविधान विभाग
संविधान विभाग
Sr. Divl Optg. Supdt.
N. Rly, Moradabad

replies in both cases separately. His appeals were considered with defence replies and were turned down by the appellate authority in both cases.

11. That the averments made in para 4(VI) of the petition are matter of record and as such no specific reply is needed.

12. That the averments made in para 4(VII) of the petition as they stand are not admitted. It is further stated that Shri Niaz Ahmad preferred Review Appeal dated 8.4.1987 to Divisional Railway Manager, Moradabad against punishments orders i.e. W.I.T. two years and stoppage of 3 sets of passes vide punishment No.11-T/408/86 and 11-T/411/86 respectively. The Divisional Railway Manager rejected the Review appeal as the matter had already been considered by him separately.

It is, further relevant to mention that Shri Niaz Ahmad thereafter filed Revision petition dated 15.5.1987 to Chief operating Superintendent, Baroda House, New Delhi against the orders of W.I.T. for 2 years. The same was considered by Chief operating Superintendent and the punishment of W.I.T. for 2 years was reduced to W.I.T. one year.

The petitioner, Shri Niaz Ahmad however did not prefer any Revision petition to Chief operating Superintendent against the orders of Stoppage of privilege passes(3 sets) and as such the question of passing orders by C.O.P.S. against this punishment

पश्चिम रेलवे अधीक्षक
उत्तर रेलवे, मुमदायाद
Sr. Divl Optg. Supdt.
N. Rly, Moradabad

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does not arise.

13. That para 5 of the petition is not admitted.
None of grounds taken are tenable.

14. That the averments made in para 6 of the petition are matter of record and as such no specific reply is needed.

15. That para 7 of the petition needs no reply.

16. That para 8 of the petition is not admitted. It is, further stated that the petition is devoid of merits and is liable to be dismissed.

17. That para 9 and 10 of the petition needs no reply.

प्रधान प्रमुख परिचालन अधीक्षण
(Signature) आवाद

Sr. Divl Optg. Supdt.
VERIFICATION N. Rly, Moradabad

I, D.P. Pandey
Sr. Divl. Optg. Subdt
Moradabad do hereby verify that paras 1, 2 and 3 of this Written Statement are verified from personal knowledge, paras 4 to 12, 14 and 17 are verified from record, paras 13, 15 and 16 are verified from legal advice.

Serving as

Northern Railway,

प्रधान प्रमुख परिचालन अधीक्षण
उत्तर रेलवे, मुगादाबाद
Sr. Divl Optg. Supdt.
N. Rly, Moradabad

Place: Moradabad
Dated: 23-1-90

.....
(Signature)
प्रधान प्रमुख परिचालन अधीक्षण
उत्तर रेलवे, मुगादाबाद
Sr. Divl Optg. Supdt.
N. Rly, Moradabad

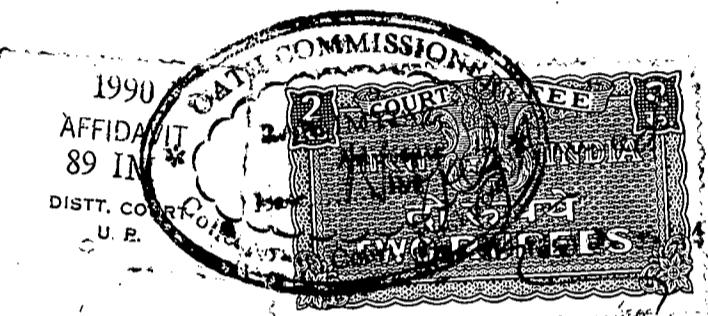
AS/

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL: CIRCUIT BENCH:
LUCKNOW.

O.A. No. 129 - 88 (C)

Fixed on 24.6.90 for RA

3.7.90 for FH



Niyaz Ahmad Claimant

Vs.

Union of India & Others Respondents

REJOINDER AFFIDAVIT on behalf of
Claimant

I, Niyaz Ahmad, aged about 39 years, son of Sri Moinuddin, resident of Quarter No. T4-A, N.Rly. Colony, Hardoi, do hereby solemnly affirm and state on oath as under :-

1. That deponent being claimant is fully conversant with the facts of case. He has read and understood the contents of written statement (hereinafter referred as W.S.) filed on behalf of respondents, to which he furnishes this reply.

2. That contents of paras 1 to 4 of WS Need reply.



Niyaz Ahmad

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3. That contents of para 5 of W.S. being vague are denied. Original Punishment Orders are dated 18.12.86 (Annexure 4) and 5.1.87 (Annexure 5). Against these orders deponent preferred two appeals contained in Annexures 17 and 18. Both these appeals were rejected vide order dated 31.3.87 received on 3.4.87 contained in Annexures 2 and 3. Aggrieved from the appellate decisions contained in Annexures 2 and 3 deponent preferred two revisions dated 15.5.87 contained in Annexures 19 and 20. Order on these ^{revisions} petitions was passed on 7.6.88 as contained in Annexure 1. Thus departmental remedy as prescribed under relevant rules exhausted only on 7.6.88 whereas claim petition filed on 6.6.89 is perfectly well within time.

4. That regarding contents of para 6 of W.S. it is added that claimant had neither any prior intimation of such inspection nor he was present at the time of inspection. It is specifically denied that so called irregularities were due to any negligence or fault of claimant. Mere fact that concerned station master was punished does not lead to conclusion that claimant was guilty. In any view of the matter deponent was altogether denied with opportunity of defence and he was not permitted to have his say during entire enquiry. As disclosed in para iii page 3 of the petition.

Riaz Ahmad



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Deponent's replies of both charge sheets were submitted on 28.10.86 and again on 12.12.86 (as evident from perusal of Annexures 10 and 14) ~~was~~ but the same were not at all taken into consideration. Deponent is advised to state that this fact alone is sufficient to nullify the action of respondents.

5. That contents of para 7 of W.S. are denied. Two charge sheets were served upon deponent only to harass him. Deponent has never been negligent in performance of his duties.

6. That contents of para 8 of W.S. are denied. Deponent submitted replies of both the charge sheets on 28.10.86 as per mode described in para 4 (iii) at page 3 of claim petition, for which a receipt was issued by the concerned Railway Free Service Clerk which is contained in Annexure No.10. Again when deponent received reminders (Annexures 12 and 13) he again submitted duplicate of both the replies vide Annexure 14. Originals of Annexures 10 and 14 are in custody of deponent and same will be produced before Hon'ble court as and when required. There is no bar for sending reply of charge sheet through Free Railway Service. Replies of the charge sheets were also submitted by hand and it were only sent through Free Railway Service when receipt of these replies could not be asked for by deponent on account of courtesy and nor the respondents issued any such receipt.

7. That contents of para 9 of W.S. are denied

Maz Ahmed



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in view of concerned facts already stated in claim petition as well as in this Rejoinder Affidavit.

8. That contents of para 10 of W.S. are not admitted as written. Appellate authority has wrongly rejected the appeals without even according opportunity of personal hearing to the deponent in violation of Rule 24 of Railway Servants (D & A) Rules 1968. The entire proceedings have been conducted in complete disregard of relevant service rules Art. 311 constitution of India and provisions of Natural Justice.

9. That contents of para 11 of W.S. are matter of record.

10. That with regard to contents of para 12 of W.S. it is submitted that Annexure 20 is the True Photo copy of duplicate of Revision Petition which bears the official receipt seal of N.Railway HRs.

11. That contents of paras 13 and 14 of W.S. are denied and these stated in claim petition are re-iterated to be correct.

12. That contents of para 15 of W.S. need no reply.

13. That contents of para 16 of W.S. are denied. It is submitted that on account of inadvertant clerical error Annexures No.8 and 9 have been wrongly mentioned which should be Annexures 2 and 3.

Naz Ahmed



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14. That contents of para 17 of W.S. need no reply.

Deponent

Niyaj Ahmad

Niyaj Ahmad

LUCKNOW: DATED

25th June 1990.

Verification

I, deponent named above do hereby verify the contents of paras 1 to 14 of this affidavit to be true from my personal knowledge. No part of it is false and nothing material has been concealed. So help me God.



25th JUNE: 1990.

Deponent

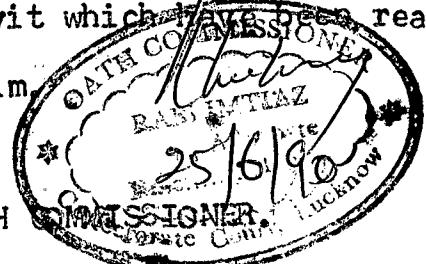
Niyaj Ahmad

Niyaj Ahmad.

I know and identify the deponent who has signed on this affidavit in my presence.

A K DIXIT
A K DIXIT,
Advocate.

Solemnly affirmed before me by the deponent Shri Niyaj Ahmad, on *25th* day of June 1990 at *11 a.m.* / *p.m.* who is identified by Sri A.K. Dixit, Advocate, High Court Lucknow Bench Lucknow. I have satisfied myself by examining the deponent that he understands the contents of this affidavit which have been read out and explained by me to him.



OATH COMMISSIONER