

ANNEXURE - A

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOW

INDEX SHEET

Cause Title OA 235 of 1989 (U)

Name of the parties S. C. Agarwal Applicant.

Versus.

Ministry of Indigo

Respondents.

Part A, B, C.

No. Description of documents Page.

1.	Check list	A1 - A2
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Bench Copy

B1 - B75

C Part

C1 - C2

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

Recd. 1/2/12  
on 10/12/12

R/C  
Bapt 24-6-2011

(A)

CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

4/9/1989

Registration No. 235 of 1989 (L) *Case No. 114089*

APPLICANT(S) S.C. Agarwal

RESPONDENT(S) Union of India & others

*See 04-9-89*

Particulars to be examined

Endorsement as to result of examination

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 ?	Five Sets filed
3. a) Is the appeal in time ?	Yes
b) If not, by how many days it is beyond time ?	—
c) Has sufficient cause for not making the application in time, been filed ?	—
4. Has the document of authorisation, Vakalatnama been filed ?	Yes
5. Is the application accompanied by B.D./Postal Order for Rs.5/-	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 ?	—
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	—
c) Are the documents referred to in (a) above neatly typed in double space ?	Yes
8. Has the index of documents been filed and pagging done properly ?	Yes
9. Have the chronological details of representation made and the outcome of such representation been indicated in the application ?	Yes
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal ?	—

2

Particulars to be Examined

Endorsement as to result of examination

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

12. Are extra copies of the application with Annexures filed ?  
a) Identical with the Original ? Yes  
b) Defective ? No  
c) Wanting in Annexures No  
Nos. \_\_\_\_\_ pages Nos. \_\_\_\_\_ ?

13. Have the file size envelopes bearing full addresses of the respondents been filed ? No

14. Are the given address the registered address ? Yes

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

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

17. Are the facts of the case mentioned in item no. 6 of the application ?  
a) Concise ? Yes  
b) Under distinct heads ? Yes  
c) Numbered consecutively ? Yes  
d) Typed in double space on one side of the paper ? Yes

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

19. Whether all the remedies have been exhausted. Yes

dinesh/

litigate before Hubble  
Court on 11.10.89  
Ree  
11.10.89.

A3

Serial  
Number  
of  
order  
and date

11/1/89

Brief Order, Mentioning Reference  
if necessary

No Siling Ady. 1. 9-11-89  
Hon'ble Mr. D. R. Agrawal, J.M.

How complied  
with and  
date of  
compliance

See  
original order  
on  
main Petition

Shri K.P. Srivasta, counsel for the  
applicant heard.

ADMIT.

Issue notice to responder  
affidavit within 4 weeks to file case  
applicant may file rejoinder within 3 weeks  
thereafter.

List this case for orders / hearing  
case may be on 11-1-1990.

Or  
Notices issued  
Sh  
4/12/89

J.M.

rmv

11-1-90

No Siling Ady to 15-1-90  
As for the applicant is present.

11/1/90

as

Notices issued on 4/12/89

Neither reply  
nor any unserved  
rep. Case has  
been return back  
submitted to  
order

18-1-90

Hon J.P. Sharma, J.M

On the request of Shri P.  
Srivasta, the case is adjourned to  
29-1-90

J.M.

29/1/90

No notice to Mr.  
K. T. Raman, Esq.

Or

Reply filed  
submitted to  
order

Notice has not been filed despite  
opportunities. The case be listed  
for ex parte final hearing

29/1/90

No notice filed  
by

on 22/3/90.

Wt.

Am.

Dw

VC

2/4

Dinesh

5.4.91 - Case not reached adjourned

to 23.4.91.

R  
B.C

Hon. Mr. D. K. Agrawal. J.M.  
Hon. Mr. K. Obayya. A.M.

On the request of Sri A. Bhargava  
Counsel for respondents case is adjourned  
to 28.6.91 for hearing

b  
A.M.

J.M.

28.6.91 - Hon. Mr. K. Obayya -  
Hon. Mr. S. H. Prasad - A.M.  
J.M.

On the request of counsel  
for the 1st party case is  
adjourned to 4.7.91. for  
hearing

J.M.

D  
A.M.

Received  
copy & judgment  
K.D. 12/7/91

Received copy  
J.M. 12/7/91

A5

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH

LUCKNOW

O.A. 235/89

S.C. Agarwal

Applicant

versus

Union of India & others

Respondents.

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

Hon. Mr. A.B.Gorthi, Adm. Member.

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

The applicant who is Chief Controller under Divisional Railway Manager, Northern Railway, has approached this Tribunal against the punishment order vide Memo dated 27.2.89 imposed by Chief Passenger Traffic Superintendent. The applicant was served with a chargesheet containing the following imputation of charges:

"On 5.8.87 Shri S.C. Agarwal was performing duties in the capacity of Dy. CHC(P) in Lko CNL in 0 to 81 hrs shift. As per record there were 37 cases of S&T failures on the division. But Shri Agarwal recorded and relayed to H.Q. office emergency CNL only 16 such cases i.e. 21 cases short. This was a very serious blunder on the part of Shri Agarwal who should have thoroughly checked the records before relaying the figures to H.Q. CNL on that date. The mistake was detected in time and rectified as such. .

Then the correct information had to senior CNL be given to the H.Q. office. Being a very senior

Ab

CNL hand and class III employee; Agarwal before the act is absolutely unbecoming of Shri Agarwal. Before gathering and then relaying this vital information to H.Q. office, CNL, Shri Agarwal should have first ascertained the correctness and veracity of the statics. Had it not been detected timely, wrong information might have been conveyed to the H.Q. office CNL. This is an act of gross dereliction of duty and absolute apathy towards the prescribed work. Shri Agarwal is therefore, held squarely responsible for the above lapse in violation of Para 3-I(ii) and (iii) of Rly. Servants Conduct Rules of 1966."

The enquiry took place in respect of the said charge and the applicant was punished and the respondent No. 3 disciplinary authority held him guilty of the alleged CNL failures awarded him punishment of reduction in rank in guard grade 'C' in grade Rs 330-560 (1200-2040 RPS). The applicant made appeal against the same and Additional Divisional Railway Manager/T who disposed of the appeal reduced the punishment of reduction in rank ~~only~~ one grade below for a period of one year affecting future increments and seniority on restoration fixing the pay at the lowest of the grade. Against this order the applicant filed review petition before the General Manager and Chief Personnel Traffic Superintendent who reduced the punishment to withholding of increment for one year temporarily.

The applicant has challenged the punishment order stating that he was not guilty and. The applicant has not only challenged the findings of the enquiry officer

-3-

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but also the enquiry proceedings itself. The enquiry proceedings have been challenged on the following grounds:

1. The charge sheet is illegal as the particulars of the witnesses were not given.
2. The copies of the relevant documents were not supplied to him.
3. the figures of 37 were relayed to H.Q. office and not 16 as alleged by the respondents.
4. the applicant was denied the reasonable opportunity to be examined first.
5. the Enquiry Officer proceeded ex parte in the absence of defence helper.

Rule 9 of the Railway Servants (Discipline & Appeal) Rule, 1968 provide what is to accompany with the enquiry report and how the enquiry should be proceeded. It is the requirement of the rule that the ~~documents~~ documents relied upon should be given, witnesses to be examined are to be mentioned. In the instant case in the charge-sheet only one document was mentioned, relying on the report of CHC, Lucknow dated 7.8.87. So far as the list of witnesses is concerned it was making document in evidence No. 2 CHC, Lucknow and on the margin there is some sort of cross mark. The applicant moved the application for certain documents but documents were not given to him and even he was not asked to produce documents. The officer concerned was not examined and as a matter of fact the witnesses mentioned in report were examined, on that date the applicant's helper was not present, the applicant prayed for the same but

was not granted. The opportunity was not given to him. As a matter of fact it was the applicant who should have been examined. The witnesses in support of his defence but the same was not done. The applicant was not asked to tender evidence. As a matter of fact we have not been able to get any such document which confer power upon the enquiry officer to have any deviation from the procedure laid down in rules. The applicant was not asked to give evidence. This is a serious flaw which not only is in violation of rules but also is violative of principles of natural justice; in as much as due opportunity to defend the applicant is not given. Accordingly, this application is allowed. It is for the respondents <sup>k</sup> proceed with the enquiry in accordance with law.

Shansayn  
A.M.

W  
V.C.

Shakeel/

Lucknow Dt. 5-7-91.

O.A.NO.235/89(2)

Recd

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE  
TRIBUNAL'S ACT 1985. Circuit Bench, Lucknow

BETWEEN

Sushil Chandra Agarwal

AND

UNION OF INDIA AND OTHERS. ....

RESPONDENTS

REGISTRATION NO.

COMPILED NO: 1.

INDEX.

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

1. Application	1	to	10
2. Annexure No: A-1. Order No. TG74/48/Dy.CHC/LKO/87 dated 27.12.1989 should be 27.12.88 passed by CPTS, N.Rly., Headquarters office, New Delhi.	11.		
3. Vakalatnama.	12.		

S. Chandra  
Signature of the Applicant.

For use in Tribunal's Office.

Date of filing 4/9/89.  
or

Date of receipt by post.

Registration No. 235/89(2).

Signature.

Signature for Registrar.

filed  
by  
marked for  
11/10/89  
KAB  
4/18/89

A/C

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

BETWEEN

S.C. Agarwal

.....

Applicant.

AND

Union of India and others. ....

Respondents.

Registration No 235/09(4)

DETAILS OF APPLICATION:

1. Particulars of the applicant:

(i) Name of the applicant : Shri Sushil Chandra Agarwal.  
(ii) Name of the father : Shri S.L. Agarwal.  
(iii) Age of the Applicant : About 56 years  
(iv) Designation & particulars of Office in which employed. : Chief Controller under D.R.M., Divisional Office, N.Railway, Lucknow.  
(v) Office address : Chief Controller, Control Section, D.R.M. Office, N.Rly., Lucknow.  
(vi) Address for service of notices : Chief Controller, Control Section, D.R.M. Office, Northern Railway, Hazratganj, Lucknow.

2. PARTICULARS OF THE RESPONDENTS:

i) Name of the Respondents:  1. Union of India through  
 General Manager, Northern-  
 Railway, Headquarters \*  
 Office, New Delhi.  
 \*Baroda House.  
 2. Chief Passenger Traffic  
 Superintendent-I,  
 Northern Railway,  
 Headquarter Office,  
 Baroda House,  
 New Delhi.  
ii) Name of the Father,  
iii) Age of the respondents:  
iv) Designation & particulars of office in which employed.  
v) Office address.  
vi) Address for service of notices.

3. Senior Divisional  
Operating Superintendent,  
Northern Railway, D.R.M.  
Office, Hazratganj,  
Lucknow.

*S.C. Agarwal*

Contd. .... 2\*

pw

3. PARTICULARS OF THE ORDER AGAINST WHICH APPLICATION IS MADE:

The application is against the following order:-

- i) Order No: TG74/48/Dy.CHC/LKO/87 Annexure No.A-1.
- ii) Date 27.12.1989. ~~Should be 27.12.1988~~
- iii) Passed by Chief Passenger Traffic Superintendent-I, Northern Railway, Headquarters office, Baroda House, New Delhi, conveyed by Divisional Railway Manager, Northern Railway, Lucknow.

4iv) SUBJECTS IN BRIEF:

1. That the applicant is at present working as Chief Controller under Divisional Railway Manager, Northern Railway, Lucknow.
2. That the punishment of reduction in rank in guard grade 'C' in grade Rs.330-560 (RS) (1200-2040 RPS) fixing the pay at the lowest of the grade for a period of five years without postponing future increments was imposed on the applicant by the Respondent No.3 for alleged relaying less number of signal failures vide Senior Divisional Operating Superintendent, letter No.TG74/48/Dy CHC dated 3.12.1987 on the basis of charge sheet issued by him (Annexure No.A-2).
3. The applicant preferred an appeal to the Additional Divisional Railway Manager/T, who reduced the punishment of reduction in rank only one grade below for a period of one year affecting future increments and seniority on restoration fixing the pay at the lowest of the grade as conveyed vide Divisional Railway Manager, Northern Railway, Lucknow letter No.TG74/48/Dy CHC/LKO dated 6.1.1988. (Photo stat copy of the letter is annexed AS Annexure No.A-3.)
4. That the applicant aggrieved with the decision

*Shanmukh*

of the appellate authority Additional Divisional Railway Manager/T, Northern Railway, Lucknow, preferred review petition to the General Manager, Northern Railway, Baroda House, New Delhi and the Chief Passenger Traffic Superintendent-I, Northern Railway, Baroda House, New Delhi reduced the punishment to withholding of increment for one year temporarily. Photo-stat copy of the letter is annexed As Annexure No: A-1.

5. That the Charge sheet issued to the applicant was illegal as the particulars of the witnesses were not given and the charges were not definite.
6. That the copies of the some of the relevant documents asked for were not supplied.
7. That the actual figures of 37 was relayed to Headquarters office, Northern Railway, Baroda House, New Delhi not 16 as alleged in the charge sheet.
8. That the alleged charges were not proved during the course of enquiry.
9. That the findings of the Enquiry Officer is perverse and unsupported by evidence.
10. That the applicant was denied the reasonable opportunity for defending his case and as some of the witnesses were not examined and copies of the relevant documents were not supplied which is against the principles of natural justice.
11. That the appellate authority as well as the reviewing authority did not apply their mind while imposing the punishment on the applicant.
12. That the figure of 37 not 16 was relayed to ATO(c) Headquarters office ~~as per letter~~ as per Headquarters letter No. 23/CCO/HQ D 27-10-87. Annexure NO: A-12.

*S. A. Ansari*

**4. JURISDICTION OF THE TRIBUNAL:**

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

**5. LIMITATION:**

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

**6. FACTS OF THE CASE:**

1. That the applicant is at present working as Chief Controller under Divisional Railway Manager, Northern Railway, Lucknow.

2. That the Senior Divisional Operating Superintendent, Northern Railway, Lucknow issued charge sheet (Standard Form No: 5) No.TG74/Misc/87 dated 7.8.1987 to the applicant alleging that the applicant relayed to the Emergency control, New Delhi only 16 instances of signal failures whereas there had been as many as 37 such cases on that date i.e. 5.8.1987. Photo-stat copy of the Charge sheet is annexed as Annexure No.A-4.

3. That the applicant asked for the copies of relevant documents as evidence required for the purpose on 23.11.1987. Photo-stat copy of the letter is annexed as Annexure No.A-5.

4. That the documents asked for were not supplied to the applicant, as is evident from the DRM/N.Rly., Lucknow letter No:TG74/48/DyCHC(P)/87 dt. 30.10.87.

5. REMARKS

Photo-stat copy of the letter is annexed as Annexure No.A-6.

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5. That the Enquiry Officer proceeded the enquiry without the Defence Helper of the applicant as is evident from the applicant's letter dated 9.11.87 Photo-stat copy of the letter is annexed as Annexure No.A-7.

6. That the Defence note of the applicant was submitted on 20.11.1987, to the Enquiry Officer. Photo-stat copy of the defence note is annexed as Annexure No.A-8..

7. That the findings of the Enquiry Officer as ~~enjoined~~ well as the statement of the prosecution witnesses and other witnesses are annexed as Annexure No: A-9..

8. That it is clearly evident from the statement of the prosecution witnesses as well as Enquiry Officer's report that the enquiry report is perverse and unsupported by evidence.

9. That the Senior Divisional Operating Superintendent, N.Railway, Lucknow- the respondent No.3. imposed the penalty of reduction to a lower post in guard grade 'C' in the scale of Rs.1200-2040 for a period of five years without postponing future increments Photo-stat copy of the Punishment Notice No.TG74/48/ DyCHC/Misc dated 3.12.1987 is enclosed as Annexure No: A-2) .

10. That the applicant preferred an appeal against the order of Senior Divisional Operating Superintendent to the Additional Divisional Railway Manager/T.N.Railway, Lucknow on 14.12.1987. Photo-stat copy of the appeal is enclosed as Annexure No. A-10.

Contd. . . 6.

10.A. That the figure of 37 not 16 as alleged was relayed to A.T.O. (C), Headquarters office as per Headquarter letter No. 23/COO/HQ dated 27.10.1987. Photo-stat copy enclosed as Annexure No. A-12.

11. That the Additional Divisional Railway Manager/T Northern Railway, Lucknow, reduced the penalty to reduction in rank only to one grade below for a period of one year affecting future increments and seniority on restoration, fixing his pay at the lowest of the grade. Photo-stat copy of the punishment notice No. TG74/48/DYCHC/LKO dated 6.1.1988 is annexed as Annexure No. A-3.

12. That the applicant aggrieved with the decision of the appellate authority preferred review petition to the General Manager(Optg.), N.Railway, Baroda House, New Delhi on 4.10.1988. Photo-stat copy of the appeal/review dated 4.10.1988 is annexed as Annexure No. A-11.

13. That Chief Passenger Traffic Superintendent-I, N.Rly., Baroda House, New Delhi, reduced the punishment to withholding of increment temporarily for one year. Copy of the Punishment notice No. TG74/48/DY CHC/LKO/87 dated 27.12.1989 (~~should be 1988~~) is annexed as Annexure No. A-1. *UV*

14. That the punishment imposed by respondent No. 2 is liable to be quashed on the ground that the punishing authority as well as appellate and reviewing authorities have not applied their minds and their findings of punishment is quite contrary to the alleged charges in the charge-sheet. Moreover the report of the enquiry officer is perverse and unsupported ~~with~~ by the evidence. Further the applicant was also denied the reasonable opportunity because he was not allowed to nominate another defence counsel for his assistance in absence of the previous defence helper Shri V.P.Trivedi, the Union official who was on leave or on sick report. The Enquiry Officer proceeded Ex-parte. The charges levelled in the charge-sheet were not also not proved during the course of enquiry.

Contd...

*Abdul*

A/C

#### 7. DETAILS OF THE REMEDIES EXHAUSTED:

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

1. That the senior Divisional Operating Superintendent, N.Rly., Lucknow, respondent No.3 imposed the penalty of reduction to a lower post in guard grade 'C' in scale of Rs.1200-2040 for a period of five years without postponing future increments (Annexure No.A-2).
2. That the applicant preferred an appeal against the aforesaid order of the Senior Divisional Operating Superintendent to Additional Divisional Railway Manager/T Lucknow on 14.12.1987 (Annexure No.A-10).
3. That the Additional Divisional Railway Manager/T, Lucknow, reduced the penalty to reduction in rank only to one grade below for a period of one year affecting future increments and seniority on restoration fixing the pay of the applicant at the lowest of the grade (Annexure No.A-3).
4. That the applicant aggrieved with the decision of the appellate authority preferred a Review petition to the General Manager/Operating, N.Rly., New Delhi on 4.10.1988 (Annexure No.A-11).
5. That the Chief Passenger Traffic Superintendent ~~T~~, N.Rly., Baroda House, New Delhi reduced the punishment to withholding of increment temporarily for one year (Annexure No.A-1).
6. That aggrieved with the decision of the C.P.T.S-I the applicant has come to this ~~our~~ Hon'ble Court for justice.

8. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT.

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

9. RELIEF SOUGHT:

In view of the facts mentioned in para 6 above the applicant prays for the following relief(s) :-

The Hon'ble court may be pleased to quash the punishment notice No: TG74/48/Dy.CHC/LKO/87 dated 27.10.1989 ( ~~should be 27.12.88~~ ) imposed by Chief Passenger Traffic Superintendent-I, N.Rly., Headquarters Office, Baroda House, New Delhi Annexure No. A-1, on the following grounds:-

GROUNDNS.

1. Because the findings of the Enquiry Officer is perverse and unsupported by the evidence.
2. Because the Enquiry Officer did not allow the applicant to nominate another Defence Helper as Shri V.P.Trivedi, the previous Defence Helper was either on leave or Sick Report and Enquiry Officer proceeded Ex-parte, which is clearly in ~~no~~ violation of Article 301<sup>(2)</sup> of the Indian Constitution.
3. Because the prosecution witnesses did not prove the charges as alleged in the charge sheet.
4. Because the findings of the Enquiry Officer as well as the reasons for imposing the penalty by the

Contd...

*S. Subramanian*

(A.D.)

disciplinary authority is contrary to the charge levelled in the charge-sheet.

5. Because the charge sheet is illegal as particulars of the witnesses were not ~~not~~ given. Moreover the charges were not distinct.

6. Because the copy of some of the relevant documents asked for were not supplied to the applicant.

7. Because actual figures of 37 were relayed to Headquarter office, Northern Railway, Baroda House, New Delhi not 16 as alleged.

8. Because the applicant was denied reasonable opportunity for defending himself by asking the applicant's witnesses to be examined first.

9. Because the Enquiry Officer proceeded ex-parte in absence of Defence Helper.

10. Because the applicant was denied the natural justice and reasonable opportunity.

11. Because the punishment imposed by the disciplinary authority, the appellate authority as well as the reviewing authority ~~was~~ ~~which~~ is illegal and bad in Law as they did not apply their minds while imposing the punishment.

12. Because the punishment by the reviewing authority is liable to be quashed due to illegality.

10. INTERIM ORDER IF ANY PRAYED FOR: NIL.

11. PARTICULARS OF POSTAL ORDER IN RESPECT OF THE APPLICATION FEE.

1. No. of Indian Postal Order. D.D 819609

2. Name of Issuing Post Office: Arasrikas 17-Bucknow

3. Date of issue of Postal Order. 1-9-1989

4. Post office at which payable: Head Post Office Allahabad

*S. J. Sharma*

(PQ)

= 10 =

12. LIST OF ENCLOSURES:

From A-1 to A-12.

Verification.

I, Sushil Chandra Agarwal, son of Sri S.L. Agarwal, aged about 56 years working as Chief Controller, in the Office of Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow, resident of Hazratganj, Lucknow, do hereby verify that the contents of paras 1 to 8 of this application are true to my personal knowledge and ~~from memory~~ para 9 to be believed to be true on legal advice and that I have not suppressed any material fact.

Date:

Place: 419/89

S. Agarwal  
Signature of the applicant.

Before Central National Banking Association  
nationwide, etc.

SC Agrawal & Sons and others.

ARMED H-1  
N

## उत्तर देल्वे

गण डल का यात्रालय  
लखनऊ  
दिनांक 27.12.1989  
पत्र संख्या २५८/४८/Dy.C.H.O/LK/0/87

श्री रस० रस० अभिराम०  
उप उष्टप० गोदौल०  
रवनाम०  
द्वरा

विधायः - दण्ड संख्या ४८२५५ दिनांक: ०३/१२/८७

सदर ( जनपद दिनांक : ४५) M/38 की दी ०१ जून १९८१ Review Office.

हृतय इ डल रैलवे प्रवान्ध क  
उत्तर रैलवे लडा नज

इतीतीप आ करयक ज याहा ही हेतु

१०८ वृत्ति= दृष्टि न लभि पक्ष वा विर्यक् वैविध्यां ग / लहो न रु

१. सर्वानुसारी विवरण / लोक वर्ग
२. उत्तर विषयक विवरण जो ऐसा वाच्य विवरण है
३. वाच्य विवरण ... True Copy

Reed on 2/2/89  
602  
2/2/89

attestato  
K.M. Marocca

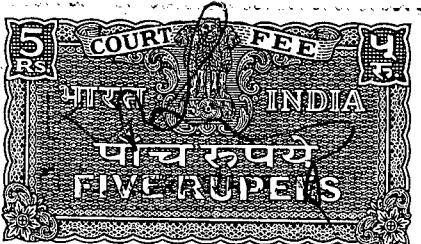
82 (12)

Before Central Adm. Tribunal  
ब अदालत श्रीमान् Allahabad Lucknow Circuit  
वादी ] अपीलान्ट  
श्री-  
प्रतिवादी [ रेस्पाडेन्ट ]

## वकालतनामा

Mr. Agrawal

VS



वादी (अपीलान्ट)

Em. of India बनाम अन्य प्रतिवादी (रेस्पाडेन्ट)

न० मुकदमा सन् १९८० पेशी की ता० १६ ई०  
अपर लिखे मुकदमा में अपनी ओर से श्री K. P. Singhvi, L.L.B.

Advocate No. 23 Mahajheel Lucknow वकील  
महोदय  
एडवोकेट



को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाब देही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रूपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमासी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकदमा उठावें या कोई रूपया जमा करें या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रूपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकदमा अदम पैरवी में एक तरफ मेरे लिलाफ फैसला हो जाता है उसको जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर S. K. Singhvi

साक्षी (गवाह) \_\_\_\_\_ साक्षी (गवाह) \_\_\_\_\_

दिनांक Accepted महीना सन् १६ ई०

स्वीकृत

K. P. Singhvi, L.L.B.  
Advocate  
No. 23 Mahajheel  
Court - Lucknow

O.A. No. 235/89(L) APR  
APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE  
TRIBUNAL'S ACT 1985.

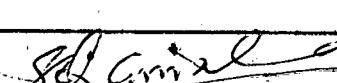
BETWEEN  
Sushil Chandra Agarwal ..... Applicant.  
AND  
UNION OF INDIA AND OTHERS ..... RESPONDENTS.

REGISTRATION NO. 0  
COMPILATION NO: 2.

INDEX.

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

1. Annexure No: A-2.  
Photo-stat copy of the punishment notice no. TG 74/48/Dy.CHC/Misc dt. 3.12.87. 136/13
2. Annexure No: A-3.  
Photo-stat copy of the punishment notice No. TG 74/48/Dy CHC/LKO dated 6.1.88 156/16
3. Annexure No. A-4.  
Photo-stat copy of the chargesheet. 176/17
4. Annexure No. A-5.  
Photo-stat copy of the applicant's letter dated 23.12.1987. 202/1
5. Annexure No: A-6.  
Photo-stat copy of DRM/LKO's letter No. TG 74/48/DY CHC(P) /87 dt. 30.10.87. 2+22
6. Annexure No. A-7.  
Photo-stat copy of the applicant's letter dated 9.11.87. 202/23
7. Annexure No. A-8.  
Photo-stat copy of the Defence Note of the applicant dated 20.11.1987. 246/35
8. Annexure No: A-9.  
Photo-stat copy of the findings of the Enquiry Officer and the statement of the prosecution and other witnesses. 236/36
9. Annexure No. A-10.  
Photo-stat copy of the appeal of the applicant dated 14.12.87 against the order of the Sr. D.O.S. N.R., Lucknow. 476/54
10. Annexure No. A-11.  
Photo-stat copy of the Review Petition of the applicant dated 4.10.1988. 556/58
11. Annexure No. A-12.  
Photo-stat copy of the Headquarter letter No. 23/COO/HQ dated 27.10.1987. 59

  
Signature of the applicant.

Before Central Railway Tribunal and Admiralty  
N.R. Section & S.C. 13 (O) 1968 (Gen. 229) (65) (A23) (13)

Orders of imposition of penalty under Rules 6 (VI) of the Railway Servants  
(Discipline and Appeal) Rules—1968.

(In case where it is intended that the fitness of the Railway servant for re-promotion or restoration to his original position will be considered only after a specified period).

No. 1974/48/dep/M (Place of issue) Dibrugarh  
Dated. 03-12-1978

To,

Shri. C. Agarwal  
Dept. M.

Annex A-2

(THROUGH C. Agarwal)

I have carefully considered your representation dated 20/11/1978 in reply to the Memorandum of Show Cause Notice No. .... dated 14.11.1978. I do not find your representation to be satisfactory due to the following reasons.—

See attached Annex.

I, therefore, hold you guilty of the charge(s) viz. As mentioned in your Case No. 48/48/dep/M, I have decided to impose upon you the penalty of reduction to a lower post/grade/service. You are, therefore, reduced to the lower post/grade/service of Dp. M. in the scale of Rs 1200/- per month until you are found fit by the competent authority, after a period of five years. In the date of the order, to be restored to the higher post/grade/service of Dp. M. in the scale of Rs 2125/- per month with/without postponing future increments.

2. Under Rule 18 of the Railway Servants (Discipline and Appeal) Rules, 1968 an appeal against these orders lies to the D.P.M. (O) provided :—

(i) the appeal is submitted within 45 days from the date you receive the orders; and

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

3. Please acknowledge receipt of this letter.

Signature.....

Name..... R. Gopal

Designation of the

Disciplinary Authority..... D.P.M.

R.P. 1978-79-55,000/-

For necessary stamp

Time Period  
attestation

K.N.G.  
Mavrocale

Before central Admin Tribunal Recd  
Sgt Major V. T. Agarwal <sup>Amne</sup> <sup>the crd</sup> <sup>10</sup> <sup>33</sup>  
Sgt Major V. T. Agarwal <sup>Amne</sup> <sup>the crd</sup> <sup>10</sup> <sup>33</sup>

I have accepted the findings in TOTO specially  
Para marked (A) in the findings of the Enquiry Officer's report  
in Aggarwal is not considered fit to hold any responsible  
position.

He is awarded the punishment of reduction in rank  
to Gd grade 'C' in grade No. 330-560 (1200-2040) New Scale )  
fixing his pay at the lowest of the grade for a period of  
5 years without postponing your future interest.

11

Sr. D.O.S.

True copy  
attested  
Kohli

Govt. of India  
Central (Protocolary) Department  
Dated: 15/10/1987

RECORDED

Mr. G. N. Singh (Punctuality) drawing  
and 100% of the time. However one will  
not be able to do the work of the  
Chief (Protocolary)

10-10-87

10-10-87  
S. D. S. & I. S. D. S. & I. S. D. S.

11/

Before Central Admin Tribunal, Allahabad  
Lokayukta C. I. C. v. C. I. C.

SC AGRAWAL IS QING AND OTHERS

## = उत्तर रेल्पे =

11  
A25

115  
116

एस सिंह १९७४/४८/१८ जून | LK ०

Aggarwal  
Dy. Comm. Officer

दूसरा : C.H.C.I.T.Y.O. . . . . .

संदर्भ आ पहल दिनांक 4.12.1960 की अपील।

रेत कर्मचारी एवं अनुशासन एवं अपील नियम 1968 के नियम 522 (35) के अनुस्त अपील अधिकारी नियम (१) लाल नक्क द्वारा उपरोक्त आदेश के विषय अपके द्वारा दी गई अपील पर इस नपूर्वक विचार करके नियमीतिहात नियक ईश्वर विधिक री के नियक अवलोकन के सदम के अनुस्त ग्रहणित है। तथा आरोहित दण्ड ।

2

कृत्यम् ४ इल रैली ग्रन्थ क  
उत्तर त्वे लड़ानऊ

प्रतीती लीप आ वश यह का यीवा ही हेतु

१. लूपी-धृति लूपी-धृति विकाय / लूपी-नज़ीर

Chd P/Mo for Dfd. and mss

5- ad b

True Colz

att. W.  
Kod.

અદ્ય

अत इ

Before Contract ~~Adam~~ ~~John~~ ~~James~~ ~~William~~  
~~John~~ ~~John~~ ~~John~~ ~~John~~  
S C Aggrawal & T D Roy and others  
Bancoorh  
A-3

(A26)

(15)

I have gone through the detailed appeal  
of the employee and correspondingly the comments  
of the disciplinary authority viz. The P.D.C.

I accept the contention of the appellant,  
that the punishment has been too stringent  
for such a offence. Mr. Aggrawal however adopted  
a system of his own which led to confusion and  
wrong interpretation of the no. of signal  
failures.

The punishment is therefore reduced to  
reduction in rank of only one grade  
below for a period of one year affecting  
future increments and seniority in restoration  
fixing his pay at the lowest of the grade

sd.

ADM (1)

affid

Exhibit

Adva

३०८  
N.R.

आरोप-पत्र का मानक फार्म  
STANDARD FORM OF CHARGESHEET

साधान्य 188  
Gaz. 188

रेल सेवक (अनुशासन और प्रयोग) विवर, 1968 का नियम 9  
Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968

प्राप्ति फार्म नं. 5  
Standard Form No. 5

सं. No. T.G. ३४५.८५८ (८)

रेल प्रशासन जा. नाम  
(Name of Railway Administration)

नियम स्थान  
(Place of issue) विवाह  
dated ७/८/६८

साप्तन

MEMORANDUM

राष्ट्रपति/रेलवे बोर्ड/निम्नाहस्तानी द्वारा द० नं० (अनु० और अ०) नियम, 1968 के नियम 9 के मान्तर्गत भी करने की प्रस्तावना की गई है। अवधार या कवाचार के सालों का जार, जिनके सम्बन्ध में बात करने की प्रस्तावना है। आरोप के अनुच्छेदों के विवरण (अनुच्छेद I) में के अनुच्छेद तंत्रजुट किये जाने की प्रस्तावना है उनकी भी एक सूची तंत्रजन है (अनुच्छेद III और IV)।

The President/Railway Board/Undersigned propose (s) to hold an inquiry against Shri. S. C. Agarwal under Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968. The substance of the imputation of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed Statement of articles of charge (Annexure I). A statement of the imputations of misconduct or misbehaviour 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 article of charge are proposed to be sustained are also enclosed (Annexure III & IV).

2. भी..... को एतद् द्वारा सूचित किया जाता है कि यदि वह बाहे तो इस जापन की प्राप्ति के पात्र विवर के भीतर कार्यालय सम्बन्ध में अक्षणी पहुंच जाहता है, जो रेल प्रशासन के पास हों लेकिन जिनका तंत्रजन प्रलेखों की सूची (अनुच्छेद III) में अलेख न किया हो, तो नियोजन के लिए अधिकारी प्रलेखों की तुलनात्मक बातों हैं। इस जापन की प्राप्ति के इस विवर के भीतर उसे निम्नाहस्तानी देने के लिए अनुशासन प्राधिकारी उन सभी या किसी सूची प्रलेखों के नियोजन की अनुमति देने से इकार करता है, जो उसकी राय में, वास्तव के तुलनात्मक न हों वा नियोजन पूरा कर लें। जिन अतिरिक्त प्रलेखों के नियोजन की उसे अनुमति दी जायेगी उनसे उद्धरण लेने की उसे अनुमति होगी।

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

3. भी..... को सूचित किया जाता है कि बाब के प्रकार में प्रलेखों की प्राप्ति करने के लिए किसी गवा अनुरोध तब तक स्वीकार नहीं किया जायेगा जब तक उसे नियित समय-सीमा के भीतर विलापन से अनुरोध करने का पर्याप्त कारण न जाता जाये और उन परिस्थितियों से संबंध नहीं यह प्रकार न हो जाये कि अनुरोध इससे पहले के प्रकार में नहीं किया जा सकता था। बाब परी हो जाने के बाब अतिरिक्त प्रलेख प्राप्त करने के सम्बन्ध में कोई अनुरोध तब तक स्वीकार नहीं किया जायेगा, जब तब बाब परी होने से पहले अनुरोध न कर सकने का पर्याप्त कारण न जाता था।

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

4. भी..... को यह भी यह विवर किया जाता है कि यदि वह बाहे तो नियोजन करने सब जांच प्राधिकारी के सम्बन्ध अपना मानना प्रस्तुत करने में सहायता करने के लिए किसी व्यक्ति रेल कर्मचारी, रेल व्यवसाय संघ के किसी प्राधिकारी (जो रेल सेवक अनुशासन और व्यवधार) नियम, 1968 के नियम 9 (9) और यात्रियों का सहायता करने का नामन करना चाहिए। सहायक रेल कर्मचारी (कर्मचारियों) प्रधान रेल व्यवसाय संघ के प्राधिकारी (प्राधिकारियों) का नामन करने से पहले भी द्वारा नामित व्यक्ति व्यक्तियों ते वर्तन से नेमे जाहिए कि वह (वे) अनुशासनिक कार्यालयी जो दीरान उपरी सहायता करने के लिए तैयार है। वर्तन वे एक व्यक्ति जाने वालों से, यदि कोई हो, विवाह भी दिया जाना जाहिए, जिसमें नामित व्यक्ति (व्यक्तियों) द्वारा सहायता करने का वहन ही वर्तन दिया जा सकता हो और नामित व्यक्ति (व्यक्तियों) द्वारा दिया जाना वर्तन वामन-वर्तन के ताव विवर-हस्ताक्षरी/अनुशासन प्राधिकारी,

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

ANNEXURE I

list of article of charges framed against Shri S. C. Agarwal  
Dy. CHIEF CO.

Shri S. C. Agarwal Dy. CHIEF (P) on duty  
in O. to 81- from on 15/1/87, is accused  
of serious dereliction of duty and extreme  
apathy towards his legitimate duty work  
During the course of his duty he recorded  
and relayed to emergency CMC / MDCS, only  
16 instances of signal failures where as  
there had been as many as 37 such cases  
on that date. This is a very grave  
lapses on the part of Shri Agarwal who  
acted in total violation of para 31 (ii) & (iii)  
of Rly Servent Conduct Rules of 1966.

24/1/18

( K. Gupta  
S & DOS )

ANNEXURE

Statement of imputation or misconduct or  
misbehaviour against Shri S. C. Agarwal

On 15/1/87 Shri S. C. Agarwal was  
performing duties in the capacity of Dy. CHIEF (P)  
in 1KO CMC in O. to 81 hrs shift. As per records  
there were 37 cases of SET failures on the  
division. But Shri Agarwal recorded and  
relayed to 1KO & office emergency CMC only  
16 such cases i.e. 21 cases short. This was  
a very serious blunder on the part of Shri  
Agarwal who should have thoroughly checked  
the records before relayeing the figures to 1KO  
CMC on that date. The mistake was detected  
in time and rectified as such.

Then the correct information had to be given to the M/s office. Being a very senior EMU hand and class III employee, the act is absolutely unbecoming of Shri Agarwal. Before gathering and thenelaying this vital information to M/s office EMU, Shri Agarwal should have first ascertained the correctness and veracity of the statistics. Had it not been detected timely, wrong information might have been conveyed to the M/s office EMU. This is an act of gross dereliction of duty and absolute apathy towards the prescribed work. Shri Agarwal is therefore held squarely responsible for the above lapses in violation of para 37 (ii) & (III) of Big Servant Conduct Rules of 1966.

✓  
(K. Gupta)  
Sr. DOS/160

#### List of documents relied upon

ANNEXURE

1) Report of C.I.C. LCO on 7/8/87

✓  
(K. Gupta)  
Sr. DOS/160  
ANNEXURE

#### List of witnesses

1) Documentary evidence.  
2) (11) LCOs

✓  
(K. Gupta)  
Sr. DOS/160

⑦

Central Railway

Recd 7/8/87  
Gen. S/L

A-4  
A30

(20)

Shri S. C. Agarwal by the Punctuality on duty

018 on 5/8/87 has given signal failures  
16 only ~~where as~~ there were 37 signal  
failures.

I enquired from Shri S. C. Agarwal  
at 9/40 on 5/8/87 why he has given  
16 signal failures only, then he corrected  
the signal failure and the same was  
relayed to Emergency NDLs correctly by  
Mr. Hashmi during 8/10 hrs shift

Attested copy

7/8/87

Northern Railway, Lucknow

8d  
CHC (HCO  
7/8/87

Convey to  
Chp. Secy

Ans. A-5

The Enquiry Officer  
Shukla

Rept. List of documents and  
evidences

Respectfully, the following is the  
list of documents and evidences required.

1. Unusual occurrence register  
from 4.8.87 to present date.
2. Shri R. K. Tewari Additional L.A.  
with his register from which he  
relays to police that current figures were  
calculated.
3. Shri Sanjaya Kumar GA/Cent. Control No 8414  
with his position of special features  
from 4.8.87 to present date.
4. Shri S.K. Misra, H.L.O. with his register  
containing position of 5/8/87.

Yours faithfully

S.K. Tewari

(S. K. Tewari)

Dir/CCO.

(V.P. Tewari)

J. & CPO

23/12/87

Amx. A-6

(2)

उत्तरांश 99/लोट  
Genl. 99/Small

उत्तरांश रेलवे  
NORTHERN RAILWAY

TR 74/40/Dyechell

down office

Rs 30-10.5

6 Sc. Agarwal  
Dyechell  
Dyechell M.

Ref. 87-5 DRAR Enquiry  
Case.

Refugee off. 29/2/19

It is to inform you that  
all the documents and witness  
required have been issued. The  
provided. If you will go on  
adding the number of witness  
and the documents. The enquiry will  
be in necessary delayed and  
F.E. Office a file.

Received  
27/1/87 (S)

Taluker Aosim  
who has dropped NOS 149  
please apply for witness as  
document has been read from these  
containing the facts of the  
date 27/1/87. This is referred  
and obtained information  
and forwarded 28/1/



(23)

M.W. A-7

6

The Inquiry Officer  
directions only

Re:

Re: - Fixation of date of enquiry

It is humbly to mention that P/withers  
Shri M. Husnain is yet sick and on his  
resumption the next <sup>date</sup> may kindly be fixed upon  
availability of my Defence Council Shri V. P. Trivedi  
who has been sanctioned 7 days spe. cl. to  
attend A.I.R.F. Meeting at Gantotri (spe. cl. from  
11/11 to 17/11). Shri Trivedi be also spared for  
the enquiry by D.S./Lko kindly ensure this too.  
it would oblige. Thanks.

Yours faithfully  
S.S. Agarwal  
Etc/100

9/11/87

(Sd/)

~~MR~~ NORTHERN RAILWAY

Mr. A.S.

Defence note by charged official S.C. Agarwal.  
Case No. TR/74/401/Misc/187 A) 07/01/07

134

20

The charges labelled against the charged official or defendant in this case read as under.

"Shri S.C. Agarwal Dyent C(P) on duty in of 81 hours on 5/1/07 is accused of serious dereliction of duty and extreme apathy towards his legitimate duty work. During the course of his duty he recorded and relayed to emergency control NDCs only 16 instances of signal failures whereas there has been as many as 37 such cases on that list. This is very grave lapse on the part of Shri S.C. Agarwal who acted in total violation of Para 3d(i), & e(11) of Rly servants conduct Rules of 1866."

The imputation of misconduct against the C.O. read as below.

"On 5/1/07 Shri S.C. Agarwal was performing duties in the capacity of Dyent C(P) in his con in 81-01 hours shift. As per records there were 37 cases of 507 failures on the division, but Shri Agarwal recorded and relayed to HQ office emergency control only 16 such cases i.e. 21 cases short. This was a very serious blunder on the part of Shri Agarwal who should have thoroughly checked the records before relaying the figures to HQ Control on that date. The mistake was detected in time and rectified as such. Then the correct information had to be given to the HQ office. Being very senior Control hand and also in amplerpa, the act is absolutely unbecoming of Shri Agarwal.

(contd)

PS

51

A-8

2

(25)

Before gathering and then relaying this vital information to HQ Office CML, Shri Agarwal should have first ascertained the correctness and veracity of the statistics. Had it not been detected timely, wrong information might have been conveyed to the HQ Office CML. This is act of gross dereliction of duty and absolute apathy towards the prescribed work. Shri Agarwal is therefore held squarely responsible for the above lapse in violation of Para 3d(ii) and 3e(iii) of the Servants Conduct Rules of 1966.

#### List of documents

- ① Report of CTC LHO D) 7/10/07
- ② List of failures - CTC/LHO.

#### Photocopies ④ Documentary evidence ② CTC/LHO.

The report of Shri Bormitra CTC D) 7/10/07 on which the above charges and imputations of misconduct are based is reproduced below.

"Shri S.C. Agarwal Dy CTC Penchabaliya on duty 01/08 on 5/10/07 has given signal failures 16 only when as there were 37 signal failures."

I enquired from Shri S.C. Agarwal at 9/10/07 how on 5/10/07 why he has given 16 signal failures only when the correct 37 signal failures and the same was relayed to emergency NDCS correctly by Mr. Harnain during 81-16 shift".

#### Proceedings of the case.

The defendant was restrained from work through a call home on 5/10/07. In my case Shri Bormitra that the charged official was (contd)

श्री रेल/NORTHERN RAILWAY

(३)

A36

Suspended by S.R. 803 for not relaying total signal failure figure's to HQ.

Acknowledging the same as information by the defendant was left in the call book that this figure is not relayed to HQ by E&P, but by additional GA of W.O. and that was confirmed at about 9/30 AM that 37 the correct figure was relayed by GA (additional) to Central Control.

SF-1 of 6/8/07 was served through call book on 7/8/07 at 9/15 AM.

SF-5 of 7/8/07 was served on 11/8/07 AM near the office closing hours in office.

At demand of Annexure 3 was placed in written on 12/8/07 and was available on 24/8/07 and the reply was tendered on 25/8/07 denying the charges levelled against the defendant. A notice of 11/8/07 was received that enquiry was contemplated and fixed on 23/8/07 with Shri R.P. Srinivasan Enquiry Officer and asking to appoint a Defence helper. The first person who consented in written was Shri V.F. Trivedi & W.M. Mhu. whose consent letter was submitted on 3/9/07 and SF-7 was received.

On 28/9/07 after preliminary proceedings of confronting with defendant & his denial of the charges, the defendant submitted a list of documents and witness in his petition of 28/9/07, so as to prove the facts. A list of 4 documents and three witness was submitted. On next date 29/9/07 the enquiry adjourned for want of documents again 12/X/07 was fixed that also was adjourned for only one document was available by enquiry on that date. Next fixed date 21/X/07 was adjourned for want of document from HQ despite clerks being deposed by Enquiry officer ultimately another date went by Enquiry officer fetched a certified copy of the document along with Photostat copy (contd)

## उत्तर रेलवे / NORTHERN RAILWAY

of the position w/SDIO). This was available only upto 28/10/07 but the enquiry was postponed for <sup>attention</sup> non ~~except~~ charged official ~~SDIO~~ turned up for enquiry and fixed for 2/11/07. Even D/Helper did not, due to his sick leave and the petition was not considered to postpone till recovery of Defence Helper or point to appoint another in lieu of him or additional. The enquiry commenced on 2/11/07. It was held on 27/11/07 & would have concluded by 4/11 or 5/11, had to be adjourned till recovery of witness Shri M. Herman & he joined on 17/11/07 & thus the enquiry proceedings concluded on 10/11/07.

The list of documents submitted by defendant was as below (as on 27/9/87)

was as below (as on 5/8/07)

- (1) Unusual occurrences Register ⑦ 4/8/07 (5)  
from the facts
- (2) Additional EA's register from which 587 failures  
figure on 5/8/07 was relayed to prove the facts.
- (3) EA/central Control's register at 0025/149 (6)  
prove the facts.
- (4) Hot line operators' register containing position  
of 578/87 to prove the facts.

3/818/1987  
List of witnesses submitted on 28/9/87 was  
① Shri R.K. Tewari GA (220W) on 5/8/87 in of 81 shift  
② " S. IC M. Isha H/No. 89467 on 5/8/87 in of 81 shift  
③ " Sanjaya Kumar GA / Central Control M/828/48

1. Shri A. K. Mehla. Dyer/lec. 700. 700.  
2. " compensation - 51/cm. like.

② "Emissions & their use.  
Of the above Not ① & ② were made available & they  
depicted in ① & ⑤ were disallowed in a written letter of rejec-  
tion on 30/10/87 and ③ was dispensed with for certified copy  
was availed of S/ Shri BVR Migni & S/ Hurnain dispensed as per instructions.

83  
NORTHERN RAILWAY

## Defence Discussion

A30

On examination of SF-5 a document relied upon the following questions cropped up.

- ① That, did defendant record S&T failure as 16 & relayed to emergency control as 16?
- ② That, who relays this concerned figure and to whom? Did he relay correctly?
- ③ That, was it timely deletion by Shri B.S. Misra? Who informed him about?
- ④ That, did the Shri B.S. Misra, instruct Shri B.K. M. Hussain or else ~~Shri B.K. M.~~ it to whom it was instructed to approach H.S.?
- ⑤ What was the result of approach to H.S.?

In this regard the entries in different documents is as follows:

- ① Unusual occurrence Register
  - ② on 31/1/87 relayed on 4/2/87 S&T figure is recorded as 34/28 by Shri S.M. Yunn meaning Total / Admittive by S&T.
  - ③ on 4/2/87 relayed on 5/2/87 S&T figure is recorded as 37/18 (37 ticked off) re-made accepted by S&T in respect of 76 which is crossed.
- ② Special Features Register of Additional Off.
  - (a) on 4/2/87 S&T failure = 34/28
  - (b) on 5/2/87 S&T failure = 37/18
- ③ Document No. (3) that is certified copy of the HED along with photostatic copy of that day portion which is released to officers by S&T  
Date after Type etc. = 37

(Contd.)

श्री नॉर्थ नॉर्थर्न रेलवे

४) Has him register entry Diplocce १९००-१९०२  
except an inward call from emergency con  
२/०५-५ २/३६ a routine call.

Date (6)

Now examining the depositions of different  
witnesses and their cross examinations the following  
facts are revealed

१) That, the figure was rightly & correctly  
recorded to denote two figures and only one  
figure the correct one i.e. ३७ was decided  
to be relayed and EA additional was apprised  
who also ~~also~~ crossed the figure of १६ and  
relayed the ~~also~~ correct figure ३७ to HQ  
Office Central Control from stock controller's room!!

The defendant recorded ३७/१६ under  
circumstances to apprise his higher ups that  
SACR was every day quarrelling for relay  
to HQ the admitted figure but was not  
agreed to upon but to convey in the division  
was both days i.e. on ५/८ & ३१/८ by both  
Cte (P) agreed! The appearance of "३७/१६ on ३/१००"  
in cyclotyped copy made Cte aware and  
he personally took his own meaning & and  
despite confirmation of correct being relayed  
he did not change his mind.

Examining Q.1. This figure is relayed by  
authorised official ~~on~~ EA (Add) to Central  
Control NCL instead of by Cte (P) to Emergency  
Control.

Q.2 The defendant has recorded  
that S&T failure as ३७ and the same is relayed  
by authorised official to Central Control.

Q.3. The figure relayed was ३७.

Q.4. Shri Brij Misra asked the defendant to  
recheck the figure at HQ and found that ~~the~~  
correct figure ३७ was relayed and he  
did ~~not~~ accordingly advise the Shri Brij Misra  
who as claimed by him did not ask Shri  
M. Hussaini at all.

(Contd)

NORTHERN RAILWAY

Pap (7)

Desp. No. 19/19/G.L. 19  
Date 99-2000/Cent. 99-Large  
Decpt. on 7/01/07 instead of 5/01/07.

(7)

(25)

Desp. No. 19/19/G.L. 19  
Date 99-2000/Cent. 99-Large  
Decpt. on 7/01/07 instead of 5/01/07.

In answers to Ques 1, 2 & 3 Shri Hussain has categorically denied that he was ever asked by C.R. to contact Mr. in this regard nor he did it. In fact the defendant was threatened of dire consequences by C.R. if not rectified who stayed & found it was already relaxed correctly as is also proved from evidences which is also supported by Shri M. Hussain in question nos 9 & 10 in his reply along with that of Shri R K Tewari.

Shri Bor Misra in his two statements viz documents relied upon and statements as witness no 1 has contradicted his findings and statements himself and at no count stands supported.

In one document he claims to have received the figure of 16 from S.C. Agarwal & in another at 7/01 from G.A (Additional). Even if he received from G.A (Additional) he should have immediately contacted S.C. Agarwal, this reflects ~~is~~ base less and unfounded & untenable and similarly are his statements.

That the defendant is supported in his statement by everyone and every document.

Conclusion

On the basis of documents and witness the charges levelled against me are baseless unfounded and untenable. The prosecution has completely failed on all counts of charges.

S. Agarwal  
C. O.

(31)  
(20)  
A-8  
P.W.D.

Statement of S (Against CHe(P) 5/8/87) in of 81-  
Duty (Charged official)

I was on duty of 81 on 5/8/87 as CHe(P). At about 2/30 hrs while completing unusual features I found that the figure of S&T failures was not available in the register which was to be of 3/8/87 <sup>to be</sup> recorded on 4/8/87 in the register. The manuscript copy had also gone to train branch collected by concerned clerks during day on 4/8/87. In the mean while I requested of the cyclostyled copy that was also not available, I rang up Bhr. C.N. Sahai S.G.(CRL) to come to me. When, in a few moments he came, I enquired if he had the typed copy, which he showed me, I counted these were 37 S&T failure cases. He asked to relay 16 cases as these he informed which only were acceptable to S&T Deptt, which I refused to comply and he then taunted, "you are the only person does not cooperate with S&T Deptt". I told him that, what grudge with him or S&T Deptt can I have, but I can not comply with him as I do not possess any such distinctions with me. He demanded if any higher number could be relayed, I flatly refused. Again Shri Sahai suggested that it may be conveyed to SR DOS/ DOS etc and ultimately there shall be a decision by officers. To indicate I agreed ~~as~~ as on turning page of the previous day I found that S&T failure of 2/8/87 in unusual feature register recorded was 34/28. (Contd)

Rotating 07/11/87  
E. O.

883amal  
E.O. 17/11

and this was the case of Shri Yarwani's duty on ~~3/8/87~~ <sup>3/8/87</sup>. I tried to trace the previous day's position and found it was missing also could be found only at 8/10 hrs in morning.

I was at this decide, I decided to record in 'Unusual features' position to SR 003/003 etc as "37/16" on 3/8/87" meaning "Total/admitted" cases and informed the GA additional that he was to relay only 37 & not 16 as <sup>16</sup> ~~37~~ was meant to be relayed to HQ but being 'admitted figure of S&T Cases' by S&T is indicated to SR 003/003 etc. for this decision. I waited if any of the officers might ask me but none did so except '405' at 8/30 hrs from residence demanded, "Why it was 100 written & what did it mean." I explained him as informed earlier.

Near about 8/30 hrs Shri Bop Miss/enc came and asked what was the S&T failure. I informed him it was 37 (Thirty Seven only) He told that "S&T 16 has been relayed, get it corrected else some thing would happen to you to-day". I immediately booked a call on hot-line, that was on-callised at 8/40 hrs Shri A.K. Mehta Dy. CTC/ Control <sup>also</sup> ~~already~~ attended who asked me that position was fine however I asked wait a bit the time, he informed me that 37 was the figure relayed by LCO & not 16. I then informed CTC that correct figure 37 has been relayed & not 16 as I had instructed Additional GA Shri R.K. Tawari of 01-02 relayed Shri Controller's room. So I am not guilty. (Contd)

(12) A 8

(22)

I close my statement on my own.

AUS

S&amp;T General

C.H.C.P.  
E.O.

17/11/87

E.O.

Q. 1. How S&T Failure Cases are relayed to HQs & by whom?

Ans 1 The S&T Cases as recorded in "Unusual Occurrence Register" are noted by Additional L.A. who remains only during 0-6 P.M. shift and relayed by him to Central Control from Stock Control's room.

Q. 2 How did you collect the information in respect of Signal failures of 3/10/87 and what instructions you issued to your Additional L.A.?

Ans 2 This figure is normally written by C.H.C.P. 0/-0/- of previous day, which is written after completing the S&T Cases copied from different boards and counted the totals.

I had to collect it from typed position which was available with S&T control only on which I recorded 37 after counting. From that position as, C.H.C.P. on 4/10/87 said 6 in Yerwada did not record. I instructed Additional L.A. not to relay 16 which was recorded this (37/16) but relay only 37 as 16 was not meant for HQ not being total figure but a disputed figure being accepted by S&T Deptt. <sup>16 was</sup> Then erased a 37 (click with remote) <sup>there</sup> this entry (accepted by S&T). <sup>there</sup> Contd.

S&amp;T General

Ans 2

D

O

B

P

C

H

Q

R

S

T

U

V

W

X

Y

Z



# THE NORTHERN STATES

Q No 6. In your opinion how this problem of relaying  
incorrect figures of S&T failure of 3/8/87 arose?  
How the chief controller was concerned with  
~~the signal failure~~  
the signal failure of 3/8/87 on 5/8/87?

Ans 6 Behaviour of CTC/ Sri Bommisa that was sudden itself astounded every one present there, so it is difficult to say any thing with certainty in this regard.

*R. Hartman*

E. O.

St. Paul 10/11  
e. o.

Before Central Adm. Tribunal Alibabad  
S.C. Agarwal vs. Urg and others, ~~the account (P)~~

36  
37  
PUB

Ans. A 29

Sub: DAR enquiry in case of Sh. S.C. Agarwal,  
Dy. CHC(P)/LKO vide TG4/48/Dy. CHC/LKO  
dated 31.8.87/15.9.87.

PREAMBLE :

The issue regarding wrong relaying of signal failure cases of 3.8.87 to Hd. Qrs. Office on 5.8.87 arose when Sh. B.N. Misra CHC while taking the position of signal failures from additional GA duty 0-8 Shri R.K. Tewari came to know that instead of 37 signal failures, only 16 have been reported to Head Qrs. Office. Add GA 0/8 duty rekeys the signal failure position which is finalised and prepared by Dy. CHC (P) duty 0 to 8 hrs. daily. Shri S.C. Agarwal, Dy. CHC(P)/LKO was on duty in 0-8 hrs. shift on 5.8.87 who finalised the signal failure cases of 3.8.87 in coordination with SI/ Control and indicated in his relief diary on 5.8.87.

Shri B.N. Misra CHC arrived in his office at about 9/-hrs. on 5.8.87 and told Shri M. Hasnain, Dy. CHC(P) 8-16 hrs. who took charge from Sri Agarwal, Dy. CHC(P) that less number of signal failures have been relayed to Hd. Qrs. by Sri Agarwal and asked him to check the position and get it corrected after talking to Hd. Qrs. Office. Shri Misra also informed Sr. DOS about the incorrect position of signal failures given by Shri S.C. Agarwal, Dy. CHC(P) 0-8 hrs. shift which has been relayed to Head quarters Office and Shri S.C. Agarwal was suspended for gross negligence of duties for not ensuring correct relaying of signal failure position to Hd. Qrs. Office.

EXAMINATION OF RECORDS :

Following relevant records were examined.

- 1) Un-Usual occurrences register
- 2) Hot-line operator's register.
- 3) Photostate copy of statement of signal failures of different divisions maintained by Hd. Qrs. Office, obtained from Hd. Qrs. Office and attached at S.No. 31/1 of the file.
- 4) Special feature register.

CROSS EXAMINATION OF WITNESSES.

Following persons were cross-examined after their statements were recorded :-

- 1) Shri B.N. Misra, CHC
- 2) Shri Hasnain, Dy. CHC(P)
- 3) Shri S.C. Agarwal, Dy. CHC(P)
- 4) Shri R.K. Tewari, Add. GA, 0-8 hrs. shift on 5.8.87
- 5) Shri B.K. Misra, Hot-line operator, 10-16 hrs. on 5.8.87

True Copy  
Affidavit  
Kishore Mohan

Before Central Acc/Complaint No. 16  
S. C. Appraiser V. S. S. and others (The Circuit)  
( 2 )

Shri B.N.Misra, CHC during the cross-examination, placed at S.No.60 explained that while taking position of signal failures.

Shri R.K.Tewari Add GA 9-8/-hrs. shift on 5.8.87 informed me that 16 signal failure cases have been relayed to Hd.Qrs. Office which has been denied by Sh.R.K.Tewari in his statement as well as in his cross-examination placed at S.No.59. Rather he has given in writing that he had relayed 37 cases of signal failure on that day. Sri S.K.Misra Hot-Line operator in his statement as well as in his cross-examination placed at S.No.61 has informed that Dy.CHC(P) booked a call to Central Control at about 8.50 hrs. which materialised at about 9.40 hrs. for giving position. Shri M.Hasnain, Dy.CHC(P) in his statement and cross-examination at S.No.54 to 57 has totally denied any conversation between him and Chief Controller in respect of relaying incorrect figures of signal failures to Hd.Qrs. Office by Dy.CHC(P) 9-8 hrs. shift on that day. He has also denied that Sri Misra, CHC gave any instructions to him for correcting an incorrect figures of signal failures already relayed to Hd.Qrs. Office on that day. Sri S.C.Agarwal Dy.CHC(P) in his statement and cross-examination at S.No.49 to 53 has indicated that Sri Misra, CHC at about 8.50 hrs. came in his room and told him that correct the signal failure position relayed to Hd.Qrs. Office failing which he will be in trouble. After that Sri Agarwal talked to Sri A.K.Mehta at 9.40 and checked the position of signal failures relayed to Hd.Qrs. Office and found that correct position has been relayed.

FINDING: After examining the relevant documents, statements and cross-examination of witness, I conclude as under:-

That the main cause of the issue in question lies in the system of maintaining signal failures position in the un-usual occurrence register. Sh.S.C.Agarwal, Dy.CHC 9-8 hrs. on 5.8.87. Instead of indicating the number of total signal failures as 37 only he indicated it as 37/16. The Chief Controller while taking position from Add.GA at about 7/8 hrs. must have been given this position as 37/16 which had created confusion in respect of relaying less number of signal failures to Hd.Qrs. Office on 5.8.87. Had only 37 signal failures been recorded, this problem would not have arisen. The Chief Controller expressed his serious concern over in-correct relaying of the position, but could not personally verify it from Hd.Qrs. Office and left it to Sri M.Hasnain, Dy.CHC(P) 9/16 in 5.8.87 who did not verify it as stated by him in his statement as well as in the confronted enquiry with CHC, since he had not received any instructions from the Chief Controller in this regard. From the Photostate copy of the signal failures record of different divisions, obtained from Hd.Qrs. Office, it appears that on 5.8.87 in Lucknow Division, 37 signal failures have been recorded.

True copy  
attested  
K. S. T. M. S. S.

..... 3/-

Before Central Adm. Tribunal Assisted  
by  
S. C. Agarwal No. 669 and this  
Date 20-11-1987

(38)

(31) Adm. Operator

Ans

(A)

As such Sri S.C. Agarwal, Dy. CHC (P) is responsible for not maintaining signal failures properly in the un-usual occurrences register on 4.8.87, relayed to Hd. Qrs. on 5.8.87. He should have recorded total number of signal failures as 37 and not 37/16 on 4.8.87 and relayed to Hd. Qrs. on 5.8.87, clear by statement.

Sri B.N. Misra being CHC is justified in expressing his serious concern over improper relaying of signal failures position to Hd. Qrs. Office (as per his version), but he should have personally satisfied himself about the figure already relayed before bringing it to the notices of higher authorities.

Dated: 27.11.87  
Place (F.R.S.R. Brijganga) : Name of  
Central Adm. Inquiry Officer.

True Copy  
Date: 27.11.87  
This copy of the letter was checked for  
signature and was found correct. The  
date was corroborated by S.C. Agarwal.

S.C. Agarwal  
Date: 27.11.87  
True Copy

True. No signal recorded in CHC (P) during 08.00 to  
09.00 hrs. Central Adm. Operator's cell was recorded  
from Duty Control for Dy. CHC (P) during 08.00 to  
09.00 hrs.

Signature of S.C. Agarwal  
Date: 27.11.87

D/\*

Before Central Aeronautical Tribunal <sup>53</sup>  
Appraisal Program, No Circuit <sup>①</sup>  
Statement of Shri S.K.Misra, Hot line operator (Defence Witness) AMG

*me taken*  
I was on duty in 00.00 to 8.00 but continued upto 11.30 on 5.8.87. Shri S.K. Agarwal (Punctuality) asked me to book a call to Central Central at about 8.50 hours on 5.8.87 and I accordingly booked his call. So far as I recollect the call was materialised at about 9.40 hours. According to hot line register at about 2 to 3 minutes, I do not know what was conversation between Shri S.K. Agarwal and Central Central. I close my statement.

*S.K. Misra*  
2-11-87

Signature of S.K. Misra  
Hot Line Operator

Question by D.O.

Q.1 Now you know that Shri Agarwal had booked a call as stated above?

*Cit*  
Ans. I recognized the voice of Shri Agarwal and I can also see the face of man in the control and there is a indicator showing who wants to book a call.

*Note:-* At this stage entry of the call was checked from the register and stick was found that a call was booked and the time was materialised from 9.40 to 9.42.

Q.2. <sup>DID</sup> During 00.00 to 8.00 Dy. Central (Punctuality) booked any call for Central Control?

Ans. No call was booked by CNS (Punctuality) during 00.00 to 8.00 to Central Control. However one call was received from Emergency Control for Dy. Chief (Punctuality) at about 7.00 to 7.05 hrs.

*Shri Misra*  
C.O. 14

*W. S. J. 1/15*  
S/Officer

*50-150*  
2-11-87

Signature of Shri S.K. Misra.

2.11.87

*Conc Colby*  
*ADM*  
*KNS*  
*HOL*

Before Central Adam Tribunal ~~Sub-Divisional~~ (2)  
S.C. Agarwal vs. ~~Govt. of India~~ (Circuit)

14  
A 60

Statement of Shri B.N. Misra, CHC (C) Incharge.

I have gone through the charges levelled against Shri S.C. Agarwal, CHC (Punctuality), Lucknow. At about 7.00 hours in the morning on 5.8.87 I took position from G.A. (Additional) from 08.00 to 8.00 as usual. He informed me that he has relayed 16. signal failures to Emergency Control. Whereas there were 37 signal failures. This I noted in my diary which is available at my residence and can be produced if required. I came to office at about 9.00 hours and enquired from Mr. Agarwal, how many failures have been relayed to Delhi. Shri Agarwal reported that only 16 failures have been relayed by Addl.G.A. I instructed Mr. Hussain to verify as to how many signal failures have been relayed to Delhi and how many have been recorded at Delhi. I close my statement.

*B.N. Misra*  
Signature of Shri B.N. Misra  
CHC (C) Incharge.

Question by Q.9.

Q. Did you enquire from Shri Agarwal about the number of failures given to Addl.G.A. for relaying?

Ans. No I did not enquire, because the Addl.G.A. records from the diary of CHC (Punctuality).

Q. Will you please see diary dated 3.8.87 and 5.8.87 and let me know what figures have been mentioned by CHC (Punctuality) against column of SMT failure?

Ans. I do not recollect and I can only reply if I consult my diary.

Note: At this stage Unusual feature register was open and the following entries were found written by CHC (Punct) as under.

1. 3.7.87 34/28 (Mr. Unus).

2. 4.8.87 37/- (16.00 accepted by SMT) (Mr. Agarwal)

Ans. This was confirmed by Mr. Hussain and not by me.

*Subornalal*

B.O.

*True Copy  
Attaching  
K.P.*

*B.N. Misra*  
Signature of Shri B.N. Misra  
CHC (C) Incharge.

26/8/87

CHC (C) Incharge

Before central Adm. Tribunal Allahabad  
Dated. 3/11/87 S. Agarwal (Adv.) <sup>Ex-Sub-Court</sup> (41)

Statement of S. I. N. K. Tewari (A. (10th) Lic. Exam)  
(defence witness)

W. J. Foster 391  
F. C.

R. K. Lewis: 3/11/07

（संस्कृतम्）

Before court at - Gurugram Haveli  
Sc. Appraiser & Organizing Committee

Q. 1. 2:- सहूल अंगील द्वारा दूर्वा विवाह का दिन दिनांक क्या है ?  
रुल एवं प्राप्ति का दिन क्या है ?

ASR

उत्तर:- शुभ दिनांक द्वारा दूर्वा विवाह का दिन दिनांक  
प्राप्ति का दिन क्या है ? यही संज्ञा का रुल क्या है ?

Q. 1. 3:- जैविक विवाह दूर्वा विवाह 37/2 का दिन  
प्राप्ति का दिन क्या है ? यही संज्ञा का रुल क्या है ?

उत्तर:- दूर्वा विवाह दूर्वा विवाह का दिन दिनांक क्या है ?  
यही संज्ञा का रुल क्या है ? यही संज्ञा का रुल क्या है ?  
यही संज्ञा 16 वीं शताब्दी के दौरान दूर्वा विवाह का दिन  
क्या है ?

Q. 1. 4:- जैविक 23/8/07 का दिन प्राप्ति का दिन 22/8-23/8  
लेकिन विवाह का दिन क्या है ?

उत्तर:- जैविक 23/8/07 की Addl. 61 का दिन प्राप्ति का दिन  
विवाह का दिन क्या है ? यही संज्ञा का रुल क्या है ?  
यही संज्ञा का रुल क्या है ?

~~Patravati~~

R.K. Puri

Q. 1. 5:- (राजीव गिरि, राजीव)  
C. O. (राजीव गिरि) E. D. (राजीव गिरि) M.A. (राजीव गिरि)

Before Subj. no. 101 (or before) I have made a statement of Shri M. Hadman CTC/P on duty 8/- to 16/- on 17/11/07. Vol 143  
A-53

I was on duty as CTC/P 8/- to 16/- on 17/11/07.

At about 8/50 while Mr. S.C. Agarwal Dy CTC/P of S-  
was still making out charge to me, Shri Bora Nira  
CTC arrived in Dy CTC's Room and reported in a  
loud voice that Dr. Das was very much unhappy  
over relaying less number of S&T failures than  
actual to Hd. Drs. office and wants to know  
the name of the Dy CTC who relayed it.

Mr. S.C. Agarwal said that the figure of S&T  
failure was relayed by Addl. GA and he ordered  
Addl. GA to relay 037 to Hd. Drs. which he will  
just confirm from Hd. Drs.

Thereafter I went around the Control Board  
to pick up latest punctuality position and Mr. Agarwal  
tried and talked to Central Control about the  
figure of S&T failures relayed today and record  
at Hd. Drs.

I conclude my statement of my own accord.

M. Hadman  
CTC/P.Ds.  
17/11/07

Q. No. 1 Shri Bora Nira CTC in his statement has indicated

Ques. 1. ~~that you were in 8/- to 16/- Hrs. duty on 17/11/07~~  
Ans. 1. ~~and you corrected the figure to Emergency Ctr~~  
in respect of No. of signal failures.

Ques. 2. ~~Neither I knew the correct No. of S&T failures~~  
Ans. 2. ~~nor I spoke to Emergency Ctr in this regard~~  
as the special feature is relayed to Central Control.

Q. No. 2. When did you talk to Shri Bora Nira CTC  
in respect of signal failure position relayed to H.Q.  
Office

Ans. 2. I did not talk to Shri Bora Nira CTC in respect  
of signal failure position relayed to H.Q. Office to H.Q.  
and in Dy CTC's office at 8/50 and displaying answer of  
H.Q. Drs. for relay of less No. of S&T failures to H.Q. Drs.

Before Commr's Adm on Torbaragh Alibabu 44  
S. C. Agarwal vs. C.R. & N. W. R. & another  
C.R. & N. W. R. & another  
C.R. & N. W. R. & another

Q. No. 3. What instructions Mr. Mishra issued to you in this respect, is correct, the already signal failure figures?

Ans. 3. No instructions were issued to me.

Q. No. 4. Was there any conversation between you and Sh. Agarwal reg. Signal failure points relayed during 8-10-12 Shift on that day?

Ans. 4. No conversation in this regard took place between Sh. Agarwal and myself. Only I came to know through Sh. B.N. Mishra's version that less no. of cases of signal failure have been relayed.

Q. No. 5. Did you check up the points of signal failure relayed to Hd. Enr. office during 8-12 Shift?

Ans. No. 5. No. I did not check up the signal failure points relayed to Hd. Enr. on that day as this is not normally done.

Q. No. 6. What is the procedure of relaying the signal failure point to Hd. Enr. office and who relays it to whom and when.

Ans. No. 6. The signal failure point is recorded by Dy. CTEP in SLL feature and is relayed to Central CTEP Hd. Dr. by Adm. GA (between 6-1 and 7-1).

(contd.)

Before control. Tel - Torbunaq Alibabade  
S C Agarwala VS 8109 and they like carrying

(P)

Q no. 7

In your opinion how this dispute  
regd. relayng of positi: arose on this day.  
Was CTC discussed this issue with you or with  
Ans. Sh. Agarwala when he arvd. in Dy. CTC  
room?

Ans no 7

I do not know how this dispute  
arose. Only I came to know tht  
CTC's version at 8/50 that less  
number of 587 failure has been  
relayed.

Q. no. 8

When and How and by whom the positi:  
of signal failure is given to CTC.

Ans. no. 8.

This point is not given by dy. CTC/PLC  
and I have no knowledge otherwise.

Q no. 9

Can you tell the tie when 587 failure figure  
was verified by Hl. Qrs. by Mr. S. C. Agarwala

Ans no 9.

While going from office at about 10-11  
Mr. S. C. Agarwala told that correct figures  
have been verified from central control

Q no. 10.

Did Mr. S. C. Agarwala intimate you  
during this conversation what was the correct  
figure there at Hl. Qrs?

Ans no 10.

Yes. He said that it was 37

Q no. 11.

Can you explain the meaning of 37/16 in  
respect of 587 failures.

Ans no 11.

587 failure when written as 37/16 indicate  
Total no. of 587 failure / 587 failures accepted by 587 Depo.  
(Non Con.)  
Attributed to Adm. (Contd.)

Before Central Admin Tolerance Allocations (46)  
SC Agrawal vs Dang and others (No circuit) (9)  
Ans 12 (10) 9

Ans 12

Are you sure that the GA Add.  
lays the point between 6/- and 7/-  
or it may as the tie can vary.

Ans 12

This can not be observed but approxi-  
mately that is the tie to relay.

+ 8% male  
co 17/11

17/11/02  
80

M. Hadain  
Officer  
17/11/02

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alleged  
Kash  
sdr

Before Central Admin. Tribunal ~~Melghat~~ (47)  
Lucknow Circuit.  
S. Chhawal & Ors and others Ans. *Ans. A. S. S.*

T. 10  
The Additional Divisional Railway Manager (OP),  
Northern Railway,  
Lucknow Division,  
Lucknow.

Sir,

Re : Punishment order dated 3.12.87 in case No. TG/74/48/Dy. CHC/87 received on 7.12.87 demoting the appellant from CHC-Grade Rs.2375-3500 to Guard Grade 'C' in grade Rs.1200-2040 at the bottom of the grade without postponing future increments.

Sub: A fervent appeal preferred for the waiver of the punishment.

I have preferred this appeal before your goodself, under rule 18 of the Railway Servant (Disc. & App.) Rules, 1968, most respectfully.

Appended below are the material facts of the case, grounds for appeal and prayer for setting aside the punishment.

The appellant has served the Indian Railways for 33 years with dedication and diligence. Now at the fag end of his service inspite of being innocent, inflicting of a severe punishment would make a stigma and unbearable financial losses in the career of the appellant which he would have to put up with the rest of his life. It is prayed and fervently hoped that this appeal would merit objective consideration at your hands.

✓ The appellant is in the grade ;.2375-3500 since 1.1.84. On 5.8.87, the appellant was working as CHC (Punctuality) in 0-8 hours shift.

At about 2.30 hrs. while completing 'Unusual features Register' the appellant found that the figure of S&T failures was not available in the Register, which should have been recorded by CHC(P) on 4.8.87 in 0.8 shift. The manuscript had been collected during preceding day by the clerk of the

contd...2

13/11/87  
T4

Tom Chhawal  
Ans. A. S. S.

Train Section and no cyclostyled copy dated 4.8.87 was available in Control office. The appellant with the help of S.I./Control, Shri Sahai found by actual counting that there were 37 cases of S&T failures.

Though Shri Sahai said that only 16 failure cases were acceptable to his department, I did not accept his plea and the failure cases were noted as 37. Since Shri Sahai was pleading for the figure of 16, a mention was made in 'Special features' Register as 37/16, thereby meaning that 37 were cases of failures reported and 16 were acceptable to S&T department. This observation in 'Special features' register, has no connection with the actual reporting to M.W.H.Q. Control as this being an internal register. Additional G.A. was instructed by me the figure of 37 only for <sup>on</sup>ward relay to central control and therefore, actually the figure of 37 only was relayed to central control. Further for definite record a tick mark was placed above the figure 37, thereby denoting the figure relayed to central control and figure 16, denoting that the figure is acceptable to S&T, was ~~also the~~ crossed out neatly and A remark 'acceptable to S&T', to remove the ambiguity altogether.

The senior CHC, at about 8.50 hrs. enquired the appellant about the number of S&T cases reported to central control and <sup>he was told</sup> the figure ~~was given~~ <sup>But</sup> (37)., the senior CHC said that only the figure of 16 had been relayed to H.Q. and unless corrected at H.Q. the appellant would be in trouble. This surprised the undersigned and was immediately contradicted, telling Senior CHC that the correct figure of 37 alone has been relayed to the H.Q. control.

True Copy  
attached  
L.K.D  
A.D.

contd...3

62  
PAS  
A-10  
149

The appellant, duty bound booked a hot line call to H.Q. central control which materialised at 9.40 hrs. and confirmed from Dy.CHC, Central Control Shri A.K. Mehta that the figure of 37 being S&T cases had been relayed by Additional G.A. and recorded by them. I accordingly informed the senior CHC and CHC, Shri M. Hasnain, my reliever.

That in the evening of 5.8.87, senior CHC served a call book of my suspension for not relaying the correct figure of total S&T failures to H.Q. The appellant left a remark on the call book that this figure is not relayed by me but only by the Additional G.A. and at about 9.35 hrs. I confirmed that the figure relayed was only 37 which was correct. Inspite of this senior CHC mischievously and wrongly informed senior D.O.S that wrong figure of 16 S&T failures instead of 37, has been reported to H.Q. Central control that resulted into the suffering of this trauma by the appellant.

#### GROUND FOR APPEAL

The following facts that have emerged during the course of enquiry are brought to your kind notice:-

1(a). Cross-examination of witness, Shri R.K. Tewari G.A. Additional dated 3.11.87 on page no.4, Q. No. 3 - "Special features register" dinank 5.8.87, ko jo position relay ki gayi hai iska kya matlab hai ?

Ans.3 "Special features register" jo ham apne record ke liye banate hain usme jo position ham Head quarter ko dete hain woh unusual register se lete hain, aur jo sankhya 16 ki hamne kaat rakhni hai woh

(contd...4)

True Copy  
Attest  
K.S. B.R.V.

Head Quarter ko nahin relay ki gayi thi.

Thus Shri Tewari has deposed that special features register that are maintained for G.A. (Addl)'s records and the figures taken from unusual register are to be relayed to H.Q. The figure of 16 that has been crossed had not been relayed to H.Q. at all. In his statement on page 3 he has already deposed that the No.16 was crossed by him under instructions from the appellant while noting down the figure from unusual register.

P(b) Cross-examination of P.Witness, Shri M.Hasnain CHC deposed on page 8 dated 17.11.87 in answer to Q.No.11, when questioned to explain the meaning of "37/16, in respect of S&T failures" that " S&T failures when written as such, indicates total number of S&T failures/ S&T failures accepted by S&T department.

1(c) There is a precedence and a similar recording is available in the records, "Unusual Occurrence Register" on 3.8.87 as 34/28 by other CHC(P).  
The above oral testimony/documentary evidences clearly bring out the fact that such recordings have a definite meaning and there is no room for any confusion and this register has got concern <sup>only</sup> with CHC(P) in different duties and the Additional G.A. who relays the information to Head quarter Central Control.

True Copy  
Attested  
K.N.D  
H.Q.C.

contd...5

(P)

It is quite intriguing that senior CHC did not take the notice of 34/28 recorded by other CHC(P) a day earlier on 4.8.87 but raised the hue and cry, <sup>but</sup> the next day on 5.8.87 when I recorded 37/16 under same circumstances with the added precaution of scoring out the figure of 16 neatly with an added information that 16 belonged to "accepted by S&T" to remove the ambiguity. In view of the above it is evident that the learned Enquiry Officer has not taken into account the above facts on records and has relied on the statement of senior CHC only. This shows bias of Reporting authority Senior CHC and the Enquiry Officer alike.

2. The Enquiry Officer has to rely on the evidences adduced in the enquiry and substantive information and facts unearthed during the course of enquiry. He is not to rely on statements which have not stood the test of cross-examination. On the following counts, the findings of the Enquiry Officer are perverse.

(i) In the SF-5, the charge levelled is that "during the course of his duty he recorded and relayed to Emergency Control NDLS, only 16 instances of signal failures whereas, there had been as many as 37 such cases on that date". No evidence of any sort has been adduced in the enquiry to prove the charge, rather the Enquiry Officer himself admits in his findings "From the photostat copy of signal failures

T. M. C. P. /  
A. M. S. (S)  
K. S. /  
D. P. W.

contd...6

ABCD

record of different divisions, obtained from H.Q's. It appears that on 5.8.87 in Lucknow Division, 37 signal signal failures have been recorded\*. Thus the charge totally fails and the innocence of the appellant is viddicated. However, by maintaining an opinion that "As such Shri S.C. Agarwal is responsible for not maintaining signal failures properly in the Unusual Occurrences Register on 4.8.87 (relayed to H.Qrs. on 5.8.87). He should have recorded total number of signal failures as 37 and not 37/16 on 4.8.87 for relaying to H.Qrs. on 5.8.87. The learned Enquiry Officer has strayed out of the charges and the imputations and has revealed his biased stand. Here bias is established and consequently the whole finding is vitiated.

3. That learned Enquiry Officer has further recorded in his findings \*Sri B.N. Misra being CHC is justified in expressing his serious concern over improper relaying of signal failures position to H.Qrs.office (as per his version), but he should have personally satisfied himself about the figure already relayed before bringing it to the notice of higher authorities.\*

Shri B.N. Misra's contention has been proved false and his manipulations and intrigues have resulted into anger of higher authorities and wasting of their valuable time, which resulted into untold miseries and mental torture to the appellant despite being dutiful, concise and clear & holding complete

contd...7

True Copy  
Attest  
Ranjan  
Asst.

and clear charge over the effects and subordinates. Senior CHC should have taken note also of the figure of 34/28 recorded by other CHC (P), the previous day and should have left instructions to all CHC(P)s that the figure of signal failures accepted by S & T department must not be recorded at all in the Unusual Occurrences Register for future reference even in denominator. The senior CHC has not stood the test of enquiry at all and he contradicts himself while depositing from his F.I.R and departs in his statements, at all counts. He stands contradicted by all the witnesses as well.

Moreover, he has failed to intimate the appellant at 7.00 hrs when (if) he got the figure of 16 only from Additional G.A. and why at 9.00 O'clock or 9.40.

Thus the act of Sri B.N. Misra, Senior CHC is to be taken up for misinforming the higher authorities about this non-existing figure of 16, having been relayed to H.Q. Central control, which has been neatly crossed by the appellant and a ~~xx~~ clear remark was left that this (crossed figure) belonged to "accepted by S&T" and was not relayed. This is highly improper, mischievous and smacks of ulterior motives of Shri B.N. Misra, Senior CHC. ~~Thus the findings are~~

~~findings~~

Thus the findings are perverse and beyond the ambit of the charge in the memorandum.

4. The biased stand of Senior CHC and the perverse findings of the Enquiry Officer (where substantial evidences on record have been ignored) have aggravated the situation so much that the material

*Tommy  
Attended  
Karki  
P.M.*

cont.,, 8



facts on records and the circumstances of the case escaped the consideration of the honourable and learned Disciplinary Authority resulting into infliction of such a severe punishment to the appellant.

#### P R A Y E R

Your honour, it is thus prayed that in the light of the above foregoing grounds of appeal that this unjustified, stringent punishment order by the learned Disciplinary Authority be set aside and the appellant be given an opportunity to serve the Railways with due honour for the rest of his service.

Yours faithfully,

S.C. Agarwal

(S.C. AGARWAL)  
CHC/Luck now

Dated : 14. 12. 87

S.C. Agarwal  
CHC/Luck now

To,

The General Manager (A.P.G.)  
Northern Railway, ~~Manager~~  
The ~~Divisional~~ Railways Manager, ~~Manager~~  
Northern Railways, Baroda House  
Lucknow, New Delhi  
(A.P.G.)

Sir,

Sub:- Review Petition - Case no. ~~Regd.~~

TG-74/Misc/48/87 of 6.8.87 over  
decision of A.D.R.M.(T), N.Rly Lucknow  
on 6.1.88 on appeal at 14.12.87.

First of all, I may respectfully invite your kind  
attention on case file No. TG-74/Misc/48/87 D. 6.8.87,  
on which decisions of the competent authority and the appellate  
authority are contained, which are mentioned above. The  
petitioner undersigned begs to submit the following discrepancies  
in the enquiry proceedings resulting into complete disregard of  
the principles of 'Natural justice' for your kind perusal and  
favourable considerations.

#### Procedural lacunae

1. That, the petitioner was not given proper  
opportunity of being represented and assisted by a competent  
railway servant of his choice duly approved. After attending  
one date of enquiry, the petitioner's defence helper, Shri V. P.  
Trivedi, could not attend proceedings either because he  
was on sick report or on leave. The petitioner prayed  
for adjournment but ~~was~~ neither it was postponed, nor  
was asked to appoint another defence helper resulting into  
defects in the proceedings.

2. That, the defence witnesses nominated by the petitioner  
were not called by the Enquiry officer and the enquiry  
proceedings were concluded post haste, without opportunity  
of adducing evidence in his self defence by the petitioner, but  
the enquiry was conducted in a topsy-turvy  
manner which seriously prejudiced the self defence  
of the petitioner. The learned Enquiry officer recorded  
evidences in the manner not worth being followed in  
a quasi-judicial proceedings. He took up defence first,  
then prosecution, again defence and then prosecution and in  
the last the defence statement of the petitioner. This

exposed the entire defence theory before prosecution  
and the management was thus given full opportunity  
of meeting the defence instead of opportunity being  
given to meet the allegations of prosecution side. The  
enquiry, thus, ended in a complete failure of  
justice, and defence of the petitioner became impossible  
in face of one sided enquiry.

The enquiry had concluded on 18.11.87 and the defence note was submitted on 20.11.87 at 17.45 hrs. The findings were ~~finalised~~ finalised on the same date, which means that points raised in the defence note were not considered at all, and thus findings also ended into separate decision and findings.

3. The charges were "Recorded and relayed to HQ Emergency Control 16 S&T failure cases only whereas there were 37 such cases in 218 short", which has been disproved by the photo-stat copy (only certified, received from NDS Control on 28.10.87) clearly indicates the number of S&T failures relayed by Lucknow Control as 37 only. Thus, the charges, framed against the petitioner regarding relaying only 16 S&T failure cases became completely baseless.

4. Regarding findings marked 'A' by learned S.R.D.O.S., it is pointed out that the entry is not as mentioned "37/16" but as "37/~~16~~ accepted by S&T". Thus the findings are devoid of facts on records and evidences. This remark has no evidence at all.

Here it is to point out that as per practice since introduced to indicate no of signal failures as ~~total~~ A/B meaning that A is total number of failures & B, is the number accepted by S&T. With this in view it had earlier recorded in the register on 5.9.87, 37/16, meaning that 37 was total failures of S&T cases, out of which, 16 were scored out after placing a tick(✓) mark above 37. Consequently only 37 was relayed to HQs.

Thus the question of misleading information recorded and relayed did not arise, in fact which has not been taken into consideration by Enquiry officer & to Appellate Authority and initial allegations have been reiterated with changed.

*True copy  
After  
Lokpal  
DAW*  
Wordinings, and thus the fact that the petitioner has maintained only 37 as number of S&T failures has been ignored. Thus, the question of maintaining information in a misleading manner does not arise. This non consideration of the facts on records and evidences resulted into not setting aside the punishment if the innocent.

5. Besides the facts above, the following technical lacunae occurred in the manner of proceedings etc.

the enquiry which is reproduced below along with A-11 those on punishment notices and appellate orders.

- (i) That, the relevant forms SF-6 & SF-8 are to be issued by a competent authority for that grade, post or service.
- (ii) That, the suspension took place prior to the date of report by CMC, which initiates the entire proceedings.
- (iii) That, the punishment notice was defective because the learned SD.O.S. Lucknow, had imposed penalty for happenings of 4.8.87. This punishment notice No TG-74/40/DyCMC/Misc/87. D/- 3.12.87 may kindly be looked into. This punishment deserved being set aside on this ground alone.
- (iv) That, the learned Appellate Authority has also failed to consider the facts mentioned above and has virtually awarded punishment on a different charge which is not permissible under law. The charges framed initially have to be substantiated and if a new conception is intended to be introduced, the delinquent employee has to be given a fresh opportunity of showing cause against the action proposed. Thus, the petitioner was dealt with under prejudice even at the appellate stage.
- (v) That, the learned Appellate Authority also failed to provide a personal hearing at the Appellate stage to the petitioner (who had been denied chance of representation at all stages above mentioned), which is though not binding on the Appellate Authority, yet it is reasonable facility of self defence and it cannot be brushed aside without assigning reasons there-of.

*To the Copy  
Attn: [unclear]* (vi) That, the very non existence of the defence helper's signatures when one appointed makes the entire enquiry ultra-vires as chance of representation is thus denied.

(vii) That, the learned Appellate Authority also failed to give proper weight to the fact that the "unusual occurrences" register shows ambiguous



158  
Full

entries of the same on previous days, whereas the petitioners entries were correct, clear and unambiguous and thus rendered unquestionable. The Learned Appellate Authority has also failed to adhere to the principles of natural justice and to record a well considered Appellate order.

(viii) That with due regards to the Learned Appellate Authority, petitioner would also respectfully submit that the punishment awarded at the appellate was in violation of the article 20(iii) of the constitution of India. It is a double jeopardy because on one side the petitioner's rank has been reduced and on the other side the emoluments have also been minimised by reducing him in stages in the same time scale also, violating article 20(iii) of the revered C.O.I.

#### PRAYER

(i) It is therefore prayed that the punishment awarded by A.D.R.M.T, N.R.L, Lucknow, be set aside and waived off.

(ii) Since, no personal hearing was afforded at the appellate stage, therefore such an opportunity is requested at this stage to explain my case matters ~~prima facie~~ before your honour.

Yours faithfully

S. C. Agarwala

Lucknow.

D. 4. 10. 1988.

(S. C. Agarwala)

Dy. E.M.C. - N.R.L

Lucknow

True Copy

Mailed

Handed

Recd.

(24)

59  
Am. A-12

NORTHERN RAILWAY

SN 368 00/001  
Each page

Senior D.O.S.,  
Northern Railway,  
D.R.M Office,  
Lucknow.

Headquarters office,  
Baroda House, New Delhi.

No.23/CCO/HQ

Dated: 27.10.87.

Sub: S&T failures LKO/Div. m.

Ref: Your D.O. No.TG 74/48/Dy. CHC/P/LKO. dt. 26.10.87.  
\*\*\*\*

It is certified that S&T failures recorded in the HQ/Office position dt. 4.8.87 published on 5.8.87 is 37 (thirty seven only) This information in this bulletin is based on the information from Division to head quarters in daily position on Control Phone. Daily position record is however kept in this office for one month only.

For information please.

D. R. Sharma  
A.T.O. (C) 27.10.87

Bisharma  
CHC

27-10-87

37  
37  
In the Central Administrative Tribunal Circuit Bench  
Lucknow.

(A20)  
M. P. No. 537/90 (2),

O.A. 325 of 1989

F. F. 30/8/90

S. C. Agarwal

Applicant

Versus

Union of India and others

Respondents.

Application for Vacating of Ex parte Order and taking  
on record the written reply.

It is submitted on behalf of the respondents as under:-

1. That in absence of the reply, the Hon'ble Tribunal was pleased to fix the above application for ex parte hearing.

2. That the reply could not be finalised due to time consumed by the counsel after he was furnished the comments and the DR File, which submission took some time.

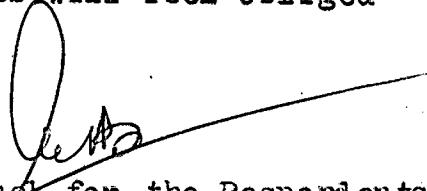
3. That the reply is ready and is annexed to this application. It could not be filed earlier due to being mixed up with other case no. 273/90.

4. That great prejudice will be caused, if the reply is not taken on record.

It is therefore prayed that the delay in filing the reply may kindly be condoned, the order for ex parte hearing may kindly be recalled and set aside and the reply filed herewith may kindly be ordered to be taken on record, for which the respondents will feel obliged

Lucknow

dated: 30.8.90

  
Counsel for the Respondents.

(A71)

In the Central Administrative Tribunal Allahabad  
Circuit Bench Lucknow.

O.A. 235 of 1989

S.C. Agarwal

Versus

Union of India and others

Applicant

Respondents.

Reply on behalf of the Respondents:

Para 1: Needs no reply.

Para 2: Needs no reply.

Para 3: Issue of order No. T 074/48/Dy. CHC/Lko/87 dated  
(i) to  
(iii) 27.12.1989 as contained in Annexure No. 1 to the  
application is not denied.

Para 4(iv)

1. Needs no reply.

2. Issue of Letter No. TG74/48/Dy. CHC dated 3.12.87  
as contained in Annexure No. A-2 is not denied.  
Rest of the allegations are verifiable from the  
annexure itself.

3. Need no reply.

4. Not denied.

5. Denied. It is stated that the charge sheet was  
legal and complied the rules, as well as the  
charge levied was definite. Particulars of  
witness was given. No such ground was taken in  
the appeal/review.

6. Denied. All the documents asked for by the  
applicant were shown / given to the applicant  
under his clear acknowledgement. It is also

*Abdul*

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- 2 -

stated that the applicant also made an application for inspection of additional documents vide his letter dated 14.10.87. The record was inspected by the applicant the same day under his clear signature.

7. Denied. It is stated that had he relayed / ordered to be relayed only 37 failures there was no need to write down 116 as accepted by S&T). When he came to know <sup>about</sup> his mistake he wrote 37/16 to avoid overwriting and got it corrected at the Head Quarter level.
8. Denied. The charges stood proved during the course of enquiry.
9. Denied. The findings of the enquiry officer is not perverse and is supported by evidence.
10. Denied. The applicant was afforded all the opportunities to defend his case. As stated above, all the available material on the file was given access to the applicant for purpose of inspection. All witnesses produced by him were examined.
11. Denied. It is stated that the appellate authority and reviewing authority applied their mind while ~~considering~~ considering the appeal/review and disposing the same.

*Wijayam*

Assistant General Officer,  
Northern Railway,  
Delhi NCR

12. Denied, as stated. The correctness of the Annexure A-12 to the application is not disputed. However, as stated above/the applicant relayed/ordered to be relayed only 37 failures there was no need to write down '16 as accepted by S&T). When the applicant came to know about his mistake, he wrote 37/16 to avoid overwriting and got it corrected at the Head Quarter level.

Para 4: Needs no reply.

Para 5: Needs no reply.

Para 6:

(1) Needs no reply.

(2) Issue of charge sheet (Standard Form No.5) No. TG74 Misc/87 dated 7.8.1987 to the applicant by the Senior D.S.S. Northern Railway Lucknow is not denied. Facts alleged are verifiable from the Annexure No. A-4 itself.

(3) Only the submission of letter as contained in Annexure No. A-5 which is dated 23.9.1987 (not 23.11.'87) as alleged)

(4) In reply it is submitted that on further submission of letters dated 12.10.'87 and 14.10.'87 additional documents sought to be inspected by the applicant were duly inspected the same day. It is also stated that no such grievance was made by the applicant in either the appeal or review.

*M. Jayar*

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It is further submitted that at any rate the paragraph under reply does not disclose as to which documents were not allowed inspection. It is also stated that so far as the documents sought for/were shown/inspected as is evident from the subsequent requests for inspection and inspections made.

Para5: In reply, it is stated that the applicant participated in the enquiry proceedings and examined his witnesses on 17.11.'87 and ~~18.~~ examined himself on 18.11.'87. It is further submitted that on 17.11.87 the applicant submitted a letter to the Enquiry Officer that he would submit his defence note within a week and as early as possible.

Para6: not denied.

Para7: Needs no reply.

Para8: Denied. The Inquiry Officer's report can neither be termed as perverse or unsupported by evidence.

Para9: Not denied.

Para10: Not denied.

Para10A: In reply it is stated that had the applicant relayed /ordered to be relayed only 37 failures there was no need to write down '16 as accepted by S&T'. When the applicant came to know about his mistake , he wrote 37/16 to avoid overwriting and got it corrected at the Head Quarter level.

*Abair*

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The genuineness of the letter as contained in the Annexure 12 is not denied.

11. Not denied.

12. Not denied.

13. Denied. It is stated that the final punishment imposed is not ~~im~~ liable to be quashed. It is reduction in punishment imposed by the Disciplinary Authority /Appellate Authority.

The applicant has not sought quashing of the punishments awarded by the Disciplinary Authority, appellate authority. It is stated that the findings are in consonance to the charge sheet. It is also denied that the report of the enquiry office is perverse or unsupported by evidence. It is submitted that the applicant was allowed to have defence helper. The applicant never sought to introduce any other defence helper, so the question of refusal did not arise. The enquiry never proceeded ex parte. In fact the applicant examined his left over witness and himself, as well as submitted his defence note before the inquiry officer. It is further submitted that the charges levelled stood proved during the course of inquiry.

Para 7: needs no reply.

Para 8: Needs no reply.

Para 9: Denied. The applicant is not entitled to any relief. None of the grounds taken are tenable under law and the application is liable to be ~~dismissed~~ dismissed.

*Allyan*  
Anil Kumar  
S/o...  
Policeman

✓ ✓

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Para 10: Needs no reply.

Para 11: Needs no reply.

Para 12: Needs no reply.

Lucknow

dated: 22-3-90

*N. K. Jain*  
Respondents.

Asstt. Personnel Officer  
Northern Railway,  
LUCKNOW

Verification.

I, N. K. Jain working as Asstt Personnel Officer in the Office of D.R.M. Northern Railway Lucknow and competent to sign and verify this reply, do hereby verify that the contents of paragraphs 1 to 12 of this reply are true to my own knowledge derived from record and the legal advice received.

Signed and verified this 22<sup>nd</sup> day of March 1990 at D.R.M. Office Hazratganj Lucknow.

*N. K. Jain*  
Asstt. Personnel Officer  
Northern Railway  
LUCKNOW

APX

BEFOR THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
LUCKNOW CIRCUIT.

S.C. Agarwal Vs Union of India and others.

O.A.No:

235/89C

REJOINDER TO THE COUNTER.

INDEX.

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

1. Rejoinder.

2. Annexure No: B-1  
Applicant's application dated 28.10.87.

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Lucknow.

Dated:

S.T.C  
13/11

Signature of the applicant.

Come for  
the application.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD  
CIRCUIT BENCH LUCKNOW.

O.A.No: 235 of 1989 L.

S.C.Agrawal .... Applicant.

Versus

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

REJOINDER OF THE APPLICANT.

1. That in reply to para 4(iv) ~~of~~ 5 of the counter reply, its contents are denied and contents of para 4(iv) ~~of~~ 5 of the application are reiterated. It is submitted that the figure was not relayed to emergency control by Chief Controller (Punctuality) but was relayed by G.A (Additional) to Central Control, New Delhi along with other Line and stock position from Stock Controller Room and which is far-away from Chief Control (Punctuality). The applicant has been charged to have recorded ~~and~~ and relayed to Emergency Control, New Delhi only 16 instances of Signal Failures whereas there had been as many as 37 such cases on that date personally and thus the charges are not definite. Not only this the Rules 3.I(ii) and (iii) of Railway Services Conduct Rules are said to have been violated which is untrue. The list in the chargesheet carries the name of none of witnesses but a single document by CHC Sri B.N.Misra, i.e. his report is not definite, and unsupported by ~~any~~ Prosecution witnesses.

2. That in reply to para 4(iv) ~~of~~ 6 of the counter its contents are denied. As per Annexure A-5

*S.C.Agrawal*

Shri Sajay Kumar, G.A. Central Control, New Delhi, was required as defence witness along with the documents but was not called by the Enquiry Officer, nor any reason for not calling the D.W. was recorded. It is further submitted that the applicant submitted list of defence witnesses on 28.10.87 which was refused by the Enquiry Officer vide Annexure A-6 of the application. Photo-stat copy of the Applicant's letter dated 28.10.87 is enclosed as Annexure R-1.

3. That in reply to para 4(iv)7 of the counter its contents are denied. It is submitted that ~~neither the applicant was ordered nor he~~ <sup>did he</sup> relayed any of the figures to the Headquarter Control. These figures are relayed by the Additional G.A. to the Headquarters as is evident from the statement of G.A. Additional Sri R.K.Tewari on page 41 Annexure A-9 that he relayed the figures of 37 to the Central Control and this position was also conveyed to Shri B.N.Misra, CHC on his enquiry. The figure of 16 was written as number of failures accepted by the S & T Department. Moreover, this figure was already scored out in the unusual occurrence register after writing and explaining to the G.A. Additional. The contents of the counter are misleading. Such type of figure 34/28 was also written by another Chief Controller (Punctuality) who performed duty 0/- to 8.00 hrs. on 4.8.87 without remarks and unscored any of the figures. The method adopted by the applicant was prevalent a day before the applicant performed duty, and is still prevalent. It clearly shows that the

*S. A. Goyal*

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Disciplinary Authority punished the applicant out of sheer prejudices and Appellate and Reviewing Authorities consoled both the applicant and the Disciplinary Authority by reduction of punishment without considering the facts on records and mentioned in Appeal and Review.

4. That in reply to para 4(iv) 8 & 9 of the counter, its contents are denied and those of application are reiterated. It is further submitted that the findings of the Enquiry Officer are not based on statements and cross examination of the Prosecution witnesses and Defence witnesses made alleged by the Enquiry Officer. The charges and the statement of the witnesses are contrary to each other..

5. That in reply to para 4(iv) 10 of the counter its contents are denied and contents of the application are reiterated. It is submitted that the Defence Helper was not awaited while he was on sick leave, neither the applicant was asked by the Enquiry Officer to produce another Defence Helper. The only defence helper nominated by the Applicant was accepted by the Enquiry Officer and Enquiry Officer never raised any objection about nomination of one person only. Moreover, the enquiry began topsy-turvy at the will of the Enquiry Officer. The defence witnesses who were material and relevant in the case were either not called or not permitted ( Annexure A-8Y pages 26 & 27Y of the application). The defence witnesses were examined first on 2.11.87 and 3.11.87 by the Enquiry Officer and P.W. witnesses were examined

*S. S. Anwale*

Contd...4.

= 4 =

later on 2.11.87 and #. 17.11.87 as is evident from pages 39, 41, 40 and 43 respectively of the application. It shows that there is complete denial of reasonable opportunity.

6. That in reply to para 4(iv) 11 of the counter, its contents are denied and contents of the application are reiterated. It is further submitted that the appellate as well as reviewing authorities did not apply their minds towards the facts and circumstances of the case mentioned in the appeal as well as in review application. They only reduced the punishment to console the applicant as well as the Disciplinary authority.

7. That in reply to para 4(iv) 12 of the counter, its contents are denied. It is further submitted that the applicant ~~neither~~ <sup>did not</sup> ~~the figure of 16 is Central Control~~ ~~relayed from Headquarters~~ but asked the G.A. Additional to relay the figure of 37 failures only to Headquarters. Actually on the previous day i.e. on 4.8.87 Mr. S.M.Yunus, CHC/Punctuality wrote the figures 34/28 in the unusual occurrence register which is still in existence. But this man was not taken up for creating such confusion. The figure of 16 which was accepted by S & T Branch was scored out by the applicant immediately after explaining to G.A. Additional as is evident from the statement of Shri R.K.Tewari, G.A. Additional. The applicant never got it corrected at the Headquarter level. Neither this thing exists in the SF-5 nor, anywhere in the enquiry by P.W. or D.W.

*S. A. M. A. L. O.*

The Enquiry Officer avoided to call the defence witness Shri Sanjay Kumar and Shri A.K.Mehta, from New Delhi and Shri C.M.Sahai, S.I./Control, of Lucknow. Had they been called, everything would have come on surface whether the applicant got it corrected ~~and~~ at the Headquarter level or the actual figure of 37 was relayed to Central Control by G.A.Additional.

8. That in reply to para 6(2) of the counter, its contents are denied, and the contents of the application are reiterated.

9. That para 6(3) of the counter it needs no reply. The actual date of Annexure No: A-5 is 23.9.87.

10. That in reply to para 6(4) of the counter are denied, to the extent that the applicant <sup>will</sup> inspected ~~all~~ documents. The applicant only inspected few documents ~~and~~ and did not inspect the other relevant documents asked for by the applicant which were not supplied or produced either by the Disciplinary authority or the Enquiry Officer; hence there is complete denial of reasonable opportunity. Para 3 of Annexure A-5 filed to the application indicates that Shri Sanjay Kumar, G.A. Central Control, along with his position of special features for 4.8.87 recorded on 5.8.87 was not called. However, the special feature register for that day could have been produced which was not done.

11. That in reply to para 6(5) of the counter its contents are denied and contents of the application are reiterated. It is further

*S. K. Mehta*

submitted that the applicant was never permitted to examine any witness either PW or DW. The applicant submitted his defence note on 20.11.87 at 17.30 hours and the Enquiry Officer submitted the findings on the same day i.e. on 20.11.87 without going into the points raised in the defence note (Annexure 11 page 56).

12. That in reply to para 6 (8) of the counter, its contents are denied and contents of para 6(8) of the application are reiterated.

13. That in reply to para 6(10) of the counter, its contents are denied and the contents of the application are reiterated. It is further submitted that it is neither in the chargesheet nor during the course of enquiry this version came that the applicant came to know about his mistake, he wrote 37/16 to avoid overwriting and this version has nowhere been indicated even by the Enquiry Officer.

14. That in reply to para 6(13) of the counter, its contents are specifically denied and the contents of application are reiterated. The full facts have already been given in the application as well as in foregoing paragraphs. It is submitted that the punishment order of the reviewing authority had been challenged being in non-speaking order. The punishment imposed by the Disciplinary authority has already been challenged in appeal which was reduced by

*S. G. Amritalal*

Contd....

ADM

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the appellate authority and the appellate order was also challenged in the review petition. No doubt, the reviewing authority reduced the punishment but the same is in non-speaking order as the reviewing authority did not consider the full facts brought out in the review petition. Moreover, the punishment is also not in-confirmation with the alleged charge level in the charge sheet nor the punishment is based on any evidence supported by PW or DW.

paragraph (14)

15. That in reply to 9 of the counter, its contents are denied and contents of para 9 of the application are reiterated.

Lucknow. Dated:

Applicant.

Verification.

I, S.C. Agrawal, working as Chief Controller Punctuality, D.R.M. Office, N.Rly., Lucknow, do hereby verify that the contents of paragraph 1 to 15 of this rejoinder are true to my own knowledge and based on legal advice.

Signed and verified this 26 day of September, 1990 at Lucknow.

Lucknow. Dated: 26. 9. 90

S.C. Agrawal  
Applicant.

S.C. Agrawal

उत्तर रेलवे ३५  
NORTHERN RAILWAY

जनरल ९९/बड़ा  
गण. ४८/८

(8)

Mr. A. J.

(AOS)

To

The Enquiry Officer  
Mumbai only

b/w

Regr- Names of additional list of  
defence witnesses.

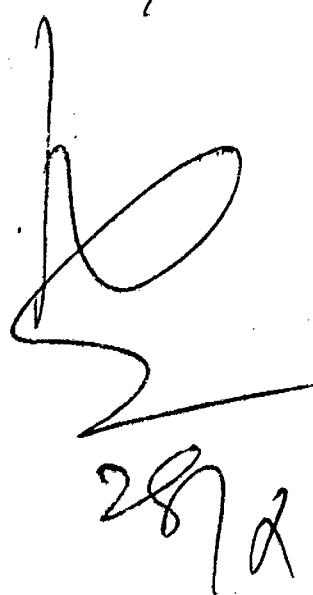
Respectfully it is the additional list of  
witness (defence) as below. Kindly arrange their  
attendance to defence.

1. Shri C. N. Salai S1/one Ltr
2. " A. K. Agarwal Dyette Genr  
NDBH.

Thanking.

28/10/07

Yours faithfully  
SAC (SAC)  
(S. C. Agarwal)  
Clerk/MS

  
28/10