

Particulars to be Examined

Endorsement as to result of examination

11. Are the application/duplicate copy/spare copies signed ?
12. Are extra copies of the application with Annexures filed ?
 - a) Identical with the Original ?
 - b) Defective ?
 - c) Wanting in AnnexuresNos. _____ pages Nos _____?
13. Have the file size envelopes bearing full addresses of the respondents been filed ?
14. Are the given address the registered address ?
15. Do the names of the parties stated in the copies tally with those indicated in the application ?
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ?
17. Are the facts of the case mentioned in item no. 6 of the application ?
 - a) Concise ?
 - b) Under distinct heads ?
 - c) Numbered consecutively
 - d) Typed in double space on one side of the paper ?
18. Have the particulars for interim order prayed for indicated with reasons ?
19. Whether all the remedies have been exhausted.

✓
✓

no

✓

✓

N/A

✓

yes

yes

dinesh/

C-A 222/90

33, 199

Hon. Mr. Justice K. N. K. V.

Hon. Mr. K. Chagga, AM

AB

Given in the presence of the respondents,

to show - ~~also~~ cause why the
petition be not admitted and why
the interim relief prayed for
be not granted. ~~list~~ for further
admission
a. ~~order~~ on 24-7-90, ~~with~~

12

AM

V.C.

24.7.90

Hon. Mr. Justice K. N. K. V.

Hon. Mr. K. Chagga, AM.

Counsel for the applicant filed a copy of P. R.
leave notice in terms of the order dated 23.7.90 and
list for orders and admission on 7.8.90. We
direct that the respondents shall proceed with the
disciplinary enquiry but will not pass final
orders till further orders of this Tribunal.
A copy of this order may be given to Sri S. S. Chakran,
Counsel for the applicant within 24 hours.

(A.M.)

(V.C.)

OR
notice issued
on
31-7-90
229

8.90

No sitting adj. to 12/8/90

By S.

OR
Notices were issued
on 31-7-90.
Neither reply nor
any unserved reply was
received. ~~issue~~
S. S. A.

13/8/90

26/11/90

Pen. Mr. Justice K Nath, VC
Pen. Mr. M. M. Singh, AM.

Dr. Shishu Chandra for the respondents
requests for further time to file reply.
Last opportunity to file reply within four
weeks is given. Respondents, if any, may
be filed within one week thereafter and
the case may be listed for admission
on 14/1/91. In the case, will be
disposed of fully.

M H T
AM

VC:
VC:

Re

OR
No C.A. filed
11/12

14.1.91 -

No sitting Adj to 91.

(W)

30.1.91 -

No sitting Adj to 91.

42

5.2.91
D. R.

Both the parties
are present today.
Counter has not
been filed till
today. Respondents
to file counter 6
14/3/91.

O.A. 223/90

3.9.91

D.R.

Dr. D. Chandra is
present for the susp-
ondents. Applicant
to file Rejoinder
by 19/11/91.

19.11.91

D.R.

Applicant is present.
He is directed to file
Rejoinder if any by
12/2/92.

12.2.92

D.R.

Department's side is
present. No appears for
the applicant. Applicant
to file Rejoinder by 5/5/92.

DR.

~~7/7/92~~

5.5.92 Both - the parties
are present. Applicant
to file Rejoinder.

~~by~~ by 7.7.92

O. A. 222/90

AG

30/3/93

D.R.

Both the parties are absent.

RA has not been filed today.

Applicant to file it on the date fixed, list for F.H. on

3/5/93

~~ok~~
~~RA withheld~~
~~sfh~~
~~24/4/93~~

2.5.93

Cause not recorded
on 4.8.93

note

30/6/93

4.8.93

No coming of D.M. on
24.9.93

note

ok

RA withheld

sfh

24/9/93

24/9/93

Honble Mr. S. N. Prasad - J.M.

Honble Mr. V. K. Sethi - A.M.

None responds on behalf
of either of the parties. List
this case on 22/11/93

ok

RA withheld

sfh

23/11/93

22.11.93

No coming of D.M. on
14.12.93

note

A.M.

J.M.

16-2-94.

D. R.

No sitting of D. B. Case is
adjourned to 18-4-94 for
orders.

Amrit

D. R.

10.4.94

Leaves abated from said writ
application to 29.6.94

mic

28/6/94

Hon. Mr. V. C. Seth, A.M.
Hon. Mr. D. C. Verma, A.M.

Not for the time being
List on 23/8/94
for order.

OR
M.P. NO-392/94
announced
S.D.O.
on 28/6/94

CA on behalf
of respondent
is supplying
affidavit by
the petitioner
filed on 28/6/94
Supported with
filed to vacate
the post.

The
22/8/94

23854

Hon. Mr. Justice B. C. Sikri, V.C.
Hon. Mr. Muthu Kumar, A.M.

M.P. 392/94 is listed today
before the learned counsel for applicant
is not present, with any request
for adjournment has been made
we have denied the learned counsel

04 222/90

AB

17.11.94

110-2A Filed
5/11/95

case not reached adjourned
to 5.1.95

B.O.C.

←

5.1.95

Hon. Mr. V. C. Seth A.M.
Hon. Mr. D. C. Verman J.M.

None appears either of
Mr. Palu b.m. on 26.2.95

J.M.

V.C.
A.M.

24.2.95

case not reached adjourned
to 19.4.95

B.O.C.

←

18/4/95

Hon. Mr. V. C. Seth A.M.
Hon. Mr. D. C. Verman J.M.

None for applicant. Dr. D.
Chandra, Counsel for respondents
is present. A perusal of the
record of the shows that a 1/10
C.A. has been filed but no
R.A. has been filed despite
ample opportunity. There is
also no request on behalf of
the applicant for adjournment
or in any way that on the
last several dates nobody
had put in appearance on
behalf of the applicant. In the
circumstances it is dismissed
in default of the applicant

J.M.

V.C.
A.M.

copy of order prepared &
on 26.5.95 & applicant's
copy of order submitted
on 25.7.95
25/7/95

D. A. L. B.
D. K. B.
26/4/95

(A9)

24.2.95

case not reached adjourned
to 19.4.95.
B.O.C.

✓

19/1/95

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

None for applicant. Dr. D.
Chandra, counsel for respondent,
is present & requested the
record of the show trial while
C.A. has been filed but no
R.A. has been filed despite
ample opportunity. There is
also no request on behalf of
the applicant for adjournment
which is also refused that on two
last several dates nobody
had put in appearance on
behalf of the applicant. In the
circumstances suit is dismissed
& default of the applicant.

C.M.

A.M.

8

(A10)

16/7/90

✓ De...
...

In the Central Administrative Tribunal Allahabad
Lucknow Bench, Lucknow.

.....

Claim Petition No. 222 of 1990 (L)

Dasi Prasad Misra

...Applicant-Claimant.

Versus

Joint General Manager II
(Disciplinary Authority)
Canteen Stores Department
"ADILPHI" Maharshi Karvey Road,
Bombay and others.

... Respondents.

I N D E X

S.No.	Description of documents relied upon	Page No.
1.	Application	... 1 to 11
2.	Annexure No.1 (Copy of the chargesheet served on the applicant by opposite party No.1)	... 12 to 14
3.	Annexure No.2 (Copy of the represen- tation dated 28.2.90 submitted by the applicant to the chargesheet served on him)	... 15 to 23
4.	Annexure No.3 (Copy of the appointment letter dated 26.3.90 appointing an Enquiry Officer to conduct the departmental proceedings against the applicant)	... 24 to 25

P.
T.T.
syd
16/7/90

T.C
16/7/90

Dated: Lucknow:
July 16, 1990.

Signature of the Applicant.
D. Misra

(A.U.)

16/7/90

Date of ...

✓ Deputy Registrar (J)

In the Central Administrative Tribunal Allahabad
Lucknow Bench, Lucknow.

.....

Claim Petition No. 222 of 1990 (L)

Devi Prasad Misra, aged about 29 years,
son of Bhawani Prasad Misra,
resident of 554/175 Ka Bhhota Barha,
Alambagh, Lucknow, working as Class IV
permanent employee in Canteen Sores
Department, Lucknow.

... Applicant-
Claimant.

Versus

1. Joint General Manager II,
(Disciplinary Authority)
Canteen Sores Department "ADELPHI"
Maharshi Karvey Road,
Bombay.

11/13/20

2. Regional Manager, Canteen Sores
Department, Lucknow.



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2.

3. Manager, Canteen Stores Department,
Lucknow Depot, 39, Hawke Lines,
Lal Bahadur Shastri Marg,
Lucknow.

... Respondents.

Claim Petition under Section 19 of the
Administrative Tribunals Act

.....

The humbly applicant-claimant begs
to state as under:-

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

That in spite of the representation
given to the opposite party No.1 which is
the disciplinary authority for staying
the departmental proceedings in view of
the fact that criminal case against the
applicant is pending and yet is to be
decided by the competent court, the next
date fixed in the departmental proceedings
is 16.7.90.

S. J. Misra

T. C.
1/11/90

R/3

3.

2. Jurisdiction :

The applicant declares that the departmental proceedings which are going against him, are well within the jurisdiction of this Hon'ble Tribunal as he is an employee posted at Canteen Stores Department, Lucknow and the disciplinary proceedings are also going here.

3. Limitation:

The application is within time as contemplated under Section 21 of the Act as the representation made to the disciplinary authority for staying the departmental proceedings has been made on 28.2.90.

4. Facts of the Case:

- (1) That the petitioner was appointed on 1.3.83 in Class IV in Canteen Stores Department Lucknow and since then he is continuously working on the post without any complaint against him.

A. F. Misra

T. L. C.
V. L. C.

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- (2) That looking into the work and conduct of the applicant he was confirmed on the post of Class IV and thereafter he is continuing as permanent employee of Canteen Stores Department, Lucknow.
- (3) That on 18.3.88 an F.I.R. was lodged ~~again~~ against the applicant by Sri B.S. Nair, Major Officer Commanding Rear 12 Madras to the effect that he was caught red handed ~~by~~ with 5 Safari Suit Cases while he was passing through the Cantonment Area. The applicant was handed over to the police alongwith the Suit Cases and Bicycle.
- (4) That the applicant was enlarged on bail on 19.3.88 by the learned Magistrate in whose jurisdiction the crime was committed and after the grant of the bail the applicant resumed duty and started working on the post in question.
- (5) That a chargesheet was submitted in Crime No. 123 of 1988 under Section 41/411/380 I.P.C. by the police of P.S. Alambagh against the applicant

R. J. Misra

T. C.
11/7/88

R/S

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before the criminal court and the trial is pending before the learned Magistrate and the same has not been decided as yet and neither any evidence has taken place before the learned Magistrate.

- (6) That during the pendency of Criminal trial the applicant was served with a chargesheet by opposite party No.1 on the same occurrence, and the applicant was asked to submit the reply within ten days. A photostat copy of the said chargesheet is being annexed herewith as Annexure No.1.
- (7) That after the receipt of the said chargesheet by the opposite party No.1 the applicant submitted his reply on 28.2.90 stating inter alia therein that the said departmental proceedings are without jurisdiction and they ^{cannot} continue in view of the office memorandum issued by the Government of India to the effect that when a criminal trial is pending ~~then~~ then the departmental proceedings should not be resorted to and the authorities must wait for the decision of the trial. A true copy of the said representation

ff MISX

T.C.
Vijay

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dated 28.2.90 is being annexed herewith
as Annexure No.2.

- (8) That by means of letter dated 19.4.90 the disciplinary authority, opposite party No.1 appointed one defence assistant also to the applicant to protest and defend him against the charges levelled against him inspite of the fact that no consent was given by the applicant to appoint a person of his own choice.
- (9) That the disciplinary authority without considering the reply of the applicant dated 28.2.90 proceeded to appoint an Enquiry Officer to conduct the departmental proceedings against the applicant on 26.3.90. A photostat copy of the appointment letter is being annexed herewith as Annexure No.3. The disciplinary authority did not consider the representation of the applicant and the same is lying undisposed of with the disciplinary authority; and, therefore, the proceedings against the applicant are illegal.

Sf. Misra

FILE

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7.

- (10) That first date by the Enquiry Officer was fixed as 14.6.90 and, thereafter, the next date was fixed as 18.6.90. On 18.6.90 the applicant fell ill and could not attend the departmental proceedings and the next date was given as 16.7.90.
- (11) That in case the applicant does not appear on 16.7.90, the Enquiry will be concluded against the applicant ex parte without hearing the applicant as the enquiry should go on or not, is not the subject matter of the Enquiry Officer and it could be decided by the opposite party No.1 only who is the disciplinary authority but the same has not been done.
- (12) That no report by Canteen Stores Department has been made to the police with respect to any shortage in their Depot.
- (13) That the applicant also filed the photostat copy of the cash memo by which the said Suit Cases were ~~pur~~ purchased from Aminabad for consideration before the criminal court as well as before the

1.11.90

5.11.90

8/10/8

8.

disciplinary authority, but the disciplinary authority did not consider the same and ignored the cash memo filed by the applicant.

(14) That the applicant is innocent and no charge has either been established, or can be established against the applicant in view of the fact that he has already produced the receipt and cash memo of the 5 Suit Cases which were purchased by him on 17.2.28 and, therefore, the charge against the applicant is baseless and false.

(15) That unless and until the criminal trial is concluded and it is found that the applicant has not been acquitted ~~in~~ honourably, then only the departmental proceedings can be resorted to.

(16) That the present case involves complicated questions of fact and law and in case the applicant is forced to disclose his defence prior to the decision of the criminal trial, then it will prejudice the applicant and his criminal trial can be affected too as well.

T. C. [Signature]

419

9.

(17) That it is settled law that the department proceedings cannot proceed unless and until the criminal case pending in the court is decided and this is supported by the government orders issued by the Government of India.

5. Details of the remedies exhausted:

The applicant has already made a representation on 28.2.90 stating therein that the departmental proceedings should be dropped in view of the pendency of the criminal trial and the applicant also quoted the Government Order (Ministry of Home Affairs) in Office Memorandum No. F-39/30/54 ESTS dated June 7, 1975 read with memorandum No. 39/8/64 ESTS(A) dated September 4, 1964 but the same has not been considered by the disciplinary authority

6. Matters not previously filed in any other court:

The applicant declared that he has not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before court of law or any other authority or any o

F. Mizra

T. C.
M. L.

10.

Bench ~~xxx~~ of the Tribunal and nor any such application, writ petition or suit is pending before any of them.

7. Reliefs sought:

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

- (i) to quash the department^{al} proceedings pending before the opposite party No.1 till the criminal trial is decided; and
- (ii) to dispose of the representation dated 28.2.90 pending before the opposite party No.1.

8. Interim relief:

Pending final decision of the application, the applicant seeks for issue of the following interim orders:-

The departmental proceedings pending against the applicant may be stayed during the pendency of the instant application.

At. Misra

T. C. M. L.

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11.

9. Particulars of Bank Draft:

10. List of enclosures:

- (1) Annexure No.1
(Copy of the chargesheet served on the applicant by opposite party No.1)
- (2) Annexure No.2
(Copy of the representation dated 28.2.90 submitted by the applicant to the chargesheet served on him)
- (3) Annexure No.3
(Copy of the appointment letter dated 26.3.90 appointing an Enquiry Officer to conduct the departmental proceedings against the applicant)

11. Verification:

I, Davi Prasad Misra, son of Bhawani Prasad Misra, aged 29 years, working as the office of Class IV permanent employee in/Canteen ~~Store~~ Stores Department, Lucknow, resident of 554/175 Ka Chhota Barha, A-lambagh, Lucknow, do hereby verify that the contents of paragraphs 1 to 10 are true to my personal knowledge and that I have not suppressed any material fact.

F. Misra

T. C. W. C.

Dated: Lucknow:
July 16, 1990.

F. Misra
Signature of the Applicant.

ब अदालत श्रीमान

Lucknow Bench Lucknow

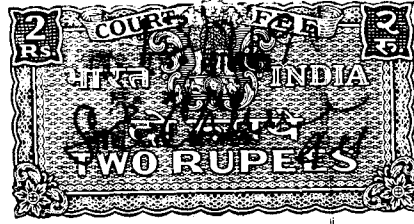
महोदय

[वादी] अपीलान्त

श्री Dev Pd. Misra

का **वकालतनामा**

प्रतिवादी [रेस्पान्डेन्ट]



Dev Pd. Misra

बनाम

प्रतिवादी (रेस्पान्डेन्ट)

Joint General Manager U. P. S. S. Chachan Advocate

(सन् 90)

पेशी की तां 13-7-1890 ई०

0A मुकदमा नं०

ऊपर लिखे मुकदमा में अपनी ओर से श्री

S. S. CHACHAN ADVOCATE

HIGH COURT Lucknow 23

वकील

महोदय

एडवोकेट

गवाह धर्मा अमीनवाह

नाम अदालत

मुकदमा नं० नाम

फरीकत नाम

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवें या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा छपर मुकदमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर बही होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर

S. Misra

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

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महीना

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बअदालत श्रीमान
[वादी] अपीलान्त

Central Prison & Jail Trust
Circuit Bench, Lucknow

महोदय

प्रतिवादी [रिस्पान्डेन्ट]

श्री

वकालतनामा

टिकट

(वादीअपीलान्त)

Delhi Branch of Mr. J. K. Singh & Co.
बनाम प्रतिवादी (रिस्पान्डेन्ट)

नं० मुकदमा ²²² ~~222~~ सन १९० पेशी को ता० १९ ई०

ऊपर लिखे मुकदमा में अपनी ओर से श्री *Dr. J. K. Singh*

Adv. Gen. Singh Standing Counsel वकील

Lucknow

महोदय
एडवोकेट

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और
कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील को
पैरवी व जवाबदेही व प्रश्नों पर करें या कोई कामना दाखिल करें या लगे
या हमारी ओर से डिग्री जारी करावे और रुपया वसूल करे या मुलहनामा
व इकवालदावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर
से दाखिल करें और तमदीक करे या मुकदमा उठावे या कोई रुपया जमा करे
या हमारी या विपक्षी (फरीकासनी) को दाखिल किया हुआ रुपया अपने या
हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवे या पंचनियुक्त करें वकील महोदय
द्वारा की गई वह सब कार्यवाही हमको सर्वदा स्वीकार है और होमो में यह
भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या अपने किसी पैरोकार को
भेजता रहूँगा अगर मुकदमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो
जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसीलिये यह वकालत
नामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर

Aras Mathur

General Store Department

Lucknow Centre

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन १९

ई०

स्वीकृत

Private Admistrative Tribunal
का
Lucknow Bench

महोदय

वकालतनामा

824



टिकट

वादी (अपीलान्ट)

Debi Lal Mishra v/s. V. K. Singh & others प्रतिवादी (रिस्पॉण्डेंट)

मुकद्दमा ०.१.२२२ सन् १९९० पेशी की ता० १६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री J. J. Singh

Adv. Gen. Singh, Standing Counsel
Lucknow

वकील

महोदय
एडवोकेट

नेम अदालत
मुकद्दमा नं०
नाम फरीकन

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

साक्षी (गवाह)

हस्ताक्षर

W. K. Singh

साक्षी (गवाह)

दिनांक महिना सन् १६ ई०

स्वीकृत

Before the Central Administrative Tribunal, Lucknow
D.H.No. 31990

Dev Prasad Misra

Joint General Manager

Annex 1

Applicant
appearing

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कैंटीन स्टोअर्स विभाग CANTEEN STORES DEPARTMENT

"ADELPHI", Maharshi Karve Road, Bombay-400 020.

Ref No. 3/A-3/PN- 4948/ 2 11/33

गोपनीय

Date: 12 Feb 90

CONFIDENTIAL MEMORANDUM

The undersigned proposes to hold an inquiry against Shri DEVI PRASAD MISRA, MAZDOOR, CSD DEPOT, LUCKNOW under Rule 14 of the Central Civil Services (Classification Control and Appeal) Rules 1965. The substance of the imputations 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 imputation 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 articles of charge are proposed to be sustained are also enclosed (Annexures III and IV).

2 Shri DEVI PRASAD MISRA is directed to submit within 10 days of receipt of this memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3 Shri DEVI PRASAD MISRA is further informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

4 Shri DEVI PRASAD MISRA is further advised to nominate a Government servant whom he would like to act as his defence assistant during the inquiry if it becomes necessary in terms of para 3 above within 20 days of receipt of this memorandum. Guide-lines in respect of nomination of a defence assistant are attached.

5 Shri DEVI PRASAD MISRA is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above or does not appear in person before the inquiry authority or otherwise, fails or refuses to comply with the provisions of Rule 14 of the C.C.S. (C.C.A) Rules 1965, or the orders/directions issued in pursuance of the said rule, the inquiry authority may hold the inquiry against him ex-parte.

6 Attention of Shri DEVI PRASAD MISRA is invited to Rule 20 of the Central Civil Services (Conduct) Rules 1964, under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Shri DEVI PRASAD MISRA is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of C.C.S. (Conduct) Rules 1964.

7 The receipt of the Memorandum shall be acknowledged.

(A. THIYAGARAJAN)
Brigadier
Joint General Manager II
(Disciplinary Authority)

Encl :

To :

✓ PN-4948 SHRI DEVI PRASAD MISRA

MAZDOOR

(THROUGH PROPER CHANNEL)

CSD DEPOT

LUCKNOW

गोपनीय
CONFIDENTIAL

CONFIDENTIAL
1. OFFICE IN CHARGE,
LUDHIANA, 100020.
2. BMT

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ANNEXURE TO MEMORANDUM NO.3/A-3/IN-4948/21/

DATED

JANUARY 1990.

ANNEXURE - I

STATEMENT OF ARTICLES OF CHARGE FRAMED AGAINST IN-4948
SHRI DEVI PRASAD MISRA, MAZDOOR, CSD DEPOT, LUCKNOW

Shri Devi Prasad Misra while functioning as Mazdoor at CSD Depot, Lucknow on 17.3.88 at about 23.30 hrs. was caught by the Sentry of 12 Madras Regt along with five suit cases Safari Galaxy 21" (5 x C/s) and handed over to the police.

Thus the said Shri Devi Prasad Misra by his above act did not maintain integrity which exhibited conduct unbecoming of a Government Servant thereby violated Rule 3 of CCS (Conduct) Rules.

ANNEXURE - II

STATEMENT OF IMITATIONS OF MISCONDUCT IN SUPPORT OF ARTICLES
OF CHARGE FRAMED AGAINST IN-4948 SHRI DEVI PRASAD MISRA,
MAZDOOR, CSD DEPOT, LUCKNOW

ARTICLE - I

That on 17.3.88 at 2330 hrs. the said Shri Devi Prasad Misra and Shri Ramchander Tiwari, a daily rated mazdoor was caught by the sentry of 12 Madras Regt. along with five numbers of Suit Cases Safari Galaxy 21" and later handed over to local police, which was intimated by the Manager, CSD Depot Lucknow telegraphically and Confirmatory copy bearing ref.No.LUD/N-3/19 dt. 18.3.88. Further on learning the above news the Manager and the Assistant Manager, CSD Depot, Lucknow carried out a physical check of the stores and found 5 Suit Cases of the above brand short in the assembled lot of 39 GTC Varanasi kept outside the godown in Depot Premises.

Accordingly CSD HQ Bombay vide Confirmatory copy bearing telex No.3/A-3/1420/268 dt. 23.3.88 instructed the Manager to investigate the matter and submit complete details.

The Manager, CSD Depot, Lucknow vide letter No.LUD/N-3/IN-4948/36 dt. 6.4.88 asked the said Shri Devi Prasad Misra's explanation, which was submitted by him vide letter dt. 14.4.88 but was not found satisfactory.

As stated earlier O/C Rear Maj. B.S. Nayer of 12 Madras(Rear) C/o 60 Inf. Bde. C/o. 56 AFO in his letter No.12R/Lear/3/Dec(1) dt. 21.4.88 has confirmed the handing over of them to the police on 18.3.88.

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Accordingly CSD HO Vide Order No.3/A-3/1420/489 dt. 30.6.88 directed RM(Central) to carry out investigation in to the entire case and pin-point the persons responsible for the same. RM(C) in his report No.RMC/CONF/LUD/77 dated 10.11.89 has again confirmed the theft of Index No.37008 Suit Case Safari Galaxy 21" on the night of 17.3.88.

Thus the said Shri Devi Prasad Misra by his above act did not maintain integrity which exhibited conduct unbecoming of a Govt. Servant.

ANNEXURE - III

LIST OF DOCUMENTS BY WHICH THE ARTICLE OF CHARGE FRAMED AGAINST FN-4948 SHRI DEVI PRASAD MISRA, MAZDOOR, CSD DEPOT, LUCKNOW IS PROPOSED TO BE SUSTAINED.

- 1) Confirmatory copy of Telegram No.LUD/M-3/19 dated 18.8.88.
- 2) Confirmatory copy of HO Telex No.3/A-3/1420/268 dt. 23.3.88.
- 3) Letter No.LUD/M-3/PN-4948/36 dt. 6.4.88.
- 4) Letter of the individual dt. 14.4.88.
- 5) Letter No.3/A-3/1420/489 dt. 30.6.88
- 6) Letter No.12M/Rear/B/Misc(i) dt. 21.4.88
- 7) Letter No.RMC/CONF/LUD/77 dt. 10.11.89.

ANNEXURE - IV

LIST OF WITNESSES BY WHICH THE ARTICLE OF CHARGE FRAMED AGAINST FN-4948 SHRI DEVI PRASAD MISRA, MAZDOOR, CSD DEPOT, LUCKNOW IS PROPOSED TO BE SUSTAINED :

- 1) The Honorer, CSD Depot, Lucknow.

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In the Central Administrative Tribunal Allahabad
Lucknow Bench, Lucknow.

.....

Claim Petition No. _____ of 1990

Devi Prasad Misra

... Applicant.

Versus

Joint General Manager II,
(Disciplinary Authority),
Canteen Stores Department ,
Karve
"ADELPHI" Maharishi ~~Carve~~ Road,
Bombay and others.

... Opp. Parties/
Respondents.

Annexure No. 2

.....

To,

The Joint General Manager II,
(Disciplinary Authority)
Canteen Stores Department,
"ADELPHI" Ma-harshi Karve Road,
Bombay-400020.

Through: Proper channel.

Subject: Disciplinary enquiry/proceedings to be initiated against the applicant.

Reference:- Confidential Memorandum
No. 3/A-3/PN-4948/(2)/133
dated Feb. 2, 1990 received by the applicant on Feb. 19, 1990.

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Sir,

The humbly applicant most respectfully
submits as under:-

1. That the applicant is a confirmed permanent employee of Canteen Stores Department holding his lien against a substantive ~~permanent~~ permanent post.
2. That the work and conduct of the applicant have always been quite upto the mark and integrity was always found above board, during his entire service carrier in Canteen Stores Department.
3. That the humble innocent applicant was implicated in a false case of theft. A concocted story was implanted in an episodic manner and ultimately a case crime No.123/88 under section 41/411 I.P.C., later on converted under section 380/411 I.P.C. was registered at Police Station Alambagh, Lucknow on 17.3.1988. Sri B.S.Nayer, Major, Officer Commanding Rear 12 Madras Regiment got the case registered against the applicant and one of his colleague Sri Ram Chandra.
4. That the applicant and his colleague

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Ram Chandra both were handed over to Police. We both were produced before the competent court of law at Lucknow. Considering the facts and circumstances of the case and arguments put forth by the local Police the Hon'ble court was pleased to grant bail and ultimately we both were bailed out. The case has been charge sheeted. Local Police of Police Station Alambagh filed chargesheet in the Hon'ble Trial court of Judicial Magistrate Second Lucknow and the case is pending decision before the competent court of law. March 2, 1990 is the next date fixed for hearing.

5. That in the same case of alleged theft against the applicant, Manager Canteen Stores Department Lucknow called for applicant's explanation through his letter No. LUD/M-3/PN-4948/36 dated April 6, 1988 as to why disciplinary action should not be taken against the applicant for his alleged unbecoming conduct/misconduct or misbehaviour as specified in your aforementioned confidential memorandum dated Feb. 2, 1990 referred to above.

6. That the applicant filed his detailed explanation dated 14.4.1988 in response to show cause notice dated April 6, 1988 issued by the Manager Lucknow Depot. The applicant on being

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released on bail was allowed to resume his duties as usual because of the fact that case of alleged theft against the applicant was pending for judicial trial before the competent trial court at Lucknow and further more the applicant was released on bail before the period of 48 hours as specified under Rule 10 of Central Civil Services (Classification Control and Appeal) Rules 1965 as reproduced below:-

Rule-10 (Suspension)

(2) A Govt. servant shall be deemed to have been placed under suspension by an order of appointing authority:-

(a) with effect from the date of his detention, if he is detained incustody, whether on a criminal charge or otherwise, for a period exceeding forty eight hours.

The applicant since then discharging his duties as usual in the spirit of work is worship. The applicant never gave any chance of any sort of complaint to his senior and superior officers, staff against him about his work and conduct except the solitary instance where he was implicated in a case of theft manipulated against him on false and

[Signature]

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flimsy grounds under the wrong ~~motion~~ motion out of arbitrariness and vindictiveness of certain persons who were being upon to ruin his future service carrier. True photostat copies of letter dated April 6, 1988 and applicants explanation dated April 14, 1988 duly acknowledged by the Manager Lucknow Depot on 15.4.1988 are annexed as Annexure No. 1 and 2 respectively.

7. That in response to your letter no. 3/A-3/PW-4948(2)/133 dated Feb. 2, 1990 received by the applicant on Feb. 19, 1990 proposing to hold an enquiry against the applicant under Rule No.14 of C.C.C. (Classification Control and Appeal) Rules, 1965, i.e. disciplinary proceedings against the applicant, the humbly applicant has to make the following submission for favour of your kind consideration to meet the end of justice and equity before law:-

(A) That Govt. of India, Ministry of Home Affairs, in office Memorandum No. F.39/30/54 Ests dated June 7, 1955 read with Memorandum no.39/8/64 Ests (A) dated Sept. 4, 1964 has issued specific instructions laying down the policy and procedure of Departmental proceedings and prosecution as reproduced below:-

(1) Prosecution should precede departmental action.

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The following procedure should normally be adopted in cases of alleged criminal misconduct of Govt. servants.

(2) As soon as sufficient evidence is available for the purpose in the course of investigation in cases of misconduct, whether such investigation is conducted departmentally or through the Police (including the ~~xxx~~ special Police establishment) action should be taken forthwith. It has been decided that prosecution should be the general rule in those cases which are found fit to be sent to court after investigation, and in which the offences are of bribery, corruption or other criminal misconduct involving loss of substantial public funds. In such cases departmental action should not precede prosecution. In other cases involving less serious offences or involving malpractices of a departmental nature, departmental action only should be taken and the question of prosecution should generally not arise.....

(3) Before initiating criminal proceedings advice on evidence should be obtained from Government counsel, and in more important cases from the Attorney General or the Solicitor General. Where the conduct of an officer discloses a grave offence of a criminal nature, criminal prosecution should be the rule and not the exception. Where competent authority is

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~~As yet no report has been received from the~~

satisfied that there is no criminal case which can be reasonably sustained against such officer, criminal prosecution should not, of course, be restored to; but prosecution should not be avoided merely on the ground that the case might lead to an acquittal.

(B) That giving a guide line the Ministry of Home Affairs Govt. of India further illustrated the types of cases to be classified under ~~Index~~ Instruction No.1 where it has been categorically made clear that prosecution should precede departmental action. The meaning thereby that no departmental enquiry/action should be instituted till such time the case is pending for judicial trial before the competent court of law. The Ministry of Home Affairs Govt. of India, giving clarification to the Director General Post and Telegraph Department has further made it clear that:-

* In all cases which are considered fit for prosecution according to the criteria laid down in the preceding sub paragraph, a report should be lodged with the police as soon as the case comes to notice and departmental enquiry should not be held simultaneously with the police enquiries except to the extent permitted by the police. The question of taking departmental action in such cases would arise after either completion of police enquiries or after the process of prosecution in a court of law have been completed. If, however, it is desired to conduct departmental enquiries simultaneously with police

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enquiries or to take departmental action wherever feasible before the case is taken up for prosecution by the police, the matter should be decided after consultation with the police authorities."

Obviously there is no law or logic to initiate any departmental enquiry/action against the applicant at the immature stage when the case is under trial before the competent court of law.

8. That Rule No. 14 of C.C.S. (Classification, Control and Appeal) Rules 1965 deals with procedure for imposing major penalties including prosecution and punishment under law as provided under I.P.C. and Cr.P.C. etc. In the instant case the applicant is facing judicial trial before the competent court of law at Lucknow as stated in foregoing paras hence it is totally unjust and illegal to initiate an enquiry under Rule 14 as proposed. Needless to mention that enquiries have been conducted by the local Police of Police Station Alambagh Lucknow where the case was registered against him and after that the case has been chargesheeted and the charge sheet has been filed by the Police before the Hon'ble Trial Court at Lucknow. Obviously it is a totally immature stage to proceed departmentally against the applicant for one and the same alleged charge of theft having no legal sanctity in the eyes of law.

P R A Y E R

It is, therefore, most humbly and

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respectfully prayed in view of the facts and circumstances stated in foregoing paras of this application of the applicant, that your kind honour is pleased to drop the idea of holding an enquiry against the applicant under Rule 14 of the C.C.S. (Classification Control and Appeal) Rules 1965 and proceed departmentally against him till the case crime no. 123/88 is finally decided by the competent court of law at Lucknow. The said notice no.3/A-3/PN-4948/(2)/133 dated Feb. 2, 1990 be treated to have been withdrawn/cancelled for the present.

The humble applicant shall remain grateful for the just, genuine and legal request of the applicant, having been accepted by your kind honour in the name of fair play and justice.

Yours faithfully,

Dated: Feb. 28, 1990.

Sd/- Devi Prasad Misra
(Devi Prasad Misra)
P.N.4948 -Mazdoor
C.S.D. Depot, Lucknow.

True Copy

[Handwritten signature]

Before the Central Administrative Tribunal Circuit Bench Lucknow

D.H.No

31990

Dev Prasad Misra
v/s

Joint General Manager

Ann: 3

Applicant
off Lucknow

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कॅन्टीन स्टोर्स विभाग

CANTEEN STORES DEPARTMENT

H.O. 'ADELPHI', 119, Maharshi Karve Road, Bombay 400 020.

CONFIDENTIAL

Ref. No. 3/A-3/PN- 4948 / 471

Date: No March 90

O R D E R

WHEREAS an inquiry under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 is being held against

PN-4948 SHRI DEVI PRASAD MISRA, MAZDOOR,
CSD DEPOT, LUCKNOW

In respect of the charges framed

under Memorandum

No.3/A-3/PN-4948/(2)/133 dated 02 Feb 90.

2. AND WHEREAS the undersigned considers it necessary to appoint a Presenting Officer to present the case in support of the articles of charge framed against the said official before the Inquiry Authority.

3. NOW, THEREFORE, the undersigned in exercise of the powers conferred by sub rule 5(c) of the said Rule hereby appoints

SHRI S.R. SINHA,
OFFG. AAO

PRESENTING OFFICER, OFFICE OF RM(Central) LUCKNOW
to present the case in support of the articles of charge before the Inquiring Authority.

4 The receipt of this order is to be acknowledged

(A. THYAGARAJAN)

Brig.

Joint General Manager II
(Disciplinary Authority)

TO.

PN-4948 Shri Devi Prasad Misra
Mazdoor
CSD Depot
LUCKNOW

(Through proper channel)

Your attention is drawn to sub-rule 8 of Rule 14 of CCS (CC&A) Rules in respect of taking assistance of any other Government servant to present the case on your behalf, before the Inquiring Authority. A copy of guidelines in this regard is enclosed/has been already sent alongwith the chargesheet.

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cc: Shri S.R. Sinha
Offg. AAO
RM(Central) Lucknow.

(Presenting Officer)

A case file containing copies of the following documents is forwarded herewith and the same may please be returned after completion of the inquiry proceedings.

- i) Memorandum referred to above alongwith its enclosures I to IV :
- ii) Statement of defence dated 28.2.90 /the Charged Official has not submitted a defence statement so far.
The memorandum is served to the charged official on 19.2.90.
- iii) Order appointing the Inquiry Officer.
- iv) Following circulars/books are enclosed for your guidance :-
 - a) A Hand Book of Presenting Officer.
 - b) Extract from Vigilance Hand Book.

cc: Shri KK Loomba
Area Manager
CSD Depot
Meerut.

(Inquiry Officer)

cc: D G M (F&A), HO, Bombay

cc: The Manager, CSD Depot, Lucknow

cc: RM(Central) Lucknow

cc:

T.C.
[Signature]

(839)

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

20/1/91

Misc. Application No. M.P. No. 125/91 (2) of 1990

on behalf Respondents.

In

Case No. G.A. 222 of 1990 (2)

Dev P. Mehta

..... Applicant.

Versus.

Union of India & Others..... Respondents.

APPLICATION FOR CONDONATION OF DELAY

The respondents respectfully beg to submit as under :-

1. That the written reply on behalf of the respondents could not be filed within the time allotted by the Hon'ble Tribunal on account of the fact that after receipt of the parawise comments from the respondents, the draft-reply was sent to the department for vetting.
2. That the approved written reply has been received and is being filed without any further loss of time.
3. That the delay in filing the written reply is bonafide and not deliberate and is liable to be condoned.

WHEREFORE, it is prayed that the delay in filing the written reply may be condoned and the same may be brought on record on which the respondents shall ever remain grateful as in duty bound.

Lucknow :

Dated :

D. Dinesh Chandra
(Dr. Dinesh Chandra)
Counsel for the Respondents.

Filed today
18/3/91

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH

LUCKNOW

Counter affidavit on behalf
of Respondents.

In

O.A. No. 222 of 1990(L)

1991
AFFIDAVIT
I M
DIST. COURT
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Sp
5/2/91
L. B.

Devi Pd. Misra

Applicant

versus

Joint General
Manager, II & others

Respondents.

I, D.L. Handa, aged about 54 years, son
of Shri Blagwan Dass Handa Manager
Canteen Stores Department, Lal Bahadur Shastri
Marg, Lucknow do hereby solemnly affirm and state
as under:

1. That the deponent has read the application
filed by Shri D.P. Mishra and has understood the
contents thereof.

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2. That the deponent is well conversant with the facts of the case deposed hereinafter and is swearing this affidavit on behalf of all the respondents.

3. That the contents of para 1 of the application need no comments. It is however, submitted that an enquiry was instituted against the applicant under Rule 14 of the C.C.S. (C.C.A.), Rules, 1965 due to the applicant having been caught by the sentry of 12 Madras Regiment ~~xxx~~ carrying five numbers of Suit Cases Safari Galaxy 21" on 17.3.88 at about 2300 hrs, While he was serving as Mazdoor at Canteen Stores Department, Lucknow. A case under Sec. 41 and 411 I.P.C. was registered against him.

4. That the contents of para 2, 3 4(1) and 4(2) need no comments.

5. That in reply to para 4(3) it is stated that at about 23.30 hrs. on 17.3.88, the applicant and Shri Ram Chandra Tewari, a D/R Mazdoor were caught by the sentry of 12 Madras Regiment alongwith 5 suit cases Safari Galaxy 21". An F.I.R. was lodged and they were handed over to the police. A copy of the letter from the O.C. of 12 Madras Regt. dated 21.4.88 addressed to the deponent in this connection is being filed as Annexure R-1. A copy of F.I.R. is also being filed as Annexure R-2.

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Further investigation conducted by the Regional Manager (C) confirmed the involvement of the applicant in the theft of 5 Suit cases Safari Galaxy 21st from the depot premises. A copy of the investigation report is being filed as Annexure R-3.

6. That the contents of para 4(4) and 4(5) need no comments.

7. That the contents of para 4(6) and 4(7) are admitted.

8. That in reply to para 4(8) it is stated that Rule 14(8) provides that the Govt. servant against whom disciplinary proceedings have been initiated may take the assistance of any of the Govt. servant to present the case on his behalf. Thus no permission was needed by the applicant to secure the assistance of any other Government servant of his choice.

9. That in reply to para 4(9) it is stated that the contents of the representation dated 28.2.90 referred to in the answering paragraph are misconceived. The guidelines contained in the Instruction 1 with regard to department proceeding

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~~of~~ prosecution are not applicable to the present case. The applicant was involved in a theft case and was charged for violation of Rule 3 of C.C.S. (Conduct) Rules. Criminal case under section 41 and 411 I.P.C. has been registered against him.

10. That the contents of para 4(10 and 4(11) need no comments.

11. That in reply to para 4(12) it is stated that it was not necessary to lodge a report of the shortage in the canteen depot as the applicant had already been caught red handed with missing articles and F.I.R. in this regard was lodged ~~km~~ with the police.

12. That in reply to para 4(13) it is stated that it was for the enquiry officer to take into account the cash memo of the suit cases produced by the applicant in his defence.

13. That in reply to para 4(14) it is stated that the Enquiry Officer submitted his report which was based on the evidence placed before him by the applicant and the Presenting Officer during the course of enquiry proceedings.

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14. That the contents of para 4(15) are misconceived. The Govt. of India's Instruction No. 1 with regard to Departmental Proceedings and prosecution is not applicable to the present case.

15. That the contents of paras 4(16) and 4(17) are misconceived. The applicant has denied the charges framed against him in the charge sheet vide his letter dated 22.2.90. As the proceedings were initiated under Rule 14 of the CCS (CCA) Rules, 1964 it was obligatory to hold a formal enquiry into the matter. Accordingly, Enquiry as well as Presenting Officers were appointed and the procedure outlined for holding Enquiry under Rule 14 of the CCS (CCA) Rules, 1964 was observed.

16. That the contents of paras 5 and 6 need no comments.

17. That in view of the submissions made in the above paragraphs the relief sought for in para 7 and Interim relief prayed for in para 8 are not admissible. The application lacks merit and is liable to be dismissed.

18. That the contents of paras 10 and 11 need no comments.

Lucknow
Dated:

W. J. J. J.
Deponent.

Verification

I, the deponent named above do hereby verify that the contents of paras 1 & 2 are true to my personal knowledge and those of paras 3 & 4 are believed to be true by me based on record and legal advice. Nothing has been concealed and nothing is false. So help me God.

W. J. Hands
Deponent.

I identify the deponent who has signed before me. *W. J. Hands*

D. L. Hands
Deponent.

Solemnly affirmed before me on
at am/pm by Shri the
deponent who is identified by Shri
Advocate.

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

Advocate
Dated 5/2/79

W. J. Hands

C. No. 13 M
D. L. Hands
D. Claude

S. C. Sridhar
5/2/79

CONFIDENTIAL

Demolition v/s b. Jant. Emergency

12 MADRAS (Rear)
C/o 60 Inf Div
C/o 56 APO

12M/Rear/3/Misc (1)

21 Apr 88

The Manager
Canteen Stores Department
Lucknow Depot

74

THEFT

1. Ref your letter No LUD/M-3/44 of 20 Apr 88.
2. At about 2330 hrs on 17 Mar 88 two civs were apprehended in unit area under suspicious circumstances. The individuals were questioned and stated that they are one shri DP Mishra & shri RC Tiwari both employees of the CSD Lucknow Depot. At the time of apprehension they were in possession of one bicycle & five brand new Safari Galascy suitcases 21".
3. On further questioning they stated that they were taking the suitcases from the CSD Depot on instructions from some one there whom they refused to name. The further said that they were poor people & the unit should let them go & the unit can retain the suitcases. It was realised that these two individuals were in an intoxicated state. A half consumed bottle of rum was also recovered from them which was handed over to the police along with other articles.
4. In the morning when they had sobered down they were provided breakfast. On asking them again they stated that they will not repeat it & they should not be handed over to the police. At no time were they able to state that the suitcases were purchased from any bona fide source.
5. In the absence of further info, the fact that these two persons while being challenged by the sentry on duty tried to run away while leaving the suitcases behind as also the late hour an FIR was lodged with the civil police & these persons were handed over to civ police authority.

(Signature)
(BS Nayar)
Maj
OC Rear

CONFIDENTIAL

8/5/91

(Signature)

LIC

605.161
A. J. Murray

~~W. J. Hancock~~

Dev 12 Min up to Joint Genl Engr
Govt. of India
Ministry of Defence

Quartermaster General
Regional Manager Central

REGIONAL MANAGER(C)
LUCKNOW.

Haveck Road, Lucknow Road
Lucknow-Cantt.-226002

ASST. GEN. MANAGER (P)
C.S.D. BOMBAY.

REF NO: RMC/CONF/LUD/77

"CONFIDENTIAL"

DATED: 10th Nov '69.

CONFIDENTIAL

2. Preliminary Investigation Report of
5 suit cases at RMC Depot Lucknow.

Reference your letter No. S/A-3/1420/1256 dated 21.1.69
and this office letter No. RMC/CONF/LUD/21 dated 28.7.1969.

2. The matter was investigated and the report is as under:-

a) On 16.3.1969, an officer from 12 Madras Regt. reported to the Manager that the military personnel of his unit who were on sentry duty on their quarter guard in the night of 17.3.1969 caught P.N-4546 Shri D.P. Misra regular Mazdoor and Shri Ramchandra - a D/Rated Mazdoor alongwith 5 Nos of Index No. 37008 S/Case before Galaxy 21. The above named individual were subsequently handed over to the police by the unit. Immediately on receipt of this information the Manager alongwith Asst. Manager carried out physical check and found one case short in the assembled lot of 39 GTC Vardhola units. The depot Manager indicated the above incident by telegram bearing No. LUD/A-3/19 dated 18.3.1969 and also FIR was lodged with the police station Alimganj Lucknow. The W/Man on duty were also directed by the Manager to explain the circumstances under which the check was taken place and their explanation was also obtained and forwarded to H.O.

b) Since P.N-4546 Shri D.P. Misra was not kept in the Police custody for more than 18 hours, as given in writing by the Officer in Charge Police Station, the individual was taken on duty on 2nd April 69, after remaining on leave on medical ground during the period from 21.3.69 to 1.4.69 and as per H.O instruction the services of daily rated mazdoor has been dispensed forthwith. On resumption of duty by Shri D.P. Misra, he was asked to explain regarding short case for which he denied having any knowledge and submitted a copy of his memo dated 17.3.1969 for having received 5 Nos of S/Case before Galaxy 21 from a shop 4/5 located near Lucknow. A copy of the FIR lodged by 12 Madras was also obtained and forwarded to H.O. The daily rated mazdoor Shri Ramchandra was sent a notice through an advocate Shri S.K. Srivastava to indicate him in service as he was empanelled for the post of W/Man. A copy of the notice was forwarded to H.O and in the meantime, the individual has filed a case against the department in the court of law.

c) The police has also submitted the case to civil court at Lucknow and the case is pending with the same court and has not come up for hearing so far.

3. The copy in relation is requested.

Rm/De

REGIONAL MANAGER(C)
(RMA LUD)

CC: C.S.D. BOMBAY.
LUCKNOW 1-10-102.P1.

Ha/cks

CONFIDENTIAL

15/11

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
LUCKNOW BENCH : LUCKNOW

O. A. No. 222 of 1990

Devi Prasad Misra

.... Petitioner

Versus

Joint General Manager-II and others.. Opp. parties

SUPPLEMENTARY AFFIDAVIT of the
petitioner

I, Devi Prasad Misra, aged about 29 years, son of Sri Bhawani Pd. Misra resident of 554/175-Ka Chota Barha Alambagh, Lucknow Class IVth employee C.S.D. Canteen Stores Department the deponent do hereby solemnly affirm and state as follows :

1. That the petitioner is the deponent in the above noted case and as such he is well conversant with the facts of the case deposed to below.

2. That on 18.3.1990 an F.I.R. was lodged

.2.

430

against the deponent and one another person by Sri B.S.Nayar, Major Officer Commandant, Rear XII Madras to the effect that Sri D.P.Misra and Sri R.C.Tiwari were found in possession of one Bycycle and 5 new Safari Suit Cases and it was requested that they may be taken into custody of police at Alambagh, Lucknow. A true copy of the F.I.R. lodged against the petitioner and copy of report is being annexed herewith as Annexure S-1.

3. That the F.I.R. was lodged at case Crime No. ~~41/411/388~~ No. 123/88 under Section 41/411/388 I.P.C. at Police station Alambagh, Lucknow and the subject matter of the criminal trial is the same as initiating in the departmental proceeding and since the matter is very complicated and the suits cases have already been furnished to the opposite parties in respect to the alleged suit cases. The decision against the deponent if any will be taken in a mala fide manner as the suit filed by him has not been considered at all and after filing of the said suit they have resorted to departmental proceeding.

Lucknow: Dated

July , 1990


Deponent

I, the deponent abovenamed, do hereby verify that the contents of paras of this affidavit are true to my personal knowledge,

A5

[Signature]

Depoent

I, identify the deponent
who has signed before me.

I have satisfied myself by examining the deponent that he understandsthe contents of this affidavit which have been read out and explained by me.

AS2

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD,
LUCKNOW BENCH, LUCKNOW

O.A. NO. 222 OF 1990

DEVI PRASAD MISRA

... PETITIONER

VERSUS

JOINT GENERAL MANAGER II

& OTHERS

... OPPOSITE PARTIES

ANNEXURE NO. S-1

Copy of F.I.R.

Sd/- Misra

Copy of 111

453

Re: 12 MADRAS (Rev) of 60m/60 7/50 APO
18 Mar 88

12 Rev/31/1/88 The Sub Inspector of Police Sec. Lucknow. Occurrence Report. Size. At about 2330 hours on 17 March 88 two Guiltans were apprehended in unit area under suspicious circumstances.

② The individuals are on Shri DP Mishra and Shri R.C. Tiwari who state that they are employees of the C.S.D. Dept Lucknow. At the time of apprehension the individuals were in possession of one bicycle and one brand New Saffari Galaxy Ski/cases 21". ③ You are requested to kindly register an FIR to investigate the matter. The individuals may also be taken over from this unit custody. Yours faithfully B.S. Nigam Major Officer Commanding
Re: 12 Madras.

Copy of receipt

The following persons have been taken over from the custody of 12 Madras (Rev) at ... hours on 18 March 88 - a. Shri Devi Prasad Mishra

(b) Shri Ram Chandra Kumar

(c) Both individuals are in a sound mental and physical condition.

② The following items have been received along with the individuals. (a) Bicycle one

(b) Saffari Galaxy 21" New Line (Brand) All personal effects confirmed by the individuals. Hand over.

S. B. S. Nigam Major Officer

S. B. S. Nigam

(85)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH.

M.P. NO. 392 OF 1993

APPLICATION FOR VACATION OF STAY ORDER AND EARLY HEARING OF THE CASE

In

O.A.NO. 222/90.

Debi Prasad Misra Applicant.

Versus

Place before the Hon'ble Bench Union of India & Others Respondents.

Respectfully SHEWETH;

1. That vide order dt.14-7-90, this Hon'ble Tribunal was pleased to direct " that the respondents shall proceed with the disciplinary enquiry but will not pass final orders till further orders from this Tribunal".

2. That the disciplinary enquiry against the applicant has since been completed on 6-10-1990.

3. That when the above case came up for admission on 12th Sept 90, the Hon'ble Tribunal was pleased to grant 4 weeks time to file Counter-affidavit and two weeks thereafter to file rejoinder-affidavit. The case was ordered to be listed on 24-10-90 when it was to be disposed of finally.

4. That the Counter-affidavit has been filed but the applicant

Contd.....2/-

(S)

// 2 //

has not filed the Rejoinder-affidavit even after a lapse of more than two and a half years.

5. That on account of the stay order granted by this Hon'ble Tribunal vide its order dt.24-7-90, final orders in the disciplinary proceedings initiated against the applicant under Rule 14 of the C.C.S.(C.C.A.) Rules, 1965 could not be passed.

6. That the applicant is not filing the Rejoinder-affidavit with mala fide intention of delaying the final disposal of the case.

-; PRAYER ;-

Wherefore, it is respectfully prayed that it is expedient in the interest of justice that this Hon'ble Tribunal may kindly be pleased to vacate the stay order dt.14-7-1990 to enable the respondents to pass final orders in the disciplinary case in respect of which the enquiry had been completed on 6-10-1990. It is, further prayed that an early date of hearing of the case may kindly be fixed without awaiting for the Rejoinder-affidavit.


For Respondents.

* 400

A. N. Singh

C. C. S. (C. C. A.)

Section (I, II)

456

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH.

AFFIDAVIT IN SUPPORT OF THE APPLICATION FOR VACATION OF THE STAY
ORDER AND EARLY HEARING OF THE CASE.

In

O.A.NO. 222/90.

Dabi Prasad Misra Applicant.

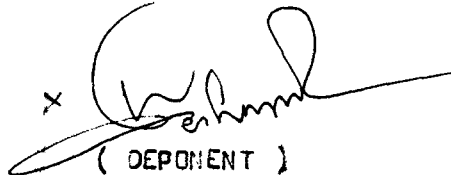
Versus

Union of India & Others Respondents.

I,.....V. S. RAO....., Manager, Canteen
Stores Department, Lal Bahadur Shastri Marg, Lucknow, do hereby
solemnly affirm and state as under :-

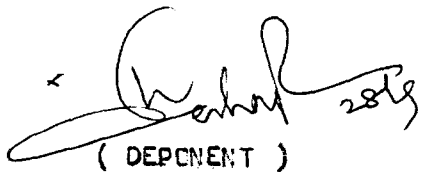
1. That the deponent is well conversant with the facts of the
case and is filing this affidavit on behalf of respondents.

2. That the contents of paras 1 to 6 of the accompanying Misc-
ellaneous Petition are based on records and legal advice.

x 
(DEPONENT)

-; VERIFICATION ;-

That the deponent above named do hereby verify that the
contents of para 1 of the affidavit are true to my personal know-
ledge and those of para 2 are based on records & legal advice which
I believe to be true. No part of it is false and nothing material
has been suppressed. So help me God.

x 
(DEPONENT)

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

(A1)
Central Administrative Tribunal
Circuit Bench, Lucknow
Date of Filing 22/8/90
Date of Receipt 22/8/90
Deputy Registrar (J)

Registration No. 264 of 1989-90 (C)

APPLICANT(S) Mohd Ayub Khan
RESPONDENT(S) U.O. 2.

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 ? | yes |
| 3. | a) Is the appeal in time ? | yes |
| | b) If not, by how many days it is beyond time? | N.A. |
| | c) Has sufficient case for not making the application in time, been filed? | yes |
| 4. | Has the document of authorisation/ Vakalatnama been filed ? | yes |
| 5. | Is the application accompanied by B.D./postal order for Rs.50/- | yes |
| 6. | Has the certified copy/copies of the order(s) against which the application is made been filed? | yes |
| 7. | a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ? | yes |
| | b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ? | yes |
| | c) Are the documents referred to in (a) above neatly typed in double space ? | yes |
| 8. | Has the index of documents been filed and paging done properly ? | yes |
| 9. | Have the chronological details of representation made and the out come of such representation been indicated in the application? | yes |
| 10. | Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal? | NO |

A2

~~11/11~~

Particulars to be Examined

Endorsement as to result of examination

11. Are the application/duplicate copy/spare copies signed ?
12. Are extra copies of the application with Annexures filed ?
- a) Identical with the Original ?
- b) Defective ?
- c) Wanting in Annexures
- Nos. _____ pages Nos _____ ?
13. Have the file size envelopes bearing full addresses of the respondents been filed ?
14. Are the given address the registered address ?
15. Do the names of the parties stated in the copies tally with those indicated in the application ?
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ?
17. Are the facts of the case mentioned in item no. 6 of the application ?
- a) Concise ?
- b) Under distinct heads ?
- c) Numbered consecutively
- d) Typed in double space on one side of the paper ?
18. Have the particulars for interim order prayed for indicated with reasons ?
19. Whether all the remedies have been exhausted.

yes

yes

x

N.A.

yes

yes

yes

yes

yes

yes

yes

dinesh/

22/8

O.A. 264/1

(A3)

~~2~~

18.9.90 - 110 setting adv to 20.10.90

2

30.10.90 Due to Holiday Adv to 20.11.90

2

Copy Recd.
Mickham
29/11/90

CIRCUIT BENCH

LOCKED.

S.M. No. 204/90(L)

Mohd. Ayub Khan

Applicant.

versus

Union of India & Ors.

Respondents.

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

Hon. Mr. M.M. Singh, J.M.

(Hon. Mr. Justice K. Nath, V.C.)

We have heard the learned counsel for the applicant. The application has been filed only for expunging the adverse entries recorded in the character roll of the applicant for the year ending 31.3.59. The entries had been communicated by letter dated 11.1.59 (Annexure-1). However, the applicant had made a representation dated 8.1.59 (Annexure-2) but the representation has not been disposed of. We do not think it necessary to keep the case pending, as we think that the application to the competent authority will meet the end of justice. The petition for dismissal of the application of respondent No. 2 is cause ~~the~~ the application for representation dated 8.1.59 (Annexure-2) to be decided by the competent authority within a period of three months from the date of receipt of a copy of this judgment.

For the applicant,

For the respondent.

Encl. 1: 20.11.90

(25)

Central Administrative Tribunal
Lucknow

In the Hon'ble central Administrative Tribunal.

Additional Bench, Allahabad.

Circuit Bench, Lucknow.

244/90(L)

Registration No. 244 of 1990 (L)

Mohd. Ayub
Khan.

Applicant.

Versus.

Union of India
and others.

Respondents.

COMPILATION - A

Compilation - B

Filed today
5/8/90
22/8/90

M. Khan
Applicant.

Lucknow: Dated:

(D.S. Chatur)
Advocate.

August 22, 1990.

Counsel for Applicant.

Noted for 18-9-90

B.K. Verma
Chief of

Sri D.S. Chatur A.

(176) 2

In the Hon'ble ' Central Administrative Tribunal.

Additional Bench, Lucknow Allahabad.

Circuit Bench, Lucknow.

Registration No. 264 of 1990 (L).

Central Administrative Tribunal
Circuit Bench, Lucknow

Application under Section 19 of the
Administrative Tribunal Act, 1985.

Date of Filing 22/8/90
Date of Receipt by Post.....

Deputy Registrar(J)

Mohd. Ayub Khan. -----

Applicant. 22/8

Versus.

Union of India
and others. ---

Respondents.

COMPILATION - A

Sl.No.	P a r t i c u l a r s	Page No.
1.	Application under Section 19 of the Central Administrative Tribunal Act.	1-10
2.	Order dated 11-7-1989 of Divisional Railway Manager Operation, North Eastern Railway, Lucknow to communicate adverse report for the year ending 31-3-1989.	11-12

Lko.Dated:

Aug.21, 1990.

M Khan.
Applicant.

Lko. D ated:

Aug.22, 1990.

D.S. Chaube
(D.S. Chaube)
Advocate.
Counsel for Applicant.

(A7) 

In the Hon'ble Central Administrative Tribunal.

Additional Bench, Allahabad.

Circuit Bench, Lucknow.

Registration No. _____ of 1990(L).

PARTIES NAME

Mohd. Ayub Khan, aged about 47 years, Son of Late
Shri Mohd. Ibrahim Khan, Deputy Chief Controller, North
Eastern Railway, Office of Divisional Railway Manager,
Ashok Marg, Lucknow.

----- Applicant.

Versus.

1. Union of India through ~~g~~ General Manager, North
Eastern Railway, Gorakhpur.
2. Additional Divisional Railway Manager, North Eastern
Railway, Lucknow.
3. Senior Divisional Operations Superintendent, North
Eastern Railway, Lucknow.

----- Respondents.


Lucknow: Dated:

August 22, 1990.


Applicant.

Lko. Date d:

Aug. 22, 1990.


(D.S. Chaube)
Advocate.
Counsel for Applicant.

AS

In the Hon'ble Central Administrative Tribunal.

Additional Bench, Allahabad.

Circuit Bench, Lucknow.

Registration No. _____ of 1990 (L)

Mohd. Ayub Khan, aged about 47 years, Son of Late Shri Mohd. & Ibrahim Khan, Deputy Chief Controller, North Eastern Railway, Office of Divisional Railway Manager, Ashok Marg, Lucknow.

----- Applicant.

Versus.

1. Union of India through General Manager, North Eastern Railway, Gorakhpur.
2. Additional Divisional Railway Manager, North Eastern Railway, Lucknow.
3. Senior Divisional Operations^{ng} Superintendent, North Eastern Railway, Lucknow.

--- Respondents.

(1). Details of application.

Particulars of the order against which the applicant is made.

1. Order No. T/SS-CR/89.
2. Dated: 4-8-11-7-1989.
3. Adverse report recorded by Senior Divisional Operating Superintendent, North Eastern Railway, Lucknow, the opposite party No. 3 communicated on behalf of Divisional Railway Manager Operating, North Eastern Railway, Lucknow.

M. Khan

4. Subject in brief: By means of the impugned order of
an adverse report for the year ending 31-3-1989 recorded
by Senior Divisional Operating Superintendent, North
Eastern Railway, Lucknow has been communicated on
behalf of Divisional ^{Railway} Manager Operating, North Eastern
Railway, Lucknow.

(2) Jurisdiction of the Tribunal.

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

(3) Limitation:

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

(4) Facts of the case.

The facts of the case are given below:-

1. That the applicant while holding the post of
Deputy Chief Controller, North Eastern Railway, Lucknow
was communicated an adverse report for the year ending
31-3-1989 recorded by Senior Divisional Operating
Superintendent and communicated on his behalf of Divisional
Railway Manager Operating, North Eastern Railway, Lucknow

M. K. Khan

(A-10) 

-: 3 :-

vide his letter No.T/SS-CR/89 dated 11-7-1989, a true copy thereof is enclosed as Annexure-1 to this application.


2. That in fact, the Assistant Operating Superintendent Movement who initiated the report gave following adverse remark to the applicant:-

"He is a recalcitrant worker, careless in working and not upto the mark. He has been punished five times during the period under review".

The Senior Divisional Operating Superintendent who reviewed did not agree with his report furnished reasons thereof that the applicant has been punished five times during the period under review. The remark given by reporting officer is reproduced below:-

"No he has been punished five times during the period under review".

3. That the applicant submitted representation to the opposite party No.2 on 1-8-1989 supported by the documents enclosed therewith in which he furnished the reasons to show that there was no justification to the adverse entry in his character roll, his report for the year ending 31-3-1989 may be accepted without any

 entry. A true copy of representation along with is enclosed as Annexure-2 to this application.

(A/1)

(B/1)

-: 4 :-

4. That the representation made by the applicant has not been decided by the opposite party No.2 in spite of reminder letter given to him on 3-11-1989 and his representation continues to remain pending. A true copy of reminder letter dated 3-11-1989 is enclosed as Annexure-3 to this application.

5. That the applicant in his representation pointed out that during the year under report there were two cases of minor penalty in which punishment of with-holding increment till three months and with-holding of increment till one year was awarded and in one case of with-holding increment till one year is still under appeal and there was no justification to record such adverse remark. The warnings given during the said period are not penta penalty prescribed under the rules and it was wholly wrong to say that there were give cases of punishment during the period.

6. That the applicant in his representation also pointed out that the punishments were given only on account of annoyance caused against the appliaant as he refused to subscribe in funds which were created in expenses to be incurred in the proposed litigations against railway by the staff. This fact had already been

M. Pham

A12
[Signature]

-: 5 :-

pointed out by applicant in his written complaint made on 22-5-1989 a copy thereof enclosed with the representation.

7. That the applicant in his representation also cited 10 cases against other Deputy Chief Controllers against whom no action was taken for their comparatively more serious lapses and the applicant was discriminated and given minor penalty ~~xxxxxx~~ only on account of prejudices and annoyance.

8. That the object of recording adverse remark is to give an opportunity to the person concerned to remedy the defects found in his working. Even if any lapse in the working of applicant was found for which he was punished, the same cannot be made ground to record adverse remark subsequently unless it is found that no improvement in his work has been made and the same type of lapse was repeated by him. The adverse remark ~~now~~ does not furnish any instance to show that any defect subsequently was found in his work.

[Signature]

A13

-: 6 :-

9. That the adverse remarks given in his report is rather vague and in fact, it is not supported by the specific instances. It is further submitted that during the year under report, the applicant gave better performance in comparison to the earlier years in which he was ~~was~~ ^{given} good remark and for better performance he has been given bad remark.

10. That the adverse remark is also in contravention of the doctrine of double jeopardy in as much as he had already punished for the same offence.

11. That in fact, the opposite parties were required to communicate entire report for the year ending 31-3-1989 containing good and adverse portions of the remark but the opposite parties have only communicated adverse portion of the remark which does not furnish clear picture of ~~the~~ the work and performance of the applicant during the year under report and in the circumstances, the communication cannot be deemed as valid and the adverse remark is liable to be expunged on this very ground alone.

12. That no good and sufficient reason exists to make justification for the adverse remark which is liable to be expunged from the character roll of applicant.

M. Khan

A-14
10

(5) Grounds for relief with legal provisions.

1. Because the adverse remarks has been recorded in summary and mechanical manner in violation of standing orders and the same is not supported by facts.
2. Because the adverse remark is violative to the doctrine of ~~double~~ double jeopardy.
3. Because the adverse remark is not based on proper facts and the same is based on wrong and irrelevant materials.
4. Because the adverse remarks is mala fide and prejudicial and is liable to be expunged.
5. Because the communication of remark is not valid and no communication in eyes of law as only adverse portion of remarks instead of full remark containing favourable and adverse remark has been communicated which is untenable.
6. Because the opposite parties committed wrong in with-holding decision on the representation of applicant indefinitely and hence the applicant is left with no option except to prefer this application.

M. Khan

AIS
[Signature]

(6). Details of the remedies exhausted.

The applicant declares that he has availed of ~~all~~ all remedies available to him and his representation made on 1-8-1989 is still pending despite reminder letter dated 3-11-1989.

(7). Matters not previously filed or pending in the other courts.

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 filed, before any court or any other authority or any other Bench of the Tribunal nor any such application or writ petition or suit is pending before any of them.

(8). Reliefs sought:

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

1. The adverse entry recorded in the character roll for the year ending 31-3-1989 communicated by the letter dated 11-7-1989 contained in Annexure-1 may be expunged with consequential service benefits.

McLachlan

AIG

-: 9 :-

2. The applicant may also be awarded cost of the application.

(9).

Interim relief, if any, prayed for:

Pending final decision on the application, the applicant seeks the following reliefs:-

The opposite parties may be directed not to take any cognizance of adverse remark for the year ending 31-3-1989 contained in Annexure-1 ~~was~~ while considering any service matters of applicant including his promotion.

(10).

In the event of application being sent by registered post.

Since the application is not being sent by registered post, hence no information is required.

(11).

Particulars of Bank Draft/Postal Order filed in respect of the application fee.

1. No. & Amount of the Indian Postal Order.

B 02 467791
Rs 50/-

2. Name of the Office.

GPO, Lucknow.

3. Date of issue of postal order/Bank Draft.

21/9/90

4. Post Office at which payable.

GPO, Allahabad

M. Khan

A17
AM
13

-: 10 :-

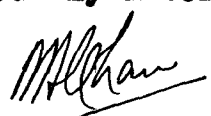
(12). List of enclosures.

1. Order dated 11-7-1989 of Divisional ~~Ram~~ Railway Manager Operating, North Eastern, Lucknow to communicate adverse report for the year ending 31-3-1989.
2. Representation dated 1-8-1989 of petitioner.
3. Reminder dated 3-11-1989 of the applicant.
- 4.


VERIFICATION

I, Mohd. Ayub Khan, aged about 47 years, Son of Late Shri Mohd. Ibrahim Khan, Deputy Chief Controller, North Eastern Railway, Office of Divisional Railway Manager, Ashok Marg, Lucknow do hereby verify that the contents of paras 1 to 4 (68) are true to my personal knowledge and the contents of paras 5 are believed by me to be true on legal advice and that I have not suppressed any material fact.

Lko. Dated:
Aug. 22, 1990.


Signature of
Applicant.

Lko. Dated:
Aug. 24, 1990.


(D.S. Chaube)
Advocate.
Counsel for Applicant.



A-18
11

The Hon'ble General Administrative Tribunal
City Bench Lucknow.

Registration No. of 1000(1).

Shri Mohd. Ayub Khan

Applicant

Versus

Union of India and others

Opp. Parties.

Annexure No. 1

Confidential

Railway

No. 1/55-31/89

Office of the Divisional Mty.
Manager (C)

Lucknow dated 11.7.1989.

Shri Mohd. Ayub Khan,
DML/ISM.

Sub: Confidential report for the year ending 31.3.89.

In an otherwise good report on you for the
year 1988 the following has also been recorded:-

5. General remarks with specific comments about
the general remarks given by the reporting officer and
remarks about the meritorious work of the officer
including the grading.

"He is a Recalcitrant worker, careless in
working and not upto the mark."

3. Do you agree with the assessment of the
officer given by the reporting officer (in case of
disagreement please specify the reasons).

"No he has been punished five times during the
period under review."

M. Khan

D. S. Chauhan

2. These remarks are communicated to you with the intention to enable you to rectify your shortcomings and defects and not to discourage you in any way. It is hoped that you will take the advice in the right spirit.

3. Please acknowledge receipt by signing on the attached duplicate copy of this letter and return the same to the undersigned within a week of the receipt.

M. Khan.

sd/-
for Divl. Mly. Manager (O)
Lucknow.

True copy
Discharge
Advocate

A20

In the Hon'ble Central Administrative Tribunal.

Additional Bench, Allahabad.

Circuit Bench, Lucknow.

266/40 (L)

F Registration No. ~~266~~ of 1990 (L).

Mohd. Ayub
Khan.

Applicant.

Versus.

Union of India
and others.

Respondents.

COMPILATION - B.

Sl.No. Particulars

Page No.

1. Representation dated
1-8-1989 of petitioner.

13-16

2. Reminder dated
3-11-1989 of applicant.

17

3. Power.

18

Lucknow: Dated:
August 22, 1990.

M. Khan
Applicant.

Lucknow: Dated:
August 22, 1990.

D.S. Chaube
(D.S. Chaube)
Advocate.
Counsel for Applicant.

121

applicant

Opp. Parties.

The ...
... Railway,
Lucknow.

Ref: Letter no. 2/35-1/69 dated 11.7.39 delivered
on 26.7.39 by Mr. (Capt.) Don.

With reference to the above, I have the honour to bring to your kind notice, the following facts for consideration before acceptance and counter signature of the J.M. under reference.

Milham

Discharge

reference in which following remarks are given:-

"No. He has been punished five times during the period under review."

The above remark is adequately substantiated.

There are only two cases of minor penalty in which punishment of WII 3 months and WII one year is awarded by disciplinary authority. The case of WII one year is under appeal with you and the case is still pending for your decision (Ref case no. 1/547/M.C./M.A. dated 10.2.88 and my appeal dated 6.9.88). Besides this a few cases of warning are there which does not result to a penalty vide Mr. Dand's letter no. 1/577/M.C. dated 30.3.88. Except these there is nothing which is communicated to and acknowledged by me during 1.4.88 to 31.3.89.

I am working at I-L since 22.5.83 and got promotion as W.I. 1.1.84 and worked with full satisfaction of my superior Mr. A. L. Bhatnagar and Mr. A. L. S. I also worked under Mr. S. S. S. since he joined in I.J. division. I was a very honest but all of a sudden some officers who employed with me during early July, 1988 on the matter of subscription for creation of funds for litigation of the railway to get 50% upgrading in group services. My refusal to subscribe resulted that they started complaining to Mr. S. S. S. against my working. I have already described this matter in my appeal letter.

M. Khan

D. S. Khan

A24
A23
15
R

-3-

20.2.88 under heading "Sol. Lecture" against No. 2/51/Leno.
/95/88 dated 27.2.88 in which 3 months was awarded to
me. (The extract of relevant portion of appeal is attached
herewith for kind perusal.)

All the group awards sanctioned in favour of con-
trol office were confined to CIL only and no benefit to
individual is extended up till now. I raised objections
against this ~~highhandedness~~ highhandedness and they
became annoyed. Further I lodged a written complaint dated
22.5.89 against CIL (stock) for his partiality, injustice
etc. and got one-sided and unsatisfactory reply from my
Sr. DDO vide his letter No. 1/1stt./Misc./89 dated 1.6.89
(Photo copy of complaint alongwith reply is attached herewith
for your kind perusal). This became also the cause of annoy-
ence of CIL(stock). Before opening ceremony of control
room by CRB, uniforms were distributed on pick and choose
basis and in doing so they ignored the policy of dress
regulation and distributed uniforms to those who are not
employed in this control now and to those who already get
regular uniforms of the railway. For example Shri Gokaran
Nath ex PUL/LJH now posted as inspector loco shed/GAR. Shri
Jatai ex CIL, Shri P. Lal etc. I objected against the
policy due to which they became prejudiced. I am enclosing

M. Khan
D. Sena

A25
17-11-39

In the Hon'ble Central Administrative Tribunal

Secret Bench Lucknow.

Registration No.

of 100(1).

Mohd. Ayub Khan

Applicant

Forces

Union of India and others

Opp. Parties.

In case No. 3

To,

The Secy.,
C.A.T.,
Lucknow.

Subject: Disposal of representation.

Ref: (1) Letter No. 4/31.3.89 dated 11.7.89.
(2) My representation dated 1.3.89.

Respected Sir,

With reference to your the above I have the honour to say that nothing could be known to me regarding disposal of my representation submitted against proposed adverse entries in my C.A.T. 4/131.3.89.

I, therefore, request you kindly to intimate as to how my representation is disposed of for which I shall be grateful.

Yours faithfully

Dated: 3.11.89.

sd/- Mohd. Ayub Khan
By. Chief Contoller
C.A.T., Lucknow.

Mohd. Ayub Khan

True Copy
Discharge
Admission

ब अदालत श्रीमान

[क्षेत्री] अपीलान्त

प्रतिवादी [रेस्पान्डेन्ट]

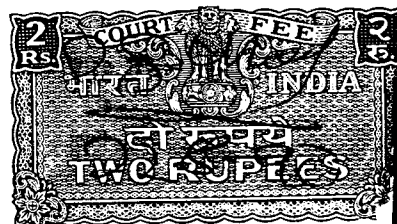
श्रीमान प्रभास नारायण
राजेंद्र चेंबर, गुरुपुर्ग

श्री २२४ २२-१०-०० का

वकालतनामा

महोदय

२२४ २२-१०-००



श्रीमान कोटक शिवाजी बंनारस

प्रतिवादी (रेस्पान्डेन्ट)

मुकदमा नं०

सन्

पेशी की ता०

१६

ई०

ऊपर लिखे मुकदमा में अपनी ओर से श्री

श्री २२४ २२-१०-००

अद्वैत चण्डिका लाल शर्मा वकील

महोदय
एडवोकेट

नाम अदालत

मुकदमा नं० नाम

फरीकन

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पेंरवी व जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्ताखती) रसीद लेवें या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या किसी अपने पेंरोकार को भेजता रहूंगा अगर मुकदमा अदम पेंरवी में एक तरफ मेरे खिलाफ फैसला हो जाना है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

Accepted

हस्ताक्षर

माक्षी (गवाह)

साक्षी (गवाह)

दिनांक

22/10/00

महोदय

सन् १६ ई०